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PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, FIRST SESSION

SENATE—*Thursday, October 25, 1979*

(Legislative day of Monday, October 15, 1979)

The Senate met at 12:30 p.m., on the expiration of the recess, and was called to order by Hon. DONALD STEWART, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Breathe on us breath of God that we may, at this midday moment of prayer, hear the gentle whisper of Thy voice. Remove from us all that obstructs knowing and doing Thy will.

Thou knowest our needs, O Lord—our tired bodies, our tense nerves, our calloused wills, our tangled purposes, our frustrated hopes. Light up our hearts and illuminate our minds with Thy presence. Look down the corridors of our souls and fill them with Thy grace and compassion. Keep us sensitive to suffering humanity. Make us grateful for every healing and redemptive ministry. Give us a part in moving forward Thy kingdom. Grant us Thy peace. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 25, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DONALD STEWART, a Senator from the State of Alabama, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. STEWART thereupon assumed the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MAJORITY LEADER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the standing order time of the two leaders be restored to 10 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent, Mr. President, that I be permitted to transfer 5 minutes of my time to the minority leader (Mr. BAKER) for further transferral, and I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the minority leader is recognized.

Mr. BAKER. I thank the Chair. Mr. President, I believe, as the result of the generous action of the majority leader, that I have 15 minutes available to me.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. BAKER. Mr. President, I yield that 15 minutes to the distinguished senior Senator from Texas (Mr. TOWER).

The ACTING PRESIDENT pro tempore. The Senator from Texas.

SALT II

Mr. TOWER. Mr. President, I first wish to thank the distinguished majority and minority leaders for their generosity in yielding me this time.

As our three committees bring to a close their hearings on the SALT II treaty—hearings in which all of the ambiguities, inequities, and harmful precedents have been exposed—the administration, in desperation, is wheeling out its arguments of last resort.

With opposition at home rising each day, the President has decided to reach out to our European allies in the hope that they might rescue through propaganda a treaty which cannot stand on its merits.

The theme of this latest lunge of desperation goes in two directions. The first is that our allies are solidly behind SALT II and that its rejection will shatter the alliance. The second is that, unless SALT is ratified, the NATO countries will not go forward with the currently planned modernization of our theater nuclear forces.

Both of these assertions are palpable poppycock, and in the next few minutes, I hope to rebut this unconscionable fraud.

The first assertion—that our allies support SALT—tries to make a virtue of what is obviously diplomatic necessity. It would be politically difficult for European heads of state to proceed on any other official assumption than that the United States was attentive to its own national security interests in negotiating the treaty. It would also be difficult for them to challenge publicly U.S. assurances that our cooperation with the alliance on matters of Western European security are not adversely affected. Given the fact that the treaty has been agreed to by the two superpowers, it would be surprising if allied governments took any other posture than formal endorsement.

But beyond this deceptive characterization of allied support, is it really true that all responsible Europeans support SALT?

I believe firmly that it is not. I base my views on the personal, written opposition of literally dozens of high-level elected officials representing constituencies throughout Europe.

These include Antoine Pinay, former French President who states that the ratification of SALT "would be a catastrophe for the Western world." His remarks are typical of the uniformly critical views I have received. Among the others are such prominent figures as Franz Josef Strauss, Winston Churchill, Lord Chalfont, Lord Avon, Count Otto von Habsburg, and General Pierre Gallois. Each of these men—responsible leaders and serious contributors to allied security policies—have voiced their grave personal misgivings about this shameful treaty and the risks it assures.

Beyond their substantive conviction, they explain the dilemma their leaders face. In each case, the incumbent governments hold power with very narrow majorities or pluralities. They are ex-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

tremely vulnerable to pressure from the left wings of their parties. But beneath their public positions, they are deeply alarmed at the shocking lapse in American leadership, our woefully inadequate military strength, and our apparently declining will to resist Soviet expansion.

The second theme of the administration's last gasp is that, without SALT, our NATO allies will not go forward with the program for theater nuclear force modernization. Were it not for the vigorous promotional effort behind this blatant nonsequitur, it would fall of its own absence of logic. But the argument persists and must be put to rest.

Again, based upon personal dialog with numerous European leaders, I can say unequivocally that this asserted linkage is not only untrue but is viewed as extremely harmful to allied solidarity.

To European leaders, TNF modernization is a military imperative with or without SALT II. They understand how severe the imbalance has become—now more than 3 to 1 in favor of the Russians. Furthermore, they realize that existing forces are neither survivable, sufficiently mobile, or of adequate range. In addition, they welcome the deployment of weapons which promise to cast the battle away from NATO soil, and onto the Russian homeland.

They join with Senator NUNN, who best expressed the logic of TNF in a recent speech before the International Foreign Policy Association. He stated:

> Those who greatly fear theater nuclear modernization do not seem to realize that doing nothing poses the greatest danger of all.

Senator NUNN went on to draw an analogy between the administration's false linkage and the Marx brothers movie in which Chico, whose life was being threatened by armed thugs, points a gun at his own head and shouts, "If you come any closer, I'll pull the trigger."

I am prepared to listen to reasonable arguments in support of SALT II, but the linkage of SALT II to TNF modernization will not be among them.

European leaders, withnessing this pervasive U.S. abrogation of responsibility, are worried about the future of Western security. They see an apparent destiny of decline and are looking fervently for a signal of renewed U.S. strength, resolve, commitment, and leadership. In fact, as one leading member of the Bundestag told me yesterday, the mere suggestion of linkage on this issue raises serious questions about U.S. leadership.

But our allies are in no position to do it on their own. They lie between two superpowers who together determine their future, for better or for worse. All of them hold very narrow bases of power which will not sustain dramatic innovations absent strong U.S. leadership. They cannot carry the burden of political decisions involving enormous sums as demandeurs to a flagging, uncertain leadership in America.

For the administration to foist this burden upon them is an unconscionable act of political depravity—a tawdry but poignant rehearsal of the neutron warhead episode which the alliance cannot withstand. As we have already seen, this transparent attempt by the administration to have the allies fish its chestnuts from the fire under a wholly illogical distortion of reality is having a very destructive effect. To cast the issue as a NATO problem has been terribly divisive and, unless stopped immediately, can do irreparable harm to allied cohesion.

Moreover, this vacuous ploy plays precisely into the hand of Kremlin strategy. By taking a defeatest approach to the theater nuclear forces issue, the administration encourages European acceptance of phony Soviet gestures toward arms control.

The Brezhnev offer, which in its essence says, "It is OK for us to deploy the SS-20, -21, -22, -23, and Backfire, but it is not OK for you to defend yourselves," may become by default a horrible game—but the only game in town, absent strong U.S. leadership.

In the latest twist of Soviet strategy on this issue, the Baltimore Sun has reported Moscow's declaration that TNF would circumvent SALT II and can only be dealt with in SALT III—again seeking to preempt the only bargaining leverage we hope to have for those negotiations.

As a final comment, I would point out the obvious double standard the administration has pursued by its conduct in the SALT II debate. When our hearings opened, the President stressed that the treaty ought to be considered on its merits without regard to Soviet behavior or actions to expand their influence which are a matter of public record.

Now, however, we see the administration resorting to wholly unsubstantiable, hypothetical forecasts of doom without any basis in fact. They cannot have it both ways, refusing to deal with relevant facts while basing their case on fictitious smokescreens of no substance.

Mr. President, I have tried in these few minutes to portray the administration's position for what it is—a transparent abrogation of responsibility, a refusal to lead, a dangerous divisive threat to allied cohesion but one which, unless withdrawn, threatens to become a self-fulfilling prophecy.

History reflects that Europeans do not want for courage. In two wars, they have proven their devotion to freedom and willingness to sacrifice whatever resources are required to maintain their freedom. They ask only our equal commitment and leadership.

We in this country can best answer that call by a firm expression of renewed resolve. Such an expression must be founded upon a dramatic program to improve our failing defenses starting with our theater nuclear defenses, and with parallel action to enact remedies to the military flaws in the SALT II treaty.

Together, these actions will constitute the best evidence of the vital element missing in alliance politics today. This element is leadership—pure and simple—firm, thoughtful, strong leadership. There is no substitute. We are at a crossroads of historic proportion. If we fail to meet this challenge, no amount of rationalization or attempts to pass the buck will be remembered. We will get no plaudits for losing with moderation.

Mr. President, I reserve the remainder of my time.

MODIFICATION OF UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for laying down H.R. 3434 at 1 p.m. be modified to this extent only, that the bill be laid down upon the conclusion of the special order by Mr. PROXMIRE.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield my 5 minutes to Mr. MELCHER.

Mr. MELCHER. I thank the leader.

FOREIGN TAX CREDITS

Mr. MELCHER. Mr. President, in these days of America's economic deterioration, Congress will have to change policies to end our economic hesitancy which most charitably can be termed as the median of mediocrity.

If the cliches of congressional debate and administration statements are the best of current American planning for recovery, it is most appropriate that the CONGRESSIONAL RECORD, newspapers, and periodicals are now largely recycled. The next time around after recycling, the printed matter will likely recycle the same speeches and statements which only scratch the surface of the problems rather than constitute proposals for a sensible restructuring of the economy.

Consider the pompous bombast on energy company profits led by Exxon's third quarter profits.

Frustration is vocally vented.

"See, I told you so's" are trumpeted.

Well, what to do?

Why not consider action to bring Exxon and other multinational companies in more direct confrontation with our domestic problems? Exxon states their earnings on their foreign operations were up considerably last quarter, and the Department of Energy a few days ago revealed oil and gas drilling was down this year in the United States.

The tax advantage on deferral of foreign income should be repealed for Exxon and other multinationals to reduce the profitability of foreign investment instead of investments in the United States. That is a start.

The advantage of foreign tax credits should not be a deterrent to meeting at least a minimum tax obligation for U.S. multinationals. That is a separate issue, and Congress should consider a minimum tax at 17½ percent on foreign earnings.

The goal we seek for U.S. energy multinational corporations is more U.S. energy supplies. To the extent that the

U.S. tax code favors foreign operations, attaining adequate supplies domestically is hampered.

I believe we should deemphasize those tax advantages.

I propose that the Senate consider the following two amendments to H.R. 3919:

> (1) Repeal the deferral of U.S. tax on the income of foreign subsidiaries of U.S. companies (as permitted under present law), and tax profits of foreign subsidiaries currently to their U.S. parents in the same manner as profits of domestic companies. The foreign tax credit would be allowed for the repatriated earnings.
>
> (2) Impose a minimum U.S. tax of 17½ percent on the net foreign source income of U.S. companies. For this purpose, the net foreign source income of a U.S. company refers to its foreign source taxable income reduced by foreign taxes. The company would pay the greater of the amount of tax computed under the regular rates with a full foreign tax credit allowed or the 17½ percent alternative minimum tax on net foreign source income.

RECOGNITION OF SENATOR PROXMIRE

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wisconsin is recognized for not to exceed 15 minutes.

UNITED STATES AND WEST EUROPEAN DISAGREEMENTS OVER THE SOVIET MILITARY THREAT

Mr. PROXMIRE. Mr. President, once again, as we are about to act on a huge military appropriations bill, we are told that the Russians are 10 feet tall. We are told that our defense effort is inadequate. We are told we have to spend tens of billions of dollars more than before. We are told that we have to do this or we are going to be grossly inferior. All kinds of exaggerated claims have been made.

I think we ought to recognize the attitudes and judgments of our allies and friends in Europe who are closer to the Russian threat and what their policies are as well as what their attitude is.

Disagreements over military policy between the United States and our NATO allies are obviously becoming more common and more serious. Consider, for example, the response to the Soviet President Brezhnev's offer to reduce Soviet forces in Europe if NATO canceled its plans to deploy new medium-range missiles.

Our response to the Soviet proposal to reduce some of their forces in Europe was to view the offer as a devious plot. A number of West European leaders, however, are taking it more seriously.

This kind of disagreement is illustrative of the widening differences between United States and West European perceptions of the Soviet military threat to NATO, and they can result in irreparable harm to the alliance.

While some Americans seem to have become extremely concerned over what they call a massive Soviet military buildup, many European leaders are taking the view that they should spend less on NATO defense—less on NATO—not more.

The Germans are planning to spend less in NATO, and they are not alone.

WEST GERMANY PLANS DEFENSE REDUCTIONS

According to West German sources, the West German Government is planning real reductions in its defense budget over the next 3 years.

Present planning in Bonn calls for nominal defense expenditure increases in money terms of 2.9 percent in 1980, 2.1 percent in 1981, and 1.6 percent for each of the years 1982 and 1983—these are increases—for each of the years 1982 and 1983. But, when fully adjusted for inflation, these figures result in real defense spending cuts. I repeat, these are real defense spending cuts, substantial cuts, cuts of hundreds of millions of dollars.

West Germany is not alone in cutting their defense spending over the next 3 years, or planning to cut it. Other NATO governments, including Denmark and the Netherlands, may also be considering reducing their rates of defense spending. This is in direct contradiction to the proposals being made in Washington that U.S. defense spending should be increased.

Mr. President, I think that is most ironic, because we were told that the reason we should increase our defense spending by 3 percent a year and one of the main reasons why the Senate went on record to make it 3 percent the coming year, followed by 2 years of 5-percent real increases above inflation, was that we had made a pledge to NATO and the NATO allies were keeping their word and we should keep ours. Well, if they made a pledge to us, they certainly are ignoring it, because the decisions made in Bonn to slow down West German military expenditures underlines the senselessness of the recent Senate vote to raise the defense budget by 3 percent in real terms in fiscal 1980 and 5 percent in 1981 and 1982.

That is likely to be an increase, with inflation of 10 percent, which I think is optimistic, of 13 percent in fiscal year 1980 and 15 percent in 1981 and 1982, compared, as I say, to a real reduction on the part of the West Germans.

What is disturbing is the fact that those urging U.S. defense increases are doing so on the grounds of a supposed erosion of NATO's military capabilities relative to the Soviet Union's.

They argue that the Soviet military buildup is tipping the balance against NATO and that we need to spend more to put us back on an even keel.

But if the West Germans are right, those who are pressing in Congress for a spending hike have a distorted view of Soviet military capabilities and the balance in Europe.

At the very least, there is a sharp divergence of views about defense spending needs between the European nations and ourselves which should cause us to reexamine our own defense spending policies.

GERMAN MILITARY VIEW

One European view was expressed earlier this year by the West German military officer, Maj. Gen. Gert Bastian, commander of the 12th Armored Division. General Bastian is on the front line of our NATO defense forces.

General Bastian believes the Soviet military establishment is of a "defensive character" and he has said so publicly several times.

In his comments on the Soviet military General Bastin said:

> After all, it was we—

Meaning the Germans—

> who unprovokedly invaded Soviet Russia * * *. Therefore, no wonder that the Soviets have drawn the lesson, namely, not to tolerate warfare in their own territory, in the case of a new aggression but to immediately carry the war into the attacker's country and decide it there; for this reason, they created the necessary military potential.

HELMUT SCHMIDT'S VIEWS

Bastian's views may be wrong. But the significance is that they are shared at the highest levels within the West German Government.

In a recent interview the West German Chancellor, Helmut Schmidt, takes sharp issue with "alarmist attitudes" toward the Soviet Union and states his conviction that the Soviet leadership is attempting to assure itself of a "stable and secure situation" in Europe.

According to Chancellor Schmidt—

> I myself believe that the Brezhnev leadership is fundamentally not aiming at war in Europe, not aiming at offensive moves in Europe, but aiming at maintaining a stable and secure situation.

Referring to the makeup of their defense forces, Schmidt says "the Russians always want to be on the safe side," and they "over do it in some fields," requiring an appropriate response from the West.

The critical fact is that the response from Bonn to Soviet defense spending trends is a planned cutback in West German defense spending.

German defense spending plans are consistent with Chancellor Schmidt's and General Bastian's views. But they are inconsistent with the view being vigorously asserted here that U.S. defense spending should be increased.

We need to ask ourselves whether the view from Bonn or Washington more accurately assesses the Soviet military threat, and what the difference of views means for the future of the NATO alliance. I doubt that the alliance can long withstand this kind of fundamental division.

NEED FOR REEXAMINATION OF U.S. DEFENSE PLANS

A complete reexamination of our own defense planning with respect to Europe is also in order.

If the Germans are correct about their assessment of the Soviet threat, then we ought to think about reducing or holding steady our own defense expenditures.

It is inconceivable to me that we would increase our NATO-related defense budget when one or more of our principal NATO allies, that are right on the front line and for whom our defense would be principally useful—after all, we are pulling their chestnuts out of the fire—are planning to reduce theirs.

The matter is especially urgent in view of the budget busting and inflationary effects of defense spending. This is the worst possible time to hike the defense budget and the Federal deficit for reasons that exceed our real military requirements.

A THANKSGIVING PRESENT

Mr. President, as I speak here, the Appropriations Committee is meeting downstairs, a few feet away from where we meet. I just left the Appropriations Committee. We are meeting on the defense appropriations bill and voting on it. I can tell you that this bill will be several billion dollars higher than the House bill. We shall have a commitment to a 3-percent real growth no matter what our NATO allies do. We have taken this defense bill and stuffed it full of every program we can think of, every aircraft procurement at or above the request of the administration, all the ships and then some new ones, all the tactical equipment and more, all of the operations and maintenance the House provided and significantly more; a huge increase in procurement over the House.

This bill is stuffed tighter than a Thanksgiving turkey. If I can carry the analogy one step further, it will be a Thanksgiving for the defense contractors and a turkey for the taxpayers.

At the same time, this country faces the most serious inflationary period in recent history. Twelve and seven-tenths percent is an outrageously high figure, a statistic that falls most harshly on the poor and those with fixed incomes.

The distinguished majority leader of the House, JIM WRIGHT, is a very able man. I have great admiration and respect for him. I do not think there is a Member of Congress who is more eloquent, more intelligent, or more thoughtful than JIM WRIGHT. He spoke yesterday on the floor of the pain and tragedy of high interest rates for millions of American borrowers—farmers, homeowners, and so forth. Mr. President, excessive Federal spending makes high interest rates inevitable for two reasons: First, it increases the multibillion dollar deficit and the Treasury bidding up interest rates to fund a bigger and bigger deficit.

I noticed just the other day, Treasury bills reached an all-time high. They are over 14 percent. Of course, if the Federal Government, with the most riskless security in the world, pays 14 percent for money, that means that the small businessman has to pay more.

Why is the Treasury going into the market? They are going into the market because of the deficit. They are going in bigger because of the deficit and they are bidding up interest rates more because of the deficit.

Second, this spending pushes up inflation and there is no way to reduce interest rates below the inflation rate.

We must attack inflation wherever we can. Monetary policy cannot correct the inflation problem alone and the tough, anti-inflation Federal Reserve program is attacked by congressional leaders. They say that is not the way to fight inflation. Then what do they do? They turn around and push an inflationary military spending program.

We must have a more prudent fiscal policy. That means less Federal spending, fewer commitments to new programs, an end to artificial indexing of major Government programs that have no justification for such automatic increases—such as the defense budget.

Our adherence to a 3 percent and then a 5 percent real growth in defense is nothing more than a formal cost plus indexing requirement. How nice it would be to be protected from inflation and have a guaranteed real growth budget.

And what circumstances face our NATO allies who benefit from our largess? West Germany, for example, has an unemployment rate of 3.7 percent compared to 6.0 percent for the United States. While our consumer price inflation index stands at 12.7 over 3 months or 13.4 most recently, that for West Germany is 7.2 percent—about half ours. Our GNP growth rate is slower than West Germany, our average retail sales in constant prices are dramatically lower, our manufacturing wages are growing at a higher rate thus increasing the cost of our goods and West Germany shows a better productivity rate than that of the United States. Who can afford to spend more on defense in relation to the GNP? The United States? Or West Germany?

Why should we be held to an artificial real growth index mechanism when West Germany apparently will not follow the same plan and when their economic condition is superior to ours?

It is time to rethink this mindless, automatic 3 percent and 5 percent commitment and concentrate anew on how to improve our defense position without automatic real growth increases. Those who argue against improving military capability from within just have not taken the time to look for the wasteful projects and bad management that characterizes any Government program the size of the defense budget.

I challenge those who argue that the Department of Transportation or HEW or the social programs would be improved by less funding but reject the same logic as it applies to the defense budget.

I think we can have a neater, leaner, stronger, more effective defense establishment if we spend less money on it, clean out about half the admirals and generals, if we get rid of the almost 1 million bureaucrats, or civilians, we have in the Pentagon.

A little commonsense will tell us that large bureaucracies, no matter what their function, respond to the same stimuli. If given fewer resources they will find a way to operate more efficiently.

Mr. President, I ask unanimous consent that the following items be printed in the RECORD. An English translation of an article that appeared in the Frankfurter Allgemeine Zeitung, August 27, 1979, entitled "Only a Modest Increase in the Bonn Defense Budget"; an English translation of an article in the Der Spiegel, March 26, 1979, entitled "The Soviets Are No Devils"; an interview with West German Chancellor Helmut Schmidt in the Economist entitled "Schmidt's Calculabilities"; an article in the New York Times, October 15, 1979, entitled "Schmidt Bids West Accept Soviet Offer"; an article in the Washington Post, October 10, 1979, entitled "NATO Unity Seen as Brezhnev's Target"; an article in the Christian Science Monitor, October 9, 1979, entitled "U.S. Debate Over Soviet Troop Cuts"; an article in the Washington Post, October 10, 1979, entitled "President Rebuffs Soviets' Proposal on Arms Cutback"; an article in the Washington Star, October 10, 1979, entitled "Carter, Mondale Criticize Soviet Arms Offer as Ploy".

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Frankfurter Allgemeine Zeitung,
Aug. 27, 1979]

ONLY A MODEST INCREASE IN THE BONN DEFENSE BUDGET

BONN, August 26.—In mid-September, during the first week of the session after the summer recess, the Bundestag will deal with the federal budget for 1980. The total budget is expected to amount to 215.3 billion marks, or 5.1 percent more than for the previous year. Next year, the share of the defense budget in the federal defense expenditures will be 17.5 percent lower than at any time during the last twenty years. In the bill (section 14) introduced by the Federal Government, 37.37 billion marks are foreseen for the defense budget. This is 1.07 billion marks or 2.9 percent more than for the current year. Here the defense budget lags clearly behind the growth of the entire budget, but also behind the expected inflation rate for next year. Only when the sum received by the Department of Defense for the compensation of wage and income raises is taken into account, is an increase rate of 4.8 percent reached.

Due to this modest increase, the Federal Republic might face some problem from its NATO partners, because the Federal Government, like that of any other NATO member, has committed itself to increase its defense expenditures annually by a real 3 percent. This will not happen next year, because according to NATO criteria—which besides the defense budget, (section 14) also include expenditures in the individual sections of the Federal budget—defense expenditures of the Federal Republic will increase by only 3.6 percent in 1980. This nominal growth will be absorbed by the inflation rate next year so that the real defense expenditures of the Federal Republic in 1980 will not increase, but will even eventually decrease.

If we compare the development of the defense budget for the year 1980 with the entire budget, it then appears that its growth—as it had been during the five preceding years—is smaller than that of the total budget. Whereas the entire budget will increase to 215.3 million marks in 1980 and thus will be higher by 5.1 percent than the budget for the current year, the growth of the defense budget will lag behind by 2.9 percent and 4.8 percent, respectively. By this, the share of the defense budget in the total budget, which in 1974 still amounted to 22.4 percent, will decrease further and reach 17.5 percent in 1980. Its share in the Gross National Product will also decrease.

The restraint of the Federal Government in the defense expenditure is clearly evident in the individual sections of the budget. Thus, the funds earmarked for research, development and testing of new weapon systems will decrease by 4.4% while they increased by 6.4% last year. This saving of scarcely 80 million marks was materially possible due to the conclusion of development operations which were necessary in connection with the new combat airplane "Tornado." This year it will require 390 million marks and in 1980 there will still be necessary 280 million marks. It is possible to deduce the amount of funds required for this combat airplane—for which serial production has already begun—from the fact that in 1981 an additional 250 million marks will be necessary for the development of the "Tornado," adding 220 million in 1982 and again 172 million marks in 1983. A reduction in the expenditures by about 3% is also planned in the construction of military installations.

On the other hand, 8.6 billion marks are available for the purchase of new weapons, that is 567 million marks or 7% more than in the previous year. This is the highest increase rate for this item, of Section 14, though even it remains below the corresponding increase for the current year: in the 1979 budget, 8.1% or more than 600 million marks were earmarked for the purchase of weapons.

All in all, total defense expenditures will be increased nominally by 4% next year. This guarantees that the share of the expenditures invested in defense, which includes military supplies, research, development and testing, makes up 31.6% of the entire defense budget. It is an iron rule in establishing defense budgets, that the share of defense expenditures should not decrease below 30%. This is indispensable, if we want to prevent the Federal Armed Forces and their equipment, and consequently, their defense capacity, from becoming technologically obsolete within a few years.

This does not change anything in the fact, that the defense expenditures at a nominal growth of 4%, will in reality scarcely increase at all, or eventually even regress, if the inflation rate for armaments should not be lower in 1980 than it was during the past decade. Since experience has shown that the deflator for armament goods is higher than the general inflation rate and that even in 1978—when the general consumer price increase declined to 2.6%—it still amounted to 3.5%, it cannot be excluded that the increase in the price of arms this year, as well as next year, could increase by more than 4% and thus could change the nominal increase of the defense expenditure into a real decrease. Again, the Defense Ministry counts on a 4.5% inflation rate for armaments this year.

The Federal Armed Forces also face imponderables because of the recent developments on the oil market. The drastic increase in energy costs has already led the Federal Armed Forces this year to spend 70 million marks more than expected for heating oil. An additional 170 million marks will be needed for gasoline and diesel fuels. These expenditures can be balanced through lesser expenditures in other areas. It is hoped that the difficulties will be overcome the same way next year.

The Federal Armed Forces will probably have to get along with a meagerly computed budget in the coming years as it results from the rates of increase, adopted by the Cabinet with the 1980 budget in its 13th medium term financial evaluation plan. For the year 1981 an increase of 2.1% has been foreseen while for 1982 and 1983, Section 14 is expected to increase by about 1.6% each year. However, it is hoped that military procurements will show an above-average increase of 5.3% in 1981, and 3.5% and 4.6% in 1982 and 1983, respectively, in order to avoid delays in the introduction of new weapons.

[From Der Spiegel, Mar. 26, 1979]

The Soviets Are No Devils—A General of the Federal Armed Forces and an American Historian on the Russian Military Power

The Bonn disarmament debate, triggered last February by Herbert Wehner's assertion that the Soviet military power is of a defensive character, is noticeably becoming more violent. Currently, the SPD Parliamentary Leader's thesis is getting support from outside: from Major General Gert Bastian, 56, Commander of the 12th Armored Division stationed in Veitshochheim near Würzburg and from American Diplomat and Historian George F. Kennan, 75. After non-party member Bastian declared on March 9 at a young-socialist meeting in Bad Mergentheim that he was in agreement with Wehner, he once more stated his position last week in a letter to the "Fränkische Nachrichten," as a result of which the CSU demanded the replacement of the Commander. Also Kennan, assistant professor of history at respected Princeton University, last week in an interview with Berlin's RIAS Radio Station put forth the thesis that the Soviets acted more defensively than offensively. Already prior to WW II the former diplomat was active in the U.S. embassies in Berlin and Moscow. From 1947 to 1949, he was chiefly responsible for U.S. foreign policy and the investor of the so-called "policy of restraint" toward the Soviet Union. At the end of 1957, George F. Kennan, in six lectures prepared for a British broadcasting station, proposed the disengagement of the atomic superpowers—through the disengagement of the military power blocs in Europe. The Spiegel is publishing here excerpts from Bastian's letter and the Kennan interview.

MAJOR GENERAL GERT BASTIAN

"I do not notice a dissent in substance between my statements and Mr. Wehner's well-known comments . . .

"After all, it was we who unprovokedly invaded Soviet Russia. We did it so effectively that even this gigantic country was pushed close to the edge of a catastrophe. Only after three years of unheard of efforts was it able to stem the enemy's advance and repulse him into his own country.

Therefore, no wonder that the Soviets have drawn the lesson, namely, not to tolerate warfare in their own territory, in the case of a new aggression but to immediately carry the war into the attacker's country and decide it there; for this reason, they created the necessary military potential.

Of course, we know that such a situation cannot arise because NATO, of which we are a member, is a defensive Alliance and because an attack of its armed forces against the East is unthinkable. But are the others also aware of it and do we expect them to simply believe that just because we say so? Do we respect them to believe that after the Federal Republic of Germany became a member of NATO and after it has not always convincingly refuted the opinions of some or dispelled the suspicion that it might abuse this Alliance for a forceful revision of the war results?

To me it looks a little naive to imagine that our present peacefulness would clearly convince all those who only a generation ago had suffered from our force. It would be somewhat arrogant to believe that it is we who decide which part of the Soviet armament appears to be justified and which is not justified according to the security considerations graciously consented to by us.

We Germans, of all people, should better understand reasonable assumption of this sort made by the other side."

GEORGE F. KENNAN

"The Soviet leaders and also the Soviet people—at least the older generation—still remember the last world war very vividly. They have not forgotten that German armies, that is, European armies deeply penetrated into Russia. The people and especially those in the government have said they won't be weak again and that such a thing will never happen a second time. . .

"Thus, I think, we cannot say that either one side or the other has created its armed forces for an offensive purpose. If this can be said of the Russians it also can be said of us. I surely do not believe that we had offensive intentions when we established this whole potential.

"It seems to me that quite a few people have the impression that the Soviet leader each morning when getting up are asking themselves: What shall we do today to materialize the world revolution? I find this a little unrealistic. They are confronted with many direct problems with which they have to deal before they wish to take up the long-term problems. This is what I had in mind when I said that the Soviet leadership is also of a defensive nature. It has to cope with the daily issues of which it has very many like any other big government. . .

"My God, they (the Soviets) are no devils, they are people. They know what sort of terrible and immeasurable devastations such arms—or only a fraction of them—would cause to another country. They know that this would actually not be a blow to our country, but that the whole civilized world could not take it. . . .

"I do not like to see weapons systems being built only to enable us to negotiate if otherwise they are not necessary. I don't see why the existence of such weapon systems played such a big and useful role in former negotiations. I believe we have to get away from this sort of thinking and learn how to negotiate in another sort and fashion."

GENERALS—A DOWNRIGHT PANIC

Violently attacked because of his support for Wehner's disarmament theses, Division Commander Bastian falls short of the general concept of the unpolitical military.

Among the generals presented to him on the occasion of the farewell party for Army Inspector Horst Hildebrandt, Defense Minister Hans Appel gave the Commander of the 12th Armored Division a closer look: "Well, well, you are the man who has caused all that fuss."

One day later, last Friday, all the commotion about Major General Gert Bastian reached its climax when in the Bundestag (German Parliament) the CDU/CSU again demanded the Commander's dismissal and when it again failed in its attempt to make a big fuss of this "incredible happening" (CDU Defense Expert Manfred Wörner). Bastian's offense: The officer had taken the liberty of agreeing with Social Democrat Wehner's thesis on the Soviet Union's defensive posture toward the West.

Even among his fellow officers, who in contrast to Bastian view the Soviet Army as a deadly threat, this general, suddenly propelled into national prominence, has aroused feelings of solidarity. In their opinion, the campaign has definitely been carried too far.

The attacks on the general by the opposition press, such as the "Welt" and the "Frankfurter Allgemeine," have even turned out to be helpful.

World War II, the "Welt" stated in an article that revealed only one fourth of the truth, Bastian had seen in France; an article which in the opinion of the General might insinuate that "I had staggered from one brothel to the other."

In the "Frankfurter Allgemeine," Military Strategist Adelbert Weinstein suggested the two-star General has desperately been trying to become prominent so as to get his "third star."

The 56-year-old Bastian will be pensioned in four years. He may have attracted general attention by his unconventional behavior but never because of excessive ambition. Thus, to a commanders' meeting in Sindelfingen, he did not drive in his official dark Mercedes-Diesel but in a rust-colored Matra-Bagheera—surely the deed of an eccentric fellow in the opinion of the reserve colonel and contributor to the "Frankfurter Allgemeine" who has a different idea of an army officer of the old stamp.

"He is," writes a local newspaperman from Bad Mergentheim, "a man who keeps a low profile and who does not hold his 18,400 men stationed between Nuremberg and Coblenz on a tight leash." According to Major Jens Braunschmidt of the divisional center in Veitshöchstheim near Würzburg "he does not carry out the Army Regulations to the last detail."

However, in the opinion of some officers, "Bastian gets tough with superiors who give their subordinates a hard time. "In such cases I show no mercy," admitted Bastian, "I have always drummed into the people's heads that they will turn draftees into draft dodgers if they treat them wrongly."

The Commander does not pay too much attention to formal training and makes no secret of his loathing to drill and other "senseless monkey business." "When I see the National People's Army parade in goose step, a shiver runs down my spine."

Yet, the "drilled puppets" appealed to him at least 15 years ago—which is not astonishing for a professional officer who, already in 1953, that is three years prior to the establishment of the Federal Armed Forces applied for employment at the Blank office.

He learned the trade of war at the age of 18. Immediately after his emergency graduation from high school, he volunteered for the east front in 1942. Twice wounded he was sent to Normandy in June 1944 at the beginning of the Allied invasion, where he was wounded a third time. He recovered from a bullet wound in the military hospital in Bad Tolz from where in March 1945 he was sent to the already nearby east front.

After a short imprisonment, he learned bookbinding and set up his own shop in 1948. After the small enterprise did not flourish, he joined the Munich Welfare Office, where he worked on pension matters until 1956, when he joined the Federal Armed Forces as a first lieutenant.

"I always wanted to become a major," he said, but he ascribes the fact that he had climbed four steps higher and had been appointed Commander of the 12th Armored Division in October 1976 more to an accident than to his own capabilities.

As a Commander he revamped the concepts he had read 20 years ago in Ulrich de Maiziere's book on "Interior Conduct". The latter subsequently became Inspector General.

Bastian ordered Colonel Fritzjurgen Kunze of the Coblenz "School of Interior Conduct" and Commander of the 12th Artillery Regiment to develop a concept of political education which as "Tauberbischoffsheim Model" is currently examined by the Defense Ministry which ultimately will decide whether or not it should be recommended for the entire Federal Armed Forces.

The Commander, however, made headlines in connection with other activities. Two years ago he clashed with neo-Nazi Erwin Schonborn who had sent "comrade" Bastian anti-Semitic pamphlets. The General told him not to molest him any longer; Schonborn became abusive and was sentenced for insult.

Bastian caused another stir last year when he prohibited his division from playing the "Badenweiler March." On the occasion of a public event the "Geissberg-Buben," a folkloric group of the Division was playing Hitler's favorite march while some among the audience shouted "Heil Hitler." "The Badenweiler," Bastian explained, "was played only whenever Hitler showed up."—Among today's generals that march still provokes aversion.

"A downright panic" (Bastian) was triggered by the non-party member Commander last month, when during a young-socialist meeting in Franconian he positively reacted to SPD Parliamentary Leader Wehner's disarmament proposals.

The personal insults heaped upon the General by his opponents in their smear campaign did not bother him. However there was one exception: According to the "Frankfurter Allgemeine's" Editorialist Weinstein, the General has "often given stilted and rather laboriously formulated explanations."

"This," said Bastian, "has hurt my vanity."

[From the Economist, Oct. 6, 1979]

SCHMIDT'S CALCULABILITIES

You said earlier this year that "never before have we been so secure." What did you mean by that?

When I used that phrase, "we" was not meant to be "we", the west as a whole. It was meant to be "we", the Germans. I am trying still to make it understood to my own people that we, the Germans, the Germans in the western Federal Republic of Germany as well as the Germans in the German Democratic Republic, as well as the Germans in West Berlin, that we are securer nowadays than we were in the 1960s and 1950s and 1940s.

My reasoning is rather simple. We saw many Berlin crises in earlier decades, the Khrushchev ultimatum, the building of the wall in the early 1960s, the intervention in Czechoslovakia in the late 1960s. Today, on the basis of a continuous equilibrium of military forces which results from those forces inside Europe, and those working upon Europe from the outside, we have created a policy of cooperation between western and eastern Europe. A policy of what one calls detente, a policy of calculability on both sides.

Eastern policies in Europe are more calculable nowadays. Western policies are calculable for the east. Nobody foresees a Berlin crisis around the next corner, as one had to in the 1950s and the 1960s. This is what I meant by saying that we are living in more secure circumstances than in the first 25 years after the war.

Do you therefore base that feeling of security in West Germany—as distinguished from the west as a whole—on your interpretation of what Russian intentions are?

I do not accept your distinction. But on substance I would base an increased feeling of security in Europe not only on Russian intentions, but on western intentions as well. I base it on the treaties and agreements that have been concluded. For instance, the treaties between my country and the Soviet Union, the People's Republic of Poland, the German Democratic Republic, the four-power agreement on Berlin, all of which were the prerequisites for the all-European Final Act of Helsinki in 1975. I base it on all these, not just on Soviet attitudes. Soviet attitudes are important, but also the Soviet Union has bound itself by all these treaties.

But you're talking about agreements which were reached in the heyday of detente. Since then a strong streak of opinion in America, a strong streak of opinion in Britain, has not so much gone back on detente but has begun to worry again about Russian intentions.

If you want to have continuity of detente you have to have continuity of the balance of power, the equilibrium. Continuity of detente cannot persist if you let the military equilibrium deteriorate. You must not let that happen.

Some of those streaks of opinion you are quoting are more streaks of unrest about the west's own ability or effectiveness in maintaining the balance of power than they are streaks of uncertainty about a potential Soviet capability to exploit a deterioration in that balance or in that equation. It's in the first instance necessary that you maintain the balance. It's wrong just to point to the Soviet side. If one has the feeling of the balance being tilted, one has also to mend one's own defences.

Yes, but this feeling of alarm is also based on the degree of Soviet build-up, is it not? Something which you yourself have referred to.

Well, I don't like the word "alarm" but of course you have to watch . . .

We're not talking about your alarm, we're talking about alarm elsewhere in the west.

Well, I don't like the word "alarm" at all. There is no need for alarm. Some people are taking alarmist attitudes because they want to fight their own government or their own administration. Some people have to drop their alarmist attitudes once they have come from opposition into office. And they certainly will drop them. You have to watch what the other side does and the other side will have to watch what we do. It's a necessity for both sides to establish a continuous equilibrium.

This more or less is the moral, the rationale, of Salt-1 and Salt-2, at least in the one field of global strategic weapons, inter-continental strategic weapons. Other fields in which military power plays a role haven't so far developed into the same maturity, the same established, agreed equilibrium as is the case in Salt-2. So in these fields there is room for criticism. That's okay, it's necessary.

You're talking about Euro-strategic weapons?

Not only, also conventional weapons.

We nevertheless do face a situation where western strategic superiority has gone.

It was never a western strategic superiority. It was an American superiority in intercontinental strategic nuclear weaponry. It was never a superiority in the early 1970s or the 1960s in global military capabilities.

We were talking about strategic superiority.

I do not like that. I think it's wrong to use the word "strategic" only in the context of inter-continental nuclear weaponry. It's a wrong perception of strategy. I use the word "strategy" in the sense of the late Captain Liddell Hart's grant strategy which embraces not only all the military fields but of course also the political, the psychological, the economic fields.

BEYOND EUROPE

Yes, but then even in the wider sense that you're defining it, we've gone into a period where, after Vietnam, there has been a loss of superiority in the west or, if you prefer, in America.

Superiority is never, can never be, appropriate. If one talks of equilibrium, superiority has no place. It's the wrong perception.

In places like Africa, let us say . . .

There is no equilibrium in Africa, there hasn't been superiority in Africa.

There was at one time.

Well, in the 1950s, before decolonisation.

If one takes the Gulf area, for example: the equilibrium, wouldn't you concede, is less stable now than it was?

Right, right. Not so much due to Soviet activities. Iran hasn't collapsed because of Soviet activities. There are some Soviet activities in the southern part of the Arabian peninsula.

And the Horn of Africa?

The Horn of Africa, right.

Now, it's a common perception that in all these areas there is an imbalance to the extent that the Soviet Union or its surrogates are willing to be involved militarily but the west or America and its allies are not ready to be involved. And you don't seem to us to be worried by that.

I am worried, but I am not one of those people who always sees only the negative developments. I also see positive ones. There was a time, not so long ago, when you had plenty of Soviet troops and military influence in Egypt and there is none right now. This is quite something.

I personally do not believe that in the end the complex of Middle East questions can be settled without some participation of the Soviet Union. But I do not maintain that

Soviet influence as regards the Palestine question or the complexities between Israel and her neighbours is greater than it was five years ago. It's smaller, indeed.

What role does or could Europe play in that sort of area in, say, the Horn of Africa or in Africa itself?

A rather small role because there isn't much that Europe could provide. What could the Europeans give or guarantee? Could they guarantee military assistance? Could they give a great amount of finance? Could they guarantee the flow of oil into Israel? Obviously they can't. They can, of course, be helpful in a limited way. But it is more or less a fact, whether you like it or not—and I don't like it too much but I have to accept it as a fact—that the Americans are the ones who have the influence there and, to a lesser degree, the Soviets. There is no European Sixth Fleet in the Mediterranean, nor is there any such thing in the Indian Ocean, nor in the Gulf—nor would there be any such thing.

Not in the foreseeable future, you think?

No, no.

Is Salt-2 vital to maintaining the nuclear strategic balance?

Yes. It gives some stability to that balance. Only in that one field, not in other fields. If agreements were limited just to inter-continental nuclear weaponry it would not be enough to stabilise the strategic situation as a whole.

Would it be a serious matter if Salt-2 now were seriously amended or went into cold storage?

I don't see any technical, diplomatic possibility for effectively changing the substance of a treaty which has been concluded between governments. I have never seen this happen in modern times.

The Treaty of Versailles?

It was not amended afterwards. There is no possibility of changing by parliaments the substance of treaties which have been concluded and signed by governments. That's a rather naive conception.

If Salt-2 was not ratified as it stands, it could—and this would be my apprehension—create a broad feeling of uncertainty. This treaty has been negotiated by three American presidents, Nixon, Ford and Carter, by three American secretaries of state, Rogers, Kissinger and, nowadays, Vance, and their aides and security advisers and so on. If, after such a long period of negotiation and agreement, in the end parliaments refused to ratify that sort of treaty, the world becomes rather incalculable. How could you in the future depend on a policy carried out by an American president? It would be a disastrous blow to the necessary leadership of the United States as regards the west as a whole. I rule out amendments which would require renegotiation.

Now, having said this, of course, the Americans, whether it's the administration or the senate, can embed a treaty which they ratify into an environment of other things which they do at the same time: not violating the treaty, not amending the treaty, but adding to the general strategic setting. And of course they can do that and obviously they will.

You think it's useful, therefore, the way the Salt debate seems to be acting as a catalyst for larger spending on nuclear strategic systems?

I am the representative of a non-nuclear power. That is not my business and I do not want to appear to regard that field to be my business.

Coming to the Euro-strategic field, since Russia's deployment of the SS–20 there has been a debate which you have participated in quite vigorously yourself about the stationing of Pershing or cruise Euro-strategic weapons on German soil.

This is a long history that goes back more than 20 years.

It was in 1960 that a great American soldier who had just left active service, Maxwell Taylor, published a book called "The uncertain trumpet." He was one of those who foresaw at that time that situations might arise in the future in which one could not and would not actually apply one's superiority in the inter-continental nuclear strategic field in order to make up for deficiencies in other military fields.

I myself wrote a book many years ago, the English title of which was "Defence or retaliation?", in which I put forward the thesis that one could not rest assured on the theory that it was just enough to be able to retaliate afterwards and that one had to be able to defend oneself if attacked. Ten years later, I published a second book, "Balance of power," in which I again depicted the obvious development of the 1970s by which it was more or less bound to become unthinkable that the Americans would apply their diminishing, shrinking, withering inter-continental superiority in order to correct all situations which might arise in the future in other fields. Already in 1969 I asked for an adequate equilibrium, military equilibrium, on other levels and in other areas of defence.

This is not new for me, it has been my thinking for 20 years, remained as my thinking when I was defence secretary of this country and still is my belief as chancellor. Its nothing new. Nobody needs to be alarmed about it. It did not start once we heard for the first time of the SS–20s or the Backfires. It has been my thinking all along the past 20 years. Backfires and the SS–20s are just a confirmation of what one saw as likely to develop.

In the late 1960s, American governments started to think in terms of parity in the inter-continental strategic field which should have, by pure logic, led them to understand that, if they engaged in negotiations which were meant to lead to a situation of parity in the inter-continental field, they should also have to do something about the field in which they were inferior, like the field of the SS–4s, SS–5s, nowadays SS–20s. There were western medium-range ballistic missiles and intra-range weaponry in the late 1950s but they were dismantled by 1963 which I think from hindsight was a wrong step. They should have been modernised rather than dismantled.

So that does raise the question you are now raising yourself, namely of stationing in Europe of Euro-strategic weapons so that there is a Euro-strategic balance, not one that is just covered by an inter-continental balance.

I wouldn't necessarily ask for parity, I would ask for a sufficient counterweight. And I would ask for a serious undertaking on the basis of mutual agreement to limit the number of weapons or warheads in that field, both for the east and the west.

That's Salt–3?

Could very well be under Salt–3, yes. I would prefer it to happen under Salt–3.

Does that mean that the Federal Republic as a non-nuclear power, plus Britain and France as nuclear ones, should be directly involved in Salt-3?

France would certainly not wish to be involved. We ought not to be involved because we are not a nuclear power and don't want to give the impression that we are striving to become one.

The Federal Republic, as I understand it, has said that it is not happy about having Euro-strategic weapons stationed on its soil unless other countries in the NATO alliance also agreed to do so.

Other non-nuclear countries. Britain and France are nuclear powers in their own right, and I don't want by any means to have my country compared with those.

It has been said in West Germany that the increase in Russian military strength was primarily or purely defensive. Is that a notion which you subscribe to?

I will not comment on what others have said. I myself believe that the Brezhnev leadership is fundamentally not aiming at war in Europe, not aiming at offensive moves in Europe, but aiming at maintaining a stable and secure situation. I have to add that, as it was in the past, so also in their perception of stable security in the present, the Russians always want to be on the safe side, having a little more in any field than others, a little better. Well, that is their inbuilt instinct.

They overdo it in some fields. Therefore the west has to respond, to tell them that this is being overdone. But one has either to limit the figures on both sides by agreement or by tacit agreement, or one has to accept that the west acts as well in order to keep up the equation.

But there is, so far as I can see, no tacit hidden offensive attitude behind Russia's policy. This I say for the present leadership in the Soviet Union. I am not making any prophecies for the rest of the 1980s.

There is always a question of succession in the Soviet Union.

Not only in the Soviet Union, also in the west. Questions of succession play a much greater role than is being anticipated by today's political analysts, and a much greater role in the east than is being foreseen in Marxist theory. Personalities do matter sometimes, and, to be quite frank, I would hope that the attitudes of the present leadership in the Soviet Union will be respected and further developed by their successors.

We've got the nearest we're likely to see to an election campaign in the Soviet Union coming sometime in the next few years. It happens rarely there, therefore it makes more of a splash when it does happen. We're used to the idea that Schmidt will be up for election or Giscard will be up for election. We're not used to the idea of frequent changes in the Soviet Union. Does the prospect of a change in Russia in the nearish future disturb you?

I wouldn't say "disturb", but it should be borne in mind and understood in the east as well as in the west as an incentive to settle the business which has been prepared for settlement by the present Russian leadership.

Like Salt-2?

Like Salt-2, yes. And the engagement into Salt-3.

What about Russian intentions outside Europe, which seem to us to be much less just a question of containing and preserving the status quo?

They are exploiting the situation in some places which the west has by negligence, and as a result of the psychological aftermath of Vietnam, allowed to open up. But even so, I do not think that the present leadership in the Soviet Union would risk any showdown in any place of the world. I think that one could see this clearly with the Vietnamese request for Soviet help vis-à-vis the so-called Chinese operation of punishment. The Soviets behaved rather cautiously.

You made it very clear at the time, as we understood it, that you were happy about the restraint that the Soviets showed.

I praised them because of their self-restraint, yes, that's right.

But you also were fairly critical of the Chinese move and indeed of the playing by America and others of the Chinese card.

I was critical of the Chinese. They don't have a right to punish somebody, nobody has a right to violate the territory of somebody else, to violate somebody else's sovereignty.

Even if there's somebody else doing a rather ugly thing?

The Vietnamese had no right to intervene in Cambodia even if Pol Pot was a criminal murderer.

But they did. So then what does China do?

Neither the Vietnamese had the right to intervene, nor had the Chinese the right to intervene. Nobody has a right to intervene.

No. But if the Vietnamese have already done it? You only have to speak to Lee Kuan Yew or anybody down in that area to know they were rather satisfied that the Chinese came in.

Well, I can imagine, in pragmatic terms, that one could be satisfied. But the morale of the world is going to go under if from time to time we praise intervention into sovereign territory and from time to time we criticise it. I am criticising it all the time, whether it's in south east Asia or whether it's in eastern Africa.

It must be said you're sounding somewhat as you were represented after Brezhnev's visit here in May, 1978. There was speculation at the time that there was an understanding between the two of you that the Federal Republic and its leadership would become the explainer and the advocate of Soviet attitudes within the alliance.

We are not the advocates of the Russians. We are not even the interpreters of the Russians. They are a great power, one of the two greatest powers of the world, who can and do speak for themselves. We are a member of the western alliance, we want to see this alliance maintain its strength, maintain its operability, maintain its defensive capabilities, be regarded as a strong alliance—not only to appear like a strong one—be respected as a strong alliance.

We contribute quite a bit to the defensive abilities of that alliance. To think of the alliance without Germany is to think of fairly little. As in the past, so in the future we shall contribute what is our duty, not because it's our duty, but because we feel it's necessary. We do it for our own sake, out of our own necessities.

On the other hand, one of the necessities of the alliance as well as for us Germans is to get along with the eastern power. We don't want to get back into the cold war. There is nothing to be gained for the Germans in a cold war, divided as our nation is, divided as our capital of Berlin is, nothing to be gained from a new cold war period. A return to the cold war is still thinkable: I hope it doesn't occur, but we have not passed the point of no return as yet.

More important than strategic thinkers yet understand is economic co-operation. There is no possibility for the Soviet Union or other European powers in the future to exist economically on their own. They need exchanges with the west, they need capital goods, they need investment goods, they need export markets for their own produce, their own raw materials especially. They are much more intertwined in the world's economy, as a whole, than in the past. They have come to understand it. It's good that they understand that, it's good that we in the west respond to that.

They are much more dependent on the western world economy than the western world is dependent on the economy of the east.

DIVIDED AS OUR NATION IS

All right. Greater interdependence. Greater security than 20 or 30 years ago. Very much greater German success economically, and stability inside Germany. All these things have raised questions about how firmly embedded Germany is in the western alliance, the whole question of reunification. Heine's famous words: "If I think of Germany at night I cannot sleep".

Where do you think the reunification debate and the reunification matter between yourselves in negotiation with the Soviet Union goes in the next year or two?

I'll tell you the same thing which I tell anybody, whether on German television or in conversation with Leonid Brezhnev. I always let people remember the Polish example.

Historically there have been three divisions of Poland: after the third division at the end of the eighteenth century nothing was left of Poland. All the Polish nation and the Polish territory was divided between three great European powers at the time: Russia, Prussia and Austria. And then again, in 1939, there was a fourth division of what then again had been created as a Polish state between Stalin and Hitler. But nevertheless, the Poles, over a period of now 200 years, two centuries, did not give up the will, not give up the hope to get together one day in the future. They didn't know when.

They've had a fairly nasty time along the way.

Yes, they have. But they didn't give up. And the first line of the Polish national anthem since the early nineteenth century has been "Poland is not lost as yet" and so far they have been proved right.

I do not foresee under what auspices and conditions the Germans will get together again, but they will. Maybe only in the twenty-first century. I don't know. It would obviously be wrong for any European nation to believe that the nation state is normal for any nation but not for the Germans.

What's the implication for the alliance then?

There is no implication for the alliance, no.

No immediate implication. In the long run there must be.

I don't know, I don't know. I do not think that the present alliances will last for centuries. For the time being the alliance is a totally indispensable instrument for maintaining peace in Europe. Therefore the alliance is good for the Germans and they'll stick to it. There is no need and indeed no reason for philosophising about Germany's adherence to the alliance. I would just repeat that, if every great nation in the west would contribute to the defensive strength of the alliance as much as we do, the alliance would be better off.

How live is the feeling for reunification among the younger generation here? There have been opinion polls showing that they'd prefer to go on holiday in Spain and they no longer terribly care about reunification.

Yes? The Poles waited for two centuries. Nevertheless the matter was very vital deep in their souls. It's not necessary that you advertise it every Sunday.

One Germany is not something which anybody thinks of as being right around the next corner, or even the corner after the next. It's some way in the future but it does exist. It's a real desire in the soul of the German nation, whether in the west or the east, and one must not delude oneself by young people going to Ibiza or Majorca.

[From the New York Times, Oct. 15, 1979]

SCHMIDT BIDS WEST ACCEPT SOVIET OFFER

BONN, October 14.—Chancellor Helmut Schmidt said today that the stated willingness of Leonid I. Brezhnev to open talks on European security could mean that new American medium-range nuclear missiles might never have to be deployed in Western Europe.

In a new effort to stress what he sees as the positive aspects of the Soviet leader's initiative, Mr. Schmidt emphasized that a readiness to negotiate with the Soviet Union must be made clear when the Western allies adopt plans at a North Atlantic Treaty Organization meeting in December to produce and deploy more than 500 of the middle-range missiles.

Mr. Schmidt's arguments, running parallel to statements made yesterday by Willy Brandt, the Social Democratic Party leader and former Chancellor, appear to be an attempt to counter some of the more negative appraisals of the Brezhnev proposals from Washington and other NATO officials.

Mr. Brezhnev, in a speech in East Berlin on Oct. 6, announced Soviet troop and tank withdrawals from Eastern Europe and offered a reduction in Soviet medium-range nuclear missiles if NATO canceled its plans to deploy its new missiles.

TAKE SOVIETS AT THEIR WORD

The Chancellor said that the Brezhnev initiative, in general, created both skepticism and defensive feelings in him. But he said that a readiness to negotiate on the issue of medium-range nuclear arms would be an attempt "to take the Soviets at their word, which through the Brezhnev speech presents still additional prospects of success."

He added, "The Soviet Union has reiterated: We want to bargain".

Referring to the NATO decision to produce and deploy the new missiles, the Chancellor said that if negotiations with Moscow were successful, it might not be necessary "to develop all of them, perhaps only many fewer, and in ideal cases, absolutely none."

Mr. Schmidt emphasized that Mr. Brezhnev's threats about possible Soviet retaliation if NATO decided in December to go ahead with the new missiles were tied to the word "deployment."

Mr. Brezhnev's "attempts at intimidation are linked to deployment," Mr. Schmidt said. "That's the way I read the speech. And therefore I am confident that he wants to use the intervening time the way the West wants to use intervening time between a decision and actual deployment—for negotiation."

If the NATO decision on production and deployment is made as expected in December, the missiles could be operational in 1983.

Mr. Schmidt called the December decisions "statements of intention" and said they "could during the intervening three or four years be changed, or reduced if progress in negotiations allows it."

[From the Washington Post, Oct. 10, 1979]

NATO UNITY SEEN AS BREZHNEV'S TARGET

(By Michael Getler)

BONN, October 9—Soviet President Leonid Brezhnev's speech in East Berlin last Saturday, in which he combined conciliatory gestures with threats in an effort to forestall deployment of new U.S. medium-range atomic missiles in Europe, is being seen in allied capitals as a skillful attempt to stirup public opinion and enlist the sympathies of Western Europe's sizeable leftwing as a way to stop governments from accepting these weapons on their soil.

"That is very definitely the case," says A. B. N. Frinking, spokesman of the parliamentary defense committee in Holland. "We are not blind. We see what is going on," he says of Brezhnev's tactics. Nevertheless, he adds, "the people in Holland want to stop the action-reaction cycle of the arms race so we shouldn't say it is an offer that is not worthwhile until we have more facts."

The question of deploying some 572 new U.S.-built Cruise missiles and Pershing II missiles in Western Europe to balance new Soviet SS–20 missiles already in place is one of the most significant and politically sensitive issues to confront the North Atlantic Alliance in many years. It has now been made more so by the direct mixing in of the Soviet leader. This could drive a wedge between the United States and some of its European allies.

While U.S. officials tend to treat the Brezhnev remarks as mostly propaganda, Europeans, living closer to Soviet power and influence, are scrutinizing them intensely for clues to the future of detente on the continent.

Though NATO ministers have already indicated they are likely to authorize going ahead with deployment at the alliance's forthcoming December meeting, that approval will then have to be ratified by parliaments back home.

Diplomats and experienced political observers in some countries where those missiles would be stationed acknowledge, however, that the Kremlin leader's proposals and threats could have an effect on public opinion and on parliamentary approval.

At stake, therefore, are not only questions of modernizing NATO nuclear weapons and the European balance of power, but also cohesion of the alliance on a fundamental question of future defense policy, relations between Western Europe and the Soviet Union, and the atmosphere surrounding future nuclear arms limitation talks and East-West troop reduction talks.

The issue is so sensitive in Holland, say several sources, that the fragile coalition government there could possibly fall if it backs the deployment plan. This, in turn, could influence support for the deployment plan in neighboring Belgium. And, if Belgium waivers, that leaves only West Germany. Bonn has said repeatedly that it will not be the only West European non-nuclear country to provide bases for these new weapons.

At a seminar of the Atlantic Institute in Paris last week, Klaas de Vries, chairman of the defense committee of the Dutch Parliament, said that this country would want to know Belgian intentions before committing itself.

Thus, the issue is probably more fragile than the expected NATO endorsement reflects, and Brezhnev obviously senses that.

The U.S.-NATO plan is to begin, within the next few years, emplacing 108 new Pershing land-based missiles to supplant a similar number of existing shorter-range Pershings. In addition, about 464 ground-launched Cruise missiles would also be deployed.

The United States has had atomic weapons in Western Europe for 30 years—some 9,000 of them are still here, sources say. But the crucial difference—to the Kremlin as well as the West Europeans—is that these new missile, for the first time, would be able to fly more than 1,000 miles and thus strike targets in Western Russian from their European bases.

The missiles would be on U.S. bases, with the Pershings stationed primarily in West Germany and Cruise missiles here as well as in England, Holland, Belgium and possibly Italy. Authoritative sources say they would also be exclusively under U.S. control rather than joint control so as not to force the allies to have a finger on the nuclear trigger aimed at Russia.

The number of missiles reportedly was arrived at by calculating that the Soviets, who now have more than 120 of the new and mobile SS–20 missiles deployed, would eventually have about 200 of these, each armed with three warheads for a total of about 600 individual weapons.

The alliance has nothing to match those Soviet weapons at this point and it is the desire to plug that real, or perceived, gap in the West's ability to deter attack at any level and to resist severe political pressure that NATO wants the new missiles.

In his speech, Brezhnev first captured attention by a unilateral pledge to withdraw up to 20,000 Soviet troops from the roughly 400,000 believed stationed in East Germany and 1,000 of the 7,000 tanks there as a gesture of "goodwill and detente."

Then he said the Kremlin was also ready to negotiate reduction of its medium-range rocket force based in Europe, but only if the west refrained from deploying new weapons. If there was no restraint, he threatened stern Soviet Countermeasure.

Officials throughout NATO have reacted with cautious interest to Brezhnev's proposals, seeing some positive elements in them but also seeing attempts to confuse the Western public.

The allied political strategy to get the plan approved has always revolved around finding a partner for West Germany. England, whose Conservative government is expected to support the deployment plan, in Bonn's eyes does not count as a partner because it is already a nuclear power.

The effort to gain Dutch backing centers around what is called a "switch" plan in which it is hoped Dutch reservations can be overcome by removing some older U.S. nuclear bombs, artillery and anti-aircraft weapons and replacing the missions to be carried out by those forces with the new missiles.

Belgium, remains the key. Foreign Minister Henri Simonet is widely viewed as strongly disposed to back the NATO deployment plan. The Belgians are seen as not nearly as sensitive as the Dutch on such questions and as more pragamatic on security issues, like the French. Indeed, some Belgian officials privately say their country is simply "passive" about a lot of things except taxation.

For the West Germans, the conciliatory portions of Brezhnev's speech were seen as a boost to getting SALT II ratified in the United States. Without SALT II, there would be no SALT III and therefore no forum to discuss the European arms control portion of the NATO plan.

The Kremlin has put considerable pressure on Bonn, which highly values its relationship with the Soviets and which has an active left-wing in its ruling Social Democratic Party.

Egon Bahr, a leading figure in the Social Democratic Party here who has close ties to the Soviets and was a strong opponent of U.S. neutron bomb deployment plans, called on Moscow to stop production of the SS–20 and said "the way in which the Russians publicly criticize Western plans, which are simply answers to Soviet actions, do not help very much."

In an editorial this week, the influential center-left French newspaper LeMonde also pointed out that the "new phase in the arms race in Europe was not only the fault of NATO militarists but rather more the fault of the Russians, who assured a Western response by considerably reinforcing their panoply of theater nuclear arms in recent years."

[From the Christian Science Monitor, Oct. 9, 1979]

U.S. DEBATE OVER SOVIET TROOP CUTS

(By Daniel Southerland)

The Christian Science Monitor

WASHINGTON, D.C.—Soviet President Brezhnev's announcement of a unilateral reduction in European-based Soviet troops and tanks—while clearly limited in size—may place President Carter in a difficult bind.

Eager to move ahead with arms control, the President is nonetheless committed to the "modernization" of U.S. nuclear weapons based in Europe. If he repeats the zigzag performance he went through last year over deployment in Europe of the short-range neutron warhead, he could undermine his already damaged credibility among NATO allies.

Initial reaction among American officials was that the Brezhnev announcement of unilateral troop and tank reductions may amount to nothing more than a propaganda ploy. A public statement issued by the State Department said, however, that his speech of Oct. 6 appeared to contain "some positive elements." The State Department does not want to miss the chance to respond to what could turn out to be a "positive signal" from the Soviets which would both help with the ratification of the Strategic Arms Limitation Treaty (SALT) and get long-stalled negotiations over East-West forces reductions in Europe moving.

But regardless of the significance which President Brezhnev's announcement may hold for future negotiations, U.S. officials said the immediate impact of the announcement was clear: In their view, it amounts—in part at least—to an astute move by the Soviets to disrupt current NATO plans for the deployment in Western Europe in the early 1980s of nearly 600 new U.S. nuclear weapons. The allies, only a matter of days ago, firmed up plans to install these weapons as a counter to the Soviets' mobile, medium-range missiles known as the SS–20. A final decision is to be made by the NATO foreign ministers in mid-December.

In a speech on Oct. 1 which focused largely on Cuba and on SALT, President Carter had announced that the modernization plans for NATO were "on track."

Speaking in East Berlin on Oct. 6, President Brezhnev announced that he intended to withdraw up to 20,000 Soviet troops and a thousand Soviet tanks from East Germany over the next 12 months. At the same time, he offered to reduce the number of Soviet medium-range nuclear weapons launchers based in the western region of the Soviet Union provided that NATO does not increase—as it now plans to do—its own Europe-based medium-range nuclear weapons' strength.

American officials argue that such an increase on NATO's part is necessary because the West has no European-based weapons capable of matching the Soviets' SS–20 which would make possible a strong but graduated, West European-based response to a Soviet attack limited to West Europe.

President Brezhnev asserted in his speech that the Soviet Union has not increased the number of medium-range missiles based in the western part of its territory over the past 10 years. But American officials say that this misses the point, which is that the Soviets have been steadily modernizing their nuclear forces, adding to their range and accuracy and as well as to the number of warheads which each missile can carry.

The SS–20, they say, has the added advantages of being mobile and reloadable.

According to the International Institute of Strategic Studies, the Soviets have as many as half a million troops and more than 10,000 tanks stationed in Eastern and Central Europe. By those standards, the withdrawals announced by President Brezhnev may amount only to a token gesture. Old tanks could be withdrawn. And "up to 20,000" troops could mean almost anything.

But Mr. Brezhnev has done just enough, it appears, to set off a lively debate among the allies and among Carter administration officials themselves.

Some American experts have already argued against deploying new U.S. nuclear weapons in West Europe, contending that their proposed deployment amounts to a "military hardware answer" to a political problem.

Thus the Soviets might achieve what they have achieved before: a situation in which the Americans negotiate among themselves and with their allies more vigorously than they negotiate with their adversaries in the Soviet Union.

[From the Washington Post, Oct. 10, 1979]

PRESIDENT REBUFFS SOVIETS' PROPOSAL ON ARMS CUTBACK

(By Don Oberdorfer)

President Carter yesterday rebuffed Soviet President Leonid Brezhnev's proposal for military reductions in Europe and urged full support for NATO plans to place longer-range nuclear missiles on the continent.

Carter's remarks in a news conference, while falling short of a formal rejection, left no doubt of his negative attitude toward the proposal announced by Brezhnev last Saturday in East Berlin.

"It's not quite as constructive a proposal as at first blush it seems to be. I think it's an effort designed to disarm the willingness or eagerness of our allies adequately to defend themselves," Carter declared.

The president went on to urge a western alliance decision to modernize its European military strength and then to negotiate with the Soviets to lower armaments on both sides.

A "high-level group" of North Atlantic Treaty organization officials has recommended approval of U.S. plans to station new 1,000-mile-range Pershing 2 missiles and 1,500-mile-range ground-launched cruise missiles in Western Europe to replace the 400-mile-range Pershing 1. The plan, in response to Soviet deployment of 2,500-mile-range SS20s that threaten Europe, is scheduled to be considered by NATO defense ministers in mid-December.

Brezhnev, on the other hand, called for a halt to the NATO plan, which he said would "radically alter the strategic situation on the European continent [and] poison the international atmosphere." The Kremlin leader offered a future reduction in his nation's medium-range missiles targeted on Europe in return for a NATO freeze, but indicated that Soviet missile strength will grow if NATO moves ahead.

The Brezhnev proposals, including a unilateral offer to withdraw up to 20,000 Soviet troops and 1,000 Soviet tanks from East Germany in the next 12 months, have been given full-volume treatment by Soviet media as a "historic peace initiative."

Carter, in his response to the Brezhnev plan, said the Russians have been replacing their older airplanes with new Backfire bombers and their older SS4 and SS5 missiles with new SS20 weapons carrying three warheads each and packing much greater range and accuracy. The new Soviet missiles are also mobile and thus less vulnerable to an allied "preemptive strike," he said.

Carter said Brezhnev is offering, in effect, to continue the Soviet rate of modernization "provided we don't modernize at all."

At another point, however, Carter called Brezhnev's plan "an interesting proposal . . . that might show promise" but he immediately added that "it is not as great a step as would ordinarily be judged at first.'

Carter took the occasion to call anew for Senate approval of the strategic arms limitation treaty (SALT II) with the Russians, which limits strategic armaments but does not apply to intermediate-range missiles. He noted that future negotiations on Eastern and Western Europe military cuts, which are expected to take place in a SALT III forum, are dependent on approval of the strategic pact now before the Senate. For this reason among others, Western European leaders have made strong statements of support for SALT II.

The latest Carter-Brezhnev public exchange came in the wake of unsuccessful efforts to achieve a negotiated settlement of the dispute over U.S. charges of a Soviet "combat brigade" in Cuba.

"In my opinion we have answered the question of the Soviet combat unit in Cuba adequately. I think we have isolated any threat from that unit. We will increase our surveillance there. . . . I believe it has been addressed adequately," Carter said in response to a question.

While calling the presence of a Soviet unit in Cuba "a serious matter," Carter said it is "not the most important matter" and not "a major threat." He said the countermeasures he announced last week were "measured and appropriate."

Responding to former secretary of state Henry A. Kissinger's sharp criticism of the handling of the Soviet-troops-in-Cuba issue. Carter said Kissinger's basic premises of concern were "compatible" with his and that he had seen no report that Kissinger had recommended different moves than had been adopted.

At the State Department earlier in the day, spokesman Hodding Carter delivered a more combative response. Kissinger is "wrong" and will change his mind about the gravity of the threat that the Soviet force poses, the spokesman said.

The president, as he often has in the past, delivered a biting attack on the Soviet Union as a totalitarian, atheistic and military-oriented nation whose values and accomplishments compare poorly with those of the United States in political, religious and economic fields.

At the same time, he credited Brezhnev with sharing a common interest in avoiding a nuclear war.

In response to a question about use of the planned "rapid deployment force" that was given emphasis in his address on the Soviet troops, Carter said he sees "no prospect at this point for our intervention militarily anyplace in the world."

He also said, responding to a query about the impending famine in Cambodia, that the United States is "ready and eager" to join with other nations to provide humanitarian aid.

Carter said he does not plan to meet with the Rev. Jesse Jackson about his just-completed tour of the Middle East, which ended with a recommendation for U.S. official dealings with the Palestine Liberation Organization. There is no change in the U.S. posture on the PLO, said Carter.

[From the Washington Star, Oct. 10, 1979]

CARTER, MONDALE CRITICIZE SOVIET ARMS OFFER AS PLOY

(By Henry S. Bradsher)

Vice President Walter Mondale said today that NATO restraint in nuclear weapons has not been matched by the Soviet Union, and Moscow is now trying to lure the West away from a military buildup to balance new Communist arms.

Mondale said Soviet leader Leonid Brezhnev's statement on reducing arms in Europe had to be viewed in the context of Soviet forces vastly outnumbering those of the NATO alliance.

Mondale's remarks followed a statement by President Carter that the position Brezhnev took last Saturday was not so constructive as it appeared because it would permit continued modernization of Communist weaponry while halting the improvement of NATO forces.

Both Carter, speaking yesterday at a news conference, and Mondale in an address today to a meeting here of the Atlantic Treaty Association, cautiously welcomed Brezhnev's statement.

Carter said it might show promise for arms control talks, and the Western allies are assessing it carefully. Mondale said it had to be considered in terms of the Soviet military buildup.

Both men made the point that the Soviet position is, as Carter expressed it, "designed to disarm the willingness or eagerness of our allies adequately to defend themselves."

The administration reply to Brezhnev came as Soviet-bloc media developed the proposal into a major propaganda campaign. It is being launched while NATO members are preparing for a December meeting to decide on placing improved U.S. nuclear-armed missiles in the Netherlands, Belgium, Germany and Britain.

The question is controversial, with great hesitancy in the Netherlands and Belgium. Brezhnev played on this by warning against the NATO plans and promising never to use nuclear arms against countries that do not have them on their territory.

Brezhnev contended that the Soviet Union had not increased its "medium-range carriers of nuclear arms on the territory of the European part of the Soviet Union" in the last decade. It would reduce them "if no additional medium-range nuclear means are deployed in Western Europe," said the Soviet Communist Party's general secretary and nation's president.

Carter said the Soviets have been replacing old SS-4 and SS-5 medium-range missiles carrying one warhead with new SS-20 missiles that have three warheads, long enough range to hit Western Europe from Central Russia, three to six times better accuracy and mobility to protect them from attack. Old bombers are being replaced with new Backfire supersonic warplanes, Carter also said.

NATO needs to improve its defenses in order to have military strength equal to the Soviet's, Carter said. But what Brezhnev was offering, he said, "is to continue their own rate of mobilization as it has been provided we don't modernize at all."

Similar comments were made yesterday by Britain's defense secretary, Francis Pym, at a political party meeting in England. Brezhnev's proposal "comes at a time when Russians have been modernizing and augmenting their own nuclear armory, while the equivalent NATO capability is small and aging," Pym said.

The proposal "must therefore be treated with caution," Pym said.

Carter used his reply to Brezhnev to emphasize that Senate ratification of the new strategic arms limitations treaty, SALT II, is the first step toward trying to negotiate controls on medium-range nuclear weapons in Europe. They are to be included in SALT III.

"I believe SALT will be ratified this year, basically on its own merits," Carter said when asked if he had "defused the problem or the issue of the Soviet brigade in Cuba." He said the troop question had been handled adequately by isolating any threat and increased surveillance.

Carter sidestepped a dispute with former Secretary of State Henry Kissinger, who had criticized his handling of the troop question. "We do share a common concern," he said when asked about Kissinger's remarks.

The president also said at the news conference that the United States is "ready and eager" to provide humanitarian aid for starving Cambodians. It is trying to work out ways for international agencies to get food to them, Carter said. The agencies have been trying to overcome reluctance of the contending forces in Cambodia to allow them to monitor food distribution so as to insure it reaches hungry civilians rather than feeding troops.

Congress banned all aid to Cambodia after the American-backed Lon Nol regime fell in 1975. A bill introduced last week by Reps. Stephen Solarz, D-N.Y., and John B. Anderson, R-Ill., would authorize $30 million worth of food and related relief supplies for distribution by international agencies at the discretion of the president. Congress and the administration are trying to work out the legal and budgetary problems.

ISOLATION IS NO EXCUSE FOR FAILING TO APPROVE THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, there was a time in this Nation's history when a good, strong argument could be made for an isolationist foreign policy. George Washington did just that, of course, in his farewell address to the Nation at the end of his Presidency. At the time, we were a young country, without the strength or maturity to make an impact on world affairs, or perhaps even to survive the impact of world affairs on us. We were protected by thousands of miles of ocean, and our national energy and enterprise were easily absorbed in the drive to settle the continent. There was little reason to be concerned with the intrigues and intricacies of foreign alliances.

The justifications for this argument have all slowly withered away over the years, especially in this century. As the Republic grew, the trade that made us strong brought us into increased contact with the rest of the world. Technological advances lessened the obstacles of our nautical frontiers, and we developed more and more of an interest in the train of events around the world.

The interest in the world in us increased, as well. We became influential enough so that even our indecision on an international issue had an effect on people far beyond this hemisphere. At the same time, we developed enough of a sense of national identity that we were not overwhelmed by all of this increased involvement.

These developments have at times occurred slowly, and at times they have come in dizzying spurts. The advocates of isolation have continued, in ever-dwindling numbers, to press their cause in spite of the changes in the world. But as wistfully as some might seek a more innocent era, we cannot avoid playing a significant role in the world. We are an international power; we influence the world and it reacts to us, with every stand that we take.

And it must be emphasized that the same is true for every stand we do not take, for every issue we avoid. We have avoided taking a stand on the Genocide Convention for 30 years, perhaps out of a mistaken urge to remain free from "foreign entanglements." But the inevitable fact is that we are shaping world events, whether we choose to or not. Let us choose to, and let us try to shape events in a way which is in harmony with our national values.

I urge the Senate to ratify the Genocide Convention.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, not to extend beyond 10 minutes, and that Senators may speak therein up to 5 minutes each.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there morning business?

If not, morning business is closed.

ADOPTION ASSISTANCE AND CHILD WELFARE ACT OF 1979

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 3434, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 3434) to amend the Social Security Act to make needed improvement in the child welfare and social services programs, to strengthen and improve the program of Federal support for foster care of needy and dependent children, to establish a program of Federal support to encourage adoptions of children with special needs, and for other purposes.

The Senate proceeded to consider the bill which had been reported on the Committee on Finance with an amendment to strike all after the enacting clause and insert the following:

SHORT TITLE

SECTION 1. This Act, with the following table of contents, may be cited as the "Adoption Assistance and Child Welfare Act of 1979".

TABLE OF CONTENTS

Sec. 1. Short title.

TITLE I—ADOPTION AND FOSTER CARE ASSISTANCE

Sec. 101. Federal payments for adoption assistance and foster care.
Sec. 102. Study of adoption assistance and foster care programs.
Sec. 103. Advance funding for child-welfare services.

TITLE II—SOCIAL SERVICES

Sec. 201. Determination of amount allocated to States.
Sec. 202. Temporary extension of 100-percent Federal matching for certain child day care expenditures.
Sec. 203. Temporary limitation on funds for training.
Sec. 204. Use of restricted private funds for training programs.
Sec. 205. Emergency shelter.
Sec. 206. Multiyear plan; choice of fiscal year.
Sec. 207. Social services funding for territories.
Sec. 208. Permanent extension of provisions relating to child support enforcement, child day care services, and services for alcoholics and drug addicts.

TITLE III—OTHER SOCIAL SECURITY ACT PROVISIONS

Sec. 301. Earnings disregard under AFDC programs.
Sec. 302. Incentives to report earnings under AFDC programs.
Sec. 303. Income of stepparents.
Sec. 304. Prorating of shelter allowance.
Sec. 305. Services for disabled children.
Sec. 306. Public assistance payments to territorial jurisdictions.
Sec. 307. Period within which certain claims must be filed.

TITLE I—ADOPTION AND FOSTER CARE ASSISTANCE

FEDERAL PAYMENTS FOR ADOPTION ASSISTANCE AND FOSTER CARE

SEC. 101. (a) (1) Title IV of the Social Security Act is amended by adding at the end thereof the following new part:

"PART E—FEDERAL PAYMENTS FOR ADOPTION ASSISTANCE AND FOSTER CARE

"PURPOSE: APPROPRIATION

"SEC. 470. (a) For the purpose of encouraging each State, as far as is praticable under the conditions of that State, to provide, in appropriate cases, foster care and adoption assistance for children who otherwise would be eligible for assistance under the State's plan approved under part A, there are authorized to be appropriated for each fiscal year (commencing with the fiscal year which begins October 1, 1979) such sums as may be necessary to carry out the provisions of this part.

"(b) The sums made available under this section—

"(1) are made available in recognition of the policy of the Federal Government that the placement of a child in foster care is not ordinarily regarded as a desirable form of permanent child care and that foster care should therefore ordinarily be a temporary status; and

"(2) shall be used for making payments to States which have submitted, and had approved by the Secretary, State plans under this part.

"STATE PLAN FOR ADOPTION ASSISTANCE AND FOSTER CARE

"SEC. 471. (a) In order for a State to be eligible for payments under this part, it shall have a plan approved by the Secretary which—

"(1) provides, where the plan includes adoption assistance payments, that such payments shall be payable in accordance with section 471, and, where the plan includes foster care maintenance payments, that such payments shall be payable in accordance with section 472;

"(2) provides that the State agency responsible for administering the program authorized by part B of this title shall administer, or supervise the administration of, the program authorized by this part;

"(3) provides that the plan shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

"(4) provides that the State shall assure that the programs at the local level assisted under this part will be coordinated with the programs at the State or local level assisted under parts A and B of this title, under title XX of this Act, and under any other appropriate provision of Federal law;

"(5) provides that the State will, in the administration of its programs under this part, use such methods relating to the establishment and maintenance of personnel standards on a merit basis as are found by the Secretary to be necessary for the proper and efficient operation of the programs except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods;

"(6) provides that the State agency referred to in paragraph (2) (hereinafter in this part referred to as the 'State agency') will make such reports, in such form and containing such information as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

"(7) provides that the State agency will monitor and conduct periodic evaluations of activities carried out under this part;

"(8) provides safeguards which restrict the use of or disclosure of information concerning individuals assisted under the State plan to purposes directly connected with (A) the administration of the plan of the State approved under this part, the plan or program of the State under part A, B, C, or D of this title or under title I, V, X, XIV, XVI (as in effect in Puerto Rico, Guam, and the Virgin Islands), XIX, or XX or the supplemental security income program established by title XVI, (B) any investigation, prosecution, or criminal or civil proceeding, conducted in connection with the administration of any such plan or program, (C) the administration of any other Federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need, and (D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental agency which is authorized by law to conduct such audit or activity; and the safeguards so provided shall prohibit disclosure, to any committee or a legislative body (other than the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and any agency referred to in clause (D) with respect to an activity referred to in such clause), of any information which identifies by name or address any such applicant or recipient; except that nothing contained herein shall preclude a State from providing standards which restrict disclosures to purposes more limited than those specified herein, or which, in the case of adoptions, prevent disclosure entirely;

"(9) provides that where any agency of the State has reason to believe that the home or institution in which a child resides whose care is being paid for in whole or in part with funds provided under this part or part B of this title is unsuitable for the child because of the neglect, abuse, or exploitation of such child, it shall bring such condition to the attention of the appropriate court or law enforcement agency;

"(10) provides that the standards referred to in section 2003(d)(1)(F) shall be applied by the State to any foster family home or child care institution receiving funds under this part or part B of this title;

"(11) provides for periodic review of the standards referred to in the preceding paragraph and amounts paid as foster care maintenance payments and adoption assistance payments to assure their continuing appropriateness;

"(12) provides that any individual who is denied a request for benefits available pursuant to this part or part B of this title (or whose request for benefits is not acted upon within a reasonable time) will be informed of the reasons for the denial or delay and, if he so requests, will be offered an opportunity to meet with a representative of the agency administering the plan to discuss the reasons for the denial or delay;

"(13) provides that the State shall arrange for a periodic and independently conducted audit of the programs assisted under this part and part B of this title, which shall be conducted no less frequently than once every three years;

"(14) provides (A) specific goals (which shall be established by State law on or before October 1, 1981) for each fiscal year (commencing with the fiscal year which begins on October 1, 1982) as to the maximum number of children (in absolute numbers or as a percentage of all children in foster care with respect to whom assistance under the plan is provided during such year) who, at any time during such year, will remain in foster care after having been in such care for a period in excess of twenty-four months, and (B) a description of the steps which will be taken by the State to achieve such goals; and

"(15) effective October 1, 1981, provides that, in each case, reasonable efforts will be made (A) prior to the placement of a child in foster care, to prevent the removal of the child from his home, and (B) to make it possible for the child to return to his home.

"(b) The Secretary shall approve any plan which complies with the provisions of subsection (a) of this section. However, in any case in which the Secretary finds, after reasonable notice and opportunity for a hearing, that a State plan which has been approved by the Secretary no longer complies with the provisions of subsection (a), or that in the administration of the plan there is a substantial failure to comply with the provisions of the plan, the Secretary shall notify the State that further payments will not be made to the State under this part, or that such payments will be made to the State but reduced by an amount which the Secretary determines appropriate, until the Secretary is satisfied that there is no longer any such failure to comply, and until he is so satisfied he shall make no further payments to the State, or shall reduce such payments by the amount specified in his notification to the State.

"FOSTER CARE MAINTENANCE PAYMENTS PROGRAM

"SEC. 472. (a) Each State with a plan approved under this part may make foster care maintenance payments (as defined in section 475(4)) under this part only with respect to a child who is placed in foster care prior to October 1, 1984, and who would meet the requirements of section 406(a) or of section 407 of this Act but for his removal from the home of a relative (specified in section 406(a)), and only if—

"(1) the removal from the home was the result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child and that reasonable efforts of the type described in section 471(a)(15) have been made;

"(2) such child's placement and care are the responsibility of (A) the State agency administering the State plan approved under section 471, or (B) any other public agency with whom the State agency administering or supervising the administration of the State plan approved under section 471 has made an agreement which is still in effect;

"(3) such child has been placed in a foster family home or child-care institution as a result of a determination referred to in paragraph (1);

"(4) such child—

"(A) received aid under the State plan approved under section 402 in or for the month in which court proceedings leading to the removal of such child from the home was initiated, or

"(B)(i) would have received such aid in or for such month if application had been made therefor, or (ii) had been living with a relative specified in section 406(a) within six months prior to the month in which such proceedings were initiated, and would have received such aid in or for such month if in such month he had been living with such a relative and application therefor had been made; and

"(5) there is a case plan (as defined in section 475(1) of this part) for such child (including periodic review of the necessity for the child's being in a foster family home or child-care institution).

"(b) Foster care maintenance payments may be made under this part only in behalf of a child described in subsection (a) of this section who is—

"(1) in the foster family home of an individual, whether the payments therefor are made to such individual or to a public or nonprofit private child-placement or child-care agency, or

"(2) in a child-care institution, whether the payments therefor are made to such institution or to a public or nonprofit private child-placement or child-care agency, which payments shall be limited so as to include in such payments only those items which are included in the term 'foster care maintenance payment' (as defined in section 475(4)).

"(c) For the purposes of this part and part B of this title, (1) the term 'foster family home' means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State having responsibility for licensing homes of this type, as meeting the standards established for such licensing; and (2) the term 'child-care institution' means a nonprofit private child-care institution, or (subject to the succeeding sentence) a public child-care institution which accommodates no more than twenty-five children, which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing; but the term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent. A public institution which on the effective date of this part accommodates children and which, except for the provisions of this sentence would be a child-care institution (as defined in the preceding sentence), shall not, for purposes of this part, be considered to be a child-care institution (as so defined) with respect to any child who was in such institution on the date of enactment of this part.

"(d) For purposes of title XIX of this Act, any child with respect to whom foster care maintenance payments are made under this section shall be deemed to be a dependent child as defined in section 406 and shall be deemed to be a recipient of aid to families with dependent children under part A of this title.

"ADOPTION ASSISTANCE PROGRAM

"SEC. 473. (a)(1) Each State with a plan approved under this part may, directly through the State agency or through another public or nonprofit private agency, make adoption assistance payments pursuant to an adoption assistance agreement in amounts determined under paragraph (3) of this subsection to parents who are eligible for such payments pursuant to paragraph (2) of this subsection and who, after the effective date of this section, adopt a child who—

"(A) would, at the time adoption proceedings were initiated, have met the requirements of section 406(a) or section 407 of this Act except for his removal from the home of a relative (specified in section 406(a)) as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child,

"(B)(i) received aid under the State plan approved under section 402 in or for the month in which court proceedings leading to the removal of such child from the home were initiated, or

"(ii)(I) would have received such aid in or for such month if application had been made therefor, or (II) had been living with a relative specified in section 406(a) within six months prior to the month in which such proceedings were initiated, and would have received such aid in or for such month if in such month he had been living with such a relative and application therefor had been made, and

"(C) has been determined by the State, pursuant to subsection (c) of this section, to be a child with special needs.

"(2) Parents may be eligible for adoption assistance payments under this part only if their income at the time of the adoption does not exceed 125 per centum of the median income of a family of four in the State, adjusted in accordance with regulations of the Secretary to take into account the size of the family after adoption. Notwithstanding the preceding sentence, parents whose income is above the limits specified therein may be eligible for assistance payments under this part if the State or local agency administering the program under this section determines that there are special circumstances (as defined in regulations of the Secretary) in the family which warrant adoption assistance payments; except that not more than 10 per centum of all parents receiving adoption assistance for any month may be parents whose income exceeds the limits so specified.

"(3) The amount of the adoption assistance payments shall be determined through agreement between the adoptive parents and the State or local agency administering the program under this section, which shall take into consideration the circumstances of the adopting parents and the needs of the child being adopted, and may be readjusted periodically, with the concurrence of the adopting parents (which may be specified in the adoption assistance agreement), depending upon changes in such circumstances. However, in no case may the amount of the adoption assistance payment exceed the foster care maintenance payment which would have been paid during the period if the child with respect to whom the adoption assistance payment is made had been in a foster family home.

"(4) Notwithstanding the preceding two paragraphs, (A) no payment may be made to parents pursuant to this section with respect to any month in a calendar year following a calendar year in which the income of such parents exceeds the limits specified in paragraph (2), unless the State or local agency administering the program under this section has determined, pursuant to paragraph (2) (and subject to the percentage limitation imposed by the second sentence thereof), that there are special circumstances in the family which warrant adoption assistance payments, (B) no payment may be made to parents with respect to any child who has attained the age of eighteen, and (C) no payment may be made to parents with respect to any child if the State determines that the parents are no longer legally responsible for the support of the child or if the State determines that the child is no longer receiving any support from such parents. Parents who have been receiving adoption assistance payments under this section shall keep the State or local agency administering the program under this section informed of circumstances which would, pursuant to this subsection, make them ineligible for such assistance payments, or eligible for assistance payments in a different amount.

"(5) For the purposes of this part, individuals with whom a child (who has been determined by the State, pursuant to subsection (c), to be a child with special needs) is placed for adoption, pursuant to an interlocutory decree, shall be eligible for adoption assistance payments under this subsection, during the period of the placement, on the same terms and subject to the same conditions as if such individuals had adopted such child.

"(b) Any child—

"(1) who the State determines meets the requirements of subsection (a)(1); and

"(2) who is placed for adoption or adopted following such determination shall, with respect to any medical condition which was in existence at the time the child was adopted, retain eligibility under title XIX until the age of eighteen under such plan. However, a State may provide to such a child full eligibility for medical assistance under the State's plan approved under title XIX. For purposes of section 1904 of this Act, the requirement imposed by the first sentence of this subsection shall be deemed to be imposed by a provision of section 1902(a); and Federal payments on account of expenditures made by a State in compliance with such first sentence, or in accord with the second sentence of this subsection, shall be made in like manner as is provided under such title in the case of medical assistance furnished to a dependent child receiving aid under part A of title IV.

"(c) For purposes of this section, a child shall not be considered a child with special needs unless—

"(1) the State has determined that the child cannot or should not be returned to the home of his parents; and

"(2) the State had first determined (A) that there exists with respect to the child a specific factor or condition because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance, and (B) that, except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance under this section.

"(d) Notwithstanding any other provision of this part, no adoption assistance payment under a State plan approved under this part shall be made pursuant to any adoption assistance agreement entered into after September 30, 1984.

"PAYMENTS TO STATES; ALLOTMENTS TO STATES

"SEC. 474. (a) For each quarter beginning after September 30, 1979, each State which has a plan approved under this part (subject to the limitations imposed by subsection (b)) shall be entitled to a payment equal to the sum of—

"(1) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act) of the total amount expended during such quarter as foster care maintenance payments under section 472 for children in foster family homes or child-care institutions who were placed in foster care prior to October 1, 1984; plus

"(2) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act) of the total amount expended during such quarter as adoption assistance payments under section 473 pursuant to adoption assistance agreements entered into prior to October 1, 1984; plus

"(3) an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision, and

"(B) one-half of the remainder of such expenditures.

"(b)(1) Notwithstanding the provisions of subsections (a)(1) and (a)(3), with respect to expenditures relating to foster care, the aggregate of the sums payable to any State thereunder, with respect to expenditures relating to foster care, for the calendar quarters in any fiscal year shall not exceed the State's allotment for each such year.

"(2) For purposes of this subsection, a State's allotment for the fiscal year ending September 30, 1978, shall be equal to the amount of the Federal funds payable to such State under section 403 on account of expenditures for aid with respect to which Federal financial participation is authorized pursuant to section 408 (including administrative expenditures attributable to the provision of such aid). In the event that there is a dispute between any State and the Secretary as to the amount of such expenditures for such fiscal year, then, until the beginning of the fiscal year immediately following the fiscal year in which the dispute is finally resolved, the amount of the State's allotment for such fiscal year shall be deemed to be the amount of Federal funds which would have been payable under such section 403 if the amount of such expenditures were equal to the amount thereof claimed by the State.

"(3)(A) For fiscal year 1980 and each fiscal year thereafter, the allotment of each State shall be equal to its allotment under this subparagraph for the preceding year increased or decreased (as the case may be) by a percentage equal to the lesser of (i) the inflation rate for such fiscal year as shown in the table appearing on page 25 of Senate Report Numbered 96–311 submitted by the Senate Budget Committee, rounded to the next higher percentage which is equal to or a multiple of 10 per centum; or (ii) a percentage equal to twice the percentage increase or decrease (as the case may be) in the Consumer Price Index prepared by the Department of Labor, and used in determining cost-of-living adjustments under section 215(i) of this Act, for the second quarter of the preceding fiscal year as compared to such index for the second quarter of the second preceding fiscal year (and for purposes of this clause the Consumer Price Index for any quarter shall be the arithmetical mean of such index for the three months in such quarter); except that the allotment of any State shall not be increased by this subparagraph to an amount exceeding 176 per centum of its allotment for fiscal year 1978. For purposes of this subparagraph, the allotment of each State for fiscal year 1979 shall be equal to 109.1 per centum of its allotment for fiscal year 1978.

"(B) The amount of any State's allotment, for any fiscal year referred to in subparagraph (A), shall be the amount determined under such paragraph or (if greater) an amount which bears the same ratio to $100,000,000 as the under age eighteen population of such State bears to the under age eighteen population of the fifty States and the District of Columbia. The Secretary shall promulgate the amount of each State's allotment, for the fiscal year 1980, not later than sixty days after the date of enactment of this part, and for any succeeding fiscal year, prior to the first day of the third month of the preceding fiscal year, on the basis of the most recent satisfactory data available from the Department of Commerce.

"(c) For the fiscal year 1980, and each fiscal year thereafter, sums available to a State from its allotment under subsection (b) for carrying out this part, which the State does not claim as reimbursement for expenditures in such year pursuant to subsection (a) of this section, may be claimed by the State as reimbursement for expenditures in such year pursuant to part B of this title, in addition to such sums available pursuant to section 420 for carrying out that part.

"DEFINITIONS

"Sec. 475. As used in this part or part B of this title:

"(1) The term 'case plan' means a written document which includes at least the following information: A description of the type of home or institution in which a child is to be placed, including a discussion of the appropriateness of the placement and how the agency which is responsible for the child plans to carry out the judicial determination made with respect to the child in accordance with section 472(a)(1); a plan of services that will be provided to the parents, child, and foster parents in order to improve the conditions in the parents' home, facilitate return of the child to his own home or the permanent placement of the child, and address the needs of the child while in foster care, including a discussion of the appropriateness of the services that have been provided to the child under the plan.

"(2) The term 'parents' means biological or adoptive parents or legal guardians, as determined by applicable State law.

"(3) The term 'adoption assistance agreement' means a written and consensual agreement, binding on the parties to the agreement, between the State agency, other relevant agencies, and the prospective adopting parents of a minor which specifies, at a minimum, the amounts of the adoption assistance payments and any additional services and assistance which are to be provided as part of such agreement.

"(4) The term 'foster care maintenance payments' means payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation. In the case of institutional care, such term shall include the reasonable costs of administration and operation of such institution as are necessarily required to provide the items described in the preceding sentence.

"TECHNICAL ASSISTANCE; DATA COLLECTION AND EVALUATION

"Sec. 476. (a) The Secretary may provide technical assistance to the States to assist them to develop the programs authorized under this part and shall periodically (1) evaluate the programs authorized under this part and part B of this title and (2) collect and publish data pertaining to the incidence and characteristics of foster care and adoptions in this country.

"(b) Each State shall submit statistical reports as the Secretary may require with respect to children for whom payments are made under this part containing information with respect to such children including legal status, demographic characteristics, location, and length of any stay in foster care.".

(2)(A) Effective with respect to expenditures made after September 30, 1979, section 408 of the Social Security Act is, subject to subparagraph (B), repealed.

(B) The repeal made by subparagraph (A) shall not be applicable in the case of any State for any quarter prior to the first quarter, which begins after September 30, 1979, in which such State has in effect a State plan approved under part E of the Social Security Act, or (if earlier), such repeal shall be effective with respect to expenditures made after September 30, 1981. During any period with respect to which the repeal made by subparagraph (A) is not applicable in the case of a State, the aggregate of the sums payable to the State, under the State's plan approved under part A of title IV of the Social Security Act, with respect to expenditures (including administrative expenditures) authorized or incurred by reason of the provisions of section 408 of such Act shall not exceed the amount of the allotment which such State would have had for such period under section 474(b) if such State had had an approved plan under part E of such title IV.

(3) For the first year with respect to which there is appropriated under section 420 of the Social Security Act a sum which is subject to the restriction authorized under section 428(a) of such Act, Federal payment with respect to expenditures made by a State, under its State plan approved under part E of such Act, for any of the purposes described in section 428(b)(1) of such Act shall not be subject to the limitation imposed by section 474(b) for such year.

(4) Unless otherwise specified, the amendments made by this section shall be effective on and after October 1, 1979.

(b)(1) Section 423 of the Social Security Act is amended—

(A) in subsection (b), by striking out "The" and all that follows, and inserting in lieu thereof the following: "The 'Federal share' for any State shall, effective on and after October 1, 1979, be 75 per centum.", and

(B) in subsection (c), by striking out "Federal share and".

(2) Section 425 of such Act is amended by adding at the end thereof the following new sentence: "Expenditures made by a State for any calendar quarter which begins after September 30, 1979, for foster care maintenance payments shall be treated for purposes of making Federal payments under this part with respect to expenditures for child welfare services, as if such foster care maintenance payments constituted child welfare services of a type to which the limitation imposed by section 427 does not apply; except that, the amount payable to the State with respect to expenditures made for other child welfare services and for foster care maintenance payments during any such quarter shall not exceed 100 per centum of the amount of the expenditures made for child welfare services for which payment may be made under the limitation imposed by such section 427 as in effect without regard to this sentence.".

(3) Part B of title IV of the Social Security Act is further amended by adding at the end thereof the following new section:

"LIMITATION ON PAYMENTS WITH RESPECT TO FOSTER CARE

"Sec. 427. Notwithstanding any other provision of this part except the last sentence of section 425(a), if for any fiscal year which begins after September 30, 1979, there is appropriated under section 420 an amount in excess of the amount appropriated for the fiscal year ending on September 30, 1979, the amount payable to any State for expenditures made to provide child welfare services in the form of foster care maintenance payments in foster family homes or other foster care facilities, shall not exceed the amount of its allotment (before application of the provisions of section 424) under this part for the fiscal year ending September 30, 1979. Funds made available to any State pursuant to section 474(c) shall be subject to the limitation imposed by the preceding sentence.".

(4) Section 425 of such Act is amended by inserting "(a)" immediately after "Sec. 425." and by adding at the end thereof the following new subsection:

"(b) Funds expended by a State for any calendar quarter to comply with the statistical report required by section 476(b), and funds expended with respect to nonrecurring costs of adoption proceedings in the care of children placed for adoption with respect to whom assistance is provided under a State plan for adoption assistance approved under part E of this title, shall be deemed to have been expended for child welfare services.".

(c) Part B of title IV of the Social Security Act is amended by adding after section 427 (as added by subsection (b)(3) of this section) the following new sections:

"PORTIONS OF INCREASED ALLOTMENTS TO BE USED FOR CERTAIN SERVICES

"Sec. 428. (a)(1) If, for any fiscal year after 1979 there is appropriated under section 420 a sum in excess of the sum appropriated thereunder for the fiscal year 1979, the appropriation Act by which such sum is appropriated may set aside the amount of such excess necessary for the carrying out of the activities and programs described in subsections (b) and (c).

"(2) Whenever a specified amount of the sum appropriated under section 420 for any fiscal year is set aside pursuant to paragraph (1), the allotment of each State for such fiscal year shall be adjusted accordingly so as to restrict the availability of funds to the carrying out of the activities and programs described in subsections (b) and (c).

"(b) For the first year that any amount of a State's allotment is restricted under subsection (a)(2), the amount so restricted may, except as provided in subsection (c), be expended only for the following purposes (and amounts so expended shall be conclusively presumed to be expended for child welfare services):

"(1) for the purpose of conducting an inventory of all children who have been in foster care under the responsibility of the State for a period of six months preceding the inventory; for the purpose of determining the appropriateness of, and necessity for, the current foster placement, whether the child can be or should be returned to his parents or should be freed for adoption, and the services necessary to facilitate either the return of the child or the placement of the child for adoption or legal guardianship;

"(2) for the purpose of designing and developing to the satisfaction of the Secretary—

"(A) a statewide information system from which the status, demographic characteristics, location, and goals for the placement of every child in foster care or who has been in such care within the preceding twelve months can readily be determined;

"(B) a case review system for each child receiving foster care under the supervision of the State; and

"(C) a service program designed to help children remain with their families and, where appropriate, help children return to families from which they have been removed or be placed for adoption or legal guardianship.

"(c) For any fiscal year (after the first fiscal year) that any amount of a State's allotment is restricted under subsection (a)(2), the amount so restricted may be expended only for the implementation and operation of the systems and programs described in subsection (b)(2) (and amounts for such purposes shall be conclusively presumed to be expended for child welfare services). In the case of any State which has completed an inventory of the type specified in subsection (b)(1) and the design and development of the program and systems referred to in subsection (b)(2) prior to the first fiscal year referred to in subsection (b), or at any time prior to the end of such fiscal year, the amount of such State's allotment which is restricted under subsection (a)(2) shall remain available and may thereafter in such fiscal year or the succeeding fiscal year be used for the purposes specified in the first sentence of this subsection. In the case of any State which, during the first fiscal year referred to in subsection (b), fails to complete an inventory of the type specified in subsection (b)(1) and the design and development of the program and systems referred to in subsection (b)(2) prior to the end of such fiscal year, the amount of such State's allotment which is restricted under subsection (a)(2) for such fiscal year shall remain available for the succeeding fiscal year for the purpose of completing such inventory and the design and development of such program and systems; also, the amount of such State's allotment which is restricted under subsection (a) (2) for the succeeding fiscal year may be expended for such purpose.

"(d) (1) As used in subsection (b) (2) (B), the term 'case review system' means a procedure for assuring that—

"(A) each child has a case plan designed to achieve placement in the least restrictive (most family like) setting available and in close proximity to the parents' home, consistent with the best interest and special needs of the child.

"(B) the status of each child is reviewed periodically but no less frequently than once every twelve months by either a court or by administrative review (as defined in paragraph (2)) in order to determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship, and

"(C) with respect to each such child, procedural safeguards will be applied, among other things, to assure each child in foster care under the supervision of the State of a dispositional hearing to be held, in a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed or approved by the court, no later than twenty-four months after the original placement (and periodically thereafter during the continuation of foster care), which hearing shall determine the future status of the child (including, but not limited to, whether the child should be returned to the parent, should be continued in foster care for a specified period, should be placed for adoption, or should (because of the child's special needs or circumstances) be continued in foster care on a permanent or long-term basis); and procedural safeguards shall also be applied with respect to parental rights to the removal of the child from the home of his parents, to a change in the child's placement, and to any determination affecting visitation privileges of parents.

"(2) As used in paragraph (1) (B), the term 'administrative review' means a review open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.

"PAYMENTS TO INDIAN TRIBAL ORGANIZATIONS

"SEC. 429. (a) The Secretary may, in appropriate cases (as determined by the Secretary) make payments under this part directly to an Indian tribal organization within any State which has a plan for child welfare services approved under this part. Such payments shall be made in such manner and in such amounts as the Secretary determines to be appropriate.

"(b) Amounts paid under subsection (a) shall be deemed to be a part of the allotment (as determined under section 421) for the State in which such Indian tribal organization is located.

"(c) For purposes of this section—

"(1) the term 'tribal organization' means the recognized governing body of any Indian tribe, or any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body; and

"(2) the term 'Indian tribe' means any tribe, band, nation, or other organized group or community of Indians (including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (Public Law 92–203; 85 Stat. 688)) which (A) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or (B) is located on, or in proximity to, a Federal or State reservation or rancheria.".

(d) Section 422 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(d) (1) Notwithstanding any other provision of this part, there shall not (subject to paragraph (2)) be paid to any State under the preceding provisions of this section for any fiscal year (commencing with the fiscal year which begins on October 1, 1979) an amount in excess of the amount of such State's allotment for the fiscal year which began on October 1, 1978, unless the State's plan for child-welfare services indicates the manner in which the State, in the administration of such plan, will achieve the objective and carry out the activities specified in paragraphs (1) and (2) of section 428(b).

"(2) The amount payable to a State under the provisions of this part which precede this subsection shall not, because of the provisions of paragraph (1) of this subsection, be reduced for any fiscal year prior to the fiscal year which commences October 1, 1981, if the Secretary finds that such State has initiated the process for having such State's plan for child welfare services indicate the manner in which the State, in the administration of such plan, will achieve the objectives and carry out the activities specified in paragraphs (1) and (2) of section 428(b).".

STUDY OF ADOPTION ASSISTANCE AND FOSTER CARE PROGRAMS

SEC. 102. (a) The Secretary of Health, Education, and Welfare shall conduct a study of programs of foster care and adoption assistance established under part IV–E of the Social Security Act (as added by section 101 of this Act) and shall submit to the Congress, not later than October 1, 1983, a full and complete report thereon, together with his recommendations as to (1) whether such part IV–E should be continued, and if so, (2) the changes (if any) which should be made in such part IV–E.

(b) Such report shall include, but not be limited to, the following:

(1) a determination as to (A) the extent of reduction that has occurred in the duration of foster care under such programs, (B) the extent to which such programs of adoption assistance have resulted in an increase in the adoption of children who otherwise would have remained in foster care under State plans approved under title IV–A of the Social Security Act, and (C) the extent to which the availability of Federal funding for adoption assistance under title IV–E of such Act has resulted in States' initiating or expanding programs for adoption assistance,

(2) data concerning the number of instances in which income standards for adoption assistance under section 473(a) (2) of the Social Security Act have resulted in inability to place a child in an adoptive home, and

(3) specific legislative recommendations for ways to bring about further reduction in the duration of foster care for children.

ADVANCE FUNDING FOR CHILD-WELFARE SERVICES

SEC. 103. (a) Section 420 of such Act is amended by—

(1) inserting "(a)" immediately after "SEC. 420.", and

(2) by adding after and below such section the following new subsection:

"(b) Funds appropriated for any fiscal year pursuant to the authorization contained in subsection (a) shall be included in the appropriation Act (or supplemental appropriation Act) for the fiscal year preceding the fiscal year for which such funds are available for obligation. In order to effect a transition to this method of timing appropriation action, the preceding sentence shall apply notwithstanding the fact that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.".

(b) The amendments made by subsection (a) shall apply only with respect to appropriation Acts, which appropriate funds pursuant to the authorization contained in section 420 of the Social Security Act, enacted after the date of enactment of this Act.

TITLE II—SOCIAL SERVICES

DETERMINATION OF AMOUNT ALLOCATED TO STATES

SEC. 201 (a) Section 2002(a) (2) (A) of the Social Security Act is amended by striking out clause (ii) and inserting in lieu thereof the following:

"(ii) The amount specified for purposes of clause (i) for fiscal year 1980 and each succeeding fiscal year shall be an amount (not exceeding $3,300,000,000) equal to the indexed ceiling amount for that fiscal year as determined under subparagraph (B).".

(b) Section 2002(a) (2) of such Act is amended by striking out subparagraphs (B), (C), and (D) and inserting in lieu thereof the following:

"(B) (i) (I) Except as otherwise provided in clauses (ii), (iii), and (iv), the indexed ceiling amount for any fiscal year shall be an amount equal to the indexed ceiling amount for the preceding fiscal year increased or decreased (as the case may be) by an amount determined under division (II).

"(II) For purposes of division (I) the amount of the increase or decrease (as the case may be shall be an amount equal to $2,500,000,000, multiplied by a percentage equal to the positive or negative percentage change in the Consumer Price Index prepared by the Department of Labor, and used in determining cost-of-living adjustments under section 215(i) of this Act, for the second quarter of the preceding fiscal year as compared to such index for the second quarter of the second preceding fiscal year (rounded to the nearest one-tenth of 1 per centum). For purposes of this clause the Consumer Price Index for any quarter shall be the arithmetical mean of such index for the three months in such quarter.

"(ii) If the percentage increase in the Consumer Price Index as determined under clause (i) (II) for any fiscal year exceeds the inflation rate for that fiscal year as shown for that year (or, if no rate is shown for that year, for the most recent preceding year for which a rate is shown) in the table which appears on page 25 of Senate Budget Committee Report Numbered 96–311, then for such fiscal year such inflation rate shall be used in making the determinations under clause (i) (II) instead of the percentage increase in the Consumer Price Index.

"(iii) The indexed ceiling amount determined under clause (i) shall, if not a multiple of $100,000,000, be rounded to the next lesser amount that is a multiple of $100,000,000.

"(iv) The indexed ceiling amount for fiscal year 1979 shall be $2,500,000,000.".

TEMPORARY EXTENSION OF 100-PER CENTUM FEDERAL MATCHING FOR CERTAIN CHILD DAY CARE EXPENDITURES

SEC. 202. (a) Section 2002(a) (1) of the Social Security Act is amended by inserting "(subject to paragraph (17))" after "planning services and".

(b) Section 2002(a) of such Act is further amended by adding at the end the following new paragraph:

"(17)(A) The total payment to a State under this section with respect to expenditures during fiscal year 1980 or fiscal year 1981 for the provision of child day care services under this title shall be equal to 100 per centum of such expenditures to the extent that such expenditures (during that fiscal year) do not exceed an amount which bears the same ratio to $200,000,000 as the amount of the State's limitation under paragraph (2)(A) bears to the indexed ceiling amount for such fiscal year.

"(B) Federal funds payable to a State under this title (with respect to expenditures for child day care services) at the rate specified in subparagraph (A) shall, to the maximum extent that the State determines to be feasible, be employed in such a way as to increase the employment of welfare recipients and other low-income persons in jobs related to the provision of child day care services.

"(C) In determining the amount of the expenditures with respect to which payment shall be made at the rate of 100 per centum as provided in subparagraph (A), there shall be included those sums granted to States for child day care service for which payment is authorized under section 2007, and the total amount of payment to a State for fiscal year 1981 or 1932 under this paragraph and under section 2007, may not exceed the 8 per centum of the limitation applicable to that State under paragraph (2)(A) for such fiscal year.".

(b) The Secretary of Health, Education, and Welfare shall monitor the use of donated funds having restrictions as to use or geographical area, as permitted under section 2002(a)(7)(D)(ii) of the Social Security Act, and shall report to the Congress with respect to the results of the use of such funds under title XX of that Act.

TEMPORARY LIMITATION ON FUNDS FOR TRAINING

SEC. 203. (a) The first sentence of section 2002(a)(2)(A)(i) is amended by striking out "in excess of an amount" and all that precedes it, and inserting in lieu thereof "Except as provided in clause (iii), no payment may be made under this section to any State for any fiscal year beginning after September 30, 1979, in excess of an amount".

(b) Section 2002(a)(2)(A) is further amended by adding after clause (ii), as added by section 201 of this Act, the following new clause:

"(iii) Payment with respect to expenditures for personnel training or retraining directly related to the provision of services under this title may be made to a State, for any fiscal year, in excess of the limitation for such State determined under clause (i), except that, notwithstanding any other provision of law, payment to a State with respect to such expenditures for fiscal year 1980 may not exceed an amount equal to 4 per centum of such State's limitation under clause (i), or, if greater, an amount equal to the amount of the payment made under this title to such State with respect to such expenditures for fiscal year 1979.".

USE OF RESTRICTED PRIVATE FUNDS FOR TRAINING PROGRAMS

SEC. 204. (a) Section 2002(a)(7)(D)(ii) of the Social Security Act is amended by striking out "and" at the end thereof and inserting in lieu thereof the following: "except that such funds may, during fiscal year 1980, be donated with such restrictions as to use or geographical area if such funds are for the purpose of training or retraining as provided in subsection (a)(1), and such funds are not donated to an entity other than a public or nonprofit entity, and".

EMERGENCY SHELTER

SEC. 205. (a) Section 2002(a)(11) of the Social Security Act is amended—

(1) by striking out "and" at the end of subparagraph (C);

(2) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof "; and "; and

(3) by adding at the end thereof the following new subparagraph:

"(E) any expenditure for the provision of emergency shelter, for not in excess of thirty days in any six-month period, provided as a protective service to an adult in danger of physical or mental injury, neglect, maltreatment, or exploitation.".

(b) The amendments made by this section shall be effective on and after October 1, 1979.

MULTIYEAR PLAN; CHOICE OF FISCAL YEAR

SEC. 206. (a) Section 2004(1) of the Social Security Act is amended to read as follows:

"(1) for each services program period, the beginning of the fiscal year of the Federal Government, the State government, or the political subdivisions of such State is established as the beginning of the State's services program period, and the end of such fiscal year, the succeeding fiscal year, or the second succeeding fiscal year is established as the end of the State's services program period; and".

(b) Section 2004 of such Act is further amended—

(1) by striking out "services program year" each place it appears and inserting in lieu thereof in each instance "service program period";

(2) by striking out "annual" in paragraph (2) (in the matter preceding subparagraph (A)) and in paragraph (4);

(3) by striking out "during that year" in paragraph (2) (in the matter preceding subparagraph (A)) and inserting in lieu thereof "during that period";

(4) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(5) by adding at the end thereof the following new paragraph:

"(6) in the case of a State that adopts a services program planning period of longer than one year, the State agency publishes and makes generally available such information concerning the comprehensive services program at such time as the Secretary may by regulation require.".

(c) Section 2003(b) of such Act is amended—

(1) by striking out "each services program year" and inserting in lieu thereof "each fiscal year (as selected by the State under section 2004(1)) within each services program period"; and

(2) by striking out "any services program year" and inserting in lieu thereof "any services program period".

(d) Sections 2003(d)(1) and 2005 of such Act are each amended by striking out "services program year" and inserting in lieu thereof in each instance "services program period".

(e) The amendments made by this section shall be effective on and after October 1, 1979.

SOCIAL SERVICES FUNDING FOR TERRITORIES

SEC. 207. (a) Section 2002(a)(2) of the Social Security Act is amended by adding after subparagraph (B) (as added by section 201 of this Act) the following new subparagraph:

"(C)(i) The Secretary shall pay to the jurisdictions of Puerto Rico, Guam, the Virgin Islands, and the Northern Mariana Islands such sums as may be necessary (not to exceed the limits specified in clause (ii)) for purposes of matching the expenditures of such jurisdictions for services pursuant to sections 3(a) (4) and (5), 403(a)(3), 1003(a) (3) and (4), 1403(a) (3) and (4), and 1603 (a) (4) and (5) of this Act. Such payments shall be in addition to the amounts available to such jurisdictions under section 1108 of this Act.

(ii) Payments for any fiscal year under this subparagraph shall not exceed $15,000,000 to Puerto Rico, $500,000 to Guam, $500,000 to the Virgin Islands, and $100,000 to the Northern Mariana Islands.".

(b) The amendments made by this section shall be effective with respect to fiscal year 1980 and fiscal years thereafter.

PERMANENT EXTENSIONS OF PROVISIONS RELATING TO CHILD SUPPORT ENFORCEMENT, CHILD DAY CARE SERVICES, AND SERVICES FOR ALCOHOLICS AND DRUG ADDICTS

SEC. 208. (a)(1) Section 455(a) of the Social Security Act is amended—

(A) by striking out the semicolon at the end of paragraph (2) and inserting in lieu of such semicolon a period, and

(B) by striking out all that follows paragraph (2).

(2) The amendments made by this subsection shall be effective on and after October 1, 1978.

(b)(1) Section 2002(a)(1) of the Social Security Act is amended by inserting "100 per centum of the expenditures during that quarter (which are not in excess of 2 per centum of the limitation applicable to that State under paragraph (2)(A) for the fiscal year in which such quarter occurs) for grants to qualified providers under section 2007," after "an amount equal to".

(2) Title XX of such Act is amended by redesignating section 2008 as section 2008 and inserting after section 2006 the following new section:

"CHILD DAY CARE SERVICES

"SEC. 2007. (a) Subject to subsection (b), sums granted by a State to a qualified provider of child day care services (as defined in subsection (c)) to assist such provider in meeting its work incentive program expenses (as defined in subsection (c)) with respect to individuals employed in jobs related to the provision of child day care services in one or more child care facilities of such provider, shall be deemed for purposes of section 2002 to constitute expenditures made by the State in accordance with the provisions of this title for the provision of child day care services.

"(b) The provisions of subsection (a) shall not be applicable with respect to any grant made to a particular qualified provider of child day care services to the extent that (as determined by the Secretary) such grant is or will be used to pay wages to any employee at an annual rate in excess of $6,000, in the case of a public or nonprofit private provider, or at an annual rate in excess of $5,000, or to pay more than 80 per centum of the wages of any employee, in the case of any other provider.

"(c) For purposes of this section—

"(1) the term 'qualified provider of child care services', when used in reference to a recipient of a grant by a State, includes a provider of such services only if, of the total number of children receiving such services from such provider in the facility with respect to which the grant is made, at least 20 per centum thereof have some or all of the costs for the child day care services so furnished to them by such provider paid for under the State's services program conducted pursuant to this title; and

"(2) the term 'work incentive program expenses' means expenses of a qualified provider of child day care services which constitute work incentive program expenses as defined in section 50B(a)(1) of the Internal Revenue Code of 1954, or which would constitute work incentive program expenses as so defined if the provider were a taxpayer entitled to a credit (with respect to the wages involved) under section 40 of such Code.".

(3) Sections 2002(a)(4)(C), 2002(a)(4)(D), and 2002(a)(5)(A) of such Act are each amended by striking out "2007(1)" and inserting in lieu thereof "2008(1)".

(4) The amendments made by this subsection shall be effective on and after October 1, 1979.

(c)(1) Paragraph (1) of section 322(e) of the Revenue Act of 1978 (relating to effective date) is amended by adding at the end thereof the following new sentence: "For purposes of applying section 50A(a)(2) of the Internal Revenue Code of 1954 with respect to a taxable year beginning before January 1, 1979, the rules of sections 50A(a)(4), 50A(a)(5), and 50B(e)(3) of such Code (as in effect on the day before the date of the enactment of this Act) shall apply.".

(2) Subparagraph (B) of section 322(e)(2) of the Revenue Act of 1978 (relating to eligible employees hired after September 26, 1978) is amended—

(A) by striking out "September 27, 1978," and inserting in lieu thereof "September 26, 1978, for purposes of applying the amendments made by this section,"; and

(B) by striking out "January 1, 1979." and inserting in lieu thereof "January 1, 1979, and any wages paid or incurred after December 31, 1978, with respect to such individual shall be considered to be attributable to services rendered after that date.".

(3)(A) Subparagraph (C) of section 50A(a)(4) of the Internal Revenue Code of 1954 (relating to limitation with respect to nonbusiness eligible employees) is amended by striking out "'$6,000' and" and inserting in lieu thereof "'$6,000' for".

(B) Subparagraph (B) of section 50B(g)(2) of such Code is amended by striking out "giving to such credit" and inserting in lieu thereof "giving rise to such credit".

(C) Clause (i) of section 50B(h)(1)(A) of such Code is amended by striking out "9-day" and inserting in lieu thereof "90-day".

(D) The second subsection designated as subsection (d) of section 322 of the Revenue Act of 1978 is amended by striking out "our" in paragraph (1)(A) thereof and inserting in lieu thereof "out".

(d)(1)(A) Section 50B of the Internal Revenue Code of 1954 is amended by redesignating subsection (i) as subsection (j) and by adding after subsection (h) the following new subsection:

"(i) SPECIAL RULES WITH RESPECT TO EMPLOYMENT OF DAY CARE WORKERS.—

"(1) ELIGIBLE EMPLOYEE.—An individual who would be an 'eligible employee' (as that term is defined for purposes of this section) except for the fact that such individual's employment is not on a substantially full-time basis, shall be deemed to be an eligible employee as so defined, if such employee's employment consists of services performed in connection with a child day care program of the taxpayers, on either a full-time or part-time basis.

"(2) ALTERNATIVE LIMITATION WITH RESPECT TO CHILD DAY CARE SERVICES ELIGIBLE EMPLOYEES.—The amount of the credit allowed a taxpayer under section 40, as determined under section 50A and the preceding provisions of this section, with respect to work incentive program expenses paid or incurred by him with respect to an eligible employee whose services are performed in connection with a child day care services program conducted by the taxpayer shall, at the election of the taxpayer, be determined by including (in computing the amount of such expenses so paid or incurred by him) any amount with respect to such employee for which he was reimbursed from funds made available pursuant to section 3(c) of Public Law 94–401 or section 2007 of title XX of the Social Security Act, except that, if the total amount of such credit, as so computed, plus such amount reimbursed to him under such sections, exceeds the lesser of $6,000 or 100 percent of the total expenses paid or incurred by him with respect to such employee, the amount of such credit shall be reduced (but not below zero) so as to provide that such total does not exceed the lesser of $6,000 or 100 percent of the total expenses paid or incurred by him with respect to such employee.".

(B) The amendment made by subparagraph (A) shall be effective in the case of taxable years beginning after December 31, 1978.

(C) Section 50B(a)(2)(B) of the Internal Revenue Code of 1954 as in effect prior to amendment by the Revenue Act of 1978 is amended, effective October 1, 1978, by striking out "October 1, 1978" and inserting in lieu thereof "January 1, 1979".

(2) Paragraphs (1) and (2)(A) of section 3(c) of Public Law 94–401 are each amended by striking out "(other than the fiscal year ending September 30, 1979)".

(3) Paragraphs (1) and (3)(B) of section 3(c) of Public Law 94–401 are each amended by striking out "Federal welfare recipient employment incentive expenses" each time it appears and inserting in lieu thereof in each instance "work incentive program expenses".

(4) Section 3(c)(3)(B) of Public Law 94–401 is amended—

(A) by striking out "Federal welfare recipient employment expenses" and inserting in lieu thereof "work incentive program expenses"; and

(B) by striking out "section 50B(a)(2)" and inserting in lieu thereof "section 50B(a)(1)".

(5) Section 3(c)(2)(B) of Public Law 94–401 is amended—

(A) by striking out "$5,000" and inserting in lieu thereof "$6,000"; and

(B) by striking out "$4,000" and inserting in lieu thereof "$5,000".

(6)(A) The amendments made by paragraph (2) shall be effective on and after October 1, 1978.

(B) The amendments made by paragraphs (3), (4), and (5) shall be effective with respect to expenses paid or incurred after December 31, 1978.

(e) Section 4(c) of Public Law 94–120 is amended (effective October 1, 1978) by striking out "only for the period" and all that follows and inserting in lieu thereof "from and after October 1, 1975.".

TITLE III—OTHER SOCIAL SECURITY ACT PROVISIONS

EARNINGS DISREGARD UNDER AFDC PROGRAMS

SEC. 301. (a)(1) Section 402(a)(7) of the Social Security Act is amended by inserting ", in the case of an initial determination of eligibility only," after "as well as".

(2) Section 402(a)(8)(A)(ii) of the Social Security Act is amended to read as follows:

"(ii) in the case of earned income of a dependent child not included under clause (i) a relative receiving such aid, and any other individual (living in the same home as such relative and child) whose needs are taken into account in making such determination (I) the first $70 of such earned income for individuals for such month plus (II) 40 per centum of the remainder of such income for such month except that in each case an amount equal to the reasonable child care expenses incurred (subject to such limitations as the Secretary may prescribe in regulations) shall first be deducted before computing such individuals earned income (except that the provisions of this clause (ii) shall not apply to earned income derived from participation on a project maintained under the programs established by section 432(b)(2) and (3)); and".

"(b)(1) The amendments made by this subsection shall become effective on January 1, 1980.

"(2) A State plan for aid and services to needy families with children shall not be regarded as failing to comply with the requirements imposed with respect to approved State plans under part A of title IV of the Social Securty Act, and the amount payable to any State under such part shall not be decreased, solely because such State plan fails to comply with the requirements of paragraph (7) or (8) of section 402(a) of the Social Security Act as in effect after the date of enactment of this Act and prior to January 1, 1980, if such State plan complies with the requirements of such paragraphs as amended by this section.

INCENTIVES TO REPORT EARNING UNDER AFDC PROGRAMS

SEC. 302. (a) Section 402(a)(8) of the Social Security Act is amended—

(1) by inserting "or" at the end of subparagraph (D) thereof, and

(2) by adding after subparagraph (D) the following new subparagraph:

"(E) any of the persons specified in clause (i) or (ii) of subparagraph (A) with respect to which there is a failure without good cause to make a timely report (as prescribed by the State plan) to the State agency of earned income received in such month;".

(b) The amendments made by this section shall take effect on January 1 1980.

(c) A State plan for aid and services to needy families with children shall not be regarded as failing to comply with the requirements imposed with respect to approved State plans under part A of title IV of the Social Security Act, and the amount payable to any State under such part shall not be decreased, solely because such State plan fails to comply with the requirements of paragraph (8) of section 402(a) of the Social Security Act as in effect after the date of enactment of this Act and prior to January 1, 1980, if such State plan complies with the requirements of such paragraph as amended by this section.

INCOME OF STEPPARENTS

SEC. 303. (a) Section 402(a) of the Social Security Act is amended by—

(1) striking out "and" at the end of paragraph (28),

(2) striking out the period at the end of paragraph (29) and inserting in lieu thereof "; and", and

(3) adding after and below paragraph (29) the following new paragraph:

"(30) provide that in making the determination under paragraph (7), the State agency shall take into consideration so much of the total of the unearned income plus 80 per centum of the earned income of the dependent child's stepparent (living in the same home as such child), as exceeds the sum of (A) the State's standard of need under such plan for a family of the same composition as the stepparent and those other individuals living in the same household as the stepparent and claimed by him as dependents for purposes of determining his Federal personal income tax liability but whose needs are not taken into account in making the determination under section 402(a)(7), (B) amounts paid by the stepparent to individuals not living in such household claimed by him as dependents under subtitle A of title 26 of the United States Code for purposes of determining his Federal personal income tax liability, and (C) payments of alimony or child support with respect to individuals not living in such household.".

(b) The amendments made by this section shall become effective on January 1, 1980.

(c) A State plan for aid and services to needy families with children shall not be regarded as failing to comply with the requirements imposed with respect to approved State plans under part A of title IV of the

Social Security Act, and the amount payable to any State under such part shall not be decreased, solely because such State plan, prior to January 1, 1980, and after the date of the enactment of this Act, provides for consideration of stepparent income in accordance with the provisions of section 402(a)(30) of the Social Security Act as added by this section.

PRORATING OF SHELTER ALLOWANCE

SEC. 304. Part A of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"PRORATING OF SHELTER ALLOWANCE IN CERTAIN CASES WHERE CHILD LIVES WITH RELATIVE NOT LEGALLY RESPONSIBLE FOR HIS SUPPORT

"SEC. 412. (a) Notwithstanding any other provision of this part, a State plan for aid and services to needy families with children shall not be regarded as failing to comply with the requirements imposed under this part solely because, under such plan, in any case in which one or more children live in any household—

"(1)(A) in which the total income of such child or children and the closely related family members (as defined in subsection (b)) living in the same household equals or exceeds the standard of need under such plan for a family equal in number to the total number of such children and closely related family members in the same household, or (B) where the income of children and family members cannot be determined due to failure to cooperate, and

"(2) which (A) does not include a relative (specified in section 406(a)(1)) who is legally responsible for the support of the child or children, or (B) includes one or more such relatives who is legally responsible for the support of the child or children but none of whom is eligible for aid under the State plan because such relative is being supported by another person or under another program.

the amount of the aid furnished with respect to such child or children for shelter, utilities, and similar expenses, bears the same ratio to the total amount which would be furnished for such expenses, if all the closely related family members with whom such child or children are living were eligible for such aid, as the number of such children bears to the total number of such children and family members.

"(b) For purposes of subsection (a), the term 'closely related family members' of a child means those relatives of his who are specified in section 406(a)(1) and any other individual for whose support such a relative is legally responsible, but does not include any such relative or other individual (1) with respect to whom benefits are provided under another public program eligibility for which is based on need, or (2) whose presence in the home would not increase the total amount which would be allowed for shelter, utilities, and similar expenses if he was eligible for aid.

"(c) The amount of aid to families with dependent children for shelter, utilities, and similar expenses shall be identified, for purposes of this section, in the following manner:

"(1) If the State plan approved under this part provides for paying 100 per centum of the standard of need specified in the plan, and designates a portion of that standard, for families of specified sizes, to meet shelter, utilities, and similar expenses, then an amount equal to that portion shall be considered the total amount for such expenses for a family of the specified size.

"(2) If such plan provides for meeting less than 100 per centum of such standard, and designates a portion of that standard, for families of specified sizes, to meet such expenses, then an amount equal to that portion, multiplied by the proportion of the standard of need which such State pays as aid to families with dependent children, shall be considered the total amount for such expenses for a family of the specified size.

"(3) If such plan does not designate any portion of the standard of need for meeting such expenses, then such portion shall be prescribed by the Secretary, but in no event shall such portion exceed 30 per centum of the standard of need for a family of a specified size, multiplied by the proportion of such standard which the State pays as aid to families with dependent children.

"(d) For purposes of subsection (a), the total income of the child or children and the closely related family members (as defined in subsection (b)) shall be determined as it would be if all such individuals were applicants for aid under the State plan and shall not include any income which any such individual is obligated to apply to the support of any other individual not living in the household.".

SERVICES FOR DISABLED CHILDREN

SEC. 305. Section 1615 of the Social Security Act is amended by redesignating the second subsection (c) as subsection (e), and by striking out "October 1, 1979" in paragraph (1) of such subsection (e) and inserting in lieu thereof "October 1, 1982".

PUBLIC ASSISTANCE PAYMENTS TO TERRITORIAL JURISDICTIONS

SEC. 306. (a) Section 1108(a) of the Social Security Act is amended—

(1) by striking out "with respect to the fiscal year 1972 and each fiscal year thereafter other than the fiscal year 1979" in paragraphs (1)(E), (2)(E), and (3)(E) and inserting in lieu thereof in each instance "with respect to each of the fiscal years 1972 through 1978"; and

(2) by striking out "with respect to the fiscal year 1979" in paragraphs (1)(F), (2)(F), and (3)(F) and inserting in lieu thereof in each instance "with respect to the fiscal year 1979 and each fiscal year thereafter".

(b) The last sentence of section 1118 of such Act is amended by striking out "when applied to quarters in the fiscal year ending September 30, 1979".

PERIOD WITHIN WHICH CERTAIN CLAIMS MUST BE FILED

SEC. 307. (a) Part A of title XI is amended by adding after section 1131 the following new section:

"PERIOD WITHIN WHICH CERTAIN CLAIMS MUST BE FILED

"SEC. 1132. (a) Notwithstanding any other provision of this Act (but subject to subsection (b)), any claim by a State for payment with respect to an expenditure made during any calendar quarter by the State in carrying out—

"(1) a State plan approved under title I, IV, V, X, XIV, XVI, XIX, or XX of this Act,

"(2) or under any other provision of this Act which provides (on an entitlement basis) for Federal financial participation in expenditures made under State plans or programs,

shall be filed (in such form and manner as the Secretary shall by regulations prescribe) within the two-year period which begins on the first day of the calendar quarter immediately following such calendar quarter; and payment shall not be made under this Act on account of any such expenditure if claim therefor is not made within such two-year period; except that this subsection shall not be applied so as to deny payment with respect to any expenditure involving court-ordered retroactive payments or audit exceptions, or adjustments to prior year costs.

"(b) The Secretary shall waive the requirement imposed under subsection (a) with respect to the filing of any claim if he determines (in accordance with regulations) that there was good cause for the failure by the State to file such claim within the period prescribed under subsection (a). Any such waiver shall be only for such additional period of time as may be necessary to provide the State with a reasonable opportunity to file such claim. A failure to file a claim within such time period which is attributable to neglect or administrative inadequacies shall be deemed not to be for good cause.".

(b) The amendments made by subsection (a) shall be effective only in the case of claims filed on account of expenditures made in calendar quarters commencing on or after October 1, 1979.

The ACTING PRESIDENT pro tempore. Debate on this bill is limited to 4 hours, to be equally divided and controlled by the Senator from Louisiana (Mr. LONG) and the Senator from Kansas (Mr. DOLE), with 1 hour on any amendment in the first degree (except a Schweiker amendment on medicaid management information systems, on which there shall be 1½ hours; a germane Bellmon amendment, on which there shall be 2 hours; and two Cranston amendments on the adjustment of foster care cap and the medicaid eligibility for certain VA pensioners, respectively, on each of which there shall be 30 minutes), with 30 minutes on any amendment in the second degree, and with 20 minutes on any debatable motion, appeal, or point of order.

Who yields time?

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. On whose time?

Mr. MOYNIHAN. On the majority time, Senator LONG's time.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from New York yield to me for 1 minute?

Mr. MOYNIHAN. The Senator from New York is honored to have that opportunity.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator.

Mr. President, this is a request that has been cleared with Mr. BAKER, with Mr. LONG, and other Senators.

Mr. President, I ask unanimous consent that no amendments to H.R. 3434 be in order after today.

Provided further, that any rollcall votes on amendments ordered after 4 p.m. today be put over until Monday, and that all amendments that are offered to the bill be debated today.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. This means, Mr. President, that all amendments to the bill should be called up today; that no amendments to the bill will be in order after today; that there will be rollcall votes, if ordered, before 4 p.m. today; but that any rollcall votes ordered on amendments after 4 p.m. today will be put over until Monday.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. JAVITS. I have been told that the bus is leaving at 3:30. So could we move it to 3:30?

Mr. ROBERT C. BYRD. We will just slow down the bus. [Laughter.]

I understand the significance of the Senator's query and the importance of the mission on which he is going, but inasmuch as this has been cleared all the way around, I believe we had better leave it that way.

The PRESIDING OFFICER (Mr. Bumpers). Is there objection? The Chair hears none, and it is so ordered.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the following members of the Finance Committee staff have the privilege of the floor during the debate and votes on H.R. 3434: Michael Stern, Joe Humphreys, Bill Galvin, Bob Hoyer, Bob Lighthizer, Rod DeArment, Linda McMahon, and Sheila Burke.

I make the same request for Margaret Malone, of the Congressional Research Service of the Library of Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I believe the Senator from Oregon wishes to speak, and I am happy to yield to him from the time on the bill which has been assigned to the Senator from Louisiana.

UP AMENDMENT NO. 664

(Purpose: Relating to incentives of States to collect child support obligations)

Mr. HATFIELD. I thank the Senator from New York for yielding.

Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. Hatfield) proposes an unprinted amendment numbered 664.

Mr. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

INCENTIVES FOR STATES TO COLLECT CHILD SUPPORT OBLIGATIONS

Sec. . (a) The heading to section 458 of the Social Security Act is amended by inserting "States and" after "to".

(b) Section 458(a) of such Act is amended—

(1) by inserting "or a State on its own behalf makes," after "another State,", and

(2) by striking out "or such other State" and inserting in lieu thereof ", such other State, or such State (in the case of a State which on its on behalf makes such enforcement and collection)".

(c) Section 458 of such Act is further amended by adding at the end thereof the following new subsection:

"(c) No payment under the preceding provisions of this section shall be made to any State or political subdivision thereof with respect to any amount collected and distributed by it unless such amount was collected and distributed in accordance with the State plan of the State approved by the Secretary as meeting the conditions required by section 454.".

Mr. HATFIELD. Mr. President, the amendment I am offering today, on behalf of the Senator from Vermont (Mr. Leahy), the junior Senator from Oregon (Mr. Packwood) and myself, is a modification of S. 1396, which I introduced earlier this year for myself and these Senators.

The amendment would amend title IV–D of the Social Security Act to permit States such as Oregon, Vermont, and Washington, with excellent State programs, to retain 15 percent of the child support collected and required to be distributed for AFDC public assistance cases.

The amendment would correct an inequity in the child support program that was unforeseen when the program was originally designed. At that time, it appeared that the incentive provisions of title IV–D of the Social Security Act were necessary to encourage local political subdivisions of States with county administered and State supervised programs, to become actively involved in implementing the program. That goal has been achieved in most of such States.

Unfortunately, the present IV–D incentive system has created a completely unforeseen result by tearing down and eroding away the effectiveness of some State administered child support programs which were in operation and performing well at the time the IV–D program started. It has also inhibited the development of some State administered programs which had not existed prior to the enactment of the IV–D (child support) program in 1975.

The result of the present system of incentives in part D of title IV of the Social Security Act has been that while Oregon excels in collection activity and its production of a profit for not only the State, but the Federal Government, as well, it has done so without the benefit of literally millions of dollars of incentives which are provided other States.

According to the Committee on Finance staff data on child support, the States administer the child support programs through separate agencies (IV–D agencies). The State agency administers the program in 42 States. In the other States the program is State supervised and is administered by local political subdivisions.

My amendment would extend the incentive program to those 42 State administered programs, including Oregon, which collect child support on their own behalf. The cost would be minimal and the value great since it would provide the funding necessary to enlarge some of those State programs to provide the child support services needed by many of their residents. This cost will be more than covered with the increased collections attributable to my amendment. This bill will merely extend the benefits to all States and localities equally.

Mr. President, the effective date of this amendment will be January 1, 1980.

Mr. President, when the program was instituted for the collection from the fathers of dependent children, the State of Oregon already had in place and operating a rather superior type program, having already set in motion the collection procedures which later would comply with the incentive provisions of title IV D of the Social Security Act; but because of our advanced activity in that area, these three States previously mentioned, among others, have been penalized. So this amendment would establish the equity with the other States of the Union and provide us with the opportunity to retain 15 percent of those collections. We still, in effect—if I may put it in crass terms—are making money for the State and for the Federal Government by the superior system of collections we have underway and already operating.

Mr. President, this has been cleared with the chairman of the Finance Committee; with the manager of the bill, the Senator from New York, and with the staff of the majority. It also has been cleared with Senator Durenberger, who will be handling the management of the bill on the minority side during this first hour of debate, and with the staff of the minority.

Therefore, I present this amendment and ask for its adoption.

Mr. MOYNIHAN. Mr. President, I am happy to state, on behalf of the chairman of the committee and on my own behalf—and I am sure I speak for the Senator from Kansas, who is the comanager of the bill—that we fully take the point made by the Senator from Oregon and his colleagues. It is a correct point. It is the most recent example of the progressive and innovative social programs of the State of Oregon. We are happy to accept his amendment, and we will incorporate it in the bill.

Mr. HATFIELD. I thank the Senator from New York for his kind remarks and for his willingness to accept the amendment.

Mr. President, in order to add to the legislative record, I should have mentioned that this has been cleared with the Senator from Kansas (Mr. Dole).

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, the bill before us was nearly 3 years in the making. H.R. 7200, in the 95th Congress, was passed by the House and reported out by the Finance Committee; only at the very last moment of the 95th Congress did it finally fail of enactment, because of the jam of legislative business at that time.

H.R. 3434, which we bring to the floor today is a very similar, in many respects an identical bill, and it is an improved bill. We commend it to the Senate in those terms.

As one of the managers of this bill, which originates in the Committee on

Finance, I feel a special obligation and privilege and pleasure to acknowledge the debt this body owes to Senator ALAN CRANSTON, the senior Senator from California, who has persistently, steadfastly, and compassionately taken the lead in reforming and improving the Government's treatment of needy, abandoned, and parentless children, and whose amendment, which I have had the honor to cosponsor, is the foundation of this bill as reported by the Finance Committee.

Mr. President, it is properly the concern of Members of the Senate to note what is contained in a large and complex item of legislation of this kind, and I can report this matter in the most succinct way.

There is one new Federal program embodied in this bill. It provides Federal subsidies for the adoption of hard-to-place children who have been in the aid to families with dependent children program. This is a new Federal program. But it is a very old, established practice of State governments. There are some 47 States which already have such subsidies in one form or another.

The Federal policy here is not innovating but simply is coming into step with the overwhelming judgment of the State governments whose wards these children are and for whom they have assumed responsibility. But it should be noted that the bill marks an historic shift in the thrust of Federal policy away from foster care, which is increasingly recognized to be less than satisfactory in many cases, even if sometimes unavoidable, toward permanent arrangements for children, involving the retaining of the children in their own homes, keeping them at home, bringing their homes back together as that often involves, restoring children to their parents when they have been removed by court order, and encouraging the adoption of children who are able to be adopted.

Before going further, may I say something about foster care, which was covered particularly in the hearings that the Subcommittee on Public Assistance of the Finance Committee held. Foster care was often described in Dickensian terms, as some awful abuse of children. That would be a great disservice to those persons who have provided foster homes because they were urged to do so by the State.

It is not the nature of these houses, but they were meant to be a temporary holding pattern, if I may use the image from aviation, for children until more permanent arrangements could be made. Yet Federal policy, and Federal statutes have provided and do provide fiscal incentives to place children in foster care and to keep them there because that is the only Federal assistance that can be received for children who have no home of their own to be in or where a court has taken them out of their home.

The AFDC program has and will continue to provide Federal payments for foster care. There have been until now no payments for children who were adopted and the cost of whose raising was assumed by a new family.

It is the judgment of persons in social welfare whose professional concern this has been that adoption is almost always to be preferred to any arrangement such as foster care, that a child having lost one family acquires another one as a matter of right, becomes a permanent member of a new family.

It is not easy to find such homes. I offer the remark which I hope will not be seen as critical that the social welfare professions have not made adoption a simple matter and may have made it more complicated than in the end is in the interest of the children involved. But in any event, it is the best option available and there should not be any Federal disincentive to choosing that option.

The legislation before us, through a mixture of incentives, disincentives, and new procedures, alters that pattern, makes it easier to pay for the services that might keep a child in his home or restore him to his parents, easier to have him adopted and keep him in his adopted home, and less attractive fiscally, if that is the term, to maintain children in foster care.

Mr. President, this is a limited bill. It recognizes that the lives of children and of families are at most indirectly susceptible to the influence of Federal policies and actions. It does not expect more of the States and the private agencies than is reasonable to expect of them. It does not burden them with excessive regulations. We have been earnest in our efforts to avoid that.

The reforms it makes all expire in 5 years in order to enable the Department of Health, Education, and Welfare and Congress to judge what their effects have been.

Five years is perhaps too short a time, but we will see. It takes many years to turn a child into an adult. It takes 18 years at a minimum. And this is not a subject in which anyone would wish to rush to judgment.

In addition to the adoption service and subsidy provisions and the reunification, to use the jargon, provisions, this bill deals with title XX social services in a reasonable and forward-looking way.

It would increase the permanent title XX ceiling in stages to $3.3 billion in 5 years. And it would freeze in place, as the term has it, the current title XX training program for 1 year to permit the committee and Congress to scrutinize it and to devise a proper role for training funds in the context of our social service programs.

I call to the attention of the Senate that the social services program began in the most modest manner and swelled to vast proportions owing to its open-ended nature, such that there came a point, not too much to caricature the matter, when some States were considering whether they should not build highways with title XX money, it being demonstrable that highways are social services of sorts, and in the end we had to freeze the program, and we have kept it on a very tight rein, more than I think would be my preference.

I understand that a simple calculation has been made that if we were to have maintained the value of the program in 1973 when it reached $2.5 billion in constant dollars, by fiscal year 1983 we should be required to appropriate $5.5 billion instead of $3.3 billion, and so one observes a clear shrinkage in this function in our social welfare programs, notwithstanding the modest increases provided in this bill.

With respect to training, we found ourselves in a not dissimilar situation. The funds for services were finally capped. Those for training, which were to accompany and facilitate the services, were not. And in consequence training activities began to grow at a rapid pace. So we have decided on the present arrangement which will hold them constant for the moment and give us a year to make the judgment as to what to do. For example, some have proposed, and it might be wise, to include training in the title XX bloc grants themselves and let the States decide what mix they may wish to use among their options.

The committee has not made any decisions. It is open on the matter and will expect to be holding hearings in the course of the year at which we will take testimony from concerned and informed parties, and we will be back in the second session with a recommendation to the Senate on this matter.

So, Mr. President, I wish to close these preliminary remarks with respect to the Adoption Assistance and Child Welfare Act. This is a restrained bill, but a good one. It does not involve large expenditures. Alas, the effort to provide adoptive homes for children is a slow and difficult one.

The numbers of children actually placed are painfully small. The Federal subsidy for this will simply substitute for the existing Federal support for foster homes such that no significant increase in public expenditure will be involved.

What we do see is a change in public policy which, I think, is a wise and prudent one. But we are sufficiently aware of the unanticipated consequences of what we do in public policy to ask that this change be made for a 5-year period, after which we may reach some better judgment as to its wisdom and its effects.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, the bill H.R. 3434, as reported by the Committee on Finance, makes several important revisions in Social Security Act programs.

The first title of the bill substantially revises the incentive structure of the Federal programs which aid the States in caring for children who must be removed from their homes. The overall purpose of these changes is to redirect the emphasis of the program toward increased efforts to find permanent homes for these children—either by restoring them to their own families or, if that is not possible, finding them adoptive homes. The bill would achieve this overall objective by establishing a new program to subsidize the adoption of hard to place children who would otherwise remain in federally-funded foster care, by placing a limit on the extent of future growth in the Federal funding for foster care as a means of directing State efforts toward other, more permanent forms of placement, and by restructuring the child welfare services also along these same lines.

The committee bill does not increase the child welfare services authorization but, with the restructured provisions, the committee anticipates that increased funding under the existing authorization will be made available.

The second title of the bill makes several changes designed to improve the social services program established by title XX of the Social Security Act. In particular, the bill would provide for a moderate degree of indexing for the Federal funding ceiling of that program which will increase the funding level over the next several years to a total of $3.3 billion.

For fiscal year 1980, the bill would provide a $2.7 billion funding level which is less than the $2.9 billion level in fiscal 1979. The committee is recommending this level in conformity with the assumptions of the Senate in passing the second budget resolution. If additional room is available when that budget resolution has been finally agreed to, an appropriate adjustment could be made in conference.

Also included in the bill are a number of other Social Security Act provisions. These include an extension of a program of specialized services for disabled children who are recipients of supplemental security income (SSI), a continuation of 1979 funding levels for territorial welfare programs, and several amendments to improve the efficiency and reduce the costs of the aid to families with dependent children program.

I ask unanimous consent that a more detailed summary of the provisions of H.R. 3434 be inserted in the RECORD at this point.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF PROVISIONS OF H.R. 3434

ADOPTION ASSISTANCE, FOSTER CARE AND CHILD WELFARE SERVICES

The committee amendment involves a major restructuring of Social Security Act programs for the care of children who must be removed from their own homes. In particular, the incentive structure of present law is modified to lessen the emphasis on foster care placement and to encourage greater efforts to find permanent homes for children either by making it possible for them to return to their own families or by placing them in adoptive homes.

Subsidized adoptions.—The Committee amendment provides for a new subsidized adoption with Federal matching. Under the adoption subsidy program, a State would be responsible for determining which children in the State in foster care would be eligible for adoption assistance because of special needs which have discouraged their adoption. The State would have to find that any such child would have been receiving AFDC but for the child's removal from the home of his relatives; that the child cannot be returned to that home; and that, after making a reasonable effort consistent with the child's needs, the child has not been adopted without the offering of financial assistance. The requirement of a search for a non-subsidized adoptive family would not apply when such a search would be against the best interests of the child, for example, where the child had already established significant emotional ties as a foster child of the potential adoptive parents. Even in such cases, however, the State would have to determine that it could not reasonably expect to place the child in the absence of adoption assistance because of some specific factor or condition which makes the child hard to place.

In the case of any child meeting these requirements, the State would be able to offer adoption assistance to parents who adopt the child so long as their income does not exceed 125 percent of the median income of a family of four in the State, adjusted to reflect family size. The agency administering the program could make exceptions to the income limit where special circumstances in the family warrant adoption assistance (such exceptions could not be made in more than 10 percent of the cases). The amount of the adoption assistance would be agreed upon between the parents and the agency, could not exceed the foster care maintenance payment that would be paid if the child were in a foster family home, and could be readjusted by agreement of the parents and the local agency to reflect any changed circumstances. Adoption assistance payments would not be paid (1) after the child has attained the age of 18, or (2) for any period when the family income rose above the specified limits. A child with a medical disability which existed at the time of the adoption would continue to be covered under the medicaid program for treatment related to that medical disability, or, at State option, for other conditions.

There would be no Federal matching for adoption subsidy agreement beginning in fiscal year 1985 (though Federal matching for subsidies under agreements entered into before then would continue to be available). This would permit a review of the program by the Congress before the end of the five-year trial period.

Where children are placed for adoption with assistance being provided under the new adoption assistance program, the nonrecurring costs involved in the adoption proceedings would be eligible for funding as child welfare services under title IV–B.

Foster care grants.—Under present law open-ended Federal matching is provided for foster care payments under aid to families with dependent children if a child (1) meets State AFDC eligibility requirements and (2) is removed from his home as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare of such child.

Under the committee amendment a ceiling would be put on Federal matching beginning in fiscal year 1980, set at 20 percent above the 1978 level, with a 10 percent annual increase thereafter through 1984. In addition, for any year an alternative foster care grant ceiling would be provided equal to each State's share of $100 million based on population under age 18 in each of the States. This would provide some additional room for program growth in those States which now have disproportionately small foster care programs. (In States which have disputed claims for Federal reimbursement in fiscal year 1978, the ceiling and subsequent increases in the ceiling would be computed on the basis of the State's claim for Federal reimbursement until the disputed claim is resolved. From the date that the claim is resolved, the ceiling would be based on the actual, finally determined Federal reimbursement but there would be no retroactive application of this final ceiling.) Amounts within each State's ceiling not used for foster care payments could be used for child welfare services, under the title IV–B grant program. Under the committee amendment, Federal matching for AFDC foster-care would be available only for children placed in such care prior to October 1, 1984. This is consistent with a similar provision under the adoption assistance program in the expectation that legislation relating to both programs would be considered prior to the end of this five-year period.

At the present time Federal funding of foster care maintenance payments for children is available for children placed in foster care homes and also for children placed in a "nonprofit private child care institution." The committee amendment would broaden the provision to allow for Federal funding of foster care maintenance payments for children in public as well as private facilities, but only if the public institution serves no more than 25 resident children. (This provision would apply only to children placed in foster care for the first time after enactment of the bill.) Federal foster care matching would not be permitted under the committee amendment for care in a facility operated primarily for the detention of children who are determined to be delinquent.

The committee amendment incorporates, and requires renewed emphasis on, the provision of present law limiting Federal funding for foster care in institutions to those items which are comparable to what would be provided in a foster family home such as food, clothing, shelter, personal needs and the costs of providing those items and of supervising the children.

The committee amendment adds a requirement that States establish goals as to the maximum number of children who will remain in foster care after being in such care for more than 24 months and that, starting October 1, 1981, efforts are made in each case to prevent the removal of a child from his home or to make it possible for the child to be returned to his own home.

Child welfare service grants.—The child welfare services program under title IV–B of the Social Security Act provides a Federal contribution to the costs of State programs to protect and promote the welfare of children including the provision of services to enable children to remain in their own homes, action to remove children from unsuitable homes and place them in foster care homes or institutions, and measures to place children in adoptive homes. Within the overall Federal funding available, the Federal matching share ranges from 33⅓ to 66⅔ percent depending on State per capita income. (Because of the relatively small amount of overall Federal funding which has been available, however, the effective Federal matching has been much smaller, about 7 percent nationally.) Under the committee amendment, the Federal matching rate would be set at a flat 75 percent. Federal grants for child welfare services above the present $56.5 million funding level could not be used for foster care maintenance payments.

The committee amendment also adds a new section to the child welfare services part of the law specifically permitting expenditures for State tracking and information systems, individual case review systems, services to reunite families or place children in adoption, and procedures to protect the rights of natural parents, children and foster parents. This would allow the Congress to designate that all or part of any new funding (over and above the current $56.5 million funding level, but within the overall $266 million now authorized) be specifically for this new section. (This earmarking would be accomplished through the appropriations process and not as a part of the authorizing statute.) State participation in this program would be optional.

In the first two years for which funds are allotted to a State specifically for the new section, those funds could be used:

1. For conducting and completing an inventory of all children who have been in foster care under the responsibility of the State for a period of six months preceding the inventory, including determining the appropriateness of and necessity for the current foster placement, whether the child can or should be returned to its parents or should be freed for adoption and the services necessary to facilitate either the return of the child or the placement of the child for adoption. (In that first year only, administrative expenses incurred for this purpose—and the purposes specified in sections 2a and b below—insofar as children receiving foster care under part E are involved could be funded under that part without regard to the ceiling on foster care funding which would otherwise apply.)

2. To design and develop:

a. A statewide information system concerning children in foster care.

b. A case review system for each child in foster care under the supervision of the State. (Such a system—if funded under this new section—would have to include procedures for assuring placement in the least-restrictive setting and provision for an annual or more frequent judicial or administrative review of: the appropriateness of the placement, compliance with the case plan, and prospects for returning the child home or placing him for adoption. Within 24 months after the initial placement, each child would have to receive a dispositional hearing by a court, tribal court, or court-appointed or approved administrative body to determine the future status of the child. The case review system would also have to provide for procedural safeguards concerning parental rights, the removal of a child from the home, changes in placement, and visitation rights.)

c. A service program designed to help children remain with their families and where appropriate help children return to families from which they have been removed or be placed for adoption or legal guardianship.

When the inventory has been completed and the systems and programs have been designed and developed, funding appropriated for the new section could be used to operate the systems and programs described in item 2. A State which already has an inventory of children in foster care and has developed the specified systems and programs could immediately use any funds which may be appropriated under the new section.

The committee amendments also modifies the child welfare services program so that it will operate on a "forward funding" basis. Under this provision, amounts appropriated for the program after the enactment of this legislation would become available for expenditure in the fiscal year following the fiscal year to which the appropriation act applies. This would give States advance knowledge of the amount of funding available.

An additional element of the committee bill would authorize the Secretary of Health, Education, and Welfare (to the extent he determines appropriate) to deal directly with recognized Indian Government entities in making child welfare services grants under title IV–B.

PROVISIONS RELATING TO SOCIAL SERVICES

The committee amendment includes a number of amendments affecting the social services program under title XX of the Social Security Act.

Ceiling Federal funding.—Under present law, there is a permanent ceiling on Federal matching for State social services programs of $2.5 billion annually. The committee amendment indexes this ceiling. Under the indexing provision, the ceiling will rise to $2.7 billion in fiscal year 1980 and $2.9 billion in fiscal 1981. Thereafter, the provision will result in annual increments of $100 million until reaching a level of $3.3 billion in fiscal year 1985. After reaching the $3.3 billion level, the indexing provision would cease to operate unless extended by subsequent legislation. The committee intends to review the question of the ceiling level for fiscal year 1980 after the Congress completes action on the Second Budget Resolution for that year.

Special allocation for child care services.—Under the committee amendments, $200 million of the funds provided to the States in fiscal years 1980 and 1981 would be available for child care services, with no State matching requirements. This is an extension of authority which has been in the law for the last 3 years.

Ceiling on training funds.—Under present law, funding for social services training is available to the States on an open-ended entitlement basis, with the Federal Government paying 75 percent of all State expenditures. The committee amendment would establish a limit, for one year (fiscal year 1980), on the amount of Federal matching funds available to the States for training. Notwithstanding any other provision of law, the limit for each State would be equal to four percent of that State's 1980 allotment under the title XX funding ceiling or the actual amount spent by the State in fiscal year 1979, whichever is higher.

Use of private funds for training.—Under present law, donated private funds used for title XX services must be donated to the State without restrictions (1) as to use, other than restrictions as to the type of donor who is not a sponsor or operator of a program to provide these services, and (2) as to the geographic area in which the services are to be provided. The committee amendment would permit the acceptance by the State of restricted private matching funds for training purposes in fiscal year 1980. The Department of Health, Education, and Welfare would be required to monitor the States' use of these funds, and there would be a prohibition on their use for training in proprietary facilities.

Multiyear planning.—The committee bill includes a provision under which, beginning in fiscal year 1980, States would be permitted to use either a one, two, or three year title XX program period, instead of the annual plan required under present law. If the State elected a program period of longer than one year, the State agency would have to publish and make generally available such information concerning the program, at such times as the Secretary may by regulation require.

Choice of fiscal year.—Present law allows the State to use the beginning of the fiscal year of either the Federal Government or the State government as the beginning of the State's title XX planning year. The committee bill amends this provision to allow a State the alternative of choosing the fiscal year used by its local subdivisions.

Emergency shelter for adults.—Present law allows funds to be used to pay up to 30 days of emergency shelter provided as a protective service to a child. Beginning in fiscal year 1980, the committee amendment provides that funds could be used for emergency shelter provided as a protective service to an adult in danger of physical or mental injury, neglect, maltreatment or exploitation. As is now provided under regulation for services for children, the shelter could be provided for no more than 30 days in any 6-month period.

Entitlement for Puerto Rico, Guam, and the Virgin Islands.—Under present law these jurisdictions receive an allotment for social services from the amount that the States certify, at the beginning of the program year, they will not need from their title XX formula allotments for that year. There is a ceiling on the amount that can be made available in any year of $15 million for Puerto Rico, and $500,000 each for Guam and the Virgin Islands. The committee amendment provides that, beginning in fiscal year 1980, a separate title XX entitlement amount would be established, as follows: Puerto Rico, $15 million; Guam and the Virgin Islands, $500,000; and the Northern Marianas, $100,000.

Child support enforcement services for non-welfare families.—The child support enforcement program requires States to make available services to both welfare and non-welfare families to assist in establishing the paternity of children and in securing support from absent parents. The original legislation enacted in 1975 provided for 75 percent Federal matching of the costs incurred by the States in providing these services. In the case of welfare families, the Federal matching provision was enacted in 1975 on a permanent basis while the matching for services to non-welfare families was provided only through June 30, 1976. Because of the success of the child support program in keeping families off welfare, Congress subsequently extended the provision for Federal matching for services to nonwelfare families through fiscal year 1977 and fiscal year 1978. During the last Congress, legislation to make this matching permanent was passed by the Senate on several occasions and also agreed to by the House of Representatives as a part of legislation which, for other reasons, did not reach enactment.

The committee amendment establishes this authority on a permanent basis retroactively to last October 1, 1978. This provision has already been agreed to by the Senate this year as an amendment to H.R. 3091, but has not yet been enacted.

Provisions relating to authority to hire welfare recipients as child care workers.—The Committee amendment includes a number of provisions which were approved earlier by the Senate as an amendment to H.R. 3091, but which have not yet been enacted. The amendment would restore the authority of the States to use social services funds under title XX to pay the costs of employing welfare recipients in child care jobs. This authority was available in fiscal years 1977 and 1978. The amendment would make this authority permanent, retroactive to October 1, 1978. It would also make certain changes to conform and better coordinate it with the provisions under which employers obtain a tax credit for hiring welfare recipients. Specifically, the amendment would:

1. extend the authority to use title XX funds to reimburse the costs of hiring welfare recipients in child care jobs;

2. incorporate this authority as a permanent part of the basic title XX statute;

3. increase the maximum per recipient annual combined tax credit and title XX reimbursement from $5,000 to $6,000—the same level of wages that is eligible for the new welfare recipient tax credit;

4. make the payment and credit available for part-time as well as full-time employment in child care jobs;

5. permit the credit to be computed on the basis of the full wages including the part reimbursed under title XX—subject to a maximum combined tax credit and title XX payment not to exceed 100 percent of the first $6,000 of wages; and

6. make the tax credit coverage applicable to the period between the date it previously expired (October 1, 1978) and the effective date of the new credit enacted last year (January 1, 1979).

Services to alcoholics and drug addicts.—The committee amendment reinstates and makes permanent, retroactive to October 1, 1978, temporary provisions of law relating to the use of title XX funds for certain services to alcoholics and drug addicts. These temporary provisions expired September 30, 1978. Title XX funds ordinarily may only be used to provide health services if the services are an integral, but subordinate, part of a social service. The law provides also that funds may not be used for services to persons in medical institutions. The amendment would make permanent those expired provisions of law which permitted consideration of the entire rehabilitative process in determining whether medical services provided to addicts and alcoholics are an integral but subordinate part of a social service. Also made permanent would be provisions allowing funding for up to 7 days of detoxification services provided to alcoholics and drug addicts in medical institutions, and provisions applying the privacy protections of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970. This provision has previously been approved by the Senate as an amendment to H.R. 3091.

OTHER SOCIAL SECURITY ACT PROVISIONS

AFDC earnings disregard.—Under present law States are required, in determining need for aid to families with dependent children, to disregard the first $30 earned monthly by an adult, plus one-third of additional earnings. Costs related to work—such as transportation, child care, uniforms, and other items—are also deducted from earnings in calculating the amount of the welfare benefit.

The committee amendment requires States to disregard the first $70 earned monthly by an individual plus 40 percent of additional earnings. Child care expenses, subject to limitations prescribed by the Secretary, would be deducted before computing an individual's earned income. Other work expenses could not be deducted.

Incentive to report earnings.—When a State learns that a recipient had unreported earned income in prior months, it must under present law give him the benefit of all the earned income disregards provided by law in calculating the amount of the overpayment. Thus if a recipient is negligent in reporting his earnings even over a long period of time, there is no penalty involved. The committee amendment would provide an incentive to report income by specifying that there would be no disregard of any earned income which the recipient has not reported to the State agency.

Income of stepparents.—Under current law a stepparent's income may not be considered in calculating the benefit due a stepchild unless the stepparent is legally responsible for stepchildren under State law. Thus, in almost all States, families which include a stepparent may receive AFDC regardless of the amount of a stepparent's income. Under the committee amendment, States would be required to take into account that part of the unearned income plus 80 percent of the earned income of a stepparent which exceeds the sum of: (1) the State standard of need for a family of the same composition as the stepparent and his dependents who are not receiving welfare (that is, those members of the household whom he claims as Federal personal income tax dependents but who are not in the AFDC recipient group); (2) amounts paid by him to dependents living elsewhere which are taken into account for Federal personal income tax purposes; and (3) alimony or child support payments made by him to persons not living in the household.

Prorated shelter allowance when AFDC household includes ineligible relatives.—An AFDC household may include one or more members who are not actually considered a part of the AFDC eligibility group. For example, an uncle living with the family could be excluded from the AFDC computations since he is not legally responsible for the support of the other members of the household. In such a case, his needs would not be counted in determining the size of the grant and his income would not be used to reduce the amount payable. AFDC studies have shown that a substantial proportion of all AFDC households include such ineligible relatives. The committee amendment would permit States, in computing the shelter cost component of the AFDC grant, to assume in effect that such an ineligible relative in the AFDC household bears his proportionate share of the shelter expenses. This would be computed as follows: instead of applying the shelter allowance applicable to the actual AFDC eligibility group the State would use the larger shelter allowance that would apply to a group including the AFDC unit and the ineligible relatives. That larger allowance, however, would be reduced on a prorata basis in accordance with the ratio of the number of AFDC eligibles to the total number of AFDC eligibles plus ineligible relatives. For example, if the household included 4 AFDC eligibles plus two ineligible relatives and the shelter allowance for a 6-person family was $60, the amount actually payable for shelter would be $40 (four-sixths of the full allowance). The provision would apply only if the overall household income exceeded the State's AFDC standard of need for a household of that size.

Services for disabled children.—The committee amendment provides for the extension for an additional 3 years of the special referral and services program for disabled children who are receiving SSI benefits. The program was enacted in 1976 and provided up to $30 million in Federal funds to be allocated annually to the States on the basis of the proportion of children under age 7 in the State. Without extending legislation, the program will have expired as of September 30, 1979.

This program requires the referral by the Social Security Administration of a disabled child under age 16 to a State agency which is responsible for counseling disabled children and their families, and for establishing an individual service plan for each child. Children are to be referred to appropriate services, and agencies are required to monitor the program to assure adherence to service plans.

Public assistance expenditures in Puerto Rico, Guam, and the Virgin Islands.—Under existing law there is a dollar ceiling on Federal matching for costs of cash assistance, administration and social services provided under the programs of aid to families with dependent children and aid to the aged, blind and disabled in the jurisdictions of Puerto Rico, Guam, and the Virgin Islands. The annual permanent ceiling is $24 million for Puerto Rico, $1.1 million for Guam, and $0.8 million for the Virgin Islands. These limits have been in effect since 1972. In addition, these jurisdictions are limited to 50 percent Federal matching, whereas the States may receive from 50 to 83 percent Federal matching, depending on State per capita income.

For one year (fiscal year 1979), the overall ceiling was tripled to $78 million and the matching rate was increased to 75 percent by an amendment to the Revenue Act of 1978 (Public Law 95–600) This provision expires September 30, 1979, and the ceiling reverts to $26 million and the matching rate to 50 percent.

The committee amendment provides for a permanent extension of the provisions which were included in Public Law 95–600 on a temporary 1-year basis.

Limitation on Period for State Filing of Claims Under the Social Security Act.—Current law does not set a time limit on State submission of claims under the welfare, Medicaid and social services programs in the Social Security Act. The committee amendment includes a provision under which the Social Security Act would be amended effective October 1, 1981 to limit the period of retroactivity for State claims to a full two years under the various titles of the Act (that is, it would apply to expenditures for periods starting with fiscal year 1980). However, the provision could not be interpreted so as to limit Federal financial participation in cases involving court-ordered retroactive payments or audit exceptions or adjustments to prior year costs. The Secretary of Health, Education, and Welfare would be able to waive the limitation in other circumstances where he determines there is good reason to do so. While this provision establishes a time limitation on claiming reimbursement for expenditures for fiscal 1980 and subsequent years, in the view of the Committee it does not authorize any change in the treatment of outstanding expenditures for earlier years. The expenditures for such earlier years retain their status as entitlement items for which the Federal Government is obligated by statute to provide appropriate matching.

Mr. JAVITS. Mr. President, the bill before us today contains a number of very positive features for improving services to children as well as some negative elements that cause me concern.

Let me speak first of the improvements in our foster care and child welfare systems made by this bill. I am most pleased that the Federal Government would for the first time be assisting States in providing adoption subsidies for children with special needs. These children with substantial physical, mental, or emotional handicaps—or who are older and thus much harder to place—can have the emotional security that adoptive parents can provide. But too, on the parents can be the deciding factor in not adopting, especially, as in the vast majority of the cases, the parents are receiving foster care payments from the States. Moving children from foster care to adoption with financial assistance will mean less cost to the Government—and more importantly—will mean these children will have a permanent home without fear of being separated from their foster family.

The adoption subsidies are an important component of our program to assist less fortunate children without families. But special needs children free for adoption are only a very small portion of children in foster care. H.R. 3434 will authorize additional funds for information, tracking and case review systems for children in foster care as well as moneys for services for returning the child to the natural home or placing the child in an adoptive home. These are important services to insure that children in foster care will remain there only as long as is necessary.

These adoption subsidy and support service provisions are similar to systems already in place in New York. Since 1968 we have provided adoption subsidies for children with special needs, and since 1973 have had preventive services available. We also have an information system to monitor children in foster care as well as regular administrative and court reviews at intake, 6 months, and 18 months. Although New York's system can be substantially improved, I am proud that we have been in the forefront of reforms in foster care and adoption assistance.

I am also most pleased to note that the

committee bill makes permanent the 75 percent matching rate for AFDC payments to Puerto Rico, the Virgin Islands, and Guam and establishes an entitlement for title XX funds for them.

I regret that the committee did not include voluntarily placed children in AFDC reimbursement once the case review protections are in place. My interest in including voluntaries goes back to 1973 when the Senate adopted my amendment to include voluntaries in the AFDC foster care program. This year I introduced a bill that would include voluntaries once case review protections are implemented; a companion bill was introduced by Congressmen DOWNEY and RANGEL. Since the House bill includes the provisions of our bill on voluntaries, I will not press the issue at this time. I am sure my colleagues will weigh the issue most carefully during conference and will reach an equitable solution that will insure the best care for our foster care children.

The committee bill includes my amendment adopted last year by the Senate which would prorate the welfare grant in cases where AFDC recipients live with relatives but either none of the relatives is legally responsible for the support of the child or, if there is such a legally responsible relative, the adult is not a part of the AFDC unit because he or she is supported by someone else, for example, a spouse who is the stepparent of the AFDC child.

My prorating amendment is, I believe, an appropriate response to the issue of the size of the grant where relatives may be contributing to the shelter of an AFDC recipient. The committee's bill, however, also includes a provision requiring States to count the income of stepparents when determining the welfare grant. This deeming provision, I believe, is bad social policy as well as bad administrative policy. By counting the stepparent's income, we are encouraging couples not to marry. Under a Supreme Court decision, States are not permitted to deem the income of a man living in the home. Yet the committee's bill will require the State to count the income of a stepparent. When it means a substantial reduction in the already limited amount of money the household will have, I fear that too many couples will opt to live together rather than to marry and thus provide the children with more permanency.

The deeming of stepparent's income also increases administrative complexity. Deeming will require the computation of two separate budgets instead of the present one, thus greatly increasing the possibility for error.

At the very least, I believe we should make the provision optional so that States may determine what policy would be best in their particular welfare system. They at least, then, could choose to do only prorating or only deeming. That would eliminate the double counting on stepparent families when the stepparent's income is first counted and then the grant is further prorated because of the stepparent's presence.

The earned income disregard amendment in the committee bill is also particularly troubling. The committee would severely limit the disregard, and thus the incentive, for working parents. In addition, by deducting day care expenses prior to the fractional disregard, the committee would penalize even further parents with day care expenses. Thus, a parent earning $500 and spending $150 on child care in a State with a benefit level of $320 would have $60 less disposable income than the parent without child care costs. We should not further penalize these parents who are making the difficult choice of giving up precious time with their children in order to earn money to improve the family's standard of living.

Mr. President, I believe all of these AFDC amendments would be better dealt with in the context of welfare reform. I understand the need for savings in this time of budget austerity, but we should do the savings at the same time we make reforms in the welfare system that will provide additional protections for our Nation's poorest families. I urge my colleagues in the conference to weigh this issue carefully.

Mr. DOLE. Mr. President, H.R. 3434, the Adoption Assistance and Child Welfare Act of 1979, is the product of extensive congressional consideration over the last 2 years. The bill makes needed improvements in the title XX social services program, child welfare services and foster care, and other programs under the Social Security Act.

TITLE XX

The title XX social services program provides the kind of supportive services to people with problems that make cash assistance and social insurance programs work. It allows the States to make decisions about the kinds of services that are needed and how they can best be provided. These services are particularly important because they give families the necessary support to help them remain self-sufficient or return to self-sufficiency.

Without this legislation, the funding ceiling for social services will revert to the $2.5 billion level at which the program was originally funded in 1972. Although the Finance Committee was not able to increase the permanent ceiling as much as we would have liked in fiscal year 1980 due to budget considerations, we did provide for automatic increases through fiscal year 1984 up to $3.3 billion. It is our intention to look at the ceiling level again before we go to conference with the House on this measure so we can agree to a higher funding level if a higher level is indicated in the budget resolution.

The bill provides for a ceiling on title XX training funds in response to the concern that some States appear to have overutilized these open-ended matching funds. The ceiling is not punitive, however, since it allows the States the greater of either 4 percent of their fiscal year 1980 title XX allotment or the equivalent of their actual fiscal year 1979 spending. The Finance Committee has agreed to hold hearings on the training cap issue in the coming year so a permanent long-range solution to the problem can be worked out.

The legislation also gives the States more options for the use of the title XX money and improves the State planning process. It includes a separate entitlement for Puerto Rico, Guam, and the Virgin Islands so the territories can plan their social services programs with the same certainty that the States are currently afforded. The measure also provides child support enforcement services for nonwelfare families on a permanent basis, retroactive to October 1, 1978. This program is an important part of the effort to keep families from turning to public assistance.

CHILD WELFARE AND FOSTER CARE

The provisions in the measure dealing with child welfare and foster care are innovative and long overdue. The legislation provides incentives to the States to find ways of assisting families with problems that are more appropriate than automatically removing the children from their homes and putting them in foster care, perhaps to be lost in the foster care system forever. This is done through adoption subsidies for hard-to-place children, improved Federal matching grants to the States for services directed at keeping children in or returning them to their own homes, and a cap on Federal matching for foster care maintenance payments.

The committee feels the combination of improved title IV–B child welfare services, adoption subsidies for lower income families, and limited Federal matching for foster care maintenance is necessary to give States the proper incentives to reverse the tendency to indiscriminately use foster care. Each of these elements is important, and the elemination of any one of them will undermine the effort to give children permanent homes, whether their own homes or the homes of adoptive parents.

The committee recognizes, however, that the foster care system will never be completely replaced by preventive services, reunification and adoption assisttance. Thus, even though foster care expenditures are capped, the committee has allowed for cost-of-living increases for foster care maintenance and has even provided an alternative foster care ceiling for States which have made more limited use of foster care in the past. The cap will not only give the States the incentive to find alternative methods of dealing with children, it will also give them the incentive to investigate the current cost of foster care and make efforts to place children in less costly and more appropriate forms of foster care.

The committee provided for the "forward funding" of the title IV–B services in an effort to respond to the need of the States to know in advance what funding will be available for this program. The "forward funding" mechanism allows the Congress to maintain control over spending—control which is lost through entitlement programs—while meeting the States' needs.

AFDC AMENDMENTS

The Finance Committee version of H.R. 3434 also makes several improvements in the treatment of income of AFDC recipients. These improvements include a change in the earned income disregard, incentives for recipients to report earnings, deeming of part of a stepparent's income as to an AFDC child, and proration of the shelter allowance in AFDC households which include ineligible relatives. These improvements are important to the integrity of the AFDC program and will help to eliminate from the welfare rolls those families which have substantial earnings and should not be eligible for public assistance. The bill provides a permanent extension of the $78 million ceiling and 75 percent matching rate for public assistance expenditures in the territories in order to continue the viability of those programs. It also limits to 2 years the period in which States can file claims under the Social Security Act.

SSI DISABLED CHILDREN'S PROGRAM

Of particular interest to me, the Finance Committee bill extends for 3 years a program for the referral of disabled children receiving supplemental security income to appropriate counseling, medical, rehabilitative and social services. This program was originally authorized 3 years ago, but it is only now becoming fully implemented. Those States which have been able to put their programs in place have found them to be an effective mechanism for coordinating all available services that a disabled child may need and assuring that the services are actually received. Through this program, many children who would otherwise be destined to lead lives of dependence will have the opportunity to overcome their handicaps and become fully functional, independent adults.

An example of the sources of the program is found in the case of a New Jersey child. A 3½-year-old, dependent on a ventilator due to a severe birth defect, was provided home care through the SSI disabled children's program. The care cost $16,000 for 6 months in contrast to the $70,000 it would have cost to keep the child in an institution under medicaid. However, the child's developmental and medical progress and the improvement in the emotional status of his family are priceless and tell the real story of the program's success.

CONCLUSION

In shaping the bill, the Finance Committee has made every effort to fairly balance all the conflicting needs and interests in order to report the best possible bill. I am convinced this measure, which is so important to the well-being of children, families, and others who need assistance, is a good product. Therefore, I urge my colleagues to support the measure as reported by the committee.

● Mr. RIEGLE. Mr. President, although I support many of the provisions of H.R. 3434, I believe the bill as reported by the Finance Committee presents some very severe problems for State governments attempting to provide quality child welfare services in an efficient manner.

For example, the imposition of a restrictive cap on foster care services blithely assumes that States are currently providing foster care services to all the children who need such services. In light of the tragic events in Jonestown, Guyana, I suggest that it is altogether possible that we may discover a large number of "forgotten" children in certain areas of this country—children who should undeniably be in foster care (at least until adoptive parents can be found), but who may be denied these services because they were not included by this cap. Such a tragedy must be avoided.

More likely, this cap will simply restrict the ability of States to improve the quality of foster care services they provide. This result would also hurt those of our children who are most in need.

As my colleagues know, I am strongly in favor of moving children out of foster care to be reunited with their family or placed in adoptive families. Indeed, since coming to the Senate I have sponsored a number of bills for this purpose along with Senator CRANSTON, the chairman of the Child and Human Development Subcommittee on which I serve. Today, I am offering along with my fellow Senator from Michigan, Mr. LEVIN, an amendment to expand the adoption subsidy provisions in this bill.

So my colleagues know that when I speak out against the foster care cap, it is not because I believe that foster care is a permanent solution for many American children. In the vast majority of cases, foster care should be a short-term matter. But I am concerned that placing a restrictive cap on State foster care expenses may adversely affect the quality of such care, and for that reason I oppose the foster care cap. I hope it will be eliminated in conference with the House, and I support attempts here in the Senate today to limit the adverse impact it may have in many States.

I am also concerned that H.R. 3434 as reported by the Finance Committee will unfairly deprive some poor families of income they desparately need. The welfare amendments added to this bill by the Senate committee go beyond what is equitable. In particular, I am concerned that the Finance Committee version would reduce welfare payments to families based on the income of stepparents of eligible children and would also reduce such payments by prorating costs according to the number of ineligible grantees in a household.

As my colleagues will recall, Senator JAVITS and I authored a proration amendment for shelter and utility costs which passed the Senate in the closing minutes of the 95th Congress, but was never enacted into law. I continue to believe that prorating shelter and utility costs is an equitable move, but I believe it is totally unjustified to impose both proration and deeming of stepparents' income across the board. At a time when our poorer families are facing skyrocketing utility costs, when inflation for both food and fuel is raging, I cannot believe that the Congress really means to undercut the ability of the poorest among us to meet these essential expenses.

I would also like to express my appreciation to the Finance Committee and to its chairman, Senator LONG, for including in H.R. 3434 the vital provisions relating to title XX services for detoxification of drug addicts and alcoholics. When title XX was enacted in 1975, it authorized funding for "appropriate combinations of services * * * for alcoholics and drug abusers." Later that same year, the package of amendments included in this bill was first authorized on a temporary basis.

For many States, the most significant amendment pertains to the use of title XX funds to cover the entire rehabilitative process for alcoholics and drug abusers, including initial detoxification, short-term residential treatment, and followup outpatient counseling and rehabilitation. All of these services are essential components of most treatment programs for alcoholics and drug abusers, which generally find a continuum-of-care approach to be most effective. The amendments dealing with confidentiality and the relationship between detoxification and other services have also proven to be effective in encouraging State activities to combat these problems.

Unfortunately, these amendments were allowed to lapse before this fiscal year. Experience in many States indicates how important these drug and alcohol services can be in reducing illness, crime, and other problems. The Finance Committee has correctly determined that these services should continue without interruption, and I am certain their strong stand will prevail in conference.

H.R. 3434 is a valuable bill, although it falls short in many areas. I am concerned, for example, that in its current form it will not enable title XX social service programs to continue their current level of services in the face of continued inflation. I am concerned that it will cut back certain welfare programs at a time when the need for such services is increasing in the face of recessionary pressures. I am concerned that it may inadvertently restrict States' ability to help children in need of foster care.

The Nobel Peace Prize was recently awarded to Mother Teresa for her work in the Black Hole of Calcutta. Our Government cannot, unfortunately, match her dedication to the world's poor. I hope, however, that in dealing with this bill, we will do our best to help our own needy children across this country.●

● Mr. EAGLETON. Mr. President, section 428(d)(1)(A) of the pending legislation describes the procedures that must take place when a "case review" is conducted for children placed in foster care.

While I commend the chief sponsors of this legislation (Mr. MOYNIHAN, Mr. CRANSTON, and Mr. LONG) for including this added protection for the welfare of foster children, I would like some clarification of this provision from one of the authors of this legislation.

Some concern has been expressed to me by quality private not-for-profit homes in Missouri who presently care for foster children that this provision which requires placement "in close proximity to the parents' home" could be interpreted in such a strict fashion by HEW that it would have the effect of closing down their homes. Many of our better child care homes in Missouri are located in the rural areas of our State and oftentimes the majority of the children placed in those homes come from our two metropolitan areas—St. Louis and Kansas

City. I do not believe that it is the intent of this legislation to close any of these quality child care homes simply because they are located many miles from the child's home.

Rather, I believe, it is the intention of the legislation to encourage States to look at each individual child's case and determine what setting will offer him or her the most love and care and which will best approximate a family setting, while taking into account the child's special needs.

I would like to ask the distinguished Senator from California, Mr. CRANSTON, who is chairman of the Child and Human Development Subcommittee of the Labor and Human Resources Committee if he agrees in my interpretation of section 428(d)(1)(A)?

Mr. CRANSTON. The Senator is correct that the intent of this legislation is not to close any quality child care homes simply because they are located many miles from a foster child's home. The purpose of this provision is simply to assure that whenever appropriate, a child is placed in as close proximity to his or her family as possible so that opportunities for contact and reunification of the child with the family will be enhanced. In each case, however, the placement should take into account the child's special needs and should be the most appropriate for that individual child.

As I have indicated before, this provision is particularly aimed at reducing instances where children are shipped from State to State, losing all contacts with their families when suitable facilities are available closer to home.

Mr. BUMPERS. Mr. President, I rise today in support of the Adoption Assistance and Child Welfare Act of 1979, H.R. 3434. Most of us in this room have children of our own and we all know how important it is to give a child a permanent home. This act provides guidelines and programs to help the States work toward moving their AFDC children in foster care to permanent homes more quickly.

By providing funding for adoption assistance in H.R. 3434, we will provide hard-to-place children with a lasting home environment. In my home State of Arkansas, the State legislature recently began a subsidized program on its own. The program officially began July 1, 1979, and the first six subsidized adoption agreements went into effect October 1 of this year. Arkansas has approximately 125 other children who could be placed if a subsidy were available for those children.

Of those six children who were placed by Arkansas social services, there is one case which illustrates exactly the type of foster care case that the adoption subsidy program in H.R. 3434 will affect. One child had been in foster care for 4 years and her foster parents had literally kept her alive by their care. This little girl was microcethlalic. She will never walk and will never have full mental capacity. However, she has been given physical therapy and lots of love by her foster parents and she has developed capacities she was never expected to develop and lived much longer than physicians thought was possible. Through the Arkansas subsidized adoption program, her foster care parents adopted this little girl permanently, even though it meant that she was no longer eligible for either medicaid or SSI benefits. These parents have some money to help support this child. Many foster care parents will not have that luxury although they would love to adopt a foster child who is in their care. This bill will allow those foster care parents to adopt that child.

In addition to the adoption subsidy, under this bill, States will receive foster care grants for their AFDC children in foster care. Arkansas has about 1,000 foster care homes and approximately 1,136 children in foster care. Of those children, approximately 350 are eligible for funding under the foster care program. Through the programs in H.R. 3434, Arkansas will be able to develop a program to move their foster care children out of foster care and return them to their homes or place them in an adoption situation where they can develop cohesive family ties. The average length of time a child is in foster care in Arkansas is 3.76 years. The national median length of time a child is in foster care is 2.5 years. H.R. 3434 provides that the States shall develop a system to move those children out of foster care within 2 years.

By providing plans to move children out of foster care quickly and by providing for an adoption subsidy program for AFDC foster care special children, we will cut down on administrative costs involved in foster care. We will also save money in cases where the adoption subsidy is lower than the foster care grant. Passage of this bill will not only improve the services to these foster care children but will also save the Federal Government money in the long run. It is not often that the Federal Government can take a program and cut expenses at the same time it provides the best program for the recipient.

The Adoption Assistance and Child Welfare Act of 1979 also provides for continuation of funding for the child support enforcement program for both AFDC and non-AFDC families. The Arkansas child support enforcement program has collected $2,571,667 for the fiscal year of 1978 and $2,798,895 for the first three quarters of 1979. These child support payments have kept many families off of the State and Federal welfare rolls. There were approximately 52,078 cases in the Arkansas child support enforcement program for the last 3 months of the fiscal year. Of those cases approximately 4,600 were non-AFDC. The retroactive authorization in this program is badly needed by Arkansas to keep this program going.

In this International Year of the Child, it seems appropriate that we provide programs to help the children in our Nation.

Mr. President, I ask unanimous consent that the following article be printed in the RECORD at the end of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Oct. 23, 1979]

WHO SPEAKS FOR THE KIDS IN FOSTER HOMES?

(By Jonathan Kwitny)

A year ago a story on page one of this newspaper described the plight of about 200,000 children in long-term foster care in the U.S., often shuttled traumatically from one home to another, denied security and dignity. There was substantial evidence that the law itself is greatly exacerbating this situation by creating financial incentives for kids to be kept in foster care when numerous couples are prepared to adopt them into permanent homes.

Not only could the children be given better lives if the law were changed, authorities said, but substantial cuts could be made in the $2 billion-a-year taxpayer cost of supporting the kids. About $1 billion of this money pays salaries and other costs of the agencies that supervise them in foster care.

This week the Senate is due to consider extending the support now paid for kids in foster care to help the same kids if they are adopted. Both the House and Senate have considered such a change in the law over the past four years, and at least a couple of times have actually voted for it, though never in mutually agreeable form.

Yet the proposed changes have never become law, and there's considerable doubt they will this year, even though the House passed them in August. The problem isn't that anyone in Congress opposes the idea. The problem is that the relatively noncontroversial foster care-adoption proposals keep getting lumped in with other proposals that are highly controversial.

For example, most of last year the foster care-adoption proposals languished as part of a bill that also would have required ambulatory welfare recipients to go to work at government jobs—not exactly a proposal likely to glide through without objection.

At one point, two Senators (Cranston and Moynihan) succeeded in separating this extreme measure from the bill that included the foster care-adoption package, but only at the end of substituting two other amendments on welfare eligibility, not so extreme, but still controversial enough to keep the package from going to the President.

Speaking of the President, a private study with the obvious blessing of his administration last year strongly backed the foster care-adoption changes, and Vice President Mondale in his Senate days was an original proponent. Yet two years ago in Congressional hearings the administration testified against the changes, because it preferred to include them in a broader social reform package that never got passed.

Things got so bad last year that the Child Welfare League of America, an old and highly respected organization that is supposedly out there speaking up for the kids, actually lobbied against the bill containing the foster care-adoption proposals, which it supports. The same bill contained limitations on general welfare eligibility that the League found objectionable.

According to Suzanne Martinez, counsel to the Senate Subcommittee on Child and Human Development, the Child Welfare League's lobbying is what killed the whole package in a conference committee last year (the League says the House conferees would have voted it down from conviction, even without lobbying). Candice Mueller, a League official, concedes the League might oppose the package again this year if similar provisions are included though she says she hopes they won't be.

A key point is that the Child Welfare League is made up not of children or parents, but of social service agencies, which employ a lot of professionals to do work that permanent parents might be doing instead. It is in no way a reflection on the sincerity and devotion of these agencies to note that their interests may not be exactly synonymous with those of the kids, or their prospective parents.

This year there are amendments and expected amendments dealing with welfare aid and family services in general, including changes in welfare eligibility requirements that have aroused strong feelings on both sides. The foster care-adoption proposals also have been bound up in the controversy over whether social service money should leave Washington in the form of "entitlements," which guarantee to states a fixed amount of money to spend for a particular purpose for several years to come, or in the form of annual appropriations, so that Congress can decide each year how much money to spend and where to spend it.

Obviously, the social service industry, which believes in advance planning, and fiscal conservatives, who believe in budgetary control, don't see eye to eye on this issue. Both groups lobby effectively. The kids, whose chance for adoption may be held up altogether because of the dispute, don't even vote.

It may not be immediately apparent why financial subsidy is so vital to the adoption of kids in foster care, particularly when many of the prospective parents are middle income or higher. But the reason becomes obvious when you consider why these kids are in foster care in the first place: they tend to have unusual physical, mental or behavioral problems that are likely to require unusual cash outlays. Many are walking (or wheelchaired) time bombs, who in two, five or ten years may well need, say, a series of spinal operations, costly visual aid equipment, special schooling or extensive psychiatric counseling.

Right now the government winds up paying these costs through the foster care system. If adoptive parents are willing to provide love and care for these children, and to relieve the state of the burdens of supplying physical plants and personnel, then asking them to pick up these maintenance costs as well is asking a lot.

ENDING FOSTER CARE DRIFT

Mr. BIDEN. Mr. President, I rise in support of H.R. 3434, the Adoption Assistance and Child Welfare Act of 1979. This bill would provide States with substantial incentives to take children currently in foster care institutions and place them with families in permanent homes.

Mr. President, foster care drift is a serious problem in many States today. Too many children are placed in foster care homes and simply are never placed in a permanent home. There are nearly 500,000 foster children in the United States, of which 103,000 are receiving Federal foster care subsidies. However, once a child is placed in foster care it is not always easy for this child to be adopted or returned to his or her natural parents. An HEW survey of foster care children revealed that 30 percent of all children in foster care had been in placement for more than 2 years. Some of these children remain in foster care institutions for several years until they reach 18 years of age. At this point they are released for independent living as an adult.

The Junior League of Wilmington prepared a study of foster care cases in my home State of Delaware. Based on 277 randomly selected cases, the Junior League found that almost 10 percent of children in foster care have been there for over 15 years. Another 22 percent were in foster care custody for 10 to 15 years. Only 43 percent were in foster care custody for less than 5 years.

The average age of the child upon entering care was almost 6 years of age. The average age of the child presently in foster is 13. Most of these children were taken into custody because of physical or parental neglect. Many of those children will "drift" around from one foster care facility to another.

As a result, these children will not experience the security and warmth of a permanent home with their natural parents. Because their natural parents are frequently unwilling or unable to take care of the child, the parent-child relationship often deteriorates. Many of these children will experience difficulties in school and have a higher incidence of social problems such as alcohol and drug abuse, delinquency, and economic dependence.

Much of the problem of foster care drift is due to the inability of State social service agencies to spend the necessary time to find adoptive parents or to provide the counseling and supportive services necessary to return the child to his or her natural parents. It is often easier for State welfare agencies to place children in temporary foster care homes rather than find them permanent homes.

Current Federal policy encourages State agencies to pursue this policy by making Federal funds available for foster care homes but not for adoption subsidies. States are currently not required to establish effective case review systems to monitor the placement goals of children in foster care homes.

This is not to say that foster care placement is always bad. In fact, in many cases foster care is absolutely necessary to remove children from a home situation which has become intolerable. However, institutional foster care should not become a permanent living arrangement for children simply because it is easier to keep them there than to place them with adoptive parents or to return them to their natural parents when circumstances permit.

H.R. 3434 creates incentives to encourage States to do a better job of monitoring foster care children.

Title I of the bill would establish a new adoption assistance program with Federal matching payments for State adoption subsidies. Under the adoption assistance program, a State would be responsible for determining which children in a State would be eligible for assistance because of special needs discouraging their adoption.

Title I of the bill allows funds to be used by States to compile a complete listing of all children in foster care under the responsibility of the State and to determine the appropriateness of current foster care placement.

All States would be encouraged to design and develop a State-wide information system concerning children in foster care. This case review system would insure the appropriations of foster care placement goals, especially for children who have been in foster care for more than 24 months. A service program designed to help children remain with their families or help them return to their families after a short period of foster care would also be created.

In conclusion, Mr. President, I believe that H.R. 3434 represents a significant improvement in the way which the Federal Government delivers child welfare services. This goal is particularly important, I feel, as one of our contributions during the International Year of the Child. I urge my colleagues to support H.R. 3434.

UP AMENDMENT NO. 665

(Purpose: To amend titles XVIII and XIX of the Social Security Act to strengthen the capabilities of States and the Federal Government to detect medicaid fraud and abuse and to improve the administration of the medicaid program)

Mr. SCHWEIKER. Mr. President, I call up a modified version of amendment 522 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SCHWEIKER), for himself and others proposes an unprinted amendment numbered 665, which is a modified version of amendment No. 522.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent to dispense with further reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following new sections:

MECHANIZED CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEMS

SEC. 308. Section 1903 of the Social Security Act is amended by adding at the end thereof the following new section:

"(r)(1) The amount otherwise payable for any quarter under paragraphs (2) and (7) of subsection (a) (without regard to this subsection) shall be reduced by an amount equal to—

"(A) 25 percent of such amount otherwise payable, for any quarter beginning on or after July 1, 1980, and ending before July 1, 1981.

"(B) 50 percent of such amount otherwise payable, for any quarter beginning on or after July 1, 1981, and ending before July 1, 1982,

"(C) 75 percent of such amount otherwise payable, for any quarter beginning on or after July 1, 1982, and ending before July 1, 1983, and

"(D) 100 percent of such amount otherwise payable, for any quarter beginning on or after July 1, 1983, with respect to any State which fails to meet the requirements of paragraph (2).

"(2)(A) In order to receive payments under section 1903(a) without being subject to reduction under paragraph (1) of this subsection, a State must provide that mechanized claims processing and information retrieval systems of the type described in section 1903(a)(3)(A)(1) which are approved by the Secretary as achieving the objectives of an effective system at reasonable cost (whether such systems are operated directly by the State or by another person under a contract with the State) be operational with respect to the entire State, and that such systems meet the requirements of paragraph (3) of this subsection.

"(B) With respect to quarters ending before July 1, 1981, payments to a State shall not be subject to reduction under paragraph (1) of this subsection if such State has submitted, and the Secretary has not formally disapproved, an advanced planning document which specifically describes (in reasonable detail) the State's plans for installing and operating mechanized claims processing and information retrieval systems described in subparagraph (A).

(2) (c) Any State which has a system approved by the Secretary on or before the date of enactment of this act shall be deemed to meet the requirements of paragraph (2) (A) until such time as such State system is disapproved by the Secretary in accordance with paragraph (3) (B).

"(3) (A) In order to be approved by the Secretary, or to be reapproved by the Secretary in the case of a system which is initially approved but is subsequently disapproved, mechanized claims processing and information retrieval systems must meet the following requirements:

"(i) The systems must be capable of developing provider, physician, and patient profiles which are sufficient to provide specific information as to the use of covered types and items of service, including prescribed drugs, to the extent such profiles are not duplicative of information developed and available under the program established under part B of title XI of this Act.

"(ii) The State must provide that information on possible fraud or abuse which is obtained from, or developed by, the systems is made available to the State's medicaid fraud control unit (if any) certified under subsection (q) of this section.

"(iii) The systems must meet the standards developed by the Secretary under paragraph (4).

"(B) Any mechanized claims processing and information retrieval system which does not meet the requirements of subparagraph (A) shall not be approved by the Secretary (in the case of a State which is seeking initial approval of its systems) or shall be disapproved by the Secretary (in the case of a State which has systems which were initially approved). The Secretary shall periodically reassess the systems in operation in each State to determine whether the systems should be disapproved.

"(4) The Secretary, with respect to State systems, shall—

"(A) develop written approval procedures for use in approving State systems, including specific criteria for testing systems in operation to insure that all performance standards and requirements are met;

"(B) establish and periodically update the systems performance criteria, objectives, regulations and guides;

"(C) give priority to aiding States in the development and improvement of the systems so as to continually improve the capacity of such systems to effectively detect cases of fraud or abuse;

"(D) for the purpose of ensuring compatibility between the State systems and the systems utilized in the administration of title XVIII—

"(i) develop a uniform idenification coding system for providers, other persons receiving payments under the State plans (approved under this title) or under title XVIII, and beneficiaries of medical services under the State plans (approved under this title) or under title XVIII;

"(ii) provide liaison between States and carriers and intermediaries having agreements under title XVIII to facilitate timely exchange of appropriate data; and

"(iii) improve the exchange of data between the States and the Secretary with respect to providers and other persons who have been terminated, suspended, or otherwise sanctioned under a State plan (approved under this title) or under title XVIII;

"(F) develop and disseminate clear definitions of those types of reasonable costs relating to the State systems which are reimbursable under the provisions of subsection (a) (3) of this section; and

"(G) report on or before April 1, 1981, to the Congress on the extent to which States have developed and operated effective mechanized claims processing and information retrieval systems.

"(5) (A) In any case in which a State's mechanized claims processing and information retrieval system is disapproved by the Secretary pursuant to paragraph (3) (B) of this subsection, the State (with the assistance of the Secretary) shall develop a corrective action plan for bringing the system back into compliance with the requirements of paragraph (3) (A) of this subsection, and submit such plan to the Secretary within a period of time which the Secretary determines to be adequate to submit such plan, but not to exceed one year after the disapproval.

"(B) If the State's system has not been reapproved by the Secretary as being in compliance with the requirements of paragraph (3) (A) within a period of time after disapproval which the Secretary determines to be adequate to comply with such requirements but not to exceed two years, payments to such State under this section shall be made without regard to the provisions of subsection (a) (3).

"(C) If the State's system has not been so reapproved within one year after the date on which payments to the State were reduced under subparagraph (B), the payments with respect to administrative costs made to such State under paragraphs (2), (3), and (7) of subsection (a) shall be made at a reimbursement rate of 25 percent rather than the percentage specified in such paragraphs.

"(D) If the State's system has not been so reapproved within two years after the date on which payments to the State were reduced under subparagraph (B), no payments with respect to administrative costs shall be made to such State under paragraphs (2), (3), and (7) of subsection (a).

"(E) If a State's system is reapproved, payments under this section shall be made without regard to this paragraph beginning with the first quarter that begins after the date of such reapproval.

"(6) (A) The Secretary shall waive the provisions of this subsection in whole or in part with respect to any State which had a 1976 population (as reported by the Bureau of the Census) of less than 1,000,000 and which made total expenditures reimbursable under this title of less than $100,000,000 in fiscal year 1976 (as reported by such State for such year), if such State reasonably demonstrates, and the Secretary does not formally disagree, that the application of such provisions would not significantly improve the efficiency of the administration of such State's plan under this title, including the State's ability to develop provider, physician, and patient profiles as described in paragraph (3) (A) (i).

"(B) A waiver granted under subparagraph (A) may be withdrawn if the Secretary determines that the State no longer meets the criteria for such waiver. If such waiver is withdrawn, the State shall develop a plan to be followed for the expeditious installation or modification of a mechanized claims processing and information retrieval system.

"(C) If the State's system is not approved by the Secretary as being in compliance with the requirements of paragraph (3) (A) within such period of time after the waiver granted under subparagraph (A) is withdrawn as the Secretary determines to be reasonable to comply with such requirements, but not to exceed two years, payments made to such State under paragraphs (2), (3), and (7) of subsection (a) shall be made at a rate equal to 50 percent of the rate otherwise payable under such paragraphs.

"(D) If such system has not been so approved within a period of one year after the expiration of the period described in subparagraph (C), payments made to such State under paragraphs (2), (3), and (7) of subsection (a) shall be made at a rate equal to 25 percent of the rate otherwise payable under such paragraphs.

"(E) If such system has not been so approved within a period of one year after the expiration of the period described in subparagraph (D), no payments shall be made to such State under paragraphs (2), (3), and (7) of subsection (a).

"(7) (A) The reductions in payments to States required under paragraphs (1), (5), and (6) of this subsection shall not apply to a State for any quarter with respect to which the Secretary determines that such State is unable to comply with the requirements of such paragraphs for (i) good cause, but such waiver shall not exceed six months, or (ii) due to circumstances beyond the control of such State.

"(B) If the Secretary determines under subparagraph (A) that a State is not subject to such reductions, he shall recommend a plan for corrective action so that such State's system will expeditiously meet the requirements for approval under this subsection, and shall report to the Congress on each such determination, including a description of the plan for corrective action.".

"(C) For purposes of determining all time limitations and deadlines imposed under this subsection, any time period during which a State was found under subparagraph (A) to be unable to comply with requirements of this subsection due to circumstances beyond its control shall not be taken into account, and the Secretary shall modify all such time limitations and deadlines with respect to such State accordingly.".

EXCHANGE OF INFORMATION ON TERMINATED OR SUSPENDED PROVIDERS

SEC. 309. (a) Section 1862(d) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(5) The Secretary shall promptly notify each State agency which administers or supervises the administration of a State plan approved under title XIX of any determination made under the provisions of this subsection.".

(b) Section 1866(c) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) Where an agreement filed under this title by a provider of services has been terminated by the Secretary, the Secretary shall promptly notify each State agency which administers or supervises the administration of a state plan approved under title XIX of such termination.".

(c) Section 1902(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (39);

(2) by striking out the period at the end of paragraph (40) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (40) the following new paragraph:

"(41) provide that whenever a provider of services or any other person is terminated, suspended, or otherwise sanctioned or prohibited from participating under the State plan, the State agency shall promptly notify the Secretary of such action.".

Mr. SCHWEIKER. Mr. President, this amendment is similar to S. 731, a bill introduced last March to cut medicaid fraud, waste, and abuse throughout the country.

After an informal consultation with

the Committee on Finance's staff, I have included several improvements over S. 731 and an earlier printed amendment No. 507, which I submitted on October 9. I made a slight modification today which, I believe, is acceptable, as well.

I believe the changes made will insure that sufficient flexibility among the States is allowed. I am pleased to have as cosponsors Senators NUNN, HATCH, and YOUNG.

Almost 7 years ago, a computerized medicaid management information system, commonly known as "MMIS," was developed. By coordinating information on medicaid providers, recipients, and claims, MMIS has enabled both the large and small States which use it to save literally hundreds of millions of medicaid dollars. This sophisticated system can be tailored to the needs of any State and is currently being utilized by States ranging in population size from tiny Hawaii to California. Twenty-seven States have installed the system to date, and the taxpayers are enjoying enormous savings as a result. For example, New York City saved an estimated $100 million by installing MMIS. Florida rejected $26 million worth of erroneous claims the first year an MMIS was operational. Idaho, with a relatively small program, saved $1.4 million the first year it installed the system. The list goes on, proving conclusively that MMIS can save an average of 5 percent of medicaid program costs. This is not a small amount, when you consider that medicaid is a $20 billion program.

Presently the Federal Government pays 90 percent of the developmental and startup costs for MMIS, and 75 percent of its operational costs once in place. States that do not have MMIS are only reimbursed for 50 percent of their operational costs. However, for often unacceptable reasons, almost half the States have failed to install these computerized systems to get their medicaid programs out of the stone age. The primary purpose of my amendment is to push these laggard States to install the computerized systems by reasonable deadlines.

A number of GAO reports, including a recent report I requested on my own State of Pennsylvania, have stressed that the antiquated manual medicaid claims processing systems still used by many States simply cannot detect fraud, waste, and abuse. In fact, in my own State it was calculated that claims payment personnel could take only 5 seconds to view each claim, which is hardly enough time to turn the page, and this is my own State. So we, by default, have not been doing our job. This is what the GAO report says, and the same is true in other States. At a time when the American people and Congress are justly concerned with poor and wasteful use of tax dollars, it is difficult to explain that many of our States run multimillion-dollar medicaid programs without the capability to even detect, let alone stop, medicaid waste ranging from paying ineligible providers, or paying providers twice for the same service, to thousand-dollar fraud. This is especially difficult to explain given the fact that computerized systems that can easily detect waste, fraud, and abuse have been available for installation for almost 7 years.

These MMIS computerized systems have proven to save 5 percent of medicaid program costs where installed. States not yet having MMIS accounted for an estimated $8 billion in medicaid expenses last year.

If MMIS installations save 5 percent of program costs—and that has been the experience of States that have put them in to date, $400 million will be saved the first year the new systems have been installed. Some savings estimates go up to 8 percent, depending on the State and the mechanics of their program.

Most of the laggard States report they are currently working to install mechanized systems, yet some of them have been trying to install systems, which should take 6 to 18 months, for over 5 years. GAO has documented repeated delays in Illinois and Pennsylvania. Washington, D.C. and Maryland submitted detailed plans for MMIS installation over 4 years ago, and still, up. The list goes on, the record showing State after State pledging to HEW to have an operational system by a certain date, and failing to stick to their pledges time after time. The developmental and installation costs for MMIS are minimal compared to the systems' potential savings, and the Federal Government picks up 90 percent of these costs. Money to cover this has already been budgeted for HEW's fiscal year 1980 budget, and HEW has pledged, as usual, to push laggard States to install the system. Yet the delays continue. The time has come to end the delays and to begin to enjoy the fullest savings the most efficient computerized administrative systems can offer. With this goal, my amendment calls for four urgently needed reforms.

First, it requires States, unless they are waived, to stick to their plans to install mechanized claims processing and information retrieval systems. If unwaived States do not have the system operational by July 1, 1981, they will start to lose the Federal matching money they get for medicaid administrative costs. All States, unless they are waived because of small, efficient programs, must have submitted detailed plans on MMIS installation by July 1, 1980.

Second, it requires HEW to aid the States with technical advice on installation and operation of effective computerized systems. HEW, as recommended by a recent GAO report, is also required to periodically check State systems to insure that they continue to meet minimum requirements. If they do not, they will be given HEW assistance and 2 years to correct deficiencies before being penalized.

Third, it establishes long needed coordination between medicaid and medicare information on suspended and terminated providers so that providers who have been earmarked for violations under either the federally-administered medicare program or the State-Federal medicaid program do not receive compensation for practicing under either program in any State. The data provided from mechanized systems will help States to efficiently administer other programs besides medicaid.

Fourth, my amendment allows for enough flexibility so that the very few small, efficient States which do not need computerized systems to improve efficiency may be waived from installation requirements.

I believe that the approach I take in this amendment is fair to both the States and the taxpayers. The July 1, 1981, installation deadline allows the States plenty of time to get the system going—in fact, in most cases it merely makes them to stick to their latest pledges, and in some cases it allows more time for installation than States currently predict they will need. But at the same time, it sets a deadline; it attempts to put a stop to the constant pattern of delays that the record shows.

Second, by calling for HEW to give more technical assistance to States trying to install the system, it attempts to eliminate one of the stumbling blocks—lack of technical expertise—that have caused States to delay.

Third, by requiring HEW to periodically check State systems in operation to determine if minimum standards for the higher 75 percent Federal matching are being met, it attempts to insure that once the systems are in place, they will be properly operated so that their enormous cost savings potential can be fully realized.

I would like to emphasize that although my amendment requires HEW to check State systems in operation to insure that certain minimum requirements are met, it is not my intent to have HEW draft regulations which require uniform types of computer systems, the use of only certain types of computer hardware and softwear, or the mechanization of every aspect of every State's medicaid program. I have been quite careful in drafting the amendment to require only that States meet certain performance criteria, and that their systems meet certain broad objectives. For example, my amendment directs HEW to require that State systems have the ability to develop provider and patient profiles, so that individuals can be isolated and checked for possibly abusive practice. Any mechanized system should have this capacity. However, it is not my intent for HEW to tell the States exactly how they must go about developing these profiles. Most States will need computers and sophisticated programs to do so, but some States may be able to develop profiles with simple processes.

I am well aware that HEW has not always allowed for sufficient State flexibility when it drafts regulations, and has sometimes imposed requirements on all States which are reasonable only for some States. I would like to state very clearly, for purposes of legislative history, that my amendment is intended to direct HEW to develop criteria for mechanized systems which are sensitive to the differing needs and programs of different States. They are to develop system parameters to be used in checking State systems, but are to leave the States free within those parameters to run their medicaid programs as the States feel best.

Finally, my amendment contains a waiver provision which allows the few small States with small medicaid programs which will not benefit from mechanization to continue running their programs using manual techniques. If such States can demonstrate their ability to run efficient systems without mechanization, they will be permitted more far-reaching departures from the provisions of my amendment, as it makes no sense to require computer installation if it is unnecessary.

I believe that it is the proper role of the Federal Government, which will pour over $12 billion into medicaid reimbursements next year, to require the kind of proven medicaid management techniques MMIS brings. Although we have not yet developed perfect computerized management techniques to wipe out all program error, experts are unanimous in agreeing that automated systems are much better than the obsolete and inefficient manual techniques still used in many States. As long as States continue to run their medical programs using obsolete and inefficient management techniques, and as long as States need technical assistance to run their programs effectively, the administrative integrity of the medicaid program is threatened and tax dollars are wasted. My amendment establishes the kind of responsible oversight and improvement that is sorely needed in these times of increased taxpayer aversion to Government programs and spending.

Mr. President, I hope the Senate will agree that action is needed now.

Mr. DOLE. Mr. President, the Senator from Kansas commends the Senator from Pennsylvania (Mr. SCHWEIKER), for his interest in the serious problem of fraud and abuse in the medicaid system.

Without question, the cost of the medicaid program to both the Federal Government and the States, and the increasing incidence of fraud and abuse in this program, is an issue of deep concern to us all. Certainly any reasonable attempt to deal with this problem should be supported.

The management information system which my colleague has described has been put into place by my own State of Kansas and has proven to be effective, particularly in cost avoidance. It is my understanding that in September alone, our system detected 2,362 claims that were duplicates. Had these claims been paid, it would have been an expenditure of $277,822. The medicaid staff in Kansas believes their system to be both cost effective and more efficient than past programs.

There is much to be gained through efforts like these; however, caution should be used in developing guidelines and a monitoring system to guide and assist the States. The Senator from Kansas would like to join with the Senator from Pennsylvania in making it clear to the Department of Health, Education, and Welfare that the guidelines developed as a result of this legislation must be sensitive to the individual needs and abilities of each of the States.

We have, in the past, had a very unfortunate experience with the planning guidelines in particular and HEW's insistence that what is good for one State is good for all. The guidelines that will be prepared must be both clear and flexible so as to truly offer guidance and assistance rather than a hinderance.

Again, the Senator from Kansas thanks the Senator from Pennsylvania for his efforts in this important area.

Mr. WALLOP. I would like to discuss the waiver provision in Senator SCHWEIKER's amendment. As I understand it, the Secretary would be required to waive the requirement that a State install a medicaid management information system if that State had a 1976 population of under 1 million, had total medicaid expenditures of less than $100 million in fiscal year 1976, and if the State reasonably demonstrates and the Secretary does not formally disagree that the application of such provisions would not significantly improve the efficiency of the administration of that State's medicaid plan.

With the exception of Arizona (which does not have a medicaid program), Wyoming has the smallest medicaid program in the country, with reimbursements in fiscal year 1979 amounting to $10,872,000 on behalf of 9,000 recipients. When the Census Bureau publishes its population figures for 1979, their report will reflect a statewide population in Wyoming of approximately 466,000. In fiscal year 1976, the statewide population was some 391,000; our medicaid expenditures were $6,687,000.

It appears clear that Wyoming meets the first two criteria for a waiver. Would that be your assessment as well, Senator?

Mr. SCHWEIKER. Yes. In light of the facts just presented, regarding population and program sizes Wyoming falls within the purview of the waiver language. As a matter of fact, the waiver provision was drafted with the handful of very small medicaid programs throughout the country in mind.

Mr. WALLOP. With regard to the third prong of the waiver test, I believe Wyoming will meet this criterion as well. The State now uses a manual information management system. The medicaid program has been managed free of fraud (I was informed that there has never been a case of medicaid fraud in the State) and relatively free of abuse and error. It has not been cost beneficial to install a computerized system owing to the types of services covered under the program and the small number of recipients. As the program expands, it may well become feasible to convert from the present system to the computer system required under the proposed amendment. For now, however, Wyoming can manage its caseload and maintain it free of fraud, abuse and error through existing mechanisms. I ask Senator SCHWEIKER, are these the sort of circumstances to which his waiver language would apply?

Mr. SCHWEIKER. They are. From what the Senator from Wyoming has told me about the program's efficiency, it appears that Wyoming meets all three criteria and therefore, would be entitled to a waiver under my amendment. I assume the Secretary would draw the same conclusion.

Mr. WALLOP. I thank my colleague from Pennsylvania for his courtesy in responding to my questions.

Mr. LONG. Mr. President, the Senator has proposed an amendment which, in my judgment, is meritorious, and I believe it should be agreed to and taken to conference with the House. I hope the Senate will agree to the amendment.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. SCHWEIKER. I yield back the remainder of my time.

Mr. LONG. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment (UP No. 665) was agreed to.

UP AMENDMENT NO. 666

Mr. McCLURE. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 666:
>
> On page 50, strike the words "adoption assistance"—

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> 1. On page 50, strike "Adoption Assistance And" in line 3; and strike "Adoption Assistance And" in lines 7 and 8; and strike "and adoption assistance" in lines 12 and 13; and
>
> 2. On page 51, beginning with "where" in line 9, strike everything through "and," in line 11; and
>
> 3. On page 54, strike "and adoption assistance payments" in lines 19 and 20; and
>
> 4. Beginning on page 60, strike everything after "473." in line 6 through line 21 on page 63; and redesignate subsection (b) beginning on page 63 as subsection (a); and redesignate subsection (c) on page 64 as subsection (b); and
>
> 5. On page 65, strike lines 9 through 12; and
>
> 6. On page 70, strike lines 8 through 15; and redesignate subsection (4) as subsection (3); and
>
> 7. On page 83, strike lines 4 through 8; and redesignate subsection (3) as subsection (2).

Mr. McCLURE. Mr. President, today I am offering an amendment to H.R. 3434, the Adoption Assistance and Child Welfare Act, that I believe will reinforce the good intent behind this bill.

I am fully aware there is a need in this country to find good, stable homes for parentless children and children who cannot, for various reasons, remain in their own homes. Unfortunately, many children because of mental, emotional, or physical disabilities, are difficult to place in homes because of the special problems their disabilities involve. Consequently, many of these children are institutionalized, and as we all know, not only is this an expensive alternative to adoption, but more importantly, it cannot compare with the atmosphere of a family. H.R. 3434 attempts to solve this problem by providing a payment to parents who are willing to adopt a hard-to-place child. I strongly object to this provision of H.R. 3434.

Adoption is not, and should not be, the same as foster care. Foster families provide short-term care for the immediate needs of the child and there is good reason to financially assist foster parents. They are, after all, providing care for a child who is not their own and I do not believe they can be expected to assume the financial responsibility for that child. Adoption is entirely different. It demands a deeper commitment and a permanent relationship with a child and stems from the fact there is only one right reason to adopt—because the child is loved and wanted as one's own. I do not believe a federally subsidized incentive should be a consideration when the decision is made whether or not to adopt. Prospective parents do not need to be paid by the Federal Government if they are motivated by the right reason.

I am also concerned because there is an abuse potential inherent in the adoption assistance provision of the bill. Just as abuse occurs in some foster care programs, there will surely be a segment of society that will adopt a child for monetary reasons alone. This potential should not be ignored. Once a child is adopted, we should be able to assume his environment will be a loving one. We should not have to worry that he was adopted to contribute to the overall family income.

There is an answer, however, to the problems of certain hard-to-place children and this lies in reducing the disincentives to adoption, rather than providing an incentive, especially a direct payment system.

I understand and recognize there are many couples who want to adopt a disabled youngster, but who are deterred because of fear the cost of providing special care for the child will exceed the budgetary limits of the family. The adoption disincentive of medical bills, rehabilitation bills, and other special care requirements is great. H.R. 3434 addresses this problem by extending medicaid coverage for hard-to-place children. This provision of the bill is entirely reasonable. By alleviating the worry over how to pay medical expenses or other bills we have gone a long way toward the goal of finding homes for hard-to-place children by removing the disincentives to their adoption.

Mr. President, the amendment I am offering today will leave intact the provision for medicaid payments, while striking the Federal adoption assistance payments. I submit to my colleagues that it is conceptually wrong for the Federal Government to pay couples to adopt. It is wrong for us to assume the subsidy will be used only for the child's benefit, when in fact it may not.

I would like to add, Mr. President, that the director of health and welfare for the State of Idaho, Mr. Milton Klein, agrees with me that the Federal Government has no business paying couples to adopt hard-to-place children. Mr. Klein has indicated to me that he completely supports and appreciates the efforts made to extend medicaid payments past the foster care stage to these children. He maintains this will provide an additional support system for placement efforts in Idaho, but he does not believe it is right for the Federal Government to provide adoption assistance payments.

As I stated at the beginning of my remarks, Mr. President, I believe the basic intent of H.R. 3434 is a good one, and I support that basic intent. My amendment simply returns the bill to that admirable purpose, and I urge my colleagues to support it.

Mr. President, I reserve the remainder of my time.

Mr. LONG. Mr. President, how much time is available on both sides?

The PRESIDING OFFICER. Thirty minutes to a side on an amendment.

Mr. LONG. I yield myself 5 minutes.

Mr. President, there are situations where children will be hard to place for adoption for a number of reasons. One of the most obvious, of course, is a physical handicap, but there are other social and economic reasons. For example, it is generally easier to find adoptive homes for children of the Caucasian race than it is for black children. The various economic and social factors that play a part in that really need not be discussed. It is just a fact of life that we have more difficulty placing some children than others. Some of it has to do with the ethnic background of the family.

Where the children are hard to place, be it for reasons of disability or other ethnic or sociological reasons, or maybe just because the child has not had the good fortune to have had a favorable home prior to the point that the child is to be adopted, there is a need to provide an additional incentive. A cash incentive or a subsidy for adoption is provided in 47 States which recognize that some type of subsidy is needed in order to help find homes for children who are rather difficult to place in adoptive homes.

Under the program, the State would have to find that the child cannot be returned to his home. The State would also have to find that after making a reasonable effort consistent with the child's needs, that the child has not been adopted and is not likely to be adopted without the offering of financial assistance. The committee bill places a ceiling on the previously open-ended foster care program while at the same time creating a new adoption assistance program. This was done to provide a disincentive for the expansion of foster care and an incentive for the placing of children in permanent homes. The McClure amendment would undermine this approach by preserving the ceiling on foster care while deleting the incentive that would be provided for adoption.

Mr. President, those of us on the Committee on Finance as well as those in the Departments of Health, Education, and Welfare, and various social organizations, strongly believe that in the committee bill the subsidy for adoption is necessary. We believe it is essential to this legislation. We therefore hope very much that the pending amendment will not be agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. I would suggest, Mr. President, we have a brief quorum call with the time being equally charged to both sides.

Mr. McCLURE. Mr. President, it will be my intention to ask for a rollcall vote.

Mr. LONG. I will be happy to cooperate when we have the Members here. Is it all right to charge the quorum call to both sides?

Mr. McCLURE. Yes.

Mr. LONG. I ask unanimous consent that I may suggest the absence of a quorum with the time to be charged equally to both sides.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. EXON). Without objection, it is so ordered.

Mr. LONG. How much time does the Senator from Michigan desire?

Mr. LEVIN. About 4 minutes.

Mr. LONG. Mr. President, I yield 4 minutes to the Senator from Michigan.

Mr. LEVIN. Mr. President, I rise to indicate my opposition to the amendment offered by the Senator from Idaho.

Those persons who provide a caring, wholesome home life for an uprooted child are performing an exceedingly difficult and valuable service to society. Financial stress should not be added to the burdens which they have already assumed in adopting a physically, mentally, emotionally, or medically handicapped child.

It is my feeling that families possessing the requisite compassion, character, and skills to take such a child into their homes should not be discouraged from doing so by the understandable fear that the adoption will cause them financial hardship. Better we provide an incentive, at actual savings to the Treasury, to adopt children thereby providing a real home with real parents instead of an unending series of institutions and foster care.

Mr. President, the experience of many agencies, States, and local entities has proven that an adoption assistance program is an effective and efficient means of providing permanence to children, who have previously been written off by the child welfare system as unadoptable.

Studies of State subsidy programs indicate that parents most likely to adopt these special children are of predominately lower to middle income levels. The subsidy in many instances provides for necessary care.

Simply allowing the medicaid coverage to remain will not cover all of the prohibitive costs which surround adoption of "special needs" children. Medicaid coverage for preexisting medical conditions which would be allowed under the Senator's amendment does not cover legal expenses, nor does it cover the therapy costs for children who are emotionally disturbed which many of the special needs, hard-to-place children are, nor does it cover medical costs resulting from subsequent illnesses.

Both maintenance and medical assistance are offered to adoptive parents of hard-to-place children by 45 States which have subsidized adoption programs.

State programs have proven that adoption assistance works. Their efforts have begun to create a responsive, effective, and accountable adoption system for the hard-to-place child. Such efforts will be greatly enhanced by the implementation of a Federal adoption subsidy program.

I support the bill of the Finance Committee in this regard and will later bring up an amendment which will result in increased adoption of these "special needs" children, at no additional cost to our Treasury.

Mr. President, I close by saying that I believe that the vast majority of adoptive parents are motivated by the right reasons, and I do not believe that the potential for abuse is inherent in the program we hopefully will approve here today.

I thank the Chair and the Senator from Louisiana.

Mr. LONG. How much time does the Senator from Rhode Island require?

Mr. CHAFEE. Five minutes.

Mr. LONG. Mr. President, I yield 5 minutes to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I rise in opposition to the amendment of the Senator from Idaho. First, I say the thrust of the whole program we are considering here today, of course, is to get children out of foster homes and into adoptive homes. All too often, children are placed in foster care and remain there far longer than necessary. The child welfare system of this Nation and the various States has placed too little emphasis on keeping children with their families and reuniting them wherever possible. This legislation we are considering today will provide funds for services to enable children to remain in their homes and to prevent unnecessary removal. Where children are necessarily placed in foster care, these changes in the bill today will promote moving them from foster care either to reunification with their families or into permanent adoptive homes.

It seems to me the adoption assistance provisions are important and essential to the improvements of the child welfare system. Experience has shown that, even with subsidies, adoption is less expensive than foster care. But even though saving public moneys is a high priority for Congress, this goes beyond that, because it fosters placing children in permanent, loving, and secure homes. That is the objective of the program.

Many families are willing to provide a home and love, which these children deserve, but they simply do not have the means to provide for the expensive care needed by these children with their special needs.

The Senator from Idaho points out that there is no need for this subsidy because medicaid coverage eliminates any disincentives that might be implied by adopting a child beset with the problems these children have, and it does not seem to me that goes far enough. The children in these programs have problems that go far beyond those covered by medicaid. They need all types of assistance, all types of support on behalf of the adoptive parents.

If the objective is moving more children into adoptive homes, and the small national price in dollars that this program will cost will go a long way toward achieving this purpose.

I do not think it is enough to say it is conceptually wrong to contemplate paying anyone to adopt a child. Any adoptive parent that takes on a child like this is not going to come out ahead financially. We have had enough experience with that in our own society many times. Any parent who takes on one of these children, and by definition they are problem children, is going to have a multitude of financial problems that are far above anything this program will reimburse him for.

But what this program will do will help give them some incentive to disregard the tremendous costs, not only in money, but in drain, emotionally, physically, on the parents, and will encourage them to adopt these children.

So, Mr. President, I think the amendment should not be adopted. I do hope it will be defeated for the reason that it will not encourage the purposes we are attempting to achieve.

I thank the Senator from Louisiana for the time.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. Mr. President, may I have some time?

Mr. LONG. I have 8 minutes left. How much time does the Senator need?

Mr. CRANSTON. Three minutes.

Mr. LONG. I yield 3 minutes to the Senator.

Mr. CRANSTON. Mr. President, I strongly oppose this amendment. The adoption assistance provisions of the committee bill are virtually important to helping free thousands of children from foster care.

I would remind my colleagues that this is not a program to facilitate the adoption of healthy infants—these are children with special needs—physically and mentally handicapped children many of whom have been in foster homes for years and years. Studies have indicated that 90 percent of the families adopting these "special needs" children are foster parents who have developed deep, emotional attachments to these children. Yet most of these foster parents are in low to lower middle income brackets, often in their forties to fifties. These are families who often simply do not have the financial capacity to take on the heavy economic burden of a special needs child. Studies also show that families adopting special needs children often have other children, further placing financial demands upon the household income.

Let me give an example. At hearings I chaired in 1977 a young couple in their thirties who live in nearby Virginia testified about the foster child in their care. Earl was diagnosed as brain damaged, severely impaired, hyperactive, bordering on autistic. His case workers felt that the only possible placement for him was residential care—institutionalization. But that young couple would not hear of it. Through their experience with Earl as foster parents they grew to love him and felt responsible for his future. They adopted him. With adoption subsidy assistance they enrolled him in a speech therapy program and in a preschool for children with severe behavioral disorders.

Today Earl attends public school. His parents reported that his progress had been remarkable. Their family now consists of six adopted children—several, like Earl, with handicaps that must be worked with. They are truly a remarkable couple, exactly the kind of people who would be eligible for assistance under the bill we are considering today.

Without this kind of program, children like Earl will be forced to remain in the foster care system at considerably greater cost to the taxpayer and will be denied the benefits that being a permanent member of a family brings. I stress, it will cost more to leave them in institutions.

How could anyone doubt the love of adoptive parents like these? The point of this provision in the bill is to make it possible, financially, for the family ready and willing, but not financially quite able to provide a loving environment for a "special needs" child, to be able to do so.

For those reasons, I recommend very strongly rejecting the amendment offered by the Senator from Idaho.

Mr. McCLURE. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays were ordered.

Mr. McCLURE. Mr. President, does the Senator have some requests for time?

Mr. LONG. I am not aware of any.

Mr. McCLURE. Mr. President, just so that others might know, I will be very brief and then will be prepared to yield back the remainder of my time.

Mr. LONG. There was one Senator, the Senator from Kansas (Mr. DOLE), who might——

Mr. McCLURE. I thank the Senator from Louisiana.

Mr. President, if I understand the arguments being made against the amendment by those who are opposed to the amendment, they are saying now that we are putting a price on love. We are going to solve an economic problem to society by paying people to take a relationship they ought to be willing to take if, as a matter of fact, we do the things that my amendment does not interfere with, that the bill does do, allow the payment from medicaid for the extra medical expenses of the hard-to-place child.

Mr. President, I am not unfamiliar with the hazards or pitfalls of adoption. I have a younger sister who is adopted. I practiced law in a small town for 16 years and during that period of time I had occasion a number of times to deal with adopted children, some of whom were hard-to-place children, and dealt with both good and bad circumstances in both proposed and actual adoption settings.

But, Mr. President, there is no way—no way—we can justify, to save money for the taxpayers, to substitute dollars for love. That is what people are trying to say we should do here in this bill today, that in order to save society some money we are going to place children in homes where love was not sufficient to do that.

We have taken that financial disincentive to such placements away by the payments which are called for in this bill, which I support and applaud for the extra medical expenses.

But, Mr. President, the issue is not dollars here. Certainly, we can save more dollars this way. The issue has to do with what is the proper relationship in a home between parent and child.

We know the sordid and tawdry business of adoption which has troubled us for several years in this country, and we moved at various times in various ways to stop this adoption racket.

Now, because it is going to cost society money, we are going to have the Federal Government get into the adoption for pay business.

Mr. President, it is wrong, and it is wrong, certainly doubly wrong, to justify it on the basis it would save the taxpayers some money.

We do have hard-to-place children. We do have children that are disadvantaged and that, because of their physical or mental condition, find themselves in various kinds of institutions. Sometimes the best answer we can find for that is placement in a foster home. That foster home oftentimes ripens into a loving relationship, and it might mature into an adoption under that loving relationship except for the extra expenses that are involved.

This bill and my amendment would permit those extra expenses to be paid under the medicaid program. But it does not go the next step and put a commercial value, put a commercial value, on that relationship where in adoption they are saying, "This child is now mine, this child is now as though by choice it had been born into my family." That is the relationship I have with my sister. I love her as fully and as completely as if she had been born into our family.

It was a matter of choice that she is of our family—a choice made sometimes much more cogently than when there is a natural conception and a natural birth. But it is not, I assure you, one that is based upon pecuniary gain to our family for having taken her. The gain we had was a rich gain, a fellowship of love between brother and sister, parent and child, and it was not one that demanded the interposition of Federal Government payments to get my parents to adopt that small child.

Mr. President, the whole philosophy behind adoption for pay must be wrong, and it cannot be justified on the basis that it will save the taxpayers some money.

Mr. President, I reserve the remainder of my time.

Mr. LONG. Mr. President, I yield 4 minutes to the Senator from Kansas.

Mr. DOLE. Mr. President, I will not take too much time. I know there are some time problems with respect to other Senators.

I regret that I did not have a chance to hear the entire argument of the Senator from Idaho. I do not disagree with anything he said, except that we are talking about special children. We are talking about hard-to-place children.

Medicaid does not cover all the expenses which are associated with children with special needs, so cash assistance is sometimes necessary as a supplement.

The bill provides safeguards to assure that the subsidies will only be provided in cases where children could not otherwise be placed with adoptive families.

Nothing in the legislation will diminish the control of the States over the adoption process—a very careful and exacting process.

Furthermore, adoption subsidies are provided in 44 States already, and all States except Alabama, Arkansas, Hawaii, and Wyoming have passed adoption assistance laws.

The point I make is that there are a lot of people who would like to adopt children with special needs. They love them and they want them for their own, as the distinguished Senator from Idaho has said; but because of the great expense for these children with special needs—that is the key, special needs—they are unable to adopt them. For that reason, I oppose the McClure amendment.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. I yield back the remainder of my time.

Mr. McCLURE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey (Mr. Bradley), the Senator from Alaska (Mr. Gravel), the Senator from Kentucky (Mr. Huddleston), the Senator from Hawaii (Mr. Inouye), and the Senator from Louisiana (Mr. Johnston) are necessarily absent.

I further announce that the Senator from Montana (Mr. Baucus) and the Senator from Tennessee (Mr. Sasser) are absent on official business.

Mr. STEVENS. I announce that the Senator from Oregon (Mr. Hatfield) and the Senator from Maryland (Mr. Mathias) are necessarily absent.

I also announce that the Senator from Missouri (Mr. Danforth) is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 13, nays 77, as follows:

[Roll No. 371 Leg.]

YEAS—13

Armstrong
Baker
Bellmon
Byrd,
Harry F.. Jr.
Cochran
Garn
Goldwater
Hatch
Hayakawa
Helms
Humphrey
McClure
Tower

NAYS—77

Bayh
Bentsen
Biden
Boren
Bcschwitz
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cohen
Cranston
Culver
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Glenn
Hart
Heflin
Heinz
Hollings
Jackson
Javits
Jepsen
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Matsunaga
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NOT VOTING—10

Baucus
Bradley
Danforth
Gravel
Hatfield
Huddleston
Inouye
Johnston
Mathias
Sasser

So Mr. McClure's amendment (UP No. 666) was rejected.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 667

(Purpose: To Clarify the provision relating to the period within which certain claims must be filed)

Mr. MOYNIHAN. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York (Mr. Moynihan) for himself, Mr. Javits, Mr. Bellmon, Mr. Wlliams, Mr. Hatfield, Mr. Tsongas, and Mr. Bradley proposes an unprinted amendment numbered 667.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 109, line 19, insert "(1)" after "(b)".

One page 109, after line 22, insert the following:

(2) In the case of claims filed prior to the date of enactment of this Act on account of expenditures described in Section 1132 of the Social Security Act made in calendar quarters commencing prior to October 1, 1979, there shall be no time limit for the payment of such claims.

(3) In the case of such expenditures made in calendar quarters commencing prior to October 1, 1979 for which no claim has been

filed on or before the date of enactment of this Act, payment shall not be made under this Act on account of any such expenditure unless claim therefor is filed (in such form and manner as the Secretary shall by regulation prescribe) prior to January 1, 1981.

(4) The provisions of this subsection shall not be applied so as to deny payment with respect to any expenditure involving adjustments to prior year costs or court-ordered retroactive payments or audit exceptions. The Secretary may waive the requirements of paragraph (3) in the same manner as under section 1132(b) of the Social Security Act.

(c) Notwithstanding any other provision of law, there shall be no time limit for the filing or payment of such claims except as provided in this section, unless such other provision of law, in imposing such a time limitation, specifically exempts such filing or payment from the provisions of this section.

Mr. MOYNIHAN. Mr. President, this is a minor, basically clarifying and perfecting amendment to the committee bill.

May I first point out—and I am pleased that the distinguished chairman of the Appropriations Committee is in the Chamber at this moment—that the bill before us, our basic bill from the Senate Committee on Finance, has a new section which states that henceforth, beginning in fiscal 1982, States must submit their claims under medicaid, AFDC, and title XX within 2 fiscal years. I believe this responds to a concern of the Appropriations Committee that these claims be presented without delay.

In this year's HEW appropriation bill, there is a provision that says, "No claim may be paid out of this appropriation if the outlay for which reimbursement is sought is more than 2 years old."

What we have to do is to provide a transition period to the provision in the Finance Committee bill. Some of these claims have been slow in coming in because the States have chosen to audit or review them, even to litigate them, when they thought they were excessive or inappropriate, rather than just passing them on to Washington. This takes time.

So this amendment, which Senator JAVITS and I, Senator BELLMON, and Senator TSONGAS and others have introduced, does one simple thing: It says that for claims already filed with HEW—already filed—there is no time limit on HEW's paying them; second, that expenditures made by States up through fiscal 1979 may be claimed as late as January 1, 1981; and, finally, no other limitations shall be valid.

This is simple and this is orderly. I see my senior colleague has risen, and I know we would like to hear from him.

Mr. JAVITS. I thank my colleague. If I may, I will be very brief.

It seems elementary justice, Mr. President, that we should not bar claims honestly incurred when there was no statute of limitations against their filing.

Senator MOYNIHAN has rendered us all a great service by dealing with this matter in committee, but it turned out to have been dealt with prospectively, and it was thought a recital in the report would deal with the retrospective factor, but it cannot in the absence of law. So, if this amendment is accepted and becomes law it will then deal with the problem of the retrospective character which otherwise would be a bar to these very proper claims.

Mr. President, the fiscal year 1980 Labor/HEW appropriations conference report accompanying the fiscal year 1980 Labor/HEW appropriations bill (H.R. 4389) contains a provision which prohibits the use of fiscal year 1980 funds from being used to reimburse the Federal share of claims for medicaid, welfare, and social services expenditures made prior to September 30, 1978. It is my understanding that the Appropriations Committee took this action to force States to file more timely claims so that expenditures under the entitlement programs would be more predictable. While I am in complete agreement with the Appropriations Committee that the process for filing claims should be improved, I am not in agreement with the solution developed by the Appropriations Committee.

H.R. 3434 contains a provision which offers a prospective solution to this problem. Section 307 of the bill establishes a new section 1132 of the Social Security Act which requires States to file claims made for expenditures under medicaid, welfare, and social services programs occurring on or after October 1, 1979, within 2 years. I support this policy.

However, the Finance Committee bill does not speak to the issue of past claims—neither those which have been filed nor those which have not yet been filed with HEW.

The amendment which we are proposing now would clarify the intent of the Congress with respect to these two concerns:

First, it establishes that any claim currently pending in HEW, regardless of how old it is, can be paid if it is eligible.

Second, it establishes that for any claim for an expenditure made prior to October 1, 1979, and which has not yet been submitted by a State, the claim must be submitted by January 1, 1981.

Paragraph (c) of the amendment stipulates that no other provision of law may alter the policy established in H.R. 3434 with respect to the filing or payment of medicaid, welfare or social services claims unless such other provision of law specifically exempts such filing or payment from the provisions of this section. This paragraph is designed to address a concern which might arise if the fiscal year 1980 Labor/HEW appropriations bill is enacted after H.R. 3434 given the general rule that the policy of the most recently enacted bill prevails. I would like to stress that the reason for including this provision is to clarify the intent of Congress should this unusual circumstance occur; consequently, I would recommend to the Finance Committee that this particular paragraph be dropped in the conference on H.R. 3434 if the fiscal year 1980 Labor/HEW appropriations bill is enacted first.

While I recognize the need to improve the processes for filing claims under these important entitlement programs, I believe that we should enact a fair and realistic policy. I believe this amendment coupled with the provisions already included in H.R. 3434 will achieve that objective.

For all of those reasons, Mr. President, I hope very much the managers may see fit to accept the amendment.

I thank my colleague very much for his fine presentation.

Mr. LONG. Mr. President——

Mr. MOYNIHAN. Mr. President, may we have order?

The PRESIDING OFFICER. The Chair apologizes to the Senator from Louisiana and must interrupt once again to ask that the Senate please be in order.

The Senator from Louisiana.

Mr. LONG. Mr. President, the committee bill sets out a prospective rule for the treatment of retroactive claims. The committee report states this is not intended to change anything in the past. The pending amendment is consistent with the committee position, stating this position, in effect, in statutory language. So far as this Senator is concerned, Mr. President, I have no objection to the amendment. If anyone wishes to speak against it, I will be glad to yield time.

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington.

Mr. MAGNUSON. We in the HEW appropriations have been trying to speed up the claims. We found some that were 4 and 5 years old, and that is why we put in the appropriation bill the 2-year limitation.

But I can realize in some cases—it may be in New York, where there is some dispute about the claims, and things of that kind—it might take longer. But I do hope this will be no indication for any more stalling by the States in sending in their claims so that we can dispose of them. It is hard to appropriate money for this program when the Department comes down and says, "Well, we have a claim from the State of New York and we do not know how long it is going to be. We do not know what the amount is." That is why I think this is a reasonable amendment for a transition period.

But we are going to insist that we get back to a 2-year limitation.

Mr. MOYNIHAN. Mr. President, will the Senator permit me to speak? The bill before us establishes the 2-year limitation.

Mr. MAGNUSON. Yes.

Mr. MOYNIHAN. In the law.

Mr. MAGNUSON. OK.

Mr. DOLE. Mr. President, will the Senator from New York or the Senator from Louisiana yield?

Mr. LONG. I yield.

Mr. DOLE. Mr. President, I have discussed this amendment with the distinguished senior Senator from New York and the distinguished junior Senator from New York, who is one of the sponsors of the amendment. As the Senator from Washington has indicated, the purpose of this amendment is to tighten up the reimbursement claims of States under the social security program. I think it is a reasonable amendment. The States are already aware of the pending time limits on reimbursement claims, but it does provide some flexibility that I think we need to accommodate the States in the overall reform of claim procedure.

So we support the amendment.

Mr. JAVITS. Mr. President, may I just thank both Senators, Senator DOLE and Senator MAGNUSON, for their understanding?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York (Mr. MOYNIHAN).

The amendment (UP No. 667) was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 668

(Purpose: To limit the title XX ceiling increase after fiscal year 1981)

Mr. BELLMON. Mr. President, I send an amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 668:

On page 84, line 17, strike out "not exceeding "$3,300,000,000" and insert "not exceeding $2,900,000,000".

Mr. BELLMON. Mr. President, this amendment will establish a $2.9 billion ceiling for social services grants to the States instead of $3.3 billion as provided in the reported bill.

This amendment will save $100 million in fiscal year 1982, $200 million in fiscal year 1983, $300 million in fiscal year 1984, and $400 million in fiscal year 1985, a total of $1 billion over the next 5 years. But saving money is not my primary reason for offering this amendment. Rather, my main purpose in proposing this change is: First, to put pressure on both HEW and the States to improve the management of social services programs funded under the Social Security Act; and, second, to cause both the Congress and the executive branch to clarify Federal objectives and strategies for social services programs and the relationships between title XX and other narrower categorical service programs.

I am concerned, Mr. President, that Congress has been far too willing to excuse poor management on the part of both HEW and the States. Congress and the executive branch have also been guilty, in my view, of dealing piecemeal with decisions on social services programs and have not established any sort of coherent strategy for these programs.

In 1974, when Congress enacted title XX of the Social Security Act, it launched the Federal Government into a whole new pattern of relationships with the States relative to social services programs. States were allowed increased flexibility in the use of Federal funds. They were given new responsibilities for preparing annual service delivery plans through an open public planning process. The States were freed to use Federal money to serve people with incomes as high as 115 percent of the median income. The previous requirement that recipients of services be present, former, or potential recipients of cash welfare benefits was eliminated. Both the States and HEW were charged with important new program evaluation responsibilities.

Since 1974, Congress has held the funding for the title XX program constant except for two temporary $200 million increases over the $2.5 billion original ceiling. Now, both the House of Representatives and the Senate Finance Committee are interested in making these increases permanent. Moreover, the Senate Finance Committee has built into H.R. 3434 annual increases in the title XX ceiling through fiscal year 1985. The reported bill would result in a $3.3 billion ceiling in fiscal year 1985.

I see two basic problems with the Finance Committee proposal to build automatic increases into the title XX ceiling:

First, I see no evidence that there is a coherent plan or strategy in either the executive branch or in the Congress for relating title XX funding to funding for narrower, categorical programs, and I will have some further amendments later to deal with this same problem.

In many respects these other programs duplicate the title XX authority. My own view is that broad, flexible programs such as title XX should be the main channels for Federal assistance to State and local governments. These types of programs permit States and localities to set their own priorities within some broad Federal guidelines. Unfortunately, title XX, revenue-sharing, and other block-grant-type programs seem to have had relatively little impact on the propensity of Congress and the executive branch to create and enlarge narrow categorical programs.

I ask unanimous consent that a table showing growth in 15 Federal social services programs from fiscal year 1974 to fiscal year 1979 be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

APPROPRIATIONS FISCAL YEARS 1974 AND 1979

	Fiscal year—	
	1974	1979
Programs under title III of Older Americans Act:		
Area planning and social services	$68,000,000	[1] $196,970,000
State agency on aging activities	12,000,000	22,500,000
Nutrition services	104,800,000	227,046,000
Developmental disabilities and vocational rehabilitation:		
Developmental disabilities:		
State grants	30,875,000	35,331,000
Protection and advocacy	None	3.801,000
Vocational rehabilitation:		
Blind and disabled SSI recipients	39,674,000	54,981,000
Social security disability beneficiaries	69,705,150	103,744,000
Research	20,096,000	31,500,000
Facilities construction	4,000,000	None
Basic grants to States	650,000,000	[2] 817,484,000
HEW Office of Human Development Services:		
Native Americans programs:		
Economic and social programs	28,500,000	31,300,000
Research and development	2,400,000	1,700,000
Social services personnel training	[3] 22,000,000	[4] 9,000,000
Community Services Administration:		
Community Action agencies	185,000,000	369,000,000
Community economic development	35,625,000	48,170,000
Expenditures for planning grants [5]	None	(108,870)
Total	1,272,675,150	2,083,527,000

[1] Fiscal year 1979 appropriations include funds for multipurpose senior centers. Each State determines the amount which will be allocated for these centers. In fiscal year 1974 there was a separate authority for such centers.

[2] Includes $9,484,000 for maintenance of effort.

[3] This is an estimate. In fiscal year 1974 social services had not been separated out from maintenance. The total fiscal year 1974 appropriation of $44,600,000 for training including training for AFDC and other maintenance workers, as well as for social services workers, and was not broken down. A 1976 survey estimated that about ½ of the funds were used for training social services personnel.

[4] HEW Budget Office estimates that they will use an additional $14,000,000 for personnel training purposes in fiscal year 1979.

[5] Appropriations not broken down as far as planning grants. Only figures available are for expenditures. Planning grants are not funded every year.

Prepared by Social Services Section, Education and Public Welfare Division, Congressional Research Service.

Mr. BELLMON. This table shows, Mr. President, that Federal funding for these 15 categorical social services programs has grown by 64 percent between fiscal year 1974 and fiscal year 1979. In total, these 15 other programs cost the Federal Government $2.1 billion in fiscal year 1979, compared with about $2.8 billion for title XX.

So what has happened here is that while title XX has been kept relatively level, these 15 categorical programs have been growing in size each year.

I also ask unanimous consent to have printed in the RECORD a listing of 47 Federal social services programs published last year by the Advisory Commission on Intergovernmental Relations (ACIR). This list includes the 15 programs shown on the first table, plus title XX, plus another 31 Federal social services programs. It does not include other programs which also pay for social services such as CETA and revenue sharing.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

FEDERAL GRANTS-IN-AID FUNDED FISCAL YEAR 1978

Budget subfunction and title	United States Code	Administering Agency	CFDA No.[1]
506 SOCIAL SERVICES			
1. Community Action: Community Action Agency Grants.	42 U.S.C. 2808, 2812	CSA	49.002
2. Community Action: Community Food and Nutrition.	42 U.S.C. 2809(a)(5)	CSA	49.005
3. Community Action: Emergency Energy Conservation Services.	42 U.S.C. 2809(a)(12)	CSA	49.014
4. Community Action: Senior Opportunities and Services.	42 U.S.C. 2809(a)(7)	CSA	49.010
5. Community Action: State Agency Assistance.	42 U.S.C. 2824(a)	CSA	49.013
6. Community Economic Development: Planning Grants.	42 U.S.C. 2985f	CSA	49.001
7. Child Abuse and Neglect Prevention and Treatment: Assistance to States for Developing, Strengthening, and Conducting Programs.	42 U.S.C. 5103(b)	OHDS	13.628
8. Child Abuse and Neglect Prevention and Treatment: Demonstration Programs and Projects.	42 U.S.C. 5103(a)	OHDS	13.628
9. Child Welfare Services: Basic Grants to States.	42 U.S.C. 620	OHDS	13.645
10. Child Welfare Services: Research and Demonstration Projects	42 U.S.C. 626(a)(1)	OHDS	13.608
11. Developing Local Facilities for Runaway Youths.	42 U.S.C. 5711, (5713, 5716, 5751(a)).	OHDS	13.623
12. Developmental Disabilities: Basic Grants.	42 U.S.C. 6061–6063	OHDS	13.630
13. Developmental Disabilities: Protection and Advocacy of Individual Rights.	42 U.S.C. 6012	OHDS	13.630
14. Developmental Disabilities: Special Projects of National Significance.	42 U.S.C. 2672(e)	OHDS	13.631
15. Domestic Volunteer Services: Foster Grandparent Program.	42 U.S.C. 5011(a)	ACTION	72.001
16. Domestic Volunteer Services: Retired Senior Volunteer Programs (RSVP).	42 U.S.C. 5001	ACTION	72.002
17. Domestic Volunteer Services: Senior Health Aides and Senior Companions.	42 U.S.C. 5011(b)	ACTION	72.008
18. Domestic Volunteer Services: Special Volunteer or Demonstration Programs (Mini-Grant Program).	42 U.S.C. 4992(a)	ACTION	72.010
19. Native Americans Programs: Economic and Social Programs.	42 U.S.C. 2991b	OHDS	13.612
20. Native Americans Programs: Research, Demonstration, and Pilot Programs.	42 U.S.C. 2991d	OHDS	13.612
21. Older Americans Programs: Area Planning and Social Service.	42 U.S.C. 3023	OHDS	16.633
22. Older Americans Programs: Attracting Qualified Persons to the Field of Aging.	42 U.S.C. 3033	OHDS	13.637
23. Older Americans Programs: Model Projects.	42 U.S.C. 3028	OHDS	13.634
24. Older Americans Programs: Multidisciplinary Centers of Gerontology.	42 U.S.C. 3036	OHDS	13.638
25. Older Americans Programs: Multipurpose Senior Centers: Acquisition, Alteration, or Renovation.	42 U.S.C. 3041	OHDS	13.639
26. Older Americans Programs: Nutrition Program for the Elderly.	42 U.S.C. 3045e, 3045d	OHDS	13.635
27. Older Americans Programs: Planning, Coordination, Evaluation, and Administration of State Plan.	42 U.S.C. 3026	OHDS	16.633
28. Older Americans Programs: Research and Demonstration.	42 U.S.C. 3035	OHDS	13.636
29. Older Americans Programs: Training Programs for Personnel in the Field of Aging.	42 U.S.C. 3034	OHDS	16.637
30. Social Services Personnel Training	42 U.S.C. 1397, 1397a	OHDS	13.644
31. Social Services Research and Demonstration.	42 U.S.C. 626, 1310, and 1315.	OHDS	13.647
32. State Volunteer Services Coordinator Programs.	42 U.S.C. 4992(a)	ACTION	72.011
33. Summer Youth Recreation	42 U.S.C. 2809(a)(13)	CSA	49.015
34. Vocational Rehabilitation: Payments to States for Services for Blind and Disabled Individuals Receiving SSI.	42 U.S.C. 1382d	SSA	13.807
35. Vocational Rehabilitation: Services for Social Security Disability Beneficiaries.	42 U.S.C. 422(d)	SSA	13.625
36. Vocational Rehabilitation and Other Rehabilitation Services: Personnel Training.	29 U.S.C. 763. 780(a)(2)	OHDS	13.629
37. Vocational Rehabilitation and Other Rehabilitation Services: Research.	29 U.S.C. 762	OHDS	13.627
38. Vocational Rehabilitation and Other Rehabilitation Services: Special Federal Responsibilities: Special Projects and Demonstrations.	29 U.S.C. 774(b)	OHDS	13.626
39. Vocational Rehabilitation and Other Rehabilitation Services: Special Federal Responsibilities: Handicapped Migratory Agricultural Workers Program.	29 U.S.C. 774(c)	OHDS	13.626
40. Vocational Rehabilitation and Other Rehabilitation Services: Special Federal Responsibilities: Rehabilitation Facilities Construction Grants.	29 U.S.C. 771(b)	OHDS	13.626
41. Vocational Rehabilitation and Other Rehabilitation Services: Special Federal Responsibilities: Rehabilitation Facilities Initial Staffing Grants.	29 U.S.C. 771(c)	OHDS	13.626
42. Vocational Rehabilitation and Other Rehabilitation Services: Special Federal Responsibilities: Rehabilitation Facilities Planning Grants.	29 U.S.C. 771(d)	OHDS	13.626
43. Vocational Rehabilitation and Other Rehabilitation Services: Special Federal Responsibilities: Rehabilitation Facility Improvement Grants.	29 U.S.C. 772(c)	OHDS	13.626
44. Vocational Rehabilitation and Other Rehabilitation Services: Special Federal Responsibilities: Vocational Training Services for Handicapped Individuals.	29 U.S.C. 772(b)	OHDS	13.626
45. Vocational Rehabilitation and Other Rehabilitation Services: Vocational Rehabilitation Services: Basic Grants to States.	29 U.S.C. 730	OHDS	13.624
46. Vocational Rehabilitation and Other Rehabilitation Services: Vocational Rehabilitation Services: Client Assistance Pilot Projects.	29 U.S.C. 732	OHDS	13.626
47. Rehabilitation Services: Innovation and Expansion.	29 U.S.C. 740	OHDS	13.626

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[1] This is the number assigned to the program in the 1978 Catalog of Federal Domestic Assistance.

Source: A Catalog of Federal Grant-in-Aid Programs to State and Local Governments: Grants Funded Fiscal Year 1978, Advisory Commission on Inter-governmental Relations, February 1979.

Mr. BELLMON. Mr. President, it is clear that title XX has not become the primary channel for Federal social services funding as was anticipated when it was enacted in 1974.

For instance, services to the elderly under the title XX program and social service programs——

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER. The Chair is sorry to interrupt the Senator from Oklahoma, but the Chair would courteously request, once again, that there be order in the Senate. If Senators wish to speak, it is appropriate to seek recognition from the Chair. The Chair has not recognized any of the several Senators engaged in conversations that have been going on in the Chamber. Once again, the Senate will please be in order.

My apologies to the Senator from Oklahoma. The Senator may proceed.

Mr. BELLMON. I thank the Chair. As I was saying, Mr. President, the services to the elderly under the title XX program and social services programs for senior citizens funded under the Older Americans Act are very similar. Funding for the Older Americans Act services programs has increased by 169 percent since title XX was enacted in 1974.

Major increases have also occurred in vocational rehabilitation and other categorical service programs, although the same services can be provided under title XX.

In short, neither the executive branch nor the Congress has made a real commitment to channeling growth in Federal funding for social services into title XX. Instead, they have increased funding through specific service programs which have sprouted alongside the title XX program. Now, a permanent increase in the title XX ceiling is proposed but there is no indication that we will see any change in the growth pattern for other categorical service programs.

I do not think we can blindly increase funding for all programs. Where is the strategy that indicates where we should be going in social services funding? What has the Finance Committee done to get together with the Labor and Human Resources Committee on the relationships among those programs? What has the administration done to develop a social service strategy for the Federal Government?

I am afraid the answer to these questions is that little or nothing has been done in either the Congress or the executive branch to develop a coherent approach to these questions. And so we continue the old pattern of making ad hoc decisions which have little if any strategic thinking behind them. When we adopted title XX, we ostensibly chose the block grant approach to funding but we did not even slow down the growth in categorical programs.

My second problem with the future-year funding increases for title XX concerns the failure of HEW to deliver to

Congress a major evaluation study which was mandated when title XX was enacted. When Congress enacted title XX in 1974, it was concerned about the uncertainties which surrounded the new approaches being taken in Federal-State-local relationships. To enable it to make an early review of the initial period of title XX implementation, the legislation required the Secretary of HEW to submit a major evaluation report on the program not later than July 1, 1977.

Mr. President, nearly 2½ years have gone by since the deadline for that report and it has still not been submitted to the Congress. This fact was called to Senator MUSKIE's and my attention last spring, when the Budget Committee was working on the first budget resolution. We sent a joint letter to Secretary Califano inquiring about the status of this report and we received back a reply which indicated that the report would be submitted to Congress by mid-June. As of today there is still no evaluation report from HEW. I ask unanimous consent that the exchange of letters with HEW be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

COMMITTEE ON THE BUDGET,
Washington, D.C., March 7, 1979.
Hon. JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: Legislation passed last year temporarily increased by $200 million the ceiling on funding for State Grants under Title XX of the Social Security Act. The President's Budget proposes to make that increase permanent; and we understand that the House Ways and Means Committee is recommending an additional $200 million increase.

The Social Services Amendments of 1974 required an evaluation of the effectiveness of the program established by Title XX. PL 93-647 (Section 4) directed your Department to report to Congress by July 1, 1977 on your evaluation, together with any recommendations for improvements in that program.

In checking with the Finance Committee, and with representatives of your Department, we understand that a contract was let and other activities were undertaken in response to the legislative requirement, and that considerable information has been collected; but that the evaluation report to Congress has not been completed.

We would appreciate it, if you could furnish us a copy of the report on the evaluation and your findings (even in preliminary form) by April 30, 1979. This will enable the Budget Committee to use the information as it considers the question of a permanent increase in the Title XX ceiling as a part of the conference on the First Concurrent Resolution.

Sincerely,
EDMUND S. MUSKIE,
Chairman.
HENRY BELLMON,
Ranking Minority Member.

THE SECRETARY OF HEALTH, EDUCATION AND WELFARE,
Washington, D.C., May 11, 1979.
Hon. HENRY BELLMON,
Committee on the Budget,
Washington, D.C.

DEAR HENRY: This is in response to your inquiry regarding HEW's progress on the report of the effectiveness of the Title XX social services program.

When this Administration took office, HEW viewed the effectiveness report as a good opportunity to assess the impact Title XX has made on the administration and delivery of social services. As you know, Title XX legislatively shifted much of the responsibility for program content to the States, who should be attune to local needs. Thus, in evaluating the effectiveness of the Title XX social services program, we have reviewed the effect of the legislation in improving the delivery of services to poor people; in encouraging active public involvement in the planning process; and in developing administrative flexibility for State agencies. The complexity of the evaluation and the need to incorporate the views of State administrators, the National Governors Association, service provider groups such as the United Way, service recipient groups, and interested individuals, have unfortunately meant that more time was required to prepare the report than was originally anticipated.

The Administration for Public Services (APS) has informed me that the final draft of the report will be ready for our internal review process within the next month. I will do all I can to ensure that you receive the report by mid-June.

Recognizing the importance of this report to the Budget Committee as it considers a permanent increase in the Title XX ceiling, we submitted to Budget Committee staff two reports on the overall effectiveness of Title XX prepared by the Urban Institute and the National Governors Association. The Urban Institute report, entitled "Social Services: Federal Expectations Versus State Implementation," contains working papers prepared under contract with APS. The National Governors Association report is an evaluation of the overall effectiveness of Title XX. The analyses, findings, and recommendations of both studies have been taken into account in the development of our report.

I am now enclosing another Urban Institute report, based on the National Title XX Policy Symposium, held in October 1978. I hope it will also be helpful to you in your deliberations. However, this report and the ones already provided to your staff should not be considered as reflecting the Department's final position or policy on Title XX.

Please let me know if I may be of any further assistance.

Sincerely,
HALE CHAMPION,
(for Joseph A. Califano, Jr.)

Mr. BELLMON. Mr. President, I think this is a clear case of Congress having failed to oversee adequately the implementation of a major new program, to see whether it has worked as hoped and whether there are relationships between it and other programs which need to be refined.

I simply do not see why we should now approve annual increases in title XX funding in the face of the uncertainties that still remain about how well the program is working, how it relates to other programs, and to what extent people are really being helped by it. To build in annual increases, without even insisting that HEW deliver the evaluation study which was required by law when the program was created, seems to me to be irresponsible. I hope that a majority of the Senate will agree with me and support my motion to strike the out-year increases. If the Finance Committee wants to increase title XX funding in future years, I think they should come to the Senate with some data from evaluation studies showing that the program is achieving its intended purposes and showing why increasing it is a better choice than providing additional funding for some of the many other categorical human services programs.

This amendment, if adopted, may ultimately provide fairly modest future savings to the Federal Treasury because I expect the advocates of increased title XX funding will undoubtedly be back next year. However, the symbolic importance of this amendment goes well beyond the potential monetary savings. This amendment gives Congress the opportunity to signal Federal agencies that it means business when it puts evaluation provisions in the law.

To me, this is an important part of the proposition. We have asked for this evaluation. That request has been ignored, and the evaluation has not been forthcoming.

The amendment will also nudge both the executive branch and the responsible congressional committees to examine title XX services programs and related categorical service programs, and provide the Congress with a rational strategy for future relationships among these programs.

Mr. President, I sincerely urge the managers of this bill to consider accepting this amendment. If they feel unable to do so, then I hope the majority of the Senate will agree with me that this amendment is totally reasonable and an important step in the right direction. I urge adoption of the amendment.

The PRESIDING OFFICER (Mr. LEVIN). The Senator from Louisiana.

Mr. LONG. Mr. President, the permanent level of funding for title XX social services program is $2.5 billion annually. However, the level in fiscal year 1979 is $2.9 billion. The committee bill provides for $2.7 billion in fiscal year 1980, to conform to the limited figure assumed in the Senate budget resolution, $2.9 billion in fiscal year 1981 and increasing by $100 million annually until reaching a level of $3.3 billion in fiscal year 1985 and thereafter.

Mr. President, permit me to point out that there is a tremendous pressure on this program, as there should be, for the very reason title XX provides a great deal of flexibility and does have the potential of providing help in a great number of areas where help is needed.

The Senator makes the argument that he wants to hold back on these other programs, such as the adoption program. Well, Mr. President, if you want to avoid having these specific categorical programs, you ought to provide more money in title XX, not less.

The provision for the increase in title XX, Mr. President, does not even provide a cost-of-living increase. It is much less than that. So the program will have to contract in real terms. It will have to be a smaller program in general terms rather than a bigger one, notwithstanding the fact that there are tremendous pressures and tremendous needs for increases in this area.

The Bellmon amendment would not allow the title XX funding to increase above its 1979 level of $2.9 billion, not even an increase to allow, in any respect, for the inflation that is taking place.

The $2.7 billion level for fiscal year 1980 is already $200 million lower than the authorization for fiscal year 1979. This reduction was made by the Finance Committee to conform to assumptions in the Senate budget resolution. Both the committee bill and the Bellmon amendment would allow the funding to revert to its 1979 $2.9 billion level in fiscal year 1981.

The Bellmon amendment would allow no increase in years after 1979—not even a cost-of-living increase, not even an inflation adjustment increase.

The increases allowed by the committee bill are significantly less than recent annual increases in the cost of living—7 percent between fiscal year 1980 and fiscal year 1981, 3 percent between fiscal year 1981 and 1982, and 3 percent in each of the next 3 years. Thus even under the committee bill States would have to increase State funding or cut back on some programs because of inflation. The Bellmon amendment would require even more substantial cutbacks.

While it is true that additional funds could be provided in future legislation, States would find it difficult to count on that in planning their program, particularly in the light of the present situation where the program faces a possible cutback this year of $200 million from the absolute 1979 levels.

Mr. President, I hope the amendment will be rejected.

Mr. BELLMON. Mr. President, I would point out that the amendment which I offer does not touch the committee's funding level for title XX in either fiscal year 1980 or 1981. We are touching only the years beyond fiscal year 1981. The reason we are doing that is to try to get the Department of HEW to provide the evaluation we requested, which they have consistently refused to provide.

We are also trying to make the point that the increases in title XX funding have not been accompanied by similar reductions in categorical social services programs as was expected when title XX was adopted.

It seems to me that we ought to decide which direction we are going. Frankly, I think the title XX approach is the right way to go, to give the States more flexible funds. But the fact is that if we are going to increase funding for broad, block grant programs we ought to cut back on the categorical programs. The purpose of this amendment is to focus the Senate's and the executive branch's attention on this important issue of block grants versus categorical funding.

Mr. LONG. Mr. President, how much time remains?

The PRESIDING OFFICER. Senator BELLMON has 16 minutes.

Mr. BELLMON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. LONG. Mr. President, I yield 5 minutes to the Senator from Kansas.

Mr. DOLE. Mr. President, I hate to disagree with the ranking member of the Budget Committee, as I do know his concern. But as we discussed in the committee the ceiling on title XX, it just seemed to this Senator, and I think the majority of Senators on the committee, that the States have had to live with uncertainty and diminished funds for several years. If we do these outyear increases in fiscal year 1982 to $3.1 billion, in fiscal 1983 to $3.2 billion, and in fiscal 1984 to $3.3 billion, we can end that uncertainty.

I share the view of the distinguished Senator from Oklahoma, but the program was funded at $2.9 billion last year. At that, the ceiling did not make up for the cost-of-living increases since 1972. So there has been no real growth in the program.

If the program is limited to $2.9 billion in fiscal year 1981 and beyond, we are actually, in effect, going to be cutting the funding. Cutting funding in title XX, which covers a lot of programs that I think the Senator from Oklahoma says he agrees with—at least with that approach—is not going to bring about any cuts in categorical welfare programs.

It will affect day-care children; homemaker chore services; education, training and employment; protection services; foster care; and other title XX services.

While we share the same concern about the proliferation of welfare programs, I do not believe the amendment is the proper way to approach the problem. I reluctantly oppose the amendment.

Mr. BELLMON. Mr. President, I yield back the remainder of my time.

Mr. DOLE. I yield back the remainder of my time.

The PRESIDING OFFICER. Has all time been yielded back?

Mr. BELLMON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Has the Senator from Louisiana yielded?

Mr. DOLE. I yield back the remainder of his time. I think the Senator from Louisiana has yielded back his time.

The PRESIDING OFFICER. That is also my recollection.

All time having been yielded back, the question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. INOUYE), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that the Senator from Montana (Mr. BAUCUS) and the Senator from Tennessee (Mr. SASSER) are absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. BRADLEY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. COCHRAN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Iowa (Mr. JEPSEN), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Missouri (Mr. DANFORTH) is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators wishing to vote?

The result was announced—yeas 37, nays 50, as follows:

[Rollcall Vote No. 372 Leg.]

YEAS—37

Armstrong
Bellmon
Boren
Boschwitz
Byrd, Harry F., Jr.
Chiles
Domenici
Eagleton
Exon
Garn
Hart
Hatch
Hayakawa
Heflin
Helms
Humphrey
Kassebaum
Laxalt
Lugar
McClure
Morgan
Muskie
Nunn
Percy
Pressler
Proxmire
Roth
Schmitt
Schweiker
Simpson
Stennis
Stevens
Talmadge
Thurmond
Tower
Warner
Zorinsky

NAYS—50

Baker
Bayh
Bentsen
Biden
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Church
Cohen
Cranston
Culver
DeConcini
Dole
Durenberger
Durkin
Ford
Glenn
Heinz
Hollings
Jackson
Javits
Johnston
Leahy
Levin
Long
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Moynihan
Nelson
Packwood
Pell
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Stafford
Stevenson
Stewart
Stone
Tsongas
Wallop
Williams
Young

NOT VOTING—13

Baucus
Bradley
Cochran
Danforth
Goldwater
Gravel
Hatfield
Huddleston
Inouye
Jepsen
Kennedy
Sasser
Weicker

So the amendment of the Senator from Oklahoma (UP No. 668) was rejected.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BELLMON. Mr. President, I have two additional amendments——

Mr. MOYNIHAN. Mr. President, may we have order, so that the Senator from Oklahoma may be heard?

The PRESIDING OFFICER. The Senate will be in order, so that we can hear the Senator from Oklahoma.

Mr. BELLMON. I have two additional amendments, and I ask unanimous consent that they be discussed and that there be 10-minute, back-to-back rollcall votes.

The PRESIDING OFFICER. We are acting under the unanimous-consent agreement that there be no rollcall votes after 4 o'clock.

Mr. BELLMON. This would allow the rollcall votes to occur before 4 p.m.

Mr. MOYNIHAN. Mr. President, I believe the first rollcall vote should be 15 minutes. The second may be 10.

Mr. BELLMON. I so amend my request.

The PRESIDING OFFICER. Does the Senator from Oklahoma appreciate that we cannot start a rollcall vote after 4 o'clock?

Mr. BELLMON. The answer is "yes."

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BELLMON. Mr. President, I yield to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senate will be in order, so that we can hear the Senator from Pennsylvania.

UP AMENDMENT NO. 669

(Purpose: To provide States the option, in determining the foster care cap to use actual fiscal year 1979 data)

Mr. HEINZ. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 669.

Mr. HEINZ. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 68, line 16, before the period insert the following: ", or, at the option of the State, shall be equal to the amount of the Federal funds described in paragraph (2) payable to such State for fiscal year 1979 (determined in the same manner as such amounts for fiscal year 1978 are determined under paragraph (2)). With respect to fiscal year 1980, the allotment of any State which chose, under the preceding sentence, to use the amounts payable to such State for fiscal year 1979 for determining its allotment for fiscal year 1979, shall be equal to its allotment for fiscal year 1979, increased or decreased (as the case may be) by a percentage equal to the greater of (I) the percentage otherwise applicable under the first sentence of this subparagraph, or (II) the increase or decrease (as the case may be) in such Consumer Price Index for the second quarter of the preceding fiscal year as compared to such index for the second quarter of the second preceding fiscal year.".

Mr. MOYNIHAN. Mr. President, we must have order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. HEINZ. Mr. President, as a member of the Finance Committee which reported this important measure, the Adoption Assistance and Child Welfare Act of 1979, I want to take a few moments to say how pleased I am that these much needed reforms in child welfare are finally nearing enactment after such a long period of waiting. I must, however, take this opportunity to raise my voice in opposition to one provision of the bill, which places a "cap" on funding for the AFDC-foster care program. I have looked at all the arguments the proponents of a foster care "cap" could possibly muster, and I believe they have failed miserably to demonstrate any rational or justifiable reason to cap this program.

Mr. President, I have consistently supported past endeavors to make social welfare programs respond to sound management. Yet, whenever I contemplate such reforms, I always take into account two important factors. First, there is a human element which must be considered, and placing a "cap on foster care programs fundamentally impacts on children—children without homes, unwanted children; children that society has forgotten; children without alternatives to foster care; children without a voice in the U.S. Senate.

There is also the practical aspect of economics. Current programs for foster care funding will prove to be cost effective in the long run. To proceed toward passage of the Adoption Assistance and Child Welfare Act of 1979 without the benefit of arguments against the foster care "cap" would signify nothing less than the abandonment of millions of homeless children and loving foster parents.

The imposition of a "cap" on foster care, coupled with open ended funding for adoption services, may provide an incentive for States to find permanent homes for children. But these factors will not eliminate the need for foster care. If the track record for adoption assistance in Pennsylvania is any indicator of the success of similar programs across the Nation, then I commend these facts to the attention of my colleagues. Pennsylvania has had an excellent State-supported adoption assistance program in operation for 2 years. In the first year when the program was started, there were 5,194 children in foster care, and only 128 of them, or 2½ percent of the children in foster care, were adopted. In its second year of existence, only 148 foster children out of a total of 5,771 children in foster care found adopting parents—2.6 percent of the children in foster care.

What these unvarnished statistics reveal is this: Congress can provide all the incentives it can think of to stimulate the adoption of children; and Congress may in fact limit support for foster care; but Congress, no matter how hard it tries, cannot legislate families to adopt children.

Last month, Commissioner Barbara Blum, of the New York State Department of Social Services, testified on that State's adoption subsidy program; a program which has been in operation for 11 years. In 1978, for example, only 2,000 of 42,000 children in care were adopted. The overall percentage of children adopted in the past 11 years is 4.8 percent. New York State will be placing a "cap" on its foster care program in 1981. This will be 13 years after the commencement of the State's adoption subsidy program. Commissioner Blum was quick to note that New York State had taken action to provide extra funding for adoption and preventive services more than "a little in advance of having to move toward a 'cap.'"

Responding to a question put forth by my distinguished colleague from New York, Senator MOYNIHAN, on whether adoption assistance was "the way out of AFDC–FC," Commissioner Blum replied that adoption assistance is "a way" to help children in foster care find permanent homes.

On the basis of testimony I have heard, I am inclined to think that the provision of a foster care "cap" as agreed to by the Senate Finance Committee would be understatedly "premature." Mr. President, I also believe that a forthcoming "cap" on foster care would be ineffective. Children must now be adjudicated eligible for AFDC-foster care payments to receive them. In other words, a legal officer of the State, a judge, must make an individual and specific decision on each child. Lacking a court decision on a case-by-case basis, AFDC-foster care payments cannot be made. Judicial determination is a sound litmus test for foster care, and "cap" on foster care funding would have little to do with the actual eligible beneficiaries of foster care. It can be expected that judges will continue to make their determinations based on individual assessments and not with regard to any "cap" which we, like Canute, wish to use to restrain the perceived "sea."

It can be demonstrated, moreover, that title IV–B money has not been used often enough in the past to keep families together, or to return children to their homes. A spokesman for the administration testified that less than 5 percent of the title IV appropriation of $56.6 million has been used for reunifications services.

My good friend Senator DANFORTH and I noted in the additional views we filed along with the Finance Committee's report on the foster care "cap" that:

> Institution of the improved services, protections, and reforms contained in H.R. 3434 must be a necessary first step to insure that a system is in place to quickly determine:
>
> (1) That children are free for adoption;
>
> (2) That children can be reunited with their families;
>
> (3) That foster care placement is appropriate;
>
> (4) And that case reviews can be conducted in a timely way.
>
> These preventive services should be given a chance to work and their effectiveness reviewed carefully before a "cap" on foster care is imposed.

Mr. President, I am deeply concerned that many of my colleagues in the Senate mistakenly believe that the AFDC-foster care program is another "runaway bureaucratic nightmare." In response to this plaint, I want to state that the Congressional Budget Office's own analysis of foster care data indicates that most foster care grants will not grow as fast as they have in the recent past. Lately, the number of recipients of AFDC-foster care funding has leveled off and has actually begun to decline. In 1975, approximately 114,681 children were in the AFDC-foster care program. Since then, the number of children cared for has steadily fallen: 114,071 in 1976, to 110,000 in 1977; and only 107,433 in 1978. Even without the "cap," Mr. President, the program is declining. The mere $5 million estimated saving is hardly significant enough to risk the very real danger of keeping a needy child out of the program.

Some people will argue that since this is a stable program, a "cap" on AFDC-foster care does no damage; so why not have one. The problem is that most States are not now doing a very good job with their foster care programs. A "cap" as envisioned by my colleagues in the Finance Committee fails to encourage States spending too little on foster care to spend more for needed services. It also does nothing to hold down spending in States which use a good deal of institutionalized care and, therefore, spend more than necessary for the program. According to HEW, the average monthly cost of AFDC-foster care per child in the United States was $345 last year. In Michigan, the cost was $365, in California the cost was $357, and in Wisconsin the cost was $346. The programs in these States are at or near the national average monthly cost for foster care. Yet, New York State spends more than twice this national average, or a whopping $763 per month per child, and Alaska spends nearly $580 per month per child. All other States, without exception, spend less than the average. Indiana and Ohio, for example, spend only $79 and $88 respectively—perhaps too little funding for foster care. With the amendments the Senate is currently considering, a "cap" on AFDC-foster care programs would permit, at the most, 20 percent more than what was spent in 1978.

Mr. President, I strongly oppose attempts to place a "cap" on the AFDC-foster care program. If the existing foster care program were a poor investment, I would be the first to argue against the position which the Senate Finance Committee has endorsed. I am disheartened to think that no one in this Chamber dares to speak up against the injustice of placing a "cap" on foster care funding. Foster care is worth every penny Congress can invest in it; for in the least, it provides children with a chance to lead meaningful, productive lives through the warm and loving guidance of foster parents. I fervently urge my colleagues to reconsider the "cap" on foster care funding, and at a minimum provide some flexibility in the bill to allow States to continue to provide quality foster care to children in need without locking them into a 1-year-old level of funding in this age of double-digit inflation.

I believe this flexibility can be accomplished by offering the States an option to use either the formula contained in the bill as reported out of Finance, or the actual amount spent in fiscal year 1979 for this program indexed by the cost of living or 10 percent, whichever is greater.

The purpose of this amendment is to provide the States with the maximum flexibility in determining, for purposes of the cap imposed by this bill, what the base year of funding for AFDC-foster care will be. As reported out of the Finance Committee, the bill provides for a cap in fiscal year 1980 equal to 120 percent of a State's actual fiscal year 1978 expenditures. My amendment would offer the State the option of using either the committee cap, or the actual fiscal year 1979 expenditures plus 10 percent (or the cost of living), whichever is higher.

I thank my distinguished chairman, Senator LONG, and my good friend from Kansas, Senator DOLE, for their support of this important amendment.

I understand that my distinguished colleagues who are managing this bill have had an opportunity to review this amendment and that they have no objection to it.

Mr. MOYNIHAN. Mr. President, the Senator from Pennsylvania is correct. The amendment would appear to involve little additional cost. It would take care of the problem of a State which did not begin significant utilization of the foster care program until fiscal year 1979—if there are States in such a circumstance—and they should not be discouraged in their programs by the unintended effect of the new legislation.

We are happy to accept the amendment.

Mr. HEINZ. Since I am the acting manager of the bill—Senator DOLE is absent—we accept it on our side.

Mr. MOYNIHAN. I yield back the remainder of my time.

Mr. HEINZ. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. I thank the Senator from Oklahoma for yielding to me.

UP AMENDMENT NO. 670

(Purpose: To consolidate certain programs under the Social Security Act)

Mr. BELLMON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 670.

Mr. BELLMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 99, between lines 15 and 16, insert the following:

SOCIAL SERVICES AND TRAINING CONSOLIDATION

SEC. 208. Effective October 1, 1982—

(a)(1) Section 2002 (a)(2)(B)(i)(I) of the Social Security Act (as added by section 201 of this Act) is amended by striking out "clauses (ii), (iii), (iv)" and inserting in lieu thereof "clauses (ii), (iii), (iv), and (v)".

(2) Section 2002 (a)(2)(B) of such Act is further amended by adding at the end thereof the following new clause:

"(v) For purposes of determining the indexed ceiling amount for fiscal year 1983 and each fiscal year thereafter, the indexed ceiling amount for fiscal year 1983 shall be equal to 104 percent of the amount otherwise determined under the preceding provisions of this subparagraph.".

(b) Section 2002 (a)(2)(A) of such Act is amended by striking out clause (iii) (as added by section 203 of this Act) and inserting in lieu thereof the following:

"(iii) Payment with respect to expenditures for personnel training and retraining directly related to the provision of services under this title may be made to a State, for fiscal years 1983, 1984, and 1985, in excess of the limitation for such State determined under clause (i) if such State, for the fiscal year 1979, received payments under this title with respect to such expenditures in excess of an amount equal to 4 percent of such State's limitation under clause (i) for such fiscal year. No payment may be made under this clause for any fiscal year to the extent that such payment, when added to such State's limitation amount under clause (i) for such fiscal year, would exceed the total amount of payments made to such State under this title for fiscal year 1979.

"(iv) Except as otherwise provided in clause (iii), not more than an amount equal to 5 percent of the limitation with respect to any State may be used to reimburse such State for expenditures for personnel training or retraining directly related to the provision of services under this title.".

On page 84, between lines 9 and 10, insert the following new section:

CONSOLIDATION OF CHILD WELFARE, FOSTER CARE, AND ADOPTION ASSISTANCE PROGRAMS

SEC. 103. Effective October 1, 1982—

(a) Section 420(a) of the Social Security Act (as amended by section 103 of this Act) is amended by striking out "the following sums" and all that follows and inserting in lieu thereof "there are authorized to be appropriated such sums as are specified in section 470 of this Act, subject to the provisions of that section.".

(b) Section 421 of such Act is repealed.

(c)(1) Section 422(a) of such Act is amended by striking out "and the allotment available under this part" and inserting in lieu thereof ", subject to the limitation of section 474(b),".

(2) Section 422(b)(2) of such Act is amended by striking out "From the allotment available therefore, the" and inserting in lieu thereof "The".

(3) Section 422(d) of such Act (as added by section 101 of this Act) is amended to read as follows:

"(d) Notwithstanding any other provision of this part, there shall not be paid to any State under this section for any fiscal year, any amount to the extent that such amount, when added to the amount paid to such State under part B of this title, exceeds the limitation for such State as determined under section 474(b) of this Act.".

(d)(1) Section 423 of such Act is amended by striking out subsections (a) and (c) and redesignating subsections (b) and (d) as subsections (a) and (b).

(2) The section heading of section 423 of such Act is amended by striking out "ALLOTMENT PERCENTAGE AND".

(e) Section 424 of such Act is repealed.

(f) Section 425 of such Act (as amended by section 101 of this Act) is amended—

(1) by striking out "(a)" after "Sec. 425.";

(2) by striking out the second sentence of subsection (a); and

(3) by striking out subsection (b).

(g) Sections 427 and 428 of such Act (as added by section 101 of this Act) are each repealed, and section 429 of such Act is redesignated as section 427.

(h)(1) Section 470(a) of such Act (as added by section 101 of this Act) is amended by striking out all that follows "part A," and inserting in lieu thereof "and for carrying out the program authorized under part B of this title, there is authorized to be appropriated an amount equal to the sum of the limitations for all the States as determined under section 474(b) for such fiscal year.".

(2) Section 470(b)(2) of such Act is amended by inserting ", and for carrying out the program authorized under part B" before the period at the end thereof.

(i)(1) Section 474(b) of such Act (as added by section 101 of this Act) is amended to read as follows:

"(b)(1) Notwithstanding the provisions of subsection (a) of this section and of section 422 of this Act, the total amount payable to any State under this part and under part B for any fiscal year may not exceed an amount equal to the State's limitation for that fiscal year as determined under paragraph (2).

"(2)(A) The State limitation for fiscal year 1981 shall be an amount equal to the total amount paid to such State for expenditures incurred by such State during such fiscal year for foster care payments under part A of this title, child welfare services under part B of this title, and adoption assistance and foster care under this part.

"(B) The State limitation for each succeeding fiscal year shall be the State limitation in effect for the preceding fiscal year for such State, increased by a percentage equal to the greater of (i) 5 percent, or (ii) the percentage increase in the Consumer Price Index prepared by the Department of Labor and used in determining cost-of-living adjustments under section 215(i) of this Act, for the second quarter of the preceding fiscal year, as compared to such index for the second quarter of the second preceding fiscal year (rounded to the nearest one-tenth of one percent).".

(j) Part E of title IV of such Act (as added by section 101 of this Act) is amended by adding at the end thereof the following new section:

"CONSOLIDATED PROGRAM FOR ADOPTION ASSISTANCE, FOSTER CARE, AND CHILD WELFARE SERVICES

"SEC. 477. (a) Each State consolidated plan approved under sections 422 and 471 shall be updated on an annual basis, and shall be developed and updated in a manner which insures public participation in that process.

"(b)(1) The Secretary shall establish a single organizational unit within the Department of Health, Education, and Welfare which shall have responsibility for carrying out the provisions of the consolidated program authorized under this part and part B of this title.

"(2)(A) Before prescribing any regulation under such parts, the Secretary shall transmit such proposed regulation to the Senate and the House of Representatives. If either House of the Congress does not disapprove by resolution of such proposed regulation within 30 legislative days after the date of receipt of such proposed regulation, the Secretary may prescribe such regulation.

"(B) For purposes of this paragraph, the term 'legislative day' means, with respect to proposed regulations transmitted to the Senate, any calendar day on which the Senate is in session, and with respect to proposed regulations transmitted to the House of Representatives, any calendar day on which the House of Representatives is in session.

"(c) The Secretary shall conduct a comprehensive evaluation of the program conducted under part B and this part, and shall submit, on an annual basis, a report on such evaluation to the Governor and State legislature of each State (with respect to the programs in that State) and a consolidated report to the Congress on such evaluation with respect to the programs in all the States.".

(k) Section 422(a)(1) of such Act is amended—

(1) by striking out "and" at the end of subparagraph (B); and

(2) by inserting after subparagraph (C) the following:

"(D) provides that such plan for child welfare services shall be consolidated with the State plan for adoption assistance and foster care under part E of this title, and that such consolidated plan shall be carried out in accordance with the regulations prescribed by the Secretary under section 477 of this Act; and".

(l) Section 471(a) of such Act (as added by section 101 of this Act) is amended—

(1) by striking out "and" at the end of paragraph (14);

(2) by striking out the period at the end of paragraph (15) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(16) provides that such State plan for adoption assistance and foster care shall be consolidated with the State plan for child welfare services under part B of this title, and that such consolidated plan shall be carried out in accordance with the regulations prescribed by the Secretary under section 477 of this Act.".

Mr. BELLMON. Mr. President, this amendment is offered to give the Senate the opportunity to make a much-needed move to consolidate narrow, categorical programs into broader, more flexible grant programs.

This amendment will convert five separate program authorizations under the Social Security Act into two packages of broader program authority. First, it combines the large title XX social services block grant program with the relatively small social services personnel training program. The training program is currently authorized under title XX, but funded outside the title XX ceiling and it is subject to a separate set of rules and procedures. Second, my amendment will consolidate into a single program, as of October 1, 1982, the child welfare services, foster care, and adoption assistance programs provided for in H.R. 3434.

Lest there be any misunderstanding, Mr. President, let me make two points clear: First, both parts of this amendment have effective dates of October 1, 1982. This amendment does not change anything that would occur under the reported bill in fiscal year 1980, 1981, or 1982—that is, roughly 3 years in the future. Second, this amendment is not a scheme to reduce Federal funding. It will consolidate into two programs what the States would be entitled to get under five separate programs.

Without passage of this amendment, Mr. President, the bill before us will continue the fragmentation of our system of Federal aid to State and local governments. Under this bill, two new categorical grant programs—foster care and adoption assistance—would be created and two other narrow categorical grant programs—child welfare services and social services personnel training—would be continued.

Mr. President, the title XX block grant was enacted in 1974 to allow States broad disecretion to tailor social services to the specific needs of public assistance recipients and other low-income individuals in their jurisdictions. Since 1974, however, we have continually increased funding for other programs with narrowly defined social services purposes. Meals on Wheels, vocational rehabilitation, social services for the elderly, and child welfare services are such examples. I do not dispute the need for these programs, Mr. President, but it is costly and self-defeating to do things this way. We need a strategy for Federal funding of social services. In my view, we should either channel growth in Federal social services assistance to State and local governments through the title XX block grant, or we should abolish the block grant mechanism and go back to categorical grant programs in its stead.

I remind the Senate that, in the past, considerable time and attention has been devoted to the need for streamlining the Federal grant-in-aid system. In the early part of this decade, not only was title XX enacted, but programs such as general revenue sharing, community development block grants, and CETA were adopted by Congress. These broader, more flexible programs were intended to lessen the degree of Federal control over the use of funds and return discretion in their use to State and local officials.

Much of the initiative for these consolidations came from past administrations. I am sorry to say that the Carter administration has not shown a lot of interest and imagination in this whole area. It is somewhat reassuring that, very recently, the subject seems to have been rediscovered downtown. OMB officials testified recently before the Governmental Affairs Committee and stated that President Carter has directed that major effort be undertaken to streamline the grant-in-aid system. The President has also told State officials that such streamlining is one of his highest priorities in the fight against inflation. I trust that we will see some specific recommendations on this from the President as part of his 1980 proposals.

As pressures on the Federal budget have mounted, State and local officials have renewed their push for grant consolidation and other reforms in the Federal grant-in-aid system. Congressional committees hear regularly from State and local officials about the problems caused for them by the hundreds of narrow categorical Federal programs, each of which has its own set of statutory, regulatory and procedural requirements. Governors have told us that the States could live with less Federal money if their flexibility in the use of Federal funds was increased through consolidations and other reforms. The Advisory Commission on Intergovernmental Relations, has called for action to "reduce the excessive fragmentation that continues to cause severe administrative problems and trouble intergovernmental relations" in the categorical grant system.

Mr. President, I ask unanimous consent to print in the RECORD an excerpt from the testimony of Gov. Richard Snelling of Vermont when he appeared before the Budget Committee last spring, and excerpts from a recent report by the National Governors Association on its grant-in-aid priorities. I also ask unanimous consent to print a summary of the Advisory Commission on Intergovernmental Relations' conclusions from its major study on the need for streamlining Federal grant-in-aid programs.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPTS FROM TESTIMONY OF HON. RICHARD A. SNELLING

STATEMENT

Consolidate categorical grant programs

Second, an attempt must be made to deal fairly with the huge diversity of needs. Congress has developed a gargantuan apparatus for administering programs. In 1978 there were nearly 500 separate narrow categorical grant programs, and there are some 30,000 separate governmental recipients of those 500 categorical grants.

Mr. Chairman, the States and Governors are not in conflict with Congress. We believe it is the structure of this grant system which offers an opportunity to both reduce public expenditures and to rejuvenate our Federal system.

A roadmap may well be the 14-volume study of the Federal grant system with which the chairman is very familiar and of which I am sure Mr. Shannon will be speaking later. The conclusions certainly indicate that our challenge and our opportunity is to simultaneously reform our Federal system and to establish fiscal restraint and to do the first as a result of addressing the second.

These positions were set forth with, I think, some specificity in our memorandum to Mr. McIntyre on November 28 and our letter to the President on December 20. We believe that savings can be made, substantial savings, first by grant consolidation—and that is spelled out in considerable detail in the testimony which is formally addressed to you, sir—and, second, by providing the States with a stronger role as to on-the-scene coordinators and allocators of these resources and, third, by a review of many of the unfunded mandates of the U.S. Congress which seriously erode our capacity at the State and local level to deal with some of the responsibilities which the Congress is to some degree thinking of returning to us.

Your colleague, Senator Bentsen, says that we should name a program which we want to be cut. He says that that kind of specificity is required.

Senator, I believe that you could save gasoline equally efficiently by denying 10 percent of the drivers access to automobiles or by requiring that automobiles increase their efficiency by 10 percent. I think the solution that has been enacted requiring automobile manufacturers to design a mix of automobiles that moves toward increased efficiency is a specific suggestion for improving the efficiency and saving fuel in the United States.

PREPARED STATEMENT

CONSOLIDATE CATEGORICAL GRANT PROGRAMS

More than three-fourths of all federal aid flows through 492 separate, narrow categorical grant programs, each with its own set of red-tape and overhead costs and each, I might add, with its own propensity for growth. The desirability of consolidating related programs—such as the 20 in health or the nearly 80 in elementary and secondary education—has been widely recognized not only by ACIR but by state and local officials. Members of Congress, and by the last four Presidents of the United States. Yet, the proliferation of such programs has continued, rising from 442 in 1975 to 492 in 1978. In contrast, the last block grant program, once held out as the wave of the future, was enacted in 1974.

The governors have said that through consolidation we can deliver the same services for less money. Let me emphasize that we are not saying "cut defense, or cut someone else's programs," although neither do we believe that state and local grants should bear the whole brunt of the sacrifices that must be made. We will accept our share of the burden. I personally am willing to take cuts of up to ten percent in many programs that are consolidated, and I believe that a substantial portion of those cuts will come out of overhead costs. Each governor has his own estimate of what amount he might be able to accept without loss of services. The amount would vary from state to state and from program to program. ACIR has identified 172 programs as candidates for consolidation, and certainly that list is a specific and well thought out starting point for congressional analysis. I will continue to work with the governors to develop further proposals for your consideration, and I hope that we can work with the Congress as well.

The governors have already identified several consolidations in their memorandum to Mr. McIntyre. Let me cite two as examples.

Under the Airport Development Aid Program, the federal government gives grants to 4,000 potential recipients under seven categorical grants. We suggest that the states be given authority to set priorities and spend funds for all airport construction and improvement projects except for those affecting the largest airports. These large facilities would continue to deal directly with the federal government.

The consolidation plan should create significant savings. A Federal Aviation Administration study in 1974 compared the cost of federally funded airport construction projects with projects funded by other sources and found non-federal projects to be 30 percent cheaper. The added expense is attributed to poor coordination of federal resources with state and local funding and inflationary increases which occur while federal approval is being sought.

Mr. Chairman, another consolidation proposal which we support will be considered by the Subcommittee on Environmental Pollution which you chair. EPA has developed the Integrated Environmental Assistance Act of 1979, which would enable states to apply for consolidated grants especially tailored to their needs. Grants to states for air and water pollution control, safe drinking water, and solid waste planning could be included in consolidated proposals submitted by states. We urge favorable consideration of this proposal.

Q. AND A.: COMMITTEE MEMBERS TO WITNESS

CONSOLIDATION OF GRANT PROGRAMS

Senator **BELLMON**. Now the other point I want to raise, I say I am all for consolidated grants. Governor Snelling, when I was down at the Governors' Conference earlier this month, I learned the Governors do have some specifics. Could you furnish those to us for the record? The areas where you feel consolidations are desirable?

Governor **SNELLING**. Yes; that is part of the testimony I am submitting for the record.

Senator **BELLMON**. Good. There are 20 of these.

Governor **SNELLING**. No; there are 172 specific areas where we believe grant consolidation could be accomplished in a way which would enable us to accept less funds.

Senator **BELLMON**. As I remember, those consolidations are not priced out. What is the amount of savings that the Governors felt could be accomplished through these consolidations?

Governor **SNELLING**. Senator, there is a great deal of debate on this subject. Senator Exon said all is not hunky-dory. It is possible, I think, to have a reasonably central opinion without denying disparity. For myself I believe that, depending on the particular grant area that we are talking about, that savings of from 5 to as much as 20 percent are realizable.

10 PERCENT REDUCTION IN FEDERAL GRANTS REALISTIC

My State would be glad, I think, to enter into a contract with the Federal Government where our total Federal grants were reduced by at least 10 percent across the board were we to be given greater latitude in the implementation of those grants and in more uniform rules and regulations. Some Governors will, of course, try very hard not to be specific.

I think 10 percent is really a very achievable aim.

Senator **BELLMON**. Now is this 10 percent of the $82 billion or 10 percent of some other figure?

Governor **SNELLING**. No; I think it goes by grant and I really don't believe that the $82 billion figure is the one that we can use. I am aware of Senator Muskie's concerns with Mr. Hyde's article, but I cannot see how we can save in Vermont anything on the Tennessee Valley Authority's budget. We are not prepared to accept a saving on that $10 billion as part of Vermont's share and I believe that is included in the $10 billion.

I believe the $9 billion program is an example of where we would be prepared to accept reductions.

NATIONAL GOVERNORS' ASSOCIATION,
October 9, 1979.

Hon. HENRY BELLMON,
Committee on Budget, Carroll Arms Building, Washington, D.C.

DEAR SENATOR BELLMON: Enclosed for your information is a survey report prepared by the National Governors' Association on federal grant-in-aid priorities. As you may know, the survey was undertaken in an effort to further two of the major policies of NGA: to support more effective use of federal resources through consolidation of categorical grants and simplification of grant requirements and to support efforts to balance the federal budget. The Governors' position is that they will accept funding reductions in grants-in-aid where consolidation and other reforms of those programs have led to increased flexibility and management savings.

The significance of the attached report is that it provides a blueprint for federal aid reform and for control of federal spending. In each of the nine functional areas covered, Governors overwhelmingly support grant consolidation. We view it as the best way to eliminate overlapping federal programs, to promote better coordination of federal, state and local resources, and to achieve management savings.

Moreover, the report demonstrates that the categorical approach to budget reduction will be just as ineffective as the categorical approach to spending has been. Individual Governors are able to list programs they can do without, and some of these suggestions are included in the report. Individual Congressmen and Senators have been able to do the same thing. The problem comes when groups of Congressional representatives and groups of Governors attempt to reconcile their lists. It cannot be done successfully in either case because the constituencies which gave rise to the categorical program in the first place will naturally, and quite understandably, resist its elimination. In addition, these constituencies quite rightly perceive that in most cases funding cuts will reduce services, not government overhead.

The Governors have concluded that those who believe, with us, that federal spending should be controlled must try a different approach. Consolidation of programs offers each grant recipient the opportunity to shift some resources from administrative overhead to services and to target resources according to priorities set by those closest to the problems. In so doing, consolidation accommodates the diversity among grant recipients that gave rise to the 492 categorical grants and minimizes the conflict that meets efforts to reduce categorical programs.

In the report, the Governors make two other major recommendations. First, we recommend that the program responsibilities of the federal, state and local governments be clarified. We note that sharing of program responsibilities among the three levels of government was originally intended to ease the financial burden borne by each jurisdiction, but that it often led to administrative complications and lack of accountability for effective delivery of services. The other overall recommendation made by the Governors is that the federal government strengthen its capacity to evaluate existing programs.

Congress has acted decisively to control federal spending by adopting and adhering to the Congressional Budget Act. The Budget Act has provided a process for controlling aggregate spending decisions, and it has been successful. At the program level, however, there has been no companion framework guiding difficult decisions in light of the new spending restraints. The effect of the absence of this framework has been demonstrated this year, where our calculations indicate that because of inflation, the one percent real growth in grant-in-aid spending proposed by the President would amount to a reduction of over $8 billion in intergovernmental grants. Without a comprehensive effort at the program level, the spending controls dictated by the budget process will continue to be allocated in large measure by inflation and not by a concerted effort to spend grant-in-aid resources more productively. The Governors' report suggests a method for meeting budget targets at the program level without crippling service delivery.

I hope you will find the report useful to you as you review the programs under the jurisdiction of your committee. Please let me know if you have any questions on it.

Sincerely,

Gov. Richard A. Snelling,
Chairman, NGA Committee on Executive Management and Fiscal Affairs.

Review of Grant-in-Aid Priorities

SUMMARY OF RECOMMENDATIONS

Introduction

This report presents the results of a review conducted by Governors over the past eight months to obtain:

An evaluation of federal grants-in-aid received by states; and

Suggestions for specific areas of intergovernmental assistance in each state where greater program flexibility and/or consolidation would produce savings.

The review was initiated by Governor Richard A. Snelling of Vermont, Chairman of the Committee on Executive Management and Fiscal Affairs of the National Governors' Association, in response to a request from President Carter and James T. McIntyre, Jr., Director of the Office of Management and Budget.

At a White House meeting in December 1978 the National Governors' Association pledged to support President Carter and Mr. McIntyre in their efforts to achieve a balanced federal budget by 1981. The Government made eight general recommendations to control federal spending and suggested several significant reforms in the federal grant-in-aid system. President Carter and Mr. McIntyre expressed appreciation for the Governors' support and suggestions and asked them for specific recommendations for changes in intergovernmental assistance. Governor Snelling and the Committee on Executive Management and Fiscal Affairs agreed to take up this challenge for two reasons. First, continuing the NGA support for a balanced federal budget and repeating demands for reform in the grant-in-aid system without a concomitant effort to focus on specific programs and elements of the federal grant system would be an inadequate response to growing public sentiment for controlling public sector growth. Second, the nation's Governors are in a strong position to evaluate the relative importance of intergovernmental assistance programs, to observe how they are administered, and to suggest improvements.

The conclusions that can be drawn from the survey responses are set forth below. A summary of individual comments is presented in the section entitled "Responses from Governors on Grant-In-Aid Priorities."

The Governors' review has been undertaken at a time when federal domestic assistance has already been substantially reduced in real dollar terms. In his fiscal year 1980 budget, the President proposed an $800 million increase in grants-in-aid—a 1 percent increase over the fiscal year 1979 level of $82.1 billion. But because the rate of inflation is more than 10 percent, the spending power of grants-in-aid has been reduced by about $8 billion between 1979 and 1980.

The Governors offer this report in good faith that it will be used by the Administration and the Congress in undertaking comprehensive reforms in the federal aid system along lines recommended not only by the Governors but also by the Advisory Commission on Intergovernmental Relations. Such reforms include grant consolidation, simplified grant management procedures, improved program design and evaluation, and review of realignments in the responsibilities of each level of government. The savings that accrue from these and other reforms should account for a substantial percentage of any further reductions in federal grants to state and local governments.

The Governors should not bear the entire burden of recommending budget reforms, however, nor should cuts in programs take place based solely on the recommendations in this report. The Administration and Congress have an equal, if not greater, responsibility to identify and undertake reforms in federal programs. The Governors stand ready to work with the Administration and Congress on a comprehensive approach to controlling government spending by increasing flexibility and reducing overhead costs in the federal aid system.

Recommendations

An Overhaul of the Federal Grant-in-Aid System

The Governors' responses to the survey of federal grant-in-aid programs reiterate a recurring theme embodied in policy positions of the National Governors' Association: that the federal government, in designing and implementing programs, fails to recognize the high level of state involvement in financing and administering these programs. The Governors believe that reductions in the total cost of the grant-in-aid system and improvements in service delivery can result from the reforms advocated in this report.

Reaffirmation of the Governors' conviction that the grant-in-aid system needs a thorough overhaul is the center of their analysis and recommendations. Such an overhaul should involve a program-by-program review and should result in a series of grant consolidations and regulatory reforms designed to introduce greater flexibility.

The Governors responding to the NGA grant-in-aid survey made two overriding recommendations:

Federal grants-in-aid to state and local government should be consolidated in at least the following areas: employment and training, environmental protection, community and economic development, education, law enforcement, energy, social services, health.

Governors believe that consolidation would ease problems of duplication and excessive administrative requirements and would result in increased program effectiveness and cost savings of up to 10 percent.

Consolidations should bring flexibility to the federal grant-in-aid system, not overlay new requirements.

Governors stress that the federal aid system must respond to the diverse needs of the states. The federal response to this diversity in the past has been to expand categorical programs nationally to meet new needs rather than to reallocate existing resources or to allow greater state discretion. Reducing federal program costs and consolidating or realigning federal grant-in-aid programs can be achieved only if this diversity is recognized. Greater recognition of diversity as an element of federal aid reform can be achieved by consolidating similar grant programs, giving the states the flexibility to target the funds, and simplifying administrative requirements.

In addition to grant consolidation and greater flexibility, the overhaul of the grant-in-aid system must focus on administrative reforms such as forward funding, standardizing "maintenance of effort" and "cross-cutting" requirements, and including, rather than bypassing, states in programs aimed at local government.

Identifying Appropriate Program Responsibilities for Federal, State, and Local Governments.

The Governors believe that sorting out the roles of state, local, and federal government is essential to fundamental reform of the grant-in-aid system.

The three levels of government currently share funding responsibilities for a wide variety of programs. While this cooperation was intended to ease the financing burden for each level of government, it has often led to administrative complications and lack of accountability for effective delivery of services.

Individual Governors have suggested that program responsibilities be shifted so that state and local governments shoulder most of the cost and administrative load for some programs while the federal government takes over other efforts. Some Governors have suggested that state government assume responsibility for education and the federal government take responsibility for welfare, health insurance, and macro-economic stimulus programs. The Governors recommend that a joint federal-state task force be appointed to study this fundamental issue and to make recommendations in time for incorporation in the FY 1982 budget proposals.

Evaluation of Federal Programs

As the remainder of this report demonstrates, Governors can make substantive critiques of federal priorities and programs. However, an overriding problem concerning the operation of federal programs is the federal government's inability to evaluate its own programs.

It is not always realistic to expect states to critique federal programs before agreeing to administer them. With some notable exceptions, federal funds are for dedicated purposes, and states are usually faced with the choice of participating or not participating in each federal program. Once this decision is made, state officials concentrate their analyses on the largest federal program because it is not within their purview to alter the basic guidelines or to reprogram the federal funds to higher state priorities. Instead, states tend to focus on programs and problems that they are responsible for financing and operating.

The federal government needs a stronger evaluative capacity. State officials would be more than willing to work closely with professional program evaluators who are charged with determining the effectiveness of federal programs from a national perspective.

Responses From Governors on Grant-in-Aid Priorities

INTRODUCTION

In January, Governor Richard A. Snelling, Chairman of the Committee on Executive

Management and Fiscal Affairs, wrote to each Governor requesting an evaluation of grant-in-aid programs and suggestions for specific reforms. In response to Governor Snelling's request, thirty-five states communicated with his office or NGA; twenty-five states sent written responses. The twenty-five responses are representative of the states in terms of geography and population. Six responses were from the Northeast, seven from the Southeast, five from the Midwest, and seven from the West. Thirteen responses came from states with populations above the 1975 median for the fifty states; twelve came from states with populations below the median. In addition, a written response was received from the Commonwealth of the Northern Mariana Islands.

While the responses account for a majority of the states and provide a representative sample, the program-specific comments outlined in this section must be considered to be the views of individual Governors who responded to Governor Snelling rather than a consensus view of the members of the National Governors' Association. The information request was intended to elicit Governors' opinions on the federal grant-in-aid system and their priorities for the use of federal funds in their respective states. It was not intended to be a methodologically precise instrument.

Human services

Within the broad area of human services, the Governors made a number of specific suggestions. These proposals are summarized below.

Consolidations

At present, a multitude of assistance programs with different requirements and different levels of assistance are directed to the same families or individuals. Because of statutory prohibitions or administrative resistance, the relationship of one program to another has not been analyzed in any but a perfunctory way. The result is ineffective and wasteful delivery of services.

The narrowness of programs and competition among them create duplication and confusion in service delivery and program administration. Many programs have their own eligibility workers, accounting services, and planning groups which produce an annual service plan intended in part to ensure adequate coordination among programs. Unfortunately, coordination is often difficult to achieve at the state level because programs are organized in an entirely vertical system from federal agency to special client group.

Problems also are created when a federal agency undertakes a "reorganization" that does not seek to reduce or eliminate duplicative administrative procedures and costs. One Governor cited the example of the recent reorganization of the federal Social and Rehabilitative Services (SRS): "The recent reorganization in the guise of improved efficiency, has created many more demands upon us and an apparent increase in the size of the federal bureaucracy. When HEW's Division of SRS existed, the Medicaid, AFDC, and Title XX programs were monitored by the single SRS organization. One regional staff person, for example, processed our grant awards. We now have, under the reorganization, four different systems. Such reorganization doesn't always bring about improvements and consolidation, and, if not planned correctly, could create as many problems as it solves."

Reasonable program consolidation services could improve and reduce costs in the following areas:

Title XX: A number of Governors had suggestions for including categorical programs under the Title XX quasi-block grant. Programs suggested for inclusion are: Developmental Disabilities Act, Child Welfare Social Services, Vocational Rehabilitation, Alcohol and Drug Abuse, and some Community Services Act and Older Americans Act programs.

Family Planning Programs: Under the general family planning head, states may be funded under two federal acts and four titles. One Governor suggested that "services could be increased in family planning by one-third if these programs were consolidated and we had more latitude. Conversely, we could cut the costs of these programs by one-third and still have the same level of operation."

Mental Health Programs: Governors recommended a basic federal block grant program for mental health. They also supported the major consolidation proposal for the alcohol and drug abuse programs. There was also a suggestion for block grants to states to fund community mental health centers rather than individual grants to each center.

Welfare and Other Transfer Programs: Short of complete overhaul of the welfare system, suggestions were received for consolidations aimed at reducing administrative overhead. One Governor proposed a consolidation of several categorical programs into four basic areas: income assistance, energy conservation and utility assistance, nutrition, and medical assistance.

Environmental Health Programs: Water, air, and solid waste programs should be consolidated into a single environmental block grant to states to provide flexibility to meet individual states' most pressing needs. In addition, Governors suggested that the meat and poultry inspection program be combined with the interstate food inspection program to allow for some efficiencies and greater state flexibility.

Crippled Children Programs: One Governor recommended that the current programs could be combined to provide flexibility and efficiency with no loss in services.

Administrative reforms

Most Governors participating in the survey suggested reforms and changes in the administration of federal human service programs. The following are excerpts from their responses:

Title XX: "Reducing planning and reporting requirements." "Eliminate current eligibility requirements and require that 50% of individuals served be below the poverty level." "Arbitrary reduction of Title XX to 1978 federal ceiling limits states ability to meet national guidelines for deinstitutionalization."

Day Care: "Day Care programs are fragmented among Title XX, WIN, and Vocational Rehabilitation. Eligibility requirements, subsidy amount, provider standards, and methods of payment all vary, causing confusion and administrative problems."

Food Subsidy Programs: "Continued funding for the basic food stamp program and the WIC program should be reevaluated in terms of their effectiveness and efficiency. These programs presuppose a funding mechanism and a program thrust which ensures that low income clients will receive an acceptable nutritious diet. However, under the present service delivery system there appears to be little evidence that these objectives are being achieved or could even be achieved through these funding sources. Also there is a question as to whether the federal government can effectively force clients to spend their income subsidies to achieve national nutritional goals."

"Due to the dual eligibility requirements for Food Stamps and AFDC, a possible reduction of $3,000,000 could be realized if the administration of both Food Stamps and AFDC could be merged."

Medicaid: "States should be given more latitude in establishing standards for medical facility certification (especially staffing requirements). More latitude is also needed in setting reimbursement rates, especially nursing home rates, major improvements in controls on medical care facility utilization, new options for providing home health services, and finally, alternatives to current fee-for-service payment mechanisms."

Federal Mandate of State Administrative Structure: "The federal laws which mandate state administrative structures for relatively small programs should be changed. Examples are the requirements for a separate administrative unit in the welfare department for the WIN program for AFDC recipients, and a separate unit for child support functions. States should be permitted to administer these functions in the most cost effective manner, which may well be as part of a larger related unit, instead of a separate unit."

Governors also expressed strong support for human services planning reforms. One Governor commented:

"While the merits of providing an overall block grant for alcohol, drug abuse, mental health administration, etc. are not totally undebatable, certainly the planning requirements of those various programs could be consolidated into one state plan which would provide greater administrative control and less money spent on planning at the state level."

Program reductions

Some Governors identified specific programs as targets for reduction or elimination. At least one Governor viewed the following programs as duplicative or wasteful:

The state office of economic opportunity program; Title XX training; summer youth recreation program of CSA; the Business Enterprise program for the blind.

EXCERPTS FROM ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS' REPORT "THE INTERGOVERNMENTAL GRANT SYSTEM: AN ASSESSMENT AND PROPOSED POLICIES, SUMMARY AND CONCLUDING OBSERVATIONS, JUNE 1978"

CATEGORICALS: A CURRENT APPRAISAL

The ACIR's reappraisal of the categorical grant reviewed the history and rationale, counted and documented the number, and examined the key features of this mainstay of the federal grant system. The study also looked at Congress's authorizing and oversight role, reviewed public officials' attitudes toward categoricals, and identified some of the more urgent difficulties afflicting them. Highlighted among the major findings and conclusions were the following:

THE COUNT—NUMBER AND ESTIMATED DOLLAR VOLUME OF CATEGORICAL GRANTS, BY TYPE

[Fiscal year 1975]

	Number	
	Number	Percent
Formula-based	146	33.0
Allotted formula	(97)	(21.9)
Project grants subject to formula distribution	(35)	(7.9)
Open-end reimbursement	(14)	(3.2)
Project	296	67.0
Total	442	100.0
	Estimated outlays (billions)	
	Amount	Percent
Formula-based	$25.8	69.1
Allotted formula	(8.6)	(13.1)
Project grants subject to formula distribution	(2.8)	(7.4)
Open-end reimbursement	(14.4)	(38.6)
Project	11.6	30.9
Total	37.4	100.0

Continuing fragmentation

While the number of categorical grant programs to state and local governments has grown steadily over the past decade, reaching a total of 442 for funded programs in FY 1975, it is well below the 1,000–1,600 figure frequently cited. But though these numbers have been exaggerated, the administrative problems have not.

The philosophy of "New Federalism," with its stress on revenue sharing, block grants, decategorization, decentralization, barely dented the traditional system of categorical aid. Despite Presidential and Congressional initiatives, long-standing problems persist, with categorical programs still accounting for nearly 80 percent of all federal aid dollars.

The problems of program numbers is not so much that of duplication and overlap, in the sense of two or more grants authorizing aid for identical activities, but excessive specificity, with clusters of several grants for servicing, planning, training and demonstration in the same narrow program area. This applies particularly to project grants. Often a single social problem has been attacked from many directions, with programs distinguished by the particular activities they support, the clientele group they serve, the manner in which services are delivered, or the places on which they focus.

Administrative problems

State and local governments still raise many of the same complaints about the categorical aid system that they did a decade ago, chiefly excessive paperwork and administrative complexity. Yet certain shifts are notable, including mounting concerns about the uncertainty of funding; the relationship of categorical grants to block grants and revenue sharing; and the emergence of new conditions affecting general state-local policies and governmental processes. At the same time, recipient jurisdictions continue to believe that these problems are federally centered and have little to do with their own internal management and decisionmaking capabilities.

Each of the four kinds of categorical grants possesses distinguishing characteristics and significant advantages and disadvantages. It is the large number of project grants, however, which is the source of the greatest current concern—involving 296 programs and $11.6 billion in 1975.

The federal executive branch has sought to coordinate, standardize and simplify categorical application and administrative procedures through governmentwide management and other circulars, organizational reforms, and decentralization to the field. Yet the overall record thus far must be rated as merely poor-to-adequate, thanks to executive-legislative conflicts, Congressional committee-agency links, departmental specialization, the relative weakness of critical managerial units within the Executive Office of the President, and the shifting nature of the problems constituting the grants management challenge.

Ironically, while efforts have been made to reduce red tape in grant application and award procedures over recent years, during the same period new problems have arisen from the impact on grant recipients of a number of governmentwide regulations involving national policies in environmental protection, equal employment opportunity, equal access to public services, and other fields. These regulations, which are administered by a complex network of federal departments, agencies and Presidential units, have too often become points of confusion and conflict between the levels of government and within the federal bureaucracy itself.

Fiscal features

In absolute dollar terms, categorical assistance expanded more than sixfold between 1960 and 1976, passing the $45 billion mark in the latter year. In constant dollar terms, the 1976 figure amounted to nearly two-and-a-half times its 1960 counterpart and as a percentage of state-local expenditures the hike (in inflated dollars) came to 33 percent over this 16-year period.

The program emphasis of categorical assistance has shifted significantly over the past decade and a half, with health, educational and environmental programs experiencing marked proportionate increases, while transportation and agricultural outlays decreased proportionately. Aid is now offered in nearly every area of state and local activity, though in some fields the federal contribution is quite small.

A number of different, competing, and even contradictory philosophies and objectives have determined the allocation of aid among state and local governments, including the need for a specific service, fiscal capacity, the actual level of recipient expenditures, and such general criteria of political "fairness" as equality among the states or total population. The 1975 distributive pattern in the aggregate was a product of 146 separate formulas and thousands of project grant awards, rather than any coherent national policy. Allocational patterns have shifted as formulas have been revised, new grants created, and the emphasis upon particular functional areas has altered. Over recent years, differences in the total per capita grant allocations among the states have narrowed, though there has been a slight but continuing tendency to favor the smaller and less urbanized states. Contrary to a common belief, federal aid has not consistently favored the states least able to finance their own public services—the reverse has sometimes been true—and only a small number of grants explicitly reorganize interstate differences in fiscal capacity.

Purposes and cost-sharing arrangements

Analysis of categorical statutes, their formal conditions, and age suggests that project grants tend to be used somewhat more for stimulative program purposes, while formula-based grants embody more of a support approach. These tendencies are clouded, however, by the significant proportion (one-fourth to one-fifth) of the grants in both sectors that incorporate both goals, as well as by the proportion of the total that are essentially national programs relying on state and/or local governments for their administration out of practical political necessity or convenience.

Matching and other cost-sharing provisions in grant authorizations continue to reflect considerable diversity and little clear rationale for their selection. At the same time, the overall number of categorical programs requiring no recipient matching has increased in recent years (by over 70 from 1967 to 1975), but this trend has not affected most of the big money formula-based and open-end grants. The overall fiscal effects of matching requirements would appear to be stimulative. However there is considerable debate over the evidence because of—

The different measures used,

The varying program preferences of recipient governments, and

The difficult-to-determine effects of other related provisions like maintenance of effort, and the potential—even among categoricals—for fungibility, over time, in program areas already involving large recipient outlays, and in jurisdictions that perform a wide range of services and participate in many aid programs.

The congressional role

In a formal sense, Congress is the chief architect of the categorical aid system, and many of the system's features are reflections of its subcommittee structure, the coalition character of its parties, the perennial constituency concerns and narrow program specialization of most of its individual members, and the continuing political and institutional constraints on its leadership and oversight role—despite recent reforms. Some current proposals for improved legislative processes are intended to reduce the resulting weaknesses. Yet, at bottom, Congress—and the categorical grant system—mirror the American political process as a whole, with its many points of access and power, its loosely structured political parties, its fluctuating sources of policy initiatives and leadership, its difficulty in sustaining a long-range planning effort, and its tendency to react to, and act upon, specific problems rather than move toward comprehensive national goals and explicit policy objectives.

On the basis of the major findings and conclusions, the Commission adopted 60 recommendations for improving the working of the intergovernmental grant system and the several types of grant. These follow by major subdivision, sometimes preceded by summary findings and conclusions which the Commission found of particular relevance to the recommendation.

CATEGORICAL GRANTS

1. Choosing the type of categorical grant

The Commission finds that categorical grants may be grouped into four types—project grants, formula grants, formula-project grants, and open-end reimbursement grants. Each of these types has different advantages and disadvantages, and is best suited for different situations and purposes. Thus, in choosing the form of categorical grant instrument to be used to accomplish particular objectives, Congress should consider systematically the advantages and disadvantages accruing to the various interested parties—grant recipients, interest groups, and administering agencies.

The Commission concludes, however, that federal categorical assistance still is excessively fragmented. This condition continues to generate program, management and organizational difficulties for grantor agencies and recipient jurisdictions. It severely complicates the task of achieving effective legislative oversight at all levels and hinders efforts to strengthen politically accountable Executive Branch officials.

The Commission finds that the continuing growth in the number of small, narrowly drawn, project grants is primarily responsible for the proliferation of categorical grants, and that avoiding, when possible, the creation of additional project grants of this type offers a significant means of controlling that proliferation. Too often project grants have been used almost automatically without adequate consideration of other types. Of course project grants have positive features that make them uniquely suitable in certain circumstances—such as (a) when funds are too scarce to serve a broad constituency and a more precise targeting of funds to the jurisdictions with the greatest program needs is desired; (b) when the appropriate recipients are not easily identifiable until they make application; (c) when the distribution of funds cannot be systematized appropriately ahead of time or measured accurately by objective factors; and (d) when national research or demonstration needs take precedence over recipient needs. On the other hand, they have other features that create friction in intergovernmental relations. For example they generate excessive paperwork, they foster "grantsmanship" and inequities among competing eligible recipients, and they introduce uncertainty about continued funding (in addition to the level of funding). These are added reasons for controlling the multiplication of project grants.

Formula-based grants, in contrast, distribute funds automatically according to more objective measures of program need and/or fiscal capacity as specified by Congress; involve a narrower, less diverse range of recipients; and incur substantially fewer administrative complications than the project grant application and review process.

The Commission believes, therefore, that when undertaking new categorical grant programs and consolidating existing ones, Congress should more thoroughly assess opportunities to use the formula-based grant and use it when possible rather than the project grant. Even when it is not possible or desirable to use a formula for complete distribution of funds, a modified formula or open-end reimbursement approach may be used to help allocate funds more efficiently than is possible using only a project-by-project approach. Hence . . .

The Commission recommends that, when considering new or reenacting old categorical grant programs, Congress and the President consciously evaluate the advantages and disadvantages of the four alternative types of categorical grants—project, formula, formula-project, and cost reimbursement—as well as the relative advantages and disadvantages of block grants, and select in each case the type which meets the intended national purposes best in light of the need to reduce the total number of programs and to facilitate simpler, fairer and more efficient administration of grant programs.

The Commission recommends, further, that in those cases where the Congress and the President determine that a categorical grant is to be preferred, they use the following criteria in choosing among the four types:

a. Formula grants should be used when a federal program has nationwide applicability and when objective factors relevant to program needs and recipient jurisdictions' characteristics can be quantified appropriately and interrelated in a formula for the allocation of funds among recipients.

b. Project grants should be used when funds are to be targeted precisely to a limited number of recipients having unusually great needs, when national objectives call for selective research and demonstration projects, or when appropriate formulas and eligibility requirements cannot be devised for the systematic distribution of program funds.

c. Mixed formula-project grants should be used only when conditions for project grants obtain, but where state allocations are needed to curb administrative discretion in the awards process.

d. Cost reimbursement grants should be used when the Federal government wishes to underwrite a specified proportion of legitimate state or local government program costs, whatever the total amount may be, while permitting recipient governments discretion in establishing service levels.

2. Grant consolidation goal and criteria

Strongly implied in the Commission's appraisal of the categorical grant system is the need for action to reduce the excessive fragmentation that continues to cause severe administrative problems and trouble intergovernmental relations in that system. Hence . . .

The Commission reaffirms its 1967 recommendation that Congress and the President adopt as a general goal the reduction in the number of categorical programs and urges that the following factors be utilized in attempting to identify the most likely candidates for consolidation. Programs to be merged should be, or be capable of being made:

(a) closely related in terms of the functional area covered;

(b) similar or identical with regard to their program objectives; and

(c) linked to the same type(s) of recipient governmental jurisdictions.

3. Possible candidates for consolidation

On the basis of a preliminary review of the 442 categorical grants that were operational in fiscal year 1975, using the criteria suggested in Recommendation 2 but with primary emphasis on the functional interrelationship, the Commission concludes that the merger of at least 102 programs into no more than 15 grant consolidations appears to be both feasible and desirable. Hence . . .

The Commission recommends that as a first priority Congress and the Administration give serious consideration to achieving grant consolidation in the following subfunctional areas:

Forest Lands Management (involves five categoricals),

Highway Beautification (involves three categoricals),

Transportation Safety (involves eight categoricals),

Comprehensive Urban Transportation (involves ten categoricals),

Comprehensive State Transportation (involves nine categoricals),

Pollution Prevention and Control involves seven categoricals),

Public Library Aid (involves four categoricals),

Programs for Older Americans (involves four categoricals),

Child Welfare Services and Facilities (involves three categoricals),

Vocational Education (involves nine categoricals),

Strengthening Instruction in Science, Math, Language, etc. (involves two categoricals),

Vocational Rehabilitation (involves seven categoricals),

Domestic Volunteer Services (involves three categoricals),

Child Nutrition and School Meals (involves eight categoricals), and

Preventive and Protective Health (involves 20 categoricals).

4. Presidentially initiated grant consolidation plans

The Commission recommends that Congress enact legislation authorizing the President to submit to the Congress plans for consolidating categorical grant programs, and requiring Congress to approve or disapprove such plans by resolution within 90 days of submission, and if approved, such plans to go into effect upon approval by the President of the joint resolution. The Commission further recommends that the legislation authorize the President to make modifications or revisions of plans submitted to Congress anytime within 30 days after such submission.*

TABLE 17.—TITLE XX TRAINING FUNDS—1979 ESTIMATED FUNDING AND IMPACT OF 4-PERCENT LIMIT

[In thousands of dollars]

State	Estimated 1979 Federal funding	4 percent of $2.7 billion allocation
Total	88, 779	107, 997
Alabama	745	1, 842
Alaska	439	203
Arizona	1, 277	1, 146
Arkansas	1, 615	1, 070
California	5, 014	10, 931
Colorado	1, 464	1, 307
Connecticut	8, 605	1, 551
Delaware	256	290
District of Columbia	226	344
Florida	728	4, 219
Georgia	3, 075	2, 520
Hawaii	92	446
Idaho	357	427
Illinois	556	5, 613
Indiana	214	2, 660
Iowa	614	1, 437
Kansas	1, 088	1, 161
Kentucky	2, 095	1, 726
Louisiana	1, 665	1, 957
Maine	504	541
Maryland	1, 676	2, 066
Massachusetts	4, 251	2, 886
Michigan	2, 509	4, 557
Minnesota	1, 684	1, 984
Mississippi	1, 292	1, 192
Missouri	1, 020	2, 396
Montana	757	379
Nebraska	282	779
Nevada	277	316
New Hampshire	77	423
New Jersey	3, 731	3, 658
New Mexico	1, 301	594
New York	6, 721	8, 948
North Carolina	3, 925	2, 758
North Dakota	223	325
Ohio	805	5, 342
Oklahoma	394	1, 403
Oregon	1, 414	1, 186
Pennsylvania	3, 896	5, 883
Rhode Island	555	466
South Carolina	948	1, 435
South Dakota	340	343
Tennessee	1, 546	2, 146
Texas	9, 625	6, 405
Utah	1, 498	633
Vermont	505	241
Virginia	596	2, 563
Washington	2, 011	1, 826
West Virginia	2, 428	928
Wisconsin	1, 686	2, 323
Wyoming	177	202

Source: Based on data from Department of Health, Education and Welfare, representing estimates received from States, not including late claims.

TABLE 10.—CHILD WELFARE SERVICES: STATE ESTIMATES OF TOTAL EXPENDITURES REPORTED UNDER THE TITLE IV-B PROGRAM FROM ALL SOURCES, FISCAL YEAR 1979

	Adoption	Day care	Foster care	Protective services	Other CWS services	Total
Total	$25, 775, 138	$63, 456, 520	$581, 021, 701	$63, 613, 810	$51, 985, 877	$792, 853, 046
Alabama	700, 909	0	3, 157, 414	243, 703	1, 548, 915	5, 650, 941
Alaska	0	0	2, 328, 800	0	4, 711, 700	7, 040, 500
Arizona	230, 900	0	20, 372, 000	0	3, 579, 900	24, 182, 800
Arkansas	0	0	542, 142	0	595, 140	1, 137, 282
California	15, 392, 594	13, 672, 000	92, 218, 300	10, 163, 002	7, 965, 980	139, 411, 876
Colorado	81, 151	81, 154	21, 205, 063	131, 921	1, 738, 059	23, 237, 348
Connecticut	191, 188	44, 448	12, 626, 114	71, 128	268, 236	13, 201, 114
Delaware	0	0	443, 949	0	0	443, 949
District of Columbia	363, 500	9, 672, 100	15, 453, 900	464, 900	2, 307, 400	28, 261, 800
Florida	51, 725	5, 354	13, 138, 866	127, 488	2, 547	13, 325, 988
Georgia	0	0	2, 646, 398	0	0	2, 646, 390

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* Senator Hathaway supports the proposition that the President periodically ought to submit grant consolidation plans to Congress. However, he is concerned that any structure for implementing such plans not alter Constitutional separation of powers or undermine fundamental Congressional authority to legislate. *Recommendation 4*, by granting the President authority to propose detailed grant consolidation plans and by confining Congress to a position of either approving or disapproving such plans within a set period of time would, in Senator Hathaway's view, reverse our current Constitutional structure.

	Adoption	Day care	Foster care	Protective services	Other CWS services	Total
Guam	0	0	18, 720	132, 433	59, 079	210, 232
Hawaii	39, 870	0	1, 265, 939	105, 633	195, 257	1, 606, 699
Idaho	0	0	809, 503	0	24, 000	833, 503
Illinois	0	0	0	0	5, 500, 000	5, 500, 000
Indiana	32, 696	0	21, 558, 327	10, 000	111, 414	21, 712, 437
Iowa	448, 000	25, 000	10, 108, 000	700, 000	0	11, 281, 000
Kansas	0	0	1, 207, 411	0	0	1, 207, 411
Kentucky	0	0	2, 019, 663	0	0	2, 019, 663
Louisiana	0	175, 000	7, 518, 696	0	400	7, 694, 096
Maine	85, 000	42, 287	2, 048, 950	120, 000	207, 749	2, 503, 986
Maryland	525, 647	0	26, 257, 246	3, 991, 274	677, 424	31, 451, 591
Massachusetts	800, 000	0	36, 050, 000	2, 500, 000	300, 000	39, 650, 000
Michigan	0	0	28, 219, 600	0	0	28, 219, 600
Minnesota	20, 695	269, 028	1, 138, 194	82, 777	558, 750	2, 069, 444
Mississippi	0	0	2, 065, 000	30, 000	120, 000	2, 215, 000
Missouri	0	0	4, 531, 084	0	0	4, 531, 084
Montana	30, 087	149, 517	918, 080	464, 000	107, 651	1, 669, 335
Nebraska	200, 000	0	2, 263, 000	0	0	2, 463, 000
Nevada	10, 000	0	975, 000	0	0	985, 000
New Hampshire	0	37, 252	95, 790	138, 364	260, 762	532, 168
New Jersey	877, 409	83, 160	14, 016, 830	16, 093, 860	4, 588, 208	35, 659, 467
New Mexico	0	0	759, 085	0	0	759, 085
New York	0	0	61, 735, 058	0	0	61, 735, 058
North Carolina	67, 104	130, 000	4, 726, 842	0	425, 947	5, 349, 893
North Dakota	63, 250	0	206, 818	10, 000	187, 750	467, 818
Ohio	2, 946, 145	23, 121, 632	42, 817, 322	8, 576, 559	9, 296, 727	86, 758, 385
Oklahoma	88, 192	56, 202	2, 226, 470	57, 968	59, 433	2, 488, 265
Oregon	0	0	4, 002, 063	0	0	4, 002, 063
Pennsylvania	1, 231, 511	4, 706, 439	77, 392, 329	15, 798, 278	4, 827, 798	103, 956, 355
Puerto Rico	46, 648	630, 471	620, 730	782, 353	220, 202	2, 300, 404
Rhode Island	195, 187	0	7, 845, 324	1, 379, 285	470, 745	9, 891, 541
South Carolina	708, 570	44, 500	1, 569, 672	141, 714	94, 476	2, 558, 932
South Dakota	52, 860	40, 178	1, 253, 051	0	164, 620	1, 510, 709
Tennessee	172, 700	0	3, 161, 500	0	60, 600	3, 394, 800
Texas	0	9, 440, 041	7, 205, 584	0	0	16, 645, 625
Utah	0	0	1, 617, 000	0	0	1, 617, 000
Vermont	0	0	930, 000	0	0	930, 000
Virgin Islands	0	893, 057	723, 067	496, 653	64, 142	2, 181, 919
Virginia	12, 1600	132, 700	10, 097, 100	663, 600	44, 300	11, 059, 300
Washington	0	0	1, 845, 750	0	0	1, 845, 750
West Virginia	0	0	399, 211	136, 917	440, 566	976, 694
Wisconsin	0	0	2, 814, 479	0	200, 000	2, 384, 479
Wyoming	0	0	485, 267	0	0	485, 267

Source: Department of Health, Education, and Welfare.

Mr. BELLMON. Mr. President, ACIR reports that categorical grant programs numbered 442 in 1975 and, by 1979, in less than 4 years we had added 50 more programs, raising this number to 492. The increase in dollar terms has been just as significant; Federal aid in the form of categorical grants increased approximately 65 percent alone from fiscal year 1975 to fiscal year 1979. The Governors claim that they will accept less Federal money if provided with more flexibility through grant consolidations and reduction of redtape. When we are being challenged to look throughout the whole array of Federal programs for opportunities to streamline the grant-in-aid system, it makes little sense to me to go in the reverse direction as this bill proposes.

Mr. President, I am not suggesting that the amendment I offer today is anything but a modest beginning effort on grant consolidation. This bill as reported would create two new categorical programs and revise and extend the authorization for two others. Ideally, all four of these programs should be consolidated with title XX. However, I recognize the concern this would cause to many who want to assure that services and support for vulnerable children in need of foster care, adoption assistance and other services are protected. Therefore, I am proposing two grant packages rather than a single consolidated one. This would at least reduce the number of programs from five to two.

Let me describe, Mr. President, how each of these changes would work and discuss briefly the reasons for them.

CONSOLIDATION OF TITLE XX—SOCIAL SERVICES AND TRAINING

Authority for using Federal funds to pay for personnel training has been in the Social Security Act since 1956. Until 1974 this authority was in title IV of the act. It was adopted initially as a response to attempts by HEW to help strengthen progessionalism (particularly the social work profession) in the administration of welfare programs. It was put in the law at a time when there was great hope for social services as a way of helping people to get out of welfare dependence. As was true originally of the basic social services authority, and is still the case for the AFDC program, after 1962 no ceiling was placed on Federal reimbursement to States for training expenditures. In other words, the States determined what they wanted to do in this area and submitted claims for Federal matching, with no limitation on such claims.

Over the years, training costs grew slowly, and this program was not considered a major issue when a ceiling was placed on Federal social services payments in 1972. In 1974, when title XX was enacted, the personnel training authority was moved to that title but again no ceiling was placed on expenditures.

Recently, there has been considerable concern about the growth of State claims for training expenditures and about imbalances among the States in the spending of training money. For instance, tables printed in the Finance Committee report on H.R. 3434 show that the State of Connecticut now spends about 8 million Federal dollars a year on training costs—roughly 20 percent of its title XX allocation—while the State of South Carolina, which has nearly the same welfare population as Connecticut, spends less than 1 million Federal dollars on training—only about 3 percent of its title XX allocation. I ask unanimous consent that a table from the Finance Committee report showing State training expenditures in fiscal year 1979 be printed in the RECORD.

The Finance Committee has recommended that for fiscal year 1980 a ceiling be placed on training expenditures equal to 4 percent of each State's allocation under the title XX program. The reported bill also provides a hold-harmless provision for States which now spend above 4 percent of their title XX allocation on training. However, the bill would keep the money for training separate from the basic title XX allocation.

The Finance Committee bill moves in the right direction; it simply does not move far enough. I see no reason to continue the separate allocation of funds for personnel training. We should put both the social services and training money in a single pot and let the States decide how much to spend on training. Our amendment would do just that.

Because of the imbalances among the States in current use of training funds, it would be inequitable to immediately merge the training money with title XX social services money without some adjustments in the formula. My amendment deals with this by holding harmless these States for a limited time. For a period of 3 years, States which now spend over 4 percent of their social services allocations for training would be protected. After the 3-year period, all State allocations would be computed as though they had had training costs in 1979 of 4 percent of the basic title XX allocation.

To assist States in their priority setting, my amendment provides that no more than 5 percent of the total allocation may be used for training, beginning in fiscal year 1984. This will provide reassurance to service providers that States will not divert an undue amount of resources away from services into training. It will also help the States to justify reasonable training expenditures in the competition for title XX funds.

CONSOLIDATION OF FOSTER CARE, CHILD WELFARE SERVICES, AND ADOPTION ASSISTANCE

Now let me turn to the second part of this amendment: Effective October 1, 1982, my amendment will consolidate the separate programs of child welfare services, foster care, and adoption assistance into a single consolidated grant to States. The delay in the effective date will give States an opportunity to use the open-ended Federal funding provided for in the reported bill to further develop their adoption assistance programs. States will also have ample time in which to improve their child welfare service programs in the ways provided for in the reported bill.

I see no justification for the Federal Government to parcel its funding to the States for these interrelated areas into three separate packages. The States invest far more of their own money in these services than they receive from the Federal Government. I ask unanimous consent to insert in the RECORD a table showing total foster care, child welfare, and adoption assistance costs in fiscal year 1977. This table shows that the combined expenditures of all levels of government on these programs totaled about $800 million in fiscal year 1977. The Federal Government supplied less than one-third of this money.

Mr. President, there can be no real separation of the activities in these three areas. These programs are closely intertwined. For instance, child welfare services money is to be used to improve foster care programs and to assure adoption of children where this is desirable. Money provided under this bill for foster care may be used for expanding child welfare services if it is not all needed for foster care support.

The Finance Committee's bill separates funding for foster care from the basic AFDC cash assistance program. Foster care is made a "capped entitlement" program under the bill. I have some misgivings about the capping of Federal reimbursements of foster care costs, but I do agree with the Finance Committee that some constraint on the growth of Federal spending in these areas is needed.

Again, I think the Finance Committee bill simply does not go far enough. Rather than moving toward consolidation—it has further compartmentalized these programs. My amendment would give the States a block grant of funds for use in the areas of child welfare services, foster care, and adoption assistance. The amount of Federal funding each year would be subject to appropriations, but the ceiling would grow by the increase in the CPI or 5 percent whichever is greater. Thus the States would receive at least 5 percent growth in Federal funding each year. This would enable them to plan ahead for gradually increasing Federal grant funds, and help them to stabilize their programs.

I recognize that there have been major recent criticisms of State performance in foster care and child welfare services in various States. I am not persuaded that greater Federal involvement is the way to correct the abuses and mismanagement which may exist. Nevertheless, my amendments provide for a major evaluation responsibility on the part of the Department of Health, Education, and Welfare, with reports to be made by it to the Governors and legislatures of States in which HEW reviews are conducted and with annual reports to be submitted to the Congress on the findings of the HEW studies. By devoting less time and attention to dealing with red-tape and administrative minutiae surrounding three separate programs, HEW staff should be able to deal with the substance of what the States are doing and to help the States to identify ways of improving those programs.

In short, Mr. President, this is an amendment which should have the support of both those who want to improve services to children and to those who are interested in improving management and the efficiency of the Federal aid system. I think all Senators are interested in both subjects. I urge the adoption of the amendment.

Mr. President, let me try to sum up briefly what this amendment will do.

What we are doing here is creating two grant programs in place of five. There will be five in the bill as reported and two under my amendment.

One of these programs that we create combines the title XX social services program and the social services training program, and the other consolidates foster care, child welfare services and adoption assistance into a single program.

These consolidations would not take effect until after October 1, 1982.

Mr. MOYNIHAN. Mr. President, on behalf of the committee, I rise respectfully to oppose the proposals of the Senator from Oklahoma, first acknowledging the relevance of the issues he has raised.

In the Committee on Finance, we have agreed in the coming year to undertake a thorough inquiry into the relationship between title XX funds which support services to individuals and the training funds which have accompanied them in a parallel way.

As I said in the opening statement, the title XX funds have been kept under a cap. The training funds have lately begun to grow at an ominous rate. We have imposed a 1-year restraint on them and the Committee on Finance proposes to be back on the floor of the Senate in the second session of this Congress to propose a permanent regime of the kind which I think will commend itself to the Senator from Oklahoma. In any event, his proposal would not take place until well after there was time to have this consideration and hear the new proposals.

As to the second of the matters he proposes I would have to say it seems to us that this involves consolidating programs which are fundamentally different. The programs that provide foster care and adoption subsidies are basically maintenance payments to children and their guardians or parents who require these for their livelihood. This is an entitlement program. Any person meeting the requirements of the law is entitled by right to these payments. On the other hand, the child welfare services are primarily salaries to professional persons who provide services. These are appropriated moneys. We make the judgment each year how much we want to spend. They are not the same things, and to take a service program and make it an entitlement program—or vice versa—is not the kind of precedent which the distinguished Senator from Oklahoma, I think, would approve. It is exactly the kind of invitation to runaway expenditures that we experienced under title XX when it first began, and which we may be experiencing under the training provisions which accompany it and for which reason we have proposed a 1-year limit.

Mr. President, the time is late and the Senate has been told that there will be no votes after 4 p.m. Therefore, I shall not extend my remarks save to say that the committee very much opposes both these measures.

We feel, in the first case, we will respond to the proper question the Senator addresses and have arranged to do so in the committee.

In the second case, I think we might have a disagreement about what it is appropriate to combine, and I would be happy on some occasion to engage in a long discussion with my respected friend from Oklahoma on this matter. I do not do so now in order to keep the agreement we have made with other Senators.

Mr. BELLMON. Mr. President, I appreciate the courtesy of the Senator from New York and also respect his great understanding of these programs. But in my opinion these three programs we talked about are closely intertwined. For instance, child welfare services money is to be used to improve foster care programs and to assure adoption of children where this is desirable. Money provided under this bill for foster care may be used for expanding child welfare services if it is not all needed for foster care support.

I do not know that the Senator from New York and I can resolve our differences. It seems to me maybe we should vote because we are short on time.

I only suggest that the consolidations this amendment would require would not in any way prevent the Finance Committee from making the study to which the Senator from New York has referred. In fact, I would strongly support the study, but it seems to me that the consolidation decision should be made now and then the study could be made afterward rather than the other way around.

Mr. MOYNIHAN. Mr. President, it seems to me, if I may say, that is reminiscent of the lines from "Alice in Wonderland" in which the king says: "Sentence first; verdict afterwards."

Mr. BELLMON. Except here is the case where the verdict is very plain. It does not require waiting.

Mr. MOYNIHAN. That was the king's view. It is thought, nonetheless, to be rather the reverse of the normal arrangements.

Mr. BELLMON. Also this does not take effect until after October 1982.

Mr. MOYNIHAN. That is why we are having our hearings next year.

Does the Senator wish the yeas and nays on this matter?

Mr. BELLMON. I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

● Mr. CRANSTON. Mr. President, I am opposed to the amendment offered by the Senator from Oklahoma (Mr. BELLMON) which would consolidate the title XX training program with the title XX social services program and would consolidate the foster care and adoption assistance maintenance programs with the child welfare services program.

Mr. President, I am particularly opposed to the latter consolidation. Presently, States are spending 80 to 90 percent of the child welfare services funds they receive from title IV–B funds on foster care maintenance payments for children who are not eligible for one reason or another for IV–A foster care. One of the most important provisions of the committee bill would restrict use of any new IV–B funds for foster care maintenance. This provision is critical to our efforts to redirect Federal financial assistance away from an open-ended foster care maintenance program and toward support of services designed to maintain children in their own homes.

The Federal Government has repeatedly been criticized for providing open-ended funding for foster care maintenance and virtually no funding for child welfare services to keep families together. The committee bill would put an end to that untenable situation by placing a ceiling on the foster care maintenance program, providing for the earmarking in the appropriations process of new IV–B funds for services designed to help prevent foster care, and, finally, imposing a prohibition against using new IV–B for foster care maintenance.

The amendment proposed by the Senator from Oklahoma would lump these programs together and provide no incentives for States to reduce foster care. It would provide no incentives for the States to utilize the new adoption assistance program, which, under the committee bill, is openended. I urge the defeat of this amendment which runs counter to all the efforts to reduce foster care which have gone into the committee bill.●

The PRESIDING OFFICER. Is all time yielded back?

Mr. MOYNIHAN. I yield back the remainder of the time on our side.

Mr. BELLMON. I yield back the remainder of time.

The PRESIDING OFFICER. All time having been yielded back, before the Chair orders the clerk to call the roll, since 3:45 p.m. has come and gone, this will have to be the last rollcall today under the order which was previously entered.

Mr. MOYNIHAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MOYNIHAN. Will the rollcall be on the proposal to amalgamate title XX funds with training services under title XX? Is that what our vote will be?

Mr. BELLMON. It is on amendment No. 2 which was just reported. It does cover both matters.

Mr. MOYNIHAN. It covers both matters?

Mr. BELLMON. Yes.

Mr. MOYNIHAN. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Georgia (Mr. NUNN) are necessarily absent.

I further announce that the Senator from Tennessee (Mr. SASSER) and the Senator from Montana (Mr. BAUCUS) are absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. BRADLEY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. COCHRAN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Iowa (Mr. JEPSEN), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Missouri (Mr. DANFORTH) is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators wishing to vote?

The result was announced—yeas 26, nays 61, as follows:

[Rollcall Vote No. 373 Leg.]

YEAS—26

Baker
Bellmon
Boren
Boschwitz
Byrd, Harry F., Jr.
Dcmenici
Exon
Garn
Hatch
Hayakawa
Helms
Humphrey
Kassebaum
Laxalt
Lugar
McClure
Packwood
Pressler
Simpson
Stevens
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NAYS—61

Armstrong
Bayh
Bentsen
Biden
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cohen
Cranston
Culver
DeConcini
Dole
Durenberger
Durkin
Eagleton
Ford
Glenn
Hart
Heflin
Heinz
Hollings
Huddleston
Jackson
Javits
Johnston
Leahy
Levin
Long
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Schmitt
Schweiker
Stafford
Stennis
Stevenson
Stewart
Stone
Talmadge
Tsongas
Williams

NOT VOTING—13

Baucus
Bradley
Cochran
Danforth
Goldwater
Gravel
Hatfield
Inouye
Jepsen
Kennedy
Nunn
Sasser
Weicker

So Mr. BELLMON's amendment (UP No. 670) was rejected.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 671

(Subsequently designated amendment No. 558)

(Purpose: To modify the foster care ceiling)

Mr. BELLMON. Mr. President, I send to the desk an unprinted amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 671.

Mr. BELLMON. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 69, between lines 4 and 5, insert the following:

"(4) The percentage by which a State's allotment would otherwise be increased for any fiscal year under paragraph (3) shall be adjusted as follows:

"(A) In the case of any State in which, during the preceding fiscal year, the number of children receiving foster care maintenance payments under the plan approved under this part, as a percentage of the total number of children in such State receiving aid under the State plan approved under part A plus the number of children receiving aid under the State plan approved under this part, exceeded such percentage for the United States by more than 50 percent, any percentage increase in such State's allotment otherwise required under paragraph (3) shall be decreased by a percentage equal to such excess (in excess of 50 percent) in the State's foster care percentage over the United States foster care percentage.

"(B) In the case of any State in which, during the preceding fiscal year, the number of children receiving foster care maintenance payments under the plan approved under this part, as a percentage of the total number of children in such State receiving aid under the State plan approved under part A plus the number of children receiving aid under the State plan approved under this part, was less than such percentage for the United States by more than 50 percent, any percentage increase in such State's allotment otherwise required under paragraph (3) shall be increased by a percentage equal to such difference (in excess of 50 percent) between the State's foster care percentage and the United States foster care percentage.

"(C) In the case of any State whose average costs per foster care placement (for purposes of reimbursement under this title) in the preceding fiscal year exceeded the average costs per placement for the United States by more than 50 percent, any percentage increase in such State's allotment otherwise required under paragraph (3) shall be decreased by a percentage equal to such percentage difference (in excess of 50 percent) between such State's average cost per placement and the average cost per placement for the United States.

"(D) In the case of any State whose average costs per foster care placement (for purposes of reimbursement under this title) in the preceding fiscal year were less than the average costs per placement for the United States by more than 50 percent, any percentage increase in such State's allotment otherwise required under paragraph (3) shall be increased by a percentage equal to such percentage difference (in excess of 50 percent) between such State's average cost per placement and the average cost per placement for the United States.

"(E) No State's allotment may be reduced on account of the provisions of this paragraph below 105 percent of such State's allotment for fiscal year 1979.".

Mr. BELLMON. I yield 3 minutes to the Senator from Missouri (Mr. EAGLETON).

UP AMENDMENT NO. 672

(Purpose: To delay the date certain child support requirements became effective in the case of certain States)

Mr. EAGLETON. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside and that the Senate proceed to the consideration of an amendment which I send to the desk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

This will be very brief; I understand that the chairman is willing to accept the amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) proposes an unprinted amendment numbered 672: At the appropriate place insert the following new section.

Mr. EAGLETON. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following new Section:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the case of any State which established a child support program under part D of Title IV of the Social Security Act which became effective on July 1, 1977, the provisions of sections 402(a)(26) and 402(a)(27) of such Act shall not be effective with respect to such State prior to such date, and, in applying the provisions of section 403(h) of such Act to such State the phrase thereof which reads "September 30, 1976 (but, in the case of the fiscal year beginning October 1, 1976, only considering the second, third, and fourth quarters thereof)" shall be deemed to read "September 30, 1977."

Mr. EAGLETON. Mr. President, my colleagues will recall that in 1975 Congress enacted the child support enforcement program (Public Law 93-647), which was primarily supported by Senators LONG, TALMADGE, and NUNN. The purpose of this program is to establish a cooperative mechanism for the State and Federal Government to inforce support obligation owed by absent parents, establishing paternity when necessary and obtaining child support. This, the sponsors told us, will result in savings to the taxpayers, because the Federal and State government would ultimately be required to pay out less in aid to dependent children benefits.

At the time of the debate on this legislation, many so-called experts predicted that the program would be a failure. These experts suggested that one of the main reasons absentee fathers do not make their payments is because they are penniless, and that to try to collect from them would be like trying to squeeze blood from a rock.

The program is now 4 years old and in those 4 years, the record has shown us that the experts were wrong, and that Senators LONG, TALMADGE, and NUNN were right.

In fiscal year 1979 it now appears that child support collections by State and local governments will increase to approximately $1.4 billion at a cost to Government of about $330 million; in other words, about $4 are being recovered for every $1 spent. This is truly an outstanding program.

In my own State of Missouri, the child support enforcement program got off to a very slow start, but now it is functioning with much success. I will return to our initial problems in a moment, but first I would like to tell my colleagues a little about the record of this program in Missouri thus far.

The program went into full operation in my State on July 1, 1977. There now are seven child support field offices in Missouri, and the statewide staff numbers 155 persons. Missouri has approximately 70,000 ADC families; we already have received more than 130,000 child support program assignments and referrals from ADC staff. Since the beginning of the program we have collected approximately $8 million in delinquent payments. For every State dollar spent on this program, we have recovered in turn approximately $2.24. When counting all State and local expenditures, $1.18 is returned for every dollar spent. These figures are very good for such a new program and they will improve as the State gains experience with it.

Although the Missouri child support program is now running very efficiently we do have a problem with this program. It is a historical problem which could end up costing my State $5 million because we did not initiate the child support program until July 1977.

The story goes back to 1976. At that time, in his message to the State legislature in January of 1976, former Governor Bond described enactment of State enabling legislation for this program as one of his top priorities. Leaders of both the State house of representatives and the State senate echoed the Governor's sentiment on this, and it looked like the bill would win quick approval in Jefferson City. However, the bill ran afoul of parliamentary maneuvering. Two State senators—realizing that passage of the bill was crucial—decided to turn the child support legislation into a "Christmas tree bill," to use one of Senator RUSSELL LONG's favorite expressions. These two legislators encumbered the bill with many nongermane amendments that made the bill unacceptable to the House-Senate conference. When the State house deleted the nongermane amendments and sent the bill back to the senate on the last day of the legislative session, the two State senators filibustered the bill to death.

Needless to say, our State division of family services officials were shocked by this unexpected turn of events. The division already had prepared the policy manual and the statewide staffing and organizational plan for the program, and all was ready for implementation in April of 1976. However, with the authorizing legislation dead, and with the legislature out of session until 1977, there was absolutely nothing the division could do to bring Missouri into compliance and actually get the program underway. Division officials could only spend the rest of 1976 laying groundwork with prosecutors all across the State, so that the child support program could be fully implemented as soon as the necessary State legislation was enacted in the 1977 legislative session.

In January of 1977 the legislature returned to Jefferson City and Gov. Joseph P. Teasdale repeated Governor Bond's call for speedy enactment of the child support enforcement program. Again, the leadership of each house of the general assembly included this legislation on its "must" list. This time, fortunately, agreement was reached with the two filibustering Senators of 1976, and the bill was enacted into law with an effective date of July 1, 1977.

Administrative machinery for the program had been ready to go for a year, and thus it took very little time for the division of family services to get our child support enforcement program operating at full speed. In fact, startup was so rapid and trouble free that by the end of the first quarter of operation, cooperative agreements had been signed with all 114 counties and the city of St. Louis. Missouri may have been late in getting this program off the ground, but once the wheels began to turn, progress was very rapid. In fact, Missouri accomplished more during its first quarter of operation than some States accomplished in their first year of operation.

The problem Missouri faces does not arise out of our operation of the program, but rather out of our delay in getting the program started. As my colleagues know, the Department of HEW has audited each State's child support enforcement program for the period January 1977 through September 1977. If a State's program is found to have been deficient during this period, HEW is required to assess a 5-percent penalty against ADC Federal payments to the State. In Missouri's case, such a penalty would amount to about $5 million. At this time the Federal officials have completed their audit of Missouri but have not issued their final report. However, since Missouri's enabling legislation did not allow our program to go into effect until July of 1977 it is unlikely that Missouri can successfully complete the audit.

Mr. President, the amendment I am offering today is identical, in intent, to legislation which passed the Senate last year as an amendment to H.R. 12232. Unfortunately, this legislation died because during the last minute rush in the 95th Congress a House-Senate conference committee failed to meet. Simply stated, my legislation would exempt Missouri from the requirement of a January 1977 through September 1977 audit.

As I have explained today, Missouri now has in operation one of the best child support enforcement programs in the country, and I think this is the result Congress wanted when we passed the title 4(d) legislation.

In my judgment, it would be unfair to penalize the people of my State for the actions of two State senators in 1976, and I think such an action would be inconsistent with the spirit of Federal/State cooperation which motivates this program.

Therefore, Mr. President, I am hopeful that the floor managers of this bill will accept my amendment to the pending legislation since it is identical, in intent, to legislation passed by the Senate last year.

Mr. MOYNIHAN. Mr. President, the distinguished Senator from Missouri is, of course, correct in what he has informed the Senate. It would be inappropriate for an unintended consequence of this legislation to penalize the State of Missouri, which is moving forward in a timely manner on important legislation; and, on behalf of this side of the aisle, we are happy to support the amendment.

I believe the Senator from Kansas would like to speak also.

Mr. DOLE. Very briefly. Mr. President, we have checked with our staff and with the Finance Committee staff, and we are happy to accept the amendment.

Mr. EAGLETON. Mr. President, I thank my colleagues, Senator MOYNIHAN and Senator DOLE. I thank Senator BELLMON for yielding.

The PRESIDING OFFICER. Is all time yielded back?

Mr. MOYNIHAN. Mr. President, I yield back the remainder of my time.

Mr. DOLE. Mr. President, I yield back my remaining time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 671

Mr. BELLMON. Mr. President, what is the pending business?

The PRESIDING OFFICER. (Mr. HEFLIN). The amendment of the Senator from Oklahoma is the pending business.

Mr. BELLMON. Mr. President, I will very briefly explain the amendment.

Mr. President, before I proceed, would it be in order for the Senator from Oklahoma to ask unanimous consent that a rollcall vote on this amendment occur prior to the vote on final passage of this bill on Monday?

The PRESIDING OFFICER. Any rollcall vote on this amendment by unanimous consent would have to occur on Monday, pursuant to the previous order.

Mr. BELLMON. Mr. President, I ask unanimous consent that the rollcall vote on this amendment occur prior to the vote on final passage of the bill on Monday.

The PRESIDING OFFICER. Does the Senator from Oklahoma wish to have the amendment voted upon just prior to final passage, as the last amendment?

Mr. BELLMON. The Chair is correct.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BELLMON. Mr. President, this amendment modifies the ceiling in the reported bill for Federal reimbursement of State foster care expenditures.

What I am trying to do with this amendment is to create greater equity among the States. My concern is that the bill's provisions are unduly generous for States which currently have expensive foster care programs, and are inequitable to States which have low cost programs.

The bill, as it is now before us, would remove foster care from the open-ended AFDC program and make it a separate capped entitlement program. A State's fiscal year 1980 entitlement under the bill would equal the Federal share of its fiscal year 1978 foster care expenditures, increased by 20 percent. The ceiling on Federal payments would then increase by 10 percent each year.

This means that a State which has had a costly program up to the time the bill takes effect, would have a higher base than a State which has had a less expensive program. The committee bill does provide an alternative formula which would enable the low cost States to get some additional funding, but it goes only part of the way in redressing the basic inequities.

Moreover, the committee bill funds builds into the base any disputed claims for reimbursement which are now at issue between HEW and the States. The problem with this is that those claims relate primarily to New York which has the highest cost foster care program in the country. Thus, this provision would exacerbate inequities in the distribution of funds among the States. I ask unanimous consent that two tables, prepared by HEW, which show the amounts of disallowed and deferred foster care claims, be inserted in the RECORD at this point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

Foster care claims in dispute disallowances made by HEW in Calendar Years 1976–79

State	Amount	
	Paid	Unpaid
Colorado		$204,913
Illinois		3,451,279
Maryland	$112,581	
Nevada	89,195	
New York		16,886,788
North Dakota	35,646	
Pennsylvania		149,194
Rhode Island	127,336	
Wisconsin	4,774	
Total	369,532	20,692,174

Foster care claims in dispute claims for period FY 1976–79 deferred—status

Arkansas	$2,964
California	400,037
New York	*21,366,737
Wisconsin	2,642,668
Total	24,412,406

*The claims include expenditures for foster care payments and administrative costs related to providing foster care.

Mr. BELLMON. Mr. President, let me illustrate specifically the problem I see with the bill's current provisions. The Finance Committee's report on this bill shows that New York's foster care costs average $763 per month per child. On the other hand, six States have reported foster care costs of less than $100 per month per child. I ask unanimous consent that a table from the Finance Committee report showing average monthly costs per foster care placement be included in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 7.—AVERAGE MONTHLY COST OF AFDC FOSTER CARE PER CHILD

[January to June 1978]

State	All AFDC foster care	Foster home care	Institional care
U.S. total[1]	$345.62	$258.58	$707.59
Alabama	93.94	94.56	85.63
Alaska	580.12	277.16	1,234.13
Arizona	322.26	140.63	814.85
Arkansas	103.15	101.97	119.08
California	357.49	215.54	1,013.69
Colorado	182.00	113.48	400.63
Connecticut	199.03	144.73	411.77
Delaware	162.08	138.05	247.82
District of Columbia	266.92	197.84	372.92
Florida	153.17	153.17	NA
Georgia	126.51	122.27	157.67
Guam	108.87	108.87	NA
Hawaii	141.19	141.19	NA
Idaho	232.15	149.22	906.88
Illinois	212.98	137.05	881.58
Indiana	78.82	NA	NA
Iowa	213.99	186.01	308.08
Kansas	253.90	183.88	420.67
Kentucky	152.33	NA	NA
Louisiana	185.29	163.28	532.33
Maine	209.52	NA	NA
Maryland	175.34	136.88	416.48
Massachusetts	262.05	171.92	1,036.45
Michigan	365.85	212.04	1,370.27
Minnesota	241.42	221.45	507.03
Mississippi	120.86	120.86	NA
Missouri	98.01	98.02	97.96
Montana	211.01	211.01	NA
Nebraska	183.38	180.22	214.13
Nevada	204.96	151.93	752.58
New Hampshire	110.67	105.34	129.51
New Jersey	166.17	166.17	NA
New Mexico	122.31	117.50	156.94
New York[1]	763.53	814.93	723.20
North Carolina	117.97	188.76	114.75
North Dakota	176.14	148.81	380.99

TABLE 7.—AVERAGE MONTHLY COST OF AFDC FOSTER CARE PER CHILD—Continued

[January to June 1978]

State	All AFDC foster care	Foster home care	Institutional care
Ohio	88.24	86.24	110.80
Oklahoma	99.04	99.04	NA
Oregon	286.47	199.39	990.90
Pennsylvania	209.88	NA	NA
Rhode Island	180.00	NA	NA
South Carolina	98.00	98.00	NA
South Dakota	121.87	118.43	157.73
Tennessee	134.31	132.79	151.33
Texas	197.78	194.40	258.30
Utah	155.72	NA	NA
Vermont	136.05	96.22	422.46
Virginia	137.40	126.64	321.28
Washington	208.53	164.26	471.59
West Virginia	142.99	105.49	463.91
Wisconsin	346.20	165.84	1,450.05
Wyoming	242.68	136.38	464.95

[1] Beginning with January 1979, statistics reported to HEW by the State of New York reflect that State's new method of estimating the breakdown of the number of children who are either in foster family homes or in institutional care. Earlier reporting, reflected in this table, indicated that about 56 percent of New York's foster care children were in institutional care. Current reporting indicates that about 23 percent of the children are in institutional care. The figures in this table therefore presumably exaggerate the cost of foster home care per child and understate the cost of institutional care per child. These exaggerations and understatements would also be reflected in the national totals.

Source: Data provided by the Department of Health, Education, and Welfare.

Mr. BELLMON. New York is currently drawing from the Treasury nearly one-half of the Federal funds expended for foster care. I ask unanimous consent that a table showing State-by-State distribution of Federal foster care funding in fiscal year 1977 be included in the RECORD at this point. Under the committee bill, the present inequities in distribution of funds among the States would be built into the Federal funding formula on a permanent basis.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 1.—AID TO FAMILIES WITH DEPENDENT CHILDREN: FOSTER CARE, FISCAL YEAR 1977

[Amounts in dollars]

	Total payments computable for Federal funding	Federal share	Non-Federal share
Alabama	$1,725,747	$1,283,428	$442,319
Alaska	1,039,927	519,975	519,952
Arizona	159,506	71,148	88,358
Arkansas	581,367	435,939	145,428
California	55,799,597	27,899,804	27,899,793
Colorado	2,034,538	1,112,688	921,850
Connecticut	3,378,990	1,689,497	1,689,493
Delaware	934,918	467,460	467,458
District of Columbia	1,182,363	601,184	581,179
Florida	835,998	497,361	338,637
Georgia	3,420,413	1,524,090	1,896,323
Guam			
Hawaii	59,477	29,739	29,738
Idaho	630,493	429,870	200,623
Illinois [1]			
Indiana	2,464,012	1,416,069	1,047,943
Iowa	1,962,357	1,121,094	841,263
Kansas	4,223,091	2,281,314	1,941,777
Kentucky	2,694,656	1,923,104	771,552
Louisiana	3,459,448	2,504,985	954,463
Maine	2,404,878	1,663,249	741,629
Maryland	6,314,353	3,157,178	3,157,175
Massachusetts	4,373,917	2,186,961	2,186,956
Michigan	16,816,421	8,408,211	8,408,210
Minnesota	6,226,472	3,539,127	2,687,345
Mississippi	1,461,905	976,827	485,078
Missouri	2,249,180	1,326,566	922,614
Montana	976,132	623,602	352,530
Nebraska	964,759	536,310	428,449
Nevada	443,042	221,521	221,521
New Hampshire	687,451	375,232	312,219
New Jersey	164,269	82,135	82,134
New Mexico	114,946	79,684	35,262
New York	176,252,047	88,126,025	88,126,022
North Carolina	1,098,760	747,587	351,173
North Dakota	843,011	485,490	357,521
Ohio	3,921,294	2,134,969	1,790,325
Oklahoma	827,647	558,001	269,646
Oregon	6,055,247	3,575,015	2,480,232
Pennsylvania	8,564,316	4,743,774	3,820,542
Puerto Rico			
Rhode Island	235,859	133,377	102,482
South Carolina	803,888	550,263	253,625
South Dakota	610,405	410,376	200,029
Tennessee	2,920,505	1,565,554	1,354,951
Texas	2,777,180	1,067,555	1,709,625
Utah	527,742	369,632	158,110
Vermont	363,643	253,896	109,747
Virgin Islands			
Virginia	5,010,845	2,923,326	2,087,519
Washington	3,873,454	2,080,818	1,792,636
West Virginia	981,187	705,475	275,712
Wisconsin	5,597,940	3,353,726	2,244,214
Wyoming	118,284	72,082	46,202
Total	351,171,877	182,824,293	168,347,584

[1] Data not available.

Source: Department of Health, Education, and Welfare.

Mr. BELLMON. I understand the argument that costs are higher in some States than in others, Mr. President; and I agree that it is reasonable to take differences in cost into account when we distribute Federal funds. I submit, however, that no cost differences can justify a funding mechanism which puts nearly half of the Federal money under a program such as this into one State. By basing the funding in this bill on the expenditures of the various States under current law, we run the risk of rewarding inefficiency and punishing economy.

This amendment takes into account the differences in cost of living from one State to another. Unless a State exceeds by 50 percent the national average for foster care costs—or exceeds by more than 50 percent the national average for AFDC children in foster care, this amendment would provide the same or greater funding than under the committee bill.

Let me state it another way, Mr. President:

My amendment simply provides that any State which exceeds the national averages by more than 50 percent in either of two measurements will receive smaller increases in its Federal foster care funding than provided by the bill as it was reported. I want to stress that I am not proposing to reduce the Federal funding for any State below what it is now.

Under my amendment the two measurements which will determine whether a State's Federal foster care ceiling is adjusted are, first, whether it varies from the national average monthly cost per child in foster care by more than 50 percent; and second, whether it varies from the national average for the percentage of AFDC children in foster care by more than 50 percent.

These two factors seem to me highly appropriate indicators to which to relate increases in Federal spending. Obviously we ought to encourage States to manage their programs efficiently and economically; to hold down overhead costs while paying adequate support to families and institutions caring for foster children. My amendment provides that encouragement. Likewise, there is broad acceptance of the view that some States have kept too many children in foster care. The Finance Committee's report stresses that problem as one of the considerations which led it to report to H.R. 3434. By adopting my amendment, the Senate will signal the States that it is concerned enough about this problem to adapt the Federal funding formula so that it take into account the relative percentages of AFDC children in foster care.

My amendment provides that States which exceed the national averages by more than 50 percent shall have their ceiling for Federal foster care funding reduced by the percentage by which they exceed the national averages by more than 50 percent.

Conversely, my amendment provides that States which have costs for foster care placement more than 50 percent below the national averages would have proportionately higher ceilings than provided in the committee bill. The net effect of my amendment is to limit the increases in the Federal payment to States which have unduly costly programs or high percentages of children in foster care, while permitting more room for program growth for States which have very low-cost programs or a low proportion of AFDC children in foster care.

To moderate the impact of my amendment, I have provided that no State will get less than a 5-percent growth in fiscal year 1980 and a 2-percent growth in Federal funds in 1981 and beyond.

Mr. President, I ask unanimous consent to include in the RECORD at this point a table comparing the State ceilings on Federal foster care under the committee bill and under my amendment. This table shows, Mr. President, that 22 States would have higher ceilings and 9 States would have lower ceilings under my amendment. There would be no change in the ceilings for the other States.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ESTIMATED FISCAL YEAR 1980 STATE CEILINGS FOR FEDERAL FOSTER CARE REIMBURSEMENTS

	H.R. 3434 as reported; State gets higher of—		Bellmon amendment	Change
Alabama	1.6	1.8	1.97	+0.17
Alaska	.8	.2	.78	−.02
Arizona	(*)	1.1	1.57	+.47
Arkansas	.4	1.0	1.3	+.3
California	35.2	9.8	35.2	(1)
Colorado	1.5	1.2	1.5	(1)
Connecticut	1.9	1.4	1.9	(1)
Delaware	.5	.3	.5	(1)
District of Columbia	.5	.3	.52	+.02
Florida	1.3	3.5	4.7	+1.2
Georgia	2.6	2.5	2.65	+.05
Hawaii	(*)	.4	.6	+.2
Idaho	.4	.4	.4	(1)
Illinois	3.8	5.3	5.32	+.02
Indiana	1.4	2.6	4.25	+1.65
Iowa	1.4	1.3	1.4	(1)
Kansas	2.9	1.0	2.54	−.36
Kentucky	2.2	1.7	2.22	+.02
Louisiana	3.1	2.0	3.1	(1)
Maine	2.0	.5	1.88	−.12
Maryland	3.5	1.9	3.5	(1)
Massachusetts	.7	2.5	2.5	(1)
Michigan	12.3	4.4	12.3	(1)
Minnesota	3.8	1.9	3.8	(1)
Mississippi	1.0	1.3	1.38	+.08
Missiouri	1.8	2.2	2.35	+.15
Montana	.7	.4	.59	−.11
Nebraska	.8	.7	.8	(1)
Nevada	.3	.3	.3	(1)

	H.R. 3434 as reported; State gets higher of—		Bellmon amendment	Change
New Hampshire	.5	.4	.5	[1]
New Jersey	.4	3.3	4.47	+1.47
New Mexico	1.0	.6	1.10	+.10
New York	131.1	7.9	114.68	−16.42
North Carolina	.8	1.9	2.90	+1.0
North Dakota	.8	.8	.7	−.1
Ohio	3.1	5.0	5.6	+.6
Oklahoma	.7	1.3	1.45	+.15
Oregon	4.4	1.1	4.27	−.13
Pennsylvania	8.1	5.1	8.1	[1]
Rhode Island	.2	.4	.41	+.01
South Carolina	.6	1.4	1.85	+.45
South Dakota	.4	.3	.42	+.02
Tennessee	2.5	2.0	2.54	+.04
Texas	1.2	6.3	6.3	[1]
Utah	.5	.7	.87	+.17
Vermont	.6	.2	.56	−.04
Virginia	3.2	2.3	3.15	−.05
Washington	2.5	1.7	2.5	[1]
West Virginia	1.0	.8	1.0	[1]
Wisconsin	3.5	2.2	3.5	[1]
Wyoming	.08	.2	.2	[1]

[1] No change.

Mr. BELLMON. The net effect of my amendment would be to lower Federal program costs in fiscal year 1980 by $11 million because the reduction in payments to high-cost States would more than offset the increases in payments to low-cost States.

Mr. President, one effect of adopting my amendment will be to cause States which have high costs or large percentages of children in foster care to examine their programs more closely. I am sure that some States are operating their program as efficiently as they should be. On the other hand, States which have had low-cost programs up to now will be able to get some additional Federal help to improve their programs where needed. In short, my amendment will reduce the inequities among the States in the distribution of Federal foster care funds that would exist under the bill as reported.

I urge adoption of this amendment.

Mr. MOYNIHAN. Mr. President, I have the unwelcome task of opposing this amendment with much more resolve than I would ordinarily bring to a proposal from the very respected and admired, I dare say beloved, Senator from Oklahoma whose humaneness and compassion have characterized all his activities in this Chamber. But I feel he may have misunderstood the purposes of the bill before us, and his amendment works in just the opposite direction than we had hoped to move with national social policy, a direction which I believe to be the strong consensus of the Chamber, not just the committee.

The committee, as I said earlier and as the Senator from Kansas has said so eloquently, has made the judgment in response to urgent and well-argued proposals which we have heard in committee that we should move our emphasis away from foster care and toward adoption. We have judged that this can be done and should be done. We do not lightly settle a matter which only a good deal of experience and time can settle, which involves the lives of children in the most sensitive, exposed, and vulnerable condition.

We have put a loose cap, to use our term, on the increase in funds that will be available for foster care over the next 5 years at 20 percent over fiscal 1978 actual spending for the coming year and thereafter to increase by 10 percent a year, which is likely to be not much more than the inflation rate, if that.

This will allow us to see whether adoption could be more effectively used as the preferred means of caring for children who do not have homes of their own.

However, no one expects the number of adoptions to displace foster care. We might hope it would, but realistically it will not. In the meantime, we must have a fair and adequate foster care program.

As I said earlier, when the Senator from Kansas was necessarily off the floor, some of the descriptions of foster care were almost Dickensian in their disapprobation in our hearings, which seemed to be unfair to the devoted foster parent couples who have taken in children and looked after them, because they were encouraged to do so, and this will continue to be a very widely held program.

If it is to be a general program, as much as can be it ought also to be a humane program. This proposal, I am sorry to say, would penalize those States which have tried to be most generous in their provision—for whom?

For dependent children without homes. It invokes no inappropriate term to say we are talking about orphans and how inappropriate it would seem to me to say that those States which have chosen to spend more on their orphan children ought now to be required to spend less.

The Senator has referred to high-cost States. This is not a defense program with an overrun on the cost of constructing a bomber. A high-cost State is a State that has provided something more than the usual pittance for the care of abandoned children. Those States share in this cost. The Federal Government provides a portion and the States provide the rest, as in the AFDC program generally. I cannot imagine that we would wish to have States that are providing a somewhat higher level of payment be forced or even pushed to reduce that payment.

I cannot imagine that the Senate would wish to do this. I know that, most certainly, I do not. I think it would be fair to say that our committee does not. I am glad the Senator has agreed to a rollcall vote on Monday when more of our colleagues will be present, inasmuch as I think the Senate would look up in surprised horror to find that, while it was elsewhere engaged, any decision had been made or the provisions had been made for a decision to slash the allowances for orphans and abandoned children in those jurisdictions that have tried to make them sufficient—and they are never more than that.

I yield back the remainder of my time.

I see that Senator CRANSTON, the Senator from California, is on the floor.

Mr. BELLMON. Mr. President, will the Senator from California allow me to respond for 30 seconds?

Mr. MOYNIHAN. I am happy to do that.

Mr. President, I think the Senator from Oklahoma would like to respond and then the Senator from California would like to speak.

Mr. CRANSTON. After the Senator responds.

Mr. MOYNIHAN. There is plenty of time for this.

Mr. BELLMON. Mr. President, first, the Senator from New York may have made it sound like we are doing something while the Senate is away.

Mr. MOYNIHAN. Oh, no. I indicated my agreement that a vote should occur when more Senators are here.

Mr. BELLMON. It is merely that we ran out of time.

Mr. MOYNIHAN. That is precisely so. It is merely the case that most Senators are not here and it is no intention of the Senator from Oklahoma whatsoever.

Mr. BELLMON. Mr. President, when you look at the table on pages 50 and 51 of the report of the Finance Committee on this bill, we find some interesting facts. One is that the average national AFDC foster care cost is $345. But there are only four States at or above that figure. The rest of the States, the other 46, are all below the figure and most of them are substantially below that figure. The purpose of this amendment is to try to bring some realism, some equity, to this matter.

I appreciate the point that the Senator from New York makes, that these States are matching these funds, but in most cases, at least—I do not believe it is true in the State of New York—in most States, the predominance of the funds is Federal. Here is a case where some States are taking what I consider to be an unfair advantage of a program and have allowed the cost to get very much out of hand, while other States are being, I would say, responsible, or more responsible, in holding the costs within more reasonable limits.

Mr. DOLE. Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. MOYNIHAN. The Senator from California had asked for the floor. Is that agreeable to the Senator from Kansas?

Mr. DOLE. Yes.

Mr. CRANSTON. Mr. President, I rise in opposition to the amendment offered by the Senator from Oklahoma.

It would significantly alter the foster care maintenance allocation provisions of H.R. 3434, as reported by the Finance Committee.

This amendment would decrease the allotments of States which exceed the national average for either the percentage of AFDC population in foster care or the average costs per foster care placement.

Mr. President, the Finance Committee bill provides for a ceiling on foster care maintenance payments at 120 percent of a State's 1978 allocation, or the State's share of $100 million based upon population under the age of 18 in each State. This latter provision is specifically designed to provide States with small foster care populations room for "reasonable" caseload growth.

My support for the concept of a ceiling upon a State's foster care maintenance payments is based upon my firm belief that many children are inappropriately placed in long-term foster care placements when they should either be reunited with their own families or freed for adoption. I believe that States can and should reduce their foster care caseloads. Demonstration projects around the country which have concentrated upon maintaining families together, rather than placing children in foster care, have proven the success of this approach, both in monetary and social terms.

At the same time, I fully recognize that there are a number of States which pay extremely low rates for necessary foster care. The National Commission for Children in need of parents, after surveying some of these low rates, observed that in one State, foster parents were paid $32 a week to support a child while nearby kennels were charging $35 per week or more to board a dog. The basic problem with the amendment offered by the Senator from Oklahoma is that by focusing upon a State's costs, it punishes those States which pay decent, humane foster care rates.

For that reason, I oppose the amendment.

Mr. DOLE. Mr. President, I rise in opposition to the amendment of the distinguished Senator from Oklahoma. I think what he would do has been outlined by the Senator from Oklahoma himself and by others who have spoken. I just say very quickly that it may be demonstrated in the next few years that the Senator from Oklahoma is exactly correct, but we are attempting this year to put a cap—we call it a loose cap as the Senator from New York alluded to it—on the foster care. The cap on foster care is an innovation. It reduces the amount of funds available to a State. If we tried to put the cap on and then tried to reduce the amount of funds to a State at the same time, it could create a hardship.

This particular change in allocation of funds was never discussed in our committee. We had lengthy hearings and lengthy discussions and a lengthy markup. I do not fault the Senator from Oklahoma, but I suggest that it is something that comes to this Senator as a new concept. It might be appropriate at a future time to make such a reduction if a study of each State's foster care program indicates that the funds are being wasted.

I hope that that is an on-going process. If, in fact, the funds are being wasted in some States as compared to others, the Senator from Kansas would not only support the efforts of the Senator from Oklahoma, but would support them gladly.

Mr. MOYNIHAN. Mr. President, may I in closing, emphasize something and say something about the Senator from Kansas which he might find embarrassing and which he certainly would not say for himself.

He is not a person without many demands on his time. Yet, in the long and complicated hearings on this matter, the Senator from Kansas was invariably present, concerned about these matters, cognizant of the great difficulty of making wise choices, and always cautioning as to prudent rates of change where the lives of children—babies—wards of the State, are involved.

I do not wish, and it would not be appropriate for me, to make any large assertion of the jurisdiction of any committee and to ask that others stay out of our domain. That is not the case at all. But there is such a thing as having been involved in the matter and coming to a prayerfully moderate set of proposals with respect to an infinitely sensitive subject.

The Senator from Kansas speaks with the authority of someone who has taken from other, what might seem more pressing, demands on his time all the energy and attention that were required to bring this bill to the floor. I think that if anyone's judgment ought to be sufficient in the matter, certainly, in my view, it would be his. I thank him for that.

Mr. President, I believe we have now concluded this portion of the amendment of the Senator from Oklahoma.

We are not going to vote on it.

May I ask the Chair, how ought we to proceed to the next business?

The PRESIDING OFFICER. I believe the Senator from California desires to be recognized.

Mr. MOYNIHAN. I yield back the remainder of my time.

Mr. DOLE. I yield back Senator BELLMON's time, with his permission.

The PRESIDING OFFICER. Without objection, the time is yielded back.

The Senator from California is recognized.

UP AMENDMENT NO. 673

(Purpose: To adjust the base year for foster care maintenance payment allotments to the States to include otherwise eligible children who were placed in homes with relatives)

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 673.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 67, line 9, insert before the period the following: "and shall also include for those States which in fiscal year 1978 did not make foster care maintenance payments, under section 408 on behalf of children otherwise eligible for such payments, solely because their foster care was provided by related persons, the additional amount the State would have been entitled to be paid for that fiscal year if such payments had been made".

Mr. CRANSTON. Mr. President, this amendment would adjust a State's allotment for the foster care maintenance program to include in the base year total—fiscal year 1978 in the reported bill—that amount of money a State would have been entitled to be paid for foster care maintenance payments on behalf of children whose foster care was provided by related persons.

Mr. President, the necessity for this amendment arises as a result of a decision of the Supreme Court earlier this year in the case of Miller against Youakim. The case involved the issue of whether a State could lawfully distinguish in its foster care program between children who are placed with relatives and those who are not. Thirteen States—California, Alabama, Alaska, Arizona, Colorado, Hawaii, Idaho, Illinois, Michigan, Mississippi, New Hampshire, New Mexico, and Wyoming—had established programs wherein children placed in foster homes of unrelated persons qualified for the AFDC–FC program, which provided greater monthly payments than the basic AFDC program. But children who were placed in foster homes of related persons in these States were allowed to participate only in the basic AFDC program.

The Supreme Court held in the Youakim case that the Social Security Act required inclusion in the AFDC–FC program of these children who are placed—through court orders—in foster homes of related persons.

Mr. President, this amendment is necessary to assure that adequate provision is made in the base year to permit States to comply with the Supreme Court's directive. The amendment covers only those children who would otherwise have been eligible for the foster care program and were excluded solely because they were placed in the care of a relative. I know of no opposition to this amendment. I hope it will be acceptable to the managers of the bill, and I thank the committee staff for their cooperation in preparing the amendment.

Mr. MOYNIHAN. Mr. President, I am happy to say that this seems to us to be a prudent and an important amendment.

As much as the increased foster care costs were created by a decision over which the States have no control, it would seem reasonable to allow this type of adjustment. I will support the measure.

Mr. DOLE. If the Senator will yield, I agree with the distinguished Senator from New York. It does respond to the Supreme Court decision which ordered 13 States to increase certain foster care payments.

It would be inequitable not to adjust that ceiling for those States to accommodate that requirement. I support the amendment on behalf of this side of the aisle.

Mr. CRANSTON. I thank both managers very much.

Mr. President, I am prepared to yield back my time.

Mr. MOYNIHAN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from California.

The amendment (UP No. 673) was agreed to.

Mr. MOYNIHAN. Mr. President, I

move to reconsider the vote by which the amendment was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 674

(Purpose: To provide continuing Medicaid eligibilty for certain recipients of Veterans' Administration pension)

Mr. CRANSTON. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The second assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON), for himself and Messrs. TALMADGE, RANDOLPH, MATSUNAGA, DURKIN, THURMOND, BENTSEN, BRADLEY, and BUMPERS, proposes an unprinted amendment numbered 674.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title III of the bill, add the following new section:

CONTINUING MEDICAID ELIGIBILITY FOR CERTAIN RECIPIENTS OF VETERANS' ADMINISTRATION PENSIONS

SEC. . (a)(1) Part A of title XI of the Social Security Act is amended by adding after section 1132 (as added by section 307 of this Act) the following new section:

"APPLICANTS OR RECIPIENTS UNDER PUBLIC ASSISTANCE PROGRAMS NOT TO BE REQUIRED TO MAKE ELECTION RESPECTING CERTAIN VETERANS' BENEFITS

"SEC. 1133. (a) Notwithstanding any other provision of law (but subject to subsection (b)), no individual who is an applicant for or recipient of aid or assistance under a State plan approved under title I, X, XIV, or XVI, or part A of title IV, or of benefits under the Supplemental Security Income program established by title XVI shall—

"(1) be required, as a condition of eligibility for (or of continuing to receive) such aid, assistance, or benefits, to make an election under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978 with respect to pension paid by the Veterans' Administration, or

"(2) by reason of failure or refusal to make such an election, be denied (or suffer a reduction in the amount of) such aid, assistance, or benefits.

"(b) The provisions of subsection (a) shall be applicable only with respect to an individual, who is an applicant for or recipient of aid, assistance, or benefits described in subsection (a), during a period with respect to which there is in effect—

"(1) in case such individual is an applicant for or recipient of aid or assistance under a State plan referred to in subsection (a), in the State having such plan, or

"(2) in case such individual is an applicant for or recipient of benefits under the supplemental Security Income program established by title XVI, in the State in which the individual applies for or receives such benefits,

a State plan for medical assistance, approved under title XIX, under which medical assistance is available to such individual only for period for which such individual is a recipient of aid, assistance, or benefits described in subsection (a).".

(2) The amendment made by paragraph (1) shall be effective on and after January 1, 1979; except that nothing contained in such amendment shall be construed to authorize or require any payment (or increase in payment) of any aid or assistance or benefits referred to in section 1133(a) of the Social Security Act (as added by paragraph (1)) for any benefit period which begins prior to the date of enactment of this Act.

(b)(1)(A) For purposes of section 1902(a)(10)(A) of the Social Security Act, any individual who, prior to the date of enactment of this Act, was eligible for and received aid or assistance under a State plan approved under title I, X, XIV, or XVI, or part A of title IV of such Act, or was eligible for and received supplemental security income benefits under title XVI of such Act (or a supplementary payment described in section 13(c) of Public Law 93–233), and was also in receipt of (or was a dependent, for purposes of chapter 15 of title 38, United States Code, as in effect on December 31, 1978, of an individual in receipt of) pension from the Veterans' Administration for the month of December 1978 shall (subject to subparagraph (B)) be deemed to be eligible to receive such aid, assistance, supplemental security income, or supplementary payment, for each calendar month thereafter for which such individual would have been eligible therefor if the increase in income of such individual (or of the family of which such individual is a member), attributable to an election (made by such individual or another member of such individual's family) under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978, had not occurred.

(B)(i) The provisions of subparagraph (A) shall take effect on January 1, 1979, and shall cease to be effective, in the case of any individual, for and after the first calendar month beginning more than 10 days after an "informed election" (as defined in subdivision (ii) of this subparagraph) has been made by such individual (or, if such individual is not eligible to make such an election, by a member of such individual's family who is eligible to make such an election which affects such individual's eligibility for aid, assistance, or benefits under a plan or program referred to in subparagraph (A)).

(ii) The term "informed election" means an election made under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978 (or a reaffirmation of such an election which previously was made under such section 306) after the date of compliance by the Administrator of Veterans' Affairs (hereinafter in this section referred to as the "Administrator") with the provisions of paragraph (2)(A) with respect to the individual concerned. An individual who fails, within the time limits prescribed in paragraph (2)(B), to disaffirm an election previously made by such individual under such section 306 shall be deemed, for purposes of this section and such section 306, to have reaffirmed such election.

(2)(A) The Administrator shall provide to each individual to whom section 1133 of the Social Security Act (as added by subsection (a)(1) of this section) applies and who is eligible to make or has made an election under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978, a written notice, in clear and understandable language, which (i) describes the consequences to such individual (and possibly to such individual's family), in terms of a determination or possible determination of ineligibility for medical assistance under a State plan approved under title XIX of the Social Security Act, of making an election with respect to pension under such section 306, (ii) describes the provisions of subparagraph (B) of this paragraph and subsection (a) of this section, (iii) sets forth other relevant information that would be helpful to such individual in making an informed decision concerning such an election or the disaffirmation thereof, and (iv) in the case of any individual who has made such an election, is accompanied by a form prepared for the purpose of enabling such individual to file with the Administrator a written disaffirmation of such an election.

(B) Notwithstanding any other provision of law—

(i) any individual to whom section 1133 of the Social Security Act (as added by subsection (a)(1) of this section) applies may, within the 90-day period beginning with the day that there is mailed to such individual (at such individual's last known mailing address) a notice referred to in subparagraph (A), disaffirm an election previously made by such individual under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978 by completing and mailing to the Administrator the form furnished such individual for such purpose by the Administrator pursuant to subparagraph (A).

(ii) whenever any such individual files such a disaffirmation with the Administrator, the amount of pension payable to such individual shall be adjusted, beginning with the first calendar month which commences after the receipt by the Administrator of such disaffirmation, to the amount that such pension would have been if such an election by such individual had not been made.

(iii) any individual who has filed a disaffirmation, pursuant to this subparagraph, of an election made by such individual under such section 306 may again make an election thereunder, but such subsequent election may not be disaffirmed under this subsection, and

(iv) no indebtedness to the United States, as a result of the disaffirmation by an individual, pursuant to this subparagraph, of an election made by such individual under such section 306 shall be considered to arise from the payment of pension pursuant to such an election.

(C) The Administrator shall promptly advise the Secretary, and provide identification of the individuals involved and other pertinent information, with respect to (i) disaffirmations of elections made by individuals pursuant to subparagraph (B), (ii) individuals who, by failing to disaffirm within the 90-day period prescribed in subparagraph (B), are deemed to have reaffirmed elections previously made, and (iii) individuals who, after having disaffirmed an election under subparagraph (B), subsequently again make an election under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978. The Secretary, upon receipt of any such information with respect to an individual, shall promptly notify the appropriate agencies administering State plans approved under title I, X, XIV, XVI, and XIX, and part A of title IV of the Social Security Act, and State agencies making supplemental payments pursuant to section 1616 of such Act or an agreement entered into pursuant to section 212(a) of Public Law 93–66.

(c)(1)(A) Not later than December 15 of each year (commencing with 1979) the Secretary, in consultation with the Administrator, shall prepare and submit to the Administrator estimates of the additional expenditures incurred (including expenditures for administration) by each State concerned and by the Secretary (with respect to all such States) by reason of the provisions of this section and the amendment made by subsection (a)(1) of this section, during the fiscal year ending on the preceding September 30. Such estimates of the additional expenditures incurred by each such State shall include the expenditures incurred with respect to which such State is not entitled to reimbursement by the Federal Government under the Social Security Act (i) under such State's plan approved under title XIX of the Social Security Act, (ii) under such State's plan approved under title I, X, XIV, XVI, or part A of title IV of such Act, and (iii) under such State's program, if any, of supplementation pursuant to an agreement required under section 202 (a) of Public Law 93–66 and supplementation to benefits provided under the Supplemental Security Income program established by title XVI of the Social Security Act.

(B) Not later than December 15 of each year (commencing with 1979) the Administrator shall estimate—

(i) the amount of pension benefits paid during the previous fiscal year to persons who filed disaffirmations with the Administrator pursuant to provisions of subsection (b) of this section, and

(ii) the amount of pension benefits that would have been paid to such persons if this section had not been enacted.

(2) Whenever the estimates required under paragraph (1) of this subsection for any fiscal year have been completed, the Administrator shall pay to the Secretary, from amounts appropriated to the Veterans' Administration for the compensation and pensions account, an amount equal to whichever of the following is the lesser:

(A) the excess, if any, of the amount estimated under paragraph (1)(B)(ii) of this subsection over the amount estimated under paragraph (1)(B)(i) of this subsection, or

(B) the amount estimated under paragraph (1)(A) of this subsection.

Thereafter the Secretary shall pay to each State concerned an amount equal to the Secretary's estimate of each such State's expenditures incurred by reason of the provisions of this section and the amendment made by subsection (a)(1) of this section. In making such payments to such States, the Secretary shall use, to the extent sufficient, the amount so paid by the Administrator and shall apply the remainder, if any, of such amount to the expenditures otherwise incurred by the Secretary by reason of the provisions of this section and the amendment made by subsection (a)(1) of this section.

(3) Payments of any amount required to be made under the preceding provisions of this subsection for any year (commencing with 1980) shall be reduced or increased to the extent necessary to make proper adjustment of over-estimates or under-estimates of that amount for any prior year for which proper adjustment pursuant to this paragraph has not previously been made.

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I offer this amendment in order to avert very serious hardships for certain VA pensioners—those who, as a result of the enactment of the Veterans' and Survivors' Pension Improvement Act of 1978, Public Law 95–588, are threatened with the loss of medicaid coverage because they live in States where medicaid eligibility is solely dependent on eligibility for supplemental security income (SSI) or aid to families with dependent children (AFDC).

BACKGROUND

Mr. President, in about 15 States, eligibility for medicaid is contingent on eligibility for SSI or AFDC, and, if an SSI or AFDC beneficiary receives an increase in income making him or her ineligible for SSI or AFDC benefits, he or she is also disqualified for medicaid. These may be called categorically eligible States. In other States, medicaid eligibility may continue, after disqualification for SSI or AFDC, if the recipient uses his or her additional income for health care and thus "spends down" to State-prescribed levels. These may be called medically needy States.

Mr. President, about 100,000 VA pensioners were receiving SSI benefits during 1978; the number who were receiving AFDC is not known, but was probably far less than 100,000.

Mr. President, Public Law 95–588 provides, effective January 1, 1979, for a new pension program under which higher pension benefits are available to those pensioners most in need—those with little or no nonpension income. Section 306 of that law, a grandfathering provision, generally allows pensioners who were receiving VA pension as of December 31, 1978, to continue to receive pension at the same rate they were receiving on that date or to elect benefits under the new program if they so choose. If benefits under the new program are actually paid, the election is irrevocable.

By statute, both SSI and AFDC require, as a condition of eligibility, that any beneficiary apply for any other Federal benefits—such as the higher VA pension benefits available under the new pension law, Public Law 95–588—to which he or she may be entitled. Thus, those pensioners who are eligible for SSI or AFDC can be required to elect benefits under that law. If the result of the election is an increase in income from VA pension, they generally become ineligible for SSI or AFDC because the new pension income standards exceed SSI and AFDC income limits.

Mr. President, in the "medically-needy" States, these pensioners would remain eligible for medicaid if they use the increased income for health-care expenses to the extent required by the State spend-down level. However, in "categorically eligible" States, pensioners who elect benefits under Public Law 95–588 and are thus disqualified from SSI or AFDC also lose eligibility for medicaid.

In providing information early this year to pensioners about Public Law 95–588, the VA, which at that time had no means of identifying pensioners who were also receiving SSI or AFDC, did not provide any information that would have enabled pensioners to understand that the pension election could result in the loss of medicaid coverage.

In the case of some pensioners in categorically eligible States—such as veterans living near a VA health-care facility and any pensioners with relatively low medical expenses—the loss of medicaid would not create serious difficulties. But, for others who have high medical expenses, including some veterans with families, veterans in nursing homes, some veterans who live far from a VA facility, and elderly and disabled surviving spouses, the loss of medicaid may cause very serious hardships.

Mr. President, the maximum annual pension rates for veterans' surviving spouses—most of whom are elderly widows—are lower than those for veterans, and these elderly widows, who are not eligible for VA health care, would be among those who would be hardest hit by the loss of medicaid eligibility.

SUMMARY OF PROPOSED AMENDMENT

Mr. President, our amendment would assure that persons in the categorically eligible States who were receiving VA pensions before the new pension program went into effect—January 1, 1979—would be able to continue under the old pension program and continue to remain eligible for SSI or AFDC and, thus, for medicaid benefits.

Thus, our amendment would basically provide for "grandfathering"—protecting—the medicaid eligibility of pensioners in the categorically eligible States who are eligible for both VA pension and medicaid if they choose to be grandfathered under the old pension program. These pensioners would be exempted from the statutory rule requiring them to elect to receive higher benefits under the new pension program and would remain eligible for SSI or AFDC and, thus, medicaid.

In the cases of those who have already elected new pension benefits, the amendment would allow them, within 90 days after being fully advised of the advantages and disadvantages of being grandfathered under the old pension program and the medicaid program, to choose whether to disaffirm or reaffirm their earlier elections. Those who disaffirm would again begin receiving the lower pension payments that they were receiving in December 1978, and would be restored to medicaid eligibility.

Mr. President, our amendment would also provide for a transfer of funds from the VA to HEW—not to exceed the amount "saved" by the VA as the result of paying lower pension benefits to those who choose to be grandfathered by disaffirming their elections. To defray the SSI—or AFDC—and medicaid costs resulting from restoring medicaid coverage, the amount that the VA would save by paying lower pensions would be paid by the VA to HEW to reimburse the States for their share of these costs; and, if the VA "savings" are more than sufficient to reimburse the States, the remainder would go to HEW for the Federal share of such SSI and medicaid costs. If the VA payment was insufficient to cover the States' shares, HEW would be required to make up the difference to the States concerned.

LETTER TO CHAIRMAN OF FINANCE COMMITTEE

Mr. President, I have discussed this matter with the distinguished floor manager and first brought it to his attention in a letter dated June 27. I ask unanimous consent, Mr. President, that the letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON FINANCE,
Washington, D.C., June 27, 1979.

HON. RUSSELL B. LONG,
Chairman, Committee on Finance, Washington, D.C.

DEAR RUSSELL, I am writing to request your assistance in solving a problem concerning the Medicaid program that is arising as a result of the enactment of the Veterans' and Survivors' Pension Improvement Act of 1978 (Public Law 95–588). VA pensioners also receiving Supplemental Security Income (SSI) or Aid to Families with Dependent Children (AFDC) in certain States may, as a result of electing higher pension benefits under the new pension program established by Public Law 95–588, no longer be eligible for cash benefits under those programs and thus may lose their derivative eligibility for Medicaid benefits.

The loss of Medicaid coverage, for many of these pensioners would create very serious hardships because the value of the lost Medicaid coverage would far exceed the increase in their monthly pension benefits.

As you may know, the Social Security Administration has advised its regional offices that SSI-eligible pensioners must, under section 1611(e)(2) of the Social Security Act, apply for higher benefits under the new VA pension program. The implementation of this directive has been stayed pending a decision in *Jones* v. *Califano*, a class action currently pending in the Federal District Court for the District of Columbia. However, even if the Court ultimately finds in plaintiffs' favor, the decision will not reach those pensioners who have already elected benefits under Public Law 95–588 and who have thus lost eligibility for SSI or AFDC, and, as a result, Medicaid coverage.

It seems to me that the gravity of the situation warrants an amendment to title XIX of the Social Security Act that would either grandfather Medicaid eligibility for VA pensioners entitled to Medicaid on December 31, 1978, or require all States to provide Medicaid benefits for such pensioners under a "medically needy" spend-down provision.

Russell, I would very much appreciate your help in this matter, which I believe requires very prompt action. I would hope that our two Committee staffs could work together to develop a mutually acceptable legislative resolution of this troublesome situation and that such a program could be added at the appropriate time as an amendment to your Committee's health legislation currently in markup.

With warmest regards,

Cordially,

ALAN CRANSTON,
Chairman.

ANALYSIS OF PROVISIONS

Mr. CRANSTON. Mr. President, I ask unanimous consent that an analysis of the provisions of the amendment be inserted in the RECORD at this point.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

ANALYSIS OF UNPRINTED CRANSTON AMENDMENT NO. 674

Paragraph (1) of subsection (a) of the proposed amendment would amend part A of title XI of the Social Security Act, relating to general provisions, to add a new section 1133, as follows:

New section 1133.—Applications or Recipients under Public Assistance Programs Not to be Required to Make Election Respecting Certain Veterans' Benefits:

Subsection (a) of new section 1133 would provide that, notwithstanding any other provision of law, no Supplemental Security Income (SSI) or Aid to Families with Dependent Children (AFDC) applicant or recipient who is eligible, under section 306 of the Veterans' and Survivors Pension Improvement Act of 1978, Public Law 95–588, to elect to receive benefits under the new VA pension program established by Public Law 95–588 would be required to make such an election as a condition of eligibility or continued eligibility for SSI or AFDC or would suffer a denial or reduction of SSI or AFDC benefits as a result of failure or refusal to make such an election. Veterans and survivors eligible to make an election under section 306 of Public Law 95–588 are those who were eligible to receive VA pension benefits on December 31, 1978, the day prior to the date—January 1, 1979—on which Public Law 95–588 became effective.

Currently, applicants for and recipients of SSI (under section 1611(e)(2) of the Social Security Act) or AFDC (under HEW regulations pursuant to section 402(a)(7) of the Act) benefits are required, as a condition of eligibility for such benefits, to apply for benefits under any other Federal program—such as VA pension—to which they may be entitled. The new provision would thus provide a limited exemption from this general requirement.

This subsection's applicability would be subject to the provisions of subsection (b) of new section 1133.

Subsection (b) of new section 1133 would provide that subsection (a) would apply only to SSI and AFDC applicants and recipients in States where there is a State plan for medical assistance approved under title XIX of the Social Security Act—"State Medical plan"—under which Medicaid benefits are available to such an individual only when such individual is eligible for SSI or AFDC. Such a State plan is hereinafter referred to as a "categorically eligible State Medicaid plan".

Paragraph (2) of subsection (a) of the proposed amendment would provide that new section 1133 would be effective as of January 1, 1979, but also that no SSI or AFDC payments for any benefit period beginning prior to the date of enactment of this Act—that is, no retroactive payments or increases in payments—would be authorized by new section 1133.

Subsection (b) of the proposed amendment would set forth the terms and conditions under which the SSI or AFDC and Medicaid eligibility of VA pensioners in States with categorically-eligible State Medicaid plans would be continued or restored, if, after the VA provides appropriate information, the pensioner disaffirms an election previously made under section 306 of Public Law 95–588 or decides not to make an election.

Subparagraph (A) of paragraph (1) of subsection (b) would provide, for the purposes of categorically eligible State Medicaid plans, that any person who, prior to the date of enactment of this amendment was receiving SSI or AFDC and also received VA pension for December 1978, shall be deemed eligible to continue receiving SSI or AFDC after December 31, 1978, without regard to any increase in household income attributable to an election under section 306 of Public Law 95–588. Thus, the effect of this subparagraph would be to restore, retroactively, eligibility for Medicaid to any VA pensioner residing in a State with a categorically eligible State Medicaid plan whose Medicaid eligibility has been terminated because of a pension election.

Subparagraph (B) of paragraph (1) of subsection (b) would provide for an effective date, with regard to VA pensioners' retroactive eligibility for Medicaid, of January 1, 1979. With regard to any individual whose Medicaid eligibility is thereby restored, subparagraph (A) would cease to be effective beginning with the first calendar month that begins more than 10 days after any such pensioner makes an "informed election", defined as an election under section 306 of Public Law 95–588 that has been made only after compliance, by the VA, with the provisions of paragraph (2)(A) of this subsection requiring the VA to provide specified information to the individual to assist in making an informed decision concerning such election.

Subparagraph (A) of paragraph (2) of subsection (b) would require the VA to provide to each VA pensioner to whom new section 1133 of the Social Security Act applies—those in States with categorically-eligible Medicaid plans—and who was receiving VA pension in December 1978 and is thus eligible to make or has made an election under section 306 of Public Law 95–588, a clear and understandable written notice that describes the consequence, or possible consequence, of such an election with regard to the pensioner's—or the pensioner's family members'—Medicaid eligibility. The notice would also be required to contain a clear and understandable description of the provisions of new section 1133 of the Social Security Act, the pensioner's right to disaffirm any such election under paragraph (2)(B) of this subsection, and other relevant information that would be helpful to the pensioner in arriving at an informed decision concerning such an election or its disaffirmation. In the case of VA pensioners who have already made elections, the VA would be required to enclose with the notice a disaffirmation form.

Subparagraph (B) of paragraph (2) of subsection (b) would provide that any VA pensioner to whom new section 1133 of the Social Security Act applies may disaffirm an election under section 306 of Public Law 95–588 within the 90-day period that begins on the day the VA mails to him or her the notice required under subparagraph (A) of this paragraph. Such a disaffirmation would be accomplished by completing and mailing to the VA the disaffirmation form to be enclosed with the notice. Such a disaffirmation would be effective notwithstanding any other provision of law, such as the provision in section 306 of Public Law 95–588 under which pension elections are to be irrevocable if pension benefits pursuant to such an election are actually paid.

If such a disaffirmation were filed with the VA, the pension payment would be reduced to the amount that such payment would have been had no election been made. Such reduction would be effective beginning with the first calendar month following the VA's receipt of the disaffirmation.

Any pensioner who disaffirms would later be permitted to make another election under section 306 of Public Law 95–588, but no such subsequent election could be disaffirmed under this subsection.

No pensioner who disaffirms would be charged by the VA with an overpayment or other indebtedness to the Federal government as a result of such disaffirmation. Thus, for example, even though the person received higher pension benefits (as a result of the election) during the period prior to the disaffirmation, no overpayment would be created thereby.

Subparagraph (C) of paragraph (2) of subsection (b) would require the VA to identify, to HEW, pensioners who disaffirm; pensioners who, having not disaffirmed within the 90-day period, are deemed to have reaffirmed elections they previously made; and pensioners who, having disaffirmed, subsequently make elections under section 306 of Public Law 95–588. HEW would be required to provide this information, to the extent appropriate, to State agencies in charge of administering Medicaid, AFDC, and SSI State supplement programs.

Subsection (c) of the proposed amendment would provide for a transfer payment from the VA to HEW, and from HEW to the States, to compensate the States and HEW for the cost of the Medicaid coverage for the VA pensioners involved and for other costs—Medicaid, SSI, and administrative expenses—resulting from the enactment of this section. Such VA payment would not exceed the total amount saved by the VA as a result of the lower payments for the pensions of the persons who disaffirm the elections they had made under section 306 of Public Law 95-588.

Subparagraph (A) of paragraph (1) of subsection (c) would require HEW, in consultation with the VA, to estimate the additional expenditures incurred by the States concerned and by HEW by reason of the enactment of this section. Such estimates would be required to be completed by December 15 of each year, beginning with 1979, and submitted to the VA by that date and would cover the previous fiscal year. With regard to State expenditures, such estimates would include Medicaid expenditures to which the State is not entitled to Federal reimbursement, AFDC expenditures, and SSI State supplement expenditures, if any.

Subparagraph (B) of paragraph (1) of subsection (c) would require the VA, also by December 15 of each year, to estimate the amount of VA pension benefits paid to persons who have filed disaffirmations with the VA during the previous fiscal year and the amount of pension benefits that would have been paid to such persons if this section had not been enacted.

Paragraph (2) of subsection (c) would require the VA to pay to HEW, whenever the HEW and VA estimates have been completed, from the amount appropriated to the VA for the compensation and pensions account, an amount equal to the excess of the amount that would have been paid in pensions if this section had not been enacted over the amount actually paid, or, if the HEW estimate required under paragraph (1)(A) of this subsection is a lesser amount, an amount equal to the HEW estimate.

HEW would be required, in turn, to pay each State concerned an amount equal to HEW's estimate of such State's expenditures incurred by reason of the enactment of this section. To the extent that the VA payment is sufficient, HEW would be required to make use of it for such payments to the States concerned and would apply the remainder, if any, to HEW's own expenditures incurred—for Medicaid, SSI, and AFDC—by reason of the enactment of this section.

Paragraph (3) of subsection (c) would enable HEW and the VA to make necessary adjustments, beginning with 1980, for overestimates and under-estimates in any prior year for which such adjustments have not been previously made.

COST ESTIMATE

Mr. CRANSTON. Mr. President, the Congressional Budget Office estimates that the net impact on Federal expenditures resulting from my amendment would be, for fiscal year 1980, $9.5 million and, for the first 5 fiscal years, 1980 through 1984, $62.3 million. No increased costs to the States would result from our amendment. I ask unanimous consent that the CBO estimate be printed in the RECORD at this point.

There being no objection, the CBO estimate was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., October 12, 1979.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs,
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for a possible amendment to H.R. 3434 to continue medicaid eligibility for recipients of certain Veterans' Administration pensions.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: A possible amendment to H.R. 3434.

2. Bill title: An amendment to the Social Security Act to continue medicaid eligibility for recipients of certain Veterans' Administration pensions.

3. Bill status: To be offered as a floor amendment to H.R. 3434 by Senator Alan Cranston.

4. Bill purpose: The Veterans' and Survivors' Pension Improvement Act (P.L. 95-588) took effect on January 1, 1979. All persons receiving benefits on that date under the provisions of the old pension program were given the option of remaining on the old program or switching to the reformed pension, which has higher maximum benefits but allows fewer exclusions from income. Section 1602 of the Social Security Act, however, provides that entitlement to veterans' pension must be fully exploited as a requirement of eligibility for Supplemental Security Income (SSI) benefits. Most individuals who had been in receipt of both old VA pension and SSI benefits found that when they switched to the new VA pension program, their incomes were then too high for them to qualify for SSI. In some states, the loss of eligibility for SSI also means a loss of eligibility for medicaid benefits. This amendment would remove the SSI requirement that SSI/VA pension beneficiaries must switch to the new pension program, if such a switch would result in their loss of eligibility for medicaid. The amendment would also apply in a similar fashion to the Aid to Families with Dependent Children (AFDC) program.

The amendment also provides that the savings which would accrue to VA as a result of pensioners opting to remain under the old pension program in order to retain their medicaid eligibility would be transfered to HEW and distributed to the affected states to offset the SSI, AFDC and medicaid costs that the states would incur for these pensioners. Any transfered funds over and above the combined increases in state costs would be used to offset increased federal expenditures.

5. Cost estimate: The federal budgetary impact of this bill would fall in budget functions 550, 600 and 700.

[By fiscal years; in millions of dollars]

	1980	1981	1982	1983	1984
FUNCTION 550 EFFECTS					
Medicaid:					
Federal costs:					
Required budget authority	7.7	8.6	9.6	10.8	12.1
Estimated outlays	7.7	8.6	9.6	10.8	12.1
Reimbursable State costs:					
Estimated budget authority	4.8	5.4	6.1	6.8	7.6
Estimated outlays	4.8	5.4	6.1	6.8	7.6
Transfer from VA:					
Required budget authority	−5.9	−6.4	−7.0	−7.6	−8.3
Estimated outlays	−5.9	−6.4	−7.0	−7.6	−8.3
FUNCTION 600 EFFECTS					
SSI:					
Federal costs:					
Required budget authority	3.3	3.6	4.0	4.3	4.6
Estimated outlays	3.3	3.6	4.0	4.3	4.6
Reimbursable State costs:					
Estimated budget authority	4.0	4.4	4.8	5.2	5.6
Estimated outlays	4.0	4.4	4.8	5.2	5.6
AFDC:					
Federal costs:					
Required budget authority	(1)	(1)	(1)	(1)	(1)
Estimated outlays	(1)	(1)	(1)	(1)	(1)
Reimbursable State costs:					
Estimated budget authority	(1)	(1)	(1)	(1)	(1)
Estimated outlays	(1)	(1)	(1)	(1)	(1)
Transfer from VA:					
Required budget authority	−4.4	−4.8	−5.2	−5.5	−5.9
Estimated outlays	−4.4	−4.8	−5.2	−5.5	−5.9
FUNCTION 700 EFFECTS					
Compensation and pensions:					
Required budget authority	−10.3	−11.2	−12.2	−13.1	−14.2
Estimated outlays	−10.3	−11.2	−12.2	−13.1	−14.2
Transfer to HEW:					
Required budget authority	10.3	11.2	12.2	13.1	14.2
Estimated outlays	10 3	11.2	12.2	13.1	14.2
NET BUDGETARY IMPACT					
Federal:					
Required budget authority	9.5	10.8	12.3	14.0	15.7
Estimated outlays	9.5	10.8	12.3	14.0	15.7
State:					
Estimated budget authority	0	0	0	0	0
Estimated outlays	0	0	0	0	0

(1) Less than $500,000.

6. Basis for estimate: This amendment would only apply to persons in states that provide automatic medicaid eligibility for all SSI beneficiaries and that do not have a "medically needy" beneficiary classification in their medicaid program. There are 15 states that fall into this category. Even though all states have automatic medicaid eligibility for AFDC recipients, the number of AFDC/VA pension beneficiaries who would be affected by this provision should be extremely small for two reasons. First, the number of pension beneficiaries who also receive AFDC benefits is estimated to be quite small (not more than ten thousand). Second, it is assumed that most of the dependent children of these pensioners receive social security survivors' benefits, which would make these beneficiaries ineligible for the higher pension benefits under the reformed program. It was, therefore, assumed that the impact of this amendment on AFDC would not be significant.

According to a match-up of VA pension and SSI recipients in July 1979, there are 12,407 individuals in the affected states who were at that time receiving both VA pension and SSI benefits. Under current law, virtually all of these individuals would lose their eligibility for SSI and medicaid benefits. The base figure of 12,407 affected individuals was reduced to 11,000 to account for those veterans who will voluntarily give up their medicaid eligibility in favor of the higher pension benefits since pension veterans have access to free medical care in VA facilities.

Based on the VA pension-SSI match up, it was estimated that the 11,000 affected individuals were receiving, on the average, $644 a year in SSI benefits for which they would lose eligibility under current law. This figure would, therefore, be the average cost to SSI of the amendment. It was assumed that 45 percent of this cost would relate to the federal benefit and the remaining 55 percent to state supplemental benefits. The average cost was inflated in the out-years by the latest CBO projections of increases in the CPI as they relate to SSI indexing provisions.

An average federal medicaid cost of $696 a year was assumed based on medicaid program data adjusted to reflect the program provisions of the affected states and the characteristics of the affected population. An average state cost of $440 annually was estimated using the same process. These costs were inflated in the out-years consistent with the latest CBO projections of increases in medicaid costs.

An average VA pension savings of $850 a year was determined using a computer model which simulates the interaction between the old and new pension programs. This amount was inflated in the out-years by the latest CBO projections of CPI increases as they apply to the indexing provisions of the two pension programs.

The amendment provides that each year VA would estimate the amount of money which was saved as a result of pensioners opting for the lower pension benefit in order to retain their SSI and medicaid eligibilities. This amount of money would then be transfered to HEW. The Secretary of HEW would distribute the transfered funds first to the states affected by the amendment to cover the increased state costs that would result from enactment. Any remaining transfered funds would then be used to offset the increase in federal AFDC, SSI, and medicaid costs. It is estimated that the VA savings would be sufficient to cover the full amount of the increase in state costs through fiscal year 1984. It is also estimated that there should be some transfered funds remaining to offset a portion of the higher function 600 federal costs throughout the projection period. After 1984, however, the savings realized by VA may not continue to be as great as the increase in state costs, because medicaid costs are expected to grow at a faster rate than the gap between the old and new pension benefits.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: K. W. Shepherd (225-7766).

10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

CONCLUSION

Mr. CRANSTON. Mr. President, I would like to thank the distinguished floor manager, the Senator from Louisiana (Mr. LONG), for his courtesy and for his help and cooperation in developing this amendment. I would also like to express my gratitude to the distinguished chairman of the Finance Committee's Subcommittee on Health, the Senator from Georgia (Mr. TALMADGE), for his guidance and assistance, and to his staff member, Bobby Avary. In addition, the very capable staff of the Finance Committee—Michael Stern, Joe Humphreys, and John Kern—provided invaluable assistance, as did legislative counsels Doug Hester and Hugh Evans, for which I am very grateful.

Mr. President, I hope our amendment will be acceptable to the distinguished floor managers and other members of the Finance Committee, and I urge the adoption of this amendment.

Mr. LONG. Mr. President, the pending amendment appears reasonable. It would remove a statutory barrier and thus allow veterans to elect a lower pension benefit in order to retain their medicaid eligibility.

I am pleased that the Senator directed this matter to our attention, and I am happy to support the amendment.

Mr. CRANSTON. I thank the distinguished floor manager.

Mr. DOLE. Mr. President, I share the view just expressed by the distinguished chairman of the Finance Committee.

I have discussed this matter on the staff level with members of the majority and with the distinguished senior Senator from South Carolina (Mr. THURMOND) who, as is indicated, is one of the cosponsors of the legislation.

It seems to the Senator from Kansas that this is a good amendment.

BACKGROUND

In about 21 States—the "categorically eligible" States—medicaid is available only to SSI and AFDC recipients. In order to be eligible for AFDC and SSI an individual must have less than a specified level of income. In computing an applicants income, no deduction is permitted for high medical and attendant care costs.

By statute, AFDC and SSI require that as a condition of eligibility that recipients apply for any other Federal benefits to which they may be entitled.

Public Law 95-588 established, effective January 1, 1979, a new VA pension program under which higher VA pension benefits were made available to those pensioners most in need. Pensioners who were receiving a VA pension as of December 31, 1978, were permitted to continue receiving their then current pension or to elect the higher pension benefit under the new VA program.

Because of statutory requirements of the AFDC and SSI programs, VA pensioners on those programs were required by law to elect the new higher VA pensions. In some cases this forced election resulted in an increase in income that made them ineligible for SSI and AFDC. This in turn made these pensioners ineligible for medicaid in the 21 categorically eligible States.

This forced election has imposed a severe hardship on a number of veterans—and veterans' widows and families—with high medical costs, veterans in nursing homes, and veterans who live far from a VA hospital.

PROVISION

The proposed amendment would permit VA pensioners who are eligible for medicaid in the "categorically eligible" States in December 1978 to disaffirm any earlier election to receive higher VA benefits. These pensioners would be permitted 90 days to disaffirm their prior election after being fully advised on the advantages and disadvantages of being grandfathered under the old pension program.

For the purposes of making this decision to disaffirm, there will be a waiver of the statutory rule that SSI and AFDC recipients must elect the highest other Federal benefits available.

COST

CBO estimates the net cost of the amendment to be $9.5 million.

CONCLUSION

By instituting higher VA pension for needy veterans and widows, Congress surely never intended those pensioners to be worse off. Yet, unless the Cranston amendment is adopted, many such pensioners will be stripped of medicaid coverage as a result of this change.

The proposed corrective measure would have a very modest revenue cost and it would affect only a small closed group of VA pensioners.

Mr. President, I accept the amendment on behalf of the minority.

Mr. CRANSTON. Mr. President, I yield back the remainder of my time.

Mr. LONG. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 675

(Purpose: To hold harmless such funds as appropriated for fiscal year 1980 by State legislatures before Oct. 1, 1979)

Mr. TSONGAS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. TSONGAS), for himself, Mr. KENNEDY, Mr. GARN, Mr. MORGAN, Mr. THURMOND, Mr. RANDOLPH, Mr. HATCH, Mr. HOLLINGS, Mr. ROBERT C. BYRD, and Mr. HELMS, proposes an unprinted amendment numbered 675.

Mr. TSONGAS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 88, line 16, after "1979" change period to comma and insert: "or equal to (I) the amount which would be payable without regard to this clause with respect to expenditures pursuant to an appropriation made prior to October 1, 1979 by such State for fiscal year 1980, or, if less, (II) the amount determined under subclause (I) reduced to the extent necessary and on a proportional basis so as to assure that the aggregate of the additional amounts payable to all States as a result of such subclause (I) does not exceed $6,000,000."

Mr. TSONGAS. Mr. President, the committee has decided to take action on the training section of title 20, which I think is not without merit. The problem that arises is that a number of States are impacted by the decision to put a limit on the amount of reimbursement that accrues to the States relative to their expenditures. Many States have a July 1 fiscal year and plan their programs in accordance with what is now the law of the Federal Government.

Under the bill, that would change. Five of these States would be in a position to lose money, without having been given due notice. My amendment would simply provide that States that are in that position would be allowed to continue as if the law had not changed for this fiscal year.

The Finance Committee has amended my amendment to include a cap of $6 million, so that we have some notion as to what dollar figure we are talking about; and if, for any reason, it should exceed $6 million—I do not think it could—it would be allocated proportionately.

The States that are affected are West Virginia, Utah, North Carolina, South Carolina, and Massachusetts.

I hope this amendment is acceptable to the floor managers.

● Mr. MORGAN. Mr. President, I support the amendment by the Senator from Massachusetts.

I take a back seat to no Member of the Senate in my willingness to support controversial amendments which control Federal spending and make progress toward balancing the budget. In this regard, I fully support the action of the Finance Committee to place a ceiling on training programs funded through title XX of the Social Security Act. But, because of the delay in acting on this reauthorization bill, many States had to guess as to what the Congress would do and make commitments accordingly. Unfortunately, a few States, including North Carolina, made predictions that were not accurate. I do not think it is fair to penalize these States for delays in the Federal legislative process. The amendment by the Senator from Massachusetts would prevent an unfair penalty from being levied on these States, and I would hope that the managers of this bill can accept the amendment.

To date, the title XX training program has been an open-ended entitlement. States could support any amount of social services training they desired, and the Federal Government would pay the entire bill. It is clear now that making this training program an open-ended entitlement was a mistake. While some States, such as North Carolina, have used the money in a worthwhile and constructive fashion, others have greatly abused the program. We should not be terribly surprised that some abuses took place. Such a development is practically inevitable when those who run up the bills are not in any way responsible for paying them.

Because of this, the administration proposed that social services training should not exceed 3 percent of the funds made available for social services under title XX of the Social Security Act. In my view, the compromise agreed to by the Finance Committee is a reasonable one. In fact, my Governor has informed me that North Carolina can easily adjust, over the next year or two, to a 4-percent ceiling even though training expenditures are now running at about 6 percent of total title XX spending.

But the delay in enacting this bill has created a problem for the State government. My State government runs on a fiscal year beginning July 1, 3 months earlier than the Federal fiscal year begins. State spending plans had to be made and confirmed during the spring and early summer.

In addition, the training programs are run through colleges and universities. Their school year started a month or more ago. They had to know exactly what their sources of revenue were going to be by July, so they could hire faculty, plan classes, and so forth.

The House of Representatives did not pass H.R. 3434 until August 2. The Senate Finance Committee, and I understand they have had to deal with a large number of bills this year, did not approve H.R. 3434 until October 2, 2 days after all of title XX expired. And, it has been another 3½ weeks for the bill to get to the floor of the Senate.

But the North Carolina Department of Human Resources, and the University of North Carolina and Livingston College and the other schools who receive the training funds, could not wait. They put together their training programs, which are very good, and, it turns out they exceeded the limit that the Finance Committee agreed to by about $700,000.

I do not feel that North Carolina and the other four States in this situation should be held responsible for delays in the congressional reauthorization process, and so I support the amendment by the Senator from Massachusetts.

This problem does show the need for two things. First, the Congress should stop enacting open-end entitlements, and especially where the Federal Government is paying 100 percent of the costs. Giving the States such a blank check can only cause problems, and there are sure to be complications when the Congress tries to establish some reasonable controls. Second, it is imperative that authorization and appropriations bills get passed in a timely fashion. We simply cannot afford the disruptions and complications that always develop when timely action does not take place.

I urge my colleagues to support this amendment, and I thank the Senator from Massachusetts for offering it.●

Mr. LONG. Mr. President, the committee bill places a limitation on social services training in fiscal year 1980. The Senator's amendment would provide an exception to this ceiling where a State legislature has already appropriated funds for social services training. The cost of the amendment is explicitly limited to $6 million.

The amendment appears reasonable in light of the actions which State legislatures have already taken.

Mr. President, I am pleased to accept the amendment, if the Senate sees fit to go along with it, and to discuss it with the House in conference.

Mr. DOLE. Mr. President, I share the views expressed by the chairman, and we are prepared to accept the amendment.

Mr. LONG. Mr. President, I yield back the remainder of my time.

Mr. TSONGAS. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment (UP No. 675) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TSONGAS. Mr. President, I had another amendment that would involve the question of a change in definition under AFDC, as to parent or unemployed father or major breadwinner, which is the more technical term in the legislation. I will not offer that amendment.

The committee has indicated that the issue is too substantive and that there have not been proper hearings, and I will not proceed with it.

I would appreciate the committee's looking into that issue, and I understand that will be the case.

Mr. MOYNIHAN. Mr. President, as the chairman of the Subcommittee on Public Assistance of the Committee on Finance, I assure the Senator that we welcome his thoughts and will be happy to hear from him and other persons in the course of hearings which will be held this coming winter on the general subject of the AFDC program and welfare programs generally.

Mr. TSONGAS. I appreciate the Senator's comments. This matter is particularly of interest in Massachusetts, where the entire problem is under review.

UP AMENDMENT NO. 676

(Purpose: To allow Federal financial participation for an AFDC child in foster care after a judicial determination that a voluntary removal from the home was necessary for the welfare of the child)

Mr. MOYNIHAN. Mr. President, I have an amendment at the desk, which I call up.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN), for himself and Mr. JAVITS, proposes an unprinted amendment numbered 676.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 58, between lines 10 and 11, insert the following:

"For purposes of this section, a child who was voluntarily removed from the home of a relative and who had a judicial determination prior to October 1, 1978, to the effect that continuation therein should be contrary to the welfare of such child, shall be deemed to have been so removed as a result of such judicial determination if, and from the date that, a case plan and a review meeting the requirements of paragraph (5) of this subsection have been made with respect to such child and such child is determined to be in need of foster care as a result of such review. In the case of any such child described in the preceding sentence, for purposes of paragraph (4), the date of the voluntary removal shall be deemed to be the date on which court proceedings are initiated which led to such removal."

On page 72, between lines 10 and 11, insert the following:

(C) Section 408 of such Act is amended, effective on and after the date of the enactment of this Act (but subject to the repeal provided under subparagraphs (A) and (B)) by adding at the end thereof the following sentences:

"For purposes of this section, a child who was voluntarily removed from the home of a relative prior to October 1, 1979, shall be deemed to have been so removed as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child, if, and from the date that, a judicial determination was made prior to October 1, 1978, to the effect that continuation therein would have been contrary to the welfare of such child. In the case of any such child described in the preceding sentence, for purposes of subsection (a) (4), the date of the voluntary removal shall be deemed to be the date on which court proceedings are initiated which led to such removal.".

(D) Notwithstanding any other provision of law, Federal financial participation in aid to families with dependent children under a State plan approved under section 402 of the Social Security Act for quarters beginning prior to October 1, 1979, shall not be denied with respect to aid furnished to or on behalf of a child in foster care, by reason of the fact that such child was voluntarily removed from the home of a relative, rather than removed from such home as the result of a judicial determination as described in section 408 (a) (1) of such Act, if, and from the date that, a judicial determination was made prior to October 1, 1978, to the effect that continuation in such home would have been contrary to the welfare of such child. For purposes of section 408 (a) (4) of such Act, the date of the voluntary removal shall be deemed to be the date on which court proceedings were initiated which led to such removal.

Mr. MOYNIHAN. Mr. President, we are today beginning a major Federal initiative in the area of adoption services and a major reform of our foster care and child welfare programs.

As mentioned earlier, the Federal Government is now catching up with the previous actions of 47 States which, in one form or another, have done this on their own. Among the first States to have done this was my own State of New York, which began adoption subsidies in 1968. They were then financed solely out of State and local funds.

This is but one of the numerous programs that New York undertook on its own with respect to the welfare of needy children, and which it paid for on its own. Many of those programs are echoed in the legislation now before the Senate, which would in effect involve the Federal Government in the support of such activities.

At the same time, New York continued to run its AFDC foster care program, a large and rather expensive program, which was supported half with State and local funds and half with funds obtained from Federal reimbursement of eligible children.

Recently, in reviewing some of these reimbursements, the Department of HEW held that these Federal foster care payments could only be made after a court decision had placed children into foster care, and that claims might not be valid even after such court decisions were rendered if the children involved had been initially placed in foster care without a court order.

What our amendment does is to say that these payments would be permissible, inasmuch as the State of New York, in perfectly good faith, assumed the claims it filed were legal. We concede that there may be some question that before the courts acted, there may not have been any Federal responsibility for joint payments. But after the required court action was obtained, the State's claims should be valid.

So what this amendment—which Senator JAVITS and I submit—does is to say that any disputed moneys which involve payments after a court has acted are deemed to have been regular payments, eligible for Federal reimbursement.

I stress that without my knowing this to be the case, similar situations may face many other States. This turned up in an audit. It is a technical thing. These payments were made in good faith with respect to the wholly commendable programs which the Government encouraged then and encourages now. We wish thereby to clear the matter up with respect to cases where there is no question the court had approved the child's foster care status and the payments were made accordingly.

To our knowledge this applies to New York. It could also apply to many other places. Our amendment would put the matter to rest.

I add that there is no cost whatever involved to the Federal Government here in the sense that all the moneys have been expended and absent this provision, this amendment Senator JAVITS and I introduced, we can look forward to 15 years of lawsuits which have a way of catching up in legal fees with the total costs originally involved. It seems to us the issue is properly put behind us and we would be grateful to the committee if it would accept the amendment.

Mr. JAVITS. Mr. President, I join in the amendment offered by my colleague, respecting the time for filing claims by States.

Our amendment would clarify section 408 of the Social Security Act by providing that once a court has ratified the appropriateness of the placement of an AFDC child in foster care, payments for that child's care would be eligible for Federal reimbursement. Such reimbursement would be on the same terms as those for children removed from their homes as a result of a judicial determination at the time of placement.

This amendment would resolve a dispute between the State of New York and HEW. Prior to September 1, 1973, children in New York could be placed in foster care voluntarily, such as when a parent was going into the hospital and no one was available to take care of the child, or when the parent was fearful that he or she might abuse the child. In such voluntary placements, New York law provided for a court review after 18 months. The court would look at the appropriateness of the placement as well as the desirability of continuation of the child in foster care.

This requirement of court review insured that voluntarily placed children would not be "lost" in the system—but HEW asserts that it does not meet the requirements of section 408 and has initiated disallowance proceedings for payments made to New York on behalf of AFDC foster care children for which a court review was not made at time of placement.

I believe approval of this amendment is consistent with the original congressional intent—to require court approval of foster care placements in order to insure appropriate placement. Adoption of this amendment today will continue this policy by permitting reimbursement once such a court determination is made.

The amendment will have no adverse impact on the budget, for reimbursement has already been made, and any New York children continuing in care are already accounted for in the budget estimates for future years.

I urge my colleagues, the majority and minority managers of this bill, to accept our amendment.

Mr. LONG. Mr. President, the Senator has offered an amendment which undoubtedly contains merit. It does involve a very substantial amount of money. As the Senator has stated it does not have a budget impact because what is in contest here is a matter, I believe, of certain people on the Federal side of the table contending that money had been paid to New York which New York should be required to pay.

Mr. MOYNIHAN. That is right.

Mr. LONG. I think that is how it is.

So if those who would contend that the Federal Government is entitled to money from the State of New York should prevail, it could involve a large amount of money, perhaps as much as $250 million.

This type of thing, of course, as the Senator has indicated, tends to drag out in dispute and litigation and eventually somewhere down the line either the Government decides to waive or the matter is eventually settled by litigation as the Senator has suggested.

As far as the Senator from Louisiana is concerned he does not oppose the amendment. If it would be the will of the Senate to accept the amendment, he would support the Senate view.

I do think that it would be appropriate that there should not be a motion to reconsider made at this time if the amendment should be agreed to because some Senator who is reading the RECORD might see that this involves a large amount of money and want to look into it and might want to discuss it or even contest the matter, and under those circumstances I think it would be appropriate if the Senate should agree to the amendment that there would not be a motion to reconsider and lay on the table, as we oftentimes do, but the matter should be one that could be subject to a motion to reconsider if Senators, after all Senators have had an opportunity to read the RECORD, should feel that they wanted to vote against the amendment.

I personally do not intend to oppose it and if the Senate saw fit to agree to it I would agree to discuss it with the House of Representatives in conference.

Does the Senator from Kansas care to discuss the amendment?

Mr. DOLE. Mr. President, I might say I discussed this amendment with the senior Senator from New York (Mr. JAVITS) before he was required to leave and with Senator MOYNIHAN, and it is not my intention to oppose the amendment.

I think the Senator from Louisiana makes a good suggestion. I think we have had at least one inquiry because—I am not certain of the exact amount—I believe it has been estimated that $250 million might be involved. Perhaps we could accept it on the basis that we provide someone an opportunity on Monday if he desires to move to have it reconsidered. But it does settle a legal dispute between New York State and HEW concerning Federal foster care as the distinguished junior Senator from New York pointed out.

It is a large amount of money, but it does not have any budget impact. So I think from that standpoint we are not in any difficulty with those on the Budget Committee. In fact, Senator MOYNIHAN is on the Budget Committee.

The State of New York apparently was not aware of HEW's position on matching for foster care payments for children placed in foster care voluntarily but later reviewed by the courts.

The committee has decided that foster care should be supported with Federal dollars only in cases where the decision to place the child was made by the courts. It is conceivable this requirement is covered by the 18-month judicial review.

Mr. President, I join with the chairman that we leave it open in case someone wishes to raise a question on Monday.

Mr. MOYNIHAN. Mr. President, I express my deep appreciation to the chairman and to the Senator from Kansas for their courtesy in this matter.

To be precise, it appears that up to $200 million in claims could be involved because the State does not dispute the payments made before there was a court action to place the child in the foster care home. I regret that we have to bring this matter before the Senate. I do note that it comes from having been somewhat in the vanguard of social programs, and I add that there may well be many other States that are in the same place.

I accept the Senator's suggestion that we not close the matter at this point, and I will be in the Chamber and so will Senator JAVITS on Monday to discuss it should anyone wish to do so then.

I thank both Senators for their kindness.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. LONG. Mr. President, unless there is request for time, I yield back my time on this amendment.

Mr. DOLE. Mr. President, does the Senator from Kansas have time?

The PRESIDING OFFICER. Yes, he does have time.

Mr. DOLE. I assume on Monday in the event that someone did wish to further debate the matter that would be possible under this arrangement. I wonder if we yield back all of our time if that would be possible?

The PRESIDING OFFICER. Do Senators wish to yield it back for the purpose of going to a vote now but retain it for a motion for reconsideration?

Mr. LONG. Under the parliamentary situation, Mr. President, I would ask whether the matter would be subject to further debate in the event that a motion to reconsider is made on Monday?

The PRESIDING OFFICER. The agreement we are operating under provides for 20 minutes debate on debatable motions so there would be a 20-minute time period on the motion to reconsider.

Mr. LONG. It seems to me, Mr. President, that this would allow anyone wishing to move to reconsider adequate opportunity to explain why he thought it should be reconsidered.

Mr. DOLE. Mr. President, I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

(Putting the question.)

The ayes appear to have it. The have it.

The amendment was agreed to.

UP AMENDMENT NO. 677

(Purpose: Relating to disregard of income under AFDC programs)

Mr. LONG. Mr. President, I send to the desk a technical amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an unprinted amendment numbered 677.

Mr. LONG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The amendment is as follows:

On page 99, line 18, insert "(A)" immediately before "in".

On page 99, line 19, immediately after "only" insert "or (B) in the case of earned income derived from participation in a project maintained under the programs established by section 432(b)(2)(3)".

Mr. LONG. Mr. President, the committee bill changed the earned income disregard provisions as they affect welfare recipients. In the drafting, however, the bill inadvertently changed the treatment of work expenses for persons in work incentive program public service employment and work experience projects. These persons are not eligible for the earned income disregard either under present law or under the committee bill.

The amendment would correct the drafting error by allowing persons in these programs to deduct work expenses as under present law.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. LONG. Mr. President, I yield back the remainder of my time.

Mr. DOLE. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment was agreed to.

Mr. CRANSTON. Mr. President, will the distinguished floor manager yield me 4 minutes on the bill?

Mr. LONG. Yes.

Mr. CRANSTON. Mr. President, the legislation that is before us today contains many key provisions that have developed from years of work by my Human Resources Subcommittee on Child and Human Development.

I will make a longer statement on the bill at the end of the debate. Let me now make a brief statement about my personal interest in this legislation.

Provisions of this bill which I authored are intended to bring about a major reform of the present system of Government-financed custodial care of American children.

Foster care in this country is a system which holds the lives of a half million American children in limbo.

Foster care has become a bureaucratic nightmare—a perversion of good intentions. It exists basically to provide emergency or short-term shelter for children whose parents cannot—or will not—care for them. It is supposed to be a temporary condition.

Mr. President, let me say, however, that there are hundreds of thousands of foster parents who provide loving care to abused and neglected children. And, there are many foster care institutions that provide similarly important and necessary and sensitive care for foster children.

But, too often—as my subcommittee has learned through a series of hearings—too often, foster care is a trapdoor to a whole world of horrors like those found in the pages of the novels of Charles Dickens.

My subcommittee, over a period of many months, has heard compelling testimony from parents, child care professionals, and Government officials. The thrust of this testimony has been that Government is often a poor parent.

As chairman of the subcommittee, it was my difficult and unpleasant task to hear witnesses tell of instances in which children were beaten, starved, and sexually abused in institutions supported in large part by State and Federal payments.

I learned that 12 children in my own State of California were placed with families associated with Jim Jones' Peoples' Temple. Those children now are counted among the dead in the horrible mass suicide in Guyana.

Our hearings demonstrated clearly that once a child is separated from his or her permanent family, the world may, indeed, become a very dangerous place.

The corrective legislation that came out of our hearings is before us today, embodied in the provision of H.R. 3434 as reported.

In brief, these provisions would do the following:

First. The bill would place a cap on what is presently open-ended funding for the program of foster care maintenance;

Second. It would create a new adoption assistance program to help move children out of long-term foster care and into stable, adoptive families. This would be encouraged by continuing medicaid eligibility and providing cash assistance to families that adopt certain handicapped or disturbed or other hard-to-place children; and

Third. The bill would create a subcategory of title IV–B of the Social Security Act. This would limit new Federal expenditures under IV–B from being used by States on more foster care maintenance. It would direct the money, instead, to family services to keep children from drifting into the foster care system. And it would provide for better followup and monitoring of placements to avoid the kind of tragedy I mentioned with regard to the Guyana mass suicide.

Mr. President, I want to express my thanks to Senators LONG and MOYNIHAN and the staff of the Committee on Finance for their excellent work on this very complicated measure.

I thank them for the extraordinary cooperation that has transpired over the last 2 years on the bill as finally reported. There have been many hours of meetings with myself, with my staff, and with the administration, and the cooperation has been magnificent from so many people involved in this on the Committee on Finance, and I am exceedingly grateful for that.

Mr. LONG. I thank the Senator.

The PRESIDING OFFICER (Mr. TSONGAS). Who yields time?

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Louisiana yield to the Senator from Michigan? Does the Senator from Michigan have an amendment?

Mr. LONG. I yield the floor, Mr. President.

AMENDMENT NO. 553

(Purpose: To provide adoption eligibility for supplemental security income recipients, to delete the means test for adoption assistance, and to provide full medicaid coverage for adopted children with special needs up to age eighteen)

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I thank my friend from Louisiana.

Mr. President, I call up amendment 553 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN), for himself, Mr. DECONCINI, Mr. RIEGLE, and Mr. HATFIELD proposes a printed amendment numbered 553.

Mr. LEVIN. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 60, lines 11 and 12, strike out "who are eligible for such payments pursuant to paragraph (2) of this subsection and".

On page 60, line 14, insert "(i)" after "(A)".

On page 60, line 20, insert "or" after the comma.

On page 60, between lines 20 and 21, insert the following:

"(ii) meets the requirements of section 1611(a)(1) of this Act with respect to eligibility for supplemental security income benefits,".

On page 61, line 8, strike out "and" and insert "or".

On page 61, between lines 8 and 9, insert the following:

"(iii) is a child described in subparagraph (A)(ii), and".

Beginning on page 61, line 12, strike out all through page 62, line 2.

On page 62, line 3, strike out "(3)" and insert "(2)".

Beginning on page 62, line 17, strike out all through "(B) no payment" on page 63, line 1, and insert in lieu thereof the following:

"(3) Notwithstanding the preceding paragraph, (A) no payment".

On page 63, line 3, strike out "(C)" and insert "(B)".

On page 63, line 14, strike out "(5)" and insert "(4)".

On page 64, lines 3 and 4, strike out ", with respect to any medical condition which was in existence at the time the child was adopted,".

On page 64, lines 6 through 8, strike out "However, a State may provide to such a child full eligibility for medical assistance under the State's plan approved under title XIX.".

Mr. LEVIN. Mr. President, the adoption subsidy provision of H.R. 3434, as reported by the Finance Committee, contains an eligibility "means test" for adoptive parents, of special needs children, equal to 125 percent of the State's median income for a family of four, adjusted for family size. It also assures medicaid coverage only for preexisting disabilities, and does not provide for the 5,000 children who are eligible for SSI because they are physically and/or mentally handicapped. Many of these children are currently covered by State-adoption subsidy programs.

My amendment is intended to increase the number of special needs children adopted without any additional cost to the Treasury. Special needs children are mentally and physically handicapped children, minority children, older children, or sibling groups.

I am pleased to have as cosponsors on this amendment Senators DECONCINI, RIEGLE, and HATFIELD, and I ask unanimous consent at this time, Mr. President, to add Senator CHAFEE as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. The amendment will increase adoptions of special needs children in these ways: First, deleting the mandatory means test for adopting parents; second, providing for full medicaid coverage for children who are receiving adoption assistance; and third, including in the program SSI eligible children who have been determined by the State to have special needs.

The amendment would not have any cost impact upon the budget because the Federal Government is currently spending at least as much money to maintain these same children in foster care arrangements.

Mr. President, the intent of the adoption assistance provision contained in the Finance Committee bill is to stimulate the permanent placement of children that are at a disadvantage because they bear a condition which often discourages their adoption. But, the bill is flawed in imposing a means test for that assistance. Families will be subjected to the means test periodically until their child reaches the age of 18. The prospect of a periodic means test, and of repeated financial disclosures, will deter families from adopting children by raising the specter of a cutoff in financial support if a certain income level is reached and will deter adoption by forcing repeated disclosure of financial condition.

The means test will also place administrative burdens on the State with a very small yield financially because experience indicates few potential adopting parents have incomes above the recommended cutoff.

There are many parents who are willing to meet the primary requirements of the disadvantaged child—a permanent family and home. But, they cannot always assume the high costs associated with proper care of a special needs child. I emphasize—this bill in dealing with special need children.

Various States which have designed and implemented adoption support programs, without the use of a means test, have found substantial cost savings over simply maintaining the child in foster care. Adoption drastically reduces the administrative costs factor which, in the case of foster care, can be as high as 50 to 60 percent of the costs of keeping a child in placement. With adoption, such costly factors as periodic review, updating of case plans, service worker visitation and the related paperwork are virtually eliminated. At the present time, the Federal Government is paying, through title XX, 75 percent of the service and administrative costs for the many thousands of children in substitute care. It is clear that adoption, even with subsidy, costs less than maintaining that same child in a foster home or institution.

A recent survey of the implementation of State subsidy programs reported the significant cost effectiveness of subsidies. According to the Urban Institute, the computed savings ranged from 10.7 percent to well over 60 percent per year, and led to an average annual savings of 36.9 percent based on 13 of the 27 reporting States.

The means test requirement would prohibit the payment of any adoption subsidy to families which have incomes above 125 percent of the State's median income. It also allows each State to waive this prohibition in 10 percent of the cases. Let us look at the real impact of this means test as it is drafted and consider it on its merits.

First, the adoption assistance measure is intentionally designed to give States flexibility. While they can provide a subsidy which is no more than the AFDC foster home payment, the State agency, working with the prospective adopting parents, can agree on any level of subsidy payment up to the maximum. In reaching that agreement, the needs of the child and of the prospective parents can be weighed on a case-by-case basis. Because we are dealing with children who have special needs and whose needs vary widely, it is to my mind unwise and unnecessary to impose a means test that has the potential of tying the hands of the States. I do not believe that we, in Washington, D.C., should attempt to impose our judgment on State agencies which will have the opportunity to review each case individually and which share equally our interest in using tax dollars wisely since their tax dollars are equally involved.

Currently, State agencies generally consider each case on an individual basis and most establish a rate taking into consideration the child's needs and adoptive parents' ability to meet those needs. As a result, most maintenance payments are established below the State's foster family home care rates.

Mr. President, some will argue that the 10 percent waiver provides the States with the flexibility that I believe to be so essential. Quite the opposite is true. The 10 percent waiver makes the means test meaningless in terms of its purported purpose. In testimony before the Subcommittee on Public Assistance and in studies of currently operating State adoption subsidy programs, it has become clear that at least 80 to 90 percent of the families who receive an adoption subsidy payment are below the 125 percent cutoff contained in the bill. These findings are confirmed by several sources.

First. An October 15 Congressional Budget Office analysis revealed that, and I quote:

> Many of the 47 states with adoption subsidies do not have means test and do not compile data on income. A 1977 study, however, of adoption subsidy families in Illinois, a state with no income eligibility requirements found that the family median income of adoption subsidy families was well below the income requirement for Title XX services. (The income test for Title XX ranges from 80–115 percent of family median income in each state, adjusted for family size). The average income of the adoptive families in 1976 was $11,858. The typical Illinois adoptive parents were white, low-income and middle-aged individuals with several children of their own who were adopting children that had been in foster care for several years.

Second. A study conducted by the Commonwealth of Virginia Department of Welfare on subsidized adoption found that:

> Very few wealthy people are interested in adopting children with special needs—most of the families who want to help these children are lower, middle-income people.

Third. According to the North American Council on Adoptable Children, Inc.:

> Ninety percent of subsidized adoptions are by foster parents. Foster parents' incomes tend to be lower than many other categories of adoptive parents.

If 80 or 90 percent already fall below the means test level and the bill provides for a 10-percent waiver of those above the means test income level we are left with a requirement which may in reality screen out none. What is left is its negative aspects—discouraging families from ever seeking to adopt children.

This bill deals with special needs children. Families who adopt such children face real financial burdens. Many families of four above the median level indicated in the bill legitimately need some financial help with such adoptions.

Beyond that, the hassle resulting from forcing parents to open their income records to program administrators will deter parents from adopting even if they are likely to pass the means test.

Beyond that, the hassle resulting from parents to open their financial records over and over and over again, as long as the child is a minor so that administrators can comply with the bill's provision that no payment be made if parents earn more than the cutoff level will also deter adoptions.

And beyond that, the bill will require additional administrative machinery and the costs attendant with no resulting financial yield to the State or Federal Treasuries, both because of the 10-percent waiver which is allowed by the bill and, more important, because the adoptions which will not take place as a result of the imposition of the means test will result in more children staying in institutions and foster care homes at much greater cost to the State and Federal Treasuries. The taxpayers gain nothing while children lose an adopted home and the special love that goes with it.

Let me be more specific.

Beyond the human cost of leaving a child in a foster care institution or having him or her move from one foster family to another, there is a very real budgetary cost. For each child in a foster care institution who is not adopted, we must pay an additional $5,376 per year over the maximum adoption subsidy payment. Ten children not adopted from institutions means an added cost of $53,000; 100 children not adopted from institutions means an added cost of over one-half million dollars.

Further, the savings which the proponents of the means test claim may prove to be illusory at best. The program, without the means test, has the ability to adjust the subsidy and the economic circumstances of the family payment to reflect the true needs of the child, in all cases.

Also, requiring that States give prospective adopting parents a means test will add to the administrative costs of the program. For instance, the Michigan Federation of Private Child and Family Agencies has indicated that an eligibility determination process such as the one set fourth in the bill, would not only place administrative burdens on agencies but would also increase administrative cost of the program.

In fact, the CBO analysis determined that:

> Costs would be incurred, . . . as states require local adoption agencies to obtain extensive information on the income of prospective adoption families, and collect that information at the State level.

Very simply, the imposition of the means test could result in money being wasted and children suffering needlessly.

Thus, while the means test in the bill will likely be totally ineffective to prevent certain income-level families from receiving a subsidy; it will certainly have the serious negative effect of deterring some families from adopting at all. Even if a subsidy were paid to a family above the prescribed means test, it is hard to see what damage has been done: The child has been placed in a suitable adoptive home, the expense to the Government, both Federal and State, is less than were the child to remain in foster care; it is highly unlikely that the adopting family will profit at all from the subsidy which all experts recognize covers only a portion of the true costs of raising a child and the families means can be considered on a case-by-case basis in any event. It makes sense to ask the question in reverse: Who benefits by prohibiting parents with incomes above the prescribed limit from adopting a child who otherwise will remain in long-term foster care at considerably higher cost?

Mr. President, the question has been raised—why give a subsidy to those relatively few parents who may not need it? This amendment will not produce that result for a number of reasons. First, there are families above the cutoff level with unusual medical or educational expenses who may very well need the financial assistance. Second, my amendment would allow local flexibility to consider financial ability in setting the amount of the adoption subsidy providing, of course, it is no more than the amount of money which the State and Federal Government already pay for foster care.

We are dealing with special needs children with uncertain futures and that makes an absolute precise test impossible to devise which will be fair in all situations. But, even if we ignore that and could devise a system that would really filter out those few individual parents who do not need the subsidy, the process of identification will reduce the number of adoptions. By forcing parents to repeatedly open books we will deter adoptions with resulting extra costs needed to keep those same children in foster homes or institutions. And the process of screening will result in administrative costs to operate the means tests with no financial yield since 80 percent or more of the parents will qualify and 10 percent above the means test can be waived under the terms of the bill in any event. Imposing the means test in this bill is thus a fruitless effort, with no yield to the taxpayers and needless grief and loneliness for children. The very purpose of a means test is to screen out. That is not the purpose of this bill—we are trying to encourage and promote adoption. This bill is aimed at opening doors for children, not closing doors upon them.

Another portion of my amendment relates to medicaid coverage. The continuation of full medicaid coverage for special medical needs of hard-to-place children is of great importance. To limit medicaid coverage to preexisting conditions would reduce the number of adoptions. It is important to note that there are numerous families who do not qualify for medicaid, who want to adopt children in the special needs category, but who do not have the financial resources to cover the expenses of necessary medical care. The fear that the child might develop other medical conditions after adoption which are not covered by medicaid, would discourage some potential adopting parents. Again, it is special needs children we are talking about.

The sentiments expressed in a letter I

recently received from an adoptive parent of special needs children presents dramatic proof that middle income families who are willing to take on the responsibility of caring for such children should be provided with the medicaid assistance needed to help make the adoption a success. I want to read this letter because of its eloquent testimony.

It is from Ms. Laurie Flynn, Annandale, Va. It reads as follows:

Hon. CARL LEVIN,
U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR LEVIN: We are a middle-class middle-income family with a special interest in children. My husband and I are parents of twelve children, seven of whom are adopted. Although each of our adopted children are considered to have special needs, we have never been offered nor received a subsidy. None of our children has received financial assistance under Medicaid.

Because our children didn't present specific health problems at the time of placement, they cannot be said to have pre-existing conditions. Yet, two sons were born to mentally retarded parents who are institutionalized. Their future development was quite uncertain as both were under one year of age when placed. Both have evidenced continuing special problems. One has a speech difficulty and learning disabilities requiring therapy. The other son has been diagnosed as developmentally delayed and hyperactive. The entire expense of testing and treating our two sons has been a big part of our family budget.

Five years ago we adopted two teenagers who had spent six years in foster care. These children had experienced severe abuse and neglect and the transition to family life wasn't an easy one. Our son in particular required intensive counselling and psychiatric treatment. He was hospitalized for testing twice. For nearly a year my husband and I made twice monthly visits with our troubled son to a family therapist. The cost of transportation, time off from work and babysitting for our other children were added to the $40.00 per hour charge for the professional services. The total cost to our family ran to nearly $3,000.00 to care for our son's severe emotional problems. Yet, we have never received any kind of financial help. We quite literally spent our summer vacation money for two years to provide the treatment required.

We are not alone in this predicament. Many concerned middle income families who adopt find themselves "too rich" to qualify for adoption subsidy for their special child, but "too poor" to provide the special services their children frequently need to make the adoption successful. Yet, had these same children remained in foster care, they would have received all the necessary services through Medicaid. This makes no sense at all and acts as a serious barrier to adoption of waiting children.

Today, everyone is aware of how expensive it is to raise children. The costs of clothing, food, furniture and other essentials have risen dramatically. Yet many caring families are still willing to assume the extra expense of adding a special needs child through adoption. They need encouragement and support, not financial penalties. We should provide them and the children to whom they offer a loving family all the assistance that is available to children in foster care and institutions. It costs nothing to make the opportunity for adoption meaningful to thousands of children who wait.

Sincerely,

LAURIE FLYNN.

Mrs. Flynn and her family are indeed unusual. They are willing to bear the extraordinary financial burdens described.

Must we force all potential adopting families to make that sacrifice? How many families cannot—families who would otherwise provide fine adopting homes? Three percent? Five percent? Ten percent?

The real children who are available for adoption and who are reflected by these percentages will continue to be placed in revolving door institutions and foster homes.

There are approximately 10,000 "special needs" children who will be affected by the adoption subsidy provision. The national average cost of maintaining a child in a foster care institution is $7,212 per year. The national average AFDC foster care payment for children placed with families is $1,536 per year. The average medicaid cost per child per year is $240 nationwide. The bill, without my amendment, provides for coverage of preexisting conditions which I estimate will cost between 15 to 25 percent of the $240 or $40 per year. Administrative cost for children placed in foster family homes is estimated at 10 percent of the grant level or $154 per year.

Lack of comprehensive data from all states precludes an exact assessment of the percentage of special needs children who are in foster parent homes as opposed to institutional care. However, experts in the field agree that a safe assumption would be that 70 percent are in institutions and 30 percent are with foster families. Putting all that data together, what is the result?

Let us assume that only 2 percent of children in institutional care and 6 percent of children with foster families do not get adopted because of the lack of full medicaid coverage.

The extra gross cost of full medicaid is estimated at $2 million, but the savings not realized because the assumed percentage of children were not adopted is calculated to be $9,000 for foster parents homes and $2,258,000 for institutional care. The net savings lost without my amendment would be $2,267,000 or $267,000 greater than the total cost of my amendment. If my amendment is conservative, which I think it is, we are losing even more money by not providing full medicaid.

At this point, Mr. President, I ask unanimous consent that a chart prepared by my office be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SAVINGS FROM THE LEVIN MEDICAID AMENDMENT TO H.R. 3434

[Dollar amounts in millions per year]

Medicaid cost added by amendment [1]	Percent of children not adopted (without amendment) from:[2]		Total children not adopted	Savings foregone because of children not adopted from:		Net savings without amendment
	Foster homes	Institutional care		Foster homes [3]	Institutional care [4]	
$2	2	.6	480	$0.009	$2.258	$0.267
2	3	9	710	.015	3.387	1.402
2	5	15	1,200	.024	5.645	3.669
2	8	25	1,990	.038	9.408	7.446
2	10	30	2,400	.048	11.290	9.338

[1] The bill, without the Levin amendment, provides medicaid coverage for preexisting conditions. The average cost of full medicaid coverage nationwide is $240 per child per year. The Levin amendment will add approximately $200 per child per year to the cost of subsidized adoptions over the cost of the current provisions of the bill.

[2] There are an estimated 10,000 special needs children who will be covered by the adoption subsidy provision of H.R. 3434. Experts in the field of adoption for hard-to-place children estimate that 30 percent of those children are currently with foster care families. The remaining 70 percent are in institutional foster care. Unfortunately, there no firm data base and these estimates are based on the experience of the experts in the field. It has been further estimated that for every 1 special needs child currently placed with a foster family who is not placed in an adoptive home there will be 3 special needs children currently in institutional care not placed in adoptive homes. The experience with state adoption subsidy programs confirms this minimum estimate.

[3] The average AFDC foster care payment nationwide is $1,536 per child per year. The administrative cost of maintaining a child with a foster family is estimated at 10 percent of the grant level or $154 per year.

[4] The national average cost of maintaining a child in institutional foster care is $7,212 per year. The minimum savings realized by having a child in institutional foster care adopted even with the maximum subsidy is $5,376 per year.

Mr. LEVIN. Mr. President, my amendment also provides for the inclusion of the 5,000 disabled SSI children, who are now covered under most State adoption programs, under the Federal adoption assistance program. These children have been separated from their real parents and placed in some form of living arrangement for one of the following reasons: Parents emotionally incapable of caring for (49 percent); parent did not want the child (17 percent); parent ill or disabled (11 percent) and other reasons (12 percent).

We are in a position to help thousands of needy children find permanent homes, and save money in the process. Such a legislative opportunity is rare. We should seize it by adopting this amendment.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, the Senator is to be commended for his interest in children and his desire to help less fortunate people. I applaud him in that respect. On the other hand, Mr. President, the public is properly concerned about the fact that we spend a great deal more in our social welfare programs than can be justified. To take one simple example, in the Finance Committee at this moment we are talking about some amendments to the unemployment insurance program to remove from that program matters that the taxpayers properly consider to be a ripoff, where hundreds of millions of dollars could be saved annually, areas where people think we must have been out of our mind to have provided the benefits in the first instance.

For example, when a person retires from a plant, having earned a very fine retirement for the rest of his life, enough to provide adequately for his needs, we found that in some States those people are able to claim unemployment insurance and, by adding the unemployment insurance to what they are making, they can make more money in retirement than what they made when they were working. It was never intended that the unemployment insurance program be used as a supplement to a very generous retirement program, but it is working out that way.

It is very difficult, when we find we have spent a great deal more than we think a program should cost or been much more generous with the taxpayers' money than the taxpayer can afford, to get the genie back inside the bottle.

When we voted for the medicaid program, we were led to believe that that program would cost us $200 million. Within a few years, it was costing us $3 billion, or 15 times the estimate. Presently, that program is costing, in Federal funds alone, $13 billion, which is about 65 times—65 times—what the estimate was. That was an open ended, Federal matching program.

When we first agreed to the social services program, that was estimated to cost us $40 million a year of additional Federal spending. We finally managed to get a lid on that program at a time when it looked like it was about to break the $4 billion barrier. So the cost looked like it was about to go beyond the 100-to-1 ratio at the time that we managed to get a lid on the program. It is difficult to get these spending programs under control when they are too generous.

When we voted the program for total and permanent disability, we had a very strict definition of total and permanent disability. We had estimates of the way this matter would be administered that indicated that the cost would be kept to a modest figure. The cost has greatly exceeded that estimate. It is very difficult to pass something to limit that program to what the sponsors of the program had in mind when we initially put it into law.

So, here we have another open-ended program. We, the Federal Government, will put up funds, the States will match, and we have high hopes for this program. But, Mr. President, if this program greatly exceeds the estimate, people will ask, well, why did you want to pay this money out to people making $200,000 a year, who would have adopted a child anyway and could have been persuaded to adopt that same child? By making the money available in situations where it is not really necessary, we set the stage for many people to come in and put the pressure on the administrators to declare a child to be a hard-to-place child when, in fact, the child is not that hard to place.

We believe that, in going into a new open-ended program, it is better to draft it somewhat carefully to limit the eligibility for the program. Far better to do it that way than to find out after we are in it that it is costing much more than we estimated and that there are all sorts of cases that can be cited as an abuse of the taxpayer by paying affluent, well-to-do people to adopt children who were not really very hard to place to begin with.

The Finance Committee recommended that where people have an income more than 25 percent over the median income—and that would be an income of about $23,000 for a family of four—they would generally not be eligible under this program. Now, we provided that in 10 percent of the cases the income limit could be waived so that, in 10 percent of the cases where an agency had a child that was very hard to place in a family, there could be a waiver and the family could be, indeed, a family making $200,000 a year or over in income and still have the benefit of the payments provided by the program. Keep in mind that we are going to review the program. We are suggesting that this be a 5-year program. We want to look at it again. We want to see how it is working. As I say, it is a lot easier to liberalize a program than it is to tighten up on it when you find that you have passed too liberal a program in the first instance.

With regard to medical care, the Finance Committee bill does not provide additional medicaid matching for the medicaid coverage of adoptive children. As a result, the committee limited the mandatory medicaid coverage to medical conditions existing at the time the child was adopted. However, the State may if it wishes provide the additional medicaid coverage for all medical care needs of the child, and the Federal Government will provide matching funds. Also, the committee considered the ordinary medical care needs of the child—if he has a cold or needs a shot—generally to the responsibility of the parents.

As to SSI children, the Finance Committee bill limits adoption assistance payments to children who were receiving AFDC payments under the foster care provisions of that program (or who would have been eligible for such payments on the basis of their removal from an AFDC home). The purpose of establishing a new adoption assistance program is directly related to the establishment of a funding ceiling on AFDC foster care. There is no similar rationale for extending the program to SSI children.

Moreover, the committee provision includes all of the ordinary requirements attached to the foster care program (such as requiring a judicial determination that the original removal of the child from his home was appropriate). The committee bill thus restricts the new program to a fairly limited category of children who clearly would otherwise continue on AFDC. The amendment proposed would broaden the provision by allowing adoption assistance in the case of any child with a severe enough disability to qualify under the SSI program, without regard to whether he meets the specific eligibility requirements of the AFDC foster care program.

Mr. President, many times I have asked, why is it that we cannot do something around here without overdoing it? It is far better when we go into these new spending programs, particularly the new open-ended programs, that we carefully limit what we are doing so that the cost and the expenditures would not be far beyond that which was anticipated. It seems to me that our wisdom would be justified in this case. If the Senate should be in error in supporting its committee, I point out that the House indeed has been about as liberal as the Senator from Michigan wishes to be. The House has no limitations. It is wide open—open ended and wide open. I can only say that where we have done business that way, we have, many times, come to regret it.

Between the House and the Senate, I would assume, if the Finance Committee should be sustained, that we shall have to negotiate. We shall have to fix an eligibility standard and a benefit standard somewhere between the very liberal provisions of the House bill, as would be the case in the Levin amendment, and the more cautious provision recommended by the Committee on Finance.

I would say, Mr. President, that we on the Finance Committee have recommended about as much social welfare legislation as the taxpayers of this country feel they can stand. We are going to bring a health insurance bill in here, in this Congress and, from the point of view of a great number of people, particularly employers who are going to have to pay that tax, there will be complaints that we have gone too far with social welfare. I believe, Mr. President, that we would be well advised to proceed somewhat cautiously with this program rather than throwing caution to the wind, to be sure that we are not doing a great deal that we had not intended when we go into another open-ended Federal spending program.

Mr. President, this, of course, will be an amendment subject to a rollcall vote. We will be happy to vote on it when the Senate comes in on Monday.

I believe the majority leader wants us to postpone the vote until after 4 p.m., and that is the motion he will make in due course.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, first, I thank the Senator from Louisiana for his kind remarks. I would like to comment on a couple of points he made.

I am sympathetic to some of the concerns he has about social welfare programs and the expense that they have engendered for the taxpayers of this country.

This is not an open-ended program which is being proposed by this amendment. We now have an open-ended program in existence. That is an open-ended program for Federal and State support for children in foster care homes and foster care institutions. They are there. The programs are in place and the program funds it.

That is the only open-ended program which exists.

What this amendment seeks to do is to take some of those children, by providing incentives for their adoption, from their present foster care situation and to encourage parents to adopt them by eliminating the means test in providing medicaid.

So the only open endedness is the open endedness that is already in existence, and the only money which is involved is the saving which results from every single child who is adopted.

Every time we adopt a child who is in a foster care home or a foster care institution, we save money. That money is already being spent by the Federal and State governments, open ended.

If we are able to both place that child in an adoptive home, with all of the love that is involved in that setting, and, at the same time, reduce the burden on the Federal and State treasuries, it seems to me we have got a rare opportunity, an unusual opportunity, not to add to the burdens of the taxpayers, but to relieve the burdens on children and relieve taxpayers at the same time.

There is no financial cost to this amendment, as I have indicated. The means test is meaningless because of the 10-percent waiver provision. It is meaningless because under the bill, a provision of the bill which would be retained, the States could still consider the economic circumstances of families.

So the only thing left to the means test is a deterrent to adoption. That is all that is left.

To the question of why should a family with $200,000 be given this subsidy, I would hope the States would have enough commonsense, if there was no economic problem in that family, not to provide this full subsidy, or any part of it. But that can be done on a case-by-case basis.

To superimpose a means test, which has no purpose, in order to answer that question is totally unnecessary. That question can be answered in other ways, and it can be avoided and should be avoided in other ways.

Mr. President, we have an opportunity here which I hope we will not pass up. I know the chairman, my friend from Louisiana, is very conscious of cost. He has to be, and he should be, and he does a great job at it.

But I would like to assure him that we are not talking about added costs in this program. We are talking about saving dollars and saving kids. Again, that is an opportunity which rarely occurs in this Chamber.

Mr. LONG. Mr. President, the foster care program is an open-ended program. We propose under this bill to close off the open end on the foster care program, and we are proposing an adoption program which is an open-ended program.

Now, we have no limit on the amount of money that can be put into it.

The Senator's amendment also provides that in addition to the children who would be eligible under the committee bill, that those children who are recipients of supplemental security income, as well as children who are eligible for aid for families with dependent children, should be subject for adoption under the bill, and that would be open ended.

It may be, Mr. President, that the Senator is right about the matter. But I submit that, if so, we are making a vast forward stride in the area which he favors and in which the Senate has thus far indicated it favors. It seems to me we can judge by our experience just how fast and how generous we want to be in this program.

I do not think that with the bill we have before us many people in this Nation will feel the Senate was really too frugal in extending aid in areas where aid had not existed prior to that time.

Some of us, Mr. President, have the burden of raising the money to pay for all this. As one who has served on a taxwriting committee for many years, I find myself sensitive, and I would like the people of this Nation to know that in the main those of us on the committee find ourselves concerned, about the views of taxpayers and their concern that social welfare spending keeps expanding. It keeps growing. It has grown far more rapidly than expenditures for national defense or certain other vital matters, and we are concerned about the views of those who pay to support this Government.

We think we would do well to be cautious as we expand into a new program which will cost a very substantial amount of money. We would hope the expenditures under this program will not expand as rapidly as we have seen them expand under some programs I have mentioned in my previous statement.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, my colleague from Louisiana, indeed, has carried a burden for a long time in the Senate helping to raise money for social welfare programs.

He indicates that some of us have the obligation to raise the funds and I think that obligation has fallen too heavily on him. I think some of us have the obligation to see to the programs that we offer.

I think all of us ought to share, probably, more evenly in carrying out that obligation.

But I would like to assure my friend from Louisiana that this is not one of those programs which is going to cost money, that the analysis which we have done, which the CBO has done, and everyone we can find has done, indicates that this is not going to cost additional money, but save money, because it will result in additional children being adopted. Every additional child that is adopted saves the Federal and State treasuries some money.

So this will not add to the burdens which the Senator from Louisiana already carries. I hope it may alleviate some of those burdens, and properly so.

It is my understanding, specifically referring to the SSI program, that that is also a program which is federally funded, in part.

So the same rule and the same point would apply. The money which is now spent to maintain SSI children can more profitably be spent if those children are adopted. Rather than being additional expenditures, we would expect savings in this program.

I again thank my friend from Louisiana.

I am willing to yield the floor at this time. I understand the Senator from Kansas may be coming back and would like to make a statement.

If there is nobody else who wants to speak at this time, I would suggest the absence of a quorum. I do not know whether Senator MELCHER wishes to speak.

Mr. LONG. Mr. President, let me just say that I appreciate the Senator's desire to benefit people, and children in particular. But, Mr. President, I have been in this body longer than the Senator. That does not necessarily mean that one has more wisdom, but it does mean one has more experience.

Mr. President, I have heard that said before, about the social welfare programs, that this or that proposal will save money in the long run. It usually has been my experience that several billion dollars later we find that it did not quite work out that way, that when the time came when the saving was supposed to take place, it never quite materialized.

I believe the record is complete on both sides of the argument, and I am content to let the record stand, and Senators can decide what they want to do about the matter on Monday.

Does the Senator plan to suggest the absence of a quorum?

Mr. LEVIN. I understand that the Senator from Kansas is on his way to the Chamber and that he wishes to speak.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time? The Senator from Michigan has 56 seconds.

Mr. LONG. Mr. President, I ask unanimous consent that there be a quorum call, without the time being charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I yield 5 minutes to the Senator from Kansas.

Mr. DOLE. I thank the Senator from Louisiana.

Mr. President, I cannot decide who is right in this instance. I really believe that Senator Levin's amendment makes a great deal of sense.

If it does not cost anything, it makes even more sense; but I share the view of the chairman that sometimes things that do not cost anything at the outset become very expensive.

I suppose the problem is whether or not we are going to be helping children and whether the 125 percent provision that we adopted in the committee is the correct way to go. I am inclined to support the amendment. It seems to me that if we get into a means test, which is what we have when we talk about 125 percent of the State's median income, it could complicate the administration of the program and require, at least at some cost, a determination of who might be eligible.

I am also advised that studies show that most families that adopt children with special needs are lower and middle-income people. In any event, subsidies should be considered as the child's benefit and therefore should go with the child into adoption under any circumstances.

Under the amendment, foster care costs will be less because the adoption subsidies would replace the foster care costs. The amendment is particularly important in terms of medicaid coverage, especially for handicapped children. These children will have a much better chance to become independent and fully functional adults if they receive the emotional as well as financial and medical support available through adoption.

I find it very difficult to look at the alternatives. What are the alternatives for placing hard-to-place children? The alternatives may be more expensive than the subsidy.

Again, I am somewhat at a disadvantage, not having heard the eloquent arguments of the chairman of our committee and the sponsor of the amendment.

The Federal subsidy could never be greater than the amount already allocated for the child's foster care needs.

As has been said, the Congressional Budget Office estimates that the cost of the amendment will be negligible, since adoption subsidies will replace foster care costs; but the Senator from Kansas comes down in support of the amendment because of the concern everybody has, and that is for the child—for the child with special needs. It is not for the normal child. It is a special needs case.

In that event, it seems to me that the amendment makes a great deal of sense. I support the amendment.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Mr. President, I am willing to yield back the remainder of my time, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Chair will state that the vote will occur on Monday pursuant to the previous order.

Mr. LONG. Mr. President, I believe that we have considered all matters Senators wish to offer on the bill.

Mr. LEVIN. Mr. President, I ask unanimous consent that the vote on this amendment take place immediately prior to the amendment of Senator BELLMON, which I understand will be immediately prior to the vote on final passage.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. Mr. President, what was that?

The PRESIDING OFFICER. The request of the Senator from Michigan is that the vote on his amendment occur prior to the vote on the amendment offered by the Senator from Oklahoma which will be the last vote prior to final passage.

Mr. LEVIN. Immediately prior.

Mr. LONG. Mr. President, as far as this Senator is concerned it is all right with the Senator from Louisiana if it is all right with the Senator from Oklahoma.

Mr. LEVIN. This is in compliance with the request of the Senator from Oklahoma. He asked that his amendment be voted on immediately prior to the vote on final passage. I am not trying to take his place. I am simply asking unanimous consent that this amendment be voted on immediately prior to his amendment.

Mr. LONG. I have no objection to that.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kansas is recognized.

UP AMENDMENT NO. 678

(Subsequently numbered amendment No. 659)

Mr. DOLE. Mr. President, I wish to have printed in the RECORD a nongermane amendment that the Senator from Kansas is trying to figure out some way to offer for himself and the distinguished junior Senator from Kansas, Senator KASSEBAUM, along with a statement explaining that amendment.

I hope that on Monday after everyone has had a chance to review the amendment and the statement in support of the amendment I will be permitted to offer the amendment. It may be subject to a point of order at that time. I do not ask for any consideration of that at this point but just that I have an opportunity on Monday to propose the amendment and see if it is objected to.

Mr. LONG. Mr. President, I suggest that the Senator offer his amendment and that we have an understanding that if there is objection to the amendment on the basis that it is not germane, if anyone wants to object on that basis, he would have a right to do so on Monday. That being the case, we could vote on it at that point and let the Senate work its will.

The Senator can make a statement if he wishes to and explain or put in the RECORD a statement explaining his amendment.

Mr. DOLE. That is what I was going to do.

Mr. President, I send the amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself and Mrs. KASSEBAUM, proposes an unprinted amendment numbered 678:

Notwithstanding any other provision of law, the Commissioner of Education shall increase the priority for Unified School District No. 337, Mayetta and Hoyt, Kansas, a local educational agency, so as to assure that such agency shall be eligible for funding in Fiscal Year 1980, under Public Law 815, 81st Congress, relating to school construction costs in areas affected by federal activities.

Mr. DOLE. Mr. President, let me explain just what I am about. I know any Senator in this body could raise a point of order against the amendment. We have been meeting, and that is one reason the Senator from Kansas has been absent part of the afternoon, trying to figure out some way out of the dilemma that affects a very small school district in the State of Kansas, district No. 337.

They are facing some very severe financial problems because, first, they have a very limited tax base; second, there is an increasingly high population of Pottawatomie Indian students at the nearby Indian reservation; and, third, the Federal funding formula makes it almost impossible for the district to qualify for assistance.

It is a $17 million fund. There are 64 applications totaling some $330 million, all trying to be funded out of the $17 million.

The district that I am concerned about, and it is a unique case, includes within its boundaries the Pottawatomie Reservation which had 93 Indian students living on the reservation in 1978, a 100-percent increase since 1974. What we have is the Housing and Urban Development Department presently financing a large housing project on the reservation which will bring the number of Indian students living on the reservation to 210 by September 1980.

So we have one Government agency building housing, which we appreciate very much, and we have other Indians moving into the new housing coming into the district putting a severe financial strain on the district itself. So we have, on the one hand, one Government agency through a Federal program providing housing and, on the other hand, a very heavy burden on a local school district, and they just cannot finance the education and the buildings necessary for these 210 students who will be in that particular school in September 1980.

The financing problem arises because Indians living on the reservation are exempt from local property taxes which largely finance the school district's operations and thus the nonresidents on the reservation are asked to build school facilities and finance school operations not only for their children but for the Indian children as well.

The district involved, unified school district No. 337, is one of the poorest in the State of Kansas. The general fund mill rate is about 15 mills, and it is going to go up to 50 mills which it just cannot sustain.

Mr. President, I ask unanimous consent that a statement along with a letter from the Kansas State Department of Education be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY MR. DOLE

Unified School District No. 337, Mayetta-Hoyt, Kansas is facing some very severe financial problems because of (1) a very limited tax base, (2) an increasingly high population of Pottawatomie Indian students at the nearby Indian reservation, and (3) a Federal funding formula which makes it almost impossible for the District to qualify for assistance.

The District includes within its boundaries the Pottawatomie Reservation which had 93 Indian students living on the reservation in 1978, a 100 percent increase since 1974. HUD is presently financing a large housing project on the Reservation which will bring the number of Indian students living on the reservation to 210 by September, 1980.

The financing problem arises because Indians living on the reservation are exempt from local property taxes which largely finance the school district's operations. Thus, the non-residents of the reservation are asked to build school facilities and finance school operations not only for their children, but for the Indian children, as well.

The District is considered one of the poorest in Kansas. The general fund mill rate is about 15 mills above the state median level.

FEDERAL ASSISTANCE THE DISTRICT IS SEEKING

First in July, 1969, and again in March, 1978, the District has applied for Federal impact aid under P.L. 81-815 to construct new facilities to handle the Indian and non-Indian students. A letter was received by me in February, 1979, stating that there would be no funds available for Mayetta under 81-815 in the foreseeable future.

The District submitted a bond issue to the voters in February for nearly $2 million in anticipation of the denial of Federal assistance. If passed, the District would have the highest bond and interest levy in Kansas even though it is one of the poorest districts. Not surprisingly, the voters didn't think they could afford to pay for what they consider to be a situation created by the Federal Government—more non-taxable Indian students moving onto the reservation.

I believe that where the Federal Government has caused a problem such as this, it must accept the responsibility of solving it. This amendment would do that.

KANSAS STATE
DEPARTMENT OF EDUCATION,
Topeka, Kans., October 25, 1979.

To Senator Nancy Kassebaum; Senator Robert Dole; and Representative Jim Jeffries.

From Merle R. Bolton, Commissioner of Education; Dale M. Dennis, Asst. Commissioner for Financial Services.

Subject Public Law 81-815—Mayetta/Hoyt, Kansas.

Unified School District No. 337, Mayetta and Hoyt, Kansas, has some very serious educational problems related to limited and inadequate facilities.

The school district includes within its boundaries the Pottawatomi Indian Reservation which had (93) Indian students living on the reservation in 1978. This number represents a 100 percent increase since 1974. The Federal Department of Housing and Urban Development is in the process of building (68) additional homes on the reservation. It is anticipated by HUD that there will be (210) Indian children living on the reservation by September, 1980. It is also projected that the Indian enrollment in the district including those living off the reservation will be at least (255) students by September, 1980.

In July of 1969, the school district submitted an application under P.L. 81-815. Since no action was received within one year, in July of 1970, the district voted to issue general obligation bonds for $750,000 to be paid by the local property taxpayer (this totaled 13.98 mills during the 1978-79 school year). In April of 1971, the school district was officially notified that P.L. 81-815 funds were not available.

In March of 1977, a natural disaster was added to the facilities' burden of the district; a fire totally destroyed the junior high school building in Mayetta. The money received from insurance was used to provide minimum facilities for food service programs, purchase of equipment, and some remodeling of buildings. Mobile classroom facilities were purchased with federal disaster funds. These mobile classroom units are totally inadequate and, when sold, the money must be returned to the federal government.

In March of 1978, an application was again made under P.L. 81-815 for funds for the construction of new facilities. A letter was received by Senator Dole from the federal school assistance office in February of 1979, stating that there would be no federal funds available in the foreseeable future under P.L. 81-815 for the Mayetta school district.

The board of education chose in February of 1979, to submit a bond issue for $1,975,000 in order to provide a minimal education program for the students in the district. The mill levy to pay such bonds would have required an additional 27 mills which would have brought the mill levy to approximately 40 mills for bonds and interest; this would be by far the highest bond and interest levy in the state.

The bond issue was defeated by a ratio of 2-1. The primary reason for the defeat of the bond issue, according to school district officials, was that many patrons did not feel that it was their responsibility to pay for the full cost of a new facility which was primarily needed for the increased enrollment of students from the reservation.

The persons living on the Indian reservation do not pay any real or personal property taxes. It is quite difficult to explain to the taxpayers why the school district should be required to provide facilities for students who live on the reservation when the federal government, who is responsible for their education, is not willing to pay its fair share of the cost.

In order to provide minimum facilities, it is anticipated that $2,500,000 would be required to fund such a project. It is the belief of school officials in U.S.D. No. 337 that if the federal government would pay its share of the cost, the taxpayers would be willing to pay their share.

The school district, based on adjusted valuation per pupil or taxable income per pupil, is considered one of the poorest districts in Kansas. Over 70 percent of the general fund budget is financed by state sources. The general fund mill rate is approximately 15 mills above the state median.

It appears that the alternatives the school district has are rather limited. Possible alternatives include the following:

1. The school district patrons could vote to issue general obligation bonds for $2,500,000 and place themselves in debt $3,000,000 ($2,500,000 plus $500,000 on bond issue passed in 1970) with a potential property tax mill rate of 40 to 50 mills for the next 20 years.

2. All Indians living on the reservation could request the federal government to build a school for only their children under Section 6. This is estimated to cost the federal government a minimum of $3,000,000.

3. All Indian students living on the reservation could possibly be rejected as nonresidents of the school district. This alternative will cause tremendous problems and is considered unwise and very expensive since this could possibly require the construction of a school on the reservation at a cost of $3,000,000 to the federal government.

4. The federal government could pay its fair share of the cost of new facilities for the school district as provided under P.L. 81-815. It is the opinion of the school district officials in U.S.D. No. 337 that the taxpayers would be willing to pay all costs above $1,000,000.

Attached are some basic facts concerning the district which should be helpful in understanding the problem. Any assistance you can give U.S.D. No. 337 in resolving this matter will be greatly appreciated.

UNIFIED SCHOOL DISTRICT NO. 337, MAYETTA, KANS., 1978-79 SCHOOL YEAR

[Background information: County—Jackson; towns—Mayetta and Hoyt; area—170 mi ^{2}; enrollment—836.0 FTE; number of schools—4; general fund budget—$1,134,184; assessed valuation—$6,389,793]

	Median	Mayetta	State ranking [1]
STATE RANKING ON FINANCIAL DATA OF DISTRICT			
Average adjusted valuation per pupil	50,103	17,675	[2] 294
Average taxable income per pupil	10,568	6,101	[3] 291
Wealth per pupil	60,510	23,776	[4] 299
General fund mill levy	40.12	48.72	[5] 264
Total mill levy	46.93	63.74	[6] 289
General fund budget per pupil	1,719.66	1,356.68	[7] 306
Assessed valuation		6,389,783	[8] 288
Ratio of general State aid to general fund budget (percent)	37	69	[9] 8

[1] Total of 306 unified school districts in Kansas.
[2] Only 12 USD's lower.
[3] Only 15 USD's lower.
[4] Only 7 USD's lower.
[5] Only 42 USD's higher.
[6] Only 17 USD's higher.
[7] The lowest in State.
[8] Only 18 USD's lower.
[9] Only 7 USD's higher.

Present attendance centers:

Royal Valley High School, Hoyt: Permanent capacity of 240 students; current enrollment of 275 students.

Royal Valley Junior High School, Mayetta: Permanent capacity of 0 since March 2, 1977 fire destroyed building. Portable classrooms have been purchased with federal pinpoint disaster aid. Portable buildings to be sold and money returned to federal government upon completion of permanent facilities. Current enrollment of 131 students.

Hoyt Elementary School, Hoyt: Permanent capacity of 200 students; current enrollment of 243 students.

Mayetta Elementary School, Mayetta: Permanent capacity of 175 students; enrollment of 210 students.

Enrollment data and projections:

Present enrollment:

Unified school district total, 836.0.

No. of Indian students, 138.0.

No. of students living on Indian lands, 93.0 on Pottawatomi Indian Reservation.

PROJECTED ENROLLMENT

	Actual enrollment
Unified school district:	
School year:	
1974	734.1
1975	762.0
1976	812.4
1977	829.0
1978	836.0
1983	[1] 1,030.0
1988	[1] 1,103.0
1991	[1] 1,214.0

	Living on reservation	Living off reservation	Total
Number of Indian students:			
School year:			
1974	40	[1] 68	[1] 108
1975	42	[1] 68	[1] 110
1976	55	57	112
1977	92	42	134
1978	93	45	138
1980	[1] 210	[1] 45	[1] 255

[1] Estimate.

HUD projects that 210 students will be living on the Pottawatomi Indian Reservation by September, 1980. Thirty-two housing units are completed and 68 units are scheduled to be built in the near future. Indian residents on the reservation are exempt from the payment of real and personal taxes.

Minimum facilities needed:

1. New middle school for grades 5–8 at Mayetta. Sixteen classrooms, music, art, and library will be attached to existing gymnasium and cafeteria.

2. Addition of vocational shops and classrooms, new multi-purpose room, and kitchen at Hoyt. Convert present cafeteria and kitchen into expanded library and classrooms. Remodel gymnasiums.

Bond issue considered, 1979:

Amount, $1,975,000.

Mill levy required to fund bond issue, 27 mills (average).*

Average increase in property taxes, $2.70 per $100.00 of assessed valuation.

Ratio of issue to total assessed valuation, 30.9 ($1,975,000 ÷ $6,389,783).

Election date, April 3, 1979.

Election results, 409-opposed: 221-for.

Present costs to meet minimum facilities:

Amount, $2,500,000.

Mill levy required to fund bond issue, 31 mills (average).*

Average increase in property taxes, $3.10 per $100.00 of assessed valuation.

Ratio of costs to total assessed valuation, 39.9% ($2,500,000 ÷ $6,389,783).

Present indebtedness, $500,000.

Total indebtedness, $3,000,000.

Ratio of total indebtedness to assessed valuation, 46.9% ($3,000,000 ÷ $6,389,783).

Mr. DOLE. Mr. President again I know that I am subject to probably a number of parliamentary objections, but I hope that Senators will have a chance to read the amendment. We are talking about $1 million. Maybe on Monday they will just not object.

Mr. LONG. Mr. President, I believe that we have considered all amendments to the bill.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BOREN). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, we yield all time back on the bill.

The PRESIDING OFFICER. The pending question is the amendment of the Senator from Kansas.

Mr. DOLE. Mr. President, I yield back all time on the amendment and ask that further proceedings on the amendment occur on Monday.

The PRESIDING OFFICER. All time has been yielded back, and without objection, further action will be delayed until Monday.

IMPORTING ALTERNATE ENERGY

Mr. EXON. Mr. President, as America begins to struggle with the energy problem trying to extricate ourselves from a heavy reliance on foreign energy, a most interesting and ironical fact has come to light. A company in Mineola, N.Y., called American Gasohol, is planning to import ethanol from Brazil to use in the manufacture of gasohol. According to the Office of Technology Assessment's (OTA) September 1979 report, American Gasohol Co. plans to import 120 million gallons of ethanol from Brazil each year for the next 2 or 3 years to mix with gasoline to manufacture gasohol.

I find this situation to be preposterous. Just as a noted investment company once claimed to be "bullish on America" but was filming its TV commercials in Mexico, now we have an American business, in the name of energy independence, importing Brazilian ethanol to mix with gasoline produced from Arabian oil to create American gasohol. How absurd.

We are trying to become energy independent. We are preparing to spend billions of dollars to develop alternate sources of energy to free ourselves from political blackmail by foreign governments. At the same time we seemingly are falling into the same trap by starting to import one of our prime alternate sources, which is ethanol. As we make this leap from the proverbial pan into the fire and continue our dependence on foreign energy at the expense of American farmers and a fledgling new American ethanol industry, we are also going to add $50 million a year to this Nation's trade deficit by importing ethanol from Brazil, according to OTA estimates. This money should be flowing to American farmers, not foreign countries.

In all fairness to American Gasohol Co., they tell us that they would rather use ethanol manufactured here in the United States, but there is not enough domestic ethanol available. So if they are to proceed rapidly with this worthwhile effort they are forced to import, and unless pending legislation is passed and implemented soon, and in practical form, the situation could become more severe.

We have succeeded in convincing the American public that gasohol is an excellent fuel that is a step toward solving our immediate problems. From its humble beginnings in Nebraska, which pioneered the use of grain fuels in recent years and even popularized the name "gasohol," sales have increased dramatically nationwide. There are now more than 1,000 stations in 29 States selling gasohol. There are only optimistic reports about its feasibility and yet this readily available, renewable source of energy that can be an immediate, partial solution to recurring gas lines, is going to have to be imported. The Senate must move rapidly to spark sufficient production of domestic ethanol to meet ever-increasing demands.

There are several bills which will soon be considered that would authorize funds to spur development of gasohol plants and I urge their passage. The Senate Finance Committee, in considering the windfall profits tax, has on a 19-to-0 vote recommended the removal of the current 4-cents-per-gallon excise tax exemption for gasohol and replacing it with a 40-cents-per-gallon income tax credit for each gallon of domestically produced alcohol which is mixed with gasoline, in any proportion, to produce gasohol. This proposal will transfer the benefit of the Federal subsidy from the gasohol consumer to the gasohol producer.

Rather than directly affecting the cost of gasohol at the pump, the Finance Committee's proposal apparently seeks to translate lower costs to the producer into lower costs to the consumer. This proposal furthermore, does not increase the Federal subsidy, as the 4-cents-per-gallon excise tax exemption for gasohol blend is equal to 40 cents per gallon of alcohol used in producing gasohol. The difference lies in where the economic carrot is placed.

According to DOE, present financial incentives of the Federal Government could increase the current yearly output of 60 million gallons of gasohol to about 300 million gallons by 1982. Under the current incentives, gasohol is sold at a price equal to or less than premium, unleaded gasoline with an octane rating between regular and premium, unleaded gasoline. A lower selling price of gasohol, due to the Federal and State excise tax exemptions, is a significant factor contributing to increasing demand for gasohol.

Rising demand resulting from the current tax policies would provide the market with sufficient incentives to produce without the change which the Finance Committee proposes. Higher prices for gasohol at the pump will not encourage demand, and it is uncertain that the theoretical proposition of lower costs to the producer translating into lower costs at the pump, will actually occur. The National Alcohol Fuel Producers Association shares my concern that needed "marketing incentives" will be reduced if the Finance Committee's recommendation is enacted.

I seriously question this recommendation. Less incentives for a proven product that can provide an immediate, partial solution to impending gas lines? Less incentives for a product that has already become popular with the American public and demand already exceeds supply? Less incentives to manufacture a product that is already in such short supply that one company is already planning to import it from foreign countries? The gasohol industry does not need less incentives—it needs more, and it needs them now. As American Gasohol Co. said—

> We would buy domestic ethanol but it's not available so we're forced to import.

The DOE report stated that the near-term opportunity for gasohol is significantly enhanced by the existing Federal and State incentives, of a 4 cents Federal excise tax exemption for gasohol, entitlements payments for production, and the 20-percent investment tax credit for qualified production facilities of gasohol and other synthetic fuels. The need exists to improve and maintain the current Federal incentives to insure the economic competitiveness of gasohol. We must provide assurances to industry that current incentives will not be removed or significantly altered in view of the successes we are now beginning to realize.

In addition to passage of legislation to assure incentives for production to meet increased domestic gasohol demand, I urge that Congress seek solutions which will discourage future importing of foreign ethanol by insuring that the tax incentives apply only to domestic and not foreign produced ethanol.

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*Does not include a current bond and interest levy of 13.98 Mills.

Mr. DOLE. Will the Senator from Nebraska yield?

Mr. EXON. Yes.

Mr. DOLE. I read the same statement. I might add that we have taken care of part of the problem. I do not quarrel about the imports; we just do not think we ought to subsidize imports. We have written that into the so-called windfall profits tax bill, which will be coming to the floor in about 2 weeks. I think that is the concern the Senator from Nebraska addresses.

Mr. EXON. I thank the Senator from Kansas. I have addressed that in my remarks. I think we should pass that in order to show that we are giving credit only for the domestically-produced gasohol.

Mr. DOLE. We did that. I think the Senator from Nebraska agrees that is the right thing to do.

CORNELL C. MAIER: ONE PERSON CAN MAKE A DIFFERENCE

Mr. HELMS. Mr. President, the guiding principle for Kaiser Aluminum & Chemical Corp. is "One person can make a difference." No one better personifies this theme than Kaiser's chairman of the board, president and chief executive officer, Cornell C. Maier. He is a remarkable corporate leader and citizen who truly understands the value of the American free enterprise system.

I recently met with Mr. Maier to discuss Kaiser Corp's. efforts to sponsor television commercials drawing attention to several issues of widespread public concern. Kaiser sought to purchase commercial time from the three major networks to promote public awareness of the energy crisis, Government redtape, and the free enterprise system. The major networks refused to air the commercials, citing either the fairness doctrine or the controversial nature of the ads.

The proposed TV commercials, of course, are hardly controversial. I ask unanimous consent that the three rejected ads be printed in the Record.

There being no objection, the ads were ordered to be printed in the Record, as follows:

Free Enterprise

Is free enterprise an endangered species? How much government regulation is enough? Is business bad just because it's big? Or does a country like ours require a diversity of business—both big and small?

Will excessive control over big business lead to control over all our business?

The answers are up to you.

Whatever your views let your elected representatives know.

People, one by one, need to speak up now. You can help keep free enterprise free.

A message from Kaiser Aluminum.

One person can make a difference.

Energy

Some people are calling the energy crisis a hoax.

Others say that at the rate we're using up our oil reserves we'll be down to our last drop in our children's lifetime.

Whoever's right, one thing is clear. America needs an energy plan for the future now. One that uses all resources available from coal and nuclear power to solar.

But we're only going to get it if people, one by one, demand it.

Whatever your views, let your elected representatives know now.

There's not much we can do when the light goes out.

A message from Kaiser Aluminum.

One person can make a difference.

Government Redtape

OFFICIAL VOICES (OVERLAPPING)

Applications should be filled out in triplicate . . .

Forms should be returned by the 19th or penalty charges . . .

The Bureau requires all permits to . . .

The Department must be notified . . .

Send one copy to . . .

ANNOUNCER

It's redtape. In 1977, America spent $100 billion on federal paperwork alone. And in the end we all pay for it.

But if people, one by one, start speaking out, we can begin untangling America's knottiest problem.

A message from Kaiser Aluminum.

One person can make a difference.

Mr. HELMS. Mr. President, Kaiser officials were understandably quite concerned that a corporation could not have access to television by buying time to express its opinions. Accordingly, a decision was made to raise this issue publicly. Kaiser argued that the networks' interpretation of the fairness doctrine chokes the flow of information, stifles expression, and squeezes out provocative advertising on issues of national importance. I wholeheartedly agree. I am hopeful that legislation can be enacted during the 96th Congress that will permit the networks to accept the Kaiser—and similar—ads without risking economic jeopardy under the fairness doctrine.

The overall reaction to the Kaiser initiative has been encouraging. Congress and the networks have taken notice of the issue of fair access to television and are searching with Kaiser for a realistic solution to this problem.

Chairman Maier told me that he did not expect such a large and favorable reaction when his company went to the public with the story of what had happened. I admire his determination to keep the issue alive. He has the strong support of the Senator from North Carolina.

For too long, we have lived in the era of the silent executive, which has allowed the free enterprise system to be maligned by demagogic politicians. Cornell Maier's willingness to risk a little controversy to make a point comes as a breath of fresh air. Corporate leaders ought to speak out on issues that are important to their workers, their shareholders, their companies, their communities, and the American people. Cornell Maier has demonstrated that one person can indeed make a difference; but more voices need to be heard.

Mr. Maier delivered a speech on the free enterprise system at the Miami University Business Conference in 1977. The message is still valid today. Mr. President, in order that I may share with my colleagues this speech by an eloquent spokesman for our economic system, I ask unanimous consent that it be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Remarks by Cornell C. Maier

Mr. Chairman, ladies and gentlemen:

The free enterprise system is dying. We are gathered here around its deathbed. The initiative, the innovation, the hope and the freedom that have given this country's people more of the fruits of life and liberty than mankind has ever enjoyed, are dying with it.

In our death watch, as we sit meekly letting it happen, we should know that when it dies here, it will not rise again. And we should know that when it dies here, a long night of mediocrity will descend on us and on our children.

It's about time we admitted this fact. It's about time we admitted that the free enterprise system can't survive in this country . . . unless—unless those of us who should be defending the system, who should be working to improve it, fight to save it.

That's right. I said fight. This is a war. The battle is not over our economic system. The battle is over our political system. Will we retain our individual rights and liberties as a people, or will we surrender them to an all-pervasive state that will decide what's best for us . . . and make us take it . . . whether we like it or not?

Will we have a country where individual excellence is rewarded and achievement encouraged; or will we have a land where excellence and achievement are penalized?

Are we willing to be told what we may eat, drink, wear, drive, build; or are we willing to fight for the right to choose?

Is it better that we the people decide our own destiny; or is it better that an elitist group decide for us?

That is the issue.

I am not overstating the case. While the visible attack point is the free enterprise system, the actual target is the American system itself . . . and, more particularly, the idea of individual liberty and freedom.

The essence of the American proposition has always been that free people can be trusted to know what's best for them. There are a number of people in this country, though, who do not agree with that proposition. Somehow they think they know what is best for us. They think their values are better than the values that we have reached by consensus and which have served us so well. They feel disposed to impose those values, and re-weave the economic and political fabric of this country into a starkly different design. They are becoming increasingly more influential.

Edmund Burke, a thinker whose ideas I very much like, in commenting on the preservation of a free society, observed, "The true danger is when liberty is nibbled away—for expediency—and by parts."

That is happening now. Not in nibbles, but in gulps! Far too many people in this country don't realize it. They seem to think that the attacks on our free economic system are removed from their personal well-being and personal freedoms. That is not the case. All of our freedoms are intertwined. Raymond Moley once pointed out that "the preservation of a free press is utterly dependent upon the preservation of a free economy." If one goes, the other goes. If our free economy is under serious attack (and it is), then it follows that so, too, is our free press . . . and our individual freedoms as well. The idea of freedom is very important to me. I assume it is to you, too. Liberty is, or ought to be, our most important political value. I have no idea what name those who would do away with the free enterprise system might give to the system they would impose in its place, but I echo Bob Bleiberg's sentiment: "If the carcass is freedom, I don't care what name is given the vulture on top."

So, Mr. Chairman, ladies and gentlemen, I think it's about time we recognize this fight for what it is.

Yes, the free enterprise system is dying . . . and with it, our political safeguards.

Why?

Not because the system doesn't work. It does!

Not because those who would do away with it have something better to offer. They don't!

Then why are we gathered here examining what appears to be a terminally ill patient? The answer is simple. The people who are attacking the system are doing a much better job than the people who should be defending it. They are because no one is effectively countering the misunderstanding, the misinformation, and the sometimes intentionally misleading propaganda that is being slipped to the American people.

It's about time that those of us who believe in the system do something about that. And if that means being provocative or controversial to get our message across, fine. Along the way, I hope that business people and educators can lose the idea that a program of "economic education" or "economic awareness" delivered to the American public could somehow cause public attitudes toward business and the "system" to magically improve. As Professor Irving Kristol points out, the public's attitudes toward business are no more a function of the public's knowledge of economics, than the public's attitudes toward government are a function of the public's knowledge of political science. Those attitudes are provoked by experience. They are created in the schools, by the media, and by the "value formers" in the communities. Since that is where attitudes are formed, that is where the advocates of free enterprise need to be—in the schools, on the college campuses, at the women's club meetings, at the city council, in civic organizations, in the local newspaper office or television studio, in the state legislature, in the federal Congress. The advocates of free enterprise need to be anywhere and everywhere people come together to learn, or plan, or work together to advance a common cause.

Spare us "economic education." Give us, instead, the opportunity to talk with people about their own self-interest. They will make the right decisions . . . for themselves and for the system.

It's also about time that those who are advocates of free enterprise fully and freely admit that the system isn't perfect. We should admit that it has been unable to provide total safeguards against greed; against corruption; against exploitation. But for all its faults, no other system has been able to provide the freedom, the opportunity, and the bounty . . . of both the material and spiritual good things of life . . . to so many . . . as has our system. It isn't perfect. It needs improvement. But there is none better. In this regard, I think it is only fair to point out that for all of their faults, business and industry have been tarred with much too broad a brush as a sinner in our society. Bad makes news. Good doesn't. For every instance of scandal, there are thousands, no, there are literally millions of instances repeated day in and day out in which customers receive products that perform exactly as they are supposed to; in which employees are well treated and well rewarded; in which stockholders are paid fair and regular dividends; in which the arts, and letters, and charities are aided; and in which social responsibilities are willingly met.

Still, the system needs change—improvement. And businessmen need to change . . . to meet the changing demands of the societies at whose pleasures their businesses exist. Far too many in business have been aloof, disinterested, or fearful of getting involved. Far too many are still encased in their corporate cocoons . . . insulated from problems like the alienation of ghetto youth . . . or the frustration of unemployment . . . the despair of poverty . . . the loneliness of the aged. The closest that many of us come to these problems is our daily newspaper or nightly television newscast.

Far too many have believed that the troubles belonged to someone else. There has been no lack of "someone elses" who have been willing to offer solutions to them, and demand political power as the price. More often than not, the "solutions" have become problems in themselves. We can no longer allow the crying concerns of our society to be manipulated for political ends. We, in business, industry, and education, must participate. We must help manage constructive change. And to do that, we must be as involved with public issues as we are with profit and loss statements, or with diplomas. Our system needs to change, it needs to improve—but without sacrificing its underlying concepts. Every country, every society, every organization, has two basic needs: stability and change. The constant problem is how to preserve the one while achieving the other. Failure to do so results in chaos.

If our system is to survive, without chaos, but with both stability and change, it's about time we all recognized some basic facts.

They are these:

Bigness isn't bad.

Government cannot produce wealth. It can only take. And for everything government decrees, the people pay.

Employment is better than unemployment . . . work better than welfare.

Wealth is better than poverty.

Liberty is at least as important as equality.

How the American people have been sold the idea that bigness is bad defies logic or experience. Bigness is what has given us the standard of living we have. The economies and efficiencies of big companies have allowed the technological advances, the product development, and the distribution systems that place more of the necessities and fruits of life within reach of more Americans than any other peoples on earth. We are a big country. We have big problems. We need big schools, big churches, big businesses, big unions, and, yes, big government. The idea that bigness is bad is simply wrong.

People also need to understand that everything government has comes from us . . . from working men and women and from business and industry. Taxpayers and consumers are the cornucopia from which all good things flow. Not the government. For everything government gives, taxpayers and consumers pay. If government orders a pristine environment, taxpayers and consumers will pay for it. If government orders air bags in our automobiles, taxpayers and consumers will pay for them. If government provides for the able-bodied indigent, taxpayers and consumers pay for it.

Governments can redistribute existing wealth and, in some cases, are doing exactly that. But one thing I know for certain, new wealth can be created only by people working to develop the resources at their disposal.

The alternative to this approach is what has happened in Great Britain. Britain tried to create a paradise in which all would share equally. The result was, though, that there was less to share. Their pie shrunk.

This is what Prime Minister Calaghan had to say about the situation: "You know we have not been creating sufficient new wealth as fast as we have been distributing it. We have lived too long on borrowed time, borrowed money, and borrowed ideas. We will fail if we think we can buy our way out of our difficulties by printing confetti money and by paying ourselves more than we earn. The cause of high unemployment is quite simply and unequivocally paying ourselves more than the value of what we produce."

It's about time we admitted that we here in the United States are on the same track. What happened in Britain can happen here. It is happening here!

In the attacks on the system, a number of fictions abound. One of the most insidious is the fiction that our political rights guarantee equality in all things. That has come to mean equality not only at the starting line, but at the finish line as well. Even Will Durant has suggested, "To check the growth of inequality, liberty must be sacrificed." So here we have a dilemma. You are guaranteed equality. You are guaranteed liberty. But one must be sacrificed to the other. I do not believe it! Will Durant is wrong. All men should have equality at the starting line, but when the race is on, the guarantee should be freedom. Freedom to achieve or to fail . . . freedom to make the most of every talent and ability you have . . . freedom to run the race as best you can run it . . . and freedom to receive the rewards for that effort. Voltaire said it very well. "Those who say all men are equal speak the truth, if they mean that all men have an equal right to liberty, to their property, and to the protection of the laws. But they are mistaken if they think all are, or can be made to be, equal in their station and employments; since they are not so by their talents."

I said that wealth is better than poverty. I doubt that anyone disagrees. But I meant it in this sense. The efforts in our country to stymie growth, to redistribute wealth, to pay ourselves more than we earn—these efforts will lead us to national poverty. National wealth is better. It can be achieved only by creating new wealth. We have the ability to do that. What I fear is that we may not have the will to do it. We have the ability to create new wealth . . . if government, and business, and labor, and our educators will only start working together to solve problems rather than lay blame at each other's door.

You've heard that before, you say, and it can't be done.

Yes, it can.

All it takes is: a little sacrifice . . . a bit of ego submersion . . . a recognition that to let go of a little power in order to achieve a common good is not a bad thing . . . a willingness to abandon old ways of thinking if they no longer fit the circumstances . . . and, most important, the understanding that men of goodwill can find fair solutions to mutual problems if they honestly try to do so. A good place to begin would be with the nation's number one problem—unemployment among young people.

It's about time we started.

I said earlier that the real battle is over our political system. I believe ours is the best system yet devised by man. Yet, it can still be improved. To do that, we do need some changes in the system, we need to make our elected representatives more interested in solving problems than in re-election. We need to make our politicians less political. We need broader representation in government. It's about time we limited the presidency to one six-year term. It's about time we increased the term for representatives from two to four years and limited them to three terms. It's about time we limited senators to two terms. It's about time we overhauled our courts. It's about time we put our country above our politics.

Mr. Chairman, ladies and gentlemen, I would like to conclude with two messages. One is to my colleagues in business and industry. You are beginning to hear that if you just do your jobs well, run your companies efficiently, give good service, and produce good products—there is no need to take your story to the public. All will be well. That's not true. Most of American business has done these things consistently over the years, and yet it obviously has not been enough. We must tell our story to anyone who will listen: and if they won't listen, we must find ways to make the story interesting enough or important enough—to them—that they do listen.

And one more thing. In getting the story told, I would urge you to begin with your own employees, your families, and your stockholders. No groups have a bigger stake in the success of the free enterprise system than they. We haven't done a very good job with them so far. It's about time we started correcting that.

But, more important, we must be involved with helping unravel the perplexing social problems that so undermine our country. This will require your personal attention—your personal invlovement. It will require the willingness to commit human as well as financial resources. In some instances, you may not be comfortable. In some instances, you will not be welcome. But it must be done. The changes that must be made in the system if it is to survive are too important to be left in other hands.

My last message is to those who would tear down our free enterprise system—the critics, the complainers, the dismantlers, the attackers. The message is this: "We're mad as hell, and we're not going to stand for it anymore."

I wish I could end by saying I'm confident that we can save the free enterprise system. I'm not. The best I can be is hopeful.

But I do know this. We do not deserve the liberty, the freedoms, and the riches in the common stock of the comforts of life we have in this country unless we—you and I—are willing to assume the responsibility for preserving them and passing them on to our children.

It's about time we began.

LEGISLATIVE VETO

Mr. PERCY. Mr. President, in the coming months, the Senate will debate a variety of proposals to improve Federal regulation. Two Senate Committees, Judiciary and Governmental Affairs, have major regulatory reform legislation before them nearing markup. Similarly, the upcoming debate on authorizing the Federal Trade Commission will provide a forum for airing many reform issues.

The need to improve Federal regulation is real and substantial. There is a clear consensus that Federal regulation has had a substantial negative impact on our economy, spurring inflationary pressures and adding to the drag on productivity. Many view the current mosaic of more than 95 Federal entities issuing regulations as a system out of control, in need of close examination and more cost-conscious procedures.

In enacting corrective measures to make Federal regulation less burdensome, it is important that Congress not overreact and, in its zeal, create rigid and unworkable procedures or simply pass the buck from one branch of Government to another.

One proposal which presents such a potential danger is the so-called "legislative veto." I have previously discussed my opposition to this idea and noted its potential for actually lessening the responsiveness of Federal agencies. I would also like to direct the attention of my colleagues to a letter from my distinguished colleague (Mr. JAVITS) to Chairman JOHN MOAKLEY of the House Subcommittee on Rules of the House, in which Senator JAVITS analyzes many weaknesses in the "legislative veto" proposal.

Mr. President, I ask unanimous consent that the letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C., October 2, 1979.

Hon. JOHN JOSEPH MOAKLEY,
Chairman, Subcommittee on Rules of the House, House Rules Committee, Washington, D.C.

DEAR CHAIRMAN MOAKLEY: Thank you very much for your invitation to appear last week before the Rules of the House Subcommittee to express my views on the important and controversial subject of the legislative veto, and its application to agency regulations. I regret that a prior commitment in the Senate Labor and Human Resources Committee prevented me from testifying in person. However, I did want to take this opportunity to make my position on this issue known to members of the subcommittee in writing, and request that it be included in the record of the hearing.

The legislative veto has been with us for many years now in one form or another, and has always been the source of controversy. At the outset, I would like to make clear that, where executive branch decisions involve broad questions of national policy, such as the Reorganization Act, the War Powers Resolution, or sales of military equipment or nuclear technology to foreign nations, I support the legislative veto. In fact, I am the principal author of the War Powers Resolution, which contains provisions analogous to the legislative veto, authorizing Congress to halt deployment of U.S. troops abroad. These are all cases in which the Congress has reserved to itself decisions that are legislative in nature that need to be made based on developments that occur after the enabling statute is enacted, and to me represent an entirely different situation than the application of the legislative veto to individual regulations.

Nor am I personally troubled by arguments about the constitutionality of the legislative veto in such cases. Two years ago, I authored a law review article, entitled "Congressional Oversight and the Legislative Veto: A Constitutional Analysis" which was published at 52 N.Y.U. L. Rev. 455 (1977). My research for that article convinced me that the veto—whether one House or two Houses—is constitutional in most circumstances (although not when applied to independent regulatory commissions). Although I did not specifically study the "1½ House" veto proposed by Congressman Levitas in H.R. 1776, my presumption is that that mechanism is constitutional as well, to the extent it applies to delegations of legislative power.

However, I recognize that legal scholars are split on the constitutional question, and the issue will not be finally decided until the Supreme Court has had a chance to review it. My concerns about the legislative veto go far beyond the narrow legal question involved. In my view, extension of the legislative veto procedure from broad questions of national policy to all agency regulations, no matter how detailed or technical, as H.R. 1776 does, creates more problems than it solves.

Certainly, I can understand why the legislative veto has been proposed. There is a widespread feeling that many in the bureaucracy have become unresponsive to Congress or to the public, unfaithful to legislative intent and policy, and much too slow in making decisions. However, it is clear to me that a universally applicable legislative veto is not the answer. Adoption of this procedure can only result in a bureaucracy that is less responsive and more dilatory. Additionally, it would have very adverse effects on the workings of Congress, which we ignore at our peril.

These are my reasons for this belief. Agencies issue more than 7500 regulations per year under procedures spelled out in the Administrative Procedures Act. Agencies are required to give advance notice of the regulation, provide adequate time for public comment, and explain why they accept or reject the comments. Once a regulation is final, it can be challenged in the courts. The reviewing court will examine the record, which is often lengthy, detailed, and technical. If it finds the regulation exceeds the agency's authority, is contrary to Congressional intent, or is not backed up by the record, the court will invalidate the regulation. That is the system we have had for more than thirty years, and it has worked well. It is important to recognize that, under this system, agencies are not free to do what they please; they are subject to constant review by the courts, based on the factual record they have compiled.

Several adverse consequences flow from Congressional involvement in this process through the legislative veto. I would like to divide my comments into several categories: delay and uncertainty, reduction in due process guarantees, effect on regulatory reform, and effect on Congressional workload.

DELAY AND UNCERTAINTY

In a time when we are all hearing from our constituents about the slow pace of the bureaucracy, I would think that the last thing we in Congress would want to do is slow down the regulatory process even more. Yet that is exactly what will happen under this proposal. By its terms, H.R. 1776 will require every rule to be delayed 60–90 days of "continuous session of Congress." That will mean three to six months of actual time, at a minimum, before a regulation can go into effect. Indeed, the Governmental Affairs Committee, in Volume II of its study of federal regulation, identified one instance where regulations of the Federal Election Commission, which are subject to a thirty day legislative veto provision, were in fact delayed more than 16 months before they could be implemented. So this fear of delay is not speculative.

That leads me to a related problem I have with this procedure—the great uncertainty to affected parties that would result. While the effective date of a regulation is delayed by the veto process, or by negotiations with staff to avoid the possibility of veto, the underlying requirements of law remain binding. Delay in issuing regulations interpreting the law increases the chances that persons will have to rely on their own interpretations, which could later be rejected by the agency. Indeed, in order to avoid a legislative veto battle, an agency may decide to issue no regulation at all or merely to restate the applicable provisions of law. Such action forces affected groups to guess what the law means, and the resulting uncertainty may impose greater costs than the final regulation itself.

The agency too, must live with greater uncertainty. It will be difficult for it to develop a comprehensive regulatory program, when it is faced with the prospect that individual pieces of the program, which may be crucial to its success, could be knocked out at any time by the legislative veto. Imagine what would happen if someone tried to run a business in this manner—that is, if every business decision could be vetoed by an outside group. No business could function under such circumstances, and no agency could either.

In the same vein, I also note that this

amendment contains another provision that has not received much comment, but is potentially even more destructive than the veto itself—the reconsideration process. Under this provision, any regulation any agency has ever passed in its entire history, could be terminated by Congress. There would never be any finality on which affected parties could rely. Business planning, based on known regulatory policies, would become chaotic.

REDUCTION IN DUE PROCESS GUARANTEES

The legislative veto will enable interest groups to undermine the due process protections built into law by moving the regulatory process out of the agencies and courts and into Congressional offices. In the notice and comment proceeding, all parties have equal access to decision makers, equal notice of all the facts, and can require the agency to base its decision on the record before it.

Not so with legislative veto. Meetings between lobbyists and Congressional staff are not open to the public and no transcript is taken. Decisions are not based on a formal record and cannot be appealed to the courts. Often these decisions can be made and communicated to the agency even before a rule is proposed, in order to avoid the prospect of the veto. How will a court review such a procedure? What will happen to public confidence in the system? I suggest there are as yet no satisfactory answers to these questions.

Indeed, the legislative veto process is necessarily a political one. The persons who could benefit most are those with the greatest political and economic clout—not those with the most persuasive legal or factual arguments. The process is not likely to give relief to groups—such as small business—that have fewer financial or political resources. Yet these groups have an equal if not greater interest in the impact of agency regulations, since their very survival is often at stake. The net effect of the legislative veto may be to reduce the spectrum of interests properly taken into account in framing a regulation.

EFFECT ON REGULATORY REFORM

I am also concerned that the legislative veto will undermine efforts at regulatory reform. One of the most persistent criticisms of the agencies that is heard in Congress is that the agencies constantly exceed the authority Congress intended them to have. I believe that this is, at least in part, our own fault. We in Congress, in order to move legislation, often strike compromises that provide the agency with only vague guidance. We then criticize the agency for making the hard choices we avoided.

If we are to rein in those agency decisions that truly flout Congressional will, we must spend some time reviewing the underlying statutes. We must be sure that all affected parties are heard. We must make sure that, where possible, the most cost-effective regulations are adopted. Adoption of the legislative veto may well hinder us in reaching these goals. Instead of looking at needed changes in regulatory statutes, we will get bogged down in reviewing individual regulations. Instead of opening up the rulemaking process, and selecting the most cost effective alternatives, we will make public participation more difficult, and cost/benefit analysis superfluous.

CONGRESSIONAL WORKLOAD

Finally, I want to say a word about what will happen to our workload if the legislative veto becomes law. I know that proponents of the veto contend that the veto will be used only in extreme cases. They point to the fact that it is now contained in nearly three hundred laws, and has been exercised in only a handful of cases. I think this argument overlooks two critical points.

First, where the legislative veto now exists, it applies almost exclusively to broad questions of national policy. In very few, if any, of these cases are we talking about vetoing regulations that directly affect the private sector. But that is exactly what we are talking about with this proposed legislation. I assure my colleagues that if we give interest groups another procedure to challenge regulatory decisions, they will make use of it. If the legislative veto becomes law, every single regulatory decision of every single agency that is the least bit controversial will be fought out all over again in the halls of Congress. If any of my colleagues think this will be an easy task for us to take on. I suggest that they pick up a copy, at random, of any day's Federal Register. I think you will be impressed by the number and complexity of the regulations it contains. Congress has neither the time nor the expertise to second guess the agencies on all of them. In fact, that is exactly why we created the agencies in the first place.

Second, where the veto now exists, it is often not used because the terms of the regulation are negotiated beforehand by Congressional and agency staff. Although this avoids a veto fight, it places immense power in the hands of the staff. Rarely will a committee, let alone a House of Congress, be consulted during these negotiations. Indeed, as a member of the Senate Labor and Human Resources Committee, I have seen this pattern time and again with respect to regulations of agencies subject to that committee's jurisdiction.

If we are truly concerned about runaway bureaucracy, then let us initially draft statutes that clearly spell out Congressional intent. Let us engage in systematic and thorough oversight. Let us propose amendments where they are needed.

But let us avoid temptation to become rule making bureaucrats ourselves through a process that has as many serious problems for our system of laws as this one.

With best wishes,

Sincerely,

JACOB K. JAVITS.

POPULATION CONFERENCE IN COLOMBO, SRI LANKA

Mr. PERCY. Mr. President, in August, I represented the Senate at the Colombo, Sri Lanka, International Conference of Parliamentarians on Population and Development. The conference, which brought together legislators from 58 different national parliaments, was held under the auspices of the United Nations Fund for Population Activities (UNFPA), headed by Rafael M. Salas, executive director, and the Inter-Parliamentary Union (IPU). Its purpose was to consider population problems and their effects on countries' economic development.

The conference strengthened my belief that there are only two catastrophes that can completely devastate our planet—nuclear war and population explosion—and overpopulation is the most certain to happen if we do not take action now. Imagine a world where the population has doubled, where 4 billion people are starving, unemployed or underemployed, where whole nations' economies and ecologies simply collapse under the burden of overpopulation, and you will begin to grasp what a terrible future most of the developing countries face in the next 40 years.

The UNFPA projects that world population will grow from the current 4.3 billion to over 6 billion by the end of this century, with four-fifths of these people living in poor countries, a majority of them in desperate poverty. If we procrastinate a single generation in leveling off the world's population growth rate, we can expect another 3 billion people to join us on an already overcrowded planet.

As Robert McNamara, President of the World Bank, said in a recent address:

> To reduce poverty, population growth will have to be slowed—and soon. . . . It must be faced for what it inevitably is: a central determinant of humanity's future, and one requiring far more effective attention than it is currently receiving.

The conference members issued the "Colombo Declaration of Population and Development," which calls for specific actions to reduce the world's population growth rate. The conferees recognized that population growth and development efforts are two sides of the same coin and that to make progress in one area demands real effort and understanding of the other. They cannot be separated. Acknowledging this, the declaration recommends that governments designate a proportion of their development aid to population programs. It also calls upon developing nations to recognize the importance of population when formulating their development plans.

The Colombo declaration calls for an annual target of $1 billion in international population assistance by 1984. The developed world and developing nations are beginning to understand one another and to realize that we are all living on a planet with limited resources. All countries are confronted daily, to a greater or less degree, with pollution, overcrowded cities, malnutrition, inflation—all problems which relate to population in one way or another. Problems within a nation affect its relationship with other nations. Therefore, all nations must work together to solve the population problem because it affects us all.

Although it is up to the individual countries to develop specific policies and programs, population assistance funds can provide countries with the vital resources to implement their programs. The United States, along with other countries, can contribute extensively to this effort.

Conference members recommended that a U.N. World Population Conference be held in 1984 to review the progress made in the 10 years since the 1974 World Population Conference in Bucharest. As a participant in both the Bucharest and Colombo conferences, I am acutely aware of the important role these meetings play in bringing population problems to the attention of the world. Fifteen years ago, few social scientists and fewer governments were interested in population science, which today is recognized as an integral aspect of the quality of life of all people. These conferences are significant occurrences because they stand as indications that the international community recognizes population as a subject of global concern and its related problems deserving of global attention.

As we begin to grasp fully the grave consequences of unchecked population growth rates, we should not turn away from the problem because of its enormity. I call upon my colleagues to give this critical problem the urgent attention it deserves and ask unanimous consent that the text of the Colombo declaration be inserted in the RECORD. While not everyone will agree with all its recommendations, I think it provides an excellent framework for addressing overpopulation issues.

I would also like to commend Representatives JAMES SCHEUER and JOHN ERLENBORN, the other U.S. delegates to the conference, who have done such a fine job of articulating questions surrounding world population growth.

The material follows:

Colombo Declaration

PREAMBLE

1. We, Parliamentarians concerned with population and development, assembled in Colombo from fifty-eight different national parliaments for a Conference from August 28 to September 1, 1979, having considered the progress made in the field of population and development since the World Population Conference held in Bucharest in 1974, hereby reaffirm that the principal aim of social, economic and cultural development, of which population goals and policies are integral parts, is to improve levels of living and enrich the quality of life of the people. And we reiterate the necessity of linking population programmes with development plans.

2. Today most countries have recognized that population and development are inextricably bound together and that no population programme should be considered in isolation from policies and plans on health, housing, education, employment, the environment and the use of resources. Equally, there is increasing recognition that development programmes should reflect population policies.

3. However, as the first United Nations review made since Bucharest makes clear, not enough progress in this direction has been achieved. Much more has to be done to make these relationships meaningful in action programmes. The need is both urgent and imperative.

THE NEED

4. In the 25 years up to 1975 the total world population increased from just under 2,500 million to over 4,000 million; by the year 2000 it is expected to reach 6,200 million, of which four-fifths will be in the developing countries, with a substantial majority living in desperate poverty.

5. The implications of such increases are staggering. *In the developing countries,* between now and the end of the century, 800 million additional jobs will need to be created. This is more than the entire actively-employed population of the developed world at the present time. Problems of similar magnitude will be posed as far as the provision of food, water and shelter is concerned.

6. *In the developed countries,* per capita consumption of resources—so much higher than in the developing world—has been a cause of much pollution, waste and environmental degradation. It has also contributed to world-wide shortages in key resources. Other questions such as the aging of the population and internal and international migration are becoming important.

7. At the *global level,* continuously expanding human demands have created intolerable pressures on resources, particularly energy. The pressures on biological resources—fisheries, forests, grasslands, and croplands—are mounting steadily and will continue to do so. Human needs have already begun to outstrip the productive capacity of many local biological systems as currently managed.

8. Peace itself, which is the precondition of development, will be put in jeopardy. For one of the principal threats to peace is the social unrest caused by the accumulation of human fear and hopelessness. It is also noted that forced migration and the deliberate encouragement of citizens of a country to become refugees are disruptive to the economic development and political stability of countries ill-equipped to receive them.

9. It is clear, moreover, that we can no longer afford to limit our viewpoint to the year 2000. Unless effective action is taken *now* in the field of population and development, world population could continue to rise to 8,000 million or even 10,000 million people. A delay of just one generation in bringing world population to a stable level implies approximately 3,000 million additional persons.

THE OBJECTIVES

10. To improve and enrich the quality of life for these increasing numbers—all of them individuals needing food, shelter, clean water, work, education and medical care, as well as a decent environment to live in—and to avoid a continued aggravation of the world population situation in the twenty-first century, the goals and objectives of the New International Economic Order must be urgently implemented. At the same time internal changes are necessary to assure an equitable distribution of resources and a fair and just society within each nation. These achievements would be important in their own right, and, in addition, we know that improved equity and modernization of society lead to the lowering of both mortality and fertility.

11. A massive expansion of resources devoted to development programmes will be required, as well as a restructuring of those programmes. And we will also need a major expansion of preventive health and medical care and the family planning services linked with them. Above all, it will be necessary to ensure that actions are taken at the local level—the grass-roots or village level—and respond to local demand. The involvement and participation of people themselves in all aspects of social and economic development is of paramount importance.

12. On the *development side,* the Conference belives that it will be necessary to reformulate goals and strategy to include:

Deliberate direction of development efforts towards social justice, fairer income distribution and full employment including a more equitable allocation of such efforts between urban and rural population;

Measures to discourage migration from rural areas to already overcrowded cities and to promote country projects for the better distribution of populations; these should include the encouragement, in the rural areas, of food crops and small industries (especially agricultural and food industries);

The provision of a wider choice of appropriate technologies;

Emphasis on individual self-reliance and on creating among the people, greater self-confidence, economic self-help, social awareness and political consciousness;

Promotion of the role and status of women within the family and society through effective measures aimed at enhancing and ensuring women's access to education, employment, health services and financial credit; and

The use of public education and information programmes, through all the media, as a principal instrument of development and as a channel for two-way communication.

13. On the population side, specific measures should include:

Reduction in mortality, particularly of infants, children and mothers, through effective promotion of basic health services easily accessible to all people, especially in rural areas;

Information about, and provision of, easily accessible family planning services suitable to the particular needs of couples and individuals in diverse social, cultural and economic settings, both urban and rural;

Training and equipping of adequate numbers of paramedical and field workers, including voluntary workers, preferably from the local community itself, to provide the full range of preventive and curative health services and all aspects of family planning, including counselling and delivery of services. Special efforts should be made to encourage the medical profession to design and supervise programmes to train and employ paraprofessionals in these comprehensive health programmes. Maximum use should be made of traditional systems of medicine;

Encouragement of popular acceptance of higher ages of marriage;

Greater participation of men and women, particularly youth, in population and family planning programmes.

A CALL

14. This Conference accordingly calls on all governments to strive to redress the inequities of economic relationships between countries through the early achievement of the goals and objectives of the New International Economic Order so as to assist the development of the full economic and human potential of developing countries.

15. In this connection, the Conference believes that rising levels of armaments spending can only detract from the resources available for international assistance and domestic investment in population and development programmes. The Conference calls for the reduction of the arms race by disarmament agreement as a step towards general disarmament and for the utilization of the resources available for the solution of population and deveolpment problems.

16. The Conference also calls on governments to work towards fairer distribution of resources within their own countries and towards the creation of more just societies.

17. The Conference calls upon all governments of the developed countries to take meaningful steps to stem the flow of trained personnel from developing to the developed countries till such time as the developing countries have built up an adequate cadre of trained personnel for the implementation of their development programmes with special reference to health and population activities.

18. The Conference further calls on governments to:

(a) Strengthen and expand socio-economic development programmes and to formulate appropriate population policies as an integral part of these plans in consonance with national needs and aspirations;

(b) Examine population trends in their countries and the impact of these trends on health, education, employment, agricultural and industrial development, housing and environmental conditions; it being understood that population policy remains a matter of national sovereignty;

(c) Take deliberate steps to promote and strengthen the integration of population programmes in all development activities, including efforts to increase knowledge of the interrelationships between population and development among policy-makers, planners, civil servants, development workers and the people, and integration of population education into all levels of education;

(d) Direct more of the available national resources to the rural areas where the vast majority of the people live and to ensure more equitable and balanced development by providing a comprehensive network of decentralised and community based services to meet basic human needs;

(e) Establish equality between men and women in public, political, economic, social, cultural and family responsibilities, so as to enable women to exercise their basic human rights and to play more effective roles both by formulating policies and by participating in programmes on population and development.

(f) Ensure that all couples and individuals can exercise their basic right to decide freely and responsibly the number and spacing of their children and have the information, education and means to do so; the responsibility of couples and individuals in the exercise of this right takes into account the needs of their living and future children and their responsibilities towards the community;

(g) Support increased biological and social research into safer, more efficient and more widely acceptable techniques of fertility regulation, including the effective management of family planning programmes; and

(h) Increase the overall allocation of international assistance to UNFPA and other related programmes and agencies of the United Nations system, bilateral aid programmes and nongovernmental organisations such as the International Planned Parenthood Federation (IPPF) in order to meet the foreseen large increases in both the need and the demand for assistance from all parts of the developing world, and in order more effectively to integrate population and development programmes designed to improve the quality of life for all people.

To this end and in the spirit of this Declaration, the Conference calls for an annual target of one billion (one thousand million) dollars in International Population Assistance to be achieved by 1984.

In order to secure the availability of necessary funds, the Conference recommends that contributing governments clearly designate a meaningful proportion of their development aid to population programmes. The Conference calls for countries receiving assistance to increase their own efforts in the field of population and development correspondingly.

19. The Conference also calls on governments to ensure that international migrants living in countries other than their own, are accorded basic human rights and protected from exploitation and discrimination. Positive refugee resettlement policies should also be adopted by all countries as part of their national immigration policies according to their economic, political and social capacities.

20. The Conference calls on the *Press and other media* to provide greater positive coverage of population and development issues, so as to increase public awareness and understanding of these matters.

21. The Conference calls on *religious leaders* to take into account the tremendous impact of population pressures on human, spiritual and physical well-being.

22. This Conference makes a special appeal to *Youth* and to all those who are concerned with young people. The future generation has already been born, and indeed 36 percent or over 1,500 million of the world's population are under 15 years of age. They must be informed of the importance of population and development issues through education and communication in and out of school. It is of vital importance that tomorrow's parents and decision makers understand the key linkages between their fertility behaviour and national population change, available food and resources, consumption patterns and the environment, and that they be afforded the benefits of family life education and family planning services to encourge them to space their children and practice responsible parenthood.

23. The Conference calls on the *United Nations and all its Specialised Agencies and Organisations, including the World Bank,* and other inter-governmental agencies including the Regional Development Banks to increase their efforts to sustain rational and humane population policies as an integral part of the development process.

24. The Conference calls on these organisations and agencies to redirect their resources away from capital-intensive projects which generate few jobs towards labour-intensive developments that could provide the massive growth of the employment needed to meet basic human requirements.

25. The Conference calls on all *non-governmental and voluntary organisations* such as IPPF and the International Union for the Scientific Study of Population (IUSSP), as well as Universities and other educational and research bodies to continue their efforts to help in this work of protecting and enhancing the quality of life.

26. The Conference calls upon the Inter-Parliamentary Union (IPU) and other international and regional groupings of parliamentarians to give special attention to this question of population and development and to undertake and support all appropriate actions.

27. The Conference recognises the need for the formation within each nation, where they do not exist, of well-informed committees, groups or associations of parliamentarians to be concerned with the urgent problems of population and development and it urges parliaments and governments to encourage the formation of such committees or groups and to facilitate their work.

28. With a view to helping parliamentarians and other leaders of public opinion to discharge their duty to foster progress in this crucial matter and to monitor that progress, the Conference considers that the formal and informal dialogues on population should continue both internationally and bilaterally.

29. The Conference believes that it would be useful for parliamentarians to meet at the regional level to exchange information and experience gained in their countries and to promote the holding of such regional or sub-regional meetings.

30. The Conference calls for a UN World Population Conference in 1984, to review progress made over the ten years since the Bucharest Conference and to propose further actions.

31. The Conference also believes that the increased international assistance which is here proposed requires that the role and functions of UNFPA be strengthened. In particular, the Conference recommends that the UNFPA should develop into a Population Programme within the United Nations system in order to deal more effectively with the foreseeable changing demands in population and development. The Conference also recognises the need for continuing and close collaboration and cooperation between all inter-governmental, governmental, and non-governmental and voluntary agencies and organisations involved in the population and development field.

32. The Conference believes that the integration of population and development should be considered as a key issue in the International Development Strategy to be adopted for the next decade and calls on the Special Session of the General Assembly, to be held in 1980, to give appropriate recognition to this factor. Parliamentarians should encourage their government representatives to the United Nations to press for action in this sense.

COMMITMENT

33. The parliamentarians at this Conference, in their capacities as legislators, leaders of public opinion and as representatives of their constituencies, commit themselves to initiate action to achieve an effective integrated approach to development and population policy.

34. In particular we commit ourselves as *legislators:*

To establish groups and associations of parliamentarians and other opinion leaders. The purpose of such groups and associations will be to promote legislative and other governmental measures designed to achieve integrated programmes for population and development and to ensure that every development programme includes action on population;

To seek to ensure that adequate resources are committed to such programmes;

To monitor the action flowing from policies in population and development and to ensure that these policies are not obstructed by the processes of bureaucracy; and

To work to remove legislative obstacles which may prevent the development of comprehensive population and development policies and programmes.

35. As *leaders of public opinion,* we commit ourselves to make a maximum effort to arouse interest and enthusiasm in questions of population and development and to initiate measures designed to influence our respective governments and legislatures to devote a greater share of their resources to these programmes.

36. Finally, as the *elected representatives of our constituents,* we commit ourselves to work at the local level with local organisations and people so that practical programmes may enable these integrated population and development plans to be put into effect.

REBUILDING THE ECONOMY—PART I

Mr. PERCY. Mr. President, the saving rate in the United States is one of the lowest among the major industrial countries. As was made so clear last year during debate on the capital gains tax cut, we must provide business and labor with the pool of funds it needs to stay competitive. The "cost" of a new job in manufacturing is over $40,000 now and unless we foster the capital for these jobs and for new equipment, the economy is going to continue to falter. The capital gains tax cut has produced a healthy new venture capital market. Saving incentives can supplement it.

Saving, investment and job creation are intertwined and complicated aspects of the economy. To highlight these aspects and their role in a true and sustained recovery, I intend to comment on them in the weeks ahead.

Today I will focus on the comparative saving rate of the United States vis-a-vis our major trading partners. When we see where our competitors are advancing, it may place in perspective the challenge that faces us.

On July 19 I introduced S. 1542, the Small Savers Incentive Act of 1979. My bill would eliminate the Federal income tax on $500 of interest earned from a savings account if the income is reinvested during the tax year. Regardless of whether the interest is reinvested, $100 would be taxfree. This legislation would also boost the Federal tax exclusion on dividend income from $100 to $500 if it is reinvested during the tax year.

I hope that passage of the Small Savers Incentive Act will lead to a reversal of two disturbing trends. First, the rate of saving in the United States is low when compared to that of Germany, Japan, France, and even Great Britain. As the following chart shows, we are at the bottom when we are compared with our allies:

HOUSEHOLD SAVING RATE

[As a percent of household disposable income]

	1973	1974	1975	1976	1977
Japan	20.4	23.7	22.5	22.2	21.2
West Germany	14.2	15.2	15.3	13.6	12.6
France	16.3	17.4	18.6	16.1	16.7
United Kingdom	11.9	14.4	15.0	14.6	13.7
United States	8.0	7.4	7.9	5.9	5.3

Source: Organization for Economic Cooperation and Development, 1979 Economic Survey.

There are many different ways to measure the saving rate, but even when it is looked at in a way most favorable to the United States, we came in last.

For example, the same 1979 OECD survey also evaluates international saving rates as a percentage of gross national product. This rate is determined by deducting national consumption from GNP and stating it as a percentage of GNP. In this case, for 1977, OECD found that Japan saved 32.2 percent of its GNP, West Germany 24.2 percent, France 23.4 percent, the United Kingdom 20.3 percent, and the United States 17.7 percent.

The second trend in savings may be more damaging to the economy than our standing vis-a-vis our trading partners. As Business Week magazine noted in a recent article, "not only is the U.S. rate of personal saving the lowest of all the major industrial countries, but the U.S. rate has fallen from the level of a decade ago, while the rates in many other industrial nations have risen, and so has the percent of their gross national products that go into capital investment."

What has happened to the U.S. saving rate—in terms of personal disposable income—can be seen in the accompanying chart from the President's 1979 Economic Report. The Commerce Department figures differ somewhat from the OECD's due to different methods of computation, but the trend is clear in either case.

U.S. personal saving

(as percent of disposable personal income)

1970	7.4
1971	7.7
1972	6.2
1973	7.8
1974	7.3
1975	7.7
1976	5.7
1977	5.1
1978	5.3

Furthermore, only five times since 1950 has our rate of saving dropped as low as it was last year. Clearly the time has come for us to act to reverse this trend.

Mr. President, the October 5 Wall Street Journal carried an important front page article on the European "Super-Savers" and I commend it to my colleagues and ask unanimous consent that it be placed in the RECORD at the end of my remarks.

There are great benefits to be realized to the savers of this country and to the economy in general. At a later date, I will explore these aspects of the Small Savers Incentive Act.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EUROPE'S SAVINGS RATE, FAR OUTSTRIPPING U.S., AIDS ECONOMIC GROWTH

(By June Kronholz)

FRANKFURT.—The late-summer sales are offering what, to Germans, are terrific bargains: canvas sandals for $30, large-size cotton dresses for $100, major appliances for perhaps double U.S. prices, and the usual array of last winter's heavy-duty underwear for $8.70 a set.

Despite such temptations, Renate Schumacher, a 24-year-old telephone operator, expects to stick to the budget she devised four years ago. From her take-home pay of about $740 a month, she regularly banks $284 and "whatever is left" after paying for rent, food, and upkeep on her automobile.

Old stories of depression, deprivation and hyper-inflation are passed along like family recipes here, and they have turned West Germany into a nation of super-savers. This year Germans will spend more and borrow more than ever before, but they also will save more—the equivalent of about $60 billion in all, they will squirrel away about 14 percent of their disposable incomes, more than double what Americans will put away.

VIRTUOUS HABIT

The importance of that high savings rate is that it has what one economist calls "a virtuous effect" on a country's economic performance. Instead of turning to stock offerings to raise money, German companies traditionally turn to their banks—an easier and more reliable way to raise funds. With deposits high, the banks have plenty of money available to lend for plant investment and expansion.

All this is a prime factor in the German economy's success story—and a comment on the comparatively slack economic performance of the U.S. The funds made available by saving have helped push productivity ahead at a faster rate in Germany since the 1960s than in any other Western nation. And even though productivity shows signs of slowing lately, it still is expected to rise five times faster this year than in the U.S.

Savings rates—the percentage of income that people put into bank accounts, bonds, securities, insurance and mortgages—have been growing steadily in most of Western Europe in recent years. The French are expected to save even more than the Germans—about 17 percent of their incomes this year, according to the Organization for Economic Cooperation and Development. In Italy, where the Consumer Price Index is rising faster than in any other major European country, savings will total about a quarter of disposable income, the OECD says.

There is some government encouragement behind these figures. Frenchmen get generous tax breaks on their savings-account interest, and the German government stimulates savings by offering a cash bonus to savers of up to about $100 each year.

THE INVOLUNTARY FACTOR

Much of the growth in European savings is due to payroll-savings plans and other contractual savings programs. Britons, for instance, saved more than 14 percent of their disposable income last year, double the rate of the 1960s. But London's National Institute for Economic and Social Research estimates that about half of their current savings are involuntary—payroll-paid life-insurance and pension programs, for example.

Deepening fears of inflation seem, oddly, to encourage savings in Europe. Previous inflations spurred people to spend their money before it lost further buying power. "The logical thing to do is to borrow everything you can," says Roger Bookhouse, an economist for Bankers Trust Co. in London.

But, beginning in the 1970s, European consumers have been doing just the opposite. "They feel the need for a larger cushion," says F. T. Blackaby, deputy director of London's National Institute. "They fear the future."

In 1974, these economic fears, fueled by Germany's highest inflation rate (7 percent) since World War II, prompted Germans to bank so much of their money that the government, worried that the economy would stagnate, passed a series of measures to encourage spending. It was no use producing more if no one was buying. (The economy recovered anyway, and savings rates dropped back.)

This year, while other Europeans warily anticipate a recession inspired by high oil prices, Germany has no such concerns. Inflation and unemployment are only about 4 percent each, and the real gross national product will grow by 4 percent this year, double the American rate, according to the Deutsche Bundesbank, Germany's equivalent of the U.S. Federal Reserve.

THEY SPEND, TOO

As enamored as ever with new cars and eager to travel because current foreign-exchange rates are in their favor, Germans will increase their consumer spending by 7 percent this year over 1978, the Paris-based OECD predicts. Dresdner Bank, Germany's second largest, says that consumer loans, which weren't even offered by German banks until 1959, now average about $1,000 for every German and will jump about 20 percent this year.

Still, Germans are expected to keep saving, because—well, because they always have. "It's something Germans got with their mother's milk," says Herbert Wolf, chief economist for Commerzbank, a major bank.

A poll that Commerzbank conducted among its depositors concluded that Germans don't save to buy anything in particular. Indeed, when they buy a car, furniture or a package-tour vacation, it usually is on the installment plan, even though almost all borrowers have savings accounts too. Most Germans told Commerzbank that their savings were for emergencies or for old age, even though Germany has generous social-security and medical-care programs.

Because wages are rising twice as fast as prices in Germany—and because inflation isn't eating away at purchasing power—Germans can afford to save more than most people. Germany's commercial banks almost ignored private savers, leaving them to the savings banks, until they recognized the growth in disposable income 20 years ago. The commercial banks then quickly began opening 1,000 bank offices a year to help handle savings accounts.

Now, Dresdner estimates that 95% of Germans have savings accounts, and that bank savings alone average $3,900 a person. To handle all those depositors, Germany has 44,000 bank offices—one for every 1,400 people—and traveling tellers regularly visit elementary schools to open accounts for children as young as six.

Whatever motives Germans may have for saving, interest rates don't seem to be the primary one. A few years ago, a research firm discovered that two-thirds of Germany's depositors didn't know how much interest they were being paid.

Now, Germans are becoming more aware of interest rates, the major banks say. But passbook accounts still are the most popular way to save, even though they pay only 3.5% interest now and were paying a mere 2.5% a year ago. (Other forms of bank saving, including certificates of deposit, pay higher interest rates, but aren't as popular.)

Despite that low return, Gunnar Kockerols, who is studying for a doctorate in economics at the University of Frankfurt, says he regularly puts 40% of his income as a teaching assistant into a passbook account. With a certain doomsday logic, Mr. Kockerols says he saves "because of my own anxiousness and what might come," and he saves in a passbook account because "I want to be able to get to my money."

The German preference for a safe, handy

investment helps explain the indifference to investing in company stock. Last year, Germans put the current equivalent of $31 billion into banks, but only $1 billion into stock, the Bundesbank says. The Frankfurt stock exchange, one of eight in the country, lists only 229 companies.

Other investments are similarly unpopular; bond holdings far outnumber stock holdings, but the Bundesbank says their sales have been falling for two years.

Not everyone learned the same lessons from Germany's bad economic times, of course. Although there are 15 bank offices within a short walk of her job, Kerstin Franke says she saves only about 3% of her income as a travel agent—and even that will be put into a piece of real estate as soon as she can manage it. "After the last war, the people who saved found their money was worth nothing," she reasons.

Nonetheless, economists don't expect many young people to scuttle their bank accounts as Miss Franke plans to do. The savings rate will grow slightly again this year, predicts Mr. Wolf, the Commerzbank economist. "Americans sleep well with debts," he explains. "But Germans sleep well only when they have money in the bank."

GOV. JOHN D. ROCKEFELLER IV ESTABLISHES AGENDA FOR APPALACHIAN REGIONAL COMMISSION

Mr. RANDOLPH. Mr. President, each fall for the past 3 years, the Appalachian Regional Commission has conducted a conference on major issues facing the 13 States which comprise the region. Our able colleague, Senator Moynihan, gave a meaningful message.

This year's conference focused on energy and health-care cost containment. It was held in Binghamton, N.Y. In 3 days of discussions ending yesterday, these issues were reviewed in detail. The position of the Appalachian States as a principal supplier of energy resources and the health-care needs of the region's people made these dual topics extremely timely. I am confident that the information and views exchanged will be extremely helpful on developing the Commission programs in the years ahead.

The conference concluded with a meeting of the full Appalachian Regional Commission to review the recommendations of the conference and to conduct its business as required by law. It provided the opportunity to review the activities of the past year during which Gov. Hugh Carey of New York served ably as State cochairman of the partnership.

He will be succeeded in January by Gov. John D. Rockefeller IV of West Virginia who described for the Commission his view of the direction this unique Federal-State partnership should take in 1980. His goals are ambitious, but they are consistent with the intent expressed in the legislation passed by the Senate which extends the Commission for 4 years. They also are attainable goals and I commend Governor Rockefeller for his determination to lead the Appalachian Regional Commission in this manner, in partnership with the new Federal cochairman expected to be nominated soon by President Carter.

Mr. President, Governor Rockefeller's statement is evidence of the responsiveness to changing conditions and the vitality which exists in the Commission. I ask unanimous consent that it be printed in the Record.

There being no objection, the statement was orderd to be printed in the Record, as follows:

Governor Rockefeller's Statement

As ARC's States' Cochairman for 1980, I intend to build on the leadership provided by Governor Carey and those who have preceded him. We will continue to focus the Governors' agenda on issues of policy as we are today.

Over the past three years we have held a series of conferences. These have given us new direction and vitality. They have given citizens of the region an input into our program agenda. The recommendations of the past two conferences are now largely embodied in our legislative reauthorization. This demonstrates the importance and the efficacy of these conferences.

I propose we continue this effort. I recommend we hold a fourth conference, in West Virginia, on the housing needs of all the Appalachian people in the 1980's. To increase Governor involvement in the conference, I propose to invite a number of my fellow ARC Governors to chair the conference panels.

Our legislative reauthorization hearings and the reports of the Public Works Committees in both houses commend us to chart new directions for our programs. I intend as States' Cochairman to lead our effort to revitalize the program. All of us have come to believe that ARC is a program of vital import to the well being of our region. If it is to continue beyond the reauthorization now contemplated, we must continue to improve our program. We must demonstrate that it can achieve objectives that regular federal agency programs cannot.

I propose that the Federal Cochairman, our Alternates, and the Commission staff give their highest priority to developing new initiatives for the Commission program. These initiatives must be regional, not parochial. I propose that we have on the agenda for our next Governors' meeting proposals to implement new initiatives beginning with our investment programs for Fiscal Year 1981.

Departing from our traditional posture, I propose that we develop regional investment targets. These would be in areas where Governors here expressed special interest. These areas might include housing, basic education, economic diversification, or energy. Each State would be expected to select at least one target area which the Governor would set as a priority for major investment of ARC funds on a regional rather than single State basis. The model contained in the energy resolution to come before us today should provide a foundation for developing the mechanism to implement this strategy. We have traditionally jealously guarded our individual State prerogatives in the ARC program. In the main we will continue to do so. But we must take steps to broaden our regional horizons if we are to have prerogatives to protect. I hope all the Governors will support this effort, and we will take up this debate in good spirit in the spring.

I share with my fellow Governors confidence in our ARC team. I look forward to working cooperatively with our new Federal Cochairman. Our States' Washington Representative, Leonard Schwartz, has worked diligently over the past two years to serve the Governors. He has been effective. All of us appreciate the added responsibilities he has had during a difficult period. But that is behind us. Obviously I have a great many responsibilities as Governor of West Virginia and as such I will rely on Len to discharge my day-to-day responsibilities with regard to ARC. He will have the personal access to me which will assure he can do so effectively. Our Executive Director, Henry Krevor, is doing an outstanding job and has made significant changes in staff organization which we all support.

I look forward to 1980 as a year in which all of us move forward together to assure that ARC continues to meet the needs of the 19 million people of the region.

THE ISSUES UNDERLYING SALT

Mr. STEVENS. Mr. President, Richard Perle, of Senator Jackson's staff, has written a clear-cut article on the issues underlying the SALT debate. In his words, it is a thorough explanation of "the sea of troubles involved in an arms control treaty built on American dreams." I commend it to my colleagues and ask unanimous consent that it be printed in full at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Oct. 7, 1979]

An Arms Control Treaty Built On American Illusions

(By Richard Perle)

Having come to office with virtually no experience in foreign affairs, President-elect Carter drew around him a small circle of senior officials whose faith in the efficacy of arms control is exceeded only by their abhorrence of military power and their dread of confrontation with the Soviet Union.

So the acquiescence last week in a Cuban status quo declared only days ago to be unacceptable in wholly in keeping with the animating spirit of an administration which describes the U.S.-Soviet relationship as one of "cooperation and competition" but cannot tell the difference between them.

The fact is that since 1972, but especially since the Carter administration took office, the United States has been faced with unceasing Soviet global adventure accompanied, despite the "limitations" of the SALT I agreement, by a massive buildup of Russian theater and strategic air, ground and naval forces.

In Angola, Afghanistan, Cambodia, Ethiopia, Iran, Vietnam and Yemen, among the Russian-trained terrorists of the PLO or the expeditionary forces mounted from Cuba, the Soviet Union, our partner in detente, has been fomenting turmoil, inciting bloodshed and fueling wars.

In response, the Carter administration (which was helped to power by the impression that it would understand Soviet foreign policy better than President Ford was thought to understand the Polish political system) has chosen to take arms control against this sea of troubles:

The Soviets and their Cuban proxies have intervened militarily and politically throughout the troubled Third World, exploiting ethnic and racial tensions and the fragility of new nations and weak governments. The administration responded by initiating negotiations with Moscow, proposing that we limit the sale of arms to our respective friends and allies—an unverifiable and unenforceable proposal which would threaten the supply of essential arms to our friends at precisely the moment that our friends are being threatened.

The Soviets are engaged in a broad effort to encircle the oil fields of the Persian Gulf, fomenting trouble in Iran, intervening in Ethiopia, inciting war in Yemen.

The Carter administration response: proposals to freeze and then reduce the U.S. and Soviet military presence in the Indian Ocean. If accepted, the U.S. proposal would leave the Soviets, whose air forces are within easy range of the Indian Ocean and the Gulf, in a commanding position.

In recent years, the Soviets have deployed no fewer than four new theater nuclear missiles, two new calibers of nuclear artillery and several new nuclear-capable aircraft. Partially to redress the resulting theater imbalance in Europe, the United States developed a family of "neutron" weapons whose destructive effects can be better confined to the battlefield, thus sparing nearby civilians. When the Soviets mounted a menacing political and propaganda campaign against our deploying these less indiscriminate weapons, the Carter administration response was to defer their production while asking that the Soviets show reciprocal restraint. Now, after two more years of Soviet military expansion, and without any sign of restraint, the neutron weapon deployment remains deferred, probably permanently.

While the Soviets continue to conduct a massive nuclear testing program, several times more extensive than ours and some of it almost certainly in violation of the current threshold testing treaty, the Carter administration has pushed hard for a comprehensive, unverifiable ban on even very low yield nuclear tests; and it has done this while sharply reducing the U.S. testing program.

So cardinal is it to the administration's outlook that one could multiply many times these examples of its faith, unsupported by reason or experience, that the Soviet threat to our security (and that of our allies) is best moderated by negotiating arms control agreements. It is a faith that flows easily from the premise, intoned as a conclusion by Paul Warnke, that the United States and the Soviet Union are merely "apes on a treadmill," with America providing the model of senseless weapons building that the hapless, blinkered Soviets have mechanically imitated. It is a view, ignorant of history and resistant to fact, that rules out even the suggestion that the Soviets might plan their military forces independent of our plans or that they might pursue what they know to be a politically useful military superiority with which to coerce those states not already responsive to Soviet desires.

Committed to the notion that our relations with the Soviets are a mixture of "cooperation" as well as "competition," the Carter administration sees SALT II as the principal cooperative enterprise between us. The presumption seems to be that the mere act of concluding a treaty on strategic weapons, whatever its terms, is by itself an act of "cooperation" to be contrasted with such episodes of "competition" as the insertion of Mig 23s or a combat brigade in Cuba.

What is missing is any concept of what "cooperation" entails. Is any transaction between a buyer and seller an example of cooperation—or does it depend on the circumstances and the terms? Is a security treaty between the Soviet Union and Finland a sign that those two countries are cooperating—or is it simply an expression of Soviet strength and Finnish proximity?

In fact, SALT is really something quite different from the ordinary sense of cooperation. It is a bizarre symbiosis between our tendency to harbor illusions and the Russian practice of nurturing them.

In the case of the SALT II treaty, the illusion is that the Soviets will acquire fewer weapons with the treaty than without it. It is an illusion curiously immune to experience. That it persists despite the lesson of SALT I, following which the Soviet strategic buildup continued with undiminished fury, must amuse Henry Kissinger the historian even as it undoes Kissinger the diplomat. For after more than a month of Senate hearings on SALT II, it has become abundantly clear that our negotiators failed to obtain those constraints—on the Soviet capacity to attack our deterrent forces—that would have given substance to the misty dream of "cooperation."

In some cases the Soviets simply told us to get lost—as when we suggested that 150 heavy missiles for them and 0 for us seemed fairer than the 308 to 0 the treaty ultimately provides. In other cases the Soviets held out for—and got—treaty language replete with loopholes and ambiguities calculated to permit their strategic weapons programs to go forward unperturbed. A prime example of this has to do with the deployment of "new" types of ICBMs. By the time the dust had settled over the negotiating table at Vienna, the term "new" had been defined so as to permit the Soviets to complete the very fifth generation of ICBMs that it had been our original purpose to halt. Finally, in still other cases, the Soviets were willing to trade cosmetic "assurances" for U.S. acquiescence—as when we gratefully received a Soviet statement of the range/payload of the Backfire bomber that our own intelligence estimates showed to be false.

All these points have been established in the Senate hearings. To Lloyd Cutler's self-serving assertion that the Senate critics of the treaty "failed to lay a glove on it," I commend the record of hearings before the Armed Services Committee wherein it becomes clear that the treaty has failed to lay a glove on the continuing Soviet strategic buildup.

As this has become increasingly evident, some senators have said that the treaty ought not to be ratified unless it is accompanied by an increase in defense spending large and sustained enough to begin to reverse the dangerously adverse trend that began a decade ago—as the first SALT negotiations got underway in Helsinki.

But beyond a fleeting tactical accommodation there is little hope that they will get their increase. For as the last 10 years have shown, SALT has served principally to ease the apprehensions of the West while the military forces of the Soviet Union widen their already considerable advantage. The impression of arms control without the reality, the atmosphere of detente without substance, the rhetoric of peace and stability as our defenses decline—all are fundamentally inconsistent with an adequate defense effort. The clash between that simple fact and the administration's faith in arms control cannot be reconciled. The Senate will have to choose; and the sooner the better.

INDOCHINESE REFUGEES

Mr. BOSCHWITZ. Mr. President, I congratulate my eminent colleague, Senator Hayakawa, who made a very feeling speech about the Indochinese refugee question last night at George Mason University. There are few in the Senate who feel more strongly about helping others, particularly those who are so desperately in need of relief, than Senator Hayakawa.

Mr. President, I ask unanimous consent that the remarks of Senator Hayakawa at George Mason University be printed at this point in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Remarks of Senator Hayakawa

Ladies and Gentlemen: It gives me great pleasure to be here with you tonight, at what I understand is the first academic conference on the subject of Indochinese refugees. This is an issue with which I have been concerned for quite a long time, and I am glad to see that it is being addressed by a distinguished group of learned people such as yourselves.

It is almost impossible to view this overwhelming story of human suffering without seeing the spectre of the Jewish refugees who drifted on the high seas in the 1930's. The world, including the United States, failed to meet its human obligations to the refugees in that instance. If you will remember, forty-one years ago in July, 1938, President Roosevelt called the nations together at Evian to coordinate efforts to rescue German Jews from the coming holocaust. The statesmen arrived, made speeches and departed. They left behind an Inter-Governmental Committee on Refugees that stalled until the war made further efforts impossible. In 1939 a shipload of Jewish refugees arrived in Havana, with Cuban visas, but were turned away there and in Miami. They returned to Nazi Germany. Many finally reached Holland, Belgium, and France, but wound up in death camps anyway. Even after the Holocaust, thousands of Jewish "boat people" were turned away from the Middle East ports. The feeling was adamant in the international community that met in Geneva five months ago that this not be allowed to happen again.

Fortunately, it does seem that more was accomplished in Geneva than was accomplished forty years before. Pledges for final resettlement of refugees by various countries had risen to 266,000 by the end of the conference. At the close of the conference, United Nations General Secretary Kurt Waldheim announced that the Socialist Republic of Vietnam would make every effort to stop illegal departures for a reasonable period of time. According to U.S. analysts, they agreed to do this for two reasons. First, they realized that they were losing most of their support among people and countries that strongly had backed it against the United States during the Vietnam War. Joan Baez, a former war resister, had turned against Vietnam. Sweden and Yugoslavia, and the French leftist intellectuals, formerly strong supporters of Vietnam, were making their criticisms increasingly clear. The European Common Market diverted all its aid for Vietnam to helping the boat people. Secondly, the moratorium was agreed to because Hanoi was beginning to realize that they were suffering economically because they were losing many skilled craftsmen and businessmen, particularly in the northern part of the country.

Much of the current refugee exodus from Vietnam is attributed to the documented pattern of discrimination toward people of Chinese heritage. The government of Hanoi is forcing its Chinese to choose between leaving the country, or moving to rural labor camps. They are determined to get rid of all their one million ethnic Chinese, and at the same time, build up the national treasury. They accomplish this by charging the people they want to exile for the privilege of leaving at the unbelievable price of $2,000 per person—payable in gold or hard currency.

How could Hanoi explain this atrocious behavior to the world? They did so in their usual propaganda style of insisting that these are capitalist landowners and undesirables who hate the new system and really want to leave. But these same people "who really want to leave" are required to declare that they are happy to give their property to the Vietnamese government—pay the same government hard currency and then climb aboard leaky, overcrowded boats to go to an almost certain watery grave! No rational thinking person can honestly believe a thing like that.

Because Hanoi is no longer forcing its citizens to leave in droves, the arrivals of the boat people have markedly declined, from 60,000 people in May–June to 12,000 in September. It appears that people who leave the country now are developing their own clandestine methods of leaving. This moratorium by the Vietnamese has resulted in more people leaving the Southeast refugee camps than have arrived for the first time in many months. However, it is a faucet that is controlled by the Vietnamese government, and one that they can turn back on at any time. However, the Conference opened up discussions with the Vietnamese government, and established a precedent of cooperation with them on this issue. It also was a witness to the world that most of the major governments of the world were united in their concern about the thousands and thousands of homeless refugees that were being pushed out to sea, and dying there by the tens of thousands.

The United States Senate, on the whole, has been very responsive to the plight of the refugees. On June 10th the Senate unanimously passed a "Sense of the Senate" resolution calling upon the United Nations to immediately convene an emergency session to deal with the Indochinese refugee crisis. On June 25th Senator Boschwitz from Minnesota, himself a Jewish refugee from Nazi Germany, got an amendment passed to the Supplemental Appropriations bill which made $15.5 million immediately available to finance assistance to the Indochinese refugees. In July, I joined with Congressman Pete McCloskey from Menlo Park in writing to the President asking him to commit the resources of the 7th Fleet to search for and provide assistance to the boat people leaving Indochina.

I was deeply moved when Joan Baez came to Washington in July to hold an open air concert and then march to the White House in support of the Vietnamese refugees. Her concert was held on July 19th, the day after Congressman McCloskey and I held our press conference to make public the contents of our letter to the President. And it was at the conclusion of that march, when everyone had gathered around the White House gate singing "Amazing Grace" that President Carter came out of the House and stood on the fence, telling the crowd that any group that could sing all four verses of "Amazing Grace" deserved special consideration, and that he was thinking about the possibilities of using the 7th Fleet to rescue the boat people.

The following day, July 20th, the President officially announced that he would be using the 7th Fleet to pick up refugees at sea. Vice President Mondale reiterated that decision by announcing at the Geneva Conference that the President had ordered four ships from the Military Sealift Command to be dispatched to the South China Sea to transport refugees from camps to processing centers and to help refugees at sea. The President also ordered long-range naval air patrols to find and seek help for refugee boats in trouble. Refugees on seaworthy vessels were to be given supplies and set on a course that would take them to land. Refugees in danger of sinking were ordered to be taken aboard the Navy ships and dropped at the next port of call under American guarantees that they would be taken to the United States for resettlement.

I find that considerable opposition to actions I take toward aiding the refugees comes from some of the constituents I represent from the State of California. I get many letters from my home state saying that I should do everything in my power to keep the refugees from coming to the United States; that they bring with them mysterious diseases; that there is not enough room in America for them, or that they are Communist spies. I responded to them by asking them just who are the boat people? The answer is, of course, that we ourselves are boat people. Every American owes something to those fragile wooden vessels that sailed from Europe in the 17th Century with groups of misfits, riffraff, and political and religious dissenters whom we have historically come to know as the Pilgrim Fathers.

After the Pilgrims came the Irish, Germans, Arabs, Slavs and Greeks—as well as the Armenians, Chinese and Japanese. More recently, refugee Soviet and Polish Jews, Hungarians, Czechs, Rumanians, and Cubans found their way to America. Unlike the Vietnamese refugees, they were not turned away; they were not set adrift to starve or drown.

The conditions these boat people faced became more gruesome every day before the Geneva Conference was convened to do something about them. The Malaysian government returned the refugees, at gunpoint, back to the sea. The Malaysian government insisted, and they were probably right, that they simply could not accommodate that many displaced persons.

But did they have the right to resolve the problem by towing them back to sea where they would probably die? Could the rest of the civilized world look on and do nothing? I quote Foreign Minister Sinnathamby Rajaratnam of Singapore: "A poor man's alternative to the gas chambers is the open sea. Today it is the Chinese Vietnamese. The Cambodians have already been added to the list of people who are going to die. Why not Thailand tomorrow, and Malaysia, Singapore, and others who stand in the way of Vietnam's dreams?" The plight of these refugees should cause other Asian countries to be more wary of a "liberation" that results in thousands of people risking their lives to leave their homelands.

I applauded President Carter's announcement that the U.S. would double, to 14,000 a month, the number of Indochinese refugees admitted per month. I thought then, however, and I think now, that we should lift the lid entirely on our immigration laws to accommodate the thousands of helpless Southeast Asian refugees. We can hold conferences and argue and wait for other nations to act, but meanwhile these people are dying. It is necessary that in this emergency situation, and those of the future, that we have the ability to act fast.

It is for this reason that I supported Senator Kennedy's immigration reform legislation, that recently passed the Senate. The bill provided a new definition of a refugee that both recognizes the plight of homeless people all over the world, as well as according to refugee admissions the same immigration status given all other immigrants. It raised the annual limitation on regular refugee admission from 17,400 to 50,000. But this provision was amended on the Floor to terminate in three years. The bill also provided an orderly but flexible special admissions procedure for numbers above the quota—with numbers determined by presidential consultation with House and Senate Judiciary Committee Members. A very important part of the bill provided for federal support of the refugee resettlement process for two years. An amendment that I introduced with Senator Cranston of California extends the Indochinese Refugee Assistance Program for one year, providing an additional year of federal funding for many Indochinese refugees who will already have been in the U.S. for two years at the time of passage of the bill. This provision is very important, in order to guard against local resentment of the refugees.

As the largest percentage of the refugees settle in California, local governments and communities often express their fears to me that the refugees will drain their resources. This provision is designed to alleviate their fears, and to encourage all local communities to extend open arms to the refugees. To further this goal, on July 19th of this year, the Senate passed an amendment to the HEW appropriations bill to provide $10 million to assist in the education of the Indochinese refugees.

In dealing with the issue of Indochinese refugees, I have also found many heartwarming examples of people who are willing to open their homes and their hearts to the refugees. I know that there are many people with hearts of gold in California when I said spontaneously at a Fourth of July gathering in Palos Verdes that we ought to send out the Navy to save the lives of the boat people and worry about quotas and admission policies and such afterwards, but that first we must save their lives. I was thrilled when the audience burst into applause. I have received many letters from people who wanted to adopt refugee children or whole families, who wanted to donate supplies, even an offer from a retired pilot to fly over to the refugee camps in his own plane and pick up as many refugees as he could to bring back to the States. Because many of these offers were lost in the bureaucratic shuffle, Senator Boschwitz and I sent a letter to Ambassador Clark asking that he appoint within his office a staff member to serve as the official coordinator for the private sector. It would be this person's function to organize and coordinate the private relief efforts of those individuals, organizations and businesses that wish to make a contribution to the relief efforts of the Indochinese refugees. The letter stated my belief that it is essential that there be a visible and easily accessible official available to channel and direct these various organizations and businesses to the areas where their skills and resources were most urgently needed. The letter was co-signed by more than 40 Senators and Congressmen, and was favorably responded to by Ambassador Clark.

It is important that we continue our efforts, and that we continue to educate the public about the great need we have to help these people. Indeed, I think we should regard it as our privilege to do so.

Asians are readily accepted by most communities as they have made a good record for themselves. Few remain on welfare for very long, because they are ambitious people. They are hard-working and proudly self-sufficient. According to a recent study conducted by the University of Maryland, the Vietnamese employment rate in the U.S. is higher than that of the American population as a whole, and the number of Vietnamese refugees on welfare has steadily declined. According to the Department of Health, Education and Welfare about 94 percent of the heads of refugee households are employed.

We as a nation of abundance have a duty to share it with people who are willing to work and carry their own weight. We need to encourage our churches, our families, our community organizations, to facilitate the sponsorship of refugees fleeing some of the most despicable atrocities since Hitler's slaughter of the Jews.

By welcoming these people into our country, we are really doing ourselves a favor. Our great nation was made by boat people, but those who came to this country with nothing, or next to nothing, worked from dawn to dusk, and established their little markets, or farms, or dress shops, or even a steel mill. The great improvement in technology, in the quality of life, in personal freedom all extends from the pluckiness of people who at one time were hungry, and had to survive by their wits. Without boat people, who are today's pioneers, this country loses some of its uniqueness, its venturesomeness, its creativity.

Most of my colleagues and I stand ready to help and we look to profit from scholarly research of this body on the subject. If we do this charitable, humane thing, we will once and for all show up the present government of Vietnam as the totalitarian, racist tyranny that it is. Morally, we shall have won the Vietnam war.

Let me close by quoting from the poem by Emma Lazarus which is inscribed on the Statue of Liberty and has welcomed and inspired generations of immigrants. I am proud to know that with our refugee policy, we are giving new meaning and significance to this great poem:

"Give me your tired, your poor,
Your huddled masses yearning to breathe free.
The wretched refuse of your teeming shore,
Send these, the homeless, tempest-tost to me,
I lift my lamp beside the golden door!"—
Emma Lazarus.

DEPOSITORY INSTITUTIONS REGULATION ACT

Mr. TSONGAS. Mr. President, when the Senate considers the Depository Institutions Regulation Act, H.R. 4986, I intend to offer two amendments.

The first would expand the asset powers of savings banks by allowing them to accept deposits from any source and to use up to 20 percent of their assets for any type of investment, subject to the approval of the Federal Home Loan Bank Board. The second would set the reserve requirements on NOW accounts, automatic transfers, and share drafts at 3 to 7 percent, instead of the 3 to 22 percent currently in the bill.

H.R. 4986 is basically a good bill which meets consumer demands for a better return on savings in regulated institutions. I strongly support the committee action to phase out interest rate controls. We neglected, however, to provide a means for savings banks to pay higher rates to depositors. We have placed these institutions in the untenable position of paying higher interest while making long term, fixed rate mortgage loans. The savings bank industry is understandably concerned about its ability to remain competitive under such restrictions.

My amendment does not make thrifts into commercial banks. In fact, it forestalls that process. This amendment has a 20 percent cap on new investment, and phases it in over an 8-year period as regulation Q is phased out. I have also sought to keep most of the investment in State, by providing that at least 65 percent of the new investment be made within 50 miles of the State where the institution is located.

This amendment does not remove savings banks from their primary role as housing lenders. That role could be jeopardized if we do not make adjustments which assure the viability of these institutions. It is my intent, which will be made clear during the debate, that the housing orientation of savings banks continue.

The second amendment sets reserve ratios on NOW accounts, automatic transfers, and share drafts at 3 to 7 percent. The current ratio is 3 percent and H.R. 4986 permits a range of 3 to 22 percent.

NOW accounts have received widespread consumer approval in New England and New York. They were developed to benefit consumers. A substantial increase in reserve requirements could hurt consumers by forcing financial institutions to pass along their increased costs. This would make NOW's far less attractive to those with smaller accounts.

The Federal Reserve treats NOW accounts like savings accounts. The NOW originated from savings accounts, although it has features of both savings and checking accounts. Savings and NOW accounts both have reserve ratios of 3 percent and both require a 30-day notice of withdrawal, although this is generally waived.

The provision in the bill is premature in that the high reserve requirement is predicated on full-fledged nationwide NOW accounts. Since it will take several years for these accounts to become widely used, we place an undue burden on New England banks before the rest of the country catches up.

Mr. President, I urge adoption of these amendments, which will make H.R. 4986 an excellent bill worthy of passage.

I ask unanimous consent to have the amendments printed in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

RESERVE REQUIREMENTS

On page 22 of H.R. 4986, line 10, strike all after the word "at" through and including line 12, and insert in lieu thereof the following: "the ratio of 3 per centum, or at a ratio which is not less than 3 per centum nor more than 7 per centum, as determined by the Board."

EXPLANATION

An initial reserve ratio of 3 percent would be established under this amendment to H.R. 4986, with respect to NOW accounts, savings deposits subject to automatic transfers and share draft accounts. Thereafter, the Federal Reserve would have authority to vary reserve ratios applicable to such deposits within the range of 3 to 7 percent.

On page 32, between lines 20 and 21, insert the following:

Sec. . (a) Section (a) of the Home Owners' Loan Act of 1933 is amended by adding at the end thereof the following: "A Federal mutual savings bank may (1) accept demand deposits from any source, and (2) subject to such rules and regulations as the Board may make, make loans and investments without regard to any other limitation under Federal or State law, except that—

"(A) not more than 20 per centum of the assets of such a bank may be so loaned or invested; and

"(B) 65 percent of such loans and investments must be made within the State where the bank is located or within 50 miles of the States.".

(b) Notwithstanding the amendment made by subsection (a), the Federal Home Loan Bank Board shall limit the percentage of assets which a Federal mutual savings bank may loan or invest pursuant to the provisions of such amendment to 5 percent during the first two years following the date of enactment of this Act, to 10 percent for the next succeeding two years, 15 percent for the next succeeding two years and to 20 percent upon the expiration of eight years after such date of enactment, except that the Board may lengthen or shorten any such two-year period where necessary or appropriate in the event of a more rapid phase-out of interest rate controls or to avoid economic dislocation.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON THE ADMINISTRATION OF THE RADIATION CONTROL FOR HEALTH AND SAFETY ACT—MESSAGE FROM THE PRESIDENT—PM 127

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

I transmit herewith the 1978 Annual Report on the Administration of the Radiation Control for Health and Safety Act, as required by Section 360D of the Public Health Service Act (42 U.S.C. 2631).

JIMMY CARTER.

THE WHITE HOUSE, *October 25, 1979.*

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 12:33 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 4394. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. STEWART).

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5269. An act authorizing appropriations for the fiscal year beginning October 19, 1979, for the maintenance and operation of the Panama Canal, and for other purposes.

At 1:35 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, with an amendment in which it requests the concurrence of the Senate:

S. 985. A bill to amend the Consolidated Farm and Rural Development Act.

The message also announced that the House has passed the bill (S. 1319) to authorize certain construction at military installations, and for other purposes, with amendments; that the House insists upon its amendments to the bill and requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. PRICE, Mr. NEDZI, Mr. CHARLES H. WILSON of California, Mr. BRINKLEY, Mr. DAVIS of South Carolina, Mr. WON PAT, Mr. FAZIO, Mr. BOB WILSON, Mr. WHITEHURST, and Mr. BEARD of Tennessee were appointed as managers of the conference on the part of the House.

The message further announced that the Speaker has appointed Mr. CONYERS as an additional manager in the conference on the part of the House on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1157) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1980, and for other purposes.

At 5:32 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 4473) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1980, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. LONG of Maryland, Mr. OBEY, Mr. CHARLES WILSON of Texas, Mr. YATES, Mr. MCHUGH, Mr. LEHMAN, Mr. DIXON, Mr. WHITTEN, Mr. YOUNG of Florida, Mrs. SMITH of Nebraska, Mr. KEMP, and Mr. CONTE were appointed as managers of the conference on the part of the House.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4955. An act to authorize additional appropriations for migration and refugee assistance for the fiscal years 1980 and 1981 and to authorize humanitarian assistance for the victims of the famine in Cambodia.

The message further announced that the Speaker has appointed Mr. MITCHELL of New York as an additional manager in the conference on the part of the House on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1319) to authorize certain construction at military installations. and for other purposes.

HOUSE BILL REFERRED

The following bill was read twice by title and referred as indicated:

H.R. 5269. An act to authorize appropriations for the fiscal year beginning October 19, 1979, for the maintenance and operation of the Panama Canal, and for other purposes; to the Committee on Armed Services.

HOUSE BILL PLACED ON THE CALENDAR

The following bill was read twice by its title and placed on the calendar:

H.R. 4955. An act to authorize additional appropriations for migration and refugee assistance for the fiscal years 1980 and 1981 and to authorize humanitarian assistance for the victims of the famine in Cambodia.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, October 25, 1979, he presented to the President of the United States the following enrolled bill:

S. 975. An act to authorize appropriations for fiscal year 1980 for intelligence and intelligence-related activities of the U.S. Government for the Intelligence Community Staff, and for the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for fiscal year 1979 for the intelligence and intelligence-related activities of the U.S. Government, and for other purposes.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-2369. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the proposed letter of offer of the Department of the Air Force to Korea for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-2370. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the proposed letter of offer of the Department of the Army to Israel for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-2371. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the proposed letter of offer of the Department of the Army to the Republic of Korea for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-2372. A communication from the Vice President for Government Affairs of the National Railroad Passenger Corporation, transmitting, pursuant to law, a report on the total itemized revenues and expenses and the revenues and expenses of each train operated by the Corporation for the month of July 1979; to the Committee on Commerce, Science, and Transportation.

EC-2373. A communication from the Secretary of Transportation, transmitting, pursuant to law, the 1979 annual report on the Highway Safety Improvement Programs; to the Committee on Commerce, Science, and Transportation.

EC-2374. A communication from the comptroller General of the United States, transmitting, pursuant to law, a report entitled "Improving Interior's Internal Auditing and Investigating Activities—Inspector General Faces Many Problems"; to the Committee on Governmental Affairs.

EC-2375. A communication from the Director of the Administrative Office of the United States Courts, transmitting, pursuant to law, copies of comprehensive studies, and recommendations based on those studies, with respect to the need for creation of new judicial districts from portions of the Central District of California and the Eastern District of New York; to the Committee on the Judiciary.

EC-2376. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Gains Made in Controlling Illegal Drugs, Yet the Drug Trade Flourishes"; to the Committee on Labor and Human Resources.

EC-2377. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report on the administration of the Black Lung Benefits Program for calendar year 1978 and for January 1 through June 30, 1979; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BAYH, from the Committee on Appropriations, with amendments:

H.R. 4440. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1980, and for other purposes (Rept. No. 96-377).

By Mr. WILLIAMS, from the Committee on Labor and Human Resources with an amendment:

S. 1724. A bill to authorize the Secretary of Health, Education, and Welfare to make grants to States in order to provide assistance to households which cannot meet the high cost of fuel and for other purposes (together with additional views) (Rept. No. 96-378).

By Mr. BAYH, from the Select Committee on Intelligence:

Special Report entitled "Implementation of the Foreign Intelligence Surveillance Act of 1978" (Rept. No. 96-379).

By Mr. WILLIAMS, from the Committee on Labor and Human Resources, without amendment:

S. Res. 265. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1724. Referred to the Committee on the Budget.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

Mr. CANNON. Mr. President, as in executive session, I report favorably sundry nominations in the Coast Guard which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD on October 1, 1979, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. NELSON (for himself, Mr. TOWER, Mr. LUGAR, Mr. MORGAN, and Mr. STEWART):

S. 1940. A bill to amend the Securities Act of 1933 to authorize the sale of certain securities to accredited investors without filing a registration statement under such Act, to amend the Investment Company Act of 1940 to grant an exemption from such Act to certain issuers which engage in the business of furnishing capital or providing financing for business ventures and activities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HELMS:

S. 1941. A bill for the relief of Bertram Tang; to the Committee on the Judiciary.

By Mr. McGOVERN:

S. 1942. A bill to provide for a Resource Conservation and Development Program in the Department of Agriculture, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. PELL:

S. 1943. A bill to stabilize the cost of living; to the Committee on Banking, Housing, and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NELSON (for himself, Mr. TOWER, Mr. LUGAR, Mr. MORGAN, and Mr. STEWART):

S. 1940. A bill to amend the Securities Act of 1933 to authorize the sale of certain securities to accredited investors without filing a registration statement under such act, to amend the Investment Company Act of 1940 to grant an exemption from such act to certain issuers which engage in the business of furnishing capital or providing financing for business ventures and activities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

VENTURE CAPITAL INVESTMENT ACT OF 1979

● Mr. NELSON. Mr. President, in my judgment the Venture Capital Investment Act of 1979 which I am introducing today will help greatly expand a major institutional source of funding for American small businesses.

We all know that small and independent enterprise is the job-creating, innovative segment of the economy. But we also know that small business finds it particularly difficult to raise long-term debt and equity capital. Not only do banks shy away from making long-term loans to young firms, but the public equity market for new and small issues is practically nonexistent. In addition, these companies are the hardest hit by inflation and high interest rates, since they lack the means to absorb rising costs and prices.

So where does a smaller enterprise go for capital? To venture capital firms or small business investment companies, which provide long-term subordinated debt and equity capital in return for a partial ownership in the concern. Venture capitalists look for long-term capital gains, and make investments with the intent of keeping them for 5 to 10 years or even longer in many instances. Obviously, the more venture capital flowing into the small business sector, the better.

But venture capital firms have had serious problems which have impeded their operations. These impediments have caused the amount of capital available to small companies to remain at inadequate levels.

This proposal addresses one of the most pernicious problems inhibiting venture capital formation in this country—the Investment Company Act of 1940, or more commonly referred to as the 1940 act.

The 1940 act was originally passed to regulate mutual funds. At the time of enactment there were no organized, institutionalized venture capital firms. Small business investment companies (SBICs) did not come about until 1958. Had any of these types of companies been in existence in 1940, I believe that Congress would have added them to the long list of companies exempted from the Investment Company Act of 1940. Unlike mutual funds, venture capital companies do not have large amounts of liquid assets to be used to buy and sell blocks of listed public securities. Instead the assets of institutional venture capital firms are tied up in illiquid investments, that is, debt instruments and equity securities of small, closely held businesses.

Nevertheless a venture capital firm is subject to the Investment Company Act of 1940 if it initially has more than 100 shareholders. Likewise if it breaks through the 100 shareholder threshold level, the company is automatically thrust into the quagmire of 1940 act regulation.

An illustration of how the 1940 act causes great problems for venture capital companies is provided by looking at section 17 of the act. Section 17 not only prohibits transactions between affiliated companies (a concept ambiguously defined), but also transactions between affiliates of affiliates, unless undertaken with an exemptive order from the SEC. According to section 17, almost any investee company of a venture capital firm is an affiliate of the firm, thereby making transactions between the two companies subject to regulation under the 1940 act. Anyone remotely familiar with the venture capital industry knows that interaction between the venture firm and its portfolio companies is frequently necessary—new companies often need immediate injections of risk capital to keep them alive. Regrettably the 1940 act precludes this type of timely response because additional injections of capital usually require prior SEC approval. Compliance with this regulatory requirement is time consuming and very costly.

Many of you are no doubt familiar with Federal Express, the national overnight package delivery system which is an innovative and phenomenally successful company. Before it "took off," however, it required three rounds of venture financing and several times was dangerously close to bankruptcy. If its investors had had to file for an exemption each time they needed to organize another round of financing, Federal Express would probably not be with us today.

I cannot overstress the fact that filing for an exemption is a time-consuming process, with an outcome difficult to predict. In addition, one can never be sure just who is and who is not an "affiliate" under section 17, leading occasionally to unintentional and inadvertent noncompliance. The offshoot of all of this is that there are no non-SBIC venture capital companies operating under the 1940 act today, and only 32 SBIC's. Except for these 32, venture capital firms have deliberately curtailed their growth if necessary to avoid falling under the jurisdiction of the convoluted 1940 act, which means that the number of dollars available to help high-risk, smaller companies is also curtailed.

We can also cite numerous cases of successful venture capital companies which have liquidated rather than operate under the 1940 act—a very recent example being Continental Capital Corp. headquartered in San Francisco. Officers of Continental Capital recently revealed that in its 20 years of existence, the company made equity investments in over 100 young companies, 45 of them startups. These portfolio companies now have combined sales exceeding $500 million, employ over 10,000 people and pay over $25 million in taxes. But, says Continental's president:

> The securities laws and regulations designed for mutual funds in 1940 are an onerous burden.

An article by columnist Thomas P. Murphy appeared earlier this month in the October 1 issue of Forbes which describes events leading up to the dissolution of Continental Capital. In the context of the 1940 Act, Mr. Murphy had this to say:

> As for SEC regulation, it tends to be onerous and mindless.

Mr. President, I ask unanimous consent that the article entitled "Encouraging Competition?" be printed in its entirety at the end of my remarks.

Having described the vagaries of 1940 act enforcement, I want to assure my colleagues that I by no means advocate a lessening of investor protection. The full provisions of the Securities Act of 1933 and the Securities Exchange Act of 1934 would still apply to the exempted companies. SBIC's are also regulated by the Small Business Administration. In addition, the bill would require every exempt venture capital company to have a majority of "disinterested" directors on its board, each of whom could not be an "affiliate" of the venture capital firm. No officer, director, or controlling shareholder would be allowed to own securities of companies in which the venture firm invests. All of these changes which are incorporated in the bill should lead to more efficient regulation without sacrificing shareholder protection.

While it is impossible to predict the exact amount of money that would be channeled into new companies with enactment of these amendments, I assure you it should be considerable.

I also want to note that while this bill will eliminate one more impediment to small business capital formation, it will not cost the taxpayer one additional cent to have it implemented. In fact the Federal Government should realize increased revenues from the hiring of more people and the paying of more taxes by small businesses who will be the recipients of additional venture capital financings.

It should be noted, too, that this measure has broad-based support within the securities industry and the investment community. The National Association of Small Business Investment Companies, National Venture Capital Association, National Association of Securities Dealers, Securities Industries Industry Association, American Council for Capital Formation, Capital Formation Task Force for the White House Conference on Small Business, National Federation of Independent Business, National Small Business Association, Independent Business Association of Wisconsin, Council of Smaller Enterprises, Small Business Association of New England, and Smaller Manufacturers Council have urged in statements made before the Senate Small Business Committee and other forums that the 1940 act be amended. All of these groups share my concern that an equitable balance be struck between shareholder protection and eliminating the equity capital shortfall of American growth-oriented concerns.

In addition to the 1940 act changes, the bill would also facilitate capital formation in small companies by making it easier to attract equity dollars through the sale of securities to "accredited investors." As I mentioned earlier, there is practically no public market for these smaller companies, and even if there were, the registration process is too expensive for most young firms to afford. The bill will bridge the gap between the public stock market and the private market by creating an interim market among these "accredited investors." By accredited investors, I mean those institutional investors who are able to "fend for themselves" without the protections inherent in private placement and resale restrictions. Under the provisions of the bill, accredited investors would be able to purchase the stock of new and small issuers without the unnecessary legal memoranda and forms currently required for private placements. A primary result of this increased liquidity change would be to reduce the "discount" on the securities issued by a smaller company.

The bill incorporates one other change in existing law. Currently, stringent resale rules apply to affiliated purchasers of stock obtained by "private" purchase. While non-affiliates may sell their restricted stock freely in the public markets after 3 or 4 years, affiliates can only sell their security holdings in a public market under very restrictive guidelines. This legislation would exempt "venture capital affiliates" from these resale restrictions after a 5-year holding period, something which must be accomplished by legislation since the SEC feels that it lacks the authority to do so administratively. The result of this provision would be to encourage risk investments in new companies by making those investments more liquid.

Finally, I wish to give credit to cosponsoring Senators Tower and Lugar who originally called to the attention of the Senate certain securities problems which are dealt with in the bill we are introducing today. Many of the proposals initially put forth in S. 1533, introduced by Senators Tower and Lugar, are contained in this bill. Also joining as cosponsors are Senators Morgan and Stewart who are members of the Small Business Committee as well as the Banking, Housing, and Urban Affairs Committee which has legislative jurisdiction over securities legislation. We hope other Senators will join our bipartisan group and support needed reform of the securities laws. Small business and the economy will benefit immeasurably as a result.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis be printed at this point in the Record along with an article from Forbes by Thomas Murphy.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 1940

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Short Title.—This Act may be cited as the "Venture Capital Investment Act of 1979".

TITLE I—AMENDMENTS TO THE SECURITIES ACT OF 1933

Sec. 101. Section 2 of the Securities Act of 1933 (15 U.S.C. 77b) is amended by adding at the end thereof the following new paragraphs:

"(15) The term 'accredited investor' means (A) a bank, insurance company, registered investment company, small business investment company licensed under the Small Business Investment Company Act of 1958, venture capital company, a fund, trust, or other account with respect to which a bank or insurance company exercises investment discretion, or a person who controls or is controlled by any such person, or (B) any person who, on the basis of such factors as financial sophistication, net worth, knowledge and experience in financial and business matters, or amount of assets under management, qualifies as an accredited investor under rules and regulations which the Commission shall prescribe.

"(16) The term 'limited sale security' means a security which bears a legend to the effect that such a security may not be sold or otherwise transferred without compliance with the registration requirements of this Act or pursuant to an exemption therefrom.

"(17) 'Venture capital company' means any company which meets both of the following conditions:

"(A) it is engaged or proposes to engage primarily in the business of furnishing capital (other than through the purchase of short-term paper) to industry, financing promotional enterprises, purchasing securities of issuers for which no ready market is in existence, or reorganizing companies or similar activities; and

"(B) at least 80 per centum of its net assets at cost (exclusive of Government securities, short-term paper, and cash items) consists of securities which were—

"(i) acquired directly from the issuer thereof in a transaction or transactions not involving the registration of the securities under the Securities Act of 1933 or acquired otherwise than directly from the issuer thereof and, immediately after such acquisition, restricted as to resale under the Securities Act of 1933, or pursuant to the exercise of options, warrants, or rights acquired in such transactions;

"(ii) received in a reorganization or in an exchange offer in exchange for securities acquired pursuant to clause (i) of this paragraph; or

"(iii) distributed on or with respect to any securities referred to in clause (i) or clause (ii) of this paragraph.".

TRANSACTIONS INVOLVING LIMITED SALE SECURITIES AND ACCREDITED INVESTORS

Sec. 102. Section 4(2) of the Securities Act of 1933 (15 U.S.C. 77d(2)) is amended by adding at the end thereof the following: "For purposes of this paragraph, transactions by an issuer not involving a public offering shall include transactions in which all of the following factors are present:

"(A) The securities are acquired by one or more accredited investors or persons that the issuer reasonably believes to be accredited investors.

"(B) The security which is the subject of the transaction is a limited sale security.".

RESALE OF LIMITED SALE SECURITIES

Sec. 103. Section 4(1) of the Securities Act of 1933 (15 U.S.C. 77d(1)) is amended by adding at the end thereof the following: "For purposes of this paragraph, any person who sells a limited sale security for his own account or for the account of any person shall not be considered to be an underwriter with respect to such transaction if such sale is made to an accredited investor or to a person whom the seller reasonably believes to be an accredited investor, or if such sale is otherwise exempt from registration under this Act.".

RESALE OF RESTRICTED SECURITIES

Sec. 104. Section 2(11) of the Securities Act of 1933 (15 U.S.C. 77b(11)) is amended—

(1) in the first sentence, by inserting "(A)" immediately after "shall not include" and by inserting immediately before the period the following: ", or (B) any venture capital company engaging in a sale or other distribution of restricted securities if such company has been the beneficial owner of such securities for a period of not less than five years prior to the date of such sale or distribution"; and

(2) by inserting immediately before the period at the end of the second sentence the following: ", and the term 'restricted securities' means securities acquired directly or indirectly from the issuer, or from an affiliate of the issuer, in a transaction or chain of transactions not involving any public offering".

TITLE II—AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940

DEFINITION OF VENTURE CAPITAL COMPANY

Sec. 201. Section 2(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)) is amended by adding at the end thereof the following:

"(46) 'Venture capital company' means any company which meets both of the following conditions:

"(A) it is engaged or proposes to engage primarily in the business of furnishing capital (other than through the purchase of short-term paper) to industry, financing promotional enterprises, purchasing securities of issuers for which no ready market is in existence, or reorganizing companies or similar activities; and

"(B) at least 80 per centum of its net assets at cost (exclusive of Government securities, short-term paper and cash items) consists of securities which were—

"(i) acquired directly from the issuer thereof in a transaction or transactions not involving the registration of the securities under the Securities Act of 1933 or acquired otherwise than directly from the issuer thereof and, immediately after of such acquisition, restricted as to resale under the Securities Act of 1933, or pursuant to the exercise of options, warrants, or rights acquired in such transactions;

"(ii) received in a reorganization or in an exchange offer in exchange for securities acquired pursuant to clause (i) of this paragraph; or

"(iii) distributed on or with respect to any securities referred to in clause (i) or clause (ii) of this paragraph.".

EXEMPTION FROM INVESTMENT COMPANY ACT OF 1940

Sec. 202. Section 3(c)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(3)) is amended—

(1) by striking out "or" immediately after "guardian"; and

(2) by inserting immediately before the period at the end thereof the following: "; any venture capital company subject to the reporting requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; or (A) any venture capital company, but only for a period of one hundred and eighty days after its outstanding securities (other than short-term paper) become beneficially owned by more than one hundred persons as determined under paragraph (1) of this subsection, or (B) any venture capital company which presently proposes to make a public offering of its securities, but only (i) for a period of one hundred and eighty days after the filing with the Commission of its registration statement (or its notification under Regulation A or Regulation E) under the Securities Act of 1933, (ii) for a period of sixty days after the effective date

of such registration statement (or the first sale of any securities offered by means of an offering circular under Regulation A or Regulation E), or (iii) until the withdrawal of the registration statement without its having become effective (or the withdrawal of the notification under Regulation A or Regulation E), whichever event specified in clause (i), (ii), or (iii) last occurs".

RESTRICTIONS ON VENTURE CAPITAL COMPANIES

SEC. 203. Section 7 of the Investment Company Act of 1940 (15 U.S.C. 80a-7) is amended by adding at the end thereof the following:

"(e) A venture capital company which is not an investment company within the meaning of this title solely by reason of section 3(c)(3) and which claims exemption from the Act under such section may not—

"(1) engage in any business in interstate commerce unless a majority of the members of the company's board of directors would not be deemed interested persons of the company if it were an investment company within the meaning of this title; or

"(2) sell, or otherwise dispose of, any securities (exclusive of Government securities, short-term paper, and cash items) acquired in transaction in the open market, except in such manner and amounts and at the times as the company would be permitted to do if the securities had been acquired by it in a transaction not involving any public offering within the meaning of the Securities Act of 1933 and the rules thereunder.

If, by reason of the death, disqualification, or bona fide resignation of any director or directors of any company, the requirements of clause (1) of the preceding sentence are not met, the application of the preceding sentence shall be suspended as to that company for a period of one hundred and eighty days or for such longer period as the Commission may prescribe, upon its own motion or by order upon application, as not inconsistent with the protection of investors.

"(f) No director, officer, employee, or controlling person of a venture capital company which is not an investment company within the meaning of this title solely by reason of section 3(c)(3) and which claims exemption from the Act under such section may beneficially own or purchase securities or other property of any issuer other than the venture capital company whose securities (other than Government securities, short-term paper, and cash items) are beneficially owned by the venture company; and no affiliated person of any such person shall beneficially own or purchase securities or other property of any issuer other than the venture capital company whose securities (other than Government securities, short-term paper, and cash items) are beneficially owned by the venture capital company, unless the ownership or purchase is approved by a majority of the members of the venture capital company's board of directors who have no financial interest in the ownership or purchase, including a majority of the members who would not be interested persons of the company if it were an investment company within the meaning of this title, on the basis that—

"(1) the terms thereof, including the consideration to be paid or received, are reasonable and fair to the shareholders of the venture capital company and do not involve overreaching of the company or its shareholders by another party; and

"(2) the ownership or purchase is not contrary to the interests of the shareholders of the venture capital company and is consistent with the policy of the company as recited in its articles of incorporation and any other documents made available to its shareholders generally.

For purposes of this subsection, beneficial ownership of securities or other property acquired by a director, officer, employee, or controlling person is not prohibited if the beneficial ownership was acquired otherwise than by means of a purchase and if the person, as soon as reasonably practicable, sells or otherwise disposes of the securities or other property upon a determination by the members of a majority of the venture capital company's board of directors who have no financial interest in the ownership, including a majority of the members who would not be interested persons of the company if it were an investment company within the meaning of this title, that the terms of the sale or other disposition, including the consideration to be received, are reasonable and fair to the shareholders of the company and do not involve overreaching of the company or its shareholders by another party. The sale or other disposition must be effected within one hundred and eighty days after the acquisition, unless a majority of the members of the venture capital company's board of directors who have no financial interest in the sale or other disposition, including a majority of the members who would not be interested persons of the company if it were an investment company within the meaning of this title, approve a longer period, which shall not exceed eighteen months from the date of acquisition of the securities or other property.".

ALTERNATIVE REGISTRATION

SEC. 204. Section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a-8) is amended by adding at the end thereof the following:

"(g) Notwithstanding any provision of this Act or other provision of law, an investment company which would be an investment company under the Investment Company Act of 1940 but for the exclusion under paragraph 3(c)(3) as amended may voluntarily register as an investment company provided that such company is not a personal holding company as defined under section 542 of the Internal Revenue Code of 1954.".

EFFECTIVE DATE

SEC. 3. (a) The amendments made by this Act shall take effect on the date of enactment of this Act.

(b) The Securities and Exchange Commission shall, within one hundred and eighty days after the date of enactment of this Act, prescribe such rules and regulations as may be necessary to carry out the amendments made by this Act.

SECTION-BY-SECTION ANALYSIS OF S. 1940, VENTURE CAPITAL INVESTMENT ACT OF 1979

S. 1940, the proposed "Venture Capital Investment Act of 1979," would amend the Securities Act of 1933, 15 U.S.C. §§ 77a *et seq.*, and the Investment Company Act of 1940, 15 U.S.C. §§ 80a-1 *et seq.*

Title I of the proposed bill concerns amendments to the Securities Act of 1933. Section 101 adds three new definitions to the Act. An "accredited investor" is defined as (A) various named kinds of financial institutions or accounts concerning which a bank or insurance company exercises investment discretion or (B) any person who, on the basis of financial expertise or assets, qualifies as an accredited investor under rules and regulations prescribed by the Securities and Exchange Commission (SEC). "Limited sale security" is defined as a security having a legend indicating that it may not be sold or transferred without complying with the registration requirements of the '33 Act or pursuant to an exemption from the Act. "Venture capital company" is defined as a company which meets two conditions: (A) it engages primarily in activities such as furnishing capital to industry, financing promotional enterprises, purchasing securities of issuers for which no ready market exists, or reorganizing companies; and (B) at least 80% of its net assets at cost (excluding certain named items) consists of securities which were (i) acquired directly from the issuer in transactions not involving the registration of securities under the '33 Act and immediately after the acquisition restricted as to resale, or were (ii) received in a reorganization or exchange offer for securities acquired in accordance with (i), or were (iii) distributed on or with respect to securities referred to in (i) or (ii).

Section 102 amends 15 U.S.C. § 77d, which concerns transactions exempted from the prohibitions of using interstate commerce and the mails to trade securities or send a prospectus unless a registration statement is in effect. The amendment adds a sentence to subsection (2) of that section to provide that exempted transactions by an issuer not involving a public offering include transactions in which the securities are acquired by accredited investors and are limited sale securities.

Section 103 amends 15 U.S.C. § 77d(1), the exemption concerning transactions by any person other than an issuer, underwriter, or dealer, to provide that any person who sells a limited sale security for his own or any other account shall not be considered to be an underwriter concerning this transaction if the sale is made to an accredited investor or if the sale is otherwise exempt from registration under the '33 Act.

Section 104 amends 15 U.S.C. § 77b(11), the definition of "underwriter," to provide that an underwriter shall not include any venture capital company engaging in a distribution of restricted securities if the company has been the beneficial owner of the securities for not less than five years before the distribution. Appended to the end of 15 U.S.C. § 77b(11) is the statement that the term "restricted securities" means securities acquired from the issuer or from an affiliate of the issuer in a transaction not involving any public offering.

Title II of the bill concerns amendments to the Investment Company Act of 1940. Section 201 amends 15 U.S.C. § 80a-2(a) by adding a definition of "venture capital company" identical to the definition of the term in section 101 of the bill.

Section 202 amends 15 U.S.C. § 80a-3(c)(3) to exclude other financial institutions from the meaning of "investment company": 1) any venture capital company subject to the reporting requirements of section 13 (a) or 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a *et seq.*; or 2) any venture capital company for 180 days after its outstanding securities become beneficially owned by more than 100 persons; or 3) any venture capital company which presently proposes to make a public offering of its securities for 180 days after filing its registration statement with the SEC, for 60 days after the effective date of the registration statement, or until the withdrawal of the registration statement without its having become effective, whichever event last occurs.

Section 203 amends 15 U.S.C. § 80a-7, which concerns transactions by unregistered investment companies, by providing that a venture capital company which is not an investment company may not 1) engage in business in interstate commerce unless a majority of the board of directors would not be interested persons of the company if it were an investment company or 2) sell any securities acquired in an open market transaction, except in the manner and amounts and at the times which the company could do if it had acquired the securities in a transaction not involving any public offering.

Section 203 also provides that no director, officer, employee, or controlling person of a venture capital company which is not an investment company and which claims exemption from the Act may beneficially own or purchase securities or other property of any issuer other than the venture capital company whose securities are beneficially owned by the venture company. No affiliated person of any of the above-named people can engage in the above-prohibited transactions unless the ownership or purchase is approved by a financially disinterested majority of the venture capital company's board of directors on the basis that the terms are fair to the shareholders of the venture capital company. Beneficial ownership is not prohibited if it was acquired other than by purchase and if the person sells the securities or other property if a disinterested majority of the board of directors determines that the terms of the sale are fair to the shareholders of the company. The sale must occur within 180 days after the acquisition unless a disinterested majority of the board of directors approves a longer period not to exceed eighteen months from the date of acquisition of the securities.

Section 204 amends 15 U.S.C. § 80a–8 to provide that an investment company which would be an investment company under the Investment Company Act of 1940 but for the exclusion provided by this bill may voluntarily register as an investment company so long as it is not a personal holding company.

The bill shall take effect on the date of enactment.

Within 180 days of enactment, the SEC shall prescribe necessary rules and regulations.

Encouraging Competition?

(By Thomas P. Murphy)

Frank G. Chambers is not an impatient man. Through his Continental Capital Corp., Chambers has helped more small high-technology companies get started than anyone else in the country. He is used to waiting five or ten years for an investment to mature. But Frank Chambers' patience finally snapped. Why? Chambers gives three reasons: our tax laws, the SEC and the stock market.

"Last year," Chambers says with irritation, "the IRS, the SEC and the SBA (Small Business Administration) spent 27 days in our office. Understand, we are not being investigated for anything. All this was routine." Chambers figures that that much time is a heavy expense for a company with only five employees.

Then there is the stock market. Continental's success, Chambers feels, was just never reflected in the price of its stock. "Except for a brief period in the early 1960's," he says, "our stock (it is traded on the West Coast o-t-c) never sold for as much as the company's stated asset value." And, he adds, "that value was always stated conservatively." One recent example: Continental owned part of a company called FME, and it carried FME's shares at $165,000 but sold them for $1.28 million.

Chambers' complaint about taxation is the whole issue of double taxation. In a more rational world, venture firms would be encouraged to reinvest their winnings so that the process would reseed itself. Instead, if Continental, for example, decided to keep its profit from the FME sale, it would be taxed on the long-term gain at the rate of 28 percent, plus California's 5 percent. Then later, when those long-term gains were finally given to the shareholders, they too would have to pay a capital gains tax of up to 28 percent.

As for SEC regulation, it tends to be both onerous and mindless. Publicly traded firms were pretty much ignored by the SEC through the Sixties, but then there were some abuses, so the regulators poured in. Their hot button is something called "conflict of affiliate relationships." That sounds just fine—who wants a lot of self-dealing? Until you get to the realities of a company like Continental. Since it is small, it frequently co-invests with other venture firms, and nearly all the investments are in high-technology companies and in the San Francisco Bay area. Just imagine the possibilities a zealous young lawyer for the SEC might uncover in the relationships among board members, banks and small companies!

Nor does it help that both the SEC and the IRS use small companies as training ground for their new people. Most of the IRS agents who arrived in Continental's offices had never heard of a venture capital firm before, and by the time they figured out what it was, another agent had been assigned to Continental.

In fairness, though, government is not and was never the whole problem. If government does not understand venture capital, neither does the stock market. The institutional investors shun venture capital stock because the companies are small and the stock is thinly traded. The public, by and large, never heard of Continental because analysts simply do not know how to analyze the portfolios. What do you do to understand a company that owns pieces of 21 other companies—15 of which are private? The answer, if you are a security analyst, is to go on to something easier.

Chambers tried to help his stockholders, some of whom had put their money into Continental at the original public offering in 1960. He devised a scheme that guaranteed to repurchase shares over a five-year span at 60 percent to 80 percent of Continental's stated asset value. That helped a little, for at least it put a floor under the price of the stock.

Still, Chambers thought the stock was worth more, and as the feverish buy-out of small, high-technology companies got under way a year and a half ago, he knew that Continental had greater possibilities. That, and those 27 days of regulators in his office within the last year, finally tipped the scale, and Continental announced that its was liquidating.

Patience has been rewarded. The original shareholders, after deducting earlier distributions, have a tax cost basis in their Continental stock of less than $1 a share. Its last stated value per share, a June figure, was $19.69, but the market now agrees that those valuations have been on the conservative side, and the bid price at this writing is $22.

Frank Chambers has finally done all right by his stockholders, but what else did he accomplish over two decades? He made more than 100 equity investments in small companies; 45 of them were raw startups. Today the companies Chambers backed have total sales of over $500 million, they employ 10,000 or more people.

Chambers, who is now 63, is not getting out of venture. Not at all. If money were the only thing in life, he and his brother Robert could have cashed in years ago when they sold their first venture, a company called Shop Smith. Brother Bob went on to found Envirotech, and Frank to Continental. Now Frank is starting a new, private venture firm. The banks, pension funds and insurance companies that never had an interest in the publicly traded shares of Continental are more than anxious to finance its private reincarnation.

Who is the loser in all this? The bell tolls for all of us. With Continental goes the last publicly traded venture firm in the SBIC program that was really doing high-technology startups. If our almighty bureaucracy really wants to do something to encourage competition, it might start by paying less attention to alleged monopolies in the making of children's crayons and paying more attention to encouraging rather than punishing venture capitalists like Frank Chambers.●

● Mr. TOWER. Mr. President, I am very pleased to join with Senator NELSON, Senator LUGAR and other Senators in cosponsoring the "Venture Capital Investment Act." This bill would amend the Investment Company Act of 1940 to exempt from its provisions "venture capital companies" which meet certain requirements designed to provide substantial protections for investors in these companies.

These provisions are similar to those contained in S. 1533, a bill which Senator LUGAR and I introduced in July, and the two bills have the same goal: To establish an environment which encourages the formation and growth of professionally-managed firms to provide long-term capital to tomorrow's successful businesses. Differences in the two bills reflect the benefits of the ongoing dialog, which I expect to continue, concerning legislative changes needed to encourage such an environment, while at the same time preserving an ample system of investor protection.

In addition to the amendments to the Investment Company Act, the "Venture Capital Investment Act" also contains a provision designed to facilitate the use of "private offerings" under the Securities Act of 1933 where the investors are "accredited investors" including financial institutions, venture capital companies and others who, because of sophistication, financial strength, and knowledge and experience in financial matters, do not require the benefits of the SEC's registration system when they purchase securities in "private offerings."

Mr. President, this bill reflects the growing recognition of the need to encourage the formation of venture capital and to enable public investors to participate in professionally managed venture capital firms. I look forward to the opportunity to work with Senator NELSON and the other sponsors of the bill toward its favorable consideration by the Banking Committee and the Senate.●

By Mr. McGOVERN:

S. 1942. A bill to provide for a resource conservation and development program in the Department of Agriculture, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

RESOURCES CONSERVATION AND DEVELOPMENT ACT OF 1979

Mr. McGOVERN. Mr. President, I am today introducing legislation to provide for a resource conservation and development program in the U.S. Department of Agriculture. It is important to note this bill does not "create" a resource conservation and development program—one already exists. What this legislation does is place a program which has evolved under a variety of administrative umbrellas and congressional authorities upon a sound legislative and financial footing all its own.

During the last few years there have been administrative efforts to phase this program out of existence. In each of those years, we in the Congress have resisted that administrative effort by boosting the program's budget to levels higher than the administration requested. We have clearly signaled we do not want this popular, grassroots program terminated. Yet, I have every reason to believe the administration will persist in its efforts and that time after time we are going to find ourselves in a "budget fight" over this program. I believe the time has come to elevate that disagreement with the administration. The time has come for the Congress and especially we here in the Senate to debate the merits of this program and decide whether or not we want it continued in its own right with a minimum of interference by "budget cutters" who see this small, but significant, program as vulnerable to their administrative whim.

"Administrative whim" is the central impediment to this program's success. Because the R.C. & D. program is for all practical purposes an "administrative creature" having no legislative mandate that it exists, it becomes an easy target. A report of the task force on USDA's resource conservation and development program published by the Department of Agriculture in October of last year put it best:

> This lack of agreement within the Federal Government has occupied time of local RC&D leaders that might better have been spent in dealing with the problems and needs of their area.

There are those of my colleagues who are probably not familiar with the R.C. & D. program. I would like to give over a portion of my remarks to a description of it.

R.C. & D. is a program carried out in an area approved by the Secretary of Agriculture by local people who volunteer their time for no pay and form a resource improvement organization. In many instances the organization is called an R.C. & D. area council, but sometimes the R.C. & D. program is implemented through other existing local organizations which can be adapted to this purpose. Typically an R.C. & D. area covers several adjacent counties. Technical and financial assistance to the local organization in preparing and carrying out its area plan is provided by the USDA, though oftentimes the local people become a "clearinghouse" using USDA assistance to explore possibilities of assistance from other programs and sources outside USDA—but USDA is generally the focus of their efforts. In this way local people can direct Federal programs to sources of need in their area. To my way of thinking there is no better way for USDA to carry out its resource conservation and development program than the model provided by the R.C. & D. approach.

For example, an R.C. & D. area may emphasize control of critical erosion problems in its area plan, while another is apt to work on development of local resources to improve economic and employment opportunities in their area, while still another might improve facilities for recreation in rural areas to make the quality of life for people living in rural America that much better. No matter what the emphasis of a specific R.C. & D. area, generally they can be depicted as local people working to improve their economy and environment through conservation, development, and better utilization of local natural resources.

I must confess that for quite some time I focused on the R.C. & D. program in the Midwest as I am a midwestern Senator and most familiar with the program's accomplishments there. But, back in March, the Senate Agriculture Committee's Environment, Soil Conservation, and Forestry Subcommittee held a hearing on the budgetary problems of the R.C. & D. program and called witnesses from around the country.

It came as a revelation to me that R.C. & D.'s are active in every State in the Union with the exception of Alaska and in fully one-third of the counties in the United States. Official sponsors of R.C. & D. areas include 3,143 local and State units of government and other groups including counties, cities, towns, and soil and water conservation districts. For rural residents of urban States, R.C. & D. has been a way for them to apply regional planning while regional planners are focusing on urban areas. R.C. & D. provides a tangible way for rural areas to compete in our urban-oriented society.

The legislation I am introducing today does not create anything new. In a most fundamental sense it calls for Congress to put our stamp of approval on a program which has already evolved. My bill takes nothing away from the program and at the same time it adds no new responsibilities, though I will admit it does some fine tuning of the program in conformance with recommendations contained in the R.C. & D. Task Force report.

Mr. President, during the Subcommittee hearing on the future of the R.C. & D. program in which I was invited to participate by Chairman John Melcher, we heard curious testimony from the administration on this program which echoes other presentations they have made to groups concerned about the future of the R.C. & D. program. While on every occasion they are effusive in their praise of what R.C. & D. is doing, at the last minute in their presentations they then claim, as did USDA Deputy Assistant Secretary for Conservation, Research, and Education David G. Unger:

> While these achievements show the success of the program at the area level, reviews of the national program have been unable to prove statistically significant differences in the achievement of the program objectives between counties receiving RC&D assistance and similar counties that do not receive such assistance.
>
> It is our hope that the sponsors who have given such tremendous leadership at the local level will continue to do so without the assistance provided by the RC&D program.

I find this kind of testimony extremely cynical. The statistical differences USDA has looked for are in terms of creating new jobs, yet creation of new jobs is not a consistently mandated function of an R.C. & D. area. While it may be an objective in an area, it need not be the chief objective or an objective at all. This kind of statistical analysis is unfair. That is why my legislation makes it absolutely clear that job opportunities are to be only one purpose of the program not "the" purpose for which it should be judged. More appropriately it seems to me that judgment of a resource conservation and development program should be passed on its ability to conserve and develop resources—an analysis which has not been undertaken by the budget cutters at USDA and the Office of Management and Budget. It is much less statistically quantifiable, though the statistics proving the overwhelming loss of topsoil in this Nation and pollution of our water resources are readily available and alarming in their magnitude. I think we should go slow in phasing out a program which is grappling with these problems at the local level.

The statistics proving outmigration from rural areas and the disintegration of the family farm are alarming to anyone familiar with them—and here again, without analyzing the impact of this program in making rural life more attractive for Americans and encouraging the continuation of the family farm in doing so, the budget cutters are ready to phase out a program which is in the first line of defense against this problem.

It is altogether one thing for USDA to hope that local sponsors keep the initiative alive. It is altogether another matter when USDA cooperates in stripping away the one framework for allowing the initiative to move ahead with a clear delineation of goals and the technical and financial means to accomplish them. I am certain the R.C. & D. volunteers, despite what the administration is doing to undercut their program, hope, too, that they can keep the initiative alive. But it does not appear anyone is going to help them do so unless we act on this bill.

R.C. & D. activists have shown extreme resourcefulness in working on a shoestring without a firm commitment by the sponsoring agency to keep the program alive so they can meet their long-term goals. I dare say that little has been done in terms of long-term commitment to allow a fair test of what the R.C. & D. program can really do if the commitment of personnel, resources, and finances are in place. This bill would see the program receive this kind of fair shake.

There is one other significant feature of this bill which I would like to highlight in these remarks. Section 10 is in essence a sunset provision requiring the Secretary to report to Congress by December 31, 1986, concerning continuation, termination, redirection, or modification of the program. This is consistent with provisions of the Resource Conservation Act calling for periodic reporting to Congress as to the progress and effectiveness of the USDA resource conservation programs.

I believe that if R.C. & D.'s future is assured for 5 years so that local sponsors can implement some of their long-range objectives instead of having to rely on short-term commitments and programs, that the R.C. & D. program will prove its utility and capability in a more meaningful sense than it has been able to heretofore. I am personally convinced a revitalized R.C. & D. program can become a model for a method of directing national resource conservation and development programs to points of need.

If in the review process it can be proven that a different approach is better than R.C. & D., I think local people will be eager to utilize it. But until such an improved program is in place, I think it is too much to ask or hope that the objectives of the R.C. & D. program can be carried out in the absence of a legislative and administrative framework for doing so.

I hope my colleagues on the Senate Agriculture Committee will agree with me that the merits of this popular grassroots program warrant our consideration of this legislation, that it will be reported favorably by the committee, and that we can then act on it here in the Senate.

Mr. President, I ask unanimous consent that the text of the bill I am introducing be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1942

Be it enacted by the Senate and House of Representatives of the United States of America assembled, That this Act may be cited as the "Resource Conservation and Development Act of 1979".

CONGRESSIONAL FINDINGS AND PURPOSE

Sec. 2. (a) The Congress finds and declares—

(1) that the rural areas of the Nation are confronted by critical resource utilization, economic, and environmental problems;

(2) that such problems are the result of—

(A) continually increasing pressures on such rural areas to meet domestic and foreign demand for food, fiber, and wood;

(B) inadequate public and private investment to help formulate and carry out acceptable courses of action necessary to meet the accelerating demands being made on the land and natural resources of the Nation; and

(C) social, economic, and environmental conditions of such complexity that they cannot be effectively dealt with by individual communities in rural areas acting independently of each other; and

(3) that such problems have resulted in and, unless unchanged, will continue to result in the decline of the family farm system, small business enterprise, and job environmental qualities of rural areas throughout the United States.

(b) It is, therefore, the purpose of this Act to encourage and assist State and local units of government and local non-profit organizations in rural areas to plan, develop, and carry out a program for resource conservation and development.

DEFINITIONS

Sec. 3. As used in this Act—

(1) The term "Secretary" means the Secretary of Agriculture.

(2) The term "planning process" means the continuing effort by any State, local unit of government, or local nonprofit organization to develop and carry out effective resource conservation and utilization plans for a designated rural area, including development of an area plan (as defined in paragraph (3)), goals, objectives, policies, implementation activities, and evaluations and reviews, and the opportunity for public participation in such effort.

(3) The term "area plan" means a resource conservation and utilization plan for a designated rural area of a State or States which has been developed through a planning process and which includes one or more of the following basic elements:

(A) a land conservation and utilization element the purpose of which will be to correct maladjustments in land use, to protect agricultural land from imprudent conversion to other uses, to control erosion and sedimentation, and to protect fish and wildlife habitats;

(B) a water management element the purpose of which will be to provide for the conservation and utilization of water, including irrigation and rural water supplies; the mitigation of floods and high water tables; construction, repair, and improvement of dams and reservoirs; improvement of agricultural water management; and improvement of water quality through control of nonpoint sources of pollution;

(C) a community development element the purpose of which will be the development of natural resource based industry, the protection of rural area industries from natural resource hazards, development of aquaculture, adequacy of rural area water and waste disposal systems, improvements in recreation facilities, rural housing, adequate health and education facilities, and essential transportation and communication needs; and

(D) other elements such as energy conservation, environmental protection, preservation of unique natural and cultural resources that are appropriate to achieving the goals of the citizens in the designated rural areas.

(4) The term "State" means the several States, the Commonwealth of Puerto Rico, and the Virgin Islands.

(5) The term "local unit of government" means any city, town, township, parish, village, or other general-purpose subdivision of a State, any local or regional special district or other limited political subdivision of a State, including any soil conservation district, irrigation, watershed, or drainage district, school district, park authority, and water or sanitary district.

(6) The term "nonprofit organization" means any community association, wildlife group, or resource conservation organization that is incorporated and approved by the Secretary for the purpose of providing to any rural area those public facilities or services included in the area plan for such rural area.

(7) The term "technical assistance" means any service provided by the staff members of any agency of the Department of Agriculture, including advising, inventory evaluating, planning, designing, supervising, laying out, and inspecting, and the providing of maps, reports, and other documents associated with the services provided.

(8) The term "financial assistance" means the assistance made available under this Act by means of Federal grants and loans.

(9) The term "works of improvement" means the facilities installed or being installed in compliance with the area plan.

RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM

Sec. 4. The Secretary shall establish a resource conservation and development program under which the Secretary shall make available to States, local units of government, and local nonprofit organizations the technical and financial assistance necessary to permit such States, local units of government, and organizations to operate and maintain a planning process for the development of plans and actions needed to conserve and better utilize land, develop natural resources, and improve and enhance the economic and environmental conditions of rural areas of the United States.

AUTHORITY OF THE SECRETARY OF AGRICULTURE

Sec. 5. In carrying out the provisions of this Act, the Secretary may—

(1) provide technical assistance and advice, upon request, to any State, local unit of government, or local nonprofit organization within a designated rural area to assist in developing an area plan for such area;

(2) cooperate with other departments and agencies of the Federal Government, with State and local governments, and with local nonprofit organizations in conducting surveys and inventories, disseminating information, and developing area plans;

(3) assist in carrying out an area plan approved by the Secretary for any rural area by providing technical and financial assistance, including grants and loans, to local public agencies and nonprofit organizations designated to receive such assistance by the Governor or legislature of the State concerned;

(4) enter into agreements with State agencies, local units of government, and local nonprofit organizations, as provided in section 6; and

(5) assist local units of government in acquiring any land or interest in land by purchase, gift, or otherwise whenever the acquisition of such land or interest is necessary to protect the public from a threat to its health and welfare and such threat can be eliminated by rehabilitation or reclamation of the land to be acquired or in which the interest is to be acquired, subject to the following conditions:

(A) that such land or interest is to be returned to the public or private sector after such threat has been removed and the public or private sector agrees to use such land or interest in a manner that will maintain the rehabilitated or reclaimed condition of the land or interest after such land or interest has been returned to the public or private sector;

(B) that such land or interest is returned to the public or private sector, at a cost to be determined by the Secretary and unit of local government concerned, within ten years after it has been rehabilitated or reclaimed; and

(C) that appropriate restrictions or covenants are provided in any agreements or instruments used to return the land or interests therein to the public or private sector and that such restrictions or covenants run with the land or interest and provide that the land or interest therein shall revert back to the unit of local government concerned in the event that the land is not maintained so as to preserve and protect its rehabilitated or reclaimed condition.

AGREEMENTS: TERMS AND CONDITIONS

Sec. 6. (a) Technical and financial assistance, including loans, may be provided by the Secretary to any State agency, local unit of government, or local nonprofit organization to assist such agency, unit of government, or organization in carrying out works of improvement specified in an area plan approved by the Secretary only if—

(1) such State agency, unit of government, or organization agrees in writing to carry out such works of improvement and to finance or arrange for financing of any portion of the cost of carrying out such works of improvement not paid by the Secretary under this Act;

(2) the works of improvement for which assistance is to be provided under this Act are included in an area plan and have been approved by the local units of government to be assisted;

(3) the Secretary determines that assistance to finance the type of works of improvement concerned is not reasonably available to such agency, unit of government, or organization under some other Federal program;

(4) the works of improvement provided for in the area plan for any area are consistent with any existing comprehensive plan for such area;

(5) the cost of land or interest in land acquired or to be acquired under such plan by any State, local unit of government, or local nonprofit organization is borne by such State, unit of government, or organization, except in the case of land or interest in land acquired or to be acquired for the purpose of conserving or protecting fish or wildlife, acquired or to be acquired for public recreational purposes, or acquired or to be acquired to protect the public from a threat to its health and welfare, as provided in clause (5) of section 5; and

(6) the State, local unit of government, or

local nonprofit organization participating in an area plan agrees to maintain and operate any work of improvement carried out under such plan.

(b) Loans made under this Act shall be made on such terms and conditions as the Secretary may prescribe, except that such loans shall have a repayment period of not more than thirty years from the date of completion of the works of improvement for which the loan is made and shall bear interest at the average rate of interest paid by the United States on its obligations of a comparable term, as determined by the Secretary of the Treasury.

(c) Assistance may not be made available to any State, local unit of government, or local nonprofit organization to carry out any area plan unless such plan has been submitted to and approved by the Secretary.

IDENTIFICATION OF GROUPS OR PROBLEMS FOR SPECIAL CONSIDERATION IN AREA PLANS

SEC. 7. Any area plan may identify for special emphasis or assistance under such plan any particular group (including small farm operators, rural poor, or minority groups living in the area covered by such plan), or any particular natural resource or water utilization problem.

SUPPLEMENTAL AUTHORITY OF THE SECRETARY

SEC. 8. The authority of the Secretary under this Act to assist States, local units of government, and local nonprofit organizations in the development and implementation of area plans shall be supplemental to and not in lieu of any authority of the Secretary under any other provision of law.

RESOURCE CONSERVATION AND DEVELOPMENT POLICY BOARD

SEC. 9. (a) The Secretary shall establish within the Department of Agriculture a Resource Conservation and Development Policy Board (hereinafter in this section referred to as the "Board").

(b) The Board shall be composed of seven members appointed by the Secretary. One member of the Board shall be designated by the Secretary to serve as chairman.

(c) It shall be the function of the Board to advise the Secretary regarding the administration of this Act, including the formulation of policies for carrying out the program provided for by this Act.

EVALUATION OF PROGRAM

SEC. 10. The Secretary shall evaluate the program provided for in this Act with a view to determining whether such program is effectively meeting the needs of, and the objectives identified by, the States, local units of government, and local nonprofit organizations participating in such program. The Secretary shall submit a report containing the results of the evaluation not later than December 31, 1986, together with his recommendations for continuing, terminating, redirecting, or modifying such program.

AUTHORIZATION OF APPROPRIATIONS

SEC. 11. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, except that not more than $60,000,000 may be appropriated for technical and financial assistance for any fiscal year and not more than $15,000,000 may be appropriated for loans for any fiscal year.

SEPARABILITY PROVISION

SEC. 12. If a part of this Act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this Act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid part.

By Mr. PELL:

S. 1943. A bill to stabilize the cost of living; to the Committee on Banking, Housing, and Urban Affairs.

COST OF LIVING STABILIZATION ACT OF 1979

● Mr. PELL. Mr. President, I am today introducing the Cost of Living Stabilization Act of 1979 to provide the President of the United States standby authority to impose controls on wages, prices, rents, and salaries.

I believe it is essential that the President have this authority. The continuing, unrelenting, ceaseless increase in price levels is decimating family budgets, grossly distorting business decisions on production, inventories, and investment, and sapping the strength of the American economy. The raging, double-digit inflation is hurting everyone except a happy band of speculators, who are gorging themselves with profits gained from riding the tidal wave of inflation.

President Carter and his administration are making a valiant and commendable effort to contain and restrain inflation with the limited authority given to him under existing law. But, inflation continues a galloping pace exceeding the projections and the hopes of the administration's economic advisers and officials.

The administration's voluntary program to restrain price and wage increases has worked about as well as could be expected, but a major problem is posed by the fact that the program has worked more effectively in restraining wages than in restraining prices.

During the past 12 months, the Consumer Price Index has increased by 11 percent, while wage increases have been held to an average of a little more than 7 percent—very close to the wage guidelines established by the administration. The net result, however, is that the real income of the average worker has declined by 4 percent as price increases have outrun wage increases.

The patience and restraint of the average American worker as he watched his real income slide during the past year has been remarkable, but unless there is real progress in reducing the inflation rate in the very near future, that patience will rapidly disappear. Workers understandably will want double-digit pay increases to match double-digit price increases.

Unfortunately, only the most optimistic economists see any immediate hope of a substantial reduction in cost-of-living inflation rates.

I do not see how we can realistically avoid the sad conclusion that the inflationary tidal wave racing through our economy threatens to overwhelm and swamp any system of voluntary restraint, no matter how well conceived and no matter how diligently it may be administered.

The recent actions by the Federal Reserve Board, using its authority to control bank reserve requirements, represents a bold new effort to bring expansion of the money supply under control, but there is considerable skepticism that this action, tight-fisted as it is, will prove sufficient or fully effective. We in the Congress, for our part, have made a strong commitment to restraining Federal Government spending and to pressing toward a balanced Federal Government budget, and that effort must continue unabated.

Nevertheless, our economy remains under siege by inflationary pressures, ranging from the uncontrollable increases in the costs of imported petroleum to the sheer self-propelling momentum of inflationary expectations.

The President of the United States is the Commander in Chief in the struggle to repel these inflationary forces, and I do not believe we should send him into this battle without every possible weapon in the arsenal of economic policy. The authority to impose wage and price controls must be one of those weapons.

The President has stated repeatedly that he does not want wage and price controls. I would prefer that we not have wage and price controls either. Indeed, everyone agrees that it would be preferable to end this inflationary cycle without imposing wage and price controls. But what is preferable is not always possible.

I am convinced that the time has come to face the fact that wage and price controls may be the only effective way to stem inflationary forces.

Economists tell us that wage and price controls are undesirable because they interfere with the free market's prime function—the allocation of scarce resources to the most productive use. Indeed, no one can deny that economic controls produce distortions in an economy. Controls inevitably undervalue some goods and services and overvalue others. Controls do not respond automatically and with great flexibility to changing conditions and circumstances.

But inflation also causes gross distortions in our economic life, and the greater the inflation rate, the greater the distortions. Inflation drains investment funds from the most economically productive use and funnels them to the most speculatively lucrative. It penalizes saving and rewards inflationary spending. It cripples the poor and those with no economic leverage and rewards those who have the clout and the sheer power to profit from inflation. The distortions caused by inflation are in fact nearly endless, and almost without exception, undesirable.

I believe we are rapidly approaching the time when the economic distortions caused by economic controls will be less damaging than the distortions and penalties imposed by raging inflation.

Obviously one does not prescribe medicine for a healthy patient, and one does not impose wage and price controls on a healthy economy. But we do not have a healthy economy, we have an economy with a raging fever. At some point we must decide whether the patient will heal himself, or whether it is time to administer some strong medicine. When that time comes, we all want to be sure that the doctor has the medicine available.

Mr. President, wage and price controls have worked well in the past. The major problem has been in managing the removal of controls, once they have served their purpose, so that a postcontrols surge of inflation is avoided.

The 1971 economic controls imposed by President Nixon held consumer price increases to 4 percent during the highly successful phase II. It was the abrupt removal of the controls, before inflationary forces had abated, that led to double digit inflation in 1974 and 1975.

During the Korean war, economic controls held consumer price increases to a rate of about 2.5 percent a year, and the gradual removal of the controls resulted in no inflationary surge. In fact, the years after the Korean war were a period of great price stability with consumer prices increasing 1 percent a year or less for several years.

The record, I believe, shows that economic controls do work and that it is possible, with skillful management and proper timing, to move from economic controls without a major postcontrols inflation.

Wage and price controls, properly conceived and administered, have a legitimate place in economic policy, and I believe the President should be given the authority to impose controls when it is clear that they are essential to our national well being.

Mr. President, I ask unanimous consent that the text of the legislation be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1943

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Cost of Living Stabilization Act of 1979."

Sec. 2. Statements of Findings.—It is hereby determined that in order to reduce inflation, minimize unemployment, improve the Nation's competitive position in world trade, and protect the purchasing power of the dollar, the executive branch of the government must have the authority to stabilize prices, rents, wages, and salaries.

Sec. 3. Presidental Authority.—(a) The President is authorized to issue such orders and regulations as he deems appropriate, accompanied by a statement of reasons for such orders and regulations, to stabilize prices, rents, wages and salaries at levels not less than those prevailing on October 31, 1979, except that prices may be stabilized at levels below those prevailing on such date if it is necessary to eliminate windfall profits or if otherwise necessary to carry out the purposes of this Act. Such orders and regulations shall provide for the making of such adjustments as may be necessary to prevent gross inequities.

(b) In carrying out the authority vested in him by subsection (a), the President shall issue standards to serve as a guide for determining levels of wages, salaries, prices, rents, interest rates, corporate dividends, and similar transfers which are consistent with the purposes of this Act and orderly economic growth. Such standards shall—

(1) be generally fair and equitable;

(2) provide for the making of such general exceptions and variations as are necessary to foster orderly economic growth and to prevent gross inequities, hardships, serious market disruptions, domestic shortages of raw materials, localized shortages of labor, and windfall profits;

(3) take into account changes in productivity and the cost of living, as well as such other factors consistent with the purposes of this title as are appropriate;

(4) provide for the requiring of appropriate reductions in prices and rents whenever warranted after consideration of lower costs, labor shortages, and other pertinent factors; and

(5) call for generally comparable sacrifices by business and labor as well as other segments of the economy.

Sec. 4. Delegation.—The President may delegate the performance of any function under this Act to such officers, departments, and agencies of the United States as he may deem appropriate.

Sec. 5. Injunctions.—Whenever it appears to any agency of the United States, authorized by the President to exercise the authority contained in this section to enforce orders and regulations issued under this title, that any person has engaged, is engaged, or is about to engage in any acts or practices constituting a violation of any regulation or order under this title, it may in its discretion bring an action, in the proper district court of the United States or the proper United States court of any territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond. Upon application of the agency, any such court may also issue mandatory injunctions commanding any person to comply with any regulation or order under this title.●

ADDITIONAL COSPONSORS

S. 123

At the request of Mr. Inouye, the Senator from Nevada (Mr. Laxalt) was added as a cosponsor of S. 123, a bill to amend the Social Security Act to provide for payment under medicare and medicaid of the services of psychologists.

S. 219

At the request of Mr. Moynihan, the Senator from Wyoming (Mr. Wallop) and the Senator from Alaska (Mr. Gravel) were added as cosponsors of S. 219, a bill to amend the Internal Revenue Code of 1954 to allow the charitable deduction to taxpayers whether or not they itemize their personal deductions.

S. 414

At the request of Mr. Bayh, the Senator from Kentucky (Mr. Ford) was added as a cosponsor of S. 414, the University and Small Business Patent Procedures Act.

S. 445

At the request of Mr. Percy, the Senator from Wyoming (Mr. Simpson) and the Senator from Kansas (Mr. Dole) were added as cosponsors of S. 445, the Regulatory Reform Act of 1979.

S. 464

At the request of Mr. Inouye, the Senator from Montana (Mr. Baucus) was added as a cosponsor of S. 464, a bill to amend the Internal Revenue Code of 1954 to expand the category of targeted groups for whom the new employee credit is available to include displaced homemakers.

S. 1161

At the request of Mr. Percy, the Senator from Minnesota (Mr. Durenberger) was added as a cosponsor of S. 1161, the Government Accountability Act of 1979.

S. 1200

At the request of Mr. Bayh, the Senator from Iowa (Mr. Culver) was added as a cosponsor of S. 1200, the Alcohol Fuels Regulatory Simplification Act of 1979.

S. 1203

At the request of Mr. Bayh, the Senator from Missouri (Mr. Eagleton) was added as a cosponsor of S. 1203, a bill to amend the Social Security Act regarding disability benefits for the terminally ill.

S. 1533

At the request of Mr. Tower, the Senator from Wisconsin (Mr. Nelson) was added as a cosponsor of S. 1533, a bill to amend the Investment Company Act of 1940 to provide an exemption for qualified venture capital companies.

S. 1589

At the request of Mr. McClure, the Senator from New Mexico (Mr. Domenici) was added as a cosponsor of S. 1589, a bill to amend the Public Rangelands Improvement Act of 1978, to prevent the loss of economic grazing units, to prevent increased unemployment and flood inflation, and for other purposes.

S. 1627

At the request of Mr. Tsongas, the Senator from South Dakota (Mr. Pressler) was added as a cosponsor of S. 1627, the Consumer Checking Account Equity Act of 1979.

S. 1647

At the request of Mr. Inouye, the Senator from Minnesota (Mr. Durenberger) was added as a cosponsor of S. 1647, a bill to establish a commission to gather facts to determine whether any wrong was committed against those American citizens and permanent resident aliens affected by Executive Order 9066, and for other purposes.

S. 1668

At the request of Mr. Church, the Senator from Minnesota (Mr. Boschwitz) was added as a cosponsor of S. 1668, a bill to authorize additional appropriations for the Department of State for migration and refugee assistance for fiscal years 1980 and 1981.

S. 1705

At the request of Mr. Moynihan, the Senator from West Virginia (Mr. Randolph) was added as a cosponsor of S. 1705, a bill to amend the Internal Revenue Code of 1954 with respect to the deduction of charitable contributions to organizations from which the taxpayer or a member of his family receives services.

S. 1724

At the request of Mr. Robert C. Byrd (on behalf of Mr. Williams), the Senator from Maryland (Mr. Sarbanes), and the Senator from Vermont (Mr. Stafford) were added as cosponsors of S. 1724, a bill to authorize the Secretary of Health, Education, and Welfare to make grants to States in order to provide assistance to households which cannot meet the high cost of fuel, and for other purposes.

S. 1754

At the request of Mr. Moynihan, the Senator from Idaho (Mr. Church), the

Senator from Montana (Mr. Baucus), and the Senator from New Mexico (Mr. Schmitt) were added as cosponsors of S. 1754, a bill to determine the causes and effects of acid precipitation throughout the United States and to develop and implement solutions to this problem.

S. 1756

At the request of Mr. Tsongas, the Senator from Hawaii (Mr. Matsunaga) was added as a cosponsor of S. 1756, a bill to amend the Federal Reserve Act to authorize the automatic transfer of funds, to authorize negotiable order-of-withdrawal accounts at depository institutions, to authorize federally chartered savings and loan associations to establish remote service units, and to authorize federally insured credit unions to receive share draft accounts, and for other purposes.

S. 1762

At the request of Mr. Nelson, the Senator from New Hampshire (Mr. Humphrey) was added as a cosponsor of S. 1762, the Small-Scale Hydropower Tax Incentive Act of 1979.

S. 1862

At the request of Mr. McClure, the Senator from Alaska (Mr. Gravel) was added as a cosponsor of S. 1862, a bill to improve the administration of Federal firearms laws, and for other purposes.

SENATE JOINT RESOLUTION 19

At the request of Mr. Wallop, the Senator from Minnesota (Mr. Boschwitz), the Senator from Montana (Mr. Melcher), and the Senator from Minnesota (Mr. Durenberger) were added as cosponsors of Senate Joint Resolution 19, proclaiming March of 1980 as "Youth Art Month."

AMENDMENT NO. 505

At the request of Mr. Church, the Senator from Alabama (Mr. Stewart), the Senator from Oregon (Mr. Hatfield), the Senator from Hawaii (Mr. Inouye), the Senator from Arkansas (Mr. Pryor), the Senator from Indiana (Mr. Lugar), the Senator from Washington (Mr. Magnuson), and the Senator from South Carolina (Mr. Hollings) were added as cosponsors of amendment No. 505 intended to be proposed to S. 932, a bill to extend the Defense Production Act of 1950, as amended.

SENATE RESOLUTION 265—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. WILLIAMS, from the Committee on Labor and Human Resources, reported the following original resolution, which was referred to the Committee on the Budget:

S. Res. 265

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1724. Such waiver is necessary because the reported bill authorizes $1,600,000,000 for the fiscal year 1980 for home energy assistance to or on behalf of eligible households to meet the rising costs of home energy.

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by May 15, 1979, because the severity in the rise of costs of home energy was not known at that time.

AMENDMENTS SUBMITTED FOR PRINTING

SOCIAL SERVICES AND CHILD WELFARE AMENDMENTS OF 1979—H.R. 3434

AMENDMENT NO. 558

(Ordered to be printed.)

Mr. BELLMON proposed an amendment to H.R. 3434, an act to amend the Social Security Act to make needed improvements in the child welfare and social services programs, to strengthen and improve the program of Federal support for foster care of needy and dependent children, to establish a program of Federal support to encourage adoptions of children with special needs, and for other purposes.

AMENDMENT NO. 559

(Ordered to be printed.)

Mr. DOLE (for himself and Mrs. Kassebaum) proposed an amendment to H.R. 3434, supra.

NOTICES OF HEARINGS

COMMITTEE ON LABOR AND HUMAN RESOURCES

● Mr. NELSON. Mr. President, I would like to announce that the Labor and Human Resources Committee will hold a legislative hearing on S. 1725, a bill to amend the Economic Opportunity Act of 1964 to establish a comprehensive energy conservation services program designed to enable low-income and near-poor individuals and families to participate in energy assistance programs. The hearing, entitled "Low-Income Weatherization and Energy Conservation Services," will take place on Tuesday, October 30, 1979, at 9:30 a.m., in room 4232 of the Dirksen Senate Office Building. If you have any questions regarding the hearing please contact Lori Hansen or Marianne Hughes of the staff of the Subcommittee on Employment, Poverty, and Migratory Labor at 224–3968.●

COMMITTEE ON GOVERNMENTAL AFFAIRS

● Mr. PRYOR. Mr. President, I wish to announce that the Governmental Affairs Committee will continue oversight hearings regarding the Department of Energy on Friday, November 2, 1979 at 10 a.m. in room 3302. Special attention will be given that day to the Department's use of consultant services.

Anyone wishing additional information about the hearings should contact the committee office at 224–5751. ●

SELECT COMMITTEE ON INDIAN AFFAIRS

● Mr. MELCHER. Mr. President, I would like to announce for the information of the Senate and the public, the following hearing schedule for the Select Committee on Indian Affairs:

Nov. 5, 1979, 10 a.m., S.J. Res. 108—to validate the effectiveness of certain judgment distribution plans;

Nov. 8, 1979, 10 a.m., S. 1273—to restore federal recognition to certain bands of Paiute Indians;

Nov. 20, 1979, 10 a.m., S. 1730—to declare certain lands to be held in trust for the Ramah Band of the Navajo Tribe, and S. 1832—to extend the authority of the Secretary to declare lands in Arizona and New Mexico to be Indian reservation lands;

Nov. 26, 1979, 10 a.m., S. 1855—to increase the authorization for technical assistance for tribally controlled community colleges;

Nov. 28, 1979, 10 a.m., S. 1466—to provide for distribution of certain judgment funds; and

Dec. 4, 1979, 10 a.m., S. 1507—relating to the settlement of certain claims involving the waters of the San Luis Rey River.

The room numbers for these hearings are to be announced. For further information regarding these hearings you may wish to contact Max Richtman of the committee staff on extension 234–2251. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Select Committee on Indian Affairs, U.S. Senate, Washington, D.C. 20510.●

SUBCOMMITTEE ON CIVIL SERVICE AND GENERAL SERVICES

● Mr. PRYOR. Mr. President, I wish to announce that the hearing of the Subcommittee on Civil Service and General Services on the use of consultant services by the Federal Government scheduled for October 29, 1979, is being rescheduled to a later date.

Anyone wishing additional information about the hearings may contact the subcommittee staff at 224–4551.●

AUTHORITY FOR COMMITTEE TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, October 29, beginning at 2 p.m., to hold hearings on numerous executive nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

PROBLEMS OF COMMUTER RAIL SERVICE

● Mr. WILLIAMS. Mr. President, I have long been concerned about assuring effective public transit services in our major urban areas—especially now in this era of energy scarcity. One mode of transit which has been a workhouse of urban transit in major cities for years is the commuter rail line. For many years, these rail services have been elements of the transit scheme in New York, New Jersey, Philadelphia, Chicago, Boston and several other cities. But, the operators and riders on these lines have been plagued with severe service problems, antiquated equipment and generally unreliable operations for so many of these years, that the grumbling commuter being late to work in an unheated or uncooled coach has become a cliche. But the sufferings of these dogged but determined riders have not been totally in vain. Efforts are being made in many communities to upgrade commuter rail service to make it more reliable and more attractive.

But these efforts have been hamstrung by serious problems in the supply industry and among the operators of commuter services. Chief among these problems has been the loss of rail car manufacturing capability in this country. At least three rail car manufacturers have withdrawn from the market in recent months leaving only one domestic—but foreign owned—manufacturer in the business. An article in the October 19 Wall Street Journal clearly spells out what these problems have been and is instructive to all of us who need to understand how important commuter rail service is, and how serious are the problems faced by these services.

Mr. President, I ask that the following article be printed in the Record.

Commuter Rail Service, Still Deteriorating After Fuel Squeeze, Is Seen at Perilous Point

(By John D. Williams)

Commuter railroads—the long-neglected orphans of transportation—are at a crossroads.

They either must begin to be an efficient tool for hauling people between suburbs and city centers in this era of costly fuel, or must suffer a rattling death, replaced by autos and buses.

That's the blunt conclusion of analysts who monitor the fortunes of this beleaguered industry. There are about 550,000 rail commuters in the U.S., half of them in the New York-New Jersey metropolitan area. If they all switched to autos, they would burn about 260 million gallons of gasoline a year. Air quality and traffic congestion would surely worsen in all eight commuter-rail areas. According to size, behind New York-New Jersey, these areas are Chicago, Philadelphia, Boston, San Francisco, Washington, Detroit and Pittsburgh.

Commuter railroads missed a comeback opportunity last summer, when fuel shortages forced auto commuters to rail coaches in droves. But the industry wasn't ready. Commuter cars were old and uncomfortably hot. Example: On July 13 in New York, thousands sat for two hours in hot, dark cars in a station waiting for locomotives to arrive.

RISE IN RIDERSHIP

Ridership in such areas as New York and Philadelphia rose in July by 15 percent to 20 percent from a year earlier, reaching the highest level in over three decades. But it has since fallen back to a point about 8 percent ahead of last year. Some commuters vow never to return to trains again unless another fuel pinch makes auto travel impossible.

It's estimated that the average rail commuter car is over 25 years old. A federal official reports that there are only 4,000 cars in the U.S., about the same as five years ago. Only 2,871-new cars have been delivered since 1940.

In New York, commuter-line operators have recently taken to cannibalizing out-of-service cars for parts to keep other cars running, because new parts are no longer manufactured. One New York rail shop now custom-makes some out-of-stock parts. Donald Anesi, one of two remaining machinists in this sprawling shop, worries that when he retires in June, management won't replace him. Back in 1946 his shop had 60 machinists.

LITTLE ACCOUNTABILITY

One reason that commuter roads are in trouble is that for 15 years, private railroads have unloaded money-losing commuter operations on unprepared, often inept public agencies. Another such turnover may be imminent. Southern Pacific Transportation has agreed to hand over to California its San Francisco-area commuter line. Last year the line lost $13 million hauling 9,000 persons each workday. These same railroads continue to manage their old commuter lines for fees from the public agencies. But there's little accountability.

A congressionally sponsored concern, Consolidated Rail Corp., carries 43.9% of all U.S. rail commuters on its 1,800 daily trains for five subsidized public authorities, including ones in New York, New Jersey and Philadelphia. The U.S. Railway Association, a government corporation that monitors Conrail for Congress, recently questioned whether Conrail should continue to manage commuter rail services. The association is also looking into Conrail's poor commuter service in New York.

Commuter rail transportation still could revive, however. President Carter has called for public spending of $50 billion during the 1980s—more than triple the $15 billion spent in the 1970s—for buses, subways, streetcars and commuter railroads. The package is tied to the President's call for a "windfall-profits" tax on the oil industry.

Even if the package materializes, a manufacturing problem could present further difficulties. Because of seesaw commuter-rail financing by the government, deliveries of new cars have been erratic, as the accompanying chart shows.

Only Budd Co., a U.S. subsidiary of Thyssen AG of West Germany, remains in U.S. commuter-car building. A St. Louis unit of General Steel Industries Inc. closed its commuter-car plant six years ago. A Pullman Inc. unit dropped out earlier this year after it got into a legal skirmish with New York City on flawed subway cars. General Electric Co. withdrew last year, although it still makes some motors and controls.

WAITING FOR "SOMETHING BIG"

"Currently we aren't building any new commuter cars and don't see any real opportunities in the near-term future," a GE spokesman says. "But if something big came up, we would look at bid invitations."

A "buy-American" federal law since November 1978 hampers non-U.S. concerns in making commuter-rail cars. It requires, unless special waivers are won, that 51% of the content of each car be U.S.-made and that final assembly be in the U.S. "This is a dreadful handicap for the foreign builder," says a spokesman for Hawker Siddeley Canada Ltd. in Thunder Bay, Ontario. "We've been bloodied in the U.S."

Industry sources say that a greater resurgence in car deliveries than that recently evident in the chart would be needed for GE to reenter the field or for foreign concerns to establish U.S. facilities. Needed as well would be an assurance from U.S. authorities that the collapse—from 375 deliveries in 1972 to eight last year—wouldn't occur again. "This is a screwy business," says a Budd official who blames the 1972–78 collapse largely on a drying up of governmental funds. Budd has 55 cars on order for 1980, he says, and one of its three assembly lines is idle.

Federal financing for commuter-railroad plant and equipment has also followed an erratic course. In addition, on account of inflation, the public is getting fewer cars for each tax dollar. An electric commuter car today costs $1 million. That's 10 times what one cost 10 years ago. This year, it's estimated, federal financing will total $204.2 million. That's down from $271.6 million in 1978 but $30 million higher than as recently as 1975.

TWO BOND PROPOSALS

Commuter cars are purchased on a basis of 80% federal and 20% state and local funds. State financing may increase if bond proposals are approved November 6 by voters. New York's transportation bond issue of $500 million calls for $170 million for commuter rail. New Jersey's bond issue of $475 million would put $100 million into commuter rail.

Such funds aren't always expertly spent. Some 60 New York commuter cars, which could have been used in last summer's crunch, have instead stood idle since 1973, even though funds to renovate the 1954 vintage cars were authorized as part of a 1974 bond issue.

A spokesman for the Metropolitan Transportation Authority, the deficit-ridden state agency that oversees New York commuter railroads, insists that the agency is blameless for this tardiness. Although the funds for the cars were authorized in 1974, they didn't become available—because of governmental red tape—until last July. Moreover, the "scope of work" to be done on the cars wasn't agreed upon by the MTA, state and county officials and a commuter group until September. (The MTA's chairman, under criticism for reasons unrelated to this matter, is resigning November 16.)

The 60 cars will be ready for use about a year before a section of track is electrified—a project promised to 5,000 commuters for over a decade. For this reason, the cars will have to be pulled by 22-year-old diesels, which are subject to frequent breakdowns.

In New Jersey, 100 new electric commuter cars, which could haul a total of 13,000 persons, stand idle at a GE facility. The cars were completed a year ago, before a new electric power system was ready for them. Those 13,000 commuters will be riding in those new seats no sooner than about December 1981, some three years behind schedule. ●

REMARKS OF REPRESENTATIVE BARRY GOLDWATER BEFORE THE NATIONAL SAFETY COUNCIL GENERAL AVIATION MEETING

Mr. GOLDWATER. Mr. President, all of us who are deeply interested in the subject of aviation are necessarily concerned with the subject of safety. In this connection, it would seem that there is a serious question whether the Federal Aviation Administration is fulfilling all of the requirements necessary to make our aviation system as accident-free as possible.

Congressman Barry Goldwater, Jr., of California recently addressed this question when he delivered a particularly incisive speech before the National Safety Council's general aviation meeting.

Mr. President, I ask that this speech be printed in the Record.

The speech follows:

Remarks of the Honorable Barry M. Goldwater, Jr.

About 1,500 people will die in general aviation accidents in the next year. Statistically speaking, one or two of you in the audience tonight will be in that group of 1,500. We're all here tonight to see if that can be prevented.

Now there are two broad categories of accidents I'd like to talk about tonight. The first is where the fault rests primarily on the pilot. The second is where the fault rests primarily with the system—the government—the FAA—through their action or inaction.

An example of the first type of accident—where it's the pilot's fault—is when a VFR-only pilot gets a weather briefing which forecasts lousy weather—or maybe he doesn't even bother to check the weather. He takes off anyway, gets in the bad weather where he's not trained to fly, and crashes.

Since this type of accident is caused by individual pilots, it can be prevented by individual pilots.

The other type of accident is where—in a subtle way perhaps— the system, the government, the FAA—make it more likely for an accident to happen. Here it's very hard for the individual pilot to protect himself. This is where the role of Congress comes in.

An obvious example is when a pilot calls for a weather briefing and gets a good report and forecast when the weather is really bad. A more subtle example is when a pilot tries to get a weather briefing by calling the Flight Service Station, but he can't get through. After an hour of frustration, he finally gives up and takes off. He runs into terrible weather and crashes. The NTSB blames it on "pilot error—failure to check the weather."

Another example of this type—take the case of a pilot flyng into a busy GA airport on a dark rainy night. There is no ILS, no VASI, no weather reporting. The plane crashes and everyone is killed. Pilot error is the probable cause.

But that accident might not have happened if there had been an ILS—or a VASI—or weather reporting at the airport. Why wasn't this equipment available—was there a lack of funding? The answer is "no"—there is currently $2.5 billion available for such safety improvements as ILS, VASI, automatic weather reporting, and Flight Service modernization. This money is in the Aviation Trust Fund, which was created by Congress for airport and airway imrpovements and is paid for by users like yourselves. You all pay into the Trust Fund with the 7 cents per gallon aviation fuel tax.

So with $2.5 billion available for new safety devices, why isn't the money being spent? It's because FAA and the Administration won't spend it. They like the fat surplus because government accountants can use it to make it look like the government deficit is $2.5 billion less.

The ADAP legislation which created the Trust Fund is now up for renewal in Congress. The FAA has a solution for the Trust Fund surplus. They propose to take the money—whch was already paid in by users for safety improvements—and use it to pay for day to day FAA expenses—government salaries and paper clips.

Fortunately, I think there are enough Congressmen who agree with me to stop the FAA from raiding the cookie jar. But I think it's a crying shame when the agency which is charged with aviation safety has to be dragged—kicking and screaming—by Congress to spend money from a safety trust fund on safety projects.

FAA recently found another way to spend $200,000 of safety trust fund money. At Atlanta they bought a sculpture to beautify the terminal building. I don't have anything against art and sculpture—except when the money to pay for it comes out of a fund set up to buy ILS's VASI's, weather reporting equipment, runway groving, Flight Service Station modernization, and upgrading the ATC system. I questioned Langhorne Bond on this at a Congressional hearing last month and he defended the $200,000 sculpture. I hope to amend the new ADAP bill to prevent this type of thing in the future.

Another brilliant idea of Langhorne Bond came out last December after the San Diego mid-air collision. Although that collision took place in FAA controlled airspace. Bond's response was to increase the amount of FAA controlled airspace. The Notice of Proposed Rule Making would have lowered positive controlled airspace from 18,000 feet to 10,000 feet and establish so many new Terminal Control Areas (TCA) that you could hardly fly anywhere without having to fly around several. In fact, the rule could have decreased GA safety by packing so many GA aircraft into the airspace just outside the TCA's—and—by overloading the already overloaded ATC system.

The proposed rule was such a ridiculous overkill in terms of expanding FAA control than an unprecedented 43,000 pilots wrote in against the idea. And a number of Congressman rallied to block the rule from ever taking effect. Just recently Langhorne Bond backed down and withdrew the proposed rule.

This brings me to the final thought of my talk tonight. Those 43,000 pilots who wrote in had to carry the ball for almost a million pilots who probably felt the same way but didn't bother to write. My message here is to urge you to pick up a pen and paper whenever you see something wrong like this in Aviation. Write the FAA, Your Congressman and Senators, or to me. We're ready to help, but we need to know from you what is going on in the real world outside of Washington.●

PHIL SAMPSON

● Mr. ARMSTRONG. Mr. President, Phil Sampson, minority counsel for the Housing Subcommittee of the Senate Banking Committee on Friday leaves his post to become the new Director of Customers Programs for the Comptroller of the Currency.

Mr. Sampson has ably served my staff and I during the past year. Several of my colleagues on the committee have mentioned to me how impressed they have been with his fine and thorough work. I wanted to bring to the attention of the U.S. Senate his fine service, and wish him well in his new position.●

JUVENILE JUSTICE REFORM

● Mr. KENNEDY. Mr. President, when we speak about violent crime one problem stands out above the rest—the plague of juvenile violence. Practical steps must be taken to check the growing cancer of violent juvenile crime. On October 14, 1979, the following article—written by one of our Nation's most distinguished authorities on the subject—appeared in the New York Times magazine. Chief Judge Irving R. Kaufman, of the U.S. Court of Appeals for the Second Circuit, and chairman of the Joint Commission on Juvenile Justice of the American Bar Association and the Institute of Judicial Administration, makes a convincing case for the need to reform current criminal justice procedures for the treatment of juvenile offenders. Chief Judge Kaufman makes the point that our current juvenile justice system is all too often unable to make the distinction between the violent juvenile offender and the mere status offender. Indeed, the author points out that violent juveniles are often released from custody because existing jail facilities are overcrowded with juvenile runaways and other nondangerous status offenders.

Mr. President, this article is important reading for all who are interested in the problem of juvenile crime and sentencing disparity. Chief Judge Kaufman suggests that—

> Courts must mete out fair and even-handed justice to young criminals. No longer should they try to serve as surrogate parents in attempting to control youthful mischief.

I completely concur with this view. Local laws and procedures should be altered to mandate that certain violent juveniles be treated as adults in an adult criminal justice system; at the same time, we must rid our juvenile criminal courts of the status offender who is only there because there is no other social welfare agency available to offer assistance. I submit the article for printing in the Record.

The article follows:

Juvenile Justice: A Plea for Reform

(By Irving R. Kaufman)

On July 27, 14-year-old Luis Bonilla sat impassively in the starkly modern courtroom of the Bronx Supreme Court, waiting for the jury to return. He was accused of shooting and killing a teen-ager who had resisted Luis's attempt to steal his portable radio; at the time of his crime Luis was 13 years old. If the jury convicted him on charges of second-degree murder, his sentence would be mandatory life imprisonment, with no chance of parole for at least five years.

That Luis had been tried in an adult criminal court at all was extraordinary, for criminal suspects below the age of 16 had long been under the exclusive jurisdiction of the family court. Even for the most serious offenses, that court could impose at most five years of "restrictive placement," only the first 18 months of which would be spent behind bars. But two months before the fatal Bonilla shooting last October, New York's new juvenile-offender law took effect. It requires that 13-year-olds accused of second-degree murder (as well as 14- and 15-year-olds indicted for a variety of offenses, including burglary and assault) be treated as adults in the eyes of the law and tried in the adult court system. (To protect young convicts from premature contact with adult offenders, however, the new law still requires that a convicted youth be confined in juvenile facilities until he or she is old enough for transfer to an adult prison.)

Spurred by a series of brutal and highly publicized killings in the New York City subways, the State Legislature, in an extraordinary session in July 1978, enacted this far-reaching transformation of New York's criminal law within a few hours after the bill's submission. Luis Bonilla was the first 13-

year-old tried under the new law, but though convicted, he was not sentenced as an adult. When the jury finally did return, after 15 hours of deliberations, it found him guilty of manslaughter—an offense not within the ambit of the new law for 13-year-olds. Accordingly, he was returned to family court for sentencing. The process had come full circle. The New York Family Court does not place manslaughter in the highest severity category, so the maximum sentence available—which Luis received—was three years, of which only the first will be in secure detention.

The case of Luis Bonilla illustrates only one of the problems facing those who have attempted to reform laws dealing with juveniles. Eighty percent of the 328 youths arrested under the new law during its first seven months were charged with theft, rather than with the more vicious crimes that were the principal target of the lawmakers. Over 60 percent of the youths initially charged as adults were returned to the family court—but not before some had undergone such experiences as pretrial detention in the filthy, windowless holding pens used by the Kings County Criminal Court in Brooklyn to house adult defendants.

All this, critics assert, demonstrates that the new law was drafted too broadly, sweeping within its purview many youths who should not be exposed to the adult criminal-justice system. Most states have long provided for the transfer to adult courts of juveniles who have committed particularly serious crimes. But in virtually all these states the family court determines whether transfer is necessary, thus minimizing potentially harmful pretrial contact with adult criminals.

The new law's defenders, however, point out that cases of neglected, abused, runaway or disobedient children, as well as child-support controversies, make up the bulk of the family court's docket. This court, they contend, was established to deal with youthful criminal mischief and petty thefts, not the brutal, heinous crimes that the public fears today. They also emphasize that many dangerous offenders are treated too leniently, simply because the few available secure juvenile detention facilities are already overcrowded by runaways and other nondangerous offenders. Removing youths accused of serious crimes from the family-court system, these policymakers concluded, would result in stiffer penalties, and thus serve as a more powerful deterrent of juvenile crime. But perhaps because juries are unwilling, except in compelling cases, to condemn youthful criminals to adult prisons, the "tough" new law has produced fewer and shorter detentions than the juvenile-offender law that preceded it.

New York's unsatisfactory experience with its new juvenile-offender law is illustrative of the age-old dilemma in this field. It is a fact of life that juveniles, no less than adults, are capable of killing and destruction, and must be punished for such deeds. Yet society is unwilling to abandon young delinquents to the often hopeless fate that awaits adult criminals.

On one issue, however, both sides in this often bitter debate are in agreement: the present system of juvenile justice is plagued by serious problems, problems that run too deep to be rectified by last-minute legislative fiat. Recognizing this fact, the American Bar Association, in cooperation with the Institute of Judicial Administration, a research organization, has sponsored a comprehensive nine-year study, now nearing completion, of our entire juvenile-justice system. This project's goal has been to re-evaluate and produce a detailed set of guidelines, or "standards," that may serve as the basis for reform of every aspect of the child's manifold interactions with the law.

For each of 22 distinct topics, an expert, termed "reporter," was appointed to draft proposed standards and commentary. The work of the reporters was then reviewed by drafting committees drawn from the full spectrum of professionals in the field. Many were lawyers; the roster included three past presidents of the American Bar Association. The project also consulted judges, scholars, psychiatrists, psychologists, social workers, educators and experts in corrections and police work. This process insured that the standards would be well-integrated and internally consistent. In addition, they would reflect the varying perceptions of those involved in different aspects of the juvenile-justice systems.

The standards, now being considered by those concerned with juvenile-justice reform, are not an exercise in theoretical armchair sociology. Rather, they draw on the best of existing, tested statutory reforms. Covering such areas as police handling of juvenile problems, youth service agencies, pretrial proceedings, juvenile records and information systems, and rights of minors, the first 17 volumes of the standards were approved by the American Bar Association this February. Five more volumes will be submitted to the A.B.A. at a later date.

The standards represent the latest chapter in the history of troubled children in America, a history that reflects some of the meanest and the most noble aspects of the American character.

Seventeenth-century London was beset by every type of problem child now encountered by our family courts. Young criminals terrorized the middle classes, and were tried and punished in the same manner as adults. "Rogues and vagabonds," as well as "idle and needy" children who had run away from their parents and masters, were brought to the courts for punishment; orphans and neglected or abandoned children were bound out or cared for at public expense. But the Londoners had a "dispositional alternative" (in the jargon of the day's juvenile justice) that is unavailable now: they shipped many of these children to the Virginia colonies as indentured servants. The Dutch, for their part, pursued a similar policy in New Amsterdam.

The colonial policy toward children and their families was marked by a stern Puritanical view of the responsibilities of the child to his parents and of the parents to the state. The dead hand of this view continues to mold today's policy. The colonial government lent its force to the absolute rule of the parents, permitting up to 10 stripes at the public whipping post for incorrigible children who displayed a "rebellious carriage" toward their elders.

The colonies also expected much of parents. Virginia provided in 1748 that unfit parents who were either too poor to raise children properly, or who failed to bring them up "in honest courses," could lose custody of them forever.

The New England colonies (and later New York as well) provided for dependent persons, including young abandoned children, by a reverse auction known as vendue. The state offered subsidies of ever-decreasing amounts to prospective caretakers, with the lowest bidder winning. Apart from a cursory check to ascertain whether the child was being grossly abused, the child's best interests were not even considered.

By the 1820's, this reality gained broad recognition as the nation's increasing prosperity alleviated the financial pressures that had made the vendue acceptable. The search for a more humanitarian approach was galvanized by a dilemma in governmental policy toward juvenile delinquency, which was already beginning to emerge as a heated issue with the massive influx of European immigrants. In the eyes of the criminal law, youths reached maturity at age 14, and suspects as young as 6 were legally considered as adults if the state could show that they knew right from wrong. Thus, several cases are recorded of 12- and 13-year-olds tried for murder, and of 7- and 8-year-olds locked up in adult prisons. The sympathy of judges and jurors toward the young mitigated the harshness of this common-law rule; even in 1820 all were aware that brutality and instruction in "the most artful methods of perpetrating crime" awaited the youth incarcerated with adults. But if acquitted, as the New York Society for the Reform of Juvenile Delinquents noted in an 1826 report, "they were returned destitute, to the same haunts of vice from which they had been taken, more emboldened to the commission of crime, by their escape from present punishment."

The New York reform society therefore recommended the establishment of specialized institutions for children. These homes would provide a refuge not only for young criminals but also for those who had been dealt with by the vendue—the homeless, the neglected and the vagrant—and children beyond their parents' control or whose parents were considered "unfit."

The institutional movement spread rapidly, at first under private auspices and later supported by public funds. These early "child savers" deemed several years of stern, regimented discipline essential to reform. They therefore thought it necessary that institutions and the state be given extensive authority over these children, even over parental protests. In 1838, the seminal case of *In re Crouse* established this power.

Mary Ann Crouse was consigned to the Philadelphia House of Refuge on her mother's assertion that she was "incorrigible." The Pennsylvania Supreme Court rejected her father's petition to recover custody, defending its usurpation of the rights of "unworthy" parents by stating, "She in fact has been snatched from a course which must have ended in confirmed depravity, and, not only is the restraint of her person not unlawful, but it would be an act of extreme cruelty to release her from it."

With these noble-sounding words, the court planted in American jurisprudence a dangerous and alien seed that flourished most fully in the juvenile-court system founded 60 years later. A central principle in Anglo-American law is that crimes must be charged and proved precisely. One is convicted not of "being a robber" but of robbing John Jones at 2 p.m. on the corner of Fifth and Main. A law that confines a child in an institution because a parent is "unworthy" or because the child is destined for "depravity" presupposes that a court can devine the most salutary remedy for an individual by peering through some magic window into the soul. A homogenous community like Puritan New England may tolerate such official moral judgments, but in the diverse society dedicated to free thought that the United States has become, such institutional presumptuousness appears pernicious.

These considerations did not impress those active in the institutional movement, nor reformers who attempted other means of grappling with the problems of youth. The Children's Benevolent Society, for example, like its predecessors in London 150 years before, sought to "drain the city" of its delinquent children and ship them westward to "the best of all asylums, the farmer's home." And as the frontier began to close after the Civil War, yet another new phenomenon—the reform-school movement—swept the North and the West.

Two principles were central to the reform school ideal. First, youths could be properly treated as criminals for offenses peculiar to their status as minors: for example, truancy, running away, incorrigibility. Second, because the mission of the reform school was a benign, rehabilitative one, the normal procedural protections of the adversary criminal trial—the rights of confronting witnesses, of prior disclosure of specific charges, of counsel and of trial by jury—could be abrogated with no constitutional qualms.

Initially, these principles suffered a major setback. In *People v. Turner*, the Illinois Supreme Court rejected a statute that mandated the confinement of children under 16 "growing up in mendicancy, ignorance, idleness or vice." "Vice is very comprehensive term," wrote the court. "Acts, wholly innocent in the estimation of many good men, would, according to the code of ethics of others, show fearful depravity. What is the standard to be? What extent of enlightenment, what amount of industry, what degree of virtue, will save from the threatened imprisonment? The principle of the absorption of the child in, and its complete subjection to the despotism of the State, is wholly inadmissible in the modern civilized world."

The Turner decision represented a subtle wisdom that would not become widely evident for nearly a century. The Illinois child savers ignored its warning and lobbied to create a new institution that would further their interventionist, paternalistic goals within constitutional limitations. Finally, in 1899, at the prompting of the Chicago Women's Club, Illinois founded the nation's first juvenile court. Its jurisdiction encompassed all children in trouble, including those found living "with any vicious or disreputable person." This idea of a separate court for juveniles, able to address and cure the problems of youth with a special fatherly concern, quickly spread to every major city in the Union.

The juvenile court was the culmination of a growing belief that children were institutionalized far too frequently, both in degrading, unhealthy almshouses and in reform schools, which were already perceived as dehumanizing in their regimentation and brutal in their operation. Foster care and adoption were the practices preferred by the juvenile court for children with unsatisfactory homes, and for the first time home relief was offered on a broad basis to "worthy" mothers of dependent children. Juvenile probation officers were another innovation. These men and women—at first, unpaid volunteers—were to supply the court with investigations of the young offender's background. More importantly, they would supervise the child living at home, thus providing an alternative to punishment in an institution.

"Juvenile courts," noted Thomas D. Eliot, a critic of the system, in 1914, "were to fill every gap in the child-caring system. However, if this be granted, no line can be drawn short of a court administering all the children's charities. . . . Some courts actually state this as their ideal; they are all things to all men." The juvenile courts had, indeed, set themselves an ambitious, perhaps impossible, task. As a leading juvenile-court judge, Paul Alexander, noted in 1944, the judge must apply "not only man-made law, but the moral law and the laws of social science, psychology, psychiatry and the general laws of human nature." But the states never gave the juvenile courts the resources to carry out their mission. As late as 1967, one-third of the juvenile courts in the country did not have social workers or probation officers available to them, and 83 percent lacked psychologists or psychiatrists.

Confronted with massive waves of runaways in the 30's and the 40's, as well as a steady increase in youth crime, the system steadily broke down. Insufficiently staffed to follow its proclaimed purposes, the juvenile court—despite its origins as an alternative to institutionalization—with increasing frequency referred delinquents to an ever-growing network of misleadingly and euphemistically named "reform" and "training" schools. By 1966, 51,000 children were living in 292 institutions for delinquents.

Discipline, rather than rehabilitation or education, preoccupied these prison-like facilities. As late as 1940, the punishment for possession of tobacco at the Indiana State School for delinquent boys was 10 strokes on the bare back with a leather paddle; for impudence and vulgarity, 15 strokes. At the Hudson School in New York State in the 1950's rebellious girls could be locked in solitary confinement for up to 81 days and fed only milk and bread for two of their daily meals. And reports emerged in the 1960's from one Massachusetts training school of children who were punished by "staff dunking youngsters' heads in toilets, dousing them with pails of water, forcing them to march around with a pail over their heads, and using one 12-year-old boy as a mop and dragging him through urine in the boys' washroom."

With the heightened social consciousness of the 1960's, many of these aspects of the juvenile-justice system began to appear archaic, if not cruel. Recognizing at least the essentially punitive nature of reform schools, Justice Abe Fortas, writing for the Supreme Court in 1967, noted that "however euphemistic the title, a 'receiving home' or an 'industrial school' for juveniles is an institution of confinement." Before making a finding of delinquency, therefore, juvenile courts were required to observe the "essentials of due process and fair treatment."

The 1960's also witnessed a second, more massive deinstitutionalization movement. It took its most striking form in Massachusetts, where the entire training-school system was closed and replaced with a network of small-scale, community-based residences.

There was, therefore, little disagreement in 1967 when the President's Commission on Law Enforcement and the Administration of Justice wrote: "The great hopes originally held for the juvenile court have not been fulfilled. It has not succeeded significantly in rehabilitating delinquent youth, in reducing or even stemming the tide of juvenile criminality, or in bringing justice and compassion to the child offender."

The Juvenile Justice Standards Project of the American Bar Association and the Institute of Judicial Administration thus convened in a day of growing disenchantment with the institutions used to deal with problems of youth. At that time, it was clear that a substantial number of adult criminals had started as juvenile offenders and invariably returned to lives of crime. The depth of dissatisfaction, however, provided the project with an ideal opportunity to achieve its ambitious goal: to structure a new juvenile-justice system that by heeding the lessons of the past would better serve us in the future.

After nearly a decade of research and discussion, the project members concluded that the juvenile court must abandon the "moralistic" model that has guided it since the turn of the century. Some members supported this view because they believed courts could not meaningfully pass upon the "worthiness" or "depravity" of those who came before them. Others argued that such judgments have no place at all in modern society. All agreed that the juvenile courts—like all other courts—should be tightly bounded by the rule of law. Acts that would be crimes if committed by adults should be charged, proved and punished in a similar manner. Senator Edward Kennedy, Chairman of the Senate Judiciary Committee, has forcefully decried the cruel ironies of the present system: "If juveniles want to get locked up, they should skip school, run away from home or be deemed 'a problem.' If they want to avoid jail, they are better off committing a robbery or burglary." Children whose actions do not amount to adult crimes—the runaways, truants and incorrigibles—should be dealt with outside the judicial system. The term "delinquency," therefore, with its attendant stigmatization and possibility of incarceration, should be reserved exclusively for juveniles who have committed crimes.

A few examples will illustrate the basic philosophy that undergirds the Juvenile Justice Standards Project:

Parental Abuse and Neglect. Under the standards, children may not be removed from their homes because of alleged parental misconduct without a finding that specific physical harm clinically recognizes phychiatric disturbance, or sexual abuse has occurred or is imminently threatened. This standard is intended to reduce sharply the widely deplored extent of state intrusion into family life that the child savers thought proper. Although state intervention is clearly called for when a child is, for example, battered by a parent, physical abuse was reported in only 10 percent of the 300,000 neglect petitions filed annually. More often, the petition for juvenile-court intervention to remove the child from the home is based on such complaints as the tendency of a single mother to bring home overnight male visitors. Separation of child from mother in such cases, which once may have appeared imperative, has become distasteful in a society that has learned respect for the dignity of all and has come to recognize the necessity of keeping hands off the parent-child relationship except in particularly dangerous situations.

Experts agree that unnecessary intervention often harms rather than helps the child, shattering parental bonds. The wiser course, the standards conclude, is for the state to leave the child with the family and supply voluntary social services to assist the family unit in the home.

Youth crime. In cases of juvenile delinquency, the standards frankly recognize that although reform schools may have rehabilitative goals, they are dominated by their punitive aspect. Clichés about saving a child from a life of crime do not alter the stark reality—and necessity—of punishment. For the protection of society, it is necessary that legislatures increase many of the maximum prison sentences for juveniles who have committed serious crimes. And, under carefully defined circumstances, juvenile courts must be permitted to transfer the most hardened young criminals to the adult system for the severest punishments allowed by law. But in either court, juveniles accused of crime should have the right to the same adult procedural protections that guard against conviction of the innocent. Consequently, the standards accord accused juveniles, beyond the minimal due process that the Supreme Court has held is constitutionally required, the rights to counsel and to a six-person jury. The juvenile-court judge must remain free to act leniently in an appropriate case. The standards require no minimum sentences, but where the judge deems a heavier determinate sentence necessary, no parole commission should be permitted to release the offender prematurely. Under the existing system, as Senator Kennedy recently said, "certainty of punishment is a joke."

Noncriminal Misbeheavior. The standards permit incarceration only for conduct forbidden by the adult criminal law. Large segments of juvenile court jurisdiction would therefore be removed, for adults cannot be convicted for disobeying their parents, truency or running away. In recent years, some states have begun to treat youngsters who have committed such acts, but no crimes, as "Persons [or Children] in Need of Supervision" (PINS or CHINS), rather than as delinquents. The change, however, is one in name only. PINS children continue to be confined alongside young criminals, an experience destined to do more harm than good. In fact, through PINS petitions, juvenile courts have intervened in family disputes over household chores, abusive language and undesirable boyfriends. The juvenile courts, in these cases, have allowed themselves to be used as birch rods by angry parents disgusted with, but unable to control, their adolescent children's behavior.

The project concluded that all services rendered to PINS children should be provided on a strictly voluntary basis, and preferably outside the judicial system. For example, in recent years, concerned adults—many of them former runaways—have established "crash pads" and runaway houses where young people who have left home can live for a time, safe from the dangers of the street. At first, these shelters were often hostile both to parents and authorities, but today, with the help of government funding and state certification, they have evolved into an important adjunct to the social-services system. Experience has shown that after a runaway child spends a few days in such a shelter, an amicable reunion with parents usually ensues. The standards endorse this system of licensed shelters and recommend that it be augmented substantially.

For other troubled children who have not broken the law, the standards prescribe voluntary psychiatric or other medical care, and educational, vocational and legal counseling appropriate to the needs of the particular child. Where a child chooses to avail himself of such services, the chances of success will be enhanced by the fact that he has chosen this course voluntarily. The key, then, is to make these services adequate, well-known and easily accessible.

The long history of justice and injustice to our nation's children counsels that the juvenile court focus its power, its wisdom and its compassion on the gravest problems that confront it: The twin evils of violence by and against the young. Courts must mete out fair and even-handed justice to young criminals. No longer should they try to serve as surrogate parents in attempting to control youthful mischief. As the legislatures of our states join in this effort and draw upon the standards' recommendations, the old-age promise of justice for our nation's youth may at last be fulfilled. ●

ROCHESTER INSTITUTE OF TECHNOLOGY 150TH ANNIVERSARY

● Mr. JAVITS. Mr. President, this week, the Rochester Institute of Technology, one of New York's, and the Nation's finest institutions of higher education, is celebrating its 150th anniversary. RIT has a proud tradition of commitment to independent higher education by providing quality liberal arts, technical, and professional career programs through its 10 constituent colleges. Two of these colleges, Eisenhower College and the National Technical Institute for the Deaf, are federally chartered, and hence are of particular national note. I believe it is appropriate for my collegues to recognize the contributions of RIT to the intellectual, artistic, and scientific life of the Nation, and I am pleased to be able to offer them a brief overview of RIT's exceptional service activities.

Rochester Institute of Technology (RIT), observing this year its 150th anniversary, is a privately endowed, coeducational, nonsectarian major institution of higher education.

In contrast to many other institutions of higher education in a decade characterized by declining enrollments and financial difficulties, RIT can proudly point to a balanced budget and increased enrollment, based largely on its 150 years of commitment to quality career education and its ability to respond to the changing technological needs of our society.

RIT offers a wide range of programs, including master's, bachelors' and associates' degrees, as well as certificate and diploma programs. Some of these programs are unique or highly unusual: Packaging science, nuclear medicine technology, printing, photographic science, and the programs of the School for American Craftsmen and the National Technical Institute for the Deaf.

Many of the programs are cooperative; that is a format of campus study augmented by off-campus work in the student's chosen field. Pioneered by RIT in New York State in 1912, the cooperative educational concept epitomizes the institute's "learn by doing" philosophy.

In the fall of 1979, over 14,000 students were enrolled at RIT: 7,600 in full-time study and nearly 6,200 students in part-time coursework. In addition, 738 students were involved in cooperative education experiences off-campus. These students, representing every State in the Union and several foreign countries, reflect the diversity of RIT's programs. Older, part-time, female and handicapped students are also comprising a greater and greater proportion of RIT's total enrollment.

RIT's main campus, in the southern perimeter of Rochester, occupies 400 acres of a 1,300-acre site. Completed in 1968, it houses complete academic and support facilities, including an indoor ice rink and olympic-size swimming pool. The complex of 13 buildings has received several architectural awards.

RIT is composed of 10 colleges

EISENHOWER COLLEGE

With its comparatively small campus in Seneca Falls, RIT's Eisenhower College offers students a rural life style distinct from the main campus facilities. Chartered in 1965 and opened in 1968 as the national living memorial to the 45th President, Dwight D. Eisenhower, its curriculum emphasis on world studies provides a new depth to an RIT education.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF (NTID)

Established by Congress in 1965 and opened in 1968, NTID is the world's only national technical college and research center for deaf persons. NTID this year is offering professional and semiprofessional career technical education to over 900 college-aged deaf students. Its 96-percent placement record indicates that RIT has kept its commitment of partnership with the Federal Government in fulfilling promises never before thought possible.

COLLEGE OF SCIENCE

The undergraduate in the College of Science at RIT gets a different kind of education than at any other school in New York State. The RIT program combines work study with the potential for undergraduate research and a strong faculty-staff-student interaction brought about by the smallness of the various departments and the resulting classes. The college's main interest is high quality teaching at the undergraduate level in biology, chemistry, computational mathematics, chemical technology, mathematics, biomedical computing, medical technology, nuclear medicine technology, physics, premedicine, and pharmacy.

INSTITUTE COLLEGE

Organized in 1973, Institute College incorporates the schools of engineering technology, computer science and technology currently the largest in the country, packaging science, community/junior college relations and instructional technology.

COLLEGE OF GRAPHIC ARTS AND PHOTOGRAPHY

This college is internationally known for its excellence and the contributions of its graduates to the world of communication. Faculty are experts in their field. The Graphic Arts Research Center, with its own full-time staff, conducts research in various fields of the graphic arts. Programs of study include photographic science and instrumentation, photographic illustration, professional photography, photographic processing and finishing management, printing, newspaper production management and printing systems management.

COLLEGE OF GENERAL STUDIES

This college offers general education courses for students enrolled in all other RIT colleges and also offers two baccalaureate programs in social work and criminal justice. The courses in general studies are designed to help the student understand humanistic concerns, the physical universe and human society. The purpose is to stimulate curiosity, to encourage independent study, and to enable the student to see how different areas of knowledge are related.

COLLEGE OF FINE AND APPLIED ARTS

This college includes the distinctive School for American Craftsman. Programs of study feature communicative design, fine arts, environmental design, ceramics and ceramic sculpture, glass, metal crafts and jewelry, weaving and textile design, woodworking and furniture design, and medical illustration.

COLLEGE OF ENGINEERING

Engineering programs combine liberal education, professional training and real world, on-the-job experience. The programs of study are electrical engineering, industrial engineering, mechanical engineering, and computer engineering.

COLLEGE OF BUSINESS

This college reflects the world of business, which has become increasingly complex. Programs of study include accounting, business administration, food service administration, hotel and tourist industries management, dietetics, retailing, and photographic marketing.

COLLEGE OF CONTINUING EDUCATION

This college offers a variety of certificate, degree, and diploma programs as well as special seminars and noncredit courses, with many of its programs offered in the evening. The full range of programs of study reflect the offerings at the other nine colleges of RIT.●

FT. WAYNE FIRE SAFETY PROGRAM

● Mr. BAYH. Mr. President, recently, Edith Kenna and Carol Wissman, the cochairpersons of the Ft. Wayne PTA fire safety project, contacted my office requesting my endorsement of the joint PTA/fire prevention bureau December smoke alarm project. I wholeheartedly agree with the aims and objectives of this worthwhile program—to reduce the ever-increasing number of deaths caused by smoke inhalation. Fire is indeed a major national problem. Statistical evidence clearly indicates that the installation of smoke alarms has led to a decrease in the number of victims killed or injured by smoke inhalation. However, the number of lives claimed annually by fire is still staggering.

I commend the work of the Ft. Wayne PTA and the fire prevention bureau in initiating a program of this nature and encourage other communities to become as involved in fire prevention programs.

I welcome this opportunity to have printed in the Record a synopsis of this joint PTA/fire prevention bureau December smoke alarm project.

The synopsis follows:

Joint PTA/Fire Prevention Bureau December Smoke Alarm Project

We, Edith Kenna and Carol Wissman, in conjunction with the Fire Prevention Bureau of the City of Fort Wayne present the following proposals:

(1) That December be proclaimed as the month to "Give a smoke alarm," and that we adopt as our slogan for this project, "Love enough to give a smoke alarm."

(2) That through the month of December, we make our program as visible as possible through flyers distributed by PTA members at shopping centers, by printings of our slogan on the sides of grocery bags, by public service announcements on T.V. and radio, letters to the editor, and by appearances on local talk shows.

(3) That all PTA Council mailings in the month of December carry our slogan in bold letters, and that the Fort Wayne Community Schools and administration do the same.

(4) That all general PTA meetings in the month of December take the time to remind the parents that a smoke alarm is the best gift to give or receive this Christmas.

(5) That the Fort Wayne PTA Council accept a citizen liaison from the Fire Prevention Bureau to help in the implementation of this program and the initiation of future fire prevention programs within the city schools.

(6) That the amount of $100 be allotted to purchase the copyright for "Freddie the Firefighter" logo and the amount of $200 be allotted for use in defraying printing costs.

(7) That this project, when developed and implemented, be submitted to the State and National PTA to serve as a model project that could be adopted throughout the country.

(8) That the PTA Council adopt this program in total now. December, 1979, the last month of the International Year of the Child, is the most appropriate time to implement a joint PTA/Fire Prevention Bureau project that could save the lives of many children in the years to come. In order to be effective this year, we must begin immediately.●

RUN TO END WORLD HUNGER

● Mr. COHEN. Mr. President, last week I was visited in my Washington office by Charles Frair of Morrill, Maine, who played an important role in organizing the recently completed "Run to End World Hunger." During our visit, Mr. Frair presented to me a message concerning the challenge of world hunger which was carried on foot by concerned athletes from the downeast city of Eastport, Maine, on the Canadian border to the Capitol building here in Washington.

Such an undertaking, such a serious expression of sincere interest and attention to the problems of starvation and nutrition, indicates to me that a national consensus is developing with respect to food assistance and food relief. No longer will the American people accept from their chosen policymakers the excuses that economic ramifications and logistic uncertainties make food aid impractical and ineffectual.

Of course, Mr. President, the tragedy which is currently unfolding in Southeast Asia underscores the urgent need for the more fortunate nations of the world to fix on the objective of eliminating world hunger, and to set about resolving those difficulties which inhibit prompt humanitarian action in states such as Cambodia whose people are now in such dire need of our help.

Though the United States has severe economic and social problems of its own, Americans have always been generous and enthusiastic in their efforts to assist those in other lands who are truly in need. The rising interest of Americans in the subject of hunger is now creating an increased awareness among our people that many persons with empty stomachs are looking to us with out-stretched hands, beseeching us to respond.

The runners who came to Washington suggest that if our country is to remain true to the values from which we have traditionally drawn our true national strength, this call for help must be heeded.

Mr. President, I ask that the runners challenge to us be printed in the Record.

The message follows:

Challenge

Twenty-eight people died of starvation each minute we carried this message to you—more than 300,000 during this run. The truth is that hunger perists not because we can't end it, but simply because we haven't. The time has come to end hunger and starvation forever.

Every step we took in delivering this message to you has brought us one step closer to the end of world hunger. Throughout the run thousands of individuals have contributed their money and energy to organizations dedicated to ending starvation. In order to get the job done, YOU, both as individuals and as members of Congress, must make the same commitment. Look and see what programs and legislation directly affect the end of hunger and spend your time and our tax dollars on those that work to eliminate this condition.

We pass this baton to you to empower you to take the next step and to let you know that we are partners with you in ending world hunger.●

NATO AND SALT

● Mr. BIDEN. Mr. President, I would like to call the attention of my colleagues to an article in this week's Baltimore Sun that deals with the subtleties and realities of NATO's relationships. The author, Stanley Sloan, explores the blend of political factors at work in NATO. He explains how the NATO alliance must respond to the Soviet challenge at the same time that it seeks to maintain détente with the Soviet Union. This article is particularly relevant in light of President Brezhnev's recent arms limitation proposals.

Mr. Sloan also makes it abundantly clear why our NATO allies feel that passage of the SALT treaty would create a favorable climate for a positive decision in December to modernize theater nuclear forces in Europe.

I recommend the following article in its entirety to my colleagues and ask that it be printed in the Record.

The article follows:

[From the Baltimore Sun, Oct. 23, 1979]

What Kissinger Overlooked

(By Stanley R. Sloan)

Henry Kissinger seemed to be dropping a bomb in Brussels a few weeks back when he bluntly told the Europeans they could no longer count on the American nuclear guarantee against the Soviets.

But his assertion, after all, was really just a new chapter of an old book: In 1968, Dr. Kissinger wrote, "The more NATO relies on strategic nuclear war as a counter to all forms of attack, the less credible its pledges will be." And most analysis would certainly agree that, as Dr. Kissinger said in Brussels, the Atlantic Alliance needs to modernize its theater nuclear weapons and to improve its ability to fight with conventional forces to provide more confident deterrence against the Soviets.

Some of us who listened to Henry Kissinger's views on the alliance were surprised, however, by how lightly he dispensed with the North Atlantic Treaty Organization's role as an instrument of detente—something he had also done in 1968 when it was less obvious how politically important this aspect of the alliance was to become.

Mr. Kissinger's unidimensional concept of the alliance misses a very important point, one which is increasingly relevant as the NATO nations approach decisions this December on modernization of NATO's theater nuclear weapons. We have agreed with our NATO allies that such decisions should be accompanied by an offer to the East to negotiate mutual limitations on such theater, or regional, weapons systems.

("Theater" weapons are distinguished from strategic weapons by their range and destructiveness. A nuclear weapon to be used in the "European theater" of a war, for example, could reach European Russia from West Germany, or the reverse, but would not have intercontinental range. Such weapons have been outside the scope of the U.S.-Soviet SALT treaties. The question at hand is whether and where NATO will deploy longer range and more accurate theater nuclear delivery systems—such as the Pershing II and ground-launched cruise missiles—in response to Soviet deployment of more versatile and accurate systems of its own, principally the SS–20 mobile medium-range missile and the Backfire bomber.)

Soviet General Secretary Leonid Brezhnev's recent offer unilaterally to reduce Soviet forces in East Germany and to limit further deployment of Soviet theater nuclear systems may be but a ploy to prevent NATO from reaching positive deployment decisions in December. But NATO's political credibility may depend on the alliance's matching its skepticism about the Soviet offer with a demonstration of willingness to negotiate a genuinely stable nuclear and conventional military balace in Europe. A bit of NATO history may help explain why.

It is no news that into the early 1960s NATO's deficiencies in conventional military forces were compensated for by the strategic nuclear superiority of the United States. In other words, NATO was able to live with weaknesses in its non-nuclear forces in the belief that the Soviet Union would be deterred in Europe by its inferior strategic nuclear position. But as the Soviet Union began to acquire a credible intercontinental nuclear capability, dependence on the threat of "massive retaliation" to deter the Soviets began to lose validity.

So far so good. But our historical perspective on the alliance is not complete without some political history as well. In parallel with its advances in strategic weaponry, the Soviet Union also projected a relatively peaceful image to the West (as implied by its policy of "peaceful coexistence"). Western perceptions of the nature of the "threat" facing NATO began to change.

To many, and particularly to those parties and political forces to the left of center in Europe, strict confrontation no longer was a politically acceptable basis for the alliance. U.S. involvement in Vietnam tended to make the Soviet Union look peacelike by comparison, in spite of evidence of Soviet adventures, albeit on a lesser scale than the U.S. involvement in Vietnam.

These two vitally importantt shifts—in the strategic balance and in perceptions of Soviet intentions—combined to force a reevaluation of NATO's military and political posture.

Militarily, this re-evaluation led to the new NATO strategy called "flexible responses." This strategy was premised on the requirement for the alliance to be able to respond with sufficient force at any level of Soviet challenge—ranging from conventional forces through theater nuclear weapons up to strategic forces. The era of massive retaliation was over.

Politically, the revised perception of Soviet intentions was taken into account in the Harmel Report, approved by the Allies in 1967. This report, bearing the name of Belgian Foreign Minister Pierre Harmel, recommended that NATO be used to seek detente with the Soviet Union and its Warsaw Pact allies as well as to maintain a defense against Eastern military capabilities.

The defense-detente combination accommodated the split between the Left and the Right within the alliance. It compromised two different views of the East-West political-military situation, broadening the potential base of support for NATO. This dual role has been the political life-blood of the alliance ever since.

The alliance now faces a serious challenge to the continued viability of this doctrine—a challenge not fully comprehended in Dr. Kissinger's approach.

The political right within the alliance judges that the Soviet Union has achieved a qualitative and quantitative advantage over the West in the area of theater nuclear forces. These observers believe it is imperative that NATO deploy an "answer" to the SS–20 mobile missile.

The political Left within the alliance recognizes Soviet gains in theater nuclear arms, but sees these gains as a Soviet response to previous American superiority in this area. These observers would prefer that limitations be negotiated on theater nuclear systems before the West deploys new ones.

Strong differences concerning the relationship in timing—and substance between deploying new nuclear systems and trying to reduce such systems through negotiations will pose a serious test for the alliance—and European sources increasingly suggest that no alliance-wide decision on deployment will be possible in the absence of a SALT II accord.

These conflicting perspectives will have to ship in timing and substance between defense-detente duality, if the alliance is to retain military credibility and political viability in the 1980s. This would mean taking whatever decisions are required to modernize NATO's nuclear arsenal while implementing a co-ordinated NATO approach to the arms control challenge posed by General Secretary Breshnev.●

INTERNATIONAL SUGAR STABILIZATION ACT OF 1979

● Mr. ZORINSKY. Mr. President, in the 3 years of my tenure here in Washington, I have become increasingly concerned with the widespread myth of a consumer-producer rift. In Washington and throughout the country there is a prevalent, and totally erroneous perception that the interests of America's agricultural producers and our Nation's consumers are diametrically opposed.

During this past week, the House of Representatives took action, based on that false premise, to defeat the International Sugar Stabilization Act of 1979. In doing so, they have done both American sugar producers and American sugar consumers a great disservice.

Sugar is a vital commodity, and our country needs a reliable domestic source. My colleagues in the House have been shortsighted and irresponsible. Their action this week clearly demonstrates that despite the current energy panic, we still have not learned the painful lesson of dependence on foreign suppliers.

The International Sugar Stabilization Act of 1979 was a very moderate bill, Mr. President. It was designed to bolster our country's domestic sugar industry, and simultaneously, to insure that American consumers will always have a reliable source of sugar. In addition, the bill included provisions to implement the International Sugar Agreement, which would protect consumers from wild price fluctuations due to short supplies.

But the action of the House this week has both doomed the International Sugar Agreement to failure, and withdrawn any hope of support for our own country's distressed sugar industry. The bill they defeated was a compromise. It had won the begruding support of the President, and the support of the two distinguished chairmen of the House Agriculture and Ways and Means Committees.

The 15.8 cents a pound price support was not nearly as high as I would have wished. But it was nevertheless a meager thread of hope for Nebraska sugar beet farmers to cling to. Now, even that thread has been withdrawn.

The American sugar industry is failing, Mr. President. It is drowning under a sea of cheap imported sugar. With the kind of rescue mission conducted by the House, it will not be long before our American sugar beet and cane producers go down for the third time.●

ENERGY POLICY IN THE UNITED KINGDOM

● Mr. McCLURE. Mr. President, I am certain I am not the only Senator curious about the United Kingdom's new Prime Minister and her influence on its politics. If the comments made in Washington by her Secretary of State for Energy, the Honorable David Howell, to the American Women's Economic Round Table are exemplary of the policies the two will be supporting, I am thus far pleased.

Although the United Kingdom is not a member of the distinguished league of countries dangerously dependent on imported oil as the United States is, Secretary Howell aptly conveys throughout his address how really very close our two countries' energy concerns are. It is commendable to note that they apparently are viewing energy dependence much more seriously and responsibly than did the United States at its comparable domestic energy level. Although they will be producing by next year, from their North Sea, sufficient quantities of oil to meet their needs, they realize this is not a permanent fix. To quote Mr. Howell:

> Our oil production will rise, then fall away again in the late eighties and nineties . . . the present government believes that the best way, the only effective way, to maintain that diversity and that security is to move increasingly away from the restrictions of state ownership and state regulation, towards a climate of enterprise and reward for effort. That alone can provide reliable responses to our energy challenge.

You are familiar, Mr. President, that I am one who firmly believes the United States must use nuclear energy. In this context, I found Mr. Howell's impression of the United States—an impression that he has strongly received on the other side of the Atlantic—extremely interesting, and I quote:

> Organized opinion rarely seems to be enlisted in favor of development, almost invariably against. Yet ought there not also to be a strong body of opinion that spells out what would really happen if we in Europe or you in the United States were to renounce the nuclear option because of its alleged risks? Can synthetic, renewable fuels and coal be produced in sufficient quantities or conservation be successful enough to maintain the economic prosperity to which we have become accustomed? Are we really prepared to do without that economic prosperity? Who will stand responsible for the real suffering and danger to society if the confident prediction that we can get by without nuclear energy turns out to be plain wrong? I would not wish to suggest what course the United States should take, but I believe that judgments about the future of nuclear energy should be formed in the light of all the consequences. The hazards of not going nuclear need to be spelled out as articulately as the alleged hazards of future nuclear power and development". A significant declaration the Energy Secretary further makes, "I have felt it right, while in the United States, publicly to put on record the British Government's commitment of a substantial contribution from nuclear power".

Mr. President, foreign government doctrines and impressions are significant to us in the Senate as we face heavy energy decisions and our predominant goal of a free world. I request that this statement be printed in the Record in full, so that my colleagues can better acquaint themselves with the new government's policies.

The article follows:

Speech by the Rt. Hon. David Howell, MP

When Mrs. Thatcher appointed me Secretary of State for Energy on 5 May—immediately after the Conservative election victory—I readily confess that I was a novice in the subject. It took time to learn the energy jargon; to understand that a "wildcat" well was not necessarily dangerous; that a "fluidised bed" would be pretty uncomfortable to lie on; that "yellowcake" would sit rather heavily on the stomach.

But it was not my first experience at the Department of Energy. In fact I was one of the first batch of Energy Ministers ever appointed in Britain when for just a few weeks in 1974 I was a junior minister there, reporting to the Secretary of State. I mention this not to claim any greater experience of the energy field than I in fact have, but simply to highlight the fact that the present Department of Energy was only created after the Yom Kippur war. In retrospect it seems incredible that until then, energy matters were thought of so little importance that they could be looked after, as it were, part-time, by a Cabinet member with much wider responsibilities. And, of course, the same was true of the United States.

Because there has only recently been an Energy Department in either of our countries, people assume that energy is itself a new subject. It is not. Neither, incidentally, is the gloom about our future energy prospects new. In the eighteenth century some forecasters in Britain predicted an unbridgeable energy gap as wood ran out! (To digress further, a century later forecasters feared that the increase in urban traffic would result in streets choked with horse manure, but I do not know if anyone saw the energy potential of that!)

The energy problem is not new, and neither is it really very different from many other political problems. Despite all the jargon with which I had to grapple in my first days in office, the problem is essentially political.

Sufficient energy potential exists in the world for us never to worry or even constrain our lifestyle. That is not in doubt. The question is how we can harness it to fulfill our needs. As an illustration, the Sun provides an energy source to the Earth which is equivalent to 12,000 times humankind's present consumption.

Nor is it the technical expertise that we lack. Certainly there are many technological problems to be overcome, but if we devoted massive efforts in disregard of all other factors, interests and aims, we could for example, with ease harness sufficient solar power, mine enough coal, exploit further oil and gas deposits and build enough nuclear power stations to satisfy our energy extravagance.

But of course in our balanced and democratic societies we do not pursue particular goals in disregard of all other factors, interests and aims. That is why energy is an intensely political matter. Not because politicians choose to make it so, but because at every turn there are lobbies, pressure groups and corporate interests who have an interest in promoting one energy source above another, or preventing development at a particular location, or who wish to secure a specific contract; and because, above all, the case for future benefit is locked in unceasing combat with the case for present sacrifice. So if you ask why not take the politics out of energy, you might as well ask "why not take the politics out of politics?" The debate on energy is essentially no different from the wider economic debate. In Britain, energy policy is dominated by the question of how large a role the state should play alongside private enterprise and how much we give up now for greater security later. Issues like nuclear power have not, so far, divided politicians along party lines. I shall return to this later.

In the midst of all the lobbying and special pleading governments must never lose sight of the majority of consumers who have become accustomed to gas being readily available at filling stations, who expect heat, light and power at the flick of a switch in their homes and who do not recognize until energy supplies cease even briefly to be readily available that there is an energy crisis. It is this majority to whom governments ultimately must answer.

In Britain, next year we shall begin to produce as much oil from the North Sea as we consume. We already meet our own demand for coal and the North Sea supplies our demand for natural gas. So, as you may say, what are we worried about? Is there not a tap in the North Sea which will supply us forever? Cannot Britain be insulated by her oil and coal and gas reserves from the rest of the world's troubles?

The answer is, quite simply, that there is not and we cannot. On the contrary, the existence of some massive reserves, and the easy even complacent, habits of mind which idle reference to these encourages, can actually make it more difficult to bring home to people the real nature of our energy predicament over the next few years and the absolute necessity of calling in aid every resource of enterprise, skill and imagination to overcome it.

Let me put it more graphically. Our oil production will rise, then fall away again in the late eighties and nineties as we again have to import. Our gas will follow a similar profile, at a somewhat longer pace. Coal and nuclear power will have to fill the gap. So will our ingenuity in conserving energy—doing more with less.

Yet here is the heart of the crisis for us. If in Britain we achieve massive success on all these fronts, with all the political problems overcome, the changes of habit, the enterprise and the technical competence that that implies—if we do all this—we will just—only just—get through—in the sense of being able to maintain a civilised, tolerant free society and the standard of living that people expect to go with it.

In short, all the energy sums must add up. And since in real life some things are bound to go wrong somewhere along the front, there must be insurance, indeed double insurance, wherever possible. Failure to meet future energy needs somehow, whatever the difficulties in any one area, just cannot be contemplated—or chanced. That is the challenge to government and it is a challenge which people expect their elected government to meet.

So it is against this background that the government must work to unravel the competing demands put upon it and tackle the issues in each area of energy supply and demand.

Firstly, there is competition for funds.

In Britain, where the industries supplying coal, natural gas and electricity are state-owned monopolies, this competition appears in a very obvious way. The government can only sanction a limited amount of cash particularly for the more long-term or speculative projects. Even expressed in British pounds, virtually any major development today carries a price tag in multiples of a billion. Nuclear stations cost about £1 billion each; and the government is committing something over £½ billion each year to new coal development.

In the United States this competition occurs in this direct way, I would imagine, only in the allocation of research budgets, whether at federal or state level. But even in the private sector, utilities are obviously constrained by their cash flows, and at a macroeconomic level, if more of the gross national product is devoted to energy production less is left to be spent somewhere else: on defence, on education, welfare or private consumption. In Britain our largely free enterprice oil industry faces constraints on this model. With oil fields in the North Sea costing upwards of around £1 billion each, oil companies have to take a view on whether to invest in Britain or elsewhere in the world, and whether to invest in oil or coal. Banks have to take a view on whether to lend to oil companies or to toy manufacturers or whoever. The government has to make guesses about all these views in setting its conditions for oil development.

In each of our countries these competing demands are resolved by a combination of political decision-making and the operation of market forces. The resolution depends, ultimately, on the public's willingness to see their money spent on energy security, rather than, say, on missiles, schools, the care of the poor or consumer durables: and depends also on how accurately politicians and businessmen perceive that willingness.

A second way in which energy policy has to be balanced is as against the preservation of the environment, and the protection of mankind's safety and health.

Obviously, in a small island with a population density many times greater than yours, the British have to be at least as concerned as you are. I believe that we have developed standards of safety and environmental protection, and inspectorates to enforce them, that are at least the equals of any in the world.

So the background to, for example, the nuclear power debate is, I believe, broadly similar in both the United States and Britain. We share a common concern for our environment and both see a central role for governmental bodies in defending it.

One contrast I might draw is between the way in which groundswell of consumer opinion has become articulate and organised in the United States, whilst it has remained a comparatively small scale and generally local phenomenon in Britain. Obviously, American women have played a crucial part in organising and fund-raising, and in articulating these opinions.

Since I am addressing opinion formers, and since in discussion after this you can correct if I am wrong, I hope you will not mind me recording an impression which I receive strongly on the other side of the Atlantic. That is that organised opinion rarely seems to be enlisted in favour of development, almost invariably against. Yet ought there not also to be a strong body of opinion that spells out what would really happen if we in Europe or you in the United States were to renounce the nuclear option because of its alleged risks? Can synthetic, renewable fuels and coal be produced in sufficient quantities or conservation be successful enough to maintain the economic prosperity to which we have become accustomed? Are we really prepared to do without that economic prosperity? Who will stand responsible for the real suffering and danger to society if the confident prediction that we can get by without nuclear energy turns out to be plain wrong? I would not wish to suggest what course the United States should take. But I believe that judgments about the future of nuclear energy should be formed in the light of all the consequences. The hazards of *not* going nuclear need to be spelled out as articulately as the alleged hazards of future nuclear power and development.

I believe that governments must provide

opportunities for fully informed and thorough public debate on these issues. I am encouraged by an experiment which we conducted recently in this field.

The decision had to be taken on whether to extend an existing nuclear plant so as to enable us to reprocess spent fuel from our second generation reactors. Now at first sight this looked as though it was going to be a local planning inquiry, as though it were an application to build a highway or shoe factory. But it soon became clear that something special was needed. The issues raised were immense: Environmental certainly; but also questions of economics, nuclear weapons proliferation, foreign policy and ethics. The arguments were heard by a non-specialist: A high court judge, with specialist advisers. The terms of reference of the enquiry were drawn very widely, so that the enquiry lasted 100 days and took 4 million words of evidence.

In the end, in a thorough and well-reasoned report, the judge gave the project the go-ahead, provided that certain conditions were met. The labour government of the day, supported by ourselves, accepted the report and approval was given.

I believe that we are fortunate in Britain to be able to conduct the nuclear debate on non-party political lines. Other European countries have not been so fortunate, and this may make it harder for all the issues to be fairly aired.

I have felt it right, while in the United States, publicly to put on the record the British Government's commitment to a substantial contribution from nuclear power. But I would not want you to think that we were not pressing ahead with development of our other energy sources.

The future will always turn out to be different from what we expect and it would be unrealistic to try and construct an energy policy blueprint. The ability to respond flexibly and in the right timescale is of extreme importance. Thus, we seek to develop a broad framework which will enable us to adjust to changing circumstances and which does not close options too soon.

We must also maintain our present diversity of supply. All forms of energy are uncertain in varying degrees. Thus, risk needs to be spread over as many sources as possible.

The present government believes that the best way, the only effective way, to maintain that diversity and that security is to move increasingly away from the restrictions of state ownership and state regulation, towards a climate of enterprise and reward for effort. That alone can provide reliable responses to our energy challenge.

We are determined, for example, to give fresh impetus to our oil exploration programme so as to take full advantage of our resources, by restoring the confidence of investors in the fairness and stability of the government's oil policies. And we propose to spread the ownership of the oil assets of the British National Oil Corporation. Ownership will pass from the state to the people.

That is what I mean by genuine public ownership.

We are continuing a massive investment programme in new coal mining facilities, in recognition of the increasing part that a competitive coal industry can play.

The government believes that energy saving also has a permanent and central place in energy strategy. The efficient use of energy is a new area of policy. Yet the saving of energy through its efficient use is the best additional source of energy we have. We must try to ensure through the operation of the market and by education, that the correct economic decisions are made by individuals in industry, in transport, in commerce and in the home, so that we really make the most of our energy resource. This is an area where the state must not attempt to mastermind idealistic schemes. We do far better to rely on the common sense incentive to save energy. It is this which provides the opportunity for private enterprise commerce and business small and large, to respond to the demands for energy-saving ideas, equipment and material and to deliver to people a better living standard, yet with less energy use.

As I have said earlier the UK has no room for complacency whatsoever despite her energy wealth. The energy resources are available, but they must be harnessed. It will take enormous effort and skill to develop all our resources and to use efficiently what we have to avoid damaging disruptions of supply and to attain the longer-term freedom from fuel crises which is our aim.

Furthermore, as I said before, Britain's present oil wealth does not enable her to stand aloof from the world oil scene. We share the United State's concern over relations with OPEC. I believe that the view of OPEC in confrontation with the west is too simple. There is a common interest of both producers and consumers in a stable world economy and hence in an orderly development of the oil market. We must aim to develop a measure of understanding with the oil producers about how this objective can be achieved. Britain has historic ties with the Gulf States, and HM the Queen's recent visit to that area revealed a fund of goodwill there towards Britain. We have no intention of joining OPEC and would hardly qualify for membership if we had.

But Britain can play an important role in efforts to secure a measure of understanding between producers and consumers. We must take every opportunity to move forward. It was therefore right, for instance, (and certainly not detrimental to the interests of the US) for the EEC to respond positively to recent suggestions by Gulf Oil producers for a meeting which may take place later this year to consider energy and economic matters of interest to both sides.

An essential part of a new consumer/producer relationship must be a demonstrable willingness by the consumers to shoulder their responsibilities: to show they are doing their bit by conservation and the development of alternatives to oil. The oil import targets for 1985, agreed at Tokyo, are a significant move in the right direction (though, of course, targets achieve nothing by themselves).

The U.S. contribution to the consumer effort will be crucial. We welcomed President Carter's statement of 15 July as valuable confirmation of this American administration's determination to implement the Tokyo goals. I very much hope that the current session of Congress will see the translation of the administration's proposals into legislative measures. I believe that the staged deregulation in 1978 of natural gas prices and the process of domestic crude oil price decontrol, which the administration put in hand in June this year, are important steps towards bringing American oil prices into line with those elsewhere in the industrialised West.

It is not my place to become involved in American energy politics. I hope, however, that I have today been able to convey to you that in an energy-anxious world the concerns of our two countries are closely linked. That is why I am particularly grateful to you for providing this opportunity to discuss this shared energy challenge.

So let me sum up. We are in this together. We have a vast task of adaptation as the world moves away from oil dependence.

In Britain we have the wherewithal to make that transition a little less difficult, we will be a little less reliant on the unreliable, the vagaries of word energy supplies and world politics than some countries. But not very much. The challenge is still enormous. Our strategy to beat it is this:

1. To ensure security and availability of energy supplies and to do so with maximum sensible reliance on national energy sources consistent with good commercial practice and our trading interests;

2. To do so by using our gas and oil reserves steadily not greedilv—which means avoiding underpricing and waste;

3. By developing competitive coal production, as coal replaces oil, and nuclear replaces coal, and oil is confined to its premium uses such as petrochemicals and transport;

4. By espousing low-cost nuclear power;

5. By encouraging longer range developments in sun, wind and wave power, and

6. Perhaps above all, by changing our ways at work, at home and on the road and right through our society to use less of the expensive commodity which energy has now become. Cheap energy is over. Transition has begun. New resources must now open up with new enterprise and new expertise. This way, and no other, we shall work and weave our way through to a better future.●

SENATOR MUSKIE AND THE VICTIMS OF RAVENSBRUECK

● Mr. KENNEDY. Mr. President, it is all too often that men suffer at the hands of natural disasters. But it is even more tragic when men suffer at the hands of other men. It was in this century that the most brutal and destructive tragedy was experienced by mankind: The Second World War and the Holocaust. Some of its most unfortunate victims were the Polish women, later known as the "Ravensbrueck Ladies," who were subjected to gruesome medical experiments at the Ravensbrueck Concentration Camp.

It is gratifying, then, to learn of the important role of Senator Edmund Muskie in securing compassionate treatment and compensation for the Ravensbrueck Ladies, which they so very much needed and deserved. In the October 27 issue of the Saturday Review, Norman Cousins reminds us of these humanitarian efforts, in which he joined Senator Muskie and my brother Jack, to restore the bodies and the souls of the Ravensbrueck victims. In Cousins' words:

> The Ladies remained in the United States for a full year. Nothing was more gratifying than to see them change physically and spiritually. From a group that had been discarded by history, these women became deeply involved in a loving experience, and rejoined the human race.

Mr. President, I submit this moving article to be printed in the Record. It is indeed a tribute to the compassion of Senator Muskie and others that the rejuvenation of these victims has been possible. May this story inspire others to persevere in the struggle to improve the human condition.

The article follows:

Ravensbrueck Ladies

Our purpose in coming to Warsaw was to visit with some of the loveliest ladies in the world. When we first met them they were known as the Ravensbrueck Lapins, a morosely impersonal but historically precise way of describing experienmental human guinea pigs at the notorious Ravensbrueck Concentration Camp during World War II. The survivors were hardly more than girls when they were imprisoned. They were Catholic, a fact of significance only because it destroys the notion that Nazi abominations were visited only on Jews.

The German doctors were testing new sulfanilamide drugs. The bones of the young women were cracked open. Gangrenous materials—oily rags, broken glass, decaying substances—were stuffed into the open wounds. Then the doctors tested the efficacy of the drugs against the raging infections. After the Ravensbrueck Concentration Camp was liberated by the advancing American army, the survivors were returned to their homes in Poland, most of them badly crippled or disabled. Since Poland was not recognized by West Germany, the women were excluded from the compensation program available to other victims of Nazi brutality. No one paid any significant attention to them for a decade, until an American, Caroline Ferriday, learned of their existence and became determined to help them.

Miss Ferriday came to the offices of the *Saturday Review*. We had just completed the Hiroshima Maidens project, under which two dozen young women, disfigured and crippled by the atomic bombing of Hiroshima, had been brought to the United States for plastic and reconstructive surgery. Miss Ferriday felt that the team we had fashioned for that purpose might be reassembled for the benefit of the Ravensbrueck Lapins.

We said we would be willing to try. Because the number of Lapins to be cared for was much larger than the number of Maidens, we recognized it would be necessary to go beyond New York in mounting a project for the Polish women. All those who had participated in the Hiroshima undertaking, including Dr. William M. Hitzig, Dr. Arthur Barsky, Dr. Bernard Simon, and Dr. Sidney Kahn, volunteered in the new effort. In the Maidens project, the girls, when not in the hospital, had lived with members of the Religious Society of Friends and with *SR* readers who had volunteered. Virtually all those "host" families, as well as other Friends and *SR* readers across the country, became part of the new project.

The term "Ravensbrueck Lapins" was dropped, and the term "Ravensbrueck Ladies" was substituted. The women were flown to the United States as the guests of Pan American World Airways. After their arrival in the United States, they were divided into small groups. Some stayed in the metropolitan New York area; others went off to Ohio, Michigan, Florida, and California. In each place, a comprehensive program had been arranged that, in addition to physiological and surgical treatment, included psychological rehabilitation and occupational therapy. The core of the program, of course, was the home experience—being part of an American family.

The Ladies remained in the United States for a full year. Nothing was more gratifying than to see them change physically and spiritually. From a group that had been discarded by history, these women became deeply involved in a loving experience, and rejoined the human race. Their injuries could not be undone, but they received the best medical care this country had to offer. It was deeply moving to see them, as they prepared to return to Poland, capable of laughter and joy.

As mentioned earlier, the West German government did not recognize Poland, and therefore the Ravensbrueck Ladies had not been included in the compensation program for concentration-camp victims. But we were able, thanks to the support of the U.S. State Department and Senators like Edmund Muskie and John Kennedy, to carry the case directly to the Bonn government, with the result that West Germany reversed its position and included the women in its indemnification program.

After the Ladies flew back to Warsaw in 1959, they embarked on new lives. They had been able in most cases to overcome or moderate their infirmities; they had the prospect of modest financial resources; and, most important, they had rich memories of friends in America who would be close to them for the rest of their lives.

On the 20th anniversary of their return, we visited the Ladies here in Warsaw. A few have died and some of them are now ill. But most of them carry on productive and meaningful lives. They are a close-knit group and see each other regularly, helping to care for one another when the need arises. We met at one of their homes, some of them having come from distant points, and they took turns in telling us about their families and their present situations. Most of them now have grandchildren whom they described with great pride. We all reminisced about incidents attending their stay in the United States, and I told them what I know about their American families. They asked me to convey their love to all their American friends, which I do herewith.

Perhaps the most important thing I have learned as the result of this and similar projects is that regeneration, especially spiritual regeneration, is possible even under the most remote and wretched circumstances. We live in a hard-boiled and dry-eyed age, where it is not fashionable to talk of such matters. But it is difficult for me to resist the sentimental statement that nothing gives me greater pride in the *Saturday Review* and its readers than its involvement over the years in such projects as the Hiroshima Maidens and the Ravensbrueck Ladies.●

OMNIBUS ANTI-TERRORISM ACT OF 1979

● Mr. JAVITS. Mr. President, I would like to call to my colleagues' attention a letter written by Petr Spurney, the general manager of the Lake Placid Olympic Organizing Committee (LPOOC) concerning S. 333, the Omnibus Anti-Terrorism Act of 1979.

LPOOC reviewed the bill at my request. The 1972 Olympic games tragically brought to light the urgent need for increased security against terrorist activities. Every major international event is a potential target for a terrorist attack.

The LPOOC heartily endorsed the Omnibus Anti-Terrorism Act, including particularly the explosives tagging provisions of the bill. These provisions of S. 333 would require manufacturers of explosive materials to utilize a tracer element in their product which could be used to identify explosives after detonation (identification taggants) and also would require the insertion of taggants which would allow the presence of explosives to be detected prior to detonation (detection of taggants). The LPOOC states:

> The tagging of explosives is of special interest, and we feel any costs associated with this program would be more than offset by the ability of law enforcement agencies to more easily identify the presence of explosives.

I ask my colleagues to consider this endorsement from an organization very much familiar with the problems of international security and ask that the letter be printed in the Record.

The letter follows:

XIII Olympic Winter Games, 1980,
Lake Placid, N.Y., October 2, 1979.

Senator Jacob K. Javits
U.S. Senate,
Washington, D.C.

Dear Senator Javits: In accordance with your request, the Lake Placid Olympics Organizing Committee reviewed S. 333, the Omnibus Anti-terrorism Act.

As a result of the tragedy associated with the 1972 Munich Olympic Games, security has become one of the principal priorities of the International Olympic Committee and the National Organizing Committees. Any legislation that would contribute to minimize terrorist activities is of vital importance, not only to the Olympics, but to mankind.

S. 333 is an attempt to make terrorism acts more difficult and easier to identify and is, therefore, preventative in nature. Needless to say, any situation that reduces the potential for an act of terrorism and enhances the possibility of apprehension is, of course, great value. The Organizing Committee's security feels that there is a definite potential for future increases in terrorist activities.

All major international events are subjective to bomb scares and/or the use of explosives in terrorism acts. As a result, the tagging of explosives is of special interest, and we feel any costs associated with this program would be more than offset by the ability of law enforcement agencies to more easily identify the presence of explosives. Certainly within the criminal world, this would also act as a deterrent with far reaching results.

The Lake Placid Olympic Organizing Committee heartily endorses the Omnibus Anti-Terrorism Act and would be pleased to provide any additional support you may require.

Sincerely,

Petr L. Spurney,
General Manager.●

THE KNOW YOUR BODY PROGRAM

● Mr. MOYNIHAN. Mr. President, I am pleased to report that the American Health Foundation has recently concluded a unique cross national evaluation of risk factors for cancer, heart disease, and stroke among children. This project was conducted as part of an "International Know Your Body" project and included 15,000 children from 16 countries. The study clearly reveals that chronic disease will continue its epidemic increase unless prevention oriented health education is made an integral part of children's schooling.

Dr. Ernst L. Wynder, President of the American Health Foundation, reported that:

> Poor health habits and abnormal clinical indices are common among children in all parts of the world, and the prevalence of these values relates to the incidence of chronic disease in the adult population.

Clearly the general conclusion that can be drawn from the study is that appropriate health education must become an integral component of school education everywhere. In this regard, I am pleased to report that the American Health Foundation is implementing its "know your body" health education system in School District No. 2, in New York City, under the auspices of Charles Wilson, superintendent.

The pilot study which preceded this project was funded by the National Cancer Institute and serves as an excellent example of the feasibility, and importance of creating a bridge between research and application.

The know your body program is designed to raise the understanding of the value of preventive medicine and, in the process, to create a sense of responsibility in each child for his or her good health. In addition, each child participates in a health screening examination designed to provide early detection of risk factors for cancer, heart disease, and stroke—those diseases which result in approximately 66 percent of all adult deaths in the United States.

The know your body program is an innovative approach to a difficult problem. It has proved successful in New York as well as in Evanston, Ill., and Kansas City, Mo. It is the type of program which I think should be implemented on a broad basis.

I congratulate the American Health Foundation on its success.●

ADDRESS OF SENATOR MATHIAS BEFORE THE ANNAPOLIS CHAPTER OF THE NATIONAL SOJOURNERS

● **Mr. GOLDWATER.** Mr. President, as a member of the National Sojourners myself, I have always been interested in its proceedings and in particularly the remarks of people who visit with this group. On October 24, our distinguished colleague, Senator CHARLES McC. MATHIAS, JR., addressed the Annapolis Chapter of the National Sojourners, and his remarks were particularly pertinent to principles we find around our world. I ask that these remarks be printed in the RECORD.

The address follows:

Naval Power and Global Problems

Today, because we are meeting in the final days of the 1970's, it seems appropriate to take stock of where we stand in the world and of what the coming decade may require of us as a nation and as individuals.

In almost every area of our national life we face decisions that are vital to our future security. Personally, I consider the decisions we face on energy as crucial to the independence of this nation as any decisions made since the good people of Annapolis politely escorted Sir Robert Eden, Maryland's last Proprietary Governor, to H.M.S. Fowey, the ship waiting in the harbor to return him to England and King George III.

There is no doubt at all that what we decide to do, or not to do, now and in the immediate future will surely determine the strength and the welfare of the United States well beyond the decade of the 1980's. For example:

The educational options we support today will determine how effectively our children and grandchildren deal with the future; they will influence the quality of America's leadership and the character of its people;

The petroleum we conserve today will be available to us in the years ahead, what we waste can never be recaptured, and

The naval vessels that we decide to build today won't enter service for perhaps 10 years or more, but they will be part of our national defense capability for 20 to 30 years years once they are in commission.

These are grave responsibilities and our job is not made any easier by having to discharge them in a world where we face global challenges of unprecedented complexity.

Once, not long ago, we were entirely self-sufficient, secured by geography, by the natural wealth of our great continent, and by the vigor and vision of our people. Now, we are a dependent part of an interdependent world; our prosperity and our security increasingly depend on our ability to export and to import. Our lifelines girdle the globe.

As a people, we are gradually awakening to the fact that we import about half of the petroleum we consume. Although we haven't started to make the sacrifices that knowledge necessarily imposes on us, at least we have begun to absorb the facts. Soaring oil prices will do the rest.

Very few Americans, however, know that the United States imports half of its requirements for 18 or more essential commodities, including bauxite, cobalt, manganese, nickel, tin, tungsten and zinc. And even fewer realize that a fifth of our industrial production is exported; a third of our agricultural produce goes abroad, and roughly a third of the profits of U.S. corporations is based on operations and sales abroad.

These are the new facts of our national life as we enter the 1980's. Our ability to deal with them will test the vigor and the vision of the American people as they have not been tested before.

Some people concluded from our experience in Vietnam that we should bow out of global competition—that we should pick up our marbles, go home and stay home. I absolutely reject that conclusion. It is dangerous.

What Vietnam should have taught us—and what I hope it did teach us—was that we must take care not to focus our energies so narrowly that the larger interests of the nation suffer. It is precisely because we are part of a world economy that what happens in Vietnam, in Korea, in Afghanistan, in North Africa and in the Latin America bears on the national security of the United States. Our dependencies involve us globally and they make us vulnerable. We must, therefore, take prudent, timely counter-measures, if we are not to become dangerously vulnerable to forces beyond our control.

Occasionally someone will ask me why we should get all hot and bothered by what happens in Afghanistan. I tell them the answer to that question lies in the map of the Middle East. Afghanistan borders on Iranian and Pakistani Baluchistan, which in turn borders on the Gulf of Oman at the entrance to the Persian Gulf. If you add to this geography, the fact that all but one of the top five oil exporting countries in 1978 sent their produce through the narrow Straits of Hormuz at the entrance to the Persian Gulf, it becomes pretty clear why we care about what happens in Afghanistan. About a third of our oil comes from countries bordering the Persian Gulf. So, until we've moved a lot closer to energy independence than we are today, there's no way we're going to be able to bow out of world affairs.

And don't forget, we're not all alone on the international stage. In the two decades after World War II, the United States was unmistakably the strongest nation on earth—politically, economically and militarily. Today our military supremacy is severely challenged by the Soviet Union. There has been no sudden surge in Soviet power, but there has been a steady, uninterrupted improvement in Soviet military capabilities over the last decade or so. During this period, the Soviet Union has devoted 13 percent or more of its GNP annually to its military establishment.

As a result, Soviet capabilities in the strategic nuclear, theater nuclear and conventional military fields are now fully comparable with our own and, in some cases, may even surpass them. The Soviet Union in recent years has also began to flex its muscles in regions far from its borders in ways that impinge upon our global interests.

Some observers interpret these developments as indications of a decline of American power. I don't hold with that interpretation myself. And I have yet to meet a senior member of our Armed Forces who would be willing to exchange Soviet military capabilities for our own.

The Soviet Union also has some troublesome problems which must be considered in any assessment of Soviet strength. The U.S.S.R. has a 4500-mile border with a none-too-friendly People's Republic of China. Soviet allies in Eastern Europe are allies courtesy of the Red Army, with all the uncertainties that implies. Substantial Western grain imports by the Soviet Union annually document the failure of collectivized agriculture and the Soviet industrial sector is plagued by problems. For decades now, the brightest stars of the Soviet cultural firmament have voted against the system the only way they can—with their feet—by defecting to the West. But what may ultimately prove far more difficult for the Soviets than any of these problems is a demographic trend that suggests Russians will be a minority among Soviet nationalities by the year 2000. Such a development could bring with it a Pandora's Box of ethnic, economic and geopolitical tensions.

But, while the Soviet Union clearly has problems that will constrain its actions in many ways, we must not be lulled into passivity by contemplation of those problems. There are no signs that the Soivet Union intends to allow anything to interfere with its competition with the United States. And we should respond accordingly.

I have dwelt on the world scene this long because, if we are to maintain our strategic position in the world, it is critical to understand the global environment in which we must operate and the nature of the challenges facing us.

The United States is a maritime power. Like our principal allies, we are dependent on the seas for the commerce that sustains our economy and ultimately defines our security.

It is therefore very disturbing that Jane's Fighting Ships, the most authoritative public source on the naval balance of power, concludes in its latest survey that: "The West remains dependent on world-wide sea routes but has surrendered a large part of its capability to defend and watch over them."

Jane's puts the issue starkly:

> By dropping the shield of maritime security the Western leaders have so weakened their own position that they are moving towards a position of vulnerability to blackmail. The results of the blackmail? Deprivation of raw materials, markets and the freedom of those friends who are not strong enough to guarantee their own security are some of them.

Other authoritative analysts raise similar warnings. The Atlantic Council, in an exhaustive study this year entitled "Securing the Seas: The Soviet Naval Challenge and Western Alliance Options", found that:

> The Soviet Union—whose naval forces have become substantially strong in recent years—is now capable of seriously interfering with essential shipping and challenging other Western uses of the seas.

Echoing the same somber theme, a recent Congressional Budget Office study points out that the size of the U.S. fleet "has declined dramatically in recent years, from more than 1,000 ships in 1970 to fewer than half that number today." *Jane's* argues that, if this trend continues:

> By the end of the century the U.S. Navy might well be below the 400 mark, a situation which could place the U.S.A. in an inferior position to the United Kingdom and other Western powers when considered as a balance of ships to population.

These dire predictions could come true unless we respond to them promptly. Right now we have a first rate Navy—second to none. The Soviet Union simply cannot match our carrier battle groups. Our submarine force, though outnumbered, is demonstrably superior to the Soviet force. Our present superiority reflects decisions taken 10 and 20 years ago that have given us the Navy we have today.

But the future trends worry me. I am disturbed when the Chief of Naval Operations, Admiral Thomas Hayward, says:

> . . . the vision I have of the Navy five or six years from now is not a happy one. There *are* plenty of problems ahead of us, all related to a single issue—will we, or will we not, maintain a Navy second to none?

Indicators of problems ahead abound. Reenlistment statistics are way off. The Navy's retention of second termers has dropped from 59 percent in 1975 to 48 percent today. The career people, the backbone of the Navy, are simply not staying in. But can we expect anything else when, as Admiral Hayward points out: "A janitor on union scale makes almost the same salary as a Chief Petty Officer with seventeen years of service"?

The most serious danger indicator of all is that this June, when the members of the Naval Academy's Class of 1980 put out to sea, they will find a fleet seriously reduced in strength.

During his election campaign, President Carter said that he favored "an aggressive shipbuilding program" for the Navy. (*New York Times* 6/6/76) Since coming to the White House he has changed his tune. The Navy was the hardest hit of all the services in the President's FY '79 Defense Budget. Its plan to build new warships and support vessels was cut by 20 percent.

Today our 479-ship fleet is only a pale shadow of the 600-ship fleet experts say the Navy will need to carry out the tasks assigned it in the 1980's. The forward-looking five-year shipbuilding program President Ford outlined in his FY '78 budget has been scuttled. Instead, this Administration proposes in its FY '80 budget that we build 16 new ships in all, only 11 of them combat ships.

A Library of Congress analysis of this trend concludes that:

> The new Five-Year Shipbuilding Plan calls for 67 new ships and 13 conversions/modernizations, confirming a Carter Administration shipbuilding policy whose trend leads to a Navy of only 450 ships within 10 years and of less than 350 in 20 years.

The Library of Congress isn't partisan. It simply states the facts. If we don't lay the keels now, there is no way we are going to have ships five and 10 years from now.

At the turn of the century, Alfred Thayer Mahan—naval officer, historian and tireless advocate of U.S. naval power—woke this country up to the historical relationship between seapower and national supremacy. Today, we seem to be dozing off again as our naval power declines.

There are plenty of warning signs to wake us up, if we take the trouble to read them. We've even got one from the Commander in Chief of the Soviet Navy, S. G. Gorshkov, who has stated publicly that: "The flag of the Soviet Navy flies over the oceans of the world. Sooner or later the United States will have to understand it no longer has mastery of the seas."

Gorshkov doesn't mince words and neither will I. We must decide now whether or not we are going to compete globally to protect our national security interests. As I said before, the competition isn't getting any easier—not just because of activities of the U.S.S.R., but because our participation in a global economy exposes us to new vulnerabilities. The Navy's role in keeping us competitive is vital.

The Sixth Fleet shows our strength in the Eastern Mediterranean. Our carrier task forces indicate our resolve from Korea to the Persian Gulf. Our force of Polaris and Poseidon submarines houses the most invulnerable leg of our strategic triad. The U.S. Navy keeps the seas lanes open. It projects U.S. power far beyond our shores.

But if we are to place any reliance on these capabilities in the future, we must make decisions now to prepare for tomorrow.

We must abandon a ship building policy which results in a Navy that, in absolute numbers, is getting smaller not bigger. We must abandon a benefit and pay policy which sees our experienced seamen leaving for better opportunities elsewhere. Finally, we must not so reduce the naval reserve levels that any emergency would find us without the officers and men needed to support the Navy's missions.

Those are the goals I support. I intend to fight in the Appropriations Committee and on the floor of the Senate to insure that our Navy remains strong in the 1980's and beyond.●

THE POPE AND THE JEWISH EXPERIENCE

● Mr. KENNEDY. Mr. President, earlier this month Pope John Paul II touched the hearts of millions during his trip to the United States. The Pope's eloquent message stressed the bonds that unite all humanity—the bonds that come from mankind's desire for a more peaceful and decent world. His words reminded us not only of the interdependence of nations, but of the stake of all people in the well-being of each other and in the elimination of suffering.

It is the Pope's message of a "humanistic" interdependence that Hyman Bookbinder, Washington Representative of the American Jewish Committee and member of the President's Commission on the Holocaust, related in a recent article in the Washington Star. In discussing the Pope's understanding of the Jewish tragedy during the Holocaust, Mr. Bookbinder comments upon this Pope's unique sensitivity. He also highlights a special meaning of the Holocaust: "In his Auschwitz reference to Abraham, the Pope had reminded us all of the common spiritual bonds which united Christians and Jews."

Hyman Bookbinder states further that:

> John Paul II has properly called on us not to dwell only on remembering the past but to work for the fulfillment of our common humanity. . . . Those who remember the silence that surrounded the Holocaust are determined not again to be silent whenever and wherever people's lives and souls are threatened. It is good to know that John Paul II is in our midst, ready to cry out for social justice and world peace and human rights.

Mr. Bookbinder rightly reminds us that the Pope's message is addressed to the present and the future. It is a tragic irony that even as we acknowledge our common humanity, we too often stand idly by while nations and peoples suffer at the hands of famine, disease, and injustice. We must never forget those who died in World War II. We cannot countenance "so much bigotry and racism and antisemitism around the world" today. We cannot stand by as millions more die in Cambodia.

Mr. President, I submit Hyman Bookbinder's sensitive and compelling commentary to be printed in the Record. I urge my colleagues to consider it as a reminder of our responsibility to help overcome the problems and suffering that too long have plagued mankind and divided us all.

The article follows:

[From the Washington Star, Oct. 7, 1979]

John Paul Shows Understanding of the Jewish Experience

(By Hyman Bookbinder)

I have a very special, personal reason for welcoming Pope John Paul II to Washington. Only two months ago I visited Cracow, his birthplace in Poland, and then stood exactly where he had stood only weeks earlier—at a memorial monument at the Auschwitz concentration camp near Cracow. I thought of the pope as we bowed our heads in prayer, and I have thought of him ever since with deep appreciation and with affection. I could never forget that he had spoken these words: "In particular, I pause with you, dear participants in this encounter, before the inscription in Hebrew. This inscription awakens the memory of the people whose sons and daughters were intended for total extermination. This people draws its origins from Abraham, our father in faith. The very people that received from God the commandment "Thou shalt not kill" itself experienced in a special measure what is meant by killing. It is not permissible for anyone to pass by this inscription with indifference."

In these few sentences John Paul II had managed to say so much that had to be said. There were other inscriptions, too—in his native Polish and in 20 other languages—just as there had been many other victims of Nazi horror in addition to the Jews. But in singling out the Hebrew tablet, the pope acknowledged that the Holocaust was above all a uniquely Jewish tragedy. And he declared as impermissible any indifference to this basic truth.

But in this very act of acknowledging its uniqueness, John Paul II helped us all—Jew and non-Jew—to see also the universality of the Holocaust. He reminded us, without having to say it, that there had been Poles and Danes and Swedes and, yes, even Germans who cared very much about what was happening to the Jews and who in many cases risked their lives to save them.

If this statement by the pope had been his first demonstration of caring and remembrance, it would have been welcome enough. But John Paul II did not have to read that Hebrew inscription to learn about the Holocaust; he did not have to learn from others or from books. He had himself been in the center of the Nazi terror as a student in an underground seminary in Poland, a seminary described by a fellow student as a "vigorous center of anti-Nazi ideology and resistance."

An example of the pope's continued sensitivity to anti-Jewish outrages was his condemnation in 1964 of the desecration of Jewish cemeteries in Cracow and his appeal to the Catholic students to clean and restore those cemeteries.

In his Auschwitz reference to Abraham, the pope had reminded us all of the common spiritual bonds which unite Christians and Jews. But Jews cannot be asked to forget that Auschwitz is a reminder, too, that at that time the genocide directed primarily against the Jewish people—what was to be the "final solution"—had brought not protest and resistance from the majority of church leaders but silence and indifference, the same silence and indifference that characterized the reactions also of the world's political leaders, including America's.

But John Paul II has properly called on us not to dwell only on remembering the past but to work for the fulfillment of our common humanity. In his first official statement on Christian-Jewish relations, he told a group of American Jewish leaders earlier this year:

"I believe that both sides (Christians and Jews) must continue their strong efforts to overcome difficulties of the past so as to fulfill God's commandments of love and to sustain a truly fruitful and fraternal dialogue that contributes to the good of each of the partners involved and to our better service of humanity."

If American Jews today are generally positive and hopeful about John Paul II, truth compels the observation that such a judgment was not unanimous or immediate when his election took place. There had been very little known about the cardinal, no knowledge of his having spoken out on issues of concern to Jews, no consistency in the early answers to questions about him. Perhaps because of these uncertainties, the actions and the words of the pope since his election have been particularly gratifying.

But truth compels another acknowledgement, one that I feel personally at ease in offering precisely because I visited Poland in August and now have a better basis for facing the truth. That truth is that the pope's Polish origins caused some misgivings at first among some Jews. Those of us who come from Polish ancestry have mixed feelings about that country. For hundreds of years it had been the land of refuge for millions of Jews, had been the center of great Jewish scholarship and culture, the home for hundreds of vibrant "shtetels." But it was also the country from which more recently our parents or grandparents had emigrated in order to escape insecurity and virulent antisemitism. And during the Holocaust it was the country that suffered more than half of the six million Jewish casualties. What did the Poles really do, the question kept coming up, to save the Jews from the Hitler onslaught?

And so, when Cardinal Wojtyla became pope, there were questions in Jewish minds about whether a "Polish pope" could be expected to understand Jewish anguish, Jewish anxieties, Jewish aspirations. I cannot speak for all Jews, of course, but I do believe that in the short period of his papacy John Paul II has already done much to allay those early fears. For me personally his actions have underscored what I experienced in my trip through Warsaw and Cracow, through Auschwitz and Treblinka and Birkenau—realization that there were bad Poles, yes, but that there were many good ones, too. There were millions of Jewish victims, but there were many non-Jewish Polish victims, too.

If we are truly to remember and honor our Jewish dead, we dare not be guilty of any group prejudice or group defamation. The Poles have suffered long enough from such defamation. Polish jokes are not funny. And they cannot be laughed off. John Paul II, with his brilliance and his sensitivity, has already done much to challenge and moderate the unfortunate anti-Polish bigotry of recent years.

There is so much bigotry and racism and antisemitism around the world. There is hunger and tyranny and terrorism. Children and grandchildren of Auschwitz survivors in Israel today sleep in bomb-shelters to escape the acts of terrorists. Thousands of "boat people" risk their lives daily in their search for freedom. Those who remember the silence that surrounded the Holocaust are determined not again to be silent whenever and wherever people's lives and souls are threatened. It is good to know that John Paul II is in our midst, ready to cry out for social justice and world peace and human rights.

In concluding his remarks to the Jewish leaders, the pope said, ". . . Let me express again my cordial welcome and greetings to you all with that word so rich in meaning, taken from the Hebrew language, which we Christians also use in our liturgy: Peace be with you Shalom, Shalom!"

To John Paul II, it is now our turn to say, "Welcome to Washington. Welcome, Shalom, Shalom!"●

A DEFEAT FOR LIVABLE CITIES

● Mr. WEICKER. Mr. President, I rise to cite a disturbing trend. What causes me extreme distress is that as this country moves to cut spending in order to fight inflation, those who can least afford it are being asked to sacrifice the most. So far this year we have seen funding slashed for nutrition programs, public service jobs and low-income housing—to mention just a few. It is this latter area which I choose to address.

The HUD fiscal year 1980 budget request provided the Congress with an opportunity to fund a unique and innovative program entitled "Livable Cities". This is not an expensive program with a price tag of only $3 million. Its primary purpose is to generate neighborhood-based community redevelopment. This program targets some of this country's most distressed urban and rural communities, funding cultural festivities and historic preservation projects.

In conference the House insisted on providing no funding for this program. Once the Senate learned that the Administration had dropped its initially strong support for this project there was no choice but for the Senate to recede to the House.

Why is it that the poor of this country are condemned to do without the amenities of community life which are commonplace for the majority of Americans? Why is it that every time this country enters a so-called economic crunch, the poor are asked to sacrifice first?

Opponents of this program have argued that it should be funded under the National Endowment for the Arts. However, this agency has no expertise in community development, precisely what this program is about. Just last week the NEA released $26 million for arts programs in the cities around the country, not one penny of this money is to be spent in low-income neighborhoods or on programs for the poor. This is precisely why Livable Cities belongs at HUD where there are experts who know the needs of the neighborhoods and can effectively administer the program.

The action taken by both the House and the administration to abandon the Livable Cities program proves that cities are no longer of a high priority in this country. The administration's commitment to the cities is nothing more than a picture of President Carter and Pat Harris in the south Bronx.

Mr. President, it is no wonder that so many of this country's housing programs have been such dismal failures. New housing projects tend to ignore the simple fact that concrete walls do not livable housing make; it is simply not enough to have a nonleaking roof over one's head. Livable housing means more: It means housing within a community environment that offers social and economic security and opportunity. To ignore this and to focus only on the concrete walls is to doom any rehabilitation or development effort to failure—witness the Pruitt-Igoe project. Therefore, not to invest the little extra necessary to promote a livable community, not just a housing bloc, to live in, risks losing the entire investment made.

The administration has succumbed to a hazard of fiscal expediency. Three million dollars is not too much to ask when the opportunities are so great. This is not too high a price to make life a little more livable for the most disadvantaged of America's citizens.●

TAKE A CUE FROM THE STATES ON TAXFLATION

● Mr. DOLE. Mr. President, there are some who would argue that the widely-hailed tax revolt, highlighted by the passage of California's proposition 13, has subsided. These observers of the political scene say that people will support taxes necessary to maintain the level of public services they are accustomed to, and that the momentum has gone out of the tax reduction movement.

The Senator from Kansas believes the movement for real tax reform has plenty of steam in it yet. People want basic services, but they know that services can be delivered more efficiently, and they know that government, unlike business, has little incentive to cut unnecessary costs unless the voters provide an incentive. We should keep an eye on the types of proposals that are being submitted to the voters, and on how the votes are going. Tax reform remains a matter of crucial concern at all levels of government.

It has often been said that the States are laboratories for social experimentation. Certainly it is often true that initiatives taken at the State level prove to set the direction for national policy. The tax reduction movement may prove to be a prime example of a political development at the State level that has a major impact on the direction taken by the Nation as a whole. That is why we need to be aware of the direction tax policy is taking at the State level.

Consider the attention the States are paying to the impact of inflation on the income taxes they assess. Few States have a truly progressive income tax, and none has a progressive rate scale comparable to the Federal income tax. This is because inflation reduces the purchasing power of every dollar earned, yet income gains that merely match inflation tend to push people into higher rate brackets. With any progressive tax, people can end up paying a higher rate of tax even though they have experienced no real income gain.

The States are responding to the problem of the inflation tax penalty, or taxflation. Six States have indexed provisions of their income tax codes to make adjustments for inflation, and 13 other States considered indexing proposals this year. California is one of the States that has indexed its income tax brackets by the change in the State consumer price index minus 3 percentage points, and corrects the personal credits, standard deduction, and low-income credits by the full change in the State consumer price index. Beginning in 1980 the California income tax brackets will also be adjusted by the complete CPI change.

Mr. President, the example of California deserves our attention. The progressive Federal income tax is affected by inflation much more drastically than any State income tax. Inflation exacts a tax penalty, on every Federal taxpayer without the need for any action by Congress. If indexing is needed at the State level, it is even more urgently needed at the Federal level.

The Tax Equalization Act, S. 12, would index the Federal income tax for inflation and eliminate taxflation at the Federal level. I have introduced this legislation to adjust the income tax brackets, zero bracket amount, and personal exemption according to the rise in the consumer price index. The Tax Equalization Act would be in effect until 1983, at which time Congress could review the impact of indexing.

Mr. President, we should take a cue from the States and index the income tax for inflation. Tax equalization would be a responsible and simple way to address the concerns of the tax reduction movement. It would also restore honesty and fairness to the Federal income tax. Public pressure to achieve those goals will not abate until the Congress demonstrates that it is responsive to the legitimate concerns of taxpayers.●

A VIEW ON SALT

● Mr. PERCY. Mr. President, I would like to bring to the attention of my colleagues a letter to the editor of the New York Times written by Dr. Lawrence Finkelstein, a professor of political science at Northern Illinois University and ask that it be printed in the Record. The topic is SALT and the issue addressed is the political advantage of nuclear superiority. I believe my colleagues will find it of interest.

The letter follows:

[From the New York Times, Oct. 8, 1979]

The Crucial Resolve in East-West Conflicts

To the Editor:

McGeorge Bundy is correct in saying that U.S. strategic doctrine has been based on the threat of retaliation, not on "usable superiority" [news story Sept. 18]. There is an important corollary to that. The credibility of that threat is what matters when we have important disputes with the Russians. And there is much reason to believe that credibility of the threat to risk nuclear war depends on clarity as to what is essential to the national interest and what is not.

Nothing is more dangerous to the national interest and to world peace than the fashionable current belief that a technological "fix" can take the place of clarity of purpose, in short, resolve.

Throughout most of the postwar period, the U.S. strategic arsenal was bigger and better than Moscow's. Yet we did not prevail in all our important disputes with the Russians. Khrushchev was forced to withdraw the missiles from Cuba in 1962. But the Russians had not been deterred from posing severe threats to our interests in Berlin and, although we were able, through a series of crises, to retain our rights there, we finally had to let the East Germans and the Russians keep their "wall." We couldn't stop the Russians in Poland and Hungary in 1956 or in Czechoslovakia in 1948 and 1968.

This record does not support the belief that "nuclear superiority" determines the outcome when our interests are challenged. A different rule seems to apply: The advantage lies with the side that has the deeper interest in the outcome. We prevailed in the Cuban missile crisis. The Russians prevailed in the East European cases. We came to a kind of stalemate over Berlin. The rule stands up against examination of the other cases of conflict.

Other factors enter also, particularly the balance of relevant non-nuclear forces. There is nothing in the record, however, to contradict the conclusion that we have all the strategic nuclear force we need to defend what is vital to us, when we know what that is.

Lawrence S. Finkelstein.●

BILLION DOLLAR BUMPERS

● Mr. LAXALT. Mr. President, I wish to call attention to a September 14, 1979, issue of National Review, in which an article entitled, "Billion Dollar Bumpers" dramatically demonstrated the exorbitant economic costs caused by Federal regulations affecting the automobile industry.

At a time in which this country is entering yet another recession with its attendant difficulties compounded by runaway inflation and energy shortages, the time is ripe for this Congress to review its priorities for all vehicle legislation. Does it make sense to have a federally mandated "crash bumper" on all new cars that adds approximately 600 pounds to the vehicle, and increases gas consumption on an average of 62 gallons a year, when that bumper has proven worthless in low-speed crashes?

Congress has mandated regulation in the areas of safety, emissions, and energy consumption. Regulations promulgated by the various agencies in response to this mandate are presently working at cross-purposes with one another. Emission standards are adversely affecting performance and mileage. Safety regulations have a negative impact on gas mileage and, in some cases, emissions. All of this continues unabated and uncontrolled with the consuming public being forced to suffer the concomitant spectacular increases in the price of new cars.

The regulatory chaos that results from well-meaning legislation must be controlled. Congress has both the responsibility to end this nightmare and the capability to determine our priorities by virtue of their historical responsiveness to the needs and will of the electorate. Congress now lacks the tools to bring the regulatory agencies in line with our country's changed priorities. With the legislative veto, the situation of forcing our economy to try and cope with regulations that no longer pass a simple cost-benefit analysis, will be brought to an end. By giving Congress the power in this area can only improve our present standing in the opinion polls which is a necessary fall-out of our seeming impotence in making the Government more responsive to the needs and demands of those who elect us to this position of trust and leadership.

Mr. President, I would like to share the article I mentioned earlier and request it be printed in the Record.

The article follows:

Billion-Dollar Bumpers

(By Jack Solomon)

Nine thousand six hundred seventy-four dollars and eighty-nine cents for a 1978 Chevrolet? Five years before, the same model would have listed for less than $5,000, and in 1968 it would have lightened your savings by a third of the 1978 price.

The car buyer who has been absent from the marketplace for three or four years is both angered and dismayed at these prices: he had expected inflation to take its toll, but it can't have added *that* much to the cost. And of course he's right: the Bureau of Labor Statistics says inflation swelled new-car prices by 30 per cent in five years, but that accounts for only $1,500 of the $4,600 jump. What about the rest? We are left with a $3,100 discrepancy that is not readily explained by common economic facts.

What can explain the difference is federal regulations. Over the past decade, a proliferation of laws dealing with safety, emissions, and energy, many of which are at cross-purposes with one another, have been handed down by Congress. The bureaucrats, it appears, would like nothing better than to do away with the motor car completely.

The campaign against the automobile is fraught with ever-accelerating costs, and no slowdown is in sight. Congress has already mandated regulations in safety, emissions, and energy to take effect clear through the next decade. In a few years that ten-grand Chevy will look dirt cheap.

Federal control of the auto industry began with auto-safety considerations in 1966; emissions regulations followed in 1970; and energy standards were introduced in 1975. These three bodies of law were conceived in almost total isolation from one another, and, not surprisingly, they have a contradictory effect on the vehicles produced under them.

It is crucial that we recognize the intimate relationships among these factors since they interact to affect functioning as well as cost. Safety regulations have adversely affected gas mileage and, in some cases, emissions. Emissions laws have certainly reduced performance and mileage. And so on. Regulation has proceeded so arbitrarily that it has been much less effective and vastly more expensive than it should have been. Seldom has so little cost so many so much.

The spectacular growth of the motor car in America has been paralleled by an equally awesome growth in the legislation to control it. These laws have been characterized by phases of emphasis: first on the car, then on the roads over which the car traveled, and later on the driver of the car. In the last decade or so, attention has reverted to the car itself; and it is in this period, not coincidentally, that the spectacular price escalation has taken place.

In 1966 the 89th Congress, prodded by Ralph Nader and President Lyndon Johnson, passed two extraordinary laws, the Highway Safety Act and the National Traffic and Motor Vehicle Safety Act. The latter, in particular, put responsibility for passenger car design firmly in the hands of the Federal Government.

Until that time, the automobile manufacturers themselves engineered safety into their cars under the aegis of the Society of Automotive Engineers. The SAE, an august body of professionals almost as old as the automobile itself, establishes specifications for vehicle components and systems with which the industry must comply. Surprisingly, these specifications still apply, though with a cumbersome federal overlay. Brake fluid, for instance, which used to be referred to as SAE 40, is now referred to as DOT (Department of Transportation) 39876-J. SAE 40 and DOT 39876-J are exactly the same, except that under the new system the DOT issues the directive rather than the SAE. SAE specifications apparently were deemed inappropriate when Congress decided the industry could no longer be trusted to design cars with a level of safety "demanded by the public."

In due course, the National Highway Transportation Safety Administration (NHTSA) was created by Congress to write a whole new body of regulations and to oversee them. That the "public demand for safety" was largely non-existent is shown by the fact that no more than 25 per cent of the driving population has ever worn the seatbelts originally mandated by this agency, which explains why the NHTSA has mandated the airbag. The agency demands "passive safety" to relieve people from the burden of fastening their seatbelts. And the airbag will add to the price tag on every new car.

The Federal Motor Vehicle Safety Standards (FMVSS) promulgated by the NHTSA were entirely different from anything the SAE boys ever envisioned. They were called "performance standards" because they specified a capability rather than a piece of hardware. For example, instead of a simple directive to install seatbelts, auto-makers were told to provide restraint systems for the driver and passengers that would protect bodies under specific crash conditions. How they did it was up to them, so long as the performance of the resulting hardware met or exceeded the federal criteria. This approach is our first clue to the $3,100 discrepancy we discovered earlier.

The performance standard was the natural choice for the NHTSA. Since it wanted only the best in crash safety for the motorist, it reasoned that he should be willing to pay for it. The performance standard also relieved the Feds of another ticklish responsibility. They had little knowledge of or interest in equipment design as such; hence, by demanding performance rather than hardware, they were relieved of the burden of engineering and testing components. This task and its attendant cost was left to the car-maker and had, of course, to be recouped at time of sale—clue number two to the extra $3,100 in the ten-grand Chevy.

The creation of independent designs meant that each carmaker was expending vast sums in engineering costs and talent to develop hardware that duplicated the hardware each of the other carmakers was developing. This is tantamount to redesigning the wheel every time you need one. Howard Freers, chief engineer at Ford Motor Company, said a few years ago, "I've got 1,200 engineers out there; six hundred are working on safety and emissions and the other six hundred are designing cars, which is what they all ought to be doing."

Safety devices have added perhaps as much as $1,500 to the cost of each car. The total is probably more if we add the chassis and suspension buttressing to accommodate the extra weight. Does this equipment work? Are we safer now than we were in 1966?

Federal legislation has not made cars safer to drive, only to crash in. "Passive safety" or crash-worthiness does nothing to prevent accidents. If today's cars are more roadworthy, if they stop or handle better; it has little to do with Congress or the Department of Transportation. The auto firms themselves have done it. It's called technological evolution; as the engineers learn more, they apply that knowledge to improve the breed—but not because of a federal mandate. There is hardly a new car on the road today that is not an improvement in handling and stopping over its 1960s counterpart. This is "active safety," and it's real: you can feel it any time you drive a newer model; and it didn't take the entire NHTSA or $1,500 a car to do it.

The question of what benefit is derived from federal safety legislation has puzzled the public for some time. Dr. J. M. Juran, a former government administrator, recently published an in-depth analysis of the value of the federally mandated safety devices. His evaluation leaves little to the imagination. "It is obvious that despite the huge expenditures, the really significant improvement has come from the category of seatbelts used, which involves only 6 percent of the money!" Seatbelts cost practically nothing, yet they provide excellent second-crash protection. The other fifty or so federally mandated safety devices have been responsible for almost 100 percent of the cost, but have yielded no significant reduction in highway fatalities. Incidentally, seatbelts have been standard equipment on all cars since 1964, two years prior to the federal mandate.

Dr. Juran goes on to consider another factor, the curious absence of property-damage reduction during the decade of federal control of auto safety. "The lack of decline in property damage can be readily explained on the grounds of NHTSA's emphasis on reducing the effect of the 'second crash,' rather than preventing accidents from happening." Motorists are not only still crashing, but it's costing them more to do it.

Now more standards are being proposed, which will touch off a new round of cost increases. Will they be more effective, or is the motorist just being taken for another expensive ride?

II

Four years after the passage of the Highway Safety Act and the National Traffic and Motor Vehicle Safety Act, Congress went after exhaust emissions. The 1970 Clean Air Act, championed by Senator Edmund Muskie, contained regulations dealing with both stationary and automotive sources of pollution. The automobile was on its way to being foolproof. It was only natural that it should also be pure.

The original vehicle standards of 1970 were to be enforced by the Environmental Protection Agency (EPA). These called for a 90 per cent reduction in carbon monoxide, hydrocarbons, and nitrogen oxides by 1975. This in itself would have been extreme, but the mandate was in fact far tougher than it first appeared to be. In setting the limits, Congress failed to mention that exhaust emission had already been cleaned up by more than 60 per cent over uncontrolled levels. This was achieved over a three- to four-year period through adoption of California standards, which were first established in 1965. The EPA was effectively asking for a 98 per cent reduction in pollutants, an achievement that would baffle the best engineers in the country.

We have only recently become aware that carbon monoxide, hydrocarbons, and nitrogen oxides are only three of the contributors to poor air quality. The Clean Air Act said nothing about particulates, the solids in air, which are at present uncontrolled. As a result, diesel engines, which generate a high level of particulates, have no trouble meeting existing standards. However, the EPA has recently become concerned about particulate emissions, and new regulations are imminent. Hence, just as manufacturers have begun mass-producing the diesel and marketing it as the energy conservation engine of the future, it may be forced into obsolescence because of unattainable emission regulations. Federal shortsightedness of this degree not only cheats the public but makes the planning of future production by the automakers a next-to-impossible task.

While no one really disagrees that the air needs cleaning up, the problem once again is the government's plan to achieve this goal. Back in 1970, little was known about the relationship between air quality and health, and not much more is known today. How our well-meaning representatives in Washington were able to determine that a 90 per cent reduction in three specific gases was called for remains a mystery. They didn't know how much this 90 per cent reduction would contribute to improved air quality, or, even more, whether it was feasible within the time allotted. Furthermore, if air quality were improved, would this in turn contribute to public health, and by how much?

The question of cost never rose. Because Congress had none of the other pertinent answers, the cost of compliance, both social and monetary, was never addressed. Only recently have scientists spoken out against the excessive costs of over-controlling exhaust emissions. John McKetta, chairman of the National Academy of Sciences' Committee on National Air Quality Management, says that if we were 100 per cent successful in removing oxides of nitrogen from automobile exhaust, we would still have to contend with 99 per cent of the atmosphere's daily supply, just as mankind has since the dawn of history.

The greatest cost of compliance with federal mandates has been the horrendous rise in automobile fuel consumption. "Don't get me wrong," says John McKetta, "we do have to worry about automobile pollution. But we shouldn't worry about it so much that it prevents us from doing a lot of other good things." One of these is saving fossil fuel. Automotive pollution control devices have increased fuel consumption between 15 and 30 per cent since the Clean Air Act. We have paid for our improved air quality by burning an additional three trillion gallons of gasoline at a cost of over $1.5 trillion. That pollution-free Chevy is not only expensive to buy, it's also costly to operate (that is, if you can find gas for it at all this year).

For, if the stringency of the standards was bad, even worse was the way in which they were implemented. The Clean Air Act demanded *immediate* response from the manufacturers. The regulations were to be effective in the next model year and tightened annually thereafter. The manufacturers were not given a final standard and then allowed the lead-time to perfect the technology required to meet it. No sooner had Detroit laid out the hardware to meet 1971 standards than they had to begin on 1972, 1973, and so on. As a result, no optimum system for controlling pollutants was ever designed.

Because the auto-makers were forced to meet increasingly tough standards with essentially zero lead-time, they installed inefficient, ad-hoc devices which they probably would *not* have chosen under better conditions. If Congress had set only one standard—the final level to be attained in the year 1975 or 1976—the end product would have been significantly better, gas mileage would have suffered less, and, most of all, the resulting air quality would have been as good as and probably better than it is today. An emissions-controlled engine that gets bad gas mileage burns more fuel and thereby produces a greater *volume* of pollutants than a more efficient engine.

III

At the peak of of the Arab oil embargo in 1973, we were told that an energy crisis existed. Washington insisted that we were running out of fossil fuel and had better cut our usage. A gas rationing plan was devised and coupons printed. Again this year, a rationing system appeared imminent, while prices have risen stratospherically. What has failed to be mentioned amid the declaration of doom was the contribution federal legislation had made to the energy shortage.

No more was made, during or after the 1973 embargo, to review the Federal Motor Vehicle Safety Standards and Clean Air Acts with an eye toward reducing their effect on fuel consumption. Instead, Congress stepped in to pass yet another law affecting the auto industry. The Federal Energy Act of 1975 contained specifications for fuel economy standards for cars manufactured in 1977 and thereafter.

CAFE stands for Corporate Average Fuel Economy standards, and specifies that the weighted average of each manufacturer's production in any model year shall reach a specific miles-per-gallon level, as follows: 1977, 17 mpg; 1978, 18 mpg; 1979, 19 mpg; 1980, 20 mpg; 1981 to 1984, to be determined; 1985, 27.5 mpg.

After 1985 the goals are uncertain, but they will probably be revised by Congress long before then anyway. What is important is that each and every car-maker, domestic or foreign, must meet these standards or face a heavy fine. A $50 fine is imposed for every vehicle produced in a given model year, for each mpg below the standard. A company such as General Motors could easily incur a fine of over $3 million by missing the CAFE standard by one mpg.

How are the car-makers doing it? The technology is exotic but the approach is quite simple. They are spending billions of dollars. A revolution is taking place in Detroit. It's called down-sizing. The biggest single factor in fuel consumption is vehicle weight, and the down-sizing program is designed to reduce it. General Motors kicked it off by down-sizing its full-sized cars in 1977. They redesigned the entire line to eliminate about seven hundred pounds of vehicle weight, at a cost of over $1 billion. For 1978 they down-sized the intermediates, and in 1979 down-sized their compact line. This will continue without interruption through 1985. Ford and Chrysler began down-sizing this year. This is the most colossal endeavor ever undertaken by the auto industry. By 1984, they will have gone over $80 billion into debt in an effort to meet federal mileage standards. By then, Chrysler may be out of business.

They are also testing new engine designs, particularly diesels. This is serious business. The auto-makers must meet the CAFE standards or go under. It's all horrendously expensive, and guess who is paying the bill? The consumer didn't ask for the ten-grand Chevy, but he is the one who has to pay for it. By 1984 the average new car is expected to cost over $10,000, and this doesn't mean your present-day Chevrolet, it means a car about the size of today's Pinto.

Congress is well aware that emissions and safety standards contribute to increased fuel consumption. Yet it refuses to review these regulations. It has not even attempted to ascertain if they are accomplishing their intended purpose. Crash bumpers, for example, have proved worthless in protecting safety-related systems during low-speed crashes. Their contribution to vehicle weight is enormous. Auto-makers have demonstrated conclusively that the bumpers and the strengthening of the chassis they require add up to six hundred pounds. It takes an additional 62 gallons of gasoline a year to cart your crash bumpers around. Yet they will continue to be required on future models.

New laws are heaped on old ones in an endless attempt to undo previous mistakes. Each new round of legislation carries its associated cost. Safety and emissions controls are responsible for about $2,100 of the $4,600 difference in price between your 1973 and your 1978 Chevy, After deducting for uncontrolled items, the from-the-groundup redesign to meet the CAFE standards will easily account for the rest. If you're in doubt, drop in to your local dealer and compare the sticker price of a new midsized car with its 1976 (pre-down-sizing) counterpart.

The regulations Congress has heaped upon the automobile industry over the past 15 years are in dire need of review. Every standard must be examined to determine not only its initial cost, but the cost over its expected life span. Finally, we must determine priorities for all vehicle legislation in light of future expectations. If energy conservation is to be our Number One concern, we must weed out those laws which unduly hinder us from reaching this goal, especially those whose economic and social benefits are questionable or non-existent.

The motor car's future role in private transportation is at stake, and there are those who would be glad to see it go. Here, for example, is an obiter dictum uttered last fall by a member of the current Administration's Department of Transportation: "I'm not sure you need to go more than forty miles an hour or drive a car more than three hours from the city." That's the way our bureaucrats think.●

JAYAPRAKASH NARAYAN

● Mr. MOYNIHAN. Mr. President, Jayaprakash Marayan was one of the great moral forces of this century. His death last week in Patna, India, diminishes us all. His abiding faith in democracy, his dedication to human rights, and his commitment to nonviolence were profoundly important forces in the evolution of modern India's political conscience and in the development of effective alternatives to totalitarianism there and throughout the world. His personal integrity set a standard which, while rarely achieved, was—and remains—a fit goal for those in public life. His selflessness and humility were—and remain—qualities that public officials and private citizens alike would be wise to emulate.

I ask that the attached obituary of Jaya Prakash Narayan by J. Y. Smith in the Washington Post be printed in the RECORD.

The obituary is as follows:

[From the Washington Post, Oct. 9, 1979]

JAYAPRAKASH NARAYAN DIES; OPPOSED INDIRA GANDHI

(By J. Y. Smith)

Jayaprakash Narayan, 76, a widely recognized moral force in India's politics who led a movement that ousted Prime Minister Indira Gandhi in 1977, died of a heart ailment yesterday at his home in Patna, India.

Mr. Narayan was one of the last major links to Mohandas K. Gandhi, the father of Indian independence, and a disciple of the nonviolence that Gandhi preached. A man of unquestioned integrity, he was able to exert an enormous influence in Indian politics by virtue of his pronouncements and the example he set.

Prime Minister Charan Singh, the head of the present caretaker government, declared seven days of national mourning for Mr. Narayan. He said his death had stilled "the conscience of the nation."

Mr. Narayan never held government office, although at one time he was considered the most likely successor of Jawaharlal Nehru, who became prime minister after India won its independence from Britain in 1947. Instead, he renounced the mainstream of politics to work among the poor.

In the early 1970s, he became increasingly outraged by the corruption in the government of Mrs. Gandhi and the Congress Party. He began to speak out against Mrs. Gandhi, whose father was Nehru. (She was not related to Mohandas Gandhi). In June 1975, he gave a speech in which he called on the police and the army to disobey what he described as illegal orders.

Citing this speech as one of the reasons for her action, Mrs. Gandhi declared a state of emergency. Using the repressive powers that it gave her, she ordered Mr. Narayan jailed. Thousands of others also were put behind bars. Mr. Narayan's detention lasted for 139 days.

After his release, he again began speaking out. In the elections of 1977, Mrs. Gandhi and the Congress Party were swept from power for the first time since independence. They were replaced by the Janata Party, which was made up of the groups that Mr. Narayan had welded together. Morarji Desai became prime minister.

During his imprisonment, Mr. Narayan kept a journal which was published later under the title "Prison Diary." In its first entry, he wrote:

"My world lies in a shambles all round me. I am afraid I shall not see it put together again in my lifetime . . . Where have my calculations gone wrong? . . . I went wrong in assuming that a Prime Minister in a democracy would use all the normal and abnormal laws to defeat a peaceful democratic movement, but would not destroy democracy itself and substitute for it a totalitarian system. I could not believe that even if the Prime Minister wanted to do it, her senior colleagues and her party, which has had such high democratic traditions, would permit it. But the unbelievable has happened."

If the election of 1977 restored Mr. Narayan's faith in the viability of democracy in his country, subsequent events were a bitter disappointment to him. Although he suffered from kidney troubles—he himself attributed them to his period of imprisonment—and heart ailments, he frequently spoke out against the inability of the various factions of the Janata Party to work together.

On hearing of Mr. Narayan's death, Mrs. Gandhi, who was campaigning for forthcoming elections, issued a statement in which she said that, "differences apart," Mr. Narayan commanded universal respect and affection among Indians. She said the example of his life would be an inspiration to future generations.

The United News of India press agency reported that 50,000 persons gathered outside Mr. Narayan's house in Patna to pay their respects to him. Thousands followed a flower-bedecked vehicle carrying his body to the town hall, where it was to lie in state. Mr. Narayan was to be cremated Tuesday in traditional Hindu fashion. His funeral was expected to be the largest in India since that of Nehru, who died in 1964.

Mr. Narayan, who was known throughout India as "J.P.," was born on Oct. 11, 1902, in a village in the State of Bihar in northwest India. His father was a lower-ranking irrigation officer. It is said that the boy was 19 before he ever saw a city. In any case, he left high school a month before his graduation to join a student protest against British rule organized by Mohandas Gandhi.

In 1922, Mr. Narayan came to the United States as a student. He worked his way through Ohio State and earned a master's degree at the University of Wisconsin. On the way, he became a Marxist.

On his return to India in 1929, he rejoined Gandhi and Nehru in their nonviolent campaign against the British. Like them, he underwent several periods of imprisonment. In the 1940s, he abandoned Marxism—he later became a critic of India's increasingly close ties with the Soviet Union—and founded the Indian Socialist Party. Previously, he had been a member of the Congress Party of Nehru and Gandhi.

In 1952, he joined Acharya Vinoba Bhave's campaign to improve the lot of Indian peasants by persuading large landowners to turn over part of their holdings to them. He spent most of the rest of his life on social reforms at the village level, believing that the key to solving India's problems lay in improving the lot of the small farmers and poor rural workers. His reemergence on the national scene in the early 1970s began as a student movement in the State of Bihar. It spread to other parts of the country, fueled in part by Mr. Narayan's reputation for absolute honesty in a country where political corruption is widely taken for granted.

As Mr. Narayan's movement grew, Mrs. Gandhi was facing increasing difficulties in her government and in the Congress Party. She saw Mr. Narayan as a person around whom this dissatisfaction could coalesce. The lines were drawn for the incidents that led to Mr. Narayan's imprisonment on June 26, 1975.

He had been in poor health for years before his detention. Upon his release his health was a factor in persuading the authorities to let him go he was hospitalized in India and then in the United States, where he was put on a dialysis machine because of kidney failure. In addition to his kidney and heart problems, he had diabetes.

On his release, Mr. Narayan commented, "After I feel better, I will continue to work for politics based on moral principles."

But as the 1977 election campaign progressed, his health worsened. He could play only an advisory role in securing the victory of the Janata Party at the polls and in the government that it later organized.

Mr. Narayan's wife, Prabhavati Devi Narayan, died in 1973. They had no children.●

THE PRAGUE AUTUMN

● **Mr. CHURCH.** Mr. President, on January 1, 1977, a number of citizens of Czechoslovakia released to the public a document in which they welcomed their government's adherence to the International Covenants on Human Rights and the 1975 Helsinki accord. "The freedoms guaranteed to individuals" in those covenants and that accord, the signers of Charter '77 said, "are important assets of civilization." Pledging themselves to a "civic initiative" to promote the rights guaranteed by international and domestic law, the initiators of Charter '77 asked first of all for a "constructive dialog with the political and State authorities" of Czechoslovakia.

There was no dialog. While the number of Czechoslovak citizens who signed the Charter grew from an initial 242 to 1,000, the "political and state authorities" responded to their citizens' appeal only with repression and persecution. Prof. Jan Patocka, one of the first Charter spokesmen, was subjected to merciless police interrogations in spite of his 69 years. He died less than 2 weeks after an uninterrupted 11-hour browbeating. Six months later, two young engineers in Slovakia were sentenced to 3½ years in prison for having possessed and disseminated Charter documents. In October 1977—during the very first meetings of the Helsinki accord signatories in Belgrade to review compliance with the 35-nation agreement—another Czechoslovak court sentenced a journalist, Jiri Lederer, and a theater director, Ota Ornest, to similar prison terms for their association with the Charter group. Two other signatories, playwright Vaclav Havel and writer Frantisek Pavlicek, were given suspended sentences at the same trial.

In his opening statement to the Belgrade meeting, U.S. Ambassador Arthur Goldberg registered "vigorous disapproval" of these trials and of all "repressive measures taken in any country against individual and private groups whose activities relate solely to promoting the (Helsinki) Final Act's goals and promises."

Throughout 1978 and 1979, however, the authorities in Prague continued to persecute the Charter '77 group and its many offshoots. Only a few weeks ago, Czechoslovakian authorities showed how fearful they have become of the strong voices in their midst speaking out for freedom and for human dignity when they denied one of the country's finer playwrights, Pavel Kohout, the citizenship to which he had been born and the right to reenter the country he loved.

The day before yesterday, another act of judicial squalor occurred in Prague. Six charter activists were convicted of "subversion" purely for the words they had written. Vaclav Havel, a defendant in 1977, was sentenced again, this time to 4½ years in prison. Four of his codefendants—Peter Uhl, Vaclav Benda, Jiri Dienstbier, and Mrs. Otta Bednarova—received terms from 3 to 5 years, and Mrs. Dana Nemcova was given a 2-year suspended sentence. Four more Charter sympathizers face yet another trial.

Czechoslovakia's charade against justice and human rights has been condemned around the world. From Communist Party spokesmen in France and the French foreign ministry to demonstrators like Kurt Vonnegut and E. L. Doctorow in New York and the U.S. Department of State, the protest has been firm and angry. I wish to register a similar censure. By violating the rights of their citizens to freedom of conscience and of expression, the rules of Czechoslovakia—and those who keep them in power—have violated the word they gave at the Helsinki Conference, the letter of the Human Rights Covenants they ratified in 1976, and the standards of decent conduct which are written not just in international documents but in history of man's struggle to be free.

A little more than a year from now, the Helsinki accord signatories will be meeting for a second review of progress toward the goals set out in the Final Act. Many of us hope that the discussions in Madrid will be constructive ones, conducted in an atmosphere which would enable the representatives of the 35 nations to work out new approaches to security and cooperation among the signatories. Many are hopeful that Madrid will prove an appropriate forum to begin the discussion of further measures to build confidence on military and security matters, to move within and beyond the framework the Final Act has established in that field.

Confidence, however, cannot be strengthened in one area of Helsinki undertakings—the military sphere—when it is being continually undermined in political matters. To have a setting in which we genuinely strengthen military confidence-building measures, we must build far greater confidence that the undertakings already given on the protection of human rights are to be faithfully observed.

Czechoslovakia's actions this autumn undercut that confidence as they demolish the hopes that blossomed in that country 11 years ago during the Prague spring. Czechoslovakia and its patron, the Soviet Union, which also systematically flouts its Helsinki pledges, now face a choice as to the atmosphere they want to create for the Madrid meeting. If that atmosphere is to be constructive, guarantees of human rights must be honored. If they are not, the responsibility for stalemate at Madrid will belong to those who fear the lesson Jan Patocka wrote on his deathbed in Prague 2½ years ago. Assessing the meaning and the future of Charter '77, he said:

> What is needed is to speak the truth. It is possible that repression may be intensified in individual cases. People are once more aware that there are things worth suffering for.

Those things are human dignity, freedom of thought and of speech. The United States holds them sacred and will not cease to pursue their observance everywhere.●

WATER

● **Mr. MOYNIHAN.** Mr. President, I bring to the attention of my colleagues an editorial that appeared today in the New York Times. As Senators are aware, the members of the Environment and Public Works Committee are currently considering this year's water projects bill S. 703. Our deliberations will most certainly cover the area of water policy reform. It is to this topic that the editors of the New York Times have addressed themselves today. I ask that the editorial be printed in today's Record.

The editorial is as follows:

Federal Water, Finding Its Level

National water policy has become more confused than effective, even in the old game of pouring Federal money into Western and Southern states. Low rainfall in the West and silt-laden rivers in the South once justified unequal distribution. But now, many other states need help for which they cannot qualify under the old rules. A bill introduced by Senators Domenici and Moynihan offers a wiser approach.

Existing law effectively bars assistance for projects that only supply a city with water. To qualify for Federal help, projects must serve multiple purposes, like power generation, navigation, soil conservation, flood control. This favors Western and Southern states; working such multiple wonders is not generally necessary in the Northeast and Midwest. Yet single-purpose projects might nonetheless be equally deserving of support.

There are other problems. States now feel encouraged to support one another's proposals, raising the amounts spent on water projects but lowering their usefulness. Westerners have been encouraged to waste water because it is priced far below real costs. Meanwhile, Eastern water supply systems get much less than they need for safe long-term operation.

Under the Domenici-Moynihan proposal, Congress would continue to subsidize water projects. But its bargaining over individual projects would be eliminated. The vehicle for choosing projects would be the Water Resources Council, an existing interagency body. It would be reorganized and authorized to study all proposed projects.

Each state would receive a fixed share, based on area and population, of an annual $4 billion authorization. That is about what is being spent now. This limit would force each state to establish its own priorities and allow it to choose single-purpose designs. Each state would pay 25 percent of the project costs.

Some critics of the bill say its changes, while beneficial, should be made gradually. But it is difficult to split the new procedure into rational stages. Others argue that giving states fixed amounts would overlook the nation's real water needs. The history of water projects, however, shows that many former needs have been met. The task now is to let each state define its own requirements.

The Domenici-Moynihan approach would open the way for communities like New York City, which have built water supply systems with their own money, to get Federal help. The city cannot build a third water tunnel without assistance. Federal aid, like water, should be allowed to flow fairly. This bill would permit it to do so, and merits cautious support.●

MISSING PERSONS

● Mr. CHURCH. Mr. President, I would like to take this opportunity to commend Congressman Don Bonker for the hearings he has held on a new and very disturbing phenomenon in the violation of human rights called "the disappeared person." As chairman of the House Foreign Affairs Subcommittee on International Organizations, Congressman Bonker's investigation has examined the tragedy of the many thousands of dissidents and intellectuals who have dissappeared in the night at the hands of security forces around the world.

The charges against these victims are often fabricated or nonexistent; their legal and human rights are ignored and abused. Hundreds of such cases have been reported in Africa and Asia, thousands have disappeared in Chile and Argentina.

Mr. President, I ask to have Mr. Bonker's recent article in the Washington Post printed in the Record.

The article follows:

The Missing 30,000

It is 7 a.m. Five men in civilian clothes burst into a home and seize a 23-year-old man. The chief of the gang tells the young man's mother that her son has been named a subversive by a prisoner under custody and is being taken in for questioning. She is told that she can inquire about her son the following day. But the next day—and a thousand days later—the police deny knowing anything about him.

In another incident, a 31-year-old woman who lived through the terror of imprisonment and returned to tell about it reports: "I was told by my captors I was not detained, nor disappeared. I was just absorbed, kidnapped, sucked up."

Scenes from "Holocaust"? No, these incidents are examples of a new phenomenon in the violation of human rights called the "disappeared person." This brutal and cynical practice is occurring almost daily in a significant number of countries. It is further evidence that the 20th century has not spent itself of horrors.

Though the phenomenon of the "disappeared person" is prevalent worldwide, most documentation comes from South and Central America. At a recent human-rights conference in Chile, the secretary general of Amnesty International estimated that in the last decade some 30,000 Latin Americans have disappeared. The number of documented missing reaches the hundreds in parts of Africa and Asia, as well as in Brazil, Uruguay and Paraguay. These numbers soar to the thousands in Chile and Argentina.

Since the military coups in Chile and Argentina, many thousands have disappeared without a trace after arrest by police, security forces or parapolice. In certain cases, husbands and wives have been taken together, sometimes with their young children.

Tragically, a substantial number of unaccounted-for children have been abducted or have been born in captivity to pregnant kidnap victims. No attempts have been made by governments to investigate such disappearances, and these abuses continue unchecked.

After a recent visit to Buenos Aires, V.S. Naipaul wrote: "There is still, for the distinguished or well-known, legal arrest on specific charges. But below that there is no law. People are taken away and no one is responsible. The army refers inquirers to the police and the police refer them back to the army. A special language has developed: an anxious father might be told that his son's case is 'closed.' No one really knows who does what or why; it is said that anyone can now be made to disappear, for a price."

In Argentina, one does not need to be a terrorist to be arrested, tortured or murdered. It is enough to have belonged to a trade union or a student organization or to have helped persons classified by the military as "subversive." People are simply picked up, some to return as corpses, minus their heads and hands to prevent identification. A few are released and warned not to speak, but most are subjected to brutal conditions in secret camps.

Until recently, little international attention focused on this terrifying violation of human rights. In the last session of the United Nations General Assembly, a resolution was passed asking for intergovernmental cooperation to search and account for the disappeared.

More recently, a subcommission of the United Nations adopted a resolution stating that disappearances continue to occur and that the "dangers involved for such persons warrant urgent reaction." If the situation were to continue, the subcommission recommended, some form of emergency remedy must be applied by the international community.

The House International Organizations Subcommittee will hold today the last in a series of hearings on the phenomenon.

If, as President Carter has said, human rights is the "soul of American foreign policy," then we as a nation steeped in traditions of freedom and justice must respond to the mounting evidence. We must let the word go forth to the relatives of the disappeared, to those locked in secret detention camps and to the exiles around the world that "if you are silenced, we will speak for you." ●

ENERGY

● Mr. MOYNIHAN. Mr. President, recently WNBC–TV and WCBS–TV of New York City editorialized favorably on the thoughtful proposals of New Jersey Senators Pete Williams and Bill Bradley to help solve this Nation's energy problems. I too am impressed by the initiatives put forth by my distinguished friends and colleagues from New Jersey and ask that the editorials be printed in the Record for the consideration of my colleagues.

The editorials are as follow:

New Jersey Senators

New Jersey's Senators have shown themselves unusually responsive to the energy problems of the country in general and the poor in particular, and for that we believe Senator Williams and Senator Bradley deserve the thanks of all of us. Senator Williams' bill to help people get the money to properly insulate and weather proof their homes can be a great help, not only to the individuals involved, but to the country's economy. It should pay for itself many times over.

Senator Bradley's legislation which, among other things, would provide for an energy audit for the house of everyone wanting one—and everyone should—would also be a big help. We have one reservation about it which we think he should consider. The bill would provide for a corps of experts to do the auditing. We think these should be local people, locally hired and controlled. In this part of the world we have good reason to be suspicious of casual strangers snooping around our homes.

But the ideas here are good. Now, if Congress and the Administration would only start acting as though they, too, thought such legislation important, then maybe we can start licking this energy problem.

The Bradley Plan

Baby, when it's cold outside, keeping warm inside is going to be expensive and likely to get more so anytime OPEC chooses. So if you're a home owner, you may be trying to figure out how to conserve fuel. You may be weighing the advantages of insulating against refitting your furnace.

But how can you tell what's best for your home? Can you rely on the company that does the job to give you the best advice and how are you going to pay for it?

Well, Bill Bradley, the new Democratic Senator from New Jersey, has come up with a plan that could be your answer. The Bradley Plan would have an energy efficiency expert from a private energy conservation company come to your house to advise you on the best method of reducing fuel consumption and then make the necessary improvements. Who would pay for this? Well, it is not clear to us, considering the complexities of the Bradley Plan. Senator Bradley would have utility companies pay the bill and pass the cost onto the consumer which may prove unworkable. But, in principle, we believe Senator Bradley is onto something. A nationwide program of energy conservation should be established. Energy audits should be made in homes across the country, but a simple means of financing conservation should be available to all. We question whether using a utility company is either fair or practical, but despite our doubts about whether the Bradley Plan is the way to bring about energy conservation in our homes, its goal is important, and we hope Congress gives it and other plans with the same goal the highest priority. ●

ERNIE DAY

● Mr. CHURCH. Mr. President, the "River of No Return Wilderness" is almost a reality.

Earlier this year, I introduced three bills which would reclassify Idaho's two remaining national forest primitive areas as wilderness. Those bills represented a broad spectrum of plans for the future management of the wildlands of central Idaho. I introduced the three measures at the specific request of those who drafted them: The Carter administration, the Idaho Forest Industry Council, and the River of No Return Wilderness Council.

Three and a half days of hearings were held on the bills in Idaho in April and May, and a final hearing here in Washington in June. Since then, Senator McClure and I have been working with Governor Evans and the various parties who have an interest in this legislation. I am happy to report that agreements have been reached on many points and I am hopeful that a final proposal will be worked out by the Energy and Natural Resources Committee within the next few days.

Mr. President, there are many, many Idahoans who have given selflessly of their time and talents to protect this magnificent area. We owe them a great debt. One of those individuals is a dear friend of mine, Ernest Day.

Ernie Day is a hunter, a fisherman, an avid photographer, and one of Idaho's leading spokesmen for conservation and wise management of our natural resources. Recently, there appeared a profile in the Idaho Statesman of Ernie and an interview with him in the Living Wilderness magazine.

Mr. President, I ask that both the interview and the profile be printed in the Record.

The material follows:

A Talk With Ernie Day: "I'm Never Happier Than When I Get Back on That Middle Fork in a Rubber Boat"

(When American wilderness wins statutory protection, it is because committed citizens have worked hard to achieve it. In Idaho, conservationists are sponsoring the largest wilderness proposal outside Alaska—the 2.3-million-acre River of No Return Wilderness. One of its most vigorous champions is Ernest E. Day, Wilderness Society member, past president of the Idaho Wildlife Federation, former board member of the National Wildlife Federation and vice president of the River of No Return Wilderness Council since its formation. On June 22, he testified in Washington before a unit of the Senate Energy and Natural Resources Committee in support of the proposal, on which legislative action is pending. The following conversation between Ernie and Living Wilderness editor Jim Deane occurred the day after the hearing.—Ed.)

Deane. Ernie, tell me how you happened to get into the conservation activity that you've been involved in now for so many years. When did you first become a conservation activist?

Day. I became a conservation activist after many years of enjoying the resource, photographing, hunting, fishing, hiking. Idaho had so much to offer we just took it for granted, and when I was in the service, away overseas, I used to dream about getting back and going to Granite Lake up above McCall in the Payette Lakes country. We'd had good fishing there all through my boyhood. It was about a three-mile hike into Granite Lake. When I got back it had been roaded up. They'd had a survival camp site there for the Air Force, and the thing that I'd been dreaming about for two or three years no longer existed. That caused a lot of evaluation as far as I was concerned. I guess you have to lose something before you appreciate it. So with that loss I guess I was ripe to be swept up by the wilderness movement.

Deane. How did that sweep you up? What got you into it?

Day. I realized then that a road meant the end of everything that was dear to me in almost any area. That road just completely changed the character, the integrity of the whole scene up there to the point where I no longer wanted to go back. Then I got to spending time in more areas and realized that the same thing could easily happen to them. I read Bob Marshall, Aldo Leopold, Wallace Stegner, Joseph Wood Krutch, Olaus and Mardy Murie, and I hiked with people of a little broader than strictly Idaho interests. I heard about The Wilderness Society and the Sierra Club and joined both and was exposed to some of the real people in the movement.

Deane. Did you meet Howard Zahniser early on?

Day. Yes, very early. I think the first wilderness bill that Howard presented was my formal introduction to fighting for specific statutory protection.

Deane. Zahnie was then the executive secretary of The Wilderness Society here in Washington. How did you meet him?

Day. At the outset we were in a tiny minority in Idaho when it came to fighting for wilderness. I'm happy to say it's better now, though it's also more polarized. But there weren't too many people in Idaho then who even thought about the wilderness—it had been there all the time. The frontier ethic was still rampant. Multiply, conquer the earth, subdue—the regular old frontier ethic. That's all we ever really had in Idaho because we were so close to it that we just took it for granted. I'm convinced there's some kind of an inverse law that the closer you are to something, the less you appreciate it. And that's true in Idaho. But to get back to how we met Zahnie: there were four or five of us—Bruce Bowler, Ted Trueblood, Frank Jones, Mort Brigham—who realized the necessity even then of passing statutory protection for roadless areas. We got in contact with Zahnie because we needed Zahnie's help. We felt very lonely out there. We thought the best we could do was kind of be a beacon west of the Mississippi saying, "Look, there are some of us out here. Help us! Hone in on us! Do whatever you can!" And of course that was good news to Zahnie, too, because he was looking for a voice out there that said, "Come and help us. Embrace us." At that time Gracie Pfost was congresswoman from that district. She was on the Interior and Insular Affairs Committee, and she was opposed to wilderness. So we formed an alliance between Zahnie and some of us in Idaho. Later on we formed our Idaho Wilderness Committee.

Deane. This was eight years that went into the Wilderness Act?

Day. Eight years, at least, I have a degree in political science and I never have seen a more perfect primer to document the passage of a law, from Zahnie's originally asking for the world and scaling that down a little as the facts of political life were impressed very indelibly. He'd retreat to another position and another position. Finally he said, "That's as far as we can go," and that's about the time that the thing jelled and they passed it, in 1964.

Deane. In the process of that effort, did more people in Idaho come to be identified with the wilderness cause?

Day. Yes, many. Most of them appreciated the wilderness already, but they didn't realize the necessity of taking statutory steps to preserve it. I'm convinced that even then more people wanted it than didn't. But they just didn't realize that it wouldn't be with us always.

Deane. Now you have a magnificent potential wilderness area which you're calling the River of No Return. When the Wilderness Act was passed, there was some wilderness that was established by that act in Idaho, wasn't there?

Day. Just prior to the passage of the act, the Selway-Bitterroot was courageously redesignated wilderness, so when the Wilderness Act was passed, the Selway-Bitterroot came in as wilderness. But the rest of it in the state of Idaho was classified as primitive area and as such was up for wilderness review within 10 years. And that's the genesis of the proposed River of No Return Wilderness. It was the old Idaho Primitive Area which was established by the Forest Service in the early 1930s. Nobody ever called it anything but Middle Fork country in those days.

Deane. When did the River of No Return Wilderness Council come into being?

Day. In 1972, I think it was, it became apparent that time was running out for Idaho Primitive Area reclassification, and the Forest Service initiated workshops to try to get some citizen input. We decided we needed a catchier name, so we started referring to it as the River of No Return. Several of us got together and delineated what we thought should go in the package. We looked at well over 3 million acres and thought that about 2.3 was the minimum we should shoot for. We could actually have gone for quite a bit more, and there were some who thought we should. But we tried to devise a package that would be justifiable and politically realistic. It was a compromise.

Deane. Have you still got as much as 3 million acres that are roadless in that country?

Day. Oh, yes. In fact it'll go probably as high as 3.5 million acres, depending on where you draw the lines.

Deane. Where is that country?

Day. Right in the heart of Idaho. The main feature is the Middle Fork of the Salmon River. It flows in basically a northerly direction for about 120 miles to the confluence with the Salmon River. The Salmon River is also now part of the proposal, because encompassed in the River of No Return Wilderness on the north would be part of what was the old primitive area in the Selway-Bitterroot. It is called the Salmon River Breaks Primitive Area.

Deane. So a substantial portion of the proposed River of No Return Wilderness has been in these two primitive areas, is that right?

Day. That's correct.

Deane. And it's been protected against timbering and so on.

Day. It's been basically managed as wilderness. There's very little difference between primitive area and wilderness area as far as administration is concerned.

Deane. What threats are there to this wild country?

Day. The main threat, of course, is logging with its logging roads. Much of the region is underlain by what they call the Idaho batholith. The soil covering this rock is usually thin and is exceptionally erodible. It can't stand roading. It's just very tender, and to protect the integrity of the Middle Fork, which is the main bedroom for the anadromous fish of the Salmon River system, we have to keep the Idaho batholith from ending up in the river like it did on the South Fork, which once provided 30 percent of Idaho's salmon fishing. The South Fork was closed to fishing in 1967 after logging and roading on only 15 percent of the drainage caused such severe erosion that the spawning gravels were choked with silt. Fish reproduction all but stopped. That is what we're striving to avert.

Deane. These are the fish that come hundreds of miles up the river from the ocean to spawn?

Day. That's right. There are two or three runs of salmon, chinook salmon. There's also some sockeye, which Redfish Lake was named after. They're red, about four pounds. And then the one that I like the best of all is the steelhead. Of course there's a good resident fishery, too. And on top of that there are 190 species of wildlife in there, from the tiny little rodents clear through to the cougar which sits on the top of the food chain.

DEANE. So there's both hunting and fishing in there, and they are important to a lot of people.

DAY. That's right, and it's not incompatible. Hunting's part of it. And in fact it's necessary. There were times when the deer herds built up to the point where starvation took more than the hunters did. It has to be a balanced thing.

DEANE. Then there are a lot of people now who are also interested in taking photographs. You've been taking photographs for a long time yourself.

DAY. Oh sure, more people all the time are hunting with the camera.

DEANE. When did you start doing that?

DAY. Quite early on, I guess 20 to 25 years ago.

DEANE. How many pictures do you figure you've taken of that country over the years?

DAY. Oh, I don't know. That and the Sawtooths, I suppose I have five or six thousand in my files.

DEANE. You go up in the air and take them from the air too, as well as on the ground.

DAY. There's no better way to make a point sometimes with a committee or with a magazine or anything else than to show really the vastness that's involved, and this is a vast area—2.3 million acres. That's larger than Yellowstone Park.

DEANE. But the area, you feel, should be kept intact for ecological reasons? That's very important?

DAY. That's right, sure. I hate to see it rationed. If anybody had told me when I first floated the river in 1954 that someday you'd have to apply almost a year in advance to get your name in a lottery which would determine whether you got to go the next summer, that just would have been inconceivable. I'd have told them they were out of their minds. Well, here we are, not too many years later, and you have to apply about a year ahead of time and go through a lottery process. And tht's part of our dilemma in wilderness, how do you protect it after you have it? Because all of a sudden just by virtue of naming it wilderness it attracts some people. And we've never had any regulation at all of anything along that line, and the only thing worse, in my opinion, than regulation of this tender area, through lottery or whatever restrictions you have, would be to know that that's indicated and necessary yet not have it regulated.

DEANE. Some people have discovered this area, I take it?

DAY. Many people, especially since the President's been down the Middle Fork.

DEANE. I'm told the President really got a bang out of taking that float trip last year.

DAY. He said to the boatman that it was the best three days he'd ever had in his life. It's addictive. I'm never happier than when I get back on that Middle Fork in a rubber boat. You bob along there and your cares and anxieties just roll off like water off a duck's back. There's nothing like it. Some people are just latent river rats and when they're exposed to it they're gone, and I'm one of those. And Jimmy Carter kind of indicated maybe he was that too.

DEANE. There's quite a little economy built up around people traveling that river, isn't there?

DAY. Oh, very, it's a vital part of Idaho's economy. The outfitters have records of that. They keep tabs through their licensing applications. I think last year they said that $23 million came off of backcountry outfitters and guides—hunting, fishing, river-running, the whole thing. Now, that wouldn't be all in this area, but most of the guide fees come from this big central Idaho wilderness. So that's $23 million directly to the coffers of Idaho. That doesn't count air fare to get there or anything else. And that's some of the best money you can get, because those are nonresidents. You don't have to furnish police power, you don't have to furnish retirement, you don't have to do all kinds of things that you do for an industry which is there on a 12-month basis. It's kind of like retirement people. You don't have to give them nearly the facilities that you do younger breadwinners, because they're at a different stage in their requirements.

DEANE. You're saying that Idaho is attracting quite a lot of people from out of state to enjoy these natural values?

DAY. Very many. It's an explosion. In fact, we have four explosions going on. You have more people. They have more and longer vacations. You have a transportation explosion—you can get to Idaho from New York in one day. Finally you have an explosion of equipment—these horrible ORVs and all the other things that allow you to get in there, and better means of taking fish and hunting and all that. These things all total up, just put more pressure on everything.

DEANE. So that a big area really is justified in terms of accommodating this kind of growing use, is that right?

DAY. Yes. The tendency of everybody, even our own wilderness advocates, is not to project the needs on a broad enough base to take care of the long-term requirements. There is a much higher percentage of the outdoor people now who are interested in wilderness.

DEANE. On the other side of the fence, the timber industry has been contesting the objective of setting aside this wilderness.

DAY. Everv inch of the way.

DEANE. What's the stake of the timber industry and have they got valid arguments, do you think?

DAY. Well, I'm in the real estate business and we have a residential department. So I really do participate in the profits from the end-product in lumber which is the homebuilding, and it's certainly legitimate. We must have wood, and the paper avalanche has to be satisfied with wood pulp, and all kinds of things. So I wouldn't sit here and say that it's not important. But we've got to have it in balance. We think it should be balanced one place, with an adequate timber base, and the timber industry and their stockholders think it should be balanced some place else.

DEANE. Will they have enough resource out there to meet the legitimate needs of the timber industry without sacrificing the acreage that you think should be included in this wilderness?

DAY. We think so. There's a lot of lumber in the Northwest shipped to Japan, if you want to look at that. Now it isn't off public domain, Forest Service, the people's land. That's not allowed to be shipped directly outside. The way it works, they ship the product of their tree farms or private property, and then the other takes up the slack.

DEANE. Alaska's doing the same thing.

DAY. That's right. Japan's getting more of them. But the way it's evolved in Idaho, it's a fight for forest jobs. At least that's what the timber people get their jobholders to believe—that every bit of wilderness takes from their job base. And soon mills will close and they'll be out of work. Well, that's going to happen anyway if they're allowed to cut above the sustained yield. And sooner or later, if they keep cutting heavier than they should be, they're going to put themselves out of business, just like too many cows on the common, you know. So one of the big questions is, are we going to save some of this precious land and this really choice wild country in time, and blow the whistle on some of this forest products production, or are we going to wait till we've cut the last tree and then be out of a job?

DEANE. How many jobs are being enumerated in this controversy? How many jobs are allegedly at stake?

DAY. At the hearing, a claim was made that 180 direct and indirect jobs would be impacted and that one mill employing 130 people has threatened to close. They try to say that due to RARE II and logging restrictions they have less timber to harvest than they did. But actually the number of jobs in the timber industry in Idaho has been increasing. So they haven't been hurt. And none of the cutting bases are in our Idaho Primitive Area, so wilderness designation would take no jobs from anybody, because they haven't a right to be in there anyway. Besides, they have these new computer-run mechanized logging mills that can do twice, three times—maybe more than that—the processing of this product with less jobs. Ultimately these people are going to be out jobs one way or another anyway.

DEANE. I didn't think at the hearing that I heard very large figures.

DAY. The forest products people have finally consented just because public opinion made them go for something. I think, to about a 1.4-million or 1.3-million-acre wilderness. One of the Boise Cascade vice presidents stated that in the million acres of timber between the 1.3-million-acre industry bill and our 2.3-million-acre bill, the sustained yield would be approximately 20 million board feet. That is less than one percent of the annual cut for the whole state of Idaho. Well now, that extra million acres in this ecological package has got to be worth more than just a one percent addition to the timber cut in Idaho each year. That's the salient figure.

DEANE. You're looking to Senator Church for help in getting this problem resolved.

DAY. That's right, and he has a good track record. He carried the original Wilderness Act when Clinton Anderson became ill. He was instrumental in wild rivers legislation. He championed Hell's Canyon protection and the recreation area there. We just really hope that he'll stay with us on this one. But this one cuts deeper. There's more polarization on a local basis.

DEANE. But the interest of the country at large certainly is in protecting the extraordinary values of this particular region, isn't that right?

DAY. Every American has a stake in this. Some of them may never see it, but just knowing it's there means something to them, especially if a magazine like The Living Wilderness shows what's there. They think, "Maybe I'll get out there," or "At least the whole United States isn't a concrete canyon like it is here."

DEANE. Here in the East?

DAY. Yes.

DEANE. What sort of environmental movement is there in Idaho now?

DAY. In '73 when we had those original hearings and workshops, we had 1,100 people out in Boise one night. I'd never seen such an outpouring in my life. There were people from all walks of life, not just environmentalists. A lot of them didn't even know what the word meant. But they knew that the Middle Fork country was important to them, and enough of it had to be saved to make it worthwhile. At the three Senate hearings in Idaho this year, citizens backed our 2.3-million-acre proposal two to one.

DEANE. What's the population of Idaho today?

DAY. Just a little under 900,000 for the entire state. It's one of the fastest-growing states, and Boise's one of the fastest-growing cities in the United States now. We're getting so many people fishing that on opening day you have to have a tapered line to get it in the water.

Deane. A lot of the people who have moved out to Idaho have moved there because of the natural values of the country, isn't that right?

Day. Sure, that's what they want. But if we aren't careful, Idaho's going to be just what the rest of the world is.

Deane. We'd hope that the Idahoans would want to protect what they went there to enjoy.

Day. If their jobs aren't directly threatened, and a lot of times those threats sound a lot more real than they actually are, most of them feel that way.

Deane. You know, I should have asked you way back at the start of this conversation whether you're a native-born Idahoan.

Day. I've been in Idaho for 61 years.

Deane. Where were you born?

Day. Boise. I've lived there all my life.

Deane. Were your parents born out there too?

Day. My dad was born in London, lived in England till he was 20. Came out, and never had done anything, in fact, outdoors. He settled in Idaho and loved it so much that he started hunting and fishing, and that's where I got my first exposure to it, fishing with Dad. My mother's father was a dentist, and I think if I had it to do all over again I'd be a dentist, because they say, "Miss Jones, don't take any appointments for Wednesday," and they can run over to Silver Creek and fish all day. Doctors have emergencies, but dentists by and large can set the time. Anyway, Grandpa Maberly was a dentist and one of the original classical sportsmen in Idaho. He dropped dead following his dogs at a hunting field trial.

Deane. Have you seen wolverines in Idaho?

Day. Not myself, though they're reported occasionally.

Deane. But you have bumped into cougars?

Day. Yes, in fact that's a very large part of this River of No Return battle. The greatest cougar study, I guess, in America has taken place up there the last 10 years. That's a real laboratory for the study of the big cats, and Maurice Hornocker has done more significant work in there and found out more about the cougar than probably any other researcher. There have been wolves sighted. And they think maybe there are grizzlies. It is just a big wild country and as such has things that almost no other segment of America has.

Deane. Cecil Andrus, the Secretary of the Interior and formerly the governor of Idaho, is pretty strong on protecting the big wild country in Idaho, isn't he?

Day. That's right. In fact, one of the main issues of his initial election was a proposed open-pit mine in the White Clouds.

Deane. He made that a plank in his campaign for election?

Day. It was probably the main issue that catapulted him in. Not that that was by and of itself the largest issue. But he was the only one of the four candidates who had the forthrightness to come out and say, "I am opposed to a large molydenum mine in the White Clouds." All the rest of them were shilly-shallying with an evasive approach. Cece just came out and hit it hard, and was rewarded with an election victory that upset a 24-year Republican state regime. Then he was reelected with the highest plurality anybody's ever had in Idaho.

Deane. He's been a very strong Secretary of the Interior since he came to Washington.

Day. You bet he has. As far as Alaska's concerned, as far as the Redwoods are concerned, his record is great. He wants a little less River of No Return Wilderness than we do and said that when he was governor. We're 100,000 to 200,000 acres apart on that. But I can't fault him at all for his record as Secretary of the Interior. I think it's just been great.

Deane. What's your impression of the attitude of Idaho conservationists about Alaska? You went up there yourself. How'd you happen to go to Alaska?

Day. I first went as a board member of the National Wildlife Federation when the oil people were trying to sell us the pipeline. And we flew the whole thing and looked it over and we had our summer board meeting there, and I fell in love with the vastness of Alaska then. Anything anybody else has got, even Idaho, Alaska has in spades.

Deane. It's beautiful country.

Day. It's too bad that most Alaskans don't really realize how great it is. We have parallel philosophies, parallel problems, parallel piecemeal attempts at solution with Alaska and Idaho. A lot of the natives just don't want that much locked up for federal intervention or federal regulation or whatever.

Deane. Is lock-up a fair word?

Day. No, heavens no, it isn't. I use that in a little quote, you know.

Deane. You have to say the quotes, like Victor Borge.

Day. I can't do it with my two fingers on each hand. But you know what I mean, many are hostile to outsiders. And so are Idahoans hostile to outsiders, some of them.

Deane. Is there a similar ratio between the population and the acreage of the terrain? You know there are only 400,000 people in the whole state of Alaska, which is 375 million acres.

Day. That's right. Well, they've taken it for granted. They're part of that old law, the closer you are to something, the less you appreciate it.

Deane. They're not very close when they're right there, either, because it's so big. Well, the people of the United States obviously have a large stake in these areas of which they're the owners. Everybody, all the citizens of the country own these big public areas, and they all have a stake in what's to become of them in the future.

Day. That's right, and in the future they're going to be a lot more important to them than they are right now. That just goes with this time-transportation-equipment-population explosion formula I was telling you about. And even if you look at it as far as the lowest, and I mean lowest, common denominator, the dollar, is concerned, I'm convinced that over a long enough projection it will make more dollars for Idaho and probably more dollars for Alaska to maintain a large enough wilderness base to keep your state known and acknowledged and appreciated and a magnet for others. Now that gets into another problem, how you protect it.

Deane. Management problems.

Day. That's right, and that's hard. Many people think if you say nothing about it it'll take care of itself. And for a while that seemed like maybe that was the way to go, but now we know that if you're going to have it, you're going to have to protect it with statutory boundaries. Now I'm convinced that the de facto wilderness which I have known for my first 50, 60 years and taken for granted will no longer exist as wild country in the very near future. They're going to cut and mine right up to the borders of anything that is not statutorily protected. That's why this is such a key time, such a crucial time, to get as much of it in under this statutory tent as possible, because as the population increases the pressure is going to be more and more. So we just have to get our sights high enough to protect enough of this so that we'll always have it, in a fairly good condition.

Deane. It's my sense that the great majority of the people of the United States want this. Do you agree with that?

Day. I'm sure that's true. But there's an awful lot of really pretty lethal Madison Avenue media attack going on right now sponsored by almost every timber company in business. And I am apprehensive that they are molding a philosophy or a partial philosophy of a lot of people who haven't thought the thing through to the idea that wilderness is a lock-up and that it is undesirable and it's bad for the economy.

Deane. The people who live in all of the great crowded urban areas of the United States I would think have the biggest stake of all in seeing to it that we don't throw away what wilderness we have left. And there are intrinsic values in preserving the wildlife and the beauties of the natural world that people like Justice Douglas have pointed to, and those aren't to be ignored either.

Day. That's right. Somebody said, "Are we going to destroy every last nook and cranny of this country, or are we going to blow the whistle and stop before it's too late?" It's something like the whale situation. Today perhaps more than at any other time in history we need to save the opportunity for stimulation and exhilaration that is offered by our remaining wild country.

Deane. The language we're talking now is the language that Aldo Leopold used about the importance of a land ethic and the realization of our people that you have to have an ethical view toward the land that you live in. The basic principles are what's really important.

Day. That's true. There's one thing that really grieves me. That is the climate in which we're making these decisions. They're made politically rather than on the real merits. A politician says, "What can I do that'll affect me the least?" rather than "What can I do that will affect the land least?" And a part of this is what I call the leftover principle of wilderness allocation, that is, we get the rocks and ice and anything else that nobody else wanted. We're getting just the crumbs off the table, not even the full-fledged crusts. We're getting little more than rocks and ice out of all of RARE II.

Deane. In practical terms, people have to speak up if the politicians are going to be influenced.

Day. And people habe to vote, and people have to work for the good politicians.

[From the Idaho Statesman, Oct. 8, 1979]

DAY RECALLS YEARS OF CONSERVATION BATTLES

(By Pete Zimowsky)

A smile came to conservationist Ernie Day's face as he recalled the 30 or so years of battling to preserve Idaho's wilderness areas.

The casually dressed Boisean leaned back and recalled a 17-year battle for Hells Canyon, 15 years for classification of the Sawtooth National Recreation Area, 8 years to get the Wild Rivers and wilderness acts, and the battle over the White Clouds somewhere in between.

His eyes brightened as he remembered hunting and fishing trips with other conservationists—the wall tents pitched on some mountain ridge in the fall while grouse hunting, or over at Owyhee Reservoir in May for an annual bass and crappie fishing trip. Even Ted Trueblood's great camp cooking came to mind.

Days a real estate agent, but he has a 2nd occupation—conservation activist. Day has fought many battles. During those years he has taken thousands of photographs of Idaho's back country. Youll find his byline on countless photographs in outdoor magazines, conservation periodicals and pamphlets urging wilderness areas.

Day isn't ready to quit fighting for Idaho's wilderness. He's currently wrapped up in the battle to get the biggest chunk possible set aside for the River of No Return Wilderness in the heart of Idaho. After that issue is put to rest, he'll go on to another. His love for the outdoors will keep him embroiled in the issues.

Even though Day, 61, isn't planning to step down from any wilderness battles, he has mellowed a little. Day is associated with the fire horses in Idaho conservation—Ted Trueblood, nationally acclaimed outdoor writer; Bruce Bowler, Boise attorney whom Day considers Idaho's best conservationist; Frank Jones, printer-conservationist; and Mort Brigham, a conservationist from the timber industry who Day says has a burr under his saddle when it comes to wilderness issues.

Day believes the environmental movement has matured. The fervor is gone from the old "Earth Day" movement, he said, but young people have a better fact base from which to operate. He respects the new breed and says, "They're articulate young people instead of retreads like us from the old environmental battles."

Day has lived all his life in Boise. His grandfather loved the outdoors and died standing behind his dogs at a field trial. He inherited his grandfather's prized gun and love of the outdoors.

Day was swept into the conservation movement because of a mountain lake near McCall. While serving overseas during World War II, all he could think about was the day he could return to Granite Lake and its 18-inch trout.

That day never came. A road had been built to the lake. Day said "It vividly brought to mind that roads bring an end to what I like." He also realized that "You have to lose something to appreciate it."

Day had always wished he had taken wildlife and biology classes in school but later realized his political science background was valuable in fighting for wilderness in state and national political arenas.

During that time he has been a member of the board of directors of the National Wildlife Federation, member and past president of the Idaho Wildlife Federation, chairman of the Idaho Park Board, president of the Boise Executive Association, member of the Rotary Club, chairman of local chapter of Ducks Unlimited, chairman of the Idaho Wilderness Committee, director of the Nature Conservancy, Ada County Fish and Game League, Hells Canyon Preservation Council, Idaho Environmental Council, director of the River of No Return Wilderness Council and member of the Sierra Club. He has also served on the advisory boards of the Boise District of the Bureau of Land Management and Challis National Forest.

Day credits his ability to fight for wilderness to being self-employed. He said many people can't get totally involved because of their jobs.

Day also learned to stand by his guns in state wilderness issues. In 1969 he resigned from the Idaho Park board because of a difference of opinion with then-governor Don Samuelson over the issue of mining in the White Clouds. Samuelson favored proposed molybdenum mining in the Central Idaho mountains. Day didn't.

Mining in the White Clouds became the central issue during the 1970 gubernatorial election in which Cecil Andrus narrowly defeated Samuelson.

Day has been labeled a conservationist-preservationist—"friends consider me a conservationist; enemies call me a preservationist."

Day's philosophy is that nothing is any better than where it lives. He says the only way to preserve wildlife is to preserve its habitat. He says fish- and bird-stocking programs are only short-term solutions to wildlife problems.

He said "We need a broad enough wilderness base for our needs—the needs of one million people in Idaho and also for people throughout the United States."

People are living in Boise because of the lifestyle not the salaries they make, Day said. Many companies are locating in Idaho because of the lifestyle and the outdoor experiences nearby.

He said, while working as director of the National Wildlife Federation, he has seen other states lose what Idaho has, and there is still time to save it, but time is running out. "It's to our economic advantage because we have something no one else has."

Day's mind wandered to the Sawtooths. They're his favorite mountains. He interrupted once to describe how beautiful the leaves are up there this time of the year.

Day has gone over almost every foot of the Sawtooths except a trail along Queens River.

"I plan to do that trail before I hang up my Vibram soles." ●

RALPH NEAS, A BRAVE YOUNG MAN

● Mr. MOYNIHAN. Mr. President, in the past few weeks there have been several articles in the Washington newspapers about a very brave young man. I speak of Ralph Neas, administrative assistant to my friend and distinguished colleague, Senator DAVID DURENBERGER of Minnesota.

Last February 11, Ralph was stricken with Guillain-Barre syndrome, a disease that progressively paralyzes the nerves that control the muscles. It has been a month now and almost miraculously Ralph is back working and functioning in the Senate at the level of competence and professionalism he has always been noted for.

Mr. President, I personally welcome Mr. Neas back and commend him for his courage and perseverance. I ask that the articles from the Washington Post magazine of October 7, 1979, and the Washington Star of October 13, 1979, be printed in the RECORD for the consideration of my colleagues.

The articles follow:

[From the Washington Post Magazine, Oct. 7, 1979]

NEAS FOUGHT BACK FROM PARALYSIS AFTER A PRIEST GAVE HIM THE LAST RITES

(By Rudy Maxa)

It's a hell of a case of the flu, thought Ralph Neas one evening last winter as he lay in a Minneapolis motel room, his hands and feet numb. The next morning he stood on wobbly legs and looked into the bathroom mirror, panicked. Half his face drooped grotesquely, paralyzed. And as he lay in bed awaiting a ride to a doctor, Neas began to writhe and scream in pain as the paralysis worked its way further through his body.

That's the way the bizarre medical saga of a young Capitol Hill legislative lawyer began last February. Before it was over, Neas became totally paralyzed. He watched and listened—his mind unimpaired—as a priest administered general absolution at his bedside.

"Sometimes I feel like Lazarus," Neas says today. Often when he walks the halls of Congress, dapper in a threepiece, pin-stripe suit and tapping his fashionable walking stick on the marble floors, he is spied by old friends who were aware of his imminent death earlier this year. They stammer at the sight of the 33-year-old Neas back in the place where he served as chief legislative assistant for, first, Sen. Edward Brooke (R-Mass.) and, now, for Sen. David Durenberger (R-Minn.).

Today Neas uses words such as "incredible," "amazing" and "interesting" to describe his bout with Guillain-Barre syndrome, a disease whose cause is a mystery and whose treatment is merely a waiting game. Most of the 3,000 people who will be hit by the disease this year will experience several weeks of paralysis before beginning a slow recovery. Neas was hit harder and spent three months in critical condition.

Next month Neas and his friends hope to arrange a party that will raise funds to pay some of his medical expenses and to fund research into the strange syndrome. That gathering will publicly mark the return of Neas to Washington where his reputation as an expert on civil rights legislation is known to Capitol Hill insiders.

"I don't think the basic framework of my life changed," says Neas, the son of a Chicago businessman and 1971 graduate of the University of Chicago's law school. "I always had a strong faith in God, and that faith was very important." On the wall of his Minneapolis hospital room was a needlepoint sampler that read, "Nothing is So Full of Victory as Patience." It was a gift from a nun who had Guillain-Barre syndrome 25 years ago; she visited him regularly and, perhaps more than others on the hospital staff, understood the peculiar frustration Neas felt as he fought against pain to steal three or four hours of sleep a day.

Neas was struck by the illness last February on the first day of his first visit to Minnesota with the freshman senator who had hired him as his $45,000-a-year chief legislative aide. By March 5 Neas could no longer hold a newspaper, and double-vision prevented him from watching television. He listened to the radio for news.

"I used to believe that if I had enough time I could do just about anything I wanted to do professionally and personally," Neas says. "But I didn't take into account acts of God. This made me aware of my vulnerability as well as my dependence on other people."

He participated in his own care, using his eyes to communicate with the medical staff when his arm could no longer point at letters on a board. He hopes to write a book about the experience, if only to give those dealing with Guillain-Barre patients an idea of what it's like on the other side.

These days Neas leaves his office in the afternoon to rest. His stamina is in short supply, but he is back up to 142 pounds from the 119 pounds he fell to at one point. Though Neas specialized in legislation that touched on voting rights, busing and education, the civil rights of the handicapped now loom larger in his life as he coaxes his body back to normal. The formal therapy has ended. Now, for the man who came to the edge of death, "living is the best exercise."

[From the Washington Star, Oct. 13, 1979]

RALPH NEAS' VITAL SIGNS ALMOST VANISHED FROM THE HOSPITAL MONITOR

(By John Sherwood)

Ralph Neas was getting on with a new job and getting over an old virus when he landed at the Minneapolis Airport last Feb. 11 on a mission for his new boss, Sen. David Durenberger, R-Minn. It was his first visit to the city and he expected to stay only a few days.

Instead, he was there five months, a period that turned out to be the most desperate and traumatic time of his young life. In fact, he almost died there. At one point his friends back in Washington were actually discussing plans for his funeral.

Before he left for the Midwest, the senator's 32-year-old chief legislative aide noticed a numbing, tingling sensation in the tips of his fingers and toes. It was irritating, not painful. It just wouldn't go away. A friend told him jokingly: "Don't worry. It's probably only a heart attack."

Then, while walking to the baggage claim area, his left leg buckled and he almost fell down the stairs. "I checked in at my hotel about 9 p.m., read the local newspaper and hit the sack. I thought maybe I still had a touch of the virus and a good night's sleep would solve the problem," he recalled.

The next day he was up at 7:30 o'clock and he was feeling very strange indeed. The tingling sensation was still there, but now he was getting weaker by the hour and was not walking normally. "I felt physically exhausted," he recalls.

His first meeting that morning was with some leading health care experts, of all people: "I wanted to ask the doctors what was going on, but I didn't think it would be the proper thing to do," he says. At the end of the meeting he was quite wobbly. Back at the senator's home office, he asked to be taken to the nearest emergency room. A doctor examined him and told him to go home and rest.

The next morning he could hardly stand up, but he went to more meetings anyway. Delivering a little speech, he noticed that his mouth was tightening up and he began slurring his words. At lunch he found that chewing food was difficult, and swallowing even more so. He planned to sleep for twelve hours on the premise that sleep can cure anything.

That night he was in "excruciating pain. It was a pain that would not leave me for months. I felt a paralysis moving up my legs. By this time I thought I had multiple sclerosis. I was actually thinking of impending death. I tried to look in the mirror and smile, but I couldn't smile! And I'm *always* smiling."

Back at St. Mary's Hospital they took a spinal tap and immediately suspected a rare ailment called, Guillain-Barre syndrome, a disease that progressively paralyzes the nerves that control the muscles. The good news was that the disease is temporary, but the bad news was that there is no known cure for it and people have died because of respiratory failure while it runs its course. Only the symptoms can be treated.

At the hospital, Neas met a nun, Sister Margaret Frances, 73 who had the disease 25 years ago. "I never really believed in angels until I met her," he says.

"From Feb. 14 through April 15 I lost something every day," says Neas. "I was tested on a machine that measures vital signs. Normal is 4,000cc. I went to 1,000. At that time they were talking about an emergency tracheotomy. I fought that machine every day to get my breathing back to normal. That machine was my enemy. It was the bearer of bad tidings. They finally had to operate."

At this point Neas could no longer talk. The disease also distorts the feeling of physical pain, so even though he was paralyzed he could feel intense pain. Every time he was touched he wanted to scream but, of course, he could not—his vocal cords were paralyzed. By March 10 he was being fed by a nasal tube inserted down into his stomach.

"All I could think of was survival. I lost 21 pounds between Feb. 14 and March 5. My digestive system started to quit. I could urinate, but I couldn't get rid of solid waste. Then I got pneumonia. Liquids were building up in my respiratory system and I felt as if I was drowning. I couldn't get my breath, so I was put on a machine to help me breathe."

By March 20, he was really in a sorry state. He could barely shake his head and a nurse had to lift his finger so he could point to letters in the alphabet to communicate. Messages used often were printed out in full so he could point to them. Next came a case of double vision and he thought he might be going blind.

Now he was really in a bind. If he couldn't see the alphabet there was no way to communicate, especially when the respirator supplied him with too much oxygen or too little. He developed clots in his lungs and it took the doctors hours to suction it out. "At this point I was ready to make my peace with God," he says. "I reconciled myself to the distinct possibility that I might die."

But then his smile returned the first week of April. In early May he "conquered gravity, I lifted my arm." Weighing 118 pounds (he weighs 150 now), he slowly returned to the world of the living.

"It didn't occur to me that I would have to learn to walk again, like a baby," he remembers. "But the physical therapy from April 10 to early July was the most painful thing I've ever gone through. My muscles had shrunk and I had to stretch them."

In July, Ralph Neas—a bachelor lawyer and a former aide to former Sen. Ed Brooke—walked out of the hospital, and on July 19 he returned to Washington—a $100,000 hospital bill behind him (most of it paid by insurance) and an experience that he will never forget.

Back at work at the old Senate Office Building, Neas is sporting a beard now and no longer uses a cane. He still has a little bit of a tingling sensation in the tips of his fingers and toes and he has to watch out for a relapse. But the worst is over. Ralph Neas is back in the land of the living again.●

INVOCATION BY THE REVEREND THOMAS HANSON, COMMUNITY MINISTER, ST. SIMONS TERRACE

● Mr. MOYNIHAN. Mr. President, on Monday, October 22, I had the distinct pleasure of being the guest speaker at the annual dinner of the Monroe County Democratic Committee outside of Rochester, N.Y. At that dinner, the Reverend Thomas Hanson, community minister of St. Simons Terrace, gave the invocation. I was moved by the simplicity, yet poignancy of his remarks and ask that it be printed in the Record for the consideration of my colleagues.

The invocation follows:

Invocation

For the glimpses of beauty, the taste of truth, a vision of justice, we give thanks, O God.

And because we love the world for what it can be, give us courage to quarrel with it for what is so often—is not. O Thou, whose lover's quarrel with the world is the history of the world.

Give us grace to quarrel with a world which separates and trivializes the lives of men and women, help us in the struggle against that which exploits the desires of people for economic gain at the expense of human need; assist us in the fight with the powers and principalities which sacrifice the things around us because they are only "things."

Give us courage to risk something big for something good so that we can give to the world a little more justice, a little more truth, a little more beauty because we loved the world enough to quarrel with it for what it is and not what it could be. Amen.●

HERMAN EILTS RECEIVES THE JOSEPH C. WILSON AWARD

● Mr. MOYNIHAN. Mr. President, on October 22, I spoke in Rochester, N.Y., on the occasion of the presentation of the Joseph C. Wilson Award to one of our distinguished diplomats, Herman Eilts, formerly American Ambassador in Egypt. The Wilson Awards honor distinguished achievement in international affairs, and are a fitting tribute to the late Mr. Wilson. During his long career at the Xerox Corp. he came to epitomize the best in civic mindedness, for he was a man of large achievement and even larger understanding. His powers of mind and his depth of spirit were of inestimable value to our country as it confronted the most difficult of public questions. It was thus an honor to participate in this annual tribute to him, and to share the platform with his indomitable wife, Peggy.

If Mr. Wilson were with us today, I am sure that he would have been actively and effectively interested in the most important public question before the Senate, the limitation of strategic arms. I felt it appropriate, therefore, to address this subject during my remarks, and I ask that the text of those observations be printed in the Record.

The address follows:

Address by Senator Daniel Patrick Moynihan

I have not yet served three years in the Senate, but in even that comparatively brief time, there have been two critical treaty debates, each without equal in the volatility since the rejection of the Versailles settlement six decades ago. That the impending struggle over SALT should follow so soon upon upon a dramatic encounter over Panama is more than another indication of the difficulties in reaching a new national consensus about foreign policy. It is also a result of the restrictions imposed on us by the political vocabulary we have inherited for our discussion of these issues. Indeed, if I understand it aright, I believe the SALT ratification process will play havoc with our traditional notions of "conservatism" and "liberalism" in foreign affairs.

I must first note in passing what strikes me as an interesting difference between the cases of Panama and SALT. It will be recalled that the opposition to the ratification of the Canal treaties was intense and widespread. But in that broad middle ground of our Senate, which still retains a decisive influence over the outcome of these matters, I dare say the *terms* of the treaty were not controversial as such. And indeed, as the debate wore on, the airing of the issues served only to move opinion toward the ratification of the treaty. If I may use the phrase, the "civic duty" of the Senate seemed apparent, to its members, even if the political climate surrounding the decision seemed a bit unsettled.

Let me be precise and say, so far as Panama was concerned, there were, in my estimation, no more than fifteen Senators who thought that a "bad treaty," though quite obviously there were more than that who felt that many of their constituents thought it a bad treaty. Thus one could reckon that the Panama arrangements began their course in the Senate with 85 or so "supporters," if you will. In 1972, the SALT I treaty passed with a vote of 88–2. But today, it is my judgment that there are no more than thirty-five Senators firmly in support of SALT, even as the ratification process moves forward.

My impression of SALT ratification, at least this far into it, is quite different. SALT is not yet an issue which has engaged deep public feeling. There are no clear "signals" from various segments of the population that either support or opposition to the treaty will be dealt with harshly in the political process. Instead, I detect a public willingness to afford the Senate a good deal of leeway in rendering its judgment on the treaty. What bedevils the treaty's prospects in the Senate today, in other words, is not some abstract fear of the political consequences of a vote "yea" or "nay."

Rather, it is a genuine conviction that the answer to the SALT question is no longer self-evident or even obvious, that the mere invocation of either "arms control" or "military preparedness" or some other traditional term will no longer immediately end the argument. It becomes increasingly apparent to me that the cloudy atmosphere surrounding the SALT debate reflects a feeling that we must come to a new way of thinking about arms control and strategic and military policy, that we must develop new ideas—or perhaps revive some older ones—to replace a set of ideas currently in place, ideas which, if not wrong, have at least lost the power to persuade and to move.

I begin with the notion that the SALT process and its most recent results are no longer defensible within the framework of ideas which gave rise to the negotiations. People are coming to understand this, even if in a still imprecise way. Ten years ago, the United States devised SALT, and drew Russian assent to it, as a means of fixing in the real world, and on a long-term basis, certain notions about stability and security in an era of nuclear weapons. We had, to our own satisfaction, devised a doctrine, a theoretical framework, which defined the safest condition for a nuclear-armed world. And we thought we had, in SALT, a means of securing Soviet agreement to this paradigm of our own devise.

I refer specifically to the strategic doctrine often called "assured destruction." That doctrine set forth two requirements: the vulnerability of populations to nuclear attack, and the invulnerability of the nuclear forces which could carry out such an attack. Or put another way, neither the Soviets nor ourselves would undertake to defend our populations—as with an ABM—nor would either country deploy so-called "counterforce" weapons capable of destroying the other's nuclear forces.

Ten years ago, SALT began in order to secure both these conditions. The conclusion of the ABM treaty secured the first, and one would therefore have expected that the second would be achieved, if not simultaneously, then at least in good time. Not to build, eventually to reduce. Indeed, one would have thought that a ban on defenses would have made easier the task of reducing the inventories of nuclear weapons on both sides. But something quite different has happened in the past decade. SALT has been the setting for an enormous buildup in the strategic nuclear forces of both countries and, worse, the occasion for the deployment of weapons which, according to American doctrine, are weapons of the most dangerous sort.

It is not enough to remark on the irony of an arms limitation experiment which fails utterly to limit arms. We must go further. For some arguments now advanced in behalf of the SALT II treaty have acquired, from a doctrinal perspective, a rather unreal cast. The Administration has proposed the deployment of our first counterforce missile called the MX. It will carry ten warheads, each the equivalent of several hundred kilotons of conventional explosives. And each warhead will be able to come within hundreds of feet at a target thousands of miles away. Each will be able to destroy a missile silo. The Administration says we require this system. Our situation of being overmastered by the Soviets' own counterforce capability requires it. But more, that the terms of the treaty afford protection for that very MX missile.

Thus a process which began as an effort to do away with missiles of this sort is defended on the grounds that it permits—and establishes a regime which will protect—that deployment. A virtue is seen in SALT today precisely because it allows what it was designed to prohibit a decade ago; the SALT process makes the world safe for MX. And then the argument is taken a step further by advocates of the treaty—that is, some advocates of the treaty—who argue that the deployment of such a weapon is the only thing which can bring about subsequent reductions in strategic forces. The argument here is that only by establishing the vulnerability of Soviet land-based missiles can the Soviets be persuaded to reduce their number.

Now it is not my purpose here to challenge that contention, but rather to ask how this line of argument has come to replace the original claims put forward for the SALT process. Is it an argument forced upon us by the enormous growth in Soviet strategic forces these past dozen years? Does it reflect an unnoticed defect in the original American doctrine of years ago? What are we to do when it becomes increasingly apparent that our received strategic doctrine can neither predict the future, nor even govern the deployment of our own strategic forces?

I submit that questions like these, still rather inchoate to be sure, hover over the SALT debate. And some manner of answer to them is necessary to the achievement of a new consensus on strategic policy in general and to the ratification of the SALT treaty in particular.

Earlier I offered my impression that these matters are no longer conveniently explicable in terms of the Liberal-Conservative dichotomy. For traditional Liberal faith in the SALT process has been severely shaken by the realization that SALT seems to encourage the arms buildup far more than it restrains it. One hears murmuring of an even more "heretical" notion, to the effect that the "lethality" of strategic forces on both sides might have been less than it is today had SALT not channeled the arms competition into the routes it has taken. As for a caricature of the Conservative tradition—that the deployment of new weapons systems afford a security of their own—there is "heresy" on that side as well, expressed in the fear that even a complex and expensive system like the MX could be neutralized by a Soviet willingness to deploy ever larger numbers of warheads in the period after 1985. If I may put the matter somewhat crudely, there are "doves" who question SALT, there are "hawks" who question the MX.

And that is why one can report from the Senate that today there are nothing like the sixty-seven votes necessary to ratify the treaty.

We face instead the task of resolving another seeming paradox. That is, how the ratification process can become the basis for effecting needed improvements in our military forces, especially our conventional forces, *and* how that same process can be made a basis for returning SALT to a constructive track, the track of genuine and meaningful reductions in levels of strategic forces.

I must remark once again on the tolerance the political "process" has shown for the admittedly slow, even painful pace, of these twin efforts. And it is precisely this tolerance which affords us the opportunity to "deliberate." It has thus far prevented the hardening of positions and the rejection of sensible possibilities.

There is at least this much we have learned: that SALT has, in a way, become a victim of its own dogmas. And that the reconstruction of arms limitation negotiations in the next years must prevent a repetition of that experience. The situation is stark. There are indeed too many nuclear weapons in the world, and they have been produced at their fastest rate during the very decade of the SALT experience. In 1969, the Soviets began the negotiations in possession of some 700 nuclear warheads; when the SALT II pact is scheduled to expire, 1985, they will have 12,000. That is the equal of four warheads for every county in the United States. And we are likely to have a comparable number in 1985, so that we will have four warheads for every *rayon* in the Soviet Union, their comparable unit of government.

It is not sufficient to say that this is madness, and congratulate ourselves at such surpassing insight. It is rather not to become immobilized by such a recognition. At the beginning of the nuclear era, there appeared a group of thinkers who were not so immobilized. They confronted the reality of a nuclear-armed world, and sought to understand its implications. We ought to be better off for those pioneering intellectual efforts, even as we seem not to be. But surely, they were no more clever than we. It is in this realm that I hope the SALT ratification process will prove its value—as the first opportunity in a generation to examine in depth the intellectual foundations of our national strategies.●

AID TO NON-GOVERNMENT SCHOOLS

● Mr. MOYNIHAN. Mr. President, on Sunday, October 21, I had the privilege of receiving the Second Annual Saint John Neumann Award from the Federation of Home School Associations of the Diocese of Buffalo and the Buffalo Chapter of the New York State Federation of Catholic School Parents. At that time, I had the opportunity to address the subject of aid to non-Government schools and ask that the address be printed in the RECORD for the consideration of my colleagues.

The address follows:

ADDRESS BY SENATOR DANIEL PATRICK MOYNIHAN

There can be few areas of public policy as muddled as that of government aid to nongovernment schools, and perhaps only an unwary person in public life will venture too far into the field.

Yet I wonder if others have been struck, as I have been, by the contradictions of public policy in this area. For a generation now, from the time the Supreme Court called for severe restraints on public assistance to nonpublic schools, various levels of government have both imposed these restraints and have fair to excelled themselves in devising ways, small or even symbolic, to get around them. One would say there is a considerable disjunction between what we say and what we do in this field save that the whole business is so muddled as to preclude the very thought of anything being distinct.

Such murkiness is properly a warning to officeholders. Even so I have become involved, perhaps to my cost, out of a combination of personal experience and public concerns which begin with my having attended such schools, specifically the Catholic parochial schools of New York City, as a child and the fact that when I did so there seemed nothing unusual about them. They were the normal schools of my youth, in every sense parochial, and to the child's perception entirely public.

My public policy concern in this area has rather different origins. We face a great contraction in the nongovernment sector in education. I feel this will be a loss both to education and the pluralism, and one that also poses fundamental problems for many cities of the Northeast, perhaps especially for those of my own state.

Hence I have been an advocate of public—in this instance federal—aid to nonpublic education at the elementary and secondary level—as well as at the college level where it is now taken for granted, where indeed it has become an indispensable element of government policy.

I am an advocate of tuition tax credits, which almost passed the 95th Congress and has been reintroduced in both the Senate and House in the 96th Congress. I think that the income tax system provides an appropriate and straightforward way to aid those who are struggling to pay their children's tuitions and one that has further advantage of requiring minimal entanglement of nongovernmental schools with government agencies. A tax credit makes clear that the aid is going to the individual, not to the educational institution, and in an important sense it is not really "aid" at all but rather what might be termed permission to the taxpayer to keep a bit more of his own income for purposes thus tacitly sanctioned, but in no way required, by the government.

We should be clear, however, that the form the assistance takes is not the point. Myriad other ways could be devised to lighten the financial burden of school tuitions. As an example of a different approach that I believe warrants consideration—not as a substitute for tax credits but as a complementary idea—I also introduced a bill this year to extend the Basic Educational Opportunity Grants program to the elementary and secondary level, which would make federal grants—scholarships is the familiar word—available to needy students to help them pay their educational expenses. We have large and effective programs for doing this at the college level, now including students with family incomes up to about $30,000, and there is no reason these could not reasonably be extended to cover primary and secondary education. Indeed, this coming week I will appear before the Senate Subcommittee on Education, Arts and Humanities, which is currently considering re-authorization of the B.E.O.G. program, to explain my proposal.

There is a possibility that we will prevail during this Congress, with tax credits, Basic Grants, or some other approach. I am doing my best to see that we do. But I would be less than candid with you if I did not share my concern that it will be difficult to succeed in Congress so long as the President and the executive branch remain opposed. And this unhappy situation is apt to persist until we manage to impress upon the President and the executive branch not only that simple justice and sound policy are on our side, but also that it is in their interest to embrace our interests.

Three years ago this week, as a Presidential candidate, Jimmy Carter wrote a letter to the Chief Administrators of Catholic Education in which he said: "Throughout our Nation's history, Catholic educational institutions have played a significant and positive role in the education of our children. . . . Therefore, I am firmly committed to finding constitutionally acceptable methods of providing aid to parents whose children attend parochial schools."

It is not surprising that the Democratic party's Presidential candidate would offer to support aid for nonpublic education. Both of his immediate predecessors, Senator McGovern and Vice President Humphrey, had done as much. The platform on which he was running stated, in a plank I had the privilege of writing, "The Party renews its commitment to the support of a constitutionally acceptable method of providing tax aid for the education of all pupils in non-segregated schools in order to insure parental freedom in choosing the best education for their children."

Furthermore, the Republican party was at least as forthcoming. The 1976 G.O.P. Platform said, "We favor consideration of tax credits for parents making elementary and secondary schools tuition payments. . . . Public schools and nonpublic schools should share an education fund on a constitutionally acceptable basis."

Hence there was no reason to be surprised that the Carter campaign included such a pledge. There would have been greater cause for wonder had it not. But what was not predictable, and was to me both surprising and alarming, was that fifteen months after Mr. Carter as a candidate made this promise, Mr. Carter as President set out to defeat tuition tax credits. This was not just mild disapproval, but intense and unrelenting opposition.

One could adduce various explanations for this, but I shall offer what seems to me under the circumstances to be the unavoidable conclusion. A commitment to Catholic educators was not regarded as a commitment that had to be kept.

When a political figure abjures a commitment he had earlier made, one of two things has happened. Either his advisors have misled him into thinking that the commitment is in fact being kept in some other way or will be kept at a later time. Alternatively, he has recognized that the commitment is not being kept but judges that there will be no substantial political price for not keeping it, either because the groups affected are unswervingly loyal (or hostile!) to him, or because they do not really care about the issue at hand, or because they will understand that he has changed his mind.

I shall not try to characterize the nature of the administration's rejection in early 1978 of a commitment that the President had made in late 1976. But I will say this. Those who are concerned with nonpublic education in general and Catholic education in particular must in the coming months develop a degree of perseverance and sophistication of advocacy that has not recently been associated with that concern. For if the necessary commitment to this concern is not found in the executive branch in the aftermath of the 1980 election, it is unlikely that those of us in the legislative branch will be able to prevail. I wish to be gentle, but I wish also to be clear about the nature of such commitment, for an amiable disposition toward nonpublic education will not suffice to overcome the deeply ingrained hostility of the government's education bureaucracy. A candidate wishing to be thought a friend of nonpublic education—and there may well be some who do not so wish—must be asked to make a commitment that he will regard as solemn and binding: to propose specific measures and to persevere until such measures can be enacted into law by the Congress and subsequently reviewed by the Supreme Court.

This will not be easy to achieve, for it will require the mobilization of considerable moral and political force on behalf of our cause. Presidential candidates have a natural tendency to avoid binding commitments on controversial issues unless they find either that it is overwhelmingly in their interest to make such commitments or that it is irremediably damaging to their interest *not* to.

On the matter of nonpublic education, I fear we are not off to a very good start, at least with respect to *my* party. (It seems likely, though it ought not be taken for granted, that whomever is nominated by the Republicans will again be attentive to these matters. At least that has been the general pattern.)

On September 25, 1979, President Carter held a "town meeting" at Queens College in New York City, where I was present. The "townspeople" present clearly included a number with an interest in Catholic education, yet not a single question was addressed to the President on this subject. And just this week, on Tuesday, October 16th, the President addressed the National Conference of Catholic Charities in Kansas City. I was not present, but so far as I have been able to determine the subject of Catholic education was not raised by anyone present.

There is time to rectify this, with respect both to President Carter and to the various contenders for his office, but there is not a lot of time, and it is not a task that anyone is going to do for us. Nor will it be an easy one, for there *is* organized opposition to aid for nonpublic education. Hence a decision to support such aid must be based at least in part on a political judgment that there is greater reward for doing so than for opposing or ignoring the matter.

In order to achieve this level of political effectiveness, those who seek such aid must first determine that they are proud of their cause and confident that they are asserting it as a *right*, not pleading for a favor. They must also insist—and it is to this point that I shall devote the balance of these remarks—that the question of Constitutionality of providing public aid to nonpublic education be temporarily set aside while it is determined whether as a matter of policy and politics, the leadership of the nation believes that such aid should be provided.

Only the Supreme Court of the United States can make a final determination as to the Constitutionality of a given law or program, and that can only happen after such a law or program is enacted. The Supreme Court does not give advisory opinions. If a program of aid, whether it be tuition tax credits or Basic Grants or something else, is not passed by the Congress and signed into law by the President it will never be possible to have it reviewed by the Court.

Such a review is necessary and—I wish to be clear—its outcome is far from certain. I believe that aid to nonpublic education is permissible under the Constitution, and that only a flawed reading of the First Amendment would prohibit it. I further believe that the Supreme Court, in a series of decisions beginning in 1947, has been wrong in its interpretation of the establishment clause of the First Amendment, and I have written and spoken extensively to this point. In time—as has happened in other areas where the Supreme Court has, for a period of time, been "wrong"—I expect the Court to correct itself, and I should like to hope that the enactment of federal aid to nonpublic education would occasion such correction. But I cannot be certain that this will happen. I ask only that we be granted our day in court to argue the case on its merits. We shall, of course, respectfully and faithfully comply with the Court's ruling whatever it may be.

But we must have less patience with those who are simply opposed to aiding our schools and who cloak their opposition to such aid in the garb of Constitutional disputation. If our experience with tuition tax credits in the 95th Congress taught us anything it is that those who prefer not to help Catholic schools are wont to interpose the Constitution between any specific proposal and the issue of social policy that it properly addresses. (With the greatest respect for former Attorney General Bell and former H.E.W. Secretary Califano, the administration which they served indulged in such interposition, using the question of Constitutionality as a way of ducking the policy question, at one point even sorely misrepresenting our bill so as to buttress their reading of the First Amendment and thereby make it easier not to address the issue of whether they did or did not wish to see these schools survive.) I would hold that those who, as a matter of policy, do not want public funds to assist nonpublic schools and their students should be expected to say so and should not be permitted to avoid that question by substituting predictions of what the Supreme Court will or will not say if in fact legislation were passed to provide such assistance.

If, then, the matter is not resolved beforehand, I would suggest that in the coming months it ought not be enough for candidates simply to indicate a warm disposition toward a popular cause. Candidates who wish to be understood as favoring some form of aid should be expected to say just what form they intend, and *then* to say that they will press the matter through Congress in order that it may be tested in the Supreme Court. They should be asked to specify that they will not use the constitutional question as an excuse to avoid the question of public policy.

It seems to me that this is a reasonable expectation. It may be that when put in this manner no candidate will want to be associated with support for nonpublic schools. In which event, fair enough. It is an important issue, and very much an urban issue.

This would scarcely be the only issue in an election, and I would certainly hope that it does not join that growing list of "single issues" that determines bloc voting. If we are disappointed, so be it. But that is better than being misled. There is too much of that: probably always has been, but there is no point settling down to a kind of agreed upon deception such as is practiced in the quadrennial pledge to repeal the Taft-Hartley Act.

The springs of democracy should run clear. We have rather muddied them in this matter, and should do better.

Finally, I would hope we all might be a bit more ecumenical in this issue than we have been. There are those who just don't like church-related schools, and aren't going to change their minds. But many more persons are genuinely worried as to what might happen to the public schools if aid is provided to what they see as a competing system. They deserve answers, just as we do.

We begin with a common concern for education. Surely that should lead to a shared dialogue on how best to advance it.●

GLOBAL COMMUNICATIONS DEVELOPMENTS AND PROBLEM AREAS

● **Mr. MOYNIHAN.** Mr. President, during the last week of September, leading telecommunications experts from throughout the world met in Geneva, Switzerland to discuss global communications developments and problem areas. The meeting was sponsored by the International Telecommunications Union and brought together an impressive array of senior government officials, high-level executives, engineers and consultants from the communications and information system industries throughout the world. These participants are involved in planning, designing, and implementing private and public telecommunications systems and networks.

The United States can be proud of the men and women who represented our Government and industry and who played a major role in this very successful gathering. Through presentations and exhibits, we again demonstrated that American firms are in the forefront of the highly sophisticated and rapidly changing communications field. Our participation proved once again that we want to share our technology with others and we are anxious to learn from the other nations of the world.

In the midst of these technological developments, however, we must remain alert to problems that such advanced accomplishments bring with them. With that in mind, I was impressed by reports of a speech delivered in Geneva by a leading American businessman, Rand V. Araskog, president and chief executive officer of International Telephone and Telegraph Corp. Mr. Araskog was chosen to deliver the keynote address which opened "Telecom '79" in Geneva. In his remarks, Mr. Araskog called attention to one of the major problems facing developed and underdeveloped countries alike—the "human" or "people considerations" involved in pursuing the new and promising era of advanced telecommunications technology.

He reminded the more than 1,000 officials present at the Telecom 1979 inaugural that we cannot forget or overlook the continuing contribution of the people who have made the industry great. He urged that we recognize and prepare now for the human adjustments which this promising future will bring with it. He warned against the consequences of severe dislocations of present employees who may not currently be prepared for the demands of a new and more sophisticated industry and a possible shortage of sufficiently trained workers to meet future needs. The skills of yesterday and today will simply not suffice in the communications world of tomorrow, Mr. Araskog said. The ITT president emphasized the need to find, train and develop the people that the telecommunications business will need in the future and called for a study group formed under ITU auspices to develop long-range plans for bridging the growing gap between technology and human skills.

This appears to be a very sound proposal since the International Telecommunications Union consists of delegations from 154 countries around the world and is a leading forum for considering the role of communications in today's society. As an organization which has taken the lead in harmonizing the development of telecommunications throughout the world, it may be able to play a vital role in this important planning for "people considerations." I commend Mr. Araskog for his forward-looking recommendations and I ask that the entirety of Mr. Araskog's address be printed in the RECORD for the consideration of my colleagues.

The address follows:

A DISCORDANT NOTE IN THE TELECOMMUNICATIONS MARCH

Mr. Federal Councillor, Mr. Secretary General, Mr. Councillor of State, Mr. Mayor, Mr. Ministers, Your Excellencies, Ladies and Gentlemen, I am very pleased and honored to be your keynote speaker. Now a keynote in music is described as the fundamental note. I am quite certain that the fundamental theme of each of the meetings to be chaired by telecommunications leaders will be the dazzling developments in digital technology, leading to more communications for people the world over.

The men who founded the ITU well over 100 years ago, could never have dreamed of the subsequent accomplishments of the then infant industry. The relatively simple approach of transmitting a signal by wire has, in the 1970's catapulted into the integration of the power and intelligence of the computer with the flexibility and efficiency of electronic communication.

The vast storage and computational capabilities of the computer are now instruments of telecommunications. The line between the information processing and communications disciplines is disappearing. That boundary which once kept them apart is fading.

Electronic communication is creating spectacular competition and growth in the telecommunications field. It also supports the efforts of mankind to explore and use outer space and is critical to the many other interests of the world population, from energy exploration to the television in our own living rooms.

There is so much about telecommunications that is melodious, so much that has tempo: there is so much in the new harmonizing of business equipment and telecommunications that makes Telecom '79 one of the most exciting in terms of the forward look that you will have described by many of the technical, business, and government leaders here over the next several days.

Within these exhibition halls, you will see the equipment and services that are testimony to the technological revolution that is taking place, permitting man to communicate with greater speed, clarity and precision, year after year.

The effect on world relations is certain. As communications improve between nations, diplomatic relations become trade relations, cultural and educational exchanges follow and finally and most importantly, the realization develops that disparate ideas can and will exist in a crowded world.

In the last 10 years, the number of telephones in the world has almost doubled. No matter whether telecommunications are supplied by government or private entities, the growth continues through good times and bad as supply trails ever increasing demand.

Those nations with the greatest telecommunications densities are also the ones with the highest standards of living. It is obvious that as more and better communications are available to more people, the quality of life, expansion of commerce and industry and the enlargement of trade follow.

Not only do all of us in business, education and government enjoy the use of far better communications equipment and facilities through which to perform our responsibilities, but communication brings understanding and it brings warmth.

On a very personal note, I remember several years ago calling my home while I was away on an extended business trip, and having my young son home answer the phone with the word, "Dad, I knew it was you, the phone had a happy ring." I am sure we have all, in one way or another, had similar experiences, and from them, the recognition of the security and warmth that comes from having a telephone in the office or home. Of course, there are hundreds of millions of people who do not yet share this privilege, and it is a common objective of all of us to see that one day soon they will. This, again, is the fundamental note of Telecom '79.

On this human ring, may I say that, while it is not the fundamental note, there is a strong, discordant note in the march of telecommunications.

Most telephone equipment manufacturers and post, telegraph and telephone administrations around the world have been forced, not to add, but to subtract from employment levels. The advance in telecommunications equipment from mechanical to electromechanical, to first generation and now to digital technology, has created a requirement for fewer and fewer people—a human, not a technical problem. The new technologies require abilities in employing software, not screwdrivers; machine monitors, not maintenance technicians; tape disc, and bubble storage, not thousands of pages of records and drawings.

In telecommunications, it has been the

movement of human skills from watchful eyes and skilled hands, working with heavy machinery, to highly skilled minds and software controlled machines.

The geographic separation and the new skill requirements of the computer industry cannot accommodate the electro-mechanical factory worker.

While there is a surplus of workers mounting in the electro-mechanical telecommunications industry, the integration of computers and telecommunications technology is creating severe shortages of software personnel. There is no question, as you all know, that this software shortage will grow more severe and is now already the most critical factor limiting the rate of growth in our industry.

The people problems are very real and they will not go away, but at the same time let me add another dimension. The growth of the electronic and digital age communication systems will bring with it demands for new types of products and new services which will be the logical developments accompanying innovation. Although we may not see the needs for the same number and the same types of skills that have made the industry what it is today, there will be needs for people with new skills.

In 1950, the computer was unknown in most aspects of business and society. It had few applications for general use and was very expensive to own or operate. The planners at one of the world's largest computer firms at that time concluded that all of the foreseeable computer needs of the world would be met with fewer than 100 machines. Their order backlog today is far more than the number they thought the entire world would ever need, to say nothing of the thousands of computers already in service, and obviously hundreds of thousands of jobs have been created in this process.

The growth potentials for our industry may be just as great, perhaps even greater in the years to come. The office of the future is still several years away, but many of its basic components have become routine parts of our daily business lives.

Telex services continue to grow nationally and internationally. Facsimile machines are being used to send pages of text and drawings across continents and across oceans in minutes. Teleconferencing has been tried on experimental bases in several nations and may assume a legitimate business place as the cost of energy and transportation increases, making business trips a diminishing practice.

Remote terminals connected to central computers are becoming more and more widely used in transportation, utilities, banking and a host of other business and governmental applications.

These are all facts of telecommunications life today, and to some extent each of us here today is involved in that evolution. We must continue to play a central role in the economical development and marketing of these services and the equipment which make them possible.

Prestel, Teletext, Teletel and Data Handling will all be realities within the next few short years. They will need terminals, transmission facilities, an ability to handle interactive data. They are all concepts which have emerged from telecommunications, and they will need people.

We will continue to face the problem of accommodating the needs of the future with the requirements of today. We have to learn how to help people adapt to the new jobs created by the new technology. There is no magic formula which can be invoked nor a piece of legislation passed which will suddenly transform a person skilled in mechanical assembly into a software expert.

No single act or action will provide the skills which a dynamic and growing telecommunications industry will need, nor will any single act or action see us through the critical days ahead when people considerations must be given their proper importance as business decisions are made. These challenges are not solely those of manufacturers. They affect communications ministries, telephone administration and the educational systems of each nation as well.

The maintenance technicians of today, skilled in mechanical adjustment procedures, must be given the opportunity to learn the electronic skills which they and the industry will need tomorrow. The telephone operator will need to learn computer terminal operation, and behind that operator there must be a cadre of highly skilled computer and video terminal repair people.

Outside plant forces, accustomed to the technology of wire and cable placing and splicing, will soon be putting optical fibers into service, to handle the vast increases in traffic.

The changes are here and we have opportunities almost unequalled in the history of communications. We cannot, however, forget or overlook the continuing contribution of the people who have made this industry great. We cannot afford to let those productive hands and those imaginative minds become permanently idled.

As we cannot hold back progress and perpetuate outmoded technologies to preserve the present, so we must plan to find, train and develop the people we will all need in the future.

Certainly expansion of national systems would be a major means of overcoming these problems and bringing the new people and the new technologies on stream sooner while continuing to expand existing networks.

Where long waiting lists for telephones exist, it may be better to make significant increases in telephone services and keep legitimate employment strong while meeting national needs. Many of these programs could be financed by the new revenues they will bring and governments will be spared the staggering cost of unemployment payments caused by the period of technological adaptation.

No one company nor no one country has found the ideal solution to these problems yet, nor is it likely that any single one will be able to do so.

What is needed is a professional and cooperative effort to enhance the role of telecommunications and to recognize the needs and contributions of the people who have brought telecommunications to its present high state of development.

Since its founding the ITU has brought impartiality, expertise and order to the world of telecommunications. Its technical missions, training and development programs and its establishment of international standards are living proof of that capability.

I ask you to join with me in requesting the ITU to begin an examination of the human problems of the new technologies and to recommend the courses of action which all of us need to take as we enter the 1980's. The ITU can bridge technologies, cross borders, stay above politics, defend economics and take the best ideas from each of us in compiling long range programs for the voluntary use of nations and industries. The need for such programs is clear and I know that the ITU will receive your full support in developing these new programs for people.

The ITU and Mr. Mili share this concern, and they agree that this is a proper concern for ITU action.

As I am certain is true of many in this room, I have walked telecommunications facilities from Raleigh to Zurich, Berlin-Bangalore, Bangkok, Hong Kong, Rio de Janeiro and Lagos, and I have seen the devoted and interested men and women in these facilities. They must continue to be motivated both for themselves and for a growing industry. When those satisfied people begin to turn uneasy or sullen, our industry and the world lose.

Let me close by saying that the motto of the corporation I represent is, "The best ideas are the ideas that help people." A program dedicated to helping people would be one of the finest things we and the ITU could commit ourselves to today.

The efforts already underway in many nations and at many industries would receive new and additional support and direction and the march of telecommunications can go on without a discordant note.●

THE PAPAL PROGRESS

● Mr. PELL. Mr. President, I would like to bring to the attention of my colleagues the poem, "The Papal Progress," written by Mrs. Virginia Doris of my home State of Rhode Island.

Mrs. Doris commemorates the first anniversary of the coronation of Pope John Paul II, celebrated this week, and his recent visit to the United States.

Mr. President, in her poem, Mrs. Doris pays rich and deserved tribute to this extraordinary man. I ask that the poem by printed in full in the Record.

The poem follows:

"The Papal Progress"

His Holiness, Pope John Paul, II The American "visit"

O tremulous Faith! God-be-Glorified obeisance!
The lilting of our fragile, soulful reeds
Whispers uncared for while the trumpets bray;
Aria is thin air; our heart's exalting play
Beats time but to the stride of marching deeds,
Heeding the mighty pilgrimage that Pope John leads,
His Vatican standard flaming to the day!
The empurpled Throne where a Christian pleads
Breathes nobler litany than the poet's lay.
Strong face, broad breast, pure spirit, is truer worth
Than blares that sing the thunderous echoes dumb.
Hark! 'tis the holy reverberating Te Deum
Rolls o'er the Boston Common, the rock-bound North:
The call-to-worship Future stretches forth
Its Nation's palms. Behold, He comes! He comes! ●

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. Boren). The Chair, on behalf of the Vice President, pursuant to Public Law 84-689, appoints the following Senators to attend the North Atlantic Assembly, to be held in Ottawa, Canada, October 22-27, 1979: The Senator from South Carolina (Mr. Hollings); the Senator from Ohio (Mr. Metzenbaum); the Senator from Michigan (Mr. Riegle), in lieu of the Senator from New Hampshire (Mr. Durkin), resigned; and the Senator from Arkansas (Mr. Pryor), in lieu of the Senator from North Carolina (Mr. Morgan), resigned.

REQUEST FOR COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the sessions of the Senate on Wednesday, October 31, Thursday, November 1, and Friday, November 2, beginning at 2 p.m., to hold markup sessions on the SALT II treaty.

Mr. BAKER. Mr. President, I object.

The PRESIDING OFFICER. The objection is heard.

ORDER FOR RECESS TODAY UNTIL MONDAY, OCTOBER 29, 1979, AT 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 a.m. Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR THE SECRETARY OF THE SENATE TO RECEIVE MESSAGES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, during the recess of the Senate over until Monday next at 10 a.m., the Secretary of the Senate be authorized to receive messages from the other body and from the President of the United States and that they may be appropriately referred.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR COMMITTEES TO FILE BILLS, REPORTS, AND CONFERENCE REPORTS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, between the hours of 12 noon and 4 p.m., committees may be authorized to file bills and reports and conference reports.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR THE VICE PRESIDENT, THE PRESIDENT PRO TEMPORE OR THE ACTING PRESIDENT PRO TEMPORE TO TAKE CERTAIN ACTION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the recess of the Senate over until Monday at 10 a.m., the Vice President of the United States, the President of the Senate pro tempore and Acting President pro tempore be authorized to sign all duly enrolled bills and resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS MATSUNAGA AND PERCY ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, on Monday, after the two leaders have been recognized under the standing order, Messrs. PERCY and MATSUNAGA be recognized, each for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the Executive Calendar.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, the reservation is for the purpose of affording an opportunity to inform the majority leader that the items identified by him are cleared on our Executive Calendar. We have no objection to their consideration and confirmation.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The clerk will state the nominations.

The second assistant legislative clerk proceeded to read the nominations on the Executive Calendar.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all the nominees be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, all nominations are considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

IN THE AIR FORCE

Gen. James E. Hill to be general.

Maj. Gen. Kelly Howard Burke to be lieutenant general.

DEPARTMENT OF LABOR

John N. Gentry, of Virginia, to be Under Secretary of Labor.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider en bloc the votes by which the nominations were considered and confirmed en bloc.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—PROCEDURE ON MONDAY ON H.R. 4986

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the recognition of Senators under the orders previously entered, the Senate then resume consideration of H.R. 4986, the depository institutions bill; provided further that at 3:45 p.m. the Senate resume consideration of H.R. 3434, and the pending amendment by Mr. DOLE; provided further, that whatever rollcall vote or votes are ordered in relation to the amendment by Mr. DOLE begin at 4 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

STRATEGIC ARMS LIMITATION TREATY II

Mr. ROBERT C. BYRD. Mr. President, months ago, I stated that I would determine my position on the SALT II treaty only after a thorough, systematic, and comprehensive examination of the treaty and its related issues.

Because of the vital nature of this issue, I have personally reviewed the transcripts of the extensive and valuable hearings conducted by the Committees on Foreign Relations and Armed Services.

I have studied the top secret report and the publicized findings of the Select Committee on Intelligence.

I have received numerous briefings—from administration officials and from prominent private citizens with differing views on the treaty.

I have met with leaders of several NATO countries to get the perspectives of our allies.

In July, I traveled to the Soviet Union for discussions with Soviet leaders.

Throughout this process, I have said that my decision on the treaty would stand or fall on the answer to a simple, but basic question. The question itself is simple, the answer is not so simple, but it is a simple question and a basic question; namely, is the SALT II treaty, as written, in our national interests, or is it not?

If the treaty is not demonstrably in our national interests, it should be rejected.

If SALT II is in our national interests, the Senate should consent to its ratification.

I have concluded that SALT II is in our national interests. I believe that the treaty should be approved by the Senate, with the adoption of certain provisions to be included in the resolution of ratification, upon which I will elaborate later.

First, I want to explain the reasons why I am convinced that the Senate should consent to the treaty's ratification.

THE TREATY

First. The treaty imposes equal overall ceilings on the number of strategic nuclear delivery systems for both the United States and the U.S.S.R. An initial ceiling of 2,400—the level agreed upon at the Vladivostok Summit in 1974—is placed on strategic nuclear delivery vehicles—intercontinental ballistic missile (ICBM) launchers, submarine-launched ballistic missile (SLBM) launchers, heavy bombers, and air-to-surface ballistic missiles (ASBM) capable of a range in excess of 600 kilometers.

Under the treaty, the 2,400 initial ceiling would be lowered to 2,250 beginning on January 1, 1981. This process must be completed by December 31, 1981.

On January 1, 1981, each party must begin to dismantle or destroy systems in excess of 2,250. It will be necessary for the Soviet Union to dismantle or destroy more than 250 strategic offensive systems in order to comply with the aggregate limitation.

Incidentally, Mr. President, under the treaty, immediately upon its entry into force, the reduction of systems down to the 2,400 limit would begin.

Under the treaty, an equal sublimit of 1,320 is established for the combined number of launchers of first, ICBM's and SLBM's equipped with MIRV's—multiple independently targetable reentry vehicles; second, ASBM's equipped with MIRV's; and third, heavy bombers equipped for long-range cruise missiles, that is, cruise missiles capable of a range of over 600 kilometers.

The treaty imposes a further equal sublimit on weapons equipped with MIRV's. Each party is limited to a total of 1,200 launchers of MIRVed ICBM's, MIRVed SLBM's, and MIRVed ASBM's. Of this number, no more than 820 may be launchers of MIRVed ICBM's.

Second. Mobile launchers of heavy ICBM's, heavy SLBM's and their launchers, and heavy ASBM's are prohibited under the treaty. Moreover, each party is allowed to flight-test and deploy only one new type of ICBM, which must be "light," as defined by the treaty.

Under this limitation, the United States will be permitted to proceed with the development and deployment of our only planned new ICBM—the MX mobile missile.

Third. The treaty limits the numbers of MIRV's on ICBM's, SLBM's, and ASBM's. It establishes a freeze on the maximum number of reentry vehicles permitted on existing types of ICBM's. For example, as to Soviet missiles, the limit is 4 for the SS–17; 10 for the SS–18; and 6 for the SS–19. The one new type of ICBM permitted to each party is limited to not more than 10 warheads, which is the number planned for the U.S. missile, the MX. These "fractionation" limits on ICBM's constitute a significant achievement of SALT II and will prevent the Soviet Union from fully exploiting the greater throw-weight of its ICBM's.

SLBM's may not be flight-tested or deployed with more than 14 reentry vehicles, nor ASBM's with more than 10.

The United States faces a period during the early to mid-1980's in which our land-based ICBM's will become increasingly vulnerable to hard-kill attacks from Soviet ICBM's. While SALT II will not solve the Minuteman vulnerability problem, it will make the solution to the problem easier because it will limit the number of Soviet MIRVed ICBM's to a point well below previously projected levels. And, with the limits on the number of warheads on existing ballistic missile launchers, the treaty will restrict the number of reentry vehicles which the Soviets would otherwise be free to deploy.

Fourth. The treaty prohibits certain other types of weapons systems, including surface ship ballistic missile launchers; systems to launch missiles from the seabed or the bed of internal waters; and systems for delivery of nuclear weapons from Earth orbit.

Fifth. The treaty prohibits deliberate interference with national technical means of verification or any deliberate concealment measures which impede verification of Soviet compliance with treaty provisions.

Sixth. Under the treaty the Soviet Union is prohibited from testing, production, or deployment of the Soviet SS–16, an ICBM mobile missile.

Seventh. In addition to the limitations in the treaty, the Soviet Union is committed to hold production of the Backfire bomber to not more than 30 annually, and to certain other restrictions on the Backfire.

Eighth. SALT II leaves the United States free to develop strategic weapons systems needed for our own security. The Joint Chiefs of Staff testified to the Senate Armed Services Committee that no planned American strategic or theater nuclear weapons system is inhibited by SALT II.

In other words, the United States can proceed with the Trident I and Trident II missiles; the Trident submarine; air-launched cruise missiles; advanced cruise missile carriers; bomber modernization—including an improved FB–III; and the MX missile in a survivable basing mode. We also may proceed to develop and test ground and sea-launched cruise missiles with ranges exceeding 600 kilometers. Ground and sea-launched cruise missiles with ranges exceeding 600 kilometers may not be deployed until after December 31, 1981, at the termination of the Protocol; but in any event the United States has no program for such deployment before that time.

Ninth. U.S. defense programs can be managed more effectively with SALT II than without it. The unrestrained strategic competition we would face without SALT II would drain monetary resources we need for our conventional forces and for theater nuclear forces in Europe. General Meyer, Chief of Staff of the Army, testified:

> Without SALT we would have to be devoting such an increasingly large portion of our defense budget and national budget to strategic weapons that we could very likely have an even decreased capability conventionally.

Tenth. SALT II will leave us free to continue to collaborate with our allies in the modernization of NATO's theater nuclear forces and to consider arms control initiatives in that area.

Eleventh. SALT II will pave the way for negotiations leading to SALT III, in which it is hoped that the growing imbalance in theater nuclear forces in Europe can be corrected, and that significant reductions in central strategic systems can be accomplished.

Twelfth. The cost to the United States of maintaining essential equivalence in our central strategic forces will be less with SALT II than without SALT II.

Defense Secretary Brown has said that without SALT II an additional $30 billion could be incurred over the next 10 years. I quote Secretary Brown:

> We are spending about ten billion dollars a year directly on strategic forces, in 1980 dollars. The program that we project through 1985 will probably require us to increase that number, in 1980 dollars, by about 25%. That will still be only half the rate—in constant dollars—at which we spent during the late 1950's and early to mid-1960's. But it will be about two or three billion dollars less than we would have to spend if there were no SALT II agreement and if the Soviets went ahead at their current momentum, which they could do very easily.

Thirteenth. Our military forces will have less difficulty executing their deterrent and emergency war missions with a treaty than without a treaty. General Ellis, commander-in-chief of the Strategic Air Command, testified that:

> The SALT Treaty provides some help simply because it restrains what we know the Soviets can do; it is that simple.

SHOULD SALT II BE AMENDED?

There are those who argue that the text of the treaty itself should be amended.

While I will support certain amendments to the resolution of ratification, I will oppose amendments to the treaty itself. Amendments to the treaty text would result in reopening negotiations. I do not believe that a new round of negotiations will serve the national interest.

SALT II required almost 7 years of negotiations under the administrations of Mr. Nixon, Mr. Ford, and Mr. Carter, during which the Soviets made several concessions—for example, equal limits and sublimits on missile systems; fractionation limits; prohibition against deployment of SS–16 mobile ICBM's; deployment of not more than one "new" missile; and the prohibition against telemetry encryption which impedes verification.

If the treaty negotiations were to be reopened, the Soviets would want to renegotiate the concessions they have already made. There is a real likelihood that the resulting treaty would be less—rather than more—favorable to the United States. And it is even more probable that there would be no treaty at all.

It is virtually certain that renegotiation would entail a long delay, and that during this time the Soviets would proceed to develop and deploy weapons systems which are prohibited by this SALT II treaty.

Some opponents of the treaty argue that it "allows" the Soviets to "keep" their 308 SS–18 "heavies," while denying us the "right" to build similar heavy missiles. This argument overlooks the fact that U.S. force planners opted in the 1960's not to go the "heavy" route, and chose instead to go for smaller, more accurate, solid-fuel ICBM's—Minuteman.

Our force planners, if given the option today to build the likes of the SS–18 heavy missile, would not choose to do so. In other words, if afforded the opportunity, we would not take advantage of the "right" to build such missiles; we would still follow the course we have chosen—the MX-mobile, which is comparable in size to the Soviet SS–19, heaviest of the "light" missiles.

The SALT II treaty is not responsible for the Soviet SS–18 "monsters." The U.S.S.R. chose to go the "big missile" route many years ago. Although deployment of the SS–18 did not begin until 1974, it is a follow-on to earlier Soviet heavy missiles, and its planning, development, testing, and production covered more than a decade. Some opponents of the current SALT II treaty were among those who, in 1972, supported SALT I, which "froze-in" the big missiles. The Soviets were permitted to keep their "heavies." The 1974 Vladivostok agreement, which many of today's treaty opponents also embraced at the time, extended this provision. So, it is wrong to criticize SALT II for "allowing" the Soviets to "have" something which they already had, namely, the heavy missiles which had been agreed to in earlier negotiations.

It is futile to argue that the treaty should be amended by the Senate to reduce the number of Soviet SS–18's from 308 to 150. I would like to see the number reduced to 150—or even to zero—but there is a great gulf between what is ideal and what is achievable. U.S. negotiators sought to cut back the number of SS–18's, but the Soviets insisted that the negotiations should proceed on the basis of the Valdivostok understandings. Furthermore, to reduce the number of SS–18's to 150— or even to zero—would not change the growing vulnerability of U.S. Minuteman missiles; they would still be vulnerable to the increasing accuracy of the Soviet SS–19's and other missile systems. I hope that SALT III will result in meaningful reductions, quantitatively and qualitatively, in Soviet missiles. But SALT III will never come about if a SALT II is rejected.

POSSIBLE CONSEQUENCES OF REJECTED SALT II

Argument has been made that SALT II should be rejected in order to "shock" the American people into an awareness of the need to fund programs to improve our national defense. I do not question the need for increased expenditures, on a prudent and selective basis, for defense. But, I reject the shock argument. I believe our deliberations on the SALT II treaty can contribute to greater public responsiveness to defense needs.

Selective increases are necessary, with or without this treaty. I am convinced, however, that the cost of improving our defense posture will be less with SALT II than without it.

SALT II will allow us to carry out the necessary strengthening and modernization of our central strategic nuclear systems, while limiting the momentum of Soviet development in this field.

If the treaty is rejected a greater proportion of our total defense expenditures would be devoted to central strategic nuclear weapons systems in the effort to deny Soviet strategic nuclear superiority—thus "bleeding" away the much needed funding for modernization of U.S. conventional forces and theater nuclear forces in Europe.

This is not the only negative consequence which would flow from rejection of the treaty. For example:

First. No limits on the number of strategic nuclear delivery systems. Secretary of Defense Brown and Under Secretary of Defense William Perry testified before the Senate Armed Services Committee that this Nation would face a substantially greater threat by 1985 without SALT II than with it. Without SALT II, we could face 30 percent more total missiles and bombers, 50 percent more MIRVed strategic missiles, 75 percent more MIRVed ICBM's, and more than double—perhaps even 150 percent more—silo-killer warheads.

With SALT II, the Soviets would be limited to 2,250 strategic missiles and bombers overall. Without SALT II, considering the production momentum they have acquired, the Soviets could have as many as 3,000 by 1985.

With SALT II, the Soviets are limited to 1,200 MIRVed strategic missile launchers, while, in light of their present trends, they could have 1,800 by 1985 without SALT II. The treaty limits Soviet MIRVed land-based strategic missile launchers to 820, whereas, without SALT II, they could potentially reach 1,300 by 1985.

Second. No limits on warheads. Since SALT II limits the Soviets to 308 SS–18's—a figure which was not created by this treaty, but which was frozen by SALT I and carried forward in the Vladivostok agreement—and restricts the number of warheads on each to 10, the maximum threat from the SS–18's under SALT II is 3,080 warheads by 1985. Without SALT II, according to Secretary Brown, they could keep their SS–18 production line open and, by maintaining their current production rate, produce 500 SS–18's in that period. Without the treaty, they could double the number of warheads on each to 20 and could thereby have 10,000 warheads on their SS–18's by 1985. Technologically, the Soviets could even triple the number of warheads on each missile and could achieve 15,000 warheads on their SS–18's.

Third. The SS–16 would not be prohibited in the event of rejection of the treaty. Under SALT II, the Soviets are prohibited from testing, producing, or deploying the SS–16, the only mobile ICBM currently available to either side. Without SALT II, the Soviets would be free to deploy the SS–16 mobile ICBM.

In sum, as Adm. Noel Gayler, former commander in chief of our forces in the Pacific testified:

> The first consequence (of a rejection of the Treaty) would be more weapons in the hands of the Russians.

Fourth. There would be less predictability. Rejection of SALT II would diminish our knowledge of the threat we need to defend against, because the Soviet strategic buildup would be less predictable, in the absence of SALT restrictions on Soviet weapons and prohibitions against concealment from our national technical means of observing them.

As Secretary Brown has said:

> Without SALT we would lose the greater predictability that is one of the agreement's most important contributions to stability. In my view, it is probable that without SALT II we would enter into an era of greater uncertainty—in both military and political terms—that would result in increased strategic forces on both sides, as hedges against that uncertainty. This would mean less rather than more security for the United States—and for the Soviet Union, too.

General Barrow, Commandant of the Marine Corps, testified:

> If this Treaty were rejected, our knowledge of the threat we face and must defend against would necessarily diminish (because there probably would be) no restrictions on Soviet programs and prohibitions against concealment.

Fifth. Rejection of SALT II would damage U.S. leadership credibility. In considering the consequences of rejection of SALT II, we must also look at the international impact, and its effect on our allies and on our role of international leadership. I have had the opportunity to review the extensive testimony on this issue, and to discuss it over the past months with a number of key European leaders. I have found our European allies to be strongly supportive of SALT II, although they have some specific concerns about the noncircumvention clause and the provision of the protocol. Europeans are genuinely concerned about the growing imbalance in theater nuclear and conventional forces, and they hope that this imbalance can be rectified in SALT III—which, of course, would not be reached unless and until SALT II is ratified. Rejection of SALT II would send confusing signals to other nations. Our allies would tend to see rejection of the treaty as raising serious questions about U.S. stability and leadership. It would create a climate of political uncertainty. The cohesiveness of the Western alliance would be undermined.

Sixth. Rejection of SALT II would make U.S. monitoring more difficult. Without SALT II, the United States would face a much more uncertain situation in monitoring Soviet strategic developments because the deception, concealment, and countermeasures banned by SALT II would be uninhibited. U.S. monitoring capabilities with respect to SALT II may not be ideal, but without SALT II our capabilities would be considerably diminished. With or without SALT II, it would be virtually necessary for the U.S. intelligence community to have the capabilities to monitor Soviet strategic developments. SALT II places restrictions on Soviet concealment activities which deliberately impede verification of the treaty provisions. Without SALT II, there are no restrictions on the Soviets against deliberate concealment to impede U.S. monitoring and verification.

Seventh. Other arms control efforts would be endangered if SALT II were rejected. Rejection of SALT II would have a potentially adverse impact on other arms control endeavors presently underway. Such arms control efforts would include first of all, of course, the SALT process itself would be the first casualty of a failure to ratify SALT II; but our nonproliferation efforts, as well as the Comprehensive Test Ban (CTB), Mutual and Balanced Force Reductions (MBFR), and Antisatellite (ASAT) negotiations might also be imperiled.

Ratification of SALT II will not necessarily make it easier to achieve success in other arms control efforts, but rejection of SALT II could slam the door on the hope for progress in these efforts.

First. Nuclear nonproliferation. The Treaty on the Nonproliferation of Nuclear Weapons (NPT), commits all parties to the treaty, including the United States and the Soviet Union, to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date. Under this treaty, 106 nonnuclear weapon states have pledged not to acquire nuclear weapons or nuclear explosive devices. In 1975, a conference to review the operation of the NPT was held. The United States and Soviet Union were repeatedly attacked for inadequate attention to disarmament. Yugoslavia even threatened to withdraw from the treaty in part because:

> The nuclear-weapon states have not fulfilled their basic obligations under the Treaty: they have not discontinued the nuclear arms race; they have not stopped the nuclear weapons tests; vertical proliferation of nuclear weapons has continued.

Another review conference will convene next June. It can be anticipated that the degree to which the nuclear-weapon states have lived up to their obligations under the NPT treaty will again be a critical point. Most responsible non-nuclear-weapon states consider United States and Soviet willingness to negotiate reductions in the arms race as essential to the success of worldwide efforts to control proliferation. Failure to ratify SALT II would weaken our hand in our continuing effort to persuade other nations to remain nonnuclear. We will hardly be in a strong political or moral position to ask other nations to hold the nuclear line if we and the Soviets have demonstrated that we are unwilling or unable to control and reduce our own massive nuclear arsenals.

Second. Comprehensive test ban. Failure to ratify SALT II would have a seriously adverse effect on the negotiating climate for CTB. Taken together, SALT II and a comprehensive test ban treaty would have mutually reinforcing effects in moderating and stabilizing the United States-Soviet arms race. Since neither the United States nor the U.S.S.R. could be expected to deploy new types of nuclear warheads without fully testing them, a comprehensive test ban treaty could, in effect, freeze deployed nuclear warhead technologies at present levels.

Any new systems would have to employ warheads of already proven design. A CTB would place important constraints on Soviet nuclear improvements—for example, in the yield-to-weight ratios of Soviet warheads—thus preventing them from putting their missile throw-weight to most efficient use. A CTB could inhibit the Soviets' ability to field a cruise missile force as efficient and sophisticated as our own.

After 7 years of negotiating SALT II under three Presidential administrations, both Republican and Democratic, failure to ratify the treaty would severely damage our credibility as a negotiating partner. Soviet negotiators would not only reap political profit from our failure to ratify SALT II, but they would also see little incentive to make the concessions, especially on verification, that would be needed to reach an agreement on a comprehensive test ban treaty.

Third. Mutual and balanced force reductions (MBFR). These negotiations on force levels—a subject vital to European security—are at a potentially decisive stage. Disagreement remains over one key issue: the data base. Western estimates of Warsaw Pact forces differ significantly from the data provided by the Eastern countries. Nonetheless, the Soviets have accepted the Western principle of common ceilings and if the data base problem can be resolved, an agreement could be in sight. However, there is serious question as to whether MBFR negotiations could continue at all in the aftermath of a failure to ratify SALT II.

Fourth. Antisatellite weapons negotiations. The U.S. goal in these negotiations is to prevent an arms race in weapons used for attacking space objects. Such competition would increase threats to U.S. satellites, and it would be extremely expensive. The United States would prefer to avoid such a race by negotiating with the Soviet Union equitable limitations on antisatellite weapons. These negotiations are related to SALT II, in that any restrictions on means to attack satellites would increase the confidence of each side in the survivability of its satellites used for verification of arms control agreements. If SALT II is rejected, it is unlikely that the climate would exist for progress toward agreement on limiting or prohibiting antisatellite weapons.

THE TREATY IN CONTEXT

And so, Mr. President, I have repeatedly stated that, while the SALT II treaty should be considered on its own merits, it must necessarily be viewed within the broader context of the overall strategic and military balance.

Corollary and peripheral issues do arise. Although I believe SALT II can contribute to an overall improvement in United States-Soviet relations and to international stability, there remain some serious concerns about Soviet actions and policies. The Soviets have developed and deployed military forces far beyond those needed to maintain their own security. The Soviets and their clients have in several cases exploited unstable situations in Africa and elsewhere. It should be noted that their record is not one of unblemished success in this regard. What is important for the United States is that we continue to act to protect our own interests, and to make clear to the Soviets that, when international stability is threatened in such a manner, it will inevitably affect prospects for better United States-Soviet relations.

In the recent controversy over Soviet troops in Cuba, there was danger that we would lose sight of what our country's real interests are. We are not threatened by the presence of a brigade of Soviet troops in Cuba. The stakes in SALT II are much higher and far more vital to our national security than this peripheral and unrelated issue.

The fact is that SALT II—as a number of qualified witnesses have testified—is a positive contribution to our national security. And the action by the Senate on this treaty can have a profound effect on international security, stability, and the prospects for world peace for many years to come.

I would readily concede that the SALT II treaty is far from perfect. Any Senator unilaterally can draft a treaty but it takes two parties to negotiate it. We must remember that this treaty is the product of negotiations between two parties over 6½ years, under three administrations, two of which were Republican and one of which was Democratic.

This treaty, like most treaties, is a statement of the political realities existing between the nations involved. It suggests a commitment on both sides to limit competition in one domain, that of strategic arms.

Certainly there is no more important area in which to achieve agreement—even limited agreement—than in this critical area. Cooperation to moderate competition in strategic arms does not mean an end to United States-Soviet competition in other areas. Indeed, the fact that such competition between the Soviet Union and the United States will continue makes SALT II all the more important: the treaty is a step toward stabilizing the nuclear arms race and thereby reducing the danger that Soviet-American competition or confrontation on other questions might lead to nuclear confrontation.

We will not be relying on trust. That would hardly be a sufficient basis for assuring that the provisions of the treaty are being complied with. We will be relying on our own observation. Our diverse national technical means can provide us with accurate and up-to-date information on Soviet strategic developments. The Select Committee on Intelligence has considered this matter in a careful and detailed manner in reaching this conclusion.

Thus, it is my strong belief that approval of SALT II is the correct step to take not only in terms of our national security interests, but for its international implications as well. At the same time, I reiterate that we must take steps to bolster our deterrent capability, particularly in NATO. This, of course, is not for the United States to do alone. It has to be done in conjunction with our European allies.

As to the resolution of ratification, I now turn to those areas of the treaty and protocol which, in my view, require strengthening through clarification or elaboration by the Senate in the resolution of ratification. These include matters which relate to our future ability to proceed with programs vital to our future ability to proceed with programs

When I met with President Brezhnev, Foreign Minister Gromyko, and other Soviet leaders early in July, I stated that there were several areas of major concern to me and other Senators, and I indicated that the Senate would probably act on these points.

PROTOCOL EXPIRATION

I said that it was likely that the Senate would specify that the provisions of the protocol do not constitute a precedent, and that the protocol could not be extended beyond its December 31, 1981, expiration date without the explicit consent of the Senate. I regard this as a matter of major importance. General Jones, Chairman of the Joint Chiefs, said:

> As presently constructed, the Protocol restrictions will have no significant impact provided there is no extension of the current expiration date.

The protocol must not be considered in any sense as precedental. This is a critical issue in relation to our ability to deploy cruise missiles and the MX in the 1980's. The limits in the protocol, we have been repeatedly assured, will in no way inhibit the testing and development of these systems. We want to leave no shred of doubt about our ability to go ahead with these systems, and to make clear that the protocol means what it says. We might face a future effort to make it appear that we are somehow reneging on the treaty if we do not continue the provisions of the protocol. Thus, it is important for the Senate to act on this point.

NON-CIRCUMVENTION

I informed the Soviets that the Senate would want to state its understanding that the noncircumvention provision of the treaty will not affect existing patterns of collaboration with our allies. We have been informed that during the SALT II negotiations, the Soviets repeatedly sought to place limits on us in our cooperation with allies. Our negotiators successfully rejected these efforts, but I think it is incumbent upon the Senate to make our position on this issue absolutely unequivocal. This is an issue of major importance to NATO.

BACKFIRE BOMBER

In his statement at the Vienna Summit, President Brezhnev made certain important assurances and commitments in regard to the Backfire (Tu22-M), stating that the production level would not exceed 30 aircraft per year and that the radius of action would not be increased so as to give it intercontinental capability. President Brezhnev reaffirmed this during my meeting with him. I believe the Senate should formalize these assurances. We should make clear that we consider the carrying out of these commitments to be essential to the obligations assumed under the treaty. I support a reservation which would underline the legally binding nature of these commitments and indicate that their violation would constitute grounds for our withdrawal from the treaty.

VERIFICATION AND REPORTING PROCEDURES

I also believe it is important for the Senate to establish formal verification reporting procedures. The Senate should be kept informed on a regular and periodic basis of our monitoring efforts in relation to SALT II, including issues brought before the Standing Consultative Commission (SCC). The Senate should be advised immediately, through the procedures governing the Select Committee on Intelligence, of any significant new development which indicates either Soviet noncompliance with, the treaty or Soviet activities inconsistent with the objectives of the treaty. I am cosponsoring a reservation which would require reports to the Senate every 6 months on SALT II verification and compliance, plus special reports at such other times as developments warrant.

I believe that—with inclusion of the kinds of modifications I have suggested—we will have a treaty that is balanced, that protects our security interests, and enables us to proceed with needed qualitative improvements in our deterrent capability. It would be foolish to jeopardize all of this, and the long efforts that have gone into achieving agreement on SALT II, by attempting to rewrite the treaty in the Senate.

I have cited four specific points on which I believe the Senate should act: nonextension of the protocol, the noncircumvention provision, the bomber, and verification and reporting procedures. There are additional subjects which the Senate may wish to deal with, a notable example being clarification of the status of the agreed statements and common understandings. It is my belief that the agreed statements and common understandings are of the same force and effect as the provisions of the treaty and it would be appropriate for the Senate to make this clear in the resolution of ratification.

The Senate may take additional actions, and I may want to submit other proposals for consideration. For example, in conjunction with its consideration of the treaty, I believe the Senate should adopt language providing guidance for U.S. negotiators in SALT III. This would include a declaration of our support for significant reductions in levels of strategic arms on both sides—in keeping with the principle of essential equivalence. This would be consistent with and give greater weight to the joint statement of principles and basic guidelines for subsequent negotiations on the limitation of strategic arms. The Senate may want to suggest other specific points for the SALT III agenda. This would be a means of addressing such issues as Soviet theater nuclear weapons deployment.

If the Senate approves amendments to the resolution of ratification of the nature I have discussed, I believe we should then proceed to consent to the ratification of the treaty.

HISTORIC OPPORTUNITY

In considering this treaty, the Senate has an historic opportunity. The Senate's constitutional role presents us with an awesome and solemn challenge. I believe the Senate will rise to this challenge. This treaty not only goes to the heart of U.S. national security interests, but has far-reaching ramifications in the international arena. The Senate has an opportunity to help diminish the potential for nuclear destruction, to help make the world a more secure and safer place.

I am proud of our constitutional system and the special role of the Senate in foreign policy. When I was in the Soviet Union, I took great pains to explain to the Soviet leaders the Senate's role in the treaty process and the seriousness with which the Senate exercises this independent prerogative. One of the virtues of this process is that a treaty, and particularly one of this import, having been negotiated by the executive, is then subjected to the scrutiny of the Senate. A treaty which has withstood this thorough constitutional process is backed up by the confidence and support of the American people through their elected representatives in the Senate.

I believe the American people favor a treaty that contributes to our security, while reducing international tensions and the risks of nuclear war. I believe the American people will support the steps necessary to protect our security by bolstering our defense in certain key areas. This, I repeat, has to be done with or without SALT II. Without the treaty, we face a more costly, a more uncertain, and a more dangerous future. But with the treaty we should have no illusions. As the Chairman of the Joint Chiefs, General Jones, has pointed out, we cannot let the SALT II treaty "tranquilize" us. If SALT II is approved, we cannot afford to become complacent about the critical need to undertake important strategic modernization programs in order to maintain strategic parity within the SALT II limits. Unless we sustain a commitment to a strong national defense, the possibilities inherent in SALT II will not be realized.

The SALT II treaty provides a foundation on which to build future arms control efforts. I am convinced that careful consideration of all the testimony that has been presented, and a thoughtful analysis of the treaty, leads to the clear-cut judgment that the treaty should be ratified.

This is a time for serious contemplation.

It is a time to put the interests of this country, not only of this generation—but for who knows how many generations ahead—above all partisan considerations or personal considerations.

It is a time not to be swayed by considerations other than the merits of the subject before us.

It is a time for sober reflection of the highest order.

What we do here and now will not be judged by polls or elections but in the cold, clear light of history.

PROGRAM FOR MONDAY, OCTOBER 29, 1979

Mr. ROBERT C. BYRD. Mr. President, on Monday the Senate will come in at 10 o'clock. After the orders for the recognition of the two leaders or their designees and two Senators, as previously ordered, the Senate will resume consideration of the depository institutions bill, H.R. 4986, Calendar Order No. 387. Rollcall votes may occur in relation to that bill at any time between circa 10:45 a.m. and 3:45 p.m.

At 3:45 p.m., the Senate will resume consideration of H.R. 3434, the social services bill, and the pending question at that time will be on the adoption of Mr. DOLE's amendment. There will be 15 minutes of debate on that amendment, the time to be equally divided between Mr. MOYNIHAN and Mr. DOLE, and if any rollcall votes are ordered in relation to the Dole amendment they will begin running at 4 p.m.

Other votes will occur in relation to the amendment by Mr. LEVIN and the amendment by Mr. BELLMON and, of course, final passage of H.R. 3434.

Thereafter, and/or prior to 3:45 p.m., S. 1871 being a privileged matter, a message from the House on the international energy agreement, may be called up and votes in relation to that measure may occur.

So this means, Mr. President, that on Monday there will be several rollcall votes, no less than three, and with a probability of some more, possibly several more, rollcall votes, on Monday, they being, in summation, in relation to H.R. 4986, the depository institutions bill; S. 1871, the message from the House on the international energy agreement; and HR. 3434, the social services bill.

By the way, Mr. President, I think I should state this point in connection with the program for Monday: It is to be expected that rollcall votes will occur daily throughout next week, including Saturday, and that Saturday sessions from here on out are not only a possibility, but, in some several weekends, a probability.

RECESS TO MONDAY, OCTOBER 29, 1979, AT 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 a.m. on Monday next.

The motion was agreed to; and at 6:58 p.m., the Senate recessed until Monday, October 29, 1979, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate October 25, 1979:

ECONOMIC REGULATORY ADMINISTRATION

Hazel Reid Rollins, of the District of Columbia, to be Administrator of the Economic Regulatory Administration, vice David J. Bardin, resigned.

IN THE ARMY

The following-named officers for promotion in the Army of the United States, under the provisions of title 10, United States Code, sections 3442 and 3447:

ARMY PROMOTION LIST

To be lieutenant colonel

Abercrombie, Thomas, [redacted].
Adamouski, Francis, [redacted].
Adams, Donald L., [redacted].
Adams, Doye W., [redacted].
Adams, John, [redacted].
Adams, Richard M., [redacted].
Adams, Ronald E., [redacted].
Ahern, Michael B., [redacted].
Ahrens, Robert E., [redacted].
Alexander, John B., [redacted].
Alexander, William, [redacted].
Aljets, John W., [redacted].
Allen, Cornelius A., [redacted].
Allen, David L., [redacted].
Allen, Frank B., [redacted].
Allen, Richard B., [redacted].
Allen, Robert A., [redacted].
Allison, David B., [redacted].
Allison, William F., [redacted].
Allman, Douglas D., [redacted].
Alt, Emile A., [redacted].
Alverson, Frank L., [redacted].
Ames, Robert A., [redacted].
Anderson, Clinton L., [redacted].
Anderson, Dean R., [redacted].
Anderson, Edwin P., [redacted].
Anderson, Martin S., [redacted].
Anderson, Norman L., [redacted].
Anderson, Robert L., [redacted].
Andrews, Andrew E., [redacted].
Annan, William M., [redacted].
Armstrong, William, [redacted].
Arrants, William M., [redacted].
Arrington, Jimmy S., [redacted].
Arrington, John W., [redacted].
Ashworth, Jimmy P., [redacted].
Askew, Arthur M., [redacted].
Asselin, Leo J., [redacted].
Bachman, Howard F., [redacted].
Bachman, James H., [redacted].
Baetcke, Dorothy A., [redacted].
Baggett, John A., [redacted].
Bailey, Dalene G., [redacted].
Bailey, Richard E., [redacted].
Bain, Seavy A., [redacted].
Baird, John C., [redacted].
Baisden, Edward D., [redacted].
Baker, Ralph K., [redacted].
Baker, Robert J., [redacted].
Balderson, Robert A., [redacted].
Baldwin, Roger L., [redacted].
Ball, Francisco, Jr., [redacted].
Ballagh, Robert S., [redacted].
Ballard, Stephen D., [redacted].
Banks, Hayes B., [redacted].
Barcomb, Paul J., [redacted].
Barfield, John R., [redacted].
Barkers, Arnold L., [redacted].
Barnaby, Richard J., [redacted].
Barr, Dale D. Jr., [redacted].
Barr, Douglas H., [redacted].
Barrie, Jeffrey E., [redacted].
Barrow, Joseph M., [redacted].
Barry, David A., [redacted].
Barthmus, Winfried, [redacted].
Bartholomew, Daniel, [redacted].
Bartlett, James A., [redacted].
Bartz, Richard C., [redacted].
Bashore, John F., [redacted].
Basile, Domenic F., [redacted].
Bassett, Lionel T., [redacted].
Bates, Jared L., [redacted].
Baucum, Tommy A., [redacted].
Bauer, Daniel E., [redacted].
Baumann, Charles H., [redacted].
Bawell, Walter A., [redacted].
Bayer, William K., [redacted].
Beall, Marshall D., [redacted].
Beasley, Lonnie S., [redacted].
Beaumont, Richard A., [redacted].
Bechtold, Earl E., [redacted].
Becker, James W., [redacted].
Becker, Loren L., [redacted].
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Bedell, Larry L., [redacted].
Beegle, Charles L., [redacted].
Behr, Steven, [redacted].
Beiler, George W., [redacted].
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Bell, David G., [redacted].
Bell, William A., [redacted].
Benavides, Gustavo, [redacted].
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Benton, John G., [redacted].
Bentz, Kenneth, Jr., [redacted].
Bergen, John D., [redacted].
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Best, Billy B., [redacted].
Bettner, Steven M., [redacted].
Beyer, David J., [redacted].
Bianco, Charles, [redacted].
Biank, Samuel A., [redacted].
Bidwell, Robert L., [redacted].
Biermann, James, [redacted].
Billy, Ronald J., [redacted].
Bittenbender, Edward, [redacted].
Black, Clinton J., [redacted].
Blades, Jon W., [redacted].
Blahnik, David G., [redacted].
Blair, Arnold G., [redacted].
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Blake, Bruce A., [redacted].
Blalock, Darrell N., [redacted].
Blieberger, Anton G., [redacted].
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Bluhm, Raymond K., [redacted].
Bobar, Robert L., [redacted].
Bock, James W., [redacted].
Bohm, John A., [redacted].
Boisseau, Jerry P., [redacted].
Boles, Bennie C., [redacted].
Bolin, Harold E., [redacted].
Boling, Joseph E., [redacted].
Bond, Leroy M., [redacted].
Bonine, Larry S., [redacted].
Booth, Clinton A., [redacted].
Bordenet, John P., [redacted].
Boterweg, Conrad III, [redacted].
Bouault, Louis L., [redacted].
Boukalis, Peter C., [redacted].
Bourgault, Bruce A., [redacted].
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Bradham, Ramon F., [redacted].
Bradley, John, [redacted].
Brajkovich, Catherine, [redacted].
Brake, Perry F., [redacted].
Bramlette, Larry J., [redacted].
Branch, David D., [redacted].
Brandon, James C., [redacted].
Brandon, Ramey J., [redacted].
Bransford, Ann H., [redacted].
Brennan, Francis X., [redacted].
Brennan, Mark F., [redacted].
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Bridgewater, Gary L., [redacted].
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Briggs, Roderick C., [redacted].
Bright, Willard R., [redacted].
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Burton, Emmette Y., [redacted].
Busbee, Walter L., [redacted].
Bush, John C., [redacted].
Buster, Robert W., [redacted].
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Butler, Charles A., [redacted].
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Butler, Steven M., [redacted].
Byrd, Wayne W., [redacted].
Caggins, Myles B., [redacted].
Camp, Terrence J., [redacted].
Campbell, James L., [redacted].
Canale, Angelo A., [redacted].
Carey, Danny A., [redacted].
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Carlson, Kenneth G., [redacted].
Carmichael, Gordon, [redacted].
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Carrier, William S., [redacted].
Carroll, John J., [redacted].
Cart, Frederick J., [redacted].
Carter, Willard T., [redacted].
Carusi, Joseph J., [redacted].
Cary, John R., Jr., [redacted].
Castleberry, Johnny, [redacted].
Caswell, Edward S., [redacted].
Cate, Paul E., Jr., [redacted].
Cayere, Jacques, [redacted].
Cecchine, Gary A., [redacted].
Cejauskas, Romas B., [redacted].
Cella, James J. [redacted].
Chadderdon, Robert, [redacted].
Chambers, Howard L., [redacted].
Chapman, Thomas W., [redacted].
Charbonneau, Maurice, [redacted].
Charlton, Darrel T., [redacted].
Charron, Leo D., [redacted].
Chase, Emery J., Jr., [redacted].
Chase, Michael T., [redacted].
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Chellman, Ronald J., [redacted].
Chenault, Michael S., [redacted].
Cherrie, Stanley F., [redacted].
Cherry, John E., [redacted].
Chescavage, William, [redacted].
Chien, Kenneth, [redacted].
Childress, Richard, [redacted].
Chippi, Michael J., [redacted].
Christensen, Alan N., [redacted].
Chun, Kenneth W., [redacted].
Chung, Norman K., [redacted].
Churchill, Floyd V., [redacted].
Cidras, Joseph M., [redacted].
Cisternino, John G., [redacted].
Cisz, Stanley T., [redacted].
Clark, Michael H., [redacted].
Clarke, Bruce B., [redacted].
Clayton, Robert O., [redacted].
Clearwaters, Boyd L. [redacted].
Cleveland, Russell, [redacted].
Clezie, Leonard, [redacted].
Clotfelter, Wayne R., [redacted].
Coakley, Stephen, [redacted].
Cobb, Tyrus R., [redacted].
Cohen, Morton S., [redacted].
Colclasure, Wyett H., [redacted].
Cole, Coye M., [redacted].
Coleman, William A., [redacted].
Collar, William D., [redacted].
Collins, Francis J., [redacted].
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Collum, Charles E., [redacted].
Coltrane, Carl W., [redacted].
Compton, Otha H., [redacted].
Conley, Manuel A., [redacted].
Conner, Patrick D., [redacted].
Conner, Vernon L., [redacted].
Connor, William M., [redacted].
Conroy, Thomas F., [redacted].
Cook, James H., [redacted].
Cook, Jeffery M., [redacted].
Cook, Michael R., [redacted].
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Cooke, Harold L., [redacted].
Coppedge, Raleigh E., [redacted].
Coradine, Arthur J., [redacted].
Corbett, David A., [redacted].
Corcoran, Edward J., [redacted].
Corey, George C., [redacted].
Cosand, Charles L., [redacted].
Cothren, Sanford D. [redacted].
Cotner, Jimmy W., [redacted].
Counts, Edward T., [redacted].
Cousins, Lawrence F., [redacted].
Covington, Terrell, [redacted].
Cowart, James D., [redacted].
Cowgill, Perry B., [redacted].
Cox, Jimmy D., [redacted].
Cozart, John W., [redacted].
Crabtree, Kenneth G., [redacted].
Craighill, Robert R., [redacted].
Cramer, Edward J., [redacted].
Cramer, Ned A., [redacted].
Cramer, Walter E., [redacted].
Crawford, Terry L., [redacted].
Crissman, Kearney W., [redacted].
Critchfield, John B., [redacted].
Crites, Richard J., [redacted].
Crockett, Darwin T., [redacted].
Cromartie, George D., [redacted].
Crossman, John S., [redacted].
Crybiskey, Harry E., [redacted].
Culp, Sidney T., [redacted].
Cummings, Francis J., [redacted].
Cummins, Clayton C., [redacted].
Cunniff, Schuyler N., [redacted].
Cunningham, David A., [redacted].
Curau, Joseph P., [redacted].
Curry, James T., [redacted].
Curtis, Danny D., [redacted].
Cusick, John J., [redacted].
Dabrowski, Peter F., [redacted].
Dalton, Robert B., [redacted].
Daly, Thomas H., [redacted].
Dandridge, Harold T., [redacted].
Danielski, Loren R., [redacted].
Danielson, Ralph M., [redacted].
Dash, Michael E., [redacted].
Daskal, James A., [redacted].
Daugherty, Joseph P., [redacted].
Davidson, Edward L., [redacted].
Davis, Carlton E., [redacted].
Davis, Dale A., [redacted].
Davis, Larry J., [redacted].
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Davis, Melvin L., [redacted].
Daxe, Arnold Jr., [redacted].
Dean, Arthur T., [redacted].
Dean, Byron K., [redacted].
Dean, Luther B. [redacted].
Decoteau, Glynn T., [redacted].
Deen, Don E., [redacted].
Degon, Kenneth M., [redacted].
Degyansky, Albert W., [redacted].
Dehart, Wallace K., [redacted].
Delimitros, James H., [redacted].
Delp, Steven P., [redacted].
Depalo, William A., [redacted].
Dermody, Henry M., [redacted].
Derrah, Donald W., [redacted].
Deter, Daniel E., [redacted].
Dethorn, John R., [redacted].
Deutscher, Wayne E., [redacted].
Devanney, Thomas M., [redacted].
Devens, Robert J., [redacted].
Devine, William S., [redacted].
Dexter, Craig M., [redacted].
Dexter, Richard P., [redacted].
Dexter, Thomas H., [redacted].
Dick, Donald E., [redacted].
Dick, John H. [redacted].
Dickinson, Paul W., [redacted].
Dickson, John R., [redacted].
Dickson, Weldon W. [redacted].
Dilg, James W. [redacted].
Dillon, Terance, [redacted].
Dodge, Steven B. [redacted].
Dollar, William M., [redacted].
Donahue, John J., [redacted].
Donaldson, Guy H., [redacted].
Dooley, Thomas F. [redacted].
Dorton, James M. [redacted].
Dovas, Christos A., [redacted].
Dowdy, Edward C. [redacted].
Downhour, Orbra W., [redacted].
Doyle, David E. [redacted].
Draper, Edward S., [redacted].
Draper, Stephen E. [redacted].
Dubia, John A. [redacted].
Duble, Kirk H., [redacted].
Dudley, Richard E., [redacted].
Duerr, Hans [redacted].
Duff, John S. [redacted].
Duffie, Robert D., [redacted].
Duffy, George G., [redacted].
Duke, Wayne M., [redacted].
Duncan, Michael B., [redacted].
Dunn, Carroll H., [redacted].
Dunn, Gerald J., [redacted].
Durfee, Thomas J., [redacted].
Durgin, Harry W., [redacted].
Durham, Hugh C., [redacted].
Dwyer, Frederick G., [redacted].
Dykes, Andrew A., [redacted].
Eales, Lonnie S., [redacted].
Eanes, John T., [redacted].
East, Jared G [redacted].
Easton, Jack E., [redacted].
Ebitz, Curtis V., [redacted].
Eckel, Hasko K., [redacted].
Edwards, Dennis L., [redacted].
Edwards, Gilbert R., [redacted].
Edwards, Jack L., [redacted].
Edwards, Jerry W. [redacted].
Ekvall, Charles J., [redacted].
Elliott, Charles B., [redacted].
Ellis, Donald A., [redacted].
Ellison, John S., [redacted].
Ely, Douglas C., [redacted].
England, William L., [redacted].
Entrekin, James H., [redacted].
Esposito, Anthony L., [redacted].
Etzel, Stephen L., [redacted].
Evans, Thomas C., [redacted].
Everitt, Peter B., [redacted].
Everngam, Michael H., [redacted].
Fabian, David R., [redacted].
Falkenrath, James H., [redacted].
Farmer, Danny C., [redacted].
Farris, Stephen R. [redacted].
Faulk, Albert W., [redacted].
Fear, Robert G., [redacted].
Felder, Jerry W., [redacted].
Fesler, Lorenzo E., [redacted].
Feuerborn, Thomas L., [redacted].
Fincher, Betty H., [redacted].
Fink, Kenneth L., [redacted].
Finn, John M., II., [redacted].
Finno, Roy S., [redacted].
Fiore, Leonard A., [redacted].
Fisher, George A., [redacted].
Fitzgerald, Daniel, [redacted].
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Fitzsimmons, Ronald, [redacted].
Fleming, Harry S., [redacted].
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Flint, Charles K., [redacted].
Flowers, James P., [redacted].
Flynn, Brian [redacted].
Flynn, Harold D. [redacted].
Foley, Dennis R., [redacted].
Forbes, Gary L., [redacted].
Fore, Calvin R., [redacted].
Foreman, Theodore M., [redacted].
Forepaugh, Vance B., [redacted].
Forrest, Gerald B., [redacted].
Foss, Kenneth A., [redacted].
Foster, Frank C. [redacted].
Foster, Joe B., [redacted].
Fournia, Paul H., [redacted].
Fournier, Joseph L., [redacted].
Foutter, Richard R., [redacted].
Fowler, Melvin [redacted].
Fox, David W. [redacted].
Foye, David M. [redacted].
Fraley, Robert W. [redacted].
Frank, Norma L. [redacted].
Franklin, David L., [redacted].
Franks, Tommy R. [redacted].
Frazier, Robert E., [redacted].
Frederick, Bruce L., [redacted].
Freestone, William, [redacted].
French, John R., [redacted].
Freund, Robert J., [redacted].
Friedrich, Robert L. [redacted].
Fritts, Richard O., [redacted].
Fuller, Edwin A., [redacted].
Fullerton, Robert J., [redacted].
Fulmer, Robert W., [redacted].
Fulton, James G., [redacted].
Futernick, Allan J., [redacted].
Gaither, John B., [redacted].
Gallagher, Stephan M., [redacted].
Gamble, Stephen J., [redacted].
Ganino, Joseph [redacted].
Gantt, Reid R., [redacted].
Garber, William B., [redacted].
Gardner, Lloyd K., [redacted].

Garnett, Bruce M [redacted]
Garrett, Jimmie L., [redacted]
Garris, Jack R. [redacted]
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Garwood, John E., [redacted]
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Grant, C. Keith, Jr., [redacted]
Graves, Scott A., [redacted]
Gray, Frederic C., [redacted]
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Grist, Jesse E [redacted]
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Groves, Lane H., [redacted]
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Jachim, Robert J. [redacted]
Jackson, Avery J., [redacted]
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Spinetto, John D. xxx-xx-xxxx.
Spinosa, Ray D., xxx-xx-xxxx.
Sponberg, Darrell L., xxx-xx-xxxx.

Sprague, Kenneth E., [redacted]
Spruill, Matthias A., [redacted]
Squire, Willard S., [redacted]
Staley, David H., [redacted]
Stamm, Richard L., [redacted]
Stapleton, James B., [redacted]
Starkey, James C., [redacted]
Starnes, John L., [redacted]
Steele, James J., [redacted]
Steele, William M., [redacted]
Steen, Robert S., [redacted]
Steiner, Frederick, [redacted]
Stephens, Robert F., [redacted]
Stephenson, Hartwell B., [redacted]
Stephenson, Joel S., [redacted]
Sternberg, Ben, Jr., [redacted]
Stewart, Donald P., [redacted]
Stewart, George D., [redacted]
Stewart, Robert L., [redacted]
Stewart, Thomas W., [redacted]
Stilwell, Richard G. [redacted]
Stocker, Ralph F., [redacted]
Stonecipher, Roy L., [redacted]
Storz, William A., [redacted]
Stracensky, Gary C., [redacted]
Stringer, Hugh L., [redacted]
Strom, Roger C. [redacted]
Stroud, Richard M., [redacted]
Stuart, Larry E., [redacted]
Stuart, Rodney K., [redacted]
Stubbs, Richard C., [redacted]
Stubbs, William P., [redacted]
Studdard, Walter C., [redacted]
Stunkard, Larry E., [redacted]
Styer, Norman W., [redacted]
Sullivan, Darr F. [redacted]
Sullivan, David E., [redacted]
Sullivan, David E., [redacted]
Sullivan, John P., [redacted]
Sutcliffe, Edwin H., [redacted]
Swain, Richard M., [redacted]
Swain, Thomas E., [redacted]
Sweeney, Russell W., [redacted]
Sweet, Worth A., [redacted]
Swendson, Joe A., [redacted]
Swenson, Peter C., [redacted]
Swink, Terry E., [redacted]
Swisher, Arthur H., [redacted]
Sylvester, Louis A., [redacted]
Taggart, Donald C., [redacted]
Takayama, Thomas T., [redacted]
Tanaka, Richard M., [redacted]
Tastad, Jerome W., [redacted]
Tateyama, Joseph T., [redacted]
Tavernetti, Leonard, [redacted]
Taylor, Edwin L., [redacted]
Taylor, Frederick C., [redacted]
Taylor, Herbie R [redacted]
Taylor, John M., [redacted]
Taylor, John W., [redacted]
Taylor, Larry A., [redacted]
Taylor, Morris J., [redacted]
Taylor, William E., [redacted]
Tedesco, Vincent J., [redacted]
Terry, Robert B., [redacted]
Tetu, Robert G., [redacted]
Thackston, Bruce L., [redacted]
Theriault, Alfred J., [redacted]
Thie, Harry J., [redacted]
Thiels, Jerry M., [redacted]
Thomas, Charles L., [redacted]
Thomas, Gerald E., [redacted]
Thomas, James M., [redacted]
Thomas, Joseph D., [redacted]
Thomas, Robert E., [redacted]
Thomas, Trent N., [redacted]
Thompson, Donald W., [redacted]
Thompson, John C., [redacted]
Thornberry, Roger W., [redacted]
Thornton, Rufus, [redacted]
Thrash, Gerald W., [redacted]
Tigges, Kenneth D., [redacted]
Timian, Robert C., [redacted]
Timmons, Richard F., [redacted]
Togashi, Theodore T., [redacted]
Toney, Elijah, [redacted]
Tonsetic, Robert L., [redacted]
Torrence, Harry L., [redacted]
Tracz, William J., [redacted]
Trapnell, Franklin, [redacted]
Tratensek, Milivoj, [redacted]
Travis, Stuart B., [redacted]
Trew, Grady, [redacted]
Trifiletti, Anthony, [redacted]
Tripler, David J., [redacted]
Triplett, Robert L., [redacted]
Tudela, John A., [redacted]
Tugwell, Tyler, [redacted]
Turbok, James M., [redacted]
Turchiano, Nicholas, [redacted]
Turcotte, Paul J., [redacted]
Turner, Vance L., [redacted]
Turner, William E., [redacted]
Twining, David T., [redacted]
Tyson, Robert K., [redacted]
Tyson, William E., [redacted]
Ullmann, Donald F., [redacted]
Underwood, Alan K., [redacted]
Unger, Larry T., [redacted]
Unzelmann, Werner O., [redacted]
Urquhart, John C., [redacted]
Utley, Melvin A., [redacted]
Valentine, Kit J., [redacted]
Vanalstyne, John A., [redacted]
Vanbrero, Erik, [redacted]
Vance, John D. [redacted]
Vandernaald, James, [redacted]
Vandeven, Martin L., [redacted]
Vanmatre, Donald G., [redacted]
Vanprooyen, Jan A., [redacted]
Vansteenburg, Robert, [redacted]
Vaughan, Herbert G., [redacted]
Vedrani, Ronald W., [redacted]
Veen, Robert A., [redacted]
Verdier, Douglas L., [redacted]
Vernon, Edwin T., [redacted]
Viall, Charles C., [redacted]
Vilcoq, Paul M., [redacted]
Vines, Bobby L., [redacted]
Vititoe, John N. [redacted]
Vlasak, Walter R., [redacted]
Vlasics, Robert F., [redacted]
Voelz, James H., [redacted]
Vooys, Daniel F., [redacted]
Vossler, Herbert L., [redacted]
Wade, David C., [redacted]
Wade, Thomas G., [redacted]
Wagner, Terry L., [redacted]
Wahl, William E. [redacted]
Wakefield, Thomas C., [redacted]
Walker, James L., [redacted]
Walker, Patrick E., [redacted]
Walters, Robert P., [redacted]
Walters, William P., [redacted]
Ward, Dennis, [redacted]
Ward, Emmett J., [redacted]
Ward, James E., [redacted]
Ward, Robert N. [redacted]
Ward, Thomas R., [redacted]
Ward, William E., [redacted]
Warner, John P. [redacted]
Warren, James F., [redacted]
Warvari, Harold E., [redacted]
Watkins, George H., [redacted]
Watkins, Thomas G., [redacted]
Watson, Harvey D., [redacted]
Watt, Earl A. [redacted]
Watts, William J., [redacted]
Wauford, Raymond J., [redacted]
Weary, Robert W., [redacted]
Weaver, Noel L., [redacted]
Weaver, Thomas C., [redacted]
Weaver, Wendell L., [redacted]
Weber, Gary L., [redacted]
Weeks, Henry T. [redacted]
Weems, Kelly G. [redacted]
Weichel, Frederick, [redacted]
Weigand, James R. [redacted]
Weisel, Stephen L., [redacted]
Weiss, Robert M., [redacted]
Welch, Terry J. [redacted]
Wells, John T. [redacted]
Wells, Virgil R. [redacted]
Wenners, Edward B., [redacted]
Werner, Gerald C., [redacted]
West, Arthur L. [redacted]
Wettack, John T. [redacted]
Wetzel, David C. [redacted]
Wheat, Paul A. [redacted]
Wheeler, Wayne R., [redacted]
Wheelock, Eddie D [redacted]
Whitaker, James P. [redacted]
Whitcomb, Allen J. [redacted]
White, Ernest K. [redacted]
White, James L. [redacted]
White, Lowell L. [redacted]
White, Thomas E. [redacted]
Whitehorne, Joseph [redacted]
Whiteside, Leonard [redacted]
Whitney, Roger B., [redacted]
Whittle, Charles E. [redacted]
Wiecking, Charles M., [redacted]
Wikan, Michael E., [redacted]
Wiken, Wayne M. [redacted]
Wilkerson, Arthur F., [redacted]
Wilkie, Robert B [redacted]
Williams, Gene R. [redacted]
Williams, George M., [redacted]
Williams, Lee W. [redacted]
Williams, Norman E., [redacted]
Williams, Rowdy L. [redacted]
Williams, William J. [redacted]
Willis, Richard C. [redacted]
Wilson, Charles V. [redacted]
Wilson, Grady W., [redacted]
Wilson, Howard H., [redacted]
Wilson, James L. [redacted]
Wilson, Johnnie E. [redacted]
Wilson, Lee H. [redacted]
Wilson, Thomas A. [redacted]
Winslow, Wendelin W., [redacted]
Winstead, Reginald, [redacted]
Winston, Albert P [redacted]
Wise, Franklin F. [redacted]
Wolfe, Jack W. [redacted]
Wong, Frederick G. [redacted]
Wood, Calvin S. [redacted]
Wood, Jack B. [redacted]
Wood, Norman M [redacted]
Woodbury, Kenneth M., [redacted]
Woods, Alex Jr. [redacted]
Woods, Jackie W. [redacted]
Woods, Leroy [redacted]
Woolley, Bobby J. [redacted]
Work, Samuel C., [redacted]
Woronchuk, Ivan [redacted]
Wright, Richard H., [redacted]
Xenakis, John J [redacted]
Yamada, Earl M [redacted]
Yancy, Jimmy B. [redacted]
Yando, Arthur N., [redacted]
Yarger, Harry R. [redacted]
Yates, Stanley F. [redacted]
Yedinak, Steven M [redacted]
Yoder, Roberta A. [redacted]
Yoshida, Roy S [redacted]
Young, James V. [redacted]
Young, Richard J [redacted]
Young, Robert F. [redacted]
Young, Robert H., [redacted]
Youngblood, George, [redacted]
Youngblood, Norman, [redacted]
Yurcaba, John Jr. [redacted]
Zadrozny, Paul F. [redacted]
Zana, Donald D., [redacted]
Zdrojewski, Michael, [redacted]
Zimmerman, Marylou, [redacted]
Zink, Gale R., [redacted]
Zore, John C., [redacted]
Zschoche, Robert C. [redacted]
Zweig, Richard N. [redacted]

CHAPLAIN CORPS

To be lieutenant colonel

Bailey, Harvey E. [redacted]
Barker, Robert E., [redacted]
Behlendorf, Jack R., [redacted]
Black, Wayne [redacted]
Blue, Robert E. [redacted]
Bridgman, Huey A., [redacted]
Brosmer, Donald L., [redacted]
Bruton, James D., [redacted]
Cavin, David S., [redacted]
Clements, Kenneth B. [redacted]
Covington, Robert R., [redacted]
Delossa, Alfred Jr., [redacted]
Drake, Philip A., [redacted]
Dufour, Rene P., [redacted]
Dulany, Joseph P., [redacted]
Endress, James R., [redacted]

Greenspan, Alan M. [redacted].
Higgiston, Malachy, [redacted].
Hill, Rollin C. [redacted].
Hill, Thomas M [redacted].
Hull, James D. [redacted].
Juhan, James L. [redacted].
Kirk, Marion R. [redacted].
Kuehne, Wayne E. [redacted].
Lacey, Floyd E. [redacted].
Lacey, Thomas W. [redacted].
Lesko, Edward A. [redacted].
Lombardi, Felix J. [redacted].
Martin, Jerry L. [redacted].
Mathis, Roy N. [redacted].
McKinney, James H. [redacted].
Nebergall, Allen V. [redacted].
Norton, Thomas H. [redacted].
Ortiz, Michael G. [redacted].
Peterson, Eugent S. [redacted].
Powers, George E. [redacted].
Reinbacher, Otto A. [redacted].
Schaffer, Harvey L. [redacted].
Schlater, Richard A. [redacted].
Scott, Larry D. [redacted].
Seaborn, Duane R. [redacted].
Sitler, John E. [redacted].
Spry, Randolph G. [redacted].
Sullivan, Luke F. [redacted].
Tierney, Warren L. [redacted].
Voelker, Charles E. [redacted].
Walker, Jack W [redacted].
Watterson, John E. [redacted].
Windmiller, Bernard, [redacted].

JUDGE ADVOCATE GENERAL CORPS

To be lieutenant colonel

Adams, John B. [redacted].
Arkow, Richard S. [redacted].
Burke, Michael A. [redacted].
Carmichael, Harry S. [redacted].
Colby, Edward L. [redacted].
Cooper, Norman G. [redacted].
Eggers, Howard C. [redacted].
Gates, Elmer A. [redacted].
Giuntini, Charles H. [redacted].
Gleason, James C. [redacted].
Haessig, Arthur G. [redacted].
Heaston, William P. [redacted].
Jacunski, George G. [redacted].
Kennett, Michael B. [redacted].
Kirchner, John E. [redacted].
McNeill, David, Jr. [redacted].
Miller, Joe D. [redacted].
Mitchell, Kenneth M. [redacted].
O'Brien, Maurice J. [redacted].
Plaut, Peter K. [redacted].
Richardson, Quentin, [redacted].
Sandell, Lawrence J. [redacted].
Scanlon, Jerome W. [redacted].
Strassburg, Thomas, [redacted].
Taylor, Warren H. [redacted].
Weber, John P. [redacted].
Werner, Steven M. [redacted].

MEDICAL SERVICE CORPS

To be lieutenant colonel

Aasen, Robert B. [redacted].
Adams, Idus W. [redacted].
Adams, Thomas H. [redacted].
Addison, Wilbur D. [redacted].
Alexander, James R. [redacted].
Anderson, Kenneth W. [redacted].
Atack, Rodney M. [redacted].
Ayala, Isaac, [redacted].
Baker, Michael C. [redacted].
Bennett, James R. [redacted].
Bennett, Roger A. [redacted].
Benson, Charles F. [redacted].
Blatnica, Joseph R. [redacted].
Boland, Edward J. [redacted].
Boyd, Raymond D. [redacted].
Brady, Thomas F. [redacted].
Case, Harry M. [redacted].
Christianson, Lloyd, [redacted].
Collopy, Eugene A. [redacted].
Conway, John W. [redacted].
Cook, Richard E. [redacted].
Dunlevy, Bernard J. [redacted].
English, Lamont B. [redacted].
Ethington, William, [redacted].
Fechner, Robert F. [redacted].
Freeman, Joseph B. [redacted].
Gill, Alfred W. [redacted].
Ginn, James P. [redacted].
Gmelin, Robert T. [redacted].
Goriup, Franklin J. [redacted].
Grosshans, John H. [redacted].
Hart, John S. [redacted].
Hill, Anthony W. [redacted].
Hrubetz, John E. [redacted].
Hula, Roger P. II. [redacted].
Ideus, Eldon H. [redacted].
Italiano, Angelo J. [redacted].
Jones, Robert G. [redacted].
Jordan, Charles O. [redacted].
Jorlett, Joel [redacted].
Kamenar, John M. [redacted].
Kelley, Randall R. [redacted].
Kelly, Robert W. [redacted].
Kernen, George G. [redacted].
Knight, Horace, [redacted].
Kulm, Gale B. [redacted].
Kusumoto, Howard H. [redacted].
Lacy, Nelson C. [redacted].
Lamb, Robert F. [redacted].
Lander, Robert J. [redacted].
Leach, Paul J. [redacted].
Letchworth, James R. [redacted].
Libby, Glidden N. [redacted].
Lindahl, James H. [redacted].
Lloyd, Andree J. [redacted].
Lull, George F. [redacted].
Lyons, Gerard A. [redacted].
Marshall, Stanley B. [redacted].
McClinton, Gaylon M. [redacted].
McGibony, James T. [redacted].
Meek, Thomas, [redacted].
Mekkelson, Peter W. [redacted].
Moore, James F. [redacted].
Moore, Thomas J. [redacted].
Mora, Edward A. [redacted].
Moses, Morris H. [redacted].
Mote, Edgar F. [redacted].
Murry, James H. [redacted].
Nelson, Larry L. [redacted].
Nichols, Alfred G. [redacted].
Ohashi, David K. [redacted].
Olihovik, Paul L. [redacted].
Parker, Stanley R. [redacted].
Patterson, James F. [redacted].
Pearsall, Robert S. [redacted].
Poe, Gerald D. [redacted].
Pollard, David E. [redacted].
Porta, Ronny E. [redacted].
Purcell, Jackson D. [redacted].
Reed, John F. [redacted].
Reichard, Lawrence, [redacted].
Reineck, Theodore C. [redacted].
Rians, Charles W. [redacted].
Ribotto, Joe W. [redacted].
Richards, Robert E. [redacted].
Rosenberg, Leroy J. [redacted].
Sargent, Martin W. [redacted].
Schlenker, Patrick, [redacted].
Selby, Jack L. [redacted].
Severson, Richard W. [redacted].
Shaffer, William J. [redacted].
Shannon, Michael A. [redacted].
Sparks, Frederick D. [redacted].
Speer, William L. [redacted].
Spille, Robert M. [redacted].
Stingle, Norbert A. [redacted].
Suit, Larry R. [redacted].
Thill, Fred A. [redacted].
Valenti, Fred, [redacted].
Vanwagoner, Frank A. [redacted].
Watson, Robert T. [redacted].
Weeks, Hershel E. [redacted].
Wells, Robert A. [redacted].
White, John R. [redacted].
Wiley, Roger W. [redacted].
Williamson, James A. [redacted].
Wilson, Claude L. [redacted].
Wilson, Gary R. [redacted].
Wimsett, Jimmie B. [redacted].
Wood, Robert T. [redacted].
Woodcome, Andrew H. [redacted].
Wright, Frederick L. [redacted].

ARMY MEDICAL SPECIALIST CORPS

To be lieutenant colonel

Baker, Margaret J. [redacted].
Boyd, Katie A. [redacted].
Cronin, Martha A. [redacted].
Fridlund, Karen E. [redacted].
Harper, John A. [redacted].
McCandless, Sally A. [redacted].
Moore, John W. [redacted].
Selman, Sherley A. [redacted].
Thomes, Linwood J. [redacted].
Vandervort, Judith, [redacted].

VETERINARY CORPS

To be lieutenant colonel

Alm, Philip F. [redacted].
Carter, James C. [redacted].
Cirone, Salvatore M. [redacted].
Cole, William C. [redacted].
Harrington, Donald, [redacted].
Johnson, Anthony J. [redacted].
Johnson, Howard C. [redacted].
Lumpkin, William L. [redacted].
Maul, Lawrence P. [redacted].
McLeod, Charles G. [redacted].
Moe, James B. [redacted].
Oldham, Larry S. [redacted].
Reardon, Michael J. [redacted].
Staley, Leo G. [redacted].
Varley, James E. [redacted].
Vogel, Lyle P. [redacted].

ARMY NURSE CORPS

To be lieutenant colonel

Allen, Jimmy M. [redacted].
Alvillar, Edna B. [redacted].
Baca, Richard C. [redacted].
Bailey, Mary A. [redacted].
Baker, Thomas D. [redacted].
Basta, Patricia J. [redacted].
Blanchard, Josephine, [redacted].
Boaz, Evelyn E. [redacted].
Bombard, Charles F. [redacted].
Bowie, Reuben A. [redacted].
Brazier, Robert E. [redacted].
Brodkey, Caroline G. [redacted].
Brown, Barbara D. [redacted].
Brown, Mary L. [redacted].
Burke, Carole A. [redacted].
Butke, Diane N. [redacted].
Chadwick, Mary L. [redacted].
Couch, Kenneth R. [redacted].
Danner, John A. [redacted].
Devin, Kathleen, [redacted].
Digirol, Marilyn T. [redacted].
Dockal, Harvey J. [redacted].
Edwards, Carolyn L. [redacted].
Ellis, Merlan O. [redacted].
Estes, Zane E. [redacted].
Evers, Thomas E. [redacted].
Fattal, Suzette, [redacted].
Fico, Karen K. [redacted].
Fletcher, Ella L. [redacted].
Fortson, Shirley E. [redacted].
Freeman, William E. [redacted].
Freidhoff, Terrance, [redacted].
Goethals, Gerald B. [redacted].
Gouldthorpe, Barbara, [redacted].
Grady, Henrietta C. [redacted].
Green, Dolores, [redacted].
Griess, Lorna L. [redacted].
Hudock, John M. [redacted].
Hurd, Waltraut P. [redacted].
James, Doris M. [redacted].
Jerney, Charlotte O. [redacted].
Johnson, Joyce G. [redacted].
Johnson, Sandrah W. [redacted].
Johnston, Zula J. [redacted].
Kohl, Michelle L. [redacted].
Kramer, Robertajo A. [redacted].
Kuttner, Jean M. [redacted].
Lambert, Sharon L. [redacted].
Lockhart, Sarah G. [redacted].
Lyde, Willie J. [redacted].
Maloney, Joseph P. [redacted].
Matson, Erland G. [redacted].
McCabe, John M. [redacted].
McCann, Sheila A. [redacted].
Mennega, Wubbina A. [redacted].
Metcalfe, Martha E. [redacted].
Miles, Ann L. [redacted].
Miller, Evelyn S. [redacted].
Moreau, Donald M. [redacted].
Morres, Anna V. [redacted].
Moslly, Charles E. [redacted].

Myers, Nancy R. [redacted]
Pearce, Maurice C., [redacted]
Peterson, Dolores C., [redacted]
Petrello, Judith M., [redacted]
Phelps, Frederick O., [redacted]
Reed, Jack O., [redacted]
Reulein, Carol E., [redacted]
Robbins, Dolly M., [redacted]
Rollins, Pearl M., [redacted]
Rosado'Otero, Adolfo, [redacted]
Sauter, Joseph G., [redacted]
Shafer, Kathleen M., [redacted]
Smith, Lucille A., [redacted]
Sterley, Marguerite, [redacted]
Sterling, Faith E., [redacted]
Taylor, Venorise M., [redacted]
Tiers, Sharon M., [redacted]
Tollefson, Marilee, [redacted]
Underhill, Lilburn, [redacted]
Urban, Donald D., [redacted]
Vail, James D., [redacted]
Welton, Nellie L., [redacted]
White, Carolyn M., [redacted]
Wolf, Jo Ellen, [redacted]
Zahm, Karen E., [redacted]
Zanto, Raymond L., [redacted]
Zuelke, David H., [redacted]

CONFIRMATIONS

Executive nominations confirmed by the Senate October 25, 1979:

DEPARTMENT OF LABOR

John N. Gentry, of Virginia, to be Under Secretary of Labor.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE AIR FORCE

Gen. James E. Hill, U.S. Air Force, (age 57), for appointment to the grade of general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Kelly Howard Burke, [redacted]FR, U.S. Air Force.

HOUSE OF REPRESENTATIVES—*Thursday, October 25, 1979*

The House met at 10 a.m.

Rev. John L. Wright, minister, First Baptist Church of Guilford, Columbia, Md., offered the following prayer:

Thou eternal God, for the democratic principle, by which we can all participate in the ordering of our community, State and national life, we pause in gratitude before Thee. Grant that we might be concerned enough to be informed, wise enough to choose leaders of integrity and ability, American enough to rise above party loyalty, and responsible enough to vote for the sake of justice as we know it in Thee. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4394) entitled "An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 428) entitled "An act to authorize appropriations for fiscal year 1980 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes."

The message also announced that the Senate insists upon its amendments to the bill (H.R. 3354) entitled "An act to authorize appropriations for fiscal year 1980 for conservation, exploration, development, and use of naval petroleum reserves and naval oil shale reserves, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HART, Mr. JACKSON, Mr. CANNON, Mr. THURMOND, and Mr. TOWER to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 751. An act relating to the relocation of the Navajo Indians and the Hopi Indians, and for other purposes.

AID TO CAMBODIA

(Mr. SIMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SIMON. Mr. Speaker, I simply want to rise to commend the President and our House Committee on Foreign Affairs for action in assisting the desperately hungry and starving in Cambodia.

The great moments in the history of this Nation have been the moments when we have done the generous, humanitarian things. I do not know, frankly how it pays off politically for the United States but I know it is the right thing to do and I hope we move with dispatch in helping these desperate people.

EDUCATIONAL OPPORTUNITIES FOR ALL AGES

(Mr. RATCHFORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RATCHFORD. Mr. Speaker, I rise today to applaud the foresight of this Congress in its recent actions to promote postsecondary educational opportunities for all Americans.

The House Committee on Education and Labor has now completed its work on the Education Amendments of 1980, which will reauthorize a broad range of Federal programs for students and colleges across the Nation. The committee has reported a strong bill which has remarkably broad support from the education community, and which will greatly expand educational opportunities for all Americans.

In particular, I would like to applaud the revision of title I of the Higher Education Act which has recently been forged in committee. The new title I is an example of the Congress responding to changing needs and to the mandate for more efficient and effective Government, focusing and targeting existing programs rather than creating new bureaucracies and increasing Federal spending.

In revising the current title I legislation, we have the opportunity to reach out to unserved adults across the Nation who face barriers to participation in higher education. For perhaps the first time, working men and women, retirees, homemakers, and individuals in isolated rural areas will have a program which responds to their special needs.

With traditional college enrollments dropping sharply, we are quickly learning that higher education is not only for our youth. I commend the Congress for its foresight in this first response to a new reality in higher education.

SALE OF AIRCRAFT TO MOROCCO

(Mr. STACK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STACK. Mr. Speaker, I commend President Carter for his decision to allow the sale of armed OV-10 Bronco reconnaissance planes and Cobra helicopter gunships to Morocco, to reinforce Morocco's effort to prevent further incursions into that country by guerrillas of the Algerian-backed Polisario front. The guerrillas, according to news sources have carried out several attacks in re-

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.
● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

cent months against targets in Morocco from the western Sahara.

The President's decision, apparently, reflects a desire to demonstrate that the United States will stand by its friends abroad, despite reverses in that policy, notably in Iran.

Saudi Arabia has been encouraging Washington to help pro-American King Hassan of Morocco, in his fight against the Polisario guerrillas, and has indicated that it will finance the arms purchases. In announcing the revised policy, a State Department official stated:

> We feel Morocco now has a self-defense problem because of numerous attacks into its territory from the Sahara.

This policy decision, in my view, is a reflection that the President has correctly perceived the changing mood of the American people, who are rejecting the guilt syndrome resulting from our unfortunate involvement in Vietnam, and who now feel, that the time has come to halt the worldwide retreat before the Communist-inspired red tide, which threatens to engulf us on a global basis. It is time to call a halt—further retreat will leave us without friends and no place to go but under.

CONGRESSMAN TONY P. HALL SPEAKS ON THE SUGAR BILL

(Mr. HALL of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HALL of Ohio. Mr. Speaker, I am pleased that the House of Representatives this week defeated the International Sugar Stabilization Act of 1979, by a vote of 158 yeas to 249 nays.

As my colleagues well know, this bill would have supported a price hike from 15 to 15.8 cents per pound on imported sugar. This increase may not seem like much, but each 1-penny increase adds $500 million a year to American's grocery expenses. At a time when inflation is sapping the strength of our economy, it would have been unjustifiable to contribute to it further.

This vote reaffirms for the American consumer that we are committed to fighting inflation. At the same time, we have not abandoned the American sugar industry. The administration's loan program for the 1979 sugar crop—under existing authority—is more than adequate.

It is important to keep in mind that the price of raw sugar is already up more than 50 percent from 2 years ago. In addition, the profits of the sugar industry are up dramatically.

The President's chief inflation fighter, Alfred Kahn, stated it best when he said:

> I wish it were possible politically in this country to have such a powerful anti-inflationary constituency or coalition that raising the price support of sugar from 15 cents to 15.8 cents would be unthinkable and impossible.

Mr. Speaker, it is my hope that this week's vote against the sugar bill will help to hasten that day.

QUESTIONABLE ACTIONS OF THE SMALL BUSINESS ADMINISTRATION INVOLVING PERSONNEL

(Mr. MARTIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARTIN. Mr. Speaker, what is going on over at SBA? Of its 63 district directors across the country, 16 are suddenly and unceremoniously being shuffled around, trading places, presumably to coerce them into resignations.

Despite pious statements from the administration that this is designed to enhance the career opportunities of these 16, it smells more like the "reeducation" programs in South Vietnam after the fall of Saigon. It smells like the kind of shabby "politics as usual" that this President promised to eradicate under civil service reform—or was that just another apparent promise?

If, indeed, this fast shuffle was a sincere effort to "promote career opportunities," as advertised, why were no Democrats considered for this enhancement? That is right, not one. The 16 are 15 Republicans and 1 Independent. Some reform, right? Just like in the olden days?

It is clear that 1980 is going to be a very significant year for loans, what with interest rates so high, and you would think that the interests of small businesses would be placed ahead of the interests of small politicians—or large ones. You would think that, if you think the President was on the level on March 2, 1978, when he proposed to "insure that employees and the public are protected against political abuse of the system."

Mr. Speaker, the Congress must investigate this shabby trick to find out who ordered it and for whom it is to make room; and why such a waste of money on such phoney pretenses.

And I call on the Civil Service Commission and its brandnew Merit Protection Board to investigate an apparent violation of its standards.

And I call on the President of the United States to root out those who have so callously tried to embarrass him with this scheme which undermines the integrity of his promise to lift civil service, out of petty patronage facilities—unless of course, he finds that this was all cooked up at the highest levels in the White House—in which case his silence will tell us all we need to know.

FEDERAL TRADE COMMISSION VIOLATES CONSTITUTION

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, I was tempted to offer my medical services to my colleagues today, at a discount rate to emphasize the right of medical doctors to advertise. I finally realized it would be most difficult to undersell the free health care the Congress has already voted for themselves.

Yesterday the Federal Trade Commission violated the Constitution when it ordered the American Medical Association to change its code of ethics. Physicians have traditionally considered certain types of advertising to be unethical, and the AMA's code of medical ethics has reflected this.

Why is such a private judgment any business of the Federal Government's? Certainly there should be absolutely no State or national laws restricting advertising, unless fraud can be proved. If any doctor wants to run radio jingles proclaiming his appendectomies as the cheapest in town, he is protected under the first amendment. But the ethics of his doing so are very much the concern of his county, State, and national medical societies. If they choose to censor him for unprofessional conduct, it is their right. The content of private organizations' codes of ethics is not within the constitutional scope of the Federal Government.

Private behavior that does not involve aggression or fraud is no concern of the FTC's. But since that agency's very existence is unconstitutional, we cannot expect legitimate decisions from it. The FTC serves no constitutional purpose. We should abolish it.

□ 1010

CONGRATULATIONS TO DELTA-NEW ALPHA CHAPTER 102 IN MARION, OHIO, AS "OUTSTANDING CHAPTER IN AMERICA"

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, I would like to take this opportunity to offer my congratulations, before the Members of the House, to the Delta-New Alpha chapter 102, based in Marion, Ohio, of the National Transportation Education Fraternity upon its selection as the "Outstanding Chapter in America" by the fraternity's national office.

This honor was bestowed upon the Delta-New Alpha chapter, comprised of approximately 90 members, last Saturday in Memphis upon the basis of the chapter's timeliness in reporting to the national office, its membership growth, its quality of programing, its participation in "National Transportation Week Activities," and its many special transportation-related projects which benefit the community.

We are all very much aware that transportation is the backbone of our Nation's economy. I commend my constituents, the members of Delta-New Alpha chapter, for their many outstanding efforts to maintain the highest degree of professionalism in the transportation industry and to promote public awareness of this vital industry.

ONLY FEDERAL RESERVE BOARD CAN CONTROL OUR RUINOUS INFLATION

(Mrs. HOLT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. HOLT. Mr. Speaker, the distinguished majority leader yesterday took the floor to denounce the restrictive monetary policy being imposed by the Federal Reserve Board.

I would tell the distinguished majority leader that there is only one institution in our country pursuing a policy with any chance of controlling the ruinous inflation that is hurting the American people. That institution is the Federal Reserve Board.

The Fed policy may be our last and best hope to stop runaway inflation, and I know it is a painful dose of medicine. It is going to be rough on all of us. The sad truth of the matter is this: It would not be necessary if Congress had restrained deficit spending and the Fed had limited monetary growth in recent years. Unfortunately, they pumped up a raging inflation.

Congress is still not demonstrating the required discipline in its fiscal policy. The proposed 1980 budget is another inflation balloon in a long string of them.

The Federal Reserve Board is now waging a lonely fight to bring inflation under control, and the majority leader should have applauded the effort.

Finally, one part of the Government has started to impose the discipline necessary to control inflation. It is sad that the elected Congress seems incapable of exercising such responsibility, but has left the responsibility to the nonelected Federal Reserve Board.

BIG OIL'S BIGGER PROFITS

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, during the last few days, the front pages of virtually every newspaper in our Nation and throughout the nations of the free world have carried disturbing news of oil company profits. Every oil company, from Occidental to Amoco, and including Mobil, Exxon, Gulf, and Sohio, have reported astounding third quarter profits beyond reason, increases of as much as 191 percent over last year's profits:

MAJOR OIL COMPANY PROFITS IN THE 3D QUARTER

	Revenue in billions	Net income in millions	Change in net income from 1978 (percent)
Exxon	$20.6	$1,145	+118
Gulf	6.7	416	+97
Amoco	5.1	434	+49
Arco	4.4	320	+45
Conoco	3.5	247	+134
Sohio		125	+191
Sun		105	+63

Where do these profits come from? It is obvious that the American public is paying for these exorbitant oil profits and their affect on our economy has been devastating. These latest startling profits disclosures should provide sufficient impetus to the Senate to act expeditiously on the long lingering windfall profits measure which we sent over to that body on July 10, 1979. These extensive profits certainly substantiate recent House action to preserve existing Federal gasoline price controls. Our Nation needs immediate, effective action to keep many of our low-income people out of the poorhouse in the coming winter months. While we are preparing to spend billions of dollars for relief for those who will not be able to afford to heat their homes during the winter, we should bear in mind these exorbitant oil profits and reinstate home heating oil price controls to help our Nation survive an imminent winter heating fuel crisis.

AID TO CAMBODIA

(Mr. BONIOR of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONIOR of Michigan. Mr. Speaker, a nation is starving and we are not feeding it.

We watch it on television and read the statistics: 2 million are starving; 4 million suffer malnutrition; 15 percent of the population is already dead; if the situation continues, there will be no children under 5 in the entire nation.

Even if our legislative wheels act today, it will be weeks before that aid becomes food and is delivered to Cambodia.

We must urge our Government to begin an airlift now. Our planes are available.

Let us, for once, forget politics.

If U.S. pilots can join with Soviet pilots to airlift food, perhaps the real meaning of détente will be realized.

If international pilots must fly in the food, fine. We will provide the aircraft. And the trucks. And the food.

But let us act now. Let us work out the logistics now.

Let us prove that the richest nation on Earth can help feed the poorest.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4904, SOCIAL WELFARE REFORM AMENDMENTS OF 1979

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 96-554) on the resolution (H. Res. 465) providing for the consideration of H.R. 4904 to amend the Social Security Act to reform the program of aid to families with dependent children, to make improvements in the standards for eligibility and benefits in the program of supplemental security income, and to provide for the improved administration of both programs, to make related amendments to the Internal Revenue Code of 1954, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5192, EDUCATION AMENDMENTS OF 1980

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 96-555) on the resolution (H. Res. 466) providing for the consideration of H.R. 5191, to amend and extend the Higher Education Act of 1965, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 430, EMERGENCY FUEL ASSISTANCE APPROPRIATIONS

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 464 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 464

Resolved, That upon the adoption of this resolution it shall be in order, clause 2(1) (6) of rule XI to the contrary notwithstanding, to consider the joint resolution (H.J. Res. 430) making urgent supplemental appropriations for low-income energy assistance for the fiscal year ending September 30, 1980, and for other purposes, in the House as in the Committee of the Whole.

The SPEAKER. The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the usual 30 minutes for debate to the gentleman from Mississippi (Mr. LOTT). Pending that, I yield myself such time as I may consume.

☐ 1020

Mr. MOAKLEY. Mr. Speaker, House Resolution 464 is the rule providing for the consideration of House Joint Resolution 430, the low-income energy assistance supplemental appropriation.

First, Mr. Speaker, this rule waives clause 2(1)(6) of rule XI. That clause prohibits consideration of any bill or resolution until 3 days after it has been reported from committee. Ordinarily that is an excellent requirement, but when an emergency arises it is not always possible to wait those 3 days. In this instance, Mr. Speaker, the Rules Committee determined that this is an emergency, and that consideration of this resolution should not be delayed until next week.

The other major provision of the rule is that House Joint Resolution 430 should be considered in the House as in the Committee of the Whole. The effect of that is that the bill will be considered as having been read and will be open to amendment at any point. The provision will insure adequate opportunity for any and all germane amendments to be considered.

Mr. Speaker, this supplemental appropriation is an urgently required measure to provide assistance to people who are faced with a critical situation this winter due to increases in home energy costs. It is now literally to the point that some people will have to pay in the many hundreds and even the thousands of dollars merely to heat their homes for a few months. Obviously, a great many people cannot possibly afford that kind of expenditure, and those people are going to be suffering—freezing—this winter unless we pass this emergency appropriation.

It is an appropriation, Mr. Speaker, that is carefully drafted to channel emergency assistance toward those households where it is needed most. A major portion, for instance, will go directly to people who are on SSI, the supplemental security income program. Those people are the elderly, the blind and the disabled. In addition, the appropriation is targeted toward households that are at or below 125 percent of the poverty level.

Mr. Speaker, those are the kinds of people who are always among the hardest hit by this kind of crisis. Although their energy consumption is generally lower than average, their expenditures for utilities in general represent a much larger portion of their incomes than they do for most. Also, such people have little flexibility to adjust their spending to accommodate a rapid increase in utility costs—at least not without sacrificing other basic necessities of life like food, shelter, and clothing.

I would be among those to argue most strongly, Mr. Speaker, that ultimately we must come up with major initiatives to provide long-range solutions to this critical problem. But what we are faced with right now is an immediate emergency—this winter. And what this bill will do is help people deal with that emergency—this winter.

Mr. Speaker, the money in this supplemental appropriation is vitally important to people all across this country. And, given the logistics that are involved in getting this kind of program underway, every day that we delay in passing this emergency assistance brings many people one day closer to unacceptable choices between food bills and utility bills, one day closer to days with no heat in their homes.

Mr. Speaker, it is urgent that we pass this supplemental appropriation, and it is essential that we pass it immediately. I urge all of my colleagues to support this rule so that we may move to immediate consideration of the appropriation.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 464 is the rule providing for consideration of House Joint Resolution 430, making urgent supplemental appropriations for low-income energy assistance for the fiscal year 1980, and making the joint resolution in order for consideration.

I must say that when we talk about fast-track legislation around here, although that usually is applied to the Energy Mobilization Board, this joint resolution is not only fast-tracking, it is really blowing through the House of Representatives.

I realize there are those who are going to answer that because of the coming long, cold winter, we have to work quickly, but I must question the amount of actual need for this legislation at this point.

Beyond that, I raise the red flag about the problems we are going to be faced with here. I feel very confident that we are going to run into problems legislatively and in trying to administer this program, assuming the legislation gets through the Congress.

This resolution was written in the Committee on Appropriations just yesterday after about 3 hours of haggling. I doubt that the Members are fully aware right now of what is in this legislation or how it will affect Florida, Mississippi, California, New York, or Massachusetts, and I am sure there are going to be some questions raised about this when we get to the debate on the supplemental appropriation bill.

Mr. Speaker, this was quickly written. It is an appropriation that does not have the proper authorization. It is a supplemental appropriation, so we do not have to have the normal waivers that are involved when we do not have an authorization or when there is legislation on an appropriation bill.

I just want to emphasize to the Members that there is a great deal of money in this supplemental appropriations. I think the total amount comes to $1.35 billion. I want to get into the debate on that, asuming the rule is accepted.

I emphasize that in the Committee on Rules we actually granted a rule before the resolution was reported out of the Committee on Appropriations. That is not totally unprecedented, but I must say that it is a dangerous way to proceed when we are granting a rule on something we have not even seen.

Basically, the rule makes in order consideration of the joint resolution, waiving the 3-day rule. I think we are taking a lot of risks in acting in this way on the rule and on the legislation. Even though the Members in theory may want to eventually support the legislation, I urge them to be very cautious.

Mr. Speaker, in order to give us some chronology of what is happening here and what is going to happen, at this time I yield 5 minutes to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, I appreciate the gentleman's yielding time to me.

I am not going to oppose the rule, but I do want to say a few things to complement what the gentleman from Mississippi (Mr. LOTT) has said with respect to the fast track upon which this legislation is flying and then leave the more pertinent remarks with respect to the individual parts of the legislation to be made when we consider the actual bill.

This thing all got started just a week ago when the senior Senator from New York added $1,200 million to the Interior appropriation bill over on the other side. That apparently sparked some action over here on the House side, to the degree that on Thursday no less than the honored Speaker of this body came before our subcommittee to testify for the first time in his position as Speaker of the House and to push this legislation through the House committee in as quick a time as possible. He was complemented by Mrs. Harris, the new Secretary of HEW, together with representatives from the Social Security Administration and CSA.

Then, with very few really penetrating questions being asked during the course of that hearing or that so-called hearing, we were summoned to a markup the following day. There was absolutely inadequate time given for us to prepare any kind of alternative proposal or to really develop the kind of printouts and computerization of what these payments might be, to the extent that I really felt inadequate to present an alternative until yesterday when the full committee considered the subcommittee's recommendations.

It was during the deliberations in our full committee on appropriations that we had the more spirited debate engaged in by Members on both sides of the aisle, and that was certainly not in a partisan sort of way but simply an effort to try to get at the facts.

The chairman of the Committee on the Budget, the gentleman from Connecticut (Mr. GIAIMO), who is also a member of the Committee on Appropriations, made a very, very eloquent presentation during the course of our committee's deliberations, because he sees, I am sure, as chairman of that committee, a budget deficit coming up in the year 1980 approximating 40 billions of dollars, and if we do not face up to it today, we are going to have to face up to it next year, after we have appropriated again, quite blindly, $1,350 million. And for what purposes?

Now, I must confess that I have always had a reservation about this program because it never had any clear authorizing legislation. We have appropriated money in our HEW bill; it was a couple of hundred million dollars in the 1979 HEW bill, and $250 million in the 1980 bill.

The Members will recall that during the debate on the 1980 bill a couple of months ago, I raised 14 or 15 specific questions as to how the money was to be used. How are we really going to dole out this money, and under what guidelines. That is my serious concern about this.

Then all of a sudden we are ballooning a $200 million expenditure in 1979 to $1,600 million in 1980, with no more clearly defined guidelines than those we have had before. That is the issue we are going to have to face here today.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, let me ask, are my figures correct that last year we appropriated $250 million for this program?

Mr. MICHEL. It was $200 million.

Mr. WALKER. About $200 million for the program. Heating oil costs have risen about 50 percent. That may be a little high, but they have gone up about 50 percent.

If we are going to cover what we covered last year, then, the appropriations should be in the range of maybe $300 million to $400 million; is that not correct?

Mr. MICHEL. Well, if we are going to use that computation or that slide rule or that benchmark, yes.

□ 1030

Mr. WALKER. Is that not a reasonable kind of computation to use, because are we not covering exactly the same people with this appropriation that we covered with the appropriation last year?

Mr. MICHEL. Of course, now, with what the committee is proposing here, you would, of course, just automatically funnel out funds to every SSI recipient, and if the States choose, to every AFDC recipient. Under the CSA block grants, eligibility, of course, was not confined to those specific categories, and that happens to be one of my reservations here, too, because there are poor people on social security who do not qualify for AFDC or SSI who thus do not receive automatic payments.

The SPEAKER pro tempore. The time of the gentleman from Illinois (Mr. Michel) has expired.

Mr. LOTT. Mr. Speaker, I yield 2 additional minutes to the gentleman from Illinois.

Mr. WALKER. Mr. Speaker, will the gentleman yield further?

Mr. MICHEL. I yield to the gentleman from Pennsylvania.

Mr. WALKER. What I am getting at is, all of those people were eligible to participate in the program last year, were they not? The SSI people and all of these other people could have come in and participated in the program last year?

Mr. MICHEL. If they fell within those guidelines of the 125 percent of the poverty index so far as income is concerned.

Mr. WALKER. Which is really the people we are trying to get at and make certain that they have coverage. That being the case, can the gentleman explain why we are ballooning this figure when, if I understand correctly, under last year's appropriation there was money left over, was there not? They did not even utilize all of the money last year.

Mr. MICHEL. Each year we have had the program on the books there has been some left over, yes.

Mr. WALKER. So we are expanding the program by six times on a program that did not even use all of its money the year before?

Mr. MICHEL. Yes.

Mr. WALKER. And doing so to cover exactly the same people who were covered previously; is that the gentleman's point?

Mr. MICHEL. Yes.

Mr. WALKER. I thank the gentleman.

Mr. MICHEL. I should say further that we have really got to make a determination here as to whether or not this is a one-shot proposition or whether it is going to be a permanent program. Let us face it, the earlier programs were supposedly emergencies for the drastic winters that we had last year and the year before. Now, apparently, we are embarking on what I perceive to be a permanent program because I cannot perceive fuel costs going down anyplace in the country from this date forward; they are going to continue to rise. So are we going to subsidize them this year and withdraw them next year in a political year, a Presidential political year? No, I think not. And there are prospects for that increasing. As a matter of fact, the President spoke, in terms of his discussion of windfall profits tax, of having this program aggregate $2.4 billion a year.

I get back again to my central theme that if we are going to have that kind of an expensive program, we better be doggone sure that the guidelines are clearly drawn.

The SPEAKER pro tempore. The time of the gentleman from Illinois (Mr. Michel) has again expired.

Mr. LOTT. Mr. Speaker, I yield 3 additional minutes to the gentleman from Illinois.

Mr. Speaker, if the gentleman will yield, the gentleman noted that these funds would go to SSI recipients. I would like to inquire, is that regardless of the area that they live in or the temperature in the area where they live?

Mr. MICHEL. That will be regardless of where the people, the recipients, live in the country, right.

Mr. LOTT. I have to question the appropriateness of this. If you are going to call it low-income energy assistance—and I could be talking about my own area—if it is a very warm climate I would have to question whether these people have the need for this type of assistance.

Mr. MICHEL. That was the serious question that was raised. And I must say, however, that in my substitute I had a revised formula which, incidentally, was adopted by the full committee, to make a better ratio of payout to those living in the colder climate of the country as distinguished from the warm Southern tier of States where the gentleman lives.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, the gentleman from Illinois mentioned that there is no existing authorization in law for this program.

If I recall, this is the same program that in my own State of Maryland, as it was administered last year, saw the 5th Regiment Armory in Baltimore used as a clearinghouse for handing out money to anyone who wanted to walk in and claim that they needed the money. People were only required to show heating bills or some cursory proof that they had to pay extra money for their heating bills, and the money was handed out until it ran out.

If that is the way this bill is going to be administered, with no authorizing power in the law, it seems to me that we are really not helping the people we intend to help, and at the same time we are requiring the taxpayers to pay for an enormous ripoff.

What authority in law is there?

Mr. MICHEL. I will get the gentleman the specific authority under which we are appropriating. In my judgment, it is a very weak piece of authorization on which to hang our hat today.

Mr. BAUMAN. It just appears to me that, on page 2 of the resolution that this rule makes in order, you are trying to write an authorization, that you are imposing legislative restrictions, but in the broadest terms and without any guarantee that this new program will in fact properly be administered.

Mr. MICHEL. And that has to be the reservation of the gentleman from Illinois as to who is best, frankly, to administer this. Is it social security, those administering the AFDC or SSI or the Community Service Administration? The latter, of course, does have a pretty poor track record, according to our committee investigators. But frankly, these are the only places now that we are going to be able to use the administrative outlets for this program. The situation which the gentleman referred to also opens up the question of those persons getting reimbursed after the fact, while some, particularly older people, would sacrifice food and a lot of other things, just to keep paying their fuel bills on time because that is the way they have always done it. But they get discriminated against, as opposed to those who do not have that kind of responsibility, and then they get reimbursed after the fact.

Mr. LOTT. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. Conte).

Mr. CONTE. Mr. Speaker, in regard to the question of the SSI payments, the Members must realize that these are the poorest of the poor people in the entire country. These people on SSI are living from hand to mouth. You will give them a few dollars under this bill. That is what it will amount to. The argument will be made regarding Hawaii. There are about 7,000 people in Hawaii who are on SSI.

I wish to express my support for the adoption of the rule. The low-income energy assistance bill is an emergency measure and it demands the immediate attention of the full House. If we fail to act quickly to assist the thousands of Americans who need this assistance with their home heating bills this winter, we will be responsible for their suffering.

As we all know, there are many regions of this great country where inflation and escalating costs of home heating oil have pushed people under the poverty level. We have the ability and we have the responsibility to assist them now and not later on.

Yes, the emergency assistance bill is a costly measure, but not so costly as the price of suffering that thousands of needy Americans will have to pay if they withstand another harsh and severe winter without adequate home heating oil.

I urge the rapid adoption of the rule, and I urge this body to pass the energy relief measure. I must say that the gentleman from llinois (Mr. Michel) did an outstanding job. This really could be called the Michel bill because it was the gentleman's substitute in the committee. Yes, we haggled for 3 hours on this. And because it was the fine workmanship and fine authorship of the gentleman from Illinois (Mr. Michel), we have a tight bill here today.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Speaker, I would like to compliment the gentleman on his comments. I know the gentleman in the well has worked very diligently and hard on this particular legislation.

Testimony was received before the gentleman's own committee outlining in detail the need, particularly in those regions of the country, in the Northern tier of our country, where home heating oil prices are going to be doubled. In many cases, for people who are living on fixed incomes, who last year were able to just make it, they will have to reduce their food budgets in order to pay very high and, in many instances, exaggerated bills for home heating oil.

We need a period of adjustment, and I think this bill responds to an emergency which I think is imminent. I commend the gentleman for his leadership.

Mr. CONTE. Mr. Speaker, I want to thank the gentleman from Pennsylvania for his remarks.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I want to also agree with the gentleman in the well, who has been a leader in this effort.

I think, on reflection, the bill that we have worked out is a vast improvement over the bill that was initially reported by the subcommittee, particularly in adopting the formula offered by the gentleman from Illinois (Mr. Michel).

I would like to point out to the gentleman, who I think has been one of the great and compassionate leaders of the House in terms of human needs in this country, that one thing I think is still going to be a problem, which we did not address properly in this legislation, is providing some assistance to those people who are on unemployment compensation, who have lost their jobs, people who are going to be affected this winter by the recession, people whose unemployment compensation has expired. They do not qualify for assistance under SSI or AFDC.

The gentleman knows, and has pointed out to me yesterday, that there is $400 million available under the Community Services Administration to help those people, and if the States opt for the block grants, money can be paid to unemployed individuals. But, they will not get direct assistance like people on SSI and AFDC and their need is just as great.

□ 1040

I am deeply concerned, and I hope that we in our haste to act have not forgotten the serious problem that the unemployed person with a family is also going to have.

I hope that as we look at this problem in the future that we also try to factor in and consider the welfare of those people, because they are one group that I am afraid may fall between the cracks.

Mr. CONTE. I want to thank the gentleman, first of all, for his kind remarks and also thank him for his contribution yesterday in the full committee. The gentleman made a contribution in this particular area, and we adopted the gentleman's language which is in the report.

Mr. MOAKLEY. Mr. Speaker, at this time, I yield 5 minutes to the gentleman from Connecticut (Mr. Moffett).

Mr. MOFFETT. Mr. Speaker, it has been an unusual week or two around here on energy in that a lot of us who are not accustomed to cooperating with each other and sharing the same views have been working together.

The rationing bill, of course, was featured on the news as a great love-in between the pro-control and pro-decontrol people.

Even on the gasoline decontrol debate that we had, I think some of us frankly felt that the gentleman from New Jersey (Mr. Courter), was absolutely right and that you do not really give a great deal of protection to people by controlling one product. So we have had those debates.

I think we have come closer together, and as the membership may recall, the gentleman from Ohio (Mr. Brown) and others came together in more or less a consensus with me and others on this side that, in fact, the decontrol debate is all but over for now. We have to look toward conservation and toward—guess what?—some help for those who are left in the wake of the decontrol debate and the unbelievable increases by OPEC.

I thought that we were more or less marching forward on the basis of that consensus, and I think that the committee's work seems to indicate that they feel that there is a reasonable consensus and that we must move forward.

This Member, as the membership knows, chairs a subcommittee on the Committee on Government Operations. We have heard from so many witnesses with regard to heating oil prices, for example, that we should not try and do that through the price structure and try and reimpose controls, but we really ought to have separate programs for that. People like Mobil, Gulf Oil, and Texaco have said it, and they are pro-decontrol advocates.

We have heard it on the Republican side in the decontrol debate and on this side from Democrats who favor decontrol that this is not the way to do it. Never mind the controls, they say. Let us go the route of meeting the needs through a new program.

Now any new program or any extension of a program that involves an increase is going to be imperfect.

I am in sympathy with the gentleman from Mississippi who is a far better parliamentarian than I am, and an expert on the rules; and this is moving quickly, but it really is unfortunate when we hear statements such as that from the gentleman from Pennsylvania (Mr. Walker), that it does not appear that we need all this money.

Now, the gentleman certainly seems distressed that not all the money was used last year. If all the money had been used and had been spent at the last moment, like so many Federal funds are spent at the last moment, where people down at the agencies say, "We have only got a month to go. Let's spend the money," I am sure the gentleman and others would have been here criticizing that.

The fact of the matter is many States did not have enough money. Connecticut did not even come close to having enough money.

When we look at the figures that indicate the projections for this year, the $400 million that was the first cut of assistance would give something like $27 to a family, if in fact they qualified, and we are not even talking about all those families who do not qualify.

The fact is that last year we did not even begin to touch the needs, and if the gentleman reads the reports, the reports of the fuel oil marketing committee that has refiners on it and wholesalers and retailers and a variety of others, they said we did not even begin to touch the need last year and that the program was reasonably efficient.

I think the formula that the committee has come up with is far better this year. They are trying to improve on it. It is so easy to come in here and say, "How in the world can we spend $1.6 billion?"

Let us look at some real-life examples. I do not mean to get melodramatic with the gentleman or any of my other colleagues, but I have a grandmother who is 88 years old, who runs a dry goods store 6 days a week in Holyoke, Mass. The gentleman from Massachusetts (Mr. Conte) knows it, as does the gentleman from Massachusetts (Mr. Boland). Her heating bill last year for that little store and the house next to it, to her house, was $1,100. Her heating bill this year is going to be $2,200. Now she does not have a thriving business. She has about two customers a month. The store is always crowded with her friends in there drinking coffee, but no one buys anything, so she does not do too well.

She is going to have a $1,000 increase in her bill. She does not even qualify for this program.

What about all those people who do qualify, but who are going to get $50, $60, $80, or $100, and the need, and it is here in all the studies and the gentleman can read it, is $400.

Mr. LONG of Maryland. Mr. Speaker, I make a point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair does not entertain that motion.

Mr. MOFFETT. Mr. Speaker, the need that is projected is $400 to $600 per family, at least in our part of the country, the family increase in heating oil bills.

Now, let us not lose this consensus that we have, maybe not a firm grip on here, but we seem to be moving forward.

The SPEAKER pro tempore. The time of the gentleman from Connecticut (Mr. Moffett) has expired.

Mr. MOAKLEY. Mr. Speaker, I yield 2 additional minutes to the gentleman from Connecticut (Mr. Moffett).

Mr. MOFFETT. We seem to be moving forward here. We are not rehashing the decontrol bill. We passed a very good bill the other day on gasoline rationing. We seemed to be saying as a body that we mean business on conservation. For heaven's sake, the committee addressed this. Let us not pretend they have not looked at it carefully. The gentleman from Massachusetts (Mr. Early) and others on the committee, and the gentleman from Massachusetts (Mr. Shannon), who is on the Committee on Ways and Means; and my colleague, the gentleman from Connecticut (Mr. Dodd), who offered the amendment several months ago and was accused of not having studied it at that time, they have been studying this. Many of us have been studying the need, and it is critical that we move forward; and this is a reasonable formula. Is it a one-shot program, the gentleman from Illinois asks?

Let us face it, we are not structuring these programs now based on how abnormal a winter is going to be anymore. We are structuring a program based on a consensus that includes consumer groups and Texaco and Gulf Oil and

Governors and a whole variety of other people, a consensus that there is really misery out there, and it is going to be with us for more than 1 year.

We do not need to point fingers as to how it got there, but it is there, and we have to deal with it, and this bill is, sad to say, a drop in the bucket, at $1.3 billion, to try and treat that.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

What I am trying to get at is we certainly agree with the gentleman, that there is a desire to try to structure the program toward need. We supposedly, last year, structured the program toward a need and appropriated $200 million.

My point simply was we did not even use all that $200 million. Maybe that was because of poor administration. There may have been a lot of reasons, but to come in then with an 800-percent increase when fuel bills have gone up by 50 percent, seems to me to be something of a questionable thing to do.

Mr. MOFFETT. If I may reclaim my time, the gentleman is proceeding on the assumption we met some significant need last year. That is false. Does the gentleman really think because this House appropriated $250 million last year that the need was met? Come on. I am sure the gentleman does not believe that.

The fact that sometimes the State did not spend the money means they did not have the need in that particular State.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. Downey).

Mr. DOWNEY. Mr. Speaker, I want to repeat what my colleague from Connecticut has just told the House. The fact is that it is easy to get emotional about these programs, and we really should not. We should try and be cold and dispassionate. I use the word "cold" advisedly in this debate.

The fact is that there was not enough money, at least in the State of New York, to meet the needs of the elderly and the poor last winter. The fact is that—and the gentleman from New York (Mr. Green) and I had a hearing in my district on the question of these programs for the elderly in New York—we discovered that people are turning down their thermostats 60° F.

Henry Mehl from Brentwood, a 72-year-old gentleman, said:

> Congressman, I am afraid I am not going to have enough money to pay my heating bills, I'll be heating my home with candles.

That is what we are talking about. There really cannot be any question that prices have gone up and that people living on fixed incomes just cannot afford to pay the fuel bills that they once struggled to pay.

☐ 1050

The average family pays between 5 to 10 percent of their income to pay their heating bills. Those living on fixed incomes are now looking at 30 to 40 percent of their income to fuel payments. That is inescapable. It is unconscionable.

The gentleman from Connecticut mentioned, and all of us have been subject to this, that the decontrol issue is now resolved, and now the people who were arguing for decontrol at least recognize the human side of the equation of higher fuel prices. The human side of the equation simply is there are people who can no longer afford to pay for home heating oil. I recognize that maybe in other places in this country that is not a concern, but please understand, we not only have a parochial responsibility, we have a national responsibility and a responsibility to the people in Mississippi, and Alabama is one that I share and I would hope that my colleagues would share for the Northeast as well, because the people on Long Island, and the people in Massachusetts, the people in the Northeastern part of this country, and in many other parts of the Midwest are not going to be able to heat their homes. That is a reality and unless we do something about it we are all going to be in very, very big trouble, both as Congressmen from different parts of the country and as Congressmen who represent, I hope, a national interest.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. Obey).

Mr. OBEY. Mr. Speaker, I want to speak in support of both the bill and the rule. I do want to bring to the attention of the House one problem, however, one gap which I feel still remains in this entire process.

The committee inadvertently neglected last night to print my supplemental views in the committee report, which is the reason I want to take the time at this time to mention the problem that I discussed in those supplemental views. We will be providing $1.2 billion under the new program, plus $150 million in the old CSA program today to try to meet emergency energy needs. But in my judgment, there is another area into which we ought to be moving and into which we are not moving at the present time. That is simply the question of weatherization. The houses which will be heated under this program are probably some of the most notoriously wasteful houses in terms of energy consumption of any homes in America because many of them are old, many of them need fixing up, and they are occupied by people who are, in many cases, too poor to do much about that.

We have a problem in that area. Right now the Department of Energy has at its disposal a little over $400 million for use to purchase materials which are supposed to be installed in homes of low-income people. The problem, however, is that for a variety of reasons much of that material will never be used, simply because we do not have the available manpower to install that material.

What is happening is that CETA in the past had been used largely to provide the manpower slots which were then used by local community action programs in order to install that material. The problem is that as the numbers of CETA jobs decline around the country, local prime sponsors and local mayors are using those slots for other purposes and not using them to provide replacements for weatherization workers. For instance, one community action program in Nebraska has available at the present time about $195,000 in materials, but because of the lack of manpower they will wind up with $125,000 of that material being unused. The same is true in most of the agencies around the country. I am not going to offer my amendment to try and change that today because, frankly, I think the situation on this bill has been so confusing and I think the need to move quickly is so imperative that I do not want to muck up the works by adding any other problems to it. But I do want to alert the House to the necessity to do something about this other area and I hope that we will do it soon. I certainly hope the other body will at least consider adding this.

On the bill itself I want to make the point that this bill is an intelligent compromise between the administration, which wanted one approach, and members of the committee which felt there ought to be another approach. We do retain the SSI distribution which the administration wanted. But I want to point out we do not have an automatic requirement—as I think was implied by one speaker this morning—we do not have an automatic requirement that the remainder of the funds be distributed only on the basis of AFDC.

States do have the option, States do have the option to decide on another distribution mechanism, another distribution formula is better, and I would hope, frankly, that most States would take advantage of that because I think that would be a much more efficient plan, to have it done by the States than to have it done the way the administration planned eventually to do it.

I want secondly to point out that contrary to what was stated on SSI, the distribution to SSI recipients is, is, I repeat, weighted on the basis of degree days, and so there will be a rational differentiation between SSI people in a very cold State and SSI people in a different kind of State. I think that has to remain very clear.

In addition to that, Members have indicated their concern about people on the low end of social security who might not be helped in States which choose to us the AFDC mechanism for distribution. I want to point out that the $400 million which is available for crisis intervention under the old program is meant to fill in those gaps. I think it will do so quite adequately. This bill is, as the gentleman from Connecticut indicates, not nearly enough. It does not meet the national needs. But it will help at least in a small way those people who are living in the most desperate of circumstances, and we ought to pass it.

Mr. LOTT. Mr. Speaker, to dramatize my point that this thing is moving so fast that some mistakes are being made, it was just noted the gentleman from Wisconsin's supplementary remarks were inadvertently not included. Also a very key word on the last page, after the word "home" they left out the word "heating," which, if you will look at it, was a very crucial word that was left out because that meant this assistance could go, for instnce, for air-conditioning.

I urge my colleagues to take a close look at this again, this rule, and also the legislation.

Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I think all of us acknowledge the existence of the problem of the increased cost of energy in general and heating supplies in particular. We know what groups of our citizenry are most affected and we would like to help them.

But it does not seem to me it would hurt us to reject this rule today and wait a few days while the appropriate authorizing committee can address this problem in some intelligent sort of fashion. We have seen in the brief debate here all sorts of examples of serious questions about the manner in which this program will be administered. In fact, we have the Appropriations Committee hastily attempting to write legislation for a whole new billion dollar-plus program.

I seem to remember it was the food stamp program, well intentioned and said to meet a need, that started with a few hundred million dollars on a trial basis, and within a few years has grown to $6 billion or $7 billion annually, with a question in amost every American citizen's mind about whether that program is really going to the people that are truly in need.

It seems to me if we really are concerned about those who will need this fuel assistance, the most important part of our decision should be to write a tight administrative law that will make sure that those people get the money. I do not have that confidence in this bill. I have listened to a few people get up today and explain what they think is going to happen if this bill becomes law. Some say it is going to be administered by the Community Services Administration. The bill says most of the $1.6 billion will be switched over to HEW to distribute. Some say it will be administered or given only to SSI and AFDC recipients. Others have told you that the States will have the option about how the money will be handed out and to whom it will be given.

One of the Members complains those receiving social security and those on unemployment may need the money just as badly, but they are not on welfare so they will not be eligible under this bill. Now they have a need that should be considered and yet this bill ignores them.

Precisely what are we trying to achieve here? I think this rule is ill-conceived. I think we ought to put this legislation in the hands of the proper authorizing committee and give them a deadline to report. The Speaker has the right of referral with report on a certain day. Let them have until next Thursday or whatever. We have been told that we will be in session for the remainder of November. I do not think we can shirk our responsibility. But how can we vote for a program that is this splintered, this questionable with this amount of money on the basis of 24 or 48 hours of rushing around here with dramatic speeches, dramatic testimony by the Speaker and others, and have any confidence that we will help the people we pretend to help?

☐ 1100

This is the legislative pattern that has been followed, a mistaken pattern, repeatedly lately. It is done under the guise of emotion, under the guise of need in individual cases, but it is also one of the reasons why people are suffering, suffering from the inflation that this kind of program, if not properly administered, causes. I think we owe it to the people who need the money and to the people who provide the money—that is, the taxpayers—to at least pause and pass legislation in a rational manner.

Mr. Speaker, I urge that the rule be rejected and allow us to legislate in a proper way.

Mr. LOTT. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. MYERS).

Mr. MYERS of Indiana. Mr. Speaker, a great many of us in this Chamber this morning are concerned about the problem we face today. First, I do not think there is any one of us who is not willing to help to alleviate the problem that many of our folks are going to experience this winter with higher fuel costs. But, what is the right remedy for this problem? Are we not, as many have suggested here this morning, rushing in with haste that eventually might make waste? Is there not a better way if we worked on better legislation and waited until possibly another week to consider this problem?

We are all concerned and want to help those people, but is there a better way? I see many problems, and all of us see many problems with the program that will be developed from the legislation that will be passed possibly today. First, how many people are going to get payments who do not pay fuel bills? We will be standing on the street corner handing out checks. Is it really going to be helping people that need it? Of course, everyone on SSI or welfare can stand a little extra money, but this is a fuel assistance program, not just to supplement income, and it should be used exactly for that, to pay higher fuel bills for all people that need it.

There are going to be a great many people getting those checks. Is there any requirement that they apply them to their fuel bills? Is there anything to keep those individuals from cashing their checks and buying a bottle of wine instead of a gallon of fuel oil? There is nothing in this legislation, not at all to prevent that.

But really, the biggest problem is this: How often we have heard individuals from this well say that the programs today have driven people on to welfare rolls? As has been suggested, we have a great many people, the so-called working poor in this country, who are going to have trouble paying their bills this winter. This does not help them. They will be forced, instead of working, to quit their jobs and go on to welfare rolls because that way they can get more money to pay their fuel bills.

My friends, I think we can do a better job. The American people are deserving of a better job. This is another example where we rush in because we have got our backs to the wall, and we have placed our own backs to the wall. This is not a new problem. We have known for a long time that we were going to have higher bills this winter. We have known that a great many Americans were going to have trouble paying those bills, but does 1 week make that much difference? Do we once again want to compound the problem by not waiting? Is it going to be sufficient to put in another program, as has been suggested by the gentleman from Connecticut, when the existing program has not worked? Many States have not gotten enough money, and others have gotten too much, but we are stacking another program on the existing framework. Should we not rewrite the rules? I suggest that this body had better stay in session a little bit longer, and let us get something that realy helps the American people. It is suggested that some people may fall through the cracks on this, and that is right, they will; but, I am also concerned about the money that is going to fall through the cracks if we do not improve the fuel assistance program.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding, because I would certainly agree with the comments that have been made. All of us are aware of the problem being faced by the poor and elderly people this winter. All of us, I think, want to have some kind of response to that problem. I remember when this program first came through the House of Representatives. I think it passed by one vote. If I recall, it was 199 to 198. I remember the gentleman from Illinois shaking his head in disbelief when I was one of the people who voted for that program when it went through the first time. But, I believed then and I believe now that there should be some response to a very great need.

My question in coming to the floor today is, what are we doing in the name of attempting to help? We are pushing through a bill with no authorization whatsoever. The authorization that this bill is pretensed on is not there. Our administration of this program has been horrible, to say the least. Maybe that is part of the reason why not all the money was spent in years previous, but the fact is that we go to the same people that we have had participating in the program before and are identifying in this bill as being people in need.

We did not spend all the money before, $200 million in the previous year's appropriation. Now, we are coming in and we are going to raise that by 800 percent. Fuel costs have gone up, but not by that much. They have gone up by about 50 percent. It would be reasonable to come in with a bill that increases it by 100, 200, 300 percent, and I intend to offer an amendment to increase the appropriations by 500 percent, to $1 billion; to take the $1.35 billion and cut it back to $1 billion so that we have a 500-percent increase. At least, there would be a little bit of control.

I also think, because there is no authorization, we need to do something to make certain that there is some legislative instruction on what is done by HEW. It is also my intention to offer a legislative veto provision which would permit this House to have some control over the regulations that are going to be written to promulgate this legislation.

Mr. LOTT. Mr. Speaker, I yield 1 minute to the gentlewoman from Maine (Mrs. Snowe).

Mrs. SNOWE. Mr. Speaker, I think some of the Members here today are suggesting that we should delay the rule, delay the program and reconsider the situation. That is precisely what has been the problem with this program in the past. I think we are all forgetting that some form of winter emergency assistance has been in effect since 1976.

We have observed failures and we have observed successes. We do not want to repeat the spring performance of last year, which was a program of something too little and too late. If we give the States leadtime, we can avoid misspent funds, which I think is a concern of many of the Members in the House today.

Community Services Administration issues their rules and regulations by the first week in October. That is the matter that came to our attention on the Subcommittee on Manpower and Housing. We got the rules out because they made a commitment to me during the oversight hearings to issue them by 1st of October.

We need more time because, as everybody has stated, fuel bills have doubled since last January, so we do not want to repeat that spring performance of last year. If we procrastinate here today we will do just that.

Mr. LOTT. Mr. Speaker, I yield 1 minute to the gentleman from Maine (Mr. Emery).

Mr. EMERY. Mr. Speaker, I think the time has come when we have to face the reality that cold weather is upon us, and that cold weather is not just a problem for the Northeastern part of the country, but it is a problem that all Northern States have in general. The fact is that in the State of Maine during the last several months the cost of heating oil has gone up some 62 percent. That means that people are going to be eligible for fuel assistance and are going to need fuel assistance who last year might have been able to make it on their own.

I am the last person to want to stand in the well of the House and promote the expansion of another Federal program. I know it has some administrative problems, but the fact of the matter is that with the increase in cost of energy, people are going to need assistance. In the northern part of the country some people are going to freeze to death. We are having problems in the allocation of kerosene in Maine. Fuel oil is going to be in short supply. The cost of keeping warm will continue to rise.

I am standing here as one who has supported decontrol in this Congress. I am willing to go along with the necessary economic steps to produce more energy, but the point of this program, as my friend from Connecticut (Mr. Moffett) pointed out, is to provide assistance to those people who are going to depend on it this winter, and have nowhere else to turn.

Mr. LOTT. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin (Mr. Sensenbrenner).

Mr. SENSENBRENNER. Mr. Speaker, I rise in reluctant support of both the rule and the bill; reluctant because this bill puts more money into a welfare program without expanding it beyond the people who are not on welfare, but who are in need. I rise in support of this bill because it is too late for us to revise this program to provide the money for a definite need.

It is my hope that during next year the standing committees of this Congress will look into the administration of this program and take care of people such as the elderly who are too proud to go in and apply for welfare, but are going to be faced with a choice between either heating or eating, this winter. So, let us look at more effective means of providing relief to the truly needy such as tax credits, so that low and moderate income people who are not on welfare can get relief from high heating bills. Many States have enacted "circuit breaker" tax credit programs designed to provide relief from high property taxes. This approach is less bureaucratic and more effective than the bill before us.

But this bill is the only game in town and should pass. However, Congress should express continuing concern over the administration of this program so that next year, legislation of this nature will not come before this House in a crisis atmosphere.

□ 1110

Mr. LOTT. Mr. Speaker, I have no further requests for time, and I reserve the remainder of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. Dicks).

Mr. DICKS. Mr. Speaker, yesterday I offered an amendment in the committee to the report language to ask the States to directly mail notices to people who are unemployed to notify people who are receiving unemployment compensation benefits, so that they will know about the CSA energy crisis assistance program. I think one of the gaps in this legislation, in my judgment, is that it does not directly deal with unemployed people or people whose unemployment compensation benefits have recently expired. They can qualify under the $400 million that CSA has. They can qualify if the States develop a block grant plan. I only wish that, like AFDC and like supplemental security income recipients, we were able to directly assist those people who have lost their jobs, who are on unemployment, because I feel that they have a very serious problem and need help with their fuel bills. I hope that the States will help by contacting these people so that they will know about the CSA program and the block grant program in States that adopt that approach.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. Vento).

Mr. VENTO. Mr. Speaker, I rise in support of the measure reported by the committee and the rule providing for its consideration. I just want to say to my colleagues that really this not the procedure that any of us would like, but I do not think that being against this process really speaks to the issue of need we face.

We sent a windfall profits tax to the Senate Finance Committee where they have sat on it for 3 months. Finally, they have detached various aspects of the energy assistance program and have begun some action. In Minnesota this week it started to snow. The time to act is now. We cannot wait any longer for action from the Senate Finance Committee where the windfall profits tax legislation is languishing.

There is no way that we can make up for the cost increases to low and moderate income families as a result of decontrol of our various types of fuel commodities, especially those fuels used for heating. What this proposal before us today strives to do is to try to fill in the needs of the very poor. Those who are receiving some sort of public assistance will benefit from the $1.2 billion energy assistance program and those low income families who are our working poor will benefit from the additional $150 million appropriation for the crisis intervention program that the Community Services Administration administers. We are in fact dealing with two programs—one that provides for those on low income who receive welfare and one that tries to pick up those who do not. I urge my colleagues to act. I do not like the fact that there is not an authorization for this measure. But we do not have any other vehicle. If the Senate had acted in a timely fashion on the windfall profits tax, we could have crafted authorization legislation, which is, indeed, being addressed in our various committees even today as part of other less urgent energy legislation. If the Senate had acted, we would have had a fuel assistance program.

I think with close oversight and review of this particular program we can go a long way to meet the very apparent need in our communities today.

I especially want to commend the members of the Committee on Appropriations for trying to attain the cold-weather goals of the crisis intervention program which is so important to the State that I represent and the States of many of my colleagues.

I think with these particular modifications, H.R. 430 will go a long way toward helping. When the allocation of $5.6 million was announced last Friday evening, it sent shock waves throughout the State of Minnesota. The result was that even with a proposed program expenditure level that was larger than last year, my State would receive less than it received last year. This allocation formula would have resulted in severe hardships for the 174,000 households in Minnesota which have incomes at 125 percent of the CSA poverty guidelines. Last year we were able to meet 5 percent of the need. But with rising energy costs, we would not be able to continue even this same level of assistance with the low allocation.

The problem was a direct result of the formula used by CSA to distribute the funds. Although the formula used the factors required by the appropriations conference committee, it was structured in such a way that it became an energy subsidy program rather than a program designed to meet the needs of people faced with life threatening situations because they do not have the financial ability to pay their heating bills. As my colleagues know very well, when the temperature reaches below freezing, home heating becomes a life or death matter—there is no choice or luxury in this consumption of energy.

For this reason the appropriations conference committee correctly chose to reframe the formula used to allocate this money. I applaud their action. I realize that this is an expensive measure, but without it, the toll in human suffering and the loss of human life could be staggering. This body must act today to approve this legislation. Winter is setting in throughout the country and by the time the other body acts and the necessary administrative structures are in place, the low income and the elderly will very likely have spent more to heat their homes this year than they spent all last winter.

We are certainly not going to make up the total difference between the cost of energy today and what it was last year. The remedy to address increased OPEC prices and decontrolled prices of energy is a battle that we have not addressed effectively in my judgment. Hopefully, we will in the future.

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts (Mr. Early).

Mr. EARLY. Mr. Speaker, I hope the rule is adopted and the bill is passed quickly. Every speaker during this debate has acknowledged the emergency, and this is not something that is new to the subcommittee. We have had days, weeks, and months of hearings on this specific subject. I think it is crystal clear that the $1.6 billion is an inadequate amount of money to supply the people on 125 percent of poverty level. Like most emergencies, the fear of the problem is usually as bad as the problem itself. The people who are coming into my office have reservations on how they are going to handle this winter.

I would like to give the Members a specific case so we can deal with what this money does. Take a family in the Northeast that has a net income of $6,000 after taxes. The Bureau of Labor Statistics tells us that they will use 25 percent of that $6,000 for fuel energy supply. That is $1,500 annually, but that $1,500 is not spread out over 12 months. Roughly, the 7 summer months take one-fifth of it. Four-fifths of it is during the 5 winter months, so four-fifths of the $1,500 is $1,200 that they have to come up with each year. Those 5 months take $240 monthly out of their $6,000 annual income, which is a $500 monthly income, so that leaves them a balance of $260. That is not for this upcoming year; that was last year. Home heating fuel has gone from 50 cents per gallon to close to 90 cents. With those same statistics, given that fellow who has a net income of $6,000 and the 7-percent increase that he has with the cost of living, he makes $6,420. His 25-percent cost will be $1,920. The cost for these upcoming 5 winter months is going to be $384 out of his $500. That is a working man; that is a family man.

Does anyone in this Hall suggest that there is not enough of an emergency, that we should not face it before it occurs, and that we not do what Congress usually does—react? We have a responsibility to act, not to react, and the difference between this emergency with the upcoming winter, with the increased fuel prices, versus a hurricane or a tornado is that we address the disaster area before it occurs. What the subcommittee is suggesting today, Mr. Speaker, is just to treat the emergency before it occurs, to relieve those people of the fear of the problem, and then relieve the problem. DOE has suggested to just take care of the 125 percent of the poverty level; that is all. To do that adequately this program needs $3.5 billion. We have $1.6 billion, and I think many of the reservations that have been raised by the chairman of the subcommittee, the gentleman from Kentucky (Mr. Natcher), whose State does not get the lion's share of this money, will be adequately answered. It is not a perfect plan. The gentleman from Illinois, who is as responsible a Member as we have in here, has amended the bill. In my opinion, he has improved it. Seventy-five percent of the moneys—75 percent of the moneys—could be distributed via the block grant route if the States submitted a plan to HEW and it was approved.

I really hope that we treat this emergency before it happens, and I hope the rule is adopted and that we quickly pass the bill.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. Addabbo).

Mr. ADDABBO. Mr. Speaker, I rise in support of this bill (H.J. Res. 430). It is a bill that must be passed as soon as possible. There soon will be too many people throughout this land facing the horrible alternative of food or warmth. These funds must be made available now, to meet this crisis, not to become available after the crisis has passed.

When I offered the first amendment to fund this program many years ago, there was great concern on the part of many Members about the costs it mandated. But the Congress—to its credit—approved the funding.

The following year I offered the amendment to fund the program again. The weather was warm and we had forgotten the severity and hardships of the previous winter. The amendment barely passed, and would not have passed had the Speaker of the House, Mr. O'Neill, not cast the deciding vote. But we were proven right again, for the weather turned and we had a severe and devastating winter.

In the last several years as the administration dawdled in getting itself together on this issue, the program has been funded at its barest minimum and many have suffered greatly.

Mr. Speaker, today we know what the facts are. The tremendous increase in fuel costs, food costs, and forewarnings of another severe winter promise that many of our people face the real choice of starvation or death by freezing. We must be prepared with a program fully funded and in place to properly aid those who are in need of help.

We hear cries that is a new welfare program. We hear cries it is more important to balance the budget.

Do we balance the budget with the lives and welfare of our poor and elderly who are caught in an inflationary squeeze not of their doing?

When we can afford billions of dollars in aid to the needs of other countries, when we appropriate $130 billion for national defense, an increase of $9 to $12 billion in 1 year, can we not find funds to save the lives of those who are in need?

Since the inception of this emergency heat supplemental program, we have appropriated a total of about $1 billion. With this appropriation, that total will be over $2 billion—a pittance compared to the increase of over $35 to $50 billion in defense spending.

I urge my colleagues to vote in favor of House Joint Resolution 430.

□ 1120

Mr. LOTT. Mr. Speaker, I yield the remaining time I have to the gentleman from New York (Mr. Gilman).

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

I want to commend the Rules Committee for expeditiously bringing this measure to the floor. Providing funds for low-income emergency fuel assistance is a critical need. We cannot afford to delay. Any further delay may result in the loss of lives in the months ahead if we experience a severe winter.

Mr. Speaker, I urge my colleagues to expeditiously adopt this rule in the interest of avoiding an imminent heating oil crisis.

I thank the gentleman for yielding.

Mr. MOAKLEY. Mr. Speaker, at this time I yield 1 minute to the gentleman from Massachusetts (Mr. Markey).

Mr. MARKEY. Mr. Speaker, the gentleman from Pennsylvania seems concerned the money we are going to be appropriating today will be far in excess of what will be needed. For someone who makes $7,000 a year, the cost-of-living increases they will receive this year will not equal that which the Members of Congress voted for themselves. When they have to pay an extra $500 this winter for a thousand gallons of home-heating oil, add in their additional food bills, their additional bills for gasoline, and what we may be facing is a situation where $1.6 billion may be a miracle if it is able to cover the human suffering which we are going to see. We are going to create a new category of poor people which will increase not arithmetically but geometrically because of the vast numbers of people who are going to be included in the category who are not going to be able to meet their bills because of the dramatic increase in heating oil costs this winter.

I hope that this will pass and I hope we get expeditious handling of this measure. If we do delay any longer, that category of people will grow and grow and the suffering increase apace.

Mr. MOAKLEY. At this time, Mr. Speaker, I yield 30 seconds to the gentleman from Pennsylvania (Mr. KOSTMAYER).

Mr. KOSTMAYER. Mr. Speaker, I had not intended to speak today but I have listened to the debate with a growing sense of sadness. There are but two things to be said about this legislation. It is too little and it is too late.

Mr. Speaker, I hear the gentleman from Indiana speak of the danger of someone buying a bottle of wine with this. We are not speaking of so-called welfare chislers, but of people who simply want to heat their homes this winter. Where was the gentleman from Indiana when the profits of these corporations were skyrocketing?

This is the Congress which will be remembered for voting for decontrol, this is the Congress which has gutted the windfall profits tax and this is the Congress which may refuse even to enact this miserable sum for aid to the poor and the elderly.

Mr. MOAKLEY. Mr. Speaker, I yield 30 seconds to the gentleman from Indiana (Mr. SHARP).

Mr. SHARP. Mr. Speaker, I rise in strong support of this resolution. We must move rapidly on this matter. Those who argue for further delay in hopes of finding a better way of helping, simply are arguing for us to do less. Those who are arguing for a delay so we can be true to the traditional legislative process, to me, are choosing procedure over people; and I believe we must today choose for the people. We must pass this resolution.

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LOTT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 355, nays 47, not voting 31, as follows:

[Roll No. 600]

YEAS—355

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Applegate
Aspin
AuCoin
Bafalis
Bailey
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Ford, Tenn.
Forsythe
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Ginn
Glickman
Goodling
Gore
Gradison
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Latta
Leach, Iowa
Lederer
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Lowry
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Mathis
Matsui
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Rodino
Roe
Rose
Rostenkowski
Roth
Roybal
Royer
Runnels
Russo
Sabo
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Synar
Tauke
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Weaver
Weiss
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—47

Anderson, Calif.
Andrews, N.C.
Archer
Ashbrook
Atkinson
Badham
Bauman
Collins, Tex.
Crane, Daniel
Crane, Philip
Daniel, R. W.
Erlenborn
Evans, Ga.
Fountain
Giaimo
Goldwater
Gramm
Hance
Hansen
Hinson
Jacobs
Jeffries
Jones, Okla.
Kelly
Kindness
Kramer
Lagomarsino
Leath, Tex.
Long, Md.
Lott
Lungren
McDonald
Mattox
Montgomery
Moorhead, Calif.
Myers, Ind.
Paul
Robinson
Rudd
Satterfield
Shumway
Shuster
Stenholm
Stump
Symms
Taylor
Walker

NOT VOTING—31

Anthony
Ashley
Baldus
Brademas
Breaux
Burton, John
Flood
Foley
Ford, Mich.
Gingrich
Gonzalez
Gray
Howard
Leach, La.
Lee
Livingston
Luken
McKay
Martin
Minish
Pease
Rosenthal
Rousselot
Santini
Scheuer
Treen
Waxman
White
Whitehurst
Wilson, Bob
Winn

□ 1140

The Clerk announced the following pairs:

On this vote:

Mr. Brademas for, with Mr. Leach of Louisiana against.

Mr. Minish for, with Mr. McKay against.

Until further notice:

Mr. Howard with Mr. Livingston.
Mr. John L. Burton with Mr. Scheuer.
Mr. Breaux with Mr. Rousselot.
Mr. Ashley with Mr. Bob Wilson.
Mr. Baldus with Mr. Martin.
Mr. Waxman with Mr. White.
Mr. Rosenthal with Mr. Lee.
Mr. Gray with Mr. Luken.
Mr. Foley with Mr. Flood.
Mr. Ford of Michigan with Mr. Gingrich.
Mr. Santini with Mr. Winn.
Mr. Gonzalez with Mr. Whitehurst.
Mr. Anthony with Mr. Pease.

Messrs. DANIEL B. CRANE, GRAMM, and EVANS of Georgia changed their votes from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 640, MARITIME APPROPRIATION AUTHORIZATION ACT FOR FISCAL YEAR 1980

Mr. MURPHY of New York submitted the following conference report and statement on the Senate bill (S. 640) to authorize appropriations for the fiscal year 1980 for certain maritime programs of the Department of Commerce, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 96–556)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 640) to authorize appropriations for the fiscal year 1980 for certain maritime programs of the Department of Commerce, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Maritime Appropriation Authorization Act for Fiscal Year 1980".

SEC. 2. Funds are authorized to be appropriated without fiscal year limitation as the appropriation Act may provide for the use of the Department of Commerce, for the fiscal year 1980, as follows:

(1) For acquisition, construction, or reconstruction of vessels and construction-differential subsidy and cost of national defense features incident to the construction, reconstruction, or reconditioning of ships, not to exceed $101,000,000; except that—

(A) no funds authorized by this paragraph may be paid to subsidize the construction of any vessel which will not be offered for enrollment in a Sealift Readiness program approved by the Secretary of Defense; and

(B) in paying the funds authorized by this paragraph, the construction subsidy rate otherwise applicable may be reduced by 5 percent unless the Secretary of Commerce, in his discretion, determines that the vessel to be constructed is part of an existing or future vessels series.

(2) For payment of obligations incurred for operating-differential subsidy, not to exceed $256,208,000; except that—

(A) no funds authorized by this paragraph may be paid for the operation of any vessel which is not offered for participation in a Sealift Readiness program approved by the Secretary of Defense; and

(B) an operator receiving funds under this paragraph may elect, for all or a portion of its ships, to suspend its operating differential subsidy contract with all attendant statutory and contractual restrictions, except as to those pertaining to the domestic intercoastal or coastwise service, including any agreement providing for the replacement of vessels, if—

(i) the vessel is less than ten years of age,

(ii) the suspension period is not less than twelve months.

(iii) the operator's financial condition is maintained at a level acceptable to the Secretary of Commerce, and

(iv) the owner agrees to pay to the Secretary, upon such terms and conditions as he may prescribe, an amount which bears the same proportion to the construction-differential subsidy paid by the Secretary as the portion of the suspension period during which the vessel is operated in any preference trade from which a subsidized vessel would otherwise be excluded by law or contract bears to the entire economic life of the vessel.

Any operator making an election under subparagraph (B) is entitled to full reinstatement of the suspended contract on request until October 1, 1984. The Secretary of Commerce may prescribe rules and regulations consistent with the purpose of subparagraph (B).

(3) For expenses necessary for research and development activities, not to exceed $16,360,000.

(4) For maritime education and training expenses, not to exceed $31,372,000; including not to exceed $17,132,000 for maritime training at the Merchant Marine Academy at Kings Point, New York; $10,285,000 for financial assistance to State marine schools; $1,998,000 for fuel oil for State marine school training vessels; and $1,957,000 for supplementary training courses authorized under section 216(c) of the Merchant Marine Act, 1936.

(5) For operating expenses, not to exceed $35,598,000; including not to exceed $6,377,000 for reserve fleet expenses; and $29,221,000 for other operating expenses.

SEC. 3. There are authorized to be appropriated for the fiscal year 1980, in addition to the amounts authorized by section 2 of this Act, such additional supplemental amounts for the activities for which appropriations are authorized under section 2 of this Act, as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law, and for increased costs for public utilities, food service, and other expenses of the Merchant Marine Academy at Kings Point, New York.

SEC. 4. Section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883) is amended by striking out the period at the end thereof and inserting the following new proviso: "*Provided further*, That until April 1, 1984, and notwithstanding any other provisions of this section, any vessel documented under the laws of the United States and owned by persons who are citizens of the United States may, when operated upon a voyage in foreign trade, transport merchandise in cargo vans, lift vans, and shipping-tanks between points embraced within the coastwise laws for transfer to or when transferred from another vessel or vessels, so documented and owned, of the same operator when the merchandise movement has either a foreign origin or a foreign destination; but this proviso (1) shall apply only to vessels which that same operator owned, chartered or contracted for the construction of prior to the date of the enactment of this proviso, and (2) shall not apply to movements between points in the contiguous United States and points in Hawaii, Alaska, the Commonwealth of Puerto Rico and United States territories and possessions.".

SEC. 5. Subsection D(a)(5) of section 30 of the Merchant Marine Act, 1920 (46 U.S.C. 922(a)(5)) is amended to read as follows:

"(5) The mortgagee is a State, the district of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States, or is a citizen of the United States, and for the purposes of this Act the Reconstruction Finance Corporation shall, in addition to those designated in sections 37 and 38 of this Act, be deemed a citizen of the United States.".

And the House agree to the same.

JOHN M. MURPHY,
MARIO BIAGGI,
BARBARA A. MIKULSKI,
BRIAN J. DONNELLY,
PETE MCCLOSKEY,
GENE SNYDER,
Managers on the Part of the House.

DANIEL K. INOUYE,
WARREN G. MAGNUSON,
RUSSELL B. LONG,
JOHN W. WARNER,
ROBT. PACKWOOD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 640), to authorize appropriations for the fiscal year 1980 for certain maritime programs of the Department of Commerce, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text. The Senate disagreed with the House amendment.

The committee of conference recommends that the Senate recede from its disagreement to the amendment of the House to the text of the Senate bill, with an amendment which is a substitute for both the text of the Senate bill and the House amendment to the text of the Senate bill.

The provisions of the amendment recommended by the committee of conference are set forth below, so as to inform the House and the Senate as to the effect the amendment contained in the accompanying conference report will have upon the measure to which it relates.

1. The Senate disagreed with the House amendment providing that a vessel built with construction-differential subsidy must be offered for enrollment in a Sealift Readiness Program. In Conference, the Senate agreed to the House amendment and receded from its disagreement.

2. The Senate disagreed with the House amendment providing that the applicable construction-differential subsidy rate may be reduced by five percent unless the Secretary of Commerce determines that the vessel to be constructed is part of an existing or future vessel series. In Conference, the Senate agreed with the House amendment and receded from its disagreement.

3. The Senate disagreed with the House amendment providing that construction-differential subsidy may not be used for any vessel which will have a subsidized manning level 50 percent above the minimum determined by the Coast Guard to be necessary for the safe operation of the vessel. In Conference, the House agreed with the Senate opposition to the amendment and receded from its amendment.

4. The Senate disagreed with the House amendment providing that a vessel receiving operating-differential subsidy must be offered for enrollment in a Sealift Readiness Program. In Conference, the Senate agreed to the House amendment and receded from its disagreement.

5. The Senate disagreed with the House amendment permitting the operator of a vessel receiving operating-differential subsidy to suspend his subsidy contract from one to five years with the option at the end of that period of going back under the subsidy program or then remaining off subsidy permanently. This amendment also required the repayment of construction-differential subsidy in proportion to the ratio of the period during which the vessel is operated in any preference trade from which a subsidized vessel would otherwise be excluded by law or contract bears to the entire economic life of the vessel, and does not supplant any other authority that the Maritime Administration now has to permit vessel operators to temporarily withdraw their vessels from subsidized operation, or to allow subsidized vessels to carry preference cargoes without repayment of construction-differential subsidy. In Conference, the Senate agreed with the House amendment and receded from its disagreement.

6. The Senate disagreed with the House amendment providing that no operating-differential subsidy funds may be paid for any item of wage costs that is paid to the Transportation Institute, the Joint Maritime Congress, the American Maritime Officers Service, or to any other organization which engages in lobbying activities. In Conference, the House agreed with the Senate opposition to this amendment and receded from its amendment.

7. The Senate disagreed with the House amendment which would have added $3½ million to repair and equip a replacement training vessel for the Massachusetts Maritime Academy's TS BAY STATE, which was declared unusable. In Conference, the Senate agreed with the House amendment and receded from its disagreement.

8. The Senate disagreed with the House amendment which added $1,198,000 for the

purchase of fuel oil for state maritime academy training ships. In Conference, the Senate agreed with the House amendment and receded from its disagreement.

9. The Senate disagreed with the House amendment establishing a ceiling of $1.5 billion during fiscal year 1980 for new loan guarantees authorized by Title XI of the Merchant Marine Act of 1936, as amended. In Conference, the House agreed to the Senate opposition to this amendment and receded from its amendment.

10. The House disagreed with the Senate provision amending section 30 of the Merchant Marine Act of 1920 allowing States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States to be mortgagees of preferred ship mortgages under the Ship Mortgage Act. In Conference, the House agreed with the Senate amendments with technical clarification and receded from its disagreement.

11. The House disagreed with the Senate amendment adding shoreside "fishing facilities" as an eligible category for the Capital Construction Fund and Title XI Ship Financing Guarantee programs under the Merchant Marine Act of 1936. In Conference, it was noted that two procedural issues (jurisdictional and germaneness) raised by the amendment would have made the Conference Report subject to points of order in consideration on the Floor. Following assurance by the House Conferees that they would consider and attempt to pass legislation before the end of the year which would accomplish the objectives of the Senate provision, the Senate agreed with the House opposition to this amendment and receded from its amendment.

12. The Senate disagreed with the House amendment permitting foreign-built, U.S.-documented vessels to carry foreign-origin and foreign-destination cargo between coastwise ports in the continental United States. The Senate agreed with the House amendment and receded from its disagreement, with the unanimous agreement of the Conferees that the time period would be shortened six months from October 1, 1984, to April 1, 1984, and that the following proviso would be added to the amendment: "shall apply only to vessels which that same operator owned, chartered or contracted for the construction of prior to the date of enactment of this proviso."

JOHN M. MURPHY,
MARIO BIAGGI,
BARBARA A. MIKULSKI,
BRIAN J. DONNELLY,
PETE MCCLOSKEY,
GENE SNYDER,
Managers on the Part of the House.

DANIEL K. INOUYE,
WARREN G. MAGNUSON,
RUSSELL B. LONG,
JOHN W. WARNER,
ROBT. PACKWOOD,
Managers on the Part of the Senate.

APPOINTMENT OF AN ADDITIONAL CONFEREE ON S. 1157, DEPARTMENT OF JUSTICE APPROPRIATION AUTHORIZATION ACT, FISCAL YEAR 1980

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that the Speaker be permitted to appoint an additional conferee on the conference committee on the Senate bill (S. 1157) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for the fiscal year 1980 and other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California? The Chair hears none, and, without objection, appoints the gentleman from Michigan (Mr. CONYERS) as an additional conferee on the Senate bill, S. 1157.

There was no objection.

EMERGENCY FUEL ASSISTANCE APPROPRIATIONS

Mr. NATCHER. Mr. Speaker, pursuant to the rule just adopted, I call up the joint resolution (H.J. Res. 430) making urgent supplemental appropriations for low-income energy assistance for the fiscal year ending September 30, 1980, and for other purposes and ask that the joint resolution be considered in the House as in the Committee of the Whole.

The Clerk read the joint resolution, as follows:

H.J. RES. 430

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1980, namely:

COMMUNITY SERVICES ADMINISTRATION

COMMUNITY SERVICES PROGRAM

For an additional amount for "Community services program", $1,350,000,000: *Provided,* That of this amount $1,200,000,000 shall be transferred by allocation to the Secretary of Health, Education, and Welfare for payment of energy grants and allowances and related administrative costs: *Provided further,* That energy allowances shall not be considered as income or resources under any other public or publicly assisted income tested program, but shall be taken into consideration in determining eligibility for energy crisis assistance: *Providing further,* That the States shall, in awarding funds, give priority to those households experiencing significant increases in heating fuel costs over the levels of the previous year: *Provided further,* That proof of income eligibility shall be required of all applicants: *Provided further,* That an annual audit shall be made of this program and all of its components: *Provided further,* That no awards to applicants shall be made after June 30, 1980: *Provided further,* That the funds shall be distributed among the States according to the following formula: (1) 50 per centum based on the number of heating degree days squared times the number of households below 125 per centum of poverty; (2) 50 per centum based on the difference in home energy expenditures between 1978 and 1979.

POINT OF ORDER

Mr. BAUMAN. Mr. Speaker, I make a point of order on the joint resolution.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. BAUMAN. Mr. Speaker, I make a point of order against the present consideration of House Joint Resolution 430.

The point of order lies under rule XXI, clause 2, which provides that no appropriation shall be reported in any general appropriation bill for any expenditure not previously authorized by law, nor shall any provision in any such bill or amendment thereto change existing law. And it goes on further to state that such appropriations must be authorized in law.

I call the attention of the Chair to the fact that the rule just adopted, House Resolution 464, does not waive rule XXI, clause 2, and that the joint resolution, House Joint Resolution 430, contains, in addition to $1,350 million, which has no statutory authorization in law, legislation appearing on page 2, line 7, through line 3 on page 3.

The gentleman from Maryland is aware that there have been previous rulings stating that a resolution providing appropriation for a single Government agency is not subject to this rule, but the gentleman would point out that this resolution makes in order appropriations to the Community Services Administration. This is an independent agency, I understand, responsible to the President, but it is not part of the Department of Health, Education, and Welfare or any other agency. Yet on line 8 of page 2 the resolution presumes to allow this agency to transfer funds to the Secretary of Health, Education, and Welfare, I believe in contravention of existing law, and, therefore, brings into play at least two separate agencies, which the gentleman from Maryland contends does not meet the single Government agency exception.

Further, the prior rulings have indicated that a joint resolution containing continuing appropriations for diverse agencies are exempt from the rule, but this is quite obviously not a continuing appropriation; it is in fact an appropriation for the fiscal year 1980 for a new program under the guise of a supplemental appropriation bill supposedly merely adding more moneys to an existing program. I contend that this is not the case.

On both grounds, Mr. Speaker, the gentleman from Maryland contends that this is a general appropriation bill, regardless of the manner in which it is drafted, and it, therefore, is not in order for consideration at this time.

The SPEAKER pro tempore. Does the gentleman from Kentucky (Mr. NATCHER) wish to be heard on the point of order?

Mr. NATCHER. Yes; I do, Mr. Speaker.

I would like to call the Speaker's attention to the fact that this is not a general appropriations bill. This, Mr. Speaker, as we well know, is a House joint resolution brought before the House at this time under a rule, so, therefore, the rule that the distinguished gentleman from Maryland calls to the attention of the Chair does not lie in this instance.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). The Chair would like to make the observation that this joint resolution was not reported from the committee as a privileged appropriation, and the Chair is of the opinion that this is not, as has been pointed out by the gentleman from Kentucky (Mr. NATCHER), a general appropriation bill and feels that clause 2, rule XXI does not apply in this instance.

Mr. BAUMAN. Mr. Speaker, before the Chair finally rules, may I be heard further?

The SPEAKER pro tempore. The Chair will hear the gentleman.

Mr. BAUMAN. Mr. Speaker, it is the impression of the gentleman from Maryland that it is the obligation of the proposers of the legislation to cite statutory or other authority that contravenes the point of order.

The gentleman from Kentucky has cited the rule which makes in order this bill. The gentleman from Maryland has already pointed out that the rule, House Resolution 464, does not waive the rule XXI and there is no indication in this resolution that it is in fact in any way exempt from the category of a general appropriation bill. I see nothing in the report and nothing in the rule to prove that contention. I do not know how the Chair can determine that this is not a general appropriation bill on some theory that the Appropriations Committee did something, because there has been no authority cited for the record to show that they did so.

Mr. Speaker, the precedents clearly say that the proposers of the legislation must cite statutory or other authority for their position.

□ 1150

Mr. CONTE. Mr. Speaker, may I be heard on the point of order?

The SPEAKER pro tempore. The Chair recognizes the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I would like to cite 42 U.S.C. 2809(a), the emergency energy conservation services. This is a program known as the emergency energy conservation services, designed to enable low-income individuals and families, including elderly and the near poor, to participate in energy conservation programs designed to lessen the impact of the high cost of energy on such individuals and families and to reduce the individual family energy consumption.

Mr. BAUMAN. Mr. Speaker, I would like to respond to the gentleman from Massachusetts (Mr. CONTE).

The SPEAKER pro tempore. The Chair recognizes the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, the law that the gentleman states I understand to be the authority for the Community Services Administration and its administration of the law cited. It is not the authority for what this resolution proposes, and that is a new system of heating aid distribution to SSI recipients, AFDC recipients, with State options as to how it shall be handled; that authority is said to be created in the resolution against which I am making a point of order. So the statutory authority cited is not to uphold this bill.

Mr. CONTE. Mr. Speaker, I would like to be heard further on the point of order.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, under the authority that I have cited, the Federal Register of October 11, 1975, part IV of the Community Services Administration, you will find there the formula as set out by the Community Services Administration as followed by this bill.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Kentucky (Mr. NATCHER).

Mr. NATCHER. Mr. Speaker, I would like to further point out that, under a general appropriations bill, if challenged, your authorization must be cited.

Here we have a House joint resolution, one item. Under the rules of the House that does not apply to the measure that is now before the House.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). The Chair feels that the gentleman from Kentucky (Mr. NATCHER) is correct. As already stated, this legislation has not been reported as a general appropriations bill. The Chair feels his ruling is consistent with the precedents set and overrules the point of order.

COMMITTEE AMENDMENT

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: In the last proviso, insert "heating" after "home".

GENERAL LEAVE

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution (H.J. Res. 430).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I do so only to ask my good friend, the gentleman from Kentucky (Mr. NATCHER), this question: As the gentleman knows, under the procedure that is allowed by this rule, any Member may offer an amendment until such time as the previous question is ordered. The gentleman from Kentucky, under the precedents of the House, has the power to move that previous question at will. He could do so, for instance, after his remarks are concluded and the committee amendment is disposed of.

I would only inquire in my reservation as to whether or not the gentleman would permit other Members—there are several—to offer amendments in good time, assuming that no one is attempting to hold up the business of the House.

Mr. NATCHER. Mr. Speaker, if the gentleman will yield, I would like to inform my friend, the gentleman from Maryland, that certainly we intend to be reasonable so far as the authorization is concerned in this rule, whereby I, as the manager of the bill, have the right to move the previous question. There are amendments. There are Members on this floor who want to speak, and certainly we are going to be reasonable about it.

Mr. BAUMAN. Mr. Speaker, I know the gentleman is an honorable Member of this House and would not seek to close off debate for any Member, but, further reserving the right to object, I would just say that the reason I chose to reserve now is that if we are going to have debate cut off, I do not think all Members should have the right to extend their remarks and pretend they participated in debate if in fact our rights to do so are in any way diminished.

So with the assurance of the gentleman, Mr. Speaker, I will withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. NATCHER. Mr. Speaker, I move to strike the last word.

The SPEAKER pro tempore. The Chair would like to ask the gentleman from Kentucky (Mr. NATCHER) a question.

Is it the gentleman's intention to debate the committee amendment?

Mr. NATCHER. Not at this time, Mr. Speaker.

The SPEAKER pro tempore. The question is on the committee amendment.

The committee amendment was agreed to.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Kentucky (Mr. NATCHER).

Mr. NATCHER. Mr. Speaker, the Committee on Appropriations brings to the House today an urgent supplemental appropriations bill in the amount of $1.35 billion to provide energy assistance to the low-income people of this Nation during the upcoming winter. This amount, when added to the $250 million already appropriated, will provide a total of $1.6 billion for this purpose. That is the full amount requested by the President.

All Americans are feeling the effects of the decontrol of domestic oil prices and the price increases instituted by the OPEC countries. The poor are particularly hard hit. Although their energy consumption is lower than average, their expenditures for fuel and utilities represent a considerably larger-than-average share of their income. Furthermore, low-income families have little flexibility to adjust their budgets for higher fuel prices and remain able to pay for food, shelter, clothing, and other necessities. The committee is recommending this appropriation to help low-income Americans meet this increased hardship. We realize that this program cannot compensate for the total increase in energy costs, but it will alleviate substantially the impact of decontrol and, to some extent, the burdens imposed on the poor by the OPEC price increases.

The bill includes $150,000,000 for the energy crisis assistance program administered by the Community Services Administration. That amount, together with $250,000,000 appropriated earlier, will provide a total of $400,000,000 for fiscal year 1980. The funds will be distributed among the States as block grants for the same purposes specified in the conference report to accompany the Labor-HEW appropriation bill for 1980.

The bill includes $1,200,000,000 which will be transferred to the Department of Health, Education, and Welfare for administration by that Department. Of that amount, an estimated $404,827,000 will be paid as a special one-time energy allowance to recipients of supplemental security income as proposed in the budget. Federal administrative costs of $4,000,000 are also included. The budget proposed to utilize an additional $791,173,000 for special energy allowances to recipients of aid to families with dependent children. The committee directs in the report that States be given the choice of either participating in the AFDC plan presented in the budget or of receiving their share of those funds in the form of a block grant. The block grant would be used to provide assistance to households with incomes below 125 percent of the poverty level.

The States can use the block grant in a variety of ways, including but not limited to the following: Retain all or part of the funds for crisis intervention; target households with higher energy costs rather than distributing it broadly; establish a vendor line of credit; and make payments to those already participating in other income assistance programs, such as AFDC.

If a State elects to use all or a portion of its block grant to increase the funding available for the existing CSA energy crisis assistance program, we would expect that HEW and CSA will jointly work out an arrangement for State plan approval, distribution, and monitoring of those funds.

We have included in the bill the formula by which HEW and CSA will allocate funds to the States. It is based 50 percent upon low-income weighted heating degree days and 50 percent upon the difference in home energy expenditures between 1978 and 1979. SSI funds will be distributed to individuals as proposed in the administration's budget.

The bill also provides for the following: That the States shall give priority to those households experiencing significant increases in heating costs over the levels of the previous year; that proof of income eligibility shall be required of all applicants; that an annual audit shall be made of this program; that no awards to applicants shall be made after June 30, 1980; and that States may use up to 10 percent of block grants for administrative expenses.

Mr. Speaker, time is of the essence in this matter. This bill must be enacted promptly to insure that low-income Americans will be able to heat their homes this winter.

The SPEAKER pro tempore. The time of the gentleman from Kentucky (Mr. NATCHER) has expired.

(By unanimous consent, Mr. NATCHER was allowed to proceed for 5 additional minutes.)

□ 1200

The SPEAKER pro tempore. The time of the gentleman from Kentucky (Mr. NATCHER) has expired.

(By unanimous consent, Mr. NATCHER was allowed to proceed for 2 additional minutes.)

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I thank the gentleman for yielding.

I agree with almost everything the gentleman said.

I just want to make a couple of little statements and lead to a specific question.

As the gentleman indicated, this is the fourth year that we have had this kind of program, but we still do not have specific authorizing legislation. We are sort of appropriating in the blind. The authorizing committee in another instance, as we had so many in this year, has not come forth with the guidelines and rules that assure us that the money will be pinpointed to the place where it ought to go.

Now, in this case, I had the feeling at the hearings that the disposition of the Department was to sort of scatter the money and hope some of it gets to where it should go. That is the reason for putting into the report the specific language the gentleman mentioned, giving the States in lieu of that 30 days to use this as block grant money and come up with their own program so that they can pinpoint it.

I also got the distinct impression that the people in the Department think that the only people who need this money are those on SSI and AFDC. The gentleman and I know that in our States at least half of the people who will need this money are on neither one of those programs.

I just do not trust the Department with their present disposition to think everybody who needs money is on one of those two programs to administer this unless we can kind of tie down that they will let the State have 30 days in which to come up with their own program.

The SPEAKER pro tempore. The time of the gentleman from Kentucky (Mr. NATCHER) has again expired.

(At the request of Mr. SMITH of Iowa and by unanimous consent, Mr. NATCHER was allowed to proceed for 3 additional minutes.)

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. My question to the gentleman is this: How sure can we be that the Department, first of all, will give them the 30 days that we say in the report they ought to have, and, second, how sure can we be that, with their present disposition, that they will not approve the block grant, the program that the States submit if they do provide for people other than those in these welfare categories?

Mr. NATCHER. In answer to the gentleman's question, I would like to say that we want, and we say to the Department of Health, Education, and Welfare, I think it should be emphasized, that we want that 30-day period complied with strictly, and the 15 days and the 5 days specified in the report; and we will make every effort on the Appropriations Committee to see that the Department of Health, Education, and Welfare complies with the directions set forth in this report.

Mr. SMITH of Iowa. I thank the gentleman for his answer.

I also remember that in reply to a question I asked, I got the indication that the Secretary thinks that it is a unique case where somebody who needs help is not on either SSI or AFDC.

I think it is the unanimous agreement of the members of the committee that it is not unique at all, that, in fact, those are probably the people who are going to need this the most, and not everybody is going to need the exact same amount.

Mr. NATCHER. The gentleman's statement is correct.

I think that expresses the desire of every member on the subcommittee.

Mr. GIAIMO. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I yield to the gentleman from Connecticut (Mr. GIAIMO), the chairman of the Committee on the Budget.

Mr. GIAIMO. I thank the gentleman.

I would like to clear up the discussion that we had in the committee yesterday concerning the use of this money.

The gentleman will recall that it was stated that the Secretary of HEW indicated that this money could be used for other than heating purposes, that, in fact, the term "air-conditioning" was used. The gentleman will recall that it was stated that this money can be used for air-conditioning in those States that perhaps will not need it for heating purposes, even though the thrust and the emphasis will be on heating.

The gentleman will recall further that the gentleman from Massachusetts (Mr. CONTE), offered an amendment, as I recall, in the committee yesterday, inserting the word which now appears in the committee amendment on page 3, the word "heating" was put in.

□ 1210

The SPEAKER pro tempore. The time of the gentleman from Kentucky has expired.

(At the request of Mr. GIAIMO and by unanimous consent, Mr. NATCHER was allowed to proceed for 5 additional minutes.)

Mr. GIAIMO. Mr. Speaker, will the gentleman yield further?

Mr. NATCHER. I yield to the gentleman from Connecticut.

Mr. GIAIMO. I am told, notwithstanding the amendment, including the word "heating" in the Conte amendment, the purpose of that in committee clearly, in my opinion, was to limit this money to pay heating bills, not air-conditioning bills, not any other kind of bills. But I am told, notwithstanding that amendment it is still within the purview and within the authority of this legislation, it is still the fact that this money goes to all of the States and that the amendment saying "heating," in fact, applies only to the formula and to the part of the formula which is set forth on lines 24 and 25 of page 2 and 1, 2, and 3 of page 3, and does not restrict the use of money and, in fact, this emergency money demanded and required for heating purposes, in fact, will be sent to States that will not have heating problems and can be used for air-conditioning. Is that the gentleman's understanding?

Mr. NATCHER. I would like to advise the gentleman from Connecticut that, as he knows, on page 2 of the resolution before the House, the last proviso reads as follows: "That no awards to applicants shall be made after June 30, 1980." So that answers part of the gentleman's question.

The balance, in answer to the gentleman, as I pointed out to the House just a few minutes ago, this program applies only to families and to people who are below 125 percent of the poverty level, which is a figure of $8,375 for a family of four.

As far as the checks that go out to SSI recipients, that payment would run about $100 per recipient, but as far as me saying to the gentleman from Connecticut that not $1 of this money could be used for the purpose he has addressed his remarks to, I cannot answer that question and say to the gentleman that not $1 can be used for that purpose. This is a bill to take care of low-income people during the wintertime who are cold and are suffering. We put in there, Mr. Giaimo, the provision concerning no award shall be made after June 30, 1980. This is not an air-conditioning bill, and that is the reason why the committee amendment contains only one word.

The gentleman from Massachusetts (Mr. Conte) offered that amendment and it was agreed to in the committee. It contains the word "heating." That will be passed on by the House.

So in answer to the gentleman let me say this: We do not intend for $1 of this money to be directed for air-conditioning and air-conditioning only, not $1. This bill pertains to the heating of homes, and that is the purpose of the legislation.

Mr. GIAIMO. With all due respect, if the gentleman will yield further——

Mr. NATCHER. I yield to the gentleman.

Mr. GIAIMO. The gentleman will recall there was a great deal of discussion in the committee yesterday.

Mr. NATCHER. The gentleman is correct.

Mr. GIAIMO. There was a great deal of discussion over the question of air-conditioning and, in fact, there were even some suggestions made that we needed the warm States in order to get the legislation passed.

The fact is the gentleman mentioned the June 30, 1980 date. My understanding of that would be no payments could be made after that date in those warm States that need air-conditioning after June 30, but they can get a payment during the winter months, or the spring months, if they could use it for air-conditioning. That would be my understanding and, in fact, it is backed up by the statement of the Secretary. I suspect, I believe it is backed up by the gentleman's statement, because while he indicated the major thrust of this is again for heating, the gentleman does indicate, or at least my inference from what the gentleman says is it is possible in those States that do not have heating problems, but have warm problems, that they could use this money for those purposes.

The SPEAKER pro tempore. The time of the gentleman from Kentucky has again expired.

(At the request of Mr. Giaimo and by unanimous consent, Mr. Natcher was allowed to proceed for 3 additional minutes.)

Mr. NATCHER. Mr. Speaker, let me say to the distinguished gentleman from Connecticut that I do not believe a single State that submits a plan under this resolution, that must be approved by HEW, if it contains language to the effect that money was to be used for that purpose, that the plan would be approved. I do not believe a single plan would be approved.

The only way the State could operate under it is to have that plan approved. The Secretary, Mrs. Harris, emphatically stated this is a bill to take care of the cold people, the people that are going to suffer in the wintertime.

As far as the SSI payments are concerned, as I have said to the gentleman, there will be $404 million that will be distributed by that mechanism.

Mr. Giaimo, it is not the intention of our subcommittee, it is not the intention of the committee that you and I serve on, to make this an air-conditioning bill. This is one to take care of the cold people, Mr. Giaimo, and I hope that the colloquy that you and I are having at this time will convince them downtown that this is what we have in mind.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I will certainly yield to my distinguished friend from Massachusetts (Mr. Conte).

Mr. CONTE. So that we have some legislative history here that could serve as a guideline for the Secretary of HEW, the gentleman in the well is absolutely correct. The idea, the thought behind my amendment was to see that this goes for the payment of heating bills and not for any wasteful air-conditioning.

However, I want to make the record clear that if the State opts for their own program with the Michel amendment as amended by me, however, under the SSI program the recipient of an SSI check can use that check for anything he wants. If the State does not opt for their own plan, then the HEW will administer the program under the aid to dependent children. There again in that particular instance the recipient can use that check for whatever they want, but it is my feeling, and I think it is the chairman in the well's feeling that 99 percent of these States are going to opt for their own program, and if they opt for their own program it is strictly for heating oil consumption.

Mr. NATCHER. I would agree with the gentleman. I want to commend the gentleman from Massachusetts on the work he has done on this particular bill, not only during the hearings but at all times. I want the gentleman to know that as chairman of the subcommittee I appreciate the fact that he is on our subcommittee and I can serve with him.

Mr. CONTE. Thank you, Mr. Chairman.

The SPEAKER pro tempore. The time of the gentleman from Kentucky has again expired.

(At the request of Mr. Addabbo and by unanimous consent, Mr. Natcher was allowed to proceed for 2 additional minutes.)

Mr. ADDABBO. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I am happy to yield to the gentleman from New York.

Mr. ADDABBO. I thank the gentleman for yielding.

Mr. Speaker, in the calculation of residential heating costs, I am especially concerned about the treatment of residual oil. As you know, Mr. Chairman, residual oil is used in many States as a fuel for electrical generation. This is true in New York.

However, residual oil is also widely used in New York, particularly in the New York City area, as a boiler fuel for many large apartment complexes. In fact, Mr. Chairman, I would venture that for many low-income households in New York City residual oil is the principal fuel for heating. In the Northeast there are 3.4 million multifamily housing units accounting for more than 20 percent of the region's households.

I have been informed, Mr. Chairman, that CSA and DOE do not include residual oil usage in their calculations of residential heating costs. The reason is that DOE terms residual oil to be a "commercial" fuel. As I have already indicated, residual oil is generally used for commercial purposes. As I have also indicated, however, there is a very special exception to this general proposition—an exception which is rather significant to a large number of New Yorkers.

My question, Mr. Chairman, is a simple one. Is it not the intent of the committee that in the calculation of either aggregate residential energy costs or aggregate residential heating costs, CSA and HEW are to include the costs of heating one's apartment with residual oil?

Mr. NATCHER. I would like to say the gentleman's statement is correct and certainly that has to be taken into consideration.

Mr. ADDABBO. I thank the gentleman.

Mr. NATCHER. That is the intention of our committee.

Mrs. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I am happy to yield to the gentlewoman from Louisiana, a member of our committee (Mrs. Boggs).

Mrs. BOGGS. I thank the gentleman for yielding. I would like to insert in this discussion, if we are making legislative history, at this point I would hope that the gentleman in the well and the gentleman from Massachusetts would not exclude all air-conditioning. I think we must realize that over the years, because electricity and gas and heating and air-conditioning were so inexpensive in many States, that a great number of housing programs, a great number of buildings of public housing, of low-cost housing, of housing for the elderly, were all built in a less expensive way than the climate demanded because air-conditioning was so easily available and so inexpensive.

☐ 1220

These people are now caught in a terrible situation of where they cannot have cross-ventilation, they do not have overhanging roofs, they do not have porches and center halls and windows to the floor. They are caught in small boxes built under Federal programs and built in that way because it was less expensive to build them that way.

The SPEAKER pro tempore. The time of the gentleman from Kentucky has again expired.

(At the request of Mrs. Boggs and by unanimous consent, Mr. Natcher was allowed to proceed for 2 additional minutes.)

Mrs. BOGGS. To pay for the air-conditioning, particularly the old people, would be very, very hard hit if we exclude them from inclusion in this bill.

Mr. NATCHER. I want to thank the gentlewoman from Louisiana for her statement.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, as long as we are making legislative history, here is a little caveat. I do not want some State turned down because they did not have some provision that prevents somebody from giving some attention to carrying out a higher rent bill next year. The fact of the matter is that there are a lot of elderly and low-income people living in apartment houses who have no control over their rent increase. The rent is going to be increased for the very purpose this bill is before us; that is, because energy costs are going to go up. The rent is going to go up another $30 or $40 a month.

They are in just as bad a position. They have no control over it. The reason is because energy costs went up, and I do not think they ought to be excluded any more than somebody who happens to be up in a cold climate.

I do not think we have legislative history that savs that we ought to turn down some State plan because they did not exclude in some way all those increases in rents that happen to be attributable to air-conditioning, because that is an energy cost. The whole reason for this is because the cost of energy went up, and it hits those poor people as bad as anybody else.

(At the request of Mr. Phillip Burton and by unanimous consent, Mr. Natcher was allowed to proceed for 5 additional minutes.)

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Speaker, initially I would like to associate myself with the remarks of the gentlewoman from Louisiana (Mrs. Boggs), as well as those of the gentleman from Iowa (Mr. Smith).

I have two or three questions I would like to pose. First, is a Governor, without the necessity of State legislative action, authorized to speak on behalf of the State? I ask that in light of the fact that virtually every State legislature in the country is not in session; that many States require a certain notice before they can get into session; and most States require an extraordinary percentage of both houses before action can be taken that is effective on enactment.

Mr. NATCHER. I would like to say to my friend from California (Mr. Phillip Burton) that I think the Governor has the right to submit a plan.

Mr. PHILLIP BURTON. So, the answer is that the Governors do have the authority to speak on behalf of the State under the terms of the legislation to decide what that State plan is?

Mr. NATCHER. I would say to the gentleman that in my opinion every Governor of the 50 States has the right to submit a plan for approval under this House joint resolution. Every Governor of the 50 States, I think has the right to submit a plan.

Mr. PHILLIP BURTON. My next question is, would the gentleman describe very briefly—conceptually, not in detail—the measurement of need for hearing? I ask that question in the following context: Our part of the State is not unlike Gaul, we are divided into at least three parts, if not 45. We have sections of the State that are very cold, and we have sections of the State that are very warm. So, the impact, if you will, for the need for heat varies greatly.

I ask that question because I am led to believe that there is some formula utilized that then produces a per person increase for those, let us say on SSI, and I am trying to assess how that formula is constructed and the need for it once a formula is constructed allocating these increases if they want to use the SSI mechanism. Can it be an average payment so that everyone gets the benefit of it, or how?

Finally, with respect to that, what is the estimated increase on SSI per person, or the range of estimated increase per person?

Mr. NATCHER. Mr. Speaker, in answer to the gentleman's question, in the full committee and also in the subcommittee during the hearings we considered the matter concerning those that would be eligible and those not.

As far as the payments to the SSI recipients are concerned, the $404 million, those payments, I would say to the gentleman, are automatic. They would be made through the SSI system. All of those people, every one in my opinion, that is, on the SSI roll, would receive a payment.

Mr. PHILLIP BURTON. So, if I may interrupt the gentleman, am I correct in assuming then for purposes of eligibility for this energy grant or fuel grant or heating grant, or however it may be termed, there is automatic eligibility for anyone currently receiving public assistance in the sense that they shall be deemed to be under the 125 percent of poverty level?

Mr. NATCHER. SSI recipients are automatically eligible.

Mr. PHILLIP BURTON. My next question is, what position is a State in—and I can defer obtaining a response to this until the gentleman has an opportunity to leave the well and deal with it at some later time—what is the situation where we have people in the mountains with very high fuel costs who are being currently hurt today, but people in the deserts of our State——

The SPEAKER pro tempore. The time of the gentleman from Kentucky has again expired.

(At the request of Mr. Phillip Burton and by unanimous consent, Mr. Natcher was allowed to proceed for 5 additional minutes.)

Mr. PHILLIP BURTON (continuing). Vis-a-vis the person who has been hurt the last 3 months, living in the desert because the increased fuel costs attributable presumably in part to setting aside—and I agree with the policy—certain assured reserves for fuel oil. Can our State, for example, be permitted, if the Governor so elects, to say that this is a totality of SSI money and therefore we shall increase each of the grants by this standardized amount?

I ask that question because one of the values of SSI is to have standardized payments, but my heavens, if we have to alter it county by county, we are back in the same swamp we were in before we constructed the SSI program. That is the question I hope I can get an answer to before the debate closes.

Mr. NATCHER. I would like to tell the gentleman that SSI payments will be uniform throughout any given State.

Mr. EARLY. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I yield to the gentleman from Massachusetts.

Mr. EARLY. Mr. Speaker, as the chairman suggested earlier, on the SSI program, the $404 million, California would not have that option, but under the $400 million CSA, if the gentleman's Governor opted to send all the money up to that area he could do that. If the gentleman's Governor opted to participate in the $800 million share California would get, he could send all of it to that area. The chairman will tell the gentleman that he could do that.

Mr. PHILLIP BURTON. But is the gentleman saying that SSI recipients would receive nothing?

Mr. EARLY. The SSI, $404 million, will be distributed to the 50 States, and it will be distributed upon the one-time basis.

☐ 1330

Mr. PHILLIP BURTON. I do not quarrel with that.

Mr. EARLY. But everyone in California will get $86 in one check in January under the SSI.

Mr. PHILLIP BURTON. I see. I see.

Mr. EARLY. Yes. The other 1.2 distribution, as the chairman so eloquently stated, the Governors would have as an option, and we should make the point at this time that the gentleman in the well has made a tremendous statesmanlike statement. Does his State get a good share of this money? No. Kentucky does not do very well because the formula is by the temperature and degrees. I praise the gentleman for looking at the emergency throughout the whole country and to participate the way he has.

Mr. PHILLIP BURTON. Will the gentleman yield further, just by way of continuing this conversation for a moment?

Mr. NATCHER. I yield to the gentleman from California.

Mr. PHILLIP BURTON. As I read this proposal, it is going to be a one-shot payment for those on current maintenance programs, SSI and AFDC, and income shall be disregarded as income resources and will not in any way affect eligibility, let us say, for medicaid or other public services because of this added one-shot income factor? Am I correct in that understanding?

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I yield to the gentleman from Illinois.

Mr. MICHEL. I thank the gentleman for yielding.

I will say to the gentleman from California (Mr. Phillip Burton) I am not sure whether his question with respect to SSI initially was appropriately answered, or maybe I did not hear right. But every SSI recipient in California, whether he lives in the south or the north, is going to be getting his standard payment of $85 a month, period. That does not vary within a State. The payment, as the gentleman knows, does vary between States.

Mr. PHILLIP BURTON. I thank the gentleman.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding. First, I want to commend the chairman, the gentleman from Kentucky, (Mr. Natcher) and the members of the committee for expediting this legislation. Coming from New Jersey, obviously it is very important to our region. But I do have some concerns about some of the language in the legislation and the report. I would like to get some clarification, if I could, from the chairman. I know that the gentleman used the term on page 2 of the legislation, "heating fuel costs" in referring to "* * * the States shall, in awarding funds, give priority to those households experiencing significant increases in heating fuel costs. * * *"

Then the gentleman uses in another place "home heating energy." My question is what about those individuals who have total electric homes?

The SPEAKER pro tempore. The time of the gentleman has expired.

(At the request of Mr. Hughes, and by unanimous consent, Mr. Natcher was allowed to proceed for 3 additional minutes.)

Mr. HUGHES. If the gentleman will yield further, in my region, and I suspect in many regions of the country there was a very aggressive advertising program a number of years ago by the utilities for all-electric homes. Many of the people who are on SSI, and who were in need of these funds who were not on SSI it would seem to me would be totally foreclosed from participating fully in the program, although they might be the neediest if, in fact, we interpret heating fuel costs to exclude electric heat, for instance.

Mr. NATCHER. I would like to say to the gentleman that if the applicant, if the recipient who wants to receive the money, qualifies under the category of below 125 percent of the poverty level, that electricity would be the same as natural gas and oil. There would be no distinction.

Mr. HUGHES. If the gentleman will yield further, then it would seem to me that perhaps "heating fuel costs" as it is used in the context of the legislation might be extremely confusing, because technically even though those people might be absorbing additional fuel costs through the fuel adjustment clause, if in fact there is one in a particular State, they do not really purchase heating fuel. I wonder if perhaps we cannot clarify that. I would hesitate at this point to support legislation that would foreclose a major segment of my consumers.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I yield to the gentleman from Massachusetts.

Mr. CONTE. I thank the gentleman for yielding. The gentleman is speaking about the amendment that I offered in committee, and it is the second part of the formula that says 50 percent based on the difference of home heating energy expenditures between 1978 and 1979. We definitely—and I think the gentleman in the well, the gentleman from Kentucky (Mr. Natcher) will agree with me—we definitely say it is not only home heating fuel costs, but if they are heated by electricity, that definitely is our intent, and that was the intent of the amendment. We agree with the gentleman.

Mr. NATCHER. The gentleman's statement is accurate. I would like to have the gentleman know that electricity would apply, as I said a moment ago, the same as heating oil, natural gas, or any other fuel or form of energy.

Mr. HUGHES. I thank the gentleman for that.

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I yield to the gentleman from California.

Mr. PANETTA. I thank the gentleman for yielding. One of the concerns I have and this may be addressed by an amendment offered by my colleague, the gentleman from Connecticut, (Mr. Giaimo) is the question of relating this to the windfall profits tax. I think there are two basic concerns I see in this legislation: One, the fact that we may be constructing an entitlement program, which I think the gentleman has dealt with by the June date, and, second, the question of where are the revenues that will support this? In the budget process and in the budget conference right now we are amending the supporting of this program with the windfall profits tax.

The SPEAKER pro tempore. The time of the gentleman from Kentucky (Mr. Natcher) has expired.

(At the request of Mr. Panetta, and by unanimous consent, Mr. Natcher was allowed to proceed for 2 additional minutes.)

Mr. PANETTA. If the gentleman will yield further, in the report itself, however, there is no mention about the windfall profits tax as being the basic support for this program. I am concerned that if we do not build this kind of language into the report, we merely feed those forces that are undermining the windfall profits tax at the present time, and, indeed, we are going to be reaching into the General Treasury as a way of supporting the program. So I would ask the gentleman, in any way is this program to be tied to the windfall profits tax?

Mr. NATCHER. In this House joint resolution, as the preamble states, this money is appropriated out of the general fund of the Treasury.

This resolution is not hitched to or is not contingent upon the passage of the windfall profits tax, I will say to the gentleman. The Secretary did say in the hearing that the general fund would be reimbursed after passage of the windfall profits tax.

Mr. GIAIMO. Mr. Speaker, will the gentleman yield on that point?

Mr. NATCHER. I yield to the gentleman from Connecticut.

Mr. GIAIMO. I thank the gentleman for yielding. I would just like to advise the gentleman that I do have several amendments which will attempt to relate this matter to the windfall profits tax.

Mr. NATCHER. Yes. Mr. Speaker, I yield back the remainder of my time.

Mr. MICHEL. Mr. Speaker, I move to strike the last word.

(By unanimous consent, Mr. Michel was allowed to proceed for an additional 5 minutes.)

Mr. MICHEL. Mr. Speaker, there is no question but that some assistance to help the needy pay their heating costs this year is desirable, but we also have a responsibility to insure that our tax dollars are wisely and properly spent. The question has been raised within the last few minutes: What happens to the windfall profits tax? It just so happened that when the Speaker came to testify before our subcommittee, I posed the question:

> The Administration proposes tacking the $1.2 billion energy allowance proposal to the windfall profits tax. Do you support that approach or do you want us to appropriate the money regardless of what happens to the tax over in the other body?

That was my statement to the Speaker. Speaker O'Neill responded:

> I am concerned with the windfall tax but the needs of the American people come first. The windfall tax comes afterwards.

The thrust of what I am saying here is that from what I gather from the leadership on the majority side and the administration, it is, "Damn the torpedoes, full speed ahead." This is a program that has got to be enacted. Appropriate the money, and then we will take care of reimbursement, if there is any, through a windfall profits tax.

□ 1240

The result of this under-the-gun approach has been the development of a bill that, frankly, contains a hodgepodge of programs that represent little more than throwing a large sum of money at a problem and hoping a little good will result.

Its amazing how quickly we can spend money around here with few questions asked. But when it comes to cutting spending in order to reduce our incredible 13-percent inflation rate, that becomes another matter entirely and most everybody runs for cover.

To be sure, we were able to make some improvements in the bill in full committee, due mainly to a substitute amendment I offered.

We were able to revise the allocation formula to remove some of the bias favoring warm weather areas, thus providing more funds to the cold weather States where the greatest needs are.

We wrote language in the bill requiring that priority be given to those households experiencing the largest increases in heating fuel costs.

We included language requiring proof of eligibility, requiring an annual audit, and requiring that no awards be made after June 20, 1980, all of which are designed to prevent abuse.

Despite these improvements, however, we still have a bill that provides for four separate programs, administered by two different agencies, under several possible sets of regulations. It is an approach that builds in additional bureaucracy and redtape that will serve only to add to the confusion and result in delays in getting the money out.

Most of the money will not get into the hands of the recipients until next January and February at the earliest, and a good portion will be siphoned off to make direct cash payments to individuals regardless of heating needs.

My block grant approach through CSA.

We are making payments to all SSI recipients, regardless of need or area of the country. Payments will even go to those in Hawaii. A person who does not incur any increase in heating costs will receive the same amount as a person whose fuel bills have doubled.

Several SSI recipients could be living in a single household, and yet each one would receive a cash payment, even though there is only one facility to heat.

Since there is no restriction on these cash payments, they could even be used to pay air conditioning bills.

Moreover, only those SSI recipients who are on the rolls in December will receive funds. Those coming on in January, February, or March, the coldest winter months, will not be eligible.

Making payments directly to SSI recipients will result in a disproportionate share of the funds going to warm weather States, where the needs are the least. For instance, Minnesota and Louisiana have similar populations, but Louisiana would get twice as much SSI funds as Minnesota, despite the fact that Minnesota is five times as cold as Louisiana. Texas would get $5 million more than Illinois, despite the fact that Illinois is three times as cold.

Mr. PHILLIP BURTON. Will the gentleman yield?

Mr. MICHEL. I will be happy to yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Speaker, first dealing with SSI, am I correct in my belief that if someone applies for assistance in December and is approved in December, they would be eligible?

Mr. MICHEL. That is correct.

Mr. PHILLIP BURTON. Similarly for AFDC if they apply, let us say in January and are approved in January, they are eligible. Is that correct?

Mr. MICHEL. That is correct.

Mr. PHILLIP BURTON. May I just offer this one suggestion: By waiting for AFDC until January, you are inviting inevitably a timelag of another 30 days for these welfare families. I will have no amendment to do this, but I would urge the conferees to seriously consider having that AFDC date moved up to perhaps December because you eliminate of necessity another 30-day lag before that check can get to these poor families. This is a thought I would hope the conferees will bear in mind when they go to conference on this question.

Mr. MICHEL. Mr. Speaker, I would just say that part of that problem would have been resolved if my total substitute would have been enacted because under the CSA-grant approach, payments could be made beginning next month. That was one of the advantages to my approach, rather than waiting until January, February, or beyond.

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield further?

Mr. MICHEL. I yield to the gentleman from California.

Mr. PHILLIP BURTON. As the gentleman is aware—and I have an amendment to deal with this later in the insular areas—in the event the insular areas are included, not automatically but included, not rendered ineligible simply because they are not mentioned, that in Guam and the Virgin Islands, at least, they do not have SSI, they have the precursor of SSI, old-age assistance. In the northern Marianas, however, they do have SSI.

Mr. Speaker, I would like the record to reflect that in the event these areas are protected, the old-age assistance aid to the blind and aid to the disabled, the three programs that were the genesis of what we now describe as SSI, shall be deemed the equivalent of SSI. I would hope that would prove to be the case.

Mr. EARLY. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Massachusetts.

Mr. EARLY. Mr. Speaker, I would like to go to the justification. There is no one I have more respect for than the man in the well. However, in the justification the testimony is different. I think those people would be picked up. I quote:

> These funds are needed to pay a special energy allowance to SSI recipients who receive an SSI payment for the month of December 1979. The actual energy payments will be made after December 1979, as soon as possible. Although all recipients receiving an SSI payment in December 1979 are eligible for an energy allowance payment, cut off dates for the payment system to issue checks in January 1980 is mid December. This means that some recipients who become eligible in late December will not receive a check initially. We will make additional payment system computer runs in January, February and March to pick up these people.

Mr. Speaker, the people who are not on SSI in December who become eligible in January, February, and March will be picked up.

I thank the gentleman for yielding.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I will be happy to yield to the gentleman from Pennsylvania, but I first want to respond to the gentleman from Massachusetts that the item he reads from in the justifications indicates only that initial SSI payments will be made to people on the rolls as of mid-December. The later payments he refers to will only be made to those people coming on the SSI rolls in the last half of December. Those coming on in January, February, or March still will not be covered.

Mr. WALKER. Mr. Speaker, I wanted to clear up what I felt was a little confusing in the presentation by the gentleman from Kentucky with regard to the 125-percent figure that is in here. Can the gentleman clarify that for me? The gentleman from Kentucky referred to it a number of times and I wanted to get the information for the legislative history, that it is 125 percent below the poverty figure. If I read the bill correctly it is 125 percent of the poverty figure and below; is that correct?

Mr. MICHEL. That is correct.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

The SPEAKER pro tempore. The time of the gentleman has expired.

(By unanimous consent, Mr. MICHEL was allowed to proceed for 5 additional minutes.)

Mr. MICHEL. Mr. Speaker, we are providing in the bill two block grant programs, one administered by the Community Services Administration and the other by HEW. I endorse the chairman's call for cooperation between these agencies, but frankly, it simply does not make sense to have two separate block grant programs administered by two separate agencies. Unless we have a complete merger of the programs, the States will have to deal with two separate sets of regulations, will have to submit two separate plans, will have to keep two separate sets of books, and will have to go through two different review cycles.

The States are given the option of either going with the HEW block grant program or making payments to all AFDC recipients, and I venture to say that many States will opt for the AFDC approach because it will be easier. My own State of Illinois has indicated as much. Yet, if the AFDC route is chosen, you have the same problem as in the SSI approach: Payments would go to all AFDC recipients, regardless of heating needs, and they would be in the form of cash grants, which means they can use the money for anything they want.

I simply do not think there is any justification for making automatic payments to AFDC recipients, because, frankly, many of these families get more than social security recipients. And I would venture to say that most social security recipients do a better job of conserving energy than do those on welfare. Yet social security recipients receive no special consideration under this bill, and in fact would have to depend for assistance on smaller block grant allotments than what would be available if all payments were based on need.

The Northeast-Midwest Congressional Coalition sent out a memorandum this week which says the following about the approach contained in this bill:

> The Administration's concept of direct, one-time payments to recipients of AFDC and SSI needs to be reexamined. While it may be practical from an Administrative point of view, this $1.2 billion program has serious flaws. Research shows that less than 50 percent of the needy households (125 percent of poverty level) would be assisted. On the other hand, many of those who do not need fuel assistance would nonetheless receive it. In addition, the average payment of $200 will not cover more than one fuel tank fill-up and in practice may not even be spent on fuel but on other necessities.

I offered an amendment in full committee designed to meet the concerns voiced by the coalition and correct the shortcomings in the bill I have cited. That amendment would have placed the entire $1.35 billion into a single block grant program, distributed through CSA and administered by the Governors.

By providing for one program administered by one agency, my proposal would have reduced the confusion, redtape, and bureaucracy, and by doing so, would have resulted in funds being made available to those in need by November, rather than January or February, as in the committee bill.

It would also have overcome the remaining warm weather bias in the bill by not making a distribution through the SSI mechanism. It would have insured the allocation of assistance to those with the greatest heating needs, both within States and among States.

Regrettably, the committee did not see fit to go along with the one block grant approach.

We could have done better—and should have done better.

Mr. BINGHAM. Mr. Speaker, will the gentleman yield briefly?

Mr. MICHEL. I am happy to yield to the gentleman from New York.

Mr. BINGHAM. Mr. Speaker, I would simply like to thank the gentleman from Illinois, the chairman of the subcommittee and all of the members of the Committee on Appropriations and thank the Speaker for this initiative of bringing this matter of such great urgency so promptly to the House floor. I think we are demonstrating that when we need to the Congress can act rapidly. There are a lot of problems that remain to be worked out but we are responding to an urgent need and I want to thank the gentleman for his part in it.

● Mr. BINGHAM. Mr. Speaker, there can be no doubt that an emergency fuel assistance program is needed and needed now. In August 1977, the average price of a gallon of home heating oil was 47 cents. Today in the Bronx, N.Y., my home district, people are paying 85 cents and more. The hardship represented in that figure cannot be overestimated. The average American family using heating oil this winter will be paying $540 more this year than was paid last year for the same amount of fuel; $1,275 compared to $735 last winter. This is an extraordinary increase. How many of our constituents can afford that extra $540 over the course of 5 months? How many will be forced over the line to poverty or near poverty? How many just will not be able to pay their fuel bills and will face the awful choice of fuel or food?

As is so often the case, the poor and the near poor are being hit the hardest by these energy price hikes. This winter many low-income households will be devoting as much as 50 to 70 percent of their total earnings to pay heating bills. This is despite the fact that low-income families use, on the average, much less energy than middle- and upper-income families. Low-income families are incapable of reducing their energy costs through reductions in consumption simply because they, for the most part, have learned to live with the bare minimum of energy use. We cannot ask our elderly to learn to live with additional blankets and less heat. That is what they are doing already.

So it is essential that we enact this emergency legislation quickly. The administration would have had us delay action until the windfall profits tax was in place. Under the leadership of the Speaker and the Appropriations Committee (and of Senator JAVITS in the Senate), we are rejecting that "linkage" and moving on aid swiftly. Low-income and elderly people cannot be held hostage while the Congress deliberates over the size and scope of the windfall it is going to allow Exxon and Mobil and the others to keep. As I said in testimony last month before the Senate Labor and Human Resources Committee, it would have made good sense to link decontrol of oil prices to passage of a tough comprehensive windfall profits tax. The President chose to reject that in favor of a linkage of emergency fuel assistance with the windfall tax, a linkage which could only penalize the innocent—the poor and the elderly—while leaving the oil companies untouched.

The supplemental appropriations we are voting on today will not end the problem of higher energy costs. The combination of OPEC greed, and oil and gas decontrol guarantees that skyrocketing energy prices are here to stay. I oppose decontrol and have voted against it again and again but, unfortunately, the administration and the majority of the Congress seem to favor that approach, and opponents of this policy like myself have not been able to muster a majority to block it. This fuel assistance can help ameliorate the problem for some people but it will not cure it. In essence, it will only help those on the poverty line or close to it, while it will allow the rest of the people to fend for themselves. Still this $1.6 billion program is an important step.

The supplemental appropriations before us includes $1,350,000 for energy assistance. This amount, together with $250,000,000 appropriated earlier, will provide a total of $1.6 billion for the coming winter. Of the total amount $400,000,000 will go to the Community Services Administration to be distributed to the States for "crisis intervention." The States will make this money available to low-income families through local community action agencies and other existing delivery systems. Payments will be made to help people meet their emergency fuel needs to insure that no one freezes while he or she waits for a fuel delivery or a boiler repair.

Another $1.2 billion will be transferred to the Department of Health, Education, and Welfare. Of that amount, $400 million will be paid as a one-time energy allowance to recipients of supplemental security income—SSI. Another $800 million would either go to States in the form of block grants to be distributed to households with incomes under 125 percent of the poverty level—approximately $9,000—or to recipients of welfare—aid to families with dependent children.

I do not claim that this program is perfect. Last month in my testimony before the Senate Labor and Human Resources Committee, I urged that any fuel assistance program include middle as well as lower income families. I do not think it is good policy to deny middle income families the assistance which might be necessary to keep them from joining the ranks of the poor. I am supporting legislation which would, in future years, provide a tax credit to help families with incomes under $20,000 with their fuel bills. I also urged that any fuel assistance program specifically target renters. The resolution before us provides almost $800,000,000 to the States in the form of a block grant. A Governor, in allocating his State apportionment to those under $9,000 in income, will be able to apply some of those funds to help tenants deal with higher rents brought on by higher energy costs. This is essential if we are going to help those renters who are now being hit by fuel "pass-along rent hikes" in cities like New York and Washington, D.C., among others.

In conclusion, I believe that this legislation is a start toward a decent fuel assistance program. It does not go far enough toward protecting consumers from these incredible price hikes. I believe that we can do better and I trust that next year when the windfall profits tax is in place, we will be able to greatly expand this program. The other day we learned that Exxon's earnings have jumped 118 percent this quarter; Gulf's earning are up 97 percent, Texaco's are up 210 percent. In light of these amazing—or as Senator HENRY JACKSON said "obscene"—profits, we can certainly realize enough tax revenues to insure that not a single American will have to freeze or go hungry because of energy costs. This supplemental appropriations bill is a step down the road but we have to go a good deal farther if we are going to help people cope with these unconscionable price increases.●

□ 1250

Mr. MICHEL. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I am confused by the feeling of the committee that they had to give this money to two different agencies. Why was it done that way? Why was not the money just simply paid?

Mr. MICHEL. Well, I think there was some concern that the track record of the Community Services Administration was not the best, and I do share some of that concern.

Mrs. FENWICK. Then why did we not give it all to the other?

Mr. MICHEL. Essentially because CSA is already well underway in distributing the money we had previously appropriated. As I indicated earlier, I do have serious concerns over the fact that payments under SSI are just cash grants. They could be used for anything. There is no difference between hot weather, cold weather, and warm weather. The same thing with AFDC.

Mrs. FENWICK. But that is not in the second part of the bill. It is all tied to degree days, is it not?

Mr. MICHEL. Well, the formula which I had adopted is an improvement over the current one, because, for instance, in the case of Illinois and Texas, where the populations are similar, we have 6,000 heating degree days in Illinois, while Texas has just 2,000.

By rights, our payment for the colder area ought to be three times, but under the current formula it is only about 1.8. Minnesota and Louisiana are comparable States, in terms of population. Minnesota has five times the heating degree day factor as Louisiana, but under the current formula that I have now revised to correct that inequity, the payment would have been only two and a half times; so we have made some improvement in the formula, but the overall distribution is still not quite right.

The SPEAKER pro tempore. The time of the gentleman from Illinois (Mr. MICHEL) has again expired.

(At the request of Mr. LATTA, and by unanimous consent, Mr. MICHEL was allowed to proceed for 5 additional minutes.)

Mr. MICHEL. Mr. Speaker, I thank the gentleman from Ohio, but let me yield first to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like to go back and try to emphasize one of the points that the gentleman passed over, but I do not think emphasized quite as much as I would like to have it done.

The gentleman mentioned our colloquy in the Committee on Appropriations yesterday about the automatic payment of these benefits under SSI or the AFDC program.

What is going to happen in many cases where people are living together in congregate housing or public housing or maybe four or five people who have joined together to live together, each one of those if they are eligible for SSI or AFDC are going to get the money, whether they are paying their own utility bills or not. In the case of so many of these congregate housing facilities and public housing projects, they do not pay the utilities. It is paid for them. But they are still going to get the money.

Now, if they get money when they do not need it for heating expenses, then someone who really does need it under this particular plan is not going to get as much as they need.

I thought we perhaps ought to go back to that point to emphasize that this is not the best way to distribute these funds. It may be the easiest. It may get rid of the money, but it is not necessarily going to make sure that people who need it to warm their places of dwelling during the cold winter months will get the help that they need.

Mr. MICHEL. Well, the gentleman's point is very well taken. The reason I make the prediction that some of our States that normally one would think could develop their own plan are going to opt for AFDC is because even though they petition the Congress for a balanced budget, they are strapped in their State budgets. They think they ought to increase their welfare benefits, but they say, "Hey, boys, maybe we won't have to do that, because the Congress is now so beneficent. They are going to give us funds here supposedly for home heating," and it is just going to be a cash grant for every AFDC recipient; so the State will say, "Well, you got an increase and it all came from the Federal Government."

Mr. LATTA. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. Yes, I am happy to yield to the gentleman from Ohio.

Mr. LATTA. Mr. Speaker, I wish to thank the gentleman for yielding and I would like to commend the gentleman for the hard work that the gentleman has put forth in the last couple of days in trying to iron out some of the inequities in this legislation.

The gentleman has touched on many of them, but I would like to go back, as the gentleman from Florida just did, to this matter of the social security recipients.

About what percentage, if the gentleman knows, are the social security recipients on SSI payments?

Mr. MICHEL. Well, the gentleman poses a question to me off the top of my head that I cannot answer, but I would be happy to do that and fill out the record for the gentleman.

Mr. LATTA. Well, the point I want to make is that the great bulk of our social security recipients are not covered by this legislation.

Mr. MICHEL. Of course, they are not.

Mr. LATTA. Because they are not under SSI payments; but they are still being subjected to these excessively high energy costs. The people who have not been running down there, even though they were entitled to SSI payments and getting them, are going to be left out in the cold, so to speak, under this legislation.

I hope that something will be done to take care of these people, if we are going to pass this type of legislation, because I think it is unfair to these people, the great bulk of them on social security, who are not covered.

Mr. MICHEL. Well, currently those people will have to be picked up in the $400 million CSA grant, because there is not a requirement for an automatic allocation as there is for SSI and possibly AFDC. But then, let us face it, and the gentleman serves on the Budget Committee and I know what trauma they have got to go through here, if we make a further step up the ladder, as we have done with food stamps, we will be opening it up to the same drastic increase that has taken place in food stamps, which started out as a $25 million pilot project and now is over $8 billion. This is the concern I have here.

Mr. LATTA. Mr. Speaker, if the gentleman will yield further, let me ask the gentleman one other question.

I have heard the discussion that a person on SSI payments under the legislation that is drafted, who might be living in a rest home would automatically get that payment, even though they do not have any heating bills.

Mr. MICHEL. Yes.

Mr. LATTA. How can we justify that type of payment?

Mr. MICHEL. This will go out through the computer.

Mr. LATTA. How can we justify that payment?

Mr. MICHEL. This is part of the concern that I have, because it is an automatic thing. The only justification for those who are wedded to the proposition is that they are the poorest of the poor and we have recognized that in times past. Therefore, what additional benefit they get from this program will not be all that bad, because it is a little bonanza from the Federal Government. I do not happen to believe that we have sufficient funds to be that generous where there are not specific increased needs.

The SPEAKER pro tempore. The time of the gentleman from Illinois (Mr. MICHEL) has again expired.

(At the request of Mr. RHODES, and by unanimous consent, Mr. MICHEL was allowed to proceed for 3 additional minutes.)

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to our distinguished minority leader.

Mr. RHODES. Mr. Speaker, is it not true that the practicalities of the situation are such that most of the State legislatures do not meet until January and some of them later on and that is when the winter is half over, so that from a practical standpoint is it not more than likely that this money, if we do vote it, will be distributed to SSI and to AFDC?

In other words, there is not really much of a chance that the States would be able to put any plan into operation, is there?

Mr. MICHEL. I do not think it is necessary that a legislature meet, in most States, to enable the State to participate. Most Governors have the authority to approve State participation, particularly when no State money is involved.

□ 1300

Mr. MYERS of Indiana. Mr. Speaker, if the gentleman will yield, State law provides for that. State law allows it.

Mr. RHODES. Mr. Speaker, that would be in accordance with the law of the State, if the State allows it.

Mr. MICHEL. Of course.

Mr. RHODES. Mr. Speaker, if the gentleman will yield further, is it not likely that most of the people who are in the working poor category, because of the fact that the legislators are not going to meet, will not really be helped by this legislation? Are we not talking mainly about SSI, AFDC, and also the CSA and people on food stamps, things like that?

Mr. MICHEL. Yes.

Mr. RHODES. Are we not talking about people who are already getting welfare?

Mr. MICHEL. There is no question about it, and as the gentleman from Ohio (Mr. LATTA) says, his concern is for those who fall between the cracks here.

Mr. RHODES. And I am sure the gentleman will agree, because he has been the main Member of the House who has brought this fact out, that the Department of Health, Education, and Welfare already admits it is wasting $7 billion on the welfare plan. Is this not just likely to make the figure $7.5 billion?

Mr. MICHEL. Mr. Speaker, I would certainly hope not, but I would not bet on it not happening, what with the track record in this area. That is precisely the problem with rushing legislation through without proper consideration.

Mr. RHODES. Mr. Speaker, I want to thank the gentleman from Illinois (Mr. MICHEL) for the remarks he has made and also for the fine work he has done in bringing what I think is some semblance of sanity to this. But I am not sure he has reached the threshold as yet so that I can support the legislation.

Mr. MICHEL. Mr. Speaker, I understand the gentleman perfectly, and, frankly, there are doubts that that has taken place here. There are dog-gone good arguments for a Member to vote against this bill and not be accused of being against those who are in need, because, frankly, I still have reservations that we have not yet tightened up as tightly as we ought to.

Mr. Speaker, I would hate to see Members criticized for voting against this proposition when it came to us the way it did, in such a furor of haste, to the extent that we practically have to write it on the floor of the House.

Mr. WHITTEN. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I thought for the record we might set the matter straight, since some of our Members have not realized that the matter before us appeared first in an amendment on the Senate side to the appropriations for the Department of the Interior early last week. There was a Presidential budget estimate submitted in connection with this program on October 12. The Senate amendment is very short and it is pretty difficult to know just exactly what was intended. I shall read it:

> COMMUNITY SERVICES ADMINISTRATION
>
> EMERGENCY FUEL ASSISTANCE
>
> For emergency fuel assistance programs administered by the Director of the Community Services Administration under section 222(a)(5) of the Economic Opportunity Act of 1964, $1,200,000,000.

Now, that is the complete explanation and the authority for the matter as it was considered by the other body.

It was my suggestion, when asked by the leadership, that the Committee on Appropriations deal with this subject in the conference on the Interior appropriations bill, where we would have time to work this matter out and give some additional thought to that act in order to see that the deplorable situation that existed last winter in many areas of the country would be taken care of.

It was the judgment of the leadership and others that a separate bill would be preferable. That is the reason that this was handled in such short order plus the early need. We were glad to cooperate. We did have a hearing, and the Speaker and others who are familiar with this issue participated and other interested parties presented testimony. It could not be in better hands than it was and than it is, under the sponsorship of the gentleman from Kentucky (Mr. NATCHER), whom we all admire and respect for his sincerity and his ability.

But I rise not only to point out that that was the limit of our consideration but all the debate here leads me to believe, as I thought yesterday when the committee considered this, that the law, if it is going to work and reach the problem, is going to have to be written in conference. The bill before us, in my judgment will not fully resolve the problem. When I first saw the bill, as drafted, as I understand it, by the Department of Health, Education, and Welfare, I felt it had no reference to meet the point of supplying assistance to those who had this terrible heating problem.

First, let me say for the record that a review shows that the SSI recipients received on July 1 an increase of 9.9 percent in their payments as a cost-of-living increase, part of which included the increase in heating costs.

May I say further that the bill as it was presented, in my opinion, did not require that the $1.2 billion go to the persons that we have described here where the need is so urgent. Seeing that, provisions were included which no longer appear in the bill, as follows:

> *Provided further*, That individual recipients of funds under this program shall certify that funds received were used for fuel payments and this certificate shall be signed by the fuel supplier, and such certificate shall be transmitted to such central office for the State or region as may be designated by the Secretary of Health, Education, and Welfare.

Now, there are a number of reasons why those provisions could be difficult to administer as they are worded, but it does point up the fact that in the absence of them there is nothing in the bill that would direct us to the point where we could check and see if the funds were received or used for the purposes for which the legislation was sponsored.

If we had further time—and we did not—we could have changed those words to say for example something to the effect: "Provided further that individual recipients of funds under this program shall certify that funds received were used for fuel payments or increased rents resulting from increased fuel prices."

The language could be adjusted in any number of ways to assure that funds effectively reach those who are most severely impacted by increased heating expenses.

Mr. Speaker, I have heard complaints in this House today about recordkeeping and the cost of recordkeeping and certification. I would remind Members of the statements of the former Secretary of Health, Education, and Welfare that some $7 billion had been lost under the general heading of "waste, fraud, and abuse," partly due to inadequate or nonexistent recordkeeping and certification procedures. I personally feel that the language concerning certification can and will be added in conference and that there will be time to make other adjustments designed to improve the effectiveness of this program.

Mr. Speaker, I do say again that in reference to the situation we are dealing with, the SSI recipients received on July 1 an increase of 9.9 percent in their payments to offset the increased cost of living, which included increased heating bills.

When we get through here, I think we will see that the value of the debate we are having here will be for the benefit of those who have to write a bill, since it really does not have many restrictions or specific requirements at all and much of what we have here is hopeful thinking. For instance, if a State has block grant, then they have to submit a plan. There should be guidelines for plans. These things should be spelled out in the bill, in my opinion, so that plan will assure the money goes to those who have the need, because if we dissipate the funds in increased payments to SSI and increased payments to other recipients and leave out those who are in real need, we will have missed the point.

So far as I can see, under the present bill no application is required of the recipient, no certificate is required as to receipt of heating oil or other energy. No acknowledgement of delivery is required.

With no records required, what good would an audit do?

How about other sources of heat other than oil?

Why limit to a comparison between 1978 and 1979? Why not include 1976 and 1977 when rates for gas and electricity increased rapidly?

Also, Mr. Speaker, housing is usually built to meet the normal needs of the area. This means the heating bill may be as great in a warmer section of the country as in a colder area. In the North, you do not have houses built on blocks with open space underneath. Many other areas do.

What really is at fault here is that there seems to be no assurance that the payment goes to meet the urgent need, or the person who has it.

Neither are there any guidelines which the States are required to follow.

These matters may be taken care of in the writing of a bill in conference—but I do not believe they are sufficiently provided for in the bill before us.

Mr. Speaker, the point I make is that this is a bill and not the law, and we will have to make a whole lot of improvements before it will be a worthwhile law to meet the needs which we all recognize. I anticipate that we will have an opportunity to achieve this in conference and hence, Mr. Speaker, I support this resolution at this time.

The SPEAKER pro tempore (Mr. Rostenkowski). The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on October 23, 1979, the President approved and signed bills of the House of the following titles:

H.R. 898. An act for the relief of Rodney L. Herold and others; and

H.R. 1301. An act to amend title 18 of the United States Code to allow the transportation or mailing to a foreign country of material concerning a lottery authorized by that foreign country, and for other purposes.

LOW-INCOME ENERGY ASSISTANCE SUPPLEMENTAL APPROPRIATION

The SPEAKER pro tempore. The House will resume its business.

Mr. CONTE. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I rise in strong support of House Joint Resolution 430, the bill to provide an emergency supplemental appropriation of $1.35 billion for heating assistance to the needy. This will bring the total amount of funding available for energy assistance to $1.6 billion this winter.

The urgency of this request should be self-evident to every Member of Congress. It is already the end of October, and cold weather has hit many parts of the country. Many people face the prospect of paying heating bills that have risen dramatically since just last year, and last year these bills fell as a cruel blow on many families and elderly homeowners.

This supplemental appropriation is being brought up for your rapid consideration and approval, because we in Congress have a grave responsibility to the poor and the elderly—to spare them from the choice between freezing and starving. It would truly be a shameful act for this Congress through lack of speedy approval of this bill, to allow anyone in this land of such vast wealth to face a frigid and perhaps fatal winter. That is why we must pass this bill today.

Mr. Speaker, my colleagues know that I have been no stranger to this well in the past months—and most of my trips here have been to decry either the latest increase in fuel prices or, more often, the latest reported increase in oil company profits. As the prices rose to the level of intolerance and as the profits rose to the level of obscenity, I have asked for, I have hoped for, I have prayed for the kind of emergency assistance being presented to you today.

I will admit that the bill before us is based, at least in terms of dollar estimates of need, on an administration request. But I—many of us—were far from satisfied with that request. First, there was an intolerable delay in sending up the request for the supplemental.

Second, the official request tied the availability of those urgently needed funds to passage of the windfall profits tax. Well, President Carter finally had his supplemental request up here on October 12, and we are ready to act on it today. The speed with which the Labor-HEW Subcommittee and the full Appropriations Committee have dealt with this legislation are perhaps the best measure of just how serious we consider this bill to be.

Furthermore, this appropriation is no longer directly linked to passage of the windfall profits tax. It goes without saying that if and when a windfall profits tax is enacted, the general revenues of the Treasury from which this appropriation has been made should be replenished. However, the immediacy of the need of our Nation's poor precludes the possibility of our awaiting final passage of this tax. We all know that the Senate committee version of this tax differs markedly with the House version of this legislation, and conference on this bill could well be a long and hard process. This reality removes the luxury of awaiting enactment of this legislation.

This appropriation will go out now because the poor and elderly in this country require this money right away.

I would like to discuss with you the provisions of this legislation.

This appropriation makes available $1.35 billion which, together with the $250 million already appropriated for this purpose in the budget of the Community Services Administration, will provide a total of $1.6 billion for emergency fuel assistance.

Both in subcommittee and in full committee yesterday, action has been taken to try to assure that this money would be directed to those States where the weather was harshest and the need greatest. First, the subcommittee acted to shift allocation of most of this funding from the HEW formula to the CSA allocation formula, which takes account of both heating degree days and the number of poor. Yesterday, in full committee, on an amendment offered by the distinguished ranking minority member of the Labor-HEW Subcommittee, Mr. Michel, and on an amendment which I offered, the full committee acted to change the formula CSA uses, in order to further accentuate heating degree days, and to make sure that only changes in heating energy costs be calculated into the allocation, thereby trying to make sure that cold weather States get the bulk of this appropriation.

Of the supplemental, $150 million will be added to the $250 million already appropriated for the Community Services Administration, allowing a total of $400 million to be given out to States in block grants through this agency. This money can be used in a variety of ways to help low-income individuals who are having problems dealing with the cold, harsh winter. This money can be made available through vendor payments for heating charges or even for supplying blankets and heaters to families in need.

Also, $404 million will be distributed by HEW to all SSI recipients in the country. Of course, individuals in Alaska will receive more than those in warmer States, but all SSI recipients will receive some payment, since it is believed that increased energy costs land particularly hard on the needy elderly.

The balance of this appropriation, roughly $790 million with a few dollars left over for administration—will either be distributed to eligible AFDC recipients in each State, or, Governors may opt out of this approach, and submit a State plan to HEW, which details how they would like to allocate their funds in the State, thereby foregoing the AFDC approach. The committee believes this will give States the freedom to decide for themselves who the needy are and how best their needs can be met.

Mr. Speaker, I do not claim that we have set forth a perfect plan here. What we have done is present to the Congress a workable plan which rapidly disburses funds the elderly and low-income populations desperately need to face the harsh winter ahead. I urge an overwhelming vote in favor of this legislation, so that this Congress can demonstrate that it is capable of swift and firm action when the need is urgent.

☐ 1310

The SPEAKER pro tempore. The time of the gentleman from Massachusetts (Mr. Conte) has expired.

(On request of Mr. Rhodes and by unanimous consent, Mr. Conte was allowed to proceed for 2 additional minutes.)

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Arizona.

Mr. RHODES. Mr. Speaker, I wish to explore with the gentleman from Massachusetts (Mr. Conte), my good friend, the matter of State participation. If a Governor does not call his legislature into session, can the Governor submit a plan which he himself has devised to the Department of Health, Education, and Welfare, and if he does, will the Department then pay the funds to the State, in accordance with the formula rather than to the beneficiaries of AFDC and food stamps?

Mr. CONTE. First let me preface my remarks by saying that if he, under the State law, has that authority, yes, the State Governor can do it without the legislature. He has 30 days to do that. He submits his plans, then HEW has 15 days to approve that plan. If they approve that plan, then it goes back to the State for administration.

Mr. RHODES. If the gentleman will yield further, the real test is whether or not the Governor has that authority under the existing law of the State——

Mr. CONTE. That is exactly right.

Mr. RHODES (continuing). To submit such a plan, which would then be legally binding on the State.

Mr. CONTE. The gentleman from Arizona is absolutely correct.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I certainly want to commend and to associate myself with the remarks of the gentleman from Massachusetts (Mr. CONTE) to commend the gentleman from Kentucky (Mr. NATCHER) for bringing this measure to the floor, for trying to expedite its passage before the winter months are upon us and in trying to resolve the imminent heating fuel crisis confronting our low-income families.

I rise in support of House Joint Resolution 430, the low income emergency fuel assistance bill.

Time is running out for the Congress to act in order to meet our Nation's need for home heating oil for this winter. A significant concern in addition to meeting the escalating costs of home heating fuel, is the problem of secondary distribution. Secretary Duncan recently assured us that the Department of Energy, having met the stockpile requirements of 240 million barrels of home heating fuel by the end of October, is doing everything possible to make certain that the stockpiled fuel will be distributed to both the independent dealers and to their customers. Hopefully, then, supply will not be a problem. However the critical issue of exorbitant heating oil prices remains unresolved. Simply stated, many Americans will not be able to pay their home heating fuel bills this winter. Equally obvious is the fact that the oil companies are primarily responsible for this dilemma and are showing no signs of reducing their profits. To put this situation into better perspective I would like to insert at this point in the RECORD several articles which appeared in the New York Times of October 24, 1979, describing just how "surprisingly large" the profits of the major oil companies have been in this quarter alone:

BIG INCREASES MAY BOLSTER TAX PROPOSAL

(By Anthony J. Parisi)

Only a handful of oil companies have released their third-quarter earnings thus far, but it is already clear that the current round of oil profits will surpass the startling increases that riled the public earlier this year.

Even analysts who follow the oil industry closely say the current increases are surprisingly large. The companies' earnings were expected to be big, they say, but not this big. In their view, the recurring surges in oil profits suggest that upward swing that began in the first quarter will continue quite a bit longer than was expected.

If so, that would weaken the oil companies' often-repeated argument that such surges merely offset their slumps and result, over the long haul, in overall profits that are not out of line with those of industry in general. The oil companies have leaned heavily on this rationale in their campaign against President Carter's proposal for a stiff tax on "windfall profits" in the oil industry.

"Windfall tax, here we come," Dillard P. Spriggs, president of Petroleum Analysis Ltd., said after hearing that Exxon had reported a jump of 118.1 percent in its earnings. Like other Wall Street analysts who specialize in oil, Mr. Spriggs had thought the companies' profits would start to taper off by now.

FUNDAMENTAL CHANGE HINTED

"But that was before world prices kept going up," he said. "Now, you've got to expect that everybody is going to do pretty well."

Analysts interviewed after the latest profit reports said the continued strength in earnings might indicate that a fundamental change is under way in the oil business worldwide. Such a change could keep market forces from moderating these gains as readily as in the past.

It is already apparent, the analysts note, that the Organization of Petroleum Exporting Countries has managed to keep the oil market tight despite having almost doubled world prices in less than a year.

And now, they say, there are signs that OPEC may succeed in coordinating production cutbacks next year to prevent a recurrence of the glut of oil that followed the runup in prices during the Arab oil embargo. It was that glut that held petroleum prices and profits in check until this year.

Orchestrated cutbacks on so large a scale would be new, even for OPEC. In the past, the cartel has managed to raise prices dramatically only after some independent political event had reduced output, creating a shortfall. The quadrupling of prices in late 1973 followed the Arab oil embargo, which in turn followed the Arab-Israeli war. The doubling of prices this year came after the downfall of the Shah and the faltering in Iran's production.

If the cartel is indeed moving into a new phase of control, the analysts who were interviewed contended that a windfall profits tax would make both political and economic sense even from the industry's point of view.

Otherwise, they warned, the public backlash against high oil earnings might be so vehement that Washington would be forced to reverse the trend away from price controls on oil. A growing number of energy experts, in and out of the Government, say it was mainly those controls that got the United States into its current energy predicament in the first place.

There is little question that the third-quarter profits announced so far have the potential to create a powerful backlash. Yesterday Conoco Inc. overshadowed Exxon's gain by reporting a profit rise of 133.6 percent. The Gulf Oil Corporation, meanwhile, said its earnings rose 97.2 percent. Earlier, the Standard Oil Company (Indiana) reported a 48.6 percent increase, and the Atlantic Richfield Company said its earnings were up 45.3 percent.

STRONG PREVIOUS QUARTERS

"It's been mind-boggling," said Robert C. LeVine, who follows the oil industry for E. F. Hutton & Company. "After the first-quarter reports, we cautioned investors that this kind of thing was not sustainable, that it was a bubble. We said the same thing after the second-quarter reports. And here we have these big third-quarter results. Now I believe we're going to see these profit levels for a while."

The third quarter of 1978 was a relatively poor one for the oil industry, muddying comparisons with this year's figures. But Mr. LeVine pointed out that the profits reported so far not only have been high but also have exceeded the expectations of analysts who try to keep their earnings estimates as current as possible.

He and others also said they now see no reason to expect anything different in the fourth quarter. And with OPEC almost certain to put through another big price increase by the end of the year—and to adjust output to take up any resulting slack in demand—the analysts said profits in the first three months of 1980 might even exceed this year's first-quarter results by a big margin.

By contrast, in 1974, the last time oil profits surged so dramatically, the industry's earnings started to level off during the second half of the year. By 1975 they were actually slightly below normal compared with the return in other industries. They remained somewhat average until this year.

QUARTERLY EARNINGS SOAR AT GULF OIL AND CONOCO

The Gulf Oil Corporation reported yesterday that its third-quarter earnings had almost doubled, and Conoco said its profits were more than twice the level of the year earlier quarter.

The two companies' profit announcements followed by a day Exxon's announcement of a 119 percent rise in third-quarter earnings. Atlantic Richfield reported a 45.3 percent rise and Standard Oil (Indiana) posted a 49 percent rise.

Conoco and Gulf, like the other companies, emphasized that only a small portion of the increased earnings resulted from larger profits from the sale of gasoline, heating oil and other products in the United States. Most of the increase, they said, could be traced to better results from operations abroad, where there are few government price controls.

GULF OIL

Gulf, the nation's fifth largest oil company, the quarter rose 97.2 percent to $416 million, or $2.13 a share, from $211 million, or $1.08 a share, a year ago. Revenues in the quarter rose 33 percent to $6.74 billion from $5.05 billion.

Much of Gulf's foreign improvement came from Europe, where the company went from a $1 million loss in the third quarter of 1978 to a $107 million profit this year as its share of production from Britain's North Sea oil field increased sharply.

Gulf the nation's fifth largest oil company, also said the European improvement was due to "the tight supply situation, a more liberal attitude by European Governments in allowing the prompt pass-through of increased costs and the weakness of the United States dollar."

CONOCO

Conoco, the nation's ninth-largest oil company, said its third-quarter profits rose 133.6 percent to $247.1 million, or $2.30 a share, from $105.8 million, or 98 cents a share, in 1978's third quarter. Sales for the Stamford, Conn., based concern rose 41 percent in the quarter to $3.5 billion from $2.4 billion in the year-earlier period.

Conoco said third-quarter profits from its worldwide operations increased to $212.4 million from $123.6 million a year ago, with this year's figure including a one-time gain of $32.6 million from a change in British tax law.

Without that change in the law, the rise in Conoco's third-quarter profits would have been reduced to 103 percent, the company said.

Conoco said the strength in overseas operations helped balance a decline in the earnings of its coal operations. Conoco owns Consolidation Coal, one of the nation's largest coal companies.

In view of the incredible profits these oil companies are enjoying, and considering the inevitable financial hardship facing the elderly and those on fixed income in our country, in view of the steadily dropping outside temperatures and considering all the time it takes to implement any program once it has been passed, I will be voting in favor of this measure and I urge my colleagues to do the same.

The provisions of this emergency fuel assistance bill will enable the States to be awarded money in the form of block grants ($250 million), with the money to be distributed according to approved State plan to households with incomes below 125 percent of the poverty level. Other portions of the appropriated funds would go toward a one time allowance to recipients of supplemental security income (SSI), with $404.8 million set-aside, and finally, $791.2 million to be used for special energy allowances to recipients of aid to families with dependent children (AFDC).

Nevertheless, I am concerned that this program will not be sufficient to stave off a severe winter. In my weekly series of remarks on the home heating fuel crises (Congressional Record, pages 24942, 24944, 25779, and 26956, in the respective Records of September 17, 21, 29) I have pointed out that the low-income groups spent roughly 24 percent of their income on heating costs last year. With the price of a gallon of home heating fuel now costing upwards of 88 cents, it is anticipated that these same groups will be spending 50 percent of their income on heating bills. House Joint Resolution 430 appropriates only $1.35 billion for special energy assistance. This program does not take into consideration those lower ("working poor") income families that may not be eligible for this assistance, and therefore, will continue to face further hardship.

Despite some of the flaws this bill has in terms of insufficient funds and an ostensibly inequitable assistance requirement, it is a significant step forward in providing some immediate relief to those people who will be the first priority on any emergency list.

Hopefully, as the House and Senate consider further supplemental emergency fuel assistance measures, a broader scope of financial assistance will be considered coupled with a reimposition of price controls on home heating fuel so that the oil companies will not continue to be subsidized by these programs.

It is apparent that we will continue to be challenged by problems of fuel supplies and fuel prices in the months and years ahead. The OPEC cartel, scheduled to meet next month in Venezuela, will not be negotiating in the interest of the American consumer. It is neither understandable nor justifiable for our oil companies to follow the questionable tactics of the oil-producing countries. To avoid disaster, it is imperative that we undertake steps to curb excessive price abuse by our oil companies and, it is imperative that we do not delay in adopting any measures directed toward protecting our constituents from the severe burdens of exorbitant heating fuel prices.

Accordingly, Mr. Speaker, I urge my colleagues to support House Joint Resolution 430.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, if I could just add to what the gentleman in the well has said—and I think he has made an excellent statement—there are a great many Governors who already have the authority under the law to do exactly what he said.

Mr. CONTE. Definitely.

Mr. OBEY. In addition, there are a number of States which are planning special legislative sessions, such as Connecticut, which is coming up in a week or 2 weeks, such as Wisconsin, which is going on right now, so that those States will have much greater flexibility if the need arises.

The SPEAKER pro tempore. The time of the gentleman from Massachusetts (Mr. Conte) has again expired.

(On request of Mr. Obey and by unanimous consent, Mr. Conte was allowed to proceed for 2 additional minutes.)

Mr. OBEY. If the gentleman will yield further, Mr. Speaker, I would also like to point out, since the objection has been raised on the question of the windfall profits tax, page 33 of the committee hearings, and Mrs. Harris, when she was asked about that very question, said as follows, in response to a question from the gentleman from Kentucky (Mr. Natcher), when he said:

> You are not asking us to wait until the windfall profits bill is passed, are you?

Secretary Harris said as follows:

> I don't recall that we have ever specifically given a condition for 1980 of passage. What we must have is assurance of reimbursement. I am convinced, on the basis of what has happened, both on this side of Congress and on the Senate side, that we can be confident today we will have a windfall profits tax, that we will have a reimbursement. I believe that it is so certain that there is no reason for us to delay proceedings with the determination of the structure of this program. It has always been assumed that there would be a reimbursement from the windfall profits tax for the 1980 low-income energy program.

The point is, simply, that everyone believes there is a linkage but they do not believe that the delay which has been experienced in the Senate should be used as an excuse to deny to people who need assistance now the assistance they need now, not next March or next April.

Mr. CONTE. The gentleman from Wisconsin is absolutely correct. I questioned her at great length before the committee and said that there should not be a linkage here; that if the windfall profits tax goes through, definitely there will be a reimbursement, but let us not hold this bill here a hostage to the windfall profits tax, and she agreed.

AMENDMENT OFFERED BY MR. GIAIMO

Mr. GIAIMO. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Giaimo: Page 3, after line 3, insert the following new sentence: "Notwithstanding any other provision of law (whether enacted before, on, or after the date of the enactment of this Act), no portion of any windfall profit taxes imposed by Federal law on producers of domestic crude oil may be transferred to any other use except to the extent that the amount of such taxes exceeds the amount appropriated by this Act."

Mr. NATCHER. Mr. Speaker, I make a point of order against the amendment offered by the gentleman from Connecticut (Mr. Giaimo).

Mr. GIAIMO. Mr. Speaker, I concede the point of order.

The SPEAKER pro tempore. The gentleman from Connecticut (Mr. Giaimo) concedes the point of order and the Chair sustains the point of order.

AMENDMENT OFFERED BY MR. GIAIMO

Mr. GIAIMO. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Giaimo: Page 3, after line 3, insert the following new sentence: "None of the funds appropriated by this Act may be obligated before the date of the enactment of any Federal law imposing a windfall profit tax on producers of domestic crude oil."

Mr. NATCHER. Mr. Speaker, I make a point of order against the amendment offered by the gentleman from Connecticut (Mr. Giaimo).

The SPEAKER pro tempore. Does the gentleman from Kentucky wish to be heard on the point of order?

Mr. NATCHER. I would like to be heard on the point of order, Mr. Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Kentucky (Mr. Natcher).

Mr. NATCHER. Mr. Speaker, the amendment before us violates the rules of the House, inasmuch as it is not germane under clause 7, rule XVI.

The amendment clearly goes beyond the bill and, in fact, addresses an entirely separate piece of legislation that is not referred to in any manner in House Joint Resolution 430.

I urge the point of order be sustained.

We have ample precedents, Mr. Speaker, of similar situations which clearly show that an amendment delaying the operation of proposed legislation pending an unrelated contingency is not germane. I cite Deschler's Procedure 28.4, Mr. Speaker.

☐ 1320

The SPEAKER pro tempore. Does the gentleman from Connecticut (Mr. Giaimo) wish to be heard on the point of order?

Mr. GIAIMO. Mr. Speaker, I insist upon my amendment. I do not think it is subject to a point of order. I think the gentleman's arguments are more aptly applied to my first amendment. The amendment which I am offering here addresses itself to this legislation. It is simply a limitation and says none of the funds appropriated can be obligated before the date of enactment of any Federal law imposing a windfall profit tax.

That is a simple limitation, which I think is not subject to a point of order.

Mr. NATCHER. Mr. Speaker, I still respectfully insist on the point of order.

The SPEAKER pro tempore. The Chair is ready to rule.

The Chair has examined several precedents and would like to point to chapter 28, section 4.11 of Deschler's Precedents:

To a bill extending and amending laws relating to housing and the renewal of urban communities, an amendment providing that no funds could be appropriated or withdrawn from the Treasury for the purposes of the bill until enactment of legislation raising additional revenue, was held not to be germane.

The CHAIR sustains the point of order of the gentleman from Kentucky (Mr. NATCHER).

Mr. GIAIMO. Mr. Speaker, I move to strike the last word.

I just want to point out to the House the extent to which we will go to pass this legislation.

Clearly—clearly—this legislation arose as a result of the efforts to have a windfall profits tax. Here we are raising points of order, to which I would respectfully object, but I shall not object to the ruling of the Chair.

I think it is a mistake. I am opposed to this legislation. I am very seriously opposed to this legislation. I am not opposed to the problem of heating requirements of poor people, however.

Let me just give my colleagues the history of this legislation. We had a relatively modest program of $200 million, if one can call $200 million modest, in 1977 because of an emergency, a disaster, a very severe winter, which required disaster-type assistance.

So, we came along with a community services program of $200 million, designed to alleviate and give relief in that disaster.

The States and the Governors, being rational, intelligent people, liked this program. So, they said to themselves, "How can we make this program a permanent one?"

They began to think up ways to make it a permanent program, and they did. As a result, we have had a continuation of the community services program, albeit at a smaller amount of money, $250, $400 million, in this year's budget.

Along comes the energy crunch, inflation, if you will, and higher energy prices, and we now have a runaway, $1.6 billion, program. Of course, energy is going up. Of course, fuel oil and fuel prices are going up. Rental incomes, food, health care requirements and medicines also are going up. But so are all of the requirements of the American people, particularly of those who cannot afford them, going up.

I am not talking about the wealthy people here. They can pay their bills in this country.

I am talking about those who have difficulty paying all of their bills. So we single out fuel.

We have been talking here for several hours about the importance and necessity of making certain that people can pay their heating bills this winter. What about their medical bills? What about their food bills? What about their rent?

Let me say something to this body. The poor, those who are addressed in this bill, the recipients on SSI or AFDC or community services, those 125 percent of the poverty level, are going to be the recipients and the beneficiaries. I submit to the Members that we are not even beginning to touch the problem when we address ourselves to them. We are not going to do it.

I submit further that those people are going to have their areas heated this year. They are not going to freeze in the United States. They are not going to freeze. This body knows it, and I know it.

The question—the issue here today—is not whether or not they freeze.

I will submit to those Members who will say I am heartless and have no concern for the heating needs of the poor that I will let my 20-year record in this place—record of accomplishment for the poor, starting with medicare legislation—stand and speak for itself.

I will submit to this body that the issue is not whether or not we are going to provide the money to eliminate the danger facing them. If we do not provide the money, I submit that the States or the local communities will.

The issue here today is should we make this a Federal responsibility. Should we here today, without benefit of authorization, create a new entitlement program which I guarantee will run into the billions and billions of dollars? That is the issue here today, not whether or not people are going to freeze this winter. They are not going to freeze in the United States of America, as we all know. Again, I repeat, the issue is whether the Government of the United States is going to meet that responsibility.

The SPEAKER pro tempore. The time of the gentleman from Connecticut (Mr. GIAIMO) has expired.

(By unanimous consent, Mr. GIAIMO was allowed to proceed for 5 additional minutes.)

Mr. GIAIMO. Let me remind this body that we in the Federal Government cannot be all things to all people. We have to recognize that.

What are we doing for the people who are over the 125 percent of the poverty level? I am not talking about the wealthy. I am talking about the people who go to work every day, who pay their bills, as hard as it may be, who earn $10,000, $11,000, $13,000 a year, who have children whom they are trying to educate, who pay those bills and those oil bills and those electric bills, and who pay for their own food. What are we doing for them?

I will tell the Members what we are doing for them. We are putting this burden on their backs.

Read your newspaper. In the market for U.S. Government issues, the latest Treasury bill was quoted yesterday at 12.74 percent. That is what we are paying for money. It is pushing inflation up and ruining the working men and women of America, all because we find it so easy in this body, you and me, to try to answer a problem by throwing money at it.

We are on hard times. We are at deficit levels. We should not be expending this kind of money. We should not vote this kind of bill. We have all we can do to fund existing programs. We have all we can do to pay the bills for programs for which we do not even have enough revenues, and here we are starting a new one.

Mr. Speaker, I have resisted efforts in this Congress this year on balance-the-budget amendments and on spending limitations, but I say to this body that I am becoming convinced that this Congress cannot control itself in spending money; and I am seriously going to look at legislation which will put a spending limitation on the amount of money which this Congress has got to pass.

We are not treating the working men and women of America properly when we pass new kinds of entitlement programs like this; and I, for one, who has dedicated most of my life to public service, say to my colleagues here today, I have had it. I hope the American people have had it, also.

☐ 1330

Mr. OBEY. Mr. Speaker, I rise to strike the last word.

Mr. Speaker, although I disagree with his conclusion, I want to congratulate the gentleman from Connecticut (Mr. GIAIMO) for bringing two things to the attention of the House. No. 1, for trying to emphasize by the amendments that he tried to offer how important it is that we do pass a windfall profits tax so that we do recoup the revenue which is being used in part by this legislation today. Even though his amendments were out of order, I do not think that ought to be construed by anybody as a judgment on the part of anybody in this House, certainly on the part of the committee, that we do not need that tax because we do. It would clearly be irresponsible to pass this kind of legislation if we thought that there would be no money coming down the line to pay for it.

Second, I do congratulate the gentleman because I do think he is absolutely correct in spelling out the need for this Congress to take a tougher look at the way we shuffle money back to States, even though some of those same States are busy lecturing us on how necessary it is to balance the budget, at the same time they are asking for more funds under every program under the Sun, which makes our job even more difficult.

But I do want to challenge what the gentleman from Connecticut said in one respect. I do think that this program requires a different response from the Federal Government than many other requests which we have had to increase expenditures. Because it is not the State governments who made the decision to allow the price of energy costs to rise in this country. It is the Federal Government which has made a conscious decision to deregulate oil prices, and it has been Federal policy going all the way back through the years. I remember when the gentleman from Massachussets (Mr. CONTE) took the lead in trying to change it for years. It was Federal policy which drained America's oil basins dry first and put us in a position where we are now very heavily reliant upon OPEC oil. I remember the gentleman trying to eliminate the oil import quota at that time so that we would not be draining America's basins dry first.

But it has been the Federal Government, with its energy policy going all the way back to the fifties on that issue, and it has been the Federal Government now with its decision to deregulate the price of energy, which has allowed the cost of energy to rise to the citizens we are now talking about helping today in this bill.

I want to emphasize, I think the best statement delivered to the Labor-HEW Appropriations Subcommittee in hearings on this bill was the statement by the gentleman from Massachusetts (Mr. BOLAND). Mr. BOLAND went through a number of States and laid out what the real impact is in human terms of no action on our part. In the State of Connecticut, for instance, the share of household income which has to be paid out by poor families for energy today for heating a home is 25 percent versus 16 percent a year ago. Even in Mississippi where it is relatively warm we have had an increase of almost 40 percent in the share of household income for the kind of people we are talking about for their share of household income which has to be used to meet heating expenses. In the State of North Dakota 43 percent of the average household income of the people we are talking about has to go out to pay those kinds of bills; 37 percent in Nebraska, 32 percent in Iowa, up from 20 percent just a year ago. It is 28 percent in my own State, up from 18 percent a year ago. That is almost a 40-percent increase in 1 year's time.

Those are incredibly wrenching experiences for people who have the kind of minimal income we are talking about here. I would suggest to my colleagues because the Federal Government made the conscious decision at the Federal level to allow those energy prices to rise, we have a political, a social, and a moral obligation to do something to help those people who are most damaged by the decisions which the Federal Government has made. That is all that the leadership is trying to do in pushing this bill. It is all the gentleman from Kentucky is trying to do. That is all the members of the committee are trying to do, or the Members of the House who vote for this bill. I ask my colleagues to keep this in mind when they vote on the bill.

The SPEAKER pro tempore. The time of the gentleman from Wisconsin has expired.

(At the request of Mr. GIAIMO and by unanimous consent, Mr. OBEY was allowed to proceed for 2 additional minutes.)

Mr. GIAIMO. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I will yield to the gentleman.

Mr. GIAIMO. I think we both know one reason the price of oil is going up is inflation. The Arabs, whatever else they may be, are not stupid. They price their oil in dollars. The gentleman would readily admit, I know, that the reason, or one of the major reasons that oil goes up is because of the highly inflationary world in which we are presently finding ourselves and which has caused the dollar to lose its purchasing power. The Arabs are going to make certain that their oil retains its purchasing power.

Mr. OBEY. That is correct. But I would say to the gentleman we should not ask the poorest of the poor in this country to bear the burden of meeting those responsibilities. We should not ask the people who can least afford it to be on the cutting edge of burden sharing in this country as we do if we do not pass this legislation.

Mr. GIAIMO. If the gentleman will yield further, we should not ask the working people who are making $10,000, $12,000, and $13,000 to carry the burden on their shoulders. They do not have it so easy either.

Mr. OBEY. As the gentleman well knows, the windfall profits tax is going to pass and that tax is going to be used to finance this. As far as I am concerned, that passage will insure that it is not the average wage earner who is, in fact, going to be paying additional taxes.

Mr. BOLAND. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Speaker, I want to compliment the gentleman from Wisconsin for his excellent statement. I think the statistics with reference to the cost of energy in the particular States that he cites and detailed by me at the time of hearings on this bill clearly indicate the necessity for this legislation.

I also am aware of the position of the gentleman from Connecticut, Mr. GIAIMO. I want to compliment him for his leadership in the Budget Committee. He has a very difficult job, a very difficult task, and I know of no one who could handle it better. However, on this proposal we do differ.

The SPEAKER pro tempore. The time of the gentleman from Wisconsin has again expired.

(At the request of Mr. BOLAND and by unanimous consent, Mr. OBEY was allowed to proceed for 3 additional minutes.)

Mr. BOLAND. If the gentleman will continue to yield, the fact of the matter is the increase in energy far exceeds the increase in some of the items the gentleman from Connecticut pointed out here. Home heating oil has increased in many States by 70 percent over last year. It might very well go to 100 percent before the year is out. So there is a necessity here for this urgent supplemental appropriation bill to help pay for the escalating price increase.

It is not a permanent program right now. The bill clearly indicates that no applications can be accepted after June 30 of 1980. And the gentleman from Wisconsin points out, the money that will be expended and appropriated in this bill will be covered by the windfall profits tax. I do not think there is any question about it. Congress will pass a windfall profits tax and that will be the source for funding this program.

It may very well be that the bill we have here today and will pass may not be the final product. There is another body around this Hill, and I am sure it will have something to say about it.

But let me say so far as the Appropriations Committee is concerned, I think yesterday the 3½ hours that the Appropriations Committee spent under the leadership of the gentleman from Kentucky (Mr. NATCHER) was a good meeting. It was a very difficult, and a long, and tortuous meeting. I believe the debate, discussion, and deep interest of the entire Appropriations Committee membership within that meeting we have a better product than that presented to the committee.

So I want to compliment my colleagues, all of my colleagues on the Appropriations Committee for the service they rendered yesterday, and particularly I want to congratulate the gentleman from Illinois (Mr. MICHEL). All of the provisos in this bill, with the exception of one, all of the provisos are a result of his ability, thinking and persuasion. So we do have here today a bill that can be supported by those who believe there is a necessity and urgency to this matter.

Again, I want to compliment the gentleman from Wisconsin for his expertise, his knowledge, and his conviction on this bill.

Mr. Speaker, I ask unanimous consent to include with my remarks, the remarks I offered to the Subcommittee on Labor-HEW at the time of its hearing on this matter.

TESTIMONY OF CONGRESSMAN EDWARD P. BOLAND BEFORE THE SUBCOMMITTEE ON LABOR-HEW, HOUSE APPROPRIATIONS COMMITTEE, OCTOBER 18, 1979

Mr. Chairman, I appreciate this opportunity to appear before your Subcommittee on the issue of energy assistance for low income families and individuals. I would also like to commend you and your colleagues on the Subcommittee for holding these hearings at this time, before the arrival of what threatens to be a very difficult winter for low income households.

I am appearing before you today not only as the Congressman from the Second District of Massachusetts, but as Co-chairman of the New England Congressional Caucus, serving along with my good friend and Co-chairman, Silvio Conte. In that capacity and as one deeply concerned by rapidly escalating energy prices, I would urge this Subcommittee to approve an additional $1.35 billion for low income energy assistance, beyond the $250 million that has already been approved.

As all of you know, I am not one who would lightly recommend the expenditure of $1.6 billion by the Congress for what is essentially an income maintenance program. As a member of the House Appropriations Committee, I have fought to check unnecessary government spending. But at the same time, I also realize that situations sometimes occur that require humanitarian acts by the Congress, acts which help to minimize human misery and suffering.

Mr. Chairman, I believe that in approving the Administration's request for $1.6 billion for low income energy assistance, we are responding to what will be a critical need in only a matter of months. Energy prices, and in particular the price of home heating oil, have risen so rapidly that the poor and elderly are simply not going to be able to pay their heating bills. While the grim prospect of witnessing our senior citizens and low income families "freezing in the dark" has been with us before, at no time in the recent past has the potential for suffering been so high.

Heating oil prices have skyrocketed in one year from 50 cents per gallon to about 85 cents, a 70-percent increase. By the time the winter reaches its peak cold periods, prices may be up even further, nearly doubling the high prices of last year. This means that the average low income household that last year spent $625 on home heating oil in Massachusetts, or $620 in Ohio, $715 in Iowa, or $550 in Kentucky, should this year expect to pay

$1,060, $1,055, $1,215, or $935 in those respective states for similar amounts of fuel. (Figures prepared by the New England Economic Research Office, October 11, 1979.)

These figures are alarming, yet what is even more alarming is the percentage of income which the poor must spend on energy and residential heating. The Fuel Oil Marketing Advisory Committee of the Department of Energy found that in 1978, at a time when the average U.S. household spent 4.7 percent of its annual income on household energy usage, the average low income household spent over 18.4 percent of its income on heating and utilities.

In the coming winter, referring to the same states mentioned above, the New England Economic Research Office has calculated that heating oil alone would consume from 22 percent of the poor's budget in Kentucky, to 32 percent of their annual income in Iowa. In Massachusetts it would amount to 23 percent and in Ohio 24 percent. During the winter months these percentages would of course be higher on a monthly basis, with as much as 40 to 50 percent of the poor family's income going into residential heating.

Mr. Chairman, the statistics which I have just cited show only too dramatically that the choice between food and fuel will be very real for many low income households this winter. With total energy costs eating up 25 to 50 percent (and sometimes more) of the household's winter income, and housing taking another 20 to 30 percent, there is not a great deal left over for food and other necessities. Clearly, without help of some sort, we can expect more than a few household tragedies in the coming months. These tragedies will occur not just from actual cases of people freezing from lack of heating fuel, but from hypothermia among our senior citizens, illness worsened by exposure to chilling temperatures, and accidents from oven doors being left open or from similar hazardous practices.

I urge this Subcommittee to approve an additional $1.35 billion for low income energy assistance, as recommended by the President. While I recognize that the President has made $1.2 billion of this amount contingent on passage of the windfall profits tax, I believe that at least for this winter, we can no longer wait to link up energy assistance and the revenues from the windfall tax. Therefore, it is my feeling that the Congress should move forward expeditiously in appropriating these funds from general revenues for fiscal year 1980.

Mr. Chairman, on behalf of the members of the New England Congressional Caucus, I thank you for the opportunity to appear before your Subcommittee on this vital subject.

□ 1340

Mr. OBEY. I thank the gentleman. I simply want to observe that people who we are trying to help under this bill do not much care whether they are helped under an appropriation bill or an authorization bill. They are under desperate conditions, and they do need some help.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I ask unanimous consent that the gentleman be given 2 additional minutes.

The SPEAKER pro tempore. The gentleman's time has not yet expired.

Mr. CONTE. Well, it is going to expire pretty fast.

The SPEAKER pro tempore. Does the gentleman insist on his unanimous-consent request?

Mr. CONTE. Yes, please.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. CONTE. Mr. Speaker, I want to take this opportunity to commend the gentleman in the well. I too want to commend the gentleman from Connecticut. I commended him yesterday. He gave the same speech yesterday in the full committee, a very courageous speech, although I take issue with him.

As the gentleman from Massachusetts just pointed out, why single out fuel? Fuel has gone up 50- to 70-percent increase, where the other commodities have gone up as follows: Food, 12 to 20 percent; basic medical, 15 to 20 percent; housing, 10 to 18 percent. So, there has been a real dramatic increase in fuel cost.

To say the fuel costs by the Arabs has gone up because of our inflation is a lot of hogwash, because it was right after the oil embargo that the fuel from the OPEC countries went up from $2.25 a barrel to a dramatic $10 a barrel. Inflation did not go that high.

The gentleman made a big issue about the middle-income people. I could not agree with him more. I have a bill with 80 cosponsors—I plead that he may be one of them, and I hope he is—which will give a $400 tax credit to middle-income people for the cost of oil up to an income level of $20,000. That is the kind of person we are both interested in. That will come out of the windfall profits tax.

Mr. GIAIMO. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I will be happy to yield after I first make one statement.

Mr. CONTE. Clear up the hogwash.

Mr. OBEY. I do not happen to think that what the gentleman from Connecticut said is necessarily hogwash. I also want to say that everybody knows that I love the gentleman from Connecticut even though we fight occasionally. But, I do understand the gentleman's frustration because I think that as chairman of the Budget Committee no one is under more pressure, no one is cheap-shotted on more occasions from both the liberal and conservative side of this House.

AMENDMENT OFFERED BY MR. COUGHLIN

Mr. COUGHLIN. Mr. Speaker, I offer an amendment.

The Cerk read as follows:

Amendment offered by Mr. COUGHLIN: On page 3, line 3, strike the period and insert in lieu thereof ": *Provided further*, That, in the State Funding Plan, the Governor shall provide assistance for those who pay fuel bills indirectly as well as directly.".

Mr. COUGHLIN. Mr. Speaker, the purpose of this amendment is simply to clarify that any State implementation plan would treat those who pay fuel costs indirectly, through rent or condo fees, the same way as people who pay fuel bills directly.

Mr. Speaker, let me say, frankly, this is a terrible program.

I am going to vote for it because it is the only show in town to help people cope with skyrocketing fuel prices as a result of noncompetitive factors beyond their control and, to a large extent, beyond our control.

But, it is a terrible program because it is both inadequate and unfair.

It is terrible because this Congress dallied for a year.

It is terrible because it encompasses the time-dishonored approach of throwing money at a problem without analyzing and projecting the consequences.

Last winter, we had an emergency. Fuel costs were escalating out of control. The solution was to throw money at the problem. The legislation we enacted, among other things, compensated those people who did not pay their fuel bills, but did not compensate those who sacrificed and paid their fuel bills. What we did was bail out the fuel oil dealers who held unpaid bills.

This year—guess what? We have another emergency. Fuel oil prices again are escalating out of control. The solution is to throw more money at the problem.

Although this is an improvement over last year's legislation, the program remains riddled with problems. It provides $400 million for automatic checks to supplementary security income recipients without determining whether or not they need the additional aid to pay bills.

Some of these people live in warm parts of the country, some live where heating costs are paid by the Government. Some live together. Regardless, each recipient will receive an automatic check for home heating assistance.

Mr. NATCHER. Mr. Speaker, will the gentleman yield at this point?

Mr. COUGHLIN. I will be happy to yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Speaker, as I understand the gentleman's amendment, it assumes that after the State has complied with the provisions of the House resolution and a plan for a block grant has been approved, that the Governor shall provide assistance for those who pay fuel bills indirectly as well as directly.

Mr. Speaker, we have no objection to that amendment.

Mr. COUGHLIN. Mr. Speaker, I am pleased that the chairman agrees with the amendment. Let me continue, and I will be happy to yield to the gentleman from New York (Mr. GREEN) in a moment.

The resolution further provides another $800 million to go either in automatic checks to aid to families with dependent children, regardless of whether they pay for heat, or in block grants to States, subject to HEW approval of State plans.

Another $400 million will be administered through the Community Services Administration. CSA gives Governors the flexibility to determine the maximum amount receivable as long as it is under $400 for an unpaid fuel bill. However, section 1061.70–8(c) of the energy crisis assistance program regulations sets a cap of $50 on households seeking reimbursement for a bill already paid. Clearly, those who make an attempt to pay fuel bills—certainly robbing Peter to pay Paul—are penalized while those who do nothing are rewarded. Our committee report rectifies this by saying—

> The Committee directs the Community Services Administration to amend its regulations to provide equal treatment of paid fuel bills and unpaid fuel bills. Cash payments for bills already paid shall be equivalent to payments for unpaid bills.

The report language, at least, puts all needy who require home heating assistance on the same level.

In a further effort to make some sense out of, and insure some equality in, this program, I have introduced the amendment which the distinguished Chairman of the Labor-Health, Education, and Welfare Subcommittee has accepted. No one knows how the proposed program effects renters and condominium and cooperative owners who, never-the-less, bear the burden of escalating heating bills through increased rents and fees. The amendment mandates that the Governors of the States provide assistance on an equal basis.

Despite these and other improvements, in the final analysis, this hastily conceived and ill-defined programs must rely on the hope that the States will do a better job of administering funds. At least we have insisted on an element of fairness in the plan the States will present to the Government.

Mr. GREEN. Mr. Speaker, will the gentleman yield at this point?

Mr. COUGHLIN. I yield to the gentleman from New York.

Mr. GREEN. Mr. Speaker, I want to commend my colleague from Pennsylvania for offering this amendment. I have an amendment at the desk which, in due course when I am recognized, I shall offer, which specifically deals with the rental problem. But, I think the gentleman's perceptiveness in seeing that the language which got dropped relating to indirect payment, which got dropped in the final version of the bill, is put back in. His amendment is most statesmanlike, and I applaud the gentleman.

Mr. COUGHLIN. I thank the gentleman.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Speaker, I commend the gentleman for the amendment, and I am delighted that the chairman of the committee, the gentleman from Kentucky (Mr. NATCHER) has accepted it. I feel that there was an area here that a segment of the people were neglected in. The gentleman has clarified it. It is important, especially with respect to the indirect effect of the increased cost of oil.

Mr. COUGHLIN. Mr. Speaker, I thank the gentleman, and I urge adoption of the amendment.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. COUGHLIN).

The amendment was agreed to.

Mr. MITCHELL of Maryland. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, my colleagues, I ask for an opportunity to address the House. The gentleman from Connecticut, who I do not think is on the floor, who I used to love, said he was fed up. Well, here is another Member who is fed up, too.

The problem is this House and this Congress and the President. It is not just the OPEC problem. In your Budget Committee and in the Senate Budget Committee and in the President's budget we have built in unemployment, even anticipating a rise in it, saying that we have got to keep people out of work in order to fight inflation. Maybe if we put some of these people to work we would not have to pay out this money, but you decided, and you are not going to put them back to work. You are going to keep them unemployed in the name of fighting inflation.

I cannot accept that, and I think the gentleman does this House a disservice when he attempts to pit the middle class, or the working class, the middle working class, against the impoverished people. I think that is a disservice. You say none of them will freeze to death in this country. Damn it, some people froze in my district last year. They froze to death in their homes—three people. Nobody can tell me that it is not a choice between freezing and eating. I say it is.

□ 1350

I say it is a choice between freezing and eating, and there is no guarantee that any city government or State government is going to accept that responsibility. All that we do if we ignore this problem is to set up another condition where we drive the poorest of the poor deeper into debt.

Last year in my district, because people could not pay their fuel bills even with some help, they kept their gas ranges on in the kitchen, and it ended up we had to go and ask the public utilities to defer payment on those gas bills because the people could not pay them. That was the only way they kept their homes warm. Then after the winter was over, they were required to pay the gas bills, so they paid them off and dug the hole deeper for this year.

Mr. Speaker, this legislation is needed, I am convinced. I refuse to believe—I refuse to believe—that this Nation, which responded to a Pope in such a magnificent fashion, a Pope who said, "Care about your brother no matter where he is"—I refuse to believe, I will say to the gentleman from Connecticut (Mr. GIAIMO) that this Nation would not accept this bill as a moral imperative.

Mr. GIAIMO. Will the gentleman yield?

Mr. MITCHELL of Maryland. Not at this moment, no. I refuse to believe that this Nation would accept this as less than a moral imperative to meet the plight of those who are poor and who are poor in many instances because it is national policy to keep them out of work. I have noticed the programs the gentleman has fought for in the past. I have served on the Committee on the Budget with him, and he has fought for programs for the poor. But I say, in that statement which the gentleman from Connecticut (Mr. GIAIMO) made on the floor today, he not only attempted to create division in this Nation but he repudiated a policy which he stood for for so many years, a policy that made us look up to him, those of us who served with him on the Committee on the Budget.

Mr. GIAIMO. Now will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from Connecticut.

Mr. GIAIMO. I thank the gentleman for yielding. Let me just say that I agree with what the gentleman is saying, that he refuses to believe that we are going to let people freeze in this country. He just said that. My point and my difference with him is that we in this Government are not the only government in the United States. There are others. There is a State government and a local government, and they have responsibilities also.

Mr. MITCHELL of Maryland. I have yielded to the gentleman. I understood his position, but he asked me whether the city or the State responded to the needs of the poor.

Mr. GIAIMO. Why should they when they can rely on the Federal Government?

Mr. MITCHELL of Maryland. I will not yield any further. I will ask the gentleman to ask those people who froze to death whether the city or the State met their responsibilities.

AMENDMENT OFFERED BY MR. PANETTA

Mr. PANETTA. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. PANETTA: Page 3, in line 3, after "1979", and before the period insert the following: "; *Provided further*, That from revenues received from any windfall profit taxes imposed by Federal law on producers of domestic crude oil, there shall be reimbursed to the general fund of the Treasury an amount equivalent to the amount of funds appropriated to carry out the purposes of this Act".

Mr. NATCHER. Mr. Speaker, I would like to reserve a point of order against the amendment offered by the gentleman from California (Mr. PANETTA).

Mr. Speaker, will the gentleman yield to me at this point?

Mr. PANETTA. I will be pleased to yield to the Chairman.

Mr. NATCHER. I thank the gentleman for yielding. Would the gentleman agree with me that in the preamble of House Joint Resolution 430 the resolution provides:

> That the following sum is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1980, namely—

And then the balance of the resolution? Would the gentleman agree with me that if his amendment as offered is adopted, it does not affect the passage of this resolution in any way, shape, form, or fashion as far as the $1,350,000,000 is concerned, but if the windfall profit tax which has passed in the House finally passes in the Senate, then there would be a reimbursement under the gentleman's amendment? But the gentleman's amendment does not affect the money provided for in this resolution, does the gentleman agree with me?

Mr. PANETTA. The Chairman has stated it correctly.

Mr. NATCHER. Mr. Speaker, we accept the gentleman's amendment.

Mr. Speaker, will the gentleman yield further?

Mr. PANETTA. I will be pleased to yield to the gentleman.

Mr. NATCHER. Mr. Speaker, although I have certain reservations about the germaneness of amendments along this line, in all deference to the gentleman, we have no objection to his amendment.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding. I realize the gentleman's amendment has been accepted, but may we hear what the gentleman's amendment is?

Mr. PANETTA. Yes; I would like to do that because I think this issue has been raised previously and I would like to clarify this amendment for my colleagues.

Obviously, we are dealing with urgent legislation here. No one disagrees with that. And I do not think it really helps to pit one section of the country against another section, or rich against poor, or middle class against lower class, or black against white on this issue. It is obviously an issue of concern. We all sense it. We all have to deal with it in one way or another.

We have a responsibility to those facing high heating costs this winter. At the same time we do have responsibilities that relate to the budget as well. As a member of the Budget Committee, I have worked with the gentleman from Connecticut (Mr. GIAIMO). No one has worked harder in terms of trying to deal with the budget issues that face this country. The Members of this Congress go back to their districts and talk about legitimate budget concerns that face this country, and yet come back and sometimes pretend that they do not exist. The fact is they do exist. They are themselves issues.

We have been going through a conference now with the Senate for 10 days on the budget resolution to try to resolve the differences between the House and the Senate, with the Senate pushing for more defense money. On the House side the gentleman from Connecticut (Mr. GIAIMO) is doing everything he can to try to protect the funding for the social programs that are important to many of the Members of this body. So I prefer that we not get into the battle of whether we should sacrifice the budget for fuel assistance, or sacrifice budgetary concerns for human concerns but try and decide what approach we are going to take here that meets our responsibility to all Americans.

There are two concerns relating to this legislation. One is the danger of creating another entitlement program. Seventy-five percent of the Federal budget is uncontrollable right now. We have a very difficult time getting a handle on programs that are already built into the process. As chairman of the Legislative Savings Task Force, we have been able to get about $2.4 billion of legislative savings carried into this budget. We are fighting to protect it right now in the budget conference. But it points up the fact that once you build some of these programs into the process automatically, it is very tough to go back and get a handle on them, programs like medicare and medicaid and disability and all of the other programs that are automatically built into an automatic expenditure process. The danger is we are going to create that kind of program here today. I understand a June of 1980 termination date is built into it, but the fact is if we reach into the General Treasury, there will be an incentive here to create another entitlement program. So it is very important that we not simply fall back on the General Treasury but look to the windfall profit tax as a resolution to fund this kind of program. That is the way we build it into the budget resolution. It has to be built into this bill. There is nothing in the report, there is nothing in the bill that refers to the windfall profit tax. We all talked about it, but let me tell the Members, in the conference committee in dealing with this issue we do not know what that windfall profit tax is going to look like. And, indeed, it is already being spent for an energy corporation, for conservation, for this or that, with fuel assistance down near the bottom someplace. So we do not know that these funds are in fact going to be used for that purpose.

What I am trying to do with this amendment is to insure that at the very least the funds that are taken out of the General Treasury are reimbursed back to the Treasury once a windfall profit tax is passed. I think it is extremely important for this House to go on record on that issue, and that is why I have offered this amendment.

I thank the chairman, the gentleman from Kentucky (Mr. NATCHER) for accepting it. I think it is important that the House consider and adopt this prior to passing this legislation.

Mr. MICHEL. Mr. Speaker, I rise in opposition to the amendment. I expressed the concern earlier as to whether or not this bill was really meeting an emergency or whether we were embarking upon another entitlement program. If you really want to directly tie this kind of program to whatever revenues come by way of a windfall profit tax, let us face it, if there is to be such a tax, it "ain't" going to be for 1 year; it is going to be for multiple years; and that in effect is an indirect entitlement. Then you have yourself whipsawed. Because we have a windfall profit tax running for 10 years, there is then justification to run this program for 10 years. I agree with the chairman's earlier observation that this resolution calls for a direct appropriation and that, frankly, his language does not affect that in that sense, but I think we ought to go one step further because by indirection here we are in effect saying, yes, we are going to continue this program indefinitely so long, conceivably, as there is a windfall profits tax. For that reason I would raise an objection to the gentleman's amendment only because of what it implies.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I will be happy to yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding. As I recall the House version of the windfall profit tax to which my colleague refers, it goes on for quite awhile.

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So conceivably this restriction that my colleague offers, while it might seem very restrictive, as I recall the House version of the windfall profit tax it goes on for 10 years. The gentleman's amendment really does not restrict it that much except to say the revenues will supposedly be reimbursed out of a 10-year tax. Is that correct?

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from California.

Mr. PANETTA. I thank the gentleman for yielding.

I do not disagree with the gentleman's concern. I would say this. There is greater concern if we do not tie this amendment to the windfall profit tax in this legislation. The fact is if we simply leave it open to the General Treasury, if we simply rely on appropriations year in and year out without in any way tying it to this fact, that we ignore what I think is the crucial point here that, in fact, it does have to relate, if we are going to pay to this program, to some kind of revenues coming in and the windfall profits is the only place we can look to in the budget to do it.

Mr. Speaker, I understand the concern of the gentleman. I hope we can take that position come June 30, that this will not become just another entitlement program. The fact is right now if this legislation is to be adopted, let us stick in the windfall profit tax.

Mr. MICHEL. I will tell the gentleman that the June 30 date in there comes about as a result of part of my substitute that was adopted yesterday. Taking it one step further here, this is supposed to be reimbursement for increases in heating costs. The gentlewoman from Louisiana earlier in the debate made mention of air-conditioning as a very legitimate expenditure under this program for the reasons the gentlewoman alluded to.

Mr. Speaker, now what is to foreclose, for example, if we tie this to the benefits of windfall profits, using this to subsidize air-conditioning, which is just one step further. I have a real reservation about directly tying what we are doing today to what I think is an indefinite entitlement for the future.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I would be happy to yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I think the gentleman's point is well taken. My concern is on this issue—the windfall profit tax as it passed the House went for 10 years. It does nothing about the gentleman's concern about a long-range entitlement. This amendment does nothing to make sure that it is not a permanent entitlement program and that is the concern of the chairman of the Committee on the Budget, which I think is a very appropriate concern.

Mr. GIAIMO. Mr. Speaker, would the gentleman yield to me?

Mr. MICHEL. I am happy to yield to the gentleman from Connecticut.

Mr. GIAIMO. I think you ought to support this amendment. I do not want to see this become an entitlement. I do not even want to see it get started, for reasons which I have stated. We know, it started in 1977 with that cold winter, and they got to like it, and the Governors got to like it and no one better than my Governor has gotten to like it. They are down here and they will be down here next year and the year after.

Whether we call it an entitlement or a direct appropriation, we are going to be faced with this thing. At least let us try to hold it down to the amount of taxes that we get from windfall profits. That is all the amendment of the gentleman from California does.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from California (Mr. PANETTA).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GREEN

Mr. GREEN. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GREEN: On page 2 after "previous year;" insert the following: "*Provided further*, That states shall, in establishing such priority, provide for determining the extent to which increases in rents are caused by increases in heating fuel costs and consider such portions of increases in rents to be increases in heating fuel costs.".

Mr. NATCHER. Will the gentleman yield, Mr. Speaker?

Mr. GREEN. I would be happy to yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Speaker, I would assume from reading the gentleman's amendment that the gentleman has in mind that under the provisions of this resolution if the State of New York, through the Governor, submits a plan and it is accepted, then the provisions as set forth in the gentleman's amendment would apply.

Mr. GREEN. The gentleman is correct.

Mr. NATCHER. The amendment of the gentleman is similar to the amendment offered by the gentleman from Pennsylvania (Mr. COUGHLIN). In substance, the amendment of the gentleman seems to be in order.

Mr. Speaker, we have no objection to the amendment of the gentleman.

Mr. GREEN. I appreciate the gentleman's acceptance of my amendment. I do want to explain why I am offering this amendment despite the amendment offered by the gentleman from Pennsylvania.

An earlier version of this bill, in committee, contained a reference to indirect payment of home heating cost increases and made specific mention of rent increases. The amendment of the gentleman from Pennsylvania restored the language as to indirect payment, but did not restore the language as to rent increases. That was because the gentleman from Pennsylvania was concerned about occupants of cooperatives and condominiums. My amendment makes it clear that renters are covered by the program.

Mr. Speaker, for some time I have been very concerned about the availability of home heating fuel in various parts of the country this winter and, due to the enormous increases in the costs of such fuel, the ability of many middle- and low-income persons to heat their homes adequately. This is especially important in considering the needs of our elderly population.

As I know other Members of this body have, I have had extensive communication with the Department of Energy on this issue. I commend the Members of the Appropriations Committee in providing us with the supplemental appropriation before us, which addresses the problem of soaring heating costs. However, I am greatly disturbed that the version of the bill presented on the floor made no provision for renter households in the block grant program to the States.

Renter households rarely pay heating costs directly. But their rent bills inevitably reflect heating costs. When tenants cannot pay those heating costs, the result is housing abandonment. We have literally had people—generally elderly—freeze to death in abandoned buildings.

The abandonment phenomenon is not unique to my city—New York City. A General Accounting Office study last year showed 113 cities with significant housing abandonment problems. If we do not face up to the radical rise in heating costs, that problem will multiply enormously.

I understand the urgency of this heating aid legislation. I want to move it along speedily. But I must stand up for the rights of renter households. The last census data reveal that 37.1 percent of all households nationwide were renter households. I am sure the scope of this problem is clear to my colleagues and I hope that they will assist me in amending this important legislation to provide for the consideration of renters in the block grant program to be established.

Mr. BAUMAN. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I cannot think of a better example of the folly of the manner in which this major new program is being considered than the demonstration that has just been provided by this amendment and the previous amendment. The previous amendment by the gentleman from California (Mr. PANETTA) was probably not germane to the bill. It held out the hope that a windfall profit tax on oil might be used to pay for the costs of this bill.

Mr. Speaker, that is a good tactic to get votes for an otherwise bad bill, but now with the two amendments pending, first we add renters to the bill so that they will receive heating payments. Now we have an amendment telling the Governors of the various States that they are supposed to look into the reason for the rent for every building and decide whether the rent went up because of the heating cost, a near impossible task.

Mr. Speaker, if we are going to continue to legislate in this manner, we are not going to help the people who really need assistance.

Mr. Speaker, I said when the rule was considered that the bill did not deserve this kind of haphazard consideration. This bill is rapidly acquiring the character of a Christmas tree with each new amendment ornament.

Mr. Speaker, I suspect we are going further than just aid to renters. How about small businessmen who have their heat bills increased because of inflation? Are they going to be considered? We do not want to neglect the small business community.

How about quotas for heating aid based on various other distinctions?

Mr. Speaker, this thing is getting out of hand because of the way it is being considered. We should have had full hearings on this before the appropriate committees, not rush pellmell into trying to solve problems with legislation that may never aid the people we profess to want to help. This is the worst way to legislate. We all know that. Unfortunately, this bill is likely to be passed because of the label pinned on it as assisting the elderly, those who need heat in the wintertime, and so on, even if it does not.

Mr. Speaker, I suspect that this legislation is designed not so much to assist the poor and elderly with their heating bills as it is intended to help certain politicians at the Federal level get themselves reelected in 1980. It is not so much the cold weather of the coming winter of 1979 that disturbs them, but the possible cold reaction of some voters in November 1980. This bill may fail miserably to direct real assistance to those who need it, but some hope it will undoubtedly do much to enhance the power of the welfare bureaucracy and the welfare lobby.

Well, I think those who tout this program as being the solution to a real problem may discover their political preservation will not be assured by the creation of yet another massive Federal program with a starting cost of $1.6 billion for just the first year. The courageous gentleman from Connecticut (Mr. GIAIMO) earlier laid it on the line for all of us when he spelled out the problem such legislation presents. He raised the very real and pertinent question as to how such a program will be financed and who will pay for it. The answer is that it will be paid for in increased inflation which is already at an annual rate of 15 percent as well as increased taxes on the middle class who bear the brunt of that inflation both in higher prices and higher taxes.

We are told that this program will be paid for by the imposition of a so-called windfall profit tax on the oil companies. But such a tax is not now in place, and even if it does become law each and every oil company will pass along the tax to the oil consumer as a cost of doing business. So we have the vicious circle of increased inflation, increased fuel costs, and increased taxes, and increased fuel costs once again, which will lead to still more demands for bigger programs of this nature.

Obviously there should be a program to provide emergency assistance to those who really need it in order to heat their homes and maintain their lives. Such a program does exist and was administered last year by the Community Services Administration. In Maryland the program was operated in such a slipshod manner that money was not distributed until long after it was needed, many of those in greatest need were ignored, and eventually money was handed out to anyone who presented even the vaguest proof that they needed some help to pay heating bills.

Under the bill before us we do not even have the assurance that many in need will be helped. Yes, the bill says payments of about $200 for a family of four will go to those who receive AFDC and SSI but that may well exclude those who are very much in need and receiving social security or unemployment insurance but who do not qualify. Again the bill suggests payments will go to those who have an income of less than 125 percent of the poverty level income which is now $8,950, but the authors do not tell us that there is no existing government mechanism to determine who these people are. And why, we must ask, does this bill contain a formula which is based half on need of the individuals to be helped, and half on the temperature in the States in which they live?

This one provision alone means that "heating" assistance will be handed out to AFDC and SSI recipients in such balmy climes as Puerto Rico, Guam, and the Virgin Islands, regardless of the weather.

Mr. Speaker, it is estimated that there are now 25.7 million people in this Nation of 225 million who are receiving welfare, food stamps, or SSI payments. If the money in this bill is handed out to each of them they may average about $60 each. Many of these people, about 3 to 4 million are beneficiaries under two or more of these programs and may get double the amount under this bill's formula. How is the duplication to be avoided?

There are now 182 separate and distinct Federal programs in which money is handed out to people in order to alleviate poverty. More than $250 billion is taken from the taxpayers each year and transferred through the government to those who receive payments under these programs. It is logical to believe that if the 183d welfare program proposed by this bill becomes law that it will do what the other 182 programs have not done—solve the problem of poverty with a check of $60.

I will support a truly beneficial program which channels aid to those in proven need, but I cannot vote for this kind of slipshod legislation which provides no guarantee that the people most in need will really get help.

Mr. GREEN. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. Yes, I yield to the gentleman from New York.

Mr. GREEN. Mr. Speaker, I simply want to make clear from the point of view of the legislative history of my amendment, that I simply do not contemplate that the States are going at this building by building. I think there are many other mechanisms that are available to the State and my amendment leaves it perfectly open for the State to devise general methods.

Mr. BAUMAN. I think the House is indebted to the gentleman from New York because the implication of the gentleman's amendment is that the only way we could administer this program properly would be to have heating inspectors on the Federal payroll going from house to house to examine the qualifications of the individual people who may or may not be eligible to receive help.

Mr. Speaker, the administrative cost of that, of course, would well exceed the $1.3 billion that would be given to the people for the heating bills.

This bill has the potential of making all other welfare programs look puny by comparison. I can just see the inspectors reading thermostats in rental units all over the United States.

Mr. GREEN. Will the gentleman yield further?

Mr. BAUMAN. I yield to the gentleman from New York.

Mr. GREEN. There are mechanisms. For example, there are a number of municipalities that have rent controls, that have developed means of applying general fuel passthroughs and identifying what portion of rents generally are arising from fuel costs and I would expect any Governor to devise a plan suitable for his State along those lines.

□ 1410

Mr. BAUMAN. The gentleman has not convinced me. The legislative tactics we are seeing here today are apparently an effort to pass a bill that otherwise might be in trouble.

I have no doubt that most of these amendments will be dropped in conference. They will go down the drain, as quite often they do. That will be unfortunate from the point of view of the sponsors, but the bill will have been passed and Members will have been given some solace.

Members might say, "Now I can vote for it, because it covers renters and I have renters in my district. I can vote for it because it might come out of a windfall profits tax. I can vote for it for this reason or the other," ignoring the fact that the bill may not help the people we say we want to help and that it will surely damage a great many people because of the inflation that it will cause.

Mr. HUGHES. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I wonder if I could have the attention of the sponsor of the amendment, the gentleman from New York (Mr. GREEN).

Mr. GREEN. The gentleman certainly may.

Mr. HUGHES. Mr. Speaker, I do not oppose the gentleman's amendment, but I am concerned about the use of the term "heating fuel costs."

Mr. GREEN. Mr. Speaker, if the gentleman will yield, I simply took the language that is already in the bill.

Mr. HUGHES. I am going to try to strike the language that is in the bill.

Mr. GREEN. Then I suppose the gentleman would want to amend this also and do that at that time; but I simply drafted my language in the identical language that is in the bill as it came from the Appropriations Committee. That is where I got that phrase.

Mr. HUGHES. Mr. Speaker, I wonder if the gentleman would agree to just eliminate the word "fuel."

I do not think the word "fuel" adds anything to it, so that it just reads "increases in heating costs."

Mr. GREEN. If the committee is agreeable, I am certainly agreeable.

Mr. HUGHES. Well, if the gentleman would seek unanimous consent for that purpose, I could support the gentleman's amendment.

Mr. GREEN. Mr. Speaker, I ask unanimous consent to modify my amendment.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York (Mr. GREEN)?

Mr. FRENZEL. Mr. Speaker, I object.

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. WEISS. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I am happy to yield to the gentleman from New York.

Mr. WEISS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I simply want to state that the gentleman from New York has offered an amendment which makes eminent good sense and really does nothing but apply elemental fairness. People across this country who rent their housing should be accorded the same kind of protection from unbearable heating costs as those who own their own homes.

It is very difficult for me to understand how anybody could object to that.

Mr. Speaker, I strongly support passage of House Joint Resolution 430, the supplemental appropriation for emergency energy assistance to low-income people.

The $1.35 billion contained in the resolution represents the bare minimum needed to prevent poor people from literally freezing to death this winter or making the impossible choice between heating their homes and eating regular meals.

This is no exaggeration. In a matter of weeks, the situation will be that grave.

The average price of a gallon of home heating oil has soared from 47.5 cents in 1977 to more than 80 cents today. This astronomical increase, which is only going to be aggravated as the winter goes on, means that a family in the northeast will have to pay $540 more this year for heating oil than last year. Uncontrolled inflation of that sort is threatening to wreck the budgets of middle-income

Americans and to threaten the lives of people living in poverty.

Indeed, we find that the poor are being hurt the most by staggering heating costs. In 1978, for example, low-income households spent 19 percent of their income on energy costs—already four times the national average. And this proportion is expected to rise this winter to 25 percent of total income.

It is thus absolutely essential that we pass this resolution today and set in motion at once a program for helping millions of Americans pay their heating bills. Winter has already begun in some parts of our country. Further delay will mean that the program could not start functioning until sometime in 1980, far too late to provide the kind of help that is so clearly needed.

I wish to emphasize, too, Mr. Speaker, that I very strongly support this amendment to the resolution which specifies the need to help people who rent their homes. Under this amendment, the States must take into account the impact on tenants of increases in the cost of heat that are reflected rent hikes. A portion of the $791 million in the resolution set aside for discretionary distribution by the States should certainly go to eligible people who are going to pay significantly higher heating costs under the guise of increased rents.

In New York City, for example, tenants living in so-called rent stabilized apartments have already been hit with a fuel pass-along rent hike, and an additional increase is now under consideration. Similarly, tenants in New York City living in so-called rent-controlled apartments are facing a special 5 percent fuel pass-along increase. Many people living in both rent-controlled and rent-stabilized apartments would qualify for this assistance on the basis of income.

It is vital that these renters receive emergency assistance under this resolution.

I urge my colleagues to approve the resolution so that we can begin now to counteract the effects of unconscionable price increases for one of life's essentials—home heating.

Mr. Speaker, I thank the gentleman for yielding.

AMENDMENT OFFERED BY MR. HUGHES TO THE AMENDMENT OFFERED BY MR. GREEN

Mr. HUGHES. Mr. Speaker, I offer an amendment to the amendment.

The Clerk read as follows:

> Amendment offered by Mr. HUGHES to the amendment offered by Mr. GREEN: Strike the word "fuel" from the Green amendment.

Mr. HUGHES (during the reading). Mr. Speaker, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. FRENZEL. Mr. Speaker, I object.

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The Clerk concluded the reading of the amendment to the amendment.

Mr. HUGHES. Mr. Speaker, the amendment is very simple. All it does is strike the word "fuel" from the term "heating fuel costs", so that in essence the amendment of the gentleman from New York would recite:

> *Provided further,* That States shall, in establishing such priority, provide for determining the extent to which increases in rents are caused by increases in heating costs and consider such portions of increases in rents to be increases in heating costs.

It is a very simple amendment. I am concerned because the present language might suggest that those who heat their homes by electricity would not be covered.

Mr. GREEN. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I would be happy to yield.

Mr. GREEN. Mr. Speaker, I certainly share the concerns of the gentleman. I simply used the language that was already in the bill. I certainly did not intend in any way to exclude electrically heated homes. They certainly do need the help as much as homes heated by other means.

I am certainly delighted to support the gentleman's amendment.

Mr. MYERS of Indiana. Mr. Speaker, would the gentleman yield?

Mr. HUGHES. I would be happy to yield.

Mr. MYERS of Indiana. Mr. Speaker, it would be possible, however, under the gentleman's revised language here, that a property, a rental property, where the owner had to replace the furnace as heating equipment could prorate that and recover the costs this way? Would it be a capital investment?

Mr. HUGHES. No; I do not think it would do that at all. If I may make it clear, all it does is clarify the term heating costs to show that we are talking about oil and we are talking about gas and we are talking about electrically heated homes.

Mr. MYERS of Indiana. Mr. Speaker, if the gentleman will yield further, why is it so necessary to take the word "fuel" out when it further defines the intent of the amendment?

Mr. HUGHES. Well, because it is important to suggest that those people who pay their heating bills through their electric bills are also covered by the legislation. Many people have all-electric homes.

Mr. MYERS of Indiana. Is not electricity a fuel?

Mr. HUGHES. Well, the utilities use the gas and the oil in the production of electricity and those bills are also skyrocketing out of sight. Many segments of the community really heat their homes by electric energy. Surely, it is not the intent to deny those people the same relief that we are providing those that use oil or gas to heat their homes.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I would be happy to yield to my colleague, the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, does this cover firewood for a fireplace?

Mr. HUGHES. Well, if I can just recapture my time——

Mr. ROUSSELOT. Well, I am serious in that, because we have a lot of places in the mountains of California that are heated by firewood.

Mr. HUGHES. I would say it would cover any type of heating costs.

Mr. ROUSSELOT. Including firewood?

Mr. HUGHES. If, in fact, firewood has increased in costs and the State develops a plan that would provide relief for those who heat their homes in that fashion, it covers it.

Mr. ROUSSELOT. How about solar energy?

Mr. HUGHES. Again, I would recapture my time.

I yield to the gentleman from New York.

Mr. ROUSSELOT. I hope my colleague will tell us if solar energy is included.

Mr. GREEN. Mr. Speaker, I would like to point out that this amendment covers only rent increases. The fact that a renter goes out and buys a furnace or buys wood or buys a solar panel is not covered by this at all.

It covers only rent increases and that portion of the rent increase that is attributable to the heating cost.

Mr. HUGHES. Mr. Speaker, I thank the gentleman. I think the gentleman's amendment contributes to the legislation. I hope my colleagues will support it.

Mr. MILLER of Ohio. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I am happy to yield to my colleague, the gentleman from Ohio.

Mr. MILLER of Ohio. Mr. Speaker, as I understand the amendment of the gentleman is to include electric bills or costs for electrical heating; is that correct?

Mr. HUGHES. Mr. Speaker, if I can say to the gentleman, no, it does not.

Once again, to try to explain the amendment, very simply, many households are total electric. They heat by electricity. It was the intent, from what I understand from the committee, to cover home heating, whether it be gas or oil or whether it be electrical; but unfortunately, by using the term "fuel" we suggest there is a bias in favor of the direct use of oil or gas.

Mr. MILLER of Ohio. Mr. Speaker, if the gentleman will yield further, indirectly, the gentleman is really talking about electric heating.

Mr. HUGHES. Yes. We have in New Jersey what they call a fuel adjustment clause. Many States have the same thing, where people can actually measure the increase in their electrical bills, because of the increased cost of coal or gas. This just clarifies the intent to cover electrical heating bills, as well as gas and oil.

Mr. MILLER of Ohio. Mr. Speaker, will the gentleman yield further?

Mr. HUGHES. I would be happy to yield.

Mr. MILLER of Ohio. Mr. Speaker, the gentleman has covered pretty well what I had in mind. The gentleman speaks of fuel. The gentleman speaks of electricity, how about hydroelectricity? No fossil fuel is used so the cost to generate hydroelectricity should not rise drastically.

Mr. GREEN. Mr. Speaker, will the gentleman yield to me to explain the amendment, since I have the underlying amendment?

Mr. HUGHES. I yield to the gentleman from New York.

Mr. GREEN. Mr. Speaker, basically my amendment deals only with rents and increases in rents.

The SPEAKER pro tempore. The time of the gentleman from New Jersey (Mr. HUGHES) has expired.

(At the request of Mr. GREEN, and by unanimous consent, Mr. HUGHES was allowed to proceed for an additional 3 minutes.)

Mr. GREEN. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from New York.

Mr. GREEN. Mr. Speaker, the amendment covers only increases in rent. It tells the Governor to devise in his plan a means of identifying that portion of rent increases which are the result of heating cost increases; so presumably a Governor drawing a plan may differentiate between households which are receiving hydropower and those households which are not. Obviously, there is a mix in most systems and the Governor is going to have to devise a way of estimating which portion of the rent increases are the result of heating cost increases. That is all it covers. It does not cover a householder's electric bill.

☐ 1420

Mr. VOLKMER. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I would like to interrogate the gentleman from New York (Mr. GREEN) just very briefly on his amendment so that I will understand exactly what we are doing here with this rent matter and payments for the extra heating bills.

One of the things that concerns me is that the payment undoubtedly would be after the season is over. Is that when the payments are going to be made? When are they going to be made?

Would the gentleman anticipate that the payments would be made on a monthly basis to the people who are deserving of them?

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from New York.

Mr. GREEN. Mr. Speaker, as the gentleman knows, this bill only runs for a very limited period of time.

Mr. VOLKMER. Yes, I anticipate that.

Mr. GREEN. And the payments would be made during the period of time the bill is in effect. Obviously, after that the rent increases will still be there, but the help from the bill will not be there.

Mr. VOLKMER. Let us say the rent increase is made on December 1, 1979.

Mr. GREEN. Again that depends on when the State plan comes into effect.

Mr. VOLKMER. Well, the State plan undoubtedly will not go into effect until sometime in December or January.

Mr. GREEN. It can only cover what the State plan says it should cover. The bill—and here it has nothing to do with my amendment—leaves the States a great deal of flexibility in determining their priorities. That is going to depend on how the Governor drafts his State plan, as to what is covered, just as it does with every other home heating cost.

Mr. VOLKMER. The gentleman does not anticipate, then, any difficulties at all with a State plan deciding how to treat the rent increases?

Mr. GREEN. No. Mr. Speaker, if the gentleman will yield further, the issue of an increase starting on December 1 is no different a problem in the case of renters than it is in the case of ownership households. They pay their fuel oil bills periodically.

Mr. VOLKMER. Mr. Speaker, the gentleman is, then, envisioning an averaging out of the cost in New York City? They would just average it out?

Let us say rents have gone up in New York City by $25 a month because of the increase in heating costs this winter; then every renter who falls within this substandard income category would get $25? Is that what the gentleman is saying?

Mr. GREEN. That is right, within the limits of the State plan. In New York City, because of our rent control and rent stabilization laws, we have a very detailed breakdown of rent figures, and it is a very easy job to make that determination in the case of New York City.

Mr. VOLKMER. Mr. Speaker, let me ask the gentleman one further question, since the amendment offered by the gentleman from New Jersey (Mr. HUGHES) is to the gentleman's amendment and the discussion is on electrical heating.

We have, I suppose, apartment houses that are heated by electricity, all electric heating. Now, the utility bill has gone up. Let us say this is February, and the utility bill went up in January.

How much of that is attributable to heat, and how much is attributable to normal use?

Mr. GREEN. Mr. Speaker, I think the Governor in his plan is going to have to make that distinction.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, in most States the utilities keep a separate account. For instance, in New Jersey we call it the fuel adjustment clause. The utility in the past actually has accounted to the customer for the additional cost of energy. So there is a separate item used by most utilities. Many States like Michigan have a partial pass-through.

Mr. VOLKMER. I know, Mr. Speaker, but on my individual bill that I receive, how do I know how much of that is attributable to using a television set and using appliances and how much is attributable to heat?

Mr. HUGHES. First of all, the utilities are required to keep a separate account of their fuel costs. When they go for rate increases, they have to keep account for the cost of coal, gas, oil, or for whatever they are using, and it is that account that is used; it is not based on what an individual's particular usage is.

Mr. VOLKMER. Mr. Speaker, is the gentleman saying the amount they should receive money for is based on a rate increase that the utility company may receive?

Mr. GREEN. Mr. Speaker, will the gentleman yield?

Mr. VOLKMER. No, I will not yield now because I am discussing this now with the gentleman from New Jersey (Mr. HUGHES).

There is a rate increase granted, and, therefore, if there is no rate increase, the people would not receive any subsidy under this provision?

Mr. HUGHES. Mr. Speaker, if the gentleman will yield further, the utilities keep a separate log on what their fuel costs are, and it would be that sum that would be apportioned among the customers who are on electrical heat. The utilities keep an account of those customers who have electrically heated homes as well as the patterns of use as between seasons, for instance.

Mr. VOLKMER. Yes; I realize that.

Mr. HUGHES. So it is easily determined as to what portion of the bill is directly attributed to cost increases due to the increase in the cost of coal, gas, and oil.

Mr. VOLKMER. Mr. Speaker, I will not argue that, but I will ask this: How much is attributed again to the individual apartment building for this month? No matter whether there is a rate increase, how much of that is attributable to heating, and how much is attributable to using appliances?

Mr. HUGHES. Mr. Speaker, that varies from area to area and from customer to customer.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from New Jersey (Mr. HUGHES) to the amendment offered by the gentleman from New York (Mr. GREEN).

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—yeas 41, nays 11.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 381, nays 17, not voting 35, as follows:

[Roll No. 601]

YEAS—381

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Cleveland
Clinger
Coelho

Coleman
Collins, Ill.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKinney
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rose
Rostenkowski
Roth
Rousselot
Roybal
Royer
Runnels
Russo
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—17

Archer
Bereuter
Broomfield
Collins, Tex.
Crane, Philip
Devine
Erlenborn
Gibbons
Holland
Jeffries
Kindness
McDonald
Madigan
Mollohan
Myers, Ind.
O'Brien
Paul

NOT VOTING—35

Anderson, Ill.
Ashley
Baldus
Bonior
Brademas
Brown, Calif.
Burton, John
Clay
Conyers
Flood
Foley
Guarini
Howard
Leach, La.
Lee
Livingston
Luken
McKay
Maguire
Minish
Patten
Rodino
Roe
Rosenthal
Rudd
Santini
Scheuer
Skelton
Thomas
Treen
Waxman
Whitehurst
Wilson, Bob
Winn
Yatron

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Mr. ARCHER changed his vote from "yea" to "nay."

So the amendment to the amendment was agreed to.

The result of the vote was announced as above recorded.

APPOINTMENT OF AN ADDITIONAL CONFEREE ON S. 1319, MILITARY CONSTRUCTION AUTHORIZATION ACT, 1980

Mr. NEDZI. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to appoint one additional conferee on the bill, S. 1319, to authorize certain construction at military installations for fiscal year 1980, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan? The Chair hears none and, without objection appoints the following conferee: Mr. MITCHELL of New York.

There was no objection.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. GREEN), as amended.

So the amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. PHILLIP BURTON

Mr. PHILLIP BURTON. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PHILLIP BURTON: Add the following at the end of the resolution: "*Provided, further,* That for the purposes of this Act, the term "States" shall include the "insular areas" of the United States.".

Mr. PHILLIP BURTON. Mr. Speaker, this is another in what seems to be a never-ending task of reminding my colleagues that the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Northern Mariana Islands are all part of the United States.

I would hope that all of the staffers of all of the committees of the House will read this debate so that this Member will never again have to stand on the floor to offer amendments of this type.

I might note parenthetically, as I mentioned in earlier debate, that in some of these areas they have the old-age assistance aid to the blind, and aid to the disabled programs rather than SSI, and this amendment, if adopted, as I gather it will be, and if it survives conferences, and I hope it shall, then perhaps justice will extend to all of our Americans under the American flag.

The Northern Marianna Islands are included in the SSI program. Puerto Rico, the Virgin Islands, and Guam still administer the pre-SSI adult categories of OAA, AB, and ATD.

These adults categorical aid recipients should be treated the same as SSI recipients—as this amendment will achieve.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. PHILLIP BURTON. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, the gentleman knows this legislation contemplates giving assistance to people for the increased cost of heating their homes?

Mr. PHILLIP BURTON. Yes.

Mr. BAUMAN. If the gentleman would yield further, does the gentleman think that Guam, the Mariannas, and the Commonwealth of Puerto Rico, the Virgin Islands, and the other insular possessions actually need to be brought under this legislation?

Mr. PHILLIP BURTON. Certainly I would think there would be areas in Northern Mariannas, and perhaps others, where the act definitions might apply.

The purpose and thrust of my amendment is only to see that the people in these "insular areas" are not precluded from whatever ground rules there are for measuring heat and temperature in the area and so forth.

It is not my purpose to put them in with a special set-aside entitlement. I merely want them to be eligible for the same consideration as if they were on the mainland of the United States.

Mr. BAUMAN. If the gentleman will continue to yield, that certainly seems fair, but on the other hand, knowing the way such programs are administered, I suspect that these tropical areas probably will get a great deal of the money meant for heating.

Mr. PHILLIP BURTON. I would like to think so, but I strongly suspect not.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. PHILLIP BURTON. I yield to the gentleman from Minnesota.

Mr. FRENZEL. The gentleman has said he does not want a set aside, but if there are SSI recipients, they will get a particular set aside.

Mr. PHILLIP BURTON. There are about 900 or so SSI recipients in the territories, or maybe it is 1,000. I do not know the OAA, AB, and ATD figures.

Mr. FRENZEL. If the gentleman will continue to yield, whether they have any heating expense increases or not, they will get aid under this particular bill.

Mr. PHILLIP BURTON. No differently than someone living in Death Valley drawing SSI.

Mr. FRENZEL. Exactly. That is what is wrong with having SSI included.

Mr. NATCHER. Mr. Speaker, will the gentleman yield?

Mr. PHILLIP BURTON. I yield to the gentleman from Kentucky.

Mr. NATCHER. The gentleman, of course, knows that as far as House Joint Resolution 430 is concerned, that as far as the insular areas are concerned, under this particular resolution, they are not mentioned.

Mr. PHILLIP BURTON. That is my understanding.

Mr. NATCHER. They are not mentioned at all.

Mr. PHILLIP BURTON. That is my understanding. Therefore, I have offered this amendment.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from California (Mr. PHILLIP BURTON).

The amendment was agreed to.

Mr. BIAGGI. Mr. Speaker, I move to strike the requisite number of words.

I would like to engage the gentleman from Kentucky (Mr. NATCHER), chairman of the Subcommittee on Labor-Health, Education, and Welfare, in some colloquy.

As I understand, the chairman is aware that I and 17 other Members of the New York delegation are concerned about the formula proposed for the distribution of the funds for the CSA program. The concern is based on the failure of the formula to take into specific account consumption levels for home heating oil which clearly is the home energy source whose prices have risen the most over the past year.

Can the chairman, for the purposes of legislative history, agree to instruct the Director of CSA to give special consideration in the awarding of funds to those States which are burdened further by their consumption levels of home heating oil?

Mr. NATCHER. Mr. Speaker, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Speaker, I would like to say that the answer would be "no," but the formula in the bill reflects this to some extent. I say that to the gentleman frankly.

Mr. BIAGGI. I appreciate the response, but the purpose of my query is to highlight the fact that in the State of New York, which will be very critically affected by the formula that exists in this legislation by virtue of the fact that 70 percent of all of the households in the State of New York are heated by oil, and even further, when we direct ourselves to the concern of the senior citizens, 37 percent of all of the households in the United States are owned by senior citizens. The failure to consider or to give additional consideration to the level of consumption that we have historically required would inflict a severe hardship on those individuals.

Perhaps the chairman could respond. Could the chairman provide details on how the second part of CSA formula will in fact be implemented?

Mr. NATCHER. Mr. Speaker, if the gentleman will continue to yield, I would like to advise the gentleman that with respect to the second part of the formula for distributing funds among the States, CSA would use an index based upon data provided by the Department of Energy in determining the increase expenditures for energy for home heating in each State.

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Mr. BIAGGI. Will consumption of home heating oil be considered in any special or specific fashion?

Mr. NATCHER. I would like to advise the gentleman, Mr. Speaker, only to the extent that the formula in the bill would reflect the use and the cost of the oil, only to that extent.

Mr. BIAGGI. I appreciate the chairman responding and engaging in this colloquy. I commend him for the bill, but must hasten to add that the formula, as it currently stands, works a hardship on New York as well as many of the States in the northeast section of our country.

Mr. Speaker, it was just 1 week ago that I testified before the subcommittee to appeal for immediate passage of legislation providing additional aid for low-income energy assistance. I consider this to be one of this body's finest hours in that just 1 week later we are preparing to vote for an emergency energy bill providing $1.35 billion in such assistance.

The fact is I have been as much involved in this issue as any Member of Congress. My legislative activities on behalf of emergency assistance began in August when as chairman of the Subcommittee on Human Services of the House Select Committee on Aging I began a series of national hearings to investigate the impact which rising home energy costs would have on our senior citizens. The hearing was followed by four others: August 28, Des Moines, Iowa; September 29, Syracuse, N.Y.; September 8, Waterbury, Conn.; and September 29, Pittsburgh, Pa.

I was joined in these hearings by a number of my colleagues on the House Select Committee on Aging including Mr. GRASSLEY, Mr. RATCHFORD, Mrs. SNOWE, Mr. ATKINSON, Mr. GREEN, and Mr. MARKS. The message we received from hundreds of witnesses was remarkably the same: The cost of energy has far exceeded the economic capacities of our low- and fixed-income senior citizens. The choice for the winter of 1979–80 was to be graphically simple: Heat or eat.

The overall increases in the cost of home energy has skyrocketed nationally to the tune of 30 percent. It has been the major contributing factor to an inflation rate which is now running in excess of 13 percent.

Meanwhile for our low-income seniors and others, the corresponding increase in spendable income has been only a fraction as high. Consider a social security or SSI recipient. Their latest cost of living increase, effective July 1 of this year was for 9.9 percent. The cost of a gallon of heating oil has risen from 53 cents in January to over 85 cents at the present time. This constitutes more than a 30-percent increase.

We have seen figures that indicate that the average family in the North will have to pay $540 more this winter than last for home heating. Department of Energy estimates point to the average household in this Nation spending $159 a month on just heating—whether it be oil, gas, or electric. Consider the household in New York State where the main source of income is SSI. This household will receive $291 a month. After paying for heating, this household is left with $132 a month for the other necessities of life. The reality of sacrifice will be felt in this household.

As an original member of the House Select Committee on Aging, I obviously have profound concerns about the survival prospects of the elderly during this upcoming winter. Older Americans head a staggering 37 percent of all households in the United States. Whereas median-income Americans spend no more than 10 percent of their total available for residential energy, low-income households spend at least twice that much and the percentage may soon reach 25 percent this winter. One preliminary survey conducted by the Community Services Administration in New York reveals that as many as 100,000 to 125,000 New York seniors will devote more than 25 percent of their income to heating.

While conducting these hearings, I introduced House Joint Resolution 398, legislation which I consider the forerunner of the resolution before us today. House Joint Resolution 398 provided for an additional $250 million for the so-called crisis-intervention program administered by the Community Services Administration. My bill would have brought the total fiscal year 1980 appropriations level for this program to $500 million. It was introduced on September 13 and at that time seemed to be the maximum amount we were likely to get for low-income energy assistance. This resolution enjoys the cosponsorship of 33 of my colleagues, the names which I will insert for the RECORD.

COSPONSORS OF HOUSE JOINT RESOLUTION 398

Hon. Joseph Addabbo (New York); Hon. Don Bailey (Pennsylvania); Hon. Berkley Bedell (Iowa); Hon. Carroll Campbell (South Carolina); Hon. James Cleveland (New Hampshire); Hon. Norman D'Amours (New Hampshire); Hon. Thomas Downey (New York); Hon. Melvin Evans (Virgin Islands); Hon. Thomas Evans (Delaware); Hon. James Florio (New Jersey); Hon. Daniel Glickman (Kansas); Hon. Charles Grassley (Iowa); Harold Hollenbeck (New Jersey); Hon. James Jeffords (Vermont); Hon. Stewart McKinney (Connecticut); Hon. Edward Markey (Massachusetts); Hon. Marc Marks (Pennsylvania); Hon. Parren Mitchell (Maryland); Hon. James Oberstar (Minnesota); Hon. Claude Pepper (Florida); Hon. Carl Perkins (Kentucky); Hon. Nick Rahall (West Virginia); Hon. Charles Rangel (New York); Hon. Frederick Richmond (New York); Hon. Robert Roe (New Jersey); Hon. Martin Sabo (Minnesota); Hon. Fernand St Germain (Rhode Island); Hon. Olympie Snowe (Maine); Hon. Louis Stokes (Ohio); Hon. Thomas Tauke, (Iowa); Hon. Bruce Vento (Minnesota); Hon. Robert Young (Missouri); and Hon. William Wampler (Virginia).

The resolution before us today does in fact provide an additional $150 million for the CSA program. I wish to advise my colleagues that as part of my activities on the Aging Committee I conducted a number of meetings with CSA officials to discuss with them the problems with their program in the past year which were raised during my hearings.

The first point: timeliness of payments. The fact was that many low-income Americans eligible for CSA funds did not get them until April or May, well after the crisis was in fact upon them. Crisis intervention was the name of the program yet the way it was administered, it was more like crisis perpetuation.

The second main fault with the previous CSA programs were in terms of the eligibility criteria which the agency employed. Rather than just sticking to a pure income eligibility standard, they insisted that the nonpayment of bills would be considered a prime criteria for eligibility. Senior after senior who testified at the hearings or who I spoke with told me they always paid their bills yet when they went to go for assistance, they were denied. Consequently, they were forced to sacrifice basic necessities.

In addition, the reliance on this criteria resulted in a 20-percent decrease in the participation rate by the elderly in this program during 1978.

In an early September meeting I held with CSA officials I was assured of the following:

Payments would be available to States by November,

The sole criteria for eligibility would be income levels of 125 percent of poverty or less, and

A priority would be given to serving the elderly.

I have been monitoring the activities of the CSA very carefully and thus far am satisfied that they are fulfilling their end of the bargain. Our passage of House Joint Resolution 430 will fulfill ours.

Overall this legislation is constructed to respond to the most compelling needs. In addition to the $150 million being provided to the CSA House Joint Resolution 430 provides for $1.2 billion in assistance to reach other economically vulnerable groups. Included is approximately $400 million to go directly to aid SSI recipients through a one-time add on to their checks. Certainly these recipients are among the most economically hard pressed of all Americans and this constitutes meaningful assistance.

The balance of the $1.2 billion will be directed to States and they will be given a choice as to how to spend it. They can channel it through the Department of Health, Education, and Welfare to distribute special energy allowances to recipients of AFDC or receive their funds in the form of a block grant to be administered under the terms of the CSA formula. No matter the choice all States should strive to meet the needs of their poorest citizens, giving a priority to the elderly.

Obviously we in the House regret the fact that we must consider this massive bill without having the windfall profits tax available to fund all or part of this assistance program. The fact is the House did in fact pass the windfall profits tax, and a strong one, several months ago. We did so on the assumption that it would be signed into law this year. That apparently is not going to happen.

I have stated repeatedly that the President's wisdom in linking the two proposals together was sound and logical. Yet the reality of tremendous cost increases in energy and the nearness of winter made the linkage harder to defend. The President in separating the two has demonstrated to this Nation his inherent sense of compassion. However my vote for this measure does not in any way diminish my full support for a strong windfall profits tax. If we need any additional justifications for the tax let us examine the recently released third quarter earnings of our major oil companies. Imagine these figures—Mobil earnings up 130.6 percent, Sohio, 191.3 percent, Cities Service, 63.7 percent. These are profits being made off the working man, the senior citizen on a fixed income, a veteran on a pension, a small businessman. They can only be described by one word—obscene. The windfall profits tax is a key legislative goal of the President—it should be, it is good for this Nation. The taxpayers of this Nation deserve a break and unless they are taxed, the oil companies will never give them one.

We are on the fringes of a serious national emergency this winter. Happily we are acting before winter takes its full grip and toll on the Nation. Ample warnings have been given—the time is for action. I commend the distinguished gentleman from Kentucky (Mr. NATCHER) for his usual outstanding leadership on a difficult issue. Also a word of praise for the Speaker for his leadership as well.

Mr. Speaker, 2 months from today we celebrate Christmas. By our actions today we may help guarantee that the warmth of the holidays will include that which emanates from oil burners and furnaces. I urge immediate passage of the resolution.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: On page 2, in line 7, strike out "$1,350,000,000" and insert in its place "$1,000,000,000"; and

In line 8, strike out "$1,200,000,000" and insert in its place "$900,000,000."

Mr. WALKER. Mr. Speaker, this is an admittedly modest amendment, but it attempts to go in the direction to try to put a little bit of fiscal sanity into what we are doing here today. I think it has been roundly discussed here on the floor today that what we are doing is coming up with a new entitlement program. We are doing it based upon some rather iffy financial data. Very few people have been able to come up with much justification for the kind of spending we are talking about in this bill whatsoever, except to say that it is probably not enough.

Well, I think probably the facts show something different than that. If we look at the facts of the case, in the last Congress or the last session what we voted on was a $200 million to $250 million program. Not even all of that money was used in the program last year. It is important to recognize that that money was being spent after the winter was over, after people already knew what their fuel bills were, the choice was for them to apply for the money and not even all of that money was used.

Now all of a sudden we come in here with an 800-percent increase in last year's program. We are saying we need this kind of money this year even though past experience does not show evidence of such a need.

What my amendment does is say I do not think we need an 800-percent increase. Maybe a 500-percent increase would be a little bit more reasonable. In other words, I am saying we are going to a $1 billion appropriation instead of a $1.35 appropriation in this bill.

I think it is also important to recognize what this spending is for. We keep talking about the fact this money is going to go to the poor and the elderly and all of these people. This program is a direct financial benefit to the big oil companies. They are the ones who are going to get this money. If last year's program we had was any indication, they know it too, because in my district there were newspaper ads being run by the utilities telling people to go out and get this money because they knew dog-gone well it was coming directly to them.

We have heard references during the debate on the unconscionable profits of the big oil companies, the 100-percent, 113-percent profits. I agree, those are something to be concerned about. But I say to my colleagues this is simply helping that profit margin along. We are going to take taxpayers' funds and let us think about what kind of taxpayer funds we are going to be taking. With a $1.5 billon program it means that we are going to take $35 out of the pocket of every working American in this country and give it to the big oil companies, indirectly.

I think we ought to be a little more fiscally responsible in what we are doing. As I said, what I am offering is a very modest cut, a cut from $1.35 billion to $1 billion. It is an attempt to say at least let us slow down and look at it, let us show the bureaucrats and the people here in the Congress who may view this as a program coming down the pike for many years to come that we do want to put some limits on it, we do want to try to cap it, we do want to try to keep some sense of fiscal responsibility about what we are doing.

Mr. NATCHER. Mr. Speaker, I rise in opposition to the amendment.

Mr. Speaker, during the hearings on this House joint resolution that is now before the House, we inquired of the Secretary of HEW as to the amount of $1,350,000,000. We wanted to know if it was too high, if it was too low, or just where that figure came from.

Mr. Speaker, during the past year the cost of a gallon of heating oil has risen from 50 cents to about 85 cents. By way of example, as the Members of this House know, 5 years ago it cost about $6 billion for the oil imports that were coming into this country. Today it runs about $58 billion.

Mr. Speaker, as far as the amount concerned in the House joint resolution of $1,350,000,000, I do not believe this winter, and I am willing to stand on these words, I do not believe that the $1,350,000,000 will be fully adequate. That is the reason we inquired of the Secretary of HEW when she appeared before our committee. We said to her: "Are you sure? What is the formula, what is the basis for the $1,350,000,000?"

Mr. Speaker, this is the most serious amendment that has been offered since this House joint resolution has been on the floor today. This amendment should be overwhelmingly defeated.

Mr. CONTE. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I rise in opposition to the amendment of the gentleman from Pennsylvania (Mr. WALKER). Mr. WALKER claims that there is no clear justification for the $1.6 billion appropriation. This is true, the figure in fact probably ought to be a lot higher.

HEW's figure was based on the need of the roughly 7.3 million who are SSI and AFDC recipients. The amount of money requested was designed to pay an average of $100 to each SSI beneficiary, and $200 for each AFDC family.

The full committee has now significantly reworked the administration request, precisely because it was felt that this target group was too narrow. States now have the option to distribute fully three-fourths of these funds as block grants, and to target those with low incomes who have the most urgent need.

The grim reality is that there are many people who will not be able to pay their heating bills this winter, and this Congress has the responsibility to help these people.

I am appalled that there is disagreement about the need for SSI recipients to receive these payments. In Massachusetts, my State, there are 122,000 recipients of SSI benefits. Individual recipients can receive a maximum of $208, couple $337. In Mr. WALKER's State of Pennsylvania, there are 159,000 SSI beneficiaries. These people can receive a maximum of $240 for individuals, and $361 for couples. Mr. WALKER has a better sense of the cost of living in Pennsylvania than I. I wonder if he feels this is enough money per month to live comfortably through the winter. In Pennsylvania, the average SSI recipient will receive roughly $120 to help pay for heating costs. SSI payments go only to elderly, blind or disabled persons. These people need our help.

Mr. Speaker, I know full well why Mr. WALKER is offering this amendment. He is very concerned that $1.6 billion is a very large sum of money, that the Federal Treasury can ill afford to expend. He seeks to reduce the Federal expenditure in a program that has been hastily thrown together, and for which we have no assurance that the money will reach the right people and have the right effect. I have never made the claim that we were offering Congress the chance to vote for a perfect measure. This program is laced with flaws. I myself have many unanswered questions about the way this program will work. What I cannot allow, though, is that no Federal money be available to help protect people from the cold of winter. Mr. WALKER would claim that—$1 billion—is more than enough to do this. I fear that the $1.35 billion we are trying to appropriate is insufficient I urge the passage of a measure that is an emergency measure. I ask the authorizing committees to work with great speed to draft legislation that will sensibly attempt to assure that no one in this great country might freeze. But we cannot wait for sensible authoring language, just as we cannot await final passage of the windfall profits tax. We need this money today, and we need all of it, because the need is here today. The cold weather has arrived. I urge defeat of the Walker amendment, though I commend the gentleman for his excellent intentions.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I will be glad to yield to the gentleman.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman for yielding. Will the gentleman tell us, as he has already partially indicated, how much the bureaucracies have cleaned up the Community Service Administration so that they have now so "cleaned up" their act, and how they are so much more capable now of doing a good job. The gentleman said they did a lousy job last time. Did I hear the gentleman correctly? It was a terrible job of administering the distribution of the some $200 million?

□ 1500

Mr. CONTE. Terrible.

Mr. ROUSSELOT. Really, just absolutely bad job.

Mr. CONTE. Really.

Mr. ROUSSELOT. They have really reorganized the structure of the Community Services Administration? How can we be assured that they are going to manage all of this extra money so much better than they did a lousy job of administering $200 million. Could the gentleman explain that?

Mr. CONTE. As usual, a very good question.

Mr. ROUSSELOT. I thought so.

Mr. CONTE. Excellent.

Mr. ROUSSELOT. I thought so.

Mr. CONTE. One of the most piercing questions of the day. I will tell you what they did. We ordered an investigative report, and we brought them before our Appropriations Committee. In the Federal Register they have set down new guidelines to assure fairer administration of the program. I do not want to read them all——

Mr. ROUSSELOT. Give us a couple of instances, where "new mandates" are in place to assure the House that they will do it so much better.

Mr. CONTE (reading):

> For example these funds must be used to provide assistance to eligible households to offset the high cost of household energy. Only the following types of assistance can be provided with these funds:
>
> (a) Payments to vendors of fuel—

Mr. ROUSSELOT. Payment to vendors?

Mr. CONTE. Yes, the person who sells you heating fuel.

Mr. ROUSSELOT. I understand.

So some of the funds that the Community Services Administration has to distribute will go directly to the vendor, and not to the individual?

Mr. CONTE. They could, but only to help pay the increased cost of fuel bills of qualifying persons.

Mr. ROUSSELOT. It could?

Mr. CONTE. Oh, yes. In fact, our chairman of the full Appropriations Committee, Mr. WHITTEN, would like to see all of it made available to vendors through a voucher system.

Mr. ROUSSELOT. A voucher system, but the administrators did not provide that in the rules and regulations.

Mr. CONTE. That is an option. It is provided in the CSA regulations, and applies to $400,000 of the $1.6 billion.

The SPEAKER pro tempore (Mr. VANIK). The time of the gentleman from Massachusetts has expired.

(At the request of Mr. ROUSSELOT and by unanimous consent, Mr. CONTE was allowed to proceed for 4 additional minutes.)

Mr. ROUSSELOT. I appreciate that clarification. Now, how else are these new rules and regulations guaranteeing that all of this extra money will be such an improvement in administration?

Mr. CONTE (reading):

> The establishment of lines of credits with fuel/utility vendors for the benefit of eligible households. The governors may provide limitations on the use of lines of credit such as:

Mr. ROUSSELOT. May provide? Does the gentleman think, for instance, that in the State of Massachusetts his Governor will make sure that those new conditions are provided? It is not mandatory?

Mr. CONTE. Another excellent question.

Mr. ROUSSELOT. I am not sure my Governor would.

Mr. CONTE. You ought to know my Governor. I played football with him at Boston College, and I will tell you, he is one of the toughest men you ever want to meet. In fact, a lot of people think he is the toughest minded man that ever lived.

Mr. ROUSSELOT. I see that one of your colleagues from Massachusetts agrees to that assessment.

Mr. CONTE. Yes. You see my crutches? That is what he did to me back in the early years, and you can realize how tough he is going to be in setting up those rules and regulations.

Mr. ROUSSELOT. What other regulations are going to provide this better administration?

Mr. CONTE (reading):

> Direct money assistance not to exceed $50 for the duration of the program to eligible households in those cases where a household is without resources to pay for other necessities as a result of paying for utility/fuel bills or as a means of implementing activities allowing under paragraph (d) of this section.

Mr. ROUSSELOT. Not to exceed $50?

Mr. CONTE. In those cases—

> . . . where necessary to prevent hardship or danger to health, the provision of immediate assistance in the form of goods or services such as emergency fuel deliveries, warm clothing, blankets, temporary shelter . . .

Assuming they cannot get fuel or they cannot pay for it.

Mr. ROUSSELOT. Get a warm blanket?

Mr. CONTE. Yes, blankets, or if necessary you can move them into temporary shelter.

Mr. ROUSSELOT. So they could also get additional clothing, is that right?

Mr. CONTE. Yes, or blankets, or heating fuel.

Mr. ROUSSELOT. So we are providing blankets or clothing under this program?

Mr. CONTE. Yes, but only under the $400 million allotted to CSA.

Mr. ROUSSELOT. I am not sure I understand that.

Mr. CONTE. Well, the reason is, first of all, that CSA originally was not getting to all of the poor people in that particular area.

Mr. ROUSSELOT. You mean they were not getting enough blankets out?

Mr. CONTE. Well, you could say blankets. I would emphasize heating fuel.

Mr. ROUSSELOT. That is what it says in the new rules?

Mr. CONTE. Mainly it is fuel.

Mr. ROUSSELOT. Fuel, I see. But, they can provide blankets and clothing under this appropriation?

Mr. CONTE. I think that if the gentleman was up in the Berkshires and it was 20 or 30 degrees below zero——

Mr. ROUSSELOT. I am sure I would need a heavy sweater and coat in the Northeastern States during the winter. I am not sure this is supposed to be a clothing program.

Mr. CONTE. I would give the gentleman my electric blanket. I would give him my last electric blanket. And I agree it is not a clothing program.

Mr. ROUSSELOT. I would probably need a large shovel to keep all that deep snow moving around.

What other regulations assure a tightening down of this very inadequate administration that occurred last time? How are we really going to bring this under control?

Mr. CONTE. Well, the Federal regulations provide that they also have very strict auditing.

Mr. ROUSSELOT. Strict auditing? Through who?

Mr. CONTE. Auditing by CSA and the Department of Health, Education, and Welfare.

Mr. ROUSSELOT. We have been reading in the paper what a great job they do over there. They just gave away some furniture. They do a terrific job of auditing at HEW. That is not much security as far as my taxpayers are concerned. Keep going.

Mr. CONTE. This will be a 1-year bill.

The SPEAKER pro tempore. The time of the gentleman from Massachusetts has again expired.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the gentleman may proceed for 4 additional minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, I have an idea that some of this discussion could go on in other fora than this. Is the gentleman going to take additional time?

Mr. ROUSSELOT. I promise not to take more than 4 minutes.

Mr. FRENZEL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROUSSELOT. I am really, sincerely trying to find out how this lousy administration of $200 million is so improved, and the gentleman says that it is primarily through these new rules and regulations. That is why I was anxious to hear how that is all going to be tightened down.

Mr. CONTE. Let us go back a bit. The gentleman did mention the furniture give away by HEW. Knowing the gentleman to always be so exact, I want to correct him. It was the Department of Agriculture and GSA that gave away the furniture.

Mr. ROUSSELOT. What other strong tightening down regulations have been imposed so that we can be assured that 1 billion, 3—3, excuse me—is going to be so much better administered than the $200 million which was loused up, which the gentleman admits?

Mr. CONTE. Again I know the gentleman's desire for exactness——

Mr. ROUSSELOT. Yes, 1 billion, 3.

Mr. CONTE. CSA will not get 1 billion, 6.

Mr. ROUSSELOT. One billion, 3.

Mr. CONTE. Not 1 billion, 3.

Mr. ROUSSELOT. That is what it says, right here in the bill.

Mr. CONTE. Please tell me precisely what is says.

Mr. ROUSSELOT. It says for additional amount for community services program. $1.35 billion. That is what it says in the bill. Is that wrong?

Mr. CONTE. This will give only $400 million to CSA. The rest, the States will have the opportunity to administer for their own program. It will be a State program.

Mr. ROUSSELOT. HEW will have that?

Mr. CONTE. If the State does not opt for its own program. Then, HEW will get it and HEW will then send out checks to needy AFDC recipients.

Mr. ROUSSELOT. Do these new rules and regulations apply to HEW? Some of us have concern that they are not doing too well because former Secretary Califano said that they squander or lose $7 billion a year.

Mr. CONTE. If the States does not opt to it and have their own program it goes back to HEW.

Mr. ROUSSELOT. What other guarantee do we have that this money is going to be spent frugally and carefully and really reach the poor?

Mr. CONTE. I know the gentleman will join me and the gentleman from Illinois (Mr. MICHEL), who is our watchdog on the HEW Committee. We will be holding hearings come February, and we will be watching this very, very closely. It is a 1-year program.

Mr. ROUSSELOT. Better than you did the $200 million?

Mr. CONTE. No, we——

Mr. ROUSSELOT. Blew the whistle?

Mr. CONTE. Yes; we blew the whistle, and we are not going to let them get away with anything without careful review.

Mr. ROUSSELOT. I am not reassured, but I thank the gentleman for taking the time to explain how this will be more carefully administered.

Mr. EDGAR. Mr. Speaker, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Speaker, I rise to express my strong support for this vital legislation. As chairman of the Northeast-Midwest Congressional Coalition, I am acutely aware of the effect high energy costs will have on low- and fixed-income people in this region. It has been estimated that in the New England, Middle Atlantic, and Midwest States, households below 125 percent of the Federal poverty level will use at least 40 percent of their income for fuel oil during the 1979–80 heating season.

In my own district, I have learned through a series of meetings with heating oil dealers, community service people and concerned constituents that we will be faced with a high number of people who cannot pay their heating bills, or who try to pay them by sacrificing food, or medicine, or clothing. Having recognized this, we are all working together to provide a mechanism for assisting these people. What we need is adequate funds.

I strongly urge my colleagues to support this supplemental appropriation for low-income energy assistance at its full funding level. I am satisfied that the distribution formula for the funds is fair, reflecting as it does the regional differences in climate, low-income populations, and increased heating costs. I am also convinced that most States are ready and able to handle this amount of money so I am glad that the bill gives them the flexibility to find the most appropriate and effective means of channeling their share of the funds to the neediest households.

The House has expressed its intention to decontrol petroleum products and move away from dangerous dependence on foreign crude oil and toward conservation and the development of alternate fuels. It is imperative, however, that during this transition period, we provide adequate and timely assistance for those who will bear the burden of decontrol and escalating energy costs.

We have been amused by some of the comments that have been made in the last few moments, but I think we are dealing with a very serious issue here. I stand in the well as a Member of Congress from Pennsylvania, and I rise in opposition to the amendment offered by my colleague from Pennsylvania to reduce the amount of funds in this emergency assistance program. I recognize that particularly in our State we have a substantial need this winter to recognize that conditions are different than they were last year, than they were 6 months ago.

One of the significant differences that we face is that many of our senior citizens and low-income persons were buying home heating oil from small businessmen in our State for 49 cents a gallon. It was costing them $100, maybe $125, to fill up their tanks. But this year, we find that that same gallon of home heating oil is going to cost between 85 and 90 cents a gallon.

□ 1510

Those same senior citizens living on fixed incomes are going to have to find not $100 or $125 to pay that bill to fill up their tanks, but $200 or $250 to fill up those very same tanks.

As chairman of the Northeast-Midwest Congressional Coalition, I am concerned about all 18 States of this region, not just Pennsylvania. A survey of all the States, done by the New England Economic Research Office shows that in our region of the country those households below 125 percent of the Federal poverty level will use over 40 percent of their income each month this winter to buy fuel oil to heat their homes. So, Mr. Speaker, I would urge my colleagues very strongly not to reduce these funds but to recognize that they may cover only one-quarter of the emergency assistance need.

A few weeks ago I gathered in my office distributors of home heating oil and representatives from public and private social service agencies. As we talked about Pennsylvania's State program, the Federal program, and about other possible ways to respond to this emergency need, it became quite evident that in our particular community massive efforts were going to have to be made by the private sector and religious groups.

I think that this resolution today is a good one. I think it responds to a basic need. I do not think it is enough, and I think it would be irresponsible for us to accept a reduction.

My colleague, the gentleman from Pennslyvania, pointed out that what this really is is a subsidy for big oil companies. Let me point out to the Members that in my particular district, the people who are distributing the oil are small businessmen, the very same businessmen that many of our colleagues on the Republican side talk about all the time. These small businessmen are heavily in debt to banks where they must apply for credit in order to purchase the fuel from refiners that they then sell to households. I can tell the Members that this year they are frightened about whether or not they can get adequate lines of credit, and whether or not they will be able to continue to supply their customers who cannot pay their bills this winter. I am convinced these dealers will be squeezed between their suppliers and their customers and many will face financial ruin.

Finally, I would like to remind my colleague, the gentleman from Pennsylvania, that Governor Thornburgh, a Republican Governor, came to Washington specifically to request the help of our delegation in putting together a fuel assistance program that could respond to this gigantic need. So I would urge my colleagues, in light of Pennsylvania's need, in light of the needs of the Northeast-Midwest region, and in light of our national needs, to respond by voting down this amendment and voting for this resolution.

The SPEAKER pro tempore. The time of the gentleman has expired.

(At the request of Mr. WALKER, and by unanimous consent, Mr. EDGAR was allowed to proceed for 3 additional minutes.)

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

The gentleman says that the problem is that this really is not enough. I guess the question is when you are increasing a program by 800 percent, what would the gentleman regard as enough? That is one of my problems. Even if the gentleman accepts my amendment, we go up by a 500-percent increase, and what is proposed by the committee is an 800-percent increase. I agree with the gentleman that the fuel oil prices for those poor people have gone up significantly. They have gone up 100 percent. The question is why do we need an 800-percent increase in order to cover a 100-percent difference in the cost of fuel?

Mr. EDGAR. I appreciate the gentleman's question. I think there are really two responses to that question. The first response comes from the Department of Energy that estimates the need will be more in the neighborhood of 3 to 5 billion. But probably more important than that, my colleague, the gentleman from Massachusetts and others have pointed out that last year the program came in after the fact. The program had some initial problems because of its newness and, in fact, it probably only responded to 8 or 10 percent of the total need that existed last year. I am not talking about the merits or demerits of last year's program, but I do know that this year in our region of the country we are going to be suffering gigantic increases in cost, and it is not going to be just to care for 10 percent of the need but to care for all of that need; which will not be met even if we accept the amount of the figure that is in the resolution.

Mr. WALKER. Will the gentleman yield further?

Mr. EDGAR. Mr. Speaker, I yield back the remainder of my time.

Mr. MARKEY. Mr. Speaker, I move to strike the requisite number of words, and I rise in opposition to this amendment. Mr. Speaker, I think that we have really seen a wide variety of opinions here today. We have seen the chairman of the Committee on the Budget, the gentleman from Connecticut (Mr. GIAIMO) who believes that no program at all is needed. We see the gentleman from Pennsylvania who argues that there is an ability here to cut $350 million out of this program when there has already been proof presented that demonstrates that there is at least a doubling of this need which may manifest itself before this winter is past. Fifteen million low-income households spend 30 percent of their income on energy. One million senior citizens' households take in $2,000 or less each year in total income and they will pour out half of that for energy. There just is not that much discretionary income left in the pockets of senior citizens and people who live on fixed incomes when you get done with the kind of increase in food, fuel, health care, and rent that is going to be passed on to those peoples' shoulders in this coming winter.

Now, while we are waiting for the marketplace to sort itself out, while new energy resources come on line, while we see OPEC increase prices, and we allow the decontrol of oil, we see a real energy increase passed on to the consumers over the next 5 or 10 years. What do we say to people who have to assimilate this increase in the next 5 or 6 months? They are seeing a doubling of home heating oil price. Do we say we are going to assist enough in the next 5 or 6 months while the rest of the system is going to take 5 or 10 years?

Exxon yesterday reported a 120-percent increase in their profits. At the same time they say they would like to be able to pass on the increased costs to domestic oil because they have to take most of their 120-percent profitability from overseas oil. They say they are suffering from reduced profitability. What happens simultaneously? Two hundred million Americans are going to suffer a net loss.

Exxon and Mobil are saying that they are going to suffer from a reduced profitability of only 120 percent. I ask the Members whether this coming winter, as we say to people over the next 10 years that they are going to be paying $400, $500, or $600 billion additional in the price of oil, we are also going to say that the minimum we can give to them out of that $500 or $600 billion is $1.6 billion. We are going to say to the people who are at the margin in our society, not to the 200 million nor the 20 million but maybe to just 5 million families in this country, we are going to say to them during the most crushing winter and the first winter under a new set of circumstances that we are going to give you a hand. We are going to give you $1.6 billion. I do not think that is a lot to ask. I think it is a modest proposal, given the amount of profitability we are going to allow the oil companies over the next decade.

I would hope that the amendment of the gentleman from Pennsylvania is, if not just rejected out of hand, at least overwhelmingly rejected as a complete misunderstanding of the situation which is going to confront the poor and the elderly in this country in this coming winter.

Mr. DOWNEY. Mr. Speaker, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from New York.

Mr. DOWNEY. I thank the gentleman for yielding. I want to congratulate the gentleman on a fine statement. We can play games with figures. The fact is that of $200 million which the gentleman mentioned, some of which was not spent, less than 10 percent of the people who were potentially eligible actually took part. Now we have a doubling of oil prices. Given any penetration, if we can get people aware of this program and participate in it, the actual price would be $4 billion, if we were going to provide them not $2 billion, not $1.3 billion. So the fact is that this program is modest in scope. It is not going to help everyone;

it is just going to be a lifeline to those people who desperately need it.

Mr. MARKEY. I thank the gentleman for his statement.

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Mr. CONTE. The gentleman is absolutely right. I called DOE before we started the debate today. DOE said it would cost an additional fuel cost, because of the increase of 70 percent over last year, $3.35 billion to poor people in this country. So the $1.3 billion we are providing here today falls far short of the mark.

The SPEAKER pro tempore. The time of the gentleman has expired.

(At the request of Mr. NATCHER and by unanimous consent, Mr. MARKEY was allowed to proceed for 2 additional minutes.)

Mr. NATCHER. Mr. Speaker, will the gentleman yield to me?

Mr. MARKEY. I yield to the gentleman from Kentucky.

PARLIAMENTARY INQUIRY

Mr. NATCHER. Mr. Speaker, I would like to inquire how many amendments are at the desk.

The SPEAKER pro tempore. The Chair will advise the gentleman from Kentucky there are five amendments at the desk.

Mr. NATCHER. Mr. Speaker, I would like to further point out to the Members now that we have been on this bill for about 5 hours. The distinguished gentleman from Maryland (Mr. BAUMAN) inquired about moving the previous question. We said to him this morning, shortly after going on the bill at 10 o'clock that certainly we would be reasonable and fair about this matter. We have now been on it for 5 hours and the Speaker said we have five amendments at the desk.

Mr. Speaker, shortly, now, I will move the previous question on this bill. I want to point that out to the Members. I think we have been fair. I think we have been reasonable.

Mr. Speaker, I thank the gentleman for yielding.

Mr. MARKEY. I would like to make one statement in conclusion.

If my father who is retired, 68 years old, never made more than $12,000 or $13,000 in his life, living on a pension, this coming winter has to find, after taxes, out of discretionary income, an additional $500 for home-heating oil, in Massachusetts, you can imagine the impact that is going to have on a family who makes $6,000, $7,000, or $8,000 a year.

Mr. Speaker, my father lives on a pension and he is not going to ask to participate in this program but there are a lot of other people who heretofore have considered it almost degrading for them to have to go into some kind of Government agency and ask for help. This winter it is going to be different. It is going to be special. If we do perhaps appropriate a little bit more, then let us err on the side of generosity and then reclaim those funds for the general Treasury at the end of the year. Let us not go into it assuming that the upcoming winter will be one as we have had in the past, because it is not.

Mr. DAVIS of Michigan. Mr. Speaker, I have two amendments at the desk which I will withdraw at this time.

Mr. MILLER of Ohio. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, we have heard about the programs and the $250 million that was allocated the last time around; and that there is no place else for these people to turn.

Mr. Speaker, I am aware of the problems the elderly and the poor have and that the fact that we have an increase in the price of energy. I am very much aware of this, as are all of us.

Also, we have had increases in the cost of living for SSI which amount to a 48.3-percent cost-of-living increase in the last 6 years. This year, in 1979, we have had a 9.9-percent cost-of-living increase and that was to help pay for the increase costs of energy. As many are aware, we have a new housing program utilizing existing private housing. We have people out selling that program, as a matter of fact. The program does this: The renter pays no more than one-quarter of his net income for housing including rent and utilities. The taxpayers are already paying for utilities and now the Federal Government makes up the difference for the full rent with a monthly check to the property owner. Here are two places where those who really need the assistance can go.

Permit me to congratulate the House for this effort to further burden the taxpayer of this country with another layer of bureaucracy. We are again seeing a perfect example of trying to solve a serious problem by throwing money at it. That approach has not worked in the past and it would not work today.

We do not have any assurances at this point that the formula to be followed in providing emergency fuel assistance payments will not unfairly favor one home, person, or household over another. I have had no reasonable explanation of what constitutes a "household" and I have not been convinced that persons now eligible for, or residing in federally subsidized housing will not be given an unfair advantage over those who are truly in need—the elderly, the poor, and the disabled who face winter heating bills without any Federal housing assistance at all.

My point is to underscore the cost and the bureaucracy associated with this bill. We are talking about an appropriation of $1.35 bilion addded to the $250 million previously appropriated for this very same purpose. The emotional debate going on here has overlooked the cost of administering this program and it has clearly ignored the middle-income family, working day in and day out, and watching a bigger and bigger slice of the paycheck go to support the same bureaucracy that daily contributes to every inflationary factor.

I am not advocating turning any person out into the cold. Heaven forbid. I have known difficult times, as have some other Members in this Chamber. But there is an emotional tidal wave sweeping across this distinguished Chamber that would lead the country to believe that alternatives for those needing a secure place to reside simply do not exist. That is not true.

Housing—warm in the winter and cool in summer—subsidized every year by the taxpayer goes looking for tenants. I have two flyers—one four pages long and the other three pages long—which trumpet the advantages of subsidized housing programs. The first flyer headlines: "The New Housing Assistance Payments Program" and encourages owners of rental property to closely examine the lucrative aspects of getting into the Federal housing business. The second addresses the renter and it offers a deal that cannot be refused. Let me quote from this particular flyer which was, by the way, distributed to every household in an entire Ohio county.

> WHAT IT MEANS TO FAMILIES WHO RENT: ARE YOU ELIGIBLE?
>
> Are you having a difficult time with your present rent or need larger or better housing than you can afford? You may be eligible for the Federal government's new Housing Assistance Payments Program.
>
> You then will pay no more than ¼ of your net income for both rent and utilities. The Federal government will make up the difference through a monthly subsidy check direct to your landlord.
>
> To be eligible, your net annual income (less deductions) must not be above these figures for this area: 1 person in family—$8,150, 2 persons in family—$9,300, 3 persons in family—$10,500, 4 persons in family—$11,650, 5 persons in family—$12,400, 6 persons in family—$13,100, 7 persons in family—$13,850, and 8 or more persons in family—$14,550.
>
> If you are already on the waiting list for rental housing you must apply again to be placed on a separate eligible list for the Housing Assistance Payments Program. This program allows a higher income level than the basic program does.
>
> If you are eligible for this new program and your present housing suits you, you might be able to stay there and have help with your housing expenses.

Now, Mr. Speaker, the Senator from New York included, as I recall, an amount of $1.2 billion in an Interior bill, just in the last few days for energy bills. The Speaker of the House apparently got the message from downtown that we had better move, or we would be left out in this House, and that we had better have a bill to appropriate money to help pay for the heating bills of those elderly and those poor. We are moving it. We are moving it quite fast.

Mr. Speaker, I would like to convey a message I received from a gentleman in my congressional district about a year ago.

He said, "Congressman, what is going on?"

He said, "I drive a tank truck and deliver fuel oil."

He said, "I have been, over the past week, delivering fuel oil into tanks that have not been used for the last 5 years. Five years ago the people converted their heating to natural gas. They have not been using oil. But I have been ordered to fill the tanks, and the Federal Government will pay the bill."

That came out of the $250 million. It had to. Now today we are talking about an 800-percent increase over that program. I oppose the bill and I feel strongly that we should vote for the amendment of the gentleman from Pennsylvania because we certainly can reduce the $1.6 billion.

Mr. KOSTMAYER. Mr. Speaker, will the gentleman yield for a question?

Mr. MILLER of Ohio. I yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. I wonder if the gentleman from Ohio heard what the gentleman from Massachusetts (Mr. CONTE) said when he contacted DOE earlier in the day and they apparently told him that $3.35 billion more was necessary to meet the existing need. As a matter of fact, last year's program did not meet the existing need at all.

Mr. MILLER of Ohio. Mr. Speaker, I do not believe the bureaucrats downtown, or we would not have a $500 billion budget or almost a $900 billion debt or paying $150 million a day interest on that debt. That is what the bureaucrats downtown tell us they need. They build a bigger bureaucracy. We did not spend all of the $250 million and I have reliable indications that it was fraud and evidence of how some of the money was misspent.

Mr. KOSTMAYER. Mr. Speaker, what portion of it was fraud, if I might further inquire?

Mr. MILLER of Ohio. I explained to the gentleman what took place in my congressional district. What took place in the congressional district of the gentleman? Did the gentleman check?

Mr. KOSTMAYER. No; I did not.

Mr. MILLER of Ohio. Then how would the gentleman expect me to say what part was fraud. There must have been some fraud in every congressional district.

Mr. KOSTMAYER. I am sure such is the case.

The SPEAKER pro tempore. The time of the gentleman has expired.

(At the request of Mr. KOSTMAYER and by unanimous consent, Mr. MILLER of Ohio was allowed to proceed for 1 additional minute.)

Mr. KOSTMAYER. Mr. Speaker, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. I wonder if the gentleman from Ohio might give me some, perhaps, general indication of how much last year's program was a fraud, a third, a half, a quarter, 10 percent? Does the gentleman have any estimate of the great ripoff that is being perpetrated by these people throughout the country.

Mr. MILLER of Ohio. The amount could be reduced, because I feel we could very likely have much fraud and waste in the new program.

Mr. KOSTMAYER. Mr. Speaker, I do not want to delay this any longer. I appreciate the courtesy of the gentleman. I would hope the gentleman would make this proof available to the House of Representatives, if there is apparently massive fraud, as I believe the gentleman contends.

Mr. MILLER of Ohio. I have already made it a part of the record, do we need other proof? It is all too obvious from the comments here on the floor and in committee yesterday for nearly 3 hours, that we are going too fast with this bill. If we slow down and consider this carefully we can help those who really need aid without wasting money on those who do not.

The hearing record shows that a number of Members agree that we are reacting to the emotion of the moment without an adequate consideration of the details. We still have no authorization for this, and will come under more criticism by GAO and others for the sloppy manner in which this is being done.

This plan has several serious flaws which will dilute its effectiveness, among them is the fact that funds will be duplicated in certain households, will be paid when it is not needed and will not guarantee that all needy will be warmed.

Those eligible will get funds under AFDC and SSI whether in sunbelt or frostbelt, according to a formula, but it is not just for emergency heating, but can also be used for air conditioning in Hawaii, Florida, California, Guam, Somoa, and the Marianna Islands. There is no verification that funds will be used for heat, or even for energy expenses.

Congress needs to take more time with this bill and plan it out so that those who need emergency heat assistance will get it, and those not needing it will not. This program could become larger than food stamps and much more expensive, it deserves better consideration and more planning than we have given it here.

Taxpayers want to help the truly needy yet they too are suffering from high energy bills.

I congratulate the House for finding a new way for taxing the people and for spending the windfall profit tax before it is even collected.

Now the Members can make someone else into the bad guys for raising prices, yet the windfall profits tax is nothing but a hidden tax that gives the Members additional revenue to spend.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. MILLER of Ohio. Mr. Speaker, I ask unanimous consent to be allowed to proceed for 1 additional minute.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. BRODHEAD. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. WYLIE. Mr. Speaker, I move to strike the last word.

Mr. Speaker, when I came to the House floor today, I was truly in doubt as to how I would vote on this bill. I have sat here on the floor and listened to the debate for almost 5 hours.

□ 1530

It is true, as the gentleman from Connecticut said, that we do not have $1.35 billion in surplus for any program.

I would commend the gentleman (Mr. GIAIMO), for a very courageous statement.

I would also like to compliment and commend the gentleman from Kentucky (Mr. NATCHER) for the gentleman's courageous stand.

Now, the chairman of the committee (Mr. NATCHER), also has a reputation for frugality, but I also know the gentleman from Kentucky as a man of compassion. I respect the gentleman's judgment.

I have decided to vote for this bill on final passage, because I have determined that 14 percent of the people in Ohio are on fixed incomes and most of them are elderly.

I have also determined that many of them use heating oil and that the cost of heating oil has increased by almost 100 percent in our State, and we are a "have" State. People should not have to make a decision between heating and eating in this affluent country of ours. No American should have to go cold in this great United States of America, and my conscience tells me after listening to this debate for about 5 hours that I should vote for the bill and I think we can find $1.35 billion out of a budget of $540 billion to pay for this fuel bill.

I, therefore, compliment the gentleman from Kentucky (Mr. NATCHER), and the gentleman from Massachusetts (Mr. CONTE), for bringing this bill to the House floor today.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I just want to take this opportunity to say that the gentleman from Ohio (Mr. WYLIE) is one of the soundest men in the House of Representatives. I think the statement the gentleman has made here today is a very profound statement. It shows the gentleman has an open mind. The gentleman came here, he listened and came to the right conclusion and I want to compliment the gentleman for it.

Mr. WYLIE. Mr. Speaker, I thank the gentleman for his complimentary statement and am most appreciative.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, I also congratulate the gentleman for an excellent statement. I think it is a bad bill. It is bad procedure, but it is the only act in town and I am going to support that lonely act.

Mr. Speaker, although I can find plenty of things wrong with House Resolution 464, there is sufficient need, and sufficient urgency, so that I shall vote for it, and I hope it will be promptly passed by this body.

The principal problems is the distribution of funds. Energy crisis assistance funds distribution has been an administrative disaster for the past two winters. CSA has proved to be an inept, inefficient distributor of funds.

But using AFDC families, or SSI families, as a criterion does not solve the problem, either. They are not all the families who need help, and, in addition, some of those families will not have incurred great heating increases during this winter. Some live in areas where heating costs are not a problem, and some of them will not have large heating cost increases this year.

This bill is also deficient in that some renters would be excluded. They deserve consideration whether they pay heating bills directly, or pay them as a part of the rent.

We would be better advised to give all the money to the States for distribution to families whose income is not more than 125 percent of the poverty level. The distribution per family should be based on the degree-day formula, and the increase in heating costs this year, with a limitation of $400 per family. It should also be limited to users of heating oil.

Since the bill before us provides for distribution in a manner similar to that described above, of a large share of the total funds, I shall support it as being reasonably close to a good program, even if $400 million will be distributed directly to SSI recipients.

Other than distribution, the major problem is the size of this appropriation. We ought never to forget that when we tax one class of poor, or near poor, to help another class of poor, there is need for the greatest care to avoid waste. Previous distributions of these kinds of benefits have been great examples of poor administration.

Because there has been no authorization and because this bill has moved through our body on an emergency basis, we really do not know how much the need actually is. As in the past 2 years, we will be passing a poorly conceived and hastily passed program which is, in effect, throwing money at the problem.

Viewed at its worst, the bill is symbolic of obsolete congressional procedures, wrong-headed congressional attitudes, and inefficient congressional programs. However, it is the only game in town. We need something. This is the only something around.

A longer term problem is that we are in the process of creating another endless program, or maybe another entitlement program. When we first passed a moderate program in 1977, we were told it was a one-time deal. But the clientele and their lobbyists, including State Governors, took it as an absolute, ongoing right. So we had it, again, and again.

This year, when there is real need, and for the first time, a new tax source, the windfall profits tax, we are escalating the program geometrically without having a very good idea about the dimensions of the need. Although I do not want to see the program extended, anyone who has experience with Congress knows it will be extended. And programs extended are never cut back, whether they were too generous or not.

Since the bill is effective through next June, I would be happier if we started with a lower figure, and then moved to this $1.6 billion next year if it was proved to be necessary. Therefore, I will support amendments to reduce the total, on the grounds that additional funds, if needed, can be appropriated long before June.

I can find many more things wrong with this bill than are right with it. But there is no denying that need exists. The overriding argument is that with oil decontrols come higher prices. Some of the proceeds of the windfall profits tax, which was designed to take some of the sting out of decontrol, ought to be used to cushion the shock of heating oil increases this year. Despite a strong aversion to many aspects of this bill, I must support it on that basis.

Mr. WYLIE. Mr. Speaker, I thank the gentleman from Minnesota (Mr. FRENZEL) for your contribution and wish to express my sincere appreciation for his significant approval.

Mr. HORTON. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I rise in opposition to the amendment.

Mr. Speaker, I know the hour is getting late and I do not want to take the time of the House unnecessarily, but I do feel this is a very important piece of legislation.

It just so happened that this last winter I held office hours in Wayne County, which is in my district and which is one of the upstate counties in New York State. It so happened that during the week that I held those office hours, the temperatures in upstate New York were about 15 below zero. As a matter of fact, the record was broken one day when I held office hours in Newark, N.Y., because it was 22 below zero. Most of the people I saw in Wayne County were elderly people or people who were concerned about the heating oil costs.

In the winter of 1978–79, heating oil was costing in upstate New York 48 cents a gallon. Right now in upstate New York it is costing 87 cents a gallon.

I know personally from having talked with literally hundreds of my constituents, many of whom are elderly or who are on fixed incomes, that they are not able to absorb this additional cost.

It makes no difference how they got there, and I think partly this Congress is to blame, because we have not come forth with an energy program that will provide an alternative so that we are not dependent on OPEC oil; but the fact of the matter is that we are dependent and that oil is more expensive and it is costing more. Those people cannot absorb it, and it is very important, in my judgment, that we have this legislation and that this legislation be enacted very quickly so that we can have the money in advance of the winter season, which is almost upon us, especially in upstate New York.

I have heard talk about an 800-percent increase in the funding. Well, I do not care whether it is 800 percent or what it is. It was not enough money last year, because many people were not able to take advantage of the program; so I urge that this amendment be defeated and that this resolution be adopted.

In addition, I would like to add that I met with some of the independent oil dealers in my district about 3 weeks ago. These are not the big oil companies. These are the little independent businessmen, and each one of them was concerned. They were not concerned about the fact they could not get the oil, because they can get the fuel oil; but they are concerned about the price. They are also concerned about the high interest cost it is going to cost them, and they say, "We cannot extend the credit we did before. In other words, we are not going to be able to give 30 days like we used to. We are going to have to charge cash on the barrelhead when we deliver the oil."

Now, that is going to create a disadvantage as far as many of these elderly and people on fixed incomes are concerned; so I urge the House to vote down this amendment and vote for this resolution.

Unless this resolution is acted upon favorably and expeditiously, the Nation's elderly and low-income may be forced to choose between food and heat, a choice they should not have to make.

Since the end of last winter, a mild winter by most accounts, consumers have witnessed dramatic increases in the price of all petroleum based products. The impact, however, of rising home heating oil prices has a special and potentially devastating meaning for the 16 million American households who fall below 125 percent of the Federal poverty level. A 13-percent inflation rate combined with a doubling of last year's heating oil costs have seriously eroded their incomes, and thus their ability to meet their most basic needs.

With the onset of winter approaching rapidly, these Americans and many middle-income wage earners will face some new and harsh realities. In addition to cost, already 87 cents per gallon in many parts of the country, oil users may be required to pay cash on delivery. In the past, fuel oil delivery companies have allowed customers to pay their bills 30 days after delivery. This changed circumstance, coupled with minimum purchase requirements, will only worsen an already serious situation.

New York State, and indeed the States of the Northeast and Midwest will be particularly hard hit by high home heating oil costs and cold temperatures. According to the New York State Department of Energy, New York's petroleum consumption is significantly greater than that of the Nation. The State's reliance on petroleum products accounts for approximately 66 percent of its total energy consumption. More than half the counties in New York State depend on oil for home heating. More importantly, all households in New York pay about one-third more than the national average for energy.

The resolution reported by the Appropriations Committee represents a reasonable and equitable effort to assist those most in need. A major portion of the $1.35 bill to be appropriated will go to recipients of supplemental security income—the elderly, the disabled and the blind; $800 million, to be administered by the Department of HEW, will provide assistance to households with incomes below 125 percent of the poverty level.

I urge my colleagues to support this urgent supplemental appropriations.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. HORTON. Yes, I will yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

I just want to know whether the elderly who are on fixed incomes, the pensioners and so on, are going to be able to afford, in addition to the small businessmen the gentleman refers to, are going to be able to afford the additional taxes that are going to have to be charged for social programs that rise at the rate of 800 percent a year.

Is not that also a concern and relevant?

Mr. HORTON. I do not think that is relevant.

Mr. WALKER. Then what is relevant?

Mr. HORTON. The fact is these people need assistance. Now, you can do whatever you want with the tax situation and you can talk whatever you want about the 800 percent, but I am just telling you, we did not have enough money last year for these people and they are going to be suffering this year and they are not going to have heat unless we give them some assistance.

Mr. WALKER. Mr. Speaker, will the gentleman yield further?

Mr. HORTON. I yield to the gentleman.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding further; but I would point out to the gentleman, No. 1, not all the money in the program was spent last year.

No. 2, that the taxes are very relevant, because we are talking about an additional tax burden as a result of $1.6 billion.

All I am trying to do is cut it back by a mere $350 million.

Mr. HORTON. Well, Mr. Speaker, the gentleman ought not to be cutting it back. It ought to be increased. We do not have enough right now.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. HORTON. I would be glad to yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, in answer to the gentleman's question, that money is coming from the obscene profits of the big oil companies. A windfall profits tax, that is what is coming.

Mr. HILLIS. Mr. Speaker, will the gentleman yield?

Mr. HORTON. I would be glad to yield to the gentleman from Indiana.

Mr. HILLIS. Mr. Speaker, on October 19, in remarks submitted for the Record, I stressed the urgent need for the House of Representatives to take the necessary steps to see to it that the high price of home heating oil does not force the disadvantaged of this country to go without heat this winter.

House Joint Resolution 430, while it certainly is not a perfect bill and can be criticized for being a somewhat hasty approach to the problem, nonetheless does provide this body with the best opportunity to deal with this critical issue.

Let me repeat the point that I stressed in my earlier statement: Home heating oil is not a luxury item; it is not an expense which can be deferred, and for some in our country, including many elderly citizens, it is not simply a matter of careful budgeting or eliminating nonessentials. Rather, it is a matter of survival; survival on a fixed income which is continually ravaged by inflation.

The fact is, some States have come to grips with this problem ahead of us and have already taken what action they can to offset the effects of this exorbitant oil price increase. Governor Otis Bowen, in my home State of Indiana, is to be commended for authorizing up to $200 in fuel bill credits for needy elderly citizens and those on SSI. However, $200 is not sufficient to meet the hardships which these price increases will bring about. The Federal Government must act and act soon to do its part in assisting those who can least afford to pay the cost of heating oil.

Mr. Speaker, some have argued that the high price of home heating oil means that we should reimpose controls on the oil industry. My personal philosophy is that we would all be better served by avoiding controls, which only strap the economy and cause shortages, and enact instead the windfall profits tax which would fund the emergency program we are now debating.

It seems to me that no industry should be permitted to take advantage of a national crisis to the detriment of the poor and the middle class. That is why I introduced an excess profits tax on the oil industry back in 1975, and that is why I believe it is necessary today.

So I urge my colleague, not just to pass this vitally important measure, but to pass the proposed windfall profits tax which will fund it. With the weather turning colder in much of the Nation, we are running out of time and action is called for now.

Mr. DICKINSON. Mr. Speaker, because I have to leave immediately to fly back to Alabama to fulfill an important commitment in my district, I will not be here to vote for final passage of House Joint Resolution 430. Although I do not feel that this is the best way to cope with the impact of inflation and the rising cost of heating oil on the poor and elderly, I realize that winter is approaching and this solution to the problem may be the lesser of several evils. I believe that the Congress is establishing a precedent which will return to haunt us. Be that as it may, if I were able to be in Washington for the vote, I would have voted for final passage of House Joint Resolution 430.

The SPEAKER pro tempore (Mr. Vanik). The question is on the amendment offered by the gentleman from Pennsylvania (Mr. Walker).

The amendment was rejected.

AMENDMENT OFFERED BY MR. MICHEL

Mr. MICHEL. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Michel: On page 2, line 7, following "$1,350,000,000:", strike everything thereafter through "*Provided further*" on line 11, and insert in place therein the following:

"*Provided*, That this amount shall be distributed in the form of block grants to the states for energy allowances designed to meet the heating needs of households with incomes below 125 per centum of poverty, in accord with regulations established by the Community Services Administration;"

Mr. MICHEL. Mr. Speaker, we are obviously getting to that point now where we are wrapping up consideration of this bill. I regret that as much money as we have involved here, we have had to go through this kind of traumatic procedure.

A perfunctory hearing, then a spirited debate in our full Appropriations Committee that the gentleman from Massachusetts (Mr. Boland) referred to as one of our best and now finally attempting to rewrite the legislation out here on the floor.

Let us face it, this proposal is by no means noncontroversial. There are Members who have serious objections to the method by which we are going to be distributing this money.

I am grateful that the committee in yesterday's deliberations adopted all of my substitute proposals, except the first paragraph, and that is what I have embodied in this amendment.

□ 1540

What I am proposing is that we put the entire $1.35 billion under the ongoing CSA block grant program. This would result in the entire $1.6 billion being administered through one agency.

It really does not matter to me which agency has the responsibility, because the track record of both CSA and HEW is nothing to brag about. The program should be administered under one agency, through, and CSA is the one furthest along in having the program ready to go. What is more, the program essentially will be administered by the Governors, so there will not be a great opportunity for CSA to botch the job.

There are many advantages to this one agency block grant approach over what the subcommittee is recommending:

First. By placing the whole program under one agency, we would be greatly simplifying the administrative problems faced by the States by reducing the overlap and redtape.

The States would only have to deal with one agency instead of two. They would only have to submit one set of plans instead of two. They would only have to keep one set of books, and they would only have to worry about one set of deadlines.

Second. We would be greatly speeding up the time for getting the funds in the hands of those in need. CSA has already finalized its regulations. They have been holding ongoing discussions with the

States on how to best implement the program. The States are already submitting plans, and it is expected that all the States will have plans in this week. CSA expects the plan review process to take about 2 weeks, which means that the States will be able to start processing applications and making awards in November. This contrasts with the January or February dates under any HEW administered program.

Third. By making the entire amount available in the form of block grants for assistance in meeting heating costs, we would be insuring that the funds would be directed at those really needing help. We would not be siphoning off funds to make cash payments to SSI and AFDC recipients who may not have any heating expenses, such as those in Hawaii or Florida, or who may not be incurring any increased heating costs, such as many of those who may rent, et cetera.

Fourth. By not making special payments to SSI recipients, we will avoid the inequitable situation of making payments to those SSI recipients on the rolls in December, but not to those who come on the rolls in January, February, or March.

Fifth. By distributing funds through my revised CSA formula, accepted by the committee yesterday, the amendments would eliminate the excessive SSI bias in favor of the warm weather areas.

Let me cite two examples of how this would work:

Under the bill, Texas would receive $19 million and Illinois $14 million. Under my amendment, Texas would get $9 million and Illinois $26 million. This comes much closer to reflecting the fact that Illinois is three times as cold as Texas.

Whereas under the bill Louisiana would receive $10 million and Minnesota $4 million, under my amendment Louisiana would receive $3 million and Minnesota $15 million. This again comes much closer to reflecting the fact that Minnesota is five times as cold.

In sum, when we are trying to launch a program on short notice, simplicity is of the essence. The complicated approach proposed by the subcommittee will, I am afraid, cause the program to bog down from its own weight. My amendment will reduce the confusion, redtape, and bureaucracy, and by doing so, will make it easier for the States to administer the program and insure that the funds are made available to those in need at the earliest possible date.

Mr. RITTER. Mr. Speaker, will the gentleman yield for a point of information?

Mr. MICHEL. I yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Speaker, I will ask, for those of us who are not familiar with the bill, this question of the gentleman from Illinois, who is familiar with the program for distribution by the States:

Is there a formula existing for the breakdown of the $1.6 billion to go to the different States?

Mr. MICHEL. Yes, there is, and it would be predicated, of course, upon the formula that we have written into the bill. It is an improvement over the formula the CSA is currently using because it gives more weight to those States that have cold weather and more severe heating problems for its citizens.

Mr. NATCHER. Mr. Speaker, I rise in opposition to the amendment offered by my distinguished friend, the gentleman from Illinois (Mr. MICHEL).

We have had this matter up before the subcommittee, and we had it up before the full committee in substance yesterday, Mr. Speaker.

As far as making the entire program a block grant program is concerned, it would be a serious mistake. If we were to say that it would be under CSA, the Community Services Administration, or under HEW, that would be a serious mistake.

This House joint resolution has been right carefully prepared, Mr. Speaker, and we have a part of it under Health, Education, and Welfare, and a part of it under the Community Services Administration. Part of the funds will go out to SSI recipients.

It would be a serious mistake to adopt this amendment. This amendment should be defeated. As my friend, the gentleman from Illinois (Mr. MICHEL), knows, we had to have an investigation made about a year ago in regard to CSA. We had the investigative staff of the Committee on Appropriations make this investigation. When we considered the regular bill on Health, Education, and Welfare, we had recorded in the hearings the report that was filed with our committee concerning the CSA.

This is too much money, Mr. Speaker, to be handled by CSA alone. This amendment should be defeated, and, Mr. Speaker, after the vote on this amendment, which I hope the Chair will put immediately after I sit down, I am going to move the previous question.

Mr. CONTE. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I will be very brief. I rise in opposition to this amendment.

There are 3,941,781 SSI recipients in the United States. They are the low-income people, they are the blind, and they are the disabled persons of this country. They are receiving benefits to this extent: A single person receives from $1 to $208 a month maximum, and a couple receives from $1 to $312 per month maximum.

This is a very quick way of getting a very small portion of this entire bill out to these needy people throughout the United States.

As the gentleman from Kentucky (Mr. NATCHER) has said, we have debated this. We went over this matter yesterday for 3½ hours in committee, and the gentleman from Illinois (Mr. MICHEL) made a very, very fine contribution.

Mr. Speaker, 90 percent of this amendment, as the gentleman from Illinois (Mr. MICHEL) says, is in here, and I do not see why he wants another 10 percent in here today. Let us kill this amendment.

The SPEAKER pro tempore (Mr. VANIK). The question is on the amendment offered by the gentleman from Illinois (Mr. MICHEL).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. MICHEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 183, nays 207, not voting 43, as follows:

[Roll No. 602]

YEAS—183

Abdnor
Andrews, N.C.
Andrews, N. Dak.
Archer
Ashbrook
AuCoin
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bennett
Bereuter
Bethune
Boggs
Bouquard
Bowen
Breaux
Brinkley
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Fenwick
Findley
Fish
Forsythe
Fountain
Frenzel
Giaimo
Gibbons
Gingrich
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Green
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hansen
Harsha
Hefner
Hillis
Hinson
Holt
Hopkins
Huckaby
Hughes
Hyde
Ichord
Jeffries
Johnson, Colo.
Jones, Tenn.
Kelly
Kemp
Kindness
Kogovsek
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lent
Levitas
Lewis
Loeffler
Long, Md.
Lott
Lujan
Lungren
McClory
McCloskey
McDade
McDonald
Madigan
Marks
Marlenee
Marriott
Martin
Mathis
Michel
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Neal
Nelson
Nichols
O'Brien
Panetta
Pashayan
Paul
Preyer
Pritchard
Pursell
Quayle
Quillen
Railsback
Regula
Rhodes
Ritter
Robinson
Rose
Roth
Rousselot
Royer
Runnels
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shumway
Shuster
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stockman
Stratton
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Whittaker
Williams, Ohio
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Wylie
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Young, Fla.

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Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Annunzio
Anthony
Applegate
Aspin
Atkinson
Bailey
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Bedell
Beilenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bonker
Brodhead
Brown, Calif.
Burlison
Burton, Phillip
Carr
Carter
Cavanaugh
Chisholm
Coelho
Collins, Ill.
Conte
Conyers
Corman
Cotter

Danielson
Daschle
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de la Garza
Dellums
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Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Ertel
Evans, Ind.
Fary
Fazio
Ferraro
Fisher
Fithian
Flippo
Florio
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gilman
Ginn
Glickman
Gray
Hall, Ohio
Hamilton
Hance
Hanley
Harkin
Harris
Hawkins
Heckler
Heftel
Hightower
Hollenbeck
Holtzman
Horton
Hubbard
Hutto
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Kastenmeier
Kazen
Kildee
Kostmayer
LaFalce
Lederer
Lehman
Leland
Lloyd
Long, La.
Lowry
Lundine
McCormack
McHugh
McKinney
Markey
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Mineta
Mitchell, Md.
Moakley
Moffett
Mollohan
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Nedzi
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Patterson
Pease
Perkins
Peyser
Pickle
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Roberts
Rostenkowski
Roybal
Russo
Sabo
Seiberling
Shannon
Sharp
Shelby
Simon
Slack
Solarz
Spellman
St Germain
Stack
Staggers
Steed
Stenholm
Stewart
Stokes
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Watkins
Waxman
Weaver
Weiss
White
Whitten
Williams, Mont.
Wilson, C. H.
Wilson, Tex.
Wolff
Wolpe
Wright
Wyatt
Yates
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—43

Ashley
Baldus
Brademas
Brooks
Burton, John
Clay
Dornan
Evans, Ga.
Fascell
Flood
Foley
Goldwater
Guarini
Holland
Howard
Leach, La.
Lee
Livingston
Luken
McEwen
McKay
Maguire
Miller, Calif.
Minish
Mitchell, N.Y.
Moorhead, Pa.
Patten
Pepper
Petri
Rodino
Roe
Rosenthal
Rudd
Santini
Scheuer
Skelton
Stark
Treen
Whitehurst
Whitley
Wilson, Bob
Winn
Yatron

☐ 1600

The Clerk announced the following pairs:

On this vote:

Mr. Livingston for, with Mr. Stark against.

Mrs. BOUQUARD, Messrs. SHUMWAY, LEACH of Iowa, LONG of Maryland, DECKARD, and JONES of Tennessee changed their votes from "nay" to "yea."

Messrs. BURLISON, YOUNG of Missouri, and RINALDO changed their votes from "yea" to "nay."

So the amendment was rejected.

The result of the vote was announced as above recorded.

● Mr. GEPHARDT. Mr. Speaker, I rise to express my support for and deep concern about House Joint Resolution 430, the emergency fuel assistance supplemental appropriation.

This measure, which would make $1.35 billion available to Americans suffering from skyrocketing heating fuel costs, is unquestionably needed. Heating oil prices have practically doubled since last winter, confronting too many low- and middle-income Americans with a choice between fuel and food in the coming months. Cold weather is already upon us, forcing us to act today to provide urgently needed relief.

I am deeply concerned, however, about the way this legislation has been handled—hearings in committee were brief, markup was short, and now floor debate is taking place less than 24 hours after the report was filed. Little is known or understood about how this program will be run and how well it will meet the needs of those suffering most from heating cost increases. We are again repeating the mistakes we have been making every year in our last-minute funding of the crisis intervention program.

For the past several years, the Congress has waited until the last minute to fund energy assistance. The result has been a program riddled with confusion, inefficiency, and, to a significant degree, ineffectiveness. The experience in my home State of Missouri has been disturbing. Each year a different set of eligibility rules has applied—leaving constituents uncertain as to whether they can qualify for assistance from one year to the next. Funding is usually so late that grants are not made until winter is well passed. Last year, for example, assistance was available in January only because the State had some funds left from the previous allocation. Regular grants under the fiscal 1979 program were not made until March, and the last payments were still being distributed as late as June. Not only did the delay leave needy households without fuel assistance when it was needed most, but it encouraged the use of the aid for nonfuel expenses like food and clothing.

The bill we are considering today represents another last-minute attempt to address the fuel assistance needs of low- and middle-income Americans. We have known such aid would be needed since last summer, but we have been idle until winter is upon us. We are now proposing to extend the fuel assistance program without regard to the problems of the past and to expand it more than sixfold.

I will vote for House Joint Resolution 430 because I believe energy assistance is urgently needed and I do not believe needy Americans should have to suffer from the procrastination of the Congress. It is my sincere hope, however, that this will be the last time we authorize this program on an emergency basis. I hope we can do a better job next year and start on a program for the winter of 1981 as soon as we complete action on the program for this year.●

● Mr. DODD. Mr. Speaker, I rise in strong support of House Joint Resolution 430, the low-income energy assistance supplemental appropriation which will provide $1.35 billion to help low-income and elderly people pay their fuel bills this winter.

Mr. Speaker, we are already feeling temperatures begin to drop. Here in Washington, D.C., there has already been a snowfall. Winter is upon us, and for the third year in a row we are dragging our feet in getting funds to those who are in desperate need of assistance. Heating oil costs in the Northeast have risen more than 70 percent from last year, and there is no doubt in my mind that the poor and elderly in cold weather areas of this country are going to be unable to pay the exorbitant cost of heating their homes.

In my State of Connecticut, an average low-income family paid $620 to heat their homes during the winter of 1978. This year that same family can expect to pay $1,050. Where a poor family was spending 16 percent of their income for fuel last year, this year they will be paying 25 percent, and that is a conservative estimate. Escalating energy prices are hitting everyone hard, including middle-income earners who have less and less discretionary income as inflation increases, but the greatest burden falls on those with the most limited budgets: The poor and the elderly living on fixed incomes.

Many of the elderly people in my State with low incomes last year did not receive help to offset their energy costs, not because they did not need the assistance, but because they refused to take welfare of any kind. This year their energy bills will be nearly double what they were last year, and it is up to us in Congress to prevent the kind of tragedy that results from people making choices between the essentials of food, clothing, fuel, and housing costs.

Prompt action on this appropriation will allow money to reach the areas of this country in greatest need of aid. Even with immediate action by this Congress to appropriate energy assistance funds, it will take 8 weeks for the money to reach the local level. We cannot afford to haggle over parochial differences or balanced budget questions any longer. The Senate has already approved $1.6 billion and is ready to work out problems in a conference committee. We should not be worrying about Federal finances when the lives of people across this country are at stake. An austere budget is of little interest and no comfort at all to an elderly person freezing in her home this winter.

Everyone here is aware of the exorbitant profits recorded by oil companies in the 3d quarter of this year. These outlandish gains only emphasize the need to protect the public against the kind of profittaking by oil companies that results in such high energy prices that even those with moderate level incomes cannot afford to pay their fuel bills.

OPEC is meeting again in December to raise the price of their crude oil. Decontrol has not even begun to hit us with its full effect, and heating oil prices in my State have already increased from 50 cents to 86 cents. Utility and natural gas prices are fully 20 percent higher than last year.

Obviously, at this point in time we cannot reduce energy costs, and prospects for future hikes in prices are more than likely. So we must cope with raising energy prices as best we can. Many of us can conserve energy, but our elderly and our poor are already cutting back their use of fuel to the point of endangering their lives.

The fact of the matter is that people are going to suffer unless we, in Congress, do something to help them. The $1.35 billion appropriation will add $150 million to the $250 million crisis intervention moneys approved by Congress in a continuing resolution: $405 million of the $1.35 billion will be channeled through the SSI system; $791 million will be allotted to families through the AFDC program or allocated to States in an optional block grant approach.

This House has the opportunity to stop a tragedy before it occurs, and I urge my colleagues to take action and pass this appropriation before it is too late.●

● Mr. JENRETTE. Mr. Speaker, as the House debates House Joint Resolution 430, the low-income energy assistance supplemental appropriations bill, I want to make it clear that I have strongly supported the low-income fuel assistance program over the past 2 years and continue to do so. And I am well aware of the need to act with dispatch to provide additional funds for this program so poor people will have the means to get through the coming winter.

I must strenuously object, however, to the way this bill is being precipitously pushed through the House, before Members can obtain meaningful information on what it will do. Since these funds cannot be disbursed until the end of the year in any event, would it harm the process to delay a few days in order to get better information on where the money will go. Or is it being rushed through in this manner so we will have to vote before we know.

House Joint Resolution 430 has gone through hearing and markup and been brought to the floor in the space of 1 week. In the process the Committee on Appropriations made a major change in the Community Services Administration formula by which the funds would be distributed among the several States. The formula CSA is now using accords equal weight to the weather factor—the number of heating degree days in a given State—and the size of a State's low-income population in distributing the money.

But under an amendment adopted just yesterday by the Committee on Appropriations, the weight given the weather factor would be greatly increased. But how much it is to be increased we do not know and have not been able to find out.

This morning I was told that those of us who are unhappy about this formula change are being parochial. But are we not at least entitled to know what its effect will be on the distribution of funds among the States? Nowhere in the committee's report will you find the formula change even mentioned, let alone analyzed in terms of its impact. If the proponents of the new formula have these figures, they are not letting on. I would have thought this aspect of the legislation was significant enough at least to warrant mention in our committee report.

This brings me to a second point. Is this bill supposed to provide energy assistance as its title says, or just heating assistance? There was much discussion in the committee yesterday to the effect that the need of the poor for heat were the only ones that justified help, that no other energy use was sufficiently important to warrant assistance. Some of our northern friends expressed outrage that poor people living in hot climates might even get help with the costs of air-conditioning. And the committee amended the bill to require that priority in disbursing funds be given by the States to households that have experienced significant increases in heating costs over the past year.

I do not object to that amendment. And I fully recognize the need to give more assistance to the poor residents of the States with colder weather. But we were already prepared to do that. Does giving priority to heating costs mean that heat is the only legitimate energy use with which we should help poor people?

Let me be specific. In the South and Southwest, there are many poor and elderly people for whom air-conditioning is just as essential as heat is in the North. Those with respiratory ailments must have air-conditioning to survive in hot and humid climates. So let me ask you: Is a person any less dead if he dies of respiratory failure in a Florida summer than if he freezes to death in a New England winter? I believe one energy use is just as legitimate, and essential, as the other.

This leads me to the broader point. If we are concerned about the impact of the rise in energy costs on the Nation's poor, we must look at all energy uses, not just heat. People must have not only heating and cooling in order to survive; they must also transport themselves to and from work, they must cook their food, they must process their crops—they must do a whole host of things of varying essentiality. In my judgment this bill is and should be designed to provide the poor assistance, much of it though the States, with the energy costs which are essential to their particular way of life. Those costs are not in all instances limited to heat.

I would urge my colleagues not to make this legislation into a sectional battleground. We in the South are well aware of the critical need to help poor people in the North with their heating bills. But what we must insist is that the poor people in the South are also being badly hurt by rising energy costs, and that they are equally deserving of help. As the House moves forward with more permanent energy impact assistance legislation, I hope my colleagues will truly avoid the parochial approach.●

● Mrs. HOLT. Mr. Speaker, I am in a panic because winter is near and heating oil prices have risen dramatically but I hope that a majority of the House is not in such a panic that it passes House Joint Resolution 430.

This legislation purports to provide $1.4 billion in new budget authority to provide energy assistance to low-income people, but after reading the bill and the committee report, I do not believe the poor would be helped.

Some $1.2 billion of the new budget authority would go to HEW, which could distribute the money through welfare programs or through bloc grants to the States, depending upon the preference of each State and subject to HEW approval of State plans.

With some money previously appropriated, the sum of $400 million would be distributed to the States by the Community Services Administration.

The arrangements for spending this money are loose, to say the least. The committee report gives us no clue as to how it arrived at the vast amounts of money to be spread around. The report itself is one of the smallest I have seen during my 7 years in Congress. It summarizes the bill using both sides of a single sheet of paper.

I believe it safe to say this legislation was literally whipped up to give people the impression that Congress is doing something about the winter and soaring heating bills. The committee cannot tell us how the money would be spent, or how much is really needed, or how long it would take to funnel through Federal, State, and local bureaucracies. Winter may be over by then.

This is a shoddy piece of legislation. It offers no assurance that help will get to a family at its time of emergency. It even directs the Community Services Administration to make "cash payments for bills already paid."

I would remind the House that the Federal Government is literally broke, while the States and localities are in much better condition, largely because of the Federal aid we are generously shoveling to them. We are providing more than $80 billion a year in grants to the States and localities for various purposes, plus another $6.9 billion in general revenue-sharing funds.

The Federal Government already has a galaxy of programs to help the poor, and most of these programs are adjusted for inflation. I believe it is time for the States and localities to accept more responsibility for social needs, and the heating emergencies that arise this winter are the opportunity for them to exercise such responsibility.

There is no more money in Washington. There is the national debt shooting toward $900 billion and the certainty of more inflation if Congress continues the spending spree.

I know this: If the States and localities provide for the emergency fuel needs of the poor with State and local funds, it will be accomplished at lower cost and with greater likelihood that the aid will reach those who truly need it.●

● Ms. MIKULSKI. Mr. Speaker, the decontrol of oil prices is hurting all Americans; but it is the poor and the elderly who are particularly hard hit. They do not have extra cash to meet higher fuel prices and still be able to pay for food, shelter, clothing and other necessities. It is a national disgrace that we should treat elderly citizens in this way. People who have worked hard all their lives should not be afraid they will have to give up their homes because they cannot afford the oil bill. This is absolutely wrong.

When the first cold spell hit this area a few weeks ago, my office in Baltimore received an avalanche of phone calls from senior citizens, as well as from those on fixed incomes. They were just finding out how much it would cost to heat their homes this winter. Many were worried because the majority of fuel companies in the Baltimore area have minimum purchase requirements ranging from 150 gallons to 250 gallons. My constituents cannot afford to make such large purchases at one time. They are literally facing a terrible decision—whether they should heat their homes or buy food. It is totally unfair for anyone to have to make such a tradeoff.

It is our responsibility in Congress to assure that all Americans will be able to afford to heat their homes this winter. We have taken too long already. I want to applaud the leadership of the Speaker in bringing this bill to the floor.●

● Mr. PRICE. Mr. Speaker, there should be no doubt in anybody's mind that what we are doing here to ameliorate home heating fuel cost problems will not provide the long-term solution. In fact, what we are doing could be a very dangerous precedent which could, heaven forbid, be carried on indefinitely. Giving out money to assist in payments for increasingly costly and limited home heating oils creates inequities, injustice, bureaucracies, graft, waste and will not advance us down the road one inch to a real solution: The development of our own national resources of economic energy. We must get started on a priority basis on real solutions. We must increase the construction of electrical generating capacity fueled by coal and uranium. This is the only route immediately available which will directly reduce our dependence on diminishing sources of petroleum products.

Shifting more of our heating load to electricity generated by such plants will provide a meaningful solution. If assistance must be provided to accelerate this shift it can be provided in a one-shot form such as construction cost assistance for powerplants and for efficient devices such as heat pumps. Assistance in the form of fuel cost payments such as we have under consideration could go on forever while powerplant or heat pump assistance would only be necessary once for the lifetime of such devices which are measured in decades. It certainly would be an easier program to administer in a just way.

Maybe the fuel payment assistance route is the only thing we can do to ameliorate the immediate problem. But we must start now to correct the error of our past ways and get on with shifting the load to energy sources we have in practically limitless amounts.

Each 1,000 megawatt coal or nuclear plant can save 30,000 barrels of oil a day. In 1978 oil- and gas-fired electrical plants utilized the equivalent of 3½ million barrels of oil per day. According to data I have been given it is now less expensive to heat with electricity driven heat pumps than with oil.●

● Mr. PEPPER. Mr. Speaker, I rise in support of this legislation, making urgent supplemental appropriations for low-income energy assistance for the coming winter. The Appropriations Committee does not use the designation "urgent" lightly. All of us are aware that soaring energy costs are severely straining the budgets of many Americans. Without immediate action by this body, however, millions of low-income and elderly persons will literally face a "heat or eat" dilemma this winter.

As chairman of the Select Committee on Aging, I am particularly concerned with the vulnerability of millions of aged persons to the devastating effects of extreme cold. Persons over 65 not only constitute the poorest segment of the population, but are also the likeliest to live in substandard housing. When these factors are combined with the decreased ability of an elderly person to compensate for variations in temperature, the prospects for survival this winter become gloomy indeed.

We owe a debt to MARIO BIAGGI, my friend and the distinguished chairman of the Subcommittee on Human Services of the Aging Committee. Under his vigorous leadership, the subcommittee held five hearings throughout the northeast and north-central States, focusing on the impact of rising home energy costs of senior citizens. I commend the foresight of the gentleman from New York, whose leadership in this issue became apparent in the early months of summer, well before the imminency of freezing temperatures spurred Congress to belated action.

I should note that the proposal we are considering today is an emergency proposal, designed to address an urgent but short-term need. The formula for distribution does not take into account the regional differences in energy expenditures as a portion of income. In my own State of Florida, for instance, over 17 percent of income is spent on energy, as compared to 16 percent in Idaho, 15 percent in Massachusetts and Texas, 13 percent in California, and 10 percent in Michigan and Ohio. Moreover, the proposal disregards testimony given by the National Institutes on Health that the devastating effects of extreme heat on the elderly can result in death. Most of the energy assistance proposals under consideration, including this one, ignore this documented but underpublicized fact.

Nevertheless, Mr. Speaker, the time for comprehensive planning has long passed. Officials at HEW and CSA have developed the necessary planning and are waiting for Congress to act. While a long range policy which will include all of the factors that have been overlooked is badly needed, we can risk no further delays. Time is running out on our elderly.●

● Mr. WOLFF. Mr. Speaker, I rise in strong support of House Joint Resolution 430, the supplemental appropriations for low-income assistance which provides assistance to meet rising heating costs and high home heating oil prices.

Mr. Speaker, last week I addressed this body to call attention to a new and dark cloud of uncertainty which is hovering over many poor and elderly Americans. The dark cloud is caused by the concern over the price and availability of home heating oil. Passage of the resolution before us would whisk away a small portion of this cloud thus exposing some ray of hope to those who are now on the verge of despair.

We have all heard the overwhelming reasons for appropriating additional funds. I would just like to again call attention to the following realities. It is estimated that the average family in the States will have to pay $540 more this year to pay for the same of heating oil as last year. That is an increase in the average price of $735 last winter to about $1,275 this year. The meager incomes of more than 16 million American households who fall below 125 percent of the Federal poverty level will be greatly eroded by the increase in price and the current 13 percent inflation rate.

The price of home heating oil currently averages about 81 cents a gallon in New York State with some areas reporting prices as high as 91 cents. The price of home heating oil has increased 70 percent in the State since last September alone. New York, like many of the Northern States are very much dependent on oil as a source of heat. Over 54 percent of our homes in the State are heated with oil.

Unfortunately, the problem goes deeper than that of price. Consumers are faced with tighter credit terms from suppliers. The tight money situation has forced many distributers to require customers to make full payments at the point of delivery. The impact of this policy has been directed primarily toward the elderly and the poor since they are the persons termed as high credit risks.

Mr. Speaker, the rising cost of home heating oil has caused problems for all Americans. The price increase and the inflation rate is creating a growing number of economically distressed Americans. A growing number of middle class residents are now suffering the squeeze on the family budget. Something needs to been done to relieve the burden of the middle class. It is imperative however, that we act to pass this legislation quickly so that those in most need can receive help in time for winter.

I call upon my colleagues on both sides of the aisle to give your stamp of approval to this measure. Let us provide the poor and elderly with some ray of hope as we approach the eve of the heating season.●

● Mr. DRINAN. Mr. Speaker, I rise in support of House Joint Resolution 430 which makes supplemental appropriations of $1.35 billion for low-income energy assistance.

While there has been discussion today about the distribution formulas contained in this bill, it is clear that this legislation reflects a good compromise which will make assistance available to those who will need aid to keep their homes warm this winter.

I know that my colleagues are aware of the severity of the problem facing the Nation's poor this winter, but I would like to briefly mention a few illustrative statistics:

Last year, the average low-income family in the United States spent over 18 percent of its annual income on energy for household purposes—four times the amount the average American family spent. This year it is predicted that these low-income families will spend 25 percent of their income for household energy.

According to the Grier Partnership report on the New England energy consumer, the average low-income household in New England spent 29 to 34 percent of its before-tax income on energy purchases. That figure will inevitably be much tighter this year.

In my own Commonwealth of Massachusetts, last year the average low-income family spent $625 or 15 percent of its income for heating oil. This year, that figure will rise at least $435 to $1,060. This means that this winter low-income families in Massachusetts will be spending at least 23 percent of their income just on heating oil. Massachusetts does not have the Nation's most severe climate. Many of my colleagues' constituents will be even harder hit.

There is very little poor people can do to reduce their energy consumption, Mr. Speaker. The Fuel Oil Marketing Advisory Committee of the Department of Energy concluded in a report issued last July that low-income households "are incapable, generally, of reducing their costs through reductions in consmption." The poor turned their thermostats down years ago, but, tragically, their homes are among the Nation's most energy inefficient. We enacted a home weatherization program to address this problem, but it has been nowhere nearly sufficient to deal with this tremendous problem.

In conclusion, I urge my colleagues to consider just one final statistic: This year low-income families will have to spend 40 to 70 percent of their income during the heating season just on heating oil.

The situation faced by the poor is clearly very urgent. If we do not enact an assistance program, some of these people will not be able to survive. It will take at least 6 weeks from the date of enactment of this bill to get money out to those who need help, thus it is imperative that we approve this legislation today. The heating season is already upon us. We cannot and must not delay action, Mr. Speaker, I urge the immediate adoption of this emergency measure.●

● Mr. EVANS of Delaware. Mr. Speaker, I rise in support of the urgent supplemental appropriations for heating assistance. This legislation is desperately needed in Delaware and across the Nation, and I urge my colleagues to give it rapid and overwhelming approval.

In many parts of the Nation, particularly the Northeast, many low and moderate income and older persons are facing a cruel choice this winter—whether to heat or to eat. Unless Congress acts, and acts now, I am deeply concerned that many individuals will die this winter because of our failure to pass adequate legislation in a timely manner.

In Delaware alone, there are about 30,000 people who may qualify for Community Service Administration assistance. Yet, unless we act to increase funding, only about 8,000 persons will even have a chance for help.

This legislation is probably not perfect. It was drafted hastily, and if we had the time could probably be improved. But we do not have the time. Winter is just about here, and every day we delay will mean greater hardship for tens of thousands of people.

The bill before us today provides $150 million additional for the energy crisis assistance under CSA. This, together with the $250 million already appropriated, will make available $400 million for this program. I have previously cosponsored a bill with the gentleman from New York (Mr. BIAGGI) which would have added an additional $250 million, but I am still pleased with the amount approved by the Appropriations Committee.

Further, the bill establishes a special energy allowance assistance program to be administered by the Department of Health, Education, and Welfare at a level of $800 million. An important feature of this program is that States would be given the choice of either participating in an AFDC plan or of receiving their share of these funds in the form of a block grant. The States would have the flexibility of distributing the funds for crisis intervention, targeting households with higher energy costs, establishing a vendor line of credit, making payments to those already participating in other income assistance programs or other approved programs. Of special interest to States like Delaware, the distribution formula recognizes that certain areas are impacted to a greater extent than others, and thus the formula allocates money based on heating degree days and on the increase in home heating energy expenditures between 1978 and 1979.

Finally, $405 million is made available to recipients of supplemental security income. These one-time payments would average $100 for individuals and $200 for households. Payments would be made during the first week of January.

Mr. Speaker, this legislation must not be held up. Too many people are going to be dependent on this aid for us to delay action. I urge my colleagues to recognize the urgency of the situation and vote for the supplemental fuel assistance legislation.●

● Mr. GOLDWATER. Mr. Speaker, I rise in support of the Michel amendment. It is sound. It is an approach which I had hoped would be taken by the sponsors of the bill. Here we are, considering a proposal which would take $1.6 billion of Federal funds, put it in a special account, and distribute it throughout the country to whomever decides they wish to qualify. Are not the food stamp program, welfare programs, a variety of the public assistance services botched up enough already?

All this amendment does is take the funds under the act and give them to the States. The Governors, by working with their local officials, are best able to identify what eligibility standards should be honored. I can guarantee you that by concentrating the power to disburse this aid in the hands of an office of bureaucrats here in Washington makes this program vulnerable to mismanagement and administrative confusion.

As our colleague from Pennsylvania, Mr. WALKER, pointed out when he offered his amendment, the money in this bill is nothing more than a handout to the ultility companies—a subsidy, if you will. The authority to determine who is deserving of funds under the program is subject to misuse if that judgment is cast by officials who are not as familiar with the particular needs of a local jurisdiction or community.

I urge adoption of the Michel amendment.●

● Mr. PERKINS. Mr. Speaker, I strongly support this supplemental appropriations measure, however, I am deeply concerned that it does not contain a weatherization component. I am convinced that in the long run we could better help low income people in meeting energy costs if we made a sizable adjustment now in weatherizing their homes. I think the administration has made a terrible mistake in its decision to place the weatherization program in the Department of Energy. The result is that there is no effective weatherization program in operation.

On the other hand, we have a Federal agency which has provided significant help in the winterization of old and substandard homes since 1973. The 1974 amendments to the Economic Opportunity Act established the emergency energy conservation program and the Community Services Administration administered the program effectively through 1978. Just last year the Committee on Education and Labor undertook an intensive review of the CSA weatherization program. During those hearings we received testimony from individuals administering housing and weatherization programs from communities across the Nation. Based on our review, the committee stated in its report on the CSA bill:

> The CSA weatherization program is an active and successful component of the effort to relieve poverty in rural areas. We were not alone in this view. A report of the Committee on Banking, Finance, and Urban Affairs to the Ad Hoc Committee on Energy last year observed that:
>
> "CSA has had the most experience in administering a weatherization program for the poor, the program being carried out by community action agencies pursuant to section 222(a)(12) of the Economic Opportunity Act of 1964. In fact their program was the basis for the FEA program established in the Energy Conservation and Production Act of 1976. The Congress in recognizing this fact designed the FEA program so as to supplement, and not supplant nor conflict with, CSA's emergency conservation program. Because of the effectiveness of the CSA program, title II conforms the FEA program as much as possible to CSA's basic structure and guidelines."

Mr. Speaker, our committee action last year was to continue the CSA authority for weatherization projects and we encouraged mutual development and implementation of effective weatherization projects between CSA and the Department of Energy. This is something that appears not to be happening. The Committee on Education and Labor will turn to this matter in the immediate future. We are going to make sure that there will be an effective weatherization program and if that requires further amendments to the Economic Opportunity Act we will bring the necessary legislation to the Floor of the House. At this critical time we simply cannot allow the weatherization program to be dormant. Let me repeat, the Community Services Administration has done an effective job with the weatherization program in the past. The Community Services Administration today is not the ineffective and poorly administered agency critics claim it was 10 years ago. It is an agency which has the ability and the capacity, perhaps more than any other agency in Government, to conduct programs benefitting the poor of this Nation.●

● Mr. STOKES. Mr. Speaker, I rise in strong support of House Joint Resolution 430—a bill which would provide $1.35 billion to assist low-income families pay their utility costs this winter.

Immediate action by this Congress is necessary to prevent hundreds of families and senior citizens from facing severe hardship this winter. Rising fuel costs have affected nearly everyone in this country. But, their impact on poor families and senior citizens on fixed incomes has been especially harsh. These people already pay proportionately more of their incomes on fuel costs than more affluent families. Yet, poor families will be faced with home heating costs this winter that could double those of last winter. For example, an average low-income household in Ohio that spent $620 on home heating oil last winter could expect to spend $1,055 this winter. Moreover, these families have little flexibility to absorb these costs on their meager incomes. As a consequence, many will be forced to choose between freezing and starving, unless some assistance is provided.

This bill is not perfect. The $1.35 billion contained in the bill is not nearly enough to provide energy assistance to every poor family in this country. However, the House Appropriations Subcommittee on Labor-HEW labored over 3 hours to fashion a bill that would direct the money to the neediest families in the coldest climates. This money will do much to prevent inestimable human suffering and misery this winter. While the administrative approach drafted by the subcommittee is cumbersome, I believe that it is workable. The Community Services Administration has already done the necessary planning for implementation of its share of the appropriation. The Department of Health, Education and Welfare (HEW) has the capacity to distribute checks quickly to SSI and AFDC recipients. Many of those States which will opt out of HEW administration already have plans in place for effective program administration. Given these elements, I believe that the money can be distributed expeditiously to those persons who most need it, even though a great deal of effort will be required of both HEW and CSA to accomplish a smooth program operation and to minimize duplication.

The need is overwhelming. The time to act is now; winter is already upon us. I urge my colleagues to pass this low-income energy assistance supplemental appropriation without delay.●

Mr. NATCHER. Mr. Speaker, I move the previous question on the joint resolution and all amendments thereto to final passage.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and on a division (demanded by Mr. WALKER) there were—yeas 166, nays 64.

Mr. WALKER. Mr. Speaker, I demand a recorded vote.

A recorded vote was refused.

So the previous question was ordered.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOFFETT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 290, nays 105, not voting 38, as follows:

[Roll No. 603]

YEAS—290

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Aspin
Atkinson
AuCoin
Bailey
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burlison
Burton, Phillip
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Cheney
Chisholm
Clausen
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corman
Cotter
Coughlin
Courter
D'Amours
Danielson
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Emery
Erdahl
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Florio
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gilman
Glickman
Gonzalez
Goodling
Gore
Gradison
Grassley
Gray
Green
Guyer
Hagedorn
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Holtzman
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Latta
Leach, Iowa
Lederer
Leland
Lent
Lewis
Lloyd
Long, La.
Lowry
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McHugh
McKinney
Madigan
Markey
Marks
Marlenee
Marriott
Matsui
Mavroules
Mazzoli
Mikulski
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Rostenkowski
Roth
Roybal
Royer
Runnels
Russo
Sabo
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Tauke
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Waxman
Weaver
Weiss
White
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Young, Alaska
Zablocki
Zeferetti

NAYS—105

Anthony
Archer
Ashbrook
Badham
Bafalis
Barnard
Bauman
Bethune
Bevill
Bowen
Breaux
Brinkley
Broyhill
Burgener
Butler
Chappell
Cleveland
Collins, Tex.
Corcoran
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, S.C.
Derwinski
Devine
Dornan
Edwards, Ala.
Edwards, Okla.
English
Erlenborn
Evans, Ga.
Flippo
Fountain
Giaimo
Gibbons
Gingrich
Ginn
Goldwater
Gramm
Grisham
Gudger
Hall, Tex.
Hammerschmidt
Hance
Hansen
Hinson
Holt
Hyde
Ichord
Ireland
Jeffries
Jenkins
Johnson, Colo.
Jones, Okla.
Kelly
Kindness
Kramer
Lagomarsino
Leath, Tex.
Lehman
Levitas
Loeffler
Long, Md.
Lott
Lungren
McDonald
Martin
Mathis
Mattox
Mica
Michel
Miller, Ohio
Montgomery
Moorhead, Calif.
Nelson
Nichols
O'Brien
Paul
Rhodes
Roberts
Robinson
Rose
Rousselot
Satterfield
Sawyer
Schroeder
Sebelius
Shelby
Shumway
Shuster
Snyder
Steed
Stenholm
Stump
Symms
Synar
Taylor
Thomas
Walker
Watkins
Wydler
Young, Fla.
Young, Mo.

NOT VOTING—38

Ashley
Baldus
Brademas
Brooks
Burton, John
Clay
Dickinson
Flood
Foley
Guarini
Holland
Howard
Leach, La.
Lee
Livingston
Luken
McEwen
McKay
Maguire
Miller, Calif
Minish
Moorhead, Pa.
Patten
Petri
Rodino
Roe
Rosenthal
Rudd
Santini
Scheuer
Skelton
Stark
Treen
Whitehurst
Whitley
Wilson, Bob
Winn
Yatron

☐ 1620

The Clerk announced the following pairs:

On this vote:

Mr. Foley for, with Mr. Livingston against.

Mr. Rodino for, with Mr. McKay against.

Mr. Brademas for, with Mr. Leach of Louisiana against.

Mr. Petri for, with Mr. Rudd against.

Until further notice:

Mr. Guarini with Mr. Whitehurst.

Mr. Maguire with Mr. Winn.

Mr. Miller of California with Mr. Lee.

Mr. Roe with Mr. Bob Wilson.

Mr. Santini with Mr. Dickinson.

Mr. Stark with Mr. McEwen.

Mr. Yatron with Mr. Rosenthal.

Mr. Whitley with Mr. Scheuer.

Mr. Skelton with Mr. Patten.

Mr. Moorhead of Pennsylvania with Mr. Luken.

Mr. Minish with Mr. Howard.

Mr. Clay with Mr. John L. Burton.

Mr. Brooks with Mr. Ashley.

Mr. Baldus with Mr. Holland.

Mr. LEHMAN and Mr. HYDE changed their votes from "yea" to "nay."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FUEL BILL WILL MAKE FOOD STAMPS SEEM STINGY

● Mr. DEVINE. Mr. Speaker, we are often asked what effect constituent mail has on our voting and we always assure our people it has a great impact.

Let me read you a constituent letter that may set a pattern for the type of mail many may receive next week:

House of Representatives,
Washington, D.C.

Dear Congressman: What in the hell are you guys doing down there? I recognize there are many financial problems facing many people in this nation, however, you all seem to have the same solution for all problems—cover them with money.

I am making specific reference to the $1.6 billion legislation being rushed through the House, bearing the attractive, emotional title of "fuel assistance for the poor elderly".

I suspect one opposing this could be flirting with political suicide, however, while Congressmen are oozing compassion and exhibiting their humanitarian proclivities, I would hope they would also exercise the same emotional reactions for the taxpayers back home that are forced to pick up the check.

As I understand the program, SSI recipients are eligible, AFDC beneficiaries are eligible, and grants will be made with no control on how the money is spent (whether it be on fuel, air conditioning, alcohol, or whatever), no particular needs test, and the folks in Hawaii will have assistance in paying their fuel bills the same as the folks in Maine or Minnesota.

Inflation hits everybody and particularly those on a fixed income, such as those for whom this legislation was designed, but isn't it inflationary to call upon the taxpayers across America to fund another program initially at $1.6 billion and administered by a Community Services organization and/or HEW and/or the various states with basic cash grants—where will it end?

It is interesting to note so many New England Congressmen, particularly in Massachusetts, taking such an emotional approach relative to the fuel problems in their area, when these states and their Representatives refuse to permit offshore drilling or the construction of refineries that would help produce energy that might keep prices down.

In any event, Mr. Congressman, please don't forget the taxpayers when you are generously shoveling out tons of money to solve every conceivable type of problem with yet another welfare type program that will grow like food stamps and never end.

Yours,

A Concerned Constituent.

As you know, Mr. Speaker, because of the impassioned pleas of those who are primarily responsible for the big inflation that hurts everyone, old and young, those that feel Government spending is the solution to everything, coupled with their eyes on the ballot box, the bill sailed through 290 to 105.

The food stamp program for the needy poor started at a figure much more modest than the $1.6 billion initial cost of this, and today that costs over $8 billion per year.

There is a need to assist in hardship cases, particularly the elderly poor, but a massive, inflationary, never-ending subsidy is just not the answer.●

PERSONAL EXPLANATION

Mr. PEPPER. Mr. Speaker, I was in my office with constituents and missed the vote on rollcall No. 602.

Had I been present, I would have voted "nay."

APPOINTMENT OF CONFEREES ON H.R. 4473, FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATIONS, 1980

Mr. LONG of Maryland. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4473) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1980, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

Mr. YOUNG of Florida. Mr. Speaker, reserving the right to object, I do so for the purpose of inquiring of the chairman as to what his position will be on some of those amendments that were adopted by such overwhelming votes in the House, whether he personally supported them or not. What will be his position when we get into the conference committee?

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I am happy to yield to my chairman.

Mr. LONG of Maryland. For the gentleman's information I want to say that I support the House position on these amendments, and want to point out that the House passed the particular amendment that I think the gentleman has in mind, dealing with indirect aid, prohibiting it, by a margin of 3 to 1. The Senate did not pass that, but that failed there by only two votes.

I intend to support the House positions as long as that is possible.

Mr. YOUNG of Florida. Mr. Speaker, let me say that I appreciate the comments of the gentleman from Maryland, and because of his personal commitment I will not offer the motion to instruct that I had intended to offer. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. Long of Maryland, Obey, Charles Wilson of Texas, Yates, McHugh, Lehman, Dixon, Whitten, Young of Florida, Mrs. Smith of Nebraska, Mr. Kemp, and Mr. Conte.

REQUEST TO CONCUR IN SENATE AMENDMENT AND TO APPOINT CONFEREES ON H.R. 2515, AUTHORIZING ON TEMPORARY BASIS CERTAIN BUSINESS AND AGRICULTURAL LOANS

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2515) to authorize on a temporary basis certain business and agricultural loans, notwithstanding interest limitations in State constitutions or statutes, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

Mr. MATTOX. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that conferees be appointed for the consideration of the bill (H.R. 2515) to authorize on a temporary basis certain business and agricultural loans, notwithstanding interest limitations in State constitutions or statutes, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

Mr. CAVANAUGH. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

SUPPLEMENTAL REFUGEE ASSISTANCE AUTHORIZATION

Mr. FASCELL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4955) to authorize an additional appropriation of $207,290,000 for the fiscal year 1980 and $203,610,000 for the fiscal year 1981 for migration and refugee assistance.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. FASCELL).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 342, nays 8, not voting 83, as follows:

[Roll No. 604]

YEAS—342

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
Badham
Bafalis
Bailey
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dicks
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Holtzman
Hopkins
Horton
Hubbard
Hughes
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leath, Tex.
Lederer
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Lundine
Lungren
McClory
McCloskey
McDade
McHugh
McKinney
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patterson
Pease
Pepper
Perkins
Peyser
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Roth
Rousselot
Roybal
Royer
Russo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Van Deerlin
Vander Jagt
Vanik
Volkmer
Walgren
Walker
Waxman
Weaver
Weiss
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Wirth
Wolff
Wolpe
Wyatt
Wydler
Wylie
Yates
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—8

Collins, Tex.
Conable
Holt
Jeffries
Latta
McDonald
Mitchell, Md.
Paul

NOT VOTING—83

Ambro
Ashley
AuCoin
Baldus
Boland
Bolling
Brademas
Brooks
Brown, Calif.
Burton, John
Chappell
Chisholm
Clay
Daschle
Davis, S.C.
Dickinson
Diggs
Dingell
Early
Flood
Florio
Foley
Ford, Mich.
Forsythe
Fuqua
Giaimo
Guarini
Holland
Howard
Huckaby
Ireland
Jones, N.C.
Leach, La.
Lee
Livingston
Luken
McCormack
McEwen
McKay
Madigan
Maguire
Mathis
Miller, Calif.
Minish
Moakley
Moffett
Mollohan
Moorhead, Pa.
Patten
Petri
Pickle
Preyer
Quayle
Rangel
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Rudd
Runnels
Sabo
Santini
Scheuer
Seiberling
Skelton
Stark
Stewart
Treen
Ullman
Vento
Wampler
Watkins
White
Whitehurst
Whitley
Wilson, Bob
Wilson, C. H.
Winn
Wright
Yatron
Young, Alaska

☐ 1640

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4955, with Mr. PEYSER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Monday, October 22, 1979, all time for general debate on the bill had expired.

The Clerk will read.

The Clerk read as follows:

H.R. 4955

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in addition to amounts otherwise available for such purpose, there are authorized to be appropriated for the Department of State for "Migration and Refugee Assistance", $207,290,000 for the fiscal year 1980 and $203,610,000 for the fiscal year 1981.

Mr. FASCELL (during the reading). Mr. Chairman, I ask unanimous consent the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

AMENDMENT OFFERED BY MR. ZABLOCKI

Mr. ZABLOCKI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ZABLOCKI: Page 2, after line 5, insert the following:

SEC. 2. (a) In addition to the assistance authorized by the first section of this Act, there is authorized to be appropriated for the Department of State $30,000,000 for the fiscal year 1980 for use in furnishing assistance, on such terms and conditions as the President may determine, to alleviate the human suffering and starvation among refugees and other victims of the famine in Cambodia. Assistance provided under this section shall be for the humanitarian purposes and limited to the civilian population, with emphasis on providing food, medicine, clothing, temporary shelter, and similar efforts to save human lives. Such assistance shall, to the extent feasible, be provided through international agencies and private voluntary organizations.

(b) The President shall satisfy himself that adequate procedures have been established to ensure that the assistance authorized by this section reaches the innocent victims of famine for whom it is intended. Such procedures shall include end use monitoring of deliveries on a periodic basis by individuals having freedom of movement where the assistance is being distributed within Cambodia. The President shall report to the Congress on compliance with this subsection not later than 90 days after the enactment of this section.

(c) Funds appropriated under this section may be made available until expended.

(d) At the direction of the Secretary of State, obligations incurred prior to the enactment of appropriations to carry out this section, against other appropriations or accounts for the purpose of alleviating the human suffering and starvation caused by famine in Cambodia, may be charged against appropriations authorized by this section.

(e) Priority shall be given in allocating assistance under the Agricultural Trade Development and Assistance Act of 1954 to furnishing agricultural commodities for use in carrying out this section.

(f) Assistance under this section shall be provided in accordance with the policies and utilizing the general authorities provided in section 491 of the Foreign Assistance Act of 1961.

Mr. ZABLOCKI (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. ZABLOCKI. The amendment I am offering is substantially the same as the bill, H.R. 5689, which was approved by the Committee on Foreign Affairs yesterday. I am pleased to offer it on behalf of the committee as an amendment to the bill pending before us.

The amendment represents a bipartisan congressional initiative to respond to the tragic situation from the famine in Cambodia. The amendment authorizes $30 million for fiscal year 1980 for assistance to alleviate the human suffering and starvation among the refugees and the other innocent victims of this terrible famine.

Mr. Chairman, as I indicated, this amendment is virtually identical, except for drafting changes necessary to offer it as an amendment to the bill, to H.R. 5689, the Cambodian famine relief bill which the Committee on Foreign Affairs approved and which has a large number of cosponsors on both sides of the aisle. It is an amendment worthy of support. Furthermore, it is an amendment which is supported by the President. Indeed, it is a portion of the overall package of $69 million which the President announced yesterday as the U.S. contribution to the international relief effort which is now getting underway.

Mr. Chairman, because of the urgency of the situation in Southeast Asia we are offering the bill as an amendment rather than following the usual routine we go through on separate legislation. Ordinarily, the bill, indeed, would have been scheduled for the Suspension Calendar next Monday.

Mr. Chairman, may I at this point express appreciation to the distinguished gentleman from Florida (Mr. FASCELL), chairman of the International Operations Subcommittee, for his invaluable support in this humanitarian effort, and to the gentleman from Alabama (Mr. BUCHANAN) who also is a cosponsor and has contributed much in this effort, to the gentleman from New York (Mr. WOLFF), chairman of the Asian and Pacific Affairs Subcommittee; to our colleague from New York (Mr. SOLARZ) and to many others including those who are not members of the Committee on Foreign Affairs, but who have made important contributions, prominent among them being the gentleman from Florida (Mr. YOUNG), the gentleman from Illinois (Mr. ANDERSON), and so many, many others, Mr. Chairman, too numerous to mention at this point.

□ 1650

The appalling tragedy in Cambodia is one of the worst disasters in human history. Cambodia's population has been reduced from some 8 million to 4 million or 5 million. Almost half of the population of Cambodia is gone. Perhaps another 2½ million will die in the months ahead unless aid gets to them immediately.

The famine is cruelest among young children. Already relatively few children under the age of 5 are left in Cambodia. Starvation among the civilian population generally is accompanied by epidemics of diseases such as malaria, dysentery, and other illnesses which are wiping out untold numbers of persons in their weakened condition.

This amendment, Mr. Chairman, is simple. It authorizes appropriations of $30 million for humanitarian relief for the civilian victims of the famine. This is for food, medicine, clothing, temporary shelter and similar efforts to save human lives. It is to be provided through international agencies and private voluntary organizations. The provision of aid is subject to the establishment of adequate procedures to insure that the assistance reaches innocent victims for whom it is intended. The aid deliveries will be monitored by observers in the field and the President of the United States is to report to the Congress on compliance with the requirements contained in the amendment.

Mr. Chairman, I will not take further time of the House at this point. I know that all of my colleagues have read about the situation in Cambodia and I know we are all sympathetic and want to exert every effort to assist the refugees and victims of the famine.

Mr. Chairman, I urge adoption of the amendment.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. ZABLOCKI) has expired.

(By unanimous consent, Mr. ZABLOCKI was allowed to proceed for 3 additional minutes.)

Mr. ZABLOCKI. Mr. Chairman, I yield to the ranking member of the House Foreign Affairs Committee, the gentleman from Michigan (Mr. BROOMFIELD).

Mr. BROOMFIELD. Mr. Chairman, I rise to endorse the comments of my distinguished colleague, Chairman ZABLOCKI, and support his amendment to the legislation authorizing additional appropriations for migration and refugee assistance. The Zablocki amendment would authorize the President to furnish humanitarian disaster relief assistance to the famished Cambodian civilian population through the use of various voluntary organizations and international agencies.

As my colleagues know, there has been tremendous suffering in Cambodia due to the ruthless and barbaric actions of the Communist regimes that have ruled the country in recent years. Surely, the people of Cambodia have experienced human rights violations almost unparalleled in recent history. In the words of Father Hesburgh, the distinguished president of Notre Dame University, "We have in the making another holocaust" in Cambodia.

At this time we are told that 200,000 Cambodians are dying every month, and that there is virtually no food anywhere for these destitute people. Moreover, 3 million people are now "in very dire straits" and need food, medicine and clothing immediately.

Cambodia—desolate, devastated and starving—barely exists as a nation. Families have been decimated, children are malnourished, currency is nonexistent.

In order to alleviate this terrible manmade tragedy, I urge all nations—including the sponsors of the present regime in Phnom Penh—to respond promptly to this urgent humanitarian need.

I urge my colleagues to support this amendment.

Mr. ZABLOCKI. Mr. Chairman, I thank the gentleman for his contribution, and especially for quoting my very good friend, Father Ted Hesburgh, and sharing that quotation with our colleagues.

Mr. Chairman, I yield to the chairman of the Subcommittee on Asian and Pacific Affairs, the gentleman from New York (Mr. WOLFF).

Mr. WOLFF. Mr. Chairman, I thank the chairman for yielding. Let me compliment the chairman for the speed with which the gentleman has pushed this measure forward.

I should like to say at this point, however, that this legislation, which the subcommittee did approve and pass forward to the full committee in no way implies that there is recognition of either regime in Cambodia, the Pol Pot or the Heng Samrin regime, and as well that we are going to monitor this aid at the suggestion of the gentleman from Florida (Mr. YOUNG) that we are going to continue to monitor the end use of this humanitarian assistance to see to it that it gets to the people where it is so vitally needed.

Mr. Chairman, I am pleased today to join with my chairman in offering this life-saving amendment to the refugee authorization bill now before us.

As we all know from the graphic and heart-rending news accounts, the people of Cambodia are dying the slow and horrible death of starvation and disease. Our help is overdue, the world's help is overdue. But it is now on the way—at last. The world community has finally chosen to act, and President Carter yesterday announced the U.S. program, a key portion of which we are asking the House today to quickly ratify in the form of the amendment being offered by the Foreign Affairs Committee.

Chairman ZABLOCKI has already outlined the case for the amendment; let me assure this House that this amendment is the logical product of months of activity by the House, and by the Foreign Affairs Committee, the Subcommittee on Asian and Pacific Affairs, and cooperative subcommittees from a number of committees.

Back on June 29, seven Members joined in sending President Carter a letter asking an immediate U.S. airlift of humanitarian relief supplies—food and medicine—to the thousands of helpless refugees then trapped along the Thai-Cambodian border, as well as people trapped in Cambodia itself.

Shortly thereafter, the President authorized some $900,000 for immediate relief across the Thai border.

On September 26 the Asian Affairs Subcommittee approved, and on September 27, under unanimous consent, the entire House adopted, House Resolution 431, calling on the United Nations to immediately inaugurate an international relief program for Cambodia, and citing the primary responsibility of Vietnam and the authorities in Phnom Penh to cooperate in this endeavor. You will recall a similar resolution approved by the House on June 18 helped set the stage for the Geneva Conference on Refugees, which was so instrumental in compelling Vietnam's attention to the plight of the boat people.

Following the House vote of September 27, Congressman ANDERSON and Mr. SOLARZ introduced a Cambodian relief bill which would have authorized $35 million, and on October 9, I was privileged to join with Chairman ZABLOCKI in introducing a similar bill which tied the assistance to the foreign disaster relief section of the foreign aid bill.

On October 10, the Subcommittee on Asian and Pacific Affairs took testimony on Cambodian relief legislation, and on October 17, we joined with our colleague from Florida (Mr. YOUNG) in perfecting the monitoring provisions now incorporated into the amendment we are offering today.

Yesterday, the Foreign Affairs Committee, after extensive consultations with the Department of State, with AID, and with the White House, approved a $30 million Cambodian relief bill, the substance of which we are asking you to join us in today.

At this point, I would like to commend my chairman for his leadership on this issue, and to thank the members of the Subcommittee on Asian and Pacific Affairs for their dedication over the past few months. I would particularly like to thank our colleague from Florida (Mr. YOUNG) for his assistance in making sure that the amendment we present today will meet—insofar as it is possible—the real needs of the people of Cambodia.

As I have said on repeated occasions to this House, we face for the second time in this century the unspeakable—the death by state policy of 6 million human beings. This time, we are in a position to call a halt halfway through the process. It is too late to do anything about the autogenocide of Pol Pot. But it is not too late to move to save the remaining 3 million Cambodians who have hung on, and now so desperately need our help.

Speed is of the essence, and on that account—the thousands of lives which will be saved every day—we can move action forward. I ask your approval today for this amendment.

Mr. ZABLOCKI. Mr. Chairman, I thank the gentleman from New York for further clarifying what I have said as to how the aid which will be provided with the funds authorized by this bill will be monitored.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. ZABLOCKI) has again expired.

(At the request of Mr. SOLARZ, and by unanimous consent, Mr. ZABLOCKI was allowed to proceed for 2 additional minutes.)

Mr. ZABLOCKI. Mr. Chairman, I yield to the gentleman from New York (Mr. SOLARZ).

Mr. SOLARZ. Mr. Chairman, I thank the gentleman for yielding.

I simply want to take this opportunity to pay tribute to the very distinguished chairman of our committee, the gentleman from Wisconsin (Mr. ZABLOCKI); to the gentleman from Florida (Mr. FASCELL), the distinguished chairman of the committee which reported this legislation out; to the gentleman from Alabama (Mr. BUCHANAN), the ranking minority member; to the chairman of the Subcommittee on Asian and Pacific Affairs, the gentleman from New York (Mr. WOLFF); to the gentleman from Illinois (Mr. ANDERSON), for having played such a helpful role in bringing this urgent matter to the attention of the House today and to the leadership of the Congress for making it possible for us to expeditiously consider this desperately needed legislation, since while we are talking the people in Cambodia are dying.

Over the past few years many of us have risen in this body to express our outrage at the horrors that have befallen the Cambodian people.

In 1977, this House passed a resolution sponsored by me and many other Members which condemned the genocidal massacres undertaken by the Pol Pot regime to purge Cambodia of all Western influences, and which had turned that once beautiful and gentle country into an Asian "Auschwitz."

Last year we acted to allow 15,000 Cambodian refugees rotting in refugee camps in Thailand to resettle in the United States.

Today we are acting on an amendment to authorize $30 million as part of the U.S. response to the international emergency relief effort to assist the 2½ million Cambodians faced with starvation.

The desperate situation in Cambodia today is a direct result of the cruel policies of the Pol Pot and Heng Samrin forces which have uprooted the population and destroyed rice fields and food reserves to prevent them from falling into the hands of the other side. These two warring factions have until recently refused to allow relief agencies to enter their country or distribute food and medicines. But finally, with tens of thousands sick and starving, they have agreed to allow an internationally monitored relief effort to get under way.

Mr. Chairman, I am a member of the President's Commission on the Holocaust, which was charged with finding a suitable memorial to the victims of the Nazi Holocaust. What we are doing here today is in some ways a living memorial to those millions of innocent people who perished defenseless over 30 years ago. There is no doubt in my mind that their deaths, and our failure to act at that time has sensitized and shamed us into acting compassionately today to aid our suffering Cambodian brethren.

Mr. Chairman, I have nothing more to say and would hope that we could pass this as soon as possible.

Mr. ZABLOCKI. Mr. Chairman, I want to again thank my friend and colleague, the gentleman from New York, for his efforts in helping prepare this legislation.

Mr. Chairman, I yield to the gentleman from New York (Mr. GREEN).

Mr. GREEN. Mr. Chairman, I would like to thank my colleagues, especially those of the Foreign Affairs Committee, for acting so swiftly and conclusively to help alleviate the suffering of millions of people in Cambodia—a suffering and depravation reminiscent of Nazi Germany and Biafra.

I hope that our requirements for monitoring food distribution and for the total exemption of military personnel from all forms of aid does not prevent help from reaching the general population in that tormented country. I do not advocate aiding the troops of the Pol Pot or the Heng Samrin regimes. But, I would accept the loss of a bowl of rice to either in order to get thousands of bowls of rice to the children, the women, the elderly and the noncombatant men.

We accepted civilian casualties when we bombed Cambodia. Perhaps we should accept some filling of military bellies to keep civilians from starving.

I wish we had all understood the degree of the suffering in Cambodia earlier so that we might have forestalled the many deaths. Perhaps we shall use this experience as a lesson to look closely at what is happening to innocent people in the corners of the world. If we act soon enough, we can avoid duplicating the fate of the boat people; we can help people where they live and not subject them to the danger of flight and the indignity of rejection.

We owe a great debt of thanks to voluntary relief agencies such as the Catholic Relief Services, UNICEF, the International Red Cross, and others for their humanitarian efforts to feed the Cambodian people.

I am encouraged by the actions of the Reverend Theodore M. Hesburgh, president of Notre Dame, who pledged to raise $100 million in voluntary contributions for food and supplies and by President Carter's decision to enlarge his own commitment.

I hope I can tell the people of my district that the feelings they have expressed in letters and in petitions such as that submitted to me by the Village Temple in the Greenwich Village area of New York City, and the concern expressed by myself and other Members earlier, will be answered.

I hope we can tell the people of Cambodia that their food is coming.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from California (Mr. DORNAN).

Mr. DORNAN. Mr. Chairman, I also want to join my colleagues in thanking the chairman for the expeditious way the gentleman did whatever this House could to help in this massive slaughter.

Two years ago the distinguished writer, John Barron, put out a book that was distributed, not widely enough around our House, called "The Murder of a Gentle Land."

I visited Cambodia three times before I came to the Congress, the first time in

1966, and it was that, a gentle land with a beautiful and gentle people, and to think we may witness a famine of 3 million of its citizens in the next 6 months just staggers the mind.

I know the gentleman's committee will keep this House informed on a regular basis of what we can do and how quickly we can do it to save whatever hundreds of thousands of children we can in this most pathetic area of the world and to remind ourselves, without any rancor, that it is again a manifestation of the curse on the face of the Earth of communism, no matter how we try to picture it, this form of oppression over mankind is causing hundreds of thousands of refugees and now the death of millions of people again, and it has only been six decades since 1917 in the Soviet Union.

So I thank the gentleman again for the gentleman's work in this great committee on both sides of the aisle.

Mr. ZABLOCKI. Mr. Chairman, I thank the gentleman from California.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. Zablocki) has again expired.

(At the request of Messrs. Derwinski and Fascell, Mr. Zablocki was allowed to proceed for 3 additional minutes.)

Mr. ZABLOCKI. Mr. Chairman, I yield to the gentleman from Illinois (Mr. Derwinski).

Mr. DERWINSKI. Mr. Chairman, I rise in support both of the amendment offered by the distinguished chairman of the Foreign Affairs Committee and of the assistance provided Vietnamese refugees by H.R. 4955.

The situation in Southeast Asia today represents one of the greatest tragedies of all time. Because of the activities of the Socialist Republic of Vietnam, which is certainly no republic, and of democratic Kampuchea, which is in no way democratic, thousands have been forced to flee their homes and many, many more face starvation because Communist forces have ruined their croplands.

All of these people, from tiny babies to the very old, are the victims of some of the most severe, cruel, and inhumane actions the world has witnessed.

I am concerned over the increased repression by such Communist regimes as those in Vietnam, Cambodia, and the Soviet Union.

Because of this concern, I have voted for additional defense spending in the face of continued aggression. In that same vein, we must show our concern for the victims of this continued repression.

The Cambodian assistance is in response to urgent pleas from the International Red Cross and UNICEF. We have received assurances from these organizations that they will be permitted to distribute food and supplies within Cambodia. This assistance will not go to the government or governments there, it will go to the people. The United States has received additional assurances from these organizations that they will halt the programs if they are prevented from distributing these supplies to the people truly in need.

I think the amendment adequately addresses the concerns of some that our aid might end up in the wrong hands.

The additional authorizations in this bill for refugee assistance are in response to commitments made by the United States to increase the number of refugees which we will accept.

At the same time, we have undertaken a number of actions at a series of meetings around the world to strongly encourage other nations to bear a greater share of the burden. Many have responded.

In fact, the supplemental refugee assistance in this bill reflects a decrease in what we would normally be expected to contribute because Japan has agreed to pay half of the cost of assisting refugees in Southeast Asia.

We have led the world in efforts against Communist aggression and repression. We cannot turn our backs on the victims of this repression.

I urge the adoption of the amendment by our distinguished chairman and the support of our colleagues for this legislation.

Mr. ZABLOCKI. Mr. Chairman, I yield to the gentleman from Illinois (Mr. Simon).

Mr. SIMON. Mr. Chairman, I want to join in commending the chairman and the members of the committee.

I had breakfast this morning with someone who said, "Don't you think that civilization as a whole is going downhill?"

In a sense, we are answering that question this evening here. A century ago these people would have starved and we would not have known anything about it. Now we know about it and now we have the opportunity to respond. This country has been at its finest when we have generously responded to human misery.

I am pleased to join in moving this bill ahead.

Mr. AKAKA. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Hawaii.

Mr. AKAKA. Mr. Chairman, I thank the gentleman for his speedy efforts in bringing assistance to the people of Cambodia.

Mr. Chairman, I rise in support of this amendment.

In August, I had the opportunity to travel to Southeast Asia on a study mission appointed by the Speaker and chaired by my distinguished colleague from New York, Mr. Rosenthal. While our group did not visit Cambodia, many of the officials whom we met with in Hong Kong, Thailand, Indonesia, and Malaysia warned us of the crisis that existed in Cambodia. Our study mission was not formed to address the Cambodian situation. In our final report, however, special note was made of the food problem because we all became aware of the overwhelmingly grave situation in Cambodia.

The only point that needs to be made today is that many thousands of Cambodians are dying and will die of starvation. This is a situation that was foreseen in August and is being realized today. We, as leaders in the free world, must provide assistance without delay so that a large-scale tragedy can be averted.

In this decade, there have been at least three occasions when special famine relief was authorized by Congress. In 1971, we came to the aid of Bangladesh. In 1973, it was Biafra, and in 1974 and 1975 we provided relief for thousands of starving people in the Sahara region. The needs of the Cambodians are equally as great.

We have all seen the reports in the press. There can be no question about this assistance if we view this famine relief in human terms. I urge all my colleagues to join with me in supporting this amendment.

□ 1700

Mr. ZABLOCKI. Mr. Chairman, I thank the gentleman from Hawaii (Mr. Akaka) for his contribution.

Mr. Chairman, I would also like to point out that the gentleman from Ohio (Mr. Guyer) was very helpful in our efforts on this legislation.

Mr. MARRIOTT. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Utah.

Mr. MARRIOTT. Mr. Chairman, having just come back from Thailand and the Ban Vanai camp there, I have seen firsthand the condition of these people.

I would just like to compliment the gentleman from Wisconsin (Mr. Zablocki) and say that his amendment is very timely. I urge the House to accept it.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I also want to commend the chairman of the committee for offering his amendment. I think this aid is crucial to save a people that suffered extraordinary misfortunate and extraordinary tragedy.

The only thing I would add, Mr. Chairman, at this point is that many of us pointed out as early as late spring and early summer the need for action by the U.S. Government.

In fact, I along with several of my colleagues, wrote to President Carter on June 28 of this year requesting him to provide immediate humanitarian assistance in the form of an airlift of food and emergency medical supplies to Cambodian refugees. I regret that the administration did not respond to our plea in a more expeditious fashion and, as a result, until 3 weeks ago virtually no food or medical supplies reached Cambodia and since then very little aid has been supplied.

I am hopeful that the situation will now be reversed quickly and that other countries of the world will join the United States in responding to the international appeal that has been made to assist these unfortunate refugees.

I want to compliment the committee

for including provisions designed to insure that the proper monitoring of these supplies so that they reach those populations which are most in need. It is indeed regrettable that the political situation within Cambodia has also worked to impede the delivery of food and medicine to the people of that country.

Mr. Chairman, this amendment raises a question of common decency and its passage and effective implementation will aid thousands of people who will perish without our help and the help of the international community.

Mr. ZABLOCKI. Mr. Chairman, I thank the gentlewoman from New York (Ms. HOLTZMAN) for her remarks and for her support. I urge the adoption of my amendment.

Mr. YOUNG of Florida. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, first I want to thank the members of the Committee on Foreign Affairs for paying such kind attention to the concerns that I expressed during the hearing that this food and humanitarian relief actually reach the people in Cambodia who need the help without regard to their politics and rather than the troops of either side.

We read in our newspapers here in Washington and throughout the country that the Vietnamese-backed government in Phnom Penh had said they would take all the humanitarian assistance we would send them but they would not give it to those not on their side.

Mr. Chairman, in my opinion, we ought to be compassionate for hungry people who are starving in Cambodia whether they support Pol Pot, whether they support Heng Samrin, whoever they support. They are hungry human beings, and I just hope that some of the pressure and some of the notice we have brought to the attention of the world through our efforts here in the Congress helps in convincing those regimes that all the hungry people in Cambodia deserve compassion, not just one side or the other.

The truth is that I do not have any compassion or love for the Hanoi regime or the Pol Pot regime. They are both murderous, they are both barbaric, and they are both uncivilized.

Mr. Chairman, in addition to that, we have seen the Vietnamese Government as the sponsor of so much of the grief the people are experiencing in that part of the world, earlier the boat people who were set adrift on the seas and who are ending up in refugee camps around the world.

Mr. Chairman, the Vietnamese have thumbed their nose at the United States of America and every other free nation in the world. The Vietnamese have thumbed their nose at every civilized practice in which we believe.

While I am supporting this humanitarian aid, and supporting it very enthusiastically, I believe it is time we used every effort available to us to bring pressure on the uncivilized people who are controlling the Vietnamese Government, which controls Laos and Cambodia, to let the world know exactly what they are doing and to let the world know what type of holocaust they are bringing upon the people of Southeast Asia.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I am happy to yield to the gentleman from New York.

Mr. WOLFF. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I just want to compliment the gentleman from Florida (Mr. YOUNG) on the work he has been doing in this connection.

I might remind the gentleman that the Soviet Union has shipped something like $4 billion worth of military supplies into Vietnam and has yet to do very much in the way of shipping food in to help the starving people of Cambodia.

Mr. HEFTEL. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I am happy to yield to the gentleman from Hawaii.

Mr. Chairman, the gentleman from New York (Mr. WOLFF) is exactly correct. We can take care of starving people all day long, but we are never going to solve the problem until we stop these barbaric regimes, the people who are responsible for the starvation and this famine.

Mr. Chairman, I hope the House will agree at every opportunity to bring the pressure of the world against those who are causing the suffering, the pain, and the anguish.

Mr. HEFTEL. Mr. Chairman, I want to join in support of the gentleman's statements, and I would point out that on both sides of the aisle we have to recognize that, whatever we think of the Communist threat or menace, it is a menace not to theory but to people.

This is a tragic example of that, and I hope we can recall this as we move on and have to figure out how we are going to provide freedom to those in the world who are being threatened and will continue to be threatened.

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman from Hawaii (Mr. HEFTEL) for his comments.

Mr. McHUGH. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I am happy to yield to my colleague, the gentleman from New York.

Mr. McHUGH. Mr. Chairman, I thank the gentleman for yielding.

The gentleman from Florida and I have sometimes disagreed on questions of foreign assistance, but I am pleased to say that in this case I very pleasantly join with him in support of this amendment and agree with him that the policies of the Vietnamese Government have in large part created the travesty we are now witnessing in Cambodia.

As the gentleman knows, we are going to be meeting on Tuesday in conference on the appropriations for foreign assistance, and at that time I hope the gentleman will join with me and, I am sure, others in appropriating the funds necessary to meet the demands of the amendment which we are about to adopt.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Chairman, I would just like to commend the gentleman from Florida (Mr. YOUNG) and say that I think this is a bipartisan effort in a humanitarian way to respond to a human need in the world. I also commend the chairman of this committee for the expeditious way in which this legislation has been pursued.

Mr. Chairman, in rising to support this amendment, I want to express my profound sense of gratitude to the Committee on Foreign Affairs for their leadership on this issue.

With the adoption of this amendment, we set the stage for American participation in a strictly humanitarian and nonpolitical famine relief effort.

The United States traditionally has contributed one-third of international aid requests made by the world food program. With this amendment, we will be able to reach this target.

This amendment is no cure-all to the problems faced by the people of Cambodia. This amendment will provide cash necessary to finance a famine relief program over the next 6 months only. More money will be needed later on, since it will take some time for Cambodia to resume anything resembling a normal planting and harvesting season.

In addition to the help authorized by this amendment, the world food program needs contributions from individual Americans. Yesterday, a distinguished group of American religious leaders called upon the American public to match the $30 million in aid that will be made available by the adoption of this amendment.

The $30 million target is a challenge to the American public and to our charitable organizations. We must meet this challenge head-on—for as I have said, such funds will be especially important to sustain the relief effort through next year.

While this amendment will enable the President to implement the program of assistance that he announced yesterday, I believe the record should show that the solution we are pursuing through this amendment is, essentially, a congressionally inspired solution. On this most pressing moral issue, the Congress—and specifically the House Foreign Affairs Committee—has been taking the lead.

Until yesterday, the administration was not on record in support of the extra appropriations needed to respond to the international aid request for Cambodia.

To be fair, the record should show that much of the international efforts now going on are due to effective State Department work behind the scenes. Nevertheless, the record also should show that the administration never formally advised the Congress that the Cambodian famine would require a significant monetary response from the U.S. Government. Why was not this money requested up front? The reason rests not with the State Department—they knew that this money would be needed. The reason rests with the Office of Management and Budget, which until President Carter's personal intervention yesterday, never permitted the State Department to level with the Congress.

It has been my general experience that the Office of Management and Budget operates more like an office of obstruction and delay. In this case, that obstruction has had serious and morally repugnant consequences.

Apart from the delays caused by the morally blind accountants at the OMB, the whole Cambodian aid picture has been muddied by "big power" politics. One astute observer has said that, over the past few months, the Cambodian people have been treated "like bloody pawns in a big power chess game."

Because the government now in Phnom Penh is the creature of armed intervention by Vietnam—an ally of the Soviet Union—we have let ourselves fall into the abhorrent position of siding with the government of Pol Pot, a "native" Cambodian Government. The Vietnamese are not saints—not by a long shot—but it must be said that the government of Pol Pot stands as the single most barbaric national regime in the history of this century—and in this assessment I include Nazi Germany.

I call upon my colleagues in the House to consider a few of the atrocities of the Pol Pot regime:

During his reign, all professional people, technicians, diplomats, students, and those who have had contact with foreigners were systematically killed.

For example, of approximately 500 Khmer doctors in 1975, it is estimated that 50 survive. In order to survive, all had to go underground and assume the role of peasants for 4 years.

Religious leaders of all faiths were exterminated. The Vietnamese have sent a delegation of Buddhist monks to Phnom Penh to reestablish the Buddhist Church in Cambodia. In many cases, what has been reported by the American press as "Vietnamese occupation" is, in fact, an assignment of technical and professional personnel to Cambodia, to keep things going in the total absence of a technical class among the native population.

The result of Pol Pot's reign is a nation where every single economic and social institution has to be rebuilt, entirely from scratch. This is the great "prize" that the Vietnamese have captured.

I repeat: I am not defending the Vietnamese, whose behavior in the food relief effort, for example, has been up until very recently, totally unacceptable. But I do want to reiterate that our Government must, in every way, shape, and form, repudiate the Pol Pot regime. The fact that we have been ambiguous on this point represents a major moral failure of the President's foreign policy.

In summary, Mr. Chairman, the House of Representatives has been taking, and with this amendment, is taking the moral lead on this issue, and I urge the adoption of this amendment.

Mr. YOUNG of Florida. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Wisconsin on behalf of the Committee on Foreign Affairs.

Mr. Chairman, we have heard much in these hallowed Halls of the weakness of America. Some of my colleagues have been critical of our Government for failing to secure the removal of a Soviet combat brigade from Cuba. Others have been critical of our Nation for failing to secure the release of political prisoners in Latin America and in Eastern Europe. Still others have been critical for our seeming inability to prevail in discussions which take place within the confines of international organizations such as the United Nations.

But today, Mr. Chairman, we have an opportunity to demonstrate our greatest strength to the rest of the world—our capacity for moral leadership. We can join, indeed even lead the forces of good throughout the world and stand up for human life in Cambodia.

There can be no doubt that the tragedy of the Cambodian people is real. The slaughter of hundreds of thousands of innocent children, women, and men is not months away; the apocalypse is now. The famous Four Horsemen—conquest, famine, disease, and war—are running on a rampage in Cambodia, but we have the resources, the capabilities, and the will to reign them in.

Enactment of the amendment offered today which is based on earlier legislation proposed by myself and our colleague from New York (STEPHEN SOLARZ) will give the President the authority he needs to implement the modest but important U.S. contribution to an international rescue effort on behalf of the people of Cambodia. Enactment of the amendment will give our commitments credibility. It will demonstrate that we have both the will and the capability of marshalling that will to act to forestall a horrendous tragedy in Cambodia.

Mr. Chairman, the eyes of the world are indeed upon us today. History may not heap lavish praise on the United States for providing assistance. But, history will judge us cruelly for failing to act should we defeat this amendment. That the wealthiest nation on Earth cannot reach out and extend a helping hand to the poor would be difficult for others to understand. The commitment of the United States to the fulfillment of our dream for universal human rights would be without any credibility. And many would judge us guilty of complicity in the deaths of hundreds of thousands of innocent Cambodians.

Mr. Chairman, many of us have young children who grow more conscious of the world each day. What will we say of them when they ask, "What did you do to save the lives of the people of Cambodia?"

Mr. Chairman, there are no superiors giving us orders to stand fast, to remain idle, and to simply let nature take its course. Yet, it would be easier, I suppose, to adopt the attitude, let someone else take care of these wretched souls.

But I for one cannot be passive ignoring my indirect responsibility for the prospective deaths of 2 or 3 million Cambodian people. I will not and cannot be silent.

In my lifetime, we have observed the holocaust of European Jewry, the massacre of the Kurds, and the attempted destruction of the Ibos. This time, we can intervene to prevent a new holocaust.

This time, we must say as a Nation, "Never Again."

I urge adoption of the amendment.

The CHAIRMAN. The time of the gentleman from Florida (Mr. YOUNG) has expired.

(By unanimous consent, Mr. YOUNG of Florida was allowed to proceed for 1 additional minute.)

Mr. YOUNG of Florida. Mr. Chairman, there is just one more thought I want to leave with our colleagues as this relates to Vietnam.

In addition to the problems that they are creating for innocent people all over Southeast Asia, let me say again, so that no one forgets, that this is the same Vietnamese Government based in Hanoi that to this day still refuses to give an honest accounting for many Americans still listed as missing in action in Southeast Asia.

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to thank my distinguished colleague, the gentleman from Florida (Mr. YOUNG), for the leadership and the very fine bipartisan effort that has occurred with respect to this effort in joining with the chairman of the full Committee on Foreign Affairs, the gentleman from Wisconsin (Mr. ZABLOCKI), and making this possible, because without that cooperation, the speed with which we were able to consider this measure would not have been possible.

As the chairman of the committee said, this matter went through the Committee on Foreign Affairs and through the subcommittee unanimously, and on our side, of course, we are delighted to accept it.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I am happy to yield to the ranking minority member of the subcommittee, the gentleman from Alabama.

Mr. BUCHANAN. Mr. Chairman, I thank the gentleman for yielding, and I associate myself with his remarks in commending the chairman of our full committee for this amendment and accepting it.

His amendment follows the provisions of H.R. 5689 as reported unanimously yesterday from our committee and will provide desperately needed food and medical care to thousands of Cambodians who will surely die without our assistance.

We have seen in recent days pictures of starving children and have read the accounts of those who have died and will die. If I could bring before this House just one of these children and lay upon the hearts and the minds of our colleagues the enormity of this tragic situation, I know that no American could turn his or her back on that child.

As the gentleman from Wisconsin has

noted, his amendment contains language to insure that this assistance will go only to the victims of Communist repression in Cambodia, not to the perpetrators of that repression.

I strongly urge the support of our colleagues for this lifesaving amendment.

I also commend the gentleman from Florida (Mr. YOUNG) for his remarks.

I must say that someone a good deal wiser than I am once said, "By their fruits ye shall know them."

We have seen the fruits of Asian communism in repression, in hunger, and in the desperation of people fleeing from Vietnam, the people whom we seek to help in this basic legislation. We have seen the terrible condition of the people of Cambodia.

Mr. Chairman, let us show the world the fruits of our country by giving this urgently needed assistance to those who ask us for help.

□ 1710

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Washington.

Mr. DICKS. I thank the gentleman for yielding.

Mr. Chairman, in August I had the opportunity, along with my colleague, the gentleman from Washington (Mr. PRITCHARD), to visit a refugee camp on the border of Thailand near Aranyaprathet, and I can tell the Members that the situation there is very, very grim.

We had a chance to talk to a number of Cambodian refugees personally there, to have them tell us about the situation. The report that came back from the three Members of the other body who were there indicates clearly that there is tragic human necessity for this, and I think that the chairman's amendment is a good one. We have just got to do everything we can to help deal with this very significant problem.

Mr. FASCELL. I thank my colleague for his statement and for his report.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, I, too, want to commend both gentlemen, as well as the chairman of the full committee and all of the members of the committee on both sides for their expeditious action in having this matter reported to us on the floor for action. Of course, I hold no brief at all either for the Vietnamese Government or for the current Cambodian regime and its immediate predecessor, the Pol Pot regime, but it seems to me that at this time, when we are in fact demonstrating in this body and in this country a sense of compassion and humaneness, that we ought to try to restrain ourselves from the extreme self-righteousness that some few Members of this body have exercised in the last few minutes. It seems to me that, when you talk about less-than-civilized behavior in Southeast Asia over the course of the past decade, we have some things to be regretful about, too.

Mr. Chairman, I rise in strong support of H.R. 4955, the supplemental authorization for refugee assistance, and the amendment to the bill which would authorize $30 million in emergency disaster relief for the people of Cambodia.

The human dislocation and famine occurring today in Southeast Asia cries out for worldwide attention and action. Literally millions of people are now homeless and on the brink of death by starvation in a region that has not known peace or security for three decades. We here in the Congress of the United States and, indeed, all governmental leaders throughout the world have the power and the resources to end this mass misery and to save many lives.

I salute President Carter's humane response to the situation in Cambodia. I also endorse the administration's commitment to helping refugees from Vietnam and Laos. It is most fitting that the United States should take a leading role in the international effort to prevent famine and to provide refuge for the victims of tyranny and cruelty in Southeast Asia. Immeasurable pain has been inflicted on the people of that region, and our Nation has a clear responsibility to help heal the wounds resulting from our own involvement there.

The legislation and the amendment to it seem to me to contain effective safeguards against misuse of the proposed assistance. Although there are obviously difficult obstacles to aid distribution in Cambodia, it is nonetheless essential that we act today to make available vital food resources. By approving H.R. 4955 and the amendment to it, we will set in place the assistance program that can be put into full and immediate operation once the necessary tactical planning has been completed.

I must point out in conjunction with this measure that no benefits accrue to the people of Vietnam and Cambodia by U.S. refusal to recognize the government in Hanoi. Unlike the current situation in Pnom Penh, the regime in Hanoi has been long established and faces no serious internal challenge to its rule. The United States could facilitate disaster relief operations in all of Southeast Asia by opening diplomatic channels to Vietnam. It does no good to either side—and especially to the people of Southeast Asia—to continue the policy of nonrecognition of Vietnam.

Certainly, the Hanoi regime is guilty of atrocious crimes against its own people and those of a neighboring country. But a degree of the current social chaos prevailing throughout the region is a result of U.S. devastation of Vietnam, Cambodia, and Laos. The way to alleviate the suffering and to encourage stability is not by ignoring the existence of key authorities in the area, but instead by employing diplomatic and political leverage to promote humanitarianism.

Mr. Chairman, I urge all my colleagues to support H.R. 4955 and the Cambodian relief amendment. And I urge them also to consider normalization of relations with Vietnam as an effective means of furthering our commendable relief efforts in Southeast Asia.

● Mr. CONTE. Mr. Chairman, yesterday's Washington Post contained an article which brought my busy life to a startling halt. It made me forget for a moment the multitude of problems confronting us during the legislative day of October 24, the days and weeks before that, and the days and weeks to come. It made me forget the facts and figures, dollar signs, meetings, hearings, and receptions. It made me forget my typical daily priorities and define reality by one AP wirephoto, a picture that catapulted me across the globe, that dropped me into a shocking state of awareness—a state to which I would like to draw the attention of my colleagues here this morning.

The picture was taken in a part of the world that is so ravaged by hunger and disease, so ravaged that young and innocent children, just like the nameless child captured by this camera, die of starvation and serious disease every second of the day. I have read of the thousands that have perished, but nothing has moved me as greatly as this one picture, blatantly posted on the front page, and the story which accompanied it.

I am sure that many of my respected colleagues have seen this picture—or have been haunted by similar ones. It is the most concise statement that can be made on the need—no, on our obligation, to put an end to the inexcusable cessation of life in a part of the world that however far from these United States, is close enough to be reached by telecommunication and aviation. This picture of a 5-month-old child, who starved to death and left nothing to the world but skin and bones and eyes, will not escape my memory. He represents a worldwide reality—one confronting 80 percent of humanity daily. It is an obscenity which we try desperately to forget. But I cannot forget.

The majority of people in Cambodia bear a striking and shocking resemblance to that child—they are little more than walking skeletons. Cambodia is on the other side of the globe. So far away that we cannot comprehend the commonality of tragedies such as the one that befell this nameless boy. And even if we do attempt to understand, we tend to shirk the responsibility we do have to halt their continuation. Well, they are a reality. Death and disease spread as I speak now. And if we claim to be human beings, we assume the responsibility to do something about this tragedy.

The American people, and the Congress which speaks for them, are worried about energy, the economy, skyrocketing food prices, and unemployment statistics. And they should be. But these same people are possessed with a humanitarian spirit which, in crisis situations, has always dictated a call to action—a call which is heard today—a call which we in Congress can answer.

Mr. Chairman, as a human being, I rise to this call. I rise in support of this legislation before us for consideration.

And I say to those who mumble that we can hardly justify "another $30 million for foreign assistance," that I cannot in my right mind justify either this picture, or the obscenity that it represents.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. ZABLOCKI).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 362, noes 10, not voting 61, as follows:

[Roll No. 605]

AYES—362

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Hawkins
Hefner
Heftel
Hillis
Hinson
Holt
Holtzman
Hopkins
Horton
Hubbard
Hughes
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Lederer
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Lundine
Lungren
McCloskey
McDade
McHugh
McKinney
Madigan
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Mitchell, Md.
Mitchell, N.Y.
Mollohan
Montgomery
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patterson
Pease
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Rose
Rostenkowski
Roth
Rousselot
Roybal
Royer
Runnels
Russo
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOES—10

Benjamin
Collins, Tex.
Crane, Daniel
Dannemeyer
Hansen
Ichord
Kelly
Leath, Tex.
McDonald
Paul

NOT VOTING—61

Ashley
AuCoin
Barnard
Brademas
Brooks
Burton, John
Chisholm
Clay
Davis, S.C.
Dickinson
Early
Flood
Foley
Fuqua
Guarini
Harsha
Heckler
Hightower
Holland
Hollenbeck
Howard
Huckaby
Jones, N.C.
Leach, La.
Lee
Livingston
Luken
McClory
McCormack
McEwen
McKay
Maguire
Minish
Moakley
Moffett
Moore
Moorhead, Pa.
Ottinger
Patten
Pepper
Petri
Railsback
Roberts
Rodino
Roe
Rosenthal
Rudd
Santini
Scheuer
Shuster
Skelton
Stark
Symms
Treen
Van Deerlin
Whitehurst
Whitley
Wilson, Bob
Wilson, C. H.
Winn
Yatron

□ 1720

Mr. FITHIAN and Mr. HANCE changed their vote from "no" to "aye."

Mr. DANNEMEYER changed his vote from "present" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1730

Mr. MARRIOTT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would just like to make one point if I may, and I will be very brief so that we can get on to the vote. But there has been some concern about how these refugees are fitting into American lifestyle.

I would like to report in my district in Utah we have about 2,600 refugees. Ninety-five percent of them are employed without displacing any other workers.

I would like to congratulate the National Semiconductor Co. in Utah. This company, Mr. Chairman, in Salt Lake, is not only employing a great many of these refugees, they are also teaching these people English on company time. It has proven out that some of these refugees are now the most productive people they have in their company.

If I could just make three points. One is the free enterprise system is capable of handling these refugees. More companies ought to follow the example and the method of the National Semiconductor Co. Lastly, these refugees need not be on the Federal payroll very long, because the free enterprise system can handle them.

● Mr. AuCOIN. Mr. Chairman, there is before us, and before the world, a tremendous tragedy unfolding in Southeast Asia. The Cambodian people face extinction due to mass starvation and widespread disease. I fully applaud the President's pledge last night of $69 million in relief assistance. It is unfortunate we did not respond months ago when this calamity first became apparent. Now it is imperative that we immediately move to insure that prompt action is taken to distribute food and medical supplies.

Six years ago America was involved in an unfortunate and disastrous war in Indochina. Now that U.S. combat troops have left, we have all but turned our backs on the plight of these people. The aftermath of the war has brought incomprehensible suffering and misfortune to the people of Cambodia, and all of Indochina. The greatest disaster is the famine facing millions. This threatens to be one of the greatest unnecessary losses of human life which the world has ever known. It is of utmost importance that the United States, for both political and humanitarian reasons, move as quickly as possible to help.

The Khmer civilization was once a powerful and flourishing empire. From Phnom Penh, Buddhist kings held court over a fertile land between the then tiny Thai and Vietnamese kingdoms. For 500 years, from the 9th to the 14th centuries, it remained the dominant cultural and economic center of Southeast Asia. Architectural wonders such as Angkor Wat, a spectacular Hindu temple erected prior to Cambodia's conversion to Theraveda Buddhism, remain as landmarks of their great achievement.

The early Thai kingdom of Ayudhya borrowed heavily from the Cambodian empire to enhance its status and legitimacy. However, within a century after Ayudhya's emergence in the mid-14th century it had reduced the Cambodian dominion to a shadow of its former self. The Thais sacked the capital and carried off much of its riches.

At the same time, the Vietnamese at Hue were pressing in from the east, and by the mid-18th century the Cambodian court was a shambles. Caught between its now larger and war-hardened neighbors, Cambodia was forced into ceding territory and wealth in return for short-lived alliances.

By the 1860's, the Cambodian King welcomed the French appearance in the vain hope they would serve to restrain the Thais and Vietnamese while guaranteeing Cambodian sovereignty. It turned out to be simply trading masters as Cambodia remained under French rule until 1953.

Independence after 1953 proved dangerous as well. In the mid-1960's North Vietnam established bases within Cambodian territory. Following this in 1969, the new notorious secret bombing of Cambodia was carried out by the United States.

The Cambodians, who have been victimized for centuries, now stand at the brink of final destruction. War, famine, disease, and foreign occupation are consuming an entire people with a genocidal wrath.

Between 2 and 3 million people—as many people who live in my home State of Oregon—may perish if relief does not arrive immediately.

U.S. State Department officials estimate that around 90 percent of Cambodia's arable lands lie fallow. The nation lacks even the grains to plant for next year's harvest. Out of desperation the seed needed for this December's planting is being eaten. And, like the seeds consumed before spring's planting, the youth of the nation are dying. An estimated 80 percent of the country's children face starvation. Many of these children never will recover from the disabling effects of malnutrition on their mental and physical development, even if aid does arrive.

As someone who has spoken out in support of efforts to end world hunger, such a prospect is unthinkable.

I am convinced these problems can be solved if we act—decisively and quickly.

To be sure, many physical and political obstacles stand in our way. The situation demands an international effort and careful coordination. We, as a world leader, are in a position to make the difference.

Aid efforts are underway, these will not be adequate. The World Food Program and Oxfam are sending several thousand tons of rice. Three shipments will arrive before the end of the month. UNICEF and the International Red Cross are spearheading the effort. Their work is to be commended. However, according to the Washington Post, as of this October 14, only 200 tons of rice has reached Cambodia over the past 9 months—which equals approximately one-fifth of 1 day's estimated requirements. A minimum estimate of 600 tons of rice per day will be needed over the next several months. Current aid efforts can provide only part of what is needed.

Cambodia's needs will not end with the arrival of rice and medical supplies. Beyond the immediate famine, future prospects are very dim. Cambodia will need assistance in rebuilding its entire economy and means of production for years to come.

Recently I returned from the annual International Monetary Fund conference in Belgrade, Yugoslavia where Robert McNamara, president of the World Bank, spoke. Mr. McNamara severely rebuked the United States for standing in the way of international assistance to countries such as Cambodia and Vietnam. The only project under way is a $60 million loan to Vietnam for food production. While no other loans are in the offing, there is a request for another $60 million loan for an irrigation project benefitting 21,000 farm families or about 110,000 people. McNamara said it is unbecoming of our world leadership position, and more important, it was counterproductive to U.S. foreign policy aims. I could not agree more.

Regardless of political persuasions, the people of both these nations are suffering. We have both a responsibility and an opportunity to help. It is not in our tradition to refuse a helping hand.

Ten years ago we engaged in bombing missions in Cambodia. Some argue this led to the chaos which currently reigns there. Whether true or not, it would be hypocritical of us now to refuse the Cambodian people food aid when their need is so desperate. It would make President Carter's "human rights" policy a sickening farce.

It has been estimated that the food, medical supplies, and shelter required to avert the famine and disease will cost around $100 million. To date the United States has contributed $7 million. A bill to appropriate another $30 million will soon be before the full Congress. This is our chance to demonstrate our concern for the Cambodian people, and for all people no matter what their race, religion, or politics.

I strongly urge the Congress appropriate $30 million in aid as proposed in bill H.R. 5443, introduced by my distinguished colleague Mr. ANDERSON. There is no excuse for delaying immediate action. Agreements have already been arrived at to insure proper monitoring of aid distribution. Voluntary relief organizations are already mobilized to work. We have only to demonstrate our commitment to join the international community in helping provide the Cambodian people with the means to escape starvation and live.

Beyond this, I urge my colleagues to reexamine their views on foreign assistance to all nations of the region. Our policies of ignoring Vietnam and Cambodia, in the childish hope that we can forget the past, are shortsighted and potentially dangerous. The American-Vietnam war is over. Now is the time to build for the future, not look to the past. Now is the time for the United States to assume its rightful place as a leader of the international community of nations in seeking stability, peace and freedom in Southeast Asia. Our past involvement in Vietnam gives us a unique vantage point, and a special opportunity, to exercise forward-looking diplomacy. And there is no better start than to step forward and provide aid for starving millions.●

The CHAIRMAN. If there are no further amendments, under the rule the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. ROSTENKOWSKI) having assumed the chair, Mr. PEYSER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4955) to authorize an additional appropriation of $207,290,000 for the fiscal year 1980 and $203,610,000 for the fiscal year 1981 for migration and refugee assistance, pursuant to House Resolution 418, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 301, nays 69, not voting 63, as follows:

[Roll No. 606]

YEAS—301

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Aspin
Atkinson
Badham
Bailey
Baldus
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Bennett
Bereuter
Bethune
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bonker
Bowen
Breaux
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Cheney
Chisholm
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Philip
D'Amours
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Florio
Ford, Mich.
Ford, Tenn.
Forsythe
Frenzel
Frost
Garcia
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Gray
Green
Grisham
Guyer
Hagedorn
Hall, Ohio
Hamilton
Hammerschmidt
Hanley
Harkin
Harris
Hawkins
Heckler
Heftel
Hillis
Hinson
Holtzman
Horton
Hubbard
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Lederer
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Long, La.
Long, Md.

Lowry
Lujan
Lundine
Lungren
McCloskey
McDade
McHugh
McKinney
Madigan
Markey
Marks
Marriott
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Mineta
Mitchell, Md.
Mitchell, N.Y.
Mollohan
Moorhead, Calif.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patterson
Pease
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Rostenkowski
Roth
Roybal
Royer
Russo
Sabo
Sawyer
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Shumway
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Synar
Tauke
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Waxman
Weaver
Weiss
Whittaker
Williams, Mont.
Williams, Ohio
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Young, Fla.
Young, Mo.
Zablocki

NAYS—69

Andrews, N.C.
Archer
Ashbrook
Bafalis
Barnard
Bauman
Benjamin
Bevill
Bouquard
Brinkley
Broyhill
Chappell
Collins, Tex.
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Devine
Duncan, Tenn.
English
Flippo
Fountain
Gaydos
Ginn
Gramm
Gudger
Hall, Tex.
Hance
Hansen
Hefner
Holt
Hopkins
Hughes
Ichord
Jeffries
Jenkins
Jones, Tenn.
Kelly
Kindness
Kramer
Leath, Tex.
Loeffler
Lott
McDonald
Marlenee
Martin
Mathis
Miller, Ohio
Montgomery
Mottl
Myers, Ind.
Nichols
Paul
Quillen
Robinson
Rose
Rousselot
Runnels
Satterfield
Sebelius
Shelby
Snyder
Steed
Stenholm
Stump
Taylor
Watkins
White
Whitten
Young, Alaska

NOT VOTING—63

Addabbo
Ashley
AuCoin
Boggs
Brademas
Brooks
Burton, John
Clay
Davis, S.C.
Dickinson
Early
Flood
Foley
Fowler
Fuqua
Guarini
Harsha
Hightower
Holland
Hollenbeck
Howard
Huckaby
Jones, N.C.
Leach, La.
Lee
Livingston
Luken
McClory
McCormack
McEwen
McKay
Maguire
Minish
Moakley
Moffett
Moore
Moorhead, Pa.
Ottinger
Patten
Pepper
Petri
Roberts
Rodino
Roe
Rosenthal
Rudd
Santini
Scheuer
Shuster
Skelton
Solomon
Stark
Symms
Treen
Van Deerlin
Whitehurst
Whitley
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Yatron
Zeferetti

☐ 1740

The Clerk announced the following pairs:

On this vote.

Mr. Foley for, with Mr. Rudd against.

Mr. Addabbo for, with Mr. Leach of Louisiana against.

Until further notice:

Mr. Brademas with Mr. Winn.

Mr. Moakley with Mr. Bob Wilson.

Mr. Santini with Mr. Dickinson.

Mr. Rodino with Mr. Harsha.

Mr. Pepper with Mr. Lee.

Mr. Charles Wilson of Texas with Mr. Hollenbeck.

Mr. Scheuer with Mr. Livingston.

Mr. Ottinger with Mr. McClory.

Mr. Patten with Mr. Shuster.

Mr. Roberts with Mr. Symms.

Mr. Skelton with Mr. Whitehurst.

Mr. Whitley with Mr. Solomon.

Mr. Roe with Mr. Petri.

Mr. Stark with Mr. Moore.

Mr. Rosenthal with Mr. McEwen.

Mr. Charles H. Wilson of California with Mr. Hightower.

Mr. Holland with Mr. Jones of North Carolina.

Mr. Maguire with Mr. Huckaby.

Mr. Guarini with Mr. McCormack.

Mr. Fuqua with Mr. Davis of South Carolina.

Mr. Early with Mr. Clay.

Mr. Fowler with Mr. John L. Burton.

Mr. Brooks with Mrs. Boggs.

Mr. Ashley with Mr. AuCoin.

Mr. Yatron with Mr. Zeferetti.

Mr. Minish with Mr. McKay.

Mr. Moffett with Mr. Moorhead of Pennsylvania.

Mr. Luken with Mr. Van Deerlin.

Mr. Howard with Mr. Flood.

Mr. HALL of Texas changed his vote from "present" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

☐ 1750

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, H.R. 4955.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

TITLE AMENDMENT OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. FASCELL: Amend the title of the bill to read as follows: "An Act to authorize additional appropriations for migration and refugee assistance for the fiscal years 1980 and 1981 and to authorize humanitarian assistance for the victims of the famine in Cambodia.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

PERSONAL STATEMENT

Mrs. HECKLER. Mr. Speaker, during the consideration of the Zablocki amendment to the bill, H.R. 4955, I was momentarily called off the floor to handle an issue of great significance for my district. Had I been present at the time of the vote, I would have voted "aye," and I would like the RECORD to show that.

1978 ANNUAL REPORT ON ADMINISTRATION OF RADIATION CONTROL FOR HEALTH AND SAFETY ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Interstate and Foreign Commerce:

To the Congress of the United States:

I transmit herewith the 1978 Annual Report on the Administration of the Radiation Control for Health and Safety Act, as required by Section 360D of the Public Health Service Act (42 U.S.C. 2631).

JIMMY CARTER.

THE WHITE HOUSE, *October 25, 1979.*

GINZBURG FAMILY HELD IN SOVIET UNION

(Mr. JEFFORDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JEFFORDS. Mr. Speaker, this Saturday, October 27, marks the 6-month anniversary of what should be a happy event in the life of Alexander Ginzburg. A half year ago, Mr. Ginzburg was freed from the severe hardship he had endured as a Soviet prisoner of conscience, and arrived in this country as a result of a prisoner exchange between the United States and the U.S.S.R. As part of the exchange, Mr. Ginzburg had assurances that his wife and family would soon be joining him, to begin a new life in America.

Tragically, that agreement, to which our country is a party, has not yet been fulfilled. Mr. Ginzburg's family—his aging mother, his wife, and their children—remain in the Soviet Union, enduring the most difficult of conditions. The Soviets are denying their freedom, under the excuse that one of the Ginzburg children, Sergei, has not been legally adopted. This Soviet claim has been soundly refuted, but the Soviets have so far refused to alter their position. Understandably, the Ginzburg family has refused to depart from the U.S.S.R. if one family member is forced to remain there for continued persecution.

With ever passing day, this human tragedy is prolonged. Mr. Ginzburg will not realize freedom until he is reunited with his family. His wife, Irina, will mark the 6 month anniversary this Saturday with a news conference and public statement in Moscow.

Along with millions of other Americans, I look forward to hearing news of her plight. But incredibly, public interest, especially interest by the American news media, appears to be waning. We, as Members of the U.S. Congress, must be aware that our continued interest and concern, and the continued concern of the American people, is crucial to any hope that the Soviets may reconsider their position and release this heroic family.

During these past 6 months, Alexander Ginzburg has spent every moment trying to help others by telling Americans of his own experiences and continuing to promote human rights in the Soviet Union, not only on behalf of his own family, but for all Soviet prisoners of conscience and their families.

Over 200 of my colleagues in the House have joined me in a letter to President

Carter, urging him to negotiate with the Soviet Union at the highest level to secure the right of Sergei and the Ginzburg family to emigrate to the United States.

The situation, however, still appears to be at a stalemate. I know my colleagues in the House join me in the hope that it will be resolved favorably, and soon. This family has suffered far too long. In the meantime, it is imperative that the 6-month anniversary of their unnecessarily prolonged suffering not pass unnoticed.

CSCE COMMISSION CHAIRMAN DECRIES TRIAL OF CHARTISTS

(Mr. FASCELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FASCELL. Mr. Speaker, as chairman of the Commission on Security and Cooperation in Europe, I denounce the trial of six members of the Czechoslovak Charter 77 human rights movement. The charges of subversion against them are fabrications and distortions that reflect the paranoia of the Czechoslovak Government when its citizens seek to exercise the basic human rights specifically guaranteed to them by the Helsinki Final Act and the U.N. human rights agreements.

The six dissidents, members of the Charter's Committee to Defend the Unjustly Persecuted, faced the charges of subversion "on an extended scale" conducted in conjunction with foreign agents and "inflammatory centers."

"I want to make it clear to the Czechoslovak authorities and all other governments which have the habit of heaping abusive terms on anyone who is critical of them—in their own country or abroad—that such denunciations are totally contrary to the Helsinki spirit.

Playwright Vaclav Havel, 43, was sentenced to 4½ years; economist Peter Uhl, 38, was given 5 years; Vaclav Benda, 33, a former spokesman for the Charter 77 was sentenced to 4 years; former television commentator Jiri Dienstbier, 42, and Otta Bednarova, 54, a journalist, were given 3-year sentences; and Dana Nemcova, a Roman Catholic dissident was given a 2-year sentence that was suspended.

Since the Commission on Security and Cooperation in Europe was one of the first organizations to publish material from the charter movement, I suppose we have the honor to be called an inflammatory center. The Commission has published a collection of unofficial documents from the Soviet Union and Eastern Europe entitled "The Right To Know, the Right To Act," in May of 1978.

Far from being moribund—as it had been erroneously reported in the Western press—the charter has tended to function less as a core group and more as an umbrella organization. The charter—which has a constant membership of about 1,000 people drawn from all classes and generations—continues to issue reports on subjects of interest to Czechoslovak citizens.

The charter has assisted in instituting an independent information system—1,000 samizdat materials since January of 1977—and a samizdat publishing enterprise—150 books and many underground periodicals. In May of 1978, a new organization was formed to speak out for individual cases of human rights violations. This new group, called the Committee for the Defense of the Unjustly Persecuted (VONS) has released over 100 information bulletins for which Peter Uhl was the acknowledged editor.

Mr. Speaker, there was one sign of the Czechoslovak Government's sensitivity to the international outcry at the wave of arrests of Chartists.

Two officials came to Vaclav Havel in prison and offered him release from prison if only he would accept U.S. director Joseph Papp's offer to come to New York to work in his theater. Mr. Havel refused, saying he would not consider the offer unless the charges against his imprisoned colleagues were dropped.

Mr. Havel's bravery is in glaring contrast to the repressive acts of the frightened Czechoslovak Government. If Czechoslovakia wishes to be accepted as a respected members of the world community, it should uphold the human rights pledges it signed at Helsinki.

Mr. BUCHANAN. Mr. Speaker, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Alabama.

Mr. BUCHANAN. I thank the gentleman for yielding. Mr. Speaker, the distinguished Chairman of the Helsinki Commission has spoken the truth and has spoken it well for all of us.

THE ALL-IDAHO MULTIPLE-USE LAND MANAGEMENT ACT OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Idaho (Mr. SYMMS) is recognized for 5 minutes.

● Mr. SYMMS. Mr. Speaker, this Congress presently faces the strongest public lack of confidence in its 191-year history. Americans are more and more certain that this body cannot effectively deal with energy, inflation, taxes and our foreign policy. We in Congress are racing to a crossroads when we must make the hard decisions necessary to rekindle citizen support of our abilities.

Westerners, as exhibited by the growing popularity of the Sagebrush Rebellion, are no exception to the general public sentiment. Their displeasure is mounting over the way in which the Federal Government is managing the public lands located within the borders of their States. The West is rebelling because their feelings are consistently being ignored by urban congressional interests who have little understanding of Western issues. The bottom line is that Washington is not responsive to the needs of our citizens. While the citizens look to Congress to lead the country, the Congress has floundered in indecision and lack of commitment. Congress, who has the express power to engineer our country's destiny is playing in the sandbox when we should be plowing the fields.

Our congressional leadership is afraid to make the decisions that can straighten the country out because they are afraid of the possibility of making a wrong decision. The Alaska lands controversy was a perfect example of the contradictory actions of this Congress. After publicly acknowledging its concern over a crisis of energy and resource production and overdependence on oil from the Middle East, the Congress showed that concern by passing the Alaska lands bill, which effectively guaranteed our continued dependence on imported oil. This, Congress said, was done for future generations. What we really are doing for future generations is to lock them into a state of energy immobilization.

The impacts are similar in my own State of Idaho, which contains the largest repository for nonproductive wilderness in the Lower 48 States.

Wilderness is not new to Idaho, a comparatively young State which is 64 percent federally owned. The best wilderness decision ever made in Idaho was the 1934 establishment of the Idaho Primitive Area. It should have been the only wilderness decision made in my State. Since that time, Congress has repeatedly enacted more and more wilderness, on a piecemeal basis, with the perpetual promise that each would be the last.

With the establishment of the Selway-Bitterroot and Salmon River Breaks Areas in 1936, the subsequent additions of the Sawtooth and Hells Canyon National Recreation Areas and the existing or pending wilderness proposals, fully one-fifth of my State could be locked into single-use wilderness. For those of you who may have difficulty grasping the sheer size of that area, it would, if granted statehood, be larger than eight of the sovereign States.

If there were no existing alternatives to statutory wilderness, I could understand its overwhelming popularity, but the Wilderness Act of 1964 amended the Multiple-Use-Sustained-Yield Act of 1960 to include wilderness management in administrative multiple use. The administrative wilderness differs from statutory wilderness in its flexibility—it can be tailored to the peculiarities of the area. Administrative wilderness could feasibly be thinned and treated to prevent bug investigation, it could be primitively roaded, and the access to the roads controlled, so that in wilderness areas as large as those in Idaho, a forest fire could be handled quickly and efficiently, and finally, the status could be reviewed and changed in the event of an emergency such as a crisis in energy mobilization of timber or nonfuel mineral shortage.

Let us look at a few of the facts that face Idaho:

First. Dependence on imported timber, oil, and nonfuel minerals is increasing at an alarming rate as a result of fine timber stand lockup, poor reforestation policies, closure of oil exploration in the public lands of the overthrust belt, and lockup of valuable cobalt, molybdenum, and other presently imported nonfuel minerals.

Second. The Federal lands policy in Idaho has already resulted in the closure of two lumber mills, not to mention untold mining and oil and gas employment opportunities. We are losing economic ground in Idaho, a resource rich State that has significant potential to aid the energy mobilization potential of our country.

Third. Wilderness recreation use makes up only 5 percent of all public lands recreation. This useage has not increased with the establishment of more wilderness. The fact is that this land is virtually inaccessable, making it a playground for those who are able to afford to take a significant amount of time from their employment and who are physically able to enjoy a wilderness experience.

Fourth. Wilderness withdrawals of timber, mining, and oil resources add to the cost of inflation by limiting domestic supply and requiring the import of these vital resources, the result of which is the loss of the production stage of the economic multiplier effect for domestically produced goods.

Fifth. Contrary to cries that multiple-use management is development oriented, approximately half of Idaho's public land, which was managed as multiple use for more than 50 years, remained undeveloped during that time. There is no evidence that a departure from single use to multiple-use land status would change that.

All factors considered, Federal wilderness designations must be made with more consideration given to the State or Nation as a whole. We cannot manage wilderness as we do the Federal budget, without regard to how much we are spending and how overallocation affects the citizens of America. Furthermore, we cannot afford to keep the workers, producers, and employers of this country in the dark regarding future Federal land policy. The lands which Congress chooses not to allocate to single-use wilderness status, must be returned to the productive economic sector for exploration and rational development of the resources we so desperately need.

Consequently, I am introducing with Congressman HANSEN to this body the all Idaho multiple-use land management proposal, which consolidates all of the Idaho land management proposals for Forest Service land into a single legislative package which consists of two bills.

This rational legislation presents a workable compromise between the Senate proposals prompted by the administration and environmental groups and the proposals of those who feel there should be no wilderness in Idaho whatsoever. It provides for Idaho's fair share of wilderness by setting a limit.

Specifically, the bills accomplish three major goals which I feel are essential to a rational Idaho land management approach: First, the first bill would establish a 3.5-million-acre ceiling on Idaho wilderness. This cap resembles those which Congress places on Federal expenditures in that its intent is to outline the whole picture and determine the size of the frame before we begin to paint the details. Like fiscal caps, the wilderness cap would require us to place priorities on land use enactments. My bill would also provide for the exchange of the status of lands, within the cap, from wilderness to nonwilderness, and vice versa. The provision takes into account the fact that land use priorities may change in upcoming years.

Second, the second House bill would require the instant release to multiple use of all lands not specifically designated as wilderness for further planning. The released land would be afforded the same statutory protection as is presently in force for wilderness land. This provision would free current administrative restrictions on Federal land usage, thus stimulating rational development of vital domestic resources and lessening our country's dependence on foreign imports.

Third. Finally, the legislation would designate 1.4 million acres of wilderness in Idaho bringing Idaho's total wilderness contribution to 2.9 million acres. Idaho would still be the largest repository for wilderness in the lower 48 States, but there would be less interference with the economy of the State under my proposal than under other proposals. The remaining 600,000 acres in limbo would be established by priority and through congressional enactment.

Although there are those in Washington who may point to the recent comments of the distinguished chairman of the House Interior Committee, to the effect that an all Idaho approach is not feasible, we can no longer overcompromise the issue. The honorable Secretary of Interior, former Idaho Governor, Cecil Andrus, has stated that Idaho has indeed contributed more than its share of wilderness. Piecemeal enactment of more wilderness under the pending proposals will only exacerbate that already extreme contribution.

I am presenting the views of a State whose wish is to influence policy over the public land within its borders. I speak for the rights of States and for the majority of the citizens in my State when I say there must be a limit placed on wilderness in Idaho and elsewhere throughout this Nation. We are rapidly approaching that limit.●

SHABBY TRICKS AT SBA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. MARTIN) is recognized for 60 minutes.

GENERAL LEAVE

Mr. MARTIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the topic of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. MARTIN. Mr. Speaker, most Americans have been comforted to believe that this President of the United States was telling us the truth when he said that with civil service reform, managerial appointments were going to be taken out of the sorry pattern of patronage politics and elevated to a higher standard of merit selection.

Phooey. We have just uncovered Democratic dirty tricks at the Small Business Administration. Just like in olden times. This past week the Small Business Administration announced a new policy to reassign a select list of District Directors, 16 out of the 63 in all, to new locations far removed from their present positions. This smells of the old "politics as usual" device to force Republicans either to move to unfamiliar locations or else move out: Resign, and make room for deserving Democrats. Some reform.

In the case of George Marshall in my district of Charlotte, N.C., despite the fact that he is a civil service employee, presumably therefore immune from such political shenanigans if the system is run "on the level," despite the fact that he has good marks from Democrats and Republicans, including Democrats in high elected office, despite grassroots support for keeping him in North Carolina where his work is appreciated by Indians, blacks, and women's business groups alike, despite even the fact, Mr. Speaker, that he recently had a heart attack before they mailed the order to him, this order will callously disregard all that, pack him off to Iowa, a nice State where another Republican is in turn being packed off to other distant horizons.

All this is being done under the bald-faced pretense that, according to a statement from the Small Business Administration Administrator, Vernon Weaver, "is to enhance their career development." That statement is so transparently phony that Mr. Weaver is currently on a 3-week foreign junket to avoid having to answer embarrassing questions. His published statement did, however, promise that no more such rotations would be contemplated for another 18 months, that is, until after the next elections.

Mr. Speaker, I called the SBA to check out what is a nearly irresistible suspicion, a tantalizing suspicion, that this was just a blatant partisan dirty trick, despite the President's assurances to the contrary. All hands at SBA dutifully insisted that all was purest innocence, that all transfers were legitimate. They could not think of any of the 16 who were not doing a good job, but asserted that "the effective ones needed tougher assignments." Yet I was reassured that one other Republican was being kept in his same position for the very reason that he was doing a good job. Most curious. The more I heard, the more suspicious I became.

Who ordered this party-line shakeup, Mr. Speaker? The President of the United States? Surely not. His top political aides? Perhaps not. Or was it all as innocent as I was being assured? Baloney.

The conversation really got cute when I asked about the registration of the 16 on the hit list. Would you believe it, nobody at the Small Business Administration had any idea. There was no such list, I was told. No one had thought or dared to check such information, so as not to appear partisan.

□ 1800

They assumed the federation would be random. Ah, yes. Along the way I learned that all the SBA people I talked to were recently installed in their positions and

I began to wonder, indeed, if they had been placed there to do a hatchet job on holdover Republicans, to find a new way to get them out of the way. Yet, I still found that hard to believe for two reasons. First, this President had insisted that all was pure and righteous altogether in this administration. Second, because 1980 is expected to be a significant year for loans, what with interest rates so high, and great care would surely be taken to safeguard the interests of small businesses rather than the interests of small politicians or large politicians, surely.

It was just on March 2 of 1978 this President proposed civil service reform to "insure that employees and the public are protected against political abuse of the system."

I asked SBA and other contacts for evidence that some of these assignments were Democrats, expecting to find some random distribution as proof of the avowed innocence in high places. Officials at SBA just plain refused to accept that bait. They clearly did not think party registration was a factor.

Finally, one of them, whose name I withhold to protect the innocent, did agree, since I was a U.S. Congressman, to at least tell me some names and phone numbers of the ill-starred District Directors. I hoped there might be a chance they would know their own party registration, just as a casual matter, of course, even if it were not a factor. Surely 8 or 10 of the 16 or at least 1 or 2 would turn out to be Democrats. I only talked to one. The first and only one that I talked to by phone was evasive and circumspect because he could not verify that I said who I said I was over the phone. A curious reaction, Mr. Speaker.

Not wishing to place others in fear of being disloyal, I then resorted to public records and voter registration lists which could, when necessary, easily be checked by phoning the Director's secretary to confirm his place of residence.

Mr. Speaker, out of a total of 63 District Directors for the Small Business Administration, only 16 were shuffled by this phony policy. Of these 16 Directors on the hit list, not one was a Democrat. Fifteen are Republicans, one is an independent.

Mr. Speaker, surely this House with all its piety and sanctimony is not so jaded that it will not recognize an outrage when it smells one.

Mr. Speaker, I respectfully request that the Congress investigate this sordid shuffle to see for itself whether this is a partisan misuse of Federal funds to arbitrarily and callously relocate experienced managers to unfamiliar territory, and I will also submit to the U.S. Civil Service Commission a request that it review this political throwback to see if it is an illegal attempt to circumvent the job security safeguards they have set up.

Mr. Speaker, I call upon President Carter, urging him to demand an explanation and a resignation by any subordinants who cooked up such a scheme, before it embarrasses him and discredits the integrity of his avowed and earnest efforts to lift this Government above petty politics.

Mr. ASHBROOK. Will my colleague yield, Mr. Speaker?

Mr. MARTIN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank my colleague for bringing this to our attention. I am personally aware of, I might even say I am involved in, the so-called transfer of the Columbus, Ohio, Small Business Administration Director. My guess would be he had been there for 7 or 8 years. A long enough period to have a very good reputation and I think Mr. Ray is being transferred to Boise, Idaho, or somewhere like that.

Mr. MARTIN. Helena, Mont., where his experience and knowledge of local conditions and the business community will certainly make him much more effective than in Columbus, Ohio, where, after all of these years, he obviously would not know how to go about his business. I say that entirely satirically.

Mr. ASHBROOK. I thank our colleague from North Carolina, for bringing this to our attention.

We will wait with bated breath while these wonderful guardians of morality and improved civil service look into this matter and bring back a report or those dastardly people are prosecuted and punished. We will wait with bated breath on all this. I do thank my colleague for bringing this to our attention.

Mr. MARTIN. We shall either see whether there is reaction or we shall hear overwhelming silence which will tell us all we need to know as well.

It is interesting, in regard to what the gentleman from Ohio has said, that on April 30, 1976, the Small Business Administration circulated a special notice regarding qualifications to be District Director in 1 of the 63 offices it runs. It added one important minimum, significant job-related element that has to be met by a candidate for this office; namely, "good working knowledge of the local (or comparable) banking, financial and business community."

The complete text of the special notice I refer to follows:

April 30, 1976.

Special Notice No. E–1C

Subject: Change in SBA Qualification Standard for Regional and District Directors and Branch Managers, and revised certification procedures for District Director positions.

To: See distribution below.

Some time ago the Civil Service Commision advised this office that the residency requirement which was a part of the minimum qualification standard for Regional and District Directors and Branch Managers is no longer acceptable.

However, an important consideration in filling these positions is to seek out an individual with the ability to influence and persuade the acceptance and promotion of SBA programs. Therefore, it is essential that candidates for such positions have a good working knowledge of the local (or comparable) banking, financial and business community.

In this regard, future Job Opportunity Announcements and/or requests for CSC certificates for *Regional Director* and *Branch Manager* positions will, as a minimum, contain the following Significant Job Related Element:

"Good working knowledge of the local (or comparable) banking and business community"

Because this is a Significant Job Related Element, it will be used to evaluate candidates in order to determine those who are highly qualified.

This office, in concert with the Civil Service Commission has spent considerable time in developing an improved method of screening candidates for filling our District Director vacancies. One phase of this new process is that of forwarding to the Civil Service Commission those outside candidates which we (SBA) have recruited so that those individuals are subject to the same screening process as persons currently on the CSC.

Mr. Speaker, surely these 16 being shifted around hardly meets this requirement, since their experience is in communities far across the country.

Mr. Speaker, it might be interesting to note for the record the list of the offices that are being transferred. The Small Business Administration announcement lists the offices subject to this new rotation scheme and I have regrouped them as follows into a series of chains.

The first begins with the district director of Jackson, Miss., who is moving to make room for the former mayor of Jackson, a staunch Carter man, to Charlotte, N.C., in my district.

The Charlotte director is moving to Des Moines, Iowa. The Des Moines director is moving to Lower Rio Grande, Tex., who is moving to Houston, Tex., who is moving to St. Louis, Mo., who in turn is moving to fill a vacancy in Salt Lake City, Utah.

Then there is a second change. The director in Denver, Colo., is moving to make room for a successor yet to be announced, to Kansas City, Mo. The Kansas City director is moving to Lubbock, Tex. Lubbock is moving to Fargo, N. Dak. Fargo to Albuquerque, N. Mex. And Albuquerque to a vacancy in Casper, Wyo.

Mr. Speaker, as the gentleman from Ohio has indicated a third but short chain begins with the Columbus, Ohio, director who is moving to Helena, Mont., and the Helena, Mont., director is moving in turn to a vacancy at Hartford, Conn.

Mr. Speaker, added to that there are three more directors being shuffled by this little maneuver but they have not yet been told where their new assignment will be because there is no job opening awaiting them as yet. They are being put into limbo, in a holding pattern, a pool arrangement which is the SBA's way of enhancing their career opportunities. Again I am speaking entirely satirically as my colleagues will recognize. One of these, the director for Washington, D.C., the very city in which we have the seat of our Government. He is being put into a pool.

Second, Mr. Speaker, from Sioux Falls, S. Dak. Third, from Baltimore, Md. None of these have yet been assigned. It would be an interesting footnote I would share with my colleagues that one of these last mentioned is a disabled veteran with 1 year to go before retirement from public service.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. MARTIN. Yes, I yield to the gentleman from Maryland.

Mr. BAUMAN. I believe the gentleman from North Carolina is referring to Gerald Lang who is the director, or was until now, the director of the Small Business Administration, Baltimore district, I can only say that I have had many occasions to work with Mr. Lang over the last 6 years I have served in the House. He has shown himself to be a superior civil servant. I did not know until the gentleman remarked today of his political affiliation but I also know of no reason why he should be transferred in view of the experience and seniority he has built up in dealing with the people in the Baltimore and Maryland area. The gentleman says he is being transferred out of his job and to no particular position?

Mr. MARTIN. He is being transferred into limbo, which is not one of the States of the United States, and he will stay there until they find someplace for him. Perhaps if one of these other directors refuses to go to the places they have been assigned to go across the country which I suspect is the reasoning behind all this, they will then have a vacancy that he can be offered the job to go across the country.

Mr. BAUMAN. I would certainly join the gentleman in a protest against this kind of thing. I find it hard to believe that the President of the United States would lend himself to this kind of activity in view of his often stated belief in good and clean government, operating in a way that is different, not the way things always were done in Washington. I believe that that is understood to be one of his themes.

□ 1810

Mr. Speaker, I would like to ask the gentleman one last question. If, in fact, this is happening to Republicans in the Small Business Administration, can the Kennedy backers be far behind?

Mr. MARTIN. Mr. Speaker, I will have to ponder that question. The gentleman as usual, taxes my philosophical talents and I will just have to reflect on that one a bit.

It is a fact that not one Democrat was offered such a new and exciting opportunity to enhance his career.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. MARTIN. Yes, I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, did I understand correctly that all of these that are being moved around or put in limbo are all Republicans?

Mr. MARTIN. The three who are being put into limbo are Republicans. If you take the entire group of 16, no, not all of them are Republicans. Only 15 of the 16 are Republicans.

Mr. ROUSSELOT. So it is all happenstance?

Mr. MARTIN. The other one is an independent, neither Republican nor Democrat; not one is a Democrat.

Mr. ROUSSELOT. Well, he must have shown too much independence; I guess that is the problem.

Now, we were assured when we passed this bill——

Mr. MARTIN. Civil service reform.

Mr. ROUSSELOT. That it was really civil service reform, that it was nonpolitical and that it would never be used for political purposes; but it does not look that way, does it?

Mr. MARTIN. Well, it included a merit security, a Merit Protection Board at the request of the President of the United States and I am going to see to it that that Merit Protection Board reviews these 16 shuffles and reviews this entire policy novelty that is being used here to see if it, indeed, is an attempt to find a new way to go back to the old politics.

It cannot be said that this administration has dreamed up this kind of a technique. It has been done before by Republicans and Democrats.

Mr. ROUSSELOT. Of course it has.

Mr. MARTIN. But it has to be said that this President has assured us, both in making and proposing that legislation and at other times, that he was going to do all within his power to raise the civil service system above petty partisan abuse, and I call on him to take the opportunity to exercise those capabilities within his power to see that he reforms this instance right now.

Mr. ROUSSELOT. Well, I appreciate the gentleman bringing this up, because really, many of us who voted for that reform thought it was reform. This kind of puts a hazy cloud over the whole procedure.

I think the gentleman is to be complimented for reviewing that for us and I am sure the new Merit Board will want to look into this very carefully.

Did they give reasons why all this movement occurred?

Mr. MARTIN. It was clear in the reform legislation that there would be no more of the old harassment, which is what this clearly and patently seems to be; but that instead of any change in job assignment would not be done for the purpose of getting rid of the employee, but rather to improve the operation and the performance of the particular agency or bureaucracy.

In fact, in announcing this new policy of rotating district directors on October 19 of 1979, the administrator, Vernon Weaver, stated, and I quote:

> Our intent is to enhance the career development of these key personnel—

Parenthetically, I remind you that all but one are Republicans and not one a Democrat.

Mr. ROUSSELOT. And the other is an independent.

Mr. MARTIN. The other being an independent.

Again—

> to enhance the career development of these key personnel through the expansion of their knowledge, skills and experience. This rotation policy will help SBA directors to develop versatility and to assure greater uniformity and consistency of services to our small business clientele.

Now, I ask you, how does that reflect upon the two, at least two, there may be more, who are within a year of their retirement?

How is this going to enhance their career development and how it is going to develop their versatility and assure greater uniformity and consistency—blah, blah, blah. It is a baloney policy. It is an attempt, in my opinion, to get around what was spelled out by the President of the United States and by this Congress in enacting that civil service reform legislation.

Mr. ROUSSELOT. Well, there is an old phrase, "See the U.S.A.," and I guess it now means, "See the U.S.A. through the S.B.A."

Mr. MARTIN. Mr. Speaker, I thank the gentleman for his contribution.

Finally, for the record, the new Associate Deputy Administrator who was brought into the SBA to manage this career opportunity double-talk is a man named Paul Sullivan. He was very polite when I talked with him on the phone and very convincing in reassuring me that all was aboveboard and innocent and that he had no list of how many of these folks were registered and that probably some were Democrats—false, as it turns out—until I received the news release announcing his appointment to this sensitive post. His previous position, executive director of the Democratic National Committee.

Some reform, some civil service job security, some career enhancement.

Mr. Speaker, until tomorrow and until further developments, I yield back the balance of my time.

THE SOCIAL SECURITY SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. EDWARDS) is recognized for 5 minutes.

● Mr. EDWARDS of Alabama. Mr. Speaker, I am introducing legislation today aimed at a problem in our social security system which has caused hardship for the families of many social security recipients for years.

Under current law, social security benefits are paid in full for the first month of eligibility, regardless of when established, but no payment at all is allowed for the last month of a social security retiree's life, if the retiree lived only part of that month, rather than through to the last day of the month. Although widows and survivors are eligible for social security benefits for the full month of the death, the paperwork for establishing their eligibility takes considerable time. For most families, this means a lapse of several weeks before their survivors' benefits can be delivered—at a time when there are already unexpected expenses and burdens.

This full-month, rather than prorated, procedure for payment was designed to prevent any double payment of benefits and to make administration simpler; and I think it would be difficult to change the procedure without substantially increasing paperwork or allowing some double payments, neither of which the system can afford. As an alternative solution to the problem, my bill would simply require the Social Security Administration to establish some emergency procedures to expedite the payment of widows' and survivors' benefits after the death of a social security recipient. It would seem that a check could be issued simply upon notification and presentment of the proper identification and proof of relationship to the deceased, while the redtape for survivors' benefits was being processed fully through the system. My bill would require that benefit checks be delivered to survivors at the time regular checks would have been delivered to the deceased recipient, if at all possible. If not possible, my bill would then provide that initial payment of those survivors' benefits must be made at least within 7 days after social security has received notice of the death and the proper identifying information from the widow or other survivor. This would alleviate the hardship in those cases where survivors have been relying on social security benefits of the deceased.

I am hopeful that my bill will be given every possible consideration whenever we consider any new social security legislation, and I urge my colleagues to join me in support of it.●

VIETNAM VETERANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. Hammerschmidt) is recognized for 10 minutes.

● Mr. HAMMERSCHMIDT. Mr. Speaker, today I have the pleasure of introducing a resolution which I hope will receive the quick and unanimous support of this entire body.

The Vietnam Veterans Memorial Fund consists of a group of Vietnam and Vietnam-era veterans who are employed in professional positions in the Washington, D.C., area. They have begun a nonpartisan effort to build an extensive and artistically sound memorial to those who fought and died in the Vietnam war, and I am proud to lend my own support to their effort. I should point out that they are not asking for any funding whatsoever from our Government. They have developed sufficient funding resources from the people of this country.

They merely desire a parcel of land on which to build the monument. The site they propose, and which I endorse, would constitute 2 acres in Constitutional Gardens, on the mall. The monument, which would be built subject to the approval of the National Commission on Fine Arts, would blend in with existing landscaping in the gardens, and would enhance, rather than detract from, that portion of our national capitol.

We have been struggling, as a Nation, to resolve the many remaining divisions from the Vietnam war. I do not need to catalog for you, Mr. Speaker, or for my colleagues, the enormous emotional and political complexities that come into play every time anything even tangential to that era is discussed. But I have always maintained that the key to resolving Vietnam, to our assimilating that experience into our national mindset, is for us to accord the Vietnam veteran the dignity of his experience.

Of all the elements in this country who were involved with Vietnam, he suffered most. And of all the elements, he has received the least amount of benefit for his suffering. We have only to look right here in the halls of Congress to verify that notion, Mr. Speaker. After World War II, the Congress filled with returning veterans. It is now 7 years since the last American fired a shot in anger in Vietnam. Where are the veterans?

The resolution I introduce today represents a major step in showing those veterans that we, as a Nation, sincerely appreciate their service. It will give every man and woman who served in Vietnam something tangible in our Nation's Capitol, a memorial to their service and to their comrades who gave this country the ultimate gift, their lives.

It is only fitting that such a memorial should be erected on the mall, as outlined in the resolution. Nine and 10 years ago our media brought great attention and dignity to the notion of dissent when others in the Vietnam-era age group gathered on the mall to protest the war, even as our soldiers and sailors and airmen and marines were dying unheralded in combat. It is now up to the Congress to bring a long-deserved dignity to those who answered the call, at great personal cost. It is their turn to gather on the mall, Mr. Speaker, and when I notice that one portion of this memorial will contain the names of every man who died in Vietnam, I cannot think of a more appropriate group to be permanently enshrined there.

I hope that all of my colleagues will join me in this most deserving effort.

H.J. Res. 431

Joint resolution to authorize the Vietnam Veterans Memorial Fund, Inc. to erect a memorial

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Vietnam Veterans Memorial Fund, Inc., a nonprofit corporation organized and existing under the laws of the District of Columbia, is authorized to erect a memorial on public grounds in the District of Columbia in honor and recognition of the men and women of the Armed Forces of the United States who served in the Vietnam war.

Sec. 2. (a) As the site upon which may be erected the memorial authorized in the first section of this resolution, there is hereby designated such parcel of land of approximately two (2) acres, located in Constitution Gardens on The Mall in the District of Columbia immediately adjacent to Constitution Avenue between 18th and 21st Streets NW., as the Vietnam Veterans Memorial Fund, Inc. shall select.

(b) The design and plans for such memorial shall be subject to the approval of the National Commission of Fine Arts, in consultation with the Secretary of the Interior and the National Capital Planning Commission.

(c) Other than as to the land authorized for the erection of the memorial in subsection (a), neither the United States nor the District of Columbia shall be put to any expense in the erection of this memorial.

Sec. 3. The authority conferred pursuant to this Act shall lapse unless the erection of such memorial is commenced within five years from the date of enactment of this Act.

Sec. 4. The maintenance and care of the memorial erected under the provisions of this Act shall be the responsibility of the Secretary of the Interior.●

AMERICANS SHOULD NOT BE FORCED TO CHOOSE BETWEEN FREEZING AND STARVING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. Pursell) is recognized for 5 minutes.

● Mr. PURSELL. Mr. Speaker, elderly and low-income Americans must not be forced to choose this winter between freezing and starving.

Rapid inflation and escalating fuel oil prices are a burden on all families. But to some, to millions of our citizens, it is far more than a burden—it is a matter of desperate survival. Congress has a clear obligation to provide emergency assistance to these citizens. This is part of the tragic price we must pay for our failure to free this country from dependence on foreign energy supplies.

I support full funding of $1.6 billion now under consideration for emergency home heating assistance for this winter, including the $250 million already approved by our committee in the 1980 HEW budget bill.

This money is essential to help over 7 million individuals and families meet the rising cost of home heating. Without this assistance to pay for basic human necessities, they face terrible risks to their health, and even their lives. That is not acceptable to me, and I'm sure it's not acceptable to the Congress.

The urgency of the situation must be emphasized. In order to have funds available in January for the year's harshest weather period, we must have this supplemental appropriation in place by November.

The cost of heating oil has increased about 70 percent since last winter. Winter does not officially begin until December 21, but people in our State are already well into the heating season and shouldering much higher fuel costs. Median-income families are paying 10 percent more of their annual income for home heating. Most low-income families will pay 15–30 percent over the full year, and at least 40 percent in peak months just to stay warm. Many Americans may see over 50 percent of their income go for heat alone. Without assistance, those most in need will simply not make it.

Our assistance programs must reflect the rising costs of energy. Failure to do so would be unspeakably cruel.

I also urge the House to assure that at least part of the funds in this emergency program are allocated to the cold weather States, in addition to funds provided directly to individuals through relatively rigid Federal formulas. If critical local needs arise, it is essential to guarantee maximum flexibility to respond. Only by having discretionary money available at the State level can we be sure this program is responsive enough to meet critical needs.

This Congress has many very important issues to resolve: a permanent national energy strategy, national security matters, the 1980 budget and more. But nothing is more urgent at this moment than assuring that Americans do not die needlessly this winter from cold or hunger. That's exactly what some of our people face and, since they are helpless to fight the international forces threatening to crush their lives, we must step forward and fight for them.●

A NEW SOCIAL WELFARE PROGRAM IN THE GUISE OF "INSURANCE" FOR MULTIEMPLOYER PENSION PLANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 30 minutes.

Mr. ASHBROOK. Mr. Speaker, consider costs of up to $4.8 billion over the next decade or consider per capita "premium" taxes skyrocketing 16,000 percent from the current rate of 50 cents to over $80. According to the Pension Benefit Guaranty Corporation (PBGC), these are the catastrophic cost consequences that are possible under the ERISA title IV multiemployer plan termination insurance program. That is if the Congress does not change the present law before May 1, 1980, when mandatory coverage begins for terminated multiemployer plans.

In its May 1979 report to Congress, the PBGC outlined the flaws of present law relating to these collectively bargained multiemployer plans.

Employers and unions are encouraged to dump plans and their large unfunded liabilities at the door of the PBGC.

Employers are encouraged to avoid the "Last Man Club" by withdrawing before plan termination when employer liability is assessed up to 30 percent of net worth.

Runaway costs of the program are accelerated because of excessively high benefit guarantees.

Plans are hampered in their ability to balance income and outgo because adjustments in accrued benefits are prevented.

Inadequate minimum funding standards fail to encourage fiscal discipline and prevent plan insolvency.

Given the problems with present law, the PBGC could have recommended scrapping the entire program. They should have.

It is clear, however, that over 5 years ago the die was cast and the fate of multiemployer pension plans and their contributing employers was sealed when ERISA was hastily enacted under the foreboding shadow of Watergate. In making their legislative recommendasions for a greatly revised mandatory termination insurance program, the PBGC recognized the practical impossibility of uprooting the original congressional intent that multiemployer pension benefits be guaranteed.

While the committee reports on ERISA record my opposition to plan termination insurance, it is a fact that the affected industries, plans, and employers failed to heed the pre-ERISA warnings that title IV would create instability, inequity, and burdensome costs. The new cries of "unfair" which are now raised by some plans and employers in connection with the PBGC initiative ring hollow against the backdrop of the lack of concern and opposition at the time the initial legislative decision was made.

In fact, it would be most embarrassing to the business community were my colleague from Illinois, Mr. ERLENBORN, and I to recount how representatives of big business undermined our efforts to oppose termination insurance when the original ERISA legislation passed. We tried to warn what would happen but we could not get business leaders to listen.

My opposition to ERISA at that time was, and continues to be, based on the fact that:

Plan termination insurance is not "insurance," but is an income transfer scheme that soaks the well-managed, more stable, and well-funded plans in order to pay for the unstable, underfunded ones;

The plan termination provisions change the basic legal structure of multiemployer plans, thus infringing on the freedom of the collective-bargaining process and raising constitutional questions relating to impairment of contracts;

Program costs are based on insufficient plan funding which can stem from the loss of plan assets due to market fluctuations, manipulation, and fiduciary abuse as well;

Inestimable program costs and employer liability create inequities and fear which can only serve to undermine the necessary and continued growth and expansion of the private pension system; and

Finally, as program premium costs go up, there will be the inevitable pressure for general revenue financing, thus dooming "private" pension plans by transforming them into quasi-governmental entities.

Clearly the issues surrounding termination insurance for multiemployer plans are complex and the dangers real. The PBGC principals should be given high marks for their recognition of these facts and their studious attempt to fashion a balanced approach. However, their task was an impossible one. Therefore, it is doubtful that they have managed to "reach their impossible dream." The PBGC recommendations embodied in H.R. 3904 would:

First, change the insurable event from plan "termination" to plan "insolvency";

Second, require all plans to meet a new minimum contribution requirement (MCR) and fund new benefit obligations over 30 years rather than 40 years;

Third, reduce benefit guarantees so as to minimize the incentive for employers and unions to abandon their plans;

Fourth, enable plan trustees to "reorganize" plan benefits to levels consistent with affordable contribution rates;

Fifth, require withdrawing employers in underfunded plans to continue funding a proportionate share of unfunded vested liabilities; and

Sixth, require plans to pay increased annual premuims grading from $0.50 to $2.60 per capita over 5 years.

The PBGC formulation is one that can be said to "share the woe." Employers continuing in a plan must increase their contributions to fund a given level of benefits. Withdrawing employers must continue to fund a share of a plan's unfunded liability. Employees in ongoing plans share in the cost of the program to the extent that benefit adjustments are made because of increased premiums. Employees in insolvent plans bear the burden of reduced benefit guarantees.

The PBGC has attempted to take into account the nature of the work and the special circumstances of transitory and other employers in the building and construction industry. Generally the bill would impose withdrawal liability on a withdrawing construction employer in the event the employer continues to do construction work of the type covered by the plan, in the area of the plan, without maintaining an obligation to continue contributions to the plan under a collective-bargaining agreement. The special construction industry exemption rule, as far as it goes, is necessary. Consideration might be given to extending this exemption to other industries which are similarly characterized by a high degree of employer mobility and by work having a temporary project nature.

A number of construction employers, however, remain unhappy with the limitations of the withdrawal liability exemption proposed by the PBGC. The PBGC rule is not perfect, but it attempts to strike a balance. This attempt to balance competing concerns appears to carry over into the other provisions of the bill as well. If it is possible to make the imposition and allocation of costs among employers more equitable, it should be done. As much as I am opposed to termination insurance for multiemployer plans, if we are stuck with it, we must have an all out effort to make it as workable as possible. The same might be said as to certain other provisions of ERISA which have proven detrimental to plan participants and plan sponsors alike.

If 1980 is to bring "new" legislation and burdens to multiemployer plans, it is imperative that "old" unnecessary burdens under ERISA be lifted from the backs of employees and employers in multiemployer and single employer plans. After 5 years of congressional oversight of ERISA, the record makes a compelling case that this Congress take expeditious steps next year to enact ERISA amendments which would——

Eliminate the illogical, inefficient, and wasteful overlap of ERISA regulation and administration by consolidating all employee benefit plan regulatory functions under a single agency;

Simplify and improve ERISA's reporting and disclosure requirements;

Make ERISA's minimum standards more workable and clarify the intent of Congress, for example, in areas relating to the elapsed time, eligibility, and seasonal industry rules;

Clarify and strengthen ERISA's preemption provisions;

Make procedural corrections to enable exemptions to be expedited under ERISA's prohibited transaction provisions; and

Provide employers and employees with additional incentives to establish plans or make voluntary contributions to individual retirement accounts.

These changes are necessary if the Congress is to improve ERISA's image and silence the criticism that ERISA means "Every Ridiculous Idea Since Adam."

Clearly the Congress is faced with a

Hobson's choice on H.R. 3904. If this legislation with modifications is not enacted, mandatory coverage goes into effect under the current rules which would portend economic disaster. Another delay would merely increase uncertainty and chaos in the collective bargaining process. It appears that the remaining choice which is the least of all evils is for the Congress to make the necessary corrections and take action on H.R. 3904 by May 1, 1980.

These remarks should not be construed as my concession to ideas I oppose. ERISA passed. We had little help at the time and few who would listen. It is a fact of life and the May 1, 1980 fact of life is with us, like it or not. Like so many things that are pushed ahead in the theory that they do not impact on us "right now." ERISA is coming home to roost. Small business and medium-sized businesses are rightfully concerned.

Some have termed this bill a "turkey." Perhaps with the ERISA amendment "trimmings" that I have suggested, this turkey can be made more palatable.

MISDIRECTED PUBLIC POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 5 minutes.

● Mr. GOLDWATER. Mr. Speaker, I have to scratch my head just a bit over the vote this House has taken today in passing House Joint Resolution 430. It represents to me everything that is wrong with the way Congress approached the problem of rising fuel costs. It is by and large the action of the House and Senate—the plethora of unwieldy regulations established by the Energy Department—that keeping warm during the winter months has become something we can no longer take for granted. If we in Government had the foresight to pass legislation and administer laws which would encourage home heating oil to be available—to provide for sufficient supplies of alternative energy sources—then we wouldn't have to keep bilking the taxpayer for money so the cost of heating a home is affordable.

I may be speaking in idealistic terms, but look at our food stamp program. Look how it has grown. Look at the fraud and abuse which has surrounded it. That program started out just as this one is. You know, I am cynically inclined to offer a proposal to subsidize families that travel to southern California, or Florida, or Hawaii for that matter—or to any warm climate during the winter so that they would not have to fear the cold weather. Since we are taking things this far—since we are going around throwing money at anything that provides relief at public expense, why not go just a little bit farther? Subsidized vacations to the sunshine resorts of America as a means of avoiding the high cost of heating a home.

The point I wish to make is simply this: As public policymakers we could save the taxpayers a tremendous amount of money; we could make the economy much more productive, if we would simply direct our policy decisions to the goal of letting the marketplace dictate the supply and demand of our energy resources. The role of government in this respect has failed miserably. And while I applaud the objectives of this legislation, House Joint Resolution 430, the objective of keeping everyone warm during the bitter winter months, I hope my colleagues will agree that there is another approach we should have examined long ago. The policy of enabling the business sector the opportunity to explore and bring on line the precious energy resources we so desperately need is one which does not necessitate our considering resolutions like the one we passed today.●

☐ 1820

ANGOLA: IS THE UNITED STATES MAKING AN ENEMY OUT OF A POTENTIAL FRIEND?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DIGGS) is recognized for 5 minutes.

● Mr. DIGGS. Mr. Speaker, the following New York Times, October 23, 1979, op-ed article by Prof. Gerald Bender once again raises serious questions about our country's continued policy of nonrecognition of Angola, a country that has been striving hard to become truly nonalined in its foreign policy while assisting a peaceful solution to the conflict in Namibia, at the same time offering an important role for foreign private investment in its developing economy. Nevertheless, because of the Cuban troop presence in Angola, our Government has seen fit to continue withholding diplomatic recognition while the Congress vindictively places irrational restrictions on U.S. economic aid to that country. In short, we have chosen to make our policy toward Angola hostage to our confrontation with Cuba when it is in our national interest to separate our policies toward these two countries. The issue of Cuba should be dealt with within its Western hemispheric context and not allowed to complicate our interest in stabilizing southern Africa. If we eventually totally alienate Angola from the United States, we will only have ourselves to blame. For this reason I submit the following article:

U.S. POLICY ON ANGOLA

(By Gerald J. Bender)

LOS ANGELES.—Until his death in September, Angola's first President, Agostinho Neto, was described in the news media as a "Soviet puppet" and a "dogmatic Marxist," while United States officials were concerned more with his Cuban guests than his foreign and domestic policies. Since his death, he has been described as "moderate . . . a strong nationalist . . . honest . . . committed to nonalignment . . . [and an] uncompromising supporter of multiracialism."

The newer perceptions' closeness to reality underscores a fundamental problem of American foreign policy toward the third world: How to distinguish genuine nationalist or moderate leaders (with whom America can maintain reasonable relations) from radical Marxists who will eschew their national interests in order to advance Soviet policies.

Western leaders are trying to assess the prospects of the Angolan Government, now led by 37-year-old José Eduardo dos Santos, in pursuing the same moderate policies that Dr. Neto did, especially with respect to receptivity toward foreign investment, nonalignment, peaceful relations with neighbors such as Zaire, and continued cooperation in the search for negotiated, not military, solutions in Southern Africa.

But as the only Western nation that has not recognized the Angolan Government, the United States has little first-hand intelligence with which to make such an assessment. One Defense Department analyst says, "We know practically nothing about dos Santos or the rest of the M.P.L.A. leadership and much of what we do know appears to be inaccurate." One high State Department official complained that until recently the Central Intelligence Agency appeared to gather most of its information from the National Union for the Total Independence of Angola (a rival movement still fighting the Popular Movement for the Liberation of Angola) while the department was highly dependent on African governments and European allies whose perceptions or interests do not always coincide with ours.

However, many Washington officials have been encouraged by the rapid, peaceful transition. Mr. dos Santos, sworn in three days after Mr. Neto's funeral, pledged to uphold all of the Mr. Neto's policies, from recognition of the necessity for continued Western economic assistance to his commitment "to continue to help find solutions which will bring [Southern Africa] peace and stability."

American oil companies, a number of which are seeking or expanding rights for further oil exploration in Angola, are no doubt pleased by the selection of Mr. dos Santos as President. He holds a degree in petroleum engineering and was Angola's chief negotiator with Texaco, which signed a $360 million contract with the Government shortly before Mr. Neto's death. Texaco expects to be producing 50,000 barrels a day by next year. Gulf already produces 150,000 barrels a day in Angola and is investing approximately $80 million to increase production.

Contrary to the predictions of former United States officials, the M.P.L.A. has not attempted to deny its resources to the United States. Most of its oil and other major exports, such as coffee, are shipped here. Americans concerned about the dwindling supply of oil available should also be concerned that Washington adopt a more enlightened policy towards the recognition of the dos Santos-led Angola.

The State Department, from Secretary Cyrus R. Vance on down, appears to solidly favor recognition of Angola. They receive support not only from businessmen and academics but also from a growing number of liberal Republicans. All are concerned about the presence of some 20,000 Cuban troops in Angola, but they recognize that the Cubans will not be withdrawn while Angola remains under continual attack from South Africa.

In the meantime, America has far more to gain by normalizing relations with Angola now than it could possibly lose politically from recognizing the Government while the Cubans are still there.

The stability of the Angolan regime, demonstrated by the smooth transition, presents the Carter Administration with an excellent opportunity to change its policy toward recognition. America tried its best to make Agostinho Neto out as its enemy but his pragmatism and statesmanship never conformed to our unfounded perceptions and accusations. Mr. dos Santos has now indicated that he, like Mr. Neto, is prepared to normalize relations with the United States on the basis of mutual respect. One should not underestimate, however, the genius of the United States to make enemies out of potential friends in the third world.●

STATEMENT OF THE HONORABLE AL ULLMAN, CHAIRMAN, COMMITTEE ON WAYS AND MEANS, WITH RESPECT TO THE RULE TO BE REQUESTED ON H.R. 3591, TO REDUCE TEMPORARILY THE DUTY ON TITANIUM SPONGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. ULLMAN) is recognized for 5 minutes.

● Mr. ULLMAN. Mr. Speaker, on October 23, 1979, the Committee on Ways and Means ordered favorably reported to the House of Representatives H.R. 3591, to reduce temporarily the duty on titanium sponge. The bill would reduce the 18 percent ad valorem rate of duty to 9 percent ad valorem on imports of titanium sponge until June 30, 1981.

Pursuant to the rules of the Democratic Caucus, I take this occasion to advise my colleagues as to the nature of the rule that I will request for consideration of H.R. 3591 on the floor of the House. The Committee on Ways and Means specifically instructed me to request the Committee on Rules to grant a closed rule which would only provide for:

First. Committee amendments, which would not be subject to amendment;

Second. Waiving all necessary points of order;

Third. One hour of general debate, to be equally divided; and

Fourth. One motion to recommit.

We intend to file the committee report on H.R. 3591 on Friday, October 26, and we will request a hearing before the Committee on Rules as expeditiously as possible.●

A NATIONAL PLAN ON PRODUCTIVITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 60 minutes.

● Mr. LAFALCE. Mr. Speaker, until very recently, mentioning the word or the concept of productivity was a sure cure for insomnia. Most economists avoided the subject, preferring arguments about economic theory or investigations into the intricacies of the ball-bearing industry. Labor leaders associated the term with speed-ups on the assembly line, and business leaders in a perverse manner did likewise. During the past 4 years, it seemed at times that only a small group of Members of Congress had any real interest in this important economic problem.

I know that I don't need to go into great detail concerning the facts and figures on productivity, but I do want to mention a few statistics, in order to put productivity in the proper perspective. During most of the post-World War Two era productivity was not a problem, because until 1965 the rise in annual productivity remained comfortably above 3 percent. However, after that point, a decline set in, which has worsened every year. From 1965 to 1973, productivity gains slipped to 2 percent on an annual basis. From 1973 to 1977, those annual gains dropped to 1.2 percent; and last year, the gain did not even reach 1 percent.

That lagging rate of productivity growth was bad enough, but this year, productivity actually began to decline. Although there are a few arguments about the actual figures among various statisticians, which is rather understandable because statistics can be an inexact science, even the most conservative estimates indicate that a decline has begun. According to the Labor Department's Bureau of Labor Statistics, productivity registered an absolute decline of 3 percent on an annual basis during the first quarter of 1979 and 4.3 percent during the second quarter of this year. Even more alarming is the fact that there is no evidence that this decline will be halted, not to mention reversed, in the near future.

RAMIFICATIONS

This lagging, and now declining, rate of productivity is of great national importance. A healthy rate of productivity plays a vital role in improving real, I repeat, real, living standards. A healthy rate of productivity allows the economy to grow without increasing inflationary pressures.

If wages increase without any improvement in productivity, the result will be a higher rate of inflation, because unit labor costs will increase. The most obvious way in which reduced productivity growth increases inflation arises from the fact that in the long run unit labor costs and the price level move virtually in tandem. Correspondingly, every increase of one percentage point in productivity reduces by 1 percentage point the rates of increase in unit cost and inflation.

This direct relationship between inflation and productivity has unfortunately been long overlooked. As Paul Volcker, Chairman of the Federal Reserve Board, has repeatedly stated, the current rate of inflation is clearly unacceptable; and strong steps must be taken to reduce it. However, the arguments on how to achieve this goal have concentrated on reducing Government spending and instituting tighter controls on the money supply and raising interest rates. Although both of these methods have their role to play, I do not believe that they provide an underlying solution to either inflation or, more properly, stagflation.

The key to a long-term solution to our current economic problems must be greater attention to productivity and to ways which will boost the rate of productivity growth. Without an improvement in productivity, we could balance the Federal budget, raise interest rates and administer other jolts to the economy without solving the problem of stagflation. The historical record is clear; high rates of productivity growth have been associated with relatively stable prices and high rates of output growth.

Another consequence of declining productivity is the increasing inability of U.S. businesses to compete either at home or abroad. Month after month, quarter after quarter, the statistics from the Department of Commerce reveal a dismal international trade performance by the United States. The negative balance of payments figures have not been solely due to lagging productivity, in that higher energy prices have played an important part. Nevertheless, lagging productivity is undermining the ability of U.S. businesses in world markets.

Any comparison of productivity growth figures for the United States and other Western countries reveals a depressing pattern. Although there are once again some disagreements about the exact figures, the experts agree on one point—during the entire post-World War Two period, the United States has had the worst rate of productivity growth among the industrialized countries. This may seem somewhat natural in the case of the productive Germans and Japanese, but it is very troubling in the cases of the supposedly crumbling economy of Great Britain and the strike-ridden Italian economy.

The most respected studies of international productivity comparisons have been conducted by the Organization for Economic Cooperation and Development. One of those studies compared the percentage increase between 1960 and 1976 for productivity in the manufacturing sector on an annual basis, and I want to emphasize once again that the situation has become even more alarming in the United States since 1976. The figures say it all: Japan, 9 percent; Germany, 5.9 percent; Italy, 5.9 percent; France, 5.7 percent; England, 3.3 percent; and the United States, 2.2 percent.

In light of those figures, it really is no surprise to see so many Volkswagens, Datsuns, Sonys, and the like throughout the United States. It may very well be true that the U.S. worker is still more productive than his or her European or Japanese counterpart, but those countries are rapidly closing the gap and could pass the U.S. worker early in the 1980's. In his recent testimony before my Small Business Subcommitee on General Oversight, Dr. Richard L. Boyce, senior economist at the Council on Wage and Price Stability, told me that "the level of technology in the United States may be lower than that of Japan," which is a telling indication of how far the United States has slipped.

Improved U.S. competitiveness and improved export performance should be considered top priority goals. There are many steps necessary to achieve those goals, as the President stressed in his address on exports; but all of those steps could prove futile without improved productivity. Without better goods and services, U.S. businesses will find themselves driven out of one market after another; and better goods and services are the result of improved productivity. This is not an insightful piece of wisdom; it is merely a possibly unpleasant economic fact of life; and U.S. businesses must face it.

PAST INITIATIVES

Before I discuss congressional initiatives to improve productivity, I want to supply some background information. My involvement with productivity began within the first 6 months I was in Congress. During 1975, the Banking Subcommittee on Economic Stabilization, of which I am a member, held extensive hearings on a bill I cosponsored, to create a National Center on Productivity and Quality of Working Life. The Center was subsequently created; and it was designed to disseminate information and focus Government assistance for improvements in productivity at every level of the economy.

Although the Center had the strong backing of the Congress, neither the Ford nor the Carter administrations ever demonstrated much interest in the Center. Under the Ford administration, the Center's Board of Directors met just once; and the Center's funding was set at the clearly inadequate level of $3 million, which effectively prevented it from accomplishing any of its ambitious aims.

During 1977, I repeatedly urged various government officials, including Charles Schultze, Ray Marshall, and James McIntyre, to provide adequate funding for the Center and to expand its activities to include fostering the development of labor-management cooperation, rather than strife, because labor-management cooperation can often result in better productivity. In order to help forward this proposal, I introduced H.R. 5283 to more specifically target the work of the Center to achieve those goals. These urgings were met with no administration response.

In April 1978, I introduced a bill to extend the life of the Center 1 year beyond its original expiration date of September 30, 1978. The introduction of this bill was met with opposition from the administration, which said that it had other plans for dealing with the productivity problem. In a meeting in my office on May 22, 1978, I called together all of the administration officials who were allegedly working on these plans. At that meeting, I learned that the administration's only concrete plan was to let the Center expire; but I was once again assured that some plans were in the works.

For the next 2 months, the administration procrastinated; and, therefore, I held a hearing with my Small Business Subcommittee in August with witnesses from all of the relevant agencies and departments. I learned that there was going to be an ill-defined National Productivity Council with no program, no agenda, and an unknown membership. I was appalled and clearly voiced that sentiment. A month and half later, the National Center disappeared; and its records were transferred to the vaults of the Office of Management and Budget.

During this year, I have held two hearings with my Subcommittee on General Oversight, in order to prod the administration on activating the National Productivity Council which has a total personnel staff of two. A spokesman for the private-sector American Productivity Center told me that as a result of my first hearing, the National Productivity Council was given a phone number by the GSA and a hand-printed sign, designating its place in the Office of Management and Budget.

On a more positive note, the 95th Congress took the initiative on the tax front, in order to create a more hospitable climate for investments in the private sector of the economy. Due to strong congressional pressure, the provisions of H.R. 12907, the Investment Incentive Act, which I cosponsored, was included in the Revenue Act of 1978. These provisions were a fundamental reform of the capital gains tax which had become a significant disincentive for investments. The Revenue Act rolled back the capital gains tax to a more equitable level, and many economists believe that the reduction of the capital gains tax is already having a positive effect on investments.

COMPREHENSIVE NATIONAL PRODUCTIVITY POLICY

At my last subcommittee hearing, I repeatedly urged the administration to adopt as a No. 1 priority a comprehensive, national, productivity plan; and that is the core of my message to you. We can no longer afford to take a piecemeal approach to the problem of lagging productivity, because it is becoming more and more severe and timely every day. Action must be taken on a broad range of fronts, in order to halt the current decline in productivity and begin to restore the economy to a level of healthy productivity growth rates.

A comprehensive national plan also means that every segment of society and the economy will have a role to play in implementing that plan. The Government will have its place through the various forms of public policy. Labor and management must soften their adversary stances and learn that a cooperative spirit, rather than rancor, can significantly contribute to increased productivity in the workplace, which will be to the benefit of both. Academia must make its own contributions through research, which must include research of benefit to a healthier economy and a better society.

I am not suggesting, however, a repetition of Japan Inc. Some commentators have studied the Japanese model and have erroneously concluded that the United States should blindly emulate Japan and create an America Inc., along what used to be known as a corporatist society where all parts are geared toward the whole. Americans are far too individualistic to participate in a Japan Inc., but the United States could learn that more cooperation and working together are not necessarily un-American.

I will limit myself to seven components of a comprehensive, national productivity plan. There may be other components which could be introduced into this plan, but I believe that these seven are vital for the proper functioning of any effective productivity plan.

ADMINISTRATION LEAD

The first and foremost component must be a commitment by the administration to such a plan, and when I say administration, I mean a personal and public commitment by the President himself. My Small Business Subcommittee has heard platitudes from various agency officials, but these have been the moral equivalent of declarations in favor of motherhood. The Subcommittee on Economic Stabilization has heard suggestions from Al Kahn and Bob Russell from COWPS, but these suggestions are always tentative and unofficial. The Joint Economic Committee has heard a combination of both categories, which forced it to rely on its own members and economists to develop a program; and that circumstance is precisely the point.

A spokesman for the American Productivity Center made that very point during my last hearing, when he said that they always received a sympathetic and understanding reception on the Hill but that only the President could make lagging productivity a No. 1 national priority. I agree entirely with his assessment, and I have numerously begged. cajoled, and demanded that the President take the lead on this issue, because a handful of Congressmen and Senators do not have the audience that a President has.

I well realize that productivity is not a glamorous issue, but neither is export performance; and the President has issued a position paper on that. He has also made a national commitment to solar energy, which I applauded; but my applause would be tumultuous, if he would go to the American people on this issue. It would have to start as an education message; he would have to carefully explain why productivity is vital for the continued health of the economy. Linked to his national commitment to improved productivity would have to be a list of concrete measures to implement a productivity plan; and I have my own modest suggestions for the other six components.

TAX POLICIES

The tax code is not neutral in its relationship toward productivity growth, and tax policy must be made in light of its effect on productivity. Due to the emphasis on Keynesianism in the postwar world, tax policies have concentrated on the demand side of the economy, as various administrations and Congresses have attempted to stimulate demand, in order to produce prosperity With the onset of prolonged stagflation (economic stagnation coupled with inflation), new attention is being focused on ways to stimulate the supply side of the economy, because the usual Keynesian tax cut (personal income tax cuts) contributes to a higher rate of inflation.

A surprising consensus of opinion persuasion is emerging on the need for noninflationary supply side tax reductions to revive the economy without contributing to inflation. This consensus, which includes Herb Stein, Walter Heller, and Bill Miller, is convinced that economic stimulus is vital to restore the basic underlying strength of the economy. That strength has been eroded by the inadequate level of investments in the private sector of economy.

That study by the Organization for Economic Cooperation and Development of productivity also investigated the level of investments in industrialized countries during the same period, 1960–1976. Not surprisingly, it found that the United States ranked dead last by a fair margin in investments as a percentage of gross national product. The OECD concluded that "nations with highest ratios of investment to GNP had the highest rates of productivity growth", which points to the imperative need to stimulate investments.

Last year, the Congress took the initiative and forced the inclusion of three key items in the Revenue Act. First, as I mentioned earlier, the act contained provision for a liberalized capital gains tax. Second, it made the investment tax credit, which is one of the most direct ways of encouraging investments, more attractive to businesses wishing to expand their facilities or equipment. Third, the act instituted a graduated corporate income tax, which will be of considerable benefit to small and medium sized businesses, by freeing equity capital for these firms.

This year, the Congress has again taken the initiative with H.R. 4646, the Capital Cost Recovery Act of 1979, whose chief sponsors are Representatives JONES and CONABLE, and which I have cosponsored. This bill would institute a fundamental reform of the depreciation allowance by installing a rational, clear-cut, and equitable system of depreciation allowances. Business leaders and economists have long been complaining about the haphazard and complicated present system of depreciation allowances, which provide a marked disincentive for new investments.

Economists generally agree that the investment tax credit and depreciation allowances are the two best tools for stimulating investments. The improvement in the investment tax credit last year should now be matched by a similar improvement for depreciation allowances, and the wide, bipartisan support which H.R. 4646 has received make it, or a variation thereof, almost a sure bet for enactment during this Congress.

There is yet another way to use the tax code to enhance productivity growth. R. & D. (research and development) are vital to improvements in productivity, because they directly lead to better and newer products, more streamlined production, and better worker safety and comfort. However, total R. & D. spending has steadily declined from over 3 percent of GNP in the early 1960's to just over 2 percent in 1977; and there is no sign that this discouraging trend is being reversed. Not uncoincidentally, this same period saw a lagging rate of productivity growth.

One sure-fire method of encouraging R. & D. is to provide a tax incentive to businesses which are involved in advanced technological research and development. Therefore, I have sponsored a number of bills which would provide targeted tax incentives to businesses, in order to persuade them to increase their R. & D. spending or to become involved in R. & D. A growing number of experts have been calling for these types of tax incentives, and particularly for small businesses, because it is precisely those types of firms which are in the forefront of technological innovation and which require these tax incentives the most because of their limited financial base.

There is one last way to indirectly boost productivity through reforming the tax code. Individual savings help provide financial institutions with pools of money, which can then be used to supply financing for investments by private firms. The catch is the fact that the rate of savings in the United States is the lowest in the industrialized world, even to the extent that the Japanese rate of savings is roughly five times that of the United States. Preliminary data indicate that this already low rate of savings further declined during the third quarter of this year, which correspondingly further narrows the amount of funds available to financial institutions for financing investments.

One good reason for this phenomenon is the average saver's fear that inflation will eat away his or her savings, because the interest rate is lower than the rate of inflation. There are a number of ways to address this problem, but I do not want to get into the long and complicated question of regulation Q (which perhaps a few of you are aware of) and interest-rate ceilings. Let me say briefly, however, that these ceilings must be phased out. However, there is another approach which could provide meaningful encouragement for increased savings. In order to help supply that necessary encouragement, I have introduced a bill which would exempt the first $1,500 ($3,000 for a joint return) of interest earned in a savings account at a financial institution. This approach has the virtue of directly and immediately addressing the need for new incentives for savers, and particularly small savers. We must move in that direction. We must reverse the present bias that exists against saving, and in favor of spending.

REGULATORY REFORM

There has been increasing awareness of the fact the Federal Government cannot endlessly promulgate regulations and rules without regard for their economic impact or their effectiveness. Many Government regulations have made a positive contribution to the quality of life in this country, but far too many others are ineffective, counterproductive, and cost inefficient. With the encouragement of Congress, the administration has directed all of the agencies and departments to reevaluate existing regulations, in order to weed out those which should be modified or eliminated.

However, that process can be taken one step further. The administration should direct all agencies and departments, where possible, to produce productivity-impact statements on all proposed rules and regulations. These productivity-impact statements could be similar to the existing environmental impact statements which are required on many questions. Although there may be some difficulty measuring the impact on productivity by some regulations, the introduction of these statements could be very valuable in raising regulators' consciousness and awareness of the possibly adverse impact of certain rules and regulations.

I want to introduce a cautionary note here. Some commentators view almost all Government regulations as inherently bad. I must take exception to that view, because my own personal experience with the Love Canal, which is one of the most infamous environmental disasters in this country and which is located in my congressional district, has convinced me that in some fields strict regulations are vital for the protection of our citizens. I also want to note that some regulations can contribute to productivity, by improving the quality of life for workers and the relationship between employers and employees.

GROUP PRODUCTIVITY PLANS

Many innovative employers have moved to directly boost productivity in their own firms, by using group productivity plans, which reward workers with financial benefits for increases in production through better productivity. These voluntary plans give workers a direct incentive for contributing to a better production performance by their employer's firm. I want to add that this is not the classic case of the speed-up on the assembly line. These group productivity plans try to incorporate the latest in managerial and technological efficiencies, which can make a positive contribution to production, without increasing the workload for the individual worker.

Unfortunately, these group productivity plans were not exempted from the provisions of the pay standards established by the Council on Wage and Price Stability last year. This lack of an exemption for these plans destroyed the primary motivation for workers' participation, by removing the financial reward for participation. I have repeatedly urged Bob Russell, Director of the Council, to grant an exemption for these plans, because wage increases for higher productivity are not inflationary, because they would reflect real decreases in operating costs.

The counsel of the American Productivity Center informed me that prior to my first hearing this year, COWPS would not even consider an exception for these plans. During this year's second hearing, the counsel said that the atmosphere had completely changed after the first hearing; and Bob Russell has told me that COWPS will try to persuade the Tripartite Pay Advisory Committee to grant an exception for the second year pay standards.

This is an excellent example of the types of small steps which can make a contribution to boosting productivity growth. Quite often, improvements in productivity originate in small, undramatic, and almost unnoticed steps, which, taken together, determine the overall level of productivity in the economy. Without these small, almost incremental steps, productivity will continue to seriously lag.

LABOR-MANAGEMENT COMMITTEES

There is no better way to diminish productivity than through labor strife. Conflicts between labor and management can either slow down or stop production altogether, and the traditional adversary relationship between labor and management can contribute to these strikes. On the other hand, a willingness to cooperate and listen to the other's problems and proposals can not only create a happier and more pleasant workplace, but it can also boost productivity in that workplace.

One of the best, if not the best, ways to achieve that goal is through the formation and operation of labor-management committees, both at the firm level and at the community level. These committees can help the flow of communication between workers and employers, between unions and chambers of commerce. This free flowing communication is very important for labor peace, because labor strife is often the result of misunderstandings, misinformation and a general failure to communicate.

One specific example of this is the western New York area, including my own 36th Congressional District. On an areawide basis, the Buffalo-Erie County Labor-Management Council has been established with the support of key business and labor leaders from throughout the area. The council has helped reduce labor strife in western New York and has encouraged the formation of labor-management committees at individual firms. The council has also educated its members about the importance of productivity and has disseminated valuable information on the various ways to enhance productivity at the individual firm level.

Although labor-management committees have a proven track record for boosting productivity through labor-management cooperation, Federal support for them has been negligible. I strongly supported an effort to provide $5 million for the Federal Mediation and Conciliation Service for programs to encourage the formation of labor-management committees. I personally contacted every member of the National Productivity Council before its September 4 meeting in order to elicit their support for funding this important program. I urged them to communicate their support to the Office of Management and Budget, which has been figuratively sitting on this proposal for months.

Labor-management committees should receive more public attention because of the valuable work that they do. Federal support, both in terms of publicity and financing, is vital for creation of the committees and their proper functioning.

PRODUCTIVITY IN THE FEDERAL GOVERNMENT

If the President is to issue a comprehensive, national productivity plan, one very obvious component must deal with productivity within the Government. The Federal Government is the single largest employer in the United States, and there is no reason why it should be excluded from any program to boost productivity. There is also no reason why Federal workers should be any less productive than their counterparts in private industry, but some preliminary studies by the General Accounting Office indicate that the record of the Federal Government has not been the best. The GAO is actively pursuing these studies about productivity in the Federal Government, in order to determine where improvements can and must be made.

Meaningful progress toward this goal will not be registered, until there is adequate knowledge and figures about productivity in the Federal Government. At the present time, the Bureau of Labor Statistics—BLS—measures the productivity of nearly two-thirds of the civilian employees of the Federal Government; and the BLS does not publish that data on an agency-by-agency basis, which severely restricts the value of the data. In order to correct those deficiencies, I introduced the Federal Government Productivity Data Act this year. This bill would mandate the BLS to collect data on all civilian agencies and to publish the data on an agency-by-agency basis, so that the Congress and the general public will be able to determine which agencies are productive and which are not. In addition, the bill would require the BLS to conduct studies comparing productivity in those activities performed by both the public and the private sectors.

The Federal Government is not the only portion of the public sector which could experience improvements in productivity. State and local governments also need to improve their productivity performances, and the Federal Government is now actively involved in assisting State and local governments to cope with their own problems. As a former New York State legislator, I can only wish them well in that arduous task.

RETRAINING PROGRAMS

One of the most serious problems confronting productivity improvement is the genuine fear felt by many workers that new machinery and productivity improvement programs will result in increased unemployment and layoffs. Particularly during the 1960's, there was a great deal of concern with the dread specter of automation which would in somewhat mysterious fashion throw everyone out of work. While this is a greatly exaggerated fear, some workers can be temporarily displaced by productivity advances, despite the fact that more employment opportunities are created by higher productivity in the long run.

In order to help deal with the short-term problem, I introduced the Labor Productivity and Training Act. This bill would require that 5 percent of CETA training funds be targeted at workers unemployed because of productivity improvement programs. It calls on CETA administrators to emphasize on-the-job retraining programs, as practiced routinely and effectively in Japan, and the sharing of costs between employers and the Department of Labor. Labor would be much more supportive of productivity programs, if retraining would occur before, rather than after, layoffs due to higher productivity.

CONCLUSION

The downward trend in productivity is undermining the basic health and fabric of our economy. Although there is total agreement about the causes of that trend, we do not possess the time for waiting for economists to begin their in-depth analyses of what exactly went wrong.

Two widely disparate sources have echoed that message this year.

The New York Stock Exchange issued an excellent report on productivity, entitled "Reaching a Higher Standard of Living," which had a conclusion I could to quote from:

> A coordinated national effort to boost productivity growth to at least 3 percent per annum would go a long way toward unwinding inflation, raising living standards, and creating jobs. It would also make American goods more competitive internationally and help strengthen the dollar. These are objectives in which every American has a stake.

For the first time in its history, the Joint Economic Committee issued a unanimous report on the economy. Liberals and conservatives joined together and endorsed the midyear report of the committee, which dealt with the outlook for the 1980's. I would also like to quote from that report:

> America's dismal productivity performance is an important cause of the nation's stagflation. . . . The major potential source of reductions in the core rate of inflation during the 1980's will be improved productivity.

As I have stated, there is an urgent need to establish a comprehensive, national productivity plan, in order to help reverse this downward trend. That plan cannot be simple, because the decline in productivity stems from many causes; but that plan must be implemented, unless we are prepared to live with stagflation throughout the 1980's. That plan must be given a top priority and must not be implemented in a half-hearted, piecemeal fashion.

Inflation and unemployment have been the key words in our economics vocabulary, reflecting our two most important concerns. It is time for productivity to join them.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. SWIFT) is recognized for 5 minutes.

● Mr. SWIFT. Mr. Speaker, on two occasions in recent days I missed procedural votes because I was chairing subcommittee hearings and was loath to delay the proceedings for what were clearly not votes of substance. I am referring to votes to approve the Journal on October 19 and 24—rollcall Nos. 584 and 592. Thank you.●

LOW-INCOME ENERGY ASSISTANCE APPROPRIATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. FERRARO) is recognized for 5 minutes.

● Ms. FERRARO. Mr. Speaker, today the House is responding to a desperate call from the people of this Nation. As a Representative from New York, I appreciate the expediency with which this $1.3 billion supplemental appropriation for low-income energy assistance was brought before the House.

Home-heating oil costs have increased 400 percent since 1973. My own State uses oil to meet fully 65 percent of our energy needs. My constituents' No. 1 concern today is that they will not have sufficient funds to meet the rising costs of heating their homes. It will remain their No. 1 priority tomorrow, and throughout this winter. For many, the painful choice between eating and heating will become a reality unless we act immediately.

It is more than unfortunate that the poor and the near-poor are those who suffer the most from rising energy costs. It is a tragedy. While middle-income households commit 9.6 percent of their incomes to energy, low-income households must budget as much as one-third of their incomes for energy needs. Furthermore, it is these same low-income households which have the least flexibility in their budgets to make the necessary modifications that increased energy costs will demand.

I represent more than 70,000 senior citizens. Those that live in apartments are seeing their rents soar, as landlords jack up rents in order to meet their own increased fuel costs. The seniors who are homeowners are, more often than not, living on fixed incomes. Their meager budgets, and monthly social security checks will not approach the increased costs that they will face this winter. Senior citizens represent 37 percent of this Nation's low-income households. Without immediate assistance, many will face the possibility of losing their homes, relocating to warmer climates whether or not they want to, or denying themselves the necessities of life.

The supplemental appropriation before us today is a first step. It addresses the needs of those Americans who will suffer the most at the hands of decontrol and unprecedented profits on the part of the oil companies. Supplemental security income (SSI) recipients, aid to families with dependent children (AFDC) families, and households within 125 percent of the poverty line are in immediate need and will benefit by passage of this appropriation. Those people cannot wait for a new Federal program to be put in place. We do not have the luxury of time—a luxury which would allow us to devise the best mechanism and vehicle to provide assistance. The snow in Washington several weeks ago should serve as a signal to all of us. The winter is upon us, and without providing immediate assistance, Americans will be unable to cope with it. Nor do we have the luxury of waiting for passage of the windfall profits tax to provide revenues to finance energy assistance programs. I fear that the winter will move faster than the legislative process.

Mr. Speaker, while this resolution will receive my complete support, I am concerned that it does not go far enough. I worry that by targeting assistance only to SSI recipients, AFDC families, and households within 125 percent of the poverty line, many other energy indigent households will suffer from increased energy costs, but because they do not meet these means tests, they will not receive aid. I am also concerned that within those three groups covered by this appropriation, we will be providing assistance to people who are not energy indigent. For example, does not the household which is within 126 percent of the poverty line need this aid more than the AFDC family who lives in a public housing project and has no energy-related costs? But, in light of the time considerations, I see no way for the House to eliminate this inconsistency, and still provide aid to those who do qualify and are, in fact, energy indigent.

Mr. Speaker, I am proud of the House for bringing this appropriation up as quickly as we have. But, I hope that my colleagues from throughout the Nation will realize that this appropriation is just a first step. There are still major, unaddressed needs which the House must consider before it is too late. We must direct our attention, after passing this bill, to the important needs of millions of Americans who will not be covered by the low-income energy assistance provisions which we are considering today.

I urge my colleagues to join with me in supporting this appropriation. But, I also urge this House to bear in mind that this is not a comprehensive aid package which will alleviate the pressing problems that face our constituents. Our work will not be over when we approve this appropriation; instead, it will have just begun.●

PRESIDENT CARTER'S ELOQUENT ADDRESS AT THE JOHN F. KENNEDY LIBRARY DEDICATION CEREMONY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. STRATTON) is recognized for 5 minutes

● Mr. STRATTON. Mr. Speaker, last week President Carter was the main speaker at the dedication ceremony of the John F. Kennedy Memorial Library in Boston.

Nearly everyone who was there regarded that speech as one of the finest President Carter ever delivered. Unfortunately, the press accounts gave only selected quotes from that speech. Therefore, as a service to my colleagues, I include herewith the full text of that gracious, witty, perceptive, and sensitive address.

Remarks of the President at the John F. Kennedy Library Dedication Ceremony, Boston, Mass.

Members and friends of the family of John F. Kennedy: As President of the United States, I am indeed honored to be here on this occasion at once so solemn and also so joyous—the dedication of the John F. Kennedy Library. Like a great cathedral, this building was a long time coming. But it more than justifies the wait. Its grace and its dignity are, I hope and believe, worthy of the man whose memory it will nurture.

I never met him, but I know that John Kennedy loved politics, he loved laughter, and when the two came together, he loved that best of all.

For example, in a press conference in March 1962, when the ravages of being President were beginning to show on his face he was asked this two-part question: "Mr. President, your brother Ted said recently on television that after seeing the cares of office on you, he wasn't sure he would ever be interested in being President." (Laughter) And the questioner continued, "I wonder if you could tell us whether, first, if you had it to do over again, you would work for the presidency, and, second, whether you can recommend this job to others?" The President replied, "Well, the answer to the first question is yes, and the second is no. I do not recommend it to others—at least for a while. (Laughter) (Applause)

As you can well see, President Kennedy's wit and also his wisdom—(Laughter)—is certainly as relevant today as it was then. (Laughter)

This library, this repository of facts and ideas, will feed history with a permanent record of the dreams of John Fitzgerald Kennedy, and also the realization of those dreams.

In America, the records of a great political leader will not be threatened by succeeding political regimes which might fear them, because we are a Nation committed not only to freedom, but also to the pursuit of truth.

A library is especially fitting as a tribute to John Kennedy, for he was not only a maker of history, but a writer of history as well.

His fame as an author of books foretold his fame as an author of events. He said he had few apprehensions about how his Presidency would fare in history, because he planned to write that history himself.

To our loss, we will never read the books that he would have written about his own Presidency. His death impoverished not only statecraft, but literature as well. But in this building behind me, the work of reflection and evaluation of what he did can now be done very well by others.

President Kennedy understood the past and respected its shaping of the future. Yet he was very much a man of his own time. The first President born in this century, he embodied the ideals of a generation as few public figures have ever done in the history of the earth. He summoned our Nation out of complacency, and he set it on a path of excitement and hope.

The accomplishments of his thousand days, as you well know, are notable, though his Presidency was too short for him to finish all the tasks that he set for himself. We honor him not just for the things he completed, but for the things he set in motion, the energies that he released and the ideas and the ideals which he espoused.

President Kennedy took office understanding that the texture of social and economic life of our Nation and our people was changing, and that our Nation and our people would have to change with it. "Change is the law of life," he once said. "And those who look only to the past or the present are certain to miss the future."

He had a vision of how America could meet and master the forces of change that he saw around him.

President Kennedy entered the White House convinced that racial and religious discrimination was morally indefensible. Later that conviction became a passion for him—a passion that his brother Robert shared and as his son has so well said, carried forward.

As a Southerner, as a Georgian, I saw at firsthand how the moral leadership of the Kennedy Administration helped to undo the wrongs that grew out of our Nation's history. Today the problem of human rights in the United States is shifting from inequality of legal rights to inequality of opportunity. But the question of legal rights is not yet settled.

We are all Americans, we are all children of the same God. Racial violence and racial hatred can have no place among us in the South or in the North. (Applause)

The moral imperative of the Kennedy Administration, indeed, still remains with us.

President Kennedy sought to move our foreign policy beyond the sterility of the Cold War. He never failed to uphold liberty and he never failed to condemn tyranny; yet he saw very clearly that the threat of nuclear destruction had created the need for mutual accommodation with our potential adversaries. He warned against the nation and a world turned into "a prison in which man awaits his executioner."

When the Nuclear Test Ban Treaty was signed in 1963, he voiced the hope—though he dared not yet voice the anticipation or expectation—that there would some day be controls on the numbers and the types of nuclear weapons.

Now, the SALT II Treaty can redeem that hope. Its ratification will be a further fulfillment of the needs of all humanity.

President Kennedy knew that the future of freedom would be increasingly bound up with social, political and economic justice in what has since become known as the Third World.

His one bold expression of this vision was the Peace Corps—which, with its combination of activism, idealism and adventure, summed up so many of John Kennedy's virtues.

I'm proud that this kind of commitment has now been vigorously renewed and that America once again holds out her hand to the poor, the silenced and oppressed of every country in the world.

Like every President who hopes to leave the world a better place because he served in it, President Kennedy chafed under the limits of his power to act. These limits on a President still exists. As he put it during his second year in office, "There are greater limitations upon our ability to bring about a favorable result than I had ever imagined." Yet President Kennedy persisted. He became, and he still remains, a symbol of human aspiration.

Perhaps that's why the outpouring of grief at his death had such a special quality.

On that November day, almost 16 years ago, a terrible moment was frozen in the lives of many of us here. I remember that I climbed down from the seat of a tractor, unhooked a farm trailer, and walked into my warehouse to weigh a load of grain. I was told by a group of farmers that the President had been shot. I went outside, knelt on the steps, and began to pray. In a few minutes, I learned that he had not lived. It was a grievous personal loss. My President. I wept openly, for the first time in more than 10 years—for the first time since the day my own father died.

People wept in Boston and in Paris, in Atlanta and in Warsaw, in San Francisco and in New Delhi. More than anyone had realized before that day, the spirit of this young American President had taken hold of the hearts and the imaginations of countless millions of people all over the world.

During the months that followed—in civil rights, in medical care for the aged, in greater dignity for the poor—in an increase of caring for one another, his vision was carried into the reality of our Nation's life with the help of a united Congress and a united people, united in grief, but also united in determination to fulfill the dreams which he had painted for us.

At the time, the tragedy in Dallas seemed an isolated convulsion of madness. But in retrospect it appears near the beginning of a time of darkness. From Vietnam to Cambodia, from Los Angeles to Memphis, from Kent State to Watergate, the American spirit suffered under one shock after another, and the confidence of our people was deeply shaken.

The American people are good and strong. We've undertaken a solid commitment to heal those wounds and at long last the darkness has begun to lift. I believe that America is now ready to meet the challenges of the 1980s with renewed confidence and with renewed spirit.

These challenges, of course, are not the same ones that confronted us a generation ago. The carved desk in the Oval Office which I use is the same as when John F. Kennedy sat behind it, but the problems that land on that desk are quite different.

President Kennedy was right: change is the law of life. The world of 1980 is as different from what it was in 1960 as the world of 1960 was from that of 1940. Our means of improving the world must also be different.

After a decade of high inflation and growing oil imports our economic cup no longer overflows. Because of inflation, fiscal restraint has become a matter of simple public duty. We can no longer rely on a rising economic tide to lift the boats of the poorest in our society. We must focus our attention and our care and our love and concern directly on them.

We have a keener appreciation of limits now, the limits of government, limits on the use of military power abroad, the limits of manipulating without harm to ourselves a delicate and balanced natural environment.

We are struggling with a profound transition from a time of abundance to a time of growing scarcity in energy. We are only beginning to learn the new habits and to utilize the new technologies that will carry us to a future age of clean and renewable energy.

And we face these times when centrifugal forces in our society and in our political system, as well—forces of regionalism, forces of ethnicity, of narrow economic interest, of single-issue politics—are testing the resiliency of American pluralism and of our ability to govern.

But we can and we will prevail.

The problems are different, the solutions, none of them easy, are also different. But in this age of hard choices and scarce resources, the essence of President Kennedy's message—the appeal for unselfish dedication to the common good—is more urgent than it ever was. The spirit that he evoked—the spirit of sacrifice, of patriotism, of unstinting dedication—is the same spirit that will bring us safely through the adversities that we face today. The overarching purpose of this Nation remains the same—to build a just society, in a secure America living at peace with the other nations of the world.

The library that we dedicate today is a symbol, above all, of that unchanging purpose. Through our study here of his words and his deeds, the service of President Kennedy will keep its high place in the hearts of many generations of Americans to come after us.

This library may be dedicated with the words of a poet from Tennessee, a contemporary of the President whose name the library will bear:

"To those who in all times have sought the truth and have told it in their art or in their living, who died in honor . . .

"To those who died in the high and humble knowledge of God . . . .

"(T)o those who died in sorrow, and in kindness, and in bravery; to those who died in violence suddenly . . . .

"(T)o those who died in the time of the joy of their strength . . ."

This library is dedicated to John F. Kennedy, the thirty-fifth President of the United States of America.●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Marriott) to revise and extend their remarks and include extraneous material:)

Mr. Symms, for 5 minutes, today.

Mr. Martin, for 60 minutes, today.

Mr. Edwards of Alabama, for 5 minutes, today.

Mr. Hammerschmidt, for 10 minutes, today.

Mr. Pursell, for 5 minutes, today.

Mr. Ashbrook, for 30 minutes, today.

Mr. Goldwater, for 5 minutes, today.

Mr. Grassley, for 15 minutes, today.

(The following Members (at the request of Mr. Anthony) to revise and extend their remarks and include extraneous material:)

Mr. Diggs, for 5 minutes, today.

Mr. Ullman, for 5 minutes, today.

Mr. Gonzalez, for 15 minutes, today.

Mr. Weaver, for 10 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. LaFalce, for 60 minutes, today.

Mr. Swift, for 5 minutes, today.

Mr. Gaydos, for 5 minutes, today.

Ms. Ferraro, for 5 minutes, today.

Mr. Stratton, for 5 minutes, today.

Mr. Andrews of North Carolina, for 60 minutes, on October 31, 1979.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Devine, to include remarks following vote on House Joint Resolution 430.

Mr. Conte, to revise and extend previous to rollcall vote on Cambodian refugees.

(The following Members (at the request of Mr. Marriott) and to include extraneous matter:)

Mr. Roth.

Mr. Symms in two instances.

Mr. Dornan in two instances.

Mr. Marks.

Mr. Michel in two instances.

Mr. Tauke.

Mr. Rudd.

Mr. Derwinski in two instances.

Mr. Grassley in two instances.

Mr. Quayle.

Mr. Hyde.

Mr. Beard of Tennessee.

Mr. Devine.

Mr. Findley.

Mr. Ashbrook in three instances.

Mr. Williams of Ohio.

Mr. Evans of Delaware.

Mr. Railsback.

Mr. Spence.

Mr. Collins of Texas in two instances.

Mrs. Fenwick.

(The following Members (at the request of Mr. Anthony) and to include extraneous matter:)

Mr. Dodd in two instances.

Mr. Waxman in two instances.

Mr. Kildee.

Mr. Drinan.

Mr. Patten.

Mrs. Schroeder.

Mr. Edgar.

Mr. Ullman.

Mr. Simon.

Mr. Hawkins.

Mr. Bonker.

Mr. Santini.

Mr. Synar.

Ms. Mikulski.

Mr. Blanchard.

Mr. Long of Maryland.

Mr. McDonald.

Mr. Gaydos.

Mr. Dingell.

Mr. Moakley.

Mr. Harkin.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 4394. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes.

ADJOURNMENT

Mr. ANTHONY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 25 minutes p.m.) the House adjourned until tomorrow, Friday, October 26, 1979, at 10 a.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. NATCHER: Committee on Appropriations. Supplemental to H.J. Res. 430 (Rept. No. 96-552, Part 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. DERRICK: Committee on Rules. House Resolution 465. Resolution providing for the consideration of the bill (H.R. 4904) to amend the Social Security Act to reform the program of aid to families with dependent children, to make improvements in the standards for eligibility and benefits in the program of supplemental security income, and to provide for the improved administration of both programs, to make related amendments to the Internal Revenue Code of 1954, and for other purposes (Rept. No. 96-554). Referred to the House Calendar.

Mrs. CHISHOLM: Committee on Rules. House Resolution 466. Resolution providing for the consideration of the bill (H.R. 5192) to amend and extend the Higher Education Act of 1965, and for other purposes (Rept. No. 96-555). Referred to the House Calendar.

Mr. MURPHY of New York: Committee of conference. Conference report on S. 640 (Rept. No. 96-556). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2742. A bill relating to the Indiana Dunes National Lakeshore, and for other purposes; with an amendment (Rept. No. 96-557). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BEARD of Rhode Island:

H.R. 5702. A bill to establish a Federal program to assist small businesses by increasing their role in federally funded research and development; to the Committee on Small Business.

By Mr. EDWARDS of Alabama:

H.R. 5703. A bill to amend title II of the Social Security Act to assure that the initial payment of any benefits due survivors of an insured individual will be made without delay after such individual's death; to the Committee on Ways and Means.

By Mr. FISHER:

H.R. 5704. A bill to amend titles 5 and 37 of the United States Code to provide authority to continue the pay of Federal employees and military personnel during periods in which the enactment of appropriations is delayed; jointly, to the Committees on Post Office and Civil Service, and Armed Services.

By Mr. HAGEDORN:

H.R. 5705. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income interest on deposits in certain savings institutions, and to increase the amount of the exclusion for dividends received by individuals; to the Committee on Ways and Means.

By Mr. LaFALCE:

H.R. 5706. A bill to amend the Military Personnel and Civilian Employees' Claims Act of 1964 to increase from $15,000 to $25,000 the maximum amount that the United States may pay to a member of the Armed Forces or to an officer or employee of the United States in settlement of a claim by such member or such officer or employee for losses incident to service as a member of the Armed Forces or an officer or employee of the United States and to increase the maximum from $15,000 to $35,000 in certain circumstances; to the Committee on the Judiciary.

By Mr. MITCHELL of Maryland (for himself, Mr. Neal, Mr. D'Amours, Mr. Barnard, Mr. Mattox, Mr. Cavanaugh, and Mr. Paul):

H.R. 5707. A bill to increase the number of class C directors of the Federal Reserve banks; to the Committee on Banking, Finance and Urban Affairs.

By Mr. QUAYLE:

H.R. 5708. A bill to amend the Internal Revenue Code of 1954 to allow individuals a credit for payments for enrollment in programs for dieting or stopping smoking; to the Committee on Ways and Means.

By Mr. ROYBAL (for himself, Mr. Rosenthal, Mr. Mitchell of Maryland, Mr. St Germain, Mr. Pepper, Mr. Biaggi, Mr. John L. Burton, Mr. Clinger, Mr. Conyers, Mr. Duncan of Tennessee, Mr. Edwards of California, Mr. Garcia, Mr. Hollenbeck, Mr. Hubbard, Mr. Mottl, Mr. Pursell, and Mr. Richmond):

H.R. 5709. A bill to amend the Second Liberty Bond Act to provide that individuals age 65 or older who purchase certain U.S. savings bonds shall be paid a rate of interest which is 2 percent higher than the rate of inflation; to the Committee on Ways and Means.

By Mr. SYMMS (for himself, and Mr. Hansen):

H.R. 5710. A bill to establish a ceiling on Statutory wilderness designated lands located within the National Forest System in the State of Idaho; to the Committee on Interior and Insular Affairs.

H.R. 5711. A bill to designate the Central Idaho Wilderness and two other wilderness areas within the Nez Perce, Clearwater, Boise, Payette, Challis, Salmon, and Targhee National Forests; to designate for continued study seven other wildlands within the Panhandle, Clearwater, Boise, Sawtooth, Challis, and Targhee National Forests; to release for management all other National Forest Lands, all within the State of Idaho, and for other purposes; jointly to the Committees on Interior and Insular Affairs, and Agriculture.

By Mr. STUMP (for himself, Mr Rhodes, Mr. Rudd, Mr. Marriott, Mr Hall of Texas, Mr. Young of Alaska Mr. McKay, Mr. Shumway, Mr. Burgener, Mr. Lungren, Mr. Watkins, Mr. Whittaker, Mr. McDonald, Mr. Frenzel, Mr. McClory, Mr. Philip M. Crane, Mr. Jeffries, Mr. Hance, Mr. Pashayan, Mr. Gramm, Mr. Leath of Texas, Mr. Whitley, Mr. Skelton, Mr. Flippo, Mr. Hefner, Mr. Young of Missouri, Mr. Williams of Montana, Mr. Jenkins, Mr. Ginn, Mr. Huckaby, Mr. Barnard, Mr. Stenholm, Mr. Chappell, Mr. Runnels, Mr. Symms, Mr. Shelby, Mr. Roberts, Mr. Hutto, and Mr. Jones of North Carolina):

H.R. 5712. A bill to prohibit the U.S. Park Service from limiting the number of commercial motorized water craft trips on the Colorado River through the Grand Canyon; to the Committee on Interior and Insular Affairs.

By Mr. HAMMERSCHMIDT:

H.J. Res. 431. Joint resolution to authorize the Vietnam Veteran's Memorial Fund, Inc. to erect a memorial; to the Committee on House Administration.

By Mr. McKINNEY (for himself, Mr. Quillen, Mr. Hubbard, Mr. Collins of Texas, Mr. McDonald, Mr. McDade, Mr. Nichols, Mr. Wolpe, Mr. Bereuter, Mr. Hopkins, Mr. Archer, Mr. Whitehurst, Mr. Oberstar, Mr. Udall, Mr. Dan Daniel, Mr. Scheuer, Mr. Jeffords, Mr. Murphy of Pennsylvania, Mr. Frost, Mrs. Bouquard, Mr. Lagomarsino, Mr. Robert W. Daniel, Jr., Mr. Frenzel, Mr. Panetta, Mr. Fazio, Mr. Marriott, Mrs. Chisholm, Mr. Campbell, Mr. Bedell, Mr. Mazzoli, Mr. Coleman, Mr. Neal, Mr. Flippo, Mr. Aspin, Mr. Myers of Indiana, Mr. Long of Maryland, Mr. Dougherty, Ms. Oakar, Mr. Preyer, Mr. Dickinson, Mr. Guyer, Mr. Ashbrook, Mr. Wolff, Mrs. Holt, Mr. Luken, and Mr. Kramer):

H.J. Res. 432. Joint resolution authorizing and requesting the President to issue a proclamation designating the week of January 20 through January 26, 1980, as "Junior Achievement Week"; to the Committee on Post Office and Civil Service.

By Mr. TAUKE:

H.J. Res. 433. Joint resolution to authorize and request the President to proclaim November 14, 1979, as "National Operating

Room Nurses Day"; to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 3106: Mr. Mazzoli and Mr. Murtha.

H.R. 3284: Mr. Guyer.

H.R. 3905: Mr. Neal, Mr. Hollenbeck, and Mr. Murphy of Illinois.

H.R. 4574: Mr. Dornan and Mr. Lehman.

H.R. 4646: Mr. Myers of Pennsylvania, Mr. Zeferetti, Mr. Lloyd, Mr. White, and Mr. Hollenbeck.

H.R. 4796: Mr. Dornan, Mr. Fazio, and Mr. Glickman.

H.R. 5095: Mr. Murphy of Pennsylvania, Mr. Stokes, Mr. Rahall, Mr. Vento, Mr. Nolan, Mr. Sabo, Mrs. Spellman, Mr. Long of Louisiana, Mr. Coughlin, Mr. Slack, Mrs. Fenwick, Mr. Moakley, and Mr. Huckaby.

H.R. 5184: Mr. Dornan, Mr. Fazio, and Mr. Glickman.

H.R. 5265: Mr. Barnes, Mr. Bonior of Michigan, Mr. Diggs, Mr. Evans of the Virgin Islands, Mr. Gray, Mr. Nolan, Mr. Stokes, and Mr. Weiss.

H.R. 5304: Mr. Downey, Mr. Weiss, Mr. Oberstar, Mr. Solarz, Mr. Dougherty, and Mr. Nolan.

H.R. 5371: Mr. Watkins, Mr. Cleveland, Mr. Huckaby, Mr. de la Garza, Mr. Butler, Mr. Frenzel, Mr. Ertel, Mr. Royer, Mr. Whitley, Mr. Stenholm, Mr. Coelho, Mr. Nelson, Mr. Skelton, Mr. Holland, and Mr. McKay.

H.R. 5378: Mr. Kindness.

H.R. 5402: Mr. Luken.

H.R. 5408: Mr. Fazio, Mr. Bedell, and Mr. de la Garza.

H.R. 5425: Mr. Bedell.

H.R. 5428: Mr. Murphy of Pennsylvania, Mr. Markey, Mr. Moakley, Mr. Beard of Rhode Island, Mr. D'Amours, Mr. Frost, Mr. Wolpe, Mr. Pepper, Mr. Mottl, Mr. Kildee, Mr. Ambro, Mr. Nowak, Mr. Whitehurst, Mr. Hughes, Mr. Mazzoli, Mr. Mineta, Mr. Vento, Mr. Mitchell of New York, Mr. Gray, Mr. Glickman, Mr. Fazio, Mr. Bedell, Mr. Blanchard, Mr. Downey, Mr. Nolan, Mr. Ertel, and Mr. Matsui.

H.R. 5477: Mr. Carr.

H.R. 5543: Mr. Dan Daniel, Mr. Hyde, Mr. Collins of Texas, Mr. Whitehurst, Mr. Frenzel, Mr. Rudd, Mr. Burgener, Mr. Sawyer, Mr. Kindness, Mr. Goldwater, Mr. Robert W. Daniel, Jr., Mr. Livingston, Mr. Edwards of Oklahoma, Mr. McDonald, and Mr. Corcoran.

H.R. 5577: Mr. Charles Wilson of Texas, Mr. Young of Alaska, Mr. Hance, and Mr. Leland.

H.R. 5660: Mr. Beard of Rhode Island, Mr. Miller of California, Mr. Studds, Mr. Simon, Mr. Fisher, Mr. Bedell, Mr. Edwards of California, Mr. Young of Missouri, Mr. Gudger, Mr. Harkin, Mr. Erdahl, Mr. Green, Mr. Johnson of California, Mr. Ratchford, Mr. Edgar, and Mr. Barnes.

H.R. 5689: Mr. Hall of Ohio and Mr. Edgar.

H.J. Res. 407: Mr. Vento.

H.J. Res. 409: Mr. Stenholm, Mr. Leath of Texas, Mr. Stump, Mr. Ginn, Mr. Hefner, Mr. Barnard, Mr. Brinkley, Mr. Hubbard, Mr. Flippo, Mrs. Bouquard, Mr. Shelby, Mr. Young of Missouri, Mr. Gramm, Mr. Lowry, Mr. White, Mr. Gudger, Mr. Evans of Georgia, Mr. Hansen, Mr. English, Mr. Runnels, Mr. Hall of Texas, Mr. Holland, Mr. Bevill, Mr. Symms, Mr. Won Pat, Mr. Jones of Tennessee, Mr. Kindness, Mr. Lujan, Mr. Duncan of Tennessee, Mr. Mathis, Mr. Hance, Mr. Burgener, Mr. Winn, Mr. Devine, and Mr. Murphy of Pennsylvania.

H. Res. 446: Mr. Gilman, Mr. McKinney, Mr. LaFalce, Mr. Danielson, Mr. Edwards of California, Mr. Hamilton, Mr. Charles H. Wilson of California, Mr. Frost, Mr. Hughes, Mr. Buchanan, Mr. Lowry, Mr. Hall of Ohio, Mr. McCloskey, and Mr. Carr.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2063

By Mr. MOORHEAD of Pennsylvania:

—Page 10, strike out lines 3 and 4 and insert in lieu thereof the following:

"(f) The Secretary shall assess a fee of not less than one quarter of 1 per centum of the amount of each guarantee to cover administrative and other costs of the loan guarantee program under this section.

—Page 10, line 15, strike out "thirty years" and insert in lieu thereof "ten years".

—Page 11, line 11, strike out "3 per centum" and insert in lieu thereof "4 per centum".

—Page 13, line 8, strike out the period and insert in lieu thereof a comma and the following: "or to an extension of the maturity of any loan or guarantee made under this title, beyond the periods stated in such loan, guarantee, or debt or in this title, for an additional period of not to exceed ten years, if such extension will aid in the orderly liquidation of such loan, guarantee, or debt.".

—Page 12, line 12, strike out "(a)" and insert "(1)".

—Page 12, line 16, strike out "(b)" and insert "(2)".

—Page 12, line 23, strike out "(c)" and insert "(3)".

—Page 13, line 1, strike out "(d)" and insert "(4)".

—Page 13, line 9, strike out "(e)" and insert "(5)".

—Page 13, line 14, strike out "(f)" and insert "(6)".

—Page 13, strike out lines 24 and 25 and insert in lieu thereof the following:

"(7) (A) With respect to loans guaranteed under section 202 of this title, the total principal amount of guaranteed loans outstanding in any fiscal year for any one firm may not exceed $20,000,000.

"(B) With respect to direct loans made under section 201 of this title, the total principal amount of direct loans outstanding in any fiscal year for any one firm may not exceed $10,000,000.

"(C) Direct loans under section 201 of this title and guaranteed loans under section 202 of this title shall not be made for projects involving firms which had assets in excess of $50,000,000 in their most recent fiscal year.

"(D) Not more than 15 per centum of the aggregate principal amount of loans which may be made or guaranteed in any fiscal year may be made without regard to the limitations of subparagraph (A), (B), and (C) of this paragraph, except that the aggregate principal amount of loans which may be made or guaranteed to any one firm may not exceed $50,000,000.

"(E) Not more than 30 per centum of the aggregate principal amount of loans which may be made or guaranteed in any fiscal year may be used to provide working capital."

—Page 14, line 1, strike out "(h)" and insert "(8)".

H.R. 4904

By Mr. ROUSSELOT:

—On pages 2 and 3, amend the table of contents by striking all that pertains to title I and inserting in lieu thereof:

TITLE I—AID TO FAMILIES WITH DEPENDENT CHILDREN; BLOCK GRANTS TO STATES; WORK REQUIREMENTS; DEMONSTRATION PROJECT

Sec. 101. Block grants to States.
Sec. 102. Limitation on use of grants.
Sec. 103. Imposition of work requirements as condition of aid to families with dependent children eligibility.
Sec. 104. Conforming changes.
Sec. 105. Demonstration project.
Sec. 106. Effective date.

On page 5, line 1, strike all that follows through page 104, line 11 and insert in lieu thereof:

TITLE I—AID TO FAMILIES WITH DEPENDENT CHILDREN; BLOCK GRANTS TO STATES; WORK REQUIREMENTS; DEMONSTRATION PROJECT

BLOCK GRANTS TO STATES

Sec. 101. (a) (1) Section 403(a) of the Social Security Act is amended by striking out all that precedes paragraph (2) and inserting in lieu thereof the following:

"(a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid and services to needy families with children, for each quarter beginning on or after October 1, 1979—

"(1) in the case of any State other than Puerto Rico, the Virgin Islands, and Guam, an amount which (subject to the last paragraph of this subsection) shall be equal to one-fourth of the adjusted base period amount for such State (as determined under section 412) plus any supplemental grant payable to such State under section 413; and".

(2) Section 403(a) of such Act is further amended by adding at the end thereof the following new paragraph:

"In the case of calendar quarters beginning after September 30, 1985, the amount to be paid to each State under paragraph (1) of this subsection (as otherwise determined under this part) shall be reduced by 2 percent."

(b) Part A of title IV of such Act is further amended by adding at the end thereof the following new sections:

"ADJUSTED BASE PERIOD AMOUNT

"Sec. 412. (a) (1) The base period amount for any State shall be equal to—

"(A) the total amount which the Secretary determines would have been payable to such State for the fiscal year beginning October 1, 1978 (hereinafter in this section referred to as the 'base period'), under paragraphs (1), (3), and (5) of section 403(a), taking into account the provisions of section 1118 of this Act and section 9 of the Act of April 19, 1950 (64 Stat. 47), but computing such total amount without regard to subsections (c) through (j) of section 403 and increasing it by the amount of any social and supportive services provided in accordance with section 402(a) (19) (G); plus

"(B) an amount which bears the same ratio to $1,000,000,000 as such State's population bears to the total population of all the States (other than Puerto Rico, Guam, and the Virginia Islands); plus

"(C) in the case of a State whose basic AFDC payment during the base period when combined with the average value of food stamps in such State during that period (as those terms are defined in subsection (d)) would place it in the lowest 15 of all the States (other than Puerto Rico, Guam, and the Virgin Islands) based on the basic AFDC benefit and average value of food stamps in each of the States, an amount which bears the same ratio to $400,000,000 as such State's population bears to the total population of said 15 States (other than Puerto Rico, Guam, and the Virgin Islands);

except that a State described in subparagraph (C) shall be entitled to receive the additional amount specified in such subparagraph for any quarter in the fiscal year beginning October 1, 1980, only to the extent that the sum of the basic AFDC benefit and the average value of food stamps in such State during that quarter is higher than the corresponding sum for the same quarter in the base period.

"(2) The adjusted base period amount for any State—

"(A) for the fiscal year beginning October 1, 1978, shall be equal to the base period amount, and

"(B) for the fiscal year beginning October 1, 1980, and each fiscal year thereafter, shall be equal to the base period amount as adjusted for such State in accordance with subsections (b) and (c).

"(b) The adjusted base period amount for any State as determined under subsection (a) shall be increased for each fiscal year, starting with the fiscal year beginning October 1, 1980, by an amount equal to the product of—

"(1) the adjusted base period amount as determined (for such State) for the preceding fiscal year, and

"(2) a percentage equal to the percentage increase (if any) in the Consumer Price Index prepared by the Department of Labor, and used in determining cost-of-living increases under section 215(i) of this Act, for the second quarter of the preceding fiscal year as compared to such index for the second quarter of the second preceding fiscal year (rounded to the nearest one-tenth of 1 percent).

For purposes of this subsection the Consumer Price Index for any quarter shall be the arithmetical mean of such index for the three months in such quarter.

"(c) The adjusted base period amount as determined under subsection (a) and increased under subsection (b) for any State shall be increased or decreased (if such State has had an increase or decrease in population) for each fiscal year, starting with the fiscal year beginning October 1, 1980, by an amount equal to the product of—

"(1) the adjusted base period amount as determined (for such State) for the preceding fiscal year, and

"(2) a percentage equal to the percentage increase or decrease in the population of such State on January 1 of the preceding fiscal year as compared to the population of such State on January 1 of the second preceding fiscal year (as determined by the Secretary not later than April 15 of the preceding fiscal year, on the basis of the best estimates available from the Bureau of the Census, and rounded to the nearest one-tenth of 1 percent).

"(d) For purposes of subparagraph (C) of subsection (a)(1) (and the matter immediately following such subparagraph)—

"(1) the term 'basic AFDC benefit', with respect to any State and any period, means the average monthly payment of aid to families with dependent children made during such period under the plan of such State approved under this part to a family whose income consists solely of payments made under such plan;

"(2) the term 'average value of food stamps', with respect to any State and any period, means the average monthly bonus value, within such State, of the food stamps for which a family whose income consists solely of payments made under such plan is eligible during such period; and

"(3) determinations relating to which of the States fall into the lowest 15 shall be made in the manner prescribed by the Secretary on the basis of such surveys, samples, or other methodologies as may be specified in regulations which shall be promulgated by the Secretary not later than 90 days following the date of the enactment of this section.

"SUPPLEMENTAL GRANTS TO STATES WITH HIGH UNEMPLOYMENT

"SEC. 413. (a) The Secretary shall pay to each State which has an excess unemployment percentage greater than zero (as determined under subsection (b)), for each quarter beginning on or after October 1, 1980, a supplemental grant equal to the product of—

"(1) one-fourth of the adjusted base period amount for such State (as determined under section 412) for the fiscal year in which such quarter occurs; and

"(2) the State's excess unemployment percentage for such quarter.

"(b) The excess unemployment percentage for any State for each quarter shall be the percentage (rounded to the nearest one-tenth of 1 percent) equal to the remainder (if any) obtained by subtracting from the insured unemployment rate in such State during such quarter (as estimated by the Secretary based upon the weekly rate of insured unemployment used in making determinations under section 203(e) of the Federal-State Extended Unemployment Compensation Act of 1970) the greater of—

"(1) the insured unemployment rate in such State (as so estimated) during the corresponding calendar quarter during the base period (as defined in section 412(a)); or

"(2) 6 percent.

"(c) Notwithstanding any provision of section 403(b) to the contrary, a supplemental grant payable for any quarter under this section shall be paid as soon as practicable after the unemployment statistics required in order to compute the amount of such grant become available to the Secretary.".

LIMITATION ON USE OF GRANTS

SEC. 102. Section 403 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(k) Grants made to any State under the provisions of subsection (a)(1) may be used by such State only for payments of aid to families with dependent children and for other social welfare purposes.".

IMPOSITION OF WORK REQUIREMENTS AS CONDITION OF AID TO FAMILIES WITH DEPENDENT CHILDREN ELIGIBILITY

SEC. 103. Section 402 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(d) Nothing in this part or part C, or in any State plan approved under this section, or in any regulation prescribed to implement this part or part C or any such State plan, shall be constructed to prevent a State from imposing (on such terms and conditions and in such cases as the State may find to be necessary or appropriate, whether or not such terms, conditions, and cases are consistent with subsection (a)(19) or part C) a requirement that an individual or relative, or any other person (living in the same home) whose needs are taken into account in making the determination under subsection (a)(7), perform employment (as defined by the State) as a condition of eligibility for aid to families with dependent children.".

CONFORMING CHANGES

SEC. 104. (a) Section 403(a)(3) of the Social Security Act is amended by striking out "in the case of any State" and inserting in lieu thereof "in the case of Puerto Rico, the Virgin Islands, and Guam".

(b) Section 403(a)(5) of such Act is amended by striking out "in the case of any State" and inserting in lieu thereof "in the case of Puerto Rico, the Virgin Islands, and Guam".

(c) Section 1118 of such Act is amended—

(1) by striking out "403(a),"; and

(2) by inserting after "1603(a)" the following: ", and paragraph (2) of section 403(a)."

(d) Section 403(a) of such Act is amended by striking out "paragraph (1) or (2)" in the first sentence following paragraph (5) and inserting in lieu thereof "paragraph (2)".

(e) Section 408(c) of such Act is repealed.

(f) The first sentence of section 431(a) of such Act is amended by inserting ", including the making of payments to States for social and supportive services provided in accordance with section 402(a)(19)(G)" before the period at the end thereof.

DEMONSTRATION PROJECT

SEC. 105. (a) In order to provide an effective pilot test of the States ability to create their own welfare programs as an alternative to the program of aid to families with dependent children under part A of title IV of the Social Security Act, there is hereby established a five-year ten-State demonstration project in which the payments made under section 403(a) of such Act to participating States may be used without regard to the requirements and limitations otherwise applicable under the program of aid to families with dependent children, and which shall be structured and carried out in accordance with this section.

(b)(1) The ten States participating in the demonstration project under this section shall be—

(A) the State of Pennsylvania (to assure the inclusion of at least one northern industrial State);

(B) the State of Mississippi (to assure the inclusion of at least one southern rural State); and

(C) eight additional States to be selected by lot in accordance with paragraph (2).

(2) The Governor of any State which desires to participate in the demonstration project under this section (as one of the additional States referred to in paragraph (1)(C) may submit a request for such participation to the Advisory Commission on Intergovernmental Relations, within such period following the date of the enactment of this Act and in such manner and form as the Commission may prescribe. At the close of such period (but in no event later than 90 days after the date of the enactment of this Act) the Commission shall select by lot, from among all of the States submitting requests under the preceding sentence, the eight additional States which are to participate in the demonstration project.

(c) During the five-year period beginning October 1, 1980, each State which is participating in the demonstration project under this section shall utilize the payments made to it under section 403(a) of the Social Security Act to conduct such activities and provide such assistance as in its judgment will most effectively benefit and promote the social welfare of children and families with children in that State, without regard to the requirements and limitations which would otherwise apply in the program of aid to families with dependent children under part A of title IV of such Act; and for this purpose the State may waive any or all of such requirements and limitations except those relating to the child support program under part D of such title (as made applicable under section 402(a)(27) of such Act.)

(d) The Advisory Council on Intergovernmental Relations shall from time to time report to the Secretary and to the Congress on the activities of the participating States in the demonstration project, with a final report at the close of the five-year period of the project.

EFFECTIVE DATE

SEC. 106. With the exception of the selection of States described in section 6 of this Act, the amendments made by this Act shall become effective on October 1, 1980.

H.R. 4985

By Mr. ECKHARDT:

(Amendment to the amendment in the nature of a substitute (H.R. 5660).)

—Page 30, line 25, strike the words "been enacted or promulgated" and insert in lieu thereof the following: "taken effect after the designation of the project as a Priority Energy Project and".

—Page 34, strike line 20 down through line 2 on page 35 and insert in lieu thereof the following:

"(2) Any other action by the Board relating to an energy project."

Page 35, strike lines 9 through 11.

By Mr. HUCKABY:

(To H.R. 4985 on page 41, line 19, and also to the amendment in the nature of a substitute (H.R. 5660) on page 20, line 15.)

—After the period, insert "The objective of the Board in determining any different schedule under this paragraph shall be to provide that, to the maximum extent practicable and consistent with the provisions of this part, such different schedule shall not result in a total time for the Federal, State, or local agency action to which such schedule applies which exceeds 12 months from the date on which application is made for such Federal, State, or local agency action by a person acting on behalf of the Priority Energy Project."

EXTENSIONS OF REMARKS

WINDFALL PROFIT TAX: PATH TO A NEW ERA OF CONSERVATION

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. EDGAR. Mr. Speaker, in an address delivered on Monday before the Northeast-Midwest Congressional Coalition, Secretary of Transportation Neil Goldschmidt argued eloquently for the enactment of a windfall profit tax. This tax, Goldschmidt stated, can be a path to a new era. We must move away from an era of cheap energy and an era of throw-away cities to a new era of conservation.

Secretary Goldschmidt's speech reveals a profound understanding of the relationship between transportation, energy, and the environment. To those who wonder what to expect from the Transportation Department under Neil Goldschmidt, I urge you to read his remarks.

The remarks follow:

REMARKS BY NEIL GOLDSCHMIDT

America's agenda and America's transportation agenda cannot be separated. Indeed, history teaches us that our Nation's overall domestic program has in large measure been defined by our transportation program.

We need look no further back than the last 30 years to find the evidence of that lesson. Over the last three decades, the growth and development of our Nation and the growth and development of our national transportation system have been indistinguishable. Both have been based on the automobile and premised on the availability of an unlimited supply of cheap and abundant oil. With the skills of American technology and a self-replenishing supply of funds from the gas tax, we built a superb personal transportation system and created an American life-style.

But today, we face a new era and a new set of assumptions about the future.

Today we are at the end of two eras—the era of cheap energy and the era of throw-away cities—and the beginning of a new era—the era of conservation.

Once again, America is a nation in transition, seeking new guiding definitions which keep faith with old and deeply held values.

Once again, I believe, transportation can lead us in our self-definition; for transportation is an integrating thread, weaving together mobility, energy conservation, economic development, and environmental quality into a new mantle in which to clothe the long-standing American dream.

The path to this new era begins, for me, with the President's energy program and the windfall profits tax. For the fact is that the energy crisis is the overriding economic and political reality of our time. It threatens our economy and jeopardizes our independence:

It is costing us in inflation.

It is costing us jobs.

It is costing us in the value of the dollar and the balance of payments.

It may cost us our freedom. And this is the most basic issue. Just last week, Shiek Yamani's willingness to dictate what American energy policy must be demonstrated again the leverage we have given OPEC over our foreign and domestic affairs.

We must come to our own terms with the energy crisis and the President's program is our vehicle.

It unleashes this Nation's vast productive capacity to create alternative forms of energy—synfuels, geothermal, and solar.

And it commits us to a major program of energy conservation—the most cost-effective investment we can make—including the pledge of $16.5 billion for transportation programs that will make our use of the auto more efficient, make transit more attractive, conserve energy and promote urban revitalization.

Transportation accounts for more than one-half of our total petroleum use; and the private automobile accounts for more than one-third of our total petroleum use.

Clearly, then, a remedy for our energy ills must include both undertaking new initiatives for public transit and getting a handle on our auto habit. The two are inextricably related and connected, and must be approached as such.

The auto component of the President's program represents a commitment of $2.5 billion over 10 years, focusing primarily on obtaining greater efficiency in the use of the auto. Right now, the average auto occupancy is 1.3 passengers. Just for the routine home to work commute trip, Americans use 1.8 million barrels of gasoline each day. And roughly 1.4 million of those barrels are burned by commuters driving back and forth each day alone.

Just doubling the number of commuters using carpools and vanpools will save 200,000 barrels of oil per day. Additional energy savings will come from Federal aid highway projects which encourage energy efficiency in the operation of the auto—such as improvements that aid traffic flow—from enforcement of the energy and life-saving 55 mile per hour speed limit, from investments in energy-conserving auto technology and from basic auto research.

By far the most ambitious element of the President's initiative is the $13 billion public transportation investment program. This program will increase the overall transit capacity of the country by up to 50 percent—the equivalent of an additional 15 million passengers per day.

First, this program means buses. The President's program calls for $5.6 billion in new money for buses. Placing an additional 3,000 buses per year in service. In more than 90 percent of American communities, from the small towns of the Northeast to the largest cities of the Midwest, mass transit means buses. And even in those cities that have heavy or light rail systems, buses still play a major role in feeding and augmenting the rail lines.

But while buses may mean transit to most of America, unfortunately buses apparently don't mean much to American industry. Currently, there is only the equivalent of one and a half companies producing buses in this country. And the one major firm is operating at only one-half of its capacity.

Consequently, at the very time that we need increased competition in equipment manufacture, increased capacity to produce new vehicles, increased speed in delivery and increased standardization for bus production, we face instead a bus procurement bottleneck.

To break this bottleneck, I have advanced the concept of a 1,000 vehicle Federal strategic bus reserve. The concept proposes that we change our current cumbersome procurement process for an emergency purchase authority. We would allow the urban mass transportation administration to order directly 1,000 buses up front, and then to deliver the vehicles to transit properties around the country based on a pre-arranged agreement.

If this idea were to go forward, it could stimulate competition perhaps to the extent of luring some new manufacturers into—the business—it could drive down the unit price of vehicles, reduce the delivery time for new buses—which currently averages 18 months—and even achive some uniformity in bus design in transit properties around the country—thereby further reducing maintenance costs.

At the moment, this is only an idea and in its seminal stage. We have initiated discussions with the transit industry, the bus manufacturing companies, Members of Congress and other interested parties to see whether there may be other ways to solve the bus procurement problem and to develop further the idea of a strategic bus reserve. One way or another, we must solve this problem if we are to achieve the potential for bus ridership that is in the communities around the country.

The three other major elements of the President's program include $5.7 billion in new money for rail modernization and extensions—adding 200 new rail cars per year and the capacity for an additional 4 million passengers per day—$900 million for accelerated completion of new rail systems—adding capacity for 500,000 passengers per day one year earlier than scheduled—and $800,000 million for accelerated completion of interstate withdrawal projects—adding 900,000 passengers per day.

The total impact of this program on our nation's transit capacity will be substantial. In this past decade, we spent a total of $15 billion in support of transit's capital needs. Between 1972 and 1978, transit ridership grew by 16 percent—from 6.5 billion passengers in 1972 to 7.6 billion in 1978—and a full 4 percent of that growth took place during 1978.

In the coming decade, the President is proposing a program that will see $50 billion spent by all sources in support of transit—more than three times the amount spent in the 1970s. It is a program to serve all of America—buses for small and medium-sized communities, rail for large cities, rehabilitation of old systems, and construction of new ones. And the result should be an additional 15 million transit passengers per day—a 50 percent increase.

The combination of all these programs—auto and transit—will save at least 350,000 barrels of oil per day by 1990—and with the full support of the American public, that figure could nearly double.

That support is vital.

The success of these programs will not be determined by the ability of the Federal Government to disburse billions of dollars but by the ability of State and local governments and transit authorities to spend those dollars effectively. Ultimately, our conservation program depends upon a complex of decisions by State, local and private actors—to participate in a carpool, to build high occupancy vehicle lanes, to undertake engine diagnostics or promote the use of mass transit. We are committed to working closely and cooperatively with all of these actors, for they are our allies and our agents in our common battle against energy waste.

Moreover, we are committed to a partnership at the Federal level. We recognize that the most effective way to spend transportation dollars is in concert with other Federal Department's dollars—as part of a comprehensive strategy in each community that combines Federal programs for the greatest impact.

What is most important and most promising about the energy conservation program is the opportunity we have to make transportation investments a leading force in revitalizing our cities, building our economy, cleaning up our air, conserving our land, promoting our overall quality of life.

This administration has articulated both a national energy policy and a national urban policy, and we mean to follow them. They are basic to our transportation program for the 80s. At heart, these policies direct that critical linkages between transportation investments and other community needs and values—such as energy conservation, equal opportunity, jobs, housing, environmental quality, recreation and more—must be identified and incorporated into transportation projects. And unless those linkages occur, the projects do not go forward.

One result of these policies should be the redefinition and expansion of the role of transit in this country. President Carter's program is an invitation to take a quantum leap in the 1980's, to assume a full partnership with the auto in meeting this Nation's transportation needs. No longer should transit systems be designed and operated simply as adjuncts to the highway network, content to carry the overflow of white collar rush hour commuters and those who do not have access to an automobile. If we seize the opportunity, transit can carry swing shift factory workers to their jobs, can get families to nearby recreational spots, can get grandparents to medical care and shopping centers, and can still carry an increased regional peak hour load. In other words, transit can provide energy-conserving, mobility-preserving full service transportation.

The key that unlocks this future is, as always, money. And in this instance, that means the windfall profits tax, as proposed by the President. Quite simply, with a strong windfall profits tax we will have a comprehensive energy program, balanced between conservation and new production. And we will have a major thrust for transportation, for transit, and thereby for our cities and towns, their mobility, their economic development, and their environment.

Without a strong windfall profits tax, we are back at square one.

Out of all this, one fact is clear to me. America is clearly a nation in transition. We are changing and evolving and that is healthy and proper.

It is healthy so long as we are able to manage the process of change and direct it in a positive course. And that depends fully on our capacity to anticipate problems, to build support systems that will carry us into a workable future. That is what our transportation program for the 1980s is all about and why the enactment of the windfall profits tax is so vital to our national interests and to our future.

Our Nation has been in this position before in our history—our freedom threatened from abroad. Our ability to act decisively in question, our society in transition, mid-way between old and new assumptions. At another such time, Franklin Roosevelt reminded us that, "when you see a rattlesnake poised to strike, you do not wait until he has struck before you crush him."

The energy crisis today poses just such a threat. We must not delay; already we have heard the shake of rattles and the hissing of the fangs; we cannot afford to wait for the snake to strike.

We must not fail to act and act now, lest future generations scorn us for mortgaging their future and their freedom and leaving them a hollow legacy of timidity and fear.

Thank you.●

OIL COMPANY DISTORTIONS OF ALASKA LANDS BILL

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. SEIBERLING. Mr. Speaker, on May 16 of this year, the House overwhelmingly passed—360 to 65—the Udall-Anderson bill—H.R. 39—the Alaska National Interest Lands Conservation Act of 1979. It appears likely that a somewhat different version of this important legislation will soon be reported to the other body by the Senate Committee on Energy and Natural Resources. Thus, it comes as no surprise that once again opponents of the balanced kind of approach found in the House-passed bill are circulating the same tired myths about that bill's provisions and their supposed impact on our energy situation.

Thus, on October 10, the gentleman from Alaska caused to be printed in the CONGRESSIONAL RECORD an article by a Mr. E. Louis Overstreet entitled—inaccurately—"Repressive Congressional and Department of Interior Lands Action Will Stymie Alaska Economic Development."

Now, Mr. Speaker, I do not believe that our colleagues in the House will be misled by this article, or by similar wild charges and distortions, because they will remember the very thorough and detailed discussions of the Alaska lands issues which preceded the House landslide vote for the Udall-Anderson bill. But, because other readers of the CONGRESSIONAL RECORD may not be as familiar with the facts regarding the House bill, I think that I should set them out once again.

For example, Mr. Overstreet writes that H.R. 39 "is almost completely void of appreciation for our national energy problem and the potential that exists in Alaska." The fact is that the Udall-Anderson bill is grounded in a rational appreciation of the importance of energy resources, especially oil and gas, and in the need for orderly development of those resources in Alaska. Thus, the Udall-Anderson bill:

First. Mandates oil and gas leasing by private industry in the National Petroleum Reserve in Alaska—renamed the Teshekpuk-Utukok National Wildlife Refuge—an area of considerable promise which has been off limits to such exploration and development by industry for a half century. As to the significance of this provision of the Udall-Anderson bill, consider the evaluation of John Silcox, western region general exploration manager of Chevron USA:

> The Department of Energy's most recent estimate of the potential of the area is 5 billion barrels. The numbers I would like to use are 5 to 10 billion barrels, which would be as much as 10 percent of undiscovered U.S. reserves. However, responsible and plausible estimates of 20 to 30 billion barrels have also been made. So it's possible that we're talking about one-quarter of America's undiscovered reserves.
>
> Chevron considers the NPR–A a very exciting opportunity. I would have to say that this area stands as one of the highest potential single areas in the U.S. onshore today. *It may be the highest.*" (Emphasis added.) (Opening Alaska's National Petroleum Reserve, remarks by John Silcox, Western Region General Exploration Manager, Chevron U.S.A., May 4, 1979, page 4.)

Second. Leaves open to exploration and development all the offshore areas of the Continental Shelf and the State's submerged lands. These are currently the areas which are attracting the most interest, and an unprecedented State-Federal joint lease sale is currently under active consideration.

Published studies by the USGS and the State of Alaska have rated the offshore oil and gas potential significantly above the onshore. The ratio is roughly one-third onshore to two-thirds offshore. Industry has rated the Bristol Bay Outer Continental Shelf Basin as one of the highest potential areas of the entire U.S. Outer Continental Shelf.

Offshore development similar to conditions to be expected in Bristol Bay has been underway for over a decade in the Alaska Cook Inlet where fields as small as 75 million barrels have been producing from platforms. Striking economic differences can be seen when contrasting the 75-million-barrel fields now producing in Alaskan waters with the 1- to 2-billion barrel field that is considered economically viable on land in the Arctic. It takes over 10 times the volume of oil to justify the costs of development in areas such as the Arctic Range than in promising Outer Continental Shelf areas such as Bristol Bay.

Third. Opens for expedited or normal exploration and development over 90 percent of the onshore promising areas—that is, the areas which have been identified, by Federal and State experts, as being either high or favorable in terms of the likelihood of oil and gas discoveries. Many of these are in areas for which the bill—in title XII—mandates expedited leasing procedures.

So, Mr. Speaker, what is all this propaganda about? What prompts articles like Mr. Overstreet's that suggest the Udall-Anderson bill will cripple our economy, bring back the gas lines, or block development of Alaska's energy potential? Of course, the answer is that the House, by passing H.R. 39, refused to sacrifice the Arctic National Wildlife Range, with its incomparable international wildlife, wilderness, and other natural values; by designating that area as wilderness, the House overwhelmingly decided that this should be the last place we look for petroleum after other potential areas in Alaska have been explored and developed. That is the real burden of Mr. Overstreet's complaints, the real reason for the absurd litany of misinformation and distortions which once again are beginning to be heard here in the House and at the other end of the Capitol.

So, again, let me remind the readers of the Congressional Record about the realities of the situation. A good place to start is with the important colloquy between the gentleman from Oklahoma, Mr. Synar, and Chairman Udall during the debate on the Alaska lands bill here in the House last May 15, concerning the Udall-Anderson bill's wilderness designation for the Arctic National Wildlife Range (ANWR). The first question concerned the often heard claim—repeated by Mr. Overstreet—that the ANWR may be "another Prudhoe Bay" that would supply a considerable part of the oil our Nation needs today. Let me quote Chairman Udall's response, and the rest of the colloquy:

> Mr. Udall: Mr. Chairman, if the gentleman will yield, there are two reasons for this claim—the first mythical and the second political and ideological.
>
> In 1972 during the great optimism which followed the Prudhoe Bay discovery, the State of Alaska speculated that the Arctic Range could contain as much as 14 billion barrels of oil. Last year, however, the U.S. Geological Survey reported the results of recent research, including near-shore seismic profiles, which indicates the potential of this area is roughly 400 million barrels of oil. Alaska's former chief petroleum geologist estimates 750 million barrels, enough to supply current U.S. demand for about 38 days, and well below the estimated economically recoverable threshold of 1 to 2 billion barrels for similar frontier areas in Alaska. Still, the hopes raised in the State's 1972 report persist.
>
> The second reason for these claims is more ideological. The petroleum industry, in common with development interests generally, is opposed to withdrawing any area with potential mineral resources from exploration and development. Our current energy problems have made the Arctic Wildlife Range an ideal tactical issue for supporters of a prodevelopment Alaska lands bill, who continue to quote a multibillion barrel potential despite lack of any scientific merit whatsoever.
>
> In summary, the latest published studies and testimony by the Department of Energy do not support these claims of high oil and gas potential. They contradict them in total. Industry may bid fantastic dollars for North Slope leases in the NPR–A but it is highly doubtful if they would do so in the ANWR. . . . There is a strong probability that there is not a Prudhoe Bay size field located within the Arctic Range coastal plain. The latest USGS report states:
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> "In the western part of the ANWR, the prospects for large oil or gas deposits in rocks of the Ellesmerian sequence (Prudhoe Bay's Reservoir Rocks), including traps of the Prudhoe Bay type, is very low."
>
> Later in the report the author again states "the potential for such large Ellesmerian oil or gasfields beneath the coastal plain is low."
>
> Furthermore, the USGS scientists state that in the rocks that are expected to trap oil in the coastal plain the fields "might contain in the range of 10 to 200 million barrels of oil." This is a significant difference from the 9.6 billion barrel Prudhoe Bay field, and well below the economic limit of 1 to 2 billion barrels needed for development.
>
> Mr. Synar. If this Congress acts favorably on legislation such as yours, which closes the Arctic Range to oil and gas exploration, what impact will that action have on the immediate and near-term energy situation in this country, and what would be the impact on the long-term energy problem we face, say 25 to 30 years from now?
>
> Mr. Udall. The opening of the Arctic Range to exploration and development would have no positive effect upon the short-term energy problem we face for the next 10 years. In fact, it would have a short-term negative economic effect. Exploration of these lands would require the use of fuel, manpower, and economic resources by industry and government that would be far better invested elsewhere. . . .
>
> Under a realistic exploration and development program, ANWR production—if economic reserves are found—would most likely be on line around the year 2000 or later. . . . The oil of the Wildlife Range may be produced someday, but it will likely be not as energy but for plastic or fertilizer. Nothing stops some future Congress from allowing the exploration for these uses if they are of sufficient national importance. Our energy advisers have told us that the best bet for short- medium- and long-term energy is the Outer Continental Shelf and the National Petroleum Reserve—Alaska—not the Wildlife Range.

In conclusion, Mr. Speaker, let me simply urge all the readers of the Congressional Record—including the Members of the other body—to beware of the distortions and myths which once more are starting to circulate about the House-passed Alaska lands bill. That bill is sound, it is balanced, and it deserves the support of all parties who are truly determined to both improve our Nation's energy supply position and protect our heritage of incomparable natural treasures.●

SOMALIA NEEDS U.S. SUPPORT

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. LAGOMARSINO. Mr. Speaker, for a number of years my colleagues and I have been complaining about Soviet-Cuban "adventurism" in natural resource-rich Africa. The feeling that we have missed our chance in that region is quite widespread. The following article, however, portrays a situation in which the United States is apparently not taking advantage of a chance to deflect Soviet advances in Somalia.

As the article relates, we are being looked to by Somalia's leaders to supply the economic and military aid needed to arrest Soviet-backed guerrilla attacks at her borders. As much as the Carter administration is reluctant to admit it, the fact remains that territorial integrity is the foremost consideration of Third World leaders. Since we will not supply them the means to insure this integrity, they may be forced into the hands of the Russians.

Somalia is an excellent case in point. The article follows:

Troubled Somalia Looks to Us, and We Look the Other Way

(By Georgie Anne Geyer)

Mogadishu, Somalia.—The midnight drive up the empty, eerie streets of this exotic Indian Ocean city warns of Somalia's troubled politics. Three times as our car approached the presidential compound, Russian-trained soldiers flew to attention, trained their machine guns on the car and, without altering their aim, walked with a terrifying deliberateness to within six feet of our faces before allowing us to enter.

But when I got in to see President Mohammed Siad Barre, one of the more mysterious and least seen leaders of the world, he was cordial, witty, outgoing. He apologized for the midnight meeting, a habit of many Third World leaders to intimidate their guests.

"I don't like to work all night," said the President, a big, hearty man known for his long hours, "but I do it as an example. For instance, our economic commission just left. I tell them, 'It is not necessary to take all this time on things—why are you dragging?' "

But Siad Barre is not only impatient. In this country of 2 million to 3 million largely nomadic people, which sits at the confluence of the Red Sea and the Indian Ocean, his greatest concern is defense, and the American reaction—or, rather, nonreaction—to it.

"I don't want to provoke the Soviet Union any more," he said somberly, this man who three years ago kicked the hordes of Russians out of this strategic country that they thought they controlled, "because nobody is coming to my defense.

"My military chief of staff keeps asking me, 'Any news?' I have to say, 'Good news is coming.' I can't say there is no good news. And when the people ask me, 'Where are we, are we with Russia or the United States?' I say, 'We are with Somalia.' "

The problem is that Siad Barre and his now violently anti-Soviet regime want to be with the United States. But it is another classic case of the Carter Administration's indifference and hesitation that, after two years of thinking, it cannot decide whether to give the Somalis minimal weaponry or not.

Siad feels that he has assuaged American fears over whether Somalia might invade its neighbors, which have large Somali ethnic minorities. At a meeting in Taif, Saudi Arabia, in September, arranged through the quiet diplomacy of the Saudis, Siad stayed on the same floor of the Sheraton Hotel and negotiated through intermediaries with Kenyan President Daniel Moi to try to settle one local problem—the former Somali claims on the Somali tribesmen's part of Kenya.

"What I said was that we have no ambition for territory in any country, that's that," Siad told me emphastically. "But I told them that I can't renounce what I don't own—the Somali people's right to self-determination in these areas."

The meetings collapsed on the second point, and Somalia remains caught in the conundrum.

Meanwhile, the Somali regime is deeply concerned. The Somalis know that the Russians, dug in with 20,000 Cuban troops in Ethiopia, now hate them with passion. Radio Moscow's broadcasts constantly threaten Somalia. A Russian-backed guerrilla group, the Somali Salvation Front, is now attacking Somalia on its borders, at least in part because of continued Somali support for its guerrilla groups in the Ogaden.

"The last report of our minister of defense was the probability that Ethiopia might attack," the president told me. "I told him, 'Be watchful, be on guard.' That is all I could say. Our problem," he added, "is that sometimes we can't explain our plight to the rest of the world."

Meanwhile, the Saudis—concerned about the worsening situation in the area, with Soviets and Cubans making the military decisions in Ethiopia and South Yemen, with a disintegrating Iran on the other side and with South Yemen arming a new rebel movement against Western-oriented Oman—look at the United States with equal dismay.

"Give the Somalis something, anything," a high Saudi official in the area begged me. "Your Administration does not understand timing. It will soon be too late."

And an American diplomat in the area put it this way: "Somalia in itself may not be important. But it is certainly crucially important in terms of an overall strategy for the whole area."

That, as in so many other areas, does not seem to be forthcoming for this area. As elsewhere, the Carter Administration does not seem to be able to grasp a pregnant situation and birth it to our interests before someone else aborts it.

Somalia stands as a classic case. It is still struggling to be pro-Western, but time is running out—and, as in Nicaragua and so many other places, our policy here is to wait until disaster comes, and then to work 20 times as hard to try to bring it back to a promising situation such as we now have here.●

STATEMENT ON THE PRESIDENTIAL SYNTHETIC FUELS PLAN

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. DORNAN. Mr. Speaker, the President's proposals for the development of a synthetic fuels alternative—in terms of sheer expense—are somewhat revolutionary, but hardly a break from his previous commitments, constantly expressed during virtually every phase of the energy debate, to rely more and more upon the power of the public sector to resolve the Nation's energy problems. Defenders of the President's program are quick to point out that, whatever the particular faults of the President's program, it is, nevertheless, a sincere attempt to come to grips with an energy crisis that threatens the very economic foundation of the United States, and thus the entire industrial world. Briefly, I would like to focus on what I consider to be the major drawbacks of the President's proposal and offer some alternative suggestions.

The cost is prohibitive. According to the administration's own estimates, the establishment and operation of the proposed Energy Security Corporation to develop synthetic fuels will cost $142 billion by 1990. The funding for this program is to come from revenues primarily generated by a permanent windfall profits tax. As passed by the House, the amount of revenue going to the Federal Government from the windfall profits tax would be $23.2 billion by December 31, 1984. This means, of course, that somehow, some way, an additional $119 billion would have to be raised in the remaining 5 years. The massive Energy Security Corporation would have the stated goal of directing investments at the creation of a domestic synthetic fuel capacity in the range of 2.5 million barrels a day by 1990.

The Energy Security Corporation goes far beyond the simple enhancement of the economic climate for synthetic fuel development. It is designed to be a direct, major competitor with the private sector. It will be a massive operation, dwarfing in size companies that have been directly involved in the production of energy processes. In other words, if we permit the establishment of this gigantic corporate entity, we will be enabling the Federal Government to move ahead with an intrusion into the private sector that is simply unprecedented in peacetime.

I would like to elaborate on this theme in some detail. Such a Government corporation could only draw its capital from the private market into the public sector; and there is absolutely no reason, let alone a guarantee, that the Federal Corporation will use these resources more effectively than the host of private firms that are powered by the inventive genius of the marketplace. This diversion of massive amounts of capital will doubtless hinder the development of other energy technologies which might hold promise for the short to immediate term. It is instructive that Mr. Frank Zarb, former Federal Energy Administrator, told the Senate Energy Committee that a similar investment in tertiary recovery techniques for oil would result in a net gain of at least 1 million barrels of oil per day more than synfuels by 1985. Moreover, the Federal Corporation would not be competing with other firms in the energy market on a fair and equitable basis. Why? First, because it would be subsidized by taxation and insulated from the effects of financial loss. Second, because the same rational economic decisionmaking that guides a private firm under the constant pressures of a competitive market would be simply absent in a subsidized or tax-supported Government corporation. The Energy Security Corporation will be able to afford to take risks that private firms would not dare.

While these risks may sometimes be successful, failure would not simply hurt the Government's directorate, but every American who is forced to support it through higher taxes, Government loans, or other subsidies. All are punished by the profit decline, not just a few.

How can the Federal Government help? I think that the answer to this problem lies not in the creation of another massive bureaucracy with direct loans or subsidies from the Federal Treasury. The answer to the development of an effective synthetic fuels program lies in tax incentives, including accelerated depreciation or tax credits. Rather than providing a massive subsidy to the synfuel project, why not try two simple measures, radically different from the Presidential program. First, guarantee that the production of synfuel would be completely free of any price regulations, the worst single disincentives to economic development of the energy market in the Western World. Investors could be assured of at least a reasonable chance to get a profitable return on their hard-earned investments. Such a measure was initiated in Canada with considerable success. Second, we could allow producers to take a 20-percent tax credit for investment in synthetic fuel industry. A recent study by the Electric Power Research Institute indicated that such an incentive would allow the costs of synthetic fuels to approximate the costs of petroleum derived fuels for the first 5 to 10 years of operation. According to the same study, by the mid to late 1990's, the price of crude oil would rise to a point where unsubsidized synthetic fuels would be directly competitive. In conclusion, the Electric Power Research Institute study revealed that the tax incentives of this kind—such as a 20-percent tax credit—would result in low-cost synthetic fuels, and would require a minimum direct capital outlay from the Federal Government. That, is the way to go—not in the construction of yet another massive bureaucracy which will meander aimlessly over the national energy landscape.●

CONGRESSIONAL SALUTE TO THE CHILTON MEMORIAL HOSPITAL UPON ITS 25TH ANNIVERSARY CELEBRATION

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. ROE. Mr. Speaker, this year the Chilton Memorial Hospital located in Pompton Plains, N.J., and serving 11 communities in our northern region of New Jersey is celebrating the 25th anniversary of its founding and it is indeed my privilege and honor to call this most historic event to the attention of you and our colleagues here in the Congress and seek this national recognition of Chilton's quarter of a century of quality health care to the people of my congressional district and State of New Jersey.

Mr. Speaker, a silver anniversary ago—on November 29, 1944—the Chilton Memorial Hospital opened its doors to receive its first patient 7 years after Chilton's founders, Dr. Forrest S. Chilton II, and his wife Betty, donated an 8-acre tract of land on which to build a hospital to memorialize their son, Forrest S. Chilton III, whom they lost in World War II and the sons, brothers, and fathers of other families who gave their lives for our country in the same battle of nations.

The history and development of Chilton Memorial Hospital is inextricably interwined with the leadership, love, and caring of Dr. and Mrs. Chilton and a host of other dedicated men and women throughout the years with the deepest of concern for the needs of people—ever seeking the highest standards of excellence in their personal commitment to the health and well-being of the individual under their care.

Mr. Speaker, with your permission I would like to insert at this point in our historic journal of Congress an excerpt of a statement that recently appeared in the Chilton Memorial Hospital News which will provide you with a brief history of Chilton Memorial Hospital, its outstanding professional expertise, and the sincerity of purpose of the people who have worked diligently over the past 25 years in affirmation of their awareness and concern for the dignity and humanity of each patient. The excerpt reads as follows:

CHILTON: QUARTER CENTURY OF COMMITMENT TO CARING

. . . After World War II, the need for a hospital to serve the rapidly growing upcountry communities became pressing. In 1947 Dr. Forrest S. Chilton of Pompton Plains donated a tract of land on Newark Pompton Turnpike in memory of his son, Forrest S. Chilton II, who was killed in action in World War II. Thus the Forrest S. Chilton III Memorial Hospital became a living memorial to all from this area who lost their lives in World War II.

A board of trustees was incorporated on June 20, 1947, and the official campaign began in July, 1948. In spite of many stumbling blocks, Dr. Chilton and his friends in Pompton Plains and the surrounding communities were determined to realize their goal. After much work by dedicated, community-minded people, nearly $200,000 was raised, but this was not enough—over $400,000 more was needed.

The involvement of hospital supporters in Civil Defense activities, which were very strong during the early 1950s, provided the crucial answer to the lack of funds. It was learned that loans were available from the federal Reconstruction Finance Corporation for hospital construction if the institution could be deemed essential to the Civil Defense program. Application was made and approved for a $443,000 loan, and the hospital was on its way.

Construction began in March, 1954. Eight months later, on Nov. 20, the 50-bed hospital on Newark Pompton Turnpike was dedicated. At the dedication ceremonies Dr. Chilton reviewed the beginnings of the plan to erect a hospital in the area and said, "At times it was almost impossible to get a doctor in an emergency. We now will have plenty of doctors." His words were truly prophetic. Over the years Chilton Hospital has attracted outstanding physicians in all the major specialities and has made remarkable strides in improving the quality of medical care for this area.

Those who signed the original incorporation papers included: Forrest S. Chilton, M.D., E. C. Chilton, R.N., the Rev. E. T. Jones, William Lewis Arthur, Kurt Manrodt, M.D., and Hugh B. Lynn, M.D., all of Pompton Plains; George Schmidt and Maurice Taub, Pequannock; Harry B. Davenport and Ralph Ellis, Pompton Lakes; C. J. Gunter, Montville; Charles Spongberg, Lincoln Park; Milton Janner, Little Falls; Oscar Storch, Bloomingdale; and Thomas N. D. Mace, Butler.

Original medical staff officers were: Dr. Forrest C. Chilton, president; Dr. Charles Honig, vice president; and Dr. Vincenzo Onorato, secretary-treasurer.

The demands for services accelerated ever since the day the hospital opened its doors. On April 1, 1961, after more fund-raising efforts, an addition to the existing plant was completed, bringing the total bed capacity to 119.

As the population growth of the 11-town primary service area depending on Chilton grew to spectacular proportions, the space-need story repeated itself. Many more doctors were settling "upcountry" and Chilton was hard pressed to meet the needs of their patients.

In 1965 a campaign was launched and public response was so vigorous that within months nearly $1 million was raised. Hospital trustees had the opportunity to purchase a tract of land one mile from the Turnpike property and after many regulations had been met to satisfy state, regional, and township officials, ground was broken for a new building of five stories with space for more expansion on Aug. 1, 1970. Dedication of the new building came 15 months later, on Nov. 20, 1971, just 17 years from the date of the first dedication in 1954. Many of the founding leaders were present to applaud the achievement.

With the addition of the new building, the hospital's total bed capacity is now at 250 beds. Chilton is a short-term, acute care general hospital which provides a full range of services, including 12 pediatric, 24 obstetrical, 12 intensive care and coronary care beds, and consistently operates at a high level of occupancy. A voluntary, nonprofit, non-sectarian community hospital, Chilton is fully accredited by the Joint Commission on Accreditation of Hospitals and holds membership in the American Hospital Association, the New Jersey Hospital Association, the Hospital Service Plan of New Jersey, and the Associated Hospital Service of New York. The institution is also licensed by the State Department of Health of New Jersey, and was one of the first delegated by the state to participate in the Professional Standards Review Organization (PSRO).

Chilton Memorial Hospital is governed by a board of trustees, serving without compensation and elected on a rotating basis. Although the board functions primarily as a policy-determining body, it must approve major operational decisions and expenditures. Board membership reflects a cross-section of business, industrial, governmental and public interests, as well as the communities served by Chilton.

Current officers and members of the board of trustees are: Russell Johnson, Union Camp Corp., Wayne, president; John W. Fredericks, Fredericks Fuel and Heating, West Milford, vice president; Michael M. Horn, Williams, Caliri, Miller, Otley and Horn, P. A., Wayne, vice president; Ethel C. Moser, Wayne, vice president; Mary Chapman, Wayne, secretary; John Prol, First National Bank of N.J., Totowa, treasurer; Gerald M. Krantz, executive vice president and administrator.

Grace Brady, Morristown; Edwin P. Brooks, New York Life Insurance Co., N.Y.; Robert T. Dunn, M.D., Wayne; William A. Durbin, Hill & Knowlton, Inc., N.Y.; John M. Galesi, Galesi Realty Corp., Wayne; Gerald T. Heulitt, architect, Pompton Lakes; Charles Honig, M.D., Butler; W. R. Huntington III, D. D. & H. Associates, Inc., Cedar Grove; Helen Iafrate, West Milford; Louis Lombardi, National Community Bank, Pompton Lakes; William Ludwig, Amerace Corp., N.Y.; Kurt Manrodt, M.D., Pompton Plains; Rep. Robert A. Roe (D-8th); Philip H. Roy, Merck & Co., Inc., Rahway; Robert D. San Filippo, Greenwich Mills Co., Secaucus; Dorothy S. Shepherd, Wayne; and James M. Tindall, State Farm Insurance Co., Wayne.

Members emeritus are Max J. Husselrath, Miami, Florida; Charles E. Miller, Aiken, South Carolina; and Samuel S. Nochimson, Esq., Pompton Plains.

Chilton's administrative staff is headed by Gerald M. Krantz, F.A.C.H., executive vice president, who has been the administrator since January, 1972. Krantz joined the hospital as assistant administrator in 1959, becoming associate administrator in 1964. He received his bachelor of arts degree from Indiana University and his master's degree in hospital administration from Northwestern University. He is a Fellow of the American College of Hospital Administrators and is a trustee of the N.J. Hospital Association.

Ruth Taylor, presently of Texas, served as administrator from February 1956 to December 1971.

Eight hundred and four members of area communities are employed by the hospital. Continuing in-service education for nurses and other personnel keeps pace with the latest equipment and treatment plans for the best care for our patients.

Chilton Memorial Hospital has 267 physicians on its medical-dental staff, of which a remarkable 92 percent is board eligible and/or board certified in their particular specialty.

Chilton's Continuing Medical Education for physicians received a Category I accreditation from the American Medical Association.

Present officers of the medical-dental staff are: Dr. J. Duff Brown, Pompton Plains, president; Dr. Lewis Goodkin, Wayne, vice president; and Dr. Stephen Anish, Wayne, secretary-treasurer.

The medical-dental staff is organized into 13 major departments. Departments and their chairmen are as follows; anesthesiology, Rita Newman, M.D.; dentistry, Charles Getzoff, D.D.S.; medical department, Barry B. Galton, M.D.; obstetrics and gynecology, J. Calvin Frommelt, M.D.; surgery, Mitchel Bernstein, M.D.; ophthalmology, C. Jerrold Silodor, M.D.; orthopedics, Lewis Goodkin, M.D.; pathology, Irving Weiss, M.D.; radiology, Sanfurd Bluestein, M.D.; pediatrics, Herbert Cole, M.D.; urology, Barry Altman, M.D.; emergency department, Robert Pollack, M.D.; and psychiatry, Gerald Rozan, M.D. The non-clinical department of family practice is chaired by Harold Sargent, M.D.

Physicians who have served as medical staff president include: 1955, Forrest S. Chilton, M.D.; 1956, Charles Honig, M.D.; 1957, Andrew Ruoff III, M.D.; 1958, Kurt Manrodt, M.D.; 1959, J. Calvin Frommelt, M.D.; 1960, Samuel T. Bernson, M.D.; 1961, John W. Ratcliffe, M.D.; 1962, Byron H. Close, M.D.; 1963, Hugo M. Cardullo, M.D.; 1964, Ernest C. Lydecker, M.D.; 1965, Sanfurd Bluestein, M.D.; 1966, Saul L. Sanders, M.D.; 1967, Robert V. Holman, M.D.; 1968, Robert T. Dunn, M.D.; 1969, Jerome Bellett, M.D.; 1970, Herbert L. Cole, M.D.; 1971, Mitchel Bernstein, M.D.; 1972, Barry Galton, M.D.; 1973, Richard W. Rado, M.D.; 1974, Leonard J. Lesniak, M.D.; 1975, Irving Weiss, M.D.; 1976, Martin Rosenthal, M.D.; 1977, Robert Hubsmith, M.D.; 1978, C. Jerrold Silodor, M.D.; 1979, J. Duff Brown, M.D.

Johanna Demkowicz, R.N., has been director of nursing services since shortly after she joined the institution at its opening in 1954.

Of the 12 nurses on the original staff when the hospital opened its doors in 1954, five are currently members of the staff at Chilton: Dorothy Brown, R.N., MS II; Agnes Dalrymple, night supervisor, Parkway building; Miss Demkowitcz; Irene Donovan Farro, maternity staff; and Winifred Cooke Tintle, in-service coordinator.

Chilton's busy emergency room is staffed by fully licensed house physicians and specially trained nurses under the direction of Robert Pollack M.D., chairman of the emergency department. During 1978, more than 30,500 patients were treated in the emergency department.

Specific services offered by the hospital include clinics in medical obstetrics, gynecology, and other medical specialties.

Chilton has made extensive use of preadmission testing to reduce the average length of patient stays. This program has received special commendation from Blue Cross of New Jersey. More than 560 patients per month are admitted under the pre-admission testing programs which are done between the hours of 7:15 and 9 a.m. so that no patient loses a day's work. Chilton was recently one of two New Jersey hospitals lauded for the highest percentage of P.A.T. patients.

The department of dietetics has an approved program with the American Dietetic Association for a dietetic traineeship for candidates with a bachelor of science degree in foods and nutrition from a curriculum approved by the American Dietetic Association.

Also, through affiliations with William Paterson College of New Jersey, Felician College, Lodi, the County College of Morris, and the Passaic County Community College, clinical training is provided in the field of nursing, radiology, and respiratory therapy.

The Women's Auxiliary of Chilton Memorial Hospital was organized in 1949, five years before the hospital was built. Eight active chapters, 1,051 members strong, from communities in Chilton's service area have maintained on-going fund-raising programs which have raised more than $1,138,486 for the hospital. The Auxiliary's ability to raise money to insure the future of the hospital as a changing, dynamic institution is surpassed only by its enthusiasm for serving as ambassadors of good will in the community.

The volunteer program has recorded a total of 1,474,247 hours of selfless service since 1961 when hours were first recorded. The first volunteer service was staffing the information desk, continued through the years till now. Soon after, the volunteers branched out into other service areas and today can be found in nearly every hospital department. In 1978, 492 pink ladies served 55,807 recorded hours.

An active candy striper program gives high school girls between the ages of 14 to 18 an opportunity for first hand experience in health careers. In 1978, 274 candy stripers served a total of 16,495 recorded hours.

The Men's Corps of Chilton Memorial Hospital was organized in 1972. In 1978, 64 men's corps members served a total of 8,644 recorded hours.

In 1978, a total of 830 volunteers served a total of 80,946 recorded hours.

Thus, as we celebrate our Silver Anniversary Year—1979—the volunteer commitment to quality health care which prompted our friends and neighbors to join the campaign to build Chilton Memorial Hospital, remains an invaluable asset to the communities we serve.

Mr. Speaker, I appreciate the opportunity to look through the hourglass at Chilton during the past 25 years and reflect upon the great pride we all feel with the vast range of services and advanced medical technology they have achieved during a quarter century of commitment to the health care needs of our people which have truly enriched our communities, State, and Nation. We do indeed salute the administrators, doctors, nurses, employees, volunteers and patients at Chilton as they celebrate the silver anniversary of Chilton Memorial Hospital.●

HONORING CHUCK TANNER

HON. EUGENE V. ATKINSON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. ATKINSON. Mr. Speaker, I would like to call the attention of my colleagues to the high achievement of one of my constituents, Chuck Tanner, a native of New Castle, Pa., and the manager of the new world champion major league baseball team, the Pittsburgh Pirates.

Since taking command of the club in 1977, Chuck has inspired a genuine feeling of cheerful optimism and youthful love for the game that has spilled over to both the Pirate players and their legions of fans. Beyond this, Chuck Tanner has, on innumerable occasions during the long seasons, proven his ability and instinctive knowledge of the game by his demonstrations of deft strategy and ultimately by steering his team to competitive and winning seasons.

Granted, impressive performances in post-season games, player statistics, and win-loss columns are the yardstick that traditionally has gaged the overall success of baseball teams. However, cold facts are oftentimes an inadequate measure of achievement. Chuck Tanner's greatest triumph, in my belief, has been creating an environment of trust and concern in which he has unified 25 athletes, individual personalities and free spirits, into not only an awesome baseball power, but a close-knit "family" in the warmest sense of the word. This emotional togetherness provided a season-long source of motivation that members of his team have said was the true basis of their remarkable success.●

WILLIAM S. HART—HOME GROWN IN NEWBURGH

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. GILMAN. Mr. Speaker, the city of Newburgh, N.Y. in my 26th Congressional District lays claim to several famous Americans. Al Jolson, a renowned entertainer; Andrew Jackson Downing, the famous landscape architect; and the talented 19th century painter, George Innes all were brought up in that historic city on the banks of the Hudson.

On October 21 another favorite son, William S. Hart, "the original, one and only western cowboy of the silent screen," was honored at a film festival in Newburgh.

The event was spearheaded by Al Rhoades, the editorial page editor of the Newburgh Evening News, who for more than a decade has been trying to encourage that city's residents to recognize Hart, one of Newburgh's favorite sons.

It is a way, Mr. Rhoades told me, of getting our residents to realize that we do have a rich cultural heritage, even beyond Revolutionary War days.

I would like to note that the publisher of the Middletown Times Herald Record, James Ottaway Jr., cooperated with the Evening News in planning this commemorative festival.

At this point in the Record, Mr. Speaker, I would like to share with my colleagues the text of an article which reflects the cry of Newburgh's pride in its native son, William S. Hart, which was printed in the Evening News on September 23, 1979:

Rare Films of William S. Hart, Newburgh Native, To Be Shown in Library Festival

(By Al Rhoades)

The seven-week film festival, which will feature the classics of William S. Hart, stands not only as a tribute to the greatest of all western stars of the silent screen, but as a memorial to a native Newburgh son.

The tall, thin, rugged man, who was not only born in Newburgh but spent some of his most formative years here as a child, blazed the trail to gold and glory for Tom Mix, Hoot Gibson, Ken Maynard, Buck Jones and other famous cowboy actors.

But Hart was the original, the prototype, from which the mold was made. It is doubtful if any other achieved the fame and popularity he did as the result of the more than 25 films he made.

Newburgers will have a rare opportunity to see original Hart films during the series, which begins at the Newburgh Free Library, 124 Grand St., Sunday, Oct. 7 at 2:30 p.m.

The series is under the sponsorship of Friends of the Library, of which Peter Cantline is president.

The series is possible through the generosity of James H. Ottaway Jr. of Goshen, who owns several of Hart's film classics which can only be seen on occasions such as this . . . never in the movie theater and never on television.

Aiding Ottaway in collecting his library of Hart and other rare films is the undisputed dean of silent film buffs, Bown Adams of Greenwood Lake, who has volunteered to show the priceless programs. He will show some of his own rare Hart films.

Today at Newburgh Library, is a special tea and film preview of the screen star's out of print films, clips from "Hell's Hinges," "Tumbleweeds," "The Toll Gate," and many others.

Hart was born in Newburgh Dec. 6, 1870. His father, Nicholas Hart, was an Englishman and a graduate of Oxford. His mother was an Irish girl.

When Hart was six months old, his family moved to the Dakotas, where the youth grew up among the Sioux Indians, riding bareback, learning to fish and hunt, shooting with gun and bow and arrow, and learning to talk the Sioux language, both oral and sign language.

When he was a young lad, the family moved back east to Newburgh where Bill and his two sisters could have better educational advantages.

For a while, the family lived on Cart Alley, located behind the present Bourne Apartments, where merchants and peddler's kept their horses and wagons. The Hart family lived up over the long gone stables.

They then moved to Washington Street and rented one of the houses opposite St George's Cemetery. The house is still standing today, but there is no way of knowing which one it was.

In one of the three books Hart wrote, "My Life—East and West"—he recalls a downtown bakery where he and other newspaperboys stood for hours, staring wistfully and hungrily at the wide variety of good things.

Heat came up through an iron grate in front of the store, warming his feet through the thin soles of his shoes, he recalled.

He made a few extra bucks shoveling sidewalks in the wintertime, among them the walks in front of the Good Shepherd Church. The original church, on Newburgh's Broadway, was a few doors east of its present location.

One problem that confronted him was the harassment by older boys who made fun of his soprano voice.

This didn't last too long, however, because Hart had learned much of rough and tumble fighting from his life in the west, where the ability to dish it out meant, in some cases, survival.

Those who couldn't handle themselves in the "fun" games collected a rash of black eyes, bruises and lumps.

When Hart was in his teens, the family made its way to New York City on a barge down the Hudson from Newburgh. At 19, he made his stage debut with Daniel D. Bandmann, a German comedian.

He played stock, then returned to Broadway where his rolls included that of Romeo, opposite Julia Arthur's Juliet.

Hart is one of numerous prominent people who were native sons of Newburgh. While the city does not warrant any particular plaudits for serving as the birthplace of these people, we do think the city could have done more through the years to pay tribute to those who carried the name of Newburgh far and wide.

Now is our chance to make up for lost time and show our pride, both in the city and in our "sons and daughters." We'll go so far as to suggest that the city name a street in honor of William S. Hart, the man film historians acknowledge as the greatest cowboy actor of all time, who brought authenticity to western films.

There is no charge for the Hart film festival, a schedule of which will appear on other pages in The Evening News at appropriate times.

Further information on the festival can be obtained by calling Mrs. Patricia Marshall at the Library.

Film buffs, and those who find in Newburgh's past a key to Newburgh's future, owe a debt of gratitude to Ottaway and Adams for their interest in Newburgh and for wanting to fan the spark that remains of area pride in the city's heritage.●

THE AFTERMATH OF THE SWINE FLU PROGRAM

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. MAZZOLI. Mr. Speaker, recently the Office of Technology Assessment (OTA) issued a report entitled "A Review of Selected Federal Vaccine and Immunization Policies."

OTA's report indicates that the Federal Government is "the single most important determinant of this Nation's commitment to the use of vaccine to prevent disease."

From this statement I am constrained to observe that, if our experience with the swine flu program is any measure, then I question the ability of the Federal Government to develop a successful program to use vaccines to protect its citizens from disease.

In 1976, American citizens responded by the millions to their Government's entreaty and received swine flue shots. A few of these citizens, unfortunately, suffered adverse reactions from the shots, most notably from the Guillain-Barre Syndrome (GBS). Guillain-Barre causes paralysis beginning at the extremities and moving to the trunk of the body in stages.

There is human tragedy here. But, this tragedy has been compounded because of the unwillingness of the Federal Government to negotiate proper damage recoveries with the victims of GBS.

The OTA report cites that fewer than 50 claims out of a total of 3,694 damage claims opened and suits filed have been settled. In the words of OTA, "for vaccines suffering real harm or death . . . compensation was not timely, has yet to be provided, or may not be provided."

On July 16, I wrote letters to the President, and others in authority, urging that the Federal Government concede causation and negligence in all GBS cases brought under the Swine Flu Act. This would expedite the disposition of the backlog of GBS cases and would display justice to the victims.

Continued failure to deal fairly with the victims of the swine flu immunization program undermines the good citizenship exhibited by those who received shots, and casts a cloud of doubt over the degree of citizen cooperation which can reasonably be expected by the Government in the event a future mass immunization program is ordered.

Mr. Speaker, I would like to submit into the CONGRESSIONAL RECORD material from the OTA report.

LIABILITY EXPERIENCE OF THE SWINE FLU IMMUNIZATION PROGRAM

Because vaccine manufacturers were initially denied liability insurance by the insurance industry, the swine flu immunization program was delayed until Congress enacted legislation providing that all tort suits had to be brought against the Federal Government through a modification of the Federal Tort Claims Act. Under the legislation enacted, the National Swine Flu Immunization Program of 1976 (Public Law 94–380), the Government has a right of subrogation only against manufacturers and program participants who were negligent.

As described earlier, each of the four manufacturers of swine flu vaccine self-insured for $2.5 million, for a total of $10 million. Each manufacturer also received a basic policy of $5 million and an excess policy of $50 million, for a total of $20 million for the basic policy and $200 million for the excess coverage. Total premiums on the $20 million basic policies were $2.4 million; on the $200 million excess policies, the premium was $6.25 million. Sixteen companies issued the basic policies, each insurance company's share ranging from 0.5 to 10 percent of the total. Thirty-seven companies issued the excess policies, each company's share ranging from 0.05 to 17.035 percent of the total.

Both the self-insurance costs and the premiums are considered business expenses of producing the vaccines, so the Federal Government funded both for a total of $18.65 million. The premiums cannot be recovered, because they were the cost of providing the insurance. The $10 million of self-insurance or remaining portions of it will be returned to the Government with interest, providing either that the money is not used to pay claims costs, or that the manufacturers are shown to have been negligent in causing injury. This does not include the duty to warn, which had been assumed by the Federal Government.

Since the Government would be recovering up to the first $10 million in negligently proven cases from funds that it would recover from the manufacturers anyway, even if no subrogation suits were brought, there seems little incentive to bring such suits. While the insurance companies are theoretically responsible for $220 million of paid-out claims (at a premium price of $8.65 million), none of this money will be paid out unless the injuries to be covered by these funds were negligently caused and the $10 million self-insurance fund is exhausted.

Of the 3,694 claims filed as of March 23, 1979, 1,045 allege Guillain-Barre Syndrome (GBS). Of the $3.351 billion in damages sought, $952.5 million arises from GBS (Hamilton, 1979). In fact, both these sets of figures greatly overstate the actual situation because, first, some allegations of GBS are not credible, and second, in a lawsuit, just about any dollar figure can be alleged. The numbers cited include: 1) claims alleging vaccine-induced GBS by individuals in whom the syndrome began long after there would have been any relationship to the vaccine; 2) claims by individuals in whom GBS occurred, but who had not received the vaccine; and 3) frivolous claims such as an $80,000 claim by a truck driver who alleges having contracted GBS as a result of transporting the vaccine, and a $1 million claim for "hives, etc.;" and 4) claims filed because the statute of limitations was approaching by individuals who suffered no injuries.

The 464 lawsuits that have been filed seek damages totaling $504.3 million. The kinds of vaccine-related injuries alleged by persons bringing suits are shown in table 20. Between 40 and 50 claims and suits have been settled to date, with payments of approximately $1 million. This amount does not include expenses related to handling these claims. Through fiscal year 1977, the Department of Justice estimated costs of processing and defending these claims at $170,000 (Staats, 1979).

Table 20.—Alleged injuries in filed lawsuits arising from the swine flu immunization program

Type of injury alleged:	*Number of suits*
Personal injury related to GBS	251
Death from GBS	25
Personal injury from other neurological injuries	67
Death from other neurological injuries	3
Personal injury from non-neurological injuries	95
Death from non-neurological injuries	23
Total	464

SOURCE: Statement of Peter B. Hamilton, Deputy General Counsel, U.S. Department of Health, Education, and Welfare, before th U.S. Senate Subcommittee on Health an Scientific Research, 1979. (Hamilton, 1979.

Finally, two observations should be notec First, the swine flu program essentially wa in effect from October to mid-December 1976. Two and one-half years later—out of total filed claims (including frivolous ones) of 3,694 and total filed suits of 464—only 40 to 50 claims have been settled. For vaccines suffering real harm or death, therefore, compensation was not timely, has yet to be provided, or may not be provided. Second, the most significant injury and the one for which most compensation probably will be paid, i.e., Guillain-Barre Syndrome (GBS), resulted without apparent negligence in the manufacturing of the vaccine. Thus, when viewed as a compensation approach, the $8.65 million premium costs for liability insurance in all likelihood will provide no return.●

UDALL-CLAUSEN-WIRTH AMENDMENT

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. DINGELL. Mr. Speaker, legislation to create an Energy Mobilization Board to cut redtape and to provide a "fast track" for certain energy projects will be considered by the House next week. In order that Members may make informed judgments on the various proposals that will be considered, I am inserting in the RECORD a summary comparison of the Commerce Committee bill and the Udall-Clausen-Wirth bill (H.R. 5660), which has been prepared by the staff of the Subcommittee on Energy and Power.

SUMMARY COMPARISON OF COMMERCE COMMITTEE AND UDALL-CLAUSEN-WIRTH BILLS ESTABLISHING AN ENERGY MOBILIZATION BOARD PREPARED BY THE MAJORITY AND MINORITY STAFFS OF THE ENERGY AND POWER SUBCOMMITTEE

<table>
<tr><th>COMMERCE COMMITTEE BILL</th><th>UDALL-CLAUSEN-WIRTH</th></tr>
<tr><td colspan="2"><i>Coverage</i></td></tr>
<tr><td>The bill does not apply to nuclear related facilities or to energy projects that have already been the subject of Federal expediting legislation. (Section 175)</td><td>The bill does not apply to nuclear related facilities. (Section 202)</td></tr>
<tr><td colspan="2"><i>Number of projects</i></td></tr>
<tr><td>No limitation on number of projects.</td><td>Limited to a total of 75 Priority Energy Projects of which no more than 20 may be designated in any one calendar year. (Section 204 (d))</td></tr>
<tr><td colspan="2"><i>Regulations</i></td></tr>
<tr><td>No comparable provision.</td><td>Regulations promulgated by Board, including those setting criteria and procedures for accepting and considering applications to designated energy projects are subject to a one-House veto within 60 calendar days of continuous session of Congress. (Section 201(g))</td></tr>
<tr><td colspan="2"><i>Scope of board's authority to establish a project decision schedule</i></td></tr>
<tr><td>Board may modify time periods established by Federal, State and local statute or agency rules and regulations in setting Project Decision Schedule, but may not alter other statutory obligations applicable to the agencies. (Section 180)</td><td>Same as Commerce Committee bill. (Section 209(b))</td></tr>
<tr><td colspan="2"><i>Scope of board's authority to modify agency procedures</i></td></tr>
<tr><td>Board can recommend to the President the waiver of Federal, State and local procedural requirements. If President determines that the recommended waiver, or a modification of the recommended waiver, is in the national interest and contains such terms and conditions as are necessary to mitigate any adverse effects, he transmits a waiver determination to Congress where it would be subject within 60 calendar days of continuous session of Congress to a one-House veto under expedited procedures insuring a vote on the House Floor. (Section 185)</td><td>Federal, State and local agencies may establish special procedures to expedite decisions.
Board can order Federal agencies to change certain procedures. It can require consolidation of proceedings, elimination of unnecessary duplication, legislative hearings instead of trial type hearings, submission of written views and written responses and elimination of initial decisions.
State and local agencies may be ordered by a court to employ these procedures if they miss or are likely to miss a deadline on the Project Decision Schedule. (Section 211(c))</td></tr>
<tr><td colspan="2"><i>Enforcement of project decision schedule</i></td></tr>
<tr><td>Board has authority to establish procedures necessary to insure compliance by agencies with the Project Decision Schedule and to take action it determines appropriate to bring agencies into compliance, including going into court or participating in agency proceedings. (Section 183 and 174(d) (1))</td><td>Board may bring an enforcement action in U.S. District Court against Federal, State, or local agency head to bring agency into compliance with the Project Decision Schedule.
If compliance with the Schedule would not insure adequate consideration of all matters concerning such project under applicable law, would not insure adequate participation by parties in applicable proceedings, would be impractical or would deny any person due process of law, the court is required to instruct the Board to revise the Project Decision Schedule to require the agency to complete consideration of the applicant's request "as soon as practicable."
Immediately upon receipt of revised Schedule from the Board, the court is required to issue an order directing the agency to comply with such Schedule. In addition, the Court is authorized to order the agency to assign additional personnel to the matter or to utilize the special procedures of section 211. (Section 214)</td></tr>
<tr><td>The Board is not authorized to make decisions on behalf of Federal, State and local agencies, Decisionmaking authority is left with the appropriate Federal, State and local agencies.</td><td>The President is empowered to make decisions for Federal, State and local agencies if any Federal, State or local agency fails to render a decision within 15 days after the time allowed by a court order enforcing the Project Decision Schedule or if a court fails to act to enforce or modify a Project Decision Schedule within 120 days of initiation of an enforcement action by the Board following the failure of an agency to meet a deadline on the Project Decision Schedule. In making his decision, the President must apply the same laws that would have applied had the agency which missed the deadline performed the action. (Section 214)</td></tr>
<tr><td>Board also has authority to recommend a waiver of Federal, State or local laws or regulations which impede the making of an agency decision. President may waiver these impediments, subject to a one-House veto under expedited procedures which insure a vote on House Floor. (Section 185)</td><td>No comparable provision.</td></tr>
<tr><td colspan="2"><i>Waiver authority</i></td></tr>
<tr><td>Prior to an agency decision, the Board may recommend to the President the waiver of certain Federal, State or local laws that present a substantial procedural or substantial substantive impediment to the making of any agency decision in a manner that will permit the implementation of a Priority Energy Project according to the Project Decision Schedule. In addition, the Board may recommend to the President the waiver of any Federal, State or local requirement enacted after the establishment of the Project Decision</td><td>Board may suspend for up to 5 years any Federal, State or local requirement which has been enacted or promulgated after commencement of construction of an Energy Project if it finds such requirement would delay timely completion or operation of the project and that such suspension poses no threat to public health or safety. Findings and decision are subject to court review for failure to comply with this Act or no Constitutional grounds. (Section 215)</td></tr>
</table>

COMMERCE COMMITTEE BILL	UDALL-CLAUSEN-WIRTH
Schedule that presents a substantial procedural or substantial substantive impediment to the implementation of the Project. If the President determines that the recommended waiver or a modification of the recommended waiver is in the national interest, he transmits a waiver determination to Congress where it would be subject to a one-House veto within 60 legislative days. A waiver must include such terms and conditions as are necessary to mitigate adverse effects, including effects on public health, welfare, or the environment. (Section 185)	
No waiver of certain laws	
The Board cannot recommend the waiver of labor laws, antitrust laws, criminal laws, civil rights laws or primary air quality standards established under the Clean Air Act. A waiver recommendation by the Board may not impair or abridge constitutional rights; may not contravene state or local laws, Federal contract or interstate compact relating to water rights, or may not impair or abridge rights to receive compensation for loss of any property interest as the result of the construction or operation of an Energy Project. (Section 186) To protect these rights a person is given 30 days after Congressional approval of a waiver to file suit in U.S. appellate court. (Section 187(a) (3))	Includes essentially the same prohibition for suspension orders concerning requirements enacted or promulgated after commencement of construction of a Priority Energy Project. (Section 215)
Water laws	
Prohibits the waiver of any interstate compact, provision of State or local law, or Federal contract, relating to water rights or to the appropriation, delivery or use of water pursuant to such rights. (Section 186(b) (4))	Prohibition with respect to suspension orders is essentially the same as Commerce Committee bill. (Section 215(d) (4))
No comparable provisions.	Declares that the bill does not expand or confer upon the United States and its permittees or licensees any right to acquire rights to the use of water. Declares that the United States and its permittees or licensees must appropriate water within any State for an energy project pursuant to State law. Declares that the establishment or exercise pursuant to State law of terms and conditions with respect to water rights shall not be deemed to constitute a burden on interstate commerce. The bill does not alter State requirements or interstate compacts governing appropriation, use or diversion of water. (Section 216)
Judicial review	
A priority Energy Project Designation, revocation or denial, any extension granted by the Board, the establishment or revision of a Project Decision Schedule by the Board, and any monitoring actions taken by the Board, are not subject to judicial review except as required by the Constitution. (Section 187(a))	Board decisions granting or denying designations and Board suspension orders of new requirements are subject to judicial review for failure to comply with this Act or on constitutional grounds. Board actions establishing modifying or revising a Project Decision Schedule, imposing special procedures, and granting or denying extensions are not subject to judicial review other than in an enforcement proceeding or on review of a final agency action. All other Board actions are not subject to judicial review except as required by the Constitution.
Requires that appeals of agency decisions subject to Federal jurisdiction be filed in the U.S. Court of Appeals for the circuit where the Project is located within 90 days of final agency action. (Section 187(b))	Requires that appeals of agency actions or Presidential decisions subject to Federal jurisdiction be filed in the U.S. Court of Appeals for the circuit where the Project is located, or where the claim arose, within 60 days of final action.
Grounds for judicial review are not changed.	The grounds for judicial review of State, local or Federal Agency decisions are limited to actions which are in violation of the Constitution or actions which are "in excess of or fall short of statutory jurisdiction, authority or limitations, or short of statutory right." (Section 217)

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STATE IMPLEMENTATION PLANS OF CLEAN AIR ACT OF 1977

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. GRASSLEY. Mr. Speaker, the Clean Air Act of 1977 contained provisions requiring States to submit revised implementation plans demonstrating how they will meet national air quality standards. My own State of Iowa submitted its plan in June of this year. The plan was the subject of lengthy hearings and was thoroughly considered. It protects Iowans' health and welfare while recognizing our State's important rural characteristics. Yet the EPA has disapproved a critical element in the plan—that which deals with how States such as Iowa will treat windblown dust from their farm fields and farm to market roads.

In developing its State plan, the Iowa Air Quality Commission recognized that Iowa should not be penalized just because it is a rural State with a high proportion of windblown dust from farm fields and rural roads—so-called rural fugitive dust. If this dust would have to be included when environmental impacts were determined, less industrial growth would be allowed in Iowa and other farm States than in nonfarm States. Participants in the commission's hearings recognized this problem and asked that it be resolved in the plan.

Under the plan that was developed, these windblown particles would be included when determining whether the national "primary" air standards, designed to protect public health, have been met. However, they would be excluded in determining whether the more strict "secondary" standards, designed to protect things like visibility, would be met. Therefore, the strictest possible interpretation was given to insure the widest possible margin of safety existed in protecting Iowans' health, but recognition was also given to the State's rural character.

The commission properly recognized that the costs of resurfacing or treating Iowa's extensive rural road system and changing current farm tillage practices in order to control windblown dust from farm fields and roads would be extremely expensive. Iowa is already hard pressed to finance maintenance of its current rural roads and bridges. And, of course, they realized the obvious need for continued industrial growth in Iowa.

But the planners at EPA have decided that citizens of farm States must be protected from themselves—not because their health is in jeopardy, EPA agrees it is not. But, they say, farm dust hurts Iowans' "public welfare," and they, not Iowans should decide what that means. Because they count farm dust as a pollutant, there is hardly any more room for industry to grow in Iowa. When the farm dust in Iowa is counted, most areas of the State are over the national air standards to protect "public welfare." They are lower than the national health standard, but over this "welfare" standard. So new industry cannot come to our State, or expand in our State, unless they get "offsets"—to clean up the air enough so that they do not make it any worse than when they came in. That is not so bad if you are in Pittsburgh or Gary, but in Iowa there is little if anything to clean up except farm and road dust. Iowa has already committed itself to cut public dust sources—dust from parking lots, streets and so on—down by 50 percent. Where the money will come from to do that nobody knows. At least I do not think city and State taxpayers know. And how we are supposed to find still more money to clean up dust on farms and clean up farm to market roads I sure do not know. We cannot maintain them well enough as it is now.

Mr. Speaker, I think most Iowans and other citizens of farm States can figure out well enough all by ourselves how to protect our "public welfare." We can do it by cutting Government spending on programs like this one in order to keep the inflation rate down. We can do it by encouraging industrial jobs so people can keep some money in their pockets. We cannot do it by spending buckets full of private and public money on cleaning up dirt on farms. And we cannot do it by spending money to stop dust on farm-to-market roads instead of spending money to keep them safe and usable.

Iowans and others had until October 9 to respond to EPA's contention that farm dust should be counted and controlled in Iowa. I have written to Mr. Costle to ask for copies of the comments EPA has received on this topic. I would like to know how many others in Iowa share my concerns. I think that we will find that there will be a good many. Iowans—and the people of other agricultural States—are not lacking in commonsense.

I would like to request that a copy of my request to Mr. Costle be placed in the RECORD at this point.

WASHINGTON, D.C., *October 12, 1979.*

MR. DOUGLAS COSTLE,
Administrator, U.S. Environmental Protection Agency, Washington, D.C.

DEAR MR. COSTLE: As you may know, I am concerned about your Agency's response to the State Implementation Plan recently submitted by the State of Iowa, particularly with respect to the manner in which rural fugitive dust should be handled.

Please immediately send me copies of all of the comments which you have received and receive in the future on your Agency's proposed response to the Plan, which was in the Federal Register (44 FR 135) on Friday, September 7, 1979. I am interested in knowing if other individuals and groups share my concern.

Sincerely,

CHARLES E. GRASSLEY,
Member of Congress.

On October 8, 1979, I wrote Mr. Costle another letter requesting this information be delivered to my office by October 24, 1979. It is now October 24, 1979, and as of now, 3 p.m., I have yet to receive the copies of my fellow Iowan's comments.●

ENOUGH WATER?

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. WHITEHURST. Mr. Speaker, a crisis looms on the horizon that threatens to make our present energy difficulties pale by comparison. And, as in the case of energy, this possible crisis involves a potential shortage of a valuable national resource—water.

I do not want to sound like an alarmist but I am deeply concerned about the future prospects of water availability in this country. It has been estimated that 1980 demands on national water resources will nearly double those of 1954, and that by the year 2000 demands will triple those experienced in 1954. And by the turn of the century, it is estimated that 85 percent of our country's population will live in urban centers.

While there are many concomitant concerns associated with such a dramatic shift in population, of primary concern should be how we are going to provide these vast concentrations of people with water. I underscore this point with the knowledge of predictions that much of this growth is projected to occur in cities located in semiarid regions of the West, many of which are built on nonrenewable supplies of water.

While it is true that from a national perspective there is sufficient water to meet our Nation's needs for some years to come, a region-by-region breakdown indicates serious supply problems ahead for many areas. Indeed, such supply problems exist or are anticipated in southern California, the Great Basin, the Lower Colorado, the Rio Grande, the High Plains of Texas, and the south-central portion of the Missouri River Basin.

Many of these same areas are rich in coal and oil shale and are being counted on to be centers of energy conversion processes, which require large quantities of water. In large measure, then, our Nation's commitment to become more energy independent of foreign oil suppliers is directly tied to our success or failure to better manage, develop and conserve our water resources. And, while many Federal agencies and congressional committees are involved in some aspect of the water resources issue, I believe our Nation's effort is too fragmented.

Indeed, I believe President Carter recognized this when he presented his Federal water policy directives on July 12, 1978, one of which called for improved planning and evaluation of Federal water resources programs and projects. The responsibility for carrying out the President's directives was given to 19 Federal interagency task forces with the Secretary of the Interior charged with oversight. I think, however, that the Congress must play a more visible role and assert itself more in this critical area. That is why I have introduced House Resolution 445 to establish an ad hoc committee on water resources. This committee would consider and report to the House on any bill, resolution, or message or communication from the executive branch on any matter dealing with water resources for this Nation.

It is my hope that one of the first steps taken by this body would be to give serious consideration to the establishment of a select committee charged with the responsibility of insuring a wise and viable long-range plan to provide an adequate water supply for future generations. We simply must grasp the severity of the problem now not wait until the 11th hour until we are handcuffed and panicked into action as we have been in the case of energy. Let us open our eyes and survey the present situation. Let us recognize our responsibility. Already water use approaches or exceeds the dependable supply in some cities, and there are potential shortages in other areas once believed blessed with inexhaustible supplies.

It was not too long ago that we once believed our oil supply would never run short. The parallels of energy and water are many. It has been a painful lesson for many of us, but I believe we realize the value of a gallon of gasoline and the importance of deriving every drop of energy from it. But I cannot say this is true for water. Americans simply do not appreciate the value of water and the importance of using it wisely. Not long ago, the General Accounting Office reported that nearly half of the water used in this country for irrigation purposes is wasted. This trend must be stopped and stopped now. Just as we have reached the end of an era of cheap energy, so too is the era of cheap water nearing an end.

Indications of a pending water crisis abound. In many areas of the country where municipalities rely heavily on ground water supplies, there is a clearly established pattern of diminishing returns as the water is removed at a faster rate than it is replaced. This not only lowers the water table in those areas but also can result in saltwater intrusion into our freshwater supplies and reduce flows of surface water that we so casually inject a seemingly endless array of pollutants.

Even in parts of the country with seemingly abundant supplies of water, antiquated distribution systems may result in a city losing up to half of its water supply through old pipes and water main breaks. In 1977 the Pennsylvania Gas & Water Co. reported "unaccounted-for water" rates of 35 percent of its Wilkes-Barre service area and 46 percent for its Scranton service area. Similar unaccounted-for water statistics have been compiled in other cities, including Boston and New York.

I want to direct your attention to a few specific cities caught in the throes of planning for water scarcity.

In El Paso, Tex., a growing city of more than 322,000, the average annual rainfall is a paltry 8 inches. Like other southwest cities, El Paso gets 90 percent of its water from ground water sources. But current withdrawals are occurring at a rate of 10 times faster than the water is being replaced; and at a time when El Paso's water needs are increasing rapidly.

In Boston, the demand for water already exceeds the dependable supply. The Army Corps of Engineers has identified the Boston area as having a critical supply problem. The Metropolitan District Commission is the major water supplier in the State, providing water to about 2.3 million persons in Boston and about 40 other cities and towns. The dependable supply of the commission's system is 300 million gallons per day. The average daily use in 1976 was 317 million gallons per day. A 1977 Army Corps of Engineers report projected that the commission would need a dependable supply of 441 million gallons per day by 1990.

In my own district of Norfolk and Virginia Beach, Va., studies show that average daily demand will exceed the system's dependable yield of water by the later 1980's. In Virginia Beach, a city whose economy is underpinned by the tourist dollar, spot water shortages already have occurred during the tourist season during periods of heavy consumption. Although Norfolk does not project a significant increase in population by 2000, Virginia Beach—the fastest growing city on the east coast and which receives its water from Norfolk—is expected to have a population of 359,000 by that time. At present, my district is engaged in a desperate struggle to locate future water supplies and wrestling with the delicate issue of an inter-basin transfer of water.

In conclusion, I implore you not to look away from this issue, for it begs our attention as energy did in 1973. The battle for water rights in this country promises to intensify on all fronts. It is an issue that will not soon be resolved. The legislation I have introduced is not a panacea; however, it is an important step in the development, management and conservation of this extremely precious but fragile resource.●

WHAT READER'S DIGEST WAS AFRAID TO PRINT

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. CARR. Mr. Speaker, most major newspapers and periodicals, whatever their editorial policy, feel an obligation to present their readers with both sides of the major issues of the day.

Apparently the Reader's Digest feels such complication is unnecessary. It recently published an anti-SALT article by Melvin Laird, a former Congressman and Secretary of Defense, now an executive of that magazine. When asked if Reader's Digest would accept a pro-SALT article, Mr. Laird replied: "I would be against publishing it."

While this may not conform to the highest tradition of journalistic ethics, we should nevertheless sympathize with Mr. Laird and his organization. The case against SALT can survive only in a protected environment. Once exposed to a reasonably well-stated argument for SALT II, few readers would accept the anti-SALT case. So Reader's Digest really has no choice.

Richard Dudman of the St. Louis Post-Dispatch on October 4 provided an intriguing account of the Reader's Digest concept of the democratic process, together with a rather good taste of what that magazine's readers might be interested in digesting but will have to ingest from elsewhere. For the RECORD, here it is:

ARTICLE ON SALT II SPARKS EXCHANGE BETWEEN WRITERS

(By Richard Dudman)

WASHINGTON.—Here are some facts about the Strategic Arms Limitation Treaty that you won't see in the Reader's Digest.

At least that's what Melvin R. Laird, secretary of defense in the first Nixon administration and now senior counselor of the magazine, told reporters at breakfast Tuesday.

He made that remark in a tense exchange with Richard L. Strout, a veteran Washington correspondent of the Christian Science Monitor and author of The New Republic's influential "TRB" column.

Because both are Washington institutions—Laird a hard-boiled, hard-line former congressman and administrator who is as outspoken as ever; Strout, at 81 just as enterprising and independent-minded as he was when he first came to Washington to cover the Harding administration.

The Reader's Digest's October issue had just gone out to 19 million Americans with an article by Laird entitled "SALT II: The Senate's Momentous Decision." A teaser line said: "Behind the clamorous debate looms this inescapable truth: If the inequities of this treaty are not changed, our security will be placed in deadly peril."

The piece lists "among the most flagrant of the treaty's inequities" the fact that it permits continued Soviet deployment of 308 SS–18 heavy intercontinental ballistic missiles.

The article says this and other Soviet military advantages, which the treaty allows the Soviets but denies to the United States, "if unchecked, will give them clear strategic superiority within a matter of two or three years."

Strout asked whether the magazine intended to publish a pro-SALT article to balance Laird's anti-SALT piece. He asked what would happen if a pro-SALT piece were submitted for publication.

"I would be against publishing it," Laird said.

"Why do you give just one side of the story—like the Russians?" Strout asked.

He said newspapers and some magazines at least have a letters department, where readers can disagree in print with material in the publication.

Laird denied that Reader's Digest always takes the conservative side of an issue. He said it had published his article supporting the Panama Canal Treaty.

"We were for it. Probably we should have put the other side in," he needled.

He ended by saying he would tell the editors immediately that he had received the suggestion that the magazine begin publishing letters commenting on articles.

Laird's article had dwelt on the consequences of ratifying SALT II, which some senators emphasize as they weigh the decision they may face in the next few weeks.

What he omitted were the consequences of failure to ratify.

All numerical limits on the Soviet buildup would be off. By 1985, they could have 3,000 strategic missile launchers instead of the 2,250 permitted by the treaty.

Without the treaty subceilings, the Soviets could have 1,500 to 2,000 MIRVs—intercontinental ballistic missiles with several warheads, each of which can be aimed to a different target—instead of 1,200 under the treaty.

The SS–18s that worry Laird could be deployed without limit instead of being held to the ceiling of 308.

Without the treaty, there would be no "fractionation" limit on MIRV warheads. That is, the heavy Soviet intercontinental ballistic missiles, limited to 10 warheads each under the treaty, could be fitted with as many as 30 each. Instead of being limited to 3,080 warheads, those 308 heavy missiles alone could carry a total of 9,240.

Other missiles could be fitted with more warheads, too.

This Soviet expansion could threaten the projected MX "race-track" missile system of the United States, under which mobile missiles would be stored in a series of covered shelters and could be transferred from shelter to shelter to avoid attack. The Soviets could add enough warheads to cover all of the shelters—without caring whether they actually contained missiles or not.

A prohibition on production and deployment of the Soviet mobile ICBM, the SS–16, would no longer exist.

The Soviet Backfire bomber, which Laird pointed to as a threat to the United States as well as Western Europe, would no longer be limited in numbers or improvement, for example, to extend its range so that it could reach U.S. territory

Under the treaty, each side would be limited to one new type of ICBM. Without the treaty, there would be no such restriction, and the Soviet Union could move ahead with new systems now under development

Laird complained about the treaty's verification provisions, specifically its lack of a complete ban on encoding the radio signals that control and guide missiles.

But the treaty prohibits encoding such signals wherever this would impede verification. This protection would be lost, as well as a ban on concealment and interference with satellite monitoring, a requirement for advance notification of certain launches and an agreement to report additions to present weapons as listed in an agreed data base.

Refusal by the Senate to ratify SALT II would also throw SALT I into doubt, notably the anti-ballistic missile system treaty, from which either side may withdraw on six months' notice.

SALT I's Interim Agreement on Strategic Offensive Arms expired in 1977, but both sides have continued to observe it, including provisions involving the Standing Consultative Commission, which has been successful in adjudicating complaints and disagreements. The interim agreement would be another likely victim.

Still other consequences could be delays or termination of other arms control negotiations with the Soviet Union. The talks that would be in jeopardy include those looking toward agreements for a comprehensive nuclear test ban, a ban on anti-satellite devices, mutual and balanced force reductions in Europe and limitations on conventional arms transfers.

The Non-Proliferation Treaty would be thrown into doubt, because it includes a commitment by the nuclear powers to continue efforts to limit their own nuclear weapons. A review conference on the treaty is scheduled for May.

These specifics say nothing about the possibility that Senate rejection or indefinite delay of the treaty would bring a return of the Cold War tension and cause an immediate upsurge of the arms race on both sides.●

HAITIAN REFUGEES

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mrs. CHISHOLM. Mr. Speaker, as chairperson of the Congressional Black Caucus Task Force on Haitian Refugees, I would like to make my colleagues aware of the caucus position on Haitian refugees in the United States. The following statement is the caucus position paper on Haitian refugees which we hope will result in parole for the 8,000 Haitians currently seeking political asylum.

CONGRESSIONAL BLACK CAUCUS STATEMENT

The Congressional Black Caucus strongly urges the Department of Justice, through its Immigration and Naturalization Service, to adhere to this Nation's fundamental tradition of equal protection for all persons under law by granting work authorization and genuine due process to Haitians seeking political asylum in our country. The Caucus must stand firm in its insistence that United States human rights and refugee policy be administered on an evenhanded basis so that no government activity or decision may be viewed as tainted with race, class or ideological prejudice. However, our information reveals that these minimum standards of fairness and decency have been violated repeatedly by the Department of Justice in instances of Haitians seeking political refuge in the United States.

The Caucus calls for the humane treatment and minimum due process protections for Haitians seeking poitical asylum in the United States. The CBC Task Force on Haitian Refugees joins other organizations which have been in the forefront of this issue, The Haitian Refugee Project, The Haitian Fathers of Brooklyn, The American Committee for the Protection of the Foreign Born, the National Council of Churches, the National Alliance of Postal and Federal Employees, the National Urban League, and the Archdiocese of Miami, in expressing our concern over the increasing repression in Haiti and calls for a critical reappraisal of our entire aid program to this country.

Further, we do not accept the contention that Haitian refugees are merely "economic refugees". Since the arrival of the first refugees in 1972, the State Department has constantly stated that the Haitian "boat people" are not entitled to asylum in the United States, because they are economic refugees and not political refugees. We call for an end to the invidious distinction between refugees which is somehow applied to mean that certain categories of people fleeing oppression are not as welcome as others. We do not deny that Haiti's per capita income of $80 makes it one of the world's poorest nations. To deny political asylum to refugees merely because they are from an economically poor country unfairly punishes them for conditions over which they have no control in their homeland. This position further suggests that poor people have no political rights. This attitude is totally unacceptable to the Congressional Black Caucus.

Furthermore, the State Department has recognized that basic human needs are part of the U.S. human rights policy. Secretary of State Cyrus Vance in his 1977 Law Day address at the University of Georgia stated that "the fulfillment of such vital needs as food, shelter, health care, and education" was a recognized human right. He further stated:

"We recognize that the fulfillment of this right will depend, in part, upon the stage of a nation's economic development. But we also know that this right can be violated by a government's action or inaction—for example, through corrupt official processes which divert resources to an elite at the expense of the needy or, through callous indifference to the plight of the poor."

The Congressional Black Caucus is deeply disturbed by reports that United States Assistance funds and programs designed to supplement local financing of critically needed social services have instead been used to supplant or displace already limited Haitian revenues devoted to local services. We note in particular that the supplanting practice has allowed the Haitian government to divert local revenues, which would otherwise be used to fund human needs programs.

Contrary to its February, 1979 State Department Report on Human Rights Practices in Countries Receiving U.S. Aid, in a recent visit to Haiti to review the plight of Haitian returnees, a State Department team found "no significant indication of mistreatment or of punishment of returnees' because of their journey to the U.S. . . ." The team's report has some methodological problems which raise serious questions as to the validity of the above conclusion. The report itself is severely marred by its unscientific methodology. It states that only 86 out of 600 "returnees" were interviewed. The State Department team had no way of verifying that those persons who were interviewed were actual returnees.

Finally, and perhaps most importantly, it could reasonably be suspected that the political environment in Haiti might not be conducive to candid discussions with U.S. government officials. Quoting from their report, "There was often initial suspicion of the team by returnees and some hesitation to become involved without a more complete understanding of the mission's purposes and what we planned to do with the information obtained. . . ." Given the environmental factors involved in the recent inquiry, it would be naive at best to assume that responses that could jeopardize the welfare of those interviewed would be given. Also the pending arrival of the State Department team was broadcast nationwide a week before the actual arrival of the team thereby possibly alerting individual returnees to avoid contact which could endanger them and enable local officials to control the interview environment. The focus of the inquiry did not include an assessment of the overall human rights situation in Haiti but merely focused on a direct relationship between emigration, return and persecution. Yet, the team's report seems to indicate that returnees may indeed face problems upon their return to Haiti. The report itself states that, "returnees are not immune to difficulties with the authorities on grounds other than emigration." Other comments in the report reinforce our concern that returnees may be endangered by their return to Haiti. The team reported that Haitian authorities consider the average emigrant, by virtue of a lack of education, to be politically unaware and "therefore excluded from actual or potential participation in anti-government activities." However, where an individual has been actively involved in political opposition to the Duvalier regime, "the individual might be liable to prosecution. . . ."

The apparent resurgence of strict enforcement of a censorship policy within Haiti has, along with other factors, made clear the need to closely re-evaluate and monitor the relationship between the United States and Haiti. Censorship by the Haitian Government has been denounced by the Haitian intellectual community and referring to the censorship policy on May 23, 1979, Ambassador Andrew Young stated:

"I had hoped that since my visit, there would have been a natural evolution on the side of freedom. . . . I am pleased with the statement of Haitian intellectuals who have denounced censorship in Haiti. It would be a tragedy if Haitian creativity and expression were stifled for any narrow political reason. The Haitians, through their art, songs and dance, speak a universay language to the world."

The Congressional Black Caucus concurs with the views expressed in Ambassador Young's statement. We are, of course, concerned about economic development so long as such development is properly used to feed the hungry, clothe the naked and provide shelter for the homeless. But we recognize that these laudable goals cannot be achieved, if the freedom of any people to speak out and participate in the political process is nullified.

As it relates to comestic priorities, we call attention to a report issued by the Metropolitan Dade County Office of the South Florida CETA Consortium which is located in the state where the vast majority of Haitian asylum applicants reside. The Consortium found that "a sufficient number of hard-to-fill entry level jobs exist to absorb the number of Haitians who would seek such work." We reject as totally unfounded attempts to portray the Haitian refugee matter as a primary cause of this country's economic woes. We note, for example, that a significant number of American companies have been lured to Haiti by the pitifully low wages Haitian workers receive. The availability of this cheap labor force, which leads to more constriction in an already shrinking job market here undermines domestic efforts to stem U.S. corporate investment overseas. While we firmly believe that the overriding economic problems in this country must be addressed in a serious fashion with a well-planned.. workable strategy, we cannot agree that discrimination against impoverished Black and brown workers is an acceptable means to achieve this goal.

In the past few months, the Immigration and Naturalization service's (INS) Miami office has taken numerous serious actions that have substantially undermined the due process rights of Haitians seeking political asylum in the United States. These actions involve the application process for political asylum and the timing and procedures in both deportation and exclusion cases. The following procedures do not allow adequate due process protections to individual applicants.

Haitian cases processed since July, 1978 by the INS District Office in Miami have been handled under "special procedures" which are not applied to any other group of refugees. These procedures deny normal due process protections. While the normal rate of deportation hearings is 10 per day, Haitian refugees have been subjected to an accelerated rate of deportation hearings which has been as high as 150 per day. This process makes it virtually impossible for attorneys to effectively represent their clients. Under such conditions, they have not had sufficient time to prepare asylum applications. This problem is further complicated by the fact that a large number of the Haitians lack formal education, financial resources and a working knowledge of English. These factors, alone, make the preparation of asylum applications more difficult and more time-consuming.

It has also been extremely difficult for attorneys even to be present with their clients at asylum interviews because they are conducted concurrently with deportation hearings, on an expedited basis, in a building several blocks from the deportation hearing rooms. Even when an attorney can be present, the current interview procedures minimize his or her effectiveness. Lawyers have been denied the right to ask clarifying questions, to challenge the typed record of the proceedings, or otherwise to participate actively in the interviews. The asylum interviews in these cases have merely been summarized rather than recorded or fully transcribed which often creates inaccurate or incomplete records of the interviews.

As a result of the accelerated handling of the Haitian cases and a variety of other irregularities, the asylum applications often are not completed properly. Consequently, they lack sufficient information for a determination to be made as to the applicants' refugee status. Therefore, any subsequent review of these applications by the State Department and United Nations High Commissioner for Refugees would not be productive. The applicants' records as seen by these agencies bears little or no relationship to the validity of individual asylum claims.

Further, we note that Haitian refugees presently receive no refugee assistance funds from the Federal government. Consequently, the local and state agencies in the Southern Florida area must bear the brunt of the relocation and other social service costs of these refugees. In comparison with other refugee groups, who are receiving Federal monies from the Migration and Refugee Assistance Fund, it is obvious that Haitians are once again victims of unequal treatment in U.S. refugee policies.

Finally, it is our hope that H.R. 2816 and its companion measure, S. 43, The Refugee Act of 1979, will result in legislation which places this country in conformity with the U.N. Protocol and Convention not only for refugee admissions but for those seeking political asylum in this country.

The State Department team that recently visited Haiti, reaffirmed the necessity for treating each Haitian asylum applicant as an individual case on its own merit. Quoting from their report, "If the majority (of Haitians) are not likely to be entitled to asylum under the Protocol, nevertheless it remains clear that some who leave Haiti might very well establish that their fear of political persecution is well-founded. There is no way to know, apart from close examination of the facts in each case, whether a given applicant falls into this category. Our findings should not by any means be read as a signal to reduce the care with which each Haitian asylum claim is reviewed under the established procedures." We hope and trust that the various Federal entities responsible for refugees in this country will heed these recommendations and provide for the due process rights of Haitian refugees. The Congressional Black Caucus, as representatives of the Black constituency in the United States, calls upon our government to establish an evenhanded policy with respect to refugees regardless of their race, ethnicity or the political ideology of their homeland.●

VETERANS REHABILITATION AND EDUCATION AMENDMENTS OF 1979

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. FORD of Michigan. Mr. Speaker, last week the House passed H.R. 5288, the Veterans Rehabilitation and Education Amendments of 1979, under suspension of the rules thereby preventing consideration of amendments. While I have very serious reservations about one provision in this bill, I felt compelled to vote for the bill because it contained important improvements in the rehabilitation services and subsidies for disabled veterans.

The legislation, however, Mr. Speaker, deals a serious blow to veterans pursuing their education while working and supporting families. H.R. 5288 would write into law an archaic, outmoded, and highly controversial VA regulation governing the number of hours a veteran-student must spend in a classroom each week. It is particularly disturbing to note that the Veterans' Administration seeks to codify this regulation while simultaneously it is being tested in the courts.

My particular concern stems from my association with an outstanding education program devised by Wayne State University which permits students to attend college on a full-time basis while maintaining necessary full-time employment. Wayne State's Weekend College, an internationally acclaimed model program enrolling large numbers of veterans working primarily in Michigan's auto industry, is under attack by the VA which clearly chooses to ignore innovations in educational curriculums and the changing nature of postsecondary education.

My longstanding interest in nontraditional education has increased through my role as chairman of the Subcommittee on Postsecondary Education. In 1977, I held a series of oversight hearings on the VA's implementation of the program to provide educational benefits to veterans. These hearings were sparked by the attack on the Wayne State University program and persuaded me to introduce legislation to transfer the program to the new Department of Education because of the VA's shortsighted, stubborn refusal to evaluate education in today's setting.

The VA rule and H.R. 5288 completely ignore educational quality and mandate instead quantity—the specific number of hours a veteran must sit in a classroom.

In his statement to the House my distinguished colleague from Washington (Mr. BONKER) eloquently described the incongruity of the rule. He charged the VA with determining as ineligible for full-time educational benefits "anything that deviates from the narrow and archaic definition used by the VA for standard class sessions. Seminars and tutorials not regularly scheduled on a weekly basis would not qualify. Senior thesis classes would not qualify. Most of the programs at an institution like Oxford, which employes the tutorial method would not qualify. Many of the honors programs at some of the Nation's finest universities would not qualify. Many of my colleagues would find that some of the programs of the best schools in their districts would not qualify." I strongly endorse and associate myself with my colleague's remarks.

For the Congress to write into law this language while the courts are attempting to determine the constitutionality of it would be a denial of justice. I am pleased to note that the companion bill in the Senate reflects somewhat more realistic views of modern education. Further, the higher education community is working closely with the VA staff and with the Education and Rehabilitation Advisory Committee of the Disabled American Veterans to develop appropriate guidelines which will produce educationally valid evaluations for nonstandard courses to promote quality education and prevent abuse of benefits.●

TESTIMONIAL DINNER FOR THOMAS H. STEWART

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. HALL of Ohio. Mr. Speaker, I am pleased to note that a testimonial dinner will be held this week in my District of Dayton, Ohio, to honor Thomas H. Stewart, retired staff representative for the AFL-CIO.

The son of a coal miner, Tom was born in Athens County, Ohio. He is a founder of Local 696, United Auto Workers, where he held the positions of Financial-Secretary Treasurer (1948–51) and President (1954–59).

Tom was vice president of the old CIO Council and was on the merger committee when the Dayton area AFL–CIO merged in 1959. In 1961, Tom was appointed by George Meany to the staff of the national AFL–CIO, a position which he held for the next 18 years.

Tom is not only a model for the community and organized labor, but an upstanding citizen. He was one of the founders of the first union blood bank. He served on the Dayton Psychopathic Children's Hospital as a labor representative. Tom has also served on several other community service boards including the Red Cross.

Tom has spent more than 40 years serving the goals and objectives of American workers and I know what my colleagues join with me in expressing gratitude to Thomas Stewart for his work and continued best wishes for the future.●

SECONDARY SCHOOL PRINCIPALS OPPOSE TESTING LEGISLATION

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. GOODLING. Mr. Speaker, I have been attempting to keep my colleagues informed on the developments concerning Federal regulation and forced disclosure of standardized tests. As you know, the Subcommittee on Elementary, Secondary, and Vocational Education has been conducting hearings on this issue. I am sure that the Members will be pleased to learn that the chief sponsor of the most controversial bill, H.R. 4949, the gentleman from New York (Mr. WEISS), requested that subcommittee markup of this legislation be postponed. It was noted that further investigation and additional hearings are needed before proceeding further. This is a wise decision. As you may know, Mr. Speaker, the prestigious National Academy of Sciences is currently conducting a study of this issue and its findings are expected well before the end of the 96th Congress. The education commission of the States is also conducting a study.

Furthermore, New York State has recently adopted a law similar to the proposals under consideration by our subcommittee. The New York law does not even go into effect until January of 1980. If the forthcoming National Academy of Sciences' study, the forthcoming ECS study, and the forthcoming statewide experiment in New York produce decisive evidence next year in favor of Federal action, there will still be plenty of time for Congress to take whatever action is warranted. But if Congress acts before the results are in, and if it turns out that the evidence at that time indicates that this type of new Federal legislation is not advisable, we are all going to look mighty foolish.

Inchoate congressional consideration is certainly no way for the Federal Government to tamper with admissions practices to postsecondary institutions. In this regard, I would like to share with my colleagues some of the remarks of Dr. Owen B. Kiernan, executive director of the National Association of Secondary School Principals (NASSP). In his October 15, 1979, statement on this legislation, Dr. Kiernan noted that the NASSP firmly opposes this legislation on the grounds that: First, it calls for the Federal Government to interfere with, and intrude into, an important area of education in a manner which is totally inappropriate; Second, it represents yet another example of Federal paperwork to which Americans are taking increasing exception; and Third, it enlists the Secretary of Education in federalizing admission policies in our higher education institutions.

A HIDDEN AGENDA

Dr. Kiernan also astutely argued that some of the supporters of this legislation would like to destroy standardized testing:

> The purposes (of this legislation) are presumably stated in Section 2 (of H.R. 4949), and have been presented elsewhere as being primarily to protect persons taking standardized tests against error and improper application. Some of the controls and limitations on the use of standardized testing sought to be imposed by this bill suggest more far-reaching objectives, however, including the possible elimination of standardized testing entirely on the basis of some philosophical objections not stated in the legislation * * * (Although the bill does say) there is increasing concern among citizens, educators, and public officials regarding the appropriate use of standardized tests, * * * we would respectfully point out that there is at least as much concern among citizens, educators, and public officials that reasonable standards be maintained by those institutions to assure the public that the diplomas and degrees they grant are worth more than the paper on which they are printed.

Mr. Speaker, I hope that every Member of this Congress demands a careful and deliberate analysis of the potential negative consequences of this Federal testing legislation before being asked to cast a vote. The recent postponement of subcommittee action was a responsible decision. Our subcommittee can now carefully consider the full implications of the pending legislation before making any decisions.●

CHRISTIAN LEADERS CALL FOR VATICAN RECOGNITION OF THE STATE OF ISRAEL

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. DRINAN. Mr. Speaker, I bring to the attention of my colleagues a statement recently released by the National Christian Leadership Conference for Israel in which the conference calls on the Vatican to recognize the state of Israel. For over 30 years now, Israel has existed as a vital, independent nation in the Middle East. It has served as a homeland for Jews around the globe, and a religious center for Christians and for Moslems. Israel has expressed its desire over the years to be accepted in the family of nations, to contribute to constructive dialog in resolving its differences with its neighbors, and to build friendships around the globe based on cooperation and mutual respect.

For its part, the Vatican has not recognized Israel, and in so doing has prevented a full and productive relationship between Israel—including its Christian population—and the Vatican.

The National Christian Leadership Conference for Israel (NCLCI) was formed to reaffirm American Christian support for Israel and to celebrate Israel's 30th anniversary. The organization continues to thrive today coordinating and supporting policies in this country which contribute to our commitment to Israel. The statement of the National Christian Leadership Conference for Israel follows:

CHRISTIAN LEADERS CALL FOR VATICAN RECOGNITION OF THE STATE OF ISRAEL

Catholic and other American Christian leaders today called for recognition of the State of Israel by the Vatican. The signers of the statement said they believed that such an action by the Holy See would be a "real, as well as symbolic, gesture in support of the continuing movement toward peace and stability in the Middle East, and toward increased harmony between Christians and Jews throughout the world."

The statement was sponsored by the National Christian Leadership Conference for Israel, a coalition of clergy and laity working to increase understanding of and support for the people, land and State of Israel.

The statement reads as follows:

Recognizing: Past formal communications between the Vatican and the State of Israel; the significance of Nostra Aetate and its call for Catholic-Jewish dialogue and understanding; the significance of the National Conference of Catholic Bishops' statement on "The Pursuit of Peace with Justice" in which they support "the rights of Israel: to existence as a sovereign state with secure and recognized boundaries"; the Vatican's well-stated and constructive support for the Egypt-Israel peace treaty;

We, as Americans of many Christian denominations, respectfully urge that the Vatican grant official recognition to the State of Israel. We believe this will be a real, as well as symbolic, gesture in support of the continuing movement toward peace and stability in the Middle East, and toward increased harmony between Christians and Jews throughout the world.

The following is the list of those who signed the statement. Their organizations are listed for identification purposes only.

Cleveland Amory.

Claire Huchet Bishop.

Mary Rose Black, Chairman, California Christian Committee for Israel.

The Rev. Francis J. Buckley, S.J., Jesuit Community, University of San Francisco.

Dr. Archie L. Buffkins, Chairman of the Board, National Black Think-Tank.

The Rev. Robert Bullock, Immediate Past Chaplain, Brandeis University.

Prof. Harry James Cargas, Chairman, Dept. of Literature and Language, Webster College, St. Louis, Missouri.

Mary Carse, Vermont Christians' Committee for Israel.

Rufus Cornelson, Metropolitan Christian Council of Philadelphia.

Prudence Mary Croke, R.S.M., Ph.D., Salve Regina College, Newport, Rhode Island.

The Rev. Dr. Philip Culbertson, Christ Episcopal Church, Oberlin, Ohio.

Harold and Jean Dart, International Assoc. of Christians for Israel, Bellingham, Washington.

Colleen Dewhurst.

John E. Donovan, Regional Director, National Conference of Christians and Jews, Des Moines, Iowa.

Dr. A. Roy Eckhardt, Lehigh University.

Prof. Alice L. Eckhardt, Lehigh University, Chairperson, Israel Study Group.

Prof. William R. Estep, Southwestern Baptist Theological Seminary.

The Rev. Robert Everett, Emmanuel United Church of Christ, Irvington, New Jersey.

Father Edward H. Flannery, Director, Office of Continuing Education for The Clergy; Diocese of Providence; Former Director, Secretariat for Catholic-Jewish Relations; National Conference of Catholic Bishops.

Frank Gervasi.

Sister Ann Gillen, National Coalition of American Nuns.

The Rev. William B. Gray, Trinity Church, New York City.

Lionel Hampton.

The Rev. William H. Harter, The Presbyterian Church of Falling Spring, Chambersberg, Pennsylvania; Secretary-Treasurer, National Christian Leadership Conference for Israel.

The Rev. Kenneth Herbster, Director, Newman Center, Montclair College.

Pastor Robert Hooley, Faith Bible Chapel, Denver, Colorado.

Dr. David R. Hunter.

Dr. David Hyatt, President, National Conference of Christians and Jews.

Dr. John F. X. Irving, Chairman of the National Committee of Christian Lawyers for Peace and Justice in the Middle East; Visiting Professor at the New England School of Law.

Pastor Ed Jones, International Singers, Denver, Colorado.

Dr. David A. Lewis, Assembly of God Pastor; President, Christians United for Israel.

Dr. Franklin H. Littell, President, National Christian Leadership Conference for Israel; Professor of Religion, Temple University, Philadelphia, Pennsylvania.

Tony LoBianco.

F. Stephen McArthur, Executive Director, National Christian Leadership Conference for Israel.

Don McEvoy, Senior Vice-President, National Conference of Christians and Jews.

The Rev. Christopher F. Mooney, S.J., Assistant Dean, University of Pennsylvania Law School.

Dr. Ursula M. Niebuhr.

Sister M. Alfred Noble, C.S.J., Fontbonne College.

Paul O'Dwyer.

Msgr. John M. Oesterreicher, Institute of Judaeo-Christian Studies, Seton Hall University.

Dr. Arnold T. Olson, President Emeritus, Evangelical Free Church of America.

The Rev. John T. Pawlikowski, Catholic Theological Union, Chicago, Illinois.

Prof. John P. Roche, Fletcher School of Law and Diplomacy.

Prof. D. B. Robertson, Department of Religion, Syracuse University.

Isaiah Robinson, Chairman, Commission on Human Rights, New York City.

The Rev. Isaac C. Rottenberg, Minister, Reformed Church in America.

Abbot Leo Rudloff, O.S.B., Weston Priory.

Father John B. Sheerin, Editor Emeritus, The Catholic World.

Gerard E. Sherry, Executive Editor, The Voice, The Official Newspaper of the Archdiocese of Miami.

The Rev. Hilton Sutton, Chairman of the Board, Mission to America.

Sister Rose Thering, O.P., Vice-Chairman, America-Israel Friendship League; Professor, Seton Hall University.

Sister Margaret Traxler, Executive Director, Institute on Women Today.

The Rev. Victor R. Yanitelli, S.J., Chancellor, St. Peter's College, New Jersey City, New Jersey.

Sister Ann Patrick Ware, S.L., Commission on Faith and Order, National Council of Churches.●

SISTER MARIE JUDE BEHLING

HON. CHARLES F. DOUGHERTY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. DOUGHERTY. Mr. Speaker, for Sister Marie Jude Behling, this weekend marks a significant milestone in a life of dedication and service. Sister will celebrate with her religious community, the Sister of Saint Joseph of Chestnut Hill, Philadelphia, her family and friends the silver jubilee of her religious profession.

Over the years Sister Marie Jude has devoted her energies to nurturing the minds and souls of children in more than a half dozen Catholic parish schools in McSherrystown, Ambler, Norwood, Rydal, and Chester, Pa.; and Oakland, N.J.; as well as her native Philadelphia.

To her many students she has given flesh and blood to the results of a recent survey which indicate that the influence of strong primary teachers is a significant factor in the future success of their pupils. Sister's quarter century of service to Christian education has been devoted exclusively to teaching first grade.

And so on this joyous occasion we offer to Sister our grateful thanks "for all that has been" and our prayers and best wishes "for all that will be." ●

SYDNEY KRONENTHAL'S DISTINGUISHED CAREER TO THE SERVICE OF HIS COMMUNITY AND HIS COUNTRY

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. DIXON. Mr. Speaker, I am indeed proud to pay tribute to a constituent and friend of long standing, Sydney Kronenthal of Culver City, Calif. Syd has devoted his entire career to the service of his community and his country. If a stranger were to walk down the street of Culver City and ask a resident where to find Syd, the reply would never be "Syd who?" for Syd Kronenthal is truly Mr. Culver City.

After brief stints in other areas, Syd came to Culver City in 1947 to stay. Starting as director of recreation activities, he subsequently became director of human services, a post he still holds. In these 32 years he has received honors so numerous that listing them would more than fill this page. The words "Special Award" and "Distinguished Service" would appear over and over again. They would cover a range of activities from athletics to community service to veterans' rehabilitation and on and on. The dates would start in 1947 and continue right up to the present. Moreover, I will assure you that his invaluable contributions to the community will continue long into the future.

To give a better idea of his stature, we should take a sampling of some of his accomplishments. In the field of athletics, Syd not only serves as a lifetime member of the National AAU, but he is also on the 1984 Olympics Citizens Committee. In addition, he has conducted recreation and sports study programs for Japan and for the Republic of Korea, and is consultant to the Olympic teams of those countries.

Among the honors and affiliations in the area of public service and administration, perhaps the outstanding achievement has been the presidency of the League of California Cities. This league is the largest association of local governments in the world, and now, after completing his term as president, Syd has been elected to its board of directors. I am sure he will distinguish himself during the 20-year term of that office and again bring honor to the citizens of Culver City.

Because his service to Culver City was so well known, Syd's name came to the attention of then Secretary of State Dean Rusk. As an appointee of Secretary Rusk, Syd conducted a State Department tour of Africa, administering cultural programs for the Republic of Chad, Gabon, the Cameroons, the Central African Republic, and the Republic of the Congo.

All this did not come easily, but was the result of hard work, long days, and a great deal of dedication and study. Not only does Syd continually participate in institutes and seminars, but he is himself on the lecturing faculty of the University of Southern California as a senior lecturer. He has also lectured at Pepperdine University, University of California at Los Angeles (UCLA), and several campuses of California State University. His own formal education included studies at Northwestern University, Evanston, Ill.; American University, Washington, D.C.; University of New Mexico, Albuquerque; Columbia University, New York; Harvard University, Cambridge; Federal Institute, Washington, D.C.; and the University of Southern California. Syd established a notable mark when, in 1953, he received the first certificate in recreation and park administration ever issued by the USC School of Public Administration. In addition he has had many of his articles on recreation and human services published in national periodicals.

It is obvious that Syd Kronenthal is a rare individual deserving of the very special recognition, which will be accorded him as our man for all seasons on November 3, 1979, and to which I am happy to add my voice. But more important, I am pleased and proud to pay homage to a man whom I call friend.●

FAT-FREE FRIDAY IN DELAWARE

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. EVANS of Delaware. Mr. Speaker, a group of students at the University of Delaware has undertaken an effort to increase public awareness of the need to reduce the high level of fat present in the average diet in our Nation. This presence of too much fat has been found to be a major factor in heart disease—the leading killer in America. These Delaware students have taken a leading role in bringing this message to the public by calling for a "Fat-Free Friday" in Delaware on October 26, 1979.

This effort seeks to heighten the general public's awareness of the need for a modified diet to combat heart disease. Restaurants and institutional dining facilities across the State will follow the Governor's proclamation for a "Fat Free Friday" by offering their patrons fat free, low cholesterol meals on the 26th.

These students have shown a remarkable sense of compassion for the welfare of others as well as a strong sense of initiative and leadership. Through their efforts many Delawareans will learn of the fatal link between heart disease and the high level of fat in their diets, and I commend each of these students for bringing this message of good health to the first State.●

THE TRAIL OF TEARS

HON. LAMAR GUDGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. GUDGER. Mr. Speaker, I rise to bring to the attention of my colleagues in the House a bill I have introduced today. This bill would amend the National Trails Systems Act of 1968, which provides for a national system of scenic, historic, and recreation trails, by authorizing a suitability/feasibility study of the Cherokee "Trail of Tears" and for its designation as a national historic trail. The study would include the identification of associated forts and other structures.

The forcible eviction of the Cherokee people from their lands east of the Mississippi has been described as "one of the greatest blots in American history." I would like to briefly summarize the events leading up to the occurrence.

The Cherokee Nation of Indian Tribes held title to land in the States of North Carolina, Tennessee, Georgia, and Alabama. The Cherokees had lived in peace with their white neighbors for several generations. Commerce and trade flourished between the two races and intermarriages were common. Many of the Cherokees enjoyed a lifestyle similar to that of their white neighbors. The most prosperous Cherokees were on equal terms economically and socially with their white counterparts. They lived in roomy houses of brick, frame, and stone. They wore clothes purchased in the East and rode in fine carriages. They sent their sons and daughters to schools in neighboring communities.

However, the increasing white population and the concomitant westward expansion caused the white settlers to covet the Cherokee's lands. This desire was further increased when gold was discovered in Dahlonega, Ga., in the late 1820's. In an effort to force them to move, the Cherokees were subjected to official harassment from the various States and the Federal Government. Cherokee property was confiscated, plantations were raided and burned, and livestock was run off the land.

Finally, the Federal Government signed the Treaty of New Echota with the Cherokees in 1835. In this treaty, the Cherokee people agreed to relinquish their lands east of the Mississippi in return for western lands and monetary compensation. Immediately, the Cherokee people cried fraud and denounced the treaty as being illegal and claimed that it had been signed by persons unauthorized by the tribe. Over 15,000 Cherokees, out of a population of 17,000, signed a petition of protest. The tribal council voted unanimously to condemn the treaty. Despite the Indian protest, the treaty was ratified by the U.S. Senate.

Since the Cherokee people did not sanction the treaty, they made no move to give up their lands. As a result, the United States Army was called in to forcibly evict them from their ancestral homeland. Families at dinner were interrupted by the intrusion of armed men. Children were taken from play and men were seized in the fields. A lawless rabble followed the soldiers, pillaging and looting.

This eviction of a proud native people produced some of the most poignant scenes ever recorded in the history of man. One woman insisted on washing and drying her clothes, and then proceeded to place them carefully in the cupboard before leaving. Another woman fed her chickens then, while weeping, put on her bonnet and led her children away, never to return. One Georgia volunteer commented, "I fought through the Civil War and have seen men shot to pieces and slaughtered by the thousands, but the Cherokee removal was the cruelest work I ever knew."

The Cherokees were interned in military forts and then were transported west to the Indian tèrritory in Oklahoma. The main overland trail used by the Cherokees for the long trek westward passed through Tennessee, Kentucky, Illinois, Missouri, and Arkansas. This trail was dotted with Indian graves, as over 4,000 Cherokees—almost one-fourth of their total population—were estimated to have died in transit while making the strenuous march or while awaiting deportation. These heartsick people, bereaved for the loss of their homes and loved ones, arrived in Oklahoma, penniless and bereft of personal possessions, homesick and broken hearted, strangers in a strange land, obligated under cruel and awesome conditions to begin life anew.

This tragic episode referred to as the "Trail of Tears" presents a shameful, but important, chapter in the intertwining and contiguous history of these native Americans and the United States. If for no other reason, a record of this sorrowful exodus needs to be made in order to remind each of us of man's inhumanity to man; the fragility of our delicate code of civilization; and, the potential danger of any government trammeling upon the dignity and basic rights of its citizenry. This record proves such oppression and destruction can occur toward one's neighbor, even in times of comparative enlightenment and among a free and God-fearing people. I am firmly convinced that it is imperative that such a study be conducted quickly before time and man's encroachments obliterate the few remaining landmarks and memorials along the route of the "Trail of Tears" which bear mute testimony to this tragic saga.●

THE 1979 QUESTIONNAIRE RESULTS

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. BINGHAM. Mr. Speaker, the results of my annual poll have just been compiled, and I think my colleagues might find some of the results interesting. A total of 3,300 registered voters in the 22d Congressional District in the Bronx, N.Y., completed the questionnaire, which is a total sample of about 2.5 percent of the registered vote. Although we all know that congressional polls cannot be described as scientifically precise, I feel this one is roughly representative of the views of active citizens in my constituency.

Sixty-six percent of the respondents favored bringing back the draft or registration for the draft, while only 29 percent were opposed to both. I was surprised by the strength of this view, especially since the House of Representatives earlier this year defeated a proposal to resume registration for the draft by a vote of 155 to 259. I also noted with interest that 62 percent favored allowing young people to choose, if the draft were reinstituted, between voluntary military service, nonmilitary service such as the Peace Corps or VISTA, or take their chances on being drafted. I have advocated such an alternative national service approach for many years.

I was also struck by the results of the questions I asked my constituents about energy. There was the expected support for increasing solar energy programs, enacting a windfall profits tax, encouraging carpooling, and developing a standby gasoline rationing program. But opinion was very closely divided on many other proposals. Narrow pluralities favored keeping price controls on oil, nationalizing the oil companies, and stopping the construction of new nuclear powerplants. By a 50- to 39-percent margin, these voters favored allowing electric powerplants to use cheaper fuels which may cause more pollution; 55 percent thought building temperature restrictions made sense to conserve energy.

One of the most difficult questions in the poll asked voters to recommend whether the Senate should vote for or against the Strategic Arms Limitation Treaty with the Soviet Union now under consideration. Only 46 percent favored the treaty, with 31 percent against; 23 percent had no opinion, reflecting the difficulty many people have with understanding this complex issue.

I was not surprised, but very encouraged by the strong support the poll showed for mandatory wage and price controls, a full program of national health insurance, and public financing for House and Senate elections. All three of these proposals have had tough sledding in the Congress for years, but these responses show an unrelenting support which may yet push them into the forefront on the national agenda.

1979 BINGHAM QUESTIONNAIRE RESULTS

1. A number of proposals have been offered in recent months aimed at trying to conserve energy and reduce American dependence on foreign sources of oil. Please indicate whether you are in favor of, or opposed to, each of the following proposals:

Decontrol the price of domestically produced oil.

	Percent
Favor	42
Oppose	47
No opinion	12

If oil prices are decontrolled, a windfall profits tax using the revenue raised to develop alternate energy sources as well as to improve mass transit.

	Percent
Favor	78
Oppose	10
No opinion	11

Nationalize the oil companies.

	Percent
Favor	44
Oppose	41
No opinion	15

Restrict the temperature in public buildings and businesses to 65 degrees in winter and 78 degrees in summer.

	Percent
Favor	55
Oppose	35
No opinion	10

Allow electric power plants to use cheaper fuels which may cause more pollution.

	Percent
Favor	50
Oppose	39
No opinion	11

Build more nuclear power plants.

	Percent
Favor	42
Oppose	45
No opinion	13

Increase government support for the development of solar power.

	Percent
Favor	88
Oppose	6
No opinion	6

Strengthen programs which encourage car pooling.

	Percent
Favor	81
Oppose	8
No opinion	11

Develop a stand-by gasoline rationing plan.

	Percent
Favor	76
Oppose	15
No opinion	9

Begin rationing gasoline now.

	Percent
Favor	34
Oppose	49
No opinion	17

2. The Senate has begun to debate the U.S. treaty with the Soviet Union which limits strategic nuclear weapons—called SALT II. From what you know about this SALT treaty, do you think the Senate should vote for or against it?

	Percent
For	46
Against	31
No opinion	23

3. Do you favor continuing the present system of voluntary controls over price and wage increases, or do you favor putting in a sytem of mandatory price and wage controls under which anyone raising prices or wages over a certain percentage would be violating the law?

	Percent
Voluntary controls	27
Mandatory controls	62
No opinion	11

4. Some Congressmen think we should begin drafting young people for military service. Please indicate which of the following statements coincides most closely with your own opinion:

	Percent
The military draft should be restored now	27
While the draft is not needed now, we should have registration	39
There is no need at the present time for either the draft or registration	29
No opinion	5

5. If the draft were reinstituted would you favor or oppose a system under which potential draftees could choose between voluntary military service, non-military service (such as joining the Peace Corps, VISTA, etc.) or taking their chances on being drafted?

	Percent
Favor	62
Oppose	26
No opinion	12

6. It has been proposed by some that the United States enact right now a National Health Insurance program that would cover practically all the medical and health expenses of every American. Other people want to phase this in gradually over a number of years, and still others prefer to stick with our present system. Which do you favor: enacting a full National Health Insurance program now, phasing it in gradually over a period of years or trying to improve our present system?

	Percent
Full program now	49
Phasing in gradually	31
Sticking with present system	16
No opinion	4

7. Do you favor or oppose the proposal that all primary and general elections for the House of Representatives and U.S. Senate be financed as presidential primaries and elections are now financed, with federal funds provided through a voluntary tax check-off to match contributions of $100 or less from private citizens?

	Percent
Favor	58
Oppose	25
No opinion	17

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CONGRESSIONAL ACTION ON THE PROGRAM TO STRENGTHEN DEVELOPING INSTITUTIONS

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. FORD of Michigan. Mr. Speaker, in the last several days, a number of news articles have criticized the Office of Education's program to strengthen developing institutions authorized by title III of the Higher Education Act. These reports of alleged scandal, fraud, and abuse of funds seem to be based on an 8-month-old report by the General Accounting Office which has been virtually ignored by the media until recent days.

The problems are described by Washington newspapers as though they are new. In fact, the Subcommittee on Postsecondary Education, which I chair, has been carefully scrutinizing and holding hearings on the program for a year. Three days of hearings in March and July focused on the management of the title III programs and on the GAO report.

In addition to questioning the GAO investigators who prepared the report, the subcommittee heard from program managers at HEW, representatives of the Office of Civil Rights, analysts from the National Center for Education Statistics, presidents of grantee institutions, and representatives of assisting agencies.

As a result, H.R. 5192, legislation to reauthorize the Higher Education Act, contains a completely rewritten title III.

The GAO report made a number of recommendations to Congress and to the Department of Health, Education, and Welfare. In preparing the reauthorizing legislation, the subcommittee attempted to incorporate these recommendations.

Responding to the charge that the program is unworkable because Congress has failed to provide a definition of a developing institution, H.R. 5192 requires that eligible institutions be determined on the basis of the percentage of low-income students enrolled and the institution's average expenditure per student. The bill further separates the process of determining eligibility from the application process.

I feel that replacing the existing vague and subjective criteria with measurable objective factors is an important step in eliminating many of the program's problems.

GAO called for specific guidelines governing the use of funds received from this program. The committee responded by requiring that grantees use this assistance to improve academic quality, institutional management and fiscal stability. H.R. 5192 also specifically prohibits the use of title III funds for any purpose other than those authorized in the law.

Further, the legislation instructs the Secretary to give priority to applications from institutions which propose a program to improve faculty development, funds and administrative management, development and improvement of academic programs, acquisition of equipment for use in strengthening funds management and academic programs, joint use of facilities such as libraries and laboratories, and student services. The new requirement that grantees report annually on the progress of their development activities and the establishment of these specific priorities for activities to be undertaken with title III support reply to GAO's call for planning, establishing goals and measuring progress toward goals.

Of particular concern to the committee and the General Accounting Office is the questionable value of and the potential for abuse by an "assisting agency." The current law requires that institutions participate in a consortium or bilaterial arrangement. This requirement has led to the growth of a number of consortia and consultants specializing in providing title III assistance. GAO and the committee found that in many cases the value to institutions of these consultants or consortia was dubious. Allegations of "sweetheart arrangements," conflicts of interest and misuse of funds resulting from these arrangements also fill the recent "disclosures" by the press.

In reauthorizing title III, the committee removed the requirement that institutions participate in such arrangements. Institutions will continue to have this option. However, the committee's report on H.R. 5192 spells out detailed and stringent accounting procedures to govern such relationships in the future.

In addition, the bill requires that any institution applying for funds under this program must submit a detailed analysis of its fiscal control and fund accounting procedures. We expect the Secretary to require more careful monitoring of funds disbursement by the program officers.

Another major criticism results from the fact that no institution has ever "become developed" or "graduated" from title III during the 14 years of its existence, even though many institutions have participated in the program for 8 years or more. Many institutions have received several million dollars from this program causing the fear that it is becoming regarded as an "entitlement".

The legislation attempts to limit the number of years of participation by establishing three types of grants. An eligible institution can apply on a competitive basis for assistance through a 1- to 3-year grant which may be renewed. A second category, a 4- to 7-year nonrenewable grant, is established with 25 percent of the appropriation reserved for it. This reserve will provide for substantially larger grants to encourage long range, "up and out" planning by institutions. Once an institution receives a nonrenewable grant, it cannot apply for the renewable grant.

A third category, challenge grants, is designed to encourage institutions to seek alternative sources of funding by requiring that Federal funds be matched. Private institutions would receive incentives to seek endowment funds from the private sector, and public institutions would seek increased assistance from the States. A separate authorization is provided for the challenge grant program and its implementation is delayed until fiscal year 1982 to permit dissemination of information and to receive applications. Like the other grants, this is a competitive application process, except priority for institutions in the nonrenewable grant program is required.

I urge my colleagues to carefully review the title III provisions in H.R. 5192 as well as the accompanying committee report (House Report 96–520). I am confident that the legislative changes coupled with the promised aggressive management of the program by the Office of Education can result in effective and efficient assistance to deserving institutions devoted to providing quality education and serving the underserved.●

THE 175TH BIRTHDAY OF CADIZ, OHIO

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mr. APPLEGATE. Mr. Speaker, it is with a great deal of honor that I address the House of Representatives today to make known to this body a very special occasion within Ohio's 18th Congressional District. On Monday, October 29, 1979, the village of Cadiz, Ohio, located in rural Harrison County, will celebrate its 175th birthday.

Just 1 year younger than the State of Ohio itself, Cadiz has developed over the years to be not only the seat of government for the county, but also one of the primary centers in the State for coal production. It is a fine community in every sense of the word that every Congressperson would be proud to have included in his or her congressional district.

Mr. Speaker, I ask all the Members of this body to join with me today in congratulating Cadiz on reaching this milestone and making this such a memorable day in its history.●

THE 114TH ANNIVERSARY OF BROOKLYN BUREAU OF COMMUNITY SERVICE

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Ms. HOLTZMAN. Mr. Speaker, the Brooklyn Bureau of Community Service will this year observe its 114th anniversary of service to the Brooklyn and New York community. A voluntary, nonsectarian, nonprofit social services agency, the Brooklyn Bureau began its work in 1866, caring for homeless children separated from their parents and families in the aftermath of the Civil War. Later, the Brooklyn Bureau added other services to meet changing community needs. Today, the agency offers faster care and adoption services to children, comprehensive rehabilitation services for the handicapped that include work training, job placement, counseling, recreation and homemaking instruction, an intensive counseling and guidance service to troubled families, and a special foster care service for handicapped and abused children living in hospital pediatrics wards who have no families to care for them.

Under one roof is a whole spectrum of services to help the poor and distressed. In its sheltered workshops, the Brooklyn Bureau trains people with a wide variety of handicaps to perform jobs for which they receive wages. It is the only business in the world that "fires" its most efficient workers. As soon as they are skilled enough to enter the labor market, they are helped to find jobs where they can become part of the normal life of the community and take their place as useful and self-supporting neighbors and citizens.

In all of its services to the handicapped, the Bureau is concerned with the total person, not just his handicap. The specialists in the sheltered workshops help him develop skills leading toward independence. Rehabilitation counselors, psychologists, and caseworkers who are concerned about his emotional strengths, his family life, his opportunities for social and cultural experiences are also part of the treatment team.

The bureau's home living and working center is a model apartment in which the severely handicapped learn to take care of their personal needs. The blind, heart-disease victims, men and women suffering from cerebral palsy, muscular dystrophy, and many other kinds of disabling afflictions, learn to cook, clean, iron, sew, budget their funds and do all the other things necessary to maintain themselves independently. This training enables many to remain in their own homes and out of institutions.

Those in our community who are isolated from others because of severity of handicap are of special concern to the bureau. The agency's work-at-home program permits the bedridden, the blind, the crippled, and others too incapacitated to leave their homes, to perform work where they live. Materials are brought to them, and the handicapped person can work at his own speed. For many of these persons, it is the first time in their lives they have known the dignity of paid employment.

The indigent aged and the handicapped are helped by still another bureau service. The agency's free summer vacation camp at Shelter Island on eastern Long Island is placed where their loneliness is relieved by 2 weeks in the fresh air and sunshine. The happy memories, the friendships formed, the interests developed, and the affectionate and concerned care received may make a whole year happier and more hopeful.

The bureau's services to children include placement in foster homes, psychiatric and social work counseling, and remedial services. A special foster care unit operates from an office in Kings County Hospital. Handicapped, abused, and neglected children living in pediatrics wards with no parents to care for them are placed in foster homes where they have a chance to grow normally. While children are being helped to find security and a feeling of being loved in their substitute homes, every effort is made to rehabilitate the families that had to give them up. Where this is not possible, long-term foster care or adoption becomes a viable alternative.

Families too are the focus of the bureau's work. The bureau was one of seven agencies in New York State that pioneered an intensive counseling service to help troubled families stay together where there is the danger that children may have to be placed in foster care. The service was begun in 1974 and has kept scores of families intact at a cost to the community that is far less than the placement of children in foster homes.

Some measure of the achievements of the bureau in its 114 years can be seen in the highlights of its history:

HIGHLIGHTS

1866—opened a lodging house for homeless boys. Established foster children service.

1867—established industrial schools to train young people. Opened kindergarten for children of working mothers.

1890—started program to distribute pasteurized milk to infants.

1898—legal aid for needy started with 25 volunteer lawyers.

1908—Jewish branch recognized as independent Jewish Aid Societies, forerunner of Jewish Family Service.

1910—organized housing committee to improve housing conditions.

1912—established school lunch program for undernourished children. Started free employment service for the needy.

1913—established home teaching for the blind and disabled, and sheltered workshops for the handicapped.

1916—provided nursing, ambulance and other medical services to 3,600 victims of Brooklyn's worst infantile paralysis epidemic.

1919—nursing affiliate reorganized as independent Visiting Nurse Association of Brooklyn.

1920—established Shelter Island summer camp, now used for the aged and handicapped.

1930-33—distributed $1,770,000 in relief to victims of the depression.

1946—tuberculosis committee reorganized as independent Brooklyn Tuberculosis & Health Association.

1954—established homemaker service to help families disrupted by illness stay together.

1964—printed first Braille cookbook of convenience foods.

1966—major building program increases capacity of sheltered workshops by 50 percent-grant from New York State Division of Vocational Rehabilitation.

1969—established a homemaking teaching center for the severely handicapped in a specially constructed model apartment.

1974—organized its Preventive Service Project for troubled families to keep children at home and out of foster care. Established foster care service at Kings County Hospital for abused, neglected, sick and handicapped children who live in pediatrics wards because they have no families to care for them.

During its 114 years of service to people, the Bureau participated in and often led important social movements that changed the conditions of living for the poor. These years also saw dramatic changes in the methods by which the agency helped people to transform their lives. But some things have not changed. While constantly searching for new and better ways to improve its services, the Brooklyn Bureau has remained an agency tied closely to the community of which it is a part, reaching out to those who ask for help, and dedicated to the principle that every individual it serves will receive opportunity to grow and live with hope, achievement and self-respect.●

HAITI'S ANNIVERSARY

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 24, 1979

● Mrs. CHISHOLM. Mr. Speaker, I wish to bring to the attention of my colleagues the following news article from the New York Times dated Monday, September 24, 1979.

AMERICAN AIDES VOICE CONCERN OVER ARREST OF HAITIAN POLITICIAN

(By Jo Thomas)

WASHINGTON.—United States officials here and in Haiti have expressed concern over the Aug. 30 arrest of Sylvio Claude, founder of the Haitian Christian Democratic Party, one of the first independent political parties to operate openly in Haiti in 22 years.

Mr. Claude, who is still in custody awaiting trial on unspecified charges, was shot in the hand during a raid on his party's headquarters by Haitian police, who charged that he was trying to provoke the overthrow of the Government.

According to the State Department, United States officials, alarmed by the Government's action in silencing part of its fledgling opposition, privately told Haitian officials that they were concerned about Mr. Claude's human rights and urged that his case be given due process under Haitian law.

According to Haitian Government sources, Mr. Claude's arrest was authorized by President Jean-Claude Duvalier at the request of Gen. Roger St. Albin, chief of the general staff of the Haitian armed forces.

DUVALIER ORDERED ARREST

According to these sources, Mr. Claude had asked General St. Albin for protection in a letter that complained that his life had been threatened by the Volunteers for National Security, a militia usually referred to by the initials of its name in French, V.S.N. The group includes many former members of the Tonton Macoutes, the personal police of the late dictator, Francois Duvalier.

Mr. Claude's letter was interpreted by General St. Albin as an effort to initiate armed conflict between the military and the V.S.N. At the general's request, President Duvalier directed the chief of police to arrest Mr. Claude.

When the police went to the party headquarters, however, Mr. Claude jumped out a window and escaped while his supporters threw rocks at the arresting officers. In the ensuing melee, he was shot in the finger.

Mr. Claude then went to a radio station in Port-au-Prince and went on the air to report what was happening. Both he and the radio station operator, Gerard Resil, were then arrested. Mr. Resil was later released and made a public apology.

SUPPORTERS ALSO ARRESTED

According to both United States and Haitian sources, a number of Mr. Claude's supporters were also arrested. Some were later released. One, Frantz Voltaire, 31 years old, a sociology professor, was expelled from the country. Others are still in jail.

After the arrests, according to Haitian exiles in the United States, reporters for the Haitian press were called in and instructed by the Government not to report on political strife.

Georges Salomon, Haiti's Ambassador to the United States, said that he was not certain how many of those arrested were still in custody. Mr. Salomon said he believed Mr. Claude would be charged with conspiracy to commit arson in connection with an alleged plot to set fire to gasoline stations on the day Hurricane David was expected. According to Mr. Salomon, the Government learned of the alleged plot after Mr. Claude's arrest.

Mr. Claude founded his political party clandestinely last year and tried to run for office. His candidacy was declared illegal, and he was arrested and deported to Colombia. He returned to Haiti, was arrested again, got out of jail, and on July 5 publicly announced establishment of his previously secret party as the Haitian Christian Democratic Party.

Although this article is almost a month old, even today, a day after the anniversary of Duvalierist rule. Mr. Silvio Claude's whereabouts are still unknown. So despite claims to the contrary, it appears that liberalization has not really occurred in Haiti.●

EQUAL TREATMENT FOR THE MENTALLY ILL

HON. JOHN W. WARNER

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Thursday, October 25, 1979

● Mr. WARNER. Mr. President, as I believe that individuals who suffer mental disorders should be free of stigma in our society, I remain hopeful that benefits for the diagnosis and treatment of mental illness should be made available to individuals on a parity with benefits for medical and surgical illnesses. I remain concerned, for example, that the various proposals for catastrophic health insurance currently being debated in the Congress seriously curtail coverage for mental illness. While some observers claim that mental health benefits must be limited because the results of psychiatric treatment are more difficult to assess than the results of other medical and surgical treatment, and because there are many classes of mental health providers who may compete for reimbursement, I remain hopeful that these issues can be resolved so that the mentally ill of our Nation can be optimally served.

It was with interest, therefore, that I reviewed a recent decision of the U.S. District Court for the Eastern District of Virginia. B. R. Ashby, M.D., immediate past president of the Neuropsychiatric Society of Virginia believes that the court's finding is a landmark decision and may provide needed direction to the Congress.

I have received a communication from Dr. Ashby in which he summarizes the court's view in a suit brought by the Virginia Academy of Clinical Psychologists against the Neuropsychiatric Society of Virginia and Blue Shield of Virginia. The Academy of Clinical Psychologists sought reimbursement for their services under private medical insurance without medical referral and consultation. The court ruled in favor of the Neuropsychiatric Society and Blue Shield. Dr. Ashby feels that the court's reasoning may be instructive to those of us who must grapple with the issue on the national level.

The court found that:

> It is true that both psychologists and psychiatrists professionally render psychotherapy to patients. But in the treatment of nervous and mental disorders, psychiatrists are capable of providing a full range of psychiatric treatments, not just psychotherapy. In addition, as medical doctors, psychiatrists may render medical treatment and diagnosis . . . .
>
> It is . . . undisputed that the only method of making sure that a physical disorder does not complicate treatment by a clinical psychologist is regular contact between the psychologist's patient and medical doctor. Whether this be called supervision, or referral on a regular basis, the medical necessity for this practice, in most, if not all cases, is undisputed .

While I do not wish to enter into the debate between psychiatrists and psychologists, both honored professions which provide valuable services in our society, I wish to call this matter to the attention of my colleagues.●

A COMPARISON OF THE INTERSTATE AND FOREIGN COMMERCE BILL AS AMENDED BY SANTINI-LUJAN, AND THE UDALL-CLAUSEN-WIRTH SUBSTITUTE

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. SANTINI. Mr. Speaker, during consideration of H.R. 4985, the Energy Mobilization Board "fast track" legislation, there will be several significant amendments offered. In order that the Members will be fully apprised of the different versions of the legislation, I am inserting a comparison of the Interstate and Foreign Commerce Committee bill as amended by Santini-Lujan, and the Udall-Clausen-Wirth substitute. It is expected that the House will consider the bill next week.

SUMMARY COMPARISON OF COMMERCE COMMITTEE BILL AS AMENDED BY THE SANTINI-LUJAN AMENDMENT AND THE UDALL-CLAUSEN-WIRTH BILL ESTABLISHING AN ENERGY MOBILIZATION BOARD

<table>
<tr><th>COMMERCE COMMITTEE BILL AS AMENDED BY THE SANTINI-LUJAN AMENDMENT</th><th>UDALL-CLAUSEN-WIRTH BILL</th></tr>
<tr><td colspan="2"><i>Coverage</i></td></tr>
<tr><td>The bill does not apply to nuclear related facilities or to energy projects that have already been the subject of Federal expediting legislation. (Section 175)</td><td>The bill does not apply to nuclear related facilities. (Section 202)</td></tr>
<tr><td colspan="2"><i>Number of projects</i></td></tr>
<tr><td>No limitation on number of projects.</td><td>Limited to a total of 75 Priority Energy Projects of which no more than 20 may be designated in any one calendar year. (Section 204 (d))</td></tr>
<tr><td colspan="2"><i>Regulations</i></td></tr>
<tr><td>No comparable provision.</td><td>Regulations promulgated by Board, including those setting criteria and procedures for accepting and considering applications to designate energy projects are subject to a one-House veto within 60 calendar days of continuous session of Congress. (Section 201(g))</td></tr>
<tr><td colspan="2"><i>Scope of Board's authority to establish a project decision schedule</i></td></tr>
<tr><td>Board may modify time periods established by Federal, State and local statute or agency rules and regulations in setting Project Decision Schedule, but may not alter other statutory obligations applicable to the agencies. (Section 180)</td><td>Board may modify time periods established by Federal, State and local statute or agency rules and regulations in setting Project Decision Schedule. (Section 209(b))</td></tr>
<tr><td colspan="2"><i>Scope of Board's authority to modify agency procedures</i></td></tr>
<tr><td>Board has authority to recommend to the President the waiver of Federal procedural requirements. If President determines that the recommended Federal waiver, or a modification of the recommended Federal waiver, is in the national interest, contains such terms and conditions as are necessary to mitigate any adverse effects, that there is substantial evidence to support the Federal waiver recommendation and that the Federal waiver would not unduly endanger the public health and safety, he transmits the Federal waiver determination to Congress where it would require a two-House approval within 60 calendar days of continuous session of Congress under expedited procedures insuring a vote on the House and Senate Floors. (Section 185)</td><td>Federal, State and local agencies may establish special procedures to expedite decisions.
Board can order Federal agencies to change certain procedures. It can require consolidation of proceedings, elimination of unnecessary duplication, legislative hearings instead of trial type hearings, submission of written views and written responses and elimination of initial decisions.
State and local agencies may be ordered by a court to employ these procedures if they miss or are likely to miss a deadline on the Project Decision Schedule. (Section 211(c))</td></tr>
<tr><td colspan="2"><i>Enforcement of project decision schedule</i></td></tr>
<tr><td>If the Board determines that an agency has failed or is reasonably likely to fail to make a decision within the time prescribed by the Project Decision Schedule, it must notify the appropriate agency of this determination. 45 days after such notification the Board must hold a hearing to determine the cause for the delay.
Within 30 days after the hearing the Board may:
(1) Modify the Project Decision Schedule,
(2) issue an order providing for the Board and the President to make the decision in lieu of the agency, or
(3) recommend to the President a waiver of Federal law or regulation for a specific project subject to a two-House approval.
If an agency fails to comply with a modified Project Decision Schedule, the Board may elect either to make the decision in lieu of the agency or to recommend a waiver of Federal law or regulation. (Section 185)</td><td>No comparable provision.</td></tr>
<tr><td>No comparable provision.</td><td>Board may bring an enforcement action in U.S. District Court against Federal, State, or local agency head to bring agency into compliance with the Project Decision Schedule.
If compliance with the Schedule would not insure adequate consideration of all matters concerning such project under applicable law, would not insure adequate participation by parties in applicable proceedings, would be impractical or would deny any person due process of law, the court is required to instruct the Board to revise the Project Decision Schedule to require the agency to complete consideration of the applicant's request "as soon as practicable."
Immediately upon receipt of revised Schedule from the Board, the court is required to issue an order directing the agency to comply with such Schedule. In addition, the Court is authorized to order the agency to assign additional personnel to the matter or to utilize the special procedures of section 211. (Section 214)</td></tr>
<tr><td>If the Board issues an order undertaking to make a decision on behalf of an agency it must notify interested parties. The agency must transmit its records to the Board. The Board must complete the record, if necessary. The Board must promptly issue a recommended decision and submit it to the President for his review. The recommended decision must be consistent with all applicable Federal, State and local laws. Within 45 days of receipt of the recommended decision the President must affirm or remand it to the Board with instructions to modify it to the extent the President determines is appropriate. This decision is subject to judicial review in the same manner and to the same extent as would apply to the agency decision involved. (Section 185)</td><td>The President is empowered to make decisions for Federal, State and local agencies if any Federal, State or local agency fails to render a decision within 15 days after the time allowed by a court order enforcing the Project Decision Schedule or if a court fails to act to enforce or modify a Project Decision Schedule within 120 days of initiation of an enforcement action by the Board following the failure of an agency to meet a deadline on the Project Decision Schedule. In making his decision, the President must apply the same laws that would have applied had the agency which missed the deadline performed the action. (Section 214)</td></tr>
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SUMMARY COMPARISON OF COMMERCE COMMITTEE BILL AS AMENDED BY THE SANTINI-LUJAN AMENDMENT AND THE UDALL-CLAUSEN-WIRTH BILL ESTABLISHING AN ENERGY MOBILIZATION BOARD—Continued

COMMERCE COMMITTEE BILL AS AMENDED BY THE SANTINI-LUJAN AMENDMENT	UDALL-CLAUSEN-WIRTH BILL
The Board has authority to recommend to the President a waiver of Federal laws or regulations which impede the making of an agency decision. If the President makes certain findings, he transmits the waiver recommendation to Congress where it would require a two-House approval under expedited procedures insuring a vote on the House and Senate Floors. (Section 185)	No comparable provision.

Waiver and suspension authority

Prior to an agency decision, the Board may recommend to the President the waiver of certain Federal laws or regulations that present a substantial procedural or substantial substantive impediment to the making of an agency decision or to the making of an agency decision in a manner that will permit the implementation of a Priority Energy Project. The Board may recommend to the President the waiver of any Federal, State or local requirement enacted after the establishment of the Project Decision Schedule that presents a substantial impediment to the implementation of the Project.	
In addition, the Board may suspend the application of laws enacted after establishment of the Project Decision Schedule to a Priority Energy Project for up to 5 years provided that the Priority Energy Project makes a good faith effort to comply with the new law.	Board may suspend for up to 5 years any Federal, State or local requirement which has been enacted or promulgated after commencement of construction of an Energy Project if it finds such requirement would delay timely completion or operation of the project and that such suspension poses no threat to public health or safety. Findings and decision are subject to court review for failure to comply with this Act or on Constitutional grounds. (Section 215)
If the President makes certain findings, he transmits the waiver determination to Congress where it would require a two-House approval within 60 legislative days under expedited procedures. A waiver may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement to be waived and must include such terms and conditions as are necessary to mitigate adverse effects, including effects on public health, welfare, or the environment. In addition, the President may only transmit a waiver recommendation to Congress if he determines: (1) such a waiver to be in the national interest (2) that there is substantial evidence to support the waiver recommendation, and (3) that such waiver would not unduly endanger the public health and safety. (Section 185)	

No waiver of certain laws

The Board cannot recommend the waiver of labor laws, antitrust laws, criminal laws, civil rights laws or primary air quality standards established under the Clean Air Act. A waiver recommendation by the Board may not impair or abridge constitutional rights; may not contravene state or local laws, Federal contract or interstate compact relating to water rights; or may not impair or abidge rights to receive compensation for loss of any property interest as the result of the constuction or operation of an Energy Project. (Section 186) To protect these rights a person is given 30 days after Congressional approval of a waiver to file suit in U.S. appellate court. (Section 187(a)(3))	Includes essentially the same prohibition for suspension orders concerning requirements enacted or promulgated after commencement of construction of an Priority Energy Project. (Section 215)

Water laws

Prohibits the waiver of any interstate compact, provision of State or local law, or Federal contract, relating to water rights or to the appropriation, delivery or use of water pursuant to such rights. (Section 186(b)(4))	Prohibition with respect to suspension orders is essentially the same as Commerce Committee bill. (Section 215(d)(4))
No comparable provisions.	Declares that the bill does not expand or confer upon the United States and its permittees or licensees any right to acquire rights to the use of water. Declares that the United States and its permittees or licensees must appropriate water within any State for an energy project pursuant to State law. Declares that the establishment or exercise pursuant to State law of terms and conditions with respect to water rights shall not be deemed to constitute a burden on interstate commerce. The bill does not alter State requirements or interstate compacts governing appropriation, use or diversion of water. (Section 216)

Judicial review

A Priority Energy Project Designation, revocation or denial, any extension granted by the Board, the establishment or revision of a Project Decision Schedule by the Board, and any monitoring actions taken by the Board, are not subject to judicial review except as required by the Constitution. (Section 187(a))	Board decisions granting or denying designations and Board suspension orders of new requirements are subject to judicial review for failure to comply with this Act or on constitutional grounds. Board actions establishing, modifying or revising a Project Decision Schedule, imposing special procedures, and granting or denying extensions are not subject to judicial review other than in an enforcement proceeding or on review of a final agency action. All other Board actions are not subject to judicial review except as required by the Constitution.

COMMERCE COMMITTEE BILL AS AMENDED BY THE SANTINI-LUJAN AMENDMENT—Continued	UDALL-CLAUSEN-WIRTH BILL—Continued
Grounds for judicial review are not changed.	The grounds for judicial review of State, local or Federal Agency decisions are limited to actions which are in violation of the Constitution or actions which are "in excess of or fall short of statutory jurisdiction, authority or limitations, or short of statutory right." (Section 217)
Requires that appeals of agency decisions subject to Federal jurisdiction be filed in the U.S. Court of Appeals for the circuit where the Project is located within 90 days of final agency action. (Section 187(b))	Requires that appeals of agency actions or Presidential decisions subject to Federal jurisdiction be filed in the U.S. Court of Appeals for the circuit where the Project is located, or where the claim arose, within 60 days of final action.●

THE SOVIET UNION'S GREAT FEAR

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. MICHEL. Mr. Speaker, in a recent official visit to the Soviet Union, I heard many Soviet officials say they feared two things: A nuclear war with the United States and the emergence of China as a superpower. I believe that they have more to fear from yet another area of concern: The growing problem of non-Russian national groups in the Soviet Union.

In a letter to the Christian Science Monitor, a staff member of the Commission on Security and Cooperation in Europe outlines the history and current status of one such minority group, the 40 million Soviet citizens who are Islamic.

At this point, I wish to include this letter, published October 24, 1979, into the RECORD.

COMMISSION ON SECURITY AND
COOPERATION IN EUROPE.

A better understanding of Soviet Islam is essential in trying to unravel the intricacies of Soviet policy on Afghanistan, Iran, the Kurdish issue, and the rest of the Muslim world. Certainly the fact that the Soviet Union is the fifth largest Muslim country in the world today is bound to influence its policies.

In April 1979, the Voice of Moscow, in a Turkish language broadcast, gave the first official statistics of Muslims in the USSR: 40 million. Soviet Islam represents a case of overlapping ethnic and religious identities and therefore to be a Kirgiz, Turkoman, Uzbek, Kazakh, Azeri, Tatar, Kurd, or Tadzhik is to be a Muslim.

Not only a web of ethnic kinship and cultural tradition links Soviet Turkoman, Tadzhiks and Uzbeks to their Afghan—and Iranian—counterparts, but also the fact that the vast majority of both Soviet and Afghan Muslims are Sunni of the Hannafi rite.

One little known episode of Soviet history concerns several Soviet Muslim groups such as the Chechen, Ingush, Crimean Tatars, and Meskhetians: during World War II Stalin branded them "traitor nations." As a result, they were deported en masse from their indigenous regions in the Caucasus and the Crimea, and were shipped off in cattle cars to distant Central Asia. Tens of thousands died in transit and later of disease or starvation. Rehabilitated under Khrushchev, most of these peoples were allowed to return to their native territories in the Caucasus.

Not all of these groups were so fortunate. To this day, the 200,000 Meskhetians (who lived on the strategic Turkish-Georgian border) and the 400,000 Crimean Tatars (who lived on the scenic Black Sea coast) are forbidden to return. In fact, in August 1978, the Soviet Council of Ministers handed down a secret decree which provides the legal basis for expelling and jailing Tatars who try to return to the Crimea.

The struggle of the Crimean Tatars to return to their homeland ranks with the activity of Soviet reform Baptists as the oldest of contemporary Soviet dissent movements. Andrei Sakharov has said that official treatment of the Crimean Tatars is the worst of many blots on the current Soviet human rights record. The Moscow Helsinki Group has documented the continuing persecution of the Meskhetians and the Crimean Tatars.

With the exception of the Meskhetians and the Crimean Tatars, open political dissent is rare. One of the few known cases of individual protest is that of Annasoltan Kekilova, a noted Turkoman poetess, who has been in a psychiatric hospital in Ashkhabad since 1971 after advocating reform in Turkmenia. One sign of broader discontent among Soviet Muslims is the growth of secret Sufi brotherhoods which reject Soviet—and Russian—life style. Membership in these Sufi sects is 500,000 in the Northern Caucasus alone.

Any course of action which the Soviets undertake in the Muslim world is bound to have profound effects on Soviet Islam. Kremlin leaders may be haunted by the fact that in 20 years one out of four Soviets will be a Muslim—by blood if not by belief.

CATHERINE COSMAN,
Staff Member.●

A BLOW TO SCHOOLS

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. GRASSLEY. Mr. Speaker, ever since this Congress voted to increase the size of the Federal Government by creating a new Department of Education, the reaction of the public has been one of disbelief and disgust. In talking with several of my colleagues, I have learned that they have received the same message I have gotten from throughout the State of Iowa: "We want less big Government and more local control of our affairs".

This call for less Government and more local control was clearly not reflected in the vote to create the new Federal Department of Education. Many of the folks I have talked to in Iowa wonder why this Congress thinks that Washington's bureaucrats know more about Iowa's schools than our own educators. People believe strongly in State and local control of education, and they clearly see that this move to nationalize education policy will destroy the local autonomy which has made our educational system the best in the world.

As an example of the reaction I have seen to the creation of this new Federal bureaucracy, I am submitting an editorial which appeared in the Burlington, Iowa, Hawk Eye. The editorial points out that public support for our schools can only decline with the nationalization and politicalization of our schools, and I commend it to all my colleagues.

A BLOW TO SCHOOLS

The National Education Association won its fight for a Federal Department of Education.

The schools and the public lost.

The consequences of this concentration of power are obvious.

The schools, already subject to political pressure, will be more politicized. That is a threat to quality and to any chance for improvement.

The NEA, which has grown to one of the nation's most powerful trade unions, will have even more power over elementary and high schools.

Local influence in the direction and operation of schools will diminish.

The NEA started as an association of professionals. As it became hungry for power, it became an out-and-out union. It also began indulging in partisan politics, despite the fact that taxpayers of all parties pay the salaries of their members.

We can imagine the schooling that will come when teachers are frankly partisan propagandists.

An example of the future is provided by the prediction that the first Secretary of Education will be Jerry Apodaca, former governor of New Mexico. His principal qualification is not that he knows anything about education but that he satisfied the President's need for a Chicano in his cabinet.

Popular support for our schools can only decline with this new political development. More federal money may be on the way, but not more learning.●

A DISPASSIONATE LOOK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. DERWINSKI. Mr. Speaker, one of the major school desegregation controversies is centered around the Chicago public school system. Chicago's radio station WBBM very properly editorialized on the complications involved in enforcement procedures by Federal authorities in its broadcast of October 19. I wish to insert WBBM's editorial at this point:

A DISPASSIONATE LOOK

We certainly do not share President Carter's enthusiasm for taking Chicago's school desegregation case to court. At best a court fight will be long, expensive and divisive. At worst, it could result in the mandatory busing of thousands of this city's children at a terrible financial and emotional price.

The Department of Health, Education and Welfare and Dr. Joseph Hannon are at an impasse over the merits of the Superintendent's Access to Excellence program as a desegregation vehicle. It's no wonder. HEW and Dr. Hannon are, we think, talking about two different things. The government and the courts have insisted in the last several years that the numbers of white and black children in each classroom is the issue. Dr. Hannon is primarily concerned about the education that the children, whatever their color, receive in those classrooms.

If only busing or anything else as simple were the answer. But it has not proved to be. We can only hope now that people from the Justice Department and the judges, if it comes to that, will be open-minded enough to realize that the issue in all this is education. We have some fine schools in this city, but many, quite frankly, are not what parents and other concerned citizens have a right to expect. When our public school system does not meet expectations now, how can the federal government come in and insist not only that we spend millions of dollars to bus children, a thing virtually no parents want, but that we divert energy and time from the real purposes of schools.

The position that the federal government and the courts have taken in recent years—that busing is the answer to impoved education—has not proved true. We earnestly hope now that the Justice Department officials will take a dispassionate look at the answer Dr. Hannon has developed. We don't believe HEW did.

That's our opinion. We'd welcome your views.●

ALCOHOL ABUSE: THE $42 BILLION HANGOVER

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. DORNAN. Mr. Speaker, in this Sunday's October 28, 1979 edition of the Twin Circle magazine, there will be an excellent article entitled, "Experts Urge Congress To Put Warning Labels on Alcohol." The piece is an excellent summary of the problems of alcohol abuse, a major cause of death in this country.

Our colleague in the other body, Senator HENRY BELLMON, has estimated that alcohol abuse is costing this country approximately $42 billion a year. He said $42 billion. In a related matter, I would call the attention of my colleagues to a recent assessment of the tragic problem by Max Cleland, Director of the Veterans' Administration. According to Mr. Cleland, while drug addiction among veterans, particularly Vietnam veterans, has been declining, alcohol abuse has been soaring.

There is one major cause underlying alcohol abuse, drug abuse, and many other of the ills that afflict our society; it is an absence of self-discipline. This has broader implications than the statistics of premature death and disability would indicate. The social and economic disruption caused by such widespread self-abuse can undermine the strength of an entire society. A democratic society cannot survive and prosper without a virtuous people. And virtue is impossible without self-discipline. I ask my colleagues to take time from their busy schedules and read this article. I believe it offers sound and wise advice.

The article follows:

EXPERTS URGE CONGRESS TO PUT WARNING LABELS ON ALCOHOL

WASHINGTON, D.C.—Calling alcohol addiction "our $42 billion hangover," government health experts urged Congress to require warning labels on all liquor bottles and in all alcohol advertisements.

Alcohol consumption "is a major factor in premature illness and death in this country," said John Deluca, Director of the National Institute on Alcohol Abuse and Alcoholism, before a Senate Sub-Committee on September 24.

"We believe it to be the federal government's obligation to inform the public of scientifically established health risks," Deluca said, supporting the use of proposed warning labels on alcoholic beverage containers and in advertisements.

"Excessive consumption increases the risk of cancer of the head and neck, poses increased risk for certain types of heart disease, and can cause birth defects," he told the subcommittee.

Sen. Henry Bellmon (R-Ok.) told the legislators that alcohol addiction was "our $42 billion hangover." He cited alcohol as a major contributing factor in most leading causes of death and disability, including some types of cancer, cardiovascular disease, cirrhosis of the liver, diabetes, automobile accidents, suicides and homicides."

Bellmon also reminded the sub-committee: "There is conclusive evidence that alcohol is directly involved in birth defects."

Deluca presented the sub-committee with a black-bordered sample warning label. It read: "CAUTION: Excessive use of alcoholic beverages may be harmful to your health, may be habit-forming, and during pregnancy may cause birth defects. Heavy, rapid consumption can cause death."

The alcohol industry has lobbied anxiously against the use of labels which warn that its products are harmful to consumer health. As a result of alcohol industry pressure, many congressmen and senators are steering clear from the warning-label issue since private citizens in local public welfare groups within their constituencies have not yet made their voices heard above liquor industry propaganda and pressure.

Sam Chilcote, Jr., President of the Distilled Spirits Council of the United States Inc., a price-fixing and advertising association of liquor manufacturers, recently said that alcohol producers "do not believe that warning labels are a constructive or effective way to reduce alcoholism and alcohol abuse."

Deluca, the Director of the Independent National Institute on Alcoholism and Alcohol Abuse, however, said that his organization favors warning labels on beer and wine, as well as distilled liquors. Warning labels, he said, were a form of sorely-needed public education.

"We require warnings on many drugs and other products with less dramatic effects and less potential harm than alcohol," said Deluca.— Karen Platt.●

THE BEAUTY OF ARIZONA'S SALT RIVER: FREE FROM GOVERNMENT REGULATION

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. RUDD. Mr. Speaker, I would like to call to the attention of my colleagues an informative article from the Arizona Silver Belt, a well-respected weekly newspaper in my State.

The article is written by Mr. Jimmie Woods, a distinguished citizen of Globe, Ariz., who serves as managing editor of the Silver Belt and as a member of the Committee for the Protection of Multiple Use Lands.

He has written quite eloquently on the concerns of the citizens of Gila County concerning Federal attempts to include a section of the beautiful Salt River in the wild and scenic river designation administered by the U.S. Forest Service.

I insert the article by Mr. Woods at this point in the RECORD:

WOODS SPEAKS AGAINST MORE FEDERAL REGULATIONS

(By Jimmie Woods)

(EDITOR'S NOTE.—The following is the complete text of a speech given Thursday night during the US Forest Service workshop on Scenic and Wild Rivers. The workshop was in Phoenix. Because of the technical information handed out at the workshop, parts of this speech were not given, but the speech has been submitted to the Forest Service for inclusion in the workshop studies.)

As I understand the purpose of this meeting, we are to apply eligibility criteria identified in the 1968 Wild and Scenic Rivers Act to the three rivers being studied in Arizona.

This step in the planning process has nothing to do with developing a particular recommendation for designation, but rather determines if the river is eligible to be considered for a designation.

To quote Bruce Hronek, supervisor of the Tonto National Forest, "This might be somewhat confusing, but it is a definite step identified by Congress in the 1968 Act."

During this workshop we are to concentrate on defining "outstandingly remarkable" values identified in the eligibility criteria and then applying these definitions to the three rivers.

It also is my understanding that the Wild and Scenic Rivers Act of October 2, 1968 (PL 90–542) as amended by the National Parks and Recreation Act of 1978 (PL 95–625) directs that portions of the Verde, Salt and San Francisco Rivers be studied to determine their eligibility and suitability for inclusion in the National Wild and Scienic Rivers System.

I want to limit my presentation to that portion of the Salt River that is under study since I am not that familiar with those portions of the Verde and San Francisco Rivers, even through a portion of the Verde River could possibly extend into Northern Gila County.

Before I deal with the specifics of the Salt River, let me briefly point out some facts about Gila County and the committee I represent, the Committee for the Protection of Multiple Use Lands.

The Committee for the Protection of Multiple Use Lands is comprised of persons from almost every walk of life: business, professional, clerical, education, ranching, mining, hunting, fishing, off-road vehicle, housewives and almost every other profession that may be found in Gila County. Committee membership is around 10,000.

Gila County has a population of about 33,000 persons within a framework of 3,040,000 acres, of which only about 2.7 percent is in private ownership.

Taking a closer look at those 3,040,000 acres in Gila County, we discover that 1,717,000 acres are managed by the US Forest Service with the Bureau of Indian Affairs responsible for another 1,143,000.

The Bureau of Land Management has 59,000 acres, the State of Arizona 28,000 and the Bureau of Reclamation about 15,200 acres.

Gila County has the smallest amount of privately-owned land of any of the state's 14 counties and we are not the smallest county in land areas within the state.

Our county, is comprised of hard-working, dedicated, fiercely-independent citizens. Self determination has become a way of life for us and we have had to fight to preserve that heritage.

We believe we should have some aspect of self determination in regards to the land management of our county. We are not asking for total self determination, because this land belongs to all of the citizens of our country.

However, we do believe we should have a great say in what happens to this land on which we live, work, play and worship.

Continuing governmental programs, such as RARE I, RARE II, BLM Wilderness efforts, which also includes a portion of the Gila River being included in a study of the Wild Scenic Rivers Act, Lower Salt River Planning Unit, Upper Salt River Planning Unit, Greenbelts study and whatever other acts may face us down the road continue to prick at our very foundation of freedom and self determination.

Being good, decent, honest, loyal taxpaying citizens, it alarms us and grieves us that we are facing soaring governmental regulations in almost everything we do.

Which brings us to the purpose of our current workshop . . . wild and scenic rivers.

We are concerned about the eligibility and suitability of that 17-mile portion of the Salt River, which has been included in the Wild and Scenic Rivers Act, as amended by the National Parks and Recreation Act of 1978.

The U.S. Forest Service says the length of that portions of a river that is to be included in the act, "generally should be at least 25 miles long."

That portion of the Salt under consideration is eight miles under the minimum requirements sought by the Forest Service or Congress or whoever determined the 25-mile length designation.

The Congressional act mandating the Forest Service to study the Salt defines a wild, scenic or recreational river area to be included in the system as "a free-flowing stream and the related adjacent land area that possesses one or more of the values referred to in Section One, (b) of this Act.

According to that section, we read, "It is hereby declared to be the policy of the United States that certain selected rivers of the nation, which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations.

"The Congress declares that the established national policy of dam and other construction at appropriate sections of the rivers of the United States needs to be complemented by a policy that would preserve other selected rivers or sections thereof in their free-flowing condition to protect the water quality of such rivers and to fulfill other vital national conservation purposes."

Now back to Section II, subsection (b) for a continuing definition of our rivers. "Every wild, scenic or recreational river in its free-flowing condition, or upon restoration to this condition, shall be considered eligible for inclusion in the national wild and scenic rivers system and, if included, shall be classified, designated and administered as one of the following:

(1) Wild River Areas: Those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted. These represent vestiges of primitive America.

(2) Scenic River Areas: Those rivers or sections of rivers that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads.

(3) Recretational River Areas: Those rivers or sections of rivers that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past."

According to the Act, the study of any of the rivers shall be pursued in as close cooperation with appropriate agencies of the affected state and its political subdivisions as possible, shall be carried on jointly with such agencies if request for such joint study is made by the state and, shall include a determination of the degree to which the state or its political subdivisions might participate in the preservation and administration of the river should it be proposed for inclusion in the national wild and scenic rivers system.

Now looking at the definitions of the three classes of rivers, ladies and gentlemen, there probably is not a river in the nation that portions of that said river could not be included in this act, unless you determine a definition of "outstandingly remarkable."

And when you determine that definition . . . if it means unique from any other river or portion thereof . . . or if it means something unusually different . . . then the 17-mile portion of the Salt River under consideration has no "outstandingly remarkable" qualities about it that, for example, portions of the Salt River below Roosevelt Dam and along the other three dams in that chain of water impoundments does not have.

The Committee for the Protection of Multiple Use Lands feels we already have too much control over our lives; the way we live, the things we eat, the air we breathe, the way we work. We just do not want additional federal bureaucratic control on the lands and rivers in our country.

We are opposed to the inclusion of the Salt River in either the wild, scenic or recreational designations.

A portion of the Salt River, especially from where Pinal Creek empties into the Salt, does not qualify under the "unpolluted water category" of the wild river designation. We also would point out that it does not meet the 25-mile length requirement.

We are opposed to designating the Salt as a scenic river because of the tremendous hazards in connection with floating down the river. This year, for example, almost 20 persons have lost their lives in the Salt River . . . six of these during the Easter weekend.

We also are opposed to designating the Salt a recreational river for several reasons. Let me point out a few of those reasons:

There are six or seven pairs of bald eagles nesting on the Salt and Verde rivers and are the only bald eagles in the entire Southwest, outside of a pair or so in Baja, California and one in southwest Colorado and a pair on the Lower Colorado River.

As a resident of Gila County, I feel proud that the bald eagle has discovered itself biologically capable of survival in the Upper and Lower Sonoran Life Zones along the Salt River.

I have floated down portions of the Salt River. I have seen the Bald Eagle in his nest, perched high above the river . . . and I want you to know that it is a beautiful sight and one that I want to preserve.

If we make the Salt River a recreational river, where river development will be allowed for more and better facilities for the pleasure of fun-loving, river seekers, we will lose that sight from Gila County.

It will not take too many floaters, carrying their guns and rifles on the trips, for the alleged purpose of protecting themselves from the "beasts" of the area before someone starts shooting at the Bald Eagles, "just for the fun of it."

The Bald Eagles will either be killed or driven from their natural habitats. I do not want to see that nor do the residents of our county.

I would consider it a privilege to assist in the planting of cottonwoods along the Salt River and helping fence small portions of shorelines where these magnificent birds can rest, nest and breed.

But my friends, the more people you put on the river, the less Bald Eagles you will see along the Salt . . . and there goes the protection for these birds that are on the rare and endangered species list.

And the more people you put in that river on rafts, tubes or other method of river floating, the less natural floral and animal life you will see.

Wild life will be killed or scared from its habitats. Native shrubs, trees and plants, essential to the food chain for the survival of birds and animals, will be destroyed. Shorelines and rivers will be littered and polluted.

That portion of the Salt River, which is so beautiful now, will be destroyed.

What may be intended (the Wild and Scenic Act) to be a good act to protect the Salt River for the present and future generations may have just the opposite effect.

It might destroy what we already have and what Arizonans and other Americans from all across our nation have had for thousands of years.

The Salt River Canyon is beautiful with spacious shorelines in many places. We do not need further development along the river. It should not be included as a recreational river. This could destroy the shorelines and mar the beauty of the canyon.

If you doubt that statement, travel along any river where people have boating facilities. What will you find?

Littering and trash in abundance. Trees, native plants and floral species trambled and destroyed. Wildlife forced to flee from its natural habitats.

In general . . . a mess.

We in Gila County will not destroy what has taken years to make. We will preserve and protect the river and its immediate environments.

We will do anything and everything within our power to maintain a way of life that is rich, free and full for the citizens of our county.

We will make every attempt, enter every door, talk to every politician, appeal to every person who will listen to keep that portion of the Salt River free and beautiful . . . just as it is today.

We do not want development along that portion of the river. We want to preserve and maintain what nature has given us. We always have worked hard to protect our resources, our heritage, our freedom and we will continue to do so.

It may be the desire of some to strangle Americans with more and more regulations. It may be the thought of some that Washington can protect and preserve us and keep us from hurting ourselves.

It may be the sincere desire of some people that the only way we can help ourselves is for Washington to move into every sector of our lives.

Washington does not have all the answers. Again, if you doubt that statement, visit the Potomac River in our nation's capital. Look at the boats, look at the pollution, look at the sludge, look at the filth, look at the nonbeautiful sights.

If the bureaucrats in Washington cannot keep their own river clean, why do they want to come to Arizona and mess up one of the most beautiful rivers in the nation and make it like the Potomac?

No, that is not what we want nor is it what you want. We don't want a dirty, messy, filthy river like the Potomac or many of the rivers in the East. We want a river like the Salt is today . . . virtually untouched by humans' messes.

The Salt River, over the thousands of years, has been maintained and is beautiful in its present state. We think we have done a pretty good job in the time we have been entrusted to care for that area.

And we believe the best way in the future to maintain that beautiful river is for the citizens of Arizona to work together.

As private citizens, working together, we can build areas to protect the bald eagle, to provide for the continual existence of other birds and animals.

I really do not believe that we have a fight with any sincere citizen who is interested in making our country a better place in which to live and worship. We are not opposed to protecting any endangered species or providing whatever help is needed to do that job.

What we are opposed to, is the continual growth of bureaucratic stranglement of our county . . . of more and more rules and regulations by governmental agencies.

Permit us some degree of self determination and you will discover that private citizens working together, without governmental interference, can and will build a better, longer lasting and more beautiful environment.

The U.S. Supreme Court has ruled, in cases pertaining to pornography, that a community can determine what is illegal, immoral or indecent based on the community moral values.

I wonder why we cannot use that same standard in considering wildernesses, wild, scenic, recreational, air and water pollution and so forth. Why is it virtually impossible for a local community to judge for itself some of these key issues.

I am not talking about rules or regulations that might violate U.S. or state constitutional laws, but rather the things that we have been talking about.

We are not rebelling, we are not threatening, we are not seeking harm . . . but rather self-determination to manage the land in our county the way we see it, as long as there is not a violation of Constitutional issues.

If we are a government of the people, for the people and by the people . . . then permit us to be that government within our county and state.●

MILITARY CONSTRUCTION BILL

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. DERRICK. Mr. Speaker, on rollcall vote No. 597, passage of the Military Construction Authorization Act for 1980, I was incorrectly recorded. My vote should have been recorded in favor of the measure.●

CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS ENDORSES A STRONG FEDERAL TRADE COMMISSION

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. WAXMAN. Mr. Speaker, the director of the Department of Consumer Affairs of the State of California, Richard B. Spohn, has written me to express his serious concern that the integrity of the Federal Trade Commission not be weakened by the Congress.

Mr. Spohn argues that the FTC is absolutely indispensable to preserving the operation of the free market, preventing unfair or deceptive trade practices, and protecting consumers and business alike against abuses by industry.

Mr. Spohn concludes that the record of the FTC, since it was strengthened by Congress in the early 1970's, demonstrates that the agency has acted with the highest degree of competence and thoroughness, and with complete dedication to serving the public interest.

We shall soon vote on whether to curb the powers of the FTC. I do not believe such action is warranted, and would urge my colleagues to take Mr. Spohn's guidance and experience into account before reaching a judgment on this issue.

The letter follows:

CONSUMER AFFAIRS,
Sacramento, Calif., October 12, 1979.

Hon. HENRY A. WAXMAN,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN WAXMAN: In the course of my service as Director of the California Department of Consumer Affairs I have had an opportunity to work closely with the Federal Trade Commission in a variety of areas of importance to consumers. Based upon my personal experience as well as that of my staff, I would like to express a word or two in support of the present Commission and to urge you to oppose efforts to stop the Commission from doing its work in the years ahead.

In 1938, in the Wheeler-Lea Amendments, Congress broadened the coverage of the Federal Trade Commission Act to provide that "unfair or deceptive acts or practices in commerce . . . are declared unlawful." However, the FTC was slow in implementing the mandates expressed in the Wheeler-Lea Amendments. As a result of the consumer movement of the late 1960's, including the efforts of the American Bar Association, the President and the Congress saw fit to strengthen the FTC and to give it the leadership and support needed to carry out its mandate and to fulfill the potential of the Federal Trade Commission Act.

Beginning in the early 1970's and in the intervening years—and with the help and encouragement which the Congress provided in the Magnuson-Moss Warranty—FTC Improvement Act—the FTC became the organization and authority which Congress had envisaged.

The Commission's capacity to carry out the law by conducting thorough investigations, holding hearings, eliciting testimony and views, and engaging in careful analysis has enabled the Commission to act both vigorously and competently, and with full knowledge of the particular industry or issue before it, and in a way that we in the states, with our limited resources, could never hope to match.

The Commission's rulemaking proceedings, in particular, have been characterized by a thoroughness of investigation, analysis, debate and deliberation that is unsurpassed. It cannot be said that the FTC has rushed ahead in the adoption of rules or guidelines without thorough investigation, information analysis and thought.

With the pressures of inflation and scarce resources, there will be a tendency in the years ahead for certain segments of our economy to recoup their losses and gain a new toehold in the market at the expense of the consumer, too often focusing on the vulnerabilities of the low-income and minority consumers in our central cities. The methods adopted to achieve these ends will almost always involve the use of practices that are either deceptive or unfair, and therefore within the prohibitions of the Federal Trade Commission Act.

On reading the reports of proposals now before the Congress, it occurs to me—

Will the FTC be present with a qualified and well-motivated staff to respond?

Will it have the legal authority and material resources to respond?

Will it have the capacity and will to engage in the kind of thorough investigation and critical analysis that has typified all of its major actions in the '70's?

Will it be able to respond in an intelligent way, not by knee-jerk reactions but by rules and guidelines that will preserve the merits of a creative and efficient free-market economy and prevent abuses of that market?

Once its rules and guides are promulgated, will merchants have any duty to observe them? Will its regulations be "law"?

Will their legal force and effect be so watered down that unscrupulous businesses will be able to continue as before?

A free market depends upon the observance of a minimum level of honesty and fairness by all participants. Free markets cannot function in the face of deception, and no theory says they can. And the optimum distribution of resources that is one of the principal hallmarks of a genuinely free market cannot be realized when exchanges are unfair.

The Federal Trade Commission's power and duty to prevent unfair and deceptive practices in commerce are deeply routed in a long-standing national policy in favor of the preservation of the free market. For that reason, a destruction of the Federal Trade Commission or a diminution of its powers, resources, or status would itself therefore be an act in derogation of the market. It can only set the stage for further erosions in the freedoms business enterprises have had to serve the consumer will.

If the FTC were guilty of either overreaching or incompetence, Congressional action would be appropriate—indeed necessary. There is no evidence, to my knowledge, either of overreaching or incompetence at the FTC. As in all controversial matters, however, those who would be adversely affected, whether funeral directors, used car dealers, or consumer finance companies, are using every lawful means to prevent the commission from carrying out its responsibilities in their particular industries. They are, I assume, actively lobbying you and all of the other members of the Congress to "curb the FTC". I can well imagine the political pressures that you and all individual Congresspersons face. I appreciate how difficult it must be in deciding how to respond to such forces.

In my judgment the FTC has been doing an outstanding job as a protector of the integrity of the marketplace and as servant of the mutual best interests of both businesses and consumers. A vote in favor of almost any of the measures that are now being proposed by anti-FTC forces would be a vote in favor of the very practices which the FTC was set up to prevent.

I urge you, individually, to reflect upon the true meaning and likely impact of the proposals that are now being considered to "curb the FTC" and, in deciding upon your vote, to let your decision be based on a wise assessment of what is indeed the best public interest. And, in making your judgment, I hope you will agree with me and give the FTC your vote of support.

Here in the states—for our part—we hope to be able to continue to look to the FTC for assistance in serving the public interest, including the interests of the business community and the interests of the consuming public, our special constituents. In the past, we have both supported the work of the FTC by sharing our own experiences and insights with the FTC and also by utilizing the FTC's excellent reports and analyses of particular industries and issues as a springboard for appropriate action here at home.

We, our constituents, and the entire nation would suffer a major loss if these and other functions were discontinued or curtailed as a result of any of the steps now being considered.

Thank you for your consideration of the FTC.

Yours respectfully,
RICHARD B. SPOHN,
Director.●

THE LOW-INCOME ENERGY ASSISTANCE BILL

HON. MIKE LYNN SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. SYNAR. Mr. Speaker this body acted today on legislation to address a critical issue: Federal assistance to low-income and elderly persons to help pay their winter heating bills. Fuel costs have risen dramatically in the past several months. Many people will be paying heating bills twice what they were last winter. The hour is late, and once again this body is acting on crucial legislation in an atmosphere of crisis instead of reason.

I firmly believe the Federal Government has a moral responsibility to provide assistance to those in our Nation who are least able to help themselves get through critical times such as these. I believe that some citizens of this Nation will truly be facing a situation this winter of paying enormously high heating bills or putting adequate food on their tables. We simply must help these people avoid having to make that choice, and I would enthusiastically support well-thought-out legislation to that end. The American people and this body have known for months that assistance payments to low-income and elderly citizens would be essential this coming winter. But for reasons beyond me we have delayed action on such legislation until the last minute. Winter is almost upon us, and only now are we being asked to act on such low-income assistance legislation. This bill was given absolutely minimal consideration by the Appropriations Committee: 1 day of consideration by the subcommittee and 1 day of consideration by the full committee. I have serious concerns over the implementation of this massive aid program. There are potentially critical flaws in the bill. I cannot justify spending $1.35 billion on a half-thought-out program.

This body has known for weeks, if not months, that some form of windfall profits tax legislation was going to be enacted, and that a low-income energy assistance program would be a significant end-use of some of those funds. The administration made energy assistance payments to the poor and elderly one of the priority uses of the windfall profits tax revenues. When this House passed its version of the windfall profits tax bill, there was a good deal of discussion about this assistance program. It is not as though we suddenly awoke this morning to discover that fuel prices had risen dramatically and that something absolutely had to be done now—today—to help those who will desperately need assistance this winter in meeting the high costs of heating their homes.

In summary, no one believes more strongly than myself that lower income and elderly people in our Nation need and deserve this assistance. No one wants to help them more than I do. But this particular bill is ill conceived and has potentially serious deficiencies. In good conscience, I simply could not support the bill considered by the House of Representatives today. We must address the problem. We must do it quickly. But we must do it correctly.●

ADMINISTRATION RESPONSE CRITICAL OF DELAYS IN UDALL-WIRTH EMB PROPOSAL H.R. 5660

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. DINGELL. Mr. Speaker, the administration has produced an analysis critical of the judicial review provisions of the alternative Energy Mobilization Board proposal by our colleagues Mr. UDALL of Arizona and Mr. WIRTH of Colorado. This analysis reports that their bill, H.R. 5660, "would add years of delay to the (energy) fast-track process by injecting the courts into the process at two key points."

I earlier requested the administration provide me with their comments on the Udall-Wirth bill and the following analysis provided me today shows the unwise course that would have to be adhered to in their bill which would thwart policy guidelines of energy fast-track legislation.

I insert at this point the administration analysis:

ANALYSIS OF DELAY CAUSED BY JUDICIAL REVIEW PROVISIONS OF UDALL-WIRTH EMB PROPOSAL (H.R. 5660)

The Udall-Wirth EMB bill (H.R. 5660) would add years of delay to the fast-track process by injecting the courts into the process at two key points.

First, their bill subjects decisions of the EMB to designate specific projects for fast-track treatment to judicial challenge. This approach invites litigation by any interest that might object to a project, and could add over 2 years to the permitting process (see Attachment 1).

Second, the Udall/Wirth bill requires use of the courts to enforce deadlines for permitting decisions established by the EMB. If an agency misses a deadline, the EMB must seek an order from the U.S. District Court either enforcing the existing deadline or establishing a new one. If the agency thereafter fails to comply with the court order, the President is authorized to take over the decision. Assuming that it would not be necessary for the Board to seek a second court order to determine whether a violation of the first court order had occurred and that such a determination would be made by the Board (or President), the Udall/Wirth proposal could add as much as 3½ years of additional delay (see Attachments 2 and 3).

The relevant time requirements are summarized below:

	Minimum		Maximum	
	Years	Months	Years	Months
Udall/Wirth:				
Review of Designation Decision		4.5	2	1
Court Enforcement of Deadlines	1	2	5	5
Total	1	6½	7	6

ATTACHMENT 1

TIME REQUIRED TO COMPLETE JUDICIAL REVIEW OF EMB DECISIONS TO DESIGNATE PROJECTS FOR FAST-TRACK TREATMENT UNDER UDALL/WIRTH PROPOSAL (OCT. 22 1979)

Trigger: EMB decides to designate a project for fast-track treatment:	Day
Step 1: Appeal of EMB decision is filed in Federal Court of Appeals	15–60
Step 2: Court of Appeals decides issues	15–180
Step 3: Petition for certiorari filed with U.S. Supreme Court	15–60
Step 4: Supreme Court decision on petition	15–180
Step 5: Argument heard	60–90
Step 6: Decision of Supreme Court	15–180
Total	[1] 135–750

ATTACHMENT 2

TIME REQUIRED TO ENFORCE DEADLINES UNDER THE UDALL/WIRTH PROPOSAL (OCT. 22, 1979) (ASSUMING ONLY 1 ENFORCEMENT LAWSUIT IS REQUIRED)

Trigger: Agency misses deadline for decision:	
Step 1: Seek District Court enforcement	15–30
Step 2: District Court decides	15–120
Step 3: Appeal to Court of Appeals	15–60
Step 4: Court of Appeals decides	15–180
Step 5: Petition for certiorari to Supreme Court	15–60
Step 6: Decision on petition	15–180
Step 7: Argument heard	60–90
Step 8: Decision	15–180
Step 9: State and local again fail to decide per order	90–180
Step 10: EMB completes record	15–90
Step 11: EMB/Pres. decides	15–30
Step 12: EMB decision to Court of Appeals	15–160
Step 13: Court of Appeals decides	15–180
Step 14: Petition for certiorari	15–60
Step 15: Decision on petition	15–180
Step 16: Argument heard	60–90
Step 17: Decision	15–180
Total	[2] 430–1, 950

ATTACHMENT 3

TIME REQUIRED TO ENFORCE DEADLINES UNDER AMENDED COMMERCE BILL

Trigger: Agency misses deadlines for decision:	Day
Step 1: EMB completes record	15–90
Step 2: EMB decides	15–30
Step 3: File appeal of decision in Court of Appeals	15–60
Step 4: Court of Appeals decides	15–90
Step 5: File petition for certiorari with Supreme Court	15–30
Step 6: Decision on petition	15–180
Step 7: Argument heard	60–90
Step 8: Supreme Court decides	15–180
Total	[3] 165–750

[1] 4.5 mo to 2 yr 1 mo.

[2] 1 yr 2 mo to 5 yr 5 mo.

[3] 5½ mo to 2 yr 1 mo. ●

FOOD STAMPS: THE DAMNABLE QUESTION

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. HARKIN. Mr. Speaker, my distinguished colleague and chairman of the House Agriculture Subcommittee on Domestic Marketing, Consumer Relations and Nutrition, FRED RICHMOND, is as you know deeply committed to the nutrition and health of our low-income citizens. The food stamp program is our major State-administered Federal program. In recognition of this Federal-State relationship, the subcommittee chairman delivered the keynote address to the National Council of State Welfare Administrators of the American Public Welfare Association meeting that was held this week in Washington.

Representative RICHMOND called upon the State commissioners to help Congress bridge the gap between legislative ideals and administrative realities. This spirit of cooperation will be critical to the subcommittee as we hold hearings and markup on the food stamp amendments of 1980.

Representative RICHMOND's remarks follow:

REMARKS BY FRED RICHMOND

For Congress, food stamps is the damnable question.

After five years in Congress and three years as Chairman of the House Nutrition Subcommittee, I have come to the conclusion that there is no way to satisfy the needs and demands of all those who have a direct interest in the Food Stamp Program.

By nature, Members of Congress thrive on public approval. Previously there was some confidence that we knew what our constituents wanted and by addressing their concerns we would be assured the votes necessary to keep us in office. Now it is anyone's guess.

Rather than hearing one voice, Congress hears many voices.

Rather than enacting laws in an orderly and logical process, the 96th Congress seems determined to do, undo, and redo every bill that comes before it. Food stamp legislation is an excellent if not unfortunate example of this confusion.

After spending hundreds and hundreds of hours passing the massive 1977 Food Stamp Reform Act, we felt that by eliminating the purchase requirement, standardizing deductions and reducing the potential for fraud and error we had performed an admirable public service.

Then, to our dismay, came the thousands of angry letters from constituents, the complaints of the state administrators and the attacks of advocates for the poor.

Once more we passed a new law which we believed was humane in intent both in relation to raising the cap and instituting new medical and shelter deductions for the elderly and handicapped.

There are however a number of indications in P.L. 96–58 and the debate which surrounded it which point to trouble ahead:

By separately identifying the elderly and SSI recipients as a special class of citizens, we have destroyed the homogeneity of the program. What other politically potent groups will now demand special treatment?

By establishing a new set of deductions we have reversed our intent to simplify the program, and I suspect we have added new burdens to your employees who must enroll participants and verify eligibility.

Finally, by giving the Secretary the authority to reduce benefits for some but not all participants, we have opened the way to potential cutbacks in funding.

This year because of the continuing problem with the budgetary ceiling—namely an estimated $2 billion shortfall—we are again in the midst of another food stamp battle.

As you know, it is the intention of our Committee to report out a bill before Congress recesses and to pass final legislation no later than February of next year. Unlike last year when we were able to protect the program from gratuitous amendments by intricate legislative maneuvers we no longer have such an advantage.

In addition to debate and amendments on such controversial titles of H.R. 4318 as removal of the cap, quality control and error rate sanctions, verification and retrospective accounting we face both in Committee and on the Floor such potentially damaging amendments as recoupment, the loss of the semiannual cost of living increases, a ceiling on gross income and an amendment similar to that offered against the welfare program by Mr. Michel to reduce program benefits by the amount of the national rate of overpayment. Amendments dealing with workfare projects, outreach, and in-kind benefits are also likely.

On the positive side, I intend to fight to lower the medical deduction to the pre-1977 threshold of $10 and to remove the cap for 1980 and 1981. To be candid with you, though, I think that given the current mood of Congress we will be very fortunate indeed if we can maintain the integrity of the program as it is.

You and I know that no program can withstand the shock of arbitrary and major revisions each year. My message to you today is that we must work together, particularly in the next few weeks and months, to close the widening gap between legislative ideals and administrative realities.

We must work together to overcome a number of prejudices and misconceptions which Members have about what we know to be a very worthwhile program. Last summer, during debate before the House, one Member of the Committee not only objected to the extent and cost of the program, but also condemned it for the damage that it supposedly is doing to the American character and the work ethic in particular. While my colleague's remarks were somewhat extreme, make no mistake that it is profoundly disturbing for Members of Congress to accept the fact that in a relatively prosperous economy 18½ million Americans are receiving over $7 billion in food stamps and another 15 million are eligible for similar aid.

While Members are not devoid of compassion for the poor, it angers them that after ten years of program operation we still have a national error rate of 13 percent with some states running above 20 percent in overpayments.

I know from reading your Interstate Conference Report that because of Congress' burdensome changes "State Agencies are no longer willing to accept sole responsibility for what may appear as excessive error rates, poor client services or inadequate cost effectiveness."

I know that many of you have problems with quality control, verification, outreach and points and hours.

I know that all of you are greatly concerned about the proposed sanctions against states which fail to lower error rates, and I know that it is somewhat illogical to penalize you for overpayment by lowering your administrative payments.

Like you I am not happy with the inexcusable delay by the USDA in promulgating regulations. But I also know and I think you had better recognize that there is much sympathy in Congress for the view expressed by a very distinguished Member of our Committee when he noted during the course of debate on the Floor that:

"There is not an army of Federal workers within the various States administering food stamps. There are State and local employees, and if we have error rates in the program, it is for the most part the result of bad State and local administration which we must try and correct."

This misconception is a direct result of the gap between administrators and caseworkers on one hand and legislators and regulators on the other.

While my staff and I have been fortunate to have the opportunity to work closely with my State and City Commissioners and their dedicated assistants, the same cannot be said of most other Members of Congress and in particular those who serve on the Agriculture Committee. For too long we have gone our separate ways. Today's meeting is, I hope, the first step in closing that gap.

During the next two days each of you should personally visit with Representatives in your state delegation in the House. For those of you whose states are represented on the House Agriculture Committee and especially on my Subcommittee, such meetings are critical.

It is of utmost importance that states make an articulate case before Congress. By the time a bill reaches the Floor or Conference Committee, it is too late to make the sensitive adjustments necessary to fine tune such a complex program as food stamps.

One of my colleagues who has been a great defender of the program at some political risk to his career recently complained to me that he has not heard once from his State Commissioner or Food Stamp Director.

You lobby your State legislatures

You lobby your state Governors.

Why aren't you lobbying us? States are sovereign bodies unto themselves, but remember what I said earlier about conflicting voices. When you or your representatives appear before our Subcommittee next week, you should have some sense of agreement and coordinated advice to give us about lifting the cap, the determination of error rates and the imposition of sanctions, recoupment, and retrospective accounting.

I have heard that many of you believe that recoupment is illogical and would place an intolerable burden on the states—that financial incentives, not sanctions are preferable ways of motivating states to lower their error rates. I agree! But Ladies and Gentlemen, when has logic alone carried the day?

Congress is faced with tremendous political pressure to reduce spending and curtail federal programs. Only with your advice and your testimony will we be able to discern the workable from the illusionary courses of action.

If a change in eligibility requirements means an hour more of a caseworker's time per applicant,

If increased regulations lead to higher error rates,

If recoupment means a costly annual review of all households,

Then we need to hear so directly and forcefully from each of you. Too often Congress legislates in the blind or even worse is guided by public myths which sound like truth if repeated often enough.

Only recently and only with your cooperation have we had reasonable documentation:

That the majority of food stamp households have gross incomes below $3,600 a year.

That more than 20 percent of program participants are elderly.

That the majority of new participants are from rural areas.

That higher food costs are primarily responsible for breaking the cap,

And that the program strengthens the economy by directly benefiting farmers, food manufacturers and local businessmen.

I do not have to tell this group how politically useful such information is to Congress.

During your conference you have an excellent opportunity to develop the network and strategy to ensure that Congress will be able to bridge the gap between legislative ideals and regulatory realities. There is no one in this audience who does not want to help the poor, who does not want the most just, efficient and humane program. There is too much at stake for us and the poor people we serve to continue to go our separate ways.

Over the past two decades we have developed one of the most comprehensive public programs for those in need that has ever been attempted on a national scale. Where there was hunger and malnutrition, condescension and abuse, there is now in place a network of food assistance programs approaching a cost of some $15 billion. I don't have to remind you how hard we fought for each victory.

But the good days are coming to a close. In this period of drift and social uncertainty much of your role as Directors and Administrators will depend on your ability to protect and maintain the funding and integrity of the programs under your jurisdiction.

There is no glory in this rearguard action. You will be attacked from both the right and the left. Given the current political environment you face the prospect of a number of substantive changes in the program's operation. That many of these changes might possibly contradict one another will try your patience even more.

But should you falter—should you fail to make your voice heard in Washington—you will see your hard won victories eroded away.

We for our part stand ready to listen to you and to work with you.●

TRIBUTE TO ALICE B. BREDELL

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. FLORIO. Mr. Speaker, it gives me pleasure to acknowledge the achievements of my constituent, Mrs. Alice B. Bredell, 515 Gloucester Avenue, Magnolia, N.J.

Mrs. Bredell was born in Glendora and has remained a lifelong resident of South Jersey. dedicating herself tirelessly to the 4-H programs in the area.

For 25 years she has been a 4–H leader specializing in the clothing programs. She has been a home economics leader and treasurer of the local 4–H association.

Helping the young to reach their potential in other 4–H activities, Mrs. Bredell also was a camp counselor from 1954 to 1979.

Her community activities also reach outside the 4–H as she is an active member of the Magnolia United Methodist Church, providing additional service to her neighbors.

Mrs. Bredell is being honored at the 4–H Annual Leaders' Recognition Dinner in Sicklerville, N.J. for her over two decades of dedication.

Mrs. Bredell is the mother of a daughter, Barbara Sawyer, also a 4–H leader. She has three grandchildren who are all 4–H members.●

UNMAKING OF TREATIES

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. McDONALD. Mr. Speaker, understandably, there are some people in the Department of State upset over Judge Gasch's recent decision that President Carter did not follow the Constitution of the United States in unilaterally deciding to terminate our Mutual Defense Treaty with Taiwan without recourse to the Congress. However. as the Richmond Times-Dispatch of October 20, 1979 pointed out in an editorial. treaty commitments should represent something more than just the whim of one man—the President. We need to reassure our allies that the word of the United States stands for something. I commend the editorial to the attention of my colleagues.

UNMAKING OF TREATIES

Morally. President Carter was wrong, in our view, to proceed on his own last Dec. 15 to break the 25-year-old Mutual Defense Treaty with Taiwan, a loyal ally, in order to accede to the conditions for exchanging ambassadors laid down by the People's Republic of China.

Legally, it was an open question—but one of potentially grave significance for the stability of American foreign relations. If one president could unilaterally declare the Taiwan pact null and void, a future president could just as easily pull out of the North Atlantic Treaty, or scuttle treaties with such important allies as Japan, South Korea, the Philippines, Australia and New Zealand without being required to show that any support whatsoever existed in Congress for his actions.

The Constitution is clear in stating that the president's treaty-making power is circumscribed by the need to obtain the "advice and consent" of the Senate, with the proviso that "two-thirds of the Senators present" must concur. As to unmaking treaties, the Constitution is silent.

When first asked to consider the suit brought by Sen. Barry M. Goldwater, R-Ariz., and 23 other congressional conservatives, challenging Mr. Carter's attempted treaty abrogation, U. S. District Judge Oliver Gasch showed an understandable—even commendable—reluctance to step into the unprecedented conflict, in the absence of any expression of the full Senate's position on its constitutional role. But when the Senate then voted 59–35 in support of the Goldwater view that it shared in treaty-unmaking power, the way was clear for the judge properly to adjudicate the dispute.

Judge Gasch's decision Wednesday voiding President Carter's action (which was scheduled to become effective Jan. 1) was in accord with the constitutional principle of checks and balances on the exercise of power by the three branches of the federal government. He held that a president "alone cannot effect the repeal of a law of the land which was formed by joint action of the executive and legislative branches, whether that law be a statute or a treaty."

President Carter is appealing the decision, and it is possible a majority of the Supreme Court justices will eventually agree with him. But such an outcome would be injurious to the position of the United States in world affairs. It would tell our allies that the adherence of the U. S. to its solemn treaty commitments rested on nothing more substantial than the inclinations of the man occupying the presidency at a particular time.●

LET'S CALL IT OFF

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. MICHEL. Mr. Speaker, as we watch, with a mixture of horror and hilarity, the efforts of the Carter administration to scramble back into the good graces of the American people, one absurdity follows another. First we had the Rafshoon-inspired new speech techniques of table pounding and arm waving which were supposed to show us that President Carter is a leader. Far from looking like a leader as he goes about waving and pounding, the President resembles somebody trying to send semaphore messages without the flags.

And now we have his recent vow to create an Office for Families. The President's pollsters and image makers are obviously aware that the word "family" has strong political vibrations these days. So the administration's deep thinkers, led no doubt by the Chief of Staff, set to work to see just how the administration could exploit this concern over families.

What did they come up with? Did they say that the Carter administration would have to immediately show some signs of stopping the inflation that is ravaging the family budget? No. Did they say there should be a review of all Federal aid to education since, after over $50 billion of such aid, we have declining test scores and a generation of children who are functional illiterates? No. What the Carter administration proposes is that we have yet another bureaucratic entity created, an Office for Families.

One does not know whether to laugh or weep. Is it still possible that after the accumulation of overwhelming evidence to the contrary, there are still those who believe that social and economic ills can be cured by creating another Federal agency? In the Carter administration, apparently, such an idea is considered to be the height of responsiveness to public needs. This may well explain why the Carter administration has become the laughing stock of the Nation.

The American family needs a strong dollar, a declining rate of inflation, tax policies that lead to more savings, more investment and more jobs, an educational system that serves children and parents not pressure groups, and a strong national defense to keep the freedom in which a family can grow and prosper.

The Carter administration has provided none of these.

At this point I wish to include in the Record a funny and incisive look at the latest administration folly, "The Office for Families; Let's Just Call it OFF" by Joan Beck, in the Chicago Tribune, October 10, 1979.

The article follows:

The Office for Families; or Let's Just Call It OFF

Jimmy Carter, who doesn't know how to president as well as John Paul II knows how to pope, evoked the Pontiff's name when he announced last week that he is creating a federal "Office for Families."

So far, the President has been vague about what his new Office for Families is supposed to do, except that it is to provide the focal point for the development of federal policies and programs affecting families. He hasn't even said whether the agency will be called OF or OFF.

Carter did say that the American family is "in trouble," with many families "strained to the breaking point by social and economic forces beyond their control." But surely he doesn't mean to give OFF the power to change those economic stresses—like inflation, high taxes, the marriage tax, and eroding savings—for which the federal government is primarily responsible.

So we can only assume the President is starting OFF in hopes of projecting the kind of sentimental and human aura that attracted so many millions of people to the Pope. But families aren't the only old-fashioned value in trouble today and Carter may be tempted to cast OFF as a model for other new government agencies in hopes of OFF-setting the appeal of other Presidential candidates.

Actually, OFF may not be the universal voter turn-on Carter assumes. The White House Conference on Families he scheduled so hopefully earlier in his administration had to be postponed because of heavy flak over the definition of "family." [An unmarried mother? Two homosexuals?] The conference is now reset for next summer, but split into three segments to be held in three cities outside critical Washington.

But like energy, love seems to be in short supply these days and filling voters' yearnings for love could be a new way to garner votes. Maybe the President could improve his slipping ratings by creating a Bureau of Love and Similar Emotions [that finesses the issue of defining "love"]. BLASE, with thousands of new employes, could spend billions of dollars trying to redistribute love more equally. [Love stamps? Green Lovecaid cards for poor lovers? Compulsory integration of the lovable and the unlovable?]

There's a shortage of kindness these days, too—as every president since John F. Kennedy has personally experienced. But who could resist feeling kindly toward President Carter for setting up a new federal Office for Kindness? OK could finance the development of new kindness resources [giving priority to minorities and small entrepreneurs]. It could draw up regulations giving environmental protections to kindness. And it could help reduce our dependence on expensive and unreliable foreign kindness.

Our gross national production of laughter has also fallen off drastically—due in part to the Viet Nam war, the Nixon administration, and strictures against the use of ethnic and sexist jokes. Even President Carter himself has a notable shortage of humor and the dearth of unadulterated, natural laughter on TV has led to a reliance on canned synthetics many doctors think is harmful to mental health. President Carter should delay no longer in setting up a federal Humor and Hijinks Administration, so we won't have to go through another election campaign without HAHA.

Although President Carter spoke at length last week about upholding family values, he neglected one of the most basic and threatened: cooking. Working women, fast food chains, preservatives, high prices, and dieting are all eating away at what was once a proud national heritage. A new Department of Cooking [DOC] could provide federally-funded training programs for poor cooks, give a new sense of worth to housewives, show the world we care as much about butter as guns, and—possibly—win the votes of millions of non-thin Americans.●

EVENT TO HONOR DR. MAX NOVICH

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. PATTEN. Mr. Speaker, Max M. Novich, M.D., nationally and internationally known orthopedic surgeon and authority on sports medicine will be honored on Monday, October 29 at the Seventh Annual Maxie Fisher-Lou Halper Memorial Boxing Show in Hillside, N.J. Dr. Novich, who has been associated with boxing on every level from participant to ringside physician, has initiated many changes to improve the sport of boxing and develop medical safeguards for boxers.

Dr. Novich lives in South Orange with his wife, Jean and their three children. He is presently clinical professor of surgery at CMDMJ-New Jersey Medical School and Director of Sports Medicine there and at the United Hospitals Orthopedic Center-Hospital for Crippled Children in Newark. He also maintains offices in Perth Amboy and Newark.

Dr. Novich was born and raised in Newark; he attended public schools and graduated from Central High School. He received his early training in boxing in Newark. In 1932 Mitch Silvers became his trainer at the High Street YMHA.

He fought as an amateur in Newark and New York in the early 1930's. At the University of North Carolina in Chapel Hill he worked his way through on a boxing scholarship and earned a baccalaureate degree in 1937. His intercollegiate record included two southern intercollegiate championships and two silver medals in the National Collegiate Athletic Association championships in 1936 and 1937. In 1936, he was invited to participate in the Golden Gloves Olympic tryouts held in Chicago for the preparation of the final 1936 American Olympic boxing team and reached the quarterfinals. He was captain of the 1937 University of North Carolina boxing team.

Dr. Novich fought professionally before entering medical school and then gave up competitive boxing. He was named freshman boxing coach of the 1937–38 UNC boxing team. Dr. Novich was also selected as one of the top 60 athletes in the history of UNC intercollegiate athletics. He received his M.D. degree from the University of Louisville in 1941.

During his internship at the Newark Beth Israel Hospital in 1942, he taught boxing at Weequahic High School. He enlisted in the U.S. Army Medical Corps in 1943 and was discharged in 1946 with a combat medical badge, four battle participation stars, a Bronze Star for Meritorious Service in Military Operations, a Purple Heart, and a battlefield promotion to captain. He was the 29th Division boxing coach, leading the team an unbeaten record in the European theater of operations.

After returning to this country, he successively became a diplomate of the American Board of Orthopaedic Surgery, fellow of the American Academy of Orthopaedic Surgeons, fellow of the American College of Sports Medicine and fellow of the American Orthopaedic Society of Sports Medicine. He is a member of many professional societies.

For many years he was on the National AAU Boxing Committee. He served on the U.S. Olympic Boxing Committee (1972–76), was consultant in boxing to the President's Commission on Olympic Sports, served on the medical jury for boxing, ringside physician, for the last three Olympics, was alternate physician for the 1956 U.S. Olympic Team and chief physician for the 1965, 1969, and 1973 Maccabiah teams. He also taught young boys how to box in his innovative Sunday Boxing School for Overprivileged Boys.

Dr. Novich was a founder and president of the Association of Ringside Physicians for the first World's Cup Amateur Boxing Championships in Cuba in 1974. He served as a physician for many AAU boxing teams in international competition. He developed and started an advanced center for the scientific study of boxing at Kean College.

He is the author of numerous articles on orthopedics and sports medicine. His book, "Training and Conditioning of Athletes"—Lea & Febiger—is in its second edition. His second book, "The High Energy Diet for Dynamic Living" was coauthored with Ted and Jean Kaufman of East Orange and published by Grosset & Dunlap.

Mrs. Novich is the former Jean Jolley. She was operating room supervisor at the Newark Beth Israel Hospital and is now a trustee for the village of South Orange. Their three children are Jay, 19, a sophomore at the University of Louisville; Nina, 18, a freshman at the University of North Carolina; and Bebe, 16, a junior at Columbia High School in South Orange.●

INFLATION-FIGHTING CERTIFICATE FOR THE ELDERLY

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. ROYBAL. Mr. Speaker it is my pleasure to introduce H.R. 5709, which would amend the Second Liberty Bond Act to provide that the Department of the Treasury issue special savings certificates indexed to the rate of inflation for persons aged 65 and over. The certificate would pay 2 percent per annum plus the rate of inflation, as calculated from the difference between the Consumer Price Index (CPI) most recently available at the time of purchase and the CPI most recently available at the time of redemption, if the bond is held for at least 6 months. If it is redeemed sooner, the rate of inflation would be calculated from the CPI published soonest after the time of purchase to the CPI most recently available at the time of redemption. The bill sets a $3,000 limit on the amount which any individual can invest in this Treasury instrument, an amount which could be considered to constitute "essential savings." The bill also provides for a limit on the total amount which the Treasury can issue in these certificates and specifies that the certificates will be available in denominations as low as $50. The purpose of this new instrument is to provide a sorely needed means for older persons to preserve at least a minimum amount of their savings from the ravages of inflation.

My decision to introduce this bill arose from the findings of the Subcommittee on Housing and Consumer Interests, which I chair, of the House Select Committee on Aging. During this Congress, my subcommittee has held hearings on the impact of inflation on the elderly in general and on the savings interest rates available to elderly small savers in particular. While younger working Americans certainly feel the effects of inflation and tend to be apprehensive about economic conditions, many older Americans are literally terrified, with no idea of how they are going to survive in the face of rapidly rising costs of necessities. Many older persons are faced with choices between paying the rent and buying food, between paying the heating bill and paying for medical prescriptions.

For older Americans, the rapid erosion of the purchasing power of their savings is a particularly significant component of the inflationary picture. Many older persons depend on their life-savings or money from the sale of a house for all or part of their income. Others may have managed to save a small "nest egg" for an emergency, only to see it rapidly evaporating as a result of inflation. According to the U.S. League of Savings Associations, 42.9 percent of all savings deposits in 1975 were held by persons over 65, who presumably also account for a similar proportion of individual savings account balances at commercial and mutual savings banks. By contrast, elderly households owed only 2.2 percent of all household mortgage debt outstanding in 1977, according to the 1977 Federal Reserve Survey of Consumer Credit. Thus, it is clear that our economic conditions and policies which provide advantages to borrowers and penalties to savers work to the most direct and severe disadvantage of the elderly.

Regulation Q gives our financial regulatory agencies the authority to impose ceilings on the interest rates which banks and savings and loan associations can pay to depositors. This authority has been administered in such a way that interest rates allowed on passbook accounts and most time deposits are far below market rates and even farther below the rate of inflation. The Department of the Treasury has estimated that these artifically low-interest rates have cost Americans $42 billion over the past 10 years, with $19 billion of this loss being borne by the elderly. For individual depositors, this means a loss of one-third of the purchasing power of their savings over a 5-year period, because of the difference between the CPI and the regulation Q ceilings. These powerful disincentives for saving, complemented by the equally powerful incentives for borrowing built into the tax system and elsewhere, help to fuel the inflation which is plaguing our Nation today.

Our tax system reinforces our financial regulatory policies in favoring borrowing and penalizing savings. Whereas unlimited deductions are allowed for interest paid on personal loans, interest earned on savings is fully taxed, further increasing the effective deficit realized from investment in savings. I fully support exempting a certain amount of interest earnings from taxation. This would be at least a step toward correcting the bias built into our tax system.

We have for some time pursued a housing policy of keeping mortgage interest rates as low as possible, with regulation Q as a major component of this policy, reinforced by tax deductions for loan interest payments. Ironically, disincentives for saving, including regulation Q, have created a severe shortage of money for mortgage loans from this source, driving up the cost of mortgage loans and necessitating the development of a complex, additionally subsidized secondary mortgage system to make more money available for mortgage loans. It is clear from our experience with the offering of 6-month money market certificates that it is the supply of money for mortgage investing, more than the cost of the money, which is most crucial for the well-being of the housing industry. As chairman of the Aging Committee's Subcommittee on Housing and Consumer Interests, I am deeply concerned about housing in our Nation and for our Nation's elderly. I am simply not convinced at this point that, under present economic conditions, regulation Q still provides substantial support to increase the supply and affordability of housing for Americans today.

I would personally favor a rapid phaseout of regulation Q over perhaps a 5-year period, with expansion of the powers of thrift institutions and direct assistance to certain thrift institutions, perhaps in the form of GNMA purchase of remaining low-yield mortgages. The gap between the interest rate ceilings and the rate of inflation has been allowed to widen to the point where a quarter of a percentage point increase in interest paid, as was allowed in the recent regulatory changes, cannot make a significant difference for the motivation of the saver.

The elderly today cannot afford to wait 10 years, in accordance with the Senate's proposed phaseout of regulation Q, to start getting a reasonable return on their savings. There are no easy solutions to the larger problem at this point. My introduction of this special Treasury certificate is in large part a stop-gap measure designed to cushion the devastating impact which our present financial policies are having upon the group which is being harmed most severely by these policies—the elderly.

Under regulation Q, small savers have provided a source of "cheap money" to financial institutions. Low interest rates paid to savers have in effect provided a subsidy for mortgage borrowing and, in the case of commercial banks, corporate borrowing. Last year, the difference between market rates and regulation Q imposed ceilings resulted in windfall profits for many large financial institutions.

When regulation Q policies were first formulated, economic conditions were very different. Since that time, however, overall economic conditions have changed substantially, with no corresponding flexibility in the way regulation Q has been administered. The present situation which has been allowed to develop, with multibillion dollar per year subsidies coming out of the pockets of those who can afford it least, is to me grossly untenable. Those who are wealthy enough and financially sophisticated enough to move their money out of low-yield accounts generally do so. It is those who have no viable alternative, whose accounts are not "interest sensitive," who are essentially being milked as a source of "cheap money." I personally can find no justification for perpetuating this situation.

Under the circumstances, I think the very least we can do is provide an alternative whereby senior citizens being directly penalized by this situation can gain a small but positive return on their investment and protect the purchasing power of at least a minimum "essential" amount of their savings. I strongly urge my colleagues to support H.R. 5709, which provides such an alternative.●

NATIONAL OPERATING ROOM NURSES DAY

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. TAUKE. Mr. Speaker, I would like to take this opportunity to introduce a resolution authorizing and requesting the President to proclaim November 14, 1979, as "National Operating Room Nurses Day."

This day would be a tribute to the hard work and dedication provided day in and day out by operating room nurses across the country. They are an integral part of the whole surgical process, which attempts to relieve the suffering and save the lives of thousands of medical patients.

Essentially, this legislation calls upon the people of the United States and interested groups and organizations to observe such a day with appropriate ceremonies and activities.●

D.C. VOTING RIGHTS; OUR UNFINISHED TASK

HON. MARC L. MARKS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. MARKS. Mr. Speaker, quite often, as we tackle the tasks which confront us during the day to day activities of the House of Representatives, we tend to get caught up in the issue of the moment; mindful of the future, but forgetful of the past. I refer in particular to the present status of the D.C. Voting Rights Amendment.

Just because we have passed the D.C. Voting Rights Amendment and sent it on to the States, does not mean that our task is completed. Recently, the amendment has been the focus of much attention in the press. The fact that it has only garnered the support of six States during the first year has prompted many editorials, columns, and statements pointing out the amendment's problems and proffering gloom for its future. Well, I think it is time to reverse this doomsday trend, and I would like to be counted among those who are actively working to assure that the D.C. Voting Rights Amendment has a future.

I am not about to second guess the actions of those who are in the forefront of the bipartisan effort being put forth in favor of D.C. voting rights. I do know that I was quite disheartened last November to hear that my own State of Pennsylvania was one of the first States to reject the amendment. This was an unfortunate occurrence, but I feel that the setback in Pennsylvania is temporary and can be reversed. I am sure that with the assistance of many of my colleagues from the Pennsylvania delegation, we can better educate certain legislators as to the merits of this amendment, and assure prompt passage the next time this issue is brought up.

Th Pennsylvania case is not unique. While similar situations exist in other States, the majority of the State legislatures have yet to address the D.C. voting rights issue. Thus, those of us in both the House and Senate who supported the D.C. Voting Rights Amendment still have the opportunity to take a leadership role in each and every one of our home States when this issue comes up for ratification.

Mr. Speaker, when we passed this amendment in the last Congress, we took a giant step in recognizing the injustices which exist in the District of Columbia under the present system of "taxation without representation." We cannot ignore the fact that this injustice continues. I call upon each and every one of my colleagues to join with me in speaking out in favor of the D.C. Voting Rights Amendment, in working for the D.C. Voting Rights Amendment, and in recognizing and acknowledging that our job will not be done until we can stand here in this Chamber and proudly welcome our new voting colleagues from the District of Columbia.●

REMARKS FROM 1964

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. COLLINS of Texas. Mr. Speaker, the fuel subsidy bill reminds us of the food stamp bill. The history of food stamps is interesting.

I went back to the CONGRESSIONAL RECORD of April 7, 1964, to review the House debate when food stamps joined the system.

Let us look at some of the statements made by supporters of the food stamp program when it was introduced:

> Let me make clear that this is not a handout program. Under the program the participating families must spend their usual food budgets for food and only have food in order to receive coupons entitling them to buy additional food.
>
> I ask the members from farm areas, Mr. Chairman, are they interested in raising food consumption by low income people in this country by 8 percent at no additional cost to the federal government?
>
> Mr. Chairman, I would like to point out to those who are very interested in taking government out of business that this is one way of getting the government out of the food business.
>
> At the very height of the worst recessions we have had since the direct distribution system began in 1954, we never had more than 6 million people receiving surplus food.
>
> The food stamp plan is no utopia. It is complex and there are difficulties in administering it. But it works. It has been tried and tested for three years. Those who choose to vote against it will do so not because it does not work but because it works too well to suit their political desire. They do not want Democrats to get credit for a good program.

These were sincere statements by the advocates of the food stamp bill. They originally asked for $25 million, but by the time the bill came to the floor, it was a $75 million authorization. The Department of Agriculture says in 1980 they need $8.3 billion to pay for the present food stamp program. If you will recall in the debate, they challenged the fact that it would ever get up as high as 6 million people. The plan has grown to where today with 19 million people on food stamps, they are anticipating $8.3 billion for this subsidy. That is an increase of 110 times from where food stamps started.

Considering this fuel bill starts at $1.3 billion, you wonder just how high this subsidy could eventually become.

This is another subsidy bill. But what happens to the people working for a living who are already paying in taxes 42 cents out of every dollar? ●

CALIFORNIA PUBLIC UTILITIES COMMISSION URGES CAUTION ON ENERGY MOBILIZATION BOARD

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. WAXMAN. Mr. Speaker, one of the critical questions in our debate on the Energy Mobilization Board is whether and to what extent the Board will be able to recommend waivers of State and Federal law to expedite the construction of new energy projects.

In a recent letter, the California Public Utilities Commission has urged the Congress to reject any proposal which would enable such waivers. The commission argues that at stake is the very ability of the States to continue to protect the public health and safety of their citizens.

Most Federal laws, especially those dealing with the environment, seek to meet their goals through the establishment of a strong cooperative relationship between the Federal Government and agencies in each State. Our States have the expertise necessary to evaluate and assist in the siting and licensing of energy facilities. The States are particularly responsive, in ways beyond the ability of the Federal Government, to local and regional needs in evaluating these projects.

To enable the Energy Mobilization Board to abrogate these relationships by overriding State and local statutes would undermine the very partnership necessary to develop our energy resources. It is imperative, in our consideration of the Energy Mobilization Board, that this not be disregarded, and the State of California urges that the Congress be responsive to this basic need.

I am pleased to share the letter from the California Public Utilities Commission with my colleagues:

PUBLIC UTILITIES COMMISSION,
STATE OF CALIFORNIA,
October 1, 1979.

Re July 27 Committee Print showing Proposed Substitute for H.R. 4862, 4985, and 4573 as amended by the Subcommittee on Energy and Power: Part C—Priority Energy Projects.

Hon. HENRY A. WAXMAN,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN WAXMAN: On behalf of the California Public Utilities Commission (CPUC) I strongly urge you to oppose Section 182 of the above substitute for H.R. 4862, *et al.*, which would allow the proposed Energy Mobilization Board to bypass substantive state law on siting and environmental issues relating to priority energy projects. Instead, we urge your support for language similar to the proposed Wirth Amendment to H.R. 4862, which was recently considered but not adopted by the House Commerce Committee. It is to be noted that neither H.R. 4985 nor either of the Senate bills to create an Energy Board, S. 1308 and S. 1806, include such provisions for preemption of substantive state law, except that S. 1308 would authorize waiver of state law enacted after commencement of construction of a priority project.

California's state environmental laws reflect critical regional conditions and experience. Such laws can be complied with in an expeditious manner. Federal preemption, on the other hand, involves substantial risk to public health and safety interests which have long been considered within the states' residual police powers. The states' ability to protect public health and safety interests has been preserved through a whole series of laws allowing for "cooperative federalism" in the siting process. I refer specifically to the National Environmental Policy Act of 1969 (42 U.S.C. 4321), the Coastal Zone Management Act of 1972 (16 U.S.C. 1451), the Federal Water Pollution Control Act of 1948, as amended (33 U.S.C. 1251), the Clean Air Act of 1955, as amended (42 U.S.C. 7401), the Estuarine Act of 1968 (16 U.S.C. 1221), and the Deepwater Port Act of 1974 (33 U.S.C. 1501).

Section 182 would create confusion by interfering with the scheme of regulation fostered by that whole body of law. It would encourage the federal bureaucracy to ignore the sometimes superior expertise of the states in emergency situations where that expertise is likely to be most needed. It does not address the causes of delays which have occurred at the federal agency level, including poorly defined federal inter-agency authority and, most importantly, the lack of a comprehensive national energy program.

The CPUC's experience in the recent siting process for a California liquified natural gas (LNG) facility provides an example of why state environmental standards should not be preempted. That case demonstrates that in critical areas where federal and state standards do not coincide, the states may be ahead of the federal government in their recognition of significant health and safety hazards that affect them individually. Initially, the Federal Energy Regulatory Commission (FERC) gave the LNG project only limited review and in 1977 approved construction of a facility at Oxnard, California. Also in 1977, after extensive research on the subject, the State of California enacted the Liquified Natural Gas Terminal Act which required remote siting of an LNG facility, finding in effect that the Oxnard site was not safe. Now, two years later, it is apparent that Congress is recognizing the legitimacy of California's concern. At least four bills now before Congress on LNG safety call for remote siting of LNG facilities; S. 411, "Pipeline Safety Act of 1979"; H.R. 51, "Fuels Transportation Safety Amendments Act of 1979"; H.R. 1414, "Liquified Gas Marine Transportation Safety Act of 1979", and H.R. 3749. "The Coastal Area Liquified Gas Facility Safety Act."

The expertise developed by California state agencies in the LNG siting case has proven essential to reasoned decision making, particularly on site specific problems. The FERC staff has relied heavily on CPUC studies on construction monitoring and mitigation of environmental impacts. Moreover, the federal agencies in Washington had limited understanding of critical seismic issues while California state government could draw on extensive local seismic engineering experience. Thus the states' expertise actually assists, rather than delays, the federal agencies in properly addressing significant issues. Section 182 would be a constant temptation to bypass state standards in an emergency situation despite the obvious risks, confusion, and probable slowdown in regulatory procedures involved.

The CPUC has no objection to reasonable time constraints upon federal, state and local decision-making procedures. California will endeavor to cooperate with whatever federal agency is created to achieve the most effective possible implementation of the goals of this legislation.

I respectfully urge you to vote against Section 182 of the above Substitute Bill and to do all in your power to ensure that the Wirth Amendment to H.R. 4862, or similar language, is attached to any siting legislation passed by the Congress and, if necessary, that the amendment be attached on the floor of the House. If this Commission or our staff can be of any assistance to you in this matter, please let me know.

Yours very truly,
JOHN E. BRYSON,
President.●

STATEMENT BY THE EXECUTIVE COMMITTEE OF THE NORTHEAST-MIDWEST CONGRESSIONAL COALITION

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. EDGAR. Mr. Speaker, the Executive Committee of the Northeast-Midwest Congressional Coalition is deeply concerned about adequate and timely Federal assistance for low-income families in the Northeast-Midwest region. Winter does not officially begin until December 21, but many of our constituents are well into drawing down their first tank of heating oil. The early arrival of winter weather to the Northern half of the Nation is a serious matter. It means greater hardships and financial difficulties for more than 16 million American households. Their living standard will be forced down further as the combined impacts of a 13-percent rate of inflation and a doubling of last year's heating oil costs erode spending power and preclude necessary dental, educational, health-related and other expenditures.

It has been estimated that in the New England, Middle Atlantic, and Midwest States, households below 125 percent of the Federal poverty level will use at least 40 percent of their income for fuel oil during the 1979–80 6-month heating season. This expenditure covers space heating only and does not even include the cost of fuel oil for water heating, a common type of fuel use in the Northeast.

According to the U.S. Department of Energy's Fuel Oil Marketing Advisory Committee report published in July of this year, poverty level recipients of assistance through a Community Services Administration program in a large Midwestern city spent 81.9 percent of their monthly income on heating, utilities, and housing if they used gas and 92.9 percent of monthly income if they used oil. Many fuel oil delivery companies now demand cash on delivery with minimum purchase requirements. Low-income families cannot afford to replace a small tank with a larger one and their cash-flow potential makes large fuel purchases impossible.

The housing stock of many elderly and low-income citizens is generally in need of repair and less well insulated than the houses of higher income families. Low-income households use 54 percent less electricity and 24.1 less natural gas than the average U.S. household. They are already conserving energy to the point of endangering their health. In the view of the FOMAC report, "They are incapable, generally, of reducing their costs through reductions in consumption. And they have no other available option to continued consumption—there is no practical substitution possible that would provide cheaper energy sources."

For this winter, the Congress needs to quickly act, via the appropriations process, to fund the CSA effort already in place at a level of $1.6 billion. CSA has sufficient authority in title II, section 222(a)(5) of the Economic Opportunity Act of 1964, as amended, to operate the energy crisis assistance program this winter at that level of appropriation. CSA and its regional network is equipped to dispense the funds immediately. Final regulations have been issued and the Governors have already begun responding to the request for State plans. Such plans will dictate the specific needs of the various States, and the local service delivering system to be used.

The administration's concept of direct, one-time payments to recipients of AFDC and SSI needs to be reexamined. While it may be practical from an administrative point of view, this $1.2 billion program has serious flaws. Research shows that less than 50 percent of needy households (125 percent of poverty level) would be assisted. On the other hand, many of those who do not need fuel assistance would nonetheless receive it. In addition, the average payment of $100 to $200 will not cover more than one fuel tank fill-up and in practice may not even be spent on fuel but on other necessities.

It is urgent that the Appropriations Committee report immediately the supplemental requests for $150 million and an additional $1.2 billion as proposed by the administration, to augment the CSA program. Utilizing the CSA authority and under ideal circumstances it takes nearly 6 weeks from the time the appropriation is signed by the President until the local operating units receive funds and are able to begin assisting people.

By Thanksgiving families eligible for assistance may have depleted their first tank of home heating oil and received their heating bill, and cruel choices will be forced upon them. Some Americans, particularly the elderly, will have to make the decision to either heat their homes and not eat, or to eat, and freeze. Failure to respond to the needs of our constituents may be the prelude to a national disaster. Your urgent action is absolutely necessary to avert the suffering, and possible loss of life that may beset the victims of higher energy costs.●

MASSACHUSETTS LEGISLATURE SALUTES CONGRESSMAN CLAUDE PEPPER

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. DRINAN. Mr. Speaker, recently, the Massachusetts State House of Representatives unanimously passed a resolution commending our esteemed colleague, Congressman Claude Pepper for his 50 years of faithful and dedicated public service and his untiring efforts on behalf of older Americans. The resolution notes that Congressman Pepper "has long championed the cause of the elderly, is largely responsible for expansion of the home care program for the elderly, and led the fight against mandatory retirement based on age."

Congressman Pepper began his celebrated public service career 50 years ago in 1929 when he was elected to the Florida State House of Representatives. He served as a U.S. Senator from 1937 to 1951 and was elected to the U.S. House of Representatives in 1962 and to each succeeding Congress. I join the Massachusetts Legislature in saluting my friend, Congressman Pepper, in this golden anniversary of his public service career.

The resolution follows:

Resolution

Whereas, Representative Claude Pepper from Florida's fourteenth congressional district was born on a farm near Dudleyville Chambers County, Alabama, September 8th, 1900, son of J. W. and Lena C. Pepper, attended the public schools in Camp Hill, Alabama, received his Bachelor of Arts degree from the University of Alabama in 1921, his Bachelor of Law degree from Harvard University in 1924, served as Instructor of Law at the University of Arkansas 1924–1925, and engaged in the General Practice of Law from 1925–1936 and from 1951 to 1962; and

Whereas, he served as a member of the Florida House of Representatives 1929–1930, member of the Florida Board of Public Welfare 1931–1932, and in 1933–1934 was a member of the Florida Board of Law Examiners; and

Whereas, he served as United States Senator from the State of Florida from 1937–1951; and

Whereas, having won the Democratic nomination for United States Representative from Florida's third congressional district he was elected to the 88th Congress on November 6th, 1962 and has been reelected to each succeeding Congress; and

Whereas, Claude Pepper during his long and distinguished career as United States Senator and thereafter as United States Representative has served with honor and distinction of many important committees, subcommittees and commissions, all to the great benefit of his constituents and the nation; and

Whereas, he has long championed the cause of the elderly, is largely responsible for the expansion of the home care program for the elderly, led the fight against mandatory retirement because of age, and is Chairman of the House Committee on Aging; and

Whereas, Representative Claude Pepper has been the recipient of many honorary degrees and other honors for his outstanding service; and

Whereas, the current year marks the fiftieth anniversary of his first assuming the duties of elected public office; therefore be it

Resolved, That the Massachusetts House of Representatives hereby commends United States Representative Claude Pepper for his many years of faithful and dedicated public service and extends to him its sincere best wishes for the future; and be it further

Resolved, That a copy of these resolutions be forwarded by the Clerk of the House of Representatives to United States Representative Claude Pepper.●

JOHN F. (JACK) KUBIK, SR., RECIPIENT OF COMMUNITY LEADERSHIP AWARD

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. HYDE. Mr. Speaker, it is a pleasure for me to bring to the attention of my colleagues an honor soon to be bestowed on Mr. John F. "Jack" Kubik, Sr., publisher of the Life newspapers in my district.

On November 16, the Seguin Retarded Citizens Association will present Jack with its award for community leadership. Though he has been similarly honored by a number of civic groups and organizations in the past, I am sure this award is especially meaningful for him because of the personal interest and compassion he has shown for the special needs of retarded children and adults, and his untiring efforts on behalf of the Seguin School serving those individuals in the Cicero and Berwyn area.

Mr. Kubik's interests in the community life of the cities and towns covered by the Life newspapers extends far beyond that of a publisher and businessman. Having resided in Cicero, Berwyn, and Riverside since 1918, he knows and cares about the people—his fellow citizens, neighbors, and friends—and has always been sympathetic to the individual needs of each community. When a "special cause" needs a "special friend," Jack is usually working behind the scenes for any worthy project.

A great many of his achievements have gone unheralded, but certainly not unappreciated by the many thousands of individuals he has helped in one way or another through the years.

In addition to his participation in local civic and charitable organizations, Mr. Kubik's sense of citizen pride and duty extends beyond community political activities to the national level, and he served as a delegate to the Republican National Convention in 1972.

I commend the Seguin Retarded Citizens Association on their selection of Jack Kubik as the recipient of this prestigious award for community leadership; his many years of service are indeed inspiring, and this recognition is well deserved.

In addition, I also extend my congratulations to Jack's lovely wife, Ella, who I know shares great pride in her husband's accomplishments, as well as the rest of his fine family.

I am sure my colleagues in the House join me in wishing the Kubik's many more successful and fulfilling years.●

DO WE HAVE TO DESTROY THE ECONOMY TO FIGHT INFLATION?

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. HAWKINS. Mr. Speaker, for the last few weeks we have heard various administration officials rally behind the Federal Reserve Board's moves to restrict the supply of money and to raise interest rates. They say this is the best way to shore up the dollar and beat inflation. On the one hand, we hear officials say they will never do anything that would intentionally throw people out of work, while on the other hand, these same persons praise a monetary policy designed to do just that: Fight inflation with restrictive programs that result in joblessness.

My colleagues have heard me and the many other supporters of full employment policies say that the best way to achieve both price stability and full employment is through a coordinated program of balanced economic growth. The Fed's restrictive policies run directly counter to this philosophy, and even more consequential, directly counter to law, as stated in the Full Employment and Balanced Growth Act of 1978.

For these reasons, it is encouraging to hear the comments of Secretary of Labor F. Ray Marshall, as reported in the New York Times on October 24, 1979, for Mr. Marshall joins those of us who have been stating all along the imminent dangers of the use of high interest rates to fight inflation. In addition, Secretary Marshall's comments clearly support the Full Employment and Balanced Growth Act's mandate which prohibits the trade-off and fosters the use of targeted structural programs as a supplement to overall monetary and fiscal measures to stimulate economic activity.

As Secretary Marshall points out, "Now we want to encourage investment, not discourage it. We want to expand employment, not discourage it."

The entire article follows:

MARSHALL WARNS OF ADVERSE IMPACT FROM POLICY OF HIGH INTEREST RATES

(By Philip Shabecoff)

Washington, October 23.—Secretary of Labor Ray Marshall, expressing reservations about Federal Reserve Board policies, said today that "interest rates are a very inefficient way to deal with inflation." It was the first such reservation raised publicly by a member of the Carter Administration.

Mr. Marshall, an economist, said at a news conference that current monetary policies of the Federal Reserve could have an adverse impact on investment and employment without dealing with some of the real causes of inflation.

President Carter and other members of his Administration have repeatedly said that they consider the actions taken by the Federal Reserve to restrict the supply of money and raise its cost as necessary to bring down the inflation rate, which for the first eight months of the year ran at an annual rate of 13 percent.

GUARDING THE DOLLAR

At today's briefing, Mr. Marshall said that the high interest rate policy could best be defended as a means of guarding the dollar from erosion in international markets.

An aide said later that Mr. Marshall had expressed the view that the Federal Reserve policies might be necessary as a short-term measure to shore up the dollar.

Today, however, Mr. Marshall said it was "unfortunate" to have to place so much reliance on interest rates to deal with inflation and that the Administration was seeking alternative means to cope with the problem.

Mr. Marshall's policy inclinations, more than those of other Administration leaders, tend to lean toward direct Government action to stimulate economic activity and create jobs rather than toward monetary and fiscal measures to spread through the economy.

ADVERSE IMPACT SEEN

The Labor Secretary said that high interest rates had had an adverse impact on economic activity, with the impact first felt in the construction industry and then generally throughout the economy. So far this has not happened under current policies, largely because of jobs-market programs conducted by the Government.

But Mr. Marshall added that the impact of the policies would have to be watched carefully. If they produce widening unemployment, he said, he will seek to expand Federal employment and training programs.

"Regardless of what happens to the economy, we have to expand the programs for youth and for low-income workers," he added.

"And if we do have a problem of rising unemployment, the most effective way of dealing with it is through public employment and training programs," he said.

Mr. Marshall said that the usual medicine for dealing with inflation—cutting down on investment to cool off the economy—was not appropriate at this time because "it is not that kind of inflation."

INVESTMENT AND EMPLOYMENT

"Now we want to encourage investment, not discourage it. We want to expand employment, not discourage it. But there can be a tendency for higher interest rates to discourage investment and to lead to higher unemployment," he said.

Mr. Marshall declined to predict what the unemployment rate would reach as a result of current economic factors, including Federal Reserve policy. "Anybody who tries to do any kind of forecasting in this market with this ferment is deluding himself," he cautioned.

On another issue, Mr. Marshall suggested that one of the reasons unemployment had not risen recently despite slackening economic activity was that the high cost of fuel was leading many Americans to solve problems by hiring more workers instead of using more fuel.●

PERSONAL EXPLANATION

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. CORCORAN. Mr. Speaker, due to a previous commitment yesterday, I was unable to be present and voting on a number of matters before the House. Had I been present, I would have voted in the following way:

Rollcall No. 592: On a motion to approve the Journal of Tuesday, October 23, "yea."

Rollcall No. 594: On an amendment offered to H.R. 3000, Department of Energy authorization bill, as amended, that requires DOE to obtain and publish monthly petroleum supply reports from each oil company, "no."

Rollcall No. 595: On a separate vote in the Whole House on an amendment that sought to prohibit use of funds to promulgate, administer, or enforce any regulation which would continue any mandatory allocation or price control of motor gasoline, "yea."

Rollcall No. 596: On final passage of H.R. 3000, "yea."

Rollcall No. 597: On final passage of H.R. 3947, a bill authorizing certain construction at military installations for fiscal year 1980, "yea." ●

THE STATE DEPARTMENT AND THE SHAH

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. ASHBROOK. Mr. Speaker, those hard-fighting, two-fisted anti-Communists at the State Department are at it again and to nobody's surprise, they have genuflected to their newly found friend in Iran, the Ayatollah Khomeini. When our bureaucratic defenders of freedom learned that the deposed Shah of Iran was gravely ill and in need of immediate medical attention, a great deal of furor erupted. It seems that their concerns were based on the reactions of the Ayatollah and the Department went to great lengths to assure this bloodthirsty demagogue that the shah would be back on his way to Mexico as soon as he could be released from the hospital.

What an insult. What a compassionate institution. Who cares what the Ayatollah thinks, aside from a few misguided liberals here in Washington? The shah was a loyal friend to the United States for a number of years. Now he has fallen victim to what is an apparent widespread case of cancer and the Carter administration has to think long and hard about issuing him a visa so that he may seek medical attention in New York. Meanwhile, President Carter and his so-called human rights team in the State Department continue to look the other way while the Ayatollah lines them up against the wall. Quick as the crack of the Iranian executioner's rifles, our State Department softies move in to embrace every demagogue or Communist who deposes a friend.

It is simply appalling that these appeasers could think twice before issuing the shah a visa, in order to avoid a meaningless confrontation with the demagogue Khomeini—a poor excuse for a leader who has publicly called for the assassination of the shah, going so far as to offer an all-expense paid vacation at Mecca for the lucky killer.

What will they do next? They have sold our friends in Nationalist China down the river. They have turned their heads while Nicaragua falls to the Marxist Sandinistas. They have lobbied the Congress, illegally I might add, for the ratification of SALT II. They have sold much needed heating oil and kerosene to Iran, a nation which used to sell us oil. They have successfully completed the giveaway of the Panama Canal. Mr. Speaker, where will it end? Hopefully in 1980 when we throw them and their leader out of office.●

SMALL BUSINESS ADVISORS COMMITTEE

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. ROTH. Mr. Speaker, I would like to take some time today to share the views of my Small Business Advisors Committee. The committee is a representative group of small business people from my district who provide me with suggestions and reactions on issues concerning the small business community as they arise in Congress. It is fair to say that they closely represent the views of the small business community in my district.

Like most Americans, energy and inflation are the two major concerns of the Small Business Committee. These two problems seem to permeate all aspects of the U.S. economy and the small business sector is not an exception. Rising fuel and other costs continue to hurt every small businessman. We must continue in our efforts to find answers to these problems.

A major concern of the small business community in my district is the current tax burden. Ever increasing taxes continue to discourage the small businessman. Another disincentive to the small businessman is the tangle of rules and regulations imposed on them by the Government. We must provide incentives to the small business community, not disincentives.

The threat of a recession also worries my Small Business Advisors Committee. A recession could put many struggling businessmen out of business. It would certainly hurt every small businessman in some way.

The issues I have just mentioned were ranked most important by my Small Business Advisors Committee. However, many other issues are on my constituents' minds. Among these are small regulatory assistance, unemployment compensation, and the carry over basis rule.

The following is a ranking of small business related issues by the Small Business Advisors Committee in order of importance:

1. Inflation.
2. Energy

3. Government rules and regulations.
4. Cost justification regulation.
5. Small business regulatory assistance.
6. Recession.
7. Capital Formation/Accelerated Depreciation.
8. Estate taxes/Carry Over Basis Rule.
9. Minimum wage.
10. Product liability.
11. ERISA revisions.
12. Small Business Administration.
13. Small Business Development Centers.
14. Small business disaster assistance.
15. Prevailing wage (Davis-Bacon).●

PROMINENT ABORTIONIST TAKES A DIFFERENT STAND

HON. CHARLES F. DOUGHERTY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. DOUGHERTY. Mr. Speaker, amidst the confusion and frustration of situations such as the debate on the continuing budget resolution a short time ago, it is often easier to sacrifice conviction for the sake of expediency when the pressure is intense.

In addition, discussion surrounding the abortion issue often relies on dollar figures, percentages, and agency statistics with the individual human factor sometimes conspicuously absent except at points of heated emotional exchange from both sides. Therefore, I would like to share with my colleagues an article from the editorial pages of the Philadelphia Inquirer which I think highlights very well the realities behind last week's struggle:

ABORTION DOCTOR TELLS ALL

(By Joan Beck)

What do you say when you've fought successfully to make abortion legal, when you've performed or supervised 75,000 abortions yourself—and then decided it's wrong to kill human beings in this way?

For Bernard N. Nathanson, M.D., the medical and moral switch from radical pro-abortion fighter in the 1960s and leading New York City abortionist in the 1970s to an anti-abortion stance more ardent than that of Rep. Henry Hyde, (R., Ill.) seems to have caused him no twinges of regret. But his new book, "Aborting America," is going to hit both pro- and anti-abortion camps like kerosene on hot coals.

Dr. Nathanson worked hard for years to get abortion legalized. An obstetrician-gynecologist, he was medical head of the National Abortion Rights Action League (NARAL). He helped persuade feminists to stand in the front lines of the abortion-on-demand movement and sat in on meetings that picked the Catholic Church hierarchy to be the enemy against which supporters could be rallied.

Dr. Nathanson admits to falsifying statistics and other shabby tactics in the fight for abortion. And the sleazy practices he describes in performing and arranging abortions for his own patients can't fail to disgust all but the most radical pro-abortionists.

Once New York State made abortion legal, Dr. Nathanson became director of the world's largest abortion clinic, even though he was appalled by the practices he found there. But he managed to finesse state inspections, pruned the worst of the staff, and eventually had the clinic doing 100 abortions a day, seven days a week. (A Tennessee physician, for example, flew up on Friday afternoons, worked two shifts Saturday and one Sunday, and earned $185,000 in 18 months.)

Even with abortion legal, Dr. Nathanson admits to cutting corners with medical guideline. For example, he experimented with in-office second-trimester abortions, injecting saline solution into the uterus of pregnant women and then sending them away to expel a dead fetus by themselves. ("They were all from out of town," he recounts.)

But it wasn't until 1973 and 1974 that the "Abortion King" (he was also nicknamed the "Scraper") began to have doubts about what it was he was so eager and willing to kill.

Dr. Nathanson attributes his increasing awareness of the fetus as a living being to new research in perinatology, new data about fetal development, and new techniques for saving the lives of increasingly smaller prematures. But most of this information was known—and his moral and philosophic arguments made—years ago, when he was still playing radical politics with unborn children.

Today, Dr. Nathanson argues that abortion should not be permitted after implantation, when pregnancy can first be diagnosed by a maternal urine test two weeks or so after conception.

Using stricter criteria than even the controversial Hyde Amendment, he would not make exceptions for cases of rape or incest or when the unborn infant is known to have a genetic disease or birth defect. The only exceptions he would tolerate are for a very few medical conditions that clearly threaten the life of a pregnant woman.

Dr. Nathanson wants the nation's abortion policy reversed by a new Supreme Court decision; he thinks the new findings that changed his mind can also persuade the high court. Failing that, he favors a constitutional amendment, although he argues that earlier amendments already protect the unborn "if only the court would perceive it."

He says a ban would not cause a great increase in maternal deaths from "coat-hanger" or illegal abortions; such deaths were highly exaggerated in the past, he says, and new techniques, even if used illegally, would minimize harm to women.

Still, Dr. Nathanson can't quite face up to the realities of abortion himself.

He refuses to use the words "unborn babies" and insists on referring to them as "alphas." And even though he wants to prohibit the abortion of a baby with a malformation or genetic disease, he can't quite stop doing abortions on request himself. Some of his patients, he explains, are so dependent on him he can't let them down by refusing or seeming to reject them.

"The abortion crusade" in which he participated "was a seductive and ultimately poisonous dream," says Dr. Nathanson now. But it has already taken the lives of more than seven million unborn children. Somehow you'd expect him to say just once that he was sorry.●

ENERGY MOBILIZATION BOARD

HON. JERRY HUCKABY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. HUCKABY. Mr. Speaker, the House will shortly consider several proposals establishing an Energy Mobilization Board. The purpose of the Board is to reduce redtape, streamline the permitting process, and move priority energy projects into operation as quickly as possible.

I would like to commend the gentlemen who put a great deal of time and thought into developing a concept which will enable energy decision to be made in an expeditious manner. Creating an effective "fast-track" process for key energy decisions is one of the most important steps this Congress can take toward rapid development of new energy resources.

The original Interior bill provides a benchmark time frame of 9 months for the appropriate Federal, State, and local agencies to act. However, neither the Commerce bill nor the Udall-Wirth substitute bill mention time. I plan to offer an amendment to both to establish a 12-month benchmark during which Federal, State, and local agencies are expected to act. The amendments printed are as follows:

AMENDMENT TO H.R. 4985

(Also to the amendment in the nature of a substitute (H.R. 5660) on page 20, line 15.)

Page 41, in line 19, after the period, insert: "The objective of the Board in determining any different schedule under this paragraph shall be to provide that, to the maximum extent practicable and consistent with the provisions of this part, such different schedule shall not result in a total time for the Federal, State or local agency action to which such schedule applies which exceeds 12 months from the date on which application is made for such Federal, State, or local agency action by a person acting on behalf of the Priority Energy Project."●

HOME HEATING SUBSIDIES

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. ROSENTHAL. Mr. Speaker, although my current assignment at the United Nations prevents me from voting on the home heating subsidy funded under House Joint Resolution 430, I would like to register my support for this legislation.

Mr. Speaker, a misguided Federal policy that has encouraged U.S. dependence on foreign oil and has produced rampant inflation will no doubt exact its harshest toll on the poorest in our Nation. Senior citizens, disabled persons, and others on fixed incomes will purchase needed health care regardless of its price. These people simply cannot cut their food budgets any further, and cannot find cheaper clothing or less expensive housing than they currently have. It is because there is no financial flexibility in their incomes that these people will be hardest hit by skyrocketing fuel costs this winter.

Mr. Speaker, I strongly support the provision of emergency home heating subsidies for these individuals, and regret that the bill cannot do more for those whose incomes place them just above the 125 percent poverty level cutoff. However, insofar as this measure does target aid to the poorest segments of society, it does, in my estimation, represent an important effort worthy of support.●

SURPRISE NUCLEAR ATTACK UNTHINKABLE?

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. SPENCE. Mr. Speaker, I recently had the opportunity to read remarks which were delivered by Rear Adm. George Miller, U.S. Navy retired, before the Washington Chapter of the Naval Academy Alumni Association on October 17, 1979. Admiral Miller had a long and distinguished career with the Navy, serving on active duty from 1933 until his retirement in July 1975. His concerns about a possible surprise nuclear attack on the United States are certainly thought-provoking, and I feel that his comments are worthy of consideration by my colleagues in Congress. I include his speech at this point in the RECORD.

The article follows:

SURPRISE NUCLEAR ATTACK UNTHINKABLE?

(By Rear Admiral George H. Miller)

The United States has spent over a trillion dollars in the last 10 years for national defense. Yet, the Nation is militarily defenseless against a surprise nuclear attack. Such an attack could come at any time, because U.S. land-based missiles and bombers are poised to strike the Soviet Union, thereby constituting a clear and present danger in the eyes of Soviet defense leaders.

U.S. defense leaders tranquilize the public with words, such as "We have deterrence," and "We'll retaliate." But words are no substitute for a sound military strategy and capability to preserve and defend the United States.

Surprise attack has long been a favored strategem of aggression. In World War II, both the United States and the Soviet Union were victims of surprise attack. President Franklin Roosevelt, in his capacity as Commander-in-Chief of the Armed Forces, moved the U.S. Fleet to Pearl Harbor to "deter" the Japanese. While U.S. and Japanese diplomats negotiated, Japnaese bombers surprised Pearl Harbor. The American population suffered little from the Pearl Harbor attack and seems to have forgotten the mental shock and disruption that surprise attack can create.

The German Army's World War II surprise attack on Russia occurred shortly after Hitler and Stalin had signed a non-aggression pact. The millions of casualties and monumental devastation wrought by the German attack seared on the minds of today's Soviet leaders the consequences of being taken by surprise.

The United States and the Soviet Union were fortunate that the weapon technology of World War II, together with favorable geography and help from Western Allies, enabled both nations to recover in time to continue fighting. The power and range of today's nuclear weapons, however, make surprise attack a far more decisive instrument of aggression than ever before. Consequently, a Commander-in-Chief's historic responsibility for deploying forces in a manner that prevents surprise, is more important today than ever before.

Soviet leaders know that U.S. land-based missiles and bombers are virtually undefended, are vulnerable to surprise attack, and are at full strength only when launched first, before they are destroyed on the ground. Soviet military commanders must therefore prepare for the possibility that U.S. missiles and bombers, regardless of what we may say, may one day attempt a first strike. Otherwise, they may reason, why would the U.S. invest so much in a land-based nuclear force so vulnerable to a first strike, if no one in the U.S. is thinking of launching these forces before they can be destroyed? From the Soviet point of view, the present U.S. land-based missile and bomber force poses a clear and present military threat to the Soviet Union, a threat which Soviet military leaders are duty bound to counter.

In terms of American national defense, the present U.S.-based missile and bomber force, logically a primary target of Soviet nuclear forces, constitutes an unprecedented threat to survival of the United States. Yet, U.S. Defense officials continue to reject weapon deployments less vulnerable to surprise and less hazardous to America, the land they have sworn to preserve and defend. The Pentagon also continues to reject a measure of defense-in-depth for the United States against nuclear attack. The attempt over the last 30 years to defend America with a land strategy has brought us to the brink of disaster.

Unfortunately, American officials have already negotiated away so many options for basing nuclear weapons outside the U.S., that few remain for reducing the danger of Soviet surprise attack on the U.S. itself.

The original 1969 Defense Department position on the SALT talks recommended that the U.S. and USSR retain the option to vary the land-sea mix of nuclear offensive and defensive weapons in accordance with their respective geographical requirements. This position recognized that the Soviet Union land area, 8.6 million square miles compared to the U.S. 3.6 million square miles, gave the USSR a 2.4 to 1 advantage in land available for weapon deployment. Yet, in the SALT I treaty actually negotiated the U.S. gave up its freedom to base ballistic missile defense weapons at sea. The result is that important U.S. coastal areas cannot have a nuclear defense-in-depth comparable to what the Soviets may already have in their extensive land buffer areas.

Then, in a 1972 "Interim Agreement," the U.S. gave the Soviets the right to deploy more ballistic missiles in submarines than we had then. While this agreement supposedly expired in 1977, the United States has done nothing to increase the size of its submarine-based missile force.

In the SALT II treaty the U.S. gives up its right to base intercontinental-range ballistic missiles and long-range cruise missiles in surface ships at sea. This denies the U.S. the ability to equip its ships with the most powerful, effective weapons of today, ballistic and cruise missiles, capable of carrying non-nuclear as well as nuclear weapons, for defensive as well as offensive purposes.

The seagirt, limited U.S. land area cannot have adequate defense without freedom to sea base the most effective weapons of the time—today's ballistic and cruise missiles, together with aircraft, for example—in tactical combination, in non-nuclear as well as nuclear situations. The SALT II ban on long-range cruise and ballistic missiles in U.S. warships dooms the U.S. to an inferior national defense position. This SALT II giveaway has been negotiated despite the findings of a 1967 Defense Department study that the surface ship is the most cost-effective platform for ICBM's—superior to submarines, and far superior to land-mobile and silo modes. In reaching this conclusion, the study group gave special scrutiny to surface ship survivability against ICBM as well as other types of attack. Yet, despite the findings of the 1967 study, which subsequent analysis has not challenged, some U.S. officials still argue that U.S. ICBM's in surface ships are vulnerable to mass destruction by Soviet land-based ICBM's. At the same time, they seem willing to barter away the U.S. right to deploy long-range ballistic, cruise, and defense missiles at sea to reduce the danger of surprise attack.

Here are other recent geographically significant concessions negotiated by U.S. representatives:

1. In 1962, the U.S. Government claimed victory when the Soviets removed an unknown number of nuclear weapons from Cuba. In return, the U.S. agreed not to invade Cuba, and Soviet military forces are still there. The Soviet foothold in Cuba has been expanding. Geographically, Cuba commands the eastern approaches to the Panama Canal and poses a threat to all shipping in the Canal area.

2. A U.S.-Soviet treaty concluded in 1969 bans nuclear weapons on the seabed, with no provision for verifying Soviet compliance. The U.S. should have at least insisted on preserving for deployment of U.S. nuclear offensive and defensive weapons a sector of U.S. coastal waters to give the U.S. an aggregate geographical deployment area comparable to that of the USSR land area.

3. The Panama Canal is the jugular of Western Hemisphere sea communications, indispensable to U.S. shipping and naval forces in war or national emergency. The new custodians of the Canal will be able to suspend traffic at will—accidentally perhaps—at times most damaging to the United States.

Every maritime geography-related concession the U.S. negotiates with the Soviet Union multiplies and perpetuates the military advantage of the Soviet 2.4 to 1 superority in land deployment area.

The U.S. can and must provide more real national defense for less money—without posing a clear and present nuclear threat to the Soviet Union. Approval of SALT II as now written will strip away vital sea options and place America at the mercy of the superior Soviet land power. The U.S. must not surrender its freedom to base nuclear offensive and defensive weapons at sea. We must somehow recover many of those maritime options already bartered away.

Here are steps the U.S. must take, if we are to preserve and defend the United States:

Remove all U.S. nuclear weapons from U.S. soil to deny an aggressor the opportunity to gain a decisive military advantage by surprise nuclear attack on the United States.

Provide defense-in-depth consisting of land-based and sea-based weapons sufficient to give the United States population and industries a reasonable chance of survival against nuclear attack.

Base all U.S. nuclear offensive weapons—missiles, bombers, and whatever lies beyond—at sea, in ships, submarines and other sea modes—employing speed, mobility and deception to deny to the Soviets the opportunity to win by surprise.

America's altruistic approach to the SALT process has resulted in the most wholesale peacetime surrender of geographic assets by a world power in recorded history. This series of negotiating blunders epitomizes the intellectual ice age that froze national defense thought when the "We-have-the-bomb" mentality captivated U.S. defense leaders in the wake of Hiroshima. Now, after 30 years of experimenting with land war theories of nuclear war, America itself has become a prime, undefended target for nuclear attack.

Is surprise nuclear attack unthinkable? Perhaps so, for some Americans, but not so for U.S. Defense leaders who are hired to employ national defense assets in a manner that preserves and defends the United States against military attack.

It is the President and the Congress who have the Constitutional responsibility of providing for the common defense. It is urgent that the U.S. Government review national defense policy, strategy and organization and rededicate this Nation's national defense effort to preserving and defending America.●

ENERGY ALTERNATIVES NEEDED

HON. ROBIN L. BEARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. BEARD of Tennessee. Mr. Speaker, in the many contacts I have had with my constituents over the last several months, it is clear that concern about energy shares the No. 1 spot with concern about our declining economy.

To date, we have heard a lot of rhetoric about who is responsible for the current energy crisis and the blame has been laid alternately on OPEC, the big oil companies, the Department of Energy and the wastefulness of the American people—depending upon who is doing the blaming.

The fact is, because of the enormous complexity of the world energy situation, we may never be able to identify who the real culprit is—if indeed there is a single culprit.

In the meantime, the rhetoric goes on and our energy problems get worse. The fact is we are more dependent than ever on oil—particularly foreign oil—as an energy source, and our Government's only response so far has been to offer a program of standby rationing along with a complicated set of still-vague proposals that would firmly entrench the Federal Government in every phase of our Nation's energy industry.

A standby rationing program is necessary in extreme emergencies. But standby programs have a way of becoming permanent national policy, and none of these programs does anything to encourage active conservation. They only acknowledge our inability to meet our energy needs.

Rather than wasting our rhetoric figuring out who is responsible for the oil shortages we were experiencing with increasing frequency, we ought to be concentrating on reducing our dependency on oil.

And what the Government ought to be doing, I think, is offering incentives to individuals and businesses to conserve energy by investing in alternate energy technologies. These incentives ought to be in the form of tax credits to reward individuals and businesses who make the extra effort to help reduce our dependence on oil—both foreign and domestic—as an energy source.

The use of alternate technologies can have an important impact on our efforts to reduce our unacceptably high consumption of imported oil. Many alternate technologies are generally currently available for wide scale use. However, according to recent studies by Harvard University, by our own Government and by private institutions involved in the energy industry, substantive tax incentives can greatly increase the rate at which our society makes these energy investments.

Although loan and grant programs can also enhance use of new energy technology, meaningful tax incentives are an important way to encourage families and businesses all over the country to invest in America's energy future.

Legislation first introduced last year made some inroads in this area by establishing tax incentives to encourage increased use of solar, wind, geothermal, hydroelectric, and biomass energy; industrial cogeneration, residential conservation, and alcohol fuel.

The problem is that these tax incentives did not go far enough to make it attractive to most American families and businesses to consider investing in these alternate technologies.

For this reason, I am introducing legislation that will greatly increase the tax credits now available for some of these technologies and will add other technologies to the list.

In summary, my bill would provide the following:

Fifty-percent tax credits available more quickly than currently for individuals who invest in solar, wind, geothermal, and other conversion technologies.

Fifty-percent tax credits for businesses investing in solar, wind, geothermal, hydroelectric, biomass, and ocean-thermal energy conversion equipment.

More flexible Federal tax exemptions and credits for use of alcohol fuels.

Improvement of the provisions of the Energy Tax Act of 1978 relating to individual and business conservation, solar, wind, and geothermal energy; tax credits for cogeneration and for individual and business use of heat pumps and energy efficient electric motors.

Extension of all tax credit provisions from 1981 to the year 2000 to encourage both individuals and businesses to invest now in the long-range future.

I do not share the view of this administration that the same Government who brought us last summer's gas lines and tangled web of allocations will prove competent to manage the allocation of our energy resources on a permanent basis.

Nor do I share the view that total Government management of our resources is necessary as the last remaining solution to our energy problems.

I do share the view, however, that active conservation is necessary to reduce our dependence on both foreign and domestic oil as an energy source.

When provided with incentives, Americans have always risen to the challenges that have faced them throughout their history through the free enterprise system.

To date, inflation and the relatively high cost of alternate energy technologies have prevented many American families from investing in these technologies.

My legislation will make it possible for many more American families to take up the challenge of reducing our dependence on both foreign and domestic oil by rewarding them for their conservation efforts with substantial tax credits.

Only when we make alternate technologies widely available, affordable, and competitive with oil in the marketplace can we, as consumers, have any control over the price of that oil in the marketplace and over the price of our utilities in the future.●

INFLATION AND PRODUCTIVITY

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

○ Mr. SYMMS. Mr. Speaker, the following is a speech given by Mr. Joseph F. Alibrandi, chairman and chief executive officer of the Whittaker Corp. and retiring Chairman of the Board of Directors of the Federal Reserve Bank of San Francisco at a meeting with Los Angeles community leaders and the board of directors of the Los Angeles branch of the Federal Reserve Bank of San Francisco.

Mr. Alibrandi clearly elucidates on the reasons for inflation, where it is taking us, its effect on the economy and productivity and the choices we must make in order to reverse our current trend.

The speech follows:

SPEECH BY JOSEPH F. ALIBRANDI

I'd like to take the opportunity this afternoon to share with you some of my thoughts, not as a banker or an economist because it will become all too readily obvious to you that I qualify as neither, but rather as a busihessman, a concerned businessman, and as the soon to retire chairman of the Twelfth Federal Reserve District.

I said a concerned businessman because it doesn't take a lot of waiting in gasoline lines, or watching prices rise at the supermarket to know that we're facing some serious economic problems; that our economic system is in trouble. We've all, for a long time, been secure in the feeling that no matter how much we abused our economy or how incompetently we managed it, it was so strong, so fundamentally sound that it would somehow always persevere and continue to produce the abundance of goods and services, and provide the standard of living that we've all become so accustomed to.

Well, ladies and gentlemen, this afternoon I'm going to attempt to emphasize to you that I think the honeymoon is over. Our free enterprise system, in my opinion, is wounded, and unless we can reverse an enormous momentum, we are inexorably headed toward a worsening economy, and a serious deterioration of our basic freedoms.

Now, I realize that that is pretty harsh language, and believe me I have never been known as an alarmist or a pessimist . . . on the contrary. And yet I would like, with your indulgence, to frankly discuss our situation with you as I happen to believe it really is.

I'm holding the new U.S. one dollar Susan B. Anthony coin which is planned to replace the paper one dollar bill we are all so familiar with. It's just a bit bigger in size than a quarter and will purchase, unfortunately, about one quarter of what a dollar bought around the middle forties. So, I guess, in that sense, it's sad but true that maybe its size is now appropriate.

Why is this so? Why are people who worked all their lives to save for retirement, for the future, finding that their savings have been robbed by inflation? Why have we developed the attitude that we had better buy now, rather than save, pay ourselves more than we produce, increase our social security benefits and let the next generation worry about paying for them. We no longer relate what we expect to be paid to what we contribute. Instead we use coercion, strikes, demonstrations, sit-ins, blue sicknesses to demand more, regardless of our worth or our productivity. We want handouts for almost everything and everyone whether or not we can or are willing to work productively. And, I'm not just talking about labor, or welfare recipients. We in business sometimes have been all too glib in espousing the merits of free enterprise on the one hand and quick to place our cups under the spigot of government handouts just like those we criticize.

These are the economic, social and moral consequences of unbridled inflation. And as we continue down this path, we will unknowingly give up more and more of our individual freedoms as well, because we all know that economic freedom and individual freedom go hand in hand.

We all know what causes inflation. Milton Friedman states emphatically that inflation is caused by excessive money creation, and since the Fed has the responsibility for controlling the money supply, ergo, the Fed causes inflation. I think it would be more accurate to say instead that the Fed is, at least to a degree, a reluctant midwife in the inflation-creating process. When the U.S. government spends more money than it collects in taxes, the Fed knows well enough that "printing money" to cover the deficit is inflationary. On the other hand, the Fed also knows that if it chooses not to provide new money, it can cripple the economy and put us into recession. Clearly, a Hobson's choice situation! And yet, in fairness, I would be the first to admit that with the benefit of 20/20 hindsight, it is clear that the Fed has been too expansive during this past economic cycle. This observation is what leads me to emphasize to you and to my successors that retaining the independence of the Fed, both by statute and *de facto*, is crucial. The Fed is constantly threatened by those who would politicize monetary policy by attacking the independence of the Fed. I remember a former central banker commenting that his inflation-wracked country should serve as a warning to us in America of what happens when the politicians get control of the money printing presses. If there ever was a time that the Fed needed independence, it is now. We are blessed with a leadership in the Fed in the persons of Paul Volcker as chairman and Fred Schultz as vice chairman who I assure you have the courage and the conviction to do what is right, but they'll need your support. I'm counting on their having it.

So much for the Fed's role in fighting or fueling inflation as the case may be. Let's look behind monetary policy to fiscal policy and dissect the fountainhead of our inflation. In 1977 Congress spent approximately $250 billion on some 182 different income maintenance programs—everything from programs offering social security, unemployment protection and medicaid to those furnishing indemnity payments for beekeepers and stabilization subsidies for producers of mohair. This immense outlay marks a sixfold increase in spending for such consumptive programs over the last decade.

As these programs multiply, more and more of our country's resources are transferred from producer to non-producer, from those who are pulling the wagon to those who are riding in it. I don't know about you, but it certainly disturbs me to learn that the Federal bureaucracy has undergone a 500 percent expansion since 1930, or that one out of every 100 Americans is now supported by the Department of Health, Education and Welfare. It's been estimated that one out of every three adults between the ages of 20 and 64 is either a government employee or a recipient of regular public assistance. In the last ten years, the number of people in this category has increased seven times as much as the population itself. Seven fold! You've heard it estimated that generous welfare benefits are preventing as many as 500,000 employable persons from making a serious effort to find work. Unemployment insurance creates similar problems, according to a recent study conducted by the government's General Accounting Office. You may have seen this front page story in last week's *Wall Street Journal*. Jobless benefits have improved so dramatically since 1935 when the insurance system was set up, that the average recipient now receives a full 64 percent of the pay he took home prior to unemployment. The result, says the G.A.O., is that many insurance recipients lack financial incentive to get a job. No wonder we find ourselves still shelling out for this costly compensation program at a time when last Sunday's *Los Angeles Times* had 96 full pages of "help wanted" ads for jobs! Jobs going begging!

And incidentally, before I leave the subject of the G.A.O.'s report, what action do you suppose the agency finally recommended as a way of dealing with the unemployment benefit problem? Believe it or not, the recommendation was that unemployment benefit recipients be made to *pay taxes*. One more typical bureaucratic full circle!

It is little wonder that former Federal Reserve Board Chairman William Miller likens our present spending to that of the 16th Century Spanish monarchy. He said, "It absorbed vast masses of gold and silver from the New World to build the greatest palaces and create the most elegant lifestyle that had existed up to that time in Europe. Spain's use of resources was for consumption with little attention to investments for the future. And so, by the 17th Century, the nation had run through its wealth and was economically barefoot."

We, too, are running through our wealth. To support its huge complex of social service programs, our government eats up enormous quantities of the financial capital that businesses would otherwise invest in productive assets. And as it does this, the government also discourages the public from making investment capital available to businesses in the first place. We're all taking more out of the system than we're producing or putting in. The pie isn't getting bigger, and we're obsessed with finding ways of dividing it in smaller pieces instead of producing more pie. Look at all those governments that have embarked on such socialist programs, what are the results? All they've done is to substitute a government elite group for the wealthy—while, incidentally, the wealthy were instrumental in creating their wealth or at least taking the risks to create it, whereas the government elite, in most cases, did not—but the one constant in all those societies is that the poor remained poor.

Well, okay, like the not-too-bright lady who finds that she's pregnant, we might be asking ourselves, "How did we get this way?" The easy answer, the one you hear most often today is to blame Jimmy Carter, or Washington, the bureaucrats, but really we, you and I, thank God, still are the government of these United States. We're the ones who submit to this political expediency. We're the ones who know there's no free lunch. It's easy for our politicians to promise more welfare, more health care, satisfy all the special interest groups. It's really easy especially if that's what causes us to run out and get him elected. We know we're being seduced, but we simply lie back and enjoy it. The benefits come very, very quickly while the cost is spread out over many people, and we feel it much later. Truly, politically, an ideal setup. You, whose votes I'd like to get, fly now and everyone else pays later. We then compound the felony by not voting the taxes to pay for this largess. Instead, we let a deficit develop and then we monetize it by printing more money. As a matter of fact, a slick politician along the way may even throw in a tax cut to further increase the seduction. But then, eventually, inevitably, comes the piper—the insidious tax collector who travels by the name of inflation. This tax, inflation, is just as much a tax as the one we pay to the I.R.S. directly.

Remember, we had a $53 billion deficit in 1975, a $74 billion deficit in '76, a $54 billion deficit in '77, a $59 billion deficit in '78, and we think we're doing great because we're only projecting $40 billion for '79 . . . all of these deficits occurring during a period of economic growth, economic upturn. Well, that's what we're paying for with our 12-percent inflation rate today. Those same politicians will be quick to lay the blame for inflation on excessive wage demands by labor, big business profits, the O.P.E.C. oil prices, bad weather, even a change in the migration habits of sardines. But these are phony scapegoats, not the true causes. *The real cause is irresponsible and excessive deficit spending by excessive money creation.*

Recently, we were bombarded by the Administration because of the large increases in profits over prior years reported by business. The fact is that in spite of the percentage increase over prior years, industry's absolute earnings are still totally inadequate to support the capital formation and investment that America needs in order to stay competitive and create productive jobs for Americans. Remember, it takes $60,000 of investment to create one job. Since profits go to only two places, either to dividends or to reinvestment in a company's plant and equipment, let's look at what really has been happening.

The present dividend rate of return for New York Stock Exchange composite stocks is 4.9 percent, and that's before taxes; and because dividends are categorized as unearned income, tax rates can be as high as 70 percent. With inflation now running at 12 percent, we surely can't conclude that our stockholders are getting rich on our dividends.

As for investment, we've legislated so many expensive constraints on investment, and made the rewards so doubtful as compared to the risks, that we've averaged only 9 percent of our gross national product over the last five years for investment as compared with 15 percent in Germany and 21 percent in Japan. Ever since 1966 our rate of capital investment has lagged behind those of all the other large industrial nations, even the United Kingdom. Without planting, of course, there can be no harvesting. Our Nation's industrial capacity is growing obsolete. More than two-thirds is over ten years old. Consequently, our productivity increase has been cut almost in half in the last ten years. In this period, our output per man-hour has increased only 1.5 percent per year as compared with 2.7 percent a year in the previous ten-year period, or to put it in more vivid, basic terms, in the last ten years, this slow down in productivity has cost us an immense trillion dollar loss in our overall G.N.P. And worse yet, the data for the first six months of this year shows that our productivity has now gone negative! Then when you consider the effect of what happens when our government unleashes its regulatory agencies on industry, it really becomes frightening. Now, I don't question that the agencies are well-meaning or that there are benefits, but whatever their social benefits may be, these programs proliferated by the Environmental Protection Agency, the Occupational Safety and Health Administration and 39 other Federal regulatory agencies are all basically *consumptive* programs.

Complying with the myriad of regulations they spew forth now cost U.S. industry more than $100 billion a year. Keeping up with this staggering bill often means diverting funds from productive capital investments.

Productivity is also seriously damaged by the many regulations that interfere with our businesses' most basic decision-making—regulations that dictate what markets can be entered, what workers can be hired, what products can be made, what prices can be charged and what wages can be paid. Government has been allocating, regulating, and legislating the energy industry, and with what result? The oil companies have been diversifying into non-energy related businesses in order to get out from under the yoke of uncertainty and control. And so we achieve the opposite result. We are destroying the economic incentive to pursue the enormous oil and gas reserves that still remain in the ground, or in developing new alternative sources of energy—completely contrary to our national policy objectives. And so, our nation's annual bill for imported oil has now soared to a staggering $60 billion; $60 billion not spent in the United States but going outside of our economy.

The airline industry, on the other hand, which has recently gained a smidgeon of relief from regulation, shows us a far different picture. Here we see increased competition—resulting in lower fares—resulting in more people flying—resulting in higher load factors and more profit for the airlines. Wherever the free market has been permitted to operate, business has become more productive and efficient, and everyone benefits. And in the case of the airline industry, we may even hâve gotten rid of some bureaucracy in the process.

Well, so we've talked about some of our problems, but what do we do about them? How do we get ourselves back on the track? President Carter spoke about a moral degradation, but I don't believe Americans are any less moral than any other people. I think we have permitted ourselves to be pushed into a situation where freedom, individualism, and a philosophy of minimum government are rapidly being replaced by constraint, regulation, and a cradle-to-grave mentality of big government. Karl Marx would comment today that this phenomenon is precisely what he predicted as the natural evolution of societies from the free market, capitalistic system to socialism. But, does he have to be right? He doesn't and he isn't. He can only be right if we, you and I, continue through apathetic default to abrogate our responsibilities to serve our nation in its most important need—to participate. Our system, economic as well as political, is far and away the most equitable, most productive system ever, and yet as a representative democracy, it suffers from one potentially fatal weakness.

It requires that the people run the government. The last presidential election brought out only 54 percent of the voters; 28 percent of the country's eligible voters elected President Carter. How many of us have made our views known in the last year to our elected representatives? I hate to think how many eligible voters out there may not even know who their representatives are. This is what's wrong. For those who would destroy our system, we have been the ideal, let-someone-else-do-it, inactive majority.

Well, it's now time to change all that. Proposition 13 showed clearly what motivated people can do from the grassroots. We've got to convince our politicians that we mean business, that we expect more than lip service with regard to reduced taxation, less but more efficient government, and greater individual and economic freedom. The structure is there, but we've got to work at it. It isn't enough to just vote. We've got to be concerned enough to fight back. Let's not dismiss the rhetoric of those who propose destroying the system without proposing a better one. Tell the free enterprise story to your families, your employees, colleagues, stockholders. Use your company organs, newsletters, and other communications media. Take positions on issues and encourage others to do so as well. It's about time the majority of Americans became the primary special interest group. It won't be easy. Those who would tear the system down are vocal and articulate. Ironically, as we let more of them ride on the wagon, they only grow more vocal and more articulate. But, unless we have the courage and the commitment to reverse this slide, to change the momentum, we don't deserves the freedoms and abundance we've come to enjoy.●

PAT WILLIAMS POINTS TO CONVENTION DANGERS

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. SIMON. Mr. Speaker, one of the finest new Members of the House, who has shown above average willingness to dig into the issues which face this Nation, is PAT WILLIAMS of Montana.

I have had the opportunity to read an article which our colleague from Montana has written about calling a constitutional convention for balancing the budget amendments.

The dangers of a constitutional convention are real. He points out the dangers. States which routinely and without much thought issue calls for a constitutional convention on a variety of subjects do so without considering the importance and dangers of tinkering with the fundamental structure of this Nation.

I confess that I disagree with WILLIAMS in that I favor a constitutional amendment which provides some fiscal constraints. At the very least, talk about a constitutional amendment perhaps pushes us to some prudence.

We will soon mark a period of 21 years of straight deficits, with only 1 year an exception to that during that period. We will pass a budget soon with an interest deficit figure for fiscal year 1980 of $58 billion, but ultimately we will have to adopt a third budget resolution with interest calculated at around $62 billion.

An increasing percentage of our tax dollar is going for interest, rather than goods and services. That does not make sense. And this reality we must face: That fiscal policy moves monetary policy, that deficits indirectly cause an increase in money supply.

Deficits are not the only cause of inflation, but they are one of the causes.

PAT WILLIAMS, in his usual thoughtful style, has pointed out the dangers of a constitutional convention and also the dangers of a constitutional amendment which is not carefully constructed. I hope my colleagues will read his article.

Appraisal of the Impact of a Constitutional Convention on the Political and Economic Structures of the U.S.

(By Congressman PAT WILLIAMS)

The year: 1983. The place: Philadelphia. The event: the Second Constitutional Convention of the United States.

The convention was opened in July, 1982, one year after the last state called upon Congress to invoke Article V of the U.S. Constitution by calling a convention. Litigation over the delegate selection procedures and the mandate of the convention is pending before the courts, but the convention continues.

Since the opening gavel, the convention delegates, largely either ultra-liberal or ultra-conservative, have spent their time wrangling over the rules and procedures to use, and have assumed an open-ended mandate to work on whatever issue they deem appropriate for whatever length of time necessary.

It is anticipated that the first proposed amendment—to require a balanced budget—will come up for consideration by the end of the year.

While the convention plods along amid bickering and disputes, government assumes a malaise of unprecedented proportions, the economy slows to depression levels, and the U.S. position of preeminent world leader slips below all expectations.

There has been much public discourse on the subject of a constitutional convention, how it would operate, who would attend, what would be discussed and how it would be approved. The often-acrimonious debate has brimmed with details of the various groups' plans for the constitution and the effects of those plans on the country. Yet few have come forward and appraised how the convention itself—not the final product—might affect the United States.

The scenario described here is probably a "best-case" setting, leaving dozens more "worst-case" examples left to the imagination.

There are three important questions that should be addressed before any constitutional convention is called. 1.) Why is it being called? 2.) What effect would it have on the country? 3.) What would the amendments accomplish?

The first area is perhaps the most intriguing: Why do people want to convene a meeting that could spell the undoing of the constitution and the mandate of the free-world leader? Why do people want to tinker with a tried and true document that has endured for 193 years?

Some Americans are discouraged with their elected representatives in the House and the Senate, and with the legislation that has and has not been enacted. In response, groups have sprung up to reverse the commissions and omissions of Congress through amendment of the Constitution.

But the constitutional lever is entirely inappropriate. Pressure is applied to congressmen and senators through the election process. Responsible representation—not constitutional leverage—requires Washington to listen the voices back home. If radical change such as that proposed by those who would amend the constitution is supported because elected officials are not doing what the voters demand, then the problem lies therein, not in the constitution. The real solution apparent, and the one necessary to the continuation of representative democracy as we know it, involves cleaning house in Congress and installing representatives who will do the country's bidding as the electorate sees it.

The second area—the convention itself—is the one in which the most inadequate appraisals have been conducted, but where the most profound, immediate consequences would occur.

The mere calling of a convention would disturb the national economy, leading shortly to a rapid slowdown to await the outcome and analyze its effects on business and free enterprise. The stock market today reacts with amazing speed at the smallest bit of news affecting the country's stability—surely none can doubt the market's severe reaction when faced with the possible wholesale revision of the constitution.

The eloquent words of James Madison, written in the Federalist Papers 193 years ago, prove pertinent here:

"The want of confidence in the public councils damps every useful undertaking, the success and profit of which may depend on a continuance of existing arrangements. What prudent merchant will hazard his fortunes in any new branch of commerce when he knows not but that his plans may be rendered unlawful before they can be executed?

What farmer or manufacturer will lay himself out for the encouragement given to any particular cultivation or establishment when he can have no assurance that his preparatory labors and advances will not render him a victim to an inconstant government? In a word, no great improvement or laudable enterprise can go forward which requires the auspices of a steady system of national policy."

The Convention delegates would find themselves more and more at odds with Congress, and Congress at odds with the delegates. The courts would be called into the foray; the executive would invite itself in, and soon all would be in turmoil. The authority of the current government would be questioned, especially at the local levels where states, counties and municipalities would strive for whatever measure more of self-rule they could gain. The continuance of current law and constitutional precedent until the new law is adopted would be to no avail: the entire government would be a lame duck.

Certainly, the events in the United States would be of special interest abroad and likely would be seized upon as an opportunity to make whatever gains could be had. At worst, the country would be challenged in its weakest moment by its strongest rival, a confrontation the outcome of which cannot be guessed.

The third area—the goals of the amendments—holds two concerns that would prove most unfortunate for the country, especially in the area of the balanced federal budget amendment.

First is the means by which the goal is being pursued: a constitutional amendment. Previous efforts for conventions sought goals that could be attained only through constitutional change: the repeal of the 18th amendment, the limitation of the term of office for Presidents, the direct election of senators and the reversal of supreme court rulings on subjects ranging from school prayer to busing.

This drive, however, seeks none so lofty a goal. This drive has set constitutional change as its end, notwithstanding the numerous alternatives yet available.

A balanced federal budget could be required through statute, for example, rather than through the constitution. That approach has been suggested and drafted into legislation but does not fulfill the wishes of those leading the drive for the mandated balanced budget, and, in fact, has been criticized out of hand. If forcing a balanced budget is their only goal, then their motives must be suspect: amending the constitution or calling a constitutional convention even when other alternatives exist serves to erode the legislative system under which this country operates.

A second concern presents itself upon close appraisal of the goals of the "budget balancers:" They seek not only to balance federal spending with federal income (a noteworthy task), but also to place such a solution to current problems into the constitution in perpetuity.

The constitution of the U.S. does not and should not embody any passing notions, feverish slogans or antidotes to temporary problems. The constitution embraces the ideas of American society, those things that through good times and bad remain unchanged in importance in our hearts and minds.

The current move toward balancing the budget may be correct policy in today's economic situation—although many recently have forsaken it because of the onsetting recession. Although the nation has made great strides recently toward balancing the budget, it must not take that particular policy—or any other—and chisel it into the cornerstone of the country.

A constitutional mandate for a balanced budget would remove the capacity the government has to respond to needs and desires in the economic world.

Imagine the predicament of President Roosevelt in 1937 if he had been faced with maintaining a balanced budget because of a constitutional requirement. In the mid-1930s, when the economy finally began recovering from the severe depression that had so ravaged the nation, the federal deficit increased by proportions many conventional economists found unacceptable. Responding to their pressure rather than continuing along the new path, Roosevelt began in 1937 to narrow the deficit. Within one year, the unemployment rate shot from 14 percent back to the depression level of nearly 20 percent. Ultimately convinced of the critical need to spend money to stimulate the economy, Roosevelt began widening the deficit again in 1938, but it took nearly three years and rearmament for war to get the unemployment rate back to 10 percent. Since that time, both Democratic and Republican administrations have used that tool to keep unemployment below 10 percent.

If the nation had been tied to a balanced budget in the 30s, it would have been forced to slash spending or boost taxes, both of which would have taken money from consumers at a time when it was most needed.

The United States is confronting a deepening recession. Policy-makers now need the same latitude that President Roosevelt had in 1937. Already there has been talk on Capitol Hill of recession-fighting tax cuts, which would throw the budget out of balance.

Now, there are those who respond by saying that the amendment would be flexible—that its provisions could be suspended in time of national emergency or war. Such an argument has many obvious flaws. For example, what would constitute an emergency, and who would decide if it existed? If a war came, would it have to be declared war, or would the provisions extend to debacles like the Vietnam conflict?

Or, if an economic emergency were sufficient to suspend the balance provision, how would that emergency be determined, and by whom? Would it be enough to be approaching a recession or would the country have to be caught in its throes before action could be taken? Would decliming GNP be used as an indicator, or would a combination of other factors be used? What levels of unemployment or inflation would constitute an emergency?

But, aside, from those questions that appear right on the surface, a deeper, more important and more alarming concern appears.

The American people would be faced with the ludicrous proposition that their constitution, the sounding board of democracy and human rights throughout the world, would contain an amendment that could be temporarily suspended upon agreement of two-thirds of the members of Congress.

It is ironic that we would conceive such an amendment while around the world we promote solid, constitutionally based governments.

And, in pursuing this idea of constitutional convenience, there is another overriding concern—actually a fear. If one qualified amendment to the constitution is made, the rest of that tried and true document would be open to qualification.

Future Congresses may infer from such a precedent that they are free to make more qualifiers, such as temporary suspensions of part or all of the bill of rights.

Supreme Court Justice David Davis recognized this in 1866:

"The Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of men, at all times, and under all circumstances. No doctrine, involving more pernicious consequences, was ever invented by the wit of man than that any of its provisions can be suspended during any of the great exigencies of government."

Clearly, qualifiers would make a mockery of the Constitution, and would so radically change our democratic form of government as to render it unrecognizable.●

HUMANITIES BUDGET WASTE

HON. SAMUEL L. DEVINE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. DEVINE. Mr. Speaker, another example of Federal funds with good intentions not solving the problem or serving the desires of the Congress will be back on the floor in the form of a conference report relating to the appropriation for the Department of the Interior. I make specific reference to the moneys for the arts and humanities.

Earlier this week, I received a letter from a highly respected businessman in Columbus, Ohio, who serves on the National Council on the Humanities, Mr. John Walton Wolfe. The letter is self-explanatory and quoted below for the information of the Members who will have occasion to vote on the conference report although the House last July passed the Interior appropriations:

COLUMBUS, OHIO, *October 23, 1979.*

Mr. JOSEPH D. DUFFY,
Chairman,
National Endowment for Humanities,
Washington, D.C.

DEAR JOE: I have received the budget request of the Humanities to the office of Management and Budget. I see, with great disappointment, that the 14% increase was requested as indicated at the August meeting. I feel that I, once again, must protest such an extravagant request. I fully understand the theory pointed out to me at the August meeting that it is bureaucratic policy to ask for more than you want, want more than you need, and everything will come out favorably in the end. If the National Endowment cannot take the lead and set the example of endeavoring to moderate the economic chaos that exists in this country today, creating hardships on everybody and everything from the old and infirmed to the institutions of higher education that we are supposed to support, then I think that the rest of our noble endeavors are being tarnished by our actions.

After sitting on the Council for more than a year, I asked one of the more senior members who happens to be a respective member of academia, with a prominent position at a well regarded institution of higher education, what percent of the Endowment budget was being well spent and I was very disheartened to hear his reply of 20%. Surely the benefits of an increase in spending for the Endowment during these troubled times can be achieved by a more prudent distribution of existing funds.

I also understand that by comparison with the total budget the Endowment's requests are considered small. But when one realizes that only 25% of the budget consists of discretionary expenditures, consequently the affect of anything that we do is multiplied by four. So if showing restraint in favor of the people the benefits of this restraint will also be multiplied by four.●

MORE PIPELINE QUESTIONS

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

Mr. BONKER. Mr. Speaker, in recent days the Secretary of the Interior recommended to the President that the Northern Tier Pipeline Co. get expedited Federal approval as a new west-to-east crude oil pipeline.

This decision was unfortunate and premature. Washington State's two largest newspapers—the Seattle Post-Intelligencer and the Seattle Times—have both editorialized against the Secretary's decision.

They point out that there remain serious hurdles and troubling questions that must be answered before this pipeline can and should be built. I recommend these editorials to the attention of my colleagues.

The editorials follow:

[From the Seattle Times]

MORE PIPELINE QUESTIONS

Coupled with other developments in recent days, this week's conditional endorsement of the proposed Northern Tier oil pipeline by Interior Secretary Cecil Andrus did little to clear the project's still-cloudy future.

Andrus' statement itself, in effect a recommendation to the White House, included three conditions, any one of which could snag the undertaking further.

It calls, for instance, for shifting Northern Tier's preferred oil-port site from Port Angeles to a point farther west on the Strait; for a mandatory hookup of the Northern Tier line to oil refineries at Anacortes and Cherry Point, and for a one-year time limit in which the company could show progress on obtaining financing.

If the firm moved to heed those conditions, more delays would be in prospect. A spokesman for the State's Energy Facility Site Evaluation Council says the agency would need more time to consider amendments to the present plan, such as a new oil-port site or connections to the regional refineries.

The potentially greater significance to the pipeline picture was a report made public late last week by Senator Jackson's office.

A study by the Senate Energy and Natural Resources Committee, Jackson said, shows that various West Coast refiners are increasing their use of crude from Alaska's North Slope. And they want still more.

This means, Jackson says, that there might not be any Alaska oil available for movement to Midwest refineries via a transshipment port and pipeline in this state. Pipeline proposals advanced by Northern Tier and a competing firm, Trans Mountain, both are predicated heavily on the assumption that large amounts of Alaska oil could be obtained.

Finally, still another news report circulated yesterday that the federal Department of Energy has revised estimates on the need for crude in the states Northern Tier would serve. The department was said to have compiled a study predicting an oil shortage of only 140,000 barrels a day at the Midwest refineries, far below Northern Tier's planned pipeline capacity of 709,000 barrels.

A decision on whether to use his executive powers to speed up the permit process for Northern Tier now rests with President Carter. The danger is that Mr. Carter, eager to show for once that he can make a firm energy decision of some kind, might let 1980 politics obscure his vision of the question marks that continue to surround the entire Washington State pipeline issue.

[From the Seattle Post-Intelligencer]

OIL'S NOT SETTLED ON PIPELINE

Northern Tier Pipeline Co. got a nod from U.S. Interior Secretary Cecil Andrus this week. Andrus' conditional endorsement means that the company may soon get the president's go-ahead to build an oil pipeline from a point west of Port Angeles to the Midwest.

What the Andrus endorsement does not mean, however, is that the pipeline issue is settled. There remain serious hurdles and troubling questions.

—First there will be a meeting between the Washington state congressional delegation and the president. Because this state's delegation wields considerable power in Congress, Carter undoubtedly will weigh its wishes carefully. So far the only Washington congressman who appears enthusiastic is Rep. Tom Foley, D-5th District. Foley's Inland Empire stands to gain a more assured petroleum supply if the proposed Northern Tier pipeline route is followed.

—Another factor that looms large is the Canadian reaction to the selection of Northern Tier Pipeline. Canadian Environment Minister John Fraser has called the Andrus recommendation "the worst of two options." Fraser indicated a preference for the Trans-Mountain Pipeline proposal. That would link an oilport west of Port Angeles to an existing pipeline in Canada.

Another possibility, a faint one now, is the Canadian Foothills plan which would follow the existing pipeline from Alaska down through Canada to the Midwest. The EPA praised that route.

Carter will be meeting with Canadian Prime Minister Joe Clark in Ottawa Nov. 9 and 10. Should Carter delay his pipeline decision until after the Canadian talks (the president has 60 days to act), the pipeline route likely will be discussed. The two nations, close partners in trade and commerce, might profit from working on a joint transportation system.

Availability of supply is a factor in the pipeline decision. A report made public last week by Sen. Henry Jackson's office shows that there might not be any North Slope oil available to put in a pipeline for movement to Midwest refineries. The study—undertaken by the Senate Energy and Natural Resources Committee—shows that West Coast refiners have increased their use of Alaska's crude oil. The report raises doubts over oil trans-shipment from this area.

At the other end of the pipeline there are similar uncertainties. The federal Department of Energy recently changed estimates on the need in the Midwestern states that Northern Tier pipeline would serve.

Financing the pipeline may not be as easy as expected, particularly in light of the projected problems with supplies and need. The 1,500-mile Washington-to-Minnesota line would cost around $1.6 billion. That's far in excess of the $600 million price tag to build the TransMountain line.

It may be that Northern Tier can clear all these hurdles. If so, there are at least three important preconditions which the state's congressional delegation should work toward: (1) The oilport should be located west of Port Angeles, rather than adjacent to the town, as Northern Tier proposes. The Environmental Protection Agency, wisely we believe, has decided the Port Angeles site is unacceptable. (2) Building any pipeline ought to be predicated on a mandatory hookup of existing oil refineries. If the oilport does not reduce or eliminate tanker traffic in Puget Sound, it will have served no general benefit. (3) The federal government should not assist in pipeline financing. If the project can't get off the ground with private support, then the public ought not to foot the bill.

In years gone by, Sen. Magnuson has been standing, Horatius at the Bridge, at the portals to Puget Sound, determined to protect us from the disaster of a massive oil spill. Magnuson has asked why Washington should have to bear the risk of oil transshipment when there are few—if any—benefits to this state. It's still a good question. Now it's apparent that there's a question over the risks and benefits to other states and to the nation. That's an even better question.

TAX CREDIT FOR WEIGHT CONTROL AND FOR THOSE WHO QUIT SMOKING

HON. DAN QUAYLE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. QUAYLE. Mr. Speaker, shortly the House will be making a decision on a bill to place mandatory controls on hospital costs. While I support the idea of cutting our Nation's health care expenses, I do not endorse the mandatory program outlined in H.R. 2626.

The bill is unfair since it covers less than half of the Nation's hospitals. It penalizes the efficient hospitals by requiring that they cut costs just the same as those who have been wasteful. This program can threaten the quality of health care in America.

As an alternative, I have endorsed the voluntary effort which has resulted in a 4-percent cut in hospital costs in my home State, Indiana.

We, as individuals, can also take voluntary actions which will cut medical costs and protect our health for future productive years by eating a well-balanced diet and curtailing smoking.

The National Institute of Health Task Force on Obesity reported recently that people who are overweight face a greater risk of disease and death from high blood pressure, stroke, heart attack, and digestive diseases. All are costly diseases which require lengthy medication or hospitalization.

Smoking can cause increased occurrences of cancer, cardiovascular and respiratory diseases and death. The direct health care cost of smoking is $8.2 billion according to the New England Journal of Medicine.

In a recent study State Mutual Life Insurance Company of America found that smokers shorten their lifespan by 7 years. As a result the firm is providing a 30-percent savings to nonsmokers.

If we consider that in the United States smoking is the most frequent cause of death and property damage due to fires in the home, then the total amounts to a $27.5 billion loss.

Because of the burden smoking and improper eating habits place on our bodies and our pocketbooks, I salute the millions of Americans who are kicking these habits. Those who elect voluntarily to enter regimented programs to improve their health deserve support.

I believe they should be at least partially reimbursed for their expenditures on self-improvement programs to quit smoking or to improve unhealthy eating habits.

For this reason, I am introducing the "Kick the Habit" tax credit bill. Each individual who enrolls and attends in an approved program to stop smoking or commences a certified dieting program would be allowed a 50-percent tax credit up to $150 for the amount spent on the program. The Secretary of the Treasury would be responsible for certifying which programs are eligible for the tax credit.

By encouraging Americans to take these positive actions, we are cutting our insurance bills, preventing our Nation's medical bills from escalating, and, most importantly, we are preserving one of our greatest national resources—our health.●

ASSUMPTION GREEK ORTHODOX CHURCH TO CELEBRATE ITS GOLDEN ANNIVERSARY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. KILDEE. Mr. Speaker, it is with pleasure that I bring to the attention of the Congress the golden anniversary observance this weekend in Flint, Mich., of Assumption Greek Orthodox Church. The observance will be marked by a visit from His Grace Bishop Timothy of the Diocese of Detroit.

The observance will begin Saturday evening with a dinner and dance. The Divine Liturgy will be celebrated by Bishop Timothy and by the Reverend Athanas George, pastor of Assumption Greek Orthodox Church for the past 5 years, and by the Reverend Demetrious Koursaris, who was pastor for 20 years, as well as other guest clergy.

The first Greek Orthodox immigrants settled in Flint between 1910 and 1920, according to the parish historians. Assumption Greek Orthodox Church was founded by about 20 families, who began celebrating the Divine Liturgy once a month in a rented hall with visiting priests from Detroit. After much dedication and sacrifice, they were able to construct the first Assumption Greek Orthodox Church Building at North Saginaw and Gillespie Streets. The church was dedicated on May 6, 1928. As the years passed on under the spiritual guidance of Father Koursaris, the parish grew until a new church building was needed to accommodate the faithful. The present church thus was built in 1961. It is noted for its architectural beauty and has become a landmark near Flint. Plans are underway to expand the church, which now serves about 285 families.

I am pleased and proud to provide this brief sketch of Assumption Greek Orthodox Church's history, which speaks to the dedication and devotion of a large number of priests and families in establishing and building an active and healthy church for the Greek Orthodox community of the Flint area.●

INVALUABLE AID AFTER THE TORNADO OF OCTOBER 3, 1979

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. MOFFETT. Mr. Speaker, earlier this month north-central Connecticut was ravaged by a tornado that struck Windsor Locks, Windsor, and Suffield. I want to call to the attention of my colleagues the invaluable aid given tornado victims by State and local officials, the State police, voluntary associations, and many private citizens.

The disaster occurred at 2:50 p.m. on Wednesday, October 3. I was some 40 miles away at the time, at the University of Connecticut for a speaking engagement.

The devastation was so complete that it was impossible to get through to the affected areas—all lines of communication were down. I called the State police, and their response was immediate: I was driven to the stricken areas in less than an hour.

What I witnessed was, in a word, terrifying—especially for someone like myself, who has never before seen the frightening aftermath of a tornado.

In Windsor Locks, in my own Sixth Congressional District, Bradley International Airport and many small businesses were a shambles. In Windsor and other areas where the tornado touched down, houses were totally demolished. Families stood in front of what used to be their homes, dazed and unsure of what to do or where to go. One woman in an airport office who had seen cars flying through the air had hidden beneath her desk; the desk was all that remained when the office disappeared.

Joining with Gov. Ella Grasso, Congressman BILL COTTER, Civil Preparedness Director Frank Mancuso, and other local and State officials, we established a coordinated disaster aid command post in Windsor Locks.

For most of that first night and well into the next day, the State police escorted my staff and me from one ravaged home or business to another. Each time we came upon a situation which needed immediate attention—which was frighteningly frequent—the troopers were always close at hand, willing to do whatever was necessary.

The police profession, I realize, is one which undergoes constant scrutiny. I want to publicly commend and thank those officers who worked through the night and into the next afternoon, with the same dedication and concern from beginning to end.

From the outset, our Governor assumed complete control of the disaster assistance efforts. She worked tirelessly to coordinate State and Federal aid. Her presence alone was a reassuring sign to the dislocated families and workers in the region. Ella Grasso, it should be noted, is no stranger to the area: Her home is in Windsor Locks.

Supplementing her efforts and those of her staff was State civil preparedness director Frank Mancuso. A former mayor himself, he understood the immediate needs of both the displaced families and the business community. He brought all possible resources together to aid the tornado victims. His dedication and compassion was an inspiration to all of us.

Working side by side with these individuals were Windsor Locks First Selectman Edward Savino, Suffield First Selectman Earl Waterman, and Mayor Warren Johnson of Windsor. Spending many hours both in their own home towns and at the disaster assistance center, they were instrumental in helping to cut through the redtape for their residents.

Nor should the Federal help be omitted: The Federal Emergency Management Agency—FEMA—responded quickly and unstintingly. Along with the Small Business Administration, they were in the field in a matter of hours, assessing the damage and establishing a coordination center to help victims get back on their feet.

Finally, I wish to commend the work of the Salvation Army, the Red Cross, nearby hospitals, and all the State's voluntary associations which provided vital services to the stricken region. Many volunteers worked without rest, providing food, clothing, shelter, and perhaps most important, moral support to their fellow citizens.

Mr. Speaker, in a period when we hear the cry for government to "get off the backs" and out of the lives of its citizens, I contend that the combined efforts of government at all levels worked admirably in this situation. There is no way to diminish the horror and the devastation wreaked by the tornado. But the remarkable and selfless response was well worth noting, too. It was, in the traditional phrase, "above and beyond the call of duty."●

PARKTON ELEMENTARY VISITS CONGRESS

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. LONG of Maryland. Mr. Speaker, I want to make welcome over 75 students, parents, and teachers who are visiting the Capitol today from the Seventh District Elementary School in Parkton, Md.

The students of the fourth grade class are studying Government and law processes. They are here to see firsthand how Congress works and to gain understanding of the legislative process. My constituents will tour the Capitol Building, observe floor action in the House and Senate, and visit the Smithsonian Institution. I appreciate this opportunity to meet my friends from Parkton and am certain that their day here will be interesting and informative.●

BRINGING IN THE WIND

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

• Mr. BLANCHARD. Mr. Speaker, I would like to call my colleagues' attention again to the promise of wind energy as an electric power generating source.

Wind energy systems, like all power systems which derive their fuel from the Sun, are nonpolluting, inexhaustible, and function without dependence on foreign sources of supply. That being so, it is essential that we move as rapidly as possible to support them as replacements or supplements to conventional power systems.

The Science and Technology Subcommittee on Energy Development and Applications is currently considering the "Wind Energy Systems Research, Development and Demonstration Act of 1979," which was originally sponsored by Congressmen MINETA, JEFFORDS, and me, and it is my hope that it will report the bill favorably in the near future.

As evidence of the potential which wind energy holds for America's future, I would like to insert in the RECORD an article, "Bringing in the Wind," which appeared in the September-October 1979, issue of Public Power magazine.

The article follows:

BRINGING IN THE WIND

(By Robert B. Gallup and William E. Trommershausen)

Electric utility loads are continuing to grow despite major efforts toward conservation. This growth comes from three sources: Increased population, increased energy use per person, and a shift from other forms of energy to electric energy. Conservation may reduce the energy use per person, but population increases will be with us for the foreseeable future. The shift from other forms of energy use to electric energy use will continue because of the convenience electric energy provides and the need to conserve oil and gas resources.

The electric utility industry, therefore, must continue to develop additional sources of electric energy. Because of the shortage of oil and the need to conserve to the maximum extent possible all of our nonrenewable resources, increased attention is being given to the development of renewable energy sources to supply our electric energy growth. In one way or another, solar energy is the source of virtually all of these renewable energy sources and has unlimited potential if it can be harnessed.

One readily available way to harness a portion of this solar energy to produce electrical energy is through the use of wind power. Utilities throughout the United States, both small and large, have a big stake in this source of energy. Its use could significantly reduce our future dependence on oil, coal or nuclear energy.

Historically, utilities have striven to deliver a high grade of continuous electric service and the electric consumers have come to expect such service. Initial investigations of wind-powered generators stressed that firm power service should be provided. Because the minimum wind speed required to operate the generators is about six miles per hour, and the generators must be shut down at wind speeds of over 35 miles per hour, some form of energy storage was considered necessary for a wind-powered generation program.

STORAGE UNNECESSARY

A considerable amount of the Department of Energy-sponsored effort was directed toward investigating the storage of wind power-generated energy with such methods as: (1) hot water, (2) electric batteries, (3) fuel cells, and (4) fly wheels. Such storage systems are expensive and are not necessary if wind-powered generation can be properly integrated into a utility's power supply plans. Wind-powered generators should be considered for what they are, and their characteristics should be recognized in the development of a utility's overall power supply program. Most of the investigations now under way use this latter approach.

Currently, wind-powered generators in sizes from two kw to 3,000 kw are either in operation or under construction. Small wind-powered generators have been available for a number of years and several sizes are commercially available. Several research machines in the 200-kw range have been constructed, such as those at Clayton, N.M.; Block Island, R.I.; and Culebra, Puerto Rico. An additional unit is planned for the Island of Oahu, in Hawaii, next year.

The world's largest wind-powered generator was dedicated in July 1979, in Boone, N.C., and is currently undergoing final testing. This 2,000-kw unit is 50 percent more powerful than the previous record-holder that was constructed at Grandpa's Knob in Rutland, Vt., in the early 1940s. The Southern California Edison Company is building a 3,000-kw, 150-foot-diameter wind-powered generator in San Gorgonio Pass. This machine, when completed, will have a capacity 50 percent greater than the one located near Boone, N.C.

In addition, the California Department of Water Resources is negotiating with a wind power-generator supplier for purchase of energy from a number of wind-powered generating units in the 1,000-kw range. The Bureau of Reclamation is developing a program to construct a 98,000-kw wind farm near Medicine Bow, Wyo., and plans to integrate the output with the federal Colorado River Storage Project. Congress accepted this plan and has appropriated funds to construct an initial two-mw unit to verify the basic cost estimates.

The Bonneville Power Administration is investigating areas for construction of large wind-powered generators of the 2,000-kw to 3,000-kw class, and is promoting development of two such units in the Goodnoe Hills area of Washington. Preliminary studies indicate these units could produce energy at about 45 percent annual plant factor, and that as many as 1,000 of them, with varying plant factors, could be installed throughout the Bonneville service area.

BIGGER MAY NOT BE BETTER

The economies of scale which have in the past reduced thermal generating plant costs as generating plant sizes increased are not nearly as significant in determining economics of wind-powered generator construction. There are some benefits from increasing wind-powered generator sizes. However, the diameter of the present design of wind power generator blades increases with increased sizes, to the point that the increased costs of tower construction to support them may more than offset the other economies of scale. Thus, major use of wind to develop electric energy means that large numbers of wind-powered generators must be constructed.

One of the challenges facing utility systems at the present time is to develop programs that will permit the best use of wind-powered generating systems that are available now, or may become available in the near future. Two approaches in the development of wind-powered generators for generating electric energy have been suggested.

The first approach provides for the construction of a large number of relatively small wind-powered generators scattered throughout a utility's service area, possibly owned and operated by individual homeowners, and used directly to support a portion of the homeowner's needs, with sales of surplus energy to utilities. The second approach provides for the construction of "energy farms" in which relatively large arrays of wind-powered generators would be constructed by a utility to supplement the utility's power supply.

LOAD GROWTH REDUCED

There is increasing interest among individuals in the development of their own energy sources, to reduce their dependence upon central station service. Although this appears to reverse the trend of reliance on central station service for electric energy supply, this is not really the case. Small wind-powered machines can operate in parallel with utility systems. They act, in effect, as a negative load, thereby reducing the loads that the utility is required to supply.

As a practical matter, installation of small wind-powered generators has the same effect as conservation in energy use, and should be given the same kind of support and encouragement as is presently given to conservation efforts. These systems may well prove to be cost-effective if proper consideration is given to the services they perform. Considerable development work now under way should continue, and utilities should welcome the opportunity to investigate the use of small wind-powered machines in their own service areas.

Although the individually owned units are small, a large program of development could have a measurable effect on future power needs. Any program should take into consideration its long-term effects, recognizing that energy costs in the future will undoubtedly continue to rise, and that the economics of wind-powered generation should consider this increasing cost factor.

The construction of energy farms in which large arrays of wind-powered generators would be constructed by a utility to supplement the utility's power supply has an added advantage. Construction could be undertaken by a utility under specific time schedules which would be planned to fit into the utility's growing needs. One energy farm would not necessarily be able to provide firm power on an assured basis, but a number of such farms scattered throughout a region could significantly contribute to firm power supply through diversity of wind supply. Although further analysis is required to determine specific diversity relationships in various areas of the country, and to determine the relationship between peak loads and wind supply, the outlook is promising.

The Department of Energy has a program under way for making wind measurements at selected locations in many parts of the United States. The Bureau of Reclamation has developed a portable wind power measuring unit that operates with a satellite. This new system now makes it possible to take instantaneous readings of wind speeds at recording stations throughout the country (see diagram page 19). It will provide competent data to permit a determination of the actual diversity that may exist between widely separated wind areas. These data can be used to estimate the firm power available from a large number of energy farms located in an area with interconnected power systems.

INTEGRATE WITH HYDRO

For example, the Upper Missouri Basin has some 12,000 miles of federal transmission facilities covering eight midwestern states. It is probable that there is a substantial diversity between potential energy farm sites in the Missouri Basin that would be able to interconnect into this network. Similarly, the areas served by the federal grids in the Pacific Northwest, the Pacific Southwest and the Colorado River drainage area may also contain wind farm sites which would have substantial potential diversity between them. All of these areas have hydro storage facilities which could also be used to integrate more effectively the energy produced from wind-powered generators.

Under the 1978 National Energy Act, municipal systems now have available system interconnection and wheeling rights, using the authority granted to the Federal Energy Regulatory Commission to order interconnections and wheeling for appropriate hearings. Accordingly, it is not necessary for municipal systems to install wind power generating units within their city limits; sites can be chosen for the best wind conditions. Participation in a potential regional wind farm development that may be sponsored by other utilities is possible if effective wheeling arrangements can be implemented. Also a matter for future consideration is the prospect of constructing added interties to achieve the benefits of a solar-wind-hydro integration plan.

20–40 MILLS PER KWH

Tentative cost estimates indicate that the construction of wind-powered generators is close to feasibility where wind speeds average 15 to 18 miles per hour. A company has offered wind energy at the bus bar in California, suitable for irrigation pumping for the period 1981–1986, at 35 mills per kwh. This is equivalent to oil at approximately $21 per barrel. Under the proposal, after 1986 wind energy would be priced competitive with imported oil. Another company estimated the cost of ownership and operation of a 50-kw vertical axis turbine in an area containing favorable winds in the range of 20 mills to 40 mills per kwh.

It is important that utilities view wind power in its true perspective and recognize its value to the energy supply of the United States. Each kwh generated by a wind machine means that one less kwh will have to be generated from oil, coal or nuclear fuel. Although the characteristics of a wind-powered generator are such that firm power is not available continuously to meet a utility's load, each wind-powered generator can be counted on to supply a significant amount of energy throughout the year. Furthermore, while a single generator cannot be considered to provide firm power, a large number of such generators scattered over a wide area may have significant firm power characteristics.

Whether the utility considers large wind farms in its power supply program, or small wind power machines constructed by individual customers, or plans on use of both methods, new approaches and innovative thinking will be required. Diversity over wide but interconnected areas could be significant. The benefits of such diversity should be included in any analysis of benefits from wind-powered generators.

RETHINK RATE STRUCTURE

New concepts in utility rate structures will be necessary, to recognize the value to the utilities of individually owned wind-powered generators. Customers' efforts to develop their own generating resources should be encouraged. The effects of inflation on alternative fuel costs, and of the intangible benefits that may occur from construction of small wind-powered generators, must be recognized.

Utilities should not expect wind-powered generators to be a panacea to their growing energy needs; however, wind-powered generators can be important factors in reduring our dependence on nonrenewable resources. Utilities should develop this energy source to the maximum extent feasible, recognizing its inherent drawbacks but also acknowledging its inherent benefits. Use of wind-powered generators is most effective when combined with other sources of power to serve a utility load. Both small and large wind-powered generators have a place in wind power supply for the future.●

CRS REPORT ON WOMEN AND RETIREMENT INCOME FOCUSES ON EQUITY AND ADEQUACY

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mrs. SCHROEDER. Mr. Speaker, I would like to bring to the attention of my colleagues a report by the Congressional Research Service on "Women and Retirement Income Programs: Current Issues of Equity and Adequacy," which was released on September 27, 1979—Report No. 79–202 EPW. It was released in conjunction with the staff briefing on women and pensions sponsored by the Aging Committees of the House and Senate.

The CRS study takes a comprehensive look at the subject, with a chapter on the evolution of retirement income programs, legislative and case law developments. The primary focus of the study is an analysis of a wide range of problems associated with social security, private pensions and Federal, military, and railroad retirement. Moreover, it outlines legislative proposals concerning women and retirement that are pending in the 96th Congress.

Retirement issues, especially those impacting on women, are a neglected subject in the Congress. However, retirement issues become increasingly important as more of our constituents reach 65. Currently, 23 million or 11 percent of the population is 65 and older.

Aging is a poverty issue. In 1959, 33 percent of the aged were below the poverty level, while this percentage had decreased to 15 percent by 1977. This decline, however, came from improved economic standing of elderly males living with wives or families. Whereas, the poverty level of other subgroups—females, minorities, and elderly living alone—has actually increased. This occurs because women and minorities tend to have worked less for wages in the past, have worked at lower paying occupations, therefore having fewer financial assets or pension rights.

Furthermore, poverty among the aged is primarily a woman's problem since two-thirds of the elderly are female. In 1973, 19 percent of the women and 12 percent of the men over 65 lived below the poverty level. The 1976 census statistics indicate that 25.3 percent of women age 65 and over had incomes less than $2,000 per year, while 12.3 percent of women 65 and older had no income, compared with 0.3 percent of the aged men. Moreover, the median income for females 65 to 69 is $2,807, while that of males is $6,129. The discrepancy between older men and women carries over to the employment field, where 20 percent of men over 65 and 8 percent of women are working for wages. Finally, there exists a wide variation in percent who are single, since 38 percent of aged women are married compared with 77 percent of aged men.

The fact that women bear the burden of poverty in old age is partly due to pension systems that were created long ago or updated more recently without serious consideration of their adverse impact on women.

I recommend to my colleagues this study, which I hope will shed light on the subject and help us to take actions in this Congress that will make our pension systems more humane so that they better protect older women. Printed below is the introduction of the study.

CHAPTER I—INTRODUCTION

(By Leslie Gladstone)

A. WOMEN IN THE WORK FORCE

Women have always worked and have always been an indispensible part of the American economy. In fact, no country has ever been able to sustain itself on the work of men alone. Yet because women's traditional "place" has been outside the paid labor force (i.e., the home) and women's formal labor force participation has been limited in terms of time and wages, benefits from programs providing retirement income have been larger for men who have traditionally had stronger ties to the paid labor force.

Retirement income in America is based primarily on such programs as social security and employee pensions, on personal savings and investments, and on family contributions. For individuals without these or other assets, there is also Supplemental Security Income (SSI), a form of public assistance. Social security and employee pension systems, the two largest sources of retirement income, are structured to recognize and reward the kind of long-term and constant attachment to income-producing work characteristic of male workers. However until recently, the working pattern for most women consisted of homemaking and child-raising, supporting and sharing a wage-earner's career and, in some cases, filling an unpaid role in the family farm or business enterprise as well. This pattern has also tended to limit substantially women's opportunities for personal savings and investments.

As a result, the economic status of women at the end of their working years more often has been determined by a dependency relationship to a person in covered employment, rather than by earned rights of their own, regardless of the extent or value of their unpaid contributions to family and society. One of the practical consequences of treating women as dependents, rather than as one of two equal partners in a reciprocal economic relationship, is that it leaves women vulnerable to losses of benefits through divorce or the death of the wage-earner.

Even when women spend many years in paid employment, they generally retire with fewer benefits than men, since they tend to move in and out of the labor force, earn less than men, and are occupationally concentrated in industries which have lower pension benefits—or none. Women with shorter work histories or part-time jobs are sometimes excluded totally from pension benefits other than the minimum social security payment. One index of the overall adequacy of the retirement system is a comparison of poverty rates for men and women aged 65 and over. According to Census Bureau data, the poverty rate for older women is 60 percent higher than it is for men.

For many years women's employment patterns have been directly affected by conceptions of women's "place" or "role," which in turn have had a decisive impact on education, occupational choices and levels of earning, and consequently on pension access and benefit level as well. A task-force paper published by the Senate Committee on Aging in 1975 described this stereotype as a "convenient myth" which applied only to native, white, middle class women. For example, in the nineteenth century wives and daughters of poor, minority or immigrant families were needed to work on farms, in factories, and in domestic service. They earned less than men, even when doing the same work, had fewer opportunities for promotions and fewer benefits because they were regarded as temporary workers. Most left the labor market after marriage or the birth of the first child, thus making room for a fresh group of younger women who repeated the same pattern.

By 1900 approximately one out of five women were in the labor force, increasing to only one out of four by 1940. Most of the increase came from new opportunities in teaching, office work, and nursing, which drew more middle class women to paid employment. Nevertheless, traditional attitudes toward women's roles prevailed. Despite surveys by the Women's Bureau in the Twenties and Thirties showing that women worked for the same reasons as men—to support themselves and their families, there was a general presumption that women were working only for "pin money" and neither needed nor deserved to be paid in the same way as men.

The advent of World War II and the sudden demand for massive numbers of new workers is generally credited with catalyzing major social and economic changes. Actually they had been set in motion earlier in the century but were delayed by the Depression of the Thirties. Among these changes were scientific and technological advances, ranging from birth control to greater mechanization in the home, which released women from many household burdens. In addition, greater female longevity and fewer children increased the number of years women could work outside the home; higher levels of education increased the desire for options beyond those that began and ended with domesticity.

By the end of World War II, the labor force had become 35 percent female and included increasing numbers of married women over the age of 35. In the three decades following, despite some readjustment during the Fifties, women have increased their proportion in the labor force to over 40 percent, as older women without dependent children in the home were followed by younger women with school-age children, and then still younger women with pre-school children. Among the factors contributing to the increased labor force participation of women are a two-fold increase in the divorce rate, modification of attitudes toward women's roles in the family and society, a higher level of education, and changes in the economics of families due to rising inflation.

In wartime, women had performed successfully in many occupations usually reserved exclusively for men. Yet massive as were the resultant changes and pressures, after the war women found themselves again concentrated in a narrow range of clerical, service, and lower level white collar jobs. In fact since 1960, occupational patterns, with women in lower-paying jobs, have not changed even though laws have been passed to end discrimination in employment opportunity, including the Equal Employment Opportunity Act of 1972. Moreover the earnings gap between full-time, year-around workers has continued to widen. In 1956 women earned 63 cents for every dollar earned by men; by 1978, the median for women had fallen to 59 cents. Variations between men and women in education and work-force attachment explain some of the disparities in occupation and income. However, in some studies which adjust for these factors, investigators still find a significant gap which they attribute to discrimination.

While the sharp increase in female employment means that many more women will be gaining eligibility for direct retirement benefits of some kind, many problems remain. To quote William H. Chafe in *Women and the American Economy*, "Although the economic role of women had [sic] changed, inequality remained as omnipresent as ever." Since income in retirement is usually directly linked to salary or wage level during the working years, employed women will remain disadvantaged vis-a-vis employed men until the salary gap is closed. In addition, to the extent that women remain occupationally segregated in industries with low pension benefits—or none—their opportunities to build retirement security will suffer.

B. WOMEN AND RETIREMENT INCOME PROGRAMS

The social security and pension systems are said to present a number of issues for women relating to both equity and adequacy. Chapters III through VII of this report discuss these issues in detail. Briefly, three major areas of concern in social security are: First, many working women believe the system discriminates against two-earner families and single earners, since the family with two workers may receive less benefits than a family with the same lifetime earnings but with only one earner; and a single worker receives only one benefit while paying the same total taxes that provide a single-earner family with an additional dependent's benefit. Second, the system does not provide coverage to homemakers outside the paid labor force. Third, working women have fewer dependents receiving benefits than dependents of men, giving women workers less value for their contributions.

The private pension system tends to pay lower benefits to women workers because of their lower earnings; it may exclude them altogether if they work in industries with little or no coverage, or because of vesting rules. In an article appearing in the February 1978 *Social Security Bulletin* entitled "Pension Coverage and Benefits, 1972: Findings from the Retirement History Study," 49 percent of men were found to be covered by a private pension plan on their longest job but only 21 percent of women. Furthermore, the median pension income for men was $2,230, but only $1,200 for women.

Although the Employee Retirement Income Security Act (ERISA) was enacted in 1974, some advocates think the provisions did not go far enough in ensuring adequate protection to dependents. Wives of workers in pension-covered jobs may be ineligible for survivors' benefits if a husband dies before he is eligible for retirement, even though vesting may already have taken place. Although most pension plans offer joint and survivor annuities, the decision whether or not to share the benefit and provide a widow's annuity may be made by the worker alone, without the spouse's knowledge or consent. Only under the social security system is a share of the benefit automatically allocated to a divorced wife (if the marriage has lasted 10 or more years). However current ERISA rules have been interpreted by some courts to preclude a divorced woman from claiming a share of a spouse's pension, although others have argued that such rules were intended only to protect the pension from creditors, not from legitimate legal or moral support obligations.

One of the most troublesome issues if the retirement income system is to be changed to make it more advantageous to women is the question of whether to credit or assign value to the work of the homemaker. Although a number of European countries now recognize childbearing and homemaking as pensionable occupations and fund benefits out of general revenues, the idea has not gained acceptance in the United States. Proposals to enact such legislation have been before several recent Congresses but have not passed.

A second option, also proposed for congressional action, would recognize marriage as an interdependent economic relationship in which each partner shares. The authors of this proposal suggest that there is already a precedent in the joint income tax. Under this plan, the Social Security Administration would assign half the social security credits earned to each partner, using the income reported in the joint tax return as a base. Some see an advantage in this approach because it would do away with the concept of dependency which many consider inequitable and which can leave widows and divorcees without adequate protection.

Under this plan, both partners in a marriage would share equally in the benefits since both have shared equally in setting aside resources in order to make pension fund contributions. Thus there would be little justification for denying equal benefits to a divorced or widowed spouse, according to proponents.

In the chapters of this report which follow, a fuller discussion is offered on the benefits from retirement income programs presently available to retired women. Critics have identified serious gaps in the present system, some of which are due to changes in the family and the roles of women since the programs originated. Others relate to equality of economic opportunity in the work force at large.●

HONOR THE CZECHS ON TRIAL IN PRAGUE

HON. MILLICENT FENWICK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mrs. FENWICK. Mr. Speaker, I had expected to speak concerning the suffering and the courage of those who are protesting the present situation in Czechoslovakia. But I think no one could put it better than the writer of this editorial in the Christian Science Monitor. I commend it to my colleagues.

The article follows:

[From the Christian Science Monitor, Oct. 24, 1979]

HONOR THE CZECHS ON TRIAL IN PRAGUE

It is easy for safe outsiders to condemn the Husak regime in Czechoslovakia for conducting the kind of purge trial that has not been seen in Eastern Europe since Stalinist days. Even Communists enjoying Western rights have jumped on the freedom train. Note the politburo of the French Communist Party roundly demanding acquittal of the six nonpolitical figures being tried for "subversion" behind closed doors in Prague. But do any coddled citizens of the free world feel one iota of the gratitude we ought to feel toward the Czechs themselves who are fighting for us in the world's indivisible battle for liberty and justice?

The least we can do is know their names: Vaclav Havel, Jiri Deinstbier, Dana Nemcova, Peter Uhl, Vaclav Benda, Otta Bednarova. Westerns may recognize playwright Havel (or Czech fellow writer Pavel Kohout—alluded to in a current play by Britain's Tom Stoppard—who is not on trial but was stripped of his citizenship and barred from his homeland). But how could most of us be aware of Otta Bednarova, former TV journalist working as a cleaning woman while she carried on the fight against repression and corruption? Or of the 250 brave individuals who risked signing their names to last summer's letter protesting the detention of political prisoners and the government's terrorism against upholders of human rights? Or of the Czechs who this week have tried to gather in support of the defendants only to be arrested or kept out of the courtroom under the remembering eyes of security forces?

Credit must go also to the Soviet monitors of the Helsinki human rights declaration who this year spoke out for the first time in solidarity with their colleagues in another Soviet-bloc country, Czechoslovakia. They joined a Polish dissident group in calling for the release of members of the human rights movement arrested by the Husak minions.

People and nations in the West have to remain vigilant to preserve their own heritage of rights. But they cannot fail to count their blessings when the old totalitarianism breaks out again as in Prague. And they cannot fail to count their debts to those who stand up for freedom where it takes such courage to do so.●

IRVING KRISTOL ANALYZES THE ILLUSORY SOLUTIONS TO THE PALESTINIAN PROBLEM

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. KEMP. Mr. Speaker, it has become fashionable to offer the establishment of a Palestinian state of some sort on the "west bank" of the Jordan River as the wisest "solution" to the intractable problem of Palestine. The Palestinian cause is seen by some prominent observers as the primary obstacle to peace in the Middle East, because the Palestinian refugees appear to be the only significant element in the Middle East unwilling to accept the status quo with respect to the legitimacy of the State of Israel.

As Irving Kristol writes in today's Post, it is evident to anyone who has studied the economic geography of the West Bank region that it cannot solve the Palestinian problem for the region cannot hope to absorb more than 1 million Palestinians living outside of Israel on its meager economic base. Palestine established on the West Bank could only be an intermediate point to the destruction of Israel, because the occupation of the State of Israel would be the only long-term source of water, agricultural resources, and international transportation. Thus, the establishment of a Palestinian state would assure a future war of vastly destructive proportions as it would be a fight for Israel's survival, as well as the survival of a Palestinian state. Palestine would have to occupy Isreal to survive, and Isreal would have to prevent such an attempt in order to survive. Such circumstances are congruent with perpetual conflict, not eternal peace.

A second dimension of the now fashionable theory that the United States must help in forcing the establishment of a Palestinian state turns on an assumption that such a circumstance is crucial to improve OPEC–U.S. relations. This perspective is defective on two grounds. First, few of the Arab states in the region welcome the prospect of a Palestinian state, despite their ritualistic rhetoric on the subject. The reason for this is quite simple: Many of the Arab states have Palestinian minority populations who, in the presence of a Marxist-oriented Palestinian homeland, would become a subversive element within the nations themselves. Hence, the diplomatic difficulties the United States faces with the conservative elements of OPEC have little to do with the Palestinian problem; they have much more to do with a host of other problems that relate more to economic issues than anything else.

The radical Arab states such as Libya and Iraq are, because of their Marxist orientation, anti-American from any perspective. As the gulf which divides U.S. policy from the radical Arab states is vast on matters unrelated to the Palestinian problem, there is no evidence that suggests that these states would be less hostile if the United States abandoned its long-standing policy in the Middle East in support of the establishment of a Palestinian state.

These views are infrequently expressed, but we should all be grateful for Irving Kristol's incisive—if unfashionable—analysis of the Palentinian problem. He has, in the space of less than 1,000 words, deflated the faulty premises of the season's most misguided policy recommendation. Professor Kristol's informative essay should be read by anyone who believes the notion of a Palestinian state to be congruent with the interests of the United States. This essay appeared in the October 25, 1979 issue of the Washington Post.

WHAT A PALESTINE SOLUTION WON'T SOLVE

(By Irving Kristol)

Public discussion of our Middle East policy is being increasingly bedeviled by two common fallacies. The first is that a solution to the Palestinian refugees problem, in the form of a Palestinian state on the West Bank, is a precondition for any overall Israeli-Arab settlement. The second is that the achievement of such a settlement will result in a significan improvement in the terms of trade between the United States and OPEC, thereby ameliorating our energy crisis.

The establishment of a Palestinian state on the West Bank will not—because it cannot—solve the refugee problem. This is quite evident to Anwar Sadat, to Menachem Begin and to Yasser Arafat, and explains much about their respective foreign policies. It seems less evident to our State Department or to John Connally.

The West Bank is a relatively arid territory one-fourth the size of Massachusetts, with some 700,000 inhabitants, a high birth rate and a limited economic potential. Even now, some 50,000 West Bank Arabs—approximately one-third of the labor force—commute daily to Israel for their jobs. How on earth is this territory going to absorb close to 1 million new immigrants—a figure that assumes that most of the Palestinians now living in Jordan will stay there?

Even with the most generous foreign aid, economic development of this territory will be slow and incremental. Its inadequate water supply by itself guarantees that. Indeed, there exists no plan of economic development that can get much ahead of the growth of the present population, to say nothing of hundreds of thousands of new immigrants—and to say nothing, either, of the natural increase in the refugee population, which also has a high birth rate, in the years ahead.

Is it any wonder that, in the period 1948–1967, when Jordan occupied the West Bank, the idea of this area representing a solution to the refugee problem seems not to have occurred to anyone?

A Palestinian state on the West Bank could not help being irridentist, seeing its future in the repossession of Israeli territory. This explains why Arafat will not recognize the territorial integrity of Israel, why Begin resists the idea of a Palestinian state and why Sadat is trying to finesse the whole issue by focusing on "autonomy" rather than sovereignty. These are all rational men who define their interests in terms of Middle Eastern realities. The notion that they are simply "unreasonable," while Americans are uniquely in a position to design a reasonable and comprehensive settlement, is absurd.

If the notion that the West Bank offers a solution to the Palestinian refugee problem is absurd, the idea that the high price of OPEC oil can be reduced by any alleviation of Arab-Israeli tensions is preposterous.

OPEC is primarily an economic organism. Many important members of OPEC—e.g., Nigeria and Indonesia—are neither Arab nor Middle Eastern. And all members of OPEC have a much keener interest in higher oil prices than in the Israeli-Arab quarrel. How quickly we seem to have forgotten that one of the architects of OPEC was none other than the shah of Iran, who was no political enemy of either Israel or the United States.

Moreover, to the degree that politics does enter the picture, many of the key Arab and Islamic members of OPEC are at least as much anti-American and anti-West as they are anti-Israel. These include Libya, Algeria, Iraq and—today—Iran. Even Saudi Arabia was duly represented at the recent "Third World" conference in Havana—a conference that paid relatively little attention to Israel and directed its hostility mainly toward the United States. When and if these nations are inclined to use their oil as an instrument of foreign policy, they will do so, Israel or no Israel.

The problems posed for American foreign policy by the Arab-Israeli conflict and the existence of OPEC are as complex as they are critical. This would hardly seem to be the moment to take flight from these problems by embracing "solutions" so illusory as to be more accurately labeled "panaceas."●

WORKER STERILIZATION AT AMERICAN CYANAMID

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. GAYDOS. Mr. Speaker, I would like to call my colleagues' attention to an incident involving the sterilizaiton of four women employees at the American Cyanamid plant in Willow Island, W. Va. These women alleged that they had themselves sterilized after a plan official implied that the surgery might help save their jobs. An OSHA investigation revealed that American Cyanamid announced in January 1978, a policy which, in effect, required women workers to be sterilized in order to continue working in areas of the plant where they were exposed to excessive levels of lead. This policy was in response to a fear of possible lead poisoning damage to a fetus.

Occupational exposure to lead can cause damage to the nervous, urinary, and reproductive systems; and studies have linked lead exposure in workers to defects in their offspring.

As a result of its investigation, OSHA has proposed a $10,000 penalty against the plant for its sterilization policy. Earlier this year, OSHA issued a number of other citations against American Cyanamid relating to excessive worker exposure to lead and chromates.

Clearly working men and women must not be forced to forfeit their ability to conceive children in order to maintain their current jobs. Such actions by any employer are totally inexcusable. Finally, this incident dramatizes the vital importance of the Occupational Safety and Health Administration in insuring the worker the right to a safe and healthful environment free from harassment by this employer.●

OIL PROFITS AND CONTROLS

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. SYMMS. Mr. Speaker, for the past several days the news media has once again deluged all of us with reports of the "unconscionable" profits of the oil companies.

True to form, all of the politicians in Washington picked up on the issue and are now busy proclaiming how they are going to save the consumers money. I believe it is important, however, that we carefully examine the issue.

The first fact that the Congress must face is that we cannot enforce control over most of the oil that is used. Half of our oil is imported; 20 percent is decontrolled domestic oil; fifteen percent is uncontrolled at the product level; heating oil is at the world price. Consequently, even if we are controlling the domestic crude price from which it is refined, it is not going to change the price to the consumer. My question then is, why are we reversing our previous decision to end price controls and allocations?

The second notion that must be discounted is that profits are in some way contrary to the public interest. This body fails to realize that there is not any reinvestment unless there are profits. Admittedly, Gulf Oil's profits in the last quarter were approximately $1 billion. However, we must also realize that they plowed $1½ billion into research and development of new sources and types of energy.

The third issue that must be examined is who are the benefactors of the supposedly "unconscionable" profits. An article which appeared in today's Wall Street Journal clearly indicates that the benefactors are the pension funds, insurance companies, mutual funds and other mechanisms for small savers to pool their resources in addition to charitable and educational foundations, colleges and universities and employee pension funds.

THE BIG OIL RIP-OFF

Motorists fumed over gasoline lines in the summer, fuel prices soared, filling station service deteriorated—and now, Exxon reports its third quarter profits were up 119% from a year before. If the oil politicians had written the scenario for piling new taxes on the oil industry they couldn't have planned it better.

Indeed, Herblock had an anti-oil cartoon in the Washington Post the very morning of the Exxon announcement; Jimmy Carter said the big oil profits aren't "fair to the American people" and James G. Archuleta, of the Oil, Chemical and Atomic Workers Union called the Exxon profits "pornographic," presumably is even worse than obscene. And yesterday the House reversed its previous decision to end gasoline price controls and allocations, apparently in the belief that keeping controls would punish the oil companies for their success.

To start to put this in perspective, you have to ask who gets these profits. Not Exxon's hired managers, as well compensated as they surely are. The profits go instead to shareholders, either directly as dividends or indirectly through share appreciation if profit is reinvested within the business. So who are these shareholders now so widely accused of greed?

Some 65% of Exxon's shares are held by institutions. These pension funds, insurance companies, mutual funds and other mechanisms for small savers to pool their resources. Plus charitable and educational foundations, colleges and universities and the like. Employee pension funds alone own 28% of Exxon. Just what does Herblock have against retired people?

The question is even more pertinent if you notice that most of Exxon's profit gains were overseas, while most of the shareholders are Americans. If you insist on seeing profits as an income transfer, they were a transfer from European consumers to America's social welfare institutions for the retired aged. Hardly a cause for yelling or screaming on the New Jersey Turnpike; maybe so in M1 to London.

But anyone who might wish to rise above penny dreadful analysis has to ask about the origin of these profits. Why are the oil companies making so much money? In fact, the companies themselves have little control over most of the variables—prices, exchange rates, taxes, Iranian politics—that govern their profit rates. They really do not even have the option of trying to lower their profits by cutting prices, since in the short run only so much oil is available, and since prices below market-clearing levels would leave them swamped with orders they could not fill. Gas lines and the like would return; this is also likely to be the actual effect of yesterday's House vote.

In any industry, when prices rise faster than the overall rate of inflation, as oil produce prices did this last year, it reflects, in simplest terms, diminished competition. The diminished competition in the oil industry this past year resulted not from a lack of competitors—there are 28 sizable oil companies—but the political restraints that have been applied to the energy industry, including all the products that compete with oil.

The Natural Gas Act crimped domestic drilling of natural gas, which was rising healthily before the act was passed. Environmental laws have curtailed coal use and expanded demand for unleaded gasoline, which requires more crude oil to produce than leaded gasoline. Pressures from the "No More Nukes" Yippies have stalled nuclear power development.

All of this is now to be remedied by piling still more burdens on domestic energy production. The windwall profits tax, which has gotten such a marvelous boost from the Exxon numbers, will further discourage U.S. oil production, reducing the total world supply of oil and practically guaranteeing that world prices and the overseas profits of the major oil companies will continue to rise. This will bring more screaming and yelling and more Herblock cartoons from Washington. And with the screaming and yelling will come new regulations, new taxes, new restrictions on domestic energy production.

Oil industry executives, many of whom would probably like nothing better in this poisoned political environment than to report a 1 percent profit decline, will continue to be benumbed by all the political and legal pressures that interfere with their fundamental goal of finding, producing and selling fuel.

The oil politicians, gearing up to run next fall on how forcefully they have championed the interests of the consumers, couldn't have written a better scenario. We wonder, however, if there won't come a point when the consumers and voters will begin to ask if they really need friends like these.

It is incumbent upon the Members of this body to intelligently examine this issue which is vital to our Nation's interest.●

FRANCE AND OTHERS HAVE NUCLEAR LEAD

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. WYDLER. Mr. Speaker, as we have debated the annual authorization for the Department of Energy in recent weeks I think it is worth noting that this country is falling further and further behind both our allies and the Soviet Union in the development of nuclear power as a major energy source. I include in the RECORD at this point a recent editorial which stresses this sad state of affairs. As the editorial states, the nation that discovered atomic power has now tied its own nuclear industry in knots:

[From the St. Louis Globe-Democrat, Oct. 17, 1979]

FRANCE, OTHERS HAVE NUCLEAR LEAD

France has jumped far ahead of a paralyzed United States in building not only conventional water reactor plants but also in developing a commercial fast breeder reactor, facilities for reprocessing spent nuclear fuel and a process for safely storing nuclear waste.

The French, now 10 years ahead of the U.S. in developing nuclear power, have moved so rapidly that they plan to produce 60 percent of their electricity from atomic power by 1985. The straitjacketed U.S. nuclear industry will be lucky if it is producing 18 percent of the nation's electricity by 1985.

The French, the British, the Soviet Union and other major industrial countries have recognized the great potential of the breeder technology that apparently has escaped President Carter and others in Washington.

For the fast breeder has two enormous advantages over present reactors. First, it is able to use the abundant Uranium 238 which comprises about 99 percent of uranium fuel. Conventional reactors, by contrast, must rely on Uranium 235 which comprises less than 1 percent of the uranium fuel.

Secondly, when the U-238 is bombarded with neutrons along with plutonium, the reaction produces more plutonium than is consumed—hence the name, breeder.

Thus the fast breeder is able to get up to 80 times as much energy from the same uranium that now is used in present reactors. Another important factor is that the United States has an incredible amount of U-238 stored in drums at uranium enrichment plants since U-238 is a byproduct of this process.

Opponents have argued that the U.S. shouldn't move ahead on nuclear power because the technology and facilities for storing nuclear waste haven't been developed. But, here again, the French have proven that this is a phony argument. They not only have developed the technology but have built a plant that is busily engaged in enclosing hazardous nuclear byproducts in solid glass blocks that can be safely stored underground in a relatively small area for hundreds of years. The process is called vitrification.

France, Britain, Soviet Russia and other countries all are doing the things in developing nuclear power that antinuclearites in this country say can't be done. They are moving steadily toward a future that is less and less dependent on oil and other scarce and costly fossil fuels. Meanwhile the nation that discovered atomic power has tied its own nuclear industry in knots and has put itself increasingly at the mercy of the OPEC oil pirates.●

EAGLES IN CEDAR GLEN

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. RAILSBACK. Mr. Speaker, in Illinois' 19th Congressional District is an area called Cedar Glen where the Bald Eagle, our national bird and an endangered species, spends its winters. Prof. Thomas C. Dunstan, an associate professor of biology at Western Illinois University—also in the 19th District—wrote an article entitled "Cedar Glen, Land of Wintering Eagles" which was published in the September/October 1979 issue of the Nature Conservancy News. I am pleased to submit the article for printing in the CONGRESSIONAL RECORD so that others may have the opportunity to read it:

CEDAR GLEN, LAND OF WINTERING EAGLES

(By Thomas C. Dunstan)

South of Chicago is the prairie state of Illinois. The Mississippi River passes down the entire western border of the state. During the fierce cold days in the dead of winter each year, our national bird, the bald eagle, gathers along the "Mighty Miss" in large numbers. At the Cedar Glen area, near the river's Lock and Dam 19 in west-central Illinois, eagles find a rare wintering situation that is vital to their survival during the 5- to 6-month period when they are away from their breeding ranges in the northern states and Canadian provinces.

Since 1969, as an associate professor of biology at Western Illinois University, I have been conducting research on winterizing eagles at Cedar Glen and at other sites up and down the Mississippi River. As a young boy, and later as a professional biologist studying the breeding ecology of eagles in Minnesota, I puzzled over the question of where breeding eagles go and what they do during the winter. After nine years of study, and through the combined efforts of my students and colleagues at the University and the Illinois Chapter of The Nature Conservancy, the answer is partially known. We have also helped raise people's consciousness about our responsibility for protecting this endangered raptor. In 1970, Cedar Glen and the surrounding 182 acres were purchased by the Conservancy in order to save an eagle night roosting site from potential destruction, and to safeguard eagles from human encroachment and harassment.

Cedar Glen is an eroded "punch bowl" about 4 acres in size, located among and behind an upland ridge of Keokuk limestone of Valmyerian age. The "bowl" lies adjacent to the Mississippi River. Most of its rim is surrounded by a natural windbreak of red, black, and chinquapin (*Querces muhlenbergii*) oaks, the latter species typically associated with dry limestone buffs. In the bottom of the glen and bowl area are several large sycamores with widely spread branches that are the eagles' favored perch sites. On clear, frigid winter nights when the moonlight glistens off the snow, 20 to 40 eagles can be seen perched side-by-side in each of the trees.

Annually, the Illinois Chapter of The Nature Conservancy organizes a winter field trip to Cedar Glen to see the eagles and to share new information with interested members. For example, we have discussed and explained the three habitat-use areas that are important to eagles. One area is comprised of the primary feeding and eating sites between Warsaw, Illinois, and Lock and Dam 19 on the Mississippi. The second habitat consists of loafing areas—sites away from the river, which are protected from wind and exposed to the warming rays of the sun. The area adjacent to Eagle Island and the newly discovered Crystal Glen area next to Cedar Glen comprise the kind of habitat that the eagles use and need as roosting sites. We have also discussed the eagle's food habits and fishing behavior.

Since the initial purchase of the Cedar Glen night roost in 1970, the Conservancy has also purchased Mud Island, Eagle (Mink) Island, and mainland areas used for feeding, eating, loafing, and some night roosting. The Conservancy's project now encompasses about 580 acres. Several critical areas, including the newly documented Crystal Glen Night Roost, are worth protecting in the immediate future. Acquiring these additional areas would safeguard an entire system of components necessary to the survival of bald eagles in winter. The Conservancy also joined the Illinois Superintendent of Public Instruction's Office and the Illinois Audubon Society in a school children's "Dimes for Eagles" drive in 1976. Funds from the drive were used to purchase the Prairie State Eagle Refuge—also known as the Children's Eagle Refuge—adjacent to the Conservancy's properties.

Last winter, during the blizzard of '78–'79, Cedar Glen appeared to be the "true Mecca" for bald eagles in the Midwest. Data from the National Wildlife Federation's First National Census of wintering bald eagles in the 48 contiguous states documented the presence of 1,295 eagles along the Mississippi River from Minneapolis, Minnesota, to Cairo, Illinois. The majority ate, loafed, and roosted along the Illinois shore of the Mississippi. This large number of eagles exceeded counts made in any other state censused. The "Land of Lincoln" became the "Land of Wintering Eagles." The significance of the Cedar Glen area itself was never more apparent—the white heads and tails of hundreds of adult bald eagles could be seen brightening the clear, blue January skies. We recorded a record high minimum number of 454 eagles (359 adults, 88 immatures, and 7 eagles of undetermined age) in Cedar Glen during the national count. This total is about *double* the usual number that frequents the area. Also, it was seven or more times greater than numbers from any other single site censused along the Mississippi River.

The Glen's future is promising, but not secure. All necessary habitat requirements must be met—guaranteeing only part of the ecosystem is not enough to protect the eagles. Present activities, such as the building of the new interstate bridge from Iowa to Illinois right through the study area, require that we continue our efforts to acquire additional and necessary critical habitat. This time we can provide information for making decisions about bridge locations and construction activities; however, time is short. Past debts have to be paid so new areas can be purchased. Furthermore, what we learn at Cedar Glen can also be used to preserve other habitats for wintering eagles, both along the Mississippi River and throughout North America.●

CARTER'S SALT-SELLING CAMPAIGN: A $1,000,000 RIPOFF

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. ASHBROOK. Mr. Speaker, some of my colleagues are aware and indeed parties in a lawsuit which asks that President Carter's SALT-selling campaign be ruled unconstitutional in Federal court. The use of appropriated funds for the purpose of influencing Congress is clearly illegal under the United States Code but the State Department has persisted in using our tax dollars to lobby the U.S. Senate for ratification of SALT II, the latest U.S. effort to appease the Communist government in the Soviet Union.

John D. Lofton has written in this week's edition of the Washington Weekly an excellent piece on this very subject. I think that my colleagues may be interested in reading this detailed account of how taxpayers' dollars have been used to garner support for the ratification of this ill-advised treaty. The Lofton article follows:

CARTER'S SALT-SELLING CAMPAIGN: A $1,000,000 RIPOFF

WASHINGTON.—In the absence of express authorization by Congress, it is illegal to use appropriated tax dollars to directly telephone or to finance letters, "printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress . . ." Any officer or employee of the United States who violates this law shall be fined not more than $500 or imprisoned not more than one year, or both; and, according to 18 U.S.C., Section 1913, after notice and hearing by the superior officer vested with the power of removing him, the transgressor shall be removed from office or employment.

When he's asked if the Carter administration has violated this federal statute by spending tax dollars to sell the SALT II strategic arms limitation treaty with the Soviets, State Department press spokesman Hodding Carter III is aghast at the mere suggestion. When he responds, one can hear the playing of "The Star Spangled Banner" in the background; one visualizes Old Glory snapping in the breeze, firmly planted in a field where amber waves of grain are gently swaying in the wind. Carter says:

"I think it is absolutely proper for this administration or any administration to present to the American people a rationale and reasons for policies which it is pursuing. It is, in fact, an obligation of this government to make sure that the people of the country understand the policy and have an opportunity to speak to it, and to those who are involved in implementing the policy and in carrying it out. We would be remiss in our duties if we did not pursue such a course of public information . . . we have engaged, not in lobbying Congress, but in informing the American people."

According to the General Accounting Office, during 1978 and the first half of this year administration SALT-sellers from the State Department's Public Affairs Bureau, the SALT Working Group, the Office of the Counselor, "other bureaus," the Arms Control and Disarmament Agency, "other offices," the Defense Department and the White House have participated in 1,065 speaking engagements and 1,028 media events. The cost to the taxpayer of these 339 trips to 48 states and the District of Columbia has been $1.2 million. These officials addressed numerous academic groups, religious organizations, civic clubs and conferences, and participated in TV, radio and newspaper interviews.

During just the first six months of this year alone, the State Department—at taxpayer's expense—distributed more than half a million copies of documents, reports, pamphlets and speeches, all selling the SALT II treaty, at a cost of nearly $100,000.

In recent months, the White House Office of Public Liaison has stepped up its SALT-selling effort. No count has been made of the number of people invited to these sessions, which usually feature the president and the secretary of defense. But Anne Wexler, who heads the Liaison Office, says: "It is in several thousands, with different levels of contact." Ms. Wexler's office lists 800 names in its SALT file. Concerning the question of the salary costs for White House staffers involved in this selling of SALT, Ms. Wexler's office informs the General Accounting Office: "No records have been kept which would provide any reasonable estimate of what portion of an individual's time was spent on SALT II and therefore, no reliable cost data can be computed."

Anne Wexler has vigorously denied to me that the administration is engaged in any illegal lobbying for SALT with public funds. She says she is "very conscious" of the legal question involved and "very careful" that the law is obeyed. Ms. Wexler says: "We want to make information available so that the public can understand the context and the issues, whatever their final decision on SALT or any other topic might be. Our efforts are educational and consistent with federal law."

But either Ms. Wexler's memory is short or she's not paying close attention to what White House SALT-sellers are saying at her forums. In June, The New York Times quoted President Carter as telling one State Dining Room audience: "I hope you'll leave here and become strong and articulate advocates of SALT who will make your voices heard by your senators." In mid-August, according to National Journal reporter Dom Bonafede, Carter told another White House SALT-selling audience that it was important "for your voice to be heard back home and for you and others to let senators know how you feel."

Regardless of the semantic hair-splitting being engaged in by White House and State Department officials, the truth is that the 'massive SALT-selling "educational" campaign the administration is engaged in is precisely the kind of tax-funded indirect lobbying prohibited by federal law. In fact, in a moment of unguarded candor, Ms. Wexler told National Journal reporter Bonafede; "Our job is to create lobbyists." Indeed.

Footnote: When I asked Ms. Wexler if there was a memo from the White House counsel dealing with the legality of selling SALT, she said there was. When I asked if I could have a copy of it, she said she would check and see. I was subsequently informed that this document could not be made available.●

SALUTE TO THE REVEREND ANTHONY WISNIEWSKI

HON. LYLE WILLIAMS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. WILLIAMS of Ohio. Mr. Speaker, on Sunday, September 9, the Reverend Anthony Wisniewski and the Holy Cross Parish of Youngstown, Ohio, observed the golden jubilee of his priesthood in the Polish National Catholic Church. Ordained on August 7, 1929, by the Prime Bishop Francis Hodur, organizer of the PNCC, Father Wisniewski remembers well the spirited preaching of Bishop Hodur in his native Poland, and his influence in his life.

Father Wisniewski has been a staunch supporter of the Polish National Union, and has brought some 570 new members into "Spojnia," serving as secretary of branch 197 since 1969. He cherishes a plaque given by the supreme management as a tribute to his efforts—the first such plaque ever awarded.

The people of Holy Cross Parish whom he has served for 17 years know Father Wisniewski as a dedicated, hard working, sympathetic friend. The Father Jubilarian has led them in the construction of a new social hall, and the remodeling of their sanctuary and rectory. His efforts on behalf of Polonia in the Youngstown area are well known and hailed.

I am delighted to call attention to this important milestone in the life of Father Wisniewski, and to offer congratulations to him, his wife Eva, and children Richard, Jane, Eva, and Michael. They have served their community, their people, and their church well.●

THE PLO: "EXILE GOVERNMENT"

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. FINDLEY. Mr. Speaker, most Americans see the PLO only as a terrorist organization. The PLO, however, is much more, as the following article from the October 22, 1979 Wall Street Journal demonstrates. The Ray Vicker story details, in part, the meaning of the PLO for Palestinians.

[From the Wall Street Journal, Oct. 22, 1979]

NOT JUST GUERRILLAS—THE PLO MAKES GAINS ON BOTH THE INDUSTRIAL AND DIPLOMATIC FRONTS

(By Ray Vicker)

BEIRUT, LEBANON—To many people, the Palestine Liberation Organization is just a guerrilla group bent on the destruction of Israel. And if you're an Israeli, that may be all you have to know.

But the PLO is much more than that. It is a well-financed organization with growing international contacts whose diplomacy is beginning to outrank its violence as a political weapon. It has a budget exceeding that of many countries in the United Nations. It owns and manages businesses ranging from a Belgian charter airline to a Lebanese shirt factory. It has its own "state department," welfare agency, hospital chain, "national" library, education department, think tank, press agency, radio network and tax-collection system.

As such operations indicate, the PLO is something like a government-in-exile for the world's 3.5 million to four million Palestinians. A PLO official in a well-guarded office in southeastern Beirut says:

"We have everything to make a country except the land."

WHAT THE PLO DOES

Some examples of the PLO's activities:

Dr. Youssef Iraki is the financial director of 12 hospitals, mainly in Lebanon. Trained at Moscow University, the Palestinian is a vigorous, shirt-sleeved surgeon with an athletic build who regrets that his administrative work keeps him from the operating room. His skills serve the PLO, which controls all 12 hospitals.

A half-dozen books in Hebrew lie on the office desk of Sabri Jiryis, a Palestinian graduate of Hebrew University in Jerusalem. Currently, his knowledge of Hebrew is employed by the Palestine Research Center, here, where he directs. The center is part of the PLO empire.

Salah Abou Rialeh holds a doctorate from the University of Chicago. He is a lean, angular Palestinian who spent a couple of decades in Saudi Arabia's oil industry. Today he is one of the directors of a conglomerate of 33 industrial plants in Lebanon that make everything from shoes to processed food. All 33 plants are owned by the PLO.

This decaying city of sudden explosions and rattling gunfire is the PLO's headquarters and the home of most of its administrative offices; Lebanon is too weak to keep anyone out. The agencies are scattered around town in office buildings or converted apartment houses. All are guarded by youths wearing khaki or camouflage uniforms and carrying Russian-designed Kalashnikov rifles. Tank barriers and sandbag inspection posts often advertise the fact that some PLO office is nearby. The wartime atmosphere prevails because Israeli commandos have attacked PLO centers in the past and probably will in the future. Visitors grow used to suspicion and bomb searches.

AL FATAH DOMINANT

Still, it is worth the trouble to visit PLO hospitals, plants, refugee camps and administrative offices. Interviews with officials and employes provide clues to what makes the organization tick.

The PLO is an umbrella organization composed of numerous fighting groups. Al Fatah, which is led by Yasser Arafat, is by far the largest, and it dominates the PLO; Mr. Arafat is the PLO's chairman. Al Fatah leads the PLO wing that believes that diplomacy and negotiations can bring results in the Middle East. The PLO wing that believes that only war can settle the Middle East's problems—the self-styled "rejectionist front"—is led by the Popular Front for the Liberation of Palestine, whose headquarters are in Iraq.

Iraq, Saudi Arabia, Kuwait, Qatar, Abu Dhabi and other Arab oil states give the PLO financial aid. Each price increase by the oil cartel thus enhances the ability of its members to contribute to the PLO.

That oil money isn't all the PLO gets, either. It receives other international aid of various types, and it collects "taxes" from several hundred thousand working Palestinians scattered around the globe. These taxes range from 3% to 6% of gross pay. In some countries, such as Kuwait, employers, whether public or private, withhold the tax for the PLO. Payments are voluntary, but few Palestinians refuse to go along.

All told, "PLO revenues must be running around a half-billion dollars a year," one source says. Moreover, the money is going directly to the PLO, not to its member groups. This gives Mr. Arafat a powerful weapon for keeping the various groups in line—for getting them, say, to back any move toward peace negotiations.

PENSIONS FOR SURVIVORS

Over the years, the PLO has lost many fighters in action. Today, about 25,000 widows and other dependents draw pensions or other benefits. One document estimates this cost alone at $30 million a year.

The PLO's industrial conglomerate, called Samed, developed from these survivors' needs. Sons and daughters of slain fighters were given jobs distributing foods, blankets and the like in refugee camps. In the last half-dozen years, as more money flowed into PLO coffers, Samed expanded into a chain of factories. "Our main purpose is to provide jobs," says the University of Chicago-trained Mr. Rialeh.

Mr. Rialeh leads the way into a basement shirt factory. Sixty men and women work at lines of humming Mitsubishi sewing machines. The scorched smell of cloth under a hot presser is evident. Shirts pass from machine to machine. Each shirt has Samed's emblem—an arm holding a torch—on its collar. "We are producing 300 shirts a day," says Sater Hussein, manager of cutting operations.

A nearby PLO pants factory employing 75 people is producing at the same rate. "This is the father of all our factories," says Zuhair Hamzeh, the facility's 23-year-old manager. "In 1972, this factory had four machines and five workers. Now it has 62 machines and 75 workers."

One of the biggest of Samed's 33 plants is a furniture factory near Beirut's airport. It has just been enlarged to 32,500 square feet, about four times its previous size. Several of its 150 workers fit sections of chairs into place for gluing. Fawaz Hassan, an accountant, uses a hand calculator to estimate labor and material costs per chair.

Abu Nader, the production manager, worked for General Motors Corp.'s Buick distributorship in Beirut for 20 years. That operation folded, and for the last two years he has been with Samed. "This factory is one of four in this complex," he says. The three others are new. Abu Sheikh, director of a handicraft plant, says that operations there began only five days earlier. "We have 70 men and women already," he says, "and probably will have many more."

Sales figures weren't disclosed at any Samed plant, but based upon production and prices charged, each plant probably chalks up annual sales of about $500,000.

40,000 AT REFUGEE CAMP

Burj al Brajmeh refugee camp is adjacent to the four-plant airport industrial complex. Forty thousand people are jammed into a warren of one-story, concrete-block houses. Narrow alleys with open drains provide passage. Compounds are neatly swept, interiors bright with whitewash. Tin cans with geraniums and other plants brighten the scene. Children play in the few existing open spaces. A line of women, most with young children, waits beside the small hospital for attention.

The 12 hospitals and their 100 clinics charge only nominal fees of 90 cents to $1.50 per visit to a doctor, including all prescribed drugs. "A person without money doesn't have to pay anything," says Hadla Ayoubi, an official at Acre Hospital in Beirut who is trained in the law. Like many other Palestinians, she contributes time in a low-paying job to aid, as she puts it, "the revolution."

The hospitals treat 3,000 patients a day. Among them is nine-month-old Nazer, an alert, extroverted child who stands up in his crib at Nazareth Hospital every time a visitor enters. His ready smile charms one visitor into picking him up and holding him awhile. Nazer's father was killed in Israel in a guerrilla raid. His mother died in childbirth. He is in the hospital for lack of any other place to go.

"MY NAME IS DALAL"

Nearby is three-year-old Dalal, a blind child from one of the Israeli-bombed villages in southern Lebanon. Her entire family was wiped out by an Israeli aerial bomb a few months ago. Dalal was pulled from the wreckage of the family home. Now she wants to withdraw from the world into her private darkness, saying little more than "My name is Dalal, my name is Dalal."

"She needs special attention and we don't have it," a nurse whispers.

Moscow University-trained Dr. Iraki says: "There has been too much killing. We want peace and a homeland, and we shouldn't give the extremists of either side a chance to fight merely for the sake of fighting."

There are signs that Mr. Arafat and his dominant clique, perhaps growing more realistic as the PLO empire grows, would be willing to recognize Israel in exchange for a Palestinian state that might consist of the West Bank and Gaza. That state probably would be federated with Jordan, and oil money presumably would pour in. Meanwhile, the PLO gains on the diplomatic front, maintaining offices in more than 50 countries.

Its leaders now are received by the governments of Austria and Spain. Portugal has invited a PLO delegation to visit. So has Belgium; Common Market nations lean toward recognizing the PLO. A black delegation from the United States—later criticized by many U.S. black leaders—has been welcomed by the PLO in Lebanon and has promised that the organization's point of view will be spread throughout the U.S.

The United States, of course, refuses to deal with the PLO until the latter recognizes the existence of Israel. Indications here are that dominant forces in the PLO would be happy to recognize Israel if Israel recognized the PLO, but the PLO doesn't want to make any unilateral concessions.

As the PLO's wealth grows, so does the problem of allocating it. Generally, a 15-member executive committee headed by Mr. Arafat decides how much money goes to military groups and civilian agencies. Some of the worst wrangles in the PLO have concerned the distribution of funds.

Military equipment and armament cost big money today. And all those guerrillas you read about are paid soldiers' wages, starting at about $100 a month and rising to brigadier general's pay, possibly $900 a month. Militarily, the PLO has three wings: commandos who operate guerrilla style; the Palestine Armed Struggle Command, which operates as military police in refugee camps and mediates intra-PLO rivalries; and the Palestine Liberation Army.

This army has about 5,000 men with heavy weapons, tanks, armored cars and all the armaments of conventional warfare. It often joins the Syrian army on maneuvers.

Civilian agencies and organizations are claiming more and more PLO funds. The hospital chain alone has 1,000 employes. The 33 factories in Lebanon employ 7,500. Pay scales range from $90 a month for a laborer to $900 a month for a key executive.

One important claimant for PLO funds is education. Palestinians are strong believers in it, and the PLO, through its various agencies, is liberal with scholarships. Samed, for instance, now has 300 people attending technical schools in Europe. Overall, thousands of Palestinians have scholarships.

Some sources say that Palestinian university graduates outnumber those in Israel. True or not, it is evident that higher education among Palestinians is close to the Israeli level, and Jews have always revered education.

"We are like the Jews and the Armenians. As homeless people, they came to regard education as the avenue through which they could escape the ghetto," says Mr. Jiryis, the director of the PLO research center. "Our people, too, now look upon education as the only way to get ahead."

An estimated 50,000 Palestinians now are in the U.S. About 5,000 of them are university professors.●

AN OVERVIEW OF THE BIKEWAY DEMONSTRATION PROGRAM

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. ANDERSON of California. Mr. Speaker, Mr. David K. Phillips of the Federal Highway Administration recently presented a speech to the Institute of Transportation Engineers, on the bikeway demonstration program which was established in 1974.

Response to the $6 million one-shot grant program was outstanding. Four hundred and ninety-five projects were submitted for funding. Forty-one projects in thirty-one States were selected for participation. And today, of the original $6 million appropriated, only $300,000 remains unobligated. Even these funds, I have been told by FHWA, "are committed to certain projects but have not been obligated yet because construction has not begun or project accounts have not been finalized."

On a different bicycle program, section 141 of the Surface Transportation Assistance Act, it appears likely that for fiscal year 1980, Congress will approve a final appropriation of $4 million. As was the case with the $6 million bikeway demonstration program, I feel sure these moneys will be well spent to facilitate an energy-efficient, nonpolluting mode of transportation.

Perhaps for fiscal year 1981, we can come closer to appropriating the full $20 million that is authorized by law for section 141.

Mr. Speaker, so that more of our colleagues may benefit from Mr. Phillips' speech, I would like to insert it in the RECORD.

THE BIKEWAY DEMONSTRATION PROGRAM

(Speech by David K. Phillips)

The current situation in the United States regarding bicycle travel is one of learning. The United States is still in its infancy when it comes to integrating the bicycle into urban transportation systems.

Bicycles are toys! Bikes don't belong on streets! These and similar attitudes are not uncommon. The extent that the bicycle is regarded as a viable mode of transportation varies around the U.S. Steps are being taken on all levels—Federal, State, and local—to improve bicycle travel. The Bikeway Demonstration Program, the subject of my talk, is one of the Federal Government's efforts to promote bicycling.

In the early 1970's a bicycle boom hit the U.S. Sales of domestic and imported bicycles in 1972, 1973, and 1974 averaged over 14 million. Since 1970, there have been more bicycles sold than automobiles. It is no longer just children buying and riding bikes, but adults of all ages now own and use them.

But what do we see in the city streets? Do we see hundreds of bicycles? Are 10 percent of commuters on bicycles? The answer unfortunately is "no." A 1975 study of metropolitan areas showed a little less than 1 percent of trips to work were made by bicycle.

Many positive steps are being taken in the U.S. to improve the conditions for traveling by bike. Since the 1960's some communities and States have been active in bicycle programs, whereas others are just now implementing their first bikeway or bicycle education program.

In the early 1970's the Federal Government became more interested in developing the bicycle's potential as a mode of transportation. National conferences, training courses and funding programs, and numerous research studies were completed.

The FHWA, a branch of the DOT, became involved in 1970 in constructing bicycle facilities on Federal-aid highways. The Federal Government did not actually build the facilities, but provided the funding and oversight for States and communities that wished to do so. Funds were not reserved exclusively for bicycle facilities, but were general highway construction funds that could be used for bikeways.

When Congress passed the Federal-Aid Highway Amendments of 1974, the Bikeway Demonstration Program was established. Six million dollars was earmarked for promoting and constructing bicycle facilities in urban areas. Projects were to be funded on an 80 percent Federal and 20 percent State-local matching basis.

The response to the program was overwhelming. The 495 projects submitted for funding were developed by a wide assortment of transportation agencies, park and recreation departments, and universities. Projects were initiated at the State or local level, most of which were developed exclusively for the demonstration program. The proposals did not include detailed designs, but only proposed concepts.

In choosing projects, emphasis was given to those with nationwide application. New ideas and practical demonstrative features were the most important considerations. Other factors that were considered during the selection process include likelihood of early implementation, quality of the monitoring and evaluation plan, and indication of support and commitment of other public agencies.

In October 1976, 41 projects were selected for funding.

The Bikeway Demonstration Program funded a wide variety of bicycle facilities. Small towns, as well as some of the major metropolitan cities, received grants. Projects were scattered through the U.S. in 31 of the 50 States. The complexity and cost of the 41 projects range from a low of $20,000 to a high of $352,000. A few projects are oriented for commuting bicyclists, but most of the projects intend to serve all bicycle users.

All of the projects can be associated with major focal points of bicycle traffic, such as residential areas, parks, commercial centers, and employment centers. Interestingly enough, over 75% of the 41 projects either pass through or are in close proximity to schools or college campuses.

As evidenced by some of the projects funded under this program, constructing bicycle facilities can be expensive. Bikeways costing $100,000 a mile are not uncommon. Several of the demonstration projects feature ways to construct facilities at costs lower than normal highway construction practices. Materials such as soil cement, fly ash, and incinerator ash are being used in the pavement structure. To reduce the costs of right-of-ways, several projects are utilizing abandoned railroad rights-of-way, existing utility corridors, and one project is even being located in an existing concrete drainage way (Kansas City, Missouri).

Facilities to overcome barriers to bicycling and facilities to encourage bicycle use in inter-modal travel are two of the more important features being demonstrated in the program.

In many communities there are physical or man-made features which hamper bicycle travel. Providing a facility to overcome barriers such as freeways, hazardous highways, and bodies of water, can greatly promote bicycling. About 25% of the bikeway projects demonstrate this. These projects will provide a better understanding of the extent bicycle travel is enhanced when physical or man-made barriers are overcome.

Besides overcoming barriers, another area with a good potential for increasing purposeful bicycle usage relates to intermodal travel, or the use of the bicycle in conjunction with the use of a bus or mass transit system. Approximately 25% of the bikeway demonstration projects consider this a feature, and several consider it the essential feature. A few projects have located their bikeways in close proximity to a bus or mass transit stop. Making stops more accessible by bicycle should encourage more bike use. Another aspect being demonstrated is adequate parking facilities for bicycles. The possibility of theft is a strong deterrent to using the bicycle in an inter-modal trip. Another interesting way to interface bicycles with transit concerns the provision of bicycle-carrying devices on buses. This is the main demonstrative feature of one of the demonstration projects.

Overall, the Bikeway Demonstration Program truly offers a wide variety of interesting and unusual bikeway characteristics. Some will be highly successful, whereas others may have some problems. But that is what we are hoping to find out.

Each project is monitoring and evaluating the effectiveness of its demonstration features and documenting the results in a final evaluation report. During the selection process, some consideration was given to the quality of the proposed evaluation plan.

To help in coordinating the evaluation reports from each of the 41 projects, a suggested outline was disseminated to each project.

Usage data is being collected on all projects. Findings may include bicycle trips starts and ends, whether bicycle trips are substituting for automobile trips, and purpose of trips. Before and after bicycle counts will be compared. In their original proposals each project was asked to give an estimate of the number of weekly biyclists anticipated to use the facility—about ⅓ said 1000 bicyclists or less, ⅓ said between 1000 and 5000, and ⅓ said over 5000. It will be interesting to see how close the actual counts are.

A large amount of information is being generated from the 41 bikeway demonstration projects. Seeing how the bikeways have affected the number of bicycle accidents, learning what bikeways are suitable to all types of users, viewing the conflict between pedestrians and bicyclists on the bikeways, and looking at the motor vehicle and bicycle conflict at intersections are a few of the important bikeway concerns.

To put the program in a better perspective, I will give you the current status of the program. Also, I would like to fill in a few details on what has happened since the 41 projects were selected in October 1976.

In the original applications almost all of the 41 projects reported that construction would be completed within 1 year. After 2 years, only ⅓ of the projects had been constructed. And now, 3 years after the communities were notified there are still a handful of projects finalizing preconstruction details. Communities have learned that implementing bicycle facilities is not easy. Higher costs, neighborhood opposition and a general lack of experience in constructing bikeways have been the major causes for the delays.

About ½ of the bikeway demonstration projects are being built in areas that have had little experience in developing facilities. Other projects were expensive links that could not have been funded any other way. In this sense, the program has provided an opportunity to develop some practical experience. All of the areas benefited from their efforts in implementing the projects, even the one community that withdrew their project. Many people that had never been involved in bikeways gained some knowledge. As one person remarked, "We sure learned a lot. The next facility we build will definitely be better and easier to do than this one." The program has definitely increased the public's awareness.

One problem that surfaced during the program and which is worth mentioning was the difficulty in estimating the cost of the facility. When the engineer's estimate was made and the project advertised, it was not uncommon for the lowest bid to greatly exceed the estimate. The projects then had to be modified and readvertised. Several projects have had to reduce their scope and delete sections of the proposed bikeway.

Another area that was important in developing the bikeway projects was the need for public input. Several projects were delayed or modified because of public desires. One community decided not to build their project because of opposition from neighborhood jogging groups who opposed a hard surface and from local residents who were afraid of littering, vandalism, and noise. Along with the local residents, the views of bicycle riders should be sought. One project has been delayed for over a year because the original design was unacceptable to the bicycling community.

Besides identifying potential problems, the Bikeway Demonstration Program has pointed out some important aspects to consider when developing bicycle facilities.

A smooth riding surface is necessary. Poor maintenance and debris will result in a facility that is little used. Surface textured shoulders are not suitable. The shoulders should be smooth or bicyclists will ride in the travel lanes.

Providing a facility for bicyclists does not stop with the completion of construction. Proper maintenance is essential. Bikeways also need to be adequately publicized. Several communities developed a brochure depicting a map of the bikeway demonstration project. This was highly successful in attracting riders.

Bikeways are recognized as only one element of a community's program to improve the situation for bicyclists. Bicycle facilities must be in concert with and complement bicycle education and enforcement programs.

Bicycle riders are not all alike. They come in all sizes, ages, and level of skill. They ride a bicycle for a wide variety of purposes. A bikeway that is suitable for one type of bicyclist may be hazardous to another. For example, a sidewalk may be best for the young child, but not for the bicyclist commuting to work. Each type of bicyclist has its own characteristics, and needs. When implementing facilities, one must know what type of bicyclists they are designing for.

In closing, I must say that we still are learning how to best accommodate bicycles into our transportation systems. The Bikeway Demonstration Program has provided an opportunity to advance our knowledge. In the latter part of this year and the early part of next year, we will be assessing the important aspects of the 41 bikeway demonstration projects. Publications will be prepared to disseminate information on the projects to States and communities involved in implementing bicycle programs.

I might add at this point that the energy and highway legislation passed last fall included sections on bicycling. The National Energy Conservation Policy Act of 1978 included a provision to study bicycle transportation for energy conservation. The obstacles to bicycle use and programs to overcome these obstacles are being identified. A report is expected by the end of the year.

Also, Section 141 of the Surface Transportation Assistance Act of 1978 authorized a new funding program for bikeway projects and for nonconstruction projects, such as bicycle education, enforcement, or encouragement programs. Funds may be appropriated by Congress this year. Section 141 also requires the development of bikeway design and construction standards. We anticipate that they will be published in the Federal Register in October.●

EARNINGS TEST FOR SOCIAL SECURITY BENEFICIARIES

HON. AL ULLMAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. ULLMAN. Mr. Speaker, on October 19, 1979, the Committee on Ways and Means favorably reported to the House of Representatives H.R. 5295, to amend title II of the Social Security Act on make the monthly earnings test available in limited circumstances in the case of certain beneficiaries, to amend the technical requirements for entitlement to medicare, and to provide that income attributable to services performed before an individual first becomes entitled to old-age insurance benefits shall not be taken into account (after 1977) in determining his or her gross income for purposes of the earnings test. The bill would amend the social security annual earnings limitation to correct certain unintended and unforeseen problems that are related to the conversion from a monthly to an annual test of earnings as prescribed by Public Law 95-216.

Pursuant to the rules of the Democratic Caucus. I take this occasion to advise my colleagues as to the nature of the rule that I will request for consideration of H.R. 5295 on the floor of the House. The Committee on Ways and Means specifically instructed me to request the Committee on Rules to grant a closed rule which would only provide for:

First, Committee amendments, which would not be subject to amendment;

Second, waiving all necessary points of order;

Third, 1 hour of general debate, to be equally divided; and

Fourth, one motion to recommit.

It is our intention to request a hearing before the Committee on Rules as expeditiously as possible.●

HOUSE OF REPRESENTATIVES—*Friday, October 26, 1979*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Blessed are those who hunger and thirst for righteousness, for they shall be satisfied.—Matthew 5: 6.

Gracious Lord, we recognize that by ourselves we are not able to do or be what You would expect of us. Yet, O Lord, we affirm our desire to serve You with praise and thanksgiving and to assist our neighbors with deeds of love. Grant us wisdom in the ordering of our lives and always give us the assurance that Your spirit will bless us and keep us wherever we are. May we experience the comfort of Your presence as You encourage us in the way of righteousness and truth. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments, in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4249. An act to amend title 23 of the United States Code, the Surface Transportation Assistance Act of 1978, and for other purposes.

The message also announced that the Vice President, pursuant to Public Law 84-689, appointed Mr. HOLLINGS, Mr. METZENBAUM, Mr. RIEGLE (in lieu of Mr. DURKIN, resigned), and Mr. PRYOR (in lieu of Mr. MORGAN, resigned) to attend the North Atlantic Assembly, to be held in Ottawa, Canada, October 22-27, 1979.

OIL COMPANIES' PROFITS

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, as the debate in the Congress focuses upon the emergency fuel assistance program for the sick, the elderly, and the needy so that they may meet their dramatically rising fuel bills, we must not lose sight of one of the major causes of their dilemma—the big oil companies.

The oil companies' profits picture was painted in larger detail yesterday with the pronouncement of their 1979 third-quarter earnings. As we all know, the profits are once again an outrage perpetrated upon the American consumer. Standard Oil of Ohio showed a profit increase for this year's third quarter over last year's of 191 percent; Conoco, 134 percent; Mobil, 131 percent; Exxon, 118 percent; the list is endless.

The needy, for whom we have fought this past week in Congress, as well as the middle-income earner, continues to be buffeted at every turn. The big oil companies, awash in profits, believe that they can ride roughshod over the consuming public. Mr. Speaker, we can no longer allow these arrogant oil barons to manipulate the marketplace. Clearly, they have been a significant factor in throwing our economy into a tailspin as the dramatic rise in the cost of energy reverberates through the economy.

It must be noted that all this is occurring while the investigative branch of the Department of Energy is charging Texaco, Arco, Exxon, Amoco, and Conoco with recent price violations. A total of 114 violations have been levied against the Nations' 35 largest oil refiners. The total amount involved to date is almost $5.2 billion. It is an American tragedy that one industry can wreak havoc upon an entire society of 220 million. We cannot afford to sit idly by with these developments taking place. This Congress must pass the windfall profits tax immediately so that the American public can recoup some of those obscene profits, in some cases, illegally obtained by Big Oil.

LOST AND FOUND

(Mr. HYDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, I want to commend the gentleman from Massachusetts (Mr. CONTE), who just spoke, for not using the terms "malefactors of great wealth," "economic royalists," and a few other terms which do not occur to me.

Mr. Speaker, I noticed the following ad in the lost-and-found section of a major newspaper this morning, and I want to share it with my colleagues.

Lost: One political slogan, "New Foundations." Last seen in the vicinity of 1600 Pennsylvania Avenue, Washington, D.C., January 1979. Identifying marks: Patchwork design, machine-tooled slickness, built-in obsolescence, buoyancy of lead balloon. Believed to have left original home in company of high hopes and great expectations. Owner offers reward of 500 copies of state of the Union message in good condition plus uncut first edition of Gerald Rafshoon's "Slogan Your Way to Success." If found, call 202-456-1414.

INCREASES IN PROFITS OF OIL COMPANIES UNDERSCORE NEED FOR WINDFALL PROFITS TAX

(Mr. LEACH of Iowa asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEACH of Iowa. Mr. Speaker, the extraordinary increases in profit levels recently announced by the oil companies underscores the need to promptly enact a windfall profits tax. It also underscores the need to insure that this tax is neither weak nor rife with loopholes. The basic 60-percent level passed by the House is stronger than the 50-percent level proposed by the President and more realistic than the much weaker projections of the Senate. I urge my colleagues to stick with the House position. In America the concept of profit should not be considered pejorative; nor should the concept of equitability of the tax codes. The skyrocketing cost of fuel dictates that we reexamine the tax structure in the oil industry and compensate for the enormous loopholes Congress has provided this one powerful industry over the last several decades. After all, on the average, oil companies pay less than half the income taxes of companies earning similar profits. No industry should be punitively taxed, but it is not unreasonable to require oil companies to pay their fair share.

REDUCING OUR DEPENDENCE ON IMPORTED OIL MUST BE NATIONAL IMPERATIVE

(Mr. FISH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FISH. Mr. Speaker, there is good news today out of the Department of Energy's Policy Office. Their latest estimate of the number of nuclear powerplants which will be operating in the United States in the year 2000 is in the range of 150–200. This is 50 to 100 fewer than DOE figured in estimates prior to the accident at Three Mile Island.

In the brief span of 5 years we have seen a dramatic decline in the forecasts of the contribution of nuclear power to our electrical generation. It was not long ago we heard 1,000 plants would be needed. The figure dropped first to a third of that and today it is one-fifth or less.

DOE's current forecast is much closer to that of the President's Council on Environmental Quality, the Harvard Business School's 6-year study "Energy Future" and other authorities.

It shows a confidence in a future of a mixed energy base in America. It reflects the people's concern over health, safety, and environmental perils inherent in a massive commitment to nuclear power.

Mr. Speaker, those of us who have been skeptical of nuclear power know also that in the decade of the eighties no one source of energy is going to substitute for oil. Reducing our dangerous dependence on imported oil, therefore, must be a national imperative. We must turn our efforts to encouraging a reduction in oil consumption by safe, easily attainable energy conservation measures, aggressively harnessing the Sun, increasing our domestic oil production, and improving our relations with our nearest neighbors.

TAX EQUALITY

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, energy taxes on oil should be equal to all. Instead, in the windfall tax, Congress taxes U.S. companies by 60 percent and places a zero-percent tax on foreign OPEC oil companies. The tax incentive should be the other way. We need to produce more oil from our own country.

Six years ago the United States imported $3 billion in oil and this year we are importing $60 billion in oil. Next year $60 billion more oil imports.

We need to stop importing oil. Instead we have zero-percent tax on imported OPEC oil but 60-percent tax on U.S. oil.

There has been much headline press on profits of U.S. oil companies. But the newscasters do not fully explain that the greatest part of the increased profits are on foreign oil marketing, chemicals, and operation.

Let me show you a chart on the 10 largest U.S. oil companies from 1970 through 1978. It shows that revenues were growing at a 19-percent compound rate whereas dividends to stockholders were going down at a minus-10-percent rate.

LARGEST U.S. OIL COMPANIES [1]

[Revenue, dividends, and income in millions]

	1978	1970	Annual compound growth rate (percent)
Revenue	$219,794	$54,794	19
Dividends	4,559	2,699	6.8
Income tax	[2] 16,089	3,019	23.3
Dividends per $1 of revenue	2.1¢	4.9¢	−10.0

[1] The largest companies are Exxon, Mobil, Standard of California, Standard of Indiana, Texaco, Shell, Atlantic Richfield, Gulf, Phillips, and Conoco.

[2] 5.33 times 1970.

When Charles Honig showed me these comparative figures prepared by Bruce D. Henderson of the Boston Consulting Group, I was amazed. Revenues of the oil companies were four times as large in 1978 but the dividends for stockholders per revenue dollar were less than half.

Congress should be trying to stop the heavy oil imports and encouraging our own American companies. When we produce oil here we use American pipe, American labor, American machinery, and American transportation. We are paying $25 a barrel for OPEC oil and $11 a barrel for U.S. oil. So the windfall tax on U.S. oil is 60 percent and yet taxes zero percent on OPEC imported oil.

□ 1010

DESIGNATING DECEMBER, 1979, AS "NATIONAL CHILD ABUSE PREVENTION MONTH"

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 428), designating December 1979 as "National Child Abuse Prevention Month," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. Res. 428

Whereas each year in the United States one million children are victims of child abuse and neglect, including three thousand who die;

Whereas the Child Abuse Prevention and Treatment Act of 1974 has yet to fulfill its mandate of being the cornerstone of a United States policy for child abuse prevention and treatment;

Whereas a dedicated core of organizations and individuals (including the National Alliance for the Prevention of Child Abuse; the New York Foundling Hospital and its Director, Dr. Vincent Fontana; Children's Village; and the National Center for the Prevention of Child Abuse and its Director, C. Henry Kempe, M.D.) are leaders in the effort to focus greater attention on and resources into the movement to combat child abuse and neglect; and

Whereas the month of December 1979 is the final month in the observance of the International Year of the Child: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 1979 is designated as "National Child Abuse Prevention Month" and the President is requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

The SPEAKER. The gentleman from Indiana (Mr. BRADEMAS) is recognized for 1 hour.

Mr. BRADEMAS. Mr. Speaker, as we close the year-long observance of the International Year of the Child, our country is still afflicted by very serious problems of child abuse and neglect.

The purpose of this resolution offered by our colleague from New York (Mr. BIAGGI), is to promote and increase the awareness of this problem by recognizing the month of December 1979, as National Child Abuse and Prevention Month.

● Mr. BIAGGI. Mr. Speaker, with the full and enthusiastic support of Speaker O'NEILL, I introduced this resolution (H.J. Res. 428) which calls upon President Carter to proclaim December 1979 as "National Child Abuse and Prevention Month."

As we close our year-long observance of the International Year of the Child, this Nation is still afflicted with the national disgrace of child abuse and neglect. Consider these facts: More than 1 million children a year are in some way abused in the United States. Of these children, there are at least 3,000 who also die each year. For every 1 case of child abuse or neglect reported, it is estimated that there are at least 10 to 50 cases which go unreported and undetected.

In 1969, the year in which I was first elected to this body, I sponsored one of the first bills aimed at providing Federal assistance to the victims of child abuse. In 1974, the Child Abuse and Neglect Prevention and Treatment Act became law. Unfortunately, due largely to low funding levels this legislation has far from realized its mandate of becoming the cornerstone of a Federal Government policy aimed at combating child abuse and neglect.

I would also like to note that my resolution takes note of the many private organizations and individuals who have dedicated their work and efforts in the fight against the problem of child abuse. These include the New York Foundling Hospital under the direction of Dr. Vincent Fontana and the National Center for the Prevention of Child Abuse led by Dr. Henry Kempe.

It is the intention of my resolution to promote an increased awareness of a social problem which has often been pushed under the table out of embarassment or apathy. By supporting this resolution (H.J. Res. 428) this Congress can demonstrate its commitment and concern for the protection of our most vital natural resource—our children. I urge adoption of this resolution.●

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DESIGNATING NOVEMBER 4, 1979, AS "WILL ROGERS DAY"

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 3), designating November 4, 1979, as "Will Rogers Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 3

Whereas Will Rogers, in a lifetime of wise and humorous commentary on events in this Nation and throughout the world, made a tremendous contribution to human betterment through his gentle yet penetrating wisdom;

Whereas from Cherokee Indian and European ancestry, born on an Indian territory farm, he was a true product of the frontier civilization of our Great Plains as well as its unique combination in Oklahoma;

Whereas he become world famous as rodeo performer, Broadway entertainer, movie and radio star, and above all as daily columnist for some three hundred and fifty newspapers throughout the United States;

Whereas he become Oklahoma's best known native son and the most celebrated private citizen of the United States in his lifetime;

Whereas Will Rogers possessed the priceless gift of being able to judge people and events both kindly and keenly, personifying affection for his fellow man;

Whereas he improved the standard of public life throughout America by his witty and constructive commentary, making this a better place in which to live; and

Whereas the approaching one hundredth anniversary of his birth is a fitting occasion to dedicate ourselves to a rebirth of the goodwill and public spirit he exemplified: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to designate November 4, 1979, as "Will Rogers Day" in commemoration of the one hundredth anniversary of the birth of William Penn Adair Rogers, noted American philosopher-humorist.

The SPEAKER. The gentleman from Indiana (Mr. BRADEMAS) is recognized for 1 hour.

Mr. BRADEMAS. Mr. Speaker, this resolution, introduced by our distinguished colleague, the gentleman from Oklahoma (Mr. STEED), and by many other Members of the House, is to recognize the 100th birthday of Will Rogers of Oklahoma.

I think I need say nothing more than that, Mr. Speaker, because I am confident this resolution will win the support of all Members of the House.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolutions, House Joint Resolution 428 and House Joint Resolution 3.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 4(e) of rule XI, the Chair announces that he will postpone further proceedings today on each resolution or on the previous question thereon, on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all debate has been concluded on each resolution, and after each question to be determined by a "nonrecord" vote has been disposed of, the Chair will then put the question on each resolution or on the previous question thereon, on which further proceedings were postponed.

PROVIDING FOR THE CONSIDERATION OF H.R. 2313, FEDERAL TRADE COMMISSION AUTHORIZATION

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 456, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 456

Resolved, That upon the adoption of this resolution it shall be in order, clause 2(l)(3)(A) of rule XI to the contrary notwithstanding, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2313) to amend the Federal Trade Commission Act to extend the authorization of appropriations contained in such Act, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI are hereby waived. No amendments to the bill or to the committee amendment in the nature of a substitute shall be in order in the House or in the Committee of the Whole except (1) pro forma amendments for the purpose of debate; (2) amendments recommended by the Committee on Interstate and Foreign Commerce; (3) an amendment printed in the Congressional Record of October 17, 1979, by, and if offered by, Representative Russo of Illinois; (4) an amendment printed in the Congressional Record of October 16, 1979, by, and if offered by, Representative Andrews of North Dakota; and (5) an amendment printed in the Congressional Record of October 18, 1979, by, and if offered by, Representative Kemp of New York, and said amendments shall not be subject to amendment except pro forma amendments for the purpose of debate. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from South Carolina (Mr. DERRICK) is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLEN) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 456 provides for the consideration of H.R. 2313, which authorizes appropriations for the Federal Trade Commission for fiscal years 1980, 1981, and 1982.

This is a modified open rule allowing amendments recommended by the Committee on Interstate and Foreign Commerce and amendments, if offered by Representative RUSSO of Illinois, Representative ANDREWS of North Dakota, and Representative KEMP of New York, to be offered. These amendments shall not be subject to amendment except pro forma amendments for the purpose of debate.

One hour of general debate is granted to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce. The rule also provides for one motion to recommit with or without instructions.

It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for purposes of amendment.

The resolution waives points of order under clause 7, rule XVI, relating to germaneness, for the amendment in the nature of a substitute. At the conclusion of the consideration of the bill for amendment, the committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole.

H.R. 2313 provides authorizations for the Federal Trade Commission for the next 3 years of $75 million in fiscal year 1980, $80 million in fiscal year 1981, and $85 million in fiscal year 1982. It contains several important regulatory reform provisions which should improve the ability of the Commission to set its priorities for rulemaking proceedings. Further, the bill exempts savings and loan provisions from FTC jurisdiction, modifies funding for the public participation program, and prohibits the FTC from petitioning the patent and trademarke office to cancel any trademark solely because it has become a generic or common name.

H.R. 2313 also contains a legislative veto provision that authorizes Congress to overturn an FTC rule by passage of a concurrent resolution by both Houses within 90 days of submission of the rule to the Congress; or, by passage of such a resolution by one House within 60 days and failure of the other House to overturn that action within 30 days.

Mr. Speaker, for the last 2 years the Federal Trade Commission has operated without the benefit of an authorization as the House and Senate did not reach agreement on the legislation. I urge my colleagues to adopt this resolution so that we may proceed to the consideration of H.R. 2313, the Federal Trade Commission Improvements Act of 1979.

☐ 1020

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from South Carolina (Mr. Derrick) for his able explanation of the provisions of the rule.

Mr. Speaker, I support this rule, even though it is a modified closed rule. I recall back in 1978 when two conference reports on an FTC authorization were brought to the floor of the House. Each time they were overwhelmingly defeated, mainly because they did not contain a congressional veto.

This agency's powers need to be diminished. It runs roughshod over the businesses of this country and it is time that the Congress took the bull by the horns to do something to stop the action of this bureaucratic agency.

We do have a tough bill now, thanks to the great work of the Interstate and Foreign Commerce Committee. It does provide for a congressional veto.

I do not want to let slip this opportunity to grab this antibusiness gang of bullies by the scruffs of their necks and give them a good, hard congressional lesson—to stop them from running roughshod over the people of this country. I would like to see their wings clipped.

For years the FTC has been harassing legitimate American businesses with its threatening rulings aimed at one industry after another. We never know when or where their gang of bureaucrats will strike next in their apparent attempt to cripple the American system of free enterprise.

I know from my constituents who live in fear of this agency that they have had enough. They are frustrated and angry and they want their Representatives to put a stop to these malicious raids against their professions and their businesses.

The bill the Committee on Interstate and Foreign Commerce has brought to the floor gives us the tools we need to stop the FTC from running over these people. It gives us the means to stand up for the people's right to be left alone in their honest business enterprises. It gives the means to get this agency off their backs.

The reason the floor managers of this bill, the gentleman from New York (Mr. Scheuer) and the gentleman from North Carolina (Mr. Broyhill), requested this rule is that without it the bill offers an irresistable temptation to offer well-intentioned, though perhaps unwise, amendments aimed at specific FTC proceedings.

Let us not let the chance to clap a firm leach on this outfit be lost because too many hands are reaching for the collar.

Mr. Speaker, this is a good bill. Historically I have supported open rules, but I believe that this modified, closed rule is the proper approach to bring the measure to the floor of the House.

Mr. DERRICK. Mr. Speaker, I yield 4 minutes to the gentleman from North Carolina (Mr. Preyer).

Mr. PREYER. Mr. Speaker, as a member of the subcommittee that reported out this bill, I rise in support of the bill. I regret that the chairman of the subcommittee, Mr. Scheuer, the gentleman from New York, is not here today to support the rule because of a death in his family.

Mr. Speaker, I rise in support of the rule voted out by the Rules Committee. It focuses debate and consideration on issues which might be considered reasonably on the floor of the House despite the fact that they were not considered in committee.

I think it important to note that every witness except one who appeared before the Rules Committee on H.R. 2313 endorsed a modified open rule, and I hope that Members will today vote the rule before us.

H.R. 2313 is a carefully crafted and negotiated piece of legislation. Levels of spending and eligible categories of spending are the product of give and take within our subcommittee that represents a fairly broad cross section of the House itself. The legislative veto was determined to be the proper vehicle to balance the congressional desire to leave broad rulemaking in FTC but to retain the effective oversight by the Congress over its use.

The rule before us permits three issues to be considered by the House itself. Their designation as proper for debate and vote does not mean, of course, that the subcommittee endorse the amendments. It does mean that those who raised these issues did so in a timely fashion so that they could be examined, if not in subcommittee and committee, at least for a minimum period of time before they would be on the floor.

I heartedly endorse the recommendations of the Rules Committee and hope that we adopt this rule.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from North Carolina (Mr. Broyhill), the ranking minority member on the Interstate and Foreign Commerce Committee.

Mr. BROYHILL. Mr. Speaker, I support the Rules Committee recommendation for a partially open rule for H.R. 2313, the Federal Trade Commission Improvements Act of 1979. Normally, I would not support anything other than an open rule for a bill such as the one before us today. I am making an exception in this case for several reasons.

First, the bill itself contains a number of provisions, many of which I authored which substantially improve the rulemaking processes of the Federal Trade Commission. Among these provisions are requirements for the agency to issue a regulatory analysis along with its rules, that it set and keep internal deadlines, that it publish a semiannual regulatory agenda detailing its plans for the future, and that it go back and periodically review the continued need for rules which are already on the books. The bill also includes a legislative review and veto device which I think will be very useful in helping Congress look over the shoulder of the FTC to guarantee that the rules the agency issues are really in keeping with the intent of Congress. The agency's public funding program has also been roundly criticized and, consequently, the bill puts a ceiling on the amount of funds which the agency may give to any particular group. Finally, the bill clarifies the agency's ability to proceed against a trademark under the Lanham Trademark Act.

I have been thoroughly involved in the writing of each of these provisions and I am proud of the bill which the Commerce Committee has produced. It is a substantial improvement over previous bills and I think that it will do much to improve the rulemaking processes of the Federal Trade Commission.

I am also hopeful that we can pass this rule and get on to consideration of the bill because it is now time to put the agency back on an acceptable legislative track. The agency's authorization expired at the end of the 94th Congress. It has not been authorized since 1977. It is certainly understandable that the Appropriations Committee is getting somewhat impatient with this situation.

Mr. Speaker, I realize that the FTC is one of the most criticized agencies in Washington. I strongly believe that the fact that the agency has become so controversial clearly indicates the need for better congressional oversight. Most of the provisions now found in H.R. 2313 provide us with the tools to conduct that oversight in a more effective and concrete fashion. You can be sure that as ranking minority member of the Commerce Committee, I will be closely examining the processes of the Commission during the authorization period contained in the bill. Therefore, I think it is important that we pass this rule so that we can get on to the more important question of considering the FTC authorization bill.

Mr. DERRICK. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. LUKEN).

☐ 1030

Mr. LUKEN. Mr. Speaker, this bill, this FTC authorization, has been carefully crafted, and it has been worked over in the committee at some length. Through the efforts of Mr. BROYHILL of North Carolina, the chairman, the gentleman from New York (Mr. SCHEUER), and a number of us on the subcommittee, I think we have hammered out a piece of legislation which most of this House—perhaps all of the House—will be happy with.

I want to make a case for a particular amendment which is in the bill, which has become known as the "Formica" amendment. I think it bears a little explanation, since it has received a good bit of notoriety. The Formica case is a bad case, and of course we do not want it to make bad law. But, it is an illustration of where the FTC has interfered unnecessarily. Formica has 38 percent of the decorative laminated plastic market, and there are none of the competitors of Formica who are complaining, who had complained, nor who are complaining. Yet, this government agency decided to take action to genericize—that is, to deny the right of Formica, which has built up through its employees in Cincinnati and its management, has built up its good name on the basis of good workmanship, its product under that name.

We certainly think, and the committee thought by an overwhelming majority, that this is an unwarranted interference, and that therefore in the authorization the FTC should be denied the ability to interfere on the basis of generic use only. This does not prevent the FTC from taking action on trademarks on the basis of merit, it is still permitted to take action under section 5 of the Federal Trade Commission Act if there is fraud, if there is deception and if the public is being misled and if the FTC can prove it—they still have plenty of authority to take that action. I think that is very important.

We are also taking up the same matter with a bill which the gentleman from New Jersey (Mr. MAGUIRE) has introduced. That bill is before the Judiciary Committee, and we have testified on it and will continue to press it. But, for now I think this takes care of and effectively forestalls a specifically unwarranted interference by the FTC.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, every now and then a matter comes before the House that involves principle. I know that may be unusual, but sometimes it is difficult to avoid matters of principle. This rule involves a very important principle, not just for Members of the minority party, but for Members of the majority as well. It involves our capacity to act as representatives of the people.

This is a closed rule. It allows only three amendments to be made in order; three amendments, two of which were requested by members of the committee as part of an arrangement, shall we call it, and one other that was offered by the gentleman from New York (Mr. KEMP), which I suggested the Rules Committee make in order, and that is all. The rest of the Members of the House be damned. You will not have a right to offer any other amendments to this FTC authorization bill.

Now, historically closed rules have been granted by the Rules Committee with extreme care. They are granted, for instance, on complicated tax matters, usual from the Ways and Means Committee. In some instances, they have been granted when an emergency matter had to be taken care of right away, and even in some cases where obstruction to a bill was known to be planned we have had a closed rule.

I listened to all the testimony before the Rules Committee on this rule, and none of the reasons that I have just described were present. In fact, the chairman of the subcommittee told me in response to my question that he did not know of any other Members that wanted to offer amendments. But, I doubt seriously if Mr. SCHEUER of New York went around and polled the other 434 Members of the House on this question.

Now, this rule is here as a result of an arrangement between the minority members and the majority members of one subcommittee. The full Committee on Interstate and Foreign Commerce was never consulted.

The rest of us, the elected representatives of the people of the United States, are just left out in the cold. I have been told by some of the Members on my side of the aisle, "Don't oppose this rule because the three amendments made in order are good ones, and the conservatives want them."

I am going to vote for them, but I wish that my liberal friends would take a look at this rule. Today they are getting closed out. There are three amendments dealing with the grain industry, the funeral industry, and one other with agricultural cooperatives. They are all from conservatives. Where are the liberals in this instance? Left out in the cold.

I support the bill; I support the amendments, but this is the first of many planned closed rules on legislative matters that will literally deny the Members of the House the right to legislate. That is the very reason the people of our districts sent us here.

I have one other point: We have been told by the Speaker, by the majority leadership repeatedly that they are opposed to legislative riders on appropriation bills, that the place to legislate on any question is on an authorization bill. So, now you bring us an authorization bill and we cannot offer amendments to deal with a very controversial agency. You cannot have it both ways. I am sorry to disagree with my Republican colleagues, but this rule does involve a policymaking decision by this House. We have coming down the road a multibillion dollar welfare bill offered under a similar closed rule, with little chance for anyone to offer amendments, not even a minority substitute is in order.

If this is the way the House is to be run, I want no part of such procedure. You must understand that the future use of closed rules is an announced policy of the majority and this is one of the first examples. I will not be a party to it, whether it be for the benefit of my side or the majority side.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I thank my colleague for yielding and for bringing this to the attention of the House, and hopefully to the attention of the American people. There is an old adage that for every problem there is a solution. I think we all know that during the past 8 or 9 months the papers have been full of the fact that the leadership has not been able to control this House. I suppose what we are seeing here is the solution, which is to take away the legislating rights, in effect, of the Members of this body.

I suppose if they want to yield that, if they want to give up on their ability to legislate as a part of the leadership's solution to the problem that the majority created by voting independently and presumably the way the people want, I suppose we are getting back now to a narrow leadership where the people are not represented and the leadership's decisions through forced closed rules are the only concerns. I hope the American people surmise what is happening.

Mr. BAUMAN. I thank the gentleman and I agree.

The SPEAKER pro tempore (Mr. MURTHA). The time of the gentleman from Maryland has expired.

Mr. QUILLEN. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the gentleman has made a good point, but the fact is that we have had no FTC authorization for a number of years. The fact is that this bill is badly needed. The veto power of the Congress must be established on FTC's roughshod operations. Sometimes decisions have to be made which go against my grain, such as supporting this kind of a rule, but it is very necessary in order to get the legislation passed.

I support this rule. I support the legislation, and as I recall, the amendments were made in order which were requested before the Rules Committee.

Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. KEMP).

Mr. KEMP. Mr. Speaker, I rise in support of the modified closed rule. I do so with some trepidation, but I would agree with the gentleman, the ranking Republican on the Rules Committee, that this resolution asking for a modified rule is a good one in light of the necessity to preserve the strong FTC oversight contained in the bill.

I testified before the Rules Committee and was granted the right to add an amendment to the authorization bill that would prevent a tremendous inequity in the activities being carried on by the FTC.

For over 7 years, the FTC has been conducting an administrative law proceeding against three ready-to-eat (RTE) cereal manufacturers—the Kellogg Co., General Mills, Inc., and General Foods Corp.—claiming that these companies have been engaged in anticompetitive practices. The FTC's proposed solution, should it find the cereal manufacturers in violation of FTC competition standards, is to divest the cereal companies of Rice Krispies and Special K cereals, and to create five new cereal manufacturers through "spinoff" from the larger firms.

There is a very real question here as to why the FTC has initiated what is in essence a Federal antitrust case, especially in an industry which has shown no evidence of collusion in the past. Moreover, despite the real possibility that in the event of a decision against the cereal companies between 2,500 and 3,000 jobs could be threatened, the FTC has consistently refused to allow the American Federation of Grain Millers (AFL-CIO) to enter into the proceedings of the case evidence of possible job loss, economic displacement, and damage to the workers' rights to fair bargaining under the National Labor Relations Act.

My amendment would halt the FTC's proceeding against the cereal manufacturers until the FTC completes a study of the economic impact which may result from any proceeding against these companies, including a job and community impact study, and an additional study upon the impact of all union bargaining rights as covered under the National Labor Relations Act. This study would consider divestiture effects upon wages, pensions, insurance, working conditions, union representation, guarantee of new jobs, cost of relocation expenses, contractual rights, and the impact upon related unions and companies. It is supported by the American Federation of Grain Millers and the International Longshoremen's Association.

In refusing to allow this kind of information into its proceedings, the FTC has acted in a capricious manner without regard to the economic, legal and employment impact of its actions.

□ 1040

I would say to my friend, the gentleman from Maryland (Mr. BAUMAN) who called my amendment a conservative amendment that I, frankly, think it is nonideological to the extent that it affects both labor and management. It affects a tremendous and substantial potential loss of jobs in the cereal industry, which is being carried out by the FTC in what my friend called a roughshod manner.

I cannot imagine how the FTC can propose to break up the cereal industry in a capricious way and ultimately suggest to the American people that not only do Rice Krispies and Special K and Wheaties have to be divested from the companies that manufacture them but also that the FTC has the right to suggest where those cereals should be manufactured.

If the American people really believe that the Federal Trade Commission can better manufacture and market and distribute and produce Special K, then certainly they have got a place to go. They can vote not to allow us to halt this proceeding. But if they agree with the gentleman from New York that it is outrageous for the Federal Trade Commission to be launching an attack on an industry that is probably not as concentrated as they have said—and that is creating jobs particularly in a time of recession—and willy-nilly destroy about 2,500–3,000 jobs in the cereal industry, then they will agree with me that there ought to be some halt to these proceedings until a job impact and an economic study has been made.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. QUILLEN. Mr. Speaker, I yield 3 additional minutes to the gentleman from New York.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. KEMP. One other aspect in this case, before I yield to my friend, the gentleman from Maryland (Mr. BAUMAN) that I would like to bring once again to the attention of the House is the fact that the action by the Federal Trade Commission was undertaken without any regard to the labor contracts that were negotiated in good faith between the unions and management over the past 7 years. What is going to happen to pension rights, to portability, to the contractual agreements that were negotiated in good faith between the unions and management and the industry?

The Federal Trade Commission's charter to protect the American consumer has been violated in its ridiculous attempts to violate the principle of private property, as witnessed by its attempt to classify the Formica company's logo as a generic name. Since the only trademarks that eventually are accepted by the public as generic terms have been trademarks of products of the highest quality, this kind of action can only lead to government-induced commercial mediocrity. What is next on the FTC's list—Kleenex? Jello? Coca-Cola?

For this reason, and because I strongly feel that the legislative veto provision contained in the bill which is specifically designed to prevent such foolish interventions into the marketplace by the FTC in the future—I strongly support the modified closed rule presented to us today.

I would be glad at this point now to yield to my very good friend, the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. I thank the gentleman for yielding. I understand the reason for the gentleman's supporting this closed rule, and I would perhaps be tempted to do so if I were in his position, although I doubt that I would. But I hope I did not do any disservice to the gentleman's amendment by calling it a conservative amendment. He is quite right. It is nonideological. It is a good amendment; it ought to be passed. What I should have said is that it was proposed by one of the most prominent conservatives in the House of Representatives. That would have been a better characterization. I would like all conservatives, all liberals, and all Members of the House to have the right that you and only two other Members have under this rule, and that is the right to offer amendments.

Mr. KEMP. I would say to my friend, the gentleman from Maryland (Mr. BAUMAN), first, rather than being called one of the most distinguished conservatives, I would rather be called a classic liberal. In the sense the gentleman says it, I take it as a compliment.

Second, I say in all seriousness I was afforded an opportunity to go before the Committee on Rules. The gentleman supported me in the Committee on Rules. The Committee on Rules was very sympathetic to the attempt I am making to halt this action by the FTC.

The Committee on Rules did afford an opportunity to all Members to testify on behalf of amendments. This modified closed rule does allow those amendments, and anyone who wanted to bring an action before the authorizing committee could have done so in the Committee on Rules.

Mr. BAUMAN. If the gentleman will yield further, that is precisely another major objection. Why should the members of the Committee on Rules be the arbiters of the substantive amendments which might be offered on the floor? We Rules Committee members should not have that right. That to me is terribly undemocratic.

Mr. KEMP. If anyone had a legislative remedy and wanted to, he or she could have brought it to the attention of the Committee on Rules. I would suggest that was the Member's duty, if he or she had strong feelings about this rule, to bring it to the attention of the Committee on Rules.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. KEMP. Of course, I yield to my libertarian friend, the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding. Is my good friend suggesting we change our legislative procedure so that all Members must go before the Committee on Rules?

Mr. KEMP. Not at all. Not at all. But I agree with the gentleman from North Carolina that it is imperative that we get a handle on and a veto power over the FTC, because otherwise its capricious intrusion into the private sector would go on ad infinitum.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota (Mr. ANDREWS).

Mr. ANDREWS of North Dakota. I appreciate the gentleman's yielding. I want to express the appreciation that I have to the Committee on Rules for making my amendment in order. As my colleague, the gentleman from New York (Mr. KEMP) said, there are those of us who have strong feelings on this bill, and it has been kicked around for 2½ years. Certainly the Members know where the substantive amendments are. This rule is set up so people do not take advantage by offering every kind of amendment at the last minute on the floor, where people have not had time to study those amendments.

My amendment concerns the agricultural cooperatives in this country. It is very simple. It says the Federal Trade Commission should not inject itself into regulating agricultural co-ops or farm marketing orders, not only because they do not have the expertise in that field but, frankly, because the Department of Agriculture is already doing it. And if there is anything this country needs less, it is two or three Government agencies messing around in one area. It costs the taxpayer money. It costs individuals money to protect against the capriciousness of a horde of different agencies that want to get into the act. I think it is a good amendment, a worthwhile amendment. I hope my colleagues in the House will support it, as my friends in the Committee on Rules did support it. This is not an in-house deal. I am not a member of the Committee on Interstate and Foreign Commerce. I happen to feel strongly about the need for this amendment. When I went to the Committee on Rules, they agreed it was one that deserved the consideration of the entire House, and I appreciated their making it in order under the rule. I would hope that my colleagues will take a look at it and support it when this bill comes up for amendment next week.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. RINALDO).

Mr. RINALDO. Mr. Speaker, first of all, I want to say that the gentleman from Maryland (Mr. BAUMAN) made a lot of good points, many of which I agree with. Normally I would support his arguments, but I think this is a different case. I believe that it is essential that we pass this rule, which I would not characterize as a closed rule but perhaps more appropriately as a modified open rule. I want to tell the Members why I think we should pass it.

First of all, it makes a number of very needed changes in the FTC rulemaking process. Briefly stated, the bill includes the legislative review and veto device, which would give the Congress the authority to disapprove agency trade regulation rules before they go into effect, a number of regulatory reform provisions which will go a long way toward adding some rationality to the agency's rulemaking process, and certain limitations on the FTC program for funding rulemaking participants. In my view the Commerce Committee did a very good job in attempting to identify the bulk of the complaints that are being leveled against the agency and address those complaints by the provisions of this bill. Further, the solutions that we crafted in the legislation are generic solutions and do not attempt to deal with particular rulemaking proceedings on an individual basis.

This legislation, in one version or another, has been before us since the 94th Congress. I think it is important for the Members to realize that the Federal Trade Commission has not been authorized since 1977. We now have a good bill, a bill that we can be proud of. I think it is time to get the legislative process moving and pass the agency's reauthorization bill.

□ 1050

It may be that H.R. 2313 does not satisfy all Members. However, it is my understanding that the chairman of the Consumer Subcommittee (Mr. SCHEUER) has promised extensive FTC oversight hearings during the second session of this Congress. As the ranking minority member of the subcommittee, you can be assured that I will be giving FTC oversight my complete attention. The FTC has suffered from inadequate congressional oversight in the past. This is a condition which I, for one, intend to see does not arise in the future. This bill gives us many tools which we can use in this oversight process. Consequently, I believe it is critical that we pass the bill and send it on to the other body. Therefore, I hope that my colleagues will support the rule reported from the Rules Committee this afternoon and the final bill when it comes to the House floor for a vote.

Mr. Speaker, I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Speaker, I want to congratulate my colleague on the Committee on Rules for crafting a rule that will bring the Federal Trade Commission authorization to the floor of the House of Representatives. I share the concern of my colleague from North Dakota (Mr. ANDREWS) in the fact that we have for too long not had an authorization bill.

Mr. Speaker, as a member of the Committee on Appropriations we do not like to have to deal with these matters on an annual basis without an authorization bill and I want to congratulate all those who have worked in a spirit of compromise to get this bill to the floor. Particularly, I would like to congratulate my colleague from Georgia (Mr. LEVITAS) who I think has worked diligently to craft a responsible way for the Congress to deal with the question of Federal Trade Commission regulations and rulemaking processes. The gentleman has worked diligently and fairly with all parties and I think the gentleman is to be congratulated for the job that he has done.

Mr. Speaker, I think the rule is also fair in allowing several amendments to be put in order and to let the House work its will on those issues.

Mr. Speaker, I want to say one final thing: The Federal Trade Commission has been given the assignment of protecting consumers in this country, consumers who are being hit every day by rising prices and by inflation. I think we need an agency that is strong and has the ability to serve as a watchdog. I think the American people would be upset to learn that the Congress is more influenced by the special interest groups who are trying to limit the authority of this agency. The FTC needs to proceed in a prudent fashion and should be cautious and certain of its facts before it proceeds. It should never conduct vendettas, but it should protect consumer interests.

Let us have a legislative veto. Let us have Congress exercise its will but let us also remember the Federal Trade Commission is there to protect the consumers of our country and it should not be blocked from performing that important job.

Mr. DERRICK. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Speaker, I rise in support of the rule that has been proposed by the Committee on Rules. I would also like to thank the gentleman from Washington for his kind remarks.

Mr. Speaker, it is not without some concern that I support this rule, for many of the reasons suggested by the distinguished gentleman from Maryland, but I think the circumstances here are such that pragmatic decisionmaking is called for. We are not talking about a bill which is just coming to the floor for the first consideration. We are talking about legislation which will authorize an agency that has not been authorized for two Congresses and I would certainly believe, hope and trust that if authorization legislation is not passed the Committee on Appropriations will not fund this agency with one more dime.

I think it is essential if we are to maintain the Federal Trade Commission that does protect the interest of consumers, we must have responsible authorizing legislation.

Mr. Speaker, I will no doubt be voting with the gentleman from Maryland on many occasions during the next few weeks against closed rules or modified closed rules because they are simply, in those instances, devices to cut off any consideration of amendments. Here we have legislation that has been considered during three Congresses which has to be enacted in order to authorize the FTC.

Mr. Speaker, I have not even mentioned the legislative veto provision as yet because I want to make it very clear there is no desire on the part of the gentleman from Georgia (Mr. LEVITAS) or the gentleman from North Carolina (Mr. BROYHILL) who have worked together on this proposal, to protect the legislative veto. I do not fear for the security of the legislative veto. That can come for an up or down vote any time, and I project it will get more than two-thirds of the Members of this House to support it.

Mr. Speaker, the reason we need a rule of this sort, however, is to make certain that within the short time left before the adjournment of this session of the Congress that we can get legislation which can go through a conference committee and be signed into law by the President with a strong legislative veto in it that will give the elected Congress for the first time an opportunity to control this rampant bureauracy and make certain that the rules which are laws that are imposed upon the American people are rules which the elected representatives and not the unelected bureaucrats favor. That is why this is an important rule and I commend the Committee on Rules for developing this rule.

I assure the gentleman from Maryland that when efforts are made simply to cut off the opportunity for full consideration I will be at his side voting with him. This is a situation where we must have this authorization. The time is short, the stakes are high.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DERRICK. I yield the gentleman 1 additional minute.

Mr. LEVITAS. Mr. Speaker, when this legislation is passed under this rule, when the conference committee stands by the House position and, whether he likes it or not, the President signs this into law, it is going to be one of the landmark pieces of legislation in the 96th Congress, indeed of recent Congresses, and will blaze the trail for more control of Government by the people through their elected representatives.

Mr. Speaker, I urge my colleagues to support the rule.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 4, rule XI, and the Chair's prior announcement, further proceedings on this vote will be postponed.

□ 1100

SURFACE TRANSPORTATION ASSISTANCE ACT OF 1978

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 4249) to amend title 23 of the United States Code, the Surface Transportation Assistance Act of 1978, and for other purposes, with Senate amendments thereto, concur in Senate amendments numbered 1, 2, 3, 4, 5, 6, and 8, and concur in Senate amendment numbered 7 with an amendment.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will report the Senate amendments and the House amendment to Senate amendment No. 7.

The Clerk read the Senate amendments and the House amendment to Senate amendment No. 7, as follows:

Page 5, line 24, after "SEC. 8." insert: (a)

Page 6, after line 7, insert:

(b) Notwithstanding any other provision of law discretionary bridge funds authorized under section 144(g) of title 23, United States Code, for fiscal year 1980 may be transferred to a State's apportionment under section 104(b)(6) of title 23, United States Code, to repay funds obligated under section 104(b)(6) of title 23, United States Code, between June 1 and July 31, 1979, for bridge projects which are eligible for funding by virtue of the amendment in subsection (a) of this section.

Page 9, after line 11, insert:

SEC. 18. Section 119(b) of title 23, United States Code, is amended by deleting the date "October 1st" in the second sentence and inserting in lieu thereof the date "January 1st", and by deleting "funds apportioned to such State for that fiscal year" in the third sentence and inserting in lieu thereof "next apportionment of funds to such State".

Page 9, after line 11, insert:

SEC. 19. Section 125(b) of title 23, United States Code, is amended by inserting at the end of the first sentence the following new sentence: "Notwithstanding any provision of this chapter actual and necessary costs of maintenance and operation of ferryboats providing temporary substitute highway traffic service, less the amount of fares charged, may be expended from the emergency fund herein authorized on the Federal-aid highway systems, including the Interstate System."

Page 9, after line 11, insert:

SEC. 20. (a) Section 170(b) of the Surface Transportation Act of 1978 is amended by striking "one year" and inserting in lieu thereof "eighteen months";

(b) Section 170(l) is amended to read as follows:

"(l) There is hereby authorized to be appropriated, to remain available until expended, to the Commission not to exceed $3,000,000 to carry out the purposes of this section.".

Page 9, after line 11, insert:

SEC. 21. Section 161(f) of the Federal-Aid Highway Act of 1973, Public Law 93-87, is amended by inserting after "managed" the following: "and maintained".

Page 9, after line 11, insert:

SEC. 22. (a) Section 204(h) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by adding at the end thereof a new paragraph to read as follows:

"(3) Notwithstanding any other provision of this title, where a State assumes or has assumed, pursuant to an agreement entered into under section 274 b. of the Atomic Energy Act of 1954, authority over any activity which results in the production of byproduct material as defined in section 11 e. (2) of that Act, the Commission shall not, until the date three years after the date of enactment of this Act, have licensing authority over such byproduct material produced in any activity covered by such agreement, unless the agreement is terminated. If, upon expiration of the three-year interim, a State has not entered into such an agreement with respect to byproduct material as defined in section 11 e. (2) of the Atomic Energy Act of 1954, the Commission shall have authority over such byproduct material.".

(b) Section 204(h)(1) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended to read:

"(h)(1) On or before the date three years after the date of enactment of this Act, notwithstanding any provision of this title, any State may exercise any authority under State law (including authority exercised pursuant to an agreement entered into pursuant to section 274 of the Atomic Energy Act of 1954, as amended) respecting (A) byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954, or (B) any activity which results in the production of byproduct material as so defined, in the same manner and to the same extent as permitted before the enactment of this Act: Provided, however, That nothing in this section shall be construed to preclude the Commission or the Administrator of the Environmental Protection Agency from taking such action under section 275 of the Atomic Energy Act of 1954 as may be necessary to implement title I of this Act.".

(c) The last sentence of section 83 a. of the Atomic Energy Act of 1954, as amended, is amended to read: "Any license in effect on the effective date of this section and subsequently terminated without renewal shall comply with paragraphs (1) and (2) upon termination.".

(d) Section 204(e) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by adding at the end thereof a new paragraph to read as follows:

"(2) This subsection shall be effective on the date three years after the date of enactment of this Act.".

(e) Section 83(b)(1)(A) of the Atomic Energy Act of 1954, as amended, is amended by—

(1) striking all that follows "transferred to—" down through "Unless" and inserting in lieu thereof the following—

"(i) the United States, or

"(ii) the State in which such land is located, at the option of such State, unless", and

(2) striking "section 84 b." and inserting in lieu thereof "section 81 of this Act".

Page 9, after line 11, insert:

TITLE II—AUTHORIZATION OF REPAYMENT

SEC. 201. (a) That the State of Indiana (hereinafter referred to as the State"), acting by and through the Indiana State Highway Commission, and the Indiana Toll Road Commission (hereinafter referred to as the "commission") shall be free of all restrictions with respect to the issuance of bonds or other obligations constituting a lien against the East-West Toll Road in northern Indiana (Interstate Route 80/90) (hereinafter referred to as the "toll road") or payable out of revenues derived from the toll road and with respect to the imposition, collection, and use of tolls and other charges on the toll road contained in title 23, United States Code, or in any regulation or agreement under such title upon—

(1) repayment to the Treasurer of the United States of the sum of $1,936,894, which is the amount of Federal-aid highway funds received for the construction of the interchanges connecting the toll road with—

(A) Interstate Route 69 in Steuben County, Indiana;

(B) Interstate Route 80 in Lake County, Indiana; and

(C) Interstate Route 65 in Lake County, Indiana; and

(2) issuance of new bonds by the commission at such time and in such principal amount as will provide bond proceeds available for payment of costs of construction and acquisition of right of way not less than the amount required to undertake and complete the required construction and the required acquisition of right of way, as defined in the subparagraphs (D) and (E) of this paragraph, such issuance to be made subject to a trust indenture which will be binding on the commission and will provide—

(A) that the required construction and required acquisition of right of way will be performed and that the funds from the bond proceeds will be allocated sufficient to perform the required construction and the required acquisition of right of way before any other commitment of the bond proceeds (other than the refunding of outstanding bonds and payment of costs of issuance) is made;

(B) that any revenues from the toll road, and any proceeds of the bonds issued in connection with the toll road shall, after payment of the costs of issuance, be used only (i) for payment of the costs, direct and indirect, of the required construction and the required acquisition of right of way; (ii) for the payment of the costs, direct and indirect, of the operation, maintenance, repair, and improvement of the toll road, including the construction of lane additions and the construction or modification of, and acquisition of right of way for interchanges; (iii) for the debt service, payment, and refunding of outstanding bonds, the proceeds of which were used for the construction of the toll road or any improvement thereto or for the refunding of such bonds; and (iv) for the payment to be made under paragraph 1 of this section and for the repayment to the State out of the proceeds of the sale of such new bonds of amounts required to be paid by the commission to the State under the provisions of title 8, article 15, chapter 2, section 20 of the Indiana Code of 1971, as amended to the date of enactment of this Act;

(C) that the Commission will promptly commence acquisition of rights of way and preparation of final plans and specifications for the required construction and that it will commence the required construction on or before December 31, 1981, and that the commission will promptly begin acquiring all the required acquisition of right of way and will commence acquiring such rights of way on or before December 31, 1981;

(D) that the term "required construction" shall mean and include the following, all given equal priority:

(i) construction of a new interchange at Indiana State Highway 912 South (Cline Avenue) in Lake County, Indiana, and

(ii) construction of a new interchange at Mishawaka in St. Joseph County, Indiana, between mileposts 080 and 085 of the toll road after consultation with the executive authority of the county of St. Joseph and the executive authority of the city of Mishawaka, Indiana, and

(iii) construction of a new interchange in Elkhart County, Indiana, located between mileposts 095 and 102 of the toll road after consultation with the executive authority of the county of Elkhart, and

(iv) construction of a new interchange at Willowcreek Road in Porter County, Indiana, and

(v) construction of a new interchange at Indiana State Highway 912 North (Cline Avenue) in Lake County, Indiana, and

(vi) construction of a new interchange at Indiana Highway 53 (Broadway) in Lake County, Indiana, and

(vii) completion of construction of a new interchange at United States Highway 31 bypass in St. Joseph County, Indiana, located at milepost 072 of the toll road;

(E) that the term "required acquisition of right of way" shall mean and include the following:

(i) acquisition of right of way at State Road 149 in Porter County, Indiana, sufficient for placement of a future interchange as construction funds (other than proceeds of the bonds issued in connection with the trust indenture provided herein) became available and after consultation with the executive authority of the county of Porter, and

(ii) acquisition of right of way at United States Highway 20 in LaPorte County, Indiana, sufficient for placement of a future interchange as construction funds (other than proceeds of the bonds issued in connection with the trust indenture provided for herein) become available and after consultation with the executive authority of the county of LaPorte.

(b) The amount repaid to the United States under this title shall be deposited to the credit of the appropriation for "Federal-Aid Highway (Trust Fund)". Such repayment shall be credited to the unprogramed balance of the Federal-aid highway funds of the same class last apportioned to the State of Indiana. The amount so credited shall be in addition to all other funds then apportioned to the State of Indiana and shall be available for expenditure in accordance with the provisions of title 23, United States Code.

House amendment to Senate amendment No. 7: On page 3 of the Senate engrossed amendment, in lieu of the matter proposed to be inserted by amendment number 7, insert the following:

SEC. 22. (a) section 204(h) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding any other provision of this title, where a State assumes or has assumed, pursuant to an agreement entered into under section 724 b. of the Atomic Energy Act of 1954, authority over any activity which results in the production of byproduct material, as defined in section 11 e. (2) of such Act, the Commission shall not, until the end of the three-year period beginning on the date of the enactment of this Act, have licensing authority over such byproduct material produced in any activity covered by such agreement, unless the agreement is terminated, suspended, or amended to provide for such Federal licensing. If, at the end of such three-year period, a State has not entered into such an agreement with respect to byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954, the Commission shall have authority over such byproduct material.".

(b) Section 204(h)(1) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended to read as follows:

"(h)(1) During the three-year period beginning on the date of the enactment of this Act, notwithstanding any other provision of this title, any State may exercise any authority under State law (including authority exercised pursuant to an agreement entered into pursuant to section 274 of the Atomic Energy Act of 1954) respecting (A) byproduct material, as defined in section 11e. (2) of the Atomic Energy Act of 1954, or (B) any activity which results in the production of byproduct material as so defined, in the same manner and to the same extent as permitted before the date of the enactment of this Act, except that such State authority shall be exercised in a manner which, to the extent practicable, is consistent with the requirements of section 274 o. of the Atomic Energy Act of 1954 (as added by section 204 (e) of this Act). The Commission shall have the authority to insure that such section 274 o. is implemented by any such State to the extent practicable during the three-year period beginning on the date of the enactment of this Act. Nothing in this section shall be construed to preclude the Commission or the Administrator of the Environmental Protection Agency from taking such action under section 275 of the Atomic Energy Act of 1954 as may be necessary to implement title I of this Act.".

(c) The last sentence of section 83 a. of the Atomic Energy Act of 1954 is amended to read as follows: "Any license which is in effect on the effective date of this section and which is subsequently terminated without renewal shall comply with paragraphs (1) and (2) upon termination.".

(d) Section 204(e) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by adding after paragraph (1) the following new paragraph:

"(2) The provisions of the amendment made by paragraph (1) of this subsection (which adds a new subsection o. to section 274 of the Atomic Energy Act of 1954) shall apply only to the maximum extent practicable during the three-year period beginning on the date of the enactment of this Act."

(e) Section 83(b)(1)(A) of the Atomic Energy Act of 1954 is amended—

(1) by striking all that follows "transferred to—" down through "Unless" and inserting in lieu thereof the following:

"(i) the United States, or

"(ii) the State in which such land is located, at the option of such State, unless"; and

(2) by striking "section 84 b." and inserting in lieu thereof "section 81 of this Act".

Mr. JOHNSON of California (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments and the House amendment to Senate amendment No. 7 be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from California?

Mr. HARSHA. Mr. Speaker, reserving the right to object, and I am sure I will not object, I would like to use this time to establish some legislative history.

As I understand the Senate amendments, they include all the amendments that the House passed earlier under H.R. 4249.

Mr. JOHNSON of California. Yes, they do.

Mr. HARSHA. In the Senate report on page 4 dealing with the Senate amendments, the portion entitled, "Acceleration of Bridge Projects," it is my understanding according to the report that it is the view of the Committee on Environment and Public Works of the Senate that necessary bridge approaches, including interchanges, and connector roadways are eligible items for approval in connection with these demonstration projects.

This language should dispel some uncertainty on the part of the Federal Highway Administration as to whether certain interchanges on the Ohio side of the river and some roadwork on the Kentucky side of the river are eligible for funding under the demonstration program. The language in the Senate report and our comments here today clarify that it is the intent of Congress that this type of work is eligible for funding under the demonstration program. I also want to make it clear that we in no way intend to change what type of work is eligible under the normal bridge replacement program; we are only concerned with the acceleration of two bridge projects authorized in section 147 of the Surface Transportation Assistance Act of 1978.

Now, is my understanding correct also that this is the House position, that they interpret this program in the same manner as the Senate does?

Mr. JOHNSON of California. Yes, we do.

Mr. HARSHA. And the full House Committee on Public Works and Transportation concurs in that Senate report language?

Mr. JOHNSON of California. We do.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. HARSHA. I will be happy to yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, I want to commend the chairman, the gentleman from California (Mr. JOHNSON) for bringing the bill forward in the way the gentleman has and the way he has handled amendment No. 7, which deals with the jurisdiction of our Committee on the Interior and Insular Affairs.

Mr. Speaker, the Senate amendment under consideration is a clarification of the Nuclear Regulatory Commission's jurisdiction set forth in the Uranium Mill Tailings Control Act. The authors of that act have agreed that a drafting error resulted in a violation of intent which should be corrected. The amendment I am offering to the Senate amendment further clarifies the intent of the act and makes some additional technical changes.

My amendment retains the provision in the Senate amendment making clear that the Nuclear Regulatory Commission does not have concurrent licensing authority in agreement States during a 3-year grace period under the act. But the Senate amendment would also delay effectiveness of certain requirements of the act until after the 3-year period. This was not the original intent of the Tailings Control Act. The other principal authors agreed with this point in a letter to the Nuclear Regulatory Commission dated April 26 of this year.

My amendment changes the Senate amendment to provide that specified standards and procedures in the act would be effective immediately to the maximum extent practicable. Further, the Nuclear Regulatory Commission is declared to retain authority to assure that agreement States in exercising their licensing activities implement the requirements to the maximum extent practicable.

The Commission is here required to exercise considered judgment in overseeing the agreement States' licensing activities. It is not our intent that every regulation and procedure is implemented immediately down to the last detail. The agreement States should, rather, implement the important objectives of the Mill Tailings Control Act, including but not limited to eliminating to the maximum extent practicable the need for long-term care of tailings, and thorough independent review of the environmental impact of licenses. Where the State is not capable of performing such reviews at this time, the Tailings Act provides funds for technical assistance for this purpose.

My amendment, in addition, clarifies that during the 3-year grace period the State's agreement may be suspended or amended to provide for Federal regulation. The Senate amendment provides only that such agreements may be terminated. Suspension or amendment are the normal options available to the Commission and the agreement States.

It is important to clarify that the Commission does not have authority to issue, deny, or revoke licenses in the agreement States; but only to determine the adequacy of the agreement States' regulatory programs in implementing the requirements of the Tailings Act.

The final change here simply resolves a drafting problem.

Mr. HARSHA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from California (Mr. JOHNSON)?

There was no objection.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 4167, MILK PRICE SUPPORT ACT

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 385 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 385

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4167) to amend section 201 of the Agricultural Act of 1949, as amended, to extend until September 30, 1981, the requirement that the price of milk be supported at not less than 80 per centum of the parity price therefor, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from South Carolina (Mr. DERRICK) is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 385 provides for the consideration of H.R. 4167 which extends milk price supports until September 1981.

This is an open rule providing for 1 hour of general debate on the bill. The time is to be equally divided and controlled by the chairman and the ranking minority member of the Committee on Agriculture. A motion to recommit is in order upon completion of the consideration of the bill.

H.R. 4167 extends for 2 years the requirement that the price of milk be supported at not less than 80 percent of the parity price. It also provides semiannual adjustments to reflect estimated changes in the parity index.

The purpose of the milk support program is to assure dairymen an income level sufficient to provide us with adequate supplies of milk. The milk support program has helped provide stability in both supplies and prices of dairy products.

Without the stability this program provides or with a support level of less than 80 percent of parity, many dairymen might find it attractive to sell their herds at present high beef prices and retire. In my district alone, I have seen the dairy industry decline from 50 farms to 5. Maintaining the support price can help forestall this exodus from dairying.

Last March, the Congressional Budget Office published a report which stated that a milk support price of 80 percent of parity would provide stability, would not cause any major changes in dairy farmers' incomes, in consumer prices, or in Federal budget outlays, and would result in adequate supplies of milk.

Mr. Speaker, this legislation is very important to consumers and producers alike. I urge my colleagues to adopt House Resolution 385 so that we may proceed to the consideration of H.R. 4167, milk price support legislation.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there should not be any objection to this rule.

Mr. Speaker, the notable feature of this rule is that it contains no waivers of points of order, and no restrictions on amendments. The rule provides 1 hour of general debate for the consideration of H.R. 4167, the milk price support bill.

There was no controversy in the Rules Committee on this matter. The rule was reported by a voice vote.

The primary purpose of the bill made in order by this rule is to support the price of milk at no less than 80 percent of parity through the end of fiscal year 1981. In addition it provides for adjustments every 6 months to reflect estimated changes in the parity index.

The Congressional Budget Office estimates that annual budget outlays will not increase over current outlays because of enactment of this bill.

Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. ROTH).

Mr. ROTH. Mr. Speaker, I rise in support of both this rule and the bill to support the price of milk at not less than 80 percent of parity until September 30, 1981.

This bill is of obvious importance to the Eighth District of Wisconsin, "America's Dairyland" as the Wisconsin license plates state.

Yes, Mr. Speaker, this bill is very important to Wisconsin dairy farmers and to the economy of our State.

But even more important, this bill is beneficial to all Americans.

No nation on earth enjoys the abundance and quality of dairy products that America does. Dairying is an important farming operation in nearly every State and our consumers consistently receive "nature's most perfect food" at fair and reasonable prices.

Some may argue that dairy supports should be lower or should be removed in order to give consumers lower prices.

History and experience have painfully proven however, that this theory just doesn't work.

Periodic surpluses and shortages with depressed farm income and zooming supermarket prices are the practical result of this theory.

No, Mr. Speaker, I believe the record of the dairy price support program reveals that a stable and fair support for manufactured milk products will in the long run treat consumers much better than will periodic price fluctuations.

The dairy price support program, of course, carries some public cost, currently about $285 million in the 1978–79 year, but when matched against the gains in farm income, as projected by the CBO to be $18 billion over the next 5 years, this seems like a real bargain for our economy.

Let me point out, too, Mr. Speaker, that the dairy price support program, unlike many other farm price support activities, does not provide any direct payments or subsidies to individual farmers.

The program instead relies on Government purchases from dairy processors and those purchases in turn are used for a variety of school, welfare, and foreign donation programs.

In summary, Mr. Speaker, this rule should be adopted today and this bill should be passed next week not only because its good for dairy farmers, not just because its beneficial to Wisconsin, but also because it is in the best interest of all Americans.

☐ 1110

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Speaker, all this bill does is merely allow the price supports for dairy products to go for 4 years, as we had in the provisions of the last farm bill. However, the Senate insisted on 2 years. They said they wanted to take a look and see how the program is going at the end of 2 years. Thus in conference the dairy price support level of 80 percent was limited to 2 years. The 2 years is up and we find the program is going well. Everything is working fine. All this bill does is to extend the present program for another 2 years as the House had originally agreed to.

Mr. Speaker, I yield back the balance of my time.

Mr. LATTA. Mr. Speaker, I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 4, rule XI, and the Chair's prior announcement, further proceedings on this vote will be postponed.

PROVIDING FOR CONSIDERATION OF H.R. 5192, EDUCATION AMENDMENTS OF 1980

Mrs. CHISHOLM. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 466 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 466

Resolved, That upon the adoption of this resolution it shall be in order to move, sections 303(a)(4), 401(a), and 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5192) to amend and extend the Higher Education Act of 1965, and for other purposes, and the first reading of said bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and raking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule by titles instead of by sections, each title shall be considered as having been read for amendment, and all points of order against said substitute for failure to comply with the provisions of section 303(a)(4) of the Congressional Budget Act of 1974 (Public Law 93–344) and clause 5, rule XXI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentlewoman from New York (Mrs. CHISHOLM) is recognized for 1 hour.

Mrs. CHISHOLM. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 466 provides for the consideration of H.R. 5192 to reauthorize and improve programs included in the Higher Education Act and related measures.

This is an open rule granting 2 hours of general debate with the time equally divided and controlled by the chairman and the ranking minority member of the Education and Labor Committee. The bill is to be read for amendment under the 5-minute rule by titles rather than by sections. The rule also makes in order a committee amendment in the nature of a substitute as an original. Bill for purposes of amendment. A motion to recommit with or without instructions is in order upon completion of consideration of the bill.

The rule provides several waivers of the Budget Act so that the bill might be considered. These waivers are somewhat of a technical nature, since the Education and Labor Committee has agreed to offer amendments on the floor dealing with one of the budget violations and two of the others are already aired by the committee amendment in the nature of a substitute. The specific waivers of the Budget Act are sections 303(a)(4), 401(a) and 402(a).

Section 303(a)(4) of the Budget Act prohibits the consideration of a bill which provides new entitlement authority to become effective during a fiscal year before the first budget resolution for that year has been adopted. Several provisions of H.R. 5192 provide new entitlement authority which is to become effective in fiscal year 1981. The first concurrent resolution on the budget for fiscal year 1981 has not yet been adopted, the bill would be subject to a point of order under section 303(a)(4) of the Budget Act.

Section 401(a) of the Budget Act bars the consideration of any bill which provides new contract authority unless that bill also provides that such new spending authority is effective for any fiscal year only to such extent or in such amounts as are provided in advance in Appropriation Acts. Since various sections of the bill could be construed as providing unlimited new contract authority, the bill would be subject to points of order under section 401(a) of the Budget Act.

Section 402(a) of the Budget Act prohibits consideration of any bill which directly or indirectly, authorizes the enactment of new budget authority for a fiscal year unless the bill was reported by May 15 preceding the beginning of the fiscal year. Various sections of the introducecd bill would authorize the enactment of new budget authority which could become effective during fiscal year 1980, and thus should have been reported by May 15, 1979.

In addition to the Budget Act waivers, the rule waives all points of order pursuant to clause 5, rule XXI, prohibiting an appropriation in a legislative bill. The waiver applies to all titles of the bill.

Mr. Speaker, H.R. 5192 amends and extends almost all of the programs in the Higher Education Act of 1965 which expire at the end of fiscal year 1981 along with the fund for the improvement of postsecondary education and title VI of the National Defense Education Act. Thus the bill reaffirms and continues the Federal role in support of postsecondary education. The bill advances the goal of achieving equal educational opportunity through student assistance by several types of improvements in the equity of these programs. The bill also strengthens the Federal-State partnership in higher education, and it repeals several obsolete or unfunded programs, while providing consistency and simplicity in standards for student, institutional, and State eligibility for program participation.

Mr. Speaker, the programs authorized in H.R. 5192 are a very important aspect of our national commitment to quality educational opportunities for all citizens. I urge my colleagues to adopt House Resolution 466 so that we might proceed to the consideration of H.R. 5192, the Education Amendments of 1980.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, the gentlewomen from New York (Mrs. Chisholm) has given one of the best explanations of this measure that has ever been presented on any measure here on the House floor. She did an excellent job of detailing the provisions not only of the resolution but the act itself.

Mr. Speaker, I support the rule because the amendments to the Higher Education Act of 1965 are necessary.

I remember, when this was before the Committee on Rules, that the reporting committee itself testified as to how progress was being made on collecting the delinquent loans made to students in the past. Perhaps over $1 billion was in arrears at one time, but now much of that is being collected, and the delinquencies under the new tightening provisions, are running very, very low.

It is the dream of all Americans to have a higher education. Those of us here on the floor who have not had that opportunity commend the committee. I commend the committee for making this opportunity possible. May the youth, the young men and women of America, take advantage of this measure.

Mr. Speaker, I commend the rule to the Members of the House, and I recommend passage of the measure when it is taken up on the floor.

Mr. Speaker, I reserve the balance of my time.

□ 1120

Mrs. CHISHOLM. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 1885, RETIREMENT PREFERENCE FOR CERTAIN BIA EMPLOYEES

Mrs. CHISHOLM. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 437 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 437

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1885) to amend Civil Service retirement provisions as they apply to certain employees of the Bureau of Indian Affairs and of the Indian Health Service who are not entitled to Indian employment preference and to modify the application of the Indian employment preference laws as it applies to those agencies, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Post Office and Civil Service now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentlewoman from New York (Mrs. Chisholm) is recognized for 1 hour.

Mrs. CHISHOLM. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee (Mr. Quillen), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 437 makes in order the consideration of the bill H.R. 1885 to amend the civil service retirement provisions as they apply to certain employees of the Bureau of Indian Affairs and of the Indian Health Service who are not entitled to Indian employment preference and modifies the application of the Indian employment preference laws as it applies to those agencies.

This is an open rule granting 1 hour of general debate with the time equally divided and controlled by the chairman and the ranking minority member of the Committee on Post Office and Civil Service.

This bill is to be read for amendments under the 5-minute rule. The rule provides for one motion to recommit with or without instructions.

The rule further provides for consideration of an amendment in the nature of a substitute recommended by the Committee on Post Office and Civil Service as an original bill for the purposes of amendments.

Mr. Speaker, H.R. 1885 provides special retirement benefits for certain non-Indian employees of the Bureau of Indian Affairs and the Indian Health Service, and modifies the application of Indian preference laws. In essence, this bill gives certain non-Indian employees of Indian tribal organizations an annuity if separated from service after 25 years or after attaining 50 years of service if such employee is not entitled to an employment preference.

The Supreme Court in three recent rulings, held that Indian preference is not a racial preference, but rather, an employment criterion designed to further the cause of Indian self-determination and self-government. In this case, preference is necessary in order to make Indian agencies more responsive to the needs of its constituency.

Mr. Speaker, similar pieces of legislation were introduced in the 94th and 95th Congresses. Neither of those legislative bills were able to survive the tough scrutiny of both Houses of Congress and the veto powers of the Presidency.

We have all recognized the problems inherent in the present system of Indian employment and the unusual situation brought about by the Supreme Court decision. We also realize that a solution to Indian preference must be found. The provisions in H.R. 1885 are designed to protect Indian people and non-Indian people and to prevent any injustices on either account. H.R. 1885 remedies the problems of Indian preference in a fair and equitable fashion, and provides Indian people with self-determination and self-government, which they so clearly deserve and need.

Mr. Speaker, this is an extremely important piece of legislation and I urge my colleagues to adopt House Resolution 437 so that we might proceed to the consideration of this bill.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge the adoption of this resolution to correct an inequity. I think it is a good bill. I understand it is going to be discussed on the floor this afternoon.

The able gentlewoman from New York (Mrs. CHISHOLM) has explained the provisions of the resolution very eloquently.

Mr. Speaker, I have no requests for time, and I reserve the balance of my time.

Mrs. CHISHOLM. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all resolutions.

Pursuant to clause 4, rule XI, the Chair will now put the question on each resolution on which further proceedings were postponed, in the order in which the resolution was considered. Votes will be taken in the following order:

House Resolution 456, by the yeas and nays, and House Resolution 385, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

PROVIDING FOR CONSIDERATION OF H.R. 2313, FEDERAL TRADE COMMISSION AUTHORIZATION

The SPEAKER pro tempore. The unfinished business is the question of agreeing to the resolution, House Resolution 456.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution, House Resolution 456, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 273, nays 61, not voting 99, as follows:

[Roll No. 607]

YEAS—273

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Beilenson
Benjamin
Bennett
Bevill
Bingham
Blanchard
Boland
Boner
Bonior
Bonker
Bouquard
Brademas
Brinkley
Brodhead
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burlison
Burton, Phillip
Byron
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Coelho
Coleman
Collins, Ill.
Conte
Conyers
Corcoran
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Dellums
Derrick
Dicks
Diggs
Dingell
Dodd
Donnelly
Dornan
Downey
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erlenborn
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Ford, Mich.
Ford, Tenn.
Fountain
Frost
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gore
Gradison
Gray
Green
Grisham
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hillis
Hollenbeck
Holtzman
Hopkins
Horton
Hubbard
Hughes
Hutto
Ireland
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lundine
Madigan
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Mitchell, Md.
Mitchell, N.Y.
Mollohan
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nowak
Oakar
Oberstar
Panetta
Patterson
Pease
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Rose
Rostenkowski
Roth
Roybal
Royer
Runnels
Russo
Sabo
Satterfield
Schroeder
Schulze
Sebelius
Seiberling
Shannon
Sharp
Shuster
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
St Germain
Stack
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Trible
Udall
Ullman
Vander Jagt
Vento
Walgren
Walker
Watkins
Waxman
Weaver
White
Whittaker
Whitten
Williams, Mont.
Wilson, C. H.
Wirth
Wolff
Wolpe
Wyatt
Wylie
Yates
Young, Mo.
Zablocki

NAYS—61

Anderson, Calif.
Archer
Ashbrook
Bauman
Bereuter
Bethune
Broomfield
Burgener
Campbell
Carney
Clinger
Collins, Tex.
Coughlin
Courter
Crane, Daniel
Deckard
Derwinski
Edwards, Okla.
Erdahl
Evans, Del.
Fenwick
Forsythe
Frenzel
Gingrich
Goldwater
Goodling
Gramm
Grassley
Guyer
Hagedorn
Hansen
Holt
Hyde
Ichord
Jacobs
Jeffries
Kelly
Kindness
Kramer
Lagomarsino
Lott
Lungren
McDonald
Michel
Miller, Ohio
Moore
Myers, Ind.
O'Brien
Pashayan
Paul
Petri
Sawyer
Sensenbrenner
Shelby
Shumway
Spence
Stump
Tauke
Taylor
Volkmer
Young, Alaska

NOT VOTING—99

Addabbo
Ashley
AuCoin
Bedell
Biaggi
Boggs
Bolling
Bowen
Breaux
Brooks
Burton, John
Butler
Clay
Cleveland
Conable
Corman
Cotter
Crane, Philip
Davis, S.C.
Devine
Dickinson
Dixon
Dougherty
Drinan
Duncan, Oreg.
Early
Flood
Florio
Foley
Fowler
Fuqua
Giaimo
Hanley
Hightower
Hinson
Holland
Howard
Huckaby
Jenkins
Jones, Okla.
Jones, Tenn.
Kastenmeier
LaFalce
Leach, La.
Lee
Livingston
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Maguire
Mattox
Mavroules
Minish
Moakley
Moffett
Montgomery
Moorhead, Pa.
Nichols
Nolan
Obey
Ottinger
Patten
Pepper
Perkins
Quayle
Richmond
Rodino
Roe
Rosenthal
Rousselot
Rudd
Santini
Scheuer
Skelton
Staggers
Stark
Symms
Thomas
Treen
Van Deerlin
Vanik
Wampler
Weiss
Whitehurst
Whitley
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wright
Wydler
Yatron
Young, Fla.
Zeferetti

□ 1140

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Butler.
Mr. Jones of Tennessee with Mr. Hinson.
Mrs. Boggs with Mr. Cleveland.
Mr. Zeferetti with Mr. Conable.
Mr. Corman with Mr. McClory.
Mr. Rodino with Mr. Thomas.
Mr. Richmond with Mr. Lee.
Mr. Staggers with Mr. Philip M. Crane.
Mr. Stark with Mr. Devine.
Mr. Minish with Mr. Livingston.
Mr. Moakley with Mr. Rudd.
Mr. Montgomery with Mr. Quayle.
Mr. Biaggi with Mr. Symms.
Mr. Ashley with Mr. Wampler.
Mr. Howard with Mr. McDade.
Mr. Pepper with Mr. Bob Wilson.
Mr. Patten with Mr. Winn.
Mr. Wright with Mr. Dickinson.
Mr. Yatron with Mr. Dougherty.
Mr. Nichols with Mr. McEwen.
Mr. Foley with Mr. McKinney.
Mr. Fuqua with Mr. Rousselot.
Mr. Giaimo with Mr. Whitehurst.
Mr. Hanley with Mr. Whitley.
Mr. McHugh with Mr. Wydler.
Mr. McCormack with Mr. Williams of Ohio.
Mr. Rosenthal with Mr. Bedell.
Mr. Roe with Mr. Davis of South Carolina.
Mr. Nolan with Mr. Dixon.
Mr. Obey with Mr. Duncan of Oregon.
Mr. Early with Mr. Flood.
Mr. Breaux with Mr. Fowler.
Mr. Brooks with Mr. Hightower.
Mr. John L. Burton with Mr. Holland.
Mr. Clay with Mr. Perkins.
Mr. Cotter with Mr. Scheuer.
Mr. AuCoin with Mr. LaFalce.
Mr. Bowen with Mr. Leach of Louisiana.
Mr. Jones of Oklahoma with Mr. Mattox.
Mr. Jenkins with Mr. McCloskey.
Mr. Drinan with Mr. McKay.
Mr. Florio with Mr. Moffett.
Mr. Kastenmeier with Mr. Van Deerlin.
Mr. Maguire with Mr. Charles Wilson of Texas.
Mr. Mavroules with Mr. Whitehurst.
Mr. Moorhead of Pennsylvania with Mr. Skelton.
Mr. Ottinger with Mr. Vanik.
Mr. Santini with Mr. Weiss.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 4(e)(3) of rule XI, the Chair announces he will reduce to a minimum of 5 minutes the period of time in which a vote by electronic device may be taken on the additional resolution on which the Chair has postponed further proceedings.

PROVIDING FOR CONSIDERATION OF H.R. 4167, MILK PRICE SUPPORT ACT

The SPEAKER pro tempore. The unfinished business is the question of agreeing to the resolution, House Resolution 385.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution, House Resolution 385, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 327, nays 3, not voting 103, as follows:

[Roll No. 608]

YEAS—327

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bingham
Blanchard
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Byron
Campbell
Carney
Carr
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conte
Conyers
Corcoran
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dicks
Diggs
Dingell
Dodd
Donnelly
Dornan
Downey
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Frenzel
Frost
Garcia
Gaydos
Gephardt
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hillis
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Hubbard
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lehman
Lent
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
Madigan
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mazzoli
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Mitchell, Md.
Mitchell, N.Y.
Mollohan
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nowak
O'Brien
Oakar
Oberstar
Panetta
Pashayan
Patterson
Paul
Pease
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Rose
Rostenkowski
Roth
Roybal
Royer
Runnels
Russo
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thompson
Traxler
Trible
Udall
Ullman
Vento
Volkmer
Walgren
Walker
Watkins
Waxman
Weaver
White
Whittaker
Whitten
Williams, Mont.
Wilson, C. H.
Wirth
Wolff
Wolpe
Wyatt
Wylie
Yates
Young, Alaska
Young, Mo.
Zablocki

NAYS—3

Broomfield
Long, Md.
McDonald

NOT VOTING—103

Addabbo
Ashley
AuCoin
Bedell
Bevill
Biaggi
Boggs
Bolling
Breaux
Brooks
Burton, John
Butler
Carter
Clay
Cleveland
Conable
Corman
Cotter
Crane, Philip
Davis, S.C.
Devine
Dickinson
Dixon
Dougherty
Drinan
Duncan, Oreg.
Early
Flood
Florio
Foley
Fowler
Fuqua
Giaimo
Gibbons
Hanley
Hightower
Hinson
Holland
Howard
Huckaby
Jenkins
Jones, Okla.
Kastenmeier
LaFalce
Leach, La.
Lee
Leland
Livingston
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Maguire
Mattox
Mavroules
Mica
Minish
Moakley
Moffett
Montgomery
Moorhead, Pa.
Nichols
Nolan
Obey
Ottinger
Patten
Pepper
Perkins
Quayle
Richmond
Rodino
Roe
Rosenthal
Rousselot
Rudd
Santini
Scheuer
Skelton
Staggers
Stark
Symms
Thomas
Treen
Van Deerlin
Vander Jagt
Vanik
Wampler
Weiss
Whitehurst
Whitley
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wright
Wydler
Yatron
Young, Fla.
Zeferetti

□ 1150

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Butler.
Mr. Rodino with Mr. Hinson.
Mr. Addabbo with Mr. Jones of Oklahoma.
Mr. Cotter with Mr. Carter.
Mr. McCormack with Mr. Cleveland.
Mr. Minish with Mr. Bob Wilson.
Mr. Moakley with Mr. Wydler.
Mr. Wright with Mr. Symms.
Mr. Zeferetti with Mr. Philip M. Crane.
Mr. Biaggi with Mr. Devine.
Mr. Breaux with Mr. Lee.
Mr. Howard with Mr. McClory.
Mr. Brooks with Mr. Dickinson.
Mr. Mavroules with Mr. Thomas.
Mr. Corman with Mr. Quayle.
Mr. Florio with Mr. Vander Jagt.
Mr. Foley with Mr. Dougherty.
Mr. Montgomery with Mr. McCloskey.
Mr. Nichols with Mr. Whitehurst.
Mr. Nolan with Mr. McDade.
Mr. Staggers with Mr. Wampler.
Mr. Santini with Mr. McEwen.
Mr. Rosenthal with Mr. Mica.
Mr. AuCoin with Mr. Winn.
Mr. Ashley with Mr. Flood.
Mr. John L. Burton with Mr. Fowler.
Mr. Kastenmeier with Mr. Gibbons.
Mr. Maguire with Mr. Bedell.
Mr. McHugh with Mr. Clay.
Mr. Obey with Mr. Conable.
Mr. Patten with Mr. Davis of South Carolina.
Mr. Pepper with Mr. Dixon.
Mr. Early with Mr. Drinan.
Mr. Fuqua with Mr. McKay.
Mr. Hanley with Mr. McKinney.
Mr. Giaimo with Mr. Duncan of Oregon.
Mr. Bevill with Mr. Leach of Louisiana.
Mr. Huckaby with Mr. Leland.
Mr. Hightower with Mr. Rousselot.
Mr. Jenkins with Mr. Perkins.
Mr. LaFalce with Mr. Rudd.
Mr. Moffett with Mr. Mattox.
Mr. Moorhead of Pennsylvania with Mr. Young of Florida.
Mr. Ottinger with Mr. Williams of Ohio.
Mr. Yatron with Mr. Skelton.
Mr. Van Deerlin with Mr. Weiss.
Mr. Whitley with Mr. Vanik.
Mr. Stark with Mr. Livingston.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO FILE REPORT ON H.R. 5472, TO REVITALIZE PLEASURE CRAFT INDUSTRY

Mr. SYNAR. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries may have until midnight tonight to file a report on the bill (H.R. 5472) to revitalize the pleasure craft industry by clarifying certain restrictions to the Merchant Marine Act of 1936.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS, 1980

Mr. WHITTEN. Mr. Speaker, pursuant to the order of the House of Tuesday, October 23, 1979, I call up the conference report on the bill (H.R. 4387) making appropriations for the Agriculture, Rural Development, and related agencies programs for the fiscal year ending September 30, 1980, and for other purposes, and I ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Clerk read the statement.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

(For conference report and statement see proceedings of the House on October 24, 1979.)

The SPEAKER pro tempore. The gentleman from Mississippi (Mr. WHITTEN) will be recognized for 30 minutes, and the gentleman from North Dakota (Mr. ANDREWS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we bring to the Members today a conference report which I highly commend to my colleagues. This is the one annual appropriation bill which funds programs in which producers, consumers, labor and industry, all have a close mutual interest. Agriculture produces the food and fiber needed by consumers and provides the biggest market for industry and labor, while consumers provide the market needed by agricultural producers.

This is a truly "national" bill which benefits every part of the country. The programs funded in this bill strongly influence the quality of life and the standard of living of every American.

We have a good conference agreement, Mr. Speaker. It is sound. It is responsive to both the needs of our people and to their pocketbooks. It will treat agriculture as an equal partner of industry and labor. This bill will serve to the advantage of consumers and producers alike. It will help assure the quality and wholesomeness of our foods and drugs, and protect our valuable natural resources which are the ultimate basis of our standard of living. This bill will provide that our schoolchildren are fed properly; that the weak, the elderly, and the economically disadvanaged can avail themselves of a nutritious diet.

Mr. Speaker, this bill making appropriations for the Department of Agriculture, rural development and related agencies for fiscal year 1980 also includes the Food and Drug Administration and the Commodity Futures Trading Commission. Included are funds for rural development and conservation, the school lunch and school milk programs, the food stamp program, and many other food programs relating to production, processing, and orderly marketing.

The conference agreement, may I explain, is $607,812,000 less than the congressional budget target in the first concurrent budget resolution, which will remain available should future requirements arise.

I would like at this time to describe some of the highlights of this bill. The conference report recommends $18,528,940,000 in total budget authority for fiscal year 1980. The amount agreed to by the conferees is $2,295,771,000 less than appropriated in fiscal year 1979, $39,203,000 more than the Senate bill, $2,961,000 less than the House bill, and $1,625,680,000 less than the budget request.

Mr. Speaker, what we need to recognize is the great job so few—the American farmers—are doing for all of us.

Mr. Speaker, in connection with our recent agreement for a sale of grain to Russia, I would like to point out for the record some of the facts which we developed in our hearings concerning the sale some years ago. Our hearings demonstrate the fact that we should exercise some care in any new contract.

It developed that under that contract, we had in effect turned over to Russia the world's surplus food supply for them to use in their foreign policy. In order to do this, we paid $161 million in subsidies to the international grain exporting firms. Our records further show that under the agreement Russia had 3 years to accept the grain, but we failed to reserve the right to take 3 years for delivery. This all took place 6 or 7 years ago, but in our hearings earlier this year, the Department still had been unable to trace this grain to an end recipient. We must remember these past mistakes when we negotiate new agreements.

Foreign sales of U.S. agricultural commodities are an essential means of recouping our dollars from overseas and plays a major role in helping to offset our balance-of-payments problems. We need to move our surplus production into world trade. Our agricultural exports are our best dollar earner and they are needed by the world. Increased agricultural exports are our best opportunity to secure a lasting peace in the world. I believe we must use the sales manager of the Department of Agriculture to assure that a maximum effort is being made by the grain companies to sell U.S. commodities, and if they are not making that effort, then we should use the Commodity Credit Corporation to accomplish that goal.

In addition, Mr. Speaker, in developing this bill we have remained conscious of the need to protect our soil and our natural resources so we can keep our country solvent and protect it for future generations.

TITLE I—AGRICULTURAL PROGRAMS

Mr. Speaker, for agricultural research the conference agreement provides $370,573,000. Included in the agreement is an overall increase in the research and development budget over comparable 1979 figures. This is crucial in view of such challenges facing agricultural research as the leveling off of productivity increases, the loss of prime farmland, and the continuing pressures of population growth on global food supply.

As you can see in reading the conference report, there were literally dozens of research projects to be decided by the conferees. The agreement reflects our awareness of the need for a number of actions to increase the quality and efficiency of agricultural research and the competence of USDA research leadership and management. I will highlight some of the major items for my colleagues.

For research on improving energy efficiency in crop and animal production the conferees have agreed to $4,139,000 instead of $3,139,000 as proposed by the House and $5,139,000 as proposed by the Senate.

For tropical and subtropical research the conference agreement provides $2,800,000 instead of $2,200,000 as proposed by the House and $3,200,000 as proposed by the Senate.

For research on the category of "Other Animal Disease and Production Research" the conference agreement provides $41,793,000 instead of $42,308,000 as proposed by the House and $41,278,000 as proposed by the Senate.

Also included in the agreement are funds for staffing the nutrition laboratory at Tufts University, for staffing and equipment at the Appalachian Fruit Research Station at Kearneysville, W. Va., for equipping a stable isotope facility at the children's nutrition laboratory of the Baylor College of Medicine, for nutrition research at the Letterman Institute of Research, and for moving costs associated with the soil and water conservation laboratory at Beckley.

Mr. Speaker, for cooperative research the conference agreement provides $189,045,000. Included in the agreement is $118,566,000 in Hatch Act funds for our Land-Grant Colleges and $17,785,000 for our 1890 colleges and Tuskegee Institute. The agreement provides $16,548,000 for special grants and projects, including $7,000,000 for animal health research. We also agreed to $2,400,000 for energy research, including research on gasohol, $1,500,000 for rural development research, $10,000,000 for cooperative forestry research, and $6,000,000 for section 1433 grants for animal health and disease research. The agreement also includes $16,000,000 for competitive research grants, for specific purposes.

For cooperative extension the conference agreement provides a total of $285,537,000. Included in the agreement is $189,331,000 for payments under the Smith-Lever Act and $51,810,000 for payments for the nutrition and family education program for low-income areas under section 3(d) of the Smith-Lever Act. We were also able to hold the House position in regard to urban gardening, pest management, farm safety, rural development education, and the Bankhead-Jones program.

Mr. Speaker, for the Animal and Plant Health Inspection Service the conference agreement provides $245,631,000. Included in the agreement is restoration of funding for poultry diseases, tri-fly, fire ant, range caterpillar, cattle fever ticks, and tuberculosis eradication.

For the Japanese beetle program the agreement provides $212,000. Brucellosis eradication is increased from $65,195,000 in 1979 to $77,695,000 for 1980.

For noxious weeds the agreement provides $1,700,000, including $200,000 for the Florida hydrilla program, up to $500,000 for a California hydrilla program, and not less than $1,000,000 for a nationwide regulatory program.

For the Agricultural Marketing Service we were able to maintain the House position which restored the funds for the wholesale market development program. We have also directed that market news reporting be kept at last year's level.

TITLE II—RURAL DEVELOPMENT PROGRAMS

Mr. Speaker, for the Farmers Home Administration the conference agreement provides $2,280,000 for section 502 low-income housing loans, $800,000,000 for moderate income housing loans, and $868,000,000 for section 515 rural rental housing loans. We have provided for $870,000,000 in farm ownership loans and $875,000,000 in operating loans. The agreement also includes $7,000,000 for section 111 planning grants, and $1,500,000 for supervisory assistance.

Both the House and Senate versions of the bill included $300,000,000 for water and sewer grants. We have also provided that not less than 30 percent of the funds should be for the expansion of existing systems.

We have provided for an increase of 469 additional permanent positions for Farmers Home, all of which are to be located outside of the Washington area and used primarily to supervise the agency's loan portfolio which now totals over $30 billion.

For the agricultural conservation program the agreement includes $190,000,000. We will also expect the Department to work toward getting the participation in ACP back up to the annual level of one million participants.

For the Soil Conservation Service programs the agreement includes $264,747,000 for conservation operations, $16,487,000 for river basin surveys and investigations, $10,500,000 for watershed planning and $167,524,000 for watershed and flood prevention operations.

For the resource conservation and development program the agreement includes $32,000,000 and provides for six new area authorizations.

The agreement includes an additional $250,000 to expedite work now underway on the bank caving/foothill erosion research project as proposed by the House.

In connection with the plant materials centers the conference agreement requires the Department to contact the Congress in advance of making any changes in the way these centers are funded.

For rural clean water the conference agreement provides $50,000,000 for an experimental program. In order to promote maximum conservation efforts, the conferees have agreed to an experimental rural clean water program in those areas that have not made full use of the Agricultural conservation program, or where the need for conservation to improve water quality is acute. The conferees will also expect that the approved funds will be used only for highest priority projects in selected geographical areas to be selected primarily from applications previously submitted to the Secretary and approved by him in consultation with the Administrator of the Environmental Protection Agency. In addition, where practical, the Agricultural Stabilization and Conservation Service and its State and local committees shall seek the advice and assistance of conservation districts, State soil and water conservation agencies or State water quality agencies.

Also included within the total are funds for additional permanent employees of the Soil Conservation Service to carry out technical assistance under the program.

TITLE III—DOMESTIC FOOD PROGRAMS

Mr. Speaker, the conference agreement includes a total of $3,114,301,000 for child nutrition programs.

For the summer feeding program the conferees agreed not to restrict, at this time, the direct Federal administration of summer food service operations in States. The eligibility limitations were adopted as passed by the Senate and a reduction of $47,000,000 was assumed in the hope that savings can be made by aggressively curtailing fraud and abuse.

The conferees agreed to an appropriation of $736,200,000 for the special supplemental food program (WIC), and to derive at least $13,800,000 from prior-year balances, for a program level of at least $750,000,000.

For food stamps the agreement includes $6,188,600,000, which is the maximum amount now authorized. We expect to promptly give further consideration to this as soon as the legislative committee has completed its actions. Up to 5 percent of the total amount appropriated may be placed in reserve pursuant to the Anti-Deficiency Act, for use in such amounts and at such times as may become necessary to carry out program operations.

Many of these feeding programs have reportedly become plagued with fraud and abuses. The conferees have taken every reasonable action available through an appropriations bill to urge and promote the aggressive pursuit of eliminating fraud, abuse and waste from these programs.

TITLE IV—INTERNATIONAL PROGRAMS

Mr. Speaker, with respect to the Foreign Agricultural Service, the conference agreement provides $56,427,000, plus $1,864,000 for the Office of International Cooperation and Development. The agreement also includes the House level of $901,730,000 for titles I and III of the Public Law 480 program. Title II of Public Law 480 was not in conference. In our report we point out that adequate funds are available for humanitarian aid to Cambodia.

We have received a budget amendment of $205,800,000 for the Public Law 480 program, however, we were not able to address the amendment since title II was not in conference, and we therefore have deferred the amendment for later consideration.

TITLE V—RELATED AGENCIES

Mr. Speaker, for salaries and expenses of the Food and Drug Administration the conference agreement provides $312,796,000, including $1,500,000 for research on antibiotics in animal feeds. For FDA buildings and facilities the agreement includes $4,372,000 as requested by the administration.

Mr. Speaker, I would like to say to the House that through the years my colleagues on this committee have done a tremendous job. Mr. Speaker, this year particularly, they have all made major and essential contributions to the development of this bill.

Mr. Speaker, I refer to the gentleman from North Dakota (Mr. ANDREWS), the ranking minority member of our subcommittee, and the gentleman from Missouri (Mr. BURLISON), our ranking majority member. I would also like to add my thanks to the gentleman from Michigan (Mr. TRAXLER), the gentleman from Arkansas (Mr. ALEXANDER), the gentleman from New York (Mr. MCHUGH), the gentleman from Kentucky (Mr. NATCHER) whom I have worked closely with for many years now, the gentleman from Texas (Mr. HIGHTOWER), and the gentleman from South Carolina (Mr. JENRETTE). I would also like to commend our other two minority members, the gentleman from Virginia (Mr. ROBINSON), and the gentleman from Indiana (Mr. MYERS).

Mr. Speaker, may I also say it has been a pleasure this year not only on this bill, but all bills we deal with, to work with the gentleman from Massachusetts (Mr. CONTE), the ranking minority member of the full committee. No one could ask for better cooperation.

Mr. Speaker, all of the gentlemen have done a marvelous job, and we have been able to bring this bill to you because the House has confidence in them and their efforts on this bill which is so important to the standard of living of every American. I give my personal thanks to each and every one of them.

Mr. Speaker, at this point in the RECORD under leave to revise and extend my remarks, I will provide a table showing the amounts agreed upon by the conferees.

Agency and title	New budget (obligational) authority enacted to date fiscal year 1979	Budget estimates of new (obligational) authority fiscal year 1980	New budget (obligational) authority recommended in House bill 1980	New budget (obligational) authority recommended in Senate bill 1980	New budget (obligational) authority recommended by conferees	Increase or decrease (−) conference recommendations compared with—			
						1979 enacted	1980 budget estimate	1980 House bill	1980 Senate bill
TITLE I—AGRICULTURAL PROGRAMS									
PRODUCTION, PROCESSING AND MARKETING									
Office of the Secretary	$4, 415, 000	$4, 534, 000	$4, 400, 000	$4, 534, 000	$4, 470, 000	+$55, 000	−$64, 000	+$70, 000	−$64, 000
Departmental Administration	19, 105, 000	20, 909, 000	19, 609, 000	19, 723, 000	19, 423, 000	+318, 000	−1, 486, 000	−186, 000	−300, 000
Working capital fund	(1, 252, 000)					(−1, 252, 000)			
Office of the Inspector General	23, 095, 000	34, 151, 000	24, 727, 000	25, 527, 000	25, 527, 000	+2, 432, 000	−8, 624, 000	+800, 000	
Transfer from food stamp program	(8, 922, 000)		(8, 924, 000)	(8, 924, 000)	(8, 924, 000)	(+2, 000)	(+8, 924, 000)		
Total, Office of the Inspector General	(32, 017, 000)	(34, 151, 000)	(33, 651, 000)	(34, 451, 000)	(34, 451, 000)	(+2, 434, 000)	(+300, 000)	(+800, 000)	
Office of the General Counsel	10, 598, 000	11, 305, 000	10, 786, 000	11, 136, 000	11, 000, 000	+402, 000	−305, 000	+214, 000	−136, 000
Federal Grain Inspection Service: Salaries and expenses	22, 680, 000	23, 372, 000	22, 872, 000	23, 372, 000	23, 122, 000	+442, 000	−250, 000	+250, 000	−250, 000
Science and Education Administation									
Agricultural research	343, 416, 000	344, 872, 000	363, 142, 000	372, 479, 000	370, 573, 000	+27, 157, 000	+25, 701, 000	+7, 431, 000	−1, 906, 000
Special fund (reappropriation)	2, 000, 000	2, 000, 000	2, 000, 000	2, 000, 000	2, 000, 000				
Buildings and facilities	36, 740, 000					−36, 740, 000			
Scientific activities overseas (special foreign currency program)	5, 750, 000	7, 500, 000	5, 750, 000	5, 750, 000	5, 750, 000		−1, 750, 000		
Cooperative research	174, 395, 000	178, 317, 000	178, 027, 000	198, 484, 000	189, 015, 000	+14, 650, 000	+10, 728, 000	+11, 018, 000	−9, 439, 000
Extension activities	275, 399, 000	259, 227, 000	285, 835, 000	274, 767, 000	285, 537, 000	+10, 138, 000	+26, 310, 000	−298, 000	+10, 770, 000
Technical information systems	7, 527, 000	7, 835, 000	7, 835, 000	7, 835, 000	7, 835, 000	+303, 000			
Total, Science and Education Administration	845, 227, 000	799, 751, 000	842, 589, 000	861, 315, 000	860, 740, 000	+15, 513, 000	+60, 989, 000	+18, 151, 000	−575, 000
Animal and Plant Health Inspection Service	237, 319, 000	220, 976, 000	237, 583, 000	248, 241, 000	245, 631, 000	+8, 312, 000	+24, 655, 000	+8, 048, 000	−2, 610, 000
Food Safety and Quality Service	279, 531, 000	279, 930, 000	278, 430, 000	278, 430, 000	278, 430, 000	−1, 101, 000	−1, 500, 000		
Economics Statistics and Cooperatives Service	82, 562, 000	87, 903, 000	86, 050, 000	86, 090, 000	86, 070, 000	+3, 508, 000	−1, 833, 000	+20, 000	−20, 000
World food and agricultural outlook and situation board	1, 009, 000	1, 015, 000	1, 015, 000	1, 015, 000	1, 045, 000	+36, 000			
Agricultural Marketing Service									
Marketing services	47, 854, 000	50, 707, 000	48, 302, 000	45, 586, 000	47, 643, 000	−211, 000	−3, 064, 000	−659, 000	+2, 057, 000
Payments to States and possessions	1, 600, 000		2, 000, 000		1, 600, 000		+1, 600, 000	−400, 000	+1, 600, 000
Total, Agricultural Marketing Service	49, 454, 000	50, 707, 000	50, 302, 000	45, 586, 000	49, 243, 000	−211, 000	−1, 464, 000	−1, 059, 000	+3, 657, 000
Total, Production, Processing and Marketing	1, 574, 995, 000	1, 534, 583, 000	1, 578, 393, 000	1, 604, 999, 000	1, 604, 701, 000	+29, 706, 000	+70, 118, 000	+26, 308, 000	−298, 000
FARM INCOME STABILIZATION									
Agricultural Stabilization and Conservation Service									
Salaries and expenses	227, 527, 000	190, 586, 000	190, 586, 000	182, 546, 000	186, 586, 000	−40, 941, 000	−4, 000, 000	−4, 000, 000	+4, 040, 000
Transfer from Commodity Credit Corporation	(99, 865, 000)	(152, 389, 000)	(152, 389, 000)	(152, 389, 000)	(152, 389, 000)	(+52, 524, 000)			
Total, salaries and expenses, ASCS	(327, 392, 000)	(342, 975, 000)	(342, 975, 000)	(334, 935, 000)	(338, 975, 000)	(+11, 583, 000)	(−4, 000, 000)	(−4, 000, 000)	(+4, 040, 000)
Dairy and beekeeper indemnity programs	3, 240, 000	400, 000	3, 290, 000	400, 000	3, 290, 000	+50, 000	+2, 890, 000		+2, 890, 000
Total, Agricultural Stabilization and Conservation Service	230, 767, 000	190, 986, 000	193, 876, 000	182, 946, 000	189, 876, 000	−40, 891, 000	−1, 110, 000	−4, 000, 000	+6, 930, 000
Federal Crop Insurance Corporation									
Administrative and operating expenses	12, 000, 000	12, 000, 000	12, 000, 000	12, 000, 000	12, 000, 000				
Federal Crop Insurance Corporation fund	(13, 229, 000)	(13, 557, 000)	(16, 500, 000)	(16, 480, 000)	(16, 500, 000)	(+3, 271, 000)	(+2, 943, 000)		(+20, 000)
Total, Federal Crop Insurance Corporation	(25, 229, 000)	(25, 557, 000)	(28, 500, 000)	(28, 480, 000)	(28, 500, 000)	(+3, 271, 000)	(+2, 943, 000)		(+20, 000)

See footnotes at end of table.

Agency and title	New budget (obligational) authority enacted to date fiscal year 1979	Budget estimates of new (obligational) authority fiscal year 1980	New budget (obligational) authority recommended in House bill 1980	New budget (obligational) authority recommended in Senate bill 1980	New budget (obligational) authority recommended by conferees	Increase or decrease (−) conference recommendations compared with— 1979 enacted	1980 budget estimate	1980 House bill	1980 Senate bill
TITLE I—AGRICULTURAL PROGRAMS—Continued									
FARM INCOME STABILIZATION—Continued									
Commodity Credit Corporation									
New borrowing authority	4,509,100,000					−4,509,100,000			
Liquidation of contract authority	(990,900,000)					(−990,900,000)			
Total, new authority to borrow	(5,500,000,000)					(−5,500,000,000)			
Reimbursement for net realized losses	990,900,000	3,056,189,000	3,056,189,000	3,056,189,000	3,056,189,000	+2,065,289,000			
Limitation on administrative expenses	(50,100,000)	(50,700,000)	(50,700,000)	(50,690,000)	(50,700,000)	(+600,000)			(+10,000)
Total, farm income stabilization	5,742,767,000	3,259,175,000	3,262,065,000	3,251,135,000	3,258,065,000	−2,484,702,000	−1,110,000	−4,000,000	+6,930,000
Total, title I, new budget (obligational) authority, agricultural programs	7,317,762,000	4,793,758,000	4,840,458,000	4,856,134,000	4,862,766,000	−2,454,996,000	+69,008,000	+22,308,000	+6,632,000
TITLE II—RURAL DEVELOPMENT PROGRAMS									
RURAL DEVELOPMENT ASSISTANCE									
Farmers Home Administration									
Rural housing insurance fund:									
Direct loans	(24,000,000)	(24,000,000)	(24,000,000)	(24,000,000)	(24,000,000)				
Insured loans	(3,776,000,000)	(3,406,000,000)	(4,059,000,000)	(3,766,000,000)	(3,979,000,000)	(+203,000,000)	(+573,000,000)	(−80,000,000)	(+213,000,000)
Guaranteed loans	(500,000,000)	(500,000,000)	(500,000,000)	(500,000,000)	(500,000,000)				
Construction defects authorization	(1,000,000)	(5,000,000)	(5,000,000)	(5,000,000)	(5,000,000)	(+4,000,000)			
Rent supplement authorization	(425,500,000)	(393,000,000)	(393,000,000)	(393,000,000)	(393,000,000)	(−32,500,000)			
Home ownership assistance (authority to borrow)		954,960,000					−954,960,000		
Reimbursement for interest and other losses	320,192,000	320,209,000	320,209,000	320,209,000	320,209,000	+17,000			
Reimbursement for rent supplement payments	47,040,000	76,580,000	76,580,000	76,580,000	76,580,000	+29,540,000			
Home ownership assistance payments		60,000,000					−60,000,000		
Total, rural housing insurance fund	(4,668,232,000)	(5,346,749,000)	(4,984.789,000)	(4,691,789,000)	(4,904,789,000)	(+236,557,000)	(−441,960,000)	(−80,000,000)	(+213,000,000)
Agricultural credit insurance fund:									
Insured real estate loans	(875,600,000)	(879,600,000)	(949,600,000)	(949,600,000)	(949,600,000)	(+74,000,000)	(+70,000.000)		
Soil conservation loans	(30,000,000)	(22,400,000)	(30,000,000)	(30,000,000)	(30,000,000)		(+7,600,000)		
Operating loans	(925,000,000)	(700,000,000)	(875,000,000)	(875,000,000)	(875,000,000)	(−50,000,000)	(+175,000,000)		
Emergency loans [1]	(200,000,000)	(200,000,000)	(200,000,000)	(200,000,000)	(200,000,000)				
Reimbursement for interest and other losses	143,565,000	272,809,000	272,809,000	272,809,000	272,809,000	+129,244,000			
Total, agricultural credit insurance fund	(2,174,165,000)	(2,074,809,000)	(2,327,409,000)	(2,327,409,000)	(2,327,409,000)	(+153,244,000)	(+252,600,000)		
Rural development insurance fund:									
Reimbursement for losses	107,276,000	91,874,000	91,874,000	91,874,000	91,874,000	−15,402,000			
Water and sewer facility loans	(900,000,000)	(700,000,000)	(700,000,000)	(700,000,000)	(700,000,000)	(−200,000,000)			
Industrial development loans	(1,100,000,000)	(1,000,000,000)	(1,100,000,000)	(1,100,000,000)	(1,100,000,000)		(+100,000,000)		
Community facility loans	(250,000,000)	(250,000,000)	(250,000,000)	(250,000,000	(250,000,000)				
Total, rural development insurance fund	(2,357,276,000)	(2,041,874,000)	(2,141,874,000)	(2,141,874,000)	(2,141,874,000)	(−215,402,000)	(+100,000,000)		
Rural water and waste disposal grants	282,500,000	265,000,000	300,000,000	300,000,000	300,000,000	+17,500,000	+35,000,000		
Very low-income housing repair grants	19,000,000	24,000,000	24,000,000	24,000,000	24,000,000	+5,000,000			
Rural housing for domestic farm labor	33,000,000	25,000,000	25,000,000	25,000,000	25,000,000	−8,000,000			
Mutual and self-help housing	13,500,000	5,000,000	5,000,000	5,000,000	5,000,000	−8,500,000			
Self-help housing land development fund	1,000,000					−1,000,000			
Rural community fire protection grants	3,500,000		3,500,000	3,500,000	3,500,000		+3,500,000		
Rural development planning grants	5,000,000		5,000,000	9,000,000	7,000,000	+2,000,000	+7,000,000	+2,000,000	−2,000,000
Rural housing supervisory assistance grants	2,500,000	1,200,000	2,500,000	1,200,000	1,500,000	−1,000,000	+300,000	−1,000,000	+300,000
Rural development grants	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000				
Salaries and expenses	225,245,000	225,818,000	232,318,000	228,278,000	230,518,000	+5,273,000	+4,700,000	−1,800,000	+2,240,000
Transfer from loan accounts	(3,500,000)	(3,500,000)	(3,500,000)	(3,500,000)	(3,500,000)				
Total, salaries and expenses	(228,745,000)	(229,318,000)	(235,818,000)	(231,778,000)	(234,018,000)	(+5,273,000)	(+4,700,000)	−(1,800,000)	(+2,240,000)
Total, Farmers Home Administration	1,213,318,000	2,332,450,000	1,368,790,000	1,367,450,000	1,367,990,000	+154,672,000	−964,460,000	−800,000	+540,000

See footnotes at end of table.

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						1979 enacted	1980 budget estimate	1980 House bill	1980 Senate bill
TITLE II—RURAL DEVELOPMENT PROGRAMS—Continued									
RURAL DEVELOPMENT ASSISTANCE—Continued									
Rural Electrification Administration									
Rural electrification and telephone revolving fund:[2]									
Electric loans	(850, 000, 000)	(735, 000, 000)	(850, 000, 000)	(850, 000, 000)	(850, 000, 000)		(+115, 000, 000)		
Telephone loans	(250, 000, 000)	(250, 000, 000)	(250, 000, 000)	(250, 000, 000)	(250, 000, 000)				
Total, loans	(1, 100, 000, 000)	(985, 000, 000)	(1, 100, 000, 000)	(1, 100, 000, 000)	(1, 100, 000, 000)		(+115, 000, 000)		
Capitalization of Rural Telephone Bank[2]	(30, 000, 000)	(30, 000, 000)	(30, 000, 000)	(30, 000, 000)	(30, 000, 000)				
Salaries and expenses	25, 061, 000	25, 970, 000	26, 045, 000	26, 045, 000	26, 045, 000	+984, 000	+75, 000		
Total, Rural Electrification Administration	25, 061, 000	25, 970, 000	26, 045, 000	26, 045, 000	26, 045, 000	+984, 000	+75, 000		
Total, rural development assistance	1, 238, 379, 000	2, 358, 420, 000	1, 394, 835, 000	1, 393, 495, 000	1, 394, 035, 000	+155, 656, 000	−964, 385, 000	−800, 000	+540, 000
CONSERVATION									
Soil Conservation Service									
Conservation operations	262, 402, 000	253, 902, 000	259, 747, 000	272, 043, 000	264, 747, 000	+2, 345, 000	+10, 845, 000	+5, 000, 000	−7, 296, 000
River basin surveys and investigations	16, 487, 000	15, 810, 000	17, 061, 000	15, 801, 000	16, 487, 000		+686, 000	−574, 000	+686, 000
Watershed planning	11, 847, 000	6, 023, 000	12, 293, 000	6, 023, 000	10, 500, 000	−1, 347, 000	+4, 477, 000	−1, 793, 000	+4, 477, 000
Watershed and flood prevention operations	169, 607, 000	184, 908, 000	172, 524, 000	162, 524, 000	167, 524, 000	−2, 083, 000	−17, 384, 000	+5, 000, 000	−5, 000, 000
Resource conservation and development	25, 441, 000	2, 943, 000	32, 000, 000	32, 000, 000	32, 000, 000	+6, 559, 000	+29, 057, 000		
Great Plains conservation program	18, 689, 000	8, 426, 000	18, 689, 000	18, 689, 000	18, 689, 000		+10, 263, 000		
Rural clean water program[3]		75, 000, 000		75, 000, 000			−75, 000, 000		−75, 000, 000
Total, Soil Conservation Service	504, 473, 000	547, 003, 000	512, 314, 000	582, 080, 000	509, 947, 000	+5, 474, 000	−37, 056, 000	−2, 367, 000	−72, 133, 000
Agricultural Stabilization and Conservation Service									
Agricultural conservation program:									
Liquidation of contract authority	(115, 000, 000)					(−115, 000, 000)			
Appropriation	190, 000, 000	125, 000, 000	190, 000, 000	190, 000, 000	190, 000, 000		+65, 000, 000		
Forestry incentives program	15, 000, 000	10, 000, 000	15, 000, 000	15, 000, 000	15, 000, 000		+5, 000, 000		
Water Bank program	10, 000, 000		10, 000, 000	10, 000, 000	10, 000, 000		+10, 000, 000		
Emergency conservation measures	10, 000, 000	20, 000, 000	20, 000, 000	10, 000, 000	15, 000, 000	+5, 000, 000	−5, 000, 000	−5, 000, 000	−5, 000, 000
Rural clean water program[4]					50, 000, 000	+50, 000, 000	+50, 000, 000	+50, 000, 000	+50, 000, 000
Total, Agricultural Stabilization and Conservation Service	225, 000, 000	155, 000, 000	235, 000, 000	225, 000, 000	280, 000, 000	+55, 000, 000	+125, 000, 000	+45, 000, 000	+55, 000, 000
Total, Conservation	729, 473, 000	702, 003, 000	747, 314, 000	807, 080, 000	789, 947, 000	+60, 474, 000	+87, 944, 000	+42, 633, 000	−17, 133, 000
Total, title II, rural development programs: New budget (obligational) authority	1, 967, 852, 000	3, 060, 423, 000	2, 142, 149, 000	2, 200, 575, 000	2, 183, 982, 000	+216, 130, 000	−876, 441, 000	+41, 833, 000	−16, 593, 000
TITLE III—DOMESTIC FOOD PROGRAMS									
Food and Nutrition Service									
Child nutrition programs	1, 402, 035, 000	1, 450, 218, 000	1, 330, 215, 000	1, 275, 215, 000	1, 279, 215, 000	−122, 820, 000	−171, 003, 000	−51, 000, 000	+4, 000, 000
Transfer from sec. 32	(1, 411, 575, 000)	(1, 711, 083, 000)	(1, 831, 086, 000)	(1, 831, 086, 000)	(1, 831, 086, 000)	(+419, 511, 000)	(+120, 003, 000)		
Total, child nutrition programs	(2, 813, 610, 000)	(3, 161, 301, 000)	(3, 161, 301, 000)	(3, 106, 301, 000)	(3, 110, 301, 000)	(+296, 691, 000)	(−51, 000, 000)	(−51, 000, 000)	(+4, 000, 000)
Special milk program	142, 000, 000	32, 000, 000	142, 000, 000	142, 000, 000	142, 000, 000		+110, 000, 000		
Special supplemental food program (WIC)	569, 500, 000	771, 500, 000	771, 500, 000	749, 500, 000	757, 700, 000	+188, 200, 000	−13, 800, 000	−13, 800, 000	+8, 200, 000
Food stamp program[5]	6, 679, 200, 000	6, 926, 520, 000	6, 188, 600, 000	6, 187, 600, 000	6, 188, 600, 000	−490, 600, 000	−737, 920, 000		+1, 000, 000
Food donations programs:									
Needy family programs	12, 800, 000	39, 790, 000	39, 790, 000	39, 790, 000	39, 790, 000	+26, 990, 000			
Elderly feeding program	57, 000, 000	50, 500, 000	50, 500, 000	50, 500, 000	50, 500, 000	−6, 500, 000			
Total, food donations programs	69, 800, 000	90, 290, 000	90, 290, 000	90, 290, 000	90, 290, 000	+20, 490, 000			
Food program administration	76, 424, 000	84, 422, 000	80, 000, 000	84, 382, 000	82, 000, 000	+5, 576, 000	−2, 422, 000	+2, 000, 000	−2, 382, 000
Total, title III, new budget (obligational) authority, domestic food programs	8, 938, 959, 000	9, 354, 950, 000	8, 602, 605, 000	8, 528, 987, 000	8, 539, 805, 000	−399, 154, 000	−815, 145, 000	−62, 800, 000	+10, 818, 000

See footnotes at end of table.

Agency and title	New budget (obligational) authority enacted to date fiscal year 1979	Budget estimates of new (obligational) authority fiscal year 1980	New budget (obligational) authority recommended in House bill 1980	New budget (obligational) authority recommended in Senate bill 1980	New budget (obligational) authority recommended by conferees	Increase or decrease (—) conference recommendations compared with—			
						1979 enacted	1980 budget estimate	1980 House bill	1980 Senate bill
TITLE IV—INTERNATIONAL PROGRAMS									
Foreign Agricultural Service	54,215,000	54,929,000	56,129,000	56,807,000	56,427,000	+2,212,000	+1,498,000	+298,000	−380,000
Office of International Cooperation and Development	199,000	2,964,000	2,964,000	1,864,000	1,864,000	+1,665,000	−1,100,000	−1,100,000	
Public Law 480:									
Title I and III—Credit sales	339,400,000	280,776,000	280,776,000	222,050,000	280,776,000	−58,624,000			+58,726,000
Title II—Commodities for disposition abroad	466,500,000	438,700,000	438,700,000	438,700,000	438,700,000	−27,800,000			
Sales manager	(4,202,000)	(4,608,000)	(4,608,000)	(4,598,000)	(4,608,000)	(+406,000)			(+10,000)
Total, Public Law 480[6]	805,900,000	719,476,000	719,476,000	660,750,000	719,476,000	−86,424,000			+58,726,000
Total, title IV, new budget (obligational) authority, international programs	860,314,000	777,369,000	778,569,000	719,421,000	777,767,000	−82,547,000	+398,000	−802,000	+58,346,000
TITLE V—RELATED AGENCIES									
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE									
Food and Drug Administration									
Salaries and expenses	301,954,000	316,296,000	316,296,000	307,796,000	312,796,000	+10,842,000	−3,500,000	−3,500,000	+5,000,000
Buildings and facilities	10,459,000	4,372,000	4,372,000	29,372,000	4,372,000	−6,087,000			−25,000,000
Total, Food and Drug Administration	312,413,000	320,668,000	320,668,000	337,168,000	317,168,000	+4,755,000	−3,500,000	−3,500,000	−20,000,000
INDEPENDENT AGENCIES									
Commodity Futures Trading Commission	15,836,000	16,366,000	16,366,000	16,366,000	16,366,000	+530,000			
Farm Credit Administration (limitation on administrative expenses)	(10,925,000)		(11,897,000)	(11,897,000)	(11,897,000)	(+972,000)	(+11,897,000)		
Total, title V, new budget (obligational) authority, related agencies	328,249,000	337,034,000	337,034,000	353,534,000	333,534,000	+5,285,000	−3,500,000	−3,500,000	−20,000,000
RECAPITULATION									
Title I—Agricultural programs	7,317,762,000	4,793,758,000	4,840,458,000	4,856,134,000	4,862,766,000	−2,454,996,000	+69,008,000	+22,308,000	+6,632,000
Title II—Rural development programs	1,967,852,000	3,060,423,000	2,142,149,000	2,200,575,000	2,183,982,000	+216,130,000	−876,441,000	+41,838,000	−16,593,000
Title III—Domestic food programs	8,938,959,000	9,354,950,000	8,602,605,000	8,528,987,000	8,539,805,000	−399,154,000	−815,145,000	−62,800,000	+10,818,000
Title IV—International programs	860,314,000	777,369,000	778,569,000	719,421,000	777,767,000	−82,547,000	+398,000	−802,000	+58,346,000
Title V—Related agencies	328,249,000	337,034,000	337,034,000	353,534,000	333,534,000	+5,285,000	−3,500,000	−3,500,000	−20,000,000
Total, new budget (obligational) authority	19,413,136,000	18,323,534,000	16,700,815,000	16,658,651,000	16,697,854,000	−2,715,282,000	−1,625,680,000	−2,961,000	+39,203,000
Transfer from sec. 32	1,411,575,000	1,711,083,000	1,831,086,000	1,831,086,000	1,831,086,000	+419,511,000	+120,003,000		
Total obligational authority	20,824,711,000	20,034,617,000	18,531,901,000	18,489,737,000	18,528,940,000	−2,295,771,000	−1,505,677,000	−2,961,000	+39,203,000
Consisting of:									
1. Appropriations	19,411,136,000	18,321,534,000	16,698,815,000	16,656,651,000	16,695,854,000	−2,715,282,000	−1,625,680,000	−2,961,000	+39,203,000
2. Reappropriations	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000				
3. Direct and insured loan level	8,081,600,000	7,172,000,000	8,192,600,000	7,899,600,000	8,112,600,000	+31,000,000	+940,600,000	−80,000,000	+213,000,000
4. Guaranteed loan level	1,600,000,000	1,500,000,000	1,600,000,000	1,600,000,000	1,600,000,000		+100,000,000		
5. Rent supplement authorization	425,500,000	393,000,000	393,000,000	393,000,000	393,000,000	−32,500,000			
Memoranda:									
1. Appropriations to liquidate contract authorizations	1,105,900,000					−1,105,900,000			
2. Appropriations, including appropriations to liquidate contract authority	20,519,036,000	18,323,534,000	16,700,815,000	16,658,651,000	16,697,854,000	−3,821,182,000	−1,625,680,000	−2,961,000	+39,203,000
3. Transfers from sec. 32	1,411,575,000	1,711,083,000	1,831,086,000	1,831,086,000	1,831,086,000	+419,511,000	+120,003,000		
4. Transfers from Commodity Credit Corporation	99,865,000	152,389,000	152,389,000	152,389,000	152,389,000	+52,524,000			

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[1] The budget request and bill provide no limitation for emergency loans. Funds are available in amounts necessary to meet the needs resulting from natural disasters.

[2] These amounts are excluded by law (Public Law 93-32) from the budget totals.

[3] A similar program is funded under the Agricultural Stabilization and Conservation Service.

[4] Funds for a similar program were requested under Soil Conservation Service.

[5] A budget amendment for an additional $1,411,454,000 for food stamps was received but passed over without prejudice by the conferees because of the lack of legislative authorization.

[6] A budget amendment for an additional $205,800,000 was passed over without prejudice by the conferees and will be considered at a later date.

Mr. ANDREWS of North Dakota. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to reiterate what my chairman has said. This was a good conference. The needs of agriculture, the needs of the hungry in our Food for Peace program and feeding programs at home were taken care of. We set about a sensible and worthwhile research program so that we can have dependability of food and fiber supplies not only for the American market, but for the export market which is so important to our balance of payments.

As the chairman pointed out, we bring this bill back roughly $3 million under the original figure, and $1.6 billion under the budget. I hope my colleagues will support the conference report.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. ANDREWS of North Dakota. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I rise in support of the conference report on H.R. 4387. We spent many long hours working on the compromises contained in this conference report. I would like to especially commend Chairman WHITTEN, and Mr. ANDREWS, the ranking minority member of the subcommittee, for their diligent efforts. These gentlemen have already reviewed the contents of the conference report for you. I will not repeat their presentations.

I just want to say a few words about a particular problem that came up toward the end of the conference. I am sure many of you either saw or heard about the "60 Minutes" broadcast concerning Farmers Home Administration loans to millionaires through the emergency loan program. Although there is no doubt that these millionaire farmers are legally entitled to loans if they have a qualified loss through a natural disaster, I feel that Farmers Home making large loans to millionaires at interest significantly below commercially available loan rates is a horrible abuse of the intent of the program. I know that most of you agree with me.

Yesterday, on the consolidated farm bill an amendment was adopted by a large margin to tighten up this program, and I hope that during conference on that bill the limits can be even more firmly drawn. In addition, the conference report of the agriculture appropriations bill includes language encouraging the Department in its efforts to administratively limit the size of the emergency loans, and to strengthen the credit-elsewhere test. We want to preserve this program to help the average farmer to recover from natural disasters, but we do not want it to be an aid program to make the rich richer at the taxpayers expense.

Just a word about one other program.

The conference agreement includes $6.2 billion for food stamps. There was not one conferee who really believed that $6.2 billion is really enough for food stamps under current economic conditions, however, that is all that is currently authorized. The budget request for this program was amended just before we went to conference, it is now $8.3 billion, which may not even be enough. We can all expect that a supplemental bill will be necessary to cover the difference between the conference figure and what is really necessary to run the program under the present economic conditions.

I urge my colleagues to support this conference report.

Mr. ANDREWS of North Dakota. Mr. Speaker, I urge my colleagues to support the conference report.

Mr. TRAXLER. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Michigan (Mr. TRAXLER).

Mr. TRAXLER. Mr. Speaker, I rise in complete support of the adoption of the conference report to accompany H.R. 4387, the agriculture, rural development and related agencies appropriations bill for fiscal year 1980.

I can definitely say as a conferee that the differences between the original House and Senate versions of this appropriation bill have been given a thorough review, and I am confident that the funding provided in this report will adequately provide for the needs of farmers and consumers in the coming year.

The spending level of $16,697,854,000 is about $3 million below the level originally provided in the House version of the agricultural appropriations bill that we passed a few months ago. The compromises that have been made to reach this funding level have been fair, and I can say for a certainty that each conferee would have preferred to provide even stronger funding for many of these programs, but we understand the need to restrain spending to responsible levels in our efforts to hold down total Federal spending.

I am particularly pleased with the agreement we reached with the Senate on research appropriations. As many of my colleagues know, we have had a strong difference of opinion between the House and the Senate on the establishment of a competitive grants program under the Science and Education Administration's Division for Cooperative State Research. This program is based on the belief that additional research is needed in several basic science areas, and that the selection process for research proposals is to be controlled by a peer review panel.

The House has made efforts to hold down spending in competitive grants so that we can provide essential increases for traditional formula research programs administered through the land grant college system. We have no quarrel with providing research funds to research facilities outside of the land grant system. The problem we have had is that we have yet to be convinced by USDA officials that the per review process is the correct course to follow.

This year we will be able to provide $16 million for the competitive grant program, an increase of $1 million over what was provided in each of the past 2 fiscal years. At the same time, we will provide $2½ million for a special contract research grant program which will concentrate its funds in high priority agricultural research projects. These funds are intended to be available to all research groups, but will be administered solely by USDA officials.

It is my hope that over the next few years as we continue funding both programs that the Department can review both to see which method of funding research does, in fact, provide the most benefit per dollar spent.

Several individual research projects that are of specific interest to Michigan were approved by the conferees. The bean and beet research farm in Saginaw, Mich., will continue to receive $50,000 to carry on projects that are essential to the dry bean industry. Michigan State University will receive an additional allotment of $35,000 to continue work that it began last year in dairy photoperiod research. A new project in bean flour processing and product development will begin during fiscal year 1980 under a project to be operated jointly by Michigan State University and Texas A. & M.

We also agreed to provide $3.5 million increases for both the Hatch Act formula research program and for the Smith-Lever cooperative extension program. These increases will go a long way toward helping to continue the excellent joint efforts that these two programs have had throughout their history. Agriculture is unique in having an effective technology transfer system, and that transfer is the work of the Extension Service. I can think of no other program that is more worthy of an increase than both the Hatch and Smith-Lever programs.

We have also restored the funding for several essential categorical extension programs, such as farm safety, urban gardening, and the expanded food and nutrition education program. In this time of concern for limiting Federal spending, restoration of these programs is, I believe, ample evidence of the support that the Congress has for these projects.

Under the Farmers Home Administration, we have expressed some concern that there is a need for FmHA to give a higher priority to using rural water and waste disposal loan and grant funds in those areas that are in jeopardy of losing their water system because of the requirements of the Safe Drinking Water Act. The House Agricultural Appropriations Subcommittee will certainly monitor the FmHA response to this directive during the coming year.

It is also noteworthy that we have once again secured funding for the very important agricultural conservation program. Funding will continue at a level of $190 million for fiscal year 1980, and it is expected that this program which continues to help farmers maintain the quality of the environment will continue long into the future. The commitment of the Agricultural Appropriation Subcommittee to ACP is well known, and is not likely to change.

Some significant action was taken with respect to certain programs funded under title III, domestic food programs. No program can mean more for people than one which will provide them the food they need at a time when they can least afford to obtain that food.

We maintain our efforts to guarantee the continuation of the commodity supplemental feeding program in the coming year with an appropriation of $21.5 million. This program has a modest increase over the fiscal 1979 budget, and will continue to operate as a model for other Federal feeding programs. The dignity provided to the recipient and the quality of the food package available under CSFP is something of which the Congress, USDA, and CSFP operators can be proud.

Major action was taken with respect to the funding of the women, infants, and children feeding program. The House had originally provided a direct appropriation of $750 million for WIC, and allowed for all funds that remained in the program account at the end of fiscal 1979 to be carried over to fiscal 1980. The Senate had denied this carryover, the reason being that the Senate hoped to make a program savings by counting the carryover against the appropriation.

Since the passage of the bill by the Senate this summer, it has been estimated by USDA that this carryover will amount to at least $22 million. In order to responsibly fund the WIC program, we have agreed to provide $736,200,000 by direct appropriation, $13,800,000 from remaining fiscal 1979 funds as part of the total $750 million for WIC, and we have allowed that any amount carried over in excess of $13,800,000 can be used for program expansion and will not result in a reduction of the base appropriation. That is what the report means by "at least $13.8 million in prior-year balances."

We are most interested in USDA using these funds in a responsible fashion, and it was the concern of the conferees that failing to allow at least some measure of a carryover would result in future years in indiscriminate spending at the end of the fiscal year in order to make use of all funds that were provided for the program. While we know that the administrators of this program would not consciously act to make unfortunate use of program funds, we felt that it was only good management practice to allow a portion of the remaining funds to be used in the coming year for responsible program expansion.

The House faced a major technical problem with providing the requested nearly $2 billion in food stamp funds in that an authorization for the additional amount has not yet been enacted. We point out very clearly in the conference report under amendment 86 that we expect to make a timely review and disposition of additional funding requirements for the food stamp program. It is also expected that while the authorization and the supplemental appropriations are being considered that the Department will not make any reduction in food stamp benefits to recipients because of the fact that the appropriation provided in this conference report is lower than the anticipated funding need for fiscal 1980.

This conference report is a solid one and deserves the support of every Member of the House. Funding demands for farmer and consumer programs are equally important, and are adequately met in this bill. This is a responsible spending measure, and I hope that every Member will vote to approve the conference report on the agricultural appropriations bill for fiscal year 1980.

Mr. DASCHLE. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from South Dakota.

Mr. DASCHLE. Mr. Speaker, I would like to pay my commendation to the chairman and to the conference committee, especially in resolving to accept the Senate bill for fuels in rural counties.

Mr. Speaker, I rise to briefly speak in favor of one provision of the conference report to accompany H.R. 4387, a provision which is very important and which I strongly support. This provision increases to $500 million the total amount of Commodity Credit Corporation loan guarantees for the construction of facilities to produce alcohol for fuel and industrial hydrocarbons from agricultural and forestry products. Increasing the total amount of Commodity Credit Corporation loan guarantees to $500 million for the construction of facilities to produce alcohol fuel is a cost effective and good means to support and stimulate the development of an alcohol fuels industry in our country.

The Food and Agriculture Act of 1977 included a requirement that the Secretary of Agriculture through Commodity Credit Corporation loan guarantees totaling $60 million support four pilot projects for the production of alcohol for fuel from agriculture and forest products. I understand the Department of Agriculture received at least 30 formal applications for the 4 pilot projects and clearly interest in the production of alcohol fuels from renewable resources has increased many fold since passage of the Food and Agriculture Act of 1977.

There remains little question alcohol fuel will play an increasingly important role in the Nation's energy future. Support for this developing industry is most certainly in the national interest and increasing to $500 million the total amount of Commodity Credit Corporation loan guarantees for alcohol fuel production facilities which will expand an existing and important program is an action which I most strongly support.

Mr. BROWN of California. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Speaker, I appreciate the gentleman yielding. I merely wanted to inquire—possibly I missed the gentleman's earlier remarks with respect to amendment No. 20, having to do with the competitive research grants. In this figure approximately the same or higher or lower than what we have had in the current year in this program?

Mr. WHITTEN. For fiscal year 1979 the appropriation was $15 million, this agreement provides $16 million for fiscal year 1980, which is a $1 million increase.

Mr. BROWN of California. If the gentleman will yield further, as the gentleman knows my own State of California has taken a strong interest in this program, as have many other States. We continue to look toward the possibility of passing the quality of agricultural research through this program. I commend the gentleman for his willingness to continue to see that there is modest growth in this program.

□ 1200

Mr. WHITTEN. May I say to the gentleman we have appreciated his support back through the years, and we do have the same understanding. There has not really been all that much difference of opinion. The difference between the special research grants program and the competitive program is one of whether to tell the Congress in advance or whether to tell the Congress in advance or whether to tell them after the fact.

Mr. ANDREWS of North Dakota. I thank the gentleman for his comments.

Mr. WHITTEN. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make a point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 304, nays 25, not voting 104, as follows:

[Roll No. 609]

YEAS—304

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Bingham
Blanchard
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clinger
Coelho
Coleman
Collins, Ill.
Conte
Conyers
Corcoran
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Dicks
Diggs
Dingell
Dodd
Donnelly
Dornan
Downey
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Ford, Mich.
Ford, Tenn.
Fountain
Frost
Garcia
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Heftel
Hillis
Hinson
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Hubbard
Hughes
Hyde
Ichord
Ireland
Jeffords
Jeffries
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Tenn.
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Lundine
Madigan
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Mitchell, Md.
Mitchell, N.Y.
Mollohan
Moore
Moorhead, Calif.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nowak
O'Brien
Oakar
Oberstar
Panetta
Pashayan
Patterson
Pease
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Roberts

Robinson
Rose
Rostenkowski
Roth
Roybal
Royer
Runnels
Russo
Sabo
Satterfield
Sawyer
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shuster
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thompson
Traxler
Trible
Udall
Ullman
Vander Jagt
Vento
Volkmer
Walgren
Walker
Watkins
Waxman
White
Whittaker
Whitten
Williams, Mont.
Wilson, C. H.
Wirth
Wyatt
Wylie
Yates
Young, Alaska
Young, Mo.
Zablocki

NAYS—25

Archer
Ashbrook
Collins, Tex.
Courter
Crane, Daniel
Dannemeyer
Derwinski
Fenwick
Frenzel
Gephardt
Gradison
Jacobs
Kelly
Lagomarsino
Luken
Lungren
McDonald
Miller, Ohio
Mottl
Paul
Ritter
Schroeder
Shumway
Weaver
Wolff

NOT VOTING—104

Addabbo
Ashley
AuCoin
Bedell
Biaggi
Boggs
Bolling
Breaux
Brooks
Burton, John
Butler
Clay
Cleveland
Conable
Corman
Cotter
Crane, Philip
Davis, S.C.
Devine
Dickinson
Dixon
Dougherty
Drinan
Duncan, Oreg.
Early
Flood
Florio
Foley
Forsythe
Fowler
Fuqua
Gaydos
Giaimo
Hanley
Hefner
Hightower
Holland
Howard
Huckaby
Hutto
Jenkins
Jones, N.C.
Jones, Okla.
Kastenmeier
LaFalce
Leach, La.
Lee
Livingston
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Maguire
Mattox
Michel
Minish
Moakley
Moffett
Montgomery
Moorhead, Pa.
Nichols
Nolan
Obey
Ottinger
Patten
Pepper
Perkins
Quayle
Railsback
Richmond
Rodino
Roe
Rosenthal
Rousselot
Rudd
Santini
Scheuer
Skelton
Staggers
Stark
Stokes
Symms
Thomas
Treen
Van Deerlin
Vanik
Wampler
Weiss
Whitehurst
Whitley
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wolpe
Wright
Wydler
Yatron
Young, Fla.
Zeferetti

☐ 1210

The Clerk announced the following pairs:

On this vote:

Mr. Foley for, with Mr. Stark against.

Until further notice:

Mr. Staggers with Mr. Quayle.
Mr. Richmond with Mr. Railsback.
Mr. Addabbo with Mr. Symms.
Mrs. Boggs with Mr. McClory.
Mr. Rodino with Mr. Cleveland.
Mr. Wright with Mr. Butler.
Mr. Zeferetti with Mr. Conable.
Mr. Cotter with Mr. McDade.
Mr. Corman with Mr. Michel.
Mr. John L. Burton with Mr. Wampler.
Mr. Biaggi with Mr. Thomas.
Mr. Ashley with Mr. Rousselot.
Mr. Howard with Mr. Devine.
Mr. Jones of North Carolina with Mr. Dickinson.
Mr. McCormack with Mr. McEwen.
Mr. McHugh with Mr. McKinney.
Mr. Moakley with Mr. Forsythe.
Mr. Minish with Mr. Dougherty.
Mr. Moorhead of Pennsylvania with Mr. Dixon.
Mr. Nichols with Mr. Philip M. Crane.
Mr. Nolan with Mr. Whitehurst.
Mr. Stokes with Mr. Bob Wilson.
Mr. Santini with Mr. Lee.
Mr. Rosenthal with Mr. Livingston.
Mr. Pepper with Mr. Winn.
Mr. Patten with Mr. Wolpe.
Mr. Gaydos with Mr. Young of Florida.
Mr. Hanley with Mr. McCloskey.
Mr. Fuqua with Mr. Mattox.
Mr. Florio with Mr. Leach of Louisiana.
Mr. Brooks with Mr. Rudd.
Mr. Breaux with Mr. Perkins.
Mr. AuCoin with Mr. Scheuer.
Mr. Kastenmeier with Mr. Skelton.
Mr. LaFalce with Mr. Williams of Ohio.
Mr. Roe with Mr. Wydler.
Mr. Yatron with Mr. Bedell.
Mr. Charles Wilson of Texas with Mr. Clay.
Mr. Whitley with Mr. Davis of South Carolina.
Mr. Obey with Mr. Drinan.
Mr. Ottinger with Mr. Duncan of Oregon.
Mr. Flood with Mr. Fowler.
Mr. Early with Mr. Hefner.
Mr. Giaimo with Mr. Hightower.
Mr. Huckaby with Mr. Holland.
Mr. Maguire with Mr. Jones of Oklahoma.
Mr. McKay with Mr. Hutto.
Mr. Moffett with Mr. Jenkins.
Mr. Montgomery with Mr. Weiss.
Mr. Van Deerlin with Mr. Vanik.

Mr. SEBELIUS and Mr. HANSEN changed their votes from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 5: Page 2, line 17, strike out "$8,397,000" and insert "$8,072,000;".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 5 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$7,772,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 6: Page 2, line 19, strike out "$19,609,000" and insert "$19,723,000".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 6 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$19,423,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 19: Page 9, line 6, insert "of which $8,023,000 is for special research grants,".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 19 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment insert "$16,548,000".

The motion was agreed to.

☐ 1220

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 60: Page 27, line 21, strike out "of which $50,000,000 shall be for insured loans and $1,050,000,000 shall be for guaranteed loans;".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 60 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: "of which $10,000,000 shall be for insured loans and $1,090,000,000 shall be for guaranteed loans".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate Amendment No. 72: Page 36, line 21, insert:

RURAL CLEAN WATER PROGRAM

For necessary expenses for carrying out Section 35 of the Clean Water Act of December 27, 1977 (33 U.S.C. 1251; 1288), and, in accordance with the provisions of the Federal Water Pollution Control Act of October 18, 1972, as amended, for application and cost-sharing of water quality measures incorporating best management practices to control nonpoint source pollution for improved water quality, $75,000,000, to remain available until expended.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 72 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

RURAL CLEAN WATER PROGRAM

For necessary expenses for carrying out an experimental Rural Clean Water Program, $50,000,000, to remain available until expended and to be targeted at areas with identified and significant agricultural nonpoint source water pollution problems to be selected by the Secretary: *Provided*, That practices under the above program shall be recommended by the County Committees, approved by the State Committees and the

Secretary, with the concurrence of the Administrator of the Environmental Protection Agency, or recommended by the Secretary, with the concurrence of the Administrator of the Environmental Protection Agency, and approved by the State Committees and the County Committees: *Provided further*, That such program shall be in addition to the regular Agricultural Conservation Program, and coordinated therewith, with the Soil Conservation Service and others providing technical assistance and the Agricultural Stabilization and Conservation Service providing administrative services for the program, including, but not limited to, the negotiation and administration of contracts and the disbursement of payments: *Provided further*, That such funds as may be required shall be transferred to the Soil Conservation Service, or others, for necessary technical assistance.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 77: Page 41, line 9, insert "$1,275,215,000 is hereby appropriated,".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 77 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert "$1,279,215,000 is hereby appropriated,".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 79: Page 41, line 22 insert: ": *Provided further*, That only claims for reimbursement for meals served during fiscal year 1980 submitted to State agencies prior to January 1, 1981, shall be eligible for reimbursement".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 79 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 80: Page 41, line 25, insert: ": *Provided further*, That funds appropriated for the purpose of section 7 of the Child Nutrition Act of 1966, as amended, shall be allocated among the States but the distribution of such funds to an individual State is contingent upon that State's agreement to participate in studies and surveys of programs authorized under the National School Lunch Act, as amended, and the Child Nutrition Act of 1966, as amended, when such studies and surveys have been directed by the Congress and requested by the Secretary of Agriculture".

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 80 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows: Senate amendment No. 81: Page 42, line 9, insert ": *Provided further*, That if the Secretary of Agriculture determines that a State's administration of any program under the National School Lunch Act, as amended, or the Child Nutrition Act of 1966, as amended (other than section 17), or the regulations issued pursuant to these Acts, is seriously deficient, and the State fails to correct the deficiency within a specified period of time, the Secretary may withhold from the State some or all of the funds allocated to the State under section 7 of the Child Nutrition Act of 1966, as amended, and under section 13(k)(1) of the National School Lunch Act, as amended; upon a subsequent determination by the Secretary that the programs are operated in an acceptable manner some or all of the funds withheld may be allocated."

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 81 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 83: Page 42, line 25, insert:

"*Provided further*, That no part of the funds appropriated in this Act for the summer food service program shall be available for payments to service institutions other than to: (1) public service institutions, (2) private nonprofit service institutions including residential camps which use self-preparation facilities to prepare meals or obtain meals from a public facility, such as a school district, public hospital, or State university, (3) private nonprofit schools including colleges and universities, (4) private non-profit migrant farmworker organizations including those that purchase meals from a food service management company, (5) private nonprofit service institutions which serve not more than 500 children daily at not more than three sites and which purchase meals from a food service management company, and (6) in areas where no service institutions delineated in items (1) through (5) are available to operate the program, private nonprofit service institutions which purchase meals from a food service management company, determined by the Secretary of Agriculture to have a record of reliable and honest community service in feeding programs."

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 83 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 84: Page 44, line 8, insert "of which $749,500,000 is hereby appropriated and $22,000,000 is to be derived from prior year balances,".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 84 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: "of which $757,700,000 is hereby appropriated and $13,800,000 is to be derived from prior-year balances,".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the last amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 85: Page 44, line 11, insert: "*Provided*, That section 17(g) of the Child Nutrition Act of 1966, as amended, is hereby amended by striking out the numeral "800,000,000" and inserting in lieu thereof, "750,000,000".".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 85 and concur therein.

The motion was agreed to.

A motion to reconsider the votes by which the action was taken on the several motions was laid on the table.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include tables, charts and other extraneous material on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

CONFERENCE REPORT ON S. 428, DEPARTMENT OF DEFENSE AUTHORIZATION ACT, FISCAL YEAR 1980

Mr. PRICE. Mr. Speaker, I call up the conference report on the Senate bill (S. 428) to authorize appropriations for fiscal year 1980 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Force and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the provisions of clause 2, rule XXVIII, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of October 23, 1979.)

The SPEAKER pro tempore. The gentleman from Illinois (Mr. Price) will be recognized for 30 minutes, and the gentleman from South Carolina (Mr. Spence) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. Price).

Mr. PRICE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the House has a crowded schedule today, and I shall, therefore, be as brief as possible.

The House conferees on the Defense appropriation authorization bill, S. 428, reached agreement with the Senate after six formal conference sessions, and numerous meetings by designated subgroups. This has been a most difficult conference requiring extended negotiations in areas where representatives on both sides held strongly to divergent views on important issues.

The conference report was printed in the Congressional Record for Tuesday, October 23, beginning on page 29215, and thus, has been available to all Members for several days.

The authorization bill as initially approved bv the Senate provided $40.108.9 million in new authorizations. The House amendment authorized $41,393.1 million. The conference report contains authorizations totaling $41,390.5 million.

In line with the specific authority provided by the House, the conference went into closed session when required for national security purposes and only closed after House conferees so agreed by rollcall vote. Sitting Members of the House were allowed to sit in on all closed sessions. In addition to the procurement and R. & D. programs, which frequently involved classified national security information, the conferees also had to consider some intelligence related programs which, of necessity, are classified.

I would like to express my appreciation to Mr. Boland of Massachusetts and to the members and the staff of his committee for quickly working out the intelligence-related activities over which both committees have responsibility.

I would like to express my thanks to the House conferees who were diligent in their attendance at the conference and who worked hard on the numerous complex issues being considered. I would particularly like to express my appreciation to Mr. Nichols of Alabama, who conducted long and difficult negotiations on the question of treatment of dependents of junior enlisted personnel in the matter of overseas assignments. Mr. Nichols is a former combat commander who understands the needs of soldiers and he carried out a difficult assignment with perseverance and dignity.

The major dollar authorizations approved by the conference are as follows:

Procurement, $27.769 billion.

R. & D., $13,514 billion.

Civil defense, $106.8 million.

The bill authorizes a total of active duty military manpower of 2,051,700 and a civilian personnel end strength for the Defense establishment of 983,600. It authorizes for the Ready Reserve a minimum average strength of 835,200.

The conference report contains authorization for a nuclear aircraft carrier, as contained in the House amendment. The Senate bill had contained a conventional carrier. In view of the overwhelming vote in the House, 309 to 96, the House conferees were steadfast in their support of a nuclear carrier, and the Senate receded.

One of the most difficult issues in conference concerned the travel of military dependents overseas. The House bill had contained a provision passed by an overwhelming floor vote to prohibit differentiation on the basis of rank in providing for travel and transportation of military dependents overseas. The Senate bill contained a provision to discontinue overseas travel allowances for dependents of lower grade enlisted personnel. The conferees agreed to a compromise provision which limits the number of command sponsored dependents overseas to 325,000 and leaves to the discretion of the services Secretaries the determination of whose dependents are authorized travel allowances.

As the statement of managers makes clear, this is to be interpreted so that the burden of any limitation does not fall entirely on junior enlisted personnel.

Quite frankly, Mr. Speaker, the House conferees were unhappy with any limitation but the Senate conferees were exceptionally adamant on this issue and we struck the best bargain available at the time.

In summary, Mr. Speaker, I believe we have obtained the best bill we could expect under the circumstances. It is far from ideal, but it does provide for the most urgent needs of the Defense Department and does allow us to go forward with needed programs of the Department of Defense for the fiscal year 1980.

I urge all Members to support the bill.

Let me briefly summarize the agreement on some more important differences that were considered in conference:

The conferees approved the authorization requested for the Roland missile system, $283.3 million.

In aircraft procurement for the Navy, the conference approved:

$145.6 million for six A-6E aircraft. The aircraft was not requested by the administration but was included in the Senate bill.

$569.5 million for 30 F-14 aircraft. The House approved 36 and the Senate 24.

$890 million for 25 F-18 aircraft. The House had approved 30 and the Senate 25.

$29.5 million for two C-9B aircraft. The C-9B was not requested by the administration; the House had authorized five.

For the Air Force in aircraft procurement, the conferees approved:

$125.35 million for 12 A-7K attack aircraft. The A-7 was not requested by the administration but was added by the Senate. The conference denied any advance procurement funds for future procurement of A-7's.

$102.8 million for modification of three EF-111 reconnaissance aircraft. The administration had only asked for $55 million for one aircraft.

$13.7 million for 10 C-12A aircraft and $29.5 million for 15 AH-1S attack helicopters were agreed to for the Army. Neither aircraft had been requested by the administration.

In missile procurement, the conference agreed on $396 million for 155 Army Patriot missiles and denied $70.6 million requested for the Pershing I-A missile program.

In addition to the nuclear-powered aircraft carrier, the conferees agreed on $809.6 million for two SSN-688 nuclear submarines, the administration had requested one, with advance procurement only for the second; $41 million in long lead funding for the LSD-41; and $49.5 million for conversion of an LPH amphibious assault ship to a light carrier. Neither of the latter two ships had been requested by the administration.

The shipbuilding program approved totals $6,706.8 million, which compares to an initial House authorization of $6,790.4 million, and an initial Senate authorization of $5,791.6 million. The administration had requested $6,173.8 million.

In tracked combat vehicles, the conference authorized: $51.5 million for 56 M-728 combat engineer vehicles; $55 million for 64 M-60 tanks; and $34.2 million in additional spares and repair parts for the XM-1 tanks.

In coming to agreement on numerous items in the area of research and development, the conferees included the following major programs: $30.43 million for very high speed integrated circuits; $25.64 million for development of the Trident II missile system; $30 million for evaluation of various aircraft as cruise missile carriers; $12.5 million for test and evaluation of laser designator pods for light aircraft such as the F-16; $60 million for construction, test and evaluation of a 3,000-ton surface effect ship.

Restriction on obligation of funds for the Extremely Low Frequency (ELF) system until the President certifies to the Congress that a site has been selected for the system.

A total of $5 million for continued development of the AV-8B+ carrier aircraft which had not been requested by the administration; and $3 million to be available for evaluation of launching the Hellfire missile from the UH-60 helicopter.

The conferees agreed to active duty military force levels of:

Army	776, 700
Navy	528, 000
Marine Corps	189, 000
Air Force	558, 000

And a Defense Department total civilian personnel level of 983,000.

The Senate conferees adamantly opposed a House provision for a multiyear authorization for civil defense and the House conferees were forced to recede. But the conferees agreed to urge the executive branch to submit a program for increased funding for civil defense over the next 5 years.

The conferees agreed to a House provision directing the Department of Defense to competitively procure gasohol for use in military motor vehicles, when feasible, and also adopted a House provision calling for a study of the condition of the Titan II missile.

Also included in the final version of the bill were provisions to require a study of the Selective Service System; extend the open season for reservists under the military retired survivor benefit plan; make maximum use of the Uniformed Services University of the Health Sciences; and provide Department of Defense support for the 1980 winter Olympic games.

The bill is, overall, a good piece of legislation and we should approve the conference report quickly so the bill can become law and the Defense appropriation process can proceed.

An earlier version of the conference report was published in the CONGRESSIONAL RECORD for Wednesday, October 17 but it was necessary to go back to conference briefly to revise the wording of one section, section 818, so as to avoid a conflict with the Senate rules.

Section 818 is an expression of a sense of Congress regarding lifting of artificial impediments to imports of strategic materials from Zimbabwe-Rhodesia. The revision to section 818 was merely to specifically mention Zimbabwe-Rhodesia so that the section would not be beyond the scope of the matter initially committed to conference. That is the only change from the earlier version of the conference report. I would emphasize that section 818 does not change the provision of existing law regarding the lifting of trade sanctions from Zimbabwe-Rhodesia; it is simply a sense of Congress expression.

□ 1230

Mr. SPENCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on S. 428 and urge its acceptance by the House.

My good chairman, Mr. PRICE, has addressed, for the most part, the differences between the House- and Senate-passed bills and highlighted the major agreements reached in conference. I should like to digress for a moment from the diligent efforts and compromises attained in our conference agreement, and reflect on the assumptions upon which the administration based its request for a 3-percent increase in Defense spending for fiscal 1980.

We are all painfully aware of the spiraling inflation rate which has shown no signs of abating to date. The administration's budget request was based on an estimated rate of inflation which has proven to be unrealistic. The spending power of the Defense dollar has eroded along with that of every consumer's dollar. In spite of the increased authorization approved in conference, we will be fortunate to maintain the status quo in terms of real purchasing power for the Department of Defense.

With inflation eating away precious Defense dollars, the programs which finally surfaced in this conference report were subjected to great examination throughout the entire authorization process. Many of the programs that were dropped in conference—although important to our national defense and probably justified—were dropped because we realize there are just not enough dollars available. As the conferees worked their will on this report, the financial constraints on Defense were uppermost in their minds and in the forefront of every decision reached. The result of this conference is an authorization which we believe provides for a competitive and balanced defense budget and an authorization which we believe also addresses some very serious issues which may in the future, if not corrected now, lead to a lessening of our security.

A specific issue at hand is the conference agreement to authorize a nuclear-powered aircraft carrier versus an oil-powered carrier requested by the administration, or a conventionally-powered *Kennedy*-class carrier authorized in the Senate-passed bill. Although not supported by the President, the conferees agreed that this nuclear-propulsion system is the best alternative, especially in view of dwindling oil supplies.

The conferees also attempted to redress what we feel is a deficiency in combat power and readiness, particularly with regard to Navy aircraft procurement. By authorizing an increased procurement of A-6E, F-14A, and F/A-18 combat aircraft, as well as needed C-9B transports, the Navy's allotted budget will be more economically efficient.

To counter what we believe to be a strategic vulnerability, the conferees not only authorized requested modifications to the B-52 strategic bomber but additionally requested a study and report on the effectiveness of the B-52 as a cruise missile carrier and as a penetrating bomber over the next decade.

The conferees also authorized $25.64 million for development of the Trident II missile system in addition to requiring a report on the requirement for the missile, the design alternatives of the total missile system, its affordability within Navy budget constraints, and a management plan for completing the development and production of the missile system. As a further insurance to the survivability of the MX missile program, the conferees agreed to specifically authorize $670 million for concurrent full-scale engineering development of the Multiple Protection Structure (MPS) basing system and the MX missile.

Mr. Speaker, our defenses need attention. Our primary purpose as a Federal Government is to provide protection for our people. I am convinced that the American people feel it is time that we lived up to that responsibility. A poll I have conducted in my congressional district indicates that the public supports increased defense spending. In fact, defense is the only category for which they indicated their desire for additional appropriations. I believe it is time that the Congress responds to the will of the people—and to our constitutional mandate.

I urge your support and request your endorsement of this conference agreement.

Mr. RITTER. Mr. Speaker, will the gentleman yield for a point of information?

Mr. SPENCE. I yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Speaker, on the subject of the 3-percent increase, what is at present the best estimates of the real dollar increase in the defense budget? I know that many of the Members of this House are interested in what the increases are in reality, taking into account inflation.

Is there any best intelligence on that?

Mr. SPENCE. Mr. Speaker, our estimate would be that the real growth, even with the overall dollar increase to the President's budget, would be negligible. As I indicated earlier, the 3-percent increase proposed by the administration was based on an unrealistic inflation factor.

Mr. RITTER. But the real dollar increase of fiscal year 1980 over fiscal year 1979 is what, in the gentleman's best estimates?

Mr. SPENCE. Well, considering inflation, we still do not think we have an increase over what we had last year.

Mr. RITTER. I see. So the gentleman's best estimate is that there are no real dollar increases in the defense budget of fiscal year 1980 over fiscal year 1979?

Mr. SPENCE. That is correct, taking into consideration a realistic inflation factor.

Mr. RITTER. Mr. Speaker, I thank the gentleman very much.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. SPENCE. I am happy to yield to the gentleman from Texas.

Mr. KAZEN. Mr. Speaker, I notice that as far as civilian personnel are concerned, the conference report reduced the civilian employees by 1,500. Then, according to the report, this language is added: "In accommodating the reduction, the Department of Defense should include a reduction in support personnel for dependent activities overseas and give consideration to the areas addressed in the reports of the House and Senate Committees on Armed Services concerning civilian personnel."

Now, that is a reduction of 1,500 under the President's request, and it is apparently quite a bit under the House provisions.

Mr. Speaker, how does the gentleman foresee the wide ceilings of the Department of Defense on civilian personnel being affected by what happens overseas?

Mr. SPENCE. Mr. Speaker, I would like to refer that matter to the gentleman from Texas (Mr. WHITE), the chairman of the subcommittee.

Mr. KAZEN. Mr. Speaker, in other words, what I want to know is whether this language in the report says to the Department of Defense: "Hey. You take into consideration some of these positions, these civilian positions overseas, in reducing the civilian personnel rather than taking it out of those who are employed in the continental United States."

Mr. SPENCE. Mr. Speaker, I yield to the chairman of the subcommittee, the gentleman from Texas (Mr. WHITE) for an answer to that.

Mr. WHITE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, let me state to the gentleman that there was no mandated decrease. This was to take into consideration the possibility of reducing the number, but there is no mandated decrease in the report.

Mr. KAZEN. But it says:

> The conferees agreed to provide for an overall Department of Defense-wide authorization for civilian personnel of 983,600—a reduction of 1,500 from the administration request.

Now, the House authorized 986,292, and this report here only has 983,600, which is approximately 3,000 below the figure that went out from the House.

Mr. WHITE. Mr. Speaker, if the gentleman will yield further, counsel for the committee advises me that this number could be as few as 2. That will not necessarily mean it would be the 3,000 figure the gentleman is referring to.

Mr. KAZEN. Mr. Speaker, I just wanted to make sure that the Department of Defense, if they start cutting, will not cut the domestic personnel. I would rather they would be cutting the civilian personnel overseas than cutting the domestic help we have here that is so vital to our repair work, our manufacturing and everything else.

Mr. SPENCE. Mr. Speaker, I understand what the gentleman is saying, and I thank the gentleman for his contribution.

Mr. MITCHELL of New York. Mr. Speaker, will the gentleman yield?

Mr. SPENCE. I yield to the gentleman from New York.

Mr. MITCHELL of New York. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I just wanted to express my disappointment with the fact that the House was unable to maintain its position on civil defense. As we all recall, the Skelton amendment was passed by this House by a large margin, and that amendment would have provided for a 5-year comprehensive civil defense plan for our Nation—something that I feel is badly needed.

I had even thought seriously about offering a motion to recommit with instructions, but since I am strongly supportive of the remainder of the package, I do not want to do anything to jeopardize its passage.

As the Members will recall, the arguments used against the Skelton amendment on the floor were, first, that no hearings had been held on this specific piece of legislation. I am hopeful that in the months ahead the chairmen of the appropriate subcommittees will have an opportunity to hold hearings on that particular piece of legislation.

One other objection was that the Agency was in a state of flux, that it was changing from something called the DCPA to the FEMA and a new Director was coming on board. This is true. I had the opportunity to speak with the Director, John Macy, a couple of weeks ago, and I am impressed by the gentleman. I think he is going to do a fine job for civil defense.

Since this objection will also be made the next time around I am hopeful that the House will be able to maintain the position that it took this year. The President offered his support for civil defense last year. With the administration taking a stronger position on civil defense, I hope the Senate will concur with us, and that a year from now we will have a stronger program on civil defense.

Mr. SPENCE. Mr. Speaker, I appreciate the gentleman's remarks, and I hope we can do more in the future in this area.

Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. TRIBLE).

☐ 1240

Mr. TRIBLE. Mr. Speaker, I rise in support of this conference report. I think it is a balanced bill. I think it is a good bill. It takes an important step in responding to the increased Soviet power and presence in the world.

However, we have a long way to go. Fortunately, it appears that the American people are now realizing the seriousness of the challenge and recognize that we must have a national defense second to none. That is the price we must pay if we are to remain free as a people and if we are to insure a safe and secure world for our children and our children's children.

I want to make one special comment here this morning. I am especially pleased by the shipbuilding portion of this report which provides 11 combatant ships for our Navy. The House conferees stood firm in advancing the cause of the nuclear aircraft carrier and a second nuclear attack submarine so vital to our Nation's defense.

Mr. Speaker, I want to extend my special thanks to the chairman of the Subcommittee on Seapower, the gentleman from Florida (Mr. BENNETT), for his strength in the conference committee, and to my colleagues there represented.

This authorization will dramatically strengthen our naval shipbuilding program. It will begin to provide the number of quality ships that we so desperately need to maintain our slim margin of superiority over the Soviet Navy.

Mr. PRICE. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr WHITE).

Mr. WHITE. Mr. Speaker, I yield to the gentleman from Texas (Mr. KAZEN) for a colloquy.

Mr. KAZEN. Mr. Speaker, I wish to commend the Members of the House conference committee, and particularly Chairman WHITE, for the work it did on this particular section. Mr. Speaker, as the gentleman well knows, the Committee on Armed Services put a very strong provision in this bill concerning procedures for contracting out. I know how hard it was in conference to keep the provision which the House wrote. Although it was softened somewhat by the conference, what our conferees gave up, they did very reluctantly but in the main, they stood up well against the terrific assault made upon this section by the other body's conferees and what we have left in this conference report is the best that our people could do.

The conference provision was changed in the main in two ways. It now provides that before contracting out of a function, a report must be made showing the potential economic effect on employees affected and the potential economic effect on the local community and Federal Government if more than 50 employees are involved. When the bill left this House, there was no minimum number of employees involved before that report had to be made. And the other significant change that I see was the elimination of a 30-day notice period to the Congress before a contract was let. I understand that this is a compromise and I understand that the gentleman from Texas and our conferees tried for several days to hold our position and even though they were not successful, I know that what they did accomplish is significant.

I understand that this was a compromise, because we in our House bill did not have any specific number. That is one of the differences that was made, and I understand that the chairman tried to hold the House position but could not hold it.

Mr. WHITE. Mr. Speaker, if the gentleman will allow me to explain, the committee pretty well held the House position. We had hung tough, as the saying goes, with the exception of two elements. One was the 30 days before contracting-out time would expire.

Mr. KAZEN. The 30-day notice coming to Congress before a contract would be let.

Mr. WHITE. The reports would still have to be made. All of the elements of the reports, the Hanley amendment, were kept in our version. But the 30 days was removed, and the 30 days did have some problems inherent.

The other matter was the question of at what level would the application of law transpire. Obviously, if you have one or two personnel, it was not very practical to have all of the reports, and so forth, take place. So finally we settled on the figure of 50. Earlier the Senate wanted a figure that was considerably more. I cannot remember precisely, but I think it is in the area of 300, or something like that. We said, "No, that is irrational, or certainly not practical." So we did make those two changes. That is all the changes we made in our version, except the Senate changed the word "impact" to a different word "affect" which means the same thing.

Mr. KAZEN. Again I say, Mr. Speaker, that I believe the House conferees did the best they could on this conference report. This particular section is of great interest to me since I represent so many dedicated civilian employees who would be hurt irreparably if their functions were contracted out on a whim without showing that it is in the best interest of our national security and national defense.

Mr. WHITE. The gentleman has taken a lead in that particular area.

Mr. KAZEN. Mr. Speaker, this is a good start. We can monitor the activities of the Department of Defense in this matter during the next year and if it is warranted, we can come back in our next authorization and make whatever corrections are needed.

Mr. WHITE. I agree with the gentleman.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I would just like to associate myself with the remarks of the gentleman from Texas (Mr. Kazen) and also I would like to congratulate the chairman for his leadership on this issue. I think it is an area we are going to have to pay increasing attention to. I think post-contracting-out auditing should be done to make certain that the Government in fact is getting the best value for its tax dollar. The gentleman is to be commended for his outstanding work in this area.

Mr. WHITE. I thank the gentleman for his comments. We will continue to monitor the situation.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I just want to associate myself with the remarks of my colleagues on this issue. I, along with many other Members, have followed this very carefully, and there are many concerns here of my constituents. I think we appreciate what you have done in this regard.

Mr. WHITE. I thank the gentleman.

Mr. BEARD of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from Tennessee.

Mr. BEARD of Tennessee. Mr. Speaker, I want to commend the gentleman for the hearings he held on the all-volunteer service. I just want to go on record as saying that I hope this next year the Congress will show the responsibility in bringing to task the leadership of the Department of Defense in calling their hand on what has been one of the biggest coverups this country has ever seen when the true facts come out as to the status of the All-Volunteer Army being a total failure.

● Mr. HARRIS. Mr. Speaker, I am pleased to note that the conference report for the 1980 DOD authorization bill contains the amendment which was offered by Mr. Hanley to eliminate contracting out to avoid personnel ceilings and to require certification that the in-house cost calculation is based on the most cost-effective organization. In fact, I feel that the modifications added by the conferees clarify the intent of the House in supporting the original Hanley amendment.

I would like to commend Mr. Hanley for his actions in this area, as well as the conferees and other Members of this House who have supported these provisions.

I would also like to inform Members that my bill to eliminate waste in Federal procurement has been amended to extend the provisions of the Hanley amendment to all executive agencies. Since estimated Federal procurement activity now accounts for more than one-fifth of our entire Federal budget, I feel that the time has come for a clear legislative directive requiring cost-effective procurement decisions be provided to the executive branch.●

● Mr. WHITE. Mr. Speaker, I would like to mention some of the highlights of the conference action on the defense authorization bill for fiscal year 1980 with regard to manpower.

Although it is an area that will be addressed by my colleague, Mr. Nichols, I want to say that the resolution of the problem on junior enlisted travel was the most difficult the conference faced and I would like to congratulate Mr. Nichols for his perseverance and leadership in reaching a compromise on this very important issue.

ACTIVE FORCES

In the area of Active Forces, the conferees agreed on the following strengths for fiscal year 1980:

Army	776,700
Navy	528,000
Marine Corps	189,000
Air Force	558,000
Total	2,051,700

The two Houses were 10,100 apart overall. The conference agreement is 4,700 above the Senate and 5,400 below the House.

RESERVE FORCES

In the Reserve forces, the strengths themselves were not an issue, but the conferees did agree on an increase of 500—for a total of 707—full-time support personnel for the Naval Reserve to permit a test program using these additional Reserve personnel in high-priority missions of the Naval Reserve or to offset existing deficiencies in critical skills in the active Navy.

The Senate agreed to the House amendment to the Reserve educational assistance program and the House agreed to terminate the authority for administrative duty pay to Reserve commanders on September 30, 1980.

CIVILIAN PERSONNEL

In the area of civilian personnel, the Houses were approximately 5,400 apart and agreed on an end strength which essentially split the difference. The strength agreed to is 983,600 for fiscal year 1980. This is a reduction of 1,500 from the Administration request. The conferees agreed that specific increases made by the committees of 1,200 personnel for the naval air rework facilities and for additional medical support personnel should be accomplished within this number.

GENERAL PROVISIONS

UNIFORM CODE OF MILITARY JUSTICE

In the general provisions, the House agreed to the Senate position amending the Uniform Code of Military Justice to limit the right of an accused to raise defects in the enlistment process to defeat court martial jurisdiction and to clarify the President's authority to issue a manual of trial procedures. In taking this action, the conferees wanted to make clear that this should not be interpreted as indicating a lack of interest in an already serious recruiting malpractice problem. The conferees directed the Secretary of Defense to review the use of the quota system in recruiting and to have the services establish a more effective administrative process to permit all enlistees to raise questions concerning the validity of their enlistment.

CONTRACTING OUT

The House bill contained some important language on the issue of contracting out. The Senate bill had addressed the issue also. The conference agreement is essentially the House language, including that offered by our colleague, Mr. Hanley, as well as requiring an annual report by the Secretary of Defense on the number of positions to be converted to private contract in the current year and in the future. The conferees agreed, however, to strike the House provision which provided that no funds could be obligated on a contract involving a conversion to private contract until 30 legislative days had elapsed.

SELECTIVE SERVICE

On the House language on the Presidential study of the Selective Service System, the House provision is intact. However, one change to the provision involving the feasibility of a centralized, automated system for registration was agreed to that struck the reference to using school records. Several Members of the House who had been interested in the issue requested this change in conference.

The House provision expressing Congress view that the Selective Service System remain an independent agency was agreed to in the conference.

Mr. Speaker, there were some other matters in the manpower area, particularly those relating to compensation and an extension of 1 year in the reduction of senior grade civilian personnel in the Department of Defense which will be addressed by Mr. Nichols.

All in all, however, I believe the conference agreement is a fair one and I urge the Members of the House to support the conference report.●

● Mr. NICHOLS. Mr. Speaker, I would like to indicate my strong support of the conference report on S. 428, the Defense authorization bill for fiscal year 1980. Although it is not everything I personally would like it to be, it provides authorization for the fundamental defense posture this Nation requires.

One of the most difficult issues in the conference revolved around travel and transportation benefits for dependents of service members stationed overseas. The Senate bill contained a provision that would have ended the entitlement of junior enlisted service members to travel and transportation benefits for their dependents. The House bill contained a provision—added as an amendment on the floor by the gentleman from Wisconsin, Mr. Aspin—that would have insured that no differentiation in entitlement could be made among service members based on their grade. I strongly support that amendment, and I still favor the concept on which it was based.

The conference had completed work on all other matters but was delayed for an extended period on the issue of junior enlisted travel, which was not resolved until October 16. Both the House and Senate conferees were adamant in their respective positions.

Finally, in order to break the deadlock, the conferees agreed to drop the original language relating to this issue contained in the Senate bill and the House amendment which, in effect, retained current law regarding entitlement of junior enlisted personnel to dependent travel allowances. In lieu thereof, the conferees agreed to revised language which places a ceiling on the number of command-sponsored dependents overseas. Command-sponsored dependents are those who are authorized to accompany the service member overseas and whose travel and transportation is paid for by the Government.

Beginning after September 30, 1980, travel and transportation benefits for dependents cannot be provided whenever the number of command sponsored dependents overseas—not including Alaska and Hawaii—exceeds 325,000. Under this provision, however, travel and transportation benefits would not be prohibited even if the number of command-sponsored dependents overseas exceeds the limitation for those dependents returning to the United States from overseas if they had received travel and transportation benefits when they initially traveled overseas. Further, the House conferees insisted on language that spells out that any restrictions on travel benefits should be at the discretion of the individual service Secretaries and that the Secretaries should administer these restrictions as fairly as possible and in a manner that is in the best interest of the United States. It was agreed by the conferees that any burden resulting from the limitation on command-sponsored dependents should not fall unilaterally on the junior enlisted population.

I personally believe this limitation on dependents overseas is a step in the wrong direction. The House conferees agreed to this limitation with great reluctance because it was necessary that the Defense authorization bill be passed. I do not disagree with the assertion that the large number of dependents overseas causes potential problems. I question, however, whether reducing the number will not cause even more severe problems. I believe effective ways of dealing with the potential problems could be found without creating the adverse morale impact of a ceiling on dependents overseas.

I am hopeful that the services will be able to accommodate this ceiling on the number of command-sponsored dependents without unduly disrupting assignments. I am convinced that any further, unwarranted reductions will significantly damage morale, readiness, and retention of our service members. No enlightened employer in the private or public sector would impose this type of restriction on its employees—at least no employer who desired to maintain a labor force.

Although I deeply regret this particular limitation in the conference report, I support the conference report as a whole.●

Mr. PRICE. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DORNAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 300, nays 26, not voting 107, as follows:

[Roll No. 610]

YEAS—300

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
Badham
Bafalis
Bailey
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Blanchard
Boland
Boner
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Byron
Campbell
Carney
Carter
Chappell
Cheney
Chisholm
Clausen
Clinger
Coelho
Coleman
Collins, Tex.
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derrick
Derwinski
Dicks
Dodd
Donnelly
Dornan
Downey
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Ford, Tenn.
Fountain
Frenzel
Frost
Garcia
Gaydos
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gooding
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Heftel
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Hubbard
Hughes
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lehman
Lent
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McDonald
Madigan
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mavroules
Mazzoli
Mica
Mikulski
Miller, Ohio
Mineta
Mitchell, N.Y.
Mollohan
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nowak
O'Brien
Oakar
Panetta
Pashayan
Patterson
Paul
Pease
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rostenkowski
Roth
Roybal
Royer
Runnels
Russo
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Stangeland
Stanton
Steed
Stenholm
Stockman
Stratton
Stump
Swift
Synar
Tauke
Taylor
Traxler
Trible
Udall
Ullman
Vander Jagt
Volkmer
Walgren
Walker
Waxman
White
Whittaker
Williams, Mont.
Wilson, C. H.
Wirth
Wolpe

Wright
Wyatt
Wylie
Yates
Young, Alaska
Young, Mo.
Zablocki

NAYS—26

Baldus
Beilenson
Bingham
Carr
Cavanaugh
Collins, Ill.
Conyers
Dellums
Gephardt
Gray
Holtzman
Leland
Miller, Calif.
Mitchell, Md.
Oberstar
Pursell
Sabo
Schroeder
Seiberling
Shannon
Stewart
Stokes
Studds
Thompson
Vento
Weaver

NOT VOTING—107

Addabbo
Ashley
AuCoin
Bedell
Biaggi
Boggs
Bolling
Bonior
Breaux
Brooks
Burton, John
Butler
Clay
Cleveland
Conable
Corman
Cotter
Crane, Philip
Davis, S.C.
Devine
Dickinson
Diggs
Dingell
Dixon
Dougherty
Drinan
Duncan, Oreg.
Early
Flood
Florio
Foley
Ford, Mich.
Forsythe
Fowler
Fuqua
Giaimo
Hanley
Hefner
Hightower
Holland
Howard
Huckaby
Ireland
Jenkins
Jones, N.C.
Jones, Okla.
Kastenmeier
LaFalce
Leach, La.
Lee
Livingston
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Maguire
Mathis
Mattox
Michel
Minish
Moakley
Moffett
Montgomery
Moorhead, Pa.
Murphy, N.Y.
Nichols
Nolan
Obey
Ottinger
Patten
Pepper
Perkins
Quayle
Richmond
Rodino
Rosenthal
Rousselot
Rudd
Santini
Scheuer
Skelton
Staggers
Stark
Symms
Thomas
Treen
Van Deerlin
Vanik
Wampler
Watkins
Weiss
Whitehurst
Whitley
Whitten
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wolff
Wydler
Yatron
Young, Fla.
Zeferetti

☐ 1300

The Clerk announced the following pairs:

On this vote:

Mr. Addabbo for, with Mr. Stark against.

Until further notice:

Mr. Rodino with Mr. Wydler.
Mr. Moorhead of Pennsylvania with Mr. Quayle.
Mr. Foley with Mr. Butler.
Mr. Cotter with Mr. Symms.
Mr. Zeferetti with Mr. Livingston.
Mr. Van Deerlin with Mr. Devine.
Mrs. Boggs with Mr. Whitehurst.
Mr. John L. Burton with Mr. Dickinson.
Mr. Florio with Mr. McClory.
Mr. Fuqua with Mr. Lee.
Mr. Giaimo with Mr. Williams of Ohio.
Mr. Nichols with Mr. Bob Wilson.
Mr. Nolan with Mr. Dixon.
Mr. Moakley with Mr. Dougherty.
Mr. Minish with Mr. Winn.
Mr. McCormack with Mr. McKinney.
Mr. Kastenmeier with Mr. Forsythe.
Mr. Ireland with Mr. Holland.
Mr. Howard with Mr. Leach of Louisiana.
Mr. Hanley with Mr. Mattox.
Mr. Patten with Mr. McCloskey.
Mr. Richmond with Mr. Thomas.
Mr. Santini with Mr. Wampler.
Mr. Staggers with Mr. Scheuer.
Mr. Vanik with Mr. Rousselot.
Mr. Whitley with Mr. McDade.
Mr. Montgomery with Mr. Flood.
Mr. Obey with Mr. Conable.
Mr. Early with Mr. Young of Florida.
Mr. Drinan with Mr. Cleveland.
Mr. Dingell with Mr. Rudd.
Mr. Corman with Mr. Perkins.
Mr. Brooks with Mr. Watkins.
Mr. Breaux with Mr. Michel.
Mr. AuCoin with Mr. Weiss.
Mr. Ashley with Mr. Skelton.
Mr. Bedell with Mr. Yatron.
Mr. Biaggi with Mr. Charles Wilson of Texas.
Mr. Bonior of Michigan with Mr. Whitten.
Mr. Clay with Mr. Ford of Michigan.
Mr. Jones of North Carolina with Mr. Fowler.
Mr. Jones of Oklahoma with Mr. Duncan of Oregon.
Mr. Rosenthal with Mr. Diggs.
Mr. Pepper with Mr. Davis of South Carolina.
Mr. Ottinger with Mr. Hefner.
Mr. Maguire with Mr. Hightower.
Mr. McEwen with Mr. Huckaby.
Mr. Mathis with Mr. Wolff.
Mr. Murphy of New York with Mr. Moffett.
Mr. Jenkins with Mr. LaFalce.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PRICE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERSONAL EXPLANATION

Mr. JONES of Tennessee. Mr. Speaker, on rollcall 607 I was unavoidably detained.

Had I been present I would have voted "aye."

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I take this time to inquire of the distinguished majority leader as to the program for the rest of today and for next week.

Mr. WRIGHT. Mr. Speaker, will the distinguished minority leader yield?

Mr. RHODES. I yield to the gentleman.

Mr. WRIGHT. Mr. Speaker, the only thing remaining on this week's program is H.R. 1885, the retirement preference for certain Bureau of Indian Affairs employees. We would hope to complete consideration of that, and having done so to adjourn for the week.

Next week the House will meet at noon on Monday. We hope for no votes on Monday. There are six suspensions, the Navajo-Hopi Relocation Act; Indiana Dunes; Legionville, Pa., National Historic Site; the annuity payments to judges; the General Accounting Office Act of 1979; and the Congressional Award Act.

Then we would hope to take up two bills on which rules have already been granted and to have general debate on those two bills on Monday, the Education Act Amendments of 1980 and the Milk Price Support Act.

On Tuesday the House would meet at noon and consider three additional suspensions on Tuesday, the miscellaneous changes in Internal Revenue Code; the Martin Luther King birthday celebration bill; and the passenger ship industry revitalization bill. Following that we would have votes on such of the suspensions as votes had been required upon.

Then we have four bills scheduled for a special District day, if unanimous consent is granted. They are the D.C. civil rights suits, a bill to extend Treasury borrowing authority for the District of Columbia, the land title rights for Little Sisters of the Poor, and the D.C. Redevelopment Act amendments. Those will be the four bills scheduled for action on the District day.

Then we would begin the centerpiece for the next week, H.R. 4985, the Priority Energy Project Act of 1979 under an open rule with 2 hours of general debate. That bill is better known as the energy mobilization bill or the fast-track bill. We will proceed until we conclude action on that bill, whether it be on Wednesday, or Thursday, or whenever. I would imagine we could finsh it on Wednesday, having begun and had general debate at least on Tuesday.

Wednesday we will meet at 10, Thursday we will meet at 10, and at the end of this colloquy I shall ask unanimous consent that on Friday next we be allowed to come in at 9 and adjourn at 2, which might give Members a convenient schedule for Friday.

On Wednesday, Thursday, and Friday, after completing the Priority Energy Project Act, we would take up welfare reform amendments, the Federal Trade Commission authorization, Education Act amendments, repayment of loans made to State unemployment funds, the Milwaukee Railroad service continuation, the Agriculture Adjustment Act of 1979, Milk Price Support Act, Meat Import Act of 1979, the national security applications of nuclear energy—authorizations for fiscal 1980, and the Experienced Pilots Act of 1979.

Of course, conference reports may be brought up at any time. Any further program will be announced later.

The House would adjourn by 2 p.m. on Friday and by 5:30 p.m. on all other days except Wednesday.

Mr. RHODES. The majority leader has mentioned that the centerpiece is the Priority Energy Project Act. I think it might be well to inform the Members that the rule on this bill is somewhat unusual in that it requires that amendments be printed in the Record 48 hours prior to the time that the bill will be heard. Anyone who has an amendment to offer, if that rule is adopted, as I say, it is an unusual rule, and if it is adopted in its present form it does require insertion of amendments in the Record.

I might also ask the distinguished majority leader if there are any plans for a further continuing resolution on the Labor-HEW situation, or if the appropriation bill itself may be brought to the floor prior to November 20, which, of course, occurs during the week that the House has projected to be out of session due to the Thanksgiving recess.

Mr. WRIGHT. Of course, as the gentleman would know, one or the other of those must be done. I would think it likely we might have the opportunity to act upon the appropriations bill conference report itself.

☐ 1310

Mr. RHODES. I would agree. I share that hope. May I also inquire of the distinguished majority leader as to the plans, if any, that the majority leadership has to close down the operations of the Rules Committee? I was elated, as many Members were, when the distinguished majority whip, the gentleman from Indiana (Mr. BRADEMAS), about 2 weeks ago put out a projection of the program for the rest of the year indicating that most of November would be spent in pro forma sessions.

That situation which we greeted with such delight has eroded rather considerably, since we will have a program including the week of November 5 and a program after being off the 5th and 6th, and the week of November 12 after being off on November 12. My experience in this body, as I am sure the majority leader would agree, tells me that we cannot really have faith in the credibility of a scheme to curtail the activities of the House looking toward adjournment until the Rules Committee ceases its operations, or almost ceases its operations, except for emergency matters.

In order to lend further credibility to what remains of the statement of the gentleman from Indiana would it be possible for us to have some expression of opinion as to the further activities of the Rules Committee?

Mr. WRIGHT. If the gentleman would yield further, I think the minority leader would understand that it is impossible for us to give a firm and absolutely reliable projection as to an adjournment time, or a time at which the House might go into pro forma sessions, absent some understanding with the other body about when it will take up the SALT debate and whether it leaves other things untended while taking up the SALT debate. But, I think I can say this much: There remain relatively few priority projects from the standpoint of the House leadership.

In addition only to the appropriations bills, which we think obviously must be passed, and those energy matters which are at various stages of progression in the legislative mill, we would hope to have a vote on a hospital cost containment bill. In addition to that, it is hoped that we will have a vote on countercyclical legislation.

Beyond those that I have mentioned, I cannot at the moment think of anything that is an absolute must for this session of the Congress. With those exceptions and one or two others that I may have neglected to mention, we would hope that the time might not be too far off when the Rules Committee might cease to grant rules on additional bills for consideration this year.

Mr. RHODES. I certainly welcome the statement of the gentleman, and I do understand the difficulties in trying to psychoanalyze the other body. We have never really been very successful in that, and I am sure we will not be any more successful now than we were. However, the thought does strike me that even though such psychoanalysis is not profitable, we might consider the alternative of recognizing that there is going to be a rather protracted period of debate on the other side, and therefore to set our sails toward having a minimum program of legislation other than the very important matters that the distinguished majority leader has mentioned. If we do maintain that philosophy, which I hope we will, soon we could and should shut down the Rules Committee. Whenever a bill has a rule, there just seems to be almost irresistible pressure to bring it up, and I think the choke point has to be in the Rules Committee.

Mr. WRIGHT. I thank the gentleman for that advice, and I think it is basically sound.

Mr. RHODES. I thank the gentleman.

ADJOURNMENT TO MONDAY, OCTOBER 29, 1979

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Texas?

There was no objection.

MAKING IN ORDER CONSIDERATION OF DISTRICT OF COLUMBIA BUSINESS ON TUESDAY, OCTOBER 30, 1979

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that it be in order to consider District of Columbia business on Tuesday, October 30, 1979.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

HOUR OF MEETING ON FRIDAY, NOVEMBER 2, 1979

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House convenes on Friday for the remainder of the 1st session of the 96th Congress that it convene at 9 a.m. until otherwise ordered by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I thought the gentleman from Texas was going to ask that permission for this Friday, this coming Friday.

Mr. WRIGHT. If the gentleman would be constrained to object to a general proposition, I could offer it for this time and Members could see how they like it, if that is the gentleman's wish. I would revise my unanimous-consent request.

Mr. BAUMAN. I thank the gentleman.

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House convenes on Friday, November 2, 1979, that it convene at 9 a.m.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BROWN of Ohio. Mr. Speaker, will the distinguished majority leader yield?

Mr. WRIGHT. Yes, of course.

Mr. BROWN of Ohio. I ask the gentleman to yield only to ask a question of somewhat more specific nature about the schedule after next week. The majority leader said that there would be certain energy bills that would be given priority attention. I am curious to know which bills he had reference to, because on next week's schedule is what is referred to as the Priority Energy Project Act of 1979.

Are there others in addition to that, and does he embrace in the energy legislation the windfall profits tax legislation in conference form, or does he embrace the Energy Security Corp. in that energy package that should be done before the end of the year; and are there other energy bills beyond those two or three that I have mentioned that might be considered?

Mr. WRIGHT. In response to the gentleman's question, I would like to see all those bills passed before the end of this year. It may become impossible to do so, but it is my goal, and I think the goal of the leadership that those which we have sent to the Senate shall come back and the conference reports be approved. That includes emphatically and by express enumeration the excess profits tax bill, and the bill creating a synthetic fuels industry in this country. I think it also surely must include the so-called fast track legislation we are taking up in the House for the first time next week. There may be one or two others of less highly publicized status, but nevertheless matters of some interest. There has been introduced with some prospect of quick action a bill to stimulate additional energy conservation in this country.

Mr. BROWN of Ohio. That bill has yet to receive a rule.

Mr. WRIGHT. That is correct.

Mr. BROWN of Ohio. But that is on the priority list?

Mr. WRIGHT. I would like to see it on the priority list if it becomes realistically hopeful to get it there. Then, there is a bill that I understand has received a rule from the Science and Technology Committee, which creates a demonstration project for solar satellites. I would like to see that be passed.

Mr. BROWN of Ohio. These will be done in the 14th or 15th months of this year?

Mr. WRIGHT. Or the 17th or the 18th.

Mr. BROWN of Ohio. I thank the majority leader.

RETIREMENT PREFERENCE FOR CERTAIN BIA EMPLOYEES

Mrs. SPELLMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1885) to amend civil service retirement provisions as they apply to certain employees of the Bureau of Indian Affairs and of the Indian Health Service who are not entitled to Indian employment preference and to modify the application of the Indian employment preference laws as it applies to those agencies.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Maryland (Mrs. SPELLMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1885, with Mr. FLIPPO in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentlewoman from Maryland (Mrs. SPELLMAN) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. DERWINSKI) will be recognized for 30 minutes.

The Chair recognizes the gentlewoman from Maryland (Mrs. SPELLMAN).

Mrs. SPELLMAN. Mr. Chairman, I yield myself so much time as I may consume.

Mr. Chairman, 185 years ago, Edmund Burke, the British statesman and philosopher, wrote there is but "one law for all, namely * * * the law of humanity, justice and equality." I know that none of us would disagree with that statement.

And because we do not, I hope we all can join together to support H.R. 1885.

For all this legislation seeks to do is to apply some of Mr. Burke's "one law" to an extremely unfortunate and unfair situation within our civil service. The bill simply tries to bring a sense of justice and equality to a small but significant group of Federal employees who have been done a grievous wrong and clearly deserve better treatment at the hands of their employer, their Government.

The group, Mr. Chairman, is made up of non-Indians working in the Indian service agencies. They number approximately 4,000 and, since 1972, they have been literally stymied in attempts to advance their careers through absolutely no fault of their own. They are the only group of Federal employees I know of subjected to this kind of legally sanctioned discrimination.

This unfortunate situation has grown out of honest and sincere past efforts by the Federal Government to grant increased self-determination to the American Indians. And I want to make it clear from the start, we are not addressing Indian preference. Our committee has no jurisdiction in that area. All we seek here is fairness for non-Indians as well as Indians. Happily, in this case, the two objectives are not mutually exclusive; they both can be achieved under this legislation.

Before we go any further, perhaps a little history is in order.

In 1934, Congress passed the Indian Reorganization Act, which gave preference to qualified Native Americans for appointment to positions in Federal agencies administering services that affect Indian tribes. The goals were simply to put Indians in Federal Government positions that most affect Indians and, through this, to make Government more responsive to the needs of that constituent group.

Today, these positions fall mostly within the purview of two agencies, the Bureau of Indian Affairs in the Department of the Interior, and the Indian Health Service in the Department of Health, Education, and Welfare.

All might have been fine had it not been for a 1972 Federal court ruling known as the Freeman decision. The Supreme Court, in unanimously affirming this decision, ruled that the 1934 law applied not only to initial hiring within to BIA and IHS but to all promotions, lateral transfers and reassignments within those agencies.

The effect of this decision, as I am sure you can imagine, has been sweeping and traumatic. Non-Indians in these agencies have been literally blocked from advancing their careers. Morale has plummeted and management problems have hurt the efficiency of both the BIA and the IHS in the delivery of vital services to Indian people.

It is this situation that H.R. 1885 seeks to rectify by amending certain civil service retirement provisions as they apply to non-Indians in these agencies and by modifying the application of the Indian preference laws.

The central issue here and the only issue this bill attempts to address is the Federal Government's good faith treatment of this group of adversely affected employees. These people were given assurances at the time they were hired that they would be able to compete equally for career advancement with all other employees, including Indians. They were, in fact, given both verbal and written assurances that the Indian preference law of 1934 only applied to initial hiring. Since 1972, of course, a very different situation has presented itself. As it turned out, the Government initially hired these employees under false and misleading pretenses.

Mr. Chairman, it is true that a bill very similar to H.R. 1885 was defeated in the House during the last Congress. It is my sincere belief, however, that the bill was defeated, not on substantive grounds relating to the issues, but for three reasons totally unrelated to the problem at hand.

First, it was argued the bill seeks to help a "special interest group" through improper means. Outplacement, not increased retirement benefits, is the answer, these individuals said.

In reply, I must point out this was the very position of the Post Office and Civil Service Committee and the administration during the 94th Congress, when this issue first arose. Throughout that Congress, we worked closely with the agencies involved to help set up an effective outplacement program. We found that, because of the unique training and positions of the affected employees, this was just not possible. In fact, during recent oversight hearings, it was disclosed only three or so individuals have been effectively outplaced to date.

On the other side of the coin, the agencies have undergone various RIF's and reorganizations as a result of the Federal court decisions. It is estimated more than 200 employees already have lost their jobs.

For my colleagues in the legal profession, I can only remind them of what is commonly called the "but for" maxim. That is, but for the misinterpretation and misapplication of the law by the agencies, these adversely affected employees might not have joined the Bureau of Indian Affairs or the Indian Health Service.

The second argument used against passage of this bill is that the Indian preference law works to the detriment of the American people and is discriminatory. However, the Supreme Court squarely faced this issue and ruled the opposite.

Regarding the charge that the Indian preference law should be abolished, I can only repeat that the authority to do this does not rest with the Post Office and Civil Service Committee. This bill simply addresses and immediate problem that has already developed into a crisis for many employees.

The third argument used against passage of this bill was that the administration did not favor it. I am most happy to report that while the administration opposed past legislation, it supports this measure.

Mr. Chairman, we have in H.R. 1885 a chance to right a grievous wrong done a faithful group of Federal employees who by and large do not question the appropriateness of Indian preference despite the detrimental effect it has had on their own careers.

They do not object to being replaced by Indians, provided they can retire or have somewhere else to go when displaced. To me, Mr. Chairman, the only fair way to treat this truly unique group of employees is to enact H.R. 1885. Therefore, I respectfully ask all my colleagues to support this bill in its current form.

Mrs. FENWICK. Mr. Chairman, will the gentlewoman yield?

Mrs. SPELLMAN. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank my colleague for yielding. Certainly we all share her beautifully articulated concern for justice in this matter. But I cannot help but feel that we are now involved in a program which would probably cost $104 million, some $6.5 billion over the next 30 years, and it sees to me that we should change the law. If the Supreme Court found that under the law this unjust situation had to be implemented, then we should change the law.

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I do not see that the taxpayers should pay $104 million for a badly drawn law.

Mrs. SPELLMAN. Mr. Chairman, I might point out to the gentlewoman that was my own feeling 5 years ago and I opposed taking the steps we are taking now.

I would also point out that I have become a very, very zealous guardian of the civil service retirement system and have, as a matter of fact, offered to give up my jurisdiction, the jurisdiction of my subcommittee over that system if we could just bring together all of the various civil service retirement programs that are scattered through 11 different jurisdictions in this House. I must say I was the only one willing to give anything up and I have most of it right within our own subcommittee.

Mr. Chairman, despite the fact I am guarding that so carefully, I did finally decide this was the only fair way to deal with these people.

Mrs. FENWICK. Mr. Chairman, we must be fair with our public employees. When the Federal Government enters into an employment contract with an employee it has got to be honored. The Federal Government cannot continue to trample on the rights of people who have entered in good faith into an employment agreement with the Federal Government.

Mrs. SPELLMAN. I might point out the gentlewoman speaks very well for this bill.

Mrs. FENWICK. When we in our lack of wisdom but in our benevolent but ill-conceived zeal pass laws that are inappropriate that result in injustice we ought to change the law. We ought not continue to saddle the taxpayer with expensive programs which are designed to correct the law that we passed.

Mrs. SPELLMAN. I dare say, and I will leave this to speakers who will be following me, that might not be a law that would be very easy to change.

Mr. Chairman, I reserve the balance of my time.

Mr. DERWINSKI. Mr. Chairman, I yield 5 minutes to the gentleman from South Dakota (Mr. ABDNOR).

Mr. ABDNOR. Mr. Chairman, I just wanted to rise in support of this legislation and, of course, urge its approval. I have a great many constituents in South Dakota who are caught up in this recent 1972 court ruling who are very interested in this legislation.

Many of the non-Indian employees of the Bureau of Indian Affairs and the Indian Health Service were midway in their careers when the 1972 Federal court decision, that the chairman talks about, placed them in a virtual deadend. What efforts have been made to place them in other jobs have been unsuccessful because of the specialized kind of work they do.

Mr. Chairman, this bill provides a fair solution to some 4,000 non-Indian BIA workers and IHS employees who have been adversely affected by the misinterpretation of the Indian-preference laws and subsequent court decisions.

Mr. Chairman, it would be great if we could come up with a solution such as my colleague here suggested a moment ago. They have been a long time trying and this seems to be the only answer. I certainly urge everyone's support.

Mrs. SPELLMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. The chairperson of our subcommittee, the gentlewoman from Maryland, is one of my favorite people in this institution and I think one of her great traits is fairness. A country ought to be fair. If something is done for the common good that damages some of our citizens, this country ought to be ready to repair that damage. That is what has occurred here. It has a very broad base of support. The gentleman from South Dakota who just spoke; I was the principal sponsor of the bill; the gentleman from Oklahoma (Mr. STEED) who deals with the appropriations aspects of all of this; the gentleman from North Dakota (Mr. ANDREWS); the gentleman from New Mexico (Mr. LUJAN); the gentleman from New Mexico (Mr. RUNNELS) and the gentleman from Alaska (Mr. YOUNG) are among the others who have cosponsored the bill.

Mr. Chairman, this is a good bill. It will correct an injustice that should be speedily adopted.

Mr. Chairman, in connection with the remarks a few minutes ago, and the colloquy between the gentlewoman from New Jersey (Mrs. FENWICK) and the gentlewoman from Maryland (Mrs. SPELLMAN), some mention was made of the cost of the bill. Let me qualify one point. All the bill does is simply to allow—permits but does not require—permits and allows 4,000 eligible workers to retire if they have, but if everybody retired the retire. It is an optional retirement provision if they think they have come up against a career roadblock and they want to get out. If everyone took advantage of this, and we have many letters from Federal employees who say they do not want to retire, that they will continue the job they have, but if everybody retired the cost would be $104 million added to the funded civil service retirement system.

Mr. Chairman, I want to make it clear that this is not a mandatory retirement. It gives some people who in good faith took Federal jobs an option to pick up these fair terms of retirement.

Mr. Chairman, I hope my colleagues will speedily pass this legislation.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

Mr. Chairman, I know of the wonderful work the gentleman has done as has indeed the gentlewoman from Maryland and the gentleman from Illinois (Mr. DERWINSKI) in this whole area. However, Mr. Chairman, it does seem to me we are going to have to call a halt somewhere. This should have been done by attrition. If it is going to apply to promotion and hiring, in an effort to bring more Indians into those bureaus concerned with their welfare—which is good and right—it should be done by attrition and not through injustice to other employees.

Mr. Chairman, we are not going to get anywhere if all our problems have to be resolved with more expenditures for the general taxpayers. We cannot continue like this.

Mr. UDALL. I appreciate that, Mr. Chairman. I join in those sentiments. However, we have tried for several years to resolve this in different ways.

Mrs. FENWICK. Why not by attrition?

Mr. UDALL. Well, we tried to give these people a chance to shift to other agencies, to HEW.

Mrs. FENWICK. Mr. Chairman, why not have a bill that would say that Indians shall have preference by attrition. When someone else retires that an Indian shall have preference. But why a sudden cutoff?

Mr. UDALL. Well, Mr. Chairman, I hate to see a conflict between our Indian citizens and our non-Indian citizens.

Mrs. FENWICK. So do I.

Mr. UDALL. We have adopted for good reasons the Indian preference law. In adopting the preference law we sometimes create an injustice for other people. There are different ways to handle the problem as the gentlewoman suggested. We think this is the only feasible and readily available way to go. We tried this last year on a somewhat different bill and got beat. We think this bill can pass the House this year.

Mrs. FENWICK. I thank the gentleman.

Mr. UDALL. I yield back the balance of my time.

Mr. DERWINSKI. Mr. Chairman, this legislation is little more than a surrender of the Bureau of Indian Affairs and the Indian Health Service to those less capable of objectively administering the programs of those agencies.

Proponents of the legislation cite court decisions on the application of the Indian Preference Laws which in effect have said to non-Indian employees they have no hope of career advancement or even the normal job security. The legislation is promoted as a correction of this gross inequity. The inequity commenced with the distortion of the preference law.

In fact, the legislation cements into law this inequity and stimulates the exodus of capable and competent career professionals whose replacements may turn out to be of less than equal talent.

The bill deals with the issue on a short-term basis but ignores the real prospect of deterioration in the administration of the laws and programs affecting Indians throughout the country. The real victims are the Indians.

Nor should we ignore the radical elements of the Indian community and we cannot ignore radical actions in the past that involved the ravaging of Federal property. Does it make any sense to channel taxpayers' money which supports Indian services under the BIA and IHS into the hands of those with a history of disregard for the laws of our land?

This portends a sad state of affairs for the Bureau of Indian Affairs and the Indian Health Service.

Should this legislation become law, I predict the day will come when we will take to the floor once again to reinstate the proper personnel procedures over these two agencies in the aftermath of the chaos created by our action today.

Frankly, Mr. Chairman, I think the real problem will come years from now when many of these truly able people will have left the BIA and the management of that controversial agency will even show less effectiveness. I am convinced that years from now we are going to have to undertake a major reform of the BIA, when we find that it is being mismanaged by the people who will have so easily inherited all control.

Mr. Chairman, this bill, of course, does not touch that issue. This bill is intended to help those individuals now frozen who, in fact, are being discriminated against and, therefore, want an early out. It is costly. It is $6 million a year. It sets a bad precedent. I see nothing meritorious in it. As a matter of fact, I think it is such a bad bill I did not even draft an amendment to try to perfect it. It is beyond perfection.

Mr. Chairman, having given the House the benefit of my words of wisdom, I yield at this point 5 minutes to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Chairman, I thank the gentleman from Illinois.

It is well to look back on the history of this bill. In 1976 President Ford vetoed a bill which we had passed in Congress. Then they brought this matter up last year in 1978. The bill lost 204 "no" to 118 "aye." I want to repeat that. It went down almost 2 to 1, 204 "no" to 118 "aye."

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Now, when we talk about fairness, and I know what mixed feelings my good friend, the gentlewoman from Maryland, has about this, what are we going to do to maintain a strong civil service system in America if every time a situation develops, we start making exceptions. We are going to bust that civil service system. It will end up as financially bankrupt as social security.

At this time, the civil service pension fund is the soundest of all the Federal pension systems.

Now, the people that work at the BIA have known since 1972 about this problem. They have been able to transfer into other divisions. They have had 7 years with their rank and their positions, and they could have transferred into another position; but instead, they stayed there. They have chosen to make it a career.

There are two things about this pension erosion that disturb me a great deal. The first one is that they are entitled to retire at age 50. One of the greatest problems with retirement today is the fact that people are not retiring at 60. We are just overburdening. We are putting too much of a burden on the plan. Not only are these people entitled to retire at age 50, but under certain circumstances they can retire at age 48 under this plan.

The other thing that comes up under the plan, and I look for it to be exercised often, frequently and at every opportunity, is the provision where they are involuntarily separated. Now, what happens in a department of this type, and we all know the history, is that people find by talking to others in the section that there is a way of reclassifying and there is a certain accommodation that exists in trying to help a person get out. So they get the job set up where it is an involuntary separation. For whatever reason that they put through this plan, when we take 4,000 people in civil service and put them on retirement too soon, we are taking the worst step backward in the world.

Let us make the civil service pension plan the best. Let us make the requirements much stronger. Let us not make this exception today. Let us use the same wisdom we used last year. Let us vote this plan down.

Mrs. SPELLMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Oklahoma (Mr. STEED).

Mr. STEED. Mr. Chairman, I rise in support of this legislation.

First, I want to congratulate the chairman of the committee, the gentleman from Arizona (Mr. UDALL) and the chairperson of the subcommittee, the gentlewoman from Maryland (Mrs. SPELLMAN) for the fine job they have done in bringing this bill here.

I would like to just make one or two points clear. It is fine to talk about a sound civil service program, but if you have to do it by discriminating against innocent people, I do not think anybody would want to achieve soundness that way. That is the weight of the argument of the gentleman from Texas.

Besides, if these people we are dealing with here today had not been in the Indian service, they would have had to hire somebody else; so the impact on the retirement system would have been the same as it would be if this bill is enacted here today. So this is a specious argument about what the impact of this bill will be.

We have a problem here that affects only a few people and it is an easy bill to jump on and kick around; but if you do that, I want you to know that I cannot believe anybody who really understands what this problem is would want to be a party to having make their Government be unfair and discriminatory against good and faithful people working for it.

Now, there is another side to this question that ought to be kept in mind. We got into this trouble because we were trying to be good and helpful to a minority group, the original minority group in America, our Indians, and bring them into this service and let them get to the point where they could run this service.

To keep this thing the way it is, we are shortcircuiting the effect of that program. We are making it more difficult for Indians in the service to get promoted and this is one of the things that is causing the most trouble today.

I happen to have an area Indian office in my district and I cannot believe that I know anybody in this House that would be against this legislation if they had the same problem in their districts as I have in my district and have come to know this problem as I have, because it is a strict simple matter of trying to get your Government back at a fair level with some good people that have been working for it.

Mr. COLLINS of Texas. Mr. Chairman, will the gentleman yield?

Mr. STEED. I would be glad to yield to the gentleman from Texas.

Mr. COLLINS of Texas. Mr. Chairman, I know what a great friend the gentleman is of the Indians and the gentleman has civil service; so the gentleman has both groups represented.

What is the limitation from the people that work for the BIA in transferring into civil service and continuing to do service to the country to keep their same rank? They are entitled to retain their civil service.

Mr. STEED. That is true; but the point is that the skills they have working in the Indian service just do not have any marketplace in the rest of the Government. We made all kinds of efforts to get these people transferred and they have, too. We have not been able to find many places where they can fit and where their skills would be used, except in this service.

They have done a very fine job of staying on and helping our Indian employees learn this job. I think we owe them a debt of gratitude and we ought to be fair with them and rectify this injustice.

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. STEED. I would be glad to yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Chairman, in regard to the concern of the gentleman from Texas, would it not be fair to say that these people were locked in, that some of them were 45 then?

Mr. STEED. The gentleman is correct. They were made victims beyond their own responsibility.

Mr DERWINSKI. Mr Chairman, I yield 5 minutes to the gentleman from Montana (Mr. MARLENEE).

Mr. MARLENEE. Mr. Chairman, I rise in support of this legislation, H.R. 1885. As a sponsor of a similar bill, I believe it presents an equitable solution to the unique position that approximately 4,000 employees of the Bureau of Indian Affairs and the Indian Health Service find themselves in through no fault of their own.

These are employees whose career opportunities have been adversely affected because the Wheeler-Howard Act that provided for the preferential hiring of Indians by the BIA and also for preference for subsequent promotions was not enforced until relatively recently.

When these non-Indian employees of the BIA and IHS began their service, they thought they would be able to compete equally with Indians and other employees for promotion, lateral transfers and reassignments to vacant positions within these two agencies. However, now that the Wheeler-Howard Act is being enforced, they cannot compete equally. This situation is unfair to them as it is to Indian employees of these agencies who are being adversely affected because they cannot advance into positions held by nonpreference employees who are frozen in position and are now unlikely to be promoted or transferred.

This legislation by providing an extra one-half percent in the computation of their annuities encourages these non-Indian employees to retire earlier than might normally be the case. This will both help to accomplish the purpose of the Wheeler-Howard Act and provide relief for those who have not been able to advance in their jobs because of that law. I urge my colleagues to support this bill.

• Mr. DANIEL B. CRANE. Mr. Chairman, as you know, this legislation is no stranger to the House. Similar legislation was rejected on two separate occasions. As late as 1978, the House defeated, under suspension of the rules, a Senate-passed bill by a lopsided vote of 204 nays to 118 yeas. The measure not only did not receive the required two-thirds vote, but failed to even muster a simple majority. On the basis of this record, I believe it is a waste of time for the House to even consider this measure.

While the bill will be considered under an open rule, I do not believe any amendments will be offered because the bill is based on a faulty premise. That is, the bill provides for non-Indian employees who have completed 25 years of service or have obtained age 50 with 20 years of service to be eligible for preferential early retirement under the civil service retirement system. Using the civil service retirement system to solve what is essentially a personnel management problem is a mistake especially when there are more appropriate administrative solutions.

I am sympathetic to the limited career prospects of non-Indians because of Indian preference. But the legislative approach should be in the direction of placing these employees in other positions in the Government. The Office of Personnel Management and the affected agencies must involve themselves in a more concerted, aggressive job placement program. It is difficult to understand why a government, which employs over 2.8 million employees, cannot place a little over 4,000 employees, no matter the diversity of their positions, into other productive work in the Federal Government.

If we approve this measure, we should be prepared to provide the same sort of "fix" to many other personnel problems in the Government which can easily be characterized as cases of unusual circumstances. The cost of this bill may not be considered a large sum—$104 million, which would be financed in equal annual installments of $6.5 million over the next 30 years. However, the future financial impact is considerable if we apply this legislative approach to other similar personnel situations in the Government. We are setting a very dangerous precedent.

I, along with other Republican members of the committee, appreciate the concerns of the supporters of this legislation and recognize the pressures on Members to support this bill, but it is not a practical way to solve a critical problem involving the essential functioning of the Bureau of Indian Affairs and the Indian Health Service.

Rather than attempt to resolve this problem on a short-range basis, as is contemplated by this bill, it is far more logical for the Congress to address the problem of competing preferences before we are faced with an even greater personnel management dilemma in the future.

Mr. Chairman, I urge defeat on this measure.●

Mr. DERWINSKI. Mr. Chairman, I have no further requests for time. I yield back the balance of my time.

Mrs. SPELLMAN. Mr. Chairman, I just want to point out a couple things to my colleagues who have some concerns about this bill.

First, the idea of lateral transfer is an ideal one, except that it just does not work. We have tried this. We have worked on it since 1975. These are people with skills so specialized that we have not been able to get lateral transfers for them.

I also want to point out that we want a strong civil service. We want a strong civil service retirement program, but a strong civil service is not fostered by hiring employees under false pretenses. These people were hired under false pretenses, mistakenly, true, but false pretenses as it turns out.

The bill will give increased benefits only for those years that an employee was affected by Indian preference, that is from 1972 on. It does not give increased benefits for the whole career of the employee.

Mr. Chairman, there was another point I wanted to make, which escapes me at the moment; but I would say that in all fairness to these people that this bill should be passed.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the amendment in the nature of a substitute recommended by the Committee on Post Office and Civil Service now printed in the bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 8336 of title 5, United States Code, is amended by redesignating subsection (i) as subsection (j) and inserting after subsection (h) the following new subsection:

"(i)(1) Except as provided in paragraph (3), an employee is entitled to an annuity if he—

"(A)(i) is separated from the service after completing 25 years of service or after becoming 50 years of age and completing 20 years of service, or

"(ii) is involuntarily separated, except by removal for cause on charges of misconduct or delinquency, during the 2-year period before the date on which he would meet the years of service and age requirements under clause (i),

"(B) was employed in the Bureau of Indian Affairs, the Indian Health Service, a tribal organization (to the extent provided in paragraph (2)), or any combination thereof, continuously from December 21, 1972, to the date of his separation, and

"(C) is not entitled to preference under the Indian preference laws.

"(2) Employment in a tribal organization may be considered for purposes of paragraph (1)(B) of this subsection only if—

"(A) the employee was employed by the tribal organization after January 4, 1975, and immediately before such employment he was an employee of the Bureau of Indian Affairs or the Indian Health Service, and

"(B) at the time of such employment such employee and the tribal organization were eligible to elect, and elected, to have the employee retain the coverage, rights, and benefits of this chapter under section 105(e)(2) of the Indian Self-Determination Act (25 U.S.C. 450i(a)(2); 88 Stat. 2209).

"(3)(A) The provisions of paragraph (1) of this subsection shall not apply with respect to any separation of any employee which occurs after the date 5 years after—

"(i) the date the employee first meets the years of service and age requirements of paragraph (1)(A)(i), or

"(ii) the date of the enactment of this paragraph, if the employee met those requirements before that date.

"(B) For purposes of applying this paragraph with respect to any employee of the Bureau of Indian Affairs in the Department of the Interior or of the Indian Health Service in the Department of Health, Education, and Welfare, the Secretary of the department involved may postpone the date otherwise applicable under subparagraph (A) if—

"(i) such employee consents to such postponement, and

"(ii) the Secretary finds that such postponement is necessary for the continued effective operation of the agency.

The period of any postponement under this subparagraph shall not exceed 12 months and the total period of all postponements with respect to any employee shall not exceed 5 years.

"(4) For the purpose of this subsection—

"(A) 'Bureau of Indian Affairs' means (i) the Bureau of Indian Affairs and (ii) all other organizational units in the Department of the Interior directly and primarily related to providing services to Indians and in which positions are filled in accordance with the Indian preference laws.

"(B) 'Indian preference laws' means section 12 of the Act of June 18, 1934 (25 U.S.C. 472; 48 Stat. 986), or any other provision of law granting a preference to Indians in promotions or other Federal personnel actions.".

(b) Section 8339(d) of title 5, United States Code, is amended—

(A) by inserting "(1)" before "The"; and

(B) by adding at the end thereof the following new paragraph:

"(2) The annuity of an employee retiring under section 8336(i) of this title is computed under subsection (a) of this section, except that with respect to service on or after December 21, 1972, the employee's annuity is—

"(A) 2½ percent of the employee's average pay multiplied by so much of the employee's service on or after that date as does not exceed 20 years; plus

"(B) 2 percent of the employee's average pay multiplied by so much of the employee's service on or after that date as exceeds 20 years.".

(c) The first sentence of section 8339(h) of title 5, United States Code, is amended—

(1) by inserting "(d)(2)," after "(b),"; and

(2) by striking out "or (h)" and inserting in lieu thereof ", (h), or (i)".

(d)(1) The amendments made by this section shall take effect October 1, 1979.

(2) In the case of an employee who separated from service on or after the date of the enactment of this Act and before October 1, 1979, the amendments made by this section shall apply with respect to such separation to the same extent and in the same manner as if such amendments had been in effect at the time of such separation, but only if application therefore is made to the Office of Personnel Management within 1 year after the effective date of such amendments.

(3) No amount of annuity accruing by reason of such amendments shall be payable for any period before October 1, 1979.

SEC. 2. (a) For purposes of applying reduction-in-force procedures under subsection (a) of section 3502 of title 5, United States Code, with respect to positions within the Bureau of Indian Affairs and the Indian Health Service, the competitive and excepted service retention registers shall be combined, and any employee entitled to Indian preference who is within a retention category established under regulations prescribed under such subsection to provide due effect to military preference shall be entitled to be retained in preference to other employees not entitled to Indian preference who are within such retention category.

(b)(1) The Indian preference laws shall not apply in the case of any reassignment within the Bureau of Indian Affairs or within the Indian Health Service (other than to a position in a higher grade) of an employee not entitled to Indian preference if it is determined that under the circumstances such reassignment is necessary—

(A) to assure the health or safety of the employee or of any member of the employee's household;

(B) in the course of a reduction in force;

(C) because the employee's working relationship with a tribe has so deteriorated that the employee cannot provide effective service for such tribe or the Federal Government; or

(D) because failure to reassign the employee would seriously impair the provision of a necessary service to Indians or would jeopardize the effective operation of the service or activity in which the employee is employed.

(2) The authority to make any determination under subparagraph (A), (B), (C), or (D) of paragraph (1) is vested in the Secretary of the Interior with respect to the Bureau of Indian Affairs and the Secretary of Health, Education, and Welfare with respect to the Indian Health Service, and, notwithstanding any other provision of law, the Secretary involved may not delegate such authority to any individual other than an Under Secretary or Assistant Secretary of the respective department.

(c)(1) Notwithstanding any provision of the Indian preference laws, such laws shall not apply in the case of any personnel action respecting an employee not entitled to Indian preference if each tribal organization concerned grants, in writing, a waiver of the application of such laws with respect to such personnel action.

(2) The provisions of section 8336(i) of title 5, United States Code (as added by the preceding section of this Act), shall not apply to any individual who has accepted a waiver with respect to a personnel action pursuant to paragraph (1) of this subsection or to section 1131(f) of the Education Amendments of 1978 (25 U.S.C. 2011(f); 92 Stat. 2324).

(d) The Secretaries of Interior and Health, Education, and Welfare shall each submit to the Congress a report following the close of each fiscal year with respect to the actions which they took in such fiscal year to recruit and train Indians to qualify such Indians for positions which are subject to preference under the Indian preference laws. Such report shall also include information as to the grade levels and occupational classifications of Indian and non-Indian employees in the Bureau of Indian Affairs and the Indian Health Service.

(e)(1) The Office of Personnel Management shall provide all appropriate assistance to the Bureau of Indian affairs and the Indian Health Service in placing non-Indian employees of such agencies in other Federal positions. All other Federal agencies shall cooperate to the fullest extent possible fn such placement efforts.

(2) The Secretaries of Interior and Health, Education, and Welfare, and the Director of the Office of Personnel Management shall each submit a report to Congress following the close of each fiscal year with respect to the actions which they took in such fiscal year to place non-Indian employees of the Bureau of Indian Affairs and the Indian Health Service in other Federal positions.

(f) For the purposes of this section—

(1) The term "tribal organization" means—

(A) the recognized governing body of any Indian tribe, band, nation, pueblo, or other organized community, including a Native village (as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c); 85 Stat. 688)); or

(B) in connection with any personnel action referred to in subsection (c)(1) of this section, any legally established organization of Indians which is controlled, sanctioned, or chartered by a governing body referred to in subparagraph (A) of this paragraph and which has been delegated by such governing body the authority to grant a waiver under such subsection with respect to such personnel action.

(2) The term "Indian preference laws" means section 12 of the Act of June 18, 1934 (25 U.S.C. 472; 48 Stat. 986) or any other provision of law granting a preference to Indians in promotions and other personnel actions.

(3) The term "Bureau of Indian Affairs" means (A) the Bureau of Indian Affairs and (B) all other organizational units in the Department of the Interior directly and primarily related to providing services to Indians and in which positions are filled in accordance with the Indian preference laws.

Mrs. SPELLMAN (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

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Mr. DERWINSKI. Mr. Chairman, I move to strike the last word.

Just for the sake of the record, Mr. Chairman, I would like to note that I did not object to the unanimous-consent request. But I always smile when a committee has to come in with two or three pages of perfecting technical language. I would like to think that our able staff, when marking up the bill in committee, should be totally efficient, and that we would not have to go through this correcting procedure on the floor. But since this pattern also develops in other committees, I understand it, and I am pleased to support these amendments.

Mrs. SPELLMAN. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentlewoman from Maryland.

Mrs. SPELLMAN. Mr. Chairman, the gentlewoman from Maryland would like to point out to my colleague that, as he well knows, the reason for these technical amendments is that they were made necessary by the passage of the Panama Canal implementing legislation.

Mr. DERWINSKI. Do I understand that the Panama Canal has upset our Indians also?

Mrs. SPELLMAN. The Panama Canal implementing legislation has upset our laws, and we are making these laws conform with the others. Had we not done so, I dare say the gentleman would have been on his feet now saying that we had been negligent and had not attempted to bring the laws into balance.

AMENDMENTS OFFERED BY MRS. SPELLMAN

Mr. Chairman, I offered a series of amendments, which are strictly technical in nature, and I ask unanimous consent that the amendments be considered as read, considered en bloc, and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

The amendments are as follows:

Amendments offered by Mrs. SPELLMAN: Page 10, beginning on line 13, strike out "redesignating subsection (i) as subsection (j) and inserting after subsection (h)" and insert in lieu thereof "redesignating subsection (j) as subsection (k) and inserting after subsection (i)".

Page 10, line 15, strike out "(i)(1)" and insert in lieu thereof "(j)(1)".

Page 13, strike out lines 9 through 12 and insert in lieu thereof the following: amended by adding at the end thereof the following new paragraph:

Page 13, line 13, strike out "(2)" and insert in lieu thereof "(5)".

Page 13, line 14, strike out "8336(i)" and insert in lieu thereof "8336(j)".

Page 13, line 25, strike out "(d)(2)" and insert in lieu thereof "(d)(5)".

Page 14, line 2, strike out "(i)" and insert in lieu thereof "(j)".

Page 14, strike out lines 3 through 15 and insert in lieu thereof the following:

(d) The amendments made by this section shall take effect on the date of the enactment of this Act.

Page 16, line 11, strike out "8336(i)" and insert in lieu thereof "8336(j)".

The CHAIRMAN. The question is on the amendments offered by the gentlewoman from Maryland (Mrs. SPELLMAN).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. KILDEE

Mr. KILDEE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KILDEE: Page 15, line 11, insert "or" immediately after the semicolon; on line 15, strike out "; or" and insert in lieu thereof a period; and strike out line 16 and everything that follows through line 20.

Page 15, line 22, strike out "subparagraph (A), (B), (C), or (D)" and insert in lieu thereof "subparagraph (A), (B), or (C)".

Mr. KILDEE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. KILDEE. Mr. Chairman, the amendment which I am offering today will remove from H.R. 1885 a confusing subsection which was added to this legislation in committee with very little consideration. This provision, found in section 2(b) (1) (D), is a very general and ill-defined section which would allow the Secretaries of the Interior and Health, Education, and Welfare to unilaterally waive Indian preference in instances where they determine it is in the program's interests.

We are aware of the Agencies' poor performance in administering Indian preference. It is primarily due to the law being ignored for 40 years, the subsequent need for judicial action to force compliance, and poor internal administration and practices ever since. Most of today's problems in Indian preference can be directly traced to failure to practice what has been the law in a rational and reasonable manner.

The legislation currently before us, H.R. 1885, goes far in remedying one facet of this problem—the plight of thousands of non-Indian Indian Service employes who, through no fault of their own, find themselves the victims of past Bureau of Indian Affairs and Indian Health Service excesses and failures. I fully support this legislation and urge its passage.

However, this legislation is only meant to address this single facet. Any major change in Indian preference such as general waiver embodied in section 2(b) (1)(D) is out of place in this bill. Personally, I feel that such a blanket condonation of Bureau or IHS waivers is unnecessary. The current law, if administered properly, will remedy any current problems.

For this reason, I am offering this amendment to correct what I consider is a major flaw in H.R. 1885. I am happy to say that the committee has responded positively to my concerns and has agreed to accept this amendment. I appreciate this action and pledge that I stand ready to work with any of my colleagues to fashion reasonable and considered remedies to any specific program problems within the Bureau or Indian Health Service related to the Federal policy of Indian preference.

Mr. HINSON. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentleman from Mississippi.

Mr. HINSON. Mr. Chairman, I rise to offer support for the amendment offered by the gentleman from Michigan (Mr. KILDEE). H.R. 1885 is a bill which has been the focus of House consideration not once, but two times prior to our consideration today. Although the subject matter is not new, there has been a broadening of the conditions for waiving the Indian preference laws—an addition to which I am opposed.

The bill which is before us, if passed, will weaken the doctrine of Indian preference. Current law provides for Indian preference in the case of hiring reassignment of employees within the Bureau of Indian Affairs and within the Indian Health Service. To eliminate Indian preference in the area of assignment and the Indian Health Service is clearly beyond the intended scope of the law.

The Kildee amendment to the Department of Education bill removed Indian education from the clutches of the new Department. The House, by that vote, overwhelmingly affirmed its strong support for the doctrine of Indian preference and for the idea that the BIA itself is best able to set and manage Indian educational priorities. To pass this bill into law then, with its broad new waiver, would in effect negate the hard-won definition of preference as defined by the courts and would do a profound disservice to the efforts of American Indians to have a say in their own affairs free of the heavy, paternalistic hand of Uncle Sam.

To waive Indian preference laws in reassignments because the failure to reassign the non-Indian employee would impair the quality of service to Indians is a license far beyond the scope of the limited waiver that is already contained in the bill.

Indian preference laws were enacted for the express purpose of giving Indians preference in employment opportunities in the Bureau of Indian Affairs and in the Indian Health Service for any given employment position. To provide for broad waiver authority of these statutes would have the effect of negating the very protections the Indian preference laws insure. The gentleman from Michigan is to be commended for his vigilant defense of people who historically, have been virtually defenseless. It is a privilege to join in support of the amendment. I urge my colleagues to support the amendment and preserve intact the doctrine of Indian preference that is threatened by this bill.

Mrs. SPELLMAN. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I yield to the gentlewoman from Maryland.

Mrs. SPELLMAN. Mr. Chairman, the committee accepts the amendment.

Mr. DERWINSKI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I had mentioned earlier that I believe this bill is basically flawed and in fact cannot be helped by adopting amendments. I respect the gentleman who offered this amendment as a very knowledgeable, conscientious, effective Member. Trying to make a silk purse out of a sow's ear is always difficult, but in the spirit of cooperation and in the interest of the business of the House, we accept the amendment, with the admonition that it cannot change the basic flaws in the bill.

The CHAIRMAN. The question is on the amendment by the gentleman from Michigan (Mr. KILDEE).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair (Mr. FLIPPO), Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 1885) to amend civil service retirement provisions as they apply to certain employees of the Bureau of Indian Affairs and of the Indian Health Service who are not entitled to Indian employment preference and to modify the application of the Indian employment preference laws as it applies to those agencies, pursuant to House Resolution 437, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DERWINSKI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 175, nays 120, not voting 138, as follows:

[Roll No. 611]

YEAS—175

Abdnor
Akaka
Albosta
Alexander
Ambro
Andrews, N. Dak.
Annunzio
Anthony
Aspin
Atkinson
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bevill
Bingham
Blanchard
Boner
Bouquard
Brademas
Brinkley
Brodhead
Brown, Calif.
Buchanan
Burlison
Burton, Phillip
Carr
Carter
Chisholm
Clausen
Coleman
Collins, Ill.
Coughlin
Danielson
Daschle
Davis, Mich.
de la Garza
Dellums
Dicks
Dingell
Dodd
Donnelly
Downey
Eckhardt
Edwards, Calif.
Edwards, Okla.
English
Erdahl
Ertel
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fisher
Flippo
Ford, Tenn
Frost
Garcia
Gaydos
Gephardt
Gibbons
Ginn
Gonzalez
Goodling
Gore
Gray
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Harkin
Harris
Hawkins
Heftel
Hinson
Hollenbeck
Horton
Hutto
Hyde
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Tenn.
Kazen
Kildee
Kogovsek
Kostmayer
Latta
Lederer
Lehman
Leland
Lloyd
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Markey
Marks
Marlenee
Marriott
Mathis
Matsui
Mica
Mikulski
Miller, Calif.
Mineta
Mitchell, Md.
Mollohan
Murphy, Pa.
Murtha

Myers, Pa.
Nedzi
Nowak
Oberstar
Panetta
Patterson
Pease
Peyser
Pickle
Preyer
Price
Rangel
Ratchford
Reuss
Rhodes
Rinaldo
Roe
Roybal
Runnels
Sabo
Schroeder
Sebelius
Seiberling
Shannon
Shelby
Simon
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Stangeland
Steed
Stewart
Stokes
Stratton
Studds
Stump
Swift
Synar
Thompson
Udall
Ullman
Vento
Walgren
Waxman
Weaver
White
Whittaker
Williams, Mont.
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Young, Alaska
Young, Mo.
Zablocki

NAYS—120

Anderson, Calif.
Andrews, N.C.
Applegate
Archer
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bowen
Broomfield
Brown, Ohio
Broyhill
Burgener
Byron
Campbell
Carney
Cheney
Collins, Tex.
Conte
Corcoran
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Deckard
Derrick
Derwinski
Duncan, Tenn.
Edwards, Ala.
Emery
Erlenborn
Evans, Del.
Fenwick
Findley
Fountain
Frenzel
Gilman
Gingrich
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Hagedorn
Hamilton
Hammerschmidt
Hance
Hansen
Harsha
Heckler
Holt
Holtzman
Hopkins
Hubbard
Hughes
Ichord
Jacobs
Jeffries
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Leach, Iowa
Leath, Tex.
Lent
Levitas
Lewis
Loeffler
Lungren
McDonald
Madigan
Martin
Mazzoli
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Natcher
Neal
O'Brien
Pashayan
Paul
Petri
Pritchard
Rahall
Regula
Ritter
Robinson
Rose
Roth
Royer
Satterfield
Sawyer
Schulze
Sensenbrenner
Sharp
Shumway
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stenholm
Tauke
Taylor
Trible
Vander Jagt
Volkmer
Walker
Wylie

NOT VOTING—138

Addabbo
Anderson, Ill.
Ashley
AuCoin
Bedell
Biaggi
Boggs
Boland
Bolling
Bonior
Bonker
Breaux
Brooks
Burton, John
Butler
Cavanaugh
Chappell
Clay
Cleveland
Clinger
Coelho
Conable
Conyers
Corman
Cotter
Crane, Philip
D'Amours
Davis, S.C.
Devine
Dickinson
Diggs
Dixon
Dornan
Dougherty
Drinan
Duncan, Oreg.
Early
Edgar
Evans, Ga.
Fish
Fithian
Flood
Florio
Foley
Ford, Mich.
Forsythe
Fowler
Fuqua
Giaimo
Glickman
Goldwater
Hanley
Hefner
Hightower
Hillis
Holland
Howard
Huckaby
Ireland
Jenkins
Jones, N.C.
Jones, Okla.
Kastenmeier
LaFalce
Leach, La.
Lee
Livingston
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Maguire
Mattox
Mavroules
Michel
Minish
Moakley
Moffett
Montgomery
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Myers, Ind.
Nelson
Nichols
Nolan
Oakar
Obey
Ottinger
Patten
Pepper
Perkins
Pursell
Quayle
Quillen
Railsback
Richmond
Roberts
Rodino
Rosenthal
Rostenkowski
Rousselot
Rudd
Russo
Santini
Scheuer
Skelton
Slack
Staggers
Stanton
Stark
Stockman
Symms
Thomas
Traxler
Treen
Van Deerlin
Vanik
Wampler
Watkins
Weiss
Whitehurst
Whitley
Whitten
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wydler
Yatron
Young, Fla.
Zeferetti

□ 1410

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Quayle.
Mr. Addabbo with Mr. Symms.
Mr. Rodino with Mr. Livingston.
Mr. Moorhead of Pennsylvania with Mr. Devine.
Mr. Foley with Mr. Whitehurst.
Mr. Cotter with Mr. McClory.
Mr. Zeferetti with Mr. Lee.
Mr. Van Deerlin with Mr. Williams of Ohio.
Mr. John L. Burton with Mr. Bob Wilson.
Mr. Florio with Mr. Dixon.
Mr. Giaimo with Mr. Dougherty.
Mr. Nichols with Mr. Winn.
Mr. Nolan with Mr. McKinney.
Mr. Moakley with Mr. Holland.
Mr. Minish with Mr. Leach of Louisiana.
Mr. McCormack with Mr. Mattox.
Mr. Kastenmeier with Mr. McCloskey.
Mr. Howard with Mr. Thomas.
Mr. Hanley with Mr. Scheuer.
Mr. Patten with Mr. Rousselot.
Mr. Richmond with Mr. McDade.
Mr. Santini with Mr. Flood.
Mr. Staggers with Mr. Young of Florida.
Mr. Vanik with Mr. Cleveland.
Mr. Whitley with Mr. Rudd.
Mr. Montgomery with Mr. Perkins.
Mr. Obey with Mr. Weiss.
Mr. Early with Mr. Skelton.
Mr. Drinan with Mr. Fowler.
Mr. Corman with Mr. Duncan of Oregon.
Mr. Brooks with Mr. Diggs.
Mr. Breaux with Mr. Davis of South Carolina.
Mr. AuCoin with Mr. Hefner.
Mr. Ashley with Mr. Hightower.
Mr. Biaggi with Mr. Huckaby.
Mr. Bedell with Mr. Moffett.
Mr. Bonior of Michigan with Mr. McKay.
Mr. Clay with Mr. Jenkins.
Mr. Jones of Oklahoma with Mr. McEwen.
Mr. Rosenthal with Mr. LaFalce.
Mr. Pepper with Mr. Anderson of Illinois.
Mr. Ottinger with Mr. Michel.
Mr. Maguire with Mr. Myers of Indiana.
Mr. Boland with Mr. Stockman.
Mr. Chappell with Mr. Wampler.
Mr. D'Amours with Mr. Pursell.
Mr. Edgar with Mr. Quillen.
Mr. Evans of Georgia with Mr. Dickinson.
Mr. Fithian with Mr. Conable.
Mr. Jones of North Carolina with Mr. Butler.
Mr. Mavroules with Mr. Clinger.
Mr. McHugh with Mr. Philip M. Crane.
Mr. Watkins with Mr. Railsback.
Mr. Charles H. Wilson of California with Mr. Stanton.
Mr. Murphy of New York with Mr. Dornan.
Mr. Murphy of Illinois with Mr. Fish.
Mr. Whitten with Mr. Forsythe.
Mr. Charles Wilson of Texas with Mr. Goldwater.
Mr. Yatron with Mr. Hillis.
Mr. Fuqua with Mr. Ireland.
Mr. Mottl with Mr. Nelson.
Ms. Oakar with Mr. Stark.
Mr. Traxler with Mr. Stack.
Mr. Rostenkowski with Mr. Glickman.
Mr. Russo with Mr. Coelho.
Mr. Roberts with Mr. Ford of Michigan.
Mr. Cavanaugh with Mr. Conyers.

Messrs. DICKS, NEDZI, and PREYER changed their votes from "nay" to "yea."

Messrs. SAWYER, PREYER, APPLEGATE, and BURGENER changed their votes from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. SPELLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 1885, just passed.

The SPEAKER pro tempore (Mr. FARY). Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

ANNUAL REPORT FOR 1978 OF FEDERAL COUNCIL ON AGING—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Education and Labor:

To the Congress of the United States:

In accordance with Section 205(f) of the Older Americans Act of 1965 (P.L. 93–29), I am transmitting to Congress the Annual Report for 1978 of the Federal Council on Aging.

This report has been prepared by the Federal Council on Aging and submitted to me as required by law. The Report describes the Council's activities in 1978 and those proposed for 1979.

JIMMY CARTER.

THE WHITE HOUSE, *October 26, 1979.*

AN END TO POLITICAL HOSTAGES

(Mr. LOEFFLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOEFFLER. Mr. Speaker, earlier this month, literally millions of the most disadvantaged members of our society—the elderly, the poor, and the disabled veteran—had their fragile existence thrown needlessly and recklessly into total chaos. Likewise, millions of civil servants and military personnel agonized about where money would come from to pay for such "luxuries" as food and shelter. Those without savings to fall back on, faced a particularly uncertain future.

It behooves us as responsible Members of Congress to investigate the cause of this widespread tragedy. Unfortunately, we need look no further, Mr. Speaker, than to this Chamber and to the other body. Needless anxiety came about because Congress in a troubling show of insensitivity not only failed to act responsibly and in a timely fashion upon vital appropriations bills, but tied up a vital continuing resolution—which would have provided temporary relief—because of internal squabbles between the House and the Senate.

Today I am introducing legislation that would prevent such needless disruption and procedural havoc in the future. This bill simply states that at the end of any fiscal year, those agencies and departments whose appropriations for the upcoming fiscal year have not passed the Congress in a timely fashion would automatically receive a continuing appropriation at the previous year's funding level.

The elderly, the poor, the disabled veteran as well as the families of civil servants and persons in the military need not be subject to suffering and uncertainty, because of fear that money for their livelihood will not be forthcoming. Public servants, as well as those persons dependent upon the Federal Government for their very existence, should not be penalized because of our inability to work within the parameters of the appropriations process.

Mr. Speaker, I urge the favorable consideration of this legislation by all my colleagues.

LEGISLATION TO PROVIDE TAX INCENTIVES TO ENCOURAGE INCREASED UTILIZATION OF ENERGY ALTERNATIVES

The SPEAKER pro tempore. Under a previous order to the House, the gentleman from Tennessee (Mr. BEARD) is recognized for 30 minutes.

● Mr. BEARD of Tennessee. Mr. Speaker, I recently introduced H.R. 5663, which provides tax incentives to encourage increased utilization of solar, wind, geothermal, hydroelectric, and biomass energy; industrial cogeneration; residential conservation; and alcohol fuel.

The technologies can have an important impact on our effort to reduce our unacceptably high use of imported oil. The technologies affected are generally currently available for wide scale use. However, tax incentives can importantly increase the rate at which our society makes these energy investments. Although loan and grant programs can also enhance use of new energy technology, I believe that meaningful tax incentives are an important way to encourage families and businesses all over the country to invest in America's energy future.

In summary, the bill provides:

Fifty percent tax credits available more promptly than currently, for expenditures by individuals for solar, wind, geothermal and conservation expenses;

Fifty percent tax credits for expenditures by business for solar, wind, geothermal, hydroelectric, biomass, and ocean-thermal energy conversion energy equipment. This consists of the 10-percent investment tax credit and a 40-percent refundable energy tax credit;

Revision and improvement of the provisions of the Energy Tax Act of 1978 relating to individual and business conservation, solar, wind, and geothermal energy; tax credits for cogeneration and for individual and business use of heat pumps;

More flexible Federal tax exemptions and credits for use of alcohol fuels; and extension of termination of related provisions of the Energy Tax Act of 1978 from the early and mid-1980's to the year 2000.

I will now describe the provisions of the bill in more detail.

INCREASED USE OF SOLAR, WIND, AND GEOTHERMAL ENERGY BY INDIVIDUALS

First. Level of credit. Present law provides a tax credit of 30 percent for the first $2,000 of expenditures on solar, wind and geothermal equipment, and 20 percent for the next $8,000. This produces maximum tax savings of $2,200 per household. This bill would simplify and increase this credit. The bill provides a tax credit of 50 percent for costs up to $10,000. This produces a maximum savings of $5,000.

This bill had raised the tax credit to 50 percent, because of estimates by Prof. Robert Stobaugh of the Harvard Business School—energy future—and others that greater incentives are needed to hasten increased utilization of these new technologies.

Studies of solar heating commercialization by GAO and HUD found that tax credits below a threshold of 30 to 40 percent would have little effect on the number of new installations. The Harvard Business School energy project recommends a credit of 50 to 60 percent. After studying the potential impacts of tax credits, California raised their credit from 10 to 55 percent.

The wind energy mission analysis prepared by General Electric in 1977 for ERDA projects the potential energy contribution of small residential windmills. These are units with about 10-kilowatt capacity. Under a scenario where a 50-percent tax credit induced rapid implementation of these small wind systems, the study predicts installation of 416 million residential windmills by the year 2000. The annual energy output would be 103 kilowatt hours which would displace 192 million barrels a year.

Second. Principal residence. Current law limits the tax for solar, wind, geothermal and conservation property to property used in connection with the taxpayer's principal residence. This limits the effectiveness of the credit by denying it in several situations. For example, the tax credit would not normally be available for short-term residences—if this home is not the "principal residence"—for vacation or second homes; or for dwellings which the taxpayer rents to someone else. Substantial energy savings could result if taxpayers were given an incentive to use solar, wind, or geothermal property in these situations. In the case of rental property this could also lead to lower fuel bills for tenants. Therefore, the bill eliminates the "principal residence" rule.

Current law also denies the residential solar and conservation credits for residential uses other than the dwelling itself. This discourages use of new energy technologies and conservation property for residential, related uses, such as garages, greenhouses, and swimming pools. This differs from the California solar tax credit, and can impede solar investment. For example, a California Department of Revenue study of 1977 California tax returns, released August 1979, shows that 47 percent of the individual solar tax credits claimed in California in 1977 involved use of active solar systems for heating swimming pools. To help encourage use of solar and conservation property in these areas, this bill extends the solar and conservation tax credits to garages, greenhouses, and swimming pools.

Third. Photovoltaics. Photovoltaic systems use sunlight to generate electricity. The U.S. Department of Energy projects that photovoltaics could displace up to 215 million barrels of oil per day by the year 2000.

This bill makes photovoltaic equipment used by businesses eligible for the solar tax credit for businesses. This bill would extend the solar tax credit for individuals for photovoltaic equipment.

Fourth. Lease payments. Under current law, the solar wind, and geothermal credits are available for outright purchase of qualifying equipment, but not for lease payments for use of the equipment.

Many individuals are hesitant to commit relatively large sums of money to new energy technologies. This bill would encourage those individuals to lease energy-saving equipment by applying the energy tax credit to lease payments. This will also discourage installation of equipment which would not perform as promised, because the lessee could refuse to extend the lease if deficiences occurred. To avoid a "double dip," the lessor must certify to the lessee that he has not taken the energy tax credit on the equipment.

Fifth. Credit for the builder. Under current law, the first purchaser of a house is allowed to take the energy tax credit for equipment installed by the builder. This bill would also permit the builder to claim the tax credit himself. He would retain the option of passing the credit through to the first purchaser. Last year, California enacted a similar law. It has been partially responsible for the dramatic increase in sales of solar equipment in California. With the provision, I hope to extend that growth throughout the country. This bill contained an identical provision.

In Energy Future, Robert Stobaugh points out at page 168 that:

> Traditionally, the purchase price of a house, rather than that price plus operating cost, has been the chief concern of builder, buyer, and financing institution. Two-thirds of all the new single-family homes in 1971, for instance, were built for speculative sale. The builder was therefore interested in keeping the selling price down, and worried much less about longer term energy costs.

California's boom in new residential solar installations is due in part to the enthusiastic response of builders to the 55-percent credit, according to a recent California Energy Commission analysis. It has helped lead to the fact that 5,000 new solar subdivision homes were begun or completed by builders between January and mid-1979. Some builders take the credit themselves, and others chose to pass it through to the customer as a selling point.

For these reasons, I believe that extension of solar, wind and geothermal credits to builders will help increase its use.

Sixth. Joint purchasers. Several types of alternative energy equipment are well suited by use by several adjoining households. This could apply to duplexes, townhouse communities, or other small communities. A proposed Internal Revenue Service regulation permits owners of various residences to take the energy tax credit for a prorated share of the cost of jointly acquired equipment. This bill would put this rule into the statute.

Seventh. Prompt refund. Another provision of this bill would help low- and middle-income persons finance alternative energy equipment and improvements. Currently, the taxpayer receives this energy tax credit when he files his annual return. Thus, he may have to finance the full purchase and installation cost for as long as 16 months. We want to reduce this burden by allowing the homeowner to receive the credit as soon as possible. This bill would make the energy credit available against taxes paid the previous year. The taxpayer would file an amended return for the prior year, with the addition of his energy-saving expenditures. A similar procedure is available for disaster victims under section 167(k) of the Internal Revenue Code.

Eighth. Allocations. Current law is silent on the question of availability of the tax credit for geothermal, wind, and solar property which is also a structural component of a dwelling. Proposed IRS Regulation 1.44C–2 would deny the tax credit entirely for such equipment. This bill would provide the credit for the cost of solar, wind, and geothermal property which is also a structural component to the extent it exceeds the cost of the structural component without the solar, wind, or geothermal source feature.

INCREASED USE OF CONSERVATION PROPERTY BY INDIVIDUALS

First. Level of credit. Current law provides a tax credit of 15 percent up to $2,000 for investment by individuals and conservation property such as insulation, storm windows, and clock thermostats. This provides a maximum tax savings of $3,000 per household. This bill would increase the tax credit to 50 percent of costs up to $2,000. This would produce maximum tax savings of $1,000 per residence. This provision is added here because of the enormous energy savings potential in residential conservation, and estimates of Prof. Robert Stobaugh and others that higher incentives are needed to encourage fuller realization of potential energy savings in this area.

After presenting evidence from various energy conservation studies showing that a properly insulated house could cut its energy consumption from 25 to 67 percent, the authors of Energy Future state:

> The 1978 National Energy Act provides for a 15 percent tax credit on investments in residential conservation, but not to exceed $300. Although better than what has happened so far, the proposals are still rather modest, and still do not do enough to give conservation the chance it needs and deserves . . . It is nothing short of ridiculous that now, almost six years after the embargo, the U.S. does not yet have a broad-ranging national program of incentives to encourage retrofit. The speed with which retrofit can deliver substantial savings argues for a much more stimulative public policy, with tax credits up to 50 percent. Such a policy would signal the importance of retrofit and would encourage homeowners, entrepreneurs, and manufacturers. It would make retrofit economically attractive for some homeowners, and not only attractive but possible for others. Stobaugh, et al, p. 173.

Second. Heat pumps. The Energy Tax Act of 1978 provided tax credits for purchase of "energy conservation property." This bill adds heat pumps to the energy conservation property category for individuals, entitled to a 50-percent tax credit under the provisions of this bill. It also creates a 10-percent energy tax credit for purchases of industrial heat pumps. This bill also clarifies that water-well heat pumps, in addition to air heat pumps, would qualify for the tax credit.

Two recent studies have established that water-well heat pumps are far more energy efficient than conventional electric space heating systems. In March of this year, the University of Alabama, under contract to the DOE, concluded that a water-well heat pump system saves two-thirds of the energy required for electrical resistance heating. The Tennessee Valley Authority has also confirmed the energy efficiency of water-well heat pumps. According to the TVA, each residential water-well heat pump saves 11,610 kWh each year it replaces a central electric furnace home.

INCREASE USE OF NEW ENERGY TECHNOLOGIES BY BUSINESS

First. Energy equipment which is treated as a part of the structure for purposes of the investment tax credit. It is widely believed that last year's Energy Tax Act made solar and wind equipment—as well as several other categories of energy property—eligible for a 20-percent tax credit. This consisted of the 10-percent investment tax credit plus a new 10-percent energy tax credit. However, in many situations, the 10-percent investment tax credit is not available for solar and wind property. This is because the investment tax credit is not available for structural modifications or components, such as buildingwide heating and cooling systems or generators. That is particularly unfortunate since these are a primary use of solar and wind energy at this time.

This bill eliminates this problem by amending the investment tax credit to provide that the "structures" rule will be disregarded for solar, wind, geothermal, hydroelectric, biomass, and cogeneration equipment.

Second. Solar and wind energy. Current law provides a refundable 10-percent energy tax credit for qualifying solar and wind property. This additional increase is proposed because most experts believe that a much greater percentage would be needed to fully encourage increased use of solar and wind energy property, as well as many other types of new energy technology. Therefore, this bill would raise the refundable credit to 40 percent.

This bill also extends the tax credit to process applications of solar—as well as geothermal, wind, hydroelectric, and biomass—energy.

Wind-powered mechanical energy is not available for either the business or individual energy tax credits. This bill would make mechanical energy derived from wind—or solar, geothermal, biomass or hydroelectric energy—eligible for the 40-percent energy tax credit.

Wind-powered mechanical energy can be used to pump water for irrigation. New Mexico has included this excellent wind utilization among those applications eligible for its State energy tax credit. This bill will encourage farmers and others in all States to take advantage of wind-powered mechanical energy.

Third. Geothermal energy. Current law provides a 10-percent energy tax credit for geothermal property. This bill raises this to 40 percent.

Under current law, the credit for geothermal equipment—unlike wind and solar—is not refundable. This proposal would also make the credit refundable for geothermal equipment.

It is unclear under current law whether the tax credit for business and individual use of geothermal equipment covers the cost of drilling the well necessary to utilize the geothermal resources. This bill would expressly include such costs as eligible for the energy credit. However, to avoid a "double dip," a taxpayer would not be permitted to take the intangible drilling cost deduction if he elected the tax credit for drilling costs. The bill includes a similar provision for both business and individual use of geothermal energy. The President's Interagency Geothermal Coordinating Council has projected the potential contribution of geothermal to be the equivalent of 2.5 to 4 million barrels of oil per day by the year 2000.

Fourth. Hydroelectric energy. Both the House and Senate versions of the Energy Tax Act of 1978 provided tax incentives to increase hydroelectric generating capability on existing dams. The need to encourage this abundant, clean inexhaustible energy source was well recognized. However, partly to reduce the revenue loss of the bill, these provisions were deleted by the conference committee.

This bill would add hydroelectric to the list of "alternative energy property" categories for the proposed 40 percent refundable energy tax credit. Eligibility for this new credit would be based on language adopted by the Senate 2 years ago. However, the bill would not extend the credit to the dam structure. The credit would be available to encourage retrofitting of existing structures, for low-head hydroelectric power, and for hydroelectric equipment which does not rely on a structure to impound water.

While most dams during the past 40 years have incorporated electrical production, this was not true for older dams built primarily for flood control or to power small mills. In a study released July 1979, the Army Corps of Engineers has estimated total unused hydroelectric potential at existing dams to be up to 94,000 megawatts annually, equivalent to the electrical output of 94 modern nuclear reactors. This includes the upgrading of generating capacity at existing hydropowered dams. New England is most often mentioned as benefiting from such conversion. But examples of wasted hydropower exist throughout the country, such as in the Pacific Northwest.

Fifth. Biomass. The energy tax credit of 1978 provided a nonrefundable 10 percent "alternative energy property" credit for a wide range of equipment included in making or utilizing biomass fuels. This bill treats this important energy source like wind, solar, geothermal, and hydroelectric equipment by raising the credit from 10 to 40 percent, and by making it refundable.

Sixth. Ocean Thermal Energy Conversion ("OTEC"). This bill would make OTEC property eligible for the 40-percent refundable tax credits available for solar, wind, geothermal, hydroelectric, and biomass equipment.

Seventh. Cogeneration. "Cogeneration" is an old and proven practice. Cogeneration denotes any form of simultaneous production of electrical or mechanical energy and useful thermal energy such as heat, steam, or gas. A conventional industrial system produces either electricity or thermal energy; a cogeneration system produces both. For example, at a factory cogeneration might involve running high temperature gases through an electrical turbine before they are used for process heating.

In his national energy plan of 1977, President Carter cited cogeneration as an important technique for conserving domestic energy resources. Robert Stobaugh, in his recent book, Energy Future, called cogeneration "industry's North Slope." A 1975 study, done for National Science Foundation by Dow Chemical Co., concludes that by 1985 U.S. industry could meet approximately half of its own electricity needs through cogeneration. The study says this would amount to a savings of 2 to 3 million barrels of oil per day.

Cogeneration equipment is currently available. However, it is expensive and is not being purchased and used sufficiently. The bill would make utilities and industry eligible for a 10-percent energy tax credit for purchase and installation of cogeneration equipment. This would be in addition to the existing 10-percent investment credit.

Last year both the Senate and House passed legislation calling for cogeneration tax incentives. These were deleted in conference in an effort to reduce the overall cost of the Energy Tax Act of 1978. I believe that incentives to encourage investment in cogeneration equipment are now more necessary than ever before.

Eighth. Utilities. The Energy Tax Act of 1978 makes utilities ineligible for tax credits for equipment utilizing wind, solar, geothermal, hydroelectric, biomass, or cogeneration equipment. This bill would make utilities eligible for the 40-percent refundable tax credit applicable to these types of energy property. This will encourage use of these new energy technologies in the important utilities sector.

A recent study prepared in 1977 by General Electric under contract to the Energy Research and Development Administration (ERDA), now a part of DOE, projected a major wind contribution to the electric utility sector. Wind systems would significantly reduce the dependence on nuclear, coal, and oil for electrical generation, if given the proper incentives for rapid implementation. In the utility sector alone, G.E. projects wind systems would save the equivalent of 852 million barrels of oil in 2000, or 2.3 million barrels a day. The study concludes that "the utility market offers the greatest chance of significant oil, coal, and nuclear offset and is the lowest cost approach."

In addition, the National Energy Strategies Project of Resources for the Future has said, in "Energy in America's Future, the Choices Before Us" (1979), that some barriers to cogeneration would be less formidable if ownership and management of cogeneration facilities were vested in the utility rather than the industrial firm involved.

For these reasons, I believe that it is important for utilities to be encouraged to use solar, wind, geothermal, hydroelectric, biomass, and cogeneration property.

REFORMING EXISTING ALCOHOL FUELS INCENTIVES

Gasohol is a mixture of 10 percent alcohol and 90 percent gasoline. It is currently exempt from the 4-cent-per-gallon Federal gasoline tax. As a result, the retailer is encouraged to sell gasohol, but there is no incentive to increase the proportion of alcohol above 10 percent. I propose that the amount of tax incentives be matched to the amount of alcohol in the alcohol-gasoline mixture. An increased proportion of alcohol should earn increased tax benefits.

My bill would do this by repealing the present 4-cent-per-gallon exemption. In its place, it provides a 40-cent exemption for each gallon of alcohol sold in the alcohol-gasoline mixture.

Under the present 4 cents/gallon formula, 10 gallons of gasohol—containing 1 gallon alcohol, 9 gallons gasoline—earn a 40-cent tax exemption. Under this proposal, the 10 gallons gasohol—containing 1 gallon alcohol—would receive a 40-cent tax credit. However, if the alcohol content increases to 2 gallons alcohol and 8 gallons gasoline, the present formula still allows only a 40-cent exemption, while my proposed formula would provide an 80-cent credit. In sum, this bill would create an incentive to increase the alcohol content in gasohol, while present law does not.

The 40-cent credit would apply against either the dealer's Federal gasoline or diesel tax payments, or against his income tax payments. This would guarantee that the alcohol incentive will be fully available to small, independent retailers who sell relatively little gasoline.

ASSURING A LONG-TERM MARKET

Under the 1978 Energy Tax Act, the gasoline tax exemption expires October 1, 1984. I believe that to induce this type of investment, we must assure marketing incentives throughout the useful life of the alcohol production facility. This bill would extend the termination date of the tax exemption to the year 2000.

PHASEOUT OF THE INCENTIVE

Gasohol incentives are necessary because the price of alcohol-gasoline mixtures is higher than that of pure gasoline. However, with the increasing price of petroleum, alcohol-gasoline mixtures may eventually not need the tax exemption to be price competitive.

I propose that Treasury's annual gasohol report to Congress be expanded to include a calculation of the need for continued alcohol fuels incentives, and their appropriate level. The bill would also require that the report compare cost of alcohols produced from corn, wheat, wood, and other substances.

The Joint Committee on Taxation has preliminarily estimated that the revenue loss of this bill is as follows:

[In millions of dollars]

Provision	1980	1985	1990
Residential:			
Residential solar, wind, and geothermal	100	300	490
Residential conservation	1,345	1,780	(1)
Residential heat pumps	155	485	755
Delete primary residence test	240	380	(1)
Residential total	1,850	2,945	......
Business:			
Cogeneration (excluding utilities)	60	190	300
Increment attributable to mechanical power	70	230	360
Hydroelectric property (excluding utilities)	180	450	570
Ocean thermal energy conservation property		60	190
Solar and wind property	60	600	970
Geothermal property	50	80	110
Biomass property	640	830	1,110
Industrial heat pumps	50	100	200
Revision of structures rate for investment tax credit			
Provisions affecting utilities	210	540	880
Business total	1,320	3,080	......
Alcohol fuels: Revision of current tax exemption	10	230	550
Total	3,180	6,255	......

[1] Not available.

Source: Joint Committee on Taxation, preliminary estimates, Sept. 17, 1979.

TERMINATION DATES

Most of the provisions of the Energy Tax Act of 1978 expire in the early or middle 1980's. This is true of tax credits for business and residential use of solar, wind, and geothermal equipment; residential conservation equipment; and the gasohol tax exemption.

This bill extends these termination dates until the year 2000. This helps insure that manufacturers will make investments required to increase production in needed energy-related equipment and property. The energy problem will not be solved by a 2- or 4-year "quick fix." Therefore, long-term incentives such as these are required.

EFFECTIVE DATE

Experience has shown that when Congress is considering alterations to existing energy tax credits, sales of energy-saving equipment drop. Businesses and homeowners are reluctant to purchase now, when they anticipate a larger tax credit for purchasing the same equipment later. In anticipation of this dilemma, this bill has an effective date of July 24, 1979.

Mr. Speaker, I believe that through judicious use of tax incentives we can promote alternatives to continued dependence on oil imports. Enactment of the Energy Tax Act of 1978 was a positive step forward. This bill will continue and expand upon that initiative.

I am hopeful that the House will give support and favorable consideration to this legislation. I welcome suggestions for strengthening this bill.●

EPA POLICY ON RURAL DUST NOT ADEQUATELY THOUGHT THROUGH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. Grassley) is recognized for 15 minutes.

● Mr. GRASSLEY. Mr. Speaker, I have spoken a number of times recently, both in Iowa and here on the House floor, about the fact that EPA has decided dust blowing off farm fields and off rural roads is a pollutant. Most cities in my home State of Iowa meet, or soon will meet, the national air quality standards designed to protect public health. We meet them even if we count windblown dust as a pollutant—a proposition I have trouble accepting. Any way you count it, we meet the health standard. Many of our towns do not meet the more strict air quality standard designed to protect our public welfare when this farm and rural road dust is counted. Now I am not sure what public welfare protection means in this situation. I am told it primarily means visibility—seeing better. As I have mentioned before, I think we see pretty well in Iowa right now. We certainly see more clearly how to solve this farm dust problem than the EPA planners here in Washington or in Kansas City do.

In counting windblown farm and road dust as pollutants, Iowa exceeds the national standard designed to protect the public welfare. EPA has decided that before major industries can build or expand in these areas they need to first reduce existing amounts of dust and similar particles from other sources. This is the offset policy. As a State, Iowa has relatively low levels of industrialization. Under the offset policy, many small communities in Iowa are committed to cut public dust sources by 50 percent, with little industrialization these reductions can only come from cuttng farm and road dust. The fact is, this policy is not feasible socially or economically.

It is absurd on its face. I firmly believe it is one of the most ill-conceived and poorly reasoned schemes since OSHA came out with their regulations telling farmers that wet manure was slippery.

Under EPA policy, the rules to protect public welfare here in the East are different than those to protect public welfare in the West. Unfortunately, no one seems to know where the East stops and the West begins. I heard it was the Mississippi River. If it is, that is pretty important to my State, if policies are different for our neighbors in Illinois than for us in Iowa.

There is a more fundamental issue here. Where does EPA derive the authority to decide as a matter of policy to arbitrarily treat Western States differently from Eastern ones? Where is its statutory authority to implement a policy which penalizes farm States and Southwestern States more than all of the other States? Where are the regulations which EPA has promulgated giving itself that authority? To my knowledge, they do not exist. The only thing that does exist is an internal policy document, that, until now, only a handful of people have seen. Clearly, on matters as fundamental as this, on matters as costly as this, on matters as important as this to farm and Western States, this is not enough.

I have written to Mr. Costle and asked him to spell out in detail where his agency gets the authority to implement this sort of policy. I do not think he has it and I think they know it. I insert a copy of my letter to Mr. Costle in the Record at this point:

WASHINGTON, D.C.,
October 25, 1979.

Mr. Douglas Costle,
Administrator,
Environmental Protection Agency,
Washington, D.C.

Dear Mr. Costle: As you know, I am greatly concerned about your agency's response to the State Implementation Plan recently submitted by the State of Iowa. Specifically, I am concerned about the manner in which your agency contends that farm and rural road dust, so-called "rural fugitive dust", should be handled under the plan. As I understand it, the EPA response to the fugitive dust portion of the Iowa plan is based upon an August 1, 1977, EPA policy document entitled: *Fugitive Dust Policy: SIP's and New Source Review*, which was forwarded to regional administrators on August 16, 1977. A copy of the policy and document and forwarding memo are attached for your convenience.

Under the policy, a distinction is made between "rural" and "urban" areas. In "rural" areas, fugitive dust is excluded when determining whether the national primary and secondary air quality standards have been met. In "urban" areas, such dust is not excluded. In the policy statement, "rural areas are defined very narrowly to include only those areas which 1) lack major industrial development, and 2) have populations under a certain size—under 25,000–50,000 for western states and under 100,000–200,000 for eastern states. All towns and cities not meeting both of those criteria are considered urban. Farm and rural road dust in these "urban" areas count as pollutants and must be added in when determining whether national air quality standards for particulates have been met. The policy does not distinguish between primary and secondary standards. It applies to both. As you surely must know, the economic and social impact of such a policy in agricultural states such as Iowa as well as in many southwestern states would be enormous. It would limit industrial growth severely and require heavy new local expenditures which we are now only beginning to understand. Yet, so far as I know, your agency's policy with respect to rural fugutive dust is not spelled out in any official regulation. It has not, to my knowledge, been developed by following the normal administrative procedures concerning regulations. If this is in fact so, it is a matter of extremely serious concern.

Would you please advise me whether the rural fugutive dust policy set out in the August 1, 1977, policy document is the official policy basis for your response to the Iowa State Implementation Plan so far as the fugutive dust portions of the Plan are concerned? If it is not, what is? If it is, please advise me whether this policy was adopted by regulations and furnish me with the citation of the regulation and the statutory authority upon which the regulation is based. If it has not been adopted by regulation, please advise me of the statutory authority which allows the EPA to establish the fugutive dust policy, define what are rural and urban fugutive dust areas without first adopting regulations according to normal legal procedures.

I will look forward to hearing from you in the near future.

Sincerely,

Charles E. Grassley,
Member of Congress.

Mr. Speaker, what we have here is an EPA policy on rural dust which has not been adequately thought through so far as the standard for "public welfare" is concerned. In addition, we have an EPA policy for "offsets" that was designed to protect public health in Pittsburgh, Los Angeles and other large cities, but it is not applicable to any notion of public welfare in farm and Southwestern States. To make matters worse, EPA is applying these two policies to force State compliance with national air quality standards which are in the process of being revised to become more realistic.

Moreover, EPA is trying to apply their dust policy on the basis of an internal policy document, rather than on the basis of an official regulation. In short, this is an EPA program destined to eventually collapse from its own weight. How it was created, I do not know. But it should be dismantled before citizens and taxpayers are injured by it; and before its architects are ashamed to take responsibility for it.●

UNITED STATES SHOULD CONTINUE TO OBJECT TO REPRISALS IN COMMUNIST NATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. Derwinski) is recognized for 10 minutes.

● Mr. DERWINSKI. Mr. Speaker, this Sunday, October 28, marks a very important date in the history of Czechoslovakia, the birth of that nation's independence. By tragic coincidence, the announcement this week of the conviction of six human-rights activists during a mock trial in Prague displays further evidence of the Prague Government's continued suppression of dissent and denial of "basic rights" to its citizens.

The Czechs and Slovaks have a long and proud history which goes back over a thousand years. Although before 1914, they existed only as a nation within Austria-Hungary, the outbreak of World War I, led to a change in the outlook of the Czech and Slovak people, and a new vitality for independence arose. The spiritual head of this struggle for independence was Prof. Thomas Garrigue Masaryk, who devoted his life to the purpose of liberating his country.

In May 1918, Thomas Masaryk went to the United States where he secured official support for his cause, which resulted in its later adoption by the allied powers.

The work of Thomas Masaryk found its culmination in November 1918, when he was elected first President of the Czechoslovakian Republic. He served in this capacity for 17 years in accordance with democratic principles. Ill health forced his resignation in December 1935, and he died in September 1937, thus being spared the agony of seeing his homeland under the control of Nazi and Communist oppressors.

However, his memory lives on in the hearts and minds of his countrymen to whom he dedicated his life, and he remains a symbol of inspiration to all who value freedom and true national independence.

Mr. Speaker, now let us examine the situation in Prague.

Strong condemnation of Czechoslovakia has arisen in much of the world in the wake of its "trial" and conviction of a group of human rights activists in Prague. Even some Western Communist Parties have joined in the chorus of criticism. The persecution of these so-called dissidents is, as even the State Department has pointed out, a violation of the Helsinki Final Act. Members of the group monitoring Czech compliance with its treaty obligations received absurdly harsh sentences. Should we be grateful because the defendents were not confined to psychiatric institutions?

The case is especially poignant in that free Czechoslovakia had an exemplary tradition of democratic rights and respect for law.

The U.S. State Department, rightly rebuked Prague in this instance and even came close to openly citing the heavy Soviet hand in Czech affairs. What the State Department has not yet announced, however, is the recall of the American Ambassador to Prague for "consultation."

In light of these developments, I believe that it is important for the United States to continue to publicize and object to the heavy-handed reprisals which are so pervasive in the Communist nations in order to reassure those suffering under captive rule of our commitment to freedom.●

SHABBY SHUFFLE AT SBA

The SPEAKER pro tempore (Mr. Fary). Under a previous order of the House, the gentleman from North Carolina (Mr. Martin) is recognized for 30 minutes.

Mr. MARTIN. Mr. Speaker, yesterday I spoke to the House regarding the recent announcement of the Small Business Administration of a new policy to shuffle district directors around the country to move them to new locations for the avowed purpose of "enhancing their careers."

I reported to the House that of the 63 district directors in the United States, only 16 were being moved to enhance their careers or for whatever reason.

Second, I reported that despite assurances to the contrary, none of the 16 was a Democrat.

□ 1420

No Democrats were being offered such opportunities to "enhance their careers" in other parts of the country. Fifteen of the sixteen are Republicans and one is an Independent.

I would say to the Speaker I personally verified these without having to question the individuals involved, because I soon found it would be indiscreet to subject them to a threat of disloyalty by even asking them what their registration happened to be. So I found out by alternate methods and have confirmed that in many cases by conferring with Members of the House, Democrats and Republicans, who happen to know the circumstances.

Third, I expressed to the House that this new policy and the way in which it was being carried out threatened to undermine the integrity of President Carter's promise and avowed policy to lift the civil service system out of the thicket of partisan abuse, as he has said on many occasions. Further, I pointed out that it may well violate the new civil service reform law introduced and recommended by the President as a means of protecting the very job security which is in jeopardy from this action I am describing. And further, I believe that it threatens the interests of the small businesses whom we are supposed to be serving through the Small Business Administration by disrupting the experienced management in this way at a crucial time, when interest rates are so high, and loans will be badly needed.

And fourth, Mr. Speaker, I expressed my suspicion that this was all being done as an exercise in "politics as usual" under the subcategory "shabby tricks," as a way to coerce these 15 Republicans and one Independent to quit and make room for some deserving Democrats. Of course, this is not a novel idea, this has been done previously under other administrations, Democratic and Republican, and we all know it.

But this administration has pledged itself not only to rise above that kind of petty patronage, but to enforce its newly enacted law to accomplish that same purpose.

Fifth, Mr. Speaker, in my remarks yesterday I named the Associate Deputy Administrator, Mr. Paul Sullivan, who was brought to the Small Business Administration to be in charge of this shuffle after a previous experience as executive director of the the Democratic National Committee.

I have spoken with Mr. Sullivan on a couple of occasions and, as I have said before, he was very courteous and very polite. He reassured me that this was all aboveboard, innocent of any partisan motive. He, in fact, asserted he did not know or care what was the party affiliation of the 16 and expected it would turn out to be a random assortment. Yet, I have confirmed that none of the 16 are Democrats.

Now, Mr. Speaker, he has told at least three people, to wit one news reporter, at least one administration consultant, and at least one Member of Congress that the information I have reported to the House is false and I have not been truthful, and that I knew that the information was false.

Mr. Speaker, that is the kind of thing over which, under ordinary circumstances, someone might take a personal offense, or react in an emotional way, and I would want to reassure the Speaker that I have no intention of that. There is no reason to take politics personally. Rather, I think it is clear that since I have placed suspicion upon Mr. Sullivan and his activities and his motives, he is entitled and expected to defend himself.

Mr. Speaker, I would, therefore, call upon him to provide me or any Member of the House with a written statement of the particulars of what he believes has been falsely reported by me and I will put his clarification in the Record and would be pleased to do it. Previously, I have asked him direct questions and have gotten, in some cases, very helpful information about the names and phone numbers of these people, but he has told me that he did not know how the 16 were registered. and yet he now tells others that he is certain that some of them were registered as Democrats.

He could have told me that and told me what his basis was for knowing that information, but instead he told me he did not know or care to know. It is highly improbable that his regional directors, who must referee the partisan fights within their regions, do not know the specific registration of every district director in their region.

If it is true he has such information, I want to know which of the 16 are Democrats. Surely Gomorrah might be saved if he could find eight, or even four, or two, or even one. I cannot yet find anyone to do other than confirm my information on any specific individual, and I am still trying, Mr. Speaker.

I would also say until Mr. Sullivan has such evidence to share with us, that his slander should be kept to himself.

Now, Mr. Speaker, I want to report there are two new developments in this fast shuffle of Small Business Administration officials. Just yesterday in the Birmingham, Ala. News, there was a report that in addition to the 16 which I have already identified for the House that are being shuffled to other pastures to get them to quit right now, in addition the Birmingham newspaper reports there are others who are scheduled to be shuffled in 18 months which, of course, is just after the next inauguration of the successful candidate for President of the United States.

I will place in the Record at this point the Birmingham, Ala., newspaper so that information would be available to other Members of the House for their study and reflection.

[From the Birmingham (Ala.) News,
Oct. 24, 1979]

Local SBA Director Among Transfers; Politics Charged

The Birmingham district director of the Small Business Administration office is among a number of SBA directors being transferred in what many of those affected say is an attempt to replace Republicans with Democrats.

James C. Barksdale, district director of the SBA's Birmingham office, is on the list of those officials to be transferred, an SBA spokesman in Washington said this morning.

But it may be up to 18 months before Barksdale is transferred, according to Washington spokesman Robert Dietrich.

Barksdale was out of town this morning.

> All told, the Small Business Administration is transferring 25 percent of its district directors.
>
> Deputy SBA Administrator William Mauk denies allegations of political manipulation. He says the changes are part of a series of moves begun eight months ago "to show the business community that we can incorporate modern business practices into the public sector."
>
> "I don't buy it," said one of the affected directors. "All those I know about being transferred are Republicans. Most of us think it's politically motivated, to try to force us out to open up some jobs to put their own people in."
>
> Sixteen of the 63 directors received notices early this week that they were being transferred to other cities. SBA officials acknowledge that all but two of the affected directors joined the agency during Republican administration.
>
> In interviews, some of the directors made these points:
>
> Many of those being moved are in their late 50's and early 60's and so near retirement they could not be considered part of the agency's long-term management plans. Two of the directors have heart conditions and one is asthmatic.
>
> Some are being moved to areas with completely different and unfamiliar business communities, like one moving from Helena, Mont., to Hartford, Conn.
>
> Many will suffer some financial hardship. One man says he can't sell his remote, expensive home because of high mortgage interest rates—assuming money could be found at any cost. It will cost him $5,000 to commute hundreds of miles to see his wife and son during his final year before retirement, he says.
>
> A key official in implementing the agency's new rotation policy has been Paul D. Sullivan, associate deputy administrator, who came to the agency just over a year ago from the Democratic National Committee.
>
> On behalf of SBA, Mauk replies, "We anticipated speculation and suspicion because of the past reputation of this agency for political manipulation. We welcome the opportunity to tell people what we've been doing here."
>
> Mauk said there will be a review every 18 months under the new rotation policy to see whether district directors should be transferred. He said such an approach "is common practice in the private sector."
>
> The management shakeup at SBA began with the central office, where 17 of 26 top managers were transferred or left the agency, said Mauk. Then the regional offices were revamped to give regional administrators more authority and to have them report directly to Mauk and SBA Administrator A. Vernon Weaver.
>
> The district directors were the next level to change, he said. The goal was to give directors more varied experience, to move strong managers to areas needing help, and to get new ideas into some offices.
>
> Mauk said many directors had been in the same place more than six years. "You develop good contacts, it's true, but sometimes, you don't reach out for new contacts as the business community changes," he said.
>
> In this instance, Birmingham District Director Barksdale is understood to be a Democrat. It is significant, therefore, that he has not actually been ordered to move, like the first 16, and may not actually be moved. In other words, his example may just be a "red herring" to confuse us with a possibility of his being moved.

I have asked Mr. Sullivan for a clarifying response to this article, which I will share with the House. Further, Mr. Speaker, I would report to the House that in conversation with a couple of my colleagues, I had mentioned that the Denver, Colo., director, for example, was being moved to Kansas City; while the Kansas City director in town was being moved to Lubbock. Our colleague, Representative TAYLOR of Missouri, told me that he had been told, by the Small Business Administration, that the reason that the Kansas City director was going to Lubbock was not because he was not a good director, but because he was so good they needed him in Lubbock to straighten out the problems in Lubbock. That struck a rather interesting chord in my memory, because I had just earlier been told by the Representative from Texas (Mr. HIGHTOWER) that he had been told that the district director in Lubbock was being shifted to Fargo, N. Dak., to clean up the mess in Fargo, N. Dak. That would make little sense if the Lubbock director was leaving behind problems for the current Kansas City director to straighten out. And I am going to pursue this further to see if similar information has been given to other Members of Congress whose district director is being shifted, to see if they have all been told that their district directors are such outstanding individuals that their talents are needed to clean up the mess caused by the district directors in the congressional districts represented by other Members who have been told the same thing in turn.

Mr. Speaker, I also want to report to the House that district offices of the Small Business Administration have now been informed that as a further clarification of their orders for the 16 to move to these new bases within the next month, they are now going to be given alternatives. First, they can either accept the new assignment that has been made; or second, if they do not agree to that assignment they can wait until other vacancies are available and they can be moved to fill an alternative assignment somewhere else; or third, they can stay where they are, not as the director, but as deputy director, which I am sure the Speaker will appreciate will hardly enhance the career of these civil service employees who presently serve as director, to be demoted to deputy director in order to stay in the community where their experience is so highly valued.

□ 1530

That is true, apparently, of every one of them.

Fourth, they can accept a double demotion to become the advocacy director, whatever that is, at the present location; or fifth, they may accept early retirement which, of course, is what is behind this entire scheme in the first place.

I understand that they have further been advised that no one in the district office is to discuss any of this any further with those of us who call them, nor are they to discuss it with members of the news media, but are to refer all questions regarding the Small Business Administration shuffle to their regional director so that a coherent answer can be given from one consistent source in that region. The answer, of course, that the regional director will give is that there is no partisanship here; that there is a random scatter. Perhaps they will show this in the next group a year and a half from now, but they have not shown in the 16 that were first announced, although I have on repeated occasions asked them to give me one or two or three or any that are Democrats. The only one that is not a Republican is the district director in Mississippi, who is an Independent and who, I am told, is within a year of retirement.

Mr. Speaker, I repeat that I think it is a shabby policy. It is not a new idea, as I have said earlier this evening. It is an old idea, one that the President of the United States has said we are going to exorcise from this administration. When he said that, there were many Democrats who were dismayed that the President was not going to play "politics as usual" to throw out all the Republicans and make room for Democrats. There were others who were surprised and somewhat doubtful that that policy of the President would in fact be carried out by others in his administration. Yet, all of us took him at his word. That is why I called upon the President yesterday and do so again today to investigate this mess, find out what the facts are, who ordered it, and put a stop to it and enforce the Civil Service Reform Act which he recommended to the Congress to protect public employees from just such abuses.

Mr. Speaker, once again until further notice and until I have additional information to share with our colleagues of the House on this shabby mess, I yield back the balance of my time.

RADIO BROADCASTS TO COMMUNIST COUNTRIES VITAL IN THE STRUGGLE FOR FREEDOM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, the president of the Polish American Congress, Aloysius A. Mazewski, recently spoke out on the need to expand the facilities of Radio Free Europe and Radio Liberty at a conference here in Washington, and he emphasized the great hope and comfort given to the enslaved millions behind the Iron Curtain by these broadcasts.

Mr. Mazewski is a dedicated and strong leader who has focused the attention of the American people over the years on the need for firm, continuing vigilance in defense of our country's ideals of freedom. In his speech he urged that the radios':

> Programming must be forthright in its criticism of the communist political dictatorship, police state methods of repression, its monopoly of mass media and censorship, distortions of history, etc. It should, we believe, denounce abuses of power, whether committed by high party dignitaries, or security service functionaries.

We, as Americans, must never let down our guard and lose sight of the enormous influence for good our country has, as the leader of the world's forces of liberty, or lose sight of the hope our country's very existence gives to the oppressed of the world.

The Polish people and the many millions in other nations forced to live under Communist tyranny must never be abandoned, and the broadcasts of Radio Free Europe, the Voice of America, and Radio Liberty remain crucial in their continuing struggle for political, cultural, and religious freedom.

Mr. Speaker, I call the attention of my colleagues to the full text of Mr. Mazewski's speech, which follows:

Speech of Aloysius A. Mazewski

It is vital importance that Radio Free Europe, Radio Liberty and Voice of America should be dramatically upgraded on our list of strategic priorities. By maintaining free flow of information, views and ideas, mass media play a crucial and central role in the struggle for human minds. In their function they are the key element in the defense of Human Rights in the countries dominated by Russia.

This objective—upgrading of Radios in the overall, global strategy of the United States cannot be achieved without full support, participation and pressure from American people. We live in a democratic system where neither administration nor legislators can ignore views and demands of their voters.

Your organization has potentially a powerful constituency in this country. It includes not only Polish Americans but all ethnic groups from Eastern Europe numbering 15 million people. The Roman Catholic Church, which has no access to domestic mass media in the Soviet orbit, has vital stakes in supporting the Radios. You have an influential ally in Pope John Paul II, who has been a regular listener to your programs in Poland since the early fifties, when he was a young and unknown priest.

Jews in the Soviet Union remain subjected to discrimination, violation of their religious freedom and their right to emigrate. Jewish organizations in this country have also legitimate interest in supporting your broadcasts.

However, let me tell you frankly that until this conference was called, many of us were under the impression that you prefer to keep us at arm's length. The very fact that the first meeting of this sort takes place thirty years after RFE was founded, speaks for itself. Neither our legislators nor our administration is aware of the fact that the Radios represent a vitally important issue to many millions of Americans. This is in my view the main source of your difficulties lingering over the last eight years.

Let me at this time express our appreciation for your initiative, which is being implemented to provide Polish American media with up to date information and analysis of the developments in Poland. It is much needed and will greatly help to better inform Americans of Polish heritage of the Polish people's plight under the Communist regime, and their efforts to win a larger share of their inalienable democratic rights and freedoms. We feel that to make it more effective the New York Office should be expanded.

I understand that we are invited here to discuss with you the main problems facing the Radios today. We hope that you will answer our questions so that we may be better equipped to raise our voice effectively and to use whatever influence we have to support your mission. Let me therefore make it clear at the outset that the Polish American Congress has no intention to interfere in your internal affairs, administrative matters or appointments policy. Our concern as U.S. citizens and tax payers of East European origin concentrates around the following issues:

1. First, we believe that in accordance with the spirit and the letter of the law RFE/RL should remain independent broadcast media free from governmental controls and interference. We also feel that the Partnership between the American management and national editorial teams represented by their chief editors constitute an important asset of this organization which should be maintained and protected. I shall dwell on this subject later in greater detail.

2. Secondly, your mission should not be approached by the administration and the Congress from predominantly fiscal point of view. The funds allocated to Radios should not only compensate rising costs and decline of the dollar but should be considerably, perhaps dramatically increased. Such increase has been made imperative by the Soviet strategy of conquest without war. Soviet subversive and inflammatory propaganda by radio and other means represent an important element in this strategy.

3. Thirdly, we believe that policy and programing of Radios should be free from any restrictions which would be in conflict with our own standards of freedom of expression. You are a substitute of free and uncensored press and radio in countries under totalitarian system. This is your main characteristic which makes you different from Voice of America. We are firmly opposed to any guidelines, directives or practices which would be in conflict with U.S. commitments to self-determination of people and their fundamental freedoms.

Let me corroborate briefly on these basic points:

1. Radio Free Europe is broadcasting to countries where all mass media are owned by the state. By contrast RFE should project an image of free, independent and uncensored broadcasting station. Only in this way it may project convincingly freedom of speech and to enjoy trust of its audience.

We know that attempts were made in the past to abolish your private board and to make RFE/RL a part of governmental bureaucracy. We also know from the Congressional Record that such proposals were resolutely opposed by Prof. Gronouski, chairman of the BIB. We applaud and support his firm stand on this issue.

2. Last year in the presence of George Vest and other high officials at the State Department I expressed our deep concern over your financial difficulties. The Radios have been squeezed between decline of the dollar, inflationary rise in costs and economy minded Congress. In the last eight years your staff was reduced by one third, you lost many facilities and top talents. From time to time you had to block the influx of fresh blood. In the case of the Polish service, the "savings" assumed proportions of a slow extinction, particularly at the leadership level.

We recognize that you cannot invite pressure from outside to obtain adequate funding. Our efforts will be independent and unsolicited. However, we cannot expect to succeed if our representations at the level of the RFE/RL funding are in excess of your own requests addressed to the Administration and Congress, or if our appeals to members of Congress and Administration are contradicted by your spokesmen. We appreciate dedicated efforts and hard work of John Gronouski to obtain necessary funds. I read in one of BIB annual reports that in order to maintain the operation at the level of 1970 you would need 100 million dollars. This then should be your budget request. You may be assured that we would support such a request and do our best to obtain support in Congress.

3. We are concerned by complaints in our ethnic press, some of them coming from your listeners in Poland, that RFE has been toned down recently and that your coverage of domestic development is no longer as extensive and effective as it used to be in the past. Obviously the flow of information, news and ideas no longer can be considered free of measures restricting journalistic freedoms. We understand of course that the RFE/RL programming policy must be guided by a carefully weighted sense of responsibility, lest they stir emotions which may contribute to the volatility of the situation in Eastern Europe.

Otherwise RFE/RL programming must be forthright in its criticism of the Communist political dictatorship, police state methods of repression, its monopoly of mass media and censorship, distortions of history, etc. It should, we believe, denounce abuses of power, whether committed by high party dignitaries, or security service functionaries.

I trust that we will have an opportunity to discuss these matters more fully later on and receive assurances that complaints to which I refer are in fact unjustified.

Let me finish my remarks by saying that Radio Free Europe and Radio Liberty do not have to offer apology for its past record and activities, whether in time of cold war, coexistence or detente. We are particularly proud of the achievements of your Polish station.

Its success owes much to the qualities of leadership and selfless devotion of the past and present directors of the Polish service—Mr. Jan Nowak and Zygmunt Michaelowski. Our special thanks to Mr. Jan Nowak now retired, for adding greater dimensions to the success and effectiveness of RFE, and his continued interest. Our words of appreciation and encouragement to Mr. Michaelowski who is doing a great job under very trying conditions and we hope he continues.

In critical times of dangerous upheavals of 1956, 1968, 1970 and 1976 RFE very responsibly used its considerable influence to prevent an outbreak of violence which could only end in disaster. At the same time you were instrumental, at least in part, in bringing about peaceful and effectively supported by RFE in other countries. Polish October 1956 and Polish December 1970 would not have been possible without Radio Free Europe. The Radios have a right to claim that they left their mark on the history of Eastern Europe. Without the Radios the present reality in this part of the world would have been different from what it is today.

In our view, your success can be largely attributed to the special kind of relationship developed between American management and multinational editorial staff in the first years of your organization. The best democratic tradition of American people found its expression in this partnership. Thanks to this unique relationship you were able to take full advantage of creative skills, enthusiasm, knowledge and judgment of your associates from Eastern Europe. We wish you the same success in the future.

On behalf of all of us, our appreciation for this meeting which was long coming but finally became a reality.

SUMMARY

1. We strongly support the independence of RFE/FL both administratively and programming policies.

2. We oppose relocation of RFE/FL, even partial, for we believe that in the eyes of Eastern Europe it would appear as a gradual withdrawal from our principles.

3. We urge and support increased funding consistant with the RFE/RL objectives.

4. We urge expansion of the New York Office to adequately serve our communities.

5. We recommend greater dissemination of news about developments in Eastern Europe for our Ethnic newspapers and Radio, in forms of releases and tapes to counteract the growing propaganda of communist regimes.

6. We support programming that is open, factual and forthright consistent with United States policy in support of Human Rights.

7. We commend Zygmunt Michalowski for objective and dedicated service.

8. We offer and pledge our continued assistance in the realization of the goals and purposes of RFE/RL.

Our thanks to Mr. W. Zachariasiewicz for originating this idea for the meeting and appreciation to Dr. Ferguson and William A. Buell for making it possible.●

EXPORT TASK FORCE ARTICLE NO. 15: AMERICA'S GOLD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 10 minutes.

● Mr. ALEXANDER. Mr. Speaker, in a recent issue of Time magazine, Hugh Sidey has an excellent article praising a group of Americans who do not receive enough praise for their contributions to America's strength and prestige—the American farmer.

Our balance-of-trade deficit reached a staggering $30 billion last year. If it had not been for an agricultural trade surplus of some $16 billion, the economy of our Nation would truly be in a state of shock.

As Mr. Sidey indicates, even our adversaries marvel at the producing capabilities of America's farmers. The article appeared in the October 22 issue of Time and is entitled "Where the Real Gold Is Mined." I highly recommend it to my colleagues for as we discuss the troubles of our Nation, America's farmers are harvesting our real national strength.

The article follows:

WHERE THE REAL GOLD IS MINED

(By Hugh Sidey)

In the middle of the U.S. the greatest harvest in all history is rolling in. Washington, obsessed with Jimmy Carter's polls and Teddy Kennedy's plans, has hardly noticed, a lamentable failure in understanding the nation's soul.

American strength rests on this miracle of food. Without it Carter might be hoeing peanut plants for the Queen and Kennedy might be a barkeep in Ireland. While we falter in other global competition, this season the U.S. harvest of corn, soybeans, wheat and other grains will humble even mythology. The Soviets know. With tensions high over the troops in Cuba, Secretary of Agriculture Bob Bergland was not sure Moscow's grain negotiators would even show up a few days ago to review purchases. They did, and signaled that they would buy 25 million metric tons of grain, a new high. Burly, dark-haired Boris Gordeev, Deputy Minister of Foreign Trade, leaned across a table and told about the hot dry weather that had pinched Soviet production (by as much as 20 percent, American experts estimate). That may be the only confession of weakness we will get from the Soviets in the next years—but it could be everything.

From the Appalachians to the Rockies, the combines are churning through our land. Some of these $100,000 monsters can spew out $118,000 worth of soybeans in a day. The U.S. crops—the result of near perfect weather, rich land, technology and extraordinary enterprise—will be worth $61 billion this year (up 17 percent over last year's record of $52 billion).

The achievement stuns one's senses. The corn would fill 2 million jumbo hopper cars that would stretch 13 times across the U.S. Those 320,000 machines at work in the fields now, if lined up wheel to wheel, could harvest the state of Iowa in a day. (This harvest by 5 million farm workers would have taken, before machines, 31 million people using 61 million horses and mules.)

Bergland, the stoic Norwegian, even gets a little poetic when he contemplates the fall drama. "American gold," he calls the soybeans, which sell for $6.57 per bu. and which we export at the rate of 1 billion bu. a year. "A storybook," the Secretary says of this. The Soviet leaders study it line by line.

"How often do you change your tractor tires?" Aleksei Kosygin, the Premier, asked Farmer Bergland on his last Kremlin visit. "About every 4,000 hours," he answered. "Engines?" asked the cool-eyed Soviet, a fellow normally associated with missiles and megatons, not farm machinery. "Every 10,000 to 15,000 hours," replied Bergland. The old Russian thought a few seconds and then gave his people a short lecture about the disadvantages of the Soviet policy of replacement by the calendar, not actual need.

"If we are going to talk peace," says Agricultural Historian Wayne Rasmussen, "a sufficient supply of food is one of the best assurances."

Nor are we at the outer limits of this miracle. Corn now grows with leaves that stick up like pineapples so stalks can be closer together. They have discovered a perennial variety in Mexico, and there are distant dreams of having crops regenerate like lawns. Geneticists are marching ahead with plans to make corn return nitrogen to the soil, which would save 13 million tons of fertilizer made from natural gas and the energy it takes to apply it.

Last week an editor on the prairie was talking about the gold bullion panic as he drove along the fields. As far as one could see, the ripe soybeans and corn were bathed in soft sunlight suffused by the fall haze. The land was pale gold. Looking around with a discerning eye, he said: "It means more than the metal stuff. If only we could get that through our heads."●

GET INTEREST RATES DOWN!

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 20 minutes.

● Mr. REUSS. Mr. Speaker, what started as a sensible reaction by the Federal Reserve to rumbles of international monetary trouble at the IMF conference in Belgrade early this month has turned into a dangerous brew of 15 percent prime interest rates and real threats to the capital investment and homebuilding that our country sorely needs.

It is important to distinguish carefully the good from the bad in the Federal Reserve's recent actions. Frankly, we do not yet know whether the Fed Board is determined to lead us to repeat the disasters that can be laid at the door of its predecessors.

Let me review the positive and the negative sides of the ledger.

On the plus side are the three measures that Chairman Volcker announced on October 6. None of these, let me stress, necessarily portends a catastrophic monetary crunch. They are, rather, technical measures, designed to improve the way monetary policy works rather than to change its course:

Imposing a reserve requirement on additional Eurodollars borrowings merely brings a large pool of liquidity under slightly greater monetary control. Any contractionary effects may easily be offset by open market purchases.

The shift of emphasis in open market policy from the Federal funds rate to the level of bank reserves is an important technical change in the way of doing business. Theoretically, it has the effect of making monetary policy more responsive to economic downturns than it has been in the past. Whether it will have that effect in practice remains to be seen.

Raising the discount rate invariably follows, rather than leads, changes in open market policy. There is no point in allowing banks to borrow low at the discount window if open market lending rates are high.

In short, it would be a mistake, in my view, to take an apocalyptic attitude toward the dramatic Saturday night, October 6, news conference of Chairman Volcker, which so successfully propelled him to the covers of the newsmagazines and into the nightmares of stock market speculators and homebuilders. The Federal Reserve has saddled a new horse; it has not yet started to ride him.

On the negative side, interest rates are clearly too high. A sensible anti-inflation monetary policy involves two components: a steady policy of moderate-but-not-crushing restraint most of the time, and occasional dramatic action to forestall speculative runs on the dollar that threaten disorder in the international payments system. Most of the time, interest rates should be as low as is consistent with such a policy of moderate restraint. Right now they are much, much higher than that, for three reasons:

First. There is developing an international interest rate war. It works like this: In the first round, the Arabs raise oil prices. Germany and Japan, but especially Germany, respond to the resulting inflation by tightening money and letting interest rates rise. This has the effect of attracting short-term capital from abroad and revaluing the D-mark, cheapening dollar-denominated oil to the Germans and increasing the price of Volkswagens to us. As the D-mark rises, speculators move in against the dollar. The Federal Reserve raises interest rates in response, reattracting short-term capital to our shores and setting the stage for a new turn of the German monetary screws. Net result, higher interest rates—here, in Canada, throughout the world. Net danger—a world recession drastically deeper than would result from a more sensible mix of anti-inflationary policies.

Second. Occasionally, the Federal Reserve decides that a "show of force" is required to keep this little game from getting out of hand. Or, more insidiously, the Fed picks up rumors from abroad that chaos is ahead unless there is dramatic action. So, with admonitions from foreign money masters ringing in his ears, Chairman Volcker flies back from Belgrade and announces seemingly Draconian measures in an atmosphere of apparent crisis. Interest rates rise sharply, partly because the Federal Reserve is actually pulling tight the monetary strings, and partly because the financial world is momentarily convinced that it is about to do so.

Third. Unfortunately, what goes up in interest rates does not readily come down. The Federal Reserve may no longer impose a ceiling on lending rates, but it still enforces a floor. It is called the discount rate—currently a stupendous 12 percent and rumored to be rising. The Federal Reserve, have adopted monetary targets and abandoned its Federal funds fetish, is still attempting to maintain control over the discount rate. Since a lowering of the fixed discount rate would be interpreted as a retreat in our "defense of the dollar", the discount rate becomes a floor, causing interest rates to stick at high levels. The Fed finds it politically impossible to get back on the track of moderate monetary restraint once momentarily distracted by international consideration.

Too-high interest rates, as everyone knows, can be a disaster. They raise the interest costs of new capital investment and of housing, and thus add to inflation. They choke off the demand for new plant and equipment and for new homebuilding, and thus precipitate recession. Interest rates must come down.

There are two ways interest rates can be made to come down. First, the Federal Reserve should reexamine its way of doing business, so as to insure that the structure of interest rates is the lowest that is compatible with a long-term policy of monetary moderation, and not the after-effect of a speculative binge on the international currency markets.

Second, the Federal Reserve should reexamine, immediately, whether the monetary targets which all agreed were reasonable in light of the 7-percent inflation of 6 months ago should not now be raised temporarily to accommodate in part the disagreeable world of 13-percent inflation in which we now live.

In the first arena, there are five steps the Federal Reserve can take, and one the President can take, to lower critical interest rates within the framework of the open-market policy the Fed is now pursuing:

First. It can eliminate discretionary control over the discount rate, and allow that rate to rise and fall automatically with the interest rates charged by individual banks. That way, the symbolic importance attached specifically to highly publicized increases in the discount rate would disappear. That way, lending institutions would be encouraged to competitively lower their interest rates, rather than encouraged to raise them.

Second. It can eliminate the archaic system of lagged reserve requirements, under which banks base the reserves they have on deposit today on the deposits that they held 2 weeks ago. This system causes untold confusion and error in the administration of the open-market window.

Third. It can eliminate the "Wednesday Scramble" under which banks all post their reserves on the same day each week, causing wild fluctuations in short-term borrowing rates and increasing the instability of the financial markets.

Fourth. It can move, as former Federal Reserve Board member Andrew Brimmer and I recommended 5 years ago, to a modest form of credit guidance, designed to stem the flow of lending for conglomerate mergers, commodity speculation, and other nonproductive uses, and to redirect it, in greater volume and at lower rates, toward productive uses like capital investment, housing, small business, and a griculture. The specific form of our proposal was very simple: Place the reserve requirement that banks must post at the Federal Reserve, at least partially, on bank assets rather than on liabilities, and vary the rates to encourage what the Fed wants to encourage and discourage what the Fed wants to discourage. In his recent gentle request to the Fed's member banks, Chairman Volcker has listed, with admirable clarity, the Fed's view of what are desirable and what are undesirable loans.

But this is like Moses promulgating, instead of the Ten Commandments, the 10 suggestions. The good guys who follow the suggestions are victimized by the bad guys who disregard them. A system of differential reserve requirements would result in more money, at lower interest rates, for desirable loans, and less money, at higher interest rates, for undesirable loans. Since the Fed, commendably, is able to distinguish between the two, why not convey to the financial world the courage of its convictions? We in the Congress stand ready to help.

Fifth. The Federal Reserve should immediately get its technical operations under control. The appalling and destructive $3.7 billion money supply error earlier this month, if true, is inexcusable. I am promptly calling the Federal Reserve Board before our Banking Committee to insure that such destructive errors are not repeated.

A sixth course of action, primarily up to the President, is to call on the governments of the leading industrial democracies to alter their inflation fighting policy mixes so as to rely less exclusively on monetary tightness and more on anti-inflationary fiscal and structural policies.

If these steps are taken, interest rates will be lower than they are now. But, very likely, they still will not be low enough. And therefore we must also ask whether the monetary targets adopted last February by the Federal Reserve, with Banking Committee approval, remain sensible in light of changed events.

The Federal Reserve adopted a maximum monetary growth rate for 1979 of 7.5 percent, including a sizable growth of near-money accounts. At the time of adoption, in February, it looked as though with the usual 3-odd percent increase in M1 velocity, a ceiling of 7.5 percent money growth could accommodate the expected 7 percent inflation and 2.2 percent real growth. Now it appears we will have perhaps 11 or 12 percent inflation and 1 to 2 percent real growth or lower. These factors turn the 7.5 percent money growth ceiling that looked sensible very recently into a boa constrictor's embrace. The Federal Reserve should reexamine its assumptions, and be ready to announce a new, higher, temporary monetary range if such is necessary to keep the economy on an even keel.

Just as we should balance the budget, until recession makes that policy impossible, so we should pursue a course of slow and steady monetary expansion—until ill fortune hits. Then we should do whatever is necessary to keep real output, jobs, investment, and productivity growing. That, incidentally, is the best way to master inflation.

Let the word go forth: Get interest rates down.●

LEGISLATION TO REDUCE TAX BURDEN ON USERS OF NATIONAL AIRSPACE SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. MATHIS) is recognized for 5 minutes.

● Mr. MATHIS. Mr. Speaker, today I take pleasure in introducing legislation aimed at reducing the tax burden on users of the national airspace system by cutting various taxes which are placed into the airport and airways development trust fund.

My bill would halve the tax currently paid by airline passengers, reducing it from 8 to 4 percent, as well as lower the taxes on aviation fuel by 3 cents per gallon, from 7 to 4 cents. Additionally, the freight waybill tax would be reduced 3 percent, from 5 to 2 percent.

Current laws authorizing the trust fund, notably the Airport and Airways Development Act of 1970, are due to expire June 30, 1980, and now is the time for Congress to begin making meaningful changes in the operation of the fund, which, will have a balance of approximately $4 billion by June 30, 1980, when current authorizations expire.

The measure also addresses one of the many misinterpretations of the intent of Congress found in the Airport and Airways Development Act of 1970 whereby many airports in need of this money for improvements and maintenance are denied Federal assistance because there is no competition between fixed-base operators (FBO's), mostly small businessmen involved in providing needed services to aircraft operators. In many instances, a condition of Federal assistance to small airports involves competition between these FBO's at the airport in question. The problem arises when only one FBO is located at an airport and no competition exists. Airports are needed by all communities to provide an additional transportation link to the rest of the country and by refusing assistance on this basis, the Government effectively denies communities unable to secure alternate funding for improvements the benefits a well-maintained airport is capable of providing to the local economy. Additionally, operators who have paid into the fund in good faith are denied the benefits these taxes may bring.

All of us here in the Congress talk constantly about reducing the tax burden of our constituents but little is ever done. I call on my friends and colleagues to join with me on this legislation and begin to place more emphasis on taking action in such matters rather than merely paying lip service to them.

Thank you, Mr. Speaker.●

SENATOR SAM NUNN OF GEORGIA OFFERS SOME PLAIN, SENSIBLE TALK ABOUT THE PRESSING PROBLEMS OF THE ATLANTIC MILITARY DEFENSE ALLIANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. STRATTON) is recognized for 5 minutes.

● Mr. STRATTON. Mr. Speaker, Senator SAM NUNN of Georgia has long been recognized as one of the most knowledgeable and sensible Members of Congress when it comes to matters of national defense.

The other evening at a meeting here in Washington of scholars, journalists, and parliamentarians from the Federal Republic of Germany and the United States, sponsored by the United States Strategic Institute, Senator NUNN delivered a most important and incisive address on some of the more important defense issues facing the NATO alliance, especially the matter of Mutual and Balanced Force Reductions (MBFR) between NATO and the forces of the Warsaw Pact, which has been under negotiation in Vietnam since 1973; and the new burning issue of a Theater Nuclear Force (TNF) for NATO, to which Mr. Brezhnev recently addressed some comments in an address in East Germany.

Therefore, Mr. Speaker, under leave to extend my remarks, I include the full text of the very thoughtful and instructive address by Senator NUNN:

ADDRESS BY SENATOR SAM NUNN

I am pleased and honored to join this distinguished group in a discussion of MBFR. I believe, and have so stated on several occasions during the past few years, that MBFR and the SALT II negotiations ideally should have proceeded on a parallel course.

It is not my intention here tonight to engage in a lengthy discourse on SALT II. The point must be made loud and often, however, that strategic arms negotiations cannot be conducted in a vacuum. The goal of our arms control efforts should not be simply to reduce arms. The goal should be to promote the security of the Western World and to preserve stability by reducing military incentives and fears that could encourage either side to strike first with any weapons, nuclear or conventional.

Unfortunately, a number of people in the United States believe that you can separate strategic nuclear planning and arms control from theater nuclear and conventional force planning. This stems from the myth that a "bolt out of the blue" strategic nuclear attack is the most pressing danger facing mankind. While no one can dismiss this possibility and we must maintain strategic forces designed to deter it, it is, in my view, the most unlikely scenario for nuclear war. It is much more probable that a strategic nuclear exchange would stem from a prior confrontation between the Soviet Union and the Free World at the conventional or theater nuclear level.

The point is that the United States, NATO, and the Free World must be able to deter war with the Soviet Union at each level of potential conflict—strategic, theater nuclear, and conventional. This is linkage in its purest military form, and has constituted the basis of the NATO Triad since the Alliance's adoption of the flexible response strategy in 1967. The elements of this triad are now in grave danger of being unlinked, not primarily because of the SALT II protocol nor even because of the Soviet bid to sabotage NATO's theater nuclear force modernization program. The real threat to the integrity of the NATO Triad is the Alliance's failure to adjust its conventional and theater nuclear force postures to the loss of American strategic nuclear superiority. The loss of that superiority has rendered urgent the need to develop credible deterrence at the theater nuclear and conventional force levels.

As you know, on October 6 Soviet President Brezhnev made a speech in East Germany in which he announced that over the next twelve months the Soviet Union will reduce its forces in that country by 20,000 men and 1,000 tanks. Brezhnev also stated that the Soviet Union was prepared to reduce its theater nuclear weapons aimed at Western Europe if NATO would forego its planned deployment of the Pershing II and the long-range cruise missile.

With respect to those NATO countries that might be prepared to accept the Pershing II and the cruise missile on their own soil, Brezhnev minced no words:

"We must say bluntly," he emphasized, "that the implementation of these rocket projects would radically alter the strategic situation on the European continent, poison the international atmosphere, and naturally we would have to take additional steps. . . . If the Federal Republic of Germany took these new rockets it is not difficult to imagine what consequences would await her if this weaponry were ever put to use."

Brezhnev added that the Soviet Union would "never use nuclear weapons against those states which refuse to produce or acquire such weapons for themselves and do not have them on their territory."

The "carrot" in Brezhnev's speech is his apparent willingness to negotiate limitations on Soviet medium-range systems in SALT III and his announcement of unilateral withdrawal of some Soviet troops and tanks from East Germany.

The "stick" in Mr. Brezhnev's speech is its crude attempt to dictate NATO's future theater nuclear force structure, and to lure NATO into an MBFR agreement that ignores the data question. The message on theater nuclear force modernization is clear. Having modernized her own theater nuclear forces, the Soviet Union is now seeking to stop NATO from doing likewise. Having deployed the backfire bomber, the SS–20, the SS–21, the SS–22, and the SS–23, the Soviet Union seeks to prevent NATO from fielding its own improvements. Having won the propaganda war over the neutron weapon, the Soviet Union seems confident that it can scare the Alliance away from its theater nuclear force modernization program.

Since the mid-1970s the Soviets have expanded and modernized their theater nuclear forces to the point where they may now be regarded as superior to NATO's in the crucial categories of survivability, mobility, and range. The Soviets have doubled the number of their nuclear warheads designated for targets in Europe. They have introduced at least two new calibers of nuclear artillery. They are replacing their older tactical surface-to-surface missiles with far more mobile and highly accurate systems. They have fielded a host of new nuclear-capable deep-strike tactical aircraft. And with the deployment of the SS–20 and the Backfire bomber, the Soviets have eliminated the territorial sanctuaries that NATO once would have enjoyed in a tactical nuclear exchange. Moreover, unlike NATO, the Soviets have designed, equipped, and trained their conventional forces to survive and exploit nuclear and chemical combat.

NATO's own tactical nuclear posture presents some disturbing contrasts. NATO forces continue to rely on an unwieldly inventory of largely obsolete weapons developed in the late 1950s and early 1960s. NATO's weapons are too many of the wrong type, too high in yield, too vulnerable to pre-emption, and too limited in range. Indeed, it can be argued that no small portion of the approximately 7,000 nuclear warheads NATO deploys in Europe today are more dangerous to the Alliance than to the potential adversary they are designed to deter. Those who greatly fear theater nuclear modernization do not seem to realize that doing nothing poses the greatest danger of all.

Two-thirds of NATO's 7,000 tactical nuclear warheads are tied to delivery systems with ranges of less than 100 miles, and most of these have ranges of 10–20 miles. The limited reach of the Alliance's 155mm and 8-inch nuclear artillery and its tactical surface-to-surface missiles—including the new Lance missile—would in all likelihood confine their use to targets on NATO territory. Knowledge that the bulk of NATO tactical nuclear weapons, if employed, would be confined to strikes on NATO territory is hardly likely to terrify or to deter the Soviet Union.

The ability to neutralize second- and third-echelon Pact forces in Eastern Europe and in Western Russia is the heart of any credible NATO tactical nuclear deterrent. The capacity to generate these follow-on forces and to move them rapidly across Poland and East Germany is the key to the Pact's conventional predominance over NATO. The Pact, with the deployment of the SS–20 and the Russian-based Backfire bomber, already enjoys the ability to disrupt and destroy the formation and movement of NATO's operational reserves.

The problem is that NATO today cannot credibly threaten Soviet forces in Russia's western military districts; indeed, NATO's ability to place at risk even Pact forces in certain parts of Eastern Europe is questionable. That ability resides almost exclusively in deep-strike tactical aircraft and the aging Pershing I missiles. Both are exceedingly vulnerable to pre-emptive destruction by nuclear, or for that matter, conventional attack. It is thus a paradox that those NATO weapons least vulnerable to pre-emption—nuclear artillery and smaller tactical missiles—have less deterrent value because they lack the range to hit Pact territory where it would hurt the most, whereas those systems which have greater range invite pre-emptive destruction.

In my view, a demonstrable capacity by NATO to disrupt to disrupt the movement of the Pact's theater reserves or to destroy them outright before they cross into Western Europe could greatly reduce the need for NATO's nuclear weapons being fired on NATO's own territory. Many defense analysts believe that the Pact's first-echelon forces, if denied continual reinforcement and support from second- and third-echelons approaching from Eastern Europe, could be isolated and destroyed by NATO's conventional forces alone. Long-range systems such as the Pershing II and the ground-launched cruise missiles, by threatening the destruction of Pact forces before they reach NATO soil, would reduce NATO's present heavy reliance on short-range weapons. Their deployment, if coupled with substantial improvements in the survivability, command and control, and employment concepts, would open the way to reductions in the number of nuclear warheads deployed in Europe.

The proposed modernization program is a strong first step toward improvement. It would greatly improve range and survivability. NATO still faces a challenge in improving command and control, as well as doctrine and employment concepts. NATO must also develop a program to upgrade survivability of the General Purpose Forces in a nuclear environment.

If the Brezhnev speech of October 6 is any indication, it appears that the Soviet Union has been deeply concerned over the progress that NATO's High Level Group has made in formulating a theater nuclear force modernization program. The Pershing II and the long-range cruise missile are not just effective counters to the SS–20 and the Backfire. Their inherent mobility makes them less vulnerable to a pre-emptive attack, assuming minimum tactical warning.

It also appears, however, that the Soviet Union is acutely aware that the Alliance's knowledge of what must be done may not be matched by the political will to do it. They know that the Netherlands, Belgium, and the left wing of the ruling Social Democratic Party in Germany are the weakest links in the NATO chain on this issue. They know that the Dutch are reluctant to accept long-range theater nuclear weapons on their own soil, and they read in the papers that an outright Dutch refusal to do so could unravel the entire theater force modernization program, since it might trigger subsequent refusals by Germany, Belgium and Italy. Paradoxically, the gaping hole in NATO's forward conventional defenses, known as the "Dutch corps area," makes theater force modernization all the more imperative. The presence of a single Dutch brigade in Germany instead of the required full, two-division corps is a standing invitation to a Soviet military parade all the way to Amsterdam.

According to an October 18 article in the New York Times, Mr. de Vries, Chairman of the Dutch parliament's Defense Commission, has stated:

"If the Netherlands did not agree to the basing of new American intermediate-range missiles on the territory, the government of Chancellor Helmut Schmidt would be unable to go along with NATO plans to deploy the missiles in West Germany."

I am strongly inclined to believe that either the New York Times has misquoted Mr. de Vries, or that Mr. de Vries has misrepresented the position of the Schmidt government.

Chancellor Schmidt is one of the most militarily astute leaders of the Western World, and if he did not believe theater nuclear modernization were imperative for NATO, he would not have endorsed it. Having endorsed modernization as necessary for German security and NATO. I am confident that Chancellor Schmidt would not allow this decision to be vetoed by the Dutch parliament. I am therefore encouraged by the German government's subsequent denial of the accuracy of the New York Times article. I cannot believe that the former German Minister of Defense and present Chancellor would place the future security of his own country and Western Europe in the hands of the Dutch parliament. I know the British would not, nor, in my opinion, would the Belgians or the Italians.

Lest I be misunderstood. I have not lost hope that the Dutch government and parliament will approve the theater nuclear modernization. I know there are wise and politically courageous individuals, both in the Dutch government and Dutch military, who realize the danger posed by the status quo.

Those well-meaning souls who oppose modernization are inadvertently advocating a course that would:

(1) continue reliance on an excessive number of tactical nuclear weapons,

(2) continue to invite pre-emptive attacks on those systems in any confrontation,

(3) reduce deterrence and increase the possibility of miscalculation, which could lead to war,

(4) diminish the prospects of negotiated mutual reductions, and

(5) lead to a NATO dyad of only strategic nuclear forces and conventional forces.

If the modernization of theater nuclear forces is to be thwarted in Europe then at some point in the future the United States would have no choice but to consider the possibility of eventually removing those forces. A theater nuclear posture that is more dangerous to NATO than to the Warsaw Pact must be modernized or dismantled. It cannot be ignored. In this century, Americans have died in large numbers on European battlefields. We are prepared to do so again if necessary, but only for a Europe that is dedicated to its own defense.

The alternative, of course, is for the Western Europeans to take President Brezhnev at his word, when he promised to "never use nuclear weapons against those states which refuse to produce or acquire such weapons for themselves and do not have them in their territory."

Assuming Mr. Brezhnev and his successors keep this promise, our European allies and friends would then be as safe, secure and free as Hungary and Czechoslovakia, both of which have avoided a nuclear attack by the Soviets.

The theater force modernization program is also being subjected to the curious argument by the Dutch and some others in Europe that ratification of SALT II is a prerequisite for the adoption of the program. The argument appears to be, "If SALT II is defeated or delayed, we'll teach those Americans a lesson. We'll make them keep their dangerous, short-range, non-survivable, ineffective weapons on our soil." This reminds me of a Marx brothers movie where Chico, whose life is being threatened by armed thugs, points a gun at his own head and shouts, "If you come any closer, I'll pull the trigger."

I must say that if the modernization program is cancelled because of Senate delay or even rejection of SALT II, then support for theater nuclear modernization was probably so weak in NATO that it would not have occurred anyway.

Our NATO allies are full partners and should be treated with full respect. They have logical and coherent arguments as to why SALT II should be approved. I will be listening carefully to the thoughts and ideas of our friends and allies. The threat to reject theater nuclear modernization, however, is not an argument I will be seriously considering. To accept this threat as a serious argument for SALT II ratification, one would have to conclude that our allies are not dedicated to their own defense. If this is the case, the future of the alliance is not bright, whether SALT II is ratified or rejected.

Brezhnev's October 6 speech was clearly a well-aimed torpedo launched at NATO's theater nuclear force modernization program. Yet, it was no less a calculated move to circumvent the present deadlock over data at the Vienna negotiations on mutual and balanced force reductions. The Vienna talks are stalled because the Warsaw Pact continues to insist that it maintains 180,000 fewer troops in the Guidelines Area than NATO believes to be the case. Either NATO's intelligence community is in grave error or the Soviet Union is guilty of flagrant bad faith. I am inclined to subscribe to the latter explanation.

It can be argued, however, that even a resolution of the manpower data dispute satisfactory to NATO would still not provide the basis for a meaningful MBFR accord. NATO's persistent focus on obtaining reductions primarily in manpower reflects a fundamental misconception—namely, that troop strengths are the critical indicator of the respective military capabilities of NATO and the Warsaw Pact.

In the Guidelines Area today, NATO's 792,000 ground troops are confronted across the inter-German border not so much by 935,000 Pact troops. They face 57 Pact divisions that are organized, deployed, trained and equipped for a surprise blitzkrieg geared for a rate of advance of up to 100 kilometers per day. It is mobility, firepower, organization and tactics—not numbers of men—that govern the course of combat on the modern battlefield. By continuing and even sharpening its focus on aggregate troops levels, NATO is pursuing an agreement in Vienna that may be irrelevant to the realities of the military balance in Europe.

Even if manpower were a meaningful yardstick of military might, limitations on it would probably be unverifiable without on-site inspection. Soviet troop movements in and out of Central Europe can be traced with little confidence, and because of the proximity of the Soviet Union to Central Europe, a manpower-dominated MBFR agreement would be inherently unbalanced. In short, manpower reductions can certainly be a part of an MBFR agreement, but unless accompanied by other measures, such an agreement would be self-delusion.

Up to now, MBFR has been predicated on the notion that the very presence of large military forces in Central Europe is the source of military instability on the Continent. I disagree. In my view, that instability is rooted not in the presence of military forces but rather in the prospect of their sudden and unexpected use.

Since NATO's formal adoption of the strategy of flexible response in 1967, the defense of Western Europe has rested on the assumption that NATO would enjoy substantial warning time prior to a major Warsaw Pact invasion. This assumption appeared valid in the late 1960s and early 1970s. Soviet forces forward deployed in Eastern Europe seemed incapable of sustaining such an invasion without substantial, time-consuming—and therefore detectable—prior reinforcement from the western military districts of the Soviet Union. This is no longer the case.

As documented in the report that the late Senator Bartlett and I submitted to the Senate in January, 1977, the modernization and expansion of Soviet forces in the Guidelines Area over the past decade has afforded the Warsaw Pact the capacity to initiate a potentially decisive invasion of Western Europe unattended by prior reinforcement. Soviet forces in Russia's western military districts need not be mobilized until after the attack is launched.

The consequences of a Warsaw Pact invasion attended by little or no warning are profound for NATO. It is to the Alliance's credit that its Long Term Defense Program, if fully implemented, will enhance NATO's capacity to resist a surprise attack. Yet if the resolution of the problems posed by reduced warning is to be the central objective of NATO force planning, a restoration of adequate warning time must be the Alliance's paramount arms control aim in Vienna.

Arms control must be the mistress of force planning, not its master. Unfortunately, the pursuit of mutual reductions in force levels may not alter the current imbalance. The preservation of the existing conventional balance in Central Europe at lower force levels would provide no guarantee against the threat of an attack without warning.

In my view, the time is long overdue to shift our primary focus at MBFR away from reducing the presence of military forces in Central Europe to one of precluding their being employed in a sudden and unexpected manner. This means focusing on the creation of an arms control regime that would make surprise attack impossible.

To be more specific, it means the establishment of a comprehensive system of associated measures based on permanent and pervasive on-site inspection in Europe. This would provide accurate knowledge of any suspect military activity. It is again to NATO's credit that such measures are being actively weighed within the Alliance. It is my hope that their consideration will stimulate increasing attention to designing an approach at MBFR aimed primarily at reducing the threat of unreinforced attack.

In closing, let me say: I am encouraged by the progress the Alliance has made toward formulating a theater force modernization program. I am also encouraged by NATO's adoption of the Long Term Defense Program, which addresses critical deficiencies in conventional force posture. This is the only way we can continue a credible deterrent in NATO. It is the only way we can achieve meaningful arms control in Europe. We know what we must do to reverse the adverse military trends of the past decade. The issue now is whether we can muster the political will to do it.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Rodino (at the request of Mr. Wright), for today, on account of illness in the family.

Mr. Corman (at the request of Mr. Wright), for today, on account of official business.

Mr. AuCoin (at the request of Mr. Wright), for today, on account of being chairman of the Ad Hoc Select Subcommittee on Maritime Education and Training.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Roth) to revise and extend their remarks and include extraneous material:)

Mr. Beard of Tennessee, for 30 minutes, today.
Mr. Grassley, for 15 minutes, today.
Mr. Derwinski, for 10 minutes, today.
Mr. Martin, for 30 minutes, today.
Mr. Kemp, for 15 minutes, today.

(The following Members (at the request of Mr. Swift) to revise and extend their remarks and include extraneous material:)

Mr. Diggs, for 5 minutes today.
Mr. Gonzalez, for 15 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Weaver, for 10 minutes, today.
Mr. Alexander, for 10 minutes, today.
Mr. Reuss, for 20 minutes, today.
Mr. Mathis, for 5 minutes, today.
Mr. Stratton, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Roth) and to include extraneous matter:)

Mr. Gilman in three instances.
Mr. Lungren.
Mr. Philip M. Crane.
Mr. Johnson of Colorado.
Mr. Ashbrook in three instances.
Mr. Derwinski in two instances.
Mr. Daniel B. Crane.
Mr. Bereuter.
Mr. Gingrich.

(The following Members (at the request of Mr. Swift) and to include extraneous material:)

Mr. Coelho.
Mr. Clay.
Mr. Donnelly in two instances.
Mr. Baldus.
Mr. Conyers.

ADJOURNMENT

Mr. SWIFT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 34 minutes p.m.) under its previous order, the House adjourned until Monday, October 29, 1979, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2712: A letter from the Deputy Assistant Secretary of Defense (Installations and Housing) transmitting notice of the location, nature, and estimated cost of two construction projects to be undertaken by the Air Force Reserve, and one project deleted from the fiscal year 1977 Air Force Reserve Construction Program which had not yet been funded, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

2713: A letter from the Acting Assistant Secretary of the Army (Manpower and Reserve Affairs) transmitting a draft of proposed legislation to amend title 37, United States Code, to authorize the Secretaries concerned to set mileage rates based on various considerations for uniformed members performing permanent change of station moves, and for other purposes; to the Committee on Armed Services.

2714: A letter from the Under Secretary of State for Security Assistance, Science and Technology transmitting a report on the costs to the United States of implementing the peace treaty between Egypt and Israel, pursuant to section 9 of Public Law 96–35; to the Committee on Foreign Affairs.

2715: A letter from the Secretary of Health, Education, and Welfare transmitting the annual report for fiscal year 1977 on Federal activities on alcohol abuse and alcoholism, pursuant to section 102(5) of Public Law 91–616, as amended (88 Stat. 136); to the Committee on Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BOLAND: Permanent Select Committee on Intelligence. Report on the implementation of the Foreign Intelligence Surveillance Act of 1978 (Rept. No. 96–558). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 5472. A bill to revitalize the pleasure cruise industry by clarifying and waiving certain restrictions in the Merchant Marine Act, 1936, and the Merchant Marine Act, 1920, to permit the entry of the steamship vessel *United States*, steamship vessel *Oceanic Independence*, steamship vessel *Santa Rosa*, and the steamship vessels *Mariposa* and *Monterey* into the trade, with amendments (Rept. No. 96–559). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 3317. A bill for the relief of Ohio Wesleyan University, Delaware, Ohio, with amendments (Rept. No. 96–560). Referred to the Committee of the Whole House.

Mr. ULLMAN: Committee on Ways and Means. H.R. 3755. A bill for the relief of St. Paul's Episcopal Church, Riverside, Connecticut, with an amendment (Rept. No. 96–561). Referred to the Committee of the Whole House.

Mr. ULLMAN: Committee on Ways and Means. H.R. 2535. A bill to amend the tariff schedules of the United States to suspend for a temporary period the duty on certain alloy tool steels used for making chipper knives, with amendments (Rept. No. 96–562). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 2537. A bill to suspend until December 31, 1982, a portion of the duties on strontium nitrate, with amendments (Rept. No. 96–563). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 3352. A bill to provide for the temporary suspension of duty on the importation of fluorspar, with amendments (Rept. No. 96–564). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 3591. A bill to reduce temporarily the duty on titanium sponge, with an amendment (Rept. No. 96–565). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 4309. A bill to amend the tariff schedules of the United States to provide for the proper classification of cold finished steel bars; and for other purposes, with an amendment (Rept. No. 96–566). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 4739. A bill to suspend for a three-year period the duty on pillow buns of latex foam, with amendments (Rept. No. 96–567). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 4962. A bill to amend title XIX of the Social Security Act to strengthen and improve medicaid services to low-income children and pregnant women, and for other purposes, with amendments (Rept. No. 96–568). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANNUNZIO:

H.R. 5713. A bill authorizing continuing appropriations for the Lithuania legation; to the Committee on Foreign Affairs.

By Mr. COUGHLIN:

H.R. 5714. A bill to amend the Internal Revenue Code of 1954 to provide that amounts paid for first-class postage in connection with the payment of medical expenses shall be treated as a deductible medical expense; to the Committee on Ways and Means.

By Mr. ERTEL:

H.R. 5715. A bill to establish a uniform Federal system for management, protection, and utilization of the results of federally sponsored scientific and technological research and development; and to further the public interest of the United States domestically and abroad; and for other related purposes; jointly, to the Committees on the Judiciary and Science and Technology.

By Mr. FISHER (for himself and Mr. Butler):

H.R. 5716. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment for purposes of the consolidated return regulations of stock in certain railroads which transferred property to ConRail; to the Committee on Ways and Means.

By Mr. LEDERER:

H.R. 5717. A bill to provide that adjustments in the rates of pay for Members of Congress shall take effect at the beginning of the Congress following the Congress in which the adjustments are approved, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 5718. A bill to amend the Internal Revenue Code of 1954 to delay for an additional 2 years the application of the provisions which increase the Federal unemployment tax in States which have outstanding advances to their unemployment funds; to the Committee on Ways and Means.

H.R. 5719. A bill to amend the Internal Revenue Code of 1954 to clarify the tax exemption of proceeds from certain bingo games; to the Committee on Ways and Means.

By Mr. LOEFFLER:

H.R. 5720. A bill to provide for continuing appropriations for any purpose or function when funds are not available on the first day of any fiscal year for such purpose or function; to the Committee on Appropriations.

By Mr. McDONALD:

H.R. 5721. A bill to amend the Internal Revenue Code of 1954 to restore the deduction for State and local taxes on gasoline and other motor fuels and to allow the deduction for such taxes without regard to whether the taxpayer itemizes other deductions; to the Committee on Ways and Means.

H.R. 5722. A bill to amend the Internal Revenue Code of 1954 to provide that the mileage allowance used for Federal employees shall be used for determining the mileage allowance for the deduction for trade or business expenses, and to amend title 5 of the United States Code to revise certain provisions relating to mileage and per diem expenses of Federal employees; jointly, to the Committee on Ways and Means and Government Operations.

By Mr. MATHIS:

H.R. 5723. A bill to reduce certain taxes on aviation fuel and air transportation, and for other purposes; jointly, to the Committees on Ways and Means and Public Works and Transportation.

By Mr. RINALDO:

H.R. 5724. A bill to protect the interest of consumers and provide information to consumers regarding the effective use of smoke detectors through the establishment of smoke detector placement demonstration projects, to require the Consumer Product Safety Commission to take into account the results of such projects in connection with the promulgation of certain consumer product safety standards, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce and Science and Technology.

By Mr. VENTO:

H.R. 5725. A bill to amend title 39, U.S. Code, to restore to Postal Service employees their rights to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. WRIGHT (for himself, Mr. Staggers, Mr. Yates, Mr. Boland, Mr. Ashley, Mr. Reuss, Mr. Dingell, Mr. Stanton, and Mr. Ottinger):

H.R. 5726. A bill to permit utilities to finance or provide capital investment payments for the installation of energy conservation measures, to establish an Energy Conservation Bank to provide financial assistance to purchasers of energy conserving improvements, to provide new secondary financing authority for the purchase of loans made with respect to energy conserving improvements, to improve the weatherization grant program for low-income persons, and for other purposes; referred jointly to the Committees on Banking, Finance and Urban Affairs and Interstate and Foreign Commerce, for consideration of such provisions as fall within the jurisdiction of those committees under clause 1(d) and 1(l) of rule X, respectively.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. FISH introduced a bill (H.R. 5727) for the relief of Karen Odell Donnelly, to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 2191: Mr. Fazio.

H.R. 3245: Mr. Aspin, Mr. Courter, Mr. Gingrich, Mr. Gradison, Mr. Hanley, Mr. Kindness, Mr. Mathis, Mr. Mattox, Mr. McDonald, Mr. McKinney, Mr. Mica, Mr. Montgomery, Mr. Rousselot, Mr. Taylor, Mr. Young of Florida, Mrs. Snowe, Mr. Barnard, and Mr. Leach of Iowa.

H.R. 4205: Mr. Barnes, Mr. Bedell, Mr. Clinger, Mr. Corcoran, Mr. Courter, Mr. Dixon, Mr. Donnelly, Mr. Dornan, Mr. Fazio, Ms. Ferraro, Mr. Fowler, Mr. Harkin, Mr. Lagomarsino, Mr. Leland, Mr. Mazzoli, Mr. Mitchell of Maryland, Mr. Neal, Mr. Oberstar, Mr. Pepper, Mr. Simon, Mr. Solarz, Mrs. Spellman, Mr. Stokes, Mr. Tauke, Mr. Vento, Mr. Whittaker, Mr. Whitehurst, Mr. Winn, and Mr. Wirth.

H.R. 4358: Mr. Richmond, Mr. Brinkley, Mr. Atkinson, Mr. Carter, Mr. Corrada, Mr. Donnelly, Mr. Duncan of Oregon, Mr. Erdahl, Mr. Fish, Mr. Florio, Mr. Frenzel, Mr. Frost, Mr. Gilman, Mr. Markey, Mr. Marks, Mr. Mathis, Mr. Matsui, Mr. Mazzoli, Ms. Mikulski, Mr. Moffett, Mr. Murphy of Pennsylvania, Mr. Nichols, Mr. Patten, Mr. Pickle, Mr. Roe, Mr. St Germain, Mr. Santini, Mr. Scheuer, Mr. Sensenbrenner, Mr. Stokes, Mr. Synar, Mr. Weaver, Mr. Wolff, Mr. Wirth, and Mr. Young of Missouri.

H.R. 4638: Mr. Dornan and Mr. McCloskey.

H.R. 4960: Mr. Kostmayer, Mr. Whittaker, Mr. Carter, Mr. Buchanan, and Mr. Preyer.

H.R. 5127: Mr. de la Garza, Mr. Kazen, and Mr. Santini.

H.R. 5134: Mr. Johnson of Colorado.

H.R. 5225: Mr. Murphy of Pennsylvania and Mr. Barnard.

H.R. 5296: Mr. Livingston, Mr. Dornan, Mr. Duncan of Tennessee, Mr. Fithian, Mr. Bafalis, and Mr. Goodling.

H.R. 5399: Mr. Dornan, Mr. Goodling, and Mr. Ritter.

H.R. 5412: Mr. Annunzio, Mrs. Boggs, Mrs. Chisholm, Mr. Clay, Mr. Dellums, Mr. Dixon, Mr. Evans of the Virgin Islands, Mr. Green, Mr. Hawkins, Mr. Jenrette, Mr. Kildee, Mr. Leland, Mr. Marks, Mr. Mitchell of New York, Mr. Moakley, Mr. Murphy of Illinois, Mr. Myers of Pennsylvania, Mr. Ottinger, Mr. Patten, Mr. Rahall, Mr. Rangel, Mr. Roe, Mr. Richmond, Mr. Stark, Mr. Stokes, Mr. Vento, Mr. Weiss, Mrs. Collins of Illinois, Mr. Gray, and Mr. Garcia.

H.R. 5499: Mr. Stokes, Mr. McCormack, Mr. Hall of Ohio, Mr. Williams of Montana, Mr. Solarz, and Mr. Reuss.

H.R. 5660: Mr. Bonker, Mr. Obey, Mr. Tauke, Mr. Cavanaugh, and Mr. Gray.

H.J. Res. 385: Mr. Oberstar, Mr. Lagomarsino, Mr. Moakley, Mr. Addabbo, Mr. Panetta, Mr. Minish, Mr. Conte, Ms. Ferraro, Mr. Giaimo, Mr. Annunzio, Mr. Russo, Mr. Miller of California, Mr. LaFalce, and Mr. Santini.

H.J. Res. 428: Mr. Myers of Pennsylvania, Mrs. Chisholm, Mrs. Spellman, Mr. Hyde, Mr. Rangel, Mr. Young of Alaska, Mr. Mazzoli, Mr. Scheuer, Mr. Pepper, Mr. Fazio, Mr. Ambro, Mr. Murphy of New York, and Mr. Dodd.

H. Con. Res. 200: Mr. Marks.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4985

By Mr. BAUMAN:

—On page 32, after line 19, insert the following:

"6 the will of the electorate as ascertained in any local or state initiative or referendum which was specifically related to the establishment of an energy project."

—On page 51, after line 2, insert the following:

"(6) have the effect of contravening the will of the electorate as ascertained in any local or state initiative or referendum which was specifically related to the establishment of an energy project."

—Page 13, after line 13, insert:

(e) (1) Upon the request of any person acting on behalf of an energy project which constitutes—

(A) the conversion of a fossil fuel fired electric generating plant from the use of oil or natural gas to coal, a coal-oil mixture, or a coal-derived fuel, or

(B) the construction of a new facility which would replace or phase down an existing oil or gas fired electric generating plant with a coal fired, a coal-oil mixture fired, or a coal-derived fuel fired capacity,

the Board shall designate such project as a Priority Energy Project.

(2) Any Project designated under this subsection shall not be taken into account for purposes of the limitations contained in subsection (d).

—Page 15, after line 19, insert:

(f) (1) Upon the request of any person acting on behalf of an energy project which constitutes—

(A) the conversion of a fossil fuel fired electric generating plant from the use of oil or natural gas to coal, a coal-oil mixture, or a coal-derived fuel, or

(B) the construction of a new facility which would replace or phase down an existing oil or gas fired electric generating plant with a coal fired, a coal-oil mixture fired, or a coal-derived fuel fired capacity,

the Board shall designate such project as a Priority Energy Project.

(2) Any Project designated under this subsection shall not be taken into account for purposes of the limitations contained in subsection (e).

—Page 38, after line 7, insert:

(d) Upon the request of any person acting on behalf of an energy project which constitutes—

(1) the conversion of a fossil fuel fired electric generating plant from the use of oil or natural gas to coal, a coal-oil mixture, or a coal-derived fuel, or

(2) the construction of a new facility which would replace or phase down an existing oil or gas fired electric generating plant with a coal fired, a coal-oil mixture fired, or a coal-derived fuel fired capacity,

the Board shall designate such project as a Priority Energy Project.

—Strike out page 46, line 1 and all that follows down through line 12 on page 49 and substitute:

"ENFORCEMENT OF PROJECT DECISION SCHEDULE

"Sec. 185. (a) (1) If the Board determines, pursuant to its monitoring under section 183, that an agency has failed, or is reasonably likely to fail, to make an agency decision within the time required by the Project Decision Schedule, the Board shall provide notice of its determination to the appropriate agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, any parties to the agency proceeding concerned, and the Governor of each State affected by that project. After a period of at least 45 days after such notification, the Board shall promptly conduct on an expedited basis an informal hearing for the purpose of determining the cause of the delay and the actions taken to achieve compliance. A transcript shall be kept of any such hearing.

"(2) Within 30 days after any hearing under paragraph (1), the Board may, in furtherance of the purposes of this part—

"(A) modify the Project Decision Schedule to the extent necessary to provide an extension of time for that agency to make the agency decision involved if—

"(i) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule, and it would be impracticable for the agency to reach a decision or to complete the required action within the specified time, and

"(ii) a previous extension has not been provided under this subsection for that agency decision; "(B) issue an order under subsection (b) providing for a decision under that subsection in lieu of the agency decision involved; or

"(C) make a recommendation under subsection (c) for a waiver under that subsection in the case of any Federal requirement applicable to any agency.

No determination by the Board under paragraph (1) and no modification of a Project Decision Schedule by the Board under subparagraph (A) of this paragraph shall be subject to judicial review, except as may be required by the Constitution of the United States. If, following modification of the Project Decision Schedule under subparagraph (A), the agency fails to make the agency decision concerned in compliance with such modified Schedule, the Board may take action under subparagraph (B) or (C), as appropriate, without conducting a further hearing under paragraph (1).

"(b)(1) The Board may issue an order referred to in subsection (a)(2)(B) to have a decision under this subsection be made in lieu of the agency decision. Notice of any such order shall be published in the Federal Register and transmitted to the agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, the President, the Governor of each State affected and the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Any order under this paragraph shall not be subject to judicial review, except as may be required by the Constitution of the United States.

"(2)(A) Upon receipt of notice of an order under paragraph (1), the agency involved shall transmit forthwith all records in the possession of the agency pertinent to that decision or action. The Board shall take whatever additional action authorized under this part as may be necessary to obtain an adequate record for a final decision.

"(3)(A) The Board shall promptly issue a recommended decision under this subsection after obtaining an adequate record for the decision. The recommended decision shall be published in the Federal Register, shall be submitted to the President, together with the record on which it is based, and shall be transmitted to the Governor of each State affected by the project.

"(B) Any recommended decision of the Board under this subsection shall be consistent with any requirement established by, or pursuant to, Federal, State, or local law which would be applicable in the absence of an order under this subsection.

"(4)(A) Within 45 days after any recommended decision has been submitted to the President under paragraph (3), the President shall—

"(i) make a decision to affirm the recommended decision, in which case the recommended decision shall be considered final, or

"(ii) shall remand it to the Board with instructions to modify the recommended decision to the extent the President determines to be appropriate and consistent with any requirement established by, or pursuant to, Federal, State, or local law.

Following any remand under clause (ii), the Board shall promptly issue a final decision in accordance with such instructions. If the President fails to affirm or remand the Board's recommended decision within such 45-day period, the Board's recommended decision shall be considered final.

"(B) Any final decision under subparagraph (A) shall be considered a final decision in lieu of the agency decision involved. Except as provided in section 187(b), such final decision shall be subject to judicial review in the same manner and to the same extent as would apply to the agency decision involved.

"(c)(1) After designation of a Priority Energy Project and before compliance with the Project Decision Schedule by the agencies to which such Schedule applies, or pursuant to subsection (a), the Board may recommend to the President the waiver, in whole or in part, of any Federal requirement which it finds presents a substantial procedural or substantial substantive impediment—

"(A) to the making of an agency decision, or

"(B) to the making of such agency decision in a manner which will permit implementation of the project.

A recommendation may not be made to the President for a waiver under this subsection and a recommendation may not be made under subsection (b) if the agency has made the agency decision involved at the time of such recommendation.

"(2)(A) Any waiver recommended under this subsection may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived. Such waiver shall also include such terms and conditions as the Board, in consultation with the agencies responsible for the administration of the requirements proposed to be waived, deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver and to further enhancement efforts for aspects adversely affected by the energy project.

"(B) A recommendation under this subsection for the waiver of any requirement shall be published in the Federal Register, together with a statement of the reasons on which the recommendation is based. Any agency affected by such waiver and any other concerned person may submit views respecting such recommendation to the President and may make such views public during the thirty-day period specified in paragraph (3).

"(3) Not earlier than thirty days after publication in the Federal Register of a recommendation for a waiver under this subsection, and after considering public and agency comments, the President may, in furtherance of the purposes of this part, transmit such recommendation to the Congress, if he determines—

"(A) such a waiver to be in the national interest,

"(B) that there is substantial evidence to support the Board's determination and recommendation, and

"(C) that such a waiver would not unduly endanger the public health and safety.

Any recommendation so transmitted shall be accompanied by a detailed identification of the requirement to be waived, a statement of the extent to which such waiver would apply, and a statement of the President's reasons for making such recommendation, together with a summary of the agency views on such waiver. Any recommendation transmitted under this paragraph may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived together with provisions for the enforcement of such less stringent requirement or other alternative by the agency responsible for the administration of the requirement proposed to be waived. Such waiver shall also include such terms and conditions (and provisions for their enforcement by the agency responsible for the administration of the requirement proposed to be waived) as the President deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver and to further enhancement efforts for aspects adversely affected by the Project. The President's transmittal under this subsection shall also set forth any differences between the waiver recommended by the Board and the waiver transmitted to the Congress.

"(4)(A) Any waiver with respect to which the President has made a recommendation which is transmitted to Congress under this subsection shall take effect at the expiration of the first period of sixty calendar days of continuous session of Congress after the date of its receipt by the Senate and House of Representatives if, before the expiration of such sixty-day period, such recommendation is approved by each House of the Congress in the same manner as is provided for approval of energy conservation contingency plans under section 552 of this Act, except that in applying the provisions of section 552 of this Act to a recommendation of the President transmitted under this subsection, any reference in such section 552 to an energy conservation contingency plan shall be treated as a reference to a recommendation of the President transmitted under this subsection any reference in such section 552 to twenty calendar days shall be treated as a reference to thirty calendar days and subsections (b), (d)(2)(B), and (d)(7) of section 552 shall not apply.

"(B) A recommendation transmitted under this section may take effect at any time subsequent to the date specified in subparagraph (A) if such subsequent time is set forth in such recommendation.

"(5) Each agency responsible for the administration of any requirement waived under this section shall monitor compliance by the Project with the terms and conditions of such waiver.

"(d)(1) The Board, on its own motion or upon an application of any person acting on behalf of a Priority Energy Project, shall determine if any requirement of Federal, State, or local law which has been enacted or promulgated after establishment of the Project Decision Schedule, but before commencement of commercial operation of any facility (as determined by the Board) which is part of the Project, would present a substantial impediment to implementation of the Project. Such application shall identify the requirement with respect to which the application is made. If the Board determines that any such requirement will present such an impediment, the Board may in furtherance of the purposes of this part—

"(A) order the temporary suspension of the application of such requirement to such facility for only such time as necessary to allow such person to make good faith efforts to comply with such requirement, but not in excess of 5 years after the date on which commercial operation of such facility commences; or

"(B) submit a recommendation to the President that such requirement be waived in whole or in part."

No determination of the Board under this subsection shall be subject to judicial review except as may be required by the Constitution of the United States.

"(2) No order temporarily suspending the application of any requirement to any facility may be issued under paragraph (1)(A) unless the Board, in consultation with the agency responsible for implementing the requirement, finds that, during the period of such suspension, the facility will make a good faith effort to meet the requirement suspended.

"(3) A recommendation submitted to the President under paragraph (1)(B) for the waiver of any requirement shall take effect as provided in, and shall be subject to the same provisions as apply in, the case of recommendations for waiver set forth in subsection (c).

"(e)(1) Not later than 45 days after the establishment of a Project Decision Schedule for a Priority Energy Project, the Board and any agencies which may be covered by such Project Decision Schedule shall identify and publish notice in the Federal Register of the requirements of Federal, State, and local law applicable to such Project which may present any substantial procedural or substantial substantive impediment to the implementation of the Project. Such notice shall include an analysis of the impact of such requirements on the Project. The Board may extend the 45-day period in appropriate cases.

"(2) If the Board finds, after publication of the notice under paragraph (1) and based upon the analysis required under paragraph (1), that—

"(A) any requirement identified under paragraph (1) may present any substantial procedural or substantial substantive impediment to the implementation of the project; and

"(B) there is no opportunity under applicable law for an agency decision in a manner which would overcome such impediment and permit implementation of the Project,

the Board shall submit a copy of its analysis under paragraph (1), together with appropriate recommendations concerning the requirement, to the President (in the case of a requirement of Federal law), the Governor (in the case of a requirement of State or local law), to the affected agencies, and to the appropriate committees of Congress. Any recommendation under this subsection to the President may include a recommendation in accordance with subsection (c). The Governor and such affected agencies shall take into consideration the Board's recommendation and shall report to the Board within such time as may be specified by the Board. Such report shall state whether or not the Governor or agency accepts or rejects the recommendations of the Board, together with the reasons for such acceptance or rejection. If the Governor or agency accepts such recommendations in whole or in part, such report shall include an explanation of the actions the Governor or agency will take and when such actions will be taken.

"(f) In bringing any civil action in any court (other than the Supreme Court) to enforce any order or requirement under this part, the Board shall be represented by the General Counsel of the Board (or any attorney employed by the Board), notwithstanding the provisions of title 28 of the United States Code. Such General Counsel (or attorney employed by the Board) shall supervise, conduct, and argue any civil litigation in any such action.

Page 45, line 6, after "182" insert "or 185(a)(2)(A)".

Page 49, line 19, after "182" insert "or 185(a)(2)(A)".

By Mr. SEIBERLING:

—Page 32, line 4, strike out "or".

Page 32, line 5, insert "or" after the semicolon.

Page 32, after line 5, insert:

(E) providing access to, or acquisition of, information by any agency or other person;

—On page 32, line 18, following the word "interest" insert a comma and add "or death or personal injury".

EXTENSIONS OF REMARKS

STUDY OF ENERGY PROJECTS

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. MAGUIRE. Mr. Speaker, next week the House of Representatives will consider the "Priority Energy Project Act of 1979" also known as "fast track" legislation. I wish to commend to the attention of the Members a Library of Congress study of several energy projects. The study was requested by Senator STAFFCRD prior to Senate consideration of similar "fast track" legislation.

The document follows:

ENERGY DEVELOPMENT PROJECT DELAYS

At the request of the Senate Subcommittee on Environmental Pollution, we undertook a review of delays in non-nuclear energy development projects. This review focuses on ascertaining the causes of delays in selected energy projects, with a view toward providing background on the need for an implications of proposed "fast track" legislation.

We selected the following energy projects for review:

1. Kaiparowits—a large, coal-fired, minemouth electric generating facility located in Utah, originally proposed in 1962 and finally abandoned in 1976.

2. Dickey-Lincoln—a hydroelectric project, originally authorized in 1965, on the St. Johns River in Maine; bills both to fund construction and to deauthorize the project are pending before Congress.

3. Eastport refinery—proposed in 1973 to be built in Maine, the project at present is stymied, in part because of EPA's rejection of certain permits.

4. Hampton Roads refinery—proposed in 1975 to be built in Virginia, the project is at present awaiting a decision by the Corps of Engineers.

5. SOHIO pipeline (PACTEX)—proposed in 1975 as a route for transporting excess Alaskan crude oil to the Gulf States area, the project was abandoned in 1979 after delays in approval reportedly pushed its completion date beyond the time when costs could be expected to be recovered, based on expected oil supplies.

6. Oil shale—leasing programs began in 1971, but progress has been slow and commercial production is not expected before 1983.

These six cases were chosen for reasons of convenience, familiarity, and diversity. It is not suggested that they are representative or nonrepresentative of any particular type or class of regulatory problems.

When assessing these case studies in terms of their implication for "fast track" proposals, two caveats are necessary:

1. The case studies are of projects that were proposed in a period of innovation and flux in environmental statutes and regulations. Consequently, there has been a problem of "moving targets," and planning these projects has been particularly difficult. It is possible that environmental statutes and regulations are maturing, and that for the next several years changes in requiremens will be fewer and less burdensome; nevertheless, the case studies are illustrative of the sorts of regulatory problems cited as justitfying the "fast track" concept.

2. Extracting the actual implications of environmental regulations on these projects is made difficult by other unsettling forces effecting planners. The economy, so stable during the 1960's, has changed in puzzling and predicted ways. And energy prices and availability, taken for granted in the 1960s, have become major uncertainties. As a result, many planning assumptions, particularly concerning rates of growth of energy demand and rates of inflation, have been disrupted. These energy and economic uncertainties to some extent are compounded by any environmentally caused delays since if the time required to obtain various construction and environmental permits is extended, economic considerations may cross a threshold that would not otherwise have been reached. But to some extent it is probably also true that environmental controls have been the whipping boy for other negative economic forces.

Given these caveats, a review of the case studies points to two basic conclusions: first, that it is difficult to attribute the delay or foreclosure of construction of energy development facilities solely to substantive Federal environmental protection laws; and second, that usually it appears that a general lack of consensus on the need for the project, at least as proposed, underlies the difficulty promoters of the projects have faced in trying to obtain necessary regulatory approvals.

1. For each of the six case studies, factors other than environmental statutes appear important in causing delays.

For Kaiparowits, changing environmental requirements, particularly air pollution control requirements, did substantially disrupt planning; however, at the same time changes in the economy and energy demand were also important.

For Dickey-Lincoln, present delays can be attributed to Congressional hesitation to authorize funding for the project; it may be that some of that reluctance stems from environmental considerations, but it is Congress which is in a position to decide whether it should go ahead.

For the Eastport Refinery, the proposal is at present stopped because of the rejection of a permit on the grounds approving it would violate the Endangered Species Act; however, there is every reason to believe that numerous other probable roadblocks to the project exist, including international considerations that would transcend domestic environmental protection constraints.

For the Hampton Roads refinery, the pro-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

posal is at present awaiting a final decision on a key permit.

For the SOHIO pipeline (PACTEX), the working out of new air pollution regulatory procedures was a major cause of delay; however, at the time the project was abandoned these had been overcome, and it appears that environmental requirements would not have foreclosed construction; this, then, is a case where delays caused the economics of a project to cross a threshold of unacceptability.

For oil shale development proposals, the issue is one of developing new technologies; environmental controls are but one of the uncertainties affecting their development.

In short, although environmental considerations have been important constraints on the proposers of these projects, they have not been the sole constraints. In fact, the case studies suggest that the regulatory hangups suffered by these projects most often arise from underlying doubts about the projects, and that these doubts have often found their readiest expression in regulations based on environmental considerations.

2. In some of the cases, the underlying uncertainty arises from the doubt about the need for the project at all, in others it arises from uncertainty about siting, about alternatives, or some other aspect of the proposal. Of course, for virtually any proposal, someone will have objections or criticisms; but the more than this type of uncertainty is present, the more objectors there are likely to be and the greater their legitimacy. Most importantly, the greater the doubts, the more likely it is that critics will find sympathetic ears among decisionmakers. This combined with the multitude of regulations and of governmental interests involved, increases the probability that a veto or holdup will occur at one or more of the numerous decision points.

Two of the case studies shed light from different angles on the nature of this source of delay: The PACTEX proposal illustrates that when consensus on the need for a project exists, it does move ahead; the Dickey-Lincoln project illustrates that when consensus does not exist, the absence of regulatory holdups does not mean it will automatically go ahead.

The SOHIO pipeline proposal was widely perceived as being in the national interest. Much of the delay concerned how to implement new procedures, but some hardline objectors existed, too. However, the general consensus that the project should go forward was reflected in a number of ad hoc efforts to clear roadblocks; and a bill passed the California legislature to resolve litigation challenging approval of the project. It appears that the underlying consensus in favor of the project was sufficient to get most of the roadblocks cleared (albeit too late for the economics of the project to be sustained).

In the Dickey-Lincoln case, the roadblock is legislative, not regulatory. And in this arena where, presumably, action by consensus would be possible without the project having to run the regulatory maze, funding is still iffy. It appears, then, that consensus for (or against) the project is lacking, so it languishes—just as are so many projects lost in the regulatory maze.

This illustrates that where an underlying consensus is lacking, projects will not necessarily go forward even if there are no significant regulatory hurdles; or put the other way, the delays of the regulatory hurdles generally seem to reflect a genuine uncertainty about the proposal. Indeed, it appears that environmental requirements have become a convenient and effective point of access to decisionmaking for critics of individual energy projects, whether on environmental or on social, economic, philosophical, or other grounds. When clear agreement on the national essentiality or any particular project is lacking, achieving final approval becomes exceedingly difficult—in either the regulatory or the legislative arenas. Once a critical level of consensus is reached, however, relief is likely to be forthcoming. The opportunity for Congress to clear the way for energy projects is illustrated by the enactment of the TransAlaska Pipeline Act.●

RESOLUTION ON ENERGY MOBILIZATION BOARD

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. MAGUIRE. Mr. Speaker, next week the House of Representatives will take up consideration of the Priority Energy Project Act, H.R. 4985.

The proposed creation of an Energy Mobilization Board with the power to waive laws and to preempt Government officials is certainly one of the most controversial energy proposals which this Congress will face. This controversy has even reached the Department of Energy's advisory structure. I am inserting for my colleague's consideration the resolution on the Energy Mobilization Board which was passed by the Department of Energy's Environmental Advisory Committee on August 3, 1979. The resolution opposes granting the Board any authority to waive any Federal, State, or local laws and regulations.

The resolution follows:

RESOLUTION ON ENERGY MOBILIZATION BOARD

The DOE Environmental Advisory Committee is concerned about the proposal to establish an Energy Mobilization Board to accelerate permitting and construction of non-nuclear energy facilities. We believe that greater efficiency and streamlining in energy decision-making is desirable and that it would be appropriate to grant to a new government entity the authority to set reasonable and coordinated project decision schedules in consultation and agreement with Federal, State, and local agencies with authority designated/over priority energy projects.

However, we are opposed to granting an appointed Board the authority to waive procedural or substantive requirements of Federal, state, or local laws or regulations, environmental or otherwise. If the Board determines that certain laws stand in the way of an important energy project, the Board should recommend through the President to the appropriate legislative body a legislative remedy. Nor should the Board have authority to waive procedures which are often essential to the implementation of the intent and purpose of the law. Finally, while judicial review can be accelerated, we oppose suspension of timely judicial review of final agency actions relating to a priority energy project.

We therefore urge Secretary-designate Duncan, as an early order of business, to reexamine the proposed EMB and to recommend to the President and to Congress only such powers for the Board as are essential to avoid undue delay in decisions regarding national priority energy projects.

We further urge the Assistant Secretary for Environment to investigate the extent to which environmental laws and regulations have been the cause of delay relative to other causes of delay and to make this information available to the Secretary, the Congress, and the public as soon as possible. We further urge the Assistant Secretary to do everything in her power to assure that the integrity of environmental safeguards, present and projected, is maintained in the formulation of any approach to "fast-track" legislation.●

IT'S A CRIME

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. ASHBROOK. Mr. Speaker, a number of my colleagues from time to time try to remind us of the dangers of handguns and their role in crime in this Nation. In the last 24 hours two separate incidents have occurred that underscores how wrong they are in their diagnosis of the causes for violence in America.

Last night I learned of the tragic stabbing death of Pamela Moseley Carpenter, the younger sister of Redskin's star field goal kicker Mark Moseley. The alleged murderer is an ex-convict who had just been released from prison for rape. He broke into Mrs. Carpenter's home and proceeded to rape her and then stabbed her to death with a pair of scissors from her sewing kit.

Another news item on last night's news concerned the assault on a young woman in Manassas by a 12-year-old who had just been released from a youth detention facility. The boy entered her house and tried to stab the woman to death with a screwdriver. Thankfully the woman was able to survive the attack.

We must ask ourselves what can be done to stop such wasteful and tragic violence in this Nation. These cases deal with criminals who have been judged fit to reenter society by the justice system. In both cases the criminals took less than 1 week after being released to carry out worse crimes than the ones they were originally incarcerated for. In my mind I can see that there is an obvious lapse in the judgment of those criminal justice officials involved in these cases. These men should have never been allowed to visit such horror upon innocent victims.

The two incidents also underscore the sham put forward by those who advocate further control of guns. In both cases gun control would have had no effect as in one case the criminal used a screwdriver and in the other a pair of scissors from the victim's own sewing kit. It is clear to me that violence will occur when and where a violent person wants it to occur, the weapon or weapons used are inconsequential. The real need in this Nation is not the separation of criminals from potential weapons, but the separation of proven criminals from the potential victims. Only a system of justice and punishment that truly deters crime will prevent future tragedies. As long as criminals are coddled by the courts and the media there will always be the potential for the innocent to be confronted by the random violence of those not fit to be a part of society. As one observer once stated, who says punishment does not work; we have never tried it.●

LOW-INCOME ENERGY ASSISTANCE APPROPRIATION

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. DONNELLY. Mr. Speaker, yesterday the House passed legislation providing a critically important supplemental appropriation for low-income energy assistance. As you said in a letter sent to every Member of the House, Mr. Speaker, this legislation is "a national priority." The $1.35 billion appropriation will bring badly needed financial assistance to the elderly and low income who are struggling to meet the spectacular increases in energy costs that have taken place over the past year. In recent weeks every Member of Congress has recognized the need for such a program, whether they represent a congressional district located in a cold region of the country or not.

Members of the Massachusetts and New England congressional delegations have been aware of the severity of the problem for quite some time and have urged our colleagues in the House to address this issue. Yesterday's action demonstrated the House can resolve its differences over aspects within the bill and approve a plan of action for this winter. The resolution passed yesterday, increasing the Community Services Administration's fuel assistance program to $400 million, providing $404 million to SSI recipients and $791 million to be utilized both by the States and AFDC families, has my strongest support for speedy passage in the Senate.

At the same time, I must voice my disappointment with the Appropriations Committee and other committees of Congress which have been incapable of formulating a plan which offers financial assistance for the working poor and moderate-income people of this country. Mr. Speaker, as many of us know so well, the working men and women of the country are continually excluded from programs of Government assistance because they do not qualify as 125 percent below the poverty level.

These people are left out because they cannot meet established poverty guidelines which are inadequate to meet all programs and all circumstances. Of course, in many cases the eligibility requirements that Congress sets for Federal assistance programs are necessary and proper. Such requirements insure accountability, avoid abuses in the system and protect the taxpayer's money. But in the case of fuel assistance, there is a clear need for financial help at the middle-income level.

The price of fuel oil has skyrocketed 60 and 70 percent and households must spend upward of 35 percent of their income on fuel costs alone. Is not the welfare of the middle income as important as others who cannot pay their heating bills or are forced to choose between food or fuel? Moreover, why cannot the taxpayers who had to finance the Federal ernment's various social programs occasionally benefit from those same programs? The emergency program we have proposed does not accurately assist the people we are claiming to help.

For example, not all SSI recipents need fuel assistance money because they live in senior citizen housing where they are exempt from utility charges. Other SSI recipients living in warmer climates have no need for fuel assistance money to heat their homes. More specifically, it is the CSA poverty criteria which is inadequate to address the needs of the working poor and moderate income. As they currently exist, a nonframe family consisting of two adults and six hungry children at an income level of $11,125 would be ineligible for fuel assistance.

I do not understand or accept the failure of Congress, with all its staff and resources, to establish better guidelines for allocating energy assistance money. I submit to my colleagues that many near poor and moderate-income working people are not helped by this program and are going to suffer as a result. It is for this reason that I respectfully and earnestly urge the House-Senate conference committe which will have to iron out any differences in this legislation to add language allowing more flexibility in the program, so that money can be directed to people other than just the elderly and low income.

Furthermore, in the coming year when permanent programs of fuel assistance will be drafted, I think it is also esential that the working poor and and moderate income be given the proper, if not long overdue, attention.

In conclusion Mr. Speaker, I commend my colleagues in the House for passing the $1.35 billion supplemental appropriation. Certainly, the program will not be perfect, inequities will occur and money may be misdirected. Nevertheless, it is absolutely essential that a fuel assistance program be passed without further delay. These Federal funds are badly needed and the cold winter months are quickly approaching.●

RETIRED U.S. SPEAKER McCORMACK HONORED

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 25, 1979

● Mr. MOAKLEY. Mr. Speaker, recently the Ukrainian, Lithuanian, and Latvian communities of Boston honored the Honorable John W. McCormack, retired U.S. House of Representatives Speaker, for his support of Captive Nations over the years.

The groups, Ukrainian Congres Committee of America—Boston Chapter, Lithuanian American Council of Boston and American National Latvian League in Boston, cited Speaker McCormack for "his leadership in the enactment of the Captive Nations Week resolution by the U.S. Congress in July 1959, and for his dedication to the cause of freedom and independence of all Captive Nations under Russian Communist domination."

In accepting the plaque, Speaker McCormack said—

> Your presence and the presence of other gatherings throughout the United States and elsewhere is a message of hope to the people of the captive nations who know what liberty was, and they know what liberty is denied to them; but some day, with the help of God, liberty will be restored to them.

I am proud to share these words with my colleagues, for they affirm my commitment to work for reversal of the injustices and denial of human rights of all Captive Nations.●

GREEK CONTRIBUTION TO WESTERN CIVILIZATION

HON. DAN LUNGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. LUNGREN. Mr. Speaker, no American can fail to have noticed the tremendous contribution Greece has made to Western civilization, particularly to the culture and institutions of the United States.

The theory and practice of democratic government originated in Greece, as did the science of medicine and the philosophy of reason and logic, not to mention the visible contributions in the form of architecture, sculpture, and art. Familiar names such as Plato, Socrates, Aristotle, Hippocrates, Pericles, and Euclid dramatically illustrate this point.

The United States and Greece have long enjoyed amicable relations partly because of American respect for the Greek devotion to freedom.

Today we honor that democratic spirit and history of Greek Americans. The culmination of this spirit is expressed in the Greek national holiday "Ochi" Day, celebrated annually on October 28. On October 28, 1940, Greece said "Ochi"—No—to Mussolini's ultimatum that she surrender parts of her national territory to Fascist Italy. Such a surrender would have given the Axis Powers complete control over the eastern Mediterranean.

As Fascist divisions invaded Greece from Albania, they were met with stubborn opposition. Ten days after the initial attack, Fascist divisions were being surrounded and destroyed, and the whole invasion army was driven back to Albania with the Greeks hot on their heels. By November 10, every inch of Greek territory occupied by the Fascists had been recaptured.

For the first time since the beginning of World War II, the Axis was defeated. The world enthusiastically hailed this first Allied victory. The courage and determination of the Greek soldier proved an inspiration to embattled Britain and gave hope to the occupied people of Europe.

The tremendous fight put up by Greece gave them precious time to stabilize and strengthen their position in the Middle East, allowing Allied forces to concentrate and overpower Axis forces in Libya, Ethiopia, Syria, and Iraq. When, after 6 months of struggle against the combined might of Fascist Italy and Nazi Germany, Greece finally succumbed to her fate, the Allies were firmly entrenched in the Middle East and the Axis plan for a rapid push to the Suez Canal was frustrated.

Since the liberation of Greece in 1944, October 28, the anniversary of Greece's rejection of the Fascist ultimatum, has been celebrated as a national holiday, and is observed by military parades and ceremonies.●

IMPORTANCE OF CONGRESS TO SELF-GOVERNMENT

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. GINGRICH. Mr. Speaker, James Madison wrote in the Federalist Papers:

> As it is essential to liberty that the government in general should have a common interest with the people, so it is particularly essential that the branch of it under consideration should have an immediate dependence on, and an immediate sympathy with, the people.

James Madison was not writing about the President—he was writing about the House of Representatives. Precisely because of that closeness to the people, this branch of Government can be truly termed "the first among equals."

But in order to keep that immediate sympathy with the people, people must understand how important Congress is to our system of self-government. They must understand we make the decisions which determine what the inflation rate is, what the tax rates are, and how much real take-home pay they will receive.

Some Members I know have felt discouraged—that we do not receive enough attention. But I think the focus is changing—people are beginning to understand that it is Congress which governs this Nation, and sets the budget, and authorizes the bureaucracies.

Opinion leaders are beginning to focus on our body. One of those, Roscoe Drummond of the Christian Science Monitor, wrote a particularly good summary of the need to pay attention to Congress. Here it is:

FORGET THE PRESIDENT

WASHINGTON.—I would like to advance a pretty radical idea and invite readers to ponder it carefully before casting it aside.

Perhaps it will not be turned aside and, like a stone tossed into the smooth waters of a lake, make waves in public thinking until the elections next fall.

For months now—and it will be the same during the coming months—we have been listening nightly on the TV and reading daily on the front pages of the newspapers all the maneuverings and all the thoughts and half-thoughts bearing on the contests for the presidential nominations in both parties.

I say forget it. It's time to begin thinking about something really important.

The pretty radical idea I am offering is this: that the choice of the next Congress is more important than the choice of the next president.

Let me repeat it a little differently: We have quite obviously reached a stage in our political system where Congress is more influential—more decisive—in shaping national policy than the president. If we continue to view the election of the president as all-important and the election of Congress as an afterthought, we will re-create what we have been getting for the past six years—a Congress unwilling and unable to work with a president on nearly everything and unable to transact the public business efficiently and on time.

Obviously the American people will want a Congress able and willing to enact legislation which reflects their demands and their dominant consensus.

This means that voters in every state and in every district better spend as much time or more in testing out which senatorial and congressional candidates—incumbents and challengers alike—come nearest to what they want them to stand for and in deciding whom to support.

Don't let them get away with bland answers and meaningless cliches.

Keep at them until you can feel reasonably sure that you know where they stand, what they think, and what they will likely do if elected.

One overriding need to get more responsive government in Washington is to find ways to strengthen party responsibility. The political system has become so "reformed" that the parties have little say in the nominations, help very little in electing their candidates, and achieve little loyalty from their members. Once elected, nearly every congressman seems to be on his own—and the end result is stalemate and near chaos.

One of the causes is our failure to appreciate how powerful Congress has become in defeating what needs to be done and how weak it has become in getting it done.

Of course, I am not suggesting that the choice of the president is unimportant. It is very important but it is not likely that its importance will be neglected. What gets neglected is the crucial importance of choosing congressmen and senators who reflect the priorities and convictions of those who put them there—and will act accordingly.

Mr. Carter has found that a Democratic president and a Democratic Congress do not automatically work together cooperatively. But the only way to get party accountability for the total functioning of the government is to make one party responsible for both and then throw them both out if their joint performance is unsatisfactory.

I would think that voters who want a Democratic president would try to nominate and vote for Democratic congressional candidates who seem most likely to support the president most of the time. And the same for the Republicans.

Divided government with one party controlling the presidency and the other controlling the Congress has worked badly most of the time. It would be well to try the other way more thoroughly; that is, give a Republican president a Republican Congress or give a Democratic Congress a Democratic president.

My central conviction is that the American people need to focus more thoughtfully on electing Congress.●

SORRY SITUATION AT GENERAL DYNAMICS

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. DONNELLY. Mr. Speaker, I have received the following resolution from the mayor and city council of the historic city of Quincy, Mass., regarding the sorry situation at the General Dynamics' Quincy shipbuilding facility located in that city.

Although this resolution is dated September 17, 1979, I have just received it and request that it be included in today's CONGRESSIONAL RECORD.

The resolution follows:

SEPTEMBER 17, 1979.

Whereas, General Dynamics' Quincy Shipyard lost a one hundred seven million dollar cable ship contract for a 512 foot cable ship which was awarded to a San Diego firm even though General Dynamics' bid was nine million dollars lower, and

Whereas, General Dynamics' Quincy Shipyard is facing the loss of liquefied natural gas tanker (LNG) contracts because of action by the Air Force, and

Whereas, General Dynamics' Quincy Shipyard has been optimistic about the possibility of constructing up to six LNG tankers for an Indonesia to California route, but the Air Force has objected to a proposed LNG terminal to be constructed six miles from its Vandenberg Air Force Base in California, and

Whereas, Congressman Brian J. Donnelly has expressed his concern that these developments would have a devastating economic and social impact on the future of our City, and

Whereas, General Dynamics' Quincy Shipyard is the largest industry in the City of Quincy and employs approximately five thousand people, many of whom reside in the City of Quincy, and

Whereas, Quincy workers grow increasingly fearful for the security of their families and are apprehensive about their uncertain future and their ability to provide food and shelter for their families, and

Whereas, the people of Quincy continue to be concerned about the future of General Dynamics' Quincy Shipyard and the cataclysmic impact its loss would have on the City of Quincy and on the entire South Shore,

Now, therefore, Be it Resolved that the Mayor and Quincy City Council implore President Carter to intercede with the United States Air Force and any other private or governmental agency and exert whatever influence is necessary that would result in the awarding of contracts to General Dynamics' Quincy Shipyard in order to preserve the economic vitality of our community.●

A DEMAND FOR A NEW ADMINISTRATION SUGAR POLICY

HON. JAMES P. (JIM) JOHNSON

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. JOHNSON of Colorado. Mr. Speaker, on Tuesday, October 23, the House overwhelmingly defeated H.R. 2172, the International Sugar Stabilization Act of 1979, thus dealing a tremendous blow to the domestic U.S. sugar industry. Those of us who supported this legislation considered it was necessary to maintain a viable domestic industry as well as to protect consumers against higher sugar prices in the future. Only time will tell who was right.

I think it is appropriate at this time to urge that the Department of Agriculture use its existing authority to support the domestic sugar industry at 15.8 cents per pound. While there will be many producers who will not be able to survive at this level of support, I think the Department's action in this regard would do much to maintain a continued supply of domestically grown sugar. The administration is on record as supporting H.R. 2172 which provided for a 15.8-

cent price objective for the 1979 sugar crop plus a one-half cent payment per pound to producers.

On July 10, 1979, in testimony before the Subcommittee on Department Investigations, Oversight, and Research of the House Committee on Agriculture, Howard Hjort, Director of Budget, Planning, and Evaluation, stated that—

> If one has authority to be able to protect that [15.8 cents], I would think that the Department of Agriculture, at least, would recommend that we continue to support a market price objective of 15.8 cents for that year [1979].

Additionally, at that same hearing, Secretary Bergland stated:

> We think 15.8 cents is a minimum price at which a so-called viable industry can be maintained. Any market price objective below that will simply force the industry to wither and die. That is not in the national interest.

Therefore, an administration policy inplementing that 15.8 cents price objective in the marketplace—which it has the authority to do under existing law—is a policy which I believe all Americans would endorse.

Much will be written in the days ahead as to the effect this defeat will have on the domestic sugar industry and what the Congress and the administration may or may not do legislatively. I place in the Record an article which discusses this and which appeared in the Wall Street Journal of October 25.

The article follows:

Sugar Prices Drop in Response To Defeat of Price-Prop Bill but a Rebound Is Seen

(By Maria Shao)

Sugar prices tumbled in the aftermath of Tuesday's late vote in the House defeating legislation that would have boosted price supports to U.S. growers of sugarbeets and cane. However, many analysts expect prices of raw sugar to rebound before long.

In the past, sugar quotes had been closely linked to the fortunes of the price-support legislation; falling chances for approval, meant falling prices. But the fate of the legislation doesn't matter as much any longer, analysts say, because the world sugar market changed during the time the legislation wended its way through Congress.

"There's a different psychology" now, says Kim Badenhop, research director for B.W. Dyer & Co., a firm of sugar brokers and economists. More sugar is expected to be consumed this year than is grown, the first time in six years that this has happened. This prospect should keep the market for raw sugar from "falling out of bed" due to the death of the legislation, says Mr. Badenhop. Indeed, after a knee-jerk reaction, analysts expect market fundamentals to reassert themselves.

Retail prices for refined sugar shouldn't change much either, just as they haven't changed much during raw sugar's sharp price gains in recent months; on Monday, the world price was 53% more than in early August. But Washington administers fees on imported sugar to keep the price of sugar landed in the U.S. at 15 cents a pound; when the world price rises, the import fees fall.

RETAILER'S VIEW

A spokeswoman for Foodarama Supermarkets Inc., which sells sugar in the New York area for about 26 cents a pound, said, "We are able to buy at a certain price where we don't have to raise" shelf prices. What's more, current world stocks of about 33 million tons would have to drop dramatically "before it starts pinching the consumer," noted George Hirai, sugar department manager for Bache Halsey Stuart Shields Inc.

On the Coffee, Sugar and Cocoa Exchange in New York, sugar prices fell sharply in early dealings, then recovered somewhat to finish with more modest losses. World-market sugar for January delivery ended at 12.94 cents a pound, down 0.38 cent, after being as low as 12.25 cents. Sugar for domestic delivery in November ended at 17.08 cents, down 0.5 cent. Some analysts suggested the late rebound was evidence that the selloff won't last. They noted current prices are above the 16.3-cent level in the proposed legislation.

While the domestic measures appear to be dead, there is still hope that Congress will ratify the International Sugar Agreement, a global pact that aims to support world prices at 11 cents a pound through a system of export quotas and international stockpiles. This would have the effect of supporting U.S. domestic prices.

In rejecting the support bill Tuesday, the House also killed companion legislation for the international agreement. This measure could be reintroduced, however. Rep. Charles A. Vanik, (D., Ohio), chairman of the House trade subcommittee, said he is willing to proceed if the Senate will show some sign of interest.

SENATE CONSENT NEEDED

The Senate must ratify the pact in principle in line with its treaty-making powers. Currently, the pact is being considered by the Senate Foreign Relations Committee, chaired by Sen. Frank Church (D., Idaho), a long-time advocate of strong price props for sugar growers in Idaho and other key producing states.

Yesterday, Sen. Church said through a spokesman that he hasn't had a chance to focus on the sugar issue since the House vote and can't say whether Mr. Vanik's suggestion would be satisfactory. But he promised to reach a decision "shortly."

Some analysts suggest Mr. Church won't push passage of the international agreement, because of his vigorous stance against Cuba, which would be a major beneficiary of the pact.

Analysts are divided on how effective an international agreement would be, with or without U.S. participation. If the U.S. doesn't ratify the pact, its important contribution to funds for stockpiling surpluses won't be available. That could be "the beginning of the end" for the pact, says Mr. Hirai of Bache, because financially pressed Third World growers might begin "cheating" by selling more than their quotas.

Another analyst, however, contends voluntary compliance with the pact has helped prices rise. The agreement is "very alive and very health" without the U.S., he says.●

CONGRESSIONAL MEDAL OF HONOR

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. CLAY. Mr. Speaker, on October 15, 1979, the House approved H.R. 3407, to insure that there is an opportunity for consideration of the Medal of Honor award to William James Tsakanikas, as well as appropriate awards to the other members of the 394th Infantry Regiment, 99th Infantry Division, in World War II.

I am taking this opportunity to declare my support for this bill and indicate why Private Tsakanikas should be awarded the Congressional Medal of Honor posthumously. Private Tsakanikas was one of the little-known heroes of the Second World War who risked his life, above and beyond the call of duty in combat operations during the Battle of the Bulge. The name Tsakanikas is Greek; in English, it means "Champion of fighters." Private Tsakanikas was truly a champion of fighters who exemplified the highest qualities of duty and honor.

Private Tsakanikas played a critical part in the opening stages of the Battle of the Bulge. Despite the physical injuries he sustained there, he continued to live out the remainder of his life with unsurpassed courage and dignity. The passage of H.R. 3407 will make it possible for us to finally give appropriate recognition to William James Tsakanikas for his unselfish contribution to our Nation and the cause of freedom throughout the world.●

STATE DEPARTMENT STRIKES A BLOW FOR COMMUNISM

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. ASHBROOK. Mr. Speaker, once again the ugly head of appeasement has arisen out of "Foggy Bottom." Mr. Carter's State Department has taken it upon themselves to champion the cause of the Red Chinese by making sure the Communists are not put through the embarrassment of having Nationalist China in the 1980 winter Olympics. In a letter to Lord Killanin the State Department stated its resolution of the so-called problem of having both Communist China and Nationalist China in the Olympics:

> . . . we do not recognize as symbols of national sovereignty the flag and anthem of the Republic of China. However, we do continue to make visa facilities available to travelers from Taiwan.

What is going on here? I am glad that the State Department has found room in its heart to actually allow visa facilities to be available to travelers from Taiwan. What a great concession on the part of Mr. Carter to still let Americans travel to and from that nation.

I am ashamed to have Mr. Carter and his paid henchmen at the State Department representing this Nation. Their shabby posture on the status of our valiant friend and long time ally on Taiwan is one of the most heart rending lapses of moral judgment this sorry excuse for an administration has perpetrated on the world. The Olympics should never be a partner to political disputes. This symbol of world sportsmanship should allow any and all nations into the competition regardless of the country's name or political order as long as the athletes qualify for competition and the nation conducts itself in a fair and honest manner during the games. To exclude any nation for any other reason is to make the Olympics just one more tool of policy planners in the Kremlin or "Foggy Bottom." It is incredible that our Nation would cave-in to the point of allowing the politization of the Olympics under the auspices of a new pack of jackles coming from Peking. It is a sad day for this Nation and the free world.

The other point I would like to make is that we have before us further evidence of this administration's attempt to ignore reality. The Government on Taiwan exists. The Nationalist Republic of China exists. That courageous sovereign nation has existed for 68 years. To persist in trying to erase reality by terminating treaties and denying national symbols Mr. Carter only underscores the need to erase the stain of his administration from the foreign policy of the United States.

I include today's Washington Post news story to let my colleagues review the complete facts in this tragic new entry in the history of American appeasement:

IOC CALLS ON TAIWAN TO RENAME

NAGOYA, JAPAN, Oct. 25.—Leaders of the International Olympic Committee heeded an ominous letter from the U.S. State Department today and called on Taiwan to change its name and flag for the Olympic Games.

The letter implied there would be embarrassment for the United States if the athletes of Taiwan were to go to the Winter Games at Lake Placid, N.Y., in February under the name of the Republic of China.

Lord Killanin, president of the IOC, announced a decision by the Executive Board that athletes from Mainland China now should be allowed into the Games under the name of the Chinese Olympic Committee, using the name and flag of the People's Republic.

He said that athletes from Taiwan may go on competing but only under the name of the Chinese Taipei Olympic Committee, using a new flag and anthem, which must be approved by the IOC.

The full IOC of 89 members will be asked to approve the resolution by mail by Nov. 25. This would enable entries from both parts of China to be submitted for Lake Placid by the required date. Dec. 1.

Killanin said that about 120 countries now do not recognize the government of the Taiwan regime, which still calls itself the Republic of China and claims in its constitution to be the legal government of all China.

Taiwan's insistence on using the old name and flag caused a crisis at the 1976 Olympics at Montreal, and the IOC feared the crisis would be repeated at Lake Placid and at the 1980 Summer Olympics in Moscow.

A major factor in the board's decision was a letter sent by the U.S. State Department to the IOC through its American member, Julian K. Roosevelt. The letter said in part:

"Regarding China's participation in the Games, this is a decision for the IOC. As for government contacts, the United States as of Jan. 1, 1979, recognizes the government of the People's Republic of China as the sole legal government of China. At the same time, the United States withdrew diplomatic recognition of the authorities in Taiwan.

"In consequence of this withdrawal of recognition, we do not recognize as symbols of national sovereignty the flag and anthem of the Republic of China. However, we do continue to make visa facilities available to travelers from Taiwan.

"With respect to the Lake Placid Games, we hope that the IOC will find a solution that will avoid politicizing the Games in a way that could cause embarrassment to the host country or to the IOC itself."

[In Washington last night, a State Department official told The Washington Post that the letter was sent last summer in response to an IOC request about the United States' position on the two Chinese governments. the IOC made the request through Roosevelt, the official said.

["We're not telling the IOC what to do," the official said. "We're just stating what the United States' position was."

[In Colorado Springs, F. Don Miller, executive director of the U.S. Olympic Committee, said, "The USOC has adopted the position that both Chinas should be afforded an opportunity to participate in the Games in accordance with IOC rules."

["I have recognized that this is a matter to be decided by the IOC," Miller added. "But I also must take exception to the apparent use of the State Department letter as the reported vehicle for making the decision which has been made.]

Killanin said the Soviet government had said it would admit athletes from any country recognized by the IOC.

During the three-day meeting of the Executive Board, representatives of the two parts of China stayed in the same hotel, but they were not called to the meeting and they have not spoken to each other.

Killanin said he had talked with both parties in the past and came to Japan via Taipei, where he met both government and Olympic representatives.

In making its recommendation, the board ignored Rule 64 of the Olympic charter, which says teams in the opening parade at the Games must be accompanied by the names and flags of their countries.

He emphasized "The IOC is the sole authority on all questions of the Olympic Games.

Dr. C. S. Shen, consultant to the Olympic Committee in Taiwan, apparently anticipated the board's decision and prepared a statement.

It said: "Fairness and conformity to rules are the basic cornerstones of athletic competition, and they are the most treasured by the athletes. Therefore, we are not satisfied with the proposal." ●

PERSONAL EXPLANATION

HON. ALVIN BALDUS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. BALDUS. Mr. Speaker, on October 25, 1979, it was necessary for me to return to Wisconsin for a portion of the day. I very much regretted missing debate and votes on the low-income energy assistance bill, House Joint Resolution 430. Listed below are the votes I missed and how I would have voted had I been present.

Rollcall No. 600: Rule to consider House Joint Resolution 430. BALDUS, "yes."

Rollcall No. 601: Amendment to House Joint Resolution 430 that directs the States, in establishing priorities for awarding funds, to provide for determining the extent to which increases in rents are caused by increases in heating costs and consider such portions of increases in rents to be increases in heating costs. BALDUS, "yes."

Rollcall No. 602: Amendment to House Joint Resolution 430 that sought to provide for the distribution of all funds in the form of block grants to the States for energy allowances, BALDUS, "no."

Rollcall No. 603: Final passage of House Joint Resolution 430. BALDUS, "yes."

Rollcall No. 604: On agreeing to resolve itself into the Committee of the Whole to consider H.R. 4955, supplemental refugee assistance authorization. BALDUS, "yes." ●

HOME HEATING FUEL CRISIS PART VI

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. GILMAN. Mr. Speaker, I rise to draw to the attention of my colleagues what many consider to be a life or death matter; the home heating fuel crisis confronting our Nation this winter.

As I have indicated over the past several months, the two factors of the home heating fuel crisis which need to be addressed with the highest priority are, first, the problem of supplying the independent dealers with sufficient fuel shipments before winter weather hampers transportation, and, second, the problem of high and rising prices of home heating fuel.

Energy Secretary Duncan has recently assured us that since the targeted stockpile of 240 million barrels of heating oil by the end of October has already been reached, the major oil companies and the Department of Energy would be doing everything possible to insure prompt delivery to the independent dealers and their customers. I am hopeful that this will be accomplished before the cold weather sets in.

Nevertheless, I am still concerned with the possibility of many Americans freezing—not because of a lack of fuel, but rather, because of a lack of funds to purchase their fuel. Last year at this time oil consumers paid 48 cents a gallon—today they are paying 90 cents and more. It is obvious that many Americans are having a very difficult time adjusting their budgets to this 70-percent increase in heating costs. It is equally obvious that many Americans simply cannot meet these costs and will need some form of financial assistance.

Yet, while the American consumer is at odds trying to meet the most basic of human necessities, like a warm home, the major oil companies are enjoying record profits which many veteran market analysts characterized as "mind boggling." As an example, Exxon Corp., the world's largest oil company, reported Tuesday that their net income for the third quarter rose 119 percent. Above and beyond this, Exxon's improvement in foreign operations far outpaced their State-side endeavors. Even excluding a $200 million nonrecurring benefit from the United Kingdom tax legislation, their third quarter earnings rose more than 400 percent. In other quarterly releases we can see that every oil company is making enormous profits on the oil market. To give a better indication of just how extensive these profits are I would like to insert into the RECORD an annual oil company report for the years 1977 to 1978. In addition to this I would like to insert a chart of the recent quarterly reports of these same companies which clearly indicate the sharp climb in their profits as a result of the home heating fuel crisis:

OIL COMPANY ANNUAL REPORTS FOR 1978

Company	Gross sales—Operating revenue [1]				Net income				Net income as percent of gross sales		Total assets				Net income as percent of average stockholder equity	
	Add 000		Percent change		Add 000		Percent change				Add 000		Percent change			
	1978	1977	1977–78	1973 vs. 78	1978	1977	1977–78	1973 vs. 78	1978	1977	1978	1977	1977–78	1973 vs. 78	1978	1977
Amerada Hess Corp	$4,739,502	$4,620,970	2.6	146.8	$142,418	$177,803	−19.9	−42.1	3.0	3.8	$3,534,932	$3,050,932	12.6	78.7		13.8
American Petrofina, Inc	1,167,834	1,076,369	8.5	160.8	32,351	36,730	−11.9	−12.4	2.8	3.4	981,619	981,505	0	117.8	8.8	10.3
Ashland Oil Inc	5,426,000	5,052,000	7.4	176.4	245,000	164,000	49.4	187.5	4.7	3.2	2,886,029	2,610,391	10.6	100.8	32.17	18.67
Atlantic Richfield Co	12,738,800	11,413,400	11.6	219.9	804,300	701,500	14.7	197.7	2.5	6.1	12,000,000	11,119,012	7.9	134.9	15.3	15.5
Cities Service Oil Co	4,660,900	4,388,200	6.2	129.1	118,000	210,200	−43.9	−13.0	2.5	4.8	1,108,200	1,020,600	8.6	−58.3	6.0	11.3
Clark Oil & Ref Co	985,261	887,257	11.1	135.3	16,025	13,930	15.0	−47.5	1.6	1.6	332,927	352,565	−5.6	26.6	13.1	12.6
Commonwealth Oil Ref. Co., Inc	930,742	930,542	0		[2] (53,854)	[2] (18,208)					526,497	549,652	−4.2			
Continental Oil Co	9,535,700	8,732,500	9.2	126.2	451,340	380,626	18.6	86.0	4.7	4.4	7,445,165	6,625,229	12.4	101.6	15.1	13.9
Diamond ShamrocK Oil & Gas Co	[3] 659,998	[3] 630,853	4.6	253.5	[4] 106,301	[4] 131,352	−19.1									
Exxon Corp	64,886,000	58,460,000	11.0	147.6	2,763,000	2,443,000	13.1	13.1	4.3	4.2		38,453,000			14.0	13.1
Getty Oil Corp	3,514,740	3,319,420	5.9	146.2	327,751	309,115	6.0	130.4	8.7	8.7	4,718,289	4,173,346	13.1	100.3		11.5
Gulf Oil Corp	20,097,000	19,816,000	1.4	138.8	791,000	752,000	5.2	−.1	4.0	3.8	15,036,000	14,235,000	5.6	49.2	9.8	9.5
Kerr-McGee Corp	2,072,443	2,164,754	−4.3	184.7	118,196	119,167	−.8	88.1	5.7	5.5	2,021,742	1,883,301	7.4	133.3		11.9
Marathon Oil Co	4,509,390	4,252,028	6.1	185.7	225,169	196,959	14.3	57.1	5.0	4.6	3,758,162	3,445,626	9.1	139.0	16.5	16.2
Mobil Oil Corp	32,806,000	26,640,000	23.1	82.2	1,126,000	990,000	13.7	116.6	3.4	3.4	22,611,000	20,925,000	8.0	111.5	7.9	8.2
Murphy Oil Corp	1,191,034	1,125,064	5.9	138.6	46,589	47,133	−1.2	−13.0	3.9	4.2	1,516,946	1,361,017	11.5	115.5	10.7	11.9
Phillips Petroleum Co	6,997,800	6,284,200	11.4	127.7	710,479	516,900	37.5	208.4	10.2	8.2	6,935,359	5,836,500	18.8	92.3	27.1	18.0
Shell Oil Co	11,062,883	10,112,062	9.4	126.5	813,623	760,044	7.1	144.6	7.4	7.5	10,043,358	9,197,786	9.2	86.6	14.2	15.1
Standard Oil Co. of Calif	24,598,000	22,243,000	10.6	216.9	1,106,000	1,004,000	10.2	31.1	4.5	4.5	16,761,000	15,408,000	8.8	84.5		13.3
Standard Oil Co. (Indiana)	14,961,489	13,046,782	14.7	176.2	1,076,412	1,032,218	4.3	110.6	7.2	7.9	14,109,264	12,934,071	9.1	101.0	15.8	16.8
Standard Oil Co. (Ohio)	5,197,714	3,523,223	47.5	250.7	450,205	181,052	148.7	403.7	8.7	5.2	8,326,067	7,778,005	7.1	324.0	24.2	11.2
Sun Oil, Inc	7,428,238	6,418,117	15.7	224.9	365,393	391,940	1.0	59.1	4.9	5.6	5,497,826	5,196,187	5.8	62.6	12.8	13.6
Tenneco Oil Co	2,015,000	1,708,000	18.0	−48.5	481,000	399,000	20.6	108.9	23.9	23.4	2,471,000	2,116,000	16.8	−54.5	14.5	15.2
Texaco Inc.[5]	28,607,521	27,920,499	2.5	150.8	852,461	889,994	−4.2	−34.0	3.0	3.2	20,249,143	19,505,827	3.8	48.9	9.3	10.0
Union Oil Co. of Calif	5,954,957	5,668,520	5.1	133.3	382,282	334,239	14.4	112.2	6.4	5.9	5,524,554	4,997,055	10.6	89.9	15.0	14.4

	Product imports, b/d		Crude imports, b/d		Net crude production,[6] b/d				Refinery crude runs, b/d				Total domestic production as percent of total domestic runs		Domestic refined petroleum product sales, b/d	
					Domestic[7]		Foreign		Domestic[7]		Foreign					
	1978	1977	1978	1977	1978	1977	1978	1977	1978	1977	1978	1977	1978	1977	1978	1977
Amerada Hess Corp	NA	NA	NA	NA	93,999	95,621	81,621	82,416	585,000	596,000			16.1	16.0	642,000	648,000
American Petrofina, Inc			31,000	32,000	19,660	19,367			135,035	152,137			15.7	12.7	165,288	155,468
Ashlnad Oil Inc					22,100	22,100	15,300	15,100	119,650	112,666	15,300	15,100	18.47	19.62	508,804	516,899
Atlantic Richfield Co			246,000	366,000	526,900	407,000	115,700	155,700	815,000	771,200	400	3,700	64.6	52.9	731,400	736,200
Cities Service Oil Co	631	400	77,278	96,000	180,400	184,200	27,500	29,700	175,128	165,406	81,204	86,516	97.1	89.8	308,100	297,800
Clark Oil & Ref. Co	0	0	94,115	88,613	1,268	1,018	0	0	116,620	113,565	0	0	1.1	.9	123,595	115,731
Commonwealth Oil Ref. Co., Inc									102,960	110,026						
Continental Oil Co	NA	NA	158,719	163,512	165,000	175,000	304,000	289,000	343,502	354,138	84,638	78,081	48.0	49.4	426,000	398,000
Diamond Shamrock Oil & Gas Co					30,154	30,577			49,900	51,800			60.0	59.0	67,900	69,200
Exxon Corp	NA	384,000	NA	635,000	856,000	795,000	1,604,000	1,684,000	1,426,000	1,339,000	3,009,000	2,999,000	60.0	59.9	1,736,000	1,748,000
Getty Oil Corp			90,083	96,869	273,700	279,000	170,700	151,700	235,400	233,700	45,500	46,000	116.3	119.4	257,200	262,400
Gulf Oil Corp	24,300	25,800	374,500	372,300	400,100	402,200	1,190,800	1,825,000	844,800	840,300	921,000	952,200	47.4	47.9	828,000	821,000
Kerr-McGee Corp					34,677	37,847			144,914	165,105			23.9	22.9	217,673	230,497
Marathon Oil Co	0	0	262,000	276,000	177,777	180,946	209,379	210,830	498,896	478,202	64,488	58,658	35.6	37.8	539,037	489,289
Mobil Oil Corp	NA	27,000	NA	330,000	369,000	362,000	1,748,000	1,307,000	788,000	798,000	1,276,000	1,307,000	46.8	45.3	846,000	852,000
Murphy Oil Corp		157	49,098	38,696	15,655	14,848	36,749	37,306	105,912	94,437	30,776	33,441	14.8	15.7	106,105	120,821
Phillips Petroleum Co	300	200	93,000	105,900	258,800	255,200	185,600	148,100	[8] 440,000	[8] 450,000			58.8	56.7	483,000	491,000
Shell Oil Co	22,000	23,000	392,000	439,000	497,000	505,000	18,000	13,000	1,010,000	1,066,000			50.0	49.0	1,102,000	1,046,000
Standard Oil Co. of Calif	NA	4,038	NA	301,800	394,000	408,000	2,895,000	2,995,000	1,122,000	1,213,000	1,083,000	1,088,000	35.1	33.6	1,245,000	1,264,000
Standard Oil Co. (Indiana)	[9] 14,000	[9] 26,000	[10] 425,000	[10] 349,000	525,000	540,000	507,000	464,000	1,114,000	1,067,000	172,000	145,000	47.1	50.6	1,158,549	1,096,978
Standard Oil Co. (Ohio)	5,624	4,038	277,961	301,800	528,402	167,308	6,480	16,041	423,697	426,187			125.0	39.0	426,894	406,551
Sun Co					219,537	235,328	49,651	49,646	551,919	513,600	70,269	76,944	40.0	44.0	611,445	609,741
Tenneco Oil Inc					97,167	92,926			88,708	91,248			109.5	101.8	151,721	153,518
Texaco Inc[5]					[11] 511,000	[11] 564,000	[11] 2,899,000	[11] 3,222,000	[11] 997,000	[11] 1,019,000	[11] 1,791,000	[11] 1,851,000	[11] 51.3	[11] 55.3	[11] 1,252,000	[11] 1,285,000
Union Oil Co. of Calif	NA	NA	159,000	198,800	194,400	211,900	117,500	123,300	430,500	451,900			45.1	46.9	454,300	433,000

[1] Excluding taxes.
[2] Loss.
[3] Net sales and operating revenue.
[4] Operating profit.
[5] All 1977 figures restated for revisions in accounting.
[6] Includes condensate and natural gas liquids.
[7] Excluding Canada.
[8] Includes natural gas liquids.
[9] Includes products that are finished oils imported under Standard Ind. license which may be sold, exchanged, used foı blending purposes or processed into refined products.
[10] Includes crude imported under Standard Ind. license which may have been sold, exchanged or run at their refineries or someone else's refineries.
[11] Includes interest in nonsubsidiary companies.

Source: NPN Questionnaire, company annual reports, 1978 and 1974 NPN Factbook Issues.

QUARTERLY OIL COMPANY PROFITS [1]

[Dollar amounts in millions]

	Quarter						Percent changes [2] (quarters)		
	1st, 1978	2d, 1978	3d, 1978	1st, 1979	2d, 1979	3d, 1979	1st	2d	3d
Exxon	$695	$690	$525	$955	$830	$1, 145	37	20	118
Mobil	241	293	258	437	404	595	81	38	131
Texaco	170	157		307	365		81	132	
Standard (California)	243	256		347	412		43	61	
Gulf	155	176	211	249	291	416	61	65	97
Standard (Indiana)	274	294	292	349	401	434	28	36	49
Atlantic-Richfield	150	211	221	242	260	320	61	24	45
Shell	193	179		224	277		16	55	
Continental	37	154	106	162	216	247	343	40	133
Tenneco	110	118		125	154		14	31	
Sun	84	101	109	120	159	174	43	57	64
Phillips	171	149		177	215		4	44	
Occidental	32	(68)	19	88	113	186	174		864
Union	79	87		114	128		44	47	
Ashland	16	44		27	395		75	798	
Amerada-Hess	32	35		116	115		258	234	
Cities Service	55	40	53	79	77	86	42	93	62
Marathon	50	51	50	81	85	80	61	67	60
Standard (Ohio)	42	118	126	168	201	366	303	70	190
Getty	76	56		108	140		42	150	

[1] 9-mo net income figures may be derived by adding the totals for one 1st 3 quarters together. Figures are provided by the companies and may be slightly revised from earlier estimates.

[2] The percent change figures compare quarterly net income for 1979 against quarterly net income for the same quarter in 1978.

In response to this crisis I have advocated a number of corrective measures, including the reimposition of price controls, tax credits for alternative sources of energy saving installations such as wood burning stoves and solar equipment, and various forms of financial assistance to help meet home fuel bills. I voted in favor of yesterday's bill, House Joint Resolution 430, enabling those 16 million American households who fall below 125 percent of the Federal poverty level to receive financial assistance in the form of fuel stamps or direct cash payments to meet their fuel bills. Although I am pleased that the bill passed, it is still imperative that the Congress take additional steps to insure assistance for those groups of people who are not below poverty level but are still having great difficulty paying their heating bills. House Joint Resolution 430 is designed to provide assistance to those most in need. Others will also need assistance and I am hopeful that they will also be assisted in one form or another.

The Senate Finance Committee completed their action on the windfall profits bill which would raise about $138 billion over a 10-year period to 1990. However, the comparable figure for the House bill that I voted in favor of and which passed on June 28, is about $273 billion, nearly twice as much.

The Senate has also passed a $1.2 billion plan to meet the soaring heating bills, however with a somewhat different distribution system. I am hopeful that the conferees will act expeditiously to iron out the technical differences and insure the prompt implementation of that program. In addition, the House is considering several other measures which will provide tax relief to all residential users of home heating oil.

Mr. Speaker, I urge my colleagues to continue their support for these energy assistance measures that are being considered by both the House and the Senate and to continue to gage their impact upon their constituents.●

JEANNIE OLIVER DAY

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. IRELAND. Mr. Speaker, on November 3, 1979, the mayor of Bradenton, Fla., will proclaim that day as Jeannie Oliver Day.

Jeannie Oliver is worthy of such an honor. She is a longtime civic leader and she has made a particular contribution in serving young people.

She was director of the Youth Center of Manatee County from 1956 through 1959 and from 1965 to 1968, during which time membership reached 1,700.

In 1970, she became executive director of the Manatee County Girls Club. She retired in 1976 and has since given up her retirement to serve until September 1980. During her tenure, this club grew from one unit to a three-unit organization helping many young people in our community.

Presently, Mrs. Oliver is a board member of the United Fund, member of District VI Human Rights Advocacy committee and conducts public relations for the Manatee County Chamber of Commerce volunteer services.

Due to her outstanding abilities I have asked her to work with me on my congressional classroom project, which provides the opportunity for high school students to spend a week in Washington, D.C.

Mrs. Oliver has also received many honors including the Beta Sigma Phi Sorority Order of the Rose, the Civitan "Builder of Good Citizenship Award," and the Sertoma Club's "Service to Mankind Award." She has also received the Beta Sigma Phi's "Girl of the Year Award" three times and holds the rank of a nationally accredited flower show judge.

Jeannie Oliver has served our area well and this honor is only a small way to repay her for the years of service she has given us.●

EMERGENCY FUEL ASSISTANCE: HOW CONGRESS MAY CREATE ONE PROBLEM TO SOLVE ANOTHER

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. BEREUTER. Mr. Speaker, yesterday I joined the majority of my colleagues in supporting House Joint Resolution 427, a bill making urgent appropriations available for an emergency fuel assistance program. While I voted for the resolution, I did so reluctantly. Having thought even more about the reasons for my reluctance, I think it is important to document my position for the record.

I think every Member of this body is very concerned about the effects of inflation, particularly high energy prices, on low-income families and the elderly who live on fixed incomes. When the average American family wonders how it will meet its heating bills this winter and still have room for other critical items in the family budget, one can only imagine the fears that low-income families must have when there is absolutely no more room in their budget for higher heating bills.

As one who has advocated for a long time that this Nation must have a comprehensive, effective energy policy, I also accept the fact that we will be paying a high price for the energy we consume. However, we must be fair as we design an energy policy, and we must recognize that we have an obligation to those, who through no fault of their own, will be especially hard hit by high energy prices. As we approach the winter season, we must take action to help the poor and elderly in meeting their heating bills.

I am concerned, however, that in our zeal to meet this need, we have acted without careful thought as to the direction in which we are headed and the potential problems that lie ahead.

House Joint Resolution 427, the urgent supplemental appropriations measure, will provide a total of $1.35 billion for assistance to poor families. This money would be divided into three parts: An additional $150 million to the Community Services Administration's program of emergency fuel grants; $400 million to HEW to be distributed through HEW's supplemental security income program, and $800 million to the States to be distributed through their own welfare programs or through AFDC.

This bill and the formula by which it proposed to distribute funds never went through the normal authorization-appropriations process. The decision to report the resolution was made by the Appropriations Committee on Wednesday afternoon, and the leadership made it the first item of business on Thursday's agenda. As we went to the floor, a State-by-State breakdown of how the funds would be distributed was not available. The haste by which we were asked to consider this bill caused me great concern. No matter how eager we are to provide assistance—and quickly—I, for one, had great problems in spending over $1 billion of the taxpayers' money without some clear understanding of how effectively that money is going to be used.

I think it would have been appropriate, for example, to closely examine a formula that provided emergency fuel assistance payments to every State in the Nation—including Hawaii where the problem of paying high heating bills seems very remote.

I think it would have been appropriate to question a bill that divided moneys for a single-purpose program in at least three directions and under two Federal agencies. The potential for conflicting rules and regulations is staggering.

During debate on the House floor, my colleague, Congressman Michel, offered an amendment to alleviate this problem by having all of the moneys channeled directly to the Community Services Administration for distribution. His reasons made great sense. The program should be administered by one agency in order to minimize the administrative burden faced by the States. CSA has already finalized regulations for an emergency fuel assistance program and would be the appropriate agency to carry out such an expanded program as envisioned in this legislation. Unfortunately, the Michel amendment was defeated by a vote of 183 to 207.

I think it would have been appropriate to wonder how much money will actually be channeled into the hands of the poor after it works its way through the Federal and State bureaucratic structure.

I am very concerned that because of some arbitrary sense of timing we were asked to overlook some of these legitimate questions.

I did vote for the resolution because I believe we have an obligation to provide assistance to the elderly and low-income families or this year's winter will truly be a disaster. But, I confess that I was not proud of this vote.

We certainly raised hopes by our actions yesterday. But, we also have created the potential for turning those hopes into false expectations. That is the very real danger I see in passing this bill as we did.

I want a program in place this winter. It appeared this was the only alternative available. I just hope we have not made a $1 billion mistake. ●

A YOUNG WOMAN FARMER

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. COELHO. Mr. Speaker, I would like to share with my colleagues a recent newspaper article, from the Fresno Bee in my district, which profiles an enterprising young farmer—Ms. Jeanie Fletcher.

The backbone of the Nation's economy is American agriculture. Its future is in the hands of our young adults. With all the heavy burdens that face farmers, I find it particularly encouraging that this young woman has the vision and hard work to meet this challenge head on.

Following is the article which describes a normal day in the life of this young farmer:

Farming Makes a Long Day for Madera Woman

Firebaugh.—It is 6 o'clock on a summer morning when she finishes a light breakfast and steps out into the relatively cool morning.

It will be 8 o'clock on a hot summer evening before the young woman wipes the San Joaquin dust from her comely face and calls it a day from the field work.

It will be almost 11 o'clock before she goes to bed. She's a Madera County Farm Bureau director and has a meeting to attend.

It's a typical day, except for the night meeting. Usually her evenings are filled with bookkeeping or reading, with an occasional look at the television before bedtime rolls around at about 10 o'clock.

She is renting her land because that is the only way a young farmer can get started today. She hopes to start buying the same land this year, her fourth year working the 200 acres in cotton, alfalfa, white corn and grapes and a few Morgan horses. Only occasionally does she hire a hand.

She owns a tractor and a few pieces of farm equipment, since 200 acres are too few in which to invest hard-to-come-by dollars in reapers and huge equipment. She contracts with neighbors and specialists for most of the harvesting.

Jeanie Fletcher is 27 and she's a farmer in all of the hard-work, long-hour and happy independence traditions of a farmer.

But she differs from almost anyone else in California. She is a woman starting out on her own to work the land, starting from scratch and intent on doing well. Other women work farms, but most are widows continuing their husband's career or gentlewoman farmers who have hired crews to do the gritty.

Today, her chosen career is some what unique among women. But a study by two scholars at the University of California, Davis hints that a revolution is occurring in agriculture, much like the ones which occurred in the fields of law, medicine and business. Women want in.

Prof. O. E. Thompson and Zoe McCandless-Grossman believe the newest facet of the women's revolution will be a success in agriculture, too. The signs, they claim, are infallible.

Women now make up 33 percent of the 100,000 persons studying agriculture. Enrollment of women at all levels in agricultural education programs has increased three times as fast as male enrollment.

In public secondary schools, community colleges and universities, both women and men enrollments in agricultural programs have grown several times as fast as overall enrollments.

Animal science and ornamental horticulture have been the traditional fields of study for women, but now agricultural economics, resource sciences and business aspects of agriculture are emerging areas of women enrollments. And so is agricultural production.

The figures tell why other Jeanie Fletchers will be in the cotton or rice or tomato fields in a few years:

Fifty-five percent of the female enrollment in California high schools, junior colleges and universities in 1977, or 11,000 women, were in the subject area of agricultural production. The traditional women's professional role in agriculture, ornamental horticulture, which includes floral production, had only about 33 percent of the women's enrollment. Not too many years ago it was close to the 90 to 100 percent mark.

Fletcher is surprised at the figures.

"I suspect, some of them don't know what they're letting themselves in for," Fletcher said during a brief lunch break from a field survey she was taking.

"I started out with a borrowed $6,000 scrounged from my parents and relatives and friends. After I got planted, I was able to go to PCA (Production Credit Association, a lender to farmers) and they've been good to me ever since. Of course, I've done well by them, too. I've paid my debts when due. I've bought a home on the east side of 99 (the highway) and although the ride home every evening seems a bit long, it frees me from the field for a little while.

"It's hard work, but it's still fun. And you can do rather well, if you can take risking a year's work on weather and market. My first year was a disaster, but since then things have perked up. Now, I think I can start buying land from my aunt in San Francisco, from whom I rent 40 acres at the going rate around here.

(She rents the rest from her retired father, also at the going rate. She is thinking about also renting some other non-family land next year.)

"I don't know if I'll stay in it for a lifetime, but I might. There are some other things I'd like to do," she said. "Irrigating and muddying yourself isn't everything."

Fletcher indicated she wasn't especially interested in other areas of agriculture that are beckoning to women—banking, farm management (except her own), real estate, plant sciences, agriculture economics, to name just a few.

Thompson, who directs the applied behavior sciences department at UCD, and McCandless-Grossman, a research associate, believe the influx of women into agriculture will require some drastic changes in attitudes among those now "in charge" in agriculture. They mean males.

"Employers are largely unaware of the increase in numbers of females who now and in the future will be qualified for positions in agriculture," Thompson said. "If they are to be accommodated (McCandless-Grossman says they have to be accommodated) the image of agriculture and agri-business as 'males-only' occupations must be changed."

He said that few, if any, administrative or management positions in agriculture or agriculture business are filled by women. Although managers of agricultural concerns must be informed of "possible opportunities to hire trained women for responsible positions," he also indicated that women seeking agriculture careers must be able "to understand and cope with deep-seated biases that they may encounter upon entering a traditionally male domain."

And the UCD scholars also cautioned their peers at schools and universities.

"Administrators of education programs in agriculture must also recognize the changes that may be necessary in their institutions to accommodate the changing sex composition of their student bodies. Because women have contributed significantly to the growing enrollment in agricultural programs, they will probably exert pressures for new instructional programs, faculty and teaching mateials that reflect their interests," they said.

"I think the women will be able to find positions," Fletcher said. "I know I'm treated squarely by other farmers and will be as long as I play it square with them." ●

ENLIGHTENING VIEWPOINTS ON ENERGY

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. PHILIP M. CRANE. Mr. Speaker, this Congress has been acting on energy legislation from the viewpoint that Government action is far better than action in the private sector. To this Congress, profits are bad. What is wrong with profits? They only provide more jobs, more production to aid our economy, and more exports to decrease our balance of trade defiit.

When many of my fellow colleagues think of profits, they unfortunately think of dollar signs and increased revenues to be spent on more Federal programs and on increased bureaucracy. This is truly a regrettable point of view. Perhaps the following editorials which appeared in the Wall Street Journal will shed light where darkness hitherto prevailed.

THE BIG OIL RIP-OFF

Motorists fumed over gasoline lines in the summer, fuel prices soared, filling station service deteriorated—and now, Exxon reports its third quarter profits were up 119 percent from a year before. If the oil politicians had written the scenario for piling new taxes on the oil industry they couldn't have planned it better.

Indeed, Herblock had an anti-oil cartoon in the Washington Post the very morning of the Exxon announcement. Jimmy Carter said the big oil profits aren't "fair to the American people" and James G. Archuleta, of the Oil, Chemical and Atomic Workers Union called the Exxon profits "pornographic", which presumably is even worse than obscene. And yesterday the House reversed its previous decision to end gasoline price controls and allocations, apparently in the belief that keeping controls would punish the oil companies for their success.

To start to put this in perspective, you have to ask who gets these profits. Not Exxon's hired managers, as well compensated as they surely are. The profits go instead to shareholders, either directly as dividends or indirectly through share appreciation if profit is reinvested within the business. So who are these shareholders now so widely accused of greed?

Some 65 percent of Exxon's shares are held by institutions. These are pension funds, insurance companies, mutual funds and other mechanisms for small savers to pool their resources. Plus charitable and educational foundations, colleges and universities and the like. Employe pension funds alone own 28 percent of Exxon. Just what does Herblock have against retired people?

The question is even more pertinent if you notice that most of Exxon's profit gains were overseas, while most of the shareholders are Americans. If you insist on seeing profits as an income transfer, they were a transfer from European consumers to America's social welfare institutions for the retired aged. Hardly a cause for yelling or screaming on the New Jersey turnpike; maybe so on M1 to London.

But anyone who might wish to rise above penny dreadful analysis has to ask about the origin of these profits. Why are the oil companies making so much money? In fact, the companies themselves have little control over most of the variables—prices, exchange rates, taxes, Iranian politics—that govern their profit rates. They really do not even have the option of trying to lower their profits by cutting prices, since in the short run only so much oil is available, and since prices below market-clearing levels would leave them swamped with orders they could not fill. Gas lines and the like would return; this is also likely to be the actual effect of yesterday's House vote.

In any industry, when prices rise faster than the overall rate of inflation, as oil product prices did this last year, it reflects, in simplest terms, diminished competition. The diminished competition in the oil industry this past year resulted not from a lack of competitors—there are 28 sizable oil companies—but the political restraints that have been applied to the energy industry, including all the products that compete with oil.

The Natural Gas Act crimped domestic drilling of natural gas, which was rising healthily before the act was passed. Environmental laws have curtailed coal use and expanded demand for unleaded gasoline, which requires more crude oil to produce than leaded gasoline. Pressures from the "No More Nukes" Yippees have stalled nuclear power development.

All of this is now to be remedied by piling still more burdens on domestic energy production. The windfall profits tax, which has gotten such a marvelous boost from the Exxon numbers, will further discourage U.S. oil production, reducing the total world supply of oil and practically guaranteeing that world prices and the overseas profits of the major oil companies will continue to rise. This will bring more screaming and yelling and more Herblock cartoons from Washington. And with the screaming and yelling will come new regulation, new taxes, new restrictions on domestic energy production.

Oil industry executives, many of whom would probably like nothing better in this poisoned political environment than to report a 1 percent profit decline, will continue to be numbered by all the political and legal pressures that interfere with their fundamental goal of finding, producing and selling fuel.

The oil politicians, gearing up to run next fall on how forcefully they have championed the interests of the consumers, couldn't have written a better scenario. We wonder, however, if there won't come a point when the consumers and voters will begin to ask if they really need friends like these.

THE FUEL AID TURKEY

The administration and Congress have been falling all over themselves trying to provide fuel aid for the poor. The price of oil is going up, winter's coming, and everyone is haunted by visions of a little old widow someplace freezing to death because she couldn't pay the oil man.

We hesitate to interfere with these proceedings, given the reaction to our only commentary so far. We pointed out that federal income transfer programs grew by over $150 billion over the last decade, that many of them were in-kind payments not even counted in poverty statistics, and suggested that before we have energy aid for the poor we ought to find out if there are any poor left to give it to. Even our friends, even those of them who know the realities of poverty and welfare statistics, thought this illiberal.

Still, we were driven by curiosity. Wouldn't the poor most likely be renters? Aren't fuel bills a problem for landlords? Don't we already have rent subsidies and public housing? Do we really need to spend a billion or two in extra aid for the home-owning poor?

Such is the nature of this unprecedentedly prosperous society, that envelope-back calculations suggest something like 47 percent of those who meet the statistical test for "poverty" actually do own their homes. They are basically the retired. Of course, Social Security benefits are already indexed for inflation, which provides at least some protection for rising fuel costs.

But we had to dredge up these statistics on our own. The folks falling all over themselves in Washington aren't stopping to ask questions. Take, for example, the festivities in the Senate Finance Committee, which today will probably vote out a "windfall tax" bill provision dishing up $1.6 billion in fuel aid.

The Finance Committee decided not to worry about whether the poor actually have to pay fuel bills. The "fuel aid" will go to everyone enrolled on welfare, food stamps or supplemental Social Security for the elderly. That would make 25.7 million checks, and if it were equally divided it would come to $62.26 a check.

Of course a lot of people—estimates run to three to four million—are enrolled in more than one of these programs. There is no feasible way to sort out the duplication, and Senators are wondering whether to include a note asking people to return the second check if they get one. So under the Finance bill, a family living in public housing will have its oil bill picked up by the taxpayer, then would receive one $62 fuel aid check from the welfare rolls, and another $62 fuel aid check from the food stamp rolls—all financed by taking away the "windfall" that would otherwise go to the oil companies.

Senator Moynihan thought this unfair to the "working poor," so the Committee decided to hand out some tax breaks in addition. There will be tax credits worth perhaps $550 million to offset part of the increase in costs to homeowners using heating oil, propane or imported natural gas. Renters would be able to reduce their taxes by a percentage of the rent. Nine million households with incomes up to $22,000 a year would be eligible. In short, because of the "energy crisis," the "windfall" bill would tax the production of oil in order to subsidize its consumption by a large fraction of the population.

There is an alternative to the Finance Committee bill; Senator Javits of the Human Resources Committee is racing Finance to get his version approved. Last week he won an 85 to 11 vote on an appropriations amendment for $1.2 billion fuel aid beyond the $400 million already budgeted by the administration. An authorization bill will follow. The Javits approach is to vote the money, and let someone else worry about who gets it. The Community Services Administration would spread the $1.6 billion among state and local agencies, letting them use it, presumably for the home-owning poor whose fuel tanks are running low.

Now, we can easily enough believe that somewhere a widow will freeze to death this winter with an empty fuel tank. But it is beyond belief that such tragedies are caused by the lack of any program offering a solution. Laying aside churches and the like, the federal government already has some 182 programs for income maintenance and poverty prevention, funded at a level of some $250 billion a year. If the 182 programs don't work well enough to solve the widow's problem, it is not likely that a 183rd program will. It is even less likely that tragedy will be averted by scattering $62 checks out of airplanes.

The urgency behind the push for fuel aid, we suddenly recognize, has less to do with the approach of December's chills than with the approach of February's primaries. Congress and the administration are falling all over themselves to present a lot of voters with a Christmas turkey.●

MARTIN LUTHER KING, JR., NATIONAL HOLIDAY BILL

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. CONYERS. Mr. Speaker, in each Congress from 1968 onward, I have introduced legislation to designate Dr. King's birth date a national public holiday. This year 125 House sponsors won a vote of approval in the Post Office and Civil Service Committee to report the bill for floor action. Thirty-eight Senators sponsor the legislation, which has the full support of the leadership and the President. Thirteen States, as well as most major cities, already honor Dr. King. On Tuesday, October 30, the House will decide whether Dr. King's birth date should be a national holiday.

By commemorating Martin Luther King, Jr.'s, birth date, we do more than honor one man, however extraordinary; we honor the profound spirit of love and concern for humanity that guided his life and inspired his fellow men. The meaning of his life—and what each of us needs to relearn and reflect upon—is captured in what he said in Stockholm in 1964 when he was awarded the Nobel Prize for Peace:

> Non-violence is the answer to the crucial political and moral questions of our times—the need for man to overcome oppression and violence without resorting to violence and oppression. I accept this award today with an abiding faith in America and an audacious faith in the future of mankind.

Dr. King exemplified a very special ideal in human history—the ideal of service to one's fellow human being in the ways of freedom and justice. Designating his birth date a national public holiday would represent a step forward in reconciling the lives and aspirations of all Americans.

In the years since I first introduced this legislation, hundreds of thousands of citizens have sent me petitions calling for its enactment. Among the many expressions of support received for the Martin Luther King, Jr., national holiday bill, I want to share with my colleagues the following from the United Auto Workers, the American Federation of State, County, and Municipal Employees, and the National Urban League.

United Auto Workers,
Washington, D.C., October 23, 1979.

Hon. John Conyers, Jr.,
U.S. House of Representatives,
Washington, D.C.

Dear Congressman Conyers: I am writing to reiterate the support of the International Union, UAW for legislation to make January 15 the anniversary of the birth of Dr. Martin Luther King, Jr., a national holiday.

At its 25th Constitutional Convention in Los Angeles in May of 1977, the UAW adopted a resolution urging the designation of a national holiday on Dr. King's birthday. That resolution said in part:

"In the course of American history there emerges on rare occasions a personality who is destined to provide unparalleled leadership to the nation and its people. Such a person was Martin Luther King, Jr. Such a time was the period of struggle for freedom by the victims of discrimination and denial of the basic constitutional guarantees of justice, human dignity and equal opportunity.

"Undeniably the time has come for America to give recognition to the man who awakened America to its duty to assure that freedom is extended to every American regardless of race, color, sex or national origin.

"There could be no greater tribute than for America to respond to the life's work of this great man by having Congress enact H.R. 1810, which would designate the birthdate of Martin Luther King, Jr., January 15th, as a national holiday. This would be fitting honor to this distinguished American who helped bring freedom and justice to the souls, to the hearts and to the minds of millions of Americans."

This remains the position of the International Union, UAW and we hope this legislation is speedily enacted.

Sincerely,

Howard G. Paster,
Legislative Director.

American Federation of State,
County and Municipal Employees,
Washington, D.C., October 25, 1979.

Hon. John Conyers, Jr.,
U.S. House of Representatives,
Washington, D.C.

Dear Congressman Conyers: We at AFSCME are heartened to learn that H.R. 5461, the legislation to designate Dr. Martin Luther King, Jr's birthday, January 15 a national holiday is about to come to a vote in the full House of Representatives.

As you are aware AFSCME has long endorsed the effort to establish a national holiday recognizing Dr. Martin Luther King, Jr. At our 23rd International Convention held June 26–30, 1978, our membership approved a resolution stating:

"AFSCME will continue to work for the fulfillment of Dr. King's dream of dignity, justice and peace."

In honor of Dr. King and his outstanding place in history, AFSCME will continue to seek the observance of Dr. King's birthday, January 15, as a national holiday. AFSCME: (1) calls upon the President and the Congress to enact federal legislation proclaiming Dr. King's birthday a national holiday; and (2) urges AFSCME Local Unions and Councils to seek inclusion of Dr. King's birthday as a paid holiday in all contract negotiatons . . .

On behalf of the over 1 million members of AFSCME, I commend you for efforts to have legislation enacted which recognizes the significant contributions of Dr. Martin Luther King, Jr. We are proud to join in support of this worthwhile endeavor.

Sincerely,

Jerry Wurf,
International President.

National Urban League, Inc.
Washington D.C., October 25, 1979.

Dear Representative: The undersigned organizations and their representatives are pleased to submit this letter urging your support for the passage of H.R. 5461—a bill to designate January 15, Dr. Martin Luther King's Birthday, a national holiday.

We believe that this would be a fitting tribute to a man who contributed so much to the masses of people in this country and around the world. Such a designation would establish a commemorative to the concepts of peace and justice everywhere. In so doing we as a nation would be supporting our affirmation and pursuit of international peace, justice, and goodwill among all people, without record to the superficialities of territorial boundaries, race, sex, age, or religion.

The establishment of a national holiday on the date of birth of this famous Nobel Prize winning civil rights leader is both symbolic and monumental. Today, Blacks and whites are barely beginning to recognize the significant contributions which Black Americans have made to this nation's progress. The establishment of a national holiday in honor of Dr. King would not only be a reminder which occurs on one specific day each year, but a daily reminder as well of the importance of the heretofore largely ignored contributions of Black Americans.

We, therefore, strongly urge you to be present at the October 29 vote, to lend your full support to this most important measure, and to urge your colleagues to do the same.

Yours very truly,

Ronald H. Brown, Vice President; James Carter, Jr., National Treasurer, National Pan Hellenic Council; Shirley A. Rougeau, President, National Hook-Up of Black Women, Inc.; O. S. Gumbs, Grandpolemerch, Kappa Alpha Psi Fraternity, Inc.; Nan D. Johnson, Director, the Links, Inc.; Leroy Nesbitt, Superintendent, American Methodist Episcopal Church; Robert Harris, President, National Bar Association; Norman Hill, Executive Director, A. Philip Randolph Institute; Elizabeth W. Stone, President, the Black Women's Agenda.

Victoria T. Street, Supreme Basileus, Alpha Kappa Alpha Sorority; Barbara Lett Simmons, President, National Caucus of Black School Board Members; Margaret Bush Wilson, Chairman of the Board, National Association for the Advancement of Colored People; Richard G. Hatcher, Mayor, City of Gary, President, National Conference of Black Mayors; Eddie N. Williams, President, Joint Center for Political Studies; Coretta Scott King, President, Martin Luther King Center; Mona H. Bailey, National President, Delta Sigma Theta, Inc.; M. Carl Holman, President, National Urban Coalition; Dorothy Height, President, National Council of Negro Women; Walter E. Fauntroy, Chairman, Board of Directors, Southern Christian Leadership Conference.●

GILBERT D. "GIL" SMITH—COUNCILMAN, CITY OF CARSON, 1968–79

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. ANDERSON of California. Mr. Speaker, it is a distinct pleasure for me to announce that on November 2, 1979, the community of Carson, Calif., will pay tribute to Councilman Gilbert D. "Gil" Smith for his 11 years of spirited public service on the Carson City Council. He has decided to step down from the position and to pursue a promising career with the Southern California Association of Governments.

For many of us who know personally of his great contributions to the city, this news brings mixed feelings of regret and joy. His strong leadership on the council will certainly be missed, but we know his future career in government service will be rewarding for him, and beneficial for the governments which his organization serves.

Few can claim to have done more for the city of Carson than this man; he helped create it. As the first president of the Carson Dominguez Citizens Committee for Incorporation, he led the long and difficult process that made Carson an official, independent city. Even before this period Gil Smith was a strong advocate for community interests.

As founding president of the Centerview Homeowners Association he represented residents before various county boards and commissions. His work was instrumental in the successful campaign to win approval for the present site of California State University at Dominguez Hills.

Gil Smith has always had an active interest in education. He serves as an advisory board member for California State University at Dominquez Hills; Harbor Community College; Ambler Avenue and Glenn Curtiss Junior High Schools; and the Carnegie Junior High School. He is a community college district representative to the Los Angeles Regional Adult and Vocational Education Council, and a former member of the Los Angeles City Community Advisory Committee on Decentralization. In recognition for his dedicated work in this field and others he was presented the 1969 Community Service Award from the Association of Elementary School Administrators, and the 1973 Community Service Award from the Los Angeles Secondary School Administrators Association.

As a city councilman he worked diligently at his responsibilities. His effective representation of the city's interests in regional and statewide organizations and committees provides an example of this dedication. After being an active member for many years, he was chosen by his peers to be president of the Los Angeles division of the League of California Cities, the leading organization representing Los Angeles area cities. He was also selected chairman of the State Department of Transportation Advisory Committee, and chairman of the city manager/administrators and contract committees of the California Contract Cities Association.

Gil Smith has shared his wide experience in governmental affairs as a guest lecturer at a wide variety of colleges and universities including the University of California at Los Angeles, San Jose State University, California State University at Dominguez Hills, and Pepperdine University.

Mr. Speaker, the performance of this man as a public servant is truly remarkable. It shows all of us now far and effectively the efforts of a single individual, talented, and concerned, can reach. My wife, Lee, joins me in congratulating our good friend, Gil Smith, for his fine years of service with the city of Carson. We hope continued prosperity will fill the future for him and his three sons, Gilbert Jr., Jeffrey, and Christopher.●

SUPPORT UDALL-CLAUSEN-WIRTH BILL

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. MARKEY. Mr. Speaker, next week in the House we will consider the Priority Energy Project Act of 1979. I urge all my colleagues concerned with the Commerce version of the bill to support the Udall-Clausen-Wirth bill. The following articles, that I have submitted to the RECORD, convey the many reasons why the Udall-Clausen-Wirth bill must be accepted:

[From the New York Times, Sept. 13, 1979]

WHAT PRICE ENERGY?

(By Anthony Lewis)

WASHINGTON, September 12.—It is 1981. The Mobil Corporation announces plans for the country's biggest oil refinery, to be built on the New River in North Carolina.

A Federal law passed by Congress and signed by President Ford in 1976 protects the New River in its natural state. North Carolina laws protect the valley. But the Energy Mobilization Board says the refinery is more important. And under the Energy Act of 1979 the President, on the board's recommendation, can override both state and Federal law in order to build a critical energy facility.

President Reagan orders all contrary Federal laws and local zoning and health regulations overriden. The way is clear for an immediate start on the New River refinery.

A fantastic scenario? No. For the energy bill as it is now taking shape in Congress would allow future Presidents to do exactly that: override democratic decisions, local and national, and put aside the interests of health, safety and the environment.

It is an astonishing concept: one utterly contrary to the traditions of American federalism and constitutional democracy. Another amazing fact is that the idea is being supported by aides to Jimmy Carter, who has repeatedly said he is against any such Presidential power.

On Aug. 2 President Carter said his proposal for an Energy Mobilization Board was designed to "cut out excessive delay" in the approval of energy projects, by removing procedural roadblocks. He said: "With the exception of any new requirements imposed when construction of a critical facility is under way, the board could not waive substantive environmental standards."

But the House Commerce Committee has worked up a bill that would let Presidents nullify state and Federal substantive law that stands in the way of energy projects. And when members of the committee tried to cut back that sweeping authority with amendments, White House lobbyists fiercely and successfully opposed them. Key parts have been played by James C. Free, the Carter liaison man in the House, and Bertram Corp., Deputy Assistant to the President for Domestic Affairs and Policy.

Public health is a central question. For example, present technology for producing oil from oil shale leaves as a byproduct substantial quantities of arsenic. The bill as it now reads in the Commerce Committee would allow a future President to waive the Toxic Substances Control Act and allow an oil shale project to go ahead in, say, Colorado, even though there was no effective plan to keep arsenic from poisoning ground water in the area.

That example involves the overriding of a duly enacted Federal statute. Even more surprising, in our constitutional system, would be allowing a President to sweep away state law. If a coal liquefaction plant were to be built in Montana, requiring immense quantities of water, would the people of Montana and nearby states be content to have the crucial and complicated issues of Western water law decided by Washington lawyers?

The powers granted by the pending energy bill worry, among other people, the three leading environmental officials in the Carter Administration. Last week Secretary of the Interior Cecil Andrus, Douglas Costle of the Environmental Protection Administration and Gus Speth of the Council of Environmental Quality sent a memo to the President expressing their concern at Administration lobbying in favor of the bill as it stands.

"Such a posture is not only dangerous but unnecessary to achieve the 'fast track' legislation you outlined in your July 16 energy program," the memo said. It added that the position "undermines our credibility."

The President said this week that he is still against including in the energy bill a general power to override substantive law, state or Federal. Why, then have his people fought amendments that would remove that unprecedented power from the bill? The House Commerce Committee has now approved the Energy Mobilization Board legislation with the broad waiver authority included.

The answer heard around the Administration is that the lobbying policy was "tactics." The President needs a "strong" bill, it is said. Whatever comes out of this first stage may be weakened later, especially in the Senate, so it is best to start with the "strongest" possible version.

But the tactical premise may be wrong. Senate energy leaders had been chary of any power to brush aside state and Federal law. But now, after the White House failure to stand by the President's stated position, the Senators are moving toward the same sweeping authority as the House bill.

The troubling possibility is that White House aides are prepared to soil Jimmy Carter's impressive record in defending the environment for a short-term political gain. The President wants to look "strong" and has made the energy bill his political test. But when it's all over, will he want to be remembered for having distorted our constitutional tradition and opened the way for unaccountable damage to our health and surroundings?

[From the Christian Science Monitor, Sept. 17, 1979]

ENERGY MOBILIZATION MONSTER?

President Carter must take care that his proposed supergroup to speed up energy projects does not turn into a Frankenstein's monster laying waste the Constitution in a manner the good doctor never intended. Some members of Congress seem to be transmuting Mr. Carter's planned Energy Mobilization Board into such a creature. He has not been opposing them sufficiently to satisfy Secretary of the Interior Andrus and other high-ranking officials who have reportedly expressed concern to the President. Mr. Carter ought to mobilize his own forces to keep the rush toward a fusion of increased federal authority with decreased federal accountability from getting out of hand.

Among the points at issue is whether the board should be authorized to override states' rights in seeking to achieve Mr. Carter's initially stated goal for it—"to cut through the red tape, the delay, and the endless roadblocks to completing key energy projects." The "roadblocks" have been widely seen as environmental and health laws, whether federal, state, or local. But some legislators have taken the ball and run with it to the extent of calling for power to waive labor laws, for example, and indeed any other kind that the board should consider an impediment to construction.

Mr. Carter has said he does not mean waiving "substantive" laws, presumably meaning such measures as those guaranteeing environmental protection. "We will protect our environment," he said in announcing the board. He ought to stick to this position. But the waiving of even "procedural" laws or regulations ought to be approached with the greatest care and concern for state, local, and individual rights. In environmental, health, and labor matters, for example, the statutory procedures are part of the effort to ensure the proper workings of the law.

It is the unnecessary bureaucratic delays that ought to be eliminated in the kind of strong energy policy that is demanded now. Though such delays may work to the advantage of a group protesting a nuclear power plant, for instance, the decision on whether to go ahead with the plant should be based on the merits of the case. At bottom the concern for sufficient appropriate energy are not antithetical. Both concerns would be fundamentally better served through expeditious governmental action wherever this is required.

Ideally, speeded performance would be achieved through carrying out laws under the kind of improved governmental organization and efficiency that Mr. Carter has sought. Overriding laws ought to be a last resort, hedged about with safeguards.

The bill that came out of the House Commerce Committee this week does have some safeguards. It gives the board power to recommend the waiving of federal, state, or local laws. But the President would have to go along. And then either house of Congress would have 60 days in which to veto the waiver. The Constitution could be invoked to challenge a waiver in court. Plaintiffs, however, could not make challenges on the basis that the board's actions had exceeded its authority.

This bill, despite its safeguards, goes too far beyond the President's apparent intentions. A preferable one would be along the lines of an Interior Committee bill that does not permit waiving existing laws but authorizes the board to shrink timetables for reaching necessary decisions.

As the debate goes on, however, the public and Congress—as well as the President—ought to be alert as to how much any board should be released from the statutory federal accountability that has been so often abused in the past. Among proposals are exemption of the Energy Mobilization Board from the Administrative Procedure Act requiring federal agencies to act fairly in accordance with the facts in front of them; exemption from the Freedom of Information Act; exemption from the ethics law requiring disclosure of conflicts of interest. The board could also have the power to prevent some court reviews.

Congress will need to be extremely thoughtful to ensure that any mobilization board's cures are not worse than the problem.

[From the New York Times, Oct. 14, 1979]

Is This Trip Needed?

(By Tom Wicker)

Washington, Oct. 12.—When the Senate recently voted to create an Energy Mobilization Board, Senator J. Bennett Johnston of Louisiana remarked that it was necessary to get away from the "slow-moving, ponderous bureaucracy" of the Department of Energy and to "create a small, elite group . . . and give them some real powers to cut some red tape."

Maybe so. President Carter apparently agrees, as does Henry Jackson of Washington, the chairman of the Energy Committee. But some others, including Edmund Muskie of Maine and Representative Morris Udall of Arizona, have strong reservations. They note, among other objections:

A "small, elite group" all too easily can be an unresponsive, untouchable and uncontrollable power in itself—the sort of unchecked power American Government traditionally seeks to avoid.

"Real powers to cut some red tape" no doubt are needed. But should they include authority for "a small, elite group" to alter Federal, state and local laws and in some instances to act in place of Federal, state and local agencies, all in the name of the energy emergency?

The Senate thought so, and gave the board such powers by a 58-39 vote (against a substitute bill that would have eliminated them). But the controversy over the powers of the board will be renewed next week—or soon thereafter—when the House of Representatives chooses between an approach favored by Mr. Udall and a version giving the E.M.B. even more power than the Senate bill would.

The latter proposal, drafted in the House Energy and Power Subcommittee headed by John Dingell of Michigan, would give the E.M.B. unprecedented powers to expedite energy projects such as pipelines, synthetic fuels plants or refineries. The board could recommend that the President override any Federal, state or local health and environmental laws that got in the way. If the President did so, the law would be waived unless either House of Congress vetoed his action within 60 days.

That goes well beyond the powers President Carter has asked for the E.M.B. since he proposed the new agency in his mid-summer energy address. On the other hand, Mr. Udall's bill, drafted in the Interior Committee, of which he is chairman, apparently does not give the E.M.B. as much power to speed projects as the White House seeks.

Mr. Udall refers to his as the "fast-track approach." He would have the President designate certain projects—say a proposed synfuel plant—for the fast track. The E.M.B. then would act to consolidate hearings, to set a timetable for agency decisions, to expedite agency procedures, and to enforce the speed-up. Its significant difference from the Senate bill and the Dingell proposal is that it would give the E.M.B. power only to speed up procedures, but none to set aside or alter the substantive requirements of Federal, state and local health and environmental laws and regulations.

Mr. Dingell has proposed far more sweeping authority for the E.M.B. because he believes that only with such powers can the board make the hard choices necessary to overcome the energy crisis. That echoes Henry Jackson, who sees dependence on OPEC oil as "one of the gravest threats this nation has ever faced." At the same time, he says, "We have created an institutional crisis in this country. . . . Everyone has the power to delay decisions on energy projects, and too many decision-makers are unwilling to decide."

That argument has much force. But powerful points also were made against the Jackson bill—that such a strong E.M.B. not only would threaten environmental, health and safety standards but also invaded states' rights and the powers of local government. And in an age when "big Government" is widely deplored, it would be one of the most powerful Federal agencies ever established in peacetime.

Mr. Muskie questioned whether local people who objected, to, say, a refinery in their community, could be forced to accept a Federal decision overriding their state and local laws. Others pointed out that ultimately, considering the variety of projects that might be involved, the board would have to acquire a huge staff, probably slow-moving and ponderous. That would not necessarily guarantee speed.

Abraham Ribicoff of Connecticut pointed out that the E.M.B. might have to "decide a Clean Air Act question one day, a strip mining issue the next and a local zoning variance the third," demanding in one agency the expertise now shared among many, at Federal, state and local levels.

Above all, the question that ought to be asked in the House debate is whether the United States can produce itself out of its dependence on OPEC, even with an all-powerful E.M.B. Are refineries, pipelines and synfuel plants really the answer, or only one of many steps—the most important of which may be conservation, not production—needed for energy independence? If the latter, is there really a need to hand over to a new Federal agency powers that throughout their history a democratic people have jealously guarded as their own?

[From the Washington Post, Oct. 14, 1979]

Power Grab in the Name of Energy

(By David S. Broder)

On the face of it, the proposal seems to defy the supposed public resentment of intrusive, big-brother Washington bureaucracy.

The idea of a president of the United States seriously proposing that four of his appointees—three of them part-timers not even subject to the standard conflict-of-interest statutes—be empowered to substitute their judgment for that of independent federal, state and local regulatory bodies, and even, in certain instances, to block the application of federal or state law, seems far-fetched.

That such a proposal would be approved by the U.S. Senate and be moving toward passage in the House of Representatives is even more improbable.

But exactly that has happened, without a rumble of public protest, in the past few weeks. Under the guise of speeding vital energy projects, the federal government is about to accomplish the most significant power grab in recent years. It may or may not accomplish its stated goal of making the United States more energy-independent. But it will certainly damage the federal system and diminish the accountability of those exercising authority in Washington.

As part of his July energy program, President Carter proposed creation of a federal energy mobilization board, with authority to speed the development of high-priority projects, whether they be pipelines, refineries or exotic fuel plants. The measure was designed to deal with a real problem—the delays in federal, state and local licensing and siting decisions, which have, in some instances, held up important plans for years.

The need to slice through the red tape is recognized by everyone. The question is how to do it without creating a new center of arbitrary power in Washington and destroying the responsibility the Constitution gives states and localities for the welfare of their own citizens.

Two options were offered the Senate earlier this month, and the choice the Senate made—to the cheers of the Carter administration—was disturbing.

One bill would have limited the number of energy projects that could be cleared for "fast-track" action and would have restricted them to projects with a significant impact on reducing U.S. energy dependence. The other bill had no such limits.

The Senate chose the blank-check approach.

One bill would have let the new federal agency go to court to enforce a reasonable deadline (usually one year after submission of the plans) for decisionmaking by a state or local agency on the environmental, social and economic consequences of an energy project.

The other would let the presidential board substitute its own judgment for that of the local or state body, if the federal deadline was not met.

The Senate chose the second way—the path of federal preemption.

One bill would have forced the regulators to obey all the existing laws. The second would allow the federal energy expediters to bar the application of any law passed by Congress, state legislatures of city councils, subsequent to the start of work on a particular project.

The Senate chose the second course, embodying the daring constitutional assertion that four presidential appointees can nullify the enforcement of a statute passed by the elected officials of any level of government.

The vote was not close in the Senate. By a margin of 58 to 36, the senators gave Carter the power he sought, brushing aside vehement objections from such senators as Abraham A. Ribicoff (D-Conn.), Edmund S. Muskie (D-Maine), Gary Hart (D-Colo.), William V. Roth (R-Del.) and Charles H. Percy (R-Ill.).

They also ignored a chorus of protests from the nation's governors, mayors, county executives and state legislators, who see the proposal as a serious threat to their role in the federal system. They have threatened to challenge the legislation in court, if it is finally passed.

It is an understatement to say that it is extremely shortsighted to launch a national energy acceleration program with a bitter battle between Washington and leaders of state and local governments.

But the companion bill being prepared by a House committee is an even more extreme invasion of state and local authority by Washington, and even more glaring contradiction of the supposed public distaste for expanding bureaucratic power.

The governors and mayors and their Senate allies are trying to say we do not have to sacrifice the federal system to speed up energy production. But most of Washington is ignoring the message. The country will suffer the consequences for years to come. ●

HERMENE HARTMAN'S REMARKS

HON. BENNETT M. STEWART

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Mr. STEWART. Mr. Speaker, recently, President Jimmy Carter appointed Hermene D. Hartman as a member of the Advisory Committee for the John F. Kennedy Center for the Performing Arts.

At her swearing-in ceremony, Ms. Hartman made a statement which I thought might be of interest to my colleagues.

The statement follows:

STATEMENT BY HERMENE D. HARTMAN

Thank you for sharing this special moment with me this evening. My life has been blessed, having been nurtured by a loving family. I would like to introduce to you my very best friends, my mother and father.

As I moved into the world on my own accord, I was most fortunate to become friends with a group of most interesting persons. I speak particularly of those who graciously served as members of this reception committee. All of these people have been committee members in my life. They have all been role models for me at one time or another, making impressional impacts on my own expression. Let me introduce them: Dr. Arnita Boswell, Mr. Leon Davis, Dr. Effie Ellis, Dr. Erwin France, Mrs. Jody Heller, The Honorable Marshall Korshak, Mrs. Lucy Montgomery, Mr. Herb Nipson, Dr. Alvin Pitcher, Mrs. Amanda Rudd, Mr. Paul Serrano and Mrs. Thelma Shirley. My special thanks to a very special assistant for administrating this committee go to Mr. Albert Pritchett.

There's another group of persons I am most indebted to for my own personal development, and who influenced the quality of my life. During my college years, I had the privilege of studying politics with Dr. Salvatore Rotella, who is now the President of my College, where I am still studying politics. At the time, I also was associated with an organization known as SCLC's Operation Breadbasket. It was there I met and worked with a dynamic group of people—Reverend Jesse L. Jackson, Reverend Ed Riddick, Reverend Willie Barrow, Dr. Alvin Pitcher, Reverend Andrew Young, Dr. Martin Luther King, Jr., Mrs. Coretta King, Reverend Jim Bevel, Cirilo McSween, Reverend Ralph David Abernathy, Ben Branch and a host of others. From that group of folk my perspective and dedication was shaped and molded. I am eternally grateful to have had the benefits of their talents and energies influence my own. It was also there that I met my husband, Reverend David Wallace, whom I am most grateful to for sharing life itself. At Breadbasket I produced my first cultural projects, the most impressive being Black Expo.

I was most humbled when I received an invitation from President Carter to serve on his Advisory Committee on the Performing Arts. My artistic participation has been concentrated on the visual arts. However, the problems, concerns and interests of the art community are much the same, regardless of the art form. I fell in love with the performing arts watching and listening to a great artist perform, namely Johnny Hartman, alias "Uncle John," who taught me to live, to hear and to understand music.

In our nation's art world, we are back to the days of Shakespeare. What I mean by that is, due to tremendous cost, the artist requires a patron. That patron is either government or business. That kind of support is necessary before the artistic expression ever goes public. To solicit this support is somewhat difficult because, for the most part, we take art for granted—until it isn't available.

During my tenure on this committee, I see my contribution as lying in five areas. First, it is my intent to share with this nation the talents of Chicago artists. For the last year, I've had the pleasure of working with Mr. George Johnson, of Johnson Products Company, in touring an art exhibit of portraits, entitled "Great Beautiful Black Women." During the year, I personally visited major museums and cultural institutions throughout the country, and I have yet to see facilities or talent to surpass Chicago's. I wonder how our city became known as second.

Second, I hope I might encourage and influence artistic programs of all kinds for our youth—programs that will expose, express talent and create an environment for the nurturing of creativity. Again, I would like to showcase Chicago as a model, by citing the accomplishments of the Music and Cultural Division of the Department of Human Services, under the immediate direction of Ben Branch. Initiated by the now City Treasurer, Cecil A. Partee, it is under the current leadership of Commissioner Leonora T. Cartright.

Third, I would like very much to institutionalize the styles of the black performer. For example, in a structured systematic format, there should be programs dedicated to the likes of Duke Ellington, Paul Robeson, Nat Cole, Fats Waller, Mahalia Jackson, Quincy Jones and Gwen Brooks. I know if B.B. King can go to Russia and be relevant, he can certainly relate to all the people in his own country. And, if our kids can learn European culture, they most certainly can be taught American culture. In other words, if we can teach Europe's three B's—Bach, Brahms and Beethoven, we can also teach America's three B's—B.B., Basie and Eubie Blake.

Fourth, I hope to contribute to the decay of racism that exists in our cultural institutions. The most difficult task still, for the minority artist, is seeking a platform. We have to incorporate his place in these institutions as part of an ongoing program and stop reserving him space during Black History Month. We have given much more than a month's contribution.

Finally, I would like to recognize living artists in their lifetimes, rather than have them receive fame in death.

The artist and those of us interested in the arts must become political, because it is by serving on the boards as decision-makers that some of the problems will be addressed and erased.

I intend to be effective on this committee, and certainly hope my contribution is one that you will be proud of. ●

ROLLCALL VOTES

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 26, 1979

● Ms. HOLTZMAN. Mr. Speaker, on Tuesday, October 16, I was unable to be present for the following vote. Had I been present, I would have voted, the following:

Rollcall No. 568, "yes." ●

HOUSE OF REPRESENTATIVES—*Monday, October 29, 1979*

The House met at 12 noon and was called to order by the Speaker pro tempore (Mr. WRIGHT).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

OCTOBER 26, 1979.

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore on Monday, October 29, 1979.

THOMAS P. O'NEILL, JR.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

The earth is the Lord's and the fullness thereof, the world and those who dwell therein; for He has founded it upon the seas, and established it upon the rivers.—Psalms 24: 1, 2.

O gracious Lord in heaven, we offer our praise for this day and for the opportunity to begin a new week of endeavor. May the loveliness of Your whole creation cause us to see Your handiwork in the world about us. May we see the events and circumstances of our own day as opportunities to do Your bidding and occasions to share Your love. Where there is despair and frustration, let us share encouragement, where there is suspicion or anger, let us share trust, where there is peace and mutual accord, let us celebrate our unity, that each of us may know the healing power of Your presence, this day and every day. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

CRAIG RAUPE

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, one of the ablest and most engaging persons whom I have known in public life is Craig Raupe, the assistant to the distinguished majority leader of the House of Representatives, Mr. WRIGHT, of Texas.

Mr. Speaker, as Members may know, Craig Raupe has indicated his intention to retire from service in the House of Representatives at the end of this session of Congress. I am sure that at that time there will be a number of tributes paid to him. I take this time only, Mr. Speaker, to draw to the attention of Members of the House a splendid article about Craig Raupe published in the Washington Post yesterday and written by another able and engaging Texan, Larry King.

The article is as follows:

[From the Washington Post, Oct. 28, 1979]

HE WALKED ACROSS THE HILL LIKE IT WAS TEXAS

(By Larry L. King)

Unless you are a Capitol Hill insider, a grizzled veteran of the Great Society or maybe of the New Frontier, then probably you never have heard of one Craig Raupe.

And according to the rules of the political game, that is the way it's supposed to be. Capitol Hill staffers are expected to hide their lights under a bushel and to keep their mouths shut. For 25 years Craig Raupe has been an expert at that.

B. (for Buel) Craig Raupe is the executive assistant to House Majority Leader Jim Wright (D-Tex.). Raupe's the man who has made the House wheels turn. For more than three years, he has performed what may be the toughest job in Congress. Now he is getting ready to pack it in when Congress adjourns, to retreat to his native Texas "and put my life in a lower gear." Those of us who have watched him run with the throttle wide open for a quarter-century frankly wonder how he will accommodate to lazy fishing.

You are going to have to forgive a lot of personal references in this. Craig Raupe and I came to Capitol Hill as young political firebrands on the same day, in late 1954; two green Texas gourds atwitter with ambition and foolish notions of saving the world. Before that first day was out we shared beers at the old Mike Palm's—it's gone now, and so is Mike—exchanged personal histories and laughed a lot.

I think we then thought of ourselves as socialists, a secret to be kept from the Texas electorate at all costs, to say nothing of our congressional bosses Jim Wright and J. T. Rutherford. They were old men of 32 and 34; consequently, they might not have understood the superior schemes of geniuses then 29 and 25. We saw it as our duty to manipulate them where possible, to trick or encourage them to vote as liberal and humanistic as we fancied ourselves to be. We didn't trust anybody over 30 long before that became the slogan of a later generation.

Now it is October 1979. Craig Raupe, 54, is viewing the milling members of the House of Representatives from a high perch in a visitor's gallery. A prying reporter is asking him to point out the House drunks and lechers and thieves, certain he knows the perfidies of our statesmen more clearly than their wives. Raupe says, "Come on now, you cynical son of a bitch. We've got 435 men and women in this Congress. They're subject to more pressures and temptations than any group of people in the world. I'm amazed not that an occasional crook or deviate or problem lush comes along—but that they're so relatively rare they're worthy of second-coming headlines when they surface."

Stuff and nonsense, old friend. Why, if the House Ethics Committee caught a representative stealing a hot stove its only concern would be whether their distinguished colleague had burned his hands.

He laughs. "Well, I guess people around here are reluctant to pass quick judgments on each other. There's a brotherhood, no doubt about it. But more than that, these guys believe that the ultimate jury should be a congressman's constituents. They all live and die by plebiscite. And that's the way they think it should be."

Raupe examines the Republican side of the aisle. "I don't know most of those people. God, look how young and bland they are! Buncha goddamn Jaycees."

He knows the Democrats to the last in number. They are on the phone wheedling and demanding and cajoling shortly after he arrives in the majority leader's Capitol Building suite each morning at 7 a.m. It is Raupe's primary job to schedule bills for floor action, to know always where each of hundreds of bills may be in the legislative process, and to subtly twist arms when the leadership must round up votes.

From his chair next to power he has the opportunity to influence, to one degree or another, everything from committee assignments to the fate of legislation to where and with whom Jim Wright may eat supper. Honey bees buzz about him seeking nectar; now and again one tries to sting him. Raupe has had his hand scratched and his coat torn by supplicants desperate to have their will worked in those final, hectic hours before adjournment. A representative from Appalachia once bunched and crushed Raupe's lapels on the House floor, cursed him and reminded him he was "nothing but a goddamn staffer." When the representative cooled down, he came wringing his hands to announce his intent to publicly apologize to Raupe, to the leadership and to the full House. "Please don't do that," Raupe said. "It would turn a molehill into a mountain. And it would be beneath the dignity of this place."

"Craig is a calming influence," says his counterpart in the office of House Speaker Tip O'Neill, Gary Hymel. "Maybe it's because he's been around so long and has been through so much. Maybe it's because of his Texas humor or because he's so practical and pragmatic. Anyhow, when everybody is hot under the collar and yelling he's always the one to step in and restore order. I don't know anybody's judgment I respect more. He's taught me to know what's important."

Majority Leader Wright, Raupe's direct boss, is not without a temper and sometimes frets excessively. When he is getting too worked up, Raupe takes him aside and tugs his sleeve and says, "Jim, don't forget the Roman emperor." It is an old private code between them, dating back to when both were rookies in the House on a day when Wright had gotten himself unusually exercised over a matter probably not as vital as he momentarily thought. That's when Raupe told him the story of the Roman emperor who after a winning battle reviewed his troops as they marched by "phalanx after phalanx" and then, suddenly, began to weep. A functionary inquired why. "Because a hundred years from today," the emperor wept, "those good proud men will all be dead."

Craig Raupe looks a bit like Harry Hopkins, the dyspeptic man Friday to Franklin D. Roosevelt. Lean and graying at 54, Raupe walks a tad stooped and with a slight hitch resulting from a stroke he suffered almost 15 years ago, a cerebral thrombosis that left him "terminal for two months" in Alexandria Hospital. Rep. Wright, Bill Moyers and others told President Lyndon B. Johnson of this desperation; LBJ immediately ordered Raupe admitted to Walter Reed Hospital

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.
● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

and "the best possible care." A second operation gave him a chance to live; thereafter, for weeks, he was kept alive "by drugs and machines." Almost two years passed before he recovered.

Then came a pretty good bout with the bottle. Though it has been many years since Craig Raupe has had a drink, he's reluctant to talk about those old dark days or the work he has accomplished with Alcoholics Anonymous. "If Craig sees a congressman chronically nipping," says Gary Hymel, "he writes him a private note or seeks him out for a chat. I don't know if I'm supposed to say this, but he meets with an A.A. chapter every week here on the Hill—members, staffers, patronage people. Anybody who's got a problem. And there's no doubt he's the guiding force behind those meetings."

Speaker Tip O'Neill is absolutely astonished. Sitting all huge and bulky and improbably white-haired in his ceremonial office in Room 209 in the Capitol, having disposed of a routine mass press conference, he waves a foot-long cigar like it might be a baton and asks, "Why in hell is Craig quitting? Hell"—the speaker says, sincerely puzzled—"he seems like a man in love with his job. He's brilliant at it. So why the hell is he quitting?"

Craig Raupe is embarrassed when told of the speaker's reaction and is astonished in his own right. "Well, no, I hadn't told him. My God, what an oversight on my part!" He picks up his telephone, using his direct line to the speaker's office, and urgently seeks an early appointment to assure the big man he hadn't meant to indirectly deliver an embarrassing surprise. "God-damn," he says, on hanging up, "I must be slippin."

But before that call is made the speaker is saying, "He had no leadership experience at all. Frankly, we thought it would take forever to train him. We didn't know anything about him—later, we'd find he'd worked for Kennedy's White House and with Lyndon Johnson, but we didn't know that then. But Craig picked up on his duties quicker than we could believe. I remember in a few weeks saying to Gary Hymel, 'He blends in better than if we'd chosen him personally.' Aw, he's a sweetheart. He's got this great sense of humor—full of Texas soliloquies. I wish I could remember one right now; he's full of them and not only are they funny, they always make a point." The speaker stops and chuckles and says, "And they're so well-timed. Geez, Gary, are we gonna miss that fellow?" He sits back and puffs his cigar and says, "I just don't understand why he'd want to quit."

No politician can. You don't get to the top of the churn, where the cream is, without having been long jousted down in the bottom while somebody else made the butter, shaped it and sold it at their own price. You don't get to be where Craig Raupe is—one of the four or five "super-staffers" in all of Congress, if that many—and then walk off from the $52,500 and the desk big enough to straddle a dray horse—sitting under impressive crystal chandeliers—and the best invitations and the perks and the goodies directly ahead. Jim Wright, for instance, is a vigorous 56; a term, two terms from now he'll likely be speaker. And Craig Raupe, if he wanted to, could go along on that merry ride and maybe wind up in the history books.

"Well, yes," Raupe says, "that's tempting. Franklin Roosevelt once spoke of 'those selfless young men with a passion for anonymity' the government needed. I've been one of those, and it hasn't been easy. Nobody really wants that when you get down to it.

"But it's probably proper. I'm older now, you know, than a God-awful percentage of the House is. But I believe in calling them 'Congressman' or 'Mr. Chairman' and it doesn't have a damn thing to do with obsequiousness. These people have been issued a little piece of the national sovereignty; I haven't. At least 500,000 people have elected them in the democratic process. I haven't been elected to s---. No matter what titles they lay on us, there are really two types of people on Capitol Hill: members and clerks. And I've always tried to remember that I'm a clerk."

Well, neighbors, I'm here to tell you it can't have been easy. I remember when we once argued, only half-jokingly, about which one of us would be required to settle for the No. 2 spot on the national ticket when our time came.

Raupe is puffing about his 39th cigarette of the morning, splashing ashes all down his conservative three-piece, only occasionally having to reach for the phone because it is Columbus Day and the government officially is closed; he has compromised with official idleness by coming to the office as late as 9 a.m.

"There is a time to stay and a time to go," he says. "It's simply time to go. This is a young man's job. I came to Washington at 29, running from the Depression and for God. Grabbin' for the big brass ring. And at some point—hell, it's natural—that kinda thing becomes less important to you.

"Look, I stood by JFK's gravesite when they lowered him down. I helped bury Sam Rayburn. For five years, every Thursday afternoon in the JFK and LBJ years, years. I went to the White House for policy meetings. Hell, you know my history." (Indeed: Hill administrative aide. Foreign Service officer in Vietnam and Indonesia. Director of congressional liason for A.I.D. Executve for Eastern Airlines. Director of ethnic activities for the Democratic National Committee in '64 and '68. Consort of the powerful and the mighty, and all the time nobody out there knowing about it).

"I been real lucky for an ol' Texas boy. I wouldn't take for it. But one day you wake up and realize you ain't gonna invent dynamite on the ballpoint pen. You ain't gonna write the Great American Novel. So you adjust. You go on back to teach and write, like you started out doing and meant to continue. I know Thomas Wolfe told everybody that 'you can't go home again' bull----. He was wrong. You can. And I'm going back where—as LBJ said—'folks know when you're sick and care when you die.'"

Jim Wright says, "Sure, I remember how I first met Craig. I was the mayor of the little Texas town of Weatherford. And Craig moved there to teach history and government at Weatherford Junior College—I wrote him a 'welcome-to-town' letter. Weatherford was small then, you knew when somebody moved in and hooked up to the public utilities system.

"So he got my letter—it was summertime—and called on me at city hall to say he didn't have a dime and had to get through the summer until school started, and damn if he didn't hit me up for a job. Well, he was obviously intelligent and full of energy, so I gave him a job running the city swimming pool that summer. And he was always coming around bringing good books and talking about them; he was full of ideas and he breathed politics. One day I said 'Craig, I'm gonna run for Congress. And I'd like your help.' And he laughed and said, 'I don't think you got a prayer, Jim. But I'm damn sure with you.' Now that impressed me. People who'll get out front when they don't believe you can win—well, they're rare. Craig worked in my congressional campaign night and day without a nickel. And when we upset the entrenched incumbent, much against the odds, he came to Washington with me."

Why, the majority leader is asked, did you single him out so long ago?

A long silence. Then Jim Wright says, "Well, I liked the fellow. And he was . . obviously intellectual without preening it. He spoke straight. And his energy. I can't forget his energy."

That energy damn near killed men the first term I worked in Congress.

I didn't have a car in those poor days. Craig Raupe didn't have much of one—a wheezing green '37 Chrysler heading toward 20 years old—but it was my way to work from the Washington suburbs where we were neighbors. The trouble was, Raupe insisted on being in the office at 6 a.m.; on the average he consented to go home about 14 hours later. I was reasonably loyal to J. T. Rutherford and the republic for which he stood, and didn't truly mind giving an honest day for a honest dollar. But hell, man, there's a limit! I became a youthful budding drunk, lying around the bars waiting for my ride home. One night I charged into Jim Wright's office in the Longworth Building, bent on chewing him out for shackling his employees to their desks, and there found Craig Raupe to be the only soul on the semi-darkened premises. He was writing—in a leisurely looping longhand—in a notebook. "I try to keep a journal," he said, "in case Jim gets to be president. Somebody's gotta think of the historical record."

In 1960, Raupe abruptly went into the Foreign Service. "I hated to lose him," Jim Wright says, "If he'd been with me in '61, when I missed being elected to the U.S. Senate by a small margin, I've no doubt I would have won. But I would have been an S.O.B. to stand in his way."

Jim Wright hired me to replace Craig Raupe. No more doomed or dismal experiment ever was conducted. I'm more nervous and volatile than Wright and didn't even know about the Roman emperor. We shouted a lot and had a few shoving matches. I eventually quit in abrupt circumstances, much to the ultimate relief and good of all parties. Wright tried a few more of us, finding no Craig Raupes, alas. Then, a half-dozen years ago, all his dark days and varied adventures behind him, Craig Raupe came back.

"It wasn't much fun working for Eastern Airlines," Raupe says. "Yeah, they gave me raises and promoted me every time I turned around and the perks were so many as to be embarrassing. But, I dunno, so the goddam flight's on time and the company makes X million bucks. So what?"

Right away he began to agitate Jim Wright to run for the House leadership. Not that Wright hadn't thought of it in his own right—hell, he's tough and ambitious and bright—but can you imagine him risking it with me as his backup? I mean, if I had been a football coach we'd probably have had to forfeit our first home game because I would have forgotten to arrange for the game balls.

Jim Wright wasn't supposed to have any more chance of getting elected majority leader than Ella Grasso has to be named Miss America. Raupe went off and harangued everybody coast to coast, from labor leaders to Texas oilmen, and raised so much money for Wright it bordered on the illegal. They gave most of the money to all the Democratic nominees they could find in obscure congressional races around the nation, and Jim Wright—surely the best orator and most persuasive speaker in the House—paraded from Oshkosh to Pocatello and between, speaking on the stump for a bunch of strangers he hoped would wind up being Democratic representatives. Jimmy Carter won that year, as did a number of freshmen Democrats. The next thing you knew, Jim Wright was a pretty serious candidate.

Craig Raupe came to me at that point—late '76—and said, "Write an article saying Jim's got a chance to be elected. We're within a dozen votes of this thing. All we need is for some people to take us a little more seriously."

I was then writing a thrice-weekly column for a Washington newspaper other than this one. I frowned at Raupe and lectured about how I couldn't lend myself to propagandizing. Being an impartial, honest journalist, etc. He was far too polite to laugh. He just looked at me until I squirmed and said, "Well, hell . . . for old time's sake, maybe, Craig. But I gotta have something to hang it on. I just can't write a column headlined 'Wright Pure as Baby Jesus.' You got to give me a hook."

He nodded and went away. I foolishly thought that was the end of it.

A few days later he brought me a Newsweek magazine. He had opened it to a catch-all story about how President-elect Jimmy Carter was down in Georgia praying a lot, playing softball and cleaning out fishponds while his crown got fitted. Deep in the story was an innocuous paragraph saying that, yes, the House had five or six folks running for majority leader and Jimmy had a personal favorite—but he just grinned and wouldn't say who.

Raupe said, "There's your hook. Write a column making a case why it's logical that Carter is for Jim Wright. It could help us in the Deep South." I fear I stared at him rather blankly. He said, in a hurry as if rushing to catch a bus, "Goddammit, they're both from small towns in the South. They're both born-again Christians. They speak in the same accents," Bla-bla-bla.

Well, let's face it. I propagandized. The newspaper published it on Sunday, before the Monday election. Craig Raupe bought copies for all House Democrats—sticking on page one a gaudy blue-and-white sticker calling attention to that story on page 16 or whatever—and had them on the desk of every House Democrat come dawn on caucus day. Jim Wright won, 147–146; I don't know if that story had anything to do with it at all. But I do know that Craig Raupe left nothing—absolutely nothing—to chance.

Raupe and his wife of 31 years, Joyce, whom he met and married when they were students at North Texas State University, live in the northern Virginia suburbs and go to bed early. It was not always so. In the Kennedy-Johnson years they queued up in receiving lines from Washington to Bangkok, suffered state dinners, danced at the White House. Then, later, when he was an Eastern Airlines executive, they did more of the same only with more boring people.

"And I guess it was a couple of summers ago," Raupe said, "when we were invited to a state dinner at the White House. And we got out the glitter and the shine and the starched stuff, with the patent leather shoes, and then Joyce said, 'What if we didn't go?' "

They did go, recently, to the White House lawn party at Easter or thereabouts. "Driving home," Raupe said, "it hit me, I'd seen every president from Eisenhower on, and for the first time I thought, 'I don't feel like I was in the presence of the president.' That man's a good campaigner, yes, but he's got to get by being tenacious and dogged. There's just no charisma about him."

Go back in time to early '56, I think. Anyhow, Harry S Truman was back in town for the first time since he'd left the White House to speak at a Jefferson-Jackson Day dinner. Raupe and I, remember, are young Capitol Hill innocents. Raupe comes to me in great enthusiasm: He had written a paper on how Truman had defeated Dewey in '48—back in college—and it was a good paper, one he wanted Truman to see, and he said, hell, King, let's go down there to the Mayflower Hotel and I'll give him a copy. And bring along your camera—I used it to take pictures of Rep. Rutherford with visiting constituents from the Texas outback—and snap ol' Harry and me.

Raupe called Truman's suite from the Mayflower house phone and said, "Lemme speak to Harry Truman."

And a flat, twangy voice said, "This is Harry Truman." Raupe stammered out his purpose; we got invited upstairs for coffee. HST let me take a dozen pictures of them together; Raupe thrusting his paper on Truman, Truman accepting it, them shaking hands over it, and so on. I wanted to hang around, but Craig was eager to see his pictures. He rushed me off to a studio where they promised instant wet-prints, this being long before Polaroid entered the language. The pictures all came back blank. I obviously had caught buck fever and mechanically malfunctioned. Raupe cursed and abused me at great length.

I was home sleeping away the shame when my phone rang in the middle of the night. "Listen," Raupe said, "get your ——— outa bed. Truman goes for a walk about dawn every morning. We're gonna be there to do those pictures again, and you better not screw up." Truman was again patient and receptive; we made the pictures, and that time I didn't screw up. I had a copy of the best one for years—Raupe in a flat-top hairdo and a speckled bow tie, skinny and younger than Shirley Temple, him and ol' Harry grinning at one another—but time passed and different things happened and I think I lost it in a divorce.

The majority leader's man sits with his feet on his desk, and near his feet are three thick piles of telephone messages he must return. ("You can't answer them fast enough to catch up. There's just no way. I have to be selective in my priorities.")

"I really love this House. That's no bull - - - -. There's a pull and a tug to it, a vigor to it. I love the trading off, the hammering out.

"You news bastards," he says, pointing a finger, "keep writing how Congress is dragging its a - - and has no leadership. Well, in the Senate, maybe. But not in this House. The House has passed everything of substance the president has sent up here. Back in '77 we passed his first energy bill in a matter of days—the Senate bogged it down.

"Tip O'Neill is the strongest speaker in modern times. Sam Rayburn is the only one to rival him, but Rayburn was hamstrung by not having effective control of the rules committee. That's changed. And O'Neill is a strong personality—big, burly, charismatic. He can talk to you about anything. He's just the politician's politician. And Jim—well, you know what I think of Jim Wright. He's simply A No. 1. The best persuader since Henry Clay, John Brademas, the majortiy whip; Dan Rostenkowski, the chief deputy whip. First-class men."

Why, then, does it seem to the outside observer that so many Democrats stray off the partisan range? That there is little or no party discipline?

Raupe squints through the smoke and says, "Well, to the extent that it's true—and it's *not* always true; hell, just the other day, the speaker told one nominal Democrat he's so useless he should go sit on the other side of the aisle, and I think you'll see that gentleman starting to come around—it's because of the Balkanization of politics. Single-issue politics. When I came here years ago there were automatics—if labor was for it it was 'good,' or if it had to do with civil rights it was 'good.' A liberal Democrat had guidelines to follow. The partisan positions were clear-cut. But now, on an emotional issue like abortion, for example, if you're on one side you're for murder and if you're on the other side you're forbidding a woman to do with her body and her life what she wants to. So what's the 'liberal' position on abortion? There are so many issues now that cut across party lines. And the pressure groups are so single-minded that you can vote with their general ideology 99 percent of the time and still catch hell because you didn't go along on their one big issue. Before you can force party discipline, you've gotta figure out what the party line is. And that's not always easy anymore.

"And the administration just ain't worth a damn at the inner workings of politics in this political town. You can't run against Washington once you've become a part of Washington, and they're still trying that. I'd barely know Hamilton Jordan or Jody Powell and those people if they rode in this office on stickhorses. If you're gonna have a cohesive party, somebody down there in that big white house has got to crack knuckles and slap backs. They can't expect Jim Wright and Tip O'Neill to carry the whole load."

Gary Hymel says, "Listen, I had Craig Raupe's job under Hale Boggs and Tip O'Neill before Tip got to be speaker. It's the toughest job in town. Craig has to organize out of chaos at its highest level. He's in the front-line trenches. Everything in the House starts with him. He's the buffer, the weeder-outer. People cry and whine at him all day long. What I most respect is his judgment, how his snap decisions stand up. Jim Wright calls him 'Judge,' you know. A lot of people do. A lot of 'em think he *was* a judge of some sort.

"He has to learn to reach each individual member. And to act on that knowledge. He's gotta know when to say to the speaker or the majority leader, 'Now, this guy's gonna pester you, but finesse him—his bill can wait a week or two.' Or he's gotta be ready to tell the leadership, 'Go with this guy. He's in a bind, he needs help, and he'll owe us one.'

"Craig's unflappable. He's a rock and a steady anchor. He's truly going to be missed around here."

"Will I miss the hurly-burly?" Raupe says. "Well, it's be kinda like missing being tarred and feathered, wouldn't it?" A grin. "Sure, I guess I'll miss it. There is an excitement. The job gives you a keen edge. But it's time to go. I've got a fear of catching 'Potomac Fever.' I don't want to be one of those pitiful old men who nod off at Washington parties and nobody remembers their names anymore. I've always been like the old sheriff's car: I just know two speeds, wide-open and standin' still.

"But don't make it sound like I'm going off to vegetate. I'm gonna teach legislation and public policy formulation at the University of Texas at Arlington. Details are being worked out for me to teach a couple of days a month at the LBJ School on the Austin campus. There are several other old Great Society types down there—John Grounouski, Wilbur Cohen, Walt Rostow.

"And since professors sometimes succumb to the blandishments of private firms—well, if the right consulting job came along I wouldn't necessarily run from it. I know my way around the Washington maze.

"Joyce and I are building this house, you know, right on the water in my old home town of Granbury. Near Fort Worth. But neither of us intends to sit and rock. She's been the budget fiscal officer for the Foreign Affairs Committee for several years, and she'll want to stay active. I'm sure we'll get involved in presidential compaigns. And maybe dabble in local politics."

Dabble-schmabble. Two-to-one the dude within four years runs for mayor of that little Texas town—or city councilman, or something. Offering himself for public office is about the only political experience Craig Raupe has not had. And, as he says, he ain't going home to vegetate.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I am glad to yield to my friend, the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. I thank my colleague for yielding.

Mr. Speaker, it leaves me in kind of a state of shock. When we get to the end of a session, the gentleman, Mr. Craig Raupe, whom the gentleman from Indiana (Mr. BRADEMAS) is referring to, seems to be the only one who really seems to know what is going on as far as scheduling is concerned, and I do not know what we are going to do.

Mr. BRADEMAS. There is no way, Mr.

Speaker, in which I can respond to my friend, the gentleman from Ohio (Mr. Ashbrook) without getting myself into a great deal of difficulty and I, therefore, yield back the remainder of my time.

PERSONAL EXPLANATION

(Mr. YOUNG of Missouri asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YOUNG of Missouri. Mr. Speaker, during consideration of the low-income energy assistance program last Thursday, I mistakenly voted against this bill. I would like the Record to show that I meant to vote in support of this legislation.

I feel that this is an important piece of legislation that will provide needed assistance to the many Americans who will be severely impacted by the higher prices of heating fuel.

THE PASSAGE OF HOUSE JOINT RESOLUTION 430

(Mr. SABO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SABO. Mr. Speaker, last Thursday this House passed what for some Americans will be the most important legislation of the 96th Congress. I refer to House Joint Resolution 430, the supplemental appropriation for low-income energy assistance.

Since the days of Franklin Roosevelt, a basic tenet of the Democratic Party has been that Government should be humane. We believe that Government has a responsibility to do more than police the free market. We do not believe that life is a footrace where diligent competitors will succeed and all others will justly fail.

The House action of last week shows that we are remaining true to this philosophy as we address the energy problem. We acknowledge the reality that the price of energy in the worldwide market has increased dramatically. We know that our policies on production and conservation must meet the challenge of that new circumstance. But we know also that some members of our society—the poor and the elderly, especially—are in danger of bearing an undue share of that burden. That is why we moved quickly to provide $1.35 billion to help those people make it through this winter.

The legislation we enacted had the strong support of President Carter. It moved rapidly in the House thanks to the initiative of the distinguished Speaker of this body. It showed that a Democratic administration and a Democratic Congress together will act when called upon to address a crisis and avert human suffering.

Hubert Humphrey said that a government and a society can best be judged by what they do for those in the dawn of life, the children; for those in the twilight of life, the elderly; and for those in the shadow of life, the poor, the sick, and the disabled.

By that standard, we can take justifiable pride in the choice we made last week. As we did with social security and medicare, with civil rights legislation and programs for the handicapped, we have taken another step to even out the inherent unfairness of life for those who suffer most. In doing so, I believe, we make America a better, more decent place to live.

O. C. FISHER FEDERAL OFFICE BUILDING

(Mr. LOEFFLER asked and was given permission to extend his remarks at this point in the Record.)

Mr. LOEFFLER. Mr. Speaker, it is with great personal pleasure that I today introduce legislation to name the Federal Office Building located at 33 West Twohig in San Angelo, Tex., in honor of one of the most respected men ever to represent the 21st Congressional District of Texas, the Honorable O. C. Fisher.

I am certain that all of my colleagues here today who were privileged to serve with Clark Fisher will readily confirm the tremendous respect and admiration held for him by everyone in this great body.

O. C. Fisher was first elected to the House of Representatives in 1932 and voluntarily retired in 1974, after unselfishly giving 42 years of his life to public service. In addition to serving for 25 years on the important House Armed Services Committee, Clark assumed a leadership role in the areas of soil conservation and flood projects. He was the author of the Twin Buttes Reclamation project near San Angelo, and the Amistad Dam project on the Rio Grande River endearing forever his name to residents in these areas. Since retiring, Clark has been busy as a rancher and a successful historian in his beloved west Texas.

Mr. Speaker, I am proud to say the office which I now occupy in the Longworth Building was Mr. Fisher's for some 15 years of his service in the House of Representatives. In addition, the building in San Angelo which will bear his name was the site of Mr. Fisher's district office for much of his tenure in the Congress; it is now the location of one of my district offices. To now be serving the same people he served so long and so well it is a very special honor for me to introduce this legislation in tribute to O. C. Fisher for his most distinguished service to Texas and our Nation.

A RAILROAD CAN HELP AMERICANS CONSERVE ENERGY

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, during these times of an energy shortage we should utilize whatever sources are available to us. I have in my possession a letter from Bill Gandert who is a respected chairman and State legislative director of the Ohio State Legislative Board, United Transportation Union. He says as follows:

October 26, 1979.

Hon. Samuel L. Devine,
U.S. Representative,
Washington, D.C.

Dear Congressman Devine: A railroad as compared with other modes of transportation can help Americans to conserve energy. A ton of freight can be transported more than four (4) times further on a gallon of fuel on a railroad than by highway. A railroad is sixty (60) times more efficient energy wise than by air and is more efficient than water way transportation.

What you have just read is the best kept secret in our country today. You never see these facts in newspapers, magazines or other publications available to the general public. Nor, do you hear these statements of fact on radio or television.

With a nationwide roadbed network and properly maintained equipment, history has proven railroads to be the most safe way to move our nation's products. In addition, more than enough energy could be conserved to delay for several years the publicized two (2) dollar a gallon fuel.

Who knows if we study this system thoroughly we may even find a way to transport people efficiently.

Respectfully yours,
William C. Gandert.

At least now this information will be published in the Congressional Record.

CONGRESS SHOULD ESTABLISH STATUTORY TIME LIMIT ON EXECUTIVE BRANCH RESPONSES

(Mr. RUDD asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. RUDD. Mr. Speaker, on August 6 of this year, I wrote to the Secretary of Health, Education, and Welfare to register the pressing concerns of my constituents of the Gila River Indian community regarding the funding of a much-needed replacement hospital at Sacaton, Ariz.

A response to my letter finally reached my desk Friday, nearly 3 months after I had contacted the Secretary. A response, which is not responsive to the questions I raised at all, and pointedly not signed by the Secretary, personally.

Coincidentally the Secretary's reply reached my office only after the House had taken final action on the authorization for funding of Indian Health Service Hospitals for this fiscal year. These dilatory tactics in response to congressional inquiries must not be tolerated. As a result of this unwarranted delay, my constituents will be required to wait yet another year for a much-needed health care facility.

The Congress should give consideration to establishing a statutory time limit on executive branch responses to congressional inquiries. It seems appropriate to me, that substantial penalties should be imposed when Federal officials fail to take action in a timely manner when requested to do so on behalf of the public by Members of Congress.

THE FUEL ASSISTANCE PROGRAM LEGISLATION

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLOMON. A few minutes ago the gentleman from Minnesota (Mr. SABO) spoke of the fuel assistance program legislation which passed this House last Thursday. Many of us supported that legislation, even though it was not legislation that truly meets the needs of the American people today. Unfortunately, that legislation primarily deals with people on Supplemental Security Income and fatherless homes with dependent children. But it excludes many people who are just on social security. It excludes many of the working poor who are becoming more and more financially pressed every day because of the rising cost of inflation and the rising cost of fuel oil. I criticized the rule that reported that bill to the House because it refused to allow amendments to that legislation which would have amended the Internal Revenue Code which would have given tax credit to those people, those senior citizens on social security, as well as giving tax credit to those people earning $10,000, $15,000, and even $20,000.

Mr. Speaker, I would hope that the legislation reported on the windfall profits tax would allow us to amend that legislation to include those people.

□ 1210

KOREAN PRESIDENT PARK CHUNG HEE

(Mr. DERWINSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. DERWINSKI. Mr. Speaker, I was shocked and saddened by the tragic death of South Korean President Park Chung Hee, who was assassinated Friday night. Just 5 years ago, in an earlier tragedy, President Park's wife was murdered during an attempt on his life.

I had the privilege of meeting the President on a number of occasions and respected his leadership, especially his vigorous and alert policy of maintaining his country's defenses against Communist aggression from North Korea. The free world has lost one of its most effective leaders.

President Park was dedicated to increasing the standard of living of the Korean people. Under his leadership, South Korea's free enterprise economy continued to grow, performing what has properly been called an "economic miracle." Today South Korea has one of the most spirited economies of the free world. The Korean economic growth has been marked by industrial diversity and positive export policies.

Under Park's leadership, South Korea has been a firm and steadfast friend. During the Vietnam war—despite threats to themselves—South Korea sent troops to Vietnam who fought bravely and effectively on our side against the forces of Communist North Vietnam. Today South Korea continues to be a vital ally of the United States in Asia—important to both our security interests in the area and those of Japan as well. South Korea is a true friend of the United States.

Mr. Speaker, in closing I would call attention to the suffering and the tragedy of the Korean people. They endured many years of harsh occupation by Japanese military forces prior to and during World War II. Today families are separated because the Korean nation is divided. And now their President is dead of an assassin's bullet, posing a threat to domestic stability.

Mrs. Derwinski joins me in extending our personal sympathy to President Park's family—his daughters, Miss Keun Hae Park and Miss Keun Yong Park, and his son, Mr. Chiman Park.●

CAMPAIGN CONTRIBUTIONS TO SENATOR KENNEDY

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, it now appears obvious that the senior Senator from Massachusetts will be a candidate for President. While he was a noncandidate, his committees organized on behalf of his potential candidacy were able to accept $5,000 from individuals, whereas the committees that work for declared candidates were able to accept only $1,000. Despite the fact that the noncandidate was a self-declared arbiter of congressional ethics in campaign spending, that loophole was taken advantage of.

Now that the candidacy appears imminent I hope that the candidate and his committee will make disclosures so that the world will know what those contributions were. In addition, some of the contributors may have indeed contributed $25,000 already and may be in danger of violating limits that apply to all contributors. Those ought to be revealed so that those people will have some idea.

There may also be people who support that candidate who do not want to violate the spirit of the law. Those, of course, would be ones that would not contribute more than $1,000.

Mr. Speaker, I hope we will now get some reasonable disclosure.

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE CONCURRENT RESOLUTION 109

Mr. WINN. Mr. Speaker, originally I was a sponsor of House Concurrent Resolution 109.

I ask unanimous consent that my name be withdrawn as a cosponsor.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to, under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

Such rollcall votes, if postponed, will be taken on Tuesday, October 30, 1979.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

NAVAJO-HOPI RELOCATION ACT

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5262) to amend the act of December 22, 1974 (88 Stat. 1712; 25 U.S.C. 640d), as amended.

The Clerk read as follows:

H.R. 5262

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (d) of section 6 of the Act of December 22, 1974 (88 Stat. 1712; 25 U.S.C. 640d), hereinafter referred to as the "Act of December 22, 1974", is amended by striking the period at the end thereof and inserting, in lieu thereof, a colon and the following: "*Provided further,* That the Secretary shall cause an appraisal to be made of any and all lands partitioned to the tribes pursuant to either section 4(a) or 8(b). Such appraisal shall be submitted to the appropriate United States district court and the tribes within one hundred and eighty days after the date of enactment of this proviso for such lands as are already partitioned, whether by interim or final order, or one hundred and eighty days after the entry of an interim or final order of partition as to lands not yet partitioned on such effective date.".

SEC. 2. Section 8 of the Act of December 22, 1974, is amended by striking all of subsection (c) and inserting, in lieu thereof, the following:

"(c)(1) Either as a part of or in a proceeding supplementary to the action authorized in subsection (a) of this section, either tribe, through the chairman of its tribal council for and on behalf of the tribe, including all villages, clans, and individual members thereof, may prosecute or defend an action for the types of relief, including interest, specified in section 18 of this Act, including all subsections thereof, against the other tribe, through its tribal chairman in a like representative capacity, and against the United States as to the types of recovery specified in subsection (a)(3) of such section 18 and subject to the same provisions as contained in said subsection, such action to apply to the lands in issue in the reservation established by the Act of June 14, 1934 (48 Stat. 960).

"(2) In the event of the Hopi Tribe or Navajo Tribe is determined to have any interest in the lands in issue, the right of either Tribe to recover hereunder shall be based upon that percentage of the total sums collected, use made, waste committed, and other amounts of recovery, which is equal to the percentage of lands in issue in which either Tribe is determined to have such interest.

"(3) Neither laches nor the statute of limitations shall constitute a defense to such proceedings if they are either prosecuted as a part of the action authorized by this section or in a proceeding supplemental thereto, if instituted not later than twenty-four months following a final order of partition and exhaustion of appeals in an action filed pursuant to this section.".

SEC. 3. Section 10 of the Act of December 22, 1974, is amended by adding at the end thereof the following new subsections:

"(c) Lands partitioned pursuant to this Act, whether by interim or final order of the court, shall be subject to the jurisdiction of the tribe to whom partitioned and the laws of such tribe, regulating land use, shall apply to such partitioned lands, except as may be otherwise provided in section 13(a) and 31 of this Act, as amended.

"(d) Any development of lands in litigation pursuant to section 8 of this Act and further defined as 'that portion of the Navajo Reservation lying west of the Executive Order Reservation of 1882 and bounded on the north and south by westerly extensions, to the reservation line, of the northern and southern boundaries of said Executive Order Reservation,' shall be carried out only upon the written consent of each tribe except for the limited areas around the village of Moenkopi and around Tuba City. Each such area has been heretofore designated by the Secretary. 'Development' as used herein shall mean any new construction or improvement to the property and shall include placement of mobile homes and buildings on the property and further includes public work projects, power and water lines, public agency improvements, and associated rights-of-way.".

SEC. 4. Section 11 of the Act of December 22, 1974, is amended by—

(1) striking the period at the end of subsection (a) and inserting, in lieu thereof, the following: ": *Provided*, That no lands in the State of Arizona, lying north and west of the Colorado River, shall be available for selection under this subsection.".

(2) striking all of subsection (b) and inserting, in lieu thereof, the following:

"(b) The Commission is authorized to purchase or otherwise acquire, except by eminent domain, not to exceed fifty-thousand acres of land for the benefit of the Navajo or Hopi Tribes which shall be used for the purpose of facilitating the resettlement of heads of households required to relocate pursuant to this Act or to otherwise accomplish the purpose of this Act. Any of such lands, which are contiguous or adjacent to the Navajo Reservation, shall be taken by the United States in trust for the Navajo or Hopi Tribe and shall be administered as a part of the Navajo or Hopi Reservation, as the case may be. Any independent authority to acquire lands which may be derived from section 5(a)(1) of this Act is hereby terminated. There is hereby authorized to be appropriated, effective in fiscal year 1981, not to exceed $10,000,000 to carry out this subsection.".

SEC. 5. Section 12 of the Act of December 22, 1974, is amended by—

(1) inserting in paragraph (1) of subsection (g), the phrase "and an independent legal counsel," after the phrase "Executive Director,".

(2) amending subsection (h) to read as follows:

"(h) The Commission is authorized to provide for its own administrative, fiscal and housekeeping services.".

(3) redesignating subsection (i) as subsection (j) and inserting a new subsection (i) as follows:

"(i)(1) The Commission may call upon any other department or agency of the Federal Government to assist it in carrying out its responsibilities under this Act and such departments and agencies shall, to the extent permitted by law, provide such assistance.

"(2) To facilitate the coordination of other Federal programs with the efforts of the Commission—

"(A) the area directors of the Phoenix and Navajo area offices of the Bureau of Indian Affairs and the Indian Health Service shall consult with the Commission on the proposed budget for the Navajo and Hopi Tribes for any fiscal year prior to the submission of any such proposed budget to the central office of each agency. The Commission shall comment on such proposed budgets with respect to the implementation of this Act. A copy of such comments shall be submitted by the Commission to the Committee on Indian Affairs of the United States Senate and the Committee on Appropriations and the Committee on Interior and Insular Affairs of the United States House of Representatives.

"(B) no Federal grant to, or contract with, the Navajo or Hopi Tribe, other than by the Bureau of Indian Affairs or the Indian Health Service, shall be approved until the Commission shall have had forty-five days within which to review and comment on such grant application or proposed contract from the standpoint of compatibility with the intent and purposes of this act.

"(3) The Office of Management and Budget shall establish such procedures as may be necessary to insure compliance with the provisions of this subsection and shall insure that all relevant programs and services of the Federal Government are marshalled and coordinated toward the expeditious implementation of this act, as amended.".

SEC. 6. Subsection (a) of section 13 of the Act of December 22, 1974, is amended by adding at the end thereof the following sentence: "Nothing herein or in any other provision of law shall be construed as authorizing any person to retain, maintain, or graze livestock on such lands without the consent of the tribe to whom the lands are partitioned, except those members of the Navajo Tribe, residing on Hopi-partitioned lands, who have applied and have been certified by the Commission as eligible for relocation.".

SEC. 7. Clause (5) of section 13(c) of the Act of December 22, 1974, is amended by striking the word "thirty" and inserting, in lieu thereof, the word "ninety".

SEC. 8. Section 15 of the Act of December 22, 1974, is amended by adding a new subsection (f) as follows:

"(f) Within one hundred and eighty days after the date of enactment of this subsection, the Commission shall review the economic and social conditions of the families of heads of households who were evicted from the Hopi Reservation as a consequence of the decision in the case of United States versus Kabinto (456 F. 2d 1087 (1972)). Based upon that review, the Commission may certify such heads of households as eligible for benefits under subsections (a), (b), and (d) of section 15 of this act, but the Commission, in its discretion, may make available less than the full amount of benefits authorized in such subsections. The Commission's determination under this subsection shall be final.".

SEC. 9. Section 19 of the Act of December 22, 1974, is amended by adding a new subsection (c) as follows:

"(c)(1) Conservation practices, including grazing control and range restoration activities in the joint use area as required by subsection (a) of this section, shall be coordinated and executed with the concurrence of the tribe to whom the particular lands in question have been partitioned.

"(2) Surveying, monumenting, and fencing as required by subsection (b) of this section shall be completed within twelve months after the date of enactment of this subsection with respect to lands partitioned pursuant to section 4 of this Act and within twelve months after a final order of partition with respect to any lands partitioned pursuant to section 8 of this Act.

"(3) The livestock reduction program required under subsection (a) of this section shall be completed within eighteen months after the date of enactment of this subsection.

"(4) All projects instituted by the Secretary or any other agency of the Federal Government in relation to conservation, range restoration, or reclamation on partitioned lands or otherwise in connection with the relocation plan shall be eligible for contract by either tribe.".

SEC. 10. Section 23 of the Act of December 22, 1974, is amended by adding the following sentence at the end thereof: "In the event that the tribes should negotiate and agree on an exchange of lands pursuant to authority granted herein the Commission shall make available 125 per centum of the relocation benefits provided in sections 14 and 15 of this Act to members of either tribe living on land to be exchanged to other than his or her own tribe, except that such benefits shall be available only if, within ninety days of the agreement, a majority of the adult members of the tribe who would be eligible to relocate from exchanged lands sign a contract with the Commission to relocate within twelve months of the agreement or such later time as determined by the Commission and such additional benefits shall only be paid to those who actually relocate within such period.".

SEC. 11. Section 25(a)(5) of the Act of December 22, 1974, as amended by the Act of July 30, 1979 (Public Law 96–40), is further amended by striking the figure "$1,000,000" and inserting, in lieu thereof, the figure "$3,000,000": *Provided*, That no new budget authority for fiscal year 1980 is authorized to be appropriated.

SEC. 12. The Act of December 22, 1974, is amended by adding at the end thereof the following new sections:

"SEC. 27. (a) To facilitate and expedite the relocation efforts of the Commission, there is hereby authorized to be appropriated annually, effective in fiscal year 1981, not to exceed $6,000,000 as a discretionary fund.

"(b) Such funds may only be used by the Commission to—

"(1) match or pay not to exceed 30 per centum of any grant, contract, or other expenditure of the Federal Government, State or local government, tribal government or chapter, or private organization for the benefit of the Navajo or Hopi Tribe, if such grant, contract, or expenditure would significantly assist the Commission in carrying out its responsibilities or assist either tribe in meeting the burdens imposed by this Act.

"(2) engage or participate, either directly or by contract, in demonstration efforts to employ innovative energy or other technologies in providing housing and related facilities and services in the relocation and resettlement of individuals under this Act.

Not to exceed 5 per centum of such funds may be used for the administrative expenses of the Commission in carrying out this section.

"(c) The Secretary of the Interior and the Secretary of Health, Education, and Welfare, as appropriate, shall assign the highest priority, in the next fiscal year after the date of enactment of this subsection, to the funding and construction of the Hopi high school and a Hopi medical center consistent with any plans already completed and approved by appropriate agencies of the respective departments.

"SEC. 28. (a) No action taken pursuant to, in furtherance of, or as authorized by this Act, as amended, shall be deemed a major Federal action for purposes of the National Environmental Policy Act of 1969, as amended.

"(b) Any transfer of public lands pursuant to this Act shall be made notwithstanding any provision of the Federal Land

Policy and Management Act (Public Law 94–579; 40 U.S.C. 1701 et seq.).

"Sec. 29. (a) In any litigation or court action between or among the Hopi Tribe, the Navajo Tribe and the United States or any of its officials, departments, agencies, or instrumentalities, arising out of the interpretation or implementation of this Act, as amended, the Secretary shall pay, subject to the availability of appropriations, attorney's fees, costs and expenses as determined by the Secretary to be reasonable. For each tribe, there is hereby authorized to be appropriated not to exceed $120,000 in fiscal year 1981, $130,000 in fiscal year 1982, $140,000 in fiscal year 1983, $150,000 in fiscal year 1984, and $160,000 in fiscal year 1985, and each succeeding year thereafter until such litigation or court action is finally completed.

"(b) Upon the entry of a final judgment in any such litigation or court action, the court shall award reasonable attorney's fees, costs and expenses to the party, other than the United States or its officials, departments, agencies, or instrumentalities, which prevails or substantially prevails, where it finds that any opposing party has unreasonably initiated or contested such litigation. Any party to whom such an award has been made shall reimburse the United States out of such award to the extent that it has received payments pursuant to subsection (a) of this section.

"(c) To the extent that any award made to a party against the United States pursuant to subsection (b) of this section exceeds the amount paid to such party by the United States pursuant to subsection (a) of this section, such difference shall be treated as if it were a final judgment of the Court of Claims under section 2517 of title 28, United States Code.

"(d) This section shall apply to any litigation or court action pending upon the date of enactment of this section in which a final order, decree, or judgment has not been entered, but shall not apply to any action authorized by section 8 or 18(a) of this Act.

"Sec. 30. (a) No payments, pursuant to section 14 and 15(b) of this Act, shall be made to any head of household who has not signed a contract for relocation under existing eligibility criteria of the Commission prior to enactment of this section and who did not, as determined by the Commission, physically reside within the joint use area on the date specified in section 14(c) or 15(c), as the case may be.

"(b) Any head of household who has not signed a contract for relocation under existing eligibility criteria of the Commission prior to enactment of this section and who, but for the enactment of this section, would have been eligible for benefits under sections 14 and 15(b) shall be paid $5,000 from funds appropriated pursuant to section 25(a)(1) or (4).

"Sec. 31. (a) In the event the District Court grants life estate leases pursuant to section 5 of this Act, the following standards shall apply:

"(1) eligibility for such life estate leases shall be governed by the following factors:

"(i) the applicant for a life estate lease must have been at least seventy years of age on December 22, 1974; or

"(ii) the applicant for a life estate lease must have been at least sixty-five years of age on December 22, 1974, and must establish to the satisfaction of the court that the probable long-term effects of the relocation would cause extreme personal hardship; or

"(iii) the applicant for a life estate lease must establish to the satisfaction of the court that he or she is more than fifty per centum disabled, as certified by a medical doctor.

"(2) all applications for life estate leases must be filed with the District Court on or before June 30, 1980.

"(3) the Court shall grant no more than fifty life estate leases.

"(4) each life estate shall include a fenced grazing tract of not more than twenty-five acres and an additional tract of up to three acres for a homesite. Such homesite shall be surveyed and monumented, but shall not be fenced unless requested by the life tenant.

"(5) the tenure of such life estate lease shall be for the life of the applicant or his or her spouse, whichever is longer.

"(6) the granting of a life estate lease to any person shall preclude that person, his or her spouse, and any dependent, minor children living in that household from receiving any relocation benefits except fair market value for improvements and actual moving expenses to be paid by the Secretary upon termination of the lease.

"(b) The Secretary shall pay, on an annual basis, the fair market rental value of such life estate leases to the tribe to whom the lands leased were partitioned: *Provided*, That the Secretary may, in his discretion, recover not to exceed one-half of such amount from the trust funds of the tribe of which such life tenants are members.

"(c) All other matters relating to life estate leases and/or tenants shall remain within the discretion and jurisdiction of the District Court which shall apply its own existing criteria to the extent such criteria are not inconsistent with the provisions of this section.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Arizona (Mr. Udall) will be recognized for 20 minutes, and the gentleman from California (Mr. Lagomarsino) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. Udall).

Mr. UDALL. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, H.R. 5262 provides for extensive amendments to the act of December 22, 1974, which settled a longstanding dispute between the Navajo and Hopi tribes to approximately 1.8 million acres of land in northern Arizona.

This dispute grows out of an 1882 executive order which set aside over 2 million acres of land in Arizona for the Hopi tribe and "such other Indians as the Secretary of the Interior may see fit to settle thereon." As time past, many Navajo families began to move into and settle in this area without official sanction.

Down through the years, the Hopi tribe made continued complaints to Federal officials about the encroachment of Navajo and white settlers, but nothing was done.

Finally, in 1943, the Interior Department designated a 600,000-acre tract of that land as exclusively Hopi lands, but did not impair any rights the Hopi had in the remainder of the land.

The Hopi continued to complain that they were being deprived of their right to use the lands set aside for them and, in 1958, Congress enacted a bill which authorized the two tribes to litigate their respective interest in the land.

A 1962 Federal court decision held that the Hopi were entitled to exclusive possession of the 600,000 plus acre tract of land and that the Hopi and Navajo tribe had a joint, equal, and undivided ownership of the remaining 1.8 million acres. In fact, Navajo tribal members used the so-called joint use area to the total exclusion of the Hopi. The dispute continued.

Finally, in 1974, Congress passed the Navajo-Hopi Settlement Act. It did, basically, two things: First, it authorized and directed the Federal District Court to partition the surface of the joint use area lands between the tribes on a 50-to-50 basis and, second, it created a Navajo-Hopi Relocation Commission with authority and funds to relocate the members of one tribe residing on lands partitioned to the other tribe.

The lands have been so partitioned, with the result that hundreds of Navajo families must be relocated from lands partitioned to the Hopi tribe.

Five years experience with the 1974 act has disclosed numerous oversight and deficiencies in the act. New authorities and new funding is needed to relieve severe burdens and hardship which must be borne by members of both tribes.

H.R. 5262 will fill some of the gaps in the 1974 act and provide the new authorization and funds to meet the task of relocating over 3,000 people.

Major provisions of H.R. 5262 include:

First, a provision which would expand the authority of the district court to grant life estates to heads of households who must relocate. The provisions authorize life estates to persons who are 65 years of age and who can show a 50-percent disability. Not more than 50 such life estates can be granted and they are limited to 25 acres for grazing and 3 acres for a homesite.

Second, a provision which would authorize the purchase of an additional 50,000 acres of land for the purpose of relocating Navajo families.

Third, provisions which would increase the power of the Relocation Commission to coordinate other Federal efforts to aid in the relocation program, including a $6,000,000 annual fund for flexible Commission programing.

Mr. Speaker, the United States bears the major responsibility for the existence of the land dispute and, therefore, bears the major responsibility for resolving that problem.

In 1974, Congress finally bit the bullet and passed a law which would do so. It was a very harsh, but very necessary law.

As I said, it will result in the forced relocation of hundreds of Navajo families. This is a traumatic experience at best, and is a major catastrophe to these Indian people whose ancestors are buried in the lands from which they must move and whose whole life, culture, and religion is based upon such lands.

Yet the legal and cultural rights of the Hopi must be recognized and protected.

We in the Congress must do all that we can to insure that the resolution of this problem causes the least disruption and hardship to those concerned as possible.

That is the purpose and intent of H.R. 5262 and I urge the passage of the bill.

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Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5262 Navajo-Hopi Relocation Act. The basic purpose of this legislation is to provide additional authorities and funds for the Navajo and Hopi Indian Relocation Commission to carry out its duties under the Navajo-Hopi Land Settlement Act of 1974.

This legislation is needed because Congress, although aware in 1974 that as many as 6,000 people might have to be relocated as a result of the Settlement Act, did not adequately provide for the physical and human problems attendant to such a major social upheaval.

Hearing testimony taken from the Commission and the two tribes in Arizona provided the basis for many of the provisions in H.R. 5262, including land purchase and greater administrative authority for the Relocation Commission and expanded life estate criteria for use by the district court.

H.R. 5262 authorizes an estimated $67 million over 7 fiscal years. However, a provision in the bill redefining eligibility requirements for relocation benefits should result in substantial savings—perhaps as much as $40 million less than the cost of relocation benefits under existing criteria. This would make the net new cost approximately $27 million over 7 years, or approximately $4 million per year.

While the cost may seem high, it is essential to recall that the dispute between the tribes over the use of the 1882 Hopi Reservation lands was caused by what Congress found to be nearly a century of the Federal Government's indifference, inertia, and inaction. This legislation marks the third time Congress has acted to settle the issue. Hopefully it will be the last.

Before a final version of this bill comes to the House, a conference with the Senate will be necessary. The Senate passed S. 751 last week and it differs substantially from H.R. 5262.

Mr. Speaker, I yield 5 minutes to the gentleman from New Mexico (Mr. Lujan).

Mr. LUJAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I cannot pass up the opportunity to point out to the House that this really is an ill-conceived bill. In the first place, the title of it is the Navajo-Hopi Relocation Act. I do not want anybody to be misled. It is the Navajos that are being relocated; so, even at the very beginning of the title, it is misleading; but, Mr. Speaker, there are serious objections to this legislation. It was an ill-conceived piece of legislation in 1974 and it is not any better today.

Let me just point out to the House a couple of provisions that really are very, very unfair, that we are saddling on to the previously passed bad legislation, making it even worse.

For example, it authorizes the U.S. district court to grant up to 50 life estates for persons 70 years of age. Well, that sounds great. When you take into consideration, first of all, that there are 1,600 to 1,900 Navajo families there, 50 life estates are not very much; but when you consider that the life estate is granted to persons over 70 years of age and that the life expectancy of the Navajos is 58, that really does not make very much sense.

The Senate, of course, has a lower age requirement. So I would hope that that is taken into consideration in the conference and that the lower age be considered.

Now, there is also the question of where lands can be obtained by the Navajos. It bars the transfer to the Navajo Tribe of any Federal lands which are located north and west of the Colorado River in Arizona.

Now, why is that? It just really makes no sense at all. If the Navajos need additional land, then that land ought to be made available next to the reservation, wherever it may exist. Why should there be a particular reservation against going on to some particular land? I think it is gross discrimination, to say the least, and it is really a slap in the face of the Navajo nation to say, "Well, you can go anywhere you want to go on additional lands, but don't come over here near me."

I think just those two provisions would make it incumbent upon this House to reject the legislation, and if it is not rejected by the House, at least that those two provisions be taken out in conference.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time.

Mr. UDALL. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore (Mr. Smith of Iowa). The question is on the motion offered by the gentleman from Arizona (Mr. Udall) that the House suspend the rules and pass the bill, H.R. 5262, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 751) relating to the relocation of the Navajo Indians and the Hopi Indians, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 751

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Navajo and Hopi Indians Relocation Amendments Act of 1979".

Sec. 2. Paragraph (4) of section 5(a) of the Act of December 22, 1974 (88 Stat. 1714), is repealed.

Sec. 3. Section 10 of the Act of December 22, 1974, is amended by adding at the end thereof the following new subsections:

"(c) The Secretary of the Interior shall take such action as may be necessary in order to assure the protection, until relocation, of the rights and property of individuals subject to relocation pursuant to this Act, or any judgment of partition pursuant thereto, including any individual authorized to reside on land covered by a life estate conferred pursuant to subsection (d) of section 14 of this Act.

"(d) With respect to any individual subject to relocation, the Secretary of the Interior shall take such action as may be necessary to assure that such individuals are not deprived of benefits or services by reason of their status as an individual subject to relocation.

"(e) During the pendency of litigation in the United States District Court for the District of Arizona brought pursuant to section 8 of this Act, including the case of Sekaquaptewa against MacDonald (74–842–P.C.T.–W.P.C.), any new use or development of the lands contained within those lands lying west of the Executive Order Reservation of December 16, 1882, and bounded on the north and south by westerly extensions to the reservation line of the northern and southern boundaries of said 1882 Executive Order Reservation and on the west by the Colorado and Little Colorado Rivers, shall be carried out only upon the written consent of the two tribes or upon the written approval of the Secretary: *Provided,* That if the Secretary approves such use or development over the objection of one of the tribes, that tribe may petition the district court having jurisdiction over the litigation for an order or orders prohibiting such use or development, including an order staying any such use until such matter is finally resolved by the court. In reaching a final decision regarding such petition the court shall consider the matter de novo to determine whether the proposed use or development would adversely affect the ultimate legal right of either tribe to partition based on use of land.".

Sec. 4. Section 11 of the Act of December 22, 1974, is amended by striking out all of subsection (b) and inserting in lieu thereof the following new subsections:

"(b) The Navajo-Hopi Relocation Commission is authorized to purchase or otherwise acquire, except by eminent domain, not to exceed two hundred thousand acres of land contiguous to, or adjacent and within six miles of, the Navajo Reservation for the benefit of the Navajo Tribe to facilitate relocation. Such lands shall be taken by the United States in trust for the Navajo Tribe and shall be a part of the Navajo Reservation.

"(c) The Commission shall have the authority to enter into negotiations with the Navajo and Hopi Tribes with a view to arranging and carrying out land exchanges or leases, or both, between such tribes, and lands which may be acquired by the Commission under subsection (b) of this section may, with Commission approval, be included in any land exchanges between the tribes authorized under section 8(c) or section 23 of this Act.".

Sec. 5. Section 12 of the Act of December 22, 1974, is amended by—

(1) inserting, in paragraph (1) of subsection (g), the phrase "an independent legal counsel," after the phrase "Executive Director,";

(2) amending subsection (h) to read as follows:

"(h) The Commission is authorized to provide for its own administrative, fiscal and housekeeping services."; and

(3) redesignating subsection (i) as subsection (j) and inserting new subsection (i) as follows:

"(i)(1) The Commission is authorized to call upon any department or agency of the United States to assist the Commission in implementing its relocation plan and completing relocation within the time required by law, except that the control over and responsibility for completing relocation shall remain in the Commission. In any case in which the Commission calls upon any such department or agency for assistance under this section, and such department or agency shall provide any reasonable assistance so requested.

"(2) On failure of any agency to provide reasonable assistance as required under paragraph (1) of this subsection, the Commission shall report such failure to the Congress.

SEC. 6. Clause (5) of section 13(c) of the Act of December 22, 1974, is amended by striking the word "thirty" and inserting in lieu thereof the word "ninety".

SEC. 7. (a) Section 14(b)(1) of the Act of December 22, 1974 (88 Stat. 1712, 1718), is amended by deleting "$5,000" and inserting in lieu thereof "$10,000".

(b) Section 14(b)(2) of such Act is amended by deleting "$4,000" and inserting in lieu thereof "$8,000".

(c) Section 14(b)(3) of such Act is amended by deleting "$3,000" and inserting in lieu thereof "$6,000".

(d) Section 14(b)(4) of such Act is amended by deleting "$2,000" and inserting in lieu thereof "$4,000".

(e) Subsection (b) of section 14 is further amended by adding paragraph (5) at the end thereof as follows:

"(5) The amendment made to paragraph (1) of this subsection on the date of enactment of the Navajo and Hopi Indians Relocation Amendments Act of 1979 shall be applicable with respect to any head of a household who would have been entitled to the $10,000 payment under section 14(b)(1) of this Act but for the fact that such head relocated prior to the date of the enactment of the Navajo and Hopi Indians Relocation Amendments Act of 1979.".

SEC. 8. Section 14 of the Act of December 22, 1974, is amended by adding at the end thereof the following new subsection:

"(d)(1) Notwithstanding any other provision of this Act, the Commission shall make available to an eligible applicant, on timely application as set forth in paragraph (3) of this subsection, a limited tenure of such land as the Commission determines necessary in order to avoid the necessity of relocating such applicant, and his or her spouse and dependents, if residing with such applicant. The Commission shall grant up to one hundred-sixty life estates and shall give first priority to disabled applicants. Second priority shall be awarded on the basis of age with the oldest applicants given preference over younger applicants and among such older applicants, first priority shall be given to those residing in the Big Mountain area. Such tenure shall consist of the right of use and occupancy of one hundred-fifty acres of land in order to enable such applicant to raise livestock not to exceed twenty-five sheep units per year or equivalent livestock. The Commission upon the issuance of a life estate shall fence the boundaries of lands assigned for use by the recipient of such life estates. The life estate tenure shall end by voluntary relinquishment, or at the death of the applicant or the death of the spouse of the applicant, whichever last occurs: *Provided*, That such survivorship rights shall apply only to those persons who were married on or before the date of the enactment of this subsection. Nothing in this Act or any other law shall preclude such applicant from making improvements within the area covered by such tenure.

"(2) As used in this subsection, the term—

"(A) 'eligible applicant' means, with respect to a Navajo or Hopi individual, an individual—

"(i) who on December 22, 1974, and continuously thereafter has maintained a place of abode, and has been actually domiciled therein, in an area from which such applicant, but for this subsection, would be required to relocate; and

"(ii) who on or before the date of enactment of this subsection was at least forty-five years of age, or who is found by the Commission to be mentally or physically disabled.

"(B) 'dependent' means—

"(i) those members of the applicant's household who derive more than one-half of their support from the applicant; or

"(ii) those relatives, members of the immediate family, or other persons who are necessarily and customarily present to provide for the care of the life estate applicant.

"(3) In any case in which a Navajo or Hopi individual believes that he or she can qualify as an eligible applicant (as defined by paragraph (2) of this subsection), such individual is authorized to file an application with the Commission requesting that he or she be granted a life estate in lands in accordance with this section. Such application shall be submitted in such manner, and contain such information as the Commission shall prescribe by regulation, such regulation to be promulgated by the Commission within 90 days of the enactment of this subsection. Such application must be filed on or before January 1, 1981: *Provided*, That in exceptional cases the Commission may accept later applications where necessary to avoid inequity or hardship.

"(4) Within ninety days following the date of the enactment of this subsection, the Secretary, in consultation with the Commission, shall promulgate such regulations as may be necessary to assure that in the case of a life estate granted pursuant to this subsection, no person may reside on the land covered by such life estate other than the applicant, his or her spouse, and the applicant's dependents, except that such regulations shall provide that in case of illness or disability persons necessary to attend upon and care for such applicant, spouse, or dependent may reside on such lands during such illness or disability. Such regulations shall further provide for the right of all residents and visitors to the lands covered by such life estate to have access thereto by use of all established roads or ways leading thereto.

"(5) The Secretary shall make available to applicants receiving a life estate under this subsection such assistance, during that tenure, as may be necessary to enable such applicant to feed and maintain that applicant's livestock at an adequate nutritional level. Within ninety days of enactment of this subsection, the Secretary shall promulgate such rules and regulations as may be necessary to carry out the provisions of this subsection.

"(6) Any eligible applicant, and his or her spouse and dependents, so living on the Navajo Reservation shall be subject to the jurisdiction of the Navajo Tribe, and any such eligible applicant, and his or her spouse and dependents, so living on the Hopi Reservation shall be subject to the jurisdiction of the Hopi Tribe, except that the land laws of the Navajo Tribe shall not be applicable to any tenure granted to a member of the Hopi Tribe, and the land laws of the Hopi Tribe shall not be applicable to any tenure granted to a member of the Navajo Tribe.

"(7) Nothing in this subsection shall be construed as prohibiting any such applicant who receives a life estate under this subsection from relinquishing, prior to its termination such estate at any time and voluntarily relocating. Upon voluntary relinquishment of such estate, by such means or instrument as the Secretary of the Interior shall prescribe, such applicant shall be entitled to relocation benefits from the Secretary comparable to those provided by section 15 of this Act. For life estates terminated by the death of the life tenant or his or her surviving spouse, compensation shall be paid to the estate of the deceased life tenant based on the fair market value of the habitation and improvements at the time of the expiration of such tenure and not before. Such payment shall be in lieu of any other payment pursuant to subsection (a) of section 15 of this Act. Assistance similar to section 15(b) of this Act shall be paid to the estate of such life tenant by the Secretary. Such compensation and assistance shall be paid and distributed in accordance with the last will and testament of the life tenant, or in the event no valid last will and testament is left, compensation shall be paid and distributed to his or her heirs in accordance with the laws of the tribe of which such life tenant is a member. Upon the termination of a life estate by whatever means, the dependents residing with the individuals having such life estate so terminated shall have ninety days following such termination within which to relocate.".

SEC. 9. Section 15 of the Act of December 22, 1974, is amended by adding at the end thereof a new subsection (f) as follows:

"(f) Notwithstanding any other provision of law to the contrary, the Commission shall on a preferential basis provide relocation assistance and relocation housing under subsections (b), (c), and (d) of this section to the head of each household of members of the Navajo Tribe who were evicted from district numbered 6 of the Hopi Indian Reservation in 1972: *Provided*, That such heads of households have not already received equivalent assistance from Federal agencies.".

SEC. 10. Section 16 of the Act of December 22, 1974, is amended by adding the following new subsections:

"(c) The Secretary is authorized and directed to receive, consider, and pay any claim received by him from the Navajo Tribe or Hopi Tribe for compensation for the reasonable rental value, losses or other expenses incurred by the tribe by reason of such life estates conferred by the Commission pursuant to section 14(d) of this Act. Such claims shall be submitted at such time, in such manner, and contain such information, as the Secretary may prescribe. Any payment made pursuant to a claim filed under this subsection shall be in lieu of rental payments from the tribes under subsections (a) and (b) of this section with respect to lands covered by such claim.

"(d)(1) In lieu of rental payments under the provisions of subsection (a), (b) or (c) of this section, the tribe upon whose reservation a life estate has been created may elect to accept compensation in lieu of lands out of the lands acquired by the Commission under section 11(b) of this Act. In any case in which a Navajo individual receives a life estate under this Act in lands of the Hopi Tribe, the Commission shall make available to the Hopi Tribe land of equivalent economic value out of the lands acquired for the Navajo under section 11(b) and shall permit the use of such land by the Hopi Tribe for a period ending upon the expiration of the ninety-day period following the termination of such life estate. Upon the expiration of such ninety-day period, the United States shall hold such land in trust for the benefit and use of the Navajo Tribe.

"(2) In the event a tribe elects to accept compensation in lieu of lands under this subsection, the Commission shall make diligent efforts to make such compensatory land available in consolidated parcels which will provide the greatest economic return.".

SEC. 11. Section 19 of the Act of December 22, 1974, is amended by adding a new subsection (c) as follows:

"(c)(1) Conservation practices, including grazing control and range restoration activities in the joint use area as required by subsection (a) of this section, shall be coordinated and executed with the concurrence of the tribe to whom the particular lands in question have been partitioned, and all such grazing and range restoration matters on Navajo Reservation lands shall be administered by the Bureau of Indian Affairs, Navajo Area Office, and on Hopi Reservation lands shall be administered by the Bureau of Indian Affairs, Phoenix Area Office, under applicable laws and regulations.

"(2) Surveying, monumenting, and fencing as required by subsection (b) of this section shall be completed within twelve months after the date of enactment of this subsection with respect to lands partitioned pursuant to section 4 of this Act and within twelve months after a final order of partition with respect to any lands partitioned pursuant to section 8 of this Act.

"(3) The livestock reduction program required under subsection (a) of this section shall be completed within eighteen months after the date of enactment of this subsection.".

SEC. 23. Section 23 of the Act of December 22, 1974, is amended by adding the following sentence at the end thereof: "In the event that the tribes should negotiate and agree on an exchange of lands pursuant to authority granted herein, the Commission shall make available 125 per centum of the relocation benefits provided in sections 14 and 15 of this Act to members of either tribe living on land to be exchanged to other than his or her own tribe, except that such benefits shall be available only if, within ninety days of the agreement, a majority of the adult members of the tribe who would be eligible to relocate from exchanged lands sign a contract with the Commission to relocate within twelve months of the agreement or such later time as determined by the Commission and such additional benefits shall only be paid to those actually relocate within such period.

SEC. 13. (a) Section 25(a)(4) of the Act of December 22, 1974, is amended to read as follows:

"(4) For the purpose of carrying out the provisions of section 14(b) for the period prior to October 1, 1980, there is authorized to be appropriated not to exceed $5,500,000. For the purposes of carrying out such provisions for the period commencing October 1, 1980, there is authorized to be appropriated an additional amount of not to exceed $10,500,000."

(b) Section 25(a)(5) of the Act of December 22, 1974, as amended by the Act of July 30, 1979 (Public Law 96–40), is further amended by striking the figure "$1,000,000" and inserting, in lieu thereof, the figure "$5,000,000": *Provided*, That no new budget authority for fiscal year 1980 is authorized to be appropriated.

(c) Section 25(a) of the Act of December 22, 1974, is further amended by adding at the end thereof the following new subsections:

"(7) For the fiscal year beginning October 1, 1980, and for each of the two next following fiscal years, there is authorized to be appropriated such sum, not to exceed $1,000,000, as may be necessary to carry out the provisions of subsection (c) of section 16 of this Act.

"(8) For the fiscal year beginning October 1, 1980, there is authorized to be appropriated such sum, not to exceed $350,000, as may be necessary to carry out the provisions of subsection (d)(5) of section 14 of this Act. For the fiscal year beginning October 1, 1981, and the next following fiscal year, there is authorized to be appropriated for each such fiscal year such sum, not to exceed $600,000, as may be necessary to carry out such provisions.

"(9) For the purpose of carrying out the provisions of subsection (b) of section 11 of this Act, there are authorized to be appropriated, for the period beginning October 1, 1980, such sums not to exceed, in the aggregate, $31,250,000, as may be necessary.".

SEC. 14. The Act of December 22, 1974, is amended by adding at the end thereof the following new sections:

"SEC. 27. (a) In any litigation or court action between or among the Hopi Tribe, the Navajo Tribe, and the United States or any of its officials, departments, agencies, or instrumentalities, arising out of the interpretation or implementation of this act, as amended, the Secretary shall pay, subject to the availability of appropriations, attorney's fees, costs, and expenses as determined by the Secretary to be reasonable. For each tribe, there is hereby authorized to be appropriated not to exceed $120,000 in fiscal year 1981, $130,000 in fiscal year 1982, $140,000 in fiscal year 1983, $150,000 in fiscal year 1984, and $160,000 in fiscal year 1985.

"(b) Upon the entry of a final judgment in any such litigation or court action, the court shall award reasonable attorney's fees, costs and expenses to the party, other than the United States or its officials, departments, agencies, or instrumentalities, which prevails or substantially prevails, where it finds that any opposing party has unreasonably initiated or contested such litigation. Any party to whom such an award has been made shall reimburse the United States out of such award to the extent that it has received payments pursuant to subsection (a) of this section.

"(c) To the extent that any award made to a party against the United States pursuant to subsection (b) of this section exceeds the amount paid to such party by the United States pursuant to subsection (b) of this section exceeds the amount paid to such party by the United States pursuant to subsection (a) of this section, such difference shall be treated as if it were a final judgment of the Court of Claims under such section 2517 of title 28, United States Code.

"(d) This section shall apply to any litigation or court action pending upon the date of enactment of this section in which a final order, decree, or judgment has not been entered, but shall not apply to any action authorized by section 8 or 18(a) of this Act.

"SEC. 28. The Secretary of the Interior and the Secretary of Health, Education, and Welfare, as appropriate, shall assign the highest priority, in the next fiscal year after the date of enactment of this subsection, to the funding and construction of the Hopi high school and a Hopi medical center consistent with any plans already completed and approved by appropriate agencies of the respective departments.".

MOTION OFFERED BY MR. UDALL

Mr. UDALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. UDALL moves to strike out all after the enacting clause of the Senate bill, S. 751, and insert in lieu thereof the provisions of H.R. 5262, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to amend the Act of December 22, 1974 (88 Stat. 1712; 25 U.S.C. 640d)."

A motion to reconsider was laid on the table.

A similar House bill, H.R. 5262, was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

INDIANA DUNES

Mr. PHILLIP BURTON. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 2742, relating to the Indiana Dunes National Lakeshore, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2742

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (80 Stat. 1309), as amended (16 U.S.C. 460u), is further amended as follows:

(1) A new section is added at the end thereof to read as follows:

"SEC. 20. (a) The Indiana Dunes National Lakeshore is hereby dedicated to the memory of Paul H. Douglas in grateful recognition of his leadership in the effort to protect, preserve, and enhance the natural, scientific, historic, and recreational value of the lakeshore for the use, enjoyment, and edification of present and future generations.

"(b) To further accomplish the purposes of subsection (a) of this section, the Secretary of the Interior shall designate the west unit of the lakeshore as the 'Paul H. Douglas Ecological and Recreational Unit' and shall, subject to appropriations being granted, design and construct a suitable structure or designate an existing structure within the lakeshore to be known as the 'Paul H. Douglas Center for Environmental Education' which shall provide facilities designed primarily to familiarize students and other visitors with, among other things: (1) the natural history of the lakeshore and its association with the natural history of the Great Lakes region; (2) the evolution of human activities in the area; and (3) the historical features which led to the establishment of the lakeshore by the Congress of the United States.

"(c) To inform the public of the contributions of Paul H. Douglas to the creation of the lakeshore, the Secretary of the Interior shall provide such signs, markers, maps, interpretive materials, literature, and programs as he deems appropriate.".

(2) Section 1 of the Act is amended by changing "September 1976 and bearing the number '626–91007' " to "October 1979, and bearing the number '626–91010' ".

Section 2(a) of the Act is amended by adding the following new sentence at the end thereof: "The Secretary is expressly authorized to acquire by donation, purchase with donated or appropriated funds, or exchange, lands or interests therein which are owned for school or educational purposes by a State or a political subdivision thereof.".

(4) Section 2(b) of the Act is amended by changing the phrase "section 10" to "section 9".

(5) In the first sentence of section 4 of the Act, preceding the word "February" insert: "July 1, 1977, or, in the case of improved property located within the boundaries delineated on a map identified as 'Boundary Map, Indiana Dunes National Lakeshore', dated September 1976 and bearing the number '626–91007', before".

(6) The first sentence of section 5(a) of the Act is amended to read as follows: "Except for owners of improved property within the area on the map referred to in the first section of this Act as area II–B, any owner or owners of record as of October 1, 1979, having attained the age of majority, of improved property on the date of its acquisition by the Secretary, may retain the rights of use and occupancy of the improved property for noncommercial residential purposes for a term (1) ending on his or her death or the death of his or her spouse, whichever occurs last, or

(2) for a fixed term not to extend beyond twenty-five years from the time of acquisition, or beyond September 30, 2010, whichever is earlier, or such lesser term as the owner or owners may elect at the time of acquisition by the Secretary.".

(7) Section 5 of the Act is amended by adding a new subsection (c) as follows:

"(c) With respect to improved properties acquired prior to the enactment of this subsection and upon which a valid existing right of use and occupancy has been reserved for a term of not more than twenty years, the Secretary may, in his discretion, extend the term of such retained right for a period of not more than five years upon receipt of a payment prior to September 30, 1983, from the holder of the retained right. The amount of such payment shall be equivalent to the amount discounted from the purchase price paid by the Secretary for the identical period of time under the terms of the original sale adjusted by a general index adopted by the Secretary reflecting overall value trends within Indiana Dunes National Lakeshore between the time of the original sale and the time of the retained right of extension offered by this subection.".

(8) Section 7(a) of the Act is amended by changing "ten years after the date of establishment of the national lakeshore pursuant to this Act" to "on September 30, 1985".

(9) Section 7(b) of the Act is amended as follows:

(a) by striking out "eleven members" and inserting in lieu thereof "thirteen members";

(b) by striking out "one member who is a year-round resident" in clause (4) and inserting in lieu thereof "two members who are year-round residents"; and

(c) by striking out "one member who is a year-round resident" in clause (7) and inserting in lieu thereof "two members who are year-round residents".

(10) Section 9 of the Act is amended as follows:

(a) in the first sentence, change "$9,440,000 for development" to "$16,790,000 for development: *Provided*, That not more than $500,000 of said amount may be appropriated for the development of the Paul H. Douglas Environmental Education Center authorized pursuant to section 20 of this Act."; and

(b) at the end thereof, add a new paragraph as follows:

"In addition to any sums heretofore authorized for the acquisition of lands and interests in lands pursuant to the provisions of this Act, there are further authorized to be appropriated an additional $39,500,000.".

(11) Section 17 of the Act is amended by adding the following new subsections:

"(c) With respect to the area indicated as area I on the drawing numbered MS-172D and dated April 27, 1978, the Secretary is authorized and directed to acquire, without the consent of the owner, only such interests as he deems appropriate to assure the permanent retention of the integrity of the natural resource values of such area as exists on November 1, 1979, only if such integrity is degraded or threatened with degradation by actions of the owner or agents on his behalf: *Provided*, That any acquisition by the Secretary shall not in any way diminish the ability of the owner to exclude persons or property from this area. Any type of pipe or conduit transmitting polluting or foreign material into or through area I and/or into the lakeshore on or after January 1, 1981, shall constitute reason to institute acquisition proceedings pursuant to the provisions of this subsection. In the event of such acquisition, the boundary of the lakeshore shall, concomitant with such acquisition, be extended to embrace the area acquired.

"(d) Within one year of the date of enactment of this subsection, the Secretary shall submit in writing to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive plan to assure the proper achievement and retention of the natural integrity of lands within the lakeshore in the vicinity of Cowles Bog and the 'Nipsco Greenbelt', (including proposals for mitigating actions to be taken outside the lakeshore designed to better protect the integrity of natural resources within the lakeshore) along with a detailed long-term plan for the continued monitoring of the natural resource integrity of this area of the lakeshore. A report on the results of the monitoring of the natural resource integrity shall be submitted annually to the above referenced committees through 1990, accompanied by indications of mitigating actions proposed and taken to address problems identified through monitoring activities. The Secretary shall expeditiously implement both the comprehensive plan and the monitoring plan described herein. It is the intent of Congress that the Secretary shall avail himself of all available remedies, both statutory and otherwise, that may be necessary or useful to protect the integrity of the natural resources within the lakeshore, including, where necessary, the performance of mitigating actions to be taken by responsible parties outside the lakeshore.

"(e) In the event that any interests are acquired in the area defined in subsection (c) of this section, and with respect to the acquisition of unit II-A, any such acquisition shall be subject to whatever deed reservations may be necessary to assure the full and unimpaired continued maintenance, operation, and modification of those instruments and structures existing in said unit or units as of the date of acquisition, or which may be later required by Federal law or regulation, as well as to carry out necessary environmental monitoring associated with power-generation activities. If any portion of such area or interest therein is acquired by the Secretary and if subsequent to such acquisition it is later determined by judicial decision or administrative determination that the construction, maintenance, or operation of the generating facilities in operation or under construction as of the date of enactment of this subsection will be prevented or substantially impaired, due to the lack of ownership or control over such area by the utility, the utility operator of such facilities shall have the option to purchase said area or interest therein from the Secretary at a cost equal to the amount originally paid by the Secretary to said utility for said area or interest therein.".

(12) A new section 21 is added to the Act as follows:

"Sec. 21. (a) The Secretary shall conduct a study of various modes of public access to and from the lakeshore which are consistent with the preservation of the lakeshore and conservation of energy by encouraging the use of transportation modes other than personal motor vehicles.

"(b) In carrying out the study, the Secretary shall utilize to the greatest extent practicable the resources and facilities of the organizations designated as clearinghouses under title IV of the Intergovernmental Cooperation Act of 1968 as implemented by Office of Management and Budget Circular A-95, and which have comprehensive planning responsibilities in the regions where the lakeshore is located. The Secretary shall make provision for timely and substantive consultations with the appropriate agencies of the States of Indiana and Illinois, local elected officials, and the general public in the formulation and implementation of the study.

"(c) Following the completion of the study, the Secretary shall designate a principal public entrance into the west unit of the lakeshore. The Secretary may also acquire such additional lands as he may determine are necessary to provide improved public access to the lakeshore. Such lands shall, upon acquisition, be included within the boundaries of the lakeshore.

"(d) The study shall be completed and presented to the Congress not later than September 15, 1981.

"(e) There is hereby authorized to be appropriated not to exceed $200,000 for this study.".

(13) A new section 22 is added to the Act as follows:

"Sec. 22. In exercising his authority to acquire property under this Act, the Secretary shall give prompt and careful consideration to any offer made by an individual owning property within the lakeshore to sell such property, if such individual notifies the Secretary in writing that the continued ownership of such property is causing, or would result in, undue hardship.".

(14) A new section 23 is added to the Act as follows:

"Sec. 23. (a) The Secretary may acquire only such interest in that portion of area VII-A which is described in subsection (b) as the Secretary determines is necessary to assure public access over said portion of area VII-A.

"(b) The portion of area VII-A, as designated on the map referred to in section 1, to which subsection (a) applies is a parcel of land bounded—

"(1) on the east by a line three hundred feet east of the electrical transmission line crossing area VII-A on January 1, 1979;

"(2) on the west by a line fifty feet west of such electrical transmission line; and

"(3) on the north and south by the northern and southern boundaries, respectively, of area VII-A.".

Sec. 2. Authorizations of moneys to be appropriated under this Act shall be effective on October 1, 1980. Notwithstanding any other provision of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California (Mr. Phillip Burton) will be recognized for 20 minutes, and the gentleman from California (Mr. Lagomarsino) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. Phillip Burton).

Mr. PHILLIP BURTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2742 represents the continuing work of the Committee on Interior and Insular Affairs to resolve several issues concerning the Indiana Dunes National Lakeshore. No explanation of this legislation would be complete without pointing out the countless hours that have been put into settling the difficult problems confronting this national lakeshore by our colleague, the gentleman from Indiana (Mr. Fithian). Representative Fithian has now worked on these issues for a number of years.

I would also like to commend my distinguished colleague, the gentleman from Indiana (Mr. Sharp) who has ably represented the concerns of the Indiana delegation in committee on this issue.

Our distinguished majority whip, Mr. Brademas, played a key role in our effort.

The gentleman from Indiana (Mr. Benjamin) has also brought his interest forcefully to bear before the committee.

I also wish to thank our ranking Republican on the subcommittee, Representative Keith Sebelius, who has worked constructively on this issue for several Congresses. In this most recent effort, Representative Sebelius has taken the time to revisit the lakeshore personally, and our committee bill reflects his attention to detail in the lands we have recommended for addition to the area.

Finally, I want to commend the many private persons—environmentalists who have worked for years to protect this resource.

Most notably, Tom Dustin, of the Indiana Isaak Walton League, symbolizes this selfless effort.

Mr. Speaker, this legislation essentially was incorporated in the omnibus parks bill of last year. The item got hopelessly entangled over whether or not the area should be named after or not named after a former Member of that distinguished body, Senator Paul Douglas.

Our subcommittee and the full committee struggled with this item with limited success last year. This year we decided to put this matter on suspension so that the merits only of the legislation would be before us and not be encumbered by the understandable concern of those that felt the entire Indiana Dunes should be named after Senator Douglas.

I might note that my position on the subcommittee last year and the full committee was in support of that notion. Our colleagues from Indiana have supported very significant recognition of the efforts of Senator Douglas in preserving this unique resource.

I think we have before us an adequate accommodation on that, as well as the other major issues that we had to reconcile, leaving, if you will, to the other body to see how they may change, if at all, our treatment of this matter.

Congress first recognized the important natural and recreational resources of the shoreline and associated areas along the southeastern edge of Lake Michigan in 1966, when legislation was enacted authorizing the establishment of the Indiana Dunes National Lakeshore. The area was enlarged by Congress in 1976 to include additional lands representing the spectacular dunes, biologically significant bogs, and geologically significant former shorelines and associated features which have made this area important to both recreational visitor and researcher alike.

The national lakeshore has, however, been a creature born of repeated compromises. When the Indiana Dunes was first discussed as a potential unit of the National Park System, there was a magnificent sweep of untouched countryside for tens of miles along this portion of Lake Michigan. By the time a national lakeshore was actually authorized, the area had been greatly altered by both residential and industrial development. Land values in the area were extremely high, and the Congress had the difficult task of attempting to define a viable unit of the National Park System in an area which was compromised by various forms of development.

When the Congress again considered this matter in 1976, some 3,000 acres were added to the national lakeshore. Congress also directed that the National Park Service conduct studies of certain additional areas which were not included in the lakeshore. Those studies have now been completed, and Congress has the opportunity to resolve these issues.

The committee recommended additions to the lakeshore which total some 1,435 acres. While there are a great variety of tracts of land which have been proposed for addition at various times, the objective of the committee was to recommend a limited expansion of the area which would ultimately provide the National Park Service with manageable boundaries for the national lakeshore which would best serve the dual purposes of both protecting the significant natural resources of this area and enhancing the ability of this national lakeshore to provide high quality outdoor recreation experiences.

The Indiana Dunes National Lakeshore has had a long and difficult initial phase, as the Congress has struggled to provide an adequate land base for the park while recognizing the realities of existing development in the region. The National Park Service is now in the final stages of preparing a general management plan to guide the resource protection and recreation management for this area. The committee is hopeful that, with the additional land areas provided by H.R. 2742, as well as the direction for transportation planning and other features included in this legislation, the Indiana Dunes National Lakeshore can fulfill its purposes without the need for frequent reconsideration by the Congress.

Mr. Speaker, I urge approval of the legislation.

☐ 1230

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support adoption of the bill now under consideration, H.R. 2742, to expand the boundaries of the Indiana Dunes National Lakeshore and to accomplish other objectives.

Issues associated with the Indiana dunes have remained sufficiently controversial since the initial legislation in 1966 to result in bills continuing to be introduced to resolve them. While this is not the first legislative remedy since 1966, I do hope that we have sufficiently dealt with the remaining issues by means of this bill to possibly have resolved everything for all time to most peoples' satisfaction.

Mr. Speaker, it must be pointed out that two Members of Congress whom have been particularly helpful in fashioning this bill are Mr. Fithian and Mr. Benjamin. The lakeshore lies partially in the districts of both, and they have worked hard to assist in bringing this bill to the floor. I would particularly like to single out the very admirable contributions made over many months and years to this issue by Mr. Warren Stickle, a staffman for Congressman Fithian. He has devoted a great deal of time helping to legislatively resolve problems and issues associated with the Dunes. Probably the most tenacious individual on the scene for many years has been Mr. Ed Osaan, who has so ably represented environmental interests through the Save the Dunes Council. And by no means least has been the good direction and leadership provided by our able subcommittee chairman, and ranking minority member, Phil Burton and Keith Sebelius, respectively.

Mr. Speaker, Mr. Sebelius could not be here today, but there are a number of points I am sure he would like to have made on this bill, and I share these observations.

Each of the parcels of land added to the lakeshore boundaries by this bill had a good reason for being added. The general theme was to add all those lands which are contiguous to the existing boundary and which basically retain their natural values and/or could be used to help assist the use and enjoyment of the lakeshore by their careful development. It should be noted that the bill also grants authority for the Secretary to acquire Government-owned lands which are dedicated to school purposes, an action not heretofore possible, and it is the expectation that the Secretary will try to acquire such lands expeditiously. The acquisition of such lands will help make the lakeshore a more viable operation.

The committee chose to honor the earlier and important efforts of the late Senator Paul Douglas in his battle to preserve the dunes area by dedicating the lakeshore to his memory, and by naming several prescribed features after him. I hope this will be viewed by everyone as a far preferable way to handling this matter than by changing the name of the lakeshore itself to his name—an alternative prescribed by some earlier.

Finally, there should be some mention of the acquisition and protection approach to unit II–A, the Nipsco Greenbelt. The bill's provisions on this are a result of much searching and deliberation. The underlying theme was to add to the lakeshore only those contiguous parcels of II–A which yet retain their basic natural values, and in the process to be certain that such action would in no way incumber, threaten, or reduce the opportunity for the current land owner to continue to operate his existing and publicly announced future power generation facilities. With this criteria in mind, the bill intends the immediate acquisition of part of unit II–A, and further directs the acquisition of appropriate interests or fee over area I of part of the former unit II–A parcel, should such action become necessary by the Secretary to assure adequate protection of the natural resource values of that area.

Because of specific provisions of the language on this matter, the Secretary should document the level of natural resource integrity of area I as it exists on November 1, 1979, or immediately thereafter, and he should begin immediate discussions with the Northern Indiana Public Service Co. (NIPSCO) with regard to the drainage pipe which apparently runs from outside area I and into it.

Of most critical importance is that the National Park Service, in conformance with the bill's text, set out promptly to develop and implement a professional and comprehensive monitoring system and plan for protecting the natural resource integrity of the lakeshore in the Cowles Bog/Unit II-A vicinity. This should be done with close and continual consultation with NIPSCO, and the reports submitted annually to the congressional committees should be prompt and complete. The plan and report is also to identify what mitigating actions can and should be taken by entities outside the boundaries of the lakeshore, as well.

The committee purposefully left nearly all of the existing dike outside of the lakeshore, feeling that the liability for the dike should be left with its instigator—NIPSO. The committee intended that they should be permitted reasonable access by the National Park Service, should that be required of lakeshore property, to adequately maintain the dike or take whatever action appears to be appropriate in reference to the dike, with the principal objective of properly protecting the natural resource integrity of the lakeshore.

Mr. Speaker, with those remarks, I will say no more but to urge my colleagues to support the passage of this bill.

Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. Derwinski).

Mr. DERWINSKI. Mr. Speaker, I take this time to direct questions to any member of the committee who might be helpful.

If I may have the attention of the distinguished gentleman from California (Mr. Phillip Burton), first, let me say that I am at a loss to translate a sentence in the report that we have received from our minority leader, the gentleman from Arizona (Mr. Rhodes). It states, and I quote:

> The Administration supports the major acquisition in some but not all of the features of the bill.

Mr. Speaker, could the gentleman enlighten me as to just what features of the bill the administration does not support?

Mr. PHILLIP BURTON. Not particularly, Mr. Speaker, if the gentleman will yield. I do not know that I have ever brought a bill to this floor in the area of our subcommittee on which the administration signed off on all fours.

We have been working in a bipartisan way to fashion what we think is a most defensible and reasonable bill. I wish I could do more in the way of being directly responsive.

Mr. DERWINSKI. Mr. Speaker, I have directed my inquiry just generally, but for the benefit of other Members I have one specific point that has been called to my attention by some constituents, and if there is any member of the committee or subcommittee who could help me on this matter, I would appreciate it.

This is related to the area called Beverly Shores. There is a Lithuanian ethnic community there. It includes parks, ethnic facilities, family residences, and so forth. People there are concerned as to the impact of this bill on the future of that community.

Mr. Speaker, is there any information the gentleman could give me on that?

Mr. PHILLIP BURTON. Yes, there is, Mr. Speaker, if the gentleman will yield.

Mr. DERWINSKI. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Speaker, there is some difference of opinion in terms of the people from Beverly Shores, although they have a property association that is represented to be—and this representation was unchallenged—one that represents the overwhelming majority of all the people living there, and they support the inclusion of that area in the bill.

There were one or two individuals, as I recall it—possibly three, but I think two—who expressed their disagreement on the inclusion of Beverly Shores in the bill. These are people who were residents in the area.

Mr. Speaker, I am working on the assumption that the significant majority of the people in the community affected, at least as reflected by unchallenged reports as to the legitimacy of the representation—have informed our committee that they support that provision in the bill.

Mr. DERWINSKI. Mr. Speaker, I thank the gentleman for the information.

For the sake of the Record, I wish to state that I have been advised by the Lithuanian Institute of Education that there is strong opposition to the bill, primarily because of the adverse impact on Beverly Shores, Ind.

Mr. PHILLIP BURTON. Mr. Speaker, I thank the gentleman for his information.

Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. Sharp).

Mr. SHARP. Mr. Speaker, as the Hoosier member of the Committee on Interior and Insular Affairs, I rise in support of this legislation, but I must say that the work on this bill was done primarily by the subcommittee chairman, the gentleman from California (Mr. Phillip Burton), and by the gentleman from Indiana (Mr. Fithian) and the gentleman from Indiana (Mr. Benjamin), in whose districts in Indiana the park is located.

I would simply like to indicate that the gentleman from Indiana (Mr. Fithian) hopes to be here momentarily. His airplane has been delayed. He had wished obviously to engage in this debate in support of the legislation. The gentleman has been a diligent worker on this matter ever since he arrived in the U.S. Congress. Those of us from Indiana who are eager to have a strong park are delighted with his efforts.

I particularly want to thank the chairman of the subcommittee, the gentleman from California (Mr. Phillip Burton), whose efforts really have made possible negotiating among many of these very tricky and difficult questions so that we can legitimately balance the rights and the interests of the variety of people in the area who are concerned with this park.

Mr. PHILLIP BURTON. Mr. Speaker, I thank the gentleman from Indiana (Mr. Sharp) for his kind remarks, and I yield 2 minutes to the gentleman from Illinois (Mr. Simon).

Mr. SIMON. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, let me say to my colleagues that I simply want to register support for this legislation. I was one of those, as the gentleman from California (Mr. Phillip Burton) knows, who supported naming the park for Senator Paul Douglas who fought so hard to make this park a reality.

The committee has come up with a reasonable compromise here in dedicating the park to the memory of Paul Douglas and setting up the Paul H. Douglas Ecological and Recreational Unit and the Paul H. Douglas Center for Environmental Education. The committee has called upon the Secretary, through installing markers, to let the public know of the great contribution Paul Douglas made to this park.

Paul Douglas in his last years said:

> When I was a young man, I wanted to save the world, when I got a little older, I wanted to save the Nation, and, finally, I just simply want to save the Dunes.

Mr. Speaker, this bill is a step in that direction, and I thank the chairman of the subcommittee and the chairman of the committee, as well as the gentleman from Indiana (Mr. Fithian) and the gentleman from Indiana (Mr. Benjamin), for their work. I hope the bill will be supported.

Mr. PHILLIP BURTON. Mr. Speaker, I thank the gentleman for his contribution.

Mr. Speaker, I have no further requests for time.

Mr. LAGOMARSINO. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. Myers).

Mr. MYERS of Indiana. Mr. Speaker, I thank my colleague for yielding this time to me.

Mr. Speaker, I hear discussion coming from the floor today about the naming of this park and parts of it after the late Senator Paul Douglas. What concerns me a little bit is not the fact that we name the Lakeshore for Paul Douglas, but I wonder, is this the camel's nose under the tent?

Are we eventually, 2 or 3 years from now, going to have all this park named, as it were, for Senator Douglas? Are we just going ahead and naming the entire park for Senator Douglas?

Mr. Speaker, is there any discussion of the fact that we might be advancing this concept?

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Speaker, as a long-time fan of Senator Douglas, I must affirm that I think our subcommittee and full committee have done justice to the memory of Senator Douglas. I would be indisposed to support further action. I do not want to affirm that I never would, but I would be indisposed to go further than the committee has done.

This is not an effort to seduce the people living in Indiana by taking this step as a means of laying the basis to take the further step that has been a matter of contention.

We have worked this matter out equitably, I think. The members of the committee, which was divided right down the middle on this issue 2 years ago, were all satisfied that this is a compromise or an accommodation of the conflicting values at hand, and I am quite pleased and proud of the result. I would hope that our configuration would not be altered in the Senate. That is my position.

Mr. Speaker, I hope my answer has been essentially responsive.

Mr. MYERS of Indiana. Mr. Speaker, I thank the subcommittee chairman for his response.

Mr. Speaker, my next question is this: How many different parcels that are not contiguous will be making up the Indiana Dunes National Park?

Mr. PHILLIP BURTON. Mr. Speaker, if the gentleman will yield further, they are all contiguous in this proposal.

Mr. MYERS of Indiana. They are all contiguous?

Mr. PHILLIP BURTON. Yes.

Mr. MYERS of Indiana. Mr. Speaker, I remember back in 1976, when we added about 3,000 acres to the park. At that particular time the National Park Service testified that 1,000 acres was all that was needed. This bill adds 1,435 additional acres on top of that 3,000.

Has the Park Service testified that the additional acreage is needed? Do they want these acres? I am referring to areas like Beverly Shores, which were discussed by the gentleman from Illinois (Mr. DERWINSKI).

Mr. PHILLIP BURTON. Mr. Speaker, we have constructed what I think is a vary rational proposal, one that is more limited than the one I thought we were going to be recommending on the floor, in the interest of getting bipartisan support.

I am working on the impression that if this legislation is passed unchanged, we probably will not be hearing about any further enlargement of the Indiana Dunes during the course of the service of perhaps the gentleman from Indiana, if not the gentleman from California.

□ 1240

Mr. MYERS of Indiana. Is the gentleman planning my retirement soon?

I have one more question relative to this.

As has already been testified here, I do not represent that particular area, but being a Hoosier, I am vitally concerned about the preservation of that area. My wife, as a child, lived in Chicago and as a teenager she used to go out there, and she tells me a lot about the dunes. I have visited the dunes. But I wonder about the complaint that the gentleman from Illinois (Mr. DERWINSKI) mentions about Beverly Shores and some other areas, where the land has been purchased, but the property has not been developed. Some homes and businesses are boarded up and their windows have been broken. They have been in that condition for several years. Even the Lake Shore Club, I understand, is being eroded somewhat by the wave action. There is $7 million authorized for development in this bill; are these funds going to be used to start doing something about the previously acquired property that has not been developed? Are we just going to continue to lay it to rest?

Mr. PHILLIP BURTON. It is intended that this increase for development will be used, in part, for initial developments in this area. Actually, the draft master plan called for the expenditure of a good deal more money. We decided that we would limit the amounts for development, as the gentleman sees in the bill. If this previous justified complaint that the gentleman has advanced is recognized by the National Park Service, we expect that the Agency will expend this authorization in a timely manner that makes this area more utilizable, if you will, for the people hoping to enjoy the dunes area. But we did decide we are not going to give the administration carte blanche, and we did cut back enormously on what was estimated would be their development moneys. I am not sure of the numbers, but I believe we cut 70 percent-plus out of what was anticipated might be needed for development if the tentative master plan was finally adopted. We did that as a way to alert the Park Service that we do want them to go ahead with the relevant development now, and we are going to watch with great care that they spend the money wisely and not foolishly; hence the dollars that we see placed in the bill.

Mr. MYERS of Indiana. In 1976 I opposed the acquisition of the additional 3,000 acres because the National Park Service had not used the land they had already purchased. I still feel that unless they are going to start developing this land instead of leaving it to depreciate, I am opposed to it.

The SPEAKER pro tempore. The time of the gentleman from Indiana (Mr. MYERS) has expired.

Mr. LAGOMARSINO. Mr. Speaker, I yield 3 additional minutes to the gentleman from Indiana.

Mr. MYERS of Indiana. If it is going to be a scar upon that community, I am opposed to it. But if they are going to develop it and make something out of it, that will be quite something different. I hope this committee will continue to exert its efforts and pressure on the National Park Service to use the land that they have already purchased.

Mr. PHILLIP BURTON. I appreciate the gentleman's suggestion. I am in accord with it. I might state that we tried to construct in the legislation a carrot as well as a stick. If the Park Service does not heed the gentleman's view and the view shared by my committee, they will be hearing from us, hopefully in a very effective way.

Mr. MYERS of Indiana. I thank the gentleman for his comments.

● Mr. BENJAMIN. Mr. Speaker, I rise in support of H.R. 2742. I commend the gentleman from California (Mr. PHILLIP BURTON) on his thorough preparation and development of this comprehensive bill dealing with the Indiana Dunes National Lakeshore. H.R. 2742 is a well developed proposal involving many man-hours of work and compromises. It has been the subject of protracted controversy and the fulcrum of intense competing interests.

I thank my colleague, Mr. FITHIAN, for his exceptional efforts since 1974 to provide the people of this country with one of its finest national parks. I also wish to thank Mr. SHARP of Indiana, a member of the Interior and Insular Affairs Committee, who has consistently extended himself to insure that the people we represent are best served by the bill being considered today.

In supporting H.R. 2742, I wish to address myself to two areas which I believe are critical for your proper consideration of it. The first deals with those elements that concern the development of the park for its use by people. The second regards the inclusion of certain "greenbelt" lands.

Section 12 of the bill provides for the study of various modes of public access to and from the lakeshore which are consistent with the preservation of the park and the conservation of energy by encouraging the use of transportation modes other than personal motor vehicles. Following this study a principal public entrance in the western lakeshore will be designated and the Secretary is authorized to acquire such additional lands as he may determine are necessary to provide improved access to the lakeshore.

The completion of this study is vital. Not only will it assist in defining the future relationship between the Chicago South Shore and South Bend Railroad and the Dunes National Lakeshore, but the designation of a western entrance will greatly enhance park accessibility and it would insure that those who travel to the lakeshore from the heavily populated regions of northeast Illinois and southeast Wisconsin would travel less distance in a shorter period of time to enjoy the park which should not be the private reserve of those in Indiana.

The implementation of this provision will lead to the full utilization of the park from its far western boundry abutting the great industrial resources of Lake County to Mount Baldy in the east.

The Nipissing addition of approximately 148 acres will preserve these unique wetlands unaltered.

The expansion of the Advisory Commission from 11 to 13 to include an additional representative from Gary and Michigan City respectively will enhance urban representation.

The increase of the developmental ceiling from $9.4 million to nearly $16.8 million will allow us to begin the careful development of this natural treasure in a manner consistent with the natural and recreational value for which it was established.

The inclusion of certain "greenbelt" lands is dealt with in section 11 of the bill.

I would have preferred that these lands not be included in the legislation.

However, Chairman BURTON and the committee believed that it was important to preserve these unaltered lands within the park. When I became aware of the chairman's decision I approached Mr. BURTON and he permitted me to address the subcommittee prior to their markup of this bill.

At all times prior to the markup, the Chairman and Mr. FITHIAN stressed their sincere conviction that inclusion of these lands in the Lakeshore and the construction of the Bailly Nuclear Generating Station I were distinct and independent questions; that the questions of including lands in the park and the construction and operation of the Bailly Station I should and do not affect the consideration of the merits of the other. The major advocate of the inclusion of the Greenbelt, the Save the Dunes Council has always maintained that its inclusions does not and would not be used to adversly affect the construction or operation of the generating station.

At the time of markup I sought to assure that the Chairman's position and the intent of the legislation were absolutely consistent by asking that the following provisions be included in the legislation prior to it's report by the full committee:

First. Inclusion of statutory language guaranteeing NIPSCO those rights of access and unprohibited use of the existing meterological tower and instrument box and the area immediately adjacent thereto which is necessary for their maintenance and operation and which conform to the requirements imposed by the NRC for the construction and operation of the plant.

Second. Inclusion of statutory language making these takings conditional to later reversion to the Northern Indiana Public Service Co. (NIPSCO) if any subsequent judicial decision or administrative determination prevents construction or operation of the plant because these parcels are not owned or subject to the control of NIPSCO.

Third. Inclusion of statutory language which would allow the company to repurchase those areas—and only those areas—subject to any aforementioned determination. The price is to be that paid by the Department of Interior at the time of initial take.

Following my remarks, Messrs. BURTON and FITHIAN again stressed their commitment that the inclusion of these lands in the park should not deter, delay, or present—in any way—the construction or operation of the Bailly Station I.

The Chairman further confirmed his position by causing section 11 of this bill to be amended in accord with the recommendations of the Nuclear Regulatory Commission.

These amendments safeguard northern Indiana Public Service Co.'s right to "control" activities within the north-south inclusion, maintain the necessary rights of access to the meterological tower for purposes of operation and maintenance, and they provide for the reversion of the properties to the corporation should any subsequent litigation prevail because of the passage of this bill.

At the conclusion of my remarks I will insert and make a part of the RECORD the original subcommittee version of section 11 and the amended committee version.

While I am convinced that the legislative language implements the intent of the committee, since a specific written reponse was not received from the Nuclear Regulatory Commission detailing exact language, I support the bill with the reservation and request that the Senate carefully examine the language regarding the north-south corridor, access to the tower and instrument box and the revision provision.

I would also urge our colleagues to examine the merits of making the revision contingent on the filing of any intervenor's petition based on the inclusion of these lands, since litigation in this area is often initiated with the intention of delaying—not prevailing.

I am also including herein the inquiry directed to the NRC by Congressman FITHIAN and myself and its response thereto.

My support of H.R. 2742 should not be construed as an absolute endorsement of the Bailly Generating Station I. My intention is to maintain the integrity of the two questions and to guarantee that the actions taken today do not, directly or indirectly, impact on Bailly Station I tomorrow.

I appreciate the resource represented by the Indiana Dunes National Lakeshore. It is a fine park administered by an exceptional staff headed by superintendent James R. Whitehouse.

It will contribute much to our area. It is an institution that will bring lasting happiness to the people of our land.

I commend it to you and ask for your support.

SECTION 11 OF H.R. 2742 AS REPORTED BY THE SUBCOMMITTEE ON NATIONAL PARKS AND INSULAR AFFAIRS, OCTOBER 19, 1979

Section 17 of the Act is amended by adding the following new subsections:

'(c) With respect to the area indicated as area I on the drawing numbered MS–1720 and dated April 27, 1978, the Secretary is authorized and directed to acquire, without the consent of the owner, such interests as he deems appropriate to assure the permanent retention of the integrity of the natural resource values of such area as exists on November 1, 1979, only if such integrity is degraded or threatened with degradation by actions of the owner or agents on his behalf. In the event of such acquisition, the boundary of the lakeshore shall, concomitant with such acquisition, be extended to embrace the area acquired.

'(d) Within one year of the date of enactment of this subsection, the Secretary shall submit in writing to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive plan to be expeditiously implemented to assure the proper achievement and retention of the national integrity of lands within the lakeshore in the vicinity of Cowles Bog and the "Nipsco Greenbelt", (including proposals for mitigating actions to be taken outside the lakeshore designed to better protect the integrity of natural resources within the lakeshore) along with a detailed long term plan to be expeditiously implemented for the continued monitoring of the natural resource integrity of this area of the lakeshore. A report on the results of the monitoring of the natural resource integrity shall be submitted annually to the above referenced Committees through 1990, accompanied by indications of mitigating actions proposed and taken to address problems identified through monitoring activities.'.

SECTION 11 OF H.R. 2742 AS REPORTED BY THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, OCTOBER 24, 1979

Section 17 of the Act is amended by adding the following new subsections:

(c) With respect to the area indicated as area I on the drawing numbered MS–172D and dated April 27, 1978, the Secretary is authorized and directed to acquire, without the consent of the owner, only such interests as he deems appropriate to assure the permanent retention of the integrity of the natural resource values of such area as exists on November 1, 1979, only if such integrity is degraded or threatened with degradation by actions of the owner or agents on his behalf: *Provided*, That any acquisition by the Secretary shall not in any way diminish the ability of the owner to exclude persons or property from this area. Any type of pipe or conduit transmitting polluting or foreign material into or through area I and/or into the lakeshore on or after January 1, 1981, shall constitute reason to institute acquisition proceedings pursuant to the provisions of this subsection. In the event of such acquisition, the boundary of the lakeshore shall, concomitant with such acquisition, be extended to embrace the area acquired.

(d) Within one year of the date of enactment of this subsection, the Secretary shall submit in writing to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive plan to assure the proper achievement and retention of the natural integrity of lands within the lakeshore in the vicinity of Cowles Bog and the "Nipsco Greenbelt", (including proposals for mitigating actions to be taken outside the lakeshore designed to better protect the integrity of natural resources within the lakeshore) along with a detailed long term plan for the continued monitoring of the natural resource integrity of this area of the lakeshore. A report on the results of the monitoring of the natural resource integrity shall be submitted annually to the above referenced Committees through 1990, accompanied by indications of mitigating actions proposed and taken to address problems identified through monitoring activities. The Secretary shall expeditiously implement both the comprehensive plan and the monitoring plan described herein. It is the intent of Congress that the Secretary shall avail himself of all available remedies, both statutory and otherwise, that may be necessary or useful to protect the integrity of the natural resources within the lakeshore, including, where necessary, the performance of mitigating actions to be taken by responsible parties outside the lakeshore.

(e) In the event that any interests are acquired in the area defined in subsection (c) of this section, and with respect to the acquisition of unit II–A, any such acquisition shall be subject to whatever deed reservations may be necessary to assure the full and unimpaired continued maintenance, operation and modification of those instruments and structures existing in said unit or units as of the date of acquisition, or which may be later required by federal law or regulation, as well as to carry out necessary environmental monitoring associated with power generation activities.

If any portion of such area or interest therein is acquired by the Secretary and if subsequent to such acquisition it is later determined by judicial decision or administrative determination that the construction, maintenance, or operation of the generating facilities in operation or under construction as of the date of enactment of this subsection will be prevented or substantially impaired, due to the lack of ownership or control over such area by the utility, the utility operator of such facilities shall have the option to purchase said area or interest therein from the Secretary at a cost equal to the amount originally paid by the Secretary to said utility for said area or interest therein.

House of Representatives,
Washington, D.C., October 22, 1979.
Mr. Lee Gossick,
Nuclear Regulatory Commission,
Washington, D.C.

Dear Mr. Gossick: We are writing to you concerning the proposed legislation to include the so-called NIPSCO Greenbelt (section II–A) in the Indiana Dunes National Lakeshore Park, as recommended by the National Parks and Insular Affairs Subcommittee, chaired by Congressman Philip Burton, on Friday, October 19. The subcommittee has recommended that parcels numbered 41, 10, 42, 43, and one-half of 32 (on map numbered MS–1720 and dated April 27, 1978) be included in the lakeshore—an acquisition of fifty-seven acres.

We firmly believe that the potential acquisition of the NIPSO Greenbelt and the proposed construction and operation of the Bailly Nuclear Generating Plant No. 1 in Chesterton, Indiana, are two separate and distinct issues which must be resolved on their own merits or demerits. In 1976, the Nuclear Regulatory Commission issued an opinion that the acquisition of the greenbelt under the conditions of the Ruppe amendment did not directly or indirectly hamper the construction or operation of the plant. Now, we seek further clarification of the impact that H.R. 2742, as amended by the subcommittee, will have on the plant.

The intent of H.R. 2742 and the subcommittee action was that the inclusion of the acreage in the greenbelt would not directly or indirectly, affect the issuance or granting of any permits, licenses, or other necessary approvals for the construction or operation of the Bailly Nuclear Plant No. 1 in Chesterton, Indiana. We respectfully request a written communication from the Nuclear Regulatory Commission detailing in a specific and comprehensive manner the effect that these fifty-seven acres would have on the issuance or granting of any permits, licenses, or other necessary approvals for either construction or operation of the plant, now or in the future.

We also request a similar written opinion on the effect that the original NIPSCO Greenbelt, as defined by the National Park Service study submitted to the Congress on July 1, 1977 (a total of ninety-two acres) would also have on the construction and operation of the nuclear plant. We also ask that you comment on the possibility of preventing construction and operation of Bailly I by civil litigation initiated by a nongovernmental entity and what, if any posture, your agency would assume.

Although we both oppose the inclusion of statutory language concerning the so-called north-south arm (a strip 300 feet wide and 800 feet long adjacent to the existing park and section 43 of the greenbelt), the subcommittee included an amendment to section 17 of the act concerning this parcel. This statutory language has been sent to your office under separate cover. Does the potential inclusion of the north-south arm interfere, directly or indirectly, with the exclusion zone necessary for the construction and operation of the plant? We respectfully request a written statement regarding any effect the "conditional" inclusion of this amendment would have on the issuance or granting of any permits, licenses, or other necessary approvals for the construction and operation of the Bailly Nuclear Generating Plant No. 1.

If there is any possibility that this language might adversely impact on the plant or its construction, we would request corrective suggestions to remove any such possibility of any indirect or direct interference between the potential National Park Service acquisition of this land and the construction and operation of the nuclear plant.

It is also our intent that the company have full and complete access to and utilization of the Meteorological Tower and the Instrument Box located in section 43 of the greenbelt. Do the language in the 1976 legislation (regarding access to existing structures and easements for facilities) and the subcommittee report language adequately guarantee the company's use of these facilities? This subcommittee language was forwarded to your office under separate cover.

We both prefer that language incorporating the intent of this subcommittee report language be included as statutory language, and would welcome any suggestions and recommendations that the Nuclear Regulatory Commission has for possible revision of this language. It is our intent that the company be granted maintenance and operations of these facilities and that the acquisition of section 43 would conform to the requirement imposed by the NRC for the construction and operation of the plant.

We favor the inclusion of statutory language making this fifty-seven acre acquisition conditional to later reversion to NIPSCO if any future judicial decision or administrative determination would prevent construction or operation of the plant because these parcels are not owned or subject to the control of NIPSCO. In addition, we believe that under these conditions, NIPSCO should be allowed to repurchase those areas—and only those areas—at the price paid by the Department of Interior at the time of the initial acquisition. We specifically request your office's legal assistance in drafting suitable language which achieves these goals and conforms to the requirements imposed by the NRC for the construction and operation of the plant.

We greatly appreciate your help and assistance in resolving these important questions and look forward to working with you on these matters. Since the full committee mark-up is now scheduled for Wednesday morning, October 24, it is imperative that we receive a response to these matters before this date.

Sincerely yours,
Floyd Fithian,
Member of Congress.
Adam Benjamin,
Member of Congress.

Nuclear Regulatory Commission,
Washington, D.C., October 25, 1979.
Hon. Adam Benjamin,
U.S. House of Representatives,
Washington, D.C.

Dear Congressman Benjamin: Your letter dated October 22, 1979, requested NRC's views and opinions on a number of matters related to the proposed legislation to acquire additional lands for the Indiana Dune National Lakeshore Park. This letter documents the telephone discussion of October 23rd on these matters between our respective staffs and the NRC review of the enclosed draft of the amendment to Section 17 of the Act.

With regard to area II–A which consists of the parcels numbered 41, 10, 42, 43 and the northwestern half of parcel 32 as shown on the map numbered MS–172D, dated April 27, 1978, it is our understanding that this land is to be acquired subject to the following two deed reservations:

1. All instrumentation related to meteorological monitoring, construction dewatering and ecological monitoring related to power generation (i.e., both construction and operation) should be accessible for operation and maintenance and replacement as necessitated by obsolescence or acts of God or man.

2. Dewatering effects resulting from construction activities by NIPSCO are to be assessed at the existing site boundary.

These same deed reservations should also apply to the land identified in the proposed legislation as area I, per MS–172D.

The proposed acquisition of the fifty-seven acres (area II–A) would have no effect on the issuance or granting of any permits, licenses or other necessary approvals for either construction or operation of the Bailly facility in accordance with the present rules and regulations of the NRC, provided that the suggested deed reservations are included in the statute and in the committee report on the legislation. Regarding the inclusion of the original NIPSCO Greenbelt in the proposed legislation as defined in the National Park Service report submitted to the Congress on July 1, 1977, we conclude that inclusion of this larger area (i.e., the ninety-two acre Greenbelt studied by the NPS) into the National Lakeshore would not adversely affect the licensing of the Bailly facility, provided that the deed reservations suggested above are also applicable.

Our conclusions and opinions are based upon our review of the draft amendment to the act (Enclosure) and our interpretation of our current rules, regulations and practices. In reaching our conclusions, we have considered the intent of the proposed legislation, the need for environmental monitoring and maintenance of an exclusion area boundary to protect the public health and safety, in addition to a number of subsidiary factors.

It is impossible for us to respond with assurance to your inquiry regarding the prevention of construction or operation of the Bailly plant by civil litigation initiated by a non-governmental entity. However, if the language of the legislation and its legislative history is clear that its intent is not in any way to impede the industrial growth on privately held land beyond the Lakeshore boundaries, we believe the litigation posture of the NRC would be greatly enhanced.

In response to your question whether inclusion of the north-south arm (i.e. area I of map M–172D dated April 27, 1978) would interfere, directly or indirectly, with the exclusion zone necessary for the construction and operation of the Bailly facility, the answer is yes. However, the deed reservations discussed above, with one addition, would address this issue. This additional deed reservation would be as follows:

3. Maintenance of NIPSCO's authority to determine all activities including the exclusion and removal of personnel and property from the area should be allowed.

Accordingly, the "conditional" inclusion of Area I in the proposed legislation would have no effect on the licensing of the Bailly facility if the deed reservations discussed above are included in the statute and in the language of the committee report.

We conclude that these proposed deed reservations would address our licensing concerns in the language of the 1976 legislaton regarding the NIPSCO Greenbelt.

If you have any further questions regarding these matters, please feel free to call upon either me or the members of my staff.

Sincerely,
Lee V. Gossick,
Executive Director for Operations.●

Mr. BRADEMAS. Mr. Speaker, I rise in support of H.R. 2742, legislation to expand the boundaries of the Indiana Dunes National Lakeshore.

Mr. Speaker, the Indiana Dunes, on the shores of Lake Michigan in northwestern Indiana, have been highly prized by Midwesterners for many decades.

In 1966, Congress, seeking to protect and preserve this valuable natural resource of dunes, beaches, and wetlands, enacted legislation to create the Indiana Dunes National Lakeshore, an 8,300-acre national park.

Three years ago in 1976, Congress further authorized the addition of 3,660 acres to the national lakeshore.

Mr. Speaker, since its establishment, the Indiana Dunes National Lakeshore has had one of the largest visitor increases of any area within the entire National Park System. A population of 10 million lives within 100 miles of the national lakeshore. Since the beginning of this year alone, 1¼ million people have visited the national lakeshore.

Increasing numbers of students and faculty are also looking to the national lakeshore as an important and unique resource for environmental education.

Mr. Speaker, the national lakeshore's increasing popularity has led to daily overcrowding of some beaches and dunes areas. Meanwhile, other areas of the park remain underutilized because of lack of visitor access.

I urge my colleagues, in recognition of the need to improve access to the national lakeshore, while continuing to insure the park's natural integrity, to support the expansion of the national lakeshore's boundaries as authorized by H.R. 2742.

Under this bill seven major areas, totaling 1,434 acres would be added to the national lakeshore.

Mr. Speaker, the Beverly Shores additions, areas III-A and III-C, which are in part, included in the congresional district I have the honor to represent, are vital to the development of the entire eastern end of the national lakeshore. The so-called island, some 650 acres surrounded on all four sides by the present park area, contains deep wooded ravines, broad expanses of marshlands, and commanding dune bluffs overlooking Lake Michigan. Yet this same area, if not taken into the national lakeshore by this bill, will pose a virtually insurmountable obstacle to the preservation of the lakeshore and its development for visitor use.

Mr. Speaker, visitor access to the eastern end of the national lakeshore presents substantial economic opportunity for the city of Michigan City, Ind., which is part of the district I represent. Park acquisition of areas III-A and III-C will not only resolve an uncertain and untenable situation for the residents of Beverly Shores but will, with the other additions authorized under this bill, particularly the campground and Mt. Baldy areas, areas III-D and III-C, secure the basic park resources so important for emerging tourist and service industries in Michigan City and other surrouding communities.

Mr. Speaker, I urge my colleagues to support the other major provisions of H.R. 2742, including provisions for 25-year leasebacks or life tenancy for those homeowners within the added areas, a transportation study to reduce dependence on automobile access to the national lakeshore, and the dedication of the park and the naming of a new environmental education center for the late distinguished Senator Paul H. Douglas of Illinois, who played a leading role in the establishment of the Indiana Dunes National Lakeshore.

Mr. Speaker, I warmly commend my distinguished colleague from Indiana, Mr. FITHIAN, for his sponsorship of this important bill. I urge my colleagues to support H.R. 2742, authorizing additions of land to the Indiana Dunes National Lakeshore, additions which will be of great benefit not only to my constituents in northern Indiana but to the citizens of the entire Midwest.

● Mr. UDALL. Mr. Speaker, it is with special pleasure today that I rise in support of H.R. 2742, which would expand the Indiana Dunes National Lakeshore. I was the floor manager of the very bill that created the lakeshore, and have visited this remarkable landscape several times.

The bill we are considering today is a good, balanced bill. By enlarging the lakeshore, it helps to realize the vision of a man for whom I had the deepest personal affections and respect, the late Senator Paul Douglas. We are not proposing to acquire all the lands that some have urged us to acquire, but we are intent on protecting those lands necessary to insure the environmental and management integrity of this lakeshore. It does so in a manner that protects the rights and security of homeowners in the area; in fact, it guarantees them more favorable terms than are presently available to them. We have taken special pains to guard the rights and interests of commercial and industrial property owners as well.

Mr. Speaker, there are few public recreation issues with as long and difficult a history as the Indiana Dunes. And certainly, no bill will ever offer a perfect path to untangling the many complex conflicts in this issue. But I believe that this bill is as excellent and as final a solution as we are likely to achieve. With this step, I think we can leave the Lake Michigan community, our Nation and future generations a unique and outstanding opportunity for urban recreation of which we can all be proud.●

● Mr. FITHIAN. Mr. Speaker, I rise today to support H.R. 2742, a bill to finalize the boundaries of the Indiana Dunes National Lakeshore Park and end the controversy that has divided northern Indiana for almost two decades. I want to express my appreciation to the Interior Committee, and to subcommittee Chairman PHILLIP BURTON for expeditiously moving this legislation.

I believe this legislation will enhance the ability of the National Park Service to preserve the significant natural values of the region, to provide high-quality recreational opportunities, to enlarge the homeowners' rights, and to allow much needed industrial growth and development.

The legislation includes 1258 acres, including the Beverly Shores "Island," the highway 12 strip, the Nipsco Greenbelt, and other lands, and authorizes $39.5 million for land acquisition and $7.35 million for park development. The funds for land acquisition will come from the land and water conservation fund, not from the U.S. Treasury, and are essentially derived from royalties on offshore oil rights—a means of replacing one natural resource with another. It is estimated that these funds would be spent at a rate of 17 percent the first year, 33 percent the second and third years, and 17 percent the fourth year. For land development, the funds will be spent in 5 fiscal years, with 6 percent disbursed in each of the first 2 years, and about 29.3 percent in each of the remaining years.

In 1966, the Congress enacted legislation to preserve the Indiana Dunes and establish the Nation's first urban national park. Ten years later legislation which I sponsored authorized an expansion of the Indiana Dunes park by nearly 4,000 acres but deferred action on three parcels pending a study by the National Park Service. The Park Service submitted its study to Congress on July 1, 1977. Senator BAYH, Senator LUGAR, and I introduced similar bills in 1978 incorporating these areas during the 95th Congress. This legislation passed the Senate in 1978 but unfortunately, there was not enough time for the House to act in the waning days of the session. In March 1979, Senator BAYH, Senator LUGAR, and I introduced similar legislation. The House subcommittee held hearings this summer and marked up the legislation in early October. Today's action by the House of Representatives completes my effort to resolve the boundaries of the Indiana Dunes National Lakeshore Park.

This legislation provides for inclusion of the Beverly Shores "Island," a 652-acre, low density population area. In fact, over 500 acres of this parcel are unimproved lands readily available for park use. The acquisition of this "island" would insure the preservation of this unique area, would facilitate development and management of the lakeshore, and would elimiate conflicts between park visitors and local residents. These lands are needed to promote the optimum utilization of the eastern portion of the lakeshore. Continuity of the high dune bluff, interdunal ponds, and wetlands in this portion of the lakeshore is disrupted by the "island." The inclusion of the "island" would facilitate the recreational development of the area, prevent noncompatible land use, and preserve a unique ecosystem for public use.

Although the acquisition of Beverly Shores may be expensive, its present inclusion is prudent and fiscally responsible. Since I am convinced that it will be necessary to add this "island" at some time, I believe it is imperative that we begin as soon as possible. By acting swiftly, we can combat rapidly escalating land and property values, fight inflation, and save the taxpayers some hard-earned dollars. Conversely, this acquisition will result in reduced Federal spending and void the need for any multimillion dollar plans for erosion control along the beach at Beverly Shores.

The acquisition of the Highway 12 strip would complete 6.7 miles of continuous frontage and would greatly enhance the scenic beauty of the area.

Since this acreage is inexorably linked to the "island," I am pleased that it was also included in this legislation.

The acquisition of 57 acres of the Nipsco Greenbelt would facilitate comprehensive management by the National Park Service. It would establish a definite boundary for the lakeshore without bisecting ponds and wetlands, would preserve the environmental integrity of the area, and would protect Cowles Bog, a national natural landmark. This addition includes 57 acres of unspoiled wetlands, and resolves all conflicts concerning the park expansion legislation and the proposed construction of the Bailly nuclear generating plant No. 1.

For many years, opponents and proponents of the plant have alleged that there was a conflict between park expansion and the nuclear plant. I firmly believe that these two issues are independent of each other and can and must be resolved on their own merits or demerits.

Since I came to Congress I have worked to keep these issues separate. In drafting the 1975 park legislation, I consulted with Nuclear Regulatory Commission officials, and I consulted them again when the legislation passed the House. On both occasions, the NRC indicated that there was no conflict between park acquisition of the Nipsco Greenbelt and the construction and operation of the Bailly plant.

In fact, Nipsco offered to donate the entire IIA—Greenbelt—section as a scenic easement in its initial 1975 position, but later withdrew the offer. The House passed a bill including the IIA area in the park. The Senate, however, referred the Greenbelt to a study commission, as a result of which it remains an issue in this year's legislation to complete the park boundaries left uncertain in 1976.

Prior to 1979 subcommittee consideration, I again consulted NRC officials about the impact of the proposed inclusion of 57 acres of Nipsco wetlands. After many discussions and some specific language recommendations from NRC, the legislation was approved by the House Interior and Insular Affairs Committee on October 24, 1979.

In the words of the Nuclear Regulatory Commission, adding the 57-acre Nipsco Greenbelt to the park, "would have no effect on the issuance or granting of any permits, licenses, or other necessary approvals for either construction or operation of the Bailly facility." Once again, as in 1975 and 1976, the NRC has declared clearly that there is no conflict between park acquisition and the nuclear plant. I ask that these letters be included in the RECORD.

The legislation takes into consideration all possible areas of conflict. It allows the company to maintain its dike, enlarge its substation capacity, build its transmission lines, access its meteorological tower, and enhance its security for the facility. It provides for flexibility in responding to future changes in laws or regulations for nuclear plants. Most importantly, it includes a reversion clause. If some future judicial or administrative mandate should impede the construction or operation of the plant because land taken by this legislation was no longer owned by or subject to Nipsco's control, then the land would revert to the company at the price the National Park Service had originally paid for it. This provision, of course, is the ultimate separation of the two issues.

The NRC statement and the language of this legislation should, for all reasonable people, put to rest allegations that the bill impacts in one way or the other on Bailly. There has not, in fact, been conflict between park expansion and the nuclear plant and there is none now.

Besides including the three study areas, the subcommittee approved a National Park Service recommendation to include other areas, especially the 64-acre parcel in Dune Acres and the 181-acre old Beverly Shores golf course, south of highway 12. I have said frequently that I am opposed to the inclusion of any acreage outside the 1977 study areas, and I am deeply disappointed that the subcommittee did not exclude these other areas from the bill. I am particularly concerned that the inclusion of the Dune Acres section will prevent much needed growth and development of the community, and will undermine the tax base for the town. I am hopeful that the Senate and the conference committee will delete these land acquisitions in Porter County.

H.R. 2742, as revised by the Interior Committee, improves and modifies the homeowner provisions previously included in the 1976 legislation. First, the bill extends the leaseback period from 20 to 25 years. Second, it establishes a life estate so that all residents can retain the use and occupancy of their home until the death of owner and his other spouse. Third, it designates a fixed date of September 30, 2010, when all leasebacks (except life estates) will terminate. This date establishes a 30-year period for local residents to work out the acquisition of their property with the National Park Service and allows for the orderly acquisition of these lands. Fourth, it allows for the extension of existing reservations of use and occupancy which do not exceed 20 years in length for all lakeshore residents, including those who received leasebacks under the 1966 and 1976 legislation. This extension up to 25 years must be secured prior to September 30, 1983, by paying an additional amount to be equivalent in value to that paid for a similar period at the time of the original acquisition. Fifth, it establishes a cutoff date of July 1, 1977, for the construction of all improved properties acquired under this legislation. Homes built after this date will not be eligible for a use and occupancy permit.

I am disappointed that the subcommittee and full Interior Committee did not provide an exemption from condemnation for the homeowners at Indiana Dunes. Homeowners enjoyed these rights of noncondemnation from 1966 to 1976, and the arbitrary revoking of these rights was unfair and discriminatory. I believe that the Congress and the National Park Service should not have changed the rules in the midstream of park acquisition, for it is necessary that all park residents be treated on a fair and equitable basis. There is widespread public support for this exemption from condemnation, and I am disappointed that the House committee did not include this provision in the amended H.R. 2742.

This legislation encourages the establishment of a community council, an intergovernmental forum for the discussion of mutual programs and problems, including such important aspects as police and fire protection, litter and garbage collection, traffic coordination, zoning regulations, and so forth. This council will encourage better communications between the local communities and the National Park Service and facilitate the resolution of mutual problems.

Another important aspect of H.R. 2742 that is extremely important to me is the dedication of the park to the late Senator Paul H. Douglas of Illinois. During the 95th Congress there were numerous efforts to rename the entire park for the late Senator. Admittedly, there would not be a national park for Indiana Dunes without his efforts, and no one, either in Indiana or Illinois, denies his important contributions to preserving the Indiana Dunes.

There are, however, many people who are opposed to renaming the park for Senator Douglas, including myself. Most of the Indiana congressional delegation is opposed, as are thousands of Hoosier citizens. The Governor of the State, elected officials, and community leaders are opposed. Newspapers in Illinois and Indiana have editorialized against renaming the park. Leading environmental groups, such as the Save the Dunes Council, are opposed. Lastly, the National Park Service and Department of the Interior are strongly opposed to renaming any monuments or national parks for specific individuals. National parks should bear the name associated with the region and its historical identity—in which case, the name should be Indiana Dunes.

An important question remains. I believe the entire park should not and will not be renamed for Senator Douglas. But how can we as a Nation recognize his lasting contribution to Indiana Dunes? I am hopeful that the provisions of H.R. 2742 will satisfy those who correctly desire to honor the memory of Senator Douglas. This legislation would dedicate the entire park to Senator Douglas. It would further designate the West Beach unit as the Paul H. Douglas Ecological and Recreation Area, authorize funds for the development of the Paul H. Douglas Center for Environmental Education, and require that the National Park Service publicize Douglas' contribution to the Indiana Dunes. I believe that these provisions are an acceptable compromise that will recognize Douglas' preservation efforts without renaming the entire park.

Visitors to the Indiana Dunes National Lakeshore Park have substantially increased in the last few years, and in 1978 reached 1.1 million for the first time. Last year the West Beach unit opened, and about 10,000 to 12,000 visitors per week are using these excellent beach facilities. During the first 6 months of 1979, park visitors increased by 81 percent and could approach almost 2 million by the end of the year. The acquisition of Beverly Shores and other areas in H.R. 2742 would stimulate interest in the Indiana Dunes and make this important natural resource available to the general public.

The struggle to save the Indiana dunes has been a long, hard-fought battle, a battle in which the Congress has played a leading role. We cannot afford to abandon the hopes and dreams of millions of our fellow Americans and become complacent about the Dunes. We must remain steadfast in our determination that future generations will, indeed, have a park to use and enjoy. It is a promise that we have made, not only to ourselves, but to the future generations of Americans.●

● Mr. QUAYLE. Mr. Speaker, I would like to go on record concerning H.R. 2742, the Indiana Dunes expansion bill. While I support the concept of expanding the national lakeshore at the Indiana Dunes, I have several reservations concerning this particular piece of legislation.

I, as a Hoosier, object to dedicating the park in memory of former Congressman Paul H. Douglas, a resident of Illinois. For years the city of Chicago and that city's politicians, Douglas, in particular, have looked eastward to Indiana for consumers, workers, and, now, recreation since the Chicago beaches are polluted and overcrowded.

We Hoosiers cannot place a gate at the entrance to Indiana and prohibit admittance to Chicagoans or Illinois politicians, that would serve no just purpose. But we can put our foot down when it comes to naming our parks after an Illinois politician. The Dunes properly belongs to Hoosiers, and we will not stand by while it is given the name of someone other than a native of our proud State.

In H.R. 2742, there was a concession made to Indiana. The park was "merely" dedicated to Paul Douglas, but not named after him. Instead, a $500,000 "environmental education" center at the west end of the park will be named in his honor. I only hope that this is not one step toward the final goal of naming the entire park after Douglas. If that is the case, we can look forward to the Paul Douglas West End Beach, the Paul Douglas Dunes Bog, the Paul Douglas Picnic Area, the Paul Douglas (Michigan) Lake, the Paul Douglas Dunes Park, and, finally, the Paul Douglas National Lakeshore.

It is also of concern that the rights of Beverly Shores residents are adequately considered as the Park Service moves ahead to expand the lakeshore park. The 300 residents of this 650-acre island surrounded by public property deserve to be protected against overzealous Park Service acquisition. In past instances property has been boarded up for years after the Government insisted it was immediately necessary for development. I sincerely hope that the National Park Service and the Department of the Interior avoid buying more property than it can use at one time.

It is also my wish that the Park Service act expeditiously and wisely in purchase of this property. I understand that the bill includes $39.5 million to acquire nearly 1,500 acres of territory to include in the park; however, estimates on the cost of obtaining Beverly Shores alone reach $50 million. I would hate to saddle American taxpayers with a bill of that magnitude for the purchase of beach property, when we have more pressing needs—like balancing the Federal budget and stemming inflation. This is a poor way to start.

Finally, I hope that the arguments concerning the inclusion of the 60-acre "greenbelt" which insulates an industrial area from the present park boundary in the park are separated from the question of building a nuclear powerplant at Bailly Station, just west of the greenbelt. The expansion of the park and the development of a nuclear powerplant are two separate issues and should remain so.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. PHILLIP BURTON) that the House suspend the rules and pass the bill, H.R. 2742, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ANNUITY PAYMENTS TO FEDERAL JUDGES

Mrs. SPELLMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2583) to amend chapter 83 of title 5, United States Code, to discontinue civil service annuity payments for periods of employment as a justice or judge of the United States, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2583

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8344 of title 5, United States Code, relating to annuities and payment on reemployment, is amended by adding at the end thereof the following new subsections:

"(f) Notwithstanding the provisions of subsection (a) of this section, if an annuitant receiving annuity from the Fund, except a Member receiving annuity from the Fund, becomes employed as a justice or judge of the United States, as defined by section 451 of title 28, annuity payments are discontinued during such employment and are resumed in the same amount upon resignation or retirement from regular active service as such a justice or judge.

"(g) A former employee or a former Member who becomes employed as a justice or judge of the United States, as defined by section 451 of title 28, may, at any time prior to resignation or retirement from regular active service as such a justice or judge, apply for and be paid, in accordance with section 8342 (a) of this title, the amount (if any) by which the lump-sum credit exceeds the total annuity paid, notwithstanding the time limitation contained in such section for filing an application for payment.".

Sec. A present or former justice or judge of the United States, as defined by section 451 of title 28, United States Code, who, prior to the effective date of this section, voided his right to receive an annuity under subchapter III of chapter 83 of title 5, United States Code, by applying for and receiving a refund of his lump-sum credit while serving as such a justice or judge may, upon application filed with the Office of Personnel Management within one year following the effective date of this section, redeposit such refund with interest computed under section 8334(e) of such title 5 and thereby reestablish his right to receive an annuity under such subchapter effective on the date he otherwise was eligible to receive an annuity. The surviving spouse of any such justice or judge who dies before the effective date of this section may apply to make such redeposit within one year following the effective date of this section and receive both (1) the amount of the annuity which the justice or judge would have been entitled to receive before his death had application been made by him for the annuity and (2) any survivor annuity the justice or judge could have provided under the provisions of law in effect at the time of separation from the service on which title to the annuity is based.

Sec. 3. (a) The provisions of this Act shall take effect on—

(1) the date of the enactment of this Act, or

(2) October 1, 1979.

whichever date is later.

(b) The provisions of subsection (f) of section 8344 of title 5, United States Code, as added by the first section of this Act, shall apply only to an individual who becomes employed as a justice or judge of the United States on or after the effective date of this Act. The provisions of subsection (g) of such section, as added by the first section of this Act, shall apply to an individual employed as a justice or judge of the United States on the effective date of this Act and to an individual appointed as such a justice or judge on or after such effective date.

The SPEAKER pro tempore. Pusurant to the rule, a second is not required on this motion.

The gentlewoman from Maryland (Mrs. SPELLMAN) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. DERWINSKI) will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Maryland (Mrs. SPELLMAN).

Mrs. SPELLMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I find it difficult to understand why, although there is so much opposition to "double dipping" by employees of the Federal Government, until now, apparently, there has been no opposition to the "double dipping" of certain Federal judges who receive both a full judicial salary and a civil service pension simultaneously. Can it be that some people in our Government are considered to be more equal than others? H.R. 2583 attempts to put all Federal retirees who take second jobs with the Federal Government on an equal plane. In doing so, we also reduce Federal expenditures.

Federal judges were never intended to be an exception to this policy. But they are, Mr. Speaker, as a result of a Comptroller General's decision and a legislative oversight that occurred in 1956. Exactly what happened takes a little explaining but I think it is worth going over.

Generally, when a Federal retiree is reemployed by the Federal Government a "double dipping" situation is avoided by simply reducing the retiree's active duty pay by an amount equal to the amount of the retirement annuity during the period of reemployment. That way, total compensation is equivalent to active duty salary, even though some of the retiree's compensation is in the form of a pension check.

One intentional exception to this general rule applies to former Members of Congress. If they are appointed or elected judges or justices of the United States, they receive only their judicial salaries. Their pensions are suspended completely for the period of their employment as a judge or justice.

Mr. Speaker, I believe it was intended that all other Federal judges entitled to Federal pensions be treated as Members of Congress are treated, that is, to have their civil service pension payments withheld during the time of their service as judges or justices.

In 1966, however, the Comptroller General ruled that the salary of a justice or judge of the United States could not be reduced in this manner. The reason given was the constitutional prohibition against diminishing the salary of this special group of Federal employees. I think all my colleagues are familiar with this constitutional prohibition as a result of our recent actions on the continuing resolutions covering fiscal year 1980 appropriations.

Because of the 1966 Comptroller General decision, the U.S. Civil Service Commission sought another way to handle the pay of Federal judges who are also entitled to a civil service pension. It decided to handle all these judges the same way it was handling former Members of Congress who were Federal judges; that is, it sought to suspend their civil service pensions for the period of their service on the Federal bench.

Unfortunately, in August of 1975, the Attorney General's Office of Legal Counsel advised the Commission that there was no legal authority to do this since in 1956, when the civil service retirement statute was being amended, this authority, inadvertently, was not included in the retirement law.

While H.R. 2583 cannot change mistakes of the past where courts are concerned, it will provide that, henceforth, for new judges or justices who are retired Federal employees, pension payments will be suspended while they receive their salaries as judges of the United States. This would put them on a par with their colleagues who are former Members of Congress.

It will eliminate the specific category of "double dipping" that currently permits Federal judges legally to receive a full judicial salary and a civil service pension at the same time.

In addition, Mr. Speaker, H.R. 2583 provides a way to reimburse certain judges who, based on erroneous advice that they were not eligible to receive their Federal pensions, earlier accepted a refund of money paid into the civil service retirement system. There are 70 some judges in this situation and this legislation would allow them, within 1 year of enactment of this bill, to redeposit the amount of the refund and become eligible for a civil service pension when their period on the bench comes to an end.

Mr. Speaker, this legislation is a logical way to close the loophole that permits this particular type of "double dipping." While it would reduce outlays in some categories over the next 5 years, it would increase them in others. During the first 5 years there will be a net outlay of $21,000; however, from that point on, the bill will bring about large annual savings.

Mr. Speaker, the administration strongly favors this legislation, and I urge my colleagues to join in support of this effort.

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Mrs. FENWICK. Mr. Speaker, will the gentlewoman yield?

Mrs. SPELLMAN. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentlewoman for yielding and for such a clear and careful explanation of the legislation that we are considering.

I would like to ask the gentlewoman a question. I see that the estimated cost is $126,000 and then $30,000 a year. Why is there any cost? I should think there would be a saving.

Mrs. SPELLMAN. The result is in the net saving. The cost is incurred in enabling those judges who withdrew the funds from the retirement systems and, therefore, would not be eligible for retirement payments, to rejoin the system. They were given inaccurate information. That is the reason for a cost. The rest entails a savings, and the total bill would end in a saving.

Mrs. FENWICK. If the gentlewoman would yield, the report reads, on page 2, "the Congressional Budget Office estimates that the fiscal year 1980 outlays relating to section 2 would be approximately $126,000 with annual costs thereafter of $30,000 plus." Why?

Mrs. SPELLMAN. That does seem to be in error.

Mrs. FENWICK. Does that not seem odd?

Mrs. SPELLMAN. It would not work that way, I am quite sure. The cost for the first 5 years almost balances out with the savings. From that point on, the savings will grow dramatically.

Mrs. FENWICK. If the gentlewoman would continue to yield, that is a report on the Committee on Appropriations.

Mrs. SPELLMAN. I do not have that report before me. But I can assure the gentlewoman that there will be a net savings, without any question.

Mrs. FENWICK. Could we get some clarification of that?

Mrs. SPELLMAN. In just a moment, I will try to get for the gentlewoman the exact figures.

Mrs. FENWICK. I thank the gentlewoman. It is very interesting.

Mrs. SPELLMAN. I thank the gentlewoman.

I reserve the balance of my time.

Mr. DERWINSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the legislation.

I thank the gentlewoman from Maryland (Mrs. SPELLMAN) for a very scholarly explanation of the measure.

This bill, in identical form, was passed by the House in September of 1976, and was bogged down in the Senate with problems on amendments.

I urge adoption of the measure this afternoon.

Mr Speaker, I rise in support of H.R. 2583, which provides the necessary authority to suspend the payment of a civil service annuity to a person entitled to receive full salary as a justice or judge of the United States. Annuity payments would be resumed when the justice or judge retired.

I originally cosponsored similar legislation in the 94th and 95th Congresses because of the serious problem concerning the payment of dual compensation to some Federal justices and judges, but the matter was not resolved.

Prior to 1956, the Civil Service Retirement Act generally prohibited the reemployment of civil service annuitants other than in exceptional cases. The 1956 amendments to the Retirement Act enacted the present rules for reemployment of annuitants. While the law allows the reemployment of annuitants, the salary of that position must be reduced by an amount equal to the annuity received.

The former Civil Service Commission at the time considered the appointment of annuitants to Federal judgeships to be within the purview of this law, and such persons were treated accordingly.

However, because the Constitution prohibits the reduction of a judge's salary, the Commission accomplished the same end by suspending their annuity.

However, in 1975, the GAO and the Department of Justice concluded that the suspension of annuities of justices and judges was without authority in law.

H.R. 2583 resolves this anomaly by providing for the suspension of a judge's civil service annuity while he is in active judicial service. There is ample precedent for this legislation, for under the retirement law a former Member of Congress who is drawing an annuity has that annuity suspended upon appointment to a Federal position.

The legislation is prospective and will not affect those judges presently drawing civil service annuities. It also authorizes the Office of Personnel Management to accept within 1 year following enactment redeposit of refunds paid to active or retired justices or judges who obtained those refunds based on erroneous advice that such individuals were not entitled to an annuity.

Mr. Speaker, in the 95th Congress a similar bill, H.R. 4320, passed the House and the Senate but died when differences in the legislation were not resolved.

I urge enactment of this legislation.

I yield back the balance of my time, and I have no requests for time.

Mrs. SPELLMAN. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Maryland (Mrs. SPELLMAN) that the House suspend the rules and pass the bill, H.R. 2583, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. SPELLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

GENERAL ACCOUNTING OFFICE ACT OF 1979

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 24), to improve budget management and expenditure control by revising certain provisions relating to the Comptroller General and the Inspectors General of the Departments of Energy and Health, Education, and Welfare, and for other purposes, as amended.

The Clerk read as follows:

H.R. 24

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "General Accounting Office Act of 1979".

TITLE I—GENERAL ACCOUNTING OFFICE PROVISIONS

UNVOUCHERED EXPENDITURES

SEC. 101. Section 117 of the Accounting and Auditing Act of 1950 (31 U.S.C. 67) is amended by adding at the end thereof the following new subsection:

"(f)(1) Notwithstanding any provision of law heretofore enacted permitting an expenditure to be accounted for solely on the approval, authorization, or certificate of the President of the United States or an official of an executive agency, the Comptroller General shall have access to such books, documents, papers, records, and other information relating to such expenditure as may be necessary to enable him to determine whether the expenditure was, in fact, actually made and whether such expenditure was authorized by law. The provisions of this paragraph shall not be superseded except by a provision of law enacted after the date of enactment of this paragraph and specifically repealing or modifying the provisions of this paragraph. In the case of an expenditure under section 102, 103, 105(d)(1), (3), or (5), or 106(b)(2) or (3), of title 3, United States Code, the provisions of sections 102, 103, 105(d), and 106(b) of such title shall govern the examination of such expenditures by the Comptroller General in lieu of the provisions of this subsection.

"(2) With respect to any expenditure accounted for solely on the approval, authorization, or certificate of the President of the United States or an official of a department or establishment and notwithstanding any previously enacted provision of law, no officer or employee of the General Accounting Office may release the findings of its audit of such expenditure or disclose any books, documents, papers, records, or other information concerning such expenditure to anyone not an officer or employee of the General Accounting Office, except to the President or the head of the agency concerned or, in the case of unresolved discrepancies, to a duly established committee or subcommittee of the Congress.

"(3)(A) Nothing in this subsection shall be construed as affecting the authority contained in section 8(b) of the Central Intelligence Agency Act of 1949, as amended.

"(B) The President may exempt from the provisions of paragraph (1) of this subsection financial transactions which relate to sensitive foreign intelligence or foreign counterintelligence activities; such an exemption may be given for a class or category of financial transactions.

"(C) Information concerning financial transactions taken pursuant to section 8(b) of the Central Intelligence Agency Act of 1949, as amended, and information concerning financial transactions exempted from the provisions of paragraph (1) shall be reviewable by the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.".

ENFORCEMENT OF ACCESS TO RECORDS

SEC. 102. Section 313 of the Budget and Accounting Act, 1921 (31 U.S.C. 54), is amended by designating the existing paragraph as subsection (a) and by adding at the end the following new subsections:

"(b) Subject to subsection (d), if any information, books, documents, papers, or records requested under subsection (a) or any other provision of law or agreement granting the Comptroller General a right of access from any department or establishment have not been made available to the General Accounting Office within a period of twenty calendar days after the request has been delivered to the office of the head of the department or establishment involved, the Comptroller General, through any attorney designated by him, may, after twenty calendar days notice to the Attorney General, apply to the United States District Court for the District of Columbia for an order requiring the production of such material by the head of the department or establishment. The Attorney General is authorized to represent the defendant official in such proceedings. Any failure to obey an order of the court under this subsection shall be treated by the court as a contempt thereof.

"(c)(1) To assist in carrying out his functions, the Comptroller General, subject to subsection (d), may sign and issue subpenas requiring the production of contractor and subcontractor records pertaining to negotiated contracts and records of other non-Federal persons or organizations to which he has a right of access by any law or agreement. Service of a subpena issued under this subsection may be made by anyone authorized by the Comptroller General (A) by delivering a copy thereof to the person named therein, or (B) by mailing a copy thereof by certified or registered mail, return receipt requested, addressed to such person at his residence or principal place of business. A verified return by the person so serving the subpena setting forth the manner of service or, in the case of service by certified or registered mail, the return post office receipt signed by the person so served, shall be proof of service.

"(2) In case of failure to obey a subpena issued under paragraph (1), the Comptroller General, through any attorney designated by him, may invoke the aid of any district court of the United States in requiring the production of the records involved. Any district court of the United States within whose jurisdiction the contractor, subcontractor, or other non-Federal person or organization is found or resides or in which the contractor, subcontractor, or other non-Federal person or organization transacts business, may, in case of refusal to obey a subpena issued under this section, issue an order requiring compliance therewith; and any failure to obey such order of the court shall be treated by the court as a contempt thereof.

"(d) The Comptroller General may not—

"(1) apply under subsection (b) for an order requiring the production of materials; or

"(2) issue a subpena under subsection (c) requiring the production of records;

if such materials or records relate to activities designated by the President as being foreign intelligence or foreign counterintelligence activities. This subsection does not affect the authority of the Comptroller General under any provision of law other than subsections (b) and (c).".

AVAILABILITY OF DRAFT REPORTS

SEC. 103. Section 312 of the Budget and Accounting Act, 1921 (31 U.S.C. 53) is amended by adding at the end thereof the following new subsection:

"(f)(1) No portion of any draft report prepared by the General Accounting Office shall be submitted to any agency for comment thereon for a period in excess of thirty days unless the Comptroller General determines, upon a showing by such agency, that a longer period is necessary and is likely to result in improvement in the accuracy of such report.

"(2) Failure of an agency to return comments by the conclusion of the comment period established under paragraph (1) of this subsection shall not result in the delayed delivery of any such report.

"(3) Whenever an agency is requested to comment on a draft report, the Comptroller General shall—

"(A) in the case of any report initiated, pursuant to subsection (b) of this section or otherwise, at the request of either House of Congress or by any committee or member thereof, make such draft report available on request to such House, committee, or member; or

"(B) in the case of any other report, make such draft report available on request to the Committee on Governmental Affairs of the Senate and to the Committee on Government Operations of the House.

"(4) The Comptroller General shall prepare and issue with the final version of any report of the General Accounting Office a statement of (A) any significant changes, from any prior drafts of such report, in the findings, conclusions, or recommendations which were based on an agency's comments on such a draft, and (B) the reasons for making such changes.".

APPOINTMENT OF THE COMPTROLLER GENERAL AND THE DEPUTY COMPTROLLER GENERAL

SEC. 104. (a) Section 302 of the Budget and Accounting Act, 1921 (31 U.S.C. 42), is amended to read as follows:

"SEC. 302. (a) There shall be in the General Accounting Office a Comptroller General of the United States and a Deputy Comptroller General of the United States who shall be appointed by the President by and with the advice and consent of the Senate. The Deputy Comptroller General shall perform such duties as may be assigned to him by the Comptroller General. During the absence or incapacity of the Comptroller General, or during a vacancy in that office, the Deputy Comptroller General shall act as Comptroller General.

"(9) Whenever, after the date of enactment of this subsection, a vacancy occurs in the Office of Comptroller General, there is established a commission to recommend individuals to the President for appointment to the Office of Comptroller General and whenever, after such date, a vacancy occurs in the Office of Deputy Comptroller General, there is established a commission to recommend individuals to the President for appointment to the Office of Deputy Comptroller General. Such commission shall in either case consist of—

"(1) the Speaker of the House of Representatives,

"(2) the President pro tempore of the Senate,

"(3) the majority and minority leaders of House of Representatives and the Senate,

"(4) the chairman and ranking minority member of the Committee on Government Operations of the House of Representatives and of the Committee on Governmental Affairs of the Senate, and

"(5) in the case of a vacancy in the office of Deputy Comptroller General, the Comptroller General of the United States.

Such commission shall submit to the President for consideration the names of not less than five persons for the office of Comptroller General. The President, within his discretion, may request that additional names be submitted.".

(b) The first paragraph of section 303 of such Act (31 U.S.C. 43) is amended by striking out the first sentence and inserting in lieu thereof the following: "Except as otherwise provided in this section, the Comptroller General shall hold office for fifteen years and the Deputy Comptroller General shall hold office from the date of his appointment until the date on which an individual is appointed to fill a vacancy in the Office of Comptroller General. The Deputy Comptroller General may continue to serve until his successor is appointed.".

(c) The amendments made by this section shall not apply to persons occupying the positions of Comptroller General and Deputy Comptroller General on the date of enactment of this Act, but shall apply with respect to any vacancy in such positions occurring on or after such date, and shall apply to any person appointed to fill such a vacancy.

TITLE II—CONFORMING AMENDMENTS WITH RESPECT TO THE INSPECTORS GENERAL OF THE DEPARTMENTS OF ENERGY AND HEALTH, EDUCATION, AND WELFARE

AMENDMENT TO PUBLIC LAW 94-505

Sec. 201. Section 203(b) of the Act of October 15, 1976 (42 U.S.C. 3523), is amended to read as follows:

"(b) In carrying out the responsibilities specified in subsection (a)(1), the Inspector General shall—

"(1) comply with standards established by the Comptroller General of the United States for audits of Federal establishments, organizations, programs, activities, and functions;

"(2) establish guidelines for determining when it shall be appropriate to use non-Federal auditors; and

"(3) take appropriate steps to assure that any work performed by non-Federal auditors complies with the standards established by the Comptroller General as described in paragraph (1).".

AMENDMENT TO PUBLIC LAW 95-91

Sec. 202. Section 208 of the Department of Energy Organization Act (42 U.S.C. 7138) is amended by inserting at the end thereof the following new subsections:

"(h) In carrying out the responsibilities specified in subsection (b)(1), the Inspector General shall—

"(1) comply with standards established by the Comptroller General of the United States for audits of Federal establishments, organizations, programs, activities and functions;

"(2) establish guidelines for determining when it shall be appropriate to use non-Federal auditors; and

"(3) take appropriate steps to assure that any work performed by non-Federal auditors complies with the standards established by the Comptroller General as described in paragraph (1).

"(i) In carrying out the duties and responsibilities established under this section, the Inspector General shall give particular regard to the activities of the Comptroller General with a view toward avoiding duplication and insuring effective coordination and cooperation.

"(j) In carrying out the duties and responsibilities established under this section, the Inspector General shall report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law.".

The SPEAKER pro tempore. Is a second demanded?

Mr. HORTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. Brooks) will be recognized for 20 minutes, and the gentleman from New York (Mr. Horton) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. Brooks).

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker. H.R. 24, with an amendment I propose, will strengthen the General Accounting Office's ability to discharge its functions as an investigative and auditing arm of the Congress. The GAO, headed by the Comptroller General, is the principal means by which the legislative branch conducts oversight of executive branch activities.

Despite its clear statutory authority, the GAO has encountered serious difficulty in reviewing the activities of executive branch agencies and other organizations in which it has the right of access by law or agreement. In many cases GAO has encountered outright refusals by agencies to allow GAO audits of their activities. In many other cases the agencies simply refused to cooperate with a GAO investigation. This has effectively delayed or made impossible GAO's responsiveness to the Congress.

In recent years, Congress has found it necessary to increase its direction and control of executive branch expenditures as a means of promoting a sound Federal budget and healthy economy. This cannot be done effectively without increased oversight by the Congress with the assistance of GAO. It is therefore essential that GAO, in carrying out these responsibilities, be given the proper support and direction to insure its continued effectiveness to the Congress.

The provisions of H.R. 24 are designed to achieve this objective. First, it provides GAO with authority to audit most unvouchered expenditures. Second, it strengthens GAO's existing authority to enforce its statutory right of access to records of Federal agencies and non-Federal entities. Third, it makes changes in GAO's report issuance procedure to improve the timeliness and accuracy of such reports. Fourth, H.R. 24 provides a formal mechanism for congressional input in the appointment of future Comptrollers General and their deputies. Finally, H.R. 24 amends the auditing authority of the Inspectors General of the Departments of Health, Education, and Welfare and Energy to conform to the auditing authority provided in the Inspector General Act of 1978.

Subsequent to the committee's reporting this bill, the chairman of the Permanent Select Committee on Intelligence, Congressman Ed Boland, advised me of his concerns over the provision of the bill which authorizes the Comptroller General to seek judicial enforcement of its access rights to agency records. He believes this provision might increase the risk of disclosure of intelligence secrets.

While I believe that GAO should continue to conduct audits of intelligence activities the Government Operations Committee certainly wants to act with caution to avoid jeopardizing the viability of intelligence programs. I have therefore proposed an amendment to exclude activities designated by the President as being foreign intelligence or counterintelligence from the judicial enforcement provision of the bill. Mr. Boland has assured me that this language fully meets his concerns.

I include in the Record at this point a letter, dated October 26, 1979, from the Honorable Ed Boland to me:

Permanent Select Committee
on Intelligence,
Washington, D.C., October 26, 1979.

Hon. Jack Brooks,
Chairman, Committee on Government Operations, Washington, D.C.

Dear Jack: I want to express my appreciation for your agreement to propose the amendment to H.R. 24 appended to my letter to you of July 30. I believe that the language I proposed carves out a narrow exception to the remedial powers which the bill would give the Comptroller General. Further, as I have indicated to you, the amendment does not seek, nor should it be construed, to limit in any way the authority which the Comptroller General has under law to obtain information or materials from federal officials. If I am unable to be present at the time at which H.R. 24 is considered by the House, I would urge you to make this letter part of the record of the consideration of the bill.

With every good wish, I am
Sincerely yours,
Edward P. Boland,
Chairman.

In summary, Mr. Speaker, H.R. 24 will enhance Congress oversight responsibilities by insuring that the GAO has the ability to conduct thorough and effective investigations of executive branch activities.

I urge the House to support this bill.

Mr. HORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 24, the General Accounting Office Act of 1979, is similar to a bill passed by the House in the last Congress but not acted upon by the Senate. It makes several important changes in GAO's statutory authority.

The bill provides GAO with the authority it needs to audit certain unvouchered expenditures and with the increased strength it must have to enforce its statutory right to access to records of Federal departments and of non-Federal organizations, such as contractors who receive Federal assistance. H.R. 24 also makes changes in GAO's report issuance procedure which will improve the timeliness and accuracy of draft reports issued by GAO. Finally, the bill establishes a formal mechanism for consultation by the President and congressional officials in the appointment of future Comptrollers General.

The major issue raised during the Legislation and National Security Subcommittee's hearings concerned the possible release of confidential or sensitive law enforcement or intelligence investigation information. I want to emphasize that under this bill the President may exempt the Central Intelligence Agency's financial transactions which relate to sensitive foreign counterintelligence activities. In addition, GAO may not apply for an order or issue a subpena requiring the production of information relating to activities designated by the President as being foreign intelligence or counterintelligence activities. This provision in the bill satisfies the security concerns of the Permanent Select Committee on Intelligence and of the intelligence community as to expenditures which go to the heart of our most sensitive intelligence efforts.

Mr. Speaker, this bill will greatly improve the effectiveness of the GAO and increase the ability of the Congress to carry out its oversight responsibilities. I urge my colleagues to support H.R. 24.

Mr. Speaker, I have no requests for time.

Mr. BROOKS. Mr. Speaker, I have no requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. Brooks) that the House suspend the rules and pass the bill, H.R. 24, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislaive days within which to revise and extend their remarks and to include therein extraneous matter on the bill just passed, H.R. 24.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONGRESSIONAL AWARD ACT

Mr. FORD of Michigan. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2196), to establish a congressional award program for the purpose of recognizing excellence and leadership among young people, as amended.

The Clerk read as follows:

SHORT TITLE

Section 1. This Act may be cited as the "Congressional Award Act".

ESTABLISHMENT OF THE CONGRESSIONAL AWARD BOARD

Sec. 2. There is established a board to be known as the Congressional Award Board (hereinafter in this Act referred to as the "Board"), which shall be responsible for administering the Congressional Award Program described under section 3 of this Act. The Board shall not be an agency or instrumentality of the United States, and the United States is not liable for any obligation or liability incurred by the Board.

CONGRESSIONAL AWARD PROGRAM

Sec. 3. (a) The Board shall establish and administer a program to be known as the Congressional Award Program, which shall be designed to promote initiative, achievement, and excellence among youths in the areas of public service, personal development, and physical and expedition fitness. Under the program gold, silver, and bronze medals shall be awarded to young people within the United States, aged fourteen through twenty-three (subject to such exceptions as the Board may prescribe), who have satisfied the standards of achievement established by the Board under subsection (b) of this section. The medals shall be of such design and materials as the Board may determine.

(b) In carrying out the Congressional Award Program, the Board shall—

(1) establish the standards of achievement required for young people to qualify as recipients of the medals and establish such procedures as may be required to verify that individuals satisfy such qualifications;

(2) designate the recipients of the medals in accordance with the standards established under paragraph (1) of this subsection;

(3) delineate such roles as the Board considers to be appropriate for the Director and Regional Directors in administering the Congressional Award, and set forth in the bylaws of the Board the duties, salaries, and benefits of the Director and Regional Directors;

(4) raise funds for the operation of the program; and

(5) take such other actions as may be appropriate for the administration of the Congressional Award Program.

(c) The Board shall arrange for the presentation of the awards to the recipients and shall provide for participation by Members of Congress in such presentation, when appropriate. To the extent possible, recipients shall be provided with opportunities to exchange information and views with Members of Congress during the presentation of the awards.

(d) The Board may award scholarships in such amounts as the Board determines to be appropriate to any recipient of the Congressional Award Gold Medal.

(e) The Board shall prepare and submit an annual report to the Congress before March 1 of each year summarizing the activities of the Congressional Award Program during the previous year and making appropriate recommendations. Any minority views and recommendations of members of the Board shall be included in such reports. The annual report shall contain the following items:

(1) Specific information regarding the methods used to raise funds for the Congressional Award Program and a list of the sources of all money raised by the Board.

(2) Detailed information regarding the expenditures made by the Board, including the percentage of funds which are used for administrative expenses.

(3) A description of the programs formulated by the Director under section 5(b)(1), including an explanation of the operation of such programs and a list of their sponsors.

(4) A detailed list of the administrative expenditures made by the Board, including the amounts expended for salaries, travel expenses, and reimbursed expenses.

(5) A list of individuals given awards under the program, and their place of residence.

(6) Such other information as the Board may consider significant.

MEMBERSHIP OF THE BOARD

Sec. 4. (a)(1) The Board shall consist of seventeen members, as follows:

(A) Four members appointed by the majority leader of the Senate.

(B) Four members appointed by the minority leader of the Senate.

(C) Four members appointed by the Speaker of the House of Representatives.

(D) Four members appointed by the minority leader of the House of Representatives.

(E) The Director of the Board, who shall serve as a nonvoting member.

(2) In making appointments to the Board, the Congressional leadership shall consider recommendations submitted by any interested party, including any member of the Board or the Committee for the Establishment and Promotion of the Congressional Award.

(3) Individuals appointed to the Board shall have an interest in one or more of the fields of concern of the Congressional Award Program.

(b) Appointed members of the Board shall serve for terms of six years, except that of the members first appointed—

(1) five shall serve for terms of two years;

(2) five shall serve for terms of four years; and

(3) six shall serve for terms of six years; as determined by lot when all such members have been appointed.

(c)(1) Any vacancy in the Board shall be filed in the same manner in which the original appointment was made.

(2) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

(3) Any appointed member of the Board may continue to serve after the expiration of his term until his successor has taken office.

(4) Vacancies in the membership of the Board shall not affect its power to function if there remain sufficient members to constitute a quorum under subsection (d) of this section.

(d) A majority of the members of the Board shall constitute a quorum.

(e) Members of the Board shall serve without pay but may be compensated for reasonable travel expenses incurred by them in the performance of their duties as members of the Board.

(f) The Board shall meet annually at the call of the Chairman and at such other times as the Chairman may determine to be appropriate. The Chairman shall call a meeting of the Board whenever one-third of the members of the Board submit written requests for such a meeting.

(g) The Chairman and the Vice Chairman of the Board shall be elected from among the members of the Board by a majority vote of the Board for such terms as the Board determines. The Vice Chairman shall perform the duties of the Chairman in his absence.

(h)(1) The Board may appoint such committees, and assign to the committees such functions, as may be appropriate to assist the Board in carrying out its duties under this Act. Members of such committees may include the members of the Board or such other qualified individuals as the Board may select.

(2) Any employee or officer of the Federal Government may serve as a member of a committee created by the Board, but may not receive compensation for services performed for such a committee.

(i) The Board shall establish such bylaws and other regulations as may be appropriate to enable the Board to carry out its functions under this Act.

NATIONAL DIRECTOR

SEC. 5. (a) In the administration of the Congressional Award Program, the Board shall be assisted by a Director, who shall be the principal executive of the program and who shall supervise the affairs of the Board. The Director shall be appointed by a majority vote of the Board, and shall serve for such term as the Board may determine. The Director may be removed by a majority vote of the Board.

(b) The Director shall, in consultation with the Board—

(1) formulate programs to carry out the policies of the Congressional Award Program;

(2) establish such divisions within the Congressional Award Program as may be appropriate; and

(3) employ and provide for the compensation of such personnel as may be necessary to carry out the Congressional Award Program, subject to such policies as the Board shall prescribe under its bylaws.

REGIONAL AWARD DIRECTORS

SEC. 6. Regional award directors may be appointed by the Board, upon recommendation of the Director, for any State or other appropriate geographic area of the United States. The Director shall make such recommendations with respect to a State or geographic area only after soliciting recommendations regarding such appointments from public and private youth organizations within such State or geographic area.

POWERS AND RESTRICTIONS

SEC. 7. (a) Subject to such limitations as may be provided for under this section, the Board may take such actions and make such expenditures as may be necessary to carry out the Congressional Award Program, except that—

(1) the Board shall carry out its functions and make expenditures with only such resources as are available to the Board from sources other than the Federal Government; and

(2) the Board shall not take any actions which would disqualify the Board from treatment (for tax purposes) as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954.

(b) the Board may enter into and perform such contracts as may be appropriate to carry out its business, but the Board may not enter into any contract which would obligate the Board to expend an amount greater than the amount available to the Board for the purpose of such contract during the fiscal year in which the expenditure is made.

(c) the Board may seek and accept, from sources other than the Federal Government, funds and other resources to carry out its activities. The Board may not accept any funds or other resources which are—

(1) donated with a restriction on their use unless such restriction merely provides that such funds or other resources be used in furtherance of the Congressional Award Program; or

(2) donated subject to the condition that the identity of the donor of the funds or resources shall remain anonymous.

(d) The Board may accept and utilize the services of voluntary, uncompensated personnel.

(e) The Board may lease (or otherwise hold), acquire, or dispose of real or personal property necessary for, or relating to, the duties of the Board.

(f) The Board shall have no power—

(1) to issue bonds, notes, debentures, or other similar obligations creating long-term indebtedness;

(2) to issue any share of stock or to declare or pay any dividends; or

(3) to provide for any part of the income or assets of the Board to inure to the benefit of any director, officer, or employee of the Board except as reasonable compensation for services or reimbursement for expenses.

(g)(1) The Board shall provide for the establishment of a private nonprofit corporation for the sole purpose of assisting the Board to carry out the Congressional Award Program, and shall delegate to the corporation such duties as it considers appropriate.

(2) The articles of incorporation of the corporation established under this subsection shall provide that—

(A) the members of the Board of Directors of the corporation shall be the members of the Board, and the Director of the corporation shall be the Director of the Board; and

(B) the extent of the authority of the corporation shall be the same as that of the Board.

(3) No director, officer, or employee of any corporation established under this subsection may receive compensation, travel expenses, or benefits from both the corporation and the Board.

AUDITS

SEC. 8. The financial records of the Board and of any corporation established under section 7(g) may be audited by the Comptroller General of the United States (hereinafter in this section referred to as the "Comptroller General") at such times as the Comptroller General may determine to be appropriate. The Comptroller General, or any duly authorized representative of the Comptroller General, shall have access for the purpose of audit to any books, documents, papers, and records of the Board or such corporation (or any agent of the Board or such corporation) which, in the opinion of the Comptroller General, may be pertinent to the Congressional Award Program.

TERMINATION OF BOARD

SEC. 9. The Board shall terminate six years after the date of the enactment of this Act. Upon termination of the Board, the Board shall take such actions as may be required to provide for the dissolution of any corporation established by the Board under section 7(g). The Board shall set forth, in its bylaws, the procedures for dissolution to be followed by the Board.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Alabama (Mr. BUCHANAN) will be recognized for 20 minutes.

Mr. BUCHANAN. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of this legislation.

The gentleman from Colorado (Mr. KRAMER) is the ranking member on the Subcommittee on Select Education, chaired by the gentleman from Illinois (Mr. SIMON). He has strongly supported this legislation, together with all of the members, I believe, of our committee, on both sides of the aisle.

I think this is good legislation, and I urge its adoption by the Members.

I reserve the balance of my time.

● Mr. DERWINSKI. Mr. Speaker, I am pleased that the House is taking up the Congressional Award Act today and urge its passage. I am one of the cosponsors of the bill and believe it to be an excellent way of recognizing outstanding young people in America.

The program to be established by this act will recognize excellence and leadership among young people ages 14 to 23 by awarding medals to those who complete successfully requirements in the areas of public service, an approved personal interest, or physical and expedition fitness.

Those between 14 and 16 would be eligible for a bronze medal; those between 16 and 19 a silver medal; and young people from 19 to 23 a gold medal. Rather than competing with other participants, young persons would be granted awards on the basis of individual performance, and handicapped people would not be deterred from participating in the program.

A board consisting of members appointed by the majority and minority leaders of the Senate and House as well as a nonvoting director would administer the program which would not entail any Federal funds.

Again, I believe this to be a worthy method of encouraging and awarding achievement among the young people of our country and urge the House to adopt the bill.●

● Mr. HOWARD. Mr. Speaker, consideration today of the Congressional Award highlights a process that has given me great satisfaction to initiate and be a part of.

Now, more than ever, our country needs the active commitment of its young citizens to look for new solutions and help resolve difficult problems facing the Nation. The young people of America embody the future of this country, yet today we are all too often confronted with the specter of lost youths. Lack of goals and motivation, and voter apathy among the young is symptomatic of a malaise—a lack of confidence in themselves and those around them. Through the passage of this legislation, we in Congress have a unique opportunity to encourage participation and leadership among young people on a broad scale. And, we will be in a position to listen and respond to their concerns.

The Congressional Award is designed to recognize and encourage achievements of young people, aged 14 to 23, in the areas of public service, to encourage compassion and social responsibility; physical and expedition fitness, to foster self-discovery and the rewards of adventure; and creative personal interests, which provide a long and lasting meaning to our lives. The program is not unlike the Duke of Edinburgh's Award program in Britain and Canada.

The U.S. Senate has unanimously passed its version of the Congressional Award under the guidance and leadership of Senator MALCOLM WALLOP. Our bill was unanimously reported out of the Education and Labor Committee and comes to the floor today with 113 cosponsors. The award program enjoys the support of the National Governors Association and 32 individual governors, the U.S. Conference of Mayors and the mayors of 30 major cities, and approximately 70 of the most socially committed, active organizations of both young people and adults. Every State in the Union has manifested support on at least one level of Government.

Finally, there is a personal side to the story of the Congressional Award. A young physician from my district, Dr. Frank Arlinghaus, brought the idea to me about 10 years ago. Since then, he has traveled the country developing national support through a committee of intensely active and committed young adults. It is a personal saga of unusual proportions, but it underscores once again that America is still a country wherein individuals and groups can join together with their Government and apply their creativity and energies to bring forth progress and harmony.

I respectfully call upon my colleagues to pass the Congressional Award program.●

● Mr. KRAMER. Mr. Speaker, this Nation's youth are its most important natural resource. The Congressional Awards bill strives to encourage the development of qualities of leadership and excellence among our young people. It does this by establishing a national framework of a congressional awards program through which our youth participate under the aegis of sponsoring groups at the grass roots community level to achieve a bronze, silver, or gold Congressional Award.

Young people need examples, they need to test themselves, and to widen their horizons by participating in new and challenging experiences. Since the stability and impact of the family, school, and church with respect to character education and positive self development of youth has eroded during the past decade, through this legislation the Congress has an opportunity to fill in this gap by providing leadership by example.

Although the Congressional Awards bill bears the name of Congress, its role is really to set a moral tone to the program by lending the imprimatur of its name. The Congressional Award program itself would be made operative by the creation of a tax-free charitable organization known as the Congressional Awards Board. It would be the job of the Board, which is appointed by the leadership of the House and Senate, to raise funds from the private sector to run the program, to designate medal recipients and present the awards, and to set the duties of the program director, regional director, and staff. The role of the Board, then, is administrative. However, the program itself would largely be operated through established national agencies and community groups, such as the Boy Scouts. It is primarily through these sponsoring agencies and groups any youth age 14 through 23 could apply to participate in the category of their choice. The categories are public service, physical and expedition fitness, and creative personal interests.

The awards themselves are broken down to age groups. Participants work for a bronze medal from age 14 to 16, for a silver from age 16 to 19, and for a gold from 19 to 23. Funds permitting, a scholarship program will also be administered. Participating youth in all categories who have satisfied the standards of achievement established by the Board will receive medals. These may be presented by Members of Congress when appropriate.

The awards in the program are granted on the basis of individual performance, and not on the basis of competition with other participants. The goal of the Congressional Awards program is to give participating youngsters the opportunity to develop the self-discipline, character, and motivation that results in young leaders who inspire by examples and by their actions. By constructive self-help, learning-by-doing, and commitment to personal excellence, young Americans working for a congressional medal will be building the type of personal commitment that helps reinforce the values inherent in a strong and free America.

Since it is important that a program bearing the name of Congress be accountable to Congress for its actions, several important safeguards were built into this legislation in subcommittee. To insure that Congress will review the progress of this program in its oversight capacity, the act has a 6-year life unless reauthorized by Congress. To safeguard potential abuses related to fundraising with the imprimatur of the name of Congress attached to the Board, specific reporting requirements in the annual report to Congress are outlined in the bill. For example, there will be no anonymous donations. The Board must give Congress the methods they used to raise funds, and they must specifically account for expenditures. Additionally, the Comptroller General is empowered to audit the records of the Board, and it must act in accordance with the Internal Revenue requirements pertaining to tax-free organizations, or lose its tax-exempt status. The Board must also set the salaries of the program director and regional director and prescribe their duties.

These safeguards, then, provide an important link between Congress and the program even though it is designed to function as a nongovernmental tax-free entity like the Boy Scouts or Red Cross. Even though the Board is not federally funded, and is precluded from seeking Federal funds, it nevertheless will be accountable to Congress for its fundraising activities in the private sector since the Board will carry out its functions with the name of Congress. As the old axiom goes, "an ounce of prevention is worth a pound of cure."

Mr. Speaker, I hope my colleagues will pass this measure, as it offers a unique opportunity to help our youth develop a commitment to personal excellence by rewarding them with a congressional medal for honesty, integrity, initiative, good character, and leadership by example.●

● Mr. PERKINS. Mr. Speaker, H.R. 2196, proposing a Congressional Award program to recognize excellence and leadership among young people, is a bill every Member of this House can and should support.

Let me state at the outset H.R. 2196 will not cost the Federal Government a single cent. There are absolutely no Federal moneys involved in this legislation.

To the best of my knowledge, there is no controversy about H.R. 2196. We know of no opposition to the bill. On the contrary, there is strong support for it on both sides of the aisle.

Mr. Speaker, I want first to commend the distinguished chairman of our Subcommittee on Select Education, our able colleague PAUL SIMON, who has worked diligently to carefully develop and design responsible legislation.

I would be remiss if I did not also compliment our colleague JIM HOWARD, who is the principal sponsor of the bill. It should be noted that 113 Members of the House have cosponsored this legislation.

As I have indicated, this is a bipartisan effort and I want to commend committee members on both sides of the aisle who joined in the support of H.R. 2196.

Mr. Speaker, so much of the legislation which comes before us is designed to curb or eliminate problems. The Congressional Award Program Act, however, contrary to dealing with a problem situation, proposes to reward deserving young people for excellence and leadership.

This is a purely voluntary program. Those wishing to participate will be required to meet standards in three categories—public service, physical and expedition fitness, and personal interest. Recipients will range between the ages of 14 and 23 and awards are to be divided into three levels of achievement, designated by bronze, silver, or gold awards. Scholarships will be awarded, if funds permit, to recipients.

Encouraging the creative development of positive talents in our young citizens is in the highest tradition of our democracy, and is a process which can only benefit these young people—and ultimately our Nation. It is especially appropriate and significant that this important program be initiated and sponsored by the Congress of the United States.

The program is tightly designed and is to be administered by a well-structured Board accountable to the Congress. Yet, although the requirements of the bill insure very careful and precise management of funds—as I have said, the bill will not cost the Federal Government a penny. The Board is to seek funds and resources only from institutions and sources other than the Federal Government, yet precise fiscal guidelines and close monitoring by the Federal Government are integral to the act.

Mr. Speaker, this bill, H.R. 2196, was reported unanimously from the committee. It provides a very practical and well-structured program to encourage growth and development in our young people. I urge passage of the bill by the House today.●

Mr. SIMON. Mr. Speaker, and my colleagues in the House, I think we have a completely noncontroversial measure here, which has been introduced by our colleague from New Jersey (Mr. How-

ARD). It sets up a Congressional Award system designed to recognize excellence in leadership among young people.

It will cost the Federal Government not one penny.

We have had both the IRS and the Treasury Department go over it. They suggested some modifications, which have been incorporated in the legislation.

There are 113 House cosponsors of this bill. It passed in slightly different form in the Senate unanimously. It passed our committee unanimously.

I know of no objections to it. I will be happy to answer any questions that any of my colleagues might have.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. FORD) that the House suspend the rules and pass the bill H.R. 2196, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to establish a Congressional Award Board to administer a Congressional Award program designed to encourage initiative and achievement among youths."

A motion to reconsider was laid on the table.

□ 1300

GENERAL LEAVE

Mr. SIMON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

EDUCATION AMENDMENTS OF 1980

Mr. FORD of Michigan. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5192) to amend and extend the Higher Education Act of 1965, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. FORD).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5191, with Mr. SHARP in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Michigan (Mr. FORD) will be recognized for 1 hour, and the gentleman from Alabama (Mr. BUCHANAN) will be recognized for 1 hour.

The Chair recognizes the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman and Members of the Committee, H.R. 5192, entitled the Education Amendments of 1980, is a comprehensive bill providing for the reauthorization, improvement, and modifications of the programs authorized by the Higher Education Act and related measures. This is, Mr. Chairman, I must say at the outset, a truly bipartisan piece of legislation which was fashioned during the last year and one-half with the complete and active cooperation of the minority on the Committee on Education and Labor. Before going any further, I would like to acknowledge that the efforts of Mr. BUCHANAN, the ranking member on the subcommittee, and Mr. ASHBROOK, the ranking member of the full committee, have at every stage made it possible for us to undertake what I believe to be the most thorough and exhaustive study of the ongoing postsecondary educational programs that has even been undertaken since their inception.

Mr. PERKINS, chairman of the full committee, has cooperated in every way possible to make possible this exhaustive examination and the preparation of this legislation.

Let me, if I may, describe the procedure that we followed in developing this legislation which we think, while unique, has been a very effective means by which we have reached the form of the legislation that comes to the floor today from our committee.

This bill came from the Education and Labor Committee with the unanimous vote of the committee and was reported this past week from the Rules Committee with a unanimous vote, which is a reflection of the hard work that has been expended by the minority in cooperation with the majority to develop a consensus on the legislation.

In September of 1978, in anticipation of the fact that we would be, of necessity, reauthorizing most of the then existing higher education legislation during this Congress, I directed an invitation to some 61 organizations and governmental agencies representing the interests of postsecondary education, calling their attention to the fact that most of the programs would require reauthorization in this Congress, and asking them to submit to us early in this year their specific recommendations with respect to those programs that should be discontinued, those that should be continued, and those that should be continued in a modified form, and particularly to give us their best advice with respect to the improvements that they perceive to be necessary in going forward into this decade of the 1980s with higher education legislation.

As a matter of fact, we did receive specific recommendations from some 60 groups and organizations. Unlike the resolutions that we have been accustomed to receiving from groups of this kind that advice us generally about the kind of nice things they would like to see happen, and sort of generally tell us why they think there ought to be more money in particular programs, we asked them to and they did respond in the form of very specific comments section by section on the existing law. Much to our surprise, and to their great credit, I must say, this group of 60 organizations responded in a timely fashion, which made it possible for our staff, by the end of February of this year, to compile a four-volume comparative print showing section by section the existing Higher Education Act, the proposed change that the organization or group was recommending and then to the right of that, the rationale given by the group or organizations for their proposed change. We had some 400 copies of that four-volume compendium prepared by the staff and distributed to all of the interest groups that we could identify as having had a direct hand in fashioning of higher education legislation.

In addition to that, this compendium was distributed to governmental agencies, to the administration, I must say, as well. Before we started the normal process of introducing legislation and holding hearings on it, we first asked everyone who we believed, on the basis of years of accumulated experience in this field, would know the most about how these programs were really working and where problems had developed, for their recommendations: As a result, we were able to act as a conduit whereby all of the organizations were telling each other what they had on their mind.

That information has been available to the administration and to the members of our committee from the very beginning. We did not introduce the forerunner of this legislation early in the session, but refrained from introducing specific legislation until we undertook hearings on the proposals that had been offered to us.

We began our hearings on March 20, and they were conducted in a framework to focus on individual programs and specific problems rather than on general concepts that we frequently spend so much time discussing in our committee.

The recommendations provided to the subcommittee by the higher education community as well as numerous bills dealing with specific parts of the legislation that were introduced by our colleagues were the bases for discussion of each program authorized by this proposed Higher Education Act, and already authorized by the existing law.

We held a total of 35 days of hearings, including seven field hearings at the request of individual members of the committee outside of the city of Washington in various parts of the country. Two hundred sixty-nine witnesses appeared at the hearings representing a broad cross-section of experts and professionals as well as the consumers of education, the students themselves.

□ 1310

I should say parenthetically that the students probably appeared more frequently and commented on more specific provisions in the consideration of this legislation than student organizations have ever done in the past. I think that anyone who had an opportunity to observe our hearings, or will take the time to read the records of those hearings, will be pleased with the quality of the presentations made by the students and the organizations which represent them.

Twenty-nine student witnesses participated in the hearings.

After this process had been concluded with respect to all of the recommendations that we had from the higher education community and the student groups, we were then made aware of a pending bill to be proposed by the administration. I say that we were made aware of the pendency because it was with no little bit of difficulty that we were able to induce the administration to release the Secretary of HEW to come to our committee and tell us what they had in mind with respect to reauthorization. Unfortunately, the day, that had been scheduled for the appearance of the Secretary of HEW to testify was also the day that he left, or was informed that he was leaving, his position; and we proceeded with the prepared statement of Secretary Califano to try to determine what the administration's proposal was going to be.

I must say that in light of the events of the last few days, that the administration did not yet on July 19 have a bill. At least, if they did, they did not present it to us, and it was some time later before specific legislation was presented for our consideration. But, on the basis of what they described to be the proposals that would be coming to us, we then scheduled an additional seven hearings.

We did something a little bit unusual in the handling of those hearings, specifically zeroing in on the concerns expressed by the Department of HEW, and through them the President and his administration. We convened panels, and on the panels we invited people who had indicated a specific reaction to the administration's proposals. We also invited the administration to put one or two or, in some instances, three of their experts working on this particular specific issue on the same panel. The members of the committee were able to consider not only the people reacting to the administration's proposals, but to give the administration an opportunity to react to those reactions from the community. We did not have to go through the much longer process of having a pro and con type of an exchange in separate hearings.

What we finally developed was a system where administration spokesmen interacted with spokesmen for various postsecondary education interests before the committee, and then both proponents and opponents of the particular points of view were subjected to extensive questioning by the members of the committee. We think that that was a very effective way in getting to the nub of the differences between the administration's proposal and what other people concerned with higher education believed should be done.

Then, at the end of this process, we prepared with the full cooperation of the majority and minority staff a bill to be introduced, which was H.R. 5192. I am proud to say that that bill was introduced with the cosponsorship of the chairman of the full committee, the gentleman from Kentucky (Mr. PERKINS), the ranking minority member of the full committee, the gentleman from Ohio (Mr. ASHBROOK), and all of the members of the Postsecondary Subcommittee on both sides of the aisle.

The subcommittee marked up the bill on September 13, 14, and 20, and 31 amendments to our very carefully tailored piece of legislation, developed after this long process which I have described, were in fact adopted. On September 26 the full Committee on Education and Labor, under the leadership of Chairman PERKINS, met and adopted some further amendments, and ordered H.R. 5192 reported by unanimous voice vote to the House.

The need for this legislation arises primarily from the expiration at the end of fiscal year 1981 of almost all of the Higher Education Act of 1965, the fund for the improvement of postsecondary education, and title VI of the National Defense Education Act. Thus, the bill reaffirms and continues the Federal role in support of postsecondary education.

The fundamental theme of Federal support for postsecondary education is assistance to achieve the goal of equal educational opportunity. The student assistance programs have increasingly become the dominant means by which the Federal Government pursues the goal of equal educational opportunity.

I might say at this point that if one goes back a decade, one will find that we were still supporting institutions of higher education with a substantial part of our higher education legislation, and an examination of this legislation will show that a natural progression that was started in the 1960's has now reached the stage where approximately 93 percent of all the funds generated by this legislation are in the form of student assistance, as distinguished from institutional assistance. This has been a very effective way in which we have reached ever closer to equity between students in public and private institutions.

H.R. 5192 seeks to advance the goal of achieving equal educational opportunity through student assistance, with several improvements in the equity of treatment of students in the presently existing programs. First, the bill continues a policy of providing assistance primarily based on financial need, while also recognizing the needs of middle income families for some help. For example, the size of the maximum basic grant award for low-income students is increased, and there is a new opportunity for parents to borrow under the guaranteed student loan program, so that the parents can more easily make a family contribution to the education of the young people from that family.

Second, the bill strengthens the balance of the student assistance programs so that students will be able to have not only access to a postsecondary education, but also the choice of the postsecondary education best suited to their needs, interests, and talents. It should be noted here that we take into account not only the needs of students in traditional higher education, but the needs as demonstrated to us during the last few years, during the last economic downturn in particular, of people who wanted to and do wish to return to school to acquire salable job skills or to finish an educational program that they started at one time and then interrupted with marriage and other responsibilities.

We place just as much emphasis on the efforts of that type of student to achieve his educational goals through equal educational access to the kind of institution or instruction that will best serve him as we do on the traditional 18-year-old student entering college for the first time. We make a number of changes in this legislation that are consistent with the commitment that the last Congress and the President, as an endorser of our activities in that Congress, made to the middle-income families in this country to provide access for them to higher education programs.

We do this by further strengthening the commitment we made at that time that while we wanted to broaden the universe in terms of providing access for people who are not classified as low-income or poor people to higher educational opportunities, we did not want to do that at the expense of low-income or poor people. We reinforce that commitment with some of the changes in the basic educational opportunity grant program that are proposed by this legislation.

There may be some quibbling about the cost of making these changes. I expect that there will be some from the Office of Management and Budget, but I would like to say at this point that we believe that we can justify every change that we are recommending here on the basis of the commitment made by many of us who were Members of the 95th Congress when we were fighting over a contentious issue called tax credits. In the last Congress, we came along with the then Middle-Income Student Assistant Act as an alternative to tax credits.

I do not believe that anybody on our committee on either side of the aisle believed that we had one thought about welching on any of the commitments we made to the citizens of this country and to our colleagues on this floor when they asked us to support that legislation. And I do not believe that any of the people who took credit for passing that legislation should now try to back away from the people to whom we have made that commitment. I do not believe that our committee has brought to the Members a bill that in any way is inconsistent with those commitments and in any way does anything but strengthen those commitments and reaffirms our desire to preserve and protect the rights of people who were directly involved in the improvements of 1978.

For example, this bill makes additional improvements in the treatment of independent students. You will recall that during the consideration of the Middle-Income Student Assistance Act we gave you an example of a young women who finds herself responsible for supporting a family of two or three children and who under the rules of the game as it was played up until that time, although clearly needing help to return and finish her education, could not have access to the help because of artificial measures of eligibility that existed.

Now that persons, if she wanted to go to school, can receive help as an independent student. We found that even with the Middle Income Student Assistance Act legislation we will have some inequities in the treatment of independent students. Those were drawn to our attention rather quickly, and during the hearings they were reemphasized. This legislation attempts to answer those problems.

Let me mention one other very important area of this legislation. I know that the Members of this House as Representatives of the American people have been very concerned about the things they have been hearing about the loan programs that we have for students to attend postsecondary educational institutions. They have been concerned with stories about default rates. I want the Members to know that again on a bipartisan basis the Education and Labor Committee has worked very hard with this administration to develop strategies to clean up our act with respect to the previously terribly neglected responsibilities of the Federal Government to collect money due and owing to the Federal Government from people who had received student loans.

We have in this legislation, we believe, strengthened the ability of institutions and States, as well as the Federal Government, to get a better businesslike hold on this whole phenomena of student loan defaults and further reduce that phenomena hopefully to its irreducible minimum. Just as an example, I see the gentlewoman from the State of New Jersey (Mrs. Fenwick) sitting to my left. She made a very valuable contribution with legislation that she introduced providing that institutions that made student loans could share information with private credit organizations concerning people who defaulted on those loans. This makes it very clear that someone who gets a student loan now will know from the beginning that if he fails to meet his obligations, that is going to stay with him in later life and affect his ability to borrow money for other things.

I must say we added one little extra part to the gentlewoman's proposal. We also provide in this legislation that a student who volunteers to have it done and does not get in default will have the information about his successful repayment of the loan shared with private agencies as well. A person who borrows money to help himself get through school can by meeting the requirements of that borrowing relationship develop for himself a credit rating, a positive credit rating for the future.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank my colleague for yielding and for his kind remarks.

I would like to congratulate the committee on this addition. It is almost impossible for young people to have a credit rating unless they have borrowed and unless they have a clear record of repayment. People who have never borrowed in their lives because they were afraid to get in debt may try to do something perfectly legitimate, and if they have not got a perfect record of repayment, they find great difficulty in borrowing. This is a very good future step that the committee has taken, and I congratulate the Chairman and those responsible.

Mr. FORD of Michigan. I thank the gentlewoman for her contribution.

H.R. 5192 also seeks to serve the goal of equal educational opportunity by making it easier for students and their families to understand and obtain the assistance for which they are eligible. Increased administrative allowances to institutions, new student information requirements, and the mandating of a single form and a single system of needs analysis for Federal student assistance are all aimed at increasing the accessibility of these programs to those they are intended to serve.

Another basic theme of H.R. 5192 is the attempt to focus the categorical assistance programs in the Higher Education Act on serving contemporary needs. The new focus in title I is on serving previously underserved adult learners. In amending title III, strengthening developing institutions, the bill seeks to define more clearly developing institutions as well as to specify the types of activities to be undertaken by developing institutions with Federal assistance. The target populations and the services to be provided by the TR10 programs are more explicitly outlined. Title VI, international and foreign languages studies, focuses on the needs of our Nation as an actor in worldwide economic and political affairs. Title VII, construction, reconstruction and renovation of academic facilities, is directed toward the needs to upgrade research facilities, conserve energy, more effectively serve handicapped students and comply with health and safety standards. The new title XI, urban grant university program, will assist the urban university to work in partnership with local government to address urban problems.

Strengthening the Federal-State partnership in postsecondary education is another theme of H.R. 5192. Title I brings together five previously separate programs into a single, flexible State-based program aimed at the educational needs of adults. The State student incentive grant program is modified to provide realistic new incentives for increased State effort in supporting State grant programs. At the same time the flexibility for the States to design grant programs to meet the unique needs of their citizens is enhanced. The provisions for State planning are also made more flexible, and the assurances required from States for participation in Federal programs are consolidated and simplified.

The final major theme of H.R. 5192 might be characterized as legislative management. Where several programs now have expiration dates different from the great majority of the programs, all are now given a common expiration of fiscal year 1985. Several obsolete or unfunded programs are repealed. Consistency and simplicity in standards of student, institutional, and State eligibility for program participation is sought. The authorities for the fund for the improvement of postsecondary education and foreign studies and language development, which currently lie outside of the Higher Education Act, are brought within the ambit of that act. It has been acclaimed by student lobby groups and organizations, the widely divergent associations representing postsecondary education institutions and every sector of the higher education constituency. I know of no major opposition to its passage.

I look forward to prompt and positive action by my colleagues.

Mr. BUCHANAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of this legislation and would associate myself with the remarks made by the distinguished chairman of the Subcommittee on Postsecondary Education, Mr. Ford, regarding H.R. 5192, Education Amendments of 1980. As ranking Republican on the subcommittee and a cosponsor of the bill, I can truly agree that the bill results from a bipartisan effort. This is indicated by the fact that all members of the subcommittee on both sides of the aisle are cosponsors of the bill.

Before discussing some of the issues debated during the past year and changes proposed by the bill to the Higher Education Act of 1965, I would like to commend Chairman Ford for the outstanding manner in which he has conducted the reauthorization process. This process could well be used as a model for other committees throughout the Congress. Early in the 96th Congress, all interested education organizations and associations were given the opportunity to submit written comments on the problems in existing law and recommendations on how these problems might be alleviated.

Responses from the 61 organizations which submitted material were printed in a form similar to that which is used for conference committee comparisons. Instead of using a draft bill, these recommendations became the basis subcommittee hearings.

Panels of representatives from various viewpoints were heard. From there, working groups were formed among representatives of the higher education community to work out consensus agreement on areas of disagreement. These recommendations and consensus agreements were submitted to the subcommittee and incorporated into H.R. 5192. Chairman Ford's initiative and leadership in this important area comes during a critical time when we are beginning to experience many changes in the needs of students and institutions involved in receiving and providing quality postsecondary education.

I would also like to commend the various higher education organizations and associations who have worked untiringly to provide consensus on what are often complex and devisive issues. It is extremely unusual to have the high degree of consensus that has been demonstrated by the higher education community during this reauthorization process. There has been much give and take, and the results are significant.

The bill which we debate today does not make major structural changes to the existing programs in the Higher Educational Act. Instead, it builds on existing programs and alters them so as to improve the delivery of Federal services and funds to students, postsecondary education institutions, and States.

A major focus of the bill is to insure equal educational opportunity. The clear intent of this legislation is to provide access to postsecondary education for all persons in the United States who seek it and, hopefully, permit some degree of choice among different types of institutions and programs. The objectives of access and choice are best represented by the bill's continued emphasis on the role of student assistance in the Federal postsecondary education legislation. If this bill becomes law as proposed, approximately 95 percent of all Federal funding for postsecondary education will be directed to the ultimate beneficiaries of the education—students.

Many programs have been simplified by this bill. Some programs have been consolidated to provide greater economies of scale and better delivery of services. A few of the programs have been eliminated because they do not represent the true needs of postsecondary education during the coming decade. Several programs which previously existed outside of the Higher Education Act have been incorporated into the Act because they closely relate to postsecondary education issues.

This bill is a consensus document which represents the thinking of many of the best minds in higher education, both here in Congress and in the higher education community. The approach taken in the bill is a balanced one and serves the needs of the nonprofit and proprietary sectors and the public and independent sectors. I would like to briefly summarize the results of the recommendations made by the interested parties which were incorporated into the final committee bill.

Title I is the consolidation of several currently funded programs authorized by the Higher Education Act. The title is renamed "education outreach programs"—a name appropriate to the activities which it authorizes. Under the new title, the existing community services and continuing education/lifelong learning program, education information centers, and comprehensive statewide planning function are consolidated. Because all of these programs are now operated at the State level, it made sense to coordinate them and authorize them as a single outreach program. Important to note is the strengthened emphasis placed on the special education needs of nontraditional students which can be served under the new title I programs.

No funds under this title would go to assist these nontraditional students with student financial aid; rather it would go to institutions of higher education, businesses, and non-profit organizations who received grants from the State to establish programs of significance which would address the very special needs this group of learners has. The program has been reauthorized at a modest level of $100 million in the first fiscal year with increments of $25 million each year thereafter until the authorization expires.

The education and occupational information needs of both traditional and nontraditional students will be dealt with in a more comprehensive manner under the new title I program. H.R. 5192 requires that any educational and occupational information programs funded under title I be coordinated to the extent possible with other federally funded information programs such as the Vocational Education Act, the Comprehensive Employment and Training Act, the Older Americans Act, the Vocational Rehabilitation Act, the Career Education Incentive Act, the Adult Education Act, and other Federal, State, and local programs providing this service.

The continuing education activities which the new bill would provide for stress the importance of promoting access to postsecondary education programs for adults whose educational needs have been inadequately served. The types of programs that could be funded under this title are many and are as varied as the different needs of this clientele in the various States.

The Comprehensive Statewide Planning function was transferred to title I from title XII. Because the postsecondary education climate has changed so drastically in the last 15 years, and because of the changes that we can expect in the next decade given the predictions of declining enrollments, it was determined that postsecondary education planning cannot be conducted in a comprehensive manner without considering the needs of the nontraditional learner. The planning function is not limited, however, to the nontraditional students' needs; rather, it extends to the needs of all learners—both traditional and nontraditional.

In title II, the library programs were strengthened by restructuring several of the currently authorized authorities within title II. The most critical problem facing libraries in the past 5 years has not been the lack of adequate authorization to conduct programs to meet their special needs; rather it has been a declining level of appropriation to carry out those programs. For this reason, the committee looked closely at those programs which were authorized and attempted to strengthen them in a manner which was more consistent with current needs for libraries and institutions of higher education across the country. Since fiscal year 1968, the average cost of a book has increased by 137 percent, and the average cost of a periodical subscription has increased by 219 percent, according to the American Library Association.

These drastic increases, coupled with a decrease in the level of appropriations, has brought severe problems to the library communities. For this reason, in title II-A language was added to encourage the networking, or sharing of resources, between libraries. A new part D has been added which provides the authorization for a National Periodical Center. This Center would serve as a national resource and would contain a comprehensive collection of periodical literature necessary for research in some very esoteric areas.

The National Periodical Center would be a nonprofit corporation separate from an agency of the U.S. Government. It would be run by a board of directors and would assist in providing access to students attending both public and private institutions of higher education to those very costly periodical documents or copies on a cost reimbursable basis.

Title III, the strengthening developing institutions program, of the Higher Education Act has received more attention regarding its program than has any other program in this act. In the past few weeks, there have been reports in the newspapers regarding several of the problems which the General Accounting Office documented for this committee to have taken place in the past several years of program operation. The General Accounting Office recommendation provided the very foundation for the committee's hearings on this program which began last March. Several changes have been made to this program—changes which I am convinced take care of many of the problems which we all know have been part of this program's history.

There were two major questions which the Committee considered in regard to reauthorizing title III. First, what is a developing institution, and how should that be defined? Second, was the question of how to strengthen the program's administration.

With regard to defining a developing institution, the committee has suggested that two indices be used to determine on a relative basis whether or not an institution is developing. These two factors would be the average basic education opportunity grant for full-time equivalent student and the average education and general expenditure for full-time equivalent student at any given institution compared to other similar institutions. These are quantifiable factors which will take away much of the guesswork that was involved in determining whether or not an institution was developing.

As far as strengthening the opportunity for program administration, the committee determined that there were six types of development that would be given priority in making grant determinations. These activities include faculty development, funds and administrative management, development and improvement of academic programs, acquisition of equipment for use in strengthening funds management in academic programs, joint use of facilities such as libraries and laboratories, and student services.

These six areas of development were selected because in the committee's judgment they are indicative of the types of critical development that need to take place in those institutions that are serving large numbers of students from low-income backgrounds. By establishing these specific development activities within the law, it is determined that the application review process will be strengthened because there is a definite priority for activities under this title.

Another criticism with regard to the administration of the program has been that no institution has "graduated." The committee has adopted a system of making grants for either 1 to 3 years or 4 to 7 years. If an institution desires to receive a renewable grant, it would apply for a grant in the 1-to-3-year category. These grants would be of amounts much smaller than the second category, which is the 4-to-7-year nonrenewable grant. It is hoped that by tying 25 percent of the appropriation to the 4-to-7-year grant package many institutions will be encouraged to move to a final grant with the program.

A final change which was incorporated into H.R. 5192 was the addition of the challenge grant program. This program would provide development money to institutions which could match on a 50-to-50 basis the funds they were being offered by the Federal Government. The challenge grant would be subject to all the requirements of title III applicable to grants under the already authorized program. It is hoped that the challenge grant program will encourage institutions to develop to a point where they can become independent and viable through State or private funds.

Twenty-four of the thirty-five hearings during the past year on the reauthorization of the Higher Education Act included some consideration of title IV, the student assistance program. Although many changes are made by the bill to title IV, they are not major ones. Most witnesses testified that the programs were basically sound and that only minor adjustments were necessary to insure proper functioning of these programs.

Considerable debate centered around the modification of the current basic grant half-cost limitation. As evidenced in testimony before the subcommittee, the half-cost limitation has the effect of reducing the awards of the lowest income students attending the least expensive institutions. Recognizing the controversy surrounding any modification to this limitation, the higher education community was challenged to come up with some type of agreement which would be equitable to all sectors of higher education.

A consensus compromise for dealing with the half-cost issue was incorporated in the original draft of H.R. 5192 and was modified in both subcommittee and full committee to more equitably reflect the needs of the postsecondary education community. The result is a modest and gradual approach in increasing the basic grant maximum and the percentage of costs which can be covered by the basic grant.

The supplemental educational opportunity grant program has been amended to more adequately serve the needs of diverse groups of students by giving greater flexibility to the institutions and providing increased grant awards and eligibility periods for the students.

Changes made to the State student incentive grant program are intended to stimulate increased State appropriations for student grants, while at the same time giving greater flexibility to the States in determining the needs of their State program. The bill provides new incentives to those States which are equally or undermatching the Federal contribution. By providing more funds to those equally or undermatched States, it is hoped that they will expand their State grant programs significantly.

Those States that are now contributing more State grant aid than the Federal SSIG contribution are rewarded for their efforts by allowing them to receive continued Federal funds without greatly increasing their State effort. The bill does provide, though, a general maintenance of effort requirement for all States to insure that, in this proposition 13 era, States will not retrench on their commitment to student aid.

The bill recognizes the impact of inflation on the costs of education. The grant maximums in both the SEOG and SSIG programs are increased from $1,500 per year to $2,000 per year. The basic grant maximum award increase is phased in over the reauthorized period from $1,800 to $2,700 by fiscal year 1985. In each of these programs students are given 5 years of full-time eligibility toward completion of their undergraduate studies, thus recognizing that the nontraditional student is becoming much more the norm in postsecondary education.

Two of the more popular and successful programs—college work study in title IV and cooperative education in title VIII—were reauthorized without major changes. The committee heard substantial testimony on the desirability of making student employment through college work-study more closely related to a student's educational program and career goals.

Although we retained the distinction between the student assistance objective of work-study and the educational relationship of cooperative education, it is hoped that institutions will encourage linkages between college work-study jobs and the educational goals of the student.

The special programs for students from disadvantaged backgrounds (TRIO) was amended to include new eligibility factors. For the talent search program, not less than two-thirds of the youths participating must be low-income individuals who are first generation college students. For the Upward Bound program, the same criteria would apply as did in the case of the talent search, except that the remaining one-third must be either low-income individuals or first generation college students. For the special services for disadvantaged students program, not less than two-thirds of the persons participating must be either physically handicapped or of low-income individuals who are first generation college students.

The same two-thirds requirement for low-income and first generation applies also to the education opportunity centers program. In spite of the fact that there have been appropriation increases in this program over the past several years, it is important to realize that a very small percent of the total eligible population is still being served. For this reason, H.R. 5192 allows talent search and education opportunity centers to serve students and adults interchangably if there is only one program in that area.

Reauthorization of the loan programs received a major portion of the attention during the reauthorization process. The administration recommended a rather major structural change in both of the loan programs, but I feel that the committee was correct in preserving the current structure and trying to improve it.

The 1976 Education Amendments have been successful in encouraging States to establish State guarantee agencies. Since 1976 the number of State agencies has increased from 25 to the current 40 and loan volume has increased appreciably. Recent regulatory and legislative changes have also significantly decreased the percentage of loans in default.

Five major problems with the existing guaranteed student loan program have been dealt with by the bill. First, a new parent loan program is established to provide parents with the ability to obtain the liquidity to pay a reasonable share of the costs of educating their children. Second, the Student Loan Marketing Association has been given new authority to make loans as a direct lender in areas where there is a severe shortage of student loan capital in addition to continuing its current role as a secondary market. Third, Sallie Mae may consolidate multiple student loans so that students will not be burdened by several monthly payments after they go into a repayment status. Fourth, repayment may now be extended past the 10-year period in current law and may be sensitive to the income of the borrower.

Hopefully, this will, in combination with the fifth major change to the program, reduce the number of defaults in the program. We are pleased to include the recommendation of Mrs. FENWICK that a system for sharing information on defaulted loans between the Secretary and the national credit bureaus should be established. I should note that many of these changes, including lender referral services, extended repayment, and income-sensitive repayment, were recommended by Mr. MAGUIRE of New Jersey.

The national direct student loan program was continued as a campus-based program. One of the major criticisms of the NDSL program was the current high default rates. I believe that the changes made in this bill and in previous legislation will result in a significant decrease in the default rate in this program over the coming 18 months.

H.R. 5192 also makes it easier for students and their families to understand and obtain assistance for which they are eligible from the student assistance programs. Increased administrative allowances to institutions, new student information requirements, and the mandating of a single form and a single system of needs analysis for Federal student assistance are all directed toward increased accessibility of these programs to those they are intended to serve.

Title V was amended to provide authorization for the Office of Education to coordinate the 27 existing education professional development programs. This specific authorization is not an attempt to consolidate the various programs; rather it is an effort to enhance the exchange of information and to avoid duplication of effort where possible.

The bill repeals title VI of the National Defense Education Act and title I of the International Education Act and replaces them with a new title VI of the Higher Education Act, international and foreign language studies. Much of NDEA title VI and IEA title I have been incorporated into the new title. In addition, several new sections have been added to improve the administration of the program and to further stimulate interest in international and foreign language studies.

Several new purposes were included as allowable activities under title VII, the construction, reconstruction, and renovation of academic facilities title. An undergraduate or graduate institution can apply for funds under title VII to cover compliance activities with section 504 of the Rahabilitation Act of 1973; or to enable their institution to construct, reconstruct, or renovate a research facility or to acquire special research equipment; or to enable an institution with an unusual increase in enrollment to construct, reconstruct, or renovate the facility. In addition to these substantive changes, title VII was rewritten to provide a more organized structure which will hopefully be more readable and understandable to those affected by this title.

The bill extends all existing graduate programs with only minor modification, mandates data collection to annually assess the state of graduate education, mandates a special 2-year study of graduate students financing, and incorporates the law school clinical experience program now authorized in title XI. Later this week, I will offer an amendment to expand the 2-year study to examine and assess the financial and educational needs of individuals from disadvantaged backgrounds.

The new title X brings the fund for the improvement of postsecondary education into the Higher Education Act from the General Education Provisions Act. Although the program for the establishment and expansion of community colleges, currently authorized by title X, is repealed, we retain the only operative portion of title X, the Community College Unit in the Office of Education. No funds have ever been appropriated for other parts of the current title X.

The committee includes a new urban grant university program as title XI of the Higher Education Act. This program would provide funds to urban grant universities, or consortia thereof, which had developed a project with a local government to address problems that are critical in that urban area. For the purposes of this title, urban university is defined as an institution of higher education which is found in a standard metropolitan statistical area (SMSA) of 500,000 or more. In addition, the title provides that consortia can be established where at least one of the institutions involved is in such an SMSA. In the event that no SMSA of 500,000 or more exists in any State, the Secretary must designate one urban area for the purposes of the program.

Several days of hearings were held both in Washington and in the field on the need for this type of program. There exists much of the know-how in our major universities today to deal with those problems affecting urban areas, but little resources to bring them together. The Federal share in any project cannot exceed two-thirds of the cost of the current project.

The current law in title XII requires a State to designate a State commission with a specified structure called a "1202 Commission." H.R. 5192 replaces this structural requirement with the requirement for a State agreement with the Federal Government which allows the State to adopt an organizational structure appropriate to its needs and only requires that certain functions be performed as a condition for receiving Federal funds. This added flexibility for the States recognize the importance of the State role in the delivery of Federal Higher Education Act money and services.

Although the committee seriously considered the administration's recommendation to sever the link between accreditation and institutional eligibility for Higher Education Act programs, we did not feel comfortable about making such a major change in the eligibility process without fully understanding the impact on accrediting agencies, State authorizing procedures, and institutions of higher education. We hope to consider the proposal as separate legislation.

As noted in my views to the committee report and the views of several other of my colleagues, I am concerned about the projected costs of the basic grant program. I want to assure my colleagues here on the floor that these costs stem from our effort to achieve equity and to keep commitments to middle-income students and others, without, by doing so, taking from those in greatest need. Likewise, we sought to maintain agreement on issues which were resolved by interest groups with differing opinions working together to present compromise proposals. The Budget and Appropriations Committees, and indeed the whole Congress, will have an opportunity to make decisions pertaining to funding levels when this bill becomes law. Additionally, the Committee on Education and Labor will review annually the proposed expected family contribution schedule submitted by the new Department of Education.

Whatever the costs of this legislation, it will prove a good investment for our country. Many Members of Congress were able to attend college because of the GI bill after World War II. Few Americans would challenge the rightness of that national investment. The student assistance programs, which have been built upon that foundation, have continued to help our country make the most of our most precious resource—the minds and the fulfilled persons of its citizens themselves. This will also be true of the funds provided in this legislation.

I would like to express the hope that Members of the House will see H.R. 5192 for what it is and for what it is not. Legislation is often the result of piecemeal amendments. That is not the case with this legislation. Although nothing is sacrosanct in this bill, I hope that there will be regard for the very logical, orderly and comprehensive manner in which this legislation has been formed and that any additions to or subtractions from this proposal will be offered with regard to that process.

I strongly urge the passage of H.R. 5192.

☐ 1330

Mr. FORD of Michigan. Mr. Chairman, I yield 5 minutes to the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Chairman, in my judgment, we now have before us the best higher education bill ever brought to the floor of the House. It is a comprehensive measure which has strong support on both sides of the aisle and throughout the higher education community.

Under the effective leadership and through the hard work of the chairman of our Postsecondary Education Subcommittee—BILL FORD—diverse points of view have been brought together in support of a balanced package of aid to postsecondary education students and institutions. Chairman FORD has done an excellent job in a very difficult and trying situation.

All points of view were given full opportunity to be heard in the 35 days of hearings. Over 250 witnesses appeared before the subcommittee. In addition, 59 higher education organizations submitted detailed written recommendations which were carefully considered.

The management and development of this measure under the outstanding leadership of BILL FORD should serve as a model for the way in which a bill should be considered.

As I have mentioned, H.R. 5192 is a bipartisan effort and the ranking minority member of the subcommittee—JOHN BUCHANAN—has played a significant role. Throughout this comprehensive measure you will find important improvements in programs which JOHN has authored. Likewise, I wish to compliment the ranking minority member of the full committee—our colleague, John Ashbrook—for his work and efforts in behalf of the bill.

This comprehensive measure is in fact a product of the work of members of the committee from both sides of the aisle—and I want to pay tribute to all for their support and efforts.

Mr. Chairman, H.R. 5192 builds upon the framework established in the 1972 landmark higher education bill. Those of my colleagues who were here in 1971 and 1972 will recall the great controversies which surrounded that legislation. The final compromise bill which was agreed to only after many, many weeks of a difficult House-Senate conference, established student aid as the principal channel for providing Federal money to the higher education sector. As a result, today over 90 percent of the higher education budget is in the form of student aid.

H.R. 5192 continues this approach to postsecondary education financing.

The 1972 Higher Education Act also guaranteed a balanced program of student aid with grants, work-study and student loans. The requirements of the 1972 act for interrelated funding of the various student aid programs has worked amazingly well. H.R. 5192 not only continues those guarantees but refines and updates them.

As we look to the future we can do so with the assurance that there will be three grant programs and effective programs of work-study and student loans.

H.R. 5192 extends and improves the basic educational opportunity grant program which is the cornerstone of our student aid programs. This year close to 3 million students will receive basic grants. Under the provisions of H.R. 5192, the program will be simplified for students and for colleges. Numerous provisions in the bill will make the program more equitable for independent students, for low-income students attending low-cost institutions, and in the treatment of family assets.

The State student incentive grant program and the supplemental grant program are extended with provisions guaranteeing expansion of the programs as the basic grant program expand: $500 million is authorized in fiscal year 1981 for the supplemental grant program. This is less than institutions requested in the program for the current year. The college work-study program, one of the most effective student aid programs, is made more flexible and authorized at levels which will allow for needed growth.

A fiscal year 1981 authorization of $670 million is established with increases provided each year to fiscal year 1985, when $990 million is authorized.

The national direct student loan program is also extended for 5 years to make sure that there is a college-administered loan program to adequately serve the needs of low-income students, and $400 million is authorized in fiscal year 1981 for the direct loan program. This year over $500 million was requested for the program by our colleges and universities. I am particularly pleased that the committee has resisted efforts to raise interest rates on this program. In this inflationary period, this is not the time to pass on additional costs to those students who are in greatest financial need.

The insured loan program under the improvements enacted in 1976 is today serving more financially needy students than ever before. Improvements in the terms of loans to students, continuation of a strong State role in the insured loan program and the extension of current interest subsidy benefits are among the important provisions of H.R. 5192.

In addition, provision is also made for borrowing by parents under the insured loan program. Under the bill, parents will be able to borrow in order to help meet the increasing costs of postsecondary education. This will mean that students will not have to assume as great an indebtedness as they otherwise would have to.

Mr. Chairman, turning to other portions of the bill, H.R. 5192 provides for a new title I program which brings together educational outreach programs. There are many members of the committee who contributed to the new title I. I particularly wish to recognize the work of our colleague, Bill Ratchford. The new title contains many of the provisions from legislation he sponsored in the area of lifelong learning. Congressman Biaggi has also made many important contributions to the title, as did our colleague, Mr. Jeffords of Vermont.

One part of the new title is particularly important, the State allocation formula. Title I has not fared well in the appropriations process in part because of inequities in the current formula. The new formula corrects this by insuring growth in the program in both large and small States.

H.R. 5192 also continues and improves the important title II programs of support for college libraries. The continuation of the basic library grant program with an increase in the maximum grant to $10,000 is particularly important for small, private institutions. The cost of library materials has escalated substantially and these relatively small grants become extremely significant in the operation of library programs, particularly at our smaller institutions.

The title III program of support for developing institutions is extended for 5 additional years with significant improvements proposed for the administration of the program. The bill makes major revisions in title III, including many of the administrations recommendations.

In addition, H.R. 5192 establishes a new title III program of challenge grants. Congressman Buchanan was particularly attentive to the title III program and the challenge grant component along with other significant changes are the result of his efforts. One important aspect of the title III revision sets specific criteria for determining eligibility. This provision alone will help to curb many of the problems which have hampered the program in the past.

While setting specific criteria, the title III revision also allows for needed flexibility by allowing the Commissioner to waive the criteria in specific instances. I believe that that waiver authority is absolutely necessary. While the criteria in the bill of low-income students and the average expenditure per fulltime student identify most developing institutions, some will not be covered. The waiver authority is absolutely necessary for specific circumstances.

The remaining Higher Education Act programs are continued with many additional changes and improvements. Expansion in the TRIO programs including the Upward Bound program is authorized. The title V teacher training programs including the Teacher Corps are improved. Support of international and foreign language studies is continued. Our colleague—Paul Simon—has taken a particular interest in these programs and authored significant improvements.

There is one important new program which should be mentioned—the urban grant university program. This new proposal responds to the recommendations of urban institutions who wish to serve their communities as the land grant institutions have served our rural areas. I am pleased that this comprehensive measure includes this new program which will provide substantial help to our urban areas.

Mr. Chairman, this is a good bill. It is an excellent bill. With enactment of H.R. 5192, the Federal Government will continue to play a significant role in the financing of postsecondary education. I urge all of my colleagues to support the bill.

□ 1340

Mr. BRADEMAS. Mr. Chairman, will the gentleman from Kentucky yield?

Mr. PERKINS. Yes; I yield to the distinguished gentleman from Indiana (Mr. Brademas), who has served with distinction on this subcommittee, and who has always done a tremendous job.

Mr. BRADEMAS. Mr. Chairman, I thank the distinguished chairman of the Committee on Education and Labor for yielding.

Mr. Chairman, I want to add my own to the tribute that has been paid to the gentleman from Michigan (Mr. William Ford), the chairman of the Subcomittee on Postsecondary Education. I know of no member of any committee who has worked more diligently and effectively as a legislator than the gentleman from Michigan (Mr. Bill Ford). This year in this Congress, the gentleman has undertaken the responsibility of chairing this very important subcommittee of which I have been a member for 21 years. I want to commend the gentleman and all the members of the subcommittee for the fine job that they have done in bringing to the floor of the House legislation that is crucial to the future of American postsecondary education, to the students who attend those institutions and those who teach in them.

So, Mr. Chairman, I rise in support of

H.R. 5192, the Education Amendments of 1980, to amend and extend the Higher Education Act of 1965 which will expire at the close of fiscal year 1981.

I would like to commend the chairman of the Postsecondary Education Subcommittee, Congressman FORD, for his efforts in steering this bill through the Education and Labor Committee in an orderly and fair fashion. In 1978, Chairman FORD invited 61 organizations, associations, and governmental bodies to submit to the Postsecondary Education Subcommittee their legislative recommendations for reauthorization of the Higher Education Act. The subcommittee received recommendations from 60 respondents.

Mr. Chairman, hearings on this legislation began in the spring, and 35 sessions were conducted at which 269 witnesses appeared and presented a broad cross section of opinions representing the views of educational leaders as well as of consumers and students.

Mr. Chairman, I speak as a Member of the House with a longstanding commitment to the area of education, having been a sponsor of the Omnibus Education Act of 1972, and the Higher Education Amendments of 1976, both of which extended the Higher Education Act of 1965.

H.R. 5129 reaffirms and continues the Federal role in support of postsecondary education, the fundamental theme of which role is to provide assistance to achieve the goal of equal educational opportunity. This legislation seeks to advance this goal by improving the equity of the student assistance programs. H.R. 5192 seeks to achieve this purpose by strengthening the balance of student assistance programs so that students will be able to have the choice of the postsecondary education best suited to their needs, interests, and talents; by making more fair the evaluation of the students and his or her family's resources in determining their share of the burden of educational costs; and by making fairer the consideration of a student's educational costs in the determination of his or her eligibility for student assistance.

The bill also updates the eligibility criteria and program purposes more accurately to reflect the needs of nontraditional, adult, and part-time students. These students—who include the displaced homemaker and individuals changing careers in midlife—are fast becoming a majority of the students attending all postsecondary institutions.

Mr. Chairman, H.R. 5129 furthers the goal of equal educational opportunity by making it easier for students and families to understand and obtain the assistance for which they are eligible from the student aid program. One way in which this objective is accomplished is simplifying the process, though the use of a single form and a single needs analysis, by which students and their families apply for Federal assistance.

The reauthorization measure, before us today, also focuses the categorical assistance programs in the Higher Education Act on serving contemporary needs. An area in which I have a particular interest is title VI, international and foreign language studies. Title VI of H.R. 5192 incorporates much of NDEA title VI and title I of the International Education Act; several new sections have been added to the new title VI to improve the administration of the programs and further to stimulate interest in international and foreign language studies. The new title VI focuses on the interdependent nature of the world's economic and political affairs and the need for the United States to recognize its role.

Mr. Chairman, title IV on student assistance is perhaps the most visible program contained in the Higher Education Act, and H.R. 5192 makes several improvements in the student aid program. Let me then mention only a few of the numerous changes that would advance the goals of the Higher Education Act. The Education Amendments of 1980, H.R. 5192:

Increases the maximum basic grant award in steps to reach $2,700 by 1985;

Increases the supplemental educational opportunity grant (SEOG) and the State student incentive grant (SSIG) award to $2,000;

Modifies the half-cost limitation to 60 percent of the cost of attendance in fiscal year 1981, 67 percent in fiscal year 1983, and 75 percent in fiscal year 1985;

Expands eligibility for the BEOG and the SEOG from 4 to 5 years;

Permits institutions to use up to 10 percent of their SEOG and SSIG funds for less than half-time students, and for graduate students as well under the SSIG program;

Increases the threshold levels for SEOG, SSIG, and college work study (CWS);

Increases the authorization levels of the SEOG, SSIG, CWS, and the national direct student loan (NDSL) program;

Increases the authorization for the special programs for students from disadvantaged backgrounds (TRIO) from $200 million to $400 million;

Retains the current 3- and 7-percent interest rates for NDSL and GSL, respectively;

Eliminates home equity from the computation of assets; and

Abolishes subminimum wages for CWS.

Mr. Chairman, the Committee on Education and Labor did address the problem of student loan capital availability, but was unable to conclude that at the present time there is a serious shortage of student aid. The committee did, however find that there appear to be pockets of shortages in individual States and/or localities. To address this problem, H.R. 5192 gives the student loan marketing association (Sallie Mae) authority to make loans as a direct lender in areas where severe shortages exist, in addition to continuing its current role in the secondary market. However, provision is made in the bill to make sure that Sallie Mae does not displace or discourage State and local responsibilities in this field.

Mr. Chairman, I encourage my colleagues to support H.R. 5192.

Mr. PERKINS. Mr. Chairman, I wish to concur in the remarks of the distinguished gentleman from Indiana.

Mr. BUCHANAN. Mr. Chairman, I yield 10 minutes to the distinguished ranking minority member of the full committee, the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Chairman, I thank my colleague for yielding. I certainly would want to concur in what our distinguished chairman has just said.

Mr. Chairman, I also rise in support of H.R. 5192, Education Amendments of 1980, and urge my colleagues to support its passage. As a cosponsor of this bill, along with my colleague, the gentleman from Alabama, Mr. BUCHANAN, all the other members of the Subcommittee on Postsecondary Education, I feel that it makes fundamental and important changes to the existing Higher Education Act. Chairman FORD and Chairman PERKINS have diligently worked to make this bill a reality. Although I may disagree with the majority party on many issues that come before the Congress, I find that with regard to education there is a great deal we have in common. In this particular bill virtually every improvement was made to help the student and the administration of these programs. More improvements have been made here than in any other legislation I can recall.

I am particularly pleased to see that the commitment that the Congress made to provide Federal student aid to students from middle-income families, which began with the enactment of the Middle-Income Student Assistance Act last year, is continued and reinforced by this legislation. I am convinced that one of the greatest assets this country has is its youth and that we should insure that all citizens have the opportunity to develop to their full potential. Just as I believe in a free market economic system, I also believe that providing students with the financial means to choose that type of institution they want is the best way that the Federal Government can assist in postsecondary education.

One of the biggest controversies during the reauthorization process was whether to centralize the current student loan programs into a federally run, Washington-based system as proposed by the administration. In its wisdom, the committee has retained the current structure of the guaranteed student loan and national direct student loan programs and has, more than ever, encouraged the use of private capital and a private corporation, the Student Loan Marketing Association, to deliver loans to needy students. The success of the 1976 Education Amendments has been demonstrated by the increase in the number of State guarantee agencies from 25 to 40 and the tremendous increase in loan volume provided by private lenders throughout the United States.

The expanded use of the Student Loan Marketing Association, better known as "Sallie Mae," will continue the efficiencies that the private sector can bring to a Federal Government program. H.R. 5192 modifies the capital structure and financing authorities of Sallie Mae in order to enable it to more easily raise private equity. Because of these changes, the expiration date of the full faith and credit of Sallie Mae's debt obligations is extended only until October 1, 1984. This reflects the fact that Sallie Mae's volume of business will increase significantly as it expands its secondary market activity and assumes new primary lending responsibilities.

Perhaps the best indication of how a centralized Government-run loan program would work was demonstrated earlier this year while the Higher Education Technical Amendments of 1979 was being considered. The major provision in this bill was to completely remove the cap on the special allowance that was established, prior to passage of that bill, at an average of 5 percent over a four-quarter period.

Originally, it was intended that the cap would be removed effective for the third and fourth quarters of fiscal year 1979, but due to the lateness in passing the bill, it was only effective for the final quarter of fiscal year 1979. In spite of the fact that it was the single most debated provision in that bill and that everybody at HEW was well aware of its implication, checks were paid to lending instiutions as if the cap were removed for the third quarter. Realizing that they had overpaid the lenders by millions of dollars, they quickly told the lenders they must repay the overpayments or would be subject to high interest charges. This incident likely had some impact on the decision of the committee to retain the present loan structure instead of going with the administration's recommended loan program.

One of the most attractive features of this bill is that it consolidates those programs which are related in some way and eliminates those programs which heretofore have not been funded or no longer are necessary. For example, the new title I, education outreach programs, combines the reauthorization for comprehensive State planning from section 1203, the authority for education information centers from title IV, the current title I–A, community service and continuing education, and some essential elements of title VI, financial assistance for improvement of undergraduate instruction and title X, establishment and expansion of community colleges. The new title encourages State coordination of planning and information activities with a number of related Federal programs. The intent of these provisions is to promote consolidation of and collaboration in State efforts to the extent possible without any expectation that programs conducted under this title would or should have the authority to regulate activities or mandate cooperation of programs conducted under authorizations listed in those sections.

Under title I there is no requirement that a State submit a State plan describing activities to be undertaken in the coming year; rather the State is only required to submit, at the close of each fiscal year, a detailed analysis describing each funded project and a description of how the funding of each project was tied to the priorities established in the comprehensive statewide planning process.

Title I–B; subpart 5, part A of title IV; title VI; parts A and B of title X; and section 1203 of the current law are repealed. This provides a leaner Higher Education Act without destroying any of the program content of the act. Most of these programs have never been funded and are not likely to be funded in the future or their activities were integrated into other titles.

Steps taken in this legislation underscore the primary role of the States in providing education to students. Of particular interest to me is the change to the provision in the State student incentive grant program which mandates the States' statutes regarding State grant aid should be superseded by Federal law. In the Education Amendments of 1976, States were required to include all nonprofit institutions of higher education in their State grant programs in order to receive SSIG funds. In MISAA, this requirement was amended to exempt all States who had a constitutional prohibition against giving State grant aid to certain types of nonprofit institutions. H.R. 5192 exempts from the nonprofit requirement all State statutory prohibitions against State grant aid to students attending certain nonprofit institutions, if that statute was enacted prior to October 1, 1978. Earlier this month the House passed H.R. 5386, which would make this change for the allotment of fiscal year 1979 SSIG funds.

No longer will there be a requirement for a "1202 Commission" in order to be eligible for Federal assistance. Under current law, a "1202 Commission" is required for comprehensive statewide planning. Now the State would only be required to have an agreement with the Federal Government to adopt an organizational structure appropriate to its needs and inform the Federal Government what agencies or commissions within the State is carrying out certain functions. This change will provide more flexibility to the States and is certainly consistent with what should be all Federal education policy.

As I indicated earlier, the consolidation of State planning, information services and continuing education programs in a new title will hopefully lead to more efficient delivery of services and better coordination of Federal programs at the State level.

I cannot in good conscience complete my remarks without expressing some concern regarding the projected costs of the basic grant program. Eleven Republicans on the Education and Labor Committee signed either additional or dissenting views underlining the costs of the changes made in the bill.

The basic grant program does not have a specific authorization, but is subject to several controls which will probably result in lower funding levels than projected by the CBO. The bill mandates the development of a single system of needs analysis for the determination of student eligibility for financial assistance. This needs analysis system will produce the proposed expected family contribution schedule which will be reviewed and may be disapproved by Congress under strengthened review procedures.

Based on the expected family contribution schedule, decisions will be made during the appropriations process which will seek to resolve the continuous conflict between the need to exercise budgetary restraint and, at the same time, provide support for programs which assist students and their parents.

I want to see the new needs analysis system work, and I think it will work. The bill no longer establishes a 10.5-percent income assessment rate for families with dependent children that was put in the law by MISAA last year. The CBO estimates were made based on a 10.5-percent income assessment rate. It is very possible that the assessment rate will be higher, thus program costs will be reduced. Several other changes were made which gave flexibility to the system and did not put in legislative concrete allowances for certain expenses which are used in calculating the student's cost of attendance. Hopefully, the needs analysis system will result in a proper mix of assessment rates and expense calculations, and will provide an expected family contribution schedule which will be within reasonable budgetary guidelines.

Realizing that the CBO estimates were based on the highest cost possible and that Congress has other chances to influence BEOG costs through the appropriations process and review of the expected family contribution schedule, I hope that we will continue to be aware of the costs implications of the bill and insure that funds appropriated for the programs authorized by this bill are wisely spent. I put my colleagues on notice here today that, should the basic grant program costs become exorbitant, I will be the first person to raise the issue and fight for reductions in the program. I support H.R. 5192, because I believe it provides a balanced approach of financial assistance to students, and I will not seek to tamper with what appears on the face to be high costs in the basic grant program. I urge that my colleagues pass the bill, while, at the same time, join me in closely monitoring future program costs of the basic grant program.

Mr. FORD of Michigan. Mr. Chairman, I yield 10 minutes to the gentleman from Connecticut (Mr. RATCHFORD).

Mr. Chairman, will the gentleman yield?

Mr. RATCHFORD. I would be happy to yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, before the gentleman proceeds with his statement, I think it is very fitting and proper that the RECORD show that one of the areas where there are existing problems has finally been resolved in a way that will make our States very happy, for in title I of this legislation the gentleman in the well truly should be called the author of title I in this legislation as it was created, because it was virtually lifted in almost all its important parts from legislation that the gentleman introduced earlier in this Congress.

I know the committee is very grateful for the gentleman's contribution.

Mr. RATCHFORD. Mr. Chairman, I rise today to add my strongest endorsement for the revisions and the reauthorization of the Higher Education Act as embodied in the Education Amendments of 1980.

It is hard to exaggerate the amount of time and effort which my distinguished colleague from Michigan, Congressman Ford, and the rest of the Subcommittee on Postsecondary Education have invested in the development of this complex and carefully drafted legislation. The process included wide-ranging invitations for written recommendations on the reauthorization, 35 hearings in Washington, D.C., and across the country, and ended with extensive consideration of amendments in subcommittee and committee.

In committing himself to this open participation at the expense of great personal effort and energy, the able chairman of the subcommittee has charted the development of a comprehensive reauthorization bill with unprecedented support in committee and throughout the educational community. The legislation reflects a careful balance of commitment to national needs in postsecondary education and accountability to the call for efficient and responsible Federal programs, and represents a landmark in the evolution of Federal policies in higher education. I remain deeply grateful to my colleague from Michigan for his strong and skillful leadership in this important legislation.

Mr. Chairman, having carefully monitored the development of the reauthorization bill throughout subcommittee and committee consideration, I heartily support H.R. 5192 and urge without reservation its adoption by my colleagues in the House. The bill responds to many of the inadequacies of current law, and makes a major commitment to the extension of educational opportunities to all segments of the American population. In a nation which prides itself in the quality of its higher education and in accessibility to people of all backgrounds and incomes, the importance of the Education Amendments of 1980 to the future of higher education in America is beyond question.

With these general comments in mind, I would like to turn my attention for a few moments to some less visible but vitally important aspects of the reauthorization bill. I have no doubt that the issues surrounding the revisions in student financial assistance programs and the goal of expanded educational opportunity will remain before the House throughout its consideration of this legislation. However, especially in this time of reduced budgets and serious fiscal restraint, I believe it is equally important to stress the ways in which the Education Amendments of 1980 respond to the call for greater accountability and effectiveness in the use of Federal resources.

One of the major ways in which the subcommittee attempted to address the need for greater accountability in Federal programs in postsecondary education was through the development of a sharper focus for categorical assistance programs now authorized under the Higher Education Act. As a freshman Member of Congress and the subcommittee, my involvement in the reauthorization centered on the complete revision of title I, community service and continuing education. After extensive work and discussion of a new direction for title I, we have arrived at a new focus on the educational needs of adults which deserves the careful consideration and final support of the 96th Congress.

Under current law, title I is a confused collection of programs and purposes with no clear focus or direction. With its emphasis on aid to colleges and universities, the present title has carried no compelling rationale for appropriations in Congress, and has faced increasingly difficult prospects for funding. Unfortunately, in the absence of a clear and compelling focus, the needs of the adults and the communities which title I was designed to serve have suffered greatly.

In many ways, the current title I is a classic example of what taxpayers consider to be wasteful Government spending. In subcommittee field hearings in Connecticut and Vermont, we repeatedly heard reports of valuable and creative programs supported by States through title I, and yet there was seldom a common theme or strategy in the overall program. Title I has never been tied to a well-defined national need, and thus the Congress has never had a basis for evaluating its effectiveness or measuring its importance. In H.R. 5192, we have responded to the need for accountability by focusing on a recognized national priority and need—that of improved access to higher education for adults.

The emphasis on educational access for adults is firmly rooted in historical precedents and present enrollment trends of higher education. One of the most widely accepted areas for traditional federal involvement in higher education has been in the development of equal educational opportunities for all Americans. A focus on adult access in title I extends this commitment to those adults who remain outside the mainstream of higher education in America. Perhaps more importantly, the focus on adults responds to the sharply declining enrollments now experienced and anticipated in our Nation's colleges and universities, and attempts to rechannel existing resources of postsecondary education into this emerging sector of unmet needs within the adult education.

I strongly believe that this title I revision offers new strengths in the annual appropriations process, providing a clear set of program needs and objectives to which the Congress can respond in setting national priorities. The adult access concept also vastly broadens the constituency of title I programs, opening participation in the grant process to a wide range of community groups, labor, business, and industry. With the support of such diverse groups as the United Auto Workers and the American Association of Retired Persons, the focus on access has the potential of creating a powerful new coalition in support of access to higher education for adults.

The revised title I will redirect existing funds in a manner which reaches out to Americans who previously felt no stake in Federal support for postsecondary education—the housewife in search of a career, the factory worker attempting to bolster his skills, the older individual preparing for or coping with retirement. The new title also attempts to lead struggling institutions out of a precipitous decline in enrollments and into a new area of service to adult populations. I firmly believe these initiatives are essential if we are to remedy the shortcomings of the current title I program.

In closing, Mr. Chairman, the subcommittee's work on title I is a timely response to many of the issues and concerns of this Congress. The revised title I targets scarce Federal dollars to serve national needs, and insures that Federal support for higher education is more efficient and effective. In addition, the title I reauthorization proposal works within the framework of existing programs, strengthening current efforts rather than launching expensive new Federal initiatives to serve adults. Finally, the title consolidates and develops linkages between a number of existing State-administered programs in the Higher Education Act, further bolstering the effectiveness of scarce Federal support for higher education.

Mr. Chairman, I have tried to briefly outline the details of one relatively small title of the reauthorization bill, and yet I believe the story of the revised title I is indicative of the care and the responsiveness with which the committee bill addresses the pressing issues of higher education in the 1980's. Throughout the legislation, there has been an attempt to clarify, to strengthen and to streamline Federal initiatives in higher education so that we can obtain the greatest returns on scarce Federal dollars. H.R. 5192 represents an extremely successful piece of legislation in this regard, while providing the framework for future progress toward national goals in higher education. In this context, the reauthorization bill deserves the careful consideration of the House, and has my unqualified support.

□ 1350

Mr. BUCHANAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Vermont (Mr. Jeffords).

Mr. JEFFORDS. Mr. Chairman, first I want to compliment and thank both the ranking minority member, my good friend, the gentleman from Alabama (Mr. Buchanan), and the chairman of the committee in particular for bringing the subcommittee to Vermont to become more acquainted with and aware of the problems of the small States and the problems of rural areas. I really appreciate that. By doing that, they provided a good deal of assistance to my people in learning how the system works. I am also pleased to have the opportunity to share with the Members some of my concerns along that line.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I am happy to yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Chairman, no member of the subcommittee has made a stronger contribution to this legislation than the gentleman from Vermont (Mr. JEFFORDS) himself. His concern for people in his State and, indeed, for people in all the States is reflected in this legislation. Some of the very finest provisions in the legislation came from the gentleman's own mind and were born of that concern.

Mr. Chairman, I want to commend the gentleman for his contributions to this bill.

Mr. JEFFORDS. Mr. Chairman, I want to thank the gentleman very much, and I likewise commend both the chairman of the committee and the ranking minority member for their efforts, especially the gentleman from Alabama (Mr. BUCHANAN).

Mr. Chairman, I reviewed the legislation just mentioned and investigated every title of it with respect to its application to and potential impact on small States, and I decided to cosponsor the legislation because it is well designed to serve the needs of all the States.

During subcommittee consideration of the bill, I worked to improve certain aspects of the bill, both to further protect the interests of small States and to take care of some of the concerns raised by the education commission of the States.

In title I of the bill, I offered an amendment to insure a reasonable minimum funding level that would guarantee small States sufficient money to operate title I programs. I also offered an amendment to change the way title I is structured. That amendment put in place a mechanism to require statewide planning but leaves it up to the individual States to decide who should do the planning. It does not require a finished plan but provides the money for the process of planning. Both of these amendments were adopted by the committee.

In title IV of the bill, I offered an amendment that removes the limitation on the number of children for whom families can simultaneously receive financial aid from the parental loan program. The committee agreed with this, and I appreciate that.

Also I had clarified the definition—and this is important to our State and to other rural States—of farm and business in the assets test section of title IV. The clarification insures that in counting assets, a farm shall be considered a business. Farmers will receive separate exclusions for a farm as a business property and for a house that stands on farm property.

Finally, in title XI of the bill, I recommended that at least one university in each State be eligible to participate in the urban grant university program in order to insure that small States without large urban areas are able to take advantage of this program.

I am pleased that my efforts have been so well received by the committee. I appreciate the committee's consideration of the needs of small States.

In addition, I have aired my concerns in other areas, including the needs of the handicapped. I appreciate the committee's concern in trying to insure that the Committee on Appropriations adequately distributes funds to enhance the ability of higher education institutions to cope with the demands of section 504.

Mr. Chairman, I think this bill takes a tremendous step forward in insuring more equity in areas of concern that I have shared with the committee. However, I remain concerned that our higher education programs still do not take into account certain significant social changes. Today, most young people are considered adults at age 18, and many believe that there is no longer any need or legal requirement for families to support their children when they have obviously become adults.

Mr. Chairman, there are still some equities to be reached in designing a program that aids those who are willing to help our young adults rather than just throw them out in the cold. I think we have made some improvements in this bill; it takes care of some of the inequities. We are gradually moving toward an equitable program in financing higher education.

Mr. FORD of Michigan. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. SIMON).

□ 1400

Mr. SIMON. Mr. Chairman, first of all, I want to join in commending the chairman of the subcommittee, the gentleman from Michigan (Mr. FORD), for the work that he, as well as Tom and Pat and members of the staff did. I know it is a fairly routine gesture that we go through in this body that we applaud chairmen of subcommittees for the work that they do. But in fact I do not know of a finer example of working together, and it is a tribute to our colleague, the gentleman from Alabama (Mr. BUCHANAN), and members of the minority also. I do not know of a more significant bill where there has been more bipartisan effort and a really solid job done than in this particular act.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Chairman, the gentleman from Illinois is showing his typical statemanship. I am so pleased that he mentioned the work of the staff, because I would echo what the gentleman said, not only about the members of the committee itself, but about the staff on both sides of the aisle who worked very hard with persons from the education community and with members of the committee. I think they did an outstanding job on this legislation. I thank the gentleman for remembering them.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Chairman, I would also like to echo those comments. Having served on many subcommittees, I know there is no subcommittee that has given me more assistance than the staff of this particular one. In fact, although we all kind of take credit for things, we all know that a lot of that credit really goes to staff. In this case, I think this is very true. I appreciate the fine efforts that both staffs have done in assisting me in this very complicated area.

Mr. SIMON. Mr. Chairman, I would join in commending the minority staff on this also.

Mr. Chairman, let me point out one minor area where, I hope in conference committee, after this passes, something can be worked out. I have this concern, as someone who works on the Budget Committee, that the interest rates established here are unrealistically low and may squeeze out some of the education programs that ultimately we will want to be moving on.

I would add just two other points. One is that we are in one of the few nations on the face of the Earth where you have to pay for a higher education. I think the day will arrive, and perhaps none of us are going to be Members of Congress when that happens, when higher education is going to be free for all Americans, and we will be a richer nation when that day arrives.

Initially, in the history of our country you had to pay for all education, and then we gradually got an elementary education free, and then gradually high school; and now we are halfway there on community colleges. I think we are getting there gradually as we left the level of BEOG support, but I hope we keep in mind that we are a long way from where a great many nations are in this respect.

Then, finally, one part of this legislation which is not likely to receive much attention but which is significant to the Nation is title VI, which assists international studies programs. What this legislation does is, for the first time, really coordinates that. What we have had up until this point is just kind of spasmodic programs. If a university somewhere wants to study Southeast Asia, they start a Southeast Asia program, but we have never really said in a concrete way, "Where is a place that can concentrate on Burma or New Zealand or Botswana," or whatever the country is. I think we will now finally not only have an aid to higher education, but literally an aid to the Nation that is going to evolve from this that will be a very constructive thing.

Again, my commendation to the chairman of the subcommittee, who really worked hard to bring about a very solid piece of legislation here.

Mr. BUCHANAN. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, the gentleman from Illinois (Mr. SIMON) has, by his modesty, neglected to mention that he is a member of the President's Commission on Foreign Language and International Studies, and that title VI of this legislation is largely his own contribution. I think it is a very fine contribution to this bill. If there is an area in which we can stand improvement in this country, it is in the area of international education. I think that title VI does make a contribution in that area that is greatly needed.

Mr. Chairman, I have no further requests for time, and I reserve the balance of my time.

Mr. FORD of Michigan. Mr. Chairman,

I yield 3 minutes to the Resident Commissioner from Puerto Rico (Mr. Corrada).

Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 5192, and to commend the chairman of the Subcommittee on Postsecondary Education, Bill Ford, and the ranking minority member, John Buchanan, for their excellent and conscientious work, spanning many days of hearings, which culminated in this fine piece of legislation. Ample testimony was received from a wide sector of our higher education community, and an active dialog followed with an aim toward compromise of divergent approaches to implement a Federal higher education policy.

This bill expands, modifies, and improves existing programs, providing necessary refinements where warranted, and represents a positive step in our efforts toward an equal educational opportunity for all. It is a bill which keeps up with the trends and changing patterns in our student population, as evidenced by the changes in title I, and the increases in maximum awards under titles II, IV, and VIII. It adequately responds to the existing lack of specificity in title III by a more clearly defined focus and more stringent accountability requirements which will be followed by a close monitoring by the committee of the manner in which this program is being administered. The changes in title IV reflect the increased costs of attendance to our institutions of higher learning. The compromise dealing with the half cost issue as well as the maximum award represent a willingness to respond to the needs of all students, regardless of the type of institution they attend.

I specially want to commend the chairman for his cooperation and insight in reviewing title VII, and I hope that we can make a case before the Appropriations Committee to allocate the necessary funds in an area where there is a documented need for relief under this title based on substantial increases in enrollment.

Finally, as a cosponsor of the urban grant university bill, I was gratified to see it incorporated into this reauthorization proposal. This effort will result in a better utilization of our Nation's urban universities to help resolve the critical societal needs of our day.

I urge my colleagues to recognize the hard work that has gone into the framing of this legislation and to give their strong support.

Mr. Chairman, I would like the chairman of the Subcommittee on Postsecondary Education to clarify a certain point in the bill. Mr. Ford, are we to assume that the disadvantaged categories in the bill include persons who come from environments where the dominant language is other than English?

Mr. FORD of Michigan. Yes, that is correct.

Mr. CORRADA. I thank the gentleman.

Mr. FORD of Michigan. Mr. Chairman, I yield 1 minute to the gentleman from Guam (Mr. Won Pat).

Mr. WON PAT. Mr. Chairman, I would like to take this opportunity to thank Chairman Ford and the other members of the Subcommittee on Postsecondary Education for including an amendment to H.R. 5192 dealing with the treatment of the territories. I am requesting inclusion of this amendment in the final version of H.R. 5192 because of the unique problems currently confronting postsecondary education efforts in the territories. As chairman of the Pacific Affairs Subcommittee, my concerns are primarily directed toward Guam, the Northern Mariana Islands, the Trust Territory and American Samoa, however, I have also discussed this measure with my colleague, Mr. Evans, and he assures me that the Virgin Islands shares these concerns.

Because of geographic remoteness, physical isolation, lower levels of economic development, and uncertain and rapidly changing political statuses, the postsecondary education institutions of the territories are beset with deep and wide-ranging problems which deserve separate consideration by the Federal Government under the provisions of this act.

The proposed amendment would give the Secretary of Education the authority to more appropriately serve the territories by making those modifications in the programs available under this act which he and the territorial governments deem appropriate and in the best interests of the territories and the students they serve.

The major problems affecting the territories in dealing with their postsecondary education needs include: financing, inadequate facilities, lack of coordination between educational programs and development needs, the proliferation of nominal and oftentimes irrelevant education programs—most of which are spawned through Federal grants for programs designed to meet emerging or special categorical needs within the 50 States—combined with the related social problems of an increasing "brain drain" and soaring unemployment rates within the territories.

While it is not clear at this time as to what are the best and appropriate solutions to these problems, it is clear that to just extend the same Federal programs with the same regulations that apply to the 50 States without giving the Secretary the authority to make modifications where the territories are concerned would exacerbate these problems.

The territories within the Pacific region have already taken steps to address these problems on a regionwide basis through the formation of a Pacific Region Postsecondary Education Council. This Council, which is funded by FIPSE—the fund for the improvement of postsecondary education—has already begun to systematically assess these problems and to identify actions which can be taken to address them. It is anticipated that recommendations for Federal program modifications will emanate from this Council including requests for funding on a regional basis—that is, to support programs that will be developed to address regional needs as opposed to programs limited to the separate political jurisdictions. The individual territories are recognizing that they cannot afford to continue to duplicate scarce resources and that they must begin to cooperate in this area if they are to offer the quality programs which will attract their own young people and more adequately meet their regional development needs. The inability to modify Federal programs or to pursue Federal funding on a regional basis could frustrate these efforts.

In addition to regional funding, another issue which the territories will likely consider is the appropriateness of the current financial aid programs for students from the territories. There has been a growing concern that these programs have inadvertently contributed to the "brain drain" phenomenon in the territories. While the postsecondary education institutions in the territories are struggling to survive with lagging enrollments and bare bones budgets, thousands of island students are being actively recruited by marginal institutions throughout the States who are attracted by the Federal dollars these students bring with them in the form of BEOG, SEOG, and work study funds. The sad result is that many of these students never do return to the islands and those that do often become frustrated because of the lack of appropriate employment opportunities in the fields in which they have been trained.

I am hopeful the analysis and recommendations which the Secretary is required to submit as a result of this amendment will address this problem and contribute toward a long-term solution. To accomplish this the territorial institutions and governments should be fully involved in the study process and, in the Pacific territories, the Pacific Region Postsecondary Education Council should play a principal role in coordinating this study, in order to guarantee this local involvement.

There is no more crucial problem facing the long-term development of the territories than the education and training of our young people. I know you share my concern that the Federal role in this process be a positive one. I believe the adoption of this amendment today is an important step toward assuring that this will be the case.

● Mr. BIAGGI. Mr. Chairman, I wish to also rise in strong support of this bill, H.R. 5192, the Education Amendments of 1980. As an original cosponsor of this comprehensive piece of legislation, I also wish to congratulate the chairman of our Postsecondary Education Subcommittee, Bill Ford and the chairman of our full committee, Mr. Perkins, for the tremendous effort they have made on behalf of postsecondary education in this Nation. Chairman Ford, it should be noted, made a concerted and successful effort to involve all elements of the higher education community in the construction of this legislation. In September 1978, 61 organizations and associations were invited to submit their proposals to our subcommittee. In addition, 35 hearings, lasting 7 months, were held on all titles of the Higher Education Act.

The bill that this committee has produced has the strong support of all the members of our subcommittee and as the ranking New York member on the Education and Labor Committee, I feel it is important to note where we have made some important changes in this legislation which will not only benefit students in my home State of New York, but will also assist all students of all ages in obtaining a postsecondary education.

More importantly, H.R. 5191 seeks to enhance the traditional Federal role in education by increasing access to educational opportunities through expanded student financial assistance programs. We have removed many of the barriers that have hampered students from pursuing higher education by allowing for students to be able to choose the college of their choice which can best meet their own needs and abilities.

I am especially pleased to note that my impact upon this bill was substantial and many of my efforts were instrumental in helping us to produce a bill that has the support of both my Democratic and Republican colleagues on the committee as well as the educational community at large. My bill, H.R. 3513, which provides for student financial aid data banks, has been incorporated into title I of this bill, in both the State and Federal discretionary grant sections. I also offered an amendment to title I which would place an added emphasis on services to homemakers in the development of programs under this title.

The now historic "half-cost compromise" in this bill was in large part due to my efforts in rallying support for this proposal in both the public and the private sectors. I offered two amendments which were part of the foundation of this compromise, one which increased the threshold of the supplemental grant program so that increases in supplemental grants would be directly related to increases in basic grants. The second amendment would insure that in the development of regulations for the distribution of supplemental grant money to the States, the Secretary of Education does not formulate regulations which in effect penalize States with a high degree of effort in their campus-based programs, such as my own State of New York. I am confident that the grant proposal in this legislation will both expand financial assistance opportunities to more students and will also allow for a greater freedom of choice. I might add that this "half-cost compromise" has been supported by many of the major educational associations in this country, as well as receives widespread support from all segments of the educational community in New York.

The loan programs, both the national direct student loan and the guaranteed student loan programs have been retained and expanded. The interest rate for the national direct student loans remains at 3 percent. The guaranteed student loan program repayment schedule has been expanded to 20 years, the amounts that students may borrow has been increased and a new parent loan program has been introduced so that families will be less financially pressed in sending their children to college. I am sure that many of us here have felt this problem at one time or another.

I continue to be concerned over the shortage of loan capital in various parts of this country, a concern which is shared by the New York State Higher Education Services Corp., which is the largest guarantee agency in this Nation. It is my sincere hope that H.R. 5192 will serve to correct this problem so that all students in all parts of this country will have equal access to financial aid in order to further their education.

H.R. 5192 has also developed a more direct focus on the needs and problems of the adult learner, now known to many as the nontraditional student in title I of this bill, "educational outreach program." The subcommittee, under my chairmanship, held a field hearing on the needs and problems of the adult learner at Mercy College in Dobbs Ferry, N.Y., in early September. I was joined by my colleagues on this committee from New York, Mr. PEYSER and Mr. WEISS as well as my colleague from Connecticut, Mr. RATCHFORD, who has maintained a strong interest in title I from the beginning. I feel that the findings of this hearing provided a major contribution to the final development of title I, in which we also consolidated State planning from section 1203 and authority for education information centers, formerly in title IV–A, as well as some important elements of titles VI and X.

The thrust of this title is twofold: it enhances the Federal role in helping to serve adults who have otherwise been inadequately served by traditional educational institutions and also enhances Federal support of State planning efforts in higher education to insure that the needs of these adults are properly addressed. In our hearings, one of the common concerns of the participants was the lack of information on both educational opportunities and financial aid that was available to part-time adult students. To this end, my longstanding concern in the development of student financial aid data banks has been incorporated into this bill to create new and expanding existing programs. I feel that my efforts in this regard will prove to be beneficial to the growing adult student population as they will be able to receive financial aid information quickly and easily.

Another one of the concerns expressed in this hearing were the special problems that women faced in returning to school after having raised families, generally having been out of the educational mainstream for quite a few years. Recent studies indicate a dramatic increase of women participants in higher education, with the number of full-time female adults enrolled greater than the number of males enrolled full-time since 1974. My amendment in this regard, placed an added emphasis on the needs of homemakers, so that these women, who often have other family demands, will be assured that educational information will be available to them.

Since I am also a member of this growing "nontraditional" student population, I have continued to maintain an active concern for those students, who, in returning to school face real barriers, academic, financial and social. It is clear to us that changing demographic trends in this Nation show that we are growing older as a population. Translated, this means that in 20 years, we can expect a larger portion of our student population than ever before, to be over the traditional 18 to 22 age range. It is imperative that we be able to respond to this change and I feel that H.R. 5192 will provide the impetus for this change.

A recent study released by the National Institute of Education confirms many of our findings from our hearing at Mercy College. The majority of the students surveyed indicated that they were concerned about their financial situation. Financial aid administrators echoed this concern by acknowledging that financial aid information was a problem but that they were also plagued by fiscal constraints and therefore could not always respond adequately to their adult, part-time students. As a result of this hearing and this legislation, I am confident that the needs of our adult student population will be addressed in an appropriate fashion.

As an original cosponsor of the Urban Grant University Act introduced by Chairman FORD in the last Congress, I am pleased to note that we have included a new title XI in this bill, the Urban Grant University program. This title will assist urban educational institutions, such as those in my hometown of New York City, in providing research and services to the local community to address problems which are unique to urban centers.

I have also been a strong supporter for the developing institutions funded under title III of the Higher Education Act, such as the College for Human Services, which has a branch in New York City. While this title has come under some closer scrutiny of late, it is my feeling that we have produced a bill which will both encourage growth of these institutions as well as encourage their graduation from the program. I had requested that we include language in the final committee report which specifically addresses institutions such as the College for Human Services, a unique case in that although it does not meet the proposed criteria for a developing institution, it does fit the intent of this legislation. The grants in title III are to encourage institutions, such as the College for Human Services, to make use of their own resources so that they may be able to function as a strong, viable, and independent institution of higher learning.

Mr. Chairman, I feel that with this bill, H.R. 5192, we have come full circle in addressing the needs of the education community, both the public and the private sectors. Last year, this committee enacted the Middle Income Student Assistance Act which has proven to be a major step forward in helping middle income families lighten the burden of college costs by opening up both the grant and the loan programs. Earlier this year, this committee took another step in insuring that students would be able to secure guaranteed student loans, by helping to enact my bill H.R. 3554, which lifted the ceiling on the special allowance paid to lenders who participate in this program. The Education Amendments of 1979, H.R. 4476, incorporated this bill and were instrumental in averting a potential student loan crisis this past fall when the demand for loans was the greatest. The bill before us today is but another step toward reaffirming this country's commitment to education for all our citizens. After 10 years on this committee, I have yet to witness another bill which enjoys the wide support from all segments of the community as this one does. It provides an important balance between the concerns of both the public and the private sector. It streamlines many of the existing programs of financial assistance which have worked well in the past and we are confident, will continue to do so in the future. More importantly, it solidifies our commitment to preserving the diversity and the pluralism of American education. This bill is the result of unanimous committee support and I urge that this body adopt H.R. 5192.●

● Mr. PEYSER. Mr. Chairman, as a member of the Postsecondary Education Subcommittee, I want to take this opportunity to wholeheartedly endorse H.R. 5192, the Education Amendments of 1980. I worked on and supported this bill during its consideration first in subcommittee and then in full committee and believe that it is a comprehensive education bill which will increase educational opportunities for students both in my native State of New York and throughout the country.

Chairman Ford is to be strongly commended for his diligent work on H.R. 5192 and particularly his efforts to encourage all organizations and groups within the educational community to participate in the drafting of this legislation. In the fall of 1978 the Postsecondary Education Subcommittee invited the comments and proposals of 61 educational organizations on reauthorization of the Higher Education Act. During this past year the subcommittee held 35 hearings on the Higher Education Act, including one in Dobbs Ferry, N.Y., which is located in my district.

I am particularly pleased with the improvements which we have made in H.R. 5192 to title IV of the Higher Education Act, which deals with student assistance. H.R. 5192 expands both the Federal grant and loan programs available to finance students' postsecondary education in this country. This bill increases the basic educational opportunity grant maximum award per student and modifies the limitation in current law which provides that a student's basic grant may not exceed 50 percent of the cost of attendance. This change, which takes into account the increase in educational expenses since the program was established in 1972, will serve to provide a more effective level of grant assistance to postsecondary students with financial need. This bill also extends the Federal guaranteed student loan program through fiscal year 1985. It increases the maximum loan available to students per year from $2,500 to $3,000, and the maximum aggregate loan available to a student to $12,500.

I have become increasingly concerned about the mounting costs of higher education and the wide gap between available student aid and the educational expenses faced by middle income families, many of whom have more than one child in college. Last year the Congress took a step toward alleviating the tremendous financial burden placed on middle-income families by removing income as a criterion for eligibility for participation in the guaranteed student loan program. Title IV of this bill further expands the Federal financial aid available to middle-income families for postsecondary education costs by instituting a parent loan program which will provide federally guaranteed student loans to the parents of college students. Under this program, parents will be able to borrow at a 7-percent interest rate up to $3,000 a year and $15,000 total for any one student which may be used for the costs of a student's education minus aid provided to the student. It is my hope that the new parent loan program combined with the existing guaranteed student loan program will ease the financial burden which middle income families face in educating their children.

This bill also makes an important change in the criteria used to measure a student's eligibility for Federal financial assistance by excluding the equity of a family's principal place of residence from consideration as an asset in determining eligibility for Federal financial assistance programs under title IV, excluding the State student incentive grant and the guaranteed student loan program. Under current law many needy students in New York State and throughout the country are excluded from participation in the basic grant program because the equity in the family's residence is counted as an asset in measuring financial need. A family's residence, which is a nonliquid asset is clearly distinguishable from other assets as an available source of financing postsecondary education. The removal of home equity as an eligibility criterion will insure a more accurate assessment of a family's ability to meet educational costs.

Also, this bill addresses the problem of default under the student loan programs. In making loans available to parents, providing for loan consolidation, and providing for extended and income sensitive repayment, the committee has taken steps to effectively prevent defaults. In addition, H.R. 5192 establishes a system whereby the Commissioner of Education will share information on default loans with credit bureaus. Under this system, the Commissioner will be aided in collection of default loans, and student borrowers will be prevented from contracting additional indebtedness which would further hamper their ability to repay loans.

In sum, H.R. 5192 will provide greater access for all students to postsecondary education. At the same time it strengthens the law to provide greater insurance that students repay their loan obligations to the Federal Government. I strongly urge its adoption.●

● Mr. HARRIS. Mr. Chairman, I am pleased to speak today on behalf of H.R. 5192—legislation reauthorizing the Higher Education Act. This bill modifies and improves many of the successful programs now in existence, and has the support of higher education associations and student groups in the Eighth District of Virginia.

Many of the grant programs have been expanded to provide larger maximum grants and to increase the proportion of the total cost of education that may be provided by these grants. At the same time, many of the college students in my district will benefit from an expanded guaranteed student loan program which will now provide loans to parents to assist in meeting the family contribution to the cost of postsecondary education.

H.R. 5192, which we are considering today, is responsive to the needs of all college students. Many of these individuals are 18- to 22-year-old, full-time students. In recent years, however, the number of part-time and older students has increased along with the number of students who receive no financial support from their parents. H.R. 5192 makes every effort to respond to their needs. Some of the changes are: Requiring that child care expenses be included in the calculation of a student's cost of education, allowing colleges the discretion to award aid to less than half-time students, and generally increasing assistance for low-income students.

I must add, however, that additional measures must be adopted to assist the middle-income families in my district and throughout the country who are finding it increasingly difficult to pay for college expenses. I have introduced the tuition tax credit bill (H.R. 4095) which would be a simple, direct and effective way of easing the burden. This is a feasible way of granting additional relief to these families. It simply would allow individuals to claim a tax credit for a portion of the expenses of higher education. With medical, food, housing, and energy costs escalating at double-digit inflation rates, increased costs for education are cutting into already tight family budgets. A tuition tax credit bill would help middle-income families ease their financial plights.

The reauthorizing legislation, which we will pass soon, reflects the hard work and input of the entire higher education community, including both public and independent institutions, students, financial aid officers, and State guaranty student loan agencies. I support their efforts and the legislation.●

Mr. FORD of Michigan. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. BUCHANAN. Mr. Chairman, I yield back the balance of my time.

Mr. FORD of Michigan. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Bennett), having assumed the chair, Mr. Sharp, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R.

5192) to amend and extend the Higher Education Act of 1965, and for other purposes, had come to no resolution thereon.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4985, PRIORITY ENERGY PROJECT ACT OF 1979

Mr. DODD, from the Committee on Rules, submitted a privileged report (Rept. No. 96–571) on the resolution (H. Res. 467) providing for the consideration of the bill (H.R. 4985) to establish a coordinated, prompt, and simplified process for decisionmaking in regard to significant nonnuclear energy facilities, and for other purposes, which was referred to the House Calendar, and ordered to be printed.

☐ 1410

RULE CONCERNING H.R. 4985

(Mr. SENSENBRENNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SENSENBRENNER. Mr. Speaker, I ask for this 1 minute to engage the gentleman from Connecticut (Mr. Dodd) in a colloquy.

I notice that the rule which the Committee on Rules just filed requires that all germane amendments be printed in the Congressional Record of October 29, which is today.

Could the gentleman please inform the House when the Committee on Rules acted on the rule that was just filed now?

Mr. DODD. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Connecticut (Mr. Dodd).

Mr. DODD. That was last Thursday, I believe, in checking with the staff. Last Thursday was the day, I believe, that we acted on the rule.

Mr. SENSENBRENNER. Is this the rule that was reported out of the Committee on Rules last Thursday or not?

Mr. DODD. Yes, it is, the same rule that was reported out last Thursday.

Mr. SENSENBRENNER. I thank the gentleman.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, are we talking about H.R. 4985?

Mr. DODD. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Connecticut (Mr. Dodd).

Mr. DODD. Mr. Speaker, that is correct.

Mr. ASHBROOK. Mr. Speaker, if the gentleman will continue to yield, I notice in the Congressional Record of October 26, and I was on the floor at the time, our colleague from Texas (Mr. Wright) indicated:

> Then we would begin the centerpiece for the next week, H.R. 4985, the Priority Energy Project Act of 1979 under an open rule with 2 hours of general debate.

We find nowhere in there any indication that we would be faced with an amendment cutoff of the type I see in this particular rule. I am just wondering if that is what we should expect in the future. It would give many of us concern. Many of the Members are not present on Monday. Many of the Members, when they know there is not going to be a vote, stay home. To be faced with a cutoff when many Members are not here would be a way of limiting amendments.

I am not obviously directing these remarks toward the gentleman, but since he is a spokesman for the Committee on Rules, I wonder if he might respond.

Mr. DODD. I might express that the gentleman raise this concern with the leadership so that there is in the future no limitation such as the gentleman is confronted with today, and in that manner the Members would be made aware earlier in the previous week so that the Members would be cognizant of it.

Mr. ASHBROOK. I thank my colleague for his concern, and I thank the gentleman for yielding.

GENERAL LEAVE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 5192.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

MILK PRICE SUPPORT ACT

Mr. BALDUS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4167) to amend section 201 of the Agricultural Act of 1949, as amended, to extend until September 30, 1981, the requirement that the price of milk be supported at not less than 80 percent of the parity price therefor.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. Baldus).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4167, with Mrs. Spellman in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Wisconsin (Mr. Baldus) will be recognized for 30 minutes, and the gentleman from Vermont (Mr. Jeffords) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Wisconsin (Mr. Baldus).

Mr. BALDUS. Madam Chairman, H.R. 4167 amends title II of the Agricultural Act of 1949 to extend until September 30, 1981, the period during which the Secretary is required to support the price of milk at not less than 80 percent of the parity price therefor and provide adjustments at the beginning of each 6-month period after the beginning of the marketing year to reflect estimated changes in the parity index during such semiannual period.

As of March 31, 1979, the minimum level of support required by law is 75 percent of parity, and in the absence of new legislation the requirement for semiannual adjustments would terminate on March 31, 1981. Secretary Bergland set the support price for market year 1979–80 at 80 percent of parity on October 1. Thus, this bill would not have any impact until October 1, 1980. We feel that its impact at that time would be very limited.

The purpose of the milk support program, as prescribed by the Agricultural Act of 1949, is to assure an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production and assure a farm income level adequate to maintain productive capacity sufficient to meet anticipated future needs. In recent years there has been a growing recognition that short-term price instabilities which may benefit consumers or producers may in the long-term damage both the dairy industry and the consumer.

Thus, it is in the national interest to seek stability in both supplies and prices of dairy products. The dairy price support program has helped provide this stability, particularly in the last 2 years during which 80 percent of parity has been the minimum support price. Both experience and research have shown that 80 percent of parity minimum support price has contributed to stability. Actual market prices have routinely been running in excess of the support price during the last 2 years.

Commodity Credit Corporation purchases have barely run in excess of needs for foreign and domestic commodity distribution programs. In 1978 only 3 days of milk production stood between having a surplus and a shortage of dairy commodities.

The dairy support program has been working well, particularly in light of its recent ability to continue to provide adequate supplies at a time when high beef prices provide an economic incentive to dairy farmers to cull the herd for a quick profit rather than continuing to sustain the herd for milking purposes.

Producers rely on the stability of the dairy industry and its price support system. High beef prices are likely to continue through the next 2 years. Any lowering of the support price as a percentage of parity could easily destroy this confidence and possibly result in a shortage of dairy products for consumers.

The committee fears that market stability would be disturbed if the support price were to be maintained below 80 percent. The average age of a dairy farmer is in the upper fifties. Thus, the dairy industry is top heavy with elderly farmers who might decide to sell off herds while cull cow prices are high and retire unless there are reasonable assurances of market stability. Seldom are circumstances as favorable as they are now for farmers wishing to leave dairying. Maintaining the support price could help forestall an exodus from dairying.

Retail prices of dairy products have been increasing at a rapid rate recently, particularly in relation to the historic price situation. These retail price rises have occurred in response to the market supplies and demand, and not as a result of support prices. Lower support prices would not likely result in lower retail prices even in the short term. It is expected that they would result in lower milk production and fewer dairy products in the long run if farmers perceived that they no longer have an assured minimum price at a reasonable level.

The real cost of dairy products has declined during the last 30 years. The retail dairy price index has consistenly increased less than the Consumer Price Index, the all foods index, the cost of goods and services that dairy farmers buy, and the cost of alternative beverages. The real costs—number of minutes of industrial labor required to buy 1 unit of product—of milk products have decreased since 1950. Dairy products continue to be an excellent food buy—to a great extent because of the stability brought to the industry by the dairy support program.

In the view of the committee, H.R. 4167 will extend needed protection to dairy producers without injury to taxpayers or consumers.

Director Rivlin of the Congressional Budget Office, stated that 80 percent of parity would provide price stability and, as compared with the recent situation, would not cause any major changes in dairy farmers' incomes, consumer prices, or Federal budget outlays but would result in adequate supplies of milk. If the support price is set at 75 percent, in her view, the risks of price instability and interruptions in supply would be considerably greater.

A representative of the Department of Agriculture estimated that at 80 percent of parity, milk production would increase at an average of 1 percent per year, but that consumption would also increase 1 percent per year. Thus, he estimated that Government-held surpluses would continue at current levels—2.2 billion pounds milk equivalent—and that 2.5 billion pounds could be utilized effectively by the Government.

The Secretary of Agriculture appeared before the subcommittee on May 31, 1979, to express the administration's position on the bill. He stated his belief that by and large the dairy program works well. It prevents wide fluctuations in milk prices by putting a floor on the downside and dampens sharp upswings by moving Government stocks back into the market as prices move up. For example, he stated that last year the Commodity Credit Corporation sold back to the industry 22 million pounds of butter and 5 million pounds of cheese—that these sales had an important impact on the market and that the strong demand we faced then would otherwise have moved prices up further than actually happened.

The committee agrees with the Congressional Budget Office's estimate that H.R. 4167 will have no budgetary impact. It is a simple 2 year extension of current law which CBO had projected that the administration would maintain with or without the legislation. There would, therefore, be no additional costs incurred by the Government by H.R. 4167 above what is already included in the budget to run the dairy program.

The committee estimates that enactment of H.R. 4167 will have no inflationary impact on the national economy.

□ 1420

Mrs. FENWICK. Madam Chairman, will the gentleman yield?

Mr. BALDUS. I yield to the gentlewoman.

Mrs. FENWICK. Madam Chairman, I thank my colleague for yielding.

I understand the intent of this legislation to regularize and stabilize the whole dairy industry. But I wonder if the committee had ever considered a stricture that in the application of this legislation no State could impose a penalty on those farmers who chose to sell below the stated price, and a consumer could only benefit if for one reason or another milk, which is standard as to quality, is sold below the stated support price by those who produce it? I know in some States that is against the law, that farmers have been arrested, fined, and threatened with imprisonment in any case, because the law provides they may be, because they are selling off their own premises in some little booth, properly refrigerated, that they may have leased, at prices below the support price.

Of course, this is tremendously valuable for low-income families. I do wonder if the committee has ever considered some kind of stricture that would prohibit such State laws passed by any State?

Mr. BALDUS. The committee has not considered prohibiting the States from doing that. I am not sure the history of it, but some of those laws are quite old. I would suppose they might even have been tested in Federal court to test their constitutionality. I think it is probably inappropriate—I am sure from the way the gentlewoman asked the question she is aware it is not a part of the Federal law, but rather a part of the State law—I think it is probably inappropriate for the Federal Government or for this committee at least to recommend the actions of those several States.

Mrs. FENWICK. If the gentleman will yield further, it seems so hard on the consumer. Here we are faced with a perfectly enormous inflation. I have already introduced legislation that would provide that the transportation of all food shall be exempted from the regulations of the Interstate Commerce Commission.

We must address ourselves to people who are trying to live on very often limited incomes in a time of terrible inflation. I do not think it would be wise to have no support for our farmers, but surely if the farmer himself wants to sell his commodity at a price that is convenient to him, and below the support price, it seems to me if we are going to have this rather antitrust, you might say antitrust exemption which is afforded to farmers to agree on a support price, those who wish to sell below it should be free to do so.

Mr. BALDUS. I think the gentlewoman is well aware these are State laws enacted by the States, and also that these laws are most likely to occur in the northeastern part of the United States and the far west, in California. Those are States that might not otherwise be and are not sufficient in milk from time to time. So I think if the gentlewoman examines the law far enough she will find they are, as this law is, to insure an adequate supply. They may from time to time have the appearance of supporting the price at higher than the consumer would otherwise be paying, but when the supply drops below demand, then we get the opposite effect, and that is a price higher than would otherwise have been if the law had not been there. I think that is the consideration of those States.

Mrs. FENWICK. I agree, and I do not mind the law that protects the farmer from losses. But I think if a farmer, local farmer wants to sell in a State in which he is situated at below the support price he ought to have the right to do so, because certainly it would benefit the consumer.

Mr. JEFFORDS. Madam Chairman, will the gentleman yield?

Mr. BALDUS. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Madam Chairman, I certainly think if we look at this State by State and look at the minimum supplies in some States the gentlewoman may have a valid argument, so long as the Federal price support program is in place. But if we were to take away the Federal price support program, which I do not think the gentlewoman is advocating, then I would just like to point out that individual type of selling at below market is what brought about the price support program, because it almost totally destroyed the dairy industry back when the price support programs were put in because of the inability of the industry itself to be able to control the cycle of the cows or whatever it is that brought about the destruction in the markets. The whole purpose of the price support program is to insure, as has been pointed out, an adequate supply of milk and to try and protect the consumer.

So I would agree we do not need State laws when we have the Federal price program, but I want to point out that it is essential that there be a support program.

Mrs. FENWICK. If the gentleman will continue to yield to me, I agree, I think it probably is necessary. I was a milk farmer, I used to produce 4 percent butterfat, 10,000 bacteria count, certified milk under the laws of the State of New Jersey, so I know something about it. But I do think that as good as the Federal support program might be, the freedom of the individual producer to sell within his own State at whatever he thinks is proper should not constitute a criminal act or a misdemeanor or any other kind of an offense. I wish our Federal support program would say we support it under those conditions. Maybe next year.

Mr. BALDUS. Perhaps we could undertake to make it not a Federal offense.

Mr. JEFFORDS. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I rise in support of

H.R. 4167, the legislation to extend, through September 30, 1981, the minimum 80 percent of parity dairy price support level provided in the Food and Agriculture Act of 1977. Extension of this provision is fully justified as a means of achieving the intent of the price support progam—

> To assure an adequate supply of pure wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs.

The dairy price support program intent is often not fully understood. Its prime focus is on the assurance of an adequate supply. This, of course, can only be achieved by maintaining farm income at a level sufficient to induce farmers to make the investment, to accept the risk, to devote the labor and management to the production of milk to such degree as will result in the production of the quantities demanded.

The 80 percent of parity price support level has been functioning well. At the present time, milk supply and demand are in very close balance. As a matter of fact, the 119.2 billion pounds of milk marketed off the Nation's dairy farms last year exactly matched commercial disappearance. Commodity Credit Corporation purchases under the dairy price support program were only 55 percent of the level of the previous year. Stocks of dairy products, both Government and commercial, declined substantially and commercial stocks at the end of 1978 were at their lowest level since the serious depletion at the end of 1975.

Since farm marketings and commercial demand exactly equated in 1978, the commodities purchased by the Commodity Credit Corporation represented almost entirely unnecessary imported milk. This situation will only be aggravated by the multilateral trade agreement we passed in Congress this year. This will be equivalent to adding almost three-quarters of a billion pounds of milk to our supply. A fact which can only be offset by reducing production by our own, more efficient farmers, by that amount. This is a situation which America's dairy farmers cannot understand or accept as being reasonable. Passage of H.R. 4167 as reported by the Committee on Agriculture is the bare minimum that our American consumers and producers can accept to protect against increased imports.

While the 121.9 billion pounds of milk produced in 1978 was moderately below 1977's 112.7 billion, the major factor in the balance between marketings and consumption was strong demand. Per capita consumption of milk and milk products increased from 551 pounds in 1977 to 558 in 1978. While per capita consumption may moderate somewhat this year, total demand is expected to continue strong when one considers population growth.

There has been some moderate expansion of milk production in the past several months. This is needed to maintain supplies to serve the market and to rebuild commercial stocks. This combination of circumstances demonstrates the effective operation of the dairy price support program as a means of assuring the production of an adequate supply of milk.

In June of this year, the Congressional Budget Office released a detailed analysis of the dairy price support program. In addressing the question of extending the 80 percent of parity minimum support level, the CBO report stated,

> In short, this option offers price stability and will not cause any major changes in current conditions for dairy farmers, consumers, or taxpayers.

Alice Rivlin, CBO Director, and her staff are to be commended for their assessment of this issue.

There is no magic or secret to what has to be done to secure the production of any commodity. Some means must be found to provide the return needed to induce producers to devote the resources necessary to obtain that production. In the case of milk, last year it took a total of $12.7 billion in farm income to bring forth the 119.2 billion pounds of milk demanded in the commercial market.

To meet the demand in the future, it will similarly be necessary to put the equivalent of 12.7 billion 1978 dollars on the Nation's dairy farms. More than this will result in milk supplies in excess of needs. Less than this will mean reduced milk production. The best way that has been found to equate the 1978 dollar with returns in future years is through the cost of things farmers buy. It is for this reason that Congress has written the index of prices paid by farmers for commodities and services, interest, taxes, and wage rates into the parity formula. Since it took a price support level of 80 percent of parity to achieve the balance of 1978, every indication points toward at least this minimum level of support being necessary to achieve such a purpose through 1979, 1980, and into 1981

Our Nation continues to face an inflationary spiral that has touched everyone. Food prices have risen. The costs of those items needed to produce, process, and transport that food have risen as well. Too often we hear that the single, simpler answer to inflation is to, in the case of the dairy industry, reduce milk prices. Such an assertion is based on the erroneous assumption that the same quantity of milk will be forthcoming from our farms at lower prices. This is simply not the case.

The dairy industry is all too familiar with the results of inflation control policies which seek to artificially restrain prices. During 1973 and 1974, a series of actions were taken specifically for the purpose of reducing the price of milk and dairy products. In each instance, it was said that these steps were not aimed at reducing milk prices at the farm. Unfortunately, this is the unavoidable result. The result was a reduction in milk production of almost 5 billion pounds a year. A drop of more than 22 percent in the basic farm price for milk took place during a 90-day period in mid-1974. And finally, the most rapid and uncontrollable rise in product prices the industry has witnessed as the depleted industry was unable to respond to market needs. From July 1974 to December 1975 wholesale prices for butter advanced over 70 percent. Cheese prices rose by 43 percent. This is the fruit of ill-conceived inflation control efforts which, because they attacked the basis for production, did, in fact, result in wildly escalating prices which neither the farmer nor the consumer sought. I urge support of this legislation today in an effort to preclude these things happening again.

The dairy price support program is operating, currently based on 80 percent of parity, so as to bring about the production demanded by the consumer—almost the exact amount demanded. The program has produced a stability in the dairy industry that permits farmers to plan their production with a degree of certainty and security. The program is working. It is successful. To quote an old farmer's admonition, "If it ain't broke, don't fix it."

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Madam Chairman, I urge support of this legislation in an effort to preclude Members from casting a vote on an amendment that will be discussed shortly. The amendment will destroy the basis of the milk price support program that has historically functioned well at 80 percent of purity. I hope the Members will listen carefully to that argument that the gentleman from Illinois (Mr. Findley) may propose.

This body, just a little while ago, thought it was wise and prudent to have the 80 percent of parity floor stay in through the 4-year period. The Senate, however, prevailed and said, "Let us take another look at it at the end of 2 years."

We have taken that look, and as has been pointed out by the chairman of the subcommittee, the look says, "Keep it in effect. It is working well, it is working well; do not change it."

Madam Chairman, before concluding I would like to commend the chairman of the subcommittee, Mr. Baldus, and to say that there is no committee or which I have served where there is a more nonpartisan effort. The gentleman from Wisconsin has done a super job. It has been a pleasure working with him, and I know that that feeling is going to continue.

Mr. BALDUS. Madam Chairman, I have no further requests for time at this time.

Mr. JEFFORDS. Madam Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. Findley).

Mr. FINDLEY. Madam Chairman, members of this committee may not be aware that dairy products are supported at a far higher level of parity than any other commodity—at least, any other commodity I can name. In fact, last week this committee saw fit to reject a bill which would have provided for higher price supports for sugar. I am glad the rejection did occur. I felt it was really against the long-term interests of the sugar interests, and certainly against the interests of the American consumer. But, the parity level of support for milk is substantially higher, even, than sugar. If this committee is consistent with the work it did last week on the sugar bill, then it will reject this bill.

But, I have to face reality. Dairy cows seem to be more uniformly scattered throughout the United States than sugarcane fields or sugar beet fields and, therefore, there is a broader interest base for dairy price supports. Consumer interests are not nearly as well organized as producer interest—that goes almost without saying. So, I am not optimistic, in all candor, about this committee being consistent with its action on the sugar bill of last week, and in order to be consistent, rejecting the milk bill that is now pending.

Therefore, recognizing the lack of prospect for the defeat of this bill, I urge that an amendment be adopted by the committee which would at least provide a sort of relief valve for the interests of the U.S. taxpayers and consumers. My amendment is one that was recommended by the U.S. Department of Agriculture, an institution that certainly does not deserve to be called antidairy. It consistently takes note of the interests of dairy farmers and has generally supported all dairy legislation. But, it has come forth, with this amendment which would provide a trigger permitting the Secretary of Agriculture, under very tightly restricted circumstances, to reduce the level of supports from 80 percent of parity to 75 percent of parity.

Now, he could not easily take that option. He could not easily reduce the level of support below 80 percent, and in any circumstance he could not reduce it below 75 percent of parity. Still, considering in contrast with other commodities, 75 percent is an enormous level of price support.

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Please bear in mind that my amendment would not be effective until certain supply circumstances occurred and even then the Secretary of Agriculture would be very tightly restricted on how much reduction in price supports he could authorize.

The trigger would not take effect until or if Government holdings of dairy products rose by the equivalent of 350 million pounds of nonfat dry milk or 3.5 billion pounds of milk. In other words, Government holdings of dairy products would have to increase by the equivalent of 350 million pounds of nonfat dry milk for the Secretary to be able to use the authority set forth in my amendment. If he did choose to reduce price supports he would not be able to reduce them more than 5 percent.

Now what does this mean in dollars? Well, the best estimate I can get from current data from the U.S. Department of Agriculture is that the Secretary could not touch this 80-percent parity floor until Government holdings of dairy products increased by an amount of at least $294 million. That figure is probably on the conservative side. It would probably be in the range of $300 million additional outlay.

The CHAIRMAN. The time of the gentleman has expired.

Mr. JEFFORDS. Madam Chairman, I yield the gentleman 5 additional minutes.

Mr. FINDLEY. Madam Chairman, this means this relief valve for the taxpayers and the consumers could not be utilized unless the accumulation of new surplus stocks of dairy products amounted to approximately $300 million.

Madam Chairman, it seems to me that is the very least we owe to the taxpayers of this country. Instead of locking in dairy price supports at not less than 80 percent of parity regardless of where Government holdings go, there should be this reasonable condition, this very reasonable relief valve to enable the Secretary to adjust the level of price supports if surpluses become mountainous.

Mr. McCLORY. Madam Chairman, will the gentleman yield?

Mr. FINDLEY. I am glad to yield to my friend from Illinois.

Mr. McCLORY. Madam Chairman, I thank the gentleman for yielding. I note there is a great deal of support for this legislation from our colleagues in Wisconsin and since my district borders on Wisconsin and I have a big dairy farm constituency, I am keenly interested in this legislation. It does seem to me that the amendment of the gentleman from Illinois would offer the kind of adequate support which is necessary for the dairy industry to remain viable and prosperous without our getting into a stupendous Government subsidy program. The gentleman and I have agreed on so many farm issues in Illinois, and generally the views are advanced by the Illinois Farm Bureau and the Illinois Agricultural Association and the gentleman's amendment seems to me to be very reasonable and I intend to support it.

I thank the gentleman for yielding.

Mr. FINDLEY. I hope the gentleman can spread the word among his colleagues.

Mr. JEFFORDS. Madam Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Illinois.

Mr. JEFFORDS. Madam Chairman, I do not intend to support the amendment, as the gentleman knows, and I would hope that I could convince the other gentleman from Illinois that perhaps he ought to reexamine his position on this particular amendment, if he is a friend of the dairy farmer.

Madam Chairman, this amendment is very subtle in its concept. It sounds very good when you look at it until you examine it closely. However, I must say I have not examined this version so I hope what I say is exact. Is the gentleman's version the same as presented by the administration?

Mr. FINDLEY. My version is the Department version. The administration's spokesman gave an amazing performance on the amendment.

Mr. JEFFORDS. Never in my life have I seen anyone come before the committee and advocate an amendment and then spend the whole time explaining why it was unnecessary. That is what we saw. Obviously this amendment came not from the Secretary of Agriculture but out of nervousness from OMB, I might add totally forgetting the President's commitment to 85 percent of parity—not just 80 percent.

Madam Chairman, certainly the Secretary or the representative of the Secretary when he came before us gave all these reasons why it was perfectly all right to leave things the way they are, that things were working well and that the industry was doing fine and things were just great. And then he said, "By the way, we have to offer this little amendment."

If we examine the amendment, it totally decimates the 80-percent floor. At least the figures we were given at that time—I would have to check the gentleman's amendment—indicate that the trigger level is about at the normal level of purchase.

In other words, if there is any slight variance above the normal purchase level in order to keep things at 80 percent of parity, even though we almost balance out at the end of the year, the trigger would be in effect. In effect, what it does, it gives you 80 percent with one hand and with the other hand it takes it away. It says, "We do not really have 80 percent, we have 75 percent."

Madam Chairman, those who come from dairy areas and those around the country who are interested in a stable market and keeping prices in line should be very careful about this amendment. It sounds good until you examine it.

Another thing which bothers me, the only protection the dairy farmers have got against imports is the 80-percent floor, because it could be triggered off by imports coming in legally under the new multitrade agreements. For instance, get further increases in casein, which are now flooding and hurting our dairy industry very much, you could trigger this thing and hurt the dairy industry twice.

Madam Chairman, another thing that worries me is the nervousness of the administration, now, in this time of inflation. The Nixon administration fell for similar antics. They said, "Where can we go, what can we do right now that will look to the people in this election year like we were doing something to fight inflation? Well, let us sock it to the dairy farmer. Everybody drinks milk. Let us say we are going to bring the prices down." That is what they tried to do.

What happened was the opposite. We had the greatest destruction of the dairy market in modern history and the greatest increases in dairy prices in modern history.

Mr. FINDLEY. Madam Chairman, first of all, under my amendment price support could not go below 75 percent of parity. I cannot cite another commodity that is supported that high. Maybe peanuts is. It is up in that range. That would be the only exception. Dairy is given favored treatment, even at 75 percent of parity.

Now, Madam Chairman, the gentleman is outraged at the thought that the price support might under certain circumstances go below 80 percent of parity. Under my amendment it would require this new outlay for Government holdings for unneeded production of dairy products to the extent of $300 million. Is there a figure the gentleman could go along with? If the outlay comes up to $500 million would he support a trigger? Or $1 billion, or is the gentleman simply wedded to price support at 80 percent of parity no matter how high the Government holdings of dairy products go?

Mr. JEFFORDS. Obviously, if the price support program gets to the extent it becomes overly burdensome on the taxpayer, of course we ought to consider modifying it.

What worries me about the gentleman's approach is that it is automatic at a time when people are looking around for things to try to do to keep the American public happy like the Nixon administration did in 1973 and 1974.

Mr. FINDLEY. By keeping food prices down.

Mr. JEFFORDS. What he did resulted in huge increases in dairy prices because they did not understand what they were doing. I think this administration, especially the Carter administration, in this time of infinite peril where their political lives are at stake are going to be looking for anything in the world they can find to try and get a little favor with the general public. This is the worst time we should allow such a tool to be placed in their hands. I hope the gentleman will not be wanting to assist the administration in furthering their political efforts by deceiving the public.

Mr. FINDLEY. Madam Chairman, I hope the gentleman will have some time for reflection overnight before we vote on this amendment, because in my view it is an entirely reasonable condition. It came from a department headed by one of our former colleagues, Bob Bergland, who certainly is not insensitive to the needs of dairy farmers, and I have seen nothing on the public record that indicates any lessening of support on the part of the Department of Agriculture for this amendment.

I do thank the gentleman for yielding.

Mr. JEFFORDS. Madam Chairman, the gentleman knows who dictates policy. As much as the Secretaries like to do it, if OMB says that is not your policy, then it is not your policy, and that is what we see here.

☐ 1450

Mr. FINDLEY. The document came from the Department of Agriculture, not from OMB.

Mr. BALDUS. Madam Chairman, I yield such time as he may consume to the gentleman from Wisconsin (Mr. KASTENMEIER).

Mr. KASTENMEIER. Madam Chairman, I want to take this opportunity to express my support for the bill and to compliment the gentleman from Wisconsin, the chairman of the subcommittee and his colleagues, particularly the gentleman from Vermont, and associate myself with the views of the gentleman from Vermont in response to the proposed amendent by the gentleman from Illinois (Mr. FINDLEY).

I think this bill is in excellent shape and we ought to retain it just as it is.

Madam Chairman, I urge my colleagues to support H.R. 4167, which provides for a 2-year extension of the 80 percent of parity floor on dairy price supports. Passage of this legislation is essential to both consumers and producers of dairy products. Without it, price supports could drop to 75 percent of parity next year.

A 5 percent difference in the target price for milk may not seem like a major issue. However, the 80 percent floor has allowed us to achieve a reasonable balance between the demand for milk and supplies, while lower support levels in the past have resulted in major disruptions in the dairy industry.

Under the current 80 percent target, the demand for dairy products and supplies have been roughly equal, with the market price remaining at or above the support price. During the past 2 years, Commodity Credit Corporation purchases have been almost evenly matched with the needs of our foreign and domestic distribution programs. In fact, the House Agriculture Committee reports that "in 1978, only 3 days of milk production stood between having a surplus and incurring a shortage of dairy commodities." With continued assurance that they will receive a reasonable return on their investments, dairy farmers are expected to increase production gradually to keep pace with rising demand over the next few years.

Contrast this to the situation in 1974, when price supports were allowed to fall to 74 percent of parity. Farmers were losing as much as $2.30 for every hundred pounds of milk sold. Obviously, our dairy industry would have shrunk drastically if this situation had long continued.

The purpose of the price support program is to insure adequate production of agricultural commodities. Clearly, we are achieving that goal in the dairy industry. It would be foolish to abandon such a successful policy, especially in light of our past experiences with lower support levels. Agriculture Secretary Bob Bergland recognized this when he set the target price at 80 percent on October 1, even though the statutory requirement for an 80 percent floor expired on March 31.

Despite the obvious success of the current price support level, there are those who claim that dairy prices have been kept artificially high. Statistics simply do not bear this out. It is true that dairy farmers are now generally making modest profits. However, like most farmers, dairy farm incomes have declined relative to the rest of the economy, and the real price of milk is now 17 percent below what it was in 1974. In fact, even though dairy prices have risen by 12.4 percent during the past year, the cost of producing milk has risen even more—by 13.9 percent.

We are in no danger of giving dairy farmers a windfall at the consumers expense. On the contrary, dairy products are among the best buys in the supermarket today.

Even this limited farm prosperity and stability is threatened by the Trade Agreements Act signed by President Carter this summer. Under this legislation, cheese import quotas will be increased by 15,000 tons over 1978 levels.

The dairy concessions made by American trade negotiators allowed us to achieve many of our other objectives in the most recent round of trade negotiations. We cannot expect the American dairy producers to also accept lower price supports.

It is for this reason that I am particularly disturbed by the Department of Agriculture's proposal to introduce a "trigger" mechanism into the price support program. Secretary Bergland has asked that he be given authority to lower prices supports below the statutory minimum when the Commodity Credit Corporation's purchases of dairy products exceed 3.5 billion pounds of butter-cheese-milk equivalent or 350 million pounds of nonfat dry milk. In its simplest terms, the Secretary's proposal offers farmers an adequate level of assistance except when they need it most—when prices are extremely low and CCC removals high. The American dairy farmer deserves more from the Federal Government than such fair weather friendship.

The 80-percent price support floor is the absolute minimum we should accept under any circumstances. It has provided farmers with a modest profit level after years of losses, and has helped guarantee an adequate supply for consumers. I urge the House to pass H.R. 4167.

Mr. JEFFORDS. Madam Chairman, I yield 3 minutes to the gentleman from Wisconsin (Mr. PETRI).

Mr. PETRI. Madam Chairman, I would like to associate myself with the remarks of my colleague, the gentleman from Wisconsin (Mr. KASTENMEIER).

This is a very good bill that ought not to be amended.

Madam Chairman, I rise in support of H.R. 4167, the Milk Price Support Act. I congratulate the gentleman from Wisconsin (Mr. BALDUS) for his work in bringing this bill to the floor.

The dairy industry is the economic base of my State and the central Wisconsin district I represent. In 1978, for example, the dairy industry bolstered the Wisconsin economy with a cash flow exceeding $2 billion. This represents about 17 percent of the Nation's total cash receipts from dairy farming.

It is important that Congress pass this bill to help insure the viability of the dairy farmer, especially in this time of economic uncertainty.

This legislation wisely sets the support price for milk at no less than 80 percent of parity. The 80 percent support price has worked well, and there is no reason to lower it.

By extending the 80 percent minimum support price, we guarantee a profit for the producers, stability in the dairy industry, and a steady supply of milk to consumers at a reasonable cost.

To do otherwise, and reduce the minimum support price level, could cause many dairy farmers to leave the industry. This would result in insufficient supplies and higher consumer costs.

The Agriculture Department has seen fit to set the support level at 80 percent of parity. By passing this legislation, we will be making clear the intent of

Congress to keep the price floor at its present level.

Mr. JEFFORDS. Madam Chairman, will the gentleman yield?

Mr. PETRI. I yield to the gentleman from Connecticut.

Mr. JEFFORDS. Madam Chairman, before the gentleman leaves, I would like to commend the gentleman. I have worked with the gentleman closely on matters of the dairy industry. I just want to say that I certainly appreciate the gentleman's support. The gentleman has provided an invaluable service to the people of his district for his continuing effort and awareness of the problems of the dairy industry.

Mr. PETRI. Madam Chairman, I thank the gentleman for his words of encouragement and for his understanding.

Mr. JEFFORDS. Madam Chairman, I yield 4 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Madam Chairman, I rise in support of this bill in its unamended version, as reported from the Committee on Agriculture.

I would like to particularly commend my colleague, the gentleman from Wisconsin (Mr. BALDUS), the chairman of the subcommittee, and the gentleman from Vermont (Mr. JEFFORDS) the ranking minority member of the subcommittee, for their hard efforts on behalf of this piece of legislation and on behalf of the dairy industry.

I further would like to associate myself with the remarks of my two colleagues from Wisconsin, Messrs. KASTENMEIER and PETRI, in support of this bill.

Madam Chairman, it is important during times of economic flux that we insure the continued stability of agriculture. We are being given that opportunity today. Stabilization of the dairy industry is the primary purpose for supporting an 80 percent minimum price support.

All businesses are suffering due to ever increasing costs, the dairy industry is no exception. It would be irresponsible, in the face of rising production costs, to reduce the support level on dairy products. In order for farmers to determine their future production levels, they must be given the security of adequate price supports.

With current high beef prices, liquidation of dairy herds is an extremely attractive option for dairy farmers. If we reduce the minimum support level, this option becomes that much more attractive, threatening the supply of dairy products and inducing higher costs for consumers. These fears are borne out by a recent CBO study concluding that a 75 percent minimum would incur a greater risk of instability and insufficient supply, while an 80 percent minimum would maintain a healthy dairy industry. Therefore, support at 80 percent of parity benefits both the producer and the consumer, assuring government support to farmers and preventing possible shortages and wildly fluctuating prices for consumers.

I would add that the dairy industry will suffer through increased imports of foreign cheese resulting from the enactment of the Multinational Trade Act in July. Consequently, passage of this bill is essential to provide our dairy farmers insurance against possible financial hardship should increased imports depress the price of domestic milk below the support price.

● Mr. WAMPLER. Madam Chairman. H.R. 4167 would extend the minimum 80 percent of parity dairy price support level provided for in the Food and Agriculture Act of 1977 through September 30, 1981. Mr. JEFFORDS, ranking minority member of the Dairy and Poultry Subcommittee, and Mr. BALDUS, chairman of the subcommittee, sponsored the legislation to extend the 80-percent parity. The legislation has wide support from dairy farmers and those representing the dairy industry. The following reasons form the base for my support of this bill.

First. The extension of the 80-percent parity minimum is justified as a means of achieving the intent of the price support program to assure an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs.

In my opinion, a support level of 80 percent of parity will give some assurance of industry stability for a product which must be produced domestically and for an industry which in the long run is cyclical in nature. Because dairy farming is so capital intensive, I believe it must be guaranteed some stability. To let the supply fluctuate greatly would mandate higher costs to the consumer in the future.

Second. Consumer prices have not increased significantly under the existing 80 percent of parity price support.

Milk prices since the enactment in 1977 of the now expired amendment to the Agricultural Act of 1949, setting the price support level at a minimum of 80 percent of parity, have not increased at a rate equal to other foods or in terms of "real cost" to the consumer. There has existed for nearly two years a highly acceptable balance between supply and demand, serving the actual interest of the consumer and the dairy farmer. If 80 percent were inflationary, I do not believe Secretary Bergland would have administratively imposed that price support on October 1, 1979.

Third. In June of 1979, the Congressional Budget Office released a detailed analysis of the diary price support program. The CBO stated that the 80-percent parity option offers price stability and will not cause any major changes in current conditions for dairy farmers, consumers, or taxpayers.

Fourth. Passage of H.R. 4167 as reported by the Committee on Agriculture is the bare minimum that our American consumers and producers can accept.

Madam Chairman, I fear that in passing the multilateral trade agreement, Congress agreed to an international agreement signed by the President that may allow the importation annually of the equivalent of more pounds of milk to our domestic supply than many in the Congress anticipated. Therefore, passage of H.R. 4167, at the least, will show our domestic producers that Congress is indeed interested in the domestic dairy industry.●

Mr. JEFFORDS. Madam Chairman, I have no further requests for time. I yield back the balance of my time.

Mr. BALDUS. Madam Chairman, I have no further requests for time. I yield back the balance of my time.

Madam Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. VOLKMER) having assumed the chair, Mrs. SPELLMAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4167) to amend section 201 of the Agricultural Act of 1949, as amended, to extend until September 30, 1981, the requirement that the price of milk be supported at not less than 80 per centum of the parity price therefor, had come to no resolution thereon.

GENERAL LEAVE

Mr. BALDUS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 4167.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

HANSEN CHARGES FED MALPRACTICE HARMS ANEMIC AMERICAN ECONOMY

(Mr. HANSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANSEN. Mr. Speaker, American consumers and business people have good reason to bring malpractice charges against the medieval witch doctors of the Federal Reserve Board who recently made a huge error in their blood count and have been excessively bleeding the anemic American economy. As the ranking minority member on the House Banking Subcommittee on Domestic Monetary Affairs, I must say the Nation cannot count on the FED when the FED cannot count.

Just this morning the Banking Committee held a hearing to find out from Federal Reserve witnesses just why they can be off $3.7 billion in money supply estimates and how much real damage this has had upon the Nation and individual citizens.

How do you explain to people who have been hurt by high interest and discount rates and lack of available money that it was all a mistake, that the economic doctors at the FED are so careless as to have miscounted the money supply by nearly $4 billion? How do you pacify the victim of serious Government-caused losses in the stock market by telling him you have to realize the Government medicine man might occasionally be a quack or at least be unable to do arithmetic?

The FED has dished out strong medicine to American people in terms of tight money and high interest rates which hurts the consumer who must buy, the taxpayer who has to pick up the increased national debt interest, and the business community who is stuck with big inventories and high capitalization costs. But there is serious question of whether the FED is overreacting against the consumer without insisting upon equally stringent corrections in the area of Government deficit spending and the abnormal rise in energy costs.

Even worse is the fact that this huge blunder occurred at such a critical time when the dollar, the gold market, the stock market, and interest rates are all so sensitively interrelated that devastating psychological damage could be done even reminiscent of the crash of 1929.

For years, Congress and the FED's own outside consultants have been begging the FED to pay more attention to how it measures the monetary aggregates, and to be more open in how it operates. Up to October 6, 1979, the response of the FED has been one of utter aloofness. Many people thought that October 6 marked a new beginning. Yet it is now clear that the FED has still not done its basic homework, and is still operating in such a closed atmosphere that ordinary folks in the real world cannot figure out what to expect next.

We all know that high inflation has brought high interest rates. But in addition, market participants have to get even higher returns when there is additional risk, and unpredictable action by the FED aggravates that risk. By demonstrating that the FED cannot be counted on to count right, the FED itself has introduced a new higher risk factor in interest rates that serves no market or public purpose whatsoever.

The Federal Reserve must move to put its house in order. As the Nation's delegated monetary authority, it must take immediate steps to improve its measurements of the monetary aggregates. The recommendations of the committee it appointed some few years ago to study the monetary aggregates should be immediately considered.

Furthermore, the Federal Reserve must introduce more stability into markets by saying directly and simply what it is doing. This does not mean that we have to know how many dollars in reserve will be injected next week, but it does mean that we must be told exactly what targets the FED has in its operations.

In short, the FED has to pay more attention to measuring money, and has to be more forthright in telling us how and why it is operating in the open market.

MEAT INDUSTRY ACT TO PRESERVE COMPETITION

(Mr. SMITH of Iowa asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Iowa. Mr. Speaker, I am today introducing the Meat Industry Act To Preserve Competition, a bill which defines the rules of conduct to be permitted under antitrust laws in order to protect against so many efficiently operating packers from being eliminated that a noncompetitive or anticompetitive situation results.

Although antitrust laws supposedly would cover this situation, it now takes so long to enforce these laws that by the time a company is found guilty of antitrust violations, the competition has been eliminated. These smaller firms are being run out of business merely because they have fewer financial resources than the very biggest companies.

The bill sets the following limitations:

First. No packer shall slaughter more than 25 percent of the national production of steers and heifers, cows and bulls, or hogs in the United States.

Second. No packer shall control more than 25 percent of the boxed beef or the centrally cut beef market.

Third. No packer shall slaughter more than 30 percent of either beef or hogs in the 13 largest red meat producing States.

Fourth. The very largest firms in the industry are prohibited from operating retail outlets.

To determine the amount of beef a packer can slaughter, the carcasses that are purchased from other packers are included in the company's total. In determining whether a packer is in excess of its 30 percent limitation in the largest production States, plants located within 100 miles of the border are also included in the total.

In determining the national slaughter figures, the production from those that slaughter more than 10,000 head per year would be used. This is presently 220 of the largest firms which produce about 95 percent of the slaughter in the United States. The hundreds of other firms which only produce 5 percent would not be directly involved by the bill.

The Meat Industry Act To Preserve Competition is one of several bills resulting from the House Small Business Committee hearings and investigation into the meat industry practices.

The $40 billion a year meat industry is too important to leave the rules of conduct to a haphazard or uncertain interpretation. If concentration increases further, livestock producers will no longer have alternative markets for selling their products and consumers will lose the benefit of lower prices through competition in the slaughtering and wholesale end of the industry.

The 1920 consent decree, still in force today, prohibits what was then the five largest meat producing firms from engaging in retailing because they threatened to eliminate competition. It is important today to make similar prohibitions against whatever firms have grown so large that they too threaten to eliminate all retailers in the largest consuming areas.

With the introduction of this bill we are now at the stage where we welcome opinions from all segments of the industry. I am especially interested in comments about the appropriateness of limitations which are designed to preserve competition in the industry.

ADMINISTRATION'S ECONOMIC POLICIES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado (Mrs. SCHROEDER) is recognized for 5 minutes.

● Mrs. SCHROEDER. Mr. Speaker, I am beginning to wonder if President Carter is attempting to do away with the two-party system. Mr. Carter is a Democrat, but the economic policies which are being promoted by his administration would make any Republican proud. Several of the country's major banks have raised their prime lending rate to 15 percent and others are talking about raising the rate even higher. Now rates to most borrowers are rising. Mortgage rates at many savings and loan associations, for example, are at 14 percent and, in some parts of the country, mortgage money is becoming difficult to find at any price.

If we move much further down this road, either the Republicans are not going to have any issues left to run on or they will have to start pushing for a lower prime lending rate and lower interest rates to borrowers. What a turnabout that would be.

I think Mr. Carter should take a hard look at who is supposed to be in charge and who it appears is in charge. In other words, I question the wisdom of having a champion of conservative economic policies heading up the Federal Reserve Board and an administration which accepts these policies as the best way to deal with inflation. Inflation, which is now running at an annual rate of over 13 percent, is a serious problem which must be dealt with. The question is how and at what cost. There is, after all, the experience of the Ford administration, which was very successful in lowering the rate of inflation but at the cost of 9 percent unemployment and a lost bid for reelection. With 1980 fast approaching, I would hope that this lesson is not lost on the Carter administration.●

THE ENERGY MOBILIZATION BOARD: A SIMPLISTIC SOLUTION FOR COMPLEX PROBLEMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BROWN) is recognized for 5 minutes.

● Mr. BROWN of California. Mr. Speaker, as the House debate reaches its climax over the creation and powers of an Energy Mobilization Board, it is important to remember what the problem is. We have a conflict in values in this country, primarily over the quality of life versus quantity of production, but also over centralized, national control of power versus decentralized, local control.

The proposed Energy Mobilization Board, whether we talk about the Dingell-Commerce Committee version, or the Udall-Clausen-Wirth-Interior Committee version, is primarily being sold as a means to cut unnecessary redtape, and not as a means to resolve value judgments. Unfortunately, many of the proposed powers of either version will, de facto, require value judgments made in the name of energy production that would otherwise be made in a more balanced fashion. It may be that our multiple levels of government need drastic revision to improve their efficiency. I certainly know of many cases where I think improvements can be made.

However, the proposed Energy Mobilization Board will not be working to improve government efficiency; rather it will be working outside the normal channels of government and be avoiding the tough problems real reform would bring. If we need a new Board for energy, do we not also need one for creating jobs, or fighting inflation? If we establish one for energy, where do we stop?

Mr. Speaker, in spite of these serious doubts about this new entity, I have reached the reluctant conclusion that we should try out the new Energy Mobilization Board concept, on an experimental basis but with limited powers and adequate checks and balances, in order to dispel the notion that redtape, rather than value judgments are in the way of controversial new construction projects. It is clear from even a cursory analysis that the Udall-Clausen-Wirth version is more in proportion to the need than the Dingell-Commerce bill, which opens up entirely too many areas to abuse.

Mr. Speaker, over the past several months there has been considerable editorial attention to this subject, with almost all of it coming down on the side of a limited powers Energy Mobilization Board. A sampling of this editorial comment follows:

[From the Los Angeles Times, Oct. 8, 1979]

Energy Bill: Too Energetic

A U.S. Senate bill to create a "fast track" for making government decisions on crucial energy projects was on a fast track of its own last week, which is too bad.

The bill would create an Energy Mobilization Board with extraordinary powers to select important projects and expedite the cumbersome process of getting permits and clearances from the dozens of government offices that must approve some aspect of all such projects.

There is no question that the United States must move faster than it has in the past to develop new energy sources that can help reduce its dependence on imported oil.

But the Senate bill and others before Congress represent drastic changes in the relationships between Washington and state and local governments.

In trying to appear decisive on energy, Congress represents drastic changes in the relationships between Washington and state and local governments.

In trying to appear decisive on energy, Congress has spent too little time examining the consequences of some of those changes. It is on the verge of creating a new superagency with too much power and too few checks on that power. Now that the Senate has passed its fast-track bill and sent it to the House, the House should put it on a slower track until those consequences have been thought through.

For example, the Senate bill, sponsored by Sen. Henry M. Jackson (D-Wash.) and supported by the White House, would give the energy board the power to set strict deadlines for all agencies—federal, state or local—that make decisions on an energy project.

If any agency fell behind schedule, the energy board could ask a judge to order the agency to get cracking, or the board could step in and make the decision itself. The bill is clear that the energy board could not override state or local law. It would be obliged to act within the same legal framework that bound the offending agency.

We think giving the board the right to go to court in such circumstances would be power enough. In cases where a state agency was dragging its feet for no good reason, a court order would solve the problem.

Giving the board the power to act on its own could do more harm than good. It is common for government agencies to come across problems with permits that surprise both the agency and the applicant but that can be worked out with time. Barging into a case like that might mean that the energy board would have no choice but to deny the permit.

The Jackson bill would also set up one direct conflict with California law and perhaps the laws of other states. Under the bill, the energy board would have to act to get all clearances and permits for a project in two years. California law gives the state Energy Commission 30 months to decide on permits for power plants. We think the bill should be rewritten to let the federal energy board follow state deadline laws as long as they are reasonable.

The Jackson bill would give the board absolute discretion in deciding which projects should enjoy priority status. Its choices could not even be challenged in court.

Other versions of the energy board bill would give the President the authority to veto a board's choice and give Congress the right to override both. We think that is a more sensible approach.

Probably the most important section of the bill is one that would prevent repeated legal challenges of every important permitting decision on an energy project.

It was the threat of years of delay in court even after the project had all of its government permits that finally led Standard Oil of Ohio (SOHIO) to drop its plan to build a terminal at Long Beach to transfer Alaskan oil to pipelines for delivery to the Midwest.

The Jackson bill would consolidate all such challenges into one case that could be filed just before the final permit for a project was issued, and we think that is sound.

However, the Jackson bill also would channel all such challenges to a single court—the Temporary Emergency Court of Appeals, which now hears about 25 cases a year involving disputes over allocations of oil. We think that is a mistake.

The Senate Energy Committee said it chose the emergency court because it hoped that over time the justices would develop expertise in the energy field and be able to rule in complicated cases faster than other courts could.

One reason that appeals courts exist is that government officials make mistakes, particularly when they are pursuing narrow, urgent goals, like energy development.

There is a danger that a court with too much expertise in energy development would, over time, come to see itself as part of that urgent mission, as an advocate rather than arbiter.

That danger could be avoided by allowing any federal court of appeals to hear cases filed against proposed energy projects that would be built in the court's region.

We think Congress can build in these checks on the energy board's power without damaging the cause of energy development, partly because U.S. energy policy is not as clear as it seemed to be two or three months ago.

The Energy Mobilization Board was perceived originally as a body that would run interference for crash projects that would give the country a new synthetic-fuels industry.

Now the federal government is being advised by most energy-policy researchers to move more slowly, to build a few low-volume pilot plants to find the most cost-effective technology before making a major commitment to production.

Under the circumstances, an energy board's focus at least for the next few years probably would be on more conventional energy projects such as coal-fired power plants, pipelines and transmission lines.

For those, we think, a scaled-down version of the Jackson bill should be adequate.

[From the Riverside Press-Enterprise, Oct. 5, 1979]

Powerful Board

Although environmentalists in the Senate cautioned that the proposed Energy Mobilization Board might prove more a rampaging bulldozer than a bureaucratic tape-cutter in speeding new energy projects, the Senate didn't accept hard controls in moving toward its creation.

The worry from the start has been that the board, proposed by the president, would run roughshod over local, state and federal laws, and particularly the environment, in the rush to build new oil refineries, synthetic fuel plants, coal-burning energy facilities and the like.

While the board was not given power to waive substantive federal, state and local laws standing in the way of an energy project, it was given authority to step in if a local agency fails to meet deadlines for construction approval. The danger here is that the missing of a deadline could be due to local uncertainty over an energy plant's liabilities and that deadlines, not environmental hazards, would be mainly addressed by a build-we-must board.

"If the new energy facilities are to serve as a laboratory to test new and untried processes," said Sen. Edmund Muskie, "we ought to have some way to protect ourselves from the unintended byproducts we discover." The senator gave the example of a government powerless to act against an energy facility emitting chemical poisons once it has been board-approved and built.

In trying to reduce the power of the board in the interest of the environment, Senator Muskie said, "There is simply no reason to assume that a decision at the federal level will be a better decision than one made in a community or a state capital."

The arguments of the environmentalists weren't entirely lost. The Senate agreed to give the Environmental Protection Agency veto power over some projects when they are found to be hazardous, but only if state and local governments also seek to block construction. And the Senate also agreed that the board shouldn't have the power to override existing federal laws which inhibit the construction of new energy plants.

It is a wonder that such undemocratic and unprecedented power should have even been considered.

Still, the board remains powerful and environmentalists in the House ought to take up where those in the Senate left off.

This country already is under heavy siege by developers without creating a board that, if not closely controlled and freed from special-interest influences, could serve as their new battering ram.

[From the Los Angeles Times, August 13, 1979]

A New Energy Board Could Steamroller Its Way Over Our Liberties

(By Curtis B. Gans)

The Supermen in Congress will return to Washington after Labor Day and, if President Carter has his way, will act faster than a speeding bullet to place the finishing touches on what may be the most dangerous single piece of legislation in the past decade: Carter's Energy Mobilization Board.

Comprising three to five appointed officials (Congress has not yet agreed on the number), the board would be empowered to designate up to 75 energy research, development, production and delivery projects as priority national efforts and to remove all technical, procedural, legal or political obstacles in their way. But the concept behind such a board is fallacious: namely, that the best approach to remedying the nation's petroleum shortage and dependency on foreign oil is immediate, massive and indiscriminate production of petroleum and substitutes.

While the creation of an energy board would certainly put America's response to the petroleum crisis on a wartime footing, it is likely to leave the nation's environment and public health—and such democratic concepts as due process and judicial review—looking like Dresden after World War II.

For example, under the legislation now emerging from the House Commerce and Senate Energy committees, the board could conceivably suspend strip-mining regulations and allow substantial portions of West Virginia and the Rocky Mountain states to be laid waste in the pursuit of coal and oil shale. It could also abrogate mine-safety legislation in order to rapidly expand coal production and allow reduction of already scarce Western water reserves, by permitting the reserves to be used for the swift mining of oil shale and the development of synthetic fuels.

The board could also relax national and state clean-air standards and substantially increase pollution in order to permit the development, production and use of synthetic fuels and the burning of high-sulfur coal and minimally refined oil to generate electricity. And it could put into production petroleum substitutes whose social byproducts might prove dangerous to the environment and to natural resources. The cost of such risks may turn out to be substantially worse than the shortages that they were designed to relieve. And the political costs of the Energy Mobilization Board may prove even greater—for, if the legislation is passed as now written, the board will be granted virtual dictatorial reign. Indeed, the powers now outlined for this board are at once so vague and so encompassing that it could conceivably reverse 30 years of environmental law, 50 years of social legislation and two centuries of constitutionally mandated due process.

The board could, for instance, suspend regulations in any field relating to energy development, temporarily revoke state or local laws that impede production, and unilaterally suspend acts of Congress. In addition, it might suspend the right of administrative challenge, limit access to judicial review of its decisions, and abrogate the courts' right to adjudicate the validity of its actions.

That such a transfer of authority and power is even under consideration is testimony to times that are both difficult and dangerous—times in which the public seeks simple solutions rather than face complexity, and wants authority rather than cope with uncertainty. It would be far better to move more slowly and think more clearly.

For the vast majority of energy-production projects that should be undertaken now—expediting the development of solar energy; converting garbage or other wastes into methane; harnessing the tides, winds and heat of the earth; finding ways to cheaply extract shale oil without destroying the land or lowering the water table, and even exploring means of economically extracting unconventional oil and gas—could almost all proceed without delays or inconvenience.

Other energy-production schemes—such as expansion of nuclear energy, increased use of coal, development of synthetic fuels—should be undertaken only under the most stringent safeguards and only on a pilot basis until their safety as well as their efficacy has been assured beyond reasonable doubt.

If certain limited energy-development projects deserve more expeditious treatment than present procedures permit, specific legislation could be aimed at such limited problems.

However, unless Congress puts the brakes on its steamroller and acts with more restraint than it has so far shown, the only recourse against this dangerous precedent will be to test its constitutionality before the Supreme Court. And, given Richard M. Nixon's most lasting legacy, the Burger court, that is a slim reed on which to rest the hopes of a responsible legislative process.

Until now, even those who had reason to question President Carter's leadership took solace in his continuing respect for the environment, his refusal to tamper with due process and his capacity for restrained response even under intense pressure. In proposing the Energy Mobilization Board, he has destroyed this affirmative image.

As we move from an era of plenty to an era of limits and perhaps even scarcity, society's democratic values will be challenged. The Energy Mobilization Board represents a dangerous sacrifice of essential liberty in order to preserve prosperity. It doesn't take X-ray vision to see which is more important.●

LEAVE OF ABSENCE

(By unanimous consent, leave of absence was granted as follows to:)

Mr. Whitehurst (at the request of Mr. Rhodes), for October 24, 25, and 26, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Baldus) to revise and extend their remarks and include extraneous material:)

Mr. Gonzalez, for 15 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Weaver, for 10 minutes, today.
Mr. Rahall, for 5 minutes, today.
Mrs. Schroeder, for 5 minutes, today.
Mr. Benjamin, for 5 minutes today.
Mr. Brown of California, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Sensenbrenner) and to include extraneous matter:)

Mr. Gingrich.
Mr. Whitehurst.
Mr. Latta.
Mr. Conte.
Mr. Green.
Mr. Symms.
Mr. Jeffords.
Mr. Williams of Ohio.
Mr. Young of Alaska.

(The following Members (at the request of Mr. Baldus) and to include extraneous matter:)

Mr. Anderson of California in 10 instances.
Mr. Gonzalez in 10 instances.
Mr. Brown of California in 10 instances.
Mr. Annunzio in six instances.
Ms. Holtzman in 10 instances.
Mr. Jones of Tennessee in 10 instances.
Mr. Boner of Tennessee in five instances.
Mr. Bingham in 10 instances.
Mr. Blanchard.
Mr. Garcia in two instances.
Mr. Coelho.
Mr. Stark.
Mrs. Spellman in two instances.
Mr. Wirth.
Mr. AuCoin.

ADJOURNMENT

Mr. BALDUS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly at 3 p.m., the House adjourned until tomorrow, Tuesday. October 30, 1979, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2716. A letter from the President of the United States, transmitting requests for supplemental appropriations and budget amendments for fiscal year 1980 (H. Doc. No. 96–211); to the Committee on Appropriations and ordered to be printed.

2717. A letter from the Comptroller General of the United States, transmitting his review of the revised deferral of budget authority contained in the message from the President dated September 28, 1979 (H. Doc. No. 96–196), pursuant to section 1014(c) of Public Law 93–344 (H. Doc. No. 96–212); to the Committee on Appropriations and ordered to be printed.

2718. A letter from the Attorney General, transmitting the first report on the activities of the Interagency Coordinating Council on the Rehabilitation Act of 1973, pursuant to section 507 of the act, as amended (92 Stat. 2983); to the Committee on Education and Labor.

2719. A letter from the Assistant Secretary of the Interior for Indian Affairs, transmitting proposed final regulations governing the Indian school equalization program, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

2720. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on Foreign Affairs.

2721. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2722. A letter from the Chairman, Federal Election Commission, transmitting proposed revised regulations governing Federal financing of Presidential nominating conventions, pursuant to section 9009(c) of the Internal Revenue Code of 1954, as amended (88 Stat. 1303); to the Committee on House Administration.

2723. A letter from the Comptroller General of the United States, transmitting the second in a series of reports on the classification of national security information (LCD–80–16, October 26, 1979); jointly, to the Committees on Government Operations, Armed Services, and the Permanent Select Committee on Intelligence.

2724. A letter from the Comptroller General of the United States, transmitting a report on the need for stronger emphasis on market development in the Department of Agriculture's export credit sales program (ID–80–01, October 26, 1979); jointly, to the Committees on Government Operations, Foreign Affairs, and Agriculture.

2725. A letter from the Comptroller General of the United States, transmitting a report on the Alaska Highway gas pipeline project and recommendations regarding Government analyses if Federal financial assistance is requested for the project (EMD–80–9, October 26, 1979); jointly, to the Committees on Government Operations, Interior and Insular Affairs, and Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ULLMAN: Committee on Ways and Means. H.R. 5441. A bill to amend the Tariff Schedules of the United States with respect to the tariff treatment of certain articles; with amendments (Rept. No. 96–569). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL. Committee on Interior and Insular Affairs. H.R. 4308. A bill to provide for the establishment of the Legionville National Historic Site in the State of Pennsylvania, and for other purposes; with amendments (Rept. 96–570). Referred to the Committee of the Whole House on the State of the Union.

Mr. DODD: Committee on Rules. House Resolution 467. Resolution providing for the consideration of H.R. 4985. A bill to establish a coordinated, prompt, and simplified process for decisionmaking in regard to significant nonnuclear energy facilities, and for other purposes (Rept. No. 96–571). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CONABLE:

H.R. 5728. A bill relating to the tax treatment for purposes of the personal holding company tax of the interest received by securities brokers and dealers in connection with matched repurchase arrangements; to the Committee on Ways and Means.

H.R. 5729. A bill to amend the Internal Revenue Code of 1954 to provide for the amortization of startup expenditures paid or incurred in starting a new trade or business; to the Committee on Ways and Means.

By Mr. CONABLE (for himself, Mr. Archer, Mr. Frenzel, and Mr. Gibbons):

H.R. 5730. A bill to amend the Internal Revenue Code of 1954 to provide an exclusion for income earned abroad attributable to certain charitable services; to the Committee on Ways and Means.

By Mr. GRADISON (for himself and Mr. Cotter):

H.R. 5731. A bill to provide that the retroactive change in method of accounting for life insurance companies which is permitted by Revenue Procedure 78–6 may be made for certain closed taxable years; to the Committee on Ways and Means.

By Mr. LOEFFLER:

H.R. 5732. A bill to designate the Federal building located at 33 West Twohig, San Angelo, Tex., as the "O. C. Fisher Building"; to the Committee on Public Works and Transportation.

By Mr. SMITH of Iowa:

H.R. 5733. A bill to amend the Clayton Antitrust Act to restore, preserve, and promote competition in the meat industry and to protect smaller businesses against the growth and use of monopoly power and unfair trade practices of major meat companies, and for other purposes; jointly, to the Committees on Agriculture and the Judiciary.

By Mr. SYMMS:

H.R. 5734. A bill to approve dimethyl sulfoxide for the treatment of escleroderma; to the Committee on Interstate and Foreign Commerce.

By Mr. COELHO (for himself, Mr. Mineta, Mr. Bedell, and Mr. Marriott):

H.J. Res. 434. Joint resolution to authorize and request the President to issue a proclamation designating April 6 through 12, 1980, "National Medic Alert Week"; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. COELHO:

H.R. 5735. A bill for the relief of Capt. John T. Tyrrell, U.S. Air Force; to the Committee on the Judiciary.

By Mr. KASTENMEIER:

H.R. 5736. A bill for the relief of Marlin Toy Products, Inc.; to the Committee on the Judiciary.

DELETION OF SPONSORS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H. Con. Res. 109: Mr. Winn.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 13: Mr. Evans of Indiana, Mr. Fowler, and Mr. Jones of Tennessee.

H.R. 990: Mr. Collins of Texas.

H.R. 1576: Mr. Bafalis and Mr. Beard of Rhode Island.

H.R. 1577: Mr. Bafalis.

H.R. 1578: Mr. Bafalis.

H.R. 1631: Mr. Chappell and Mr. Gibbons.

H.R. 2770: Mr. Edgar.

H.R. 5327: Mr. Stangeland, Mr. Miller of Ohio, Mr. Carr, Mr. Panetta, Mr. Mazzoli, Mr. Hopkins, and Mr. Blanchard.

H.R. 5591: Mr. Corrada, Mr. Derwinski, Mr. Duncan of Tennessee, Mr. Lagomarsino, Mr. Pepper, and Mr. Pritchard.

H.R. 5610: Mr. Badham, Mr. Benjamin, Mr. Bevill, Mr. Carter, Mr. Collins of Texas, Mr. Derwinski, Mr. Devine, Mr. Frenzel, Mr. Hughes, Mr. Hyde, Mr. Kindness, Mr. Lewis, Mr. Lott, Mr. Lungren, Mr. Miller of Ohio, Mr. Mottl, Mr. Murphy of Pennsylvania, Mr. Robinson, Mr. Roth, Mr. Rudd, Mr. Thompson, Mr. Walker, and Mr. Whittaker.

H.R. 5660: Mr. Stack, Mr. Pease, Mr. Eckhardt, and Mr. Baldus.

H. Res. 445: Mr. Conte, Mrs. Fenwick, Mr. Glickman, and Mr. Rousselot.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2608

By Mr. MARKEY:

(Page and line numbers refer to H.R. 5297.)

—Page 8, insert after line 11 the following new section:

Sec. 107. (a) No amount authorized to be appropriated under this Act may be expended by the Nuclear Regulatory Commission for the issuance of a contruction permit for any commercial nuclear powerplant during the first 6 months of fiscal year 1980. The preceding sentence shall not apply to any commercial nuclear powerplant for which a construction permit, or operating license, has been issued before the commencement of fiscal year 1980.

H.R. 4546

By Mr. ROBERT W. DANIEL, JR.:

(Amendment in the nature of a substitute.)

—Strike out all after the enacting clause and insert the following:

That the first proviso of section 12 of the District of Columbia Redevelopment Act of 1945 (D.C. Code, sec. 5–711) is amended to read as follows: "*Provided*, That any such modification which affects the use or development of an area or part thereof which has been sold or leased (as such use or development is governed by the project area redevelopment plan as approved before the date of the sale or lease) shall not become effective as to such area or part without the consent in writing of the purchaser or lessee thereof and of the owner or lessee of each tract of land contiguous to such area or part:".

Sec. 2. The amendment made by the first section of this Act shall not apply to any modification under section 12 of the District of Columbia Redevelopment Act of 1945 to any approved project area redevelopment plan under such Act if such modification was adopted by the National Capital Planning Commission before the date of the enactment of this Act.

H.R. 4985

By Mr. AKAKA:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. Udall.)

—On page 5, line 21, strike all of Section 201(c)(1) and insert in lieu thereof, "The Chairman shall have the power to appoint an Executive Director who shall be entitled to receive compensation at the rate prescribed for level V of the Executive Schedule. The Chairman shall have the power to appoint and fix the compensation of additional personnel, not to exceed 50 persons, as he deems necessary to carry out the functions of the Board."

—On page 6, line 1, section 201(c)(2), insert after the word functions., "Any personnel detailed to the Board from a Federal agency shall be included in the limit of 50 personnel appointed by the Chairman."

By Mr. ASHBROOK:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. Udall.)

Amendment to Udall-Wirth amendment to

—Page 8, after line 13, insert:

(f)(1) Within 90 calendar days of continuous session of Congress after the first meeting of the Board, the Board shall prepare and transmit to the President and the Congress a report which specifies each major Federal law and each major State law, regulation, or plan enacted in accordance with criteria set forth in Federal law, which significantly delays the planning, design, construction, or initial operation of energy projects. The Board shall not report on any law, regulation, or rule described in section 215 of this Act. The report shall include recommendations for legislative action concerning any such law or regulation if the repeal or modification of such law or regulation would significantly enhance the capability of the Board to carry out the functions assigned to it by this Act.

(2) For the purposes of this subsection—

(A) continuity of session of Congress is broken only by an adjournment sine die; and

(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of calendar days of continuous session.

Redesignate the succeeding subsection accordingly.

On page 12, after line 12, insert the following:

"(f) No application may be filed under this section before the expiration of 60 days of continuous session of Congress after the date of transmittal of the report required by section 201(f) of this Act.".

By Mr. BAUMAN:

(Amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—On page 22, after line 19, insert the following:

"(6) the will of the electorate as ascertained in any local or State initiative or referendum which was specifically related to the establishment of an energy project."

—On page 51, after line 2, insert the following:

"(6) have the effect of contravening the will of the electorate as ascertained in any local or State initiative or referendum which was specifically related to the establishment of an energy project."

By Mr. BROWN of Ohio:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—Page 5, strike out line 21 and all that follows down through line 5 on page 41 and substitute:

(c) (1) The Chairman shall have the power to appoint and fix the compensation of an Executive Director and such additional personnel as he deems necessary to carry out the functions of the Board.

(2) Upon request of the Chairman, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Board to assist the Board in carrying out its functions.

(3) The Chairman may procure temporary and intermittent services for the Board under section 3109(b) of title 5 of the United States Code.

(4) Consistent with applicable provisions of law, the Administrator of General Services shall provide to the Board on a reimbursable basis such facilities and administrative support services as the Chairman may request.

(d) (1) The Board may hold such hearings, sit and act at such times and places, take such testimony and receive such evidence, promulgate such regulations and issue such orders, as may be necessary to carry out its functions under this Act. The Board may institute, or participate in, such court or agency proceedings as may be necessary to carry out its functions under this Act. For purposes of such regulations, the provisions of section 501 of the Department of Energy Organization Act shall apply to the Board in the same manner as such provisions apply to the Secretary of Energy, and the provisions of section 552b of title 5 of the United States Code shall apply to the Board notwithstanding any other provision of law.

(2) (A) The Board may issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under the authority of the Board. Such attendance of witnesses and the production of such evidence may be required from any place within any State at any designated place of hearing within any State.

(B) If a person issued a subpena under this paragraph refuses to obey such subpena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may (upon application by the Board) order such person to appear before the Board to produce evidence or to give testimony relating to the matter concerned. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process of any court to which application may be made under this paragraph may be served in the judicial district in which the person required to be served resides or may be found.

(C) The subpenas of the Board shall be served in the manner provided for subpenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(e) Whenever the Board submits to the President or the Office of Management and Budget, any legislative recommendation or testimony, or comments on any legislation, prepared for submission to the Congress, the Board shall concurrently transmit a copy thereof to the Committee on Energy and Natural Resources of the United States Senate and to the Committees on Interior and Insular Affairs, on Interstate and Foreign Commerce, and on Science and Technology of the United States House of Representatives.

(f) Upon the request of the Congress or any committee or subcommittee thereof, the Board shall promptly provide to the Congress, or to such committee on subcommittee, any records, reports, documents, materials, and other information which is in the possession of the Board or any of its employees and which is requested by the Congress or by such committee or subcommittee. The Board shall keep the Committee on Energy and Natural Resources of the United States Senate and the Committees on Interior and Insular Affairs, on Interstate and Foreign Commerce, and on Science and Technology of the United States House of Representatives fully and currently informed concerning its activities. The Board shall submit an annual report to such committees concerning the actions taken, or to be taken, under this Act. The report shall contain such other information relating to energy projects as the Board deems appropriate.

CERTAIN PROJECTS NOT COVERED

SEC. 202. Nothing in this Act shall apply to any project related to the production of nuclear energy, including any facility which is required to be licensed under the Atomic Energy Act of 1954 or which is otherwise subject to the authority of the Nuclear Regulatory Commission under title II of the Energy Reorganization Act of 1974, or to any project which is, or may be, approved under the provisions of title V of the Public Utility Regulatory Polices Act of 1978 or under the provisions of 90 Stat. 2903; except that in the case of a proposed crude oil transportation system to transport crude oil to nothern tier and inland States approved by the President under section 507 of the Public Utility Regulatory Policies Act of 1978, upon application of any person acting on behalf of such system, the President may apply one or more provisions of this Act to the system if the application of the provision or provisions would, in the opinion of the President, expedite its completion.

AUTHORITY TO APPLY FOR PRIORITY STATUS

SEC. 203. (a) The Board shall promugate regulations establishing procedures and criteria for the submission to the Board, and for the consideration by the Board, of applications for an order designating an energy project as a Priority Energy Project under this Act. Such procedures and criteria shall require applications to include such detailed information as the Board deems necessary to—

(1) enable it to make such a designation under this Act,

(2) identify each agency required to make an energy decision with respect to such project,

(3) enable such agencies to identify the agency decisions which they are required to make with respect to such project, and

(4) enable the Board to establish a Project Decision Schedule for the applicant and for such agencies.

(b) The Board shall require any person making an application under this section to file with the Board such additional information as it deems necessary, including—

(1) an adequate design proposal for the project;

(2) economic data on the costs and benefits of the project; and

(3) an analysis of the environmental impacts of the project, including an analysis of mitigating measures which may be taken to minimize any environmental, health, or safety hazards.

(c) An application for an order designating an energy project as a Priority Energy Project may be submitted to the Board by any person in accordance with the procedures and criteria established under subsection (a).

(d) Promptly following receipt of an application filed under this section, the Board shall publish notice of such filing, together with a summary description of the application, in the Federal Register and shall notify the appropriate agencies and the Senate Committee on Energy and Natural Resources and the House Committees on Interstate and Foreign Commerce, on Interior and Insular Affairs, and on Science and Technology. The Board shall afford forty-five days after publication of notice in the Federal Register for such agencies and other interested persons to submit written comments for the Board's consideration.

DESIGNATION OF PRIORITY ENERGY PROJECTS

SEC. 204. (a) Not later than forty-five days after expiration of the comment period under section 203(d) with respect to any application under section 203, the Board shall—

(1) issue an order in accordance with this Act designating the energy project with respect to which such application was submitted as a Priority Energy Project if it determines that such project is of sufficient national interest for such project to be so designated, or

(2) refuse to issue such an order.

(b) The Board shall publish any order making a designation under subsection (a) in the Federal Register and shall provide a copy of such order to the Senate Committee on Energy and Natural Resources and the House Committees on Interstate and Foreign Commerce, on Interior and Insular Affairs, and on Science and Technology.

(c) In determining whether or not to make a designation under subsection (a), the Board shall consider—

(1) the extent to which the energy project would reduce the Nation's dependence upon imported oil or upon other nonrenewable resources;

(2) the magnitude of any economic, social, and environmental impacts and costs associated with the energy project in relation to the impacts and costs of alternatives to such project;

(3) the extent to which the energy project would make use of renewable energy resources;

(4) the extent to which the energy project would conserve energy;

(5) the extent to which the energy project

would contribute to the development of new production or conservation technologies and techniques;

(6) the time that would normally be required to obtain all necessary agency decisions;

(7) the adverse impacts that would result from—

(i) the designation of the energy project as a Priority Energy Project, or

(ii) any delay in completion of the energy project which would result from the failure to make such a designation;

(8) the extent to which the energy project would impinge upon presently available or future water resources;

(9) the comments received concerning the energy project;

(10) the regions of the country that will be most heavily impacted by the energy project as well as most benefited by the project;

(11) the availability of significant economic, environmental, or technical data; and

(12) the anticipated effects upon competition in the energy industry, and the extent to which such designation will create competitive inequities among applicants.

In the case of any order designating a project under this section, the order shall contain a statement of the basis on which such designation was made.

STATE PARTICIPATION

SEC. 205. Upon designation of any Priority Energy Project, the Board shall promptly notify the Governor of each State in which any portion of such Project is proposed to be located, and each such Governor may appoint a nonvoting Member to serve on the Board to participate only in decisions of the Board respecting such Project, including decisions relating to the Project Decision Schedule. The provisions of section 201(b) shall not apply to the Member of the Board appointed under this section.

COMPLIANCE WITH NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 206. Promptly following designation of an energy project as a Priority Energy Project, and before establishment of a Project Decision Schedule under section 209, the Council on Environmental Quality shall determine whether any Federal action relating to the Priority Energy Project will be a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969. If the Council determines that any such action relating to a Priority Energy Project will be a major Federal action, the Council shall designate the lead agency for purposes of complying with the National Environmental Policy Act of 1969. If the Council on Environmental Quality fails to make any determination or designation (or both) required under this section before establishment of the Project Decision Schedule, the Board may make such determination or designation (or both).

EXTENSION OF DEADLINES

SEC. 207. The Board may extend the time for receiving comments under section 203(d), the time for making its determination and publication under section 204 in the case of any application for designation of any energy project as a Priority Energy Project, the time for agencies to transmit information under section 208, and the time for publication by the Board under section 209(a) of a Project Decision Schedule. Any such extension shall be consistent with the purposes of this Act and shall be for only such period as may be necessary, as determined by the Board.

AGENCIES TO TRANSMIT INFORMATION

SEC. 208. Not later than thirty days after notice appears in the Federal Register of an order designating an energy project as a Priority Energy Project, each agency having authority to make any agency decision with respect to such Project or any part thereof, shall transmit to the Board—

(1) a compilation of all significant actions required to be taken by such agency and by the applicant before such decision can be made and a summary of the procedural requirements applicable to such actions and to the making of such decisions;

(2) a tentative schedule for completing such actions and making such decisions;

(3) a statement of the amount of funds and personnel available to the agency to take such actions and make such decisions and of the effect that taking such actions and making such decisions will have on other actions required to be taken by the agency, together with a finding as to whether or not such funds and personnel are adequate for such purposes; and

(4) such other information as the Board may require.

Notwithstanding section 557(d) of title 5 of the United States Code, or any other provision of law relating to ex parte communications, any officer or employee of an agency to which this section applies may provide information to the Board and consult with the Board relating to any Priority Energy Project at any time and in any manner.

PROJECT DECISION SCHEDULE

SEC. 209. (a) Not later than thirty days after agencies are required to transmit information under section 208 with respect to any Priority Energy Project, the Board, in consultation with the appropriate agencies, shall publish in the Federal Register a Project Decision Schedule for all agency decisions relating to such Project. The Project Decision Schedule shall clearly identify the order in which such decisions must be made by each agency concerning the Project and shall clearly identify the deadlines applicable to such decisions. The Project Decision Schedule may also suggest concurrent review of applications and joint hearings by such agencies.

(b)(1) The Project Decision Schedule shall be consistent with the tentative schedules transmitted to the Board under section 208 unless the Board determines that a different schedule is essential in order to expedite and coordinate agency review, and publishes, together with the Project Decision Schedule, its reasons for such determination. The objective of the Board in determining any different schedule under this paragraph shall be to provide that, to the maximum extent practicable and consistent with the provisions of this Act, such different schedule shall not result in a total time for the Federal, State, or local agency action to which such schedule applies which exceeds 12 months from the date on which application is made for such Federal, State, or local agency action by a person acting on behalf of the Priority Energy Project.

(2) Whenever the Project Decision Schedule is not consistent with any schedule which would otherwise apply, such Project Decision Schedule shall apply in lieu of such otherwise applicable schedule and shall be binding on the agency and on all other persons to which the Schedule applies.

(3) In the case of agency decision or action subject to the Project Decision Schedule, the agency may modify any schedule applicable to such action or decision (including a schedule relating to actions of any applicant or other person and including any schedule established by statute) where the agency determines that such modification will facilitate compliance by the agency with the Project Decision Schedule. No such agency may modify the Project Decision Schedule pursuant to the authority contained in this paragraph.

(4) The Project Decision Schedule, and any other schedule which is modified under paragraph (3), shall be reasonably designed to insure adequate consideration of all matters concerning such Project under applicable law and to insure adequate participation by parties in applicable proceedings.

(5) Any agency may consolidate, to the maximum extent practicable, its proceedings respecting actions and decisions which are subject to the Project Decision Schedule with the proceedings of other agencies respecting actions and decisions which are also subject to such Schedule.

(c) In consultation with any person responsible for—

(1) filing on behalf of a Priority Energy Project any application or other petition for an agency decision, or

(2) taking any other action on behalf of such project which is necessary before such agency decision may be made

and with appropriate agencies, the Board shall include in the Project Decision Schedule a schedule containing deadlines for submissions by such person for any license, permit, or other approval which must be obtained in connection with the project. The schedule shall indicate the date on which any such filing shall be made and the materials which must be submitted.

(d) Upon the petition of any agency to which the Project Decision Schedule applies, or on its own motion, the Board may modify the Project Decision Schedule at any time. No extension of any time period applicable to any agency under such Schedule may be granted unless the Board determines that—

(1) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule; or

(2) it would be impracticable for the agency to reach a decision or to complete the required action within the specified time.

taking into account the personnel and funds available to the agency for complying with such Schedule.

MONITORING OF COMPLIANCE BY BOARD

SEC. 210. The Board shall monitor compliance with the Project Decision Schedule by the agencies and persons to whom the Schedule applies and may require such agencies and persons to submit to the Board such information regarding compliance with such Schedule as the Board deems necessary and appropriate for such purposes. If the Board determines that a Priority Energy Project is being delayed or threatened with delay, the Board shall determine the reason for such delay or threatened delay and notify the appropriate agencies and other persons of its determination. Following such notification, the Board shall publish such reasons in the Federal Register, and may take such actions as it deems appropriate to bring such agency and other persons into compliance with the Project Decision Schedule. If the Board determines that any person responsible for—

(1) filing on behalf of a Priority Energy Project any application or other petition for an agency decision, or

(2) taking any other action on behalf of such Project which is necessary before such agency decision may be made,

has failed or refused to promptly file such application or petition or take such other action, the Board shall either revise such Project Decision Schedule or revoke the designation of such Priority Energy Project under section 204.

AGENCY OBLIGATIONS NOT AFFECTED

SEC. 211. (a)(1) Except as may otherwise be provided pursuant to the establishment or modification of a deadline or timetable by the Board under section 209 or 212(a)(2)(A), or pursuant to the modification of a schedule by an agency under 209(b)(3), the Project Decision Schedule and each agency decision and other action with respect to which a deadline or timetable is specified on the Project Decision Schedule shall be consistent with the statutory obligations applicable to the agencies governed by such Schedule.

(2) Paragraph (1) shall be subject to section 212.

(b) Except as permitted under the authorities referred to in subsection (a), nothing in this Act shall—

(1) affect the application to any energy project of any requirement established by, or pursuant to, Federal, State, or local law.

(2) affect the basis on which any agency decision is made with respect to such a project, or

(3) affect or influence the outcome of any such agency decision.

(c) Nothing in this Act shall be construed to affect the authority or independence of any independent Federal regulatory agency.

ENFORCEMENT OF PROJECT DECISION SCHEDULE

SEC. 212. (a) (1) If the Board determines, pursuant to its monitoring under section 210, that an agency has failed, or is reasonably likely to fail, to make an agency decision within the time required by the Project Decision Schedule, the Board shall provide notice of its determination to the appropriate agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, any parties to the agency proceeding concerned, and the Governor of each State affected by that Project. After a period of at least 45 days after such notification, the Board shall promptly conduct on an expedited basis an informal hearing for the purpose of determining the cause of the delay and the actions taken to achieve compliance. A transcript shall be kept of any such hearing.

(2) Within 30 days after any hearing under paragraph (1), the Board may, in furtherance of the purposes of this Act—

(A) modify the Project Decision Schedule to the extent necessary to provide an extension of time for that agency to make the agency decision involved if—

(i) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule, and it would be impracticable for the agency to reach a decision or to complete the required action within the specified time, and

(ii) a previous extension has not been provided under this subsection for that agency decision;

(B) issue an order under subsection (b) providing for a decision under that subsection in lieu of the agency decision involved; or

(C) make a recommendation under subsection (c) for a waiver under that subsection in the case of any Federal requirement applicable to any agency.

No determination by the Board under paragraph (1) and no modification of a Project Decision Schedule by the Board under subparagraph (A) of this paragraph shall be subject to judicial review, except as may be required by the Constitution of the United States. If, following modification of the Project Decision Schedule under subparagraph (A), the agency fails to make the agency decision concerned in compliance with such modified Schedule, the Board may take action under subparagraph (B) or (C), as appropriate, without conducting a further hearing under paragraph (1).

(b) (1) The Board may issue an order referred to in subsection (a) (2) (B) to have a decision under this subsection be made in lieu of the agency decision. Notice of any such order shall be published in the Federal Register and transmitted to the agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, the President, the Governor of each State affected and the Committees on Interstate and Foreign Commerce, Interior and Insular Affairs, and on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Any order under this paragraph shall not be subject to judicial review, except as may be required by the Constitution of the United States.

(2) (A) Upon receipt of notice of an order under paragraph (1), the agency involved shall transmit forthwith all records in the possession of the agency pertinent to that decision or action. The Board shall take whatever additional action authorized under this Act as may be necessary to obtain an adequate record for a final decision.

(3) (A) The Board shall promptly issue a recommended decision under this subsection after obtaining an adequate record for the decision. The recommended decision shall be published in the Federal Register, shall be submitted to the President, together with the record on which it is based, and shall be transmitted to the Governor of each State affected by the project.

(B) Any recommended decision of the Board under this subsection shall be consistent with any requirement established by, or pursuant to, Federal, State, or local law which would be applicable in the absence of an order under this subsection.

(4) (A) Within 45 days after any recommended decision has been submitted to the President under paragraph (3), the President shall—

(i) make a decision to affirm the recommended decision, in which case the recommended decision shall be considered final, or

(ii) shall remand it to the Board with instructions to modify the recommended decision to the extent the President determines to be appropriate and consistent with any requirement established by, or pursuant to, Federal, State, or local law.

Following any remand under clause (ii), the Board shall promptly issue a final decision in accordance with the Board's recommended decision. If the President fails to affirm or remand such decision within such 45-day period, the Board's recommended decision shall be considered final.

(B) Any final decision under subparagraph (A) shall be considered a final decision in lieu of the agency decision involved. Except as provided in section 214(b), such final decision shall be subject to judicial review in the same manner and to the same extent as would apply to the agency decision involved.

(c) (1) After designation of a Priority Energy Project and before compliance with the Project Decision Schedule by the agencies to which such Schedule applies, or pursuant to subsection (a), the Board may recommend to the President the waiver, in whole or in part, of any Federal requirement which it finds presents a substantial procedural or substantial substantive impediment—

(A) to the making of an agency decision, or

(B) to the making of such agency decision in a manner which will permit implementation of the project.

A recommendation may not be made to the President for a waiver under this subsection and a recommendation may not be made under subsection (b) if the agency has made the agency decision involved at the time of such recommendation.

(2) (A) Any waiver recommended under this subsection may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived. Such waiver shall also include such terms and conditions as the Board, in consultation with the agencies responsible for the administration of the requirements proposed to be waived, deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver and to further enhancement efforts for aspects adversely affected by the Project.

(B) A recommendation under this subsection for the waiver of any requirement shall be published in the Federal Register, together with a statement of the reasons on which the recommendation is based. Any agency affected by such waiver and any other concerned person may submit views respecting such recommendation to the President and may make such views public during the thirty-day period specified in paragraph (3).

(3) Not earlier than thirty days after publication in the Federal Register of a recommendation for a waiver under this subsection, and after considering public and agency comments, the President may, in furtherance of the purposes of this Act, transmit such recommendation to the Congress, if he determines—

(A) such a waiver to be in the national interest,

(B) that there is substantial evidence to support the Board's determination and recommendation, and

(C) that such a waiver would not unduly endanger the public health and safety.

Any recommendation so transmitted shall be accompanied by a detailed identification of the requirement to be waived, a statement of the extent to which such waiver would apply, and a statement of the President's reasons for making such recommendation, together with a summary of the agency views on such waiver. Any recommendation transmitted under this paragraph may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived together with provisions for the enforcement of such less stringent requirement or other alternative by the agency responsible for the administration of the requirement proposed to be waived. Such waiver shall also include such terms and conditions (and provisions for their enforcement by the agency responsible for the administration of the requirement proposed to be waived) as the President deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver and to further enhance efforts for aspects adversely affected by the Project. The President's transmittal under this subsection shall also set forth any differences between the waiver recommended by the Board and the waiver transmitted to the Congress.

(4) (A) Any waiver with respect to which the President has made a recommendation which is transmitted to Congress under this subsection shall take effect at the expiration of the first period of sixty calendar days of continuous session of Congress after the date of its receipt by the Senate and House of Representatives if, before the expiration of such sixty-day period, such recommendation is approved by each House of the Congress in the same manner as is provided for approval of energy conservation contingency plans under section 552 of the Energy Policy and Conservation Act, except that in applying the provisions of section 552 to a recommendation of the President transmitted under this subsection, any reference in such section 552 to an energy conservation contingency plan shall be treated as a reference to a recommendation of the President transmitted under this subsection, any reference in such section 552 to twenty calendar days shall be treated as a reference to thirty calendar days and subsections (b), (d) (2) (B), and (d) (7) of section 552 shall not apply.

(B) A recommendation transmitted under this section may take effect at any time subsequent to the date specified in subparagraph (A) if such subsequent time is set forth in such recommendation.

(5) Each agency responsible for the administration of any requirement waived under this section shall monitor compliance by the Project with the terms and conditions of such waiver.

(d)(1) The Board, on its own motion or upon an application of any person acting on behalf of a Priority Energy Project, shall determine if any requirement of Federal, State, or local law which has been enacted or promulgated after establishment of the Project Decision Schedule, but before commencement of commercial operation of any facility (as determined by the Board) which is part of the Project, would present a substantial impediment to implementation of the Project. Such application shall identify the requirement with respect to which the application is made. If the Board determines that any such requirement will present such an impediment, the Board may in furtherance of the purposes of this act—

(A) order the temporary suspension of the application of such requirement to such facility for only such time as necessary to allow such person to make good faith efforts to comply with such requirement, but not in excess of 5 years after the date on which commercial operation of such facility commences; or

(B) submit a recommendation to the President that such requirement be waived in whole or in part.

No determination of the Board under this subsection shall be subject to judicial review except as may be required by the Constitution of the United States.

(2) No order temporarily suspending the application of any requirement to any facility may be issued under paragraph (1)(A) unless the Board, in consultation with the agency responsible for implementing the requirement, finds that, during the period of such suspension, the facility will make a good faith effort to meet the requirement suspended.

(3) A recommendation submitted to the President under paragraph (1)(B) for the waiver of any requirement shall take effect as provided in, and shall be subject to the same provisions as apply in, the case of recommendations for waiver set forth in subsection (c).

(e)(1) Not later than 45 days after the establishment of a Project Decision Schedule for a Priority Energy Project, the Board and any agencies which may be covered by such Project Decision Schedule shall identify and publish notice in the Federal Register of the requirements of Federal, State, and local law applicable to such Project which may present any substantial procedural or substantial substantive impediment to the implementation of the Project. Such notice shall include an analysis of the impact of such requirements on the Project. The Board may extend the 45-day period in appropriate cases.

(2) If the Board finds, after publication of the notice under paragraph (1) and based upon the analysis required under paragraph (1), that—

(A) any requirement identified under paragraph (1) may present any substantial procedural or substantial substantive impediment to the implementation of the project; and

(B) there is no opportunity under applicable law for an agency decision in a manner which would overcome such impediment and permit implementation of the Project.

the Board shall submit a copy of its analysis under paragraph (1), together with appropriate recommendations concerning the requirement, to the President (in the case of a requirement of Federal law), the Governor (in the case of a requirement of State or local law), to the affected agencies, and to the appropriate committees of Congress. Any recommendation under this subsection to the President may include a recommendation in accordance with subsection (c). The Governor and such affected agencies shall take into consideration the Board's recommendation and shall report to the Board within such time as may be specified by the Board. Such report shall state whether or not the Governor or agency accepts or rejects the recommendations of the Board, together with the reasons for such acceptance or rejection. If the Governor or agency accepts such recommendations in whole or in part, such report shall include an explanation of the actions the Governor or agency will take and when such actions will be taken.

(f) In bringing any civil action in any court (other than the Supreme Court) to enforce any order or requirement under this Act, the Board shall be represented by the General Counsel of the Board (or any attorney employed by the Board), notwithstanding the provisions of title 28 of the United States Code. Such General Counsel (or attorney employed by the Board) shall supervise, conduct, and argue any civil litigation in any such action.

PROHIBITION AGAINST WAIVER OF CERTAIN RIGHTS AND LAWS

SEC. 213. (a) Nothing in this Act shall authorize, or be construed to authorize, the Board or the President to alter any Federal, State, or local requirement, except to the extent a Schedule established or modified by the Board under section 209 or section 212(a)(2)(A) contains a deadline or timetable which applies in lieu of an otherwise applicable deadline or timetable.

(b) No recommendation may be made by the Board with respect to a waiver, no determination may be transmitted by the President with respect to a waiver, and no waiver may take effect under section 212, if such waiver would—

(1) waive any Federal, State, or local requirement which relates to—

(A) the rights, working conditions (including health and safety), compensation, or activities of workers or their representatives.

(B) antitrust laws (as defined in section 3(1) of the Public Utilities Regulatory Policies Act of 1978),

(C) criminal laws, or

(D) civil rights laws;

(2) waive any Federal, State, or local requirement which involves any primary air quality standard established under the Clean Air Act;

(3) have the effect of impairing or abridging any right or rights of any person arising under the Constitution of the United States;

(4) contravene any interstate compact, provision of State or local law, or Federal contract, relating to water rights or to the appropriation, delivery or use of water pursuant to such rights; or

(5) have the effect of abridging or impairing the rights of any person under any provision of law to receive compensation from the owner or operator of any Priority Energy Project for loss of any property interest as a result of the construction or operation of such Project.

(c) Notwithstanding any provision of this Act, no requirement may be waived under this Act, with respect to any pipeline for the transportation of coal, except that the Board may impose deadlines for agency decisions with respect to such a pipeline which deadlines may be shorter than those which might otherwise apply and the Board may also require concurrent review of applications and consolidated or joint hearings by agencies in the case of agency decisions relating to such a pipeline.

JUDICIAL REVIEW

SEC. 214. (a)(1) A determination of the Board to designate or not to designate any energy project as a Priority Energy Project under section 204, the granting or denying of an extension under section 207, the establishment of a Project Decision Schedule under section 209, and any action of the Board under section 210, shall not be subject to judicial review, except as may be required by the Constitution of the United States.

(2) The making of any waiver recommendation by the board or waiver determination by the President under section 212 shall not be subject to judicial review, except as required by the Constitution or as permitted under paragraph (3).

(3) Any person may bring an action against the United States in the appropriate United States court of appeals not later than thirty days after the approval of a determination transmitted by the President to the Congress under section 212 requesting the court to enjoin or grant other appropriate relief with respect to any waiver approved pursuant to such determination if such waiver is inconsistent with any prohibition contained in section 213, and such court may grant such relief. In any such action, the expedited procedures set forth in subsection (b)(2) shall apply.

(b)(1) Any action brought in any court of the United States for review of any final agency decision which is covered by a Project Decision Schedule may only be brought in the United States court of appeals for the circuit in which the Priority Energy Project concerned is, or is proposed to be, located and may only be brought within ninety days following the date on which notice is published that such decision has become final or within such shorter time period as may be required under other applicable law. Any such action shall be barred unless brought within the period specified under the preceding sentence.

(2) The court shall assign any action referred to in paragraph (1) for hearing, and shall complete such hearing, at the earliest possible date. Such action shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at that time, shall be expedited in every way by such court, and shall be consolidated, to the greatest extent practicable, with other actions relating to the same Priority Energy Project which are brought in such court or in any other court of the United States. Any reviewing court shall also expedite and consolidate such review to the maximum extent practicable.

(3) Nothing in this subsection shall be construed to affect the jurisdiction of any court of the United States or of any State or political subdivision thereof. Any agency decision with respect to which review could have been obtained under this subsection may not be subject to judicial review in any other proceeding.

EFFECTIVE DATE

SEC. 215. The Board shall promulgate regulations for carrying out its functions under this Act (including regulations establishing procedures and criteria under section 203) not later than sixty days after the date on which all initial members of the Board have been confirmed by the United States Senate. No application may be submitted under this Act for designation of any project as a Priority Energy Project before promulgation of such regulations.

EXPIRATION OF AUTHORITY

SEC. 216. The Board shall cease to exist, and the authority provided to the Board under this Act, shall terminate, on September 30, 1985. Notwithstanding the previous sentence, any Project Decision Schedule established under this Act for any Priority Energy Project prior to the expiration of such authority, and, to the extent practicable, the other provisions of this Act applicable to such project, shall continue to be applicable to such project after September 30, 1985.

AUTHORIZATION

SEC. 217. There is authorized to be appropriated to the Board to carry out the provisions of this Act not more than $2,000,000 for the fiscal year 1980, and not more than such sums as may be necessary for succeeding fiscal years, subject to annual authorizations.

By Mr. CARR:

(Amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—Strike Sec. 204(e) and insert in lieu thereof the following language;

(e) No more than twenty-four Priority Energy Projects, no more than twelve of which may be designated in any one calendar year.

By Mr. CHENEY:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. Udall.)

—On page 51, after line 11, add a new section 187 (renumbering succeeding sections accordingly) as follows:

WATER LAW

(a) Nothing in this Act shall be construed as expanding or conferring upon the United States, its agents, permittees, or licensees any right to acquire rights to the use of water.

(b) The United States, its agents, permittees or licensees shall appropriate water within any State for an energy project pursuant to procedural and substantive provisions of State law, regulation, or rule of law governing appropriation, use, or diversion of water.

(c) The establishment or exercise pursuant to State law, of terms or conditions including terms or conditions terminating use, on permits or authorizations for the appropriation, use, or diversion of water for energy projects shall not be deemed because of any interstate carriage, use, or disposal of such water to constitute a burden on interstate commerce.

(d) Nothing in this Act shall alter in any way any provision of State law, regulation, or rule of law or of any interstate compact governing the appropriation, use, or diversion of water.

—Add a new section (renumbering other sections accordingly) as follows:

WATER LAW

(a) Nothing in this Act shall be construed as expanding or conferring upon the United States, its agents, permittees, or licensees any right to acquire rights to the use of water.

(b) The United States, its agents, permittees or licensees shall appropriate water within any State for an energy project pursuant to procedural and substantive provisions of State law, regulation, or rule of law governing appropriation, use, or diversion of water.

(c) The establishment or exercise pursuant to State law, of terms or conditions including terms or conditions terminating use, on permits or authorizations for the appropriation, use, or diversion of water for energy projects shall not be deemed because of any interstate carriage, use, or disposal of such water to constitute a burden on interstate commerce.

(d) Nothing in this Act shall alter in any way any provision of State law, regulation, or rule of law or of any interstate compact governing the appropriation, use, or diversion of water.

By Mr. CORCORAN:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—In section 102, after paragraph (3), insert:

"(4) 'Department' means the Department of Energy."; redesignate paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively; after paragraph (7), insert:

"(9) 'Secretary' means the Secretary of Energy."; and redesignate paragraphs (8) and (9) as paragraphs (10) and (11), respectively.

In section 201, strike out subsection (a) and insert in its place the following:

"(a) There is hereby established within the Department an independent regulatory commission to be known as the Energy Mobilization Board.

"(b) The Board shall be composed of five members appointed by the President, by and with the advice and consent of the Senate, from among persons who are specially qualified by reason of their education, training, or experience to carry out the functions of the Board. Such members shall serve at the pleasure of the President. One member of the Board shall be designated by the President as the Chairman.";

Redesignate subsection (b) as subsection (c);

Redesignate subsection (c) as subsection (d), and in that subsection—

Strike out paragraph (2) and insert in its place:

"(2) The Secretary shall provide to the Board such support and facilities as the Board determines it needs to carry out its functions.

"(3) In the performance of their functions, the members, employees, or other personnel of the Board shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of any other part of the Department, except the Secretary."; and redesignate paragraphs (2), (3), (4), and (5) as paragraphs (3), (4), (5), and (6), respectively."

Strike out paragraph (4); and

Redesignate paragraph (5) as paragraph (4), and in that paragraph, strike out "of the Department of Energy" and insert in its place: "of any other part of the Department";

Redesignate subsection (d) as subsection (e);

Redesignate subsection (e) as subsection (f), and in that subsection, strike out "Whenever the Board submits to the President or to the Officer of Management and Budget" and insert in its place the following:

"In each annual authorization and appropriation request under this Act, the Secretary shall identify the portion thereof intended for the support of the Board and include a statement by the Board (1) showing the amount requested by the Board in its budgetary presentation to the Secretary and the Office of Management and Budget and (2) an assessment of the budgetary needs of the Board. Whenever the Board submits to the Secretary, the President, or the Office of Management and Budget,".

Redesignate subsection (f) and (g) as subsections (g) and (h), respectively; and

After subsection (g), insert the following:

"(i) For the purposes of chapter 9 of title 5, United States Code, the Board shall be deemed to be an independent regulatory agency.".

—At the end of section 174 page 33, line 19, insert:

"(g) Within one year after enactment of this Act and each year thereafter, the Board shall submit to the President and to the Congress a detailed report and recommendations for congressional and administrative action which shall include, but not be limited to, those provisions of Federal, State, and local statutes, regulations, or requirements which in the Board's opinion and through its experience in carrying out the provisions of this Act, have contributed most significantly to unnecessary delays in project approval, construction, and operation, and the Board's recommendations for changes in such provisions or for other action to expedite the decisionmaking process, without detracting from the intent and integrity of such statutes or regulations, and which would eliminate the need for such Board.

(1) On or before the date established for the submission of the report of the Board to Congress in section (g), the Comptroller General of the United States shall submit to Congress a report evaluating the performance of the Board. The report shall set forth findings and recommendations with respect to the program, and shall include:

(a) an assessment of the effectiveness of the program and the degrees to which the original objectives of the program have been achieved;

(b) an identification of any trends, developments, and emerging conditions which are likely to affect the future nature and extent of the problems or needs which the Board is intended to address;

(c) an assessment to the relative merits of alternative methods which could be considered to achieve the purposes of the program;

(d) an assessment of the energy supply, environmental, legal, and social impacts of the Board; and

(e) such additional information as may be requested by Congress.

—On page 28, after line 11, insert:

"(4) 'Department' means the Department of Energy.";

In line 12, strike out "(4)" and insert in its place "(5)"; and

In line 22, strike out "(5)" and insert in its place "(6)".

On page 29, in line 1, strike out "(6)" and insert in its place "(7)";

In line 7, strike out "(7)" and insert in its place "(8)";

After line 9, insert:

"(9) 'Secretary' means the Secretary of Energy.";

In line 10, strike out "(8)" and insert in its place "(10)";

In line 12, strike out "(9)" and insert in its place "(11)"; and

Strike out lines 18 through 20, inclusive, and insert in their place the following:

"SEC. 174. (a) There is hereby established within the Department an independent regulatory commission to be known as the Energy Mobilization Board.

"(b) The Board shall be composed of five members appointed by the President, by and".

On page 30, in line 3, strike out "(b)" and insert in its place "(c)";

In line 18, strike out "(c)" and insert in its place "(d)"; and

Strike out lines 22 through 25, inclusive, and insert in their place the following:

"(2) the Secretary shall provide to the Board such support and facilities as the Board determines it needs to carry out its functions."

On page 31, strike out lines 4 through 7, inclusive, and insert in their place the following:

"(4) In the performance of their functions, the members, employees, or other personnel of the Board shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of any other part of the Department, except the Secretary."; and

In line 8, strike out "(d)" and insert in its place "(e)".

On page 32, strike out lines 20 and 21, and insert in their place the following:

"(f) In each annual authorization and appropriation request under this Act, the Secretary shall identify the portion thereof intended for the support of the Board and include a statement by the Board (1) showing the amount requested by the Board in its budgetary presentation to the Secretary and the Office of Management and Budget and (2) an assessment of the budgetary needs of the Board. Whenever the Board submits to the Secretary, the President, or the Office of Management and Budget, any legislative recom-".

On page 33, in line 4, strike out "(f)" and insert in its place "(g)"; and

After line 19, insert the following:

"(h) For the purposes of chapter 9 of title 5, United States Code, the Board shall be deemed to be an independent regulatory agency.".

By Mr. DINGELL:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. Udall.)

—Page 5, strike out line 21 and all that follows down through line 5 on page 41 and substitute:

(c) (1) The Chairman shall have the power to appoint and fix the compensation of an Executive Director and such additional personnel as he deems necessary to carry out the functions of the Board.

(2) Upon request of the Chairman, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Board to assist the Board in carrying out its functions.

(3) The Chairman may procure temporary and intermittent services for the Board under section 3109(b) of title 5 of the United States Code.

(4) Consistent with applicable provisions of law, the Administrator of General Services shall provide to the Board on a reimbursable basis such facilities and administrative support services as the Chairman may request.

(d) (1) The Board may hold such hearings, sit and act at such times and places, take such testimony and receive such evidence, promulgate such regulations and issue such orders, as may be necessary to carry out its functions under this Act. The Board may institute, or participate in, such court or agency proceedings as may be necessary to carry out its functions under this Act. For purposes of such regulations, the provisions of section 501 of the Department of Energy Organization Act shall apply to the Board in the same manner as such provisions apply to the Secretary of Energy, and the provisions of section 552b of title 5 of the United States Code shall apply to the Board notwithstanding any other provision of law.

(2) (A) The Board may issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under the authority of the Board. Such attendance of witnesses and the production of such evidence may be required from any place within any State at any designated place of hearing within any State.

(B) If a person issued a subpena under this paragraph refuses to obey such subpena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may (upon application by the Board) order such person to appear before the Board to produce evidence or to give testimony relating to the matter concerned. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All processes of any court to which application may be made under this paragraph may be served in the judicial district in which the person required to be served resides or may be found.

(C) The subpenas of the Board shall be served in the manner provided for subpenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(e) Whenever the Board submits to the President or the Office of Management and Budget, any legislative recommendation or testimony, or comments on any legislation, prepared for submission to the Congress, the Board shall concurrently transmit a copy thereof to the Committee on Energy and Natural Resources of the United States Senate and to the Committees on Interior and Insular Affairs, on Interstate and Foreign Commerce, and on Science and Technology of the United States House of Representatives.

(f) Upon the request of the Congress or any committee or subcommittee thereof, the Board shall promptly provide to the Congress, or to such committee or subcommittee, any records, reports, documents, materials, and other information which is in the possession of the Board or any of its employees and which is requested by the Congress or by such committee or subcommittee. The Board shall keep the Committee on Energy and Natural Resources of the United States Senate and the Committees on Interior and Insular Affairs, on Interstate and Foreign Commerce, and on Science and Technology of the United States House of Representatives fully and currently informed concerning its activities. The Board shall submit an annual report to such committees concerning the actions taken, or to be taken, under this Act. The report shall contain such other information relating to energy projects that the Board deems appropriate.

CERTAIN PROJECTS NOT COVERED

SEC. 202. Nothing in this Act shall apply to any project related to the production of nuclear energy, including any facility which is required to be licensed under the Atomic Energy Act of 1954 or which is otherwise subject to the authority of the Nuclear Regulatory Commission under title II of the Energy Reorganization Act of 1974, or to any project which is, or may be, approved under the provisions of title V of the Public Utility Regulatory Policies Act of 1978 or under the provisions of 90 Stat. 2903; except that in the case of a proposed crude oil transportation system to transport crude oil to northern tier and inland States approved by the President under section 507 of the Public Utility Regulatory Policies Act of 1978, upon application of any person acting on behalf of such system, the President may apply one or more provisions of this Act to the system if the application of the provision or provisions would, in the opinion of the President, expedite its completion.

AUTHORITY TO APPLY FOR PRIORITY STATUS

SEC. 203. (a) The Board shall promulgate regulations establishing procedures and criteria for the submission to the Board, and for the consideration by the Board, of applications for an order designating an energy project as a Priority Energy Project under this Act. Such procedures and criteria shall require applications to include such detailed information as the Board deems necessary to—

(1) enable it to make such a designation under this Act,

(2) identify each agency required to make an agency decision with respect to such project,

(3) enable such agencies to identify the agency decisions which they are required to make with respect to such project, and

(4) enable the Board to establish a Project Decision Schedule for the applicant and for such agencies.

(b) The Board shall require any person making an application under this section to file with the Board such additional information as it deems necessary, including—

(1) an adequate design proposal for the project;

(2) economic data on the costs and benefits of the project; and

(3) an analysis of the environmental impacts of the project, including an analysis of mitigating measures which may be taken to minimize any environmental, health, or safety hazards.

(c) An application for and designating an energy project as a Priority Energy Project may be submitted to the Board by any person in accordance with the procedures and criteria established under subsection (a).

(d) Promptly following receipt of an application filed under this section, the Board shall publish notice of such filing, together with a summary description of the application, in the Federal Register and shall notify the appropriate agencies and the Senate Committee on Energy and Natural Resources and the House Committees on Interstate and Foreign Commerce, on Interior and Insular Affairs, and on Science and Technology. The Board shall afford forty-five days after publication of notice in the Federal Register for such agencies and other interested persons to submit written comments for the Board's consideration.

DESIGNATION OF PRIORITY ENERGY PROJECTS

SEC. 204. (a) Not later than forty-five days after expiration of the comment period under section 203(d) with respect to any application under section 203, the Board shall—

(1) issue an order in accordance with this Act designating the energy project with respect to which such application was submitted as a Priority Energy Project if it determines that such project is of sufficient national interest for such project to be so designated, or

(2) refuse to issue such an order.

(b) The Board shall publish any order making a designation under subsection (a) in the Federal Register and shall provide a copy of such order to the Senate Committee on Energy and Natural Resources and the House Committees on Interstate and Foreign Commerce, on Interior and Insular Affairs, and on Science and Technology.

(c) In determining whether or not to make a designation under subsection (a), the Board shall consider—

(1) the extent to which the energy project would reduce the Nation's dependence upon imported oil or upon other nonrenewable resources;

(2) the magnitude of any economic, social, and environmental impacts and costs associated with the energy project in relation to the impacts and costs of alternatives to such project;

(3) the extent to which the energy project would make use of renewable energy resources;

(4) the extent to which the energy project would conserve energy;

(5) the extent to which the energy project would contribute to the development of new production or conservation technologies and techniques;

(6) the time that would normally be required to obtain all necessary agency decisions;

(7) the adverse impacts that would result from—

(i) the designation of the energy project as a Priority Energy Project, or

(ii) any delay in completion of the energy project which would result from the failure to make such a designation;

(8) the extent to which the energy project would impinge upon presently available or future water resources;

(9) the comments received concerning the energy project;

(10) the regions of the country that will be most heavily impacted by the energy project as well as most benefited by the project;

(11) the availability of significant economic, environmental, or technical data; and

(12) the anticipated effects upon competition in the energy industry, and the extent to which such designation will create competitive inequities among applicants.

In the case of any order designating a project under this section, the order shall contain a statement of the basis on which such designation was made.

STATE PARTICIPATION

SEC. 205. Upon designation of any Priority Energy Project, the Board shall promptly notify the Governor of each State in which any portion of such Project is proposed to be located, and each such Governor may appoint a nonvoting Member to serve on the Board to participate only in decisions of the Board respecting such Project, including decisions relating to the Project Decision Schedule. The provisions of section 201(b) shall not apply to the Member of the Board appointed under this section.

COMPLIANCE WITH THE NATIONAL ENVIRONMENT POLICY ACT

SEC. 206. Promptly following designation of an energy project as a Priority Energy Project, and before establishment of a Project Decision Schedule under section 209, the Council on Environmental Quality shall determine whether any Federal action relating to the Priority Energy Project will be a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969. If the Council determines that any such action relating to a Priority Energy Project will be a major Federal action, the Council shall designate the lead agency for purposes of complying with the National Environmental Policy Act of 1969. If the Council on Environmental Quality fails to make any determination or designation (or both) required under this section before establishment of the Project Decision Schedule, the Board may make such determination or designation (or both).

EXTENSION OF DEADLINES

SEC. 207. The Board may extend the time for receiving comments under section 203(d), the time for making its determination and publication under section 204 in the case of any application for designation of any energy project as a Priority Energy Project, the time for agencies to transmit information under section 208, and the time for publication by the Board under section 209(a) of a Project Decision Schedule. Any such extension shall be consistent with the purposes of this Act and shall be for only such period as may be necessary, as determined by the Board.

AGENCIES TO TRANSMIT INFORMATION

SEC. 208. Not later than thirty days after notice appears in the Federal Register of an order designating an energy project as a Priority Energy Project, each agency having authority to make any agency decision with respect to such Project or any part thereof, shall transmit to the Board—

(1) a compilation of all significant actions required to be taken by such agency and by the applicant before such decision can be made and a summary of the procedural requirements applicable to such actions and to the making of such decisions;

(2) a tentative schedule for completing such actions and making such decisions;

(3) a statement of the amount of funds and personnel available to the agency to take such actions and make such decisions and of the effect that taking such actions and making such decisions will have on other actions required to be taken by the agency, together with a finding as to whether or not such funds and personnel are adequate for such purposes; and

(4) such other information as the Board may require.

Notwithstanding section 557(d) of title 5 of the United States Code, or any other provision of law relating to ex parte communications, any officer or employee of an agency to which this section applies may provide information to the Board and consult with the Board relating to any Priority Energy Project at any time and in any manner.

PROJECT DECISION SCHEDULE

SEC. 209. (a) Not later than thirty days after agencies are required to transmit information under section 208 with respect to any Priority Energy Project, the Board, in consultation with the appropriate agencies, shall publish in the Federal Register a Project Decision Schedule for all agency decisions relating to such Project. The Project Decision Schedule shall clearly identify the order in which such decisions must be made by each agency concerning the Project and shall clearly identify the deadlines applicable to such decisions. The Project Decision Schedule may also suggest concurrent review of applications and joint hearings by such agencies.

(b)(1) The Project Decision Schedule shall be consistent with the tentative schedules transmitted to the Board under section 208 unless the Board determines that a different schedule is essential in order to expedite and coordinate agency review, and publishes, together with the Project Decision Schedule, its reasons for such determination. The objective of the Board in determining any different schedule under this paragraph shall not result in a total time for the Federal, State, or local agency action to which such schedule applies which exceeds 12 months from the date on which application is made for such Federal, State, or local agency action by a person acting on behalf of the Priority Energy Project.

(2) Whenever the Project Decision Schedule is not consistent with any schedule which would otherwise apply, such Project Decision Schedule shall apply in lieu of such otherwise applicable schedule and shall be binding on the agency and on all other persons to which the Schedule applies.

(3) In the case of agency decision or action subject to the Project Decision Schedule, the agency may modify any schedule applicable to such action or decision (including a schedule relating to actions of any applicant or other person and including any schedule established by statute) where the agency determines that such modification will facilitate compliance by the agency with the Project Decision Schedule. No such agency may modify the Project Decision Schedule pursuant to the authority contained in this paragraph.

(4) The Project Decision Schedule, and any other schedule which is modified under paragraph (3), shall be reasonably designed to insure adequate consideration of all matters concerning such Project under applicable law and to insure adequate participation by parties in applicable proceedings.

(5) Any agency may consolidate, to the maximum extent practicable, its proceedings respecting actions and decisions which are subject to the Project Decision Schedule with the proceedings of other agencies respecting actions and decisions which are also subject to such Schedule.

(c) In consultation with any person responsible for—

(1) filing on behalf of a Priority Energy Project any application or other petition for an agency decision, or

(2) taking any other action on behalf of such project which is necessary before such agency decision may be made,

and with appropriate agencies, the Board shall include in the Project Decision Schedule a schedule containing deadlines for submissions by such person for any license, permit, or other approval which must be obtained in connection with the project. The schedule shall indicate the date on which any such filing shall be made and the materials which must be submitted.

(d) Upon the petition of any agency to which the Project Decision Schedule applies, or on its own motion, the Board may modify the Project Decision Schedule at any time. No extension of any time period applicable to any agency under such Schedule may be granted unless the Board determines that—

(1) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule; or

(2) it would be impracticable for the agency to reach a decision or to complete the required action within the specified time,

taking into account the personnel and funds available to the agency for complying with such Schedule.

MONITORING OF COMPLIANCE BY BOARD

SEC. 210. The Board shall monitor compliance with the Project Decision Schedule by the agencies and persons to whom the Schedule applies and may require such agencies and persons to submit to the Board such information regarding compliance with such Schedule as the Board deems necessary and appropriate for such purposes. If the Board determines that a Priority Energy Project is being delayed or threatened with delay, the Board shall determine the reason for such delay or threatened delay and notify the appropriate agencies and other persons of its determination. Following such notification, the Board shall publish such reasons in the Federal Register, and may take such actions as it deems appropriate to bring such agency and other persons into compliance with the Project Decision Schedule. If the Board determines that any person responsible for—

(1) filing on behalf of a Priority Energy Project any application or other petition for an agency decision, or

(2) taking any other action on behalf of such Project which is necessary before such agency decision may be made,

has failed or refused to promptly file such application or petition or take such other action, the Board shall either revise such Project Decision Schedule or revoke the designation of such Priority Energy Project under section 204.

AGENCY OBLIGATIONS NOT AFFECTED

SEC. 211. (a)(1) Except as may be otherwise be provided pursuant to the establishment or modification of a deadline or timetable by the Board under section 209 or 212(a)(2)(A), or pursuant to the modification of a schedule by an agency under 209(b)(3), the Project Decision Schedule and each agency decision and other action with respect to which a deadline or timetable is specified on the Project Decision Schedule shall be consistent with the statutory obligations applicable to the agencies governed by such Schedule.

(2) Paragraph (1) shall be subject to Section 212.

(b) Except as permitted under the authorities referred to in subsection (a), nothing in this Act shall—

(1) affect the application to any energy project of any requirement established by, or pursuant to, Federal, State, or local law,

(2) affect the basis on which any agency decision is made with respect to such a project, or

(3) affect or influence the outcome of any such agency decision.

(c) Nothing in this Act shall be construed to affect the authority or independence of any independent Federal regulatory agency.

ENFORCEMENT OF PROJECT DECISION SCHEDULE

SEC. 212. (a)(1) If the Board determines, pursuant to its monitoring under section 210, that an agency has failed, or is reasonably likely to fail, to make an agency decision within the time required by the Project Decision Schedule, the Board shall provide notice of its determination to the appropriate agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, any parties to the agency proceeding concerned, and the Governor of each State affected by that Project. After a period of at least 45 days after such notification, the Board shall promptly conduct on an expedited basis an informal hearing for the purpose of determining the cause of the delay and the actions taken to achieve compliance. A transcript shall be kept of any such hearing.

(2) Within 30 days after any hearing under paragraph (1), the Board may, in furtherance of the purposes of this Act—

(A) modify the Project Decision Schedule to the extent necessary to provide an extension of time for that agency to make the agency decision involved if—

(i) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule, and it would be impracticable for the agency to reach a decision or to complete the required action within the specified time, and

(ii) a previous extension has not been provided under this subsection for that agency decision;

(B) issue an order under subsection (b) providing for a decision under that subsection in lieu of the agency decision involved; or

(C) make a recommendation under subsection (c) for a waiver under that subsection in the case of any Federal requirement applicable to any agency.

No determination by the Board under paragraph (1) and no modification of a Project Decision Schedule by the Board under subparagraph (A) of this paragraph shall be subject to judicial review, except as may be required by the Constitution of the United States. If, following modification of the Project Decision Schedule under subparagraph (A), the agency fails to make the agency decision concerned in compliance with such modified Schedule, the Board may take action under subparagraph (B) or (C), as appropriate, without conducting a further hearing under paragraph (1).

(b)(1) The Board may issue an order referred to in subsection (a)(2)(B) to have a decision under this subsection be made in lieu of the agency decision. Notice of any such order shall be published in the Federal Register and transmitted to the agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, the President, the Governor of each State affected and the Committees on Interstate and Foreign Commerce, Interior and Insular Affairs, and on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Any order under this paragraph shall not be subject to judicial review, except as may be required by the Constitution of the United States.

(2)(A) Upon receipt of notice of an order under paragraph (1), the agency involved shall transmit forthwith all records in the possession of the agency pertinent to that decision or action. The Board shall take whatever additional action authorized under this Act as may be necessary to obtain an adequate record for a final decision.

(3)(A) The Board shall promptly issue a recommended decision under this subsection after obtaining an adequate record for the decision. The recommended decision shall be published in the Federal Register, shall be submitted to the President, together with the record on which it is based, and shall be transmitted to the Governor of each State affected by the project.

(B) Any recommended decision of the Board under this subsection shall be consistent with any requirement established by, or pursuant to, Federal, State, or local law which would be applicable in the absence of an order under this subsection.

(4)(A) Within 45 days after any recommended decision has been submitted to the President under paragraph (3), the President shall—

(i) make a decision to affirm the recommended decision, in which case the recommended decision shall be considered final, or

(ii) shall remand it to the Board with instructions to modify the recommended decision to the extent the President determines to be appropriate and consistent with any requirement established by, or pursuant to, Federal, State, or local law.

Following any remand under clause (ii), the Board shall promptly issue a final decision in accordance with the Board's recommended decision. If the President fails to affirm or remand such decision within such 45-day period, the Board's recommended decision shall be considered final.

(B) Any final decision under subparagraph (A) shall be considered a final decision in lieu of the agency decision involved. Except as provided in section 214(b), such final decision shall be subject to judicial review in the same manner and to the same extent as would apply to the agency decision involved.

(c)(1) After designation of a Priority Energy Project and before compliance with the Project Decision Schedule by the agencies to which such Schedule applies, or pursuant to subsection (a), the Board may recommend to the President the waiver, in whole or in part, of any Federal requirement which it finds presents a substantial procedural or substantial substantive impediment—

(A) to the making of an agency decision, or

(B) to the making of such agency decision in a manner which will permit implementation of the project.

A recommendation may not be made to the President for a waiver under this subsection and a recommendation may not be made under subsection (b) if the agency has made the agency decision involved at the time of such recommendation.

(2)(A) Any waiver recommended under this subsection may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived. Such waiver shall also include such terms and conditions as the Board, in consultation with the agencies responsible for the administration of the requirements proposed to be waived, deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver and to further enhancement efforts for aspects adversely affected by the Project.

(B) A recommendation under this subsection for the waiver of any requirement shall be published in the Federal Register, together with a statement of the reasons on which the recommendation is based. Any agency affected by such waiver and any other concerned person may submit views respecting such recommendation to the President and may make such views public during the thirty-day period specified in paragraph (3).

(3) Not earlier than thirty days after publication in the Federal Register of a recommendation for a waiver under this subsection, and after considering public and agency comments, the President may, in furtherance of the purposes of this Act, transmit such recommendation to the Congress, if he determines—

(A) such a waiver to be in the national interest,

(B) that there is substantial evidence to support the Board's determination and recommendation, and

(C) that such a waiver would not unduly endanger the public health and safety.

Any recommendation so transmitted shall be accompanied by a detailed identification of the requirement to be waived, a statement of the extent to which such waiver would apply, and a statement of the President's reasons for making such recommendation, together with a summary of the agency views on such waiver. Any recommendation transmitted under this paragraph may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived together with provisions for the enforcement of such less stringent requirement or other alternative by the agency responsible for the administration of the requirement proposed to be waived. Such waiver shall also include such terms and conditions (and provisions for their enforcement by the agency responsible for the administration of the requirement proposed to be waived) as the President deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver and to further enhancement efforts for aspects adversely affected by the Project. The President's transmittal under this subsection shall also set forth any differences between the waiver recommended by the Board and the waiver transmitted to the Congress.

(4)(A) Any waiver with respect to which the President has made a recommendation which is transmitted to Congress under this subsection shall take effect that the expiration of the first period of sixty calendar days of continuous session of Congress after the date of its receipt by the Senate and House of Representatives if, before the expiration of such sixty-day period, such recommendation is approved by each House of the Congress in the same manner as is provided for approval of energy conservation contingency plans under section 552 of the Energy Policy and Conservation Act, except that in applying the provisions of section 552 to a recommendation of the President transmitted under this subsection, any reference in such section 552 to an energy conservation contingency plan shall be treated as a reference to a recommendation of the President transmitted under this subsection, any reference in such section 552 to twenty calendar days shall be treated as a reference to thirty calendar days and subsections (b), (d)(2)(B), and (d)(7) of section 552 shall not apply.

(B) A recommendation transmitted under this section may take effect at any time subsequent to the date specified in subparagraph (A) if such subsequent time is set forth in such recommendation.

(5) Each agency responsible for the administration of any requirement waived under this section shall monitor compliance by the Project with the terms and conditions of such waiver.

(d)(1) The Board, on its own motion or upon an application of any person acting on behalf of a Priority Energy Project, shall determine if any requirement of Federal, State, or local law which has been acted or promulgated after establishment of the Project Decision Schedule, but before commencement of commercial operation of any facility (as determined by the Board) which is part of the Project, would present a substantial impediment to implementation of the Project. Such application shall identify the requirement with respect to which the application is made. If the Board determines that any such requirement will present such an impediment, the Board may in furtherance of the purposes of this Act—

(A) order the temporary suspension of the application of such requirement to such facility for only such time as necessary to allow such person to make good faith efforts to comply with such requirement, but not in excess of 5 years after the date on which commercial operation of such facility commences; or

(B) submit a recommendation to the President that such requirement be waived in whole or in part.

No determination of the Board under this subsection shall be subject to judicial review except as may be required by the Constitution of the United States.

(2) No order temporarily suspending the application of any requirement to any facility may be issued under paragraph (1)(A) unless the Board, in consultation with the agency responsible for implementing the requirement, finds that, during the period of such suspension, the facility will make a good faith effort to meet the requirement suspended.

(3) A recommendation submitted to the President under paragraph (1)(B) for the waiver of any requirement shall take effect as provided in, and shall be subject to the same provisions as apply in, the case of recommendations for waiver set forth in subsection (c).

(e)(1) Not later than 45 days after the establishment of a Project Decision Schedule for a Priority Energy Project, the Board and any agencies which may be covered by such Project Decision Schedule shall identify and publish notice in the Federal Register of the requirements of Federal, State, and local law applicable to such Project which may present any substantial procedural or substantial substantive impediment to the implementation of the Project. Such notice shall include an analysis of the impact of such requirements on the Project. The Board may extend the 45-day period in appropriate cases.

(2) If the Board finds, after publication of the notice under paragraph (1) and based upon the analysis required under paragraph (1), that—

(A) any requirement identified under paragraph (1) may present any substantial procedural or substantial substantive impediment to the implementation of the project; and

(B) there is no opportunity under applicable law for an agency decision in a manner which would overcome such impediment and permit implementation of the project,

the Board shall submit a copy of its analysis under paragraph (1), together with appropriate recommendations concerning the requirement, to the President (in the case of a requirement of Federal law), the Governor (in the case of a requirement of State or local law), to the affected agencies, and to the appropriate committees of Congress. Any recommendation under this subsection to the President may include a recommendation in accordance with subsection (c). The Governor and such affected agencies shall take into consideration the Board's recommendation and shall report to the Board within such time as may be specified by the Board. Such report shall state whether or not the Governor or agency accepts or rejects the recommendations of the Board, together with the reasons for such acceptance or rejection. If the Governor or agency accepts such recommendations in whole or in part, such report shall include an explanation of the actions the Governor or agency will take and when such actions will be taken.

(f) In bringing any civil action in any court (other than the Supreme Court) to enforce any order or requirement under this Act, the Board shall be represented by the General Counsel of the Board (or any attorney employed by the Board), notwithstanding the provisions of title 28 of the United States Code. Such General Counsel (or attorney employed by the Board) shall supervise, conduct, and argue any civil litigation in any such action.

PROHIBITION AGAINST WAIVER OF CERTAIN RIGHTS AND LAWS

SEC. 213. (a) Nothing in this Act shall authorize, or be construed to authorize, the Board or the President to alter any Federal, State, or local requirement, except to the extent a schedule established or modified by the Board under section 209 or section 212(a)(2)(A) contains a deadline or timetable which applies in lieu of an otherwise applicable deadline or timetable.

(b) No recommendation may be made by the Board with respect to a waiver, no determination may be transmitted by the President with respect to a waiver, and no waiver may take effect under section 212, if such waiver would—

(1) waive any Federal, State, or local requirement which relates to—

(A) the rights, working conditions (including health and safety), compensation, or activities of workers or their representatives,

(B) antitrust laws (as defined in section 3(1) of the Public Utilities Regulatory Policies Act of 1978),

(C) criminal laws, or

(D) civil rights laws;

(2) waive any Federal, State, or local requirement which involves any primary air quality standard established under the Clean Air Act;

(3) have the effect of impairing or abridging any right or rights of any person arising under the Constitution of the United States;

(4) contravene any interstate compact, provision of State or local law, or Federal contract, relating to water rights or to the appropriation, delivery or use of water pursuant to such rights; or

(5) have the effect of abridging or impairing the rights of any person under any provision of law to receive compensation from the owner or operator of any Priority Energy Project for loss of any property interest as a result of the construction or operation of such Project.

(c) Notwithstanding any provision of this Act, no requirement may be waived under this Act with respect to any pipeline for the transportation of coal, except that the Board may impose deadlines for agency decisions with respect to such a pipeline which deadlines may be shorter than those which might otherwise apply and the Board may also require concurrent review of applications and consolidated or joint hearings by agencies in the case of agency decisions relating to such a pipeline.

JUDICIAL REVIEW

SEC. 214. (a)(1) A determination of the Board to designate or not to designate any energy project as a Priority Energy Project under section 204, the granting or denying of an extension under section 207, the establishment of a Project Decision Schedule under section 209, and any action of the Board under section 210, shall not be subject to judicial review, except as may be required by the Constitution of the United States.

(2) The making of any waiver recommendation by the board or waiver determination by the President under section 212 shall not be subject to judicial review, except as required by the Constitution or as permitted under paragraph (3).

(3) Any person may bring an action against the United States in the appropriate United States court of appeals not later than thirty days after the approval of a determination transmitted by the President to the Congress under section 212 requesting the court to enjoin or grant other appropriate relief with respect to any waiver approved pursuant to such determination if such waiver is inconsistent with any prohibition contained in section 213, and such court may grant such relief. In any such action, the expedited procedures set forth in subsection (b)(2) shall apply.

(b)(1) Any action brought in any court of the United States for review of any final agency decision which is covered by a Project Decision Schedule may only be brought in the United States court of appeals for the circuit in which the Priority Energy Project concerned is, or is proposed to be, located and may only be brought within ninety days following the date on which notice is published that such decision has become final or within such shorter time period as may be required under other applicable law. Any such action shall be barred unless brought within the period specified under the preceding sentence.

(2) The court shall assign any action referred to in paragraph (1) for hearing, and shall complete such hearing, at the earliest possible date. Such action shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at that time, shall be expedited in every way by such court, and shall be consolidated, to the greatest extent practicable, with other actions relating to the same Priority Energy Project which are brought in such court or in any other court of the United States. Any reviewing court shall also expedite and consolidate such review to the maximum extent practicable.

(3) Nothing in this subsection shall be construed to affect the jurisdiction of any court of the United States or of any State or political subdivision thereof. Any agency decision with respect to which review could have been obtained under this subsection may not be subject to judicial review in any other proceeding.

EFFECTIVE DATE

SEC. 215. The Board shall promulgate regulations for carrying out its functions under this Act (including regulations establishing procedures and criteria under section 203) not later than sixty days after the date on which all initial members of the Board have been confirmed by the United States Senate. No application may be submitted under this Act for designation of any project as a Priority Energy Project before promulgation of such regulations.

EXPIRATION OF AUTHORITY

SEC. 216. The Board shall cease to exist, and the authority provided to the Board under this Act, shall terminate, on September 30, 1985. Notwithstanding the previous sentence, any Project Decision Schedule established under this Act for any Priority Energy Project prior to the expiration of such authority, and, to the extent practicable, the other provisions of this Act applicable to such project, shall continue to be applicable to such project after September 30, 1985.

AUTHORIZATION

SEC. 217. There is authorized to be appropriated to the Board to carry out the provisions of this Act not more than $2,000,000 for the fiscal year 1980, and not more than such sums as may be necessary for succeeding fiscal years, subject to annual authorizations.

—Page 38, strike out line 7 and all that follows down through the end of section 177 and substitute:

which such designation was made and such other information as may be appropriate.

"(d) Upon receipt of an application pursuant to section 176 of this part for the designation of an electric powerplant, as defined in section 103(a)(7) of the Powerplant and Industrial Fuel Use Act of 1978, as a Priority Energy Project and after an opportunity for public comment on such application pursuant to such section, the Board shall designate such powerplant as a Priority Energy Project, in accordance with section 177, if such powerplant is seeking, as determined by the Secretary of Energy, to use coal or a coal derived fuel as the primary energy source either (1) through conversion to such fuel from the use of oil or natural gas as the primary energy source for such powerplant, or (2) through construction of a new powerplant to replace an existing powerplant that uses oil or natural gas as the primary energy source.

"(e) The Board shall encourage prospective applicants for Priority Energy Projects to file applications for any necessary agency decisions with the appropriate agencies as soon as possible in order that agency decisions may be expedited."

By Mr. DUNCAN of Tennessee:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. Udall.)

—On page 53, after line 13 insert the following new section.

REPORT

Sec. 188. Not later than December 31, 1981, and annually thereafter, the Board shall prepare and transmit to the Congress a report which contains a comprehensive list of all Federal laws and regulations that significantly hinder the completion of energy projects, and which includes an analysis of why each law or regulation listed in the report is a significant hindrance to the completion of such projects.

And redesignate succeeding sections accordingly.

By Mr. ECKHARDT:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. Udall.)

—Strike out page 45, line 3 and all that follows down to line 13 on page 49 and substitute:

"AGENCY OBLIGATIONS NOT AFFECTED

"Sec. 184. Except as may otherwise be provided pursuant to the establishment or modification of a deadline or timetable by the Board under section 132 or 185(a)(2)(A) or pursuant to the modification of a schedule by an agency under 182(b)(3)—

"(1) the Project Decision Schedule and each agency decision and other action with respect to which a deadline or timetable is specified on the Project Decision Schedule shall be consistent with the statutory obligations applicable to the agencies governed by such Schedule and with the rules and regulations promulgated by such agencies pursuant to their statutory obligations;

"(2) nothing in this part shall affect the application to any energy project of any requirement established by, or pursuant to, Federal, State, or local law.

"(3) nothing in this part shall affect the basis on which any agency decision is made with respect to such a project;

"(4) nothing in this part shall affect or influence the outcome of any such agency decision; and

"(5) nothing in this part shall be construed to affect the authority or independence of any independent Federal regulatory agency.

"ENFORCEMENT OF PROJECT DECISION SCHEDULE

"Sec. 185. (a)(1) If the Board determines, pursuant to its monitoring under section 183, that an agency has failed, or is reasonably likely to fail, to make an agency decision within the time required by the Project Decision Schedule, the Board shall provide notice of its determination to the appropriate agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, any parties to the agency proceeding concerned, and the Governor of each State affected by that project. After a period of at least 45 days after such notification, the Board shall promptly conduct on an expedited basis an informal hearing for the purpose of determining the cause of the delay and the actions taken to achieve compliance. A transcript shall be kept at any such hearing.

"(2) within 30 days after any hearing under paragraph (1), the Board may, in furtherance of the purposes of this part—

"(A) modify the Project Decision Schedule to the extent necessary to provide an extension of time for that agency to make the agency decision involved if—

"(i) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule, and it would be impracticable for the agency to reach a decision or to complete the required action within the specified time, and

"(ii) a previous extension has not been provided under this subsection for that agency decision; or,

"(B) issue an order under subsection (b) providing for a decision under that subsection in lieu of the agency decision involved.

No determination by the Board under paragraph (1) and no modification of a Project Decision Schedule by the Board under subparagraph (A) of this paragraph shall be subject to judicial review, except as may be required by the Constitution of the United States. If, following modification of the Project Decision Schedule under subparagraph (A), the agency fails to make the agency decision concerned in compliance with such modified Schedule, the Board may take action under subparagraph (B) without conducting a further hearing under paragraph (1).

"(b)(1) The Board may issue an order referred to in subsection (a)(2)(B) to have a decision under this subsection be made in lieu of the agency decision. Notice of any such order shall be published in the Federal Register and transmitted to the agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, the President, the Governor of each State affected and the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Any order under this paragraph shall not be subject to judicial review, except as may be required by the Constitution of the United States.

"(2)(A) Upon receipt of notice of an order under paragraph (1), the agency involved shall transmit forthwith all records in the possession of the agency pertinent to that decision or action. The Board shall take whatever additional action authorized under this part as may be necessary to obtain an adequate record for a final decision.

"(3)(A) The Board shall promptly issue a recommended decision under this subsection after obtaining an adequate record for the decision. The recommended decision shall be published in the Federal Register, shall be submitted to the President, together with the record on which it is based, and shall be transmitted to the Governor of each State affected by the project.

"(B) Any recommended decision of the Board under this subsection shall be consistent with any requirement established by, or pursuant to, Federal, State, or local law which would be applicable in the absence of an order under this subsection.

"(C) A recommendation may not be made under this subsection if the agency has made the agency decision involved at the time of such recommendation.

"(4)(A) Within 45 days after any recommended decision has been submitted to the President under paragraph (3), the President shall—

"(i) make a decision to affirm the recommended decision, in which case the recommended decision shall be considered final, or

"(ii) shall remand it to the Board with instructions to modify the recommended decision to the extent the President determines to be appropriate and consistent with any requirement established by, or pursuant to, Federal, State, or local law.

Following any remand under clause (ii), the Board shall promptly issue a final decision in accordance with such instructions. If the President fails to affirm or remand such decision within such 45-day period, the Board's recommended decision shall be considered final.

"(B) Any final decision under subparagraph (A) shall be considered a final decision in lieu of the agency decision involved. Except as provided in section 187(b), such final decision shall be subject to judicial review in the same manner and to the same extent as would apply to the agency decision involved.

"(c)(1) The Board, on its own motion or upon an application of any person acting on behalf of a Priority Energy Project, shall determine if any requirement of Federal, State, or local law which has been enacted or promulgated after establishment of the Project Decision Schedule, but before commencement of commercial operation of any facility (as determined by the Board) which is part of the Project, would present a substantial impediment to implementation of the Project. Such application shall identify the requirement with respect to which the application is made. If the Board determines that any such requirement will present such an impediment, the Board may in furtherance of the purposes of this part order the temporary suspension of the application of such requirement to such facility for only such time as necessary to allow such persons to make good faith efforts to comply with such requirement, but not in excess of 5 years after the date on which commercial operation of such facility commences.

"(2) No order temporarily suspending the application of any requirement to any facility may be issued under paragraph(1)(A) unless the Board, in consultation with the agency responsible for implementing the requirement, finds that, during the period of such suspension, the facility will make a good faith effort to meet the requirement suspended.

(d)(1) Not later than 45 days after the establishment of a Project Decision Schedule for a Priority Energy Project, the Board and any agencies which may be covered by such Project Decision Schedule shall identify and publish notice in the Federal Register of the requirements of Federal, State, and local law applicable to such Project which may present any substantial procedural or substantial substantive impediment to the implementation of the Project. Such notice shall include an analysis of the impact of such requirements on the Project. The Board may extend the 45-day period in appropriate cases.

"(2) If the Board finds, after publication of the notice under paragraph (1) and based upon the analysis required under paragraph (1), that—

"(A) any requirement identified under paragraph (1) may present any substantial procedural or substantial substantive impediment to the implementation of the project; and

"(B) there is no opportunity under applicable law for an agency decision in a manner which would overcome such impediment and permit implementation of the Project,

the Board shall submit a copy of its analysis under paragraph (1), together with appropriate recommendations concerning the requirement, to the President (in the case of a requirement of Federal law), the Governor (in the case of a requirement of State or local law), to the affected agencies, and to the appropriate committees of Congress. The Governor and such affected agencies shall take into consideration the Board's recommendation and shall report to the Board within such time as may be specified by the Board. Such report shall state whether or not the Governor or agency accepts or rejects the recommendations of the Board, together with the reasons for such acceptance or rejection. If the Governor or agency accepts such recommendations in whole or in part, such report shall include an explanation of the actions the Governor or agency will take and when such actions will be taken.

"(e) In bringing any civil action in any court (other than the Supreme Court) to enforce any order or requirement under this part, the Board shall be represented by the General Counsel of the Board (or any attorney employed by the Board), notwithstanding the provisions of title 28 of the United States Code. Such General Counsel (or attorney employed by the Board) shall supervise, conduct, and argue any civil litigation in any such action.

—Strike out page 46, line 1 and all that follows down through line 13 on page 53 and substitute:

"ENFORCEMENT OF PROJECT DECISION SCHEDULE

"SEC. 185. (a) (1) If the Board determines, pursuant to its monitoring under section 163, that an agency has failed, or is reasonably likely to fail, to make an agency decision within the time required by the Project Decision Schedule, the Board shall provide notice of its determination to the appropriate agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, any parties to the agency proceeding concerned, and the Governor of each State affected by that project. After a period of at least 45 days after such notification, the Board shall promptly conduct on an expedited basis an informal hearing for the purpose of determining the cause of the delay and the actions taken to achieve compliance. A transcript shall be kept of any such hearing.

"(2) Within 30 days after any hearing under paragraph (1), the Board may, in furtherance of the purposes of this part—

"(A) modify the Project Decision Schedule to the extent necessary to provide an extension of time for that agency to make the agency decision involved if—

"(i) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule, and it would be impracticable for the agency to reach a decision or to complete the required action within the specified time, and

"(ii) a previous extension has not been provided under this subsection for that agency decision; or,

"(B) issue an order under subsection (b) providing for a decision under that subsection in lieu of the agency decision involved No determination by the Board under paragraph (1) and no modification of a Project Decision Schedule by the Board under subparagraph (A) of this paragraph shall be subject to judicial review, except as may be required by the Constitution of the United States. If, following modification of the Project Decision Schedule under subparagraph (A), the agency fails to make the agency decision concerned in compliance with such modified Schedule, the Board may take action under subparagraph (B) without conducting a further hearing under paragraph (1).

"(b) (1) The Board may issue an order referred to in subsection (a) (2) (B) to have a decision under this subsection be made in lieu of the agency decision. Notice of any such order shall be published in the Federal Register and transmitted to the agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, the President, the Governor of each State affected and the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Any order under this paragraph shall not be subject to judicial review, except as may be required by the Constitution of the United States.

"(2) (A) Upon receipt of notice of an order under paragraph (1), the agency involved shall transmit forthwith all records in the possession of the agency pertinent to that decision or action. The Board shall take whatever additional action authorized under this part as may be necessary to obtain an adequate record for a final decision.

"(3) (A) The Board shall promptly issue a recommended decision under this subsection after obtaining an adequate record for the decision. The recommended decision shall be published in the Federal Register, shall be submitted to the President, together with the record on which it is based, and shall be transmitted to the Governor of each State affected by the project.

"(B) Any recommended decision of the Board under this subsection shall be consistent with any requirement established by, or pursuant to, Federal, State, or local law which would be applicable in the absence of an order under this subsection.

"(C) A recommendation may not be made under this subsection if the agency has made the agency decision involved at the time of such recommendation.

"(4) (A) Within 45 days after any recommended decision has been submitted to the President under paragraph (3), the President shall—

"(i) make a decision to affirm the recommended decision, in which case the recommended decision shall be considered final, or

"(ii) shall remand it to the Board with instructions to modify the recommended decision to the extent the President determines to be appropriate and consistent with any requirement established by, or pursuant to, Federal, State, or local law.

Following any remand under clause (ii), the Board shall promptly issue a final decision in accordance with such instructions. If the President fails to affirm or remand such decision within such 45-day period, the Board's recommended decision shall be considered final.

"(B) Any final decision under subparagraph (A) shall be considered a final decision in lieu of the agency decision involved. Except as provided in section 187(b), such final decision shall be subject to judicial review in the same manner and to the same extent as would apply to the agency decision involved.

"(c) (1) The Board, on its own motion or upon an application of any person acting on behalf of a Priority Energy Project, shall determine if any requirement of Federal, State, or local law which has been enacted or promulgated after establishment of the Project Decision Schedule, but before commencement of commercial operation of any facility (as determined by the Board) which is part of the Project, would present a substantial impediment to implementation of the Project. Such application shall identify the requirement with respect to which the application is made. If the Board determines that any such requirement will present such an impediment, the Board may in furtherance of the purposes of this part order the temporary suspension of the application of such requirement to such facility for only such time as necessary to allow such person to make good faith efforts to comply with such requirement, but not in excess of 5 years after the date on which commercial operation of such facility commences.

"(2) No order temporarily suspending the application of any requirement to any facility may be issued under paragraph (1) (A) unless the Board, in consultation with the agency responsible for implementing the requirement, finds that, during the period of such suspension, the facility will make a good faith effort to meet the requirement suspended.

(d) (1) Not later than 45 days after the establishment of a Project Decision Schedule for a Priority Energy Project, the Board and any agencies which may be covered by such Project Decision Schedule shall identify and publish notice in the Federal Register of the requirements of Federal, State, and local law applicable to such Project which may present any substantial procedural or substantial substantive impediment to the implementation of the Project. Such notice shall include an analysis of the impact of such requirements on the Project. The Board may extend the 45-day period in appropriate cases.

"(2) If the Board finds, after publication of the notice under paragraph (1) and based upon the analysis required under paragraph (1), that—

"(A) any requirement identified under paragraph (1) may present any substantial procedural or substantial substantive impediment to the implementation of the project; and

"(B) there is no opportunity under applicable law for an agency decision in a manner which would overcome such implement and permit implementation of the Project, the Board shall submit a copy of its analysis under paragraph (1), together with appropriate recommendations concerning the requirement, to the President (in the case of a requirement of Federal law), the Governor (in the case of a requirement of State or local law), to the affected agencies, and to the appropriate committees of Congress. The Governor and such affected agencies shall take into consideration the Board's recommendation and shall report to the Board within such time as may be specified by the Board. Such report shall state whether or not the Governor or agency accepts or rejects the recommendations of the Board, together with the reasons for such acceptance or rejection. If the Governor or agency accepts such recommendations in whole or in part, such report shall include an explanation of the actions the Governor or agency will take and when such actions will be taken.

"(e) In bringing any civil action in any court (other than the Supreme Court) to enforce any order or requirement under this part, the Board shall be represented by the General Counsel of the Board (or any attorney employed by the Board), notwithstanding the provisions of title 28 of the United States Code. Such General Counsel (or attorney employed by the Board) shall supervise, conduct, and argue any civil litigation in any such action.

"PROHIBITION AGAINST WAIVER OR CERTAIN RIGHTS AND LAWS

"SEC. 186. (a) Nothing in this part shall authorize, or be construed to authorize, the Board or the President to alter any Federal, State, or local requirement, except to the extent a Schedule established or modified by the Board under section 182 or 185(a) (2) (A) contains a deadline or timetable which applies in lieu of an otherwise applicable deadline or timetable.

(b) No order by the Board under Section 185(c) may modify or impair in any way—

(1) any Federal, State, or local requirement which relates to—

(A) the rights, working conditions (including health and safety), compensation, or activities of workers or their represenatives.

(B) antitrust laws (as defined in section 3(1) of the Public Utilities Regulatory Policies Act of 1978),

(C) crimes based on common law, or

(D) civil rights laws;

(2) any Federal, State, or local requirement which involves any primary air quality standard established under the Clean Air Act;

(3) any right or rights of any person arising under the Constitution of the United States;

(4) any interstate compact, provision of State or local law, or Federal contract, relating to water rights or to the appropriation, delivery, or use of water pursuant to such rights; or

(5) the rights of any person under any provision of law to receive compensation from the owner or operator of any Priority

Energy Project for loss of any property interest as a result of the construction or operation of such Project.

"(c) Notwithstanding any provision of this part, no requirement may be waived under this part with respect to any pipeline for the transportation of coal, except that the Board may impose deadlines for agency decisions with respect to such a pipeline which deadlines may be shorter than those which might otherwise apply and the Board may also require concurrent review of applications and consolidated or joint hearings by agencies in the case of agency decisions relating to such a pipeline.

"JUDICIAL REVIEW

"SEC. 187. (a)(1) A determination of the Board to designate or not to designate any energy project as a Priority Energy Project under section 177, the granting or denying of an extension under section 180, the establishment of a Project Decision Schedule under section 182, and any action of the Board under section 183, shall not be subject to judicial review, except as may be required by the Constitution of the United States.

"(2) No order by the Board under section 185(c) shall be subject to judicial review except as required by the Constitution or as permitted under paragraph (3).

"(3) Any person may bring an action against the United States in the appropriate United States court of appeals not later than thirty days after an order by the Board under section 185(c) requesting the court to enjoin or grant other appropriate relief with respect to such order if such order is inconsistent with any prohibition contained in section 183 or is in excess of statutory jurisdiction, authority, or limitations or short of statutory right under this Act and such court may grant such relief. In any such action, the expedited procedures set forth in subsection (b)(2) shall apply.

"(b)(1) Any action brought in any court of the United States for review of any final agency decision which is covered by a Project Decision Schedule may only be brought in the United States court of appeals for the circuit in which the Priority Energy Project concerned is, or is proposed to be, located and may only be brought within ninety days following the date on which notice is published that such decision has become final or within such shorter time period as may be required under other applicable law. Any such action shall be barred unless brought within the period specified under the preceding sentence.

"(2) The court shall assign any action referred to in paragraph (1) for hearing, and shall complete such hearing, at the earliest possible date. Such action shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at that time, shall be expedited in every way by such court, and shall be consolidated, to the greatest extent practicable, with other actions relating to the same Priority Energy Project which are brought in such court or in any other court of the United States. Any reviewing court shall also expedite and consolidate such review to the maximum extent practicable.

"(3) Nothing in this subsection shall be construed to affect the jurisdiction of any court of the United States or of any State or political subdivision thereof. Any agency decision with respect to which review could have been obtained under this subsection may not be subject to judicial review in any other proceeding.

—Strike out page 46, line 1 and all that follows down through line 2 on page 51 and substitute:

"ENFORCEMENT OF PROJECT DECISION SCHEDULE

"SEC. 185. (a)(1) If the Board determines, pursuant to its monitoring under section 183, that an agency has failed, or is reasonably likely to fail, to make an agency decision within the time required by the Project Decision Schedule, the Board shall provide notice of its determination to the appropriate agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, any parties to the agency proceeding concerned, and the Governor of each State affected by that project. After a period of at least 45 days after such notification, the Board shall promptly conduct on an expedited basis an informal hearing for the purpose of determining the cause of the delay and the actions taken to achieve compliance. A transcript shall be kept of any such hearing.

"(2) Within 30 days after any hearing under paragraph (1), the Board may, in furtherance of the purposes of this part—

"(A) modify the Project Decision Schedule to the extent necessary to provide an extension of time for that agency to make the agency decision involved if—

"(i) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule, and it would be impracticable for the agency to reach a decision or to complete the required action within the specified time, and

"(ii) a previous extension has not been provided under this subsection for that agency decision; or,

"(B) issue an order under subsection (b) providing for a decision under that subsection in lieu of the agency decision involved No determination by the Board under paragraph (1) and no modification of a Project Decision Schedule by the Board under subparagraph (A) of this paragraph shall be subject to judicial review, except as may be required by the Constitution of the United States. If, following modification of the Project Decision Schedule under subparagraph (A), the agency fails to make the agency decision concerned in compliance with such modified Schedule, the Board may take action under subparagraph (B) without conducting a further hearing under paragraph (1).

"(b)(1) The Board may issue an order referred to in subsection (a)(2)(B) to have a decision under this subsection be made in lieu of the agency decision. Notice of any such order shall be published in the Federal Register and transmitted to the agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, the President, the Governor of each State affected and the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Any order under this paragraph shall not be subject to judicial review, except as may be required by the Constitution of the United States.

"(2)(A) Upon receipt of notice of an order under paragraph (1), the agency involved shall transmit forthwith all records in the possession of the agency pertinent to that decision or action. The Board shall take whatever additional action authorized under this part as may be necessary to obtain an adequate record for a final decision.

"(3)(A) The Board shall promptly issue a recommended decision under this subsection after obtaining an adequate record for the decision. The recommended decision shall be published in the Federal Register, shall be submitted to the President, together with the record on which it is based, and shall be transmitted to the Governor of each State affected by the project.

"(B) Any recommended decision of the Board under this subsection shall be consistent with any requirement established by, or pursuant to, Federal, State, or local law which would be applicable in the absence of an order under this subsection.

"(C) A recommendation may not be made under this subsection if the agency has made the agency decision involved at the time of such recommendation.

"(4)(A) Within 45 days after any recommended decision has been submitted to the President under paragraph (3), the President shall—

"(i) make a decision to affirm the recommended decision, in which case the recommended decision shall be considered final, or

"(ii) shall remand it to the Board with instructions to modify the recommended decision to the extent the President determines to be appropriate and consistent with any requirement established by, or pursuant to, Federal, State, or local law.

Following any remand under clause (ii), the Board shall promptly issue a final decision in accordance with such instructions. If the President fails to affirm or remand such decision within such 45-day period, the Board's recommended decision shall be considered final.

"(B) Any final decision under subparagraph (A) shall be considered a final decision in lieu of the agency decision involved. Except as provided in section 187(b), such final decision shall be subject to judicial review in the same manner and to the same extent as would apply to the agency decision involved.

"(c)(1) The Board, on its own motion or upon an application of any person acting on behalf of a Priority Energy Project, shall determine if any requirement of Federal, State, or local law which has been enacted or promulgated after establishment of the Project Decision Schedule, but before commencement of commercial operation of any facility (as determined by the Board) which is part of the Project, would present a substantial impediment to implementation of the Project. Such application shall identify the requirement with respect to which the application is made. If the Board determines that any such requirements will present such an impediment, the Board may in furtherance of the purposes of this part order the temporary suspension of the application of such requirement to such facility for only such time as necessary to allow such person to make good faith efforts to comply with such requirement, but not in excess of 5 years after the date on which commercial operation of such facility commences.

"(2) No order temporarily suspending the application of any requirement to any facility may be issued under paragraph (1)(A) unless the Board, in consultation with the agency responsible for implementing the requirement, finds that, during the period of such suspension, the facility will make a good faith effort to meet the requirement suspended.

(d)(1) Not later than 45 days after the establishment of a Project Decision Schedule for a Priority Energy Project, the Board and any agencies which may be covered by such Project Decision Schedule shall identify and publish notice in the Federal Register of the requirements of Federal, State, and local law applicable to such Project which may present any substantial procedural or substantial substantive impediment to the implementation of the Project. Such notice shall include an analysis of the impact of such requirements on the Project. The Board may extend the 45-day period in appropriate cases.

"(2) If the Board finds, after publication of the notice under paragraph (1) and based upon the analysis required under paragraph (1), that—

"(A) any requirement identified under paragraph (1) may present any substantial procedural or substantial substantive impediment to the implementation of the project; and

"(B) there is no opportunity under applicable law for an agency decision in a manner which would overcome such impediment and permit implementation of the Project, the Board shall submit a copy of its analysis under paragraph (1), together with appropriate recommendations concerning the requirement, to the President (in the case of a requirement of Federal law), the Governor (in the case of a requirement of State or local law), to the affected agencies, and to the appropriate committees of Congress. The Governor and such affected agencies shall take into consideration the Board's recommendation and shall report to the Board within such time as may be specified by the Board. Such report shall state whether or not the Governor or agency accepts or rejects the recommendations of the Board, together with the reasons for such acceptance or rejection. If the Governor or agency accepts such recommendations in whole or in part, such report shall include an explanation of the actions the Governor or agency will take and when such actions will be taken.

"(e) In bringing any civil action in any court (other than the Supreme Court) to enforce any order or requirement under this part, the Board shall be represented by the General Counsel of the Board (or any attorney employed by the Board), notwithstanding the provisions of title 28 of the United States Code. Such General Counsel (or attorney employed by the Board) shall supervise, conduct, and argue any civil litigation in any such action.

"PROHIBITION AGAINST WAIVER OR CERTAIN RIGHTS AND LAWS

"SEC. 186. (a) Nothing in this part shall authorize, or be construed to authorize, the Board or the President to alter any Federal, State, or local requirement, except to the extent a Schedule established or modified by the Board under section 182 or 185(a)(2)(A) contains a deadline or timetable which applies in lieu of an otherwise applicable deadline or timetable.

(b) No order by the Board under Section 185(c) may modify or impair in any way—

(1) any Federal, State, or local requirement which relates to—

(A) the rights, working conditions (including health and safety), compensation, or activities of workers or their representatives,

(B) antitrust laws (as defined in section 3(1) of the Public Utilities Regulatory Policies Act of 1978),

(C) crimes based on common law, or

(D) civil rights laws;

(2) any Federal, State, or local requirement which involves any primary air quality standard established under the Clean Air Act;

(3) any right or rights of any person arising under the Constitution of the United States;

(4) any interstate compact, provision of State or local law, or Federal contract, relating to water rights or to the appropriation, delivery, or use of water pursuant to such rights; or

(5) the rights of any person under any provision of law to receive compensation from the owner or operator of any Priority Energy Project for loss of any property interest as a result of the construction or operation of such Project.

Page 45, line 6, after "182" insert "or 185 (a)(2)(A)".

—On page 51, lines 19 and 20, strike "except as may be required by the Constitution of the United States," and insert in lieu thereof: "except on the grounds that such actions deny rights under the Constitution of the United States or that such actions are in excess of statutory jurisdiction, authority, or limitations or are short of statutory right under this Act."

By Mr. EMERY:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—Page 10, line 9, after the period insert: "Notwithstanding the preceding sentence and section 101(b), a project establishing a national program for permanent storage of radioactive waste materials may be eligible for designation as a Priority Energy Project under this Act.".

—Page 15, strike lines 16 through 18.

—Page 2, after line 22, insert the following:

"(c) The purpose of the Energy Mobilization Board, as defined in section 201, shall not be to overrule State and local laws and regulations."

By Mr. FUQUA:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—In section 201(f) after the words "Foreign Commerce" insert "and on Science and Technology".

In section 203(d) after the words "Insular Affairs" insert "and on Science and Technology".

—On page 27, strike all of line 16, and substitute the following: "including energy research and development projects.".

On page 33, line 13, following "Commerce", insert "and the Committee on Science and Technology".

On page 35, line 18, after "Affairs", insert "and Science and Technology".

On page 36, line 16, after "Affairs", insert "and Science and Technology".

By Mr. HOPKINS:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—On page 17, line 21, strike "nonvoting" and insert in lieu thereof the word "voting."

—On page 38, lines 12–13, strike "nonvoting" and insert in lieu thereof the word, "voting."

By Mr. KRAMER:

(An amendment in the nature of a substitute (text of H.R. 5660) offered by Mr. UDALL.)

—On page 29, line 17, after the word "Federal" strike the comma and the words "State, or local" and

On page 30, line 18, after "Federal" strike the comma and the words "State, or" and on line 19, strike the word "local" and the comma, and on line 20, strike the words "State, or local".

—On page 17, line 21, strike the word "nonvoting" and insert in lieu thereof the word "voting" and on line 22, after the word "in" insert the words "and vote on", and

On line 24, after the period insert the following: "Each such vote cast by such Member shall be counted in the proportion that the number of States represented by such Members bears to one. For purposes of tallying such votes, any fraction greater than .50 shall be counted as one vote and any fraction less than .50 shall not be counted.".

—On page 38, beginning on line 12, strike the word "nonvoting" and insert in lieu thereof the word "voting" and on line 13, strike the word "only", and insert after the word "in" the words "and vote on", and

On line 15 after the period, insert the following: "Each such vote cast by such Member shall be counted in the proportion that the number of States represented by such Members bears to one. For purposes of tallying such votes, any fraction greater than 0.50 shall be counted as one vote and any fraction less than 0.50 shall not be counted.".

By Mr. LUJAN:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—Page 20, in line 20, after the period, insert: "The objective of the Board in determining any different schedule under this paragraph shall be to provide that, to the maximum extent practicable and consistent with the provisions of this Act, such different schedule shall not result in a total time for the Federal, State, or local agency action to which such schedule applies which exceeds 24 months from the date on which application is made for such Federal, State, or local agency action by a person acting on behalf of the Priority Energy Project.".

—Page 41, in line 19, after the period, insert: "The objective of the Board in determining any different schedule under this paragraph shall be to provide that, to the maximum extent practicable and consistent with the provisions of this Act, such different schedule shall not result in a total time for the Federal, State, or local agency action to which such schedule applies which exceeds 9 months from the date on which application is made for such Federal, State, or local agency action by a person acting on behalf of the Priority Energy Project.".

—Page 20, in line 20, after the period, insert: "The objective of the Board in determining any different schedule under this paragraph shall be to provide that, to the maximum extent practicable and consistent with the provisions of this Act, such different schedule shall not result in a total time for the Federal, State, or local agency action to which such schedule applies which exceeds 9 months from the date on which application is made for such Federal, State, or local agency action by a person acting on behalf of the Priority Energy Project.".

—Page 41, in line 19, after the period, insert: "The objective of the Board in determining any different schedule under this paragraph shall be to provide that, to the maximum extent practicable and consistent with the provisions of this Act, such different schedule shall not result in a total time for the Federal, State, or local agency action to which such schedule applies which exceeds 24 months from the date on which application is made for such Federal, State, or local agency action by a person acting on behalf of the Priority Energy Project.".

—On page 35, line 23, strike the words "that such decision or action has become final" and insert in lieu thereof the following: "of certification under section 204(e)".

On page 52, lines 17–18, strike the words "that such decision has become final" and insert in lieu thereof the following: "of certification under section 177(d)".

—On page 15, line 16, strike the number "75" and insert the number "24"; on line 17, strike the number "20" and insert the number "12".

On page 38, after line 7, add the following new subsection:

"(d) Not more than 24 Priority Energy Projects may be designated by the Board, and not more than 12 of such Projects may be designated in any one calendar year."

—On page 15, line 16, strike subsection (c) and insert in lieu thereof the following:

(e)(1) No more than 24 Priority Energy Projects, no more than 12 of which may be designated in any one calendar year, may be pending certification at any one time. For the purposes of this subsection only, the certification issued pursuant to paragraph (2), constitutes termination of priority status.

(2) When the Board determines that all agency preconstruction actions and approvals necessary for a Priority Energy Project have been granted, the Board shall certify the same to the project. Such certification shall indicate the expiration date of any approvals that have been granted to the project and shall be published in the Federal Register.

On page 38, after line 7, add the following new subsection:

(d)(1) No more than 24 Priority Energy Projects, no more than 12 of which may be designated in any one calendar year, may be pending certification at any one time. For the purposes of this subsection only, the certification issued pursuant to paragraph (2), constitutes termination of priority status.

(2) When the Board determines that all agency preconstruction actions and approvals necessary for a Priority Energy Project have been granted, the Board shall certify the same to the project. Such certification shall indicate the expiration date of any approvals that have been granted to the project and shall be published in the Federal Register.

—On page 35, lines 18–19, strike "court of appeals for the circuit" and insert in lieu thereof the following: "District Court for the district".

On page 36, line 23, strike the words "Court of Appeals" and insert in lieu thereof the following: "District Court".

On page 37, lines 14–21, strike Sec. 218 and insert in lieu thereof the following:

SUPREME COURT REVIEW

Sec. 218. (a) The Supreme Court shall have exclusive authority to review any judgment or order (including interlocutory judgments or orders) of the district court pursuant to this title, and the party seeking review must file a petition for writ of certiorari within fifteen days after the decision of the district court or the appeal shall be barred.

(b) Any review by the Supreme Court shall be assigned for hearing and completed at the earliest possible date.

On page 52, lines 2–3, strike the words "court of appeals" and insert in lieu thereof "district court."

On page 52, line 14, strike the words "court of appeals for the cricuit" and insert in lieu thereof "district court for the district."

On page 53, line 507, strike the last sentence beginning with "Any" and add the following new Section:

SUPREME COURT REVIEW

Sec. 188. (a) The Supreme Court shall have exclusive authority to review any judgment or order (including interlocutory judgements or orders) of the district court pursuant to this title, and the party seeking review must file a petition for writ of certiorari within fifteen days after the decision of the district court or the appeal shall be barred.

(b) Any review by the Supreme Court shall be assigned for hearing and completed at the earliest possible date.

By Mr. MARKEY:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. Udall.)

—Add new subsection (d) at the end of section 177 as follows:

"(d) Not more than 75 priority energy projects may be designated by the Board, and not more than 20 of such projects may be designated in any one calendar year.

—Section 204, subsection (e), strike "75" and insert "24".

Section 204, subsection (e), strike "20" and insert "12".

By Mr. MAGUIRE:

(Amendment in the nature of a substitute (text of H.R. 5660) offered by Mr. Udall.)

—Page 4, line 11, strike "an energy project, or".

—Page 5, line 1, strike ", from among persons who are specially qualified by reason of their education, training, or experience to carry out the functions of the Board".

—Page 11, line 2, strike "such additional information as it deems necessary, including".

Page 11, line 8, strike "and".

Page 11, line 13, strike "." and insert in lieu thereof: "; and

(5) such additional information as it deems necessary."

—Page 17, line 20, after "located" insert: "or which is contiguous to any such state and is likely to be substantially affected by the discharge of any contaminants, pollutants, or emissions, as determined by the Board".

—Page 20, line 16, add:

(2) No such different schedule shall—

(A) create unnecessary interference with other functions and actions required of an agency, or

(B) interfere with a reasonable opportunity for participation by interested parties in agency proceedings scheduled in accordance with a Project Decision Schedule.

And renumber the following sections accordingly.

—Page 23, line 14, strike "agencies, including Federal State, and local agencies" and insert in lieu thereof, "Federal agencies".

—Page 24, line 2, strike "and" and insert in lieu thereof "or".

—Page 24, line 16, after "argument;" insert "or".

Page 24, strike lines 17 through 20.

Page 24, line 21, strike "(6)" and insert in lieu thereof "(5)".

Page 24, strike lines 23 through line 7 on page 25.

Page 25, strike "(c)" and insert in lieu thereof "(b)".

—Page 26, strike lines 12 through 19 and insert in lieu thereof: "has failed or refused to file promptly or correctly such application or petition or take such other action, the Board shall revoke the designation of the project as Priority Energy Project. However, if the Board determines that such person has failed to file correctly or promptly such application or petition or take such other action despite having made a good faith effort to do so, the Board may revise such Project Decision Schedule by extending the applicable deadlines by an amount of time equivalent to the delay caused by such person.".

—Page 29, line 21, strike ", from among persons who are specially qualified by reason of their education, training, or experience to carry out the functions of the Board".

—Page 31, line 17, strike "such order is originally issued" and insert in lieu thereof, "the date on which commercial operation of such facility commences".

—Page 34, line 24, strike "such additional information as it deems necessary, including".

Page 35, line 3, strike "and".

Page 35, line 7, strike "." and insert in lieu thereof: "; and

(4) such additional information as it deems necessary."

—Page 38, line 12, after "located" insert "or which is contiguous to any such state and is likely to be substantially affected by the discharge of any contaminants, pollutants, or emissions, as determined by the Board".

By Mr. MARLENEE:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. Udall.)

—On page 34, strike all after the comma following the number "1974" on line 1 through the number "1978" on line 3 and add the following new section:

PRIORITY ENERGY PROJECTS UNDER TITLE V OF THE PUBLIC UTILITY REGULATORY POLICY ACT OF 1978

Sec. 176. No provision of this Act shall modify, alter, or repeal any portion of Title V of the Public Utility Regulatory Policy Act of 1978 (Public Law 95–617). This Act shall however, apply to the extent that the provisions may be used to expedite construction of a crude oil transportation system approved by the President under Section 507 of the Public Utility Regulatory Policy Act of 1978.

—On page 10, after section 202, add the following new Section:

PRIORITY ENERGY PROJECTS UNDER TITLE V OF THE PUBLIC UTILITY REGULATORY POLICY ACT OF 1978

Sec. 203. No provision of this Act shall modify, alter, or repeal any portion of Title V of the Public Utility Regulatory Policy Act of 1978 (Public Law 95–617). This Act shall, however, apply to the extent that the provisions may be used to expedite construction of a crude oil transportation system approved by the President under Section 507 of the Public Utility Regulatory Policy Act of 1978.

By Mr. MOORHEAD of California:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. Udall.)

—Page 37, line 17, strike all after the word "upon" down through line 18, and insert in lieu thereof the following: "the quantity or quality of presently available or future water resources;".

—On page 34, line 7, after the word "way", insert the following: "any Federal contract for delivery of water or".

By Mr. OBERSTAR:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. Udall.)

—Page 40, after line 20, insert the following new section:

"PRIORITY ENERGY PROJECTS UNDER TITLE V OF THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978

"Sec. 220A. In the case of a proposed crude oil transportation system to transport crude oil to northern tier and inland States approved by the President under section 507 of the Public Utility Regulatory Policies Act of 1978, upon application of any person acting on behalf of such system, the President may apply one or more provisions of this act to the system if the application of the provision or provisions would, in the opinion of the President, expedite its completion.

—On page 34, line 5, strike out the period and insert in lieu thereof the following: "; except that in the case of a proposed crude oil transportation system to transport crude oil to northern tier and inland States approved by the President under section 507 of the Public Utility Regulatory Policies Act of 1978, upon application of any person acting on behalf of such system, the President may apply one or more provisions of this act to the system if the application of the provision or provisions would, in the opinion of the President, expedite its completion.".

By Mr. OTTINGER:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. Udall.)

—Page 5, line 6, after the period, add: "The Board shall include representation from environmental and consumer interest groups.".

—Page 29, line 24, after the period, add: "The Board shall include representation from environmental and consumer interest groups.".

—Page 17, line 21, strike "nonvoting" and insert in lieu thereof "voting".

—Page 24, line 2, strike "and" and insert in lieu thereof "or".

—Page 31, line 17, strike "such order is originally issued" and insert in lieu thereof, "the date on which commercial operation of such facility commences".

—Page 38, line 12, strike "nonvoting" and insert in lieu thereof "voting".

By Mr. RAHALL:

(Amendment to the substitute (text of H.R. 5660) offered by Mr. Udall.)

—Page 13, after line 13, insert:

(e) (1) Upon the request of any person acting on behalf of an energy project which constitutes—

(A) the conversion of a fossile fuel fired electric generating plant from the use of oil or natural gas to coal, a coal-oil mixture, or a coal-derived fuel, or

(B) the construction of a new facility which would replace or phase down an existing oil or gas fired electric generating plant with a coal fired, a coal-oil mixture fired, or a coal-derived fuel fired capacity,

the Board shall designate such project as a Priority Energy Project.

(2) Any Project designated under this subsection shall not be taken into account for purposes of the limitations contained in subsection (d).

—Page 15, after line 19, insert:

(f) (1) Upon the request of any person acting on behalf of an energy project which constitutes—

(A) the conversion of a fossil fuel fired electric generating plant from the use of oil or natural gas to coal, a coal-oil mixture, or a coal-derived fuel, or

(B) the construction of a new facility which would replace or phase down an existing oil or gas fired electric generating plant with a coal fired, a coal-oil mixture fired, or a coal-derived fuel fired capacity,

the Board shall designate such project as a Priority Energy Project.

(2) Any Project designated under this subsection shall not be taken into account for purposes of the limitations contained in subsection (e).

—Page 38, after line 7, insert:

(d) Upon the request of any person acting on behalf of an energy project which constitutes—

(1) the conversion of a fossil fuel fired electric generating plant from the use of oil or natural gas to coal, a coal-oil mixture, or a coal-derived fuel, or

(2) the construction of a new facility which would replace or phase down an existing oil or gas fired electric generating plant with a coal fired, a coal-oil mixture fired, or a coal-derived fuel fired capacity,

the Board shall designate such project as a Priority Energy Project.

By Mr. SANTINI:

(An amendment to the substitute (text of H.R. 560) offered by Mr. UDALL.)

—Strike out page 46, line 1 and all that follows down through line 12 on page 49 and substitute:

"ENFORCEMENT OF PROJECT DECISION SCHEDULE

"SEC. 185. (a) (1) If the Board determines, pursuant to its monitoring under section 183, that an agency has failed, or is reasonably likely to fail, to make an agency decision within the time required by the Project Decision Schedule, the Board shall provide notice of its determination to the appropriate agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, any parties to the agency proceeding concerned, and the Governor of each State affected by that project. After a period of at least 45 days after such notification, the Board shall promptly conduct on an expedited basis an informal hearing for the purpose of determining the cause of the delay and the actions taken to achieve compliance. A transcript shall be kept of any such hearing.

"(2) Within 30 days after any hearing under paragraph (1), the Board may, in furtherance of the purposes of this part—

"(A) modify the Project Decision Schedule to the extent necessary to provide an extension of time for that agency to make the agency decision involved if—

"(i) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule, and it would be impracticable for the agency to reach a decision or to complete the required action within the specified time, and

"(ii) a previous extension has not been provided under this subsection for that agency decision;

"(B) issue an order under subsection (b) providing for a decision under that subsection in lieu of the agency decision involved; or

"(C) make a recommendation under subsection (c) for a waiver under that subsection in the case of any Federal requirement applicable to any agency.

No determination by the Board under paragraph (1) and no modification of a Project Decision Schedule by the Board under subparagraph (A) of this paragraph shall be subject to judicial review, except as may be required by the Constitution of the United States. If, following modification of the Project Decision Schedule under subparagraph (A), the agency fails to make the agency decision concerned in compliance with such modified Schedule, the Board may take action under subparagraph (B) or (C), as appropriate, without conducting a further hearing under paragraph (1).

"(b) (1) The Board may issue an order referred to in subsection (a) (2) (B) to have a decision under this subsection be made in lieu of the agency decision. Notice of any such order shall be published in the Federal Register and transmitted to the agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, the President, the Governor of each State affected and the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Any order under this paragraph shall not be subject to judicial review, except as may be required by the Constitution of the United States.

"(2) (A) Upon receipt of notice of an order under paragraph (1), the agency involved shall transmit forthwith all records in the possession of the agency pertinent to that decision or action. The Board shall take whatever additional action authorized under this part as may be necessary to obtain an adequate record for a final decision.

"(3) (A) The Board shall promptly issue a recommended decision under this subsection after obtaining an adequate record for the decision. The recommended decision shall be published in the Federal Register, shall be submitted to the President, together with the record on which it is based, and shall be transmitted to the Governor of each State affected by the project.

"(B) Any recommended decision of the Board under this subsection shall be consistent with any requirement established by, or pursuant to, Federal, State, or local law which would be applicable in the absence of an order under this subsection.

"(4) (A) Within 45 days after any recommended decision has been submitted to the President under paragraph (3), the President shall—

"(i) make a decision to affirm the recommended decision, in which case the recommended decision shall be considered final, or

"(ii) shall remand it to the Board with instructions to modify the recommended decision to the extent the President determines to be appropriate and consistent with any requirement established by, or pursuant to, Federal, State, or local law.

Following any remand under clause (ii), the Board shall promptly issue a final decision in accordance with such instructions. If the President fails to affirm or remand the Board's recommended decision within such 45-day period, the Board's recommended decision shall be considered final.

"(B) Any final decision under subparagraph (A) shall be considered a final decision in lieu of the agency decision involved. Except as provided in section 187(b), such final decision shall be subject to judicial review in the same manner and to the same extent as would apply to the agency decision involved.

"(c) (1) After designation of a Priority Energy Project and before compliance with the Project Decision Schedule by the agencies to which such Schedule applies, or pursuant to subsection (a), the Board may recommend to the President the waiver, in whole or in part, of any Federal requirement which it finds presents a substantial procedural or substantial substantive impediment—

"(A) to the making of an agency decision, or

"(B) to the making of such agency decision in a manner which will permit implementation of the project.

A recommendation may not be made to the President for a waiver under this subsection and a recommendation may not be made under subsection (b) if the agency has made the agency decision involved at the time of such recommendation.

"(2) (A) Any waiver recommended under this subsection may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived. Such waiver shall also include such terms and conditions as the Board, in consultation with the agencies responsible for the administration of the requirements proposed to be waived, deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver and to further enhancement efforts for aspects adversely affected by the energy project.

"(B) A recommendation under this subsection for the waiver of any requirement shall be published in the Federal Register, together with a statement of the reasons on which the recommendation is based. Any agency affected by such waiver and any other concerned person may submit views respecting such recommendation to the President and may make such views public during the thirty-day period specified in paragraph (3).

"(3) Not earlier than thirty days after publication in the Federal Register of a recommendation for a waiver under this subsection, and after considering public and agency comments, the President may, in furtherance of the purposes of this part, transmit such recommendation to the Congress, if he determines—

"(A) such a waiver to be in the national interest,

"(B) that there is substantial evidence to support the Board's determination and recommendation, and

"(C) that such a waiver would not unduly endanger the public health and safety.

Any recommendation so transmitted shall be accompanied by a detailed identification of the requirement to be waived, a statement of the extent to which such waiver would apply, and a statement of the President's reasons for making such recommendation, together with a summary of the agency views on such waiver. Any recommendation transmitted under this paragraph may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived together with provisions for the enforcement of such less stringent requirement or other alternative by the agency responsible for the administration of the requirement proposed to be waived. Such waiver shall also include such terms and conditions (and provisions for their enforcement by the agency responsible for the administration of the requirement proposed to be waived) as the President deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver and to further enhancement efforts for aspects adversely affected by the Project. The President's transmittal under this subsection shall also set forth any differences between the waiver recommended by the Board and the waiver transmitted to the Congress.

"(4) (A) Any waiver with respect to which the President has made a recommendation which is transmitted to Congress under this subsection shall take effect at the expiration of the first period of sixty calendar days of continuous session of Congress after the date of its receipt by the Senate and House of Representatives if, before the expiration of such sixty-day period, such recommendation is approved by each House of the Congress in the same manner as is provided for approval of energy conservation contingency plans under section 552 of this Act, except that in applying the provisions of section 552 of this Act to a recommendation of the President transmitted under this subsection, any reference in such section 552 to an energy conservation contingency plan shall be treated as a reference to a recommendation of the President transmitted under this subsection any reference in such section 552 to twenty calendar days shall be treated as a reference to thirty calendar days and subsections (b), (d)(2)(B), and (d)(7) of section 552 shall not apply.

"(B) A recommendation transmitted under this section may take effect at any time subsequent to the date specified in subparagraph (A) if such subsequent time is set forth in such recommendation.

"(5) Each agency responsible for the administration of any requirement waived under this section shall monitor compliance by the Project with the terms and conditions of such waiver.

"(d)(1) The Board, on its own motion or upon an application of any person acting on behalf of a Priority Energy Project, shall determine if any requirement of Federal, State, or local law which has been enacted or promulgated after establishment of the Project Decision Schedule, but before commencement of commercial operation of any facility (as determined by the Board) which is part of the Project, would present a substantial impediment to implementation of the Project. Such application shall identify the requirement with respect to which the application is made. If the Board determines that any such requirement will present such an impediment, the Board may in furtherance of the purposes of this part—

"(A) order the temporary suspension of the application of such requirement to such facility for only such time as necessary to allow such person to make good faith efforts to comply with such requirement, but not in excess of 5 years after the date on which commercial operation of such facility commences; or

"(B) submit a recommendation to the President that such requirement be waived in whole or in part.

No determination of the Board under this subsection shall be subject to judicial review except as may be required by the Constitution of the United States.

"(2) No order temporarily suspending the application of any requirement to any facility may be issued under paragraph (1)(A) unless the Board, in consultation with the agency responsible for implementing the requirement, finds that, during the period of such suspension, the facility will make a good faith effort to meet the requirement suspended.

"(3) A recommendation submitted to the President under paragraph (1)(B) for the waiver of any requirement shall take effect as provided in, and shall be subject to the same provisions as apply in, the case of recommendations for waiver set forth in subsection (c).

"(e)(1) Not later than 45 days after the establishment of a project Decision Schedule for a Priority Energy Project, the Board and any agencies which may be covered by such Project Decision Schedule shall identify and publish notice in the Federal Register of the requirements of Federal, State, and local law applicable to such Project which may present any substantial procedural or substantial substantive impediment to the implementation of the Project. Such notice shall include an analysis of the impact of such requirements on the Project. The Board may extend the 45-day period in appropriate cases.

"(2) If the Board finds, after publication of the notice under paragraph (1) and based upon the analysis required under paragraph (1), that—

"(A) any requirement identified under paragraph (1) may present any substantial procedural or substantial substantive impediment to the implementation of the project; and

"(B) there is no opportunity under applicable law for an agency decision in a manner which would overcome such impediment and permit implementation of the Project,

the Board shall submit a copy of its analysis under paragraph (1), together with appropriate recommendations concerning the requirement, to the President (in the case of a requirement of Federal law), the Governor (in the case of a requirement of State or local law), to the affected agencies, and to the appropriate committees of Congress. Any recommendation under this subsection to the President may include a recommendation in accordance with subsection (c). The Governor and such affected agencies shall take into consideration the Board's recommendation and shall report to the Board within such time as may be specified by the Board. Such report shall state whether or not the Governor or agency accepts or rejects the recommendations of the Board, together with the reasons for such acceptance or rejection. If the Governor or agency accepts such recommendations in whole or in part, such report shall include an explanation of the actions the Governor or agency will take and when such actions will be taken.

"(f) In bringing any civil action in any court (other than the Supreme Court) to enforce any order or requirement under this part, the Board shall be represented by the General Counsel of the Board (or any attorney employed by the Board), notwithstanding the provisions of title 28 of the United States Code. Such General Counsel (or attorney employed by the Board) shall supervise, conduct, and argue any civil litigation in any such action.

Page 45, line 6, after "182" insert "or 185 (a)(2)(A)".

Page 49, line 19, after "182" insert "or 185a(2)(A)".

By Mr. SEIBERLING:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—Page 32, line 4, strike out "or".

Page 32, line 5, insert "or" after the semicolon.

Page 32, after line 5, insert:

(E) providing access to, or acquisition of, information by any agency or other person;

—On page 32, line 18, following the word "interest" insert a comma and add "or death or personal injury".

By Mr. SYMMS:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—Page 15, strike out lines 16, 17, and 18.

—Section 187(b), page 53, after line 13 insert the following new subsection (4):

"(4) In issuing a final order in any action for review of any final agency action which is covered by a Project Decision Schedule, the court may award costs of litigation (including attorney and expert witness fees) to any party when in the determination of the court such action was brought frivolously with no essential purpose beyond delay."

By Mr. UDALL:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—Page 34, line 12, strike out "granting or".

Page 35, strike out lines 9, 10, and 11, and substitute:

(3) Action by the Board granting any order designating a proposed energy facility as a Priority Energy Project under section 204 shall not be subject to judicial review except as to the requirements of the Constitution of the United States.

Page 27, line 22, strike out "district court" and insert in lieu thereof "court of appeals".

Page 37, line 17, strike out "60" and substitute "30".

—Page 15, line 20, strike out "203A" and substitute "205", renumber the succeeding sections accordingly and make the necessary conforming changes.

Page 22, line 17, strike out "(b)" and substitute "(c)".

Page 26, line 4, after "person", insert "(other than an agency)".

By Mr. VOLKMER:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—On page 5, line 23, strike the words ", not to exceed 60 persons,".

—On page 31, line 20, following the period insert the following:

Regulations promulgated under this section shall be submitted to both Houses of Congress on the same day and shall take effect at the expiration of 60 calendar days of continuous session of Congress thereafter unless, before the expiration of such 60-day period, such regulations are disapproved in the same manner as an energy action may be disapproved under section 551 of the Energy Policy and Conservation Act.

In applying the provisions of section 551 of the Energy Policy and Conservation and Policy Act to a regulation under this subsection, any reference in such section 551 to an energy action shall be treated as a reference to a regulation transmitted under this section, subsections (a), (c)(2), and (f)(2)(B), and clauses (i) and (ii) of subsection (f)(5)(B) of such section shall not apply, any reference in such section to 5 days shall be treated as a reference to 15 days, and any reference to a 15-calendar-day period shall be treated as a reference to a 60-calendar-day period.

A regulation transmitted under this section may take effect at any time subsequent to the date specified in paragraph (1) if such subsequent time is set forth in such regulation.

—On page 38, line 20, following "SEC. 179", insert "a".

On page 39, following line 10, insert the following:

"(b) Notwithstanding any other provision of law, the Board, after consultation with the council on Environmental Quality and appropriate Federal agencies, may require that one environmental impact statement be prepared and that such statement be used by all Federal agencies to satisfy their obligations under the National Environmental Policy Act of 1969.

—On page 38, following line 4, insert the following new subsection:

"(d) Not more than one hundred Priority Energy Projects may be designated by the Board, and not more than twenty of such projects may be designated in any one calendar year."

By Mr. WAXMAN:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—Page 31, in line 7, after the word "authorized", insert the following: ", after consultation with the agencies responsible for implementing any such requirement,".

Page 31, line 9, after the period insert: "No order under this section applicable to any facility may be issued following completion of construction of such facility.".

Page 32, after line 19, insert:

(e)(1) In order to mitigate the risk to public health and safety from any orders issued under this section, any suspension of a requirement pursuant to this section shall be conditioned on the imposition of a less stringent requirement or other alternative to the requirement.

(2) No order under this section may be issued unless such order sets forth a schedule containing increments of progress which will result in compliance within the time period specified in the order.

(3) In establishing less stringent or alternative requirements under paragraaph (1), and increments of progress under paragraph (2), the Board shall obtain, and give full consideration to, the recommendations of the agencies responsible for implementing the requirements to be suspended.

(4) The agencies responsible for implementing the requirements to be suspended

shall monitor and enforce the terms and conditions of any order issued pursuant to this section.

Page 32, line 20, strike out "(e)" and substitute "(f)".

By Mr. WEISS:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—Page 32, after line 19, add the following new subsection:

"(6) the rights of any person under any provisions of the Freedom of Information Act (5 U.S.C. 552)."

—Page 51, after line 2, add the following new subsection:

"(6) Waive the requirements and procedures as provided in the Freedom of Information Act (5 U.S.C. 552) with respect to the Board's actions and deliberations concerning any proposed or designated Priority Energy Project."

By Mr. WIRTH:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—Page 19, after line 10, insert the following new section:

"(5) In the case of agency decisions relating to water rights or to the appropriation, delivery or use of water pursuant to such rights, no transmittal by the affected agencies shall be required. Notwithstanding any other provision of this Act, Agency decisions related to water rights or to the appropriation, delivery or use of water pursuant to such rights shall not be subject to any provisions of this Act.

—Page 20, line 9, after the period insert: ": *Provided*, That, no decision deadline established in the Project Decision Schedule shall require an agency decision in less than 12 months after the adoption of the Project Decision Schedule except:

(i) where the tentative schedules transmitted to the EMB by an agency propose a shorter time period or

"(ii) where the Board finds that the agency, as a matter of policy, practice or statutory requirement, has required in the past a period of time for decision consistently less than 12 months.".

By Mr. WYDLER:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—On page 2, line 20 strike "nonnuclear".

On page 10, strike lines 3 through 9.

—On page 3, line 17 following "project," insert "power generation plant,".

—On page 35 line 19 after the word "afford" add "not less than 30 days but not more than".

Add to the second sentence of section 185 (a)(1) following "45 days", "but not more than 90 days".

Add to the first sentence of section 185 (C)(3) following "30 days," "but not more than sixty days".

—Add to the second sentence of section 185 (a)(1) following "45 days", "but not more than 90 days".

Add to the first sentence of section 185 (C)(3) following "30 days," "but not more than sixty days."

—On page 27 line 14 and line 15 strike the word "non-nuclear."

Strike all beginning with the word "related" on page 33 through line 1 on page 34.

—On page 28 line 19 following "project," add "power generation plant,".

—On page 35 line 19 after the word "afford" add "not less than 30 days but not more than".

Strike out page 46, line 1 and all that follows down through line 12 on page 49 and substitute:

"ENFORCEMENT OF PROJECT DECISION SCHEDULE

"SEC. 185. (a)(1) If the Board determines, pursuant to its monitoring under section 183, that an agency has failed, or is reasonably likely to fail, to make an agency decision within the time required by the Project Decision Schedule, the Board shall provide notice of its determination to the appropriate agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, any parties to the agency proceeding concerned, and the Governor of each State affected by that project. After a period of at least 45 days but not more than 90 days after such notification, the Board shall promptly conduct on an expedited basis an informal hearing for the purpose of determining the cause of the delay and the actions taken to achieve compliance. A transcript shall be kept of any such hearing.

"(2) Within 30 days after any hearing under paragraph (1) the Board may, in furtherance of the purposes of this part—

"(A) modify the Project Decision Schedule to the extent necessary to provide an extension of time for that agency to make the agency decision involved if—

"(i) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule, and it would be impracticable for the agency to reach a decision or to complete the required action within the specified time, and

"(ii) a previous extension has not been provided under this subsection for that agency decision;

"(B) issue an order under subsection (b) providing for a decision under that subsection in lieu of the agency decision involved; or

"(C) make a recommendation under subsection (c) for a waiver under that subsection in the case of any Federal requirement applicable to any agency.

No determintion by the Board under paragraph (1) and no modification of a Project Decision Schedule by the Board under subparagraph (A) of this paragraph shall be subject to judicial review, except as may be required by the Constitution of the United States. If, following modification of the Project Decision Schedule under subparagraph (A), the agency fails to make the agency decision concerned in compliance with such modified Schedule, the Board may take action under subparagraph (B) or (C), as appropriate, without conducting a further hearing under paragraph (1).

"(b)(1) The Board may issue an order referred to in subsection (a)(2)(B) to have a decision under this subsection be made in lieu of the agency decision. Notice of any such order shall be published in the Federal Register and transmitted to the agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, the President, the Governor of each State affected and the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Any order under this paragraph shall not be subject to judicial review, except as may be required by the Constitution of the United States.

"(2)(A) Upon receipt of notice of an order under paragraph (1), the agency involved shall transmit forthwith all records in the possession of the agency pertinent to that decision or action. The Board shall take whatever additional action authorized under this part as may be necessary to obtain an adequate record for a final decision.

"(3)(A) The Board shall promptly issue a recommended decision under this subsection after obtaining an adequate record for the decision. The recommended decision shall be published in the Federal Register, shall be submitted to the President, together with the record on which it is based, and shall be transmitted to the Governor of each State affected by the project.

"(B) Any recommended decision of the Board under this subsection shall be consistent with any requirement established by, or pursuant to, Federal, State, or local law which would be applicable in the absence of an order under this subsection.

"(4)(A) Within 45 days after any recommended decision has been submitted to the President under paragraph (3), the President shall—

"(i) make a decision to affirm the recommended decision, in which case the recommended decision shall be considered final, or

"(ii) shall remand it to the Board with instructions to modify the recommended decision to the extent the President determines to be appropriate and consistent with any requirement established by, or pursuant to, Federal, State, or local law.

Following any remand under clause (ii), the Board shall promptly issue a final decision in accordance with such instructions. If the President fails to affirm or remand such decision within such 45-day period, the Board's recommended decision shall be considered final.

"(B) Any final decision under subparagraph (A) shall be considered a final decision in lieu of the agency decision involved. Except as provided in section 187(b), such final decision shall be subject to judicial review in the same manner and to the same extent as would apply to the agency decision involved.

"(c)(1) After designation of a Priority Energy Project and before compliance with the Project Decision Schedule by the agencies to which such Schedule applies, or pursuant to subsection (a), the Board may recommend to the President the waiver, in whole or in part, of any Federal requirement which it finds presents a substantial procedural or substantial substantive impediment—

"(A) to the making of an agency decision, or

"(B) to the making of such agency decision in a manner which will permit implementation of the project.

A recommendation may not be made to the President for a waiver under this subsection and a recommendation may not be made under subsection (b) if the agency has made the agency decision involved at the time of such recommendation.

"(2)(A) Any waiver recommended under this subsection may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived. Such waiver shall also include such terms and conditions as the Board, in consultation with the agencies responsible for the administration of the requirements proposed to be waived, deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver and to further enhancement efforts for aspects adversely affected by the energy project.

"(B) A recommendation under this subsection for the waiver of any requirement shall be published in the Federal Register, together with a statement of the reasons on which the recommendation is based. Any agency affected by such waiver and any other concerned person may submit views respecting such recommendation to the President and may make such views public during the thirty-day period specified in paragraph (3).

"(3) Not earlier than thirty days but not more than sixty days after publication in the Federal Register of a recommendation for a waiver under this subsection, and after considering public and agency comments, may, in furtherance of the purposes of this part, transmit such recommendation to the Congress, if he determines—

"(A) such a waiver to be in the national interest,

"(B) that there is substantial evidence to support the Board's determination and recommendation, and

"(C) that such a waiver would not unduly endanger the public health and safety.

Any recommendations so transmitted shall be accompanied by a detailed identification of the requirement to be waived, a statement of the extent to which such waiver would apply, and a statement of the President's reasons for making such recommendation, together with a summary of the agency views on such waiver. Any recommendation transmitted under this paragraph may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived together with provisions for the enforcement of such less stringent requirement or other alternative by the agency responsible for the administration of the requirement proposed to be waived. Such waiver shall also include such terms and conditions (and provisions for their enforcement by the agency responsible for the administration of the requirement proposed to be waived) as the President deems necessary to mitigate any adverse effects (includnig effects on public health, welfare, or the environment) associated with such waiver and to further enhancement efforts for aspects adversely affected by the Project. The President's transmittal under this subsection shall also set forth any differences between the waiver recommended by the Board and the waiver transmitted to the Congress.

"(4) (A) Any waiver with respect to which the President has made a recommendation which is transmitted to Congress under this subsection shall take effect at the expiration of the first period of sixty calendar days of continuous session of Congress after the date of its receipt by the Senate and House of Representatives if, before the expiration of such sixty-day period, such recommendation is approved by each House of the Congress in the same manner as is provided for approval of energy conservation contingency plans under section 552 of this Act, except that in applying the provisions of section 552 of this Act to a recommendation of the President transmitted under this subsection, any reference in such section 552 to an energy conservation contingency plan shall be treated as a reference to a recommendation of the President transmitted under this subsection any reference in such section 552 to twenty calendar days shall be treated as a reference to thirty calendar days and subsections (b), (d) (2) (B), and (d) (7) of section 552 shall not apply.

"(B) A recommendation transmitted under this section may take effect at any time subsequent to the date specified in subparagraph (A) if such subsequent time is set forth in such recommendation.

"(5) Each agency responsible for the administration of any requirement waived under this section shall monitor compliance by the Project with the terms and conditions of such waiver.

"(d) (1) The Board, on its motion or upon an application of any person acting on behalf of a Priority Energy Project, shall determine if any requirement of Federal, State, or local law which has been enacted or promulgated after establishment of the Project Decision Schedule, but before commencement of commercial operation of any facility (as determined by the Board) which is part of the Project, would present a substantial impediment to implementation of the Project. Such application shall identify the requirement with respect to which the application is made. If the Board determines that any such requirement will present such an impediment, the Board may in furtherance of the purposes of this part—

"(A) order the temporary suspension of the application of such requirement to such facility for only such time as necessary to allow such person to make good faith efforts to comply with such requirement, but not in excess of 5 years after the date on which commercial operation of such facility commences; or

"(B) submit a recommendation to the President that such requirement be waived in whole or in part.

No determination of the Board under this subsection shall be subject to judicial review except as may be required by the Constitution of the United States.

"(2) No order temporarily suspending the application of any requirement to any facility may be issued under paragraph (1) (A) unless the Board, in consultation with the agency responsible for implementing the requirement, finds that, during the period of such suspension, the facility will make a good faith effort to meet the requirement suspended.

"(3) A recommendation submitted to the President under paragraph (1) (E) for the waiver of any requirement shall take effect as provided in, and shall be subject to the same provisions as apply in, the case of recommendations for waiver set forth in subsection (c).

"(e) (1) Not later than 45 days after the establishment of a Project Decision Schedule for a Priority Energy Project, the Board and any agencies which may be covered by such Project Decision Schedule shall identify and publish notice in the Federal Register of the requirements of Federal, State, and local law applicable to such Project which may present any substantial procedural or substantial substantive impediment to the implementation of the Project. Such notice shall include an analysis of the impact of such requirements on the Project. The Board may extend the 45-day period in appropriate cases.

"(2) If the Board finds, after publication of the notice under paragraph (1) and based upon the analysis required under paragraph (1), that—

"(A) any requirement identified under paragraph (1) may present any substantial procedural or substantial substantive impediment to the implementation of the project; and

"(B) there is no opportunity under applicable law for an agency decision in a manner which would overcome such impediment and permit implementation of the Project,

the Board shall submit a copy of its analysis under paragraph (1), together with appropriate recommendations concerning the requirement, to the President (in the case of a requirement of Federal law), the Governor (in the case of a requirement of State or local law), to the affected agencies, and to the appropriate committees of Congress. Any recommendation under this subsection to the President may include a recommendation in accordance with subsection (c). The Governor and such affected agencies shall take into consideration the Board's recommendation and shall report to the Board within such time as may be specified by the Board. Such report shall state whether or not the Governor or agency accepts or rejects the recommendations of the Board, together with the reasons for such acceptance or rejection. If the Governor or agency accepts such recommendations in whole or in part, such report shall include an explanation of the actions the Governor or agency will take and when such actions will be taken.

"(f) In bringing any civil action in any court (other than the Supreme Court) to enforce any order or requirement under this part, the Board shall be represented by the General Counsel of the Board (or any attorney employed by the Board), notwithstanding the provisions of title 28 of the United States Code. Such General Counsel (or attorney employed by the Board) shall supervise, conduct, and argue any civil litigation in any such action.

Page 45, line 6, after "182" insert "or 185 (a) (2) (A)".

Page 49, line 19, after "182" insert "or 185(a) (2) (A)".

By Mr. YOUNG of Alaska:

(An amendment to the substitute (text of H.R. 5660) offered by Mr. UDALL.)

—on page 4, lines 14–15, strike subsection 8 and insert in lieu thereof the following:

(8) "Special governmental authority" means an interstate or regional authority or any recognized government board of any Indian tribe or Alaskan Native Village which performs substantial governmental functions, except when acting or considering an approval with regard to any property to which the Indian tribe or Alaskan Native Village has legal or beneficial ownership.

On page 29, lines 10, 11, strike subsection 8 and insert in lieu thereof the following:

(8) "Special governmental authority" means an interstate or regional authority or any recognized government board of any Indian tribe or Alaskan Native Village which performs substantial governmental functions, except when acting or considering an approval with regard to any property to which the Indian tribe or Alaskan Native Village has legal or beneficial ownership.

—On page 34, line 3, insert a period after the number "1978", strike the remainder of the section through line 5, and add the following new section:

THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Sec. 176. No provision of this Act shall modify, alter or repeal any portion of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719). This Act shall, however, apply to the Alaska Natural Gas Pipeline system to the extent that the provisions of this Act may be used to expedite the construction of such system.

Renumber subsequent Sections accordingly.

—On page 10, after line 9, add the following new section:

THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Sec. 203. No provision of this Act shall modify, alter, or repeal any portion of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719). This Act shall, however, apply to the Alaska Natural Gas Pipeline system to the extent that the provisions of this Act may be used to expedite the construction of such system.

Renumber subsequent Sections accordingly.

SENATE—*Monday, October 29, 1979*

(Legislative day of Monday, October 15, 1979)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. BILL BRADLEY, a Senator from the State of New Jersey.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

This is the day which the Lord hath made; we will rejoice and be glad in it.—Psalms 118: 24.

Almighty God, we thank Thee for the priceless gift of a new day in which to serve Thee. Some days are dark and dreary, the pace is slow and accomplishments few. Other days are bright and cheerful, work moves briskly and achievements are many. But every day is a portion of eternity. Every day has its own value and pattern and is lived under Thy providence. May we enter upon the succeeding hours with a resolute faith and a daring hope to do all the good we can, in all the ways we can, and for all the people we can. Grant us grace and wisdom to complete only what accords with Thy will for this time and place.

We pray in the Redeemer's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 29, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BILL BRADLEY, a Senator from the State of New Jersey, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. BRADLEY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORE ON TIGHT MONEY

Mr. ROBERT C. BYRD. Mr. President, on October 23, Mr. Paul Volcker, Chairman of the Federal Reserve Board, urged member banks of the Federal Reserve system to "take particular care that small businesses, consumers, home buyers, and farmers continue to receive a reasonable share of available credit."

In a letter to member banks, Mr. Volcker asserted that "the Board fully intends that sufficient credit will continue to be available to finance orderly growth in economic activity."

Mr. Volcker's assurances about the Fed's goals are timely. It is important that the persistent psychology of inflationary expectations not be replaced with an equally dangerous psychology of recession. If the recent extraordinary plummet of the stock market is an indication, the financial community is betting that the Federal Reserve is hitting the brakes too hard. American business needs to be assured that the Fed does not plan to throw the economy into the tailspin which was precipitated by overzealous money restraint in 1974 and 1975. To that end, Mr. Volcker's letter is particularly significant.

While historical precedents invite close scrutiny of tight money policies, I believe we need to give the Fed's new approach a chance to work. I see no reason to declare the program a failure when, essentially, its success or failure depends on the prudence with which it is implemented.

As I noted in my speech on the Senate floor on October 19, Congress will be watching the implementation of the new program with great interest. We will be watching to insure that the net which has been cast to catch speculative, nonproductive investments does not also restrict the flow of credit into vital, productive areas of the economy.

It is heartening, therefore, that Mr. Volcker has reflected a sensitivity to the necessity of insuring an adequate flow of credit.

This bodes well for a prudent, careful implementation of an anti-inflation program. It is my hope that America's bankers will take Mr. Volcker's advice to heart.

I ask unanimous consent that the text of Mr. Volcker's letter to the Fed's member banks be printed in full in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEAR SIR OR MADAM: As you know, on October 6, the Federal Reserve System took a number of actions designed to reduce inflationary pressures by providing greater assurance that growth in the money supply will be within our targets for the year and that recent excessive rates of credit expansion will be curbed. While I have written earlier about some of the implications of those actions, the Board of Governors, after consulting with the Federal Advisory Council, believes that a further amplification of its views may be useful as you make adjustments in your own policies to the new situation.

As a result of the Federal Reserve actions, growth in money and bank credit can be expected to moderate over the months ahead from the recent very rapid pace, however, consistent with the basic policies that have been pursued for some time, the board fully intends that sufficient credit will continue to be available to finance orderly growth in economic activity.

In that connection, I should emphasize that success in dealing with inflationary pressures offers the best prospect of an early return to more equable conditions in financial markets, a better balance between demands and supplies of credit and lower interest rates. That prospect can only be speeded by responsible policies during this critical period.

CONCERN ABOUT SEVERAL ASPECTS

The board has expressed particular concern about several aspects of credit extension under current conditions that I would like to bring to your attention. In doing so, I would underline our view that the effective distribution of credit among potential borrowers must, in the last analysis, rest with individual institutions responding to the continuing needs of those institutions, its customers and the national economy within the framework of the market mechanism and incentives. We strongly believe that sound decisions in these respects can only be made by your bank, and other banks, operating in the marketplace and able to evaluate the needs of millions of businesses and individuals. No regulatory agency can be in a position to substitute its own judgment in this area.

As I indicated in my letter of Oct. 10 to member banks with deposits in excess of $100 million explaining the new actions, the board does request that banks take care to avoid financing essentially speculative transactions in commodity, gold, and foreign exchange markets. In addition, except as they may clearly involve the improvement in the nation's productive capabilities, credits advanced for extraordinary financial transactions would be viewed as questionable by the board. Examples would include loans for the purpose of retiring stock or for corporate takeovers that simply substitute one source of financing for another and do not clearly promise improvement in economic performance. There should not, of course, be any questions about credit normally advanced to financial concerns and others in the ordinary course of business.

Conversely, lending institutions need to be alert to the continuing need for credit to finance the basic needs of the economy, in accommodating these needs, we believe banks should take particular care that small businesses, consumers, home buyers, and farmers continue to receive a reasonable share of available funds. Loans to such borrowers, as well as to larger business customers that require bank credit in support of their normal operations, will encourage an orderly process of economic adjustment toward greater stability and help to sustain key sectors of local and national economies.

In the judgment of the board, the basic requirements of established customers deserve priority over opportunities that may arise in a period of unusual strain to reach out into new lending areas or to seek competitive advantage over the institutions seeking to meet such priority needs.

The board is also conscious that, with its new operating procedures, there may be more volatility of money market rates from day-to-day or week-in-week, although we note that, within already established criteria, borrowing from the discount window remains available to help member banks in making short-term adjustments. We are also conscious that costs will be higher than otherwise for incremental additions to "managed liabilities" as a result of the new reserve requirements. In these circumstances, we believe banks should take care, as they adjust lending rates in response to market motion, to appraise carefully underlying demand and supply conditions. Sharp but clearly temporary variations in the cost of a small amount of marginal funds should not be the occasion for adjustments in the basic lending rates, although we recognize that movements in such rates will be related to the underlying trend in interest rates generally. In adjusting loan rates, the board would also call your attention to the desirability of considering the special problems of smaller customers who have limited financing alternatives.

As I indicated earlier, the board has consulted on this matter with the Federal Advisory Council, a statutory body established by the Federal Reserve Act, and with other lending bankers. I am convinced that adherence to the principles set forth in this letter by the banking community as a whole will contribute importantly to the success of our efforts to deal with inflation during a period of difficult economic adjustment, and will serve the longer range objectives of your institutions as well as the nation. I would appreciate it if you would share the contents of this letter with your lending, credit and money management officers.

Sincerely,

PAUL A. VOLCKER.

REDUCTION OF TIME FOR THE TWO LEADERS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time of the two leaders be reduced to 3 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I suppose I have used my 3 minutes.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is recognized.

Mr. BAKER. Mr. President, I have no need for my time remaining under the standing order this morning, and I am prepared to yield it back, unless the distinguished majority leader has need for it.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader. I have no request for the time I have remaining, and I yield it back.

Mr. BAKER. I yield back my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Illinois is to be recognized at this time for not to exceed 15 minutes.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, that Senators may speak therein up to 3 minutes each, that the period not extend beyond 10 minutes, and that it be without prejudice to the orders that have been entered for the recognition of Senators.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SALT II

Mr. MORGAN. Mr. President, I rise momentarily to comment on some mail that I have received this morning, which apparently is being disseminated all across the country in an effort to defeat SALT II, that is now pending in the Senate.

Mr. President, I have no objection whatsoever to all of my constituents in North Carolina being contacted and urged to contact me to vote for or against any matter. As a matter of fact, it is good to generate interest on issues that are pending before Congress.

I think there are great purposes that are often served by extended debate in the Senate, sometimes referred to by others as filibustering. When we debate an issue over a long period of time it does give the people across the country an opportunity to know what is pending in Congress and what is not.

One of my constituents sent me some mail which that constituent received, and it is of concern to me because it concerns the mood of the country. It sort of reminds one of the days back in the early fifties. I found nothing in the mailout at all that discussed the merits of SALT or the disadvantages of SALT. All that I found were statements such as this on the back of it:

> NATIONAL CAMPAIGN TO DEFEAT SALT II

And the first question is:

> Will you do nothing and let the Communist flag of Russia be our national emblem—

Implying by inference and innuendo, and more than inference and innuendo, that perhaps those who might favor SALT II might in fact be advocating the flying or the adoption of the Communist flag of Russia as our national emblem.

But then it goes on to say:

> or return this form with the American flag and your contribution to support our national campaign to defeat SALT II in the U.S. Senate and mail your postcards. We don't have much time. If you want to prevent Jimmy Carter from rushing this treaty through the Senate and assuring the permanent Soviet military superiority of America, please act today.

And it urges the recipient to send generous contributions. Then on the postcard it has a Communist flag.

The ACTING PRESIDENT pro tempore. The period for morning business has expired.

Mr. ROBERT C. BYRD. Mr. President, will Mr. MATSUNAGA get recognized under the order and yield a little bit of his time to Mr. MORGAN?

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Hawaii is recognized for not to exceed 15 minutes.

Mr. MATSUNAGA. I yield 2 minutes to the Senator from North Carolina.

Mr. MORGAN. I thank my colleague.

The enclosure has a picture of the Communist flag with glue on the back and the picture of the American flag, and the instructions are to put this Communist flag on the postal card and mail it to those that they think who have been listed as either being undecided or may be for SALT, and it goes on to say:

> DEAR SENATOR: Eight U.S. Senators who voted to give our Panama Canal to Marxist dictators were defeated in the last election. If you vote for the SALT II treaty, I will actively oppose you, and unless you speak out strongly on the need to increase our military strength, I will not consider voting for you now or any time in the future. I will urge my relatives, friends, and neighbors to watch closely how you vote on the SALT II treaty. America has never been in greater danger because of military weakness compared to the Russians and lack of our leaders.

That, with the Communist flag emblem, denotes or by inference seems to question the loyalty of those who might be inclined to vote for SALT.

I have not made up my mind. If I had to vote today, I suspect I would vote against SALT, but I just wanted to say for the record that it is this kind of literature that is certainly not persuasive to me. If it contained persuasive arguments and substantive arguments, it would be much more helpful.

I might say this sort of literature was helpful to me today because the lady who sent it to me also sent me a check for $50 for my reelection campaign.

So I just do not think this is the kind of democratic process that we should have in the country, whereby we impugn or question someone's loyalty who happens to disagree on a separate issue.

I thank my distinguished colleague.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will yield, I take this moment to congratulate the Senator from North Carolina on taking the floor to comment on this approach that I think can be and often is counterproductive. It casts a reflection upon the judgment and intellectual integrity of Members of the Senate who, having taken their oath to uphold the Constitution of the United States, strive to live up to that oath when they seek out the facts and search the evidence and try to reach their judgment on controversial issues on the basis of a thorough and comprehensive examination.

I congratulate him for his statement.

Mr. MORGAN. I thank my leader.

SALT II—A HUMBLE IMPERATIVE

Mr. MATSUNAGA. Mr. President, this month of October marks the 30th birthday of the United Nations, and anniversary celebrations this year have featured the theme "The International Year of the Child." As we prepare in this great deliberative body to debate and to make a decision on the SALT II treaty, it would be most appropriate in this year of the child to ponder over what our legacy will be to this generation's children if we fail to consent to ratification of the treaty.

Only last Thursday our distinguished majority leader, Robert C. Byrd, announced his support of the SALT II treaty. In his characteristic role as a leader of leaders, Senator Byrd issued a warning to his colleagues in the Senate that their vote on the treaty "can have a profound effect on prospects for world peace for many years to come." For assuming this leadership role, as he did during the debate on the Panama Canal Treaties, the Senator from West Virginia deserves the undying gratitude of all Americans.

Unfortunately, Mr. President, the treaty is difficult for many Americans, including some of our colleagues, to accept, because it is based on what to them is an unacceptable concept of warfare—namely that of "no victory."

It is especially troublesome for a generation that has grown up idolizing John Wayne and Vince Lombardi, for whom victory was "the only thing." Nevertheless, however romantic this notion might be, it is inappropriate when applied to warfare in the nuclear age.

When the first atomic bomb was dropped on Hiroshima 34 years ago, the myth of glorious, victorious combat was destined to die with it.

Most thinking Americans have now concluded, at least intellectually, that we have come to that point in time when war between nuclear powers is literally suicidal. Robert McNamara, a decade ago when he was Secretary of Defense, clearly articulated this reality when he coined the acronym MAD—Mutually Assured Destruction—for an all-out nuclear war.

The great debate which is soon to begin in this body essentially pits two ideologies against each other. An astute political observer, Leon Sigal, called one group the "War Fighters" and the other the "Stable Balancers."

The basic arguments of each group are as follows:

The War Fighters argue that—

First. Nuclear weapons, like all previous advanced military technology, are usable and likely to be used;

Second. Deterrence will remain a viable means of controlling escalation after the outbreak of nuclear war, and even if it does not, such a war is still worth winning;

Third. Highy centralized command and control in nuclear war would facilitate bargaining; and

Fourth. Even marginal nuclear superiority will reassure allies and make opponents more cautious.

The counter arguments as posed by the Stable Balancers are that—

First. Nuclear weapons mark a distinct breakpoint in the historical evolution of warfare;

Second. First use of nuclear weapons will lead to reciprocal escalation, eventually spiraling into general holocaust;

Third. Command and control, precarious in the best of circumstances in conventional warfare, would be worse in nuclear war; and

Fourth. Marginal superiority in nuclear capability, under conditions of mutual assured destruction, has little, if any, political significance.

Mr. President, I like to believe that to most Senators, including myself, the holocaust proportions of nuclear war have invalidated any distinction between winning and losing. The inevitable consequence would render meaningless any thought of military strategy that includes the use of even the smallest most accurately targeted tactical nuclear weapon. The potential for escalation would simply be too great a risk. The certainty that nuclear weapons would result in unprecedented devastation of an unimaginable degree makes acceptance of the firebreak between conventional combat and nuclear warfare absolutely necessary.

This is why Paul Warnke, as director of the Arms Control and Disarmament Agency, in testimony before the Arms Control Subcommittee of the Senate Foreign Relations Committee in 1974, stated:

> To the extent that mininukes blur the distinction between conventional weapons they lower the nuclear threshold . . . and once the nuclear threshold is crossed the process of escalation could become irreversible.

As a U.S. Senator, I feel a keen sense of responsibility in the upcoming debate, and I have carefully examined the issues on both sides of the SALT argument. I have looked at the side of nuclear parity and have assessed whether SALT provides such parity. I have also explored the proposition that armed forces exist to fight wars, that in war there is no substitute for victory, that victory requires overwhelming the enemy with superior forces, and that maintaining a superior force is the best deterrent to war.

Mr. President, I believe that the SALT II treaty while it is not an instrument that provides for substantial reductions in nuclear arms is part of a process that can achieve that purpose. Without it the balance, which I view as absolutely necessary to world security, would mean escalation in armament, would result in alarming expenditures, and would greatly increase the risk of war—if for no other reason than that communication with the U.S.S.R. would be significantly curtailed.

SALT II can only be thought of as part of a beginning phase in reducing the nuclear terror with which we have so gingerly learned to live over the past three decades. As a treaty related to strategic arms it does not even begin to touch on the theater nuclear warheads of which we have an estimated 9,000 in Europe. What SALT II does do is to put for the first time real limits on the United States and the Soviet Union, so that by the end of 1981 neither we nor they may have more than a total 2,250 launchers. This agreement will actually require the Soviets to reduce their current stock of 2,504 by 254. Secretary of Defense Harold Brown has estimated that without SALT II the Soviet Union would have 3,000 strategic nuclear delivery vehicles by 1985.

The treaty also stipulates that within the 2,250 limit there shall be a limit on launchers that carry multiple independently targetable reentry vehicles (MIRV's), and heavy bombers carrying air-launched cruise missiles. The treaty further provides a sublimit of 820 on launchers for land based missiles which have multiple warheads that can be aimed at more than one target—MIRVed ICBM's.

Additionally, and perhaps at least as significant, what SALT II does is to maintain in motion a mechanism that already provides for SALT III negotiations, and hopefully a progeny of SALTS and arms reduction—not only arms limitation—treaties down the road.

In the eyes of many, advocates as well as detractors of SALT II, the treaty is a humble document. Nevertheless, for this moment in history, ratification of this humble treaty is absolutely imperative.

Billy Graham, not too long ago, said, in an article that describes his change of heart toward SALT II—

> I wish we were working on SALT X right now—total destruction of arms!

Mr. President, I could not agree with him more—and what better legacy could we leave our children than to continue the march toward an arms free future? Should we break the disarmament chain, what a mockery we would make of the year that we have labeled "the year of the child."

In closing, Mr. President, in order that readers of the Congressional Record may know of the quiet but effective role of peacemaker which Senator Robert C. Byrd has assumed, I ask unanimous consent that an article written by Robert G. Kaiser, which appeared in the Washington Post of yesterday, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Senator Byrd Huddled in Secret With Soviet

(By Robert G. Kaiser)

Senate Majority Leader Robert C. Byrd—the one man who might still be able to orchestrate Senate approval of President Carter's SALT pact—has already played an extensive but hitherto secret role in backstage political and diplomatic maneuvering surrounding the treaty.

Byrd withheld his own formal endorsement of SALT II until Thursday, but long before that he had been engaged in secret diplomacy with the Soviet Union to try to prevent a premature demise of the strategic arms limitation treaty in the Senate. The West Virginia Democrat's direct contact with Soviet officials is an apparently unprecedented initiative by a Senate leader.

This account of Byrd's role was volunteered to The Washington Post. It reflects the majority leader's view of events that other sources confirm did take place. Byrd is presently preparing to play a major role in the SALT debate to try to ensure its passage—an uphill battle, in Byrd's view.

Byrd's most dramatic personal intervention in SALT-related diplomacy came on Sunday, Sept. 23 when the Soviet ambassador to the United States, Anatoliy F. Dobrynin, flew from New York at Byrd's request for a secret meeting in the majority leader's Capitol office.

This was a tense moment in Soviet-American negotiations over the Soviet combat troops in Cuba, whose presence had been revealed dramatically by Sen. Frank Church (D-Idaho) on Aug. 30. Preliminary talks between Secretary of State Cyrus Vance and Dobrynin had made no progress, and Vance was about to meet with the Soviet foreign minister, Andrei Gromyko, while both were in New York for the United Nations General Assembly. The Carter administration was still hoping that the Vance-Gromyko talks would produce some Soviet concession that would change the "status quo" in Cuba, which Vance and Carter both had said was unacceptable.

Byrd was gloomy about the prospects for these talks. He felt—and had told Carter—that the issue had already been blown far out of proportion, and that statements about the status quo being unacceptable were wrongheaded, since the United States didn't know what that status really was.

Although Byrd thought the flap over the Soviet troops was a phony issue, he also believed that because of it SALT was hanging by the proverbial thread in the Senate. He blamed the administration for creating this precarious situation, and felt that only by beating an elegant retreat from the mess it had created could the White House save its treaty.

This would require Soviet help, at least indirectly, which is why Byrd wanted to see Dobrynin. After deciding in a meeting with aides that he might be able to play a constructive personal role, the majority leader had called Vance the previous Friday night with a reminder that he had had useful talks with Gromyko and Soviet President Leonid I. Brezhnev on his own trip to the Soviet Union in July. Byrd asked the secretary if it would be useful now for him to see Dobrynin and ask him to try to calm the rhetoric from the Soviet side, while pointing out how precarious the treaty's chances had become because of the flap.

After considering this overnight, Vance called back to approve Byrd's proposed initiative. The majority leader then located Dobrynin in New York, where he had gone to meet with his boss, Gromyko. The ambassador agreed to come to Byrd's Capitol office at 11 a.m. Sunday.

Byrd, his foreign policy aide Hoyt Purvis, Dobrynin and one aide sat down around Byrd's mahogany conference table. The senator told Dobrynin he would like to make a statement and did not expect any comment or reaction from the Russian until he was finished.

He spoke for about 45 minutes. He said that he had still not made up his own mind on SALT II, but that the treaty would have no chance of approval unless the tense atmosphere created by the Cuban incident could be dissipated. He offered two recommendations.

First, Byrd said, it would be in everyone's best interest to avoid any more heated rhetoric about the Cuban issue. Second, it would be useful if the Soviet side could carefully evaluate its position with an eye toward some gesture that could help Carter out of the jam.

Byrd indicated to Dobrynin that he felt the American position in this flap was less than compelling. Nevertheless, he said, the political furor set off by Church's announcement that SALT II could not be approved until the Soviet troops were withdrawn had gravely endangered the treaty's prospects. Any positive gesture the Soviet side could make would be very helpful.

Byrd told Dobrynin that the idea for this meeting was entirely his own, and that his objectives were to try to improve the atmosphere for a debate on SALT on its merits, uncolored by the emotions surrounding the Cuban matter.

When the Soviet ambassador left, Byrd called Vance and said he would like to meet that night with the president. There was a party scheduled at the White House, but sometime after 9 p.m. Byrd sat down with Carter, Vance and Zbigniew Brzezinski, Carter's national security adviser.

Byrd repeated the message he had delivered to Dobrynin. Carter asked for Byrd's suggestions, and he gave three:

First, Byrd said, the United States should cool its rhetoric on the Cuban issue and try to let quiet diplomacy work. He said newspaper stories were unhelpful in suggesting harsh retaliations the White House was considering if the Soviets did not alter the status quo. He declared frankly that the president did not have a very strong case.

Byrd said it was inappropriate for a mighty nation to go into a delirium over about 2,300 Soviet troops that had neither airlift nor sealift capability to leave Cuba.

Second, said Byrd, there should be no more White House meetings with congressional leaders to discuss the Cuban situation. Byrd had personally boycotted such a meeting on September 20 after advising Vance that it could only contribute to the appearance of a crisis at hand—an appearance Byrd felt was unjustified.

Third, Byrd advised, do what you can to get this flap behind us. In his opinion, the Soviets would not withdraw the troops because they had been in Cuba for many years, and because Moscow thought the entire dispute was a political incident of no military significance. If they withdrew now, other countries would have to conclude that the Soviets had backed down.

Afterward Byrd felt his intervention might have done some good. He was pleased that subsequent Soviet public statements were relatively restrained, and that the Soviets did produce some last-minute "assurances" to Carter that helped the president cover his retreat from the "unacceptable status quo" stance. Byrd was pleased with Carter's final speech to the nation on the issue, which he felt helped provide a more realistic perspective.

The Carter administration and numerous pro-SALT senators are hoping Byrd can find a way to revive pro-treaty sentiment and win Senate approval. The majority leader appears eager to make this effort, though privately and publicly he refuse to make any predictions of success.

Byrd has already organized special committees of senators interested in defense spending and future arms reductions, both issues that could bear on some senators' final decisions. Byrd hopes to build a broad consensus on these issues that will help the treaty.

Before the Cuban flap, Byrd believes, SALT II was all but assured of Senate approval. Now the outcome remains problematical.

Mr. MATSUNAGA. Mr. President, I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MATSUNAGA. I am happy to yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Hawaii for his kind references to me. I congratulate him on his expression of support for the SALT II treaty, and I believe that this expression of support and the work that he will continue to do in support of the treaty will reflect great credit on himself and on the Senate. I personally commend him and thank him.

Mr. MATSUNAGA. As a humble citizen of this great country, I thank the Senator from West Virginia for the great leadership that he has exerted in this area.

DESIGNATION OF PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Illinois (Mr. PERCY) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the recognition of Mr. PERCY, there be a period for the transaction of routine morning business of not to exceed 30 minutes, and that Senators may speak therein up to 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SALT II

TRIBUTE TO MAJORITY LEADER

Mr. PERCY. Mr. President, before beginning the colloquy this morning, I would like to pay tribute to the distinguished majority leader. On the way back to Illinois this weekend I read his remarks on SALT. I studied them very carefully, had copies made over the weekend, and distributed them widely. I hope everyone in this Chamber will read every word of his statement. It is the finest statement I have yet seen on SALT. It is updated, it is thorough, it is analytical and it is tough. It presents both the case that was put to the Soviet Union, and the case that was put, by the distinguished majority leader, to the President of the United States. The majority leader's statement outlines the conditions under which the distinguished majority leader could, and only with those conditions could, support ratification of SALT II.

I think I speak on behalf of all Senators in saying we are greatly indebted for the role the majority leader has played in this debate, the foresight he has displayed, the vision he has had, and the national interest he has kept uppermost in mind. Only after he was thoroughly satisfied did he come to this conclusion, and I wish to thank him for the leadership he has exerted in this area.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. PERCY. I am glad to yield to the distinguished Senator from New York.

NATO PARLIAMENTARIANS URGE SALT RATIFICATION

Mr. JAVITS. Mr. President, I wish to join the Senator in what he has said concerning the majority leader's very rational, reasoned, and closely knit statement.

I have some important news to report. After extensive debate in Ottawa, at the annual conference of the North Atlantic Assembly consisting of 220-odd delegates from the NATO parliamentarians, the parliamentarians voted 71 to 0, with 38 abstensions—for the full resolution urging us to ratify SALT II. The principal debaters were the principal debaters here—we had Senator JACKSON leading a team which is opposed to the treaty, and Senator BIDEN and I led a team which is for it, among the U.S. delegation.

With the permission of Senator PERCY, I ask unanimous consent that the resolution adopted on Friday last be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION ON THE SALT II TREATY

The Assembly,

Noting that the SALT II Treaty is the culmination of seven years of rigorous and complex negotiations by three U.S. Administrations, and represents adherence to the obligations of the two super-Powers under the Non-Proliferation Treaty;

Recognising that the Treaty places numerical restraints on Soviet strategic capabilities, in terms of both launchers and warheads, and enhances Western capabilities to predict and monitor the development and deployment of Soviet strategic forces;

Recognising further that the Treaty permits the United States to pursue all measures necessary to sustain the strength and credibility of the U.S.

Assured that neither the treaty nor the Protocol will inhibit necessary military and technological cooperation within the Alliance;

Convinced therefore that, in providing the framework for a secure and stable strategic balance between the United States and the Soviet Union, the Treaty reduces the possibility of nuclear war, contributes to international stability, and thereby promotes the security interests of the member nations of the North Atlantic Alliance;

Recognizing the SALT II Treaty as an essential step toward the goal of achieving more substantial reductions in the nuclear arsenals of both sides during a future SALT III negotiation;

Convinced that a SALT III negotiation provides the most promising forum for nuclear reductions in the European theatre and that progress in such a negotiation would facilitate collateral progress in related negotiations within the MCFR and CSCE frameworks;

Reminded that the twin precepts of the Alliance are defense and détente;

Recognising that the unanimous endorsement of the SALT II Treaty by the leaders of all member states of the Alliance reflects broad-based public support of the SALT process as a central element in the effort to stabilise the East-West military balance and simultaneously to improve East-West relations;

Concerned, with regard to defence, that failure to ratify the SALT II Treaty would have a seriously disruptive impact on the cohesion of the North Atlantic Alliance;

Concerned, with regard to détente, that failure to ratify SALT III would result in a deterioration in East-West relations, potentially negating many of such positive aspects of détente as expanded trade, cultural contacts, and reunification of families;

Respecting as an Assembly of Parliamentarians the sovereign right and the responsibilities of the U.S. Senate to decide on the ratification of SALT II;

Urges the United States Government:

To proceed to early ratification of the SALT II Treaty, with due respect to all requirements for credible deterrence, stable nuclear balance and future arms control negotiations;

To undertake SALT III negotiations aimed at accomplishing significant reductions in each side's nuclear forces;

To consult fully and regularly with the Allies on all aspects of the negotiation, in particular on those pertaining to theatre nuclear forces.

Mr. JAVITS. The abstentions were attributable to two major factors: First, the abstention by the whole U.S. delegation; we felt, rather than showing a divided delegation, we should abstain, which we did. Then, abstention by the French delegation as a matter of policy, and abstention by an important section of the German delegation, which did not want to anticipate its Government's attitude on the relationship between SALT II and nuclear theater weapons modernization.

The Senator from West Virginia has every reason to be gratified that what was challenged; to wit, that Europe wants SALT II, was eloquently and authoritatively answered, after full debate in the North Atlantic Assembly.

I thank my colleague.

Mr. ROBERT C. BYRD. Will the distinguished Senator from Illinois yield?

Mr. PERCY. Yes.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Illinois and the distinguished Senator from New York for their overly gracious, very charitable comments.

I did note with great interest the news reports with reference to the NATO Parliamentarians. I was gratified and encouraged by the action that was taken. I commend the Senator from New York, the Senator from Delaware (Mr. BIDEN), and the others, as a matter of fact on both sides of the question, for their zealousness, and particularly Mr. JAVITS and Mr. BIDEN, who were for the treaty, for the successful presentation that I am confident was made.

Again, I thank both Senators. I appreciate what they have said.

Mr. PERCY. Mr. President, because, as I understand it, there are about nine other Senators who would like to come over and personally speak, I will limit my comments to 5 minutes and yield the balance of my time to my colleagues who are on the floor.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the comments with reference to the Ottawa meeting not be charged against the time of the Senator from Illinois.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PERCY. Mr. President, other Senators who would like to be on the floor now will not be able to make it, as some of them have not returned to Washington yet. I therefore ask unanimous consent that their comments follow those comments that will be given live on the floor so that there can be a continuity in these remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE 50TH ANNIVERSARY OF BLACK TUESDAY

Mr. PERCY. Mr. President, today marks the 50th anniversary of Black Tuesday, the day which saw the steepest decline in a stock market rout that had begun 5 days earlier, on October 24, 1929. This day, in short, marks one of the most significant turning points in the economy in this century.

Nearly every Senator in this Chamber has personal reminiscences of the 1929 stock market crash and the Depression that ensued.

In my own case, I was just 10 years old, but saw the effects of the crash and the Depression in a very real way. It was crushing not only to the economy, but to human beings all over their country.

My father was a banker in a small neighborhood bank in the city of Chicago. The bank failed. The depositors—all of them neighbors in our community in which we had lived all our lives—suffered irreparable losses and only received, ultimately, years later, 20 cents on the dollar. I shall never, ever forget the human misery that was caused by this—tremendous unemployment, lost creativity, and the crushed spirit of individuals. It has had a marked impact on my life and the need I have seen to help others and to prevent the recurrence of this kind of catastrophe.

Though we also have a soft economy now, none of us today foresees a repetition of the Depression of the 1930's. It would be literally impossible. To begin with, on bank deposits, there are no runs on the banks today. The Federal Deposit Insurance Corporation has made it possible for everyone to have free insurance coverage on their savings accounts.

Unemployment compensation removes the great fear that people are not going to have enough food on the table if they are out of a job. Certainly, welfare payments, food stamps, and other programs assist in tiding Americans over during economic slumps.

Certainly, there is also no real possibility of another 1929 style stock market crash. People are not buying on margin today as they were in 1929. They are essentially paying cash for what they are buying. And institutions are the largest buyers and sellers of equities on the market today. It is simply a different market than the one that existed in 1929.

The housing market is one area which we need to watch closely, but we do have the administrative tools available to us to prevent a collapse of homebuilding. Some analysts, for example, suggest we increase the FHA–VA home mortgage rate from 11½ percent to 12½ percent. Without an increase, they argue that borrowers will be unable to afford the large up-front capital that is required when 8 to 10 points are charged against each mortgage. Although HUD Secretary Landrieu increased rates a full percentage point last Friday, we may need to raise them again very soon to keep the lifeblood flowing to the housing market.

But what we are trying to prevent, and we are united in this effort, is another recession of the depth of 1974 and 1975. If we have to go through a recession, we are not going to be satisfied to have that recession so deep that it does start to affect, in a truly adverse way across the country, families, businesses, farmers, banks, and consumers.

That is why a number of us are taking the floor today to talk about a positive Republican program which we hope will be a nonpartisan program. In the 1930's, the Republican Party seemed bankrupt of ideas and did not know what to do. The party seemed only to have cliches that "prosperity is around the corner," and we have a goal of "a chicken in every pot" and "two cars in every garage." Today Republicans are working hard to be creative, innovative, visionary, and to get a feel for the economy and what is needed to move us forward.

The country saw in the 1930's a jump in unemployment from 3.2 percent in 1929 to nearly 25 percent by 1933. It did not retreat to a single digit level until we were well into World War II. That was a tremendous loss of talent and resources and we should not let anything like it happen again, and we shall not, if we carry forward with an enlightened economic program.

Let us talk for just a moment about the economy of the 1920's. What was it like?

What is most apparent to these highly inflationary times is the relative price stability in the 1920's. Based on a Consumer Price Index of 1967 being 100, prices actually dropped from an index of 53.6 percent in 1921 to 51.3 percent in each of 1928 and 1929.

Mr. President, I ask unanimous consent that a chart reflecting the 1920's inflation rates be printed at this point in the RECORD.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

Consumer Price Index (1967=100)

1920	60.0
1921	53.6
1922	50.2
1923	51.1
1924	51.2
1925	52.5
1926	53.0
1927	52.0
1928	51.3
1929	51.3

Mr. PERCY. In the last several years, by contrast, we have seen prices jump by 20 CPI points a year. In fact, just since 1967, the CPI has doubled. So far this year, we have been running at a rate of 13 percent and I expect that we will finish the year in the 12- to 13-percent range. This type of price behavior was not present in the years preceding the Depression.

Yet another factor that differs from 1929 is the demography of the population. More than 40 percent of U.S. families lived on farms at that time and borrowing and credit were not so widely used as today. What is more, consumers—a word hardly known at that time—lacked the inclination to go deeply into debt. Since 1971, consumer installment credit has more than doubled, growing faster than the CPI.

Unemployment was so low then that it was below the 4 percent that we now consider full employment. In 1929, unemployment stood at 3.2 percent. With inflation at about zero and virtually full employment, the economy looked like it was in perfect balance—at least to us, using our 1979 standards.

But, of course, the economy was not in perfect balance. There were only about 4 million common stock investors in 1929 and few institutional investors. There was no Securities and Exchange Commission and, consequently, little regulation of securities transactions. One analyst estimated the number of "margin" transactions in the New York Stock Exchange to be as high as 90 percent—in other words, 90 percent of the transactions were on credit and only 10 percent with cash. In short, business built largely on speculation came crashing down when the buoyant economy of the 1920's began to slow in 1929. The stock market was the hair trigger that set off the business decline.

The Dow Jones average dropped from a high of 381 in September 1929 to 198 in November—it had risen from 63 just 8 years before, indicating the rapid growth and speculation of the 1920's. To put it another way, all the inflation of the 1920's seemed to be in the stock market itself. At its peak in September 1929, stock prices measured by the Standard Statistics Index of 421 common stocks were 128 percent higher than just 3 years earlier.

The stock market crash of 1929 was seen at the time as so important because of what it did to investors' plans. Business firms were deprived of a cheap source of financing. The sudden drop in prices also made businesses wary of future capital spending. In short, the crash triggered a lack of confidence in the economy which culminated in 1933 with widespread bank failures and high joblessness.

Government finance was significantly different in the 1920's, too. For example, balanced budgets were the watchword of fiscal management. In fiscal year 1929, the Federal Government ran up a surplus of $0.8 billion, with revenues of $3.9 billion and outlays of $3.1 billion. That level of spending is exceeded by any executive agency now, but at that time, the gross national product was just over $103 billion, and Government spending was less than 3 percent of it.

The conventional wisdom of the day, in both parties, advocated a balanced budget. To maintain that balance, President Hoover and Congress, in 1932, raised taxes to cover a projected budget deficit. Just at a time when a more expansionary fiscal policy would have helped, the opposite course was taken.

What was called for in the early 1930's was a departure from the norm. The country had not encountered such a steep economic downturn since the 1890's, and few policymakers had a recollection of that era. Consequently, national leaders clung to tools that would not force a turn-around in the economy.

The economy of 1979 is considerably different from 50 years ago.

We are now living in an economy where consumer prices increase at 1 percent a month. September consumer prices, for example, increased by 1.1 percent—an annual rate of 13.2 percent.

Producer prices have also begun to increase more rapidly this summer. In September, producer prices jumped by 1.4 percent—a compound annual rate of 18.5 percent.

In both cases, rises in prices for energy, food, and housing were significant factors. Since just a year ago, home heating oil prices have climbed an astounding 72.8 percent according to the Labor Department.

Unemployment in September, on the other hand, showed a slight decrease from August. The jobless rate now stands at 5.8 percent, down from the 6 percent level of August. Black unemployment is still over 10 percent, however, and teenage unemployment exceed 16 percent.

The inflation in the consumer economy does not have a parallel inflation in the stock market, as 50 years ago. In fact, stock prices are depressed by and large. As the New York Times editorialized on September 18, stock prices have fallen 53 percent from 1968 to the second quarter of 1979—and this is after the prices have been adjusted for inflation.

This decline in stock values—which began more than 10 years ago—did not trigger the decline in the economy that it did in 1929. In fact, GNP has been growing throughout the last decade. Whereas GNP shrank from just over $100 billion in 1929 to $55 billion 4 years later, just the opposite has happened since 1968. GNP in 1968 was $868 billion then and stood at over $2 trillion last year.

Yet we know from the signs of high inflation and undervalued stocks, as well as the persistent flight from the dollar overseas, that the economy is not in balance.

Government policies to combat inflation have been largely based on the conventional wisdom of our day and age—just as the Government did in the 1930's. What is called for is an acknowledgement of where we are and a realization that a major part of our present economic malaise is due to inadequate saving, inadequate investment, and insufficient tax incentives for capital formation.

What is called for is a unified tax program that will rejuvenate the American economy, increase our productivity rate, and keep U.S. firms and workers competitive with other industrial nations.

There are a wide range of policies that should be pursued immediately: balancing the budget, requiring Federal regulatory bodies to consider the economic costs of their proposals, and improving the management of the Federal Government.

Perhaps most important, however, is the need to enact incentives for capital formation and investment. This, more than anything else, will get the private sector working again.

Our productivity rate, which grew at an annual rate of 3 percent between 1955 and 1965, has slowed to less than 2 percent in recent years. This year, we have had two consecutive quarters when we had absolutely no growth in productivity. In fact, productivity declined at one of the steepest rates ever. As productivity goes down, the unit prices of goods go up. Productivity can increase if we give workers the latest equipment and training. Our productivity rate is still higher than other industrial countries, but at the present rate, we will be eclipsed by Japan and Germany in a very few years.

Tax policy—encouraging business to undertake needed investments—is the best way to encourage productivity improvements.

Tax cuts to spur investment were tried in the 1978 tax cut bill. I strongly supported the Steiger capital gains tax cut and it has begun to have its effect already as venture capital—the lifeblood of innovation and job creation—is once again becoming available.

The Senate Republicans have introduced a package of tax bills that will move us toward a healthy economy.

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a fact sheet on the Republican economic plan.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PERCY. Passage of these bills will prevent the sharp economic downturn that we experienced in 1929 and will mark a departure from the way the Government has viewed the economy for the past 15 years. It is time we broke with that conventional wisdom.

EXHIBIT 1

FACT SHEET ON REPUBLICAN TAX PACKAGE (S. 1597)—SAVINGS AND INVESTMENT ENCOURAGEMENT ACT OF 1979

Introduced by Senator Danforth on July 30, 1979; includes three bills: S. 1542, Small Savers Incentive Act; S. 1435, Capital Cost Recovery Act, and S. 700, tax credits for research and development; cosponsored by all 41 Senate Republicans.

SMALL SAVERS INCENTIVE ACT—TITLE I

Introduced by Senator Percy on July 19, 1979.

Creates a $100 tax exclusion for interest earned from savings accounts like the existing exclusion for dividends from domestic corporations.

Provides additional exclusion for both dividends and interests up to $400 to the extent that interest and dividends are reinvested during the tax year.

Encourages Americans to save because—after the first $100 exclusion—bill requires dividends and interest to be reinvested and thus assures there is a net increase in savings and investment.

U.S. has lowest savings rate of all industrialized nations; according to the Organization for Economic Cooperation and Development (OECD) 1979 Economy Survey, the U.S. was last in household savings rates (savings as a percentage of household disposable income) in 1977:

Japan—21.2 percent.
West Germany—16.7 percent.
France—16.7 percent.
United Kingdom—13.7 percent.
United States—5.3 percent.

Small Savers Incentive Act will encourage Americans to save more and increase the amount of money available for expanded capital investment; higher levels of investment are key to fighting inflation and actively competing with foreign goods.

Will be subject to hearings on October 31, 1979 before Subcommittee on Taxation and Debt Management; hearing to be chaired by Senator Bentsen; one of five bills included on agenda to increase savings and investment incentives.

CAPITAL COST RECOVERY ACT—TITLE II

Introduced on June 27, 1979 by Senators Nelson, Bentsen, Packwood and Chafee.

Creates a 10-5-3 depreciation system; 10 years to write off structures; five years for equipment and three years for certain rolling stock.

Brings depreciation system more in line with true replacement cost and spur capital investment.

Current ADR system working wtih inflation hurting businesses in two ways: 1) money they get back in deductions is worth less each year; 2) by the time businesses recover cost of investment, the replacement equipment costs far more; result is no capital for expansion and modernization.

According to 1979 Report of the Joint Economic Committee and statistics compiled by the Labor Department, the United States ranks seventh (7th) in productivity, capital investment and economic growth after Japan, West Germany, Italy, France, Canada and the United Kingdom; also suggests that our low rate of capital investment and productivity is due in part to deficiencies in our capital recovery system.

ADR system particularly harsh on small and new businesses because of complexity; main reason small businesses use a straight-line, 10-year depreciation method even if they are entitled to more rapid recovery methods.

Data Resources Inc. in a study commissioned by the Committee for Effective Capital Recovery found that in 1984—the first year the proposal, if enacted next year, would take full effect—business fixed investment would be $20.9 billion more than under present system.

Senate Subcommittee on Taxation and Debt Management held hearings on October 22, 1979.

RESEARCH AND DEVELOPMENT TAX CREDIT—TITLE III

Introduced by Senator Danforth on March 21, 1979.

Provides a 10 percent tax credit for all research and development spending by business; identical to 10 percent investment tax credit available for private spending on capital investment.

Data gathered by the National Science Foundation shows:

(1) in 1964 R&D spending was three percent of GNP;

(2) every year since 1964, R&D spending has declined;

(3) in 1977 R&D spending was 2.2 percent of GNP and projections show that it will fall to 2 percent by 1985.

Mr. PERCY. Mr. President, at this point I yield to my distinguished colleague, the distinguished senior Senator from New York.

Mr. JAVITS. I thank my colleague.

Mr. President, I ask that the Chair let me know when I have consumed 5 minutes.

Mr. President, the Great Depression of 1929–32 is relevant but not analogous to the economic situation we are facing today. Therefore, it is worth our noting today and deriving such lessons as to current action that may be required today.

As Senator PERCY has already noted, the 1929–32 experience is relevant but not analogous because bank deposits are now insured. The speculation in the stock market which captured the imagination of the country like some great glistening bubble is absent, and indeed, the margin accounts, Mr. President, are not much greater today than they were in 1929, notwithstanding the vast growth of the economy. In addition, we have the underpinning of social security and the underpinning of great market demand for securities by pension trusts, which now have an estimated quarter of a trillion dollars in investment funds for this purpose.

But, Mr. President, that Depression is relevant because we now have grave threats to the confidence in money which characterized the Depression of 1929–30. It will be remembered that what touched off the great plunge downward which brought 25 percent unemployment to the country was the failure of a bank in Austria, which represented the money system of that time. It demonstrated a lack of confidence in the pledge of countries to redeem their currencies which caused a loss of confidence in all forms of value.

We have a somewhat analogous situation today, Mr. President, with the grave fall in the dollar, the grave uncertainties in foreign exchange markets, and the lack of confidence which seems to persist in the future, has caused unusual levels of spending for personal consumption, and which has caused astronomical prices for goods such as jewelry, gold, and works of art, et cetera.

Mr. President, it said that those who fail to learn from the lessons of the past are doomed to relive it. I would like to draw some analogies to the present situation.

One, we now have a moment of calm, as a result of some very costly financial arrangements made through the Federal Reserve, to right the economic ship of state. The latest Federal Reserve actions are essential in order to cut down on money issuance and credit activity which is not used for sound investments.

Let us remember that we went through a similar exercise to stabilize the dollar in November of 1978, and now we have had to undertake further strong measures in October of 1979. That is a pretty short span. This time, the markets may only give us 6 months, Mr. President, and it will take Herculean efforts in those 6 months to take advantage of the period which may be given us for constructive purposes.

The major problem which exists today, in my opinion, is the failure, the abject failure, of productivity growth of the American economic system, and the inability of the United States to deal with its energy problem. The latter forces us to remain both politically and economically at the mercy of external forces which are not too experienced and not too sophisticated in the world terms—countries with very small populations which are unaccustomed to handling the vast sums of money which are now being entrusted to them by the world in an excess price of oil.

Finally, the uncontrolled monetary situation in the world, that is the Eurocurrency market—is now estimated at $600 to $900 billions sloshing around in the world much of which can move in and out of different currencies at the slightest fear.

The ACTING PRESIDENT pro tempore. The Senator has used 5 minutes.

Mr. JAVITS. I yield myself 2 additional minutes, Mr. President.

In addition, Mr. President, the banks of the world and the banks of the United States have provided the nonoil developing countries with close to $200 billion in credits. We must be very wary and concerned about this credit, lest we deny the markets to these countries' goods which would permit them to earn the funds to service those credits.

Mr. President, a program has already been developed to deal with these programs, the economic program for the decade drafted on the Republican side has the express purpose of especially dealing with these particular problems. And I hope that as a Nation we will not miss the opportunity to put into operation an economic policy based on this program.

I express the hope that we on this side, though we are a minority, will have enough unity and enough wisdom to press our point, and that we shall have the internal fortitude to press what we know to be essential for the country. That is, in a word, what has been done now by the Federal Reserve only gives us a chance; it does not cure anything. We must use that chance to deal with our basic problems of productivity, of energy, and of confidence in money.

If we begin to deal with them effectively, then I think we shall be on the road back to economic health. If we do not, and do not learn from the dread tragedy of the past, the 50th anniversary of which we mark today. Mr. President, the economic crisis of 1929–32 can happen again; as I have been saying for the last 3 years.

Mr. STEVENS. Will the Senator yield to me for 30 seconds?

Mr. PERCY. Yes, I am glad to.

Mr. STEVENS. Mr. President, I ask unanimous consent that any Senator who wishes to place statements in the Record in support of this colloquy being led by the Senator from Illinois be permitted to have them printed in the RECORD at this point and my statement be printed following the statement of the Senator from New Mexico.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER TO RECOGNIZE CERTAIN SENATORS

Mr. PERCY. Mr. President, I ask unanimous consent that on the completion of the special order, the following Senators be recognized for 5 minutes each pursuant to the previous order for morning business in this order: DOMENICI, BOSCHWITZ, DURENBERGER, SIMPSON, and COCHRAN.

The ACTING PRESIDING pro tempore. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I am pleased to join today with my colleagues to discuss America's economic dilemma on this, the 50th anniversary of the Great Crash—an event that heralded the beginning of the Great Depression. In this regard, I ask unanimous consent to have printed in the RECORD at this time two editorials from today's Wall Street Journal, one about 1929's unlearned economic lessons and another speculating on the potential for a crash of 1979 if tight money policies are abandoned, and a statement of indepth analysis found in the Post of yesterday by James L. Rowe.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal]

1929's UNLEARNED LESSONS

Today's 50th anniversary of the Great Wall Street Crash has, predictably, raised once more that awful question: Could it happen again?

There are many reasons to answer with a flat no. The world economy is more powerful and more diversified, and hence less vulnerable to the errors of a single nation. Nationalistic, beggar-thy-neighbor attitudes, a 1929 aftermath of World War I's carnage, are less in vogue. Communications and technology are much advanced.

But in 1979, a year when the leaders of both the administration and Congress were again, up until this month, neglectful of the nation's monetary responsibilities and continue to be blind to the imperatives of economic development and growth, it is not easy to say "it can't happen again" with full assurance. There are too many reasons to fear that today's political leaders have not absorbed the lessons of 1929, or worse, have drawn the wrong conclusions.

One such wrong conclusion that needs to be disposed of quickly is that the Depression was caused by federal policies of "laissez-faire." To believe that would require one to believe that the Smoot-Hawley Tariff Act passed in 1929 was something other than federal economic intervention and had nothing to do with converting an ordinary recession into a deep Depression. The crushing burden of this massive and sweeping tax on commerce was without a doubt a major cause of the Depression and laissez-faire was no more to be found in the late 1920s than it is today.

We are faced once again, in 1979, with a continuing accumulation of burdens that serve to drag the economy down. Taxes continue to climb despite promises of relief, penalizing production to subsidize nonproduction. Profits, another name for capital formation, are under heavy political attack—particularly profits of the vital energy industry. Regulatory costs, which often yield nothing in return, and another growing tax. Productivity, and hence the ability of the nation to produce its way out of economic adversity, has been declining.

Most worrisome of all is the set of attitudes that afflict Washington. Charles P. Kindleberger, an economic historian, once described "economic illiteracy" among top policy makers as a primary reason for the Depression. We would not go as far today, but there is no gainsaying the fact that an American Congress today proposes to treat the energy crisis by heaping new taxes on the energy industry and an American President was not so long ago asking his aides whether a sinking U.S. dollar was a good or bad thing.

Which brings up another Kindleberger point, covered in some detail by June Kronholz in her front-page Journal story October 23. He attributes the Depression in large part to the post-World War I decline of Great Britain as the nation willing and able to take responsibility for international monetary—and hence economic—order, combined with an unwillingness by the United States, the logical heir, to accept that responsibility.

The United States, of course, did accept that responsibility after World War II when the dollar became the base, along with gold, of the Bretton Woods monetary system and, hence, the world's reserve currency. But economic nationalism, not unlike the psychology that produced Smoot-Hawley in 1929 to "protect" American farmers, has persisted. In recent years, this has taken the form of an unwillingness by American political leaders to let the nation's international responsibilities for the dollar stand in the way of their efforts to buy domestic votes with social programs, federal deficits and easy money.

The U.S. reaffirmed its international responsibility last November only to slip back into its profligate ways. Now, under the leadership of Fed chairman Volcker, it is having another try at better dollar management. But it will be some time before world confidence is restored. And the risk, at this stage, is that Mr. Volcker's attempts to control credit expansion, combined with the tax and regulatory drags on the economy, will lead to a new political outcry and further reversion to isolationist, protectionist sentiment.

Before playing too heavily on this latent and highly dangerous force in the American political psyche we would strongly urge political leaders to hark back 50 years to when attempts to create an economic fortress America brought the U.S. and the world to grief. We are part of a world economy, just as we were in 1929, and it is a world economy in which the U.S. has to be willing to accept responsibility. The Crash could indeed happen all over again if we insist on ignoring that fact.

[From the Wall Street Journal]

THE CRASH OF 1979?

In one of those unfortunate accidents of history, the Federal Reserve's new efforts to get a grip on inflation come just as the nation is celebrating, if that is the word, the 50th anniversary of the great crash. Reawakening all the atavistic memories of another era can distract us from the real problems of our own.

Intellectually nearly everyone will agree that in 1979 the big threat is inflation. Yet emotionally, even without reawakened memories of 1929, we remain hypersensitive to the least whiff of recession. This hypersensitivity, it seems to us, is the real source of the chance that today's economy may unwind, the real root of the danger of a new crash.

Let us say immediately that we put no stock whatever in the Phillips curve, and very little in any form of the widely asserted inflation-recession trade-off theories. We are intrigued by, and will have more to say in the future about, the possibilities of combining tight money to fight inflation and the right kind of tax cuts to stimulate production. But all will be lost if fear of recession produces political pressures forcing the Fed to abandon its efforts to slow the recent runaway monetary growth.

Yet for over a year now, public dialog on the economy has consisted primarily of picking daisy petals—recession, no recession, recession. . . . As of the third quarter of this year the most advertised recession in history still had not arrived. If history is any guide, the next cyclical recession will come in its own good time. Precisely when that date will fall is far from the most important question for economic policy. Rather, the whole question is, can we finally get this inflation under control?

Similarly, when the Fed finally moved to institute a credible anti-inflation policy four weeks ago, the question on everybody's lips was, will it cause a recession. This got so bad that when Fed Chairman Volcker mentioned declining living standards the other day, he drew headlines across the nation (though we are proud to say not in this newspaper) suggesting that he had declared a policy of deliberate recession. In fact, as the transcript reprinted nearby shows, he actually said that the declining living standards and the chances of recession arose quite independently of the Fed's policy changes.

Raw nerves about recession misdirect us, for if there is another economic debacle of 1929 dimensions, it surely will not be caused by overly restrictive policies at the Fed. Our guess is that there are two possibilities for such calamity. One is a massive policy blunder on the order of the Smoot-Hawley tariff; we see the impending windfall profits tax as the most likely candidate, and wonder if its progress through Congress is more to blame than the Fed's policies for the recent weakness in stocks.

The other worrisome scenario for the Crash of '79 or '80 or '81 is this: The Fed is pushed off its efforts to control money growth. Something close to hyperinflation strikes the dollar. Flight from the dollar destroys this international currency. The world trading system collapses and takes all national economies with it. This is what we risk if, from fear that the next recession will come sooner rather than later, we force Mr. Volcker to back off from the course he has struck.

[From the Washington Post, Oct. 28, 1979]

The 1929 Stock Market Crash: "The Little Flurry Downtown"

(By James L. Rowe, Jr.)

New York.—The Great Depression.

Why did it happen? Can it happen again?

Those are the bottom-line questions, as Wall Street analysts would say.

But, frighteningly enough, although the 10-year worldwide depression is probably the most thoroughly studied economic event in history, the answer to both questions 50 years later is: No one knows for sure.

One cannot help but make comparisons between the performance of the stock market this month with its performance a half-century ago.

Stock prices have fallen sharply in recent weeks. Bond prices have collapsed.

Other comparisons to 1929 are apt as well.

Speculation once again is rampant in the United States, this time not to cash in on the boom, but to hedge against inflation.

But stocks have been replaced as the great speculative tool by metals (including gold, which played a similar role in the 1920s), trading in stock options and trading in futures.

Consumers and companies are carrying a heavy debt burden.

Once again the international economic order—after 25 years of post-war U.S. hedgemony—is in something of a turmoil.

Less developed countries are deep in debt and the industrialized countries are borrowing heavily, too. Countries, the United States included, are being swept by waves of protectionism, as workers and industries fight to keep out foreign competition.

Some new problems are on the horizon as well. Inflation is threatening at a double-digit rate and a worldwide cartel of oil producers holds the industrialized and nonindustrialized nations in thrall.

Most Americans date the beginning of the Great Depression to that Black Tuesday—50 years ago tomorrow—when the stock market collapsed.

And well they should. For the promise of getting rich quickly through investing in stocks had infected a large number of Americans.

Joseph P. Kennedy, the multimillionaire father of Sen. Edward Kennedy and the late President John F. Kennedy, pulled out of the stock market shortly before it crashed. Why? Because his shoeshine boy was giving him stock tips.

History has not recorded what happened to the bootblack's portfolio. Presumably his fortunes tumbled like those of many other Americans who believed the business leaders and economists who saw no reason why booming prosperity could not make every one rich.

Kennedy went on to head the Securities and Exchange Commission, set up in the aftermath of the depression to police the nation's stock trading.

While the great crash of Oct. 29, 1929, is the line dividing prosperity from poverty in the minds of many Americans, in fact, the recession started at different times for different Americans. And some citizens continued to work and prosper throughout the entire decade of the 1930s.

American farmers were in trouble throughout most of the 1920s. Worldwide overproduction of foodstuffs and a concerted attempt by Europeans to keep out foreign producers kept U.S. farmers from sharing in prosperity.

American homebuilding prospered throughout most of the 1920s—in part satisfying pent-up war demand for housing—but began to sag in 1927.

Even the average American consumer—despite the interest of bootblacks in the market—did not do all that well during the 1920s. Much more than today, the rich were getting richer and the poor poorer.

But the average American shared the optimism of the high-income American, even if he did not share in his weath.

And that optimism was dissipated when the market began to nosedive.

A stock market crash by itself would not have been so bad but for the shaky credit arrangements on which much stock was purchased and for the repercussions it had on banks—who were not only making many of the loans but were also into the securities themselves.

In 1928 and 1929 investors were buying stocks for as little as 10 percent down, financing the rest through loans from their brokers. At one point, more that a quarter of the loans outstanding in the nation were supporting stock purchases.

During the same period, the price of stocks nearly doubled, generating for many investors big profits, which they used to buy more stocks or to buy such products as automobiles, radios and household appliances with those newfangled electric motors in them.

This sent many consumer goods industries off on a binge that camouflaged some of the problems other sectors of the economy—notably farms and construction—were having.

The boom in stock prices was caused partially by the prosperity of many companies. But it was also caused by insider dealings and outright frauds.

For example, a pool of insiders in RCA stock kept buying one week, driving the price from $82 to $109 a share. Members of the pool then sold out, taking their profits, and the price dropped back to $87.

When the inevitable crash came, not only were individual investors hurt, the banking system that had made huge loans, wheeling and dealing along with everyone else, was hit hard.

The first round of bank failures, however was touched off in the agricultural sector, where continued low prices and drought forced many farmers into bankruptcy.

But the impacts of falling stock prices—and, then, falling consumption—were felt in other areas of the economy. With demand declining, prices fell. When prices fell, profits fell. Other loans became uncollectible.

The government did not understand what was going on. Instead of taking steps to pump money into the economy, the Federal Reserve took the opposite tack.

Politicians, even Roosevelt, strove hard to balance the budget.

Those actions drained even more buying power from the economy.

The depression might not have been as severe as it was—despite what economists like to call the imbalances that existed in the economy in 1929—had it not been a worldwide phenomenon.

It was not only U.S. farmers who were hurt by the depressed prices that resulted from overproduction of commodities. It was a worldwide problem.

Europe was hard-hit by war debts and reparations payments.

There was no longer a world leader to right the international economic system. Britain was too weak and the United States was still withdrawn into the isolationist cocoon it spun for itself after World War I.

Nations reacted to their own internal difficulties by setting up tariff barriers to keep out low-priced goods from their neighbors. Bank failures in Europe—starting with Austria's Creditanstalt in 1931—added the same waves of panic that bank failures did in the United States.

The Great Depression both in the United States and Europe, continued—with recoveries and new slumps—until World War II.

It left a scar on the world that has not yet been obliterated. In the U.S. it triggered serious stock market reforms and split commercial banks that accept deposits and make loans from investment banks that finance and deal in securities.

It set the stage for big government—a government from which many are today recoiling.

The depression also triggered a new wave of internationalism in the world economic order. The International Monetary Fund, the World Bank and other, less formal, institutions sought to ensure that the world would never again be trapped into the begger-thy-neighbor policies that made the Great Depression so much worse than it otherwise might have been.

But governments and economists, like generals, tend to plan for the last war, not the next one. That is why it is hard to say for sure that another depression could not occur.

The stock market has been cleaned up substantially.

But if it is harder to speculate in stocks, it is not hard to speculate in other areas.

Investors can contract in gold, copper or wheat futures for a fraction of the ultimate cost of the contract. If, in 1929, $10 could control stocks worth $100, today $10 can control contracts for commodities worth even more than $100.

Consumers are heavily in debt, as they were in 1929. Corporations, too, are carrying more debt than ever before.

Debt burdens are similarly heavy outside the U.S. Lesser-developed countries are borrowing heavily from U.S. and other multinational banks to pay oil bills. Industrial countries are also borrowing to pay their oil bills.

The U.S. banking system has been growing at a dizzy pace. The conservative banker who ran the financial institution in 1950 and 1960—and still had 1929 etched firmly in his mind—has been replaced by a new brand of manager.

Bankers learned some lessons in 1974 and 1975 when they faced severe loan losses.

They have put their houses in better order. But because of domestic restrictions on U.S. banks that date back to the recession, many big multinational banks are borrowing and lending heavily overseas, out of the reach of much regulation.

It doesn't matter much if it is Peru or Chrysler that defaults on a debt.

Furthermore, banking portfolios are beginning to feel the pinch of tighter Federal Reserve policy plus sharp declines in the value of the bonds they own. Credit still is not tight by any stretch, but if bond prices continue to slump, banks will find it harder to make new loans and might be forced to call in some outstanding ones.

And yet, the case for another Great Depression on the global scale of 1930 is hard to make.

Economics is a fuzzy science. It does not always see clearly even with hindsight. And it has a tougher time with the future. Even when economists offer the proper solutions, it is far from assured that the political leaders will accept them.

Mr. DOMENICI. Mr. President, I have had the opportunity to serve in a variety of capacities involving economics and budgetary matters during the past years—as coauthor of the Republican economic alternative that the distinguished Senator from New York, (Mr. Javits) and I devised to present the economic views of our party, and as members of the Senate Budget Committee. My work has brought me to several inescapable conclusions concerning our present economic situation: Federal spending is still largely out of control, in a fundamental sense, with worsening prospects; we are reaching a taxation level that will make productivity gains most unlikely; costs of increased Government regulation have grown so dramatically that unproductive inflation, inflation completely unrelated to either the production of goods or the consumption of them, threatens to stifle our economic growth; inflation in general, fueled specifically both by energy price increases and Government policies, has reached the crisis level.

Will this combination of factors lead to another great crash and Great Depression? I seriously believe that no one knows. In that regard, I have submitted for printing in the Record the Washington Post article of Sunday, October 28, 1978, "The 1929 Stock Market Crash: 'The Little Flurry Downtown.'" My personal suspicion is that a stock market crash-induced Great Depression is remote and practically impossible, but that a more fundamental worldwide depression of great intractibility seems almost inescapable unless America takes the economic lead in a new recovery.

I wish I could stand here and tell the world that things are going to get better, that this Congress is willing to take the lead, but the facts are unfortunately otherwise. If we look at the last 8 months, we see an unusual trend. At the beginning of this Congress, fiscal austerity was the rule. People who had never talked about balanced budgets or reduced Federal spending increases sounded like converts to our way of thinking. The spirit of proposition 13 and results of the last elections combined to give me and many who believe as I do the hope that this Congress would really bite the bullet. This has not been the case.

For example, under the first concurrent budget resolution passed by this Congress, Federal spending would have, for the first time in the history of the new budget process, been less for fiscal year 1980 than the projected inflation rate. We were embarking on an historic course. Alas, inflation and the inability of Congress to police its spending have diverted us from that new course. We will have a larger deficit than the policy advocated by the first concurrent budget resolution. We will have larger spending and more taxes.

So many of the savings through legislative reform and agency oversight improvements that the first concurrent budget resolution was based upon have failed to materialize. And, as recent revelations about medicaid in California and Pride, Inc., housing projects in Washington, D.C., reveal, much can be done to achieve multimillion-dollar savings in present programs.

So, where do we stand today? We stand thus: Congress has failed to move to cut Federal spending increases in meaningful ways; we still allow almost three-quarters of the Federal budget to be "uncontrollable" and subject to fraud, waste, and abuse; we are complacently facing huge new tax increases in 1980 and 1981 that will saddle individuals with about $69 billion in new taxes; and we have so botched the anti-inflation fight that the Federal Reserve Board has had to assume almost sole responsibility for attacking inflation, a dangerously one-sided approach that could have serious long-range implications for the Nation's economic health.

This failure of will has taken several forms, and it is interesting to me to see just how the Senate has divided itself when opportunities to really fight inflation and Federal spending have been offered. Let us look first at the proposal the Senator from Colorado (Mr. Armstrong) and I offered, both in the spring and then again in the early fall of this year.

We proposed that we cut Federal spending in fiscal years 1980 and 1981 by about $17 to $20 billion, and, at the same time, return on a dollar-for-dollar basis those savings to the American taxpayer in a productivity-oriented tax cut. We received 38 "aye" votes the first time; and we got the same 38 the second time around. If we had received just a bit more support from the other side of the aisle, we would have passed this effort at fiscal restraint.

Senator Bellmon and I, with the unanimous support of our members of the Senate Budget Committee, offered an amendment this fall that would have required that all appropriations bills be held at the well so that we could cut them where necessary in order to reduce spending and effect savings. Again we were defeated despite very strong support from our side of the aisle.

Senator Bellmon, on numerous occasions, has attempted to cut appropriations bills in order to conform them to the fiscal austerity of the first concurrent budget resolution and has lost almost every time. The record on a whole host of other, related issues is clear: Congress is conducting business as usual and business as usual is failing.

My colleagues have spoken about the kinds of tax cuts, spending cuts, and reforms we need to really fight inflation at the congressional level. Let me close today by discussing very briefly the question of uncontrollables in the Federal budget. Uncontrollables, for those who wonder at the term, are those items in the budget that are, many of our colleagues say, out of our substantive control. Thus, they are allowed to increase wildly. They contribute to inflation in a classic sense, because they enhance demand for goods and services that are relatively stable in supply. A classic example is the host of housing programs we fund. By increasing demand through Government aid for a commodity that has increased in supply fairly slowly, these kinds of programs fuel inflation spectacularly. It is no coincidence that food, housing, and medical services have led the way over the past few years in the inflation index. Uncontrollables in the Federal budget are largely responsible for this kind of inflation.

I contend that nothing in this Federal budget is uncontrollable, if Congress is willing to show the will to act. We have the full power within our control to impose restraint on any program. We can begin to attack the problem of uncontrollables. We must have the courage to reform basic laws, to restructure programs. How can we go back to our constituents in this time of raging inflation and say, "Well, those programs are out of our control," when we were elected for the specific task of beginning to control these Federal systems? As a top priority for this Congress, I suggest this that we move aggressively to restructure present programs and reform present legislation so that spending rises will, once again, be within our control. I assure my colleagues that this will be one of my top economic priorities as I continue my work on the Senate Budget Committee.

Congress faces a relatively simple task if it is to do its part to fight inflation and restore economic stability: Cut individual and business taxes to enhance productivity and restore initiative; reform Federal programs to allow Congress to gain more control over programs and to force the bureaucracy to reduce fraud, waste, and abuse; place a moratorium on new Federal spending programs until inflation is under control; place a statutory limitation on the percent of gross national product that Government spending can constitute. Those all sound like fairly straightforward initiatives. They are not new and they have been suggested in the past. That they are still awaiting enactment into law is a measure of how Congress has really backed away from the essential decisions in the fight against inflation.

Mr. President, while I concur with those who have preceded me in saying that a great depression and a crash are remote and practically impossible, that does not make our appearance here nor America happy because, unless we do some very significant things in the very near future, I predict that a very fundamental worldwide depression of great intractability seems almost unescapable.

Mr. President, we can talk here at length about what has happened in the past. We can attempt to learn from the great crash and the depression that followed it, and we can make excuses and we can say it will not happen again. The truth of the matter is that the good Senator from New York is correct: If we believe that the activities of the Federal Reserve are going to bail America and the world economy out, we are badly mistaken. This is just a little, temporary cessation that they can help us with, giving us a little bit of time to do what we must do.

Likewise, we can talk about the world energy crisis and the fact that much of that is uncontrollable on the part of America. That has been said. Let me say that we in Congress, as the policymakers for the greatest economic system and greatest economy in the world today and, basically, the greatest mankind has ever seen, had better make some decisions. If we think business as usual for the U.S. Congress will get us out of this mess because the Federal Reserve has created some kind of stalemate, then, indeed, we are foolish and we have learned nothing about what really has happened in America with its economy.

We speak much about its great potential for productivity and we act much the opposite way; more taxes rather than less; less incentive to produce rather than more; more taxes of the type which penalize those who produce rather than less, and on and on. More Federal programs rather than less; a Federal Government that is still out of control, spendingwise when all the signs indicate that we have to put some kind of moratorium on the activities of the Federal Government, especially in the areas of regulation and taxation and expenditures of the productivity of our people, taxation, which we seem to think has no end.

So while I am willing here today to talk about what happened in 1929 and why it cannot happen today, while I join with those who say there are great external forces impacting upon us, my reason for joining is to say that we have a rare opportunity, we on the Republican side who have proposed measures to bring back productivity to America, to say for a little while to those who want to argue what we ought to do with our taxes, "Won't you just sit on the sidelines for a minute and let America build its economy, the bedrock, back and then you can start fighting again about what we ought to do with its productivity—to wit, its taxes?"

I have outlined in detail a history of Republican effort that spans 2½ years, to call the attention of the American people to the need to move in the direction of productivity and to take Congress efforts here, in Congress, to produce the kinds of results that we know we can produce to make, once again, the American economy the idol of the world; to say once again to its great productivity potential, "We turn you loose again; we unshackle you from the things we have wittingly or unwittingly tied about you, yet demanding that you produce more." It is this we must learn and it is this kind of bedrock thing that we must do. It is these kinds of bedrock proposals that we must not only verbalize and speak of but make realities if we are going to let America lead the way out of the great international recession that is inevitable.

I yield the floor.

Mr. STEVENS. Mr. President, in conjunction with our recognition of the anniversary of the stock market crash of 1929 and of our discussion about the markets present reaction to the Fed's monetary policy, I should like to have printed in the RECORD a piece from this morning's Wall Street Journal. The article puts in context a recent remark by Chairman Volcker regarding the administration's anti-inflation policy and the decline in Americans standard of living. I think it is important that when we speak in macroeconomic terms about recession and monetary policy and interest rates, we do not forget about the personal side of our policies. When we say that higher oil prices and higher interest rates will lower Americans' standard of living, which Americans are we talking about? Whose standard of living will actually decline? Newspapers are already reporting that small businesses and other high-risk borrowers will be unable to get loans to finance business investments or buy homes. We hear countless stories lately about the poor being unable to purchase heating oil in preparation for this winter and of inflation forcing a choice between food and fuel.

The general consensus among experts in all sectors of the economy is that the recent steep increases in interest rates are necessary to stem the spiraling inflation rate. While I do not agree completely with these experts, it is clear to me that we should not now sit back and think that Government has done its part. We need to counter the decline in the living standard with appropriate fiscal policy. Carefully structured tax cuts can counter the decline in the living standard through incentives to encourage savings, provide investment capital, insure more efficient energy conservation, and spur production. Relief to those Americans who feel the recessionary squeeze the most must not be ignored. Tax initiatives, such as those mentioned in the Republican's economic policy can be important contributions to the Government's fight against inflation and recession.

We will all watch these developments carefully. Above all, we need to understand the relationships between our increasing purchases of foreign energy and our fiscal and monetary problems.

While I do not endorse Mr. Volcker's comments, I ask unanimous consent that the Wall Street Journal article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

VOLCKER: "STANDARD OF LIVING HAS TO DECLINE"

(Federal Reserve Chairman Paul Volcker has been widely quoted as saying that in order to trim inflation, the U.S. standard of living must be reduced. These reports were based on his remarks in testifying to the Joint Economic Committee on October 17. The following transcript shows what Chairman Volcker actually said:)

Senator Bentsen: Mr. Chairman, I certainly agree with you that we have to have monetary restraint and fiscal restraint both. And reading and following you on the last part of your testimony today about the calling for some sacrifices, and we may have to suffer some pain to still inflation, I interpret that to mean that we will have lengthened unemployment lines, that we will have some loss of output in our economy, in order to correct the inflationary trend. President Carter, in a speech before the AFL–CIO, gave his assurance that he would not tackle the inflation problem by jeopardizing workers' jobs. Now, how is that possible?

Mr. Volcker: Let me break the two points, if I may make one general point in terms of the need for discipline and sacrifice, a point that doesn't refer to cyclical development at all, directly.

I would point out that productivity growth in this country is actually negative in a recent period, and we have had higher oil prices. And, of course, we import 5 percent of our oil, so that the higher revenues going abroad do not go to American citizens. Under those conditions, the standard of living of the average American has to decline. I don't think we can escape that when we're producing less with the same amount of effort, according to the statistics and we're paying high prices abroad.

Now, if we fail to recognize that and people try to catch up with the existing standard of living or try to increase their standard of living, you get a process going that only feeds the inflationary process, because wages move ahead of prices and then push up costs further, and up go the price levels some more.

I think there has been a good deal of common sense, as I suggested, on the part of the American people, and, all things considered, and particularly the increase in the price level recently, though restraining themselves from a big further increase in wage gains. That's one kind of sacrifice.

Now, on the cyclical question of unemployment, there has been a lot of talk about a downturn, a recession, for months now. It looks as though a real downturn has been somewhat delayed in terms of earlier expectations. But I share the concern that there are developments in the economy—pressures on consumer spending, rather fundamentally relevant to high level of inventories—that may lead to some adjustments and some unemployment.

But let me say this was true before we acted [on October 6 to tighten credit], as well, and it is still true today, and it's not altogether clear to me that the prospects over any reasonable length of time for unemployment specifically were worse after we acted than before, given that almost all economists were projecting sizeable increases in unemployment.

There was a certain indication in the economy that might have suggested that, both in the area of consumer buying and in the area of business behavior, that some expenditures were being made in anticipation of price increases. As pointed out, the savings rate was very low. Businesses have begun to build up inventory. Now, that kind of behavior can keep the economy going for a little while, but it's also the kind of behavior that's going to give you a bigger downturn eventually.

Now, if we take one effect of our action, it is to cut off some of the speculative-type behavior. I am hopeful that the total adjustment process, which I think we're entering into and have been in, that the total adjustment process may proceed more smoothly than would otherwise be the case. But that doesn't mean we are not going to have an adjustment process.

Mr. BOSCHWITZ. Mr. President, I also want to speak up on the 50th anniversary of Black Tuesday and talk about the vibrancy of our economy and the impact of taxes upon that vibrancy.

I think that the economic base we have built in this country has come, first, through research that has led to great additional productivity. It has also been predicated upon the availability of raw materials. Finally, it has been predicated on the idea of incentives. My short statement is directed at taxes and how raising taxes has the tendency to squelch incentives. I speak not only from personal experience but also from the experience of history. My remarks are directed at the Revenue Acts of 1971 and 1975, the Tax Adjustment Act of 1975, the Reform Act of 1976, the Reduction and Simplification Tax Act of 1977, and the Revenue Act of 1978.

I am somewhat amused, Mr. President, by some of the words used in the titles of these acts—Tax Reduction and Simplification Act of 1977, and also the Tax Reform Act.

Most of these acts have not been reform or reduction or simplification acts. They have instead added credits, exemptions, deductions, revisions, rebates, and refunds to the code that have made the code much more complex; 25 years ago, only 18 percent of taxpayers needed help in the preparation of their tax returns. Today, 64 percent of the tax returns are prepared with the help of someone other than the taxpayer.

If these Revenue Acts had not been passed, and if the rate had instead just been reduced, the tax rate today would not be in the 14 percent to 70 percent range, but rather would be in the 10 percent to 53 percent range.

Mr. President, that includes only the new credits, exemptions, deductions, and revisions that were added by those acts. It does not include some of the meaningful tax reductions of capital gains, or the rate reductions.

The Revenue Act of 1971, Mr. President, reduced individual taxes by $2.7 billion which represented at that time 2.8 percent of the total individual income taxes collected. The corporation income tax was reduced by $4.5 billion through additional credits, exemptions, and deductions.

If they had just reduced the rate, they could have reduced individual income taxes that year by 2.8 percent, and corporate taxes by 14 percent.

This same type of "reform" went on again in the Tax Reform Act of 1975 and the Tax Adjustment Act of 1975.

I have here the Tax Reform Act of 1975, the report of the House Ways and Means Committee, which is 476 pages long. The Tax Reform Act of 1976, and this is the conference report, is 646 pages long, just trying to explain the changes. The report on the Revenue Act of 1978 is 283 pages long.

As we reform, as we bring new deductions, exemptions, and credits into the act, all we are doing is complicating the tax code.

What I would like to say is that we should just reduce the rates. If we only did that instead of adding new credits, new exemptions, new deductions, and new revisions, the tax burden on individuals today would not be in the 14 percent to 70 percent range. It would be in the 10 percent to 53 percent range. The tax burden on corporations would not be in the 17 percent to 46 percent range as it is today; it would instead be in the 15.5 percent to 42 percent range.

Lower taxes, Mr. President, I submit. create incentives. There is no question about that.

Again, I emphasize that the changes that took place in the code do not include the rate reductions, the bracket widening of the Revenue Act of 1978, or the capital gains tax reductions in the Revenue Act of 1978. Taxes could have been substantially lowered if we had not had new credits, new deductions, new revisions, new exemptions to the tax code. We should reduce the tax rates and thereby restore incentives to American society, to the American economic picture. This is what we so vitally need.

The PRESIDING OFFICER (Mr. McGovern). The Senator's time has expired.

Mr. BOSCHWITZ. I yield myself another 1.5 minutes, Mr. President, if I may.

The PRESIDING OFFICER. Under the rule, when the Senator from Minnesota was recognized (Mr. Durenberger), he should yield to the Senator.

Mr. DURENBERGER. I will yield from my time.

Mr. BOSCHWITZ. I thank the Senator.

Mr. President, this has been the experience from the Capital Gains Act. When the tax rate was increased, the revenue went down. When the tax rate was reduced last year, once again there has been great impact on the investment market, and venture capital has increased, the revenue went down. When the tax rate was reduced last year, once again there has been great impact on the the investment market, and venture capital has increased significantly.

Incentives work. If a person is able to keep a reasonable share of what he or she produces, they produce more. It is that simple.

There is a great need for tax reduction in this country. It can be achieved by simply not adding to the code new deductions, new credits, new refunds, new exemptions, or new rebates. Just reduce the rate and return incentives to the American society.

I thank the Chair and I thank the Senator.

The PRESIDING OFFICER. The Senator from Minnesota (Mr. Durenberger) is recognized.

Mr. DURENBERGER. Mr. President, I rise to express my gratitude to the senior Senator from Illinois for his leadership in providing this occasion for each of us to remind the people of this country that there are public policy alternatives to the economic chaos which faces this country, and to express my gratitude to the senior Senator from New York for providing the leadership among Republican Senators which has produced the unanimous position statement on these alternatives.

I also wish to compliment my fellow Senator from Minnesota on his special insight into the impact of this Nation's taxing policies on the economic institutions and wage earners of this country.

Mr. President, 50 years ago today the bottom fell from the hopes and dreams of millions of Americans. It took 17 years, a Depression, and a World War before the Nation returned to peacetime prosperity. In the interim, an entire generation of Americans grew from childhood to adulthood without experiencing the peace and prosperity that are so much a part of the American dream.

In the succeeding half century, we have grown older, and significantly more knowledgeable in the workings of our economic system. We now understand the basic forces that led to the crash of 1929. We have mechanisms to stabilize the growth of the money supply, and sophisticated indicators to tell us when and how the economy should be finely tuned. But it is a sad reality that age and wisdom do not always go hand in hand. And the best tools of the brightest economists do us little good if we lack the wisdom to use them properly or the courage to use them at all.

The golden anniversary of the Great Crash finds gold prices at record highs throughout the international market. Inflation is moving toward the 16-percent level, with interest rates in hot pursuit. America's savings and productivity rates have rarely been lower, and not surprisingly, there is a consensus among economists that we are in a recession.

The greatest tragedy in all of this is the realization that once again, those who can least afford to are paying the greatest price for congressional inaction and administrative indecision.

For when Congress lacks the will to keep deficits from rising into the tens of billions of dollars, American families pay the price.

When the administration lacks the courage to keep a firm and reasonable hand on the growth of the money supply, inflation steals a greater and greater share from the retirement dreams of senior citizens.

When Government settles for piecemeal efforts to manage the price and supply of energy, the burden falls squarely on American business and the millions of working men and women who depend on it.

We hear so often about the effects of inflation on American wage earners—the erosion of fixed incomes, the lack of access to the housing market, the dilemma created by falling real wages in a time of rapidly escalating prices. But in the past few months, Americans have become increasingly aware of the toll inflation is taking on the economy as a whole.

The current congressional debate over the structure of America's banking system is evidence of the degree to which double-digit inflation has dismantled the equity in our financial system.

By destroying the value of savings, it has converted us from a society immersed in the savings ethic to one intoxicated with the desire to consume—a desire drawn from the fear that tomorrow's prices will exceed even today's.

Inflation has produced sharp increases in real business taxes and falling rates of return. By causing the understatement of depreciation and inventory costs, it boosts taxes on real capital gains to levels exceeding 100 percent, discouraging savings, investment, and in particular, the funding of small innovative firms.

As Harry B. Ellis wrote in last Monday's edition of the Christian Science Monitor:

> As inflation persists, inequities spread through society, widening the perceived as well as the real gap between propertied and non-propertied citizens, and inflaming social tensions.

Mr. President, I have been tremendously impressed as I listened to the economic policies advocated this morning by my Republican colleagues. We have talked frankly and accurately about the need for fiscal and monetary restraint, and equally important, the need for basic changes in our long-term trade, energy, and economic management philosophies.

But it is equally important to emphasize that while we are pursuing long-term policies to stabilize the rate of inflation, there are actions we can take to blunt inflation's short-term impact on American employers and wage earners. The most important of these actions is immediate passage of tax indexing legislation.

Tax indexing is nothing more than a windfall profits tax on Government. It proceeds from the philosophy that any windfall created by inflation should remain with the taxpayer as a buffer against rising prices, rather than passing to the Federal Government. And this is a sound philosophy.

Under the pressure of double-digit inflation, the present tax system has demonstrated built-in inequities and an inherent tendency to fuel the inflationary cycle. Individuals receiving cost-of-living wage increases are penalized by a tax system which simply thrusts them into higher brackets, and often suffer actual losses in real dollar purchasing power. They end up falling behind the rise in living costs, forcing them to rob their savings and investments to feed, clothe, and shelter their families. This fuels the desire for even higher increases in the next round of bargaining, but the result remains the same. Without indexing, the present tax system guarantees progressive erosion of real income, as it spurs inflationary psychology.

In the absence of indexing, that system inevitably makes Government the prime beneficiary of inflation. For each 1-percent rise in the Consumer Price Index, Federal tax receipts rise by approximately 1.4 percent—signaling a redistribution of real income from the private to the public sector. This process cuts deeply into savings and investment, disrupting the balance of the economic system as a whole. It also permits Government to profit from annual tax increases without the necessity of congressional action—a paradox in this era of increasing demand for Government accountability. It is, in effect, a 1980 version of taxation without representation. Tax increases should neither be hidden nor automatic. Unless Congress chooses otherwise, the inflation divided should remain in private hands where it can be saved, invested, or used to mitigate the human hardships of inflation.

Frankly, Mr. President, I find it difficult to understand the argument that tax indexing is somehow a concession to inflation. On the contrary, tax indexing does nothing more than redistribute the tax implications of inflation, so that consumers no longer bear all of the burden, while Government reaps all of the benefits. In fact, there is empirical evidence that tax indexing has a positive fiscal effect in slowing down the increase in Government spending.

In Canada, where tax indexing became national policy in 1974, real dollar spending by the Canadian Parliament had been increasing at an annual rate of 15.9 percent prior to enactment of the indexing law. In the year following its enactment, that growth rate decreased to 10.2 percent, and over the next 3 years, it fell progressively to the 1978 level of 2.1 percent. These figures support the theory that by forcing revenue projections to be scaled down, tax indexing actually induces fiscal responsibility by placing a restraining effect of budgetary decisionmaking.

The Christian Science Monitor summed up the argument this way in an October 18, 1979 editorial:

> The most frequent argument of opponents is that indexing would tend to institutionalize inflation and insulate taxpayers, weakening their resolve to combat inflation. But we doubt it. Even with indexing, the average American taxpayer will still feel the pinch of inflation in the rising prices he pays for food, clothing, energy, and other necessities. Indexing won't do away with inflation—but it would help ease its bite on taxpayers and make Congress more responsible fiscally.

Tax indexing is not designed to combat inflation. It is designed not to insulate taxpayers against inflation, but to remove the insulation that an unindexed windfall tax provides Congress from the chance for fiscal restraint. It is designed to minimize the short term effects of inflation while we treat its causes with long-term remedies. And minimizing inflationary impact on human needs is by any standard the principal goal behind our anti-inflation policy.

The indexing concept has been endorsed by such diverse sources as the American Enterprise Institute, the Christian Science Monitor and the New York Times. In one form or another, it has become national policy in Brazil, Canada, Israel, the Netherlands, Argentina, Denmark, France, and Luxembourg. Earlier this year, under the leadership of Governor Al Quie, it became part of the tax system in my own State of Minnesota. The American people are demanding it, and with double-digit inflation, they need its relief as quickly as we can possibly provide it.

Mr. President, to meet this need I am this week introducing the Tax Indexing Relief Act of 1979, a bill to comprehensively index our tax and exemption system. I urge my colleagues to seriously consider this bill, and to demand immediate action on it and the various other indexing measures now before the Senate.

Every day we delay, the dreams and aspirations of another generation of Americans erodes even further. The loss may not be as sudden as it was in 1929, but it is every bit as real.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. DURENBERGER. Yes.

Mr. JAVITS. Mr. President, I think it an excellent statement. I have rarely heard the matter discussed as intelligently.

I thank the Senator for his personal references to me, as I know Senator PERCY would, too.

But I regard this as an excellent contribution. I hope the Senator will continue with us on this to determine to do something affirmative with our party and with our economy.

Mr. DURENBERGER. I thank the Senator very much. I am committed to continuing.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 5 minutes.

Mr. SIMPSON. Mr. President, let me add my appreciation to my very progressive colleagues, Senator PERCY and Senator JAVITS. I believe they have crafted a very significant message, one in which I concur.

Mr. President, the crash of 1929 was indeed a turning point in American history. On October 20, 1929, the Federal Government accounted for 3 percent of the Nation's GNP; in 1940, 9 percent; in 1950, 15 percent; in 1965, 17 percent, and today, 21 percent.

The depression experience was a deeply traumatic one to the American people. I saw some of this as a young boy, and I know of constant references to the suffering endured in those days.

In a sense, the Nation's economic policy since the depression has been one long response to that experience.

On this 50th anniversary of "the Crash," I want to state that I feel our obsession with the depression and our possible misunderstanding of its causes have led us to take a fundamentally wrong turn in economic policy.

As the years have passed, we have gone further and further beyond the attempts made early in the depression simply to assist those in need. The paternalism of the early days, which was quite limited, has expanded its aims, its arrogance, and its burdensome power over the American people.

Attempts have been made to "fine tune" the economy by the use of fancy econometric models based on questionable economic theories and assumptions.

Attempts also have been made to regulate most major aspects of American life and to redistribute wealth—in order to realize various visions of the good never really embraced by a majority of the people, then or now.

And somehow along the way we forgot what made us great. What made America great was what brought the early settlers here: Fredom, the chance to start a new life in a place where no ruler could tell a person what he must think or do.

Freedom was sought for its own sake in those early days. Yet freedom also gave America its prosperity—and this was no mere coincidence.

When men and women are allowed freedom of action—to work as they choose, in the service of their own goals and priorities; when they are left to prosper or to fail according to their success in providing goods or services which others value; when their government does not take away most of the fruits of their labor through taxes or regulation or inflation—well, under those conditions human beings work hard and well; they save for the future;

and they utilize resources most productively.

Mr. President, I believe most of us in this body recognize the symptoms of our economic sickness. They have been reviewed carefully by Senator JAVITS and Senator PERCY. They include the low rate of savings, the low rate of investment in new plant and equipment and in research and development, the declining productivity, the low rate of GNP growth, the budget deficits of billions of dollars, the double-digit inflation, the record-high interest rates, the balance of trade deficits, the weak dollar.

I also believe that many in this body recognize the path we should take to remedy the distressing state of the American economy. I have reread the many fine statements in the July 3 CONGRESSIONAL RECORD presented on behalf of the Republican economic program. I highly recommend them to all my colleagues. I certainly recommend them to those of the other faith, on the other side of the aisle, a good many of whom I believe would agree with many of the goals and approaches described in that remarkable presentation.

It is obvious that we must change the incentives—"disincentives" might be a better word—that now exist. The Republican program proposes tax incentives for increased savings and for increased investment in new plant and equipment and in research and development.

There is no doubt that approaches such as this would work. The capital gains tax reduction accomplished in the last Congress by Congressman Steiger and the very able former Senator from Wyoming, my good friend Cliff Hansen, has resulted in a restoration of venture capital availability to nearly the levels in effect before the disastrous capital gains tax increases required by the so-called Tax Reform Act of 1969.

Mr. President, we can tax the productive members of society for their success, but we cannot make them stay productive after our actions have eliminated their incentive for being so.

I for one would prefer to keep the Government out of the process entirely—not having Government provide incentives for what Government decides is good economic behavior. In an ideal world incentives would be left to the market—but of course this is not an ideal world. Among other things the Government distorts investment decisions by inflation and perverse tax policies such as inadequate depreciation.

Mr. President, I believe that what is important is not any particular proposal or set of proposals, but rather the basic approach: that economic policy be based on a fundamental reality, the behavior of real human beings, and on a fundamental truth—that freedom provides the conditions under which real people are most productive.

We all know what makes for a healthy, properous economy: First, energetic and skilled workers—which we would have if we adequately rewarded effort and skill; and second, the development and utilization of more efficient techniques and products—which we would have if we adequately rewarded efficiency and innovation and if we provided adequate capital through rewarding saving and not siphoning off excessive resources for Government use.

Mr. President, I trust that someday soon we will all recognize that attempts to "fine tune" the American economy are actually quite crude and cannot hope to equal market pricing in providing for an allocation of resources that maximizes public welfare. Our economy is far too large, complex, and dynamic to be efficiently managed in Washington, D.C.

I also trust that some day soon we will all recognize that efforts to redistribute wealth are not merely unfair and inconsistent with out traditional belief in freedom, but they are perverse as well. They reduce incentives for people to be productive and then hurt everyone by only making smaller the total social pie available to be divided.

However, even if we were to rid ourselves finally of the urge to "fine-tune" the economy and to redistribute wealth, thereby restoring healthy market incentives, we would still be faced with the problem of Government siphoning off excessive resources and by deficit spending creating pressure on the Federal Reserve System to inflate the money supply faster than the real growth of the economy.

I believe there is a serious institutional problem involved—and this point has been made many times. Whereas the lobbying pressure for any particular Federal spending project is likely to be focused and intense—from the special interest group that would be benefited—the lobbying pressure against the project is likely to be diffuse and weak—merely from the taxpayers, who are unlikely to be more upset about one unnecessary Federal project than another and who have neither the time nor the energy to be vocal about each of them. Furthermore, there is a vicious cycle at work—excessive spending causes deficits, which lead to inflation, which causes tax increases purely through "tax bracket creep," thereby making further spending increases possible even without greater deficits.

I believe that this institutional bias that creates increased Federal spending is inherent in our political process and requires a constitutional remedy. Either spending must be limited directly or political accountability must be firmly established by a requirement that spending be limited to tax revenues, so that any spending increase would require that Congress be willing to take the political heat resulting from a tax increase.

Mr. President, let me conclude with a summary. We would be a more prosperous country if, first, we overcame the depression experience and returned to the natural incentives of the free market, giving up our crude attempts at "fine-tuning," and our counterproductive efforts to redistribute wealth, and second, if the institutional bias in favor of Federal spending were eliminated by constitutional amendment.

Perhaps we could then stop the constant, pathetic, and pessimistic cries for sacrifice and belt-tightening. The American people want a new economic policy of bold growth, not timid retreat and wringing of the hands. America did not achieve greatness by accepting limitations. Americans have always met challenges head on with vigor and imagination.

Mr. President, we still control our own destiny. The most important first step is to lift the Federal Government from the backs of the American people in order that the natural incentives of the marketplace and the inherent energy of the American people will be released.

If the American people continue to be lured on by tunnel-visioned bureaucrats and their claims of the wonders of regulation and "econometric model" planning, we will continue to suffer from their inevitable and stifling mistakes. As other countries have acquired prosperity by imitating the best of our economic traditions, we unfortunately have acquired severe problems by imitating the worst of theirs.

The PRESIDING OFFICER. The Senator from Mississippi is recognized for 5 minutes.

Mr. PERCY. Mr. President, I yield myself 1 minute before the distinguished Senator from Mississippi speaks.

We appreciate very much the comments of the distinguished Senator from Wyoming. Incentives are the essence of our system. This is what differentiates us from the world's nonmarket countries.

Even a high-ranking Soviet like Chairman Mikoyan, when he was in Chicago one time, said to me, "What we must do is find some way to get some incentives into our system." It was a tacit acknowledgement that the Soviet system needed our Western incentives to keep going—an observation that has only become more apparent over the years.

Certainly, incentives are the essence of the Republican program.

Why do we have such a low rate of saving? There is not enough incentive for it. Why do we have a saver's tax bill now? To provide tax-free treatment for up to $500 interest earned on investments in equities and up to $500 interest earned on a savings account. If we pass this legislation, we shall start to create a new source of capital.

Incentives are the essence of the system. When we remove them, we are going against the very basis of the free enterprise system.

I thank the distinguished Senator for his fine statement.

I am happy to welcome to this colloquy the distinguished Senator from Mississippi.

Mr. COCHRAN. Mr. President, on the 50th anniversary of the beginning of the Great Depression, the day the stock market crashed in New York in 1929, our national leadership would be well advised to pay attention to more of the good, commonsense observations being made by average American citizens who are truly worried that we are on a collision course with a crisis that would be just as serious and harmful to our national health as the economic distress of the 1930's.

All of us in the Senate receive a lot of mail on a lot of subjects, and I realize it is a big job to keep up with all the concerns of the citizens back in our home States. I recently read a very thoughtful, down-to-earth appraisal of our Nation's malaise, not in a big city newspaper editorial, nor from a nationally known expert on economics, but in a letter from a plain, hard-working citizen in my State of Mississippi. He is no different from millions of other Americans on whom this country depends each day.

My constituent, in his letter to me, says:

> The immediate concern to me is the economy. Once again the solution to inflation seems to be: put the screws to the small businessmen and the public but let's don't (sic) cut the federal gravy train.
>
> The government continues to overwhelm us with rules, regulations, but worst of all, tight money policy. We all know that inflation is caused by a fall in productivity; it's when one unit of cost increases while productivity does not. The federal government has done more to contribute to this problem than any other single cause.
>
> Tight money will not cure inflation any more than a tight girdle will cure obesity.

Those are some of my constituent's observations, and I think he makes some good points.

What current national policy is designed to effectively curb inflation? None. What current national program is designed to stimulate productivity? None. What is the majority here in this Senate recommending to improve our economic health? Nothing.

On the other side, however, there is a balanced, well researched economic plan of recovery. It is a Republican policy, and it offers hope for America. I am proud to be a cosponsor of the legislation and am happy to have the opportunity to join with my distinguished colleagues in strongly recommending it for adoption as national policy.

The Government has to realize that its own deficit spending spree and its own policy of more expensive regulations are the real causes of our economic woes. Disaster is around the corner unless a better job is done by our Government to do its part in this most important battle.

Looking at what is in vogue currently as national policy, I think we find an inherent suggestion on the part of our Government that inflation is really the fault of the workingman and woman, the businessmen and women of the country, and that they have to bear the sole burden for curbing inflation.

What has been recommended? Voluntary price and wage controls that are not working. No one is coming to defend that as the best national policy and the best that Government can do to help get us out of this quagmire of economic distress.

The point is that Government is suggesting that it does not have any responsibility in terms of its own behavior to help solve this problem. I think we need to take a hard look at some of the legislation that is pending in the committees now. There is a program to require agencies to submit to committees of Congress the regulations that are proposed to be implemented, together with an economic cost analysis, an economic impact statement, if you will, and let Congress decide whether it is really in the national interest, whether it is consistent with national policy to continue to implement the multibillion dollar regulations that cost this year Americans $600 for every person in the country to pay for the cost of compliance.

That is a dramatic inflationary impact. That is something the Government is doing to the American people and to our economic system, and it needs to be reassessed.

The PRESIDING OFFICER. The time of the Senator from Mississippi has expired.

Mr. COCHRAN. Thank you, Mr. President.

Several Senators addressed the Chair.

Mr. JAVITS. Mr. President, if the Senator will yield me 10 seconds, I thank Senator COCHRAN for his very interesting and useful contributions to the aggregate of our debate on this matter.

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois has the floor and has 6 minutes remaining.

Mr. PERCY. Mr. President, I am happy to yield 1 minute to my distinguished colleague from Minnesota.

Mr. BOSCHWITZ. Mr. President, I also concur in the statements of the distinguished Senators from Mississippi and Wyoming.

I was interested in Senator PERCY's remarks about incentives and how Chairman Mikoyan talked to him about incentives. It is interesting that the effect of incentives are best shown in Russia in the agricultural aspect of the Russian economy.

There are in Russia collective farms but each family on the collective farm is allowed 1 acre for that family to produce what he or she wants. They can consume what they produce, and sell what they produce. These 1-acre plots are sprinkled all over Russia and account for less than 1 percent of the farm land that is tilled in Russia. And yet, from less than 1 percent of the farm land comes 27 percent of the agricultural output of Russia.

So incentives do indeed work. When people are allowed to keep a reasonable share of what they produce, they produce more.

Free enterprise works. There is no question that restoring incentives must be an integral part to the recovery and renewed vigor in our economy.

Mr. PERCY. I thank my distinguished colleague and outstanding successful businessman, the distinguished Senator from Minnesota, who knows something about incentives and has utilized them well.

I thank also our distinguished colleague from Mississippi for his outstanding statement.

I am happy to be joined now by our distinguished colleague from New Mexico.

Mr. SCHMITT. Mr. President, I thank the Senator and I congratulate him and others who have spoken this morning on the issues and have taken the initiative to discuss these issues at this time. It is highly appropriate that we do so.

Mr. President, I am possibly undergoing a change of economic heart in watching the economy and the actions of the administration and others to deal with the economy. I view these activities with great interest as well as great uncertainty.

A CHANGE OF ECONOMIC HEART

When I was in graduate school in the early 1960's, anyone who believed that continents moved around on the mantle of the Earth was part of a radical fringe group. I scoffed at them like most other "right thinking" geologists.

Then new facts born of new technology and new insight proved beyond a reasonable doubt that the Earth's crust is indeed made up of gigantic, slowly moving plates among which are the continents. Now, those who do not believe in continental drift are the fringe group. To survive in my previous profession, I had to change my mind when incontrovertible new facts appeared.

Mr. President, when I became a member of the Banking Committee in early 1977, I quickly came to believe that if we gradually raised interest rates, the rate of growth of the money supply would gradually shrink until it was equal to the rate of growth of the GNP. Thus, inflation, or a great part of it, would disappear. Almost 3 years later we have done more or less what I thought should be done and inflation has increased, not decreased. The economic suffering of our people has thus increased, not decreased.

It may be that we have not raised interest rates high enough, although the psychological effect of their present level certainly cannot be ignored. Rising interest rates are either not working or are grossly inadequate.

Mr. President, I may again have to change my mind. Obviously I do not know everything there is to know about the economy, and I am afraid not everyone else knows everything that they should know about the economy.

Obviously, I viewed the problem too simply. Obviously, we all have viewed the problem too simply. Something else may be afoot that has overwhelmed the traditional monetary policy.

Changing one's mind was easier as a geologist then it is as a politician. As a geologist, I could not ignore new facts very long as I would be a failure professionally. As a politician, changing one's mind is much more difficult. We put, the media puts, our potential challengers put, great importance on being consistent. To stand up in public and say you are wrong means months or years of explanations. Yes, Mr. President, being a geologist and staring facts in the face and saying I was wrong was much easier than being a Senator and doing the same thing.

THE ECONOMIC FOREST

If we stand back and look at the total economy, the economic forest, if you will, a number of possibilities suggest themselves to explain the possible failure of classical monetary policy to arrest inflation even though it has helped to strengthen international confidence in our economy. However, so long as interest rates remain below the inflation rate, their technical effect on the money supply will be small. Their psychological effect on investment may be very serious.

The "nonclassical" factors of significance may be numerous. First, the measured money supply upon which we based our decisions to raise interest rates may not be accurate or may not be the "effective" money supply. This is possible even beyond the gross error recently discovered in the figures reported in October.

Second, rising interest rates in a highly inflated and low-growth economy may be causing an economic instability to develop which accelerates inflation rather than decelerating it.

I do not know yet if there is any factual base for that statement but we must always keep our eyes open for changing conditions and instabilities that may result because of those changing conditions. Objective analysis must always be on the alert for such instabilities when conditions are as aggravated as they are today.

Third, other factors, such as decreasing economic growth, decreasing productivity, increasing energy costs, increased taxes and Federal spending, increased costs of regulations and consumer response to inflation, may have overwhelmed any effect interest rates might have had in other, less aggravated times.

Fourth, the rate of movement of money in the economy, that is, the "velocity of money" may have increased to the point where it is a more critical factor in inflation than the traditional money supply. If money changes hands twice as fast in a month, it is the same as if there were twice as much money in circulation in that month.

And, fifth, all of the above may be true or there is something else happening that we have missed.

Out of this broad look at the present economy, two questions present themselves. First, what is the rate of growth of the "effective" money supply, defined to include the velocity of money? To this rate of growth of "effective" money supply must be compared the rate of increase in the true value of goods and services upon which that money is being spent. Obviously, the difference between these two rates is a major factor in inflation if the rate of growth of the "effective" money supply is the larger.

The second question is, what are the magnitudes of other factors contributing to inflation which are unaffected or made worse by high interest rates?

"EFFECTIVE" MONEY SUPPLY

Let us look more closely at the first question. It has become even more clear than ever that the Fed's ability to measure the actual money supply (M_1, M_2, and so forth) is a black art if not impossible. In addition to the major inaccuracies inherent in these measurements, the "effective" money supply must include consideration of the rate of use of money or its "velocity."

If one dollar moves through the economy twice as fast in 1979 than it was moving in 1969, then the "effective" money supply has doubled even though the actual money supply has not changed.

Many qualitative factors strongly suggest that there has been a major increase in the "effective" money supply due to recent increases in the velocity of money. First and foremost there is high inflation itself which encourages spending rather than savings or investment at interest rates less than the inflation rate.

Next, there is the fact that already high taxes pushed ever higher by inflation further discourage savings and investment.

The rate of financial transactions also have been greatly accelerated by new communications and computer technologies. Finally, there is the increasing acceptability of the credit buying ethic, itself now encouraged by static delayed payment, interest rates and, again, high inflation.

Put all of this together and the actual money supply may be only a part of the "effective" money supply which in turn may be growing at an ever increasing, as yet not measured rate. Also, interest rates might have no noticable effect on decreasing the rate of increase in the velocity of money, as well as having no technical effect on investment and thus have had no effect on inflation.

OTHER INFLATION FACTORS

Decreasing productivity and increasing energy costs are probably the two major contributors to our current inflation outside the high rate of increase in the "effective" money supply due to money velocity factors.

A decline in productivity in recent years can be related to many inadequacies in Government policy. As productivity declines relative to an increasing "effective" money supply, the goods and services produced are fewer in number and are bid upward in price by consumers who are understandably unwilling to save.

It is difficult to isolate any one factor that is mostly to blame for our declining productivity. The loss of a work ethic is often blamed but may actually be clearly the least significant if, in fact, it can be proved quantitatively. More important factors affecting productivity are those which discourage investment in new and more efficient production. Those adverse factors which Government could eliminate are counterproductive tax law, excessive and conflicting regulation, a decline in Federal and private research and development, repressive patent policies that discourage innovation, discouragement of low cost domestic energy production, and, now, excessively high interest rates. Obviously, these are things we could do something about if we would face the facts squarely and change those laws that have caused the current situation to develop.

CONCLUSION

Mr. President, the administration's anti-inflation policy is as bankrupt as was Hoover's antidepression policy 50 years ago. Today, to coerce business and workers to hold down prices and wages severely penalizes those who suffer most from inflation. To slow the production of goods and services by massive new taxes merely fuels the fire of inflation. The President's advisors, like quack doctors, have mistaken the symptoms of the disease for the disease.

Mr. President, the basic foundations of our economy remain strong in spite of all we have done to talk ourselves into a recession. Unemployment has decreased during most of the year; investment and consumer buying have been steady if not spectacular; orders for new plants and equipment are higher than expected.

The solution to inflation and our other economic problems will only come when we recognize that time and technlogy have changed the basic character of the economy. The only way to regain control, to stabilize, and then to move steadily ahead is to encourage a rapid increase in the growth of goods, services and productivity which can counter the rapid increase in the growth of our "effective" money supply and undercut artificially high foreign energy prices.

Less tax, not more is part of the cure.

Less Federal spending, not more, is part of the cure.

Less management by regulation, not more, is part of the cure.

Lower interest rates, not higher, is part of the cure.

Growth, not stagnation, is the cure.

(During Mr. SCHMITT's statement, the following colloquy occurred:)

The PRESIDING OFFICER. All time for morning business and special orders has expired.

Mr. JAVITS. Mr. President, I ask unanimous consent that the Senator have 1 minute, with the leader's permission.

Mr. ROBERT C. BYRD. Mr. President, will the Senator withdraw his request?

Mr. JAVITS. I do.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator from New Mexico have 2 minutes, and the Senator from Alaska have 5, and that morning business then be closed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, I ask unanimous consent that my remarks not be interrupted by the previous discussion.

Mr. JAVITS. Mr. President, will the Senator yield me 30 seconds, just to thank Senator SCHMITT and all of those who have participated in this colloquy.

Mr. GRAVEL. Yes.

Mr. JAVITS. I think we have said things which needed to be said today on an anniversary like this in the interests of both the Congress and the country, and I thank my colleagues who participated, I thank them very much.

Mr. SCHMITT. I thank the Senator.

Mr. GRAVEL. Mr. President, I merely want to rise to make a statement on this side of the aisle. I was in my office listening to the colloquy among the Members of the minority party on this very fateful day, commemorating the events of 50 years ago.

I would just like to add my views, which are in slight variance, with theirs, and that I hope are not touched in any way with partisanship.

I think it should be noted that in 1929 Congress was under the control of the Republican leadership, and it was as a result of the passage of a piece of legislation that occasioned the depression. There was really only one force upon the market that caused the market to react markedly and that, of course, was the force of political action. It was the passage of the Smoot-Hawley Act in Congress that triggered the great loss in the stock market and also set this Nation on a course of a world depression.

That was most unfortunate in that regard, and to that end I would like to introduce, and I ask unanimous consent to introduce, in the Record at this moment in my statement an article by Jude Wanniski in the Wall Street Journal, and also a chapter from his book which details hour by hour the events which took place in 1929 around the world that precipitated this Nation into this most unfortunate crash.

There being no objection, the material was ordered to be printed in the Record, as follows:

The Crash and Classical Economics

(By Jude Wanniski)

Fifty years ago, the great Wall Street "Crash of '29" ended the boom of the Roaring Twenties and ushered in the Great Depression. This most cataclysmic economic event of the century had many victims, but one of the most important casualties was classical economic theory. When classical theory could not explain the Crash, it was ridiculed and replaced by modern economic schools that have dominated global politics ever since.

In late March 1977, I found what I believe is the key to the Crash. At the time an editor of this editorial page, I had taken a leave to research and write a general theory of the world political economy. And because it was to be partially based on a revival of classical economic theory, it was necessary that I somehow demonstrate that the Crash of 1929 was consistent with classical theory.

The importance of this discovery, outlined on this page two years ago (Oct. 28, 1977), is that it reaffirms the validity of Say's "law of markets," which is the keystone of classical theory. The discovery came just as the modern schools of Keynesianism and monetarism were in precipitous decline, unable to explain the Great Stagflation of the the 1970s. Now, for the first time in half a century, young economists can proudly proclaim themselves as "supply siders," referring to the classical side of the "laws of supply and demand." The modern schools grew out of the demand side of the equation, and it is suddenly no longer fashionable to be identified as such.

SURPLUS OF GOODS

The '29 Crash seemed to occur because of a surplus in the supply of goods, which is another way of saying a deficiency in the demand for goods. This negates Say's Law, named after Jean Baptiste Say, who formulated it between 1809 and 1819.

Say, the French popularizer of Adam Smith's "Wealth of Nations," wrote: "One can only buy with what one has produced," and "The one product constitutes the means of purchasing another," and "A product created offers, *from that instant*, a market for other commodities to the full total of its value." This became boiled down to others to: "Supply creates its own demand."

In other words, suppliers of goods come together in the marketplace to exchange goods. If a surplus appears in one place only, it's because in other places sufficient goods have not been produced to purchase that surplus. If a surplus appears everywhere, only an artificial barrier to commerce could have been the cause—some impediment to trade imposed by government. Thus the free-marketeer's dictum to government of "laissez faire," roughly "hands-off!"

In the last week of October in 1929 there were no signs that the dictum was being breeched. The market was simply collapsing around everyone's ears. The classical economists, without an explanation, were at the mercy of the modern economists who would argue that "Demand creates its own supply." Indeed, John Maynard Keynes would open his "General Theory," published in 1936, with a scathing denunciation of Say's Law. How could Say be correct, Keynes insisted, when everywhere there is excess supply? The problem, he argued, is insufficient demand!

In short order, the classical "supply side" school almost ceased to exist, except as a laughing stock. The Keynesians took over with their demand arguments: The Depression occurred because of insufficient purchasing power among demanders of goods—and excessive savings among producers of goods. Their answer: Have the government fix up this imbalance by borrowing or taxing goods away from the producers of surplus and distributing them via government programs. Through "demand management" the government can "fine tune" the economy, keeping production and consumption balanced.

A more conservative "demand school" was also founded. The monetarists argued that the U.S. government printed too much money prior to October 1929 and printed too little money after that date. Their form of demand management is to have government money injected into or withdrawn from the private sector via bank reserves. In both liberal and conservative demand schools, by necessity, it is the government rather than the individual which has the central role, either through budgetary manipulation or monetary manipulation.

The classical economists of 50 years ago unfortunately did not have the benefit of "efficient markets theory" or they might have seen that it was the Smoot-Hawley Tariff Act of 1930 that caused the Crash of '29. The theory of efficient markets, developed in the 1960s, suggests the near instantaneously ability of markets to analyze new information and adjust prices accordingly. The concept would have led 1929's economists to look more closely at political news coming into the market.

That is, when news came to the 1929 marketplace that something bad was going to happen in 1930, it discounted these "rational expectations" into 1929 values, doing so expeditiously, efficiently. The market crasked in the last week of October 1929 as it absorbed the hard news that there would almost certainly be a tariff act passed into law the following year.

This was no puny tariff hike, but a huge increase in the duties on 20,000 commodities. American trading partners, outraged at this colossal protectionism, retaliated with tariff walls of their own. The efficiencies of the global marketplace were thus fractured and global trade shriveled. All economists agree the trade wars deepened a Depression that had already started. What I found in researching the period is the following:

On Sept. 3, 1929, the Dow Jones industrial average hit its peak of 381. The slow slide that commenced that day coincided with the return of the U.S. Senate from a summer holiday. Prior to the holiday, only 40 Republican Senators favored the steep tariff wall of Smoot-Hawley; surely the 56 Democrats and the Progressive Republicans in opposition would kill it. The bill, the only major piece of legislation before the Congress that autumn, had already passed the House of Representatives. By Oct. 21, when the bill came to the Senate floor after weeks of hearings, there were some gathering doubts about the ability of Democrats and Progressive Republicans to stop it. The DJI had dropped to 323.

Over the next eight days, Chairman Reed Smoot of the Senate Finance Committee, a Utah Republican, maneuvered amendments in a way that broke up the Democrat-Progressive coalition; the market churned dramatically during this splintering process. The news on the morning of Oct. 28, a Monday, was that the pro-tariff forces were now in the majority; the DJI fell 38 points that day.

The following day the reports out of Washington seemed aimed at assuring the stock market that the bill would pass, that the steep tariff would be good for American business. Another 30 points were lost as 16 million shares changed hands. On this Black Tuesday of 50 years ago, the DJI dropped to 230. But it was not until July 8, 1932, that it hit bottom, at 41. The market advance that then began coincided with Franklin Roosevelt's nomination on an anti-tariff platform.

Why would the market's anticipation of Smoot-Hawley cause such a crash in values? The answer lies within the framework of classical theory: When suppliers of goods come together in the marketplace to exchange goods, they are discouraged if the government takes a huge tax bite out of each transaction. The tariff is a tax on international trade, the only kind of tax the U.S. Congress can impose on foreign citizens, which explains why stock markets collapsed around the world in 1929, not only in New York.

The U.S. economy, after all, was integrated with the rest of the world economy. The rest of the world owed U.S. citizens $30 billion in 1929, and the only way these IOUs could be paid off was if foreigners could export their goods to the U.S. in payment. As the tariff wall was seen going up, it would be difficult to collect the debt via goods passing over it; the value of financial assets had to be discounted accordingly.

A MORE SATISFYING EXPLANATION

This seems a more satisfying explanation of the Crash of 1929 than the traditional one, which most of us learned in junior high school, that "speculators" bid the price up and the market fell because it was too high. This view, which overlooks the global simultaneity of the Crash, only fits the modern demand theories.

Yes, the Depression that followed was characterized by surpluses everywhere, but Say would have observed that it had all been triggered by an artificial barrier to commerce, an impediment to trade imposed by government in the form of a tariff wall. Having explained the Crash, Say would then be in a position to explain away the current stagnation and inflation: The stifling barriers to commerce caused by unnecessarily high tax rates, unnecessary regulation, and a rootless, inconvertible currency that is manipulated in a futile attempt to alter production when it should be maintained as a reliable medium of exchange.

The Stock Market and the Wedge

World War I was a war of political succession, as opposed to a violent resolution of economic conflict. It in fact made the world "safe for democracy," in the sense that at its conclusion the global electorate's long experimentation with monarchy was at last over. There would still be crowned figureheads scattered over the terrain—in Britain, Italy, Japan, etc.—but for the first time in the history of civilization there was in 1918 no serious experiment in political aristocracy still underway. The Hohenzollerns gave away to an economically crippled democracy in Germany. The Russians had seen their last czar as they embarked on a new kind of democratic experiment. Except in the colonies of the European powers, the political systems throughout the world were such that a boy of any economic class could grow up to sit behind a political desk at which the buck would stop. It would take a second great war to bring this same condition to the colonies.

The important economic fact at the conclusion of World War I was the magnitude of international war debts. Until 1914, the United States had been a debtor nation throughout its history, a recipient of cash from eager investors abroad. In other words, in 1914 the rest of the world owned more U.S. assets than the United States owned of the assets of the rest of the world. By the war's end, this condition reversed, as Europe not only sold U.S. assets to Americans to finance the war, but also sold European assets (bonds) to Americans to finance the enormously expensive conflict. Rest-of-the-world debt to the United States in 1918 came to $11.9 billion, roughly a third of national income in the United States. Britain, which ran up $4.7 billion of this amount, in turn was owed $11.1 billion by the rest of Europe, much of it in worthless czarist bonds. France came out a net debtor to the amount of $3.5 billion. The rest of the world, excluding the United States, Britain, and France was in hock to these nations in the amount of $14.8 billion.

That wasn't all. The victors in the war spent three years calculating the war reparations that Germany would have to pay, and finally arrived at the figure of $33 billion. That amount, about equal to U.S. national income, was arrived at by an intricate process of adding up debt incurred by the allies as a result of the war—including pensions for veterans—and more or less approximated the net domestic and international indebtedness of the allies. The problem after every war is to figure out how to pay off the bonds floated to finance that cost not covered by war taxation. The allies sought to have the vanquished Germans pay it all.

The allies did not think they were being unreasonable. Germany had been left relatively unscarred by the war, which was largely fought on French soil. The way the allies worked it out, principal and interest on the $33 billion would amount to 7 percent of Germany's prewar national output. Not a stupendous amount.

The difficulty, not understood at the time, was that Germany like all other nations engaged in the war, had increased domestic taxation during the war and these high tax rates still remained in effect. Point E on the Laffer Curve, the turning point, had changed as Germany shifted from war to peace, and the tax rates thereby shifted into the prohibitive range. A further increase in tax rates to slice 7 percent of prewar output from the economy would only further contract output and revenues. Even if there had been no reparations, the economy could not return to prewar output as long as the tax rates remained in the prohibitive range. Germany actually made a payment of $250 million in the summer of 1921, not by raising taxes, but merely by printing reichsmarks (RMs) and using these to buy up foreign currencies equivalent to $250 million. This naturally flooded the market with reichsmarks without increasing the volume of goods and services they could buy and the price of goods in terms of RMs rose sharply. This burst of inflation caused internal convulsions in Germany. As the medium of exchange lost value as a lubricant to commerce, the economy became less efficient, output fell further, and revenues to the government fell too. The government then printed more currency to pay its domestic bills, repeating the process and inducing the hyper-inflation of 1922-23.

The effect of this hyper-inflation was to wipe out all domestic debt denominated in reichsmarks. This included the bonds Germany floated internally to finance World War I, and also all mortgages and contracts made in RMs. Before the currency was stabilized, the reichsmark supply came to more than 4 quintillion—RM 4,000,000,000,000,000,000. The currency stabilization was possible because government tax revenues did not have to cover internal debt finance, there no longer being internal debt. The savings and financial assets of the German people were wiped out, but so of course were their debts, and their human capital—intelligence, skills, and resourcefulness—remained. The international debt—denominated in gold reichsmarks—and including reparations, remained. It could not be inflated away.

The allies showed little sympathy for Germany even as it observed the hyper-inflation, seeing instead that because Germany had now wiped out its internal public debt, it should be all the easier for it to pay reparations. If it would only raise tax rates! As a result, the allies kept Germany bound to the upper range of the Laffer Curve, from which it would not escape until the 1950s.

The stubbornness of the allies grew out of the fact that they, too, had been pushed into the prohibitive range of the Laffer Curve during the war. With the exception of the United States, they all had to finance not only internal but international debt. Great Britain was in a net creditor position internationally, but how could she pay the $4.7 billion she owed the United States if she were not concurrently being paid the money owed her by the other allies? And how could the other allies pay Great Britain if Germany was not paying reparations?

The answer to these seemingly impossible questions is that if Britain, France, and Germany had reduced the tax rates imposed in war to pre-war levels, there would have been a European economic expansion that would have reduced the size of these international debts *relative to their national incomes*. Britain and France did not do so because they were mesmerized by their domestic and international indebtedness, and Germany did not because of the pressure of her creditors for reparation payments.

Only the United States pulled itself down from the upper reaches of the Laffer Curve. The Wilson administration imposed high tax rates in 1917; an excess profits tax on business, a doubling of the normal corporate rate to 12 percent, and sharp increases on personal income tax rates. The 15 percent rate on $2 million and above gave way to a 77 percent rate on incomes above $1 million. The lowest bracket, 2 percent on $20,000, gave way to a 6 percent marginal rate on $4.000. The domestic public debt grew to $24 billion from $1 billion because of war finance. This figure mesmerized the Democrats in power, and at the conclusion of the war the high tax rates were left in place with the idea that the revenues would go to paying off the $24 billion public debt. Instead, the United States slid into a recession, as peacetime put the tax rates into the prohibitive range.

In the 1920 elections, the Republican candidate called for a "return to normalcy" on tax rates, that is a return to the prewar rates. In his acceptance speech, Warren G. Harding, Ohio senator, told the GOP convention: "I believe the tax burdens imposed for the war emergency must be revised to the needs of peace, and in the interest of equity in the distribution of the burden." [1]

Harding won by the greatest landslide in the history of presidential elections at the time, bringing in with him 303 Republicans to the House of Representatives. Harding's Treasury Secretary, Andrew Mellon, wanted the personal income-tax rates to come down to 25 percent as well as removal of the excess-profits tax, but Congress worried that the bite would be too deep into revenues and held him to a cut in the top personal bracket to 57 percent and elimination of the excess-profits tax. The economy crept out of the recession nevertheless.

Unhappily, the Republicans of the era had the same difficulty in seeing the symmetry between domestic tax wedges and international tax wedges that Napoleon had a century earlier. At the same time that Republicans argued for a lessening of the tax wedge between domestic transactions, they argued the need for a greater wedge in international transactions, i.e., the protective tariff. As the Harding administration was winning a lowering of the wartime tax rates in 1921, it was also pushing along the Fordney-McCumber Tariff of 1922. The Democrats, conversely, favored an expanded domestic tax wedge (explicitly on the well-to-do) and opposed tariff protection.

As protective tariffs go, the 1922 Act was not especially onerous, the rates going back up to where they were before the Democrats had reduced them in 1913. The tax-cutting more than compensated and the economy pushed ahead, Gross National Product climbing from $69.6 billion in 1921 to $74.1 billion in 1922. Treasury Secretary Mellon inveigled another round of tax cuts from Congress, now sufficiently impressed with the economic and revenue effects of the first round. The top bracket was cut to 46 percent from 56 percent and the income threshold at which the top bracket was encountered went to $500,000 from $200,000. The lowest bracket, $4,000, had its rate cut as well, to 1.5 percent from twice that. Again, the economy responded and revenues sufficient to produce another budget surplus came into the Treasury. GNP went to $85 billion, with no inflation. Consumer prices even inched downward from the 1920 level.

The really explosive growth of the decade was still to come. We can see its foundations in a speech by Calvin Coolidge, who succeeded Harding as President upon Harding's death in 1923. The speech, delivered on Feb. 12, 1924 before the National Republican Club in New York, may be the most lucid articulation of the wedge model by a politician in modern times. It is quoted at length here.

> In time of war, finances, like all else, must yield to national defense and preservation. In time of peace, finances, like all else, should minister to the general welfare. Immediately upon taking office it was determined after conference with Secretary Mellon that the Treasury Department should study the possibility of tax reduction for the purpose of securing relief to all taxpayers of the country and emancipating business from unreasonable and hampering exactions. The result was the proposed bill, which is now pending before Congress. It is doubtful if any measure ever received more generous testimony of approval. . . .
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> The proposed bill maintains the fixed policy of rates graduated in proportion to ability to pay. The policy has received almost universal sanction. It is sustained by sound arguments based on economic, social and moral grounds. But in taxation, like everything else, it is necessary to test a theory by practical results. The first object of taxation is to secure revenue. When the taxation of large incomes is approached with that in view, the problem is to find a rate which will produce the largest returns. Experience does not show that the higher rate produces the larger revenue. Experience is all in the other way. When the surtax on incomes of $300,000 and over was but 10 percent, the revenue was

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[1] There were other themes in the speech, including civil rights: "I believe the Negro citizens of America should be guaranteed the enjoyment of all their rights, that they have earned the full measure of citizenship bestowed, that all their sacrifices in blood on the battlefield of the Republic have entitled them to all of freedom and opportunity, all of sympathy and aid that the American spirit of fairness and justice demands."

about the same as when it was at 65 percent. There is no escaping the fact that when the taxation of large incomes is excessive, they tend to disappear. In 1916 there were 206 incomes of $1,000,000 or more. Then the high rate went into effect. The next year there were only 141, and in 1918, but 67. In 1919, the number declined to 65. In 1920 it fell to 33, and in 1921 it was further reduced to 21. I am not making argument with the man who believes that 55 percent ought to be taken away from the man with $1,000,000 income, or 68 percent from a $5,000,000 income; but, when it is considered that in the effort to get these amounts we are rapidly approaching the point of getting nothing at all, it is necessary to look for a more practical method. That can be done only by a reduction of the high surtaxes when viewed solely as a revenue proposition, to about 25 percent.

I agree perfectly with those who wish to relieve the small taxpayer by getting the largest possible contribution from the people with large incomes. But if the rates on large incomes are so high that they disappear, the small taxpayer will be left to bear the entire burden. If, on the other hand, the rates are placed where they will get the most revenue from the large incomes, then the small taxpayer will be relieved. The experience of the Treasury Department and the opinion of the best experts place the rate which will collect most from the people of great wealth, thus giving the largest relief to people of moderate wealth, at not over 25 percent.

A very important social and economic question is also involved in high rates. That is the result taxation has upon national development. Our progress in that direction depends upon two factors—personal ability and surplus income. An expanding prosperity requires that the largest possible amount of surplus income should be invested in productive enterprise under the direction of the best personal ability. This will not be done if the rewards of such action are very largely taken away by taxation. If we had a tax whereby on the first working day the Government took 5 percent of your wages, on the second day 10 percent, on the third day 20 percent, on the fourth day 30 percent, on the fifth day 50 percent, and on the sixth day 60 percent, how many of you would continue to work on the last two days of the week? It is the same with capital. Surplus income will go into tax-exempt securities. It will refuse to take the risk incidental to embarking in business. This will raise the rate which established business will have to pay for new capital, and will result in a marked increase in the cost of living. If new capital will not flow into competing enterprise the present concerns tend toward monopoly, increasing again the prices which the people must pay.

The high prices paid and low prices received on the farm are directly due to our unsound method of taxation. I shall illustrate this by a simple example: A farmer ships a steer to Chicago. His tax, the tax on the railroad transporting the animal, and of the yards where the animal is sold, go into the price of the animal to the packer. The packer's tax goes into the price of the hide to the New England shoe manufacturer. The manufacturer's tax goes into the price to the wholesaler, and the wholesaler's tax goes into the price to the retailer, who in turn adds his tax in the price to the purchaser. So it may be said that if the farmer ultimately wears the shoes he pays everybody's taxes from the farm to his feet. It is for these reasons that high taxes mean a high price level, and a high price level in its turn means difficulty in meeting world competition.

Most of all, the farmer suffers from the effect of this high price level. In what he buys he meets domestic costs of high taxes and the high price level. It is essential, therefore, for the good of the people as a whole that we pay not so much attention to the tax paid directly by a certain number of taxpayers, but we must devote our efforts to relieving the tax paid indirectly by the whole people.

As it gradually became clearer through 1924 that the Coolidge bill, not the Democratic alternative had sufficient support for passage, and that Mellon would realize his aim of a 25 percent top bracket, the great Coolidge bull market got underway. It had taken four years for the New York Times index of industrial share prices to move from 90 to 106, floating around 100 for most of the period. Now it began to climb in earnest and by December, 1924 was at 134. At the end of 1925 it reached 181, pausing at that plateau through 1926, moving again in 1927 to 245 at year's end. Before the Times industrials peaked in Sept. 19, 1929, the index had more than quadrupled, to 469, in a mere five and a half years. The Dow Jones industrial average followed a similar track, doubling from 191 in early 1928 to 381 in September, 1929.

There is in the current history of that era no mention of the relationship between the Mellon tax cuts and the Coolidge bull market. In his book The Great Crash 1929, John Kenneth Galbraith makes no attempt to explain why the boom occurred. Charles Kindleberger, in The World in Depression, 1929–39, puzzles about the cause and, without much enthusiasm suggests that "the boom was built around the automobile," without saying what caused that boom. Goronwy Rees writes in The Great Slump; Capitalism in Crisis, 1929–1933 that the "restoration of political stability from 1925 onwards was accompanied by a spectacular economic recovery." Rees mentions the Mellon tax cuts, but only by way of denigrating them as reactionary. Two monetarist schools have differing views. Murray Rothbard has a broad definition of what constitutes "money," and so reckons the expansion from 1921–1929 as "an inflationary boom," the money supply by his reckoning having increased by 61.8 percent over the eight years. His America's Great Depression seems untroubled by the fall in the consumer price index over eight years, from 53.6 to 51.3. Because their definition of money is narrow, Milton Friedman and Anna Schwartz are forced to argue that while the stock market boomed, the economy did not. In The Great Contraction, they assert that "Federal Reserve policy was not restrictive enough to halt the bull market yet too restrictive to foster vigorous business expansion."

But of course the period was one of phenomenal economic expansion. GNP grew from $69.6 billion to $103.1 billion. And because prices fell, GNP grew even faster in real terms, by 54 percent over the stretch. On a 1947 index equaling 100, output per man hour of U.S. production workers grew from 44.6 to 74.3 in the decade, a percentage increase of 66.5. The Federal Reserve Board index of industrial production leaped from 12 to 23 between 1921 and 1929.

Modern Keynesians are as baffled by the boom as are the monetarists. From their theoretical vantage point, tax cuts will "stimulate" an economy only if they are concentrated in the lower income classes, which, according to this theory, have "a higher propensity to spend" than do rich people. In any case, the economy will contract if the government runs persistent budget surpluses, yet from 1920 to 1930, Mellon managed to cut the national debt to $16.9 billion from $24.3 billion. Lord Keynes himself never troubled to explain the boom, possibly because he resided in Cambridge, England, and in England there was no boom at all in the 1920s. Great Britain, after all, left the steep progressive income taxes it imposed in 1914 in effect during the peace, and to this day has not reduced them.[2]

One other nation came down from the prohibitive range of the Laffer Curve in the 1920s, and like the United States it enjoyed a boom. In 1922, Benito Mussolini, a socialist newspaper editor who turned conservative after the war, was invited by the King of Italy to take control of the government, in crisis as a result of severe economic contraction. Mussolini brought with him a finance minister, Alberto de Stefani, who had been a professor of classical economics at the Technology Institute of Vicenza. De Stefani slashed both tariffs and Italy's progressive income tax. The Italian economy went into immediate expansion and even during the 1930s suffered much less economic contraction than the other industrial nations. As we will later see, both Franklin D. Roosevelt and Adolph Hitler misinterpreted the source of the Italian boom, with World War II the result.

It is never possible to say with precision why the stock market rises or falls, any more than it is possible for any individual to precisely discern the wishes of the electorate. In a sense, the stock market is an instrument of the electorate, the most accurate and efficient forecaster of the economic component of the political economy. There are dozens of stock markets around the world, and each of them has some value in this regard, but the only one with the breadth and depth to stand as a gauge of the global political economy is the New York Stock Exchange. It is massive enough so that no group of individuals can manipulate it. The companies it aggregates do business in almost every corner of the globe, constantly feeding information of a political and economic nature back to this central marketplace. The marketplace itself exists in a free and uncontrolled information center. It is inconceivable that information that bears on profit or loss can be known anywhere in the world without soon being absorbed by this most sensitive intelligence, which is open to all intelligence directly or indirectly. People will speak of the market being "underpriced" or "overpriced," but there is no real sense in which this can be true. The market is composed of all the people who are active in the market and can with a telephone call become inactive, and also all the people who are inactive, and with a telephone call become active, either by buying shares or supplying information to someone who will buy shares. At any moment, the market is fully priced.

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[2] France imposed a steeply progressive income tax in 1920 in the name of tax reform—which the French called a "sucker's tax" (impôt des poires)—to be paid only by those who could not escape it. As the government became more adept at enforcing the tax, the French economy contracted amid steady inflation, culminating in the 1924 financial crisis. Total government revenues, measured in prewar francs, were only a bit higher from 1920–25 than in 1913, when there was no income tax. The crisis ended in 1926 when the leftwing Herriot Cabinet fell and the center-right Poincare Cabinet one week later announced a new tax law, on August 3.

The highest rate of the general income tax was cut from 60 percent to 30 percent. The rates of the inheritance and estate taxes were cut, and at the same time made less steeply progressive. The annual transmission tax on securities was lowered by about 40 percent; the *carnet de coupons*, devised to check evasion of the general income tax as concerned revenue from securities, was abolished.

The franc stabilized, the economy revived, and in the first year of the reform, tax revenues jumped dramatically, from 5.4 billion prewar francs to 7 billion. In the six months from July to the end of 1926, the franc soared on the foreign-exchange market, from two cents to four cents on the dollar.

Technically, what the market measures in the process of absorbing information and translating it into a valuation of the market shares is the capital stock of the United States. Think of the market as an instrument that has a mind of its own, over and beyond the total of minds participating in it. The market is the most accurately programed computer on the planet, the closest expression of the mind of the electorate itself. It places a value on each company within it, based on its calculation of that company's future income stream. While the planet itself throws off information that is absorbed by the market pertinent to future income streams, planetary information is relatively trivial because planetary changes, when they occur, are glacial. Summer sooner or later follows spring. The most important information coming to the market is political news. War and peace, after all, can turn on the chemistry of a single mind. Political news is volatile, because it can instantly and dramatically alter the market's future income streams.

It is frequently possible to relate market shifts to political developments with a high degree of certainty, but the market's reasoning is still beyond comprehension. On November 22, 1963, when President Kennedy was assassinated, the Dow Jones Industrials fell 22 points. The market fell because of the assassination, but it recovered all the lost ground the following day and gained 11 more points. If we cannot tell the market's reasoning of why it recovered, how can we plumb its calculations of why it saw future income streams threatened by the assassination?

The Coolidge bull market ended in September, 1929; with finality the following month with the Crash. The most common explanation of the Crash to this day is that the market was overpriced because of speculation, as if this great, sensitive brain was somehow fooled into misjudging future flows of income. As if individuals could bid the market up without other individuals being present to assess value soberly and bid it down. The fact is, from the vantage point of the wedge model, the market at its peak was exactly where it should have been, and the Crash came because the chemistry of a few individual political minds turned the system toward stupendous error. The evidence of what went wrong is therefore magnificently encouraging, for it removes the burden of error from masses of people and places it on a tiny few, who can be forgiven because they were merely human.

The stock market Crash of 1929 and the Great Depression ensued because of the passage of the Smoot-Hawley Tariff Act of 1930.

When any economic unit becomes wealthier relative to the rest of the world, whether the unit be a family or a nation, it becomes uneconomic for members of that unit to persist in work consistent with the lower level of wealth. When Jones graduates from medical school, it soon is evident that his wife need no longer work as a typist unless she desires the non-monetary rewards. If Mrs. Jones should sell a successful novel, it is plain her children no longer need work their way through college.

As the United States became wealthier relative to the rest of the world during 1919-1929, the same happy condition applied, but with an unfortunate exception. A husband easily transfers the rewards of wealth to his wife and family, and so does the successful wife. In a nation, if there is no system for such transmittal, wealth brings its own problems. The system itself can advance to higher levels of prosperity even as a class of individuals within the system is being made obsolete.

So it was in the 1920s. The U.S. economy moved to higher levels of wealth. All segments of the economy became wealthier, but some became wealthier at a relatively slower pace. Throughout the economy, individuals became obsolete in the jobs they held at the lower level of wealth and had to adjust to new work. For most, this was a happy experience; promotion. What this invariably means is that the individual uses his physical capital less and his intellectual capital more. Instead of hammering out a widget, he makes one with a widget-making machine. The bank teller becomes a cashier. The laborer is recruited to be an apprentice plumber.

For some individuals, though, transition is not a happy experience. The economy as a whole must move to greater emphasis on intellectual capital and less emphasis on physical capital as it rises to a higher level of wealth. On the margin of society, those who would not make the transition voluntarily are forced to do so by the weight of expansion.

The textile mills of New England, for example, give way to machine tools or electronics manufacturing, which are more "capital intensive," and less "labor intensive." New England becomes too wealthy to produce textiles. Similarily, the Southern states face the same transition by moving small farmers who have been pushing plows into now transplanted textile mills, while other farmers turn in their plows and horses to buy tractors.

Those who resist transition, often because they are too old to begin new careers or must move too far from family and friends, are crushed by progress. This was the dynamic of the late 1920s. All segments of the economy were becoming wealthier rapidly, but the labor-intensive farmer was being wiped out by falling farm prices. That is, a non-farm worker could trade his labor for more farm goods than was the case prior to the expansion. On the other side of the coin, the farm worker could trade his labor for fewer non-farm goods and services. To adjust back to equilibrium, more farmers had to become industrial workers. They were indeed doing so, but the expansion required ever faster transition, and the political system felt this as an irritation.

The Republican Party in 1928 looked at this phenomenon as something to be corrected, as if "balanced" growth meant that the higher level of economic wealth should be enjoyed equally by all segments, industrial and agricultural. This problem, of course, is the primordial question of political economy: what do you do with the fisherman who breaks his leg or the marginal farmer who becomes obsolete? In a fragmented world economy, the question has special complications, for if the wealthiest nation becomes too wealthy to perform labor-intensive work, it must then rely on other nations to supply labor-intensive goods, and the supply becomes vulnerable. It is one thing to shift textile mills from Massachusetts to South Carolina; it is another to shift them to Taiwan and South Korea. The same is true of agriculture. As a political economy expands to a higher level of wealth, its impulse for survival drives toward expansion of its borders to take in land and population that can be committed to labor-intensive goods safely secured. Caesar solved Rome's problem in this fashion by conquest and empire. Great Britain built its colonial empire in the nineteenth century for this reason. When Sir Robert Peel, the British prime minister in 1843 faced the same problem that the Republicans and Herbert Hoover faced in 1928, his answer was repeal of the Corn Laws—the British protective tariffs on agricultural goods. The rest of the world would supply Britain with labor-intensive foodstuffs. Britain would be free to develop its intellectual capital. The supply line would be secured through colonial empire and the commonwealth agreements. The subsidized British farmers were forced to adjust.[3]

The Republican Party in 1928 went the other way. It sought to adjust the imbalance in wealth positions between farm and city by raising the protective tariff on foreign agricultural products, stating in its party platform:

> The Republican Party believes that the home market, built up under the protective policy, belongs to the American farmer, and it pledges its support of legislation which will give this market to him to the full extent of his ability to supply it.... It is inconceivable that American labor will ever consent to the abolition of protection, which would bring the American standard of living down to the level of that in Europe, or that the American farmer could survive if the enormous consuming power of the people in this country were curtailed and its market at home, if not destroyed, at least seriously impaired.

A tariff is of course nothing more than a tax on international transactions. A domestic tax—a sales or income tax—is a wedge between the trading of labor by Jones and Smith. The tariff is a wedge between the trading of labor by Jones, a national, and Schmidt, a foreigner. The effects on commerce are precisely the same. And just as Jones does not benefit when Smith is taxed or vice versa, neither does Jones benefit when Schmidt is taxed, or vice versa:

> Gain through freeing imports from taxation does not depend on other countries doing the same. For other countries to tax our exports to them is an injury to us and an obstacle to trade. For us to tax their exports to us is not a correction of that injury; it is just a separate additional obstacle to trade.... If one country has good harbours while all the rest have bad ones, it will not realize the advantages of good harbours so fully as if all the rest had good ones also. But it will realize some advantages; it will be better off than if it, too, sank rocks all round its coast.

The United States from its earliest days imposed tariffs as its chief source of revenue. The idea of a protective tariff took root in the Tariff of 1816, when the shoe was on the other foot. At the conclusion of the Napoleonic wars in 1815, the fear was that cheap manufacturers from Europe would wipe out the fledgling U.S. industries. Thomas Jefferson, who had opposed protectionism earlier, now, at seventy-three years of age, decided that conditions warranted a change: "To be independent for the comforts of life we must fabricate them ourselves. We must now place the manufacturer by the side of the agriculturist. . . . Experience has now taught me that manufacturers are now as necessary to our independence as to our comfort."

Jefferson's political rationale in defense of protectionism had small merit, then as now. It was one thing to protect then, when the United States was a small debtor nation and the revenue from the "protective" tariff was the chief source of financing legitimate government services. (Much of the revenues from the 1816 tariffs paid off the public debt, which meant a decrease in future domestic taxes.) It was quite another matter for the United States to protect when it was the most powerful creditor in the world. In 1928, the transition problems of marginal U.S.

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[3] Karl Marx put his finger on the problem: "With the setting free of a part of the agricultural population, therefore, their former means of nourishment were also set free. They were now transformed into material elements of variable capital. The peasant, expropriated and cast adrift, must buy their value in the form of wages, from his new master, the industrial capitalist."

farmers were trivial. With hindsight, no GOP argument, political or economic, justified higher tariffs.

Hoover did not appreciate that, in addition to the interallied war debt, the rest of the world had borrowed an additional $11.8 billion from private U.S. sources between 1919 and 1929, although it was pointed out to him. On May 5, 1930, 1,028 American economists petitioned Hoover not to sign the tariff bill if and when it was enacted:

Our export trade, in general, would suffer. Countries cannot permanently buy from us unless they are permitted to sell to us, and the more we restrict the importation of goods from them by means of even higher tariffs, the more we reduce the possibility of our exporting to them. . . .

Many of our citizens have invested their money in foreign enterprises. The Department of Commerce has estimated that such investments, entirely aside from the war debts, amounted to between $12,555,000,000 and $14,555,000,000 on January 1, 1929. These investors, too, would suffer if restrictive duties were to be increased, since such action makes it still more difficult for their foreign debtors to pay them the interest due them.

Hoover signed the bill on June 16, 1930, but the stock market anticipated the act and crashed in the last days of October, 1929.

The first signs of distress came in December, 1928 as the market was hit a double blow in the space of two days. On December 5, after the market had closed, Coolidge announced that there would be no further tax cut in the budget he would send Congress for the next fiscal year. This was the influence of President-elect Hoover's hand-picked successor to Andrew Mellon at Treasury, Ogden Mills, who would be Undersecretary to Mellon in the new administration. Hoover, aware that Mellon disliked him and had privately worked against his nomination, could not simply bounce Mellon and replace him with Mills. Mellon was a Republican and a national hero by this time. Had Coolidge sought reelection and won, Mellon undoubtedly would have used the surplus in the budget to ask further tax reduction in 1929. As it was, Coolidge urged Congress to economize on spending in his no-tax-cut budget message, which The New York Times observed "sounded more like a message to President-elect Hoover than to Congress."

The stock market was disappointed. On December 6, the Dow Jones Industrials (DJI) dropped 11 points to 279. "Stock Prices Break in Day of Selling As Money Hits 12 Percent—Huge Profits Crumble," announced a front-page headline in The New York Times of December 7, 1928.

The market fell another eight points the following day as word got out that the House Ways and Means Committee had scheduled hearings of fourteen subcommittees to take up tariff testimony, and that the hearings would cover all commodities, not only agriculture. The New York Times reported the schedules on December 7 along with the news that the Republican members of Ways and Means were committed to take up all the items in the tariff law. The market fell twenty-two points in two days.

Having swallowed this news, the market nevertheless recovered. The bill was a long way from being written, let alone passed, and there was plenty of opposition to it. Lame-duck Coolidge allowed himself to think out loud, saying he didn't even think the farmers would be helped by tariff revision. And Mellon on November 23 actually cut the tariff on pig iron from Germany, thereby showing where his heart lay. The market climbed to 300 by year's end and continued marching upward to March 23, 1929, when trouble really began. The hearings were underway, Hoover had been inaugurated March 4, and on Sunday, March 24, the world got bads news on page 2 of the New York Times. The Senate, it seems, was now a problem:

Watson predicts tariff difficulties after conference with Hoover, Senate leader says industries seek wide revision. He will ask cement rise, other legislators will back own industries. Longworth supports President on limit.

Washington. March 23—The administration program to limit tariff revision to a few schedules is going to encounter much opposition in Congress, Senator Watson, Republican Senate leader said today after a conference with President Hoover on the legislative program for the special session.

"It will be the desire of the Republican leaders to cooperate with President Hoover in every way and prevent the revision of the tariff getting beyond control and opening up the schedules to wholesale revision," Senator Watson said. "Of course the making of a tariff law is always a difficult subject and it is going to be extremely hard to lay down a fixed program and hold revision to a few accepted schedules, since many industries are demanding higher duties, which they claim are necessary to meet the improved production situation abroad. . . ."

Senator Watson said that as the time for the special session approached, the demand for a more thorough revision of the tariff became greater. Senators, he said, were being deluged by industries in their district for changes in the schedules affecting them. He intends, he indicated, to ask for the placing of a duty on cement. The cement industry in Indiana and Pennsylvania, he said, is unable to meet the competition of Belgian manufacturers, who, despite ocean transportation costs, are able to lay cement on the Atlantic seaboard cheaper than it can be produced in the Middle West cement belt.

It is the belief of some Republican leaders that President Hoover will face a serious problem if he attempts to limit tariff revisions to a few schedules. They say they cannot with justice close revision to industry in their own districts. They also point out that tariff revision is accomplished by combinations of interests, and forecast that this practice may be found in the special session.

This was ominous news and the stock market reacted the following day, Monday the 25th, as the Times reported on its front page of March 26:

Stock prices break heavily as money soars to 14 per cent.

Tightening of country's credit causes one of broadest drops in exchange's history; 90 issues at year's low.

Tightening of the strings on the country's credit supply, a developemnt foreshadowed last week, but not considered seriously by speculators in the stock market, brought about yesterday one of the sharpest declines in securities that has even taken place on the Exchange. Only twice in the history of the Exchange have there been broader breaks.

As each hour yesterday brought a lower level of prices, the liquidation increased. Millions of dollars in slowly accumulated paper profits were wiped out as frightened speculators dumped their holdings overboard "at the market," or for what they would bring at a forced sale . . .

There were three principal causes for the break in stocks. They were:

Tight money, with the call rate advancing from 9 to 14 per cent, with acceptances up ⅛ and thirty day funds loaning at 8¾.

Fear of a drastic advance in the rediscount rates by the Federal Reserve Board, or the adoption of equally drastic means to divert the country's surplus credit back to its ordinary and normal commercial channels.

The continuance of an overwrought speculative position, with hundreds of thousands of small and easily frightened speculators in the market, prone to do the wrong thing at the right time and the right thing at the wrong time.

The *Times* was wrong about the reason the market sold off. Unable to see that the market had been forced to reassess the international credit structure as a result of the ominous tariff news from Washington, the *Times* and other Wall Street observers groped for an answer and looked to the Federal Reserve, which was also forced to deal with reaction to the tariff news without knowing it. Nobody could "think on the margin" although the market itself, representing everybody, acted on the margin. Foreigners, liquidating assets in the United States as the tariff news made their debt position worse, would of course produce an excess supply of dollars as they sought to convert dollars into their own currencies, and the Federal Reserve would, in line with practice, sell bonds in order to mop up this surplus dollar supply. The financial markets saw the effects of the tariff report and interpreted these as the causes of the market break.

In the same Tuesday, March 26, issue of the *Times*, on page 19, there was further bad news on the tariff for the financial community to read on the way to the market that day:

Give Hoover tariff data, Davenport and Treadway tell him of textile industry's needs.

Washington. March 25—President Hoover today received a report on the question of increases in tariff rates to protect rayon, cotton, and other industries in New York and New England states, submitted by Representatives Davenport of New York and Treadway of Massachusetts, as members of a subcommittee of the Ways and Means committee during a call at the White House. They declined to indicate the tenor of their report, but asserted that the textile tariff schedules should be greatly increased and that there was little opposition to such action in the Ways and Means Committee.

The Wednesday, March 27 *New York Times* front page gives the results:

Stocks crash then rally in 8,246,740-share day; money goes to 20 percent. Market sets new record. Stocks dumped as loan rate mounts, sending wide list down; bankers aid recovery.

Heavy buying orders in five pivotal securities help.

Stem tide in last hour—300 issues at year's low.

$13,874,000 bond sales also biggest for 1929, with many declines.

The references to "money" going to 20 percent referred only to spot loans to individuals who had bought shares on margin, i.e., who had paid only a portion of the full price of stocks and, with the falling market, had to borrow fresh funds to cover their accounts. Long term rates didn't rise.

This, of course, was not the famous Crash of '29, for the market needed more definite news on the tariff from Washington. The Dow Jones Industrials, which had opened the year 1921 at 72, climbed slowly through the Harding years and soared to 300 at the close of 1928, climbed to 311 before the Watson report brought it back to 281 in two days in March, then advanced to 300, where it hovered through the end of May. The market was sure enough that the House of Representatives would put through a broad tariff boost, which it did swiftly in May, but meanwhile opposition to the legislation began forming in the Senate. It began to appear that the upper body would have the numbers to kill the bill or keep the legislation limited to a few agricultural products. There were forty "Old Guard" Republican Senators, including Senator Reed Smoot of Utah, chairman of the Senate Finance Committee, and they favored high protective tariffs on all commodities. The other senators, thirty-nine Democrats and fifteen "progressive" Republicans, formed a coalition against broad tariff revision. The progressives were also in coalition with the Old Guard Republicans to push through a tariff hike on agriculture, which the Democrats opposed.

In June, Senator Borah of Idaho presented a resolution to the Senate that would give the "sense of the Senate" as reflecting a desire to keep tariff revision limited to agriculture. His resolution lost thirty-nine to thirty-eight, but was understandably counted a victory for the anti-tariff forces because almost all of the nineteen senators who were absent or not voting on the resolution were members of the Democratic-Progressive GOP coalition. Up went the stock market, to a 347 Dow Jones average on July 31, to 380 on August 30, and to 381 on September 3, when the summer recess ended and Congress came back to Washington from the grass roots. The Dow Jones Industrials would not see the number 381 again for more than a quarter of a century.

The decline over the next several weeks was "orderly and produced no panic," drifting to 352 on October 10. Pressure on investors who were on margin accounts increased in the following two weeks as call money tightened up in the New York banks, loans declining by $120 million, "largely as a result of withdrawals of funds by foreigners," who were again liquidating assets in either direct or indirect response to the tariff problem.

On October 21 the high-tariff bill that had been written in the Senate Finance Committee by Senator Smoot and the Old Guard Republicans, was on the floor for its first big test vote. Senator Thomas of Oklahoma offered a motion to recommit the bill to the Finance Committee with orders to bring back a bill limited exclusively to the farm tariff schedules. There was a problem, though, with this motion almost identical to the promising Borah resolution of the previous June. The Democrats had always wanted "consumer representation" on the Tariff Commission, and Smoot and the Old Guarders had put this provision into their bill. And the Progressives, who also liked this provision, now took up the argument that if they permitted only farm schedules in a new bill, they would be unable to reduce industrial rates. Senator LaFollette of Wisconsin took the lead in making this argument, and Senator Thomas warned him:

> I will make the prophecy, that if this motion does not carry, you will not reduce the rates of existing law, you will not be able to muster upon this floor sufficient votes even to reducing many of the increases in the pending bill.

The New York Times headlines the following day tell what happened:

> Senate firmly bars farm tariff limit; Thomas's recommittal plan lost 64-to-10 vote; Borah motion was 39–38 (column 2, p. 1).
>
> Stocks slump again but rally at close on strong support; continuation of selling wave depresses most of list in day of excited trading (column 5, p. 1).

The DJI lost but 3 points, to 320, although the blue chips do not help the rest of the market. But there is still hope. Maybe LaFollette is right. Maybe Thomas is wrong.

Indeed, the front page of the Times of October 23 suggests that LaFollette may be right after all:

> Stocks gain sharply but slip near close; vigorous recovery marks most of day and many issues show net advances (column 4).
>
> Tariff cuts forced in chemical rates; Senate coalition wins test vote, 45 to 33, on first schedules taken up (column 5).

The Dow Jones Industrials gained 6 points, to 326, on this encouraging development, but on October 23, an hour before the market closed, it went into a nosedive and fell 21 points. The October 24 Times front page tells the story:

> Prices of stock crash in heavy liquidation total drop of billions crash in final hour (columns 1–2).
>
> Coalition breaks over carbide rate; 13 Democrats, 3 Republicans desert as Senate rejects, 42 to 37, halving the cent duty (column 2).

The crash occurred in the final hour after the vote in the Senate was known, although not a word appeared in the press making note of this remarkable coincidence. How could it make so much difference to the market whether the rate on carbide was one penny or a half-penny per pound? Morevoer, chemicals were only the first of 15 schedules involving more than 20,000 items.

Why should the market care about the next item, casein, a product made from skim milk and used in the manufacture of glue and slick paper? Was it a farm item or an industrial item? Maybe both. The old rate was 2½ cents a pound. The house left it at that. Senate Finance bumped it up a penny, to 3½ cents. What would the full Senate do?

The next day, Thursday, October 24, would be time enough for the full Senate to take up casein.

John Kenneth Galbraith describes that next day on Wall Street:

> The panic did not last all day. It was a phenomenon of the morning hours. The market opening itself was unspectacular, and for a while prices were firm. Volume, however, was very large, and soon prices began to sag. Once again the ticker dropped behind. Prices fell farther and faster, and the ticker lagged more and more. By eleven o'clock the market had degenerated into a wild, mad scramble to sell. In the crowded boardrooms across the country the ticker told of a frightful collapse. But the selected quotations coming in over the bond ticker also showed that current values were far below the ancient history of the tape. The uncertainty led more and more people to try to sell. Others, no longer able to respond to margin calls, were sold out. By eleven-thirty the market had surrendered to blind, relentless fear. This, indeed, was panic.
>
> The panic was over by noon and prices firmed. In the late afternoon there was even something of a recovery. The *Times* market headline the following day even pushed news of the tariff off the front page, to page 25, as the headline went half the page:
>
> Worst stock crash stemmed by banks; 12,894,650-share day swamps market; leaders confer, find conditions sound.
>
> Losses recovered in part; upward trend, start with 200,000-share order for steel.
>
> Prices on markets in other cities also slump and rally.

What, after all, had happened on the Senate floor that morning? Would the rate be 2½ cents or 3½ cents? Senator Shortridge, a friend of the dairyman, argued that the rate should go to 8 cents a pound, so U.S. purchasers of casein will have to buy the U.S. product, thus using more skim milk, and raising the profitability of dairying. Notwithstanding protests from the senators from paper-making states, the Senate that morning worked out a compromise with Shortridge, raising the casein rate to 5½ cents—by one estimate an 87 percent ad valorem rate!! The vote was 52 to 19, with the anti-tariff forces claiming a victory in keeping the rate from going to 8 cents!

By afternoon, the anti-tariff forces had reassembled, pushing through amendments cutting other chemical rates, and putting crude chicle on the free list. Thus Black Thursday ended, with only a 6½ point drop in the DJI when the smoke had cleared, although the broader list of shares was down badly.

On Friday, the Senate coalition was still holding from its Thursday afternoon gains and the market improved:

> More chemical rates cut in test vote of day, Chamber by 48–30 defeats rise in duty on non-shatterable glass (page 8).
>
> Stocks gain as market is steadied; bankers pledge continued support; Hoover says business basis is sound; trading is near normal, officials are optimistic (page 1, columns 6–8).

The DJI enjoyed a gain of almost 2 points, to 301, and the next day lost only 2½ points, the market experiencing its quietest day all week with not much happening in Washington. On Sunday morning, the Times reported on page 14 that some of the Old Guard were worried that if more chemical rates were cut by the coalition, the bill might fail in the special session scheduled to end December 2. Senator Reed of Pennsylvania, who wanted high industrial tariffs for his manufacturing state, predicted the bill would fail in conference with the House because it would find changes being made by the Senate to be unacceptable. On the front page, there was only reassurance:

> Debacle inevitable Wall St. now says. Market grossly overbought; consensus of economists, bankers and brokers; all are optimistic again.

From his "Watch Tower" column on the financial page, Times man Richard V. Oulahan quoted Senator Thurston's remark that "Nobody wants it and everybody is for it." Wrote Oulahan: " 'Everybody,' of course, means the Senate and not the American people, among whom there seems to prevail a decided apathy with regard to what the Senate is doing with the tariff."

On Monday morning, the financial community read in the Times that:

> Leaders insist bill will pass; Smoot and Borah contradict Reed, who told Philadelphians bill was dead.
>
> Washington, Oct. 27.—While the fate of the tariff bill admittedly is in doubt in the minds of many of the Senators now trying to agree on a measure that can be passed and meet the approval of the President, a statement made by Senator Reed of Pennsylvania in a Philadelphia speech last night that the bill would die in the present session came as a surprise to the Republican and Democratic leaders here.
>
> Senator Smoot, Republican of Utah, chairman of the Senate Finance Committee. took direct issue with Senator Reed and, although agreeing that chances of the bill passing in the special session were dim, predicted that it would be acted on in the regular session opening in December. . . .
>
> Senator Borah also took issue with Senator Reed.
>
> "My opinion is that the tariff bill is not going to die," he said. "I believe it is going to be made into a good bill and that it will be passed. I think those who have the power to write the bill have the power to pass it."
>
> Senator Simmons, leader of the Democratic forces, said that his party intended to see to it that the President's plan to relieve agriculture was carried out. He added that if the bill died, the Republican party would have to kill it.

The coalition guaranteeing a tariff bill now included the Republican leaders of the Old Guard *and* Progressives and the leader of the Democratic forces. Tuesday's front page of the *Times* reveals what the market did after absorbing this information:

> Stock prices slump $14,000,000,000 in nation-wide stampede to unload; bankers to support market today.
>
> Premier issues hard hit, unexpected torrent of liquidation again rocks markets; days sales 9,212,800—nearly 3,000,000 shares are traded in final hour—the ticker lags 167 minutes—new rally soon broken; selling by Europeans and "mob psychology" big factors in second big break.

The DJI lost a shade over 38 points, closing at 260, and over in the corner of the Times front page was a small story about senatorial pleadings with Hoover to tell what he thought about the tariff. Hoover said nothing. There was also a complaint from Senate Republican Leader Watson that the Democratic delays that held up passage of the tariff bill might be charged with responsibility for the crash in stocks. Senator Tydings, Maryland Democrat, responded by saying that the Republicans were causing the delay.

On Tuesday, October 29, all the reports coming out of Washington seemed to be aimed at assuring the stock market that the tariff bill would not be killed, that it would be pushed through somehow, and this new coalition of Republicans and Democrats would see to it.

On October 30, the Times found room in column two to make this report (Coalition Fighting Move to Kill Tariff), even though so much of the front page reported on Black Tuesday:

> Stocks collapse in 16,410,030-share day but rally at close cheers brokers; bankers optimistic, to continue aid.

The DJI settled at 230, and in the following days rallied weakly before reaching new lows until November 13, when it hit bottom for the year, at 198. On November 13, in a surprise move explicitly aimed at "showing confidence" in the business community and the strength of the nation, the Hoover administration announced a tax cut on personal incomes. True, it was only 1 percent but Andrew Mellon himself made the announcement, an indication that a shaken Hoover was hearing Mellon, not Mills. Congress whipped through the tax cut in less than a month. Before December was out, the Dow Jones Industrials climbed back to 263.

Congress did in fact adjourn its special session without completing work on the bill, but as Senator Watson predicted in October, work resumed with the regular session and through the spring the Senate completed the 15 tariff schedules. The Senate and the House then went into conference to work out differences in their two versions. The compromise that emerged in June reflected a one-third increase in the 1922 rates.

Through much of this period the stock market was heartened. The DJI rose to a high of 294 in April, as chances of defeating the bill improved. For one thing, the rest of the world was horrified at the prospect of passage and was applying vigorous pressure on the White House. Foreign governments filed thirty-four formal protests, and many began slapping on retaliatory rates in advance. The implied promise was that they would be repealed if Congress backed away at the last minute or if Hoover vetoed the bill. There was, for example, the protest from British India:

> Please protest vigorously against states proposition of duty on cashews because 1000-percent increase unjustified whilst U.S. not producing cashews, otherwise cashew industry in British India will be destroyed.

And from Greece:

> The Minister of Greece avails himself of this opportunity to point out that the export of American products, agricultural as well as industrial, holds the first place in Greece imports, and whatever changes occurring in the tariff would necessarily affect the purchasing power of Greece to the detriment of American goods.

Mussolini's Italy was furious. Congress had sharply increased the tariff on olive oil, not because it competed with a domestic product, for there was no U.S. olive-oil industry. U.S. packagers of raw imported olive oil worried that Italians were beginning to ship packaged oil, and pressed Senator Goldsborough of Maryland to push through a high rate on all but bulk oils of all kinds.

The Italian reaction took the form of indignant editorials charging that the United States was attempting to corner the gold supply and ruin the entire world, especially Italy. The campaign against American automobiles was especially bitter. Italian drivers were embarrassed and annoyed at having their tires punctured, their windows spat upon or broken, and further harassed by the Royal Automobile Club of Italy which wanted to publicize the names of all Italians buying American automobiles and to demand an official statement of reasons for their choice. The importation of new cars was stopped by unheard-of-duties. For example, a duty of $815.50 was imposed on each Ford car; $950 on a Plymouth; $1,385 on a Chrysler 77; and $1660 on each Chrysler Imperial. American agencies closed up by November 1930, and Ford closed his assembly plant.

The stock market began a slow slide again in April as such protests brought no new word from the White House. Head counts in the Senate showed that the one slim hope of defeating the bill on final passage lay with Senators Reed and Grundy of Pennsylvania. They were the two most fanatical advocates of high industrial rates, who were furious (or pretending to be furious) that the compromise rates were not higher! But this was a slim hope, and on June 13 the Senate voted, as the *Times* reported the following day:

> Senate passes tariff bill by 44 to 42; five Democrats help "regulars" to win; Europe takes first move in reprisal.
>
> Interests abroad combine copper firms of England, Germany and Belgium to stop buying here. Others expected to join; American experts interpret it as definite "answer" to our tariff program; heavy losses are feared.
>
> House is set to act today; Republican leaders say Hoover will sign bill before July 1; Borah assails measure; crowded galleries hear; Watson lead in defense of highest rates in history.

On this news, the stock market broke 14 points on the DJI, to 230, precisely where it was on the bottom of Black Tuesday, October 29, 1929. The only possibility remaining was that Hoover, who still had not spoken, would veto at the eleventh hour. After the market closed Saturday, Hoover chose Sunday the 15th to make his announcement: "I shall approve the tariff bill."

> Hoover says he will sign tariff bill; hails flexible clause as giving power to correct faults, end foreign protests; perfect act "impossible".
>
> President sees a method of scientific adjustment at last against more agitation, uncertainty over measure only retards business recovery, he declares platform pledges cited.

Hoover, as the headlines indicate, rested much of his argument on the administrative features of the act, which permitted him to raise or lower any rate by 50 percent. In the years that followed almost no use was made of this provision, and when it was, the rate was more often raised than lowered.

On Monday, the stock market reacted to the loss of the last frail hope. The June 17 *Times* front page reported:

> Democrats turn tariff fire on Hoover as Senate sends bill to White House; break in stock and commodity prices.
>
> Selling swamps Exchange; leading issues tumble as Wall Street assails the new tariff; cotton and wheat down; former touches the lowest in three years with grain sagging in Chicago; many margins wiped out; much of the liquidation due to brokers calling in vain for further deposits.

The National Association of Manufacturers, though, predicted that the new tariff, when it became law, would bring "a breath of relief to all industry and all business." Organized labor also approved. Big business, big labor, and big government were in agreement.

The Great Depression was at hand, however, and as country after country took retaliatory tariff actions against the United States, the stock market sank lower, the Dow Jones Industrials finally hitting rock bottom on July 8, 1932, a few days after Franklin D. Roosevelt won the Democratic presidential nomination on an anti-tariff platform. On that day the DJI hit 41, against its September, 1929 high of 381. There were plenty of other reasons for the market to fall to that low level in the two years following Hoover's signing of Smoot-Hawley, however.

Mellon, for example, had become an embarrassment to Hoover. His magic had failed. The symbolic 1 percent cut in income tax rates had not done much to stem the collapse. In December, 1930, Hoover announced that the budget had gotten out of balance. With the sharp increase in tariff rates, revenues from customs fell sharply and in 1933 hit $250 million from 1929s $600 million at the lower rates. The 1 percent tax cut of the previous year was therefore allowed to lapse. In addition, a freshman senator from Texas, Wright Patman, brought impeachment proceedings against Mellon. The grounds were that the Treasury Secretary, who had been a multi-millionaire when he took office in 1921, became richer during his tenure as his financial assets appreciated. In return for Hoover's removal of Mellon, who was exiled to London to be Ambassador to the Court of St. James, impeachment proceedings were dropped and Ogden Mills stepped up to become Treasury Secretary in name, as he had been in fact since Hoover's election in 1928.

Hoover now had, as a result of the 1930 elections, a Democratic House and a Republican Senate (the electorate would have to wait until 1932 to pitch out Senators Smoot, Watson, and Reed). By the spring of 1931, it seemed that the United States was more or less back in equilibrium, having adjusted to the higher international wedge of the tariff act. Hoover and Mills, though, still worried about the budget. The government had run a deficit of more than $1 billion in the preceding 18 months, and Hoover and Mills believed this was causing a drag on business confidence. Hoover proposed an increase in the income-tax rates to remedy the situation.

Most one-term Presidents only have time for one truly disastrous decision, but Herbert Hoover squeezed in two. Having widened the international wedge, he proceeded to put the domestic tax wedge back where it had been when Harding took office in 1921. He did, though, have help from the Democrats who now controlled the House, 220 to 214, and had control of the tax-writing Ways and Means Committee. The personal income tax was pushed up to a 63 percent bracket at $1 million from 25 percent at $100,000, and to 4 percent at $4,000 instead of 1 percent at that income. A host of business taxes were piled on too. The House passed the bill on April 1, 1932, with 162 Republicans and 164 Democrats approving; 37 Republicans and 27 Democrats in opposition. On June 6, 30 Republican senators and 16 Democrats voted for a bill the Senate not only pushed higher, but also made retroactive to January 1, 1932: 11 Republicans and 14 Democrats opposed. Hoover signed the bill on June 6, 1932. The retroactivity feature of the tax boost was Hoover's last gift to Roosevelt. As the March 15, 1933 deadline approached for payment of 1932 tax liabilities, taxpayers throughout the nation had to withdraw funds from the banks. The bank panic of 1933 was the result. Roosevelt's "bank holiday," announced as soon as he was inaugurated March 4, 1933, merely enabled the Federal Reserve to reflow tax receipts to the banking system.

Roosevelt now only had to carry through on his campaign pledges and the Democratic platform of 1932. The platform had "condemned the Smoot-Hawley tariff and pledged reciprocal tariff agreements with other nations, and an international economic conference designed to restore international trade and facilitate exchange."

Roosevelt had gotten the Democratic nomination by expertly wooing the divided wings of the party, the internationalists and the "intranationalists." The former, led by Senator Cordell Hull of Tennessee, who had been ranking Democrat on the Ways and Means Committee of the House in 1929 when the tariff bill was written, believed the nation's economic problems had international roots. Hull himself was single mindedly devoted to repeal of the tariffs, but other members of the international wing were eager to join the League of Nations and recognize the Soviet Union. The *intra*nationalists were identified with newspaper publisher William Randolph Hearst, who argued that the United States should solve its own problems first, and only then look outward. Hearst and these Democratic conservatives were not especially opposed to tariff reductions, but rather focused on opposing the political and diplomatic aspects of internationalism.

In February, 1933, before his inauguration, Roosevelt named Hull Secretary of State. For the rest of the year, Roosevelt was an internationalist of the Hull variety. From April onward, Hull had the spotlight. The April 9 *Times* reported:

> Roosevelt scraps policy of economic nationalism to assist world parley. Old course condemned. Hull lays world slump to 12 years of isolation by the Republicans; 11 nations invited here; trade revival is sought; agreement for lower tariffs will be urged to spur the exports of surpluses.

The stock market surged, and continued a steady advance throughout 1933, rising with almost every statement by Hull. The DJI finished the year at 100, from 59 on April 8.

Roosevelt, though, had no intellectual commitment to Hull's program, and was also listening to the intranationalists that he had assembled around him, the Brains Trust. These were three academics, Raymond Moley, Rexford Tugwell and A. A. Berle, plus Treasury Secretary Henry Morgenthau. Morgenthau most directly helped to unwittingly dynamite Hull by attempting to drive up farm prices through devaluation of the U.S. currency. The move was viewed for what it was in fact, a "beggar-thy-neighbor" act, with nationalistic motives of precisely the type that underlay the Smoot-Hawley Act. The Roosevelt-Morgenthau gold manipulations stunned international diplomats assembled in London at the World Economic Conference inspired by Hull, and U.S. efforts aimed at arranging instant truces on tariffs and exchange depreciations broke down in acrimony. Hull still had enough backing to win enactment of the 1934 Reciprocal Trade Act, which enabled him to chip away little by little at Smoot-Hawley rates over the rest of the decade. But by December, 1933, any real interest by Roosevelt in a Hull solution to the crisis had dissipated.

He turned instead to internal remedies, which meant national planning; the New Deal. The idea was to use the central government both to promote economic growth through regulation of business and to assure balanced growth between industrial and agricultural sectors. This meant a re-allocation of resources away from the direction they would normally flow in a free market, either by government direction, government partnership with business and labor (in syndicates, which is why the process is sometimes called syndicalism), or taxation and spending. The Brains Trust was impressed not only by the Soviet experiment in central government direction, but in 1933 there was a general interest in Washington and other world capitals in what Mussolini had accomplished in Italy:

> Although his favorable reaction to Soviet developments in the mid-1920s moved Tugwell in new directions, it needs to be stressed that planning had taken hold almost everywhere in the industrial world outside of the United States. Beginning in the late 19th and early 20th centuries, Great Britain, without reference to Marxism, moved away from laissez-faire toward "planned prices, planned manpower, planned investments, planned allocation of materials—and the redistribution of incomes that has taken place through steeply graduated taxation".... Bismarck's backing of national railroads and health insurance in Germany, as well as the growingly dominant role of powerful industrialists also reflected prevailing economic and social trends in Europe.

In Italy, the laissez-faire policies of the years 1922-25 gave way in 1925-26 to the syndicalist state with workers and employers organized into twelve national syndicates. Business and government entered into a formal partnership under Fascism. The relationship that developed, in the opinion of one recent observer, represented an institutionalization of patterns followed by Western democracies in more disguised forms. "The difference was more in form than in substance with the Fascists shouting what the others, perhaps more wisely, preferred to whisper." While probably generally true of Europe, the United States remained an exception (in 1933).

Unfortunately for the global electorate, the virtues of syndicalism were a mirage. The Soviet economic advances of the mid-1920s should not be surprising, for the Soviet revolution had rid the nation of all domestic and international debt, which was simply repudiated. Central planning has its economic costs and inefficiencies, but these negative effects were for a while overwhelmed in Russia by the leap from the very top to the bottom of the Laffer Curve.

Enchantment with Mussolini's syndicalism was also misplaced. The rest of Europe was practising in whispers what Mussolini was shouting in Italy, but Mussolini was not practising what he was shouting. The economic foundations of Mussolini's power were built by his finance minister, De Stefani, in the first weeks and months after he climbed to power in 1922:

> De Stefani's program was coherent. It was inspired by a laissez-faire philosophy which, in principle, was totally acceptable to business. Public enterprise was to give way to private initiative wherever possible. Public controls over production were to be abolished. Restrictions in the scope of governmental action would make it possible for the government to reduce and reform the bureaucracy, thereby gaining greater administrative efficiency and lowering operating costs. The reduction of public expenditures was to be accompanied by fiscal reforms, which was to increase governmental revenue by the paradoxical device of actually lowering tax rates and simplifying tax laws. De Stefani's rationale was that unrealistically high tax rates and complicated tax laws reduced revenue by encouraging widespread cheating and by making it virtually impossible for government officials to verify tax returns.

The economy boomed, revenues flowed into the treasury, the lira appreciated steadily, and in 1924 the Fascists won two thirds of the seats in the national legislature. Mussolini thus won a democratic vote that Hitler never could.

Mussolini adapted the trappings of syndicalism, and these imposed economic costs on Italy, but he was much less the central planner than he seemed to the outside world:

> Far from being fully absorbed into the Fascist state as the idea of totalitarianism implies, organized industry managed to retain a degree of autonomy. If the Fascist state turned out to be considerably less totalitarian in practice than it was in theory, the reasons are to be found in Mussolini's political techniques and in the resistance and resourcefulness displayed by outside groups, foremost among them the industrialists.

Italy's real strength in the 1920's and early 1930s was in its tax and hard-currency policies, which remained in place even after De Stefani left the government in 1927. Not until late 1935 did Mussolini seriously begin chipping away at these fundamental benefits, and when he was forced to raise taxes to finance his Ethiopian campaign a year later the Italian economy soured. Mussolini introduced new taxes in October 1937 and his popular support faded with the economy.

Intrigued by Mussolini's seeming success with syndicalism as a basis for economic policy, both Roosevelt and Hitler tried it—Roosevelt with a whisper, Hitler with a scream. But neither noticed the De Stefani tax reforms, and, they gave no thought to cutting the high rates they inherited. They both chipped away at tariffs. Hull's most important reciprocal tariff treaty was finally negotiated with the British Commonwealth in December, 1938. Hitler's finance minister, Hjalmar Schacht, was successful in negotiating duty-free bilateral trade agreements with two dozen raw-material producing nations. But high domestic taxation in the United States kept the depression going.

Roosevelt surely could not have succeeded politically with his New Deal program of "Tax and tax, spend and spend, elect and elect," had the Republicans admitted their tariff errors of 1929–30. But they were still at it, as, for example, in the GOP platform of 1936:

> The New Deal administration . . . secretly has made tariff agreements with our foreign competitors, flooding our markets with foreign commodities . . . We will repeal the present reciprocal trade agreement law. It is futile and dangerous.

The GOP was still pushing domestic and international wedge increases, so the voters looked upon Roosevelt as being at least half right, and they could still juggle the Congress to get what it wanted. In 1935, needing revenues for his spending programs and still unhappy about deficit finances, Roosevelt pushed through a major tax increase that lifted income-tax rates to a new high, 79 percent on incomes above $5,000,000. In 1936, he was back again for taxes and revenues, now hitting not only people with high incomes, but also successful business enterprises. Congress gave him what he wanted, the economy slid into the 1937 recession, and the new Congress, elected in the November, 1936 Roosevelt landslide, finally took matters into its own hands in 1938:

> Despite the President's objection, the Congress passed in May a Revenue Act which reduced the capital gains tax and the undistributed profits tax and provided for the latter to expire at the end of 1939. The President criticized this action severely but, in a move unprecedented for him, allowed it to become law without his signature. In June, 1938, Congress enacted the appropriations for the spending program.

June was also the bottom of the recession. Thereafter the economy rose gradually but visibly. However, in August, 1939, just before the economic effects of the European War began to be felt, production and employment were still a few percentage points below their mid-1937 peaks.

Hitler had a marvelous opportunity to boom the German economy by riding down the Laffer Curve when he took power in the spring of 1933. In fact, his way to power had been paved by Hoover's 1929–30 error on Smoot-Hawley, compounded in Germany, which had the weakest economy in Europe, and was naturally the country on the margin when Hoover signed the tariff on June 16, 1930. The contraction in Germany was immediate, as financial assets fell and businesses cut back. The German Chancellor, Heinrich Bruning, in the spring had responded to a weakening of the economy by announcing an agricultural assistance program and protectionist measures by emergency decree. Now, in June, revenues fell and Bruning reached for austerity. On July 7, he

> . . . introduced further financial proposals demanding heavy sacrifices from all classes. Government expenditure was cut; there were increases in direct and indirect taxation, including supplementary income tax of 5 percent, rising to 10 percent on unmarried persons; a special contribution, the *Reichshilfe*, involving a reduction of 10 percent on all public salaries; an increase in contribu-

tions to the unemployment insurance fund, producing a saving of 100 million marks on unemployment relief; and there were increases in municipal taxation.

This savage program of deflation was again passed by emergency decree. The Reichstag, however, which had allowed the first emergency decree to pass without opposition, now made use of the constitutional provision permitting it to nullify the decree. Bruning replied by dissolving the Reichstag.

This has been described as "one of the most fatal events in the history of the Weimar Republic". It brought to an end the last Reichstag in which there was a parliamentary majority for the Republic, and plunged Germany into an acute political crisis which lasted until the appointment of Hitler as Reichschancellor.

When Hitler came to power in 1933, fascinated with Mussolini's syndicalist style, he—like Roosevelt—left the tax rates where he found them. There was no way, then, for the private economy to expand as it had in Italy. There was, however, immediate economic relief from the mere fact that the cloud of war reparations disappeared with Hitler's ascendency. The Lausanne agreement of July 9, 1932, was the last try by the allies to arrange payment of at least a part of the war debts, and Hitler immediately announced that within months the agreement would not be worth three marks.

Although he left the explicit tax rates high, Schacht did chip away at the domestic and international wedges. The economy expanded, but in so distorted a fashion that it compressed the tension between agriculture and industry into an explosive problem that Hitler sought to solve through *Lebenstraum*, or conquest.

The reduction of the international wedge came through Schacht's "New Plan" of September, 1934. This was a twisted version of Cordell Hull's reciprocal-trade approach. Schacht arranged twenty-five bilateral trade agreements with nations that produced primary resources. Those nations would send Germany raw materials and receive credits, which they could use to buy finished German goods. The arrangement eliminated the tariff wedge on both ends of the transactions, but tilted the German economy wildly toward industry and away from agriculture. In his autobiography, Schacht recalled:

> This policy laid me open to vigorous attacks from abroad. It certainly was in direct contradiction to previous concepts of multilateral trading and to the most-favored-nation treatment. Scientists in every country stigmatized this system as a repudiation of every well-known economic theory. What mattered to me however was not the classical tradition of my economic theory but that the German people should be provided with the necessities of life. Today when the whole world thinks and acts in terms of bilateral treaties the reader will scarcely be able to imagine the turmoil created by Germany's trade policy in the thirties.

The second of Schacht's wedge reductions drove in the same direction, inflating industry at the expense of labor-intensive production, especially agriculture. Corporate dividend income was taxed both as corporate profits and as personal income at the high Bruning rates. Schacht imposed a scheme whereby corporate profits would not be taxed at all if they were reinvested. To encourage "efficiency," small corporations did not get this break, which meant they were swallowed up by bigger firms or disappeared. Industry was thus forced to grow whether it wanted to or not. Shareholders could liquidate their equity if they needed funds to live on, but always at distress sales, for the German stock market remained stagnant through the Hitler years—the country flooded with paper financial assets that the market worried might never be realized. Again, there was no such plowback provision for agriculture, so the effects also were to create a squeeze on the farm sector.

At the same time, Hitler's agriculture minister undertook a farm "reform," of which Schacht approved, that returned German peasantry to a feudal existence. In 1933, the average German farmer was paying 12 percent of his output as interest on his debt. Hitler "solved" the problem of farm bankruptcies merely by prohibiting foreclosure by creditors. Farmland henceforth could only be transferred by inheritance. There was, naturally, immediate farm relief, achieved by stripping creditors of the value of their mortgages. But the act tied the farmer to the land, discouraging the kinds of transfers, combinations, and investments that are necessary to increase productivity. By late 1935, Germany had been advanced 500 million marks worth of foodstuffs and raw materials which had yet to be redeemed in finished goods. Hitler pressed his idea of Lebensraum, i.e., that Germany's problem was that it was gifted intellectually and short-changed terrestrially. By absorbing land to the east, he would weld together German industry and finance with Polish and Russian mining and food, ending all problems of foreign exchange in the process.

The global electorate had come too far over 2,000 years of advancing democratic systems to countenance another Caesarian experiment in lowering trade barriers by conquest. Hitler got away with Anschluss, merging Germany and Austria in 1938, and thereby increasing the economic efficiency of both. Even there, however, he showed himself to be a poor leader. Where Caesar had lowered tax rates in the lands Rome absorbed, Hitler tried to manipulate money as a boon to the Austrians, against Schacht's correct advice that "an automatic rise in prices is bound immediately to cancel out any artificial overvaluation of money."

But the global electorate would not let him get away with any more than Anschluss. Where Caesar's empire lasted 500 years, Hitler's was wiped away in 7. In 1945, the world could again return to peaceful experimentation with political and economic ideas.

Mr. GRAVEL. Where I do differ is I think that right today, in historic irony, we are in exactly the same situation we were in 1929. I think we are about to launch ourselves into a national and global—I think we are going to call it this time—a prolonged recession.

It is going to be very tragic and very painful, and again has to parallel that which occurred back in 1929 when it was under the leadership of the Republican Congress, a law was enacted, and the Democrats at that time and the moderate Republicans were not successful in stemming that tide, and we are going to see a situation today where, unfortunately, my party will be the one that will precipitate us, and they will be joined totally in support of legislation that will cause this dilemma by the Republican elements of the Congress.

We have spoken of the fact that the bank deposits are now insured. There is nothing that insures the bank deposits of an individual from inflation, and when you just make the calculations of this year that a person lost 10 percent in his deposits if he held money in the bank, the precipitous drop in the stock values that have taken place have been masked recently by inflation because you can add 13 or 14 percent to the drop that took place.

The simple fact is that inflation and the fact that we do not have a currency tied to gold or something that can give us a measure, makes things very deceptive.

I merely want to quote the figures that from 1971 the price of gold has gone from below $50 to a figure in excess of $400, and in the same period that the dollar has gone from an index of 73 being 100, from 1971 from a figure of 120 to below 85.

This, in my mind, indicates the severity of the problem we have, which is totally masked, and which is going to become unraveled with the passage of the windfall profits tax. That tax is not a tax on windfall profits.

I ask unanimous consent to have printed in the Record proof of that fact.

There being no objection, the material was ordered to be printed in the Record, as follows:

Windfall Profits Tax: From Demagoguery to Depression

If the price of peanut oil took a sudden leap, one wonders whether a righteous Jimmy Carter would take to the nation's television screens to demand a "windfall" tax on profits that peanut farmers "didn't earn."

I think we're safe to assume that he would not.

And it isn't just a question of who owns the Carter Peanut Co.

The President, who made his company successful through investment and a lot of hard work, would hardly consider the profits "unearned."

The cost of planting peanuts is undoubtably going up, along with everything else. And he would undoubtably argue that much of his "windfall" would be needed for "plowback"—literally.

He might even say that for years the price of peanut oil had actually been too low. The sudden surge in peanut prices, he might say, was just a case of one commodity catching up with the rest.

And in this hypothetical case, we would be wrong to assume cynically that just because the President was a peanut farmer, he was fibbing.

After all, he did make the investment. And the costs of doing business are going up. And except for utilities, the profits of private enterprise (especially, perhaps, in commodities) are not expected to flow evenly and predictably. So overtaxing a good year can jeopardize a company's ability to get through a bad one.

As with peanuts and peanut oil, so with petroleum and natural gas:

(1) The profits of the oil industry are not excessive.

Obviously, with many of these companies operating on a world-wide basis, their costs and investments as well as their profits are measured in billions of dollars. But their return on investment is not unfair. In fact, they make about the same return as most other segments of American industry—or less.

Over the past ten years, their return on capital investment has been about 10 percent. That's similar to publishing, slightly less than automotive average, and considerably less than the office equipment industry (13 percent) or the drug industry (16 percent).

Our financial magazines, like Forbes, Fortune and Business Week, report regularly on corporate profitability; and a glance at their charts will show that oil company profits average only in the middle range. Time and Newsweek have also pointed this out in recent editions.

Even with the current surge in oil and gas prices, profits have not become excessive.

Television reports have emphasized the percentage increase of profits in the second quarter of 1979 over profits in the same quarter a year ago. But this can't tell the whole story unless we're aware that last year's profits were relatively low.

Exxon's profits in the recent quarter were reported up 20 percent—but at that rate, Exxon's return on investment would average just 13.8 percent for the year. Gulf's profits were up 65 percent for the quarter—but at that rate, annualized return on investment for Gulf would be only 10.4 percent. Boeing, by contrast, was up 139 percent for an annualized return of 19.3 percent.

On a five-year average, Exxon's profits at the current rate would yield only a 12.9 per cent return—and Gulf's would yield only 10.8 per cent. Lockheed, with its tax-supported aircraft contracts, makes an interesting comparison. Its five-year return based on recent earnings would be 24.8 percent. And on the same basis, the Washington Post isn't doing badly either: 16.5 per cent.

The highest profit years for the oil industry in recent decades were 1974 and 1978, both the result of price increases by OPEC, not by the oil industry. In 1974, according to the Salomon Brothers investment house, return on investment for large oil companies averaged 17.5 per cent. This compares interestingly with performance by the most profitable of the Fortune 500, America's 500 largest corporations. More than 30 per cent of these companies earned better than 20 percent last year as defined by return on equity and/or return on total capital. Of these 152 corporations, only eight were oil companies.

(2) In energy, Americans have had one of their greatest bargains, and energy prices are still low in the United States.

While we are shocked at dollar-a-gallon gasoline, many countries are already paying in excess of $2 per gallon.

In real terms, the price of oil has remained remarkably steady. In 1949, it sold for $3.23 a barrel. Stated in 1949 dollars (that is, adjusting for inflation), oil in 1978 cost only about $4.50 a barrel. That's a real increase of less than 50 per cent in 30 years.

Meanwhile, gasoline prices stayed far below the rising Consumer Price Index from 1955 to 1973. The increases brought about by OPEC have now lifted gasoline prices to about the level it would be had it tracked the Consumer Price Index since 1955—in other words, gas prices in the 1970's have only caught up with other prices. And in fact, OPEC took the actions it did because member countries thought that they were being gouged by American oil companies when those companies were selling their product so cheaply to Americans.

(3) Exploration for new oil is increasingly expensive.

The cheap oil, especially in the United States, has been found. New oil sources are deep in the earth, or off-shore, or in areas of difficult access like Alaska's North Slope.

The average cost of drilling wells, measured in cost per foot, has doubled in the 1970's, and the oil industry must invest more money to get the oil and gas our economy needs.

And the industry is doing just that. Not only are the oil companies investing more, but they are investing more in relation to their profits. The major companies invested almost twice as much in new capital in 1977 ($28 billion) as they took in that year as net profits. A decade earlier, in 1965, the companies invested about 50 per cent more in new capital ($7.98 billion) than they took in as profits as a result of their depressed prices.

So the truth is that the profits of the oil companies are not excessive. And just as we might expect President Carter to explain in the hypothetical peanut case, the rising price of oil reflects real increases in the cost of finding new oil—as well as a kind of "catch-up" with the prices of other commodities which have been increasing for years while oil remained cheap.

It is unfair to single out the oil industry for the newly-volatile price of its commodity.

But fairness is not the only problem with President Carter's "windfall profits" tax. It is not even the most important problem.

President Carter's tax is part of a government-oriented solution to the energy crisis which I believe can only make our energy problems worse.

It is a dangerous step toward nationalizing the energy industry.

And as an impediment to solving our energy problems as well as a signal that American government may encroach at will on private enterprise, I believe the Carter energy scheme (and in particular the "windfall profits" proposal) threatens instability in financial markets around the world—and conceivably even another global depression.

Let's look at these one at a time:

First, the "windfall profits" tax, while cleverly named for purposes of propaganda, is not a tax on profits at all. It is a tax directly on oil as it comes out of the ground rather than on the profits of the company that extracts it. As has been widely pointed out, it is in truth an excise or severance-type tax.

The purpose of this tax is not to deny "excess" profits, but rather to transfer to the government the functions of our nation's energy industry. It is a raid on the capital that will be needed to develop future energy sources.

President Carter is anxious to have government take over the role of energy development, in particular by creating a huge government-financed effort to make synthetic fuels. The fuels would be made largely from coal, which it seems would be mined in several of the states where President Carter needs political support if he is to stay in the White House.

The more this proposal is examined, the worse it looks. It would produce relatively little fuel, at the highest price, with considerable environmental damage likely, and a maximum cost for bureaucratic overhead. Expensive as new oil will be, it will not come close to the cost of government-produced synthetic fuels.

The President proposes to take $140 billion out of the one industry that can solve our near and mid-term energy problem. And he proposes to transfer that money to the states where he needs votes, so that they—with tax support—can produce half the fuel that privately industry could, at twice the cost.

But even that doesn't convey the full picture. President Carter's plan for oil deregulation will by itself produce more than enough new tax revenue to finance the synthetic fuels effort he wants. So why does he want the additional "windfall profits" excise tax?

I do not rule out the possibility that he may actually want to impede the search for new oil, at least by the private sector. If he knows (as the evidence makes clear) that new oil sources could under-sell his synthetic fuels, then he might actually want to prevent the oil companies from finding this new oil. And without the capital to pay for the search, not much new oil is likely to be found.

This theory would also explain President Carter's passion for withdrawing public lands from oil and gas exploration. In the state of Alaska alone, he has unilaterally withdrawn 40 million acres of sedimentary basin—an area larger than all but five of our states. And he supports further withdrawals in Alaska that would either put public land off-limits to exploration directly, or would do so indirectly by impeding access.

In the most extreme case, the President supports a total ban on exploration in the one North Slope area where geologists say we have a chance of finding another Prudhoe Bay. When one considers that Prudhoe Bay contains more than a third of America's oil reserves, one gets a sense of President Carter's devotion to non-exploration.

But perhaps this is overstated. Perhaps the President simply believes (contrary to geologic evidence) that there is not a significant amount of new oil and gas to be found. And perhaps his "windfalls" excise tax is simply a revenue measure—a way to help him balance the budget at the expense of an unpopular industry.

Either way, his "solution" to the energy crisis is just what he promised: "Pay more, get less."

In addition to the self-defeating nature of the Carter energy plan, we should recognize that it moves us toward nationalization of the energy industry.

It says a great deal about the nation's attitude toward private enterprise that we so easily accept the idea that oil price decontrol produces "windfall" profits. When for six years the government holds the price of oil below its real-world level, and then finally acknowledges reality and raises the oil price ceiling, does that constitute a sudden windfall to oil companies? Or is it still just six years' denial of legitimate profits to those companies? Not to mention six years used less fully than they might have been in the search for replacement oil—and six years of deferral of the economic conditions that may eventually make energy alternatives viable.

The private market so far has judged against synthetic fuels on the basis of their costs and the lesser costs of alternatives. But President Carter has made his judgment on a different basis—a political one.

He is willing to:

(1) capitalize on the unpopularity of the oil industry rather than explain the difficult situation which really exists;

(2) overtax oil in order to balance his budget without having to make politically unpopular spending cuts; and

(3) order Congress to roll out a giant pork barrel, an energy development dole for those whose votes he needs in 1980.

Demagoguery is the appeal to base emotions and prejudice in the pursuit of personal power. Sad as it is, it is hard to think of President Carter's energy program as anything else.

Passage of this "windfall profits" excise tax would remove more than $100 billion from the nation's investment pool. Even worse, it would take the money from the area most needful of renewed investment, energy, to be devoured by the non-productive (even anti-productive) activities of an expanded energy bureaucracy. And even the money which did reach the energy development effort would likely be misspent, with politics and wishful thinking likely to overshadow the realities of economics.

The prospect of such an enormous self-inflicted wound on the central economic machine of the West is already causing great concern in the financial world. The reality of such a wound be reflected in a very unstable dollar, considerable economic constriction and increase inflation.

America has already tried directly for six years and indirectly since the beginning of natural gas regulation in 1954 to seal itself away from the realities of rising energy prices. Now President Carter seems determined to seal off any but the highest energy prices. And his recipe contains the ingredients that could turn recession into economic depression.

Government assistance to make basic scientific investigations into new, long-term energy sources is undoubtedly a good investment. Tax credits that encourage the use of solar energy, especially at the individual level, as well as incentives to conservation are worthwhile. But in the short to mid-term—that is, until the turn of the century and perhaps much longer—oil and gas are the energy sources that will fuel our economy because of availability, price, and environmental impact.

And the energy industry needs nothing from government so much as it needs noninterference to get done the job of finding new oil and gas and making them available to the American people.

Mr. GRAVEL. What that tax is is a transfer of $150 billion or whatever the Congress decides, probably up to $270 billion, from one sector of the American economy, the energy sector, and that money will then be taken to Government and recycled by the Government. That is a tax increase, and it will eventually be passed on to the consumers of energy, so that regardless of how we try to hide it, the transfer of this kind of wealth over the next decade to the Government serves to alert the global community to the task of discounting the American public's productivity.

We make great statements about what we have to do to increase our productivity. We make statements lauding what is being done with respect to tight money, and all of that will go for naught when we turn around and calculatingly over a decade disadvantage ourselves to the rest of the world in terms of energy production, and thereby in terms of our total productive capacity.

Mr. President, I also ask unanimous consent to have printed in the RECORD a statement I wrote last July which deals in macro terms with the economy. The thesis I make there is a very simple one, and it is that regardless of whether it is a Democrat or Republican, a conservative or liberal who holds power in our Government, there is an onward movement of an enlargement of Government, and the reason for that is very simply that it is the American people who want this expansion of Government and all it entails.

The reason why the American people want this expansion is because the Government is the only one that can provide them with the necessary economic security.

There being no objection, the booklet was ordered to be printed in the RECORD, as follows:

A PAPER WRITTEN BY MIKE GRAVEL

It is widely remarked and commented on these days that America is in decline. We have "a crisis of confidence," it is said. America's submergence into the ocean of history is widely predicted and blamed on morale or morals, or the lack of them.

Can anyone this worried about decadence really be that decadent?

We do have problems—serious problems. But it is hardly because we've become a nation of quitters.

Quite the contrary: as a nation, we are looking for the same things today that we have looked for throughout our history—political freedom and economic well-being—"life, liberty, and the pursuit of happiness."

There was nothing wrong with these goals before, and nothing now; and however uncertain we may feel about ourselves, the rest of the world—including the people of the communist countries—still looks to America as a land of freedom, opportunity and justice.

Not only are our goals laudable, but we are pursuing them with as much vigor and an even greater maturity than ever before.

It is within this context that I want to talk about what is wrong in America. Because I think there is indeed a serious problem—a structural flaw in our society that has been building for the last fifty years.

It is the nature of this structural flaw that we as people are more prone to use the tool of government to solve problems which it should not or it cannot solve.

I think this flaw accounts very much for the sense of malaise that we have today. And the flaw is dangerous and insidious—even potentially fatal. But it is not—not yet—a question of dissipation or purpose lost. So far, it is only apprehension—and a strong case of frustration.

And who wouldn't be frustrated? We don't seem to be able, these days, to get anything done. Our leaders are divided and want to take us in different directions. Even when we're all pretty much in agreement (which is rare enough), we don't seem to be able to move. As a nation with day-to-day and week-to-week tasks, whether it's getting energy or grazing cattle, we seem to have fallen into some dream-like slow motion machine.

We can't seem to make decisions. If we're not visibly floundering over a decision, then we're likely to be standing dead still, making no choice at all. Our society is too complex. We are awash with "data," afraid of "yes" and "no," and positively terrified of being wrong and of being held accountable.

I think that most Americans would recognize these traits as features of the malaise they feel about the country and its future. I think most of us, too, would concede that these are traits often associated with bureaucracy of all kinds, public and private.

It is no coincidence. Our over-sized government is at the heart of the problems that are causing our "crisis of confidence." And the structural flaw that I've mentioned is the continued constituency of the American people for growing government, even while we complain about its failure to solve the problems we've already consigned to it, and even when it has perpetuated or enlarged those problems.

I am not trying to set up federal bureaucracies as scapegoats. I know them to be as competent and as diligent and as sensitive as their counterparts in the private sector. Nor would I dare denigrate the rightful exercise of our national environmental maturity through the use of government. And the similar use of government in guaranteeing that responsiveness and responsibility are shown by private industry for its manufacture, called consumerism.

I think it right for government to seek the implantation of competition in our capitalist model where none exists. And attention should be given to countering the centripetal force of wealth rather than the present government inducement to its concentration.

Space will not let me deal with these areas where obviously government ought to do something. Nor will it allow me to properly treat the even more obvious extremes of government in their regulations as a result of inadequate checks and balances upon the government itself.

The oft stated cliche "the least government is the best government" has never felt comfortable to me because I think that "the best government is simply the best government." It's a tool, use it when you need it and put it down if you don't.

By way of emphasis, there are things our government ought to do, and things it ought not to do—and things it can't do. Time only permits me to deal somewhat with the inappropriateness of asking government to do what it ought not to do and what it can't do.

It can't give us a risk-free existence.

It can't duplicate the independent creativity of thousands of individuals and small firms.

And it can't replace the market system and decide for millions of people what is best for each, the way each can decide for himself.

It also can't distribute the goods and products of the nation as effectively, or even as fairly, as the private enterprise system, because it cannot duplicate for itself the incentive of profit and the discipline of loss or the freedom of the consumer-choice mechanism.

Yet we go to government more and more, asking it to do all these things.

The government can cause failure in some very creative ways. We have devised the Catch-22, a self-contradictory edict which usually boils down to this: "If you can't do it, it must be done; if it can be done, you can't do it." A particularly useful feature of the Catch-22, as we'll see shortly, is that it can transfer the appearance of blame from government to the individual or the company which failed to carry out the self-contradictory order.

Blameless, however, as the government may try to hold itself, we still perceive it as a delayer, a strangler—and a failer. And yet back we go, again and again, asking for more.

In a curious way, government even promotes its own growth and power by failing. The pattern is easy to see: if we gave a job to an agency and the job didn't get done, then the agency must need more authority, or another agency to see that the first agency gets the job done—like the "Energy Mobilization Board."

Two hundred years ago, physicians were in the same trap—or rather, their patients were. The physicians would bleed the patient, using leeches, in order to cure him. If the patient got worse, then we must need more leeches. If the patient died, then the conclusion was that they didn't use enough leeches fast enough. The problem is in the premise, but the premise goes unexamined.

If, through its own action (and inaction), the government causes failure in the private sector, then the government seeks authority in the future to prevent just such failures as the one if caused.

Here's one example I'm familiar with: the proposed Alaska natural gas pipeline.

This project is bogged down today in spite of its nearly universal support. A quarter of our nation's reserves of natural gas are at Prudhoe Bay, and that gas must be released in order not to interfere with the production of Prudhoe oil (which constitutes more than one-third of the nation's petroleum reserves). The Congress supports the project—it passed a law to "expedite" it. And the President supports the project—his policy, too, is "expedited handling." And, at this point, the project is delayed. In spite of the government's support, the government seems to be incapable of making decisions that would let the project move.

One series of decisions constitutes a classic Catch-22. By law, the pipeline must be built with private financing and no government guarantees. The oil companies are chided by the President because they won't financially back the gas pipeline when they are prohibited by law from owning any part of the line. Also the Federal Energy Regulatory Commission has indicated that the $2 billion cost for a conditioning plant cannot be passed on to the gas consumer, but must be absorbed by the oil companies, increasing their costs, thereby causing the oil consumers to pay more for oil, thereby subsidizing the gas consumers. "If you can't do it, then it must be done." Catch-22.

We also have in the gas line a ladder of failure that has elevated the government to new power:

When the Alaska oil pipeline was built, government requirements as well as long delays that were mostly the government's fault combined to make the cost of that pipeline skyrocket ($1 billion to $8 billion). Having caused that cost overrun, the government was then handed new authority by Congress to prevent future cost overruns. It can now regulate the equity return that the investors in the gas line will receive. The higher any cost overrun, the less they can receive, regardless of the fact that the government may cause the overrun.

When all this fails and the pipeline cannot be built privately because of self-contradictory regulations, then the government will undoubtedly step in with guarantees. And in the process, no doubt, its authority over the whole project—and over all future pipeline projects—will expand and the market will never be able to judge the economic efficacy of the largest "private" project in the history of the world.

And one more example: the SOHIO pipeline through California. The company spent five years and $60 million trying to cut through the jungle of regulation and non-decision. They finally gave up, not only in frustration, but also because the economics dried up. And now that the government has killed it, suddenly the Congress is looking at having the government build the project in the face of poor economic risk. In any event, I doubt the government could get the necessary construction permits from government.

So, for the government, nothing succeeds like failure. We must be true believers because we keep coming back for more. And we get it: not more help, but more government—and more failure.

One more item: the Alaska Lands issue, known to those of us who are constantly involved in it as "(d)(2)." The expression "(d)(2)" comes from Section 17(d)(2) of the Alaska Native Claims Settlement Act. It's the section that orders the Secretary of the Interior to withdraw lands in Alaska—up to 80 million acres—for possible designation as parks, refuges, national forest, and wild and scenic rivers.

This issue is motivated by the Preservationist community, and has been taken on by the President as his Number-One environmental goal. Rep. Morris Udall has brought about passage of a bill in the House of Representatives that would set aside upwards of 120 million acres of land. This federal land is so strategically located that its withdrawal would deny economic use of additional federal lands, as well as state-owned and private lands, on the order of 100 million or more additional acres.

The proponents of this action have a set of cliches: "We're not going to make the same mistakes in Alaska that we've made before."

These claims are specious. Today there is more than sufficient environmental law already in place to protect Alaska. This bevy of environmental law that already exists assures that the mistakes of the past will not be repeated. No part of Alaska or the rest of the United States will be despoiled in the so-called "rape, ruin and run" fashion. The laws guarantee that the full environmental impact will be known and weighed before future economic activities are undertaken.

Recognizing that protection already exists, then we can see the real purpose of superimposing additional layers of government control and regulation on Alaska, at a cost of $1 billion: the purpose is not protection, but denial of any economic activity in the state. By creating bureaucratic barriers that cannot be reasonably penetrated by thoughtful and responsible economic actors, all economic action can be brought to a standstill.

The effort to lock up Alaska and to deny its many treasures to the American people seems to have acquired the force of a tidal wave. Not only did the House pass Congressman Udall's bill by a large margin, but President Carter has already acted unilaterally to create 56 million acres of national monuments in Alaska. This is happening, I think, because more Americans dont understand its implications.

Alaska is indeed a treasure chest. In this chest, we have wilderness, parks, game refuges, recreational areas—and also urban development, oil and gas potential, mineral potential, great fisheries and forest resources, and more. For one small group—the preservationists—through the exercise of disproportionate political strength, to reach into this chest and take only the wilderness treasure and then slam the lid shut is arrogant beyond belief. They are acting to the detriment not only of those who have pioneered and made their homes in this unusual land, but also of all Americans and of their economic and recreational needs.

The actions of the President and the prospective withdrawals by the Congress would take from our federal lands inventory millions of acres of potential oil and gas lands. Last December first, the President misused the Antiquities Act to create 56 million acres of monuments-wilderness. This action has effectively withdrawn from an energy inventory 40 million acres of sedimentary basin. All this in an effort to bully the people of Alaska into the acceptance of a much larger Congressional withdrawal. The recent House action would take from our energy inventory upwards of 100 million acres of oil and gas sedimentary basins. To appreciate the significance of these figures, we should note that Prudhoe Bay contains more than a third of our oil and a quarter of our natural gas in just 190,000 acres.

Little wonder that we Alaskans feel ravaged by the federal government and overreact to those Cassandras of self-fulfilling prophecy who state there is no point in permitting the flow of capital to the oil and gas industry . . . "the oil and gas is not there to be found."

Today's clearest case of government's "success through failure" is in energy. We are on the verge of nationalizing the energy industry, whether we call it that or not. And if success does come from failure in government, then we should expect nothing less. Nowhere else have government's failures been so spectacular. This country is going to continue to refuse to let a free market determine the proper economic time to bring on synthetic fuels. Instead, we are to withdraw billions in capital from the only sector in our economic system that can do anything to alleviate the energy crisis in the short term. Instead, we'll funnel our economic decisions through the government—in the process losing the vital discipline of the market—and wasting billions through government incompetence.

The Presidential and Congressional proposals that the government should direct the development of synthetic oil is the watershed of socialization of the energy industry in this country. Elements of business and labor seem naive enough to accept the offered "partnership of government." But for those who understand that there never can be a partnership with a generically superior power, they will be bludgeoned into accepting this through the windfall profits tax.

The word "windfall" with respect to a tax on the oil industry was first characterized by Richard Nixon and was used by Gerald Ford, and now is used by Jimmy Carter. It's an unfortunate characterization because it is really not true, because it is a severance or excise tax on crude oil.

To quote Howard Ruff who recently testified before my Subcommittee on Energy, "The windfall profits tax is a proposal by the politically astute to impress the economically ignorant." "Windfall profits" is a cosmetic term to shift the blame that might possibly fall on government to the energy industry for the energy crisis.

The use of this rhetoric does great violence to the American psyche, because it creates a perception that a major sector of the American industry has been grossly misbehaving, and that that sector must be controlled and punished by the government in order to protect the American people. This misperception also discourages the American people from truly understanding the real nature of the energy crisis—a crisis of cost and of price.

Americans are prepared to sacrifice if need be to meet this crisis. But if it's only the oil companies that are the problem with their "price gouging" behavior . . . then why sacrifice, let the government straighten out those oil companies . . . that will take care of the crisis. Obviously, our political and media demagogery has been counterproductive to the proper realization of the energy crisis.

This American misperception as to the problem and fault also incapacitates our moderate political leaders because of their fear of going against a strongly held view of the electorate in trying to solve the problem . . . "everyone wants the tax and I have to vote for it even though I know it's wrong."

The American energy industry is enjoying no windfall profits. These supposed profits are the figment of the imagination of those who are intent upon demonstrating the failure of free enterprise so as to rationalize a government takeover. The American energy industry has acted no differently than any other sector of American enterprise, and their range of profits are within the average of the return on all enterprise. This fact is easily proven and would be easily understood if there were faith in the free enterprise system.

But because of a colossal national misperception, the government is able to strike at the heart of the free enterprise system—in a word, going for the jugular on the neck of the golden goose.

Never mind that the oil company "windfall profits" don't exist—or that a higher price for a scarce commodity is the only way to increase its availability. It says a great deal about how far we've gone when people so easily accept and support the concept that the lifting of price controls after five years constitutes a "windfall profit" to a company rather than a five-year denial of legitimate profits to the company.

As we turn again and again to government for economic well-being—and wind up with failures—we undermine our other goal: individual political freedom.

And this road we're on does not lead only to economic inefficiency. If the government can tax non-existent windfall profits in the energy industry, can that same government be far from collecting non-existent profits from the rest of business which has no real constituency in this country?

We are ceding more and more power to our government. So far, this power is being used negatively, intervening and interfering in the private sector, but not taking an active role. Obviously, we are afraid to unleash government power in that way—and we should be.

But history makes it abundantly clear what will happen if we continue to relinquish power to a central government. Its appetite for more power will only grow—its muscle-bound paralysis will only frustrate the people and the government itself all the more—feeding it more power and eventually the dam will break and this reservoir of power will sweep away our liberties.

If, by asking government to do things it really can't do, we are slipping backwards from our national goals, then why do we persist in turning to government? At bottom, I think, it is because people do not see their welfare protected anywhere else. The government may be a bungler—and the people may see it—but in seeking their own security, they see no one else who protects them.

To most of us, security means income. If we have a paycheck, we have some security. Our government does protect income. Americans may work in the private sector, but they live in the house of government.

For the indigent, government provides welfare. For those threatened by labor-saving technology, it tolerates "featherbedding." For those employed in failing corporations, it has soft loans and the government contracts to keep the corporation floating. And at the end of the spectrum, we have the prospect of the government as employer of last resort.

For the individual, whose economic security is his first responsibility, the government consciously or subconsciously is his friend. The corporate sector will cast him aside if he has no productive mission to fulfill. And if he has no capital to earn him an income when his labor is not needed, he can only face the stark terror of economic insecurity.

Our citizens have no direct stake in our free enterprise system. They only have a stake in a job working for the free enterprise system. Capitalism is without a meaning constituency in our democracy.

Consider these figures:

Approximately one percent of Americans own 25 percent of America's wealth—five percent own half its wealth. And that distribution has not changed appreciably during this century.

Little wonder that most people do not see their welfare in the free enterprise system—much less understand how they benefit from its natural efficiency. They barely care about the economy at all. They care about their jobs, their income, their economic security—and that's perfectly natural.

So how can people learn that free choice is generic to the market system? How do they learn that this is part and parcel of our larger goals—individual freedom and economic well-being?

Even though we are still pursuing our historic goals as a nation—our legitimate and laudable goals—and even though we are pursuing them as vigorously as ever, both for ourselves and for the rest of the world—we are doing so more and more by experimenting with socialism. This is self-delusion. Under an all-powerful central government, we will wind up with neither individual freedom nor economic well-being.

But if we are to turn back from the road to socialism, we are going to have to build a constituency for capitalism. It has little constituency today.

We must broaden the ownership of capital. When people own "a piece of the rock" and begin to receive dividends, their interest in the health of the private sector will grow dramatically.

I'm talking about the ownership of the new capital that must be created in the future to meet our needs—not the confiscation of existing wealth.

And I'm not suggesting that this ownership of capital wealth use the government system for distributing income—that is, transfer payments—but rather use the corporate and capitalist system, without the participation of government. Obviously, government can and should act as the check on abuse and arbiter of justice in the undertaking.

The fatal flaw of socialism—in trying to share wealth more widely—is that it centralizes power in the government without creating the checks and balances that impede government's tendency toward oppression.

We need to find a way, or many ways, for our citizens to participate in the free enterprise system—to see it working for them—to see the market economy working for their freedom.

How can this be accomplished? I think some of the tools are in our hands now, but I don't doubt that others remain to be acquired, remain even to be invented.

We have a variety of profit-sharing plans. We have Employee Stock Ownership Plans and other theories by Louis Kelso.

But I think most importantly, we have the corporation itself. The corporate structure can be molded to the purposes of broader capital ownership and greater economic vigor, both at once. The corporation, after all, is a ready-made tool for broad ownership.

In Alaska, the corporation has already been used for this purpose. In settling the aboriginal claims of the Alaska Natives in 1971, we took a novel approach. We ceded land to the Natives not in a reservation status, but rather in fee as an economic base—and, at the same time, we formed a dozen private, profit-oriented regional Native corporations, giving the Alaska Natives the tool they needed in a modern economy to truly shape their own destiny.

In addition, there is now an effort to start a general stock ownership corporation, which would be owned essentially by all Alaskans. This was made possible by a tax amendment I authored last year removing the corporate income tax as an incentive to broaden capital ownership. The corporation would be chartered by the state legislature, but would be a private enterprise at arm's length from government that would invest in Alaska. This is a first effort. But it's a step toward making everyone truly and visibly the beneficiary of the economic system that has delivered the world's highest living standard—complete with the personal and political freedoms we cherish.

Some may say this is not sufficient solution nor immediate enough to halt this year's inflation or unemployment. I know of no quick fix to a problem two generations in the making. We will be lucky to correct our structural flaw in a decade. In addition to my suggestion to create a constituency for capitalism, what we can do today is fight, and tomorrow fight again, to move the government roadblocks out of the way of private enterprise so as to let business do what it best. . . produce.

For me, the reason for this paper and I hope the reason for its reception whether by democrat, republican, liberal, moderate or conservative is . . . freedom.

I am not pessimistic about our future. If we can unleash our creative genius, nothing can stop our greater maturity and its concomitant reward. The fact that we struggle and flail around in solving our problem is a sign of true health. Only through conflict can we change, and only through change can we improve.

It's from our present cauldron of conflict that our great nation, and for that matter all people, can and will improve.

A MEETING WITH PRESIDENT FRANKLIN D. ROOSEVELT, MARCH 1933

Mr. RANDOLPH. Mr. President, during this break in the debate on H.R. 4986, the Depository Institutions Act of 1979, I appreciate the opportunity to comment briefly on that period following the economic disaster of 50 years ago, notably the crash of the stock market.

Fifty years ago I held no stocks that were listed on the New York Stock Exchange, the American Stock Exchange, or over the counter, I did have 50 shares of stock in the Randolph Oil & Gas Co., my father being the president and I was the secretary-treasurer. The stock was issued in 1922, when I was 20 years of age.

I regret to inform my colleagues—who always want me to do well as I wish them to do well—that the stock was of no value in the year 1929, even before October 29. We had drilled too many so-called dry holes for oil and gas in the hills and valleys of West Virginia. There is a certain hazard in drilling for oil and gas.

Apart from that quick discussion of the plight of the Randolph Oil & Gas Co., I do wish to say: I remember so very well what I was doing on the day of the stock market crash. I was doing what most Americans were doing then. They were working. I was at work in Elkins, W. Va., a small community of 10,000 men, women, and children. The impact of the crash, of course, as precipitous as it was within a period of minutes, or at least hours, was felt throughout the countryside as well as the financial centers of this country.

In 2 or 3 minutes I desire to indicate something for which I do not claim any credit, but simply to stress the importance of the date of March 4, 1933, in connection with the dramatic happenings that followed here on Capitol Hill and in the executive branch. The least dramatic was the fact that I was sworn in as a Member of the U.S. House of Representatives on that date. But it certainly was dramatic that the President Franklin Roosevelt took the oath of office here outside the Capitol on the date of March 4, 1933.

It is not my purpose to talk about the first 100 days, or the part that I and others as new Members of the 73d Congress had to do with that period. But I do wish to reflect that Franklin Roosevelt was a man, Mr. President, of action. The times demanded action. Nothing else would suffice.

In the latter part of March 1933, there were several new Members of the House of Representatives who had been elected in November 1932, as I had been, who attended a meeting with the President. We were there at the invitation of President Franklin Roosevelt.

The discussions had been going on day and night, really, with Members of the Congress, relative to legislation which was being drafted and passed and signed into law during those early days.

On that night in March, seven or eight new Members of the House of Representatives were privileged to talk with the President of the United States. I might say that the President did 95 percent of the talking. He usually did that. He took command of any situation. He was the leader of the United States of America then as he was during all the period of his Presidency. By and large he had the cooperation of the House of Representatives and the Senate of the United States during those years.

The President talked, there on the

second floor of the White House, sitting behind a big desk, a wood fire burning in the grate, about the matters of concern, the problems that were facing the Nation, and how he felt we must work together.

Finally, after one of our Members, well-meaning, kept saying in effect, "But, Mr. President, what you are telling about the legislation that should be passed, the laws that should be on the books, is well and good, but the American people can never digest it. You are trying to do too much too soon."

The President did not directly address that individual. Later, perhaps 15 or 20 minutes later. He looked at all of us, sitting in a circle. And he leaned forward and said, "But gentlemen, do you realize that we must act now? By acting now, we will make mistakes, but if we do not act now, perhaps we shall not even have the opportunity a little later of making the mistakes."

The President of the United States, Franklin Roosevelt, had something within his being that caused the spirit of people, although not satisfied by an immediate job, to believe that just beyond there was the opportunity for gainful employment and the opportunity as a man or woman to walk upright under the democratic form of government.

As a result of his leadership the President and the Congress acted. Much of the legislation was bona fide and valid. And even though the Supreme Court in its wisdom—or perhaps with less than wisdom—declared the National Recovery Act unconstitutional, within the framework of NRA there were programs of tremendous value in rebuilding the United States of America, and restoring faith among our citizenry.

That in itself was epoch-making. That in itself held America together, regardless of the other legislative enactments—some of them passed within a period of hours here—that would ordinarily, these days, take weeks and months to bring into being.

I do not desire to run through the list of the legislation that became law, except for one more measure. This was the rebuilding of the faith of the American people in the Government of the United States when the President and the Congress brought into being the guarantee of bank deposits through the Federal Deposit Insurance Corporation in June 1933.

Mr. President, there comes a time in the history of America—this may be such a time—when, if there is not aggressive action and less rhetoric here on the Hill, and downtown, America will be caught up in a situation that will hold us back from continuing to be a nation respected by the other nations and people of the world.

If I have talked in some generality, it was not my intention. I have been very specific in quoting, in essence, what the President of the United States said on that occasion in March 1933 and my general feeling about the so-called deepness of the Depression—and it was very, very deep. Today, with 230 million people we are wondering if we can handle unemployment of 6 or 7 percent or 8 percent. Then, of course we had about 135 million people in the country and we had unemployment of about 24 percent.

Our problems are very real now. Certainly this discussion today of interest rates and economic and financial concerns is important. But I step backward for a moment in history, not merely to reflect but to bring to the attention again of my colleagues that in an earlier period of time, we had action.

I suggest, in fact, I plead, for such action now.

Mr. CRANSTON. Mr. President, I want to say to the Senator from West Virginia (Mr. RANDOLPH) that that was a very interesting and illuminating statement that he made and I appreciate the opportunity to hear it.

Mr. RANDOLPH. I am very grateful.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The Senator's time has expired and morning business is closed.

Mr. GRAVEL. I will yield the floor at this point in time, and I thank the Chair.

DEPOSITORY INSTITUTIONS DEREGULATION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the pending business, H.R. 4986, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4986) to amend the Federal Reserve Act to authorize the automatic transfer of funds, to authorize negotiable order-of-withdrawal accounts at the depository institutions, to authorize federally chartered savings and loan associations to establish remote service units, and to authorize federally insured credit unions to maintain share draft accounts, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, the Senate takes up H.R. 4986 again today. Last Tuesday we had a debate on this legislation, and I hope the Senate is persuaded in favor of H.R. 4986.

The distinguished Senator from North Carolina (Mr. MORGAN) made an outstandingly thoughtful and well-organized presentation opposed to some parts of the bill, and I am sure he is going to press amendments later on today or tomorrow to try to modify the bill or change the bill I think rather drastically.

I hope the Senate will resist that kind of change. There are some amendments I think that the committee will be happy to take and accept, and that will improve the bill, but I think the amendments by the distinguished Senator from North Carolina, as he knows, would be a change that would make the bill entirely different and, in my judgment, strip down about 90 percent of what the bill tries to do.

This bill, as reported from the Banking Committee, contains the recommendations of President Carter made to the Congress in May for comprehensive financial reform legislation providing an orderly transition to a system where depositors can receive a fair rate of return on their savings and thrift institutions are strengthened to continue their traditional role as housing lenders.

H.R. 4986 provides for a 10-year phaseout of interest rate controls (regulation Q) along with augmented asset powers for thrift institutions (interest-bearing checking accounts, consumer loan powers, trust powers and enhanced home mortgage lending authority) all designed to maintain the viability of thrift institutions and their commitment to home mortgage lending while enabling depository institutions to pay the depositor a market rate of return on savings.

Regulation Q is inflationary and counterproductive. By mandating below market rates of return to savers that do not enable the saver to keep up with inflation, interest rate controls discourage saving and encourage consumption.

Mr. President, I cannot state that too clearly. That is what this bill tries to get at. We just had a very thoughtful and appropriate discussion by leading Republicans on the floor of the Senate and by the Senator from Alaska on the 1929 crash and on the present very serious inflationary situation.

One of the reasons we have inflation is that we have discouraged savings. I think it should be as obvious as it can be to anybody that when you have a regulation, which we have in our banking system, that you cannot pay small savers more than 5¼ percent if you are a bank or 5½ percent if you are a savings and loan institution, that people are not going to save when the inflation rate is 13, 14, and 15 percent. So this bill does go to the heart of fighting our inflation problem.

The distinguished Senator from Mississippi in his very fine remarks said that we have no program to fight inflation, and I think the program we have is certainly grossly inadequate. I think the Federal Reserve is trying to do something, but what they do is greatly inhibited by the fact that we do not permit savers to get a return on their savings, and that is what we are trying to do in this bill. Regulation Q fuels inflation and discourages capital formation and increases in productivity. Regulation Q also forces less wealthy savers to subsidize more prosperous borrowers. H.R. 4986 as reported by the Banking Committee will turn the situation around.

There is considerable evidence that savers are becoming more sophisticated and that they are investing funds outside the financial system in instruments that pay a market rate of return. Regulation Q is driving money out of financial institutions and, therefore, out of the housing sector. Our thrift industry will not be able to survive in the regulation Q atmosphere in the long run.

A partial solution to this dilemma was provided by regulatory adjustment whereby savers with $10,000 to invest in a money-market certificate have been enabled to earn a market rate of return.

A statutory solution is needed, however, to provide depository institutions with the capability to pay market rates to all savers without discrimination.

One provision of H.R. 4986 would require the minimum denominations on market certificates to be reduced to $1,000 within 2 years unless the Federal Reserve postpones the reduction because of economic conditions or after considering the effect on thrift institutions. This provision—which is very controversial; I understand an amendment will be offered which would delete it—is designed to end the discrimination against the small saver consistent with the discretionary safeguards designed to protect the safety and soundness of depository institutions.

I commend the provision of H.R. 4986 as reported to my colleagues as providing a reasonable legislative answer to economic problems that unless solved have the potential for severe adverse economic dislocations in the future. I hope the Senate will support all of the provisions of H.R. 4986.

Mr. GARN. Mr. President, having been involved as a member of the Banking Committee in discussions about financial institution reform for the past 5 years, I join with other supporters of H.R. 4986 in declaring that this legislation generally represents the most appropriate solution to some of the fiscal problems currently plaguing consumers and financial institutions.

By authorizing NOW and share draft accounts, and by directing the phaseout of deposit interest rate ceilings, the legislation provides for an expansion of financial services and establishes a more equitable and competitive environment in which funds are sought by financial institutions. The legislation also enhances the earnings potential of Federal savings and loan associations by broadening their investment powers, but in doing this the bill preserves the consumer and home financing orientation of associations.

During my first year on the Banking Committee, we considered S. 1267, the Financial Institutions Act of 1975, a comprehensive, transaction account, regulation Q bill, similar to the legislation before us. I supported that legislation, which passed the Senate but was not acted on by the House. In the last Congress, the Banking Committee reported out S. 2055, a bill which, among other things, would have authorized nationwide NOW accounts, but which did not address some of the issues, including interest rate ceilings and the differential, dealt with in the proposed 1975 act. Because S. 2055 did not cover matters such as the differential, I believed the bill defective and did not support it. Thus, it is because H.R. 4986 represents a more comprehensive, better balanced approach to financial reform that I have supported it.

In urging my fellow Senators to support this bill, I also recommend that consideration be given to certain floor amendments to the legislation which would strengthen and perfect it. The principal substantive amendment which I wholeheartedly endorse is Senator BENTSEN's proposal to delete the reduction in the minimum denomination of money market certificates and replace it with an amendment to exempt from income taxation limited amounts of interest earned on savings deposits. The proposal to delete the money market certificate provision is also being offered by several other Senators, principally because of the adverse consequences such an action would have on the stability of financial institutions. I believe Senator BENTSEN's proposal to not only strike that provision but to replace it with a proposal which would provide tangible benefits to small savers and promote the stability of financial institutions is especially commendable.

Critics of the interest exemption approach have argued that it would result in substantial revenue losses to the Treasury, ranging from between $1 billion to $1.5 billion for every $100 in exemptions allowed. As an advocate of fiscal restraint, I applaud such concerns for Treasury revenue losses; but I also believe that encouraging savings would increase capital information and business growth so that such projected revenue losses would, at the very least, be offset by gains attributable to income growth resulting from increased savings. Thus, I suggest that the interest exemption amendment be fully considered, particularly by members of the Finance Committee, that its real potential and consumer benefits be recognized, and that it be adopted.

In addition to mentioning the interest exemption proposal, I wish to highlight one of my concerns about the ability of our financial system to compete successfully for funds. Within the past 5 years, the sporadic periods of deposit growth and decline in our depository institutions, underscored by the current decrease in deposit levels at savings institutions, has been overshadowed by the growth and relative stability of money market mutual funds. While the level of savings deposits has ebbed, decreasing by $1.2 billion at savings banks and savings and loan associations during September, money market funds have grown to a record $34.2 billion, increasing by $1.7 billion just last month. I believe the great share of such funds would be placed in depository institutions if deposit interest rate ceilings imposed on such institutions were removed.

In my opinion, the removal of such restrictions is imperative to promote the continued viability of depository institutions. Attracting deposits back to savings institutions, coupled with other provisions in H.R. 4986 regarding the earnings potential of such institutions, would also insure the increased availability of mortgage credit at a more reasonable price than is now charged. In addition, by removing artificial barriers to competition for funds, savers would receive more interest from depository institutions than is now provided.

In sum, H.R. 4986 provides solutions to some of the major problems our financial system is experiencing. Consideration has been given to issues covered by the bill through several Congresses, and it is now time to finally act on them.

Mr. PROXMIRE. Mr. President, I understand the distinguished Senator from Mississippi (Mr. COCHRAN) has an amendment he would like to call up at this time. I have some technical amendments which I will offer a little bit later, but to accommodate the distinguished Senator from Mississippi, at this time I am happy to yield to him for that purpose.

Mr. TSONGAS addressed the Chair.

Mr. COCHRAN. Mr. President, has the Senator from Wisconsin yielded to me?

Mr. PROXMIRE. I would have to hold the floor in order to yield to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Mississippi is recognized. Is the Senator from Massachusetts also seeking recognition?

Mr. TSONGAS. Yes.

Mr. COCHRAN. I yield to the Senator from Massachusetts.

Mr. TSONGAS. Mr. President, can the chairman indicate to me at what point various amendments I have would be in order? Can the Senator give me some indication, since I have a pressing obligation?

Mr. PROXMIRE. I spoke to the Senator from Mississippi a little earlier. He has an amendment he would like to call up. I have some amendments I would like to get out of the way; I do not think they are controversial; the amendment I will call up first will not be, so that we can have something to work on. If the Senator from Massachusetts is in a hurry and would like to offer his amendments as soon as possible, I would be happy to do my best to accommodate him.

Mr. TSONGAS. I will indicate to the chairman that my bind is from 12 to 1. Would 1 o'clock be too late?

Mr. PROXMIRE. No, I am sure that is fine.

Mr. TSONGAS. I thank my friend.

UP AMENDMENT NO. 679

(Purpose: To authorize on a temporary basis certain business and agricultural loans, notwithstanding interest limitations in State constitutions or statutes, and for other purposes)

Mr. COCHRAN. Mr. President, I send an amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Mississippi (Mr. COCHRAN) proposes an unprinted amendment numbered 679.

Mr. COCHRAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning with page 80, line 3, strike out all through page 88, line 15, and insert in lieu thereof the following:

TITLE VI—INTEREST RATE AMENDMENTS REGARDING STATE USURY CEILINGS ON CERTAIN LOANS

SEC. 601. Section 5197 of the Revised Statutes, as amended (12 U.S.C. 85), is amended by inserting in the first and second sentences before the phrase "whichever may be the greater", the following: "or in the case of business or agricultural loans in the amount of $25,000 or more, at a rate of 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located.".

SEC. 602. The Federal Deposit Insurance Act (12 U.S.C. 1811–1831) is amended by inserting after section 23 the following new section:

"SEC. 24. (a) In order to prevent discrimination against State-chartered insured banks with respect to interest rates, if the applicable rate prescribed in this subsection exceeds the rate such State bank would be permitted to charge in the absence of this subsection, a State bank may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run.

"(b) If the rate prescribed in subsection (a) exceeds the rate such State bank would be permitted to charge in the absence of this paragraph, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than is allowed by subsection (a) when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from the State bank taking or receiving such interest.".

SEC. 603. Title IV of the National Housing Act (12 U.S.C. 1724–1730f) is amended by inserting after section 411 the following new section:

"SEC. 412. (a) If the applicable rate prescribed in this section exceeds the rate an insured institution would be permitted to charge in the absence of this section, such institution may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the institution is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run.

"(b) If the rate prescribed in subsection (a) exceeds the rate such institution would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than that prescribed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from the institution taking or receiving to read as follows:

SEC. 604. Subsection (h) of section 308 of the Small Business Investment Act of 1958 is amended to read as follows:

"(h)(1) The purpose of this subsection is to facilitate the orderly and necessary flow of long-term loans and equity funds to small business investment companies to small business concerns.

"(2) In the case of a business loan the principal amount of which is $25,000 or more, the small business investment company making such loan may charge interest on such loan at a rate which does not exceed the lowest of the rates described in subparagraph (A), (B), and (C).

"(A) The rate described in this subparagraph is the maximum rate prescribed by regulation by the Small Business Administration for loans made by any small business investment company (determined without regard to any State rate incorporated by such regulation).

"(B) The rate described in this subparagraph is the maximum rate authorized by an applicable State law which is not preempted for purposes of this subsection.

"(C)(i) The rate described in this subparagraph is the higher of the Federal Reserve rate or the maximum rate authorized by applicable State law (determined without regard to the preemption of such State law).

"(ii) For purposes of clause (i), the term 'Federal Reserve rate' means the rate equal to the sum of 5 percentage points plus the discount rate on 90-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district in which the principal office of the small business investment company is located.

"(iii) The rate described in this subparagraph shall not apply to loans made in a State if there is no maximum rate authorized by applicable State law for such loans or there is a maximum rate authorized by an applicable State law which is not preempted for purposes of this subsection.

"(3) A State law shall be preempted for purposes of paragraph (2)(B) with respect to any loan if such loan is made before the earliest of—

"(A) July 1, 1981:

"(B) the date, after the date of the enactment of this paragraph, on which such State adopts a law stating in substance that such State does not want this subsection to apply with respect to loans made in such States; or

"(C) the date on which such State certifies that the voters of such State, after the date of the enactment of this paragraph, have voted in favor of, or to retain, any law, provision of the constitution of such State, or amendment to the constitution of such State which prohibits the charging of interest at the rates provided in this subsection.

"(4)(A) If the maximum rate of interest authorized under paragraph (2) on any loan made by a small business investment company exceeds the rate which would be authorized by applicable State law if such State law were not preempted for purposes of this subsection, the charging of interest at any rate in excess of the rate authorized by paragraph (2) shall be deemed a forfeiture of the greater of (i) all interest which the loan carries with it, or (ii) all interest which has been agreed to be paid thereon.

"(B) In the case of any loan with respect to which there is a forfeiture of interest under subparagraph (A), the person who paid the interest may recover from a small business investment company making such loan an amount equal to twice the amount of the interest paid on such loan. Such interest may be recovered in a civil action commenced in a court of appropriate jurisdiction not later than 2 years after the most recent payment of interest.".

SEC. 605. (a) In order to prevent discrimination against any financial institution chartered pursuant to the statutes of the United States with respect to interest rates if the applicable rate prescribed in this section exceeds the rate such federally chartered financial institution would be permitted to charge in the absence of this section, the federally chartered financial institution may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the federally chartered financial institution is located.

(b) If the rate prescribed in subsection (a) exceeds the rate such federally chartered financial institution would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate than is allowed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the loan carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of interest paid from the federally chartered financial institution taking or receiving such interest.

SEC. 606. If any provision of this title or the application of such provision to any person or circumstance shall be held invalid, the remainder of the title and the application of such provision to any person or circumstance other than that as to which it is held invalid shall not be affected thereby.

SEC. 607. The amendments made by this title and the provisions of this title shall apply only with respect to loans made in any State during the period beginning on the date of enactment of this Act and ending on the earlier of—

(1) July 1, 1981;

(2) the date, after the date of the enactment of this Act, on which such State adops a law stating in substance that such State does not want the amendments made by this title and the provisions of this title to apply with respect to loans made in such State; or

(3) the date on which such State certifies that voters of such State, after the date of the enactment this Act, have voted in favor of, or to retain, any law, provision of the constitution of such State, or amendment to the constitution of such State which prohibits the charging of interest at the rates provided in the amendments made by this title and the provisions of the title.

TITLE VII—APPLICABILITY OF STATE USURY CEILINGS TO CERTAIN OBLIGATIONS ISSUED BY BANKS AND AFFILIATES

SEC. 701. Section 19 of the Federal Reserve Act (12 U.S.C. 461 et seq.) is amended by inserting after subsection (j) the following new subsection:

"(k) No member bank or affiliate thereof, or any successor or assignee of such member bank or affiliate or any endorser, guarantor, or surety of such member bank or affiliate may plead, raise, or claim directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such member bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such member bank or affiliate or to any other person.".

SEC. 702. Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by inserting after subsection (j) the following new subsection:

"(k) No insured nonmember bank or affiliate thereof, or any successor or assignee of such bank or affiliate or any endorser, guarantor, or surety of such bank or affiliate may plead, raise, or claim, directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or imiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such bank or affiliate or to any other person.".

SEC. 703. Section 5B of the Federal Home Loan Bank Act (12 U.S.C. 1425b) is amended by inserting after subsection (d) the following new subsection.

"(e) No member or nonmember association, institution, or bank or affiliate thereof, or any successor or assignee, or any endorser, guarantor, or surety thereof may plead, raise, or claim, directly or by counterclaim, setoff or otherwise, with respect to any deposit or obligation of such member or nonmember association, institution, bank, or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such member or nonmember association, institution, bank, or affiliate or to any other person.".

SEC. 704. The amendments made by this title shall apply only with respect to deposits made or obligations issued in any State during the period beginning on the date of the enactment of this Act and ending on the earlier of—

(1) July 1, 1981;

(2) the date, after the date of the enactment of this Act, on which such State adopts a law stating in substance that such State does not want the amendments made by this title to apply with respect to such deposits and obligations; or

(3) the date on which such State certifies that the voters of such State, after the date of the enactment of this Act, have voted in favor of, or to retain, any law, provision of the constitution of such State, or amendment to the constitution of such State which limits the amount of interest which may be charged in connection with such deposits and obligations.

TITLE VIII—REPEALS

SEC. 801. Titles II and III of the Act entitled "An Act to authorize the regulation of interest rates payable on obligations issued by affiliates of certain depository institutions, and for other purposes", approved October 29, 1974 (Public Law 93-501; 88 Stat. 1557), are hereby repealed, except that—

(1) the amendments made by title II of such Act and the provisions of such title shall apply to any loan made in any State during the period specified in section 206 of such Act; and

(2) the amendments made by title III of such Act shall apply to any deposit made or obligation issued in any State during the period specified in section 304 of such Act.

Mr. COCHRAN. Mr. President, the purpose of this amendment is to reach an emergency situation that has developed across the country as a result of the precipitous increase in the discount rate and the resulting high rates of interest which are being demanded by banking institutions, both State and Federal.

It has come to my attention, Mr. President, that there are around 15 or 16 States where the State usury laws now prohibit the charging by those States' banks of rates of interest in excess of the discount rate. At the present time, most rates of interest being charged by lending institutions are 3 to 4 percent, at least, higher than the discount rate. Under current Federal law, national banks are permitted to charge a percentage point higher than the discount rate for a rate of interest on loans.

This amendment seeks to provide a 1-year period during which State banks can be placed on a somewhat equal footing with the national banks as their loans relate to agricultural and business loans in amounts of $25,000 or more. The purpose of the amendment is to give a 1-year period within which State banks can charge those interest rates for that type of loan. During that period of time, any State legislature which desires to take out from under the provisions of this amendment and this law, if it is passed, the interest rate provision, can do so. So it is a permissive exception that would be granted by this legislation for only those types of loans.

I might add, Mr. President, by way of explanation, that there was recently passed by this body legislation which provided such an exception for the State of Arkansas. This amendment would seek to put other States on the same footing, as it relates to that exception that was granted to the State of Arkansas, since it has that restriction in the State constitution.

I will be happy to try to answer any questions that any of the Members of the Senate may have, but I would hope, because of the emergency nature of the situation, that this amendment could be accepted.

Mr. PROXMIRE. Mr. President, if the Senator will yield, I have had a chance to discuss this amendment briefly with the Senator from Mississippi. I think this amendment is urgently necessary now. When the committee acted on September 24, of course, it was well before the decision by the Federal Reserve Board to have that massive increase in the discount rate and to announce other policies which are even more profound which will have a sure effect of driving interest rates up even further, at least for a short time. Interest rates, of course, since that date have also increased greatly. That is what puts these 15 or 16 States the Senator from Mississippi mentions in a much more difficult position.

What the Senator from Mississippi is proposing is entirely in keeping with what is in the bill at the present time. At the present time we have a provision in the bill that permits the usury rates applying to home mortgage loans to be overridden. It provides, of course, that that override by this legislation, however, can be, in turn, reversed or modified in any way by the State legislature. They can act any time before 1981 to provide that their usury law will stay on the books. We do this because we found in the State of Arkansas an absolute disaster, as far as the financial institutions were concerned, and particularly as far as the borrowers were concerned. Small businessmen, farmers, and other mortgage borrowers who wanted to borrow money simply could not get the funds. At least, if interest rates are too high you can decide whether to borrow at the high rate or not borrow at all, but in the case of Arkansas they could not borrow at all. In many States, as the Senator has pointed out, that is the position in which borrowers have found themselves.

The proposal by the Senator from Mississippi is logical, is sensible, and is needed. It is unfortunate that it is. There is no Member of this body, certainly nobody who has ever been in the financial industry, who wants high interest rates. We know that is a terrifically painful and difficult problem for borrowers. It inhibits business. It makes it difficult for farmers to operate. But I think we recognize that as long as we have a policy which we are following by the Federal Reserve rightly or wrongly—I think it is right but many people think it is wrong—as long as that policy is a realistic fact of life, there is no way that a State is going to be able to permit its economy to function if it is going to have an arbitrary law which mandates an interest rate which is below the general interest rates offered throughout the country.

The Cochran amendment would recognize that. For that reason, I think it is reasonable and I am happy, as far as I am concerned, to support the amendment.

Mr. GARN. Mr. President, I share the feelings of the chairman of the committee. We are in a difficult situation. I am sorry we have reached the point where interest rates are so exorbitantly high that we seem to have no choice whatsoever. People are getting into very difficult positions all over the country—homebuilders, borrowers, and lenders in my State, and I am sure this is true in other States—because of this crunch on credit that we have.

I am normally one who always takes a States rights position, feeling that the Federal Government really has no business to supersede State laws; but I feel very strongly that we have reached a point where, with the high interest rates and the usury ceilings in some States, in their State constitutions, we must provide some relief.

Despite the fact that I feel that way and am willing to accept the Cochran amendment, I would not do so if we were not giving States the right to tell the Federal Government that they disagree. If it were just an override of State law without any recourse to them to come back and say, "No, we want to keep our usury ceiling as it is and not change it," I would not support it. But with that caveat in it which allows the States to disagree, I would be willing to accept the amendment on behalf of the minority.

Mr. MORGAN. Will the Senator from Mississippi yield for a question?

Mr. COCHRAN. I am happy to yield to the distinguished Senator from North Carolina.

Mr. MORGAN. How many of the States that would be affected have constitutional provisions with regard to usury or interest limitations?

Mr. COCHRAN. To my knowledge I know of only one, I will say to the Senator, and that is the State of Arkansas.

Mr. MORGAN. And I believe we did, by a bill passed a couple of weeks ago, suspend or preempt those laws because, in effect, none of the States that now have usury laws that would be affected by the Senator's amendment are bound by their constitutions and all of them could be changed by legislative action in the respective States.

Mr. COCHRAN. That is my understanding. There are about 18 States, I am advised, who do have restrictions under statutory law which have the effect of prohibiting State banks from making loans at the going rate of interest or at the rate at which national banks in those States can make such loans.

Mr. MORGAN. Is it the Senator's understanding that the national banks ought not to be bound by the State usury laws?

Mr. COCHRAN. My understanding is that the Federal laws governing the operation of national banks do have precedence. Someone who is more familiar with the legal effect of the Federal law in that regard may be better qualified to answer that question. I am advised that because of the disparity in the law national banks do in fact have a different set of rules under which to operate.

Mr. MORGAN. The Senator may be quite correct. During the last few years we must have preempted or changed State laws a thousand times. It is my understanding, however, that national banks are bound by State usury laws. I do not think that is necessary information, however, for my argument today. I thank the Senator for yielding.

Mr. President, I am reluctant to oppose this amendment of my distinguished colleague from Mississippi because I know that he shares many of my own views concerning the prerogatives and rights of respective States to enact laws for trade and commerce within those States. That is one of the fundamental principles upon which this country was founded.

All too often in recent years we have overlooked those principles and from time to time the Congress has preempted laws which were duly enacted by the elected representatives of the people of the States, many times without even a second thought as to what we were doing here in Washington. Some of those I concede were passed because of compelling, overriding national interest. Many of them were based upon laws having to do with racial discrimination, which conflicted with the 14th amendment and other amendments to the Constitution and should never have been enacted by many of the States of the South, from which I come. Just recently I voted to preempt State laws with regard to the Energy Mobilization Board only after the States had had 2 years in which to process environmental impact statements, and so forth, and laws in that regard, and only because I thought, and I still think, that the prevailing energy crisis in America warranted that preemption of State laws.

But I fail to see the national compelling interest for us here on the floor of the Senate in just a few moments to preempt the statutory enactments of 18 States, enactments or laws made by the representatives of those States.

I opposed the law which preempted the statutory provision of Arkansas. My distinguished colleague from Arkansas (Mr. PRYOR) and I had a colloquy on that. But perhaps there may have been some justification for his argument because, to amend the Constitution to remove the statutory interest limitation is a rather prolonged process and the present Federal Reserve policy does create a crisis that may cause hardship before the Constitution can be amended.

I am saying that there is some merit to that argument. I really do not think it was a compelling argument. But I say to the Senator that any State affected that feels its economy or its people are being damaged can amend those laws within a matter of a week or 2 weeks. In my State, and I am sure that my State is representative of all the States, the Governor of the State can call an emergency session of the legislature on 24 hours' notice. It takes about 1 day of the legislature to pass that act. It may be expensive; I grant that it would cost something. But I say that the expense of leaving it up to the State legislators to modify and change their own laws would pale into insignificance in comparison with the continuous violating of the principles of States' rights, rights upon which this country has been founded.

I say to my distinguished colleague that I know of no one in the Senate that I would rather yield to, but I sort of made a commitment to myself when I began to see, as I came to the Senate, time and time again, provisions inserted in the various bills preempting State laws, those provisions which, quite often and most often, were never even mentioned and never called to the attention of our colleagues on the floor of the Senate. I sort of made a commitment that whenever I spotted those preemptions, I was not going to sit idly by and watch it be done without, at least, bringing it to the attention of my colleagues and at least giving my colleagues the right and opportunity to have a rollcall vote on it.

I realize I may stand alone, but I still say that if the interest limitation poses a problem for your State and my State, the Governors of our respective States can remedy those within a week's time.

It is rather hard for me to argue States' rights if I am willing to accede whenever we think some emergency exists.

It is interesting—I pointed this out before—that we preempted the constitutional provisions in Arkansas after the people in Arkansas recognized the problem and the legislature submitted an amendment to them and they voted it down. It was not a new problem in Arkansas, because I was there in 1975, meeting with the Arkansas Bankers Association. This was one of the most prevalent issues at that time, so it has been going on a long time.

What I am saying is that, as desirable as it might be, it is a matter that affects the trade and commerce of that State and the people of that State ought to be the ones to change it. As the chairman has pointed out, there is a provision in this bill that preempts it, as I understand it, with regard to housing and so on. It would seem eminently fair that if we are going to do it for that, perhaps we ought to do it across the board. But there also is a question of germaneness, because there is nothing in this bill that affects farming that I know of. Maybe that is something that ought to come under the farm bill.

I reluctantly oppose it, and I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER (Mr. LEVIN). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PRYOR. Mr. President, will the Senator from Mississippi yield or does the Senator from Wisconsin have the time?

Mr. PROXMIRE. Go right ahead. I yield.

Mr. PRYOR. I should like to ask a question of the distinguished Senator from Mississippi, if I may.

One, is it the purpose of the amendment that he is offering today to extend this preemption to those States which not only have a restriction placed in the constitutional document but which merely cover usury by statute enacted in the State legislature?

Mr. COCHRAN. If the Senator will yield, my answer is yes. Not only does the amendment seek to reach those States which have constitutional restrictions on interest rates by State banks, but also those which have restrictions by statute as well.

Mr. PRYOR. I thank the Senator for answering that question for me. I got in in the middle of his statement, so I did not have the opportunity to hear all of his remarks.

Also, if I may, I should like to address myself just a moment to the remarks of the distinguished Senator from North Carolina relative to the issue of States rights. I should like to make a statement so that the record can be clear on this matter, because I deeply appreciate what the Senator from North Carolina has said.

I am gratified by his interest in reserving the rights of the State. But because I do come from a State, the State of Arkansas, that has a unique situation—to wit, a State constitution adopted in 1874 that embodies a constitutional provision saying that no loan can be made drawing more than a 10-percent interest rate—this places us in a separate category from other States, especially since, on at least one and possibly more occasions, the people of our State have rejected any change in this document.

However, there will be an attempt to change the usury provision, I can assure my friend from North Carolina, in November of 1980, when we vote for or against a new constitution. The people of our State will have an opportunity, once again, at that time, about 13 months from now, to decide whether or not this provision will remain a part of the Constitution. Therefore, I want to state to the Senator from North Carolina and my colleagues that our State is attempting to address this issue, and the people of our State undoubtedly will work their will, up or down, on this issue in November of 1980. It is for the reason of uniqueness and certainly for the reason of commerce and, actually, survival in our State that we do need some relief from the Washington level in this regard.

Once again, I say I admire the Senator from North Carolina for making this his concern, the issue of States rights, but I want to set the record straight as it applies to the people and to the State of Arkansas.

I thank the Senator very much.

Mr. PROXMIRE. Will the Senator yield?

Mr. PRYOR. I am happy to yield.

Mr. PROXMIRE. I am informed that both California and Texas are in the same position as Arkansas in that they have this in their constitution, also. They have the same constitutional difficulty, therefore, with respect to time and so forth, to correct the situation.

The Senator from Arkansas, as he stated his position so well, has found his State in very, very serious economic and financial difficulty with respect not only to financial institutions, but the borrowers, is that correct?

Mr. PRYOR. That is correct, and there is presently pending litigation in the courts on how much the financial institutions can pay out in interest to depositors in the financial institutions. So that question is also under litigation at this point, and there is mass confusion about this part of the usury provisions that we are considering.

Mr. PROXMIRE. Does it not seem fair and realistic and sensible, then, to accept the Cochran amendment, which would do this: It would provide, of course, that the States, if they wish to do so, can reestablish their usury rate, put it back into effect. And, of course, in the case of California and Texas, as well as Arkansas, it would be one way in which you could provide an opportunity for the economies of all three of those great States to continue to function without being put in what appears to be, every day, a more and more difficult, painful, unfortunate position?

Mr. PRYOR. I say to the Senator from Wisconsin that I believe, just from looking at the amendment and hearing about the amendment, I have not actually had the opportunity to read it——

Mr. PROXMIRE. It is exactly like the Arkansas amendment, I understand, except it applies nationwide, not simply to one State.

Mr. PRYOR. If that is the case, I would join in support of Senator COCHRAN's amendment. I think it is a wise approach to a very complex and complicated problem.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I would like to thank my friend and distinguished colleague from Arkansas (Mr. PRYOR) for his indication of support for this effort.

I have the greatest respect, Mr. President, for the Senator from North Carolina (Mr. MORGAN). I have a great deal of sympathy, also, with the general arguments and observations that were made by him in opposition to the amendment, specifically, the statement relating to the rights of States under the Constitution, the concept of federalism.

So it is very difficult for me to rise and suggest that, because of the argument he so eloquently made, we ought not to adopt this suggestion.

But, Mr. President, this is not preemption, which is either permanent or without an exception that permits a State to take itself out from under the provisions we may enact if this amendment is accepted.

This amendment limits by time to July 1, 1981, the effective date of this so-called preemption, or I could call it permission.

Also, there is a condition to it that permits a State on its own volition to take itself out from the impact or the effect of the legislation. So that after we enact this amendment, this legislation, a State may, if it so chooses, have the legislature reenact or enact some other kind of law that would lower the legal rate of interest within that State, and that legislative act would be effective. So that at whatever rate of interest the State government chose to select as the legal rate within that State, it could be done notwithstanding the enactment of this legislation.

What the legislation seeks to do, though, Mr. President, is to provide emergency assistance and promote an environment of competition, an opportunity for competition, as it relates to the setting of interest rates and the making of loans to stimulate economic development, to provide opportunities for farmers to make a crop, and the other activities that would be included in this language which is restricted to loans of the type that involve business activity or agricultural activity, and the loan request is $25,000 or greater.

I think we can see, therefore, Mr. President, that this is not an effort to destroy the basic principles of federalism, to take away from States the rights they have to make their own laws that relate to intrastate commerce.

There is another point the distinguished Senator makes, Mr. President, that I would like to make a couple of observations about. That is the constitutionality, the right of the Federal Government under the Constitution to legislate in this way.

I do not pretend to be a preeminent scholar in that area. We have had many, I know, in this body in times past. But I do recall that even though the provision of the Constitution purports to extend the right of Congress to legislate as to business activity which is directly engaged in interstate commerce, the Supreme Court early on has construed that to mean that business activity, economic activity, which has a significant impact on interstate commerce, is subject to regulation, subject to legislative pronouncements of the Congress.

So that activities that might be perceived at first blush to be intrastate and, therefore, the business solely of a State government, have, through economic reality, become viewed as an essential part of interstate commerce and, therefore, subject to the regulations or pronouncements of the National Government, the Congress.

I remember that one case in law school where the fellow was growing corn in his backyard, had a small plot, and was using the corn not for sale in interstate commerce, but to feed stock or chickens on his place. The Supreme Court said that that activity had a significant impact on interstate commerce, so that that business activity, that agricultural activity, could properly be regulated by the Congress under the Constitution.

I have the greatest sympathy, Mr. President, for the argument the Senator from North Carolina makes against the legislation in general, that we want to protect States rights, we want to honor the provisions of the Constitution which restrict the Federal Government's ability to regulate in all aspects of economic activity in the United States. But, nonetheless, this is a unique situation we find ourselves in.

The Federal Reserve Board has decided we have to have a tight money policy and this is an essential part of our battle against inflation. Whether we agree with it or not, the fact is that this has an impact on the States, has affected State banking institutions, and, really, in a few short weeks, has made it impossible for State banks to loan money.

A State bank is owned by shareholders. A State bank has to earn a profit on its investments. If it cannot make a loan and charge a rate of interest greater than the discount rate, the rate at which it borrows money or can obtain money elsewhere, then that bank is not going to be able to stay in business. We will have banks collapsing all over the country unless they opt to take advantage of investments such as short-term commercial paper where they can get a 10-percent or 11-percent return on their investment.

That is what is happening. Instead of making loans to business men and women in the State, farmers who need to have the money to operate, these banks are taking the money out of our State—in Mississippi, for instance—and sending it to New York, sending it to big Northeastern cities and some in the Midwest, where they can get these high rates of return, to help them operate that institution at a profit.

This will permit them, Mr. President, to have another alternative. This will permit them to be competitive with national banks and other financial institutions which are making loans at much higher rates of interests.

I would hope that the Members of the Senate would realize this is a unique situation. It is not an effort to permanently prescribe usury laws or rates for every State in this Union. It leaves that right within the States. They can make those decisions.

But it is an emergency situation that has a limited period of time for effectiveness.

I hope Senators will support it.

Mr. PROXMIRE. Will the Senator yield?

Mr. COCHRAN. I am happy to yield.

Mr. PROXMIRE. Is it not true that all the Senator's amendment does is to put business and agricultural loans on the same basis that mortgage loans are already put on in the bill?

The bill presently provides precisely what the Senator is suggesting for mortgage loans.

All this does is to say that we should treat loans to business, small and large, and loans to farmers the same way.

Mr. COCHRAN. The chairman is absolutely correct.

There is already an effort made here to recognize the emergency and unusual situation in which we find ourselves with respect to home mortgages.

This extends the same principle, the same effort, in the case of agricultural and business loans in excess of $25,000.

I thank the chairman for that observation.

Mr. MORGAN. Mr. President, I make the observation that the Senator from Mississippi is exactly right. It would put business and agricultural loans in the same position as the bill provides for housing. But I also advise the Senate that I have a printed amendment which would strike that provision from this bill, too.

The Senator makes some interesting arguments, and I ask if he will yield for one question, before I try to discuss it.

If the Senator's amendment is adopted, would there be any limitation on interest for agricultural or business loans above $25,000?

Mr. COCHRAN. Yes. The amendment provides for a 5 percent in excess of discount rate as a limitation on loans of the type described in the amendment. So there is an effective limitation.

It is not just carte blanche, that you could go out and rip off the public, or that kind of thing. It is a rate of interest which is not unlike that the banks around the country are now charging as their prime rate.

Mr. MORGAN. In that connection, would the distinguished chairman be willing to tell me whether he knows this: If the bill passes with the preemption in the bill with regard to housing, would there be any limitation on usury for housing and items covered under the bill itself?

Mr. PROXMIRE. The Senator knows the answer to his question, of course. There is no limitation in the bill with respect to mortgage loans. Of course, there is a market limitation.

As the Senator knows, we always have had a situation in which the mortgage rate is lower than business rates, for a good reason, particularly when interest rates are rising. The reason is that the mortgage rate is for a long period of time. People are going to get that high interest rate for many years. That is why the mortgage rate is well below prime.

We would rely on the market. I am sure the Senator from North Carolina, who is a solid free enterpriser and who believes in the marketplace and in determining interest not by legislative fiat or bureaucrats or politicians deciding what should be the case, but by letting the market work, agrees that the market should work in this case.

Mr. MORGAN. I suspected that that was the answer, but I really was not quite sure.

There have to be some exceptions in the marketplace, and I do not know of any better exception than here.

My distinguished predecessor, who held this seat for a long time, used to quote to the Senate many Biblical Scriptures to support his position, and I had intended to quote from "Exodus" this morning, where the Scriptures warn us of usury, but I lost my Scriptures. I think this would give me some valid exceptions to the marketplace. I believe there should be some limitations on interest, no matter where they come from.

However, I should like to comment on the argument of the Senator from Mississippi.

First of all, if I recall correctly, he said that for the last few weeks, in Mississippi, State banks were unable to make any loans because of the interest rate. I certainly do not question that at all. However, I am sure that the State of Mississippi has a very fine and distinguished Governor, who is just as concerned about the commerce and trade in the State of Mississippi as the Senate is, and is probably more aware of the conditions in the State of Mississippi with regard to industry and commerce than we are—perhaps not more than the distinguished Senator from Mississippi.

If this condition has existed for several weeks and if the Governor of that State felt that it was sufficient to warrant action, I am sure he could have brought the legislature into town and changed that.

The Senator referred to California and Texas. California may have a constitutional provision, but if there is, the limitation must be extremely high, because they have been charging high interest rates out there for a long time.

The Senator also talked about the interstate commerce clause of the Constitution. I recall studying a case in law school involving a farmer who grew a small patch of corn and was held to be involved in interstate commerce because it could affect interstate commerce.

That is interesting, because when I was in law school, we used to study the interstate commerce clause, and we were told that was the only real reason Congress could become involved in legislating in matters affecting trade and commerce in a State.

Perhaps I was in law school a few years before my colleague from Mississippi, but back in those days it used to be a very real question before the Supreme Court, frequently, as to whether or not a Federal act was unconstitutional on the ground that it did not involve the interstate commerce clause. But we know that, through the years, the Supreme Court has interpreted our Constitution more liberally. As a matter of fact, some people would say they have interpreted it so liberally that now Congress never even considers whether or not we have the authority to do anything.

If we go back and read some of the old bills—a few of them since I have been here—that purported to legislate with regard to trade and commerce, there would always be a preamble stating that it did involve interstate commerce, at least giving it the pretense of bringing it within the Constitution—although the Senator and I know that the statement in the bill that it involves interstate commerce was not sufficient in the old days. But, lo and behold, the provision has been interpreted so liberally now that no one ever alludes to that any more.

I doubt that 1 bill in 100 comes before Congress, relating to regulation of trade and commerce within the States, that even pretends or purports to relate to interstate commerce.

So I agree with the Senator's argument that Congress, under the Supreme Court decisions, probably has a right to set national usury laws if we want to. But I hope we never do.

I think it would be a catastrophe if the rural people of my State were required to pay the high interest rates that the trade and commerce center of New York is permitted to charge or has to pay.

All I am saying is that circumstances in one area of the country are so different that I do not think a nationwide usury law is wise or proper.

I do not want to prolong the debate, but there does not seem to be a great deal of hurry in discussing this matter.

My chairman has said on occasions in the past, and he has said today, that, after all, if the States do not like this, they can reimpose it; and that is true, under this law. But as a lawyer, as one who has practiced in the courts a long time, I point out that the person who has the burden of proof is in a much more difficult position than the one who can sit back and rest on the weakness of another's case.

The distinguished Senator from Arkansas (Mr. BUMPERS) offered a bill some time ago—which I supported—which has been helped by business across the country and by the legal profession to be a giant step forward in deregulation. The bill provides that the Government, when suing a citizen in an effort to enforce a regulation, has the burden of proving that that regulation was adopted pursuant to law.

At the time, that seemed relatively insignificant to many people; but the Senate passed the bill, and I hope the House will do so, if it has not done so already. However, the person having to carry that burden of proof does have a burden, so what we are doing now is shifting it.

And those who wish to have State usury laws or State constitutional provisions now have the burden of carrying the majority in favor of their positions; whereas, in years past, since the laws were on the books or in the Constitution, those who felt that there was a real need for changing them had to prove that need.

So what we in Congress will be doing is just shifting the burden. We do not have to prove the need. We just have to prove there is not a need for it.

I think that really does not answer the problems that I am concerned with.

Mr. President, I say again that I am not unalterably committed to States rights to such an extent that I am willing to say there is never an occasion when this Congress should not preempt State laws.

But, as a matter of fact, even Thomas Jefferson, who was a great federalist and wrote quite a bit on this subject, recognized that there might be times when the national interest would compel an overriding of State laws.

I subscribe to that, and, as I mentioned earlier in the discussion, I voted for that in the Energy Mobilization Board. But even in light of the present energy crisis, I was not willing to vote for it on a blanket basis. I was not willing to vote for a provision which would override State laws until that provision provided that the States would have at least 2 years to act, and then I thought it was entirely reasonable that if the States had not acted within 2 years, then it was entirely reasonable that the Federal Government might preempt.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the pending amendment by Mr. COCHRAN be temporarily laid aside until the disposition of the Social Services bill this afternoon, at which time the Senate then resume consideration of the amendment by Mr. COCHRAN.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 680

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I send an amendment to the desk—amendments, I should say, to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 680.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. I will explain them.

The amendment is as follows:

On page 32, between lines 20 and 21, insert the following:

SEC. 306. The Federal Credit Union Act is amended—

(1) in section 107(5)(A)(1)—

(A) by inserting ", including a cooperative," immediately following the word "dwelling"; and

(B) by inserting immediately after the word "Board" the following: ", except that a loan on an individual cooperative unit shall be adequately secured as defined by the Board";

(2) in section 304(b)(2) by striking out "those" and inserting in lieu thereof "participating";

(3) by striking out section 305(b)(3) and inserting in lieu thereof the following:

"(3) shall share in dividend distributions at rates determined by the Board. However, rates on the required capital stock shall be without preference; and";

(4) in section 307(15) by striking out the words ", to the extent or in such amounts as are provided in advance in appropriation Acts"; and

(5) in title III by striking out the word "Administrator" each place it appears and inserting in lieu thereof "Board".

(6) in section 107(5)(A)(vi) of the Federal Credit Union Act, 12 U.S.C. 1757, is amended to read as follows—

"the rate of interest (except as may be authorized by the Board of Agent members of the Central Liquidity Facility in carrying out the provisions of Title III) not exceed 1 per centum per month on the unpaid balance inclusive of all service charges".

(7) On page 39, line 23, after "banks" insert "(except to the extent state law requires directors qualifying shares)".

Mr. PROXMIRE. These are unprinted technical amendments concerning credit unions.

Mr. President, the amendments will do the following:

Allow credit unions to make real estate home mortgage loans on cooperatives as well as the other types of dwellings credit unions are now authorized to make.

Incidentially, very few people realize that credit unions can give you a mortgage loan. I took out a mortgage loan on my home in Madison 30 years ago, and credit unions have done a fine job in this field. They have been, of course, overshadowed by the commercial institutions, and I think more people should realize the fine job they do.

Make clear that credit unions who do not join the credit union liquidity facility are not obligated to make contributions to the CLF, and provide flexibility to the NCUA to set dividends on stock held in the CLF.

Delete the duplicative requirement that contract authority for the CLF must be exercised only after a separate appropriation since all expenditures of the CLF are subject to appropriations ceilings as the first instance.

Provide uniformity rates for credit union members borrowing from CLF's whether directly or indirectly.

Mr. President, these amendments are housekeeping in nature and I move their adoption.

Mr. GARN. Mr. President, I am willing to accept these amendments on behalf of the minority.

Mr. MORGAN. Mr. President, I am not sure I understood what the Senator was doing. Is what the Senator is doing just making the present practice legal, is that it? Credit unions down home are already engaged in the home mortgage business.

Mr. PROXMIRE. The first point I made—maybe because I departed from my prepared text, and I think that might have been a little confusing—but I simply referred to a personal experience in which I had taken a mortgage from a credit union and that very few people do that. This is legal and proper.

What this does is to provide that credit unions can make these loans on cooperatives, which they have not been able to do in the past. It is not much of an extension, because there are not that many cooperatives in the country, but there are some. So they can make it on cooperatives as well as other types of dwellings. It just broadens by a relatively limited amount allowing credit unions to make real estate home mortgage loans on cooperatives. I do not know of any objection to that. It simply would extend it to cooperatives.

Mr. MORGAN. Mr. President, I do not see any objection to it either.

Mr. PROXMIRE. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment was agreed to.

UP AMENDMENT NO. 681

Mr. PROXMIRE. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 681.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 25, line 2, strike out "An" and insert in lieu thereof "Effective upon the enactment of legislation expressly providing for the elimination of interest rate controls on deposits and accounts, an".

On page 25, line 15, strike out "Notwithstanding" and insert in lieu thereof "Effective upon the enactment of legislation expressly providing for the elimination of interest rate controls on deposits and accounts, notwithstanding".

On page 26, line 1, strike out "An" and insert in lieu thereof "Effective upon the enactment of legislation expressly providing for the eliminiation of interest rate controls on deposits and accounts, an".

On page 26, line 5, after "Sec. 304.", insert "(a)".

On page 31, between lines 16 and 17, insert the following:

(b) Subsection (a) takes effect upon the enactment of legislation expressly providing for the elimination of interest rate controls on deposits and accounts.

On page 31, line 17; after "(a)(1)" insert "Effective upon the enactment of legislation expressly providing for the elimination of interest rate controls on deposits and accounts,".

Mr. PROXMIRE. Mr. President, this amendment makes explicitly clear the intent of the Banking Committee on granting augmented asset powers to thrift institutions was only on the condition that regulation Q be phased out.

Accordingly, this amendment would make contingent upon the enactment of legislation expressly providing for the elimination of interest rate controls the authority of thrifts to make consumer loans, offer trust services, or expand real estate lending authority to that permitted to national banks.

Mr. President, unless regulation Q is phased out and savers are permitted to earn fair rates on their savings, thrift earning powers should not be augmented.

That amendment, of course, goes to the possibility that the Senator from North Carolina may prevail in knocking out regulation Q. Regulation Q limits the amount of interest savings and loans and banks pay on their accounts. It also gives the savings and loans a differential, an advantage.

If we are going to continue that advantage indefinitely and not phase it out, as the bill does, then I argue that we should not give the thrift institutions the authority to make consumer loans, offer trust services, or to expand their real estate lending authority to that permitted in the national banks.

I think on the basis of my knowledge of the position taken by the Senator from North Carolina that he would agree that these two should work together. That is all this amendment does.

Mr. MORGAN. At first blush it would appear that they should, but the problem in my mind is when is regulation Q going to be phased out? Is it going to be phased out in 10 years or is it going to be phased out in 2 years or are all these new consumer powers, the trust powers, not to become effective until 10 years?

Mr. PROXMIRE. The Senator raises a good point. The fact is that the consumer powers and other powers, trust powers, are given at once. It takes time, of course, for the savings and loan institutions to go into effect. Anyone who has been in a financial institution or operated one knows it takes years to establish a trust service that can compete effectively with the commercial banks. The same thing is true on a consumer loan basis. So those would go into effect at the same time that regulation Q would be phased out over a period of years. Ten years was what we contemplated; that may be changed, because we give some discretion to the regulators to modify the phaseout, depending on the institutions.

We certainly do not want legislation that would have the effect of making it impossible for these institutions to function. So we do provide discretion. We cannot predict how fast that phaseout will be. Also, we cannot predict what will happen in the level of interest rates. They may come down sharply; the Federal Reserve says they will. But if they remain at a high level, we figure that in about 10 years regulation Q would be phased out.

Mr. MORGAN. It would seem, as I read the amendment, that what the Senator is really saying is that if the phaseout of regulation Q legislation is not adopted, then the new powers would not be effective either?

Mr. PROXMIRE. The Senator is correct.

Mr. MORGAN. But the Senator is not saying that if the legislation is adopted, that would have to wait until regulation Q is actually out?

Mr. PROXMIRE. No; all we are saying is that if we knock out regulation Q—the Senator has an amendment to do that, as I understand—we knock out at the same time the additional powers given savings and loans.

Mr. MORGAN. I will say to the Senator that if I have to take this bill, maybe this provision will make it a little bit more palatable.

Mr. GARN. Mr. President, I am willing to accept this amendment, although I do not think it is necessary. The amendment the Senator from Wisconsin talks about was my amendment in the committee to expand the asset powers of thrifts. I think we took care of the linkage within the report language, and it is not necessary to put it into the statute; but I have no problem accepting it within the statute.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment (UP No. 681) was agreed to.

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 682

Mr. GARN. Mr. President, I send to the desk four amendments, and ask unanimous consent for their immediate consideration en bloc.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The amendments will be stated.

The second assistant legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes, en bloc, four unprinted amendments numbered 682.

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

TOLERANCE

To be added at the end of subparagraph (e)(1); insert after "is lower." in line 11 on page 49 add the following:

For the purposes of this subsection, except where such disclosure error resulted from a willful violation which was intended to mislead the person to whom credit was extended, in determining whether a disclosure error has occurred and in calculating any adjustment, (A) each agency shall apply (i) with respect to the annual percentage rate, a tolerance of one-quarter of 1 percent more or less than the actual rate, determined without regard to subsection 107(c) of this title, and (ii) with respect to the finance charge, a corresponding numerical tolerance as generated by the tolerance provided under this subsection for the annual percentage rate; except that (B) with respect to transactions consummated after two years following the effective date of this section, each agency shall apply (i) for transactions that have a scheduled amortization of ten years or less, with respect to the annual percentage rate, a tolerance not to exceed one-quarter of 1 percent more or less than the actual rate, determined without regard to subsection 107(c) of this title, but in no event a tolerance of less than the tolerances allowed under subsection 107(c), (ii) for transactions that have a scheduled amortization of more than ten years, with respect to the annual percentage rate, only such tolerances as are allowed under subsection 107(c) of this title, and (iii) for all transactions, with respect to the finance charge, a corresponding numerical tolerance as generated by the tolerances provided under this subsection for the annual percentage rate.

FLEXIBILITY

The following provision would be added after the first sentence of subparagraph (e)(2); line 17 on page 49 is amended to read as follows:

tended. Notwithstanding the preceding sentence, except where such disclosure error resulted from a willful violation which was intended to mislead the person to whom credit was extended, an agency need not require such an adjustment if it determines that such disclosure error:

(A) resulted from an error involving the disclosure of a fee or charge that would otherwise be excludable in computing the finance charge, including but not limited to violations involving the disclosures described in subsections 106(b), (c) and (d) of this title, in which event the agency may require such remedial action as it determines to be equitable, except that for transactions consummated after two years after the effective date of this section, such an adjustment shall be ordered for violations of subsection 106(b);

(B) involved a disclosed amount which was 10 percent or less of the amount that should have been disclosed and (i) in cases where the error involved a disclosed finance charge, the annual percentage rate was disclosed correctly, and (ii) in cases where the error involved a disclosed annual percentage rate, the finance charge was disclosed correctly; in which event the agency may require such adjustment as it determines to be equitable;

(C) involved a total failure to disclose either the annual percentage rate or the finance charge, in which event the agency may require such adjustment as it determines to be equitable; or

(D) resulted from any other unique circumstance involving clearly technical and nonsubstantive disclosure violations that do not adversely affect information provided to the consumer and that have not misled or otherwise deceived the consumer.

In the case of other such disclosure errors, each—

PERIOD COVERED

To be inserted in lieu of part of the text that appears in subsection (e)(3); delete everything on lines 7 through 9 inclusive on page 50 and insert in lieu thereof the following:

(i) with respect to creditors that are subject to examination by the agencies referred to in subsections 108(a)(1) through (3) of this title, except in connection with violations arising from practices identified in the current examination and only in connection with transactions that are consummated after the date of the immediately preceding examination, provided that where practices giving rise to violations identified in earlier examinations have not been corrected, adjustments for those violations shall be required in connection with transactions consummated after the date of the examination in which such practices were first identified;

(ii) with respect to creditors that are not subject to examination by such agencies, except in connection with transactions that are consummated after May 10, 1978; and

(iii) in no event after the later of (a) the expiration of the life of the credit extension, or (b) two years after the agreement to extend credit was consummated.

On page 51, delete lines 14 through 16, inclusive.

EFFECTIVE DATE

On page 48 line 24 after Sec. 508. add: (a)

On page 51 after line 16 add:

(b) This section shall take effect upon enactment.

Page 79 line 19 would be amended to read:

SEC. 524. Except as provided in section 508, the amendments made by this title shall . . .

Mr. GARN. Mr. President, title V of this bill (H.R. 4986) contains the provisions which simplify and reform the Truth in Lending Act. My distinguished colleagues may recall that these same provisions were adopted by the Senate without objection on May 1 of this year in the form of S. 108. As in the last Congress, the House has refused to even hold hearings on this very important measure, and therefore, the Banking Committee believes it is necessary to once again bring this issue to the attention of the House by including it in the bill under consideration today.

Subsequent to the passage by the Senate of the truth in lending provisions, it has been discovered that the section of the bill establishing parameters for restitution needs to be amended. Therefore, with the concurrence and support of the distinguished chairman of the Banking Committee who is also managing this bill for the majority, I offer four amendments to section 508 of H.R. 4986.

Mr. President, prior to explaining these amendments I believe it is important to give a very brief account of the history of restitution, so that my colleagues will understand why the distinguished Senator from Wisconsin, as chairman of the committee, and I, as the ranking minority member, are now recommending these amendments.

During the last Congress while truth in lending simplification was being considered by the Banking Committee, the five financial institutions regulatory agencies were independently developing enforcement guidelines for truth in lending. On January 4, 1979, these agencies finally adopted and put into effect the enforcement guidelines which very closely tracked the restitution provisions of this bill. However, in early September the agencies suspended the guidelines because they were unworkable, in many cases inequitable and were creating extreme administrative burdens. On October 5 the agencies proposed three amendments that they believe would alleviate many of the problems they were experiencing.

Since the restitution provisions in this bill are very similar to those of the guidelines, the experience of the agencies and their recent recommendations have demonstrated the need for amendments to the restitution section of this bill. It is not often that we have the benefit of observing firsthand the effect of a law prior to its enactment. Here where we do have such an opportunity, it would be irresponsible not to heed the experience of the agencies and follow their recommendations. Therefore, the amendments which we are proposing today reflect the agencies' proposals and give the agencies the flexibility that is necessary to deal with the restitution problem in a reasonable manner.

The first amendment would make the restitution section, section 508, effective upon enactment. While the rest of the provisions in title V would not take effect until 2 years after the date of enactment, it is important to have this section effective as soon as possible in order to make it clear that agencies have the authority to require restitution and to establish the parameters for such authority.

The second, and perhaps most important amendment, requires the agencies to apply a fourth of 1 percent tolerance to the annual percentage rate in determining whether disclosure errors have occurred and in calculating any adjustments. A corresponding numerical tolerance for the finance charge would also be required. These tolerances would have to be applied to all transactions consummated prior to 2 years after the effective date of this section.

With respect to transactions consummated after that 2-year period, the amendment establishes different tolerances depending upon whether transactions have a scheduled amortization—namely, the date from which the finance charge begins to accrue to the date of the final scheduled payment—of more than 10 years or 10 years or less.

For transactions of 10 years or less the agencies would apply a tolerance for the APR of not greater than one-fourth of 1 percent and a corresponding numerical tolerance for finance charges.

For transactions of more than 10 years, which are generally real estate transactions, no additional tolerances would be permitted for the annual percentage rate other than those tolerances provided for under section 107 of the Truth in Lending Act as amended by this title. Recognizing that irregular payments in real estate transactions, for example when mortgage guarantee insurance is involved, can result in very complex computations, I would hope that the Federal Reserve Board will exercise the authority granted to it under section 107 as amended to establish a greater tolerance where irregular payments are involved. Once again, the amendment would require commensurate finance charge tolerances.

The third amendment reflects the need for maintaining current agency flexibility in order to allow the agencies to deal with restitution in a reasonable manner. The amendment delineates three specific exceptions to the general reimbursement requirements where restitution would not have to be required, they are:

An exception for errors involving fees that are otherwise excludable from the finance charge. However, there is an exception to the exception for transactions consummated subsequent to 2 years after the effective date of this section, where reimbursement would be required for violations of the credit life insurance disclosure provisions contained in section 106(b) of the act. Since the regulation and not the act imposes the requirement that the insurance option be dated, it is contemplated that an omission of the date would not result in restitution;

An exception for disclosures that are 10 percent or less of the amount that should have been disclosed; and

An exception for a total failure to disclosure either the annual percentage rate or the finance charge.

This amendment would also allow for more individual agency flexibility so that the agencies could respond appropriately to unique situations which involve technical disclosure errors. It is necessary to give the agencies this type of flexibility in order to have workable and equitable implementation of restitution.

The final amendment would alter the provisions governing the time period during which corrective action would be required so that retroactive enforcement would be more appropriately tailored to the past performance of the individual institutions.

Restitution could be ordered only during the life of a credit extension or 2 years from its consummation, whichever is later. This would apply to creditors subject to regular examination only with respect to violations in transactions that are consummated during the time interval between the current examination and the immediately preceding examination, except that where practices giving rise to violations in earlier examinations have not been corrected by the next examination, adjustments for those violations would be required for transactions consummated after the examination in which the practice was first cited. With respect to creditors not subject to regular examination, only extensions of credit consummated after May 10, 1978 would be subject to adjustment. This date was chosen since it is the date when the truth-in-lending simplification bill first passed the Senate, thereby placing such creditors on notice that they would be subject to restitution.

Mr. President. Since these amendments are being proposed by the chairman of the Banking Committee and me as the ranking minority member, I ask that the Senate vote to adopt them. They are extremely important to workable and equitable implementation of the restitution provisions of this bill.

Mr. PROXMIRE. Mr. President, first I think we ought to recognize that this is very good legislation, the Truth in Lending Act to which we are addressing ourselves. We passed truth in lending some 11 years ago. I think it was one of the great consumer protection actions taken by Congress. I might say that the great Senator from Illinois, Senator Paul Douglas, was responsible very largely for our action in this. He fought for 7 long years to get truth in lending adopted by the Senate. Unfortunately, he left the Senate just on the eve of success. I carried through and I happened to be author of the bill at the time it passed.

The Federal Reserve Board has made a study of the effect of truth-in-lending legislation and finds that there have been dramatic increases in the understanding by borrowers. This is not only true of well-to-do people and well-educated people but of poorer people. Before truth in lending, studies indicated that even people with college degrees and advanced degrees did not really understand when they went to borrow money what kind of interest they were paying. We found abuses all over. We found particular abuses, of course, with respect to the less educated, and found in many cases that people buying second-hand furniture, for example, would be paying 50-percent, 100-percent, 200-percent interest, and more. Truth in lending, of course, requires that any lender has to say what the true annual rate is. It is a red flag that puts people on notice.

We find that about half of the poorest people now, where it was only about 2 or 3 percent before, understand what the true annual rate is, understand it and are able to act on it, and are able to shop for their credit. So we have accomplished a great deal.

At the same time there is no question that truth in lending has been too complicated, that many consumers are put off by it. When you have to buy something on credit, Mr. President, you get a sheet ever so long, and very few people are going to sit down and read the fine print. A few people will, to their great credit, but most people do not. Also, it is a great burden on the lender because he has to fill out long forms and it costs him money. That money eventually is paid by the consumer.

For all of these reasons, we felt simplification was necessary.

As the Senator from Utah pointed out, we passed simplification here in the Senate before, and the House did not agree to it. We hope this time, by attaching simplification to this bill, we can get the House to act and provide a much better and improved system for the consumer to understand what his true annual rate is, what his finance charge is, and to be able to shop and act on that basis.

I am pleased to accept these amendments offered by Senator GARN. I commend the Senator from Utah for his efforts in developing these proposals to clarify the restitution provisions of S. 108. He has worked hard and well, and I think in the interest both of consumers and lenders in this respect.

The need for this clarification was recognized following the difficulties recently experienced by the agencies in their efforts to require restitution through their uniform enforcement guidelines. This experience demonstrated that the agency programs, which mirrored to a large extent the restitution requirements of S. 108, may have been unnecessarily inflexible with respect to certain situations.

I believe these amendments are a reasonable attempt to balance the need to build in the flexibility necessary to permit a reasoned approach to restitution by the agencies while continuing to require the agencies to order restitution to protect consumers, where appropriate.

They did not do that for years under truth in lending. They simply let the law go. They did not really enforce it. They began to enforce it a few years ago and now we want the enforcement to be orderly, practical, and effective. That is what these amendments do.

I would like to take this opportunity to raise one point.

I am informed that there is some concern, by the staffs of several of the Federal financial regulatory agencies, that certain language in the amendments relating to the tolerance permitted under the restitution provisions may be construed to permit creditors a tolerance of one-half of 1 percent from the actual finance charge.

In response to that concern, I wish to point out that the language which permits a tolerance, for the purpose of restitution, one-quarter of 1 percent more or less than the actual rate, is not intended to provide a cumulative tolerance of one-half of 1 percent with respect to the finance charge. Would the Senator from Utah agree with that assessment of the tolerance provision?

Mr. GARN. Yes, I would. I am glad the chairman clarified that. It should be clarified. There is certainly no intent that that should be the case, that the tolerance should be cumulative and go to one-half of 1 percent. We make that very clear to the agencies now, that that is not the case.

Mr. PROXMIRE. I take it the amendment of the distinguished Senator from Utah is pending. Can we act on the amendment he has offered?

I withdraw the question, Mr. President.

Mr. GARN. The restitution provisions of truth in lending require reimbursement when a disclosure error results from "a clear and consistent pattern or practice of violations." I am very concerned about the application of this standard in certain situations, best exemplified by computer malfunctions, which naturally result in repetitive violations, but which in many cases are so obvious that the consumer could not possibly have been misled. Although our amendment creates an exception, I will call it the 10-percent exception, this would principally encompass obvious errors created by a slipped decimal point. Other obvious errors, for example the dropping of one of the digits in a two digit APR, which error appears in an open end credit periodic statement, would often not come within the exception. The distinguished Senator from Wisconsin, who is managing this bill, I understand recognizes the problems that can be created by a computer malfunction such as the one described, or other similar situations, but believes that this does not constitute a pattern or practice of violations and therefore would not have to be reimbursable. Is that a correct interpretation?

Mr. PROXMIRE. I would agree, to the extent that we are discussing a brief mechanical malfunction, such as a computer malfunction, resulting in an understatement of the APR or finance charge over a short span of time such as a single billing period.

Under these limited circumstances, it is reasonable to assume that the error should not automatically constitute a pattern or practice violation. At the same time, we should not foreclose the possibility that an agency may determine even under these limited circumstances that the creditor's actions, in a particular case, may justify a finding that the violation constituted a pattern or practice.

Mr. GARN. I believe this is a very important point since, to date, the agencies have only been requiring reimbursement for closed-end credit disclosure errors, and we do not know the effect that requiring adjustments for open-end disclosure errors or errors created by a malfunctioning computer or the like, will have upon institutions, especially retailers. Therefore, it is essential that "pattern or practice of violations" be interpreted with sufficient flexibility so that disclosure errors created by such things as computer malfunctions which could occur in both open- and closed-end credit, and which by their very nature will be extremely repetitive, are not necessarily errors subject to adjustment.

Mr. PROXMIRE. I agree. It seems that we have little, if any, information on the consequences of applying these restitution provisions to situations like a short term computer malfunctioning, and I believe there should be sufficient flexibility to permit the agencies to deal with these problems in a reasonable manner.

Mr. GARN. Mr. President, the present language in the committee report states that since most violations are repetitive in nature, we expect that the "pattern or practice of violations" criterion will encompass the majority of understatements. We are now saying that that is not necessarily so, since the types of errors we have just been discussing will generally be repetitive and it is contemplated that the agencies will deal with these situations in a reasonable manner.

Mr. PROXMIRE. Again, I would agree to the extent that we are discussing short-term mechanical malfunctions where an agency determines that an exception to the "pattern or practice" rule is appropriate under all the circumstances.

Mr. GARN. Mr. President, I would like to give a quick illustration of the problem we are talking about here. For example, a creditor has disclosed in both the initial disclosures and in regular periodic statements that the annual percentage rate is 18 percent. Then, 1 month, the computer fails to print the one and therefore the periodic statement has a disclosed rate of 8 percent. This is an obvious error, but it would not come within the 10 percent exception that is in our amendment. In addition, since the consumer has repeatedly received periodic disclosures stating a rate of 18 percent, the consumer is unlikely to have been misled. This is obviously an error created by a malfunctioning computer and is also repetitive in nature. However, it should not be automatically categorized as a "pattern of violations" just because it is repetitive.

LEASING HEARINGS

Mr. President, on another matter, it has been brought to my attention that there has been some interst in adding amendments to this bill to take care of problems that have arisen under the Consumer Leasing Act. I gather some of these amendments are only technical in nature, while others would merely reform certain leasing provisions in the same manner as we are now reforming the Truth in Lending Act. While I believe it is unfortunate that this was not brought to our attention earlier so that we could have included it with truth in lending reform, since I gather the amendments are in the same spirit of simplification, I believe we should not be short-circuiting the legislative process on a law as complex as the Leasing Act. However, it appears to me that there is a need to review the Consumer Leasing Act just as we have done with truth in lending. Can we agree at this time to conduct at least a day of hearings on this issue sometime in the next few months, and not consider any amendments of this kind on the floor.

Mr. PROXMIRE. I have known of these proposed amendments, Mr. President. It is clear, however, that these proposals by the leasing industry will require the benefit of hearings to permit public and agency participation. While some of the proposals appear to be in the spirit of simplification, others may raise substantive issues relating to the protections afforded consumer lessees.

I would, therefore, be willing to urge Senator TSONGAS, who is the chairman of the Consumer Affairs Subcommittee, to schedule a hearing on this issue within the next 4 to 6 months.

Mr. GARN. I appreciate that.

The PRESIDING OFFICER (Mr. EXON). The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. PROXMIRE. I thank my neighbor, the distinguished Presiding Officer.

UP AMENDMENT NO. 683

Mr. PROXMIRE. Mr. President, on behalf of Senator GARN and myself, I wish to offer an amendment containing nine technical changes to the truth in lending section of this bill. These amendments were requested by the Federal Reserve Board.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) for himself and Mr. GARN, proposes an unprinted amendment numbered 683.

Mr. PROXMIRE. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

1. Sec. 505, page 46, line 11, insert the words "or lessee" after the word "borrower"; line 14, insert the words "or lessors" after the word "creditors"; line 16, insert the words "or lessor" after the word "creditor"; line 17, insert the words "or lessor" after the word "creditor"; line 20, insert the words "or lessor" after the word "creditor"; page 47, line 1, insert the words "or lessor" after the end of the word "creditor"; line 15, insert the words "or lessors" after the word "creditors"; line 17, insert the words "or lessors" after the word "creditors"; and line 20, insert the words "or lessor" after the word "creditor".

2. Sec. 509, page 51, line 20, strike out the words "This title does" and insert in lieu thereof the words "Chapters 1, 2, and 3 do".

3. Sec. 511, page 55, line 3, insert the words "or lessor" after the word "creditor"; and line 4, strike the word "chapter" and insert in lieu thereof the word "chapters" and insert "and 5" after the number "4".

4. Sec. 514(a), page 62, line 19, insert the words "before or" after the word "consumer".

5. Sec. 514(a), page 62, line 16, insert the word "and" after the semicolon; line 21, strike the semicolon and the word "and" and insert in lieu thereof a period; strike lines 22 and 23; page 63, line 7, strike the comma and the words following the word "financed"; and line 8, strike the remainder of the phrase "required deposit balance" and the comma preceding the word "and".

6. Sec. 514(a), page 64, strike lines 10 through 13 and insert in lieu thereof the following language:

"(11) A statement indicating whether or not the consumer is entitled to a rebate of any finance charge upon refinancing or prepayment in full pursuant to acceleration or otherwise, if the obligation involves a precomputed finance charge; a statement indicating if a penalty will be imposed in those same circumstances, if the obligation involves a finance charge computed from time to time by application of a rate to the unpaid principal balance.

7. Sec. 516(a), page 72, line 11, strike the comma and the words following the word "obligation" and insert in lieu thereof a period; and strike line 12.

8. Page 79, insert a new section after line 17 that reads as follows:

"SEC. 524. Section 185(b) of the Consumer Leasing provisions of the Truth In Lending Act is amended by deleting the reference in the second sentence of that subsection to section 115."

9. Page 79, line 19, renumber "SEC. 524" as "SEC. 525".

Mr. PROXMIRE. Mr. President, I ask unanimous consent that a statement in explanation of these technical amendments be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

EXPLANATION OF TECHNICAL AMENDMENTS TO TITLE V OF H.R. 4986

1. Section 505 directs the Federal Reserve Board to issue model disclosure forms and clauses for common transactions to facilitate compliance with the disclosure requirements of Title I of the Consumer Credit Protection Act. Title I encompasses the Truth in Lending, Fair Credit Billing, and Consumer Leasing Acts. Section 505 refers, however, to model forms and clauses for credit contracts, but does not mention consumer lease transactions. In order to make clear that model forms and clauses also should be available for lease transactions and that lessors would be deemed to be in compliance when using those forms and clauses, the first series of proposed amendments inserts the appropriate references to lessors and lessees in section 505.

2. Section 509 deals with the interrelationship of the Truth in Lending Act and state law. The first sentence of paragraph (a)(1), however, broadly refers to Title I, which, as mentioned above, includes the Fair Credit Billing and Consumer Leasing Acts. Since each of those two acts has its own provision regarding the relationship with state law, section 509 should refer only to the Truth in Lending Act, which is found in Chapters 1, 2, and 3 of Title I. The second proposed amendment would accomplish that result.

3. Like the proposed amendments to section 505 regarding model forms and clauses, the third proposed amendment would make clear that lessors are covered to the same extent as creditors. In this case, a provision of section 511 permits creditors to supply additional information along with the disclosures required under the Fair Credit Billing Act (Chapter 4) and the Truth in Lending Act (Chapters 1, 2, and 3). The proposed amendment would extend the same authorization to lessors subject to the Consumer Leasing Act (Chapter 5).

4. Section 514 revises the basic closed-end, installment credit disclosures of the Truth in Lending Act. Paragraph (a)(2)(C) describes how a finance charge paid at consummation or withheld from the credit proceeds is to be treated. The fourth proposed amendment would make clear that a finance charge—such as a credit report or an appraisal fee—paid before consummation should be handled in the same fashion.

5. The proposed amendments to paragraphs (a)(2)(D) and (a)(5) of section 514 would delete the references to any required deposit balance. Since the amount of any deposit balance would already be reflected in the "principal amount of the loan" (or the cash price less downpayment and trade-in in the case of credit sales), it would not have to be treated separately to arrive at the correct "amount financed." As currently written, the required deposit balance provisions, in essence, would result in a deposit balance being counted twice, thus artificially inflating the amount financed. The amendment would not affect the treatment of transactions involving required deposit balances as multiple advance transactions for purposes of computing the annual percentage rate.

6. Currently, paragraph (a)(11) of section 514 requires the disclosure of whether or not a rebate will be given or a penalty imposed if a consumer debt is refinanced or prepaid in full. An unintended result of the language "whether or not" is that a credit offering credit on a simple-interest basis, without a penalty for refinancing or prepayment, would have to disclose, in addition to the fact that it did not impose a penalty, the fact that it did not offer a rebate. But that disclosure is misleading since a creditor imposing a finance charge on a simple-interest basis collects no additional finance charge that could be rebated. The proposed amendment would eliminate that anomaly.

7. Section 516 deals with the liability of assignees. Paragraph (c) indicates that a consumer may rescind a transaction even if an assignee has acquired the underlying credit contract. The last phrase of paragraph

(c) suggests, however, that an assignee may also be a creditor under the law. That result would conflict with the new definition of creditor contained in section 502. Therefore, the amendment proposes striking the reference to creditor at the end of paragraph (c).

8.-9. The final proposed amendments would change the Consumer Leasing Act to reflect the repeal of section 115 of the Truth in Lending Act by section 516(b) of the simplification bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. PROXMIRE. Mr. President, I have one final brief statement. The Senator from Alaska has been very patient. We shall then be happy to take up his amendment.

ENCOURAGEMENT OF ADVANCE DISCLOSURE OF CREDIT COST

Mr. President, the Federal Reserve Board has recently been working to simplify the regulation of truth in lending. In the course of their efforts, the Board's staff has proposed an early shopping disclosure to substitute for the transactional disclosures made at the time the loan is consummated.

If properly done, the benefit to consumer borrowers from such a proposal could be substantial. Under this proposal, the borrower could receive credit cost information when applying for credit, at a time when credit shopping is possible, rather than obtaining the disclosures at the loan closing.

While the bill before us does not specifically provide for alternative shopping proposals, it seems to me that this kind of an approach to improve the regulation is, at least on an experimental basis, within the authority of the Board to issue rules and regulations to carry out the purposes of the act.

The Truth in Lending Act was designed to provide borrowers with the means to shop wisely for credit. I commend the Board for seeking imaginative ways to encourage this credit shopping.

Mr. President, I yield the floor.

UP AMENDMENT NO. 684

(Purpose: To permit the continued membership of certain Alaska Natives in the Alaska USA Federal Credit Union)

Mr. STEVENS. Mr. President, I have sent an amendment to the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 684.

Mr. STEVENS. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . Any person who is a member of the Alaska USA Federal Credit Union prior to any termination date which is contained in section 5 of the charter of such Credit Union and which would otherwise apply to such person may continue to be a member of such Credit Union on and after such date. For purposes of this section, the term, "member of the Alaska USA Federal Credit Union", means any person who has an account at such credit union.

Mr. STEVENS. Mr. President, my amendment concerns a simple matter of equity for approximately 15,000 Alaska Natives. It allows these Natives to maintain their accounts at a federally chartered credit union in Alaska beyond the termination dates stated in section 5 of the credit union's charter. The amendment is simple, straightforward, and necessary to insure that the treatment afforded the Native members is consistent with the stated policy of both the Alaska USA Federal Credit Union and the National Credit Union Administration.

In order that the Senate may fully understand the need for my amendment, I would like to provide a brief summary of the circumstances which have led to the proposal I am offering today.

Mr. President, in 1971, with the passage of the Alaska Native Claims Settlement Act, Congress created 12 regional corporations to serve as profit making entities for the Eskimos, Aleuts, and Athabascans of Alaska. All quarter-blood Natives were eligible to enroll and become stockholders in the corporation operating within the region they considered home. In 1972, the then Administrator of the National Credit Union Administration, Herman Nickerson, initiated a program to bring Federal credit union service to the enrollees of these Native corporations.

Over a period of years, and after it became apparent that previously chartered Native credit unions were experiencing operational difficulties, 10 of the Native corporations were permitted to join the Alaska USA Federal Credit Union. This credit union, formerly called the Alaska Command Federal Credit Union, is chartered to serve mainly military and civilian personnel of the U.S. Government. The charter amendment which extended the field of membership to the Native groups specifically indicated that their inclusion was temporary. The intent of the inclusion was three-fold: First, to develop technical expertise among the Natives, second, to build a sufficient economic base for viable Native credit unions, and third, to allow the Natives to "spinoff" their accounts and form their own credit unions. When the 1978 termination date arrived, however, it was appearent that the goals had been only partially met and the viability of any spinoff was highly questionable.

In February of 1978, the general manager of the Alaska USA Federal Credit Union, Mr. James Brinker, requested of NCUA that the termination dates be deleted from the charter so that they could continue to serve the Natives. In response to this request, the present National Credit Union Administrator, Lawrence Connell, granted a 2-year extension, until 1980, before which time, Alaska USA had to conduct a training program to instruct the Natives in the management and operation of a Federal credit union. If any Native group chose not to participate in the program, their accounts were to be divested within 90 days. The Alaska USA training program is currently underway, all 10 groups having chosen to participate.

As the 1980 termination date approaches, I have received substantial amounts of correspondence, both from Native members and from Alaska USA officials, concerning the required divestiture and the original understanding held by the Natives who became members of Alaska USA. It appears that a great deal of confusion exists about the status of the Native accounts. This confusion stems originally from correspondence between the National Credit Union Administration and the Alaska USA Credit Union in which it was explained that the Native accounts would be divested at the option of the individual Native, not forcibly by the National Credit Union Administration.

Mr. President, at this time, I have here copies of correspondence between NCUA Administrator Nickerson and R. A. Kennard, President of the People's Bank & Trust. In this letter, Mr. Nickerson explains that the divestiture of the Native accounts would proceed in accordance with NCUA's "Procedure for Division of Assets, Liabilities, and Capital." This procedure states that—

> Members of the group to be served by the new credit union will be given the option * * * of authorizing the transfer of their share and loan accounts to the new credit union.

In addition, in correspondence between NCUA and Alaska USA concerning the procedures for divestiture, it was explained that if a member (of the credit union) does not authorize his account to be transferred to the new credit union, he may not be forced to close his account in the existing credit union. He may continue to be served under the "once a member" policy of the existing credit union. As a result of this information, Alaska USA openly advertised lifetime membership to its Native members and distributed literature stating this policy was in effect.

The majority of the corporation officials and enrollees who have contacted my office about the divestiture have specifically stated that they had understood that the "once a member" tenet was applicable to their membership. Realization of the required divestiture has caused some bitterness and raised claims that this action represents another example of Government neglect of its responsibility and commitment to the Alaska Native.

In addition to the confusion surrounding the terms of the Native membership, there exists a general lack of interest in a spinoff credit union for the Natives, as well as questions about the success of the training program. The many letters I have received verify the Natives desire to maintain their accounts with Alaska USA and their participation in the training program as one necessary to postpone the divestiture date. Moreover, the technical and financial capabilities of the regional corporations is such to make establishment of their own credit unions infeasible. While the training program could supply the necessary managerial expertise and operational difficulties with their own regional entities and have stated that the initiation of a new undertaking would be a hardship at this time. Given that the original intent of the extension of Alaska USA's field of membership was to give the Natives the necessary economic and technical basis to "spinoff," one would assume that, without this basis, the Natives could not be expected to organize their own credit union.

After I became aware of the required divestiture and the confusion surrounding the status of the Native accounts, I met with NCUA Administrator, Lawrence Connell, to discuss the situation. Mr. Connell remained firm in his intention to the Native accounts divested at the end of the training program and feels that to allow the retention of the accounts would be counter to the credit union's "common bond" policy. It is my contention, however, that there exists an agreement between the Natives, Alaska USA, and the National Credit Union Administration to provide credit union service on a "once a member, always a member" basis. If policy errors were made in the original extension of the field of membership or in the stated procedure for eventual divestiture, I do not believe that the Native members should be the ones to bear the cost of these errors. Instead of forcing the Natives to close their accounts, my amendment would allow them to maintain their accounts while prohibiting any new members to join. This compromise is in keeping with the original goals of the program as well as with the terms of membership as understood by the Native members.

Mr. President, I urge the committee to accept my amendment.

Mr. President, I am happy to answer any questions the manager of the bill, my good friend from Wisconsin, might have, and also the ranking Member, the Senator from Utah, might have.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, what this bill would do that presents a real problem for us is that it would broaden the common bond.

As we know, how do credit unions protect themselves against charges they unfairly compete with banks and savings and loans, and so forth?

If one is a Senator, we run into that all the time. We go in and they say that the credit union does not pay taxes they pay, that they get all kinds of consideration, and it is not fair.

What we do is provide credit unions a common bond basis. That is, the people who belong to the credit union are people who work for one company or people who have some other association that is very close.

In this case, we have a so-called defense credit union, as I understand it, in Alaska and that defense credit union has included Indian members who, as far as I know, do not have any common identification with the other members.

This is one of the reasons why the Credit Union Administration opposes the legislation, why it was unable to provide a further extension.

On the other hand, I think the Senator from Alaska, who is a great champion of the Indians and has done a marvelous job protecting them, as well as the Alaskan interests generally, has a very good point.

The Indians have been members of this credit union, as I understand it. They certainly urgently need the kind of reasonable credit which credit unions provide and the kind of advice which credit unions can give, in many cases better than commercial institutions can.

We know Indian income is lower. Indians do not have the sophisticated training some others have in finance.

For all these reasons, the credit union has been a great friend of theirs and, from a practical standpoint, it is very desirable.

For these reasons, Mr. President, I would be willing to take the amendment to conference. But I would say to my good friend from Alaska that I anticipate this will be very strongly discussed in the conference. We will have to consider at some length the position taken by the credit union administrator and the common bond problem because we want to do all we can to preserve the integrity of the credit union system, and that common bond is essential to credit unions being able to have the kind of advantages they have.

Mr. STEVENS. Mr. President, I say to my good friend that I understand his statement and am pleased with his response. I want to do my best to convey to the House conferees of the need for an exception in this case so that the once a member always a member policy may apply to the Natives, notwithstanding the fact that the common bond policy would not be fully met.

I think the Record should show that as a result of the Natives being allowed to use this credit union on a temporary basis, the relationship of the Native people to the credit unions in Alaska has changed. The Alaska USA Credit Union has initiated a training program, for people from the Native portion of their clientele, and it has been very helpful to the Native people.

The goal of the training program is to provide the necessary expertise so that where there are enough depositors from a particular area, a new credit union could be formed and the common bond policies for a particular locale or a regional group could be met.

As the Senator from Wisconsin knows, in 1971 our Alaska Native Claim Settlement Act created regional profitmaking corporations. They are eligible to charter their own credit unions, if they desire to and in some instances, they have. The distances between villages and towns, however, often makes it impossible to run a credit union economically. That is why so many people decided to join the Alaska USA Federal Credit Union, during the period when membership was available to them.

I also say to my friend, we have seen changes in the defense policies in Alaska with regard to maintenance of some of the bases, and to employment of civilians to carry out some functions that previously were met by enlisted personnel. More and more Native people have been hired by the Department of Defense and more and more of a common bond is being built in these regional village areas every year.

Not all of the people who have joined under the membership policy that was initiated in 1975, however, are eligible and would not have the opportunity to become members under this common bond.

I hope my friend from Wisconsin would realize that those Natives falling outside of the common bond are those who are older and who were not in the job market when the Defense Department was hiring, or those who had memberships because their parents deposited money received from the Land Claims Settlement Act in this credit union for their children.

So two groups are most disadvantaged by the actions that would be required without my amendment would be the elderly and the very young.

I think it is wise to maintain this exception for these people under the once a member always a member policy.

I do understand the statement of the Senator from Wisconsin, however, and I understand that we must try to convince our colleagues from the House of the necessity to take care of this problem.

Mr. President, I thank the Senator for his kind comments concerning my relationship with our Alaska Native people. They are very interesting people to work with and in case the Senator is unaware of this the Natives have substantial representation throughout the State, representing approximately 22 percent of the electorate.

I am hopeful that this amendment will survive in conference.

I do not know if my friend from Utah has any questions concerning it.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, I am prepared to accept the amendment of my distinguished colleague from Alaska.

Mr. STEVENS. I thank the Senator from Wisconsin and the Senator from Utah.

Mr. President, I ask unanimous consent that a series of letters previously mentioned be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

National Credit Union
Administration,
March 17, 1975.

Mr. R. A. Kennard,
Peoples Bank & Trust, Pouch 7007, 8th Avenue and G Street, Anchorage, Alaska.

Dear Mr. Kennard: I am pleased to respond to your letter of February 26, 1975, regarding the Alaska Command Federal Credit Union.

The amendments to section 5 of the charter of the Alaska Command Federal Credit Union to serve enrollees of Native Regional Corporations who are eligible to participate in the Alaska Natives Claims Settlement Act were approved after a thorough review by members of my staff. It was determined that the inclusion of native groups in the above Federal credit union with a provision for "spin-off" was more economically feasible than the immediate organization of a separate Federal credit union for each native group. At the end of the period stated in section 5, it is proposed that each of these native groups will undertake an equitable division of their assets, liabilities and capital and charter a new Federal credit union in accordance with Part 709 of the National Credit Union Administration Rules and Regulations.

The amendment to include employees of the Alyeska Pipeline Service Company for a period ending June 30, 1978, also was approved after a thorough review by members of my staff.

The pipeline project has been given top national priority status by the Ford Administration. The Defense Production Act was invoked by the Federal Energy Administration to avoid construction delays because of a shortage of materials. The completion of the project is considered to be critical to national defense. In any war-related emergency, the service of the Alaska pipeline would be needed for defense requirements and national oil needs. While employment will be high during the next three years, upon completion there will remain only a skeleton force for maintenance purposes. The short life span of this project would make the chartering of a separate Federal credit union economically unfeasible.

Enclosed for your information is a copy of our publication "Organizing a Federal Credit Union" which covers the chartering policy of the National Credit Union Administration. Also, enclosed is a copy of the Administrator's Monthly Column (August 1974) which is a press release sent to approximately 150 trade publications and newspapers. This particular column dealt with recent interpretation of common bond concepts. In applying the definition of "common bond" to the review of individual charter applications and amendment requests, we answer two basic questions. Does the group have a commonality of interest and would the chartering of the group be economically advisable? In the review of the above charter amendments, it was determined that the amendments could be granted after analyzing the basic ingredients of economic feasibility and commonality of interest existing in each individual case.

In regard to the question on NOW accounts, the National Credit Union Administration has no such program. We currently have a pilot share-draft program for selected Federal credit unions, however, the Alaska Command Federal Credit Union has not been approved for participation at this date.

I hope the above information is satisfactory in answering your questions.

Sincerely,

HERMAN NICKERSON, JR.,
Administrator.

PEOPLES BANK & TRUST,
Anchorage, Alaska, March 27, 1975.

Mr. HERMAN NICKERSON, JR.,
Administrator, National Credit Union Administration, Washington, D.C.

DEAR MR. NICKERSON: Reference is made to your letter of March 17, 1975 addressed to Mr. Kennard, president of our bank.

Mr. Kennard is currently out of town, and I am writing this letter to let you know that the enclosures you mentioned were not with your letter. If you can send them upon receipt of this letter, perhaps they can reach us before his return next week.

I do not know what, if any, responses Mr. Kennard will wish to make to your letter, but I am taking the liberty of injecting a couple of questions and comments.

As you know, the Alaska Command Federal Credit Union advertises that once you become a member you are a member for life. What will be the status of those members who join under the expanded qualifications when these "spin-off" dates arrive? If they can no longer be members, I presume their deposits would then have to be returned to them, but what about the loans to the pipeline workers? And what is the anticipated impact on the credit union when these share accounts are refunded?

I find it difficult to concur with the reason given for the inclusion of native groups and pipeline workers. If the native groups can find it economically feasible to organize a commercial bank, which they are in the process of doing, it seems they should be able to find it economically feasible to organize a credit union. The pipeline workers are being hired through unions which have their own credit unions and subcontractors have a more permanent character.

I am glad to hear that the Alaska Command Federal Credit Union has not been approved for participation in any share-draft program, and I would hope that your office would permit the Ford Administration's proposed financial institutions legislation to control expanded powers for credit unions rather than granting them on a piecemeal basis.

Very truly yours,

R. W. BURGH,
Executive Vice President and Cashier.

NATIONAL CREDIT UNION
ADMINISTRATION,
April 10, 1975.

Mr. RODNEY W. BURGH,
Executive Vice President and Cashier, Peoples Bank & Trust Pouch 7007, 8th Avenue and G Street, Anchorage, Alaska.

DEAR MR. BURGH: I am pleased to respond to your March 27, 1975, letter and to the additional questions raised in reference to my March 17, 1974, letter to Mr. Kennard. I also would like to apologize for the problem noted with the enclosures. These items are enclosed with this letter.

In response to your first question on the spin-off procedure, I have enclosed a copy of Form NCUA 8043, Procedure for Division of Assets, Liabilities and Capital. The answers to your specific questions are contained on pages 2–6 of this procedure.

The National Credit Union Administration has chartered separate Federal credit unions to serve several of the native groups. Although these credit unions are still in operation, they have been affected by various problems which raise questions in regard to economic feasibility. The only pipeline contractors and subcontractors that can be served by the Alaska Command Federal Credit Union are those that request service and are not eligible for membership in another occupational or labor union sponsored credit union.

My comments on the financial institutions' legislation have been rendered in support of President Ford's position.

I hope the above information and enclosures will be helpful to you.

Sincerely,

HERMAN NICKERSON, JR.,
Administrator.

PROCEDURE FOR DIVISION OF ASSETS, LIABILITIES AND CAPITAL

This procedure is designed for the guidance of a Federal credit union in assisting a well-defined segment of its membership to establish a separate Federal credit union and to divide its assets, liabilities, shares, reserves, and undivided earnings with the new Federal credit union in an equitable and proportionate manner. This separately identifiable group must have a common bond of occupation or association or be a separately identifiable group within a well-defined neighborhood, community, or rural district and in all respects fall within the chartering policies of the National Credit Union Administration as outlined in its publication, Organizing a Federal Credit Union, NCUA 8007.

The National Credit Union Administration Rules and Regulations, NCUA 8006, Part 709—Division of Assets, Liabilities, and Capital, prescribe the basic conditions under which an existing Federal credit union may be divided into two Federal credit unions whereby the assets, liabilities, shares reserves, and undivided earnings of the existing credit union may be equitably and proportionately divided with the new Federal credit union.

All of the requirements of Part 709 of the Rules and Regulations are set forth in the following procedure. Additional details are included so that this procedure may serve as a complete step-by-step guide to the credit union officials in effecting the organization of the new credit union and the division of assets, liabilities, shares, reserves, and undivided earnings in an orderly manner. Any deviations should be cleared in advance with the appropriate regional director. Otherwise, the deviation might result in an improper procedure that would violate the rights of some members. In such instances, the Administrator may find it necessary to disapprove the proposition until the proper steps have been taken in conformance with this procedure.

For the convenience of all concerned, this procedure is subdivided into sections that parallel the subdivision of Part 709 of the Rules and Regulations.

If the credit union officials have any question regarding the procedure, they should contact the regional director for needed information or assistance.

Definition of Terms. Several abbreviated titles or terms will be used in this procedure. Unless otherwise indicated, the following definitions will apply:

"Administration" means the National Credit Union Administration.

"Administrator" means the Administrator of the National Credit Union Administration.

"Regional director" means a Regional Director of the National Credit Union Administration.

"Existing credit union" means the Federal credit union which proposes to divide its membership, assets, liabilities, shares, reserves, and undivided earnings.

"New credit union" means the new Federal credit union which is to be established and is to take over an equitable and proportionate segment of the existing Federal credit union.

"Division" means the voluntary division of membership, assets, liabilities, shares, reserves, and undivided earnings.

"Committee" means the committee appointed by the board of directors to assist in organizing the new credit union and to subscribe to the organization certificate.

A. Approval by Board of Directors and Appointment of Committee.

When it is determined that a new credit union should be established by division of an existing credit union, the following actions should be taken by the board of directors:

1. Approve a proposition for division.
2. Appoint a committee of at least three members representative of the separate, identifiable group, to assist in the preparation and execution of a plan for division, and to subscribe to an Organization Certificate for the proposed new Federal credit union. Compliance with the provisions of Part 701.1 of the National Credit Union Administration Rules and Regulations is requisite.

3. Promptly notify the regional director of the above actions.

B. Preparation of Plan for Division of Assets, Liabilities and Capital.

If the regional director has no objection to the proposed division, he will forward to the board of directors copies of this procedure and Organizing a Federal Credit Union, NCUA 8007. The board may then proceed with the preparation and adoption of a plan for the division.

1. Standard Plan for the Division.

The following is the standard plan for division of assets, liabilities and capital and is recommended for adoption by the board.

(a) Option to Transfer. Members of the group to be served by the new credit union will be given an option, to be exercised in writing on or before a given date (not less than 30 days nor more than 60 days after the date of the notice), of authorizing the transfer of their share and loan accounts to the new credit union.

(b) Date for Closing the Books and Effecting the Division. The board will set a date for the closing of the books and completing the transfer. This date must be no more than six months after the date set for members to exercise their option for transfer.

(c) Transfer of Shares and Loans. Share and loan acounts of members who will be within the field of membership of the new credit union will be transferred simultaneously to the new credit union provided the member authorizes such transfer by exercising his option prior to the date fixed in the plan, and confirms his share and loan balances in writing.

Any such member may withdraw any portion or all of his unencumbered shares at any time prior to the proposed transfer, except during the period when operations are temporarily suspended during the process of transfer.

(d) Allowance for Organization Expense.—The board of the existing credit union will fix the amount, if any, which will be allowed the new credit union for organization expense. This amount will be set aside as a debit to Miscellaneous General Expense and a credit to Accounts Payable, prior to closing the books at the time of the division.

(e) Division and Transfer of Undivided Earnings.—The books will be closed as of the agreed date of the transfer in order to determine the amount of the undivided earnings which will be available for division. All current operating expenses for which the existing credit union is responsible will be taken into consideration and recorded as debits to expense and credits to accounts payable prior to the closing of the books.

Undivided earnings will be transferred in proportion to the ratio of transferred shares to total shares at the time of the transfer. Undivided earnings transferred will be set up in undivided earnings on the books of the new credit union.

[If the division is made as of the end of a dividend period, any dividend authorized by the board will be credited to members' share accounts and debited to undivided earnings before computing the division of undivided earnings.]

(f) Division of Reserve and Transfer of Loans.—The existing credit union will charge off all loans determined to be uncollectible. Adequate reserves will be provided for other loans considered to be collection problems so as to fully cover that portion of such loans which is not covered by pledged shares. Additional reserves will be allocated to meet reserve requirements for all other delinquent loans, according to the formula prescribed in Part 702, NCUA Rules and Regulations.

The remaining reserves will be divided in the same manner as provided in the preceding subsection for division of undivided earnings.

If for any reason the above formula is inequitable, a special analysis should be made to determine a more equitable plan for division of reserves.

The reserves allocated to any delinquent or collection problem loans will be transferred to the new credit union with such loans. All reserves transferred will be set up in similar reserve accounts on the records of the new credit union.

(g) Entrance Fees.—Entrance fees will be waived by the new credit union for those members whose shares are transferred from the existing credit union.

(h) Transfer of Other Assets and Liabilities.—The board of the existing credit union should determine the basis on which investments and other assets should be offered to the new credit union. It is preferable that assets transferred be limited to loans and cash to the extent possible. Notes payable may be used as a means of equalizing assets with liabilities and capital.

2. Clearance of any Deviations from the Standard Plan.

Any deviations from the standard plan for the division should be cleared with the regional director.

C. Notice of Option to Transfer to Each Member of Group.

The board will give notice of option to transfer to each member of the group which is to organize the new credit union. The notice will be handed to the member or mailed to him at his last known address as it appears on the records of the credit union. The following forms should be used for this purpose: NCUA 4217, Notice of Option to Transfer; NCUA 4218, Plan for Division of Assets, Liabilities and Capital; and NCUA 4219, Authorization to Transfer Shares and Loans. The use of these forms will assist the board in meeting the requirements of Part 709.4 of the Rules and Regulations.

The new credit union will need to obtain a membership card for each transferring member. New joint share account agreement cards will also be needed for all joint accounts transferred. The membership cards may be distributed at the time the Notice of Option is given to each member.

D. Submittal of Plan to Administration.

If, by the date fixed in the plan for exercising the option to authorize transfer of accounts, a number of members sufficient to make the division reasonable and feasible have authorized the transfer, the board of directors should promptly submit to the regional director the information shown below. If the number of transfer authorizations received is too small to warrant proceeding with the division plan, the regional director should be informed after the expiration date set for exercising the option to transfer.

1. Plan for Division of Assets, Liabilities and Capital, Form NCUA 4218. Additional pertinent information should be included in the letter transmitting the plan for division.

2. A current financial and statistical report.

3. A statement as to the total number of members of the existing credit union who are in the group to be served by the new credit union and the number of such members who have signed authorizations to transfer their accounts. Form NCUA 4220, Certification of Acceptance of Options to Transfer Shares and Loans, should be used for this purpose.

4. A schedule showing the share and loan balances of all members who authorized the transfer of their accounts to the new credit union.

E. Investigation and Charter and Insurance Application.

An examiner will make the necessary investigation of the proposed new credit union. If all requirements are met and the plan appears acceptable, the examiner will assist the committee in making application for a Federal credit union charter and insurance of member accounts. The requirements for organizing a Federal credit union are set forth in Section VI, of Organizing a Federal Credit Union, NCUA 8007. The examiner will assist in holding the charter-organization meeting and in completing the necessary forms.

The regional director will review the proposal and forward it to the Administrator for action.

F. Approval of Plan by Administrator.

If the Administrator finds that the plan complies with Part 709 of the Rules and Regulations, he will approve the plan and authorize the board of directors of the existing credit union to present the proposal to the members for approval.

G. Approval of Plan by Members of the Existing Credit Union.

If the Administrator approves the plan, the board of directors will present the plan to the numbers of the existing credit union for their approval. The Administrator will approve the applications for a Federal credit union charter and insurance of member accounts upon receiving evidence that a majority of the members who voted on the proposition approved the division.

1. Meeting of the Members of the Existing Credit Union.

The plan must be voted on at a meeting of the members of the existing credit union within six months after the expiration date of the option to transfer to the new credit union. If an annual meeting is to be held at a suitable time which will assure the consummation of the plan within the six-month period, the membership vote may be obtained at that meeting, provided mention of this item of business is included in the notice to the membership. If the plan is not presented at an annual meeting, a special meeting of the members, in accordance with the bylaws, will be called for that purpose.

2. Notice of the Meeting.

The notice of the meeting, whether annual or special, shall:

(a) State that one of the purposes of the meeting is to vote on the proposed plan for division of assets, liabilities and capital;

(b) Be handed to each member in person, or mailed to each member at his address as it appears on the records of the credit union;

(c) Include information similar to that illustrated on the Notice of Special Meeting of the Members, Form NCUA 4221; and

(d) Be accompanied by form NCUA 4218, Plan for Division of Assets, Liabilities and Capital.

3. Vote Required for Approval.

In order for the plan to be approved and acted upon, it must receive the affirmative vote of a majority of the members present and voting at the meeting.

H. Notification of Vote to Regional Director.

Two copies of Form NCUA 4222, Certification of Membership Approval of Division of Assets, Liabilities and Capital, will be completed by the president and secretary of the existing credit union and submitted to the regional director. Attached to the Certification will be a copy of the notice of the meeting sent to the members.

I. Issuance of Organization Certificate to the New Federal Credit Union.

If the plan was approved by the members of the existing credit union, the Administrator will issue the charter and certificate of insurance to the new Federal credit union. The share accounts of the new credit union will be insured as of the date of the charter. If the division is effected prior to the end of the calendar year, no premium will be assessed, since a premium for the shares transferred was paid in the previous January by the existing credit union. The new credit union will pay its first premium in January of the following year.

At this time the plan may be implemented and the division may take place.

J. Completion of the Division of Assets, Liabilities and Capital.

The division will be completed as of the date specified in the plan.

1. Examiner Assistance. An examiner will normally supervise the division at the time it is recorded on the records of the two credit unions. The regional director will inform the credit unions if the division is to be effected without the assistance of an examiner.

2. Examination. If an examination is to be made, it normally will be made of the existing credit union as of the effective date of the division. The standard examination fee will be paid by the existing credit union. The asset portion of the fee will be based on assets after the division has been effected.

3. Closing the Records. The closing entries will be made in the same manner as at the end of each accountng period. The division will be in accordance with the plan approved by the Administrator.

4. Temporary Suspension of Operations. Operations of the existing credit union may be suspended briefly, if necessary, for the purpose of facilitating the division. This may be immediately before or after the effective date of the division.

5. List of Members. A list will be prepared of all members who have authorized the transfer of their share and loan accounts to the new credit union. The list will contain a statement of individual account balances and will be accompanied by copies of the transfer authorizations.

6. Entrance Fees. Entrance fees of members whose shares are transferred will be waived by the board of directors of the new credit union.

7. Members' Records. The individual share and loan ledgers, membership cards, and other related records of the members transferring to the new credit union will be retained by the existing credit union. Copies of these records may be provided to the new credit union.

8. Dividends in New Credit Union. Information covering the share dollars from the last dividend date to the effective date of the transfer should be furnished the new credit union for each account transferred. This information will not be needed if the close of the last dividend period and the transfer have the same effective date. In that case, the dividend authorized by the board will be credited to members' share accounts and debited to undivided earnings, prior to the transfer.

The first dividend paid by the new credit union will be for a full, normal dividend period, even though the transfer may have occurred some time since the beginning of that dividend period.

9. Failure to Authorize Transfer. A member of the existing credit union who fails to authorize transfer of his account to the new credit union before the effective date of the transfer will not be permitted to transfer his account. He may apply for membership in the new credit union in accordance with its bylaws.

10. Receipting for Assets Transferred. The treasurer of the new credit union will give a receipt to the treasurer of the existing credit union for all assets transferred.

K. Notification of Completion of Division.

Promptly following completion of the division, the regional director will be notified. The board of directors of the existing credit union will submit the following in duplicate:

1. Certification of Division of Assets, Liabilities and Capital, NCUA 4223.

2. Financial and statistical report as of the effective date of the division, prior to the division.

3. Financial and statistical report as of the effective date of the division, after the division is completed.

The board of directors of the new credit union will submit the following in duplicate:

1. Certification of Completion of Division of Assets, Liabilities and Capital, NCUA 4223.

2. Financial and statistical report as of the effective date of the division, reflecting the balances of assets, liabilities and capital transferred.

The certification form, NCUA 4223, will be signed by the officers of both credit unions.

L. Effect of the Transfer.

Upon completion of the division, the new Federal credit union will be vested with all assets received and will be responsible for all liabilities and capital assumed.

M. First Examination of New Credit Union.

For its first examination, the new credit union will pay the regular examination fee.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment (UP No. 684) was agreed to.

UP AMENDMENT NO. 685

(Purpose: To modify the standard to be applied by the Comptroller in determining whether to permit banks to expend funds for real estate development)

Mr. GARN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes an unprinted amendment numbered 685.

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 33, beginning with "Upon" on line 14, strike out all through "subject" on line 16 and insert in lieu thereof the following: "Upon clearly extenuating circumstances, subject".

Mr. GARN. Mr. President, I am proposing an amendment to section 401(a) of title IV of the bill, which, in its present form, appears to impose a new and unnecessary paperwork burden on both banks and the Comptroller's Office by requiring banks to make a "showing of clearly extenuating circumstances and highly probable detriment to the bank" whenever a bank needs to spend some money on a piece of foreclosed or repossessed real estate in order to put it in condition for sale.

This requirement is vague and subjective. It sets up a most cumbersome regulatory process which, in all probability, would prove to be extremely difficult to manage, time consuming, and expensive.

This type of situation is now handled very well under regulations of the Comptroller. Those regulations were newly revised and updated earlier this year, effective August 8, 1979, after an 18-month process during which the regulations were issued for comment. The result is a realistic guideline that allows the banks to solve such problems efficiently under standards laid down by the Comptroller, but without going through the process of filing an application and proving their case for every single situation.

These newly updated regulations clearly make the present language in this bill unnecessary and burdensome. So I am proposing an amendment that would delete the unnecessarily vague language in the bill and retain the language which makes it clear that banks may improve repossessed real estate subject to limitations and conditions as the Comptroller of the Currency prescribes.

Let me remind my colleagues that section 408 of this bill before us gives the Comptroller rulemaking authority to carry out the responsibilities of his office, so should any problems arise in this area he has ample authority to deal with them. The language of my amendment was taken from the original draft of these amendments as submitted to the Senate by the Comptroller and introduced by Senator PROXMIRE as S. 1334.

Mr. PROXMIRE. Mr. President, the Senator's amendment leaves in the statute a standard of clearly extenuating circumstances under regulations set by the Comptroller without burdensome paperwork. I commend the Senator for cutting out needless paperwork in bank regulation. Heaven knows, there is enough of it—too much of it, by far—and this is a useful amendment that could save the banks of this country millions of dollars. I congratulate the Senator on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 686

(Purpose: To clarify the authority of the Federal Home Loan Bank Board with respect to real estate loans)

Mr. PROXMIRE. Mr. President, I send to the desk an unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 686.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 25, line 16, after "permitted" insert ", to such extent and subject to such rules and regulations as the Board may prescribe from time to time,".

Mr. PROXMIRE. Mr. President, this is a technical amendment to remove possible ambiguity about the authority of the Federal Home Loan Bank Board to issue regulations on residential real estate lending by Federal savings and loans. As part of a package to provide added flexibility to Federal savings and loans in order to increase their ability to compete given the phaseout of regulation Q, the committee adopted an amendment offered by the distinguished Senator from Utah to authorize to the same extent as national banks pursuant to section 24 of the Federal Reserve Act. The committee report makes clear the intent of the committee that these new powers would be subject to regulations of the Bank Board. However, the statutory language could be interpreted as raising a question as to the Board's authority. The technical amendment would remove this ambiguity.

Mr. GARN. Mr. President, I am willing to accept this amendment.

Once again, I think the report adequately handles the problem, but I have no objection to putting it in statutory language.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 687

(Purpose: To clarify the authority of FNMA to purchase secured home improvement loans)

Mr. PROXMIRE. Mr. President, I send to the desk an unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. Proxmire) proposes an unprinted amendment numbered 687.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 32, between lines 20 and 21, insert the following:

FNMA HOME IMPROVEMENT AUTHORITY

Sec. . Section 302(b) of the Federal National Mortgage Association Charter Act is amended by adding at the end thereof the following new paragraph:

"(4) The corporation is authorized to purchase, service, sell, lend on the security of, and otherwise deal in loans or advances of credit for improvements to properties as to which the corporation may purchase a mortgage. To be eligible for purchase, any such loan (other than one described in paragraph (3)) not insured under title I of the National Housing Act shall be secured by a lien against the property to be improved. The maximum principal obligation of loans purchased pursuant to this paragraph shall not exceed the dollar limits prescribed by the Federal Home Loan Bank Board with respect to similar types of loans made by Federal savings and loan associations."

Mr. PROXMIRE. Mr. President, this amendment would clarify the authority of Fannie Mae to purchase secured home improvement loans. Last year, in section 1702 of the Financial Institutions Regulatory and Interest Rate Control Act, the Congress explicitly authorized Freddy Mac to purchase secured home improvement loans. At that time, Fannie Mae's Charter Act was not similarly amended because it was assumed that Fannie Mae's general authority under its Charter Act already encompassed such authority. However, also last year, in section 246 of the National Energy Conservation Policy Act, Fannie Mae's Charter Act was amended to give it explicit authority to purchase energy conserving improvement loans. In enacting this provision, it was certainly not the intent of Congress to remove existing authority of Fannie Mae to purchase secured home improvement loans. However, the enactment of an explicit authority for energy conserving home improvement loans in the absence of a similar explicit authority for other kinds of home improvement loans has raised a question regarding the extent of Fannie Mae's authority, under current law, to purchase home improvement loans. This amendment would remove any ambiguity by explicitly giving Fannie Mae authority comparable to the authority granted to Freddy Mac last year.

Mr. GARN. Mr. President, I support this amendment to the Fannie Mae Charter Act. As Senator Proxmire has noted, it has been understood that Fannie Mae is presently authorized to purchase home improvement loans under the general provisions of its charter act. However, some misunderstanding on this authority arose when Congress explicitly provided Freddy Mac with the authority to purchase secured home improvement loans last year. The legislative silence with respect to any similar authority of Fannie Mae opened to question the existence and extent of Fannie Mae's authority with respect to home improvement loans. Therefore, the purpose of this amendment is to resolve any misunderstandings and make it clear that Fannie Mae has the authority, comparable to that of Freddy Mac, to buy home improvement loans.

I think this is a good clarification, and I am willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TSONGAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TSONGAS. Mr. President, I wish to engage in a colloquy with my chairman on the issue of money market certificates so that we may have a record to indicate what the intent of Congress is.

When the committee marked up S. 1347, I supported the chairman's amendment to lower the denomination of money market certificates from $10,000 to $1,000. This is now section 107(e). I share the chairman's concern for the so-called "small saver" and feel we must end the discrimination faced by those who do not have the resources for higher yield financial instruments.

In the weeks since our markup, I have spoken with a number of representatives of thrift institutions who fear dire consequences from too precipitious a drop in the MMC minimum. The specter of higher mortgage interest rates, lack of mortgage credit, and the demise of a number of thrift institutions has been raised.

It was my understanding when we passed this amendment that we provided safeguards that would prevent the serious dislocations feared by the thrift industry. I wish the chairman's assurance that the committee's intent and the Senate's intent when we pass this bill is that lowering the minimum will be postponed if the viability of thrift institutions is threatened. Furthermore, the language in the bill indicates the minimum will be lowered within 2 years to "not more than" $1,000. It may be that institutions will not be able to go so far so fast—in effect phasing out regulation Q at a faster pace than the 10 years provided in the bill.

I wonder if the chairman could respond.

Mr. PROXMIRE. Mr. President, may I say to my friend from Massachusetts that I am glad he raises this issue. I think it is one of the most significant and useful parts of the bill.

The difficulty is that while we phase regulation Q out over a period of 10 years, that is, the savers, instead of getting the 5.25 percent or 5.5 percent that they are getting now, will gradually get more each year, maybe a half-percent more as the years go by each year. It is not very quick and it is not very satisfactory.

As one witness said to our committee, "In 10 years I will be dead."

The older people just are not going to get much benefit out of this.

So what we do is we provide, as the Senator knows, that the money market certificate which is now only available if you have 10,000 bucks in cash, will be available for the small saver who has $1.000 or $2.000 or $4,000.

The overwhelming majority of the American people do not have $10,000 in cash and a far larger proportion have between $1,000 and $10,000 and, therefore, could invest and save their money.

This provision is anti-inflationary at the time we need it. We may not have inflation 10 years from now. We certainly have it now, and it means that people will be encouraged to save their money because they can get that high interest rate which they cannot get at the present time unless they happen to have $10,000 and, heaven knows, it is just because the people with low incomes and small amounts of wealth, who need this far more than people with higher incomes and higher amounts of wealth, will be accommodated.

My response to my good friend is that both section 107(e) of H.R. 4986 and the committee report clearly state that the regulator may postpone lowering the minimum MMC if certain conditions make a reduction not feasible.

The Senator from Massachusetts raises a very good point because it is one thing to say we like to see this go up to $10,000; it is something else to see the serious consequences this can have on savings and loan associations as people withdraw their money and put it into other instruments.

The language in the bill permits postponement if the regulator "determines that economic conditions warrant or that such action is necessary to avoid a threat to the economic viability of depository institutions." The committee report states "the committee is mindful of the potential impact lower minimum denominations could have on the earnings of depository institutions. The regulators may find it to be in the best interest of the economy and the viability of thrift institutions to foster lengthened deposit maturities at depository institutions. The regulators retain the power to phase out the 6-month market certificate altogether and to provide for longer term classes of deposits paying market rates in order to provide more stable sources of funds for thrift institutions." The regulators now have authority to lower the denomination of money market certificates. This legislation tries to prod them to end unconscionable discrimination against small savers by requiring them to lower the minimum denomination within 2 years unless specific findings are made which show good reasons for postponing the reduction and they come to Congress and specify what their findings are.

Mr. TSONGAS. I thank the chairman for the response.

I think the colloquy should assure those who believe we are throwing out the baby with the bathwater that what we are looking for is a common sense approach to the system.

Mr. FORD. Mr. President, will the Senator yield for a question?

Mr. TSONGAS. I yield to the Senator from Kentucky.

Mr. FORD. Maybe all three of us will engage in this colloquy.

How much would lowering the money market certificates from $10,000 to $1,000 increase the interest rates that would have to be charged by the institutions based on the increased purchase of money market certificates? Do not tell me it will not raise it some now because it has to raise it.

Mr. PROXMIRE. It would raise it. Certainly it would raise it to the extent that savers would withdraw their money in some cases and put their money into the higher yielding certificates, and there would be a tendency, of course, on the part of the S. & L. to try and compete. They would have to do it. They would have to try to compete by offering a higher rate of interest.

They cannot do that unless we pass the phasing out of regulation Q. At the present time they are not allowed, under the law, to pay more than 5½ percent if they are a savings and loan association, or 5¼ percent if they are a bank. We phase that out and we do not permit this purchase to be made for 2 years so that there will be some increase in the interest rates that the S. & L.'s will be permitted to pay and that also will be on the basis of everything. We hope and expect a falling perhaps in the rate of interest that will be paid at the present time.

Mr. FORD. Mr. President, the Senator started out with the first part of his answer saying it would increase the mortgage interest rates, and then he said at the end of his statement he hopes it would phase out. If they are going to money market certificates, they are paying a higher rate of interest.

Mr. PROXMIRE. Yes. I am glad the Senator makes that point because what I said was not as clear at is should have been. There are many, many factors, as the Senator knows, that affect mortgage rates. One of the factors is how much the savings and loan association, has to pay for its money. But that is not the only one. It probably in most cases is not the decisive factor.

The decisive factor is what happens to interest rates generally and what the opportunity cost of money is.

Of course, as the Senator knows, when he and I were young interest rates were 4 percent on mortgages.

Mr. FORD. Speak for yourself. I still am young.

Mr. PROXMIRE. All right. When he and I were younger.

Mr. FORD. I will accept that.

Mr. PROXMIRE. Mortgage interest rates at one time were 4 percent. It is hard to believe that. I think even the younger Members, like the Senator from North Carolina and the Senator from Massachusetts, can remember when they were 6 percent. Now they have gone up, as the Senator knows, to 10 and 11 percent. Why? Not because the S. & L.'s are paying more for the money, but they are going up primarily because of inflation and because any lender is going to demand at least the inflation rate before he lends his money. Otherwise, he is not going to lend the money but put it into commodities that will rise with the inflation rate.

So the main cause right now causing interest rates to rise is the level of inflation, and the level is increasing.

Mr. FORD. But the increased sale of money market certificates, in the Senator's opinion, will increase the interest rates on the moneys that must be loaned by S. & L.'s.

Mr. TSONGAS. Mr. President, will the Senator yield on that point?

Mr. PROXMIRE. I am happy to yield.

Mr. FORD. I had just asked the Senator to yield.

Mr. TSONGAS. We are both through yielding. Let me then proceed.

The Senator will be interested to know that the reason for the colloquy today was the concern the Senator raises, as well as the concern of people who take their money out of their savings accounts and put it into these higher yield instruments and then savings banks do not have the money to lend out. Part of the rationale for the colloquy was to say that in implementing this provision, it be done in such a way that you take one step at a time and understand the consequences of what you are doing before you proceed to the next step.

This was the reason the colloquy took place. I think everyone on the committee was in support of that approach rather than dropping, for example, from $10,000 to $1,000 next week, and then trying to figure out what is going to happen to the system.

Mr. FORD. The Senator is just going to phase in higher interest rates.

Mr. TSONGAS. I think it makes sense to start the process. You can judge the impact as time goes on. I think there is a very serious argument here of equity. Why should someone who can plunk down $10,000 get one rate of return and one who cannot get another rate of return? The average person does not have that kind of money and he does not have access to the same rate. I think that is a larger question that can hopefully be solved without wrecking the system.

Mr. FORD. There is the other end of that spectrum, too. The younger people trying to get along, trying to raise a family and get started, those younger people do not have $1,000 to buy money market certificates with. They want to buy a home, and what I see us doing here is a phased-in increased interest rate which is now at 13¼ to 13¾, and it is almost impossible for young people to borrow money to buy a home with, yet we are doing that very thing.

Mr. PROXMIRE, Mr. President, will the Senator yield?

Mr. FORD. I will yield in a moment.

Mr. TSONGAS. Let me just make one point to my friend from Kentucky. The way the situation operates today, you have people going in and getting a mortgage on their home that is based in fact on the reality that there are people getting 5 or 5¼ percent on their money in the bank. You have, in essence, the small saver subsidizing the mortgage rate now being paid out by the borrower, so there are inequities on both sides.

Mr. PROXMIRE. Mr. President, if the Senator will yield, I think the problem is this: In September the savings and loans experienced an outflow of $800 million, and savings banks $1 billion. In other words, they are losing their funds now because interest rates are so high. Unless we have a situation where the S. & L.'s find some way of retaining this money by phasing out regulation Q and by making these certificates available, they just are not going to have any funds to lend.

Mr. FORD. Let me just say that what the Senator is trying to do with this reform is that he is trying to get the banks into savings and loans and trying to get the savings and loans into banks, and doing the same thing to both of them.

We have a pretty good system in my State, and we get along very well. We have banks doing what savings and loans do, and we have savings and loans doing a pretty good job lending money. Then you have credit unions doing a pretty good job.

What we are doing with this reform is to take and merge them. You are trying to get NOW accounts, and the only people who are going to get hurt with the NOW accounts are those who have no money. They are going to absolutely be hurt. If you sit down and analyze it, those who do not have any money, they have small deposits, are going to get hurt through the NOW accounts because they are having to pay through their noses, and the fellow who draws interest, that money is going to go into a revolving fund.

You heard American Express advertise on radio and TV "Keep one check in your pocket for an emergency." Do you know why? So they can keep it in and draw interest on it. You will not draw your money out. You are going to have a credit card, and all your bills go into one account, and the fellow is going to write one check, if he has enough money That is what you are driving at in this monetary institutions reform, you are driving them to that, and you are making a mistake.

Mr. PROXMIRE. May I say to the Senator, before I yield to the Senator from Utah—and this will be my last interjection—the President's interagency task force had this to say about this regulation in recommending this legislation. It said:

> Regulation Q does not prevent distintermediation and the consequent curtailment of funds for housing finance.

In other words, it is not working, it just is not working. The Senator says it is, but the experience is that it is not.

Mr. FORD. In my State we just want to be left alone.

Mr. PROXMIRE. Regulation Q is unfair to small savers which we have been trying to establish, and there are small savers in Kentucky, North Carolina, Utah, Massachusetts, and elsewhere.

Regulation Q is responsible for inefficiencies in the marketplace.

For all these reasons we are trying to end this kind of regulation. We are trying to end this kind of bureaucracy, this kind of overregulation, this kind of determination, not by the marketplace but regulation by bureaucratic fiat. It just is not working well.

Mr. FORD. Well, will not this override a constitutional provision in the various States? I ask the Senator from Wisconsin will this override a constitutional provision in the various States as it relates to interest you can pay and the differential you have to pay, and that sort of thing?

Mr. PROXMIRE. The provision in the bill at the present time would override the constitutional provision in Arkansas, California, and Texas with respect to business and agricultural loans over $25,000 only.

The Senator from Mississippi is offering an amendment which would extend that to business loans and agricultural loans of over $25,000 all across the Nation, and I support that amendment. I think it makes sense. I think if we do not provide that kind of a situation you are going to have an impossible situation in the States, like the kind you have in Arkansas. I hope the Senator from Kentucky has an opportunity to sit down and talk to the Senators from Arkansas, Senators BUMPERS and PRYOR, and see the trouble that they have.

Mr. FORD. We are going to preempt the right of the States; and why will you not just exclude some States instead of overriding and preempting the States by legislation?

Mr. PROXMIRE. May I say to the Senator from Kentucky that if he wants to change their minds on this and reinstitute the usury statute they are free to do it, and we say in the legislation we invite them to do so.

Mr. FORD. The problem is you say that it is very easy, invite them to do it. What you are doing is changing the whole monetary system. You are preempting all the things we are doing with NOW accounts, money market certificates, you just name it, and you are changing the law. I regret that I have to take this position, but what you are doing is creating a device here that guarantees increased interest rates on money.

Mr. GARN. Mr. President, will the Senator yield?

Mr. FORD. Yes.

Mr. GARN. I would like to support the Senator from Kentucky on one of the points he made, and that is this matter of reducing the money market certificates from $10,000 to $1,000.

The Senator from Wisconsin's original amendment was to do that. Then it was modified in the Banking Committee, as outlined by the Senator from Massachusetts. But it certainly was not a unanimous agreement of the committee. I did not agree even with that procedure because I think the Senator from Kentucky is absolutely right. In the name of the small saver we get these populist things going on, and that is the big thing in the Banking Committee lately, let us do something for the small saver as long as it looks like it is helping the small saver, without regard to the costs and how that will be translated back, as the Senator so ably stated, in higher interest rates.

Last spring in testimony we had the savings banks testify that 70 percent of their money market certificates were coming out of their other accounts, so it was just transferring money from one pocket to another at a much higher cost of that money, and that has to be translated back into higher interest rates for everyone.

The Senator from Wisconsin just talked about the decrease in September of something over $1 billion or $1.2 billion in savings at savings and loan associations. I think it is rather interesting that money market mutual funds increased by $1.7 billion.

I think it is natural to assume that most of the flow out of savings institutions went to money market funds, so I think I know what the study is going to show. I think we are kidding ourselves, because it is just transferring money from one pocket to another in the name of the small savers, and it will raise the overall average level of interest rates. But I realize how politically popular it is to stand up and yell, "I'm trying to help the small saver." I do not really believe that it will.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I thank the Chair. The chairman of the committee——

Mr. GARN. He had to leave the floor for a few moments.

Mr. TSONGAS. I would like to raise a question of procedure. I have an amendment on the reserve requirements for NOW accounts that I think are inequitable to my State and New England where NOW accounts exist.

The problem I have is the amendment by Senator MORGAN would delete the section on reserves, so there is no point in my proceeding until that issue is resolved. I would ask the chairman what his preference would be at this point.

Mr. GARN. Mr. President, if the Senator will yield, I suggest that we have a quorum call while we get the chairman back because I do know he has some interest and he wishes to discuss this amendment with the Senator. At the present time there is no amendment before the Senate, only the Senator's colloquy—here Senator PROXMIRE is.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. TSONGAS. If I could have the attention of the chairman, as the chairman knows, I have an amendment I would like to introduce on reserve requirements on NOW accounts. As I said earlier, I feel they have an undue impact on my State.

However, Senator MORGAN's amendment on NOW accounts would delete the entire section on reserve requirements, and it seems rather absurd to me to proceed with mine, and if I should win, it would still be subject to that subsequent amendment. I wonder whether the chairman can give me some guidance as to his preference.

Mr. PROXMIRE. Mr. President, if the Senator will yield, I agree with the Senator that it would be wiser for him to defer bringing up that amendment, which he has discussed with me, on NOW accounts until after the Senator from North Carolina has offered his amendment and we determine what the result of that is.

Mr. CRANSTON. Mr. President, today the news is focused on the economy. We are in a period of extreme and rapid change. The challenge of the 1980's has begun. We are faced with OPEC price increases totaling more than 60 percent in this year with no end in sight. The Federal Reserve has initiated a strong initiative against the increased velocity of inflation with extraordinarily high interest rates. As a result, we can anticipate higher unemployment and recession. These ominous signs are indicators that the decade of the 1980's promises an era different in many respects from its predecessors.

Of serious concern here today will be the evolving competitive environment in which financial institutions will operate as we enter the closing decade of the 20th century.

Savings and loan associations exist to channel household savings into mortgages. Mutual savings banks are also major suppliers of housing credit. These institutions have been required by law and influenced by tax incentives to invest over the years primarily in long-term fixed-rate mortgages while their source of funds to finance these mortgages have consisted primarily of passbook deposits having considerably shorter maturities.

Because these institutions invest in long-term, fixed-rate mortgages, they are limited in their ability to pay competitive interest rates for savings when market interest rates rise. In 1966, interest rates rose sharply and sophisticated depositors fled many institutions to others who were able to pay higher rates. To prevent the failure of savings institutions and disruption of the mortgage and housing markets, deposit rate ceilings covering commercial banks were temporarily extended to thrift institutions. These ceilings have been extended 11 times since 1966.

The financial economic environment has changed substantially since these limitations were first imposed on thrift institutions. The disintermediation that occurred in 1966 and again in 1969, that so adversely affected the savings and loan industry brought forth many studies and proposals for legislative and regulatory changes in the framework governing our financial system. We are all familiar with the Irwin Friends study of the S. & L. Industry in 1969, the study of the Commission on Money and Credit, followed by the Hunt Commission, the fine discussion principles in 1975, the U.S. Leagues study and in 1979, and the Inter-Agency Coordinating Committee Task Force on regulation Q. These studies sought to address the problems caused when market interest rates rose above interest ceilings on deposits in cyclical periods of inflation.

Historically, this country has never experienced long periods of sustained inflation and high interest rates as we are now and consumers overall received a comparably fair return on their passbook savings accounts during the cyclical ups and downs on interest rates during past years.

However, these studies show that at times like these, regulation Q interest ceilings are most unfair to the small saver, the one who has few alternative deposit sources or who lacks the knowledge to take advantage of higher yielding investment alternatives. It is also well known that regulation Q is interfering with the efficient functioning of our financial system and is ineffective in maintaining deposit flows to thrifts when Q ceilings are substantially below market interest rates. Inflation and high interest rates are spurning intense competition in the financial marketplace from a widening range of near banks; credit unions and finance companies, major retailers such as Sears, the aggressive money market funds, public utilities with their consumer denominated debt offerings, municipalities with their mortgage-backed securities, and so on, all diverting funds from housing.

Today we are debating H.R. 4986, a major financial reform bill, that attempts to address some of the issues that will be facing the thrift industry and consumers in the financial marketplace of the future. The bill, while highly controversial contains many new beneficial powers for thrifts that we hope will permit them to innovate and compete without impairing the potential for achievement of national housing policy objectives. The new powers include increased consumer lending, NOW accounts, trust powers, corporate paper power, freeing up of restrictions on real estate lending, in addition to an exemption from usury ceilings on mortgages.

I support the concept that interest rate ceilings must rise as fast as possible to market levels to satisfy consumer needs and to give financial institutions the ability to compete for deposits with unregulated financial competitors. However, it seems to me that it is unreasonable for the Congress to mandate a 50-basis-point-a-year increase in interest on deposit accounts over a 10-year period in view of the fact that average thrift industry earnings have never been over 20-basis-point-a-year according to the testimony presented during the hearings on this bill. Additionally, there is uncertainty as to whether the new powers in this bill will produce enough profits to permit thrifts to pay these mandated increased deposit costs. Nor does this bill specifically address the issue of the time and cost it will require for the thrift industry to market these new services effectively to generate a substantial volume of activity to produce profit.

One other item in the bill troubled me in the committee markup. The plan for phase up and out of regulation Q ceilings would have had in effect phased out the differential that permit thrifts to pay a quarter percent more in interest on passbook accounts than commercial banks when interest ceilings reach market levels. The differential has been the lifeblood of the thrift industry in terms of their ability to compete with commercial banks for deposits. My amendment to the bill to require that the regulators report to Congress on the effects of the removal of the differential on the viability of the thrift and housing industry before it is removed was adopted by the committee. We must have some assurance that the new powers given to thrifts in this bill are enough to make them competitive before we made a decision far into the future to abolish all regulation Q authority.

I restate that I am in favor of firm instructions to the regulators to raise regulation Q-imposed ceilings as fast as possible to market levels perhaps over a shorter period of time than this bill without telling the regulators that it must be raised by a specific amount. The regulators now have this authority but they have never received a clear signal from Congress to use it. I do not intend to debate this issue on the floor. However, I feel most certain that it can be resolved in the committee conference with the House on this bill.

While I may disagree with a few aspects of the bill, it is clear that the thrift industry must be given the ability to respond to change in this economic environment and to diversify their services with less legislative and regulatory restraint. I hope that the Congress can reach a consensus on how this can be done in an orderly manner. Certainly we all hoped that more and better housing could continue to be provided under the formula that had worked so we'll in the past but the marketplace is telling us that it cannot.

Let me say a few words about NOW accounts since several of my colleagues, Senators MORGAN and HARRY F. BYRD, JR. in a discussion on the floor of the Senate the other day referred to my amendment inaccurately as exempting the whole State of California from the NOW account provision of this bill. My amendment provides that federally chartered savings and loans in California cannot have NOW accounts until State chartered savings and loans are authorized by the State legislature to have them. I was faced with an unusual situation in my State where the banks and credit unions wanted NOW accounts and an overwhelming majority of savings and loan associations did not want them.

In introducing my amendment, I am satisfied that the California consumer will have an opportunity to have a NOW account from a bank or credit union if he or she so chooses even though the thrifts cannot offer them. I am aware that there is a great deal of controversy and disagreement over NOW accounts. Some argue that they will be very expensive to the institutions who offer them and to the consumers who use them because of high minimum balances that have been required by some institutions and the cost of operating the accounts.

However, in New England in spite of these alleged negatives, these accounts have been popular with consumers and most all of the financial institutions offer them. One fact is clear in this controversy over NOW accounts, consumer depositors are growing less security minded in their savings habits and are seeking high interest rate levels along with convenient access to their funds. Nonbanks competition from the unregulated financial market is growing at an alarming rate and responding to consumer demand with a variety of accessible money market funds. Given this environment, the issue surrounding NOW accounts is no longer whether giving NOW accounts to thrifts will make them more like banks, but whether banks and thrifts will have a tool to keep their present deposit base in the face of non-regulated competition in addition to being able to attract new deposit funds. I believe that the thrifts in California will eventually come around to this posture on NOW accounts as they continue to ponder this issue.

The decade of the 1980's will not be a time for the faint hearted or dilettantes in economic theories. The times will require hard work, level heads and the ability to persist through diversity. Together we must have a plan to achieve our goal of a healthy financial industry that can meet the needs of business and the consumers of our country. I see this bill as the beginning of that plan. It is not perfect, it is not a be all or end all, but a beginning. Mr. President, I will have several amendments to this bill during the course of this debate.

UP AMENDMENT NO. 688

(Purpose: To authorize Federal savings and loan associations to issue credit cards)

Mr. CRANSTON. Mr. President, I have four amendments which I understand there is no objection. I send to the desk the first of those amendments, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 688.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 26, line 1, strike out "(3)" and insert in lieu thereof "(4)".

On page 26, between lines 4 and 5, insert the following:

"(5) Without regard to any other provision of this section, an association is authorized, subject to such regulations as the Board may prescribe, to issue credit cards, extend credit in connection therewith, and otherwise engage in or participate in credit card operations.".

Mr. CRANSTON. Mr. President, this first amendment would explicitly authorize Federal thrift associations to engage in credit card operations which should provide them with additional income at a time when their earnings are under pressure from the need to pay increased interest on deposits.

Although Federal thrift associations can engage in credit card operations now, the procedure is cumbersome and involves the use of share draft loans. Explicit authority to engage in credit card operations is consistent with the authority to enter into consumer loans.

That is the purpose of the amendment.

Mr. PROXMIRE. Mr. President, I commend the Senator from California for this initiative. I think it is recognized that all kinds of institutions issue credit cards, and I cannot think of an institution that would be better equipped to do this responsibly, expertly, and appropriately than a thrift association.

I think many people will be surprised to learn that they do not have that power now. The Senator from California, I think, is performing a very helpful service.

I understand, however, that this also includes overdrafts.

Mr. CRANSTON. No, I am offering four amendments. That will be covered in another amendment.

Mr. PROXMIRE. All right. Well, then, before we get to overdrafts, this amendment, together with the subsequent amendment, it seems to me, should be contingent on the phaseout of regulation Q.

It is clear that if regulation Q is phased out, there must be some way in which the savings and loan associations can remain viable and can compete, and if we do not give them certain trust powers and some limited power to make consumer loans, and so forth, they will be in a weaker competitive position.

Mr. CRANSTON. I agree.

Mr. PROXMIRE. So I would hope that the Senator would make that contingent.

Mr. CRANSTON. I agree, in regard to the first two amendments.

Mr. PROXMIRE. Very good.

Mr. GARN. Mr. President, I am willing to accept this amendment on behalf of the minority with the same stipulation the chairman of the committee mentioned: I do think this needs to be linked to the phaseout of regulation Q.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

Mr. MORGAN. Mr. President, I have not heard of this amendment before today. I wonder if the Senator will yield and tell me whether this amendment was considered in the committee.

Mr. CRANSTON. No, it was not. The idea of it was developed after the hearings.

Mr. MORGAN. I am not sure I understand how a credit card system operates with a savings and loan association. I noticed in the Senator's statement he said that some of them do it now.

Mr. CRANSTON. We have given thrift institutions the power to make consumer loans in the legislation this would be used for that purpose.

Mr. PROXMIRE. Mr. President, if the Senator will yield, I believe I can clarify that. On page 25, lines 1 to 4 of the bill, is the following statement:

CONSUMER LOANS AND CERTAIN SECURITIES.—An association may make unsecured loans for personal, family, or household purposes. . .

And so forth. I think that language, if liberally construed, might conceivably permit credit cards, and I think what the Senator from California is doing that is so useful is making it explicit that that is what we are doing, instead of just having the general notion, perhaps, that they could do it.

(Mr. PRYOR assumed the chair.)

Mr. MORGAN. Did I correctly understand the Senator, in his prepared statement, to say that they can do it now, but this would make it less cumbersome?

Mr. CRANSTON. They can do it now. Some do it now; they can engage in it now. What is cumbersome now is the use of share draft loans, and so on.

Mr. MORGAN. What confuses me, it seems to me that I have heard, through some advertisements, perhaps, here in the Washington area, that some Federal savings and loan institutions here have been doing it, and I just questioned it in my own mind. I wonder if we can get at the bottom of whether they do it now, and if they do it now, whether it is legal and necessary.

Mr. CRANSTON. Well, they do it now. It is legal. This clarifies the procedure and will make it less cumbersome and less costly.

Mr. PROXMIRE. The Senator from California is correct. They do do it now, as he has stated. The only difference is, they can do it only with a person who has an existing account in the thrift. This would permit them to do it with new customers who came in and wanted a credit card. Now they can only do it with persons who have established their credit.

Mr. MORGAN. Well, what is confusing me, and I would like to clear it up, where they give out a credit card, if they cannot do it with consumer loans, can they go down to a local store and say, "Charge this to my savings and loan?"

Mr. CRANSTON. They do that now. At the present time they have this power, in conjunction with a passbook account only, which would not be necessary under the new bill.

Mr. MORGAN. How do they do it now?

Mr. CRANSTON. You have to put up your savings account as a reserve to back up the use of the credit card.

Mr. MORGAN. Where do they use the credit card, is what I cannot understand. I do not understand how local savings and loans now are using the credit cards.

Mr. CRANSTON. It is done exactly like a bank does it.

Mr. MORGAN. Well, where do they use it, at local department stores?

Mr. CRANSTON. Yes, local merchants.

Mr. MORGAN. Is that the equivalent of a NOW account? How does that local grocery or department store get its money from the savings and loan association?

Mr. CRANSTON. It is the equivalent of a credit card. They can go into a store, buy something on that credit card and, in effect, it does come out of their account, like it was a check, but it is not a check. The Senator may have noticed that Chase Manhattan has just announced that they now have a credit card which is the equivalent of a check.

Mr. MORGAN. I can understand with Chase Manhattan, or people in the Northeast, where savings and loans have NOW account authority. I do not see how it could possibly be used in a savings and loan here, under the present law.

Mr. CRANSTON. With the present authority in the law, there can be savings account loans: "Loans on the security of its savings account."

Mr. MORGAN. Yes.

Mr. CRANSTON. Now, since we are granting broader powers and they will be more resembling banks with some of their authorities under this amendment and under the new law, they would be able to do it under the proposed bill; they would be able to do it without having an account in a thrift institution. It broadens their authority in that way.

Mr. MORGAN. I understand the share loans. I have several of them myself, where you go down and say, "I have got a little money in the savings and loan, and it is not the end of the interest period, and I do not want to draw it out right now, so I would like to borrow a little money and pledge my account," and you usually get a little better interest rate. But I still do not understand this credit card. Maybe if we had a brief recess by way of a quorum call, we could discuss it a little bit and I could understand it. Mr. President, for that reason I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I have a modification of the amendment now pending that is now at the desk. I ask unanimous consent that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

This section will not be effective unless the thrift institutions are given consumer loan authority.

Mr. MORGAN. Mr. President, for the purpose of legislative history, which I do not have a very high regard for because we country lawyers can never find legislative history when we get to practicing down in the States, the purpose of this amendment is to make sure that if this bill does not pass with consumer loan authority in it, then, of course, the amendment will be of no effect.

With that, I have no objection to the amendment.

Mr. CRANSTON. I think we have now reached agreement on the amendment. Do we have time to yield back?

Mr. GARN. Mr. President, there is no time limit.

Mr. President, I am going to accept the amendment on behalf of the minority.

The PRESIDING OFFICER. The question is on agreeing to the amendment as modified by the Senator from California.

The amendment as modified, was agreed to, as follows:

On page 26, line 1, strike out "(3)" and insert in lieu thereof "(4)".

On page 26, between lines 4 and 5, insert the following:

"(4) Without regard to any other provision of this section, an association is authorized, subject to such regulations as the Board may prescribe, to issue credit cards, extend credit in connection therewith, and otherwise engage in or participate in credit card operations.".

This section will not be effective unless the thrift institutions are given consumer loan authority.

UP AMENDMENT NO. 689

(Purpose: To authorize savings and loan associations, savings banks, and credit unions to grant overdrafts)

Mr. CRANSTON. Mr. President, I send another amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 689:

On page 13, line 5, before the quotation marks insert the following: "An association may grant overdrafts on negotiable order of withdrawal accounts. This shall not be effective unless thrift institutions are granted NOW account authority and the provision on the phase out of regulation Q becomes law".

On page 13, between lines 5 and 6, insert the following:

(c) Section 5 (a) of such Act is amended by adding at the end thereof the following: "A Federal mutual savings bank may grant overdrafts on negotiable order of withdrawal accounts. This shall not be effective unless thrift institutions are granted NOW account authority and the provision on the phase out of regulation Q becomes law".

On page 14, line 8 after "drafts" insert "and grant overdrafts thereon. This shall not become effective unless thrift institutions are granted NOW account authority and the provision on the phase out of regulation Q becomes law".

Mr. CRANSTON. I say to the Senator from North Carolina that I have added the same provisions to this measure that he added to the other.

Mr. MORGAN. I have no objection to the amendment.

Mr. CRANSTON. Mr. President, this amendment would permit Federal thrifts to grant overdrafts on NOW accounts. Commercial banks widely offer demand deposits with automatic overdraft or line of credit privileges. It is necessary for Federal associations to be able to provide this same line of service to customers to make their NOW accounts both attractive and competitive.

I believe there is no opposition to the amendment. I trust it can be accepted, Mr. President.

Mr. PROXMIRE. Mr. President, the only question I have for my good friend from California is whether or not he would make this conditional, as he and the Senator from North Carolina agreed to make the first amendment conditional, on regulation Q being phased out.

Mr. CRANSTON. Yes.

Mr. PROXMIRE. In that event, then, I am happy to support the amendment.

I think many people may be shocked at "overdraft." It does not mean anybody can then write a check for more than he has on deposit, unless he has an understanding with the bank and in that case, other securities or other moneys held by the check writer would be used to make good the check.

Mr. CRANSTON. Yes. Actually, the savings account would be used to make good the overdraft privilege.

Mr. GARN. Mr. President, I am willing to accept this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT 690

(Purpose: To increase deposit insurance)

Mr. CRANSTON. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 690:

On page 32, between lines 20 and 21, insert the following:

INCREASED CEILING ON DEPOSIT INSURANCE

SEC. . (a) (1) The following provisions of the Federal Deposit Insurance Act are amended by striking out "$40,000" each place it appears therein and inserting in lieu thereof "$50,000":

(A) The first sentence of section 3(m) (12 U.S.C. 1813(m)).

(B) The first sentence of section 7(i) (12 U.S.C. 1817(i)).

(C) The last sentence of section 11(a) (12 U.S.C. 1821(a)).

(D) The fifth sentence of section 11(i) (12 U.S.A. 1821(i)).

(2) The amendments made by this section are not applicable to any claim arising out of the closing of a bank prior to the effective date of this section.

(b)(1) The following provisions of title IV of the National Housing Act are amended by striking out "$40,000" each place it appears therein and inserting in lieu thereof "$50,000":

(A) Section 401(b) (12 U.S.C. 1724(b)).

(B) Section 405(a) (12 U.S.C. 1728(a)).

(2) The amendments made by this section are not applicable to any claim arising out of a default, as defined in section 401(d) of the National Housing Act, where the appointment of a conservator, receiver, or other legal custodian as set forth in that section becomes effective prior to the effective date of this section.

(c) (1) The second sentence of section 207 (c) of the Federal Credit Union Act (12 U.S.C. 1787(c)) is amended by striking out "$40,000" and inserting in lieu thereof "$50,000".

(2) The amendment made by this section is not applicable to any claim arising out of the closing of a credit union for liquidation on account of bankruptcy or insolvency pursuant to section 207 of the Federal Credit Union Act (12 U.S.C. 1787) prior to the effective date of this section.

(d) The amendments made by this section shall take effect on the thirtieth day beginning after the date of enactment of this Act.

Mr. CRANSTON. Mr. President, this amendment provides for an increase in the Federal insurance of deposit limit from $40,000 to $50,000 for banks, credit unions and savings and loan associations. The last increase in deposit insurance was in 1974. Increases in the Consumer Price Index in the last 5 years would justify an increase today. The FDIC and FSLIC have no objection to this amendment.

I trust the floor managers feel the same way.

Mr. PROXMIRE. Mr. President, I commend the Senator from California, who is a member of our committee, a very valued member, for this amendment. It makes sense because, as the Senator points out, 1974 was the last time we increased the limit on insurance.

The only question I would have is whether or not $50,000 is enough, in view of the fact that, since 1974, there has been an inflation of probably more than 50 percent so that we can justify, on that basis, a $60,000 insurance.

Of course, I am happy to support this amendment, but I just wonder why it was not possible to go higher than that. given the situation.

Mr. CRANSTON. Mr. President, the FDIC is making a study as to whether something higher is justified. I would have no objection to going somewhat higher.

Mr. PROXMIRE. It seems to me that, back in 1974, we discussed the possibility of $100,000. I think the Senator from California, is right, in view of the fact that our information right now is limited. Let us make it $50,000, with the understanding that, perhaps early next year, we can get information from the FDIC and make it correspond to the increase in inflation.

Mr. CRANSTON. Fine. I suggest we do it that way.

Mr. GARN. Mr. President, I concur in this amendment. I also agree with the Senator from Wisconsin that we do need to move to make it higher. It represents no additional cost to the insurance fund and, in the past, when the FSLIC insurance has been raised, it has brought more savings in. If there is anything we need right now from what we have been discussing today, it is for people to put more money into savings institutions.

I commend the Senator from California, because I am sure that this increase will provide possibly billions of dollars of additional savings. I hope that we shall proceed with the FSLIC, and also the FDIC early next year to consider raising insurance limits even higher.

Mr. CRANSTON. I thank both Senators very, very much.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. DOLE and Mr. CANNON addressed the Chair.

Mr. CANNON. Mr. President, I ask the Senator to yield to me 2 minutes.

UP AMENDMENT NO. 691

(Purpose: To permit the conversion of state stock associations to Federal stock associations)

Mr. CRANSTON. Mr. President, I send the fourth in the series of four amendments to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 691:

On page 32, between lines 20 and 21, insert the following:

SEC. . Section 5(1) of the Home Owners' Loan Act of 1933 is amended in the first paragraph by inserting after the words "Federal Savings and Loan Association" the following: "and any State Stock savings and loan type institution may transfer its charter to a Federal stock charter provided it has never existed in mutual form

Mr. CRANSTON. Mr. President, this amendment will provide for a State chartered stock savings and loan institution to convert to a Federal charter provided it has never been a mutual thrift association. This proposal is supported by the Federal Home Loan Bank Board as being consistent with our dual banking system.

I hope the managers will accept it.

Mr. PROXMIRE. We are happy to accept the amendment. It is an excellent amendment. I commend the Senator for offering it.

Mr. GARN. I am pleased to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment——

Mr. MORGAN. Mr. President, I must say in all candor I am not sure what the amendment does.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, as I understand the amendment of the Senator from California, it would permit State chartered stock savings and loans to convert to federally chartered savings and loans provided they had never been a mutual savings and loan.

Mr. CRANSTON. That is correct.

Mr. MORGAN. In other words, a mutual savings and loan in a given State could not circumvent the present restrictions or reluctance, or whatever restraints of the Federal Home Loan Bank Board, to allow conversion by converting to a stock savings and loan in a State and then convert to Federal.

Mr. CRANSTON. The Senator is again correct. He understands the amendment perfectly.

Mr. MORGAN. Mr. President, I understand. I really have no objections to it, except if I had my preference I would not allow any conversion to stock savings and loans. I believe perhaps this is one time my distinguished chairman and I are in complete agreement.

I do think that my reluctance to accept change in the savings and loan business as a whole is based on the fact that they worked so well for so long over so many years. I have thus been very reluctant to support any legislation which would jeopardize that record of success.

In fact, I think I joined with my chairman, if I have not joined with him in his legislation I have certainly been supportive of it, to prohibit conversions of mutuals to stock companies because I cannot help but believe that somewhere along the way insiders will take advantage of such conversions. I cannot help but believe once they become stock companies and then the stocks get on the market, that the interest of the local communities will be in some way left by the wayside.

I am not so sure in the long run these savings and loans which have converted to stock companies will not be taken over by mortgage loan companies or mortgage bankers.

That matter is in litigation and is something that is beyond my control.

I did want my position clear on it. But if we have to have it, I guess this amendment is all right.

Mr. PROXMIRE. Mr. President, I appreciate the Senator's remarks, and I agree wholeheartedly on the conversion issue. He and I do see that this can be abused, and it has been abused at times in the past.

As the Senator from North Carolina made clear, the Cranston amendment does not go to that at all. It would not speak to conversions or authorize them.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 551

(Purpose: To simplify the regulation of financial institutions)

Mr. DOLE. Mr. President, I call up my amendment No. 551.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an amendment numbered 551.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

TITLE IX—REGULATORY SIMPLIFICATION

SHORT TITLE

SEC. 901. This title may be cited as the "Financial Regulation Simplification Act of 1979".

FINDINGS

SEC. 902. The Congress finds that many regulations issued by the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, and the National Credit Union Administration Board (hereinafter referred to as the "Federal financial regulatory agencies") often impose costly, duplicative, and unnecessary burdens on both financial institutions and consumers. Regulations should be simple and clearly written. Regulations should achieve legislative goals effectively and efficiently. Regulations should not impose unnecessary costs and paperwork burdens on the economy, on financial institutions, or on consumers.

POLICY

SEC. 903. Regulations issued by the Federal financial regulatory agencies shall insure that—

(1) the need for and purpose of the regulation are established clearly;

(2) meaningful alternatives to the promulgation of regulations are considered before any regulation is issued;

(3) compliance costs, paperwork, and other burdens on the financial institutions, consumers, and public are minimized;

(4) conflicts, duplication, and inconsistencies between the regulations issued by the Federal financial regulatory agencies are to be avoided to the extent possible taking into account differences in statutory responsibilities, the classes of financial institutions' regulation and methods of implementation of statutory or policy objectives;

(5) timely participation and comment by other Federal agencies, appropriate State and local agencies, financial institutions, and consumers are available; and

(6) regulations issued shall be as simple and clearly written as possible and understandable by those who are subject to the rules.

REVIEW OF EXISTING REGULATIONS

SEC. 904. The Federal financial regulatory agencies shall establish a program which assures periodic review of existing regulations to determine whether those regulations achieve the policy goals in section 903. Those regulations which are not in keeping with the policy goals shall be revised accordingly.

REPORTING

SEC. 905. Not later than six months after the effective date of this title and in subsequent annual reports, each Federal financial regulatory agency shall submit a report of its progress in implementing this title to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

TERMINATION DATE

SEC. 906. Unless extended, this title expires five years after its effective date.

Mr. DOLE. Mr. President, this amendment is aimed at eliminating unnecessary costs and burdens imposed on the financial community by Federal regulations.

It would add legislation I introduced earlier this year, the Financial Regulation Simplification Act of 1979, as a new title to H.R. 4986.

UNANIMOUS SUPPORT

These provisions have received the unanimous support of regulatory agencies and financial institutions alike. The American Bankers Association, the National Savings and Loan League, the Credit Union National Association, the National Academy of Mutual Savings Banks, and the Independent Bankers Association of America, the institutions to be protected by this amendment, support these provisions.

Significantly, the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Board of Governors of the Federal Reserve System, those agencies which must meet the requirements of this amendment, also support it.

This broad support indicates a growing awareness that this type of reform is needed.

Mr. President, this amendment both complements and corrects an omission of President Carter's Executive Order of March, 1977, "Improving Government Regulation," by requiring the financial regulatory agencies to initiate the same type of regulatory reform as all other executive agencies are now required to undertake.

REQUIRES PERIODIC REVIEW OF REGULATIONS

The Financial Regulation Simplification Act requires that the Federal financial regulatory agencies periodically review existing regulations in light of the bill's policy goals. Six specific policy criteria must be used as a standard in issuing any new regulations.

SIX GOALS

First, the need for and purpose of the regulation are to be established clearly.

Second, meaningful alternatives to the regulations must be considered before any regulation is issued.

Third, compliance costs, paperwork and other burdens on the financial institutions, consumers, and public are to be minimized.

Fourth, conflicts, duplications, and inconsistencies between the regulations issued by the Federal financial regulatory agencies are to be avoided.

Fifth, participation and comment by other agencies, financial institutions, and consumers must be available. This does not mean, however, that formal, trial-type hearings on each and every proposed regulation are required.

Finally, when regulations are issued they shall be as simple and clearly written as possible and understandable by those who are subject to the rules.

ANNUAL REPORT OF PROGRESS

Each agency is required to establish a program to insure the periodic review of existing regulations in order to achieve the objectives of the bill. So that agencies are held accountable to the Congress for implementing the provisions of this bill, each agency is to provide an annual report of its progress to the House and Senate Banking Committees. I would like to emphasize that we are not looking for another major report from the financial regulatory agencies. The required progress report can be included in the regular annual report each agency submits to Congress.

COSTLY AND DUPLICATIVE REGULATIONS HURT BANKS

Over the years, financial regulations have provided significant benefits to consumers. But, at the same time, Federal financial regulatory agencies have not achieved their regulatory objectives in an efficient and cost-effective manner. The result, all too often, has been the imposition of costly, duplicative, and unnecessary burdens on both financial institutions and consumers. At least 83 Federal agencies now issue regulations which directly affect financial institutions, and 216 Federal Government agencies have issued regulations which indirectly affect them. There are 64,000 pages of regulations which constitute an excess of 4,000 regulations that are time consuming and often inconsistent.

REGULATORY IMPACT ON ECONOMY

There is a growing library of research which demonstrates how staggering are the costs of Government regulation of business. However, the most disturbing aspect of this trend is that much more is involved than just direct costs of regulatory activities. Regulations contribute to our Nation's severe inflation problem. Productivity growth, a necessary ingredient of a healthy economy, is eroded. Innovation is stifled because of the smothering effect of cumbersome regulations.

While no accurate data is available as to the total cost of Federal financial regulation, the costs are certainly substantial. It is clearly a responsibility of Congress in its oversight activities of financial regulatory agencies to carry the regulatory process only to the point where these added costs equal the added benefits of regulation. This amendment would help do that by requiring the agencies to consider the impacts of regulations on the financial community and consumers.

URGE APPROVAL OF THIS AMENDMENT

By approving this amendment, we can confidently say that we have contributed to restoring our Nation's economic health. We can begin to ease the regulatory burden facing our financial institutions and streamline the regulatory process that now binds them in redtape at every turn. I urge my colleagues to adopt this amendment for the sake of both our financial institutions and the American consumer.

Mr. President, I do not know of any objection to this amendment. I hope it will be accepted. It does at least address one of the problems that many of us talk about, and that is trying to simplify regulations—first, to make certain that there is a need and, second, to look at the alternatives and the costs and the duplications and to make certain that there is timely participation by other Federal agencies; that, finally, once we reach the regulation stage, the regulation is drafted in such a way that the people subjected to it can understand it. That is the complaint the Senator from Kansas hears from time to time.

Mr. President, I reserve the remainder of my time.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. PROXMIRE. Mr. President. I congratulate the distinguished Senator from Kansas on this amendment. It is a very good amendment. It obviously has strong support, not only by the distinguished Senator from Kansas, who is one of the outstanding Members of the Senate, but also by three members of the Banking Committee who are cosponsors—Senator ARMSTRONG, Senator LUGAR, and Senator HEINZ.

This is exactly the kind of amendment which the committee—and I apologize, as chairman of the committee—should have adopted. It provides that the regulation shall be simply and clearly written, and so forth.

We know that the regulatory cost is extremely high. Earlier today, we discussed the truth in lending bill. We have on this bill a truth in lending simplification amendment, which should not have been necessary, because the Federal Reserve should have written simple and clear regulations to begin with. That is a fine agency, But they have the same tendency to overwrite these regulations, requiring more paperwork than necessary.

This amendment is most welcome. I congratulate the distinguished Senator from Kansas, and I am happy to support this amendment enthusiastically.

Mr. DOLE. I thank the Senator, and I appreciate his comments.

We now have about 83 agencies issuing regulations which directly affect financial institutions, and 216 Federal Government agencies have issued regulations which indirectly affect them. So perhaps this will be of some small help.

I yield to the distinguished ranking Republican member of the committee, Mr. GARN.

Mr. GARN. Mr. President, I also congratulate the Senator from Kansas. This is a good amendment. It is something which, had it been brought to our attention in the committee, we would have accepted there.

This is a continuing problem we must work on—to simplify the rules and regulations and the paperwork burden that we impose on the financial institutions of this country.

I am pleased to accept this amendment on behalf of the minority.

Mr. PROXMIRE. Mr. President, one more word to the Senator from Kansas.

I have tried for a long time to simplify regulation of the banking industry by unifying the regulators. It is ridiculous. Here we have a situation in which one industry has three regulators—the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Federal Reserve Board. All of them examine different banks. The banks play one regulator off against the other. It is inefficient, duplicative, and wasteful.

Some of the Federal Reserve experts have pleaded with us to enact legislation along that line, and I hope we can do it. As we move in that direction. I am delighted to see the Senator from Kansas offer his amendment, which should be helpful and which should save the banks and other institutions that are regulated hundreds of millions of dollars each year.

Mr. DOLE. I thank the Senator.

I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, we have been discussing various portions of this bill today piecemeal. On Tuesday of last week we discussed it at some length. Inasmuch as I understand that under the previous order we are going to some other matter at 3:45 p.m., I wish to discuss the bill for a little bit because, as I said last week, I think it is one of the most crucial pieces of legislation that will come before this Senate and this Congress this year.

As one of the witnesses said before our committee, "I think this bill could well be devastating to the thrift institutions of this country, to the savings and loan institutions." I think if this bill is enacted and is signed into law, that within a very short period of time the savings and loan associations as we now know them, those institutions that have made about 60 percent of all of the home loans in America, will not exist. They may exist in some form but they will not exist with the same kind of dedication that they now have of providing people with the opportunity to own a home.

I predict that if this bill is passed within a very short period of time about the only way that an individual will be able to obtain a loan to buy a home will be to go to some agency of the Federal Government. Unfortunately that is already pretty much the case.

But before I go into my remarks on this bill, let me say, Mr. President, that I am engaging in a little extended debate on this bill, not for the purpose of delaying any votes, because I am going to offer some amendments and I am going to call those amendments up at the appropriate time, but I am engaging in debate because I have the feeling that too many of my colleagues have been so busy with energy, SALT, defense, the Alaskan land bills and other matters that they simply have not comprehended the seriousness of this bill.

I have been somewhat encouraged by the response that we had to our extended debate last Tuesday. If after having engaged in this debate for a substantial period of time, then my colleagues fail to agree with me, I will be satisfied that I will have done my job and done my best. So for that reason I want to discuss the bill again at length and I want to encourage my colleagues who are listening in their offices and the various staffs who are listening in their offices to give some consideration to the bill and check with the people back home. I suspect if you check with the savings and loan associations that are going to be affected you are going to find that they are just as concerned as I am about their outcome. I suspect if you check with the small bankers or independent banks in America, you are going to find the same thing.

I do know that my friends in the American Bankers Association are calling around the country and encouraging support for this bill, and I can understand why. I do not fault them for it. But I do ask my colleagues and their staffs to consider the bill and its ramifications.

Before I go into that, I shall talk for a minute or two about housing because the S. & L.'s are primarily concerned with housing. Sixty percent, as I mentioned, of all home loans are made by S. & L.'s. But right now if there is ever a time in our history when we should be concerned about what is going to happen to the homebuilding business it should be now.

This morning I asked Mr. Malakoff, of the Housing Committee, to give me a memorandum of what is happening to housing. Housing starts have been, during the first three quarters of 1979, down about 11 percent from the previous year. Starts average about 1.8 million units according to seasonally adjusted rates. This is relatively good and is above the predictions as low as 1.2 million by recession-minded forecasters. But the outlook is for a great decline and because the housing decline may coincide with a more general recession, the outlook should be viewed very gravely. Sales of new homes went down about 10 percent, but homebuilders are asserting that inventories are growing dangerously large and dangerously fast.

The major problem that has been felt already is in the mortgage credit market. Disintermediation has already affected the ability of the savings and loan associations to make housing loans. Savings inflows are down from last year and withdrawals from savings actually exceeded new savings in the month of September by nearly a billion dollars alone, $800 million. The money market certificates are no longer providing the backstop for mortgage credit that they did last year. What makes this so dangerous is that most of the S. & L.'s across this country are loaded down with portfolios of loans that were made at interest rates from 6 percent, 8 percent, and some up to 9, but most of them in the 6 to 8 percent bracket, and therefore they are having to pay on money market certificates more money than they are receiving on the loans that they have out.

As I mentioned last Tuesday, I have a 6 percent loan on a house that I have. And the same savings and loan association is paying me more interest on my savings that I have in the same institution than I am paying them on my home loan. You and I know that S. & L.'s cannot long survive if that is going to happen. And that is why it has been rumored around and talked about here in the Chamber that if this bill passes, we are going to have a bailout amendment to save these institutions from going broke.

Savings receipts were down by 60 percent during the second quarter of 1979 from the same period earlier. Interest rates are at all-time highs. Mortgage loans now cost over 13 percent if you can get them at that. There are a number of large mortgage bankers that have already gone out of business within the last few weeks. And I am told that the loan windows at many S. & L.'s all across the country have closed up. They just are not open.

So, I am asking my colleagues to give serious consideration to this bill before they vote on it.

I tried to make clear during all of my conversations the depth of my feelings about this bill and to demonstrate as clearly as I can just why it is that I feel this bill constitutes unwise public policy. I wish to review again my arguments over the past week and recall for Senators the basic evidence which I hope they will consider as we proceed to discuss and vote on this important bill.

I have repeatedly called it far reaching. A quick review of its provisions demonstrates the truth of that statement. It is, in fact, an understatement because this bill does indeed constitute a major restructuring of our present financial system.

Let me read from the summary of H.R. 4986 contained in the report of the Senate Banking Committee. With regard to all NOW accounts:

> (1) Authority is provided for commercial banks, Federal savings and loan associations, and Federal credit unions to offer the equivalent of interest bearing checking accounts to individuals and non-profit organizations. Such interest bearing checking accounts are referred to as NOW accounts (negotiable order or withdrawal accounts) at banks and thrifts, and share draft accounts at credit unions. Since NOW accounts and share draft accounts are transaction accounts and are part of the money supply, they are subjected to the reserve requirements of the Federal Reserve Board.

I have argued that NOW accounts or checking accounts for savings and loans, and interest-bearing checking accounts at banks, et cetera, are of questionable benefit to the average consumer.

I have cited studies which demonstrate that the minimum balance required for all NOW accounts, to be profitable for financial institutions, is sufficiently high that the vast majority of the American savers would receive no benefit at all and, as was brought out during the colloquy between Senator Ford and the chairman a few minutes ago, it would actually cost most people who have a checking account of less than about $3,000 by way of additional service charges.

In the process, those same savers would end up paying higher fees for banking and financial services, and higher interest on loans.

As the chairman of the Subcommittee on Consumer Affairs in the House has warned, and I am quoting now:

> NOW accounts are accounts only for the wealthy. This legislation—

He warns—

> is the biggest consumer ripoff to come down the pike in a long time.

I want to return to each of these provisions in greater detail, but let me point out that a further far-reaching policy decision is contained in this authorization for nationwide NOW accounts. It is the decision to expand the authority of the Federal Reserve System to require reserves over all depository institutions which offer these new accounts. This is a significant and major policy decision which, as I pointed out last week, has been the object of controversy during the chairmanships of three separate Reserve Board Chairmen, Dr. Burns, Mr. Miller, and Mr. Volcker.

I believe it would be unwise to decide

this question in the context of this legislation when the same issue has been pending over this long period of time, and it is still pending in our present Banking Committee. At the appropriate time I will offer an amendment to delete that provision of this bill to the end that it may be decided when we decide the major issue in the Banking Committee. It may very well be that I will then vote for it, but it is not the appropriate place to come in through the side door.

Second, as to the regulation Q phaseout, I want to read now from the committee report:

> (2) Interest rate ceilings on time and savings deposits (commonly referred to as regulation Q) are phased out over a 10-year period. Current regulation Q authority is extended for 10 years. The bill directs that rate ceilings must rise by at least one-half of 1 percent each year—

Let me repeat that statement:

> Interest rate ceilings must rise by at least one-half of 1 percent each year

You see, if you are not careful, you read it to see that as a limitation. This means they have got to let them go up that much unless the increase is postponed—well, let me read the rest of this portion—

> from the 3d to the 10th year unless the increase is postponed or reduced by the Federal Reserve under the standards set forth in the legislation. At the end of the 10 year period all interest rate control authority expires subject to standby authority lodged in the Federal Reserve under specified economic conditions.

I was reading from the report. Regulation Q has been the basic governmental incentive for thrift institutions to maintain their active role in home finance, a situation which is by definition precarious. All S. & L.'s are in the business of borrowing short and lending over a long period of time. I believe it is most unwise to tamper with regulation Q at this time of tremendous economic uncertainty, a time when housing finance appears to have come to a standstill in many parts of the country, at a time when extraordinary measures have been necessitated to try to insure that mortgage money does not completely dry up.

As we live with historically unprecedented high interest rates, poised on the brink of what may become a prolonged and deep recession, I believe it is a highly questionable time to make sweeping changes in the rules of the game for financial institutions.

Later on in the afternoon, if time permits, I will have a substantial amount to say about regulation Q, but let me go on now to the third provision of this bill which concerns me, for the purpose of providing some continuity in my arguments. Reading now from the summary of the committee, and this is in connection with the reduction of the money market certificate denomination. We have had quite a colloquy this afternoon, but here again for the purpose of providing some continuity, let me go through with my remarks, and quoting from the report:

> (3) The regulatory agencies are required to provide greater equity to small savers by reducing the $10,000 minimum denominations on certificates of deposit to $1,000 within 2 years unless the Federal Reserve finds that economic conditions or the viability of thrift institutions, necessitates postponement. Any postponement must be reported to the Congress.

They have to be lowered unless these certain findings are made. As I understand the present law, the present law would allow them to be lowered. The U.S. Treasury could lower the denominations of their Treasury notes if they wanted to, but they have not.

I have received literally stacks of mail from savings and loan offices around the country saying flatly that such a change would prove disastrous for their associations.

I pointed out that any Senator who cares to read the transcript of the Banking Committee consideration of this question will see that the committee acted with no real knowledge of just what such a change would do. The data offered the committee were approximately 2 years old and inconclusive.

(Mr. RIEGLE assumed the chair.)

Mr. MORGAN. As pointed out to the committee, Federal financial regulators currently have the power to reduce the money market certificate denominations. Our bill, however, requires them to do so unless they make affirmative findings, certain affirmative findings.

If they have not done so, I think we can reasonably presume that the reason the Home Loan Bank Board did not do it was for good cause.

In a letter Federal Home Loan Bank Board Chairman Janis has spelled out that good cause. Such a change, he said, could prove "devastating" to many S. & L.'s around the country and particularly in the Northeast. So here I am supported by the Chairman of the Federal Home Loan Bank Board who says that such action could prove devastating to many S. & L.'s around the country, and especially those of moderately small size, $100 million assets or less.

Well, to go on, the bill provides increased savings and loan powers. Quoting now from the report:

> (4) Federal savings and loan associations are authorized to hold 10 percent of their assets in consumer loans, commercial paper, corporate debt securities or bankers acceptances; to offer personal trust services; and to make mortgage loans competitively with national banks.

Bringing them closer together to what a full commercial bank is like.

These changes are further evidence of the degree to which this bill restructures our financial system and sets the stage for the rapid homogenization of our traditionally separate financial institutions.

The 10 percent in consumer lending allowed savings and loans will prove woefully inadequate, and I have predicted that within a year we will be back in this very Senate asking that the limit be raised, so that savings and loans can successfully compete with commercial banks.

In the process, we have already begun the inevitable destruction of the institutions most devoted to helping Americans own their own homes. Already—mark this—already unprinted amendments are being discussed which would allow mutual savings banks to put 20 percent of their assets in anything they desire, and allow them to accept corporate deposits. As was pointed out before in committee, mutual savings banks began as institutions devoted to home finance, and they have changed. Evidence convinces me that savings and loans would also inevitably change in their basic orientation.

Let me point out why the need is going to be brought about to enlarge the consumer loan powers. Because as regulation Q is phased out, in order to be able to compete with commercial banks, that can make all kinds of consumer loans and charge interest rates as high as 20 to 30 percent—I do not know the exact limit now, but the last time I looked, if you financed a 3-year-old car at the local banks at home, you were paying an annual interest rate of 36 percent. So, you see, savings and loans are going to have to compete with them unless they are given this advantage. But the difficulty is, my friends think this regulation Q is not going to be phased out for 10 years. Technically they may be correct, but the interest limitations have to be raised a half a percent per year by the Federal Reserve Board.

Now, for the life of me I have never understood why various people in the Government have wanted to bring about this kind of financial reform. They did in 1975, when we passed it here in the Senate. Somebody down there wants to homogenize all of these institutions.

So let us suppose that the Federal Reserve Board decides to raise the interest limitation, not just a half percent but 2 percent or 3 percent. The differential may still be there, but the interest limitation rate may be so high that it will have no meaning at all, and all of them will be below that, so that, as a pragmatic matter, regulation Q could be phased out in just a matter of 2 or 3 years, or be of no effect.

In that case, savings and loans sure to goodness would have to be into consumer loans, trust matters, credit card business, and what have you.

There are a whole lot of provisions called miscellaneous matter that came up in this bill. Quoting from the committee report, now:

> Several miscellaneous matters are provided for, including Comptroller of the Currency housekeeping amendments; the text of the Truth-In-Lending Simplification Act passed by the Senate earlier in this Congress; an exemption from State usury limitations on residential mortgage loans for specified lenders unless the State reenacts ceilings within 2 years; and a temporary exemption from State usury limits applicable to business and agricultural loans in Arkansas.

We have discussed these earlier, but because my explanation is fairly brief, I am going to repeat it again.

In our report, under the heading of "Miscellaneous Matters," are several very significant and controversial matters. Included in the so-called housekeeping matters of the Comptroller of the Currency is a controversial policy decision on the question of interstate trust powers of holding companies.

It will be the subject of an amendment by Senator STEVENSON. This is something I never even heard of until we got over here on the floor of the

Senate, and it could have some very far-reaching ramifications. It may very well be good, and I certainly am not quite sure where I stand, but one of the problems that the banking community has been interested in for a long period of time is interstate banking powers.

I wonder what would happen in my State if Citibank of New York and Chase Manhattan Bank and the Bank of America, with all of their resources, were allowed to move into my hometown of Lillington—I doubt if they could find my hometown of Lillington, but if they were to move into the capital city of North Carolina, I wonder if my banking friends down in North Carolina would be so enthusiastic about this bill then.

You see, this bill is a foot in the door. As I say, it may be the bill itself may save us from those trust powers, but that certainly is debated, and I would urge anyone listening today to take a look at it, because when Senator STEVENSON brings it up, I want to be present and I want to hear. There were no hearings held on it in our committee. In all fairness, I understand there might not have been any hearings held on it when the matter was put in the conference committee report before, but nevertheless it is something I urge my colleagues to look at.

Beyond this, I feel strongly that the preemption of State usury laws is an unwarranted exercise of Federal power in an area where the State has long exercised primary authority. I have discussed the language with the Senator from Mississippi. I think preemption would have anticonsumer ramifications, and will, in the long run, prove extremely unwise.

I do not believe we should preempt State authority simply to make life easier for the mortgage bankers. We have already acted in that regard in Arkansas, but I firmly believe that should be viewed as an exception, and not as a precedent.

This, then, Mr. President, is an overview of what the Depository Institutions Deregulation Act would do; I want to examine this very carefully as we go along.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. MORGAN. Yes.

Mr. PROXMIRE. I am very interested in the Senator's remarks, which, as always, are very thoughtful and well-organized, but I am concerned about this, because it seems to me what we are trying to do is deregulate, end the regulation and the bureaucratic control and interference with the marketplace we have by having the Federal Government come out and say, "Thou shalt not pay more than 5.25 percent of interest to a saver if he is small, or pay more than 5.5 percent if it is a savings and loan."

That just seems to me to be a bureaucratic interference. We put this into effect in 1966, I suppose with good heart and good reason, but the present circumstances indicate that is no longer serving a purpose.

Let me point out to my friends the groups that support this bill as it is. The administration; I have a letter from the White House indicating their strong support for it.

Mr. MORGAN. That I can understand.

Mr. PROXMIRE. The American Bankers Association.

Mr. MORGAN. I can understand the ABA.

Mr. PROXMIRE. The Home Builders.

Mr. MORGAN. The Home Builders tell me a little different story.

Mr. PROXMIRE. Well, they are pretty clear in what they tell me.

The Savings and Loan League. That is a little different.

Mr. MORGAN. Not the U.S. Savings and Loan League.

Mr. PROXMIRE. The National Savings and Loan League.

Mr. MORGAN. That is composed of about 383 institutions.

Mr. PROXMIRE. Every consumer group has spoken out on this: the savers, the Federal Reserve Board, the Comptroller——

Mr. MORGAN. That does not surprise me.

Mr. PROXMIRE. The FDIC, and the Home Loan Bank Board.

Mr. MORGAN. Of course.

Mr. PROXMIRE. The Home Loan Bank Board. Now, who are the Home Loan Bank Board? If the Senator will permit, I will just take a couple of minutes of the Senator's time. I have a letter here from the chairman of the Home Loan Bank Board, and it is a very powerful letter. I would hope that if Senators read no other document, they will read that letter before they vote on this bill. It reads:

> The Bank Board has become increasingly concerned that the complexity of H.R. 4986, the Depository Institutions Deregulation Act, and its significant scope, may cause some alarm when it comes to the Senate Floor, particularly in light of recent economic upheavals.

Mr. Janis says this:

> Let me state clearly and unequivocally that the Bank Board, charged by Congress with responsibility for the safety and soundness of thrift institutions, strongly supports passage of this legislation.

Mr. MORGAN. Do they not also say that reduction in the money market certificate denomination would create serious problems?

Mr. PROXMIRE. I will come to that in a minute. They are correct in all but one part, where they make an error, but in every other part they are correct.

They strongly support this legislation, and they are the agency charged by Congress with responsibility for the safety and soundness of savings and loan institutions. That is their responsibility and their job, and over the years I think they have done very well.

They go on to say this:

> Indeed, we see its underlying premises—gradual removal of rate control and expanded consumer powers for thrifts—to be of utmost urgency. In fact, the recent economic upheavals have made the Senate's passage of this bill all the more urgent.

This is the Home Loan Bank Board again speaking in favor of this bill that is before us, unamended. This is the one part the Senator from North Carolina cherishes. I think this is one part where they make an error but in all fairness I should read it.

> It is true that there are parts of this bill, such as lowering the cost of the money market certificate (MMC) to $1,000, that we do not support because we do not believe this to be possible nor desirable at this time.

I think they are wrong on that part. The Home Loan Bank Board has made only one error in this letter and that is it.

> Nevertheless, for thrift institutions to survive in the financial system of tomorrow, they must begin to prepare today, and there are new powers provided by this legislation that they must have now. Specifically, this bill would:
>
> Provide thrifts with expanded residential lending powers, such as those of commercial banks;
>
> Allow for an override of State usury laws, which are even more inappropriate now that the discount rate is near 14%;
>
> Authorize NOW accounts, without which thrifts will be the only segment of the financial system without a third-party payment mechanism;
>
> Expand the consumer lending authority of thrifts so that they may provide better family financial services; and
>
> If a Floor amendment is adopted, allow use of GNMA Tandem funds to purchase old, low-yield mortgages from the portfolios of financially-troubled mortgage lenders.

Mr. MORGAN. Is that the bailout provision? Is that one of these provisions which says that if this bill does not bankrupt the savings and loans, the FNMA or GNMA ought to bail them out?

Mr. PROXMIRE. I am glad the Senator voiced that. What is the Senator's position on that?

Mr. MORGAN If we are going to bankrupt them. I hope we can find some way to save them. But I cannot see, for the life of me, how this Senate can pass a bill and say in effect, "We may put you in financial trouble, but if we do, we will bail you out."

Mr. PROXMIRE. I am inclined to agree with the gist of what the Senator is saying because I oppose that provision, too.

There are two parts of this letter, I will correct myself, that I do not like. But there is overwhelming support for the rest of it, which I think is terrific. I think Chairman Janis deserves credit for writing a paper which I would grade about 85 percent. Eighty-five percent of it is right and 15 percent of it is wrong, and that is a lot better than most of us do on most days.

The Senator has heard of that movie about a girl who is rated No. 10 because she is perfect. Everyone knows there is not such a woman, I wish there were, except for my wife, but we just do not find situations like that in this world. Institutions and individuals are not perfect and Mr. Janis is a good example of that in this letter. But he does a good job.

Mr. MORGAN. To be a little facetious with my chairman, that provision is like the old saying, "Lie still, little catfish, I am just going to gut you. But if I hurt you, I will put you back together."

It reminds me of the Senator's cosponsor. Senator CRANSTON pushed this bill but, lo and behold, when it came out of committee, he took California S. & L.'s out of it.

Let me proceed with some other thoughts before my time runs out.

Let me answer the Senator's question with regard to regulation.

Mr. PROXMIRE. I just have one short paragraph to conclude.

> It is only through passage of this legislation that Congress can send the unmistakable signal that all financial institutions must prepare for tomorrow's different financial world, where competition will prevail and borrowers and savers will be treated equally.

I think in general that is a ringing endorsement of the bill with the single exception that is in the bill now. It is important in connection with an amendment which is pending that I oppose. But I think it is important as it is from the agency which is the only one that represents a group that has any opposition to the bill. As the Senator knows, the bankers favor it and the builders favor it.

Mr. MORGAN. The bankers favor it because one of these days they will own most of the savings and loans if this comes about.

Let me tell the Senator about the Home Loan Bank Board. First of all, it disturbs me that they take that position. It disturbs me that the feeling of this administration is for a homogenization of all of the financial institutions that have served this Nation so well over such a long period of time. When the then Secretary of the Treasury, Mr. Blumenthal, appeared before the committee, and the chairman and I were there, he was the one who set the policy. Mr. Janis is a recent appointee. Of course, he should support the administration.

I asked Mr. Blumenthal on two different occasions to describe for me or to tell me what the distinguishing characteristics would be between S. & L.'s, or thrift institutions and commercial banks if this bill was passed, and each time he begged the question and said, "Well, the distinction would be much narrower."

Somewhere, in some way, down the line in the Federal Reserve and the Comptroller's office, not only in this administration but in the last one, there has been a feeling that we should just make all institutions alike. I could not disagree with that more. I think they are wrong, and I believe that time is going to prove I am right.

Let me say with regard to deregulation, I think my chairman knows I oppose regulation as much as anyone up here.

Mr. PROXMIRE. On that point, before the Senator goes further, because this will only take a minute, I would strongly disagree that this homogenizes all financial institutions. There is no question that savings and loans will still be overwhelmingly housing financial institutions, that 70 to 80 percent of their assets are going to be in that. We provide for very limited opportunity for them to get into consumer loans. We provide them with some trust powers. But they will still be directed overwhelmingly into the area of home lending.

Mr. MORGAN. My chairman would not disagree with Secretary Blumenthal when he said that the characteristics which were different would be narrowed, I am sure.

Mr. PROXMIRE. Very, very slightly.

Mr. MORGAN. And also the chairman would not disagree with the fact that the old foot in the door adage certainly would apply here. Already the Senator from Massachusetts is about to offer an amendment to increase it to 20 percent for mutual savings banks. I am not saying that they are going to be homogenized tomorrow, but this is a significant step toward it.

With regard to regulation, it is nice to say this is a deregulation bill. I think on just about every bill that I have seen lately, at least a half-dozen or so bills in the Congress, there are fancy titles about deregulation. I am not sure what the title of this one is. It may be the same thing. "Depository Institutions Deregulation Act."

Well, that sounds good, but my chairman knows that he does not favor all deregulation. He is not for turning all institutions loose. I am not for taking off the Federal Drug Administration laws. What we are talking about deregulation, and what the American public is concerned about are those burdensome regulations which serve no useful purpose. Regulation of financial institutions since the days of Alexander Hamilton has always been considered to be in the public interest. Merely calling it deregulation does not make it any better, although it is sometimes good in our newsletters back home.

Let us talk about the value of regulation Q. We talk about who is supporting what and which consumer groups, but I want to read now from the statement of Mr. Henry Schecter, who is the director of the AFL–CIO Department of Urban Affairs, as he testified on this very bill. He said:

> THE VALUE OF REGULATION Q
>
> The proponents of the phase-out of Reg Q advance several arguments that relate to the fluctuations in residential construction. It is asserted that one of the unfortunate public consequences of Reg Q has been that during high interest rate periods funds have been shifted out of thrift institutions to higher-yield market securities.
>
> The first three post-Korea housing declines that were triggered by tight money occurred in 1955–57, 1959–60 and 1965–66, before the authority for interest rate ceilings on accounts at thrift institutions was enacted. The low points in the seasonally adjusted annual rate of new housing starts were below preceding peak points by 28 percent, 37 percent and 43 percent. All three declines were preceded by industrial expansion, substantial increases in business borrowing, and rising interest rates. The latter market development was reinforced by Federal Reserve restrictive monetary policies.
>
> The declines in seasonally adjusted annual rates of net mortgage lending from peak to trough quarters were 35 percent in 1955–57, and 29 percent in 1959–60, and 45 percent from the last quarter of 1965 to the last quarter of 1966. The latter decline reflected the drastic drop in net inflows to savings and time deposits, which was much smaller at commercial banks than at savings institutions. The commercial banks fared better, in large part, because the Federal Reserve Board raised the maximum allowable interest rates on time deposits at commercial banks in December 1965.
>
> In the summer of 1966, there were net outflows of savings at thrift institutions, and it was recognized that the Federal savings and loan system faced a potential liquidity crisis. Against the background of savings disintermediation, the liquidity problem and the drastic decline in homebuilding, Congress, in September 1966, enacted the authority for the present type of Regulation Q.
>
> In all three of the aforementioned periods, there were shifts of funds away from the thrift institutions into other channels, which led to sharp cyclical declines in homebuilding. These instances occurred before the 1966 authority for Reg Q ceilings on thrift institution savings accounts was established.
>
> Some of the proponents of the phase-out of Regulation Q point out that it has not prevented the housing industry from bearing the brunt of high interest rates plus tight money policies designed to cool off an overheating economy. They do, however, make the point that Reg Q, with the interest rate differential, has been of some help to the thrift institutions and the homebuilding industry, which would have suffered more without it. The latter point is supported by the contrasting record of the first and of the second credit-related cyclical downturns in residential construction that occurred subsequent to the implementation of the 1966 Reg Q legislation. In the first, Reg Q probably contributed to the much milder decline of savings inflows at savings institutions than at commercial banks in 1969, 35 percent versus 96 percent, respectively.
>
> The 1973–74 cyclical downturn pattern was different, reflecting a difference in magnitudes of non-housing credit demands, tight money and rise in interest rates, plus a regulatory action which destroyed the effectiveness of Reg Q for a few months. A major business expansion, which was underway in the latter part of 1972, gained momentum in 1973 and generated heavy credit demands, particularly for commercial bank loans, and a monetary restraint policy was adopted. From the beginning of January to the beginning of July, the commercial bank prime business loan rate and the Federal funds rate both rose from about 5½ to 8 percent. To relieve the liquidity problems faced by the banks, on July 1, 1973, the ceilings on interest rates on large certificates of deposits ($100,000 or more) were removed.
>
> In addition, the regulatory agencies eliminated Reg Q ceilings on certificates of deposit with a minimum of $1,000 and a maturity of at least four years. Such CDs were popularly identified as the "wild cards", as aggressive institutions offered interest rates to outbid competitors for savings. Commercial banks were generally more aggressive than savings institutions and gained a significantly greater share of aggregate savings flows. The savings instituitons experienced disintermediation in some months. In November, legislation was passed outlawing the "wild card" savings certificates. That was after seeing what happened.
>
> The 1973–74 wild-card experience illustrates how much worse things can be for homebuilding and the economy without an effective Reg Q. High interest rates and relative scarcity of mortgage funds produced the most prolonged and pronounced post-World War II decline in residential construction, which extended into the first half of 1975. A contributing factor was a moratorium, instituted in January 1973 on new approvals for Federally subsidized housing. It assured a short supply and inflation in housing in subsequent years. The accompanying general economic recession saw the unemployment rate rise from 4.9 to 8.9 percent and resulted in the loss of an estimated $100 billion in constant dollar GNP, which would have meant significant increases in tax revenues to reduce the Federal deficit, and in savings to support capital formation.
>
> Past experience demonstrates that a return to a "free market" for savings will lead to greater instability and economic inefficiency for residential construction and the economy as a whole. Those who advocate a return to the so-called free market conditions point to the use of the money market certificates since June 1, 1978, as the factor which pre-

vented the housing sector from bearing the brunt of the 1978–79 tight money and rising interest rates.

However, the housing market factors of high demand due to population composition and supply scarcity were far stronger than in previous periods preceding a housing downturn, as can be seen from 1973–1978 comparisons:

	1978	1973
Net increases in households over 12 months ending with March	1.9 million	1.6 million
National rental vacancy percentage	5.0 percent	5.7 percent

The dilemma of paying low enough interest rates on savings at thrift institutions to permit placement of funds in residential mortgages versus increased likelihood of disintermediation cannot be overcome with current or increased dependence upon market forces to channel the flow of available credit. Given the relatively weak position of many households relative to other prospective credit users, housing will continue to be subject to large cyclical fluctuations, with consequent destabilizing influences upon the general economy. That is a result of great disparities in incomes of households and the fact that those with higher incomes, who are generally well housed, can outbid homeseekers for scarce funds by paying higher interest rates.

It would be difficult to argue, moreover, that resort to tight money policies will not produce a predictable, selective impact. Repeated experience since World War II has demonstrated that Federal Reserve general tight monetary policies, adopted to cool off an overheating economy, have had a selective, deep adverse impact upon residential construction, which contributes significantly to subsequent economic slowdowns and recessions. Whether this repeated scenario is a "free market" is a question of definition.

To get out of this dilemma, a new tool to restrict credit flows and redistribute the impact in an overheating economy is needed. For this purpose, consideration should be given to the implementation of selective credit regulation, under authority of the Credit Control Act of 1969. As the term implies, selective credit regulation should involve a much more limited restriction on extension of credit for different uses than complete credit allocation. Decisions as to selective impact would be required. A shift to such regulation would be the sort of adaptation of the national monetary and credit system to changing conditions that has, over two centuries, reduced or eliminated practices that hindered stable economic growth.

As critics of Reg Q have pointed out, and as indicated by experience in 1974–75 and 1979, Reg Q has limited effectiveness during a credit crunch in countering the influence from outside of the depository institution structure in directing the flows and uses of loanable funds. Household savers have learned over the years to deploy their own savings to obtain the highest yield. There has been a long-term upward trend of direct household investment in market instruments which reached a seasonally adjusted annual rate of close to $100 billion in the first quarter of 1979. Part of this phenomenon is seen in the 3½ times multiplied growth of money market funds to a $23.2 billion total in the 12 months ending with May 1979. Minimum required amounts for participation in such funds range between $1,000 and $2,500.

The heaviest investment of these funds is in large certificates of deposit, issued mostly by commercial banks who can then finance business loans and consumer credit at higher interest rates than many mortgage borrowers can pay, and in commercial paper, which serves the same needs. The third largest form of investment by money market funds is bankers' acceptances, another form of business financing issued by banks.

The growth of money market funds is a vivid illustration that the depository institutions are not the only forms of investment intermediaries. Last week Merrill, Lynch began to offer a Cash Management Account Money Market Trust, combining checking and investment of cash in money market instruments. Competition for funds between different types of intermediary institutions reflects the basic competition between different credit users who are served by the different types of institutions.

In absence of ceilings on savings interest rates, when money became tighter, thrift institutions could compete more aggressively for funds by paying higher rates to attract savings.

The result would, of necessity, be higher mortgage interest rates. More rapid and intensive fluctuations in interest rates would increase the frequency and amplitude of homebuilding cycles, which help to maintain a high priced, shore supply of housing that feeds inflation. There would also be an increase in the frequency and intensity of economic slowdowns and recessions which have followed sharp declines in residential construction.

To help meet the nation's housing needs, and to avoid increased inflationary pressures and cyclical economic downturns, Reg Q should not be phased out, pending the development and implementation of money and credit policies that do not have interest rates as a central fulcrum.

I have further discussion, but in the interest of time I will make some other comments.

But no one can consider it as not being consumer oriented.

Wednesday I want to talk about the effect on the small saver. But now I want to say for the benefit of those who may be listening——

Mr. PROXMIRE. Mr. President, we only have a few minutes left. Will the Senator give me 1 minute to rebut a part of this?

Mr. MORGAN. I yield to the Senator for 1 minute.

Mr. PROXMIRE. Mr. President, I would like to call the attention of the Senator, as to his argument on regulation Q, the report of the President's interagency task force on regulation Q, which was put out 2 months ago after very careful study by a number of outstanding experts, including the Secretary of the Treasury, a number of people in the Department of Treasury, a number of people in the Department of Housing and Urban Development, the Office of Special Assistant to the President on Consumer Affairs, OMB, the Council of Economic Advisers, the White House domestic policy staff.

These are really experts who spent a great deal of time on this, and they said:

> It is now widely agreed that the system of deposit rate controls has failed to prevent the sharp cyclicality of mortgage credit flows, buttressing the arguments for a change. It is also clear that the small saver has become increasingly unwilling to accept below market interest rates and has made this known both by pressing for changes and by transferring savings to investments not subject to regulation Q ceilings. The episodes of disintermediation that have occurred since the mid-1960s have in turn threatened the viability of some of the nation's savings institutions and banks. This report concludes that significant changes in the present system are desirable. It recommends a transition to a more unregulated environment, in which deposit interest rates are determined generally by market forces, and savings institutions are given the additional investment powers they need to compete for funds to counter the threat of disintermediation.

That is what this tries to do, and that is the basis——

Mr. MORGAN. I agree all the Federal regulators want to homogenize institutions. But I point out, and we will resume this tomorrow, the credit unions are vitally concerned that their share draft powers will expire because of the court decision on January 1.

I have been told they are going to have to begin to phase out share drafts pretty soon if something is not done.

Just last week, after our discussion here on the floor, the House committee, again by substantial voice vote, I understand with only two dissenters, reaffirmed that they were not going to accept this bill back in the House with all of these far-reaching and controversial provisions attached to it.

So if we send this back over to the House and it gets bogged down in conference, we may well jeopardize credit union share drafts, which were outlawed by the court decision. The court said we had until January 1 before share drafts must be discontinued as well as the automatic transfers and the remote service units.

So I am saying I will offer an amendment Wednesday to correct those matters, to strip this bill of all its extraneous matters, send it back over to the House and let us get the credit unions share drafts restored, and then talk about these other items.

This report came out 2 months ago. No one really has had adequate time to study it.

So I will offer that amendment Wednesday. I hope my colleagues will support it. In doing so, we will not be rejecting all these items but we will be saying we maintain the status quo, so that the credit unions and others affected by that court decision can go on and make some decisions.

This same Congress will be in session next year. Then we can have further time to work on the many provisions which the chairman supports.

It might be that my chairman may see the light and agree with me. I might eventually agree with him.

ADOPTION ASSISTANCE AND CHILD WELFARE ACT OF 1979

The PRESIDING OFFICER. Under the previous order, the hour of 3:45 p.m. having arrived, the Senate will now resume consideration of H.R. 3434, which the clerk will state.

The assistant legislative clerk read as follows:

> A bill (H.R. 3434) to amend the Social Security Act to make needed improvements in the child welfare and social services programs, and so forth, and for other purposes.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. The pending question is on the amendment by the Senator from Kansas (Mr. Dole) on which there shall be 15 minutes of debate, to be equally divided and controlled by the Senator from New York (Mr. Moynihan) and the Senator from Kansas (Mr. Dole).

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 692

(Purpose: To make a technical amendment in the bill)

Mr. LONG. Mr. President, I send to the desk a technical amendment to correct an ambiguity, and I ask unanimous consent that it be considered at this point.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. Long) proposes an unprinted amendment numbered 692:

On page 68, line 18, insert ", starting with fiscal year 1980," after "fiscal year".

Mr. LONG. Mr. President, it has been called to our attention that there is an ambiguity in the language of the bill.

Paragraph (3)(A) of section 474(b) of the Social Security Act would, under the bill, establish the limitation applicable to fiscal years 1980 and after for Federal funding of foster care. An alternative limitation for those years is allowed by the next subparagraph ((3)(B)). However, because these sections contain several references to various fiscal years, the meaning of the term "fiscal year" as used in subparagraph (3)(B) is ambiguous. The amendment I am offering would make it clear that the reference is to fiscal year 1980 or any subsequent fiscal year referred to in the earlier paragraph.

I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The question occurs on the amendment by the Senator from Kansas.

Mr. DOLE. Mr. President, I wonder whether we might set aside the amendment. There may be some question raised by the distinguished Senator from New Mexico. If we could set aside the amendment and go to one of the other rollcall votes, perhaps by the time we have finished that, we could have any question resolved.

I ask unanimous consent that the so-called Dole amendment be set aside and that we proceed to the next amendment on which the yeas and nays have been ordered, and that the time not be charged against the Dole amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

● Mr. CRANSTON. Mr. President, I am sympathetic to what the Senator from Michigan (Mr. Levin) is attempting to accomplish with his amendment. As he has stated in the past, I have worked for many years for Senate passage of legislation that promised to offer significant opportunities for adoption of children once considered impossible to place with the prospect of House/Senate conference and final enactment clearly before us, this is a joyous day for me.

In the years I have worked on this legislation, and particularly during the past 2½ years, I have devoted an enormous amount of work to hammering out a bill that was acceptable to all parties involved and that would assure support from those whose support was most critical, particularly that of our colleagues on the Senate Finance Committee and that of the administration. The committee bill represents the product of those literally years of discussion and compromise—elements which are the very strength of the political process in our Nation. As I have stated previously, the committee bill is not all that I would like it to be, but it is a tremendously meaningful beginning. I have dealt in good faith with my fellow drafters of this legislation and they have dealt in good faith with me. The bill has moved. It is out of committee. It is a good bill. It is before us today, and for legislation proposing the kinds of reforms this bill proposes, that is a most significant development.

So, although I am sympathetic to the aims of my colleague's amendment. I feel constrained in this matter and cannot support him today. I am also convinced that some of the concerns that I share with my colleague from Michigan will have been favorably resolved when this bill emerges from conference.●

The PRESIDING OFFICER. The question now occurs on the amendment by the Senator from Michigan (Mr. Levin). On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Idaho (Mr. Church), the Senator from Alabama (Mr. Heflin), the Senator from Hawaii (Mr. Inouye), the Senator from Alabama (Mr. Stewart), and the Senator from Florida (Mr. Stone) are necessarily absent.

I further announce that the Senator from Tennessee (Mr. Sasser) is absent on official business.

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from Oregon (Mr. Hatfield), the Senator from California (Mr. Hayakawa), the Senator from Kansas (Mrs. Kassebaum), the Senator from Oregon (Mr. Packwood), the Senator from South Dakota (Mr. Pressler), and the Senator from Texas (Mr. Tower) are necessarily absent.

I also announce that the Senator from Missouri (Mr. Danforth) is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) would vote "yea."

The PRESIDING OFFICER (Mr. Metzenbaum). Are there any other Senators wishing to vote?

The result was announced—yeas 60, nays 25, as follows:

[Rollcall Vote No. 374 Leg.]

YEAS—60

Baker
Baucus
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Cohen
Culver
DeConcini
Dole
Domenici
Durenberger
Durkin
Ford
Glenn
Hart
Heinz
Huddleston
Humphrey
Jackson
Javits
Jepsen
Kennedy
Laxalt
Leahy
Levin
Lugar
Magnuson
Mathias
McGovern
Melcher
Metzenbaum
Muskie
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stevenson
Tsongas
Wallop
Warner
Weicker
Williams
Young

NAYS—25

Armstrong
Bentsen
Byrd, Harry F., Jr.
Cochran
Cranston
Eagleton
Exon
Garn
Goldwater
Gravel
Hatch
Helms
Hollings
Johnston
Long
Matsunaga
McClure
Morgan
Moynihan
Nelson
Nunn
Stennis
Talmadge
Thurmond
Zorinsky

NOT VOTING—15

Bayh
Bellmon
Church
Danforth
Hatfield
Hayakawa
Heflin
Inouye
Kassebaum
Packwood
Pressler
Sasser
Stewart
Stone
Tower

So Mr. Levin's amendment (No. 553) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 558

Mr. DOLE. Mr. President, I ask unanimous consent that we continue to set aside the Dole amendment and go to the Bellmon amendment on which the yeas and nays have been ordered.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. Mr. President, we cannot hear.

The PRESIDING OFFICER. There is a request for unanimous consent to set aside the Dole amendment and go to the Bellmon amendment and vote it. Is there objection? The yeas and nays have been ordered.

Mr. DOMENICI. Mr. President, reserving the right to object, are we going to vote without any debate? If we are, I will object.

The PRESIDING OFFICER. There is no time for debate.

Mr. DOMENICI. There was on the Bellmon amendment, 10 minutes on each side.

The PRESIDING OFFICER. That would take unanimous consent.

Mr. DOLE. Mr. President, I ask unanimous consent that there be 10 minutes on each side on the Bellmon amendment.

The PRESIDING OFFICER. Is there objection?

Mr. MOYNIHAN. I object.

Mr. LONG. Mr. President, I ask unanimous consent that there be 5 minutes granted to each side.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. I will not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. DOMENICI. Mr. President, may we have order, please?

The PRESIDING OFFICER. The Senator from New Mexico would not have control of the time. The proponent of the amendment, the manager of the bill, would be in control of the time.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, Senator Bellmon is not present and asked me to propose the amendment and make the argument in his behalf, and I ask unanimous consent that I be in control of the time.

Mr. LONG. Mr. President, I ask unanimous consent that the control of the time on the amendment be under the Senator from New Mexico.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. DOMENICI. Mr. President, as I indicated, this is not my amendment, although I wholeheartedly support it. It is an amendment that Senator Belmon proposed.

Mr. MOYNIHAN. Mr. President, may we have order?

The PRESIDING OFFICER (Mr. Zorinsky). The Senate is not in order. Senators talking will please retire to the cloakroom or take their seats. Will Senators please clear the well and take their seats?

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, on last Thursday Senator Bellmon offered amendment No. 558 to the pending bill and, as I indicated, he finds it impossible to be here at this time. He asked me to make a few comments in support of the amendment prior to the Senate's vote on the amendment.

This amendment has a very simple purpose. It is to improve the equity in the ceilings for Federal foster reimbursement to the various States.

Mr. President, I ask unanimous consent to have printed in the Record a table showing the State-by-State ceilings under both the committee bill as reported and under the Bellmon amendment.

There being no objection, the table was ordered to be printed in the Record, as follows:

FEDERAL FOSTER CARE FUNDING

[In millions of dollars]

	Fiscal year 1978	Fiscal year 1980		
		H.R. 3434	Bellmon amendment	Change
U.S. total	211.95	278.14	279.84	+1.70
Alabama	1.30	1.80	2.21	+0.41
Alaska	.70	.84	.80	−.04
Arizona	(1)	1.10	1.57	+.47
Arkansas	.40	1.00	1.27	+.27
California	29.30	35.16	35.16	(2)
Colorado	1.20	1.44	1.44	(2)
Connecticut	1.60	1.92	1.92	(2)
Delaware	.40	.48	.49	+.01
District of Columbia	.40	.48	.58	+.10
Florida	1.10	3.50	4.15	+.65
Georgia	2.20	2.64	2.99	+.35
Hawaii	(1)	.40	.62	+.22
Idaho	.30	.40	.40	(2)
Illinois	3.20	5.30	5.37	+.07
Indiana	1.20	2.60	3.31	+.71
Iowa	1.10	1.32	1.32	(2)
Kansas	2.40	2.88	2.75	−.13
Kentucky	1.90	2.28	2.42	+.14
Louisiana	2.60	3.12	3.12	(2)
Maine	1.70	2.04	1.95	−.09
Maryland	3.00	3.60	3.60	(2)
Massachusetts	.60	2.50	2.50	(2)
Michigan	10.20	12.24	12.24	(2)
Minnesota	3.20	3.84	3.76	−.08
Mississippi	.80	1.30	1.50	+.20
Missouri	1.50	2.20	2.68	+.48
Montana	.50	.60	.57	−.03
Nebraska	.60	.72	.72	(2)
Nevada	.30	.36	.34	−.02
New Hampshire	.50	.60	.57	−.03
New Jersey	.30	3.30	4.65	+1.35
New Mexico	.08	.60	.85	+.25
New York	109.20	131.04	125.09	−5.95
North Carolina	.70	2.60	3.01	+.41
North Dakota	.40	.48	.46	−.02
Ohio	2.50	5.00	6.22	+1.22
Oklahoma	.60	1.30	1.58	+.28
Oregon	3.70	4.44	4.24	−.20
Pennsylvania	6.80	8.16	8.16	(2)
Rhode Island	.20	.40	.41	+.01
South Carolina	.50	1.40	1.79	+.39
South Dakota	.30	.36	.41	+.05
Tennessee	2.10	2.52	2.80	+.28
Texas	1.00	6.30	6.30	(2)
Utah	.40	.70	.73	+.03
Vermont	.50	.60	.57	−.03
Virginia	2.60	3.12	2.98	−.14
Washington	2.10	2.52	2.52	(2)
West Virginia	.80	.96	1.04	+.08
Wisconsin	2.90	3.48	3.48	(2)
Wyoming	.07	.20	.20	(2)

[1] Less than $0.05 million.

[2] No change.

Mr. DOMENICI. This is a correction of the table printed in last Thursday's Record on pages 29536 and 29537.

I might add, Mr. President, that this table also corrects a few mistakes in the table printed on pages 52 and 53 of the Committee on Finance report on this bill.

Mr. President, the adjustment that the amendment takes into account includes two factors: First, if a State varies by more than 50 percent from the national average monthly cost per foster child placement, it will receive a proportionate increase or decrease in its ceiling.

Second, if a State is more than 50 percent above or below the national average in the percentage of children placed in foster care as a proportion of its total AFDC population, it will also receive an adjustment in its ceiling.

Mr. President, Senator Bellmon offered this amendment to give the Senate an opportunity to redress somewhat the imbalances in the allocation of Federal funds that exist under the present law and which would be perpetuated under the committee bill.

We have a situation, Mr. President, as Senator Bellmon pointed out on Thursday, in which only four States are above the national average in costs per foster care placement. This means that those States that have high costs are getting a disproportionate amount of the Federal money.

Let me very blunt. New York received over half of the Federal foster care funds in fiscal year 1978, $109.2 million out of $212.05 million spent by the Federal Government.

Under the committee bill, it is estimated that New York will get 47 percent of the funds in fiscal year 1980. The Bellmon amendment would only change this to 45 percent.

But it would begin to redress the imbalance created by our favoring those States with extremely high costs in this area.

You may ask why Senator Bellmon has offered this amendment since the changes for the States are relatively modest. Mr. President, Senator Bellmon is trying to make a point, and I think it is a good one. The reported bill puts a ceiling on foster care expenditures at a time when the data show there are great imbalances among the States. Neither Senator Bellmon nor I disagree with the concept of a ceiling, but we are very concerned that the Federal Government is about to perpetuate inequities and perhaps reinforce inefficiency in some States that have very high costs. At the same time, the bill as it now stands may unfairly penalize other States which perhaps have held down foster care costs.

This amendment will adjust the ceilings of 36 States; 24 States will gain; 12 States will get less money than under the committee bill. New York would receive about $6 million less in fiscal year 1980 under the Bellmon amendment than under the reported bill, and that State would receive fully 45 percent of all the funds allocated for this program. The State with the next largest change would be New Jersey, which would gain $1.35 million.

So, despite the relatively small amounts of money involved in these changes, the Bellmon amendment carries an important message. It puts the Federal Government clearly on record in favor of cost control and reduced reliance on foster care. The amount of money that a State can get from the Federal Government will be related to the success of that State in holding down the percentage of AFDC children placed in foster care and in holding down costs.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. May I have 30 seconds?

Mr. MOYNIHAN. Mr. President, I yield the Senator from New Mexico 30 seconds of my time.

Mr. DOMENICI. I thank my friend. This type of adjustment in State ceilings is quite consistent with the basic purposes of the bill that the Finance Committee has reported and indeed will help to achieve the purposes that the Finance Committee has in mind. The consistency of this amendment is to place the money and allocation on a trend line consistent with the goal of this bill, and the goal certainly is not to encourage maximum expenditure, but rather realistic curtailment. Unless we do this, we will be moving in the direction of giving the States with very high expenditures all the money, and those which have held costs down little or none.

I ask for the yeas and nays on the Bellmon amendments.

Mr. MOYNIHAN. The yeas and nays have been requested.

The PRESIDING OFFICER. The yeas and nays have already been ordered.

Mr. MOYNIHAN. Mr. President, I believe I can summarize in 90 seconds the points which the Committee on Finance would wish to make in opposition to this well intentioned but, we feel, poorly advised amendment.

The committee has worked for almost 3 years on bringing to the floor an important piece of social legislation, the Adoption Assistance and Child Welfare Act of 1979. Our chief purpose here is to establish for the first time a Federal payment to families to adopt children and to encourage adoption instead of foster care, it being the judgment of persons who have deeply involved themselves in these matters that this ought to be done.

We have put a loose cap on foster care expenditures. The amendment of the Senator from Michigan has just been adopted, to provide that adoption assistance is available to all families, without regard to income. Now, if you will follow me for this one moment, if you are successful as a State in bringing about the largest possible number of adoptions, you are likely to have left behind in foster care the hard to adopt children, almost all of whom incur relatively high costs. It is because of their circumstances, often pitiable, that they cost more money to maintain.

This amendment would penalize those States which have successfully brought about adoption for the largest number of orphans and children who otherwise do not have families, and would penalize them for doing what our bill proposes to be done.

There is not a lot of money involved. There is an important principle, which is "Do not penalize States which effectively carry out good social programs."

Mr. President, if there is a question in the Senate I will be glad to answer it. Otherwise I would say that I do not know of a member of our committee who would support this amendment. We have addressed ourselves to these matters with, I hope, proper diligence over 3 years.

There being no questions, Mr. President, I yield back the remainder of my time.

Mr. DOMENICI. May I ask the Senator a question?

Mr. MOYNIHAN. Yes, of course.

Mr. DOMENICI. I would assume that when you asked the Senate to listen for just a short time, you were making the point that you were much more successful than other States in getting foster children adopted, and thus the children you have left over are that much more difficult, so you should get more money; is that the point?

Mr. MOYNIHAN. The average. Just as an average, not more money. If you had only one child in foster care, and its costs was above average, you would be penalized. This is not the total, but the average; and the more successful your adoption program the more your foster care program will cost, and the more it costs the higher will be the average.

Mr. DOMENICI. Then you should be more successful in getting children adopted, if that is the thrust.

Mr. MOYNIHAN. I do not know whom the Senator means by "you," when he addresses me.

Mr. DOMENICI. New York.

Mr. MOYNIHAN. The State of New York has a very successful adoption program, because it began paying its own subsidy 11 years ago. We are reaching this point in the Nation, if you want to get to that, sir, where the Nation is catching up with the social policies that began in my State. Yes, I will say that; I will admit that.

Mr. DOMENICI. Senator, I just want to ask, then, would you explain to me how, compared with the national average—that is, the percent of all AFDC children in foster care—the national average is 1.46 and New York is 3.09?

Mr. MOYNIHAN. That is a very simple thing, sir. It has to do with the mixture of populations that are subject to this kind of disability.

Mr. DOMENICI. I understand.

Mr. MOYNIHAN. It is a perfectly standard relationship across the Nation.

The PRESIDING OFFICER. The time on the amendment has expired.

Mr. MOYNIHAN. Mr. President, the committee opposes this amendment, and asks the support of the Senate in this regard.

The PRESIDING OFFICER. All time on the amendment having expired, the question is on agreeing to the amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from Hawaii (Mr. INOUYE), the Senator from Alabama (Mr. STEWART), and the Senator from Florida (Mr. STONE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Oregon (Mr. PACKWOOD), the Senator from South Dakota (Mr. PRESSLER), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

The result was announced—yeas 31, nays 57, as follows:

[Rollcall Vote No. 375 Leg.]

YEAS—31

Armstrong
Biden
Boren
Boschwitz
Byrd,
  Harry F., Jr.
Cochran
Danforth
Domenici
Exon
Ford
Garn
Glenn
Goldwater
Hart
Hatch
Helms
Humphrey
Jepsen
Laxalt
Lugar
McClure
Morgan
Proxmire
Schmitt
Simpson
Stevenson
Thurmond
Wallop
Warner
Young
Zorinsky

NAYS—57

Baker
Baucus
Bentsen
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Cohen
Cranston
Culver
DeConcini
Dole
Durenberger
Durkin
Eagleton
Gravel
Heflin
Heinz
Hollings
Huddleston
Jackson
Javits
Johnston
Kennedy
Leahy
Levin
Long
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Nunn
Pell
Percy
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schweiker
Stafford
Stennis
Stevens
Talmadge
Tsongas
Weicker
Williams

NOT VOTING—12

Bayh
Bellmon
Church
Hatfield
Hayakawa
Inouye
Kassebaum
Packwood
Pressler
Stewart
Stone
Tower

So Mr. BELLMON'S amendment (No. 558) was rejected.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 559

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Kansas. There are 8 minutes left on the amendment.

Who yields time?

Mr. LONG. I yield to the Senator from Montana.

Mr. MELCHER. Mr. President, I want to make a point of order on this amendment.

The PRESIDING OFFICER. A point of order is not in order until all time is used or yielded back.

Mr. DOLE. I yield back the remainder of my time.

Mr. LONG. I yield back my time.

Mr. MELCHER. Mr. President, I make a point of order on the amendment that the amendment is not germane.

The PRESIDING OFFICER. Under the unanimous-consent agreement under which the bill is being considered, there is a requirement that the amendment be germane. This amendment is clearly not germane and, therefore, the point of order is sustained.

The question now is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed for a third reading and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 3434) was passed.

● Mr. CRANSTON. Mr. President, I wish to express my strong support for the provisions of title I of H.R. 3434, the Adoption Assistance and Child Welfare Act of 1979. These provisions, which are derived from the legislation—amendment No. 392 to S. 966—which I introduced, with Senators MOYNIHAN and RIEGLE, on August 3, are aimed at improving the welfare of the estimated half million children now living in foster-care situations throughout this country. This legislation is very similar to legislation which was passed by the Senate on October 9, 1978—almost exactly 1 year ago today.

Unfortunately, however, favorable action was not completed on this measure before the adjournment of the 95th Congress. Thus, today, we are completing unfinished business which is of the utmost importance to those concerned with the welfare of dependent and neglected children throughout the Nation.

FINANCE COMMITTEE LEADERSHIP

Mr. President, at the outset, I want to express my deepest appreciation to my good friend, the Senator from New York (Mr. MOYNIHAN), who, as chairman of the Public Assistance Subcommittee of the Finance Committee, along with the distinguished chairman of the Finance Committee, the Senator from Louisiana (Mr. LONG), moved this legislation forward with extraordinary speed and dedication—a remarkable feat in light of the other issues of enormous magnitude which are pending before the Finance Committee and requiring its attention.

Although the administration submitted a child welfare reform proposal early this spring, the House did not act this year upon child welfare legislation until August 2—the day before the Senate recessed for the August recess. Nevertheless, soon after we reconvened, the Public Assistance Subcommittee scheduled a hearing with the intention of moving this legislation forward as rapidly as possible. The full Finance Committee—by ordering this measure reported on September 27—demonstrated the kind of commitment and sense of urgency which was needed to bring this important measure before the Senate.

Mr. President, it is estimated that 500,000 children are locked in the foster care system; according to HEW studies, over 100,000 of these children have been in foster care more than 6 years. Action by Congress to free these children—and to prevent other children from facing similar futures—should not be delayed another day. I am extremely grateful to Senator MOYNIHAN and Senator LONG, and the members of the Finance Committee for acting so rapidly on this legislation.

NEED FOR REFORM—BACKGROUND

Mr. President, when I introduced my legislation on August 3, I recounted some of the statistics and studies which document the need for reform of the foster care system. I described the evidence presented before my own Subcommittee on Child and Human Development on the problems of abuse and neglect of children residing in institutional settings, including foster care institutions. I reviewed the findings of the GAO's investigation, at my request, into the placement of foster children in foster homes and institutions run by the People's Temple and members of the People's Temple.

Mr. President, the studies and investigations of the foster-care system have been numerous. They range from investigations and hearings held by distinguished citizens' groups such as the National Commission on Children in Need of Parents to reports and investigations prepared by well respected children's advocacy organizations such as the Children's Defense Fund. Government agencies and investigation entities, such as the General Accounting Office and HEW's Audit Agency have also issued reports and reviews. In every single case they have condemned current foster care practices, and they have documented forcefully the abuse and neglect which the present system of foster care has imposed upon these innocent children.

Mr. President, let me say, however, that there are hundreds of thousands of foster parents throughout this country who provide loving and needed care to abused and neglected children. And, there are many foster care institutions that provide similarly important and necessary and sensitive care for foster children. Foster care is an essential child protection service and it would be a serious mistake not to recognize the necessity and importance of foster care in dealing with families in crisis.

Yet, study after study has shown that a vast number of children remain unnecessarily in long-term foster care. For far too many children, foster care has ceased to be a temporary, short-term child protection service and has been transformed into a form of long-term childhood imprisonment with the likelihood of a child returning to his or her home, or finding a new adoptive home, decreasing substantially as the months go by. The fact is that over half the children in foster care have been there more than 2 years.

Mr. President, what these studies and investigations have shown is that in many cases children are left to languish in foster care because the public and private agencies charged with the responsibility for their care and well-being have failed to carry out those responsibilities.

Mr. President, let me give you a few concrete examples of this failure on the part of the agencies responsible for foster children. The 1977 GAO study of foster care placements found that only one-third of the children surveyed had received the statutorily required semiannual case reviews. Forty-five percent of the families from which children had been removed had not even been visited by representatives of the responsible agencies during the 6-month period of the GAO review. The GAO investigation also found a widespread failure to include in the case plans developed for foster children vital information in the case plans—as required under section 408(f) of existing law.

The 1977 HEW national study of social services to children and their families found that even in those cases where the responsible agency had developed a plan for returning a child home, in one-third of the cases there was no plan for visits between the child and the parent or another person who would care for the child if returned home. The Children's Defense Fund's study found that half of the counties they surveyed had no written policies about visits between children and parents while the children were in foster care, and when policies did exist, they were often restrictive or disregarded in practice.

The HEW study also found that nearly half of the children who have spent 2 or more years in foster care have had at least four different caseworkers and nearly one-fourth of the children had been in three or more foster homes.

In 1975, the Subcommittee on Children and Youth of the Labor and Public Welfare Committee—the predecessor of the Child and Human Development Subcommittee—published a report entitled: "Foster Care and Adoptions: Some Key Policy Issues." This report described the problem of losing children—"children adrift"—in the foster care system in the following terms:

> Because of the large caseloads and rapid turnover rates among case workers, some children in foster care "get lost". The word "lost" may seem a little dramatic, but it is appropriate. Given the pressures of a large caseload, the social worker usually has to concentrate on the clients that present immediate problems. As a result, the social worker often loses track of the non-problem child, is unaware of that child's needs, and develops no goals and provides no active services for the child or his family. Many other children drift in foster care, either because no worker is assigned to them, or because the worker is new to the job and has not gotten to each child's case yet.
>
> Massachusetts reported that 1,690 children did not have a case worker assigned to them at the time of the study. Many more children were essentially adrift in the system because their case workers simply had lost track of them. A more likely estimate of children adrift in the foster care system of that state was 8,000. This situation is typical of many states. In New York, it was esti-

mated recently that 4,000 children are adrift in the system.

What does it mean for a child to be adrift in the foster care system. It means that he is fed and has a place to sleep in a foster family home, a group home, or an institution. The board checks continue to come in and the child is cared for. But movement in the direction of adoption is likely to be slow, if there is any movement at all. Being adrift may mean that the problem that originally caused the child's placement in foster care has been solved and he could go home—but he won't because no one has put these two critical pieces of information together. The parents, either out of ambivalence, ignorance, or the false belief that their child has been taken from them permanently, do not ask for the child's return to them. The case worker has not kept tracks of the parents—much less the child—and so the child drifts in foster care.

Mr. President, the GAO's investigation—carried out at my request and the first phase of which was completed last May—into the placement of foster children with homes operated by the People's Temple or People's Temple members provided a very concrete example of how foster children can become lost. In one case, the GAO found that foster care checks continued to be mailed to one foster parent residing in California over 7 months after the child had emigrated to Guyana. In another case, the GAO found that a child's foster care payments had been stopped because the agency had "lost track" of the child. That child, unfortunately, turned up on the list of dead or missing after the Guyana tragedy.

FEDERAL RESPONSIBILITIES

Yet, Mr. President, I also believe that part of the fault lies at the Federal level: First, in not clearly articulating in Federal statutes the intention that foster care be a "temporary" placement for a child, except in the relatively rare instances where long-term foster care placement is warranted; and, second, in perpetuating a Federal financial assistance program that provides fiscal incentives to keep children in long-term foster care placements without any corresponding fiscal commitment to providing the kinds of services and support necessary to free children from the foster care limbo—either by returning them to their original homes or freeing them for adoption.

Mr. President, the legislation we are considering today attempts to refocus Federal involvement in foster care away from the indiscriminate use of long-term foster care toward efforts to keep families together wherever possible, and, in those cases where reunification is impossible, to help find permanent new adoptive homes for these children.

Mr. President, I would like to outline some of the key components in the legislation being considered today. I refer my colleagues to my statement of August 3 at pages 22679–22692 of the CONGRESSIONAL RECORD for a more detailed explanation of the provisions of this legislation. The Finance Committee, in its markup of the legislation I introduced on August 3, made only two significant changes which I will highlight in my discussion of the bill before us.

SUMMARY OF FOSTER CARE, ADOPTION ASSISTANCE AND CHILD WELFARE PROVISIONS OF H.R. 3434 AS REPORTED

Mr. President, this legislation is designed to strengthen and improve the existing federally supported foster care system for dependent and neglected children, establish a new adoption assistance program to encourage the adoption of children with special needs, and improve the existing federally supported child welfare services program by stressing family reunification. The existing foster care program and the new adoption assistance program would be incorporated into a new title IV–E of the Social Security Act. A new section would be added to the existing title IV–B—child welfare services—program with provisions for earmarking of new title IV–B funds for funding of the services outlined in the new section.

IMPROVEMENTS IN THE EXISTING FOSTER CARE SYSTEM

Mr. President, let me summarize some of the important changes this legislation would make in the foster care program under the new title IV–E. First of all, it is explicitly stated in the proposed new section 470(b)(1) that it is the policy of the Federal Government, in providing funds to the States to carry out their foster care programs, that foster care should not ordinarily be regarded as a desirable form of permanent child care and that foster care should ordinarily be regarded as a temporary status. The various studies I cited earlier have demonstrated all too dramatically the necessity of reiterating the point that foster care ordinarily should be—and originally was—designed as a temporary placement, and is not, in most cases, a desirable way to care for a child for any substantial period of time.

There are, of course, exceptional cases where a child must reside permanently in a foster care situation. Far too many children, however, enter the foster care system during an emergency situation for a "temporary" foster care placement which turns into years of lingering in the foster care system, without any planning or efforts toward finding a permanent home for the child, either with his family or in a new adoptive home.

In an effort to take positive steps toward reducing the number of children in long-term foster care placements, the bill as reported would provide that each State shall establish on or before October 1, 1981, specific goals for each fiscal year as to the maximum number of children who will remain in foster care for more than 24 months, and provide a description of the steps which will be taken by the State to achieve such goals. This provision is intended to assist the States in focusing upon the problem of unnecessary long-term foster care and to facilitate a planning process at the State level for reducing long-term foster care.

PROVISION OF PREVENTIVE SERVICES AS A CRITERION FOR PARTICIPATION IN THE IV–E PROGRAM

Mr. President, a second major revision of the existing title IV–A program under the new title IV–E program is the requirement under the proposed section 471(a)(15), effective October 1, 1981, that in each case reasonable efforts are to be made prior to the placement of a child in foster care, to prevent the removal of the child from his or her home as well as reasonable efforts to make it possible for the child to return home after removal. This requirement in the State plan under the proposed section 471(a)(15) would be reinforced by the new requirement under the proposed section 472 that each State with a plan approved under title IV–E may make foster care maintenance payments only for a child who has been removed from a home as a result of an explicit judicial determination that reasonable efforts to prevent the removal have been made, in addition to the judicial determination required by existing law that continuation in the home would be contrary to the welfare of the child.

Mr. President, these two provisions, I believe, are extremely important to our efforts both to reduce the number of children who are unnecessarily placed in foster care and to reduce the length of time children remain in foster care situations. These provisions, along with the availability of extra resources for services to help keep families together or to reunite families under the title IV–B program, which I will outline shortly, are critical to our efforts to reform the foster care system.

STRENGTHENING OF CASE PLANS FOR FOSTER CARE CHILDREN

Mr. President, another important provision in the new title IV–E program is the requirement that for each foster child in the title IV–E program there be developed a detailed case plan which includes provision for periodic review of the necessity of the child's being in foster care.

Mr. President, existing law under title IV–A requires that each foster child have a plan developed to assure that the child receives proper care while in foster care and that services are provided which are designed to improve the conditions in the home from which he was removed. Unfortunately, the evidence is all to clear that there has been little, if any, compliance with this generalized requirement. As I mentioned before, the 1977 GAO investigation of foster care placements found a widespread failure to include vital information in the case plans developed for foster children. Indeed, only one-third of the children reviewed in the GAO investigation had received case reviews. The GAO report noted that current Federal requirements for case plans are "very general and do not require that the plans be documented."

The legislation as reported would strengthen the provisions in existing law by describing exactly what factors should be covered in the case plan. The bill provides under the proposed section 472(a)(5) that each child in foster care shall have a case plan. The proposed section 475(1) provides that this case plan must contain a description of the type of home or institution in which a child is to be placed, including a discussion of the appropriateness of the placement, a plan of services that will be provided to the parents, child, and foster parents in order to improve the conditions in the parents' home, and facilitate return of the child, or bring about the permanent placement of the child, and must address the needs of the child while in foster care, including a discussion of the appropriateness of the plan of services provided to the child.

It is our hope that these specific requirements will assist in providing the kind of focus for case plans that is missing under current law and is needed to reduce unnecessary foster care.

ADOPTION PROVISIONS

Mr. President, the adoption provisions of this legislation are of enormous importance, and of particular significance to me. I have been working for adoption reform legislation for the past 7 years and previously introduced legislation toward this end in the 93d, 94th, and 95th Congresses. Hearings I conducted during the 95th Congress demonstrated that there are many, many families eager to adopt children with special needs and provide them with the warm, loving, and secure family life to which every child is entitled.

During the 95th Congress, we were successful in enacting the Adoption Reform Act—title II of Public Law 95-266. This act, which provides for the establishment of a national foster care and adoption data gathering and analysis system, a national adoption information exchange to assist in the placement of children awaiting adoption, the development of model adoption legislation, and the establishment of an administrative arrangement for planning and coordinating Federal activities affecting adoption and foster care, represented a first step toward eliminating the barriers inhibiting the adoption of thousands of children who have no other hope of leaving the foster care system.

IMPLEMENTATION OF THE ADOPTION REFORM ACT (P.L. 95-266)

Mr. President, for the benefit of my colleagues I would like to highlight some of the activities now underway to implement the provisions of title II of Public Law 95-266.

Title II, in section 203(a), called for the establishment of an administrative arrangement in HEW to provide a centralized focus for planning and coordinating all departmental activities affecting adoption and foster care. In response to this mandate, the responsibility for these programs has been delegated by the Secretary to the Commissioner for Children, Youth and Families, who in turn has placed the administrative responsibility in the Children's Bureau. In addition, the Commissioners for Children, Youth and Families, Administration for Public Services and Office of Family Assistance in the Social Security Administration have established a formal intradepartmental committee on adoption and foster care to enable these offices which provide services to children and families to exchange information, identify significant problems, and propose joint recommendations. This committee is already working on a number of issues, and is establishing a counterpart group in each Federal regional office.

Title II, in section 203(b), called for the establishment of a national adoption information exchange system so that waiting children could be matched with waiting parents. In response to this mandate, the children's bureau has funded 10 regional adoption resource centers to establish an exchange network that places primary emphasis on the responsibility and capacity of States to place their own children, but identifies those children with multiple problems who cannot reasonably be expected to be placed within their own States and communities. A small matching service at the national level will attempt to locate parents from the widest possible geographic scope for such children.

Section 203(b) also calls for the development of an education and training program on adoption. The regional adoption resource centers will be the principal network for regional and central office children's bureau staff to disseminate information, provide training and technical assistance, develop improved legislative and legal procedures in individual States, and provide assistance to local parent groups. As the adoption information exchange system develops, the resource centers will have the responsibility for developing the system at the regional level.

The Children's Bureau is also developing an in-service training curriculum, with audio visuals, on the adoption of children with special needs for use by State and local, public and voluntary agencies and is developing and disseminating a series of bilingual television spots and radio announcements supporting the recruitment of adoptive and foster parents for children with special needs.

The Children's Bureau has also provided demonstration grants to national adoptive parent groups working on behalf of children with special needs to enable them to advocate for the needs of waiting children, develop support systems for adoptive families and address unique problems of adoptive families working with children with special needs. In addition, each regional adoption resource center will make very small grants to local parent groups to accomplish these objectives at the local level.

Title II, in section 203(b), also calls for the establishment and operation of a national adoption and foster care data gathering and analysis system. In response to this mandate, the Children's Bureau has developed a concept paper providing the direction for establishing and operating the national system—which is designed to insure that children do not get lost in foster care and to identify those who could be freed for adoption. The development and implementation of the system is scheduled to get underway shortly.

Title II in section 202, calls for the designation of a panel to develop model adoption legislation and procedures. The panel has been meeting diligently over the past year and a half, and is about to submit its recommendations to the Secretary. The panel's recommendations will be published in the Federal Register for public comment, and after comments have been received and considered and the panel further consulted, the Secretary will issue the "HEW Model State Adoption Act and Model Adoption Procedures," to be considered for enactment by the individual States.

Mr. President, I am most pleased with the progress that has been made to date in the implementation of this groundwork legislation.

The adoption provisions before us today provides the second major step in the direction outlined in Public Law 95-266. Their enactment will eliminate the disincentives—created by current law and practices—to providing adoptive homes for those children in foster care who cannot return to their families and will complete the work we began through the enactment of Public Law 95-266.

MEDICAL ASSISTANCE

Mr. President, current law provides for medicaid coverage for children with special needs as long as they remain in foster care. But, under current law, if a family wants to adopt a child with special needs, medicaid coverage is terminated. It is devastating to think about how often over the years the decision has been made to leave a child in foster care in order to assure the continuance of Federal assistance for medical coverage.

The bill before us today would eliminate once and for all that tragic and totally counterproductive disincentive to adoption by providing for the continuation after adoption of medicaid coverage for medical conditions existing prior to adoption for children with special needs until the child is 18 years old. In addition, the committee bill provided that a State could provide eligibility for full medical coverage under the State's approved title XIX—medicaid—plan for such a child, if the State so chooses. These provisions are particularly important, Mr. President, because adoptive parents often find that their own insurance carriers will not assume coverage of preexisting conditions of children with special needs. The amendment adopted today mandates the full medical coverage.

OTHER SPECIAL ASSISTANCE

The Finance Committee bill also provides, in limited situations and on a case-by-case basis, for the continuation of foster care maintenance payments to help adoptive parents meet the unusual costs associated with caring for a child with special needs. The bill limits such payments to the amount of foster care maintenance payments that the child would have received in a foster family home, and in most cases experience has demonstrated that the maintenance payments under adoption assistance agreements will be less than they would be in foster care. The legislation I introduced on August 3, despite my own reservations on this score, provided for such financial assistance only in cases where the adopting parents' income did not exceed 150 percent of the State median family income. It included unlimited authority for the States to make all needed waivers of this means test. The committee bill, however, imposed a means test of 125 percent of the State median family income, and limited waivers of the means test to 10 percent of the cases in each State.

Mr. President, on many occasions I have expressed in detail the reasons for my reservations about applying a means test to such an adoption assistance provision. Let me remind my colleagues that we are not talking about healthy infants. We are talking about assisting parents who want to adopt children with special needs who would otherwise be relegated to a life in foster care—in a foster home or institution.

It troubles me that we may be designing a program to encourage such adoptions only in those families with the least financial capacity to care for these special needs children. I continue to believe that the needs of the child should be the controlling factor, not the income of the adopting parents—although, of course, I recognize that the financial ability of the adopting parents must be taken into consideration.

But, Mr. President, I will not reiterate what I have already said so many times. I could live with the provisions in the committee bill since there is no means test for medical assistance and a provision for a waiver of the means test for the other adoption assistance was included. And I realized that other Members of Congress and the administration were committed to some means test.

However, as I indicated earlier, I had worked in good faith with the committee members in moving this legislation forward and although there were some provisions—such as the means test—which I did not personally believe appropriate—I respected the strongly felt views of the committee in this area and had committed myself to supporting the committee bill during its consideration by the Senate.

CHANGES IN THE TITLE IV-B CHILD WELFARE SERVICE PROGRAM

Mr. President, title IV–B of the Social Security Act provides for a mechanism of funding child welfare services by the Federal Government through State public welfare agencies. The child welfare moneys made available to the States through title IV–B can be utilized by the States for a wide variety of child welfare services, ranging from foster-care programs to child protection systems. One particularly important element of the title IV–B funded programs is the absence of a means test for assistance. In other words, State agencies have been able to extend child services, for example, where a child is being physically abused by his family, without the necessity of requiring an income eligibility test.

Moneys that the States have received under the IV–B program have been virtually unrestricted programmatically, and States are now free to utilize these funds for whatever child service programs they deem necessary.

Despite the potential for supporting innovative and constructive child services programs, the title IV–B program has never been as effective as its promise. First of all, although the IV–B authorization level has exceeded $200 million for the last 4 fiscal years and is currently at a level of $266 million, the appropriations level for title IV–B has never risen beyond $56.6 million. Second, although States have been free to utilize these funds for a wide range of child services, estimates indicate that as much as 80 percent of the title IV–B funds received by the States are expended on foster care maintenance payments for children who are not eligible for the title IV–A foster care maintenance program either because the children are in voluntary placements or are not AFDC eligible.

Thus, the potential for supporting innovative and useful child services programs under title IV–B has not been met.

Mr. President, in an effort to induce States to utilize title IV–B funds in a more productive fashion, the legislation would authorize the earmarking of new title IV–B funds through the appropriations process for specific services designed to protect children from unnecessary and prolonged foster-care placements.

Given the position of the administration in support of expansion of these title IV–B services, it is certainly reasonable to anticipate that such earmarking—at the entitlement levels proposed in S. 966 as introduced—would be requested and strongly supported by the administration. Moreover, I wish to stress that all of the new funds may—and I believe would—be so earmarked in the Appropriations Act, rather than only 50 percent as in the bill reported by the committee last year, H.R. 7200.

The legislation also would provide that States would not be permitted to spend any of new title IV–B funds on foster-care maintenance payments. States would thus be permitted to utilize their shares of the present $56 million Federal dollars for these programs but no new IV–B funds could be used for foster-care maintenance payments.

Mr. President, in order for a State to be eligible to receive the new funds appropriated under this earmark provision, a State must agree to expend these new funds on the specific services outlined in the proposed section 423, that I will describe.

INVENTORY OF ALL CHILDREN IN FOSTER CARE FOR 6 MONTHS

Under the committee bill, Mr. President, during the first year a State receives these new title IV–B funds, it must conduct an inventory of all children who have been in foster care under the responsibility of the State for a period of 6 months. As part of this inventory, the State must determine the appropriateness of and necessity for the current foster-care placement and whether the child can be returned to his or her parents or should be freed for adoption. The State must indicate in this inventory what services are necessary to facilitate either the return of the child or the placement of the child for adoption. The State could carry over funds from its first year's allocation to complete the inventory, if necessary.

Mr. President, I believe that inventories of this nature are essential to our efforts to deal with foster-care problems. Until States have taken account of their existing foster-care populations, the reforms hoped for in the foster-care system cannot take place in a meaningful fashion. It is disgraceful that this information is not currently available. The thousands of children who are frequently described as being "lost" in the foster-care system—in some cases, without even a caseworker assigned to them—must be found and helped as we begin our task of protecting the interests of children and families who enter the foster-care system in the future.

DEVELOPMENT OF STATEWIDE INFORMATION SYSTEM

The bill also would provide that during the first year that a State receives these new title IV–B funds, it must design and develop a statewide information system from which the status, demographic characteristics, location, and goals for the placement of every child in foster care or who has been in such care within the preceding 12 months can be readily determined.

This requirement is designed to provide a permanent mechanism for the tracking of children in foster care and to prevent the build-up which presently exists of children lost in the foster-care maze. The establishment of such a system is also important as a vehicle to maintain information on how well a State is moving its children into and out of foster care.

The State data collection systems developed under the provisions of this legislation would feed data into the national data collection mechanism established under Public Law 95–266. In that law, we required the establishment of a national data gathering and analysis system so that, for the country as a whole, we would have the ability to evaluate accurately problem areas in moving children from inappropriate foster-care placements, and have better accountability systems for determining how Federal dollars in this area are being spent. In years to come, it should be possible with these systems in operation to determine where foster children are on both a State and national basis.

A CASE REVIEW SYSTEM

States accepting the new title IV–B funds would also be required to design and develop a case review system to insure that each child receiving foster care under the supervision of the State has a case plan and that the status of each child is reviewed no less frequently than once every 12 months by either a court or administrative body. This review is designed to determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship.

Mr. President, this case review system would also require the establishment of due process procedures designed to protect the rights of parents, foster parents, and children. These procedures must cover such situations as the removal of a child from his or her home, changes in the child's placement, and any determinations affecting visitation privileges of parents.

The case review system must also assure that each foster child is afforded a dispositional hearing, either by a court or administrative body appointed by the court, no later than 24 months after the original placement, to determine whether the child should be returned home, requires continued placement for a specified period of time, should be placed for adoption, or should, because of special needs or circumstances, be continued in foster care on a permanent or long-term basis.

Mr. President, the provision for a dispositional hearing after a set period of time is, I believe, of critical importance. One of the prime weaknesses of our existing foster-care system is that, once a child enters the system and remains in it for even a few months, the child is likely to become "lost" in the system. Yearly judicial reviews of the child's placement too often become perfunctory exercises with little or no focus upon the difficult question of what the child's future placement should be. This provision requiring a dispositional hearing after a child has been in foster care for a specific period of time should assist States in making the difficult, but critical, decisions regarding a foster child's long-term placement.

PLACEMENT STANDARDS

Mr. President, the case review system provision also would require that each foster child have a case plan designed to achieve placement in the least restrictive, family-like setting and in close proximity to the parents' home consistent with the best interests and special needs of the child.

The provisions dealing with geographic placement of children are particularly important. The shipments of foster children to distant States where they have been placed in large, barren institutions has given rise to a legitimate outcry and demand for congressional action. These unfortunate children have been cut off from any contact with their families, deprived of the possibility of visitation, and effectively denied the potential for reunification with their families.

The committee bill also addresses the problem of overinstitutionalization of foster children by requiring that the child be placed in the least restrictive, most family-like setting consistent with the best interests and special needs of the child. Of course, there are some children for whom institutional care is the most appropriate placement. However, it is important that the possibility of placement in a family or family-like setting be explored as a potential placement for every child in need of foster care. This provision requires that such placements be considered—consistent with the child's best interests—in every case.

SERVICE PROGRAMS

Mr. President, the committee bill also would provide that States which accept these new funds must design and develop a service program designed to help children remain with their families, help children to return to families from which they have been removed, or, where appropriate to place children for adoption or in legal guardianships.

Mr. President, the establishment of a service program to prevent the removal of children from their homes, to reunify families, and, where appropriate, to find new adoptive homes for foster children is central to our efforts to reform the foster care system. Every study of the existing foster-care system has found a dismal absence of services provided to the family—services which could prevent the removal and long-term placement of children in foster-care. Yet, in recent years there have been demonstration service delivery programs throughout the country which have shown that we can dramatically reduce foster-care placements by providing services to the family and children in their own homes.

As I indicated earlier, Mr. President, these provisions for service programs are directly related to the proposed requirement under the new title IV–E foster-care program that a judicial determination be made for each child in the IV–E foster-care program that reasonable efforts have been made prior to the placement of the child in foster care to prevent the removal of the child from his or her home and to make it possible for the child to return to his or her home. Once these programs are instituted, unnecessary and prolonged foster-care placements should be greatly reduced—at a substantial savings to the taxpayer and an enormous benefit to the children and families involved.

FORWARD FUNDING OF TITLE IV–B APPROPRIATION

Mr. President, the Finance Committee in its markup of this legislation added a provision for forward-funding of the title IV–B appropriation so that States would have some advance notice of the level of appropriations for their child welfare programs and thus be able to plan their programs accordingly.

Mr. President, a number of individuals and organizations had urged the conversion of the title IV–B program to an entitlement program rather than continuing the current annual appropriation process. The House, however, by a rollcall floor vote on August 2, rejected the proposal to create any new entitlement program in title IV–B. The forward-funding concept, which the Finance Committee added to the legislation, attempts to address some of the concerns which had been expressed by the States regarding the need to have some advance knowledge of the amount of IV–B funds that would be made available to them.

REDUCING THE NEED FOR FOSTER CARE BY APPROPRIATE SERVICES: A TRUE-LIFE EXAMPLE

Mr. President, a few months ago, I received a letter from a constituent in California describing a foster care situation in her own family that could have been avoided with appropriate services. The letter describes exactly the type of problem we are trying to deal with in this legislation. Mr. President, I ask unanimous consent that the text of the letter be printed in the RECORD at this point, with the identity of the constituent deleted to protect personal privacy.

Senator ALAN CRANSTON,
Washington, D.C.

DEAR SENATOR: I have just read your report on Foster care for children in United States, and I think you have some very good ideas. I have a little information that might apply to the second item in the bill you are introducing.

Several years ago I had a call from a social worker in Southern California about a young relative who was unable to cope with six children, poor health, and, of course, no husband. The social worker was attempting to place the children in my home as foster placement. I was at the time caring for my elderly mother and told her it would be impossible for me to take the children, and asked why they were putting them in foster homes. It was because their mother was a poor housekeeper and the house was dirty and the children poorly fed, altho they seemed to get plenty of love and were happy at home. I suggested the social service dept. supply a housekeeper to teach the young mother how to manage better, to show her how to budget her money and prepare better meals for the children. The social worker informed me that the taxpayers would never "stand still" for such an expense. When I pointed out to her that it would cost a great deal less, and keep the family together as well, she agreed but said there is no provision in the law to cover such a situation. If the service had just provided a cleaning woman to come in once or twice a week and clean up the house, perhaps that alone would have been sufficient until the mother was back on her feet. Since the mother loved her kids and apparently wanted to make a home for them but was overwhelmed by her problems, the whole situation was being handled very badly it seemed to me. If your bill would prevent this kind of rigid thinking, it should be more humane and at the same time economical. I hope you will be able to get it passed into law, and I thank you for your efforts in behalf of these unfortunate children.

Yours truly,

——— ———.

COST-SAVINGS TO THE TAXPAYERS THROUGH IMPLEMENTATION OF THIS LEGISLATION

Mr. President, the National Commission on Children in Need of Parents observed in its recent report—

> Present public spending policies for foster care represent a rare instance where a better job can be done for the same or possibly less money. What is wanting is the energy to overcome the inertia of outdated practices, the courage to buck vested interests and the wisdom to see the folly and waste in mindlessly perpetuating the status quo.

Mr. President, I could not agree more. It is clear that passage of this legislation will not only lead to better and more meaningful futures for hundreds of thousands of children now in the foster care system, it will result in substantial savings over time to the taxpayer as foster children are returned to their own homes or moved into adoptive homes.

Demonstration programs, such as the Nashville, Tenn. comprehensive emergency services program have shown that it is less costly to provide the kinds of services necessary to keep children in their own homes than it is to condemn them to long-term foster care.

The Nashville program resulted in a 56-percent reduction in the number of neglect and dependency petitions, 51-percent reduction in the number of children removed from homes, 85-percent reduction in the number of children placed in institutions, 100-percent reduction in the number of children under age 6 placed in institutions, 88-percent reduction in the recidivism rate for neglect and dependency, and, finally, a reduction in the percentage of children in long-term care—more than 2 years—from 94 percent to only 34 percent.

What is truly remarkable is that this program resulted over a 2-year period in a net savings of $68,000, a figure which does not even take into account the additional costs that would have been incurred in the future, had the children diverted from foster care by the project entered and remained in care until their majority.

Mr. President, this kind of savings—both in monetary and social terms—has been replicated in demonstration projects throughout the country.

Mr. President, adoption assistance programs also result in substantial savings to the taxpayer. In Los Angeles County alone, during the period 1975 through 1976, 873 children who had been in long-term foster care were placed in adoptive homes with 267 of these children placed with some financial assistance to their new families. The cost savings for that 1-year period was $1,327,523. It was estimated that if these 267 children had been carried in foster care until the age of 18, the additional cost to the county over that period would have been $16,777,651, not including the additional costs in service and administration.

Mr. President, these savings are not atypical. They are found in numerous demonstration programs and projects throughout the country. There is already evidence that we can help families and children by providing compassionate and practical services at far less cost in the long-run than the present system of long-term foster care. What we must do is shift the fiscal incentives away from placing children in foster homes and institutions to placing them in permanent homes with their original or adoptive parents. The legislation we are considering today moves in that direction.

FOSTER CARE CEILING

Mr. President, there is one major issue that has created some division among the supporters of this legislation. That issue deals with whether a ceiling should be placed upon the foster care maintenance program as a means of changing the Federal fiscal incentive structure which has in the past had the unintended effect of encouraging the placement of children in long-term foster placements.

Mr. President, the administration has urged a cap on Federal foster care funding as a key element of its reform package. I have supported this provision, although I recognize that there are legitimate differences of opinion over the use of a ceiling as a means of reducing unnecessary foster care placements. I believe, however, that the ceiling is an integral part of the reforms we are seeking to enact. The Federal Government has a limited ability to effectuate reform on the level where services are actually provided. Modification of the fiscal incentive system is one of the few meaningful tools available. It is also one of the clearest messages that the Federal Government can send to the States that continuation of unnecessary, long-term foster care is no longer acceptable.

Mr. President, I ask unanimous consent that the text of the letter Senators MOYNIHAN, DOLE, and RIBICOFF and I recently sent to our colleagues explaining our support for the foster care ceiling provisions relating to the Finance Committee's be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION

Mr. CRANSTON. Mr. President, the legislation we are considering today represents a long overdue restructuring of our existing federally funded child welfare program. It holds out the promise of more permanent, stable lives to the hundreds of thousands of children presently locked into our foster care system. Enactment of these reforms, I believe, will give these children a real future and an opportunity to grow and develop into productive and healthy citizens.

Mr. President, I want to express my personal appreciation to the members of the White House staff, Bert Carp, Gail Harrison, and Chris Edley, to Margie Siegel, Dick Warden, and Sandra Steigen from HEW, and David Kleinberg from the Office of Management and Budget, for their help on this legislation. I am also most indebted to Michael Stern and Joe Humphreys of the Finance Committee staff and Checker Finn of Senator MOYNIHAN's staff for their very able assistance and contributions to our efforts on behalf of this legislation for the past 2 years. Without their wise counsel then and today, we would never have been able to reach the point of successful action on these very important provisions.

I also want to express my appreciation to the staff members who have assisted me directly on this legislation—Susanne Martinez, Mary Lopatta, and Jon Steinberg, and, in particular, to Fran Butler, who has worked with me on adoption reform legislation for the past 7 years.

Finally, I must again recognize the leadership of Vice President MONDALE, whose continued commitment to the welfare of children has been instrumental to the success of our efforts. It was his intervention over 2 years ago that led to the administration's initial support for this reform effort.

COMMITTEE ON FINANCE,
Washington, D.C., October 9, 1979.

DEAR COLLEAGUE: The Senate will soon be considering H.R. 3434, the Adoption Assistance and Child Welfare Act of 1979, which includes critical and long overdue provisions aimed at helping the estimated half million children in the existing foster care system. We hope you will give your support to this important child welfare measure.

During the floor debate, there will be discussion and possibly proposed amendments dealing with the provision to put a "cap" on federal matching funds for foster care under the A.F.D.C. program. We would like to explain why we support the Finance Committee's decision to impose such a cap.

Foster care is a singularly unsatisfactory situation for a child, particularly when it lasts a long time. Although many foster parents and institutions look after foster children conscientiously, foster care itself is an inconclusive, impermanent arrangement that denies children the emotional and psychological security that is associated with being part of a family.

For many years, federal policy has had the unintended effect of providing fiscal incentives to states to put children into foster care and keep them there, but not to restore children to their natural parents, to assist adoptable children to be adopted, or to provide support services to strengthen families so that children might not have to be removed from them in the first place.

Every responsible study that has ever been done on foster care has come to predictable conclusions: there are children languishing in foster care who should not and need not be there, and there is a dearth of assistance available to develop and implement good alternatives to foster care.

The Finance Committee bill seeks to reform this incentive structure so that—within the limits of the federal government's ability to influence such sensitive matters—needy children will be provided whenever possible with more satisfactory arrangements than foster care.

The bill approaches this objective in several ways. It creates a new, strong, adoption assistance program that makes federal matching funds available for this important purpose. It allows federal child welfare funds to be spent on specific services intended to make it possible for children to remain in their own homes, to be restored to their own parents, and to be adopted. It "forward-funds" the child welfare services program so that states and others will be able to plan effectively to provide these new services. It requires states to make serious efforts to retain a child is his home before foster care placement, and to try to return the child to his or her home as soon as possible if such placement is necessary. It requires initial court review of a foster care placement and regular case reviews thereafter. It requires states to examine the frequency for long-term foster care, to set targets for themselves for the maximum number of children to remain in foster care for more than two years, and to develop plans for attaining those targets.

These and many other provisions are explicitly intended to encourage states to redouble their efforts to keep children in their homes, to restore them to their homes, and to find adoptive parents for children who are able to be adopted.

But the principal dynamic force in this bill, and the principal signal that the Congress is serious about reducing the incidence of unnecessary foster care, is the provision to put a ceiling on the open-ended program of federal matching funds for A.F.D.C. foster care.

Changes in the fiscal incentive structure have been advocated for years by thoughtful reformers in this field: not because they wish to deny federal funds to those who need them, but because they realize that only with this kind of "leverage"—and this evidence that the federal government is serious—will an old, ingrained pattern be changed.

The Administration has urged a cap on federal foster care funding as a key element of its reform package. The Senate has previously approved such a provision, as an amendment to the 1978 tax bill. It is not a new idea, but it remains an important idea.

The foster care "cap" in H.R. 3434 is a loose one. It lasts only five years, at the end of which the Secretary of H.E.W. must report on how it—and other provisions—has worked, and the Congress must examine the whole program once again. In the first of these years (Fiscal 1980), each state's allotment will be 120 percent of its federal foster care funding in 1978. In each of the next four years, the state's allotment increases by another ten percent. States with exceptionally small foster care programs receive funds from a separate allocation which permits some growth in their caseloads.

Other modifications are likely to result from the Senate-House conference, as the House version of H.R. 3434 contains no cap on foster care funding. Within reason, we would accept some changes, but we feel very strongly that it would be a serious mistake, and a missed opportunity that will not soon return, if the reform impulse that led to the idea of a foster care cap were dissipated.

Finally, let us point out that during the five year period of the cap a state is free to transfer unneeded federal foster care funds into child welfare services. If A.F.D.C. foster care were instead to remain a simple federal matching program, this important option would not be available to the states, nor would that desirable incentive to find alternatives to foster care have the impact that it should.

We have pondered this matter long and hard. Putting a cap—even a temporary, loose and reasonable one—on an open-ended matching program is always a major decision. We are persuaded that the time has come for the Congress to make such a decision in this instance. Without it, chances of placing needy children in more suitable environments than prolonged foster care will be much diminished.

We seek your support for this provision of H.R. 3434 as reported by the Finance Committee.

Sincerely,

Alan Cranston,
Abraham Ribicoff,
Daniel Patrick Moynihan,
Robert Dole.●

● Mr. DANFORTH. I strongly oppose a cap on the AFC foster care program. No one likes foster care. No one likes the implications of removing, by court order, a child from his or her natural parents and placing him or her in a temporary setting, whether the setting is a family or an institution. Nevertheless, there are situations where removal from the home and placement in foster care is clearly in the best interests of the child. When a child is the victim of vicious physical abuse, foster care may be the only short-term solution. When a child's parents abuse drugs or alcohol and provide a very unstable home, foster care may be the best solution while counseling is provided.

I support the program of adoption assistance authorized in this legislation and I support increased spending for counseling and other preventive services. However, even with the most effective preventive services and the most aggressive adoption program there will always be children who are in need of foster care.

Cutting back on the spending for foster care will not make this population of children disappear. An across-the-board cap on foster care is premature at best. Moreover, it is inflexible, and could harm children who through no fault of their own have no alternative to foster care.

It is for this reason that I opposed the cap on foster care in the Finance Committee. However, if it is the judgment of the Congress that a cap on the AFDC foster care program should be imposed, I believe the Bellmon cap is much more equitable and makes much more sense than the cap approved by the Finance Committee.

If it is the belief of Congress that some States have overused foster care and that fiscal restraint is the appropriate approach to correct that situation, I do not believe a formula which ignores past performance and limits all States to the same percentage increase is the best formula. I believe what makes more sense is to target the increases. It is for that reason that I have decided to vote for the Bellmon amendment, notwithstanding my strong opposition to any cap at all.●

Mr. ROBERT C. BYRD. Mr. President, today the Senate completed action on the Adoption Assistance and Child Welfare Act of 1979. This legislation will make important and needed revisions in Federal child care programs under the Social Security Act. For sometime, these programs have been reviewed by numerous congressional committees. The bill passed by the Senate today is the product of many hours of work—of examining the Social Security Act programs—by many Senators. I found the Senate debate of this measure to be particularly constructive and educational.

The Department of Health, Education, and Welfare estimates that there are between 90,000 and 100,000 children currently in the Nation's foster care system who are legally eligible for adoption. The basic thrust the Adoption Assistance and Child Welfare Act is that there are children languishing in foster care placement who should not or need not be there. Numerous revisions in existing programs will redirect Federal and State efforts toward finding permanent homes for these children; by returning them to their own families or, if this is not possible, finding them adoptive parents.

The bill will create one new Federal program of adoption assistance. The purpose of the program is to foster the permanent placement—in a family home—of children who are disadvantaged because of a condition which discourages their adoption. Most States are already subsidizing, in some form or another, the adoptions of children with special needs. For the most part it appears that without aid, many of these children would remain for years in federally-funded foster care.

The legislation will authorize increased funding for tracking and case review systems for children in federally-funded foster care, and services involved in returning children to their natural home. This funding is necessary to insure that children in foster care remain there only as long as is required.

Moving children from foster care to their own homes or to adoption will mean less cost to the Federal Government. Most importantly, it should mean that these children will have a permanent home and the emotional security of a family's care. The Senate passed a good bill and a restrained bill. The legislation included a variety of initiatives—incentives and disincentives aimed toward redirecting Federal child care policies.

I commend Senator Long, chairman of the Finance Committee, under whose leadership the committee reported a well-reasoned and balanced bill. I wish to thank Senator Moynihan, chairman of the Finance Subcommittee on Public Assistance, for his role in fashioning the legislation—in committee and floor-managing the bill last Thursday. Senator Dole, ranking minority member of the Finance Committee, also deserves credit for his part in so ably managing the bill.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

> An Act to establish a program of adoption assistance, to strengthen the program of foster care assistance, to strengthen the program of foster care assistance for needy and dependent children, to improve the child welfare, social services, and aid to families with dependent children programs, and for other purposes

Mr. LONG. Mr. President, I move that the Senate insist on its amendments to the bill, and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer appointed Mr. Long, Mr. Talmadge, Mr. Ribicoff, Mr. Moynihan, Mr. Boren, Mr. Dole, Mr. Heinz, and Mr. Roth conferees on the part of the Senate.

Mr. LONG. Mr. President, I ask unanimous consent that the bill be printed as amended by the Senate, and that the Secretary of the Senate be authorized to make any necessary technical and clerical corrections in the engrossment of the Senate amendments, including corrections in section, subsection, and so forth designations, and cross-references thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPOSITORY INSTITUTIONS DEREGULATION ACT

The PRESIDING OFFICER. The Senate will now resume the consideration of the pending business, which the clerk will state.

The second assistant legislative clerk read as follows:

> A bill (H.R. 4986) to amend the Federal Reserve Act to authorize the automatic transfer of funds, to authorize negotiable order-of-withdrawal accounts at the depository institutions, to authorize federally chartered savings and loan associations to establish remote service units, and to authorize federally insured credit unions to maintain share draft accounts, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The pending business is an amendment by the Senator from Mississippi (Mr. Cochran).

Mr. COCHRAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. Metzenbaum). The Senator will state it.

UP AMENDMENT NO. 679

Mr. COCHRAN. Is my understanding correct that the business now before the Senate is the amendment which I offered earlier today to the banking bill that is before the Senate, H.R. 4986?

The PRESIDING OFFICER. The Senator is correct.

Mr. COCHRAN. And the yeas and nays have been ordered? Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. COCHRAN. Mr. President, I have no further wish to debate the amendment. It was fully debated earlier today.

Members were advised in a "Dear Colleague" as to the nature of this emergency and temporary legislation that would permit State banks to have an opportunity to charge up to 5 percent in excess of the discount rate on loans relating to agriculture and business that amount to $25,000 or more in value.

In my judgment, this is needed legislation.

Unless there are other Senators who wish to speak on the subject, I would hope we could go on and proceed to a vote.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator——

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Mississippi. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Idaho (Mr. Church), the Senator from Hawaii (Mr. Inouye), the Senator from West Virginia (Mr. Randolph), the Senator from Alabama (Mr. Stewart), and the Senator from Florida (Mr. Stone) are necessarily absent.

I further announce that the Senator from Nevada (Mr. Cannon) is absent on official business.

I further announce that, if present and voting, the Senator from West Virginia (Mr. Randolph) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. Bellmon), the Senator from Oregon (Mr. Hatfield), the Senator from California (Mr. Hayakawa), the Senator from Kansas (Mrs. Kassebaum), the Senator from Oregon (Mr. Packwood), the Senator from South Dakota (Mr. Pressler), and the Senator from Texas (Mr. Tower) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) would vote "yea."

The PRESIDING OFFICER (Mr. Tsongas). Are there any other Senators who wish to vote?

The result was announced—yeas 73, nays 13, as follows:

[Rollcall Vote No. 376 Leg.]

YEAS—73

Armstrong
Baker
Baucus
Bentsen
Biden
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Ford
Garn
Glenn
Goldwater
Gravel
Hatch
Heflin
Heinz
Huddleston
Humphrey
Jackson
Javits
Jepsen
Johnston
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Moynihan
Muskie
Nelson
Nunn
Pell
Percy
Proxmire
Pryor
Ribicoff
Riegle
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Talmadge
Thurmond
Tsongas
Warner
Weicker
Williams
Young
Zorinsky

NAYS—13

Boren
Byrd,
  Harry F., Jr.
Eagleton
Exon
Hart
Helms
Hollings
McClure
Metzenbaum
Morgan
Roth
Stevenson
Wallop

NOT VOTING—14

Bayh
Bellmon
Cannon
Church
Hatfield
Hayakawa
Inouye
Kassebaum
Packwood
Pressler
Randolph
Stewart
Stone
Tower

So the amendment (UP No. 679) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STENNIS. Mr. President, I thank the Senator from Wisconsin (Mr. Proxmire) for his interest and concern, and I know he spent days on it in getting into the problem with reference to the interest rates on these loans of $25,000 and above, which are agriculture loans as well as business loans. It is a very sound amendment that I thought my colleague had carrying that provision that if any State legislature did not approve the concept of it they could exercise their constitutional rights and privileges.

Something had to be done. It underscores the situation we are in, though, with reference to these high interest rates. Small people cannot keep on paying these high interest rates.

I thank and commend the Senator and those who helped out for the concern they showed from time to time.

Mr. PROXMIRE. Mr. President, will the Senator from Mississippi yield briefly?

Mr. STENNIS. I yield.

Mr. PROXMIRE. I thank the distinguished Senator from Mississippi.

I say one of the reasons why we did support the Cochran amendment and we pressed hard for this action was because the Senator from Mississippi spoke to me very earnestly, deeply concerned about the effect on small borrowers in Mississippi, small farmers, businessmen, and others, as well as the institutions that would be so strongly affected by usury statutes that just overnight become a prohibition against lending money because interest rates have risen so rapidly.

So the Senator from Mississippi deserves great credit for the action we took. It was through his influence that we were very interested in supporting the Cochran amendment.

Mr. STENNIS. I thank the Senator and I commend my colleague for his interest and work, also.

RESUMPTION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a resumption of morning business, that Senators may speak during the period up to 5 minutes each, and that the period not extend beyond 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE TAIWAN TREATY ISSUE

Mr. THURMOND. Mr. President, the decision by the President to abrogate the treaty with Taiwan without the consent of the Senate has caused much concern. It took two-thirds to ratify the treaty and it should also take two-thirds to nullify it. I am delighted that a Federal judge ruled recently that the treaty was unconstitutionally terminated, and I am confident that his ruling will be upheld.

A recent editorial in the Greenville News on October 22, 1979, brings up the question of who has the authority to take the "supreme law" of the land in his hands and cancel the treaty.

Mr. President, in order to share this editorial with my colleagues, I ask unanimous consent that it be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Who Repeals "Supreme Law"?

The Taiwan treaty issue before the federal courts is of fundamental importance: Who has the authority to change the treaty relations between the United States and foreign powers?

The Constitution clearly defines the power to make treaties, dividing it between the president and the Senate. But the Constitution is silent on the question of abrogating or repealing a treaty. The fundamental law does say, however, that treaties, once ratified by the Senate, become part of the "supreme law" of the land.

The constitutional question, therefore, could be asked in this way: Who has the power to change a supreme law of the United States?

President Carter claimed sole possession of that power by abrogating the treaty with Taiwan some months ago without asking for any action by Congress.

Sen. Barry Goldwater challenged the president in a federal court suit, claiming the Senate must be involved in any lawful abrogation action. A federal district judge upheld the senator's claim, ruling that a majority vote of House and Senate or a two-thirds vote of the Senate is required. The Carter administration is appealing to the Circuit Court in Washington.

We think the matter ought to go all the way to the Supreme Court, no matter which way the circuit judges decide. And we hope the outcome will uphold the right of the Congress to repeal as well as to enact a part of the "supreme law" of the land. Putting all that awesome power in the hands of one man smacks of dictatorship.

DOMESTIC VOLUNTEER SERVICE ACT AMENDMENTS OF 1979

Mr. CRANSTON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 239.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 239) entitled "An Act to authorize appropriations for programs under the Domestic Volunteer Service Act of 1973, to amend such Act to facilitate the improvement of programs carried out thereunder, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SHORT TITLE

Section 1. This Act may be cited as the "Domestic Volunteer Service Act Amendments of 1979".

ASSIGNMENT OF VOLUNTEERS

Sec. 2. (a) The second sentence of section 103(b) of the Domestic Volunteer Service Act of 1973 (hereinafter in this Act referred to as the "Act") is amended by striking out "Prior to" and inserting in lieu thereof "Not later than 30 days after".

(b) (1) The first sentence of section 103(d) of the Act is amended—

(A) by inserting "and to the chief elected official or the governing body of the unit of general local government (in any case in which there is no chief elected official) of the locality concerned," after "of the State concerned,"; and

(B) by striking out "him" and inserting in lieu thereof "them".

(2) The last sentence of section 103(d) of the Act is amended by inserting ", or by the chief elected official or the governing body of the unit of general local government (in any case in which there is no chief elected official) of the locality concerned," after "the State concerned" each place it appears therein.

SUPPORT SERVICE

Sec. 3. The first sentence of section 105(a) (2) of the Act is amended to read as follows: "Stipends shall be payable only upon completion of a period of service, except that under such circumstances as the Director shall determine, in accordance with regulations which the Director shall prescribe, the accrued stipend, or any part of the accrued stipend, may be paid to the volunteer, or, on behalf of the volunteer, to members of the volunteer's family or others during the period of the volunteer's service.".

LIMITATION ON USE OF FUNDS FOR CERTAIN GRANTS

Sec. 4. Section 108 of the Act is amended by striking out "20 per centum" and inserting in lieu thereof "15 percent".

SERVICE IN UNIVERSITY YEAR FOR ACTION PROGRAMS

Sec. 5. Section 113(a) of the Act is amended by striking out "and" and inserting in lieu thereof the following: "except that volunteers serving in the University Year for ACTION program may be enrolled for periods of service of not less than the duration of an academic year. Volunteers serving under this part".

SPECIAL SERVICE-LEARNING PROGRAMS

Sec. 6. (a) Section 114(a) of the Act is amended to read as follows:

"Sec. 114. (a)(1) In addition to the authority of the Director to provide for the operation of the University Year for ACTION program under this part, the Director is authorized to provide technical assistance and financial support to service-learning programs which—

"(A) assign volunteers to activities which meet the requirements of subsections (a) and (c) of section 103;

"(B) carry out the purposes of this part; and

"(C) provide opportunities for the enhancement of the personal, academic, and career growth of the volunteers involved.

"(2) The Director is authorized to provide such assistance and support through the establishment of a national office for service learning or in any other manner which the Director considers appropriate.".

(b) Section 114(c) of the Act is amended to read as follows:

"(c) The Director may provide volunteers serving under this section such support and allowances as the Director determines to be necessary to permit such volunteers to carry out their assignments.".

SPECIAL VOLUNTEER PROGRAMS

Sec. 7. (a) Section 122(a) of the Act is amended—

(1) by striking out "and" the first place it appears therein; and

(2) by inserting after "abusers" the following: "; programs to provide technical and management assistance and to provide volunteers and neighborhood organizations with the materials, tools, supplies, and administrative support necessary to carry out community betterment projects in urban areas, and other areas affected by problems of stress and deterioration similar to those found in urban areas; financial and consumer counseling for low-income and fixed-income persons; and a program to reduce the necessity of institutionalization and ameliorate the residential isolation of older persons, handicapped persons, and other similarly isolated persons".

(b) Section 122(c) of the Act is amended to read as follows:

"(c)(1) The Director, in accordance with regulations which the Director shall prescribe, may provide to volunteers enrolled for periods of part-time service of 20 hours or more per week for 26 or more consecutive weeks under this part such allowances, support, and services as are described in section 105(b) and as the Director determines are necessary to carry out the purpose of this part, and shall apply the provisions of section 104(c) and section 105(b) to the service of volunteers enrolled for full-time service under this part.

"(2) The Director, in accordance with regulations which the Director shall prescribe with respect to volunteers enrolled for periods of full-time service of one year or more under this part—

"(A) may provide to such volunteers such stipends, in total amounts not in excess of stipends provided under section 105(a) to volunteers serving under part A of this title, as the Director determines are necessary to carry out the purpose of this part; and

"(B) to the extent that the terms and conditions of the service of such volunteers are of similar character to the terms and conditions of the service of volunteers enrolled under part A of this title, shall apply to the service of such volunteers enrolled under this part the provisions of section 103(b) relating to low-income community volunteers, 104 (d), and 105(a), to the extent such provisions are applied to the service of volunteers enrolled under such part A.".

PROHIBITION OF USE OF FUNDS FOR CERTAIN LOBBYING ACTIVITIES

Sec. 8. Section 403(b) of the Act is amended—

(1) by striking out "a manner supporting or resulting in the identification of such programs with" and inserting in lieu thereof "any manner for the purpose of providing assistance for";

(2) by inserting after "party office," the following: "(2) any partisan or nonpartisan attempt to influence any legislative action of the Congress, any State legislature, any local council, or similar governing body, or in connection with any referendum, initiative constitutional amendment, or similar procedure, or any other such activity which is prohibited by law, or by a published rule of any such legislative body, (3) any partisan or nonpartisan attempt to influence the issuance, amendment or revocation of any order, rule, regulation, or promulgation by any Federal, State, or local rulemaking or regulatory agency, or any other such activity which is prohibited by law, or by a published rule of any such rulemaking or regulatory agency,"; and

(3) by striking out "(2)" and inserting in lieu thereof "(4)", and by striking out "(3)" and inserting in lieu thereof "(5)".

RECEIPT OF ASSISTANCE OR SERVICES

Sec. 9. (a) Section 404(g) of the Act is amended by inserting "(1)" after "(g)", and by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of law, a person enrolled for full-time service as a volunteer under title I of this Act who was otherwise entitled to receive assistance or services under any governmental program prior to such volunteer's enrollment shall not be denied such assistance or services because of such volunteer's failure or refusal to register for, seek, or accept employment or training during the period of such service.".

(b) The amendments made in subsection (a) shall take effect on October 1, 1979.

COORDINATION WITH OTHER PROGRAMS

Sec. 10. Section 410 of the Act is amended by adding at the end thereof the following new sentence: "The Director, in consultation with the heads of appropriate departments and agencies, shall take all appropriate steps to encourage State and local governments, charitable and service organizations, and private employers (1) to take into account experience in volunteer work in the consideration of applicants for employment; and (2) to make provision for the listing and description of volunteer work on employment application forms.".

APPLICATION OF FEDERAL LAW

Sec. 11. (a) Section 415(b) of the Act is amended—

(1) by striking out "in programs under title I of this Act for periods of service of at least one year" and inserting in lieu thereof "as volunteers for periods of full-time service for eight or more consecutive weeks, or, to the extent the Director shall prescribe by regulation, for periods of part-time service of not less than 20 hours per weeks for 26 or more consecutive weeks, under title I of this Act";

(2) by striking out "and" at the end of paragraph (3) thereof;

(3) in paragraph (4)(A) thereof, by striking out "the monthly pay of a volunteer shall be deemed that received under the entrance salary for a grade GS–7 employee," and inserting in lieu thereof "the annual rate of pay of a volunteer enrolled for a period of full-time service shall be deemed to be that received under the entrance salary for a grade GS–7 employee, and the annual rate of pay of a volunteer enrolled for a period of part-time service shall be deemed to be the entrance salary of a grade GS–2 employee,"; and

(4) by inserting before the period at the end thereof the following: ", and (5) be deemed employees of the United States for purposes of section 5584 of title 5. United

States Code (and stipends and allowances paid under this Act shall be considered as pay for such purposes)".

(b) Section 415 of the Act is amended by adding at the end thereof the following new subsection:

"(f) (1) The remedy—

"(A) against the United States provided by sections 1346(b) and 2672 of title 28, United States Code; or

"(B) through proceedings for compensation or other benefits from the United States as provided by any other law, where the availability of such benefits precludes a remedy under section 1346(b) or 2672 of such title 28;

for damages for personal injury, including death, allegedly arising from malpractice or negligence of a physician, dentist, podiatrist, optometrist, nurse, physician assistant, expanded-function dental auxiliary, pharmacist, paramedical personnel (such as medical and dental technicians, nursing assistants, and therapists), or other supporting personnel in furnishing medical care or treatment while in the exercise of the duties of any such person as a full-time volunteer enrolled under title I of this Act shall, beginning on the effective date of this subsection, be exclusive of any other civil action or proceeding by reason of the same subject matter against such person (or the estate of such person) whose action or omission gave rise to such claim.

"(2) (A) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in paragraph (1) of this subsection (or the estate of such person) for any such damage or injury.

"(B) Any such person against whom such civil action or proceeding is brought shall deliver, within such time after the date of service or knowledge of service, as determined by the Attorney General, all process served upon such person or an attested true copy of such process to the immediate supervisor of such person or to any other individual designated by the Director to receive such process or copy. The supervisor or other individual shall promptly furnish copies of the pleading and process to the United States attorney for the district in which the proceeding is brought and to the Attorney General.

"(3) (A) Upon a certification by the Attorney General that the defendant was acting in the scope of the volunteer assignment of the defendant at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division in which it is pending. The proceeding shall be deemed a tort action brought against the United States under the provisions of title 28, United States Code, and all references thereto.

"(B) After such removal under subparagraph (A), the United States shall have available all defenses to which it would have been entitled if the action had originally been commenced against the United States.

"(C) If a United States district court determines on a hearing on a motion to remand held before a trial on the merits that the volunteer whose act or omission gave rise to the suit was not acting within the scope of the volunteer assignment of such volunteer, then the case shall be remanded to the State court.

"(4) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, United States Code, and with the same effect.".

NONDISCRIMINATION PROVISIONS

SEC. 12. (a) Section 417(a) of the Act is amended—

(1) by inserting "handicap," after "age,"; and

(2) by adding at the end thereof the following new sentence: "For purposes of this subsection, and for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), any project or activity to which volunteers are assigned under this Act shall be deemed to be receiving Federal financial assistance.".

(b) Section 417 of the Act is amended by adding at the end thereof the following new subsection:

"(c) (1) The Director shall apply the nondiscrimination policies and authorities set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16), in title V of the Rehabilitation Act of 1973 (29 U.S.C. 791 et seq.), and the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) to applicants for enrollment for service as volunteers and to volunteers enrolled by the ACTION Agency for service under title I of this Act. Any remedies available to individuals under such laws, other than the right of appeal to the Civil Service Commission authorized by section 717 of the Civil Rights Act of 1964, and transferred to the Equal Employment Opportunity Commission by Reorganization Plan Number 1 of 1978, shall be available to such applicants or volunteers.

"(2) Not later than 90 days after the effective date of this subsection, the Director, after consultation with the Equal Employment Opportunity Commission with regard to the application of the policies set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) and with the Secretary of Health, Education, and Welfare and the Interagency Committee on Handicapped Employees, established by section 501(a) of the Rehabilitation Act of 1973 (29 U.S.C. 791(a)), with regard to the application of policies set forth in title V of the Rehabilitation Act of 1973 (29 U.S.C. 791 et seq.), and not later than 90 days after the Secretary of Health, Education, and Welfare publishes final general regulations to carry out the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), and after consultation with the Secretary with regard to the application of the policies set forth in such Act, shall prescribe regulations establishing the procedures for the application of such policies and the provision of such remedies so as to promote the enrollment and service of persons as volunteers without regard to the discriminatory factors prohibited in such laws.".

REGULATIONS: REQUIREMENTS AND ENFORCEMENT

SEC. 13. (a) Section 420 of the Act is amended to read as follows:

"SEC. 420. (a) (1) For the purpose of this section, the term 'regulation' means any rules, regulations, guidelines, interpretations, orders, or requirements of general applicability prescribed by the Director. Any such rule, regulation, guideline, interpretation, order, or requirement of general applicability prescribed by the Director pursuant to this Act shall not have the standing of a Federal statute.

"(2) Regulations issued by the ACTION Agency or by any official of such Agency, in connection with, or affecting, the administration of any applicable program shall contain immediately following each substantive provision of such regulations, citations to the particular section or sections of statutory law or other legal authority upon which such provision is based.

"(b) (1) No proposed regulation prescribed for the administration of any applicable program may take effect until thirty days after it is published in the Federal Register.

"(2) (A) During the thirty-day period prior to the date upon which such regulation is to be effective, the Director shall, in accordance with the provisions of section 553 of title 5, United States Code, offer any interested party an opportunity to make comment upon, and take exception to, such standard, rule, regulation, or general requirement and shall reconsider any such standard, rule, regulations, or general requirement upon which comment is made or to which exception is taken.

"(B) If the Director determines that the thirty-day requirement in paragraph (1) will cause undue delay in the implementation of a regulation, thereby causing extreme hardship for the intended beneficiaries of an applicable program, he shall notify the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate. If neither committee disagrees with the determination of the Director within ten days after such notice, the Director may waive such requirement with respect to such regulation.

"(c) All such regulations shall be uniformly applied and enforced throughout the fifty States.

"(d) (1) Concurrently with the publication in the Federal Register of any final regulation of general applicability as required in subsection (b) of this section, such final regulation shall be transmitted to the Speaker of the House of Representatives and the President of the Senate. Such final regulation shall become effective not less than forty-five days after such transmission unless the Congress shall, by concurrent resolution, find that the final regulation is inconsistent with the Act from which it derives its authority, and disapprove such final regulation. Failure of the Congress to adopt such a concurrent resolution with respect to any such final regulation prescribed under any such Act, shall not represent, with respect to such final regulation, an approval or finding of consistency with the Act from which it derives its authority for any purpose, nor shall such failure to adopt a concurrent resolution be construed as evidence of an approval or finding of consistency necessary to establish a prima facie case, or an inference or presumption, in any judicial proceeding.

"(2) The forty-five-day period specified in paragraph (1) shall be deemed to run without interruption except during periods when either House is in adjournment sine die, in adjournment subject to the call of the Chair, or in adjournment to a day certain for a period of more than four consecutive days. In any such period of adjournment, the forty-five days shall continue to run, but if such period of adjournment is thirty calendar days, or less, the forty-five-day period shall not be deemed to have elapsed earlier than ten days after the end of such adjournment. In any period of adjournment which lasts more than thirty days, the forty-five-day period shall be deemed to have elapsed after thirty calendar days has elapsed, unless, during those thirty calendar days, either the Committee on Education and Labor of the House of Representatives, or the Committee on Labor and Human Resources of the Senate, or both, shall have directed its chairman, in accordance with said committee's rules, and the rules of that House, to transmit to the Director a formal statement of objection to the final regulation. Such letter shall suspend the effective date of the final regulation until not less than twenty days after the end of such adjournment, during which the Congress may enact the concurrent resolution provided for in this subsection. In no event shall the final regulation go into effect until the forty-five-day period shall have elapsed, as provided for in this subsection, for both Houses of the Congress.

"(e) Whenever a concurrent resolution of disapproval is enacted by the Congress under the provisions of this section, the agency may thereafter issue a modified regulation to govern the same or substantially identical circumstances, but shall, in publishing such modification in the Federal Register and submitting it to the Speaker of the House of Representatives and the President of the Senate, indicate how the modification differs from the final regulation earlier disapproved and how the agency believes the modification disposes of the findings by the Congress in the concurrent resolution of disapproval.

"(f) Not later than sixty days after the enactment of any part of any Act affecting the administration of any applicable program, the Director shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a schedule in accordance with which the Director has planned to promulgate final regulations implementing such Act or part of such Act. Such schedule shall provide that all such final regulations shall be promulgated within one hundred and eighty days after the submission of such schedule. Except as is provided in the following sentence, all such final regulations shall be promulgated in accordance with such schedule. If the Director finds that, due to circumstances unforeseen at the time of the submission of any schedule, he cannot comply with a schedule submitted pursuant to this subsection, he shall notify such committees of such findings and submit a new schedule. If both such committees notify the Director of their approval of such new schedule, such final regulations shall be promulgated in accordance with such new schedule.".

REDUCTION OF PAPERWORK

SEC. 14. (a) Title IV of the Act is amended by adding at the end thereof the following new section:

"REDUCTION OF PAPERWORK

"SEC. 423. In order to reduce unnecessary, duplicative, or disruptive demands for information, the Director, in consultation with other appropriate agencies and organizations, shall continually review and evaluate all requests for information made under this Act and take such action as may be necessary to reduce the paperwork required under this Act. In accordance with chapter 35 of title 44, United States Code, the Director shall request only such information as the Director deems essential to carry out the purposes and provisions of this Act.".

(b) The table of contents for the Act is amended by inserting after the item relating to section 422 the following new item:

"Sec. 423. Reduction of paperwork.".

TERMINATION OF PROJECTS

SEC. 15. (a) Title IV of the Act, as amended in section 14, is further amended by adding at the end thereof the following new section:

"TERMINATION OF PROJECTS

"SEC. 424. (a) The Director shall not renew any contract or grant to carry out any project under this Act upon the expiration of such contract or grant if the chief executive officer of the State in which such project is being carried out furnishes written notice to the Director (before the expiration of such contract or grant) specifying that such chief executive officer does not concur in the renewal of such contract or grant.

"(b)(1) If the executive authority of any local government submits to the Director, not later than 30 days before the expiration of any contract or grant to carry out any project under this Act, a statement which objects to the renewal of such contract or grant, then the Director shall review such statement and take it into account in determining whether to renew such contract or grant.

"(2) For purposes of this subsection, the terms 'executive authority' and 'local government' have the meanings given them in section 136.".

(b) The table of contents for the Act, as amended in section 14, is further amended by inserting after the item relating to section 423 the following new item:

"Sec. 424. Termination of projects.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 16. (a)(1) Section 501(a) of the Act is amended by inserting "(1)" after "(a)" and by adding at the end thereof the following new paragraph:

"(2)(A) In each fiscal year specified in paragraph (1), of the sums appropriated under this subsection, not less than $873,000 shall be available for the operation of service-learning programs under section 114.

"(B) Of the sums appropriated under this subsection for the fiscal year ending September 30, 1980, not less than $3,200,000 shall be available for the operation of the University Year for ACTION program under part B of title I. Of the sums appropriated under this subsection for the fiscal year ending September 30, 1981, not less than $2,200,000 shall be available for the operation of such program.".

(2) The first sentence of section 501(a)(1) of the Act, as so redesignated in paragraph (1), is amended by striking out "and" after "June 30, 1974,", and by inserting after "September 30, 1978," the following: "$42,415,000 for the fiscal year ending September 30, 1980, and such sums as may be necessary for the fiscal year ending September 30, 1981,".

(b) Section 504 of the Act is amended by striking out "and" after "September 30, 1977,", and by inserting "September 30, 1980, and September 30, 1981," after "September 30, 1978,".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 17. (a)(1) The table of contents for the Act is amended by striking out the items related to title III, section 301, section 302, and section 503.

(2) The amendments made in paragraph (1) shall take effect on October 1, 1979.

(b)(1)(A) The heading for title II of the Act is amended to read as follows:

"TITLE II—NATIONAL OLDER AMERICANS VOLUNTEER PROGRAMS"

(B) The table of contents for the Act is amended by striking out the item relating to title II and insering in lieu therof the following new item:

"TITLE II—NATIONAL OLDER AMERICANS VOLUNTEER PROGRAMS"

(2) Section 221 of the Act is amended by striking out "Office of Economic Opportunity" and inserting in lieu thereof "Community Services Administration".

(c) Section 403(b) of the Act is amended by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management".

(d) Section 415(c)(2) of the Act is amended by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management".

(e) Section 418 of the Act is amended by striking out "titles II and III of this Act" and inserting in lieu thereof "part D of title I of this Act, or pursuant to titles II and III of this Act,".

REPORT RELATING TO RURAL PROGRAMS

SEC. 18. (a) The Director of the ACTION Agency shall submit a report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives specifying the special needs and circumstances which the Director intends to address in designing programs under the Act for implementation in rural areas. Such report shall include a detailed statement of the manner in which the Director intends to address such needs and circumstances, together with a timetable for designing and implementing such programs.

(b) The report required in subsection (a) shall be submitted not later than February 1, 1980.

AMENDMENT TO OTHER LAW

SEC. 19. Section 5(b) of the Act entitled "An Act to amend further the Peace Corps Act, and for other purposes", approved November 14, 1975 (Public Law 94–130; 89 Stat. 684), is amended by striking out the last sentence thereof.

LIMITATION ON PAYMENT AUTHORITY

SEC. 20. Notwithstanding any other provision of the Act, any authority to enter into contracts or to make payments under the Act shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts in advance.

Amend the title so as to read: "An Act to amend the Domestic Volunteer Service Act of 1973 to authorize appropriations for programs under such Act, to facilitate the improvement of programs carried out under such Act, to authorize the establishment and operation of urban volunteer programs, and for other purposes.".

Mr. CRANSTON. Mr. President, I move that the Senate disagree to the amendment of the House to S. 239, agree to the conference requested by the House, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. WILLIAMS, Mr. CRANSTON, Mr. NELSON, Mr. RIEGLE, Mr. HUMPHREY, and Mr. ARMSTRONG conferees on the part of the Senate.

JUANITA KREPS

Mr. CANNON. Mr. President, Secretary Juanita Kreps has announced that she will relinquish her distinguished leadership of the Department of Commerce this week. As chairman of the Senate Commerce, Science, and Transportation Committee, I would like to state that I have enjoyed working closely with Secretary Kreps and am extremely sorry to see her depart.

The committee interacts with the Department of Commerce in a vast number of areas, including ocean policy, maritime policy, the scientific acitvities of the National Bureau of Standards, coastal zone management, product liability, communications policy, and many others. We, therefore, are well aware of the great complexity of trying to meld these diverse policy questions into a coordinated and meaningful program. Secretary Kreps has done an admirable job of seeing to it that these programs have gone forward effectively.

Secretary Kreps has been an innovator and trailblazer throughout her career. She made major contributions to the economic study of manpower, the problems of the aged, and resource, and trade policy. She was the first woman to be named Secretary of Commerce and the first economist to hold that position. Secretary Kreps from the outset of her tenure at the Department of Commerce demonstrated leadership, wisdom, and innovation.

Among her accomplishments, Secretary Kreps led a major trade delegation to Japan and worked diligently to lower trade barriers within Japan to U.S. goods. Secretary Kreps was instrumental in facilitating improved trade relations with People's Republic of China—opening access to this enormous new trading area. She also expanded our national export policy and through the Economic Development Administration she greatly increased programs to improve our economy at home. Secretary Kreps also has facilitated the development of coastal zone management programs throughout the country and focused increased attention on the need to strengthen our merchant marine.

The Senate Commerce Committee has a reputation for carrying out diligent and detailed oversight of the agencies under our jurisdiction. In the course of this activity, we have found fault from time to time with various programs within the Department of Commerce; however, we believe that Secretary Kreps can leave Government with the feeling that she has attained an admirable record of success. We look forward to working with her in the future as she returns to the private sector.

Mr. President, I thank the Senator for yielding.

Mr. CRANSTON. Mr. President, I associate myself with the remarks of the Senator from Nevada regarding Secretary Kreps.

She was a very fine, outstanding member of the Cabinet. I, too, am very regretful she found it necessary to leave that responsibility in the Department of Commerce.

Mr. MORGAN. Mr. President, North Carolina 3 years ago made a valuable contribution to the Nation when it loaned the Federal Government and more particularly the Department of Commerce, one of its ablest administrators and finest citizens.

I refer, of course, to Dr. Juanita Kreps who served so well and so ably as Secretary of Commerce during the first 3 years of the present administration.

Dr. Kreps came here from Duke University where she served as vice president of that fine institution of higher learning.

North Carolina really got Juanita Kreps from Kentucky, because she was born in Lynch, Ky., in the middle of the coal fields in the eastern section of that State. She attended Berea College in Berea, also in eastern Kentucky, before coming to Duke where she furthered her education by obtaining a master's degree and where she joined the faculty in 1955. Before that, she taught for some years at Denison University.

Her rise at Duke was phenomenal. She advanced from instructor to a full professor and assistant provost before becoming vice president.

As an economics professor she became nationally known, and she made her way in the business world, being named to the board of the New York Stock Exchange, the first woman to sit on that board, and also to the boards of a number of the Nation's largest corporations.

And when President Carter formed his Cabinet immediately after his election, he had no trouble finding a Secretary of Commerce. He chose Dr. Kreps and I think, Mr. President, he chose exceedingly well.

Dr. Kreps served with distinction at the Commerce Department until personal considerations made her feel that she should resign.

North Carolina and Duke will welcome her back, but the Nation has lost a valuable leader and a devoted servant.

The Federal Government's loss of Dr. Juanita Kreps is North Carolina's and Duke University's gain in this instance. We had her in the National Government for too short a time and her presence will be missed by those of us who worked with her and who came in contact with her from time to time.

My State of North Carolina has many fine dedicated and outstanding citizens, but we sent you one of the very best when we sent you Dr. Kreps.

I know she will be happy to return to North Carolina but we shall miss her talents in the National Government, where for 3 years she served so well.

THE RESIGNATION OF SECRETARY JUANITA KREPS

Mr. BURDICK. Mr. President, Secretary of Commerce Juanita M. Kreps will leave her post in the Cabinet this week. In my judgment, she has served with distinction these past 2 years.

Secretary Kreps has been helpful to me as a subcommittee chairman in matters concerning the legislation to reauthorize the Commerce Department programs of the Economic Development Administration and the eight title V regional development commissions. As she leaves Federal service, I wish her good fortune and God's blessings. Secretary Kreps has been an outstanding Secretary of Commerce. She accepted a Department known to contain a basketful of disparate agencies and missions. She aggressively harmonized the various functions of the Department of Commerce toward the goal of improving the economic well-being of this country. She gave greater purpose and urgency to the promotion of foreign trade. Thanks to her leadership the President is proposing to upgrade and consolidate this important function in the Commerce Department.

Secretary Kreps is the first Secretary since 1965 to enthusiastically promote economic development assistance for lagging regions of this country as a legitimate Federal activity. As a result of her leadership, President Carter has proposed substantial increases in economic development programs.

As Juanita Kreps moves to her next challenge, I want to express my appreciation for her kindnesses and graciousness. Quick to listen and to cooperate, though committed and firm, she will be missed in this city.

MESSAGES FROM THE PRESIDENT RECEIVED DURING THE RECESS

Pursuant to order of October 25, 1979, the Secretary of the Senate, on October 16, 1979, received messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received on October 26, 1979, are printed at the end of the Senate proceedings.)

REPORT OF THE FEDERAL COUNCIL ON AGING—MESSAGE FROM THE PRESIDENT—PM 128

Pursuant to order of October 25, 1979, the Secretary of the Senate, on October 26, 1979, received the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with Section 205(f) of the Older Americans Act of 1965 (P.L. 93-29), I am transmitting to Congress the Annual Report for 1978 of the Federal Council on Aging.

This report has been prepared by the Federal Council on Aging and submitted to me as required by law. The Report describes the Council's activities in 1978 and those proposed for 1979.

JIMMY CARTER.

THE WHITE HOUSE, *October 26, 1979.*

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVAL

A message from the President of the United States, reported that on October 25, 1979, he had approved and signed the following act:

S. 567. An act to amend title 28 of the United States Code to allow the U.S. attorney and assistant U.S. attorneys for the eastern district of New York to reside within 20 miles of the district.

MESSAGE FROM THE HOUSE RECEIVED DURING THE RECESS

Pursuant to order of October 25, 1979, the Secretary of the Senate, on October 26, 1979, received a message from the House of Representatives, reporting that the House has passed the bill (S. 1143) to extend the authorization for appropriations for the Endangered Species Act of 1973, and for other purposes, with amendments in which it requests the concurrence of the Senate.

The message also reported that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 428) to authorize appropriations for fiscal year 1980 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes.

The message further reported that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4387) making appropriations for agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1980, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 79, 80, 81, 83, and 85 to the bill and concurs therein; and that the House recedes from its disagreement to the amendments of the Senate numbered 5, 6, 19, 60, 72, 77, and 84, and concurs therein each with an amendment in which it requests the concurrence of the Senate.

The message also reported that the House has passed House Joint Resolution 430, making urgent supplemental appropriations for low-income energy assistance for the fiscal year ending September 30, 1980, and for other purposes, in which it requests the concurrence of the Senate.

MESSAGES FROM THE HOUSE

At 12:43 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House agrees to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, and 8 to the bill (H.R. 4249) to amend title 23 of the United States Code, the Surface Transportation Assistance Act of 1978, and for other purposes; and that the House agrees to the amendment of the Senate numbered 7 to the bill with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bill and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 1885. An act to amend civil service retirement provisions as they apply to certain employees of the Bureau of Indian Affairs and of the Indian Health Service who are not entitled to Indian employment preference and to modify the application of the Indian employment preference laws as it applies to those agencies;

H.J. Res. 3. A joint resolution designating November 4, 1979, as "Will Rogers Day";

H.J. Res. 428. A joint resolution designating December 1979 as "National Child Abuse Prevention Month."

At 2:50 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3000. An act to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1980, and for other purposes.

HOUSE BILLS PLACED ON THE CALENDAR

The following bills were read twice by their titles and ordered to be placed on the calendar:

H.R. 1885. An act to amend civil service retirement provisions as they apply to certain employees of the Bureau of Indian Affairs and of the Indian Health Service who are not entitled to Indian employment preference and to modify the application of the Indian employment preference laws as it applies to those agencies; and

H.R. 3000. An act to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1980, and for other purposes.

HOUSE JOINT RESOLUTIONS REFERRED

The following joint resolutions were read twice by their titles and referred as indicated:

H.J. Res. 3. A joint resolution designating November 4, 1979, as "Will Rogers Day"; to the Committee on the Judiciary.

H.J. Res. 428. A joint resolution designating December 1979 as "National Child Abuse Prevention Month"; to the Committee on the Judiciary.

H.J. Res. 430. A joint resolution making urgent supplemental appropriations for low-income energy assistance for the fiscal year ending September 30, 1980, and for other purposes; to the Committee on Appropriations.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2378. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Stronger Emphasis On Market Development Needed in Agriculture's Export Credit Sales Program"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2379. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report of receipts and disbursements pertaining to the disposal of surplus military supplies, equipment, and material for the third quarter of fiscal year 1979; to the Committee on Appropriations.

EC-2380. A communication from the Clerk of the United States Court of Claims, transmitting, pursuant to law, a certified copy of the Court's Judgement in the case of the Colorado River Indian Tribes, et al. v. The United States; to the Committee on Appropriations.

EC-2381. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting, pursuant to law, a report on two construction projects to be undertaken by the Air Force Reserve; to the Committee on Armed Services.

EC-2382. A communication from the Acting Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting, a draft of proposed legislation to amend title 37, United States Code, to authorize the Secretaries concerned to set mileage rates based on various considerations for uniformed members performing permanent change of station moves, and for other purposes; to the Committee on Armed Services.

EC-2383. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Continuing Problems in DOD's Classification of National Security Information"; to the Committee on Armed Services.

EC-2384. A communication from the Director of the Office of Science and Technology Policy, Executive Office of the President, transmitting, pursuant to law, the report on the National Earthquake Hazards Reduction Program, September 1979; to the Committee on Commerce, Science, and Transportation.

EC-2385. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report on sales of refined petroleum products and the sales of retail gasoline for July 1979; to the Committee on Energy and Natural Resources.

EC-2386. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period ending October 25, 1979; to the Committee on Foreign Relations.

EC-2387. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report on a new system of records for the Department of the Navy for implementating the Privacy Act; to the Committee on Governmental Affairs.

EC-2388. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a report on a new system of records for implementing the Privacy Act; to the Committee on Governmental Affairs.

EC-2389. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on Federal Activities on Alcohol Abuse and Alcoholism; fiscal year 1977; to the Committee on Labor and Human Resources.

EC-2390. A communication from the Chairman of the Federal Election Commission, transmitting pursuant to law, proposed regulations pertaining to the Federal financing of Presidential nominating conventions; to the Committee on Rules and Administration.

EC-2391. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the President's fourteenth special message for fiscal year 1979; pursuant to the order of January 30, 1975, referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Commerce, Science, and Transportation.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-484. A resolution adopted by the Legislature of the Territory of Guam; to the Committee on Energy and Natural Resources:

"Resolution No. 396

"Whereas, an Interagency Task Force appointed by the President of the United States is preparing a report on making the territories of the United States more self-sufficient and has forwarded a draft of the report to Guam for review and participation by the people and the government leaders in the final report; and

"Whereas, the Legislature and the Governor by adoption of Resolution No. 395 expressed the views of the people of Guam on the first segment of the report which concerned political status; and

"Whereas, Guam's response to Task Force #1 included the following essential elements:

"(1) a reaffirmation of the people of Guam's right to self-determination of their form of government;

"(2) the necessity for creation of a Joint Guam-United States Commission to review the impact of all Federal laws and international treaties or agreements on the island and to prevent further application of Federal Laws and international treaties of agreements to Guam without her consent;

"(3) the removal of Federal constrains on the economic, political and social development of the island; and

"(4) most importantly—the need for immediate action toward commencing political status talks between representatives of the people of Guam and the United States of America; and

Whereas, with respect to Task Force #2 concerning economic development, Guam finds that the federal report is unacceptable as a serious study of the island's economic needs; that the report is misleading, erroneous and mistaken in some of its conclusions, and urges that it be not submitted to the President of the United States as the basis on which to formulate territorial policy; and

"Whereas, the federal government declares that one of its goals is to encourage economic self-reliance in the territories, and

"Whereas, the development of Guam's economy is considered to be a matter of survival and urgency for the people of Guam; and

"Whereas, plans for specific scheduled programs must be drafted to promote economic development. Guam recommends the following actions:

"(1) removing Federal restrictions and Federal controls over Guam's most valuable economic assets; such action being accomplished by:

"(a) annuling or exempting Guam from Federal laws which constrain her economic development;

"(b) returning natural resources to the people of Guam; and

"(c) providing capital (grants or loans) needed to construct an infrastructure which facilitates trade and commerce; and

"(2) assisting in the implementation of a ten-year economic development plan for Guam which will result in a healthy utilization of the island's natural resources and generation of sufficient local revenues to continue development of the island's infrastructure; and

"Whereas, it is imperative that the Federal and territorial governments act immediately to permit the Commercial Port at Apra Harbor to evolve into an international shipping center; to develop alternative energy resources and to create Joint Guam-United States Subcommittees to review areas of mutual concern; and

"Whereas, with respect to Task Force #3 concerning Financial Assistance, Guam resists any Federal action which would disrupt the island's economy and ability to provide essential services especially when such action is predicated on a study which fails to address reasons for Guam's present requirement for Federal assistance. Guam does support creation of a development bank as long as the bank provides additional capital and is not in lieu of current Federal financial assistance. Guam favors a block-grant system in lieu of Federal categorical grants-in-aid if the allocation to Guam is based on Guam's eligibility to participate in programs and if *ad hoc* grants are continued. Guam opposes Federal tax collection of local taxes and seeks authority to modify the Internal Revenue Code as it applies to Guam; and

"Whereas, with respect to Task Force No. 4 concerning Coordination of Federal Grants, Guam vehemently rejects the creation of a Federal "Coordinating Office" to oversee the granting of Federal funds to Guam. However, Guam does support expansion of territorial self-government through adoption of a system of Federal block grants to the territories. Guam has for many years and continues to advocate extension of certain social programs to her citizens so the citizens of Guam can be treated more like their fellow citizens on the Mainland; and

"Whereas, with respect to Task Force No. 5 concerning Federal Organization, Guam recommends that an Interagency Office in the Executive Office of the President be created to handle Guam's affairs and that the Department of Interior be relieved of its duty to administer territorial affairs for the Federal Government; and

"Whereas, with respect to Task Force No. 6 concerning Federal Presence, Guam protests the failure of the report to address the overwhelming importance of the Department of Defense's position on island and recommends with regard to the issues addressed in the report that the office of Federal Comptroller be abolished thus, causing Guam to be treated like States which receive Federal financial assistance. Guam continues to request legislative changes in Guam's Organic Act which will:

"(1) constitute the Guam District Court a court with jurisdiction over Federal matters only; and

"(2) authorize a local court system similar to those of states,—that is, creation of courts of general jurisdiction and a Territorial Supreme Court with appeal to the United States Supreme Court; now, therefore, be it

"*Resolved*, that the Legislature and the Governor of Guam jointly endorse the policy statements attached hereto as reflective of the views of the people of Guam; and be it further

"*Resolved*, that the President of the United States and the Congress of the United States are asked to consider the concerns and recommendations of the people of Guam with respect to the welfare of the island as such are reflected in the attached policy statements; and be it further

"*Resolved*, that once again the President of the United States and the Congress of the United States are called upon to enter into formal negotiations with authorized representatives of the people of Guam on Guam's relationship with the United States; and be it further

Resolved, that negotiations commence soon so that the disputes can be resolved and that the bonds of friendship and mutual respect existing between Guam and the United States can be strengthened; and be it further

Resolved, that the Speaker and the Governor certify to and the Legislative Secretary attest to the adoption hereof and that copies of the same be thereafter transmitted to the President of the United States; to the President pro tempore of the United States Senate; to the Speaker of the House of Representatives; to the Secretary of State; to the Secretary of Interior; to the Ambassador of the United States to the United Nations; to Congressman Philip Burton; to all members of the House of Representatives; to Senator Bennett Johnson and to all members of the U.S. Senate; and to Guam's Washington Delegate."

POM-485. A petition from a private citizen, relating to organized white collar crime; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HUDDLESTON, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. 312. A bill to amend the Agricultural Adjustment Act of 1938, as amended, to exempt State prison farms from paying of marketing quota penalties (Rept. No. 96-380).

By Mr. RANDOLPH, from the Committee on Environment and Public Works, without amendment:

S. Res. 266. An original resolution authorizing the printing of the report entitled "The Cost of Clean Air and Water" as a Senate document. Referred to the Committee on Rules and Administration.

By Mr. MUSKIE, from the Committee on the Budget, without amendment, unfavorably:

S. Res. 232. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1716.

S. Res. 234. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1748.

By Mr. MUSKIE, from the Committee on the Budget, without amendment:

S. Res. 254. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5218.

S. Res. 257. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1012.

S. Res. 258. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1668.

S. Res. 263. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 493.

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 1905. A bill to provide for the orderly restructuring of the Milwaukee Railroad, and for other purposes.

MILWAUKEE RAILROAD RESTRUCTING ACT

Mr. CANNON. Mr. President, on October 17, 1979, because of the pressing problems of the bankrupt Milwaukee Railroad, I introduced S. 1905, together with Senator Long and Senator Packwood. Senator Magnuson, joined by seven other Senators, introduced Senate Joint Resolution 114. A hearing was scheduled this morning to consider that legislation and difficult issues concerning the viability of a system larger than proposed by the trustee in his reorganization plan.

However, unexpected events occurred last week. The Department of Transportation and the trustee were unable to reach agreement on further borrowings. Just last Friday, the reorganization court authorized an embargo, effective November 1, 1979, based on the fact that the funding contemplated by House Joint Resolution 412, had not been made available. Obviously, this action increased the need for Congress to determine as soon as possible what further steps needed to be taken with regard to the Milwaukee. Accordingly, an executive session was held immediately following this morning's extensive hearing for the purpose of committee action on S. 1905 and amendments offered by Senators Magnuson and Long.

The bill was ordered reported as amended by the committee with a request that the Senate consider the legislation today. A full summary of the bill as amended is submitted at this time to be inserted in the Record following my remarks.

I understand that the House will try to consider similar legislation tomorrow morning. I would like to stress at this time that the bill as reported by the Commerce Committee this morning contains a number of differences from that proposed in the House bill which we heard testimony on today. I feel that S. 1905 as amended is a reasonable way to deal with a very difficult issue and hope that our colleagues in the House will agree.

I made a commitment today to the Senate that the Senate conferees will hold firm in not going beyond where we have already compromised in putting this delicate legislative package together. I would respectfully urge my House colleagues to seriously consider and act upon the Senate bill we are reporting today.

I ask unanimous consent that the bill as reported together with a summary thereof be printed in the RECORD.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 1905

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Milwaukee Railroad Restructuring Act".

CONGRESSIONAL FINDINGS

SEC. 2. (a) Congress hereby finds that—

(1) the severe operating losses and the deteriorating plant and equipment of the Chicago, Milwaukee, Saint Paul and Pacific Railroad Company (hereinafter referred to as the "Milwaukee Railroad") threaten to cause cessation of its operations in the near future;

(2) a cessation of operations by the Milwaukee Railroad would have serious repercussions on the economies of the States in which the Milwaukee Railroad principally operates (namely, the States of Washington, Montana, Minnesota, Idaho, North Dakota, South Dakota, Illinois, Iowa, Missouri, Michigan, Indiana, and Wisconsin);

(3) a cessation of operations of the Milwaukee Railroad would result in the loss of many thousands of jobs of railroad workers and other workers whose employment is dependent upon rail service over the lines presently operated by the Milwaukee Railroad;

(4) the ownership by employees or by employees and shippers of part or all of the Milwaukee Railroad may be a valuable tool in reorganization and should be given serious consideration;

(5) a cessation of essential transportation services by the Milwaukee Railroad would endanger the public welfare and reduce rail competition in the affected tier of states;

(6) a cessation of such services is imminent; and

(7) there is no other practicable means of obtaining funds to meet payroll and other expenses necessary for continuation of services and reorganization of the Milwaukee Railroad.

(b) The Congress declares that emergency measures set forth in this Act must be taken to restructure the Milwaukee Railroad and to avoid the potential unemployment and damage to the economy of the region and of the Nation which a cession of essential operations by the Milwaukee Railroad would otherwise cause.

COURT-APPROVED ABANDONMENT AND SALES

SEC. 3. (a) (1) Upon the occurrence of an event described in section 11(b) of this Act, or on May 10, 1980, whichever first occurs, the bankruptcy court may authorize the abandonment of lines of the Milwaukee Railroad pursuant to section 1170 of title 11, United States Code. Pending the expiration of the time for appeal of an abandonment order or the determination of any such appeal, the bankruptcy court may authorize the termination of service on a line to be abandoned, and the order authorizing such termination may not be stayed. When a rail carrier is involved in a transaction under this section, the court shall require the carrier to provide a fair arrangement at least as protective of the interests of the employees who are affected by the transaction as that required under section 11347 of title 49, United States Code.

(2) Prior to the date specified in paragraph (1) of this subsection the bankruptcy court may hear and consider any request for the abandonment of lines of the Milwaukee Railroad, and may fix the time for the Interstate Commerce Commission's report on the request, but it may take final action authorizing such abandonment only in accordance with paragraph (1) of this subsection.

(b) Section 11346 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision, when the proceeding involves the sale or transfer of a line of a railroad in reorganization, the Commission shall give the proceeding preference over all other proceedings related to that type of carrier and make its decision at the earliest practicable time, not to exceed 90 days if the proceeding does not involve a significant competitive impact, nor 210 days in any event: *Provided, however,* That this subsection shall not apply to proceedings commenced prior to the date of enactment of this subsection.".

(c) Nothing in this section shall be construed to affect the priorities or timing of payment of employee protection which might have existed in the absence of this Act.

COURT-APPROVED ABANDONMENTS IN PENDING CASES

SEC. 4. Notwithstanding any other provision of law and except as provided otherwise in section 3(a), the court in any case pending under section 77 of the Bankruptcy Act on the date of enactment of this Act may authorize the abandonment of lines of railroad pursuant to section 1170 of title 11, United States Code. Pending the expiration of the time for appeal of an abandonment order or the determination of any such appeal, the court may authorize the termination of service on a line to be abandoned, and the order authorizing such termination may not be stayed. In authorizing any abandonment pursuant to such section 1170, the court shall require the carrier to provide a fair arrangement at least as protective of the interests of employees as that required under section 11347 of title 49, United States Code.

EMPLOYEE OR EMPLOYEEE-SHIPPER OWNERSHIP PLAN

"SEC. 5. (a) (1) No later than December 15, 1979, an association composed of representatives of national railway labor organizations, employees, and shippers (or any combination of the foregoing) may submit to the Interstate Commerce Commission a single plan for converting all or a substantial part of the Milwaukee Railroad into an employee or employee-shipper owned company and a method for implementing such plan. The plan, which may include one or more alternative system configurations, shall include a comprehensive evaluation of the prospects for the financial self-sustainability of that portion of the Milwaukee Railroad.".

(2) The Commission shall, within thirty days after the date of submission of a plan under paragraph (1) of this subsection, approve the proposed plan if it finds that such plan is feasible. The finding of the Commission with respect to the feasibility of the plan shall be made pursuant to section 554 of title 5, United States Code.

(3) The Commission shall make a finding that the plan submitted under this subsection is feasible if it determines that—

(A) adequate public and private financing is available to the proponents of such plan;

(B) such plan is fair and equitable to the estate of the Milwaukee Railroad;

(C) implementation of such plan will occur by May 10, 1980;

(D) that portion of the railroad covered by the plan can be operated on a self-sustaining basis; and

(E) the plan contains an assessment of all operating practices, and includes the implementation of changes designed to achieve the greatest possible labor productivity increases consistent with safe operations and adequate service.

For purposes of the determinations under this paragraph, adequate financing shall include all sources of private funds, the probable value and priority of valid claims against the estate that will be released as part of implementation of the employee or employee and shipper ownership plan, and Federal, State, or local funds available under programs (in existence as of January 1, 1980) which are or will be available to the proponent.

(b) If the Commission finds that the plan submitted under this section is feasible, it shall immediately submit its finding to the bankruptcy court. Within ten days after the day of such submission, the bankruptcy court shall, after a hearing, determine whether such plan is fair and equitable to the estate of the Milwaukee Railroad.

(c) If the Commission finds that the plan is feasible and the bankruptcy court determines that the plan is fair and equitable to the estate of the Milwaukee Railroad, the proponents of such plan shall, no later than May 10, 1980, implement the plan.

(d) Except as provided in this section, the findings of the Commission with respect to the plan shall not be subject to review.

(e) (1) The trustee of the Milwaukee Railroad shall promptly provide to the person engaged in developing the employee or employee and shipper ownership plan under this section—

(A) its most recent reports on the physical condition of the railroad; and

(B) traffic, revenue, marketing, and other data necessary to determine the amount of the acquisition cost of the railroad or portion of the railroad that would be required to continue rail transportation over the railroad line.

(2) Information provided pursuant to this subsection shall be used only for purposes of preparing a plan and shall not be disclosed to any competitor or customer of the Milwaukee Railroad.

(f) In the implementation of any employee or employee and shipper ownership plan involving expenditures or guarantees of Federal funds as hereinafter provided, authorizations shall be conditioned upon an appropriate contribution from employees, including such measures as exchange of assets for relinquishing labor protection claims and changes in work rules to increase productivity: *Provided, however,* That the employee-shipper actual or in kind contribution shall be no less than 25 per centum of the total required financing.

EMERGENCY RAIL SERVICES ACT OF 1970

SEC. 6. (a) Subsection (a) of section 3 of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(a)) is amended by striking out "upon a finding" in the fifth sentence and all that follows in that subsection and inserting in lieu thereof a period.

(b) Section 3(c) of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(c)) is amended to read as follows:

"(c) The Secretary shall not guarantee any certificate under this section unless such certificate is treated as an expense of administration and receives the highest lien on the railroad's property and priority in payment under the Bankruptcy Act, except that this subsection shall not apply to certificates guaranteed for a railroad that is actively engaged in restructuring, as defined by the Secretary. For purposes of this subsection, the term 'restructuring' includes an employee ownership plan or an employee-shipper ownership plan.".

(c) Section 3(e) of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(e)) is amended by striking out "$125,000,000" and inserting in lieu thereof "$200,000,000".

(d) The Secretary of Transportation shall, under the authority of the Emergency Rail Services Act of 1970, immediately guarantee trustee certificates of the Milwaukee Railroad, on the basis of an estimate of the amount required to be provided under subsection (e) of this section, for purposes of allowing the Milwaukee Railroad to maintain its entire railroad system and as required to finance the operations which the Milwaukee Railroad continues from the date of enactment of this Act until the sixty-day period beginning on the date of the occurrence of an event described in section 11 (b) of this Act or on May 10, 1980, whichever first occurs. Such guarantee shall be made without regard to the findings set forth in section 3(a) of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(a)). The provisions of section 3(b)(3) and of the last sentence of section 3(d) of such Act shall not apply to the guarantee of trustee certificates under this section.

(e) The Secretary shall guarantee trustee certificates of the Milwaukee Railroad pursuant to this section in an amount equal to the difference between (1) the total expenses found necessary by the trustee of such railroad for the maintenance and the continuation of service in accordance with subsection (d) of this section, and (2) the revenues of such railroad, both determined in accordance with the Uniform System of Accounts prescribed by the Commission.

(f) Notwithstanding any of the provisions of section 3(c) of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(c)), as amended by this Act, certificates guaranteed under this Act shall be subordinated to the claims of any creditors of the Milwaukee Railroad as of the date of enactment of this Act. No payment of interest or principal upon certificates guaranteed under this section shall be required until the conclusion of the Milwaukee Railroad reorganization proceedings, or three years from the date of enactment of this Act, whichever first occurs.

NEW CAREER TRAINING ASSISTANCE

SEC. 7. (a) Any employee who elects to receive a separation allowance shall be entitled to receive from the Railroad Retirement Board expenses for training in qualified institutions for new career opportunities.

(b) To be entitled for assistance under this section, an employee must begin his course of training within two years following the date of his separation from employment with the Milwaukee Railroad.

(c) Entitlement to expenses for assistance under this section shall be determined by the Railroad Retirement Board on the basis of an application therefor filed by an employee with the Board.

(d) As used in this section—

(1) the term "expenses" means actual expenses paid for room, board, tuition, fees, or educational material in an amount not to exceed $3,000;

(2) the term "qualified institution" means an educational institution accredited for payment by the Veterans' Administration under chapter 36 of title 38, United States Code.

(e) The Railroad Retirement Board may prescribe such rules as may be necessary to carry out its duties under this section.

(f) There is authorized to be appropriated for new career training assistance under this section not to exceed $1,500,000.

OBLIGATION GUARANTEES

SEC. 8. (a) The Secretary of Transportation, under the authority of section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831), shall guarantee obligations of the Milwaukee Railroad for purposes of providing protection of employees affected by restructuring, transactions, or reduction in service by the Milwaukee Railroad. Such protection may include, but need not be limited to, moving expenses, compensation for employee relocation and separation allowances. Such guarantees shall be entered into without regard to the requirements of subsection (g) of such section 511. Any obligation guaranteed pursuant to this section shall be treated as an administrative expense of the estate of the Milwaukee Railroad.

(b) The aggregate unpaid principal amount of obligations which may be guaranteed by the Secretary pursuant to subsection (a) of this section shall not exceed $75,000,000.

(c) If funds available to the Milwaukee Railroad pursuant to obligation guarantees of the Secretary of Transportation under subsection (a) of this section are insufficient to pay the total amount of benefits and allowances for which employees are eligible, the Milwaukee Railroad shall reduce, on a pro rata basis, the amount provided under each such section.

(d) Except in connection with obligations guaranteed under this section, the United States shall incur no liability in connection with benefits and allowances.

(e) Pursuant to the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, the Secretary of Transportation shall guarantee obligations to finance an equipment repair program for the Milwaukee Railroad, or its successors, during the remainder of 1979 and 1980. Obligations guaranteed under this subsection shall not exceed $30,000,000.

(f) Obligations guaranteed pursuant to subsection (e) of this section shall be subordinated to the claims of any creditor of the Milwaukee Railroad as of the date of enactment of this Act.

TRANSACTION ASSISTANCE

SEC. 9. Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended by adding at the end thereof the following new subsection:

"(f) REHABILITATION FOR COMMON CARRIER SERVICE.—Notwithstanding subsection (a), (b), (c), (d) (1) and (2), and (e) of this section, the Secretary may purchase redeemable preference shares or trustee certificates convertible to redeemable preference shares under this section as necessary to facilitate the rehabilitation and improvement of Milwaukee Railroad property that has been sold to another person prior to November 1, 1980, or retained by the restructured Milwaukee Railroad, and that will be used for continuing rail service.".

APPLICATION OF NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 10. The provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall not apply to transactions carried out pursuant to this Act.

CONTINUATION OF SERVICE

SEC. 11. (a) Until the occurrence of an event described in subsection (b) of this section, the Milwaukee Railroad (1) shall maintain its entire railroad system, as it existed on the date of enactment of this Act, (2) shall continue no less than the regular level of service provided by it as of that date, and (3) shall not embargo traffic (other than when necessitated by acts of God or safety requirements) or abandon or discontinue service over any part of its railroad system.

(b) The Milwaukee Railroad shall comply with the requirements of subsection (a) of this section until—

(1) an employee or employee-shipper ownership plan is not submitted to the Interstate Commerce Commission within the time period prescribed under section 5(a) of this Act;

(2) the proposed plan is found by the Commission not to be feasible or the Commission does not act within 30 days;

(3) the proposed plan is found by the bankruptcy court not to be fair and equitable to the creditors of the Milwaukee Railroad; or

(4) the plan is not implemented within the time period prescribed under section 5(c) of this Act.

EMPLOYEE STOCK OWNERSHIP PLAN FOR SURVIVING PORTION OF MILWAUKEE RAILROAD

SEC. 12. If an event described in section 11(b) of this Act occurs, resulting in the survival of less than the entire Milwaukee Railroad system, then any relief provided for such surviving Milwaukee Railroad system under the Emergency Rail Services Act of 1970 or any other Federal legislation shall be conditioned upon good faith efforts by the Trustee and/or the Railroad to establish an employee stock ownership plan which plan shall embrace the purchase or acquisition of qualifying employer securities of the Milwaukee equal in value to 25 percent of the amount of such relief provided.

AMENDMENT TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

SEC. 13. Section 211(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721 (e)) is amended by striking out paragraph (2) thereof and the sentence following that paragraph, and inserting in lieu thereof the following:

"(2) increase the principal amount of such loan to such railroad, in an amount not to exceed $4,000,000, only if the Association makes the finding referred to in paragraph (1)(B) of this subsection, determines that such railroad is making a good faith effort to establish an employee stock ownership plan for review and approval by the Association and receives a written commitment from the railroad that, by December 31, 1980, the railroad will adopt the employee stock ownership plan which will acquire qualifying employee stock with a fair market value of $250,000. The Association may not take any action pursuant to the preceding sentence of this subsection after December 31, 1980.".

AMENDMENTS TO THE DEPARTMENT OF TRANSPORTATION ACT

SEC. 14. (a) Section 5(h)(3)(B) of the Department of Transportation Act (49 U.S.C. 1654(h)(3)(B)) is amended—

(1) in the second sentence thereof, by striking "In accordance with the formula stated in this subsection, the", and inserting in lieu thereof "The"; and

(2) by adding at the end thereof the following: "Notwithstanding the provisions of this subsection, funds available for reallocation as of October 1, 1979, shall be reallocated by the Secretary solely to States which require supplementary assistance to mitigate the effects caused by the filing of large-scale abandonments by railroads in liquidation or reorganization under the Bankruptcy Act. In making such reallocation, the Secretary shall give consideration to the amount of mileage in the State for which an application for abandonment or discontinuance has been filed with the Interstate Commerce Commission in accordance with the provisions of section 10903 of title 49, United States Code, but has not been approved or denied. Consideration shall also be given to the relationship which such mileage bears to the total rail mileage in each State requiring supplementary assistance under this subparagraph.".

(b) The second sentence of section 5(h)(2) of the Department of Transportation Act (49 U.S.C. 1654(h)(2)) is amended by inserting immediately after "and" therein the following: ", except as otherwise provided in this subsection,".

SUMMARY OF S. 1905, AS ORDERED REPORTED BY THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

MILWAUKEE RAILROAD[1] RESTRUCTURING ACT

A brief summary of the attached bill follows:

ESOP (SECTION 5)

1. Not later than December 15, 1979, an employee or shipper-employee group may submit to the Interstate Commerce Commission a plan for converting all or a substantial part of the Milwaukee Railroad into an employee or employee-shipper owned company, such plan to include a method for implementation and an evaluation of the prospects for self-sustainability of the Milwaukee Railroad.

2. The Commission is required to determine whether the plan is feasible within 30 days after submission. Feasibility is to be based on the following findings:

a. that adequate financing is available;

b. that the plan is fair and equitable to the estate of the Milwaukee;

c. that implementation will occur by May 10, 1980;

d. that the railroad can be operated on a self-sustaining basis;

e. that the plan includes changes in operating practices designed to achieve labor productivity increases.

If the plan is found to be feasible, it is to be submitted to the Bankruptcy Court.

3. The Bankruptcy Court shall hold a hearing within 10 days and determine whether the plan is fair and equitable to the estate of the Milwaukee.

4. If the I.C.C. and the Bankruptcy Court approve the plan, the proponents of the plan shall implement it by May 10, 1980.

5. Implementation of any plan involving expenditures or grants of Federal funds will be conditioned on an appropriate contribution from employees or employee-shippers. This contribution shall not be less than 25 percent of the required financing.

Section 11 of the bill provides for continuation of service at the level provided on the date of enactment until (1) the plan is not implemented, (2) the plan is not timely filed, or (3) there is an adverse finding by the I.C.C. or the Bankruptcy Court.

OTHER PROVISIONS

The bill also includes provisions for funding, labor protection, and expedited handling of abandonments and sales. The Emergency Rail Services Act of 1970 (ERSA) is amended by striking out the findings ordinarily required, including the finding that "the railroad can reasonably be expected to become self-sustaining." Certificates are not to be guaranteed under this section unless the certificate is treated as an expense of administration and receives the highest lien, except that this requirement is not applicable to certificates guaranteed for railroads engaged in "restructuring," which includes an ESOP plan. The ERSA funds provided the Milwaukee under the "restructuring" provision would be subordinated to the claims of creditors of the estate. Section 3(e) of ERSA is amended to revise upward the permissible outstanding aggregate principal amount of certificates from $125,000,000 to $200,000,000. ERSA certificates are to be issued to allow continued service until 60 days after May 10, 1980, or 60 days after occurrence of an event described in section 11,[2] whichever first occurs. (Section 6)

Training assistance for new careers is provided for employees displaced by the restructuring of the Milwaukee Railroad or a reduction in service over the line. (Section 7)

Under Title V of the Railroad Revitalization and Regulatory Reform Act, the Secretary is to guarantee obligations of the Milwaukee Railroad for employee protection purposes, including (but not limited to) moving expenses, compensation for employee relocation and separation allowances. Guarantees under this section are limited to $75,000,000; the obligations are to be treated as an administrative expense of the estate and not subordinated to creditors' claims. (Section 8)

The bill applies the expedited procedures of the new bankruptcy law, section 1170 of title 11, U.S.C., to pending abandonments, including the Milwaukee, the Rock Island and the Boston and Maine. However, the Bankruptcy Court cannot finally approve a Milwaukee abandonment until March 1, 1980 (unless an ESOP is not filed or there is an adverse finding by the I.C.C. or the bankruptcy court). With regard to sales and transfers by railroads in reorganization, expedited I.C.C. handling of all new cases would be required, but transactions of this nature would not be subject to the new bankruptcy provisions. (Sections 3 and 4)

In order to facilitate rehabilitation and improvement of Milwaukee Railroad property retained by the railroad or sold to another entity prior to November 1, 1980 for common carrier purposes, the Secretary is authorized to purchase redeemable preference shares or trustee convertible certificates. (Section 9)

The Regional Rail Reorganization Act of 1973 is amended to provide for an increase of $4,000,000 in the principal amount available to the Delaware and Hudson Railway Company, provided an ESOP is being established, subject to specified conditions including review and approval by the United States Railway Association. (Section 12)

Finally, the Department of Transportation is required (in a manner similar to S. 1781) to provide for reallocation of funds available as of October 1, 1979, to States requiring supplementary assistance under the "Branch Line" legislation revised last year. This provision is intended to mitigate the effects of large-scale abandonment filings by railroads in reorganization. (Section 13)

Mr. PACKWOOD. Mr. President, I join the distinguished chairman of the Senate Committee on Commerce, Science, and Transportation in reporting out the Milwaukee Railroad Restructuring Act of 1979. The committee met this morning in an emergency executive session immediately following a third oversight hearing on the financial condition of the Milwaukee Railroad. The transportation crisis now occurring throughout the 11-State Milwaukee territory requires our immediate attention. It had been expected that rail service would be continued throughout November 30, 1979, however, an adverse decision by the bankruptcy court having jurisdiction over the Milwaukee Railroad operations has resulted in an order terminating operations on November 1, 1979.

Mr. President, I am pleased to note that the bill, as reported, has been amended to some degree, but those amendments do not change the thrust of the original provisions of S. 1905. It is important that Members realize that the Commerce Committee's unanimous approval of this legislation is premised on the principle that this is the Senate position with regard to restructure the Milwaukee Railroad.

Senate Joint Resolution 114, which was also pending before the Senate Commerce Committee is very similar to the provisions of the measure now being contemplated in the House. The committee specifically chose not to report Senate Joint Resolution 114 as the vehicle for the restructure of the Milwaukee Railroad. The House provision (S.J. Res. 114) provides many substantial changes to the existing law regarding sales, transfers, mergers, and abandonments of portions of all railroads across the Nation, including the Milwaukee Railroad. The changes would have allowed bankruptcy judges the authority to terminate all such proceedings before the Interstate Commerce Commission and resolve the issue within the confines of their bankruptcy court jurisdiction. Members of the Commerce Committee hold the unanimous opinion that the bankruptcy court is not the proper entity to resolve these very sensitive restructure measures which have tremendous competitive and market implications.

Finally Mr. President, I should like to advise that Chairman CANNON and I are prepared to hold tight on the provisions of S. 1905. We envision this as the final compromise. We do not anticipate diverting from the basic provisions of S. 1905 and are prepared to insist on the Senate provisions. If the House should find itself in permanent technical disagreement, then we will have to resolve ourselves with the idea that directed service should be considered as the second best alternative to the provisions of S. 1905. I urge my colleagues to support the provisions of S. 1905 as reported and amended.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Banking, Housing and Urban Affairs:

Ronald P. Laurent, of Illinois, to be President of the Government National Mortgage Association.

Gloria Cusumano Jimenez, of North Carolina, to be an Associate Director of the Federal Emergency Management Agency.

Jane McGrew, of Maryland, to be General Counsel of the Department of Housing and Urban Development.

(The above nominations from the Committee on Banking, Housing and Urban Affairs were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. WILLIAMS, from the Committee on Labor and Human Resources:

Francis Severin Johnson, of Texas, to be an Assistant Director of the National Science Foundation.

William Klemperer, of Massachusetts, to be an Assistant Director of the National Science Foundation.

The following-named persons to be Members of the Federal Council on the Aging:

Cyril Hilary Carpenter, of Minnesota;
John B. Martin, of Maryland;
Mary Crowley Mulvey, of Rhode Island;
Jean Jones Perdue, of Florida; and
Aaron E. Henry, of Mississippi.

(The above nominations from the Committee on Labor and Human Resources were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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[1] Chicago, Milwaukee, St. Paul and Pacific Railroad Company.

[2] See preceding paragraph.

By Mr. PELL, from the Committee on Foreign Relations:

John Gunther Dean, of New York, a Foreign Service Officer for promotion from class 1 to the class of career minister.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: John G. Dean.
Post: Career Minister.
Nominated July 27, 1979.
Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses names, none.
4. Parents names, none.
5. Grandparents names, none.
6. Brothers and spouses names, none.
7. Sisters and spouses names, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. PELL, from the Committee on Foreign Relations: Samuel W. Lewis, of Texas, a Foreign Service Officer for promotion from class 1 to the class of career minister.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: Samuel W. Lewis.
Post: Career Minister.
Nominated July 27, 1979.
Contributions, amount, date, and donee:

1. Self, None.
2. Spouse, none.
3. Children and Spouses Names, Pamela G. Lewis, Richard W. Lewis, none.
4. Parents names, Grace M. Smoot, none.
5. Grandparents names, ——
6. Brothers and Spouses names, ——
7. Sisters and Spouses names, Mr. and Mrs. J. A. Miller, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. PELL, from the Committee on Foreign Relations:

Stephen Low, of Ohio, a Foreign Service Officer for promotion from class 1 to class of career minister.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly consitituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: Stephen Low.
Post: Lagos, Nigeria.
Contributions, amount, date, and donee:

1. Self, Stephen Low, none.
2. Wife, Helen C. Low, $25; January 29, 1976, Morris Udall.
3. Sons Stuart C. Low, $25; March 3, 1976, Morris Udall.

Rodman M. Low, $20; May 28, 1976, Morris Udall.

Peter J. Low, none.

4. Mother, Margaret F. Low, $25, December 10, 1975, Bella Abzug; $25, July 3, 1975, Jimmy Carter; $25, September 30, 1975, Jimmy Carter; $25, December 10, 1975, Ramsey Clark; $25, September 30, 1975, Fred Harris; $25, April 24, 1976, Ramsey Clark; $185, May 20, 1975 to May 20, 1976, Morris Udall.
6. Brother and spouse, Martin L. Low, Alice B. Low, under $200 per year in 1975 and 1976.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. Although I have not yet had a reply from them, I am quite certain that none of my children has made contributions totalling more than $50 in the period 1976 to the present, that my brother and his wife have not made contributions of more than $200 per year, and that my mother (who is now ninety) has propably made fewer contributions than shown for 1975 and 1976. I will submit the precise information when I receive it. To the best of my knowledge, the information contained in this report is accurate and complete through the dates given.

By Mr. PELL, from the Committee on Foreign Relations: William H. Luers, of Illinois, a Foreign Service officer for promotion from class 1 to the class of career minister.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: William H. Luers.
Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, separated.
3. Children and Spouses Names: Mark B. Luers, David L. Luers; None.
4. Parents names, dead.
5. Grandparents names, dead.
6. Brothers and Spouses names, none.
7. Sisters and Spouses Names: Mr. and Mrs. Richard Phelps, Dr. and Mrs. J. J. McCaffrey, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. PELL, from the Committee on Foreign Relations: Richard W. Murphy, of Maryland, a Foreign Service Officer for promotion from class 1 to the class of career minister.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: Murphy, Richard W.
Post: Manila.
Nominated: July 27, 1979.
Contributions, amount, date, and donee:

1. Self, $100, October 1979, John Pittenger, Candidate for Democratic nominations for Senator, State of Pennsylvania.
2. Children and Spouses Names: Katherine, $100, July 1979 (Approximately), same.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. PELL, from the Committee on Foreign Relations: James W. Spain, of Florida, a Foreign Service Officer for promotion from class 1 to the class of career minister.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: James W. Spain.
Post: Ambassador.
Contributions, amount, date and donee:

1. Self, none.
2. Spouse, $100.00, $20.00 for 1975, 1976, 1977, 1978, 1979; Democratic National Committee.
3. Children and Spouses names, None.
4. Parents Names, None.
5. Grandparents Names, None.
6. Brothers and Spouses Names, None.
7. Sisters and Spouses Names, None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. PELL, from the Committee on Foreign Relations: O. Rudolph Aggrey, of the District of Columbia, a Foreign Service information officer of class 1, for promotion to the class of career minister for information.

(The nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: O. Rudolph Aggrey.
Post: Bucharest, Romania.
Nominated July 27, 1979.
Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, Francoise F. Aggrey, none.
3. Children and Spouses Names, Roxane Aggrey, none.
4. Parents Names, N.A. (deceased).
5. Grandparents Names, N.A. (deceased).
6. Brothers and Spouses Names: Mr. and Mrs. Kweggis Aggrey, none.
7. Sisters and Spouses Names: Mr. and Mrs. S. W. Lancaster, none; Miss Rosebud Aggrey, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LEVIN:

S. 1944. A bill for the relief of Peter Chi Hung Kwok, M.D., and Ping Chi Chau Kwok, husband and wife; to the Committee on the Judiciary.

By Mr. LEVIN (for himself and Mr. BOREN):

S. 1945. A bill to increase the accountability of, policy coordination by, and management of priorities by agencies through an improved mechanism for congressional oversight of the rules of agencies; to the Committee on Governmental Affairs.

By Mr. CANNON (for himself, Mr. LONG, and Mr. PACKWOOD):

S. 1946. A bill to reform the economic regulation of railroads, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. RIBICOFF (for himself and Mr. MATHIAS):

S. 1947. A bill to amend title 5, United States Code, to extend the provisions of the Federal Physicians Comparability Allowance Act of 1978, and for other purposes; to the Committee on Governmental Affairs.

By Mr. MATHIAS:

S. 1948. A bill to amend the act entitled "An Act for the relief of Alice W. Olson, Lisa Olson Hayward, Eric Olson, and Nils Olson"; to the Committee on the Judiciary.

By Mr. GRAVEL:

S. 1949. A bill for the relief of Asha A. Gangwani and her son, Anil A. Gangwani; to the Committee on the Judiciary.

By Mr. JAVITS (for himself, Mr. MOYNIHAN, Mr. SARBANES, Mr. MATHIAS, Mr. BAYH, and Mr. TSONGAS):

S. 1950. A bill to waive the time limitation on the award of certain military decorations to members of the Intelligence and Reconnaissance Platoon of the 394th Infantry Regiment, 99th Infantry Division, for acts of valor performed during the Battle of the Bulge; to the Committee on Armed Services.

By Mr. MATHIAS:

S. 1951. A bill for the relief of Robert L. VanNess, of Gaithersburg, Md.; to the Committee on the Judiciary.

By Mr. GRAVEL:

S. 1952. A bill for the relief of Elizabeth C. Zuill; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEVIN (for himself and Mr. BOREN):

S. 1945. A bill to increase the accountability of, policy coordination by, and management of priorities by agencies through an improved mechanism for congressional oversight of the rules of agencies; to the Committee on Governmental Affairs.

AGENCY ACCOUNTABILITY ACT OF 1979

• Mr. LEVIN. Mr. President, I am very pleased to be introducing today along with Senator DAVID BOREN the Agency Accountability Act of 1979 which would establish a procedure for congressional review of agency rules and regulations. This legislative review procedure is different from what is commonly called "legislative veto".

Although I am new to the Senate, I have 8 years of recent experience with Federal regulations as applied to local communities. I served as a member and president of the Detroit City Council during those years. In that role I initially looked forward to working with the Federal Government to solve our community problems, to ease our financial burden, to reduce our urban blight. Instead of working with the Federal Government, however, I ended up battling it for much of that period.

For example, Detroit's experience with HUD programs has been a well-documented and publicized horror story. A large part of that story can be blamed on HUD regulations that were directed more at protecting the hide of that particular Department than at implementing the purpose of legislation.

While Detroit was writhing in pain from destructive HUD regulations and policies, HUD continued to follow rules that could not be bent and regulations which undermined legislative intent. And while the rules and regulations stood strong, the buildings continued to decay, the neighborhoods continued to deteriorate, the city continued to decline. And HUD was not the only one. From my 8 years in city government I could run down a list of agencies which displayed the same attitudes and the same orientation.

We too often lose control over the noble goals of our legislation in the bureaucratic and regulatory maze of huge executive departments. The public more and more becomes desperately frustrated by destructive implementation of statutes, and Congress often stands by impotently. I believe that a principle motivation behind measures to arbitrarily limit Government spending is not so much dissatisfaction with the purposes of Government programs as with the mismanagement, waste, arrogance, inflexibility, and loss of accountability connected to the implementation of those programs.

In the almost 50 years since the New Deal, we have seen valuable social programs created by Congress spawn a new administrative branch of government which is in some ways more powerful than Congress, the courts, and the President combined. That power comes, in part, from the administrative control these agencies have over the entire range of issues which pervade public life. But in larger part it comes from their structural independence—their exclusion from the delicate mathematics of our system of checks and balances.

The result of that independence is a branch of government which is not directly accountable to the political process and enforcing regulations not directly subject to effective review. Tolerating this situation is a mistake. It is my sincere hope that the introduction of this bill today marks a step toward wrestling the control of our Federal Government out of the hands of our bureaucracies and returning it to the elected representatives of the people of the United States.

I know of the controversy surrounding the so-called legislative veto, a controversy that centers for the most part on the constitutionality of a process that would omit the President from the congressional decision to disapprove a rule or regulation. This bill avoids that controversy because it does not use the device of a "one house" or a "one and one-half" house veto or a concurrent resolution. A disapproval of an agency rule or regulation under this bill would require the passage, within 90 days of final publication, of a bill or joint resolution—both of which require Presidential approval.

This bill gives the appropriate committee the power, during a 30-day period, to delay the effective date of a rule or regulation. If the power is exercised, Congress then has a 60-day grace period during which time it can review a rule or regulation before it takes effect. If Congress determines during that period that a regulation is contrary to the legislative intent, Congress can act to disapprove the regulation before it goes into effect. Under this bill, Congress need not consider each and every regulation.

This bill provides a system by which each committee having legislative jurisdiction over an agency or department is notified on a semiannual basis of the rules and regulations being studied by each department or agency. The committee is then free to chose to review those regulations which it feels may violate Congressional intent or which may in other ways be inconsistent with or different from the goals of the legislation sought to be inforced.

The bill would establish the following procedure for all agencies (with certain limited exceptions):

First. Every 6 months the head of each agency must submit to the Senate and House committee having legislative jurisdiction over it, an agenda of all regulations being developed by that agency.

Second. The chairperson of any such committee can request and the agency head shall then forward a copy of any proposed regulation.

Third. No regulation can become effective until 30 days after final publication.

Fourth. If during that 30-day period the appropriate committee of either house reports out a joint resolution or bill disapproving the regulation, the regulation cannot go into effect for another 60 days.

Fifth. Congress then has that 60-day period during which it can pass a joint resolution or bill of disapproval.

This procedure is very similar to the procedure we recently added to this year's authorizing language for the Department of Housing and Urban Development. It is too early to judge the results of this procedure on HUD regulations. This bill also contains a 3-year sunset provision so it will terminate on its own should it prove unworkable or unhelpful.

Opponents of legislative review of agency regulations often say that it places an inappropriate burden on Congress. As I understand this argument, they are really making two points. First, they claim that the task of the Congress is to make law and not to review the regulations of the executive branch. Second, they suggest that giving Congress this power is tantamount to giving special interest groups an unwarranted ability to influence regulations.

To the argument that Congress should pass laws and not review regulations, I say that when administrative implementation prevents a law from working as we intended it to work, then we have a special and particular obligation to exercise our oversight responsibility before the law which we have passed is so undermined.

This bill does not require congressional committees to examine every regulation of each agency—it simply gives us the practical ability to do so. The bill does not mandate action. I suspect we will only rarely decide to disapprove regulations, but at least the power to do so will be there. And, I believe that power, the power to protect the integrity of our legislation, will be a great deterrent to administrative abuse and is often just as important as the power to pass the initial legislation itself.

To the argument that special interest groups will have undue power and that Congress will have to make some tough decisions, I say that we ought to make those tough decisions. That is what we are here for. We cannot maintain the integrity of the legislative process if we abrogate our legislative powers and responsibilities to nonelected unaccountable bureaucracies. If we keep on passing laws and allow the agencies to unduly expand or contract them, or otherwise act inconsistently with their intent, then there is little accountability politically in this democracy of ours because the agencies are simply not subject to the collective will of the electorate.

I do not believe that the Founding Fathers conceived of a system in which unelected officials make basic legislative decisions. I do not believe that we will be unduly swayed by special interest pleadings during the grace period of legislative review any more than we were when we passed legislation in the first place. I have faith in our integrity to do what we believe is right. I also have faith in the checks and balances which exist between the special interest communities. We will continue to find vocal, powerful and potent interests on many sides of any issue.

Mr. President, Congress and the citizens of this country have been struggling for the past decade with the seeming omnipotence—and an all-too-often misguided omnipotence—of Federal bureaucracies. The good intentions that created the significant social legislation of recent decades have been lost in the rampant growth of government. This once "embryonic," then "growing," now "massive and entrenched" bureaucracy with 13 departments and hundreds of agencies has too often developed a cavalier attitude, and frequently engaged in conduct antithetical, to the intent of Congress. Local government officials, business people, and neighborhood residents often spend more time fighting the Federal entities that were created to serve and help them than they do the problems which these agencies were designed to solve. The fourth branch of Government is real; it exists; and we have created it. Now we have got to regain control of it. I believe that this bill is one of the more promising ways to do just that.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1945

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Agency Accountability Act of 1979".

FINDINGS AND PURPOSES

Sec. 2. (a) The Congress finds and declares that—

(1) there has been a continued expansion in the number and significance of rules promulgated by agencies;

(2) rules have been promulgated by agencies which conflict with or duplicate other rules or which do not conform with legislative intent;

(3) conflicting or duplicative rules contribute to governmental inefficiency, and rules which do not conform with legislative intent reduce the effectiveness of congressionally mandated programs; and

(4) conflicting or duplicative rules and rules which do not conform with legislative intent also exacerbate the relationships between the Federal Government and State governments.

(b) It is the purpose of this Act, therefore, to assure increased agency accountability to elected officials and adherence to legislative intent in the promulgation of agency rules as well as to facilitate agency policy, coordination and management of priorities through the establishment of a congressional oversight mechanism and the preparation and submission of semiannual regulatory agendas by the agencies.

AGENCY MANAGEMENT OF PRIORITIES

Sec. 3. Notwithstanding any other provision of law, the head of each agency shall prepare and transmit to each committee of the Senate and the House of Representatives having legislative jurisdiction over the agency an agenda describing all rules under development or review by the agency. The agenda shall be transmitted to each such committee within 30 days after the effective date of this section and at least semiannually thereafter.

TRANSMISSION OF AGENCY RULES TO CONGRESS

Sec. 4. (a) If the Chairman of any committee to which an agenda was transmitted under section 3 provides written notification to the head of the agency which submitted such agenda that the committee intends to review any rule or any portion thereof which appears on such agenda, the head of the agency shall transmit forthwith to each committee to which an agenda was transmitted under section 3 a copy of the rule in the form in which it is intended to be proposed by the agency.

(b) If any final rule served or published under section 553(d) of title 5, United States Code, was not included in an agenda required under section 3, the head of the agency promulgating such rule shall transmit a copy of such rule to each committee to which an agenda was transmitted under such section on the day the rule is published as final.

CONGRESSIONAL OVERSIGHT

Sec. 5. (a) (1) Notwithstanding any other provision of law, no rule may become effective until the expiration of a period of 30 calendar days of continuous session of Congress after the date on which a final rule is served or published as final under section 553(d) of title 5, United States Code. Notwithstanding any other provision of law, if, between the date of publication or service of such rule and the expiration of such 30 day period, any committee of the Senate or the House of Representatives to which a rule has been transmitted under section 4 has reported, or been discharged from further consideration of a joint resolution disapproving the rule or any portion thereof or a bill to modify or invalidate the rule or any portion thereof, the rule or portion thereof addressed by the resolution or bill may not become effective until the earlier of—

(A) 60 calendar days of continuous session of Congress after the date on which the committee reported or was discharged from further consideration of such resolution or bill; or

(B) any time after the expiration of the 30 day period described in the first sentence of this paragraph if the House to which such committee has reported or has been discharged from further consideration of such resolution or bill has rejected such resolution or bill, except that a rule may not become effective under this subparagraph if the other House of Congress has adopted a resolution or bill concerning such rule or such a resolution or bill is pending in such other House within the 60 day period specified in subparagraph (A).

(2) No rule may become effective under this section unless such rule otherwise complies with the provisions of section 553 of title 5, United States Code.

(b) The provisions of section 4 and section 5(a) may be waived with respect to a particular rule if—

(1) the head of the agency promulgating the rule determines that there is a compelling need for immediate agency action in promulgating the rule;

(2) the head of the agency submits to the chairmen and ranking minority members of the committees of the Senate and the House of Representatives having legislative jurisdiction over the agency a written request for the waiver of such provisions, including a statement for the waiver of such provisions, including a statement of his determination under paragraph (1); and

(3) such chairmen and ranking minority members agree to such request.

(c) Congressional inaction or rejection of any resolution or bill concerning a rule shall not be deemed an expression of approval of the rule involved.

(d) For purposes of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of calendar days of continuous session of Congress.

DEFINITIONS

Sec. 6. For purposes of this section—

(1) the term "agency" has the same meaning as in section 551(1) of title 5, United States Code; and

(2) the term "rule" has the same meaning as in section 551(4) of such title, except that the term "rule" does not include a rule issued with respect to (A) a military or foreign affairs function of the United States, (B) agency management or personnel, or (C) agency organization, procedure or practice.

EFFECTIVE DATE

Sec. 7. (a) This Act shall become effective at the beginning of the first session of the Ninety-seventh Congress.

(b) This Act shall lapse at the adjournment sine die of the Ninety-ninth Congress unless renewed prior thereto.●

● Mr. BOREN. Mr. President, I am very pleased to join Senator Levin in cosponsoring the Agency Accountability Act of 1979.

I am in total sympathy with the objectives of this act. If I may quote directly from the act, Mr. President:

> It is the purpose of this Act, therefore, to assure increased agency accountability to elected officials and adherence to legisla-

tive intent in the promulgation of agency rules as well as to facilitate enhanced agency policy, coordination and management of priorities through the establishment of a congressional oversight mechanism and the preparation and submission of semiannual regulatory agendas by the agencies.

The key word is "accountability." In August, I issued a press release concerning a bill of my own to deal with this issue. I said then that I strongly believe laws should be made by elected officials and not by unelected bureaucrats. No laws should be made by bureaucrats that no one can reach.

With the possible exception of inflation, I receive more mail on the abuses and cost of governmental regulations than any other issue and, I might add, there is a strong link between inflation, Government spending and the 7,000 new regulations Federal agencies are pouring out each year.

We are all familiar with the figures quoted by Dr. Murray Weidenbaum of the Center for the Study of American Business in St. Louis. In 1979, industry will spend $100 billion as the result of Government regulations.

I was very interested in an article recently published by the Heritage Foundation in their fall issue of Policy Review. The article was written by Jay Van Andel, chairman of the board for the Amway Corp., and chairman of the board of the U.S. Chamber of Commerce and Richard M. DeVos, president of Amway Corp., who holds a doctor of law degree from Oral Roberts University in my own State of Oklahoma.

These two distinguished men argue that Government regulation has, ironically, resulted in increased costs to the consumer and the denial of products that have value to the public. Small business people, in particular, find themselves stirred by Government regulations. The authors cite the cost of compliance to those rules as more than $3,600 per year for each small business person in the country; "for every dollar the government spends to enforce regulation," say the authors, "twenty are spent to comply. The capital invested in compliance cannot be used for new plants, equipment, or research, and costs must necessarily be passed on to the consumer." To reform this system of regulations which "has become so onerous that it wreaks havoc in the lives of all Americans," the authors suggest that Congress must assume veto power over regulation and enact sunset legislation, establishing the date upon which each regulatory body will be terminated.

I could not agree more, Mr. President. I know the difficulties I have in getting agencies to respond to inquiries about their decision and practices, I can only imagine the problems facing the citizens of any State in seeking the same information and I firmly believe that this lack of response stems from a prevailing feeling in the bureaucracy that they are not accountable. The Agency Accountability Act of 1979 is a giant step in rectifying that situation, Mr. President. And I am pleased to be associated with it.●

By Mr. CANNON (for himself, Mr. LONG, and Mr. PACKWOOD):

S. 1946. A bill to reform the economic regulation of railroads, and for other purposes; to the Committee on Commerce, Science, and Transportation.

RAILROAD TRANSPORTATION POLICY ACT OF 1979

Mr. CANNON. Mr. President, in 1976, Congress enacted the Railroad Revitalization and Regulatory Reform Act—a measure which was intended to provide the railroads a substantial measure of regulatory reform and greater pricing freedom in competitive markets. The benefits of this legislation have been less than expected. The railroads' financial problems remain. The industry as a whole is earning a rate of return of less than 3 percent. The Nation's railroads have not been able to adequately maintain their facilities, and the quality of service has not improved.

Although the problems of the railroads are complex and may be attributed to many sources, most observers agree that economic regulation has exacerbated the railroads' problems. In March of this year, at the request of the administration, I introduced S. 796, the Railroad Deregulation Act. The bill provided for drastic changes, including virtually total deregulation after 5 years. The Surface Transportation Subcommittee and the full Committee on Commerce, Science, and Transportation held extensive hearings on S. 796, both in Washington and in the field. During the course of the hearings, it became apparent that substantial regulatory reform is needed. However, it also became apparent that S. 796 was not the answer. Based on those hearings and on discussions with the railroads, shippers, unions, and other interested parties, we have drafted legislation which will provide substantial reforms, yet I believe will be responsive to the needs of the public. The overall approach of the bill I am introducing today is to provide the railroads with more pricing flexibility while protecting captive shippers. In addition, the administrative process would be streamlined, to simplify rather than further complicate transportation regulation.

I would emphasize that these proposals do not represent the committee's final recommendations, but stress the need for all concerned to join together behind this bill as a good vehicle to complete our deliberations on this important issue.

There is one very important issue that the legislation does not address—the issue of through routes and joint rates. The administration bill proposed to eliminate the Commission's power to require the carriers to establish joint rates. Although we received considerable testimony in total opposition to the administration's proposal, the question of whether some change in this area was necessary was not specifically discussed in most instances. Many interested parties feel that the issue must be addressed in any reform legislation; others believe the status quo should not be disturbed. The railroads themselves are deeply divided on the issue. Because the issue is so important, I would like to specifically invite further comment on this matter. Certain of the railroads have suggested a compromise approach—to retain mandatory joint rates but permit changes—in the form of a surcharge—without the concurrence of connecting carriers when a railroad's divisions do do not exceed variable costs or if the proposed increase or decrease does not exceed 10 percent of the joint rate. To stimulate discussion, I am inserting in the RECORD language which would implement a compromise approach to joint rates. However, it should be stressed that neither I nor other members of the Commerce Committee have reached any decision on this important issue. I would also point out that various other alternatives are possible. For example, unilateral changes in joint rates could be limited to situations where the existing divisions over a route are below a carrier's variable costs.

The Committee on Commerce, Science, and Transportation will hold hearings on this legislation on the 7th, 8th, and 9th of November. Interested parties are urged to submit their views in writing to the committee prior to the hearings. I look forward to working with my colleagues and all affected parties in enacting effective and realistic rail regulatory reform legislation. We intend to move expeditiously to have this important legislation acted on by the Senate this session.

Mr. President, I ask unanimous consent that the text of the bill, together with the section-by-section analysis and the joint rate language be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

A bill to reform the economic regulation of railroads, and for other purposes.

S. 1946

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Railroad Transportation Policy Act of 1979".

RAILROAD TRANSPORTATION POLICY

SEC. 2. Section 10101 of title 49, United States Code, is amended—

(1) in subsection (a), by striking the first word and inserting in lieu thereof "Except where policy may have an impact on rail carriers, in which case the principles of subsection (b) of this section shall govern, to";

(2) by redesignating subsection (b) as subsection (c); and

(3) by adding immediately after subsection (a) the following new subsection:

"(b) In regulating transportation provided by rail carriers, the Commission shall consider the following as being in the public interest:

"(1) development and maintenance of a healthy, efficient freight transportation system, in the private sector, in which various modes of transportation are subject to impartial regulation;

"(2) maximum reliance on competitive market forces and on actual and potential competition among all transportation modes to provide transportation services at fair prices and to enable efficient and well-managed carriers to earn adequate profits and to attract capital;

"(3) avoidance of undue concentrations of market power;

"(4) reduction of regulatory barriers to entry into and exit from the industry;

"(5) maintenance of fair wages and working conditions;

"(6) operation of transportation facilities and equipment without detriment to the public health and safety;

"(7) development and maintenance of a transportation system responsive to the needs of the public, in which regulatory decisions are reached fairly and expeditiously;

"(8) encouragement of the establishment and maintenance of reasonable rates for transportation without undue discrimination or unfair or destructive competitive practices;

"(9) cooperation with each State and the officials of each State on transportation matters;

"(10) elimination of noncompensatory rates for rail transportation; and

"(11) encouragement and promotion of energy conservation.".

TITLE I—RATEMAKING

REASONABLENESS OF RAIL RATES

SEC. 101. Section 10701(b) of title 49, United States Code, is amended—

(1) in paragraph (1), by striking the last two sentences; and

(2) in paragraph (2)(B), by striking "and incremental".

MAXIMUM RATE REGULATION

SEC. 102. Section 10701 of title 49, United States Code, is further amended by adding at the end thereof the following new subsection:

"(e)(1) A rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may establish any rate for such transportation if such rates yields a revenue-to-variable cost ratio that is equal to or less than the average ratio of revenue-to-variable cost established by the Commission pursuant to this subsection.

"(2) At regular intervals, but in no event less often than annually, the Commission shall determine and publish the average ratio of revenue-to-variable cost that the real carrier industry would be required to realize from all transportation provided by the industry in order to cover total operating expenses including depreciation and obsolescence, plus a reasonable and economic profit or return (or both) on capital employed in the business.

"(3) Notwithstanding any other provisions of this subchapter, the Commission shall not have authority to find any rate for transportation authorized under this subsection to be unjust or unreasonable on the basis that such rate exceeds a reasonable maximum for the service rendered or to be rendered.".

RAIL COST ADJUSTMENT INCREASES

SEC. 103. Section 10701 of title 49, United States Code, is further amended by adding at the end thereof the following new subsection:

"(f)(1) A rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may increase any rate for such transportation so long as the new rate is equal to or less than the adjusted base rate for such transportation.

"(2) For the purposes of this subsection—

"(A) the base rate for the transportation of a commodity shall be the rate in effect on January 1, 1980;

"(B) if no commodity rate existed for the transportation of a commodity on January 1, 1980, the base rate for the transportation of such commodity shall be the rate in effect on January 1, 1980, for the most nearly comparable service; and

"(C) the adjusted base rate for the transportation of a commodity shall be an amount determined by multiplying the base rate for the transportation of such commodity by the latest rail cost adjustment factor published by the Commission pursuant to this subsection.

"(3) As often as practicable, but in no event less often than quarterly, the Commission shall publish a rail cost adjustment factor which shall be a fraction, the numerator of which is the latest published Index of Railroad Material Prices and Wage Rates (which index shall be compiled or verified by the Commission) and the denominator of which is the same index for the fourth quarter of 1979.

"(4) Notwithstanding any other provision of this subchapter, the Commission shall not have authority to find any rate for transportation authorized under this subsection to be unjust or unreasonable on the basis that such rate exceeds a reasonable maximum for the service rendered or to be rendered.".

RATE FLEXIBILITY ABOVE COST INCREASES

SEC. 104. Section 10701 of title 49, United States Code, is further amended by adding at the end thereof the following new subsection:

"(g)(1) During any calendar year a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may increase the rate for such transportation by an amount not exceeding 4 percent of the adjusted base rate for such transportation as defined in subsection (f)(2) of this section: *Provided,* That in no event shall the total increase under this subsection during the period from January 1, 1980 to December 31, 1984, or during each consecutive period of 5 years thereafter, exceed an amount equal to 12 percent of the adjusted base rate for such transportation as defined in subsection (f)(2) of this section.

"(2) Any part of a rate increase authorized under paragraph (1) of this subsection which is not implemented in a calendar year may be implemented in the next succeeding calendar year: *Provided,* That in no event shall the total increase under this subsection in any calendar year exceed an amount equal to 8 percent of the adjusted base rate for such transportation as defined in subsection (f)(2) of this section.

"(3) Notwithstanding the provisions of section 10707 of this title, the Commission may not suspend any rate increase authorized by this subsection pending final Commission action, nor may it begin an investigation proceeding under section 10707 of this title with regard to a rate increase authorized by this subsection: *Provided,* That an interested party may file a complaint under section 11701(b) of this title alleging that such increase violates the provisions of this subtitle.

"(4) Not later than 3 years after the effective date of this subsection, and at least every 3 years thereafter, the Commission shall submit to the Congress a report that analyzes the revenue needs of rail carriers and makes such recommendations for the modification of this subsection as the Commission determines may be necessary.".

GENERAL RATE INCREASES

SEC. 105. Section 10701 of title 49, United States Code, is further amended by adding at the end thereof the following new subsection:

"(h)(1) A rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may put into effect a general rate increase described in section 10706(a)(3)(B)(i) of this title if the resulting rates do not exceed—

"(A) the adjusted base rates for such transportation, if such general increase is filed with the Commission in the 1st or 2d year after the effective date of this subsection;

"(B) the adjusted base rates for such transportation 12 months prior to the date of filing of such general increase, plus 90 percent of the difference between the adjusted base rates and the adjusted base rates 12 months prior to the date of filing of such general increase, if such general increase is filed with the Commission in the 3d year after the effective date of this subsection;

"(C) the adjusted base rates for such transportation 12 months prior to the date of filing of such general increase, plus 80 percent of the difference between the adjusted base rates and the adjusted base rates 12 months prior to the date of filing of such general increase, if such general increase is filed with the Commission in the 4th or 5th years after the effective date of this subsection; or

"(D) the adjusted base rates for such transportation 12 months prior to the date of filing of such general increase, plus 70 percent of the difference between the adjusted base rates and the adjusted base rates 12 months prior to the date of filing of such general increase, if such general increase is filed with the Commission in the 6th year after the effective date of this subsection: *Provided, however,* That in each of the first 2 years after the effective date of this subsection, general rate increase in the aggregate filed under this subsection shall not exceed the percentage change in the Index of Railroad Material Prices and Wage Rates during the preceding 12 months: *And provided further,* That in the 3d, 4th, 5th, or 6th years after the effective date of this subsection, a general rate increase filed under this subsection shall not exceed percentage change in the Index of Railroad Material Prices and Wage Rates during the preceding 12 months, subject to the further percentage limitations set forth in paragraph (B), (C), or (D) of this subsection.

"(2) For purposes of this subsection, the adjusted base rate shall be that rate defined in subsection (f)(2)(C) of this section.

"(3) The Commission shall promulgate regulations to implement the provisions of this subsection within 9 months after the effective date of this subsection.

"(4) Within 4 years after the effective date of this subsection, the Commission shall submit to Congress a report on the effect of this subsection, including the potential effects and feasibility of eliminating general rate increases, in accordance with the timetable proposed in this subsection together with recommendations for legislative changes, if needed, in this section and other sections, particularly subsection (g) of this section.

"(5) Six years after the effective date of this subsection, this subsection is repealed and section 10706(a)(3)(B) of this title is amended to read as follows:

"(B) Subparagraphs (A)(i), (ii), and (iii) of this paragraph do not apply to broad tariff changes that are of at least substantially general application throughout the area where the changes will apply.'".

CONTRACT RATES

SEC. 106. (a) Title 49, United States Code, is amended by inserting the following new section immediately after section 10701:

"§ 10701a. Authority for rail carriers to establish contract rates and service

"(a) One or more rail carriers may enter into contracts with one or more purchasers of rail services to provide specified services under specified rates and conditions. Such contracts may contain provisions on subjects including but not limited to, credit cancellation, service, safety and inspection standards, force majeure, and financing of or investment in railroad equipment.

"(b)(1) Service under such a contract

shall be deemed to be a separate and distinct class of service, and the equipment used in the fulfillment of such a contract shall not be subject to car service decisions under section 11123 of this title.

"(2) Notwithstanding paragraph (1) of this subsection, the existence of a contract shall not eliminate the obligation of a rail carrier to provide transportation or service on reasonable request, as set forth in section 11101 of this title. Upon complaint, the Commission may limit the right of a rail carrier to enter into future contracts under this section following a determination that additional contracts would impair the ability of the rail carrier to fulfill its obligations under section 11101 of this title.

"(c)(1) Within 90 days after the date of enactment of this section, and at least annually thereafter, the Commission shall determine the percentage of the equipment of each class I rail carrier (and other rail carriers upon a request from such carriers or on the initiative of the Commission) that may be made available for use in fulfilling such contracts without impairing the carrier's ability to meet its obligations under section 11101 of this title. The Commission shall determine such percentage for locomotives and other equipment owned or leased by the rail carrier by major car type including, but not limited to, plain boxcars, plain gondolas, covered hopper cars, open top hoppers, coal cars, and flat bed equipment (including TOFC/COFC). In making such determination, the Commission shall give consideration to such factors as (A) the supply of equipment on a national, regional, and individual carrier basis; (B) use and demand for each type of equipment during the preceding 2-year period; (C) plans to purchase or otherwise acquire additional equipment; and (D) such other factors as may affect the availability of equipment.

"(2) Any interested party may request modification of the Commission's findings upon a showing of changed circumstances or other good cause.

"(d) Except as expressly provided in this section or in other sections of this title, contracts authorized under subsection (a) of this section shall not be subject to the provisions of chapter 107, chapter 111, or section 11701 of this title. Such contracts shall be subject to the provisions of sections 10704, 10705, 10707, 10726, 10741, 10761, and 10762 of this title.".

(b) The index to chapter 107 of title 49, United States Code, is amended by inserting the following immediately after the item relating to section 10701:

"10701a. Authority for rail carriers to establish contract rates and service.".

EXPEDITIOUS DIVISIONS OF REVENUE

SEC. 107. Section 10705(e)(1) of title 49, United States Code, is amended to read as follows:

"(e)(1) The Commission may begin a proceeding under subsection (a) or (b) of this section on its own initiative or on complaint. The Commission must complete all evidentiary proceedings to adjust the division of joint rates for transportation by a rail carrier within 9 months after the complaint is filed if the proceeding is brought on complaint or within 18 months after the commencement of a proceeding on the initiative of the Commission. The Commission must take final action by the 180th day after completion of the evidentiary proceedings, except that—

"(A) when the proceeding involves a railroad in reorganization or a contention that the divisions at issue do not cover the variable costs of handling the traffic, the Commission shall give the proceeding preference over all other proceedings and shall take final action at the earliest practicable time, which in no event may exceed 100 days after the completion of the evidentiary procedings; and

"(B) in all cases other than those specified in subparagraph (a) of this paragraph, the Commission may decide to extend such a proceeding to permit its fair and expeditious completion, but whenever the Commission decides to extend a proceeding pursuant to this subparagraph, it must report its reasons to Congress.".

RATE BUREAUS

SEC. 108. Section 10706 of title 49, United States Code, is amended—

(1) in the first sentence of subsection (a)(2)(A), by inserting immediately after "facilities and equipment" the following: "and including intrastate rates that affect interstate commerce";

(2) in subsection (a)(3)(A)(i), by striking "or" at the end thereof;

(3) in subsection (a)(3)(A), by redesignating clause (ii) as clause (iii);

(4) in subsection (a)(3)(A), by inserting immediately after clause (i) the following clause:

"(ii) permit a rail carrier to participate in an agreement unless the terms of such agreement provide that all meetings of the parties to the agreement, other than meetings dealing solely with personnel matters or internal administrative matters, shall be open to the public and that all votes shall be open and not secret; or"; and

(5) by adding at the end of subparagraph (a)(3)(A) the following new sentences:

"Notwithstanding clause (i) of this subsection, a rail carrier may participate in discussions related to single-line rates proposed by another rail carrier or rates related to a particular interline movement. Such discussions may include such matters as whether the proposed rates are noncompensatory, would result in discrimination between shippers or localities, would adversely affect the movement of traffic, would result in violations of section 10726 of this title, or would necessitate adjustments in other rates. Such discussions shall be limited to comments upon the proposal and shall exclude any agreement, express or implied, to approve, modify, disapprove or withdraw the proposals, except that in the case of a proposed interline movement, such agreements may be made by a rail carrier that can practicably participate in that movement.".

INVESTIGATIONS AND SUSPENSIONS OF RATES AND ORDERS SETTING RATES

SEC. 109. (a) Section 10704(a)(1) of title 49, United States Code, is amended by inserting immediately before the period at the end thereof the following: ", subject to the limitations of sections 10701 and 10701a of this title".

(b) Section 10707 of title 49, United States Code, is amended—

(1) in the first sentence of subsection (a), by inserting immediately after "party," the following. "subject to the limitations of sections 10701 and 10701a of this subchapter,";

(2) in subsection (b)(1), by striking "7th" each time it appears and inserting in lieu thereof "5th" in each such place; and

(3) in subsections (c)(1) and (d), by striking "7" and "10" and inserting in lieu thereof "5" and "8", respectively.

APPLICABILITY

SEC. 110. Section 10711 of title 49, United States Code, is amended—

(1) by designating the existing language as subsection (a); and

(2) by adding at the end thereof the following new subsection:

"(b) With respect to the relationship between water carriers and rail carriers, none of the amendments to this subtitle made by the Railroad Transportation Policy Act of 1979 shall be construed to modify the application of existing law with respect to competition and coordination, or to affect the authority and responsibility of the Commission to prohibit a competitive practice that is unfair, destructive, predatory or otherwise undermines competition that is necessary in the public interest.".

DEMAND-SENSITIVE RATES

SEC. 111. Section 10727 of title 49, United States Code, is amended to read as follows:

"§ 10727. Demand-sensitive rates

"A rail carrier may establish a tariff, subject to section 10701 of this title and other provisions of this chapter, for any movement or group of movements, under which rates may be raised and lowered, between published maximum and minimum levels, in response to either expected or actual fluctuations in demand for rail service. The Commission shall facilitate the establishment of such demand-sensitive rates.".

RELEASED RATES

SEC. 112. Section 10730 of title 49, United States Code, is amended—

(1) by designating the existing language as subsection (a);

(2) by inserting ", other than a rail carrier," immediately after "carrier" the first time it appears; and

(3) by adding at the end thereof the following new subsection:

"(b) A rail carrier providing transportation or service subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may, subject to the provisions and procedures set forth in this chapter, establish rates for the transportation of property under which the liability of the carrier for such property is limited to a value established by written declaration of the shipper or by written agreement between the carrier and the shipper.".

TRANSPORTATION OF RECYCLABLE MATERIALS

SEC. 113. Section 10731(b)(3) of title 49, United States Code, is amended by striking "and 1979," and inserting in lieu thereof "through 1984,".

NOTICE AND PUBLICATION OF TARIFFS

SEC. 114. Section 10762 of title 49, United States Code, is amended—

(1) in the first sentence of subsection (a)(1), by inserting immediately after "motor common carrier" the following: "or service by a rail carrier pursuant to a contract authorized under section 10701a of this title"; and

(2) in subsection (a), by adding at the end thereof the following new paragraph:

"(3) A rail carrier which has entered in a contract authorized under section 10701a of this title shall publish and file with the Commission, in such manner as the Commission may provide, the essential terms of such contract. Such filing shall constitute compliance with the provisions of section 10761 of this title. Such contracts shall not be subject to the normal tariff rules promulgated pursuant to this section (49 CFR 1300 et seq.), but the Commission may promulgate special tariff rules for such contracts. Any party to such a contract may elect to file with the Commission information in addition to the essential terms of the contract. In such cases, the Commission shall, upon the request of any party to the contract, place any such additional information (other than the essential terms of the contract) in a confidential file. Notwithstanding such a request, the information filed with the Commission and kept in a confidential file may, at the discretion of the Commission, be made available to any party to a proceeding based on the contract.";

(3) in subsection (b)(1), by striking the first sentence and inserting in lieu thereof: "Except in the case of a rail carrier, the Commission shall prescribe the form and

manner of publishing, filing, and keeping tariffs open for public inspection under this section. In the case of a rail carrier, the Commission may, in its discretion, prescribe the form and manner of publishing, filing, and keeping tariffs open for public inspection.";

(4) in subsection (c)(3), by striking the second sentence and inserting in lieu thereof the following: "Except in the case of a rail carrier, a proposed change or a new or reduced rate may not become effective for 30 days after the notice is published, filed, and held open as required under subsections (a) and (b) of this section. In the case of a rail carrier, a proposed change or a new or reduced rate shall not become effective for 15 days after the notice is published, filed, and held open as required under subsections (a) and (b) of this section: *Provided, however*, That a tariff authorized under section 10727 of this title shall not become effective for 30 days, nor shall rates raised or lowered within the published minimum and maximum levels of such a tariff become effective for 5 days, after the notice is published, filed, and held open as required under subsections (a) and (b) of this section."; and

(5) in subsection (d)(1), by striking "30-day" and inserting in lieu thereof "notice".

REPEALS

SEC. 115. (a) Section 10709 of title 49, United States Code is repealed, and the item relating to section 10709 in the index to chapter 107 of title 49, United States Code, is stricken.

(b) Section 10729 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) A proposed rate, classification, rule or practice for transportation by a rail carrier may not become effective under this section unless notice of intent to establish such rate, classification, rule, or practice under this section is filed with the Commission not less than 90 days prior to the date of enactment of this subsection.".

(c) Sections 15(8) (c) and (d) of the Interstate Commerce Act, as amended by section 401 of the Local Rail Service Assistance Act of 1978 (Public Law 95-607, 92 Stat. 3067), are repealed.

SAVINGS PROVISION

SEC. 116. (a) Notwithstanding any other provision of law, rates in existence on the date of enactment of this Act may not be challenged as exceeding maximum reasonableness, except in accordance with the procedures set forth in chapter 107 of title 49, United States Code: *Provided, however*, That the procedures set forth in section 11701 of title 49, United States Code, shall be available for a 6-month period following the date of enactment of this Act subject to the jurisdictional threshold of section 10701 of title 49, United States Code, as amended by this Act.

(b) Effective on the date of enactment of this Act, rate increases may only be challenged in accordance with the provisions of chapter 107 of title 49, United States Code, as amended by this Act.

TITLE II—STRUCTURE

MERGERS

SEC. 201. (a) Section 11344 of title 49, United States Code, is amended—

(1) in subsection (b), by inserting immediately after "section" the following: "which involves the merger or control of at least two class I railroads, as defined by the Commission"; and

(2) by adding at the end thereof the following new subsection:

"(d) In a proceeding under this section which does not involve the merger or control of at least two class I railroads, as defined by the Commission, the Commission shall consider—

"(1) whether as a result of the transaction, there is likely to be a substantial lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States; and

"(2) whether the anticompetitive effects of the transaction outweigh the public interest in meeting significant transportation needs.".

(b) Section 11345 of title 49, United States Code, is amended to read as follows:

"§ 11345. Consolidation, merger, and acquisition of control: rail carrier procedure

"(a) If a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title is involved in a proposed transaction under section 11343 of this title, this section and section 11344 of this title also apply to the transaction. The Commission shall publish notice of the application in the Federal Register by the end of the 30th day after the application is filed with the Commission and after a certified copy of it is furnished to the Secretary of Transportation. However, if the application is incomplete, the Commission shall reject it by the end of that period. The order of rejection is a final action of the Commission under section 10327 of this title. The published notice shall indicate whether the application involves:

"(1) the merger or control of at least two class I railroads, as defined by the Commission, to be decided within the time limits specified in subsection (b) of this section;

"(2) transactions of regional or national transportation significance, to be decided within the time limits specified in subsection (c) of this section; or

"(3) any other transaction covered by this section, to be decided within the time limits specified in subsection (d) of this section.

"(b) If the application involves the merger or control of two or more class I railroads, as defined by the Commission:

"(1) Written comments about an application may be filed with the Commission within 45 days after notice of the application is published under subsection (a) of this section. Copies of those comments shall be served on the Secretary of Transportation and the Attorney General, each of whom may decide to intervene as a party to the proceeding. That decision must be made by the 15th day after the date of receipt of the written comments, and if the decision is to intervene, preliminary comments about the application must be sent to the Commission by the end of the 15th day after the date of receipt of the written comments.

"(2) The Commission shall require that applications inconsistent with an application, notice of which was published under subsection (a) of this section, and applications for inclusion in the transaction, be filed with it and given to the Secretary of Transportation by the 90th day after publication of notice under that subsection.

"(3) The Commission must conclude evidentiary proceedings by the end of the 24th month after the date of publication of notice under subsection (a) of this section. The Commission must issue a final decision by the 180th day after the date on which is concludes the evidentiary proceedings.

"(c) If the application involves a transaction other than the merger or control of at least two class I railroads, as defined by the Commission, which the Commission has determined to be of regional or national transportation significance:

"(1) Written comments about an application may be filed with the Commission within 30 days after notice of the application is published under subsection (a) of this section. Copies of those comments shall be served on the Secretary of Transportation and the Attorney General, each of whom may decide to intervene as a party to the proceeding. That decision must be made by the 15th day after the date of receipt of the written comments, and if the decision is to intervene, preliminary comments about the application must be sent to the Commission by the end of the 15th day after the date of receipt of the written comments.

"(2) The Commission shall require that applications inconsistent with an application, notice of which was published under subsection (a) of this section, and applications for inclusion in the transaction, be filed with it and given to the Secretary of Transportation by the 60th day after publication of notice under that subsection.

"(3) The Commission must conclude any evidentiary proceedings by the 180th day after the date of publication of notice under subsection (a) of this section. The Commission must issue a final decision by the 90th day after the date on which it concludes the evidentiary proceedings.

"(d) For all applications under this section other than those specified in subsections (b) and (c) of this section:

"(1) Written comments about an application may be filed with the Commission within 30 days after notice of the application is published under subsection (a) of this section. Copies of those comments shall be served on the Secretary of Transportation and the Attorney General, each of whom may decide to intervene as a party to the proceeding. That decision must be made by the 15th day after the date of receipt of the written comments, and if the decision is to intervene, preliminary comments about the application must be sent to the Commission by the end of the 15th day after the date of receipt of the written comments.

"(2) The Commission must conclude any evidentiary proceedings by the 105th day after the date of publication of notice under subsection (a) of this section. The Commission must issue a final decision by the 45th day after the date on which it concludes the evidentiary proceedings.

"(e) If the Commission does not issue a decision that is a final action under section 10327 of this title, it shall send written notice to Congress that a decision was not issued and the reasons why it was not issued.

"(f) The Commission may waive the requirement that an initial decision be made under section 10327 of this title and make a final decision itself when it determines that action is required for the timely execution of its functions under this subchapter or that an application governed by this section is of major transportation importance. The decision of the Commission under this subsection is a final action under section 10327 of this title.

"(g) The Secretary of Transportation may propose changes in transactions governed by this section when a rail carrier is involved. The Secretary may appear before the Commission to support those changes.".

ABANDONMENT

SEC. 202. (a) Section 10903 of title 49, United States Code, is amended—

(1) in subsection (b)(1), by striking the first sentence;

(2) by amending subsection (c) to read as follows:

"(c) With respect to a carrier in bankruptcy, in the event of any conflict between the application of the provisions of this subchapter and section 1170 of title 11, United States Code, the provisions of such section shall prevail. Notwithstanding any other provision of law, the provisions of such section shall apply to any carrier in bankruptcy, regardless of the date on which such carrier entered into bankruptcy.".

(b) (1) Section 10904(a) of title 49, United States Code, is amended—

(A) by striking all after "Commission" through "effective" in paragraph (1);

(B) by striking "and" at the end of paragraph (2) (A);

(C) by striking the period at the end of paragraph (2) (B) and inserting in lieu thereof "; and";

(D) by adding a new paragraph (2) (C) to read as follows:

"(C) a statement that the line is available for subsidy or sale in accordance with section 10905 of this title; a statement that the carrier will promptly provide to each interested party an estimate of the subsidy and minimum purchase price required to keep the line in operation, calculated in accordance with section 10905 of this title; and the name and business address of the person who is authorized to discuss sale or subsidy terms for the carrier."; and

(E) by inserting in paragraph (3) (E) immediately after "satisfied" the following: ", and certifying that clauses (A)–(D) have been satisfied within the most recent 30 days prior to the date the application is filed".

(2) Section 10904(b) of title 49, United States Code, is amended to read as follows:

"(b) If no protest is received within 30 days after the application is filed from shippers or other persons which have made significant use (as determined by the Commission) of the railroad involved during the 12-month period immediately preceding the filing of the application, or from States or political subdivisions of a State in which any part of the railroad line is located, the Commission shall find that the public convenience and necessity require or permit the abandonment or discontinuance. In such a case, the Commission shall, within 45 days after the application is filed, issue a certificate which permits the abandonment or discontinuance to occur within 75 days after the application is filed.".

(3) Section 10904(c) of title 49, United States Code, is amended to read as follows:

"(c) (1) If a protest is received within 30 days after the application is filed, the Commission shall, within 45 days after the application is filed, determine whether an investigation is needed to assist in determining what disposition to make of the application.

"(2) If the Commission decides that no investigation is to be undertaken, the Commission shall, within 75 days after the application is filed, decide whether the present or future public convenience and necessity require or permit the abandonment or discontinuance, taking into consideration the application of the railroad and any materials submitted by protestants. If the Commission finds that the present or future public convenience and necessity require or permit the abandonment, it shall, within 90 days after the date of application, issue a certificate which permits the abandonment or discontinuance to occur within 120 days after the application is filed.

"(3) If the Commission decides that an investigation should be undertaken under this section, the investigation must be completed within 135 days, and an initial decision must be rendered within 165 days, of the date the application is filed. Thirty days after such decision, the initial decision shall become the final decision of the Commission unless, during the interim, the Commission decides to hear appeals. If an initial decision is appealed and considered by the Commission, the Commission shall issue a final decision within 255 days of the date of application. Whenever the Commission decides upon investigation that the present or future public convenience and necessity require or permit the abandonment or discontinuance of rail service, it shall, within 15 days of the final decision, issue a certificate which permits the abandonment or discontinuance to occur within 75 days of the date of the final decision.

"(4) The effective date of any certificate which permits abandonment or discontinuance may be stayed by the Commission pursuant to the provisions of section 10905 of this title.".

(4) Subsection (d) of section 10904 of title 49, United States Code, is redesignated as subsection (e), and immediately after subsection (c) the following new subsection is inserted:

"(d) (1) The burden is on the person applying for the certificate to prove that the present or future public convenience and necessity require or permit the abandonment or discontinuance.

"(2) For applications approved by the Secretary of Transportation as part of a plan or proposal under section 5(a) through (d) of the Department of Transportation Act (49 U.S.C. 1654(a) through (d)), the Commission shall consider whether any detriment from the abandonment or discontinuance exceeds the transportation benefit from the plan or proposal as a whole.".

(5) Section 10904(e) of title 49, United States Code, as redesignated by paragraph (4) of this subsection, is amended by inserting immediately before the period at the end thereof the following: ": *Provided however*, That the requirement of such description or identification in such diagram may be waived by the Commission if the application was approved by the Secretary of Transportation as part of a plan or proposal under section 5(a) through (d) of the Department of Transportation Act (49 U.S.C. 1654(a) through (d)), or the application is filed by a railroad in bankruptcy".

(c) Section 10905 of title 49, United States Code, is amended to read as follows:

"§ 10905. Offers of financial assistance to avoid abandonment and discontinuance.

"(a) In this section—

"(1) 'avoidable cost' means all expenses that would be incurred by a rail carrier in providing transportation that would not be incurred if the railroad line over which the transportation was provided were abandoned or if the transportation were discontinued. Expenses include cash inflows foregone and cash outflows incurred by the rail carrier as a result of not abandoning or discontinuing the transportation. Cash inflows foregone and cash outflows incurred include—

"(A) working capital and required capital expenditure;

"(B) expenditures to eliminate deferred maintenance;

"(C) the current cost of freight cars, locomotives, and other equipment; and

"(D) the foregone tax benefits from not retiring properties from rail service and other effects of applicable Federal and State income taxes.

"(2) 'reasonable return' means—

"(A) if a rail carrier is not in reorganization, the cost of capital to the rail carrier, as determined by the Interstate Commerce Commission; and

"(B) if a rail carrier is in reorganization, the mean cost of capital of rail carriers not in reorganization, as determined by the Commission.

"(b) Any rail carrier which has filed an application for a certificate of abandonment or discontinuance shall provide promptly to a party considering an offer of financial assistance and shall provide concurrently to the Commission—

"(1) an estimate of the annual subsidy and minimum purchase price required to keep the line or a portion of the line in operation;

"(2) its most recent reports on the physical condition of that part of the railroad line involved in the proposed abandonment or discontinuance;

"(3) traffic, revenue, and other data necessary to determine the amount of annual financial assistance which would be required to continue rail transportation over that part of the railroad line; and

"(4) any other information that the Commission may deem necessary to allow a potential offeror to calculate an adequate subsidy or purchase offer.

"(c) When the Commission finds under section 10903 of this title that the public convenience and necessity require or permit abandonment or discontinuance, it shall publish the finding in the Federal Register. Within 10 days following the publication, any person may offer to pay the carrier a subsidy or offer to purchase the line. Such offer shall be filed concurrently with the Commission. If the offer to subsidize or purchase the line is less than the carrier's estimate provided under subsection (b) (1) of this section, the offer shall explain the basis of the disparity, and the manner in which the offer of subsidy or purchase is calculated.

"(d) If, within 15 days after the publication required in subsection (c) of this section, the Commission finds that—

"(1) a financially responsible person (including a government entity) has offered financial assistance to enable the rail transportation to be continued over that part of the railroad line to be abandoned or over which all rail transportation is to be discontinued; and

"(2) it is likely that the assistance would be equal to—

"(A) the difference between the revenues attributable to that part of the railroad line and the avoidable cost of providing rail freight transportation on the line, plus a reasonable return on the value of the line; or

"(B) the acquisition cost of that part of the railroad line;

the Commission shall postpone the issuance of a certificate authorizing abandonment or discontinuance in accordance with subsections (e) and (f) of this section.

"(e) If the carrier and a person offering financial assistance enter into an agreement which will provide continued rail service, the Commission shall postpone the issuance of the certificate for so long as the agreement, or an extension or modification of the agreement, is in effect. If the carrier and a person offering to purchase a line enter into an agreement which will provide continued rail service, the Commission shall approve the transaction and dismiss the application for abandonment or discontinuance. If the carrier and a financially responsible person (including a government entity) fail to agree on the amount or terms of the subsidy or purchase, either party may, within 30 days after the offer is made, request that the Commission establish the conditions and amount of compensation. If no agreement is reached within 30 days after the offer is made and neither party requests that the Commission establish the conditions and amount of compensation during that same period, the Commission shall issue a certificate authorizing the abandonment or discontinuance.

"(f) (1) Whenever the Commission is requested to establish the conditions and amount of compensation under this section—

"(A) the Commission shall render its decision within 60 days;

"(B) where subsidy has been offered, the Commission shall determine the amount and terms of subsidy based on the avoidable cost of providing continued rail transportation, plus a reasonable return on the value of the line; and

"(C) where an offer of purchase has been made in order to continue rail service on the line, the Commission shall determine the price and other terms of sale. In no case shall the Commission set a price which is below the fair market value of the line (including, unless otherwise mutually agreed, all facilities on the line or portion necessary to provide effective transportation services).

"(2) The decision of the Commission shall be binding on both parties, except that the person who has offered to subsidize or purchase the line may withdraw his offer within 10 days of the Commission's decision. In such a case, the Commission shall immediately issue a certificate authorizing the abandonment or discontinuance, unless other offers are being considered pursuant to paragraph (3) of this subsection.

"(3) If a carrier receives more than one offer to purchase or subsidize, it shall select the offeror with whom it wishes to transact business, and complete the sale or subsidy agreement, or request that the Commission establish the conditions and amount of compensation prior to the 40th day after the date on which notice was published under subsection (c) of this section. If no agreement on subsidy or sale is reached within the 40-day period and the Commission has not been requested to establish the conditions and amount of compensation, any other offeror may request that the Commission establish the conditions and amount of compensation. If the Commission has established the conditions and amount of compensation and the original offer has been withdrawn, any other offeror may accept the Commission's decision within 20 days of such decision, and the Commission shall require the carrier to enter into a sale or subsidy agreement with such offeror, if such sale or agreement incorporates the Commission's decision.

"(4) No purchaser of a line or portion of line sold under this section may transfer or discontinue service on such line prior to the end of the second year after consummation of the sale, nor may such purchaser transfer such line, except to the carrier from whom it was purchased prior to the end of the fifth year after consummation of the sale.

"(5) Any subsidy provided under this section may be discontinued on notice of 60 days. Unless, within such 60-day period, another financially responsible party enters into a subsidy agreement at least as beneficial to the carrier as that which was or was to be discontinued, the Commission shall, at the carrier's request, immediately issue a certificate authorizing the abandonment or discontinuance of service on the line.".

ENTRY

SEC. 203. (a)(1) Section 10901(a) of title 49, United States Code, is amended by striking "will be enhanced by" and inserting in lieu thereof "permit".

(2) Section 10901 of title 49, United States Code, is further amended by adding at the end thereof the following new subsection:

"(d) Where a railroad has been issued a certificate of public convenience and necessity by the Commission authorizing the construction or extension of a railroad line, no other railroad may block the construction or extension by refusing to permit the carrier to cross its property: *Provided*, That (1) the construction does not unreasonably interfere with the operation of the crossed line; (2) the operation does not materially interfere with the operation of the crossed lines; and (3) the owner of the crossing line shall compensate the owner of the crossed line. The carriers are responsible for establishing the conditions of such compensation. However, if the carriers cannot agree, the Commission may establish conditions of compensation.".

(b) Section 11103 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) The Commission may require railroads to enter reciprocal switching agreements where it finds such agreements to be practicable and in the public interest. The carriers are responsible for establishing the conditions and compensation for such agreements. However, if the carriers cannot agree, the Commission may establish the conditions and compensation for such agreements.".

TITLE III—GENERAL PROVISIONS

CAR SERVICE

SEC. 301. (a) Section 11123(a) of title 49, United States Code, is amended by striking "in a section of the United States,", and inserting in lieu thereof the following: "of such magnitude as to have substantial adverse effects on rail service to the Nation or a substantial region of the Nation,".

(b) Paragraph (3) of section 11123(a) of title 49, United States Code, is amended by striking "terminals, including mainline tracks for a reasonable distance outside of those terminals,", and inserting in lieu thereof "facilities.".

(c) Section 11123 of title 49, United States Code, is further amended by adding at the end thereof the following new subsection:

"(c) No action undertaken or order issued under the emergency powers of this section shall extend for more than 30 days from the date of initial Comimssion action unless, during the interim, the Commission has begun a proceeding to resolve the service problems on a more permanent basis. When the Commission has begun such a proceeding, an emergency order may be removed and extended by the Commission for a maximum of 60 days.".

EXEMPTION

SEC. 302. Section 10505 of title 49, United States Code, is amended to read as follows:

"§ 10505. Authority to exempt rail carrier transportation

"(a) In a matter related to a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under this subchapter, the Commission shall exempt a person, class of persons, or a transaction or service when the Commission finds that the application of a provision of this subtitle is not necessary to carry out the transportation policy of section 10101(b) of this title.

"(b) The Commission may where appropriate begin a proceeding under this section on its own initiative or on application by the Secretary of Transportaton or an interested party. The Commission may specify the period of time during which the exemption is effective.

"(c) The Commission may revoke an exemption, to the extent it specifies, when it finds that application of a provision of this subtitle to the person, class or transportation is necessary to carry out the transportation policy of section 10101(b) of this title.".

SECURITIES

SEC. 303. (a) Section 11301(a)(1) of title 49, United States Code, is amended to read as follows:

"(1) 'carrier' means a corporation or other entity described in section 11302(a) of this title, but does not include a rail carrier.".

(b) Subchapter IV of chapter 113 of title 49, United States Code (49 U.S.C. 11361 through 11367) is repealed, and the index to chapter 113 of title 49, United States Code, is amended by striking "Subchapter IV" and all that follows therein.

FEDERAL-STATE RELATIONS

SEC. 304. Section 11501 of title 49, United States Code, is amended—

(1) in subsection (a)(1), by striking the first word and inserting in lieu thereof the following: "Where the Interstate Commerce Commission under other sections of this title has the authority to do so, the";

(2) in subsection (b)(2), by inserting the following immediately after "Commission" the second time it appears: ", subject to its authority as provided in the other sections of this title,"; and

(3) by adding at the end thereof the following new subsection:

"(d) Federal withdrawal from certain areas of regulation pursuant to this title shall not be construed as relinquishing Federal jurisdiction.".

[Section-by-section analysis]

RAILROAD TRANSPORTATION POLICY ACT OF 1979

Section 2. Railroad Transportation Policy.

The present National Transportation Policy was enacted in 1940, and has been interpreted to emphasize protection of each mode of transportation rather than the benefits that can result from increased competition among and between the modes. The Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act) stressed fostering of competition as one of the purposes of the legislation, but it did not enact a separate transportation policy for railroads. At this time, there is a need for a separate railroad policy which incorporates many of the existing policy declarations but places increased emphasis on competitive market forces.

Subsection (a) of section 10101[1] embodying exsiting national transportation policy, is amended by limiting its application to modes of transportation subject to Subtitle IV other than rail carriers.

A new subsection (b) would be added to establish a separate national railroad transportation policy. That section states that in implementing Congressionally mandated policies, the I.C.C. shall consider, as being in the public interest, maximum reliance on competitive market forces, avoidance of undue concentrations of market power, reduction of barriers to entry and exit, maintenance of fair wages and working conditions, and encouragement of safe transportation operations. The Commission is also required to encourage reasonable rates for transportation without undue discrimination or destructive competitive practices, the elimination of noncompensatory rail rates and to promote energy conservation. In addition, the Commission is to be responsive to the needs of the public and to issue decisions expeditiously.

RATEMAKING: REASONABLENESS OF RAIL RATES

After almost a hundred years of railroad regulation, it is necessary to reassess once again a key question: what is the proper mix of regulation and the market place? The Commission has long held the power to investigate and hold down or change rail rate proposals. For many years, Congress attempted to resolve transportation problems by increasing regulation. However, the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act) represented a significant shift in approach. This legislation was intended to inaugurate a new era of competitive pricing in order to revitalize the railroads. It stressed greater freedom for the roads to raise or lower rates in competitive markets. Through the threshold test of market dominance, maximum rate regulation was to be limited to situations where the public interest needed protection, while the railroads were to be free from such regulation where there is effective competition from other carriers or modes of transportation.

Unfortunately, the benefits of the 4R Act have been less than anticipated. The railroads have not achieved adequate revenue levels, and many of the rate provisions (i.e., peak period pricing and separate rates for distinct rail services) have been little used. Carriers and shippers alike are dissatisfied with the market dominance test; they point out that the concept is so complex as to be almost unworkable in view of the time available to the parties in the context of rate cases which must be completed within strict statutory deadlines. A recent study by consultants supports this viewpoint; the study concluded that there is no single satisfactory test to determine whether traffic is market dominant or non-market dominant.[2]

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[1] Unless otherwise indicated section numbers refer to 49 United States Code.

The new provisions of this bill are intended to simplify rate regulation, thus avoiding some of the difficulties that have arisen in the implementation of the 4R Act. The basic concept is the same: to provide protection for captive shippers where necessary in the public interest and to provide pricing freedom for the railroads in the many areas where competition exists. In the latter situation, free market forces should determine the prices to be paid and the conditions of service. The maximum rate provisions, in conjunction with the explicit authorization of contract rates and clarification of the Commission's exemption authority, are designed to provide an appropriate mix between regulation and the marketplace.

In general, the bill provides a free zone for rate increases which do not exceed the railroads' increased costs, based on a rail index to be compiled or verified by the I.C.C. In addition a 4-percent rate flexibility zone, subject to a 5-year maximum of 12 percent, is provided above cost increases. Increases within this zone cannot be suspended or investigated, but they may be challenged through formal complaint procedures.

No rate may be challenged as unreasonably high, except in accordance with the procedures set forth in the new rate provisions. A rate filing in excess of these zones is subject to investigation or suspension, but it would have to exceed the jurisdictional threshold described in section 102, namely a revenue-to-cost ratio higher than the average ratio established by the Commission as necessary for the railroad industry to cover total operating expenses, plus a reasonable and economic profits or return on capital employed in the business.

Section 101.

Section 101 amends section 10701(b) of the Code by deleting language which is no longer necessary in view of the jurisdictional tests set forth in the succeeding sections of the bill. The 4R Act material which will be deleted by the bill was intended to make it clear that the railroads were not prohibited from raising below-cost rates to a compensatory level, even if a finding of market dominance could be made. Since under the new procedures the Commission will not have jurisdiction to determine maximum reasonableness unless the rate exceeds the cost threshold set forth in section 102 of the bill, the deleted language is no longer relevant.

Section 102. Maximum rate regulation.

A new subsection (e) is added to section 10701, 49 U.S.C. Paragraph (1) provides that a rail carrier may establish any rate which yields to a revenue-to-variable cost ratio that is equal to or less than the average ratio of revenue-to-variable cost established by the Commission.

Paragraph (2) sets forth the standard to be followed by the Commission in establishing an average ratio. The Commission is required to determine, on no less than an annual basis, the average ratio-to-variable cost ratio the railroad industry (or group of railroads) would have to realize from all transportation to cover total operating expenses, plus a reasonable and economic profit or return on capital employed in the business. The level described in this paragraph is identical to the "adequate revenue" standard set forth in the existing section 10704(a) (2).

Paragraph (3) provides that no rate authorized under subsection (e) may be found to be above a reasonable maximum rate. Other statutory prohibitions, such as the provisions relating to discrimination, continue to apply.

Section 103. Rail cost adjustment increases.

The railroads' financial difficulties may be attributed in part to the time lag involved in recovering cost increases. This section will help assure that rail rates reflect a carrier's current costs by adding a new subsection (f) to section 10701 of the Code to provide a zone of rate freedom for adjustments not in excess of the carriers' increased costs, determined on the basis of an Index of Railroad Material Prices and Wage Rates (which will be compiled or verified by the Commission).

As provided in subsection (f) (2) (A), base rate is the rate in effect on January 1, 1980. In instances where no commodity rate is in effect on that date, paragraph (2) (B) of the new subsection provides that the base rate shall be in effect on January 1, 1980, for the most nearly comparable service. Subparagraph (C) sets forth the method for adjusting the base rate by the rail cost adjustment factor: the base rate is multiplied by the latest rail cost adjustment factor.

Subsection (f) describes the rail cost adjustment factor as a comparison of the latest Index of Railroad Material Prices and Wage Rates with the same index for the fourth quarter of 1979. This is to be set forth as a fraction in which the latest published index (to be published no *less* than quarterly) is the numerator and the 1979 fourth quarter index is the denominator.

Paragraph (4) makes it clear that any rate within the zone described in the preceding paragraphs of the subsection may not be found to be above a reasonable maximum. In other words, a rate increase may not be challenged if it is within the cost increase zone determined in accordance with the procedures set forth in this subsection.

Section 104. Rate flexibility zone above cost increases.

In order to assist the railroads in achieving adequate revenue levels and to provide additional flexibility for rate changes without regulatory interference, section 104 provides that a rail carrier may increase a rate by an amount not exceeding 4 percent of the base rate, adjusted as defined in section 103, free from suspension or investigation. Because of shipper concern that rates increased in this manner could become excessive, the new section provides that such rates may be challenged by the filing of a formal complaint under section 11701(b), 49 U.S.C.

Under the new section 10701(g) (2), any part of the authorized 4-percent increase not implemented during a particular calendar year may be implemented in the succeeding year, subject to the proviso that (1) the total increase in any year may not exceed 8 percent and (2) the total increase during any 5-year period (i.e., 1/1/1980–12/1/1984, etc.) may not exceed 12 percent. Of course, a carrier may file a proposed rate in excess of the 4 percent zone, and this filing will be subject to the existing suspension, investigation and complaint procedures essentially in effect today.

Finally, the Commission is to analyze the carriers' overall revenue levels and submit reports to Congress on this matter every 3 years. This will enable Congress to determine whether there is a need for modification of this section.

The bill does not propose changes in minimum rate regulation. The 4R Act incorporated new standards for minimum reasonableness under which no rate may be found unlawful (assuming it does not violate other provisions of the Act) if it contributes to going concern value. There is also a presumption that a rate that exceeds variable costs contributes to the going concern value of the carrier proposing the rate. Since the 4R Act provisions are being implemented without serious problems, further changes in the minimum rate area do not appear warranted at this time.

Section 105. General rate increases.

General rate increases, which have been used by the rail industry to recover yearly inflationary costs, are those increases which substantially all rail carriers together file for application to the movements of substantially all commodities. Under the present law, general increases are subject to review by the Commission for reasonableness, and the Commission reviews such increases in light of other increases on individual commodity movements to determine whether the resulting rate is unreasonably high. Section 10706 (a) (3) (B) (i) of Title 49 of the United States Code grants rate bureau antitrust immunity for the discussion of and voting on general increases and also requires a pre-publication period of 15 days in addition to the normal 30-day notice period necessary before a rate becomes effective.

Section 105 of this bill would have the effect of phasing out general rate increases described in Section 10706(a) (3) (B) (i) of the Code over a six-year period. During this six-year period, a ceiling would be placed on the level of the increase to be allowed in any given year. The new subsection (h) (1) (A) of Section 10701 of the Code would provide that a general increase filed in the first or second year after the date of enactment of this Act could not result in a rate which would exceed the adjusted base rate for each movement affected. The adjusted base rate is defined in Section 103 of this bill as the amount determined by multiplying the base rate for the particular commodity, in effect at the date of enactment, by the rail cost adjustment factor, explained in Section 103 as the measure of rail inflation. In this way, the general increase would be limited to the cost of inflation. Under Subsection (h) (1) (B), a general increase filed in the third year after enactment would be limited to 90% of the increase in inflationary costs during an appropriate twelve-month period. Such inflation would be determined by taking the difference between the adjusted base rate calculated twelve months prior to the filing of the general rate increase at issue and the adjusted base rate figured at the time of such filing. This calculation would ensure that a general increase filed early in the year would be based on the actual inflationary increase since the last general rate increase. In similar manner, Subsection (h) (1) (C) would provide that for the fourth and fifth years, a general increase could not exceed 80% of inflation, and under Subsection (h) (1) (D), the increase would be limited to 70% in the sixth year. It is further provided in (h) (1) (D) that if general rate increases are taken more than once in a year, the sum of such increases in that year would not exceed the amount determined by limiting the recovery of inflationary costs to the respective percentages: 100% in the first and second years; 90% in the third year; 80% in the fourth and fifth years; and 70% in the sixth year.

Subsection (h) (3) would provide that the Commission promulgate regulations to implement Section 105 within 9 months of the effective date of this Act. As this section would alter the current procedure by which general increases are to be considered, conforming regulations would be necessary.

Subsection (h) (4) would provide that the Commission submit to Congress a study concerning general rate increases within 4 years after the effective date of this Act. This study would analyze the potential effect of eliminating general rate increases as provided in this Section, particularly in light of the maximum rate provisions in this bill and the attendant rate flexibility provided thereunder. This study should include any legislative recommendations necessarily following from the conclusions of the study.

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[2] A study to perform an in-depth analysis of market dominance and its relationship to other provisions of the 4R Act, Kearney, Management Consultants, April 10, 1979.

At the end of the six-year phase-out period, Section 10706(a) (3) (B) (i) of the Code would be repealed as unnecessary. Under Subsection (h) (5) of this bill, Section 10706 (a) (3) (B) as amended still would allow for continued filing of broad tariff changes, as distinguished from general rate increases.

This section is intended to encourage more extensive use of selective commodity increases to cover all increased costs. Over the six-year period during which general increases would be allowed, the use of such increases to cover inflation would necessarily diminish as the ceiling decreases, and selective commodity increases would have to be used in conjunction with the general increases to cover inflation. Both types of increases would be considered cumulatively in determining whether the inflationary zone free of regulation as provided in Section 103 of this bill has been exceeded.

The gradual change in the method of pricing over the six-year phase-out period would result in a more sophisticated pricing system in which individual rates would reflect more accurately individual costs on individual movements. The six-year period would allow sufficient time for the industry to make the necessary pricing adjustments in this regard. Furthermore, the study mandated under this section would provide the opportunity for a reevaluation of the feasibility of eliminating general rate increases, based on the experience of the first four years of the phase-out period.

Section 106. Contract provision.

A contract rate provision is one of the most important in the bill. Explicit authorization to enter into contracts, as provided in this section, offers great potential benefits to both carriers and shippers.

For many years, this type of ratemaking was thought to be prohibited by several Commission and court decisions. Although the I.C.C. recently issued a general policy statement indicating that contract rates are not unlawful *per se*, uncertainty still exists with regard to such matters as the relationship of contract rates to the railroads' common carrier obligation under other sections of the statute. The language of section 106 is intended to clarify the status of contract rate and service agreements in an effort to encourage carriers and purchasers of rail service to make widespread use of such agreements.

The new section provides that service under contract shall be a separate class of service, and the equipment used in this service shall not be subject to car service orders. Discrimination provisions remain applicable, however, and the existence of a contract is not a defense to a carrier's overall obligation to provide adequate service. Contract rates are not subject to maximum or minimum rate regulation, except that the Commission continues to have jurisdiction to determine issues of unfair or destructive competitive practices. Existing law governing relationships between rail carriers and water carriers remains unchanged. (See section 110 of the bill). Tariff filing requirements for contract rates are simplified as described in the analysis of section 107.

Subsection (a) provides specific authority for contract rate and service agreements. Under subsection (b), contract service is deemed to be a separate class; the equipment utilized is not subject to car service decisions under section 11123 of the Code. Subsection (b) (2) retains the railroads' overall common carrier service obligations in accordance with section 11101.

Subsection (c) (1) requires the Commission within 90 days of enactment and annually thereafter, to determine the percentage of locomotives and equipment (by major car type) owned or leased by each Class I carrier that may be made available for contract service without interfering with the carrier's ability to meet its common carrier obligations. The section also specifies the factors to be considered in making this determination, including the supply of equipment on a national, regional, and individual carrier basis. Historical data is to be considered together with any information concerning the proposed acquisition of additional equipment.

Under subsection (d), contracts authorized in this section will not be subject to the provisions of chapter 107 relating to rates or chapter 111 relating to carriers' operations of this title except as expressly provided. As indicated above, contracts will be subject to the antidiscriminating provisions of sections 10726 and 10741 and to prohibitions against destructive competitive practices. General tariff requirements of sections 10761 and 10762 are applicable, but the form and publishing provisions of these sections have been modified with regard to contract rate filings. While contract rates are not subject to minimum and maximum rate regulation generally, Commission jurisdiction to suspend or investigate is retained. Review prior to the effective date is intended to protect the shipping public, since contract agreements, once effective, are to be free from regulatory interference.

Subsection (e) is a technical conforming change.

Section 107. Expeditious divisions of revenue.

Joint rates assessed and collected by common carrier railroads for the transportation of freight from a point on one line to a point on another line must be divided among participating carriers. This division of revenue is ordinarily governed by private agreements negotiated by the concerned carriers. However, if the carriers cannot resolve their differences, they may file a complaint under section 10705, 49 U.S.C. requesting the Commission to prescribe just and reasonable divisions. The resulting divisions of revenue cases can involve hundreds of millions of dollars and are among the most complex proceedings the Commission must decide. Since these cases often involved extensive periods of time, the 4R Act added new provisions designed to expedite the handling of divisions proceedings. Nevertheless, the response by carriers has been extremely limited; no major divisions cases have been filed despite apparent carrier dissatisfaction with existing divisions agreements in some instances. In order to encourage expedited resolution of disputes in this area, existing time frames in section 10705 are being further shortened. The requirement of a "full hearing" would be deleted to avoid any implication that an oral hearing is required; a proceeding would still be involved but the evidence could be submitted orally or under modified procedure, as determined by the Commission.

Section 10705, as amended, generally provides for completion of all evidentiary procedures within 9 months if the proceeding is brought on complaint or within 18 months after the commencement of a proceeding by the Commission on its own initiative.

The Commission is required to take final action by the 180th day after completion of the evidentiary proceedings. In addition, the proceeding must be further expedited and the decision issued within 100 days after close of the record (Subparagraph A) if there is an allegation that the divisions at issue do not exceed variable costs or if a railroad in reorganization is involved. Subparagraph (B) permits extension of the time frames upon report to Congress in cases other than those involving bankrupt carriers or below-cost divisions.

In subsection (e) (1), the requirement that action may be taken in divisions cases only after a "full hearing" has been deleted.

Section 108. Rate bureaus.

Rate bureaus are organizations of carriers whose express purpose is the joint consideration of rates and related matters. Under the Reed-Bulwinkle Act of 1948, Commission approval of a rate bureau agreement, based on a finding of furtherance of the national transportation policy, affords carrier members relief from operation of the antitrust laws with regard to the carrying out of such agreement. Rate bureaus provide a forum for shipper and carrier comment or complaint concerning proposed changes. In addition, the bureaus publish tariffs for member carriers. Joint carrier activities are permitted under the statute as a means of avoiding conflict between the carriers' responsibilities under regulatory provisions and the policies of the antitrust laws.

The 4R Act made important changes in the governing statute. It strengthened the right of independent action and prohibited approval of agreements permitting voting on single-line rates. A similar restriction applies on rates for interline movements unless a carrier can practicably participate in the movement. Periodic review of existing agreements is also mandated. In view of this recent legislation, which is still in the process of being implemented, extensive changes in section 10706 of the Code are not proposed here.

Subsection (a) (2) (A) of section 10706 would be amended to permit agreements to provide for consideration of intrastate rates that affect interstate commerce. This change codifies a recent Federal court decision (*Atchison, Topeka and Santa Fe Railway* v. *United States and the Interstate Commerce Commission*, U.S.C.A. 7th Cir., 1979). Under subsection (a) (3) (A) as amended, agreements may not be approved by the Commission unless they provide that all meetings, other than those of a purely administrative nature, be open and that all voting shall likewise be open.

Discussion of single-line rates and joint-line rates by carriers which cannot practicably participate in the movement is not prohibited under the terms of the statute. However, serious questions have arisen as to the type of discussions which should be authorized in approving rate bureau agreements. For clarification purposes, new language has been added to subsection (a) (3) (A) specifying the scope of permissible discussions. The remainder of the changes are technical conforming amendments.

Section 109. Investigation and suspension of rail carrier rates.

Under present law, the I.C.C. has the power to suspend rates if a verified complaint is filed showing that the proposed rate change will cause substantial injury and a likelihood that the complainant will prevail on the merits; an investigation may be instituted on the Commission's own initiative or on complaint of an interested party. Investigation and suspension proceedings must be completed within 7 months, unless a report to Congress is made explaining why the deadline can not be met, in which case a 3-month extension is available.

The suspension power is sparingly used by the Commission. Nevertheless, it is an important tool which can prevent excessively high rates from becoming effective and being passed on to the consumer. A refund provision alone is not a satisfactory substitute, since it is frequently not possible to pass through awards to the persons who actually paid the unlawful rates. With regard to investigation on the Commission's own motion, we note that this power is exercised only in extraordinary circumstances. However, the power is useful in that it permits inclusion of related tariffs in an investigation and it serves as an avenue to provide relief for small, unsophisticated shippers whose pleadings may not comply with technical filing requirements. Accordingly, the attached bill does not provide changes in the existing suspension and investigation power, except for the changes in maximum rate regulation in sections 10701 and 10701a, 49 U.S.C. (See descriptions of Sections 101–104 and 106 above).

Changes are proposed, however, in the existing time frames. Because of the importance of the suspension and investigation power, and in view of the fact that revenues lost to rail carriers during the suspension period cannot be recouped, expedited handling of proceedings under this section is essential. To insure that such proceedings are accorded "preference over all other proceedings" as now required by statute, subsection (b) of section 10707 is amended to require completion of the proceeding by the end of the 5th month after the time the rate was to become effective. If a report is made to Congress, completion is required within 8 months. Similar changes are made in subparagraphs (c) and (d); the suspension period is limited to 5 months or 8 months if an extension is sought in accordance with subparagraph (b).

Section 110. Applicability.

Section 110 of this Act amends section 10711 of Title 49 of the United States Code to clarify that this Act would have no effect on the law as applied to the relationship between water carriers and rail carriers. Specifically, Paragraph (2) of this section reaffirms that the current law under Title 49 with respect to rail-water route coordination and competition between the modes remain unchanged. Furthermore, the Commission still would have its present authority to prohibit unfair, destructive, or predatory competitive practices. Paragraph (1) is a conforming change.

Section 111. Demand-sensitive rates.

Demand-sensitive rates were first introduced in the 4R Act to encourage a system of pricing in the rail industry by which adjustments to fluctuating demand could be made to achieve better car utilization and increased revenues for the industry. Under Section 10727 of Title 49 of the United States Code, the Commission was mandated to formulate standards and procedures for the establishment of demand-sensitive rates, defined as seasonal, regional and peak-period rates, which would provide incentive to shippers to reduce peak-period shipments; generate additional revenue for rail carriers; make more efficient use of the national supply of freight cars; and improve the transportation of property by rail carriers, the level of employment by rail carriers, and the financial stability of markets served by rail carriers. The Commission also was mandated to do an annual report on the implementation of demand-sensitive rates and offer any recommendations for additional legislation which would facilitate such implementation.

In response to this mandate, the Commission decided Ex Parte 324 which further defined demand-sensitive rates and established certain procedures for the filing and review of such rates. Specifically, the Commission made demand-sensitive rates subject to suspension and investigation and the normal notice period of 30 days and required that certain cost data be supplied in support of the filed rates. The Commission decision has aroused much controversy with respect to these specific rulings. Such requirements are considered unnecessarily cumbersome, thereby preventing the use of such rates in response to sudden changes in the marketplace as originally intended. Few rates have been filed under this provision, and the Commission is reevaluating its original decision.

Section 111 of this bill would replace the provision in the current law and provide for the filing of a demand-sensitive tariff in response to expected or actual fluctuations in demand for rail service. The tariff would apply to a specified movement and would include a maximum and minimum rate level, which would be subject to the maximum and minimum rate regulation provisions in Section 10701 of the Code, as amended by this Act. Such tariffs also would be subject to the prohibition against discrimination and the notice and publication requirements, including the 30-day notice period provided in Section 114 of this bill. Within these published maximum and minimum rate levels, the carriers would be able to raise or lower rates without challenge, subject to a 5-day notice period as required in Section 114. The Commission is encouraged to do whatever is necessary to facilitate the establishment of these rates.

This section is intended to encourage the use of demand-sensitive rates as an integral part of an innovative and market-responsive pricing system which the rail carriers should endeavor to maintain. The establishment of a demand-sensitive tariff would provide an opportunity for the rail carriers to anticipate market changes in certain seasonal commodities and to have available a mechanism for adequate response to these predicted changes, and to be equipped to deal with other sudden and unanticipated changes. Shippers would be protected from unlawful rates because the maximum and minimum levels of the tariff would be subject to challenge during the notice period of 30 days. Also, shippers would be sufficiently on notice to adjust their operations if necessary because the movement or movements to which the tariff would apply and the range of possible rates would be known in advance through the publication of the tariff. The rail carriers would be able to respond quickly to the market through rate changes, within the published maximums and minimums, without delays resulting from challenges or prolonged notice periods. The unfettered nature of the process as established in this section would avoid the confusion and lengthy proceedings which have impeded the implementation of the demand-sensitive mechanism in the past.

Section 112. Released rates.

As a general rule, carriers are held liable (under common law and 49 U.S.C.) for the full actual loss, damage, or injury to property. In 1916, the Interstate Commerce Act was modified by the Cummins Amendment to permit the Commission to authorize released rates in cases where rates based on a declared or released value would be "just and reasonable under the circumstances surrounding the transportation." Under this section, no carrier may publish rates based on the declared or agreed value without specific authority from the Commission. Specific criteria, established in an early released rate case and still generally followed, require a detailed showing before released rates are authorized. Even where there is no opposition, the I.C.C. has been hesitant to authorize released rates. Delays in processing have also occurred.

In many instances, shippers have the resources to obtain insurance at a reasonable price and to bear at least a portion of the risk of lost or damaged cargo. Carriers and shippers should be allowed to agree on a fair rate which explicitly takes into account the risk of loss or damage. This can be accomplished by allowing the filing of released rates in the same manner as other rate changes.

Section 112 amends section 10730 by adding a new subsection which provides that rail carriers may establish released value rates subject to the provisions and procedures set forth in Chapter 107. The effect of this change is to authorize the filing of such rates without prior Commission authorization.

Section 113. Transportation of recyclable materials.

Congress has previously directed the I.C.C. to investigate the rail rate structure on recyclable or recycled materials and to remove any discrimination that may exist. Statutory directives of this nature are contained in the Regional Rail Reorganization Act of 1973 and the 4R Act of 1976. Section 10731 of the Code provides for annual reports to Congress on proceedings involving recyclables in 1978 and 1979 and other reports as appropriate. To insure that Congress is adequately informed on this important matter, the bill requires continuation of the filing of annual reports during the next five years. Section 10731(b)(3) is amended to provide for the filing of annual reports for the years 1980–1984. It should be stressed that the Commission has a continuing duty and adequate authority under the existing statute to remove discrimination against recyclables.

Section 114. Notice and publication.

Under Section 10762(a) of Title 49 of the United States Code, rail carriers must publish and file tariffs and related rules and practices, which are to be kept open for public inspection, and under Section 10761 of the Code the carriers cannot charge what has not been so filed and published in a tariff. A new or changed rate is likewise to be published, filed and kept open under Section 10762(c)(1) of the Code. Pursuant to Section 10762(b), the Commission must prescribe the form and manner of such publishing, filing and keeping open for inspection, subject to the provision in (b)(1) which mandates the filing and publishing of certain information on charges. Concomitant with this authority, the Commission under Section 10762(d)(2) of the Code has the power to prescribe rules for tariff simplification and abbreviated filings if consistent with the public interest.

With regard to notice, as provided in Section 10762(c)(3) of the Code a new or changed rate may not become effective for a period of 30 days after the notice of such change is published and filed. Under (d)(1) of this section, however, the Commission has the authority to reduce the 30-day period and any other requirements if cause exists.

Section 114 would amend Subsection (c)(3) of 10762 to provide for a reduced notice period of 15 days applicable to new or changed rail rates, except that for contracts authorized under Section 106 and demand-sensitive tariffs filed pursuant to Section 111 of this bill a 30-day notice period would be required, and that for rate changes within a demand-sensitive tariff only a five-day notice period would be required. Paragraph (5) is a technical conforming change. Attendant to this new notice provision would be the Commission's present power to reduce the notice period if cause existed.

Relating to the Commission's authority over the form and manner of publishing and filing of rail rates Subsection (b)(1) of 10762 as amended by Paragraph (3) of Section 114 would provide that this authority would be permissive with respect to rail carriers rather than mandatory as now provided. The Commission still would have the power to provide for tariff simplification and abbreviated filings.

Paragraph (2) of Section 114 would amend 10762 of the Code to establish special rules for the publishing and filing of contracts authorized under Section 106 of this Act. Contracts would be exempt from the normal tariff rules, and the Commission would have the authority to promulgate, if necessary, special rules applicable to contracts. At least, however, the essential terms of the contract, as the Commission may define, would have to be published and filed in lieu of a normal tariff filing. Information in the contract in addition to the essential terms could be filed at the option of a party to the contract, and at the request of any party the

Commission would place such additional information in a confidential file, made available at the discretion of the Commission only to a party in a proceeding based on the contract. Paragraph (1) is a conforming change, exempting contracts from normal tariff requirements.

The above provision for the publishing and filing of contracts is being proposed to avoid unnecessary regulatory scrutiny of contracts as a result of cumbersome and needless tariff rules. As the parties to the contract already would have had notice, the contract need only be filed for review by interested competitors and potential litigants, requiring less dissemination than normal tariffs. At a minimum, however, the essential terms of the contract should be filed, including but not necessarily limited to the rates, commodities, origin and destination, and parties to the contract. In some situations, a party might not want to take the risk of deciding which are essential terms and instead would choose to file the entire contract. In such cases, shippers might be concerned about revealing certain information to their competitors. The party concerned could request that any information other than the essential terms be kept in a confidential file and shown only to parties in a subsequent proceeding stemming from the contract.

Section 114 in general is intended to make the notice and publication requirements less cumbersome for the railroads. The shortened notice period of 15 days would facilitate the rail carriers' response to changes in the marketplace while providing the shippers with adequate time to adjust their operations or file protests. In the case of demand-sensitive tariffs, however, a longer notice period of 30 days would be required for adequate review and appropriate challenge of the range of rates, although for rate changes within the tariff no more than 5-days notice would be necessary, given that the tariff itself already would have been subject to notice. Contracts also would be subject to a longer notice period of 30 days to allow for adequate review and appropriate challenge, as no rate challenges would be permitted once a contract had become effective. It is expected that allowing the Commission to prescribe the form and manner of filing and publishing only if it so desires would encourage the Commission to use its discretion to relax cumbersome rules and facilitate an adjustment to new technology in tariff publication.

Section 115. Repeals.

Paragraph (a) would repeal section 10709 of Title 49, United States Code, pertaining to market dominance, in light of the proposed maximum rate regulation provisions in sections 102, 103, and 104 of this bill.

Paragraph (b) would repeal section 10729 of the Code pertaining to capital incentive rates. However, the provisions of Section 10729 would remain in effect with respect to notices of intent to establish such rates filed pursuant to section 10729 not less than 90 days prior to the date of enactment of this Act.

Paragraph (c) repeals sections 15(8)(c) and (d) of the Interstate Commerce Act, as amended by section 401 of the Local Rail Service Assistance Act of 1978, pertaining to "yoyo" rates established under the 4R Act.

Section 116. Savings provision.

Section 116(a) provides that rates in existence on the date of enactment of this Act would only be subject to challenge for exceeding maximum reasonableness by complaint under section 11701 of title 49, United States Code, for six months following the enactment of this Act. Such challenges would be based on the maximum rate provisions of this Act, which amend Section 10701 of the Code.

Paragraph (b) clarifies that rate increases filed after the effective date of enactment of this Act could only be challenged pursuant to Chapter 107 of title 49, as amended by this Act.

Section 201. Rail mergers and restructuring.

Section 201 would make no changes in the present law with respect to major rail mergers: the ICC would consider such proposals under existing standards and procedures, and the present time limit of about 31 months would be retained. However, section 201 makes two major changes in present law for all other restructuring transactions among railroads (including the purchase or sale of assets, trackage rights, and the like).

First, the Commission would have to decide such cases faster than under present law. Present law permits the Commission 15 months to decide such cases. For transactions which do not have regional or national transportation significance, the Commission would be required to reach a decision within 6 months. For transactions having regional or national significance, the Commission would be required to reach a decision within 10 months.

In order to meet these more stringent deadlines, the number of factors the Commission must consider in deciding such cases would be reduced. The Commission now applies the same test to all transactions as to major mergers.) Section 201 would require the Commission to balance the transportation benefits of the transaction against any anti-competitive effects. The simpler test and shorter procedural deadlines are intended to encourage the rationalization and restructuring of the rail system through actions less than merger.

Section 202. Abandonment.

The abandonment provisions of this bill are designed to accomplish three major objectives: significantly reducing the time spent processing such cases at the Commission; improving the process by which abandoned lines can be stabilized; and extending the changes made in the Bankruptcy Act of 1978 to all bankrupt railroads. No changes are made in the standards under which the ICC decides whether or not to grant the abandonment of railroad lines.

Section 202(a) makes two changes to present law. First, the changes in abandonment law which were made in the Bankruptcy Act of 1978 are extended to all railroads in bankruptcy, regardless of whether the railroad was in bankruptcy when that Act was passed. This means that these provisions will apply to railroads now in bankruptcy, primarily the Rock Island and the Milwaukee. The new Bankruptcy Act provides that, where a bankruptcy court has held a hearing and approved the abandonment of a rail line, the ICC will not be required to hold a separate hearing. Instead, the ICC participates in the deliberations of the bankruptcy court.

The second change eliminates the mandatory waiting period now required after an abandonment certificate is issued and before the abandonment can actually occur. The waiting period is now mandatory, and the Commission has no discretion to waive it even where no useful purpose would be served. Under the expedited procedures described below, the Commission would have the discretion to require railroads to continue service after abandonment is approved, but would have the discretion to waive that requirement.

Section 202(b) requires the ICC to process and decide abandonment cases within 9 months. Applications for abandonment which are not opposed would be granted within 75 days. With respect to unopposed applications, this would basically codify existing ICC practice. For applications which are opposed, ICC decisions would be reached more quickly than under present law.

Two other changes are made in section 202 (b). First, for applications approved by the Secretary of Transportation as part of a restructuring action under section 401 of the 4-R Act, the Commission would be required to consider whether any detriment from the abandonment or discontinuance exceeds the transportation benefit from the restructuring plan as a whole. Second, the law now requires that rail lines potentially subject to abandonment be shown on system diagram maps for at least 4 months before the application is filed. The Commission would be given discretion to waive this requirement for lines of railroads which are in bankruptcy or for abandonment applications which are part of a 401 restructuring action.

Present law (section 10905 of title 49 of the U.S. Code) sets up a procedure where rail lines approved for abandonment may be purchased or subsidized in order to continue rail service. The Commission now has the power to stay the effective date of an abandonment for 6 months while negotiations to subsidize or purchase a line are conducted. However, if such negotiations are not successful, the abandonment becomes effective at the end of 6 months. Thus, a railroad unwilling to consider subsidy or sale of the line can frustrate the intention of section 10905 of 49 U.S.C. by simply refusing to negotiate in good faith.

Section 202(c) of this bill revises section 10905 to provide that, when a railroad and a potential subsidizer or purchaser cannot reach agreement, either party may request that the ICC establish the amount of subsidy or the purchase price of the line. If the amount of subsidy is set by the Commission, the potential subsidizer may accept the decision or withdraw his offer. The railroad, however, is obligated to accept the subsidy or purchase offer as established by the Commission.

Section 203. Entry.

Under present law, railroads may not construct new rail lines or extend their lines without the approval of the Interstate Commerce Commission. Tight control of entry is most appropriate for public utilities where prices and service offerings are also tightly controlled. As the government moves toward significantly less regulation of the services offered by railroads, the government should encourage, rather than discourage, competition among railroads. Competition among railroads, or at least the realistic threat of competition, can serve as an important safeguard against inadequate service or unreasonably high prices. Section 203 of the bill proposes three changes to current law.

(1) Under present law, the Commission may authorize the construction of a railroad line only if it finds that the public convenience and necessity (PC&N) "require or will be enhanced" by the construction. This is a more stringent test than that applied to either the abandonment of rail lines or mergers. There does not appear to be any reason why the Commission should apply a more difficult standard for the construction of new facilities than for the abandonment of old facilities. Section 203(a)(1) of this legislation will change the test applied by the Commission from "require or will enhance" to "require or permit". By making this change, the Commission would be required to apply the same standards to entry applications as to abandonment applications.

(2) Where a railroad has been issued a certificate of public convenience and necessity by the Commission and where the construction or extension of that line would cross another carrier, it is unclear whether the second railroad could block the construction by refusing to let the first railroad cross its property. The prevailing opinion is that, where the Commission has issued a certificate of public convenience and necessity, another regulated carrier cannot

block construction. However, the issue has not been clearly settled. Thus, section 203 (a) (2) of this legislation provides that, when a railroad has been issued a certificate of PC&N, no other railroad may block construction by refusing to let the first railroad cross its property, provided that the construction and operation do not materially interfere with the operation of the second railroad and the owner of the crossing line compensates the owner of the crossed line. If the railroads cannot agree on the terms of compensation, the Commission may establish the compensation.

(3) In many parts of the country, reciprocal switching agreements are in effect where carriers pick up and deliver traffic for other railroads. In areas where reciprocal switching is feasible, it provides an avenue of relief for captive shippers where service is inadequate. While the Commission now has the power to order joint use of terminal facilities, its power to order the more limited action of reciprocal switching is less clear. The Administration had proposed to require reciprocal switching in all standard metropolitan areas. Section 203(b) of this bill provides simply that the Commission may require the railroads to enter reciprocal switching agreements where it finds such agreements to be practicable and in the public interest.

Section 301. Car service orders.

Section 301 would alter the Commission's emergency powers to issue car service orders. The Commission's power to issue car service orders would be restricted in two ways. First, the power is restricted to emergencies "of such magnitude as to have substantial adverse effects on rail service to the nation or a substantial region of the nation." This is intended to ensure that the Commission restricts the use of its emergency powers to real emergencies and reflects a widespread consensus that the ICC issues far too many car service orders in situations where real emergencies do not exist. Second, the ICC's emergency powers are also restricted in that emergency orders would be limited to an initial 30 days, but could be extended to 60 days when the Commission has begun a proceeding to deal with service problems on a more permanent basis.

While section 301 restricts the circumstances under which the Commission may use its emergency powers to issue car service orders, this bill would expand somewhat the Commission's power to deal with true emergencies. Under present law, the Commission may suspend car service rules or practices, switch equipment among carriers, require the joint use of terminals, and give direction for the preference and priority of transportation. This bill would remove the limitation that joint use would be required only in terminal areas. Where a transportation emergency exists, the ICC's power would extend to ordering the joint use of all facilities rather than the joint use of only some facilities rather than the joint use of only some facilities.

Section 302. Exemptions.

Section 302 would expand the Commission's power to exempt rail carriers from regulation. Under present law, an exemption cannot be granted unless (1) the activity is of limited scope, (2) the regulation is not necessary to carry out national transportation policy, (3) the regulation would be an unreasonable burden, and (4) the regulation serves little useful public purpose. Section 302 would restate the Commission's exemption authority in broader terms and the Commission could exempt carriers whenever the Commission determined that regulation was not necessary to protect the public interest. Section 302 would also remove the requirement that proceedings be conducted in all cases before exemptions are granted.

Section 303. Railroad securities.

Section 303 of this bill would eliminate the concurrent jurisdiction over railroad securities now exercised by the ICC and the SEC. This would be done by eliminating the Interstate Commerce Commission's responsibility in this area. As a result, the Securities and Exchange Commission would have sole jurisdiction. As a result, railroad securities will be treated like the securities of other industries.

Section 304. Federal-State relations.

Under accepted legal principles of federalism, federal law preempts state law in areas which affect interstate commerce. More specifically, state regulations may not unreasonably discriminate against or place a burden on interstate commerce. State regulation will prevail over federal regulation when the interest affected is of particular local concern, as in the areas of health and safety, unless there is either discrimination against interstate commerce or a superseding national regulatory scheme. Federal law preempts state law when a state law either directly conflicts with a federal law or is inconsistent with a pre-existing federal scheme.

In the area of transportation, the concepts of federalism have been codified in Title 49 of the United States Code. Under Section 10501, the Commission has jurisdiction over carriers moving in interstate commerce but not over intrastate transportation unless otherwise provided in this title. As otherwise provided, under Section 11501 of the Code, the Commission can nullify state regulation which unreasonably discriminates against or burdens interstate commerce. As provided in Section 10501(c) and 11501(c) of the Code, any Commission action taken pursuant to its authority under this title supersedes conflicting state law or action even if such law or action is taken pursuant to the state police power to require reasonable intrastate transportation. No state law or action will have the force of law if it is in conflict with or prohibited under the federal scheme of regulation provided in Title 49 of the United States Code.

Section 304 of this bill would not change the present law with respect to federal-state relations. It would merely reaffirm both that the Commission's power in this area is only as otherwise authorized in the title and that the states' power cannot conflict with the federal regulatory scheme. Specifically, Paragraphs (1) and (2) would provide that the Commission could only prescribe a rate or effect other action which is consistent with its rate regulatory authority as limited under this Act, particularly in light of Sections 103 and 104 relating to the rail cost adjustment zone free of regulation and the no-suspend rate flexibility zone. Paragraph (3) reaffirms that where the Commission has no jurisdiction to regulate, as in the area of maximum rate regulation, the state could not assume jurisdiction. Federal law would preempt any such inconsistent state law or action in this regard, and no such state regulation would be allowed. In this way, the federal intent to limit regulation under this Act would not be frustrated.

JOINT RATE LEGISLATION

Set forth below is possible statutory language on joint rates prepared by committee staff, based on a compromise approach suggested by certain railroads. It would permit carriers to adjust joint rates where their share of the revenue was below variable costs. It would also permit a limited measure of relief for adjusting other joint rates. This language is put forth to generate comments and suggestions on this crucial subject, and it should be emphasized that, while this subject is of extreme importance, the committee is open to suggestions on how the issue should be resolved.

1. Notwithstanding any other provision of law, any carrier may publish a surcharge in order to bring its earnings over any route to a level that will cover its variable costs of handling the given traffic moving over that route under any joint rate, without the concurrence of its connecting carriers. The surcharge must be applied in equal dollar amounts to all of that carrier's routes under the rate and to all of its competing single line routes. Such increases shall accrue solely to that carrier.

a Before increasing the rate, the carrier proposing the rate must give other carriers party to the rate 45 days notice. If a connecting carrier wishes to respond to a surcharge on the effective date of another carriers' surcharge, it may initiate its own surcharge no less than 25 days before that effective date. At this time only, a carrier responding to a surcharge which results in different charges applicable to different routes under the same joint rate, may make unequal surcharges applicable to its routes under the rate and any competing single line route in order to re-establish route parity.

b. In an investigation, the proponent carrier shall bear the burden consistent with 49 U.S C. 10707, of showing that the surcharge is required to cover its variable costs.

c. Any further increases in the joint rate to which such a "variable cost" surcharge applies shall increase the surcharge in the same proportion as the proportion of the increases to the joint rate.

e. A carrier may not adopt a surcharge unless, for one year prior to the surcharge, it has participated in all increases in rates of general applicability agreed to by all other parties to the rates in question, or unless it agrees to participate in such increases for one year following adoption of a surcharge.

2. A carrier may otherwise publish and apply to a joint rate (in the form of a surcharge) an increase or decrease not exceeding ten (10) percent annually of the joint rate, subject to the following conditions:

a. The rate change must be applied in equal dollar amounts to all of the proponent carrier's routes under that rate. Rate decreases may and rate increases must also be applied in equal dollar amounts to all of its competing single line routes.

b. A surcharge must be divided with the proponent carrier's connections on the basis of existing divisions. A connecting carrier may refuse to accept all or any portion of its division of the surcharge, in which case, the surcharge applied to that route will be applicable in the amount of the proponent carrier's division, plus any amount accepted by its connections. The proponent carrier may, within ten days of receiving notice of any such refusal, decrease its surcharge over any competing route or routes to re-establish route parity.

c. Surcharges reflecting either an increase or decrease shall not be applicable to other carriers except as provided in paragraph (b).

d. Connecting carriers shall be given 45 days notice of an above variable cost surcharge.

e. If a connecting carrier wishes to respond to a surcharge on the effective date of another carrier's surcharge, it may initiate its own surcharge no less than 25 days before that effective date. At this time only, a carrier responding to a surcharge which results in different charges applicable to different routes under the same joint rate, may make unequal surcharges applicable to its routes under the rate and any competing single line routes in order to re-establish route parity.

f. A carrier may not adopt a surcharge unless, for one year prior to the surcharge, it has participated in all increases in rates of general applicability agreed to by all other parties to the rates in question, or unless it agrees to participate in such increases for one year following adoption of a surcharge.

Mr. LONG. Mr. President, today I join with Senator CANNON in cosponsoring the Railroad Transportation Policy Act of 1979. As chairman of the Surface Transportation Subcommittee, I can state that this bill is the result of a lengthy analysis of the testimony received during the several hearings the subcommittee held on S. 796, the administration's proposal to deregulate the railroad industry.

Examination of these issues began in February on the effectiveness of the reforms initiated in the 4R Act. At that time, we received testimony that the present concept of market dominance applied to protect the captive shippers was unworkable. We also heard testimony that certain other rate reforms of the 4R Act had not been fully implemented, either because of carrier lack of initiative or, regulatory restraints and complexities.

In March, Senator CANNON introduced by request of the administration, S. 796, the Railroad Deregulation Act of 1979, which represented the Department of Transportation's efforts toward legislative reform. Since that time, the subcommittee has held numerous hearings on this bill in Washington, D.C., as well as regional hearings in Nevada, Nebraska and South Dakota. At these hearings, we heard from a broad range of interests, including rail carriers, representatives of large and small shippers, local and Federal officials, water carriers, ports, and rail labor. The consensus reached as a result of these hearings was that S. 796 as drafted was not acceptable.

However, it was also clear from those hearings that there is a need for additional regulatory reform that would lessen the burden of existing Government control. It was brought out in testimony that existing regulation is slow, cumbersome, and restrictive. It was generally recognized by witnesses that the railroad industry must have the ability to compete effectively. A regulatory environment more responsive to changing market conditions was considered essential to this goal. The element of competition is elementary to an adequate transportation network. Where there is adequate and effective competition there is no need for regulation. On the other hand, without competition, regulation is essential to the prevention of monopoly abuse and inefficient transportation.

A failure to recognize this principle was a major flaw of S. 796. This was evident from the bill's treatment of maximum rate regulation. The staff draft which we are introducing today attempts to follow this principle, continuing competition where it presently exists and assuring adequate regulatory protection to shippers where competition is nonexistent. Hopefully, any deficiencies that the staff may not have given proper attention will surface from those knowledgeable in their field when we enter into the hearing process on the legislation when the issues involved will be addressed in greater depth.

● Mr. PACKWOOD. Mr. President, I am pleased to join the distinguished chairman of the Senate Committee on Commerce, Science, and Transportation in cosponsoring legislation dealing with our Nation's railroad industry. I should like to point out that our committee has held hearings over every operational and financial aspect of the railroad industry throughout the 96th Congress. We have especially held lengthy hearings in an effort to determine how to make the present rate structure more responsive to the actual cost of providing the transportation plus a reasonable return on investment for the carrier.

Our committee devoted a substantial amount of attention to the administration's bill—S. 796—which would have provided sweeping regulatory changes over the whole railroad industry. Testimony received from the hearing resulted in our committee's determination that we all have to go back to the drawing board and come up with a new solution. The bill Chairman CANNON and I are introducing today should be considered a new starting point. Members of the Commerce Committee and staff have held numerous and fruitful meetings with many representatives of the shipping public, the rail industry, the administration, and labor representatives regarding possible solutions to the rail dilemma which now faces us.

The culmination of all the meetings and hearings are represented in the legislation here before us today. In its present form, it does not have the specific endorsement of any members of the committee. As I said earlier, we look at this bill as a new starting point. Hearings have been scheduled November 7–9, 1979, with the expectation that testimony will help us to further refine this legislation until it is truly responsive to the needs of the industry and the shipping public.

Mr. President, it is most appropriate that all concerned interests—Congress, rail labor, rail carriers, and the shipping public—roll up our sleeves and work together to refine this legislation in an effort to insure that our Nation's rail industry can revive itself and continue to provide essential rail services upon which this country is so dependent.

In Oregon the shipping public means, generally, the timber and agricultural industries. While a small percentage of people are actually involved in day-to-day shipping operations, the rail industry has enormous implications for Oregon's economy. Being a net exporter of agricultural goods and timber products we are highly dependent on rail as a mode of transportation. Hence, we have a strong interest in maintaining a viable, service-oriented, nationwide rail system.

That is why I am deeply involved in this effort. We in Government are not trying to save the railroads, but we must make the changes necessary for the railroads to save themselves. We are trying to restore management by economic efficiency and end inefficiency by Government management and regulation. We only ask the continued excellent assistance of those who have contributed so much to the efforts exhibited in the legislation we offer today.●

By Mr. RIBICOFF (for himself and Mr. MATHIAS):

S. 1947. A bill to amend title 5, United States Code, to extend the provisions of the Federal Physicians Comparability Allowance Act of 1978, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL PHYSICIANS COMPARABILITY ALLOWANCE AMENDMENTS OF 1979

● Mr. RIBICOFF. Mr. President, together with Senator MATHIAS, I am introducing the "Federal Physicians Comparability Allowance Amendments of 1979."

This legislation, which has been requested by the Office of Personnel Management, would extend for 2 years, the authority of agencies to grant special allowances to physicians if the agency is experiencing recruitment and retention problems. The armed services and the Veterans Administration have previously experienced serious physician shortages due to recruitment and retention problems. As a result, both have been granted authority to enter into service agreements in exchange for bonus allowances. In similar fashion, Congress enacted the Federal Physicians Comparability Allowance Act of 1978 (Public Law 95–603), which authorized the heads of other Federal agencies and departments, experiencing a shortage of qualified physicians, to enter into service agreements, under which the physician agrees to remain with an agency in return for special allowances.

The authority to enter into agreements expired on September 30, 1979, and no agreement entered into by that date may extend beyond September 30, 1981. A 2-year extension of this program is necessary in order to assure that the Federal agencies will continue to have flexibility to compete in the labor markets for highly skilled and competently trained physicians. This legislation will not result in any additional costs.

I ask unanimous consent that the letter of transmittal from Alan K. Campbell, Director of the Office of Personnel Management, and a section analysis of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
July 11, 1979.

Hon. WALTER F. MONDALE,
President of the Senate.

DEAR MR. PRESIDENT: The Office of Personnel Management submits herewith a legislative proposal, "To amend title 5, United States Code, to extend the Federal Physicians Comparability Allowance Act of 1978, and for other purposes." We request that you refer this proposal to the appropriate committee for early consideration.

The Federal Physicians Comparability Allowance Act of 1978, Public Law 95–603, authorizes the heads of agencies to enter into service agreements with certain Government physicians, under which the physicians will agree to remain with the agencies, in return for special allowances. These allowances may be paid only where the agencies are experiencing recruitment and retention problems. The authority to enter into such agreements expires September 30, 1979, and no agreement entered into by that date may extend beyond September 30, 1981. We believe it is clearly in the public interest to extend this program by two years. Without such an extension the affected agencies would be at a serious disadvantage in competing for physicians in the labor market.

In addition, the proposal includes several technical changes, most of which are necessary because of the enactment of the Civil Service Reform Act of 1978.

The Office of Management and Budget advises that the enactment of this legislative proposal would be consistent with the Administration's program.

Sincerely yours,

Alan K. Campbell,
Director.

SECTION-BY-SECTION ANALYSIS

To accompany a draft bill.

"To amend title 5, United States Code, to extend the Federal Physicians Comparability Allowance Act of 1978, and for other purposes."

The first section titles the bill as the Federal Physicians Comparability Allowance Amendments of 1979.

Section 2 of the bill amends section 5948 (d) of title 5, United States Code, to extend through September 30, 1981, the period during which heads of agencies may enter into service agreements with physicians in exchange for special allowances, and to extend through September 30, 1983, the period of service which may be covered by such agreements. This section also amends section 5948 (g)(1) to reflect the enactment of the Civil Service Reform Act of 1978 by expressly listing the Senior Executive Service and the Merit Pay System among the pay systems qualifying individuals for coverage under the allowance program, and by changing a reference to a section of title 5 which was renumbered. In addition, the section adds a reference to a section of the Canal Zone Code which was inadvertently omitted from section 5948. Finally, the section amends section 5948(g)(2) to include the Library of Congress among the agencies that may utilize the comparability allowance authority.

Section 3 of the bill amends section 5383 (b) of title 5, United States Code, to reflect the inclusion of Senior Executive Service physicians under the comparability allowance program. Section 5383(b) limits pay and awards for Senior Executive Service employees to the rate payable for level I of the Executive Schedule. The amendment in section 3 would reflect the inclusion of any allowance under the comparability allowance program among the pay and awards subject to the level I ceiling.

Section 4 of the bill amends section 3 of the Federal Physicans Comparability Allowance Act of 1978, to provide for repeal of the Act on September 30, 1983, rather than on September 30, 1981.●

By Mr. MATHIAS:

S. 1948. A bill to amend the act entitled "An Act for the relief of Alice W. Olson, Lisa Olson Hayward, Eric Olson, and Nils Olson"; to the Committee on the Judiciary.

● Mr. MATHIAS. Mr. President, during the 94th Congress, S. 3035 (Private Law 94–126), a private bill for the relief of Mrs. Alice W. Olson and her three children was enacted into law. As my colleagues may recall, S. 3035 was to compensate the Olsons for the death of Dr. Frank Olson, which resulted from his having been administered LSD by the CIA in 1953 without his knowledge, and for the Government's deception in failing to reveal for 22 years the true circumstances surrounding Dr. Olson's death.

In its original form, the private bill for the Olson family provided that Mrs. Olson and her three children would each receive $312,000—a total of $1,250,000 for the whole family. The bill explicitly provided that this compensation is "in lieu of" FECA benefits, which Mrs. Olson had received since Dr. Olson's death.

S. 3035 passed the Senate and was unanimously reported out of the House Subcommittee on Administrative Law and Governmental Relations and Committee on Judiciary. However, on the House floor, the bill, as written, did not have the unanimous consent of all of the Members and therefore would not have reached a vote without amendment. The bill was amended to reduce the amount of compensation for each of the surviving Olsons to $187,000—a total of $750,000 for the whole family and, as amended, passed in the House and Senate. The provision cutting off Mrs. Olson's FECA benefits was not amended. The amended bill was signed into law on October 12, 1976.

The reduction of Mrs. Olson's compensation to $187,000 leaves her no better off financially than she was prior to the private bill. Her FECA benefits provided her with $975 per month, or $11,700 per year, tax free. If she earns 6 percent interest on her $187,000, she will have an income of $11,250 per year, which is subject to taxation. If she lives on the principal, she would be without income or principal within 10 years. Instead of a guaranteed, tax-free income of $975 per month for the rest of her life, Mrs. Olson now faces the uncertainty of investments and insufficient income.

The private bill, as amended, has not compensated Mrs. Olson for the death of her husband, nor for the 22 years of pain during which she was callously deceived concerning the circumstances of his death. Indeed, contrary to our intent, it has added uncertainty and the possibility of financial constraints to her life.

The bill I now send to the desk would reinstate Mrs. Olson's FECA benefits (with provision for retroactivity to the time they were cut off), and would result in a total compensation more reasonable than currently provided and within the original amount of $1,250,000. I urge my colleagues to enact this legislation promptly to redress a grievance that weighs heavily on the Nation's conscience.

Mr. President, I ask unanimous consent that the text of S. 3035 and the floor statement I made at the time of its introduction on February 25, 1976, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

STATEMENT BY SENATOR MATHIAS

Mr. Mathias. Mr. President, of all the revelations emanating from the recent investigations of the Central Intelligence Agency, none was more appalling and distressing than the disclosure of the facts and circumstances surrounding the death on November 23, 1953, of Dr. Frank Olson. Not only was Dr. Olson unknowingly administered a dosage of the hallucinogenic drug known as LSD, which was determined by the Federal Government to be the proximate cause of his death, but in addition, the CIA purposefully concealed the true details of his demise and allowed his wife and children for 22 years to labor under the misconception that Dr. Olson had committed suicide. But for the recent investigations of the activities of the CIA, it is entirely conceivable that the Olson family would never have learned the truth.

I am introducing a bill today to authorize compensation to the surviving members of the Olson family; namely, his widow and three children in a total amount of $1,250,000. In addition to attempting to compensate the family for their suffering, I believe that this bill is an acknowledgement on the part of our Government of the deception and evasiveness perpetrated upon the Olsons and the absolute necessity of insuring that similarly inexcusable acts are never repeated.

This bill would discharge any and all responsibility of the United States with respect to the circumstances surrounding Dr. Olson's death. It would also negate the necessity of the Olson family resorting to prolonged and costly legal proceedings and is designed to streamline consideration by the Congress and, hopefully, to permit prompt passage.

As you are probably aware, Dr. Olson died as the result of injuries sustained after he had jumped from a hotel room in New York City on November 28, 1953. At the time of his death, he was a civilian biochemist with supervisory responsibilities and employed by a special unit of the Army Chemical Corps at Fort Detrick, Md. This unit maintained liaison with the Central Intelligence Agency, CIA, and participated in meetings with CIA personnel regarding its work.

At one such meeting on November 18–19, 1953, which was attended by seven representatives from Fort Detrick and three from the CIA, a number of those present, including Dr. Olson were administered lysergic acid dipthylamide—LSD—which had been introduced into a bottle of Cointreau liqueur without their knowledge by the CIA participants at the meeting. Dr. Olson and the others were told of the "experiment" 20 minutes later. Immediately after the experiment, Dr. Olson exhibited unusual sleeplessness, restiveness, and feelings of depression. Pursuant to arrangements made by the CIA, Dr. Olson, accompanied by a CIA employee, went to New York City, where he received psychiatric treatment from someone contacted by the CIA. During the period of treatment, Dr. Olson apparently threw himself from his 10th floor hotel room window and plunged to his death.

Not aware of the true facts and having been led to believe that her husband's death was an unexplained suicide, Mrs. Olson, at the urging of certain Army personnel, applied to the Bureau of Employee's Compensation, BEC, of the Department of Labor for benefits due her and her children under chapter 81—compensation for work injuries of title 5, United States Code—the Federal Employees Compensation Act, FECA—in lieu of civil service retirement benefits. BEC officials personally reviewed the records supplied by the CIA which described the circumstances leading up to and attendant upon the death of Dr. Olson. The BEC officials determined that the material furnished by the CIA was "sufficient to show that the condition responsible for self-destruction was proximately due to the conditions of his employment," and "from a medical standard there was a very definite connection between the illness and the act of self-destruction."

In part, BEC's determination was based on a statement by the General Counsel of the CIA that the death had resulted from "circumstances arising out of an experiment undertaken in the course of his official duties for the U.S. Government." A review of relevant CIA documents reveals that the CIA was eager to arrange payments to the Olson family under chapter 81 and thus end all questions relating to the death of Dr. Olson.

Between that time and November 30, 1975, the family has received $147,573.22 in benefits under chapter 81—compensation for work injuries, 5 U.S.C. 8101 et seq., the Federal Employees' Compensation Act, hereinafter cited as the FECA. The Olson family is currently receiving monthly benefits of nearly $800. Under the FECA, a widow is entitled to compensation until she dies or remarries before reaching age 60; and children are paid until each becomes 18 or if over 18 and incapable of self-support when each become capable of self-support, 5 U.S.C. 8133 (b).

Neither Mrs. Olson nor her children were told or knew of the involvement of the CIA or of all of the circumstances surrounding the death of Dr. Olson until the Rockefeller Commission Report on the CIA was published in June 1975. Although the report did not specifically identify Dr. Olson, it described the events leading up to his death.

On July 17, 1975, the surviving members of the Olson family, with the aid of their attorneys, David Kairys and David Rudovsky, of Philadelphia, filed a wrongful death claim with the CIA pursuant to the Federal Tort Claims Act, 28 U.S.C. 2671 et seq. In their letter the family requested, first, full disclosure to the family of the facts surrounding the death of Dr. Olson, second, an assurance that appropriate steps would be taken to forbid the kind of activities involved in the death of Dr. Olson; and third, monetary damages.

On July 21, 1975, the President met with the family of Dr. Olson. He expressed the sympathy of the American people and apologized on behalf of the U.S. Government for the circumstances of his death. The President also informed the Olsons that the Attorney General had been asked to meet with the Olson's legal representatives to discuss any claims they wished to assert against the Government by reason of Dr. Olson's death. Subsequent to the President's meeting with the Olson family, negotiations began between the Department of Justice and the Olson's attorneys.

In a July 24, 1975, letter, William Colby, Director of Central Intelligence, expressed his deepest personal sympathy to the family and apologized for their suffering and for the failure to inform them of the circumstances surrounding Dr. Olson's death. He further advised them that he was making available to their attorneys the information concerning the death which was available to the CIA. Since that time all of the documents which the CIA were able to find concerning Dr. Olson's death have been delivered to the Olsons along with a signed affidavit testifying as to their completeness.

As a result of the negotiations between the Department of Justice and the Olson family attorneys regarding the Federal Tort Claims Act suit instituted by the Olsons, it became clear that there existed certain potential technical obstacles, which might preclude recovery under the act. Accordingly, everyone concerned, including the President, the Attorney General and the Director of the CIA, agreed that it would be appropriate to proceed by way of a private bill for an amount which would adequately compensate the Olson family for damages suffered.

The private legislation now before us is premised on the assumption of responsibility by the United States with respect to the circumstances surrounding the death of Dr. Olson, and most significantly for the fact that the Olson family was deliberately not informed of these circumstances. I have been assured that the President, the CIA, and the Department of Justice all totally support the amount stated in the bill. Indeed, it must be stressed that this amount is a fairly arrived at negotiated figure, which the Department of Justice is satisfied represents fair compensation for the damages suffered.

This bill recognizes that, in view of the responsibility assumed by the Government, it would be inequitable to subject the Olson family, which has already been forced to live for over 20 years under the inxplicable shadow of Frank Olson's death, to the financial and emotional strains associated with long and protracted legal proceedings.

It should be noted that this bill does not increase compensation to the dependents of an employee under the FECA; rather it would authorize compensation for injuries which are unrelated to the benefits available under that act.

Furthermore, the payment to the Olsons under this bill shall be in full satisfaction of any claims of the entire family against the United States relating to the unique circumstances surrounding Dr. Olson's death and shall also be in lieu of further compensation otherwise due under FECA. It is to be additionally noted that this bill is predicated on the novel circumstances which led to Dr. Olson's untimely death and thus this legislation is by no means intended to establish a precedent for future private bills involving different factual patterns and FECA awards.

As I previously stated, I have been assured that the President, the Justice Department, and the CIA fully support this legislation and I trust that my colleagues will swiftly enact this bill.

S. 3035

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $312,500 each to Alice W. Olson, Lisa Olson Hayward, Eric Olson, and Nils Olson, in full settlement of all of their claims against the United States arising out of the death of Doctor Frank R. Olson in November 1953, if all of them waive any and all rights arising out of such death. The payment of such sums shall be in full satisfaction of all claims of Alice W. Olson, Eric Olson, Lisa Olson Hayward, and Nils Olson of any nature whatsoever against the United States, or against any past or present employee or agent of, or person associated with, the United States, his estate or personal representative, in connection with the circumstances surrounding such death and such payments shall be in lieu of further compensation otherwise due under chapter 81 of title 5, United States Code, or any award thereunder.

Sec. 2. No part of the amount appropriated by this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same is unlawful, any contract to the contrary notwithstanding. Violation of this section is a misdemeanor punishable by a fine in any amount not to exceed $5,000.●

By Mr. JAVITS (for himself, Mr. Moynihan, Mr. Sarbanes, Mr. Mathias, Mr. Bayh, and Mr. Tsongas):

S. 1950. A bill to waive the time limitation on the award of certain military decorations to members of the Intelligence and Reconnaissance Platoon of the 394th Infantry Regiment, 99th Infantry Division, for acts of valor performed during the Battle of the Bulge; to the Committee on Armed Services.

MILITARY DECORATIONS FOR HEROIC ACTION IN WORLD WAR II

Mr. JAVITS. Mr. President, on April 9, 1979, I introduced Senate Resolution 135 for myself and Senators Moynihan, Sarbanes, Mathias, Tsongas, and Bayh. Our introduction of this resolution and its referral to the Senate Armed Services Committee was intended to initiate a committee inquiry into the actions of Pfc. William James Tsakanikas and the Intelligence and Reconnaissance platoon of the 394th Infantry Regiment of the U.S. Army during the Battle of the Bulge during World War II. According to the information available, in December 1944, this platoon halted the advance of an entire German battalion at a vital crossroads in the Ardennes; the platoon of 18 men is reported to have held off an elite German battalion for almost an entire day, inflicted over 500 casualties, and made it possible for the 99th Infantry Division to regroup and hold on against this last German offensive until the Allied Armies could react and win the Battle of the Bulge. This action was the subject of a cover story in Parade magazine on March 25 of this year. I ask unanimous consent to have this article inserted in the Record at the conclusion of my remarks.

As the sponsors of this resolution, we hoped to initiate an inquiry into this event to determine authoritatively the appropriateness of awarding posthumously the Congressional Medal of Honor to William James Tsakanikas, or any other deserving individual involved in this incident. It was also contemplated that some other form of decoration might be found to be most appropriate to award the clearly heroic actions that took place in the incident in question.

Because of the extraordinary burden of business this year—including additional burden of its hearings on the SALT II treaty—the Senate Armed Services Committee has been unable to date to conduct the solicited inquiry. However, the Armed Services Committee in the House of Representatives has conducted hearings on legislation introduced in that body by Congressman Ottinger concerning this matter. That committee favorably reported and the House has now passed H.R. 3407 to waive the time limitation on the award of "certain medals" to members of Private Tsakanikas' platoon who took part in this heroic action during the Battle of the Bulge. The bill, as passed by the House of Representatives, does not rule out the award of the Congressional Medal of Honor and leaves the matter of the appropriate form of any award, and its recipients, to the President, which is the traditional U.S. practice. I ask unanimous consent that the article mentioned be printed in the Record at the conclusion of my remarks.

H.R. 3407 was automatically referred to the Senate after its House passage and has been sent on to the Senate Armed Services Committee. That notwithstanding, I and the other Senate sponsors of the original Senate Resolution 135 believe this matter merits our reintroducing the House passed legislation for referral to the Senate Armed Services Committee.

We support Senate passage of H.R. 3407 as the inquiry we sought has been conducted by the House Armed Services Committee and appropriate legislative action in the light of that inquiry has been taken by the House of Representatives. We hope the Senate will act similarly.

Special note must be made of the role of William James Tsakanikas in this matter. While it would be preferable for the legislation to take specific notice of his own extraordinary heroism during the Battle of the Bulge, we believe that enactment of H.R. 3407 will effect the long overdue recognition for this now deceased citizen's valour performed in his service to the Nation.

Private Tsakanikas was very severely wounded in the action in Lanzerath, Belgium. After the war, he returned to the United States, completed his college education, and went to Cornell Law School. He married and had a family in Port Chester, N.Y. There he lived what has been described as the life of a model citizen and became Rye Town Republican committee chairman. He died in June 1977, shortly after the 36th operation he had resulting from his war injuries.

The sponsors of this legislation hope the Senate can act promptly on this bill. For 35 years the bravery demonstrated by Private Tsakanikas and the other members of his platoon have gone unrecognized, and that is long enough. The House of Representatives has shown its willingness to take appropriate action; I hope the Senate will agree.

There being no objection, the article was ordered to be printed in the Record, as follows:

Why Private Tsakanikas Should Get the Medal of Honor

(By Jack Anderson)

The Lanzerath Incident should have gone down as one of the most valorous and pivotal actions of World War II. It was omitted from the histories because no one returned to tell the story until the war was over. Yet for an eternity of 18 hours, 18 stubborn Americans halted an entire column of German panzers, paratroopers and SS troops.

The GI's were ordered to hold a slope overlooking a strategic crossroads at a Belgian village called Lanzerath. Bullets whined around their heads, and artillery shells ravaged the landscape. Their hillside was a hell of gunfire and shrapnel. Yet they fought back, hugging the sides of their foxholes, until their guns burned up or ran out of ammunition.

When the Germans at last overran the position, they pulled the grimy GI's bodily from their foxholes. Their lieutenant, Lyle J. Bouck Jr., described the end tersely. "We never surrendered," he said. "We were captured." On the American side, miraculously, only two died in the firefight, although many were shot up badly. The German toll: an incredible 509 casualties.

Those few forgotten heroes disrupted the timetable and blunted the surprise of a Nazi strike through the snow-sheeted Ardennes. Had they not held the crossroads for that long December day, the Germans would have caught the untested 99th Division off balance and might have won the Battle of the Bulge.

Writing from retirement, Maj. Gen. Walter Lauer, the division commander, has declared: "Had we failed, there would have been no Bastogne, and the entire complexion of the war could have changed most drastically." He gave all the credit to his men. "Their heroism has been unsurpassed in history. I know it. Many of our soldiers know it. The German soldiers who met them know it. God knows it."

This epic stand of 18 men against overwhelming German might has gone unrecognized by the Pentagon for 35 years. Not a medal has ever been awarded the enlisted men for their extraordinary bravery. Only the lieutenant received an unsought Silver Star that came to him without explanation through the mail in 1965—21 years late.

Every member of the forgotten platoon deserves a medal. But if one soldier symbolizes the heroism of that last-ditch stand, it would be PFC William James Tsakanikas, known to the others simply as "Sak." At 19, he was the youngest of them—an aggressive, gung-ho GI who volunteered for all the tough missions. It took a German burp gun, fired point-blank into his face, to put him out of action.

Somehow the young soldier was saved by a German military doctor. Sak recuperated in a German prison hospital, made a break for freedom but was recaptured. Near the war's end, he was liberated by advancing U.S. forces. He returned home to a life of pain, dropped his tongue-twisting last name and died as Will James on June 27, 1977. He now lies in Arlington National Cemetery, an unremembered hero—but not to the 17 men who fought by his side or to the wife who witnessed the agony of 36 operations to reconstruct his face.

"Whatever he did in the war," she told us, "I knew my husband as a hero all of his life. He didn't talk about what happened that day until a little while before he died. But for me and my sons, he showed his heroism to us every day that he lived."

Seeking to make belated amends, Rep. Richard Ottinger (D., N.Y.) will introduce a bill this week authorizing President Carter to award Will James a posthumous Medal of Honor "for valorous acts performed at the risk of his life above and beyond the call of duty." The proposal has already encountered resistance from the Army bureaucrats behind their red-tape entanglements. They have noted stiffly that "the public law covering retroactive awards prohibits us from considering a recommendation for an award unless there is conclusive evidence that a formal recommendation for the award was entered into official military channels within two years of the act or service. . . ."

It would have been a bit difficult to meet the two-year deadline. Regimental headquarters believed the platoon had been wiped out, and those who knew the story had been dispersed to German prison camps. When they last saw James, he seemed unlikely to recover.

We tracked down Lyle J. Bouck in St. Louis, where he is now a chiropractor. He helped us get the story from other members of his World War II unit. From their accounts, we have pulled together the details of that day of courage.

It began before dawn on the bitter-cold morning of Dec. 16, 1944. The platoon had been handpicked to serve as the eyes and ears of the regiment. Almost all of them had college and athletic backgrounds. But their role had never been combat; they were an intelligence and reconnaisance platoon.

But they had been ordered to fill a gap in the front line. They settled into foxholes overlooking Lanzerath's eight or nine frame houses and a stretch of road leading to the strategic fork. One prong led like an arrow to the Meuse and the rear of their division. Beyond was the vital supply port of Antwerp on which Gen. Dwight D. Eisenhower and his armies depended.

At precisely 4:40 on the fateful morning, the men of the I&R platoon were jarred by the thunder and crash of a massive artillery barrage. The ground literally shook under their feet.

They had no way of knowing that they had ringside seats to the opening of Adolf Hitler's Ardennes offensive. He sought to encircle the American divisions in the Bulge and seize Antwerp. Nor did they know that they stood in the path of one of the spearheads of the Nazi assault.

During the next 18 hours, they would foul up the mission of a special panzer SS unit under Lt. Col. Joachim Peiper, who, furious over having his offensive stalled, later ordered the execution of 71 American prisoners at Malmedy.

The entrenched platoon survived the two-hour artillery baptism without casualties. It was followed by an ominous silence in the fields and woods around them. Minutes later, Bouck and James in the forward foxhole were appalled to see their closest support, a tank destroyer company about a mile away, beat a retreat toward the rear. Jeered James: "They might at least wave goodbye as they leave."

From the regiment came anxious instructions to scout out the situation east of Lanzerath. Four men—Bouck, James, Sgt. Bill Slape and Pvt. John Cregar—crept in a ditch toward the village and sprinted the last lap to the second floor of a house that had served as an observation post. They surprised a civilian talking German over a telephone; he had the look of a fifth columnist caught in the act.

James whipped out his bayonet and forced the stranger to drop the telephone. But Bouck had no stomach for a civilian execution. They let the suspected spy go, and he scurried down the stairs.

From their vantage point, the four Americans saw rolling toward them a German column in full battle array. Leaving the other two to keep watch, Bouck and James raced back to their foxholes. The lieutenant radioed headquarters the news that a massive attack was on the way. His superiors were skeptical. "Damn it," exploded Bouck, "don't tell me what I can see! We've got 20-20 vision here! There's a whole column of Krauts coming up that road!"

His demand for artillery fire on the road into Lanzerath went unheeded. Meanwhile, he received an urgent call from the two men in the observation post; they reported that Germans were already occupying the floor beneath them. Three men—Cpl. Aubrey McGehee, PFC Jordan "Pop" Robinson and Pvt. Jim Silvola—were sent to aid the trapped pair. But Slape and Cregar managed to sneak unnoticed through a rear, second-story window. In racing to safety across the icy road, Slape became the first casualty of the battle. He slipped and broke two ribs.

All too soon, the Germans appeared below, marching steadily on each side of the road, their weapons slung over their shoulders. Bouck ordered his men to hold their fire until the first command vehicle appeared. But at the last minute, a small girl ran out of a house and pointed to their location.

The Nazi commander, reacting instantly to the alarm, shouted a command, and the advancing Germans dove for cover. The advantage of an ambush was lost, but the Americans were so well hidden on the snow-covered slope that the Germans were unable to pinpoint their location.

From the forward position, James fired bursts from his grease gun. Slape manned the mounted machine gun on the jeep with deadly effect. From other foxholes, platoon members such as Risto Milosevich, Lou Kalil and Bill Dustman laid down lethal automatic rifle fire.

Separated from the outfit, Robinson, McGehee and Silvola took shelter behind a pile of cut timber and opened fire from another direction. The attacking Germans fell back, their ranks decimated, leaving their dead and wounded on the battlefield.

After a second repulse, a team of Germans approached waving a white flag. They sought a cease-fire so their medics could attend the wounded. Someone on the American side let go a defiant round of rifle fire at the feet of the Germans. This angered Bouck, who agreed to the cease-fire.

The third German attack began in the early afternoon. Heavy small-arms fire knocked out Slape's machine gun on the jeep and drove him to cover. He sprinted to the foxhole occupied by Milosevich. "Just as I reached his position and before I could get into the hole with him," Slape recounted. "two Germans opened up on me from about 50 yards. I got one of them and my carbine jammed—it was so hot I could barely hold it—so I threw it at the other German and dived into the bunker. I got him with a rifle."

The firefight was ferocious. The three behind the woodpile ran out of ammunition and were captured trying to make their way back to the platoon. Some Americans were wounded but continued to fight, in Slape's words, "like tigers." Two newcomers, Pvt. Cliff Fanscher and an unidentified GI from another unit were killed in the action.

The Germans again were driven off, but ammunition was running low. Bouck turned to James in their bunker. "My orders are to hold the hill at all costs," said the lieutenant. "But you take off with as many of the men that want to go." James shook his head fiercely. "Lieutenant," he said, "you stay, we all stay." They turned to meet the fourth attack, which they met furiously, according to Slape, "even up to eyeball-to-eyeball contact."

The end came for Bouck and James in a horrific lightning flash. A German burp gun was poked into the rifle slit of their makeshift bunker and fired directly in James' face. The blast tore out his eyeball and most of his right jaw.

Bleeding from a bullet wound in his leg, Bouck helped a German medic carry James down the slope past the German dead toward Lanzerath.

About 10 p.m., an incensed officer, wearing the death insignia of the SS, strode into the village cafe where Bouck and James had been deposited. The officer was in a rage. He demanded to know why a "battalion" of Americans had cost him a day. He shouted that his troops had spent the time milling uselessly around when they should have been driving toward their objective.

The enraged Nazi was Lt. Col. Peiper. He never noticed that only a few feet away lay the 20-year-old lieutenant and the savagely wounded James who, with 16 other GI's, had stopped Peiper's elite battalion. (Peiper was to serve a six-year war crimes sentence for the Malmedy massacre, then to be assassinated by a group calling themselves the Avengers at a French villa in July 1976.)

After Peiper stormed out, Bouck succeeded in getting medical attention for James from a German doctor who praised the American's bravery. Then Bouck was led off, leaving James apparently dying behind. The lieutenant heard a black wooden country clock in the tavern chiming midnight and realized that he had reached his 21st birthday with only one gift—the red badge of courage.

This same clock now hangs in the living room of the modest Port Chester, N.Y., home where James and his wife, Lucille, raised their four sons. Her husband went back to Lanzerath a few years before his death and returned triumphantly with the clock.

The widow, sitting proud and erect, took up the story after Bouck's departure. James was moved to a prisoner depot, she said, where other German doctors did their best under rudimentary war conditions to repair his face. En route, a Nazi soldier stole his shoes, remarking, "Amerikanischer, you won't need these anymore."

She told about James's escape, recapture and liberation. He returned home to a life of painful surgery. After one operation, he met an Army nurse, Lucille Cassell, a slim, brown-haired West Virginia girl. They were married in 1948 after his graduation from the University of Pennsylvania. Characteristically, he was on the track and wrestling teams. Then he enrolled in Cornell Law School and eventually took his family to Port Chester.

Will James is remembered in Port Chester as a model citizen who was active in community affairs, youth work, church activities and politics. He served for 16 months as Rye Town Republican chairman. But only a few knew he was in constant pain from his war wounds. In June 1977 he returned home from his 36th operation, still in agony. A few days later, he was found dead in his bedroom.

In his St. Louis office, Bouck reflected on the furious battle that helped stop the 1944 Nazi offensive. He endorsed Representative Ottinger's effort to get a Medal of Honor for James: "I'd like to see Will James get every possible honor he has coming to him. He spent a lifetime of mental torture and physical agony."

He had one more thing to say about the unheralded Lanzerath Incident: "I think every man who was there is entitled to a medal, red tape or no red tape."

ADDITIONAL COSPONSORS

S. 6

At the request of Mr. LEAHY, the Senator from Vermont (Mr. STAFFORD), the Senator from Georgia (Mr. TALMADGE), the Senator from North Carolina (Mr. HELMS), the Senator from Kentucky (Mr. HUDDLESTON), the Senators from Wisconsin (Mr. NELSON and Mr. PROXMIRE), the Senator from Texas (Mr. BENTSEN), the Senator from Oklahoma (Mr. BOREN), the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from North Dakota (Mr. BURDICK), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. COCHRAN), the Senator from Kansas (Mr. DOLE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. MELCHER), the Senator from New York (Mr. MOYNIHAN), the Senator from Michigan (Mr. RIEGLE), the Senator from Alabama (Mr. STEWART), the Senator from Florida (Mr. STONE), the Senator from North Dakota (Mr. YOUNG), and the Senator from Nebraska (Mr. ZORINSKY) were added as cosponsors of S. 6, a bill to amend the Agricultural Act of 1949 requiring that milk be supported at not less than 80 percent of parity.

S. 294

At the request of Mr. MATHIAS, the Senator from Massachusetts (Mr. TSONGAS) was added as a cosponsor of S. 294, a bill to repeal the social security offset provision.

S. 1204

At the request of Mr. RIBICOFF, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 1204, a bill to strengthen and improve medicaid services to low-income children and pregnant women, and for other purposes.

S. 1304

At the request of Mr. BAUCUS, the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of S. 1304, the Legislative Oversight Act of 1979.

S. 1435

At the request of Mr. NELSON, the Senator from Kentucky (Mr. HUDDLESTON) and the Senator from Colorado (Mr. ARMSTRONG) were added as cosponsors of S. 1435, the Capital Cost Recovery Act.

S. 1523

At the request of Mr. THURMOND, the Senator from Georgia (Mr. TALMADGE), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER) and the Senator from Wyoming (Mr. SIMPSON) were added as cosponsors of S. 1523, the Veteran Senior Citizen Health Care Act of 1979.

S. 1598

At the request of Mr. NELSON, the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 1598, the State Social Security Deposit Act.

S. 1688

At the request of Mr. MATHIAS, the Senator from Georgia (Mr. TALMADGE) was added as a cosponsor of S. 1688, a bill to clarify the extent to which a State or political subdivisions may tax certain income from sources outside the United States.

S. 1724

At the request of Mr. WILLIAMS, the Senator from Maryland (Mr. SARBANES) and the Senator from Vermont (Mr. STAFFORD) were added as cosponsors of S. 1724, the Home Energy Assistance Act.

S. 1754

At the request of Mr. MOYNIHAN, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1754, a bill to determine the causes and effects of acid precipitation throughout the United States and to develop and implement solutions to this problem.

S. 1775

At the request of Mr. TALMADGE, the Senator from Tennessee (Mr. BAKER) was added as a cosponsor of S. 1775, the Agricultural, Forestry, and Rural Energy Act.

S. 1913

At the request of Mr. CRANSTON, the Senator from Georgia (Mr. TALMADGE) was added as a cosponsor of S. 1913, a bill to preserve the existing taxation of wine used in the production of distilled spirits.

SENATE JOINT RESOLUTION 107

At the request of Mr. RIBICOFF, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of Senate Joint Resolution 107, authorizing and requesting the President to issue proclamations designating the weeks of January 21 through January 27, 1979, and January 20 through January 26, 1980, as "Junior Achievement Week."

SENATE RESOLUTION 184

At the request of Mr. HELMS, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of Senate Resolution 184, a resolution with respect to the matter of Josef Mengele.

AMENDMENT NO. 557

At the request of Mr. Stevenson, the Senator from Utah (Mr. Garn), the Senator from Ohio (Mr. Glenn), the Senator from Pennsylvania (Mr. Heinz), and the Senator from Michigan (Mr. Riegle) were added as cosponsors of amendment No. 557 intended to be proposed to H.R. 4986, the Depository Institutions Deregulation Act.

SENATE RESOLUTION 266—ORIGINAL RESOLUTION REPORTED AUTHORIZING PRINTING OF "THE COST OF CLEAN AIR AND WATER" AS A SENATE DOCUMENT (S. DOC. NO. 96–ND)

Mr. RANDOLPH, from the Committee on Environment and Public Works, reported the following original resolution, which was referred to the Committee on Rules and Administration:

S. Res. 266

Resolved, That the annual report of the Administrator of the Environmental Protection Agency to the Congress of the United States in compliance with section 312(c) of the Clean Air Act, as amended, and section 516(b) of the Federal Water Pollution Control Act Amendments of 1972 entitled, "The Cost of Clean Air and Water" be printed, with illustrations, as a Senate document.

Sec. 2. There shall be printed five hundred additional copies of such document for the use of the Committee on Environment and Public Works.

AMENDMENTS SUBMITTED FOR PRINTING

DEPOSITORY INSTITUTIONS DEREGULATION ACT—H.R. 4986

AMENDMENT NO. 560

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON (for himself, Mr. Javits, and Mr. Williams) submitted an amendment intended to be proposed by them, jointly, to H.R. 4986, an act to amend the Federal Reserve Act to authorize the automatic transfer of funds, to authorize negotiable order-of-withdrawal accounts at depository institutions, to authorize federally chartered savings and loan institutions to establish remote service units, and to authorize federally insured credit unions to maintain share draft accounts, and for other purposes.

NOTICES OF HEARINGS

SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES AND OPEN GOVERNMENT

● Mr. CHILES. Mr. President, I would like to announce that the Subcommittee on Federal Spending Practices and Open Government of the Committee on Governmental Affairs will hold a hearing on the bill S. 1411, the Paperwork and Reduction Act of 1979. This hearing will take place on Thursday, November 1, 1979, at 10 a.m. in room 3302 of the Dirksen Senate Office Building.

If anyone has questions concerning this hearing, they may contact the subcommittee office at 128 C Street NE, or 224–0211.●

SUBCOMMITTEE ON THE HANDICAPPED

● Mr. RANDOLPH. Mr. President, I wish to announce that the hearing scheduled for November 6, 1979 at 9:30 a.m. in room 4232 Dirksen Senate Office Building by the Subcommittee on the Handicapped has been changed to Monday, November 5, 1979. The hearing on November 5, 1979 will be held at 9:30 a.m. in room 4232 Dirksen Office Building. It will be an oversight hearing on Public Law 95–602, the Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978.

Persons wishing additional information should contact Mrs. Patria Forsythe, staff director, Subcommittee on the Handicapped, (202) 224–9075.●

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT GENERALLY

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Taxation and Debt Management Generally Subcommittee of the Committee on Finance be authorized to meet during the sessions of the Senate on Wednesday, October 31, 1979 and Friday, November 2, 1979 beginning at 2:30 p.m. to hold hearings on miscellaneous tax bills and the Tax Court Improvement Act of 1979.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the sessions of the Senate today beginning at 2:30 p.m. and tomorrow beginning at 10 a.m. to continue markup of the Alaska lands legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE FRENCH NUCLEAR PROGRAM

● Mr. McGOVERN. Mr. President, I am not an expert on nuclear energy. But because of the importance of the energy issue, I call the attention of my colleagues to an editorial in the St. Louis Globe-Democrat of October 17, 1979, entitled, "France, Others Have Nuclear Lead," the editorial follows:

France, Others Have Nuclear Lead

"France has jumped far ahead of a paralyzed United States in building not only conventional water reactor plants but also in developing a commercial fast breeder reactor, facilities for reprocessing spent nuclear fuel and a process for safely storing nuclear waste.

"The French, now 10 years ahead of the U.S. in developing nuclear power, have moved so rapidly that they plan to produce 60 percent of their electricity from atomic power by 1985. The straitjacketed U.S. nuclear industry will be lucky if it is producing 18 percent of the nation's electricity by 1985.

"The French, the British, the Soviet Union and other major industrial countries have recognized the great potential of the breeder technology that apparently has escaped President Carter and others in Washington.

"For the fast breeder has two enormous advantages over present reactors. First, it is able to use the abundant Uranium 238 which comprises about 99 percent of uranium fuel. Conventional reactors, by contrast, must rely on Uranium 235 which comprises less than 1 percent of the uranium fuel.

"Secondly, when the U–238 is bombarded with neutrons along with plutonium, the reaction produces more plutonium than is consumed—hence the name, breeder.

"Thus the fast breeder is able to get up to 80 times as much energy from the same uranium that now is used in present reactors. Another important factor is that the United States has an incredible amount of U–238 stored in drums at uranium enrichment plants since U–238 is a byproduct of this process.

"Opponents have argued that the U.S. shouldn't move ahead on nuclear power because the technology and facilities for storing nuclear waste haven't been developed. But, here again, the French have proven that this is phony argument. They not only have developed the technology but have built a plant that is busily engaged in enclosing hazardous nuclear byproducts in solid glass blocks that can be safety stored underground in a relatively small area for hundreds of years. The process is called vitrification.

"France, Britain, Soviet Russia and other countries all are doing the things in developing nuclear power that antinuclearites in this country say can't be done. They are moving steadily toward a future that is less and less dependent on oil and other scarce and costly fossil fuels. Meanwhile the nation that discovered atomic power has tied its own nuclear industry in knots and has put itself increasingly at the mercy of the OPEC oil pirates."●

WE DO NOT HAVE TO LIVE WITH TAXFLATION

● Mr. DOLE. Mr. President, the Consumer Price Index rose by over 1 percent in September, an annual rate exceeding 13 percent. Meanwhile, the Chairman of the President's Council on Economic Advisers believes that inflation is here to stay. Charles Schultze told the Washington Forum last week that sluggish productivity in American industry limits our ability to cut the inflation rate. Mr. Schultze feels we will be fortunate to get the rate down to a steady 9 percent. The administration's strategy, according to Schultze, is to target any tax reduction toward increasing investment and to improve the cost effectiveness of Government regulation. Schultze also reiterated the administration's call for economic austerity and wage and price restraint.

The Senator from Kansas would not quarrel with the goals of targeting tax reductions toward investment, or reducing the burden of Government regulation. But Mr. Schultze's other remarks seem to indicate a willingness to throw in the towel in the battle against inflation. It is that persistent underlying rate of inflation, rather than sudden price shocks induced by OPEC, that is our real enemy. We must publicly commit ourselves to a long-term battle against inflation, and we must be determined to win. Otherwise, we will never be able to break the inflationary psychology that grips the Nation. If the Government can set an example of monetary and fiscal restraint, then we have a fighting chance.

The Chairman of the Council on Economic Advisers acknowledged that real income and real purchasing power are declining. Mr. Schultze also said that this decline has so far caused consumers to cut their savings rather than consumption, but he anticipates a slowdown in sales in the near future.

Mr. President, it is unfortunate that Charles Schultze missed an opportunity to endorse a real reform that would help deal with the problems he identified. People could save more if they had a bit of tax relief, and they would be more inclined to moderate their wage demands. In addition, tax relief can be designed to eliminate a major incentive the Government has to keep inflating the economy.

This incentive is the windfall in tax revenues that the Government receives when inflation pushes people into higher and higher tax brackets. Income gains that merely keep pace with inflation are treated as real income gains under the tax code, with the result that people pay a higher rate of tax in periods of inflation. This tax penalty or "taxflation," penalizes thrift and productivity as well as encouraging Government to inflate the economy, knowing that it will gain extra revenues as a result.

An end to taxflation would help us beat inflation, and the administration would do well to consider that fact. The Tax Equalization Act, S. 12, would stop taxflation by indexing the tax brackets, zero bracket amount, and personal exemption according to the rise in the Consumer Price Index. Tax liability would be assessed on a constant measure of real income, and Congress would have to act to raise taxes. In addition, Congress would not gain additional revenues by allowing inflation to continue.

Mr. President, the Senator from Kansas introduced the Tax Equalization Act in recognition of the devastating impact inflation has on the American people. To exact an inflation tax penalty as well, without any action by Congress, is unfair and unwise. It is high time we deal with this problem.●

SALT AND THE FUTURE OF FREEDOM

● Mr. JACKSON. Mr. President, at the 25th Annual Session of the North Atlantic Assembly, convened in Ottawa, Canada, October 22–27, I had the opportunity to address the assembled Parliamentarians from NATO countries in plenary session on the subject of the Strategic Arms Limitation Treaty (SALT).

I ask that the full text of my October 26 address be printed in the RECORD.

The address follows:

SALT AND THE FUTURE OF FREEDOM

(Address by Senator HENRY M. JACKSON)

Like so many others, I am disappointed at the outcome of the SALT II negotiations. What is required for the peace of the world is serious East-West arms reduction—a genuine stabilizing arms limitation. Tragically, the SALT II treaty submitted to the Senate turns out to be an unbalanced charter sanctioning the massive buildup of Soviet strategic power, advantaging the Soviets in critical respects, and containing provisions of great importance that we are unable to verify.

My friends, it is time for all men and women who cherish freedom to face reality. A decade of the "SALT process" has been accompanied by an unparalleled Soviet strategic buildup.

In 1969, the United States led the Soviet Union in every single indicator of strategic military strength: the number of land-based and sea-based missiles, the number of warheads, the megatonnage of its missile force, the accuracy of its weapons, the potential of its missiles to strike protected military targets, and so forth. Now, the Soviet Union leads the United States in every one of these same indicators with only one exception, the number of warheads. And the American lead in warheads is rapidly evaporating.

For the first time, after a decade of arms control negotiations, the Soviets have acquired the capability to destroy a significant portion of the American strategic retaliatory forces—something they were never able to do before—and something that we cannot do to their forces even now.

It is now generally recognized that the SALT agreement of 1972 did not, as its proponents hoped, moderate the growth of Soviet strategic forces. In fact, the Soviet devotion of resources to strategic forces actually increased after the 1972 agreement. Today they devote more than three times as much resources as the United States to strategic offensive and defensive forces, as measured in constant-dollar terms. Indeed, the Soviets have invested in the last decade over 104 billion dollars more than the United States in strategic nuclear forces alone.

In conventional weapons, the situation is also serious: the Soviets lead us in tanks by 5 to 1, in artillery pieces by 2.3 to 1, in attack submarines by 3.5 to 1, in ground forces divisions by 10 to 1, in medium bombers by 11 to 1, and in air defense missile systems by 278 to 1. And in this last decade we have begun to see the development of a sophisticated, ocean-going Soviet navy, including nuclear-powered surface combatants.

The adverse shift in the strategic and conventional equation is bound to have far-reaching effects upon world politics. As the Kremlin becomes confident of possessing strategic superiority—combined with Soviet conventional superiority in local situations—the willingness of the Soviet leaders to confront and intimidate the NATO nations and their vital interests will grow correspondingly. We are all aware that during this same period we in the West increasingly will be dependent on various countries in the Third World for raw materials, especially energy resources.

The great danger ahead is the Kremlin's political use of strategic superiority as an umbrella under which to pursue a series of probes—on their own or through the foreign legions of their surrogates—to expand Soviet power and weaken the position of the western nations. The fateful question for us is whether the NATO countries can conduct effective foreign policies—which will assure their national security—from a position of strategic and conventional inferiority. Can our leaders bargain confidently and stubbornly, can they stand up to Soviet blackmail, can they hold their ground in crisis situations—from a position of relative military weakness?

On October 6, 1938, following the Munich summit, as the policy of appeasement lay in ruins, Neville Chamberlain said in the House of Commons:

"Our past experience has shown us only too clearly that weakness in armed strength means weakness in diplomacy."

This year—four decades after Munich—what the world needed from SALT II was a treaty that would substantially reduce strategic forces—a move toward genuine arms control.

In 1974 and 1975 I outlined and urged just that sort of treaty. In March 1977 President Carter proposed significant mutual force reductions and a ban on the deployment of new ICBM's. Many of us in Congress warmly supported that proposal. But the Administration's initial position collapsed at the very first Soviet objection: it did not have the conviction to hold its ground with the Russians.

However, the SALT II agreement—which the Soviets did not object to—will permit them to continue unabated their huge increase in strategic forces, just as did SALT I. During the seven years of this treaty, Moscow is expected to add more than 5,000 strategic nuclear warheads to its already formidable arsenal. Far from limiting the Soviets to just one "new type" ICBM as has been claimed, a close reading of the treaty makes it clear that loopholes in the definition of the term "new" will enable the Soviets to continue to develop and deploy their very new ICBM's in the guise of modernization.

The new treaty allows the Soviets some 300 heavy missiles, each with 10 warheads. The United States is not allowed any heavy missiles nor are we compensated for the imbalance in throw weight. SALT II thus violates the Congressional mandate to provide for equal levels of strategic forces, taking into account missile throw weight. That mandate is contained in the Jackson amendment which has been part of American statute law since 1972.

And even our light missiles, which have a third the throw weight of the Soviet light missiles, are permitted to carry only half as many warheads—six on each missile for them and three on each missile for us. More important, we can no longer rely on our earlier advantage in accuracy to compensate for this quantitative imbalance.

The Soviets have a new supersonic bomber, the Backfire, currently in production. It doesn't count in the treaty. We have an old subsonic bomber, built 20 years ago, called the B–52. Each B–52 counts under the treaty—even those that have been cannibalized for spare parts.

There are more inequalities in this treaty. For instance, why is it "equal" for the Soviet Union to be allowed to deploy yet more SS–20's targeted against Europe during the same period that we are prohibited from deploying intermediate range cruise missiles? What is equal about a Protocol that codifies the notion that we must hold back on our most promising new theater systems, while the Soviets proceed to build up their theater nuclear capabilities? Both in public and in private the Soviets have made clear they regard the protocol limitations as not temporary in nature. And the current Soviet campaign of public pressure against NATO's theater modernization is only the beginning.

Already Dutch Parliamentarians and some others in Europe are telling us that ratification of SALT II is a prerequisite for adoption of the theater force modernization program. As Senator Nunn has responded:

"This reminds me of a Marx brothers movie where Chico, whose life is being threatened by armed thugs, points a gun at his own head and shouts, 'If you come any closer, I'll pull the trigger . . .'

"To accept this threat as a serious argument for SALT II ratification, one would have to conclude that our allies are not dedicated to their own defense. If this is the case, the future of the alliance is not bright, whether SALT II is ratified or rejected."

If the United States settles for an unequal SALT II agreement, what is going to persuade Moscow to accept an "equal" agreement in a SALT III or a SALT IV? Once SALT II sets the precedent for inequality, do you believe Moscow will give it up when dealing with us collectively in some MBFR agreement, or in a SALT III which incorporates theater systems? The free nations will be far better off if the United States Senate insists on equality now, in SALT II, rather than hope that the "next time around" equality will be achieved. It won't be if we fail to demand it now. Just remember that SALT II was to have been the "next time" as a follow-on to SALT I.

Moreover, there are significant aspects of SALT II which cannot be verified sufficiently. The Protocol to the treaty, which deals with cruise missiles and mobile missiles, effectively cannot be verified—it's as simple as that. There are other areas where the treaty causes serious verification problems including: Brezhnev's Backfire statement, the number of re-entry vehicles deployed on the SS–18's, and the encryption of telemetry allowed the Soviets. Thus, many Senators believe that this treaty as submitted is not adequately verifiable.

As Lord Chalfont recently said:

"Those who support the treaty seem to suggest that it is in itself a Good Thing, like cricket or brotherly love, and that anybody who does not support it is either a cad or some kind of irredeemable right-wing reactionary."

My friends, the treaty is not like cricket or brotherly love. It is not a measure of disarmament. It is not a breakthrough of any kind. It is an unequal charter for the massive Soviet strategic buildup—an altogether ironic outcome for a so-called arms control agreement.

As Lord Chalfont went on to say:

"It is argued by people both in this country and in the United States that, if the Senate were to fail to ratify this treaty or outrage the Russians by demanding any form of amendment, the prestige of President Carter and of the whole American Presidency would be undermined; and that this would have effects upon the world balance of power altogether disproportionate to the importance of the SALT agreement. I find this argument difficult to follow. If the treaty itself is bad and ineffective, then it seems to me that it would be far more dangerous to accept it uncritically than to say so now while the Senate is in the process of debating the ratification. It will be no good saying it afterwards."

As you well know, the Senate of the United States has a constitutional responsibility not only to give or withhold its consent to the Administration's proposed treaty, but to give its advice as well. That is just what we are doing. And we are also taking a hard look at our overall defense posture.

Many of us in the Senate believe that the treaty as submitted is dangerously defective. And in our political system the means of bringing about change in a proposed treaty are numerous. They include Senate amendments and motions to recommit a treaty to the President with instructions to reopen the negotiations and with guidelines as to the outcome we should seek. Many of us believe that no SALT II treaty would be preferable to an unsafe one, and that the current treaty will not be safe unless its most serious deficiencies are corrected.

In short, a major undertaking is underway in the Senate to help fashion a balanced SALT II treaty that provides for equality and greater verifiability, and protects the bargaining position of the NATO alliance for genuine, mutual arms reduction.●

THE INTERCITY BUS: A VITAL MODE OF TRANSPORTATION

● Mr. McGOVERN. Mr. President, when either the administration or the Congress wants to encourage intercity mass transportation, they normally turn to Amtrak or the commercial airlines.

Certainly both of these transportation modes have their place, but I would hope that new consideration could be given to the most cost effective, most flexible system that we have—the intercity bus. Our privately owned intercity bus systems must compete on high volume routes with Amtrak that is subsidized with tax dollars. Yet the buses are also expected to serve all points in rural America with the only public transportation available for many communities.

In South Dakota, for example, we have never had any Amtrak service. Commercial airlines serve only nine boarding points in the entire State and we rely, completely, on a privately owned bus system to provide the only access most towns and cities have to any form of public transportation.

We must stop regarding the intercity bus system as the "poor country cousin" who must be satisfied with the "leavings" from the funding and attention given to other forms of public transportation. It is primarily the bus that utilizes our expensive network of interstate highways, meets a commitment to rural areas for both passengers and light freight and, in a general sense, gives our country the truly national public transportation system the times require. As more and more people are forced to make an economic decision to take public transportation, we need to have an intercity bus system in place that will respond to that need.

Here in our Nation's Capital, we need to insure that our intercity buses can utilize the transportation complex at Union Station—so that passengers can transfer easily between Metro, Amtrak, and our privately owned bus systems. In other major metropolitan areas, we need to encourage the location of attractive, convenient bus terminals that will further encourage passengers to take the bus. But, perhaps most importantly, we need to abandon the Federal mind-set that depresses the development of intercity buses. As the energy crisis worsens, it is the bus that will provide the most direct transportation assistance to the most people.

Writing in the October 28 edition of the New York Times, the respected columnist, Tom Wicker, spoke to these points in a thoughtful article.

I ask that Mr. Wicker's article be printed in the Record:

The article follows:

THE NECESSABY BUS

(By Tom Wicker)

Lima, Ohio, October 26.—This Ohio industrial city is like a lot of other hustling American communities—it's easy to go somewhere else by car (Interstate 75 passes through, going north and south) but not so easy to get anywhere by public transportation.

The nearest airlines fly from Dayton or Toledo, each an hour and a half away. Amtrak, typically enough, serves the city only between midnight and breakfast, via daily long-haul trains between New York and Chicago. Eastbound service departs at 12:37 A.M., westbound at 5:45 A.M.

Greyhound bus service is more frequent—13 departures daily, two directly to Chicago. But if you want to go to New York, there's only one connection, requiring a change of buses in Pittsburgh.

With no more intercity public transportation than that, Lima—the center of an area population of about 87,000—must depend primarily on private automobiles (like the rest of the nation, in which over 85 percent of intercity travel is by auto, 10 percent by plane, 2 percent by bus, and under 1 percent by train). And that makes Lima and the nation vulnerable to renewed gasoline shortages and rising gasoline prices.

It might be supposed, therefore, that rail and bus lines would be expanding; but in fact, Amtrak has just reduced its route structure and intercity bus service has been dropping off in this country for the last decade (although not in Lima). During that time, bus company earnings have declined by about 50 percent, industry sources say, and more than 150 compaines that used to serve smaller communities have gone out of business.

Whatever the long-term need for renewed rail passenger service, a revivial of intercity buses offers more short-term energy conservation and speedier improvement in intercity public transportation. Buses can already go where cars can, on the nation's magnificent highway network; trains, in contrast, cannot properly be utilized until extensive and expensive roadbed work has been done.

Fully-loaded buses, moreover, operate at greater fuel efficiency than private autos or trains carrying no more passengers than Amtrak's do today, or will for years to come. And even, now, after a decade of decline, intercity buses are serving more than 15,000 communities—only about 1,000 of which have any other form of intercity public transportation.

Buses are also the transportation mode most used by people least able to do without public conveyances. Industry spokesmen say that more than 60 percent of bus travelers have annual family income of $10,000 or less—compared to 41 percent for intercity auto passengers, 38 percent for rail and 22 percent for the airlines.

More than 60 percent of bus passengers are 55 or older, or under 18 years of age. More than 60 percent are women, again a greater percentage than for rail, air or auto. And the 88 percent of bus riders on personal or family trips—rather than expense-account travel—actually exceeds the 84 percent of private auto passengers traveling for personal reasons.

Nearly a third of all bus passengers live in small communities or rural areas; about a third of all bus trips begin or end in rural areas. Yet, just such areas have suffered most from the decade of decline in bus service; West Virginia, for example, last 43 percent of its routes in that period. Kansas lost 28 percent.

Even after that disastrous decade, buses carried 335 million intercity passengers last year—more than the airlines and Amtrak combined. And, like Amtrak, the buses picked up ridership during the gas shortages of 1973-74 and 1979, which shows that people can be lured or threatened out of their autos and into public transportation—if public transportation is available. In all too many cases, it isn't.

The reasons for declining bus service are many—rising affluence that has produced multi-car families, urbanization that has taken people away from rural areas where only buses can provide service, high unemployment and inflation rates that have hit hardest at the people who make up most of the bus traveling public.

Industry spokesmen also insist that a subsidized Amtrak has cut into their market—perhaps by as much as 30 percent in the Northeast Corridor. Now they are urging Congress to grant intercity bus operators an additional 10 percent investment tax credit for the purchase of new buses to upgrade their operating fleet. That would cost about

$20 million in the first year, perhaps twice that after five years.

In addition, some Congressmen from smaller states are pushing for a Federal subsidy to preserve routes to rural areas (1,700 have been cut off in the past 10 years, and another 1,000 are now threatened). If the subsidy is approved, the industry will seek about $15 million the first year, compared to $70 million in Federal subsidies recently awarded five regional airlines serving only a few communities.

These relatively modest proposals could produce an important contribution to energy conservation; and in the decade to come, unlike the one just past, demand is likely to rise for widespread and efficient public transportation—bus as well as rail, in the nation's smaller communities as well as in its crowded urban corridors.●

THE HEAVY MISSILE ISSUE AND SALT II

● Mr. GARN. Mr. President, so far the Foreign Relations Committee has considered several amendments to the Salt II treaty. They were voted down. Two of the most important amendments would have allowed the United States to have the same number of "heavy" ICBM's as the Soviet Union. This important change is essential and the "heavy" missile amendments will be offered again on the Senate floor. Consequently, I would like to address this issue.

The most striking advantage allowed the Soviet Union in the SALT II treaty is a monopoly of 308 heavy missiles. These weapons have twice the payload of anything allowed the United States under the SALT II treaty—the proposed MX—and seven times the payload of the most modern deployed U.S. ICBM, the Minuteman III. The SS–18 heavy missile is supposedly limited to 10 warheads of about one megaton yield, but has been tested so that it can be deployed with 12 to 14 one-megaton yield warheads. This compares with our current capability of 3 warheads of 0.17 megaton on the Minuteman III and three weapons of 0.335 megaton on the upgraded Minuteman III to be operational by about 1980.

It is sometimes argued that the United States has had no interest in heavy missiles, and has no interest in them at the present. Hence, it is argued, the United States does not suffer any disadvantage from being excluded from these weapons. Furthermore, the Secretary of Defense argues that the MX, with 10 warheads of something like 0.5 megaton each, is almost the equal of the SS–18 heavy ICBM of the Soviet Union. The U.S. decision to opt for light ICBMs is often misunderstood. It was not based entirely on the U.S. advantage in accuracy. The U.S. Minuteman ICBM program was born in 1958, when we believe we were in a missile race with the Soviet Union and at the wrong end of an emerging "missile gap." The United States opted for smaller ICBM's of the Minuteman-size primary because they were relatively cheap and could be mass produced. This, coupled with technical advantages in accuracy and sophistication, made the smaller missile desirable and made a large force size possible. The original plans for Minuteman deployment dwarfed the Minuteman force that was ultimately built. The Strategic Air Command wanted many thousands of Minuteman ICBM's. Originally the Air Force planned on some 2,400. The figure of 1,000 was ultimately adopted when the Secretary of Defense Robert McNamara accepted the doctrine of mutual assured destruction and, therefore, abandoned any effort to retain strategic superiority.

If the United States had actually gone ahead and built the numbers of Minuteman ICBM's that the Air Force desired, we would currently have strategic forces comparable to those that will be possessed by the Soviet Union in the early 1980's, including an overwhelming capability against Soviet military forces.

Prior to the decision to accept mutual assured destruction as the U.S. doctrine for strategic nuclear forces, the United States had built 250 heavy missiles. Most of these were retired as the result of the adoption of the new doctrine—though publicly it was rationalized in the name of reducing costs.

The Minuteman III ICBM was specifically designed as the smallest vehicle capable of carrying its MIRVed payload. Its design was in effect dictated to the Air Force by Secretary McNamara. Had the Air Force designed the Minuteman III without the constraints dictated by the Secretary of Defense it would have been considerably larger than it turned out to be.

In the 1960's, the United States considered a heavy missile follow-on to the Minuteman III, the WS–120 system. It never got underway as a project, because of the upsurge of antimilitary feeling caused by the mismanagement of the Vietnam war. In a political environment where a major attempt was made to prevent even the U.S. deployment of the MIRVed Minuteman III, it was impossible to seriously consider a much more capable weapons system.

The MX system first was envisioned as a 10,000 pound throw weight missile, able to carry 14 warheads. The current version of the MX has the capability to carry more warheads than allowed by the treaty, although it was specifically designed down to be a "light" missile under the treaty.

The MX is currently being designed to have less than one-half the capability of the Soviet SS–18. Suggestions by the Secretary of Defense to the contrary are based on estimates which assume the maximum possible yield for the MX warhead and close to the minimum reasonable yield for the Soviet system, and on the assumption that the Soviets will not exploit the option to deploy the system with 12 to 14 reentry vehicles. Using comparable warhead technology the MX would carry 10 weapons of 0.5 megaton each while the SS–18 would carry 12 to 14 weapons of 1 megaton each. If the MX was not limited to the SALT definition of a "light" ICBM it could carry up to 14 weapons without a significant increase in its size.

This negotiating option was open to the United States when the Soviets tested the SS–18 with more warheads than is allowed by the treaty. Instead of demanding the right to do the same with the MX, the United States has, in effect, winked at the Soviet violation of the "spirit" of SALT II, which quite possibly represents Soviet preparations to violate the letter of the agreement by actually deploying the SS–18 with more warheads than are allowed. This seems even more possible, in view of very recent intelligence information which indicates that the new Mod 4 warhead for the SS–18 was specifically designed to carry 14 weapons.

If the United States ratifies the SALT II treaty in the present form, we will be accepting a gross inequality—a Soviet monopoly on heavy missiles. The United States will be accepting almost a one-third reduction in the potential effectiveness of the MX force in order to obtain an ineffective limit on the number of Soviet warheads on the SS–18.

I have proposed amending SALT II to give the United States the right to deploy heavy missiles and to improve U.S. ability to verify the warhead constraints under the agreement. I would prefer to abolish heavy missiles completely, but if we are going to have an arms control agreement that allows them, then the United States should have the option to build them. If they do not have military significance, as is claimed by the Carter administration, then the Soviets should not object to such an amendment. If they do have military significance, then this is an option that we should have. Or at least we should not allow the Soviets to have a unilateral right to these weapons. I believe that 308 missiles, each capable of delivering 10 to 14 warheads in the 1 megaton range, do have military significance and that the Senate of the United States should approve no SALT treaty that precludes such an option for the United States.●

TRIBUTE TO RAY GENET

● Mr. GRAVEL. Mr. President, it was with sorrow and disbelief that I learned of the death of my friend Ray Genet on Mount Everest. Ray was Alaska's foremost mountain climber and was known worldwide for his knowledge and climbs of Mount McKinley.

I met Ray shortly after his arrival in Alaska in 1967, and I have had the great pleasure of his company many times since. In his presence one was immediately struck by his physical strength and his sheer exuberance of life.

With Ray there was no such thing as "quiet conversation." His penetrating eyes constantly darted and probed, his muscles appeared to be constantly flexing with each new thought and comment, and his excitement and aggressive pursuit of an idea or a physical challenge were instantly contagious.

His participation in the first winter ascent of Mount McKinley is legendary. Immortalized in the book "Minus 148°" by fellow climber Art Davidson, "Pirate" Genet spent nearly a week in a small snow cave near the summit with little food waiting out a fierce winter snow in unbelievable cold. After that historic climb, Ray stayed on in Alaska and became the leading climbing guide for

Mount McKinley. Over the past years, Ray climbed the 20,300-foot mountain more times than any other person—in excess of 30 times.

Thus, it seems incredible that Ray was killed—even on Mount Everest, the ultimate mountain climbing challenge. For those who knew Ray, his physical abilities and capacity to cope with the most adverse situations were unsurpassed, even by those much younger than Ray's "young" 48 years. On October 2, Ray became the eighth American ever to reach the summit of the world's highest peak. The next morning he was found frozen to death just a couple of thousand feet below the summit, where the exhausted party had made camp on their descent. Another member of the summit party also died that day on the descent.

Ray loved the McKinley area and made his home in Talkeetna just south of the mountain. Although there is a small lake at his homesite called by his nickname, "Pirate." I think his memory should also be preserved by naming some previously unnamed physical feature on the McKinley massif itself after Genet. I will be asking the Board of Geographic Names to consider such a proposal.

With the death of Genet, we have lost a great mountain climber, a great Alaskan, and a great human being.●

MAKE ECONOMIC EDUCATION RELEVANT

● Mr. DURENBERGER. Mr. President, during the past several years it seems that everyone's favorite target has been business. Whenever government is not being blamed for the ills of our society, business bears the brunt of our attacks.

Why has business become one of our favorite scapegoats? Probably because the business community is so willing to accept the blame. Many of our business leaders have become defensive and they have done little to change the growing antibusiness sentiment.

Fortunately, in Minnesota, we have enlightened business people who recognize their responsibilities to their community and to the people they serve. Minnesota corporations like General Mills and the Minneapolis Star and Tribune are becoming involved in urban development. 3M has responded to the Nation's energy problems by promoting a van pool program for its employees. Control Data has developed high technology programs to meet basic needs in education, manpower training, and ex-offender rehabilitation.

This is only a small sample of Minnesota firms taking an active and important role in their communities. In addition to these public services, many corporations have recognized the need for public education about the free enterprise system and important issues of the day. They no longer are willing to be everyone's whipping boy. Instead, they are taking their cases to the public and demonstrating their roles as responsible members of society.

Significantly, many businesses are starting with their own employees. The employees are involved in their companies and given the opportunity to take part in the activities of the firms that employ them.

One of the leaders in public education on business is McQuay-Perfex. This firm has done an outstanding job of bringing information to its employees and, through them, to the public. Bob Macdonald, vice president of administration for McQuay-Perfex recently delivered a speech on this topic to the Minneapolis Rotary. I ask that the text of his speech be printed in the RECORD.

The material follows:

MAKE ECONOMIC EDUCATION RELEVANT

It is a real honor to be asked to appear before Minneapolis Rotary today. I am aware of the high caliber of your programs and am flattered to be included in your distinguished schedule of speakers.

Any time you give a speech before a group like this, it is an especially difficult challenge to prepare something that will offer a really fresh perspective on an important subject like economic education about which we all have some degree of familiarity. If you discover even one new piece of wisdom which may motivate you to do something in the future, it will have made the effort today worthwhile.

Mark Twain once said: "We should be careful to get out of an experience all the wisdom that is in it—not like the cat that sits on a hot stove lid. She will never sit on a hot stove lid again—and that is well; but also she will never sit on a cold one anymore, either".

Too many people in the United States today have been turned off by some bad experience with business, or by what they have heard about business practices, are like that cat—they don't even want to know what the business perspective is on many important issues, and that attitude must be changed.

Many of you probably don't know what to expect from today's topic, "Making Corporate Economic Education Relevant". Any skeptics among you are likely to think that this may be just another occasion to hear some general platitudes about how wonderful the free enterprise system is; that profits are good for the country and that the business community is the only real answer to solving our problems. If you don't come away today with something more than a few broad generalities of this type, then I will have wasted your time.

I realize how difficult it is with your busy schedules to find the time to communicate more with your fellow employees and with elected officials. There may be some real benefit, however, in making you more aware of present public attitudes toward business and to offer some perspectives on what has been happening in the field of corporate economic education as a result. I welcome this opportunity to discuss how social and political factors appear to be changing the economic environment and to present you with some new facts which you may wish to use in discussing some of these basic economic issues with your fellow employees, families and neighbors.

Identifying the most meaningful economic issues in clear and simple terms has been the basic purpose of the corporate economic education program at McQuay-Perfex over the last three years. Hopefully, it has given our employees a better perspective on inflation and taxes and other important influences on their daily lives. And in some cases it has even encouraged them to challenge some of the antibusiness rhetoric which occasionally appears in the media.

We also recognize the importance of our company developing the right attitudes at the workplace. Some of the young people coming out of school today have a far different understanding of business problems and opportunities than the older generation running corporations, so it is increasingly difficult for many of these new employees to feel any strong commitment to support their companies' activities. Developing a positive attitude among employees is certainly an important part of any company's success, and this is increasingly true at the clerical and factory levels. Economic education of employees and shareholders is not just good public relations, it may be essential to establish the support necessary for maintaining the existence of the private corporation, as we know it today.

There are several important areas that I would like to cover in today's talk: the attitudes towards business in the country as evidenced by public opinion and recent legislative actions in Washington, the thrust of economic education efforts by the business community, the experiences of McQuay-Perfex in implementing an economic education program, and finally, the outlook for corporate involvement in economic education in the future.

I. ATTITUDES TOWARD BUSINESS

Public opinion survey show that business has been evaluated in a decreasingly favorable way over the past 10 years, so that only about 15 percent of the U.S. public currently has confidence in business. This appears to have resulted from several factors—one is that many business executives avoid communicating the economic facts of life of their company's performance in anything but the most general terms. They are reluctant to talk about the bad things as openly as the good things, possibly because they may compare unfavorably with competitors who choose not to make this distinction. Even the unsophisticated investor will be suspicious of business complaints about government regulations and foreign competition if company activities and performances are always presented in the most favorable light possible. The key here is that business must talk openly in public about issues that worry them in private.

But the problem is more complex than simply developing better business communications and strengthening political lobbying muscle to win legislative victories. Recent bright spots, such as the defeat of the common situs picketing and labor law reform bills and passage of tax legislation granting some much needed investment incentives, are certainly only the first step. What is more significant is that in recent years business seems to have lost a view of itself as a valid social institution—and in the process, it may have yielded by default much of the public goodwill upon which its social legitimacy is based. In the absence of perceived legitimacy, government regulation of the corporation has become the preferred approach of the public and of politicians.

The recent anti-government mood in the country, therefore, cannot be viewed as an encouraging pro-business sign. Rather, the opposite may be the case. For all its faults, government is still seen as capable of reform through the democratic process. On the other hand, the fact that business motives are seen as questionable has resulted in a growing acceptance of the need for new legislation as the only means to check its power. Business's economic power is never doubted, but the loss of social legitimacy opens up some completely new issues: one is the increasing legislative protection of individual employees' rights, separate from the corporation's rights. Another is the public's questioning of who should really speak for the corporation—not just shareholders or management, but public interest groups which are seeking to have members placed on a corporation's board of directors. Corporations that pretend to infallibility in today's environment are seen as phony, so they will have to rethink how to approach their various publics in order to maintain their present legal forms and preserve their leadership roles in society in the future.

Despite the public's distrust of business, a 1979 Yankelovich survey showed that more than 90 percent of the public not only supports the U.S. economic system, but says it is willing to sacrifice in order to preserve it. That is quite a vote of confidence underlying our free enterprise system. What this means for corporate economic education efforts is that employees do not need to be directed to supporting the system itself.

Rather, businesses must increasingly concentrate on providing the clear cut, no-nonsense answers the public claims it has not been getting recently. The focus of economic education programs, therefore, must be directed more specifically to contemporary approaches for solving contemporary problems. Achieving support for company goals can take a variety of forms—special letters or pamphlets on topics involving timely economic issues; expanded annual and quarterly reports carrying more substantial information on the company; and newsletters from company political action committees appraising shareholders and employees of important political developments concerning new legislation and regulations. Some companies even prepare annual reports specifically written for employees.

Surveys by national business organizations show that only about 25 percent of the major corporations in the U.S. currently feel corporate economic education is important enough to have established meaningful, quality programs with their employees and shareholders. The most successful programs deal primarily with economic subjects and are usually simple enough to be used in basic teaching programs of various kinds. While such programs are not unbiased, they are generally even-handed in their explanation of the role of business in the economy. Political activity, such as greater communications with legislators, is often the desired result, although it may not be mentioned directly.

Programs directed at specialized subjects and specific audiences have the maximum impact and are usually considered the most effective according to subsequent surveys. Economic education efforts should also be regular—one shot speeches or letters can be perceived as self-serving, which may be worse than doing nothing at all.

II. M'QUAY-PERFEX

Let us now take a look at the economic education program at McQuay-Perfex. Although the corporation does not have a government affairs or public relations department, the top management decided that an improved internal communications program would help build a long-term credibility with employees and shareholders in understanding and even supporting management positions on legislative issues. Every year, since 1976, a new economic education program in the form of a live talk and slide show with questions and answers afterwards has been given to management and clerical employees at most major plants and administrative offices in the corporation. In addition, the pamphlets which you have on your tables were distributed to each employee and shareholder with the release of third quarter reports.

Our first publication in 1976, Business Profits Mean People Progress, looked at what profits are, how small profits are versus other expenses such as employee salaries and fringe benefits, and discussed why profit is in fact a cost. That was the basic concept of the pamphlet—that profit is a cost. It is a cost which is absolutely necessary to finance capital expenditures for new plants and equipment, to repay loans and to pay dividends necessary to attract and retain shareholders. The reaction to the pamphlet from shareholders and the business community was very positive, especially since very few companies had initiated this sort of program at the time.

The second publication, Inflation Hurts Everyone, was published in 1977. It discussed the three basic cases of inflation in the U.S. which are government deficits, the overall level of government spending and the high cost of foreign oil imports due to OPEC price increases. It was noted that such factors as union wage demands and corporate price increases were symptoms, rather than causes of the basic inflation problem, and were primarily attempts to stay even with the impact of inflation. Government-imposed wage and price controls are the wrong solution to the inflation problem, since they treat the symptoms, not the cause, of inflation. Wage and price controls tend to create inefficiences and shortages in the free market system by taking away the profit incentive to produce certain products.

The third pamphlet, Taxes—What Can We Afford?, was released last October. It noted the increasingly heavy burden of taxes on the family budget—on the average, taxes now total more than food, clothing and housing combined. It also pointed out the necessity for tax cuts just to keep people even each year because of progressive tax rates and increasing social security taxes. The necessity for tax cuts to encourage greater investment rather than just more consumption was the critical focus of the pamphlet. Such cuts will encourage expenditures for new plants and equipment which in turn create the new jobs in private industry necessary for the country to grow. Only then will there be more wealth which can be distributeed to help the poor. Since it is difficult to reduce the level of government spending or control OPEC oil prices, tax cuts designed to increase investment may also be the only way to balance the budget and reduce inflation to tolerable levels.

The 1979 pamphlet to be released in early November is titled, Energy—Facing the Tough Choices. It examines the availability and costs of various forms of energy in the rest of this century, the respective roles of private industry and government in meeting the country's energy needs, and the necessity for balancing conservation and environmental protection measures with discovering new domestic sources of energy. It advocates price decontrol as a key measure in developing the energy needed for the 1980's and moving the U.S. toward greater self sufficiency. If any of you who are not shareholders would like a copy of the Energy pamphlet, please give me your business card at the close of this meeting today or drop me a note, and I will be happy to send you a copy.

We were curious as to what our own employees thought of these publications. A survey was taken in the Berlin Foundry after the Profits pamphlet was sent to all 700 employees. It indicated that over half had read it and half of those had a very positive reaction. We feel that this was a surprisingly positive response from a hard-nosed, sometimes cynical group of foundrymen. New employees have also benefitted from this type of economic education program, especially with the opportunity to discuss both sides of an issue at the question and answer period which follows each live presentation.

The pamphlets have been more successful than we ever anticipated. Although originally targeted for employees and shareholders, this economic education effort has reached a wide variety of people in communities all over the United States. Junior Achievement Programs in Sioux Falls, South Dakota, and Milwaukee, Wisconsin, have utilized the profits pamphlet with their young people. Ralph Mason's column in the Skyway and Freeway News has included excerpts from each of the pamphlets, together with his comments. The National Association of Manufacturers has highlighted each of the pamphlets in its monthly Enterprise publication. It devoted a full page to excerpts of the tax pamphlet in the December, 1978, issue. College professors, corporate presidents, corporate public affairs departments and stock brokerage firms from all over the country have utilized all three pamphlets in various types of educational and promotional programs.

The annual cost to McQuay-Perfex of the preparation, printing and distribution of these pamphlets is about $8,000 to $10,000 a year. Is it worth it? I guess I would answer with another rhetorical question. Can we afford not to do it?

III. OUTLOOK FOR ECONOMIC EDUCATION

What is the outlook for economic education efforts? With the philosophy of entitlement growing more prevalent in both government attitudes and actions in the United States and the media often slanting coverage of business news so it appears unfavorable to private industry, business today must actively compete for the opinions of even its own employees. As the number of individual shareholders in American business declines, there are fewer people with a financial stake in ensuring that business continues to perform in the most efficient way.

Increasingly, business must divert some of its funds into economic education efforts for not only its own employees but the communities in which they live and work. The heads of major corporations are going to have to speak out and provide leadership on the many significant issues of the day which affect their businesses. I have been disappointed in the reluctance of many business leaders to use the media when it is necessary to answer unfounded charges against their companies and industries, or to express a deeply-felt point of view which will reinforce other corporate economic education efforts within their companies. They have left the public arena to politicians and many one-issue special interest groups who do not always represent the views of the majority of the public. We are talking about the public which overwhelmingly supports the free enterprise system and is even willing to sacrifice to preserve it.

Economic education of the general public and legislators is clearly not a luxury—it is as necessary and relevant as earning the profits which have given us all such an enviable standard of living in the United States. Grass roots lobbying of politicians by tuned-in business employees at all levels has become increasingly effective in recent years.

Ralph Nader now openly tells businessmen, "You are the enemy". As you can see, all of us really have no choice but to get involved. My challenge to you today is to be a participant in this vital battle to influence people's opinions. If business loses this battle, we are all going to lose. But we are not going to let this happen.

Thank you.●

THE NONALINED MOVEMENT

● Mr. McGOVERN. Mr. President, the Sixth Nonalined Summit Conference recently concluded in Havana. Most of the press attention in the United States focused on the efforts of President Castro to create a quasi-alliance between the nonalined movement and the Soviet Union. The Conference, however, issued a more moderate declaration than the Cuban Government had originally drafted. Understandably our Government expressed its concern that Cuba's relationship to the Soviet Union was calling into question its nonalined status.

At the same time as we review these developments critically, we should not overlook the positive contributions of the nonalined movement. It would be shortsighted for us to fail to seek improved relations with nonalined nations and with the nonalined movement in order to punish Cuba or the Soviet Union. For what is important about the nonalined movement is its independence from the great powers.

More than 100 countries belong to the nonalined movement. Many of them joined not because they were hostile to the United States, but because they wanted to create a new political arena in which they could exercise independent control over their political institutions and economies in a world dominated by two ideological blocs.

The United States has nothing to fear from the nonalined countries or movement. We can develop good diplomatic relations and fruitful trade relations with these nations even if some of them at the same time seek to have relations with the Soviet Union as well. The world is no longer an exclusive and rigid system in which a nation must choose either East or West. It is more fluid and open and we need a creative diplomacy to respond.

To help us better understand the nonalined movement, I know of no better place to begin than with the speech presented by President Tito of Yugoslavia to the Summit Conference. He is one of the founders of the nonalined movement and he sums up the essence of the nonalined principle in his statement by saying:

> From the beginning we have consistently declared ourselves against bloc policy and foreign domination, and against all forms of political hegemony and we have consistently declared ourselves for the right of every country to freedom, independence and autonomous development. We have never allowed ourselves to be anybody's transmission belt or reserve because this is incompatible with the essence of the policy of non-alignment.

Mr. President, obviously we will not agree with all of the points in Mr. Tito's speech—especially his analysis of the Middle East and his rejection of the Egypt-Israeli peace treaty. But he does convey a strong sense of the original purpose of the nonalined movement.

Stated simply, nonalinement is a major political trend in the world which the United States must seek to understand. We need to engage nonalined countries in constructive diplomatic and economic relations. I ask that the text of President Tito's speech be printed in the Record for the benefit of my colleagues who may wish to study one explanation of nonalinement from a founder of this important movement.

The speech follows:

President Tito Addresses Havana Nonalined Summit

Mr. Chairman, dear friends: It is with a feeling of particular pleasure that I address this eminent gathering of the leaders of sovereign countries linked by a common struggle for the realization of the original [izvorni] principles and aims of the nonalined policy; for peace, independence and equality; and for new international political and economic relations. The leaders of liberation movements whose peoples and countries, I am convinced, will—in the shortest possible period—achieve their legitimate right to freedom and independence are also among us as equals among equals.

On behalf of the SFRY delegation and on my own behalf, allow me to express our gratitude to the government of Cuba and to President Fidel Castro for the cordial hospitality and the significant contribution to the preparations for the sixth conference. The peoples of Yugoslavia cultivate sincere friendly feelings for the friendly people of Cuba and highly appreciate their successes in the struggle for freedom and (? progress) in their country.

I take this opportunity to pay special tribute to Sri Lanka and its president who in the role of the chairman greatly contributed to the further affirmation and consistent implementation of the policy of nonalinement. I feel the need to express my exceptional pleasure that the summit meeting of the nonaligned countries is being held for the first time on Latin American soil. We highly value the struggle of the peoples of this continent for freedom and independence, and for political and economic emancipation, and we highly value their contribution to world culture and civilization.

I am particularly glad to be able to welcome in our midst the new members of our movement—Bolivia, Grenada, Iran, Nicaragua, Pakistan, Surinam, the Zimbabwe Patriotic Front and others. The fact that our gathering is attended by representatives of over 100 countries, which represents two-thirds of mankind, is in itself strong evidence of the historic value of the policy of nonalinement and the successful road which our movement has passed since its first conference in 1961 in Belgrade.

Even then we could see the indispensability—as it says in the Belgrade declaration—of making the transition from the old order based on domination to a new order which founded on freedom, equality and social justice and which leads to well-being. This historic document formulated the principles and goals of nonalinement, and contains our lasting strivings and visions as well as our determination that the policy and the movement of nonalinement should be an independent, nonbloc factor in world events.

Thinking about the days when nonalinement was being born, I can say that we were, as we are now, permeated with the realization that the struggle for national, political and economic emancipation is indispensable. The cold war, which threatened to spread to all the world and endanger its survival, clearly showed that the bloc policy was in sharp opposition to the interests and strivings of mankind. We have never equated the blocs, neither according to the sequence of their arising nor according to other characteristics. From the beginning we have consistently declared ourselves against bloc policy and foreign domination, and against all forms of political hegemony and we have consistently declared ourselves for the right of every country to freedom, independence and autonomous development.

We have never allowed ourselves to be anybody's transmission belt or reserve because this is incompatible with the essence of the policy of nonalinement. From the time it appeared as a herald of a new era, the policy of nonalinement has become a real force in the struggle for world peace and stability, and for building new international political and economic relations.

It is obvious now—especially when we remember the period preceding nonalinement—that any weakening of our movement and pushing aside its role would inevitably lead to the destabilization of overall international relations. After all, this is recognized increasingly frequently by many factors in the world which do not belong to our movement. The results of our activities so far are really very rich. In the past two decades, we have affirmed the original principles and aims of nonalinement as lasting values. We have resolutely struggled for peace, security and freedom in the world. We have made an essential contribution to the successful development and outcome of the anticolonial revolution. We have codified the principles of active and peaceful coexistence and have resolutely advocated their application. We have opposed the policy of force and foreign interference in all their forms. We have launched long-term actions to establish a new international economic order. We have contributed to the realization of the universality of the United Nations and to the strengthening of its role and importance. We have made notable steps in broaching the problems of disarmament. We have waged a resolute struggle for decolonization in the sphere of technology, information and culture in general.

Thus the policy of nonalinement has been objectively confirmed as the most progressive force in the world, as a force which is undermining the foundations on which the existing unjust international relations are based and a force which is creating the conditions for building a world of justice, equality and general progress.

Briefly, the time that has lapsed since the Belgrade conference justifies the statement that without the policy of nonalinement the world would look considerably more different, and something even worse might have occurred. In fact, any tendency toward a total bloc division and the further intensification of the cold war would unavoidably lead us to the brink of disaster.

The problems which burden international relations now are neither small nor simple. The danger of a world conflict has undoubtedly been reduced. However, we are still far removed from real peace, and this current peace is neither universal nor stable. It is constantly being shaken by crises and conflicts. The armaments race, the use of force and interference, the widening of the gap between the industrially developed countries (and the developing countries) and the inequality in international political and economic relations are undermining this peace.

The world's security, peace and stability cannot be realized without a radical change in international economic relations which expose the developing countries to discrimination and inequality.

The material possibilities which man has at his disposal now are—instead of contributing to the prosperity and harmonious development of all—being transformed into the opposite. The inequitable economic relations are becoming an increasingly dangerous source of new strained relations and conflicts.

We must note with indignation that colonialism and racism in South Africa continues to stubbornly exist with the support of imperialist forces. This is, regretfully, occurring despite the great changes in the contemporary world, which has universally adopted the principle of respect for human rights and basic freedoms. Let us ask ourselves: How can human rights be realized while at the same time the realization of the basic rights of entire peoples is being prevented? The peoples of Zimbabwe, Namibia and Azania and their legitimate representatives as well as the South West African People's Organization, the Patriotic Front, the African National Congress and the frontline countries can be assured of our full support for their just struggle and determination to realize their right to freedom and independence. We must do everything possible to hasten the day when colonialism will irreversibly belong to the past.

In the Middle East, the Israeli aggression and the occupation of the territories of Arab countries stubbornly continues. This represents an impudent challenge to the basic principles of the international legal system inscribed in the UN Charter.

The realization of the legitimate rights of the Arab people of Palestine has been prevented for years. It is precisely the Palestinian problem which is the heart of the Middle East crisis. Without a solution to this problem there can be neither a just peace nor lasting security. Taking a realistic view, we must openly say that throughout the region and farther afield, separate paths will not lead to this. A complete and just solution calls for the full participation of all interested sides, including the Palestinian Liberation Organization. It must insure the withdrawal of Israel from all occupied Arab territories and the realization of the right of the Arab people of Palestine to independence and their own state. This is the only path which leads to peace, to more secure borders and to the security of all countries of this region. We believe that this solution must be sought primarily within the United Nations.

We are also very concerned because of the deepening crisis in Southeast Asia, and the breaking out of armed conflicts and the use of force in solving existing disputes. This brings into question the security and independence of the peoples of this region and creates the danger of even wider conflicts. We must especially not reconcile ourselves to the imposition of foreign will on peoples through military intervention. This is in flagrant opposition to the principles of the UN Charter and the policy of nonalinement. Therefore, we see a way out of the crisis here, too, through the withdrawal of all foreign troops from foreign territories and respect for the independence, security and peaceful development of all countries of this region. These are the principles and approaches which also determine our views toward other hotbeds of crises in the world, such as Cyprus, Korea, West Sahara and others.

The nonalined countries attach great importance to the process of relaxation of tension in international relations because they also see in it their own vital interests. Unfortunately, this process is not stable and is passing through great trials. What is even more, it is seriously lagging. Its basic shortcoming is in the fact that it is still limited by bloc interests and this fact carries with it a danger of new confrontations with unforeseeable consequences. The policy of relaxation of tension must not be used by anyone as a basis for pressure against any country. It must not be carried out at the expense of third parties In a world which is united and in which peace is indivisible, detente must be comprehensive. This implies that all countries—including both the largest and the smallest—must participate in it on the basis of equality, that it must extend to all regions of the world and that it must include all key questions of international relations and development. It is precisely here that the nonalined policy has the greatest possibilities and obligations.

Of course, the big powers have a great role and responsibility in the process of detente. In this connection we call particular attention to the importance of settling relations and reducing the danger of rivalry and confrontation between the big powers and between the blocs. I remember very well that at the jubilee session of the UN General Assembly in 1960, we provided, together with Nehru, An-Nasir, Sukarno and Nkrumah, the initiative which called on the two big powers—instead of continuing confrontation—to open negotiations in the interests of detente. We thereby made it clear that their relations, which carry with them also consequences for others, are not just their own affair. We pointed out that the United Nations is the place where all essential problems of the contemporary world should be discussed. This is also valid today.

I think that it is necessary for the nonalined movement to advocate that the General Assembly regularly consider questions concerning the process of world detente and take measures for its advancement. We believe that there can be no strengthening of security in the world without advancing detente and without democratizing international relations. Positive development in this direction cannot be imagined without measures to strengthen trust and without starting real, general and complete disarmament.

We are deeply concerned over the continuation of the arms race. We welcomed the strategic arms limitation agreement between the U.S.S.R. and the United States—the SALT II—with the hope that this will provide encouragement to take measures toward real disarmament. It is a significant fact that the U.N. General Assembly held a special session on disarmament at the initiative of our movement. We must strive to the maximum to insure that the views and recommendations of this session will be consistently implemented.

Certain achievements have been made in Europe within the process of detente. They are reflected in the results of the Helsinki conference. This fact also undoubtedly has wider importance because it is precisely the conflicts in Europe that have jeopardized world peace. However, we must openly state that Europe cannot live in peace and security if peace and security are not secured throughout the world. We can note with satisfaction that the European nonalined and neutral countries represented here, play a prominent role in strengthening European cooperation and security and in overcoming bloc divisions in Europe.

The Mediterranean region occupies an important place from the viewpoint of strengthening peace and security in Europe and the world. All Mediterranean countries must participate in the transformation of the Mediterranean into a zone of peace and cooperation and they must participate in this on the basis of equality and in the spirit of the provisions of the Helsinki final act and the views of the declaration of the fifth conference of non-alined countries in Colombo. We consider the establishment of zones of peace and security, especially in the sensitive parts of the world, as important steps which would lead to reducing the areas of rivalry between the blocs and between the big powers. It is in this light that we also support efforts to establish such zones in the Indian Ocean, Latin America and elsewhere.

Mr. President, the establishment of a new international economic system represents the only way to overcome the acute problems of development and the deep crisis that has spread throughout the world economy. This is not in the interests of just one group of countries, but rather in the interests of the entire world. The leading industrial powers as well as other developed countries still do not want to understand this. They resist the essential changes in existing relations.

At the fifth UNCTAD session, certain developed countries even retreated from the decisions jointly adopted within the United Nations. At the same time the most highly developed countries are increasing their efforts to solve the problems of vital importance for the entire international community within closed circles in order to protect their own interests. This includes an aspiration to divide the nonalined and other developing countries. Various pressures are also being applied and the serious difficulties of the individual developing countries, especially those that are the least developed, are being abused.

Under such conditions we must continue our struggle more consistently and persistently and find the right answers for the difficulties and the opposition we face. It is my deep conviction that the concept which we elaborated at our Algiers and Colombo summit meetings continue to be the starting basis for this. Mutual cooperation between the nonalined and all other developing countries has extraordinary importance in the implementation of this concept. This is a vital economic interest and one of the priority political tasks of our movement. We have at our disposal great potential material possibilities which, if we are united, we can place in the service of the development of each individual country separately and of all of them together. At the same time, this will enable us to more successfully participate in the negotiations with the developed countries with the aim of establishing a new international economic order.

In this connection I think that we must focus the greatest attention to all the acute problems of energy. I am convinced that it will become evident that there are common interests. In some cases the solutions might be found in intensive financial investment or some other similar form of cooperation. In some other cases such as the least developed countries, it will be necessary to alleviate without delay their difficulties resulting from the constantly increasing prices of oil, modern technology and industrial products. We consider the appearance of certain initiatives along this line positive and we must seriously discuss these initiatives to reach generally acceptable solutions.

The forthcoming special session of the UN General Assembly and the adoption of an international strategy of development for the next decade have extraordinary importance for the struggle for a new international economic system. It would be very beneficial if this session were held at a political level which would be in accord with the seriousness of these problems. We justly expect that all developed countries, regardless of the groups to which they may belong, will demonstate in this respect greater political will and readiness to make their contribution in their own and in general interests.

Dear friends, nonalined policy has achieved a further strong affirmation in the period since the past summit meeting in Colombo. This is a consequence of intensified aspirations and of an even greater determination of the peoples to struggle for a better and more just world in the conviction that in such a world we are [Tito corrects himself] that it is only in such a world that they can successfully preserve their independence and insure more rapid progress and development.

It is not accidental that practically every country that has attained independence has joined our movement. It is also significant that individual countries, having freed themselves from military alliances and canceling agreements on bases in their territory, have freed themselves of what hindered them from deciding in favor of the policy of nonalinement and are here among us today. It also worth noting that the ideas of nonalinement are becoming the views of a growing number of democratic political movements and parties in Europe.

Along with the affirmation of our policy and the strengthening of our movement, we have also faced various difficulties. Some of these difficulties have been inherited from the past, or result from various conditions of development. Some of them are the consequence of foreign influences and varied views, which cause the danger of division in the movement. Particular concern is caused by the conflicts arising between individuals nonalined countries.

We must not for a moment lose sight of the fact every conflict between nonalined countries opens the door to outside interference. Such conflicts also hamper our efforts in building new democratic international relations. They do not concern only the countries directly involved but all of us. Therefore, it is the duty of the nonalined countries to offer aid in a suitable way through the appropriate machinery before disputes grow into conflicts.

If conflicts do arise, however, one should quickly find solutions through peaceful means because nothing is more natural than for the nonalined countries in their mutual relations to respect and consistently apply those principles and criteria for which they struggle in the international field. These are the principles of the UN Charter and of the nonalined policy.

Our striving to democratize international relations requires a further development of democratic relations in the movement itself, particularly when one has in mind the growth of our movement and the growing demands put before it. We must serve the world as an example of how to democratically reach accords. Therefore, we face the task of finding new forms of work and new forms of decisionmaking in our common activities.

In this connection we believe that the method of work of the coordination bureau is very important. The coordination bureau must work even more efficiently as an organ of coordination and of taking the initiative and expressing the views and positions of the movement as a whole. We attach special significance to the active and equal involvement of all members of our movement in the realization of the policy of nonalinement.

This also implies the application of consensus as the only possible way of harmonizing views and adopting decisions.

Dear comrades and friends, we are meeting here as the most responsible representatives of the majority of mankind. We face further great obligations. The eyes of the whole world are watching us. This demands of us mutual understanding and respect, full equality, good will and overcoming of differences, a full feeling of solidarity and the greatest degree of responsibility.

Our movement is directed at the key problems of the present world, and at the questions of peace, security, development and general progress. It expresses the essential interests of all mankind and not just one part of it. Therefore, its historic responsibility is that much greater. This responsibility rests on all of us. We must never lose sight of what is common to us and what joins us. We must oppose everything that divides us and everything that favors the penetration of alien interests in our ranks. Our lasting interest and our strategic aim at this moment is to further affirm the original principles of the nonalined policy and, on this basis, to strengthen the solidarity, unity and action ability of the nonlined movement.

These are reliable signposts of our moving into the future. It is only in this way that we can successfully build the world to which we aspire.

I personally have been guided by this, deciding to undertake this long journey and being guided by the responsibility which I have as one of the founders of the movement, and being firmly convinced that there is no sacrifice that should not be made when it concerns the high aims and noble ideals for which our movement struggles and for which all the peoples of the world are striving. I am convinced that this conference, as all the previous ones, will be successful, and that it will instill new strength and mark a new stage in the strengthening of the policy and the movement of nonalinement in international relations to the benefit of all of us and of all the mankind. Thank you.●

WOMEN'S SALARIES

● Mr. DOLE. Mr. President, much has been said about the discrepency between the salaries paid to women being less than those paid to men in comparable employment.

Mr. President, I ask that an article entitled "Exactly What To Say To Get The Salary You Want," be printed in the RECORD at the conclusion of my remarks. This article, written by Ms. Sherry Chastain, a former member of my staff, sets forth a positive approach to a very important part of the negotiation for employment. Ms. Chastain is producing a series of television shows designed to assist women, in a positive manner, in improving their professional status.

The article follows:

EXACTLY WHAT TO SAY TO GET THE SALARY YOU WANT

(By Sherry Chastain)

Do you believe that if you work hard on your job, you will be justly rewarded? If you do, look around. Women as a group still are earning only 59 cents* for every dollar earned by men. Although the Women's Movement has overcome many job and pay barriers with the mandates of Title VII and the Equal Pay Act, it is, nevertheless, often a "one on one" between a woman and her employer that determines whether she receives a fair return on her abilities. And to get that fair return, we need to know how to negotiate.

Employers who resist a recent trend toward the "equal pay for equal value" principle argue that they naturally pay the lowest possible rate they can get away with. They seem to be depending on our tendency to settle for less—or perhaps not to "settle" at all, but merely to acquiesce. For our part, if we don't know our own bargaining power, we may think that we must accept the first figure tossed our way or else decline the job. This assumption can be costly. Employers expect to negotiate salaries with potential employees. If you accept the first figure offered without bargaining, your new boss may be a little disappointed. He or she may think you would have worked for an even cheaper price.

As women, we face two basic problems in making successful salary demands. First, upbringing and conditioning may have handicapped us in our development of negotiating skills. Many of us still feel it is somehow in bad taste to make money demands for ourselves. We tend to see a challenge to what we ask as a personal affront instead of remembering that "it's only business."

Second, because we have been taught to defer, we may tolerate obvious salary inequities for years until we can no longer resist confrontation and erupt in anger with the ultimatum: "Raise my pay or I'm leaving!" This is the antithesis of negotiation—an ancient art built on accommodation, rather than confrontation. A successful negotiation is deliberate, not reactive, and both parties should come away feeling that they have gotten something of value.

Skillful bargaining for your fair worth before you accept a job is also the first step toward positioning yourself for fair treatment in the future. If you settle for less than you're worth, your future raises and benefits will be influenced by that starting pay deficiency. Over a career span of even 10 years, your loss could amount to many thousand of dollars.

YOUR TRUE MARKET WORTH

The source of self-confidence in a salary negotiation is an accurate knowledge of your true market worth. Of course, this has nothing to do with your worth as a valuable human being, but on the job market, your "worth" can be determined, though not easily. Although most major companies conduct salary surveys, they often squirrel them away, keeping their rates a secret in order to avoid the sizable cost of restructuring a pay system. So how do you go about establishing a realistic range for yourself? Make a thorough check of want ads in newspapers, trade journals, private employment agencies, state employment offices, companies employing workers with your skills (you don't know whether you can get the information until you ask), professional and trade associations and executive recruiters.

Careful research will aid you in setting your aspiration level (studies show that higher aspirations are linked to higher salaries): a mid-range figure you might find acceptable after making a concession or two, and a "bottom line" level—the lowest dollar figure you will consider for the job. Remember that an employer's budget usually has some flexibility, and that almost every salary is negotiable to some degree—from a few hundred dollars to several thousand.

As a side note, negotiations can give you insights into the character of a company. While we want to be paid our fair market worth, dollars aren't the only factors in job satisfaction. For example, if an employer hints that you might inflate an expense account from time to time to help offset a less than desirable salary, you might want to think twice about working there.

It doesn't help to enter negotiations beset by thoughts of possible limitations and shortcomings. A good antidote is to concentrate on the employer's problems. He, or she, has them. The first may be simple time pressure—desperation to get someone on the job immediately. In addition, there are a variety of more subtle things to remember about the employer. Your potential boss may need your talents in order to attract favorable reviews from higher-ups. Don't overlook human considerations such as the employer's probable desire just to complete the interviewing process and to be thought of as a fair and reasonable person. If you have made a high salary demand and have good explanations to back it up, the person with whom you are negotiating may be quietly rooting for you. After all, the money is coming from the company's till, not from personal funds.

THREE RULES THAT CAN BE GOLDEN

You can use many tactics and strategies to help achieve your salary goals in a negotiation, but three principles seem universal.

1. Resist any urge to raise the salary issue early in the meeting. This signals the employer that you are interested not solely in what you earn but what you do. In fact, don't discuss salary until you are certain or relatively certain you have a firm job offer. If the question of money comes up before you've received a job offer, say "It has been my guidance not to talk about salary unless I'm asked to consider a definite position. I'm sure you understand." In the initial stages of a negotiation, ask the employer about goals and how your role fits into the overall plans. This will help you pinpoint the attributes you possess that are important to the employer. If you listen carefully, you will know which of your qualifications to stress when you move on to press for the salary you think you deserve.

2. Get the employer to name a salary range first. After you've discussed the job and how you could perform, say: "This position sounds challenging—one in which my abilities could be put to good use. I'm sure

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*Department of Labor, 1977 (men and women full-time workers.)

you have a fair rate structure. What range do you have in mind?" This approach will protect you from the biggest mistake possible in salary negotiations: naming too low a figure. A woman who is a data-processing manager in New York used this technique to her advantage. She was prepared to ask for $23,000 when her potential employer named $25,000 first. Had she quoted her price first, she would have lost $2,000 right off the bat. Remember, you can retreat from a high figure but you are not likely to recoup from putting too low a price tag on yourself.

3. Emphasize your accomplishments, not your personal needs. Employers generally are trying to determine how much value you will be to the company, so describe your potential value by citing your accomplishments on past jobs. Don't think of this as an exercise in raw egotism. You are basically supplying evidence of why you are worth your asking price. The employer may need this information to convince others in the hiring procedure that you are a bargain at any price. Point to how productivity or profits increased at your last place of work as a result of your participation. For example: "My sales for last year showed a thirty-percent jump over the previous year." Or, if you are in clerical work trying to move to a higher-level job, say: "I was part of a team that recorded a twenty-percent increase in output over the past twelve months." If you are a fast copywriter in a business where deadlines are important, emphasize that you have never missed a deadline.

Since people frequently don't absorb everything that is said to them, don't be afraid to restate your accomplishments to the employer. An old advertising adage says: Tell them what you are going to tell them, tell them, and then tell them what you've told them.

If things start to go wrong . . .

The best way to maintain control in a negotiation is to anticipate problem questions and rehearse answers beforehand. You're likely to be asked about your past salary, and because employers tend to base offers on previous earnings, you might—if your history is typical—find yourself at a negotiating disadvantage when asked to reveal this figure.

On balance, the best approach is to answer the question truthfully. Evasiveness may cast doubt on the credibility of your past performance, not to mention your candor. Give the correct figure (along with other relevant information such as an expected raise and promotion) and, without saying "but I was underpaid," explain in firm terms whether that figure is representative of your worth. You might say you are prepared to assume more responsibility which you expect to lead to higher earnings. You might point out that women in your line of work are frequently paid less than men, and you are looking for employment where you feel the pay structure is fair.

If the employer expresses concern that your salary objective is without precedent in the company, you might want to be flexible. Alter the conditions of your demands. For example, go for the high amount but suggest part of it be paid at the end of a six-month period after you have demonstrated your worth to the company. Or faced with some other strong objection to the salary you demand, you might ask to have your job description broadened so that the salary would reflect your wider duties.

Experiments show that those who make higher demands and are slow to give concessions do well in negotiations. This is not an art that is tied to gender or one that requires military tactics. It is simply an awareness that you can have some control over the amount of money you earn. In the final analysis, the best negotiating skills are based on the ability to successfully demonstrate accomplishments and knowledge of what those accomplishments are worth on the job market.●

SALT AND STRATEGIC SUPERIORITY: DR. KISSINGER'S RECORD

Mr. BIDEN. Mr. President, central to our debate on SALT II is the way we think about nuclear weapons. In a very thoughtful article in the New Republic of October 20, Prof. Hans Morgenthau has argued that our debate shows many signs of "intellectual obsolescence," of an inability to distinguish between nuclear and conventional arms either in terms of building our strength or of controlling it.

The author's view is provocative. Moreover, his reference to Henry Kissinger's July 1974 discussion of the relationship between nuclear arms and strategic superiority is especially valuable because, as Professor Morgenthau noted, the former Secretary of State has tried to rearrange the historical record to fit his current analysis of the virtues of SALT II.

At that Moscow briefing, at the end of President Nixon's last summit session with Leonid Brezhnev, Dr. Kissinger did indeed say:

> If we have not reached an agreement (on SALT) well before 1977, then I believe you will see an explosion of technology and exposion of numbers (of MIRV'ed missiles) at the end of which we will be lucky if we have the present stability. Then it will be impossible to describe what strategic superiority means. And one of the questions which we have to ask ourselves as a country is what in the name of God is strategic superiority? What is the significance of it—politically, militarily, operationally—at these levels of numbers? What do you do with it?

Now, as Dr. Morgenthau reported, the former SALT negotiator has told the Senate Foreign Relations Committee (but only in a footnote to his prepared statement of July 31) that his Moscow statement "reflected fatigue and exasperation, not analysis." Dr. Kissinger now says he has "come to regret" that statement, but his mea culpa is unconvincing and incomplete. Under less strenuous circumstances in 1974 he three times put forth a very similar analysis of the (in) significance of strategic superiority to the one he now regrets. At a news conference in Brussels on June 26, en route to Moscow, he was asked whether either superpower held a "military advantage." After discussing the Soviet lead in the number of missiles and in throw weight and the compensating U.S. strength in bombers, he replied:

> I would say that these comparisons can be used for almost any purpose, but we are convinced that the United States probably has an advantage, but one that is not politically of any decisive importance, and it is our basic conviction that if the arms race is continued for another ten years, it will not yield either a strategic or a political advantage for either side but that it may well complicate the political relationships.

After the Moscow summit and President Nixon's resignation, Secretary Kissinger addressed the American Legion National Convention on August 20, 1974. Then he sounded very much like Dr. Morgenthau now. "Today," he declared:

> We, as well as the Soviet Union, must start from the premise that in the nuclear era an increase in certain categories of military power does not necessarily represent an increase of usable political strength. When two nations are already capable of destroying each other, an upper limit exists beyond which additional weapons lose their political significance. The overwhelming destructiveness of nuclear weapons makes it difficult to relate their use to specific political objectives and may indeed generate new political problems.
>
> A continual expansion of strategic forces by both sides will not result in greater security.

Finally, in testimony September 19 to the Senate Foreign Relations Committee, the Secretary laid out the features of the "historically unique competition" between the United States and U.S.S.R. and the premise of assured destruction which he then espoused. In part, he said:

> When nuclear arsenals reach levels involving thousands of launchers and over 10,000 warheads, and when the characteristics of the weapons of the two sides are so incommensurable, it becomes difficult to determine what combination of numbers of strategic weapons and performance capabilities would give one side a militarily and politically useful superiority. At a minimum, clear changes in the strategic balance can be achieved only by efforts so enormous and by increments so large that the very attempt would be highly destabilizing.
>
> If we are driven to it, the United States will sustain an arms race. Indeed, it is likely that the United States would emerge from such a competition with an edge over the Soviet Union in most significant categories of strategic arms. But the political or military benefit which would flow from such a situation would remain elusive. Indeed, after such an evolution it might well be that both sides would be worse off than before the race began. The enormous destructiveness of weapons and the uncertainties regarding their effects combine to make the massive use of such weapons increasingly incredible.

I share Dr. Morgenthau's view that the "heart of the SALT II debate is the issue of strategic superiority." I only wish, for the sake of coherence in this vital discussion, that key debators, such as Dr. Kissinger, were consistent enough to choose one side and stay on it.

Mr. President, Professor Morgenthau's essay is a fine reminder of the real issue we should be thinking about in the nuclear age. I ask that it be printed in full in the RECORD.

The essay follows:

FIGHTING THE LAST WAR

What Einstein said decades ago is still true today: "The unleashed power of the atom has changed everything except our way of thinking." The debate over the SALT II treaty demonstrated this truism once again. For all their disagreements over "first strike capability," verification, and so forth, the opposing camps in the startegic arms debate share an obsolete style of thinking about nuclear weapons. They both think and act, by and large, as though the atomic revolution of 1945 never occurred. This intellectual obsolescence is, in the long run, more dangerous to American security than all the issues the SALT debaters are arguing about.

Nuclear weapons fundamentally altered the traditional relationship between political aims and physical violence. From the beginning of history until 1945, a great power could rationally choose to wage all-out war against another great power in order to achieve political ends, as long as the calculus of risk and advantage seemed favorable. Today, however, such a calculus counsels against the use of nuclear weapons, since their unprecedented destructiveness, both short and long term, heavily outweighs any possible political gain. The use of nuclear weapons, even if at first on a limited scale, would unleash an unmitigated disaster, which could lead only to the destruction of both belligerents.

The very application of conventional language to nuclear "weapons" and "war" is outmoded. By definition, a "weapon" is a tool for executing the tactics and strategy of battle; "war" is fought for the attainment of political goals. In Clausewitz' phrase, it is "politics by other means." In short, both words imply a rational relationship between the nature of the battle and the objectives for which it is fought. Yet how and for what ends can nuclear weapons rationally be used? How can nuclear war be fought? What is the meaning of—and what is the difference between—winning and losing a nuclear war? The conventional language conceals the new reality for whose novelty we have not yet found appropriate words.

The uncritical application of conventional language to the unprecedented phenomena of nuclear weapons not only obscures the truth, it also hinders rational policymaking. Thus it is fatal to the cause of nuclear arms control to deal with nuclear weapons and nuclear war as if they were simply larger versions of conventional weapons and conventional war. In truth, they are different in kind because they are instruments of total destruction, and therefore incapable of performing the traditional functions of conventional weapons and war.

A successful strategy for arms and control must explicitly recognize the distinction between nuclear and conventional arms. Starting with the Russian proposals of 1816, attempts at controlling conventional arms have been numerous and almost always unsuccessful. They have failed because the size and quality of a nation's stockpile of conventional weapons directly affects that nation's ability to pursue its political aims successfully. The more pieces of artillery a nation can put into the field, the more political power it can project. Hence, conventional disarmament remained impossible as long as the political issue that gave rise to the arms race in the first place remained unsettled.

Nuclear weapons radically transformed this conventional relationship between military destructive capacity and political power. Once you are able to destroy your enemy utterly even under the worst of circumstances, you have reached an optimum level of armaments beyond which it is obviously senseless to continue stockpiling. This distinction between conventional and nuclear armaments is what makes nuclear disarmament theoretically possible. For once you have enough nuclear weapons to assure the destruction of the enemy, you need no more; additional weapons beyond this point have no military or political significance.

Both the United States and the Soviet Union are today able to devastate the other's civilization many times over. Neither side gains anything militarily or politically by increasing its might beyond this already unprecedented level of destruction. Yet both sides, applying the concepts of conventional arms to the nuclear field, have ignored this fundamental fact, and have embarked upon a nuclear arms race which promises no military or political advantage to either side, and therefore is completely irrational.

In recognition of that irrationality, both sides have tried to control the nuclear arms race, and even proclaim total disarmament as an ultimate goal. Yet in the process they have revealed how much they are, in practice, oblivious to the distinction between conventional and nuclear arms. They have haggled for seven years over issues that might be relevant to conventional weapons but are mostly irrelevant to nuclear armament. Does it matter, for instance, that SALT II allows certain Russian missiles to carry only a specified number of independently targetable warheads? Would it make any strategic difference if they carried more, either by mutual consent or in violation of the treaty? As long as the number of warheads does not affect the mutual ability of assured destruction, the size and number of each side's weapons are irrelevant. As long as my enemy has one gun that can kill me, it is irrelevant to our relationship that he also has the finest collection of guns in town.

The military balance as a bean-counting exercise is just one concept among many, hallowed by tradition, that have been rendered obsolete by the nuclear revolution. Defense, limited war, victory, alliances, and the distinction between combatants and noncombatants also have lost most practical meaning. Yet our strategic experts disquietingly continue to think in obsolete terms, and thus construct obsolescent policies concerning the nuclear weapons that have transformed the condition of our existence.

The SALT II debate is the best recent example of this cultural lag, which has dominated the theory and practice of nuclear weapons policy since 1945. The history of nuclear military doctrine and practice is a story of successive futile attempts to adapt nuclear weapons to the conventional functions of the nation-state. For more than three decades—from the so-called "clean" H-bomb to the counterforce strategy and the neutron bomb, we have tried to make it appear that nuclear weapons are just conventional weapons writ large, to be manipulated in a conventional way.

The heart of the SALT II debate is the issue of strategic superiority between the United States and the Soviet Union. Both sides in the debate recognize in the abstract how irrelevant the concept of "superiority" is when applied to nuclear weapons. Henry Kissinger cried out during a press conference in July 1974: "What in the name of God is strategic superiority? What is the significance of it . . . at these levels of numbers? What do you do with it?" Yet speaking to the Senate Foreign Relations Committee this past July, Kissinger expressed regret over his rash statement of five years ago:

> My statement reflected fatigue and exasperation, not analysis. If both sides maintain the balance, then indeed the race becomes futile and SALT has its place in strengthening stability. But if we opt out of the race unilaterally, we will probably be faced eventually with a younger group of Soviet leaders who will figure out what can be done with strategic superiority."

It hardly needs to be pointed out that this is a less than convincing argument in favor of seeking strategic superiority.

Kissinger and other witnesses, particularly Secretary of Defense Harold Brown, all admitted that the concept of nuclear superiority has no meaning in any conventional military sense. Yet they endeavored to give it a new political meaning. Increases in nuclear strength beyond the point of assured destruction have no military significance, they argued, but nuclear superiority can add significantly to a nation's political power. The reason is that what counts in the power calculus is not only the actual power available, but also the perceptions of one's power by other nations If the Soviet Union possesses more warheads than the United States, this does not make it militarily more powerful than the United States; but these extra warheads do increase Soviet political power compared to the United States because people perceive the USSR—albeit falsely—to have become more powerful militarily.

This argument assumes that other governments are in the hands of stupid people who cannot discern the superficial from the meaningful. Admitting that they themselves understand the difference between nuclear and conventional weapons, these policymakers argue that the difference shouldn't be reflected in policy because others are not so perceptive.

Besides this psychological argument, defenders of the intellectual status quo also advance a political and military argument typical of obsolete thinking. The strategy of assured destruction, they say, drastically limits the options of the president of the United States. In the event of a limited nuclear attack by the Soviet Union, the president is faced with two equally unacceptable choices: the slaughter of ten of millions of civilians or, if he is repelled by this barbarous alternative, appeasement. Nuclear arms beyond the level required for "assured destruction," so goes this argument, make it possible to wage limited nuclear war, a type of warfare that leaves in its wake the sort of limited destruction that is familiar from modern conventional war. There must be a way, so the prevailing argument runs, in which nuclear weapons can be used as instruments not of total destruction but of limited war. Consequently, there must be a way in which nuclear weapons can be used rationally for the purpose of victory rather than deterrence. It is to that conventional position that Kissinger, in his recent utterances, has returned. Most of our approaches to nuclear strategy have been predicated upon that position.

Since 1945 we have tried to adapt nuclear power to our conventional way of thinking. But as three decades of debate have shown, it cannot be done. Limited nuclear war with limited damage is conceivable only if the stakes of the war are also limited. But it is difficult to imagine a rational resort to nuclear weapons on behalf of interests that are not of supreme importance, justifying—initially or through escalation—unlimited nuclear commitment and potentially unlimited damage. This is why nuclear weapons have not been used since 1945. "Limited" nuclear war is a contradiction in terms: nuclear weapons are instruments of uncontrollable and potentially unlimited destruction, to be used only in defense of the most critical interests. Soviet military doctrine operates on the assumption that nuclear war begun on behalf of limited interests probably will escalate into all-out nuclear war. If nuclear weapons are used on behalf of critical interests, such as saving Western Europe, they surely will be used as instruments of total war.

Conventional modes of thought have not dominated the nuclear debate by accident. They are the symptoms of a pervasive unwillingness to part with conventions hallowed by all of history, and to apply to nuclear weapons the logic and policies appropriate to them. It is this gap between reality and subjective consciousness that not only reduces the SALT II debate to irrelevance, but also delivers us helplessly to the prospect of nuclear destruction.●

SYNFUELS AND THE ENERGY CRISIS

● Mr. GARN. Mr. President, last week, the Senate signaled at least a willingness to throw $20 billion into the production of synthetic fuels. The vote, occurring on the Interior Appropriations bill, was not definitive, in that there has been no authorizing legislation passed and specific appropriations will yet be required before any money can be spent. For that reason, the vote cannot be taken as the intention of Congress to create a program of this magnitude, but it does indicate that such a possibility is not out of the question.

That is too bad, Mr. President. The last congressional response to the energy crisis, the Department of Energy, ought to stand as a monument to the inability of Government to handle the problem. We are dealing essentially with economic problems, and trying to solve them through political institutions. It cannot be done, and our attempts worsen the problems at every turn.

Congressman DAVID STOCKMAN has considered some of these problems in a short article in the October issue of Conservative Digest. As Congressman STOCKMAN points out, if we were to authorize a massive synfuel program today, it would have no effect on the world price of oil before the middle 1990's, and precious little effect even then.

Mr. President, the energy problem presents us with critical choices. It does not require that we create another bureaucratic monster. Before we legislate, I hope all Senators will carefully consider the real nature of the problem, and seek realistic solutions. The article I referred to will help us all in that effort, and I ask that it be printed in the RECORD.

The article follows:

SYNFUEL MADNESS

(By Representative DAVE STOCKMAN)

The current synfuels stampede is official Washington's version of tank-topping—a momentary eruption of the herd instinct based on yesterday's news and today's apprehensions. Fortunately, the nation's gasoline lines are already diminishing in response to improving news, marginally better fuel supplies and the recovery of public composure.

Our best interests now will be served if the synfuels line on Capitol Hill dissipates and if President Carter, if he is to avoid yet another bad idea, foreswears support for the synfuel stampede.

To be sure, synthetic fuels produced from heavy oils, tar sands, shale or coal will someday be as commonplace as imitation brick fireplaces. The energy appetites of industrial societies, the prodigious deposits of these substitutes that are available and our existing technical knowledge virtually guarantee this. But what will happen someday is not the issue.

The question is whether, on this side of the horizon, a $60 to $150 billion program to turn out 2 to 4 million barrels a day of synthetic fuels would accomplish any of its backers' aims. The answer, despite all the rhetoric and breast beating, is that it wouldn't.

A crash program of this kind would have virtually no impact on the OPEC oil cartel's power in the 1980s and little impact in the 1990s. It would not significantly enhance our national security or our energy independence. It would not lower the current high world oil price or appreciably slow future price increases. Most important, it would not reduce our vulnerability to Iranian-type oil supply interruptions resulting from political instability, which are currently at the heart of our problem.

Yes, there may well be reason for Washington to promote a few demonstration synfuel plants at present, and there are other important steps we can take. But the last thing we need is a multibillion-dollar illusion to satisfy our national macho, to stroke ourselves with the mistaken belief that, finally, we are "doing something" about the energy problem.

What's happened amid the current synfuels euphoria is that many inconvenient facts have been ignored. The proposed plants, for example, wouldn't come off some Department of Energy cookie cutter. They would require massive engineering and construction feats for "first of a kind" projects.

Coal-liquids and shale-plant technologies, feedstock characteristics and site potentials vary so widely that they are not likely to become standardized any faster than light-water nuclear reactors have been. Yet there are only a handful of world-scale engineering firms with the resources and specialized manpower to handle detailed, final plant designs and construction management.

These plants would also result in major environmental assaults, involving many air and water pollutants and, in the case of shale, the disposal of massive volumes of toxic tailings. Even a fast-track approval process by environmental regulators would likely take two to three years because of the irrational complexities of Clean Air Act preconstruction requirements.

In addition, simultaneous construction of 10 to 25 such plants would severely tax the skilled manpower and manufacturing capacity for a long list of critical components and subsystems. Finally, we should not ignore the experience of the only large-scale syncrude plant functioning today, the 130,000-barrel Canadian tar sands facility. It has been plagued with startup problems for nearly a year and is currently producing at substantially below rated capacity.

All this should make it clear that a massive synfuels program authorized this year would not affect the world oil price by so much as a dime before 1987. We would be fortunate to have 500,000 barrels a day of reliable output by the end of the next decade. That would be less than a 1 percent addition to the 50 million barrel a day world petroleum market—not much of a lever on oil prices. Even if we managed to turn out 2 million barrels a day by the early 1990s—which would take an estimated 40 synfuel plants—it would increase world supply by only 3 percent, again with only a modest impact on price.

Whatever the long-run prospects, then, a major U.S. synfuels program would do practically nothing about OPEC, and precious little about the world oil price, for at least a decade and a half.

Or you might want to consider the cost-benefit equation another way: A 2-miles-a-gallon increase in the average fuel economy of the U.S. auto fleet in 1985 would equal the annual output of 10 synfuel plants.

Another misleading notion of the synfuels crusaders is that the world oil price now is rising fast enough and production costs will be low enough for coal and shale liquids to be competitive by the time the synfuel plants are operating. The ease of taking giant risks with other people's money, of course, often makes bureaucrats and politicians overlook critical distinctions that private investors can ignore only at the peril of losing their own money.

Private investors, for example, do not believe the cost estimates derived from their own DOE-financed pilot projects. There is a world of difference between back-of-the-envelope estimates drawn from small-scale experiments and the detailed engineering specifications needed for full-scale plants.

The experience of the Colony Group that planned to build a surface retort shale plant shortly after the first oil embargo is instructive. The back-of-the-envelope estimate before November 1973 was under $7 a barrel. By the time the detailed engineering specifications had been completed in August 1975, the break-even price had jumped to $22 a barrel. That figure is now nearly $30 a barrel, and that doesn't include additional expenses stemming from toxic-substance and environmental regulations.

There should be no illusions, therefore, that most synfuels would cost anything less than the equivalent of $30 to $40 a barrel of crude oil—and that is in real dollars. If we keep inflating our economy at 10 percent a year, the nominal dollar cost would double to the $60 to $80 range before 1985.

Indeed, the naive assumption that the world oil price is rapidly closing in on the range at which synfuels will become competitive stems from our habit of measuring the world oil price in terms of the counterfeit money we print at home. What matters to foreign oil sellers, naturally, is not the nominal dollar price but the real terms of trade—the command over Western steel, engineering services and foodstuffs held by each exported barrel of a wasting asset.

In the context of that buying power, a substantial share of the oil price increase this year was necessary just to restore the terms of trade established in the fall of 1975. From then until last December, the real OPEC oil price—adjusted for dollar-exchange value loss and Western inflation—declined by a full 20 percent. If the new $19 average price sticks, by year's end the real price of oil will have risen by less than 9 cents a gallon over the past four years.

In short, it would take a 4 percent annual increase in the real oil price over the next 15 years to close the present competitive gap. In light of the prospects for new production outside OPEC and continued fuel substitution and energy efficiencies around the world, that rate of real price escalation is by no means guaranteed. Scratch another argument.

What the synfuel stampeders fail to recognize is that our current vulnerability does not stem from price pronouncements following the theatrics of the oil ministers' meeting in Geneva. The real dangers for us are unplanned and undesired convulsions in the producing areas themselves—the Iranian syndrome—and our failure to be prepared for them. The synfuels panacea would do almost nothing to ease this problem.

THE PIPELINE PROBLEM

Our vulnerability lies in the structure of the world production system, not in our aboslute level of daily imports. There is simply no spare production capacity available now anywhere in the world, with the questionable exception of Saudi Arabia. This means that the mammoth free world oil supply is balanced precariously on a "ragged edge." Any significant production curtailment will touch off a worldwide scramble for suddenly scarcer supplies, with enormous upward pressure on prices until production is restored or a new price equilibrium is reached.

The key question here is whether the proposed new synfuel plants, if and when they are ever built, would be held in reserve as spare capacity or would simply become part of the world's base capacity.

It is inconceivable to me that synfuel crusaders intend for these multibillion-dollar giants to stand idle most of the time, waiting for a bomb-thrower in Baghdad to require a throttle-up to full production. Just a million barrels a day of standby synfuel capacity would cost nearly $100 million a week to maintain in idle plants, even at today's optimistic estimates of capital costs.

In a world in which the marginal sources of petroleum supply carry an exceedingly high cost, the only way to get off the "ragged edge" is with low-cost storage.

Crude petroleum can be stored in salt domes and other geological formations for substantially less than $1 a barrel. An internationally coordinated 2-billion-barrel storage program for all the non-Communist industrializer nations that are members of the Organization for Economic Cooperation and Development (OECD) would cover a production outage of up to 5.5 million barrels a day for a year—or two years' worth of last winter's net loss from the Iranian interruption.

There may well be a persuasive rationale for a few demonstration synfuels plants at present. But the suspicion that these plants are not yet competitive could be readily tested simply by taking bids at a guaranteed purchase price of no more than $5 a barrel above the world price over the life of the plants. If such a limited arrangement does not coax private capital out of the banks, it would be good reason to keep billions in public capital in the Treasury.●

MOTHER TERESA

● Mr. McGOVERN. Mr. President, with many others I am gratified by the recognition that has come to Mother Teresa in being awarded the Nobel Peace Prize. Her labor of love is a source of inspiration for all of us.

Following a visit to India in 1962 at the time that I was Director of the Food for Peace Program under President Kennedy, I wrote an article for Sign magazine describing Mother Teresa's work and American participation through our food distribution program.

With the thought that it may be of interest to my colleagues, I ask that the article from the December 1962 issue of Sign be printed in the RECORD.

Another article that I believe deserves notice is one by Ellen Goodman in the Washington Post of October 24, 1979. As she points out—

> Mother Teresa reminds us how often we think of the poor of the world as sand.

Ms. Goodman suggests that "we need a broader definition of self-interest: one that sees the world as our neighborhood." I ask that her article be printed in the RECORD.

The articles follow:

COME, DO SOMETHING FOR GOD

(By GEORGE MCGOVERN)

A leprous mother in her early forties, her dark skin morbidly marked and her extremities deformed, fell against the wall in a half-faint. On the satin-smooth face of the only bit of perfection remaining in her cheerless existence—her two-year-old daughter—she had discovered a telltale, white spot.

She caught up the tiny girl in a panic and, clutching a rough, white sari around her own face and body so that only her fear-shrouded eyes could be seen. Six miles away—a painful six miles, through Calcutta's teeming streets and hostile cries—she tottered into a leper clinic and cried out feebly to an Indian nun in attendance:

"My baby! Look—my baby's face!"

The Sister, who wore a blue-edged, white sari which is the habit of the Order of the Missionaries of Charity, accepted the infant from the distraught mother with practiced calm and examined a minute blemish on its cheek. Then she turned to the woman and smiled reassuringly: "It's nothing," she said. "Maybe a liver spot."

Distressful situations, rarely with so agreeable an outcome as this one, are commonplace in troubled, underprivileged Calcutta. But never do they fail to evoke a compassionate reaction from Mother Teresa, the renowned head of the Missionaries of Charity. The fifty-two-year-old woman gave up a comfortable teaching post in favor of ministering alone to the needs of lepers and cripples, dying derelicts, abandoned children, and starving adults among the city's millions. Bishop Edward E. Swanstrom, executive director of N.C.W.C.-Catholic Relief Services, calls her "one of the most amazing women I have met in my world travels." I met her during a recent tour of the United States government's Food for Peace program.

Mother Teresa's work is one example of the numerous Food for Peace programs through which America, in the past eight years, has shared more than $17 billion worth of its stored-up abundance with needy people and developing nations abroad. Sixteen private, vountary relief agencies regularly channel these donations to 66 million people in 106 countries.

Food is important to her and, it goes without saying, to the hungry people she helps. Each Monday, the Missionaries of Charity distribute a week's ration of powdered milk and cornmeal to 700 Moslem and Hindu families, on Tuesday to 1,200 Catholic families, and on the following day to 400 or 500 Anglo-Indian families. Need is determined by nuns who visit the recipients' dwelling places.

The Missionaries of Charity in India operate fifty-five centers in which American food is distributed. Most of the centers serve other purposes as well: schools, Sunday schools, dispensaries, leprosaria, and so forth. The painful use to which one center in Calcutta is put is bluntly revealed by the lettering over its door: "Home for Dying Destitutes."

This means what it says. Sick and starving people often are picked up near to death on the streets. Having no place of their own, they are transported to the Home for Dying, where they are bathed and given food and clean clothing and, if it is not too late, volunteer medical attention. Nearly half of the more than 13,000 patients received in nine and one-half years of operation failed to leave the institution alive.

"But they did not die like animals in the street," said Mother Teresa. Unfortunately, those who survived had no place to go but to the streets once more.

We visited the Home for Dying one noon last winter. Only two of the hundred beds—actually, they are canvas cots without legs—were empty. "They are always occupied," Mother Teresa said. "Sometimes we have as many as 116 or 118 patients."

Those who die on either side of a partition dividing a single, large, high-ceilinged room—women on one side, men on the other—are removed to a small space near the door which is screened off from the survivors' view by a rude burlap curtain. That day, on the floor near the curtain, was the pallet of an old, old man, toothless, emaciated, and obviously near death. Mother Teresa bent over him. Tenderly she lifted his head and gave him a drink of water from the spout of a small, zinc teapot.

We first found Mother Teresa helping with the midday feeding of several dozen waifs at another of her centers, the Home for Sick, Crippled, and Unwanted Children: Shishu Bhavan, in Bengali. The principal dish on the menu was a thick, brownish porridge which she calls "black rice"—an innocent ruse to disarm the rice eaters of that area—but which is a parboiled and dried wheat called bulgur. The United States Department of Agriculture recently added bulgur wheat to its surplus stocks available for distribution overseas because the product possesses more food value than wheat flour and is more palatable to non-wheat eaters.

"They like it," said Mother Teresa. "You should see them thrive on it. It is again and again more nutritious than rice. Starving children, fed on it for two or three weeks, pick up right before your eyes."

Most of the eighty-three children at the home were orphans or abandoned tots. Some had first gone to the Home for Dying with a parent. They ranged in age from a few months to the early teens, and many were victims of tuberculosis and other diseases traceable to malnutrition.

In one of the cribs on the second floor was a dark-skinned infant called "Kalu," which in the Bengali tongue means "black." He was two weeks old when the Sisters heard him crying in a garbage pail near their door. Eighteen months later, he was fat and healthy but not pretty enough to have joined thirty-four other youngsters adopted by Catholic families whom the Sisters know and trust. Like the blind and crippled children in the home, Kalu has been "adopted" by an absentee sponsor in England. Each month, a small amount of money is banked in his name and will be turned over to him when he is ready for school.

Adoption is an uncomplex procedure in India. Mother Teresa signs a paper saying the child is given to the new parents, and the latter sign a paper saying they have received it.

The petite woman who holds the fate of so many underprivileged children and adults in her competent, workworn hands is quietly aggressive but mild and unassuming, business-like but kind and gentle, a capable administrator but deeply compassionate. Her movements are purposeful and confident. Her eyes and mouth, serene and thoughtful in repose, are quick to kindle into unrestrained laughter. She has a ready command of English.

Mother Teresa is a Yugoslav who traveled to Ireland in the twenties to join the Loretto Sisters, a teaching order of the Roman Catholic Church. Sent to Calcutta in 1929, she taught for two decades and then asked Pope Pius XII for permission to leave the order so she could go out by herself to work among the poor and afflicted. Her request was granted, and after three months' medical study with a church order in Bihar, she went to work alone in the slums and bustees (tenements) of Calcutta. One by one, other Sisters joined her until, in October 1960, they numbered 150 and the Church recognized them as an order, or congregation. They set up a motherhouse at 54 A, Lower Cicular Road, Calcutta.

"Our little group has brought so much happiness, so much unity," Mother Teresa says quietly. "India is doing her best. The climate here saps energy and causes disease. Too many people have empty stomachs and are ill.

"Ten years ago, people wouldn't do anything for each other. Under the old caste system, a Brahman lady would wash herself all over to remove the shadow of an outcaste who passed her. Now, three hundred non-Catholics help me. Protestants cut fingernails in the Home for Dying. I don't beg. I just say, 'Come, do something for God.'

"Charity begets charity. Poor people are being helped, but so are the rich people who help them. I never feel shy when I ask for something; it helps the giver, too."

[From the Washington Post, Oct. 24, 1979]

OF PRIZES AND PANGS

(By Ellen Goodman)

BOSTON—In the photograph, she is holding an emaciated child. There have been, surely, enough of them, a ready supply of emaciated children, in Mother Teresa's life. She has lived in a sea of sick, a Black Hole of Calcutta's poor.

Even now, if she were to distribute every dollar of her $192,000 Nobel Peace Prize, one by one, she would run out of money long before she ran out of poor in that one teeming city.

The portrait of this woman is absolutely awesome. She is no statesman who makes a treaty in an air-conditioned chamber and then goes home to a ticker-tape parade. Here is a woman who gets up every morning of her life to tend endless streams of victims of life's longest war of attrition. Without an expectation of victory.

Most of us in her place could have stood a week or a two-year tour of duty before being overwhelmed by pain and a sense of futility. There are times when we all look at good work and good workers as if they were shoveling sand into the wind. But here is a woman who always sees people.

So the awarding of the Nobel Prize for Peace to Mother Teresa is a pinch at our consciences—that unpopular and obsolete part of our ethical anatomy. People today don't talk about their consciences and how to appease them; they talk about guilt trips and how to avoid them.

But Mother Teresa reminds us how often we think of the poor of the world as sand. Most of us live according to self-interest. The truly selfless are as rare as Nobel Prize winners.

But it is a question of how wide our definition of self-interest is and how much it rules our lives.

It is hard, at a time when many Americans feel desperate about their heating bills, or their ability to buy a home of their own, to think about the emaciated child. It's hard when we haven't eliminated poverty in America to think about Calcutta. I don't fault this. It just is.

We can't measure one person's pain against another's. But it isn't hard to measure one person's standard of living against another. The anxiety of the couple worried about a 12 percent mortgage and the anxiety of the couple worried about food are utterly different.

When the Nobel committee awarded its peace prize to Mother Teresa (and I do not forget that they also awarded one to Henry Kissinger), they did so because "poverty and hunger and distress also constitute a threat to peace."

The gap between the rich and the poor of the world makes this country look like an egalitarian Utopia. The gap between the rich and the poor of the world is a true source of insecurity and hostility. We are the rich and it is harder and harder to get away from it.

It's odd to quote Fidel Castro and Pope John Paul II in one breath, but in their back-to-back visits to this country, they both gave the same message: some countries possess abundant resources while others have nothing.

However dubious Castro's credentials or motivations, his words ring true and we know it. "I have come to warn that, if we do not eliminate our present injustices and inequalities peacefully and wisely, the future will be apocalytic. Bombs may kill the hungry, the sick and the ignorant, but they cannot kill hunger, disease and ignorance. Nor can they kill the righteous rebellion of the people; and in the holocaust, the rich, who are the ones who have the most to lose in this world, will also die."

Mother Teresa said, "The great thing about the poor is that they are not discontented. They don't hate us despite their immense suffering. It is a mystery we cannot understand.

Perhaps she is right. Perhaps they are too tired or too concerned with survival for hatred. But I doubt it. When the "have-nots" see the "haves," they want to know why.

The Nobel Prize award and the words of two visitors from two different worlds suggest that each year we need a broader definition of self-interest: one that sees the world as our neighborhood, one that sees our conscience as a guide, not as a guilt trip.

"I have been told I spoil the poor by my work," says Mother Teresa. "Well, at least one congregation is spoiling the poor, because everyone else is spoiling the rich."

Few of us are or can be as selfless or dedicated as this woman. But perhaps, for a few minutes, she helped us wipe the sand from our eyes, so we could see the people.●

REACH

Mr. DURENBERGER. Mr. President, many of us have experienced the tragedy of watching a person close to our hearts suffer a debilitating disease. Our anguish is mixed with a feeling of helplessness and frustration. We ask ourselves, "Why can't I do more for this person I love?"

A Minnesota woman, Bobbie Glaze, is intimately familiar with these feelings. She lived with them for years while she watched her husband deteriorate from Alzheimer's disease, a progressive, irreversible brain disease for which there is no known cause or treatment.

Mrs. Glaze decided that hiding in a cloud of self-recrimination was pointless. When she could no longer care for her husband, she decided to help other people.

With persistence and a deep commitment to her cause, she started REACH—Reassurance to Each. The organization helps families cope with their problems and demand better professional care. Under Mrs. Glaze's direction, REACH has established 14 chapters in Minnesota and is spreading across the country.

REACH has offered support for countless thousands of people in their times of crisis. It is encouraging families to take positive action, to find the best care for their loved ones, rather than just becoming frustrated and angry.

Mrs. Glaze is a tireless worker and a remarkable person. Her story can bring hope to the people who are facing the challenges that she overcame years ago. I ask that Mrs. Glaze's story, printed October 14, 1979, in the Washington Post, be reprinted in today's Record.

The article follows:

Reaching Out Through Pain and Frustration

(By Phyllis Mensing)

Minneapolis.—Bobbie Glaze, wife of a corporate vice president, a mother of two grown daughters, a grandmother. The kind of homemaker happy to leave things like driving and family finances to her husband.

Happy until her husband was stricken with a brain-killer called Alzheimer's disease.

Now Kenneth Glaze lies helpless in a hospital bed, recognizing no one, slowly deteriorating. Bobbie Glaze had to learn to drive and to handle family finances. Now, she's trying to help other families of the mentally ill.

Mrs. Glaze started REACH, short for Reassurance to Each, two years ago for people with mentally ill friends or relatives. There are now 14 chapters in Minnesota, and the movement is spreading across the country, helping families cope with their problems and demand better professional care.

REACH is a product of pain and frustration, of Mrs. Glaze's determination that no one should have to go through what she went through.

Ten years ago, the Glazes lived in Watertown, S.D., where Kenneth, in his early 50s, was administrative vice president of an insurance company. Bobbie had known him in high school when she was a cheerleader and he was a star baseball player.

But Kenneth Glaze was changing. He was losing interest in his friends, his job, in everything.

"When we were alone, it was like I was talking to the wall," Bobbie says. "I walked around the block late at night wondering what to do."

She decided to move to Minneapolis, near her older daughter, to find more doctors and a different environment.

Two doctors diagnosed the illness: Alzheimer's disease, in which the brain cells die slowly. Two doctors diagnosed, but neither offered guidance.

Mrs. Glaze tried to care for her husband at home, but he started to throw things and push people and wander away. She finally decided a nursing home was the answer, but they said they didn't have the staff to handle him.

"I had been going through hell wondering if I was copping out, if I could have handled it if I gave up everything else," Mrs. Glaze said. "Then when professionals told me they couldn't handle it, I knew I couldn't either."

Mrs. Glaze made the rounds of professionals, looking for help. She got sympathy but no advice. Besides, her husband's insurance had run out.

Finally, someone suggested she call the Veterans Hospital in St. Cloud, Minn. Glaze has been there for five years now.

While Mrs. Glaze was regaining her emotional and financial strength—she sold her home and got a parttime job—she vowed someday to help others in her situation.

"This had kept building in me, and I decided that if I ever got where I was free and able, I would do something," she says.

When she first volunteered her services to mental health agencies, she was given envelopes to stuff. Then she met Karen Peterson, human resources director for the Mental Health Association of Minnesota. Miss Peterson listened to her, made suggestions, and the two started telephoning people.

"We wanted to find if a group like REACH existed," Mrs. Glaze said. "Everybody said, 'Are you sure it doesn't? It should.' "

They sent notices through churches and hospitals, and the first meeting was in a church basement. Twenty people showed up. At first the discussion was strained. But then one person broke down and said, "It's so good to know I'm not alone."

REACH is funded through mental health associations and volunteer work. Its members meet once or twice a month with mental health professionals who talk about treatment or with each other to share problems or just talk. Not all members come to all meetings, but they come when they need support.

"I feel such anger, and I don't even know who I'm angry with," a frustrated mother said at her first REACH meeting. Her teenage daughter is in a state hospital because she couldn't find another facility, she said. Others at the meeting suggested places she might check.

"Many times, we don't profess to have the answers," Mrs. Glaze says. "But the fact that we find other people, and we know we are not alone is such a relief."

Meanwhile, word of REACH has spread, through the mental health associations, and groups in other states are growing.

REACH in Providence, R.I., is only a year old, but it has grown from five to 100 members, and Richard Weir, director of the state mental health association, says it was instrumental in blocking an insurance company move to cut benefits.

The long-term benefits of REACH may evenutally be seen in the treatment of the mentally ill, as the state groups take a more active interest in research and the quality of care.

Last year, Bobbie Glaze received an award from national Mental Health Association. It brought mixed feelings.

"I'm reminded of why I'm doing it and it's very sad," she says. "It's nice to be recognized, but I didn't ask for this. I didn't expect it. I did it because the need is there and I'll continue to do it as long as I can."●

WALTER SHAPIRO AND THE CHEAP SHOT

● Mr. McGOVERN. Mr. President, yesterday's Washington Post magazine carries a piece by a defeated congressional candidate, onetime Carter speechwriter, and now an aspiring journalist named

Walter Shapiro which contends that liberal Democratic Senators running for election in 1980 are actually "running for cover." Unless Shapiro was paid by the rightwing or the GOP campaign committee for this hatchet job, he is at least sucking for their appreciation—although he adds a couple of Republicans to his hit list as an apparent afterthought.

My colleagues need no defense by me, but the case Shapiro alleges against me is so blatantly false and distorted that I assume the rest of his article is also filled with cheap shots. He accuses me of selling out on the issue of nutrition because I defended McDonald hamburgers against the charge that they are junk food.

I stand on my defense of the McDonald hamburger—not to please any voter but because it represents a justified correction of a false stereotype. The McDonald hamburger is of higher quality and contains less fat than the gourmet food in many high-priced restaurants.

As for the two nutrition labelling bills I have introduced, they are not a coverup for anyone. They were carefully drafted by professional staff experts after long hearings and months of painstaking research. If passed, they can benefit every consumer in America without some of the useless regulations that now hamper our food labelling program.

During the past decade, I have learned more about nutrition, stood up to more special interests, and translated more of my findings into effective action for the public good than Mr. Shapiro is capable of grasping. The Senate nutrition leadership is one of the most dramatic success stories in recent American political history.

I also make no apology for objecting to an extremist group in my State called "Target McGovern" that is campaigning for my defeat under a logo showing a telescopic rifle sight over my heart. Mr. Shapiro is awfully bold hiding behind a poison pen, but I doubt that he would relish having his image widely advertised under a telescopic rifle sight urging aroused citizens to "Target Shapiro."

Every Senator knows that there is no way to refute fully a journalistic smear. There are always those who are willing to believe anything in print.

I would only say that as a liberal Democrat representing a generally conservative State, I have been accused for 25 years of being too liberal or too radical. For years my staff and many of my supporters have begged me to modify my liberal positions on such issues as arms reductions, opposition to the Vietnam war, labor reform, the Panama Canal, opposition to tuition tax credits, prayer in the schools, busing, abortion, and the recognition of Cuba, Angola, and Vietnam. I have refused to do so and I pay the political consequences. But even some of my most energetic critics have conceded that I stand up and speak for what I believe. I do not run for cover and I do not run from cheap-shot journalistic attacks.

I do not concede either courage or judgment to Walter Shapiro. I regard him as a small-bore hatchet man who unless he changes his present methods will never make it in the big time, either in politics or journalism.●

DR. VAN CLEAVE ON SALT II

● Mr. HUMPHREY. Mr. President, the following statement was given to the Senate Armed Services Committee by Dr. William R. Van Cleave, on October 11, 1979. It is the single most cogent and articulate analysis of the fatal flaws of SALT II and what to do about them that I have ever seen. Accordingly, I commend it to the attention of all my colleagues and their staffs for study and consideration, and ask that it be printed in the RECORD.

The analysis follows:

TESTIMONY OF WILLIAM R. VAN CLEAVE

Biographical: Dr. Van Cleave is Professor of International Relations, Director of the Defense and Strategic Studies Program, and 1979–1981 Associate of the Annenberg Center for the American Experience at the University of Southern California. He is also Chairman of the Strategic Alternatives Team and a member of the Board of Directors of the Committee on the Present Danger. He is on the Editorial Board of three scholarly journals. From 1969–1970 he was a member of the first SALT Delegation and a Special Assistant in the Office of the Secretary of Defense. In 1976 he was a member of the "B Team" which was charged with reviewing national intelligence on Soviet strategic capabilities and objectives. Dr. Van Cleave is the author of numerous publications on strategic, arms control, and national defense issues—most particularly on SALT—and is coauthor of the recent book, Strategic Options for the Early Eighties; What Can Be Done? Dr. Van Cleave testified before this Committee, as well as the Government Operations Committee, on the SALT I accords in 1972.

Mr. Chairman and distinguished members of the Senate Armed Services Committee, it is a distinct honor to be recalled to testify on the SALT II accord as I did on SALT I. I have a prepared statement that I will submit for the record and draw from my opening remarks.

The SALT II agreement clearly must be considered in the broader context of the history of SALT and of changes in the strategic balance. U.S. SALT objectives, Soviet strategic objectives and programs and their relationship to American security requirements and arms control aspirations are matters inseparable from SALT II. It is proper that the SALT II review be made part of an overall reconsideration of American national security efforts and policies, and of the Soviet challenge to them. Will the United States permit the Correlation of Forces to continue to shift in favor of the Soviet Union? Will the American leadership and public support a more vigilant and determined national defense effort to prevent that change? Or is the path of unilateral arms restraint and accommodation the one we will continue to pursue? The SALT II outcome may well answer such fundamental questions.

In this regard, the attention being given in the Senate to the inadequacies of the American defense effort and the need for an increase in defense funding is most welcome. Since it is acknowledged, even by the Administration, that we face the most serious and urgent strategic problems with or without SALT II, it is only fitting that consideration of SALT II be coupled with consideration of what changes in effort are necessary. I would like to advance some thoughts on this later. I would first, however, like to focus my attention on SALT itself. The defects of this agreement and the risks entailed in a continuation of SALT trends cannot be fully compensated by an increase in defense spending along, but must themselves be addressed and rectified.

We have been actively engaged in SALT for a decade, and we have been practicing strategic arms control unilaterally for a much longer period than we have had SALT agreements. The benefits originally expected from this course of action have not come about, and, in fact, our strategic situation has steadily worsened in that time.

You have heard enough about the changes and trends in the strategic balance without my adding more numbers. What is abundantly clear is that, whatever analyses used, the trends during the ten years of SALT, and the seven years since the SALT I agreements, have been seriously adverse to the United States and we are now facing an unprecedented threat to our national security. In fact, as the Chairman of the Joint Chiefs has testified, the greatest increases in Soviet capabilities have come since SALT I and the trends will continue to move in the Soviet favor through the period that would be covered by SALT II. So there has been not only a clear failure in SALT to arrest the menacing Soviet build-up and constrain the threat to the U.S.; in fact, that build-up has gathered momentum and the trends have been more pronounced during the SALT decade. In many ways SALT has been an impediment to proper U.S. responses to this challenge.

From experience we know that SALT does not reduce the threat or appreciably constrain Soviet programs. It has done nothing to stabilize the strategic balance. It does not supplant—nor do I believe it usefully supplements—the need for a new U.S. effort to assure the stability of that balance. It is the belief that SALT agreements may do these things, however, a belief that the Administration has inevitably fostered in the selling of SALT II, that could be more harmful than the specific limitations themselves. I will develop this point later in my statement. I would like now to digress briefly to address a major problem in the SALT debate.

Arm control enthusiasts have commonly been careless with the realities of arms control agreements. They have tended to overstate both the advantages of such agreements and the consequences of non-agreement, and in so doing have distorted the role that such agreement can constructively play in international relations. In the process, they have successfully placed the onus on those who would oppose even unsound agreements. They have also managed to link the opponents in the minds of many to theatrically stated alternatives to agreement: a never-ending arms race, great waste, a return to the cold war, dissolution of alliance solidarity. The President has even used the term "war mongering" in connection with opposition to the SALT II agreement.

The debate over SALT should not be influenced by such false rhetoric. By posing arms control and an unrestrained arms race as clear-cut alternatives, and falsely linking them to acceptance or rejection of the SALT II agreement, SALT proponents have played emotionally upon normal arms control sentiments. They have asserted general benefits that all would wish to see realized and postulated dire consequences that all would wish to avoid, and they have linked these respectively to agreement and nonagreement. In such manner, the proponents of SALT II have sought to shift the burden of proof to the opponents precisely as a means of escaping the burden of proof that should be encumbent upon them. We should not allow ourselves to be persuaded by such a tactic.

The proponents of SALT would have people forget that there were no SALT limitations prior to the summer of 1972, but that there has been unilateral U.S. restraint in arms programs since the mid-1960s; that, instead of an "arms race" prior to the SALT I accords, a profound change in the strategic balance took place precisely because the Soviet Union was racing and the United States was not; that SALT I not change that situation. Instead, the point has been reached where it is now necessary to act vigorously if we are to avoid being placed in a permanent position of inferiority and insecurity.

The choice we face now is not between a sound arms control agreement and an unstable arms competition. It may be a choice between an agreement that will continue the adverse trend, and no agreement, which would free the United States to change that trend.

Consideration of SALT II must begin with a clear understanding of the strategic trends since we have been engaged in SALT. They have been toward Soviet superiority, not essential equivalence; toward reduced, not enhanced strategic stability; toward increased vulnerability of our deterrent forces, not improved survivability; toward the need to spend more on our strategic forces, not less; toward a worsening relationship with the Soviet Union, not more cooperative Soviet behavior; and toward poorer, not better prospects for effective and helpful arms control.

These trends have been not only a concomitant of the SALT process, but in many ways a result of it. The Administration tells us to look at SALT "as a process." The suggestion is a good one, but let us look carefully. Let us not commit ourselves blindly to a harmful process merely because it is called "arms control."

In viewing this process, it might be helpful quickly to review it.

A DECADE OF SALT

When considering SALT agreements we should not forget those objectives for which we entered SALT. We wished to reach long term agreements equitably limiting strategic offensive and defensive arms in a manner to enhance strategic stability while lessening the need for future arms programs. SALT agreements, in the words of the State Department, would provide a measurable advance in national security, particularly by easing foreseeable strategic difficulties and reducing future threats to our deterrent forces. They would moderate the arms programs of both sides, particularly those regarded as most "destabilizing" in a strategic or competitive sense. In addition, SALT agreements would promote détente and lead us from an era of confrontation to one of international cooperation between the two superpowers. SALT, in fact, was to be the "litmus test of détente." To achieve these goals, the United States was willing to forego the stategic superiority upon which its strategic planning had rested and accept a situation of parity with the Soviet Union.

Without taking the time to trace the course of SALT I, I would only remind you that all U.S. proposals to establish meaningful and equitable offensive arms limitations were rebuffed by the Soviet Union. At the same time, Soviet arms continued to expand during the talks. As a consequence, the respective levels of arms established by the interim agreement were essentially the reverse of the relationship that had existed at the start of the talks; and to achieve even that the U.S. agreed to abandon a defense of Minuteman that had been deemed essential only two years previously. The latter was perhaps the primary Soviet objective in SALT I. It left our land based retaliatory force unprotected and assured the attainment of Soviet counterforce goals—especially since we had at the time no alternative program to provide the necessary Minuteman survivability.

As I told this Committee in 1972, the terms of the SALT I agreements were "a light year removed" from the outcomes contemplated and deemed acceptable during the SALT preparations of 1969. They represented a major erosion of our SALT goals.

Let us recall that the Administration's support of the agreements, and your approval of them, was conditional. That the Administration was not entirely happy with the agreements is clear from the formal declaration it appended; *i.e.*, if they were not superseded within five years by "an agreement providing for more complete strategic offensive arms limitations . . . U.S. supreme interests could be jeopordized," and there would be grounds for withdrawing from the ABM Treaty. Congress reaffirmed this by resolution. Secretary of Defense Laird and the Joint Chiefs based their support entirely on the premise of major new programs for timely force modernization, and Congress passed a resolution supporting such a condition.

The principal case for the agreement was based less on their merit than on their putative promotional value: They were the necessary first step in the SALT process and would lead, willy-nilly, to more satisfactory agreements. Moreover, it was argued, however unhappy the terms, looking ahead five years they were still better than no agreement. (As Henry Kissinger put it: The "question of whether the freeze perpetuates a Soviet numerical superiority is beside the point. The question is: What would the margin have been without the freeze?") That is to say, it was argued that the Soviets could and would do more in the absence of the agreements, while we could compete more effectively with the agreements.

These are by now familiar arguments. We must all have an acute sense of deja vu about the arguments being advanced for SALT II. They are remarkably similar to those for SALT I.

The United States went into SALT II again seeking Soviet agreement on basic objectives and basic principles of strategic stability; again emphasizing the importance of overall equivalence in key strategic indices; and again arguing for major reductions. Again it was unsuccessful. The Soviet Union sought only one-sided advantages. At the same time, Soviet strategic programs were not only not moderated by the presence of the SALT I agreements and the SALT II negotiations, they were given increased momentum, well beyond anything predicted in 1972. Soviet force modernization and expansion took place across the board, in both offensive and defensive systems. In many cases this modernization exploited loopholes and ambiguities in the SALT I agreement, even to the point of contravening U.S. interpretations of the agreement.

A good example of the failure of SALT to place meaningful constraints on Soviet force expansion and the failure of the United States to achieve its most basic SALT objectives is the issue of the heavy ICBM.

The U.S. in SALT II sought not only equal and reduced ceilings on numbers of launchers, but also substantially equal and reduced ceilings on missile throw-weight and MIRVed missile throw-weight. The key to achieving throw weight limits was the heavy ICBM. The original U.S. objective was that launchers for such ICBMs be phased out. (Later positions were that they be substantially reduced, and each side have the right to the same number; that there be a MIRV ban for heavy ICBMs; or that the U.S. be allowed a numerical MIRVed ICBM advantage to compensate for the Soviet throw weight advantage). Heavy ICBMs, according to the U.S. position attached to the SALT I agreement, were those larger than the Soviet SS–11.

In fact, it was apparently expected in 1972 that the SALT I agreements prohibited Soviet deployment of a larger number of heavier ICBMs than they had at the time. Dr. Kissinger told Congress that the agreement contained a "safeguard that no missile larger than the heaviest light missile that now exists can be substituted." It was on this basis, I would say, that Congress approved the SALT I accords.

The Soviet Union, however, began replacing the light SS–11 with the substantially heavier and greater throw weight SS–17 and SS–19. According to the U.S. position, which was essential to maintain if there were to be any chance of securing meaningful limits on ICBM throw weight, these were heavy ICBMs, just as the SS–18, which began replacing the SS–9.

This Soviet force modernization, along with the overall Soviet approach to SALT and to strategic programs, clearly doomed U.S. efforts to reach meaningful and equitable arms limitations. The types of limitations the Soviets were prepared to consider would not meet U.S. arms control objectives or ease future strategic problems. They were not consistent with true essential equivalence. They did not constrain the development of a Soviet first strike capability. Midway in SALT II a U.S. review reaffirmed the importance of equalizing MIRVed missile throw weight, and especially MIRVed ICBM throw weight, as near U.S. levels as possible. But by then it was clear that the Soviet approach would preclude arms limitations that materially helped the strategic balance and its future stability.

There was developing, reluctantly, a learning experience in the American SALT community. By the mid-1970s, the true level and nature of Soviet strategic programs were pretty well understood, as was—with emerging clarity—the fundamental difference between Soviet strategic concepts and goals and our own. It was clear that a dangerous strategic balance was shaping up given a continuation of existing trends, and that SALT would do little to change those trends. The basic problem now widely recognized was that the U.S. would be in a very bad strategic situation in the early to middle 1980s unless it took steps to prevent it. SALT agreements themselves could not do that.

Consequently, the U.S. approach to SALT changed. SALT agreements would be pursued, but without the previous enthusiasm. They would be acceptable only to the extent that they did not interfere, directly or indirectly, with the programs necessary to meet the rapidly developing Soviet threat. In fact, they were acceptable only assuming that we were proceeding in a timely fashion with those programs. Given the little that SALT could accomplish, we should certainly not pay much for it. It was possible that the Soviet Union would make some SALT concessions to stop M–1, MX, Trident, but by this time the Administration realized that such programs were essential and should not be used as "bargaining chips" for ineffectual SALT agreements.

That learning experience was apparently lost on the Carter Administration. After an abortive early attempt to "revive" SALT through a new "comprehensive" SALT proposal, the Administration allowed its position to be eroded in every major instance toward the Soviet position. Approaching strategic planning largely from the perspective of minimum deterrence, it allowed itself to become overly and naively enthusiastic about SALT, and—even worse, it allowed those programs previously designed to meet the threat of the early to middle 1980s to atrophy. In the case of B–1 it simply cancelled a major program without even seeking a SALT quid-pro-quo. (It is ironic that if the Administration had not done this, it would not be having the trouble with SALT II that it is now having. Those programs would have done much to mitigate the weaknesses of the agreement and would certainly have reduced the risks of the period to be covered by SALT II.)

Without going into the details of the Administration's handling of SALT II, and the erosion of its positions, let us return only to the issue of heavy ICBMs as an example.

The Administration's Spring 1977 comprehensive proposal again tried to obtain reductions in the heavies—the SS–17 and SS–19 as well as the SS–18. Dr. Brzezinski at the time even proclaimed that their "reduction is a necessary concomitant of stability; if they are not reduced . . . the Soviet Union would gain a very significant advantage." Moreover, he said, such reductions must be "of a greater scope than just symbolic." Yet, what do we see in the proposed agreement? We see not a reduction in heavy ICBMs but what is a substantial increase in them. SALT II would allow not only a unilateral Soviet right to the super-heavy SS–18 (itself a significant increase in capability over the SS–9 force of SALT I), without any reductions in that system, but would also allow the Soviets to count their SS–17 and SS–19 launchers as "light." Together, this allows an enormous increase of Soviet ICBM and MIRVed ICBM throw weight. This clearly makes a mockery both of American SALT II objectives and of the Administration's claim that SALT II reduces the level of Soviet forces.

With this background, I would like to turn to the SALT II agreement.

MAJOR FLAWS IN THE PROPOSED AGREEMENT

Before setting forth my general conclusions about the proposed agreement, let me specify some major flaws in it:

(1) The treaty does not limit the correct things. It limits "launchers" not weapons. Curiously, this is something that Vice President Mondale earlier criticized a previous Administration for doing at Vladivostok. In his 1974 Kennedy Lectureship Address (Johns Hopkins University, 3 December 1974), he said: "While Soviet silos will be minimally reduced in numbers, the Soviets are likely to increase the number of missile warheads by several thousand. And, as General Secretary Brezhnev once pointed out to us, no one was ever killed by a missile silo."

It has been recognized for some time that limitations on launchers alone are relatively meaningless. U.S. SALT II objectives, as I have said, were to limit and reduced overall missile throw weight, along with launcher limitations. SALT II fails to do this and fails to limit the number of missiles as well. Since missiles are unlimited, certainly warheads are also unlimited. Moreover, in focusing attention on launchers, SALT clouds the real threat picture.

An unlimited number of missiles may be produced and stockpiled under this agreement, and we know that the Soviet Union already has many more ICBMs than it has SALT counted launchers. It also has very active ICBM production lines, compared to none in the United States. When only 100 additional Soviet ICBMs could add the equivalent of our entire Minuteman force in MIRVed throw weight, this flaw in itself should be considered fatal to the treaty.

There are two other destabilizing aspects of this problem. In trying to limit the number of launchers, and in thereby prohibiting the construction of new fixed ICBM launchers, the Treaty is likely to have the effect of limiting the number of aim points into which we can redeploy our force. By failing to combine overall throw weight limits with limitations on launchers, the treaty encourages the deployment of larger missiles in order to maximize the capability on limited launchers. In other words, the treaty continues the movement of the SALT process in the wrong direction.

(2) Even in attempting to limit launchers, however, the Treaty fails. It contains no satisfactory definition of a launcher for the purposes of limitation, and therefore it has no effective, or verifiable, launcher limits. The exception, of course, is a unilateral one. The U.S. will unilaterally abide by the intent. The Soviet Union need not do so, and undoubtedly will not, especially since Soviet canisterized ICBMs lend themselves to adaptable or makeshift launch techniques. The canister itself may be the launcher; silo-launchers are not necessary.

The following picture shows the launch of a Minuteman ICBM from a crude "canister" and an open pad, using controls mounted in the rear of a jeep. Clearly, canisterized Soviet ICBMs, probably containing much of the essential launch equipment, can be stockpiled and launched from anywhere in the Soviet Union.

As it turns out, then, the Treaty does not reliably limit either missiles or launchers. The Soviets may be expected to increase both.

(3) Even without taking the foregoing two points into consideration, the agreement condones an increase in Soviet heavy ICBM launchers over that intended by SALT I. The U.S. SALT I and previous SALT II position was that "heavy" ICBMs are those larger than the SS–11, including both the SS–17 and SS–19, both of which have over three times the throw weight of Minuteman. Having failed in SALT I to get Soviet agreement to reductions in the number of launchers for heavy ICBMs, we set out again in SALT II to achieve such launcher reductions. Instead, by acquiescing in the Soviet insistence that we regard the SS–17 and SS–19 as "light" ICBMs, we have in this agreement permitted the Soviet Union to equip all SALT-counted ICBM launchers with what are really heavy ICBMs: an enormous increase in ICBM throw weight rather than the reductions sought throughout most of SALT II.

(4) In addition, the agreement fails to reduce the number of Soviet "super-heavy" ICBM launchers, the SS–18, and it establishes the unilateral right of the Soviet Union to such very large missiles.[1]

(5) The 820 limit on MIRVed ICBM launchers is a concession to the Soviet Union and a major retreat from the 550 ceiling the Administration proposed in 1977. It is also de facto unequal since the U.S. has no plans to deploy over 550 during the Treaty period.

(6) While thus allowing the Soviets to expand the ICBM threat, rather than reducing or constraining it, the agreement limits—at least, apparently de facto—the options available to the U.S. to secure its ICBM force against such a threat. The SALT I agreement forbids defense. Now we apparently cannot deploy in multiple vertical aim points, cannot proliferate numbers of missiles, and cannot conceal. We are left with an unsatisfactory quasi-mobile option, assuming that the Protocol does expire and that the Soviets do not successfully object also to this option.

(7) The agreement excludes the intercontinental range Backfire, leaving it as a free strategic system (despite the fact that the number expected by 1985 could add some 35 percent megatonnage to the known Soviet strategic offensive force), while it includes all U.S. strategic bombers, including some stored and dismantled. Adding insult to injury is the acceptance by the United States of an entirely separate statement by the Soviet Union that it will not give what we know to be an intercontinental bomber an intercontinental capability, which is then defined in terms of radius instead of range. According to General Rowny, the statement was not even signed or initialled by the Soviets.

(8) Having cancelled the B–1 program with (erroneous) rationale that we could substitute cruise missiles for that capability, this agreement would limit both the numbers of those cruise missiles and the numbers and types of carriers for them. In addition, counting cruise missile carriers with ALCMs as "MIRVed" vehicles forces the U.S. to reduce its true MIRVed systems if it exceeds 120 CMCs. At the same time, the agreement excludes Soviet cruise missile equipped aircraft (or for that matter other CM platforms) when the Soviets can claim that the cruise missiles carried do not have operational ranges over 600 km, even when our intelligence says they do.

(9) In so limiting our ALCMs, the agreement places limitations on U.S. bomber armaments without corresponding limits on Soviet air defenses. The failure to place limits on Soviet air defenses, along with the exclusion of Backfire, gives the USSR a major advantage in bomber forces, an area where it has always been maintained that we enjoy an advantage.

(10) The limit on testing and deployment of only one "new type" ICBM restrains only the U.S. (an unfortunate restraint at that) because of loopholes that permit the Soviet Union to proceed not only with its 5th generation of ICBMs, but to proceed with still others as well. Some of these loopholes are: (1) No agreed data base upon which to base the 5 percent rule, which, when coupled with our inability to measure such parameters within 5 percent with any confidence, makes it practically impossible to define a "new type" as such. (2) No limit on "SLBM" and "IRBM" testing allows new type ICBMs to be developed and tested as "SLBMs" or even as "IRBMs". The SS–N–8, SS–N–18, and our own C–4 are intercontinental range ballistic missiles; and we should recall our own interest in converting the C–4 into a common ICBM/SLBM. (3) There is no range stipulated for the 5 percent rule on throw weight. The Soviets could build a large ICBM, with great throw weight, and claim it to be an IRBM by testing it at ranges under 5500 km (perhaps by loading it with extra warheads, or even ballast, which could be offloaded to achieve intercontinental range.)

(11) The restraints on SLCM and GLCM in effect limit what would be U.S. and/or NATO theater systems, and without corresponding limits on what the USSR allows to be its modern theater systems, the Backfire and SS–20. Even though these limitations are in the Protocol and will presumably expire after 1981, the principle is establish and the precedent set. In both a political and negotiating sense, this seems to me to be a serious set back. Virtually the only position on which the U.S. has remained firm since the opening days of SALT I is that we will not accept one-sided restraints on our theater systems (the so-called forward based systems), and will not bilaterally with the Soviets establish restraints on sytems intended primarily for theater deployment and Allied security.

These are eleven specific major flaws that I would point out. Others could be added, e.g., uncertainty and ambiguity about the definition of future heavy bombers, lack of an adequate means to distinguish between a light and a heavy ICBM, inadequate and unagreed ways to determine the range of a cruise missile. But any of the eleven flaws mentioned could in itself justify serious questioning of the soundness of the agreement; there can be no redeeming value to offset the impact upon our national security of all those flaws.

MAJOR CONCLUSIONS CONCERNING THE PROPOSED AGREEMENTS

Based upon the foregoing discussion, it is necessary to conclude that:

(1) The agreement does not achieve the objectives for which the United States has looked to SALT, nor the specific limitations sought in SALT II. It neither reduces nor significantly limits the growth of the threat. It certainly does not help ease the need for American strategic responses; to the contrary, it contributes to an increased need. The agreement would continue the trend toward less rather than more stability.

(2) The agreement in no way constitutes

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the type of follow-on agreement called for at the time Congress approved SALT I. It represents a continued erosion of American SALT objectives and negotiating positions. The evidence should be clear by now that good agreements do not grow from bad ones. Acceptance of this agreement will not improve the chances for better future agreements or help the SALT process.

(3) The agreement specifically does not establish the equality called for by Congress in 1972, and is in many important respects an inequitable agreement.

(4) The agreement would constrain, directly and indirectly, the U.S. ability to respond effectively to the threat that it allows to develop during its duration.

This point is important enough to develop below. It is important because the usual response to the observation that the agreement does not help us very much is to say, "well, show us how it is harmful." Such a response at least implicitly acknowledges that the real question in the SALT II debate has come to be whether the agreement and the accompanying process are harmful to the United States, or merely worthless.

(5) The treaty contains too many ambiguities and loopholes that the Soviets can exploit and that are certain to cause future problems. It is a lawyer's nightmare as well as a strategist's.

(6) The treaty is not adequately verifiable in many important provisions, and the verification problem is further clouded by definitional ambiguities, lack of adequate data bases, and other loopholes. I place verification last since even a thoroughly verifiable bad agreement remains a bad agreement, and this is a bad agreement.

WOULD WE BE BETTER OFF WITH THIS AGREEMENT THAN WITHOUT IT?

Setting aside for the moment the question of the relative political consequences of agreement compared with no-agreement, the argument that we would be better off with this agreement than without it can be distilled to a three-fold proposition that:

(1) the Soviet threat would be greater in the absence of this agreement; i.e., that the agreement does in fact significantly prevent the USSR from doing what it would do if there were no such agreement;

(2) the U.S. is not constrained by the agreement from doing whatever it needs to do to meet the threat in a timely and effective fashion (and, presumptively, will do so); whereas,

(3) we would not be able to respond as effectively in a no-agreement case.

Let me examine those propositions.

As to the first, it is argued that the Soviet Union would produce XX more launchers, missiles, MIRVed missiles, bombers, warheads without SALT II. This argument is transparently self-serving. First of all, there is no real evidence of what the Soviets would do in the absence of an agreement. One must suspect that such non-SALT projections may be designed largely to help sell SALT by making an agreement appear to be better than it is. We had experience with this in SALT I.[2] Second, such an argument obscures the real threat, which is what the Soviets can and most likely will do under the agreement. Given the effort that the Soviet Union is expending, and the percentage of its GNP already going into arms, it is difficult to see how they could significantly increase what we project for them assuming SALT II.

We should recall that the same argument was used to sell SALT I.

I believe that what I testified in 1972 concerning the same SALT I arguments is pertinent, and I would like to recall it:

"To conclude that the situation five years from now would be much worse without these agreements requires the dual assumption that the Soviets will continue to deploy ICBMs and SLBMs (launchers) at a rate comparable to or higher than that of recent years (and that this represents more of a risk than Soviet force modernization), and that the United States does nothing in response. Yet, the President has suggested that we would do quite a lot in response (an additional $15 billion per year) if there were no agreements. It is difficult to see how these agreements change the threat $15 billion per year worth. In fact, while limiting such a U.S. response, the agreements do not much change the expected 1977 threat. If the Soviets do a lot in the presence of the agreements, and we do comparatively little—as seems probable—the agreements could lead to a situation in 1977 much worse than without the agreements."

"These agreements do not in fact substantially change what the Soviets can and would have done in the next 5 years. We did not forecast a continuing large scale buildup of ICBM launchers. What we expected and were most concerned about was the improvement of the existing levels of Soviet launchers in terms of new missiles, accuracy and multiple reentry vehicles. Those are the things that are not only allowed but encouraged by these agreements. It is difficult for me to see that there is much evidence to support the argument that the situation in the absence of the agreements would be much worse. It would be no worse than the situation in the presence of these agreements. If we would have responded in the absence of the agreements, and will not as effectively in their presence, the situation 5 years from now might be much better without the agreements."

We know very well by now that the only relationship between SALT agreements and what the Soviets will do in SNF programs is that those agreements reflect what the Soviets want to do. They do not prevent the Soviets from doing something they have otherwise planned, because the Soviets clearly plan first what they wish to do and then accept only those SALT limitations consistent with those plans. Limitations that would interfere are either rejected outright or so ambiguously worded that they will not interfere. Moreover, Soviet programs, set in a very rigid Five Year Defense Plan, are not much subject to major change and will not be much influenced by SALT or NO-SALT.

A primary lesson from SALT should be that the real threat is what the Soviets are allowed to do by the agreements, not what they might hypothetically do in the absence of the agreement.

I would only add here that the SALT II agreement does not in fact prevent the Soviets from producing and even deploying *XX* additional missiles, bombers, MIRVed vehicles, and warheads if they wish to do so. There are no limits on missiles, and no limits on the production of warheads; therefore, there are no limits on the numbers of warheads on missiles. There are not even well defined or satisfactory limits on launchers for missiles. There are no limits on Backfire bombers, and no limits on bombs. There are merely cosmetic limits on force improvement. So, what they can do within the agreement is not significantly different from what they could do in its absence. The Soviet threat will be essentially the same with or without the agreement. What really matters is not the proposed agreement, but what we do or do not do; which leads to the next proposition.

As to the second proposition, to argue that we are free to do what we wish under the agreement is, at the outset, a curious rationale for concluding a strategic arms limitation treaty. Do we need an agreement in order to be free to do what we wish to do?

We need to remind ourselves what SALT agreements were supposed to do: not so much to leave us "free" to do something, but to reduce what we need to do, to reduce the threat, to ease strategic problems, to contribute substantially to stability and to arms moderation on both sides, and to do so equitably. Contending that we are "free" under SALT II to do something obscures the purposes of SALT and underscores its questionable value to American security.

We seem to have taken this argument a step further, so that it now implies that we need Soviet concurrence for what we would do. The record of this Administration's approach to resolving the ICBM survivability problem lends credence to that suggestion. After reaching the basic provisions of this agreement, the Administration wondered if it interfered with what was clearly the optimum approach to Minuteman rebasing. So it went to the Soviets for their tacit concurrence in the MAPS vertical silo plan. The Soviets refused to give it, and in fact raised objections. So the Administration discarded the option, while still maintaining publicly that it was permitted by SALT II. It then went to a hardened closed trench system, and then, after there was SALT objections to that also, briefly to an open trench scheme; and now we are guided by SALT to a more expensive, suboptimum "race track" design—which I predict will also be abandoned, either because we question it or because the Soviets will also not agree to it.

There are other major considerations as well concerning the argument that SALT II leaves us "free" to do as we wish.

(1) We may be free, but only the Soviets are doing. The Soviets continue to outspend us some three times in SNF. The $10.8 billion requested for SNF in the FY 1980 budget is less than that in the FY 1978 budget, and well less than that projected for this year by the FY 1978 budget plan. RDT&E on SNF is up a trivial $25 million, well less than inflation. Senator Nunn has pointed out that the Administration's Five Year Defense Plan for FY '80 through FY '84 is underfunded by over $60 billion. We have no programs for many of the things that we are "free" to do.[3]

(2) The argument that SALT II leaves us free to do what we wish is an inspired tautology since the Administration that has accepted the agreement also defines what we wish to do, and in accordance with the agreement.

(3) Many of the major "planned" programs, and most particularly MX and ICBM rebasing, are post-Salt II programs, and in their case SALT II is irrelevant in what it "frees" us to do.

(4) Contending that SALT II will not constrain what we can do ignores the very real indirect constraints that we have always experienced from the SALT process.

This is a very important point, which I raised in my introductory remarks, so let me develop it a little.

That SALT negotiating and anticipated limitations have had a constraining influence on our programs is clear, as, for example, is reflected in the following explicit statements in the FY 1976 and FY 1978 DoD Reports:

SCHLESINGER. "Pending completion of negotiations on the final details of the Vladivostok agreement we have continued to plan our forces within the general bounds of that agreement, as well as within the limitations of earlier agreements."

RUMSFELD. "Force planning under current policy is constrained by those limitations anticipated in light of the Vladivostok accord."

There are several concrete and documentable examples of how American programs have been indirectly constrained by SALT. Let me just mention a couple, while suggesting that this Committee might fruit-

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fully hold Hearings on the extent of SALT impact on U.S. programs.

SALT I directed that we not deploy ABM (beyond one since abandoned site), but left us free to conduct R&D. In fact, one of the major arguments for the ABM Treaty was that we had not yet developed the optimum ABM system, while the Treaty left us "free" to do so. Within a year, however, with the first post-SALT I budget cycle, the argument was made: "Why spend much money on R&D on something we have agreed not to deploy?" So we did not. At the next budget cycle, the argument was, "since we have decided not to defend ourselves against the greater threat—ballistic missiles—why spend money defending against the lesser threat—strategic bombers?" So air defenses were cut way back and NORAD's mission was changed basically to early warning. And so forth. That is the indirect or ripple effect of SALT. It is substantiated by the following statements from the DoD reports quoted above:

SCHLESINGER. "If we cannot defend ourselves against strategic missiles there is little to gain from trying to defend ourselves against strategic bombers."

RUMSFELD. "Once SALT limited ABM deployment to one site . . . little (seemed) worth doing against the Soviet bomber force, and with the emphasis on active defenses reduced, it was considered almost pointless to advocate a major program of passive defenses."

There are other examples: The entire cruise missile program of the United States has been influenced by anticipated SALT constraints. ALCM range was planned with a 2500 km restraint in mind, to the point that even though that restraint was removed from SALT II it nonetheless established the parameters of the program. SLCM and GLCM test and deployment schedules have been influenced by SALT as well.

SALT did not require that the Administration cancel the B-1, delay MX and the resolution of ICBM basing, or string out other major programs. The SALT process and the pursuit of SALT II, however, were certainly part of the basis for those decisions. Comparing this with the unrestrained vigor of Soviet programs, we can see that SALT has been pursued by the two parties for radically divergent objectives. The U.S., hoping to promote stability and arms moderation, also hoped that unilateral restraint would be reciprocated and would further those SALT goals. The Soviet Union seeks strategic superiority and hopes that the SALT process will aid the quest. It is clear that the Soviet leaders have seen SALT not merely as a means of securing U.S. acceptance of Soviet gains, but also as a procedure to dampen American responses to those gains.

The specific limitations contained in an agreement, then, are not the only SALT constraint upon us: the process does have an inhibiting effect surpassing the precise limitations in an agreement. This impact, I believe, will become even greater in the event that SALT II is ratified and the trends in the strategic balance now expected during the period of SALT II are allowed to take place.

Consider: the Treaty would extend to 1985, and so presumably would negotiations on SALT III. Precedents established by SALT II would be difficult to overturn in the best of situations. But we will hardly be in the best of situations. As you have heard testified, a peak of relative Soviet capability vis-a-vis the United States will occur during the period covered by SALT II. Virtually all major strategic force indexes will favor the USSR, and most very heavily. Minuteman will be insurvivable in its present configuration; the aging B-52 force, whether or not equipped by then with ALCM, will be vulnerable on the ground and en route to target; U.S. C^3 has major vulnerabilities; Soviet active and passive defenses will have enjoyed a few more years of improvement; Soviet ASW may not permit smug confidence in the survivability of our at-sea subs over time, and in any case the specter of an overwhelming Soviet reserve would dissuade their use and mitigate their deterrent value. The Soviet Union will have real and perceptual superiority.

All of that assumes the continuation of Soviet programs as allowed under SALT II, without postulating any startling new developments or unknown (i.e., SALT uncounted) forces, and no major new steps by the U.S. to ward off the situation, other than what is now contained in the FY-80 Defense Report: The U.S., however, does have steps that it could take to avert or at least alleviate that situation. But are those steps likely to be taken if SALT II, as it stands, has been approved by the Senate, and SALT III negotiations are underway? Are we really likely to make the new effort necessary in the aftermath of the assurances being given in the selling of SALT III and the promises that SALT II moderates our needs? There is no doubt in my mind that the ratification of this SALT II agreement, and ongoing SALT III negotiations based upon this agreement, would forestall our ability to avert the threat of the early to mid-1980s. It would even, I perdict, inhibit those programs now suggested in the Defense Budget to meet the threat in the longer term. An article in the Armed Forces Journal earlier this year mused that the "FY 1980 Budget promises far more than it can deliver . . . It is far better suited to selling SALT than meeting the Soviet threat." I suspect that to be true, but I am certain that it will be if the situation I have described is permitted to come to pass.

(5) There are, in addition, specific SALT constraints that directly limit American options. I have identified some of these in the section of my statement dealing with major flaws. Other examples are noted in Appendix One.

Finally, at the risk of offending some, I would add one point. I have always found it curious that those who most often use the argument that we are "free" to do things under SALT are often those who oppose these programs when they do come up.

Turning finally to the third proposition I initially noted, i.e., that we would not be able to compete as effectively in a no-agreement case: I believe that the foregoing discussion strongly implies the answer to that. SALT has blunted our competitiveness. In the abstract it can be argued that there is no intrinsic reason why the U.S. could not accommodate all needed strategic programs within a SALT context, if determined to do so. The Soviets have certainly done so successfully. Logically, one would think that the determination of acceptable arms limitations would follow the determination of strategic force requirements (however novel that approach might seem in the U.S.). Unfortunately, there is nothing in our SALT record that gives much confidence in our ability to do this while SALT is proceeding.

I believe that the United State could more readily and effectively take the steps necessary to improve our strategic forces and turn around the dangerous trends if SALT II were not approved and if the SALT process were suspended until those steps had been taken.

CONCLUSION

There are basically four choices open to the Senate in acting on this agreement, as I understand them. It can consent to it as it stands, which is manifestly the worst of the options. What we can hope to accomplish in SALT is very limited, thanks to the Soviet Union, but that does not require us to settle for bad agreements. It can proceed to amend the Treaty in a way to correct what it decides are the greatest defects. I believe that this would require substantial and substantive amendment, however, and it is clear that the Soviet Union would not accept such amendment. I also have my doubts that all of the amendments necessary to make this a sound agreement would survive the legislative process. Nonetheless, I have appended a list of the types of amendments that I would commend to you should the amendment course be the one followed.

Another option is to recommit the agreement to the Executive branch with instructions, or suggestions, for renegotiation. Such renegotiation, as in the case of substantive amendments, would take time. It might also be based upon precedents in these agreements and in the SALT process which are not beneficial to us. Furthermore I fear that we would not carry through with the strategic nuclear force improvements we need while in the process of negotiating a new agreement; and if we do not we will improve neither our security nor our chances of obtaining a better agreement.

The fourth option, of course, is to reject this agreement. This course in itself does not assure that we will act as necessary any more than the preceding options; but, especially if coupled with a clarion Congressional call for an immediate effort to turn around the strategic trends, it would be the most likely catalyst.

I do not urge this course of action lightly. I well know the awesome responsibility entailed, and I know the potent political attraction of arms control. But this is unsound arms control. Consenting to it would promote neither national security nor sound arms control.

It is often charged by SALT II proponents that Senate refusal to consent to this agreement would be tantamount to rejecting arms control; it would cause the failure of arms control. Senate rejection or substantial amendment of this agreement would not cause a failure of arms control; it would reflect the failure of SALT that has already occurred. Arms control is supposed to contribute to American security; it fails if it does not. Soviet strategic and SALT objectives have not been compatible with successful arms control. U.S. restraint, to promote SALT, has been exploited for unilateral advantage.

In my view, if the SALT process is to be rescued, and if worthwhile and balanced agreements are to be negotiable in the future, it is essential that this agreement not be ratified, and that the U.S. move forthrightly to deprive the Soviet Union of the strategic advantages it expects. If accompanied by the right programs, this would announce to the Soviets (and the world) more clearly than anything else that the U.S. is not reduced to accepting unsound and unhelpful agreements or the continued adverse shift in the strategic balance. It would say that we have given SALT over a decade to succeed; i.e., to moderate the Soviet arms buildup and create strategic stability; and it has—unfortunately—not worked. It was worth the try, but it has not been successful. Consequently, we have been put in a position where we must act decisively to prevent an intolerable situation, and we are capable of doing so.

U.S. determination not to allow the Soviets to achieve the superiority they seek or to place American forces in jeopardy may have a more restraining influence on Soviet leaders in the long run than continued self-restraint. It could well convince Soviet leaders to reduce their ambitious strategic goals because the cost of pursuing them is prohibitive and the probability of success is low. Soviet goals are often adapted to the opportunities presented, or foreclosed. Far from precluding future arms control, this would restore American negotiating strength as nothing else. Perhaps the Soviets would see then that they have more to gain from the mutual benefits of real arms control. Perhaps not. But there is really nothing in SALT II that leads in that direction.

It has been argued that, notwithstanding these considerations, you should still consent to this agreement because the political consequences of not doing so would be severe. In my judgment that is not as certain as the Administration would have us believe. Some unsettlement and uncertainty in our relations with Allies and with the Soviet Union, to be sure. At least for a while. But I am not at all convinced that the net long range political effects would be harmful, compared to what might result from ratifying this agreement.

A different possibility would be the following: Should the United States ratify this agreement, it could be seen as accepting the adverse trends in the strategic balance and acquiescing in an unsatisfactory SALT process. It would be seen as accepting an agreement that does not meet the objectives we set for it, because we have decided that there is little else we can do. On the other hand, refusal by the Senate to consent to this agreement, and concurrent action to improve our military capability, would be seen as determination to stop drifting with adverse currents, leading in the long run to more security for us and for our allies, and consequently to a better political situation.

I believe that the harmful political consequences that the Administration predicts if SALT II is not approved are actually more likely to occur if it is approved as it stands, and if the U.S. response to the clear and present danger is weak.

However, I acknowledge the uncertainty involved. Forecasting political consequences is a matter of speculation and judgment. But the Administration is speculating too, and in a manner that we must suspect is designed more to sell SALT than to portray the future objectively. So let us call this a standoff.

On what there should be no uncertainty is that we are in a very bad strategic situation; SALT II does not help us out of it, but rather contributes to it; we must get out of it; and we can do so more readily if we are not bound by this agreement.

Our first priority should not be SALT, but identifying and fixing the weaknesses in our strategic posture. Our strategic forces not only do not meet the requirements and objectives that we have officially set for them; they will not, in my judgment, meet the minimal requirements of strategic and crisis stability within a few years unless major actions are taken. I urge you, while withholding your consent to SALT II, to look carefully into those deficiencies and into what can be done to correct them in a timely fashion. Time is of the essence.

I recommend that you hold pro and con, no-holds-barred, comprehensive hearings on the status of U.S. forces, their readiness, survivability, C^3, and overall capability, and on the adequacy of present plans, programs, and budgets to overcome, in time, the weaknesses revealed.

For nearly two years, a group of defense experts, working as an independent "Strategic Alternatives Team", has been looking into these problems and exploring timely corrective actions for them. I believe some of the results could be useful to you, and I have presented a summary of them in an Appendix.

Thank you for the privilege of appearing before this Committee and for the courtesy of listening to my views.

Appendix One: Testimony of William R. Van Cleave, SALT II Hearings, U.S. Senate, Committee on Armed Services, 11 October 1979.

In connection with the issue of increased defense funding to meet the strategic threat projected for the near future it is often asked on what extra funds could usefully be spent. Some have suggested that there are no significant SNF options that could be effective in the near term anyway (and hence we need SALT II); others have merely argued that strategic programs are well in hand, proceeding as they should, and that we do not need significant additions to the SNF budget beyond what is now planned. The Administration seems to take both positions, and would apply a token 3 percent increase essentially to the GPF.

That there is little else that needs to be done to meet the early to mid-1980s is refuted in official statements. Administration charts show an improvement in the strategic balance in the late 1980s (assuming continuation on schedule of programs that remain doubtful). At the same time, however, it is acknowledged that, in the meantime, U.S. SNF will become severely vulnerable and that strategic force comparisons will increasingly favor the Soviet Union. The FY 1980 DOD Report states that "our most serious concerns—which we need to act now to meet—are about the period of the early-to-mid 1980s." In his annual report to Congress this year, General Jones warned that we are "another year closer to a potentially unstable and acutely dangerous imbalance," and further expressed the judgment that "regardless of U.S. actions, Soviet strategic capability will increase relative to that of the U.S. through the mid-1980s."[4]

Yet, Secretary Brown also acknowledges in the introduction to the FY 1980 Report that "our requests for FY 1980 are somewhat lower than we had projected a year ago, and our Long-Range Defense Projection runs slightly below the path forecast in the FY 1979 budget." It seems, then, that the prophecy of major near term problems is a self-fulfilling prophecy. Statements by the Chairman of the JCS and other military leaders that little can be done over the next few years, while at the same time they acknowledge the need, must clearly be budget driven.[5]

If we could, however, expect additional SNF funding in an effort to avert the most dangerous threats to our strategic forces in the short-to-mid term and to correct the strategic balance in the mid-to-long term, the only question would be: Do we have any options that promise to be feasible, timely, and effective?

This is a question that a group of defense experts, the Strategic Alternatives Team, has been examining under my chairmanship for nearly two years. On the basis of our analysis, we believe it to be irrefutably clear that there are significant options available for correcting many of the major deficiencies in our SNF and in the strategic balance trends before 1985—even in the early 1980s—given the determination and some additional SNF funding.

An early product of the Team's work, based upon a "quick fix" conference sponsored by the National Strategy Information Center, is contained in the book, Strategic Options for the Early Eighties: What Can Be Done?, edited by William R. Van Cleave and W. Scott Thompson (National Strategy Information Center, 1979), which examines the need and rationale for SNF "quick fixes" and presents analyses of certain options. I have copies of that book available for members of this Committee and their staffs.

Since that time, the Strategic Alternatives Team has continued this work. The following presentation is the product of further SAT work, which I am authorized to present to this Committee on behalf of the other members of SAT.

FOOTNOTES

[1] In this regard, the suggestion by Secretary Brown that it would not matter if all of the SS–18s were dismantled is absurd. That would cut silo-deployed Soviet ICBM throw weight in half and reduce deployed RVs by 3,000. Such a major reduction would place meaningful bounds on the threat and give the U.S. a richer and less costly range of ICBM survivability options. It is also inconsistent to suggest that this would not be a significant gain while arguing at the same time that limiting the SS–18 to "only" ten RVs is a significant accomplishment: I would only add that if our vulnerability is so bad that even a 50% reduction in the Soviet ICBM force will no longer relieve it, this Committee should ask why this has been allowed to come about.

[2] For example, Raymond Garthoff has noted that "Theoretically possible higher Soviet SLBM levels for 1977, developed after the April Moscow meeting, were later cited as support for the value of the limitation."

[3] E.g., General Ellis reported to this Committee that we do not have in the Five Year Defense Plan even those B52 improvements necessary to meet the penetration probability ascribed by Secretary Brown to the 1985 force.

[4] Considerable insight could be gained into the accuracy and effectiveness of present U.S. national security planning by reviewing how this state of affairs has been allowed to develop over the last decade.

[5] It is noteworthy in this regard that whenever certain of the fixes recommended below are suggested to the services, the response is quite often that there is not enough money for them. *Aviation Week*, in reporting on the B–1 derivative options (8–27–79) also reported that the Air Force is not interested because it is "concerned that any aircraft development would impinge on the MX deployment because of the cost impact of multiple strategic programs." Clearly then, consideration of options is constrained by funding expectations.

SOME FIXES TO U.S. STRATEGIC NUCLEAR CAPABILITY THAT COULD BE UNDERTAKEN WITH IMMEDIATE INCREASES IN THE STRATEGIC NUCLEAR FORCE PROGRAM BUDGET

(Strategic Alternatives Team)

(Summary discussion: First priority should go to rebasing the Minuteman III force in MAPS/MPS configuration; second to upgrading the Minuteman III and reopening its production lines; and third to development of a follow-on ICBM, presumptively the MX, but also a smaller ICBM option for air or land mobility future alternatives. SALT drives us toward larger ICBMs, as the MX, to obtain the necessary throw weight and countermilitary potential, whereas, without SALT, strategic logic would weigh heavily toward a larger number of smaller (possibly single RV) ICBMs. The latter would ease survivability problems and promote strategic stability far more than the larger ICBMs in relatively few numbers.)

ICBM FORCE	SALT COMMENTS
Significant Capability (SOC) in Short Term: Redeploy MMIII (and possibly MMII) in MAPS/MPS Verticle Silo Mode	The Administration, facing Soviet objections, has apparently decided that SALT II, in fact, rules out this option. If so, SALT is driving us toward less timely, less effective, and more expensive options for ICBM survivability; in essence, it prohibits us from solving this problem in time to meet the maximum threat in the early to mid 1980s. On this account alone SALT II should be rejected unless it is renegotiated or clearly amended to permit this option; or unless the Administration explicitly claims, under SALT II, the right to this deployment and then proceeds with it.
Upgrade MMIII and Reopen Production; Deploy More (in MAPS)	Major upgrading possible, e.g., for better accuracy and adaptability. Can produce all wish under SALT II (e.g., for breakout) but can deploy only 270 more on existing launchers, and that would force us to limit MIRVed SLBMs to 380 and ALCM CMCs to 120.
Accelerate and Increase MK12A (or improved RV) Production and Deployment plans.	No SALT constraint. Now plan to refit 300 MM, or less, with MK12A.
Improve Flight Test Program	Qualitative and quantitative upgrade necessary to any realistic expectation of improved accuracies. Ranges and range facilities also need improvement.
Significant Capability in Mid-Term:*	Comments:
Continue MX Development, Accelerate Pace Concurrent Development of New ICBM; e.g., smaller ICBM for land or air mobility options. Develop More Accurate C–4 and/or Accelerate D–5 Development as Possible ICBM Options	See prefatory summary comment. A major SALT II constraint is that it prohibits both the deployment of a larger number of smaller ICBMs and the development and testing of a small new ICBM or other aternative to the MX while the MX is being developed. Without SALT II we would undoubtedly be pursuing such development; to do so under SALT II would require test-development of a derivative of an ALBM, SLBM, or IRBM, if the U.S. would do that as a SALT failure hedge. C–4 and D–5 recommendation constitutes such a hedge, but is not as desirable as test-development of new small ICBM.
Larger Number Smaller ICBMs in MAPS	Prohibited by SALT
Increase Funding for ABM Development as Supplement to ICBM Rebasing	
Deploy ABM Defense as Necessary to ICBM Survivability	Prohibited by SALT I
Develop Long Range Alternatives or Supplements to MAPS/MPS	
Bomber/Air-Breathing Force SOC in Short Term:	
Accelerate and Increase Planned ALCM Production & Deployment	We now plan only 12 externally carried ALCMs on 120 B52–Gs. SALT II prohibits deployment on more CMCs without drawing down numbers of MIRVed ballistic missiles. Could still keep within SALT II and place 20 ALCMs on 120 Gs, or—without SALT—equip all 170 Gs with 20 or more ALCMs.* Program acceleration could produce such a force in 3 years, while accelerated development of a new CMC could be timed to absorb ALCM production thereafter (if no SALT).
*Three to four years is used as the dividing time between Short-and Mid-Term SOC.	*More variations possible depending upon numbers MIRVed ICBM/SLBMs deployed; e.g., by limiting those to 1020 could deploy 150 B–52G with 20 ALCM and 150 new CMC with 36 ALCM (8400 ALCM) and remain within SALT II constraints.
Go into Production with Both Competitive ALCMs	The purpose would be to increase ALCM production over time for more rapid and increased deployment, which would be severely constrained by SALT II. A variation would be to convert the 2nd-place ALCM competitor into a stretched version for interim longer range while new ALCM being developed.
Rebase B–52s Inland	An essential requirement: 20–40 new MOBs located beyond 700 nm of coast needed.
Re-engine 50–100% B52–G & H	Would greatly improve performance as CMC, enable more and better utilization runways/bases, and make planes tanker independent in CMC role. Boeing-Wichita will do so at fixed price, guaranteed performance.
Increase B–52 Alert Rate and Further Decrease Reaction Time	Extent may depend upon degree and success of rebasing, which should have higher priority for funding, but particularly those B–52s with ALCMs during the years before full operating capability should be placed on the highest practical alert rate. An increased ability to go more rapidly to higher alert rates and to sustain those rates would be part of the imprvoement.
Harden B–52 G/H	Extent, again, may depend upon success of above and of any follow-on bomber/CMC program, as well as consideration of priority given level of funding available.
SOC in Mid-Term:	The last four suggestions face no apparent SALT II constraints.

(Summary Discussion: A major issue is the question of trade-offs and funding priorites between such improvements to the B–52 force as suggested above and development of a follow-on penetrating bomber or CMC. With the improvements noted above, the B–52 would be an excellent ALCM-carrier, but many feel that a penetrating bomber is needed as well, and with good reason. On the other hand, many problems of penetrating Soviet air defenses in the future remain to be solved, if they can be satisfactorily. The optimum solution seems to be to proceed simultaneously with B–52 improvements oriented toward a CMC and with a B–1/B–1A program oriented toward a penetrating bomber; if the penetration problem, meanwhile, cannot be satisfactorily solved, or can be, later decisions can be taken accordingly. Clearly, this approach will require substantial additional funding.)

ICBM FORCE	SALT COMMENTS
Restart B–1 (or B–1A) Program, along with major R&D program to improve penetration	B–1 specified in SALT II as heavy bomber and therefore subject to aggregate limits and, as ALCM carrier, to MIRVed vehicle limits. SALT II constraints would not apply until production. Program should proceed as if production the goal.
Development of new CMC: AMST, or possibly B–1, derivative	
Tanker Force Improvements	Issue of tanker dependence rests upon resolution of some of foregoing points. Reengining B–52s frees from, or reduces, tanker dependence. Better to be able regard tanker capability as bonus than to have to rely upon; but to extent and need must modernize along same lines suggested for B–52 force. Reengined B–52G could be converted into more capable tanker if B–52G turns out to be transition to better CMC.
Advanced, longer-range ALCM	Development and early production a high priority as Soviets extend air defense perimeter. Threat of Backfire in interceptor role, e.g., requires much longer-range ALCM capability.
Sea Based Force	
SOC in Short Term:	
Improve Communications; e.g., Proceed with ELF	
Expedite and Increase Planned C–4 Deployment; Simultaneously Develop More Accurate C–4	
Product SLCM and Deploy on Available Platforms	Protocol governs only through 1981 after which, presumably, free deploy SLCM without constraint. As an early deployment made, e.g., might deploy on ten old Polaris boats at 6–8 per tube (and give to SACEUR?), or externally on subs.
SOC in Mid Term:	
Accelerate D–5 with Improved Accuracy	
Develop Advanced, Longer-Ranage SLCM	
Accelerate Prototype R&D Follow-On, or Alternative, SSBN	
Accelerate Prototype R&D on SSCN	
Work on Extending Life Poseidon Boats so no Dip Numbers SLBMs around 1985.	With SALT II MIRV limits depends upon MIRVed ICBM and ALCM choices (e.g., see footnote page 2.)
Other fixes: Defense, C^3	
(Note: Significant improvements in all of below could be accomplished in short term, but full impact probably by Mid Term.)	
Increase Funding and RDT&E for ABM: ICBM Defense (e.g., supplement to MAPS) and Defense and other Critical Targets Deploy as Needed	SALT I Treaty prohibits deployment beyond one site and prohibits development of sea-, air-, space-, or mobile land-based ABM. On other hand, 1972 U.S. statement appended to Treaty stipulates right to withdraw from Treaty if supreme interests jeopardized. Should at least develop rapid (6-month) depeloyment capability.
Revitalize Air Defense	Important not to allow Backfire a free ride. Options available for both Short and Mid Term resting on combinations of available and future SAMs, AWACS, Interceptors; e.g., Multiply AWACs and phase in F–14 with Phoenix; deploy Patriot in strategic air defense mode.
Civil Defense	Major improvements possible, beginning with suggestions in *Strategic Options* book and the Administration's initially announced but now defunct program; more advanced plans and options already exist.
C^3	Major improvements for wartime durability as well as early warning and initial exchanges have been an established, high DOD priority for some time. Despite that, little has been done. Should not wait for a master plan, but should proceed with obvious improvements to pieces of the problem. (FY 80 DOD Report acknowledges that secure and reliable C^3 for at least the SLBM and Bomber/ALCM force is lacking.)

Appendix two: Testimony of William R. Van Cleave.

POSSIBLE SALT II AMENDMENTS

To be truly equal, equal aggregates of limited offensive systems should be based upon missile throw weight as well as numbers of launchers or delivery systems. There should be a provision that ICBM and MIRVed ICBM throw weight be progressively equalized at levels as close to those of the U.S. as possible.

The Soviet Union shall be required to furnish current and verifiable information on the numbers and types of intercontinental range missiles it possesses in addition to those on counted launchers. The number of such missiles on either side shall not exceed the number of SALT-counted launchers by over 5 percent.

The term "launcher" must be adequately defined for the purposes of missile limitation and verifiability.

Until the U.S. is prepared to deploy a significantly larger ICBM, heavy ICBMs will be defined as those having a volume significantly greater than the Minuteman III. Heavy ICBM launchers shall be limited to 550. Or:

For the duration of this treaty, MIRVed ICBM launchers shall be limited to 550 and no more than a total of 4.0 million pounds throw weight.

Nothing in this agreement shall be interpreted to preclude the U.S. from deploying its ICBMs in a survivable mode. In lieu of the above limitations, the U.S. Government is required to deploy its ICBMs in a multiple aim point mode, sufficient to assure adequate survivability, within three years, and the ABM Treaty must be amended to permit defense of ICBM launchers.

The Soviet Backfire bomber, having unrefueled intercontinental capability from operational Soviet air bases, must be included in the aggregate limits. Otherwise, all bomber aircraft will be excluded from the limitations.

There should be no limits on aircraft armaments, including cruise missiles, without corresponding limits on air defenses.

There should be no limits on the numbers and types of carriers for ALCMs without corresponding limits on air defenses.

There should be no limits on cruise missile numbers, types, range, or deployment (unless numerical limitations are applied equally to all cruise missiles with ranges beyond 100 km).

Provisions relating to the testing and development of IRBMs, SLBMs, and "new type" ICBMs should be tightened to assure the effectiveness and verifiability of the provisions related to the development and deployment of new ICBMs during the period of the treaty. An adequate data base on the relevant characteristics of missiles tested must be provided by each party.●

YOUTH ART MONTH RESOLUTION—SENATE JOINT RESOLUTION 19

● Mr. DURENBERGER. Mr. President, I am pleased to cosponsor Senator Wallop's resolution to designate March 1980 as Youth Arts Month.

Before coming to the United States Senate, I had the great privilege of serving with other Minnesotans on a citizens' commission to study and document the importance of the arts in the life of our State. The results of that study, sponsored by then Governor Wendell Anderson, speak to the purpose of this resolution and I would like to take a few moments to share our findings with my colleagues in the Senate.

Our most surprising finding was the level of commitment to arts instruction in the private and public educational institutions of the State. Minnesota is known throughout the nation for the excellence of its nonprofit arts organizations. The Governor's commission documented the importance of volunteer time and private contributions in sustaining this record of excellence. But we were amazed to find that the resources committed to the arts education of our youth exceeded our commitment to the nonprofit arts fivefold. In 1976 our elementary and secondary schools devoted $110 million, or 6 percent, of total educational expenditures to the arts.

Second, we found that arts education covers a broad spectrum of activities in most of our schools. In the intermediate grades, 90 percent of our students take a course in the visual arts or vocal music. Almost all Minnesota schools offered elective courses in the arts including instrumental music, dance, creative writing, drama, and poetry. Extracurricular activities including school plays, choir and band are an important part of the lives of thousands of Minnesota students.

Third, we found the participation in school arts activities at an early age led to a lifetime commitment and interest in the arts. Our study offered strong support for the commonsense judgment that those who sustain our cultural tradition as patrons, volunteers and contributors for the arts learned their appreciation and formed their commitment as young persons active in school programs and extracurricular events.

We Minnesotans are proud of our heritage and proud of the institutions, programs and personal achievements which make the arts a valued and important part of our life. We find that we owe much of this tradition and commitment to the arts education of our young citizens. It is for that reason that I am pleased to sponsor this resolution and urge its timely passage by the United States Senate.●

MAYFIELD REACHES OUT

● Mr. MATHIAS. Mr. President, we hear every day of mankind's selfishness and how greed has become part of our character but I must take issue with those who proclaim this a national malaise. The spirit of charity and cooperation, I am happy to report, is alive and well in the northeast Baltimore neighborhood of Mayfield.

Last year, when young Bernie Jorn was rendered a quadriplegic in a swimming accident, his friends and neighbors resolved to raise money for his medical bills and rehabilitation.

They did not take the easy way out and ask for donations but gave something more precious, their time, talent and love. For many weekends this past summer, they prepared food to be sold at the city's Italian festival.

The project was under the direction of Joe Broccolino who exhorted them to "work, work, work." And work they did. Last month the Mayfield Improvement Association turned over $11,000 to Bernie and his family. The money will be used to adapt their house to meet Bernie's special needs.

This summer I had the honor of meeting this young man who is the target of so much affection. Bernie is warm, helpful and always ready with a smile. He is currently a student at Lovola College in Baltimore and as if that were not enough, Bernie also works as a math tutor.

Mr. President I ask that an eloquent article about the heart of Mayfield by Michael Oleskar of the Baltimore Sun be printed in the Record.

The article follows:

A Community Is Reaching Out Its Hands—Because Bernie Jorn Can't

(By Michael Olesker)

In the steaming kitchen at St. Matthew's Church, Mayfield and Norman avenues, we see a couple dozen people locked in holy communion with cannoli and calzoni.

And with Bernie Jorn.

That's Joe Broccolino overseeing this makeshift congregation just of Harford road. With good-natured religious fervor, he's got them kneading and cutting and frying dough, cooking meat sauce, standing over big pots of boiling water.

Here are Anna Mooney and Beth Pacunas and Dennis Crawford deep-frying cannoli shells in the blistering kitchen heat.

Jack Frech and George Maraslek are cooking Italian sausage, and, over to the side, you've got Walter Willson, Mary Schwing, Joannie Jakubik, Pat Henry and the whole Kruelle family rolling dough for calzoni.

And for Bernie Jorn.

Good humor reigns. Working in this room is like living inside a pizza oven, but nobody complains.

Mary Staehle's been standing over the sink for several hours, washing pots and pans and dishes and handling them back out for reuse.

People like Linda Broccolino and Caroline Pacunas and Jim Henry are rolling and kneading dough, and then the dough's being cut by Rose Frebel and Marge Pacunas and Carolyn McCoy.

A community is reaching out its hands here.

Because Bernie Jorn can no longer reach out for himself.

Bernie used to be able to do just about anything. He was an honors student at Lake Clifton High. He was one of the premier swimmers in the Maryland Scholastic Association championships.

He was just days away from going off to Europe late last summer as an exchange student, sponsored by the Rotary Club.

He remembers vividly the moment everything changed.

"We were up in New England," he said, "and I dived into a lake, which turned out to be very shallow."

His head hit bottom and snapped forward.

"I knew pretty much what happened right off," Bernie said. "I couldn't move my body. I remember being very confused, and knowing I might die, but I didn't panic at all."

Ironically, he'd just finished taking a lifesaving course here.

"Funny thing," Bernie said, "in one lesson, they used me as a paralysis victim."

In New England, his brother Lester reached him in the water, but did not try to pull him out. He put Bernie on a board in the water, where he waited until an ambulance came.

"I kept trying to move by body," Bernie said, "and I realized I couldn't."

And it has not changed in the year since then.

Bernie Jorn is a quadriplegic today. He's a tall, blond, handsome kid who cannot move below the neck.

In the steamy kitchen at St. Matthew's Church, nobody can change that. But these people are trying to help. They've spent each Saturday for the past month in culinary frenzy.

All of this kneading and slicing and cooking is aimed at next week at the Italian Festival in the Inner Harbor area.

There, they're hoping to sell all these goodies and raise money for Bernie Jorn.

Bernie's father, John Jorn, is the minister at Holy Trinity Lutheran Church, on Sinclair lane. His mother, Pat, is a nurse at Union Memorial Hospital.

Bernie's medical expenses are terribly high.

At St. Matthew's Church the other day, in the heat of the kitchen, Pat Jorn tried to put words around her emotions.

"You can't really describe what this does," she said. "We're overwhelmed. For people to reach out like this—it renews your faith in human beings."

We live in an age of diminishing group sensitivity. This is the Look Out for No. 1 Generation.

What's happening here is different.

Much of this effort for the Italian Festival has been by folks from the Mayfield Improvement Association. But others have helped.

Two neighborhood supermarkets have donated freezer space to store the food for the festival.

The St. Francis of Assisi youth group staged a variety show that raised $800, and more money was raised at a neighborhood block party.

"He's our neighbor," explained Marge Pacunas, in the kitchen at St. Matthew's. "We want to help. It's as simple as that."

Bernie Jorn's trying to help himself. He hasn't quit living. Twice a week, he tutors kids in math. He's teaching English to a newly arrived Cambodian couple. He's being taught college physics.

And, in the fall, he'll begin taking classes at Loyola College.

Bernie Jorn's one of those rare people who refuses to quit on himself.

There's a whole community out there that refuses to quit on him, too.●

SALT AND THE NATO ALLIES

● Mr. BIDEN. Mr. President, last week in Ottawa, I chaired the U.S. delegation to the 25th annual session of the North Atlantic Assembly. The assembly, as my colleagues know, is the parliamentary adjunct of NATO and serves as a forum for parliamentarians from all 15-member states. Participants represent both governing and opposition parties, and all are free to express such views on policy as they see fit.

This year, among many subjects discussed by the assembly, the topic of primary interest was SALT, and after 2 days of committee meetings the assembly debated at length and voted on a significant resolution favoring early ratification of SALT II. Because of differences on SALT within the American delegation, the U.S. participants decided to abstain on this vote, as did the French delegation in accord with its custom on such matters. Setting aside these two bloc abstentions, however, the vote was 71 in favor, none against, and 15 random abstentions. Because I find highly significant this overwhelming endorsement of SALT II by a diverse group of our NATO counterparts, and also because the resolution expresses concern that failure to ratify SALT II would have a seriously disruptive impact on the cohesion of the North Atlantic Alliance, I request that the text of the resolution be printed in the Record for the information of my colleagues.

The resolution follows:

Resolution on the SALT II Treaty

Noting that the SALT II Treaty is the culmination of seven years of rigorous and complex negotiation by three U.S. Administrations, and represents adherence to the obligations of the two super-Powers under the Non-Proliferation Treaty;

Recognising that the Treaty places numerical restraints on Soviet strategic capabilities, in terms of both launchers and warheads, and enhances Western capabilities to predict and monitor the development and deployment of Soviet strategic forces;

Recognizing further that the Treaty permits the United States to pursue all measures necessary to sustain the strength and credibility of the U.S. strategic deterrent;

Assured that neither the Treaty nor the Protocol will inhibit necessary military and technological cooperation within the Alliance;

Convinced therefore that, in providing the framework for a secure and stable strategic balance between the United States and the Soviet Union, the Treaty reduces the possibility of nuclear war, contributes to international stability, and thereby promotes the security interests of the member nations of the North Atlantic Alliance;

Recognizing the SALT II Treaty as an essential step toward the goal of achieving more substantial reductions in the nuclear arsenals of both sides during a future SALT III negotiation;

Convinced that a SALT III negotiation provides the most promising forum for nuclear reductions in the European theatre and that progress in such a negotiation would facilitate collateral progress in related negotiations within the MBFR and CSCE frameworks;

Reminded that the twin precepts of the Alliance are defence and détente;

Recognizing that the unanimous endorsement of the SALT II Treaty by the leaders of all member states of the Alliance reflects broad-based public support of the SALT process as a central element in the effort to stabilise the East-West military balance and simultaneously to improve East-West relations;

Concerned, with regard to defence, that failure to ratify the SALT II Treaty would have a seriously disruptive impact on the cohesion of the North Atlantic Alliance;

Concerned, with regard to détente, that failure to ratify SALT II would result in a deterioration in East-West relations, potentially negating many of such positive aspects of détente as expanded trade, cultural contacts, and reunification of families;

Respecting as an Assembly of Parliamentarians the sovereign right and the responsibilities of the U.S. Senate to decide on the ratification of SALT II;

URGES the United States Government:

To proceed to early ratification of the SALT II Treaty, with due respect to all requirements for credible deterrence, stable nuclear balance and future arms control negotiations;

To undertake SALT III negotiations aimed at accomplishing significant reductions in each side's nuclear forces;

To consult fully and regularly with the Allies on all aspects of the negotiation, in particular on those pertaining to theatre nuclear forces.●

SHE STOPPED THE TRAIN

● Mr. MATHIAS. Mr. President, the resourcefulness and quick thinking of Marylanders in situations of peril and public danger never fail to amaze me. The story of V. Kilena Loveless and the runaway Metro train is a perfect example.

Ms. Loveless, a Greenbelt accountant, and about 100 other passengers were riding Metro's red line when the train began pulling into the stations without letting anyone off. Upon inspection the passengers found, to their dismay, that the train had no operator.

Ms. Loveless immediately took charge and using her hair barette jimmied the lock to the driver's compartment. She coolly searched the control panel and finding the right switch brought the train to a stop and opened the doors so the passengers could leave the train.

Metro officials tell us the train would have automatically stopped at the end of the line but that should not detract from Ms. Loveless' actions. Even if the passengers had known a computer was in command of the situation, I am sure it would have been a small comfort.

Ms. Loveless is to be commended for her ingenuity and initiative. Last week when she visited the Senate there was a spontaneous burst of applause as she was introduced to the Transportation Subcommittee of the Appropriations Committee. It was eloquent testimony of the admiration she has won.

Mr. President, I ask that an account of this incident from the Washington Post and editorials from the Baltimore Sun and the Post commending Ms. Loveless be printed in the Record.

The material follows:

[From the Washington Post]

The Little Hair Clasp That Could

It's a metaphor, if you stop to think about it: the train slides smoothly through the black tunnel from station to station, stopping at each in perfect obedience to the computer. But it refuses to open its doors. No one can get on or off. What does the driver have in mind? Gradually word spreads among the passengers that there is no driver. He stepped out of the cab some time ago and is down that tunnel, far behind.

What would you do in a case like that? Bang on the glass? Scream? It wouldn't be very helpful. Take bets from your fellow passengers regarding what will happen when the train hits the end of the track?

(Metro deplores the use of the verb "hits"; its trains are well-behaved, it says, and the computer would have neatly parked this one, driverless, on an empty track at the DuPont Circle station. The computer is benevolent, according to Metro; you are wrong in thinking that it is out to get you.)

When all of that actually happened, on an otherwise uneventful Monday morning, one passenger—Kilena Loveless, a Greenbelt accountant—rose to the occasion. She did what all of us hope that we would have done—although some of us suspect, in our hearts, that we would have thought of it only afterward. Riding in the first car, she tried the door to the driver's compartment and, finding it locked, she jimmied it with a hair clasp. She first punched the button that stopped the train at the next station, then the button that opened the door.

It was a fine demonstration of initiative, citizen participation and the ability—increasingly important in our society—to find the right button. It was an example of what most Americans like to think is the American way. Metro's computer, on the other hand, is an example of the way we all seem to be going.

[From the Baltimore Sun]

Barrette Power

Anyone going daily into the urban jungle should feel more secure knowing there are people like V. Kilena Loveless out there. She is the passenger, kidnaped by a driverless Washington Metro train, who pried the locked driver's booth open with a barrette and then figured out how to open the train doors.

It seems that the Moscow-on-the-Potomac subway is so ingeniously designed that its computer starts the train, stops it at each station, and prevents it from ramming the train ahead. What it will not do is notice the absence of the driver, or open the doors at station stops. (If the drivers do not actually drive but do open the doors, they should be called doormen.)

There is a lesson here for Baltimore's (currently driverless) Mass Transit Administration, which is trying to create a subway without Metro's mistakes: Clearly, the computer in charge of locomotion should be granted authority to open doors. And a passenger with a barrette and as much presence of mind as Ms. Loveless should be stationed in each train.

[From the Washington Post]

Woman Halts a Driverless Metro Train, Frees Passengers

(By Joseph D. Whitaker)

"I thought for a minute that the train was going to crash like the runaway locomotive in the movie, 'Silver Streak,'" Frances Stevenson said yesterday.

"When we went through the first Metro stop and the doors didn't open, I thought the operator had just made a mistake," said

Deborah Piper. "But when we pulled into two more stations and the doors remained shut, I thought we'd been hijacked."

The fact was that Metro train 103–1068, scheduled for a routine run along the Red Line from Silver Spring to Dupont Circle, did not have a driver. He had stepped out of his cab after his train had cleared the Rhode Island station to visually check out another train.

He stood by helplessly on the tracks, seconds after he had descended from his cab, and watched his own train pull away without him. A woman passenger with a hair clasp finally forced her way into the operator's cab and stopped the train several stations later.

Cody Pfanstiehl, a Metro spokesman, said that the train was under "complete automatic control" at all times and that no passenger ever was in danger.

"At every second, the train was doing what it was supposed to do," said Pfanstiehl. "The only problem was that there was no human being at the controls to open the doors."

Pfanstiehl said that if the passenger, V. Kilena Loveless, 25, had not stopped the train at Metro Center, the train would have continued to the end of the line and parked on a side track at Dupont Circle.

The operator, whose name was not released, was suspended and the incident is under investigation, according to Pfanstiehl. Controls on the train that could have immobilized it when the operator got off apparently were not used, Pfanstiehl said.

The 15-minute driverless ride ended when Loveless, a passenger in the first car, used a barrette to jiggle open the operator's control booth. Once inside, she pressed an "automatic stop" button that brought the train to halt at Metro Center.

"We were about halfway between the Rhode Island station and Union Station when I heard someone tell the operator over his radio to stop and check something," said Loveless, a Greenbelt resident and privately employed accountant who was seated near the operator's booth.

"He stopped the train and got out," she said. "Then the train started to move. There was a really funny expression on the operator's face when he looked up and saw the train pulling away." Loveless could see him through a window in the passenger section.

"When the train pulled into Union Station, I didn't get too excited," Loveless said "I thought the computers would correct the problem and we'd be able to get out at the next stop."

But at the next stop—Judiciary Square—Loveless said the train stopped again and the doors did not open. When the train did not release passengers at Gallery Place, Loveless said she began to ask other passengers if they had a nail file or some other instrument that could be used to pry open the lock on the control booth. Nobody did, and she finally used her hair clasp.

At the time of the incident, the train had just gone into service on the Silver Spring-Dupont Circle route, and was carrying about 100 passengers. It is normally parked overnight near the Rhode Island Avenue station in the principal Metro train yard.

Piper, who was a passenger in the third car, said she began to feel a sense of panic when the train did not release passengers at Union Station.

"I was trying to suppress by nervous feelings and I got the idea that the other passengers were beginning to worry, too," Piper said.

"One man who had missed his stop walked to the front car," Piper recalled. "He came back a few minutes later shouting, 'We have a problem. We don't have a driver.' "

"Then we became very concerned about whether we would be able to get off the train at Metro Center," Piper said. "People were thinking of Metro Center as a point of no return, as if we'd never be able to get off if we didn't get off then."

As the train pulled away from Gallery Place, Loveless begin jimmying the lock on the control booth.

"She played with the lock for a few seconds and it opened," said Mary Salor, another passenger in the first car. "We walked into the booth and tried to figure out how to work the controls.

"We could hear central control attempting to reach the operator over the radio, but we couldn't talk back because we didn't know how to work the radio."

Then Loveless said she saw a red button that read "Auto Stop." She quickly pressed the button and the train, which was entering Metro Center, slowed to a stop. Loveless pressed another button—"open doors"—and she said the passenger doors opened and passengers quickly left the train.

Loveless said she held the "stop" button depressed tightly until a station attendant took charge of the train.

THE PUBLIC'S RIGHT TO KNOW

● Mr. MATHIAS. Mr. President, in recent months our Nation has experienced a constitutional confrontation unprecedented in its history. For the first time, a Federal judge has issued a preliminary injunction to stop the printing of an article thought to be contrary to our "National Security." I am referring, of course, to the recently concluded litigation brought by the Department of Justice against the Progressive magazine.

As my colleagues are well aware, last March the Justice Department went into Federal court seeking to enjoin the publication by the Progressive magazine of an article entitled "The H-Bomb Secret: How We Got It, Why We're Telling It." According to the Government, the article contained secret, technical data about the construction of the hydrogen bomb; which, if published would violate the secrecy provisions of the Atomic Energy Act, help other nations develop thermonuclear devices and undermine the arms control policies of the United States.

In response, the Progressive argued that the public's right to know required the magazine to publish the controversial article, especially at a time when the U.S. Senate was beginning its review of SALT II. Denying that the author of the article, Howard Morland, had used classified information in the preparation of his article, the Progressive contended the material was gathered from Government-guided trips to nuclear plants, from interviews, publicly available literature and simple deduction. As the Progressive's lawyer put it—

> The information is out there, it is in the public domain. It's available to any person who takes the time to find it.

Thus, on its face, the Progressive case presented the ultimate constitutional dilemma: a direct conflict between the public's right to know and the Government's constitutional duty to preserve the national security. It was an extraordinary confrontation. One which many legal scholars and media representatives—fearful of a ruling adverse to the press—had hoped would never materialize. But, it did. And, it thrust upon the shoulders of Federal district Judge Edward Warren the awesome responsibility of weighing the competing arguments and rendering an historic decision. Reluctantly, Judge Warren concluded that:

> A mistake in ruling against the Progressive will seriously infringe cherished First Amendment rights. It will curtail defendants' First Amendment rights in a drastic and substantial fashion. It will infringe on our right to know and be informed as well. But a mistake in ruling against the United States could pave the way for thermonuclear annihilation for us all. In that event, our right to life is extinguished and the right to publish becomes moot.

So, for the first time in our history, a claim of national security overrode the first amendment and a preliminary injunction was issued to stop the presses.

Dismayed over the court's decree, the publishers for the Progressive appealed the decision to the Seventh Circuit Court of Appeals. The litigation, however, was brought to an abrupt halt when the Madison, Wis., Press Connection published a letter apparently comparable to that of the Progressive. Given the similarities between the two pieces, the Government felt constrained to ask the court to dismiss the case. The court agreed, thus putting an end to this historic litigation. The case may be over, but questions remain. It is these questions that may well be the legacy of the United States against Progressive. Among these are:

Had the Government, in effect, confirmed the basic accuracy of the Progressive article by its forceful response to the possibility of publication?

Is it essential, as the Progressive claimed, for the American people to have before them the intricate details surrounding the construction of the bomb to make an informed judgment on urgent issues of public concern, including the pending SALT treaty?

Should the Progressive have shelved the article in light of the challenge to publication and claimed that it had achieved its main goal of showing that the great hydrogen bomb secret was not so secret after all?

These are not easy questions. They will not go away easily. Nor should they. They are sure to remain a source of public debate for some time to come. A wide variety of editorials and letters to the editor in newspapers throughout the country have contributed to this debate. Among the most informative and interesting of these has been an exchange between the New York Times and Ambassador Gerard Smith, U.S. Special Representative for Nonproliferation Matters, who took issue with a September 19, 1979, editorial by the Times. I commend the Times' editorial and Ambassador Smith's reply to my colleagues and request that they both be printed in the RECORD.

The material follows:

PRESS, BOMB AND PISTOLS

No grave danger to national security justified the unprecedented six-month suppression of The Progressive magazine's article about H-bomb design. That, at last, will be proved with its publication. If the Government had really lost a valuable secret, it plainly would—or should—have stood mute instead of alerting technicians the world over. As was quickly apparent, the feared damage lay mainly in the demonstration of how much weapons information can be collected and deduced from public sources. And that meant there was—or should have been—no basis for restraining an American publication.

This case was in fact a political contest for both sides. The Government raised dark fears about alleged instructions on "how to build" an H-bomb so as to dupe a Federal judge into suppressing the article. But even the judge found no how-to manual, only untested conclusions by Cabinet officials and famous scientists that the article "could possibly" help some nations already possessing an A-bomb to build an H-bomb too. Which nations? Had he asked, he would have been told India, or Israel, or South Africa—none that would need to add H-bombs to A-bombs and none that would need The Progressive's help. The Government's concern was more with power at home than abroad. It wanted to use this sensational-sounding case to have the courts declare it the sole arbiter of who may receive and disseminate nuclear weapons data, no matter how innocent their source.

For its part, The Progressive hardly expected its liberal readers to value dreary technical treatise on H-bomb concepts. Nor did it want to proliferate thermonuclear weapons. The magazine was out to prove that many nuclear secrets are not in fact secret. It thus wanted to show that the Government's elaborate classification system exists not so much to protect the nation as to confine discussion of nuclear policies, both military and civilian, to a small and certified group of experts.

One need not share the magazine's opinions to recognize its right to promote them as it did. One need not deny the Government's right and duty to protect some weapons secrets to deplore the resort to prior restraint against such an insubstantial threat. The Government again cried wolf at the sight of a mouse, thus offending and damaging true national security.

We congratulate The Progressive and the American Civil Liberties Union for resisting, against the advice even of some customary defenders of a free press. The Government's case simply collapsed when other publications began to print similar H-bomb information, found by other amateur students in public sources, including Government libraries, museums and a journal for model-airplane builders. But vindication for the defendants does not automatically bring satisfaction of their constitutional rights.

Before suffering a technical knockout, the Government had created some pernicious legal theory. Lacking evidence that anyone had stolen H-bomb secrets, it claimed the right to suppress all nuclear weapons information on the ground that it is "born classified"—even if born in the minds of free men. And lest this reading of the law fail, it then proclaimed that "technical" information—allegedly distinguishable from "political" ideas—was never entitled to the free speech and press guarantees of the First Amendment. If the courts now avoid ruling on them, these doctrines would lie around, in Justice Jackson's phrase, like loaded pistols. It would be wiser to unload them while they lie within reach.

WASHINGTON, *September 21, 1979.*

FALSE AND PERILOUS "NEED TO KNOW" BOMB SECRETS

To the Editor:

I take exception to your Sept. 19 editorial "Press, Bomb and Pistols." Having dealt with questions of nuclear weapons for almost 30 years, I say with confidence that the recent and impending hydrogen bomb design disclosures will damage efforts to contain the spread of nuclear weapons around the world.

The Progressive magazine's purpose in seeking to publish this weapons data, according to The Times, is to show that Government's classification system exists not so much to protect the nation as to confine discussion of nuclear policies, both military and civilian, to a small and certified group of experts. My experience has been that while such matters as weapons capabilities, effects and deployments do play a part in policy discussion, the technical details of bomb design play little or none.

I understand that a rationale for publication is an alleged public need to have information indispensable to informed decision-making on such things as underground testing. In fact, knowing just how to blow up cities will only serve the interests of terrorists and aspirants abroad for possession of nuclear weaponry. Such knowledge is certainly not needed for informed public debate. The same rationale could be used to justify publication of data on how to spread the plague without the use of rats as necessary to public understanding of biological warfare issues

It is preposterous to characterize, as does The Times, the publication of hydrogen bomb technology and diagrams as "an insubstantial threat." The issue is not one of an ordinary leak giving a passing advantage to some foreign power. The burden of insecurity created by these pages of print describing how an instrument of mass destruction works will remain indefinitely on the shoulders of mankind.

I know of no reason to believe that this information is already known to all of those countries which are of present or potential concern to those of us responsible for nonproliferation matters. The editorial, with much greater assurance than any responsible intelligence agency would have, concludes that neither India nor Israel nor South Africa would need to add H-bombs to A-bombs and none would need The Progressive's help. In fact, it is virtually certain that this information will find its way into diplomatic pouches to many countries, where it will be worked over with intense care by scientists, engineers and military officers.

The Times has been a leading supporter of the nonproliferation treaty. Does it consider that the broadcasting of hydrogen bomb data is consistent with the requirement of that treaty "not in any way to assist" any state without nuclear weapons in acquiring nuclear weapons?

The damage already done cannot be undone. But I would expect that the effect of your congratulatory editorial will lead aspirants for the possession of nuclear weapons to believe that there is "more to come." Indeed, the editorial can only encourage further irresponsible revelations piously justified by a nonexistent need to know.

(Ambassador) GERARD SMITH,
U.S. Special Representative
for Nonproliferation Matters.●

THE CUBAN CRISIS

● Mr. HUMPHREY. Mr. President, I call to the attention of my colleagues a resolution passed by the American Legion's National Executive Committee last October 17 and 18 at a meeting in Indianapolis, demanding that the Carter administration level with the American people on the real story about the purpose of the Soviet troops in Cuba.

The resolution also calls on the administration to make public any and all agreements which exist between the United States and the Soviet Union regarding the placement of Soviet personnel and equipment on that island.

I am concerned, Mr. President, that the administration has not revealed all agreements that were contained in the now famous Kennedy-Khrushchev agreements of 1962.

The resolution by the American Legion calls to mind my frustration in attempting to get answers to questions surrounding the Soviet presence in Cuba.

Last October 10, I wrote to the President expressing deep concern over the role of the Soviet combat troops in Cuba. Indications are that they number anywhere from 3,000 to 30,000. I was particularly troubled by arguments appearing in the press that the troops may indicate or foreshadow the clandestine introduction of nuclear weapons, mobile MRBM's or even cruise missiles in Cuba.

In seeking answers to these and other questions I posed to the administration, I requested a response 1 week from receipt of my letter. To this day, I have not heard from the Carter administration on this very critical issue. Just how much longer must the American people wait for answers and a resolution of this entire problem?

Silence from the administration is deafening, particularly in view of the grave threat that the presence of Soviet troops in Cuba pose to overall U.S. security and foreign policy interests. Numbers alone do not make that threat. It is the very presence of those troops, the slow buildup of submarine bases and the prospect of Soviet nuclear weapons in this hemisphere.

There is little doubt that the Soviet Union has undertaken a calculated effort to desensitize the American people to the Soviet military presence in the Western Hemisphere. If left unchallenged, the Soviets will surely increase their overt military presence in Cuba and, inevitably, prepare to move Soviet forces and equipment into other countries in this hemisphere. If we do not stand firm now and resolve the issue facing us in Cuba, we will be haunted by our inaction in the future, just as we have been by other misguided policies of the past.

Mr. President, I ask that the resolution passed by the American Legion National Executive Committee be printed in the RECORD following my remarks.

I also ask, Mr. President, to print in the RECORD again a copy of my letter of October 10 to President Carter.

I thank the Chair.

The resolution and letter follows:

RESOLUTION No. 1

Whereas, agreements were made on October 28, 1962, between the governments of the Soviet Union and the United States which included, among other provisions, the establishment of Soviet bloc military forces and equipment in Cuba,

Whereas, large numbers of Cuban troops, technicians, and Soviet equipment have been deployed to Africa, Central and South American countries and other parts of the World during the past decade, and

Whereas, current estimates of Soviet bloc forces located in Cuba vary from 3,000 to 30,000 personnel and the sizes of Soviet fleets, air squadrons and military equipment also vary, and

Whereas, the Administration states that the United States has the capability of determining and verifying Soviet activities and military forces wherever they exist, and

Whereas, the real issue has been covered up—how many Soviet airplanes, bombers, missiles and submarines are stationed in Cuba and whether any submarines are stationed in Cuba and whether any submarine bases have been established there, are far more dangerous to our security and those neighboring nations than a few Soviet armed forces. The American People are entitled to know the truth in order to adequately counteract the spread of communism in the Western Hemisphere, now therefore, be it

Resolved, by the National Executive Committee of The American Legion in regular meeting assembled in Indianapolis, Indiana, on October 17–18, 1979, that The American Legion urges the administration to determine and make public any agreements which exist between the Soviet Union and the United States regarding Cuba, and further determine, verify, and make public the size, types, and locations of any and all Soviet bloc military forces and equipment currently located inside and nearby Cuba and be it further

Resolved, that the United States Congress require the executive branch to make such information available to the public.

U.S. SENATE,
Washington, D.C., October 10, 1979.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: On September 13, 1979, I wrote to you expressing my deep concern over the presence of Soviet combat troops in Cuba. I am particularly troubled by arguments appearing in the press that Soviet combat troops may foreshadow the clandestine introduction of nuclear weapons, mobile MRBMs or even cruise missiles. I draw your attention particularly to an article (enclosed) by Paul Scott that appeared in the October 3, 1979 issue of the Manchester Union Leader. In his article, Mr. Scott makes some very serious accusations and reveals details about the nature of the Soviet military presence in Cuba that are very disturbing to me.

I plan to take this issue to the Floor given the urgency of the matter. I believe it is the responsibility of the Administration to respond to these allegations. Therefore, I request that you advise me as to the accuracy of the Scott article by October 18, 1979.

I respectfully request that you provide me with answers to the following questions:

1. Do the Soviet troops in Cuba bear any resemblance to those Soviet troops assigned to guard Soviet nuclear weapons in Eastern Europe? Have any of the Soviet combat troops now in Cuba previously been assigned the task of supervising and handling of Soviet nuclear weapons and missile systems in Warsaw Pact Countries?

2. Would you please delineate the precise location of Soviet troops in Cuba?

3. Are they situated in one particular area or scattered throughout Cuba?

4. How many Soviet troops and civilian and military advisers are in Cuba?

5. What is the deployment history of the Soviet Brigade which is presently in Cuba?

6. By service, please give me a detailed breakdown of the Soviet Union's military presence in Cuba (i.e., number of pilots, officers, enlisted men, equipment, etc.)

7. Would it be possible for the Soviets to clandestinely store nuclear weapons and even mobile missile systems in Cuba?

I would greatly appreciate a prompt handling of my request.

Sincerely,
GORDON J. HUMPHREY, USS.●

TEMPORARY EXTENSION OF CERTAIN FEDERAL HOUSING ADMINISTRATION AUTHORITIES

Mr. WILLIAMS. Mr. President, on behalf of Mr. PROXMIRE, Mr. GARN and myself, I send to the desk a joint resolution to extend until November 15, 1979, certain HUD and Farmers Home authorities now scheduled to expire on October 31, and I ask for its immediate consideration.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 117) To provide for a temporary extension of certain Federal Housing Administration authorities, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration and, without objection, the joint resolution will be considered to have been read the second time at length.

Mr. WILLIAMS. Mr. President, this 15-day continuing resolution is necessary in the absence of final agreement by conferees on the housing authorization bill for fiscal year 1980. Without a continuation, important programs such as FHA insurance authorities will come to a halt. I am hopeful that the conference committee will be able to complete its work during the 15-day extension. It is my understanding that the resolution has been cleared on both sides.

Mr. President, this proposed joint resolution would be a second temporary extension, through November 14, 1979, of the authorities of the Secretaries of Housing and Urban Development and Agriculture necessary to implement those provisions of law enumerated in Senate Joint Resolution 105, the first temporary extension, which passed the Senate on September 25, 1979.

This joint resolution is necessary to prevent the expiration of a number of vital housing authorities of the Departments of Housing and Urban Development and Agriculture. The resolution would extend these authorities beyond the October 31, 1979, deadline set in Senate Joint Resolution 105 to November 15, 1979, in order to allow completion of conference committee consideration of H.R. 3875, the Housing and Community Development Amendments of 1979, which continues programs through fiscal year 1980.

Included in the resolution under consideration today is a 15-day extension of all authorities continued under the previous extension. These include: HUD–FHA insurance authorities, GNMA's authority to make commitments to purchase mortgages; and the authority of the Secretary of Housing and Urban Development to make rehabilitation loans. It would also extend for 15 days the Secretary of Agriculture's authority under the section 515, 517, and 523 housing programs.

Mr. President, this proposed extension is required to prevent disruption of important housing programs and local community development activities.

The joint resolution (S.J. Res. 117) was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S.J. RES. 117

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE AUTHORITIES

SECTION. 1. (a) Section 2(a) of the National Housing Act is amended by striking out "November 1, 1979" in the first sentence and inserting in lieu thereof "November 15, 1979".

(b) Section 217 of such Act is amended by striking out "October 31, 1979" and inserting in lieu thereof "November 14, 1979".

(c) Section 221(f) of such Act is amended by striking out "October 31, 1979" in the fifth sentence and inserting in lieu thereof "November 14, 1979".

(d) Section 235(m) of such Act is amended by striking out "October 31, 1979" and inserting in lieu thereof "November 14, 1979".

(e) Section 236(n) of such Act is amended by striking out "October 31, 1979" and inserting in lieu thereof "November 14, 1979".

(f) Section 244(d) of such Act is amended—

(1) by striking out "October 31, 1979" in the first sentence and inserting in lieu thereof "November 14, 1979"; and

(2) by striking out "November 1, 1979" in the second sentence and inserting in lieu thereof "November 15, 1979".

(g) Section 245 of such Act is amended by striking out "October 31, 1979" where it appears and inserting in lieu thereof "November 14, 1979".

(h) Section 809(f) of such Act is amended by striking out "October 31, 1979" in the second sentence and inserting in lieu thereof "November 14, 1979".

(i) Section 810(k) of such Act is amended by striking out "October 31, 1979" in the second sentence and inserting in lieu thereof "November 14, 1979".

(j) Section 1002(a) of such Act is amended by striking out "October 31, 1979" in the second sentence and inserting in lieu thereof "November 14, 1979".

(k) Section 1101(a) of such Act is amended by striking out "October 31, 1979" in the second sentence and inserting in lieu thereof "November 14, 1979".

EXTENSION OF FLEXIBLE INTEREST RATE AUTHORITY

SEC. 2. Section 3(a) of the Act entitled "An Act to amend chapter 37 of title 38 of the United States Code with respect to the Veterans' home loan program, to amend the National Housing Act with respect to interest rates on insured mortgages, and for other purposes", approved May 7, 1968, as amended (12 U.S.C. 1709-1), is amended by striking out "November 1, 1979" and inserting in lieu thereof "November 15, 1979".

EXTENSION OF EMERGENCY HOME PURCHASE ASSISTANCE ACT OF 1974

SEC. 3. Section 3(b) of the Emergency Home Purchase Assistance Act of 1974 is amended by striking out "November 1, 1979" and inserting in lieu thereof "November 15, 1979".

REHABILITATION LOANS

SEC. 4. Section 312(h) of the Housing Act of 1964 is amended—

(1) by striking out "October 31, 1979" and inserting in lieu thereof "November 14, 1979"; and

(2) by striking out "November 1, 1979" and inserting in lieu thereof "November 15, 1979".

EXTENSION OF RURAL HOUSING AUTHORITIES

SEC. 5. (a) Section 513 of the Housing Act of 1949 is amended by striking out "October 31, 1979" where it appears in clauses (b), (c) and (d) and inserting in lieu thereof "November 14, 1979".

(b) Section 515 of such Act is amended by striking out "October 31, 1979" where it appears in paragraph (b)(5) and inserting in lieu thereof "November 14, 1979".

(c) Section 517(a)(1) of such Act is amended by striking out "October 31, 1979" and inserting in lieu thereof "November 14, 1979".

(d) Section 523(f) of such Act is amended—

(1) by striking out "November 1, 1979" where it appears in paragraph (f) and inserting in lieu thereof "November 15, 1979"; and

(2) by striking out "October 31, 1979" where it appears in such paragraph (f) and inserting in lieu thereof "November 14, 1979".

Mr. WILLIAMS. I thank the Chair.

THE LONG WAIT FOR THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the Genocide Convention is an international condemnation of genocide as a crime against humanity. It seeks to declare that genocide, whether committed in peacetime or in wartime, is an act abhorrent to the community of civilized nations. This all seems universally commendable. And yet the Genocide Convention has been waiting for ratification for 30 years. Who is it waiting for?

The Convention is not waiting for our allies. France, Britain, West Germany—all of our major European allies endorsed the treaty long ago. In the Middle East, the Egyptians and Israelis have both ratified the Convention. The Saudis were among the first dozen states to sign.

Is the Convention waiting for our adversaries? Perhaps we want to be sure that they sign first. Well, the Soviets ratified the Convention in 1954. The Chinese, the Cubans, and the Warsaw Pact countries are among the 83 signatories to the treaty.

Perhaps, then, we are waiting for the American people to consider Genocide an important topic, something worthy of action on an international level. But our American values already provide us with that conclusion. Numerous national organizations, representing hundreds of thousands of citizens, are already on record as ferverently supporting the Convention. The American Civil Liberties Union tells us that the treaty's prohibition of incitement to commit genocide does not conflict with our freedom of speech. The American Bar Association, after years of deliberation, has finally concluded that entering into an international accord such as the treaty does not threaten the supremacy of the Constitution. And religious groups, from B'nai B'rith to the Episcopal Church, have advised us that to ratify the Convention would be morally right.

Then who is the Convention waiting for? Who has the power, and the responsibility, to see to it that 30 years of shameful inaction are ended? It is the U.S. Senate, of course. I urge my colleagues to see fit to end this long wait and ratify the Genocide Convention.

TOWARD A CREDIT CRUNCH IN 1980'S FIRST QUARTER

Mr. PROXMIRE. Mr. President, I think that Members of the Senate should be aware of the kind of high-interest rates and serious perverse effects on the economy we may be suffering in the future.

I favor what the Federal Reserve Board has done, but I hope those who are opposed to inflation and want to take effective action against it recognize there is no action we can take that will not have considerable pain.

The most recent issue of Business Week, the November 5 issue, carries an article which I would like to quote briefly. It says:

> the real pain will probably not occur until the first quarter of next year.
>
> That pain will come in the form of a good old credit crunch—a genuine shortage of lendable funds that will force the banking system to an actual rationing of credit. Such a crunch is precisely what the Fed has in mind, according to Leif H. Olsen, senior vice president and chief economist for Citibank.

He says, and I quote:

> I do not believe that it is possible for the Federal Reserve to avoid a credit crunch and still retain the credibility of its anti-inflationary policy. The Fed's aim, he adds, is "to change expectations in the marketplace," and that cannot be done unless business is disabused of the notion that it can borrow as much, raise prices as much, or build inventories as much as usual.

The article continues:

> Many economists now warn businessmen not to be fooled by signs that credit—albeit expensive credit—is available at the moment.

It will not be available long.

Finally, this article points out that:

> The cash position of the U.S. Treasury—in surplus for the last few weeks—will now swing into deficit. This means that a large supply of new U.S. Government debt—including Federal agency issues—will soon begin to hit the market. This debt will probably cause severe problems in the financial markets.
>
> The problems will arise for two reasons. The Federal Reserve, in an attempt to stay within the lowered targets for the growth of the money supply and bank reserves, will not buy its normal fraction of the new government issues. At the same time, the commercial banks will probably be dumping Treasury issues to accommodate business-loan demand.
>
> It is these conditions that will produce a genuine, full-fledged crunch late this year and early next year. Historically, the key manifestation of such a crunch is an attempt by the Treasury to sell its debt to the public rather than to the commercial banks or the Federal Reserve. That is yet to happen despite higher interest rates. But it will happen later this year; when it does, the Fed's tight-money policy will really begin to draw blood.

I say that as a supporter of those policies, but one who recognizes there are going to be extraordinarily painful times, and that the moans and cries of anguish by Members of Congress and others, which are evident now, will be far more evident in about 2 or 3 months.

Mr. President, I ask unanimous consent to have printed in the RECORD this article from Business Week of November 5, 1979.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TOWARD A CREDIT CRUNCH IN 1980'S FIRST QUARTER

The economy may already be reeling under the impact of the sharp escalation of interest rates engineered by the Federal Reserve, but the real pain will probably not occur until the first quarter of next year.

That pain will come in the form of a good old credit crunch—a genuine shortage of lendable funds that will force the banking system to an actual rationing of credit. Such a crunch is precisely what the Fed has in mind, according to Leif H. Olsen, senior vice-president and chief economist for Citibank. "I do not believe that it is possible for the Federal Reserve to avoid a credit crunch and still retain the credibility of its anti-inflationary policy," Olsen says. The Fed's aim, he adds, is "to change expectations in the marketplace," and that cannot be done unless business is disabused of the notion that it can borrow as much, raise prices as much, or build inventories as much as usual.

Many economists now warn businessmen not to be fooled by signs that credit—albeit expensive credit—is available at the moment. Right now the banking system is flooded with liquidity. For one thing, the Federal Reserve is always generous in supplying reserves to the banking system in the wake of an increase in reserve requirements. For another, foreign money is rushing into the U.S. because of the improvement in the dollar and the higher interest rates now available in New York. On some estimates, in fact, foreigners bought some $30 billion in U.S. securities last week. And when those purchases are paid for, those institutions that sold the securities will increase their bank deposits, giving U.S. banks more money to lend.

But the flood of liquidity released by Fed Chairman Paul A. Volcker's program will probably ebb soon.

> Once the Fed is convinced that the banking system has absorbed the immediate shock of the higher reserve requirements, it will move to rein in the growth in bank reserves. A reasonable expectation is that it will provide the banks with only enough reserves to allow the money supply to grow by 4% from now until January's end. This is a sharp slowdown from the prevailing 9% growth rate of the last 12 months.
>
> The cash position of the U.S. Treasury—in surplus for the last few weeks—will now swing into deficit. This means a large supply of new U.S. government debt—including federal agency issues—will soon begin to hit the market. This debt will probably cause severe problems in the financial markets.
>
> The problems will arise for two reasons. The Federal Reserve, in an attempt to stay within the lowered targets for the growth of the money supply and bank reserves, will not buy its normal fraction of the new government issues. At the same time, the commercial banks will probably be dumping Treasury issues to accommodate business-loan demand.
>
> It is these conditions that will produce a genuine, full-fledged crunch late this year and early next year. Historically, the key manifestation of such a crunch is an attempt by the Treasury to sell its debt to the public rather than to the commercial banks or the Federal Reserve. That is yet to happen despite higher interest rates. But it will happen later this year; when it does, the Fed's tight-money policy will really begin to draw blood.

USDA WINS OCTOBER GOLDEN FLEECE AWARD

Mr. PROXMIRE. Mr. President, I am giving my Golden Fleece of the Month Award for October to the U.S. Department of Agriculture (USDA) for awarding $90,000 for a 2-year study on "Behavioral Determinants of Vegetarianism." In my view, this subject is just not meaty enough to warrant such an expenditure of Federal funds. The taxpayers may, in fact, be getting something for their money which is neither fish nor fowl.

While I not only do not object to those who choose vegetarianism as their life style but would applaud it, "Hesitate, don't vegetate" should have been the motto of the free-spending bureaucrats at USDA in considering this outlay of Federal tax dollars.

I should point out that I am a member of the Agriculture Appropriations Subcommittee, which has jurisdiction over USDA's budget.

As Senators know, the Golden Fleece of the Month Award is given for the biggest, most ironic, or most ridiculous example of excessive or wasteful Federal Government spending for the period.

This study is part of a series of social behavioral research projects in human food preferences being funded by USDA. The nature of the studies being undertaken in these projects has been a cause of concern to the members of the Agriculture Appropriations Subcommittee, including myself. As a result, no new USDA funds in fiscal year 1980 will be spent for research efforts of this kind. The Senate and House conferees on the fiscal year 1980 agricultural appropriations bill recently decided that no new funds from the USDA's competitive grants program are to be used for social behavioral research projects, including research in human food preferences. The competitive grants program has provided the Federal funding for these social behavioral projects in fiscal years 1979 and 1978.

What is it about this kind of study—including the particular study that is the subject of this month's Golden Fleece Award—that has led to the cutting off of further USDA funding? The key word is priorities. In this period of rampaging inflation, it is imperative that taxpayers' dollars be spent only on those projects and purposes which are at or near the high-priority end of the spectrum. This study does not, in my view—and it is a view shared by the other fiscal year 1980 agriculture appropriations conferees—meet that test.

What are the purposes of the study on "Behavioral Determinants of Vegetarianism?" The project description summarized them this way:

> In summary, demographic data, extent of nutritional knowledge, and physiological and psychological factor(s) will be studied for their relative influence on food-related behavior. The overall, long-term goals of the proposed research are as follows:
>
> 1. To understand behavioral determinants regarding the selection and perpetuation of vegetarianism as a lifestyle.
>
> 2. To differentiate behavioral and attitudinal differences regarding nutrition, food, self, and society between vegetarians and non-vegetarians.
>
> 3. To assess the influence of nutritional knowledge and attitudes on dietary behavior.
>
> 4. To evaluate the relationship between taste acuity and food preferences in vegetarianism.

In discussing "Significance," this same project description includes this statement:

> A comprehensive study of the factors which motivate adoption and perpetuation of vegetarian practices can furnish a basis for forecasting appropriate modifications by government in food and nutrition policies.

I am not criticizing the methodology, the objectives, or the perceived significance of this research project. My objection, again, is one of priorities. In these troubled economic times, we must shut the Treasury door to all but the most essential expenditures. In the case of social behavioral research projects in human food preferences funded by USDA, that is exactly what the fiscal year 1980 agriculture appropriations conferees have done.

This notion of priorities and what the American taxpayer expects in the way of fiscal prudence can be illustrated in some words from a letter I received from a citizen irate over, ironically, yet another of these social behavioral research projects in human food preferencs funded by USDA.

The study in question—this time in the amount of $65,000 "to develop psychological profiles of nutrition enthusiasts, to contribute to knowledge about nutrition behavior and motivation"—was itself certainly worthy of a Golden Fleece Award and I hereby declare it to be this month's runner-up.

To quote from the letter I received:

> I wonder what they would pay to know of my motivation and behavior not when buying or using health foods but trying to make ends meet? That $65,000 would have bought a lot of dinners for the elderly in this area who don't eat at the end of the month if the checks do not arrive until Monday.

I certainly cannot improve on this eloquent statement of the need for getting our priorities straight in Federal spending. For its contribution to misplaced spending priorities, I confer the October "fleece" on USDA.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. PROXMIRE. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT H.R. 1885 BE PLACED ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 1885, civil service retirement for non-Indian employees of the Bureau of Indian Affairs and the Indian Health Service, be placed directly on the calendar.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

SURFACE TRANSPORTATION ASSISTANCE

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 4249.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

> *Resolved,* That the House agree to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, and 8 to the bill (H.R. 4249) entitled "An Act to amend title 23 of the United States Code, the Surface Transportation Assistance Act of 1978, and for other purposes."
>
> *Resolved,* That the House agree to the amendment of the Senate numbered 7 to the aforesaid bill with an amendment as follows:
>
> Page 3 of the Senate engrossed amendments, strike out all after line 4 over to and including line 8 on page 5, and insert:
>
> SEC. 22. (a) Section 204(h) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by adding at the end thereof the following new paragraph:
>
> "(3) Notwithstanding any other provision of this title, where a State assumes or has assumed, pursuant to an agreement entered into under section 274 b. of the Atomic Energy Act of 1954, authority over any activity which results in the production of byproduct material, as defined in section 11 e. (2) of such Act, the Commission shall not, until the end of the three-year period begin-

ning on the date of the enactment of this Act, have licensing authority over such byproduct material produced in any activity covered by such agreement, unless the agreement is terminated, suspended, or amended to provide for such Federal licensing. If, at the end of such three-year period, a State has not entered into such an agreement with respect to byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954, the Commission shall have authority over such byproduct material.".

(b) Section 204(h)(1) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended to read as follows:

"(h)(1) During the three-year period beginning on the date of the enactment of this Act, notwithstanding any other provision of this title, any State may exercise any authority under State law (including authority exercised pursuant to an agreement entered into pursuant to section 274 of the Atomic Energy Act of 1954) respecting (A) byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954, or (B) any activity which results in the production of byproduct material as so defined, in the same manner and to the same extent as permitted before the date of the enactment of this Act, except that such State authority shall be exercised in a manner which, to the extent practicable, is consistent with the requirements of section 274 o. of the Atomic Energy Act of 1954 (as added by section 204(e) of this Act). The Commission shall have the authority to ensure that such section 274 o. is implemented by any such State to the extent practicable during the three-year period beginning on the date of the enactment of this Act. Nothing in this section shall be construed to preclude the Commission or the Administrator of the Environmental Protection Agency from taking such action under section 275 of the Atomic Energy Act of 1954 as may be necessary to implement title I of this Act.".

(c) The last sentence of section 83 a. of the Atomic Energy Act of 1954 is amended to read as follows: "Any license which is in effect on the effective date of this section and which is subsequently terminated without renewal shall comply with paragraphs (1) and (2) upon termination.".

(d) Section 204(e) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by adding after paragraph (1) the following new paragraph:

"(2) The provisions of the amendment made by paragraph (1) of this subsection (which adds a new subsection o. to section 274 of the Atomic Energy Act of 1954) shall apply only to the maximum extent practicable during the three-year period beginning on the date of the enactment of this Act.

(e) Section 83(b)(1)(A) of the Atomic Energy Act of 1954 is amended—

(1) by striking all that follows "transferred to—" down through "Unless" and inserting in lieu thereof the following:

"(i) the United States, or

"(ii) the State in which such land is located, at the option of such State,

unless"; and

(2) by striking "section 84 b." and inserting in lieu thereof "section 81 of this Act".

Mr. DOMENICI. Mr. President, on October 24, the Senate passed H.R. 4249, an act amending the Surface Transportation Assistance Act of 1978. H.R. 4249, as passed by the Senate, included an amendment which I offered to make certain technical changes in Public Law 95-604, the Uranium Mill Tailings Radiation Control Act of 1978. The purpose of these technical changes was to bring the language of the statute into accord with the intent of Congress when the legislation was passed last year. I am pleased to report that the House has agreed to accept my amendment with essentially one minor modification.

My amendment to H.R. 4249 makes it clear that the Nuclear Regulatory Commission would not exercise dual licensing authority during the period when the Agreement States are improving their regulatory programs for uranium mills and mill tailings to meet the new requirements of the Mill Tailings Act.

Thus, during this interim period, NRC would not have licensing authority for uranium mills or mill tailings in an Agreement State so long as the State continued to exercise licensing authority for mills or mill tailings pursuant to an agreement entered into under section 274 b. of the Atomic Energy Act. This change effectively ends any requirement for an NRC license for these activities in the Agreement States during the interim period.

My amendment also confirmed NRC's present interpretation of the Mill Tailings Act that the Agreement States would have a period of up to 3 years after the date of enactment where necessary to improve their existing regulatory programs to meet the new requirements of the statute. The section-by-section analysis accompanying my amendment emphasized, however, that the States were encouraged to meet the new requirements of the Act within that time to the maximum extent practicable.

The House has seen fit to include this direction in the language of the amendment itself, and to specify that NRC should insure that the State's regulatory program meets the new requirements to the extent practicable during the 3-year period beginning on the date of enactment.

Mr. President, I am willing to accept this modification to my amendment. However, because this is a new addition to the statutory language, some further explanation may be in order. First, as the legislative history to the Mill Tailings Act recognized, there may be several reasons why it is not practicable for a particular Agreement State to meet one or more of the new requirements of the act within the 3-year interim period. For example, action by the State legislature may be required to give the State regulatory agencies authority to meet certain of the requirements, or action of the State legislature may be needed to provide all the necessary funding to meet the new requirements. Because some State legislatures meet infrequently, the time needed to accomplish any necessary changes may vary considerably. Also, after NRC issues any new substantive standards for the control of mill tailings, a period of time may be required for the Agreement States to incorporate the new standards into their ongoing regulatory programs. These are just a few examples of factors which could make it not practicable for an Agreement State to meet one or more of the new requirements during the 3-year interim period.

With regard to NRC's role during the interim period, this amendment would not give the Commission any new authority over individual State licensing determinations. Thus, the Commission would not have the authority to issue, deny or revoke licenses in the Agreement States. Rather, NRC's role during the interim period will be to assist the Agreement States in upgrading their regulatory programs to meet the new requirements. One approach which has already been used effectively in this process is the offer of NRC technical assistance to the State on a consultant basis. Another useful tool is the grant program established by the Mill Tailings Act. The amendment provides an added directive to the Commission to work in cooperation with the Agreement States to improve the effectiveness of their regulatory efforts as soon as possible.

Mr. President, I believe that my amendment, as modified by the House, meets the intent of the Congress last year in enacting the Mill Tailings Act, and represents a workable and responsible means for assuring that the State and Federal programs in this area are improved in an orderly and timely manner.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate agree to the House amendments.

The motion was agreed to.

ORDER FOR RECOGNITION OF SENATORS YOUNG AND WARNER TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow after the two leaders have been recognized under the standing order, the Senator from North Dakota (Mr. YOUNG) and the Senator from Virginia (Mr. WARNER) be recognized, each for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

S. 1871

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate proceeds to the consideration of the message from the House of Representatives on S. 1871, the International Energy Agreement, there be a time limitation of 2 hours, to be equally divided, on a motion to disagree to the House amendments with an amendment by Mr. JOHNSTON, and 1 hour to be equally divided on any amendment to the Johnston amendment; and that the time be equally divided between Mr. JOHNSTON and Mr. MCCLURE.

The PRESIDING OFFICER. The Chair will inquire. Does the Senator from West Virginia mean to say that the Senator from Louisiana (Mr. JOHNSTON) would move to agree to the amendment?

Mr. ROBERT C. BYRD. I beg the Chair's pardon.

The PRESIDING OFFICER. Did the Senator from West Virginia mean that the motion by Mr. JOHNSTON would be to disagree?

Mr. ROBERT C. BYRD. The motion by Mr. JOHNSTON would be to agree to the House amendment with an amendment.

The PRESIDING OFFICER. The Chair would inquire as to who is to be in charge of the time in opposition.

Mr. ROBERT C. BYRD. Mr. McCLURE.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The text of the agreement:

Ordered, That when the Senate proceeds to the consideration of the House message on the bill S. 1871, providing antitrust exemptions for oil companies participating in certain international energy programs, there shall be not to exceed two hours of debate on a motion to be offered by the Senator from Louisiana, Mr. Johnston, to agree to the House amendment with an amendment, to be equally divided and controlled by that Senator and the Senator from Idaho, Mr. McClure; and one hour of debate on any amendment thereto, to be equally controlled and divided between the proponent thereof and the Senator from Louisiana, Mr. Johnston.

S. 1905

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as S. 1905, the Milwaukee Railroad measure, is made the pending business before the Senate, there be a time limitation of 30 minutes on the bill, to be equally divided between the Senator from Nevada (Mr. CANNON) and the Senator from Oregon (Mr. PACKWOOD); that there be a limitation of 1 hour on an amendment by Mr. JEPSEN dealing with the Rock Island Railroad; that no other amendment be in order; that there be a time limitation on any debatable motion, appeal, or point of order if such is submitted to the Senate of 20 minutes; and that the agreement with respect to the division and control of time be in the usual form.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The text of the unanimous-consent agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of S. 1905 a bill to provide for the restructuring of the Milwaukee Railroad and for other purposes, debate on an amendment (pertaining to the Rock Island Railroad) to be offered by the Senator from Iowa (Mr. JEPSEN), shall be 1 hour; no other amendments being in order; debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 min., to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of the amendment or a motion, the time in opposition thereto shall be controlled by the minority leader or his designee:

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 30 min., to be equally divided and controlled, respectively, by the Senator from Nevada (Mr. CANNON) and the Senator from Oregon (Mr. PACKWOOD): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of the amendment, debatable motion, appeal, or point of order.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for 1 minute, to consider nominations in the Coast Guard placed on the Secretary's desk.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, the reservation is for the purpose of stating that the nominations identified by the majority leader are cleared on our calendar, and we have no objection to their consideration and confirmation.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATIONS IN THE COAST GUARD PLACED ON THE SECRETARY'S DESK

The assistant legislative clerk proceeded to report sundry nominations in the Coast Guard which had been placed on the Secretary's desk.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. ROBERT C. BYRD. Mr. President, I move, en bloc, to reconsider the votes by which the nominations were confirmed en bloc.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO CONSIDER S. 1905 ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the orders for the recognition of Senators, the Senate proceed to the consideration of S. 1905, the Milwaukee Railroad bill, with the understanding that any rollcall vote on final passage, if ordered before 2:30 p.m., not occur until the hour of 2:30 p.m., and that paragraph 3 of rule XII be waived.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, I thank the majority leader for accommodating a request from our side for a Member who cannot be here prior to that time and who very much wanted to record his position on that measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO CONSIDER S. 1873 ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the disposition of the Milwaukee Railroad bill, or at such time as it is advanced to third reading and is awaiting a rollcall vote on final passage in the event that third reading occurs before 2:30 p.m., the Senate proceed to the consideration of Calendar Order No. 379, S. 1873, a bill to establish a procedure for the processing of complaints directed against Federal judges, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on tomorrow the Senate will be taking up at least three measures, namely S. 1905, the Milwaukee Railroad bill; Calendar Order No. 379, S. 1873, a bill to establish a procedure for the processing of complaints directed against Federal judges, and for other purposes, and the House message on S. 1871, the national energy agreement. There will be rollcall votes.

RECESS UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in recess until the hour of 11 o'clock tomorrow morning.

The motion was agreed to; and at 5:45 o'clock p.m., the Senate recessed until Tuesday, October 30, 1979, at 11 a.m.

NOMINATIONS

Executive nominations received by the Secretary of the Senate October 26, 1979, under authority of the order of the Senate of October 25, 1979:

UNITED NATIONS

Richard Wilson Petree, of Virginia, a Foreign Service officer of class 1, to be Deputy Representative of the United States of America in the Security Council of the United Nations, with the rank of Ambassador.

DEPARTMENT OF THE TREASURY

Michel E. Witt, of Colorado, to be Assayer of the Mint of the United States at Denver, vice Hildreth Frost, Jr., resigned.

DEPARTMENT OF JUSTICE

John H. Shenefield, of Virginia, to be Associate Attorney General, vice Michael J. Egan, resigned.

Alice Daniel, of the District of Columbia, to be an Assistant Attorney General, vice Barbara A. Babcock, resigned.

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

Carolyn L. Attneave, of Washington, to be a Member of the National Advisory Council on Women's Education Programs for a term expiring May 8, 1981, vice Mary Beth Peters, term expired.

DEPARTMENT OF TRANSPORTATION

William J. Beckhan, Jr., of Michigan, to be Deputy Secretary of Transportation, vice Alan A. Butchman, resigned.

DEPARTMENT OF ENERGY

Edward Allan Frieman, of New Jersey, to be Director of the Office of Energy Research, vice John M. Deutch, elevated.

DEPARTMENT OF STATE

The following-named person for appointments as a Foreign Service information officer of class 2, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America:

James H. Kirk, of California.

For appointment as a Foreign Service officer of class 4, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America:

Carmen C. Suro-Bredie, of Florida.

For appointment as Foreign Service information officers of class 5, Consular Officer, and Secretaries in the Diplomatic Service of the United States of America:

Guy Burton, of New Jersey.
Robert E. McCarthy, of Virginia.
Dudley O'Neal Sims, of Florida.

For promotion from a Foreign Service information officer of class 7 to class 6:

Mary Ellen Connell, of Florida.

For reappointment in the Foreign Service as Foreign Service officers of class 6, Consular Officers, and Secretaries in the Diplomatic Service of the United States of America:

Robert S. Hagen, of Illinois.
Daniel Charles Kurtzer, of New Jersey.

For appointment as Foreign Service officers of class 6, Consular Officers, and Secretaries in the Diplomatic Service of the United States of America:

Fernando Sanchez, of California.
Martha Lucille Sardiñas, of Maryland.

For promotion from a Foreign Service information officer of class 8 to class 7:

Louise Bedichek, of New York.

For appointment as a Foreign Service information officer of class 7, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America:

Robert Lee Earle, of Maryland.

Foreign Service Reserve officers to be Consular Officers of the United States of America:

Richard D. Broadway, of Arkansas.
James T. L. Dandridge II, of Maryland.
Luciano D'Angelo, of Colorado.
Myles R. Denny-Brown, of Virginia.
Herbert D. Deremer, of Virginia.
Peter H. Himmelberger, of Pennsylvania.
Berne M. Indahl, of Washington.
John H. Jomeruck, of California.
Judy Dianne Knowles, of Georgia.
John D. Markey, of Virginia.
James W. Meale, of Maryland.
Randall Speer, of New Jersey.

Foreign Service Reserve officers to be Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

Thomas L. Ahern, Jr., of Virginia.
Margaret S. Astalos, of New Jersey.
Thomas N. Bandy, Jr., of Virginia.
Roby C. Barrett, of Virginia.
Dennis D. Bennett, of Virginia.
Joseph C. Bernard, of Virginia.
David P. Bocskor, of Pennsylvania.
Barbara A. Bryan, of Virginia.
Ronald M. Cinal, of Virginia.
John B. Conley, of Virginia.
Richard J. Cornish, of Maryland.
William J. Daugherty, of California.
Norman M. Descoteaux, of Florida.
William W. Douglass, of Kentucky.
Matthew K. Gannon, of California.
Roger J. Hartmann, of Wisconsin.
Thomas D. Hawbaker, of Missouri.
Barry Hilton, of Virginia.
Gordon J. Hopman, of Virginia.
Richard C. Jacobson, of Virginia.
Keith C. Johnson, of Idaho.
Malcolm K. Kalp, of Virginia.
Thomas J. Keenan, of Virginia.
Gilbert E. Kindelan II, of Virginia.
James M. Lanham, of Virginia.
David H. MacDonnell, of Virginia.
Theodore J. Michel, Jr., of Virginia.
Donna Mychalejko, of Pennsylvania.
William B. North, of Virginia.
George E. O'Keefe, of Maryland.
Richard L. Palmer, Sr., of Ohio.
Enrique Pérez, of Maryland.
William G. Potter, of Massachusetts.
Vincent A. Principe, of Florida.
Donald M. Richardson II, of Virginia.
Martin J. Sattler, of Virginia.
Conrad C. Schubert, of Virginia.
Robert W. Stanton, of Virginia.
Reynold F. Stelloh III, of Virginia.
Dorothy Sturges, of Rhode Island.
F. Anthony Whitehorn, of Virginia.
David R. Wilson, of Virginia.
Diane D. Windeler, of New Jersey.
Freddie R. Woodruff, of Oklahoma.

Foreign Service Reserve officers who are candidates for appointment as Junior Foreign Service officers to be Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

Trent A. Bagley, of New York.
Elizabeth Barnett, of Connecticut.
Robert Stewart Barney, of Missouri.
Elizabeth Pritchard Barr, of New York.
Joyce Anne Barr, of Washington.
Scott D. Bellard, of Indiana.
Gregory L. Berry, of Oregon.
William M. Blaine III, of California.
Karl Edward Bohlmann, of California.
James Bradford Bond, of Oregon.
Donald Edgar Braum, of California.
Jill Farrelly Byrnes, of California.
Frank John Coulter, Jr., of Maryland.
Frances R. Culpepper, of Virginia.
Scott Danaher, of Florida.
Rebecca T. Diaz, of California.
Jeannette Dubrow, of Florida.
William A. Eaton, of Virginia.
Michael Paul Fleischer, of New York.
Robert Cornelius Friel, of Maryland.
Jeffrey Wood Garrison, of New Jersey.
Michael Patrick Glover, of Texas.
Carla Marie Gratz, of New Jersey.
Mason S. Green, of Massachusetts.
Britta Gundersen, of Washington.
Holly Helen Hamachek, of Wisconsin.
James Jay Hamilton, of New York.
William Thomas Harris, Jr., of Colorado.
James Thomas Heg, of Washington.
Debra D. Henke, of Kansas.
William Holway Hill II, of Virginia.
Emily Hodges, of California.
Robert B. Houston III, of Washington.
Clyde Lawton Jardine, Jr., of Georgia.
Carolyn Ruth Johnson, of Illinois.
Richard Garon Johnson, of the District of Columbia.
Laurence M. Kerr, of Ohio.
Alexander T. Kirkpatrick, of Michigan.
Barbara Ann (Jachna) LaBrie, of Virginia.
Richard B. LeBaron, of Virginia.
Edwin Thomas Lee, of Texas.
Craig Richard Lingel, of California.
John P. Markey, Jr., of Massachusetts.
Patricia L. McArdle, of California.
Lili Ming, of New Jersey.
Robin Jan Morritz, of Texas.
Anthony C. Newton, of New Jersey.
Steven S. Olson, of California.
Stephen Roy Pattison, of Texas.
Lucy Allan Perron, of Connecticut
Constance Ann Philpot, of Virginia.
Sarah See Pitts, of California.
David Reyes Ramos, of Texas.
Mark Adams Safford, of Virginia.
Miriam M. Saif, of Florida.
Camille Elizabeth Sailer, of Pennsylvania.
David Mayer Shapiro, of Florida.
Charles Bronson Skinner, of Florida.
Michael A. Spangler, of Arkansas.
Carolyn Smith Spillane, of Texas.
William Martin Strawn, of the District of Columbia.
J. Bradley Swanson, of Connecticut.
Bruce E. Thomas, of California.
Jeanne E. Topka, of Texas.
Eugene P. Tuttle, of New York.
Karen Jo Van Pelt, of Virginia.
Frederick John Vogel, of Maryland.
Stephen Gerald Wesche, of Oregon.
Arkell David Weygandt, Jr., of Illinois.
Kevin M. Whitaker, of Virginia.
Roy L. Whitaker, of Kansas.
James G. Williard, of Florida.
Mary Jo Wills, of Virginia.
Thomas Stephen Windmuller, of New York.
Mark F. Wong, of Maryland.
Brian Cha Kyung Woo, of Hawaii.

Foreign Service Reserve officers to be Secretaries in the Diplomatic Service of the United States of America:

Priscilla M. Boughton, of the District of Columbia.
Eliseo Carrasco, of California.
Bruce F. Duncombe, of Maryland.
Joseph M. Kemper, of California.
George J. Krieger, Jr., of Maryland.
John F. Purinton, of Maryland.
Aldelmo Ruiz, of Puerto Rico.
Anthony M. Schwarzwalder, of Maryland.
Robert E. Shepherd, of Virginia.

Foreign Service Staff officers to be Consular Officers of the United States of America:

Helen M. Collings, of Connecticut.
Naomi Sue Edwards, of Florida.
Antoinette C. Jackson, of New York.
Lucille G. McElhoe of Virginia.
Joseph C. Miles, of Indiana.
Dorothy A. Painter, of New Jersey.
Ingrid Pfanzelt, of California.

Executive nominations received by the Senate October 29, 1979:

IN THE AIR FORCE

The following-named officers for promotion as a Reserve of the Air Force, under the appropriate provisions of Chapters 35 and 837, Title 10, United States Code.

LINE OF THE AIR FORCE

Lieutenant colonel to colonel

Baker, Bobby Jr., [redacted].
Behuniak, John A., [redacted].

Bishop, Clifton N., [redacted].
Clinton, Daniel D., Jr., [redacted].
Cook, Jerry W., [redacted].
Corbell, Robert R., II, [redacted].
Decamp, Dion E., [redacted].
Doerge, Donald D., [redacted].
Elliott, Thomas R., Jr., [redacted].
Eriksen, Robert E., [redacted].
Escanellas, Jaime, [redacted].
Flick, Robert A., [redacted].
Gallion, Phillip W., [redacted].
Hanks, Douglas G., [redacted].
Helms, Fred R., [redacted].
Hurlock, Bernard W., [redacted].
Kirk, Francis J., [redacted].
Lamar, Edward B., [redacted].
Langley, Myrle B., [redacted].
Lanier, Jefferson B., [redacted].
Layman, John R., [redacted].
Mattox, Alvah S., Jr., [redacted].
McMahon, James S., [redacted].
McMerty, John F., [redacted].
Michel, Fred L., [redacted].
Mizumoto, Allen M., [redacted].
Montz, Maxime J., Jr., [redacted].
Moore, Clifford R., [redacted].
Neary, Donald O., [redacted].
Park, Ernest C., [redacted].
Parsons, Edward E., Jr. [redacted].
Peterson, Kenneth D., [redacted].
Philbrick, Scott J., [redacted].
Pierce, Marshall C., Jr., [redacted].
Proctor, Tom H., Jr., [redacted].
Roughgarden, James E., [redacted].
Sealy, Bertram W., Jr., [redacted].
Smith, Pinckney B., [redacted].
Tate, David L., [redacted].
Webb, Minor D., [redacted].
Weidinger, Charles L., [redacted].
Wernick, Ted, [redacted].
Wickline, Harold W., [redacted].
Wood, John W., [redacted].

MEDICAL CORPS

Carson, Gordon C., [redacted].
Coleman, Donald L., [redacted].
Freston, James W., [redacted].
Harris, Perry F., [redacted].
Karibo, John M., [redacted].
Key, James D., [redacted].
Lang, Frank A., [redacted].
Noble, Richard F., [redacted].
Pate, George W., [redacted].
Pennington, Richard D., [redacted].
Sklenar, Donald E., [redacted].

CHAPLAIN CORPS

Anderson, Caroll N., [redacted].

IN THE AIR FORCE

The following officers for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, and with dates of rank to be determined by the Secretary of the Air Force.

DENTAL CORPS

To be first lieutenant

Bousquet, Robert, [redacted].
Davis, Richard D., [redacted].
Earlin, David L., [redacted].

The following persons for appointment as Reserve of the Air Force, in grade indicated, under the provisions of section 593, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated.

MEDICAL CORPS

To be lieutenant colonel

Barreneche, Rodrigo J., [redacted].
Castaneda, Tristan A., [redacted].
Coburn, Bry H., [redacted].
Donovan, Michael J., [redacted].
Duszynski, Arnold J., [redacted].
Esslinger, Valentine, [redacted].
Fanning, John R., [redacted].
Forker, Thomas, [redacted].
Foster, Delbert R., [redacted].
Guise, Charles W., [redacted].
Hickman, James R., Jr., [redacted].
Irick, Robert M., [redacted].
Langley, Roland L., [redacted].
Manansala, Antonio Q., [redacted].
Martin, William L., [redacted].
Nayak, Ramnath V., [redacted].
Polsky, Marvin [redacted].
Ryan, Hewitt F., [redacted].
Salan, Jerry [redacted].
Sherrer, Edward L., Jr., [redacted].
Simeon, Rodolfo G., [redacted].
Stelter, Gerald P., [redacted].
Stinson, Henry W., [redacted].
Strangio, Vincent J., [redacted].
Stronach, Neil, [redacted].
Villacorte Guillermo V., [redacted].

The following person for appointment as Reserve of the Air Force in the grade indicated under the provisions of section 593, title 10, United States Code.

LINE OF THE AIR FORCE

To be lieutenant colonel

Aler, Earl A. [redacted].

The following persons for appointment as Reserve of the Air Force (ANGUS) in the grade indicated, under the provisions of sections 593 and 8351, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform duties indicated.

MEDICAL CORPS

To be lieutenant colonel

Irizarry, Jaime E., [redacted].
White, James F. [redacted].

VETERINARY CORPS

To be lieutenant colonel

Clark, Charles D., [redacted].

The following officers for promotion in the Air Force Reserve, under the provisions of sections 593 and 8376, title 10, United States Code.

MEDICAL CORPS

Lieutenant colonel to colonel

Davis, Kingsley L., [redacted].

LINE OF AIR FORCE

Major to lieutenant colonel

Armourlightner, Rosetta A., [redacted].
Asmus, John J., Jr., [redacted].
Bayha, Carl F., Jr., [redacted].
Bayless, William E., [redacted].
Bottorff, Gerald L., [redacted].
Byrd, Jack R., [redacted].
Cecrle, William J., [redacted].
Collins, William A., [redacted].
Denis, Philippe C. J., [redacted].
Goodwin, William S., [redacted].
Green, Thomas A., [redacted].
Gullett, Jeffrey L., [redacted].
Hamilton, James R., Jr., [redacted].
Johnson, Jimmy N., [redacted].
Kossmann, Randolph I., [redacted].
Kuzminski, Robert B., [redacted].
Maddox, Roscoe, [redacted].
Masenheimer, Philip G., [redacted].
Meadows, Charles D. [redacted].
Owens, Dennie L., [redacted].
Pratt, Bruce S., [redacted].
Purdy, Frank K., Jr., [redacted].
Putman, Jerald L. [redacted].
Raper, Richard O. [redacted].
Risik, Daniel W. [redacted].
Rogala, Frank A., Jr. [redacted].
Rondholz, Frederick W., [redacted].
Rose, William W. [redacted].
Schulze, Harry D [redacted].
Simpson, James C. [redacted].
Slater, Robert E [redacted].
Soares, Daniel C. [redacted].
Stadheim, Terrance F., [redacted].
Steinhart, Robert J., [redacted].
Stewart, Robert C., [redacted].
Vaughn, Louis M., [redacted].
Whitman, Donald R. [redacted].

CHAPLAIN CORPS

Major to lieutenant colonel

Kennedy, John B. [redacted].

MEDICAL CORPS

Belihar, Robert P., [redacted].
Cabebe, Fernando S., [redacted].
Fishburn, Frederick B., [redacted].
Hidayat, Ahmed A., [redacted].
Hilliard, George D., [redacted].
Hoyer, Thomas V., [redacted].
Lee, Dennis R. [redacted].
Montgomery, Robert N., [redacted].
Ngo, Narciso L., [redacted].
Osterholzer, Heinz O., [redacted].
Task, Steven A., [redacted].
Wagner, Vernon P., [redacted].
Weiss, Edward A., [redacted].

NURSE CORPS

Baker, Darlene J., [redacted].
Beers, Nelda J., [redacted].
Cunningham, Donna J., [redacted].
Pacheco, Gabriel C., [redacted].

The following-named officer for promotion in the United States Air Force in the temporary grade indicated, under the appropriate provisions of chapter 839, title 10, United States Code, as amended.

LINE OF THE AIR FORCE

Major to lieutenant colonel

Hutto, William J., [redacted].

The following-named Air Force officer for reappointment to the Active List of the Regular Air Force, in the grade of lieutenant colonel, Regular Air Force, under the provisions of sections 1210 and 1211, title 10, United States Code, with active duty grade of temporary colonel, in accordance with sections 8442 and 8447, title 10, United States Code.

LINE OF THE AIR FORCE

Francis, Bob L., [redacted].

CONFIRMATIONS

Executive nominations confirmed by the Senate October 29, 1979:

IN THE COAST GUARD

Coast Guard nominations beginning Robert C. Boetig, to be lieutenant, and ending Roger A. Whorton, to be lieutenant (j.g.), which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 1, 1979.

EXTENSIONS OF REMARKS

JOSEPH DISEASE

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mr. COELHO. Mr. Speaker, as the first Member of Congress of full Portuguese extraction, I would like to take this opportunity to make my colleagues aware of a little known disease which is found mostly in those of Portuguese descent from either the Azores Islands or continental Portugal. The disease is called Joseph Disease and is named after Anton Joseph who left the island of Flores in the Azores in 1845 and came to California. This is a neurological disease resulting from a genetic mutation, and in an effort to create an awareness of this tragic disorder, I would like to present a report which was prepared by Mrs. Mary C. Feliciano, R.N., M.S.N., who is the wife of a very good friend of mine. I believe that my colleagues will find the report informative, and I would especially urge my colleagues from California and Massachusetts to take note of this report since the majority of the known cases of Joseph Disease in this country are found in those States. In addition, those Members who would like more information about this tragic disease are urged to contact: International Joseph Diseases Foundation Inc., P.O. Box 2550, Livermore, Calif. 94550, (415) 455-0706.

The report follows:

JOSEPH'S DISEASE

HISTORY

Joseph's Disease is a neurological disease (disease of the central nervous system) which occurs in individuals of Portuguese, primarily Azorean, descent. The disease is named after Anton Joseph, a man of Portuguese ancestry, who emigrated to California from the island of Flores in the Azores Islands in 1845 (Rosenberg, Nyhan, Bay and Shore, 1976; Rosenberg, Thomas, Baskin, Kirkpatrick, Bay and Nyhan, 1979; Rosenberg, Nyhan, Coutinho and Bay, 1978). The neurological disorder manifested in Anton Joseph, in two of his six children and subsequently in at least forty-nine other direct descendants of the Joseph family.

It is surmised that Joseph's Disease is the result of a genetic mutation which occurred in an individual residing in the southern portion of Portugal prior to the colonization of the Azores Islands. This individual, an ancestor of Anton Joseph, emigrated to the island of Flores where the disease developed and was subsequently propagated to the United States and Brazil (Rosenberg, et al., 1978).

MODE OF TRANSMISSION

The occurrence of the disease in offspring identifies an autosomal dominant mode of inheritance (Coutinho and Andrade, 1978; Rosenberg, et al., 1976; Rosenberg, et al., 1979; Rosenberg, et al., 1978). This means that the disease is passed from parent to child through genes and that the disease can occur in the offspring if only one parent has the disease. This results in a 50% chance of all offspring having the disease if only one parent is affected, to a 75% chance of all offspring being affected if both parents have the disease. There is no correlation between sex of the affected parent and the sex of the affected child, nor any increased incidence in either sex.

PATHOPHYSIOLOGY

As previously stated, Joseph's Disease is a disease of the central nervous system. It involves slow degeneration of particular areas of the brain which consequently results in neurological impairment. The clinical terminology for the disease is Straitonigral Degeneration. This terminology identifies some of the major parts of the brain, the corpus striatum and substantia nigra, which are affected by the disease (Rosenberg, et. al., 1976). Autopsies performed on people with Joseph's Disease have also revealed degeneration in areas of the cerebellum, the midbrain and even atrophy of the spinal cord (Rosenberg, et al., 1976; Rosenberg, et al., 1979).

CLINICAL FINDINGS

This neurological disorder is not confined to the Joseph family. Similar neurological impairments have developed in several other families of Portuguese Azorean descent. Five families in Massachusetts—all descendants of Portuguese who emigrated from the island of Flores in the Azores—have manifested a neurological disorder similar to the Joseph family (Rosenberg, et al., 1978). In addition, family members descended from William Machado, a native of Bretanha on the island of Sao Miguel in the Azores Islands, have also developed a similar autosomal dominant neurological disease (Nakano, Dawson and Spence, 1972).

Epidemiological studies of these families and others who have manifested similar disorders has led researchers to theorize that these families do not have different diseases, but rather variants of the same genetic disorder (Rosenberg, et. al., 1978). Three variants of this autosomal dominant neurological disorders have been identified:

Type I. Type I begins about age twenty-five (25) with the initial clinical presentation of a lurching, unsteady gait. This is often accompanied by difficulty speaking (dysarthria) and muscle rigidity (Coutinho and Andrade, 1978; Rosenberg, et al., 1976; Rosenberg, et al., 1979; Rosenberg, et al., 1978). This clinical presentation has been compared to Parkinson's disease because of the lurching gait, and to intoxication because of the slurred speech and gait impairment. Gradually, the neurological deficit progresses and additional impairments develop including incoordinate contraction of the facial muscles (facial fasciculations) (Rosenberg, et al., 1978; Rosenberg, et al., 1979), progression of the muscle rigidity to muscle spasticity, and incoordinate volutional movement (Coutinho and Andrade, 1978; Rosenberg, et al., 1976: Rosenberg, et al., 1978).

Impairment of eye movements also occurs including limitation of upward gaze (ophthalmoparesis of vertical gaze), inability to turn the eyes inward (convergence) and a tendency for the eyes to vacillate back and forth (horizontal nystagmus) (Coutinho and Andrade, 1978; Rosenberg, et. al., 1979). The eyes also assume a bulging out appearance (exophthalmus) (Rosenberg, et. al., 1978). Difficulty in swallowing (dysphagia) usually develops later in the disease (Rosenberg, et. al., 1978; Rosenberg, et. al., 1979).

These neurological deficits progressively debilitate the affected individual but mental alertness and intellect is preserved (Coutinho and Andrade, 1978). Death usually results from pneumonia about fifteen (15) years after the onset of symptoms (Rosenberg, et. al., 1978; Rosenberg, et. al., 1979). Occasionally the onset of the disease does not begin until above the age of forty (40). In these cases the debilitating course of the disease lasts approximately twenty-five (25) years (Rosenberg, et. al., 1978). In rare instances, the disease has manifest in children. It is suspected that this occurs when the child inherits the mutant gene from both parents (Coutinho and Andrade, 1978; Rosenberg, et. al., 1978).

Type II. Type II Joseph's Disease has also been traced to the island of Flores in the Azores. This form of the disease usually begins later in life, about age thirty (30) and is less rapid in progression than type I (Rosenberg, et. al., 1978). It resembles type I in its clinical presentation except that there appears to be a stronger cerebellar component (Rosenberg, 1977). The cerebellum is that part of the brain which controls balance, equilibrium, and the coordination, adjustment and smoothing out of movement (Ganong, 1975).

The initial symptom is usually ataxia of gait followed by other signs of cerebellar disturbance including truncal ataxia and incoordinate movement of the extremities with intension tremors, as evidenced in the ataxia of heel to shin and finger to nose maneuvers (Coutinho and Andrade, 1978; Rosenberg, et. al., 1978). Individuals with type II also develop dysarthria, dysphagia, opthalmoparesis, facial fasciculations and some muscle rigidity (Coutinho and Andrade, 1978; Rosenberg, et. al., 1978).

The duration of this disease is usually fifteen (15) to twenty (20) years.

Type III. Type III has also been referred to as Machado's Disease (Romanul, Fowler, Radvany, Feldman and Feingold, 1977). As previously discussed, William Machado, a native of Bretanha on the island of Sao Miguel in the Azores Islands, manifested a neurological disease very similar to Joseph's Disease. His children emigrated to Massachusetts in the 19th and early 20th centuries bringing the disease with them (Nakano, et al., 1972).

This form of the disease has a late onset, usually after age forty (40) and the mean duration of the disease is unknown (Coutinho and Andrade, 1978). The initial symptom is also ataxia of gait. The disease manifests other cerebellar deficits similar to Type II but its distinct difference from the other forms of Joseph's Disease is the occurrence of symmetrical sensory and motor disturbances in the arms and legs (peripheral neuropathy) and loss of muscle mass (muscle atrophy) in these extremities (Coutinho and Andrade, 1978; Nakano, et al., 1972; Rosenberg, et al., 1978). The former disturbance includes decreased sensory appreciation to pinprick, vibration and position of the distal extremities and decreased or absent deep tendon reflexes (Nakano, et al., 1972).

DIAGNOSIS AND TREATMENT

Presently there is no cure for Joseph's Disease. Care focuses on palliative treatment of the physical manifestations. Some individuals with Type III have benefitted from antiparkinson medication (Rosenberg, et al., 1978).

Research efforts have been directed at identifying a molecular marker for the disease which could be used to identify affected individuals. If these individuals could be identified prior to their reproductive years, genetic counseling could be utilized to acquaint these individuals with the exact percentage of risk of transmitting the disease to their offspring (Rosenberg, et al., 1976; Rosenberg, et al., 1978).

At this time there is a biochemical change noted in individuals who have manifested the disease, but as previously explained, most individuals with Joseph's Disease do not begin to show symptoms of the disease until after they have had children and thus unknowingly have transmitted the disease to their children.

The biochemical change is a reduced level of homovanillic acid (HVA) in the cerebrospinal fluid (Rosenberg, et al., 1976; Rosenberg, et al., 1978). Researchers believe that this reduced level of HVA reflects the loss of dopamine (a substance needed for normal brain functioning) synthesizing neurons in the substatia nigra portion of the brain and thus is a secondary effect of the disease (Rosenberg, et al., 1978). It also has been noted through research that individuals with Type III, referred to as Machado's Disease, have had an increased incidence of elevated blood glucose levels as well as abnormal glucose tolerance tests (Nakano, et al., 1972).

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9. Rosenberg, R., Thomas, L., Baskin, F., Kirkpatrick, J. Bay, C. and Nyhan W. Joseph's Disease: Protein Patterns in Fibroblasts and Brain. *Neurology*, July, 1979, *29*, 917–926.●

A 12-MILE FUND RAISING WALK

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mrs. SPELLMAN. Mr. Speaker, a wise man once wrote, "you give but little when you give of your possessions. It is when you give of yourself that you truly give." In a few days, Mr. Speaker, some dedicated residents of my district will spend an afternoon "giving of themselves" so that those living in an underdeveloped area may enjoy a better life.

I am referring to a 12-mile fundraising walk being sponsored by the community of Beltsville, Md., just a few miles from here in my congressional district. The walk will benefit the Training Center for Development of Human Resources at Pinalejo, Santa Barbara, Honduras. A year ago, a similar walk raised $14,000 to educate citizens in such fields as agriculture, health and housing. Simply put, the program teaches individuals in this disadvantaged Central American country to care for themselves and their families better.

Mr. Speaker, I am truly touched when I hear of such volunteer efforts by residents of my area. These people are not compelled in any way to participate in this event. They take part for one reason and one reason only—their personal desire to help those less fortunate than themselves. To my way of thinking, however, that is the best reason of all. Their participation is a testament to their concern, their compassion and their commitment to assisting others.

I sincerely regret that long-standing obligations will prevent me from being present at 1 p.m., Sunday, November 4, when these exemplary citizens begin their 12-mile walk at Beltsville's High Point High School. You can be certain I will be thinking of them as the hour for the start of the walk approaches and throughout the rest of the afternoon. To show my support and appreciation for their efforts, I have also agreed to "sponsor" one of the participants, Maryland State Senator Arthur Dorman of Beltsville, at a rate of $1 per mile.

Mr. Speaker, I know all my colleagues in the House will want to join me in wishing each and every participant well in this most worthwhile undertaking. And most of all, Mr. Speaker, I know they will want to join me in expressing deep appreciation and heartfelt thanks to all those involved in such a superb project. The walk organizers and participants alike truly know what it means to "give of themselves."●

NATIONAL ABORTION RIGHTS ACTION WEEK

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mr. GREEN. Mr. Speaker, this week, the week of October 22 to 29, is National Abortion Rights Action Week. It is a time dedicated to building public awareness to the widespread moral support for abortion rights. I am pleased to participate in some of the events marking this week, and to call to the attention of my colleagues the importance of this public education effort.

The issue of abortion is one of the most divisive facing this country today. The facts concerning abortion are also continually distorted. It is tragic to me that Congress has not faced reality when considering abortion legislation, or when unnecessary amendments are added to various legislative proposals, such as military appropriations bills. We must all recognize the tragic facts about the victims of rape and incest, the dangers faced by pregnant women with serious illnesses, and the horrifying effects of birth defects. In many instances abortion is the necessary means to preserve the physical and/or emotional welfare of an individual.

As I have stated before, I believe that abortion is a personal issue of moral choice. The fact that it is dividing our country on religious lines makes this a very difficult decision for everyone. I recognize the fact that some find abortion to be morally wrong, and this is their prerogative. However, at the same time, we must not deny the right of personal choice to those individuals, who for various personal reasons, find abortion to be a necessary alternative. I find the decision to continue or to terminate an unwanted, unplanned, or dangerous pregnancy to be a personal one that rests with the individual. I hope that as Congress continues to further consider legislation pertaining to abortion, my colleagues will join me in concluding that freedom of choice is the overriding issue. In that hope, I salute the organizers of National Abortion Rights Action Week and its efforts to educate the public on this crucial personal issue.●

QUESTIONNAIRE RESULTS

HON. DELBERT L. LATTA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mr. LATTA. Mr. Speaker, for the benefit of my colleagues in the House and the administration, I want to present the results of my annual questionnaire sent to citizens of the Fifth Congressional District of Ohio which I have the privilege to represent.

Thousands of my constituents not only took the time to register their views on the various issues of national interest but also added many thoughtful and informed comments which clearly demonstrate their concern and knowledge of our national problems.

I would like to call particular attention to the overwhelming majority of those who responded—86 percent to be exact—believe that the Federal Government must share a major part of the blame for the impending recession.

I am pleased that so many of my constituents participated and I submit for the RECORD the text of my 1979 questionnaire, together with the percentage results of those who responded:

QUESTIONNAIRE RESULTS

1. Do you agree with President Carter that America is facing a "crisis of confidence"? Yes, 84 percent. No, 14 percent. Undecided, 2 percent.

2. Do you think President Carter's reshuffling of his cabinet will help his presidency? Yes, 23 percent. No, 73 percent. Undecided, 4 percent.

3. President Carter's energy program is being criticized for placing too much emphasis on the production of more expensive synthetic fuels for the future and not enough emphasis on producing more domestic oil for today's needs. Is the criticism justified? Yes, 52 percent. No, 41 percent. Undecided, 7 percent.

4. Which of the following would you favor in dealing with the gasoline problem?

(a) the California plan of odd-even day sales. Yes, 10 percent.

(b) requirement that autos not be used one day per week. Yes, 11 percent.

(c) gasoline rationing by coupon. Yes, 17 percent.

(d) permit supply and demand to operate without restrictions. Yes, 52 percent.

(e) undecided, 10 percent.

5. Should the Dept. of Energy abandon its gasoline allocation program? Yes, 53 percent. No, 35 percent. Undecided, 12 percent.

6. Some are advocating a ban on the generation of electricity from nuclear power notwithstanding the fact that 13 percent of our electricity presently comes from this source. Do you favor such a ban? Yes, 18 percent. No, 79 percent. Undecided, 3 percent.

7. Do you think the monetary and economic policies the federal government has been pursuing must share a major part of the blame for the impending recession? Yes, 86 percent. No, 10 percent. Undecided, 4 percent.

8. Should Congress reduce federal deficit spending even though a higher rate of unemployment may result? Yes, 79 percent. No, 14 percent. Undecided, 7 percent.

9. Do you believe the Strategic Arms Limitation Treaty is in the best interests of the U.S. and should be approved by the Senate? Yes, 35 percent. No, 53 percent. Undecided, 12 percent.

10. Would you favor a Constitutional Amendment which would preclude the President of the United States from signing Treaties before they are approved by the Senate? Yes, 62 percent. No, 32 percent. Undecided, 6 percent.

11. Pres. Carter & Senator Kennedy have offered separate nationalized health plans. Do you favor:

(1) Carter plan. Yes, 8 percent.

(2) Kennedy plan. Yes, 19 percent.

(3) No government involvement. Yes, 58 percent.

(4) Undecided. Undecided, 15 percent.

12. Congress is considering a bill to require the registration under Selective Service of all young men becoming 18 years of age after December 31, 1980. Do you favor? Yes, 59 percent. No, 35 percent. Undecided 6 percent.

13. Should foreign ownership of farm land be prohibited? Yes, 80 percent. No, 16 percent Undecided, 4 percent.

14. PRESIDENTIAL POLL

John Anderson, 1 percent.
Howard Baker, 10 percent
George Bush, 1 percent.
John Connally, 10 percent.
Phil Crane, 3 percent.
Bob Dole, 1 percent.
Ben Fernandez, 0 percent.
Gerald Ford, 13 percent.
Jack Kemp, 1 percent.
Ronald Reagan, 17 percent.
Jerry Brown, 4 percent.
Robert Byrd, 1 percent.
Jimmy Carter, 8 percent.
Frank Church, 1 percent.
Henry Jackson, 2 percent.
Ted Kennedy, 14 percent.
Walter Mondale, 2 percent.
George McGovern, 1 percent.
Ed Muskie, 1 percent.
Morris Udall, 1 percent.
Others, 6 percent.
Undecided, 2 percent.●

BLANCHARD REPORTS QUESTIONNAIRE RESULTS

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mr. BLANCHARD. Mr. Speaker, in June I mailed a questionnaire to the residents of Michigan's 18th Congressional District. To date, I have received responses from about 8,000 citizens.

Although returns are still coming in, I would like to share the preliminary results of this survey with my colleagues. The responses, and my comments on the subjects raised in the questionnaire, follow:

1. Following the nuclear accident at Three Mile Island in Pennsylvania, a number of possible alternatives are being considered by Congress for dealing with the question of nuclear energy development. Which of the following do you favor? (You may check more than one.) (Answers add to more than 100 percent because many respondents chose more than one alternative.)

An end to nuclear power development, with a gradual phase-out of the nuclear plants now operating—17 percent.

A substantial increase in government regulation and monitoring of the nuclear industry—54 percent.

A five-year freeze on the opening of new nuclear plants, with a comprehensive study in the meantime to develop new safety standards and rules—35 percent.

Continued construction of nuclear plants without new studies or regulations—22 percent.

Comment: The plans of some nuclear power backers to seek a speed-up in the licensing of new nuclear plants have apparently been placed on the back burner indefinitely, in the wake of Three Mile Island. Meanwhile, several Congressional committees are working on proposals to slow or temporarily stop new plant openings while further safeguards are developed. In fact, the Senate July 17 approved a bill which would shut down on June 1, 1980, all nuclear plants in states without approved plans for dealing with nuclear emergencies. My own feeling is that these are healthy developments. Although nuclear power will continue to be needed in the future, stiffer government regulations are essential.

2. As part of his recent energy message, President Carter asked Congress to lift price controls on oil, and to pass a 50 percent windfall profits tax on oil producers. Money from the tax would go into an Energy Security Fund, which would be used partly for development of new energy sources. Which of the following alternatives do you prefer?

Keep price controls, and no windfall tax, 47 percent.

End price controls, no windfall tax, 10 percent.

End price controls, windfall profits tax of 50 percent, 21 percent.

End price controls, windfall profits tax of more than 50 percent, 22 percent.

Comment: At present, the Senate is considering the windfall profits tax, and an eventual end to price controls seems certain by virtue of the President's earlier decision on April 5. My own view is that price controls should be continued, at least until a tough windfall profits tax has been enacted. My votes in Congress reflect that position. In addition, I supported and voted for a permanent windfall profits tax of 85 percent. Unfortunately, the House of Representatives voted for a weaker 60 percent tax which will end in the year 1990. I intend to continue working to keep the American oil industry from profiting from the price increases voted by the Arab cartel.

3. I have introduced a bill to speed up research and development of wind energy as an electric power source. Do you favor or oppose this idea? Favor, 88 percent. Oppose, 12 percent.

Comment: Wind energy appears to be the most promising of all of the new, alternative energy sources which are being investigated. Although windmills vanished from American farms during the 1940's or 1950's with the advent of cheap electricity from fossil fuels, they are making a comeback, aided by new space-age technology. I believe the next 20 years will see wind energy come into fairly widespread use as a utility power source, particularly in high-wind areas like the Appalachian and Rocky Mountains.

4. President Carter has proposed a hospital cost containment program which would seek to limit cost increases to no more than 11.3 percent per year (at present, the rate of increase is about 14.4 percent). Do you favor or oppose such a proposal? Favor, 83 percent. Oppose, 17 percent.

Comment: I expect to support the hospital cost containment legislation.

5. Congress is now considering a number of different proposals for health care. Generally speaking, would you like to see some kind of a national health care program become law in the near future? Favor, 61 percent. Oppose, 39 percent.

Comment: I have been a supporter of comprehensive health insurance since being elected to Congress, because I believe it is the best way to ensure that all Americans are able to obtain decent, reasonably priced medical care.

6. Over the last few years, Social Security taxes have risen dramatically, largely because of the addition of a number of other programs, such as disability benefits and Medicare/Medicaid, to the Social Security Program. It has been proposed by some that these programs should be separated and paid for by income taxes, and that the Social Security Program should go back to being solely a retirement benefits program. Do you favor or oppose this idea? Favor, 84 percent. Oppose, 16 percent.

7. Would you rather see more or less of your tax dollars, or the same amount, spent on the following items next year:

Military and defense: More, 33 percent; same, 43 percent; less, 24 percent.

Foreign aid: More, 6 percent; same, 20 percent; less, 74 percent.

Programs to reduce unemployment: More, 39 percent; same, 30 percent; less, 31 percent.

Energy sources: More, 77 percent; same, 11 percent; less, 12 percent.

Education: More, 36 percent; same, 47 percent; less, 17 percent.

Environment: More, 34 percent; same, 40 percent; less, 26 percent.

Transportation: More, 41 percent; same, 33 percent; less, 26 percent.

Housing: More, 18 percent; same, 38 percent; less, 44 percent.

Agriculture: More, 33 percent; same, 44 percent; less, 23 percent.

Health: More, 47 percent; same, 33 percent, less, 20 percent.

Space science and research: More, 28 percent; same, 36 percent; less, 36 percent.

Social Security: More, 33 percent; same, 41 percent; less, 26 percent.

Crime control: More, 57 percent; same, 36 percent; less, 7 percent.

Comment: I have been extremely active in pushing for increased federal funding for energy, particularly on renewable and clean energy sources such as solar and wind. My wind energy bill, which was referred to in question 3, has been the subject of hearings in the House Energy Development and Applications Subcommittee and I expect the subcommittee, of which I am a member, will approve it soon. Meanwhile, a House Banking subcommittee on which I serve has given its stamp of approval to the "solar bank" bill, which would provide low-interest loans to homeowners who wish to install solar heating and hot water systems. I have also been a consistent supporter of adequate funding for crime control, health and education programs.

8. When various issues come before Congress, I often receive mass mailings of cards from citizens which have been preprinted for them by special interest groups. How strongly do you feel such mailings should be considered in comparison with individual letters?

Weigh all cards and letters, pro and con, in proportion to their numbers, no matter what form, 13 percent.

Consider the depth and content of mail, so that individual letters become more important than form cards, 53 percent.

Ignore pre-printed postcards, 14 percent.

Comment: Judging the value and significance of the telegrams, telephone calls, letters and cards I receive from people on the many issues which confront Congress is always a difficult problem. The answers to this question make that job a little easier, and I appreciate your help.

9. People often think in general terms about the way public officials perform their jobs. How would you rate the job President Carter is doing? Excellent, 3 percent. Good, 28 percent. Not so good, 39 percent. Poor, 30 percent.

10. How would you rate the job Congress is doing? Excellent, 1 percent. Good, 15 percent. Not so good, 46 percent. Poor, 38 percent.

11. Concern has been expressed about the problem of water quality in the Great Lakes and the effectiveness of the federal effort to clean up the Great Lakes. As a member of the Natural Resources and Environment Subcommittee, it would be helpful for me to know the following:

Do you or your family use the Great Lakes for recreational purposes? Yes, 56 percent. No, 44 percent.

Do you or your family own property on or near the Great Lakes? Yes, 18 percent. No, 82 percent.

Is your livelihood or that of a member of your family directly related to Michigan's tourism industry? Yes, 6 percent. No, 94 percent.

Are you or your family concerned about what some have called the water quality problem in the Great Lakes? Yes, 83 percent. No, 17 percent.

Would you support increased research aimed at speeding up the Great Lakes cleanup effort provided the research was conducted in a coordinated manner? Yes, 83 percent. No, 17 percent.

Comment: The Great Lakes contain 95 percent of the surface fresh water in the United States. The Great Lakes region supports one fourth of our nation's industry and one fifth of its population. Millions of the region's residents vacation annually along Michigan's 3200 miles of Great Lakes coastline and drink its water.

An unintended by-product of the economic growth and development that has been facilitated by this precious resource has been a decline in Great Lakes water quality. I am pleased that fully 83 percent of the respondents to this poll are concerned about the water quality problem in the Great Lakes. In the coming months I intend to take specific steps—including conducting field hearings in Michigan—to evaluate and, if necessary, improve the effectiveness of the federal role in combating threats to Great Lakes water quality.

12. A separate federal Department of Education has been proposed as a means of centralizing education programs and moving them out of the Department of Health, Education and Welfare. Do you favor or oppose such a proposal? Favor, 55 percent. Oppose, 45 percent.

Comment: The proposed Department of Education won final Congressional approval September 27. I supported and voted for the new agency, primarily because I believe it will help to produce a little more order and efficiency in the administration of federal education programs. At present, there are some 40 departments, agencies and bureaus which have a hand in education policy, and I believe a more unified structure is needed.

13. Which of the following actions do you believe will seriously help reduce inflation? (Answers add to more than 100 percent because respondents chose more than one alternative.)

Reduce federal spending and raise interest rates in order to restrict the money supply, 46 percent.

Balance the federal budget even if it means raising taxes or putting some people out of work, 33 percent.

Institute strict controls (but temporary) on prices, wages, rents and interest rates, 37 percent.

Continue the current voluntary program of wage-price guidelines, but also enact wage insurance and other incentives to reward workers and businesses who cooperate, 19 percent.

Deal with specific sectors of our economy separately, like keeping price controls on oil, passing hospital cost containment legislation, deregulating the trucking industry, etc., 47 percent.

Comment: Inflation continues to be the single most difficult problem facing the federal government. My own feeling is the Federal Reserve Board's latest efforts to limit the money supply will eventually slow inflation—the question is whether that can be done without triggering an economic recession and bringing about layoffs and increased unemployment. In addition to supporting hospital cost controls, as I indicated in my comment on question 4, I am backing a wide variety of proposals aimed at keeping prices down. They range from making the U.S. government the sole importer of foreign oil (to give us more bargaining power with the OPEC cartel) to trying to strengthen the powers of the Council on Wage and Price Stability (which is the single government agency in charge of monitoring and controlling inflation).

Finally, I am seeking to control Government spending and eliminate waste with my "sunset" legislation, which would require that all Federal spending programs be reviewed by Congress on a regular basis. The House Rules Committee is now considering the "sunset" bill, and at this time it appears that legislation may be ready for the full House of Representatives to consider by early next year.●

ROLLCALL VOTES

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Ms. HOLTZMAN. Mr. Speaker, I was unable due to illness to be present for the following votes on September 26, 1979. Had I been present I would have voted as follows:

Rollcall No. 509, "Yes."
Rollcall No. 510, "No."
Rollcall No. 511, "Yes." ●

DEPARTMENT OF ENERGY SYNFUELS STUDY

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mr. BINGHAM. Mr. Speaker, beginning tomorrow the House will consider the "fast track" energy legislation which would create an Energy Mobilization Board to expedite the consideration of certain non-nuclear energy projects. All of us can agree that unnecessary time delays and duplication should be cut from Federal, State and local agency operations in considering these projects. However, there is absolutely no justification for allowing the Board or the President to waive laws or to take over the decision-making authority of Federal and State officials. I therefore urge support for the Udall-Clausen-Wirth substitute, which will use the strong arm of the Federal courts to insure that agencies do not delay in processing energy project applications.

One of the most common arguments made by those favoring providing the Board with the power to waive laws is that this power is necessary for implementation of a synthetic fuels industry. However, a July 1979 study prepared by the Assistant Secretary for Environment at the Department of Energy indicates that this is indeed not the case. The report, entitled "Environmental Analysis of Synthetic Liquid Fuels" states:

> Assuming application of the most effective environmental control technologies and practices, deployment of synthetic liquids facilities on an accelerated schedule to 1990 appears feasible in terms of current environmental constraints.

I am inserting the study's summary in the RECORD for my colleagues' consideration.

The summary follows:

FINDINGS

Assuming application of the most effective environmental control technologies and practices, deployment of synthetic liquids facilities on an accelerated schedule to 1990 appears feasible in terms of current environmental constraints. A set of first-generation technologies (surface oil shale retorting, indirect liquefaction, and biomass conversion) at the low (500,000 barrels per day (BPD)) and medium (1,000,000 BPD) levels of production have sufficient siting opportunities; the high level of production (2,000,000 BPD) brings rapidly increasing siting difficulties. Yet-to-be-defined regulations, in their stringent forms, could change this finding. These regulations include visibility, short-term nitrogen oxide ambient standard, extension of prevention of significant deterioration (PSD) regulations, hazardous waste standards, toxic product regulations, and occupational safety standards.

Any production level requires resolution of a number of institutional constraints, including permitting delays and the acceptability of the facility to the local population and state authorities. The greatest impediments for the first-generation technologies include long time delays, facility size limitations, and unwillingness to change the character of the community.

In reaching this general finding, the environmental analysis found that, within present and anticipated environmental regulations and standards, and for a selected set of first-generation facilities.

There appears to be no absolute environmentally related constraint identified for any of the first-generation surface conversion technologies. Second-generation processes run greater risks of major environmental problems. For in situ processes, the major risk is leaching of hazardous materials into water; for direct liquefaction, concern is potential worker and public exposure to toxic substances.

Yet-to-be-defined regulations are perceived by developers as major technology development impediments. These include air quality standards (visibility, short-term nitrogen oxide, and new PSD regulations), regulation of hazardous wastes and toxic products, underground injection guidelines, and worker safety regulations.

Some risk exists that environmental R&D programs cannot fully satisfy all existing and expected regulatory demands, but these risks should be known by 1985 and it is expected that appropriate control adjustments can be made. Because of lack of data, one area of concern with indirect liquefaction is environmental emissions of processes following gas synthesis. However, as these and similar catalytic conversions are currently effected in the petrochemical industries, the primary impact of these adjustments is expected to have a minor effect on product cost.

Reduction of these uncertainties requires refocusing of environmental research and assessment programs to aggressively address these areas and to promptly identify environmental issues that may become future impediments.

There is a need for intermediate to long-term environmental health and safety monitoring of operations at all scales of development, especially with regard to anticipating the effect of equipment reliability and maintainability on fugitive emissions and the ultimate fate of solid wastes.

From the present state-of-the-art and from mitigation controls developed as part of the research and assessment programs, stringent environmental controls and engineering practices need to be determined. Based on these, guidelines and standards must be set early, followed by responsive periodic updating based on new information.

Sufficient siting opportunities exist within current regulatory and resource availability requirements, given that institutional impediments are reduced, to meet an accelerated deployment program. Practical maximum deployment levels, however, cannot be projected without much more detailed siting analyses than were carried out for this "siting opportunities" analysis.

Therefore, the primary environmentally related impediments that need to be addressed at the general program level are as follows.

Reduce existing institutional barriers such as water allocations and transport rights-of-way to allow available existing physical resources to be tapped by these new demands without overly constraining prior claims for these resources;

Improve the permitting processes and supporting technical information systems to significantly reduce the required permitting time schedules, including early conduct of broad locational surveys to determine the detailed siting opportunities; and

Simplify existing and establish new points of public review and comment and, further, specify more exactly the conditions for judicial review of permitting procedures in order to reduce probable delaying impacts of litigation.

While technology risks are not fully resolved, analysis of the interaction of stringent environmental regulations, critical resource availability, and site availability show that siting areas are sufficient to allow deployment of a synthetic liquids supply industry within other projected energy and industrial growth patterns. Therefore, programmatic and management activities to facilitate technology siting and deployment, reduce complexity in permitting requirements, reduce institutional constraints on critical resource allocations, and improve procedures for providing public involvement in the program appear most critical.

Table 1 provides a summary of the findings of the analysis grouped as follows:

Technology-specific results.
Siting opportunities.
Permitting process findings.

Because many results of this environmental analysis and the potential courses of action are discrete and do not lend themselves to summarization, a more extensive list of concerns (Table 5) is presented at the end of this summary.

The Office of Environment is now initiating a broader, more comprehensive assessment of the siting-related development capacity for synthetic fuels, which will address in detail all areas considered by the present siting analysis, including state and local institutional considerations. This more detailed assessment should be completed by October 1979 and will be made available to the public at that time.●

CONGRESSMAN YOUNG REPLIES

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mr. YOUNG of Alaska. Mr. Speaker, while I have no particular desire to again debate the Alaska Lands bill passed by the House in May of this year. I feel that I must reply to Congressman SEIBERLING's comments that were printed in the October 25 RECORD.

In his statement, the gentleman from Ohio takes issue with an article that I had submitted for the RECORD dealing with the effect of the Alaska Lands bill on energy supplies in the United States. The article was written by Mr. Louis Overstreet, president of the Alaska Black Caucus, and expressed his concern that the Alaska Lands bill would seriously impair our ability to produce new energy supplies.

In his reply, my colleague from Ohio mentions the availability of the national petroleum reserve in Alaska for private development, and further waxes eloquent about the oil potential on Alaska's Outer Continental Shelf. He and I are in agreement regarding the NPR–A; however, I am shocked that the gentleman, whose environmental record is well known in this Congress, should callously disregard the effects of oil and gas development in such areas as Bristol Bay and Cook Inlet. Evidently he prefers the "rape, ruin, and run" approach on the most productive salmon area in the world to a sound onshore exploration and development program in the Arctic game range. The Alaska Lands bill reported by the Merchant Marine and Fisheries Committee had an excellent conservation program that would protect the porcupine caribou herd in the Arctic range while still allowing for energy development. Mr. SEIBERLING rejected this approach.

Mr. Speaker, Alaska has the ability to produce a tremendous volume of fisheries products. Fish are a renewable resource; their continued utilization will augment our economy, improve our foreign trade balance, and provide protein to people throughout the world. Unfortunately, rapid massive development of OCS areas can seriously impair development of our Nation's fisheries. In fact, the North Pacific Fishery Management Council has recently gone on record in opposition to OCS development in the Bristol Bay area. In spite of this, supporters of H.R. 39 continue to argue that the OCS areas are left open for development, thereby forcing increased activity in these sensitive areas.

Mr. Speaker, I hope that all Members will carefully consider the trade-offs involved in supporting the House-passed Alaska Lands bill. We can have a healthy environment and increased energy supply. However, we cannot do that if H.R. 39 is enacted into law.●

REFLECTION ON THE GREAT DEPRESSION

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mr. CONTE. Mr. Speaker, everyone in this Nation has been made aware that today marks the 50th anniversary of Black Tuesday, the day the bottom started to fall out from under the stock market, and our Nation and the majority of the world was plunged into a lengthy and arduous worldwide depression. I know that many commentators and would be pundits are making sweeping parallels between that era and this. They are predicting that a new depression is what lies in store for the American people. I submit that we must profit more from the wisdom of the great President who led us out of that depression, Franklin Delano Roosevelt, and remember that "the only thing we have to fear is fear itself."

Mr. Speaker, I believe that the American people and Government have the capability to profit from the mistakes of the past and to move forward to revitalize our now-stagnant economy. The solutions of the thirties are not necessarily the solutions of the eighties. Clearly the present times do not call for a new works project administration; but we must remember the need to secure employment opportunities and we can certainly remember the benefit to society and to the individual of public works that benefit us all.

The United States must be sure to avoid the isolationism that characterized both our trade and foreign policy in the 1930's, a retrenchment which only served to exacerbate and lengthen the depression. Today, even more than five decades ago, economic and political interdependence are realities which our policymakers must consider in the execution of their duties. The problems this country faces are global problems, and the solutions to them must in part be global too.

Most importantly, Americans must work hard and work together to solve the combined threat of inflation and recession. This will require sacrifice and hard work. Productivity and efficiency must increase. Americans will have to learn to consume less of certain nonrenewable energy sources. But Mr. Speaker, if there is one lesson we can learn from the Great Depression, it is that the American people are more than willing to meet this challenge, and more than able to do so.●

VIRLYN SMITH NIGHT

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mr. GINGRICH. Mr. Speaker, on Tuesday evening, October 30, his many friends, family, and colleagues will gather to salute Virlyn B. Smith, representative of Georgia House of Representatives District 42, at a special dinner. The gathering is bound to be enthusiastic and it is more than well deserved.

The career of Virlyn Smith stands as a hallmark of what one individual, through dedication and tireless efforts, can contribute to the growth and enhancement of the community in which he lives.

When I think of the progress and development of the south Fulton County area over the years, I think of Virlyn Smith. South Fulton has always been close to Virlyn's heart. And Virlyn has been close to the heart of south Fulton, in fact since the day of his birth in 1922 in the Grove Park community of Fulton County. In 1934, his family moved to Fairburn, Ga., and has been an established part of that community since. Virlyn attended Fulton County public schools and graduated from Campbell High School in Fairburn. He attended Abraham Baldwin College in Tifton for 1 year before volunteering for military service to his country during World War II.

He married the former Dorothy Tanner of south Fulton. They have had a marriage of 31 years and have a fine family of two daughters, Sandra Rozes and Sheila Crawford, both living in Fairburn, and one son, V. B., Jr., who is a graduate of Georgia State University.

We who know him well know Virlyn as a steadfast family man, a well-respected businessman, and an active member of his church, the Fairburn First Baptist Church. Beyond these, he has found the time, and given it selflessly through the years, to the Fairburn Civic Club, the South Fulton Chamber of Commerce, the Fulton Board of Education, the Veterans of Foreign Wars, the Masons, the South Fulton Hospital, and the Campbell High School PTA. In all these he has served in valuable leadership roles.

In 1972, the citizens of house district 42 recognized that they could not find a man with better knowledge of their community, or more devotion to its welfare, than Virlyn Smith. They elected him their representative to the Georgia House of Representatives. They have never been disappointed.

A hard-working public servant. An effective legislator. A man of high principles and impeccable honesty. A man who cares for people and loves his community, his State, and his Nation. These are the things we think of when we think of Virlyn Smith. We cannot help but be proud of him. We cannot help but be enriched by our association with him. We cannot help but say we need more men like him.

It is not often we have the chance to make our feelings known. Let us take this opportunity to say, Virlyn, thank you for what you have given to all of us. We think the world of you.●

DIMETHYL SULFOXIDE

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mr. SYMMS. Mr. Speaker, today I am introducing legislation which would approve the usage of dimethyl sulfoxide for the treatment of scleroderma.

Scleroderma is a potentially terminal and very painful, debilitating disease. The term "scleroderma" literally means hard skin and it is thought to result from the narrowing of blood vessels, which in turn leads to fibrosis of skin and multiple organs.

It is classified as a collagen disease, although it is not primarily a disorder of the collagen molecule. Collagen is found to be in excess and this causes the hardening and thickening of the skin, particularly of the hands and fingers. Painful ulcerations generally appear in these areas, as well as the elbows and knees.

Dimethyl sulfoxide or DMSO is a drug that has the ability to penetrate tissue that is hardened, thereby preventing the ulceration and possible amputation of fingers and toes when applied topically. And, when given intravenously, tremendous results have occurred in the prevention of the hardening of tissue which surrounds organs.

The history of DMSO is the story of remarkable cures and government vacillation. Dr. Stanley Jacob of the University of Oregon Medical Center has been working with this drug since its inception in 1962. The drug, which is an inexpensive substance, was widely used for the treatment of various illnesses until 1965 when the FDA called a halt saying that animal studies showed that the lenses in the eyes of test animals clouded over when they were overdosed with DMSO. Although none of the persons who had used the drug had the eye problem, the FDA has persisted in its ban with the exception of its approval for the use of the drug in treating interstitial cystitis.

As a result, the nearly 300,000 individuals in the United States that have scleroderma do not have legal access to this drug. Consequently, there are patients in the United States that have had fingers and toes amputated unnecessarily. DMSO is not a cure for scleroderma, but it may have promise.

It seems incongruous that the United States Government is not only preventing research and development of new drugs but is also denying seriously afflicted individuals the right to life and limb.●

A SALUTE TO LT. GEN. THOMAS P. STAFFORD, USAF

HON. JIM WRIGHT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mr. WRIGHT. Mr. Speaker, it is appropriate and fitting today for the House to recognize the retirement on November 1 of Lt. Gen. Thomas P. Stafford, a distinguished veteran of more than 27 years in the U.S. Air Force.

General Stafford's exceptional service to the Nation as a test pilot, author, astronaut, leader, and salesman has taken him to the frontiers of aerospace and beyond. He began his career in 1952 following graduation with honors from the U.S. Naval Academy. He started flying as a fighter pilot and, later, went on to become an outstanding graduate of the Air Force Test Pilot School. He remained at the school where he instructed flight test procedures and authored basic textbooks and flight test manuals for the use of the staff and students.

In 1962, General Stafford was selected by NASA in the second group of astronauts. His work in the space program has become legendary. In four space flights, he pioneered the way for spacecraft rendezvous on two Gemini missions and, on Apollo X proved the feasibility of man's first landing on the Moon. He commanded the historic Apollo-Soyuz mission in 1975 which marked the first meeting of U.S. astronauts and Soviet cosmonauts in space. He served as the chief of the NASA astronaut group and as the commander of the Air Force Flight Test Center at Edwards Air Force Base, Calif.

We have been privileged to have General Stafford before many of our House committees while he was with NASA and in his most recent assignment as the Air Force Deputy Chief of Staff for Research, Development, and Acquisition.

Tom Stafford's quest for excellence has taken him farther, faster, and higher than most of us dare to dream. He has flown more than 7,000 hours in 110 different aircraft and 4 spacecraft—including more than 500 hours in space.

The numerous honors bestowed upon him reflect the gratitude and esteem of our Government and our people as well as that of many foreign countries. His counsel is sought by leaders of Government, business and industry. His achievements reflect the pioneering spirit and boundless energy that have made this Nation great. He has set an example of inspirational leadership and devotion to the United States that deserves our highest praise and appreciation.

It is a privilege for me to be able to call Tom Stafford a personal friend. He will be sorely missed in the active duty ranks of the U.S. Air Force, but we all wish him well in his future endeavors.●

NORTH ATLANTIC ASSEMBLY

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mr. WHITEHURST. Mr. Speaker, last week I was privileged to be one of the U.S. delegates to the North Atlantic Assembly meeting in Ottawa, Canada. Mr. Paul Thyness of Norway presided over the 25th annual session as president, and I had the pleasure of hearing his address. Mr. Thyness brought a message cogent not only to the European delegates but to all of us in the great Western alliance.

Essentially, the message is a warning, and because these words come from one of the smaller allies, I think that my colleagues in the Congress would do well to read them carefully. Mr. Thyness is a great patriot, and we are fortunate to have him as such an effective spokesman for the North Atlantic Assembly.

The message follows:

NORTH ATLANTIC ASSEMBLY

(By Mr. Paul Thyness)

Distinguished guests, fellow delegates to the North Atlantic Assembly, ladies and gentlemen,

We meet at a particularly crucial time in the life of the North Atlantic Alliance. Thirty years ago the Alliance was formed to give a weak and war-devasted Western Europe the protection of the world's then only nuclear power, the United States of America, and at the same time to provide a framework for co-operation in building a counterforce to the vast conventional superiority of the Soviet Union on the continent of Europe.

We never really succeeded in building that counterforce, but we did manage to narrow the gap both in actual numbers and by bringing our superior technology to bear. As long as the Alliance had a monopoly or a near monopoly of nuclear forces, some inferiority in conventional forces did not matter too much.

But sooner or later this situation had to change. There never was any way to prevent the Soviet Union from acquiring its own intercontinental nuclear capability. And when that happened it became of small importance whether our central systems were superior to theirs, or vice versa. Once both sides acquired a second strike capability—that is, the ability to inflict intolerable damage even after itself absorbing a first nuclear attack, or "mutual assured destruction"—we had in fact arrived at a plateau where incremental advantage in the area of central systems no longer paid political, diplomatic or military dividends. I would like to underline this point: a competition in throw-weight or numbers of warheads is not very relevant. We must do whatever necessary to preserve our second strike capability, but as long as that is intact there is not much more the central systems can do for us.

What then becomes of vital importance is the balance on the lower rungs of the ladder. If essential parity in central systems is married to a marked inferiority in the conventional, tactical nuclear and theatre nuclear fields we will find ourselves in an inherently unstable situation. To deter aggression the potential aggressor must recognize in advance that he cannot win, that sooner or later the war will escalate to a point where he would lose. Formerly that point was represented by the unmistakable threat of retaliation with intercontinental nuclear missiles. Winning on all other levels of conflict, there the aggressor would still lose it all.

Today, our adversary still cannot win on the level of central systems, but neither can we. No one will achieve anything by letting a war escalate to the very top: it will rob the winning side of the fruits of victory, but it will not prevent the losing side from losing. A war bringing these systems into play will be pointless, and will be recognized as such on both sides. The ultimate deterrent, as indispensible as it is, loses much of its force by losing much of its rationality. We face a situation where the lethal misconception could arise that a war against European members of the North Atlantic Alliance that does not threaten the survival of North America may be fought and won without ever escalating to the top.

This is the situation we may shortly find ourselves in if we do not soon make some very difficult decisions. For a long time the conventional gap has again been widening, not so much in numbers perhaps, but certainly in capabilities. Our lead in military technology has not been maintained, or at least not sufficiently utilised. We are now facing superior numbers of conventional forces abundantly equipped with weapons systems often more advanced than what we are able to bring into the field against them. And our edge in short and medium-range nuclear weaponry is gone, wiped out by the mobile, MIRV'ed and more accurate SS–20 missile deployed in steadily increasing numbers beyond the reach of our systems. In a few years' time, what will there be to prevent the Soviet Union from concluding that they could attack Western Europe with practically no risk of retaliation? And equally important—perhaps more important: what is there to prevent us from knowing the same thing, and tailoring our acts to fit this knowledge? What will our national sovereignty really be worth when we are unable to defend it successfully, and both sides know it?

Basically, there are three options open to us. First, we can let things go on as they are, hoping against all experience that nothing will happen, that the acquisition of a substantial superiority in conventional and nuclear capabilities in Europe will not influence Soviet policies and that the knowledge of substantial inferiority will not influence us. Second, we can embark on a massive rearmament of conventional and nuclear forces in Europe to match what the Warshaw Pact has done and is doing, hoping to meet somehow the heavy demands this approach will put on public opinions and national budgets. Or third, we can try to install by agreement a ceiling on conventional and nuclear force levels in Europe, just as SALT II has done with regard to the central systems.

The arms control approach is certainly the most attractive alternative, but simply choosing this alternative will unfortunately not automatically give us the security we seek. We must recognise that in the day of strategic nuclear parity, the present and near-future military balance on the continent of Europe is not something we can live with very long. We must also recognise that there is no reason to believe that the Soviet Union will ever accept any kind of ceiling, not to mention taking out some of what they have already deployed, unless we can make it in their interest to do so. For their part they are perfectly satisfied with the situation as it is, so satisfied that Mr. Brezhnev as a gesture can offer to withdraw 20,000 troops and 1,000 tanks from Eastern Europe without even bothering to link it to the MBFR negotiations that he has stalled for so many years.

Of course, Mr. Brezhnev's offer is interesting, and there can be no question but that the Alliance must take it up and turn it to our advantage, indeed to the advantage of humanity. But it is in itself far from sufficient to give us the stability and security we are searching for. It does not include Soviet nuclear forces in Europe; while they are modernizing at the rate of one nuclear warhead per day, we are to forgo modernizing our systems that border on obsolescence. The withdrawal of approximately two divisions and 1,000—presumably old—tanks, does not constitute a balanced deal.

So the arms control approach must be pursued, but we must clearly recognise that alone it will not suffice. It must be coupled with a modernisation of NATO forces that will restore a reasonable balance, and at the same time put the Warsaw Pact on notice that unless SALT III includes ceilings on nuclear forces in Europe we will be headed for an arms race that, given our relative economic and technological advantage, they cannot win.

This may seem to be a brutal awakening from our dreams of détente. And indeed it is. But we have no reason to feel cheated. By our own choice we have clung to our own perception of détente as a comprehensive concept, refusing to accept that our perception was not shared by the Soviet Union, and that we had no means of making them share it. In the end—at the very end of a long, long road—détente may become a comprehensive thing. But going down that road, as indeed we must, each milestone we reach is only a milestone reached. No more, no less. The CSCE conference relaxed tensions on the continent of Europe, but was accompanied by more strained relations in other parts of the world. The valuable achievements of SALT I and SALT II were accompanied by the development and deployment of the SS–20 and the Backfire bomber.

There was never any deception involved. We were always plainly told that the struggle between communism and our system of economic and political government was to go on. Only we did not listen. As with other unwelcome signals we did not choose to turn on the receiver.

Why is it so? Some would say contemptuously that we did not have the will and the courage to face the facts. That may be so. But I believe that this assertion underestimates the influence of our own ideals and values, values that make us recoil from the senselessness of war, that make us see the inherent pointlessness of the means of war, that make us recognise the threats to our ideals springing from tension and confrontational policies. Our concern for material well-being is not "softness". It may lead to "softness", but in essence it is a commitment to the idea of peace, a commitment to making the lives of all men richer, more meaningful, more secure; a commitment to free mankind from the degradations of poverty, hunger, disease, fear and war. These are worthy goals and if the price of pursuing them is the label of "soft" or "wooly-headed", so be it.

But as all politicians know the choices are rarely simple and clearcut, with all the good and valid arguments only on one side. Human nature, with all its contradictions, takes care of that. The basis for the pursuit of our ideals is our free and sovereign societies. We are the custodians of a value system developed over thousands of years, and our societies have been painstakingly developed to serve this value system. Neither our societies nor our values are in any way perfect, but they are by far the best, the most humane and the most capable of improvement. The conflict between on the one hand improving our societies and living by our values and on the other, preserving both in a rough and tumble world, cannot be neatly solved. Politics is not an exact science, it has always been the art of finding and maintaining the best possible balance between competing and sometimes contradictory goals under constantly shifting sets of circumstances—and in our time also within the limits of current voter-perceptions.

For a long time now democratically elected politicians of all political hues have shown a strong reluctance to tackle the tough decisions. It is not very strange. On the wings of the spread of education and the instant transmission of news and information through electronic media, voters have become less and less willing to follow their elected leaders. The electorate has been fragmented into big and small special interest groups cutting across traditional party lines, sceptical, critical, suspicious and strident. Politicians, who are in the popularity business, and should properly be there, have understandably developed a stand-off attitude in the face of this welter of signals. Great skill has been used to explain away unpalatable facts and to construct sophisticated theories for not doing what might generate opposition. Only that which will go unnoticed—and that is not much in today's world of investigative journalism—or that which will please many and offend none, seems to be politically possible.

But decades of following the way of least resistance have finally brought us face to face not only with a great number of painful problems that do not lend themselves to easy, painless solutions, but also with a deep malaise in our societies that only a new kind of political leadership can cure.

Among the many things that worry our voters, our lack of military preparedness is not a main item. But then they were not worried about most of the problems they face today, when those problems were still small enough to be manageable. I believe our problems of defense still to be manageable, and I believe they should not be allowed to grow. If we, the elected leaders have not only the courage of our convictions, but also the courage to form convictions, I believe we will meet with a deep response from the same voters who now seem to refuse to be led, who now seem intent only on their own immediate gratifications.

Our generation has been called the "me-generation", and it certainly looks like that. But I believe that deep down there is a yearning in the me-generation for leadership at all levels. Not a feudal, arrogant sort of leadership that could suffice a generation ago. Leadership today is much more demanding. It is not enough just to act, and leave it to the results to justify the action. Today we must explain convincingly beforehand why action is necessary, and in what way. This requires that a politician be informed about facts and differing viewpoints.

For months the organisation of the North Atlantic Assembly has been working to gather facts in a number of fields where action is necessary. In addition to SALT II and modernization of theater nuclear weapons we are also confronted with other major problems demanding decisive action, such as the energy-problem and expanded economic cooperation with Portugal and Turkey. These are also areas where the lack of political skill and will within the Alliance may cost us dearly in a not too distant future. For two days our committees have sifted these facts and discussed them from different viewpoints as only an international body can do. They have reached some conclusions, and today and tomorrow we will debate them publicly and take a stand on them.

Acting as and through the North Atlantic Assembly we have no power to implement our decisions. Bureaucracies will not act on our resolutions and recommendations. But leadership is not always dependent on formal powers. At this crucial point in the life of the Alliance this body can sound a call to action that has every chance to be heard and heeded in a world where leadership is in short supply. This is our responsibility, this is our opportunity.●

COURT ENFORCEMENT IS THE BEST WAY TO FORCE AGENCIES TO MAKE ENERGY DECISIONS ON TIME

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mr. WIRTH. Mr. Speaker, as the House approaches decisions on the Energy Mobilization Board, debate over the alternative methods to force agencies to make decisions according to a project decision schedule established by the Energy Mobilization Board has intensified. I would like to take this opportunity to explain the primary enforcement mechanism contained in the Udall-Clausen-Wirth substitute, and to answer the concerns expressed by some Members as to both the power of the courts to enforce deadlines and the time required to do so when compared to other alternatives, such as waiving laws or allowing the EMB to immediately seize jurisdiction over a delayed decision.

The answer is not simple, for the procedures that the legislation seeks to expedite are as varied as the geographical areas they will affect. Agency permitting, licensing or ratemaking decisions rarely entail a simple "yes" or "no" to a clearly defined question. On the contrary, agencies normally exercise legislatively delegated authority to apply complicated statutory requirements to complex facts in order to develop detailed license or permit provisions. This process often involves the analysis of extensive technical data, tough negotiation with the applicant and the exercise of informed discretion.

Agency decisions reflect not only statutory requirements, but also policies and judgments based upon particularized expertise and experience. A surface mining or clean air permit is not like a driver's license which, once obtained, is simply carried in the holder's wallet. Rather, such permits contain explicit requirements of affirmative conduct designed to assure that the permittee complies with relevant statutes.

The proposed enforcement mechanisms can only be evaluated in light of this reality.

I. WHY THE SUBSTITUTE USES THE COURTS TO ENFORCE DEADLINES

We chose court enforcement because it is a far more effective way of enforcing agency compliance with a project decision schedule than either a waiver of the affected law or EMB seizing jurisdiction of agency decisions "bump-up." These latter two options are the enforcement mechanisms used by the Commerce Committee bill as amended by Mr. SANTINI.

A. "BUMP-UP"

Advocates of "bump-up" claim it is the only enforcement mechanism that will work, enabling the Board to police intransigent Federal, State, and local agencies while requiring the Board to—

> . . . apply the decision criteria in Federal, State or local law that would have been applied had the Federal, State or local agency made the decision [S. 1308, S21(a)(2)]

If agencies are faced with immediate bump-up when an EMB-imposed deadline is missed, they will have three bad choices: First, let the EMB preempt their authority; second, make a decision on what they view as an unreasonable timetable; or third, protect their jurisdiction by denying the permit—something no one wants to see. The bump-up proposal, now being suggested by Mr. DINGELL will thus encourage negative decisions on priority energy projects. Immediate bump-up to EMB has numerous other serious problems.

If the Board uses its takeover authority with any frequency, it will itself become a source of delay, for it will be compelled to master the relevant statutes, acquire the necessary technical expertise and analyze the record developed by the agency, obtaining additional data to fill in gaps in the record. That process is far from simple. The agency would already have months invested by the time the Board took over.

One of the major sources of delay in implementation of new Federal and State environmental laws has been the time necessary to hire and train staff and develop policy. But with bump-up the Board will not be faced with the problems of starting up a single program. Each priority energy project may require several hundred licenses and permits. Thus, using bump-up frequently, the Board would have to start up dozens of different permitting, licensing, ratemaking and planning programs as it enforced numerous deadlines.

The Board is generally conceived of as a relatively small, streamlined agency, but the burden of taking over decisions ranging from local zoning ordinances to hazardous waste disposal requirements would require the Board to grow very large very quickly. The result would not be speed, it would be bureaucratic chaos, long delays and poorly crafted decisions unsatisfactory to the parties and vulnerable to litigation.

Nor will the requirement that the Board apply the "decision criteria" the agency would have applied assure fulfillment of underlying statutory purposes. It does not require the Board to apply the displaced agencies' policies, nor follow its procedures. Most agencies exercise wide discretion. The Board is a single-mission agency. Its function is to get projects built fast. Inevitably the Board would bring to its decisions a strong bias toward the approval of applications and the issuance of permits and licenses containing terms favorable to the applicant. Congress and the States have separated safety and health responsibilities from other governmental functions specifically in order to exclude the type of bias the Board would have. Promotion and regulation are distinct and incompatible functions.

Finally, the threat of Board takeover would injure the integrity of agency procedures and authority. Agencies faced with deadlines that they felt were inconsistent with responsible exercise off their authority would have two counterproductive but appealing options: To sit on their hands and leave all the work for the EMB, or to deny the application whatever the state of the record. Both options would engender delays, controversy and litigation. Neither is consistent with the goal of improving the process.

The Commerce Committee summarized the major problems with bump-up in its report on its own bill:

> The Energy and Power Subcommittee discussed extensively the proposal to allow the Board to make decisions on behalf of Federal, State, and local agencies with the Administration, and other, witnesses. That hearing indicated the existence of very serious problems with the concept.
>
> The Committee did not believe it wise to permit the Board or the President to substitute their judgment for those of the Federal, State, or local agencies. First, the Board is not impartial. The Board designates projects as Priority Energy Projects and, thus has necessarily concluded that these projects are in the national interest. It is scarcely likely later to conclude that its earlier judgments were wrong. Second, the Board lacks the experience and expertise of the agencies, particularly if its staff is limited to 60 people. It could not, in a short period of time, familiarize itself with all the laws, regulations and precedents of the agencies it would displace. The only alternative, and one which the Committee rejected, would be to retain a large staff already competent in these areas. The Committee believes a smaller staff will be more efficient.
>
> Lastly, the Committee is concerned that more time might ultimately elapse if the Board were to take over a matter from an agency because the Board would then be required to complete a record, promulgate rules of practice and procedure, and make a well-reasoned decision that would withstand court challenge. The courts would examine with great care a record made by multiple agencies, under different sets of regulations and procedures, to insure that due process right had not been violated. Allowing the Board to make agency decisions would create a much greater risk of unfavorable court action, resulting in possible remand of the matter to the agency (or the Board) with a greater loss of time than if the agency had made the decision in the first place.
>
> As the Justice Department said in a July 24, 1979, memorandum, "supplanting decisionmaking strikes at the heart of State and local sovereignty. Nothing is a more integral governmental function than government itself." The Committee amendment leaves decisionmaking to the proper levels of government. (Commerce Committee Report on H.R. 4985, September 21, 1979.)

B. WAIVERS DO NOT FORCE DECISIONS

Allowing the override of Federal, State, or local law does not force timely decisions, it eliminates them.

In the Commerce bill as amended by Representative SANTINI, these waivers could be initiated whenever the Board felt any agency review would not be timely, or would not grant project approval. This judgment would be the Board's alone, because it would not be subject to judicial review.

The concept of waiving laws that stand in the way of the swift completion of energy projects offers the appeal of brutal simplicity but it runs totally contrary to the notion expressed by Chief Justice Marshall a century and a half ago:

> The Government of the United States has emphatically been termed a government of law and not of man. *Marbury* v. *Madison*, 1 Cranch 137, 151 (1803).

It provides a system of special treatment for special interests administered by a new Federal superbureaucracy controlled by the President. It places in the hands of a political official with no expertise the power to balance public health and safety against industry demands of waivers that may be worth hundreds of millions of dollars.

To the extent the waiver proposal in the Commerce Committee bill is designed to eliminate delay, it is a bizarre solution. It punishes society for the sins of bureaucrats. It sweeps aside laws—often the result of years of debate and complex compromises—designed to protect the public because the agency charged with implementing those laws has been slow in fulfilling its obligations. It permits the law to be swept aside even if the delay is warranted and the issues complex and dangerous.

The Commerce Committee bill permits the waivers ordered by the President to include provisions to mitigate any adverse effects. But to the extent the President fulfills that obligation he will be making new law.

C. WAIVER AND PRE-EMPTION DO NOT FORCE DECISIONS

Under the Santini amendment, the Board would be able to step in whenever it wished—again not subject to judicial review—to take away State, local or Federal decisionmaking authority. A final decision by a State, Federal or local agency would not halt either a waiver or preemption process after the Board had recommended this action.

II. CAN JUDICIAL ENFORCEMENT WORK?

Yes. There is now no Federal statute in existence that explicitly commands the courts to use their broad powers to enforce specific deadlines, yet the courts have repeatedly and effectively enforced statutory deadlines for agency action, and, indeed, have compelled agencies to act expeditiously even in the absence of deadlines. Although it is true that courts have sometimes failed to adopt stringent remedies to enforce official compliance with deadlines, that failure has resulted from judicial perceptions of Congress intent, not from impotence. In the presence of an unequivocal expression of congressional intent that certain deadlines be swiftly and strictly enforced, the courts would act effectively.

A. POWER OF THE COURTS

The Federal courts have the power to requide action of Federal, State, and local officials.[*] That power has been exercised forcefully and effectively over the past several decades in a variety of areas. In *Baker* v. *Carr*, 369 U.S. 186 (1962), the Supreme Court held that it was within the power of the Federal courts to redress imbalances in voting rights. The Court explicitly approved district court intervention in the State and local political process even to the extent of ordering the State to follow a judicially developed electoral scheme. *Reynolds* v. *Sims*, 377 U.S. 533, 585–6 (1964).

In desegregating the Nation's schools, the courts have been bitterly attacked for the breadth and stringency of their intervention. The Supreme Court has plainly and consistently stated that the equity powers of the courts are broad and should be exercised however necessary to uphold the law. *Swann* v. *Charlotte-Meckleburn Board of Education*, 401 U.S. 1, 15–16 (1971).

The Supreme Court has upheld close involvement of the district courts in the management of Federal and State prisons to assure minimal rights for prisoners. In one such case, the Court observed "Federal courts are not reduced to issuing injunctions against State officers and hoping for compliance. Once issued an injunction may be enforced." *Hutto* v. *Finney*, 437 U.S. 678, 686 (1978).

And, of course, the courts have enforced the Federal laws against Federal officials in hundreds of cases. See, for example, *Kendall* v. *United States*, 37 U.S. (12 Pet.) 524 (1838); *United States ex rel. Accardi* v. *Shaughnessy*, 347 U.S. 260 (1954); *United States* v. *Nixon*, 418 U.S. 693 (1974).

B. ENFORCING DEADLINES

The above cases deal with matters far more complex than the single question of agencies acting according to deadlines. The right to sue to compel agency action unreasonably delayed was held to be established by the Administrative Procedure Act nearly 20 years ago. *Deering Milliken Inc.* v. *Johnston*, 295 F. 2d 856, 865 (4th Cir. 1961). See generally, note, "Judicial Acceleration of the Administrative Process: The Right to Relief from Unduly Protracted Proceedings," 72 Yale L. J. 574 (1963). Although the right is well established, many parties and their attorneys are reluctant to seek relief in court for fear of angering the decisionmaker. That concern will obviously not affect the Board in carrying out its statutory mandate under this act. Since *Deering Milliken* the courts have acted to create or enforce deadlines in dozens of cases, even where strict compliance with deadlines caused significant hardship. In *Bethlehem Steel Corp.* v. *Train*, 544 F.2d 657 (3d Cir. 1976), *cert denied*

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[*] The power of the courts to compel official action has been clear since Justice John Marshall's seminal opinion in *Marbury* v. *Madison*, 1 Cranch 137 (1803). *Federal Power Commission* v. *Transcontinental Gas Pipeline Corporation*, 423 U.S. 326 (1976) is irrelevant in this context. The Court there held that the circuit court had exceeded its authority in ordering the FPC to take certain actions, but these actions were ordered by the court on its own authority. They were not contained in the statute. 423 U.S. at 332–333.

430 U.S. 975 (1977), the court ordered the EPA to enforce a compliance deadline that the parties stipulated to be physically impossible within the time allowed.

Similarly, in *State Water Control Board* v. *Train*, 559 F.2d 921 (4th Cir. 1977), the Court rejected the contention of a sewage treatment facility that its inability to comply with a deadline was excused because the 75 percent matching funds provided by Congress for municipal treatment facilities had not in fact been made available. And in *United States* v. *Pennsylvania Industrial Chemical Corp.*, 411 U.S. 655 (1973), a polluter was held liable for failing to obtain a discharge permit under section 13 of the Rivers and Harbors Act at a time when there existed no means by which such a permit could be obtained.

In some cases, even where there was no deadline in the statute on regulation, Federal courts have set their own timetables for compliance with statutory duties, and have compelled agencies to meet them. *Natural Resources Defense Council, Inc.* v. *Environmental Protection Agency*, 475 F.2d 96B (D.C. Cir. 1973), illustrates the broad power of courts to establish such time schedules. In that case, the Natural Resources Defense Council challenged the EPA's administration of the Clean Air Amendments of 1970, 42 U.S.C. 1857 *et seq.* (1970), which required that each State formulate within a fixed period of time a plan to implement the environmental quality standards established by EPA. After determining that EPA had not followed proper procedures in granting States extensions under the act, the court set specific deadlines for both the States and the EPA to meet.

Numerous other recent cases have yielded similar results. The following is a partial list:

(1) *Natural Resources Defense Council, Inc.* v. *Train*, 411 F.Supp. 864 (S.D.N.Y.), aff'd, 545 F.2d 320 (2d Cir. 1976). The court found that the Administrator of EPA was required to place lead on a list of pollutants pursuant to § 108 of the Clean Air Amendments of 1970, since it was undisputed that lead met the prerequisites for such listing. When the Administrator refused to place lead on the list, the court directed him to do so, ordering "... that the Administrator place lead on the list of pollutants, in accordance with the mandate of § 108, within 30 days from the date of this decision." 411 F.Supp. at 871. See also *Naporano Metal and Iron Co.* v. *Secretary of Labor*, 529 F.2d 537 (3d Cir. 1976), and *National Treasury Employees Union* v. *Nixon*, 492 F.2d 587 (D.C. Cir. 1974).

(2) *Cherry* v. *Mathews*, 419 F.Supp. 922 (D.D.C. 1976). The court required the Secretary of HEW to issue regulations implementing § 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794. Although that act contained no specific provision giving the federal agency rulemaking authority, the court determined that Congress intended that HEW promulgate regulations designed to further the goal of eliminating discrimination against people on the basis of a handicap.

(3) *Illinois* v. *Costle*, Civil Action No. 78–1689 (D.D.C. 1979). The court issued a writ of mandamus to compel expedited promulgation of overdue solid waste regulations.

(4) *North American Van Lines* v. *United States*, 412 F.Supp. 782 (N.D. Ind. 1976). The court ordered the Interstate Commerce Commission to grant or deny applications for new operating authority unlawfully withheld within 60 days.

(5) *Home Box Office, Inc.* v. *FCC* (D.C. Cir. 1977). The court held that the Commission had unreasonably delayed the completion of its "program exclusivity" rulemaking proceeding. Although only 18 months had elapsed since the publication of the notice of proposed rulemaking and 12 months since the close of the comment period, the Commission had been studying the problem for nearly six years. The court ordered the Commission to "terminate" its program exclusivity proceeding within 180 days. As ordered, the FCC acted within 180 days to terminate the proceeding.

(6) *Booth American Company* v. *FCC*, No. 23862 (D.C. Cir. 1970). Plaintiff's application for an emergency license had been pending before the Federal Communications Commission for 17 months. Even though there was no applicable statutory deadline, the court ordered the agency to act on the license request within 20 days or explain its failure to do so. Fifteen days after the court order the FCC granted the license.

(7) *Public Citizen Health Research Group* v. *Califano*, C.A. No. 77–0911 (D.D.C.) On April 22, 1977, a petition was filed to remove the drug phenformen from the market as an imminent hazard, pursuant to 21 U.S.C. § 355 (e). When no action occurred, suit was filed on May 27, and in mid-July, without a court order, the Secretary of HEW ordered the drug removed from the market.

(8) *Public Citizen* v. *Cook*, C.A. No. 743–73, D.D.C. A petition for rulemaking was filed with the SEC on March 15, 1972, and was denied on August 25, 1972. After a petition for review and a motion for summary reversal were filed in the Court of Appeals, the agency agreed to ask for comments on the proposal. All comments were due on December 1, 1972, and responses to them were filed promptly thereafter. Despite several promises of immediate action, nothing was forthcoming. Therefore, suit was filed on April 18 and within three weeks the action was taken by the agency.

(9) *PROD* v. *Train*, C.A. No. 74–999, D.D.C. EPA was required under the Noise Control Act to issue a report on the principal sources of noise, and to propose regulations for them, by April 27, 1974. When it failed to meet that deadline, PROD, a group of drivers of trucks and other vehicles, wrote the EPA on May 1, 1974, demanding that action be taken. The report, but not the proposed regulations, was issued on June 21, and on July 2 suit was filed. The government obtained several delays in responding, but after it did and before the court could rule, EPA issued the rules on October 15, 1974.

Unlike the situations which would arise under the Udall-Clausen-Wirth substitute, in none of these cases was the court able to rely on statutory language clearly evincing Congress' intent that the full powers of the courts be used to enforce immediate compliance with a deadline. Such language will enable the courts to act forcefully and unambiguously to require whatever steps would enable the agency to meet its deadlines.

C. INSURING QUALITY

Judicial enforcement would also insure the integrity of the agency decisional process. The Court would provide a neutral forum in which agency assertions that the time provided by the project decision schedule was inadequate for the agency to carry out its statutory functions could be evaluated. The compliance schedule, procedures, and other requirements imposed by the Court would reflect practical reality. The prospect of judicial evaluation of the causes of delay would discourage delay by either applicant or agency. The possibility of a waiver of law or decision by the Board might, on the contrary, encourage applicant delays.

III. THE UDALL-CLAUSEN-WIRTH HYBRID

The Udall-Clausen-Wirth bill provides for judicial enforcement with a safety valve. Under the substitute the EMB does not have to wait until a deadline has passed to act. It can go to the Federal court of appeals whenever it is reasonably likely that an agency will fail to meet a deadline. Under an expedited procedure, including 15-day filing requirements, the Court is directed to act quickly to require timely decisions. If the Court does not act to order a decision within 120 days after the deadline is missed, or an agency refuses to comply with a court order, then the extreme remedy of a Presidential decision in place of agency action can be invoked.

The Court is instructed to enforce the original deadline except for clear, limited exceptions when it can have the EMB establish a more reasonable deadline.

How much time is involved? Often no extra time because the Court may order compliance with the original schedule if the EMB sues before a deadline has been missed. At the outside, we will add 120 days, which is a small price to pay for having decisions made where they should be made—by the responsible agency. If the Court finds the original schedule was unreasonable and extends it, we will still benefit because this finding would have caused the final decision to be overturned later anyway, because of a bad schedule.

This is a workable compromise, for it establishes a symbiotic relationship between the two enforcement mechanisms. Judicial enforcement will work. Rarely if ever will the President have to intervene, but the possibility of Presidential intervention will animate the judicial enforcement proceeding.

The President will be insulated against an unmanageable burden of decisions and the Board protected against those few courts which will not obey this statute.●

TRIBUTE TO PAT VIVO

HON. LYLE WILLIAMS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mr. WILLIAMS of Ohio. Mr. Speaker, every community has its boosters, and on occasion an unusual citizen is found whose contributions are worthy of special note. Such is the case with Pat (Mrs. Anthony) Vivo of Youngstown, Ohio.

Chosen this year's Woman of the Year by the Truman-Johnson Democratic Club, Pat Vivo was cited especially for her untiring work with the hearing impaired, and with the cancer society.

Patricia Vivo is a woman with a wide variety of interests and involvement. She has served on the board of the American Cancer Society of Mahoning County in an outstanding way, chairing door-to-door campaigns, conducting "Stop Smoking Programs," giving anti-smoking seminars in area schools, speaking on breast self-examination and uterine cancer, and in the past 5 years has spoken to more than 6,000 Catholic school seniors on the subject of marriage. She has held high PTA offices in all three schools in which her children have been involved.

Mr. Vivo's parents, Mary and Leo Gilboy, were deaf and Pat is very interested in the education of the deaf in Ohio. She speaks frequently on the subject and serves on the State Advisory Committee for Deaf Awareness.

Holding a degree from Youngstown State University, Mrs. Vivo has taught in local schools. She is also a lay commentator and reader at St. Luke's Catholic Church.

But her proudest achievement appears to be her role as the wife of Anthony Vivo, and the mother of eight fine children. Our community is a better place because of them all.●

FTC WILL RULE ON FUNERALS

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mrs. SPELLMAN. Mr. Speaker, today the House approved the rule on the Federal Trade Commission making in order an amendment to delay or halt action on the funeral trade. While the majority of funeral homes adhere to high ethical standards, the public needs to be protected from the unethical fringe element of the trade. With this important legislation soon to be discussed in this Chamber I am submitting for the consideration of my colleagues an article by Sylvia Porter which appeared in the July 8 Washington Star. I hope they all will take the time to read it.

FTC WILL RULE ON FUNERALS

(By Sylvia Porter)

Before this summer ends, it is a virtual certainty that the owners of the nation's more than 20,000 funeral homes will be slapped with the toughest regulations ever imposed on their industry—rules directly aimed at outlawing the unscrupulous practices of the unethical fringe which cashes in on grief.

Despite the denials of the National Funeral Directors Assn. (it spent at least $800,000 in a vain effort to stop the FTC from issuing its sharply critical report, and it threatens to fight any rules through the courts), the existence of abuses in this industry, simply cannot be denied.

Sure, the majority of funeral directors in the U.S. are, as the FTC says, courteous, ethical and effective. But how can the funeral directors association defend those in its $6.4 billion industry who force the confused survivors to buy expensive caskets, even for cremation?

Or who proceed with a costly embalming process without permission? Or who refuse to provide vital information on prices and other relevant subjects to the bereaved survivors? Or who, in the FTC's own words, "have harassed and intimidated low-priced sellers . . . who aggressively compete or attempt to offer new services"?

But no matter what the outcome of the FTC's well-considered, five-years-in-the-making 526-page report, you will remain an easy target for the unethical minority unless you know the basic guides to protect yourself at a time of deep emotional turmoil.

All human cultures and some animal cultures as well have death ceremonies of one kind or another—and funeral directors correctly emphasize that these ceremonies do help meet the social and emotional needs of the survivors.

But the amount of money you spend on the death ceremonies bears little relationship to the effectiveness of those ceremonies in meeting your human needs. A thoughtful memorial service, held in a church, private home or other meeting place at little or no expense to you, can actually be more helpful than a costly funeral service.

There are two basic forms of death ceremony:

A funeral service which is, by definition, a service held in the presence of the body. Before you order a funeral service, you must be sure you are fully aware of exactly what services will be included and what each will cost.

Do not simply accept a "package deal." Insist on a written rundown on all costs and charges—no matter what the laws or regulations do or do not allow.

A memorial service which is, also by definition, a service held after the body has been removed. In the memorial service, attention is focused on the life of the person rather than the dead body—and the service offers greater flexibility in choice of location, timing and programming.

The use of a memorial service often can slash the expenses of a death to a fraction of what would otherwise be involved. If well handled, it can in most cases serve the human needs just as well as or better than a funeral service.

You have many optional procedures for handling this defiantly difficult situation. Here are your options in ascending order of cost, as prepared for me by Ernest Morgan, author of "A Manual of Death Education and Simple Burial" ($2 postpaid, Celo Press, Burnsville, N.C. 23714).

Bequeathal to medical school. Immediate removal of body, with memorial services to be held later if desired. Usually no cost at all involved.

Cremation. Immediate removal of body followed by memorial service if desired. Small cost, if properly planned.

Bequeathal to medical school after a funeral service. Usually more expensive, depending on type of service.

Burial. Immediate removal of body followed by memorial service if desired. May be either less or more expensive than above.

Cremation, after a funeral service. Comparable to the above two methods.

Burial after a funeral service. Most expensive of all.●

THE MUTUAL DEFENSE TREATY AND CONGRESSIONAL AUTHORITY

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mr. DORNAN. Mr. Speaker, I would like to call to the attention of my colleagues an article which appeared in Human Events on October 27, 1979, concerning the rights of Congress in the termination of treaties. As you know, U.S. District Judge Oliver H. Gasch has ruled that President Carter, or any President, may not unilaterally terminate a treaty without the prior advice and consent of the Senate or the approval of both Houses of Congress. In Judge Gasch's words:

> The decision cannot be made by the President alone.

Mr. Speaker, the judge has reaffirmed the powers of the Congress and has upheld the historical and legal precedents of congressional authority in the termination of treaties. The American people and the cause of Republican government have been clearly vindicated. I ask my colleagues to ponder the significance of this recent judicial determination.

The article follows:

GOLDWATER & CO. WIN ROUND ONE: JUDGE JEOPARDIZES CARTER'S CHINA POLICY

Who would have thunk it? While he has had few diplomatic triumphs, President Carter has been pretty well having it all his way in connection with his efforts to cuddle closer to Peking. Last December, the President announced he was breaking relations with Taiwan, establishing ties with Communist China and sundering the Mutual Defense Treaty of 1954.

While this was not greeted with the "massive applause . . . throughout the nation" that Carter had once predicted would be the case, the Congress, with only a minority in sharp disagreement, passed legislation fundamentally implementing the President's policy. Only last week, Marshall D. Shulman, the State Department's senior expert on Soviet affairs, testified that the Administration was now prepared to persuade Congress to extend most favored nation treatment to Peking, apparently feeling little embarrassment that the Chinese were in the process of sentencing a dissenter to 15 years' imprisonment, partly on the grounds that he strongly questioned the tenets of communism.

The Carter policy of rapprochement, however, has suddenly stumbled upon an obstacle, the federal court system. In a stunning legal and foreign policy setback to the Administration, U.S. District Judge Oliver H. Gasch upheld the suit brought last February by Sen. Barry Goldwater (R.-Ariz.) and 23 other lawmakers* who challenged the right of the President to unilaterally break the defense treaty with Taiwan.

Almost certainly, this suit will finally end up in the High Court, but, assuming Gasch's decision prevails, our whole China policy could unravel, for one of the major Peking demands—the price for "allowing" us to recognize it—was the demand that we sever the defense pact.

If eventually upheld, the Gasch opinion will have an impact far beyond the narrow confines of the China question, however. For what the judge has done is to greatly circumscribe the foreign policy powers President Carter had eagerly sought to assume.

As we noted in our January 6 issue, "What is startling about the suit is not that Goldwater and his conservative allies in Congress are backing it, but that very few liberals are on record as favoring the Arizonan's position. Even if some actually believe that the President currently has the sole right to tear up a treaty, why aren't they out fighting to put major restrictions on such an awesome presidential prerogative?"

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*Senators Curtis (R.-Neb.), Garn (R.-Utah), Hatch (R.-Utah), Helms (R.-N.C.), Humphrey (R.-N.H.), Laxalt (R.-Nev.), McClure (R.-Idaho) and Thurmond (R.-S.C.) Also Representatives Ashbrook (R.-Ohio), Bauman (R.-Md.), Burgener (R.-Calif.), Collins (R.-Tex.), Robert Daniel (R.-Va.), Dornan (R.-Calif.), Edwards (R.-Okla.), Gingrich (R.-Ga.), Hansen (R.-Idaho), McDonald (D.-Ga.), Quayle (R.-Ind.), Rousselot (R.-Calif.), Rudd (R.-Ariz.), Stump (D.-Ariz.) and Symms (R.-Idaho).

If the President is "allowed to unilaterally terminate the Taiwan pact," we noted, "virtually all of our major security agreements will exist at the whim of the White House." Indeed, policy analyst Samuel T. Francis of the Heritage Foundation—which widely distributed the Goldwater case in opposition to unilateral abrogation of the treaty before the President had actually moved on the issue—spotted at least seven other U.S. security treaties with the same type of cancellation clause as the Taiwan pact. Among the treaties Francis mentioned were NATO and our mutual defense treaty with South Korea.

"If it is resolved that the President alone has the authority to invoke the abrogation mechanism," said Francis, "it would then follow that he has the authority to do so with any other treaty with a similar clause."

The Gasch opinion virtually embraced the Goldwater case whole, in no small part because of the legal work done by Terry Emerson, the Goldwater aide who put together the major Goldwater speeches in opposition to the President's break with Taiwan, and the Washington Legal Foundation, a low-budget, non-profit firm that successfully challenged the entire State Department and Justice Department legal apparatus before Judge Gasch's court. The sparkplug of the foundation is 28-year-old Daniel J. Popeo, who contends that Sen. Gordon Humphrey (R.-N.H.) is his hero, since Humphrey kept helping the foundation raise the funds necessary to fight the case.

Asserting time after time that the government's arguments were "unpersuasive," Gasch contended—along with Emerson and Popeo—that the "President could not act unilaterally in terminating the treaty."

"The great majority of the historical precedents," said Gasch, "involve some form of mutual action, whereby the President's notice of termination receives the affirmative approval of the Senate or the entire Congress. Taken as a whole, the historical precedents support rather than detract from the position that the power to terminate treaties is a power shared by the political branches of this government."

Stressed Gasch: "The mere fact that the President has the authority to make an initial policy determination regarding the exercise of an option to terminate, and to notify the foreign state of termination, does not vest him with the unilateral power to complete the termination process and thereby effect the abrogation of the treaty. As two scholars have recently noted, 'it is inherently inconceivable that . . . a constitutional policy requiring joint action for external agreement and internal legislation could allow that agreement and law to be terminated by the president alone, against the intentions of the legislature.' "

"It would be incompatible with our system of checks and balances," said Gasch, "if the executive power in the area of foreign affairs were construed to encompass a unilateral power to terminate treaties. It is undisputed that the President is without power to amend the terms of a treaty. Any such amendment must be submitted to the Senate for its advice and consent. If the lesser power to amend the treaties is denied the President, *a fortiori*, the greater power to annul should also be denied.

"In the present situation, the President may very well be carrying out the wishes of the American people, but because the legislative branch has not participated in the treaty termination process, there is no way to ascertain this fact."

Narrowing his focus to the case at hand, Gasch concluded: "At least under the circumstances of this case—involving a significant mutual defense treaty with a faithful ally, who has not violated the terms of the agreement, and the validity of which has not otherwise been destroyed—any decision of the United States to terminate that treaty must be made with the advice and consent of the Senate or the approval of both houses of Congress. The decision cannot be made by the President alone. . . ."

Where does all this leave this nation legally? Last December, the President announced that the Mutual Defense Treaty would lapse at the beginning of next year. Gasch's decision includes an order enjoining the secretary of state and "his subordinate officers" from "taking any action" to implement the President's order of termination.

Meanwhile, the Justice Department says it plans to take the case to the U.S. Circuit Court of Appeals, which has just been packed with two extreme liberals—Patricia Wald and former Rep. Abner Mikva (D.-Ill.). Interestingly enough, Sen. Humphrey, who has been of considerable aid to the Washington Legal Foundation and is a party to the Goldwater suit, vigorously fought the confirmation of both individuals. Whether they will decide to remove themselves from the case because of possible prejudice, however, is unclear.

For the nonce, however, conservatives should profusely thank Goldwater & Co. for sticking to their guns on the issue and producing what could turn out to be a momentous victory for the American system of government.●

REPRESENTATIVE KEMP URGES A NEW LOOK AT CLASSICAL ECONOMICS ON THE 50TH ANNIVERSARY OF THE GREAT STOCK MARKET CRASH

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mr. KEMP. Mr. Speaker, 50 years today the bottom fell out of the U.S. stock market, marking the start of the Great Depression. On Black Tuesday, October 29, 1929, frightened stockholders rushed to sell out as trading volume soared to an unprecedented 16,410,030 shares, and the Dow Jones Average tumbled 31 points to 230, 151 points lower than the predepression high of 381 only a month before. It was clear to almost everyone involved that something catastrophic was taking place. The question then and 50 years later, is "Why?"

Why did the market come crashing down, after a decade of prosperity and increasing employment and noninflationary growth? The real terror of the "great crash" has been the failure of our economic theories to adequately explain it. Americans were left with the feeling that a massive economic contraction could occur at any time in a market free of Government intervention—without warning, without apparent cause. And yet, as Robert Heilbroner wrote in "Beyond Boom and Crash":

> Even giant [business] failures do not create more than temporary pauses in the ongoing accumulation process of the entire economy. A more likely candidate for the role of villain is mistaken or wrong-headed action by the government itself.

We know today that the Great Crash of 1929 and ensuing depression did not just happen. This was no spontaneous "collapse of democratic capitalism." In fact, they did not even have to happen. The "great crash and depression" were virtually enacted by national leaders—mostly Republicans, unfortunately—who made disastrously wrong choices about economic policy in the late 1920's and early 1930's.

Back in 1929, the choice was whether or not the United States Government should impose sweeping tariff increases, huge enough to destroy world trade. Congress and the administration did so, and in the last week of October, 1929, the stock market correctly anticipated the result, a worldwide recession. These same leaders turned that recession into the Great Depression with their shortsighted and unsuccessful attempt to balance the Federal budget by more than doubling income tax rates on all struggling Americans. This second error drove the Nation's unemployment rate to nearly 25 percent.

Today the United States faces a choice about the future similar to the one it faced in October of 1929 and similar disastrous blunders are being made by a Democratic administration and Congress, who, to be charitable, simply do not know what they are doing. Some of the mistakes being made—like raising tax rates in the midst of a recession—are frighteningly close to those which triggered the Great Depression. Other mistakes are new, like the policy of devaluing the dollar at the rate of 13 percent a year. In the 1930's, the problem was unemployment. Today, we face two problems: Unemployment and high inflation.

The irony here is that much of the economic theory guiding us today derives from the Keynesian model, which began as an attempt to explain the "great crash" of 1929. Yet the Keynesian model never fully explained why the crash occurred, any more than it can explain the stagflation of the 1970's. There is only one theory that can explain both, I believe, and that is the incentive-oriented economics of supply, which has grown from the foundations of classical theory. It was not until 1977, in Jude Wanniski's "The Way the World Works," that the crash of 1929 was convincingly explained. In his book, Wanniski established for the first time, in a day-by-day analysis, the critical link between the stock market's fortunes and the growing momentum for passage of the disastrous Smoot-Hawley Tariff Act of 1930. Speaking of the market's reaction to the "wedge," or the Government's share of any economic transaction—the tax rates, regulations and other methods by which the Government affects after-tax economic incentives—Wanniski explained:

> Looking back at the history of 1920, there is no dramatic increase in the domestic tax wedge to explain the market collapse. But there is also an international wedge—the tax on international transactions. And here there is a dramatic event, the gathering political momentum of what is now conceded

> to be the century's most disastrous piece of economic legislation. The Great Crash of 1929 anticipated the Smoot-Hawley Tariff Act of 1930. The calamitous declines of Monday, Oct. 28 and Tuesday, Oct. 29, followed immediately the collapse of the Senate coalition that had been the last barrier to the tariff.

Wanniski's analysis vindicates Say's law, the cornerstone of classical economics. As he wrote recently:

> The '29 Crash seemed to occur because of a surplus in the supply of goods, which is another way of saying a deficiency in the demand for goods. This negates Say's Law, named after Jean Baptiste Say, who formulated it between 1809 and 1819.
>
> Say, the French popularizer of Adam Smith's "Wealth of Nations," wrote: "One can only buy with what one has produced," and "The one product constitutes the means of purchasing another," and "A product created offers, from that instant, a market for other commodities to the full total of its value." This became boiled down by others to "Supply creates its own demand."
>
> In other words, suppliers of goods come together in the marketplace to exchange goods. If a surplus appears in one place only, it's because in other places sufficient goods have not been produced to purchase that surplus. If a surplus appears everywhere, only an artificial barrier to commerce could have been the cause—some impediment to trade imposed by government. Thus the free-marketeer's dictum to government of "laissez faire," roughly "hands off."

Another way to put it is to say that individuals produce, work, save or invest for the real, after-tax reward of doing so—that is, for the goods and services for which they can exchange their labor. By diminishing the incentives for production through excessive tax rates or overregulation, the Government may discourage productive activities from occurring in the first place.

Yet when John Maynard Keynes published his general theory in 1936, he used the crash and depression to ridicule Say's law. Keynes restated Say's law in his own terms, announced that it was "equivalent to the proposition that there is no obstacle to full employment;" and because much unemployment existed at the time, Keynes had "disproved" Say's law. Classical economic theory could be dismissed.

According to Keynes, the real problem underlying the Great Depression was one of "overproduction" or "underconsumption." People were simply saving too large of a portion of their incomes he believed, refusing to spend their money on the excess goods being supplied. Therefore, he reasoned, it was the job of the Government to tax or borrow the savings away from private citizens and make sure it was all spent.

American policymakers eventually adopted this "lesson" from the crash and the ensuing depression, leading the Keynesian revolution of the 1940's and 1950's. Acting on Keynes' advice, policymakers soon discovered the potent drug of Government spending, and neglected savings, investment, indeed the entire supply side of the economy. Congress continues to rely on Keynesian models in the Congressional Budget Office and House Budget Committee for economic policy decisions. In comparing the effects of a major tax cut with Government spending of the same amount, for example, CBO argues and a majority in Congress agrees that it is better for Government rather than citizens to spend the money, because when Government spends, the money "multiples" faster throughout the economy.

In a recent publication, CBO put it this way:

> Generally speaking, (government) purchases of goods and services have more impact per budget dollar on output and employment than broadly based tax changes or changes in income-support programs.

In another background paper, the CBO explicitly argues, with charts and figures, that $10 billion spent on public service employment would stimulate both employment and the growth of the economy more than a $10 billion tax cut. CBO Director Alice Rivlin has even suggested that people are likely to work less after a tax cut, because they will earn the same amount of money in a shorter time. Stated in other words, this argument holds that improving productivity (producing more goods with the same input of labor and capital) would tend to slow rather than increase real economic growth.

Government spending is more stimulative than private spending, CBO says, because Government will spend all of the revenues it collects—and then some. Private citizens, on the other hand, will save part of their incomes; savings, in the Keynesian model, are anathema to an economy that is faltering.

As a result, Government policy today is enough to dissuade all but the most tenacious saver. This is so despite a high correlation among industrialized countries between high savings rates and high rates of economic growth. Japan, for example, has a 25 percent savings rate, and is enjoying a strong rate of growth each year. In ranking the 11 largest industrialized countries in the world, there is a perfect correlation between the savings and growth rates. The United States ranks dead last in both categories. Tax policies in the other countries are the opposite of those pushed by the CBO and other Government advisory groups. These countries encourage saving and investment; the United States does not.

The state of our economy is compelling disproof of the notion that Federal spending is what prompts Americans to work, save, invest, and be enterprising—that is, what causes economic growth. Today the new wave in economics begins with the commonsense notion that governments do not create growth—people do. Economic growth is not caused by Government spending but by the economic incentives that encourage work, investment, savings, productivity, thrift, initiative, and higher levels of technology. Only by reducing the tax wedge between effort and reward will the economy see increased growth and employment.

Mr. Speaker, let me read a quote from Prof. Kenneth Arrow of Harvard University, one of the most distinguished Keynesian economists in the country, a 1972 Nobel Prize winner. Upon leaving Harvard several months ago, Professor Arrow confessed to a reporter that:

> The role of the liberal activist economists has been greatly injured by the fact that we are unable to reconcile full employment with price stability.

Here is the world's leading Keynesian economist, who spent a lifetime working on demand management economics, arguing that spending and debt and deficit financing stimulate the economy, suggesting at the end of his tenure at Harvard that he and his colleagues are unable to duplicate conditions which used to be commonplace in America—to reconcile a high-growth economy and price stability.

I cannot say that he speaks for the rest of Keynesian theorists but he seems to be saying something about the general Keynesian model itself, the model that the CBO and the House Budget Committee are using. It simply cannot reconcile a healthy, growing, expanding, fully employed economy with price stability. In other words, they do not have an answer.

I challenge them, the idea that the economic policies based on this Keynesian model represent the best interests of the American worker. How can they represent America's working men and women when these policies will put 2.7 million more Americans out of jobs in the next year? How can they represent workers when they recommend a 7- or 8-percent wage limit while the Government continues to devalue workers' paychecks at 13 or 14 percent a year—and then taxes workers on the increase?

The administration's official answer to our problems of economic stagnation and inflation is a program of "austerity sharing." That term comes straight from the National Accord Between the Administration and American Labor Leadership, of September 28. Henceforth, according to the White House, all economic policy will be based upon "the principle of shared austerity."

Now when administration officials say that "austerity" is the answer to inflation, they mean exactly two things—higher unemployment through tax-rate increases, and lower real income through wage and price controls. For Keynesian economic theory says this is the only cure for inflation, and they believe their theory more than they believe in the American people. According to the former director of the Council on Wage and Price Stability, Barry Bosworth:

> If the restraints are really to have an impact on the rate of inflation, government expenditures must be reduced, and aggregate demand, production, and employment must also be reduced. The result will be to throw a few million people out of work. To be sure, if enough of them are out of work, they will cease asking for wage increases. No one likes to say that, but that is what lies at the heart of the proposal for fiscal and monetary restraint.

The most incredible thing is that the administration does not plan to do anything to prevent the increase in unemployment. Budget Director James McIntyre says economic policy will continue to be "steady as you go." Treasury Secretary G. William Miller has ruled out any tax rate reduction for the next critical year. Steady as we go—into higher unemployment.

The Democratic budget which was pushed through last month will push this country to the brink of economic disaster. Even beyond the human suffering brought on by the loss of jobs, how can anyone accept an unemployment rate of 8.25 percent for 1980 when we know that high unemployment was no cure for inflation in 1969–70, nor in 1974–75? Furthermore, for each 1 million people the recession puts out of work, the Federal deficit will widen by $20 billion, due to loss of revenue and higher spending on unemployment relief. By this formula, what we face in the next 2 years with a steady-as-you-go budget is an increase in the Federal deficit of $50 or $60 billion. Anyone who believes we can reduce the deficit or cure inflation if unemployment rises is dreaming.

Unfortunately, the Democrats are not even giving Americans a choice between keeping today's destructively high tax rates on jobs and income or lowering them to restore incentives for production, employment, and real economic growth. Instead, the majority party continues to support tax law which uses the Government's devaluation of the dollar to push both labor and capital into higher tax brackets, automatically, every day. This steady-as-you-go policy is a vote for raising tax rates. For a typical family of four at current inflation rates this loss of income will amount to $939 in the next year alone. In addition, there are massive social security payroll tax increases enacted by the Democratic Congress, and the promise of $150 billion in new taxes on U.S. energy production. All told, the Joint Committee on Taxation estimates that planned tax increases will impose "austerity" on all Americans totaling $1 trillion in the next decade.

But if austerity is the answer to inflation, then Americans have been fighting inflation for the last 10 years. Where I come from, austerity is the problem, not the solution. I do not see the "average American" out causing inflation in a binge of self-indulgent prosperity, as President Carter has said. I see instead millions of Americans who are scared when the President's adviser on inflation, Alfred Kahn, tells them there is no way they can avoid a decline in their standard of living. I see working men and women, already strained to the limit in providing for their families, wondering whether they will number among the more than 8.6 million who will not have a job next year, or the year after.

And yet, what result does the administration predict from all this unemployment and loss of income, of this "equitable sharing of sacrifice"? In last Friday morning's paper, the Chairman of the President's Council of Economic Advisors, Charles Schultze, tells us that even after next year's recession, "inflation cannot be reduced below 8 or 9 percent." Some hope. At that rate, the value of all savings, investment, and income will crash by at least 54 percent in the next 5 years, and raising tax rates by 86 percent.

Mr. Speaker, this disastrous experiment in demand management has gone on long enough. Now is the time to stop and reconsider the basic economic theory upon which all of our policy decisions are based. It is time we recognize the supreme deficiencies of the theory that underlies all CBO estimates and analysis. We can no longer dismiss tax rate reductions out of hand as "inflationary" and continue to discourage savings and investment and inflate the money supply without restraint, merely because a defunct macroeconomic theory says that we must. We can no longer ignore the supply side of our economy and expect growth and productivity and employment to increase by magic.

It is time to realize that there is another, better way to solve our economic dilemma—that we can produce our way out of this inflation. If we increase the supply of goods in our economy while at the same time slowing the production of money, we will see results far superior to anything Government-forced "austerity" can produce. And the most direct and important way to immediately increase employment, investment, and production is to increase the reward on the next dollar an individual earns from working, investing, or producing. That means cutting personal income tax rates dramatically, across the board, for both labor and capital. Dramatic tax rate reductions of 30 percent or more for everyone and a return to some form of dollar convertibility must be the cornerstone of our policy answer to the unemployment and soaring inflation that plague America today.●

OBJECT LESSON ON TRADE DISINCENTIVES

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mr. AuCOIN. Mr. Speaker, as a representative of a State actively engaged in international trade and a member of the Export Task Force, I make a habit to inquire of firms involved in trade about export disincentives.

It is my view that the United States is unable to mount an aggressive export policy—regardless of how attractive the incentives—because of excessive barriers to trade.

While many agree with this view, it is hard to quantify the seriousness of the problem. Consequently, I was extremely impressed recently when the chairman of a major corporation laid out in graphic detail a bill of particulars concerning what is wrong with our trade policy. Through a series of 12 documented examples, this corporate official exposes some of the major impediments to a robust, coordinated and purposeful trade policy.

I do not agree that every obstacle identified should be changed. That is not really the point.

The point is that we have erected barriers to trade, especially as the administration is preparaing to release its findings from a year-long study of trade disincentives, and as Congress is evaluating numerous bills aimed at promoting trade and boosting productivity.

The following list of trade disincentives and their price to one company was submitted to the other body this summer by W. L. Wearly, chairman of Ingersoll-Rand Co. in Woodcliff, N.J. I commend it to your reading:

The list follows:

EXAMPLES OF U.S. EXPORT OBSTACLES

The following examples represent a cross-section of obstacles faced by U.S. firms in the export market. The illustrations can be classified generally as either (1) self-imposed government restrictions, or (2) inadequate government support. Items from both categories can be traced to an underlying cause of neglect—the low government priority given to export expansion. There has been no firm commitment nor strong trade leader to either challenge policies adversely impacting U.S. exports, or initiate programs to offset the government support given to foreign competitors. The U.S. government's structure has short-changed international business objectives. No mainline department is charged with the principal policy mission of strengthening U.S. competitiveness in world markets. As a result, the give-and-take between competing and at times conflicting policy objectives, U.S. export policy has suffered from lack of a strong organizational advocate.

1. In early 1978 Ingersoll-Rand lost $8 million worth of compressors for Acominas in Brazil to a Japanese firm. A major reason for the loss of the sale was that the Japanese government allows the development of country marketing strategies by consortiums of manufacturers. U.S. antitrust regulations would prohibit any similar joint planning between major U.S. companies to decide, for example, which firms would supply components for which plant on a rotating basis.

2. Ingersoll-Rand was offered an order from a Swedish international distributor for several compressors for use in hospitals in Vietnam. The order was eventually filled by a Swedish manufacturer when Ingersoll-Rand was turned down in its request to U.S. government for permission to ship this equipment.

3. In mid-1977 Ingersoll-Rand was negotiating with a European company, with whom they had previously done business, for $1 million worth of Rock Drills for Iraq. Because of restrictions relating to U.S. anti-boycott policy Iraq instructed the European buyer not to purchase from a U.S. company and the order was placed with a Swedish manufacturer.

4. In 1977 J. Ray McDermott Co., Inc., submitted a bid of approximately $25 million to Argentina for a gas pipeline. The contract was awarded to a French contractor for approximately $51 million. J. Ray McDermott Co., Inc.'s judgment is that the work was awarded to their French competitor because of payments which would have been illegal under U.S. law.

5. In mid-1977 Ingersoll-Rand was negotiating for $6 million worth of pumps and compressors with Fluor Corporation for Sasol plant expansion (including substantial technology and product duplication furnished by Ingersoll-Rand for the original coal conversion plant) in South Africa. Because of human rights considerations, Sasol decided not to consider U.S. manufactured equipment in view of the undependability of suppliers to obtain government authorizations to meet commitments. The U.S. government also refused financial support and

South Africa then obtained loans from Japan and France. Although some equipment was furnished by American-Japanese/French licensees, no major equipment was purchased from direct American sources.

6. In mid-1978 FMC Corporation had an order for fire trucks from South Africa. But since these were being ordered by the South African military, they could not accept the order under U.S. law. The only difference between these units and some they were already supplying to municipalities in South Africa was the color of the paint. In a state of emergency, the municipal units certainly could be preempted by the South African military. Thus, the U.S. government's regulations, in effect, excluded them from a significant volume of export business, with doubtful policy results. The real result was that the South African government ordered the units—$7 million worth of U.S. jobs and profits—from a German firm.

7. In early 1977 Ingersoll-Rand lost $3 million worth of compressors from Pemex in Mexico to Italian competitors. The Italian government and the Mexican government agreed upon a low interest loan partially repayable by barter which was more favorable than the Export-Import Bank was prepared to grant.

8. Babcock and Wilcox Division of J. Ray McDermott & Co., were negotiating with a Mexican company for $18 million worth of equipment for a power project. The Eximbank refused to offer financing unless the Mexican customer changed the specifications for the precipitator efficiency from the specified 97 percent to 98 percent as required by U.S. environmental standards. The customer refused to modify the specifications and the business was placed with a Swedish supplier.

9. In the fall of 1978 Ingersoll-Rand planned a private fair in Egypt to exhibit construction equipment. The U.S. Embassy in Egypt was asked to send a letter to the Cairo customs office to guarantee payment of customs duties on machinery not re-exported. The local commercial attache replied that his guidelines did not permit issuing such a letter unless the trade fair was controlled by a U.S. manager and had U.S. government participation. Ingersoll-Rand thus was denied the necessary letter and was unable to exhibit its products. A German competitor was able to get such a letter (a form letter) from the German Embassy in Egypt and therefore was able to exhibit and sell its products to Egypt.

10. The U.S. government has still done little in terms of exhibits, fairs, etc. for the U.S. businessman in the Peoples Republic of China. Last month Ingersoll-Rand, as an American corporation, had an exhibit in a British Energy Show to get our corporate presence advertised in the PRC. The United States is very late on this point and for years we have been riding on the coattails of our British and Canadian companies in Peking exhibits.

11. In 1972 Ingersoll-Rand Co. U.S.A. lost $2 million worth of gas engine machinery for Petrabras in Brazil to Ingersoll-Rand Co. Ltd. U.K. Eximbank terms were not competitive with the British terms which also specified that not more than 7 percent of the total job could be sources outside of the United Kingdom. Although it was not a real loss to Ingersoll-Rand Co., job hours in the U.S.A. were lost.

12. In early 1977 Ingersoll-Rand and other American companies were negotiating with the U.S.S.R. for over $200 million worth of equipment for a gas pipeline. Although the negotiations were successful the orders were held up and later placed with a European consortium because of human rights considerations and U.S.A. failure to grant most favored nation status to the U.S.S.R.●

ENERGY MOBILIZATION BOARD

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mr. JEFFORDS. Mr. Speaker, tomorrow we will take up consideration of the fast track energy legislation which would establish an Energy Mobilization Board. Expedited consideration of nonnuclear energy facility applications is in the best interest of our Nation. Energy Mobilization Board is one possible mechanism for reducing the inefficiencies in some agency procedures. However, I have major reservations about any proposed Energy Mobilization Board. To begin, any fast track program should be limited to more efficient application of existing and future laws and regulations to proposed energy facilities.

After months of debate on this issue, I have found absolutely no justification for having such a board or the President to waive Federal, State, or local laws or to assume the decisionmaking authority of Federal, State, and local officials currently responsible for energy facility siting or environmental protection.

I, therefore, urge my colleagues to support the Udall-Clausen-Wirth substitute and to oppose the Commerce Committee bill and the Santini-Lujan amendment to the Commerce bill. Under this substitute, the Energy Mobilization Board would establish a project decision schedule for the fast tracking of priority energy project applications by Federal, State, and local agencies. If any agency was dragging its feet, the Board could resort to the Federal courts to force the agency to comply with the decision schedule. Along with the more than 80 cosponsors of this substitute, I believe strongly that this enforcement mechanism is effective. Moreover, it is highly superior to the approach mandated by the Commerce Committee bill and perpetuated by the Santini-Lujan amendment: That of waiving established laws and preempting the decisionmaking authority of Federal, State, and local officials.

As I have indicated, the establishment of an Energy Mobilization Board is but one possible approach to eliminating undue duplication and delay from the processing of energy project applications. There is a significant danger that such a board will give little or no consideration to the environmental or social aspects of proposed facilities, and will instead do everything in its power to insure the implementation of proposed projects, no matter what their impacts or their merit.

In addition, I have found no evidence to suggest that the creation of yet another Federal bureaucracy will assist us in the delicate task of expeditiously balancing our need to reduce our reliance on foreign oil supplies with our pressing needs to control inflation and improve our Nation's social and physical environment.

For these reasons, I believe that an approach preferable to creation of an Energy Mobilization Board would be to establish carefully crafted programs and procedures under which existing Federal and State agencies would provide more efficient consideration of potentially important energy projects. Indeed, in April of this year President Carter ordered Federal agencies to do just that. Under Executive Order 12129, the Director of the Office of Management and Budget was directed to establish a critical energy facility program involving eight Federal Executive agencies, which would address the elimination of unnecessary duplication among Federal agencies and the establishment of joint Federal-State agency reviews.

On June 25, OMB placed a notice in the Federal Register requesting public comment on criteria for selecting critical facilities and on recommendations for specific facilities to be covered by the critical energy facility program. OMB received recommendations for 22 facilities to be given fast-track consideration. However, because the administration's proposal for an Energy Mobilization Board was sent to Congress at about this time, OMB decided not to proceess these recommendations or to take any further steps to implement the Executive Order.

There is every indication that, given a chance to work, OMB critical energy facility program would effectively provide expedited, yet balanced consideration of energy project proposals.

Unfortunately, political considerations regarding pending legislation have been a key source of delay in the Executive Office of the President. A positive and workable program proposed by the President in April has essentially been abandoned in favor of a dangerous and unworkable proposal contained in the Commerce Committee Energy Mobilization Board proposal now before the House.

I believe it is premature to assume we need drastic changes in laws passed to protect against proven disaster of the past. If future action is needed, let us consider it then.

I am submitting Executive Order 12129 and OMB's Federal Register notice for my colleagues' careful appraisal:

[Executive Order 12129, Apr. 5, 1979]

CRITICAL ENERGY FACILITY PROGRAM

By the authority vested in me as President by the Constitution and statutes of the United States of America, and in order to provide for timely coordinated Federal decisions on critical energy facility permit applications, it is hereby ordered as follows:

1–101. The Director of the Office of Management and Budget shall establish a Critical Energy Facility Program.

1–102. The Director of the Office of Management and Budget, after consulting with the Executive agencies listed in Section 1–103, shall make recommendations to the President as to which non-nuclear facilities should be included in the Program. The President shall identify non-nuclear energy facilities which he deems to be of critical national importance and which need Federal permits for siting, construction, or operation. Those facilities shall be included in the Program. The Director of the Office of Management and Budget shall establish a system through which deadlines will be established for final administrative decision-making by Executive agencies, consistent with statutory requirements.

1-103. The following Executive agencies shall participate in the Program and the Director of the Office of Management and Budget may invite others to participate where appropriate:

(a) Department of the Interior.
(b) Department of Agriculture.
(c) Department of Commerce.
(d) Department of Transportation.
(e) Department of Energy.
(f) Environmental Protection Agency.
(g) Council on Environmental Quality.
(h) Department of the Army.

1-104. Each Executive agency in the Program shall submit such data and information as the Director of the Office of Management and Budget may require with respect to a critical energy facility, including:

(a) Date a completed application is expected to be received from the sponsors of a critical energy facility project.

(b) Targeted final decision date for each significant permit or statutory review.

(c) Compilation of the actions required of other Executive agencies before a participating Executive agency may make a final decision.

(d) Compilation of significant actions required of non-Federal authorities before a participating Executive agency may make a final decision.

(e) Compilation of significant actions required of the applicant before a final decision may be made.

(f) Progress reports, including reasons for any changes in any targeted final decision dates.

1-105. On the basis of information received pursuant to Section 1-104, the Director of the Office of Management and Budget will provide to the President, to the participating Executive agencies, to the Governor of any affected State, and to the applicant a schedule of deadlines for Federal actions concerning each critical energy facility.

1-106. The Director of the Office of Management and Budget shall provide for appropriate interagency mechanisms for the conduct of multiple agency reviews; but, only where such reviews are consistent with the statutory obligations of the agencies, and only when such reviews will assist in the expeditious processing of facility permits.

1-107. The Director of the Office of Management and Budget shall assist participating Executive agencies with the establishment of joint Federal and State and local agency reviews. Such assistance shall be limited to those circumstances which are consistent with the legal obligations of the reviewing Federal and State and local agencies, and which will result in the expeditious processing of facility permits.

1-108. The Director of the Office of Management and Budget shall keep the President informed on agency performance in meeting scheduled decision deadlines.

1-109. The Director of the Office of Management and Budget shall, where appropriate, coordinate the procedures established herein with those procedures adopted by the Council on Environmental Quality pursuant to Executive Order No. 11991 (40 CFR Parts 1500-1508).

1-110. Nothing in this Order is intended to modify in any way (a) the review and decision-making responsibilities imposed by Federal or State statutes, or (b) the opportunity for timely State and local government and public participation in agency decision-making.

JIMMY CARTER.

THE WHITE HOUSE, *April 5, 1979.*

[Office of Management and Budget]

REQUEST FOR PUBLIC COMMENT ON PROPOSED CRITERIA FOR USE IN IMPLEMENTING EXECUTIVE ORDER 12129; CRITICAL ENERGY FACILITY PROGRAM

(June 19, 1979)

Agency: Office of Management and Budget.

Action: Request for public comment on proposal to implement the Critical Energy Facility Program.

Summary: Public comment is requested on the accompanying criteria, proposed by the Office of Management and Budget for use in selecting non-nuclear energy facilities for inclusion in the Critical Energy Facility Program pursuant to Executive Order 12129. (44 FR 21001, April 9, 1979).

Public recommendations are requested as to specific facilities which should be considered for inclusion in the program. Such recommendations should be accompanied by an explanation of the reasons why the recommended facility should be considered for inclusion under the proposed criteria or alternative criteria recommended by the commenting party.

Dates: Comments must be received on or before Friday, July 20, 1979.

Address: Send comments to: The Associate Director for Natural Resources, Energy and Science, Room 262, Old Executive Office Building, Washington, D.C. 20503.

For further information contact: Ron Kienlen, Room 465, Old Executive Office Building, Washington, D.C. 20503, Phone 395-5600.

Supplementary information: Executive Order 12129 directs the Director of the Office of Management and Budget to establish a Critical Energy Facility program in order to provide for timely coordinated Federal decisions on permit applications for non-nuclear energy facilities which the President deems to be of critical national importance. The following criteria are proposed for use by the Office of Management and Budget in fulfilling its responsibility to make recommendations to the President as to which non-nuclear energy facilities should be included in the Critical Energy Facility Program. Briefly, recommendations for inclusion will be based on the national importance of a facility, the degree of Federal involvement by covered agencies, and the need for timely, coordinated Federal decisionmaking as indicated by the number and complexity of Federal review requirements.

PROPOSED CRITERIA

Office of Management and Budget Executive Order 12129

Pursuant to Executive Order 12129, the Office of Management and Budget proposes to use the following criteria in developing recommendations to the President as to which non-nuclear energy facilities should be included in the Critical Facilities Program.

1. *Critical National Importance.* Those facilities will be considered for inclusion for which Federal agency decisions are of critical national importance because, if constructed and operated as proposed:

a. the facility's operation could yield a substantial reduction in oil imports; or

b. the facility would embody a new, untested technology with significant potential for substantial future import reductions; or

c. the facility could produce substantial national economic benefits; or

d. the facility could yield a substantial reduction in consumer costs; or

e. the facility could benefit the national security.

2. *Significant Federal Involvement.* Given that the purpose of the Critical Energy Facility Program is to provide for timely coordinated Federal decisions, a facility must be subject to significant Federal reviews by participating agencies with some likelihood of delay in order to be considered for inclusion. This criterion will exclude facilities for which decisions by covered Federal agencies are not essential to the facility's progress, and facilities for which there is little probability of delay due to Federal review process.

Issued in Washington, D.C., on the 16th day of June 1979.

ELIOT R. CUTLER,
Associate Director for Natural Resources, Energy and Science.

[FR Doc. 79-19856 Filed 6-22-79; 6:45 a.m.] ●

PROGRESS IN FUSION ENERGY

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 29, 1979

● Mr. STARK. Mr. Speaker, I would like to bring to the attention of my colleagues the following article from the Wall Street Journal about the development of fusion power. The article aptly describes the fusion process and the present state of our national fusion energy program.

The article follows:

[From the Wall Street Journal, Aug. 28, 1979]

PROSPECTS FOR ENERGY FROM NUCLEAR FUSION ARE IMPROVING AGAIN

(By Arlen J. Large)

PRINCETON, N.J.—For 28 years scientists have been struggling to re-create on earth the same source of sustained energy that powers the sun. After an initial glow of optimism, researchers on nuclear fusion went through a gloomy period of disappointment and frustration as experiments kept failing. Now, however, their mood is upbeat again.

So optimistic are fusion workers about recent scientific progress that they're getting impatient with the government's stately timetable stretching out research for another 40 years. Not until the year 2020, according to Energy Department plans, will fusion's tremendous heat be making electricity on a commercial basis.

One who would like to go faster is Melvin Gottlieb, director of the Princeton University Plasma Physics Laboratory here. "This is comparable to the effort to produce a bomb in the war," he says, "except that we aren't going at it on the same urgent basis." The pace "absolutely" could be speeded up, he says.

In fusion work, "plasma" is hydrogen gas so hot that its individual nuclei fuse together to produce helium and release energy. What's eye-catching for the layman is that the hydrogen can be obtained from a limitless supply of sea water, though the fuel source actually is more complicated than that. Fusion of the nuclei of hydrogen, the lightest natural element, releases more energy than the splitting (or fission) of uranium, the heaviest, which has been producing commercial electricty for years amid growing controversy.

FEW ENEMIES

Fusion fans say their method doesn't have fission's safety problems. While there are doubters among environmentalists, fusion probably won't attract many committed enemies until actual electricity-producing reactors are closer to reality. What's generally undisputed at this point is that fusion is ready to make the leap from the scientific laboratory to the engineering drawing boards.

"This is the year in which we can finally say that man can make and control a plasma of burning fusion fuel on earth with reasonably sized and reasonably simple equipment," says Edwin Kintner, director of the Energy Department's office of fusion energy. "This is a thought which is shared worldwide by people working in the fusion field."

And world-wide the field is, reflecting the willingness of rich governments to spend money on what they see as a promising future source of energy. Outside the U.S., aggressive research programs are moving ahead in Western Europe, Japan and the Soviet Union. Indeed, the annual U.S. fusion-research budget of $510 million accounts for just one-third of the world-wide effort.

GOVERNMENT MONEY

Because most of the work has no military application, there is a free and easy exchange of research data. Japan this year is putting up $12.5 million for fusion work in California.

In this country and abroad, fusion research depends almost entirely on government bankrolls. Energy Department officials estimate that the U.S. government will have spent $18 billion on this technology by the time it's ready to produce commercial electricity in the next century. But in the coming decades fusion will have to compete hard for research dollars with other potential sources of energy for central electricity-generating stations: fission-breeder reactors, electrified coal gas, solar-power satellites.

So far the expensive machines needed for fusion research have been built at government laboratories or at university campuses like Princeton. John Deutch, research director at the Energy Department in Washington, would like to see contracts awarded to private companies to build and operate future fusion-research machines. The companies wouldn't, however, be required to put up their own money, and the government has no plan to try to recapture its fusion-development costs from electric utilities that eventually may use the technology. Early-stage development of these new energy sources, says Mr. Deutch, "is a national responsibility."

HOW THEY WORK

Researchers think a fusion reactor could make commercial electricity along these lines:

A hollow metal doughnut is filled with a special mixture of hydrogen gas and heated to more than 100 million degrees Celsius, four times hotter than the center of the sun. Magnets surrounding the doughnut keep the electrified plasma from burning the walls. Nuclei of the hydrogen atoms fuse together to make new helium atoms, while releasing a shower of the atomic particles called neutrons. The neutrons, carrying 80% of the energy of the fusion reactions, bang into an outside blanket of lithium metal, making it hot. The heat is turned into steam, which drives the generator that turns on your light bulb.

That's one of many different conceptions, none of which has actually been tried. Princeton scientists using test doughnut devices called tokamaks have been fusing hydrogen and making neutrons at temperatures of up to 75 million degrees, but they're putting more start-up energy into the machines than comes back out.

Under construction here is the biggest tokamak yet, scheduled for completion in 1982. The scientists here are increasingly confident that by 1984 the machines will pass the break-even point, producing more energy than goes in, and by a significant amount.

The tokamak doughnuts, invented in the Soviet Union, have seemed to solve the problem of keeping the hot hydrogen plasma inside a stable magnetic "bottle," safely away from the metal walls. A famous experiment here last summer, though put down by Science magazine as a "media event" because of excited reports of a "breakthrough," nevertheless was important because it showed that plasma in the doughnut wouldn't break up at high temperatures.

While tokamak technology is the furthest advanced, the Energy Department continues to put chips on other potential fusion methods. Its long-term plan for picking the winning technique for commercial development looks for all the world like the elimination brackets of a basketball tournament.

An alternative to the doughnut is a cylinder in which hydrogen plasma also is confined magnetically. To keep the plasma from seeping out the ends of the cylinder, magnetic fields or other devices serve as "mirrors" at each end. One such machine is being tested at the government-financed Lawrence Livermore Laboratory in California.

A DECISION IN 1984

The first elimination is scheduled to come in 1984, when the Energy Department chooses between tokamaks and mirrors. The winning concept will be incorporated into a new machine called an engineering test facility scheduled to start operating in 1992. Princeton's Mr. Gottlieb and others rooting for a faster pace think work could start right away on certain parts of this machine that will be needed either for tokamaks or mirrors, no matter how the decision goes.

In 1997, according to the current schedule, officials will decide the fate of an entirely different way of fusing hydrogen to make energy. Work is under way at Lawrence Livermore Laboratory, the Los Alamos Scientific Laboratory and elsewhere on zapping a hydrogen-filled pellet with high-energy beams, either of laser light or atomic particles. The temperature in the pellet gets so high that fusion occurs, releasing the telltale shower of neutrons. To produce commercial electricity, a way must be found to shoot new pellets continuously into a chamber to be zapped by the high-energy beams.

Some researchers complain that work on this technique is hampered because some of it is classified as secret. The exact design of the pellet is related to what makes a hydrogen bomb go off.

AN OPERATING PROTOTYPE

The Energy Department's Mr. Deutch says pellet fusion "isn't in the same state of maturity" as plasmas confined in tokamaks or mirrors, which are being engineered specifically for commercial electrical production someday. Whatever technique looks most promising in 1997, however, will become the basis for a $1 billion engineering prototype reactor that will start operating in 2004.

The government's final effort, a scaled-up "demonstration" reactor using the winning technology, is scheduled for operation in 2015. Thereafter, private utilities would be expected to start building their own fusion plants, using all the scientific and engineering data the government has developed.

This is too long a wait for fusion's go-faster faction. Democratic Rep. Mike McCormack of Washington, a leading fusion fan in Congress, wants to have "the first commercial demonstration fusion plant on line by the year 2000." Energy research boss Deutch tries to placate such proponents by saying the timetable for those distant years is "flexible" and could be stepped up if future Congresses and future energy bureaucracies choose.

Fusion also has, however, a go-slower faction that wants to make sure that technical and environmental problems are solved before the government commits itself to a final design. The problems most often mentioned deal with the hydrogen fuel of a tokamak or mirror reactor.

The reaction that can occur at the most easily reached temperature requires two special forms of hydrogen: isotopes called deuterium and tritium. Deuterium can be obtained from sea water. Tritium doesn't occur in nature, but it can be produced artificially from lithium when those neutrons hit the metal during a fusion reaction. So most of the contemplated machines will breed their own tritium.

Tritium, however, is radioactive and will require special handling techniques and disposal methods. This disturbs the go-slow faction.

For example, the Union of Concerned Scientists, which wants no more of the current fission reactors built until disposal sites for the nuclear waste are found, thinks the government should investigate fusion technologies other than the deuterium-tritium approach. Steven Nadis, a research analyst for the union in Cambridge, Mass., says that at higher temperatures than those currently planned some particles will fuse to produce direct electric current without any neutron bombardment or radioactivity. However, he concedes that use of these so-called "advanced" fuels at higher temperatures "admittedly will be more difficult to achieve." ●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings, when scheduled, and any cancellations, or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the Congressional Record on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, October 30, 1979, may be found in the Daily Digest of today's Record.

Meetings Scheduled

OCTOBER 31

8:00 a.m.

Energy and Natural Resources

To hold hearings on the nominations of Ruth M. Davis, of Maryland, to be an Assistant Secretary of Energy (Resource Applications); William W. Lewis, of the District of Columbia, to be an Assistant Secretary of Energy (Policy and Evaluation); and Charles B. Curtis, of Maryland, to be a Member of the Federal Energy Regulatory Commission.

3110 Dirksen Building

9:30 a.m.

Commerce, Science, and Transportation

To hold joint oversight hearings with the Select Committee on Small Business and the House Committees on

Small Business and Science and Technology to review proposed technical methods for industrial development.
1202 Dirksen Building

Select on Small Business
To hold joint oversight hearings with the Committee on Commerce, Science, and Transportation and the House Committees on Small Business and Science and Technology to review proposed technical methods for industrial development.
1202 Dirksen Building

Select on Small Business
To hold hearings to review the impact of private and commercial credit reporting services on small business, to focus on the accuracy, reliability, and accessibility of information released by such services.
424 Russell Building

10:00 a.m.

Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To hold oversight hearings on the truth-in-lending enforcement activities of Federal financial regulatory agencies.
5302 Dirksen Building

Environment and Public Works
Water Resources Subcommittee
To continue consideration of S. 703, to provide for the study, advanced engineering, and design and/or construction of certain public works projects for navigation and flood control on rivers and harbors in the U.S. and trust territories.
4200 Dirksen Building

Finance
Business meeting on pending nominations and calendar business.
2221 Dirksen Building

Foreign Relations
Business meeting, to resume markup of the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).
4221 Dirksen Building

Judiciary
To hold hearings on the current refugee crisis in Cambodia.
2228 Dirksen Building

Rules and Administration
To hold hearings on S. 392 and 597, bills to assure access for the elderly and handicapped to polling and registration locations for Federal elections; and other legislative and administrative business.
301 Russell Building

Joint Economic
To hold hearings to examine the current unemployment trend in relation to the increase in criminal activity.
210 Cannon Building

2:00 p.m.

Environment and Public Works
Nuclear Regulation Subcommittee
To hold joint hearings with the House Subcommittee on Energy and the Environment of the Committee on Interior and Insular Affairs to receive a briefing from the President's Commission on the Three Mile Island nuclear accident.
318 Russell Building

2:30 p.m.

Finance
Taxation and Debt Management Generally Subcommittee
To hold hearings on S. 246, 1488, and 1846, bills to allow taxpayers to exclude interest income earned from a savings account from gross income; S. 1638, to permit owners of new businesses to write off their initial expenditures; S. 1703, to provide a tax exclusion from personal income earned abroad from charitable services; S. 541, to provide that the election to use the alternate valuation date may be made on an estate tax return that is filed late; S. 999, to exempt taxpayers who file late tax payments from interest penalties; S. 555, to permit the owners of independent local newspapers to make tax deductible contributions to trusts established for the eventual payment of estate tax; and S. 1543, to defer current Federal income tax on dividends reinvested in original issue stock of a company.
2221 Dirksen Building

NOVEMBER 1

9:00 a.m.

Armed Services
General Procurement Subcommittee
To hold oversight hearings to review past and current Soviet defense expenditures and programs.
1114 Dirksen Building

9:30 a.m.

Appropriations
Military Construction Subcommittee
To mark up H.R. 4391, making appropriations for military construction programs of the Department of Defense.
S-128, Capitol

Judiciary
Constitution Subcommittee
To resume hearings on proposals advocating a balanced Federal budget or restricting in some way the growth of Federal outlays which include S.J. Res. 2, 4, 5, 6, 7, 9, 10, 11, 13, 16, 18, 36, 38, 45, 46, and 56.
6226 Dirksen Building

Select on Small Business
To continue hearings to review the impact of private and commercial credit reporting services on small business to focus on the accuracy, reliability, and accessibility of information released by such services.
424 Russell Building

Select on Small Business
To continue oversight hearings with the House Committees on Small Business and Science and Technology to review proposed technical methods for industrial development.
2318 Rayburn Building

10:00 a.m.

Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To continue oversight hearings on the truth-in-lending enforcement activities of Federal financial regulatory agencies.
5302 Dirksen Building

*Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Finance
Business meeting on pending nominations and calendar business.
2221 Dirksen Building

Foreign Relations
Business meeting, to continue markup of the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).
4221 Dirksen Building

Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To hold hearings on S. 1411, proposed Paperwork and Redtape Reduction Act.
3302 Dirksen Building

11:00 a.m.

Conferees
Closed, on H.R. 595, to authorize the Administrator of General Services to dispose of 35,000 long tons of tin in the national and supplemental stockpiles, and to provide for the deposit of money received from the sale of such tin.
Room S-126, Capitol

2:00 p.m.

Conferees
On S. 239, authorizing funds through fiscal year 1981 for programs under the Domestic Volunteer Service Act.
S-206, Capitol

NOVEMBER 2

9:30 a.m.

Judiciary
To resume hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.
2228 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs
To hold hearings on a proposal to transfer the functions of the Cost Accounting Standards Board to the General Accounting Office.
5302 Dirksen Building

Finance
Business meeting on pending nominations and calendar business.
2221 Dirksen Building

Foreign Relations
Business meeting, to continue markup of the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).
4221 Dirksen Building

Governmental Affairs
To resume oversight hearings focusing on the organizational and management aspects of the Department of Energy.
3302 Dirksen Building

Joint Economic
To hold hearings on the employment-unemployment situation and price data information for October.
6226 Dirksen Building

2:30 p.m.

Finance
Taxation and Debt Management Generally Subcommittee
To hold hearings on S. 1691, to create an appellate court with exclusive jurisdiction over all Federal civil tax appeals.
2221 Dirksen Building

NOVEMBER 5

9:30 a.m.

Judiciary
To resume hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.
2228 Dirksen Building

*Labor and Human Resources
Handicapped Subcommittee
To hold oversight hearings on the implementation of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (P.L. 95-602).
4232 Dirksen Building

10:00 a.m.

Select on Indian Affairs
To hold hearings on S.J. Res. 108, to validate the effectiveness of certain plans for the use or distribution of funds to pay judgments awarded to Indian tribes.
Room to be announced

NOVEMBER 6

9:00 a.m.

Agriculture, Nutrition and Forestry
Agricultural Credit and Rural Electrification Subcommittee

To hold oversight hearings to examine the current operations of the Farmers Home Administration, focusing on recent problems relating to the outstanding debt to the agency and personnel problems associated with loan supervisions and counseling; also to examine the implementation of the guaranteed agricultural loan programs and the economic disaster loan program; and to review the installation of a management information system at the agency.
323 Russell Building

9:30 a.m.
Governmental Affairs
Intergovernmental Relations Subcommittee
To resume hearings on S. 1108, to provide relocation assistance and guidelines for displacement of individuals who are forced to leave their homes and neighborhoods because of Federally funded projects.
3302 Dirksen Building

Judiciary
Business meeting on pending legislation and nominations.
2228 Dirksen Building

Select on Small Business
To resume hearings to examine the economic outlook for the small business.
424 Russell Building

NOVEMBER 7

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on S. 1946, proposed Railroad Transportation Policy Act.
235 Russell Building

9:30 a.m.
Governmental Affairs
Intergovernmental Relations Subcommittee
To continue hearings on S. 1108, to provide relocation assistance and guidelines for displacement of individuals who are forced to leave their homes and neighborhoods because of Federally funded projects.
1318 Dirksen Building

Labor and Human Resources
To hold hearings on S. 1089, to revise the reporting and recordkeeping requirements under the Employee Retirement Income Security Act (ERISA) and to enforce the IRS Code requirement with respect to pension plans.
4232 Dirksen Building

Labor and Human Resources
Handicapped Subcommittee
To continue oversight hearings on the implementation of the Rehabilitation, Comprehensive Service, and Developmental Disabilities Amendments of 1978 (P.L. 95-602).
457 Russell Building

10:00 a.m.
Environment and Public Works
Environmental Pollution and Resource Protection Subcommittees
To resume joint markup of S. 1480, 1325, and 1341, bills to provide for adequate and safe treatment of hazardous substances being released into the environment.
4200 Dirksen Building

Governmental Affairs
To resume oversight hearings focusing on the organizational and management aspects of the Department of Energy.
3302 Dirksen Office Building

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

2:30 p.m.
Finance
Taxation and Debt Management Generally Subcommittee
To hold hearings on H.R. 2797, making technical, clerical, conforming, and clarifying amendments to provisions of the Revenue Act of 1978.
2221 Dirksen Building

NOVEMBER 8

9:00 a.m.
Commerce, Science, and Transportation
To continue hearings on S. 1946, proposed Railroad Transportation Policy Act.
235 Russell Building

10:00 a.m.
Environment and Public Works
Environmental Pollution Subcommittee
To hold hearings on S. 1136, to develop an integrated program of financial assistance to provide States and local governments with greater flexibility in handling various environmental programs.
4200 Dirksen Building

Labor and Human Resources
Education, Arts, and the Humanities Subcommittee
To mark up S. 1386, authorizing funds through fiscal year 1985 for the National Endowment for the Arts, the National Endowment for the Humanities, and Institute of Museum Services; and S. 1429, authorizing funds through fiscal 1982 for programs under the Museum Services Act.
4232 Dirksen Building

Select on Indian Affairs
To hold hearings on S. 1273, to restore Federal recognition to certain bands of Paiute Indians.
Room to be announced

10:30 a.m.
Labor and Human Resources
Health and Scientific Research Subcommittee
To mark up S. 988, authorizing funds through fiscal year 1983 to increase the effectiveness of research in biomedical sciences.
155 Russell Building

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

NOVEMBER 9

9:30 a.m.
Commerce, Science, and Transportation
To continue hearings on S. 1946, proposed Railroad Transportation Policy Act.
235 Russell Building

Judiciary
To resume hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.
2228 Dirksen Building

10:00 a.m.
Environment and Public Works
Environmental Pollution and Resource Protection Subcommittees
To resume joint markup of S. 1480, 1325, and 1341, bills to provide for adequate and safe treatment of hazardous substances being released into the environment.
4200 Dirksen Building

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold oversight hearings on title III, providing aid to developing institutions, of the Higher Education Act.
4232 Dirksen Building

NOVEMBER 13

10:00 a.m.
Governmental Affairs
To resume oversight hearings focusing on the organizational and management aspects of the Department of Energy.
3302 Dirksen Building

NOVEMBER 14

9:30 a.m.
*Commerce, Science, and Transportation
To resume oversight hearings to review proposed technical methods for industrial development.
235 Russell Building

Foreign Relations
To hold hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2d sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).
4221 Dirksen Building

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold joint hearings with the Committee on Commerce, Science, and Transportation on S. 1408 and 1650, bills to provide for the development of aquaculture in the United States.
324 Russell Building

Commerce, Science, and Transportation
To hold joint hearings with the Subcommittee on Agricultural Research and General Legislation of the Committee on Agriculture, Nutrition, and Forestry on S. 1408 and 1650, bills to provide for the development of aquaculture in the United States.
324 Russell Building

Governmental Affairs
To continue oversight hearings focusing on the organizational and management aspects of the Department of Energy.
3302 Dirksen Building

NOVEMBER 15

9:30 a.m.
Foreign Relations
To continue hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2d sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).
4221 Dirksen Building

Governmental Affairs
Intergovernmental Relations Subcommittee
To resume oversight hearings to examine the scope of the general revenue sharing policy.
3302 Dirksen Building

10:00 a.m.
Governmental Affairs
To continue oversight hearings focusing on the organizational and management aspects of the Department of Energy.
3302 Dirksen Building

NOVEMBER 16

9:30 a.m.
Foreign Relations
To continue hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty

(Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2d sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).

4221 Dirksen Building

10:00 a.m.

Finance

Public Assistance Subcommittee

To hold oversight hearings on alleged fraud and mismanagement practices within HEW directed toward erroneous State payments to recipients of the Aid to Families with Dependent Children and Medicaid programs under the Social Security Act.

2221 Dirksen Building

NOVEMBER 20

9:30 a.m.

•Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings on S. 1250, to develop techniques for analyzing and stimulating technological and industrial innovation by the Federal Government.

5110 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation

Merchant Marine and Tourism Subcommittee

To resume hearings on S. 1460, 1462, and 1463, bills to facilitate and streamline the implementation of the regulatory part of the U.S. maritime policy.

235 Russell Building

Select on Indian Affairs

To hold hearings on S. 1730 and 1832, bills to declare certain lands in the States of Arizona and New Mexico to be Indian reservation lands.

Room to be announced

NOVEMBER 26

10:00 a.m.

Select on Indian Affairs

To hold hearings on S. 1855, authorizing funds through fiscal year 1982 to provide technical assistance for tribally controlled community colleges.

Room to be announced

NOVEMBER 28

10:00 a.m.

Select on Indian Affairs

To hold hearings on S. 1466, to provide for distribution of certain judgment funds in favor of the Delaware Tribe of Indians and the absentee Delaware Tribe of Western Oklahoma.

Room to be announced

DECEMBER 4

10:00 a.m.

Select on Indian Affairs

To hold hearings on S. 1507, to provide for the purchase of certain facilities, lands, and water rights in and around the San Luis Rey River and Lake Henshaw, California, to be operated and maintained by specified bands of Mission Indians.

Room to be announced

SENATE—*Tuesday, October 30, 1979*

(Legislative day of Monday, October 15, 1979)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by Hon. MAX BAUCUS, a Senator from the State of Montana.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray:

Our restless spirits yearn for Thee,
Wher-e'er our changeful lot is cast,
Glad when Thy gracious smile we see,
Blest when our faith can hold Thee fast.

—ANONYMOUS.

Our Father-God, amid the turbulence, peril and change of these uncertain days we lift our prayer to Thee for wisdom and grace. May the words of our mouths and the meditations of our hearts be acceptable in Thy sight. Keep our goals clear, our hearts pure, our spirits courageous, and grant us power to match great needs with great deeds. We pray in that Name that is above every name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 30, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MAX BAUCUS, a Senator from the State of Montana, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. BAUCUS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may be able to reserve my time under the standing order so as to follow Mr. YOUNG, who has an order.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I make the same, identical request to follow with leader time after the distinguished ranking member of the Appropriations Committee.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR YOUNG

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from North Dakota (Mr. YOUNG) is recognized for not to exceed 15 minutes.

S. 1953—A MEDAL FOR LOUIS L'AMOUR

Mr. YOUNG. Mr. President, I send to the desk a bill cosponsored by my colleagues, Senators BURDICK, WALLOP, KASSEBAUM, and THURMOND, which would authorize a specially struck gold medal for Louis L'Amour. This is in recognition of his distinguished career as a very outstanding author and his great contributions to the Nation through his historically based writings.

Louis L'Amour is very well known for his historical novels about the American frontier. Too often we only know of the great names in history, when so many others have done so much to build our country and the character of our people. It is these people whom he honors, by telling in his unique way the actual story of their struggle to survive in the wilderness and their success in shaping a great nation. In the hearts and minds of his readers, Louis L'Amour brings alive the story of this important era.

Although his books are fiction, they are based almost entirely on historical records such as diaries which, through extensive and exhaustive research, he has been able to find. These diaries, which were kept by a high percentage of the pioneers who ventured westward in the warlike Indian territory and other areas, are filled with important history of this very significant chapter in our Nation's past.

I am proud that Louis L'Amour is a native North Dakotan. Born in Jamestown, he grew up listening to stories of the hard and bitter life of the frontier days.

He left home at an early age, traveled extensively and experienced many walks of life which served to enhance his understanding of the settlement of this vast land. He then began his writing career.

With over 95 million books sold, Louis L'Amour is now the best selling author of historically based novels about the American frontier. His 75th book will appear in January, and by June, his sales are expected to total over 100 million.

Millions of people throughout the United States read Louis L'Amour novels, and I understand that many of my colleagues in the Senate are among them. Of equal importance, his works have been translated into 19 languages and are read by an untold number of people around the world. His books are read by people from ages 9 to 98 and from all walks of life. His publisher estimates that each book printed will be read by five people. Successful motion pictures and television programs have been based on his novels.

A large part of Louis L'Amour's success can be attributed to his painstaking attention to detail. Although fictional, his novels are based on actual places, people, and events throughout all areas of the country. History and natural history are woven into the texture of each story. His works are authentic.

Louis L'Amour is an award-winning author. Among his more illustrious awards are the Golden Plate Award of the American Academy of Achievements; the William F. Cody Award; the Theodore Roosevelt Roughrider Award; the Western Writers of America Golden Spur Award; and the University of Oklahoma Professional Writing Award.

Louis L'Amour is an outstanding American. He has dedicated his life to writing the unwritten story of the American frontier. By nominating Louis L'Amour for the national gold medal, we are recognizing his great contributions to the Nation and affirming our continued dedication to our most cherished values. I am sure that when people, especially future historians, look back on his writings, they will find them to be among the most authoritative on the settlement of the American frontier.

Mr. President, innumerable letters expressing great commendations for Louis L'Amour and his work have been received and will be referred to the committee which will consider this bill. I ask unanimous consent to have printed in the Record as a part of my remarks the letter I received from the Honorable Arthur A. Link, Governor of the State of North Dakota.

I also ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill and letter were ordered to be printed in the Record, as follows:

S. 1953

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President of the United States is authorized to present, on behalf of the Congress, to Louis L'Amour, a gold medal of appropriate design in recognition of his distinguished career as an author and his contributions to the Nation through his historically based works. For such purpose, the Secretary of the Treasury is authorized and directed to cause to be struck a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary of the Treasury. There are authorized to be appropriated not to exceed $15,000 to carry out the provisions of this subsection.

(b) The Secretary of the Treasury may cause duplicates in bronze of such medal to be coined and sold under such regulations as he may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the appropriation used for carrying out the provisions of this subsection shall be reimbursed out of the proceeds of such sale.

(c) The medals provided for in this Act are national medals for the purpose of section 3551 of the Revised Statutes (31 U.S.C. 368).

August 22, 1979.

Hon. Milton R. Young,
Dirksen Building,
Washington, D.C.

Dear Senator Young: I have been advised that consideration is being given to presenting Mr. Louis L'Amour with the Congressional Gold Medal.

Mr. L'Amour is one of our exceptional North Dakota citizens. I believe he is very deserving of this award and I assure you that such an effort on his behalf has my whole-hearted approval.

I would appreciate anything you can do. Thank you very much for your assistance.

With best regards,
Sincerely yours,
Arthur A. Link,
Governor.

Mr. BURDICK. Will the Senator yield?

Mr. YOUNG. I am happy to yield to my colleague.

Mr. BURDICK. Mr. President, it is a pleasure for me to rise today in support of this legislation proposed by my distinguished colleague, the senior Senator from North Dakota (Mr. Young). Recently, we have witnessed throughout the country a widespread growth in historical inquiry about our past, the many people and cultures who have built our country. The fine writing of Louis L'Amour, native of North Dakota, has made a significant aspect of that history vividly present for the great numbers of people across the Nation who have read his books. I urge my colleagues in the Senate to give favorable consideration to this proposal to acknowledge the memorable work of Mr. L'Amour.

Mr. YOUNG. Mr. President, I ask unanimous consent that the distinguished Senator from Alaska (Mr. Stevens) be added as a cosponsor of the bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

● Mr. WALLOP. Mr. President, I am pleased to cosponsor Senator Young's resolution authorizing a specially struck gold medal to Louis L'Amour for his significant contributions in the field of American frontier literature. This award would recognize his distinguished career as an American author who brought the life of the frontiersman to the attention of the American public.

Louis L'Amour is more than a successful writer with over 70 books to his credit. He is an American institution and an integral part of many Americans' understanding of the West. He is a prolific writer of American folklore creating a portrait of the hard working courageous breed of frontiersmen who made the West and helped build the foundations of America. The novels of Louis L'Amour are inspirational, portraying an important era of American history in a vivid manner. Although his books are fiction, he is renowned for his painstaking approach to detail. Each of his books maintains the high quality of historical detail and offers substantive accounts of actual occurrences.

Louis L'Amour has received numerous awards of distinction for his outstanding work in the area of frontier literature: The Theodore Roosevelt Rough Riders Award; the Old West Trail, William F. Cody Award; the Golden Plate Award from the American Academy of Achievement; the Western Writers of American Golden Spur Award; and the University of Oklahoma Professional Writers' Award.

Louis L'Amour is devoted to the glorious history of America and its value to our future. Through his writings Americans have gained a better understanding of our heritage. With worldwide sales of over 95 million books in 19 foreign languages, Louis L'Amour is the authority of the American West and the American dream of courage and expanding horizons. For countless people around the world the details of the early American life of the West have come alive and because of them America and the ideal of courage and decency have come to have one meaning. He deserves the honor and recognition of his countrymen. He has done much to further the spirit of America both at home and abroad.●

Mr. YOUNG. Mr. President, I want to read into the Record an important statement by my distinguished friend, Senator Goldwater.

Mr. President, it is no exaggeration for me to say I believe I have read every book or story that Mr. Louis L'Amour has written. Being a native westerner living in the part of the country where most of his stories have been written about, I can attest to their accuracy. He is a most unique author, thorough, well versed, knowledgeable, and tells a story in a fascinating way. I am happy to join Senator Young in his commendations to this well deserving man.

Mr. President, I recently received a copy of the book, "Arizona." It is a beautifully done book, with gorgeous pictures by David Muench. The most interesting text was written by our colleague, Barry Goldwater. It is an outstanding book. The prolog to it was also written by Senator Goldwater about his grandfather and his grandfather's brother, who came to this country in the middle of the last century and were among the first to go to Arizona. This prolog by Senator Goldwater is a fascinating story of how the Goldwaters first settled in Arizona. They were among the first to settle there and so typical of American pioneers.

I ask unanimous consent that that be printed in the Record also as a part of my remarks.

There being no objection, the prolog was ordered to be printed in the Record, as follows:

PROLOGUE

Having been born in the territory of Arizona and having lived in the State all my life, I feel well qualified to serve as a spokesman for Arizona, to praise its splendors, to celebrate the spirit of its people. My family's roots reach far back into Arizona's past, and both sides of my family embody the pioneer spirit that made possible the settlement and growth of the state.

My father's father, Michael Goldwater, was impelled not only by the enterprising spirit that drove people west to make new lives for themselves on the frontier, but also by the yearning for religious freedom and a democratic way of life that led so many Europeans to leave the world of their fathers and cast their lot with the New World. "Big Mike" and his brother Joseph left their native Poland and, after brief stays in Germany and England, came to the United States in 1852. Once in this country, they became part of the great wave of emigrants who were lured to the California goldfields. In England they had worked as capmakers, and they started out in a humble way in America too, selling goods to men at the mining camps. My grandfather decided to move on once more, to what would become Arizona Territory, and later my greatuncle joined him. In Arizona the two brothers pulled themselves up by their bootstraps, as the saying goes, progressing from peddling to merchandising on a much larger scale. They opened a mercantile store in Prescott in 1872, and as it grew it branched out into other cities. My father, Baron Goldwater, carried on the family's flair for merchandising.

Goldwaters were involved in the early political life of Arizona as well as in its early commercial life. Both my grandfather and my uncle Morris served as mayor of Prescott, my grandfather briefly and my uncle for many years. Morris was chairman of the Central Territorial Committee, vice-president of the state Constitutional Convention in 1910, and later served as a state senator.

My mother, Josephine Williams Goldwater, was the daughter of parents who had traveled from Illinois to Nebraska in a covered wagon. Born in Nebraska, she carried the pioneering spirit in her very blood. She came to Arizona to recover from tuberculosis, and the climate here completely restored her health. She brought along with her her own nursing background, having earned an R.N. degree in Chicago, and I believe she was Arizona's first registered nurse. It was my mother who gave me my wanderlust and my love of the out-of-doors. We used to travel around the state in every conveyance known to man, and she taught my brother, sister, and me how to shoot, fish, camp out, and be strong. Above all, she imparted to me her great affection and respect for this state.

As for myself, I carry on the heritage of love for Arizona that was transmitted to me by my father and my mother. I was born in Phoenix on January 1, 1909, when Arizona was still a territory, so I grew up along with the state. I have followed my uncle's example in choosing to serve Arizona in a political capacity, entering politics in 1949, when I was elected to the City Council of Phoenix. In 1952 I began my career in the U.S. Senate.

Before going further, I would like to acknowledge the help I received on this book from the following people: my secretary, Judy Eisenhower, who typed the rough drafts from my notes and comments; Dot Roberson, who worked through several versions of the manuscript; and Earl Eisenhower, who helped me verify the contents.

Mr. YOUNG. Mr. President, I yield the floor.

Mr. STEVENS. Mr. President, I am delighted to join my distinguished colleague from North Dakota in cosponsoring his bill to create a gold medal honoring Louis L'Amour.

Louis L'Amour is a man of the West. Born in North Dakota, he has ranged over the entire West from Texas to Alaska. His books, detailing the struggles and challenges of the pioneers, who tied the oceans together into one Nation, are popular almost beyond imagination. Over 70 million books bear his name.

L'Amour depicts the real West—not the West of television but the West as it was with tough and rugged people struggling to survive and prosper. His demand for authenticity has led him to compile detailed biographies of over 1,000 gunfighters—a work which is of significant historical value itself.

As a writer of the West, L' Amour has detailed the westward expansion of the country, the desire of the pioneers for freedom and a fair chance to build their lives. The settling of the Nation has had a profound effect on the nature of the American spirit. There are now very few places left to be settled; few frontiers to be explored. My State prides itself on being the last frontier and L'Amour has written of our experience in his great novel "Sitka." But as we look back on those years of discovery, exploration and settlement, we should honor the man who has brought it all to life so vividly. As we honored John Wayne, we should honor Louis L'Amour for his important contribution to the American scene. I urge the Senate to promptly enact this bill.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, does the Senator yield back his time?

Mr. YOUNG. Yes.

Mr. ROBERT C. BYRD. I ask unanimous consent that the time yielded back by Mr. YOUNG be evenly divided between Mr. BAKER and myself.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Now, Mr. President, I yield 3 minutes of my time to Mr. RIEGLE and the remainder of my time, which I think would approximate 10 minutes, I yield to Mr. SASSER.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. RIEGLE. I thank the majority leader for yielding his time to me.

CHRYSLER LOAN GUARANTEE ACT, S. 1937

Mr. RIEGLE. Mr. President, on October 24 I introduced the Chrysler Loan Guarantee Act, a bill to provide carefully controlled financial assistance to the Chrysler Corp. and therefore avoid the massive economic dislocation that would result from the collapse of the Nation's 10th largest industrial firm.

I am pleased that I have been joined in cosponsoring this bill by the distinguished Senators LEVIN, NELSON, BAYH, DANFORTH, EAGLETON, KENNEDY, MATHIAS, MCGOVERN, and MOYNIHAN. I expect other names to be added to the list soon.

The bill would create a tripartite board composed of the Secretary of the Treasury as chairman, and the Secretaries of the Departments of Labor and Commerce. The board would have the authority to guarantee loans to the corporation within the guidelines established by the legislation.

Before providing assistance to Chrysler, the board would have to find that the company has an actual need for loans, that failure to meet this need would adversely affect the economy or employment in the United States or any major region of the United States, that credit is not otherwise available, and that the lender would not make the loans without a Government guarantee.

Guaranteed loans could extend for up to 10 years and bear interest at rates controlled by the board. The board could impose guarantee fees and design other arrangements to compensate the taxpayers for any administrative expenses or risks incurred by the guarantee.

The bill would protect the Government's interest by requiring the full collateralization of any guaranteed loans, the suspension of payments to stockholders and certain lenders, the audit of Chrysler records by GAO and the imposition of other stringent protections. The board could require appropriate managerial and financial reforms of Chrysler before guaranteeing any loan. Moreover, the board would be authorized to take actions necessary to insure that unguaranteed lenders and other parties maintain or increase their current levels of support to the corporation.

The Board's authority to extend guarantees would terminate on December 31, 1983. A ceiling on outstanding loan guarantees would be established after the issue of suitable assistance levels is studied in Banking Committee hearings.

The bill would provide $250 million or 25 percent of the guarantee aid through an Employee Stock Ownership Plan (ESOP).

Mr. President, I ask unanimous consent that the full text of S. 1937 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1937

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Chrysler Corporation Emergency Loan Guarantee Act".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress hereby finds that—

(1) the domestic automotive industry is one of the most important segments of the economy of the United States;

(2) the jobs of millions of Americans depend upon the economic viability of the automotive industry;

(3) such industry provides work for automobile management and production employees, automobile dealers, employees of parts and equipment suppliers, and the owners and employees of many other related businesses;

(4) the increasing dependence of the United States on imported petroleum has forced the development of a national energy policy which requires a reduction in the consumption of gasoline;

(5) the continued and expanded domestic production of safe and fuel-efficient automobiles is necessary to the implementation of such national energy policy;

(6) the Chrysler Corporation, the Nation's third largest automobile manufacturer, is suffering severe losses and, without assistance from the Federal Government, the Chrysler Corporation faces financial collapse;

(7) such collapse would mean that thousands of employees would lose their jobs and the Federal Government and the many communities affected by the closing of Chrysler Corporation facilities would suffer a loss of revenue and an increase in expenditures;

(8) such collapse would also have a significant impact on the economy of the United States; and

(9) it is in the public interest for the Federal Government to assist in maintaining the jobs and productive capability of the Chrysler Corporation since such assistance will help to maintain a strong and competitive domestic automobile industry.

(b) It is the purpose of this Act—

(1) to prevent the severe impact on the economy of the United States and regions thereof that would result from the collapse of the Chrysler Corporation;

(2) to facilitate the return of the Chrysler Corporation to a position of financial viability;

(3) to maintain a strong and competitive domestic automotive industry.

ESTABLISHMENT OF THE BOARD

SEC. 3. There is established an Emergency Loan Guarantee Board (hereinafter referred to as the "Board") composed of the Secretary of the Treasury, who shall be the Chairman of the Board, the Secretary of Labor and the Secretary of Commerce. Decisions of the Board shall be made by majority vote.

AUTHORITY

SEC. 4. The Board, on such terms and conditions as it deems appropriate, may guarantee, or make commitments to guarantees, lenders against loss of principal or interest on loans which are guaranteed under this Act and may enter into such other contracts as it deems necessary to carry out the provisions of this Act.

LIMITATIONS AND CONDITIONS

SEC. 5. (a) Subject to section 6, the Board may make a guarantee under this Act only if—

(1) the Board finds that (A) the loan is needed to enable the Chrysler Corporation (hereinafter referred to as the "enterprise") to continue to furnish goods or services and failure to meet this need would adversely and seriously affect the economy of or employment in the Nation or any region thereof, (B) credit is not otherwise available to the enterprise under reasonable terms or conditions, and (C) the prospective earning power of the enterprise, together with the character and value of the security pledged, furnish reasonable assurance that it will be able to repay the loan within the fixed time, and afford reasonable protection to the United States; and

(2) the lender certifies that it would not make the loan without such guarantee.

(b) A loan guaranteed under this Act shall be for a term determined to be reasonable by the Board, but not to exceed ten years.

(c) A loan guaranteed under this Act shall bear interest at a rate determined by the Board, taking into account the reduction in risk afforded by the loan guarantee and rates charged by lending institutions on otherwise comparable loans.

(d) The Board, in connection with each loan guaranteed under the Act, shall prescribe and collect a guarantee fee that is sufficient to compensate the government for all of the government's administrative expense related to the guarantee.

(e) The Board shall ensure that the government, to the maximum extent feasible, is compensated for the risk assumed in making a guarantee under this Act. Such compensation may be provided through one or more of the following means:

(i) a guarantee fee in addition to the fee required by Section 5(d) of this Act; and

(ii) other methods deemed appropriate by the Board.

EMPLOYEE STOCK OWNERSHIP PLAN REQUIREMENTS

SEC. 6. (a) In order to be eligible for the loan guarantee provided under this Act, the enterprise (referred to in this section as the "employer") shall establish in writing an employee stock ownership plan—

(1) which satisfies the requirements of section 4975(e)(7) of the Internal Revenue Code of 1954, and which acquires qualifying employer securities (as described in section 4975(e)(8) of such Code and paragraph (3) below), using all or portion of the proceeds of a guaranteed loan provided for in this Act,

(2) which is administered by a committee consisting of—

(A) 2 representatives of the employer,

(B) 2 representatives of employees who are participants in this plan,

(C) 1 representative of the trustee of the plan, and

(D) 2 representatives designated, one each, by the Secretary of the Treasury and the Secretary of Labor,

(3) which, will acquire only qualifying employer securities which—

(A) meet the requirements of section 409A(1)(3) of such Code, and

(B) are convertible to common stock (which meets the requirements of section 409A (1)(1) of such Code, at a price equal to its fair market value as of October 23, 1979, at the direction of the committee,

(4) under which qualifying employer securities having an aggregate value of not less than the greater of—

(A) $250,000,000, or

(B) an amount equal to 25 percent of the amount of the loan guarantee provided for in section 10 of this Act, will be purchased with the proceeds of a loan described in this Act and in section 4975(d)(3) of such Code,

(5) under which the employer agrees to make annual contributions sufficient to permit the plan to amortize such loan,

(6) which provides that each participant will have a nonforfeitable interest in all amounts allocated to the participant's account under the plan, and

(7) which provides for the allocation for each plan year of all qualifying employer securities transferred to it or purchased by it (or, with regard to qualifying employer securities acquired pursuant to paragraph (4) released from the appropriate suspense account and allocated to the accounts of all participants who are entitled to share in such allocation in substantially equal amounts.

(b) Notwithstanding the provisions of paragraph (3), at any time after the transaction contemplated by this section occurs, the plan may also purchase, or the employer may contribute to the plan, qualifying employer securities which are described in section 4975(4)(8) of such Code.

(c) Notwithstanding section 3(21) of the Employee Retirement Income Security Act of 1974, the Secretary of the Treasury and the Secretary of Labor shall not be deemed to be fiduciaries with respect to the plan described in this section.

SECURITY FOR LOAN GUARANTEES

SEC. 7. In negotiating a loan guarantee under this Act, the Board shall make every effort to arrange that the payment of the principal of and interest on any plan guaranteed shall be secured by sufficient property of the enterprise to collateralize fully the amount of the loan guarantee.

REQUIREMENTS APPLICABLE TO LOAN GUARANTEES

SEC. 8. (a) A guarantee agreement made under this act with respect to the enterprise shall require that, while there is any principal or interest remaining unpaid on a guaranteed loan to the enterprise, the enterprise may not—

(1) declare a dividend on its common stock; or

(2) make any payment on its other indebtedness to a lender whose loan has been guaranteed under this act.

The Board may waive either or both of the requirements set forth in this subsection, as specified in the guarantee agreement covering a loan to any particular enterprise, if the Board determines that such waiver is not inconsistent with the reasonable protection of the interest of the United States under the guarantee.

(b) If the Board determines that the inability of the enterprise to obtain credit without a guarantee under this act is the result of a failure on the part of management to exercise reasonable business prudence in the conduct of the affairs of the enterprise, the Board shall require, before guaranteeing any loan to the enterprise, that the enterprise make such managerial and fiscal changes and develop such long-range managerial and fiscal plans as the Board considers necessary to give the enterprise a sound managerial and fiscal base.

(c) A guarantee of a loan to the enterprise shall not be made under this act unless—

(1) the Board has received an audited financial statement of the enterprise; and

(2) the enterprise permits the Board to have the same access to its books and other documents as the Board would have under section 9 if the loan were guaranteed.

(d) No payment shall be made or become due under a guarantee made under this act unless the lender has exhausted all remedies which it has under the guarantee agreement.

(e)(1) Prior to making any guarantee under this act, the Board shall satisfy itself that the underlying loan agreement on which the guarantee is sought (A) contains all the affirmative and negative covenants and other protective provisions which are usual and customary in loan agreements of a similar kind, including previous loan agreements between the lender and the enterprise, and (B) cannot be amended, or any provisions waived, without the Board's prior consent.

(2) On each occasion when the enterprise seeks an advance under the loan agreement, the guarantee authorized by this Act shall be in force as to the funds advanced only if—

(A) the lender gives the Board at least ten days notice in writing of its intent to provide the enterprise with funds pursuant to the loan agreement;

(B) the lender certifies to the Board before an advance is made that, as of the date of the notice provided for in subparagraph (A), the enterprise is not in default under the loan agreement, except that if a default has occurred the lender shall report the facts and circumstances relating thereto to the Board and the Board may expressly and in writing waive such default in any case where it determines that such waiver is not inconsistent with the reasonable protection of the interests of the United States under the guarantee;

(C) the enterprise provides the Board with a plan setting forth the expenditures for which the advance will be used and the period during which the expenditures will be made, and, upon the expiration of such periods, reports to the Board any instances in which amounts advanced have not been expended in accordance with the plan; and

(D) the enterprise provides the Board with a plan which demonstrates that such expenditures will contribute to the domestic economic viability of the enterprise.

(f) (1) A guarantee agreement made under this Act shall contain a requirement that as between the Board and the lender, the Board shall have a priority with respect to, and to the extent of, the lender's interest in any collateral securing the loan and any earlier outstanding loans. The Board shall take all steps necessary to assure such priority against any other person.

(2) As used in paragraph (1) of this subsection, the term "collateral" includes all assets pledged under loan agreements and, if appropriate in the opinion of the Board, all sums of the enterprise on deposit with the lender and subject to offset under title 11 of the United States Code.

INSPECTION OF DOCUMENTS; AUTHORITY TO DISAPPROVE CERTAIN TRANSACTIONS

Sec. 9. (a) The Board is authorized to inspect and copy all accounts, books, records, memoranda, correspondence, and other documents of the enterprise concerning any matter which may bear upon (1) the ability of the enterprise to repay a guaranteed loan within the time fixed therefor; (2) the interests of the United States in the property of the enterprise; and (3) the assurance that there is reasonable protection to the United States. The Board is authorized to disapprove any transaction of the enterprise involving the disposition of its assets which may affect the repayment of a loan that has been guaranteed pursuant to the provisions of this Act.

(B) The Comptroller General of the United States shall make a detailed audit at least annually of all accounts, books, records, and transactions of the enterprise with respect to which an application for a loan guarantee is made or is outstanding under this Act. The Comptroller General of the United States shall report the results of such audit to the Board and to the Congress no later than 90 days after such audit is completed.

MAXIMUM OBLIGATION

Sec. 10. The value of loans guaranteed under this Act shall not exceed amounts set in advance in appropriations Acts, provided that the maximum obligation of the government under all outstanding loans guaranteed by the Board shall at no time exceed $——.

EMERGENCY LOAN GUARANTEE FUND

Sec. 11. (a) There is established in the Treasury an emergency loan guarantee fund to be administered by the Board. The fund shall be used for the payment of the expenses of the Board and for the purpose of fulfilling the Board's obligations under this Act. Monies in the fund not needed for current operations may be invested in direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States or any agency thereof.

(b) The sums realized from the guarantee fees required by section 5 of this Act shall be deposited in the emergency loan guarantee fund.

FEDERAL RESERVE BANKS AS FISCAL AGENTS

Sec. 12. Any Federal Reserve Bank which is requested to do so shall act as fiscal agent for the Board. Each such fiscal agent shall be reimbursed by the Board for all expenses and losses incurred by it in acting as agent on behalf of the Board.

PROTECTION OF GOVERNMENT'S INTEREST

Sec. 13. (a) The Attorney General shall take such action as may be appropriate to enforce any right accruing to the United States or any officer or agency thereof as a result of the issuance of guarantees under this Act. Any sums recovered pursuant to this section shall be paid into the emergency loan guarantee fund.

(b) The Board shall be entitled to recover from the enterprise, or any other person liable therefor, the amount of any payments made pursuant to any guarantee agreement entered into under this Act, and upon making any such payment, the Board shall be subrogated to all the rights of the recipient thereof.

(c) The Board shall make every reasonable effort to ensure that lenders and other persons maintain their unguaranteed financial assistance to the enterprise at or above the highest level provided during the period beginning on October 1, 1978 and ending on October 31, 1979.

REPORTS

Sec. 14. The Board shall submit to the Congress annually a full report of its operations under this Act. In addition, the Board shall submit to the Congress a special report not later than six months after date of enactment, which shall include a full report of the Board's operations together with its recommendations with respect to the need to continue the guarantee program beyond the termination date specified in section 15. If the Board recommends that the program should be continued beyond such termination date, it shall state its recommendations with respect to which agency should administer the program.

TERMINATION

Sec. 15. The authority of the Board to enter into any guarantee or to make any commitment to guarantee under this Act terminates on December 31, 1983. Such termination does not affect the carrying out of any contract, guarantee, commitment, or other obligation entered into pursuant to this Act prior to that date, or the taking of any action necessary to preserve or protect the interests of the United States in any amounts advanced or paid out in carrying on operations under this Act.

RECOGNITION OF SENATOR SASSER

The PRESIDING OFFICER (Mr. Heflin). The Senator from Tennessee is recognized for 10 minutes.

Mr. SASSER. Mr. President, I wish to express my appreciation to the distinguished majority leader for yielding his time this morning to me and my distinguished colleague from Montana.

THAILAND REFUGEES

Mr. SASSER. Mr. President, last week Senator Danforth, the distinguished and able Senator from Missouri, Senator Baucus, my able friend from Montana, and I were dispatched to Southeast Asia by the leadership of the Senate. We were sent to that area initially on a fact-finding mission to determine the true status of refugees in Thailand and also in an effort to understand and report back to the Senate what is happening in Cambodia.

It was stressed to us, Mr. President, that ours was a humanitarian mission. We attempted to keep political considerations totally and completely out of our efforts.

We arrived in Thailand and went immediately to visit three refugee concentration areas along the Thailand-Cambodian border.

I use the term "refugee concentration areas" advisedly because I do not think we could dignify these gatherings of miserable people with the term "refugee camps."

What we found there was beyond my worst imagination. We found people who were suffering from the final stages of malnutrition. We found disease in these refugee concentration areas to be rampant. Eighty percent of the people were suffering from malaria. Tuberculosis was affecting many of the people in these camps. Intestinal disorders, particularly amebic dysentery, were widespread.

We walked through the makeshift hospitals, which were nothing more than people lying side by side on the ground. These "hospitals" consisted of plastic sheets which were held up by roof poles which had been cut in an effort to give the people lying on the ground some minimum of comfort.

We found lying in these hospitals the dead and the dying together. We saw many young children suffering from the final stages of malnutrition. We saw babies in mothers' arms obviously either dying from malnutrition or dying from disease. We saw mothers with babes in arms who could not breast-feed the babies because the mothers themselves were too malnourished to produce milk for the children.

What we are seeing, Mr. President, is the possible extinction of an entire race of people, the Khmer race.

I might say that at a time when the British Isles had a population of 3 million, there were 14 million Khmers, and there was a Khmer Empire in Southeast Asia in the 13th century. They are a proud and gentle race of people. But they are slowly starving to death and dying by disease day by day.

In the poor areas of Thailand, there are presently over 200,000 refugees living in the most miserable conditions imaginable.

We saw people lying in fields too weak to move any further. We saw people too weak to make the last 100 or 200 yards to the makeshift hospitals and too weak to go to the area where food was being parceled out.

We did see some good work being done there. The international relief agencies, particularly UNICEF the ICRC, the International Red Cross, were doing what they could in these areas. The Catholic Relief Organization, the relief arm of the Southern Baptists, and other nondenominational relief organizations, were working effectively and with great devotion.

After visiting the three refugee concentration areas, my colleagues and I met with Prime Minister Kriangsak of Thailand and we expressed to the Prime Minister our appreciation for his magnanimous gesture in granting at least temporary asylum to these miserable people who were fleeing across the border from Cambodia into Thailand.

We also met with the Vietnamese Secretary of State for Foreign Affairs, Mr. Thach, and from there journeyed to Phnom Penh for a meeting with Phnom Penh's Foreign Minister.

We were told by all of the responsible officials in the area that it would take a minimum of 30,000 tons of food a month, food and medicine, to relieve and to alleviate the conditions in Cambodia.

Presently, only 12,000 tons per month can be delivered by ship or by aircraft.

We were told that it was imperative that a land route or a land bridge be opened from Thailand, moving into Cambodia.

We were also told that 500 trucks could

be moving in the space of 3 to 5 days, bringing food and medicines into Thailand, along Highways 5 and 6, running from the border of Thailand to Phnom Penh.

We discussed with the Vietnamese Secretary of State for Foreign Affairs the feasibility of moving these trucks along these routes. We asked him if the Vietnamese Army, which has many divisions operating in that particular area, would guarantee the safety and security of the trucks. The response was that security would be—and I quote Mr. Thach precisely—the response was that security would be no problem. That is a direct quotation.

He stated further that the decision was up to the authorities in Phnom Penh. If they asked the Vietnamese to protect the trucks, the Vietnamese Army would do so.

We journeyed the next day to Phnom Penh. We met there with the foreign minister and discussed with him the possibility of opening the truck route. The authorities in Phnom Penh freely admitted to us they could not feed 2,250,000 of their own people. They told us that in 1969, the population of Kampuchea or Cambodia, stood at 8 million. Today, the population stands at approximately 4 million. With the rice harvest which the Kampuchean, or Cambodian authorities will harvest in November of this year, they feel that they can feed 1,750,000 of their people, but this leaves 2,500,000 without adequate food.

They also conceded that malaria was raging at epidemic proportions. They admitted that tuberculosis had infected many of their people.

When we met with the Foreign Minister at Phnom Penh, my able colleagues and I emphasized that ours was a purely humanitarian mission, that we had no wish to enter into the political considerations which might have visited this disaster on the people of Cambodia and, indeed, on the people of Southeast Asia.

As persuasively as we could, we argued that this land route should be open in order to save the people of Cambodia.

The response we received in Phnom Penh that afternoon we thought was encouraging. The Foreign Minister indicated to us that he would take up this matter with the Central Committee and that he would advise us.

We asked the Foreign Minister to be an advocate for our cause, to be an advocate for our point of view, and in doing so be an advocate for the starving people of Cambodia. We now have received what appears to be a negative response from the authorities in Phnom Penh.

With every day that passes, thousands of people—men, women, and children—are perishing from starvation. They are perishing from the ravages of malaria, tuberculosis, amebic dysentery.

We submit, Mr. President, that the authorities in Phnom Penh must take the responsibility for the thousands who are dying every day.

Just yesterday, Senator DANFORTH, Senator BAUCUS, and I journeyed to New York, to meet with the Secretary General of the United Nations, Mr. Kurt Waldheim. Mr. Waldheim assured us that he wished to do all in his power to bring relief to the people of Cambodia. He also indicated to us that he would support wholeheartedly a land bridge or a land route to bring supplies into Cambodia.

Mr. President, something must be done. The authorities in Phnom Penh have the ability to do that by saying one simple word, and that simple word is "yes."

Mr. President, I ask unanimous consent to have printed in the RECORD our report on the refugee situation in Thailand and Cambodia.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

THE REFUGEE SITUATION IN THAILAND AND CAMBODIA

OVERVIEW

We went on this humanitarian mission at the direction of the leadership of the Senate and the President of the United States. We went to see first-hand the nature of the refugee problem, to learn what more should be done, and to report our findings.

Over the past few days, we have witnessed a human tragedy of enormous and unfathomable proportions. Without a massive and prompt international relief effort, the situation will continue to deteriorate. Inside Cambodia today, and in refugee camps located in the Thailand near the Cambodian border, hundreds of thousands of Cambodians face death by starvation and disease. The survival of the Khmer race is in jeopardy.

At three refugee camps on the Thai-Cambodian border, we saw human suffering of a kind so deep and pervasive as to defy our ability to describe it adequately.

We walked through encampments of thousands of Khmer who stared at us in silence. No one smiled, and no one laughed. Indeed, they seldom spoke to each other. We saw the swollen bellies and stick-like legs of children suffering from acute malnutrition. Even at the hospital areas where physical suffering was greatest, they didn't cry. We saw people protected from elements by only a plastic sheet strung up on sticks.

In makeshift hospitals, we walked among hundreds of comatose patients, crawling with flies. The people were suffering from prolonged malnutrition and malaria. We were told by those to whom we talked that the conditions were even worse on the Cambodian side of the border. Only the strongest survive the trip across the border.

Yet, amidst this appalling scene of human suffering, we had reason to feel a degree of encouragement. The government of Thailand has magnanimously promised to permit entry to all refugees who arrive at the border. The relief efforts by international organizations are beginning to provide food, medical supplies, and personnel. The international relief agencies are making a valiant effort to bring aid to those in need of assistance, but their efforts are still inadequate. The voluntary agencies stand ready to increase their assistance as soon as it is possible.

We are absolutely convinced that a practical means exists to provide the food and medical supplies needed to save hundreds of thousands of lives. That means is the immediate establishment of an overland route—a "land bridge" linking Cambodia to relief supplies in Thailand. The international relief agencies estimate that as many as 2.25 million Cambodians face serious food shortages. They estimate that nearly 30,000 tons of food and medical supplies are required to meet this need each month. Currently only 12,000 tons can be brought in by sea, and 300 by air per month. This is less than half the estimated need. The establishment of an overland route could, within three to five days, more than double the current capacity.

During our visit, we devoted much of our energies seeking to establish this "land bridge". We discussed it with Thaland's Prime Minister Kriangsak, with Vietnamese Vice Foreign Minister Thach, and with representatives of the international relief agencies. We traveled to Phnom Penh to discuss the land bridge with the authorities there. We were encouraged by what we heard. The challenge now is to open the overland route. The decision currently rests with the Phnom Penh authorities. We are committed to prepare to pursue this goal anywhere and on an urgent basis. To delay is to prolong the suffering and loss of life we have seen.

A more detailed description of our experiences, our findings, and our recommendations follows.

Conditions in the refugee camps

We visited three refugee areas located at Khlong Gai Thuen, Tap Phrik and Nong Samet. More than 150,000 people were in those areas and estimates are that another 100,000 to 200,000 are concentrated just inside the Cambodian border. Persons of all descriptions, including some former combatants wander across the border into the areas. Intensified fighting or continued lack of food may force additional Cambodians across the border in the days and weeks ahead.

In the areas visited, we saw children near death from acute malnutrition and disease. We saw men and women lying on the ground in makeshift "hospitals." We saw people too weak to walk the last hundred yards to food distribution points. The eerie quiet strikes a visitor. Emaciated and sick people lay on the ground in a silence interrupted only by the coughs of those with tuberculosis.

These areas are not "camps." They are places where people stopped running from war and deprivation inside Cambodia. They have no sanitary facilities, little water, and little shelter. "Hospitals" are places where the very ill and the dying lie on the ground. We were told that 5 to 10 per cent of the people in the hospital die every day. A large portion are beyond help and some of those we saw last Monday are not alive today.

Food distribution points, operated by a variety of relief agencies are scattered through the areas. Those strong enough to walk to the distribution points are fed. Those who cannot, go hungry, unless relatives or friends help. The social order among these people has so deteriorated that they are not helping those outside their immediate family group.

The principal constraint in the effort to aid the refugees in the areas we visited is insufficient staff. We were told by physicians in the camps that they had adequate medical supplies and food but they did not have enough people to distribute either. Without adequate staff, there is no organized system for allocating and distributing supplies of food or medicine.

Conditions in Cambodia

Our nine-hour visit to Cambodia enabled us to observe the rice planting situation around the capital, to see the condition of the city, and to test the reaction of both government cadre and ordinary people to discussions with a delegation of Americans. In addition we met with the Heng Samrin regime's Foreign Minister to make a specific proposal that Phnom Penh permit the International Red Cross (ICRC) and the United Nations Children's International Emergency Fund (UNICEF) to truck emergency food and medical supplies from Thailand to Cambodia.

Phnom Penh authorities received us courteously and hospitably. Our guide for the day was a middle-level Foreign Ministry Official. On the streets we were met with curiosity, friendliness, and a few suspicious looks.

The shambles that was Phnom Penh can hardly be called a city. The rundown condition of this once-graceful city betrays both the neglect of the past four years and deliberate destruction by the previous regime; both the National Bank and the Roman Catholic Cathedral were destroyed, presumably for political reasons. Phnom Penh residents estimate that its population is between 30,000 and 70,000. A few vehicles travel the deserted streets. Whole sections of the town are still barricaded shut. We saw few foreigners.

Rice is scarce. In the capital, in the absence of currency, a small can of rice acts as the medium of exchange for the few street hawkers we saw. No organized central market exists. Food is distributed through local street markets. The former Central Market area has been planted in coconuts. Our brief aerial view of agricultural areas around Phnom Penh showed small plots of vegetables and many fields of rice. A large number of paddies remain fallow. This, combined with the comments of more knowledgeable international officials and short interviews with passers-by during our tour of the city, leads to conclude that the government's claim that 2.0 million acres of rice have been planted is too optimistic.

ICRC/UNICEF officials in Phnom Penh confirmed the desperate food situation of the country. To date their programs have dealt successfully with hospital and supplementary feeding. Only very recently have the two agencies been faced with the logistical problems created by bulk arrivals of rice.

There was general agreement that approximately 30,000 tons of rice per month are needed inside Cambodia. The best estimate we heard was that under current circumstances only 13,000 to 15,000 tons of food stuffs could be moved inside Cambodia. Transportation within Cambodia is the major problem. Less than 5,000 tons of food per month can now be moved from the port of Kompong Som. The port of Phnom Penh has the potential to handle an additional 8,000 tons if inland transportation is available. The present airlift to Phnom Penh adds only fractionally to available supplies.

CONCLUSIONS

Our principle conclusion is that thousands of Cambodians will die unless a massive expansion of relief efforts proceeds on an emergency basis.

This finding is based on our personal observation of refugees, our discussions with the international relief agencies, and our discussions with the Phnom Penh authorities.

Our interviews indicated that as many as two-thirds of those who try to reach Thailand from Cambodia may not make it. They die along the way from starvation and disease. Given the conditions in Cambodia, we expect the flow of refugees to continue into Thailand. The need to provide assistance will accelerate in the months to come.

The refugee problem is compounded by the arrival of large numbers of Lao who further flood the refugee camps. Reports of an extensive shortfall of food in Laos will undoubtedly increase the refugee flow from there unless relief is available at the source.

The most serious problem inside Cambodia and along the border with Thailand is the lack of sufficient food and medical supplies. Under the best circumstances, the shortfall in total supplies is about 15,000 tons per month. The current situation is even worse, and not likely to improve much in the near future.

We have concluded that this condition need not exist. There is a practical solution which can be implemented immediately. An all-land route can be opened between the Thai border and Phnom Penh along highways 5 and 6.

This plan could increase transport capacity by as much as 1,000 tons per day within three to five days of the opening of the route into Cambodia.

The essential considerations for opening such a route were: first, security of the shipments; and second, authorization and cooperation from the authorities involved, i.e., the international agencies, the Thai government, the authorities in Phnom Penh, and the Vietnamese.

In an effort to open up the land route to Cambodia, we met with the head of government of the Thai kingdom; a representative of the Socialist Republic of Vietnam; representatives of the Phnom Penh authorities; and representatives of the international agencies.

Meetings with the voluntary agencies

We met with representatives of UNICEF, the ICRC, and the World Food Program (WFP). They agreed unanimously that the key to solving the situation inside Cambodia and on the Thai border was to establish a land bridge. They stand ready in every way to implement the planning and shipment of the needed supplies. Other aspects of those meetings appear throughout the report as appropriate.

Meeting with Thailand's Prime Minister Kriangsak Chomanan

At the time of our meeting, we were just beginning to explore the possibilities of a land bridge to Cambodia via the road from Aranyaprathet near the Thai-Cambodian border. The Prime Minister was totally supportive of the idea.

He felt that adequate quantities of most of the needed supplies were available in Thailand. He also expressed the view that there were enough trucks in Thailand to send convoys in immediately.

The dominant subject of our meeting was the desperate situation of the Cambodian refugees. The day before our meeting with the Prime Minister, he had taken a trip to the border and had witnessed first-hand the suffering. He said he had been touched by this experience and had decided to open the border to admit all refugees from Cambodia. This was an unpopular decision, he said, because it would result in the displacement of 60,000 Thais.

The Prime Minister told us that he was planning to move the refugees from the border to a nearby holding area. In fact, the movement of the refugees began before we left Thailand. It should be noted that the Prime Minister made it clear to us that the fleeing Cambodians would be granted only temporary status.

He expressed hope that it would be possible for the Khmer to return home when conditions improve. He was not optimistic that this would occur soon. He told us that he welcomed the growing involvement and support of the international relief agencies. He stressed the importance of close coordination of that effort.

We expressed our appreciation and gratitude for the Prime Minister's humanitarian policy toward the refugees, notably his decision to allow unlimited entry to the Khmer.

Meeting with Nguyen Co Thach of the Socialist Republic of Vietnam

At the Vietnamese Embassy in Bangkok we met with Secretary of State for Foreign Affairs Nguyen Co Thach. We explained that we did not want to raise political questions. We expressed our appreciation for his help in obtaining a favorable reply to our request to visit Phnom Penh. We noted that our purpose for wanting to visit Phnom Penh was to meet with representatives of the international relief agencies and get a more complete view of the problems of refugees. We emphasized in our discussions that U.S. assistance to needy Cambodians would be provided through the international organizations.

We asked Mr. Thach if his government would cooperate in providing security for truck convoys on an overland route between Thailand and Cambodia. He replied first by saying that he could not speak for the Cambodian people. But, he added: "If the Cambodian people or the Cambodian government asked us for help we will agree. There is no problem on this. You can be sure any humanitarian actions without ulterior motives we will welcome."

Mr. Thach emphasized that the truck convoy proposal was no problem for his government, but was a question that had to be addressed by Phnom Penh. He said that Vietnamese troops would not fire on trucks that were on humanitarian missions.

Meeting with the officials in Phnom Penh

We presented the proposal for a land route to Phnom Penh's Foreign Minister, emphasizing the humanitarian need and our desire to make political considerations secondary to the fundamental problems of life and death. With regard to the security of food convoys, he agreed that Phnom Penh could insure security for the shipments and drivers. He said that he would take the proposal to the Central Committee for decision. In the meantime, relief supply by sea and air should continue. We urged him to recommend the speedy and favorable decision. We pointed out that to delay is to prolong the human suffering.

Subsequently Hun Sen issued the following statement to the press: "In case of a substantial increase in the aid, we are ready to study with the two organizations the improvement of our means of reception and transportation and to think about other access routes in case of need." We view his statement as a positive reference to the land bridge because the only way practical of substantially increasing aid is by a truck route along highways 5 and 6.

Our Ambassador in Bangkok has been in contact with officials of ICRC/UNICEF requesting that they follow through on this directly with the officials in Phnom Penh.

RECOMMENDATIONS

1. The United States should provide strong support for the creation of a "land bridge" operated by the ICRC and UNICEF to bring food and medicine into Cambodia. We should strive to do the following:

Achieve agreement to permit up to 1,000 tons of food and medical supplies to be carried daily by truck into Cambodia from Thailand;

Acquire by lease or purchase a sufficient number of trucks to establish the necessary distribution network. (One international relief official believes a total of 500 trucks is needed);

Assure the security of the truck convoys; and

Establish storage centers at regional distribution points on the main highways between the border and Phnom Penh;

2. In order to develop an international program of food relief for Indochinese refugees, the United States should:

Expedite implementation of the full 69 million dollar 6-month aid package announced by President Carter on October 24.

Assess funding requirements for a longer range program of food and medical relief.

Name a senior level White House coordinator with specific responsibilities for implementation of the food and medical relief program in Cambodia.

Utilize emergency relief funds to provide sufficient logistic support to the ICRC and UNICEF to get food and medicine to where it is needed.

3. The President should call on other nations and American citizens to support the efforts of international organizations and

voluntary agencies. Both money and volunteers are needed.

4. The United States Government should make diplomatic efforts and mobilize world opinion in support of the opening of the land bridge to Cambodia. The role of the Secretary General of the United Nations is critical to the success of this effort.

5. The United States should assist the international relief agencies as appropriate to:

Increase and regulate distribtuion of food and medicine on the border areas.

Increase immediately the staff in the border areas.

Increase capacity of the ports to handle shipments by sea.

Provide air transportation for critically needed items.

Establish a system for equitable distribution from central storage facilities to local areas inside Cambodia.

Secure agreement that the international agencies have staff and access to insure that food is used effectively.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. SASSER. I yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. I apologize for interrupting the remarks of the distinguished Senator, but I rise to commend him and to commend Senator BAUCUS and to commend Senator DANFORTH for the dutiful and dedicated and purposeful way in which they went about the assignment that was given to them. They acted in a way that I believe reflects good on the Senate and good on the American people.

I regret that the Phnom Penh authorities have, to the moment, rejected the humane request that was presented to them by these three fine Senators.

It is inconceivable—inconceivable—that any government would turn its back on a humanitarian request of this kind. The American people only want to help people to live.

For any government to deprive tens of thousands of innocent men, women, and particularly children, who are the victims of circumstances, of the bread of life and the breath of life is unbelievable. It is simply inconceivable that any government that would approach being a civilized government could say "No" to a humanitarian request of this kind.

I say to the Senator and his colleagues who went on this journey that they have done everything they can do: They have gone to the U.N.; they have presented their case to the world and to the American people and to the government in Phnom Penh. These Senators are to be complimented and thanked. I express my personal gratitude and gratitude on the part of the U.S. Senate for the humanitarian effort in which they have engaged and which they are continuing to press.

Mr. SASSER. I thank the distinguished majority leader for his kind remarks.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. SASSER. I yield.

Mr. BAKER. Mr. President, I take this opportunity, following the remarks of the distinguished majority leader, to pay my respects and my compliments and to express my appreciation to my colleague from Tennessee for undertaking this trip, together with the distinguished Senator from Missouri and the distinguished Senator from Montana.

I know of no higher purpose of the U.S. Senate to be served in the humane undertaking just completed by this three-man delegation—Senator SASSER, Senator DANFORTH, and Senator BAUCUS. They have performed in a tradition that goes back almost to the beginnings of the Senate—that is, to exercise the responsibility of oversight and compassion that resides in a legislative body in a constitutional form.

I hope and trust that their dedication of effort and energy and their time and travel will heighten the sensitivity of the Senate, Congress, and the country to the humane imperative that we remain conscious and aware of the acute human suffering in another part of the world and that we will dedicate our efforts to its alleviation.

I expect that more will be heard on this floor about the steps we should take. For my part, I will follow with great interest the recommendations of this delegation of three Senators as to how we should proceed next.

I have asked for this interruption only so that I can take the opportunity, following the majority leader's statement, to commend Senator SASSER, Senator BAUCUS, and Senator DANFORTH for their great contribution to the function and purpose of the Senate of the United States and to pledge to them my efforts to try to effectuate the purposes they have served so nobly.

Mr. SASSER. Mr. President, I thank the distinguished minority leader for his remarks and I wish to express my appreciation to the leadership, both the majority and minority leadership, for the splendid cooperation that they afforded the three of us who have undertaken this mission and for their perception in urging that this mission be undertaken and that Senator BAUCUS and Senator DANFORTH and I return to the floor of the Senate.

Mr. President, I yield the remainder of my time to my distinguished colleague, Senator BAUCUS.

The PRESIDING OFFICER. The time has expired. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Missouri now get recognition and yield time to Senator BAUCUS?

Mr. BAUCUS. Will the Senator yield 2 minutes?

Mr. DANFORTH. Yes, I am happy to.

Mr. BAUCUS. I thank the Senator from Missouri.

Mr. President, the Senator from Tennessee has given a thumbnail sketch of the misery that we three saw when we visited the Cambodia and Thailand border.

It is our opinion that we in the United States can perform virtually two missions. First, we can help provide the aid, the medical supplies and food that is necessary to alleviate suffering so widespread and massive that it is virtually incomprehensible to understand or impossible to describe.

Cambodia is a country with a population of about 8 million people as few years ago as 1975. The estimated population of the Khmers, the Cambodia people, now is about 4 million, a loss of 4 million people in the short period of 4 years, 4 million people who have starved to death, died of disease, were exterminated, or who fled the country.

Now, it was not too long ago that this world unfortunately experienced a holocaust of massive proportions, and that occurred at a time when the world tended to turn a deaf ear, tended to turn its back on atrocities that were being committed in a certain part of the world at that time.

It is easy to use words like "genocide" and "holocaust" and it is easy to cheapen those words in comparing various calamities that befall the world in various parts of our country and our world but, Mr. President, in my opinion this tragedy that has visited upon the Cambodian people approaches the same kind of calamitous proportions as occurred not too many years ago.

It is for that reason that we have a moral, we have a religious, we have a humanitarian obligation to focus world opinion on what is happening in Cambodia. The more we can perform that role, the more that we as Americans and, more important, the more we as human beings can describe what we saw and encourage other people in the world to take some action alongside of us, then I think that the Phnom Penh authorities, the people who in one degree or another are in charge in Cambodia, will open up. They, too, will see the need and they will allow their people to receive the aid and help that we are trying to give them.

Mr. President, briefly let me just say that I can think of very few more noble, more necessary efforts that we can undertake as Americans and as people than to try and help focus world opinion on the problem of Cambodia so that the Khmer people not only do not become extinct but flourish and survive as very proud people.

I thank my colleague from Tennessee who led our delegation very, very ably as well as Senator DANFORTH of Missouri who I might add, Mr. President, is the real conscience of the Senate and the driving force in this mission to this part of the world and I think that all in the Senate should know of the tremendous role he has played.

I thank the Senator for yielding time.

Mr. DANFORTH. Mr. President, I join my colleagues from Tennessee and Montana in expressing our gratitude to both the majority leader and the minority leader for arranging for this trip to Thailand and Cambodia and for their constant support for our efforts over the last 2 weeks.

I also state that it was a privilege for me to accompany Senator SASSER and Senator BAUCUS on this trip. Two more sensitive and dedicated Members of the Senate would be hard to imagine.

It has been pretty well described by the Senator from Tennessee and the Senator from Montana what we saw. I think most people have seen photographs in news magazines and newspapers of emaciated children, of people who are dying of starvation and when you see it in a photograph it seems so very distant. It seems so isolated as though there perhaps is only one person or maybe just a few who are in such a wretched state.

But, Mr. President, for hour after hour, after hour, after hour, we walked through the refugee areas on the Cambodia-Thailand border. For hour after hour, after hour, after hour, we saw children wizened up like little old men, children with distended stomachs; we saw people so weak that they could not get off the ground; we saw people so weak that they could not even travel 100 yards or so to get what little medical attention was available to them. We saw them by the thousands, Mr. President, and what is even more shocking is that we were told by those who have knowledge of such things that the situation within Cambodia is even more wretched than it was on the border, that it was the relatively strong people who were able to walk out of that country, that the weaker people and the more decrepit people are still in Cambodia.

And when we talked to representatives of the Intenational Red Cross and when we talked to representatives of UNICEF, we were told that people inside Cambodia are dying each day by the thousands.

Mr. President, there is no reason on Earth why this situation has to exist. There is no reason on Earth why the people of Cambodia have to be doomed to this miserable death. The means exist to deliver food and medical supplies to the starving and wretched people of Cambodia.

While we were on this trip, we talked to officials of the United Nations, of UNICEF, of the Red Cross, of the Thai Government, of the World Food program, and it was the unanimous opinion of all that a truck route, a land bridge, could be established from Thailand into Cambodia, capabale of delivering 1,000 tons of food a day along Highways 5 and 6. Mr. Noby, of the World Food program, told us that trucks could be made available immediately, that rice could be purchased immediately and within 3 days of being given notice trucks could be traveling Routes 5 and 6 with food to save these starving people.

It can be done. And when we visited with the officials of Vietnam and when we visited with the officials of the Phnom Penh regime, we presented to them this specific proposal for a land bridge of truck convoys moving from Thailand to Cambodia. We raised the question of security and were told by the Vietnamese and by the Cambodians that security was no problem at all.

We raised every conceivable practical objection. We were told that there was no practical objection, and we put it to the officials of Vietnam and the officials of Cambodia, and we said to them if they would just give the word the truck convoys could be moving along Highways 5 and 6, and lives could be saved.

So far the word we have received, Mr. President, has been negative, and the result of this is that every day thousands of people are dying who do not have to die, and the result of this is that if steps are not taken soon, if the trucks are not permitted to leave Thailand soon, hundreds of thousands of people are going to die for no reason other than some political purpose of the powers-that-be in Phnom Penh.

What we told the officials in Phnom Penh was this: that the decision was theirs; that the ball is in their court; that the responsibility for the lives of hundreds of thousands, maybe millions, of people is on their hands, and that the decision they make, Mr. President, is not going to be made in a closet, it is not going to be made in the dark. It is going to be made in the arena of world opinion under the full spotlight of world attention.

Therefore, Mr. President, it is the intention of this Senator and it is the intention of my colleagues to keep this matter in the public forum, to talk about it at every available opportunity, to rivet the attention of the world on the situation of Cambodia until the regime of Phnom Penh allows those trucks to start rolling and those lives to be saved.

AMENDMENT NO. 561

(Ordered to be printed and to lie on the table.)

Mr. DANFORTH. Mr. President, on behalf of myself, the Senator from Tennessee (Mr. SASSER) and the Senator from Montana (Mr. BAUCUS) I send an amendment to the desk to S. 1668, which amendment we intend to offer at the appropriate time when S. 1668 is before the Senate. Now this amendment is the Senate counterpart of the so-called Zablocki amendment which has been adopted by the House of Representatives, and which would provide an additional $30 million of funding for disaster relief in Cambodia.

Mr. President, the House of Representatives recently passed the migration and refugee assistance supplemental authorization bill, H.R. 4955. The bill included a Cambodian disaster relief assistance amendment offered by Representative ZABLOCKI. This amendment would authorize the President of the United States to furnish disaster relief assistance for the tragic illness, starvation, and human suffering in Cambodia. The amendment authorizes $30 million for this purpose.

I would like to commend Mr. ZABLOCKI and the other distinguished Members of the House for their favorable action on this amendment. I fully endorse the spirit of this amendment and the authorization of new funds which are necessary to meet the needs of this devastated nation.

However, the language and some provisions of the House amendment to H.R. 4955 may pose certain obstacles to the relief effort. The Zablocki amendment requires that "monitoring procedures shall include end use monitoring of deliveries on a periodic basis by the individuals having freedom of movement where the assistance is being distributed within Cambodia." Mr. President, such monitoring may not always be possible. Given the continuing conflict within Cambodia and the xenophobia of Pol Pot and the Vietnamese, freedom of movement may be difficult to insure in any area. We must avoid establishing any restrictions which could seriously impair distribution and relief efforts. Although I agree with the goals of the House language, we must be prepared to risk the diversion of some food and supplies. The alternative is death for hundreds of thousands of innocent people.

Furthermore, the House amendment limits the assistance available to the civilian population. If, for example, some minimal food or medical supplies were diverted to former combatants of either side in the conflict, it is conceivable that all aid would stop under the provisions of the House amendment.

Mr. President, there will be risks in this program. But if we are to reduce the starvation and suffering of this nation, we must accept those risks.

As a response to the potential impediments to the relief effort contained in the Zablocki amendment, Senator SASSER, Senator BAUCUS, and I will, at the appropriate time, introduce an amendment to S. 1668, the Senate supplemental authorization bill for the migration and refugee assistance fund. This amendment would authorize $30 million in new funds for the purpose of disaster assistance in Cambodia. Assistance would be provided in accordance with the policies and general authority contained in section 491 of the Foreign Assistance Act of 1961. We see no reason to expand on the existing monitoring language of this section which requires that, "the President shall insure that assistance provided by the United States shall, to the greatest extent possible, reach those most in need. * * *"

Mr. President, if this is to be an effective humanitarian effort by the United States, the one risk which we cannot afford is inflexibility and rigidity in our public policy.

Mr. President, I ask unanimous consent that this amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 561

At the bottom of page 2, add the following:

Section 3. Chapter 9 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following:

"SEC. 495H. Cambodian disaster relief assistance.—

"(a) The Congress, recognizing that prompt United States assistance is necessary to alleviate human suffering arising from famine, disease, and war in Cambodia, authorizes the President to furnish humanitarian assistance, on such terms and conditions as he may determine, for the people of Cambodia. Such assistance may include food, medicine and medical care, clothing, housing an other forms of shelter, and transportation for emergency supplies and personnel. In addition to amounts otherwise available for such purposes, there is authorized to be appropriated for the fiscal year 1980 for the purposes of this section $30,000,000, which amount is authorized to remain available until expended.

"(b) Assistance under this section shall be provided in accordance with the policies and general authority contained in section 491.

"(c) Obligations incurred prior to the date of enactment of this section against other appropriations or accounts for the purpose of providing humanitarian assistance to the people of Cambodia may be charged to the appropriations authorized under this section.

"(d) Nothing in this section shall be interpreted as endorsing the Vietnamese invasion of Cambodia or as recognizing any group claiming to be the government of Cambodia."

Mr. DANFORTH. Mr. President, I ask unanimous consent that the Senator from Montana (Mr. MELCHER) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, will the Senator yield?

Mr. DANFORTH. Yes; I yield to the Senator from Montana.

THE REFUGEE TOTS DO NOT PLAY NOR CRY . . . THEY DIE QUIETLY

Mr. BAUCUS. Mr. President, an article recently appeared in the Tennessean written by the Senator from Tennessee (Mr. SASSER). I ask unanimous consent that a copy of that article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Tennessean, Oct. 28, 1979]

THE REFUGEE TOTS DO NOT PLAY NOR CRY . . . THEY DIE QUIETLY

(By JIM SASSER)

NEAR THE CAMBODIAN BORDER.—In the refugee camps at the border of Thailand and Cambodia, the children do not smile, they do not play and they do not cry.

And, they die quietly.

The people seem traumatized by illness, malnutrition and hunger at these camps, which have an eerie silence. Many of those in the camps, particularly in the makeshift "hospitals," bear a striking resemblance to those victims of the German death camps—faces sunken, eyes wide open, rib cages protruding, legs and arms like sticks.

During my visit to the first of three camps, I vividly recall seeing one little girl clad in peasant rags and struggling along a path with a bowl of rice in her hands.

I leaned over to ask her name, but she did not respond to the intepreter. She showed no emotion at all and continued to stare listlessly, the rice bowl clutched a little closer to her chest.

I reached out to her and touched her arm, reassuringly. I got no response. She continued to stare with that fixed expression that never changed.

The silence in the camps is overwhelming, and almost everyone who traveled in my party made mention of it at one time or other. Normally, there is quite a bit of noise around crowds, but the only break in the silence was the hacking cough of the tubercular patient, for tuberculosis and malaria are rampant.

The human suffering at these camps is so deep and pervasive that I have not been able to adequately describe it to my friends and constituents. At the camps at Klong Lai Thuen, Tap Phrik and Nong Samet, my fellow senators—Max Baucus of Montana and John Danforth of Missouri—and I were shocked and appalled at the sight of children and adults dying from hunger and disease.

We had been sent on a humanitarian fact-finding mission by the majority and minority leadership of the Senate. We were given only a few hours notice before flying halfway around the world, landing in Bangkok, Thailand, after a 24-hour flight. We then left immediately by helicopter and jeep for the Cambodian border.

But after seeing the horror of the 150,000 people in the refugee camps we visited, we quickly went beyond the fact-finding mission and began to work on the problem of finding food and getting the food and medicine to the dying people.

Immediate action is imperative; every day's delay means the death of many people, especially inside Cambodia. What we are facing here is the possible extinction of an entire race of people—the Khmer people.

The plight of those who are able to reach the refugee camps is desperate—but those who do struggle into the camps represent the strong. The weak are still inside Cambodia, unable to travel, waiting for death or for food.

The tragedy that I saw is the result of a decade of war, political struggles and finally savage conflict between Cambodian communism and Vietnam-style communism. The economic life of the nation, which is in shambles, is as desperate as the plight of the people. Where rice normally grows, the fields lie fallow; where commerce normally takes place, there is none now.

When we were taken to the Cambodian border, we were told by Thai officials that they were doing the best they could, but that they did not have the resources to cope with the problem.

"This problem is too much for our government to handle," a Thai army officer said.

The first camp, Khlong Lai Thuen, contained 30,000 Cambodian refugees. There were Red Cross and United Nations relief personnel present, as well as private relief groups, such as the Catholic Relief Organization and the relief arm of the Southern Baptists. They are all working effectively and with great devotion.

Prior to the arrival of the relief personnel, the refugees had simply wandered into the area and found shelter as best they could—under bushes, against trees, in weeds and along dusty roads. Most had lost contact with their families, and in their weakened, listless state, most of the family magnet had lost its pull. Many were sole survivors of families still in Cambodia or dead.

The lack of any social structure was obvious because it seemed as if every person was an island, waiting for the inevitable, whatever it was. Most had to care for themselves, and some did not have the strength to do so, relying on relief personnel for all their needs.

From this camp, I walked down the main path for refugees toward the border. Two men were carrying the body of a woman on a makeshift stretcher consisting of a pole and a blanket. I was told that bodies were collected daily.

As I approached the border, the path narrowed and I found a boy slumped against a tree. He said he was 14. His clothes were ragged; he had no shoes.

He said he began his trek a year ago and had walked the length of Cambodia, losing his family along the way. I told him through an interpreter that food and medical supplies were just down the path—just a few hundred yards more.

He looked up at me and shook his head. "I can't go on," he told the interpreter.

I went back down the path and commandeered a Thai colonel's jeep.

As I helped lift the boy into the vehicle, I felt his arms through the filthy long-sleeved shirt he wore—his arms were pencil thin. As he sat in the jeep, he seemed to show his first emotion, a tear in his eye. He disappeared into the mass and I did not see him again.

I visited a second camp where the refugees appeared to be in somewhat better condition. They showed a little more life—a bit more animation here and there. They had been receiving help a few days longer than those in the first camp. Most everything else was the same, though.

The third camp we visited was the largest, containing an estimated 100,000 people. It was located in a disputed border area where there had been shelling by the Vietnamese the day before.

As we neared the camp, thousands of the refugees came out to greet us. Showing the first real emotion we had seen all day, the refugees actually applauded as they lined a path on both sides. On the previous day four persons had been killed and seven wounded from shelling. The Vietnamese were threatening to launch a major attack during the dry season in Cambodia. Artillery fire could be heard in the distance as the fighting continued in a nation ravaged by war.

This camp, the oldest of the three we had visited, had some structure and some organization. But disease was killing people in droves every day and the camp leader told me with horror that cholera had been added to the list of diseases.

We met with representatives of various relief organizations and with government officials the next day prior to our departure for Phnom Penh, the capital of Cambodia. We became the first American officials allowed there since 1975.

It is a ghost city, a city of the dead, a memorial to the policies of destruction and deprivation for political purposes. World famous for its beauty in former years, this once-bustling city of 400,000 is now populated by not more than 15,000 ragged people.

We appealed to the foreign minister in Phnom Penh to agree to a "land bridge"—a truck route for the transportation of food and medicine into Cambodia. At first the officials we met seemed to react favorably, but there are problems yet to be solved.

We are hoping that our trip has focused world attention on the Cambodian tragedy. The effort to alleviate the human misery and suffering is international in scope. British French, Swiss and Japanese aid is apparent and they are ready to do more. But I noticed that whenever my colleagues and I were introduced as United States senators there were smiles and a stir of hope.

Thomas Jefferson said more than 200 years ago, "America is the last, best hope of mankind."

It still is, for us and the deprived people of the world.

Mr. EXON subsequently said:

Mr. President, I first wish to add my thanks for the excellent work and report that I heard this morning from our colleagues from Tennessee, Montana, and Missouri, for the work that they attempted to do in a very difficult part of the world. I hope that their efforts will be fruitful, and I certainly think that all Members of the Senate, all Members of Congress, and, for that matter, the people of the United States will hope and pray that our good offices will be accepted by less than understanding rulers in that section of the world now.

THE CAMBODIAN TRAGEDY

Mr. JAVITS. Mr. President, we have finally begun to focus attention on a crisis which threatens the entire Cambodian population and for which we bear also a responsibility. We have finally begun to realize that the warnings we have been hearing about food shortages in Cambodia mean that 4 million Cambodians face imminent starvation—a situation of genocide. As a result, we—the Congress, the administration and the American people—have begun to take the measures necessary to insure that another genocide does not occur in this century. My deep concern is that we may be already too late.

For too long, the world watched and waited while the politics of the Cambodian situation dictated who in Cambodia would live and who would die. When it became clear that years of war and deliberate government policies meant that virtually no food was being produced in the country, the world was slow in reacting to the devastating effect that fact was having on the Cambodian people. Individual governments, reluctant to involve themselves in the pitfalls of Cambodian politics, decided to let the intergovernmental international organizations take the lead in negotiating a program of humanitarian assistance with the Vietnamese-backed Cambodian regime. The United States also pressed the Soviet Union, Vietnam, and China to urge their respective allies to allow food and medicines to reach Cambodia's starving population. But diplomacy takes time. It took UNICEF and the International Committee of the Red Cross several months to reach a shaky understanding with the Heng Samrin regime. In the meantime, it is impossible to calculate how many people have died.

Even now, supplies have been moving into the country, but no one is certain in what numbers and how quickly and widely they are being distributed within Cambodia. It has been estimated that by the end of October, 10,000 tons of food will have been shipped over a 10-day period to the Cambodian port of Kompong Son. The port is, however, unable to handle the massive influx of supplies and lacks the manpower and machinery needed to unload and distribute the food. The Cambodian railway system is also incapable of handling the amounts of supplies required to feed the population.

Senators DANFORTH, BAUCUS, and SASSER are therefore to be highly commended for taking the bold political move of talking to the Heng Samrin government about their eminently sensible and humanitarian proposal for opening an immediate truck convoy. Such a land bridge from Thailand into Cambodia could move food quickly and efficiently to the people most in need of it and could overcome the insoluble logistical problems that have plagued the relief efforts up to now. Heng Samrin's rejection of the proposal raises the additional questions of whether his government simply lacks regard for the fate of the people and whether political concerns can override the life of millions.

The front-page pictures of dying Cambodian children take on an even more tragic dimension when one considers the fertile land that once was Cambodia. Inhabited by 7 million people just a few years ago, estimates are that the continuous warfare and two tyrannical regimes have left the country with a population of less than 5 million. Now those 5 million face the threat of extinction.

President Carter has pledged $69 million in relief assistance to the international organizations working in Cambodia. His offer is one long-awaited response. Another is to offer Government assistance to the voluntary, as well as the intergovernmental organizations which are operating within the country. Yet another is to stress again to the Soviet Union the urgency with which the United States views the situation and the importance of the opening of a truck convoy from Thailand.

Other, more dramatic answers have also been suggested. The United States could quitely work to pool the world's resources of large cargo planes to loan to the international organizations and begin airdrops of food and medicine. The United States could establish a fund that would subsidize doctors, medicines, and the opening of hospitals at the Thai border. What needs to be remembered is that the urgency of the situation in Cambodia demands an urgent response.

I ask unanimous consent to have printed in the RECORD two editorials from the Washington Post and the New York Times which underline the need for more immediate, direct actions on the part of the United States. Now is clearly a time when political considerations need to be put aside for the more compelling humanitarian reasons which face the world about the Cambodian people.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 28, 1979]

A BURST OF AID FOR CAMBODIA

Many Cambodians have starved to death while the United States and the rest of the world worried about which government rightfully represents them. Now, at last, President Carter has shown a practical desire to help with a pledge of about $70 million for aid.

Even this belated response managed to get caught up in Presidential politics. Senator Kennedy, speaking from a Congress not exactly brimming with humanitarian concern, condemned the Administration for being tardy. Moments later, the President announced the new aid pledge.

About $10 million of Mr. Carter's aid package would go to Thailand, to which hundreds of thousands of Cambodian refugees have fled. The rest—including $30 million already authorized by the House—would be for direct relief in Cambodia, mostly through the International Red Cross and Unicef, which have had some success in persuading the Vietnamese-backed authorities in Phnom Penh to admit them. And beyond the Carter package may come an even larger, volunteer effort. Father Theodore Hesburgh, president of Notre Dame, has announced that religious and refugee groups will try to raise more than $100 million.

Money is not the whole answer. There are technical and political obstacles to getting food and medicine into Cambodia. Once the men who try to govern there agree to let aid in, there is the problem of distribution in a country of broken roads, trucks and even bodily strength. Something can be learned from the rough and ready tactics of the private aid groups and Unicef. While Washington held out for guarantees of delivery, they flew in, talked to officials, toured the devastated countryside—and distributed some food. They were not very demanding about precisely where it would go. They knew it would be spread around.

That seems to be the only humane way to proceed. The huge airlift proposed by Father Hesburgh and others would not be possible until the supplies can be handled better on the ground. The first airborne missions, however, could determine whether more trucks and other equipment would help. Convoys of trucks from Thailand might be able to move toward the Cambodian enclaves held by the deposed forces of Pol Pot. But the presumed obstacles cannot be dealt with until the money is at hand and the rice, penicillin and other goods are ready to roll.

What the situation in Cambodia requires is quite simply a burst of aid, imaginatively given. Only the Administration can coordinate the humanitarian energies now released. Ships, planes and trucks full of food converging on Cambodia would exert a heavy pressure on the cynical men who rule that terrorized land.

[From the Washington Post, Oct. 26, 1979]

THE FAMINE: IS IT TOO LATE?

A lot of backs were being patted in Washington Wednesday—though they didn't deserve to be. A hastily scheduled presidential meeting with church and secular leaders ended in smiles all around as the president pledged $69 million in emergency aid for Cambodia. But the cold reality behind the recent flurry of speeches and headlines is that it all comes much too late. The money is welcome, though tardy. But no amount of money will help unless the food and medicine it buys get to the people who need them. And unless the diplomatic and logistical situation in Cambodia can be changed dramatically—and fast—nothing will get there in time.

In a nutshell, the diplomatic bottleneck is that famine is being used as a weapon in the continuing war in Cambodia—by both sides. The government in Phnom Penh keeps the quiet negotiations to open up relief channels limping along just enough to prevent the West from completely giving up hope that agreement can be reached. The message from Western diplomats is always the same—"Things are going better" and "Just a week or two more and we should have an agreement." Phnom Penh has been working this quite successfully for months now, and there is scant reason to think that anything has changed. If any additional proof is needed, it is provided by Phnom Penh's cool reception to the proposal made Wednesday by three U.S. senators to establish a "land bridge" over which aid could be trucked in from Thailand. After an inconclusive discussion that left one senator optimistic and another depressed, the delegation was dismissed with the statement that the Central Committee would consider their proposal at some future, unspecified date.

Compounding the diplomatic problems are staggering logistical difficulties. One thousand tons of food aid are needed daily, not to provide an adequate diet, but to prevent starvation. Cambodia's major port can unload about 240 tons. The unloading equipment at the airport is weak human bodies: boxes must be limited to what one man can manage. Trucks are almost non-existent (the estimate is two per province) and roads are spotty. Trucks that do get loaded with food make beautiful targets for ambush by soldiers of both sides.

The only relief effort that will really make a difference in this situation is a much more committed and imaginative one than those considered thus far. Spending more weeks in quiet negotiations might work, but more likely it will not, and there is no margin for failure. Some proposal has to be made that will break through the diplomatic and logistical barriers at once. It must take into account the miserable fact that none of the governments directly involved in Cambodia really wants the problem solved. So it must be a commitment, from the outside, to do something, not to negotiate something. And it must be announced in front-page news, not in quiet diplomatic discussions. To make it palatable, whatever is proposed should be carried out by the apolitical relief services—the International Red Cross, Catholic Relief Services, Oxfam and others—with government financial support, but not military equipment. A direct airdrop—like that successfully used in the Sahel—to people located by satellite photography continues to look like the most promising approach, although every possible avenue should be explored.

As it so often is, a pledge of money may be the easiest and cheapest step. The true measure of the West's commitment to prevent the extinction of the Cambodian people will be the effort it makes to ensure that the money is well spent.

RECOGNITION OF SENATOR WARNER

The PRESIDING OFFICER. Under the previous order, the Senator from Virginia is recognized for not to exceed 15 minutes.

SENATE JOINT RESOLUTION 118—PAYLESS PAYDAYS FOR CONGRESS: A CASE OF SIMPLE JUSTICE

CONGRESSIONAL PAY DEFERRAL RESOLUTION

Mr. WARNER. I thank the Chair and I thank the leadership for the time granted to me this morning.

Mr. President, I send to the desk, for appropriate referral, a joint resolution submitted on behalf of myself and my distinguished colleague from Georgia (Mr. NUNN).

Mr. President, earlier this month the Nation and, indeed, the world were witness to a regrettable incident of congressional delay, deadlock, and inaction.

Many of us who serve in this distinguished body were embarrassed and unwilling participants in the unseemly wrangle between the Senate and the House of Representatives over the continuing resolution—a wrangle which resulted in payless and partial paydays for thousands of innocent Federal employees and recipients of Federal program benefits.

It would be difficult to overstate the consternation and hardship which gripped literally millions of American families—military and civilian—as the new fiscal year began and Congress had not acted.

Faced with an ever-escalating cost of living, vast numbers of families are living from paycheck to paycheck. Deferral of even one check, even for a few days, can wreak havoc in their lives.

Rent must be paid. Mortgage payments must be made. Creditors must be satisfied. Children must be fed and clothed and schooled.

Mr. President, to be a Member of the Senate of the United States—which, along with the House of Representatives, had the power to resolve the impasse and avert financial and personal tragedy for countless numbers of our fellow citizens—and yet to be largely powerless, as one individual Senator, to turn aside that rising tide of human suffering—was one of the most profoundly frustrating experiences I have encountered since I took my oath of office as a Member of this body. I have spoken with many of my colleagues, and I know the same was true for them.

Mr. President, in all candor, it is unconscionable that the paychecks of innocent Americans should be held hostage in any dispute between the Senate and the House.

It was not coincidental—but it surely was ironic—that the question of a congressional pay raise was one of the chief points at issue in that struggle.

Many Americans seriously question whether Members of Congress were deserving of the pay they were receiving, let alone meriting a raise. The behavior of the Congress on the continuing resolution certainly provided them with little reassurance.

But, Mr. President—regardless of how individual Members may view the merits of a pay raise for the Congress—we surely have a responsibility not to embroil the livelihood of others in a dispute over our own pay scale—or, for that matter, over any other extraneous and contentious issue.

Unhappily, this has happened before. I submit that we must not allow it to happen again—not on November 30, when the continuing resolution expires—not next September, when the current fiscal year expires—not then, not ever.

However, Mr. President, it is one thing for Senators, individually or collectively, to offer such assurances—but it is something altogether different to make those assurances credible to an increasingly skeptical public.

Even procedural changes which Congress in good faith may adopt, seeking to prevent the recurrence of such painful situations, may not be foolproof.

Accordingly, I am submitting this Senate joint resolution, with the cosponsorship of the distinguished Senator from Georgia (Mr. NUNN). It would defer the pay of Members of Congress in the same manner and to the same extent as the pay and benefits of other employees and individuals are deferred, whenever funds are not available due to congressional inaction or delay.

The joint resolution, if passed by both Chambers and signed by the President, would have the force of law.

It would mean, in practice, that—if Congress ever again delays providing funds to pay Federal employees and Federal benefits—then Congress itself would have its pay delayed.

If our failure to act ever again results in the deferral of even a single dollar in Federal pay or benefits rightfully due to other citizens, even for a single day—then our own pay would be deferred for a like period of time.

If Federal employees and benefit recipients ever again are made to suffer because we fail to do our job—then we too would bear a measure of the burden.

If we ever again hold their paychecks hostage—then ours, along with theirs, would be held hostage.

This, in my judgment, is nothing more nor less than simple justice.

With enactment of this joint resolution, we in the Congress will be laying not only our reputations but our paychecks on the line—as earnest of our determination to avoid ever again such disruptions of the lives and livelihood of innocent Americans.

The Congress as an institution is continually on trial before the supreme bar of the Republic—the citizens we serve.

Enactment of this joint resolution would be a clear and unmistakable signal to the Nation that the Congress is dead serious. It would be graphic evidence of our recognition that we, too, are employees of the people, and are prepared to share a measure of the consequences of our actions.

Accordingly, Mr. President, I commend this joint resolution to the careful consideration of my colleagues. I respectfully request that the Senate move quickly to enact it and send it to the House.

I ask unanimous consent that the text of the joint resolution I have submitted be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 118

Whereas, the Congress of the United States failed to timely enact a number of appropriation bills for fiscal year 1980, thereby necessitating the passage of a Continuing Resolution;

Whereas, the House of Representatives and Senate of the United States repeatedly failed to resolve their differences over certain provisions of the Continuing Resolution, and were unable to reach agreement for a number of days after the beginning of the new fiscal year;

Whereas, the delay by Congress in approving the Continuing Resolution resulted in deferral of paychecks and benefits for thousands of Federal employees and other individuals, disrupting their lives and livelihood and causing severe hardship and stress to innocent people and their families;

Whereas, Congressional inaction necessitated the cutting off or curtailing of funds for the operation of numerous Federal programs, many of which serve those among our citizens who are most in need of help;

Whereas, the recent failure on the part of Congress to timely enact a number of appropriation bills was not the first time that Congress had failed to timely enact appropriation bills: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in any case in which the employees of any Federal department, agency, or other instrumentality of the United States fail to timely receive their compensation for services to such department, agency, or instrumentality, in whole or in part, or in any case in which individuals fail to timely receive any annuity, pension, or other benefit, in whole or in part, which such individuals are entitled to receive under law, solely due to the unavailability of funds to pay such employees or individuals by reason of the failure of Congress to appropriate such funds—

(1) the Secretary of the Senate, notwithstanding any other provision of law, shall defer the pay of the President pro tempore of the Senate, the Majority Leader of the Senate, the Minority Leader of the Senate, and each other Senator from the date that such pay is otherwise due until the expiration of a period of days equal to the number of days that such employees or individuals are required to be without such pay, annuity, pension, or benefits, or any part thereof, and

(2) the Clerk of the House of Representatives, notwithstanding any other provision of law, shall defer the pay of the Speaker of the House of Representatives, the Majority Leader of the House of Representatives, the Minority Leader of the House of Representatives, each Member of the House of Representatives, each Delegate to the House of Representatives, and the Resident Commissioner from Puerto Rico from the date that such pay is otherwise due until the expiration of a period of days equal to the number of days that such employees or individuals are required to be without such pay, annuity, pension, or benefits, or any part thereof.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business not to extend beyond 15 minutes, and Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders numbered 403, 404, 405, 406, 383, and 399.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, the purpose of the reservation is to provide an opportunity to advise the majority leader that all of the items identified by him are cleared on our calendar and we have no objection to their consideration and passage.

BUDGET ACT WAIVER

The resolution (S. Res. 254) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5218, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 5218, a bill to authorize special Caribbean hurricane relief assistance for the fiscal year 1980. Such waiver is necessary to allow the authorization of $25,000,000 in additional budget authority for fiscal year 1980 to provide relief and reconstruction assistance to people in the Caribbean who were affected by hurricanes David and Frederic.

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by the May 15, 1979, deadline because the hurricanes occurred in August and September of 1979.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

The resolution (S. Res. 257) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1012, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1012, a bill to provide for the participation of the United States in the International Energy Exposition to be held in Knoxville, Tennessee, in 1982, and for other purposes. Such a waiver is necessary to allow the authorization of $20,800,000 in additional budget authority for fiscal year 1980 to carry out United States participation in this exposition.

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by the May 15, 1979, deadline, because of a delay in the presentation of the administration's position on this legislation.

The effect of defeating consideration of this supplemental authorization will be a disruption of United States efforts to prepare for this exposition.

The desired authorization will not delay the appropriations process.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

The resolution (S. Res. 258) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1668, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1668, a bill to authorize additional appropriations for the Department of State for migration and refugee assistance for fiscal year 1980. Such a waiver is necessary to allow the authorization of $207,290,000 in additional budget authority for fiscal year 1980 for migration and refugee assistance. The amount previously authorized for this purpose, $248,951,000 has proven inadequate to fund the United States refugee effort.

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by the May 15, 1979, deadline, because of the unexpected increases in the flow of refugees from Southeast Asia.

The effect of defeating consideration of the supplemental authorization will be a disruption of the United States refugee program.

The desired authorization will not delay the appropriations process.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

The resolution (S. Res. 263) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 493, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 493, a bill to promote the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto. Such waiver is necessary because the five committees with referrals of this bill were unable to report the measure prior to the May 15 deadline due to business related to other issues. The committee intends to offer an amendment to S. 493 postponing the authorization of appropriations until fiscal year 1981 in order to comply with section 402(a) of the Act.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SPECIAL HURRICANE RELIEF ASSISTANCE

The bill (H.R. 5218) to amend the Foreign Assistance Act of 1961 to authorize special Caribbean hurricane relief assistance, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MILWAUKEE RAILROAD RESTRUCTURING ACT

The Senate proceeded to consider the bill (S. 1905) to provide for the orderly restructuring of the Milwaukee Railroad, and for other purposes, which had been reported from the Committee on Commerce, Science, and Transportation with amendments as follows:

On page 2, line 24, after "welfare" insert "and reduce rail competition in the affected tier of States";

On page 3, line 14, strike "March 1, 1980" and insert "May 10, 1980";

On page 4, line 23, after "this" insert "section";

On page 4, line 24, strike "labor" and insert "employee";

On page 5, line 2, after "law," insert "and except as provided otherwise in section 3(a),";

On page 5, beginning with line 17, strike through and including page 6, line 2, and insert in lieu thereof the following:

SEC. 5. (a)(1) No later than December 15, 1979, an association composed of representatives of national railway labor organizations, employees, and shippers (or any combination of the foregoing) may submit to the Interstate Commerce Commission a single plan for converting all or a substantial part of the Milwaukee Railroad into an employee or employee-shipper owned company and a method for implementing such plan. The plan, which may include one or more alternative system configurations, shall include a comprehensive evaluation of the prospects for the financial self-sustainability of that portion of the Milwaukee Railroad.

On page 7, line 4, strike "March 1, 1980" and insert "May 10, 1980";

On page 7, line 5, after "(D)" insert "that portion of";

On page 7, line 5, after "railroad" insert "covered by the plan";

On page 8, line 3, strike "creditors" and insert "estate";

On page 8, line 4, strike "March 1, 1980" and insert "May 10, 1980";

On page 8, line 22, after "competitor" insert "or customer";

On page 9, line 3, strike "labor," and insert "employees";

On page 10, line 11, strike "for purposes of financing" and insert "as required to finance";

On page 10, line 13, strike "for" and insert "from the date of enactment of this Act until";

On page 10, line 15, strike "March 1, 1980" and insert "May 10, 1980";

On page 10, line 19, after the period, insert the following:

The provisions of section 3(b)(3) and of the last sentence of section 3(d) of such Act shall not apply to the guarantee of trustee certificates under this section.

On page 11, line 1, after "with" insert "subsection (d) of";

On page 13, line 7, after "to" insert "subsection (a) of";

On page 13, line 11, after "under" insert "subsection (a) of";

On page 14, line 1, after "to" insert "subsection (e) of ";

On page 14, line 6, strike "revitalization" and insert "Revitalization";

On page 14, line 11, strike "(a)" through (e)" and insert "(a), (b), (c), (d)(1) and (2), and (e)";

On page 14, line 14, after "section" insert "as necessary";

On page 14, line 17, after "the" insert "restructured";

On page 15, line 2, strike "occurrance" and insert "occurrence";

On page 15, line 16, strike "3(a)" and insert "5(a)";

On page 15, line 18, after "feasible" insert "or the Commission does not act within 30 days";

On page 15, line 24, strike "3(c)" and insert "5(c)";

On page 16, beginning with line 1, insert the following:

EMPLOYEE STOCK OWNERSHIP PLAN FOR SURVIVING PORTION OF MILWAUKEE RAILROAD

SEC. 12. If an event described in section 11(b) of this Act occurs, resulting in the survival of less than the entire Milwaukee Railroad system, then any relief provided for such surviving Milwaukee Railroad system under the Emergency Rail Services Act of 1970 or any other Federal legislation shall be conditioned upon good faith efforts by the Trustee and/or the Railroad to establish an employee stock ownership plan which plan shall embrace the purchase or acquisition of qualifying employer securities of the Milwaukee equal in value to 25 per centum of the amount of such relief provided.

On page 16, line 16, strike "12" and insert "13";

On page 16, beginning with line 20, strike through and including page 17, line 10, and insert in lieu thereof the following:

"(2) increase the principal amount of such loan to such railroad, in an amount not to exceed $4,000,000, only if the Association makes the finding referred to in paragraph (1)(B) of this subsection, determines that such railroad is making a good faith effort to establish an employee stock ownership plan for review and approval by the Association and receives a written commitment from the railroad that, by December 31, 1980, the railroad will adopt the employee stock ownership plan which will acquire qualifying employee stock with a fair market value of $250,000. The Association may not take any action pursuant to the preceding sentence of this subsection after December 31, 1980.".

On page 18, line 3, strike "13" and insert "14";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Milwaukee Railroad Restructuring Act".

CONGRESSIONAL FINDINGS

SEC. 2. (a) Congress hereby finds that—

(1) the severe operating losses and the deteriorating plant and equipment of the Chicago, Milwaukee, Saint Paul and Pacific Railroad Company (hereinafter referred to as the "Milwaukee Railroad") threaten to cause cessation of its operations in the near future;

(2) a cessation of operations by the Milwaukee Railroad would have serious repercussions on the economies of the States in which Milwaukee Railroad principally operates (namely, the States of Washington, Montana, Minnesota, Idaho, North Dakota, South Dakota, Illinois, Iowa, Missouri, Michigan, Indiana, and Wisconsin);

(3) a cessation of operations of the Milwaukee Railroad would result in the loss of many thousands of jobs of railroad workers and other workers whose employment is dependent upon rail service over the lines presently operated by the Milwaukee Railroad;

(4) the ownership by employees or by employees and shippers of part or all of the Milwaukee Railroad may be a valuable tool in reorganization and should be given serious consideration;

(5) a cessation of essential transportation services by the Milwaukee Railroad would endanger the public welfare and reduce rail competition in the affected tier of States;

(6) a cessation of such services is imminent; and

(7) there is no other practicable means of obtaining funds to meet payroll and other expenses necessary for continuation of services and reorganization of the Milwaukee Railroad.

(b) The Congress declares that emergency measures set forth in this Act must be taken to restructure the Milwaukee Railroad and to avoid the potential unemployment and damage to the economy of the region and of the Nation which a cessation of essential operations by the Milwaukee Railroad would otherwise cause.

COURT-APPROVED ABANDONMENT AND SALES

SEC. 3. (a)(1) Upon the occurrence of an event described in section 11(b) of this Act, or on May 10, 1980, whichever first occurs, the bankruptcy court may authorize the abandonment of lines of the Milwaukee Railroad pursuant to section 1170 of title 11, United States Code. Pending the expiration of the time for appeal of an abandonment order or the determination of any such appeal, the bankruptcy court may authorize the termination of service on a line to be abandoned, and the order authorizing such termination may not be stayed. When a rail carrier is involved in a transaction under this section, the court shall require the carrier to provide a fair arrangement at least as protective of the interests of the employees who are affected by the transaction as that required under section 11347 of title 49, United States Code.

(2) Prior to the date specified in paragraph (1) of this subsection the bankruptcy court may hear and consider any request for the abandonment of lines of the Milwaukee Railroad, and may fix the time for the Interstate Commerce Commission's report on the request, but it may take final action authorizing such abandonment only in accordance with paragraph (1) of this subsection.

(b) Section 11346 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision, when the proceeding involves the sale or transfer of a line of a railroad in reorganization, the Commission shall give the proceeding preference over all other proceedings related to that type of carrier and make its decision at the earliest practicable time, not to exceed 90 days if the proceeding does not involve a significant competitive impact, nor 210 days in any event: *Provided, however,* That this subsection shall not apply to proceedings commenced prior to the date of enactment of this subsection.".

(c) Nothing in this section shall be construed to affect the priorities or timing of payment of employee protection which might have existed in the absence of this Act.

COURT APPROVED ABANDONMENTS IN PENDING CASES

SEC. 4. Notwithstanding any other provision of law, and except as provided otherwise in section 3(a), the court in any case pending under section 77 of the Bankruptcy Act on the date of enactment of this Act may authorize the abandonment of lines of railroad pursuant to section 1170 of title 11, United States Code. Pending the expiration of the time for appeal of an abandonment order or the determination of any such appeal, the court may authorize the termination of service on a line to be abandoned, and the order authorizing such termination may not be stayed. In authorizing any abandonment pursuant to such section 1170, the court shall require the carrier to provide a fair arrangement at least as protective of the interests of employees as that required under section 11347 of title 49, United States Code.

EMPLOYEE OR EMPLOYEE-SHIPPER OWNERSHIP PLAN

SEC. 5. (a)(1) No later than December 15, 1979, an association composed of representatives of national railway labor organizations, employees, and shippers (or any combination of the foregoing) may submit to the Interstate Commerce Commission a single plan for converting all or a substantial part of the Milwaukee Railroad into an employee or employee-shipper owned company and a method for implementing such plan. The plan, which may include one or more alternative system configurations, shall include a comprehensive evaluation of the prospects for the financial self-sustainability of that portion of the Milwaukee Railroad.

(2) The Commission shall, within thirty days after the date of submission of a plan under paragraph (1) of this subsection, approve the proposed plan if it finds that such plan is feasible. The finding of the Commission with respect to the feasibility of the plan shall be made pursuant to section 554 of title 5, United States Code.

(3) The Commission shall make a finding that the plan submitted under this subsection is feasible if it determines that—

(A) adequate public and private financing is available to the proponents of such plan;

(B) such plan is fair and equitable to the estate of the Milwaukee Railroad;

(C) implementation of such plan will occur by May 10, 1980;

(D) that portion of the railroad covered by the plan can be operated on a self-sustaining basis; and

(E) the plan contains an assessment of all operating practices, and includes the implementation of changes designed to achieve the greatest possible labor productivity increases consistent with safe operations and adequate service.

For purposes of the determinations under this paragraph, adequate financing shall include all sources of private funds, the probable value and priority of valid claims against the estate that will be released as part of implementation of the employee or employee and shipper ownership plan, and Federal, State, or local funds available under programs (in existence as of January 1, 1980) which are or will be available to the proponent.

(b) If the Commission finds that the plan submitted under this section is feasible, it shall immediately submit its finding to the bankruptcy court. Within ten days after the day of such submission, the bankruptcy court shall, after a hearing, determine whether such plan is fair and equitable to the estate of the Milwaukee Railroad.

(c) If the Commission finds that the plan is feasible and the bankruptcy court determines that the plan is fair and equitable to the estate of the Milwaukee Railroad, the proponents of such plan shall, no later than May 10, 1980, implement the plan.

(d) Except as provided in this section, the findings of the Commission with respect to the plan shall not be subject to review.

(e)(1) The trustee of the Milwaukee Railroad shall promptly provide to the person engaged in developing the employee or employee and shipper ownership plan under this section—

(A) its most recent reports on the physical condition of the railroad; and

(B) traffic, revenue, marketing, and other data necessary to determine the amount of the acquisition cost of the railroad or portion of the railroad that would be required to continue rail transportation over the railroad line.

(2) Information provided pursuant to this

subsection shall be used only for purposes of preparing a plan and shall not be disclosed to any competitor or customer of the Milwaukee Railroad.

(f) In the implementation of any employee or employee and shipper ownership plan involving expenditures or guarantees of Federal funds as hereinafter provided, authorizations shall be conditioned upon an appropriate contribution from employees including such measures as exchange of assets for relinquishing labor protection claims and changes in work rules to increase productivity: *Provided, however,* That the employee-shipper actual or in kind contribution shall be no less than 25 per centum of the total required financing.

EMERGENCY RAIL SERVICES ACT OF 1970

Sec. 6. (a) Subsection (a) of section 3 of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(a)) is amended by striking out "upon a finding" in the fifth sentence and all that follows in that subsection and inserting in lieu thereof a period.

(b) Section 3(c) of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(c)) is amended to read as follows:

"(c) The Secretary shall not guarantee any certificate under this section unless such certificate is treated as an expense of administration and receives the highest lien on the railroad's property and priority in payment under the Bankruptcy Act, except that this subsection shall not apply to certificates guaranteed for a railroad that is actively engaged in restructuring, as defined by the Secretary. For purposes of this subsection, the term 'restructuring' includes an employee ownership plan or an employee-shipper ownership plan.".

(c) Section 3(e) of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(e)) is amended by striking out "$125,000,000" and inserting in lieu thereof "$200,000,000".

(d) The Secretary of Transportation shall, under the authority of the Emergency Rail Services Act of 1970, immediately guarantee trustee certificates of the Milwaukee Railroad, on the basis of an estimate of the amount required to be provided under subsection (e) of this section, for purposes of allowing the Milwaukee Railroad to maintain its entire railroad system and as required to finance the operations which the Milwaukee Railroad continues from the date of enactment of this Act until the sixty-day period beginning on the date of the occurrence of an event described in section 11(b) of this Act or on May 10, 1980, whichever first occurs. Such guarantee shall be made without regard to the findings set forth in section 3(a) of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(a)). The provisions of section 3 (b)(3) and of the last sentence of section 3(d) of such Act shall not apply to the guarantee of trustee certificates under this section.

(e) The Secretary shall guarantee trustee certificates of the Milwaukee Railroad pursuant to this section in an amount equal to the difference between (1) the total expenses found necessary by the trustee of such railroad for the maintenance and the continuation of service in accordance with subsection (d) of this section, and (2) the revenues of such railroad, both determined in accordance with the Uniform System of Accounts prescribed by the Commission.

(f) Notwithstanding any of the provisions of section 3(c) of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(c)), as amended by this Act certificates guaranteed under this Act shall be subordinated to the claims of any creditors of the Milwaukee Railroad as of the date of enactment of this Act. No payment of interest or principal upon certificates guaranteed under this section shall be required until the conclusion of the Milwaukee Railroad reorganization proceedings, or three years from date of enactment of this Act, whichever first occurs.

NEW CAREER TRAINING ASSISTANCE

Sec. 7. (a) Any employee who elects to receive a separation allowance shall be entitled to receive from the Railroad Retirement Board expenses for training in qualified institutions for new career opportunities.

(b) To be entitled for assistance under this section, an employee must begin his course of training within two years following the date of his separation from employment with the Milwaukee Railroad.

(c) Entitlement to expenses for assistance under this section shall be determined by the Railroad Retirement Board on the basis of an application therefor filed by an employee with the Board.

(d) As used in this section—

(1) the term "expenses" means actual expenses paid for room, board, tuition, fees, or educational material in an amount not to exceed $3,000;

(2) the term "qualified institution" means an educational institution accredited for payment by the Veterans' Administration under chapter 36 of title 38, United States Code.

(e) The Railroad Retirement Board may prescribe such rules as may be necessary to carry out its duties under this section.

(f) There is authorized to be appropriated for new career training assistance under this section not to exceed $1,500,000.

OBLIGATION GUARANTEES

Sec. 8. (a) The Secretary of Transportation, under the authority of section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831), shall guarantee obligations of the Milwaukee Railroad for purposes of providing protection of employees affected by restructuring, transactions, or reduction in service by the Milwaukee Railroad. Such protection may include, but need not be limited to, moving expenses, compensation for employee relocation and separation allowances. Such guarantees shall be entered into without regard to the requirements of subsection (g) of such section 511. Any obligation guaranteed pursuant to this section shall be treated as an administrative expense of the estate of the Milwaukee Railroad.

(b) The aggregate unpaid principal amount of obligations which may be guaranteed by the Secretary pursuant to subsection (a) of this section shall not exceed $75,000,000.

(c) If funds available to the Milwaukee Railroad pursuant to obligation guarantees of the Secretary of Transportation under subsection (a) of this section are insufficient to pay the total amount of benefits and allowances for which employees are eligible, the Milwaukee Railroad shall reduce, on a pro rata basis, the amount provided under each such section.

(d) Except in connection with obligations guaranteed under this section, the United States shall incur no liability in connection with benefits and allowances.

(e) Pursuant to the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, the Secretary of Transportation shall guarantee obligations to finance an equipment repair program for the Milwaukee Railroad, or its successors, during the remainder of 1979 and 1980. Obligations guaranteed under this subsection shall not exceed $30,000,0000.

(f) Obligations guaranteed pursuant to subsection (e) of this section shall be subordinated to the claims of any creditor of the Milwaukee Railroad as of the date of enactment of this Act.

TRANSACTION ASSISTANCE

Sec. 9. Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended by adding at the end thereof the following new subsection:

"(f) Rehabilitation for Common Carrier Service.—Notwithstanding subsections (a), (b), (c), (d)(1) and (2), and (e) of this section, the Secretary may purchase redeemable preference shares of trustee certificates convertible to redeemable preference shares under this section as necessary to facilitate the rehabilitation and improvement of Milwaukee Railroad property that has been sold to another person prior to November 1, 1980, or retained by the restructured Milwaukee Railroad, and that will be used for the continuing rail service.".

APPLICATION OF NATIONAL ENVIRONMENTAL POLICY ACT

Sec. 10. The provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall not apply to transactions carried out pursuant to this Act.

CONTINUATION OF SERVICE

Sec. 11. (a) Until the occurrence of an event described in subsection (b) of this section, the Milwaukee Railroad (1) shall maintain its entire railroad system, as it existed on the date of enactment of this Act, (2) shall continue no less than the regular level of service provided by it as of that date, and (3) shall not embargo traffic (other than when necessitated by acts of God or safety requirements) or abandon or discontinue service over any part of its railroad system.

(b) The Milwaukee Railroad shall comply with the requirements of subsection (a) of this section until—

(1) an employee or employee-shipper ownership plan is not submitted to the Interstate Commerce Commission within the time period prescribed under section 5(a) of this Act;

(2) the proposed plan is found by the Commission not to be feasible or the Commission does not act within 30 days;

(3) the proposed plan is found by the bankruptcy court not to be fair and equitable to the creditors of the Milwaukee Railroad; or

(4) the plan is not implemented within the time period prescribed under section 5(c) of this Act.

EMPLOYEE STOCK OWNERSHIP PLAN FOR SURVIVING PORTION OF MILWAUKEE RAILROAD

Sec. 12. If an event described in section 11(b) of this Act occurs, resulting in the survival of less than the entire Milwaukee Railroad system, then any relief provided for such surviving Milwaukee Railroad system under the Emergency Rail Services Act of 1970 or any other Federal legislation shall be conditioned upon good faith efforts by the Trustee and/or the Railroad to establish an employee stock ownership plan which plan shall embrace the purchase or acquisition of qualifying employer securities of the Milwaukee equal in value to 25 per centum of the amount of such relief provided.

AMENDMENT TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

Sec. 13. Section 211(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(e)) is amended by striking out paragraph (2) thereof and the sentence following that paragraph, and inserting in lieu thereof the following:

"(2) increase the principal amount of such loan to such railroad, in an amount not to exceed $4,000,000, only if the Association makes the finding referred to in paragraph (1)(B) of this subsection, determines that such railroad is making a good faith effort to establish an employee stock ownership plan for review and approval by the Association and receives a written commitment from the railroad that, by December 31, 1980, the railroad will adopt the employee stock ownership plan which will acquire qualifying employee stock with a fair market value of $250,000. The Association may not take any action pursuant to the preceding sentence of this subsection after December 31, 1980.".

AMENDMENTS TO THE DEPARTMENT OF TRANSPORTATION ACT

SEC. 14. (a) Section 5(h)(3)(B) of the Department of Transportation Act (49 U.S.C. 1654(h)(3)(B)) is amended—

(1) in the second sentence thereof, by striking "In accordance with the formula stated in this subsection, the", and inserting in lieu thereof "The"; and

(2) by adding at the end thereof the following: "Notwithstanding the provisions of this subsection, funds available for reallocation as of October 1, 1979, shall be reallocated by the Secretary solely to States which require supplementary assistance to mitigate the effects caused by the filing of large-scale abandonments by railroads in liquidation or reorganization under the Bankruptcy Act. In making such reallocation, the Secretary shall give consideration to the amount of mileage in the State for which an application for abandonment or discontinuance has been filed with the Interstate Commerce Commission in accordance with the provisions of section 10903 of title 49, United States Code, but has not been approved or denied. Consideration shall also be given to the relationship which such mileage bears to the total rail mileage in each State requiring supplementary assistance under this subparagraph.".

(b) The second sentence of section 5(h)(2) of the Department of Transportation Act (49 U.S.C. 1654(h)(2)) is amended by inserting immediately after "and" therein the following: ", except as otherwise provided in this subsection.".

● Mr. BAUCUS. Mr. President, I rise to support S. 1905 and to commend the fine efforts of Senators CANNON, MAGNUSON, and others who have worked diligently to develop this well-balanced response to the Milwaukee bankruptcy.

This legislation will prevent a November 1 curtailment of service on some 6,000 miles of Milwaukee lines in Washington, Montana, Minnesota, Idaho, North Dakota, South Dakota, Illinois, and Iowa.

S. 1905 provides essential time for development of an employee and shipper stock ownership plan that may preserve service on the Milwaukee's transcontinental route.

This bill was reported unanimously by the Senate Commerce Committee on October 29. The committee accepted several of the essential provisions of Senate Joint Resolution 114 introduced by Senator MAGNUSON, myself, and others. With these important amendments, S. 1905 is acceptable to Western shippers and employees.

DESCRIPTION OF S. 1905

S. 1905 will provide loans to the Milwaukee Railroad under the Emergency Rail Services Act to prevent an immediate embargo or abandonment.

Not later than December 15, 1979, an employee or shipper-employee group may submit a plan for converting all or a substantial part of the Milwaukee Railroad into an employee or shipper-employee owned company. The Interstate Commerce Commission will have 30 days to determine whether the plan is feasible.

If the plan is approved by the Interstate Commerce Commission and the bankruptcy court, proponents will have until May 10, 1980 to implement the plan.

If a plan is not submitted, or found not feasible, abandonments may proceed under an expedited procedure.

Finally, the legislation gives the Secretary of Transportation authority to guarantee obligations of the Milwaukee Railroad for purposes of providing labor protection. Any obligation so guaranteed will be an administrative expense of the estate of the Milwaukee Road, having the highest priority for repayment under the bankruptcy proceedings.

These labor protection guarantees provide a framework that may result in prompt cash settlements with employees who may otherwise have to wait until the conclusion of bankruptcy proceedings to receive their valid claims.

NEED FOR RESTRUCTURING LEGISLATION

Mr. President, if this bill is not enacted, the Milwaukee Road's transcontinental lines will be immediately embargoed and will not likely be included in any reorganized railroad.

Congress must avoid this event for two reasons. First, the Western Lines are an essential part of the transportation system in that part of the country.

Second, the trustee's proposed "Milwaukee II" reorganization, which operates in a region of intense competition and substantial rail overcapacity is at best marginally viable. Before committing the 330 million Federal dollars the trustee's proposed reorganization requires, Congress must provide ample opportunity for alternative reorganization plans to be examined.

Abandonment of the Milwaukee's Western Lines would leave a single railroad providing service from Minneapolis to the west coast. The Burlington Northern would have a virtual monopoly for transporting bulk commodities from Montana and other Northern Tier States. The Department of Agriculture, Interstate Commerce Commission, and Office of Rail Public Counsel have all stressed the need for railroad competition to insure reasonable freight rates and adequate levels of service.

The proposed "Milwaukee II" would retain service to Kansas City, which is served by eight class I railroads, Minneapolis, which is served by four class I railroads, and Louisville, which is served by four class I railroads. All of these corridors have been identified as corridors of excess capacity by the Department of Transportation.

Testimony presented at congressional hearings and Interstate Commerce Commission proceedings strongly supports the argument that significant new traffic opportunities are developing for coal, grain, and other products along the Northern Tier. There is an increasing need for rail services which provides important potential revenues for a reorganized or successor Milwaukee Railroad.

SPECIFIC PROVISIONS OF S. 1905

I would like to briefly discuss two specific provisions of S. 1905 that could be misinterpreted without some clarification of congressional intent.

Subparagraph 5(a)(3)(C) of S. 1905 states that "implementation of such plan will occur on May 10, 1980." Nowhere in this subparagraph or anywhere else in the committee's bill where the term "implementation of the plan" is used is there a definition of what constitutes implementation. We need to address this point.

I do not want to see an employee-shipper acquisition plan survive the Interstate Commerce Commission and bankruptcy court review process, obtain adequate public and private financing, but then fail due to the fact that the last "i" has not been dotted and the last "t" not crossed on, for instance, rehabilitation loan financing documents which the Federal Railroad Administration has not completely processed by the deadline. In other words, the fact that necessary financial commitments have been made, but not all of the funds have been disbursed by May 10, 1980, should not render the plan's implementation a nullity.

Subsection 5(f) of S. 1905 provides that Federal funding to be used for the purposes of implementing an employee or employee-shipper ownership plan is conditioned upon an appropriate contribution from the railroad's employees, including such measures as "an exchange of assets for relinquishing labor protection claims." I understand that this language would cover the case where employees' labor protection claims were transferred to the new employee or employee-shipper owned railroad. In other words, the new railroad company would assume the labor protection obligation instead of the present Milwaukee Railroad estate.

Such a transfer of labor protection obligations should meet criteria established in subsection 5(f).

LABOR PROTECTION

Mr. President, I am extremely disappointed that the committee did not accept labor protection provisions of Senate Joint Resolution 114. I believe that provisions of Senate Joint Resolution 114 provide a constructive framework for mitigating the impact of possible Milwaukee abandonments on employees as well as minimizing the burden on the railroad estate.

Regretfully, S. 1905 does not contain these provisions which are necessary to provide effective protection to the thousands of Milwaukee employees and their families who may be severely impacted by the Milwaukee reorganization.

The obligation guarantees contained in section 8 of S. 1905 conceivably could be used by the trustee as an offset against his ultimate obligation to employees under section 11347 of the Interstate Commerce Act.

The supplemental unemployment insurance provided by Senator MAGNUSON and myself in section 8 of Senate Joint Resolution 114 is particularly important. This provision affords considerably less protection for employees than they have traditionally received under earlier acts of Congress; however, this lesser protection would be provided when it is needed most—at the time the employee's job is terminated.

I hope that if S. 1905 is enacted in its present form, the Secretary of Transportation will regard labor protection provisions of Senate Joint Resolution 114 as guidelines for the types of labor protection that may be guaranteed.●

Mr. DURENBERGER. Mr. President, throughout congressional debate over the future of the Milwaukee Road, those of us living in the region served by the Milwaukee have shared a common objective—preservation of this rail company, along with every mile of service that can possibly show potential for long-term viability. Because we have different visions of the Nation's long-term transportation policy, and differing needs in our home States and congressional districts, varying proposals emerged from the debate. But as someone who has been actively involved in the effort to restructure the railroad since the inception of its financial difficulties, I am rising to urge my colleagues to unite behind S. 1905, because it represents the fairest compromise for the States, shippers, employees and creditors concerned with preserving the Milwaukee Road.

It resolves the uncertainties that have haunted the railroad for the past 2 years by setting out clear, specific criteria to govern its reorganization.

It provides those seeking to invest their assets in the purchase of the railroad with sufficient time to complete the details of their proposals, and arrange the necessary financing.

It takes politics out of the decisionmaking process by directing the Interstate Commerce Commission to evaluate those proposals, and analyze the conflicting results of the studies projecting the Milwaukee's future viability.

Finally, it provides the mechanisms necessary to ease the transition from the bankrupt Milwaukee of today, to an economically self-sustaining railroad that can serve our region in the 1980's.

Mr. President, this bill will provide a mechanism for preserving not only rail service, but a rail company. And whether it be the New Milwaukee, the Milwaukee II, or some combination of both concepts, that surviving company will provide the competition needed to preserve incentives for efficient service throughout the region it serves. The Midwest needs raillines; they are the lifeline that connects our grainfields with the rest of the Nation, and the rest of the world. This bill is the first step toward restoring vitality to Midwestern railroads, and I am pleased to be a cosponsor.

I want to commend Senators LONG, CANNON, PACKWOOD, and MAGNUSON for their efforts in consummating this compromise during Commerce Committee deliberations. I also want to commend all of the Senators from our region who have worked so diligently to resolve the Milwaukee's crisis; I say this with particular gratitude toward Senators NELSON, PROXMIRE, BAUCUS, and MELCHER, whose work on the issue is known to all of us. These efforts have finally produced a compromise that can serve our common interest, and I urge everyone of my colleagues to join in supporting it.

● Mr. McGOVERN. Mr. President, the legislation we are considering today is critical to a fair and equitable restructuring of the Milwaukee Railroad. Immediate action on this bill is required to prevent a planned embargo of more than half of the railroad's 9,800 mile system, which would go in to effect this Thursday.

Many of my colleagues have expressed concern over the possibility that this legislation would preclude any potential directed service order for portions of the Milwaukee Railroad. Specifically, questions have been raised concerning the possibility of the court authorizing massive and sudden abandonments of noncore trackage which would create serious hardships to Milwaukee shippers. Although the House bill presently contains language which could prohibit directed service, the Senate Commerce Committee has dropped that provision from the proposal we are considering today. Therefore, in the event that the court does take action at sometime to either abandon or embargo major portions of the system, directed service would still be available as a last resort option to continue service.

This legislation represents a major compromise of the rail needs of all States served by the Milwaukee. It does not meet the complete needs of any single State. I, for one, have serious reservations about the committee's decision to modify the provision providing preference share financing to rehabilitate segments of Milwaukee track acquired by other railroads or shipper organizations. I believe that the original language of this provision directing the Secretary to provide such assistance was essential. The new language making this provision discretionary gives me little hope that the Department will give serious consideration to shipper organizations who are attempting to acquire Milwaukee branchlines.

However, after months of effort to strike a compromise agreeable to all of the affected States, as well as the legislative committee, I believe this bill represents the best we can achieve through the Congress. It is certainly far better than the proposed embargo, which could create critical service disruptions regardless of how quickly the Commission could act on a directed service order.

We must be mindful of the fact that this legislation does set a timetable—it does not provide for the indefinite continuation of the Milwaukee system. Rail user organizations and local or State governments who have expressed an interest in obtaining portions of the Milwaukee, must take immediate action to proceed with negotiations for the purchase of lines and equipment. I doubt that the Congress will provide further extensions.

I would like to take this opportunity to express my sincere appreciation to the distinguished chairman of the Senate Commerce Committee, Senator CANNON, who has acted quickly in order to bring this legislation to the floor. While I have some concerns about provisions of the House bill, I would also like to thank Congressman FLORIO for his continued efforts to deal with this issue in a fair manner.

In sum, this legislation should provide for a restructuring of the Milwaukee that will meet the needs of most shippers, while not significantly jeopardizing the reorganization of the Milwaukee's proposed core system. It represents a very carefully crafted balance. I would hope that no further amendments are offered and urge my colleagues to support the bill in its present form.●

Mr. PRESSLER. Mr. President, I wish to express my deep concern over the need for swift action by the Congress to insure continued transportation services in many Western and upper Midwestern States and to insure an orderly restructuring of the Milwaukee Railroad which operates a network of almost 10,000 miles in the region.

S. 1905, which would achieve these objectives, was unanimously approved by the Commerce Committee yesterday and I urge the support of my colleagues for this urgently needed legislation.

As a result of a decision of the bankruptcy court judge this past Friday, October 25, to allow embargo of service on approximately 6,000 miles of track in the western extension of the Milwaukee Road effective November 1, 1979, S. 1905 takes on immediate and serious importance. I deeply regret the actions of the Federal Rail Administration which thwarted the intentions of the Congress in approving a compromise which would have insured continued operations on the entire Milwaukee system through November 30. That compromise, which I strongly supported, would have provided time for the orderly restructuring of the seriously ailing railroad.

It is vital now that immediate action be taken on S. 1905, the Milwaukee Railroad Restructuring Act. I wish to commend the chairman of the Commerce Committee, Senator CANNON, who sponsored S. 1905 and Senator MAGNUSON, whose efforts have been directed toward preserving vital rail service on the Milwaukee and who was instrumental in achieving agreement on this measure.

S. 1905 will prevent a November 1 embargo of over half of the Milwaukee system. This massive abandonment would have serious adverse consequences in the Midwestern and Western States affected.

My State of South Dakota stands to suffer the heaviest losses in economic and social stability. Not only would agricultural activity be enormously impaired, opportunity would be lost for industrial growth and new investment in the State.

As in many other Western and Midwestern States, agriculture is South Dakota's major industry and provides the livelihood for the greater portion of the State's citizens. Farm investment and planning for expanded grain loading and marketing facilities cannot go forward without a reliable rail system to support these activities.

The agricultural producer in our Nation already suffers from increased costs of production and inflation. As we continue to leave the burden of the costs of inadequate transportation systems on the farmer, the industry will be stifled and the small farmer forced out of existence.

Most important to our national economy is the impact of rail service on expansion of our grain exports. To take advantage of the promise of expanding export markets for our Nation's grain, it is essential that arteries to the west coast and the gulf continue to serve our grain producing States.

Future energy development in South Dakota, Montana, and many other States served by the Milwaukee Railroad is dependent on continued service along major lines. While plans are underway for expansion of coal conversion facilities that will substantially increase transportation needs in the West and Midwest, there is also great interest in construction of alcohol fuels and wheat processing facilities, a venture which holds great benefits for the economy and which I am working to promote. These developments can be successful only if supported by an adequate transportation network.

Certainly, our primary puropse in considering S. 1905 is to assure sufficient time to protect the concerns of all interested parties dependent on the bankrupt Milwaukee Road and to insure an orderly restructuring of the railroad.

This legislation has the consensus of the Commerce Committee and Senators from affected States. It offers a well-balanced approach to the Milwaukee bankruptcy that avoids both a total bail-out by the Federal Government and the immediate massive abandonment of essential rail services.

While providing for the orderly restructure and transition of the bankrupt railroad, we must grant ample opportunity to those who seek alternatives in the purchase and continued operation of the Milwaukee Road. Having long been an advocate of cooperative ownership of rail bed and tracks and having introduced S. 839, legislation to promote the formation of rail cooperatives, I endorse the goals of the coalition of shippers and employees who are working on a plan for acquisition of major segments of the Milwaukee. I believe that it is our responsibility to give every opportunity to those who are attempting to help themselves.

S. 1905 offers that opportunity by providing for consideration of an employee stock ownership plan that may preserve service and competition in Northern Tier States.

Adequate time for continued operations must be provided in order to allow shippers to make alternative arrangements. Immediate abandonment of lines will bring chaos to remote communities dependent on rail service. We must insure that operations will continue uninterrupted and that shippers receive adequate notice before services are terminated.

Mr. President, S. 1905 is no unreasonable request for unlimited Federal funds. It is consistent with national transportation policy that an orderly transition be insured for all rail users and employees dependent on the Milwaukee Road.

I want to express my strong support for S. 1905, which provides for these concerns. I urge that my colleagues take immediate action to support this legislation.

Thank you.

Mr. MELCHER. Mr. President, this legislation is critical to our Nation. The Milwaukee Road cannot be allowed to go down.

Our present agriculture policies are encouraging greater grain production. This incentive to produce is provided by the U.S. Agriculture Department's curtailment of the set-aside program and the increasing sales of wheat and barley abroad, much of which will move through the Northwest ports. This increased production can have two major benefits for our Nation; first, sales of surplus grains helping producers and second, strengthening of the dollar with improved balance of payments. However, it is quite clear that without the ability to move the grain in the area served by the Milwaukee, to move grain both east and west, the two benefits I have mentioned cannot take place.

Additionally, the Milwaukee is now a modest hauler of coal and will in the immediate future have an increased role for moving this essential source of energy. As we all know, coal is an important substitute for foreign oil and is being mandated for use by the Power Plant and Industrial Fuel Use Act of 1978 better known as the Coal Conversion Act.

Finally, Mr. President, I am particularly gratified in that the legislation we pass today includes the key parts of my legislation, S. 1286. While title II of S. 1286 is yet to be enacted, I hope the Commerce Committee will focus on this provision at a future date. This provision does not apply only to the Milwaukee and is not an immediate concern but I hope the Commerce Committee will focus on this for inclusion in future legislation coming before this committe.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MELCHER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Without objection, the unanimous-consent agreement on the bill (S. 1905) is vitiated.

RESUMPTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a resumption of the period for routine morning business, that Senators may speak therein up to 5 minutes each, and that the period not exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

A BRAZEN INVASION OF STATES RIGHTS

Mr. EXON. Mr. President, I wish to call to the attention of my colleagues and refocus attention on the final Senate vote of late yesterday afternoon on which, by a vote of 73 yeas, 13 nays and 14 not voting, the Senate passed an amendment that authorized what certainly must be one of the most brazen invasion of States rights in history.

While carefully doctored, colored, postured, framed and explained as necessary emergency legislation to meet the problems of rising interest rates across the land, Mr. President, the amendment does sheer and devastating violence to fundamental States rights in the setting of usury rates within State boundaries.

I suspect there are few, if any, Americans who believe that we here should usurp the traditional role of State citizens, through their States' elected officials, in determining maximum interest rates. Since the highly contagious Potomac fever malady is not generally known to produce symptoms of restraint, most would agree that State usury rates should not be fixed anywhere but at home or in Heaven, but definitely not in Washington.

Mr. President, I have consulted with some of my colleagues in the Senate and with Second District Representative JOHN CAVANAUGH of Nebraska, a member of the House Banking Committee on this matter.

Many of us feel that the Senate should definitely take another look at what appears to many as our hasty and ill-advised action of yesterday in this regard. We shall be working toward that end and ask the cooperation and consideration of our colleagues.

I thank the Chair.

The PRESIDING OFFICER. Is there further morning business?

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 12:19 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 15 minutes.

There being no objection, the Senate, at 12:04 p.m., recessed until 12:19 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BOREN).

JUDICIAL CONDUCT AND DISABILITY ACT OF 1979

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DECONCINI. Mr. President, the Senator from Arizona inquires what the matter is which is pending before the Senate.

The PRESIDING OFFICER. In accordance with the previous order, the Senate will now proceed to the consideration of S. 1873, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 1873) to establish a procedure for the processing of complaints directed against Federal judges, and for other purposes.

The Senate proceeded to consider the bill.

Mr. DECONCINI. Mr. President, it is with great pleasure that I initiate discussion of S. 1873, the Judicial Conduct and Disability Act. S. 1873 is a supplement to, but not a substitute for, the impeachment process set forth in the Constitution of the United States. It is principally designed to deal with those matters which do not rise to the level of an impeachable offense by providing a simple and clear procedure for the resolution of alleged disability or misconduct of a member of the Federal judiciary.

Legislation on this subject is not new to the Senate. Similar bills have been introduced periodically since the 1940's. More recently, efforts were commenced in the 90th and 91st Congresses by Senator TYDINGS, while Senator NUNN subsequently renewed these efforts in the 93rd, 94th, and 95th Congresses. Last Congress, the Senate for the first time ever passed a bill on this subject which was entitled the Judicial Tenure Act. Unfortunately this bill died a quiet death in the House of Representatives when no further action was taken by that body. An identical judicial tenure proposal, S. 295, was introduced this Congress by Senator NUNN and myself. Two other proposals, S. 522 and a part of S. 678, have also been introduced on this subject earlier this Congress. As a result of comprehensive hearings, analysis, and debate, the Judiciary Committee, by an overwhelming majority, agreed to report an original committee bill for our review today. This proposal, S. 1873, the Judicial Conduct and Disability Act, incorporates the best features of the three bills which have been introduced this year.

Since 1966, the Subcommittee on Improvements in Judicial Machinery has heard from approximately 60 witnesses, gleaning valuable information and insightful comments in the development of this legislation. Legislation on this subject has attracted a significant amount of attention and thought-provoking analysis. These efforts have resulted in a greatly improved and more arguably constitutional procedure which the committee views as more operatively feasible than the existing method of impeachment.

Mr. President, I want to take this opportunity to thank several members of the Judiciary Committee who have been most helpful with the development of the proposal that is before us today. Senators KENNEDY, BAYH, and THURMOND have given a great amount of their time and assistance. It is their support that has made possible this markedly superior committee bill. I also wish to thank Senator NUNN, without whose interest and support we would not be discussing this proposal at this time.

Today's public demands that all branches of Government be made accountable for their actions, including the Federal judiciary. In light of this fact, it would be unwise to ignore this general national concern for accountability since the success of the system depends on the support of the public. Although, on the whole, the general caliber of the Federal judiciary has been extremely high, the problem of the unfit judge is a serious challenge to our judicial system. The Federal courts must remain free from doubt in order to be effective. Recent incidents and publicity regarding several Federal judges have created an unhealthy atmosphere that is threatening the integrity of the judicial branch. The public, therefore, should be provided with a means to allege judicial disability or misconduct that is contrary to the maintenance of an effective and efficient governmental system. The judiciary, as well, should be provided with a less drastic means of discipline than impeachment. In the long run this will actually strengthen the judicial branch.

It has been stated that the only existing method for dealing with an unfit judge is removal by impeachment pursuant to the U.S. Constitution. This procedure has seldom been used in the past and today it seems unreasonable to assume that the Senate and the House of Representatives could lay aside all legislative business for a period of weeks or even months for the House to impeach and for the Senate to provide a fair trial for an obscure, yet misbehaving judge. In the course of 200 years only eight judges and one justice have been impeached, resulting in the conviction and removal of a mere four judges. It seems unreasonable to assert that only four Federal judges in our history have misbehaved. An even more significant indicator is that the last impeachment was in 1936, more than 40 years ago.

When the Founding Fathers created the impeachment provision they were envisioning a Nation comprised of a handful of States and a Congress with a limited workload. This is no longer the situation. For many years Congress has been too absorbed in legislative matters and as a result has been very reluctant to utilize the impeachment process.

To further complicate the problem, the recently enacted Federal Omnibus Judgeship Act will increase the number of article III judges to approximately 850 court of appeal and district court judges. The projections of the Federal Judicial Center estimate that there will be a need for 1,000 district judges and 250 circuit judges by 1990. If Congress has not been able to effectively utilize the impeachment process to date, these additional factors prove that future dependence on impeachment to discipline Federal judges is no longer viable.

The proposed legislation will establish a procedure for investigating and resolving allegations against members of the Federal judiciary. Any person can file a complaint with the circuit Judicial Council alleging that a judge is unable to discharge efficiently his or her duties by reason of mental or physical disability or that the judge is engaging in conduct inconsistent with the effective and expeditious administration of justice. The proposed legislation places primary responsibility for the resolution of allegations of disability or misconduct with the Federal judges of the Judical Council in the respective circuits. These Councils will be able to dismiss, certify disability, request voluntary retirement, temporarily not assign further cases, privately and publicly censure or reprimand, or order other appropriate action, other than removal from office.

The filed complaint, unless it is without jurisdiction, frivolous, or insufficient under the standards prescribed by the legislation, will be handled by the Judicial Council of the circuit subject to review by the Court on Judicial Conduct and Disability. This court can either review the matter on the record and dismiss, affirm, modify, reverse and remand, or hold a de nova hearing. After the hearing, the court can dismiss, certify disability, temporarily not assign further cases to the judge, publicly censure or reprimand, or order other appropriate action, other than removal from office. The court can also report to the House of Representatives on conduct which, in its view, would constitute an impeachable offense. The committee has concluded that these procedures will allow the judicial branch to receive complaints, investigate, and resolve those which need resolution in a timely and appropriate fashion.

Although legislation of this type is greatly needed, S. 1873 is not without its opponents. Some believe that this bill is unconstitutional on several grounds. Most of the doubts have arisen from the view that impeachment is the only method of investigating and remedying judicial misconduct that is expressly authorized under the Constitution. It is argued that since the Constitution refers only to impeachment, it has, by implication, excluded all other modes of judicial discipline. In analyzing the constitutional arguments, both for and against the bill, however, an overwhelming majority of the members of the Judiciary Committee have concluded that the language of the Constitution does not prohibit enactment of the Judicial Conduct and Disability Act.

Opponents who take the exclusivist view believe that the expression of one thing is the exclusion of another, that is, that the impeachment provisions found in the Constitution exclude all other forms of judicial discipline. The Supreme Court, however, applies a commonsense approach to constitutional construction. Ths method results in strict construction in accordance with the exclusivist view in some cases and the finding of an implicit grant of authority in other instances.

Taking the commonsense approach, it is very unlikely that the intent of the Constitution was to leave Federal judges unaccountable for their behavior. Furthermore, the First Congress, whose Members included many of the Constitution's framers, enacted a law which provided for the fining and imprisonment, at the court's discretion, of any judge convicted of accepting bribes. This statute is clearly inconsistent with the concepts of the exclusivists.

Appellate courts have powers to overrule the illegal decisions of lower courts and judges. This type of review, however, is an inappropriate remedy in the event of judicial aberrant behavior, as well as problems caused by a mentally or physically disabled judge.

Although the great majority of our judges perform their duties in a dedicated and a capable manner, in a very real sense the problem addressed in this legislation is more one of perception than actuality—the need to assure the public that formal procedures are in place to deal with the rare instance justifying a disciplinary inquiry. Testimony received by the Judiciary Committee indicates that problems do exist and have existed in the past. These difficulties that have not been adequately resolved have created the need for this type of legislation.

Currently, a judge who is unable to discharge efficiently the duties of his or her office by reason of mental or physical disability or whose conduct is inconsistent with the effective and expeditious administration of justice may remain on the bench for a lengthy period of time before his or her peers eventually convince the judge to retire.

If this peer influence is not effective, the only resolution may rest with the eventual passing away of the judge. This is the current situation because there is no statutory authority which provides that complaints may be filed and matters be resolved with adequate due process safeguards. It is important that the American people continue to be confident in their Federal judiciary. The perception of a viable, healthy judiciary is of critical importance to our system of justice.

The Judicial Conduct and Disability Act helps to fill the gap between impeachment and doing nothing at all by establishing a procedure for disciplining members which is designed to be totally within the judicial branch—that is, judges will be judging judges.

There has been some concern expressed regarding the filing of frivolous complaints by dissatisfied litigants for the sole purpose of harassing judges. This proposed legislation will stop complaints in the first stages of the proceedings if they are frivolous, not consistent with the standard prescribed in the statute, or without jurisdiction. Furthermore, it is not expected that the filing of a complaint will always result in formal procedures. Another provision in the legislation allows each judicial council to investigate and take informal action even though no formal complaint has been filed. In those rare cases where there is need for disciplinary proceeding, there are the much needed assurances of confidentiality.

It has been argued that the utilization of any other method, short of impeachment, to discipline judges, even within the judicial branch itself, would ignore the concerns of the framers of the Constitution that members of the judiciary should be unconstrained from public pressures or threats from the other branches of Government.

This legislation protects the fragile independence of the judiciary since the creation of a measure to investigate and discipline judges does not interfere with the doctrine of separation of powers, nor the theory of judicial independence, if the judicial branch has sole control over the proceedings.

It should be noted that there are two statutes which currently authorize the judiciary to apply some very general disciplinary measures. Sections 332(d) and 372(b) of title 28 of the United States Code are similar to the two-part standard found in S. 1873. Neither of these statutes has been alleged as being a threat to the independence of the judiciary.

Further, Congress has been granted the power to enact appropriate legislation by the necessary-and-proper clause of the Constitution. This clause gives Congress the power to enact legislation to enable it to effectively carry out the spirit and letter of the Constitution.

Opponents of the nonimpeachment methods for judicial discipline argue that some forms of discipline are tantamount to removal and, thus, unconstitutional if not conducted by impeachment. The most onerous sanction imposed for judicial misconduct under S. 1873 would be a report of the Court on Judicial Conduct and Disability to the House of Representatives that it has found conduct which, in its view, would be an impeachable offense. Upon receipt of a record of impeachment from the court, the House of Representatives shall make its best efforts to take final action within 90 days. Clearly, this bill is not unconstitutional, since it leaves removal to be instituted by the House of Representatives, followed by a trial in the Senate.

Finally, S. 1873, in providing for disciplinary measures short of impeachment, eliminates the trauma and stigma attached to such proceedings. Short of impeachable offenses, we all know that there are some problems which are grave enough to merit sanctions less serious than impeachment.

Before concluding my statement, I would like to insert in the RECORD a comprehensive analysis regarding the constitutional issues that could be raised relating to S. 1873, the proposed Judicial Conduct and Disability Act of 1979. The analysis, which was initiated at the request of the committee staff, was prepared by Mr. Johnny H. Killian, specialist in American public law of the Library of Congress. Mr. Killian's paper develops a well-reasoned argument in favor of the constitutionality of the bill.

I ask unanimous consent to have the analysis printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

CONSTITUTIONAL ISSUES RAISED BY THE PROPOSED JUDICIAL CONDUCT AND DISABILITY ACT OF 1979

In S. 1873, the Judicial Conduct and Disability Act of 1979, it is proposed to establish a procedure for investigating and resolving allegations that a member of the federal judiciary is unable to discharge efficiently all the duties of office because of mental or physical disability or has engaged in conduct which is inconsistent with the effective and expeditious administration of the business of the courts. See S. Rept. No. 96–362.

Although the bill does not permit removal of judges by means other than impeachment—the focus of constitutional discussion heretofore—questions of judicial independence and issues of separation of powers may be raised to offer constitutional challenges to the bill as now written. Many of the arguments that must be confronted present matters of first impression, as to which there are no decided cases and little in the way of historical practice that may be used to inform a discussion of the constitutionality of the bill. This report therefore proceeds on the basis that a reasoned argument in favor of constitutionality which is drawn from general principles and analogy and which is then tested by application of objections and counter-arguments will be most productive in reaching an evaluation of the constitutionality of the bill. The report deals only with the constitutional issues, of course, and does not concern itself with the merits of the bill, except insofar as they may be referred to in the course of making a constitutional argument.

THE STATUTORY SCHEME

Complaints of disability or misconduct of federal judges would be handled in the first instance by the judicial council of the circuit in which the judge sits. The council would review, either on its own motion or the complaint of any person, the allegations with respect to a judge and dismiss the matter if it did not come within the standards set out. If the council proceeds and finds the allegations merited, it may take several steps to rectify the situation, including certifying disability, requesting the judge to retire voluntarily, ordering that no further cases be assigned to the judge, censuring or reprimanding the judge either privately or publicly, or taking other necessary action (not including removal). Created by the bill is a Court on Judicial Conduct and Disability, to be composed of five Article III judges, to which either the complainant or the judge could appeal adverse action of the council on the complaint.

The court could act either on the basis of the petition filed before it or on the basis of a *de novo* hearing on the complaint. If it acts without a hearing, it could dismiss the complaint as failing to meet the standards set forth in the bill, affirm or modify any action of the council, or reverse and remand to the council. After a hearing *de novo*, the court could dismiss the complaint, determine that the judge is unable to discharge efficiently the duties of office and call for appointment of an additional judge, or, upon finding that charges of misconduct or disability have been established, order that no further cases be assigned to the judge, censure or reprimand the judge publicly, or order other necessary actions (not including removal). The court could also submit to the House of Representatives a record of the matter if in the court's view an impeachable offense had been committed. No judicial review of the court's actions is to be had.

CONGRESS POWER TO ACT

Basic learning under our constitutional theory is that the Constitution separated governmental powers into tripartite divisions. *Wayman* v. *Southard*, 10 Wheat. (23 U.S.) 1, 46 (1825). From this assignment of functions within the Federal Government, it might be argued that Congress lacks the authority to legislate with respect to internal discipline within the judiciary, that whatever power there exists aside from impeachment is either inherent in the judiciary or if there is none it may not be legislatively created and devolved upon judges. There would be present in such an argument two interrelated but separate arguments as to Congress' power to legislate at all and what limitations the separation of powers doctrine may impose. The response to the argument is interrelated as well.

While there are opinions of the Supreme Court that ascribe to the constitutional scheme of separation a rigidity which in fact it does not have, *Kilbourn* v. *Thompson,* 103 U.S. 168, 190–191 (1881), the more considered opinions recognize the flexibility that underlies the concept. *Springer* v. *Philippine Islands,* 277 U.S. 189, 201–202 (1928); *Myers* v. *United States* 272 U.S. 52, 116 (1926). "[T]he Constitution by no means contemplates total separation of each of these three essential branches of Government. The President is a participant in the lawmaking process by virtue of his authority to veto bills enacted by Congress. The Senate is a participant in the appointive process by virtue of its authority to refuse to confirm persons nominated to office by the President. The men who met in Philadelphia in the summer of 1787 were practical statesmen, experienced in politics, who viewed the principle of separation of powers as a vital check against tyranny. But they likewise saw that a hermetic sealing off of the three branches of Government from one another would preclude the establishment of a Nation capable of governing itself effectively." *Buckley* v. *Valeo,* 424 U.S. 1, 121 (1976).

The Court's language is reflective of Madison's philosophy which found in "a constitutional discrimination of the departments on paper" an insufficient security against encroachment of one on the others. Rather "a balance of powers and interests" was to be prescribed. 1 M. Farrand, *The Records of the Federal Convention of 1787* (rev. ed. 1937), 77. To those purists who objected that the blending achieved in the Constitution was a violation of the doctrine, Madison replied that Montesquieu, the foremost expounder of separation of powers, "did not mean that these departments ought to have no *partial agency* in, or no *controul* over the acts of each other." The philosopher had instead meant that the whole power of one department must not be exercised by another department. The Framers had acted on the principle, Madison said, that unless these departments be so far connected and blended, as to give to each a constitutional controul over the others, the degree of separation which the maxim requires as essential to a free government, can never in practice, be maintained" *The Federalist,* Nos. 47, 48, J. Cooke ed. (1961), 323, 325–326, 332 (emphasis in original).

Examination of the constitutional document reveals many examples of the connections and blending and as well underscores where the Framers placed the responsiblity for fleshing out the government they had created. Artcle I contains fairly detailed provisions setting out the structure and organization of the legislative branch and sets out in some detail the powers assigned to Congress. In contrast is the paucity of specific provisions defining and powering the President and the courts; rather, the power to develop the potentialities vested in Articles II and III is, within limitations, placed with Congress.

Thus, for example, the executive power is vested in the President and Article II, § 2, confers a number of express powers ranging from the authority to command the armed forces to the surprisingly enumerated power to require the opinion in writing of his principal executive officers. With Justice Jackson, we "may be surprised at the poverty of really useful and unambiguous authority applicable to concrete problems of executive power as they actually present themselves. Just what our forefathers did envision, or would have envisioned had they foreseen modern conditions, must be divined from materials almost as enigmatic as the dreams Joseph was called upon to interpret for Pharaoh." *Youngstown Sheet & Tube Co.* v. *Sawyer,* 343 U.S. 579, 634–635 (1952) (concurring opinion).

In the face of this vagueness, the Court has managed to divine some standards of decision. In *Myers* v. *United States,* 272 U.S. 52 (1927), Chief Justice Taft, himself a former President, held unconstitutional a law requiring senatorial concurrence in the removal of postmasters. He found in the grant of "the executive power" a conferral of all executive power as to which the succeeding more specific grants merely elaborated and in some cases limited, rather than a specification of a locus of the residency of executive power, and in the authorization to execute the laws a necessity that the President alone control his subordinates through whom he executed the laws. But even this most latitudinarian interpretation of presidential powers was laced with a recognition of congressional authority. "To Congress under its legislative power is given the establishment of offices, the determination of their functions and jurisdiction, the prescribing of reasonable and relevant qualifications and rules of eligibility of appointees, and the fixing of the term for which they are to be appointed and their compensation—all except as otherwise provided by the Constitution." *Id.,* 129. And in *Youngstown Sheet & Tube Co.* v. *Sawyer, supra,* 587–588, it was observed that "[i]n the framework of our Constitution, the President's power to see that the laws are faithfully executed refutes the idea that he is to be a lawmaker. The Constitution limits his functions in the lawmaking process to the recommending of laws he thinks wise and the vetoing of laws bad. And the Constitution is neither silent nor equivocal about who shall make laws which the President is to execute. The first section of the first article says that 'All legislative Powers herein granted shall be vested in a Congress of the United States. . . .' "

What is true of the executive is even more the case of the judiciary. In Article III, the "judicial power of the United States" is vested in one supreme court "and in such inferior Courts as the Congress may from time to time ordain and establish." Separately, Congress is specifically authorized in Article I, § 8, cl. 9, to "constitute Tribunals inferior to the supreme Court". Article III, § 2, cl. 1, defines and describes the jurisdiction which *may* de devolved on the courts *by Congress*. A small class of cases is made subject to the original jurisdiction of the Supreme Court, but "[i]n all the other Cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and Fact, with such Exceptions, and under such Regulations as the Congress shall make." *Id.,* cl. 2. Anr that is all that Article III provides. It does not say anything about the makeup of the Supreme Court (that there will be a chief justice appears from the provision directing that he preside over the Senate when the President is tried on impeachment), nor does it place any limitation upon Congress' discretion in deciding whether to create lower federal courts or instead to rely on state courts.

In the Judiciary Act of 1789, 1 Stat. 73, Congress provided not only for the size and composition of the Supreme Court but also for the times and place for sitting, its internal organization, and other matters. It created inferior courts and prescribed membership, terms, places of sitting, and jurisdiction. The history of the courts in this country is one of continuous legislative provision with respect to every aspect of the conduct of business. See generally F. Frankfurter & J. Landis, *The Business of the Supreme Court* (1928).

Resulting from Article III's generality and its vesting of authority in Congress is the fact that federal courts have only such jurisdiction and consequently such power to act as Congress devolves upon them; it may give or withhold any or all jurisdiction from the lower federal courts and may leave the Supreme Court with but a shadow of its present burgeoning docket. See, e.g., *Turner* v. *Bank of North America,* 4 Dall. (4 U.S.) 8 (1799); *Ex parte Bollman,* 4 Cr. (8 U.S.) 75 (1807); *Cary* v. *Curtis,* 3 How. (44 U.S.) 236 (1845); *Sheldon* v. *Sill,* 8 How. (49 U.S.) 441 (1850); *Ex parte McCardle,* 7 Wall. (74 U.S.) 506 (1869); *Kline* v. *Burke Construction Co.,* 260 U.S. 226, 233–234 (1922); *South Carolina* v. *Katzenbach,* 383 U.S. 301, 331 (1966). A corollary of the power to create is, of course, the power to abolish courts, again in Congress' discretion. *Stuart* v. *Laird,* 1 Cr. (5 U.S.) 299, 308–309 (1803); F. Frankfurter & J. Landis, *supra,* 25–32, 153–174; W. Carpenter, *Judicial Tenure in the United States* (1918), 78–94.

Extending beyond creating courts and providing for their jurisdiction are congressional enactments which prescribe and regulate the procedure of federal courts and empower with limitations the courts to alter procedure. *Wayman* v. *Southard,* 10 Wheat. (23 U.S.) 1, 21 (1825); *Bank of the United States* v. *Halstead,* 10 Wheat. (23 U.S.) 51, 53 (1825); *Beers* v. *Haughton,* 9 Pet. (34 U.S.) 329, 359, 361 (1835); *Fink* v. *O'Neil,* 106 U.S. 272, 280 (1882); *Sibbach* v. *Wilson,* 312 U.S. 1, 9–10 (1941). Moreover, Congress has long provided for the recusal or disqualification of judges in order to guarantee fairness to litigants, a regulation directly bearing upon judges who have constitutionally protected tenure and compensation. See Act of May 8, 1792, ch. 36, § 11, 1 Stat. 278, now codified at 28 U.S.C. § 455; and see 28 U.S.C. § 144. *Cf. United States* v. *Berger,* 255 U.S. 22 (1921). The standards thus statutorily imposed have been recognized to be more stringent than the Constitution demands, e.g., *United States* v. *Haldeman,* 559 F.2d 31, 130 n. 276 (C.A.D.C. 1976) (*en banc*), *cert. den.,* 431 U.S. 933 (1977), and thus come within congressional discretion to regulate.

In the Administrative Office Act of 1939, 53 Stat. 1223, Congress created judicial councils of the circuits, composed of the active circuit judges of the circuit, and authorized them to "make all necessary orders for the effective and expeditious administration of the business of the courts within its circuit. The district court shall promptly carry into effect all orders of the judicial council." 28 U.S.C. § 332(d). See P. Fish, *The Politics of Federal Judicial Administration* (1973), 125–165; Wallace, "Must We Have the Nunn Bill? The Alternative of Judicial Councils of the Circuits," 51 Ind. L.J. 297, 311–315 (1976); Comment, "The Authority of the Circuit Judicial Councils; Separation of Powers in the Courts of Appeal," 5 Seton Hall L. Rev. 815 (1974). Pursuant to this authorization, the circuit councils have undertaken extensive regulation of the activities and conduct of judges. S. Flanders & J. McDermott, *Operation of the Federal Judicial Councils* (FJC, 1979); R. Wheeler & A. Levin, *Judicial Discipline and Removal in the United States* (FJC, 1979), 32–42. While the exercised powers have not yet been tested on the merits in the Supreme Court, see *Chandler* v. *Judicial Council of the Tenth Circuit,* 398 U.S. 74 (1970), the lower federal courts have proceeded on the basis that the authorization is broad-ranging and valid. *In re Rodebaugh,* 10 F.R.D. 207 (Jud. Coun. of 3d Cir., 1950); *In re Imperial "400" National, Inc.,* 481 F.2d

41 (C.A. 3, 1973), *cert. den.*, 414 U.S. 880 (1973); *Hilbert* v. *Dooling*, 476 F.2d 355 (C.A 2, 1973) (*en banc*), *cert. den.*, 414 U.S. 878 (1973).

Although the Supreme Court did not reach the merits in *Chandler*, in dicta it clearly recognized both the propriety and the necessity for congressional regulation of the judicial process and for authorization to a body to act to effectuate those regulations. "There can, of course, be no disagreement among us as to the imperative need for total and absolute independence of judges in deciding cases or in any phase of the decisional function. But it is quite another matter to say that each judge in a complex system shall be the absolute ruler of his manner of conducting judicial business. The question is whether Congress can vest in the Judicial Council power to enforce reasonable standards as to when and where court shall be held, how long a case may be delayed in decision, whether a given case is to be tried, and many other routine matters. As to these things—and indeed an almost infinite variety of others of an administrative nature—can each judge be an absolute monarch and yet have a complex judicial system function efficiently?

"The legislative history of 28 U.S.C. § 332 and related statutes is clear that some management power was both needed and granted. . . .

"Many courts—including federal courts—have informal, unpublished rules which, for example, provide that when a judge has a given number of cases under submission, he will not be assigned more cases until opinions and orders issue on his 'backlog'. These are reasonable, proper, and necessary rules, and the need for enforcement cannot reasonably be doubted. These internal rules do not come to public notice simply because reasonable judges acknowledge their necessity and abide by their intent. But if one judge in any system refuses to abide by such reasonable procedures it can hardly be that the extraordinary machinery of impeachment is the only recourse." [1] *Chandler* v. *Judicial Council of the Tenth Circuit, supra*, 84–85.

While not dispositive, of course, and not going to the kinds of authority S. 1873 would confer on the councils and the new court, the quotation recognizes both the propriety of congressional legislation with respect to internal court management and to the council's administrative powers to exercise the powers delegated. Congress has over the years consistently devolved upon the council's a large number of powers, some of considerable importance and some minor. Of the former kind is 28 U.S.C. § 372(b), under which the Council of the Circuit may certify to the President that a judge is disabled and the President can appoint an extra judge. The certified judge loses all seniority and apparently would not be assigned any judicial business, but he would retain his office and his compensation. S. Flanders & J. McDermott, *Operation of the Federal Judicial Councils* (FJC, 1979), 31–32; R. Wheeler & A. Levin, *Judicial Discipline and Removal in the United States* (FJC, 1979), 34; Kaufman, "Chilling Judicial Independence," 88 Yale L. J. 681, 708–709 (1979).[2]

In sum, the Constitution created a government of separated powers, each with the power and the incentive to check the abuses of powers of the others. But the Constitution did not provide a detailed checklist of authorizations and instructions to the departments. "To have prescribed the means by which government should, in all future time, execute its powers, would have been to change, entirely the character of the instrument, and give it the properties of a legal code. It would have been an unwise attempt to provide, by immutable rules, for exigencies which, if foreseen at all must have been seen dimly, and which can be best provided for as they occur." *McCulloch* v. *Maryland*, 4 Wheat. (17 U.S.) 316, 415 (1819). Inasmuch as the Constitution is not a prolix code, the power must reside somewhere to provide for the exigencies as they occur and to make the rules guiding governmental action. "[T]he constitution of the United States has not left the right of Congress to employ the necessary means for the execution of the powers conferred on the government to general reasoning. To its enumeraiton of powers is added that of making 'all laws which shall be necessary and proper, for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department thereof." *Id.*, 411-412. Article I, § 8, cl. 18 thus confirms the role of Congress in legislating to effectuate not only its own powers but those powers reposed in other branches of government as well. "We admit, as all must admit, that the powers of the government are limited, and that its limits are not to be transcended. But we think the sound construction of the constitution must allow *to the national legislature* that discretion, with respect to the means by which the powers it confers are to be carried into execution." And the Chief Justice continued with the passage so much quoted it seems trite but which remains the standard for judging such exercises of congressional power. "Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the constitution, are constitutional." *Id.*, 421. The Court has on numerous occasions recognized the authority of Congress under the necessary and proper clause to regulate the courts. E.g., *Wayman* v. *Southard*, 10 Wheat. (23 U.S.) 1, 22 (1825); *Bank of the United States* v. *Halstead*, 10 Wheat. (23 U.S.) 51, 53-54 (1825); *Rhode Island* v. *Massachusetts*, 12 Pet. (37 U.S.) 657, 721 (1838); *Embry* v. *Palmer*, 107 U.S. (1882); *Hanna* v. *Plumer*, 380 U.S. 460, 472 (1965). The authority conferred by the clause appears to be as sweeping with respect to the powers of the executive and the judiciary as it has been with respect to the enumerated powers of Congress. See Van Alstyne, "The Role of Congress in Determining Incidental Powers of the President and of the Federal Courts: A Comment on the Horizontal Effect of 'the Sweeping Clause,'" 36 Ohio St. L.J. 788 (1975). Of course, it would violate the separation of powers doctrine and unconstitutionally intrude into the province of the judiciary were Congress to attempt to dictate the disposition of cases before the courts, *United States* v. *Klein*, 13 Wall. (80 U.S.) 128 (1872), and the courts as an independent branch undoubtedly have spheres of power not touchable by Congress. See *National Mutual Ins. Co.* v. *Tidewater Transfer Co.*, 337 U.S. 582, 590-591 (1949).[3] But these are matters of degree to be evaluated and do not go generally to the power of Congress to legislate over a wide range of issues.

It would appear, and should Congress enact S. 1873 the courts would appear unlikely to disagree with Congress' assessment, that the ends sought to be achieved are legitimate and that the means are appropriate. *McCulloch* v. *Maryland, supra*, 421. The due process clauses of the Fifth and Fourteenth Amendment mandate a "fair trial in a fair tribunal." *In re Murchison*, 349 U.S. 133, 136 (1955). And since "justice must satisfy the appearance of justice," *Offutt* v. *United States*, 348 U.S. 11, 14 (1954), litigants are entitled to the assurance of disinterested and competent administration of the courts. E.g., *Tumey* v. *Ohio*, 273 U.S. 510 (1927; *Ward* v. *Village of Monroeville*, 409 U.S. 57 (1972); *Mayberry* v. *Pennsylvania*, 400 U.S. 455 (1971); *Reserve Mining Co.* v. *Lord*, 529 F.2d 181 (C.A. 8, 1976). Irrespective of the constitutional standards, it would seem to be within Congress' discretion to conclude that certain conduct and activities of federal judges would rise to a level that not only individual litigants would be harmed but the integrity of the courts would be impaired.

The real question is with respect to the second part of the *McCulloch* test, whether the means are prohibited by express or implied provisions of the Constitution.

SEPARATION OF POWERS AND JUDICIAL INDEPENDENCE

While the doctrine of separation of powers does not wholly preclude one branch from having some say in the performance of another branch and does not impose a barrier to general congressional legislation respecting the affairs of either the executive or the judiciary, the doctrine is not irrelevant when legislation is considered on its mertis. In *Nixon* v. *Administrator of General Services*, 433 U.S. 425, 441–446 (1977), the Court set out the standard for judging a claim of invalidity based on separation of powers. Congress had provided for custody of the papers and tapes of Former-President Nixon to be in GSA and for the sorting, cataloging, and disposition of them, with eventual public access to some. Rejecting an argument of absence of congressional power, the Court continued: "Rather, in determining whether the Act disrupts the proper balance between the coordinate branches, the proper inquiry focuses on the extent to which it prevents the Executive Branch from accomplishing its constitutionally assigned functions." *Id.*, 443. In assessing whether there was a "potential for disruption," the Court thought it "highly relevant" that the law provided for custody within the Executive Branch; indeed, when considered in that context combined with assurances of proper screening and protection of privileges, the fact that control and disposition was with the Executive Branch appeared dispositive with the Court in finding little likelihood of disruption of executive functions. *Id.*, 444–445.

Thus, it may be deemed "highly relevant" that the entire enforcement machinery of S. 1873 reposes within the judicial branch. Charges against a federal judge are to be brought into a forum made up of sitting judges who may resolve the matter to everyone's satisfaction and if there is no such resolution the matter may be taken to other judges sitting formally as a court. Rather than containing a "potention for disruption," the bill is presented by the Committee as designed to facilitate the judiciary in "accomplishing its constitutionally assigned functions."[4] Of course, the fact that this is the intention and the design does not establish that the powers conferred can never be abused, that a federal judge can never be victimized. But these "future possibilities for constitutional conflict" lie in the improper utilization of the law and have no bearing upon the facial validity of the bill at this point, *id.*, 444–445, although they can be policy considerations on the issue of desirability.

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[1] The opinion of the Chief Justice was joined by three other Justices, but the opinion of Justice Harlan concurring, *id.*, 89, 118–129, is as strong if not stronger in support of the Council's powers and of the validity of congressional authorization.

[2] For partial lists of other granted powers to the Councils, see *Chandler* v. *Judicial Council of the Tenth Circuit, supra*, 109–110 (Justice Harlan concurring); Comment, "The Authority of the Circuit Judicial Councils: Separation of Powers in the Courts of Appeals," 5 Seton Hall L. Rev. 815, 825 n. 51 (1974).

[3] *See United States* v. *Howard*, 440 F. *Supp.* 1106 (D.C.D. Md. 1977), in which the court strongly expressed the view that Congress did not have the constitutional power to impose time limits on federal courts under the Speedy Trial Act. Since the court found the time limits had not been exceeded in this case, the expression is dictum. For critical commentary on the case, see Note, "The Speedy Trial Act and Separation of Powers," 91 Harv. L. Rev. 1925 (1978).

One may object to the transposition of an argument addressed to the situation of the executive branch, with its single head, to the judicial branch. "Once a federal judge is confirmed by the Senate and takes his oath, he is independent of every other judge. He commonly works with other federal judges who are likewise sovereign. But neither one alone nor any number banded together can act as censor and place sanctions on him. . . . [T]here is no power under our Constitution for one group of federal judges to censor or discipline any federal judge and no power to declare him inefficient and strip him of his power to act as a judge." *Chandler* v. *Judicial Council of the Tenth Circuit, supra,* 136, 137 (Justice Douglas dissenting). The issue of judicial independence thus raised has an important place in our history and constitutional theory. It is relevant to note, however, that Chief Justice Burger in the plurality opinion of the Court and Justice Harlan, concurring, both rejected the principle that each federal judge is autonomous and viewed the judicial council order at issue in less serious terms than did the dissent. *Id.*, 84–85 (quoted above), 129.

There is no precedent either affirming or denying Justice Douglas' view in *Chandler*. Several considerations may be addressed which call into question the breadth of the assertion there made.

First, with respect to the legislative branch which share the feature of numerous, coequal members with the judiciary, the Constitution simultaneously guarantees immunity from executive or judicial retribution for legislative acts, Article I, § 6, cl. 1, and empowers each House to punish its Members even extending to expulsion of them. Article I, § 5, cl. 2. The protection of individual legislators and individual judges was designed with the same end in mind, not so much the benefit of the individual legislator or judge but the promotion of the general good by giving each of them the independence that permits the impartial and courageous discharge of the functions delegated to them. Compare *Kilbourn* v. *Thompson,* 103 U.S. 168, 203 (1881), and *United States* v. *Brewster,* 408 U.S. 501, 507 (1972), with *O'Donoughue* v. *United States,* 289 U.S. 516, 531–533 (1933), and *O'Malley* v. *Woodrough,* 307 U.S. 277, 282 (1939). The Framers did not think it inconsistent with the independence of the legislative branch to vest expressly authority over Members in their respective bodies.

It is the Constitution which so authorizes the Senate and House of Representatives and it is silent with respect to the judiciary. But, as we have seen, Congress is authorized to legislate in respect of judicial matters and if its imposition of such a system is valid legislation it is as much the law of the land as is the Constitution. Article VI, cl. 2. But the comparison was cited primarily as an example that the principle of independence of a branch is not impaired under the Constitution by the vesting of some power over the members of that branch in the branch itself.

Second, within the context of case and controversy, the Federal courts now have and exercise considerable supervisory powers over Federal judges in their conduct of cases. *LaBuy* v. *Howes Leather Co.,* 352 U.S. 249 (1957); *Hilbert* v. *Dooling,* 476 F. 2d 355 (C.A. 2), *cert. den.,* 414, 878 (1973). Under the disqualification statutes, 28 U.S.C. § § 144, 455, Federal appellate courts can determine that a judge may not sit on a particular case. E.g., *United States* v. *Ritter,* 540 F. 2d 459 (C.A. 10), *cert. den.,* 429 U.S. 951 (1976). Under 28 U.S.C. § 372(b), a judge's peers may certify his disability to the President and obtain the appointment of a new judge. While this statute is rarely invoked, Chief Judge Kaufman of the Second Circuit, who has argued strongly that removal provisions in the predecessors of S. 1873 are unconstitutional, Kaufman, "Chilling Judicial Independence," 88 Yale L.J. 681 (1979), perceives no constitutional problem with it. "This statute, it should be noted, was framed with sedulous regard for constitutional limitations. It does not attempt to remove or discipline him. It fulfills one entirely proper purpose; to ensure that the bench has its full complement of able members so that it may administer justice properly." *Id.*, 709. In other words, Judge Kaufman looks to the absence of removal and of diminution or loss of salary as marking the boundary of the protected preserve of a federal judge, because "the certified judge loses all seniority, and presumably would not be assigned any judicial business by his court." R. Wheeler & A. Levin, *Judicial Discipline and Removal in the United States* (FJC, 1979), 34.

Third, and following on this point, the Constitution is silent with respect to the independence of a judge from his fellow judges. While not dispositive because of its equal silence with respect to authorization of judges to act on other judges, the Constitution's authorization in the necessary and proper clause for Congress to legislate with respect to the powers of the other branches is not an insignificant consideration to place in balance with the absence of a prohibition. It appears, therefore, that the inquiry must return to the analysis of the *Nixon* case with which this section began. Is there a "potention for disruption" of the functions assigned the judiciary?

THE EXCLUSIVITY OF IMPEACHMENT

Legislative provision for judicial supervision over misconduct and impairment of ability in the judicial branch raises an interrelated issue also touched on by Justice Douglas. "Under the Constitution the only leverage that can be asserted against a federal judge is impeachment, . . . What the Judicial Council did when it ordered petitioner to 'take no action whatsoever in any case or proceeding now or hereafter pending' in his court was to do what only the Court of Impeachment can do." *Chandler* v. *Judicial Council of the Tenth Circuit, supra,* 136. And see *id.*, 141–142 (Justice Black dissenting). Often alluded to is the language of Hamilton in *The Federalist,* No. 79, J. Cooke ed. (1961), 533. "The precautions for their responsibility are comprised in the article respecting impeachments. They are liable to be impeached for malconduct by the House of Representatives, and tried by the Senate; and, if convicted, may be dismissed from office, and disqualified for holding any other. This is the only provision on the point which is consistent with the necessary independence of the judicial character, and is the only one which we find in our own Constitution in respect to our own judges.

"The want of a provision for removing the judges on account of inability has been a subject of complaint. But all considerate men will be sensible that such a provision would either not be practiced upon or would be more liable to abuse than calculated to answer any good purpose."

It must first be noted that the bill under consideration does not, as prior legislation did, authorize removal of federal judges by means other than impeachment; in fact, both the councils and the court are forbidden to order removal. S. 1873, proposed 28 U.S.C. §§ 372(d) (2) (F), 372(i) (2) (C) (iii). "Although the question has never been finally settled, the Committee has respected the position that removal of federal judges by any means other than impeachment is arguably unconstitutional." S. Rept. No. 96–362, p. 4. Thus, the issue in point is not whether there is an alternative means of removing federal judges from office, but rather whether the impeachment process is the only means by which federal judges can be made accountable in any respect. Are they immune from any action taken by anyone, even by their fellow judges?

Nowhere in the Constitution is this expressly provided. The only express guarantee is in Article III, § 1, in which it is stated that "[t]he Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour; and shall, at stated times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office." It has long been accepted, and acted upon, that federal judges are "Civil Officers" within the meaning of the impeachment clause of Article II, § 4, *Shurtleff* v. *United States,* 189 U.S. 311, 316 (1903); *United States* v. *Isaacs,* 493 F.2d 1124, 1142 (C.A. 7), *cert. den.,* 417 U.S. 976 (1974), thus bringing into play the provision in Article I, § 2, cl. 5, that the House of Representatives has the "sole" power to impeach and the provision in Article I, § 3, cl. that the Senate has the "sole" power to try impeachments.

Federal judges are expressly protected from reductions of their salaries and from removal except, by the seeming consensus, through impeachment; the purpose of the guarantees is the assurance of judicial independence in the trying of cases and the protection of rights of all litigants. But the protection of independence is not under the Constitution extended to the right to hear particular cases or to sit on particular courts. Thus, as we have seen, judges may be ordered off particular cases by higher courts and may be statutorily required to recuse themselves upon the filing of proper papers by litigants. Congress has authorized judges to certify the disability of fellow judges in proper cases, with substantial consequences. The entire jurisdiction of the lower federal courts and the appellate jurisdiction of the Supreme Court are subject to regulation by Congress and, whatever limitations the Constitution may place upon the exercise of that power in order to accomplish certain things, e.g., *United States* v. *Klein,* 13 Wall. (80 U.S.) 128 (1872); *Battaglia* v. *General Motors Corp.,* 169 F.2d 254, 257 (C.A. 2), *cert. den.,* 335 U.S. 887 (1948), Congress may withdraw jurisdiction over a case while it is pending before a court, necessitating its dismissal. *Ex parte McCardle,* 7 Wall. (74 U.S.) 506 (1869); *Insurance Co.* v. *Ritchie,* 5 Wall. (72 U.S.) 541 (1866); *Railroad Co.* v. *Grant,* 98 U.S.

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[4] Also relevant on this point as set out in the *Nixon* opinion are statutory assurances designed to minimize conflict. Notable in this respect is S. 1873's proposed 28 U.S.C. § 372 (c) (3) which precludes the council or the court from considering "complaints relating to the merits of any decisional or procedural ruling of a judge, or any matter reviewable under any other provision of law on the record."

398 (1878). In fact, entire courts, once established, may be, and have been, abolished by Congress. See Act of March 8, 1802, 2 Stat. 132, abolishing the circuit courts created in the Act of February 13, 1801, 2 Stat. 89, and making no provision for the judges occupying the offices, and the Act of October 22, 1913, 38 Stat. 208, 219, abolishing the commerce court created by the Act of June 18, 1910, 36 Stat. 539, and redistributing the judges among the circuit courts.

In other words, the Framers apparently deemed it a sufficient guarantee of the independence of judges to afford them security of tenure and of salary. S. 1873 does not trench on either of these securities. Either the councils or the court can issue a certificate of disability under present law, can request that a judge voluntarily retire, can censure or reprimand him privately or publicly, can order that no further cases be assigned to him on a temporary basis, or can issue other appropriate orders (but not including removal). For our purposes, the censure or reprimand and the halting of assignment of cases may be deemed to raise the most serious new issues.[5] In particular, the order that no new cases be assigned was perceived by Justice Douglas as being equivalent to impeachment. *Chandler* v. *Judicial Council of the Tenth Circuit, supra,* 136.[6]

Impeachment, however, is removal from office. A judge who is not receiving any new cases, even one who has had his pending cases taken from him, retains his office; he is not removed from office and he continues to be paid. He is the functional equivalent of a judge who has been disqualified from sitting on his cases, or who has been certified as incapable, or who has had his court abolished by act of Congress, or who has lost his cases because of repeals or alterations of jurisdictional statutes. He is, to be sure, not functioning in the way a judge normally functions, but it is important to note what the charges must consist of that lead to this point.

A charge must allege that (1) the judge is unable to discharge efficiently the duties of office because of mental or physical disability or (2) the judge is engaging, or has engaged, in conduct inconsistent with the effective and expeditious administration of the business of the courts. Moreover, it may not deal with, and must be dismissed if it does deal with, complaints relating to the merits of any decisional or procedural ruling of a judge or any matter reviewable under any other provision of law on the record. Properly administered, the statute would reach precisely those situations in which in any event a judge is not functioning in the way a judge normally functions, and it would operate in the large to effect the same results that follow from the exercise of an appellate court's supervisory powers in particular cases. That is, inasmuch as federal courts are limited to acting in the course of a case or controversy, abuse of judicial power, bias, or other conditions or conduct of judges are reachable only as they occur in particular cases with respect to litigants who have standing to raise these matters. The bill under consideration, by excepting out these cases, would not alter an appellate court's supervisory powers but would empower the councils and the new court to act over the whole course of the judge's condition or conduct insofar as it related to his judicial function and was unrelated to the merits of particular cases.

Another argument from analogy may shed some light on the issue. The impeachment clause applies, of course, to the President and Vice President and all other "Civil Officers" of the Executive Branch. Because the President and Vice President are given a term of years, they are situated like the judges with their "good Behaviour" tenure (interpreted, as we assume above, to guarantee life tenure subject to impeachment), but the fact that all other "Civil Officers" in the Executive Branch are subject to impeachment does not immunize them from removal by the President (or a lesser appointing office) nor immunize them from other kinds of discipline. The power to remove or take lesser disciplinary actions flows from the constitutional obligation imposed on the President to execute the laws and carry out the executive function. *Myers* v. *United States,* 272 U.S. 52 (1927). The point is that the same constitutional language which is not exclusive with respect to "Civil Officers" can only take on exclusivity with respect to judges by reference to other language in the Constitution; that other language is the guarantee of tenure during "good Behaviour" which goes expressly to tenure and not to lesser forms of action.

Certainly, neither the plurality in *Chandler, supra,* 84–85, nor Justice Harlan, *id.,* 129, deemed the Tenth Circuit Judicial Council's orders directing that no future cases be assigned to Judge Chandler as either the functional equivalent of removal or as some other forbidden action although it must be noted that the plurality's language is dicta.

To the extent that Hamilton's language in *The Federalist* suggests that impeachment and removal constitute the only permissible action that can be taken against a judge, it may be balanced against the precise language of the Constitution which does not expressly go so far. Whether it impliedly goes beyond the express language is a matter for determination upon the analysis set out above.

THE DUE PROCESS CLAUSE

Before government takes action against someone to deprive him of some protected interest, it must afford him due process. The course of adjudication over the last several years has resulted in numerous uncertainties with respect to the nature of the interests which are protected, what elements of due process are required to be observed and the timing of the observance.[7] Because of the constitutional status of federal judges, it may be assumed without analysis that the kinds of adverse actions authorized to be taken against them by the councils and the new court implicate protected interests and necessitate the observance of procedural due process under the Fifth Amendment. The elements of procedural due process are commonly held to be notice, hearing, impartial tribunal, confrontation and cross-examination, discovery, decision on the record, and right to counsel, *Goldberg* v. *Kelly,* 397 U.S. 254, 267–271 (1970), although it must always be remembered that due process tolerates variances in form "appropriate to the nature of the case." *Mullane* v. *Central Hanover Trust Co.,* 339 U.S. 306, 313 (1950).

The bill, by virtue of considering council action somewhat less formal than the action of the court, does not spell out the procedures to be followed by the councils as fully as it does the court procedure, but neither does it prevent the councils from according the full panoply of rights; indeed, proposed 28 U.S.C. § 372(e)(1) would authorize the Judicial Conference to promulgate rules of procedure for the councils for discharging their duties or to authorize the councils to promulgate their own rules. The bill itself requires adequate notice, the right to appear, maintenance of a record of the proceedings, and written findings. As rules are promulgated, other procedural protections can be built in. In the court, the judge is given adequate notice, the right to attend the hearings, assistance of counsel, the right to testify and to present evidence, and the right of confrontation and cross-examination, and the right to a written decision.

It appears, therefore, that no procedural due process problems are presented by the bill, at least facially, and that if additional procedural features are found necessary they may be adopted through regulation.

With respect to public censure or reprimand, it appears that reputation *per se* is not protected by the due process clause, *Paul* v. *Davis,* 424 U.S. 693 (1976), but to the extent that "reputation plus" is a protected interest, *Wisconsin* v. *Constantineau,* 400 U.S. 433 (1971); *Goss* v. *Lopez,* 419 U.S. 565 (1975); *Bishop* v. *Wood,* 426 U.S. 314, 347–350 (1976); *Codd* v. *Velger,* 429 U.S. 624, 627 (1977), it is not a substantive protection but a procedural one requiring the observance of the same guarantees set out above. To the degree that the procedures are sufficient generally to withstand constitutional challenge, they would appear sufficient with respect to public censure or reprimand.

THE ENFORCEMENT MACHINERY

The judicial councils, as now constituted, are composed of the circuit judges in active service in each circuit. 28 U.S.C. § 332(a).[8] If the judicial councils are considered Article III courts, that is, as the particular court of appeals sitting *en banc,* there is doubt that Congress may vest non-Article III judicial business in Article III courts, *O'Donoghue* v. *United States,* 289 U.S. 516 (1933); *National Mutual Insurance Co.* v. *Tidewater Transfer Co.,* 337 U.S. 582 (1949). Although Justices Harlan, Douglas, and Black in *Chandler* v. *Judicial Council of the Tenth Circuit, supra,* 89, 95–111 (Justice Harlan concurring), 129, 133–135 (Justices Douglas and Black dissenting), believed the councils to be courts, at least when acting in the capacity which the Supreme Court was reviewing, the remaining four Justices who participated thought that the councils were administrative bodies functioning as a "board of directors" in each circuit. *Id.,* 86 n. 7. These Justices perceived on constitutional difficulty in this arrangement.

The question is of some importance because, as noted above, the councils do perform a number of administrative functions. And while they may act as a court would in receiving and reviewing complaints filed against judges by outside persons, the bill also authorizes them to investigate on their own motions allegations that come within the standards prescribed.

It appears that individual Article III judges may participate in functions which could not be given to an Article III court. *United States* v. *Jones,* 119 U.S. 477 (1886); *Glidden Co.* v. *Zdanok,* 370 U.S. 530, 579–580 (1962); McKay, "The Judiciary and Nonjudicial Activities," 35 Law & Contemp. Prob. 9, 33–35 (1970); Comment, "The Authority of the Circuit Judicial Councils: Separation of Powers in the Courts of Appeals," 5 Seton Hall L. Rec. 815, 832–835 (1974). The judicial councils which these judges sit on would be analogous to Article I judicial tribunals exercising both administrative and non-Article III judicial powers, such as those created in the territories, *American Ins. Co.* v. *Canter,* 1 Pet. (26 U.S.) 511 (1829), or in the District of Columbia. *Palmore* v. *United States,* 411 U.S. 389 (1973). As such bodies, the councils could issue orders which federal judges would be obligated to follow. *Chandler* v. *Judicial Council of the Tenth Circuit, supra,* 86 n. 7.

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[5] The certification of disability raises a significant issue as well, but inasmuch as it already is law we pass over it here.

[6] Justice Douglas melded in the revoked order taking away already assigned cases with the one relating to new cases but the principle should not be altered. S. 1873 does not expressly deal with pending cases unless the authorization to "order such other actions as it considers appropriate under the circumstances" comprises the taking away of pending cases.

[7] See *The Constitution of the United States of America—Analysis and Interpretation,* S. Doc. No. 92–82 (1972), 1429–1439, and 1978 Supp., S. Doc. No. 96–26 (1979), for a review of the cases.

[8] S. 1477 which has been considered and approved in the Senate (but held in order to add the provisions of S. 1873 to it before final passage) would create councils composed of appeals and district judges in numbers fixed by a vote of the appeals judges in active service.

The new Court on Judicial Conduct and Disability would qualify as an Article III court, inasmuch as its member judges have constitutionally guaranteed tenure and security of compensation. *Glidden Co.* v. *Zdanok,* 370 U.S. 530 (1962). As such, it would only hear cases and controversies brought to it from the judicial councils, just as review is now sought of administrative agency action.

Under the bill, proposed 28 U.S.C. § 372(i)(3), there is no judicial review of the orders or actions of the new court. While the absence of a right to take a case "all the way to the Supreme Court" may strike one today as strange and aberrational, the Constitution, as was noted above, leaves the jurisdiction of the inferior federal courts and the appellate jurisdiction of the Supreme Court in the discretion of Congress, See, e.g., *Palmore* v. *United States,* 411 U.S. 389, 400–404 (1973); *Swain* v. *Pressley,* 430 U.S. 372 (1977). Moreover, even in criminal cases, where constitutional protection is at its highest, absent affirmative provision for it, there is no guarantee of any right of appeal. "A review by an appellate court of the final judgement in a criminal case, however grave the offense of which the accused is convicted, was not at common law and is not now a necessary element of due process of law." *McKane* v. *Durston,* 153 U.S. 684, 687 (1894); *Griffin* v. *Illinois,* 351 U.S. 12, 18 (1956); *Ross* v. *Moffitt,* 417 U.S. 600, 606 (1974). Congress for a hundred years did not provide for a right of appeal to the Supreme Court in criminal cases, except upon a certification of division by the circuit court; at first appeal was provided in capital cases and then in others. F. Frankfurter & J. Landis, *The Business of the Supreme Court* (1928), 79, 109–120.

The Supreme Court in dicta in recent cases has hinted that preclusion of judicial review of constitutional claims might raise constitutional questions, *Johnson* v. *Robison,* 416 U.S. 361, 366–367 (1974); *Weinberger* v. *Salfi,* 422 U.S. 749, 761–762 (1975), but its concern appears to be that litigants at some point have access to an Article III court, *Territory of Guam* v. *Olsen,* 431 U.S. 195, 201–202, 204 (1977), and the Court on Judicial Conduct and Disability would be an Article III court.

REPORT TO THE HOUSE ON IMPEACHABLE CONDUCT

The new court is directed to submit to the House of Representatives a record of all proceedings which reveals conduct "which, in its view, would constitute an impeachable offense. . . . "Proposed 28 U.S.C. § 372(k). It has been suggested that in some sense this authorization may interfere with congressional prerogatives. First, if the bill is enacted, it will be congressional direction to the court and the role of Congress thus detracts from any argument of violation of separation of powers. *Nixon* v. *Administrator of General Services,* 433 U.S. 425, 441 (1977). Second, it is not at all clear what constitutes the interference. The report of the court may be a more formal way of making known to the House of Representatives a complaint of impeachable conduct than it may usually receive, but in any event the House retains full discretion to decide whether the conduct is indeed impeachable and freedom to act.

Mr. THURMOND. Mr. President, I ask unanimous consent that Peter Chumbris, Emory Sneedon, and Sally Rogers, of the Senate Judiciary staff, have the privilege of the floor during the consideration of and votes on S. 1873 and S. 1871.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DeCONCINI. Mr. President, I make the same request for Debbie Neirinck.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I make the same request for Mike Klipper and Grace Rienhoff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I would like to express my support for S. 1873, the Judicial Conduct and Disability Act of 1979. I am a cosponsor of this piece of legislation along with a number of my colleagues from the Judiciary Committee.

S. 1873 establishes a simple, yet effective procedure for the processing of allegations that members of the Federal Judiciary are not efficiently performing their duties by reason of physical or mental disability or that they have engaged in conduct inconsistent with the effective and expeditious administration of the business of the courts. Complaints may be filed by any person with the judicial council of the circuit in which the judge who is the subject of the complaint serves. Any complaint alleging conduct which does not violate the standards set forth in the bill shall be dismissed, as well as any complaint which is regarded as frivolous or which is outside the jurisdiction of the council. If the council determines that there is a violation of the standards established in S. 1873, it may certify disability pursuant to existing law found in 28 U.S.C. 372(b), request that the judge voluntarily retire, order that on a temporary basis no further cases will be assigned to that judge, censure or reprimand the judge publicly or privately, or order other appropriate action.

Review of the council's action lies with a court created in S. 1873 which is designated as the Court on Judicial Conduct and Disability.

This court is to be composed of five existing article III judges appointed to serve on this panel by the Chief Justice of the United States. Should the court decide to grant a petition for review, it may dismiss the complaint; or it may affirm, modify, or reverse and remand any action taken by the council. Aside from its appellate functions, the court may conduct a hearing and determine the matter de novo if it decides that the interests of justice so require. Finally, the court is required to forward to the House of Representatives a record of all proceedings in any case involving conduct which, in its view, would constitute an impeachable offense.

That is a broad outline of the procedures established by S. 1873. I shall comment briefly on the two standards contained in this legislation. Under the new section 372(c)(1)(A), a complaint may be filed alleging that a judge is, or has been, unable to discharge his duties efficiently by reason of mental or physical disability. This language is very similar to that found in existing law under section 372(b) which allows the President to appoint an additional judge should a majority of the members of the judicial council certify that an existing judge suffers from a permanent mental or physical disability. S. 1873 allows the disability issue to be raised by a complaint, but provides that the existing procedures of section 372(b) must still be complied with if permanent disability is to be certified. If the disability is not permanent, the council may select one of the other options available to it under S. 1873, such as temporarily assigning no further cases to that judge.

A complaint may be filed under the new section 372(c)(1)(B), the second standard set forth in S. 1873, if the judge is engaged, or has engaged, in conduct inconsistent with the effective and expeditious administration of the business of the courts. Again, the source for this particular language is existing law and therefore not totally unfamiliar to the Judiciary. Section 332(d) of title 28 grants to each judicial council the power to make all necessary orders for the effective and expeditious administration of the business of the courts. I might add that section 332(d) is currently being utilized as the statutory basis for the procedural processes established in 10 of 11 circuits for the handling of complaints alleging judicial misconduct. It is my belief that this section is insufficient statutory authority for the establishment of a comprehensive judicial disciplinary procedure. Aside from that concern, however, I feel that it is desirable to have at least some uniformity in the procedures and standards being utilized from circuit to circuit. Passage of S. 1873 would obviously resolve both of these concerns.

I feel it is also appropriate to comment on the standards which were not included in the final draft of S. 1873. During the full committee markup of this bill, the members of the committee agreed, at the suggestion of the senior Senator from Indiana, to delete a third standard which allowed the filing of a complaint if the judge had engaged in conduct prejudicial to the administration of justice by bringing the judicial office into disrepute. This so-called disrepute standard was dropped because it was felt that this standard could be too intrusive on the judge's personal life and was subject to possible abuse. The deletion of the disrepute standard was also requested by the Administrative Office of the U.S. Courts.

Having addressed the standards and procedures contained in S. 1873, I think it would be useful to point out some of the major differences between S. 1423, the Judicial Tenure Act, which passed the Senate during the 95th Congress, and S. 1873. The most significant change is undoubtedly the absense of a provision which would allow removal of a Federal judge by means other than impeachment. There has been a great deal of discussion and debate in hearings and on the Senate floor concerning the constitutionality of removing or even disciplining a judge by some means other than impeachment. The most heated constitutional debate has focused on the alternative removal provision.

While I believe such a removal provision to be arguably constitutional and took this position on the Senate floor during consideration of the Nunn-DeConcini bill last year, I have come to the conclusion that a more moderate piece of legislation would stand a better chance of actually becoming law and would be more enthusiastically accepted by members of the judiciary who will have to live with and implement the provisions of S. 1873. It is my opinion, which I believe to be shared by other members of the Judiciary Committee, that we can have an effective piece of legislation without including provisions which raise serious constitutional questions.

S. 1873 would, I believe, be effective in two ways. First of all, as the committee report points out, there are situations where the disability or misconduct involved does not rise to the level of an impeachable offense. S. 1873 provides clear statutory authority for a number of other intermediate sanctions which will give needed flexibility to the judicial council to find solutions in these instances. Second, while impeachment is admittedly a cumbersome and time-consuming process, S. 1873 would serve to isolate the most serious instances of misconduct and to actually set before the House of Representatives a record of proceedings revealing misconduct which might constitute an impeachable offense. I think it is likely that the existence of such procedures would provide an incentive for Congress to take appropriate action where no such incentive has previously existed.

Other significant differences between last year's bill and the legislation presently being considered include the procedural mechanisms established, with S. 1423 creating an independent Judicial Conduct and Disability Commission to investigate and report on complaints. In the area of standards of judicial misconduct, S. 1423 significantly differs from S. 1873 by requiring that a complaint must allege conduct which violates the good behavior clause found in article III of the Constitution, a standard which is not as familiar as those found in S. 1873 and which has generated far more controversy. Finally, S. 1873 contains no provisions covering the conduct of U.S. Supreme Court Justices, such as were found in S. 1423.

Mr. President, during the committee's consideration of S. 1873, several arguments against this legislation surfaced. Since I am relatively certain that they will be repeated here on the floor today, I would like to briefly address them at this time. Although the removal provision was deleted from this year's bill, several members of the committee have still voiced concerns about the constitutionality of disciplining Federal judges by means other than impeachment. Having previously argued for the constitutionality of a removal provision, an argument which I will not repeat at this time, I am unconvinced by those who see constitutional difficulties with more moderate sanctions.

There is certainly no explicit language in the Constitution which would prohibit the establishment of a mechanism for the judiciary to implement its own disciplinary procedure. The Constitution provides for impeachment as a means for Congress to remove judges found guilty of very serious misconduct, more specifically of treason, bribery, or other high crime and misdemeanors. S. 1873 does not alter that impeachment process other than to require that the Court on Judicial Conduct and Disability forward a record of proceedings to the House of Representatives in cases involving, in its view, an impeachable offense.

There are, however, other situations involving judicial misconduct which does not warrant impeachment of that judge; and I think that the Senate should pass this legislation giving clear statutory authority to the judiciary to deal with these situations. I do not believe that the Founding Fathers, in establishing impeachment as the method for Congress to remove a member of the Federal judiciary, meant to totally preclude other means of discipline which do not involve removal.

In addition to raising the constitutionality of S. 1873, some members of the committee have questioned the need for this type of legislation. There is absolutely no question that the vast majority of our Federal judges are highly competent, hard-working, conscientious men and women; but there remains a need, I believe, to establish a mechanism to deal with that occasional judge who does suffer from a mental or physical disability or whose conduct has been interfering with the efficient and expeditious administration of the business of the courts.

Impeachment, because of its time-consuming and cumbersome nature and because it may be too severe a sanction, simply might not present a realistic alternative. I am aware of the disciplinary procedures which have been established by rule in 10 of 11 circuits, and I commend the judges for their efforts in this regard. I do believe, however, that the statutory authority for this activity is less than clear. S. 1873 establishes that authority and provides the overall structure of a disciplinary system which still gives a great deal of flexibility to the individual circuit councils.

A final issue which has been frequently raised is the effect which this legislation would have on the independence of the Federal judiciary. S. 1873 will not, in my opinion, compromise that necessary sense of independence. Under its provisions, unlike those of the Nunn-DeConcini bill which passed the Senate last year, a Federal judge can neither be removed nor involuntarily retired. Frivolous or insufficient complaints, or those outside the jurisdiction of the judicial councils, should be promptly dismissed. This bill offers a great deal of flexibility in terms of the procedures to be utilized by the various councils. It would be possible, for example, for a particular judicial council to establish a screening process in which the chief judge of the circuit would initially evaluate the complaint.

Moreover, a judge need have no fear that he will be disciplined under this legislation because he is of a particular judicial philosophy or because there is disagreement with a particular ruling. The committee has made more than clear, through both statutory and report language, that a complaint related to the merits of any decisional or procedural ruling or any matter reviewable under any other provisions of law on record is outside the jurisdiction of the council. This point, however, should be emphasized; and I would like to read a portion of the committee report dealing with the issue of judicial independence.

> Under the provisions of the Act, judges are shielded from the influence of public disapproval with the substance of the law itself and judicial interpretations of it. It is made clear that with this legislation judges need not feel threatened by frivolous complaints or those growing out of dissatisfaction with one of their decisions or procedural rulings. These insufficient complaints will be screened out and dismissed. . . . The subject of this legislation is to remedy matters relating to a judge's condition or conduct which interferes with his performance and responsibility.

It should also be kept in mind that, under the provisions of S. 1873, the conduct of a judge is reviewed only by other judges. Because they also serve on the Federal bench, I am sure that they will be extremely sensitive to the need to preserve the vitally important independence of all judges.

Mr. President, in recent years there has been a significant increase in the amount of business flowing into our Federal courts. From 1960 to 1978, for example, the number of civil suits filed in Federal court increased from 87,321 to 138,770. In addition to their burgeoning caseloads, judges have assumed some unfamiliar roles in the course of interpreting Federal statutes and defining constitutional rights. Federal judges have, in some instances, ended up virtually running school boards, welfare agencies, prisons, and other institutions. While I do not approve of their usurping such authority, I feel one cannot argue with the premise that we need judges of the highest caliber.

As I pointed out earlier, I strongly believe that the vast majority of Federal judges are equal to the duties and responsibilities which our society has given to them. Our judicial system, however, can further be improved by establishing a mechanism for resolving situations in which the conduct or disability of a particular judge impairs the efficiency and effectiveness of that system.

Mr. President, I would also like to express my support for the titles of S. 1477 to which S. 1873 will be attached if it is passed by the Senate. The most significant provision of these titles of S. 1477 is that establishing a new Federal court of appeals entitled the Court of Appeals for the Federal circuit. This new court essentially combines the jurisdiction of the Court of Claims and that of the Court of Customs and Patent Appeals. It will be an appellate court whose jurisdiction is based on subject matter rather than on geography. The creation of this new intermediate appellate court is an idea which has been championed by former Assistant Attorney General Daniel Meador of the Justice Department's Office for Improvements in the Administration of Justice. It was his strong belief that such a court would improve the efficiency of our judicial system by providing an existing forum where Congress could route appeals in certain categories of cases where there might be a special need for national uniformity. Other important provisons of titles I, II, III, V, and VI include those dealing with chief judge tenure, the judicial councils, interlocutory appeals, prejudgment interest, and transfer of cases.

In closing, I would urge my colleagues in the Senate to support S. 1873, the Judicial Conduct and Disability Act. Although some members of the committee are opposed to this legislation, it was reported out by a vote of 11 to 4. I believe that S. 1873 is constitutional, that it is necessary, and that it will not compromise the independence of the Federal judiciary. This legislation takes a reasonable, moderate approach to the problem of dealing with that occasional judge who suffers from a physical or mental disability or whose conduct has been interfering with the effective and expeditious administration of the business of the courts. I would like to thank the able Senator from Arizona (Mr. DECONCINI) for the fine work which he has done in bringing this compromise legislation to the floor of the Senate.

Mr. President, I yield the floor.

Mr. DeCONCINI. Mr. President, I ask unanimous consent that Pete Velde and Ken Feinberg of the Judiciary Committee staff be granted privileges of the floor during the debate and vote on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DeCONCINI. Mr. President, the legislation we have before us today represents a meaningful compromise between most of the individuals who opposed last year's legislation and those of us who supported it. The details of this compromise were developed over a long, tedious process of consultation among our various staffs.

I would like to take this opportunity to pay special tribute to those individuals who, through their untiring efforts, have made this bill a reality so it could come to the floor today.

Michael Altier, of the subcommittee which I chair, deserves the lion's share of the credit for the immense amount of work he put in. I know firsthand of many, many hours, late nights, that he put in on behalf of this bill.

Also Romano Romani, my staff director, deserves a great deal of credit for his tireless negotiations with various Senators' staffs, with Mr. Altier's assistance.

Both the staff of Senator KENNEDY and Senator BAYH deserve the utmost credit for their willingness to work with us in a positive sense to find mutually acceptable solutions, particularly Ken Feinberg and Marcia Atcheson who must be singled out for praise because I know the difficulty they have had with this bill and other legislation and for their patience and willingness to continue to work toward an objective that we all wanted, which is finally before us today.

As usual, of course, the minority staff has been cooperative and helpful at every point. Senator THURMOND, as usual, has given us great counsel and advice, has always been willing to be there and to assist in resolving issues, not just to prevent something from happening. Emory Sneeden and Sally Rogers of that staff deserve a great deal of credit for their tireless effort in putting this legislation together.

I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I would just like to concur in commending the splendid work that the staff has done on this bill. The members on the majority, who have been cited by the Senator from Arizona, have done an outstanding job, and on the minority Sally Rogers has done most of the work. She has had able assistance and counsel from General Sneeden, who is the minority counsel for the Committee on the Judiciary, and I would especially like to commend him.

Mr. LAXALT. Mr. President, Federal judges are the least "controlled" people in public life in America today. Although I often disagree with their decisions individually, although I often criticize the scope of their decisions collectively, and although I often decry the trend toward a more activist judiciary which plays an increasingly legislative role in modern life, I nevertheless strongly feel that the Federal bench should be immune from the political pressure which I believe will be the result of this legislation.

Lifetime appointments and a slow and cumbersome system of impeachment have insured us of a Federal judiciary which remains free and independent, and has helped to assure us that cases are decided on their merits and on the law. Where unpopular decisions are warranted by the law, as they often are, a judge may render such a decision knowing that he will be free of pressure from the public, from the press, and from the rest of the judiciary. Such a system helps to assure that the case will be decided as it should be, and according to law.

The Federal courts are the final link in our system of checks and balances. They are the last to act, and the last to change. After the political pressure groups have lobbied, after the legislature and executive branches have acted, after the press has analyzed, reported and commented, and even after the public has experienced changes and additions to our system and to our laws, the courts finally rule on the legality, and constitutionality, and application, and the scope of those changes and laws. That review follows the debate on the need for and the advisability of such changes with good cause. Making that process more susceptible to political pressure will not, in my opinion, improve our system of Government.

Historically, judges have remained independent; that independence has helped to preserve our system of Government of laws rather than of men. Even a cursory examination of the Constitution and of the Federalist Papers tells us that the Founding Fathers wanted the system to work that way, and a cursory glance at the way the system has worked tells us that they knew what they were doing.

Judge Irving Kaufman, Chief Judge of the U.S. Court of Appeals for the Second Circuit, in his compelling article in the Yale Law Journal, "Chilling Judicial Independence," states:

> If there is any lesson to be drawn from the political turmoil of recent years, it is the indespensable need for a judiciary able to serve, in the words of Edmund Burke, as a "safe asylum" during times of crisis.

The Federal courts, as part of our political structure, do become involved in issues with profound political repercussions; in recent years, such cases have certainly increased. As those cases affect more and more people, and affect the lives of those people to a greater degree, independence becomes more critical.

Judge Kaufman, in the same piece said:

> The courts have always adjudicated thorny issues in America, but until modern times the most well-known and controversial exercises of judicial power were negative actions limiting the scope of government. In recent years, the judiciary has often been an accelerator of governmental activity rather than a brake. In the last few decades the courts have given broad construction to affirmative personal rights and manifested an increasing willingness to articulate and implement new ones. The toll call of causes dealt with by the judiciary sounds like a litany of the most vexing questions in current American political history: racial discrimination and segregation, school admissions and affirmative action, busing, free speech and political protest, internal and foreign security, the rights of criminal defendants, church-state relations from prayers in public schools to public funding for parochial schools, legislative reapportionment, obscenity, the draft, abortion, the death penalty, women's rights, and ecology.

The hearing record for this legislation is replete with incidents of judicial misconduct of the sort so famously established by Judge Ritter of Salt Lake City. I do not deny that there have been such incidents; however, such incidents are the exception rather than the rule. To subject the entire Federal judiciary to the pressures of the political world thereby risking the necessary independence of the judiciary, seems to me to be tragically shortsighted, and to be a tragic mistake.

As I said at the executive session of the Judiciary Committee when this legislation was marked up, the political situation in this country is vastly different today than it was even 10 years ago. There are single issue constituencies and single issue groups which do not hesitate to bring to bear pressure, wherever needed, to win their cause. As all of us in the political world know, those single issue constituencies are able to, and willing to, make themselves felt to an extraordinary degree.

The Federal courts have, until now, been able to remain free of the pressure which such groups are able to bring, and as a result their decisions, which often deal directly with the issues such groups are concerned with, are more likely to be on the merits and on the law, and not based on such pressures. With this legislation, however, we are likely to open up the judiciary to the political world, and make them suddenly more susceptible to such single issue constituencies.

The bills' sponsors tell us that such complaints will be dismissed. Maybe they will. But nevertheless, the simple fact that the procedure exists for such complaints to be filed will give dissatisfied litigants, and those single issue constituencies who support them, grounds to make themselves heard, and thereby to effect the independence of the judge.

Federal judges are called to account, in a way, to a degree far beyond those of us who hold elective office: Each one of their decisions can be appealed. That is a higher degree of accountability than in the Senate, because when I cast my vote here, there is no appeal of that.

Mr. President, the system we now have works relatively well, and I see no reason to change it, particularly where change may introduce a new set of problems that we do not now have.

SENATE RESOLUTION 267—COMMENDING THE PITTSBURGH PIRATES FOR THEIR WORLD SERIES VICTORY

Mr. HEINZ. Mr. President, would it be in order to obtain unanimous consent to call up a resolution, and to ask for its immediate consideration?

The PRESIDING OFFICER. With unanimous consent that could be done.

Mr. HEINZ. Mr. President, I ask unanimous consent to call up a resolution.

Mr. DECONCINI. I have no objection.

Mr. MATHIAS. Mr. President, reserving the right to object, I would like to know the subject of this resolution.

Mr. HEINZ. Mr. President, the subject of the resolution is to commend the Pittsburgh Pirates for their World Series victory against the very, very able Baltimore Orioles from the great State of Maryland, and to join Pittsburgh Pirates fans everywhere, including those in the State of Maryland and other States, territories, and possessions, in congratulating the Pittsburgh Pirates team, managers, and so on.

That is the subject of the resolution, I say to my good friend and colleague from Maryland.

Mr. MATHIAS. Mr. President, further reserving the right to object—and I would like to object—I will not object if it is clear that the request of the Senator from Pennsylvania will include a reasonable time for rebuttal on the part of the Senator from Maryland.

Mr. HEINZ. Mr. President, I am willing to divide the time equally between myself and the Senator from Maryland for any amount of discussion that he chooses to have on this subject.

So with that agreement, Mr. President, I renew my unanimous-consent request.

The PRESIDING OFFICER (Mr. STEVENSON). Is there objection? Without objection, the Senate will proceed to the consideration of the resolution.

Mr. HEINZ. Mr. President, I send the resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 267) to commend the Pittsburgh Pirates for their World Series victory and to join Pittsburgh Pirates fans everywhere in congratulating the team management, players, and coaches.

Mr. HEINZ. Mr. President, we are very honored here in the Capital City today to have and to note the presence of the Pittsburgh Pirates. It is to commend the Pittsburgh Pirates not only for their fine teamwork, sportsmanship, and play during the baseball season and their thrilling series with the Baltimore Orioles—in which they kept us all in suspense until the seventh game—but for the purpose of recognizing what the Pirates uniquely have brought, I think, into so many living rooms: a sense not only that baseball is still our national sport, not only that it can be played with enjoyment and spirit and be observed, but that there is something else besides just that joy and good feeling we get.

What the Pirates have demonstrated this year is something they call "Family." They are together. They work together. They have a common purpose. And at a time when, I think, everybody in the United States would like this entire country to work much better together, much closer together, with a common purpose, the fact that they stand for and practice what is called "Family" in Pittsburgh is very meaningful to all Americans.

We were also privileged today to honor the manager of the Pirates, Chuck Tanner, the owners, Dan and John Galbreath and Tom Johnson, and the other members of the team who were over in the Dirksen Building just a few minutes ago. These included Willie Stargell, Dave Parker, Ed Ott, Bill Garner, Bruce Kison, and Grant Jackson, among others.

As you know, Mr. President, it is not in order for any Senator ever to refer to the presence of anyone in the galleries at any time, so I shall not do that. But we are pleased to have them here in Washington, D.C., and we were privileged to be able to present Willie Stargell's uniform, including his hat, bat, and other very important paraphernalia which he earned as the most valuable player in the series to the Smithsonian Institution, where it will be displayed and kept for posterity.

Mr. President, I appreciate the opportunity to offer this resolution. We are all very proud throughout our State to claim the Pirates as our own. I will be happy to yield any such time the Senators from Maryland might require.

Mr. MATHIAS. Mr. President, first of all, I have a question of the Senator from Pennsylvania.

We all know, as a result of his remarkable record in athletic events, that he has earned the title of the best athlete in Congress. He has also earned our salute as one of the best-dressed Members of the Senate.

But today I notice that in his apparel there is something added, in his hip pocket, and I wonder if the Senator from Pennsylvania would tell us what is in his pocket, which seems to be unusual and a departure from his customary well-dressed appearance.

Mr. HEINZ. Well, first, Mr. President, as the Senator from Maryland well knows, it would be inappropriate for me to appear on the Senate floor wearing anything other than normal Senate attire—coat, shirt, tie, and the rest. So I want to make it very clear——

Mr. MATHIAS. There is something very unusual about the Senator's appearance today.

Mr. HEINZ. I want to make it very clear to such members of posterity as may read the CONGRESSIONAL RECORD—as some are accused of doing—that what is in my hippocket is under my coat, but the Senator from Maryland is perceptive. It is a Pittsburgh Pirates hat, which was presented to me earlier today. I am proud to be the recipient of it, just as I know the Senator from Maryland would have been equally proud to receive a Baltimore Orioles hat, which perhaps on another occasion he will have a shot at.

Mr. MATHIAS. Further along that line, Mr. President, the 1979 World Series provided excitement for baseball fans everywhere. It was played between the teams with the best records in baseball and the outcome was in doubt until the last innings of the last possible game. So in a very real sense, everyone was a winner.

Though my team, the Baltimore Orioles, came out short on home runs, they still gave the fans of Baltimore much to cheer about. Baltimore proved that when 250,000 Oriole fans turned out to salute the team on the day after the series.

When the baseball season started, few people believed the Orioles would finish higher than third place. But to the pleasant surprise of many they finished first in their division, beat the California Angels for the American League pennant and went on to the World Series.

However, in the series the Birds came up against unprecedented early snow and the talented and formidable Pittsburgh Pirates led by their captain, Willie Stargell. It looked bleak for the Pirates when they were down three games to one, but they picked themselves up and went on to win.

It is no disgrace for the Orioles and the Baltimore fans to lose to a team like the Pirates. Everybody can take pride in that the Most Valuable Player Award of the Series went to such a fine gentleman and player as Willie Stargell.

So I offer my congratulations to the Pittsburgh Pirates for their victory and to the Baltimore Orioles for making 1979 a memorable season for all Marylanders.

But I must remind my colleagues from Pennsylvania that had the Pirates lost, they would have missed being introduced to that fine Maryland delicacy, the Maryland beaten biscuit.

I remind my colleagues from Pennsylvania that the Birds will fly again in 1980.

Mr. HEINZ. Mr. President, let me thank my colleague from Maryland for his kind words. I think he has most generously expressed himself.

Mr. President, I ask that all further time on the amendment——

Mr. SCHWEIKER. Mr. President, will the Senator yield?

Mr. HEINZ. I yield 2 minutes to my colleague.

Mr. ROBERT C. BYRD. Mr. President, will the Senator allow me to make an inquiry? How much time are we going to have on this?

Mr. HEINZ. Mr. President, I ask that any further discussion be limited to not more than 3 minutes.

Mr. ROBERT C. BYRD. All right.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SCHWEIKER. Mr. President, I commend my colleague, the distinguished Senator from Pennsylvania, for his resolution to make this Pirates day in the Senate.

I also want to say I guess some people would call it family day in the Senate. But whatever we call it in the Senate, I, as a Pennsylvanian, am very proud.

I had the opportunity to be in Johnstown last evening, and all I had to do was mention the word Pirates and it brought the house down. That is exactly the way Pennsylvanians feel no matter what part of the State they come from in terms of the Pirates' victory and the world championship, which we are so proud to see the Pirates have, which they so rightly deserve.

Mr. President, I was a little concerned when my colleague from Maryland reserved the right to object. At first I thought there was a little poor loser coming through in that phrase. Then I am glad to see that even though giving it twice, our good colleague has backed off.

I was disappointed. All we could get out of my good colleague in the way of a consideration for a bet was Maryland beaten biscuits. I have nothing against Maryland beaten biscuits, but I was at least hoping for Maryland soft-shell crabs. I thought it would be better if we had Maryland soft-shell crabs. But I have eaten my biscuits and my teeth hurt accordingly. I hope the next time we get something a little better than beaten biscuits.

Mr. MATHIAS. If the Senator will yield, there is nothing better than beaten biscuits.

Mr. SCHWEIKER. Mr. President, I appreciate the sentiment, but the taste is otherwise.

Back in 1971, as my colleague will recall, we had another bet.

Mr. MATHIAS. If the Senator will again yield, he is sounding like a poor winner.

Mr. SCHWEIKER. We are very good at being good winners.

Back in 1971, we had another bet about riding elephants and getting elephants for the winner. The Senators had to rent elephants from the circus. The winners rode them in triumph across the Capitol grounds, and the losers had to take shovels to make sure the area was environmentally safe and sound after the elephants went through.

I commend the Senator, Mr. President. He did a great job on that occasion. He is very good at that. We are always glad to have those kinds of bets.

I thank goodness that we had Willie Stargell who saved us on both occasions in 1971 and 1979 so we did not have to carry the shovels. But we do hope that next time the Senator will get something a little better for Senator HEINZ and I to enjoy.

I do commend my colleague for his resolution, and I strongly urge its unanimous adoption.

Mr. HEINZ. Mr. President, does the Senator wish to be added as a cosponsor?

Mr. SCHWEIKER. Yes, I do. Mr. President, I ask that I be added as a cosponsor to the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, Senator THURMOND wishes to be added as a cosponsor also.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the resolution.

The resolution (S. Res. 267) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 267

Whereas the World Series is played every year to determine the World Champion baseball team;

Whereas the Pittsburgh Pirates won the 1979 World Series by defeating the Baltimore Orioles by four games to three;

Whereas Willie Stargell broke the World Series record for extra base hits, and was chosen most valuable player; and

Whereas the Pittsburgh Pirates have shown perseverence, teamwork, sportsmanship and family. Now, therefore, be it

Resolved, that the Senate of the United States commends the Pittsburgh Pirates for their World Series victory and joins Pittsburgh Pirate fans everywhere in congratulating the team management, players, and coaches.

Mr. HEINZ. I thank the Chair.

JUDICIAL CONDUCT AND DISABILITY ACT OF 1979

The Senate continued with the consideration of the bill S. 1873.

Mr. MATHIAS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MATHIAS. Mr. President, have we returned to the consideration of the pending bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. MATHIAS. Mr. President, I think one of the first things which is useful to do in a discussion of the issues presented by the Judicial Conduct and Disability bill is to put this bill into its historical perspective.

No Member of the Senate should believe that this is simply a housekeeping bill which relates to the daily administration of the Federal courts. It is not. This bill is another chapter in a long debate on a subject of fundamental importance to human freedom, the question of the independence of judges.

We do pass legislation from time to time dealing with the daily administration of justice in the courts of this country. But this is not that kind of a bill. This is a different kind of a bill. This is a historic and important step dealing with the organic law of this Nation. It is one in a long series of debates on the subject of the independence of judges, a series of debates which goes back far beyond the establishment of this Republic, even beyond the history of Anglo-American jurisprudence, back into the mist of time.

It is a matter of regret to me that I must respectfully dissent from the action of the majority of the Committee on the Judiciary in reporting a judicial conduct and disability bill favorably to the Senate.

Earlier this year, I urged my colleagues, when considering any legislative proposals dealing with judicial discipline, to pay particular attention to a number of fundamental questions. I think those questions are fundamental. I think they are important. I hope the entire Senate will pay attention to those critical fundamental questions. I will take the time to enumerate them very briefly here.

The first is the question of the nature and the extent of the problem of judicial misconduct.

We really have to look at what is the nature and the extent of the problem as we consider what is appropriate by way of a solution.

The second question is, What type of disciplinary mechanism would best remedy such problems as may, in fact, exist?

The third question is, What is the impact of such proposals for the remedies on the independence of the Federal judiciary?

Finally, the fourth question is whether or not impeachment is the sole constitutional means of disciplining a Federal judge. I hope that Members of the Senate will note that I did not say the sole means of removing a Federal judge; I said of disciplining a Federal judge.

So, with these four questions in mind, in the months that have intervened since I first propounded them, I have reviewed the hearing records that have been compiled by the Senate Judiciary Subcommittees on the Constitution and Improvements in Judiciary Machinery as well as the views expressed by our Founding Fathers and by noted legal scholars in law schools and universities all across this country. As a result, and trying to be as objective as I can, I have been forced to conclude that the Judicial Conduct and Disability Act of 1979, is of dubious constitutionality, is unnecessary, and is unwise as a matter of public policy. Let us examine first the question of whether the Judicial Conduct and Disability Act is constitutional.

Is the Judicial Conduct and Disability Act of 1979 constitutional?

I do not believe there is a single Member of the Senate—certainly, no member of the Senate Judiciary Committee—who would not acknowledge the serious constitutional questions that surround any legislatively devised scheme to remove Federal judges by means other than impeachment. The committee has, in my judgment, wisely excluded from this bill the authority to remove Federal jurists from office.[1] I certainly supported this exclusion. It is not an insignificant step. It was a significant decision to eliminate removal from the procedures contemplated under this legislation. But it is not enough, and merely the fact that we have excised removal as one of the procedures contemplated under this bill should not and must not end our inquiry into the constitutionality of this proposed legislation because, in my view, the bill still fails to pass constitutional muster.

In expressing this view, I do not mean to imply that I have any greater reverence for the Constitution than other members of the committee or any greater knowledge of the Constitution than other members of the committee; but it does seem to me to be so clear that impeachment is not only the sole constitutional means of removing judges who have offended, but it is the sole constitutionally permissible method of disciplining Federal judges.

If there is any doubt about this, we only have to go to witnesses who were present at the creation. Alexander Hamilton, writing in Federalist No. 79, underlined this point. The Federalist papers were an integral part of the constitutional contract that the American people entered into in 1787. Alexander Hamilton said this in explaining the Constitution to his fellow countrymen of his generation:

> They—

By "they," he meant Federal judges—

> They are liable to be impeached for malconduct by the House of Representatives and tried by the Senate; and, if convicted, may be dismissed from office and disqualified from holding any other. This is the only provision on the point which is consistent with the necessary independent of the judicial character, and is the only one which we find in our own Constitution in respect to our own judges.

Alexander Hamilton, who was an original witness, who was there, has made it clear that impeachment is the unique mechanism for disciplining Federal judges.

It is perfectly clear that the Founding Fathers were deeply concerned over the conflict between judicial independence and judicial accountability, just as the distinguished Senator from Arizona (Mr. DECONCINI) is concerned about it to this day. This is a concern which has persisted throughout our history. As I suggested a minute ago, it is a concern which existed even before the history of the Republic began.

The Founding Fathers were well aware, as Justice Black noted in his dissent in Chandler against Judicial Council, which is a case decided just 9 years ago, to quote Justice Black:

> That the judges of the past, good, patriotic judges, had occasionally lost not only their offices but had also sometimes lost their freedom and their heads because of the actions and decrees of other judges.

Because of the action and decrees of other judges—

> they were determined that no such things should happen here.

I think Justice Black stated that historical record very accurately.

The Founding Fathers came to the Constitutional Convention with the lessons from history well in mind. The Founding Fathers debated the issue of judicial independence versus judicial accountability and they provided us with an unusually detailed legislative history of their efforts.[2] So we are not dealing here with a case of constitutional vacuum, a case where the Founding Fathers overlooked an important element of Government such as the question of the Presidential succession we dealt with by constitutional amendment recently. They thought about this and they dealt with it and, in the end, they carefully crafted a specific procedure for dealing with judicial misconduct.

They specified in the Constitution that Federal judges would be accountable for their actions through a single process, and that process was impeachment.[3] And I submit, Mr. President, that that process is impeachment.

Our former, very distinguished colleague, the Senator from North Carolina (Mr. Ervin), has written that they, the Founding Fathers, "very carefully provided for a Federal judiciary that operates completely independent of everything but the Constitution."[4]

Completely independent of everything but the Constitution. In my view, Sam Ervin was right. In my view, impeachment is the only constitutionally acceptable method of disciplining Federal judges.

Again, I do not rely on my own sense of respect for the Constitution, but I look at how others have felt about it.

This view of exclusivity of the impeachment clause has the ringing endorsement of Justice Douglas and of Justice Black. In his dissent in Chandler against Judicial Council, Justice Douglas, writing for himself and for Justice Black, provided us with a very explicit statement of this view of the Constitution. In that case he said:

> An independent judiciary is one of this Nation's outstanding characteristics. Once a Federal judge is confirmed by the Senate and takes his oath, he is independent of every other judge. He commonly works with other Federal judges who are likewise sovereign. But, neither one alone nor any number banded together can act as censor and place sanctions on him. Under the Constitution the only leverage that can be asserted against him is impeachment, where pursuant to a resolution passed by the House, he is tried by the Senate, sitting as a jury.[5]

I think there are some words in Justice Douglas' language that are worth repeating because they are so important to understand the legislation before us. He says:

> Under the Constitution the only leverage that can be asserted against him is impeachment.

That is very significant language. The only way we can bring pressure on a Federal judge, the only way we can discipline a Federal judge, is by impeachment, so says Justice Douglas.

It has been argued that one of the primary reasons for this legislation is that the impeachment process is cumbersome, that it is unwieldy, and it is time consuming.

Certainly, I would not deny that it is difficult to impeach a Federal judge. But I think that it ought to be hard to impeach a Federal judge. I think that was the intention of the Founding Fathers and that that was the way that they carved the Constitution, and that is the way it was and that is the way it is.

It is inconceivable to me that our Founding Fathers who took such care to develop the impeachment process and to otherwise safeguard judicial independence would have endorsed the type of sanctions and disciplinary procedures contained within this Judicial Conduct and Disability Act.

I cannot believe that this bill would have survived the scrutiny of the Constitutional Convention.

Concern over the difficulty of employing the impeachment process should not blind our judgment. It ought not, in the name of efficiency and expediency, lead us to adopt proposals that are basically unconstitutional.

But, Mr. President, if Congress should conclude that some mechanism is necessary to supplement the impeachment process, Congress is not without a remedy. It does not have to resort to the legislative route with the obvious constitutional obstacles.

Rather, it can follow the Constitution explicitly. It can employ the amendment process which was so meticulously devised by the Founding Fathers.

That, to me, is not only the preferable way to proceed, it is the only way to proceed.

All too often in the past Congress has enacted legislation of questionable validity, assuming that the determination of the bill's constitutionality is within the sole province of the judiciary.

In effect, we say—I have heard this said many times here on the floor of the Senate, or in the cloakrooms, or in the corridors—"Well, I am not certain about the constitutionality of this bill. I don't know whether it is constitutional, or not. But I think it is a good idea, so I am going to vote in favor of it. I hope the Congress passes it. I hope the President signs it. Then we will let the courts worry about whether it is constitutional or not."

That is a very tempting kind of way to do it. But I hope that in this case we do not succumb to that temptation, because we have a responsibility, independent of that of the judiciary, to consider carefully the question of a legislative proposal's constitutionality.

Before we enter upon our duties in this Chamber, we take an oath to support and defend the Constitution of the United

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States. I do not think we can ignore that duty.

We can be wrong in our judgment about constitutionality. We can be in error on the question of constitutionality, just as I suspect the Court is in error on some occasions. But we have sworn an oath to discharge our duty as Senators in accordance with the Constitution. I do not believe we can perform those duties responsibly without coming to a conclusion about whether some contemplative action is constitutional.

Chief Justice Burger has reminded us that—

> In the performance of assigned constitutional duties, each branch of Government must initially interpret the Constitution, and the interpretation of its powers by any branch is due great respect from the others.[6]

I concur with that wholeheartedly. Every Member of Congress has a solemn duty to assess the constitutionality of the Judicial Conduct and Disability Act, and I have tried to do so. I have concluded that the bill is unconstitutional.

Mr. HEFLIN. Will the Senator yield?

Mr. MATHIAS. I am happy to yield to the distinguished Senator from Alabama.

Mr. HEFLIN. I would like to inquire of the Senator from Maryland, that when an issue of constitutionality comes before the Congress, which affects the judiciary, should there not be a higher standard of care—if we could use those words—on the part of Congress in looking at the constitutionality of proposed legislation when we realize that if it affects the branch that would have to consider and determine whether or not it is constitutional? It would seem to me to place a higher degree of care on Congress, not to just flippantly or haphazardly pass on the constitutionality of a bill that affects the judiciary, because the judiciary can be criticized for declaring unconstitutional a congressional enactment which affects the judiciary alone. Because of that, does the Senator agree that a higher degree of care should be exercised by Senators and Representatives in determining, in their own minds, at the congressional level, whether a proposed act is constitutional or unconstitutional if it affects the judiciary?

Mr. MATHIAS. The Senator is correct. There is a much higher standard of care required here.

In the case of some routine legislation about which a Senator's mind may be in balance on the question of constitutionality, he may shrug off the constitutional question and say, "Well, on the merits, I like the bill. I am going to let the courts decide."

However, in this case, we are projecting into the judicial forum an issue which is a fundamental issue, an organic issue with the judiciary itself; and we should be extremely careful about sending any questionable legislation on that subject.

I think the point the Senator from Alabama makes is very important.

IS THE JUDICIAL CONDUCT AND DISABILITY ACT OF 1979 NECESSARY?

Mr. President, a most striking aspect of the hearing record is the virtual absence of documented examples of serious judicial misconduct which are necessary to justify this radical alteration of our judicial system contemplated by the Judicial Conduct and Disability Act of 1979. The most that can be said of the hearing record is that it shows that throughout our national history, at any given time, perhaps a handful of Federal judges has engaged in seriously objectionable behavior. But in this bill, a kind of spectre is raised, and I think it is a spectre that does not exist. A remedy is provided where I am not convinced one is needed.

Significantly, the majority report of the committee seems to concede this. The majority says:

> The Committee recognizes that the great majority of our existing federal judges perform their duties in a dedicated and capable manner. In a very real sense the problem addressed in the Act is more one of perception than actuality—the need to assure the public that procedures are in place to deal with the rare instance justifying an inquiry related to the condition or conduct of a member of the judiciary. Stated another way, the growing public demand for the accountability of public officials should extend to the judicial branch.[7]

That is what the majority of the Judiciary Committee said.

Certainly, there is a kind of tide moving in the direction of making every element of our society, both public and private, accountable in some way. Here, in Congress, we have seen this trend. We see it in the enactment of sunshine legislation, in the financial disclosure requirements. But simply because there is this kind of trend does not make it necessarily right to carry it over to the Federal judiciary, because Federal judges have been given a special status. They have been constitutionally granted judicial independence.

Throughout our history, this grant of independence has been debated back and forth; but, interestingly, the final conclusion always has been that the independence of the judiciary was more important than the ability to discipline judges and to call into question the integrity of their decisions or the purity of their motives.

If Congress is to break with that tradition and to enact legislation such as the Judicial Conduct and Disability Act—and it would be a break in our historic tradition—then it must clearly demonstrate the overwhelming need for this legislation. It must not pass such far-reaching legislation when it admits that the problem it addresses is—and again I quote the majority committee report on this measure—"more one of perception than of actuality." Are we going to legislate on that basis?

I think the burden of proving the need for the bill is on the proponents, and I believe they will find that this is not and should not be easy to satisfy; by their own admission, the proponents of the bill have not met the burden. To legislate on such a thin basis would be a very grave error.

In addition, Mr. President, it would be premature for Congress to adopt the Judicial Conduct and Disability Act at the very time when the Judicial Conference and virtually every judicial council have taken concrete action to clarify and strengthen the authority of the councils to deal with instances of judicial misconduct. The judges are dealing with the problem effectively.

On March 9, 1979, just a few months ago, the Judicial Conference adopted a resolution calling for the promulgation by the 11 judicial councils of procedural rules to process complaints alleging judicial misconduct inconsistent with the effective administration of the business of the courts within the circuits.[8] In response to the conference's March 9 resolution, 10 of the 11 judicial counsels have adopted rules to implement the conference recommendations.[9]

I think it is fair to say that the actions taken by both the conference and the various councils are attributable, in large measure, to the congressional concerns regarding judicial discipline, and especially the fact that the Senate last year passed S. 1423, the judicial tenure bill.

I salute the efforts of Senator DECONCINI in having pressed hard on this matter. I believe his message has been heard across the land, and he has received response—a reasonable and rational response—from the judges themselves. But I think that, given this response, Congress should avoid precipitate action now. It should follow very closely the progress of these newly implemented council procedures, rather than embark on what has to be an uncharted course which is promised by the Judicial Conduct and Disability Act.

It is entirely possible that these new procedures, the ones that have been called for the conference, which have been enacted by 10 of 11 councils, will satisfy the call for a mechanism to supplement the impeachment process and to negate the perceived need for congressional action.

So I say, Mr. President, let us tread slowly. Let us recognize that we are treading on historic ground, constitutional ground, ground in which the founding fathers of this republic have preceded us. Let us give the judiciary a sufficient opportunity to deal with the issues of judicial misbehavior, to deal with it on its own.[10]

IS IT WISE FOR CONGRESS TO ENACT THE JUDICIAL AND DISABILITY ACT OF 1979?

Finally, Mr. President, I believe that the enactment of the Judicial Conduct and Disability Act would be unwise as a matter of public policy. It would pose a direct and serious threat to the time-honored and constitutionally enshrined is a principle worth preserving, and it certainly is not a new principle. In fact, it is a very ancient principle. Its origins can be traced back for 2,000 years before the Constitution of the United States was written.

Herodotus, the Greek historian, in his History of Ancient Persia, wrote:

> The Royal judges are men chosen from among Persians, who continue in office until they die or they are convicted of some injustice. They determine causes between the Persians and are the interpreters of ancient constitutions and all questions referred to them.

Our Founding Fathers were worldly men. They were scholars. They knew Herodotus and they were aware that by

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grafting judicial independence into the Constitution, they were embodying the wisdom of the ages into our organic law. In this area, they were not creating a new experiment in government.

Another very disturbing feature of the Judicial Conduct and Disability Act of 1979 from the standpoint of judicial independence is its failure to deal with clearly frivolous and nonmeritorious complaints with expediency and finality. Unlike the proposal of the Judicial Conference, the bill does not provide the chief judge of the circuit with the authority to dismiss frivolous complaints, thus putting a quick end to nonmeritorious allegations. Rather, under the committee's bill, a complainant is not only assured that the full council will review his allegations, however frivolous they may be, but also that if he appeals the council's actions, he can compel the court on judicial conduct and disability to decide whether to hear the appeal—a decision which requires the Court to review the complaint and the record compiled by the council.

This system insures that the disgruntled litigant whose primary purpose is to harass Federal judges will have an unnecessarily extended opportunity to work his mischief. This process can only have a chilling effect on Federal judges. The question is, Will they be deterred from taking courageous stands on unpopular issues by the fear that a dissatisfied litigant will seek vengeance through the complaint process established under the bill? I ask the Senate, Is it worth the risk, especially when we are addressing what the committee calls a perception rather than an actuality? I have to say that the answer to that question is I think not.

CONCLUSION

I am not insensitive to the concern that has prompted the sponsors to push for enactment of the Judicial Conduct and Disability Act of 1979. Both its proponents and its opponents share one common goal: That the Federal judiciary be free of corrupt or misbehaving judges. Where I differ is over the scope of the problem and the constitutionally permissible means of addressing it, if it warrants congressional action at all.

FOOTNOTES

[1] In its Report, the Committee notes "Although the question has never been finally settled, the Committee has respected the position that removal of federal judges by any means other than impeachment is arguably unconstitutional. Therefore, the proposed legislation is designed to avoid this important issue, and removal of federal judges short of impeachment." S. Rept. 96–362, "The Judicial Conduct and Disability Act of 1979;" at 4.

[2] Illustrative of the attention paid by the Founding Fathers to this issue is their rejection of both "address" as an alternative mode of judicial removal and the trial of impeachments by the Judiciary. Specifically, on August 27, 1787, Mr. Dickinson proposed that federal judges be removable by the Executive on the application of the Senate and House of Representatives. The motion was defeated by a vote of seven States to one. 2 M. Farrand, "The Records of the Federal Convention of 1787" at 428–29. Moreover, during the Convention, efforts were made to place the trial function of impeachments in the hands of the Judiciary. After much discussion, the authority was vested in the Senate. 2 Farrand, at 551–52.

[3] As my distinguished colleague, Senator Heflin points out, significantly, while the Founding Fathers gave the Congress the authority to discipline its own members Article I, Sec. 5, cl. 1 and 2, they provided no comparable provision for the Judiciary to police itself. Given both the amount of time devoted to the issue of judicial accountability and the specific grant of Congressional authority for internal discipline, I believe it highly unlikely that our Founding Fathers intended to sanction the types of procedures and remedies set forth in the Judicial Conduct and Disability Act.

[4] Ervin, "Separation of Powers: Judicial Independence", 35 Law and Contemporary Problems (1970) at 108, 121.

[5] 398 U.S. at 136. Later in his dissent, Justice Douglas returned to this theme:

> It is time that an end be put to these efforts of federal judges to ride herd on other federal judges. This is a form of "hazing" having no place under the Constitution. Federal judges are entitled, like other people, to the full freedom of the First Amendment. If they break a law, they can be prosecuted. If they become corrupt or sit in cases where they have a personal or family stake, they can be impeached by Congress. But I search the Constitution in vain for any power of surveillance that other federal judges have over these aberrations. Some of the idiosyncrasies may be displeasing to those who walk in more measured, conservative steps. But, these idiosyncrasies can be of no constitutional concern to other federal judges. 398 U.S. at 140–41.

[6] *United States* v. *Nixon*, 418 U.S. 683, 704 (1974).

[7] Senate Rept. 96–362, *supra* note 1, at 5.

[8] Judicial Conference resolution of March 9, 1979, (Report of the Judicial Conference of the United States, 1979 at 4–7). Subsequently, the Judicial Conference adopted a draft bill incorporating the recommendations contained in the March 9 resolution.

[9] Only the judicial council for the District of Columbia has not yet promulgated such rules; such action is expected shortly.

[10] My comments regarding the actions of the judicial councils should not necessarily be read as an endorsement of the constitutionality of such procedures; rather, they are merely in recognition of the fact that these procedures are in effect and should not be curtailed by the enactment of legislation of dubious constitutionality.

Mr. President, this bill has aroused the concern of thoughtful people across the country, one of whom is Gerald Gunther, Cromwell Professor of Law at Stanford University, and just yesterday I received a letter from him which is so forceful, well reasoned, and brief that I will read it at this point.

Professor Gunther says:

STANFORD LAW SCHOOL,
October 25, 1979.

Hon. CHARLES McC. MATHIAS, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MATHIAS: I have followed with great interest the deliberations on the Judicial Conduct and Disability Act of 1979, and I have just examined with some care the bill as reported out by the Judiciary Committee and the Report and Additional Views accompanying the bill.

In my view, the Act is of questionable constitutionality and of even more doubtful wisdom. It creates hazards to judicial independence without any showing that there is a problem of sufficient magnitude to warrant such novel and dangerous legislation. Its submission to the Senate pays inadequate attention to the fact that less hazardous means are now in place (as a result of recent action by the Judicial Conference and by the Circuit Judicial Councils) to deal with the alleged problem—the problem which even the majority report concedes to be "more one of perception than actuality."

My own serious interest in the problem of judicial discipline goes back to the summer of 1978, when I participated in a conference called by the American Judicature Society and the Aspen Institute, a conference primarily concerned with a discussion of the then pending Nunn-DeConcini bill. Though the majority of the participants in that conference began with an inclination to support such a bill, the careful discussion of its features and implications raised grave doubts about its wisdom and constitutionality among many of those in attendance. My own reaction was one of doubt from the beginning, for it seemed to me that the proponents had made no adequate case for its enactment. My continuing attention to the problems raised by judicial discipline legislation has reinforced my grave doubts.

It is true that the proposed 1979 Act eliminates some of the most objectionable provisions of last year's bill. But highly questionable aspects remain; and the case for the enactment of any comprehensive legislation of this sort has in the interim been sharply weakened by the response in the Circuits to the Judicial Conference resolution of March 1979 encouraging the promulgation of Circuit-wide procedural rules to process complaints alleging judicial misconduct.

From the outset, the pervasive constitutional doubt has of course concerned the authority of Congress to enact disciplinary legislation that would bypass the constitutionally prescribed impeachment route. The removal sanction included in last year's Nunn-DeConcini bill seemed to me to fly in the face of the constitutional scheme. Though the Committee version of the 1979 Act does not include the removal sanction, it authorizes the refusal to assign further cases to a judge on a temporary basis. That kind of barrier to the exercise of the power of duly appointed federal judges seems to me of doubtful constitutionality; and the doubts are surely strong enough to give Congress reason to pause before acting unless the proposed legislation is demonstrated to be of compelling necessity.

My strongest objection to the bill stems from the fact that nothing even approaching a showing of such compelling necessity has been made. As a result, the proposed legislation strikes me as creating an unjustified threat to judicial autonomy.

Federal judges are inevitably in the business of rendering controversial decisions. Important issues and interests are at stake in the cases before them; and the losing side frequently and understandably feels aggrieved. With the proliferation of federal statutes and regulations, the federal judges' involvement in controversy is bound to grow. Setting up an unnecessary new channel which may lend itself to the harassment of those judges is a profoundly disturbing departure from one of the most cherished values of the American constitutional scheme, that of judicial independence. I recognize that the bill is not intended to offer a channel for losing litigants and interests to challenge the merits of a judicial decision. Yet over the years, and particularly in recent months, I have been increasingly troubled by remarks I have heard that there are people who look forward to the enactment of judicial discipline legislation as a way of getting at judges whom they consider to be too much to the right or too much to the left or unpalatable in their viewpoint in some other respect. It would not require great imagination for an aggrieved litigant to formulate complaints formally consistent with the limited scope of the proposed Act, yet in substance motivated by disagreements on the merits—complaints which, even though they are dismissed as frivolous, may be appealed; procedures which, even if they do not result in sanctions against the judge, as they presumably would not, would surely serve as harassment and would open the way for one more crack in the fragile framework of judicial independence.

Whatever the case for such legislation might have been a year ago, surely it has disappeared with the newly announced judicial resolve, beginning with the resolution of the Judicial Conference, to improve the Judicial Councils' machinery for the handling of complaints. That new system has not had a chance to work, and no one I have encountered has suggested that there has been more than a very scattered handful of federal judges in our history who have warranted any kind of judicial discipline. Given that background, how can Congress responsibly add this potentially powerful new threat to judicial independence to the federal statute books?

Recently, my concern about the pending legislation has been increased by reports that Senator Nunn may offer an amendment on the floor to reinstate something akin to the removal provision of last year. Everything I have said about the doubtful constitutionality and lack of wisdom of the 1979 Act applies with multiplied strength to any such removal proposal. Even more than the pending Act, it is ill-considered overkill. And even more clearly than the sanctions in the 1979 Act, the removal sanction would in my view be unconstitutional.

To argue that a carefully considered structural provision of the Constitution needs to be de facto amended by congressional action because it has proved "inefficient" and "unworkable" seems to me the most dubious and most dangerous kind of constitutional interpretation. Many members of Congress are accustomed to criticizing the federal courts, and especially the Supreme Court, for taking an excessively organic view of the Constitution and for occasionally operating as a continuing constitutional convention without adequate regard to the constitutional text, history and structure. (I have frequently uttered criticisms of that sort myself, throughout my professional career.)

However, the Supreme Court can at least often point to rather vague phrases of uncertain meaning, such as "due process," in defense of its actions. The 1979 Act, by contrast, tampers with a basic structural provision, a provision designed to assure judicial independence, and a provision which, I am quite confident, neither the framers nor constitutional commentators throughout most of our history would ever have dreamed of being subject to "supplementation" by the legislative branch. It would seem to me ironic indeed if any Senator who has ever expressed criticism of the Supreme Court for exceeding the bounds of proper constitutional interpretation were to engage in even more dubious interpretation of his own by casting an affirmative vote in support of the 1979 Act and, even more so, the threatened Nunn amendment.

May I close with a personal note. I have just seen your minority statement on the Committee Report on the 1979 Act. I was particularly delighted to find your emphasis on the independent responsibility of members of Congress to consider carefully a pending bill's constitutionality. In nearly 25 years of teaching of constitutional law, and in the course of writing my teaching book in the field—the book most widely used in American law schools—, I have sought to educate a generation of students and practitioners in the need to confront constitutional questions in all three branches of the national government, and to avoid the frequent temptation to pass the buck by leaving such issues simply to the courts. I appreciate your eloquent reaffirmation of the congressional duty to consider constitutionality, and I hope that your colleagues will take your message to heart. I believe that a careful consideration of the constitutionality and wisdom of the pending legislation will persuade all thoughtful members of Congress to vote against it.

With high regards,

Faithfully yours,

GERALD GUNTHER.

Mr. THURMOND. Mr. President, I ask unanimous consent that Mr. Pete Velde and Mr. Ken Feinberg, of the Senate Judiciary staff, be allowed on the floor during the consideration of this bill, S. 1873, and on the votes thereon.

The PRESIDING OFFICER (Mr. MOYNIHAN). Without objection, it is so ordered.

The Senator from Alabama.

Mr. HEFLIN. Mr. President, I rise to speak in opposition to S. 1873, the Judicial Conduct and Disability Act of 1979. I am fully cognizant of the fact that alternative methods of judicial discipline have been a point of debate in this Chamber and among legal scholars long before I became a Member of the Senate. Because of the profound and longlasting impact that any legislation in this area will have on the Federal judiciary, however, I feel it important to express my concerns.

Let me say at the outset that I am in full agreement with the philosophy and motivation behind this bill. I believe that the impeachment method of judicial accountability is ineffective and too cumbersome for this, the latter part of the 20th century.

In fact, prior to my Senate career, I participated in judicial reform movements not only in my home State of Alabama but also on a national level in which a great deal of study was given toward judicial disciplinary procedures. My own State adopted a new judicial article to its constitution which contained procedures dealing with judicial discipline.

Whenever I use the term "judicial accountability" I want it clearly understood that I make a distinction between the nondecision and the decisionmaking functions of judges. The decisionmaking functions of judges can only be reviewed through the appellate process. In no way do I suggest that a method of judicial accountability allow disciplinary measures to be taken against a judge because some might disagree with his decisions or his judicial philosophy. I share the concern voiced in committee that the greatly enlarged size of the Federal judiciary, as well as its expanding role in today's society, demands the formulation of some method of judicial accountability other than the time-consuming process of impeachment. Because of this, my remarks will not address the merits of the system of judicial discipline which this bill seeks to establish. I am, however, compelled to comment on the power of Congress under the Constitution to create such a system.

Within the Judiciary Committee, as well as among legal scholars throughout the country, there have been divisions on the issue of whether Congress can constitutionally establish a mechanism for judicial accountability short of a constitutional amendment. I am persuaded by those who feel that impeachment is the sole method of judicial discipline that this bill is unconstitutional, for which reason I must vote against it.

The constitutional objections that I have against this bill have been well documented by others who have researched this issue and reached the same conclusion. I beg the indulgence of my colleagues to review some of these objections.

The intent of the Founding Fathers to guarantee judicial independence is unmistakably clear.

The framers of the Constitution believed that independence of the judiciary is essential to insure "inflexible and uniform adherence to the rights of the Constitution, and of individuals." The Federalist No. 78 (Hamilton) 502, 508–510 (Mod. Lib.). With that goal in mind, the framers of the Constitution sought to establish what Hamilton referred to as virtual "permanency in office" and "permanent tenure" for Federal judges. The Federalist No. 79 (Hamilton) 512, 513 (Mod. Lib.). This is not to say that the framers of the Constitution sought to make it impossible to remove Federal judges; they simply sought to make it difficult so as to give them the independence needed to exercise their constitutional duties. As I shall develop later, the mechanism for guaranteeing that independence was impeachment.

We must recall from history that the framers of the Constitution were painfully aware of the encroachments on judicial independence that would follow if secure tenure were not fixed for the Federal Judiciary. In fact, denial to the colonies of the benefits of an independent judiciary enjoyed in England was one of the grievances against King George III listed in the Declaration of Independence:

> He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries.

Our Founding Fathers became determined that the judiciary of the new Republic would not be so feeble. In article III of the new Constitution, they provided that the salaries of Federal judges must not be diminished during their tenure and that they should continue in office "during good behaviour." This interpretation of intent of the framers of the Constitution has been given sanction by none other than Mr. Justice Black when he pointed out in his dissent in *Chandler* v. *Judicial Council*, 398 U.S. 74, 143 (1970), "That the judges of the past * * * good, patriotic judges * * * had occasionally lost not only their offices but had also sometimes lost their freedom and their heads because of the actions and decrees of other judges. They were determined that no such thing should happen here."

Mr. NUNN. Mr. President, will the Senator yield just for a very brief question?

Mr. HEFLIN. Yes.

Mr. NUNN. In the form of an observation? The Black language that the Senator from Alabama is referring to was a dissenting opinion in the Chandler case; that is the language the Senator from Alabama is referring to, is that correct?

Mr. HEFLIN. That is right; but if the Senator will read the case, they did not reach this issue.

Mr. NUNN. It was reached on a procedural ground.

Mr. HEFLIN. It was reached on a procedural ground, and was not discussed—in the dissent of Justice Black and Justice Douglas, they addressed the overall issue. The overall issue was not addressed in the majority opinion of the Court.

Mr. NUNN. Frequently, though, Justice Black and Justice Douglas are not in the majority on the Court; and that has historically been the case, has it not? I find it a little strange that we have a case here, the Chandler case, where the Court did not reach the conclusion that there was anything improperly done in the case, whether on constitutional grounds or otherwise; and yet the people who hold this illegal on unconstitutional grounds constantly cite it in support of their opinion.

Mr. HEFLIN. I think that is a narrow construction of dissenting opinions, concurring opinions, and majority opinions. One may find language within a dissenting opinion that everyone will agree with. That does not mean that the language that is cited here for this purpose was language that every other justice disagreed with. You have opinions, judicial opinions that can encompass many, many pages; and the fact that they were dissenting opinions does not mean that every word, every "t" and every "i" the majority disagreed with.

Mr. NUNN. But the fact is that procedurally or otherwise, the Court upheld the action and the sanction taken against Justice Chandler; is that not correct?

Mr. HEFLIN. Well, the majority did not reach the issue with respect to the constitutionality, and that is the purpose for which I am citing the language from the dissent of Mr. Justice Black.

Mr. NUNN. Would not the Senator from Alabama agree that if a majority of the Court had clearly felt this was unconstitutional, they would have based their decision on that question? I am not saying they felt it was constitutional, but it is clear that a majority did not come to the conclusion that Justice Black came to.

Mr. HEFLIN. I do not understand the question.

Mr. NUNN. Is it not true that the lower court was upheld by the majority opinion, and that it is a minority dissenting opinion that the Senator from Alabama and the Senator from Maryland are citing in support of their opinion that without any doubt whatsoever this is unconstitutional?

Mr. HEFLIN. Well, that is a matter of opinion. I think you can get different opinions of the Court in reading a decision.

Mr. NUNN. Well, there is no doubt about that. I just thought Senators ought to understand that these opinions of their fellow Senators who hold that this is an unconstitutional approach are, on the record, based on the dissenting and minority opinion in the Chandler case, whereas the majority of the Court, on procedural grounds, held the very opposite.

Mr. HEFLIN. I would strongly disagree with that conclusion on the part of the Senator from Georgia. Those of us who believe this bill is unconstitutional base our opinion on many other forms of proof which I will develop as I go along. The purpose of citing this language is merely to point out one point, that the clear intention of the Founding Fathers was to give independence to the Federal judiciary.

Mr. NUNN. I understand. I read the Senator from Alabama's complete statement in the committee report, which I respect. I would just want to ask the Senator from Alabama one other question. In his presentation today, and in his minority views in the committee report, I believe he does point out that even though he believes this is unconstitutional, he does agree with the overall direction that this bill is going; he simply believes it ought to be done by constitutional amendment. Is that correct?

Mr. HEFLIN. That is correct, and I so stated in the first part of this statement.

Mr. NUNN. Does Alabama have a procedure?

Mr. HEFLIN. Yes.

Mr. NUNN. Similar to what——

Mr. HEFLIN. Yes; we did it by constitutional amendment, and we have it divided, the charging and investigative function separate from the trying function. We have a judicial inquiry commission which acts, in effect, as a grand jury, and we have a trying body which is called the court of the judiciary, which is in effect the trier of facts.

Mr. NUNN. How long has Alabama had that? Has that been something of recent years?

Mr. HEFLIN. Well, we first started out in 1971 by a constitutional amendment, in which we adopted something similar to the California Judicial Disciplinary Commission which put the grand jury and the petit jury, in effect, in one commission. We thought that there were constitutional problems with that. And then, in 1973, when we adopted a new judicial article, we separated those two functions.

Mr. NUNN. Has the procedure worked in Alabama?

Mr. HEFLIN. Yes, it has worked well.

Mr. NUNN. Have there been abuses where judges have been harassed by it? Have they been able to fulfill their mission without getting into the harassment of judges?

Mr. HEFLIN. Not to my knowledge. I have never seen it in the newspapers and never have heard of it. I think I would have, if it had served as a harassment medium.

Mr. NUNN. I understand the Senator, and I agree completely with the Senator. If I worded my remarks in a sense to imply that the Black opinion was the only thing he was basing his views on, I wish to correct the record on that point. I did not intend to imply that.

The question I have for the Senator from Alabama on the constitutional issue is: Does the Senator from Alabama see a distinction constitutionally between the committee version, which does not provide for removal but provides for the sanction of censuring or taking away the caseload on a temporary basis? Does the Senator see a constitutional distinction between that and the Nunn substitute, which provides for removal? Or is the Senator's opinion directed at both of those?

Mr. HEFLIN. I have made the threshold decision as to whether I though the DeConcini procedure was constitutional.

I think if I reach a decision that the proposal by Senator DECONCINI is unconstitutional, I think it would apply even more so to the Nunn proposal.

Mr. NUNN. There is no doubt about that. If the DeConcini Judiciary Committee proposal is unconstitutional, there is no doubt about the fact that the Nunn substitute is unconstitutional.

What I am trying to gather from the Senator from Alabama is where we cross, in his opinion, the line as far as constitutionality is concerned. Does it relate to the sanctions? Does the Senator believe removing the casleoad, even though temporarily, is unconstitutional?

Mr. HEFLIN. In my judgment, the language "good behavior" related to language historically at the particular time and meant that if you misbehaved you were guilty of a misdemeanor. "Misdemeaning yourself" and "misbehaving yourself" are interchangeable words, in my judgment. And there is a historical basis for that concept which is not in my minority views in the committee report but which I intend to mention here today, as to statements made at a fairly contemporaneous time with the adoption of this. I therefore look upon impeachment as the sole and only method of discipline, which in my judgment would take care of the proposal that Senator DECONCINI has very intelligently and very adroitly drafted. In my own opinion, it is unconstitutional, and therefore the Senator's proposal is also. I think in the courts the proposal of the Senator from Arizona would have a better chance of passing constitutional muster than the proposal of the Senator from Georgia.

Mr. NUNN. One other question. As I understand it, the Senator is saying that misbehavior is an impeachable offense?

Mr. HEFLIN. Yes, as misbehavior was thought of during the time of the framers of the Constitution.

Mr. NUNN. And you do not have to have any kind of crime, whether it be a felony or misdemeanor, to have committed an impeachable offense in the view of the Senator from Alabama?

Mr. HEFLIN. What the definition of misdemeanor may include—misconduct has been interpreted by judicial opinions to be violations of the laws, by some jurisdictions. The language, where it says "misbehavior," I relate the words "misbehavior" and "misdemeaning" to be the same. The Constitution provides for impeachment for bribery, treason, or high crimes, and misdemeanors.

What does the word "misdemeanor" mean? At the historical time that the Constitution was adopted, I think that the word misbehavior and misdemeanor were used interchangeably and were basically synonymous. Therefore, concerning the word misdemeanor, I think our interpretation of misdemeanor today maybe has a little different connotation than it did at the time the Constitution was adopted. But it is the latter interpretation which governs in a question of the constitutionality of a proposal of Congress.

Mr. NUNN. It is interesting to note the House Judiciary Committee adopted what I would consider to be the rather narrow view of misdemeanor in the sense that they would have had to commit some kind of a crime. What the Senator is saying is that he does not agree with that narrow interpretation but, rather, the historical or broad interpretation saying misdemeanor and misbehavior were almost synonymous.

Mr. HEFLIN. Yes. In fact, that position is supported by Gouverneur Morris, which appears in 11 Annals of Congress, page 90 (1802), in which he says:

> Misbehaviour is not a term known in our law; the idea is expressed by the word misdemeanor; which word is in the clause respecting impeachments. Taking, therefore, the two together, and speaking plain old English, the Constitution says: "The judges shall hold their offices so long as they demean themselves well; but if they shall misdemean, if they shall, on impeachment, be convicted of a misdemeanor, they shall be removed.

So that is the language in which they used the words misdemeanor and misbehavior largely as interchangeable.

Mr. NUNN. So the view of the Senator from Alabama would be, then, that the judge could be impeached under the Constitution for, for instance, having an alcohol problem which interfered with his duties on the bench?

Mr. HEFLIN. Yes.

Mr. NUNN. That would be a misbehavior or a misdemeanor as the Senator from Alabama interprets it but would not be a crime, per se, under our law.

Mr. HEFLIN. Yes.

Mr. NUNN. What would the view of the Senator from Alabama be about a senile judge, a judge who was disabled, mentally or physically, but who remained on the bench? Would that fit under the definition of the Senator from Alabama of misdemeanor or misbehavior?

Mr. HEFLIN. The Senator is asking my views as they relate to contemporary time and to contemporary interpretation. I think the Founding Fathers not only looked at things as they existed at that time but recognized that we would live in a changing society and, therefore, the amendment process was allowed. To be in a position to answer the question as to senility, I would have to go back and look at what might have been said about senility in relationship to misdemeaning or misbehavior or the absence of good conduct as it existed at that time.

I think as we look at our modern day society and look at senility, we will have to relate the issues now to the language. But to say that they intended at that time that you could remove through impeachment a senile judge, or whether or not they thought that that was something that through the amendment process as times change would occur, I do not know. I would have to go back and look at the relationship of senility within the context of misdemeaning as it existed at the time of the Constitutional Convention.

Mr. NUNN. I thank the Senator from Alabama.

Mr. MATHIAS. If the Senator from Alabama will yield for a moment, I think the point of the Senator from Georgia is very interesting and one which I would be happy to address at some length after the Senator from Alabama has concluded his remarks.

Mr. HEFLIN. In its only substantial debate on the question of judicial tenure, the Constitutional Convention manifested an unmistakable intention to make judicial removal even more difficult here than in the Mother Country. The records of the Federal Convention of 1787 reveal that John Dickinson of Pennsylvania moved to amend the judiciary article to provide for the removal of Federal judges by joint address of the Congress, but he encountered vigorous opposition, particularly from John Rutledge and James Wilson. The proposal was rejected by a vote of one State "for" and seven States "against," with three "abstentions." ("The Records of the Federal Convention of 1787," at 428–429 (M. Farrand rev. ed. 1937).)

Impeachment is the sole constitutionally permissible means of removing and disciplining a Federal judge.

It was this desire on the part of the Founding Fathers to guarantee judicial independence which underlies the belief that impeachment is the sole constitutionally permissible means of both removing and disciplining a Federal judge. If I am correct in this assertion—that impeachment was intended to be the sole means by which a Federal judge can be either removed or disciplined—then this bill is clearly, clearly unconstitutional. The evidence for such a conclusion is also unmistakably clear. For example:

> Opponents of the Constitution argued as one reason for its rejection that it allowed no alternative to impeachment for the removal of federal judges. "Brutus," The Power of the Judiciary (pt. 1), in the Antifederalist Papers Nos. 78–79, at 222, 224 (M. Borden ed. 1965).

Alexander Hamilton stated in the Federalist, No. 79:

> They (federal judges) are liable to be impeached for malconduct by the House of Representatives and tried by the Senate; and, if convicted may be dismissed from office and disqualified from holding any other. This is the *only* provision on the point which is consistent with the necessary independence of the judicial character, and is the *only* one which we find in our own Constitution in respect to our own judges." (Emphasis added.)

The proceedings of the First Congress on removal of executive officers and on the first Judiciary Act contain such unambiguous statements as that of Abraham Baldwin, who had been a delegate to the Constitutional Convention, who stated:

> The judges are appointed by the President, by and with the advice and consent of the Senate; but they are only removable by impeachment. 1 Annals of Cong. 579 (Gales & Seaton eds. 1789).

The first Judiciary Act gave flesh to the skeletal structure of our Nation's courts as established by the Constitution. As such, it was discussed in depth by Congress. The common assumptions underlying these debates of 1789, in which many of the Framers participated, are persuasive and compelling evidence of the intentions of the Convention of 1789. *Myers* v. *United States*, 272 U.S. 52, 136 (1926). As a result, it is not surprising that we find that the Congressmen agreed that judges with good behavior tenure could only be removed by impeachment. A few examples will suffice to prove the point. Mr. Smith of South Carolina stated:

> The judges are to hold their commissions during the good behavior, and after they are appointed, they are only removable by impeachment. 1 Annals of Cong., 828 (Gales and Seaton eds. 1789).

No less an authority than James Madison said during these debates:

> The judges are to be removed only on impeachment, and conviction before Congress. See 11 Annals of Cong., 738 (1802) (Rep. Rutledge, quoting unattributed statement by Madison).

To further insure judicial independence, the framers specifically rejected during the Constitutional Convention efforts to place the trial of impeachments in the hands of the Judiciary itself. After much discussion, the authority was vested in the Senate. 2 M. Farrand, The Records of the Federal Convention of 1787 at 551–552.

That impeachment is the exclusive method for judicial discipline and removal also has the endorsement of both Mr. Justice Black and Mr. Justice Douglas. In dissenting in the Chandler case, Justice Douglas, writing for himself and Justice Black, stated:

> An independent judiciary is one of this Nation's outstanding characteristics. Once a federal judge is confirmed by the Senate and takes his oath, he is independent of every other judge. He commonly works with other federal judges who are likewise sovereign. But, neither one alone nor any number banded together can act as a censor and place sanctions on him. Under the Constitution the only leverage that can be asserted against him is impeachment, where pursuant to a resolution passed by the House, he is tried by the Senate, sitting as a jury. 398 U.S. at 136.

And so, Mr. President, it seems manifestly clear that impeachment is not only the sole constitutionally permissible means of removing Federal judges, but is also the sole constitutionally permissible means of disciplining Federal judges.

I base this conclusion not only on such direct evidence as the statements of the framers from the record of the constitutional debates, but also on other, more indirect evidence. Our Constitution is not the type of document from which issues can always be interpreted by focusing on a single clause or section. Rather, in many instances, we must look to the document as a whole. The subject of judicial discipline is such an issue.

In this regard, it is important to look at what the Constitution says as well as what it does not say. The legal maxim expressio unius est exclusio alterius—the expression of one thing is the exclusion of another—is central to the constitutional objection to this bill. Unlike the legislative and executive branches of our Government, the judicial branch was given no power—either express or implied—to discipline its own members.

The Congress was the only branch of Government that was specifically granted the power within the Constitution to discipline one of its members. Article I, section 5, clauses 1 and 2, specifically grants each House of Congress the power to discipline one of its Members on a majority vote or expel one of its Members on a two-thirds vote. There is, however, no similar procedure for the judiciary.

The President also has the power to discipline the members of the executive branch. As expressed by the Supreme Court in *Myers* v. *United States*, 272 U.S. 52 (1926), the President has the power to remove one of his subordinates who exercises only executive responsibilities. This power is easily implied from the hierarchical pyramid that characterizes the executive branch. In this regard, discipline other than impeachment would seem both essential to and consistent with the structure of that branch of Government designed to promote maximum efficiency and consistency of policy. No such inference, however, can be made from the structure of the judicial branch.

While the judiciary has no power to discipline its members for their nondecisionmaking authority, it does have a form of accountability over judges for their decisionmaking authority. Unlike the President, the judiciary can perform its constitutional function whether any particular judge cooperates. Higher courts historically have had the ability to overrule lower courts or issue writs of mandamus to judges who continue to ignore the law. It was unquestioned at the time of the adoption of the Constitution that higher courts and appellate judges exercise a form of accountability over the decisionmaking function of lower courts and judges.

There is historical evidence to support the above conclusion that the judiciary is distinctively different from the executive and legislative branches regarding power to discipline its own members. James Madison, the leader in the congressional debate over the Judiciary Act of 1789, as well as in the Constitutional Convention, made such a distinction, 1 Annals of Cong., 389 (Gales & Seaton eds. 1789), as did Madison's colleague Elias Boudinot. Ibid, at 390–391. Throughout the debate, the speakers contrasted executive officials with judges who held office during good behavior.

"Good Behavior" and "high crimes and misdemeanors."

Mr. President, I would like finally to focus my attention to the argument advanced by some proponents of the judicial power to discipline Federal judges that there is a distinction between "good behavior" and "high crimes and misdemeanors." Much attention has been focused on article III, section 1 of the Constitution which states:

> Judges of both the Supreme Court and the Inferior Courts shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their term of office.

Many have interpreted the "good behavior" clause as imposing a higher standard of conduct on the judiciary than that required by impeachment. The great weight of historical authority clearly indicates, however, that the Founding Fathers based this clause on their concern for restricting the powers of the executive over judges. The same concern had been resolved in England with the Act of Settlement of 1701, and it was the arbitrary power that the monarchy held over judges who held their office "at the King's pleasure" which led to the inclusion in the list of grievances against the king in the Declaration of Independence the following:

> He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.

It thus clearly appears that the "good behavior" clause as it appears in the Constitution was meant to restrict the executive power of removal, differentiating it from tenure "at the King's pleasure" rather than imposing a separate standard of conduct. Moreover, if this clause was intended to establish a separate standard of conduct which would allow discipline short of removal, it seems odd to me that the framers did not include a separate procedure for such discipline as they did for Members of Congress.

Those who do not subscribe to the exclusivity of impeachment argument maintain that since article III does not explicitly refer to article II's impeachment clause, there might be a transgression of the good behavior standard that would not rise to the level of an impeachable offense but for which a judge might otherwise be disciplined. As a result, some constitutional scholars argue it is constitutionally permissible to establish disciplinary procedures other than impeachment for judges whose conduct falls in the substantive gap between "high crimes and misdemeanors" and violations of "good behavior."

The response to this argument, I feel, is quite simple. The very absence of a removal provision in article III indicates that the framers must have implied a reference to the impeachment clauses and thereby intended that bad behavior be dealt with exclusively by impeachment. Otherwise, the silence of article III would leave no restriction whatsoever on the identity of the persons to whom Congress might delegate the power of discipline. I think this is important. Even the President or, under this interpretation, a lesser official, might be authorized to discipline a judge on a finding of malconduct. If such a procedure for judicial discipline is appropriate for judges in whom article II vests the judicial power of the United States, then the entire doctrine of judicial independence—in which the Founding Fathers believed so fervently—becomes illusory.

On this point, I do not ask, Mr. President, that my colleagues accept my opinion as final. The historical evidence for such a conclusion is convincing. Throughout the constitutional debates, the terms "misbehavior" and "misdemeanor" were used synonymously. Those who would maintain that misbehavior and misdemeanor are distinctively different and, more importantly, that they permit different forms of discipline, bear the burden of proving that the framers regarded it as clear that the substantive "good behavior" standard refers to a disciplinary procedure other than impeachment. The evidence, Mr. President, points unmistakably in the opposite direction. The framers believed that the tenure of judges should be established in terms of good behavior and that the remedy for a breach thereof should be impeachment. In an essay published in 1776—before the Declaration of Independence—and widely distributed in the South, John Adams, a prominent lawyer, declared:

> The judges * * * should hold estates for life in their offices; or, in other words, their commission should be during good behavior * * *. For misbehavior, the grand inquest of the colony, the house of representatives, should impeach them before the governor and council * * *." J. Adams, Thoughts on Government, in 4 *The Works of John Adams*, 189, 198 (C. Adams ed. 1851).

These words were quoted verbatim, and apparently without attribution, in a letter by Thomas Jefferson the same year. See Kaufman, "Chilling Judicial Independence," 88 Yale Law Journal at 699, note 111 (1979).

The framers never explicitly discussed how breaches of good behavior were to be determined, but the explanation by Gouverneur Morris leaves no doubt that impeachment was the intended remedy for a violation of the standard of good behavior:

> Misbehaviour is not a term known in our law; the idea is expressed by the word misdemeanor; which word is in the clause respecting impeachments. Taking, therefore, the two together, and speaking plain old English, the Constitution says: "The judges shall hold their offices so long as they demean themselves well; but if they shall misdemean, if they shall, on impeachment, be convicted of a misdemeanor, they shall be removed." 11 Annals of Cong., 90 (1802).

The statement by Gouverneur Morris is significant. As pointed out by Judge Irving Kaufman in an article in the Yale Law Journal in March of this year, Gouverneur Morris was regarded as the most important member of the Committee on Style and Revision, and he was generally regarded as having had the last word on the choice of language on the Constitution. 88 Yale Law Journal at 701.

There is one final reason why I believe that it was not intended by the framers of the Constitution that Federal judges be disciplined by any means other than impeachment. We all know, Mr. President, that the Constitution provides that Federal judges shall hold their offices during good behavior. We have already looked at the term "good behavior," but I think it necessary that we look at the phrase "shall hold their offices." If we pass this particular piece of legislation, it is possible thereunder for a Federal judge to be disciplined by having his caseload removed from him and/or to have his duties significantly curtailed in other ways.

It would seem that any bill creating a court that has the power to take away the work which a judge is supposed to perform in the discharge of his constitutional duties, even on a temporary basis, would certainly be an indirect violation of this provision of the Constitution. It is important to remember that a Federal judge is a civil officer serving in the public interest. I do not feel that any judge that has been stripped of his duties and responsibilities is "holding office" in the spirit of public service that pervades the Constitution.

SUMMARY

It has been argued by proponents of this bill that it preserves the notion of judicial independence which was so fixed in the minds of the framers of the Constitution, and to which we are all committed. They further argue the need for such a disciplinary mechanism based on the size of the judiciary as well as the inefficiency of the impeachment process. But such arguments do not go to the constitutionality of the procedure that this bill would establish. Rather, they are merely justifications for its implementation.

Mr. President, I do not think it wise to pass a bill on the mere hope that it is constitutional, especially when the differences of opinion among members of the legal community are as great as they are here. More importantly, I do not think it wise to conform constitutional arguments to the mere desire or need for implementing such legislation. The framers of the Constitution recognized the need for our Government to change according to the needs and challenges of a growing society. One of the methods by which such changes are implemented is embodied in the amendment process of article V. Admittedly, this process is also one that is tedious and time consuming. We must not, however, circumvent any constitutional mandate merely to achieve more quickly a desired goal. It should be remembered that a large majority of those States that have implemented legislation of this type for their own court systems have done so through means of a constitutional process. I feel that it is imperative that we should likewise move through the amendment process when seeking to establish a mechanism for judicial accountability other than impeachment.

In summary, it clearly appears that the framers of our Constitution, after careful debate of all the alternatives, intended the following disciplinary framework: that the legislative branch have the express power to discipline its members; that the executive branch, by its very nature, includes the implied power of the President to discipline his subordinates; and that, because the judiciary was given neither the express nor the implied powers to police itself in nondecisionmaking functions, the sole constitutionally permissible method of removing or disciplining a Federal judge is by impeachment.

Mr. President, for these many reasons I must respectfully vote against this bill.

● Mr. BAYH. Mr. President, I rise today to support S. 1873, the Judicial Conduct and Disability Act of 1979, a bill to provide for discipline of Federal judges. Just about a year ago, I rose to oppose S. 1423, the Judicial Tenure Act, a proposal which would have allowed for removal of Federal judges by means other than impeachment. I questioned the Judicial Tenure Act on the grounds that it was of doubtful constitutionality, and in my opinion, a serious threat to judicial independence. At the same time, I acknowledged the concerns which had motivated Senators NUNN and DECONCINI in their proposal. We all want the highest standards for a wise, conscientious and responsible judiciary, and must have some worry that the growing numbers of Federal judges might increase the chances for cases of judicial misconduct. Most of us also share a belief that judges should not be without some degree of accountability on those rare occasions when they betray the trust of their office.

In leading the opposition to S. 1423, I urged those of us in the Senate not to neglect our constitutional responsibilities toward insuring that there is an effective and responsible Federal judiciary, to play our role in the selection process wisely, and to see that the impeachment and trial process work in the few cases where they should be employed. I also suggested that we should be taking a look at other means by which the disciplinary process could be strengthened, trying to find an approach that would be clearly constitutional and at the same time less threatening to Federal judges in the performance of their duties than S. 1423.

In the search for an acceptable approach to this complex area, several bills varying in their approach were introduced this year. Mr. President, I would like to commend my distinguished colleague from Arizona, Senator DECONCINI, who has exhibited a rare degree of commitment and leadership in his efforts to solve the dilemmas present in any legislative attempt to address this difficult issue. He has chaired several days of joint hearings before the Subcommittees on Improvements in Judicial Machinery and the Constitution, seeking the views of scholars, judges and others on the different proposals. More, he has taken the lead in the attempts to put together the best aspects of all proposals which would satisfactorily meet the concerns of all. S. 1873 is the result of these combined efforts.

Mr. President, to my mind S. 1873 is a reasonable and successful compromise. Although it has several aspects which were not in the proposal which my colleague and friend from Maryland, Senator MATHIAS, joined me in introducing S. 522, I do not personally feel that the principles which we were seeking to make into law have been compromised. This is a judgment call, but if after traveling so long together on this issue, Senator MATHIAS and I have reluctantly decided to go different directions, I personally do not feel uncomfortable making that decision.

The goal of a discipline bill, it has seemed to me, was to achieve a balance of accountability for responsible behavior by Federal judges, on the one hand, and on the other, a guarantee for the judicial independence which is essential for the performance of their constitutional role. For Congress to do nothing to establish a disciplinary procedure fails in the first respect; to enact a judicial tenure act with removal of judges or excessive bureaucracy is to err in the second. The ideal is to create a mechanism for handling discipline problems in as simple and unintrusive a manner as possible, still making sure that legitimate complaints will be addressed. While not perfect, S. 1873 largely succeeds in achieving this balance.

Since we are now hearing criticisms of our efforts from both ends of the spectrum of views about this issue, I can only conclude that we were successful in finding the middle.

Opponents on the one side maintain that S. 1873 has no teeth in it, that without the sanction of removal from office, any reform is meaningless. I respectfully disagree. The bill before us today is designed to handle misconduct by a judge which interferes "with the effective and expeditious administration of the business of his court," in other words his behavior as it affects his job as a judge: For example, whether he is behind in handling cases, or having a drinking problem, or suspected of having a conflict of interest in the cases before him. The circuit council has several sanctions available to it to correct this kind of misconduct, and I think we can be sure that judges regard any of these as of the most serious importance. If, however, the misbehavior rises to the level of a possible impeachable offense, S. 1873 provides that this case shall be reported to the House. The House then has before it a record of a situation which it may decide warrants its investigation for impeachment proceedings, and the gears set in place by the Constitution for removal of judges are allowed to go into motion. Mr. President, S. 1873 is not a toothless disciplinary procedure.

For a bill to go further than this and provide for removal, in my opinion raises very serious constitutional questions. Proponents of last year's S. 1423 take the position that since the constitutionality of S. 1423 is a question which can ultimately only be decided by the Supreme Court, Congress should not hesitate to pass the law and let the Court make its decision. However, there is a great difference between legislation which is arguably unconstitutional and that which is very probably unconstitutional. A proposed law which poses serious constitutional issues demands the most careful scrutiny by the legislative branch. If it is very probably unconstitutional, it should not be passed. With no prescience of what a decision by the Supreme Court might be, I feel the case against a proposal allowing removal of judges to be so strong that we should not approve it.

Mr. President, without reiterating all the arguments against such a proposal, I would say only that the weight of scholarly authority is that impeachment is the sole means of removal of judges allowed by the Constitution. To maintain otherwise is to rely on the slender reed of the precedent in English common law of the obscure writ of scire facias. The theory of scire facias was that a grant imparted an office for the life of the grantee terminable by his death or a breach of good behavior. The judiciary was empowered to issue a writ of scire facias to initiate a civil proceeding for the termination or forfeiture of the office.

Most authorities cite a lack of historical evidence that the framers of the Constitution even had knowledge of the generally discarded writ of scire facias, which had admittedly never been used to remove a judge. Scire facias was never included in any revolutionary state constitution, nor was it considered at the Constitutional Convention.

It is admitted by all the scholars that there is no record of the writ having ever been used to attack a letter patent (granting "good behavior tenure") in a colonial court. Further, the positions subject to removal by the writ were only of minor court officials, not full-fledged judges. Officials so removed included such obscure officers as filazers, remembrancers of the Exchequer, cord recorders, postmen, and auditors. No judge was ever removed by scire facias in England or America although the writ stayed in effect until fairly recent times.

The proponents of removal claim that the "good behavior clause" of article III provides a higher standard of conduct for judges than that required for impeachment. If a judge falls away from good behavior, he should no longer hold office. The great weight of historical research done by constitutional experts, however, argues that tenure during good behavior was intended to differentiate from tenure "at the King's pleasure." It was rebellion against tenure "during the King's pleasure" which had led to the Act of Settlement in England in 1701, and it was the monarchy's arbitrary power over their judges which led the Colonists to include in their list of grievances against the King in the Declaration of Independence, "He has made Judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries." In other words, to the Founding Fathers, a good behavior grant of tenure means that the executive was restricted in its powers of removal. It was a not a separate standard of conduct.

Finally, removal by other judges, as proposed by Senator NUNN, is an infringement on the congressional power of removal. The Congress is given a clear grant of authority for impeachment if misconduct reaches a standard laid down in article II, that is, treason, bribery, or other high crimes and misdemeanors. If misconduct meets that standard, Congress is given sole authority to act. If a proposal such as Senator NUNN's has a standard for removal which meets that of article II, then it is in clear conflict with and infringes on the constitutional standard of impeachment. If it on the other hand says that it applies to conduct which is somewhere between "good behavior" and impeachable behavior, an ironic incongruity is the result. Congress would be creating a relatively easy mechanism by which it might rid itself of judges who have been guilty of "bad behavior" falling below the level of impeachable behavior. For the serious misconduct arising to the strictest standards of high crimes and misdemeanors, that is, indictable offenses, the cumbersome mechanism of impeachment remains. So S. 1423 would have created a system for relatively easy removal of judges for failing to behave properly, but if criminal conduct was involved, the more difficult path of impeachment would be required.

Finally, Mr. President, in my opinion, to provide for removal of judges by other judges strikes at the independence of the judiciary which the Constitution's framers so clearly treasured and intended to protect. Proponents of judicial removal argue that the other branches of government are empowered to remove their own. There are compelling differences, Mr. President. The Constitution is explicit in the provisions whereby Members of Congress can expel their fellow Members. That there is no such provision regarding members of the judiciary is a clear indication that the framers intended to treat them differently. The President can remove certain members of the executive branch, for the reason that he has appointed them. The Supreme Court has said that other appointees, however, such as commissions of the FTC who have quasi-judicial, quasi-legislative functions, cannot be removed by the President, because they require greater independence to fulfill their responsibilities. The 25th amendment provides that a President may be removed for inability to perform his duties only on the judgment of the Congress, not the determination of his own Cabinet.

Mr. President, in my opinion the Constitution is clear that judges are protected against removal by members of their own branches because judicial independence requires such protection. Proponents of removal legislation tell us, however, that without the ability to get rid of one of their own, any disciplinary system within the judicial branch is ineffective. I cannot agree.

Some opponents of S. 1873 on the other side, however, are telling us that the bill has gone too far, that any legislative attempt to discipline misconduct is suspect from constitutional and policy points of view. They argue that the impeachment is the sole constitutional means of disciplining Federal judges, not just removing them. Let me say just a few words in response to this position, Mr. President.

First of all, I think the only significant constitutional question in this area is the issue of removal. S. 1873 answers that concern. Certainly other lesser constitutional issues are raised, but in our drafting of S. 1873 we have tried very hard to avoid these constitutional problems and I am satisfied we have. It is satisfying to know that a memo prepared by Johnny Killian of the Congressional Research Service and editor of the Constitution Annotated supports the constitutionality of S. 1873. The inconsistency of raising the specter of unconstitutionality at this point is apparent when one recognizes that the judges now discipline their own, deriving their authority, they say, from section 332 of title 28. I believe the Judicial Conference itself would be the last to seek the repeal of section 332 on the grounds of unconstitutionality. They depend on it and in fact urge us in the Senate as the first alternative to do nothing else but leave them with section 332 to handle their problems with fellow judges. If these are indeed serious constitutional questions with any legislative grants of authority to the judicial branch to practice discipline, then in all good conscience, Mr. President, we should act today to strike section 332 from the United States Code. However, I believe the judicial branch itself would vigorously oppose such a move.

There is a problem with the judicial conference position, however; that is, it is unresolved whether section 332 does in fact grant the councils of the circuit the authority to discipline their fellow judges. Judge Chandler some 10 years ago sought to get the Supreme Court to answer that exact question. The Court finally found the question moot since at the Court's urging the council had modified its order and Judge Chandler had acceded to its terms. However, the Court discussed the issue and concluded by inviting the Congress to make its intention plain. Chief Justice Burger writing for the majority said:

> Standing alone section 553 is not a model of clarity in terms of the scope of the judicial councils' powers or the procedures to give effect to the final sentence of section 332. Legislative clarification of enforcement provisions of this statute and definition of review of Council orders are called for.

Mr. President, S. 1873 is a response to that invitation.

Mr. President, we have worked very closely and amicably with the judicial conference in our efforts to draft this legislation. We have made many accommodations to their views and on the whole I think our proposal and theirs move very closely together toward the goal of a responsible but not repressive disciplinary system. I was somewhat disappointed therefore to learn a few days ago that the Judicial Conference Committee working on the issue has informed the Members of the Senate by letter that it considers S. 1873 unacceptable. Further, it seems somewhat ironic that the same committee has taken no position on the proposal to remove judges, although surely it would find such a bill a greater threat than S. 1873.

The draft formulated by the judicial conference and S. 1873 are in principle extremely close and the few differences between them become matters of judgment. To my mind, S. 1873 offers advantages, and if the conference proposal were before the Senate in open debate, I believe it could be shown that S. 1873 is preferable. For example, the conference objects to the manner of review provided in S. 1873, that is, discretionary review in a special, national court. The conference prefers review in the judicial conference. Mr. President, surely there are good reasons not to place reviews in the judicial branch's own highest administrative body. From the perspective of the judge who feels that his own circuit has treated him unfairly below, can he feel confident that those on the next step of the hierarchy will treat him any more fairly? From the perspective of the member of the public who has placed the complaint, can there be assurance that the appeal will not be whitewashed as in "in-house" proceedings? The fact that the court is outside the administrative structure gives it an objectivity and credibility not to be found in the conference itself.

The conference agrees with S. 1873 that in those cases where an administrative remedy is not adequate, impeachment should be utilized. However, it is critical of S. 1873 in that in their words, the court would "prejudge" the question before reporting the case onto the House. The conference's own proposal does virtually the same thing: The conference itself determines that an impeachable offense may exist, and it refers the case to the House. This is also "prejudgment" in any meaningful sense of the word; the difference is in who is doing the judging.

Finally, the conference criticizes the review process of S. 1873 because it says it will be slow and time consuming. The difference between S. 1873 and the conference's proposal is that S. 1873 allows discretionary review at every stage, for complainant and judge. The conference would not allow these appeals. This again is a judgment call between two approaches, and I am personally happier with S. 1873, assuring both parties that they will give reasonable assurance of attention by a higher body.

Mr. President, let me sum up briefly my thoughts on S. 1873. I had three concerns approaching the drafting of such an original and far-reaching piece of legislation. The first was that it meet the test of constitutionality. This I am confident S. 1873 has done. By avoiding removal as a sanction, the principal constitutional obstacle is crossed. So long as independence is not severely threatened, and I do not believe it is, we are within the framework created by the Founding Fathers.

The second concern was that the bill provide for some measure of accountability by those on the Federal bench to the citizens they serve. It is being claimed by some opponents of S. 1873 that there has not been a strong enough showing that any legislation is warranted, that there are so few cases of judicial misconduct that a disciplinary mechanism is legislative overkill. It is true that no extensive record of misbehavior by Federal judges exists. For this I think we may all be thankful for the generally high caliber of the Federal bench. No other group of Government officers in the country has probably served so ably so consistently. We must also recognize, however, that there is little way for the public or the Congress to know when those few errant judges have strayed. There has been no way for complaints to be registered other than the occasional newspaper exposé which does discredit to the entire judiciary. For the sake of all the exemplary judges, those few who betray the dignity and trust of their office should be checked.

Finally, and most importantly, Mr. President, I was concerned that by attempting to meet one goal, the opportunity for legitimate complaints to be heard, we would not be intruding on the independence of the judiciary. I am convinced with Senator Ervin that "an independent judiciary is perhaps the most essential characteristic of a free society." I believe that S. 1873 is faithful to that constitutional change—S. 1873 allows Federal judges to render their decisions without outside pressure. It is critical that the bill prominently and explicitly provides that the merits of a decision on a ruling are not cause for a complaint. Much as all of us from time to time disagree with a court's ruling, the means to correct that opinion is through the route of appeal. This is as it should be, for the tides of public opinion ebb and flow, and as Alexander Hamilton said in Federalist 79, for Federal judges there must not be "too great a disposition to consult popularity."

It is even possible under this proposed legislation that judges may enjoy more independence from pressure groups than they do at present. I think we all know that the judges in our home States are subject to public and private attacks by groups single-mindedly devoted to one point of view or another. S. 1873 would openly make irrelevant the legitimacy of these kinds of personal attacks.

S. 1873 also allows judges to be independent to live their personal lives as they see fit. Extrajudicial habits and behavior are outside the reach of the bill. It is only when a judge's behavior affects his performance on the bench that a complaint is valid. This again is as it should be.

The only kind of independence which S. 1873 would curtail is the freedom of those few members of the Federal bench who take advantage of the lifetime tenure given to them by the Constitution and choose to shirk or misuse the high responsibilities it places upon them.

Mr. President, I urge the passage of S. 1873.●

ENERGY POLICY AND CONSERVATION ACT ANTITRUST PROVISIONS

Mr. JACKSON. Mr. Speaker, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1871.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1871) entitled "An Act to extend the existing antitrust exemption for oil companies that participate in the agreement on an international energy program", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

TWO-YEAR EXTENSION; TRANSCRIPTS

SECTION 1. (a) Subsection (c)(4) of section 252 of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(4)) is amended by adding at the end thereof the following: "Such access to any transcript that is required to be kept for any meeting shall be provided as soon as practicable (but not later than 14 days) after that meeting.".

(b) Subsection (j) of section 252 of the Energy Policy and Conservation Act (42 U.S.C. 6272(j)) is amended by striking out "October 31, 1979" and inserting in lieu thereof "October 31, 1981".

REPORT

SEC. 2. The Secretary of Energy, in consultation with the Secretary of State, the Attorney General, and the Chairman of the Federal Trade Commission, shall prepare and submit to the appropriate committees of Congress, a report concerning the actions taken by them to carry out the provisions of section 252 of the Energy Policy and Conservation Act. Such report shall examine and discuss—

(1) the extent to which all, or part, of any meeting held in accordance with section 252(c) of such Act to carry out a voluntary agreement or to develop or carry out a plan of action should be open to interested persons in furtherance of the provisions of section 252(c)(1)(A) of such Act;

(2) the policies and procedures followed by the appropriate Federal agencies in reviewing and making public or withholding from the public all, or part, of any transcript of any meeting held to develop or carry out a voluntary agreement or plan of action under section 252 and in permitting persons, other than citizens of the United States, to review such transcripts prior to any public disclosure thereof;

(3) the extent to which the classification of all, or part, of such transcripts should be carried out by one agency;

(4) the adequacy of actions by the responsible Federal agencies in insuring that the standards and procedures required by section 252 are fully implemented and enforced, including the monitoring of the program concerning any anticompetitive effects, and the number of personnel, and the amount of funds, assigned by each such agency to carry out such standards and procedures;

(5) the actions taken, or to be taken, to improve the reporting of energy supply data under the international energy program and to reconcile such reporting with similar reporting that is conducted by the Department of Energy;

(6) the actions taken, or planned, to improve the reporting required by section 252(1); and

(7) other actions under such section.

The Secretary of Energy shall transmit such report to such Committees within 180 days after the date of the enactment of this Act and shall make such report available to the public.

Amend the title so as to read: "An Act to amend the Energy Policy and Conservation Act to extend for 2 years certain authorities relating to the international energy program, and for other purposes.".

Mr. JACKSON. Mr. President, the United States and 15 other oil consuming nations signed an agreement on an international energy program on November 18, 1974. To accomplish its objectives, that agreement created the International Energy Agency, an autonomous institution within the Organization for Economic Cooperation and Development. The IEA is headquartered in Paris and is administered by a Secretariat consisting of Ministers or their delegates from each of the participating countries. There are presently 20 nations which participate in the IEA.

Recognizing the need for cooperation with and information from the major international oil companies, the IEA has established major industry advisory bodies. The so-called Reporting Company Group currently consists of 21 U.S. oil companies and 11 foreign-based oil companies. The Industry Advisory Board consists of seven U.S. oil companies and six foreign oil companies.

Since the exchange of sensitive trade information and the participation of the oil companies in the IEA allocation program would be highly suspect under U.S. antitrust law, the participating American oil companies were granted a limited antitrust defense by section 252 of the Energy Policy and Conservation Act of 1975. This section of that statute provides for the adoption of voluntary agreements and plans of action to implement the allocation and information provisions of the international energy program.

Some 21 U.S. oil companies have agreed to participate in the voluntary agreement which was created in March 1976. The voluntary agreement sets forth the procedures the oil companies must follow in order to qualify for the antitrust defense.

Under existing law, the antitrust defense provision of the 1975 act expires on October 31—tomorrow. On October 17 the Senate passed S. 1871 which extends the expiration date to June 30, 1980. On October 22 the House passed S. 1871, with an amendment that, among other things, extended the antitrust defense provision for 2 years until October 31, 1981.

This is longer than is necessary to give the General Accounting Office an opportunity to complete its ongoing investigation of the effectiveness of the International Energy Agency. The GAO report is expected to be available to Congress in May 1980, and will be valuable to the Committee on Energy and Natural Resources and the Committee on the Judiciary in their consideration of S. 1413, a proposal by the administration to extend the antitrust defense proviso until January 19, 1986.

Mr. President, the distinguished Senator from Louisiana (Mr. JOHNSTON) will offer an amendment reaffirming the position taken by the Senate earlier in the month, extending the provisions until June 30, 1980; and in addition will offer with that amendment a further amendment covering the provisions relating to allocations and fees on the importation of oil.

I yield to the distinguished Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana.

UP AMENDMENT NO. 693

(Purpose: Amendment to Section 252(j) of the Energy Policy and Conservation Act of 1975, and for other purposes)

Mr. JOHNSTON. Mr. President, I move to concur in the House amendment with an amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The amendment is as follows:

The Senator from Louisiana (Mr. JOHNSTON), for himself and Mr. DOMENICI, proposes an unprinted amendment numbered 693.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Strike all after the enacting clause and insert, in lieu thereof, the following:

Sec. 1. Section 252(j) of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6272 (j)) is amended by striking out "October 31, 1979" and inserting in lieu thereof "June 30, 1980".

TRANSCRIPTS

Sec. 2. Subsection (c)(4) of section 252 of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(4)) is amended by adding at the end thereof the following: "Such access to any transcript that is required to be kept for any meeting shall be provided as soon as practicable (but not later than 14 days) after that meeting.".

REPORT

Sec. 3. The Secretary of Energy, in consultation with the Secretary of State, the Attorney General, and the Chairman of the Federal Trade Commission, shall prepare and submit to the appropriate committees of Congress, a report concerning the actions taken by them to carry out the provisions of section 252 of the Energy Policy and Conservation Act. Such report shall examine and discuss—

(1) the extent to which all, or part, of any meeting held in accordance with section 252(c) of such Act to carry out a voluntary agreement or to develop or carry out a plan of action should be open to interested persons in furtherance of the provisions of section 252(c)(1)(A) of such Act;

(2) the policies and procedures followed by the appropriate Federal agencies in reviewing and making public or withholding from the public all, or part, of any transcript of any meeting held to develop or carry out a voluntary agreement or plan of action under section 252 and in permitting persons, other than citizens of the United States, to review such transcripts prior to any public disclosure thereof;

(3) the extent to which the classification of all, or part, of such transcripts should be carried out by one agency;

(4) the adequacy of actions by the responsible Federal agencies in insuring that the standards and procedures required by section 252 are fully implemented and enforced, including the monitoring of the program concerning any anticompetitive effects, and the number of personnel, and the amount of funds, assigned by each such agency to carry out such standards and procedures;

(5) the actions taken, or to be taken, to improve the reporting of energy supply data under the international energy program and to reconcile such reporting with similar reporting that is conducted by the Department of Energy;

(6) the actions taken, or planned, to improve the reporting required by section 252(i); and

(7) other actions under such section.

The Secretary of Energy shall transmit such report to such Committees within 90 days after the date of the enactment of this Act and shall make such report available to the public.

OIL IMPORT RESTRICTIONS

Sec. 4. (a) FINDINGS.

Congress finds that—

(1) action by the President establishing a volumetric quota or a substantial fee on imports of petroleum into the United States will have far-reaching effects on the energy policy of the United States;

(2) such action may require the imposition of Federal petroleum price and allocation controls or other Federal intervention in domestic fuels markets to insure the attainment of the public policy objectives set forth in the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 751 through 760), as amended;

(3) such action may significantly affect the rates of production of domestic energy resources and alter the pace of the development and commercialization of alternative forms of energy;

(4) such action may significantly influence policy planning and capital construction decisions for the domestic fuels supply system, including the domestic refining industry;

(5) such action may have severe effects on interstate commerce, the domestic economy, and the national security of the United States; and

(6) the implications of such action should be examined by Congress and the public and an opportunity afforded Congress to veto any proposal by the President to establish a fee or quota on imports of petroleum.

(b) PURPOSE.—It is the purpose of this title to require the President to submit to Congress for review under expedited procedures any rule, regulation or order which establishes volumetric limits on petroleum imports into the United States or any fee on such imports.

(c) AMENDMENT TO THE ENERGY POLICY AND CONSERVATION ACT.—Part A of title I of the Energy Policy and Conservation Act (Public Law 94–163) is amended by inserting at the end thereof a new section as follows:

"LIMITATIONS ON OIL IMPORTS

"Sec. 108. (a) Notwithstanding any other provision of law, the President may not make effective any rule, regulation or order establishing volumetric limits on the amounts of crude oil, residual fuel oil or any refined petroleum product imported into the United States or any fee, duty or tariff on such imported crude oil, residual fuel oil or any refined petroleum product unless such rule, regulation or order—

"(1) has been transmitted as if it were a rationing contingency plan to Congress in accordance with section 552 and

"(2) has not been disapproved by a joint resolution adopted into law after passage by both Houses of Congress in accordance with such section 552, as amended by the Emergency Energy Conservation Act of 1979.

"(b) As used in this section the term 'United States' means the States, the District of Columbia, Puerto Rico and the territories and possessions of the United States."

Mr. JOHNSTON. Mr. President, what this amendment does, as the distinguished Senator from Washington indicated, is strike out October 31, 1979, as the termination date for the antitrust defense under the IEA, and insert in lieu thereof, by June 30, 1980. The amendment also provides that the transcripts of any meetings of the IEA be provided as soon as practicable after said meetings, but no longer than 14 days. It further requires a report from the Secretary of Energy within 90 days to the Congress on certain IEA activities.

Mr. President, most important, however, this amendment provides for congressional input into the question of quotas and fees which the President presently has power to invoke under the Trade Expansion Act of 1962.

Under the present law, Mr. President, the President of the United States has power, without consultation with Congress, without any resort to public hearings or any other procedure, other than his own action, to put a quota upon the importation of foreign oil. He also has the power to impose a fee upon the importation of foreign oil.

The implications of this power are vast and staggering when considered in the context of the macroeconomic policy of this country.

The President at present has the power, in effect, to cause a gasoline shortage, a heating oil shortage, a diesel oil shortage, a shortage of all petroleum products, by the invocation of this quota which, in effect, is a rationing device. Or, conversely, if he went in the direction of fees, he could enact a tax upon oil of unlimited amount.

The President has had this power for some time, the Trade Expansion Act having been enacted in 1962. It was enacted at that time in order to prop up the price of domestic oil, not to restrict the entry for the purpose of a conservation measure.

In his recent speech on energy, the President of the United States very emphatically stated that the United States would never, never—using the word twice for emphasis—import more foreign oil than this country imported in 1977. We imported in 1977 8.5 million barrels a day.

He also set a goal for importation for this year of 8.2 million barrels a day. He did not outline at that time, nor has he outlined since, what the mechanism for restricting those imports would be—whether it would be a quota or a fee, and if a quota, what kind of quota it would be.

There are some alternatives presently under consideration by the Departments of Energy and Treasury which explore the possibility of three different kinds of quota mechanisms, such as an auction for free tickets and their mechanisms, which are not fully fleshed out in their detail but which do indicate a clear intention on the part of the administration to invoke quotas as a means of restricting those imports.

In the Committee on Energy and Natural Resources last week, we adopted an amendment which would prohibit the President from invoking fees or quotas under the authority of the Trade Expansion Act unless both Houses of Congress, by joint resolution, gave him the authority to do so, acted affirmatively in giving him the authority to do so. Since that time, we have had extensive conversations with the White House.

There remains a vast difference of opinion between this Senator and other Senators on the committee, other Senators in the entire body, as to whether or not fees and quotas can ever work under any circumstances, can result, under any circumstances, in anything other than economic chaos, increases in prices, and other distasteful and unwanted consequences.

There is, however, a recognition on our part of the international responsibility of the President to show to other members of the International Energy Agency, to the world community, to our allies—particularly Germany, Italy, France, Japan, and other free world consumers of energy—that this country is serious in showing a resolve to conserve energy, a resolve to reduce our ever-increasing requirements for Middle Eastern oil.

We recognize the Hobson's choice of the President. He has committed himself to these goals through the use of the Trade Expansion Act, through the invocation of quotas or, alternatively, fees, to hold consumption to this level. At the same time, if we deny him totally that authority, it will make it appear that the White House does not have the ability to carry through on its international promises.

I am happy to tell the Chair that we have worked out a compromise, as represented by this amendment, which I think well serves the interest of those of us who oppose quotas and fees under almost any circumstance and those of us who also recognize that we do not want to take away from the President his credibility in international relations.

Therefore, what we have done is to provide a mechanism similar to the gasoline rationing, whereby any proposals to invoke quotas or to raise fees must be submitted first to Congress. Within 30 days, Congress would have the authority to enact a joint resolution, under the expedited procedures as provided by law. That joint resolution, in turn, would act as a veto of the President's action and would make impossible the President's action, unless the President then vetoed the joint resolution of Congress. Upon such a veto, Congress would have the right to override that Presidential veto by a vote of two-thirds of each House.

This is a recognition and a vindication of the President's authority, by giving him the last word in the invocation of quotas or fees, subject only to the overriding of that veto. But it is also, in a greater sense, a vindication of the power and authority—and I think the constitutional role—of Congress to be involved in any such major economic decision.

I cannot conceive of a circumstance in which the President of the United States would offer Congress quotas or fees, which we would veto, and which he then would force down the throats of the American public, over the objection of Congress. I simply cannot conceive of that. I cannot conceive of it because this should be a corporate decision between the President and Congress. I believe that any such decision would be almost cosmic in its effect on this economy.

A study was done for the Committee on Energy and Natural Resources by the Congressional Budget Office as to what the effect of quotas would be. Taking the figure of a 1-million-barrel-a-day cutoff or a 1-million-barrel-a-day quota reduction, it would result, according to the Congressional Budget Office, in an increase in the price of gasoline of some 40 cents a gallon, an increase in the price of home heating oil of approximately 36 cents a gallon, a $6 billion loss in the gross national product, and an increase of not less than .3 of 1 percent in unemployment—all because of the invocation of quotas.

Some Members of this body think we should not deny the President's authority at all, because they say, "Those quotas would never bite. Don't worry about it. Let's have the smoke and the mirrors of Presidential authority. Don't worry. He's never going to use it, anyway."

Mr. President, our projections show that these quotas will become binding. In testimony just last week before the Energy Committee, the Energy Information Agency stated three scenarios for imports for next year, and one of those scenarios was 8.2 million barrels a day, not counting the additions to the strategic petroleum reserve. So that according to one of their three scenarios, the quotas would bite next year.

According to other projections, the quotas surely will bite by 1985, according to our figures, by not less than 900,000 barrels a day and not less than 1.4 million barrels a day in 1990.

This assumes only a medium growth in demand for energy and assumes a healthy domestic petroleum production scenario.

So whether or not the quotas will bite this year, they will surely bite sometime in the future.

Mr. President, what the country would be faced with in the event of quotas is one of two scenarios, a control scenario whereby the invocation of quotas would involve a massive amount of Federal control of all forms of energy, including the allocation of scarce energy resources to every segment of the economy, every refiner, everyone dependent upon energy, or alternatively a free market scenario with unregulated gasoline, unregulated home heating oil and other products where the scarce product would be rationed through the mechanism of price and there the price could go up as much as I indicated at 40 cents a gallon for gasoline. Either one of these scenarios is unacceptable.

It seems to me that it is almost unthinkable that the President would voluntarily and intentionally cause a crisis of 1979 similar to last summer with the gas lines, with the shortages at the truckers' pumps, with the whole country almost falling apart in chaos because of the gas lines and shortages. It is just inconceivable to me that that would voluntarily be done. As it were, it would be the country shooting itself in its foot and saying, "Unfortunately, you know, we made this promise and we therefore have to stick to it."

I am not excluding the possibility that Dr. Sawhill, in whom I have great confidence, and for whom I have great respect can put together, as he says, some mechanism for invoking quotas that will work which we will not object to. He has told me as late as last night that he would do so, that he feels confident he can make one that is agreeable to us. As I say, I have great confidence in him. But I think the best description of making a workable quota was given by one of our witnesses before the committee a couple of weeks ago who said. "A workable quota is like requiring men to line up alphabetically by height; it simply cannot be done."

I am, nevertheless, optimistic as hope springs enternal that perhaps something can be worked out. In the meantime this compromise will give input to Congress but will preserve to the President that final authority which admittedly can be exercised only under the most difficult of political situations, that is, trying to cram it down the throats of the American people over the objection of Congress. I do not believe he will do that. I believe that this mechanism, jointly agreed to by this Senator, by the distinguished Senator from New Mexico (Mr. DOMENICI), by the distinguished Senator from Idaho (Mr. McCLURE), and the distinguished Senator from Washington, the chairman of the full committee, will be workable and will save us from the difficult consequences caused by the invocation of quotas and fees. At the very least, it will insure a meaningful and proper role for Congress in undertaking what would be a tremendous change in macroeconomic policy to this country.

Mr. President, I am pleased we were able to work out this compromise. I believe it is in the best interest of the country.

I yield to my distinguished friend from New Mexico.

Mr. DOMENICI. Mr. President, will the Senator yield 5 minutes to the Senator from New Mexico?

Mr. JOHNSTON. I yield.

Mr. DOMENICI. Mr. President, I am pleased to join as a cosponsor in this amendment. I am going to speak briefly to that part of the amendment that has to do with the authority of the President, this President and any President, to impose import quotas and fees on imported oil.

In the committee, so the Senate will know, I did not support the position that won by a 10-to-8 vote. The position that won was basically going to say to this President and any President, "We do not really care how diligently you want to cause America to cut back on its insatiable appetite to import oil. We are going to say to you that if you have any approach to limiting that, if you have any system of fees that might diminish that appetite and cause us to import less, you will have to submit that to both Houses of Congress for their approval," as was experienced in the first attempt to come up with the gas rationing plan. That approach, requiring both Houses to affirmatively approve before the plan was effective, was an utter failure. Obviously, that was a total tying of the hands of this President or any President.

So I did not support that. I will not support it here today.

But I do support the proposition that the President should have significant authority in this area while we are beginning to spend millions and millions of dollars to back off imported oil. I think it would be an absolute shame if we came here to the Chamber and said to the President "However, we are taking away all your authority in the area of import fees and import quotas. Even if you could come up with something reasonable, we are going to take that away from you and let both of us approve by affirmative vote."

So we did not do that, and I am pleased that the White House and a number of Senators have discussed this matter. What we have come forth with here today indeed leaves significant if not total authority in the President in this field, because when you are through looking at all of the attempts by Congress to get into this business of restricting the President, ultimately the President can have his way unless both Houses of Congress by a two-thirds vote want to override him.

I am willing to compromise to that extent because it will have some input from us and it will say to this President, "We do not want to take your authority away at a point in time when we are trying to make it more difficult rather than easier to import more oil into America, at a time when we are saying to those who import, 'we do not want to continue in the path of more and more imports if there is any possible way to avoid it.' "

I personally do not want to immediately say to a President who told the American people we have a goal, we are not going to exceed that goal in imports, however, on the other hand, "You have to send that up to Congress and both Houses have to approve of any and everything you might do." Having experienced that it appears to me that we would indeed extract more than a pound of flesh there. We would end up with nothing. We would end up with a President who could do nothing.

So I support this approach because it indeed permits this President and any President to move forcefully with plans, with approaches, with ideas, with new schemes that we have not yet tried, to limit the number of barrels of crude oil that will be imported into America. If a scheme or approach for taxation which will minimize this is thought by a President to be politically doable and in the interest of our country, I am for letting this President and any President try it and make it very difficult for Congress to overrule or override. This is what this amendment does. It does not take away nearly the amount of authority and power that would have been taken away under the committee's recommended approach. It vests him with much of what he had and yet gives us an opportunity to be heard.

Mr. President, I am authorized in behalf of Senator HATFIELD, who is absent because of personal reasons, in this statement to say while he opposes the committee 10-to-8 vote, taking away the President's authority, vesting it under that portion of the law which required both Houses to affirmatively approve of his plan, he supports this approach which gives the White House significantly most of the authority that it thinks it needs.

I yield the floor.

The PRESIDING OFFICER (Mr. BAUCUS). Who yields time?

Mr. WEICKER. Is the time equally divided between those in favor and those opposed to the amendment?

The PRESIDING OFFICER. The Senator from Idaho controls the time in opposition.

Mr. WEICKER. Is the Senator from Idaho opposed to the amendment?

Mr. McCLURE. Mr. President, I ask unanimous consent that the time in opposition be given to the Senator from Connecticut who is opposed to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. I thank the Senator from Idaho.

Mr. President, you are hearing on the floor of the Senate the results of a deal cut between the White House, which felt it did not have the votes, and the distinguished Senator from Louisiana and his cohorts regarding the Presidential power to restrict imports of oil, either by quotas, fees, or license.

Herein lies the entire difficulty of the situation for this country. Instead of constructing an energy policy in the national interest, as the term is used by the distinguished Senator from Louisiana, we have devised an energy policy that is in the interests of various economic, geographical, philosophical, and political groups.

This fact has not been misjudged by the world. It certainly has not been mistaken by the OPEC nations. It is the reason why prices continue to soar, supplies remain unstable, and economic havoc rules the land. There is anarchy, total anarchy, in the governmental process of this Nation when it comes to energy.

I find it incredible that the Senator from Louisiana can stand here and speculate on the economic chaos, the rise in prices, and the instability of supplies that would take place were the President to limit our oil imports. What in heaven's name do you think exists at the present time?

In some report cited by the Senator from Louisiana, it states that there will be a 40 percent rise in the price of gasoline and a 34 percent rise in the price of home heating oil. Has anybody calculated as to just what has happened in the past year to both these items? Never mind the speculation as to what would happen if the President conducted himself in a certain way. The fact is that everything he predicts that would come to pass as a result of a Presidential action has come to pass through congressional nonaction or congressional action which throttles the ability of our Government to put together a cohesive energy policy.

We hear terms like "cosmic effect," and "macro economics." To put it out very simply, due to the lack of commitment, self-discipline or policy, prices continue to rise for oil and gas. There is a question of whether domestic supply will increase, and the Nation sinks further and further into a recession.

I do not think the national interest is served by cutting deals that favor anyone in this situation. Never mind the oil and gas producers. Never mind the various geographic sections of the country. Never mind those who have an interest in the automobile and all of its aspects. What about the American people? What about that national interest?

The Senator from Louisiana has consistently led the opposition on this floor to any kind of conservation. Obviously, I expected——

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. WEICKER. Of course.

Mr. JOHNSTON. The Senator is totally in error in saying that the Senator from Louisiana has opposed conservation. If he will check the record, every conservation bill that has passed I have been the floor manager of it, the author of it or in support of it. I have not supported every conservation bill the Senator from Connecticut has approved of, but every one that has passed the Senate, of which there were a number, including S. 1030, including conservation in homes, schools, and hospitals last year, the Senator from Louisiana has supported.

Mr. WEICKER. The present measure

before the Senate will result in minimal or no conservation. I think we are in the middle of an emergency and chaos now, Senator. Maybe it is not chaotic enough for the Senator from Louisiana—a little more chaos, a little more economic disruption is necessary for him. We went through this exercise with the President on the emergency rationing plan, and faced the same kind of opposition. Tie him up in a knot so that he cannot do anything. They ought to erect a statue to all of you fellows in Riyadh. Every time we cut a deal and further weaken the ability of the United States to respond to the direct national threat imposed by OPEC, every time we buckle under, we are just further down that road to where the final result will be the harshest remedy of all.

I honestly cannot believe the statements that were made here this afternoon about what would happen should the President use his powers. You want some statistics? Ten years ago the Nation imported $5 billion worth of petroleum products; last year we imported $39 billion; this year we will import more than $50 billion. Ten years ago we were 22 percent dependent on foreign petroleum; we are 44 percent dependent now. Ten years ago OPEC accounted for 7 percent of our petroleum; today 38 percent. Ten years ago the inflation rate was under 6 percent, today our inflation is raging well above 12 percent. And we talk about the cosmic effect of what the President might do. How preposterous! "Macroeconomics" that would fall on our heads should he do something. There is no recognition at all of the difficulties we are in now.

I know exactly what happened here. The President's people felt, and they are probably absolutely correct, that the numbers were not here to let him have the powers that are his under law. Actually, were it argued through the judicial process, I have no doubt that the President would be sustained under the Constitution.

But there is no time, Senator. There is no time for that. We hold the President by the throat and say, "Unless you deal with us, unless you deal with our various interests, you do not get the commitments which you made to the world."

That is why this deal was approved. Let us make it very clear. This is nothing that the White House is enthusiastic about. They do not have the votes. OPEC is relying on the fact that the White House does not have the votes in Congress and, therefore, the United States cannot act.

But what I find so difficult to take is that it should be that branch of government, which is my branch of government, that is causing the disruption. We are holding the President hostage and, therefore, the Nation hostage.

Presidential powers in this area are well-established. They come under section 232 of the Trade Expansion Act that was passed in 1958 by Congress, and no congressional review of Presidential action is required under this provision.

I think Congress, when it enacted that, clearly saw the need for the President to act in an expeditious and unfettered manner in circumstances which threatened to impair the national security.

I think that is what we are talking about here. Is there anyone who does not believe we are in such circumstances today? I think the time has come to engage in those acts of self-discipline.

We have done nothing on the floor, just nothing. We have passed the Energy Mobilization Board and synfuels bill from committee.

Where is the conservation? Where is the tough conservation for today when it comes to gasoline? It does not exist. Where is the real commitment to producing oil as a source of energy? Senator METZENBAUM stood out here on the floor as manager of the bill to call for higher efficiency standards for small electric motors that would not even come into effect until 1983. It passed by four votes.

The bill that the President requested on restrictions on lighting for outdoor advertising failed. The only conservation measure beside the one that passed by four votes, I believe, was the heating and cooling bill.

Never mind my extreme measures: The 6-day week for the automobile which was defeated 79 to 10. That really goes far out. The President asked for standby authority. We narrowly passed it in the Senate; it was defeated in the House. We narrowly came to a compromise between the two Houses, and are asked to approve it here again today.

I will not approve it; not this one. And the same ones who stood up here 4 years ago and 5 years ago and said "the time is not now" still do not think the time has come.

The OPEC nations tomorrow could go ahead and impose a 10-, 15-, or 20-percent increase on the price of their oil, and we would have to swallow it. We would have to swallow it. We could have a cutoff of supply tomorrow. We would swallow that, in terms of human misery this time instead of price. We are as flabby and unprepared today as we were yesterday, as we were last week, as we were last year, as we were 4 years ago. If you think that is speculation on my part, just take a look at the prices you are paying and the lack of security that you are going to have any gasoline supplies at all.

I do not know what it is that is going to have to happen before we level in the sense of a policy. Synthetic fuels; let us make it clear to the American people that nothing is going to come of that until the end of the decade. By that, I mean into the 1990's, maybe even beyond the year 2000.

As far as the prospects on discovery and production of fossil fuels are concerned, there is a possibility of that, I suppose, in several years. Maybe not even then. In the meantime, the economy is being just wrecked to a fare-thee-well. Make no mistake about it, the inflation that we are burdened with is the inflation of energy. This is not a recession; this is an "enercession": a recession brought about by energy, pure and simple. It will not go away until we resolve this particular problem.

Obviously, if the administration has agreed to this compromise and various Republican and Democratic Senators have agreed to the extent where it would now appear a majority of the Energy Committee will be for it, it will probably be passed this afternoon. But we are not kidding anybody except ourselves. I say to the Senator from Louisiana, "You have specifically encouraged OPEC to raise their prices again this year; you and those who have hammered out this compromise have specifically encouraged them to go ahead and cut back their production."

That is what we do every time we go through one of these exercises where the self-discipline that was proclaimed to the world is not the self-discipline that is exercised on this floor.

It is sickening. It is not in the national interest. This amendment is sickening. It is against the national interest. It is a compromise in the interest of self-interest and in the economic interests of a few in this Nation.

Let it pass. But I hope the same ones who have hammered out the compromise will be here to stand up and take the consequences.

Mr. JOHNSTON. Mr. President, I am sorry that the distinguished Senator from Connecticut saw fit to criticize my record on conservation and, by implication, the record of the Committee on Energy and Natural Resources, because the Committee on Energy and Natural Resources and I have, I think, put together a good record on conservation. Those matters include a gas rationing bill, which was unanimously adopted by the conferees, both Republican and Democratic, House and Senate, in S. 1030. And we passed a tough bill out of the Senate. It did not survive in as tough a form, but it did become public law.

I was willing to go even further. We passed conservation in schools, homes, and hospitals; automobile standards under EPCA, cogeneration, temperature standards—I led the floor on that—the Utility Conservation and Fuel Use Act.

We recently got out the whole package on conservation in S. 932. And I even proposed a gasoline tax of 50 cents a gallon, not joined by my colleagues on the Energy and Natural Resources Committee, but I even proposed that as a conservation measure.

Mr. President, this may not meet altogether with the wishes of the distinguished Senator from Connecticut. I do not know what the Senator from Connecticut is talking about as to all of the things that I and other Senators have opposed, except when he says he wants gas rationing now and he wants weekend closings now.

Mr. President, I did not, out of deference to the distinguished Senator from Connecticut, really characterize those measures at the time they came up. But, Mr. President, gas rationing now, not in the face of an emergency, is—well, Mr. President, I probably should not use the adjective to describe how silly that kind of a proposition is. At least it is silly in my mind, and it is silly in the minds of 90 or more of the Members of the Senate who may disagree with the Senator from Connecticut. But, Mr. President, they have the national good in mind no less than does the distinguished Senator from Connecticut. He is not the only one in this body, Mr. President, who is willing to be tough, who is willing to have discipline for the American people and discipline for Congress. And, Mr. President, I think it is unfair to characterize me and the other members of the Senate Energy and Natural Resources Committee as being less committed to the patriotic American view than is the Senator from Connecticut.

We did not get everything we wanted in all these conference committees, but we got it enacted into law. If we had stuck with the proposition of the Senator from Connecticut on gasoline rationing, we still would have been arguing about it, because it would never have been approved. That is the essence of the congressional process, Mr. President, that you have got to get a majority of both Houses in order to get something passed. If the Senator from Connecticut thinks he can do a better job of getting a proposition through, then let him get the votes, and I wish him well.

Mr. President, this is a reasonable compromise. I do not apologize for one second on the fact that it is a compromise, Mr. President. This country runs on compromise. The Constitution implies a system of compromise. It is one that I think in this case serves the interests of the President as well as the interests of the Nation.

I think it is a proper compromise.

Mr. President, I yield to the distinguished Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, for this Senator we have just about gone full circle now. My interest in the field of energy, and from what I became convinced was an emerging energy crisis, was first stimulated by looking at the effects of the first Presidential action under the Trade Expansion Act of 1958, the predecessor of the 1962 act which has now been amended in the Trade Act of 1974.

I was then in the other body and serving on the Committee on Interior and Insular Affairs. We were listening to the complaints of the people from New England about the effects of an oil import quota program invoked by President Eisenhower in 1958 in order to protect the American petroleum industry. The people of New England were complaining about the effects of that action because they wanted that flood of cheap foreign oil.

It was that which stimulated my interest as I was trying to determine whether or not that action should be supported or opposed. I watched what has happened since then as in 1973 President Nixon modified that Presidential order originally made by President Eisenhower, and again in 1975, when President Ford modified that order.

Mr. President, there are two things that ought to be said about this action before us today: First, is it a justified action of the Congress to want to exercise some control over Presidential discretion, or shall we just disband? Maybe that is what some of the people would like us to do—give the President a broad, general, discretionary authority and all go home. Well, I know there are a lot of people around the country who would just as soon see the Congress all go home, but I am not sure that a precondition on that wish on their part is giving the President power to do everything he wants.

This amendment is a compromise. I support it because it is the best we can get from my standpoint of wanting to put some limits on the President's authority to do what the people of New England thought was wrong in 1959 and what a great many other people may think is wrong in 1979 or 1980.

Mr. President, there is no doubt but that the action that could be taken by the President could not only affect energy supplies but have a tremendous impact upon the economy of this country.

Let us stop for just a moment to think what would happen if we put a $5 fee on every barrel of imported oil. Let us trace that through for a moment. Does that stimulate conservation in this country? Yes, it probably does, but what else does it do? Does it strike a blow against OPEC? You can hardly imagine how they would greet that with greater glee, Mr. President, because that simply indicates to them how much more they can charge for the oil they are now selling.

An answer to the OPEC cartel will not be found in artificially raising the prices by import fees, because they will match it.

Suppose the OPEC import price is $30 a barrel and we put on $5 a barrel. Immediately, OPEC says, "If you can charge your people $35 a barrel for our oil, we can charge $35 a barrel for our oil," and the immediate effect will be to indicate to OPEC they ought to raise the price of oil $5 a barrel. If you want the price of foreign oil to go up, Mr. President, go ahead. OPEC will not suffer. OPEC will not even be disturbed by that action, and they will not be deterred for more than about 30 days, the amount of time it takes them to have another meeting in Vienna or wherever else they decide to meet before they raise the price to match it.

What does it do domestically? It says, "All right, we have a new target for domestic oil to hit." So we raise the price of foreign oil by the imposition of fees and the price of domestic oil by the imposition of fees, and immediately you will have all those people in this Chamber and elsewhere who will say, "Now we have to get back into the business of controlling the American oil industry because their prices are too high and their profits are going up too fast."

So if you want to help OPEC and really destroy the American industry, go ahead and impose these fees. You will succeed in both.

That is why this Senator, Mr. President, wants to have some constraints upon the Presidential authority to do that, with that kind of effect upon the international and domestic energy industries.

Mr. President, I think that the Trade Expansion Act of 1962, as used by the Presidents of the United States, and as construed by the courts, is far too broad an authority to have been granted in the first place. It should have been limited when it was first passed in 1958. It should have been limited when it was amended in 1962. It should have been limited when it was amended in 1974. But this Congress has evaded its responsibility and now seeks to continue to evade its responsibility by delegating the authority to the President of the United States. I know some people who do not want to constrain the President's authority to impose import quotas because they want him to do it. They do not have the courage to do it and they do not think the Congress has the courage to do it either.

Mr. President, I would have preferred that we had stuck with the language the Senator from Louisiana had proposed in the committee. I think this country would be better off if the Congress were fully participating in that decision and not just in this kind of a constrained veto. But it became obvious, after the Energy Committee had completed its action, that the President would veto that action if it ever reached his desk. And with the veto, where would we stand? I do not think there is any prospect that we would muster a two-thirds vote which would be necessary to override that Presidential veto, and the President would continue to have the authority which it has been said by the courts, was granted to him by the action of the Congress.

Mr. President, I support the compromise amendment as a compromise because I think we have an agreement that says it can become law. We have, as a compromise, some constraint on the power of the Presidency. It is not total, but it is some. And as far as this Senator is concerned, the original language was overbroad and ought to be constrained.

I thank the Senator for yielding.

Mr. DOMENICI. Will the Senator from Louisiana yield 5 minutes to the Senator from New Mexico?

Mr. JOHNSTON. Mr. President, I promised to yield to the distinguished Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida.

Mr. STONE. I thank the Senator.

Mr. President, I am in support of the amendment of the distinguished Senator from Louisiana, which would provide an opportunity for the Congress to examine a Presidential constraint on oil imports or fees imposed by the President. While I am not prepared to take a position against the President exacting a fee or imposing a quota, I am very much against the absence of a congressional review.

May I suggest just one very difficult circumstance that could obtain without such a review?

The State of Florida generates most of its electricity by the use of oil, a great preponderance of that oil imported from OPEC countries.

In most of our State it would be infeasible and excessively costly to convert those boilers to coal.

They can burn natural gas, but they cannot burn coal. If a President adopted an import plan or a fee plan that took no cognizance at all of that special circumstance in a State like Florida, we could be subjected to interruptions of service, brownouts, and unbelievably high rate paying costs to our electric bill payers. Therefore, the chance for Congress to look over any such Presidential proposal is vital. We need it. For that reason, the Senator from Florida is very much in support of the amendment of the Senator from Louisiana.

Mr. President, can you just imagine how difficult it would be, for example, for Congress to place in the hands of a President the right to promulgate a national building code, where the climate in one part of the country is so different from another? This is not exactly that difficult, but the circumstances in the use of oil do vary widely as to region. Since we represent States within regions, we are in a position to look over such a Presidential proposal or plan and bring to light the difficulties, if any; the arbitrary impacts, if any; the unfairness, if any; the extra costliness, if any; and make the corrections, if any such are indicated.

Without it, we could get some thinkers sitting in their offices in Washington devising a plan which looks good on paper but by the time it gets to one of the regions or more, one of the States or more, it could wreak havoc. That would not happen with the check and balance proposed by the amendment of the Senator from Louisiana.

So I urge my colleagues, let us support the amendment of the Senator from Louisiana and reserve all our rights either to support or oppose all or part of such a presidential plan if one is ever instituted.

I yield the floor.

Mr. DOMENICI. Mr. President, will the Senator yield me 3 minutes?

Mr. JOHNSTON. I yield 5 minutes to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I want to make just one or two points.

When it comes to giving a President, this one or any President, authority to make major decisions under generous and general guidelines established by Congress, I do not take a back seat to anyone. Anything that has been said about that here to the contrary is just not true. But I remind a few that it is pretty easy to be on all sides, both sides, three sides—whatever number of sides there are—to an argument when you do not have to think back to the way you argued a month ago or the way you voted 2 months ago.

I just want to remind some Senators in this Chamber that there was a conservation measure here, Senate bill 1030. We brought it to the floor of the Senate on the simple basic proposition that we ought to give to this President and any President the authority to impose for the sovereign States, if they did not impose it for themselves, a mandatory conservation plan in any energy that was deemed scarce. I remember that quite vividly. There were those who got up and said, that is too much authority to the President; we do not want to face up to it; I am not for that; Congress ought to do it.

I remind some here in this Chamber that they voted that way and they voted against giving the President the kind of authority that many of us said was necessary in S. 1030, probably the most far-reaching conservation measure to hit this floor since the oil embargo.

It passed. It passed rather handsomely out of the Senate, without the votes of some who are here arguing today that we are taking away the power of the President here, in this measure, which basically says, "Before you can impose tariffs and quotas which have never been done before under this kind of shortage, under this kind of cartel pricing, two-thirds of the Congress would have to overrule you." That is ultimately what this compromise does.

I say there is plenty of blame to go around for the energy crisis, but when Senators who want Presidents to have appropriate authority to deal with crises attempt to impose a very reasonable congressional input, I do not think it is fair to say to those Senators, "Because you have compromised to get that, you're responsible for everything that has gone wrong heretofore and that will go wrong in the future as far as America's energy crisis and its problems are concerned."

I just do not believe that kind of argument, I do not believe that kind of rhetoric befits this great institution.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WEICKER. Mr. President, the difficulty is that OPEC is as one—one. They are not concerned whether the Mickey Mouse Clubs can get together in Disneyland or whether there is going to be enough fuel to get there. They are not interested in the producers of Louisiana or Texas. They act as one. We come onto the Senate floor, each one with our Mickey Mouse hat on, or our producer's hat on, or whatever, and we carve up legislation 50 different ways.

We are so proud that we are compromising. You can believe they are not compromising, not OPEC. We are going to compromise ourselves into bankruptcy.

There are some common elements that hold us together as a Nation regardless of where we live or what the temperature is. We all work—or almost all of us did until recently. We all eat. We are all housed. Yet these elements, one by one, start slipping by us as we divide, rather than unify, on the issue of an energy policy.

I remember at the outset—this was about 4 or 5 years ago when I first mentioned my rationing scheme—I got a torrent of letters in protest, a torrent of protests from the motel and hotel industry in this country. That was 4 or 5 years ago. They did not want to have any sort of conservation whatsoever. I made the comment then, "Do you think maybe 1 or 2 percent conservation now might not save 50, 60, 70, or 80 percent of your business in the future?"

I am not out here fighting for a crazy Weicker scheme. I am fighting the President's battle for him. This is his plan, not mine. But on the common thread of self-discipline that runs through his request, that runs through mine and the requests of others on this floor, I am united with him.

We are not arguing to the distinguished Senator from Louisiana the radical Weicker plan. I got beaten then. I got beaten 83 to 7 in 1977 on that 6-day week for the automobile. I got beaten 73 to 10 in 1979. I am well aware of the figures. It certainly shows the responsiveness of the Congress in the 2 years intervening between 1977 and 1979; and I agree that several things have changed.

People can say, "Well, Senator, that is progress, 83 to 7 in 1977 and 73 to 10 in 1979." We shall not be around much longer with that kind of progress as a nation.

I am not fighting for that. I am fighting the President's battle here, for the fact that he would have the authority in an emergency to impose quotas.

Now, the statement is made, "Well, we do not want to give all this power to the President."

I am quite aware, believe me, as a matter of my own history, as to Presidential power and the curbs that should be placed on it.

But the question I have to ask my colleagues is: Where is the bill on the floor of the U.S. Senate where we impose import quotas? We are not going to find that.

Where is the bill that limits imports? Where is the senatorial rationing plan? There is not going to be any senatorial rationing plan. All we want to be able to do is to override the President's plan. We do not have the guts to come forth with one ourselves. We do not have the courage to go ahead and limit imports.

Do you want to know how to get ahead? Place a 50 percent limit on imports and institute a very severe gas rationing plan at the same time. Then, and only then, will we have told OPEC what they can do with both their product and their raises in price.

Until then, we can beat our chest and rant and rave, and all the politicians can run around blaming the Arabs, OPEC, and everybody else, and they will sit there and smile and raise their prices, and they will cut down their production.

We are all well aware of what it is we are doing. The courage does not exist on this floor to institute rationing and to limit imports.

My other friend, the other distinguished Senator from Louisiana, Senator LONG, is on the floor. I remember in the great energy bill of 1978—the great nothing bill—when, very kindly, the distinguished Senator from Louisiana agreed to make a pilot program out of an energy stamp proposal I brought to the floor of the U.S. Senate. Thanks to his efforts, at least, it was in pilot form and went to conference. He fought for it and he lost.

That was 2 years ago. Now we are here, scrambling around with the crisis intervention program when we knew full well what was going to happen to the disadvantaged of this country, while somebody offered an alternative 2 years ago which would have been a well-organized attack on the problem. We have to wait until now, a month before the cold weather hits, to come through the Community Services Administration with a crises intervention program that might have no bearing on the situation.

It is indicative of what has happened in this area of an energy program, that the President, in his great wisdom, came forth with a proposal to cut back 43 percent of the Amtrak routes with every train full, and we could not get him on the telephone to ask: "Why the cutback?"

When were they put together?—1977. This was in July 1979. So that goes down the drain.

Is anybody going to come to grips with the situation in time in 1979?

Some severe economic problems have taken place and we have not responded effectively to the OPEC challenge. We cannot until we conserve, until we develop alternate sources of energy and alternate sources of transportation.

Now we will be stuck with a higher trust fund that originated in 1956. We will be stuck with the divisional approaches toward energy conservation, tie up the hands of the President even though Congress will not go ahead and offer an alternative, and on and on and on.

I heard the Senator from Idaho, obviously by implication, talk about New England. I have had to take my flack there.

For 6 years, I was the only New England Senator to advocate decontrol and deregulation.

I do not plead any special New England cause. They plead their own cause for so long, that they are out in the cold now. But so will the Nation if we adopt that kind of tactic.

Production and conservation, it will cost money and it will cost changes in lifestyle. There is no way around that.

If each one comes in with his own ax to grind, we will get our heads chopped off by the one ax, which is OPEC.

I have said I have wasted enough time pleading the President's case. I am prepared to yield back the remainder of my time in a few minutes. I have a couple of requests to speak against the amendment.

But I must confess I would rather save my own breath for my own amendments and position rather than waste it on what the President's position is. But here we are.

Again, I do not have to prove my case. The world has proven it for me.

Are prices going up? Yes.

Are supplies questionable? Yes.

Is the prospect of anything different for the future? No.

Are we in a recession? Yes.

Is it getting worse? Yes.

If we were all doing so much that was effective, why these responses to the rather basic questions?

Mr. THURMOND. Mr. President, I rise in support of S. 1871 as amended by the House.

I was a cosponsor of the Senate bill 1871 and I recognize the importance of extending the limited antitrust exemption for oil companies that participate in the agreement on an international energy program. While the Senate-passed bill provided an antitrust extension for 8 months, that is, from October 31, 1979, until June 30, 1980, I feel that the language of the bill as substituted by the House, that is, to extend the antitrust exemption for 2 years—until October 31, 1981—is entirely appropriate and further strengthens the measure. Additionally, the other changes made by the House in the bill's language constitute improvements in the methods and procedures by which the legislation will be administered.

Mr. President, there has been discussion of other possible amendments to S. 1871. With consideration for the expiration date of October 31, 1979, that is immediately upon us and the need to move expeditiously toward final action on this measure, it is my feeling that the Senate proceed to vote its approval on the House-approved version of S. 1871, without further amendment.

While the other possible amendments under consideration undoubtedly have merit, it seems that they should be withheld from S. 1871 so that this measure can be moved forward without further delay.

However, if good cause can be shown that an amendment can be added to S. 1871 without causing the existing exemption to die after October 31, 1979, then I shall give due consideration to such an amendment.

Mr. JOHNSTON. Mr. President, I yield 3 minutes to the distinguished Senator from Idaho.

Mr. McCLURE. Mr. President, I think the Senator for yielding because I have listened to all this discussion—I almost called it debate, and it really is not that—this discussion about energy prices, with a great deal of interest. Yet it seems to me we are missing two or three points about this legislation.

Nobody has said anything about the International Energy Agency and the need for the United States to continue to cooperate in that international effort. Perhaps it has not been discussed because it is no issue. Everybody understands it and, therefore, supports it. I hope that is true.

I was not trying to belabor my friend from Connecticut by mentioning that the oil import quota program had struck at New England and the people in New England were the ones who had objected to it. That was a fact.

But when the Senator from Connecticut says that he is pleading the President's case here, which case is he pleading? The President himself cannot make up his mind which one of three alternative plans he wants to submit. All he wants us to do is say, "Take whichever one I give you."

I think we ought to have at least the right to have a look at whether or not there are going to be quotas. Will we again create an artificial shortage where there is a shortage already existing, and impose that shortage on the American people by way of quotas? That is one alternative.

Or will the President choose instead to submit an entitlements program that takes away from one group of people in order to give to another group of people in energy as we are already beginning to do, to some extent, under existing programs? That is another alternative the President has suggested.

Or will we do the other, which is by way of license fees or import duties, raise the price to the American people and, therefore, encourage OPEC to raise theirs, and to create the scenario by which we probably would reimpose price controls on the domestic industry?

Those are serious questions, serious differences of approach to a very plaguing problem.

All this amendment does is to say Congress plays some role in doing it.

I think the amendment does not go as far as it should. I wish we had been able to persuade the administration to accept the full partnership of the Congress in this debate and in the policy decision that must be made.

But the President, apparently, does not want it. There are other Members of the Senate who do not want that responsibility, but want to leave it to the President to exercise that responsibility.

To the Senator from Idaho, that responsibility ought to be curbed and this amendment is a realistic way of beginning to move in the direction of imposing some congressional reason.

Mr. JOHNSTON. Mr. President, will the Senator yield, so that we can ask for the yeas and nays?

Mr. McCLURE. I yield.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McCLURE. Mr. President, I will not belabor the subject any longer, except to say that the International Energy Agency has a number of very important responsibilities, as we try to find a way to cooperate with our allies in Europe and in Japan, in meeting what could be a completely destructive shortage of necessary energy to fuel the economies of all the Western industrialized world and Japan.

It is important, therefore, that we do expand that authority. Let us not allow ourselves to become diverted from the subject by wide-ranging rhetoric about all the energy problems, the opportunities that exist, the opportunities that have been missed, the actions that have been taken, the actions we have failed to take, and let us focus for just a moment on what it is we are called upon to do today—to pass a bill that extends the IEA, to pass a bill that allows Congress to work in conjunction with the President of the United States in determining what should be done with respect to the levels of imported energy supplies, by way of quotas, by way of entitlements, by way of fees for licenses, or by any other alternative which the President may suggest at this time or in the future.

It seems to me that we really should go forward with voting on this amendment, which I support, and I hope that my colleagues will support it.

Mr. WEICKER. Mr. President, I yield 4 minutes to the distinguished Senator from Minnesota.

Mr. DURENBERGER. I thank the Senator.

Mr. President, I oppose the amendment offered by the Senator from Louisiana because I am deeply concerned about our continuing and increasing dependence on imported oil from OPEC nations.

Import quotas are usually introduced to protect an American industry from low-priced competition and to guarantee an artificially high domestic price. Unlike other commodities for which quotas might be considered, the world supply of crude oil is not sufficient to meet demand at current prices. And the world price of petroleum creates windfalls rather than bankruptcy for domestic producers. These circumstances occur because the pricing and production decisions are made by a cartel of OPEC ministers and not within an international commodity market. So long as demand for crude oil continues to grow and the OPEC nations have the power to restrict supply, the world price of crude oil will continue to escalate at rates that spell disaster for the nations of the West.

Mr. President, we as a Nation must realize that it is not only our economy that we put in peril when American oil imports rise without limit. Our pressure on the international oil market has consequences for our European allies, as well—consequences that are perhaps more severe than those we see, because those societies are more dependent upon imported oil. It is not surprising then, that Europe—where imports have not increased since the embargo of 1973—should demand that the United States take a stand to protect their economies, as well as ours, by imposing a limit on our oil imports.

I have reviewed the analysis of the Library of Congress and of the General Accounting Office both of whom found that a quota program like that proposed by President Carter would raise the price of domestic crude oil above prices that might otherwise occur. I found that both studies were based on rather modest assumptions as to future OPEC price increases and do not consider the national security costs or the threat of economic chaos that are a part of our continued dependence on the OPEC cartel. If these externalities had been factored into the cost of imported oil. I am sure that any domestic price rise resulting from quotas would seem small by comparison.

Mr. President I am the only Member of the Senate who has introduced legislation to impose a quota on imported oil. I drafted this legislation before the Tokyo summit in the belief that this issue was so central to our energy policy that it ought to receive a thorough review by Congress. Senator JOHNSTON proposes such a review by his amendment, but with the intention of killing rather than implementing President Carter's quota program. Therefore, I oppose the amendment.

Mr. JOHNSTON. Mr. President, I yield 3 minutes to the distinguished Senator from Ohio.

Mr. METZENBAUM. Mr. President, I wish to address myself to another part of this amendment, and that is to indicate my strong views with respect to that portion of the amendment.

When the House had this measure before it, it changed the exemption on the antitrust portion of the legislation from June 1980 for a period of 2 years—I think a year and a half beyond that date. The amendment as drafted by Senators JOHNSTON and DOMENICI, which is before us at the moment, would restore the limited exemptions to June 30, 1980. I think this is a highly appropriate date in view of the fact that the GAO is conducting a study.

There is a clear question in the minds of many of us as to whether there is any reason for the IEA's total existence and a stronger question as to whether or not the oil companies who participate with the IEA should be given the benefits or the exemptions from the law that are provided.

In order to determine that with fairness, in order to take a good look at it, the GAO is doing a study on the subject. The Subcommittee on Antitrust of the Committee on the Judiciary has conducted some hearings and will conduct additional hearings.

I am pleased to note that the Senate will restate its position and that the exemption will be only until June 30, 1980. It is to that portion of the amendment that I address myself, and I support it.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. STEWART). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, will the floor manager yield me 5 minutes?

Mr. WEICKER. I yield 5 minutes to the distinguished Senator from Arkansas.

Mr. BUMPERS. Mr. President, I oppose the amendment of the Senator from Louisiana for the very same reasons I opposed it in committee. Even though it has been changed ever so slightly. I do not think it changes it enough to make it acceptable, certainly not to me.

I simply wish to make a few comments regarding the kind of congressional mentality that has developed in the past few years and what it is bringing us.

We have been in this "post-Watergate" mentality now for almost 5 years. Congress avowed, I think correctly so, never again to permit the possibility of an imperial Presidency. In the process of making certain that this country never experiences an imperial Presidency we have been doing very foolish things, and today with the passage of this amendment we will simply be adding another foolish act to the many we have already perpetrated on the American people in the name of that famous system of checks and balances which our Founding Fathers so thoughtfully provided us.

But we no longer have a system of checks and balances. We have a Congress which is vetoing every sensible, thoughtful thing that comes from the White House, vetoing everything that can be perceived by the American people as bringing on any unpleasantness.

Mr. President, I personally would be much happier trusting the President to make those politically unpopular decisions. I have a lot greater trust in his willingness to do that than I have in the congressional willingness to ratify what the President chooses to do.

The Senator from Connecticut made a very stirring speech a moment ago about gas rationing and most of us remember when I introduced the gas rationing amendment here in 1976. We received 15 big votes for it. It was not offered in the hopes that the American people were going to love us for it. It was not even offered in the hopes that there was a shortage of supply but that energy prices were going up at an exponential rate and our imports were going up accordingly, as they fed upon each other. The American people, especially the working people, were the ones who were paying through the nose.

I can remember 9½ years ago when I first ran for Governor of my State. No one had then heard of me, and I finally got an opportunity about 3 weeks after the campaign started to speak to a thousand people at a big Democratic rally one night. Eight people were on the Democratic primary, and I had 1 percent name recognition. I thought about what to say to this crowd so that they would remember me, so that I would stand out in a group of eight candidates.

This little town we were in was celebrating its centennial. Behind me, a sign read "1870, Russellville, 1970." Each candidate had 4 minutes to tell all he knew and why he wanted to be Governor.

I made a short talk about where we wanted to go in the State of Arkansas during the decade of the seventies, which was approaching, and the options seemed to be unlimited for our State, which has indeed grown very significantly in the past 9 years.

But now a question haunts this country, brought on by these tremendous energy problems which confront as. They are unique. They are unprecedented. We have never dealt with them before. We do have nothing to guide us. But the real problem now is not what we want to do but what can we do?

I am telling Senators we are reaching the point very quickly where the political system of this country is going to be put on trial. I tell Senators that at the rate we are going there is going to be a social upheaval resulting from the economic chaos developing in this country, and that social upheaval is going to put this system to the test. Why do we stand here idly debating who has the bigger ego when the President is willing to make these decisions and say we must cut imports because they are contributing 4 percent to the inflation in this country?

The PRESIDING OFFICER. The Senator will suspend. His 5 minutes have expired.

Mr. BUMPERS. Mr. President, will the Senator yield me additional time?

Mr. WEICKER. I yield 2 additional minutes to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, everyone recognizes that the most insidious thief in our society is inflation, but every proposal I have heard by the President or Members of this body which would have the effect of dealing with it in a meaningful way must necessarily tell the American people some unpleasant things.

We have not been willing to bite into the bullets, and, I might say, I am not here totally defending the President because he consistently bites into the softest bullet he can find, also. When he says we are not ever going to allow imports to exceed what they were in 1977, that is easy. That was a big year for imports, because it was before Alaskan oil came onstream. We do not have any need to import more than we imported in 1977 until well past the 1980 elections. That will be the easiest campaign promise he ever made.

It goes much deeper than that. I am telling Senators the American people are crying out for someone to point the way, for someone to call on them. I think they would find gas rationing very liberating. Last spring when we had a 17 percent shortfall in this city, Washingtonians found a certain snob value in beginning to cope with it. My staff was carpooling. Seventy-five thousand more people in the city rode the Metro, and they were learniing to love it.

It is even possible that the oil companies were afraid we were going to get used to it, and that is when more fuel began to appear in the city where the long lines had been.

Mr. President, maybe it is good politics to vote for this amendment. I think not. But politics, aside, I wish to say to my colleagues that we are running out of time, 1980 is an election year. Traditionally nothing happens in an election year, and 1980 will not be any different. But I suspect strongly that the President, Jimmy Carter, is willing to limit imports if we just give him a chance to.

If he tries to limit imports and submit it to Congress, it will be vetoed so fast he will wish he had never signed the order. Vetoes are not the answer to the problem.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BUMPERS. I thank the Senator from Connecticut for yielding.

Mr. WEICKER. Does the Senator wish additional time?

Mr. BUMPERS. No.

Mr. BAYH addressed the Chair.

Mr. WEICKER. Mr. President, I yield a minute to the Senator from Indiana.

Mr. BAYH. The Senator from Indiana is on the other side from the Senator from Arkansas.

Mr. WEICKER. All right. I yield a minute.

Mr. BAYH. Mr. President, I listened with a great deal of interest, and I do not want to get involved in this debate at length with my colleagues on the Energy Committee.

I am prepared as one Senator to bite this bullet and support the President and limit the amount of oil we can import when he is willing to limit the price the oil companies may charge us, but I am not going to sit still and let an artificial supply shortage run up the price further than OPEC has already run it right now. It is just that simple. We have to have both of them hand in hand or we are going to have $40 or $50 a barrel crude oil to replace the $30 a barrel spot market that is about to drive us into bankruptcy right now.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I yield myself 1 minute.

I hope, in summary, simply to point out to my colleagues that this matter does not take away Presidential authority but simply provides that Congress may veto the Presidential imposition of quotas or fees by joint resolution of both Houses, but the President, in turn, has the power to veto that joint resolution. That, in turn, can be overridden by the Congress only by a two-thirds vote.

This is a compromise put together with the support and assent of the White House. It is not depriving the President of all his power, Mr. President; it simply gives this Congress the kind of input it ought to have, and, I submit, not the power to veto except by a two-thirds vote, but the power to have an input in what could be the most important economic decision taken this decade if the President sought to invoke it.

So, Mr. President, I am ready to yield back the remainder of my time if the Senator from Connecticut is ready.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. I yield, Mr. President, 10 minutes to the distinguished Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, the Senator from Kansas will take the time he has to discuss a matter that I think is of significant importance. We have been trying to figure out some apropriate amendment to address the problem, and the Senator from Kansas thinks it may not be best to do it on this proposal but rather to wait for the DOE authorization bill.

Mr. President, very seriously, in all of the flurry with which we debated the President's energy synfuels proposals during the last few weeks, a very dangerous element of our energy situation was barely addressed. The Senator from Kansas finds this fact highly disturbing. I speak of our strategic oil reserve, which President Carter mysteriously stopped buying oil for last November.

However much we may talk of building a synthetic fuels program, however much we may talk about the need for "energy conservation," we cannot escape the fact that throughout the 1980's, we will be dangerously dependent on foreign oil. So long as we are so dependent, it is imperative that we build up a viable strategic petroleum reserve. Common prudence requires that we build up this reserve in order to have a cushion in the event of an oil embargo, or a temporary interruption to our supply of foreign oil. We need only remember the consequences of the Iranian shutdown to see need and must possess an oil reserve if the need for such a backup. Indeed, we are to remain independent from foreign domination and continue strong in our geopolitical position.

Mr. President, the Senator from Kansas is highly disturbed to learn that the President has discounted these dangers, and has made the imprudent decision to stop building our reserve.

I am even more disturbed at hearing reports that Mr. Carter decided not to build up our reserve because of a threat by the OPEC states to cut back their oil production. Indeed, these stories are circulating saying that this was the quid pro quo which the current administration paid to secure OPEC's recent promise to keep up crude oil production. I think specifically of Saudi Arabia.

Mr. President, I do not know how accurate these stories are, but they do cast some doubt as to how energy policy is made in the country. I do know that OPEC oil ministers have expressed as recently as October 3, 1979, their strong displeasure at our plans for building up our strategic oil reserve, and I can only hope that their displeasure was not a factor in halting our SPR program. On April 20, 1977, Mr. Carter pledged to the Nation that he would build up our reserve to a billion barrels by the early 1980's. But today there exists no concrete evidence of his rhetoric being put into action.

I may add, Mr. President, that 1980 is not far off and we have approximately 92 million barrels in our strategic reserve. This is barely enough to provide for a 12-day supply. There are many questions which must be addressed before the Congress is asked to consider any energy legislation that does not include provisions to insist and insure that the SPR, a vital link in our energy policy, be built up to the proper levels. The question which needs to be addressed is the following: Why has the administration's policy changed toward our oil reserve?

Frank Zarb, a former administrator of the Federal Energy Administration during the Ford Presidency, recently stated that "the A-1 priority of the United States must be to build up our strategic oil reserve." Mr. Zarb, as FEA Administrator, submitted a plan establishing such a reserve to the Congress, in 1976. During this time, OPEC applied continued pressure on the Ford administration to not build our strategic petroleum reserve. Despite this pressure, the Ford administration proceeded to submit a formal SPR plan, and began implementing the plan by contracting with the Army Corps of Engineers to construct oil reserve storage facilities in Texas and Louisiana.

Indeed, under President Ford, the Congress passed the "Energy Policy and Conservation Act" of 1975, Public Law 94-163, which mandated that a SPR be built up, and that it contain 150 million barrels (later amended to 250 million barrels) within 3 years after its enactment.

Mr. President, if President Ford's plan to build our SPR had continued to be carried out under the Carter administration, our reserve would today have contained at least 300 million barrels, well on the way to the 1-billion-barrel goal. But President Carter has apparently acquiesced to OPEC's pressure. Faced with a weak administration in retreat everywhere, OPEC's sheiks pressed their advantage. They have succeeded in getting the United States to violate the very provisions of the Energy Policy and Conservation Act of 1975, Public Law 94–163, by ceasing to build up this reserve as of last November.

The Carter administration tried to mask the fact that it has given into OPEC's demands in stopping the SPR, by raising specious arguments about "budgets" and "pushing up the price of oil." But the one thing which the administration cannot mask is the catastrophic economic impact which its decision to stop maintaining the SPR is causing.

If our OPEC oil supplies are shut off for any reason, such as a deliberate embargo or an unforeseeable circumstance, such as internal "revolution" or an act of terrorism aimed at the supply routes, our economy will be devastated beyond belief. We need a viable SPR to act as a cushion in such circumstances.

In such an eventuality, our only alternative without this cushion will be to intervene militarily in the Middle East in order to seize the oilfields, or else sit back and suffer massive economic chaos, and unprecedented unemployment which no President whether he be Democrat or Republican could hope to pull us out of.

While President Carter tells us he is a "man of peace" his policy of ceasing to build and maintain the SPR is laying the very foundations for military intervention in the Middle East. Mr. Carter tells us he has "never panicked in a crisis," but it is clear that with respect to the OPEC oil crisis his administration has placed the United States second to the dictates of the oil-producing states. Our oil situation is indeed a crisis. Oil is the lifeline of our economy, and the current ill-conceived U.S. policies are those of a desperately weak and timid administration.

The Senator from Kansas is highly disturbed about another aspect of our oil reserve policy namely; the fact that our Armed Forces do not have their own oil reserve. President Ford, in his "Energy Independence Act of 1975," provided for a separate reserve to be set aside for the military. By 1988, according to the Ford plan, there would have been a total SPR of 1.3 billion barrels, and 300 million of this would have been set aside exclusively for the military. But President Carter rejected the Ford plan. Accordingly, today our military is totally dependent on the general SPR, which has barely 92 million barrels—not enough to last 2 weeks. What will we do if our planes and ships and tanks are forced to stay idle during a military emergency if OPEC shuts off our crude oil faucet?

Indeed, even the Elk Hills Naval Petroleum Reserve is not stockpiling any oil for an emergency. Oak Hills is in fact depleting the oil in the ground now at the rate of 100,000 barrels per day, and is selling most of this oil to private companies, at a time when our Armed Forces are desperately vulnerable to an oil shut-off.

The Democrat-controlled Congress today is resisting plans to nuclearize our Navy's ships. Failure to nuclearize the Navy only leaves our ships entirely dependent on OPEC oil which in light of the cessation of our SPR program can only place them in a dangerous condition of dependence on OPEC oil.

I would like to urge my colleagues to consider a recent CIA study which says that the Soviet Union will soon start to buy OPEC oil, as their own oil supplies are running out. When this happens, we can expect a Soviet-OPEC "axis" to strangle us and apply oil pressure in any conceivable military emergency situation.

It is common knowledge that the Department of Energy bought oil for this reserve for about a year, and then abruptly ceased purchases in November 1978. I want to stress once again that our reserve now has only 92 million barrels—a far-cry from the President's promise of 1 billion barrels by the 1980's. What circumstances have changed to alter U.S. policy? I am one Senator who feels that no circumstance could ever exist which would be compelling enough to place us at a strategic disadvantage.

Mr. President, in light of the clear and present danger to our national security posed by our dependence on OPEC oil, the Senator from Kansas finds it highly disturbing that President Carter has stopped building our reserve, and that in his July 15, 1979, television address he pledged to impose oil import quotas of 8.5 million barrels per day, which may further constrain our ability to build up our strategic petroleum reserve. It does not make sense to limit our intake of foreign oil and thereby create a shortage, when by the imposition of that very same policy you fail to adequately protect our citizens from such a severe shortage by ignoring the need for a strong well-stocked oil reserve.

Mr. President, this Nation does not have a truly comprehensive national energy policy. We are being asked to enact crash "synfuels" programs, and to sanction an "energy mobilization board" of dubious constitutional legitimacy all in the name of solving our energy problems. Mr. President, I can only say that an irresponsible approach which does not take into view the totality of the energy crisis with its far-reaching ramifications may be a worse cure in the long run than the disease itself. By exacerbating inflation, reducing the purchasing power of the consumer, riding roughshod over State and local laws and blatantly ignoring the cries of the American people for a cohesive, consistent energy policy we are doing no one any favor.

The President's proposed synfuels program estimated to cost over $88 billion when in full swing will turn out at most 2 to 4 million barrels per day of synthetic fuel, by the 1990's. Yet, it is important to note that today we import over 8 million barrels of oil per day, half of our daily requirement of oil. Therefore, even by realizing the maximum results of the synfuel program, we cannot escape our dependence on foreign oil in the foreseeable future. Once again, we can see that without a strategic petroleum reserve, even with our possibly reduced future dependence on foreign oil we will still be placed in a dangerous position.

A 10-percent shortfall occurring during full scale synfuel production would place the United States in an unhealthy position without an SPR. Synfuels are not our only alternative. But new and untried technologies are necessary to develop these fuels, and until these are developed, we will be dependent on foreign oil. Until we are able to substantially reduce this dependence, we must have, as part of a national energy plan, the serious commitment by our Government to build and maintain our SPR.

Mr. President, a synfuel program is needed but at best is a long-term prospect and may quite possibly do little to address our short-term problems as to how do we get over the energy needs of the next 10 years. To deal with these problems, we need a national "energy security policy" to protect the United States against attempts by OPEC to use the oil weapon in dictating our national policy. The key element of such a plan must be to build up our oil reserves to the point where we can withstand an interruption in the supply of oil, and where we can let our potential adversaries know that we have such a reserve.

Otherwise, the OPEC states may threaten to suspend oil sales to us at any time in order to coerce us to alter our Middle East policies or any other policy with which they are not happy. The linkage between the "oil" weapon and our foreign policy is being made stronger each day that we fail to build up our reserves.

Mr. President, in discussions with the Department of Energy and in reviewing the testimony of Deputy Under Secretary Jay R. Brill given before the House Subcommittee on Energy and Power on September 10, 1979, it is apparent that we will have a total storage capability of 248 million barrels by year's end. Currently, we possess only 92 million barrels in the reserve and therefore have the capacity to store an additional 156 million barrels. With this storage capability it bothers me that the administration stopped purchasing oil for our SPR 1 year ago next month.

The amendment the Senator from Kansas tried to work out, so that it would be satisfactory and still be effective, would have simply sought to direct DOE to reinstate the acquisition process and procure the necessary oil for storage on either an immediate delivery or on a deferred delivery basis.

I am concerned, as the administration is, that the state of the world crude market has created problems with the strategic petroleum program but I remain firm in my belief that we cannot wait any longer to embark on the swift completion of this program. The Naval Petroleum Reserve at Elk Hills is currently selling oil at a rate of approximately 100,000 barrels a day to private oil companies. In view of our current position of vulnerability with respect to crude oil dependence this is a foolhardy policy.

Mr. President, it would be my intention, because of the rather significant time constraints involved for the adequate consideration of the proposal of the distinguished Senator from Louisiana, to refrain from offering such an amendment now; but I hope that perhaps, with the cooperation of the Senator from Louisiana and other Senators who share my concern, we can effectively draft some legislation that could be added to the DOE authorization bill later this year.

Mr. JOHNSTON. Mr. President, I share the concern of the distinguished Senator from Kansas with respect to the deterioration in our plans for fulfilling the strategic petroleum reserve. I personally believe that is one of the most important single factors in a standby strategy to deal with what appears to be an ever more likely cut off of oil from the Middle East caused by an interdiction of the Straits of Hormuz by one of the suppliers of oil, or by any one of a number of scenarios which could give us a need to have the strategic petroleum reserve.

The Senator from Kansas is correct; we have only 94 million barrels in storage. We have the capacity for 248 million barrels which is ready for filling; there is money appropriated for that phase I of 248 million barrels, and there is money to complete the leaching on phase II, which would provide storage for an additional 280 million barrels. That is where you have to leach out the storage area by the injection of water and washing out the salt. But there is no money for the purchase of oil for the phase II 280 million barrels, and no money, of course, for phase III.

We must put together, in my view, a strategy, a plan for meeting, ultimately, this 1 billion barrels that we should have in the strategic petroleum reserve storage.

I am frank to say that there has been a dissolution of the resolution of Congress to provide the moneys for SPR. The Budget Committee has put lower limits on budget authority. Various committees, including the authorization committees, have urged transfers out of the SPR account, and I think it is fair to say that Congress has become frustrated and disillusioned with the problems that have been presented with the SPR program.

I agree that there are great problems with that program. We must straighten out the administration of the program, and there have been steps taken in that direction, although not completely enough and not quickly enough.

Nevertheless, I share with the Senator from Kansas the view that we must reaffirm our commitment to the SPR program; but certainly the DOE Authorization Act is a more appropriate vehicle for that, rather than doing it within the time constraints as presented by this amendment.

So, speaking for myself, and I know for a number of other Senators on the committee, we would be very pleased to join with the Senator from Kansas in seeking a solution to the problem of fulfilling the SPR program.

Mr. DOLE. Mr. President, the United States drastically needs to have a strong strategic petroleum reserve. To achieve this goal an intensive, disciplined and coherent effort will be required. This effort will not only entail the commitment of Government, but also of the taxpayer and consumer as well. The Department of Energy sees the necessity for such a reserve as evidenced by testimony before the House Subcommittee on Trade of the House Committee on Ways and Means given on October 10, 1979, by Assistant Secretary for Policy and Evaluation, C. William Fischer. Mr. Fischer stated during his testimony that "this Nation must rely on building a strategic petroleum reserve and increasing domestic oil and gas production to preserve our national security, our economic strength, and our independence as a free nation."

Mr. President, it is for those reasons that I had planned to offer an amendment which would have directed the President to resume immediately the purchase of crude oil by contract for the strategic petroleum reserve at a rate necessary to insure that the SPR contains 500 billion barrels by January 1, 1983, and 1 billion barrels by January 1, 1988. This goal is 250 billion barrels more than projected by the Department of Energy. My amendment would also have directed the Secretary of DOE to secure non-OPEC crude oil sources in addition to OPEC sources to be used in the build-up program, and that any import quotas imposed by the President under EPCA should not be applied to the strategic petroleum reserve program.

Mr. President, my amendment is essential. It is a commonsense amendment which I hope my colleagues will support. I will state once more that it merely would direct the President to immediately resume the SPR program, and that the crude oil used in this plan not be counted as part of any imposed quota system.

Mr. President, almost everyone in this country owns an insurance policy, to protect himself against unforeseen circumstances over which he has no control. But we as a nation do not have a national energy insurance policy to cover the lifeblood of our economy, because we do not have a viable strategic oil reserve. Aside from the long-term solutions to our crisis such as synfuels, what type of administration do we have which does not even possess the prudence to provide our country with the very type of insurance every man and woman knows is needed? The SPR is America's insurance policy against an unforeseen, unexpected energy supply interruption. The amendment proposed by the Senator from Kansas would insure that this vital aspect of our overall energy policy would be reinstated and maintained. If the U.S. Senate is to be regarded as a responsible body doing all it can to ease the energy crisis, this amendment is a bare essential.

However, in bargaining with OPEC to stabilize or reduce oil prices, we cannot take advantage of their vulnerability if we do not have a viable strategic oil reserve to enable ourselves to withstand a stoppage. Without such a reserve, OPEC need only snap their fingers to make the United States listen to their every dictate. I am afraid that unless a viable strategic oil reserve exists we cannot play our economic ace, and in the final analysis we will by continued U.S. acquiescence give all the leverage to OPEC.

Mr. President, we hear much talk today about the need to strengthen our military defense posture. But what about our energy defense posture? To operate without a strategic oil reserve is like operating without a military reserve. Prudence only dictates that we proceed forthwith to build up this reserve.

Accordingly, Mr. President, I strongly recommend that the Senate adopt this amendment proposed by the Senator from Kansas which will put the administration on notice as to our concern over their failure to adequately and responsibly address the Nation's energy crisis.

Mr. JOHNSTON. Mr. President, very briefly, in conclusion, I simply wish to point out to the Members of the Senate that this amendment, which has been approved by the administration—this is a compromise with the administration—is simply a means of giving congressional input through the vehicle of a joint resolution to be adopted by both Houses, a resolution of veto, which joint resolution, in turn, may be vetoed by the President, and that veto may be overridden only under the constitutional provisions of a two-thirds vote of each House.

It is agreed to by the White House. It is an appropriate means and mechanism for giving Congress input into what could be a very important, perhaps the most important, economic decision of the decade. I trust the Senate will approve it, and I yield back the remainder of my time.

Mr. WEICKER. Mr. President, before I yield back the remainder of my time, I would only say this is an inappropriate compromise of the national will. It is no more than that, except that tomorrow it will translate itself into further rises in the price of oil, further shortages in supply, and further economic tragedies for the Nation.

I yield to the distinguished majority leader.

AUTHORIZATION TO FILE COMMITTEE REPORTS UNTIL MIDNIGHT

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Connecticut.

I ask unanimous consent that the Committee on Energy and Natural Resources and the Committee on Banking, Housing, and Urban Affairs may have until midnight tonight to file committee reports.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I yield back the remainder of my time.

IMPORT QUOTAS

● Mr. BAYH. Mr. President, I wish to express my support for the efforts led by my distinguished colleagues from Louisiana, Senator JOHNSTON, and the chairman of the Energy Committee, Senator JACKSON, to provide for congressional consultation in any decision to restrict oil imports either through the imposition of quotas or the imposition of import fees. While I certainly feel that restricting oil imports is critical to our efforts to formulate a responsible energy policy, I also feel strongly that the Congress should be consulted before any such limits are finally adopted.

Three options for import quotas are currently under consideration, with the Secretaries of Energy and Treasury scheduled to present recommendations to the President shortly. The various schemes under review include an auction system, wherein the Government fixes the quantity of oil which could be imported each quarter and licenses importers, a license-fee system in which the Government would collect a tariff theoretically set high enough to discourage demand and keep imports below the 8.5 million barrels/day ceiling the President has indicated his commitment to meeting by 1985, and an allocation program which allows the Government to apportion the right to import crude and refined petroleum products according to past usage. But regardless of which of these alternatives is chosen, Mr. President, oil import quotas could well be inflationary, and could have anticompetitive effects.

When the President recommended in July that oil imports be limited to 8.2 million barrels/day this year and 8.5 million barrels/day by 1985, energy imports were expected to run at about the 7.8 million barrels/day level this year, substantially below the quota. However, recent revisions have moved this estimate upward to 8.1 million barrels/day, bringing us much closer, much sooner, to the quota level than we had anticipated. Given this, I have serious reservations about taking an approach to this situation which would in effect force us to create a shortage, just at the time when more and more domestic oil is being decontrolled.

Limits on imports before we are ready for them, combined with decontrol of domestic crude oil, will guarantee skyrocketing prices, since shortages will occur well before the United States can reduce demand to accommodate the limits. This is an invitation to economic disruption and still higher energy prices which I do not think we can ask the American people to accept. It is bad enough that our people have had to bear the added burdens of continual OPEC price increases. But it is an entirely different matter when we ask them to accept price increases that are planned by our own Government, and not the result of action by a foreign cartel. What is more, we must not overlook the incentive to further OPEC price increases which import quotas will provide.

Mr. President, if import quotas are imposed before supplies are increased, or demand reduced, the costs will be enormous. A study prepared by the Library of Congress, in addition to indicating that demand may well exceed the quota by some 400,000 to 1 million barrels as early as 1982, concludes that if import rights were to be auctioned by the Government, prices could increase between 7 and 17 percent. This would translate to an additional $3 to $8 above the world oil price in 1982. The effects of such planned shortages would be reflected in slower economic growth, greater inflation, and increased unemployment. We must also remember, Mr. President, that these projections were made without reference to what must now be considered inevitable future OPEC price hikes.

Under present law, the President has the authority to restrict imports, if the Secretary of the Treasury determines that such an action is critical to the national security. This finding was made in March of this year. Because of the very substantial impact that the imposition of such quotas would have in this country, I believe that Congress simply must play a role in making this decision. The compromise amendment which Senator JOHNSTON has offered provides for congressional participation in this process. It does not prohibit an import reduction program, but it does give Congress the opportunity to disapprove, by joint resolution within 30 days, the President's recommendations for quotas or fees.

The economic effects of oil import quotas, Mr. President, will be significant. The GAO has estimated that a 1 million barrel per day shortfall by 1985 would result in the following impacts: Gasoline prices up by $16.80 per barrel, heating oil prices up another $14.20 per barrel, the gross national product down by $6 billion, increases in inflation and unemployment, higher manufacturing costs meaning our export capacity will be reduced and our balance of trade will decline. It is clear, then, that Congress ought to have an opportunity to closely examine any program having such far-reaching effects. And I am confident that should future recommendations be forthcoming, the Congress will responsibly discharge its obligations.●

● Mr. McGOVERN. Mr. President, as one of the original sponsors of this amendment, I would like to reaffirm my support and urge my colleagues to vote for reinstating controls on crude oil.

When this administration first contemplated executive action to end price controls, the public was advised that decontrol would not trigger any dramatic price increases. The administration's original proposal for a windfall profits tax was, in fact, based on the assumption that prices and oil company profits would not soar as a result of their action.

Yet, today fuel prices have increased more than 60 percent since last year. Farmers in South Dakota are paying upwards of $1.10 per gallon for diesel fuel—twice what they paid last year. And the administration has now revised their own figures regarding the cost of decontrol to the American consumer. Prices have skyrocketed to such an extent that Congress has had to enact emergency legislation to prevent millions of elderly and those who live on fixed incomes from either starving or freezing to death this winter.

Against this backdrop, the third quarter financial reports of the major oil companies show increases in net income of up to 191 percent.

Many industry officials, as well as the Department of Energy, have tried to explain away the massive price increase. We have heard that the cutoff in Iranian oil imports necessitated major purchases on the spot market where prices are substantially higher. Yet the Department of Energy's own figures show that the Iranian cutoff had very little impact on the gasoline shortage we experienced this summer or the prices paid for additional imports.

When the Department finally acquiesced to congressional demands that possible oil industry hoarding and price gouging be investigated, the Department relied solely on the industry's own data for their report.

Perhaps even more alarming are the recent news reports indicating that the oil companies are now producing the more profitable—and deregulated—jet fuel, at the expense of critically needed home heating oil and diesel fuel.

Mr. President, these rapidly escalating fuel prices and record oil industry profits are intolerable in light of the fact that there is no reliable justification for such increases. While permanent controls on crude oil may not be desirable, I believe we owe it to the public to reinstate controls until we have conducted a full scale public investigation of the oil industry and their role in the recent fuel shortages and price increases.●

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana.

Mr. ROBERT C. BYRD. Mr. President, what is the motion?

The PRESIDING OFFICER. That the Senate concur in the House amendment with an amendment.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Hawaii (Mr. INOUYE), and the Senator from Hawaii (Mr. MATSUNAGA), are necessarily absent.

I further announce that the Senator from Nevada (Mr. CANNON) is absent on official business.

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN) and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

The PRESIDING OFFICER. Are there other Senators in the Chamber wishing to vote?

The result was announced—yeas 70, nays 23, as follows:

[Rollcall Vote No. 377 Leg.]

YEAS—70

Armstrong
Baker
Baucus
Bayh
Bentsen
Biden
Boren
Boschwitz
Bradley
Burdick
Byrd,
  Harry F., Jr.
Chafee
Chiles
Cochran
Cohen
Culver
Danforth
DeConcini
Dole
Domenici
Durkin
Eagleton
Exon
Glenn
Goldwater
Gravel
Hatch
Hayakawa
Heflin
Heinz
Helms
Humphrey
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Magnuson
McClure
McGovern
Melcher
Metzenbaum
Moynihan
Muskie
Pell
Percy
Pressler
Pryor
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stone
Thurmond
Tower
Tsongas
Wallop
Warner
Williams
Young
Zorinsky

NAYS—23

Bellmon
Bumpers
Byrd, Robert C.
Durenberger
Ford
Hart
Hollings
Huddleston
Long
Lugar
Mathias
Morgan
Nelson
Nunn
Packwood
Proxmire
Randolph
Ribicoff
Stennis
Stevenson
Stewart
Talmadge
Weicker

NOT VOTING—7

Cannon
Church
Cranston
Garn
Hatfield
Inouye
Matsunaga

So the motion to concur in the House amendment with an amendment (UP No. 693) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I move that the Senate concur in the amendment of the House to the title of S. 1871, which amendment I send to the desk.

Mr. President, this merely conforms the title to the amendment just adopted.

The PRESIDING OFFICER. The question is on agreeing to the title amendment.

The title was amended so as to read:

> An Act to amend the Energy Policy and Conservation Act to extend until June 30, 1980, certain authorities relating to the international energy program, and for other purposes.

JUDICIAL CONDUCT AND DISABILITY ACT OF 1979

The PRESIDING OFFICER. The Senate will now resume consideration of S. 1873, which the clerk will state by title.

The legislative clerk read as follows:

> A bill (S. 1873) to establish a procedure for the processing of complaints directed against Federal judges, and for other purposes

The Senate resumed consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, for the information of Senators, it is the intent and hope of the leadership to complete action on the judicial tenure bill today, so we may be around for a little while, with some rollcall votes yet today.

Mr. DECONCINI. Mr. President, I am pleased to yield to my distinguished colleague from Utah.

Mr. HATCH. Mr. President, I rise in support of S. 1873, the Judicial Conduct and Disability Act. In particular, I should like to comment upon the constitutional propriety of this legislation, a matter that has been called into question by some observers.

There are two distinct provisions of the Constitution that relate to the removal of sitting Federal court judges. article II, section 4 provides that,

> The President, Vice President, and all civil officers of the United States shall be removed from office of impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.

The term "Civil Officers of the United States" has been thought to encompass Federal judges since the impeachment of U.S. District Court Judge, John Pickering in 1803. Nine of the 12 impeachment trials that have since been conducted in the Senate have involved Federal judges.

Judicial tenure is also one of the subjects of article III, section 1 of the Constitution which states:

> The judges, both of the Supreme and Inferior Courts, shall hold their offices during good behaviour . . .

Thereby the grounds, but not the mechanism, are established for removal under the judicial article. It is the direct implication, however, of this section that some means of judicial removal be established unless, in the words of Harvard law professor Raoul Berger, "we attribute to the framers the Dickensian design of maintaining a misbehaving judge in office."

The purpose of S. 1873 is to give full effect to article III, section 1 by establishing a constitutionally permissible procedure for disciplining judges who have not satisfied the "good behaviour" standard. Although the immediate act does not permit removal, I would have no doubts about the constitutionality of such a sanction for largely the same reasons that I believe justify the imposition of discipline of any kind upon Federal judges.

Impeachment, it is clear to me, is not the exclusive means for disciplining Federal judges; it is coexistent with the "good behaviour" clause. These are alternative means for achieving discipline, replete with differing standards and differing mechanisms for implementation. The impeachment provision, situated in the legislative article of the Constitution, imposes a limitation upon the ability of the legislative branch to effect judicial removal. Such an action is subject to the "high crimes and misdemeanors" standard. It is a much more rigid and demanding a standard than one which simply requires misbehaviour.

As Professor Corwin has noted, "few provisions of the Constitution were adopted from English practice to the degree the section on impeachment was." Both the concepts of impeachment and that of tenure during "good behaviour" have their genesis deep within English law. Impeachment has traditionally been subject to some formula similar to that of "high crimes and misdemeanors," while "good behaviour" is associated with the old act of settlement which granted judges tenure for so long as they conducted themselves properly. It is a standard that, unlike the impeachment standard, contemplates simple maladministration, judicial indiscretion, and lesser forms of abuse of position. In English law, the writ of scire facias was available to execute the "good behaviour" standard.

To accept the contention that impeachment is the sole means of judicial discipline or removal prescribed by the Constitution is to interpret the "good behaviour" provision as nothing more than a simple admonition, incapable of being given effect. It certainly cannot have been the intention of the framers that judicial misconduct, that fell short of the "high crimes and misdemeanors" standard was immune from sanction. It was clearly the intent that such judges be held accountable for their actions in some manner. As Professor Berger has noted, a grant during "good behaviour" is simply an "estate on a condition subsequent which is defeated or forfeited by nonperformance of the condition."

The contention that impeachment was never contemplated to be the sole means for disciplining or removing Federal judges is not based simply upon a reading of the clear terms of the Constitution. There is also strong historical evidence to this effect. The first Congress—undoubtedly that most appreciative of the intentions of the framers—approved legislation in 1790 providing that, upon conviction in court for bribery, a judge shall be "forever disqualified to hold any office." Nothing is said of the need to undergo the impeachment and conviction process described in article I.

In the Federalist No. 79, further, Alexander Hamilton stated that "insanity may be safely pronounced to be a virtual disqualification for a judge." This, despite the clear language of the impeachment provision limiting its applicability to "treason, bribery, or other high crimes and misdemeanors." In fairness, it should be noted however that other language contained in the same Federalist Paper seems curiously to suggest that impeachment may be an exclusive remedy. There is surprisingly little documentary evidence to show that the framers gave great discussion, one way or the other, to the issue of judicial removal.

Mr. MATHIAS. Will the Senator yield?

Mr. HATCH. Yes.

Mr. MATHIAS. I do not want to interrupt the Senator's statement, but I feel I cannot leave it unchallenged. I am prepared at a later time in the course of the afternoon, or evening, or night, as the case may be, to give a good deal of detail to one of the most fundamental questions of the American Revolutionary period the question of judicial independence and the conditions under which the judges might be removed.

But I will not interrupt the Senator any further except to say I would part with him that that was not considered very carefully and in great detail by the Founding Fathers.

Mr. HATCH. I did not mean to imply, and I think the Senator made an appropriate point if I was implying that was considered, the fact they wanted to have an inviolate judiciary. I certainly did not mean to imply that.

But that was the one-half of the equation I was talking about that they did give great consideration to and that was providing as we recently have done, that their salary should not be reduced during their tenure in office.

On the other hand, not much consideration was given to the fact of judicial removal. That is the point I make today, other than some mention in the Federalist Papers. I mentioned this and brought out that they really——

Mr. MATHIAS. No. 78 of the Federalist

Papers. The Senator is exactly right. It explains exactly what the Founding Fathers had in mind as traditional discipline and makes it clear, in my judgment, they thought impeachment was the sole remedy.

Mr. HATCH. They thought both ways. Alexander Hamilton made clear that insanity was not grounds necessarily for impeachment and, by necessity, may be a qualified judgment, under certain circumstances, and was a virtual disqualification for a judge.

But as my good friend from Maryland has indicated, even in the same Federalist No. 79, it was indicated that maybe they did feel only treason, bribery, and other high crimes and misdemeanors were the only reason a judge could be disqualified and removed from the bench, and I have mentioned that.

But I have to believe the reason they did not spend an awful lot of time on this was because they were concerned on this other half of the equation with protecting the rights of the judges to be independent, to be free, and to be able to make decisions without overrule by the central form of government, because they had seen the Crown overrule a number of decisions and overrule a number of the approaches of the earlier colonists before they wrote these particular papers.

I might add one other thing with regard to the Senator from Maryland's point, and that is that although there is a virtual dearth of exactly what these two provisions of the Constitution mean, there are equal arguments on both sides that they probably meant, one way or the other, and there is an equally strong argument, that treason, bribery, or other high crimes and misdemeanors was not the only standard by which judges could be removed from office.

The purpose of S. 1873 is to establish procedures for dealing with conduct that falls short of impeachability, but which nevertheless violates the "good behaviour" requirement. Where impeachment may be considered an appropriate sanction by Congress, there is, of course, nothing in this bill that would serve as an impediment.

Impeachment remains the sole means of legislative removal of judges. In enacting this act, Congress is implementing the judicial power of the United States which is described in article III. It is a power that has been exercised in the past by Congress to grant jurisdiction to "tribunals inferior to the Supreme Court" to adjudicate certain issues, as well as in defining the scope and procedure for the exercise of the inherent judicial power. Congress here is exercising its rights under article I, section 8 to "make all laws which shall be necessary and proper for carrying into execution * * * all powers vested by this Constitution." It is recognizing that the question of judicial discipline or removal for misbehaviour is a justiciable issue, but one with respect to which the judicial power to act must derive from congressional enabling legislation.

By establishing the process for judicial discipline or removal, Congress itself is no more disciplining or removing judges that may be subject to the process than it is trying a criminal defendant when it acts upon rules of evidence or rules of criminal procedure. Impeachment remains the sole means of legislative sanction; while action pursuant to the judicial conduct and disability act remains the some means for giving effect to the "good behaviour" standard of the judicial article of the Constitution.

I would like to conclude by stating briefly my reason for rejecting the contention that this legislation somehow interferes with the independence of Federal judges and is thereby violative of the separation of powers doctrine that undergirds our Constitution.

Implied in this doctrine, it seems to me, is another principle important to our Constitution—that of checks and balances. None of the three branches of our National Government is completely independent from the others; there are limitations and constraints placed upon each of them designed to insure a measure of accountability. As James Madison observed in the Federalist No. 48:

> Unless these departments be so far connected and blended as to give to each a constitutional control over the others, the degree of separation which is required, as essential to a free government, can never in practice be duly maintained.

Therefore, the judicial branch is not exempt from these limitations and constraints.

At a time when it is apparent to almost everybody that the impeachment sanction has become an exceedingly cumbersome and impractical remedy to apply to run-of-the-mill judicial misconduct, I believe that it is more imperative than ever that Congress provide some effective means for enforcing the "good behaviour" mandate of article III. There is a balance that must be drawn here, as in so many other areas of public policy, between protecting the independence of judges for the protection of the public, and absolving them of all accountability for their actions to the detriment of the public. I strongly believe that S. 1873, within the bounds of the Constitution, draws such a balance.

I also acknowledge the fact that there are intelligent Members of the Senate who have studied the Constitution, who have made it the study of their lives, who have intelligent points of view on the other side of this point of view. But it is difficult for me, having lived through an extensive trial practice during my career prior to coming to the Senate, to really think that we would have no other means of removing judges who otherwise should be removed for judicial misconduct except by the impeachment process. I think that has been hamstringing the courts in many ways, and perhaps that misconception has been one of the basic reasons why we have had problems with so many judges in the past.

Let me be fair to those who sit on the Federal bench. I think that, by and large, they are tremendously outstanding people and are among the leading judicial pillars of our society. They are also, by and large, tremendous lawyers who had good experiences in the practice of law and who were very capable before they came to the Federal bench.

However, that does not negate the fact that there have been those who have been extremely intelligent, extremely well-versed in the law, tremendously talented in the procedural aspects of the law and the evidentiary rules, but who nonetheless became tyrants on the bench. We have had tyrants on the bench in this country and we basically have been unable to do anything about it. I think it is time we consider the enlightenment this bill may bring to the judiciary.

Last, but not least, I think it is important to add that this may be a protection to the judges themselves that they would not have otherwise. I believe this bill provides an enlightened approach which will allow judges to get rid of the frivolous claims against them in basically peremptory proceedings, instead of having every little antagonistic issue against them decided in the courts of public opinion, in the newspapers of our country.

I believe this is a good approach. I think the judges of this country probably will be against it. On the other hand, if they think it through, they may find that this bill may be an asset to them rather than the liability some of them have felt it to be.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. HATCH. I yield.

Mr. THURMOND. Mr. President, I commend the able Senator from Utah for the remarks he has made on this subject.

I think most people have high respect for the courts; but there is general feeling that once a judge is appointed, he is there forever and nothing can touch him. Of course, the Constitution explicitly provides for impeachment; but there is nothing in the Constitution I have seen that would prohibit taking other disciplinary action short of impeachment. In other words, the impeachment provision does not appear to be exclusive. Is that the Senator's opinion?

Mr HATCH. That is correct. Article 3, section 2 indicates that there is another methodology which could be inferred from that section, where it says, "The Judges, both of the supreme and inferior Courts, shall hold their offices during good Behaviour." That is one point I have been making.

This question of good behavior seems to me to be a less onerous standard than impeachment for treason and other high crimes and misdemeanors.

Mr. THURMOND. Under the pending bill, a complaint would be initially processed within the judicial council of each circuit, and the council would be empowered to take remedial action.

Mr. HATCH. That is correct.

Mr. THURMOND. A variety of effective remedies are provided, such as temporarily not assigning further cases to the judge. That action would have some disciplinary impact.

Mr. HATCH. It certainly would.

Mr. THURMOND. Publicly or privately censuring or reprimanding the judge would also be a form of discipline.

Mr. HATCH. It certainly would.

Mr. THURMOND. Certifying permanent disability, mental or physical, would be another option available under S. 1873.

Mr. HATCH. Yes.

Mr. THURMOND. With regard to retirement, the council cannot make a judge retire, but the council members can request that he do so. I think a judge would consider it seriously, if retirement were requested. In other words, there are a number of options under S. 1873 that do not go so far as to remove a judge, an action which would raise serious constitutional questions.

Removal by means other than impeachment is, however, arguably constitutional; and I do not believe there is a case exactly on that point. Does the Senator know of such a case?

Mr. HATCH. I do not know of any case exactly on the point.

Mr. THURMOND. On the other hand, the Constitution does not explicitly say that you cannot do anything but impeach. S. 1873 is, I believe, middle ground between removal of the judge who has life tenure, and taking no action at all—thereby allowing a judge, for example, who has an alcohol or drug addiction problem to continue to handle cases, or to allow a judge to be unreasonable in dealing with jurors, or to be discourteous or hostile in dealing with lawyers.

Under this bill, there would be a reasonable means of discipline without going so far as to remove a judge. Does the Senator feel that that is a reasonable way to approach the problems of judicial misconduct or disability?

Mr. HATCH. There is no question in my mind about it.

Mr. MATHIAS. Mr. President, will the Senator yield?

Mr. HATCH. I yield.

Mr. MATHIAS. This is one of the things we need to concentrate on, and I agree with the Senator from South Carolina, in looking at reasonable ways to deal with this problem.

On March 9 of this year, the Judicial Conference adopted a resolution; and pursuant to that resolution, 10 of the 11 judicial councils have established what I believe is a reasonable middle ground. It is a very comprehensive provision, and I will discuss it later. I do not want to interrupt the Senator from Utah more than is necessary.

I wonder if the Senator thinks that the machinery established by the resolution of March 9 is, in fact, a reasonable approach to this difficult problem, which, as we discussed earlier, has been troublesome to the American legal system since the founding of the Republic.

Mr. HATCH. I think it is more reasonable than the present system; certainly, a step in the right direction. I believe this bill is a better approach than that.

However, I will also say that part of the reason that approach has come about is because of this bill.

Mr. MATHIAS. Precisely.

Mr. HATCH. So, in a very real sense, this bill already has served its purpose.

However, I still believe, in all honesty, that there is need for this bill and there is every propriety on the part of the United States Congress to enact legislation such as this, under the separation of powers doctrine.

Mr. MATHIAS. I salute the Senator from Arizona, as I have earlier today, because I think his consistent interest in this matter has been extremely salutary. I believe he has awakened the bench to the need for the kind of self-policing which is inherent in the March 9 resolution.

It occurs to me that we are here in October, and the effectiveness of the new system really has not yet had a good test, that we have a new system, a rather revolutionary approach within the Judicial Conference.

If we are talking about being reasonable, the side of reason would be to allow them with the new system to have a little longer period in which to see if it will in fact be effective. I think it will.

Mr. HATCH. Let me just add this to my colleague's good comments, and certainly that is a step in the right direction, and I concede that point and never reputed that point or rebutted it. I certainly hope that my colleague is correct because if he is correct then we will never need to have this bill become operative even if we pass it here which I believe we will. And nothing would please me more.

Mr. MATHIAS. The difficulty is that once we pass this bill in this Senate we lose control over whether it becomes operative or not.

Mr. HATCH. This would become operative but the courts could still set up their own mechanisms to avoid the application of this bill, is that not correct? Of course they do. They could still do exactly what they were called to do in that Judicial Conference and use that as a way to get around this particular bill by enforcing their own approach.

Mr. MATHIAS. The laws of the land will take precedence over any order of court.

Mr. HATCH. But the courts have a right to do some judicial self-policing in anticipation of never having this bill become really applicable to them. I suggest that that is what they should do. But this bill will be on the books to take care of untoward situations such as drunkenness, insanity, obstreperousness.

Mr. MATHIAS. I do not view this bill as a discretionary procedure. I think if we pass this bill, the House of Representatives passes it, and the President signs it, then we are stuck with it.

Mr. HATCH. I think that the judges will accept that, but there is nothing to stop them.

Mr. MATHIAS. They will accept it. They are sworn to accept it.

Mr. HATCH. But there is nothing to stop that.

Mr. MATHIAS. Let me ask the Senator if he would have any objection at this point, because I think it is right on target with what he is saying and what he is saying is important, to include at this point in the RECORD a copy of the resolution which was adopted by the Judicial Conference of the United States and which deals with the steps that they would take.

Mr. HATCH. I have no objection.

Mr. MATHIAS. Mr. President, I ask unanimous consent that a copy of the resolution of March 9 of the Judicial Conference be printed in the RECORD at this point.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION I

1. The Judicial Conference of the United States expresses its approval of the following principles to be reflected in any legislation dealing with procedures for inquiries into the conduct of Federal judges:

(a) Removal of an Article III judge from office by any method other than impeachment as provided in Article I of the Constitution would raise grave constitutional questions which should be avoided.

(b) The primary responsibility for dealing with a complaint against a United States judge should rest initially with the chief judge of the circuit as presiding judge of the Judicial Council, who may dismiss the complaint if it is frivolous or relates to the merits of a decision or procedural ruling, or may close the complaint after assuring himself that appropriate corrective action has been taken.

(c) Any complaint not dismissed or closed by the presiding judge should be referred to a committee appointed by the presiding judge, consisting of an equal number of circuit and district judges and the presiding judge.

(d) The joint committee should report its findings and recommendations to the Judicial Council, which should take such action as is appropriate to assure the effective and expeditious administration of the business of the courts within the circuit.

(e) The Judicial Council may, in its discretion, refer a complaint and the Council's recommended action to the Judicial Conference of the United States.

(f) If the Judicial Council concludes that grounds for impeachment may exist, it should transmit the record upon which its conclusion is based to the Judicial Conference of the United States; the Judicial Conference shall then determine whether, in all the circumstances, the matter should be referred to the House of Representatives.

2. The Judicial Conference recommends that the Judicial Councils of the several circuits, at their earliest opportunity, consider the formulation and promulgation of rules of procedure for the receipt and processing of complaints against judges in accordance with the principles expressed in paragraph 1; such rules and regulations should be announced in such manner as to assure that the public and the bar will be informed.

3. The Chairman of the Court Administration Committee and the members of the Executive Committee of the Conference are directed (1) to review and revise, in accordance with the principles stated in paragraph 1, the Court Administration Committee's proposed amendments to 28 U.S.C. § 332, and (2) to transmit the revised proposed amendments to all members of the Conference for their approval. Following approval by the Conference, the Chairman of the Court Administration Committee, if called upon by the Congress to testify upon pending legislation, is authorized to inform the Congress that, if legislative action is to be taken, the Conference recommends amendments to 28 U.S.C. § 332 as approved by the Conference in accordance with this paragraph.

4. All previous Judicial Conference resolutions or comments upon legislation dealing with the conduct of Federal judges are superseded by this resolution.

Mr. MATHIAS. I do not think we need to spend a lot of time discussing it but the question really is so important that we should see exactly what they did propose.

Mr. HATCH. Why do I not do this? I am prepared to yield the floor, and I think I will be happy to yield the floor to the distinguished Senator from Maryland with just the proviso that everything the distinguished Senator from Maryland has said is true except that I think he would take the position that this particular bill is unconstitutional and I take the opposite position; that is, it is constitutional, that the Constitution allows for judicial removal for lack of good behavior and that this bill makes it a reasonable and I think effective legislative approach to that particular problem.

I yield the floor.

Mr. THURMOND. Does the Senator from Maryland agree to yield?

Mr. MATHIAS. I yield the floor at this time.

Mr. THURMOND. I believe that section 332(d) of title 28 is the section that is being utilized as the statutory basis for the procedural processes that have been established in 10 of the 11 circuits for the handling of complaints alleging judicial misconduct.

Mr. MATHIAS. I have the same understanding as the Senator from South Carolina.

Mr. THURMOND. The question is whether this section is sufficient statutory authority for the establishment of a comprehensive judicial disciplinary procedure. The procedure in this bill is comprehensive, and some people feel there is a question as to whether 332(d) is broad enough to provide the statutory authority that is needed here.

Also, there would be some uniformity among the circuits with passage of a statute of this kind. The bill now under consideration appears to be a middle ground between the Nunn bill which contains a removal provision and doing nothing except what the Judicial Councils have done in 10 of the 11 circuits.

Mr. MATHIAS. With the greatest respect I suggest to the Senator from South Carolina that we now are standing on middle ground and the middle ground is the Judicial Conference resolution of March 9.

Mr. THURMOND. I think what the councils have done is good, and I commend the judges for their efforts. I prefer, however, to pass this bill to make the statutory authority clear and to provide an overall structure for a comprehensive disciplinary system.

Mr. MATHIAS. Let me say to the distinguished Senator from South Carolina, the ranking minority member of the Judiciary Committee, that as to the question of whether or not there is sufficient statutory foundation for this resolution I think we have to give a strong presumption of validity to this act taken very seriously, very deliberately by the members of an equal separate and coordinate branch of Government and the judges, including the Chief Justice of the United States, felt that they had the legal authority to adopt this resolution of March 9 and they have adopted it and it is, I think, based on law and it is uniform. It is uniform throughout the country; 10 of the 11 circuits have adopted it and I know of no reason why the 11th will not. The 11th, I am advised, is about to adopt it. So we will have statutory foundation, we will have uniformity, and I suggest to the Senator that we are in fact in middle ground today.

Mr. THURMOND. We are more so than we have been. I just think this would further improve the situation and I would prefer to pass the comprehensive authority that this legislation provides. That is the reason that I favor this bill.

Mr. DeCONCINI. Mr. President, I ask unanimous consent that Sandra Walsh be permitted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DeCONCINI. I am willing to yield to the Senator from Georgia.

Mr. NUNN. Mr. President, I ask my colleague from Arizona if there are any other amendments pending now or if it would meet with the approval of the Senator from Arizona for the substitute to be sent to the desk now and discussed?

Mr. DeCONCINI. That would be quite satisfactory, and I thank the Senator. There are no other amendments that I know of.

UP AMENDMENT NO. 694

(Purpose: To establish a procedure in addition to impeachment for the discipline of members of the Judiciary of the United States and the removal of those whose condition or conduct is or has been inconsistent with the good behavior standard required by Article III, section 1 of the Constitution, and for other purposes)

Mr. NUNN. Mr. President, I have a printed substitute and if it is not at the desk I will send it to the desk. If it is at the desk, I call it up. It is an amendment in the nature of a substitute.

The PRESIDING OFFICER (Mr. Chiles). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Georgia (Mr. Nunn) proposes unprinted amendment numbered 694 in the nature of a substitute.

Mr. NUNN. I ask unanimous consent that the reading be dispensed with.

The PRESIDING OFFICER. The amendment is as follows:

Strike out all after the enacting clause and insert the following:

SHORT TITLE

Section 1. This Act may be cited as the "Judicial Conduct and Disability Act of 1979".

JUDICIAL DISCIPLINE AND DISABILITY PROCEDURES

Sec. 2. (a) Title 28, United States Code, is amended by adding immediately after chapter 17 the following new chapter:

"Chapter 18.—Judicial Discipline and Disability Procedures

"Sec.
"381. Judicial Conduct and Disability Commission; establishment.
"382. Committees; selection of members; receipt of complaints.
"383. Complaint concerning condition or conduct of judges; filing and processing.
"384. Procedure before the Judicial Conduct and Disability Commission.
"385. Court on Judicial Conduct and Disability.
"386. Disqualification of judges.
"387. Confidentiality of proceedings.
"388. Standard of good behavior.
"389. Involuntary retirement or removal.
"390. Claims of involuntarily retired judges relating to judicial duties.
"391. Rules of procedure; Court on Judicial Conduct and Disability, Judicial Conduct and Disability Commission, and committees.
"392. Intervention; amicus curiae; mandamus.
"393. Justices of the Supreme Court; report of impeachment or censure.

"§ 381. Judicial Conduct and Disability Commission; establishment

"(a) (1) There is established in the judicial branch of the Government a body which shall be known as the Judicial Conduct and Disability Commission. The mandate of the Commission shall be to further the honest, impartial, and efficient administration of justice in the courts of the United States in accordance with the duties imposed upon it by law.

"(2) The Commission shall be composed of one member from each judicial circuit, and one member selected collectively by the judges of the Court of Claims, the Court of Customs and Patent Appeals, and the Customs Court. Each member shall be a judge of the United States in regular active service or senior status. Members from the circuits shall be elected by circuit and district judges of the respective circuit who are in regular active service or senior status at a judicial conference of the circuit held under section 333. The member representing the Court of Claims, the Court of Customs and Patent Appeals, and the Customs Court shall be elected by the judges of those courts who are in regular active service or senior status.

"(3) A judge of any court created by an Act of Congress in a territory which is vested with the jurisdiction of a district court of the United States may not take part in any election or be elected as a member of the Commission. A judge who is a member of the Judicial Conference may not serve simultaneously as a member of the Commission.

"(b) (1) The members of the Commission shall elect one of its members as chairman of the Commission. The term of each member of the Commission shall be three years except that when the Commission is initially selected, four of the members shall serve a two-year term and four of the members shall serve a one-year term. The chairman shall decide who shall serve each of the initial terms. The term of any member shall automatically be extended until his successor has qualified. A member selected to fill a vacancy shall commence a full three-year term. A judge may serve on the Commission any number of terms but may not serve consecutive terms.

"(2) The term of a member of the Commission shall automatically expire upon the imposition of any sanction under section 384(f) (1) (A) through (G).

"(c) The Judicial Conference of the United States shall appoint an executive director of the Commission, whom it may remove for cause shown. The Judicial Conference shall fix the compensation of the executive director at a rate not to exceed the lowest annual rate of pay payable for grade 16 of the General Schedule (GS–16) prescribed under section 5332 of title 5. The executive director shall be eligible for increases in pay corresponding with those provided for by section 5335 of title 5.

"(d) The chairman may appoint, pursuant to rules promulgated under section 391, a panel of seven members of the Commission to carry out the duties of the Commission under this chapter.

"(e) For the purposes of section 456, the performance of duties as a member of the Commission shall constitute the transaction of official business.

"(f) The Commission, and any committee selected under section 382, may utilize existing staff employed by the circuit or court, or employees of another circuit or court or may request the Director of the Administrative Office of the United States Courts to procure personal services of experts and consultants as authorized by section 3109 of title 5, as may be necessary to carry out the duties of the Commission or a committee in any particular case under this chapter.

"§ 382. Committees; selection of members; receipt of complaints

"(a) Each circuit, the Court of Claims, the Court of Customs and Patent Appeals, and the Customs Court shall have a committee of judges in regular active service or senior status to receive, process, and review any complaint against a judge of their respective circuit or court transmitted from the Judicial Conduct and Disability Commission under section 383 (a) (3). Judges of a district court and the court of appeals shall be represented in the case of a circuit committee.

"(b) The chief judge of the circuit, the Court of Claims, the Court of Customs and Patent Appeals, or the Customs Court, as the case may be, shall sit as the presiding officer of the respective committee. During consideration of a complaint filed by or against a chief judge, the next most senior member of the circuit, or of the Court of Claims, the Court of Customs and Patent Appeals, or the Customs Court, shall sit as the presiding officer of the committee. Members other than the presiding officer shall be selected in accordance with the rules promulgated under section 391.

"(c) The committee shall conduct its proceedings in accordance with the rules promulgated under section 391.

"§ 383. Complaint concerning condition or conduct of judges; filing and processing

"(a) (1) Any person may file a complaint with the Judicial Conduct and Disability Commission setting forth the condition or conduct of a judge of the United States, alleging that such condition or conduct is or has been inconsistent with the good behavior standard required by Article III, section 1 of the Constitution. Each complaint shall be in writing and certified or subscribed in the manner set forth in section 1746.

"(2) The Commission, acting through its executive director, shall dismiss by written order any complaint which is frivolous, insufficient in law or fact, or outside the jurisdiction of the Commission. Complaints which are outside the jurisdiction of the Commission include, but are not limited to, complaints relating to the merits of any decisional or procedural ruling of a judge or any matter reviewable under any other provision of law on the record, and complaints relating to the condition or conduct of a judge which is not connected with his judicial office or which does not prejudice the administration or justice by bringing the judicial office no disrepute.

"(3) Any complaint not initially dismissed by the Commission acting through its executive director shall be transmitted within seven days of the filing of the complaint to the presiding officer of the committee of the respective circuit or court. A judge whose condition or conduct is the subject of such a complaint shall receive a copy of the complaint and shall be notified in writing by the Commission of his right to submit to the committee within ten days a written statement in his own behalf and of any other rights provided under the rules promulgated under section 391.

"(b) Upon receipt of the complaint from the Commission, the committee shall conduct a preliminary investigation to determine the nature and existence of any of the grounds specified in section 372(c) for the involuntary retirement of a judge, or in section 388 for any other sanction available under section 384 (f).

"(c) (1) Each committee, after completion of its investigation and on the basis of the grounds specified in section 372(c) or section 388, shall, by majority vote, recommend to the Commission—

"(A) dismissal of any complaint which it finds to be frivolous, insufficient in law or fact, or outside the jurisdiction of the Commission; or

"(B) further investigation by the Commission of any complaint for which the committee finds sufficient cause to believe that the condition or conduct of the judge may be inconsistent with the good behavior standard required by Article III, section 1 of the Constitution; or

"(C) that there be a reasonable period of time in which the committee be authorized to attempt to address the specified matter raised in such complaint.

"(2) A copy of the recommendation of the committee under this subsection, accompanied by a written explanation, shall be forwarded to the Commission and the judge under inquiry.

"§ 384. Procedure before the Judicial Conduct and Disability Commission

"(a) (1) Upon receipt of the recommendation of a committee under section 383, the Judicial Conduct and Disability Commission or a panel acting on behalf of the Commission shall, pursuant to rules promulgated under section 391 and by majority vote—

"(A) dismiss any complaint which it finds to be frivolous, insufficient in law or fact, or outside the jurisdiction of the Commission; or

"(B) initiate an investigation of its own to determine the nature and existence of any of the grounds specified in section 372(c) for the involuntary retirement of a judge or in section 388 for any other sanction available under subsection (f) of this section.

"(2) The committee shall have no longer than thirty days from the receipt of the complaint from the Commission in which to make a recommendation under section 383(c), except that the Commission, in the interest of justice and for cause shown, may grant a reasonable extension upon application made by the committee.

"(3) Upon the conclusion of the time period, the committee shall recommend that the case be dismissed or that the Commission conduct a further investigation.

"(4) Any judge whose condition or conduct is the subject of an investigation under this subsection shall be notified in writing of the pending investigation, and of his right to submit a written statement in his own behalf and of any other rights provided under the rules promulgated under section 391.

"(b) (1) The Commission or the panel is authorized to administer oaths, order and otherwise provide for the inspection of books and records, and issue subpenas for the attendance of witnesses and the production of papers, books, accounts, documents, and testimony relevant to the conduct of any investigation under this chapter. Attendance of witnesses and the production of evidence may be required from any place within the United States and its territories at any designated place of hearing within the United States upon the payment of fees and expenses as prescribed by law.

"(2) The Commission or the panel may arrange for the attendance of witnesses, including witnesses not subject to subpena. Each witness, other than an officer or employee of the United States, shall receive the same attendance fees and other amounts allowed by law to a witness in a civil case as provided in section 1821. The amount shall be paid by the United States marshal for all witnesses for the Commission upon certification of the clerk of the court.

"(3) If a person who is the subject of a subpena issued under paragraph (1) of this subsection refuses to obey such subpena, the Commission or the panel may invoke the aid of the district court of the district in which the subpenaed party resides or may be found. The district court may issue an order requiring such person to produce evidence or to give testimony relating to the matter under investigation. Any failure to obey such order of the district court may be punished by such court as contempt.

"(4) Whenever a person, other than the judge who is the subject of an inquiry, refuses to give or produce evidence on the basis of his privilege against self-incrimination, the Commission or the panel may issue an order requiring that person to testify or produce evidence. The testimony given or evidence produced in compliance with that order, and any information directly or indirectly derived from that testimony or evidence, may not be used against the person so ordered in any criminal case, except a prosecution for perjury, giving a false statement, or for otherwise failing to comply with that order. The Commission or the panel shall not issue an order compelling a person to testify or produce evidence under this paragraph until thirty days after notification of the Attorney General of the United States of its intention to do so.

"(c) The Commission or the panel, after completion of its investigation and on the basis of the grounds specified in section 372 (c) or section 388, shall, by majority vote—

"(1) dismiss any complaint which it finds to be frivolous, insufficient in law or fact, or outside the jurisdiction of the Commission; or

"(2) determine to hold a hearing on any complaint for which the Commission finds sufficient cause to believe that the condition or conduct of the judge may be inconsistent with the good behavior standard required by Article III, section 1 of the Constitution.

"(d) Whenever a complaint is dismissed under subsection (a) or subsection (c) (1) of this section, or under section 383(a), the judge against whom the complaint was filed and the complainant shall be notified in writing of the action taken and the reason for the order of dismissal. Within ten days after such notification, the complainant may petition the Court on Judicial Conduct and Disability to review the order of dismissal.

"(e) Upon a determination under subsection (c) (2) to hold a hearing, the Commission or the panel shall convene at the earliest practical date to hear and decide the merits of the complaint made against the judge. The judge whose condition or conduct is the subject of the hearing shall be given adequate notice of such hearing, shall be admitted to the hearing, may be represented by counsel, offer evidence in his own behalf, confront and cross-examine any witness against him, and have the right to compulsory process to obtain evidence or witnesses.

"(f) (1) After a hearing in accordance with subsection (e), the Commission or the panel shall order one of the following:

"(A) Censure or reprimand the judge by means of private communication.

"(B) Censure or reprimand the judge by means of public announcement.

"(C) Suspend temporarily, for a time certain, assignment of further cases to the judge.

"(D) Certification of disability in accordance with the procedures and standard provided under section 372(b).

"(E) Involuntary retirement of the judge under section 372(c).

"(F) Removal of the judge from office.

"(G) Such other action as it considers appropriate under the circumstances.

"(H) Dismissal of the complaint.

"(2) Each order under paragraph (1) of this subsection shall be subject to the provisions of section 388, shall be made by a majority of the members of the Commission or the panel, and shall be supported by clear and convincing evidence on the record.

"(3) Each order of the Commission or the panel shall be in writing and the complainant, and any judge affected by such order shall receive a copy. The complainant or the judge whose condition or conduct is the subject of the hearing may, within ten days of receipt of the order, petition the Court on Judicial Conduct and Disability for review of such order.

"(g) (1) All proceedings of the Commission or the panel under subsection (f) shall be recorded verbatim by shorthand, mechanical means, or electronic sound recording by an official court reporter. The court reporter shall transcribe and certify the record of proceedings and shall deliver the original records and transcript to the clerk of the court upon the timely filing of pettiion for review to the Court on Judicial Conduct and Disability. Notwithstanding the provisions of section 753, if the proceedings are reported and transcribed by the reporter appointed by the district court under that section, the Director of the Administrative Office of the United States courts shall pay the court reporter a fee for the transcript at the rates established under section 753(f).

"(2) The Federal Rules of Evidence shall apply to all proceedings before the Commission or the panel.

"(h) An order of the Commission or the panel under subsection (f) shall become final upon either the denial of a petition for review by the court on Judicial Conduct and Disability, affirmance of the order by the Court on Judicial Conduct and Disability, or expiration of the time for filing the petition. Upon filing the petition with the Court on Judicial Conduct and Disability, any sanction imposed under subsection (f) shall be automatically stayed and the clerk of the Court shall prepare an order to confirm the stay.

"(i) The Commission shall prepare an annual report to the Congress that includes a summary of the number of complaints filed with the Commission, indicating the general nature of such complaints and the final disposition of those complaints.

"§ 385. Court on Judicial Conduct and Disability

"(a) (1) There is established under Article III of the Constitution of the United States a court of record to be known as the Court on Judicial Conduct and Disability. The Court may exercise all appropriate judicial powers incident or necessary to the jurisdiction conferred upon it. The Court may prescribe such rules for the conduct of its proceedings as it considers appropriate. Attendance of witnesses and the production of relevant material may be required from any place in the United States and its territories at any place designated for holding court.

"(2) The Court shall be composed of five Federal judges, including at least one district court judge, to be appointed by the Chief Justice of the United States. Each member shall be a judge of the United States in regular active service. The Chief Justice shall designate the chief judge of the Court.

"(3) A judge of any court created by an Act of Congress in a territory which is vested with the jurisdiction of a district court of the United States may not be a member of the Court. A member of any committee or the Commission which conducted any investigation or proceeding relating to the condition or conduct of the judge shall not sit as a member of the Court in a matter concerning the same judge.

"(4) The term of each member shall be three years, except that when the Court is initially appointed, three of the members shall serve a three-year term and two of the members shall serve a two-year term. The term of any member shall automatically be extended until his or her successor has been appointed. A member selected to fill a vacancy shall commence a full three-year term. A judge may serve on the Court any number of times, but may not serve consecutive terms.

"(5) The clerk and marshal of the district court for the District of Columbia shall be the clerk and marshal of the Court and shall be responsible for the maintenance of all records of the Court, service of process, and execution of all orders of the Court. When the Court is sitting outside the District of Columbia, the clerk and marshal of another district court, with the approval of the Court, may act as the clerk and marshal of the Court.

"(6) The Court may hold court at the District of Columbia and at such other places within the United States and at such times as the Court may designate by rule or order. Whenever possible, the Court shall sit in the district or circuit in which the judge who is the subject of the complaint serves. If the judge who is the subject of the complaint serves on the Court of Claims, the Court of Customs and Patent Appeals, or the Customs Court, the Court shall sit, whenever possible, in the location in which that court is usually held.

"(b) (1) The Court shall grant a petition filed under subsection (d) or (f) of section 384 upon the concurrence of two of its members.

"(2) Upon the grant of a petition under paragraph (1), the Court shall—

"(A) affirm any action taken by the Commission which is supported by clear and convincing evidence on the record; and

"(B) reverse and remand to the Commission for further proceedings any action taken by the Commission which is unsupported by clear and convincing evidence on the record.

"(c) Each action taken by the Court under subsection (b) shall be made by a majority of the members of the Court. Each order or action of the Court shall be in writing and the complainant and the judge who is the subject of the complaint shall receive a copy. There shall be no judicial review of any order or action of the Court taken under subsection (b).

"§ 386. Disqualification of judges

"A judge who is a member of a committee, of the Judicial Conduct and Disability Commission, or of the Court on Judicial Conduct and Disability shall not sit in any proceeding of the respective body when it inquires into his own condition or conduct, or when it inquires into a complaint filed by him against another judge or Justice.

"§ 387. Confidentially of proceedings

"(a) All matters filed with, all testimony or evidence given before, and all deliberations of a committee under this chapter shall be confidential unless authorized in writing by the judge whose condition or conduct is the subject of an inquiry under this chapter.

"(b) All matters filed with, all testimony or evidence given before, and all deliberations of the Judicial Conduct and Disability Commission shall be confidential—

"(1) unless authorized in writing by the judge or Justice whose condition or conduct is the subject of an inquiry; or

"(2) unless the Commission determines to hold a hearing under section 384(c) (2) or section 393(b) (2); at which time all such documents and proceedings before the Commission shall be open and a matter of public record.

"(c) All matters filed with, all testimony or evidence given before, and all proceedings before the Court on Judicial Conduct and Disability shall be open and a matter of public record.

"(d) Any participant who violates the provisions of this section shall be fined not more than $5,000, imprisoned not more than one year, or both.

"§ 388. Standard of good behavior

"(a) Any sanction available under section 384(f) (1) or section 393(d) (1) may be imposed only upon a finding that the condition or conduct of such judge or Justice is or has been inconsistent with the good behavior standard required by Article III, section 1 of the Constitution.

"(b) Condition or conduct which shall be deemed to be inconsistent with the good behavior standard includes, but is not limited to, willful misconduct in office, willful and persistent failure to perform duties of the office, habitual intemperance, or any other condition or conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

"§ 389. Involuntary retirement or removal

"(a) If a judge is involuntarily retired or removed under this chapter, the Commission shall, at the time its order becomes final, certify to the President that a vacancy exists in the office from which the judge has been involuntarily retired or removed. The President shall appoint, by and with the advice and consent of the Senate, a successor to fill any such vacancy.

"(b) Upon a final order of removal, the entitlement to the salary of the office shall terminate. For the purposes of section 376(g), a judge removed from office shall be deemed to be a judge who resigned from office without entitlement to retirement salary.

"§ 390. Claims of involuntarily retired judges relating to judicial duties

"(a) The Court on Judicial Conduct and Disability shall hear and determine any claim for assignment as authorized under section 294 filed by a judge retired under section 372(c) who alleges that his mental or physical disability has improved to the extent that he is able to efficiently perform the duties of the judicial office from which he was retired.

"(b) The Court may prescribe by rule such procedures as may be appropriate for the consideration and disposition of such claims. The Court shall, by majority vote, issue an appropriate order with respect to such claim and shall transmit such order to the authority responsible for the assignment of judicial duties to retired judges within the circuit or court of the judge affected by such order.

"§ 391. Rules of procedure; Court on Judicial Conduct and Disability, Judicial Conduct and Disability Commission, and committees

"(a) The Judicial Conference of the United States shall promulgate rules of procedure for the Court on Judicial Conduct and Disability and the Judicial Conduct and Disability Commission.

"(b) The Judicial Conference of the United States shall promulgate rules of procedure for the committees established under section 382, or authorize the judicial council of each circuit, the Court of Claims, the Court of Customs and Patent Appeals, and the Customs Court to promulgate rules of procedure for their respective committees. Such rules shall be consistent with the rules promulgated for the Court and the Commission under subsection (a).

"(c) All rules promulgated under this section may be modified at any time by the Judicial Conference of the United States and shall be a matter of public record.

"§ 392. Intervention; amicus curiae; mandamus

"(a) No person shall be granted the right to intervene or appear as amicus curiae in any proceeding before a committee, the Judicial Conduct and Disability Commission, or the Court on Judicial Conduct and Disability.

"(b) Notwithstanding any other provision of law, the Court on Judicial Conduct and Disability shall have exclusive original jurisdiction to hear any action in the nature of mandamus directed against a committee or the Commission.

"§ 393. Justices of the Supreme Court; report of impeachment or censure

"(a)(1) Any person may file a complaint with the Judicial Conduct and Disability Commission setting forth the conduct of a Justice of the United States, alleging that such conduct is or has been inconsistent with the good behavior standard required by Article III, section 1 of the Constitution. Each complaint shall be in writing and certified or subscribed in the manner set forth in section 1746.

"(2) The Commission, acting through its executive director, shall dismiss by written order any complaint which is frivolous, insufficient in law or fact, or outside the jurisdiction of the Commission. Complaints which are outside the jurisdiction of the Commission include, but are not limited to, complaints relating to the merits of any decisional or procedural ruling of a Justice or any matter reviewable under any other provision of law on the record, and complaints relating to the conduct of a Justice which is not connected with his judicial office or which does not prejudice the administration of justice by bringing the judicial office into disrepute.

"(b)(1) Any complaint not dismissed by the Commission, acting through its executive director pursuant to subsection (a) of this section, shall be investigated by the Commission, or a panel acting on behalf of the Commission, to determine whether there is sufficient cause to believe that the conduct of the Justice is or has been inconsistent with the good behavior standard required by Article III, section 1 of the Constitution. A Justice whose conduct is the subject of an investigation under this section shall receive a copy of the complaint and shall be notified in writing of the pending investigation, of his right to submit within ten days a written statement in his own behalf, and of any other rights provided under the rules promulgated under section 391.

"(2) The Commission, or a panel acting on behalf of the Commission, after completion of its investigation, shall by majority vote—

"(A) dismiss any complaint which it finds frivolous, insufficient in law or fact, or outside the jurisdiction of the Commission; or

"(B) determine to hold a hearing on any complaint for which the Commission finds sufficient cause to believe that the conduct of the Justice is or has been inconsistent with the good behavior standard required by Article III. section 1 of the Constitution.

"(3) Whenever the Commission dismisses a complaint under subsection (a) of this section or under paragraph (2)(A) of this subsection, the Justice against whom the complaint was filed and the complainant shall be notified of the action taken and the reason for the dismissal. Within ten days after such notification the complainant may petition the Court on Judicial Conduct and Disability to review an order of dismissal.

"(c) Upon a determination under subsection (b) (2) (B) to hold a hearing, the Commission or the panel shall convene at the earliest practical date to hear and decide the merits of the complaint made against the Justice. The Justice whose conduct is the subject of the hearing shall be given adequate notice of such hearing, shall be admitted to the hearing, may be represented by counsel, offer evidence in his own behalf, confront and cross-examine any witness against him, and have the right to compulsory process to obtain evidence or witnesses.

"(d)(1) After a hearing in accordance with subsection (c), the Commission or the panel shall—

"(A) report to the House of Representatives a record of all proceedings revealing conduct which, in its view, would constitute an impeachable offense as defined in Article II, section 4 of the Constitution; or

"(B) report to the House of Representatives a record of all proceedings revealing conduct which, in its view, warrants censure in that such conduct is inconsistent with the good behavior standard required by Article III, section 1 of the Constitution; or

"(C) order dismissal of the complaint.

"(2) Each order under paragraph (1) shall be subject to the provisions of section 388, shall be made by a majority of the members of the Commission or the panel, and shall be supported by clear and convincing evidence on the record.

"(3) Each order of the Commission or the panel shall be in writing and the complainant, and any Justice affected by such order shall receive a copy. The complainant or the Justice whose conduct is the subject of the hearing may, within ten days of receipt of the order, petition the Court on Judicial Conduct and Disability for review of such order.

"(4) An order of the Commission or the panel under paragraph (1) shall become final upon the denial of a petition for review by the Court on Judicial Conduct and Disability, affirmance of the order by the Court on Judicial Conduct and Disability, or expiration of the time for filing the petition. Upon filing the petition with the Court on Judicial Conduct and Disability, any sanction imposed as a result of an order under paragraph (1) shall be automatically stayed and the clerk of the Court shall prepare an order to confirm the stay.

"(5) Whenever the Commission or the panel reports to the House of Representatives under paragraph (1), it shall prepare a written report which includes the complaint made against the Justice, the order of the Commission, a copy of the transcript of the hearing, and any specific findings made by the Commission. Such report shall be submitted to the House of Representatives for appropriate action. A copy of the report shall be forwarded to the Justice under inquiry and to the complainant.

"(e)(1) The Court on Judicial Conduct and Disability shall grant a petition filed under subsection (b)(3) or (d)(3) of this section upon the concurrence of two of its members.

"(2) Upon the grant of a petition under paragraph (1), the Court shall—

"(A) affirm any action taken by the Commission which is supported by clear and convincing evidence on the record; and

"(B) reverse and remand to the Commission for further proceedings any action taken by the Commission which is unsupported by clear and convincing evidence on the record.

"(f) Each action taken by the Court under subsection (e) shall be made by a majority of the members of the Court. Each order or action of the Court shall be in writing and the complainant and the Justice who is the subject of the complaint shall receive a copy. There shall be no judicial review of any order or action of the Court taken under subsection (e).".

(b) The table of chapters for title 28, United States Code and for part I of title 28, United States Code, are amended by inserting immediately after the item relating to Chapter 17 the following:

"18. Judicial discipline procedures".

INVOLUNTARY RETIREMENT

SEC. 3. Section 372 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) Whenever any judge of the United States appointed to hold office during good behavior is eligible to retire and does not so retire, and a majority of the Court on Judicial Conduct and Disability finds, pursuant to a complaint filed under section 383, that the judge is unable to discharge efficiently the duties of his office by reason of a permanent mental or physical disability, the Court shall order the involuntary retirement of the judge. Habitual intemperance shall constitute a disability for the purposes of this subsection. Such judge shall be entitled to salary as specified in subsection (a) of this section.

"(2) An involuntarily retired judge shall be deprived of all powers of the office except that an involuntarily retired judge who has been determined again able to undertake judicial duties under section 390 may be designated and assigned under section 294.

"(3) The President shall, by and with the advice and consent of the Senate, appoint a successor to any judge retired involuntarily under the provisions of this subsection. After the successor has been appointed, the vacancy subsequently caused by the death or resignation of the judge involuntarily retired shall not be filled.".

ASSIGNMENT OF RETIRED JUDGES

SEC. 4. (a) Section 294(c) of title 28, United States Code, is amended to read as follows:

"(c) Any voluntarily retired judge of the United States, or any involuntarily retired judge who is determined again able under section 390 to undertake judicial duties, may be designated and assigned by the chief judge or judicial council of his or her circuit, or the chief judge of his or her court, to perform such judicial duties within the circuit or in such court as that judge is willing and able to undertake.".

(b) Section 294(e) of title 28, United States Code, is amended to read as follows:

"(e) Neither a Justice or judge who has voluntarily retired nor a judge who was involuntarily retired but has been determined again able under section 390 to undertake judicial duties shall perform judicial duties, except as specifically designated and assigned.".

MISCELLANEOUS

SEC. 5. (a) Section 569(b) of title 28, United States Code, is amended by inserting "and of the Court on Judicial Conduct and Disability and the Judicial Conduct and Disability Commission under chapter 18 of this title" immediately after "Canal Zone.".

(b) Section 604 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(f) The Director shall provide facilities and pay necessary expenses incurred by the Judicial Conduct and Disability Commission under chapter 18 of this title, including mileage allowance and witness fees, at the same rate as provided in section 1821, and fix the compensation not otherwise fixed by law of employees, experts, and consultants of the Commission.".

(c) Section 610 of title 28, United States Code, is amended by striking "the Customs Court." and inserting "the Customs Court, and the Court on Judicial Conduct and Disability.".

SEPARABILITY

SEC. 6. If any provision of this Act or any amendment made by this Act, or the application of such provision or amendment to any person or circumstances, shall be held invalid, the remainder of this Act or such amendment or the application of such provision or amendment to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

AUTHORIZATION

SEC. 7. There are authorized to be appropriated such sums as may be necessary to carry out this Act, and the amendments made by this Act.

EFFECTIVE DATE

SEC. 8. This Act shall become effective on October 1, 1980.

Mr. NUNN. Mr. President, first let me thank my colleague from Arizona and my colleague from South Carolina for the diligent work and tremendous job they have both done in bringing this bill to the floor.

I make it absolutely clear from the beginning of my discussion of the substitute that if my substitute fails, I will vote for the bill that is now before the Senate. I think it is a step in the right direction. I think it is a strong step in the right direction. I do not believe it goes as far as we should go, and I am hopeful that the Senate will pass my amendment as a substitute. I know the Senator from Arizona can speak for himself, but I also realize that he, along with the Senator from South Carolina, last year supported this bill, the substitute, which I am now offering. It was then in another form but it did pass the Senate in September of last year. I believe it was then known as S. 1425.

What I am proposing today as the substitute is almost identical to the bill that passed the Senate last year.

I regret that, as one of the cosponsors of this legislation and an advocate of judicial tenure reform since my first year of service in this body, I am now compelled to offer an amendment in the nature of a substitute to S. 1873, the Judicial Conduct and Disability Act of 1979. I am compelled to this action, because I believe this legislation which we are considering today is only a half loaf compared to the progressive action of this body taken last year when we passed, on September 7, S. 1423, the Judicial Tenure Act of 1978. That act—which established a procedure in addition to impeachment for the retirement of disabled justices and judges of the United States, and the removal of justices and judges whose conduct is or has been inconsistent with the constitutional standard of good behavior—represented the climax of a decade's struggle for this much needed judicial improvement.

The Judicial Tenure Act of 1978 set up a procedure within the Federal judiciary to investigate allegations that a Federal judge was not conforming to the constitutional standard of good behavior or that a judge was suffering from a permanent mental or physical disability that seriously interfered with the performance of his official duties.

The procedure for the processing of complaints directed against Federal judges contained in the present committee bill does not include the sanction of removal for judges who have been found to violate the constitutional standard of judicial conduct nor provide for the involuntary retirement of judges who have become physicially or mentally incapacitated. Because I believe that the inclusion of these sanctions is essential to any meaningful judicial tenure reform, I have offered a substitute for S. 1873 which will incorporate such procedures.

My amendment also differs from the committee bill in that it includes justices of the Supreme Court under its provisions.

Due to the uniqueness of the Supreme Court, as compared to other article III courts, the proposal establishes a slightly different procedure for complaints filed with the Commission regarding the conduct of a justice. Upon filing a complaint with the Judicial Conduct and Disability Commission, the Commission can either dismiss the case or initiate an investigation. If the Commission finds sufficient evidence that the conduct of the justice may be inconsistent with the good behavior requirement of the Constitution, it recommends to the House of Representatives: First, the censure of any justice whose conduct is found inconsistent with the good behavior clause; second, the impeachment of any justice whose conduct is found to be an impeachable offense; or third, orders the dismissal of the case.

Another major difference between my amendment and the committee bill deals with retirement. Under my substitute, the Judicial Conduct and Disability Commission may order the involuntary retirement of a judge who is eligible to retire and who is found unable to efficiently discharge his duties because of a physical or mental disability, subject to review by the court on judicial conduct and disability. The committee bill simply restates existing law in this area, which does not provide for the ordering of involuntary retirement.

A final difference that I would like to note between my amendment and the committee bill involves the procedure whereby complaints are handled. The committee bill provides that the initial investigation and disposition of a complaint would be processed by the judicial council of the circuit of the judge against whom the complaint was filed. My amendment, however, would create a new body to handle the initial investigation and disposition of a complaint. This new creation, the Judicial Conduct and Disability Commission, would be composed of one judge from each Federal circuit and one judge selected collectively from the three special national courts.

Mr. President, we all must recognize the unfortunate fact that public confidence in government has ben eroded over the past few years for many reasons, and it will continue to decline unless affirmative steps are taken, in each branch of government, to stimulate renewed trust in public officials and institutions. It is imperative that all governmental officials act to restore and maintain the public trust. I believe very strongly that in no branch of government is public confidence and respect more vital than in the Federal judiciary.

It would be exceedingly shortsighted to focus reform efforts on insuring that members of the executive and legislative branches of our Federal Government conform to legal, moral and ethical standards of the highest order and, at the same time, to ignore the conduct and capabilities of members of the branch of government which possesses the authority to interpret, delay, and discontinue the actions of the other two. As former Attorney General Griffin Bell stated during past hearings on judicial tenure:

> We are living in a time when our public institutions are under examination and the courts are not exempt. A citizen should be afforded a clear method for complaining against the courts.

Our appointed Federal judges enjoy a high degree of independence; they are not required to answer periodically to the electorate, as are the President and Members of Congress. Although the need for a substantial degree of judicial independence is clear, experience has vividly demonstrated that no one person, or group of people, can be assumed perfect and therefore left completely unchecked. Despite the overall competence and integrity of members of the Federal judiciary, an occasional judge does misbehave or become physically or mentally disabled and yet continues to exercise the authority of his office. This problem has motivated my study of the subject of judicial tenure and discipline and my introduction of this legislation.

Historically, the sole procedure which has been employed to remove a Federal judge who has misbehaved, or is disabled, for one reason or another, has been the impeachment power which is housed in articles I and II of the Constitution. A few selected statutory provisions, which generally provide administrative authority with regard to the operation of the Federal judiciary, have also been suggested as potential sources of additional disciplinary authority.

The recent enactment of the Federal Omnibus Judgeship Act has resulted in an increase of 152 authorized district and court of appeals judgeships which, together with approximately 170 judges who have assumed senior status, creates over 850 article III judges. Future forecasts by the Federal Judicial Center estimate that there will be a need for 1,000 district judges and 250 circuit judges by 1990. It is equally unreasonable to assume that there will be either no further violations of the constitutional standard of good beheavior by these judges or that the House or Senate could or should lay aside all legislative business for weeks or months in order to impeach and try an obscure yet misbehaving judge.

The analogy of impeachment to a heavy piece of artillery, which was made by Lord Bryce, is eminently appropriate. The impeachment procedure is cumbersome and ponderous and is only practical in the most serious and flagrant cases of abuse. As a result, indiscretions which should be addressed are regularly ignored. Commonsense requires that a balance be struck between the necessity for institution of impeachment proceedings and the resultant interruption in the important legislative process. There must be a logical relationship between the importance and power of the respondent and the time required by the House to impeach and the Senate to conduct the trial.

History has borne out Thomas Jefferson's characterization of impeachment as an "impractical thing" and a "mere scarecrow." Over the course of our 200 years as a Nation, only 54 judges and one justice have been officially investigated. Of these only eight judges and one justice have been successfully impeached by the House, resulting in the conviction and removal of a mere four judges in two centuries. The last impeachment and conviction occurred in 1936. While I am among the first to appreciate the overall quality of the Federal bench, it seems unreasonable to assert that only four Federal judges in our history have misbehaved or been disabled. On the contrary, the record is filled with substantial allegations levied against judges who continued to serve on the Federal bench.

I think we also should look at the question of what happens in the impeachment procedure when it does take place.

The facts clearly demonstrate that impeachment has not been utilized to insure compliance with the constitutional standard of "good behavior" imposed on the Federal judiciary by article III. Moreover, except in the most flagrant and publicized cases, it is questionable whether impeachment is an appropriate means through which to decide the merits of such serious allegations. Examination of the fifth amendment and its due process safeguards raises some interesting questions regarding the propriety, if not the constitutional sufficiency, of a trial where, as former Congressman Hatton Summers described the scene—

> At one time only three Senators (jurors) were present and for 3 weeks we presented evidence to what was practically an empty Chamber.

A point of view which is too often ignored is that of the accused judge. There is no question that society's rights must be protected, but is impeachment, with its attendant public humiliation and loss of pension a proper remedy to address the problem of a senile or disabled judge who has served well but fails to recognize that the time to step down has arrived?

I believe that a thorough analysis of the impeachment procedure leads one to the inevitable conclusion that, in practical as well as legal terms, impeachment has not insured and cannot effectively insure judicial compliance with the constitutional "good behavior" standard; Woodrow Wilson stated this premise most succintly as follows:

> Judging by our past experiences, impeachment may be said to be little more than an empty menace.

In their report accompanying this bill, the Judiciary Committee recognizes that the impeachment process has become unduly cumbersome and ineffective. But while this report explicitly states that the impeachment of a judge requires more time than either the House of Representatives or the Senate may realistically be able to provide; under this piece of legislation, impeachment remains the only method for the removal of a judge who is engaged in illegal or unethical conduct.

The purpose of my substitute amendment is to provide a mechanism within the judicial branch itself to enforce the good behavior standard which is imposed on the Federal judiciary by article III, section 1, of the Constitution. It establishes a procedure to investigate allegations that Federal judges have failed to exercise good behavior or charges that a judge is suffering from permanent physical or mental disability that seriously interferes with the performance of his duties. I believe this amendment represents a comprehensive and reasoned approach which, if enacted, would address many of the insufficiences in judicial discipline which I have described.

Constitutional questions have been continuously raised by those who oppose creation of a procedure which would allow meaningful implementation of the good behavior standard. My intention is certainly not to cut off constructive discourse on the subject; however, the time has come to recognize the practicalities of this issue and to examine it in a broad perspective with reason and logic. Opponents rely upon the assertion that impeachment is the solitary means of removal permissible under the Constitution. I believe that it is productive to examine exactly what the Constitution says on this issue—and, what it does not say.

The Constitution does say in article I, that the Houses of Congress shall have the sole powers of impeachment and trial of all civil officers. It does not say, however, that Congress shall have the sole power of removal of these officers. As a matter of fact, it was determined early in our Nation's history that lesser executive branch officials could be removed by order of the President. The Supreme Court ruled in 1897 that the President had the authority to remove a U.S. Attorney despite the fact that the impeachment clause provides for the removal of civil officers. How can it reasonably be argued that impeachment is exclusive with regard to some civil officers, such as judges, and not exclusive with regard to others? Moreover, if the framers had intended impeachment to be the sole method of removal, it would have been a simple matter to employ specific language to that effect.

It is interesting to note that the extreme remedy of impeachment is provided for in article I, the legislative article, and article II, the executive article. No mention of this procedure is made in article III, the judicial article. In view of the fact that the debate by the framers on the subject of impeachment focused almost totally on the President and that the term civil officers was included almost as an after thought, one could easily assume that the framers intended to further address the subject of tenure of Federal judges in the appropriate place, article III.

Our Federal system of Government is predicated upon the doctrine of separation of powers. The interrelating system of checks and balances was devised by a group of men concerned by abuses produced through the dominance of one branch of government, the English monarchy, over the remaining two branches.

They took great care to provide elaborate safeguards to insure against history repeating itself in the American Government by formalizing the separation of powers doctrine. I believe that impeachment of Federal judges was authorized, not as an exclusive means of disciplining the judiciary, but rather as one of the limited checks by one branch of government on another.

Impeachment was not intended to preclude the judiciary from discipling itself; rather it was intended as a carefully circumscribed exception to the doctrine of separation of powers to be used in extreme cases of abuse or as a safeguard against judicial branch inaction.

If we accept the principle that impeachment of Federal judges is a limited authority granted to the legislative branch as part of the system of checks and balances it seems logical that the framers must have contemplated a disciplinary mechanism that would be available for less than extreme cases of abuse and in the normal course of maintaining the integrity and efficiency of the judiciary branch. This mechanism was contemplated and it was logically placed in article III of the Constitution.

Prof. Raoul Berger, the noted constitutional scholar, who testified on behalf of this legislation during the 94th Congress has compiled a detailed analysis of the history and precedent on which the good behavior clause is based. In his testimony before the Subcommittee on Improvements in Judicial Machinery, Professor Berger documented the technical legal distinction between impeachment and good behavior tenure.

His analysis generates the unavoidable conclusion that the grounds for impeachment and the good behavior requirement are two distinct standards of conduct and that good behavior is a much more stringent standard than a prohibition against bribery, treason or other high crimes and misdemeanors. That is, not all forms of bad behavior constitute impeachable offenses. Professor Berger pointed out that impeachment, at common law, was a criminal proceeding brought by the House of Commons in the House of Lords on charges of "treason, bribery, high crimes, and misdemeanors." Berger further documented the fact that the term "high crimes and misdemeanors" had a limited technical meaning which referred to serious offenses and did not encompass all forms of misbehavior.

As the House Judiciary Committee wrote in their report on the grounds for impeachment during the Nixon impeachment deliberations:

> High crimes and misdemeanors has traditionally been considered a term of art . . . The Supreme Court has held that such terms must be construed, not according to modern usage, but acuording to what the framers meant when they adopted them.

Although the framers departed from the English model in separating the impeachment proceeding from a criminal proceeding, they intentionally retained the limited technical grounds of "high crimes and misdemeanors." Furthermore, there is no indication that the framers intended the impeachment provisions to be a complete recitation of the causes justifying removal from office.

In contrast to impeachment, removal for breach of "good behavior" was a judicial, not legislative proceeding. Good behavior tenure originated in the Act of Settlement in 1700 in an effort to isolate the judiciary from the arbitrary whims of the monarch. Professor Berger points out that the words "good behavior" in all commissions and grants, public and private, imparted an office or estate for the life of the grantee terminable only by his death or breach of good behavior.

This termination was declared by the judiciary in a civil proceeding for forfeiture of the office which was initiated by a writ of scire facias. Its sole objective was to remove the existing officer with no penalties or disqualifications involved.

When the framers employed "good behavior," a common law term of ascertainable meaning, with no indication that it was being used in a novel fashion, they must have assumed the inclusion of similar procedures for its implementation. Such an assumption is supported by Madison's explanation to the Virginia Ratification Convention that "where a technical word was used all the incidents belonging to it necessarily attended."

Mr. President, I am not saying that the House Judiciary Committee is the final judge of what good behavior means and what the overall impeachment clause means regarding the distinction between high crimes and misdemeanors and good behavior. I do believe, though, that this body should pay close attention to the House Judiciary Committee deliberations. Certainly they spent more time and went into more detail as to what impeachment means, what high crimes and misdemeanors mean, and what the other terms in the Constitution mean, than probably any other group of legislators in this century, when they examined the overall impeachment of President Nixon.

A gap between the two standards, "good behavior" and the grounds for impeachment must, therefore, exist. To assume otherwise would be to claim that the grounds for impeachment and good behavior tenure are the same and thereby render the good behavior clause meaningless. The longstanding constitutional principle that no clause in the Constitution is intended to be without effect will not permit this result. Therefore, an alternative method to impeachment to accomplish the removal of Federal judges must have been contemplated by the framers to provide for the removal for misbehavior or disability less serious than an impeachable offense but in derogation of the good behavior standard. The substance of what constitutes "misbehavior" may be open to interpretation but it is completely clear that procedurally, "good behavior" was a term involving the judicial process, and that is why it was placed in the judicial article.

In light of the evidence, it certainly cannot be logically maintained that the framers would have rejected a process of judicial removal other than impeachment. It seems apparent that the term "good behavior" was employed with the eminently logical intention of providing a disciplinary means, within the judicial branch itself, in addition to the power authorized to the legislative branch through impeachment. Simple logic indicates that if an office is conferred during good behavior it is relinquished upon bad behavior and some means of enforcing that end must be available.

Some commentators assert that the enactment of legislation of this nature would dramatically dilute the independence of our Federal judiciary. Arguments of this kind are superficial and misleading. Judicial independence, a principle which we all agree is a precondition to an effective system of justice, has historically referred, not to the independence of judges from one another but rather to the independence of the judiciary as an institution from other branches of Government.

The assertion that a disciplinary mechanism, totally restricted within the judiciary, infringes on judicial independence simply does not make sense.

The time has come to recognize the practicalities of the issue and to examine it in a broad perspective with reason and commonsense. It is clear that impeachment, in practical terms, is not an effective disciplinary mechanism. It is clear that the existing statutory authority is ambiguous and insufficient in this regard. It is clear that substantial authority exists indicating that the procedure which I propose in this amendment is constitutional.

I believe this amendment fashions the most appropriate mechanism for defining and dealing with judicial unfitness by accommodating both the need to preserve judicial independence and the need to deal with judges who cannot or will not properly discharge the functions of their office.

Mr. President, let us do what we have set out to do. Let us establish, as the committee proposes, a "simple and clear procedure for the resolution of alleged disability or misconduct of a Federal judge." Let us provide a mechanism to accomplish, in fact, the purposes that I believe we all agree upon in principle.

Unless we give the Court on Judicial Conduct and Disability the authority and the power to back up its words with action, I believe that we will have fallen short of our goal.

Mr. President, I would like to add, by unanimous consent, the name of the Senator from Oklahoma (Mr. BOREN) as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, unless there are questions, I will yield the floor.

Mr. DECONCINI. Mr. President, I believe the record will show that the Senator from Georgia has been a leader in this particular legislation. When I came to the Senate in the 95th Congress I became interested in the subject matter and I found out that the Senator from Georgia had, indeed, pursued this matter in the 94th Congress and had drafted legislation. I was very pleased to join Senator NUNN at that time, as I have with this particular bill that we have today.

The Judiciary Committee carefully considered the substitute bill and various other drafts of provisions which would include removal. Quite frankly, this Senator has feelings along the lines of the Senator from Georgia. But it was the strong consensus on both sides of the aisle that the compromise legislation which was before us prior to the substitute was what was most practical and most realistic for this body to give serious consideration to, and it was reported by the committee.

I do not think the Senator from Georgia has really lessened at all the significance of the Judicial Tenure Act. Though the removal provisions in the bill reported by the Judiciary Committee were not included, indeed that bill is truly the Nunn bill. It has almost all of the functions that were introduced in the 94th Congress by Senator NUNN and myself. It goes toward the real problem of having some kind of responsibility placed on the Federal judiciary within the Federal judiciary. It is a realistic approach.

The Nunn substitute today is also a realistic approach, from this Senator's point of view.

The Judiciary Committee, however, felt otherwise and followed the Senator from Georgia's commitment to a disciplinary procedure and having sanctions available but would not proceed far enough along the line to include the removal provision.

I think history will show, whether this becomes enacted into legislation or not, that the Senator from Georgia, because of his persistence, because of his very, very eloquent arguments, and his ability to research the subject matter extremely well, provided the momentum today that brings us to the floor of the Senate to debate a judicial tenure act, which is, in my judgment, as expressed before, absolutely necessary.

Mr. President, I yield the floor.

Mr. NUNN. Will the Senator yield 10 seconds to me?

Mr. DECONCINI. I yield.

Mr. NUNN. Mr. President, my senior colleague from Georgia (Mr. TALMADGE) has been a cosponsor of this legislation since 1974 and has been one of the prime movers behind this legislation. I ask unanimous consent that his name be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Indiana.

Mr. BAYH. Mr. President, I would like to add my word of gratitude to the Senator from Georgia and, indeed, to our colleague from Arizona for the special attention they have given over a good, long period of time to the matter which is now before us.

I say that without the slightest cynicism or twinge of sour grapes I hope my two friends realize my sincerity. I believe they have alerted us to this problem, and they have really provoked us and prodded us on the Judiciary Committee to give more serious attention to this than otherwise would have been the case.

I think both of my friends know that from the time we discussed this measure last year the Senator from Indiana has had a differing opinion with them on the correct course to follow. I find myself more in tune with and supporting the bill which was reported by the committee than the course of action suggested by our distinguished colleague from Georgia and supported by our colleague from Arizona.

(Mr. HARRY F. BYRD, JR., assumed the chair.)

Mr. BAYH. It seems to me we have a dual goal to accomplish here and we are treading a very narrow line, walking through a minefield which is rather carefully camouflaged. We do a good deal of discussing in debate about what history has shown or what our constitutional fathers intended. But if, indeed, that intention is as clear as it has been articulated here today, it is difficult to find it written anyplace in the constitutional debates. Indeed, precedent for it is almost nonexistent.

Of course, on the one hand, I believe all of us understand the critical importance in our system of Government of maintaining the independence of the judiciary. Regardless of how we want to get at the judge who is not doing his job, I think every one of us understands that we must avoid the temptation of weakening the independence of the judiciary. That has been one of the solid foundation blocks, cornerstones, of our free system.

We have to look no further back than the moment of Watergate to see that independence displayed at its finest where you had a Republican judge by the name of Sirica appointed by a Republican President by the name of Eisenhower, and who, because of his independence and his courage, was able to stand up and say to another Republican, "Mr. President, in all respect, this is not the way I see the Constitution."

Whether they are Republicans or Democrats, I want us to maintain that kind of independence for judges. I want us to avoid the temptation that might come within the judiciary to find a way to discipline someone who had fallen out of favor, who might have been a little different than the other judges thought he should be.

That, it seems to me, is on one side of the scale, the independence of the judiciary.

On the other side of the scale is also a very important goal, that of finding a way to ascertain when judicial conduct, judicial performance, is realy jeopardizing the administration of justice. If we look at the large number of Federal judges who presently serve, I think we have to admit that most or nearly all of them serve very well, but, on occasion, I suggest on very rare occasions but on occasion, there have been those who have created real problems in their districts or circuits. The question is how we get at those relatively few who have created problems without creating a larger problem of eroding the independence for the many who are doing their job and doing it rather well.

My good friend from Georgia—quoted an authority for the proposition that impeachment is heavy artillery. Indeed it is heavy artillery. It is the ultimate sanction. But one thing we have to say about impeachment is that it is constitutional. There is no question about whether it is constitutional or not. With all due respect to those who might disagree, we do not have any test on any course of removal so far as constitutionality is concerned.

Mr. NUNN. I submit to my colleague—first, let me say how thankful I am that he has taken the interest in this legislation that he has. I went back and read—I guess we had about a 4-hour debate last year on this same subject. I found it instructive. The opinion of the Senator from Indiana I value greatly, particularly on constitutional matters.

I submit, as I did last year, that none of us is going to be able to determine on the floor of the Senate the question of constitutionality. There are arguments on both sides, historically and otherwise. I believe it is constitutional. I think those who believe it is unconstitutional will and should vote against it. I believe that, for those who are in doubt, the best way is to pass the legislation and let the Supreme Court decide.

I submit to the Senator from Indiana that if the Federal judges of this country felt that this was unconstitutional, they would not have been on the telephone the last 10 days calling everybody in the U.S. Senate.

I do not know whether it is finally, in the long run, going to be ruled constitutional or not. But I do know there are an awful lot of Federal judges in this country who must believe it is constitutional; otherwise, they would not have been lobbying so hard against it. I must say they have done a pretty effective job of it, but if we do not resolve the constitutionality, I believe we should at least take notice of the fact that there are a great number of Federal judges who believe it is constitutional. Otherwise, they would simply lie back and wait for the Supreme Court to so adjudicate.

We cannot solve that issue today. I do believe myself that it is constitutional, although I must add again that I greatly respect the knowledge and the study that the Senator from Indiana has given this and other constitutional issues. I believe we have a rather complete legislative history of the varying views on that from last year's Record.

Mr. MATHIAS. Will the Senator from Indiana yield to me for just a moment to ask a question of the Senator from Georgia?

Mr. BAYH. I should be glad to. I might observe that there are at least twice as many Senators on the floor now listening to our debate as there were last year when we had that 4-hour mind-expanding dialog on the constitutionality of this issue.

Mr. NUNN. I am sure they all read it in the Congressional Record.

Mr. BAYH. I would not like to bet on that.

Mr. MATHIAS. I did not want to interrupt the train of thought of the Senator from Indiana. I am sure the Senator from Georgia would not want the possibility to stand that he had precluded the fact that perhaps the Federal judges who may have made a call, if any did, were merely trying to save us from error and were not, in fact, implying that they felt that if we slipped into this error, we were passing a constitutional bill. They may have felt that it is so unconstitutional that they wanted to save our reputations as constitutional lawyers.

Mr. NUNN. I must say to my good friend and colleague from Maryland that I considered thoroughly that possibility and I reject it.

Mr. BAYH. Which shows again that this body has room for differing opinions on almost everything.

Mr. President, I, too, have had some rather serious discussions with judges from my State and other States about this matter.

The Senator from Maryland has an outstanding jurist whom I talked with. I am persuaded that at least the judges I have talked to are deeply concerned about the constitutional question. They come at it from a perspective of those who are working within the judiciary who probably have a pretty good idea of the kind of peer pressure that they fear might be exerted on judges to decide cases on something other than their independent judgment if there were the possibility of removal.

Here again, I get back to the question that concerns me, how we maintain the independence of the judiciary and still get those judges who may have gone to seed, who may have stopped serving effectively as judges, how we deal with those individuals in ways short of impeachment and preserve the right of impeachment to this body.

I do not accept the contention that the way to determine constitutionality is to whip out here and pass something and then let the Supreme Court decide whether it is constitutional or not, particularly since it is this body, which is the jury of impeachment. I am not prepared to let the Supreme Court alone determine the constitutionality of that, because I feel very strongly that our Founding Fathers intended for the elected representatives of the people, in the House and in the Senate, to play the critical role in determining how people should be extricated from office by the method they called impeachment.

My statement that impeachment was constitutional, even though it was heavy artillery, but that we had no other basis for removal that had been declared constitutional was made because, as I look at history, that is true. That is the only way we have removed people from office, through impeachment. There have been no other means available to us.

I am not suggesting that the Senator from Indiana has infinite wisdom and can look into the minds of our Founding Fathers and that there might not have been something else in their minds, but I must say I have difficulty finding an intention that there were other means of removal. We are told that impeachment is designed to be preserved for major infractions—high crimes and misdemeanors.

However, if one would care to look at history and look at the early Congress, which contained some of those Founding

Fathers that wrote the Constitution, he will find that, in those early days, misdemeanors were almost synonymous with misbehavior. In fact, if you look at 1804, you find that Judge John Pickering was impeached and convicted on several charges, including drunkenness and blasphemy. I do not call that high crimes and misdemeanors.

We look further and see that Judge John English was impeached but subsequently resigned for conduct bringing the administration of justice into contempt and disgrace.

Certainly, that is an all-encompassing kind of description that, I suppose, could include high crimes and misdemeanors, but it certainly would not necessarily do so.

We find that in 1936, the Senate convicted Judge Halsted Ritter on a count of misbehavior.

So we have found that impeachment has been used as a vehicle to remove judges who, the Congress—House and Senate—had thought, had misbehaved or were guilty of misbehaving.

With all respect to Prof. Raoul Berger, I must say that I think the preponderance of constitutional thought and writing on this score would disagree with him. I say that with all respect. Most of the constitutional writing I find comes down on the side of good behavior being interpreted a different way.

I cite very quickly, as a reminder to my colleagues, what article III, section 1 says:

> The Judges, both of the Supreme and inferior courts, shall hold their offices during good behavior.

What does "good behavior" mean? If one looks at the historical precedent of the times, one finds that the normal way of appointing judges was at the sufferance of the King, at the pleasure of the King. In fact, there was the Act of Settlement in England in 1701, and in the specific charges made against the King himself by our Founding Fathers in the Declaration of Independence, they were after that particular way of appointing judges, namely, at the King's pleasure. So it is the opinion of the Senator from Indiana, I must say supported by constitutional scholars and authorities who know a good deal more about it than the Senator from Indiana, that rather than good behavior as we interpret it—namely, not misbehaving—good behavior was to be an alternative to serving at the pleasure of the King. In other words, judges could serve there for lifetime subject to the impeachment provisions.

I have already spoken longer than I intended to. I think we have all had a chance to look at last year's debate, and I will not get into an extended discussion of the writ of scire facias. But I must say that I think if anyone cares to follow the history of that procedure, we would have to grant that writ has never been granted, has never been utilized in this country, or in the old country from which it came, to remove a judge.

Indeed, that writ was used to remove relatively insignificant, nonconsequential officeholders. There is very little to sustain that our Founding Fathers when they wrote the Constitution even knew about that writ because it was not in the constitution of any of the States.

It has not been used to this date to remove a judge.

So, with all respect, I find that a very slender reed to suggest that misbehavior, as the opposite of "good behavior," is a vehicle to circumvent the removal by impeachment.

I like what I think is a very delicate balance contained in the measure that has come through the Judiciary Committee, S. 1873. I had certain other ideas of my own which were in another bill, but dropped in this bill, perhaps because they were not as good as those presently contained. However, some of the ideas the Senator from Maryland and I had in our proposal are in S. 1873, along with the ideas of the Senator from Massachusetts, and some of our other colleagues.

But I think this is a pretty good compromise. What it does is let the Federal judiciary clean up its own act, to discipline judges and get them on the stick, so to speak, to use a very nonjudicial term, except when the grievance is sufficient that they ought to be removed, and if they are going to be removed, then, of course, it will be done by the Congress.

But the court of judicial conduct is going to bring this kind of conduct to the attention of the House. It seems to me that has been one of the shortcomings of the present procedure, that there has not been anything to prod the House to move in the isolated instances where it seems, perhaps, the procedure should be utilized.

So, to cease any further prolongation of this discussion from the Senator from Indiana, it seems to me that the report language and the bill from the Judiciary Committee permit the judiciary to clean its own house and thus maintain its independence. It has the means to discipline judges: temporarily to remove their caseloads, to try to persuade them to retire, to censure them and do other kinds of things short of impeachment.

At the same time the bill allows the judges to remind the House that here is a critical case of misconduct in which a judge should be impeached. Then it is our responsibility, it seems to me, in the House and in the Senate, to exercise the responsibility we have under article 1, section 2 and section 3.

One last thought. In talking to judges I think I have gotten a little better idea of some of the pressure that judges are under than I did before. I am sure no one fully appreciates this kind of pressure unless he or she has had a chance to wear judicial robes.

But we are used to pressure in this body, pressure from a constituency which elects us and to which we sometimes yield rightly, and somtimes we are tempted to yield at the wrong time.

I feel that we are of the mistaken impression that judges are not under similar pressure just because they are not elected.

From talking to judges, I have come to the conclusion that the opinion of the Senator from Maryland and the Senator from Maryland last year is closer to right than we dared believe, that if we give to judges the right to remove other judges from office, we are then going to create a peer pressure on judges to conform, to make decisions based on what their peers might feel is right and wrong, or constitutional, rather than what they themselves feel is right or wrong, or constitutional.

Frankly, I do not want that to happen. Although I have not always agreed with the Supreme Court or the various district court judges in my State, I think the present system gives them the kind of independence they need and should have under our Constitution. I think that is critical if we are to have justice meted out on a scale without political pressure.

Mr. President, I yield the floor and I thank my colleagues for their tolerance.

Mr. NUNN. Will the Senator from Maryland let me have the floor for about 30 seconds?

Mr. MATHIAS. Yes.

Mr. NUNN. Mr. President, I ask unanimous consent that the Senator from Florida (Mr. CHILES) and the Senator from Wyoming (Mr. SIMPSON) be added as cosponsors to my substitute.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maryland.

Mr. MATHIAS. Mr. President, at an earlier point in the debate today the Senator from Georgia (Mr. NUNN) asked the question of the Senator from Alabama, what would we do about a senile judge?

I promised him before the afternoon was over I would tell him what we do about a senile judge.

In order to give him that answer, I would refer him to title XXVIII of the United States Code at section 372(b), because right there the law tells us what to do about a senile judge.

The law provides that whenever the President finds that a judge is unable to discharge efficiently all the duties of his office by reason of permanent mental or physical disability and that the appointment of an additional judge is necessary for the efficient dispatch of business, the President may make such appointment by and with the advice and consent of the Senate.

I will not take the time of the Senate to read all of that section. But I ask unanimous consent that section 372(b) be printed in the RECORD at this point.

There being no objection, the section was ordered to be printed in the RECORD as follows:

SECTION 372

(b) Whenever any judge of the United States appointed to hold office during good behavior who is eligible to retire under this section does not do so and a certificate of his disability signed by a majority of the members of the Judicial Council of his circuit in the case of a circuit or district judge, or by the Chief Justice of the United States in the case of the Chief Judge of the Court of Claims, Court of Customs and Patent Appeals, or Customs Court, or by the chief judge of his court in the case of a judge of the Court of Claims, Court of Customs and Patent Appeals, or Customs Court, is presented to the President and the President finds that such judge is unable to discharge efficiently all the duties of his office by reason

> of permanent mental or physical disability and that the appointment of an additional judge is necessary for the efficient dispatch of business, the President may make such appointment by and with the advice and consent of the Senate. Whenever any such additional judge is appointed, the vacancy subsequently caused by the death, resignation, or retirement of the disabled judge shall not be filled. Any judge whose disability causes the appointment of an additional judge shall, for purpose of precedence, service as chief judge, or temporary performance of the duties of that office, be treated as junior in commission to the other judges of the circuit, district, or court. As amended May 24, 1949, c. 139, § 67, 63 Stat. 99; Feb. 10, 1954, c. 6, § 4(a), 68 Stat. 13; Sept. 2, 1957, Pub. L. 85-261, 71 Stat. 586.

Mr. NUNN. If I may respond briefly to my colleague from Maryland, I agree with that section. As the Senator knows, to certify disability basically takes the caseload away, as I understand it, and at least the thinking is that it can be done constitutionally.

I would simply submit to my friend from Maryland that that is tantamount to, in many respects, removal. I think it would be so from a constitutional point of view.

I submit that if section 372(b) is constitutional, the Nunn substitute is also constitutional. But I know, of course, that gets into a matter of opinion.

Mr. MATHIAS. I think the Senator would take note of the fact that that is a statute which has been on the books for some time. It has been used, I believe, on four occasions, and it has not been challenged.

I am sure a constitutional purist could find objection. But, nonetheless, it has stood the test of a generation. It was passed, I believe, about 25 years ago. It is on the books.

Now, if there is, in fact, a constitutional question about it, then I would say it raised a very serious question as to whether we ought to go on and adopt the pending amendment, which raises further constitutional questions.

Mr. NUNN. I do not think there is a constitutional question about it. I believe it stands on the basis of the same constitutional foundation that the Nunn substitute stands on, also the DeConcini bill that is before the Senate. I think they all would rise or fall on the same constitutional basis.

Mr. MATHIAS. It is on these conscientious differences of opinion that we are able to maintain the court system.

Mr. President, there is an extremely interesting discussion of this question in the Yale Law Journal for this year, volume 88, 1979, at page 681, written by Judge Irving Kaufman. Judge Kaufman says:

> If the disability is permanent, the judge will often recognize it and retire. If he does not, his fellow judges may—unless he is a Supreme Court justice—invoke 28 U.S.C. § 372(b) by certifying the judge's disability to the President and authorizing him to appoint an extra judge.

This is the point that Judge Kaufman makes which I think the Senate should note with care. He says:

> This statute, it should be noted, was framed with sedulous regard for constitutional limitations.

This is the difference I think the Senator from Georgia will find between section 372 and his amendment.

> It does not act against the judge; it does not attempt to remove or discipline him. It fulfills one entirely proper purpose: to ensure that the bench has its full complement of able members so that it may administer justice properly.

Judge Kaufman goes on to say:

> Recognition of the constitutional infirmities that would attend any procedure dissolving the lines between the branches of government has dissuaded Congress from attempting to design a legislative removal procedure simpler than the extraordinary one of impeachment. But the proponents of facile removal believe that at last they have found the solution to their frustrations. They have embraced the notion that all constitutional impediments might be avoided by establishing the disciplinary power within the judiciary itself. This has been the conception behind the series of judicial tenure bills introduced over the last decade—including the one recently passed by the Senate.

I think that speaks very eloquently to the pending amendment, but I believe that the philosophical background which Judge Kaufman notes is also worth noting. He says:

> The federal legislature, it is important to note, is not hierarchical, and the executive is not collective at the top. Only the judiciary, which because of its independence provides its own corrective mechanism, protects against its own errors by both hierarchical structures and collective decisionmaking. These are effective mechanisms, designed only to correct, not to punish: they act only against judge's opinions and decisions, and not against him personally.

Of course, the pending amendment does act against the judge personally. It violates the philosophical background which is concisely stated by Judge Irving Kaufman.

Mr. President, we have had a great deal of discussion today about the constitutional history, and I do not think it needs a great deal of further exposition. But I do think we have to recognize that we are reacting today as our predecessors have reacted over a long period of history, in attempting to secure judicial independence.

One of the most famous instances in history in which we moved toward a concept of judicial independence was occasioned by the removal of Sir Edward Coke, who had angered King James in 1616. In order to end such instances of judicial dependence, the British Parliament passed the Act of Settlement in 1701, which provided that judges' commissions be made during good behavior and their salaries ascertained and established, but upon address of both Houses of Parliament, it may be lawful to remove them. That was a tremendous step forward. That meant that you could not have the removal of a judge as King James removed Sir Edward Coke.

While this Act of Settlement was a major step toward judicial independence, it did not actually achieve an independent judiciary, because although judges were freed from the power of the throne, they were not freed from the power of Parliament.

The Founding Fathers of this Republic were fully conscious of this history, fully conscious of the threat to judicial independence posed by the procedure of the address to Parliament, and they specifically refused to incorporate it into our Constitution.

Although the British had opted for judicial tenure during good behavior, they failed to go beyond this, and they also failed to extend this measure of judicial independence to the colonial judges. That soon became a cause for discontent in the colonies and was one of the basic grievances which brought about the American Revolution.

Mr. President, I ask unanimous consent to have printed in the RECORD several brief documents of importance in American history which deal directly with this case. They are as follows: "Causes of the American Discontent," by Benjamin Franklin; the concerns of the inhabitants of Boston in 1772 to delineate their grievances against the British Government (as set forth in Smith, "An Independent Judiciary: The Colonial Background" 124 Univ. of Penn. L. Rev. 1104 (1976)) and a letter from the Pennsylvania Committee of Correspondence to Benjamin Franklin in 1768, commenting on the danger of tying judicial salaries to the Crown.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CAUSES OF THE AMERICAN DISCONTENTS BEFORE 1768[1]

The waves never rise but when winds blow.—*Prov.*

SIR:—As the cause of the present ill-humor in America, and of the resolutions taken there to purchase less of our manufactures, does not seem to be generally understood, it may afford some satisfaction to your readers, if you give them the following short historical state of facts.

From the time that the colonies were first considered as capable of granting aids to the crown, down to the end of the last war, it is said that the constant mode of obtaining those aids was by requisition made from the crown, through its governors, to the several assemblies, in circular-letters from the Secretary of State, in his Majesty's name; setting forth the occasion, requiring them to take the matter into consideration, and expressing a reliance on their prudence, duty, and affection to his Majesty's government, that they would grant such sums, or raise such numbers of men, as were suitable to their respective circumstances.

The colonies being accustomed to this method, have from time to time granted money to the crown, or raised troops for its service, in proportion to their abilities; and during all the last war beyond their abilities, so that considerable sums were returned them yearly by Parliament, as they had exceeded their proportion.

Had this happy method of requisition been continued (a method that left the King's subjects in those remote countries the pleasure of showing their zeal and loyalty, and of imagining that they recommended themselves to their sovereign by the liberality of their voluntary grants), there is no doubt but all the money that could reasonably be expected to be raised from them in any manner might have been obtained, without the least heart-burning, offence, or breach of the harmony of affections and interests that so long subsisted between the two countries.

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[1] This paper appeared in the *London Chronicle* of Jan. 7, 1768, and was reprinted the same year as a postscript to a pamphlet entitled *Sentiments of America*. For the circumstances which led to its publication see Franklin's letters to his son, dated Dec. 19, 1767, and January 9, 1768, and his letter to T. Wharton, Feb. 20, 1768. In the latter letter to his son he complains that the editor of the *Chronicle*, "one Jones," "has drawn the teeth and pared the nails of my paper, so that it can neither scratch nor bite. It seems only to paw and mumble."

It has been thought wisdom in a government exercising sovereignty over different kinds of people, to have *some regard to prevailing and established opinions* among the people to be governed, wherever such opinions might, in their effects, obstruct or promote public measures. If they tend to obstruct public service, they are to be changed, if possible, before we attempt to act against them; and they can only be changed by reason and persuasion. But if public business can be carried on without thwarting those opinions; if they can be, on the contrary, made subservient to it; they are not unnecessarily to be thwarted, however absurd such popular opinions may be in their nature.

This had been the wisdom of our government with respect to raising money in the colonies. It was well known that the colonists universally were of opinion that no money could be levied from English subjects but by their own consent, given by themselves or their chosen representatives; that, therefore, whatever money was to be raised from the people in the colonies, must first be granted by their assemblies, as the money raised in Britain is first to be granted by the House of Commons; that this right of granting their own money was essential to English liberty; and that, if any man, or body of men, in which they had no representative of their choosing, could tax them at pleasure, they could not be said to have any property, any thing they could call their own. But as these opinions did not hinder their granting money voluntarily and amply, whenever the crown by its servants came into their assemblies (as it does into its parliaments of Britain and Ireland) and demanded aids, therefore that method was chosen, rather than the hateful one of arbitrary taxes.

I do not undertake here to support these opinions of the Americans; they have been refuted by a late act of Parliament, declaring its own power; which every Parliament however, showed wisely so much tender regard to those inveterate prejudices, as to repeal a tax that had militated against them. And those prejudices are still so fixed and rooted in the Americans, that it has been supposed not a single man among them has been convinced of his error, even by that act of Parliament.

The person, then, who first projected to lay aside the accustomed method of requisition, and to raise money on America by stamps, seems not to have acted wisely, in deviating from that method (which the colonists looked upon as constitutional), and thwarting unnecessarily the fixed prejudices of so great a number of the King's subjects. It was not, however, for want of knowledge that what he was about to do would give them offence; he appears to have been very sensible of this, and apprehensive that it might occasion some disorders; to prevent or suppress which, he projected another bill that was brought in the same session with the Stamp Act, whereby it was to be made lawful for military officers in the colonies to quarter their soldiers in private houses.

This seemed intended to awe the people into a compliance with the other act. Great opposition, however, being raised here against the bill, by the agents from the colonies and the merchants trading thither (the colonists declaring that under such a power in the army no one could look on his house as his own, or think he had a home, when soldiers might be thrust into it and mixed with his family at the pleasure of an officer), that part of the bill was dropt; but there still remained a clause, when it passed into a law, to oblige the several assemblies to provide quarters for the soldiers, furnishing them with firing, bedding, candles, small beer or rum, and sundry other articles, at the expense of the several provinces. And this act continued in force when the Stamp Act was repealed; though, if obligatory on the assemblies, it equally militated against the American principle above mentioned, that money is not to be raised on English subjects without their consent.

The colonies nevertheless, being put into high good-humor by the repeal of the Stamp Act, chose to avoid a fresh dispute upon the other, it being temporary and soon to expire, never, as they hoped, to revive again; and in the meantime they, by various ways, in different colonies, provided for the quartering of the troops; either by acts of their own assemblies, without taking notice of the act of Parliament, or by some variety or small diminution, as of salt and vinegar, in the supplies required by the act; that what they did might appear a voluntary act of their own, and not done in due obedience to an act of Parliament, which, according to their ideas of their rights, they thought hard to obey.

It might have been well if the matter had then passed without notice; but, a governor having written home an angry and aggravating letter upon this conduct in the Assembly of his province, the outed proposer[2] of the Stamp Act and his adherents, then in the opposition, raised such a clamor against America, as being in rebellion, and against those who had been for the repeal of the Stamp Act, as having thereby been encouragers of this supposed rebellion, that it was thought necessary to enforce the quartering act by another act of Parliament, taking away from the province of New York, which had been the most explicit in its refusal, all the powers of legislation, till it should have complied with that act. The news of which greatly alarmed the people everywhere in America, as (it had been said) the language of such an act seemed to them to be: Obey implicitly laws made by the Parliament of Great Britain to raise money on you without your consent, or you shall enjoy no rights or privileges at all.

At the same time, a person lately in high office[3] projected the levying more money from America, by new duties on various articles of our own manufacture, as glass, paper, painters' colors, &c., appointing a new board of customs, and sending over a set of commissioners, with large salaries, to be established at Boston, who were to have the care of collecting those duties; which were by the act expressly mentioned to be intended for the payment of the salaries of governors, judges, and other officers of the crown in America; it being a pretty general opinion here, that those officers ought not to depend on the people there for any part of their support.

It is not my intention to combat this opinion. But perhaps it may be some satisfaction to your readers, to know what ideas the Americans have on the subject. They say then, as to governors, that they are not like princes, whose posterity have an inheritance in the government of a nation, and therefore an interest in its prosperity; they are generally strangers to the provinces they are sent to govern; have no estate, natural connexion or relation there, to give them an affection for the country; that they come only to make money as fast as they can; are sometimes men of vicious characters and broken fortunes, sent by a minister merely to get them out of the way; that as they intend staying in the country no longer than their government continues, and purpose to leave no family behind them, they are apt to be regardless of the good-will of the people, and care not what is said or thought of them after they are gone.

Their situation, at the same time, gives them many opportunities of being vexatious, and they are often so, notwithstanding their dependence on the assemblies for all that part of their support that does not arise from fees established by law; but would probably be much more so, if they were to be supported by money drawn from the people without their consent or good-will, which is the professed design of the new act. That, if by means of these forced duties government is to be supported in America, without the intervention of the assemblies, their assemblies will soon be looked upon as useless; and a governor will not call them, as having nothing to hope from their meeting, and perhaps something to fear from their inquiries into, and remonstrances against, his maladministration. That thus the people will be deprived of their most essential rights. That it being, as at present, a governor's interest to cultivate the good-will, by promoting the welfare, of the people he governs, can be attended with no prejudice to the mother country; since all the laws he may be prevailed on to give his assent to are subject to revision here, and, if reported against by the Board of Trade, are immediately repealed by the crown; nor dare he pass any law contrary to his instructions, as he holds his office during the pleasure of the crown, and his securities are liable for the penalties of their bonds if he contravenes those instructions. This is what they say as to governors.

As to judges, they allege that, being appointed from this country, and holding their commissions, not during good behaviour, as in Britain, but during pleasure, all the weight of interest or influence would be thrown into one of the scales (which ought to be held even), if the salaries are to be paid out of duties raised upon the people without their consent, and independent of their assemblies' approbation or disapprobation of the judge's behaviour. That it is true, judges should be free from all influence; and, therefore, whenever government here will grant commissions to able and honest judges during good behaviour, the assemblies will settle permanent and ample salaries on them during their commissions; but, at present, they have no other means of getting rid of an ignorant or an unjust judge (and some of scandolous characters have, they say, been sometimes sent them) left, but by starving them out.

I do not suppose these reasonings of theirs will appear here to have much weight. I do not produce them with an expectation of convincing your readers. I relate them merely in pursuance of the task I have imposed on myself, to be an impartial historian of American facts and opinions.

The colonists being thus greatly alarmed, as I said before, by the news of the act for abolishing the legislature of New York, and the imposition of these new duties, professedly for such disagreeable purposes, (accompanied by a new set of revenue officers, with large appointments, which gave strong suspicions that more business of the same kind was soon to be provided for them, that they might earn their salaries,) began seriously to consider their situation; and to revolve afresh in their minds grievances which, from their respect and love for this country, they had long borne, and seemed almost willing to forget.

They reflected how lightly the interest of all America had been estimated here, when the interests of a few of the inhabitants of Great Britain happened to have the smallest competition with it. That the whole American people was forbidden the advantage of a direct importation of wine, oil, and fruit, from Portugal, but must take them loaded with all the expense of a voyage one thousand leagues round about, being to be landed first in England, to be re-shipped for America; expenses amounting, in war time at least, to thirty pounds per cent more than otherwise they would have been charged with; and all this, merely that a few Portugal merchants in London may gain a commission on those goods passing through their hands (Portugal merchants, by the by, that can complain loudly of the smallest hardships laid on their trade by foreigners, and yet, even in the last year, could oppose, with all their influence, the giving ease to their fellow subjects laboring under so heavy an oppression!). That, on a slight complaint of a few Virginia merchants, nine colonies had been restrained from making paper money, become absolutely necessary to their internal commerce, from the constant remittance of their gold and silver to Britain.

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[2] Mr. George Grenville.

[3] Mr. Charles Townshend.

But not only the interest of a particular body of merchants, but the interest of any small body of British tradesmen or artificers, has been found, they say, to outweigh that of all the King's subjects in the colonies. There cannot be a stronger natural right than that of a man's making the best profit he can of the natural produce of his lands, provided he does not thereby hurt the state in general. Iron is to be found everywhere in America, and the beaver furs are the natural produce of that country. Hats, and nails, and steel are wanted there as well as here. It is of no importance to the common welfare of the empire, whether a subject of the King's obtains his living by making hats on this or that side of the water. Yet the hatters of England have prevailed to obtain an act in their own favor, restraining that manufacture in America; in order to oblige the Americans to send their beaver to England to be manufactured, and purchase back the hats, loaded with the charges of a double transportation. In the same manner have a few nail-makers, and a still smaller body of steel-makers (perhaps there are not half a dozen of these in England), prevailed totally to forbid by an act of Parliament the erecting of slitting-mills, or steel-furnaces, in America; that the Americans may be obliged to take all their nails for their buildings, and steel for their tools, from these artificers, under the same disadvantages.[4]

Added to these, the Americans remembered the act authorizing the most cruel insult that perhaps was ever offered by one people to another, that of emptying our gaols into their settlements; Scotland too having within these two years obtained the privelege it had not before, of sending its rogues and villains also to the plantations. I say, reflecting on these things, they said one to another (their newspapers are full of such discourses):

"These people are not content with making a monopoly of us, forbididng us to trade with any other country of Europe, and compelling us to buy every thing of them, though in many articles we could furnish ourselves ten, twenty, and even to fifty per cent cheaper elsewhere; but now they have as good as declared they have a right to tax us *ad libitum* internally and externally; and that our constitutions and liberties shall all be taken away if we do not submit to that claim.

"They are not content with the high prices at which they sell us their goods, but have now begun to enhance those prices by new duties; and, by the expensive apparatus of a new set of officers, appear to intend an augmentation and multiplication of those burdens that shall still be more grievous to us. Our people have been foolishly fond of their superfluous modes and manufactures, to the impoverishing our own country, carrying off all our cash, and loading with debt; they will not suffer us to restrain the luxury of our inhabitants, as they do that of their own, by laws; they can make laws to discourage or prohibit the importation of French superfluities; but though those of England are as ruinous to us as the French ones are to them, if we make a law of that kind, they immediately repeal it.

"Thus they get all our money from us by trade; and every profit we can anywhere make by our fisheries, our produce, or our commerce, centres finally with them; but this does not signify. It is time, then, to take care of ourselves by the best means in our power. Let us unite in solemn resolution and engagements with and to each other, that we will give these new officers as little trouble as possible, by not consuming the British manufactures on which they are to levy the duties. Let us agree to consume no more of their expensive gewgaws. Let us live frugally, and let us industriously manufacture what we can for ourselves; thus we shall be able honorably to discharge the debts we already owe them; and after that, we may be able to keep some money in our country, not only for the uses of our internal commerce, but for the service of our gracious sovereign, whenever he shall have occasion for it, and think proper to require it of us in the old constitutional manner. For, notwithstanding the reproaches thrown out against us in their public papers and pamphlets, notwithstanding we have been reviled in their senate as rebels and traitors, we are truly a loyal people. Scotland has had its rebellions, and England its plots against the present royal family; but America is *untainted with those crimes;* there is in it scarce a man, there is not a single native of our country, who is not firmly attached to his King by principle and by affection.

"But a new kind of loyalty seems to be required of us, a loyalty to Parliament; a loyalty that is to extend, it is said to a surrender of all our properties, whenever a House of Commons, in which there is not a single member of our choosing, shall think fit to grant them away without our consent; and to a patient suffering the loss of our privileges as Englishmen, if we cannot submit to make such surrender. We were separated too far from Britain by the ocean, but we were united to it by respect and love; so that we could at any time freely have spent our lives and little fortunes in its cause; but this unhappy new system of politics tends to dissolve those bands of union, and to sever us for ever."

These are the wild ravings of the, at present, half-distracted Americans. To be sure, no reasonable man in England can approve of such sentiments, and, as I said before, I do not pretend to support or justify them; but I sincerely wish, for the sake of the manufactures and commerce of Great Britain, and for the sake of the strength which a firm union with our growing colonies would give us, that these people had never been thus needlessly driven out of their senses. I am yours, &c.,

F.S.

MASSACHUSETTS

This will if accomplished compleat our slavery. For if taxes are raised from us by the Parliament of Great Britain without our consent, and the men on whose opinions and decisions our properties liberties and lives, in a great measure depend, receive their support from the Revenues arising from these taxes, we cannot, when we think on the depravity of mankind, avoid looking with horror on the danger to which we are exposed? The British Parliament have shewn their wisdom in making the Judges there as independent as possible both of the Prince and People, both for place and support: But our Judges hold their Commissions only during pleasure; the granting them salaries out of this Revenue is rendering them dependent on the Crown for their support. The King upon his first accession to the Throne, for giving the last hand to the independency of the Judges in England, not only upon himself but his Successors by recommending and consenting to an act of Parliament, by which the Judges are continued in office, notwithstanding the demise of a King, which vacates all other Commissions, was applauded by the whole Nation. How alarming must it then be to the inhabitants of this Province, to find so wide a difference made between the Subjects in Britain and America, as the rendering the Judges here altogether dependent on the Crown for their support.

The Letter of Correspondence, after an introductory expression of alarm "at the plan of *Despotism*, which the enemies of our invaluable rights have concerted," launched into the matter of judicial salaries, as follows:

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[4] I shall here give the reader the note at the end of the fourth paragraph of the Farmer's Seventh Letter, written by Mr. Dickinson.—B. V.

"Many remarkable instances might be produced of the extraordinary inattention with which bills of great importance, concerning these colonies, have passed in Parliament; which is owing, as it is supposed, to the bills being brought in, by the persons who have points to carry, so artfully framed, that it is not easy for the members in general, in the haste of business, to discover their tendency.

"The following instances show the truth of this remark.

"When Mr. Grenville, in the violence of reformation and innovation, formed the 4th George III. ch. 15th, for regulating the American trade, the word 'Ireland' was dropped in the clause relating to our iron and lumber, so that we could send these articles to no other part of Europe, but to Great Britain. This was so unreasonable a restriction, and so contrary to the sentiments of the legislature, for many years before, that it is surprising it should not have been taken notice of in the House. However, the bill passed into a law. But when the matter was explained, this restriction was taken off in a subsequent act.

"I cannot say how long after the taking off this restriction, as I have not the acts, but I think in less than eighteen months, another act of Parliament passed, in which the word 'Ireland' was left out, as it had been before. The matter, being a second time explained. was a second time regulated.

"Now, if it be considered, that the omission mentioned, struck off, with one word, so very great a part of our trade, it must appear remarkable; and equally so is the method by which rice became an enumerated commodity, and therefore could be carried to Great Britain only.

"'The enumeration was obtained' (says Mr. Gee, on Trade, p. 32,) 'by one Cole, a captain of a ship employed by a company then trading to Carolina; for several ships going from England thither, and purchasing rice for Portugal, prevented the aforesaid captain of a loading. Upon his coming home, he possessed one Mr. Lowndes, a member of Parliament (who was frequently employed to prepare bills), with an opinion, that carrying rice directly to Portugal was a prejudice to the trade of England, and privately got a clause into an act to make it an enumerated commodity; by which means he secured a freight to himself. But the consequence proved a vast loss to the nation.'

"I find that this clause, 'privately got into an act, for the benefit of Captain Cole, to the vast loss of the nation,' is foisted into the 3d Anne, ch. 5th, entitled, 'An Act for granting to her Majesty a further subsidy on wines and merchandises imported'; with which it has no more connexion, than with 34th Edward I., 34th and 35th of Henry VIII., or the 25th Charles II. which provide that no person shall be taxed but by himself or his representatives."

But, when in addition to the repeated inroads made upon the Rights and Liberties of the Colonists, and of those in this Province in particular, we reflect on the late extraordinary measure in axing stipends or Salaries from the Crown to the Offices of the Judges of the Superior Court of Judicature, making them not only intirely independent of the people, whose lives and properties are so much in their power, but absolutely dependent on the Crown (which may hereafter, be worn by a *Tyrant*) both for their appointment and support, we cannot but be extremely alarmed at the mischievous tendency of this innovation; which in our opinion is directly contrary to the spirit of the British Constitution, pregnant with innumerable evils, and hath a direct tendency [t]o deprive us of every thing valuable as Men, as Christians and as Subjects, entitled, by the Royal Charter, to all the Rights, liberties and privileges of native Britons. Such being the critical state of this Province, we think it our duty on this truly distressing occasion, to ask you, What can withstand the Attacks of mere power? What can preserve the liberties of the Subject, when the Barriers of the Constitution are taken away?

A report of the proceedings of the town meeting was printed and widely disseminated. The letters of correspondence sent from Boston evoked comparable resolutions in over one hundred towns in the province. At a December 14, 1772 meeting the freeholders and inhabitants of Cambridge voted instructions to their representative in the House containing the following passage:

[I]n the midst of our distress, we are still further alarmed with seeing the governor of the province made independent of the people, and the shocking report that the judges of the superior court of judicature, and other officers, have salaries affixed to their offices, dependent on the crown and ministry, independent of the grants of the commons of this province. By this establishment, our lives and properties will be rendered very precarious; as there is the utmost danger that through an undue influence the streams of public justice will be poisoned. Can we expect the scales will be held equal between all parties? Will such judges be unmoved by passion or prejudice, fear or favor? What a miserable situation will the man be in, under a corrupt administration, who shall dare to oppose their vile measures? Must he not expect to feel the keenest resentment of such administration, by judges thus bribed to pursue the plan of the ministry?

THE PAPERS OF BENJAMIN FRANKLIN

(Pennsylvania Assembly Committee of Correspondence to Benjamin Franklin and Richard Jackson.)

Printed in The Votes and Proceedings of the House of Representatives . . . 1767–1768 (Philadelphia, 1768), pp. 132–4.

PHILADELPHIA,
September 22, 1768.

GENTLEMEN: In our Letter of the twentieth of February last, we communicated the Directions of the House, that you would unite with the Agents of the other Colonies in such Measures as might be pursued with respect to the obtaining a Repeal of the Act of Parliament imposing Duties on Glass, Paper, &c. in America.

The Assembly, in their present Sitting, resuming the Consideration of that Act, and continuing of Opinion, that it is extremely inconsistent with the Rights of the Freemen of the Province, have thought it a necessary Duty to petition the different Branches of the British Legislature for Redress. Those Petitions are herewith transmitted, which you are desired to lay before His Majesty and the two Houses of Parliament, to whom they are respectively directed.

You will perceive, on perusing the Petitions, that the Reasons, offered to induce a Repeal, are very much confined to the Right of the Colony in being exempted from Parliamentary Taxation; little is said on the Inexpediency of the Regulation adopted by the Act, lest seeming to rely on the latter should weaken the Arguments in Support of the former. However, the House think it necessary to observe, that, were they convinced the Parliament had a constitutional Right to tax the Subject, which they never can have, in America, yet they conceive the Act under Consideration is liable to several material Objections, founded on the Welfare of the Mother Country, as well as the Colonies.

A little Attention to the natural Effects of the Act must shew its bad Policy. The Colonies are prohibited, by divers Acts of Parliament, from importing Commodities of the Growth and Manufacture of Europe, save from Great-Britain, a few Articles excepted. They have hitherto in a great Measure contented themselves with supplying their Wants from their Mother Country, to the great Advantage of her Commerce. But should the Act be continued, and with it the heavy Duties on the Commodities therein enumerated, it will naturally induce the Americans, either from the Principles of Necessity, Interest or Conveniency, to set up Manufactories of those Articles, and desist from any further Importation from Britain. Hence, a virtual, if not an actual, Repeal of the Statute will follow; and instead of leaving the Colonies to their natural and proper Business, the Improvement and Cultivation of their Lands, and of Course increasing the Demand for British Commodities among them, it will operate as a Bounty to raise and manufacture them here, to the great Loss of the British Merchant and Manufacturer.[1]

Another Objection to this Statute, which is equally applicable to several others, laying Duties on Commodities for the Regulation of Trade, is, that they are all to be paid in Silver. This Restriction, in the Payment to one Species of Currency, has already laid the Importers under the greatest Difficulties. The Balance of Trade, in Favour of Britain, has already drained the Colonies of that Article, insomuch that the Merchants can now scarcely collect sufficient to pay the Duties, and in a short Time it will be impossible to pay them at all, as the Colonies have no Trade which can supply them with the Materials appointed in the Act for the Payment. A Stop to the Importation of those enumerated Commodities must from thence follow, as no Person will choose to give Orders for Effects which he will not be permitted to land without paying Duties for them in Silver, when it is out of his Power to procure it.

A third Objection arises from the Appropriation of the Monies to be levied by the Act. They are to be applied to the Payment of the necessary Charges of the Administration of Justice, and to the Support of the Civil Government, in such Colonies where it shall be judged necessary. This Regulation, the House apprehends, may be attended with the most dangerous Consequences. Should the Proprietaries of this Province continue to hold the Nomination and Appointment of the Governor, and his Salary to be paid by the People, without their Consent, be certainly fixed, he will be rendered altogether independent of them, and thereby that Check on his Conduct, which is necessary to the Support and Preservation of their Rights, be intirely lost.

The Establishment of Salaries, in the same Manner, on the Judges holding their Commissions during the Pleasure of the Proprietaries, who are universal Landlords, and must of Course have Controversies in the Courts of Justice with the People, will be attended with Mischiefs little, if any, inferior.[2] In England, and by a late Act in Ireland, the Judges have independent Livings, but the Tenure of their Commissions is during good Behaviour, and they hold Estates for Life in their Offices.[3] Thus they are freed from the Influence and Control of Power, and under them the People have a rational Surety of impartial and upright Decisions in all Cases where either Liberty or Property is concerned. But should the Judges of this Province, already dependant on the Will and Pleasure of the executive Part of Government for their Commissions, be rendered altogether independent on the Legislative for their Salaries, whenever either weak or bad Men may be in Office, or the Proprietaries, or their Governors, shall think proper to interfere in judicial Determinations, the Liberties and Properties of the People must be in the most imminent Danger, if not totally destroyed.

But the Act provides, that the Monies shall be applied to the Purposes before-mentioned, in such Colonies where it may be judged necessary. Should it be thought unnecessary to apply any Part of it to the Use of this Province, it must appear on the least Reflection extremely unjust that the Duties levied on the People here, without their Consent, should be appropriated to the Uses of the other Colonies, without our deriving the least Benefit from the Application.

Should any Surplus happen after these Purposes are answered, the Residue of the Monies is to be expended in the general Defence of the Colonies; but the House cannot conceive that the Parliament can have a Right to tax so large a Body of the King's Subjects without their Consent; and had they that Authority, they apprehend the People of this Province have ever heretofore rendered the Exercise of it over them unnecessary, by the Liberality of their Grants the Crown, whenever required.

Former Assemblies having received repeated Proofs of your warm and steady Regard for the just Rights and Privileges of this and the other American Colonies, the House entertain the fullest Confidence that you will pay all due Attention to the important Matters now committed to your Care, by exerting your utmost Influence and Abilities to obtain a Repeal of the before-mentioned Act, which they conceive to be equally prejudicial to the true Interest of Great-Britain and her Colonies.

They also request that you will not be unmindful of the several Matters heretofore recommended to your particular Attention, with Respect to the Trade of the Colonies to Spain, Portugal, the West-Indies, &c. and that you will omit no favourable Opportunity of obtaining Relief from the many injudicious Restrictions which have been laid on our Paper Currency, the Exportation of Iron, and other Branches of our Commerce, to the manifest Prejudice of both Countries; for the Particulars whereof we refer you to our former Instructions.

Signed by Order of the House,
JAMES PEMBERTON,
WILLIAM RODMAN,
ISAAC PEARSON,
JOSEPH GALLOWAY,
Speaker.
JOSEPH FOX,
JOSEPH RICHARDSON,
THOMAS LIVEZEY,

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[1] An argument which BF had made earlier, and upon which he elaborated in "The State of the Trade with the Northern Colonies" below, Oct. 20, 1768.

[2] This fear proved to be groundless: governors and judges in Pennsylvania, unlike those in Massachusetts, never were paid from revenues collected under the Townshend Acts.

[3] True of England, under the Act of Settlement of 1701, but not of Ireland. Although a Judges' Tenure Bill had been introduced into the Dublin parliament in 1767 and approved in outline, it was rejected in London. The substance of the bill did not become law until the Irish reforms of 1782.

NEW YORK,
September 24, 1768.

ALS: American Philosophical Society
From James Parker

Honoured Sir:

Altho' it be many Months since I have had the Pleasure of one Line from you, yet as I have some Room to think you are not on the Return home now, as all your Friends expected, I will once more scribble to a few Lines more to ask, How you do?

At the same time, it may not be displeasing to receive Word, that your Son being gone to Albany, as you will see in the News papers, I heard he got well to Sir Wm. Johnson's, and they expected the Treaty about this Time. Your Son and Daughter Bache you will doubtless hear from, they being now in this City, just returned from Boston in their Way home, she I see is very well.[4]

We continue to struggle along thro' the World, And if I can make both Ends meet, I shall be happy. I am much as I used to be in Health, and tho' I meet with hard Fare, I am determined to Conquer my Adverse Fortune, or die in the Attempt.

The Publick Affairs and Commotions you will probably learn from the Papers and others. I do not love to arraign the Conduct of my Superiors, tho' I can't help thinking some actings are strangely absurd.

We complain the Nation is deeply in Debt, and yet those at Helm send 5 or 6 Commissioners to Boston with the Charge or Pension of about £3000 sterling per An. which might every Farthing been saved, and all the Business done as well as before, and much more to the Satisfaction of every Officer here.[5] Those besides kicking up a Dust, by their haughty Behaviour, imitate their Superiors in Absurdity, or shall I call it Chicanery. They have ordered all the Money collected for Duties to be first sent to them to Boston, and those Officers who receive Pay as such here, are to send a Power to some of their Dependants there, for them to receive it, and to send it back here, by which Means they are to stop (or their Dependants do it) 2½ per Cent. out of all our small Allowances, besides paying Freight and Risk of the Money's coming here. Now as the Money first goes from hence, could it not be better paid here without any of this Risk or Charge? And is not such a Conduct absurd; as well as cruel to one who has but a small Allowance at best, and some of that to be decolated [6] from them. I could wish it had remained to be paid in England, tho' I have never had a Copper yet of any sort from that Office.

When I begin to scribble, I know not when to stop. I have only to add, all our respectful Compliments from Your most obliged Humble Servant.

JAMES PARKER.

Addressed: For/Dr Benjamin Franklin/Craven-Street/London
Endorsed: Mr Parker Sept. 25.

Mr. MATHIAS. Mr. President, concerns over the need for judicial independence were also reflected in the various State constitutions. Many of the Constitutions provided for judicial tenure during good behavior. Perhaps the best statement of this concern was contained in the Bill of Rights of the Massachusetts Constitution of 1780.

> It is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as free, impartial, and independent as the lot of humanity will admit. It is therefore not only the best policy, but for the security of the rights of the people, and of every citizen, that judges hold their offices as long as they behave themselves well; and that they should have honourable salaries ascertained and established by standing laws.

Some of the State constitutions provided for removal by address. Virtually all contained provision for the impeachment of officials, including judges, although the grounds for such impeachments varied. For example, a few including Pennsylvania, set forth maladministration as a grounds for impeachment. This is a significant fact since the Founding Fathers specifically rejected "maladministration" as a grounds for impeachment during the convention.

It was against this background that the Founding Fathers met in Philadelphia in the summer of 1878 to revise the Articles of Confederation and ultimately to draft a Constitution.

The Founding Fathers also provided that judges should hold their offices during good behavior, should receive a salary that shall not be diminished during their continuance in office, and that they should be removable only through the impeachment process. They had learned the lessons of history. I hope that today we will not forget the lessons of history. They specifically rejected address as a basis for removal and maladministration as a grounds for impeachment. And, by doing so, they recognized that neither of these was consistent with a truly independent judiciary. They knew that the provision for good behavior commissions in the Act of Settlement was a limited grant of judicial independence since the judges could be removed by the Parliament. They chose not repeat such a procedure here. And, they rejected maladministration as a basis for impeachment—a grounds found in some State constitutions—since as Madison stated "so vague a term will be equivalent to a tenure during the pleasure of the Senate." Thus the Founding Fathers went beyond the historical precedent. They decided that the form of republican government that they envisioned required a truly independent judiciary and that neither address nor maladministration fit in with their conception.

The question has been raised as to how far the Constitutional Convention meant to incorporate these lessons of history in our Constitution, and I think I can summarize this in a very succinct way with a brief quotation from Federalist Paper No. 78, in which Alexander Hamilton wrote:

> According to the plan of the convention, all the judges who may be appointed by the United States are to hold their offices during good behavior, which is comfortable to the most approved of the state constitutions; and among the rest, to that of this state [New York]. Its propriety having been drawn into question by the adversaries of that plan, is no light symptom of the rage for objection which disorders their imaginations and judgments. The standard of good behavior for the continuance in office of the judicial magistracy is certainly one of the most valuable of the modern improvements in the practice of government. In a monarchy it is an excellent barrier to the despotism of the prince: In a republic it is a no less excellent barrier to the encroachments and oppressions of the representative body. And it is the best expedient which can be devised in any government, to secure a steady, upright and impartial administration of the laws.

That, Mr. President, is what I hope we will maintain, and that is why I hope we will defeat this amendment and this bill.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. MATHIAS. I am happy to yield to the Senator from Oklahoma.

Mr. BELLMON. Mr. President, although I totally support the goal of S. 1873, which is to maintain the integrity of the Federal judicial system, I oppose the proposed Judicial Conduct and Disability Act of 1979 because implementation of this judicial review legislation would harm the independence of our court system and for a similar reason I cannot support the amendment of the distinguished Senator from Georgia.

The purpose of this proposed legislation as outlined by the committee report—

> Is to establish a procedure for investigating and resolving allegations that a member of the Federal judiciary has been unable to discharge efficiently all the duties of his or her office by reason of mental or physical disability or has engaged in conduct which has been inconsistent with the effective and expeditious administration of the business of the courts.
>
> An investigation of a complaint filed against a judge of the United States may result in the dismissal of the complaint, a certification of disability, a request that the judge voluntarily retire, an order that, on a temporary basis, no further cases be assigned to the judge, private or public censure or reprimand, the filing of a report to the House of Representatives suggesting the possibility of impeachment, or other action as deemed appropriate under the circumstances.

As we are all aware, the Constitution provides for the removal of Federal judges by impeachment. Impeachment by Congress of a member of the judiciary as set forth in article I of the Constitution has been seldom used. It is my understanding that the procedure contained in S. 1873 is designed to deal with those matters which do not rise to the level of impeachment offenses. It is also my understanding that retirement for disability and discipline is currently considered part of the general administrative functions of the judicial councils of the respective circuit.

Although the current procedures may not always provide an appropriate remedy, I do not believe that adoption of S. 1873 is in the best interest of our judicial system or of the country. All too often citizens question a judge's competency because of an unpopular decision. There is reason to believe that disgruntled litigants would file numerous, frivolous complaints that could distract from the independence of our judicial system that the framers of the Constitution worked to insure. Public pressures cannot be allowed to encroach upon the constitutionally mandated independence of the members of our judicial system.

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[4] For WF's journey to attend the conference that produced the Indian treaty at Fort Stanwix see below, Thomas Wharton to BF, Nov. 7, and Samuel Wharton to BF, Dec. 2, 1768. The visit of the Baches to Boston was reported in the *Mass. Gaz.*, Aug. 11, 1768.

[5] Parker elaborates on the imposition of the customs commissioners in his letter to BF below, Nov. 22, 1768. See also Gipson, *British Empire*, XI, 117–20.

[6] Literally, beheaded, hence refuced.

Mr. President, there is no question that occasionally Federal judges abuse the power of their office or become incompetent to discharge the responsibilities of office. Fortunately, these occasions are rare and I feel that it would be a serious mistake to place the entire judicial system in jeopardy in an attempt to create a more expedious way of dealing with a few bad apples in the judicial barrel. I would favor an age limit for Federal judicial service, but I am opposed to actions which will subject judges to political pressure or harassment which could make it difficult for them to interpret the Constitution and laws objectively.

For these and other reasons set forth in my statement I cannot support the bill or the Nunn amendment.

Mr. President, enactment of S. 1873 will have a chilling effect on the independent judgment of our judicial system. I urge that this bill be defeated.

Mr. GOLDWATER. Vote.

Mr. NUNN. Mr. President, if there be no further discussion on the amendment, I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from South Carolina (Mr. Thurmond) is recognized.

Mr. THURMOND. Mr. President, I am opposed to the substitute measure being offered by the able Senator from Georgia for reasons which I basically set forth in my opening statement on S. 1873. During the course of the year since Senate passage of S. 1423, I have participated in further committee deliberations on this type of legislation and have conversed and corresponded with a number of interested persons. Through this additional debate and study, I have come to the conclusion that it would be preferable for the Senate to enact a more moderate piece of legislation than S. 1423 or the very similar Nunn substitute.

Senator Nunn's substitute bill includes, as did S. 1423, a provision allowing removal of a judge by means other than impeachment. This provision has raised serious constitutional questions. I have, for example, received correspondence from Judge Clement Haynsworth and from the faculty of the University of South Carolina Law School expressing their doubts as to the constitutionality of such a removal provision. I see no reason to push a bill to its constitutional limits if effective legislation, as I believe S. 1873 is, can be developed which does not contain questionable provisions. As I stated earlier, I feel that a more moderate, less controversial bill would stand a better chance of actually becoming law and would be more readily accepted by the judges themselves.

S. 1873 also establishes a simpler system than that created by the Nunn substitute. It provides for initial action to be taken at the circuit council level, with appellate review by, or a de novo hearing held by the Court on Judicial Conduct and Disability. The provisions of S. 1873 are more similar than those of the Nunn substitute to procedures which have been established by rule in 10 of 11 circuits. S. 1873 would, therefore, come closer to being a statutory codification of existing practice in the circuits. The Nunn substitute, on the other hand, establishes both a Judicial Conduct and Disability Commission and a Court on Judicial Conduct and Disability. Complaints are initially filed with the Commission which then refers them to a Circuit Council Committee. After Committee action, complaints are once again returned to the Commission for final adjudication. Review then lies with the Court on Judicial Conduct and Disability which has purely appellate functions. In my opinion, it would be preferable to enact a system which is more similar to those procedures which the judges themselves have developed unless and until the need for stronger, more controversial legislation becomes evident.

Mr. President, the members of the Judiciary Committee have labored long and hard to develop legislation which would be more readily accepted by Members of the House and Senate and by the judges who are to implement it. I hope that this more moderate approach to the problems of judicial misconduct or disability will be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia (Mr. Nunn).

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Delaware (Mr. Biden), the Senator from Idaho (Mr. Church), the Senator from California (Mr. Cranston) the Senator from Hawaii (Mr. Inouye), the Senator from Hawaii (Mr. Matsunaga), and the Senator from Michigan (Mr. Riegle) are necessarily absent.

I further announce that the Senator from Nevada (Mr. Cannon) is absent on official business.

Mr. STEVENS. I announce that the Senator from Utah (Mr. Garn), the Senator from Oregon (Mr. Hatfield), and the Senator from North Dakota (Mr. Young) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) would vote "yea."

The PRESIDING OFFICER. Does any Senator wish to change his vote?

The result was announced—yeas 30, nays 60, as follows:

[Rollcall Vote No. 378 Leg.]

YEAS—30

Armstrong
Bentsen
Boren
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Chiles
Danforth
DeConcini
Domenici
Eagleton
Goldwater
Hatch
Hayakawa
Helms
Jackson
Johnston
Long
Morgan
Nunn
Packwood
Ribicoff
Roth
Sasser
Schweiker
Simpson
Stennis
Stevens
Stone
Talmadge
Zorinsky

NAYS—60

Baker
Baucus
Bayh
Bellmon
Boschwitz
Bradley
Bumpers
Burdick
Chafee
Cochran
Cohen
Culver
Dole
Durenberger
Durkin
Exon
Ford
Glenn
Gravel
Hart
Heflin
Heinz
Hollings
Huddleston
Humphrey
Javits
Jepsen
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Lugar
Magnuson
Mathias
McClure
McGovern
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Sarbanes
Schmitt
Stafford
Stevenson
Stewart
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams

NOT VOTING—10

Biden
Cannon
Church
Cranston
Garn
Hatfield
Inouye
Matsunaga
Riegle
Young

So Mr. Nunn's amendment (UP No. 694) was rejected.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DeCONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DeCONCINI. Mr. President, I yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate is not in order. The Senate will be in order.

The Senator from Massachusetts may proceed.

Mr. DeCONCINI. Mr. President, will the Senator yield, so that I may ask for the yeas and nays on passage?

Mr. KENNEDY. Yes.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays are ordered.

Mr. KENNEDY. Mr. President, I want first of all, to commend the distinguished Senator from Arizona for the work that he has done in this particular area of judicial policy. As the chairman of the Subcommittee on Judicial Administration, he has tackled what is an extraordinarily—may we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order. Senators will take their seats so the Senate may proceed.

The Senator from Massachusetts may proceed.

Mr. KENNEDY. Mr. President, there is involved here an area of enormous importance and consequence of public policy, and that is how we are to deal with rare and isolated actions that have occurred in the judiciary throughout the history of our country that fall below the level of an impeachable offense.

We have passed legislation during the last year adding some 152 new judges to the Federal judiciary. It seemed only appropriate for this body, in exercising its judgment and making its recommendations to the administration, to devise a mechanism which was both constitutional and also appropriate for dealing with particular problems such as have been documented during the course of the DeConcini hearings.

This is an extremely delicate problem, but the approach recommended by Senator DECONCINI has had the overwhelming support of the members of the Judiciary Committee, and seems to me to be a fair, equitable, and an entirely rational process to deal with the problems that we are facing, however isolated they may be.

Mr. President, I therefore commend to the Senate the support of this legislation. It seems to me to be responsive to the need, and to give the American public the kind of confidence in their judicial system which they rightly deserve.

So, Mr. President, S. 1873 is a carefully crafted compromise measure which establishes a procedure for the processing of complaints directed against Federal judges. The bill received the overwhelming endorsement of the Senate Judiciary Committee and is designed to fill a vacuum in existing law—the absence of a procedure for disciplining judges who have engaged in conduct inconsistent with the effective and expeditious administration of the business of the courts. Senator DECONCINI and the other members of the Judiciary Committee have fashioned a fair, workable, and balanced approach to the problem. S. 1873 avoids sanctions which threaten the independence of our Federal judiciary; at the same time the bill has sufficient teeth to eliminate the appearance of a whitewash or coverup.

Evidence of the delicate balance struck in S. 1873 can be found in analyzing what the bill does not do. The bill does not provide for any removal sanction; thus, the greatest threat to judicial independence has been removed from this year's legislation. The Constitution alone provides for removal through a process of impeachment. That is as it should be. Our Federal judges—the vast majority of whom perform their duties in a just and dedicated manner—must not be confronted with a threat of removal unless and until the impeachment process mandated by the Constitution is followed. S. 1873 recognizes this. It provides for the imposition of various sanctions—for example, public and private censure, a request that the named judge voluntarily retire, and temporary removal of a judge's caseload. If the conduct of the judge warrants removal, impeachment is available for that purpose.

On the other hand, I agree with the distinguished Senator from Arizona that a new mechanism is needed to deal with those rare and isolated instances of judicial misconduct that do not rise to the level of an impeachable offense. That is the purpose of S. 1873. The legislation establishes a procedure—wholly within the judicial branch—for the processing and investigation of citizen complaints. These complaints must be based upon conduct that impairs the effective and expeditious administration of justice, or the existence of some physical or mental impairment.

The procedures established by the bill leave the subject of discipline in the first instance to the judicial councils of each circuit. If either the complainant of the judge disagrees with the council's action, an appellate procedure is available. And, when it appears warranted, a procedure is provided for transmission of a report to the House of Representatives stating that, in the view of the appellate body, facts are made out for an impeachable offense.

Mr. President, during the last decade a consensus has slowly evolved that there is a real need for some form of disciplinary mechanism in Federal law. The recent passage of the omnibus judgeship bill—creating 152 new judgeships—reinforces the need for this legislation. The bill does not provide for removal; at the same time a new, workable disciplinary procedure is established. I am convinced that S. 1873 will in no way threaten the independence of our Federal judiciary. Yet, it will be an effective way of assuring the public that no one, including the judges of our Federal courts, is above the law. I urge the enactment of S. 1873.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

UP AMENDMENTS EN BLOC NO. 695

(Purpose: To make certain conforming changes made necessary as a result of recent legislation with respect to bankruptcy and Federal magistrates)

Mr. DECONCINI. Mr. President, I have two technical amendments that will bring the bill into conformity with existing law. I send them to the desk and ask for their immediate consideration.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI) proposes unprinted amendments en bloc numbered 695.

The amendments are as follows:

On page 2, line 19, strike out the first comma and insert in lieu thereof "or".

On page 2, beginning on line 19, strike out the second comma and "or a bankruptcy court or a magistrate".

On page 9, line 19, strike out "with the assistance of counsel" and insert in lieu thereof a comma and the following: "may be represented by counsel".

Mr. DECONCINI. Mr. President, these amendments conform with the existing bankruptcy law and magistrates' law as to existing provisions, or have no significant effect on this legislation. I move that they be approved.

The PRESIDING OFFICER. The question is on agreeing, en bloc, to the amendments of the Senator from Arizona.

The amendments (UP No. 695), en bloc, were agreed to.

Mr. DECONCINI. Mr. President, I would like to comment just one more time on the efforts of the Senator from Georgia in this area. Though his substitute was not approved, I think the record should show very distinctly that it is because of his efforts that we are even here today with a vital bill coming before this body for a vote. I thank him for his tireless efforts in this area.

Mr. NUNN. Mr. President, I thank the Senator from Arizona. The bill is the product of his leadership. I do plan to vote for this bill; it is half a loaf, but I think it is a step in the right direction.

Mr. MATHIAS. Mr. President, I join with the Senator from Arizona in commending the Senator from Georgia (Mr. NUNN), and I commend the Senator from Arizona as well, because their work over the past several years has brought about a substantial change in the way judges and lawyers and the general public view the question of judicial discipline.

In fact, Mr. President, they have been so successful in fostering a hard, searching look at this problem of judicial discipline that I believe they have made it unnecessary to pass this bill tonight. A very different element in the administration of justice in this country—different from when we considered this same problem last year—is the adoption by the Judicial Conference of the United States, on March 9 of this year, of a resolution which provides internally for judicial discipline.

That resolution has been implemented by 10 of the 11 judicial councils in the country, and I am advised that the 11th council is about to adopt procedures which will then make it unanimous and uniform across the country, so that we will have a working system of judicial discipline implemented by the judges themselves. It is only about 6 months old. I think when it has had time to operate a little longer we will find it is an effective system.

I think a further reason why we should not pass this bill tonight is that it is unconstitutional. That can be stated very simply. What the Founding Fathers did in the Constitution was deal with the question of judicial salaries and provide that judges serve during good behavior, and that otherwise they should be impeached. What they did not do was provide for a method of internal discipline of judges.

They did provide for a method of internally disciplining Members of Congress, but not judges. They rejected maladministration as a grounds for removal, and they rejected the British practice of an address of the legislature as a means of removing judges. So the Constitution is very clear, in my judgment, and raises serious constitutional doubts about this bill, which I believe makes it unwise to adopt it tonight.

I would further feel as a matter of policy it is unwise. As the Senator from

Massachusetts has just said, we are dealing with a phenomenon which is very rare in American legal history, so rare that I believe it will be unnecessary to adopt this bill tonight.

As Professor Gunther, of Stanford University has said:

> Federal judges are inevitably in the business of rendering controversial decisions. Important issues and interests are at stake in the cases before them; and the losing side frequently and understandably feels aggrieved. With the proliferation of federal statutes and regulations, the federal judges' involvement in controversy is bound to grow. Setting up an unnecessary new channel which may lend itself to the harrassment of those judges is a profoundly disturbing departure from one of the most cherished values of the American constitutional scheme, that of judicial independence.

For those reasons, Mr. President, I would hope the Senate would not adopt this bill tonight, and that Senators would vote "no."

Mr. PERCY. Will the Senator yield for a comment?

Mr. MATHIAS. I am happy to yield.

Mr. PERCY. It is not that the word of the Senator from Maryland on constitutionality is not adequate, but I think it should be noted that Phil Kurland, a noted constitutional authority from the University of Chicago, assured me today that in his judgment this bill is unconstitutional.

Mr. MATHIAS. Professor Kurland is not only a noted constitutional authority but he has frequently been an adviser to the Senate Judiciary Committee.

Mr. THURMOND. Mr. President, I want to say a word or two. I believe this bill ought to be adopted. If the Senate had before it legislation providing for removal, there would have been an arguable constitutional question. Much has been written that such a provision would be constitutional, but there is much question about it.

With passage of S. 1873 we will have adopted a middle course. It is a question of, on one side, providing for total removal of a judge, which is one extreme, and doing nothing is yet another. With S. 1873, we are taking a reasonable approach to the problem.

The Judicial Council will have the power, for example, to temporarily not assign cases to a judge; to publicly or privately censure or reprimand a judge; to certify permanent mental or physical disability; to request voluntary retirement of a judge; or to take other appropriate action.

I feel this is very reasonable. I feel S. 1873 is a constitutional bill, and I hope the Senate will adopt it.

Mr. DECONCINI. Mr. President, the question of constitutionality has been discussed at great length today, as it was in the committee. I think it is important to note that several members of the Supreme Court of the United States have indicated that legislation providing for judicial discipline is, in fact, constitutional. Those include the Chief Justice and Justice Rehnquist. Also, the former Attorney General, Judge Bell, has supported this as constitutional, even with the removal provisions in the legislation, which are not in the particular bill before us today. Prof. Raoul Berger testified and indicated that in his judgment it is constitutional. I could go on and on.

The ABA has studied the bill and has indicated that it is constitutional. They have passed a resolution supporting the bill with the removal provisions. So I think it is clear that the constitutional question has been thoroughly discussed.

The removal clause is not part of the bill which is now before us. Certainly, it is constitutional without the proposal, and I submit it is even constitutional with it. We only have the question here of a procedure to discipline judges, not remove them.

Mr. President, I ask unanimous consent that an article by Clark Mollenhoff and Gregg Rushford, appearing in the Washington Post last April on the subject matter, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHAT CAN BE DONE ABOUT UNFIT JUDGES?—ONLY FOUR HAVE EVER BEEN REMOVED FROM THE FEDERAL BENCH

(By Clark Mollenhoff and Greg Rushford)

Late in the afternoon of Friday, Dec. 12, 1975, Chief Judge Willis W. Ritter of the U.S. District Court in Utah notified U.S. Attorney Ramon M. Child to be ready to try 23 criminal cases by the following Thursday.

It was an impossible order. Three of the first four cases were criminal tax prosecutions involving approximately 100 witnesses, many of whom lived outside Utah. Even if subpoenas could be prepared and served and the Christmas travel crush surmounted, an airline strike made it impossible to get the witnesses to Salt Lake City in time. Child asked for 21 more days to prepare.

But the judge refused, and for several weeks the frustrated U.S. attorney and his staff struggled to try the cases properly. Ritter dismissed four cases outright that Thursday morning because the government witnesses were not present.

These decisions were later reversed by the 10th U.C. Circuit Court of Appeals in Denver, which declared that Judge Ritter's behavior "was utterly unreasonable and constitutes a gross abuse of discretion." It was not the first unreasonable action by Ritter, whose controversial career spanned nearly three decades until his death last month. Nor is his case an isolated example.

While there is no reason to doubt the ability or integrity of the vast majority of our nearly 700 federal judges, some unquestionably are unfit to serve, whether because of abuses of power, misconduct, corruption, senility, alcoholism or other reasons. The problem is that it is impossible to remove such judges from the bench short of going through the cumbersome impeachment process.

Attorney General Griffin Bell, himself a U.S. circuit judge for more than 14 years, told a Senate Judiciary subcommittee last September that "there is an urgency" about the need to create a workable mechanism to remove unfit judges. "Not every judge who perhaps should be impeached can be impeached," Bell added. "Congress does not have that much time."

Presumably referring to several criminal investigations conducted by the Justice Department against federal judges in the past two years, Bell also said, "Not everyone who perhaps should be can be indicted. There are some things that judges might do that might cause me to think that they ought to be indicted. However, that is a serious business, particularly since you have got to indict somebody in their own court."

Testifying after Bell, John A. Sutro, chairman of the American Bar Association's standing committee on judicial selection, quoted a 10-year statement by Chief Justice Warren Burger, then a Court of Appeals judge, that "I would not presume to say how many United States judges now in active service are not physically able to perform their work adequately, but every observer knows there are more than a few." Sutro said Burger's assessment "unquestionably is true" today as well.

Bell and Sutro were both endorsing the judicial tenure bill which the Senate Judiciary Committee is expected to approve this spring. The legislation, sponsored by Democratic Sens. Sam Nunn of Georgia and Dennis DeConcini of Arizona, would create within the judiciary a commission to investigate complaints against federal judges, who are appointed for life, and it would also create a special court to hear cases of misconduct or inability to serve. The court could dismiss the complaint or censure, involuntarily retire or remove the judge from office.

Only nine federal judges in our history have been impeached, and only four have been convicted and removed from office, the last more than four decades ago. This is chiefly because the impeachment process is so cumbersome and time-consuming.

A House Judiciary Committee report in 1940 termed it a "governmental absurdity" when applied to a single judge. Last fall Democratic Rep. Robert W. Kastenmeier of Wisconsin, a leading Judiciary Committee sponsor of judicial tenure legislation, said that "although instances of judicial misconduct are often brought to our attention, the Judiciary Committee's heavy workload makes it difficult, if not impossible, for us to set aside all other legislative activity to conduct an impeachment inquiry."

Impeachment also carries political liabilities. Federal judges by tradition are appointed under the patronage of senators. The resulting close judicial ties to Congress, as former Maryland Sen. Joseph Tydings acknowledges, make dealing with the unfit judge "a very sticky political thicket." In past impeachment trials the final votes were often divided on partisan grounds.

A more fundamental and still-unresolved issue is the belief that an unfit judge still could be immune to impeachment. Harvard's Raoul Berger, a prominent impeachment authority, for example, contends that a judge may breach the constitutional "good behavior" standard by "abuse of office, neglect of duty, nonattendance and the like." But the constitutional grounds for impeachment are treason, bribery and "other high crimes and misdemeanors," a more exacting standard. Berger says that "while all high crimes and misdemeanors might constitute a breach of good behavior, not all breaches of good behavior amount to high crimes and misdemeanors."

RISING TO THE OCCASION

The career of Judge Ritter reveals how difficult it is to curtail even bizarre judicial conduct, or what Washington attorney and author Joseph Borkin has called the "morbid legal tradition" of not moving against unfit judges.

Ritter, a Phi Beta Kappa from the University of Chicago and Harvard, was a law professor when appointed to the bench in 1949 by President Truman. Ritter was a strong individualist who frequently took the side of the "little guy" against the federal government.

From the moment he was appointed, Ritter became embroiled in squabbles. One of the more famous was his 1951 threat to jail a group of federal postal workers with whom the court shared office quarters; he was angered by their noisy elevators. Last year he ordered U.S. marshals to jail some noisy courthouse workers. But it was Ritter's injudicious attitude toward the law which became the most serious problem.

Salt Lake City lawyers who were friendly to Ritter almost always won the cases they tried in his court. One Utah attorney says that Ritter's "attitude toward justice was based on tremendous personal emotions. If he didn't like you, you would lose, and in effect be disbarred from representing clients in Utah. The only way justice was reached was when two lawyers appeared before Ritter and he liked them both; then he would rise to the occasion."

Over the years the 10th Circuit Court in Denver fought Ritter's excesses by reversing many of his decisions. The circuit's Judicial Council took control of the assignment of cases in Ritter's court. (Each of the nation's 11 regional judicial circuits has a council headed by the chief judge and empowered to supervise court administration).

But Ritter continued to try cases, and his conduct became a Utah scandal. By the late 1960s U.S. attorneys and their staffs were in frequent contact with the Justice Department "about the Ritter problem," says a former prosecutor. "But we learned how reluctant Washington is when discussing legal moves against a federal judge. We were always told to try to live with the situation."

After the 1975 Christmas trial episode, U.S. Attorney Child urged the Justice Department to file a petition with the 10th Cricuit Court to bar Ritter from trying federal cases. But the Ford Justice Department did not approve such a strong step.

In the meantime, the Ritter problem intensified. In 1976 Ritter didn't wait until Christmas. For eight months prior to October he set no criminal cases for trial. Then, on Oct. 5 he scheduled 50 trials beginning four days later. When Child obtained an order from the Judicial Council directing Ritter to schedule trials with at least 15 days notice, the judge held no criminal trials at all for the first six months in 1977.

ARBITRARY AND ERRATIC AUTHORITY

Finally, Washington agreed with Child that piecemeal methods would no longer contain Ritter. Solicitor General Wade H. McCree, a former 6th Circuit judge from Detroit, painted a damning portrait of Ritter last July in a six-page letter to the 10th Circuit's chief judge, David T. Lewis.

The solicitor general stated bluntly that for 28 years Judge Ritter's conduct had been "inimical to the standards of judicial conduct that ought to be observed." Step-by-step countermeasures, McCree said, "cannot be truly effective so long as Judge Ritter continues to exericse arbitrary and erratic authority in individual cases. The power of a trial judge is too great and the opportunities for abuse of that power too frequent to allow effective appellate supervision in the run of cases."

McCree told Judge Lewis that Ritter had "paralyzed" the administration of criminal justice, and said he would petition Lewis for a writ of mandamus to bar Ritter's participation in any federal cases. But in a paragraph reflecting the legal establishment's sensitivities, McCree wrote:

"I have deferred authorizing the filing of these formal requests, however, because I am concerned that the publicity attendant on requests might go far toward bringing the administration of justice into disrepute. They would publish, for the world to see a story of judicial indiscretion that ought not lightly be broadcast, and the attendant publicity would place both the court of appeals (in passing upon the requests) and the Department of Justice (in presenting them) in unfortunate positions: any legal action, for any reason, would be a subject for public scrutiny and to questions about motivation."

The solicitor general told Judge Lewis an experience from his service on the 6th Circuit. A judge's behavior, although "not by any stretch of the imagination as improper" as Ritter's, became intolerable. The circuit's chief judge after consulting with his fellow judges, "approached the district judge informally" and asked him to step down "before it was necessary to institute public proceedings that could only hurt his reputation and stature in the community." The offending judge retired.

McCree asked Lewis to consider applying similar pressure on Ritter. But Lewis made no such attempt because he felt it would be fruitless.

Finally, on Oct. 5, 1977, McCree and Child petitioned the 10th Circuit to remove Ritter from all federal cases. Ritter died March 4 while the 10th Circuit was considering the petition.

JUSTICE DEPARTMENT INVESTIGATIONS

Before Ritter's death, the Justice Department also had investigated whether he had defrauded the government. For four months in 1974 Vickey Jolley, Judge Ritter's clerk and secretary, allegedly was absent from work following an auto accident, but Ritter instructed the clerk of the court to continue paying her full salary. For another six weeks in 1975, and at various unknown times since 1970, Jolley allegedly was absent from work but continued to receive her full salary.

The Justice Department dropped this aspect of the investigation for lack of evidence directly inculpating Judge Ritter. Child complained that the investigation wasn't aggressive enough, and he later stepped down as U.S. attorney to practice law in Salt Lake City.

At least three other federal judges have been investigated by the Justice Department in the past two years.

In one case a cloud over the judge's reputation was removed only because he himself requested the investigation. Robert E. Varner, 56, a former Montgomery, Ala., bar association president, was appointed to the federal bench in 1971 by President Nixon. Varner was suspected of judicial misconduct amounting to bribery. The allegation stemmed from a four-year probation sentence Varner imposed on James Payton Judge III, who pleaded guilty to interstate transportation of stolen property. Before the sentencing Judge Varner had purchased 630 acres of land at $300 an acre from the defendant's great-aunt. After questions were raised in the Alabama press about whether the lenient sentence was in exchange for the land deal. Varner asked the 5th Circuit Judicial Council in New Orleans to investigate.

On June 10, 1976, the council issued a report criticizing Varner for not having stepped down in the case. But it found the charges of misconduct "groundless," even though the land price was "possibly favorable." The council noted that there was no evidence of collusion and that the relationship between the offender and his great-aunt was distant. Moreover, federal prosecutors had recommended the sentence of probation. That recommendation appeared "thoroughly responsible, and made probation the advisable and likely sentence," the council said.

The Justice Department agreed and did not seek to indict Varner.

No official acknowledgement has been made that John V. Singleton Jr. was even investigated or why. Singleton, 60, a Houston lawyer and longtime associate of John Connally, was appointed by President Johnson in 1966 to the Southern District of Texas in Houston.

A Houston television station reported on June 9, 1977, that a federal grand jury was "believed to be looking into allegations concerning" Singleton, and that "apparently this grand jury has been investigating banking matters involving Judge Singleton for some time." Justice Department sources confirmed that Singleton had testified before the grand jury but refused to elaborate on the nature of the testimony or to confirm reports that the department had sought an indictment.

The Singleton case raises important questions. Singleton's rulings have often angered Justice Department officials. In 1970, for instance, Organized Crime Strike Force officials were upset when the judge reduced a two-year prison term for New Orleans mobster Carlos Marcello, who had assaulted an FBI agent, to six months. Is the judge the target of a vendetta by unknown Justice officials who simply resent his liberal (by Texas standards) record?

When a judge is accused of some conduct serious enough to justify calling him before a grand jury, should there be a public explanation? If the suspected conduct was not indictable, should the Justice Department have notified the House Judiciary Committee of possible misconduct which might violate the constitutional "good behavior" standard? The committee has not been so notified.

Judge Singleton has declined to comment.

THE SPEEDY CONFIRMATION

Another federal judge known to have been the subject of a Justice Department criminal investigation is Herbert A. Fogel, 48, a former political fundraiser and Philadelphia law partner of former Senate minority leader Hugh Scott. Fogel was appointed to the Eastern District of Pennsylvania in 1973 by President Nixon.

He was investigated for his actions as a private attorney before his appointment to the bench, and his case raises serious questions about the judicial confirmation process.

Fogel was the lawyer for and part owner of the Gateway Corp., which won a controversial February 1971 contract from the General Services Administration. The contract was worth $78 million for 30 years' rent to federal offices in a Gateway building in West Philadelphia.

Because Gateway's winning bid was $27 million higher than the lowest bid submitted to GSA, and because key GSA officials were also close to former Sen. Scott, the contract raised eyebrows. In March 1972, the General Accounting Office, Congress' watchdog, reported the award had been "improper" because Gateway had failed to comply with various criteria in its bid submission.

Despite widespread publicity surrounding the Gateway case, the Senate Judiciary Committee confirmed Fogel in a routine 10-minute hearing in February 1973. Republican Sen. Roman Hruska of Nebraska, who chaired the hearing, asked Fogel no questions about Gateway. The only other senators present were Pennsylvania's Richard Schweiker and Scott, who took up most of the 10 minutes with effusive praise of the nominee.

But a civil lawsuit brought by a losing bidder, John W. Merriam, brought out additional facts about Gateway. Judge Fogel admitted in a sworn deposition that he had backdated documents submitted to GSA, and Justice launched a criminal investigation in 1975. Although the exact date is still obscured in secret grand jury proceedings, sometime in late 1975 or early 1976 Fogel refused to cooperate with a grand jury by invoking his Fifth Amendment rights against self-incrimination.

The Justice Department dropped the investigation in 1976, but the Carter administration revived it last year. Attorney General Bell wrote Rep. Allen Ertel of Pennsylvania on Oct. 19 that he was reviewing the evidence to see if the case should be referred to the House Judiciary Committee for impeachment proceedings or "other possible alternatives."

Bell never referred the case to the committee and he will not comment on what he meant by "other possible alternatives." But on Jan. 20 Fogel announced his resignation, effective May 1. The announcement came eight days after two former Philadelphia policemen who were convicted of robbery filed a petition in federal court accusing Fogel and two other federal judges of being "owned" and on their lawyer's "payroll." Those charges are currently under investigation.

UNEXAMINED COMPLAINTS

Each year dozens of complaints against federal judges go unexamined for lack of an appropriate investigative mechanism.

Judicial councils in the regional federal circuits have no investigative staffs and are not capable of dealing with complex cases. Although a review committee established by the policy-making Judicial Conference of the United States has been diligent and effective in resolving simpler conflict-of-interest and ethical questions, it too is not equipped to deal with difficult cases.

Nor is the Supreme Court able to police the federal judiciary, as illustrated by one 1976 complaint lodged with it by a Pennsylvania businessman named John A. Nard. Nard complained about alleged political corruption by several federal judges in Pennsylvania, but Supreme Court Clerk Michael Rodak Jr. replied: "I regret to inform you that this court has no authority to institute or conduct investigations as mentioned in your letter. Neither can we suggest an investigative body."

It is precisely such mechanisms that would be set up by the pending judicial tenure legislation, which has also been endorsed in principle by the Judicial Conference. Indeed, the value of such a procedure has already been demonstrated at the state level. Since adopting such legislation in 1961, California has become the model for over 44 state judicial tenure commissions. Rather than face formal hearings, 67 California judges have resigned since 1961. Five others have been censured by the California Supreme Court, and three more have been removed from office.

Mr. DECONCINI. Mr. President, I am prepared to have a final vote.

Mr. President, prior to that, I would be remiss if I did not thank the Senator from Maryland today for a number of things, not only his eloquent arguments on the other side of this matter, but his willingness to address a very sensitive problem to him and to all of us here, and his staff willingness to work on the problem with amendments. We did incorporate some in the committee. His historical background, as demonstrated today, is second to none. I thank the Senator for his efforts. I am prepared to vote.

Mr. THURMOND. Mr. President, I would like to again take this opportunity to commend the able Senator from Arizona for the fine leadership he has shown in this bill. I also want to commend the able Senator from Georgia, Mr. NUNN, for his interest in this bill and the great amount of work he has done on this type of legislation; also the distinguished Senator from Maryland for the study he has given to this bill and the fine knowledge he has brought to the Senate debate today on S. 1873. I would also like to thank Senators HATCH, LAXALT, BAYH, and HEFLIN for their fine contributions to the deliberations on this legislation.

Mr. MATHIAS. I am very grateful to the Senator from Arizona and the Senator from South Carolina, but much of the credit goes to my staff, Mr. Klipper, and Ms. Rienhoff, who have both been very helpful.

● Mr. DOLE. Mr. President, today we consider the Judicial Conduct and Disability Act of 1979. This bill establishes a procedure for the processing of complaints against the Federal judges of our Nation.

THE BENCH MUST BE ACCOUNTABLE

During the 93d, 94th, and the 95th Congresses, consideration has been given to legislation that would establish an alternative to the traditional right of impeachment. In light of the fact that, the recently enacted Federal Omnibus Judgeship Act has resulted in an increase of 152 authorized district and court of appeals judgeships along with the 170 senior judges, there are over 850 Article III judges. Clearly the American people have a basic interest in the conduct of these 850 life tenured judges. Although most of the members of the bench are competent, dedicated individuals the public has a right to resolve the occasional problems that arise. Without a means to make the bench accountable the public could lose confidence in the judiciary. That confidence is essential to the effectiveness of our judiciary system.

THE CONSTITUTION

The Founding Fathers were aware of this potential threat to judiciary and they incorporated provisions for the impeachment of Federal judges. Article II, section 4 of the Constitution provides that—

> The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

Mr. President, it is not difficult to conceive of instances that a judge should be required to account for that would fall short of this high constitutional standard. This bill creates an effective alternative to impeachment.

IMPEACHMENT—A CUMBERSOME PROCESS

In addition to requiring a high standard of misconduct, impeachment is a difficult procedure to implement. It is cumbersome and time consuming. This process requires more time than either the House of Representatives or the Senate may realistically be able to provide. An average impeachment trial in the Senate lasts 16 days and some have taken as long as 6 weeks. Consequentially this process is rarely used since the Legislature cannot possibly afford the amount of time that the impeachment procedure requires.

MECHANICS OF THE BILL

The Senator from Kansas supports this vital legislation. It will enable the public to file a complaint against a Federal court of appeals judge, a Federal district judge, a Federal bankruptcy court judge, or a Federal magistrate with the judicial council of the circuit in which the judge serves, alleging that the judge has been unable to discharge efficiently all the duties of his or her office by reason of mental or physical disability, has engaged in conduct inconsistent with the effective and expeditious administration of the business of the courts, or has engaged in conduct prejudicial to the administration of justice by bringing the judicial office into disrepute. The bill wisely makes no provisions for disgruntled litigants to file complaints based on their displeasure in the manner in which their case was resolved.

I encourage my colleagues to support this legislation to insure that the American people continue to place their trust in our judiciary system.●

Mr. MATHIAS. Mr. President, I ask unanimous consent that the testimony of Monroe H. Freedman on behalf of the American Civil Liberties Union be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

REMOVAL AND DISCIPLINE OF FEDERAL JUDGES

(By Monroe H. Freedman) *

Mr. Chairman:

Thank you for inviting me to testify on behalf of the American Civil Liberties Union regarding proposals affecting judicial tenure.

The American Civil Liberties Union opposes the pending legislation that would provide for removal or other discipline of federal judges by any means other than impeachment. ACLU shares the view of those who founded our system of government, that the independence of the judges is essential to ensure "inflexible and uniform adherence to the rights of the Constitution, and of individuals." [1] Toward that end, the framers of the Constitution sought to establish virtual "permanency in office" and "permanent tenure" for the federal judges.[2]

As Alexander Hamilton explained, there was a single constitutional provision for dealing with a lack of "responsibility" on the part of individual judges:

> The precautions for their responsibility *are comprised in the article respecting impeachments.* They are liable to be impeached for malconduct by the House of Representatives, and tried by the Senate; and, if convicted, may be dismissed from office, and disqualified for holding any other. *This is the only provision on the point which is consistent with the necessary independence of the judicial character,* and is the only one which we find in our own Constitution in respect to our own judges.[3]

The same proposition has been stated unequivocally by eminent authorities from that time forward.[4] James Madison said:

"The judges are to be removed only on impeachment, and conviction before Congress." [5] Thomas Jefferson first supported life tenure for judges so that they "should not be dependent upon any man or body of men," but he then sponsored the impeachment attacks against Federalist judges and sought constitutional amendment to eliminate life tenure—thereby reaffirming in the most emphatic way his understanding of the relevant constitutional provisions.[6] After a century of experience with the Constitution, Lord Bryce concluded that, "The Fathers of the Constitution studied nothing more than to secure the complete independence of the judiciary," [7] and accordingly, "impeachment is the only means by which a Federal judge can be got rid of.[8] More recently, the Supreme Court has described Article III courts as "presided over by judges appointed for life, subject only to removal by impeachment." [9]

In the face of those authorities, and numerous others,[10] how could it be supposed that Federal judges can be removed from office by

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Footnotes at end of article.

means other than impeachment? As Congressman Celler observed, "It scarcely can be believed that the framers intended vesting Congress with an important power [to provide for removal other than by impeachment] and then so skillfully concealed it it could not be discovered save after 150 years." [11] Professor Raoul Berger (the principal academic opponent of judicial life tenure) has retorted that the framers' true intention was concealed "only from those who did not pause to turn the pages of history" and ask the right questions [12]—a category that includes, as we have seen, Hamilton, Madison, Jefferson and others who participated in drafting and explaining the Constitution before "the accumulated dust of generations" [13] had settled upon it to confound understanding.

Like other critics of judicial life tenure,[14] Professor Berger begins his argument by pointing to the awkwardness of impeachment as a method of removal.[15] In short, he argues that impeachment is not the exclusive removal procedure because it is so clumsy that (in his view) it should not be the only means of ousting a venal judge. But that, of course, is precisely the point. The framers quite consciously and explicitly sought to assure an independent judiciary by making judges removable only by the extremely difficult process of impeachment. As Hamilton expressed it, the purpose was thus to provide "permanency in office" and "permanent tenure" for federal judges.[16] To protest as Professor Berger does, therefore, that impeachment is not a very efficient means for removing a judge from office, is simply to confirm that the framers' purpose has been achieved.

Professor Berger's principal contention, however, derives from the fact that there are two relevant clauses in the Constitution, and that they use different phrases to express the standard for judicial tenure. Article II, section 4, provides for impeachment of all civil officers of the United States for treason, bribery, or other "high crimes and misdemeanors." Article III, section 1, provides that the judges shall hold their offices "during good behavior." Thus, Professor Berger argues that the "good behavior" standard is broader than the "high crimes and misdemeanor" standard,[17] and that, therefore, impeachment is not the exclusive procedure for removal.

As Professor Austin Scott used to say, I understand everything except the therefore. That is, even if there be two standards for removal, it does not follow that there cannot be an exclusive procedure for removal. Put otherwise, assuming that Professor Berger is correct in his inference of a double standard of judicial removal, the Constitution appears to say simply that all civil officers can be impeached for high crimes and misdemeanors, and that judges can also be impeached for lack of good behavior. It is therefore a non sequitur when Professor Berger says:

> When the Framers employed "good behavior," a common law term of ascertainable meaning, with no indication that they were employing it in a new and different sense, *it might be presumed that they implicitly* adopted the judicial enforcement machinery that traditionally went with it.[18]

Professor Berger's conclusion, therefore, is a mere presumption dangling from a "might" and tied tenuously to an "implicitly."

More importantly, there is solid historical evidence that the framers used the phrase "good behavior" in a special sense, without intending to broaden the standard of high crimes and misdemeanors, and without intending to carry with it any "judicial enforcement machinery" other than impeachment. First, the framers never said that they had adopted any other procedure. Second, on the contrary, they expressly provided for only one procedure, and they expressly explained repeatedly that only one was intended.

In addition to the previously quoted statements, consider the observation of Gouverneur Morris, the most important member of the Committee of Style and Revision of the Constitutional Convention:[19]

> Misbehavior is not a term known in our law; the idea is expressed by the word misdemeanor; which word is in the clause respecting impeachments. Taking, therefore, the two together, and speaking plain old English, the Constitution says, "The judges shall hold their offices so long as they demean themselves well; but if they shall misdemean, if they shall on impeachment be convicted of misdemeanor, they shall be removed." [20]

Similarly, Bryce defined good behavior as synonymous with impeachment: "[The justices] hold office during good behavior, *i.e.*, they are removable only by impeachment." [21]

Finally, Professor Berger suggests that Hamilton conceded the propriety of removal by means other than impeachment in cases of insanity.[22] Again, Professor Berger is demonstrably wrong. This is what Hamilton said:

> The want of a provision for removing the judges on account of inability has been a subject of complaint. But all considerate men will be sensible that such a provision would either not be practiced upon or would be more liable to abuse than calculated to answer any good purpose. The mensuration of the faculties of the mind has, I believe, no place in the catalogue of known arts. An attempt to fix the boundary between the regions of ability and inability, would much oftener give scope to personal and party attachments and enmities than advance the interests of justice or the public good. The result, except in the case of insanity, must for the most part be arbitrary; and insanity, without any formal or express provision, may be safely pronounced to be a virtual disqualification.[23]

A careful reading of that important passage shows that the Constitution had been attacked in 1788 by those who believed, as Professor Berger does, that there should be provision for removing judges for "inability" as distinguished from impeachment for malconduct. Significantly, Hamilton did not respond as Professor Berger would have wanted, by saying that Congress has the power to provide for judicial removal of judges for disability under the necessary and proper clause.[24] On the contrary, Hamilton met the criticism head-on by defending the want of an alternate procedure in cases of disability. He gave two reasons: (1) the line between ability and inability cannot be drawn, and (2) the opportunity to draw such a line would more frequently give scope to partisanship than would it advance the interests of justice or the public good.

Accordingly, Hamilton explained the result of a decision based upon disability would, for the most part, be arbitrary. Concededly, he added, such a decision would not be arbitrary in the case of insanity—the extreme form of disability—but such cases are simply not going to arise often enough to justify an alternative to impeachment for malconduct as the exclusive removal procedure. Insanity, after all, is a "virtual disqualification," that is, literally it is not in fact a ground for disqualification, but for practical purposes it is not going to happen with any significant frequency.

That is not my reading alone. Explaining in his Commentaries why judges are not constitutionally removable other than by impeachment for malconduct, Justice Story repeated almost verbatim Hamilton's argument quoted above. However, Story paraphrased the last clause of Hamilton's argument to read: "and instances of absolute imbecility would be too rare to justify the introduction of so dangerous a provision." [25]

Thus, even the problem of insanity on the part of a judge (even though such a determination could be made without arbitrariness) is not sufficiently serious to have justified alternative constitutional standards or procedures for judicial removal. The threat to judicial independence was deemed to be too great.

One might well conclude that the text of the Constitution and the explanations of the framers are so clear that any argument based upon policy is superfluous. Indeed, a major concern of the American Civil Liberties Union is that the integrity of the Constitutional language and structure be respected. That policy, in itself, is sufficient ground to oppose the proposed legislation. The policy of judicial independence, however, and its inevitable relationship to civil rights and liberties, cannot be overstressed. It was the expressly reiterated purpose of the framers, and it is of paramount concern to the ACLU. As Professor Kurland has observed, "When dealing with so fundamental and so fragile a notion as the independence of the judiciary, one ought to tread warily lest the ultimate cost far outweigh the immediate gains." [26]

Moreover, there is good reason to believe that any novel and losser removal power would be directed against those judges who are most zealous in safeguarding the rights and liberties of unpopular minorities and individuals. Judges in New York who regularly violate the constitutional rights of citizens accused of crimes are reappointed without difficulty, but one who takes that constitutional right seriously has been threatened by the mayor with nonreappointment. As Justice Douglas has testified from personal experience, retaliation against the more libertarian judge is not "a rare instance; it has happened to other federal judges who have had perhaps a more libertarian approach to the Bill of Rights than their brethren." As a result, "the nonconformist has suffered greatly at the hands of his fellow judges." [27] On the other hand, judges who have joined in hysterical antiradicalism, or who have fought against civil rights and liberties, have been rewarded with judicial appointments and promotions to higher office.

Finally, Chief Judge Irving Kaufman of the Second Circuit has given two additional policy reasons against looser removal standards and procedures: first, judges would be exposed to harassment through complaints by disgruntled litigants; [28] second, disciplinary schemes "pitting judge against judge . . . would also disrupt the sense of community so essential to a functioning court." [29]

Is there, then no judicial accountability? Are there no checks on the insane judge, the corrupt judge, or the incompetent one? Of course, there are. One, obviously, is impeachment. Another check is even closer to home, that is, more care and conscientiousness in the appointment process. Ironically, the members of the Senate who support looser removal procedures have themselves helped to create the problem they now decry—either by their own selections or by their tolerance, through "senatorial courtesy," of the irresponsible selections of their colleagues. Another check, within the judiciary, is appellate review.

Yet another check on the judiciary is the right of freedom of speech and press. Only yesterday, for example, the New York Times gave prominent front-page coverage to the severe appellate criticism of two trial court judges who had abused the powers of their

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Footnotes at end of article.

office. Such public condemnation cannot be ineffective.[30]

For those reasons, Mr. Chairman, the American Civil Liberties Union opposes the proposals before this Committee to remove or to discipline federal judges by procedures other than impeachment.

FOOTNOTES

[*] I have been asked to state for the record my background and qualifications. I am a member of the National Board of the ACLU, a Professor of Law at Hofstra University (where I was Dean of the Law School from 1973–1977), and counsel to the New York law firm of Orenstein, Snitow, Sutak & Pollack. In practice, my work is principally litigation before federal courts and agencies. As a law professor, my relevant areas of specialization are Constitutional Law and Lawyers' Ethics. I also served as Legislative Consultant to Senator John L. McClellan in 1959, and have testified on several occasions before this Committee and the Senate Judiciary Committee.

In preparing this testimony, I have received valuable research assistance from Guido Gabriele, a third-year student at Hofstra Law School.

[1] The Federalist No. 78 (Hamilton) 502, 508–510 (Mod. Lib.).

[2] The Federalist No. 79 (Hamilton) 512, 513 (Mod. Lib.).

[3] Id. at 513–514 (emphasis added).

[4] I do not want to burden the record with multiple quotations. Numerous other authorities are cited in Kaufman, "Chilling Judicial Independence" (Thirty-Fourth Annual Cardozo Lecture of the Association of the Bar of the City of New York, 1978); Ervin, "Separation of Powers: Judicial Independence," 35 L. & Contemp. Prob. 108 (1970); Ziskind, "Judicial Tenure in the American Constitution: English and American Precedents," 1969 Sup. Ct. Rev. 135; Kurland, "The Constitution and the Tenure of Federal Judges: Some Notes from History," 36 1. of Chi. L. Rev. 665 (1969); Kramer & Barron, "The Constitutionality of Removal and Mandatory Retirement Procedures for the Federal Judiciary," Selected Readings, Judicial Discipline and Removal (Winters, ed.; Amer. Jud. Soc., 1973); W. S. Carpenter, Judicial Tenure in the United States (Yale 1918); B. Bailyn, Pamphlets of the American Revolution 1750–1776 (Belknap, 1965).

[5] Quoted by Rep. Rutledge in 11 Annals of Congress 738 (1802); Kaufman, *supra*, p. 32 and n. 111.

[6] Kurland, *supra*, pp. 694–695.

[7] Bryce, The American Commonwealth, vol. I, p. 268.

[8] Id., p. 107; see also p. 226.

[9] *United States ex rel. Toth v. Quarles*, 350 U.S. 11, 16 (1955); see also *Glidden Co. v. Zdanok*, 370 U.S. 530 (1962).

[10] See n. 4. *supra*.

[11] 81 Cong. Rec. 6171 (1937); Kurland, *supra*, p. 691, n. 63. The reference is to Shartel, "Federal Judges—Appointment, Supervision, and Removal—Some Possibilities under the Constitution," 28 Mich. L. Rev. 870 (1930).

[12] Berger, Impeachment: The Constitutional Problems 179 (Harvard, 1973).

[13] The quoted phrase (on this occasion) is Professor Berger's. Id., p. 178.

[14] *E.g.*, Shartel, *supra*.

[15] Berger, *supra*, p. 122–123. Illustrative of Professor Berger's misleading selectivity in the use of authorities, he quotes Bryce on the clumsiness of impeachment, but fails to note Bryce's approval of life tenure as an essential safeguard of judicial independence, and Bryce's conclusion that impeachment is the exclusive constitutional procedure for removal. See n. 7 and 8, *supra*.

[16] See n. 2, *supra*.

[17] Berger, *supra*, p. 125.

[18] Berger, *supra*, p. 131 (emphasis added).

[19] He is so characterized by Ziskind, *supra*, p. 150.

[20] Annals of Cong. 90 (1801). Professor Berger replies that Morris was wrong, because "misbehavior" was used in two colonial constitutions. Surely, however, Morris' understanding—or even misunderstanding—of the words he used is more significant than Professor Berger's emendation. And again, apart from the standard to be applied, Morris is clear that the sole procedure intended by the framers is impeachment.

[21] Bryce, *supra*, p. 226.

[22] Berger, *supra*, p. 139. Once again, the contention rests upon an unfounded "presumably." In this instance, Dr. Ziskind shares Professor Berger's misreading. See Ziskind, *supra*, p. 152.

[23] The Federalist No. 79, *supra*, p. 514.

[24] Art. I, sec. 8. See Berger, *supra*, pp. 180, 178.

[25] Story, Commentaries, sec. 1619.

[26] Kurland, *supra*, p. 666.

[27] *Chandler* v. *Judicial Council* (II), 398 U.S. 74, 129, 137 (1970) (Douglas, J., dissenting).

[28] Kaufman, *supra*, p. 48.

[29] Id., p. 55.

[30] The attitude of the established bar to criticism of judges is illustrated by the ABA Code of Professional Responsibility, in which lawyers are required to volunteer unprivileged knowledge of another lawyer's misconduct, but must reveal knowledge of judicial misconduct only upon request of an official body. DR 1–103.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. ROBERT C. BYRD. Mr. President, this will be the last rollcall vote tonight.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

I further announce that the Senator from Nevada (Mr. CANNON) is absent on official business.

Mr. STEVENS. I announce that the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The PRESIDING OFFICER (Mr. BUMPERS). Are there any other Senators wishing to vote?

The result was announced—yeas 56, nays 33, as follows:

[Rollcall Vote No. 379 Leg.]

YEAS—56

Armstrong
Baucus
Bayh
Bentsen
Boren
Bumpers
Byrd,
Harry F., Jr.
Byrd, Robert C.
Chiles
Cochran
Danforth
DeConcini
Dole
Domenici
Durenberger
Eagleton
Exon
Glenn
Gravel
Hatch
Hayakawa
Helms
Huddleston
Jackson
Jepsen
Johnston
Kennedy
Leahy
Levin
Long
Magnuson
McClure
Melcher
Morgan
Nunn
Packwood
Pell
Pressler
Pryor
Ribicoff
Roth
Sasser
Schweiker
Simpson
Stevens
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Zorinsky

NAYS—33

Baker
Bellmon
Boschwitz
Bradley
Burdick
Chafee
Cohen
Culver
Durkin
Ford
Hart
Heflin
Heinz
Hollings
Humphrey
Javits
Kassebaum
Laxalt
Lugar
Mathias
McGovern
Metzenbaum
Moynihan
Muskie
Nelson
Percy
Proxmire
Randolph
Sarbanes
Schmitt
Stafford
Stennis
Stevenson

NOT VOTING—11

Biden
Cannon
Church
Cranston
Garn
Goldwater
Hatfield
Inouye
Matsunaga
Riegle
Young

So the bill (S. 1873), as amended, was passed, as follows:

S. 1873

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Judicial Conduct and Disability Act of 1979".

PROCEDURES WITHIN JUDICIAL COUNCILS; COURT ON JUDICIAL CONDUCT AND DISABILITY

SEC. 2. (a) Section 372 of title 28, United States Code, is amended by adding the following at the end of the section:

"(c)(1) Any person may file a written complaint against a judge, as defined in paragraph (2), with the judicial council of the circuit in which the judge serves, alleging that—

"(A) the judge is, or has been, unable to discharge efficiently all the duties of his or her office by reason of mental or physical disability; or

"(B) the judge is engaging, or has engaged, in conduct inconsistent with the effective and expeditious administration of the business of the courts.

"(2) For the purposes of this subsection through subsection (o), other than subsections (g) and (j), 'judge' means a judge of a court of appeals or a district court.

"(3) Complaints which are outside the jurisdiction of the judicial council include, but are not limited to, complaints relating to the merits of any decisional or procedural ruling of a judge, or any matter reviewable under any other provision of law on the record. The judicial council shall dismiss any complaint which is outside its jurisdiction.

"(4) The judicial council shall, with respect to judges within its circuit, process and investigate each complaint not dismissed under paragraph (3), and may investigate on its own motion any other allegation which meets the standards provided in subparagraph (A) or (B) of paragraph (1). After investigation on its own motion, the judicial council may, if appropriate, file a complaint under paragraph (1). The judicial council shall notify the complainant when it receives the complaint, and shall forward a copy to the judge who is the subject of the complaint. The judicial council shall take action on each complaint in an expeditious manner.

"(5) After review of the allegations, the judicial council shall dismiss any complaint, the allegations of which are frivolous or which do not meet the standards provided in subparagraph (A) or (B) of paragraph (1), or proceed in accordance with subsection (d). If the judicial council dismisses a complaint under this paragraph or under paragraph (3), it shall notify in writing the complainant and the judge who is the subject of the complaint of the action taken and the reasons for the order of dismissal.

"(6) The complainant may, within ten days of receipt of the notice under paragraph (5), petition the Court on Judicial Conduct and Disability (hereinafter in this section referred to as the 'Court') for review of any order of dismissal under paragraph (3) or (5).

"(d)(1) If the complaint is not dismissed under subsection (c)(3) or (c)(5), the judicial council shall notify the complainant and shall give the judge who is the subject of the complaint an opportunity to appear before the judicial council, if desired.

"(2) If the judicial council finds that the allegations meet the standards provided in subsection (c)(1)(A) or (B), it shall—

"(A) certify disability pursuant to the procedures and standard provided under subsection (b);

"(B) request that the judge voluntarily retire with the provision that the length of service requirements under section 371 of this title shall not apply;

"(C) order that, on a temporary basis for a time certain, no further cases be assigned to the judge;

"(D) censure or reprimand the judge by means of private communication;

"(E) censure or reprimand the judge by means of public announcement; or

"(F) order such other action as it considers appropriate under the circumstances, but in no circumstances may the council order removal from office.

"(3) The judicial council shall maintain a record of any proceedings conducted under paragraph (2), and each action taken shall be accompanied by written findings, including a statement of the basis upon which such action was taken.

"(4)(A) The judicial council shall notify in writing the complainant and the judge who is the subject of the complaint of the action taken under paragraph (2). A complainant or the judge who is the subject of the complaint may, within ten days of receipt of such notice, petition the Court for review of any such action.

"(B) Upon the timely filing of a petition for review under this paragraph or under subsection (c)(6), the judicial council shall certify and transmit to the Court its action and findings with respect to that action, and a record of the proceedings. For purposes of a petition under subsection (c)(6), the record shall, at a minimum, consist of a copy of the complaint and the written notification to the complainant and the judge who is the subject of the complaint of the action taken and the reasons for the order of dismissal.

"(C) Except as provided in this section, there shall be no judicial review of any action taken by the judicial council under this subsection or subsection (c).

"(e)(1) The Judicial Conference of the United States shall promulgate rules of procedures for the judicial councils for discharging the duties under subsections (c) and (d), or authorize the judicial council of each circuit to promulgate rules of procedure for its respective circuit.

"(2) The Judicial Conference of the United States shall also promulgate rules of procedure for the Judicial Council of the District of Columbia Circuit and the chief judges of the Court of Claims, the Court of Customs and Patent Appeals, and the Customs Court, for discharging the duties under subsection (j).

"(3) Any rule promulgated under this subsection may be modified by the Judicial Conference of the United States and shall be a matter of public record.

"(f)(1) Administrative, professional, and financial assistance from the Administrative Office of the United States Courts and from the Federal Judicial Center may be requested by—

"(A) each judicial council for discharging the duties under subsections (c) and (d); and

"(B) the Judicial Council of the District of Columbia Circuit and the chief judges of the Court of Claims, the Court of Customs and Patent Appeals, and the Customs Court, for discharging the duties under subsection (j).

"(2) The Administrative Office of the United States Courts and the Federal Judicial Center are authorized to provide assistance requested under paragraph (1) and to expend funds to insure such assistance, within the limits of its available resources.

"(g)(1) There is established a court of record to be known as the Court on Judicial Conduct and Disability. The Court may exercise all appropriate judicial powers incident or necessary to the jurisdiction conferred up it. The Court may prescribe such rules for the conduct of its proceedings as it considers appropriate. Attendance of witnesses and the production of relevant material may be required from any place in the United States and its territories at any place designated for holding court. Whenever possible, the Court shall sit in the district or circuit in which the judge who is the subject of the complaint serves. If the judge who is the subject of the complaint serves on the Court of Claims, the Court of Customs and Patent Appeals, or the Customs Court, the Court shall sit, whenever possible, in the location in which that court is usually held.

"(2) The Court shall consist of five Federal judges, including at least one district court judge, to be appointed by the Chief Justice of the United States. Each member shall be a judge of the United States in regular active service. The Chief Justice shall designate the chief judge of the Court.

"(3) A judge of any court created by an Act of Congress in a territory which is vested with the jurisdiction of a district court of the United States may not be a member of the Court.

"(4) The term of each member shall be three years, except that when the Court is initially appointed, three of the members shall be serve three-year terms and two of the members shall serve two-year terms. The term of any member shall automatically be extended until his or her successor has been appointed. A member selected to fill a vacancy shall commence a full three-year term. A judge may serve on the court any number of times, but may not serve consecutive terms.

"(h)(1) The Court shall grant a petition filed by a complainant under subsection (c)(6) or (d)(4), or a petition filed by a judge who is the subject of the complaint under subsection (d)(4), upon the concurrence of two of its members.

"(2) Upon the grant of a petition under paragraph (1), the Court shall—

"(A) dismiss any complaint, the allegations of which do not meet the standards provided in subsection (c)(1) (A) or (B), and any complaint relating to the merits of any decisional or procedural ruling of a judge or any matter reviewable under any other provision of law on the record;

"(B) affirm any action taken by the judicial council if the action is supported by clear and convincing evidence on the record;

"(C) modify any action taken by the judicial council if such modification is supported by clear and convincing evidence on the record, but no such modification may include an order of removal from office;

"(D) reverse and remand to the judicial council for further proceedings any action which is unsupported by clear and convincing evidence on the record; or

"(E) when required in the interests of justice, conduct a hearing under subsection (i)(1) to determine the matter de novo, and any action taken under subsection (i)(2) shall be supported by clear and convincing evidence.

"(i)(1) If the Court decides to hear the matter de novo, the judge who is the subject of the complaint shall be given adequate notice of the hearing, shall be admitted to the hearing, may be represented by counsel, may testify and present testimony at the hearing in his or her own behalf, and may confront and cross-examine any witness.

"(2) After a hearing de novo under paragraph (1), the Court shall—

"(A) upon a determination that the allegations do not meet the standards provided in subsection (c)(1) (A) or (B), order dismissal of the action;

"(B) upon a determination that the judge is unable to discharge efficiently all the duties of his or her office by reason of permanent mental or physical disability and that the appointment of an additional judge, in the manner provided in subsection (b), is necessary for the efficient dispatch of business, certify disability; or

"(C) upon a determination that the allegations meet the standards provided in subsection (c)(1) (A) or (B)—

"(i) order that, on a temporary basis for a time certain, no further cases be assigned to the judge;

"(ii) censure or reprimand the judge by means of public announcement; or

"(iii) order such other action as it considers appropriate under the circumstances, but in no circumstances may the Court order removal from office.

"(3) Each action taken under subsection (h)(2) and under paragraph (2) of this subsection shall be made by a majority of the members of the Court. Each order or action of the Court shall be in writing, and the complainant and the judge who is the subject of the complaint shall receive a copy. There shall be no judicial review of any order or action of the Court taken under this subsection or subsection (h).

"(j)(1) Any person may file a written complaint—

"(A) with the Judicial Council of the District of Columbia Circuit, with respect to the chief judge of the Court of Claims, the Court of Customs and Patent Appeals, or the Customs Court; or

"(B) with the chief judge of the applicable court, with respect to any judge of the Court of Claims, the Court of Customs and Patent Appeals, or the Customs Court;

alleging that the conduct of the judge meets the standards provided in subsection (c)(1) (A) or (B).

"(2) The Judicial Council of the District of Columbia Circuit or the chief judge, as the case may be, shall proceed in accordance with the provisions of paragraphs (3) through (6) of subsection (c) and the provisions of subsection (d). If a complainant or judge who is the subject of the complaint petitions the Court for review, the provisions of subsections (g), (h), and (i) shall apply. For purposes of this paragraph, all references to 'judicial council' in paragraphs (3) through (6) of subsection (c), subsections (d), (h), and (i), shall be treated as referring to 'the Judicial Council of the District of Columbia Circuit or the chief judge, as the case may be,'.

"(k)(1) The Court shall submit to the House of Representatives a record of all proceedings by the council, the Judicial Council of the District of Columbia Circuit or a chief judge under subsection (j), or the Court, revealing conduct which, in its view, would constitute an impeachable offense as defined in Article II, section 4, of the Constitution of the United States. The record shall be accompanied by the complaint made against the judge and any order or findings made by a judicial council, the Judicial Council of the District of Columbia Circuit or a chief judge under subsection (j), or the Court.

"(2) The Committee on the Judiciary of the House of Representatives shall give timely consideration to such record and accompanying materials, and shall make its best efforts to take action within 90 days of receipt of such record.

"(l) A judge shall not sit in any proceeding as a member of a judicial council or of the Court, or under the provisions of subsection (j), when it inquires into his or her own conduct, or when it inquires into a complaint filed by him or her against another judge.

"(m) No person shall be granted the right to intervene or appear as amicus curiae in any proceeding before a judicial council, the Judicial Council of the District of Columbia Circuit or a chief judge under subsection (j), or the Court.

"(n)(1) All matters filed with, all testimony or evidence given before, and all deliberations of, a judicial council under subsections (c) and (d), the Judicial Council of the District of Columbia Circuit or a chief judge under subsection (j), or the Court under subsection (h), shall be confidential—

"(A) unless authorized in writing by the judge who is the subject of a complaint;

"(B) unless the judge is censured or reprimanded by means of public announcement under subsection (d)(2)(E); or

"(C) unless final adverse action is taken against a judge, not including an order of dismissal.

"(2) For the purposes of subparagraph (C) of paragraph (1), an action is final—

"(A) if no petition for review is filed, on the date of expiration of the time period during which a petition for review may be filed; or

"(B) if a petition for review is filed, the date on which—

"(i) the Court denies a petition for review; or

"(ii) the Court grants the petition for review and takes action under subsection (h) (2) (B), (C), or (D).

"(3) If the Court determines under subsection (h)(2)(E) to hear the matter de novo, all proceedings conducted by the Court pursuant to subsection (i) shall be open and shall be a matter of public record.

"(o) The Director of the Administrative Office of the United States Courts shall include in its annual report filed with the Congress under section 604 of this title a summary of the number of complaints filed with each judicial council under subsection (c), and with the Judicial Council of the District of Columbia Circuit or a chief judge under subsection (j), indicating the general nature of such complaints and the disposition of those complaints in which action has been taken, including any action taken by the Court.".

(b)(1) The section heading for section 372 of title 28, United States Code, is amended to read as follows:

"§ 372. Retirement for disability; substitute judge on failure to retire; judicial discipline".

(2) The table of sections for chapter 17 of title 28, United States Code, is amended by amending the item relating to section 372 to read as follows:

"372. Retirement for disability; substitute judge on failure to retire; judicial discipline.".

ADMINISTRATIVE OFFICE OF UNITED STATES COURTS

SEC. 3. Section 604 of title 28, United States Code, is amended by adding at the end the following:

"(1) The Director shall provide facilities and pay necessary expenses incurred by the Court on Judicial Conduct and Disability under chapter 17 of this title, including mileage allowance and witness fees, at the same rate as provided in section 1821 of this title.".

SEPARABILITY

SEC. 4. If any provision of this Act or any amendment made by this Act, or the application of such provision or amendment to any person or circumstances, shall be held invalid, the remainder of this Act or such amendment or the application of such provision or amendment to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

AUTHORIZATION

SEC. 5. There are authorized to be appropriated such sums as may be necessary to carry out this Act.

EFFECTIVE DATE

SEC. 6. This Act shall become effective October 1, 1980.

Mr. DeCONCINI. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DeCONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DeCONCINI. Mr. President, regarding this bill, may I have a clarification on S. 1477 and the relation to this bill?

The PRESIDING OFFICER. Pursuant to the order of September 6, 1979, the text of S. 1873, just passed by the Senate, will be added as an amendment to S. 1477, and third reading and passage of that bill is considered to have occurred, as amended.

Mr. DeCONCINI. I thank the Chair.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider on the passage of the House bill. Was that included in the order?

The PRESIDING OFFICER. The Senator's motion to reconsider is in order. It was not included.

Mr. ROBERT C. BYRD. I make that motion.

Mr. DeCONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent there be a brief period for the transaction of routine morning business, not to exceed 20 minutes, and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE 125TH ANNIVERSARY OF COLUMBIA COLLEGE

Mr. THURMOND. Mr. President, Columbia College of Columbia, S.C. is celebrating its 125th anniversary this year. This outstanding institution of higher learning has produced many able graduates.

A recent editorial in the State newspaper, Columbia, S.C., discusses this fine institution.

Mr. President, in order to share this article with my colleagues, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

COLUMBIA COLLEGE NOTES ITS 125TH YEAR

The anniversary being observed by Columbia College this year might generate more interest if it were described as a centennial celebration marking 100 years, or—more impressive yet—as a sesquicentennial, for 150 years.

Nevertheless, we concur with President Ralph T. Mirse, the college authorities, and the thousands of alumnae (most of whom live in the Columbia area) that a 125th anniversary likewise is deserving of attention. And 1979 marks such an occasion. Indeed, special services held Sunday at Washington Street United Methodist Church commemorated the 1854 action in which South Carolina Methodists voted—at that very church—to charter the college.

During the long span of years since then, the college has experienced high points and low—one of the most dismal being the destructive fire which ravaged Old Main and adjacent structures 15 years ago.

Today, however, the college is at a new height of performance and prestige. More than 1,000 young women are enrolled, availing themselves of broader-than-ever curriculum offerings. While still retaining a traditional emphasis on teacher training, they include business, economics, and other subjects so essential to the success of young women in today's complex workaday world.

Also to its credit is the fact that the college is operating on a balanced budget, a state of fiscal health made possible in part by the financial support given by individuals, organizations and business firms throughout the state. Most of that backing understandably comes from the Columbia area, where the college and its personnel are best known and where, let it be noted, most of that $4 million budget is spent. (That figure does not include the additional thousands spent by students and faculty in the area.)

But Columbia College's worth to the community, the state and the region is not to be measured in terms of dollars and cents. Rather, the college's greatest contribution lies in the quantity and quality of well-educated young women who benefit from the wholesome Christian atmosphere which characterizes the institution.

Today, there are only 122 women's colleges among the 3,000 or more institutions of higher learning in the United States. Both as undergraduates and as graduates, the young women of these schools reflect traits and training which corroborate the worth of women's colleges, as is certainly true with Columbia College.

But even as we compliment "C-Square" on this particular occasion, we make it a point to extend similar felicitations to another Methodist-related college which also is observing its 125th anniversary this year. We refer to Wofford College at Spartanburg.

These two schools, and the other independent colleges and universities in the state, constitute a balance to South Carolina's tax-supported institutions and insure a continuing and healthy alternative in higher education. Both the state and the nation benefit from the dual system. Now is a fitting time for Columbians and South Carolinians to express their appreciation for and support of this truly American arrangement.

OPPOSITION OF NAVAL RESERVE ASSOCIATION TO SALT II TREATY

Mr. THURMOND. Mr. President, at the recent annual national conference of the Naval Reserve Association meeting on October 6, 1979, in Buffalo, N.Y., four important resolutions were adopted by the membership.

Of particular interest were resolutions in opposition to SALT II and a call on the administration and Congress to improve readiness of the Naval Reserve.

Mr. President, I ask unanimous consent that the resolutions, forwarded to me by Rear Adm. Philip Smith, president of the USNR, be printed in the RECORD.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

SALT II TREATY

Whereas the Naval Reserve Association previously resolved that the Administration and the Congress were encouraged to: Preserve a posture that does not relegate the United States to a position of military inferiority; Develop and maintain strategic forces which represent a credible deterrent, and one which denies the Soviets any perception of military superiority; Recognize that no SALT II Agreement is better than one which does not provide for our national security, strategic deterrence and well-being; and

Whereas congressional testimony has established that there are serious flaws in the SALT II agreement as now constituted in the areas of verification, and

Whereas the provisions of the protocol with respect to CRUISE missiles amount to an unrelated renunciation of an American capability, and

Whereas a linkage between SALT negotiations and Soviet worldwide political and military activity needs to be established by a national political and military policy, and

Whereas the SALT II Treaty as presently constituted locks the United States into strategic inferiority, and

Whereas no true arms reduction is accomplished by the SALT II Agreement,

Now therefore be it resolved that: the Naval Reserve Association urges the Senate of the United States to reject the present SALT II Agreement.

NAVAL RESERVE READINESS

Whereas: There are serious present and projected manpower shortages in the Reserve components, and

Whereas: In the absence of instituting a draft to obtain Reserve manpower involuntarily, or other actions to obtain volunteer Reserve manpower, such serious manpower shortages are expected to continue, and

Whereas: There is widespread opposition to the concept of drafting young persons for military service except in a national emergency requiring mobilization, and

Whereas: Traditionally, the Reserve components have relied primarily on volunteers and should continue to do so in the interest of optimum effectiveness, and

Whereas: The combat hardware and equipment, including ships and aircraft for the Naval Reserve is approaching a serious level of obsolescence and poor material condition due to overage and lack of funding for adequate maintenance, and

Whereas: Naval Reserve training facilities, equipment and programs are inadequate or marginally adequate and/or not being improved sufficiently to attain and maintain the optimum training and readiness of Naval Reserve personnel to meet immediate mobilization requirements, and

Whereas: The Reserve components must be fully manned, trained and equipped to fulfill immediate mobilization requirements in a national emergency,

Now therefore be it resolved that: The Naval Reserve Association urges the Department of Defense and the Congress of the United States to develop, support and enact the legislation necessary to institute and accelerate the following program improvements for the Reserve components:

(1) Acquisition and maintenance of modern equipment, ships and aircraft capable for immediate deployment in a combat environment,

(2) Acquisition and maintenance of modern and effective training facilities and equipment, plus the RPN funds required: (a) to make Naval Reserve training effective and meaningful, and (b) to maintain Naval Reserve personnel in a condition of optimum readiness for immediate mobilization,

(3) Development of a system of Reserve compensation and benefits for Reserve personnel which is sufficient to attract and retain the voluntary manpower required to maintain the Naval Reserve and other Reserve and National Guard components at their required strength levels.

MOBILE INSHORE UNDERSEA WARFARE UNITS

Whereas: Active duty IUW groups are scheduled for deactivation in FY 1980 and a similar proposal has been made for the deactivation of all Reserve MIUW units on the East Coast with consequent loss of the only current capability for surveillance and command and control in inshore areas, and

Whereas: Loss of this capability, if extended to the West Coast involves 1,400 Selected Reserve billets and on the order of $8,000,000 of recently acquired hardware, and

Whereas: Loss of this capability is particularly critical in light of the widely recognized enemy capacity for mine warfare and the equally well known inadequacies of United States mine countermeasure capabilities.

Now therefore be it resolved that: The Naval Reserve Association strongly encourages the Secretary of the Navy and the Chief of Naval Operations to:

(1) Reject any proposal to substantially scale down the current Reserve MIUW Program capability until such time as:

A comprehensive review has been conducted of the threat to Naval and merchant ships transitting CONUS and out-CONUS coastal waters and the energy assets on the continental shelf;

A clear division of responsibility for defense of inshore areas is agreed to between the U.S. Navy and the U.S. Coast Guard; and

A meaningful alternative capability suitable for dealing with threats to the inshore areas is identified.

(2) Turn over management of the current Reserve MIUW units to newly established Naval Reserve IUW groups on each coast.

(3) Implement the establishment of the long proposed Naval Reserve Harbor Defense units which are intended to facilitate the coordination, planning and exercise of contingency plans applicable to CONUS and out-CONUS high priority port areas.

SEA BASED MOBILE PLATFORMS

Whereas: The Naval Reserve Association takes cognizance of the necessity to protect the silo based counterforce MIRVed missile force with an advanced mobile counterforce missile system (MX), and

Whereas: The possibility of basing the counterforce strategic ICBM system on sea based mobile platforms appears to be substantially more cost effective than any newly proposed land based system and offers improved safety and diminished detection, and

Whereas: The sea based system would furnish a most appropriate alternative to any mobile land based MX system,

Now therefore be it resolved that: The Naval Reserve Association urges full consideration of the sea based MX system over any new land based system.

S. 1246, THE ENERGY ANTIMONOPOLY ACT OF 1979

Mr. THURMOND. Mr. President, I feel sure that the Members of the Senate are aware of the numerous proposals, by the administration and by the Congress, that are intended to deal directly with the severe energy problems of the United States. These energy problems are major, and certainly we desire to contribute as best we can to the solutions. Senate bill 1246, however, is not the proper vehicle for legislation regarding this particular problem. Neither is it, as written, a legitimate bill for consideration as antitrust legislation.

In these times when our Nation is experiencing an intolerable rate of inflation—due to a large extent to our energy problems—it is unconscionable that we should be spending our time and efforts on a bill, such as S. 1246, which is so obviously counterproductive to our economy and to the public interest. S. 1246 offers only negative results—at a time when we must have some positive programs and answers.

The enactment of S. 1246 would make the United States more dependent on foreign oil, would reduce economic growth, would reduce research and development activity, and could actually prove to be anticompetitive. Additionally, there is no credible justification for enacting arbitrary restrictions, as S. 1246 does, against a specific group of companies in a single industry.

In order that we not create for ourselves, and for the citizens of this Nation, a much worse long-run energy situation than we already face, I urge my colleagues in the Senate to reject this ill-conceived measure.

In the weeks since May 22, 1979, much excellent and convincing testimony in opposition to S. 1246, the "Energy Antimonopoly Act of 1979" has been provided from a wide array of expert witnesses. Mr. President, these witnesses who testified in opposition to S. 1246 were not just representative of the oil industry. The majority of them were nonoil industry professionals of the highest integrity and responsibility. They represented many lifetimes of dedicated service in the public sector, in the private sector, in the academic area, and other professional areas. They represented bipartisan views, with Members from both sides of the aisle participating. They represented institutional and technical views, as well as business and consumer views. Several of them had careers that spanned careers from Government service to the private sector, while other careers were from the private sector to high levels of Government service. Certainly this outstanding group of uniquely qualified and respected opposition witnesses provides a level of credence such as has seldom been assembled and experienced in expressing individual and concerted opposition to proposed legislation such as S. 1246.

Testimony from the hearings on this bill provides convincing and unequivocal evidence that the enactment of S. 1246 would not be in the public interest because:

First. It is discriminatory, in that it is directed to only one segment of an industry in the overall economy.

Second. It would reduce domestic oil production, rather than increase it. Since oil companies would be restrained in their investments to their own high risk oil ventures, S. 1246 would be detrimental to the Nation's energy program.

Third. It would increase, rather than decrease, concentration in the petroleum industry, since the major oil companies would invest only in a very limited way in outside ventures.

Fourth. It would cause the United States to increase oil imports, due to cutbacks or lack of domestic production under the restraints imposed by S. 1246.

Fifth. It would reduce input by oil companies in research and development activities, thus cutting back on the emergence and application of new technology.

Sixth. It would prevent needed help to "failing companies" that, in many instances, could otherwise be merged into successful companies to the benefit of both companies involved, as well as in the best public interest.

Seventh. It would slow the development of a domestic synthetic and nonpetroleum fuels industry in the United States.

Eighth. It would result in decreased U.S. and world energy supplies by imposing harmful restrictions, distortions, and rigidities on the whole structure of international arrangements by which oil is found, developed, refined, and distributed.

Ninth. It would cause major foreign policy problems through its extraterritorial reach.

Tenth. It would contravene national security interests by resulting in increased foreign control of essential sources of energy supply.

Eleventh. It would raise the cost of capital needed to finance new energy production.

Twelfth. It would cause the Federal Government to make market and managerial decisions about where to invest private capital on the premise that the Government, somehow, knows how to manage money and the energy industry better than do private entrepreneurs and our system of private markets.

Those who proposed and support this bill purport it to be a protection against the growth of monopoly of major petroleum companies. The expert testimony in hearings on this bill, however, clearly demonstrated that this proposed legislation would actually cause the opposite to occur. While there are undoubtedly some aspects of the major oil companies' activities that do need some special attention during these days of critical shortages, this particular legislative proposal conflicts directly with the types of action needed to help solve the energy problem.

Many serious questions are raised by S. 1246 for which the proponents have provided no satisfactory answers. These questions include the following:

First. Why should we enact legislation that could prevent a financially solid and efficiently managed big firm from taking over a faltering firm that might be revitalized and saved with an infusion of capital and better management?

Second. Why should we enact legislation that could stifle the growth of large companies by saying to them that when they reach a certain size they cannot look around for another profitable venture?

Third. Why should we enact legislation that may increase the flow of American capital abroad? If big companies are foreclosed from investing in the United States, it is reasonable to expect them to look overseas. Not only could this result in American jobs being wiped out or exported, it could lead to greater pressures on our Federal Government to prop up failing companies.

These, and other similar questions, lead me to feel very strongly that the Congress must not, by enacting legislation such as S. 1246, increase the already formidable obstacles to energy development in this country—especially at a time when we are so vulnerable to energy supply disruptions.

The proponents of this proposed legislation have failed to provide any convincing evidence with respect to the need for such legislation. Further, the proponents have not shown that any positive results would be forthcoming from the implementation of the legislation.

On the other hand, many knowledgeable and responsible witnesses have testified and factually supported the strongly adverse effects of this discriminatory and counter-productive measure aimed at curtailing activities of the Nation's large oil companies. The bill combines poor business economics with a bad precedent. While its proponents attempt to make political hay with a popular move against "big oil," the really adverse effects would, in fact, be felt by two large groups in our society. One would be the investing public which owns the oil firms and the other would be the vast oil-consuming public which would pay higher prices as a result of the legislation.

Diversification is essential to insure returns on investments and risk-reducing efficiencies in publicly held companies. Penalizing success and discouraging investment are not appropriate or satisfactory ways to face inflation and recession threats.

Unnecessary and undesirable Federal regulations imposed on American business are already widely recognized. If enacted, S. 1246 would be yet another unneeded intrusion by Government into the private sector. The additional burdensome Federal Government regulations imposed by S. 1246 would contribute more to our inflation problem and would force our U.S. business to charge consumers higher and higher prices for their products. Our American companies also would be even further disadvantaged when they attempt to compete with foreign firms in international markets.

Further, S. 1246 is simply a particularized version of S. 600, the general antimerger bill, directed at specific large oil companies. Its introduction suggests that S. 1246 has more to do with politics than with antitrust reform. It is a punitive measure, born out of frustration at our energy problems, but unrelated to their solution.

After careful deliberation of all the testimony, the discussions, and other directly related information, it is my conclusion that this bill S. 1246, is very definitely not in the best public interest and should not be enacted.

Mr. President, I feel that it is extremely important that my colleagues have the opportunity to read and consider some of the excellent testimony that was presented in the S. 1246 hearings. I hope they will take the time to read and give careful consideration to the statements of Mr. George W. Ball and Mr. John J. McCloy. Both these witnesses, as is well known, are individuals of highest integrity and possess unusual competence and experience from which they can speak knowledgeably and authoritatively on this particular issue.

Mr. Ball is currently involved with important duties and responsibilities in the private sector and many of us recall the several high level positions in Government that he filled so ably.

Similarly, Mr. McCloy is now engaged in activities in the private sector and he, too, had a truly outstanding career in Government service.

Mr. President, in order to share these two informative and convincing statements with my colleagues, I ask unanimous consent that they be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT OF GEORGE W. BALL

Mr. Chairman, I appear this morning solely as a private citizen. I do not represent any company or industry association, nor do I speak for the investment banking firm of Lehman Brothers Kuhn Loeb Incorporated, of which I am a Senior Managing Director. I do have, however, certain deeply-felt views with regard to S–1246, as amended by the Subcommittee, which I would like to reflect to this Committee.

My opinions are based on forty-seven years of professional experience. During that long time-span, I have spent almost thirteen years in various departments and agencies of the Executive Branch of our Government, including the Department of State, where I was for six years the Under Secretary of State (the post now called Deputy Secretary) and subsequent United States Permanent Representative to the United Nations. My work in the private sector has been even longer—twenty-two years as a practicing lawyer and twelve years as an investment banker.

During the years I spent in the State Department and other government agencies, I dealt primarily with problems of foreign political and economic policy, and, during my career as lawyer and banker, my professional activities were concentrated on the political and economic aspects of international commerce and finance.

I mention this record not to disclose the sordid fact that I have never been able to hold a job very long but, rather, to explain the basis for the concerns that have led me to appear here this morning. Having had extensive experience in both the public and private sectors, I have no bias for or against either.

I hold no brief for the oil companies, and I am not speaking for them here. My deep concern is that we come to realistic grips with the world energy problem, and, in my view, we shall find a solution only by the full cooperation of the major non-Communist oil-consuming nations, as well as by working closely with the oil-producing countries. We must, therefore, avoid unilateral actions that, by placing narrow limits on the activities of our worldwide oil companies, disable them from operating effectively within the intricate framework of delicate international relations that characterize the world oil industry. Moreover, we must avoid unilateral legislative actions that could embarrass our nation's economic, financial—and, ultimately, political—relations with other nations.

I am convinced that the proposed legislation would interpose harmful restrictions, distortions and rigidities on the whole structure of arrangements by which oil is found, developed, refined and distributed. The efficiency of the oil industry depends on maintaining the maximum mobility of the factors of production which means, in practice, the ability to shift oil (which is, by its nature, fungible)—from one market to another as the occasion requires, to move technical personnel around the world, to process the material by refining it where that can be done most efficiently, and to sell it in the markets that are most attractive. Moreover, because of the huge cost commitments required in oil exploitation, the use of joint ventures and consortia has become an indispensable practice. Such joint ventures know no nationality. British, Italian, Japanese, French, German, American interests freely come together in different combinations to provide the capital and technology necessary for the development of new oil fields and to build the expensive downstream facilities required. They are subject to the laws and regulations of many host and domiciliary governments. They must be good corporate citizens of the countries where they do business or they will get into trouble.

The proposals before this Committee represent an attempt to extend the jurisdiction of the United States all over the world. That simply cannot be done without creating great mischief in our relations with other countries.

Apparently those who designed these proposals assumed that these abrasive problems could be avoided by adroit draftsmanship. But the various drafts already before the Committee—the original bill and successive amendments proposed by the Department of Justice—show that the problem is fundamental, that, in fact, it derives from the nature and structure of the industry. Thus, our government cannot, without creating major and costly international frictions, place special restrictions on the worldwide activities of companies just because they are incorporated in the United States and produce a certain amount of oil in this country.

Consider the Committee's experience so far. In the form as first introduced, S–1246 sought to restrict the right of major oil producers—those who produced in the United States 35 million barrels of oil in 1976—to acquire companies "engaged in commerce" in the United States. It soon became clear that this legislation would have the effect of encouraging major American firms to acquire companies outside of the United States, since they would be foreclosed from acquiring companies "engaged in commerce" with this country. That would, of course, directly contravene the Committee's objective of encouraging those firms to channel their funds into further oil development here.

Presumably because of this, and for other reasons, the Assistant Attorney General, by his letter of July 31, suggested a new approach. He proposed amending S–1246 to provide that firms incorporated in the United States which produced 150,000 barrels of oil a day anywhere in the world would be precluded from acquiring companies with assets exceeding $100 million, whether or not those companies "engaged in commerce." Moreover, since the Justice Department wished major oil companies incorporated outside of this country (such as Shell and British Petroleum) to be subject to the same restrictions as the major American companies, it sought to extend the reach of the act not merely to corporations that were incorporated in the United States but also to their affiliates, which would include any "person who controls, is controlled by, or is under common control with such major producer."

The Department of Justice bill thus proposed to stop major companies, such as Shell and British Petroleum, incorporated in Great Britain and Holland, from acquiring controlling interests in companies with assets exceeding $100 million anywhere in the world just because they had U.S.-incorporated subsidiaries producing a specified amount of oil in the United States.

That proposal would, of course, have created a major international outrage and played havoc with our foreign economic relations. It would have inevitably provoked the domiciliary governments, such as Britain and Holland, into enacting legislation forbidding companies under their jurisdiction to comply with a United States statute that sought to limit them in acquiring companies outside the United States. The grotesquery of the proposal is shown by the fact that the law, as the Assistant Attorney General first proposed it, would have prohibited either Shell or British Petroleum (which is, in part, owned by the British Government) from acquiring controlling interests in joint ventures organized to exploit their own North Sea or Dutch off-shore fields.

Apparently the absurdity of the proposal came to the Justice Department's attention, for it has now backed away from that attempt to extend the extraterritorial reach of American law. In a letter to the Committee dated September 18, the Assistant Attorney General has, instead, recommended that S–1246 be further amended to "eliminate coverage of foreign firms that control major American producers, and the other subsidiaries of such foreign firms." As a result, major foreign oil companies would be permitted to produce oil in the United States in direct competition with American companies, yet—unlike their American counterparts—would be free to move freely around the world, extending their market penetration—and, in many countries, their market domination—by acquiring local companies. Foreign subsidiaries of American oil companies would, in contrast, be forbidden to acquire, by purchase or acquisition, controlling interest (and control is presumed at 15 percent) in any sizeable producing, refining or distribution company or any other type of enterprise anywhere in the world.

Never before, to my knowledge, has a great nation deliberately hobbled its own enterprises for the benefit of the competition, but that apparently has not bothered the Assistant Attorney General. What has disturbed him is the belated recognition that the proposal would infuriate foreign governments and that they simply would not put up with it. The foreign subsidiaries of our major oil companies are, in many cases, huge enterprises; in Germany, for example, they dominate the entire German oil industry, and in many cases they have local partners or substantial local minority shareholders. Sometimes, the governments of oil-producing countries insist that they join local interests in building refineries and other downstream facilities. Thus, no self-respecting government of a foreign country would be likely to sit idly by while the largest oil company in that country (a subsidiary of EXXON or Mobil, for example) rejected that government's request on the ground that it was forbidden by United States law to undertake such an operation.

When this fatal flaw was finally shown to the Assistant Attorney General, he found no way to resolve the problem by redrafting except by providing a wholesale exemption of acquisitions by foreign subsidiaries of major American producers, which he was not prepared to do. So he consoled himself with the contention that the statute would, in any event, be subject to the principles of international law and comity. Thus, no matter how it was worded, if it cut across the laws—or even the policies—of countries where the foreign subsidiary was domiciled, the Department of Justice could always decide, in its wisdom, not to seek action to apply it, or the Federal courts might, in accordance with "principles of international law and comity" decide that the application of the statute was "inappropriate."

What an extraordinary bureaucratic copout! Even though it is clear that many foreign governments would promptly block the application of a statute, why not enact it anyway and let the poor litigants fight it out in court? Can one conceive of a better prescription for international chaos and for building up international resentments. Countries all around the world—wherever, in fact, subsidiaries of American companies are incorporated—would rush to enact laws to nullify the application of the American statute. Litigation would be profuse, protracted and confused. The Department of Justice would waste countless hours trying to decide whether, with the advice of the State Department it could safely proceed in a particular case without blowing up an international storm. That is no way for a great, responsible nation to behave.

The tenuousness of the excuse for extending the reach of American law is emphasized by the fact that, under the Department of Justice amendments, a foreign company which a major American oil company controls (which presumptively means holds at least a 15 percent interest) would be precluded from acquiring companies, even though those companies engaged in no business whatever with the United States.

To be sure, the Assistant Attorney General, in his letter of September 18, suggests that the prosecutor might decide not to try to enforce the statute where "a merger of a foreign subsidiary of a major producer with another foreign firm does not entail any drain on the producer's revenues, is, instead, supported entirely by the resources of the foreign firms involved and would enhance the competitiveness of the resulting firm to the clear benefit of foreign public policies." But how could the prosecutor determine that such an acquisition did not "entail any drain on the producer's revenues"? One of the keys to efficiency of the multinational firm is its ability to deploy its resources freely all over the world and our country has a major responsibility for promoting the free transfer of capital. Yet, the implications of the Assistant Attorney General's comment are that America would now seek to place restrictions on the movement of capital earned in the United States.

When one considers specific transactions, the awesome implications of the proposed legislation become clear. For example, in developing great oilfields such as the North Sea, companies of different nationalities band together in consortia, with each participant taking a specific percentage—10 percent, 15 percent, 20 percent, 30 percent, and so on. Every year some companies drop out; percentage participations are revised; other companies buy in; it is a continuous process.

Without the new amendment suggested by the Assistant Attorney General, the proposed law would preclude any major oil company owned by, or owning, an American producing company of the requisite size from taking a controlling interest in a consortium involving more than $100 million (and no one knows how that valuation would be established). Even under the further amendment suggested by the Assistant Attorney General in his September 18 letter, subsidiaries of major American companies would be forbidden to take participations when the $100 million figure was exceeded. That would mean, in effect, that our major oil companies would be effectively kept out of most of the North Sea, or any other large field which may be developed anywhere in the world. Such an exclusion would constitute a blow to the American economy, not only because of the direct loss to our balance of payments but because the participation of our oil companies in oil development results in the export of a substantial amount of American services and technical equipment.

Subsidiaries of American companies should be assisted, not forbidden, to participate in consortia organized to develop foreign oil fields, but the proposed legislation would make it almost impossible. Even though a company might ultimately be saved from the restrictions of the proposed statute by the intervention of a host government, the statute would still cast a cloud on the inclusion of the company in consortia. If there were any possibility that American law might force the company to divest its interest at some future time, it would be a very unwelcome partner.

Since the world oil picture is constantly changing, all the possible implications of such a restriction cannot be foreseen clearly. Let us suppose, for example, that the oil fields off the China coast are opened for Western participation. Under S–1246, as it would be amended by the Assistant Attorney General, there would be serious doubt that American companies—or even their foreign subsidiaries—could participate in consortia for their exploitation. Not only would that mean a loss of revenues from oil, as well as from oilfield equipment, it might critically hamper our efforts to build an effective economic and political relationship with China. Moreover, it might well jeopardize our access to any Chinese surplus oil. In the present atmosphere of vaulting prices and potential stringencies, oil is an acutely sensitive subject for every nation. We should be extremely careful not to strangle our own enterprises with special restrictions, in a wistful hope of thereby forcing investment capital into domestic oil production. That could result in substantial cost not only to our larger financial, economic and political interests but also to our own energy supplies.

That this problem now worries the Department of Justice is shown by the fact that in his September 18 letter, the Assistant Attorney General writes: "Some concern has been raised that the new statutes might inhibit major producers' activities in petroleum exploration, development and production, particularly their participation in joint venture activities overseas. We do not have sufficient information at this time to evaluate this concern, or determine whether the statute, as it would be amended by the Administration's proposals, would be sufficiently flexible to deal with it."

Well, if the Assistant Attorney General does not know whether the statute would apply or not, who does? The proposed statutory provisions would certainly seem to do so, particularly in the light of the established interpretation of the anti-trust statutes.

But oilfield consortia are not the only problem. Consider another situation where, in order to gain access to preference crude—for example, in Saudi Arabia—the host government requires—or at least expects—a major oil company to invest or participate with local interests in important local industrial projects—a new refinery, or a petrochemical operation—or even to bail out a shaky local enterprise. Already over the past years, the access of American companies to preference crude has declined disturbingly; yet reduced access would mean less oil for the United States and higher prices through increased purchases in the spot market. In West Germany, the government has been encouraging the subsidiaries of major United States oil companies to invest in activities that would result in their diversification. The proposed legislation would presumably disable them from responding to West German Government policy.

In Canada, where there are important new oil finds, as well as tar sands and shale and other possible energy sources to be developed, the proposed legislation would presumably prevent the Canadian subsidiaries of major American firms from joining in most joint ventures, mergers or acquisitions aimed at increasing the production and sale of energy to the United States. Since the Canadian Government insists that Canadian subsidiaries of American companies be opened to substantial local equity participation, the application of the proposed law could have the effect of restricting the investment polices of companies partially owned by Canadians. In view of current Canadian hypersensitivity to United States economic domination, American business interests in Canada would be subject to devastating reprisals.

I cite these few examples as typical of the type of difficulty the proposed legislation would create for us all over the world. To be sure, in some cases the rule of comity might be interposed in the Federal courts. But that would not placate enraged foreign governments and, in any event, what kind of an answer is that? Though it might prevent the application of the statute, how would one measure the cost? Balance on such vague principles and on the differing views of individual judges would mean, in practical terms, that affected companies would pass up profitable transactions—to the great disadvantage of our country.

During my years in the State Department, I encountered no set of problems that evoked greater frustration and exasperation from foreign governments than our occasionally excessive bureaucratic zeal in trying to extend American laws and regulations extraterritorially. That is hardly surprising, since we, ourselves, would, as a proud nation and people, resent it deeply if these nations should try to impose their own peculiar prejudices and policies on us. Our anti-trust laws, the Trading with the Enemy Act, our efforts to regulate shipping and various bits of our labor legislation have long since created a climate of annoyance and opposition and the proposed legislation before this Committee would inflame already aroused feelings.

During the 1960s, the United States, as you will recall, flatly forbade exports to China, at a time when the Canadian Government was actively encouraging Canada's China trade. I was personally involved in trying to limit the damage in one case where subsidiaries of American companies controlled the only portable loading and unloading machinery in Canada—machinery that would be carried aboard the ship and used for wheat-handling at either end of the voyage. The United States Treasury, which administered the Trading with the Enemy Act, forbade the American companies to permit their subsidiaries to make this apparatus available to, I believe, the Canadian Wheat Board. That seriously threatened the movement of Canadian wheat to China.

A highly abrasive exchange took place between our governments until, finally, as I recall, we look the other way while the Canadian subsidiaries (which had local minority ownership) permitted the loading apparatus to be used. But that was only after an angry and awkward encounter that was widely used by anti-American elements in Canada to support the charge that we were seeking to impose economic tyranny on their country. There were other situations of that kind with regard to Canada.

I recall another case, where a French company had obtained an order from China for trailer trucks. Though the tractor component of those trucks was built by French-owned companies, the trailer vans were made by a subsidiary of the Freuhauf Corporation. When our Treasury Department ordered the American parent of Freuhauf-France to suspend its execution of the contract for truck vans, it incited serious attack on American economic imperialism in the French press. Tense exchanges took place between the highest levels of our two governments. In the end, a French court appointed a judicial administrator and expressly directed him to execute the original contract. The judgment of the French court was upheld by the Court of Appeals of Paris, thus over-riding the attempt of the Treasury Department to interfere with the sale.

Perhaps the most acrimonious exchanges have arisen over our attempts to apply our anti-trust laws extraterritorially. In a speech made recently in California, Mr. John Nott, the Trade Secretary in the new British Government, announced that he would propose legislation to the British Parliament to protect British companies and individuals against attempts by the United States to impose its own domestic economic policies and regulations on British companies (and that includes British subsidiaries of American companies). The proposed legislation would block the enforcement of judgments of American courts and cut back on the information British companies are now compelled to provide to help American authorities in their anti-trust investigations. As I understand it, the British Government has just made stern representations about the very legislative proposals this Committee is now considering.

Present tense feelings have resulted from a series of irritating incidents. British shipping companies were indicted under American statutes. We insisted that any company controlled 25% or more, directly or indirectly, by American shareholders was subject to American law, even if it did no business in the United States. Foreign companies complain at the disclosure requirements imposed on them by the Securities and Exchange Commission; they resent the attempt to subject them to the Commerce Department regulations relating to the Arab boycott, which, they maintain, is restricting their companies' trade with the Middle East. Foreign commodity futures brokers are complaining that U.S. agencies are trying to enforce regulations that would force foreign brokers to help them catch Americans engaging in commodity transactions abroad that would be forbidden under American law. What has capped it all is the anti-trust suit brought by Westinghouse against an alleged uranium cartel; this has roused strong nationalistic feelings, infuriating the governments of both Australia and Canada.

If we continue to try to extend the jurisdiction of American law beyond our borders, the whole system of comity may break down. We can expect widespread legislation forbidding foreign courts to enforce the judgments of American courts. Both Britain and Canada are considering such legislation and other countries can be expected to follow suit.

In anti-trust cases, the courts can apply the American law to foreign companies only if they find that the proposed violations affect United States trade or commerce; under the proposed legislation before this Committee, not even that tenuous connection need be established to make the proposed statute applicable by its terms. Since other countries do not share our desire to try to limit the investments of oil companies—and, indeed, would not even understand it—we can claim no tacit international agreement that such a limitation serves a desirable economic purpose. American efforts to enforce such legislation would be considered idiosyncratic.

In my view, the proposed legislation reflects an obtuse disregard for the interests of foreign nations. In fact, had it been deliberately drafted to offend their sensitivities, it could hardly have been improved upon. How, for example, would we explain to a foreign government that a subsidiary of a major American oil company domiciled in that country could avoid U.S. statutory restrictions on its right to acquire other companies, or even to join international consortia, only by showing that such an acquisition or participation would result in increased energy imports for the United States, regardless of the effect it might have on the economy of the host country? Even our most skillful diplomats could hardly defend that position.

Let us consider the present state of the proposed legislation. The Assistant Attorney General has been forced, finally, to concede that one major aspect of the proposed legislation must be totally eliminated—the provision that would apply the proposed statute to foreign companies controlling United States subsidiaries—and, by falling back on vague rules of comity, has implicitly recognized that there is no way to write provisions that would apply the statute to subsidiaries or affiliates controlled by American majors without inviting international carnage. That, it seems to me, well illustrates the point I made at the outset, that the problem is not one of drafting but of conception. It is, in my mind, impossible to develop legislation that would effectively limit major domestic oil producers from exercising their managerial judgment to invest in controlling interests in other firms without either encouraging American firms to invest overseas rather than in the United States, poisoning our international economic relations with friendly foreign governments, or precluding American firms from participating effectively in the exploration and development of new fields, the penetration of new markets and the maintenance of a preeminent position in relation to other major world oil companies. That is an inescapable fact resulting from the international structure of the world oil industry. One cannot treat American major companies as though they were discrete, separable entities; the international oil business is world-ranging.

In this statement, I have directed my attention to the problem of extraterritoriality because any expansion of the practice could critically harm our international economic relations. Extraterritoriality is peculiarly explosive because it touches the ultra-sensitive nerve of national sovereignty. Since the United States is the most powerful nation in the world, we need to be especially careful not to appear as trying to coerce other nations—or the nationals of other nations—to accede to our own policies when the policies of their governments are likely to be totally different.

But if sovereignty is a sensitive issue, so is energy. In the face of a potential world stringency, it is essential for the major oil-consuming nations to coordinate their policies and band together if we going to avoid conditions of chaos and discrimination. In creating the International Energy Agency, we sought by common agreement to work out some ground rules that would enable us to mitigate the hardships of an oil shortage by providing for an equitable sharing of available oil supplies. In agreeing to this, we promised to take account of the needs and interests of our partners and to create a favorable environment for energy investment. We promised further to avoid actions that would cause problems on the world energy market. Recognizing that interference with the flow of investment could be deeply upsetting to the interests of other nations, we promised to consult with other members of the OECD under those circumstances.

The legislation now before this Committee contravenes the spirit of that agreement. It is, in essence, a nationalistic approach to a problem international in scope. It could create major distortions in the international oil industry, where interdependence is not merely a slogan but an operational fact.

It could do critical damage to our national interests.

STATEMENT OF JOHN J. MCCLOY

I am a practicing lawyer and partner of the firm of Milbank, Tweed, Hadley & McCloy of New York City. I was recently asked by an official of an American oil company as to my views on S. 1246, the so-called Energy Antimonopoly Act of 1979. I stated that I had some very definite views. When asked whether I would be prepared to give them to this Committee, I indicated I would. I very much appreciate the opportunity you have given me to appear before you now and to express the views which result from my governmental and private experience with the oil industry.

I should state at the outset what my experience and qualifications have been, to justify my having an opinion on this bill. For a large part of my life I have practiced law in New York City and for a number of years I have advised certain members of the oil industry in regard to their overseas operations mainly in connection with the production and distribution of oil from Middle East sources as well as generally from the countries represented in the Organization of Petroleum Exporting Countries, familiarly known as OPEC.

I have also had substantial experience as a government official during which I became familiar with U.S. governmental policies in regard to the production and distribution of oil from overseas sources. During World War II as The Assistant Secretary of War I dealt with problems in connection with the ready availability of oil to our armed forces and those of our allies in the conduct of the war. Following the war I became President of the International Bank for Reconstruction and Development, commonly called the "World Bank," whose operations included assistance in the financing of production, transportation and distribution of oil. Thereafter, I became the U.S. Military Governor of Germany and later the first U.S. High Commissioner to the Federal Republic of Germany. During this period I served as the Administrator of the Marshall Plan in Germany and as such became generally familiar with the vital role oil played in th reconstruction of Germany and Europe. I attended many meetings with representatives of the European Economic Community in which the distribution of oil was a constant preoccupation.

Following this period I returned to private life and served for eight years as Chairman of The Chase National Bank which subsequently became The Chase Manhattan Bank (National Association). This bank was engaged in extensive financing of operations of a number of oil companies and other entities related to oil production and consumption in both domestic and international trade. I was for a substantial period Chairman of the Council on Foreign Relations which actively considered and studied problems relating to the supply of oil and oil products in international trade, our monetary affairs, the status of our trade balances as well as the political and economic conditions in the oil producing and developing countries.

I have visited most of the oil producing countries of the Middle East at one time or another and I have had discussions with the leaders of these countries, as well as with officials of our own Government, all in the interest of developing means to ensure, as far as possible, a dependable flow of oil at reasonable prices to the Free World, mainly but not exclusively from Middle East producing sources.

My remarks will be addressed mainly to the effects of S. 1246 on the nation's interest in the international aspects of oil production and distribution. I do this because I understand that other witnesses have given substantial testimony as to the bill's effect in the domestic field. Moreover, my experience and knowldege regarding the production of oil and its distribution as well as my background have been largely in the international field. I have views regarding the domestic effect of the bill and I do not wish to have my failure to refer to the domestic field taken as an indication that I believe the bill is desirable from a domestic point of view. I do not.

I have come to realize from my experience that the flow of oil from the ground to the consumer is a complicated process particularly in its international aspects. Many political and economic conditions determine the course of this flow. Many different countries and their laws and politics are apt to affect and be affected by it. I recall how in times of emergency such as the first Suez crisis, as well as at other times it required the greatest cooperation between the oil companies and the governments involved to achieve the prompt and fair distribution of oil so as to enable the consuming countries to adjust to the adverse effects of energy losses on their welfare and economic stability arising from the interruption of their normal flow of oil.

My first exposure to our dependence on a steady flow of oil was during World War II. This country then had a very well defined energy policy. It was based on our substantial domestic production in large degree. This had been built up over the years and with the aid of vigorous exploration and a number of incentives it had become more than a self-sufficient energy source. It is interesting to recall now that up till 1948, we were an exporter of oil. But the war had intervened and the demands on our production were greatly increased. Due in large part to the discernment of President Franklin Roosevelt the attention of our Government was directed to our need of a solid position in the great reserves of the Middle East. We had largely "oiled the war" as the saying went, and as heavy drains on our reserves began to be fully realized, the significance of the Middle East reserves to our future and that of the Free World became increasingly apparent. President Roosevelt also went to great effort to establish good relations with the rulers of the producing countries, particularly Saudi Arabia. The result was that our companies did assume a significant presence in the production of oil from these great reserves and there began an extensive relationship with the countries on the Arabian peninsula, and in the Middle East generally, which has persisted in spite of many vicissitudes and political developments in respect of the Middle East, until today.

The continued flow of oil at reasonable prices was a critical factor in the rehabilitation of Europe and in the reconstruction following the devastations of World War II. I have often felt this joint contribution of the oil companies and the governments has been lost sight of since the advent of our present shortages. Subsequent Presidents, notably President Kennedy, continued this constructive and far-seeing policy in the development and productivity of the Middle East reserves. Even though our Government policies in the Middle East did not always please the Arab producing countries our relations have remained generally friendly and very valuable to them and to us. The benefits we have derived from these countries have enhanced our security and the progress of our economy as well as that of our allies, during the whole post-war rehabilitation period.

In turn the proceeds of oil production have been applied in a substantial degree to the development of the economy of the producing countries, frequently taking the form of joint ventures with others including the producing country. These have involved the production of oil, the development of so-called down-stream operations flowing from the production of oil and in other cases programs only indirectly, if at all, related to oil or even energy.

Not only American oil companies but foreign oil companies as well have been engaged in these ventures and today they are in active competition with each other in participating in such ventures. As the sensibilities of the local sovereignties have developed the producing countries have demanded participation in the ventures while seeking investment on the part of the oil companies to help defray their costs and share the risks. In short, joint ventures have become a definite and effective pattern of overseas oil operation.

Let me now turn to S. 1246. The original bill would have completely prohibited all acquisitions, whether in the course of joint venture or otherwise, by major U.S. oil producers and their subsidiaries of control of any company wherever located having assets in excess of $100,000,000. When the crippling effect of the restrictions came to be realized, a series of proposed amendments was hurriedly put forward to cure the obvious defects of the bill. They have all failed to do so. The proposed amendments establishing affirmative defenses and those attempting to alleviate extra-territorial concerns by application of certain rather vague references to international law are quite inadequate. The great impediment which the bill's basic prohibition imposes on the ability of American oil companies and their subsidiaries to compete for participation in overseas joint ventures, still remains.

There is nothing sinister about joint ventures. They are a well established mechanism in various industries where capital requirements are very large—and in the petroleum industry those requirements typically involve billions of dollars for each undertaking—and where lead times and financial payouts are decades long. They permit the sharing of large costs and the spreading of unknown risks among several companies in order to develop resources which no single company, however large, could prudently undertake by itself. The results have generally been beneficial to our national economy and that of the Free World.

It is interesting to note that a recent study by the staff of a Subcommittee of the House of Representatives Judiciary Committee relating to joint ventures in the domestic crude oil industry found that often, in order to develop oil reserves effectively, ". . . it is necessary for separate working interest owners to join together." Stating that "such joint venturing should be encouraged", the Report concluded, "It is doubtful that the anticompetitive effects of such cooperation are so severe that they outweigh the benefits of this most efficient manner of production." (Staff of House Comm. on the Judiciary, "Interdependence in Domestic Crude Oil: Joint Ventures, Farm Outs, Exchanges, and Gathering Lines", at p. 29, (Comm. Print), 96th Cong. 1st Sess. (1979)).

If this is so in the case of domestic ventures, considering the size and variety of interests involved in the intricate international aspects of oil production it is even more apparent that such ventures are constructive, and indeed necessary, in overseas operations.

It is not surprising therefore that in the past foreign joint ventures by American companies for oil exploration and production have been encouraged by our government, which has deemed them to be consistent with the antitrust laws. Pre-eminent among these were, of course, the Aramco partnership and the Iranian Consortium.

But in his presentation to this Committee on October 4, Mr. James Atwood, Acting Legal Adviser of the Department of State, noted the concerns expressed by oil producers that the bill might well stand in the way of their acquiring an interest in joint ventures to develop the North Sea, the Persian Gulf, or other similar foreign locations where petroleum resources are thought to exist. He pointed out that the vast majority of exploration and development of foreign petroleum resources is done in some form of joint venture undertaking.

As he stated, "The joint venture form for largely energy transactions is frequently an efficient way to proceed; indeed, the capital requirements for new energy production often compel use of joint ventures." I am told, for example, that the Sullom Voe land-based terminal for Northern North Sea crude oil could not have been financed by any single company, and that the massive undertaking in TAP's pipeline required multiple ownership to allow financing. Many other examples could certainly be found.

The significance of joint ventures in the production of oil from foreign sources is even more pronounced. I understand that during the first half of this year Free World crude oil production, excluding that in the United States and Saudi Arabia, averaged approximately 30 million barrels per day, of which 15 million barrels were produced by government oil companies operating directly in the various countries, 14 million barrels were produced by various kinds of joint ventures including private oil and industrial companies, and only 1 million barrels were produced by private companies working alone.

In addition, my information is that heavy oil or tar sand production is largely conducted by joint venture operations which involve both government and private companies. I am also advised that of nine operating overseas LNG plants five were developed by joint ventures involving private oil companies, and the joint venture formula is the pattern very apt to be applied in China's off-shore developments.

This bill, however, as presently drafted, even with the provisions for affirmative defenses (which ostensibly would permit such ventures where they would have "the likely effect" of "substantially" promoting energy), presents a heavy and debilitating barrier to participation by American companies and their subsidiaries in this normal and frequently necessary shared approach to the production of energy. The affirmative defenses would clearly shift the entire burden onto the venturing company to show that the "likely" effect of the joint venture would be to "substantially" promote energy development.

No foreign producing country is likely to entertain American participation in its joint ventures if it has to face the delays and uncertainties presented by possible Justice Department objections, interpretations or conditions regarding the joint venture. Most surely would this be the case where the validity of the transaction depended on the outcome of litigation. There will always be companies or agencies based in England, Germany, France and Japan (and perhaps eventually in the Soviet Union) all of which will stand ready, willing and able to partake in such joint ventures. They will be subject to no such uncertainties and probable delays as would be presented by this bill even in its amended form. On the contrary, they will in the greatest probability be affirmatively aided by the active and vigorous support of their respective governments.

The United Kingdom pointed out in its recent protest to an earlier draft of this bill that the joint venture prohibition "could hinder the United Kingdom in an off-shore exploration and development programme for oil and gas." The British government also indicated that the strictures of the bill might conflict with the actions of foreign governments in specifically approving certain foreign mergers or acquisitions. In addition the British government critically noted the unrealistic nature of the $100 million limit when viewed in terms of inflation and the three-year time period contained in the bill.

The bandaid type of amendment providing for an affirmative defense falls far short of curing the bill's defects. It would in all probability not meet the basic objections of the British government. Certainly it will not relieve the major United States oil companies and their foreign subsidiaries from restrictions which will severely hinder if not prevent their ability to compete with foreign oil companies for participation in the development of foreign energy resources through joint ventures. And if the major companies are prevented from joining in these undertakings, which require massive infusions of capital, the enforced side-lining of the larger companies would make it impossible for smaller U.S. oil companies to take part in such ventures.

In addition to requiring joint ventures in the direct development of energy sources overseas, many foreign countries have required the participation of American companies in developing both "downstream" petroleum processing facilities and non-energy related industries in their countries as a "quid pro quo" for access to their crude oil supplies or to their acreage.

Today in Saudi Arabia I am advised there is a total of seven joint venture petrochemical plants in various stages of development or consideration. In each case the joint venture involves a Saudi company—government related—and one or more foreign oil companies. Each petrochemical plant joint venture includes a crude oil entitlement as an incentive for the foreign partners. Each of the seven plants involves commitments in excess of $1 billion and most of the joint venture agreements propose formulas of approximately 1,000 barrels a day crude oil entitlement per million dollars of investment. This would entail crude oil entitlements of 300,000 to 400,000 barrels a day for anticipated investments of $300 to $400 million by the foreign participants. If the Saudi government sensed potenial difficulties or delays in the development of one of these downstream or industrial joint ventures as a result of the prohibitions represented by this bill, it would in all probability turn from any U.S. company participant to, let's say, the Japanese or British interests which are actively seeking access to petroleum in the Persian Gulf.

Norway has an express requirement of cooperative industrial partnerships for obtaining access to crude oil. The government's announcement of the fifth licensing round of off-shore fields of Norway issued in June of this year required applying companies to present information relating to plans of "the applicant or its affiliated companies" to set up a business or businesses in Norway and "cooperation with Norwegian companies" in order to "increase the market possibilities for Norwegian industry."

I have read the statement of Mr. George Ball before this Committee on the effects of S. 1246. Mr. Ball's main emphasis in his opposition to the bill, as I read his statement, is placed on the international complications which would or could arise from the bill's attempt to impose restrictions on the freedom of investment by our oil companies and their subsidiaries operating abroad. He placed much stress on the unwisdom of attempting to extend the application of such restrictions abroad in an industry as complicated, as interdependent and as internationally oriented as the oil industry has become. He speaks, of course, out of his abundant experience in the State Department of the irritations and hostility often engendered among foreign governments to our attempts to extend our laws to the conduct of their nationals abroad. My experience, though somewhat different from his, still roughly parallels it. It enables me I believe to subscribe generally to his views. I therefore endorse the substance of what he had to say and I share his view of the essential unworkability of the bill, in its effort to restrict overseas investment of oil companies to the pattern the bill seeks to apply domestically. While subscribing generally, as I say, to his views, my objections are based on what I consider to be the even more fundamental conflicts which the bill presents to some of our paramount national interests.

In this regard I would like to refer first to what I consider to be the unfortunate tone of the bill.

I am aware, as I suppose everyone is, of the criticisms and attacks which have been made against the oil companies following the imposition of the oil embargo and the shortages and higher costs generally brought about by the oil exporting nations. These criticisms have become more severe as gasoline and fuel oil prices have increased and as gasoline has become less plentiful. At the same time reports regarding the profits of the oil companies have appeared and they have not helped the public attitude toward the companies. While recognizing this attitude, we should not in this atmosphere lose sight of either our national interests or the major contributions which the American oil industry has made to the security of this country and the rehabilitation of Western Europe after the devastations of World War II.

I believe the bill reflects this attitude of hostility to the oil companies, particularly the American ones, and as a result it embodies a generally punitive note. It stresses a negative rather than affirmative approach which I believe is out of pace with both our present needs and interests. I say this because instead of placing American oil companies abroad in a better position to find oil and in so doing to cooperate with the oil producing countries in their desire to develop their economies, the bill paradoxically imposes discriminatory restrictions on American oil companies and their domestic and foreign subsidiaries wholly inconsistent with what one would assume to be our main objective—that is, more oil. And this condition is prescribed for an area where the competition for strategic positions in the world's greatest known reserves takes on perhaps its most intense form.

More significant than even this, I believe the bill represents in its international aspects a striking reversal of U.S. policy with regard to Middle East oil reserves and the countries in which they are located. I refer to a policy which goes back at least to President Franklin Roosevelt's administration, if not to President Wilson's after the breakup of the Ottoman Empire occurred. This to me is absolutely incomprehensible. I can only conclude that this paradoxical result is due to the pervading feeling that our shortages and high oil prices are somehow due to the machinations of oil companies, particularly American ones, and that their activities should accordingly be circumscribed more than they are now.

The fact that shortages and high prices occurred after forces over which the companies no longer could exert control, took over, appears to be ignored. These forces were governmental and political. They were not in accordance with the wishes, or indeed, in the interests of the oil companies. We are also prone to forget that when the oil companies were in a position to control to a substantial degree the price they were paying to the producing governments for the oil they were distributing to consumers they showed, by and large, consistent restraint and sensitivity as to the prices which consumers were being charged for oil products.

One of the constant complaints made by the producing countries was that the "take" they received as well as the prices were too low. Our former Secretary of State, Dr. Kissinger, said (in the light of hindsight, to be sure) that they had been kept too low. Judged by present prices they do appear very cheap. The companies fought a sort of rear guard action for a number of years to keep costs down as constant threats and demands for higher "take" were being made by the producing countries.

Even after the OPEC demands in 1970 were made and the Teheran Agreement (later disregarded by the producing countries) was entered into in February of 1971 the increase agreed to was only 35 cents a barrel, as I recall it. This was before the roof fell in and while the oil companies had some control.

I am deeply disturbed over the state of American trade and commerce both at home and abroad. I am particularly distressed about our lowered productivity ratios as compared with those we used regularly to record. I am troubled by the debilitating effects of inflation and what seems to be the erosion of our competitive capacities. I am shocked at the depreciation of our currency. As I read this bill in the light of these concerns, I am much disturbed by its basic philosophy and import.

While its major objective should be to produce more oil, it seems primarily designed to strike from the hands of what perhaps is our country's most vigorous and productive industry, and one on which our economy greatly depends, the means to compete effectively for greater sources of energy. The flexibility which others possess to compete for foreign oil would be denied to our companies. As part of an energy program we are taking a negative approach when what we need is an affirmative one. We are at a period in our history when we should seek to revive a cooperative attitude on the part of the Government with the oil industry in order to assist all of us to meet our energy needs and to restore our productivity and re-envigorate our economy.

Incidentally, I believe the title of this bill is misleading. It is called an antimonopoly bill. I think I would better understand the propriety of the title if it were called "Control of Investment Bill" or "Bill to Reduce American Overseas Competition for Oil". The bill by its title seems to seek to identify monopoly with size, at least so far as it relates to the American oil industry. Clearly, the bill's restrictions are based solely on size criteria. The acquisition of $100 million of value seems to be the magic figure. Due to the title of the bill, by implication, it might be argued that it fosters incursions into the existing antitrust laws since today the law is that mere size does not create a monopoly.

In my effort to locate a definitive draft of the bill I found that it had been subject to a number of amendments, some of a rather substantial character and most dealing with the international aspects of the bill. These were introduced during the course of a relatively few months, the latest of which I only saw the latter part of last week. I suggest that the necessity for the flow of these amendments and the substantial character of some of them indicates that the serious consequences of the bill particularly relating to the international aspects of the oil business simply have not been well thought through. I also suggest that the quantity of the amendments and their substance indicates that the basic principle of the bill itself may be unsound and that it cannot adequately be amended into a constructive one.

In his testimony Mr. Ball expressed grave doubts as to whether a government can successfully go about coercing a business corporation into certain investments by inhibiting its ability to invest in others. Since it is return on capital that prompts investment and not coercion, one would imagine that it would be much more productive to induce investments by creating incentives rather than to take this negative approach.

I have heard that it is being urged by the proponents of the latest amendments that the affirmative defenses now provided for are so liberal that there should be little objection to the bill as so amended. I do not believe the amendments cure the defects nor are they helpful, for the reasons I have given, but if they are all that liberal why should the restrictions be imposed in the first place?

Already we have a veritable arsenal of antitrust weapons to which no other country in the world that I know of subjects its nationals. Do we need to pile Pelion on Ossa because it is American oil companies which are here involved? According to a distinguished former Undersecretary of State we have been irritating sovereignties abroad for some time in our attempts to apply some of our antitrust stringencies to corporations or nationals operating within their jurisdiction. None of the oil companies, so far as I am aware, is asking for any exemption from our existing antitrust laws. But apart from all this, what conceivable national benefits to us are to be derived by placing these crippling restrictions on our overseas oil companies in their competition for overseas oil?

I cannot escape the conclusion, as I have indicated, that this bill reflects an adversarial if not a hostile attitude toward the oil industry. We need a positive energy policy today quite as much as we did so successfully apply during and after World War II. It has been my experience in my practice as well as in my political and business contacts with other Governments and oil companies that it is difficult to find where, say, Japanese, German or French, or for that matter, English oil companies' interests end and where their respective Governments' interests begin.

Their policies and interests seem rarely to conflict and there is no reason, as I see it, why ours should so frequently appear to do so. I cannot conceive that any of the foreign governments with which I have been in contact would for a moment consider placing such restrictions on their nationals competing for oil overseas as this bill, in spite of the amendments, would do.

Let me add one more note before I close. I have referred to the farsightedness which Presidents Roosevelt and Kennedy showed in regard to the importance of our active interest and presence in the areas of Middle East oil production. I have referred to the important security aspects as well as the economic aspects of that policy. Both Presidents were keenly aware of the strategic character of the Middle East and its oil reserves and they both adopted affirmative measures in recognition of that fact.

I have spent a good bit of my life dealing with matters affecting the defense and security of the country. Perhaps I am oversensitive to our security interests but when I hear from our intelligence that there are some 48,000 to 50,000 Soviet trained Cuban troops, scattered about the periphery of the Arabian Peninsula and the African oil producing areas, prepared, trained and accustomed to advance the interest of the Soviet Union in such areas, I suggest that this is no time to create the impression that our oil companies' continued participation in the development of that area or indeed of any other area such as the North Sea, China or Southeast Asia in a competitive fashion is, in any way, contrary to our national interest.

BERLIN AIRLIFT NEEDED FOR CAMBODIA

Mr. PELL. Mr. President, President Carter has proposed a very worthy humanitarian effort on the part of the United States in support of a program being organized by the International Red Cross and U.N. agencies to provide urgently needed famine relief to Cambodia. The President and three of our colleagues who recently visited Southeast Asia, have backed the idea of a land bridge of trucks to carry food from Thailand into Cambodia. Others have called for a U.S. contribution to augment Red Cross airlifts into Cambodia.

Both of these approaches to the problem have merit, and I could support either one of them, or both of them, if there were any real prospect that the Cambodian Government would agree to either of them. The Cambodian Government's attitude so far, however, does not give me much encouragement that a land bridge will prove feasible or that the Red Cross will be permitted to augment its flights sufficiently to do the job.

Accordingly, I believe that if by the end of this week the Cambodian Government does not give its approval either to a land bridge or to augmented Red Cross flights, the United States should, in concert with any other like-minded governments, mount a massive unilateral effort of the kind involved in the Berlin airlift, to drop food to the starving people of Cambodia. Already, some 1,000 Cambodians are dying every day; and if we wait much longer for the Cambodian Government to act, there may soon be very few Cambodians left to help. These people need our help at least as much as the people of Berlin three decades ago.

I realize that what I am proposing is an extreme action that involves the violation of Cambodian airspace, but the desperate plight of the Cambodian people requires an extreme approach if the Cambodian Government will not cooperate in an effort to save the lives of its own people. In such a barbaric situation, civilized diplomatic niceties are irrelevant. Our Government certainly was not bothered by diplomatic considerations in 1970 when we occupied part of Cambodia without permission in our effort to clean out a Vietcong force.

I also realize that much of the food in an airdrop would be seized by Government or guerrilla forces, but that is also likely to be the case with a land bridge or augmented Red Cross air effort. In any event, whatever reaches the starving millions in Cambodia via an airdrop would be better than nothing. We cannot stand by idly and simply bear witness to another holocaust.

KHMER REFUGEES IN CAMBODIA

Mr. COHEN. Mr. President, will America be like the "man with no shoes who pitied himself until he saw a man with no feet?"

So many of us are preoccupied with the problems of modern affluence—raging inflation, the high cost of energv, the low value of the dollar. In the midst of our economic troubles, have we shown indifference to the 3 million Khmer refugees in Cambodia who are dying of starvation, malaria, tuberculosis, and prolonged conditions of utter destitution?

We have. Hundreds of thousands of Cambodians have died while the United States and the rest of the world debated about which government actually represents them. The fact is that they have no government to represent them and only the conscience of mankind to protect them.

My conscience is troubled. We have seen the man with no feet through the eyes of Senators Danforth, Baucus, and Sasser, who have just returned from Cambodia. Their message is urgent.

There is no time in this country to rekindle the debate of whether we should have ever set foot in that part of the world, or haggle over whether we have contributed to the plunder and devastation of Cambodia. Perhaps those who predicted a bloodbath in Southeast Asia if South Vietnam fell to the North can feel vindicated by the course of history, but not at the expense of millions more Cambodians who require immediate humanitarian relief.

The lessons of history should not be confined to textbooks or memorials. The children, whose stomachs distend as if carrying a great weight, cannot be relegated as mere footnotes to a shocking and disgraceful chapter in the annals of man. We cannot erase from our minds the emptiness of hunger that bloats their bellies, which their emaciated sticklike frames cannot carry, or the sight of women, walking skeletons themselves who embrace the skeletons of their children. Thousands of others who have collapsed along the refugee route from Cambodia to Thailand mark the road like grisly human milestones. Not even the thousands of miles walked by all these refugees together can measure their suffering or the immensity of the crime that will rest with the world if more are permitted to die.

If we do not act, Kampuchea will take its place beside the names of Auschwitz, Buchenwald, Treblinka, and the Warsaw Ghetto as memorials to man's indifference to man. We are witnessing a genocide. Three million people are in immediate danger of extermination. Two hundred thousand refugees will die every month unless food and medical aid is rushed to their relief.

We cannot watch in silence while many more fall from weakness and suffer the horrible death to starvation.

We must transcend political differences with the North Vietnamese and their regime in Cambodia and we must act to bring relief to the refugees. A dying, homeless people should not be held hostage to a debate that is rendered absurd in the face of horror. It is absurd, as well, that the North Vietnamese should deny our offer of aid. Can we not prevail on the Soviet Union to bring its ally to reason? And is it not equally unreasonable that the Soviet Union, dependent on American wheat for sustenance, should assist an ally through its silence in the systematic starvation of millions of people?

The highest levels of our Government should be required to resolve these diplomatic problems so international relief will arrive in time.

ABUSE OF SENATE COMMITTEES

Mr. PROXMIRE. Mr. President, there have been recent disclosures of serious abuses of the Senate committee process. Last week, the Wall Street Journal published an article that detailed the efforts of Textron, Inc.'s Bell Helicopter Division last year to keep the Committee on Banking, Housing, and Urban Affairs from learning about payoffs that it made to foreign government officials.

According to the article, company officials:

> In anticipation of the Senate hearings—

To be conducted by the committee into the nomination of G. William Miller, Textron's chairman, to to be Chairman of the Federal Reserve System—

> say they were told to look through correspondence files with dealers overseas. The stated purpose was to make sure that nothing in the files would be "misinterpreted" by Mr. Miller's critics, chiefly Banking Committee Chairman William Proxmire of Wisconsin. To some managers, these instructions meant that the files should be cleaned out.

These developments greatly disturb me. The committee had learned within 3 months of the end of its Miller confirmation hearings that Textron-Bell officials had destroyed at least one document that was central to the committee's investigation of the company and that other key documents had not been given to it pursuant to a subpena. The article indicates that the company was engaging in what appears to be a deliberate coverup. The withholding and destruction of documents cannot be explained away as isolated instances or the result of actions undertaken by overzealous employees.

A report prepared by the Securities and Exchange Commission for the Banking Committee last summer provides additional evidence of the activities of Textron-Bell and its executives to withhold information from the committee at the time it was conducting its investigation in January and February of 1978.

Textron-Bell's activities must be treated with utmost gravity. Congressional committees simply cannot carry out their very serious responsibilities if relevant information is systematically destroyed, if witnesses lie under oath or if subpenas are not complied with. Committees must protect themselves against illegal actions that obstruct the conduct of their work and undermine the committee process. In the case of the Banking Committee's hearings, there is increasingly strong evidence that Textron-Bell and its officials obstructed the committee's investigation.

After the committee first learned of the destruction and withholding of documents, I wrote then-Attorney General Bell twice, on May 10 and June 26, 1978, asking the Justice Department to investigate possible obstruction of the committee's investigation by Textron-Bell and its employees.

I am referring additional material to the Justice Department that provides serious evidence on the conduct of Textron-Bell and its officials. I am also asking Attorney General Civiletti for a substantive report on this matter within 90 days.

This issue must be addressed without hesitation. I ask unanimous consent that the Wall Street Journal article of October 24, 1979, be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

New Evidence Appears in SEC Investigation of Payoffs by Textron

(By Jerry Landauer)

Fort Worth, Texas.—Margaret Hernandez, a secretary for the Bell Helicopter division of Textron Inc., was unusually busy in early 1976. At the command of her superiors in Bell's international-marketing department, Miss Hernandez was removing and revising confidential correspondence indicating payoffs by Bell to sell helicopters in Latin America. These files were identified by the code name "White Rose."

Specifically, the White Rose files mentioned officers in the air force of Colombia who were acting as "advisers" or "consultants" to Bell's dealer in Bogota. One officer who got paid for providing inside information about his government's military-procurement plans worked at the Colombian Embassy in Washington.

First, Miss Hernandez removed a dozen or so letters and telegrams from the Bell dealer, whom she identifies as Antonio Angel. She also removed copies of English translations that had been circulated to headquarters executives here. Then she replaced the discarded Spanish documents with a fresh, backdated set provided by Mr. Angel. These didn't mention "advisers" or "consultants." And to make the White Rose files appear complete again, she retranslated the phony Spanish documents into English.

WARDING OFF INVESTIGATIONS

One reason for these secretive maneuvers was to protect the company against the probability of a U.S. government investigation—several other aerospace concerns already were under scrutiny for making questionable foreign payments. Textron subsequently did become the target of several federal investigations, especially after President Carter chose company Chairman G. William Miller to head the Federal Reserve Board early last year. During Mr. Miller's confirmation hearings, allegations were leveled that Bell had made payoffs in Iran and Ghana. Mr. Miller testified that he knew nothing about foreign bribery, and he was overwhelmingly confirmed by the Senate. Last July, he was named Secretary of the Treasury.

Now, evidence is surfacing that the doctoring of the White Rose files (which never came up during any of Mr. Miller's confirmation hearings) was but one of several efforts within Bell over a period of years to hide traces of payoffs abroad. Other countries were involved besides Iran and Ghana, and the cover-up continued even after Mr. Miller took over as head of the Fed. Company officials say they have testified about many of these matters to the Securities and Exchange Commission, which has been investigtaing Textron for the past 20 months. SEC officials refuse to discuss the case. But some at Textron expect the agency to issue a complaint soon. The company itself is withholding comment until the SEC investigation is concluded.

CLAIMS OF INNOCENCE

There isn't any indication that Mr. Miller, working far away at Textron headquarters in Providence, R.I., knew about the questionable goings on at Bell. But while they were occurring, he was repeatedly asserting Textron's innocence of payoffs.

For example, just a few weeks after Miss Hernandez doctored the White Rose files, Mr. Miller addressed shareholders at Textron's annual meeting. "We will live by the highest standards," he assured, "and I can tell you that so far as we know, there have been no payments that are illegal, or any payments that are improper, anywhere throughout the company."

In 1977, Mr. Miller went further, although Textron at that time hadn't conducted an in-house investigation, as scores of other companies had, to discover and stamp out questionable practices. "We know of no case in Textron where there have been any improper payments, illegal payments," he told the annual meeting that year. "We've made a survey of the company. . . . I think we should all feel proud of shareholders and directors and officers."

Mr. Miller didn't explain that the company survey covered just one year, 1976. Nor did he mention, as Textron has subsequently reported, that "employees were simply asked to sign statements asserting that they were unaware of improper practices; they were not requested to provide information regarding any knowledge they might have had of the existence of such practices."

SOME UNEXPLAINED INCIDENTS

Here at Bell Helicopter, largest of Textron's 26 divisions, no one who participated in or suspected bribery abroad gave any information for the survey. The details of most payments remain locked in files such as the White Rose correspondence or in the recollections of those who participated.

For example:

An officer in the Mexican air force, Col. Enrique Gomez, once traveled to Fort Worth to pick up a check for $150,000. A Bell employee who watched the transaction says his superiors knew that Col. Gomez worked for Gen. Solitro Beltran, chief of the Mexican air force. Gen. Beltran approved an order for 10 Bell helicopters.

In Jamaica, Bell sacked its sales agent, David Nunes. On the recommendation of a senior officer in the Jamaican defense forces, the company hired a reserve officer, Andrew Bogle, who at times performed special duties for the minister of national security. Mr. Bogle sold helicopters to the defense forces from his home and, like Col. Gomez from Mexico, he came to Fort Worth for his commissions; Bell complied with his instructions never to send checks to Jamaica.

In pushing a $10 million sale to the armed forces of a North African country, believed to be Morocco, Bell's Washington office allowed an officer attached to the country's embassy to pick the overseas dealer in Morocco who would get and "redistribute" sales commissions. Correspondence describes the dealer as a "front man" for a high defense official.

Bell's dealer in Ceylon once rushed a letter to Fort Worth saying he needed commissions in advance, to pay government officials, including Air Force Commander Patrick Mendis. But the helicopters that Bell intended to sell were being financed by the U.S. Defense Department, requiring Bell to certify that it wasn't paying commissions. To slip around this certification, the company hurriedly signed a consulting agreement with Brown & Co., the dealer in Ceylon. It then routed payoffs disguised as consulting fees through banks in Europe. Whether Mr. Mendis got any money isn't known.

In 1976, Bell transferred about $500,000 to a Swiss account so that a company dealer in the Persian Gulf could, as he put it "honor my long-standing commitments." In one sheikdom, Bell's dealer was owned at least in part by officials in the ministry of defense.

In the Philippines, Bell contemplated payoffs through its dealer to a high official. "Arrived just in time to sign commissions and to eliminate Brand X," a Bell salesman cabled from Manila. The salesman was alluding to a competitor.

THE COMPANY'S ANALYSIS

Some or perhaps most of the bribes paid by Bell, or paid by Bell dealers with the knowledge of the company, were extorted rather than volunteered. And more often than not, the company resisted payoff demands. Moreover, in comparison to the tens of millions of dollars ladled into foreign purses by other aerospace concerns such as Lockheed Corp., the payments by Bell appear relatively small.

"It would be misleading to conclude that questionable payments were the rule in Bell's foreign-marketing practices," says a report issued last July by a special committee of the Textron board. "The committee found evidence of questionable payments as to relatively few of Bell's international sales."

But the company report doesn't identify places where payments were made, except the Iranian and Ghanaian episodes previously disclosed. Last July, Textron also pleaded guilty to violating currency laws in bribing a government official in the Dominican Republic.

"I know my company didn't bribe anybody!" Mr. Miller had declared at the Senate hearings in 1978. He evidently was unaware of the cover-up at Bell Helicopter to make such statements appear accurate.

FEAR OF SENATOR PROXMIRE

In anticipation of the Senate hearings, sales managers in the international-marketing department now say they were told to look through correspondence files with dealers overseas. The stated purpose was to make sure that nothing in the files could be "misinterpreted" by Mr. Miller's critics, chiefly Banking Committee Chairman William Proxmire of Wisconsin. To some managers, these instructions meant that the files should be cleaned out.

One sales manager, George Gonzalez, actually searched the White Rose files, ostensibly to detect signs of improper activity that should be reported to superiors. Naturally he found nothing suspicious; Miss Hernandez, his secretary, had done her job well.

Then a subpoena arrived from the Senate committee demanding all information in the files about Bell's relationship with Gen. Mohammed Khatemi, former chief of the Iranian Air Force. The committee was investigating reports that Gen. Khatemi was a secret owner of a Tehran sales agency to which Bell paid $2.9 million as commissions on a $500 million helicopter sale to Iran in the years 1973 to 1975.

HANS WEICHSEL'S FILES

Bell supplied reams of material, and at the hearing Bell and Textron officials said they didn't have any knowledge that the Iranian commander owned part of the sale agency. But Bell didn't produce a U.S. Commerce Department trade report stating that Gen. Khatemi "reportedly has financial interests" in the Tehran agency. According to the Commerce Department, the report was sent to Forth Worth, on request, two or three months before Bell hired the sales agency. The document can be read as putting the company on notice that commissions paid to the sales agency might flow in part to the influential general.

The people at Bell who were responsible for providing subpoenaed information also were slow to search the files of Senior Vice President Hans Weichsel, who often handled foreign-marketing matters. Mr. Weichsel's files contained an "eyes-only" trip report identifying Gen. Khatemi as the "real influence" behind the sales agency. The document wasn't supplied to the Senate panel until after Mr. Miller had been confirmed. And when Textron disclosed its existence, certain executives in Fort Worth scurried for cover.

One, Frank Sylvester, vice president for international marketing, had told the Senate committee under oath that he didn't know about or even suspect Gen. Khatemi's ownership interest. But after discovery of the confidential trip report, he decided against reiterating his denial. Instead, associates confide, Mr. Sylvester invoked Fifth Amendment privileges against self-incrimination in testimony to the SEC's enforcement staff.

John Carberg, a Textron spokesman, says the company can't answer questions about foreign payments until the SEC's investigation is over.

DESTROYING SOME EVIDENCE

Another foreign payment that wasn't confirmed until after the Senate vote on Mr. Miller's nomination involved a $300,000 kickback to a general in Ghana in connection with a helicopter sale. During the confirmation hearings, George Gallerstein, Bell's chief legal officer, prepared a statement for the Senate Banking Committee—"No officer of Bell was involved with or aware of the transaction"—that several other executives knew to be plainly false.

Sen. Proxmire mentioned the possibility of a kickback in Ghana at the start of the hearings. He asked Mr. Miller to look into the transaction and to report back "as fully as you can." Mr. Miller didn't inquire personally, but Textron requested information from Bell. The following May, Textron reported that a Bell executive had destroyed a memorandum dealing with the Ghana payment.

Here's what happened, according to company officials:

Dee Mitchell, a 25-year-veteran at Bell, knew that a payoff had been made. He spotted a revealing memo in the correspondence files on the day after Sen. Proxmire questioned Mr. Miller. Mr. Mitchell destroyed the memo; as he later confided to associates, the document was embarrassing. Three managers who reported to Mr. Mitchell also read the memo, and at least one knew it had been torn up. All three men kept silent. Textron says it didn't discover the existence or destruction of the memo until May, seven months after Mr. Miller had been sworn into office.

TO DEFEND HUMAN RIGHTS IN THE STRONGEST POSSIBLE TERMS: PASS THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, on October 23, in a Prague courtroom, six Czechoslovak human rights activists were sentenced to prison terms ranging up to 5 years. They were convicted of "subversion of state."

The result of the trial prompted worldwide criticism from defenders of human rights. Italian President Sandro Pertini reflected global sentiment when he explained that the trial "shocks the Italian people."

The U.S. Helsinki Watch Committee denounced the affair as "further proof of the pattern of human rights abuses" in Eastern Europe. Appealing to all defenders of human rights, the committee issued the following statement.

> We call on the governments and signatories of the 35-nation Helsinki conference on European security and cooperation to join with us in our efforts to obtain the release of those imprisoned Czechoslovak activists.

Some world leaders have already begun applying diplomatic pressure on the Czechoslovak Government. European Parliament President Simone Veil requested that Common Market foreign ministers intercede on behalf of the defendants.

The United States, having always placed a high priority on human rights, was also quick to respond. State Department officials called in the Czechoslovak Ambassador to protest the trial in the "strongest possible terms." It appears that in this case the forces of justice are rallying to defend the principles of humanity.

Unfortunately, America's contribution to this crusade is not all it could be. Despite over 200 years of being a leader in the field of human rights, there is a blemish on our record. We have failed to ratify the Genocide Convention.

How can we expect other nations to respond to the Helsinki Watch Committee's plea for defense of human rights when our own record is inconsistent? How strong can the State Department's "strongest possible terms" be when we have failed to defend the most fundamental right—the right to live?

Let us return America to a position of maximum credibility. If we are to fully participate in the defense of human rights, we must ratify the Genocide Convention.

PUERTO RICO STATEHOOD

Mr. STEVENS. Mr. President, Puerto Rico Governor Carlos Romero Barcelo, a proponent of Puerto Rico statehood, if reelected in 1980 will hold a plebiscite on the statehood issue in 1981. The issue is a longstanding one which President Gerald Ford brought to the forefront several years ago when he publicly advocated statehood. Legislation addressing this issue has been pending before Congress since 1977.

A recent Gallup poll indicated that a majority of Americans support statehood for Puerto Rico. Alaskans, recalling the long debate preceding Alaska's admission into the Union, are especially interested in the future of Puerto Rico. I would hope that all Americans, recognizing Puerto Rico's right of self-determination, would remain receptive to the possibility of Puerto Rico statehood.

Mr. President, I ask that the following editorial from the October 25, 1979, Wall Street Journal be printed in the RECORD.

The editorial follows:

PUERTO RICO RORSCHACH

> Since President Carter's release last month of four Puerto Rican nationalists jailed for shooting up the House of Representatives and trying to kill Harry Truman, more people have been sitting up to notice that we may have to act fairly soon on the political future of Puerto Rico. The debate on what to do is already taking shape. So far it looks as if it's going to reveal less about the Puerto Rican situation than it will about the state of America's political culture.
>
> Until recently, it didn't seem necessary or appropriate for Americans outside Puerto Rico to concern themselves much with the island's political questions: It was enough to know that there was a substantial Puerto Rican consensus in favor of the island's half-autonomous Commonwealth form of association with the U.S.
>
> But in recent years the consensus and the atmosphere of relative peace have disappeared. Puerto Rico's present governor, Carlos Romero Barcelo, outpolled the pro-Commonwealth forces and won office on a pro-statehood platform. He is favored to win re-election in 1980; if he does, he intends to hold a plebiscite on the statehood issue in 1981.
>
> But while growing numbers of Puerto Ricans call for statehood, there's an increasingly vociferous demand from other places that Puerto Rico be freed from the colonialist, imperialist U.S. altogether. The independence movement in Puerto Rico is small. But it includes terrorists who have been doing political as well as physical damage with their bombs. And it can take comfort from the fact that the UN has now adopted the issue of Puerto Rican self-determination.
>
> The Puerto Ricans are going to have to make up their own minds, of course, about whether they want to be a U S. state. But the rest of us should avoid trying to make up their minds for them. Already we're beginning to hear that the U.S. should discount the results of any plebiscite they hold on the subject, because many Puerto

Ricans are afraid to expose their island to an abrupt cutoff of U.S. benefits.

We're also hearing that a plebiscite won't properly reflect the political volatility of the island. The independence supporters may be few, it's said, but we must also take account of the intensity of their feelings. They and other anti-statehood forces can create so much discord on the island that any attempt to implement statehood, plebiscite or no plebiscite, would be turned into an occupation instead of a marriage.

We're also beginning to hear from the cheerful doomsayers of the realpolitik school. They themselves aren't against statehood for Puerto Rico, they tell us, but as they analyze the situation, Congress is never going to let in another state that will siphon off congressional representation and offend constituents with its undesirable poorness and foreignness. So why create bitterness, say these analysts, by letting the Puerto Ricans get their hopes up only to have them inevitably disappointed?

These are arguments that shouldn't be allowed to determine the outcome of our Puerto Rico debate. There are some very real problems that the issue presents: Everyone is going to have to know more precisely just what the new financial obligations and benefits on both sides are going to be, and there is a legitimate concern over Puerto Rico's bilingualism.

But Puerto Rico has enough benefits to bring us, and enough of a moral claim on us, so that there shouldn't be any insuperable obstacles to settling the specifics. Certainly there's no reason to assume that U.S. national sentiment on the question is anti-statehood or to recommend U.S. policy on the basis of that assumption. Certainly we should not be saying that a violent minority can hold veto power over the wishes of most Puerto Ricans, or that the experience of association with us has been so corrupting that Puerto Ricans are no longer capable of giving us a straightforward, rational account of their own feelings on the subject.

If after all these years with us Puerto Rico wants to be a state, we should welcome it. To assume that we cannot—that we have become too ungenerous to be able to absorb anything new or too weak to defend the authority of majority rule in Puerto Rico—would say something very sad indeed about the nation we've allowed ourselves to become.

SALT II

Mr. BELLMON. Mr. President, many years ago during the time I served as Governor of Oklahoma, I had the opportunity to become acquainted with Dr. Edward Teller, one of this Nation's most eminent and respected scientists. Consequently, I was pleased and flattered to receive his letter of September 19, 1979, regarding SALT II, the treaty which will soon be before the Senate.

A great deal of what Dr. Teller says should be of interest to Members who will be making a decision regarding the ratification of the SALT treaty. Especially, I was impressed by his statement that the United States should "immediately take steps to shift the entire basis of the competition to take advantage of our tremendous latent capacity for innovative research and development."

As Members well know, I have not supported the proposal to simply add 3 percent or 5 percent to our defense spending. I believe that a thorough review of both our defense policy and foreign policy should be conducted before SALT is ratified or before defense spending is increased. I believe Dr. Teller's letter supports this point of view and I ask unanimous consent that it be printed in full in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SEPTEMBER 19, 1979.

Senator HENRY L. BELLMON,
Russell Building,
Washington, D.C.

MY DEAR SENATOR: On September 7, 1979, I testified before the Senate Committee on Foreign Relations on the matter of ratification of the SALT II treaty. I believe the issues far transcend the particular provisions of the treaty. They also transcend the question of whether or not the defense budget should be increased by a few percent. They involve the whole framework within which we pursue our security, and how we spend our creative energies.

We are at a watershed. The security and even the survival of our nation is called into question. The pattern of the last decade has been to try to compensate for the Soviet build-up by patching up an increasingly obsolescent triad of forces, while trying to limit the Soviet forces by the minor and often illusory measures prescribed in SALT I and II. To continue this pattern means that we will be spending more on systems of increasingly doubtful value, leading to a quantitative arms race that we will eventually lose. The only alternative is to mobilize our one advantage—our dormant genius for technological innovation—and to outmatch the Soviet Union in the technological competition of quality, not quantity, thereby developing an array of new types of stable and secure strategic forces. The Russians are already pressing as hard as they can in developing new military technology, but it is a race that we will not lose if we harness the scientific and technical skills in our universities and industries that are not now applied to defense. By refusing to ratify the SALT II treaty, even if amended, the Senate could start to change our course from the old and dangerous one to the new, more promising one. The ensuing debate could create the resolve among Americans and our allies necessary to pursue such a new cause.

There can be no doubt that we are faced with the most serious challenge in our history. The most credible government witnesses testified that Soviet and American strengths at the present time are balanced, but an imbalance in favor of Russia will develop unless appropriate action is taken. Many non-government witnesses stated that such an imbalance already exists. This is the first time that such a dark picture has emerged.

Even if SALT II were amended and an improved version ratified, this would not reverse the long and dangerous trend which has brought us from the secure position of 1960 to the increasingly insecure situation of 1980. Our strategic posture today is based on the idea of mutually assured destruction and therefore on the reliability of our TRIAD of forces. The fact is that the TRIAD rests today, not on three secure foundations, but on a single shaky leg. According to government statements our land-based missiles will lose their survivability in the early 1980's and according to our present plans cannot possibly stand up under a Soviet attack until well after the expiration of SALT II. Our bombers are endangered on the ground, on takeoff, in midcourse, and on arrival. We can hardly call them reliable. The danger to our missile-launching submarines is less clearly defined. We know of intense Soviet efforts at unconventional methods to defeat our submarines. They might survive in spite of such efforts. But since in these methods the Soviets appear to be qualitatively ahead of us, and since it is hard to tell from intelligence when or whether they become able to defeat our submarines, this last leg of the TRIAD can hardly be called "assured and firm."

Our allies, whose fate is intertwined with our own, are faced with large Warsaw Pact tactical forces, the Backfire and the SS-20, and are dependent on oil from the Middle East where neither they nor we any longer have real military influence. If the present trend continues, they will have no choice but to develop their own independent nuclear deterrent, or to capitulate, probably in several stages.

The SALT II treaty does little to address these problems, and the treaty is flawed in other important ways. The limitations on the Soviet forces come too late to keep our Intercontinental Ballistic Missiles from becoming vulnerable. The treaty provisions limit missile launchers but no missiles, and thus do almost nothing to address the serious problem of missiles produced secretly and hidden, to be launched from hidden soft launchers (as a first strike force can be). Worse yet, the verification formalism will cause us to impose artificial conditions on our own second-strike forces, making them very expensive and less survivable (and a second-strike force must survive). The treaty does not impede Soviet improvements in missiles in an effective manner, since the most worrisome improvement—in accuracy—can be accomplished within the allowed size limits. The treaty does essentially nothing to reduce the threat to our bombers and submarines.

Neglecting to limit SS-20 and Backfire, whatever effect it may have on the United States, necessarily produces extreme pressure on our allies. Articles XII and XIII, which severely affect our collaboration with NATO and with Japan, will make it much easier for the Russians to extend their power step by step.

Beyond technical issues, the recent disclosures of the presence of Soviet troops in Cuba raised doubts in many minds. I believe this matter is important but not decisive. The presence of the troops is directly relevant to SALT in two ways:

(1) If we are slow to notice Soviet troops in Cuba, can we be really confident of verifying SALT II?

(2) Secretary Brezhnev has assured us that the Backfire is not equipped and will not be equipped to fly to the United States, deliver a load of atomic explosives and return to the Soviet Union without refueling. We have not been assured that a similar operation will not be carried out with refueling in Cuba. If that should be a serious military alternative for the Soviets, the troops in Cuba may be most convenient to look after the safety and proper handling of the Backfires.

Of course, the presence of the troops demonstrates how the Soviets use their growing military power. I find it impossible to separate these issues from the matter of ratification.

However, even if these troops were not in Cuba, the disadvantages of the SALT II treaty would remain. Withdrawal of the troops should not qualify as a concession with which the Russians can buy ratification.

Instead of ratifying the SALT II the United States should immediately take steps to shift the entire basis of the competition to take advantage of our tremendous latent capacity for innovative research and development. The Soviet Union is already bending every effort toward military research and development. The United States has not brought the full weight of our scientific and technical community to bear on national defense problems since World War II. In particular, the university research community is perhaps least involved; it has become unfashionable to work on defense matters. We must close ranks within the United States and with our allies to mobilize science. Respected figures in and outside of government must speak out and become involved. Young people must be inspired to work constructively, within the defense community, on these problems vital to their future.

In this regard, it is clear that a Soviet objective in the whole process of "arms control" negotiations has been to limit the full deployment of our advantage in technology. SALT I limited ABM, where our advantage in electronics and solid-fuel rockets gave us a clear lead. SALT II will limit our exploitation of cruise missile technology, much of which derives from our superior capabilities in electronics. A Comprehensive Test Ban would keep us from using our computer and instrumentation technology to design needed new types of warheads, and would keep us from catching up with the Soviets in many areas where they probably have an advantage. Indeed, the Soviets are even now preparing for a Comprehensive Test Ban by a current vigorous nuclear test program.

There are many fruitful areas of new technology to pursue: remotely piloted vehicles (RPVs), advanced air defense and anti-tactical ballistic missile systems, laser and particle beam defensive weapons, nuclear warheads of advanced design, and many others that can build on our advantages, particularly in electronics and computer technology but also in other areas. Such developments will not necessarily be the forerunners of a further quantitative arms race of another type in the future. They are of such potential diversity that we can pick and choose those which will help to stabilize the strategic relationship between the United States and the Soviet Union.

To help this new approach, we should initiate open and unrestrained negotiations with all allies, but especially with the advanced free nations, whose interests are practically identical with our own. If we can get to a full understanding on complete cooperation on defense, sufficient strength can be produced so that the continuing expansion of the Soviets can be brought to a halt. Such full cooperation, however, is compatible neither with the spirit of SALT II, in which the main emphasis is placed on the balance of terror (which is gradually being replaced by a retreat before terror), nor with the letter of the treaty, in Articles XII and XIII.

A renewed technological effort will not succeed without a full realization in our own country of the nature of the danger that we are facing. This danger is greater than the one from Hitler. At that time our ocean barriers provided protection. At that time, also, we were faced with an adventurer who acted precipitously. Today the danger is less obvious and more serious and comes from a power more cautious and more formidable.

The first and foremost problem to be solved is how to awaken the healthy instincts of survival and how to mobilize American and allied inventiveness. I recall that my own efforts for defense were enlisted by a speech by Roosevelt in 1940, when he said that unless scientists in the Free World will work for weapons to defend freedom, freedom will be lost. Today there is no one in high position to talk to Americans and the other free people in such a manner. The Senate by discussing and eventually defeating SALT II could make the first resounding statement in such a campaign.

If SALT II could be brought to a vote and decisively defeated, this would assure that debate on national preparedness will continue. We need such a debate if we want the American people to recognize existing dangers and to take the steps necessary if peace is to be maintained and safety is to be achieved.

If on the other hand SALT II is ratified, further steps are apt to follow. The Comprehensive Test Ban might come next. A further sequel might well be SALT III imposing even more restraints that the Russians can evade and we cannot.

I want to conclude by an illustration of the results of the SALT process. Several highly placed individuals in government argue with considerable effectiveness that we must launch our land-based missiles on warning, otherwise they cannot survive. On the other hand we are doing next to nothing about civil defense in which the Soviets are thoroughly engaged. In the name of peace many argue that the saving of American lives by evacuating our citizens from the cities (when we observe Soviet evacuation) is provocative; some of the same people argue that launch on warning is a necessity.

I hope that you will make sure of the maintenance of peace in a more realistic manner. If we believe that safety can be obtained by a real arms limitation on our side and imagined arms limitation on the Soviet side, we will be driven into an increasing number of contradictions. In the end we will not survive if these contradictions persist.

Sincerely,

EDWARD TELLER.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer laid before the Senate a message from the President of the United States submitting the nomination of Richard Cavins Matheron, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Swaziland, which was referred to the Committee on Foreign Relations.

MESSAGE FROM THE HOUSE

At 6:56 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the bill (S. 751) relating to the relocation of the Navajo Indians and the Hopi Indians, and for other purposes, with amendments in which it requests the concurrence of the Senate.

The message also announced that the House further insists upon its disagreement to the amendment of the Senate numbered 137 to the bill (H.R. 4389) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1980, and for other purposes.

The message further announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 24. An act to improve budget management and expenditure control by revising certain provisions relating to the Comptroller General and the Inspectors General of the Departments of Energy and Health, Education, and Welfare, and for other purposes;

H.R. 2196. An act to establish a Congressional Award Board to administer a Congressional Award Program designed to encourage initiative and achievement among youths;

H.R. 2583. An act to amend chapter 83 of title 5, United States Code, to discontinue civil service annuity payments for periods of employment as a justice or judge of the United States, and for other purposes; and

H.R. 2742. An act relating to the Indiana Dunes National Lakeshore, and for other purposes.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 24. An act to improve budget management and expenditure control by revising certain provisions relating to the Comptroller General and the Inspectors General of the Departments of Energy and Health, Education, and Welfare, and for other purposes; to the Committee on Governmental Affairs.

H.R. 2583. An act to amend chapter 83 of title 5, United States Code, to discontinue civil service annuity payments for periods of employment as a justice or judge of the United States, and for other purposes; to the Committee on Governmental Affairs.

H.R. 2742. An act relating to the Indiana Dunes National Lakeshore, and for other purposes; to the Committee on Energy and Natural Resources.

HOUSE BILL PLACED ON THE CALENDAR

The following bill was read twice by title and placed on the calendar:

H.R. 2196. An act to establish a Congressional Award Board to administer a Congressional Award Program designed to encourage initiative and achievement among youths;

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2392. A communication from the Comptroller General of the United States, reporting, pursuant to law, on estimated revenues to be deposited in the Panama Canal Commission's fund as estimated by the Secretary of Defense; to the Committee on Armed Services.

EC-2393. A communication from the Director, Federal Emergency Management Agency, reporting, pursuant to law, that no real or personal property was acquired during the quarter ending September 20, 1979; to the Committee on Armed Services.

EC-2394. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Housing Leased to Lower Income

Persons: Better Federal Guidance and Management Could Improve Quality," October 30, 1979; to the Committee on Banking, Housing, and Urban Affairs.

EC-2395. A communication from the Chairman, Federal Energy Regulatory Commission, reporting, pursuant to law, on Commission Order No. 533, program for process and feedstock users of natural gas; to the Committee on Energy and Natural Resources.

EC-2396. A communication from the General Counsel, Department of Energy, transmitting, pursuant to law, notices of meetings related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-2397. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Examination of the Financial Statements of FHS Insurance Operations—Fiscal Year 1978," October 29, 1979; to the Committee on Governmental Affairs.

EC-2398. A communication from the Assistant Secretary for Indian Affairs, Department of the Interior, transmitting, pursuant to law, notice of proposed rulemaking to add a new Part 31h to Chapter 1, Subchapter E, of Title 25 of the Code of Regulation; to the Select Committee on Indian Affairs.

EC-2399. A communication from the Director, International Communication Agency, transmitting a draft of proposed legislation to amend Section 212 of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JACKSON, from the Committee on Energy and Natural Resources, without amendment:

S. Res. 268. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 932. Referred to the Committee on the Budget.

By Mr. LONG, from the Committee on Finance, without amendment:

S. Res. 269. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 1543. Referred to the Committee on the Budget.

By Mr. KENNEDY, from the Committee on the Judiciary, without amendment:

S. 405. A bill for the relief of Hun Sik Sanderson (Rept. No. 96-381).

S. 919. A bill for the relief of Jennifer Ferrer (Rept. No. 96-382).

H.R. 3319. An act for relief of Jose Quintana Dominguez Sendejas (Rept. No. 96-383).

By Mr. KENNEDY, from the Committee on the Judiciary, with an amendment:

S. 1374. A bill for the relief of Lynn Rufus Pereira (Rept. No. 96-384).

By Mr. LONG, from the Committee on Finance, with an amendment:

H.R. 1543. An act to improve the operations of the adjustment assistance programs for workers and firms under the Trade Act of 1974 (Rept. No. 96-385).

By Mr. LONG, from the Committee on Finance:

Special report entitled "Finance Committee Revised Allocation of Budget Totals for Fiscal Year 1980" (Rept. No. 96-386).

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs, with an amendment; and by Mr. JACKSON, from the Committee on Energy and Natural Resources, with an amendment and an amendment to the title:

S. 932. An act to extend the Defense Production Act of 1950, as amended (together with additional, supplemental and minority views) (Rept. No. 96-387).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on the Judiciary:

Arthur L. Alarcon, of California, to be U.S. Circuit Judge for the Ninth Circuit.

Harry Pregerson, of California, to be U.S. Circuit Judge for the Ninth Circuit.

Thomas A. Clark, of Florida, to be U.S. Circuit Judge for the Fifth Circuit.

Stephanie K. Seymour, of Oklahoma, to be U.S. Circuit Judge for the Tenth Circuit.

Juan Guerrero Burciaga, of New Mexico, to be U.S. District Judge for the District of New Mexico.

Anna Diggs-Taylor, of Michigan, to be U.S. District Judge for the Eastern District of Michigan.

Alcee L. Hastings, of Florida, to be U.S. District Judge for the Southern District of Florida.

Neal P. McCurn, of New York, to be U.S. District Judge for the Northern District of New York.

Alan N. Bloch, of Pennsylvania, to be U.S. District Judge for the Western District of Pennsylvania.

Scott E. Reed, of Kentucky, to be U.S. District Judge for the Eastern District of Kentucky.

Robert H. Hall, of Georgia, to be U.S. District Judge for the Northern District of Georgia.

Terence T. Evans, of Wisconsin, to be U.S. District Judge for the Eastern District of Wisconsin.

Barbara B. Crabb, of Wisconsin, to be U.S. District Judge for the Western District of Wisconsin.

Frank Howell Seay, of Oklahoma, to be U.S. District Judge for the Eastern District of Oklahoma.

Lee Roy West, of Oklahoma, to be U.S. District Judge for the Western District of Oklahoma.

Thomas Rutherford Brett, of Oklahoma, to be U.S. District Judge for the Northern District of Oklahoma.

James Oliver Ellison, of Oklahoma, to be U.S. District Judge for the Northern District of Oklahoma.

Harold Arnold Ackerman, of New Jersey, to be U.S. District Judge for the District of New Jersey.

Dickinson Richards Debevoise, of New Jersey, to be U.S. District Judge for the District of New Jersey.

H. Lee Sarokin, of New Jersey, to be U.S. District Judge for the District of New Jersey.

Anne Elise Thompson, of New Jersey, to be U.S. District Judge for the District of New Jersey.

Dale Emerson Saffels, of Kansas, to be U.S. District Judge for the District of Kansas.

By Mr. LONG, from the Committee on Finance:

Nathan J. Stark, of Pennsylvania, to be Under Secretary of Health, Education, and Welfare.

William Brownlee Welsh, of Virginia, to be an Assistant Secretary of Health, Education, and Welfare.

Billy M. Wise, of Virginia, to be an Assistant Secretary of Health, Education, and Welfare.

(The above nominations from the Committee on Finance were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

SENATE BILLS JOINTLY REFERRED

Mr. MELCHER. Mr. President, I ask unanimous consent that the bills, S. 341, S. 1795, and S. 1796, be referred to the Select Committee on Indian Affairs.

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that this request has been cleared with the minority leader. It has been cleared with me.

Mr. BAKER. Mr. President, we have no objection to the referral.

Mr. MELCHER. I thank the Senators.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. YOUNG (for himself, Mr. WALLOP, Mr. BURDICK, Mrs. KASSEBAUM, Mr. THURMOND, and Mr. STEVENS):

S. 1953. A bill to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Louis L'Amour; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LAXALT:

S. 1954. A bill to amend titles 18 and 28 of the United States Code to eliminate, and to provide an alternative to, the exclusionary rule in Federal criminal proceedings; to the Committee on the Judiciary.

By Mr. MELCHER (for himself, Mr. BAUCUS, Mrs. KASSEBAUM, Mr. CHURCH, Mr. MCGOVERN, and Mr. HATCH):

S. 1955. A bill to provide indemnity payments to certain farmers and other persons suffering losses due to contamination by polychlorinated biphenyls; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. EAGLETON:

S. 1956. A bill to amend the Internal Revenue Code of 1954 to provide for partial exclusion of interest from gross income; to the Committee on Finance.

S. 1957. A bill to amend the Federal Boat Safety Act of 1971 to improve recreational boating safety and facilities through the development, administration, and financing of a national recreational boating safety and facilities improvement program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MATSUNAGA:

S. 1958. A bill to amend the Employee Retirement Income Security Act of 1974 for the purpose of facilitating the investment by employee pension benefit plans in qualifying employer real property; to the Committee on Finance and the Committee on Labor and Human Resources, jointly, by unanimous consent.

By Mr. LUGAR:

S. 1959. A bill to amend certain Federal regulatory statutes affecting automobiles in order to reduce the cost to the consumer of achieving the goals established in such statutes, and for other purposes; to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works, jointly, by unanimous consent.

By Mr. WARNER (for himself and Mr. NUNN):

S.J. Res. 118. A joint resolution to defer the pay of Members of Congress in the same manner and to the same extent as the pay and benefits of other employees and individuals are deferred due to the unavail-

ability of funds; to the Committee on Government Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. YOUNG (for himself, Mr. WALLOP, Mr. BURDICK, Mrs. KASSEBAUM, Mr. THURMOND and Mr. STEVENS):

S. 1953. A bill to authorize the President of the United States to present on behalf of the Congress a specially struck gold meal to Louis L'Amour; to the Committee on Banking, Housing, and Urban Affairs.

(The remarks of Mr. YOUNG when he introduced the bill appear elsewhere in todays proceedings.)

By Mr. LAXALT:

S. 1954. A bill to amend titles 18 and 28 of the United States Code to eliminate, and to provide an alternative to, the exclusionary rule in Federal criminal proceedings; to the Committee on the Judiciary.

EXCLUSIONARY RULE IN CRIMINAL PROCEEDINGS

● Mr. LAXALT. Mr. President, I am introducing today a bill to amend the United States Code by providing a new section dealing with the exclusion of evidence in Federal criminal cases. This is similar to a proposal submitted by Senator GRIFFIN during the last term concerning the exclusionary rule.

The exclusionary rule is a shorthand description for the rules of evidence which require the courts to suppress any evidence which is acquired as a result of a search and seizure found to be in violation of the fourth amendment to the Constitution. The rule was first elicited by the Supreme Court in United States against Boyd,[1] in which the Court held that the personal papers of an individual seized as a result of an illegal search could not be used against him at trial.

In the early part of this century, the Supreme Court decided the Weeks[2] case which made the exclusionary rule applicable to all Federal cases. The Court stepped beyond Boyd and held that any material, not just personal papers, obtained in violation of the fourth amendment should be excluded.

It was not until the Warren Court decided Mapp against Ohio,[3] in 1961, that the exclusionary rule, as defined in the Weeks case, was made applicable to the States by way of the fourteenth amendment's "due process" clause. Up to this time, well over half of the States had chosen not to utilize the rule as elicited in Weeks. The Court decided that the exclusionary rule was the only method of preventing the law enforcement agencies from violating the fourth amendment. The Court came to this decision without any empirical data to substantiate its position.

The rationale for establishing the exclusionary rule was twofold: To preserve judicial integrity and to punish the violating police officer. The Supreme Court felt that if a court used evidence obtained illegally, judicial integrity would be compromised and the public's confidence in the court system destroyed. However, the deterrent aspect of punishing the respective police officer later became the primary reason for retaining the rule. The Court has continually drawn upon the deterrence argument in upholding the rule.

Mr. President, if those goals have been served and if the exclusionary rule does in fact protect against unconstitutional searches then it would have my full support. However, as can be readily seen, the rule accomplished neither of these goals and in reality its effect is just the opposite as that desired. To show the fallacy of deterrence as a reason for continual acceptance of the rule it is appropriate to recall the case of Stone against Powell.[4] In that case, one of the defendants was convicted of murder based on evidence recovered from a search pursuant to a warrant. The Supreme Court found the warrant to be defective and the evidence obtained pursuant thereto was suppressed. The conviction was reversed and the guilty criminal went free. Is this deterrence? What more can a policeman do when he gets a warrant? Who are we deterring? The police officer? The magistrate?

So here we have the dilemma. The rule did not deter police conduct in the situation outlined above. The rule certainly cannot uphold judicial integrity and public confidence in the court system. Upon seeing obviously guilty criminals freed, public confidence in the courts erodes rapidly.

How many times has every law student in the United States heard the words on the venerable Justice Cardozo—

> The criminal is to go free because the constable has blundered * * *?

So many times that they have become a cliche. Yet, the protracted use of the exclusionary rule by courts in the United States has turned criminal trials into a procedural game rather than a quest for the truth. I am aware that there are abuses in our law enforcement system and we must guard against them. But we must find a more effective and equitable protection than the exclusionary rule.

I need not go into the horror stories resulting from the application of the exclusionary rule. We need only read the daily papers to see how guilty criminals are released, no matter how heinous the crime, because the constable blundered. The rule as now enforced in every American jurisdiction, has resulted in the acquittal of a countless number of guilty defendants after appeals, and a failure to prosecute many more. It is the major cause of delay in criminal cases because of suppression hearings, and is probably considered the most controversial procedural rule of criminal law.

If the rule worked, I might be inclined to concede that this is the price we must pay for enforcing the fourth amendment. However, the number of illegal searches has not diminished, as can be verified by an examination of any criminal court or appellate court docket.

The whole concept of the exclusionary rule is based on an illogical argument. The willful violators of fourth amendment rights are going to perform the illegal search whether the evidence is going to be excluded or not. Yet only the guilty criminal has any recourse. He is released. Suppression of probation evidence certainly cannot aid an innocent individual who is subjected to an illegal search. Is this the way we want our criminal justice system to function, benefiting only the guilty while giving no recourse to innocent victims of illegal searches?

Not only is the guilty criminal freed and an innocent victim of a fourth amendment violation left without recourse but the recalcitrant police officer is subjected to no disciplinary action. If the evidence is suppressed on appeal, or worse yet on a habeas corpus hearing, is the officer disciplined in any way? By that time, the case is long forgotten in his mind as he has probably made hundreds of searches and seizures in the interim. Also, even if he were to read the appellate opinion, chances are he could not comprehend the law as stated in the Court's decision. Nor should he be expected to understand the appellate opinion; it takes lawyers 3 years of law school to be able to read and understand them. By releasing the criminal to discipline the police officer, we are in actuality punishing society as a whole by sending a guilty criminal back into the streets. This is not rational.

No less than the Chief Justice of the Supreme Court of the United States has challenged the Congress to take a look at the problems posed by the rules and to provide a legislative solution. Justice White and other Justices have also expressed their disillusionment with the rule and voiced a willingness to endorse a viable alternative. The Court has refrained from overruling the suppression doctrine because they, admittedly, lack the constitutional power to legislate an alternative.

The Chief Justice has suggested, and I have proposed, that the Federal Torts Claims Act be amended to allow defendants, as well as anybody else whose fourth amendment rights have been violated, to sue the Federal Government in a civil action for damages incurred in an illegal search and seizure. Similar provisions were proposed in previous Congresses by Senators BENTSEN and Griffin.

Instead of suppressing probative evidence, my bill would provide the individual with a remedy against the officer who violated his fourth amendment rights in the course of a search and seizure. If the fourth amendment violation was willful or a result of gross negligence, the bill provides for a civil action against both the law enforcement body and the officer who committed the violation.

In this way, probative evidence will not be denied the Court, whose object is truthfinding, and the aggrieved individual will be provided civil relief whether he is guilty or entirely innocent. Under the present situation, the innocent victim of a fourth amendment violation has no relief whatsoever. All types of intended harassment searches go unpunished, as the exclusionary rule does not touch them. However, as a result of the civil action against the law enforcement agency encompassed by my bill, the violating officer can be disciplined and corrected with relative swiftness. Such a situation is impossible with the exclusionary rule as the only form of relief.

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[1] *United States* v. *Boyd*, 116 U.S. 616.

[2] *Weeks* v. *United States*, 232 U.S. 383.

[3] *Mapp* v. *Ohio*, 767 U.S. 643.

[4] *Stone* v. *Powell*, 428 U.S. 465.

By removing the exclusionary rule straightjacket we would allow the States to consider different alternatives. In giving the States this freedom, which they once had, they will be able to fashion more effective protections for fourth amendment rights. We then will be able to tap their resourcefulness in order to aid in more effective protections on the Federal level.

Mr. President, the exclusionary rule must be modified. We must restore a balance between the treatment accorded the victims of crime, that being society as a whole, and the protection afforded the perpetrators of crime.

My bill does this and I urge that the Senate give it prompt and favorable consideration.●

By Mr. MELCHER (for himself, Mr. BAUCUS, Mrs. KASSEBAUM, Mr. CHURCH, Mr. MCGOVERN, and Mr. HATCH):

S. 1955. A bill to provide indemnity payments to certain farmers and other persons suffering losses due to contamination by polychlorinated biphenyls; to the Committee on Agriculture, Nutrition, and Forestry.

AID FOR PCB VICTIMS

● Mr. MELCHER. Mr. President, I have just introduced a bill for myself, Senators BAUCUS, KASSEBAUM, CHURCH, MCGOVERN and HATCH to authorize the Commodity Credit Corporation to make payment of indemnities to persons who have suffered losses as a result of PCB's (polychlorinated byphenols) getting into the food chain from a Montana packing plant.

Several hundred persons have lost chickens, eggs, hogs, and food products, and a substantial number face liquidation of their operations, because they have had to destroy poultry and livestock, or products, contaminated by the chemical.

Damages have been very roughly estimated at $4 million in Montana and $10 million overall in the 19 States where the PCB's were spread.

The PCB's were released into the food chain as a result of the rupture of an electrical transformer in storage at the Pierce Packing plant in Billings, Mont. They contaminated a high protein meat scrap feed supplement which went to feed mixers; the feed contaminated chickens, hogs, and cattle, and food products produced from them.

Unfortunately, the danger of PCB's to human health has been known to Federal agencies for some time, but inadequate steps have been taken to destroy existing stocks or to warn persons with mechanical equipment of the danger of allowing any of the element to get into the food chain. Production of polychlorinated byphenols has been stopped, and warning labels have now been ordered on all equipment containing it—but too late to prevent the Pierce Packing tragedy.

If it is determined that there is civil liability for any of the damages done, rights to those damage claims can be assigned to the Government by those who receive indemnities. Meantime, many of them will be saved from liquidation for lack of capital to replace their poultry and livestocks, or to continue their operations.

In order to expedite handling of the indemnities, the bill I have introduced provides for use of funds and facilities of the Commodity Credit Corporation, which can get into operation speedily. Unless indemnities are speedily provided, the financial damage to operators without assets to get back into operation will have been done—they will be out of business. Use of the CCC in such instances is out of the ordinary but, in this instance, is essential to avoid the delays of authorization, congressional budget procedures and apropriations.●

By Mr. EAGLETON:

S. 1956. A bill to amend the Internal Revenue Code of 1954 to provide for partial exclusion of interest from gross income; to the Committee on Finance.

● Mr. EAGLETON. Mr. President, the Senate currently finds itself in the midst of debate on H.R. 4986, the Consumer Checking Account Equity Act. This bill, if passed, will have a far-reaching impact on the banking industry, the housing industry, and the consumer. I am very concerned about the implications such a bill could have, especially during a time when we find such chaos in domestic and international money markets.

One of the purposes of this bill is to assist the small saver whose been the hardest hit of all by current double-digit inflation. I support that purpose; however, I question the manner in which this bill goes about it. I am apprehensive about an attempt to help the small saver when it will come at the expense of our savings and loan associations and ultimately the housing industry. A recent Wall Street Journal article which discussed the tight mortgage market in the Midwest announced that mortgage lending has virtually dried up in that part of the country.

The article quoted Randy Ney of the Home Savings Association of Kansas City, Mo. as saying—

> Up until now it may have been a question of expensive credit, but now it may be a question of credit availability.

Consequently, I believe that it is wrong for Congress to help the small saver at the expense of our S. & L.'s and the homebuilding industry. I believe there is another alternative and I believe it is much more constructive.

The bill that I am introducing today is truly a small saver bill. My bill would allow a tax exclusion on interest income earned only from passbook savings accounts at commercial banks, mutual savings banks, S. & L.'s and credit unions. Individuals would be allowed a deduction up to $500 and $1,000 for married couples who file a joint tax return. As a double test to insure that only the truly small saver will benefit from this exclusion, the bill provides that only those taxpayers who earned an aggregate of $500 or less in interest and dividends from all reportable sources can qualify for the tax exemption.

I propose this second test to preclude the case of an individual who may be earning a sizeable return on high yielding investments and then decides to place some money in a passbook account to receive the tax benefit. The small saver does not have such an option—his only alternative is his passbook savings account. It is this individual we want to help.

At the present time, there are several other bills pending before the Finance Committee which are also small saver bills. I believe my bill is an improvement over these bills because of its reduced revenue costs and the fact that it is so explicitly targeted to the small saver. S. 246 proposes an outright $500 exclusion in interest and dividends for any and all individuals—$1,000 for joint returns. S. 1846 is similar to S. 246 but would permit an exemption of $250—$500 for joint returns. S. 1488 allows an exclusion of up to $500 on interest and dividends earned—$1,000 for joint returns—only to the extent that the interest and dividends received during the taxable year exceed the interest and dividends during the preceding taxable year.

Thus, someone who earned $2,000 in interest in 1979 and $2,500 in 1980 would be allowed a $500 exclusion. On the House side, H.R. 3712 allows a $100 exclusion on interest for individuals; $200 for joint returns. While I commend the purposes of these bills, I believe they favor the wealthy saver as much as the small saver.

In addition, these other bills will be more costly than my bill. Some very rough estimates from the Department of the Treasury indicate the following:

S. 246 will cost approximately $4.6 billion by 1984; an alternative proposal to phase the $500 exclusion in over 5 years would lower initial costs to about $1.1 billion in 1980.

S. 1488 will cost roughly $900 million the first year and will cap after 5 years at about $1.3 billion.

S. 1846 will cost roughly $2.0 billion in 1980 and about $2.6 billion in 1984.

H.R. 3712 will cost roughly $1.1 billion in 1980; $1.3 billion in 1984.

According to the Treasury Department my bill will cost approximately $850 million in 1980—and only $1 billion in 1984. As you can tell, this would mean the least costly bill in terms of revenue lost by Treasury.

Once again, let me say that my bill would be targeted to the small saver and therefore would be less costly. It would specifically help the people I call the "Aunt Hazels" of the world who have placed all or nearly all of their savings in a bank, S. & L., or credit union. I urge my colleagues to take a look at my "Aunt Hazel bill." I think it is an effective means to assist the beleaguered small saver.●

By Mr. EAGLETON:

S. 1957. A bill to amend the Federal Boat Safety Act of 1971 to improve recreational boating safety and facilities through the development, administration, and financing of a national recreational boating safety and facilities improvement program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT ACT OF 1979

● Mr. EAGLETON. Mr. President, today I introduce the Recreational Boating Safety and Facilities Improvement Act of 1979. The bill will promote increased use of our Nation's waterways and respond to the continued need for recreational boat safety. The 1971 Federal Boat Safety Act established a significant piece of legislation to help reduce boating fatalities and accidents.

With the current energy crunch, Americans are turning to recreational facilities closer to home. There is now one privately owned boat in the United States for every 10 automobiles, buses, and trucks on the Nation's highways. The recreational boating population has grown and changed significantly in numbers and character since 1900 when privately owned boats in the United States numbered only 15,000. Fifty million Americans now take to the 25 million miles of waterways in the United States.

In my State alone this year, over 28 million people used Missouri lakes, rivers, and streams for recreation. Boat users range from motor boat users, to fishermen, to the neighborhood kids floating the river in a used innertube. Recreational boating is big business today. The 2,500-odd boat and equipment manufacturing companies employ some 550,000 persons, and generates $6.5 million in sales. The number of boat users has more than doubled since 1971, and has led to overcrowding and congestion of these waterways.

The Recreational Boating Safety and Facilities Improvement Act of 1979 takes steps to address the current concerns of the American boater; need for additional boat launching sites and dockage space; educational and licensing programs for boatowners, and better policing of the Nation's waterways.

The grants to States program under the 1971 Federal Boat Act accomplished a great deal in focusing on boating safety. The joint Federal and State complementary role in boat safety education has reduced boat fatalities from 1,582 in 1971 to 1,321 in 1978. In Missouri this year the Division of Water Safety has recorded 16 fatalities and 148 drownings. The Coast Guard, the acting Federal agency in boating safety, estimates $12.3 million in property damage yearly from boating accidents. The modest expenditure of Federal funds has been multiplied many times over in tangible accomplishments in the reduction of boating accidents. Last year Missouri's Division of Water Safety and the Coast Guard gave 3,980 safety programs with over 121,000 people in attendence.

This program, however, terminates in fiscal year 1980. Anticipating no further funds, this act would become the successor program of Public Law 92–75, to continue the existing Federal/State partnership in promoting boating safety. The central feature of the bill is the returning of Federal marine fuels tax revenue to the States on a matching basis—to be utilized by States for recreational boating safety and facilities improvement programs. Over 50 States already have similar State marine fuels tax revenue for these purposes. Under the provision of this bill, $30 million is provided annually on a matching basis with the States in proportion to the nationwide distribution of numbered vessels. A third of the funds available from the fund established in this bill will be allocated and distributed to States for conducting boating safety programs, while the remaining two-thirds of the funds will be devoted to boating facility improvement.

This bill is the next step in boating legislation, and will certainly enhance one of America's greatest recreational assets. An identical bill has been introduced in the House on June 5, 1979 (H.R. 4310) by Congressman BIAGGI of New York.●

By Mr. MATSUNAGA:

S. 1958. A bill to amend the Employee Retirement Income Security Act of 1974 for the purpose of facilitating the investment by employee pension benefit plans in qualifying employer real property; to the Committee on Finance and the Committee on Labor and Human Resources, jointly, by unanimous consent.

● Mr. MATSUNAGA. Mr. President, I am introducing a bill to amend the prohibited transaction rules of the Employee Retirement Income Security Act of 1974 (ERISA).

ERISA permits a qualified pension plan to invest in employer real property only if the investment is in multiple parcels which are geographically dispersed. This geographical dispersion rule was intended to safeguard plan investments; however, it is unduly restrictive.

In effect, the present rule allows investment in employer real property only for large plans with large employers. A small plan with an employer owning a single plant or office, cannot invest in employer real property.

Recent experience has demonstrated the wisdom of investing in real estate. Moreover, workers' ownership of the workplace enhances their sense of participation in the business. Plan ownership of the plant or office tangibly shows the workers' stake in the concern. This identity of interests stimulates productivity and the workers materially share in the growth of the business.

The acquisition and holding limitations for defined benefit plans as well as the prudent man rule and exclusive benefit standard will still protect the plan's financial integrity. In addition, my bill codifies the safeguards now administratively applied.

I urge quick action on my proposal and ask unanimous consent that my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1958

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Employee Retirement Income Security Act of 1974 is amended—

1. By striking out subclause (iii) of clause (A) of Section 407(d)(3) and inserting in lieu thereof the following:

"(iii) a money purchase plan which was in existence on the date of enactment of this Act and which on such date invested primarily in qualifying employer securities or on such date invested in qualifying employer real property."

2. By striking out paragraph (4) of Section 407(d) and inserting in lieu thereof the following:

"(4) The term 'qualifying employer real property' means one or more parcels of employer real property—

(A) if, in the event a plan holds more than one parcel of employer real property, a substantial number of such parcels are dispersed geographically within or without a State;

(B) if each parcel of real property and the improvements thereon are suitable (or adaptable without excessive cost) for more than one use;

(C) even if all of such real property is leased to one lessee (which may be an employer, or an affiliate of an employer);

(D) if the acquisition and retention of such property comply with the provisions of this part (other than section 404(a)(1)(B) to the extent it requires diversification, and sections 404(a)(1)(C), 406, and subsection (a) of this section);

(E) if, in the event a plan holds only one parcel of employer real property, such parcel is subject to a lease—

(i) which provides that the lessee pays all costs relating to such property, including maintenance, utilities, taxes and insurance;

(ii) which provides that obligations for principal and interest under any mortgage with respect to the property and for liability for tax under section 511 of the Internal Revenue Code of 1954 are to be paid fully from rents generated by such property, and under which the amount of such rents is sufficient to pay such obligations;

(iii) which provides that lease rentals are personally guaranteed by one or more persons described in Section 3(14); and

(iv) which provides that, in the event of default, with respect to lease rentals the trustee may, in its sole discretion, relet the property or sell the property to any party, including a party described in Section 3(14);

(F) (i) if, in the event a plan holds only one parcel of employer real property (i) in the case of property which is acquired by the plan without incurring acquisition indebtedness, the cost of such property does not constitute more than fifty percent of the current value of plan assets as of the later of the date of acquisition or June 30, 1984;

(ii) if, in the case of property which is acquired by the plan with acquisition indebtedness, the cost of such property does not constitute more than fifty percent of the current value of plan assets as of the later of the date of acquisition or June 30, 1984 and the acquisition indebtedness does not constitute more than fifty percent of the current value of plan assets as of the later of the date of acquisition or June 30, 1984.

(G) if, in the event a plan holds only one parcel of employer real property, the annual rate of return on such property is at least as favorable to the plan as the annual rate of return on such property would be if such property was leased to an unrelated party in an arm's-length transaction;

(H) if, in the event a plan holds only one parcel of employer real property, legal title to such property is held by an independent professional trustee;

(I) if, in the event a plan holds only one parcel of employer real property, such property is administered by an independent professional trustee; and

(J) if, in the event a plan holds only one parcel of employer real property, such lease is approved by an independent fiduciary which is unrelated to any party in interest and which has no other interest (other than its interest as trustee or nondiscretionary service provider) with respect to the transaction which might affect its best judgment.

Clause (iii) of subparagraph (E) shall not apply if the employer maintaining the plan is a corporation and the corporation is owned by more than fifteen shareholders and no shareholder owns ten percent of more of the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of such corporation. For purposes of subparagraph (G), the comparability of the return shall be determined annually as of the last day of the plan year by an independent, qualified appraiser.

These amendments shall take effect on the date of enactment.●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill introduced by the Senator from Hawaii (Mr. MATSUNAGA) to amend the ERISA Act of 1974 be referred jointly to the Committee on Finance and the Committee on Labor and Human Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. LUGAR:

S. 1959. A bill to amend certain Federal regulatory statutes affecting automobiles in order to reduce the cost to the consumer of achieving the goals established in such statutes, and for other purposes; to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works, jointly, by unanimous consent.

MOTOR VEHICLE REGULATORY IMPROVEMENT ACT OF 1979

● Mr. LUGAR. Mr. President, today I am introducing the Motor Vehicle Regulatory Improvement Act of 1979, which is intended to address the current problems of the Chrysler Corp. It is my strong belief that enactment of this legislation will enable Chrysler to save millions of dollars which will otherwise be spent on complying with unnecessary or excessive Federal regulation.

In addition, and most importantly, this legislation will increase the profitability of Chrysler's product offerings.

This bill is identical to H.R. 5413, which was introduced in the House on September 26, 1979 by Congressman DAVID STOCKMAN. The bill would:

First, require progress toward the 1985 fuel economy standard goal of 27.5 miles per gallon to be achieved in equal annual installmentes, rather than the present "front-loaded" schedule;

Second, repeal the authority of DOT to require airbags; and

Third, freeze tailpipe emission standards at 1979 levels.

In August 1979, Chrysler estimated its compliance costs with these regulations to be $500 million annually for the next 2 years.

Each of these regulations deals with an important social goal, and was written with the best of intentions. However, the combination of all of them, simultaneously, has been devastating to Chrysler. Except for the airbag requirement, no regulation need be repealed—only adjusted. These commonsense revisions will give Chrysler the breathing room it needs and will improve its prospects for borrowing in the private markets without taxpayer subsidy.

The provisions would apply to the entire automobile industry, however, they should prove of particular benefit to Chrysler Corp. Chrysler has been forced to spead the cost of regulations over a smaller number of cars, resulting in a disproportionately heavy financial burden. A recent Library of Congress report calls these regulations discriminatory, and reports:

> To the extent that the investment necessary to satisfy these requirements is fixed, regardless of the firm's size, Chrysler's small scale (relative to General Motors and Ford) makes its per unit cost of compliance much higher, its competitive position worse, and its profitability lower.

Congress should support relief for Chrysler because, fundamentally, it was Congress which fostered this crisis. Washington has demanded pollution reductions, drastically, without regard for cost or genuine health benefits; airbags, senselessly, without regard for clear evidence of vastly preferable alternatives; and fuel economy, immediately, without regard for other Government policies which run directly counter to this goal.

FUEL ECONOMY STANDARDS

The Energy Policy and Conservation Act of 1975 mandates that by the 1985 model year, the average fuel economy for passenger automobiles must be 27.5 miles per gallon. In administering this law, the National Highway Transportation Safety Administration has required the largest increases in miles-per-gallon standards early in the schedule. This so-called "front loading" is negatively affecting all auto producers, but particularly Chrysler. This legislation provides that from now on, progress toward the 27.5-miles-per-gallon goal be achieved in equal 1.5-miles-per-gallon increments. This provision of my amendment requires no change in the final miles per gallon goal stipulated by Congress, only a redesign of the compliance schedule.

	NHTSA schedule	Proposed schedule
1981	22.0	21.5
1982	24.0	23.0
1983	26.0	24.5
1984	27.0	26.0
1985	27.5	27.5

On May 3, 1979, the Department of Commerce reviewed DOT's front loaded schedule, and recommended the "straight line" approach which I propose in this bill. This report concluded that the DOT schedule is not cost effective. Using a conservative costing approach, it found that—

> The costs of the front loaded standards over a straight line alternative exceed the benefites by approximately $2 billion.

Included in this incredible waste is a cost of between $645–$1,000 per vehicle which could be foregone by using the schedule proposed in this bill.

Unquestionably, the restructuring of this regulation will allow Chrysler to defer capital spending and to reduce per unit fixed costs dramatically, without any change in the mileage goal or the date of its attainment.

REPEAL THE AIRBAG MANDATE

Section 3 of this bill prohibits the Secretary of Transportation from mandating the use of the airbag. This regulatory adventure has been dubious from its inception.

GAO Report No. CED–79–93, issued on July 27, 1979, confirms much of what critics have long suspected; the airbag is likely to cost five times more than NHTSA predicts; it will not provide an adequate level of protection, and may increase the risk of occupant injury in many types of crashes; and is not likely to result in lower insurance premiums.

NHTSA estimated the cost of the airbag at $112 per vehicle. The GAO study estimates $580 per car. Ford Motor Co. estimates a cost of $750 per car at high volume production, but $825 per car at expected 1982 volume.

The per unit cost of the airbag has been shown to be inversely proportional to production volume. So, we can expect that Chrysler's per unit cost for the airbag will be higher than G.M.'s and Ford's, and that per unit profit will be reduced by the difference.

It is absolutely senseless to place this burden on Chrysler and to force an increase in the price of cars by mandating a so-called safety device the effectiveness of which remains in question, and for which the alternatives are far less expensive.

EMISSIONS STANDARDS

The Clean Air Act Amendments of 1977 renewed the congressional intent to reduce auto pollutants by 90 percent of the base year (1970) levels. The "90-percent provision" in conjunction with subsequent EPA revision of the NO_x standard would result in 96 percent reductions in HC and CO from uncontrolled levels and a 76-percent reduction in the NO_x level.

Section 4 of this bill freezes the emission standard at 1979 levels:

Pollutant	1979 level	Percent reduction from uncontrolled levels
HC	1.5 gpm	86
CO	1.5 gpm	82
NO_x	2.0 gpm	51

The 1979 standards have produced reductions in exhaust emissions of 86 percent for HC, 82 percent for CO, and 51 percent for NO_x from uncontrolled levels. This represents great progress and cause for public satisfaction.

But, especially in view of today's problems in the economy and the auto industry, these 1979 levels should be frozen. No clear scientific evidence supports the proposed 90 percent reduction. It was, from the beginning, an arbitrary figure. That public health will be enhanced by insisting on the small remaining marginal reductions in auto emissions has not been demonstrated. What has been shown is that the cost of achieving these last few percent will be very high.

Ford Motor Co. estimates that it will spend $59 million per percentage point of pollution reduction to meet post-1979 standards, compared with $7.7 million per point spent between 1968–1977. This represents a 760 percent cost increase for each increment of pollution reduced.

In addition, there are other opportunity costs associated with enforcing the post-1979 reductions such as losses in fuel economy caused by antipollution systems.

It is clear that the merely suspected benefits of reducing exhaust emissions to extreme levels is far outweighed by the certain costs which are exacerbating the decline of the auto industry. No further reductions should be required until such time as the Congress receives substantial evidence proving significant health benefits.

With specific regard to Chrysler, the costs required to develop the technology and engineer the equipment required to meet the post-1979 emission standards are predominantly fixed costs which are roughly equal throughout the industry.

If these more stringent standards are enforced, Chrysler must spread its fixed costs over its 10-percent share of the market, while GM apportions its costs over a 46-percent share and Ford over a 21-percent share.

As matters stand, the Nation's consumers face the worst of two worlds. Having paid hundreds of extra dollars for their American cars because of Government-mandated standards, they are now asked to pick up the bill for the companion consequences of those same standards on Chrysler, leaving the cause of their mutual problems unreformed.

Mr. President, Chrysler's future success and creditworthiness depends on the profitability of its product. The most appropriate Government response, therefore, is to remove existing Government regulations which have forced Chrysler into a marginal operating position.

The reform of these regulations and the resultant increase in per-unit profits will assist Chrysler Corp. in gaining a firmer financial position. Furthermore, passage of this legislation will mark the beginning of a new era of growth in the American automobile industry.

I sincerely urge my colleagues in the Senate to join me in this effort.●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill introduced by the Senator from Indiana (Mr. LUGAR) amending certain laws relating to automobiles and emission standards be referred jointly to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. WARNER (for himself and Mr. NUNN):

S.J. Res. 118. A joint resolution to defer the pay of Members of Congress in the same manner and to the same extent as the pay and benefits of other employees and individuals are deferred due to the unavailability of funds; to the Committee on Government Affairs.

(The remarks of Mr. WARNER when he submitted the joint resolution appear elsewhere in today's proceedings.)

ADDITIONAL COSPONSORS

S. 76

At the request of Mr. STONE, the Senator from Louisiana (Mr. JOHNSTON) was added as a cosponsor of S. 76, to amend the Social Security Act to authorize payment under medicare for certain services performed by chiropractors.

S. 531

At the request of Mr. BENTSEN, the Senator from Arkansas (Mr. BUMPERS) was added as a cosponsor of S. 531, to allow State inspected meat plants to sell their products to federally inspected meat plants.

S. 1163

At the request of Mr. DOLE, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of S. 1163, a bill to repeal the carryover basis provisions.

S. 1383

At the request of Mr. MELCHER, the Senator from South Dakota (Mr. PRESSLER) and the Senator from Iowa (Mr. JEPSEN) were added as cosponsors of S. 1383, a bill to amend title 23, United States Code, to establish uniform national standards for weight and length of vehicles using the National System of Interstate and Defense Highways, and for other purposes.

S. 1467

At the request of Mr. DOLE, the Senator from Wyoming (Mr. WALLOP) and the Senator from Georgia (Mr. TALMADGE) were added as cosponsors of S. 1467, a bill to amend the Internal Revenue Code of 1954 to provide that the retirement placement betterment method of accounting for property used by a common carrier is an acceptable method for determining depreciation allowances.

S. 1724

At the request of Mr. WILLIAMS, the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1724, the Home Energy Assistance Act.

S. 1783

At the request of Mr. DOLE, the Senator from New Hampshire (Mr. HUMPHREY) was added as a cosponsor of S. 1783, a bill to provide Small Business Administration loans to fuel oil dealers.

S. 1861

At the request of Mr. STONE, the Senator from South Carolina (Mr. HOLLINGS), the Senator from Texas (Mr. BENTSEN), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 1861, a bill to amend the Internal Revenue Code of 1954, and for other purposes.

S. 1905

At the request of Mr. DURENBERGER, his name was added as a cosponsor of S. 1905, a bill to provide for the orderly restructuring of the Milwaukee Railroad, and for other purposes.

S. 1937

At the request of Mr. RIEGLE, the Senator from Massachusetts (Mr. KENNEDY) and the Senator from New York (Mr. MOYNIHAN) were added as cosponsors of S. 1937, to provide financial assistance to the Chrysler Corp.

S. 1942

At the request of Mr. MCGOVERN, the Senator from Montana (Mr. MELCHER) was added as a cosponsor of S. 1942, a bill to provide for a resource conservation and development program in the U.S. Department of Agriculture.

SENATE RESOLUTION 268—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. JACKSON, from the Committee on Energy and Natural Resources, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 268

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 932. Such a waiver is necessary because S. 932 authorizes the enactment of new budget authority which would first become available in fiscal year 1980, and such bill was not reported on or before May 15, 1979, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible in this instance because proposals to enhance the national security by reducing the political and economic vulnerability of the United States from dependence on oil imports by increasing the production and conserving the supplies of domestically available renewable and non-renewable energy supplies through (1) the demonstration of a domestic synthetic fuels production program, (2) the production of gasohol, (3) the establishment of a domestic energy policy plan, (4) the mandating of an energy conservation program, (5) the development of domestic geothermal energy, (6) the achievement of commercial solar applications, (7) the performace of wind energy systems commercialization and utilization, and (8) the creation of a solar energy development bank had not been formulated by May 15. This measure represents the details of the national energy program and new energy initiatives for which accommodation was made in the revised concurrent resolution on the budget. Neither the magnitude or the impact of the rises in the cost of imported fuel nor the resulting potential threat to the national security or the immediate and direct threat to the individual health and welfare of the American people could be anticipated and a comprehensive energy program developed prior to May 15.

The effect of defeating consideration of this authorization would be to seriously impede efforts to reduce oil imports and rapidly rising residential and commercial utility bills, further imperil the national security of this nation, and gravely endanger the health and welfare of individual Americans.

SENATE RESOLUTION 269—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. LONG, from the Committee on Finance, reported the following original resolution, which was referred to the Committee on the Budget:

S. Res. 269

Resolved, That (a) pursuant to section 402 (c) of the Congressional Budget Act of 1974, section 402(a) of such Act shall not apply with respect to the consideration in the Senate of the bill H.R. 1543 to improve the operation of the adjustment assistance program for workers and firms under the Trade Act of 1974; and

(b) That waiver of such section 402(a) is necessary in order to enable the Senate to consider such bill inasmuch as it includes both "authorization" provisions which under section 402 of the Congressional Budget Act are ordinarily required to be reported prior to May 15 and "new spending authority" provisions which under section 303 of such Act may not be considered by the Senate until after the adoption of the first concurrent budget resolution. The "new spending authority" provisions are of substantially greater budgetary impact than the "authorization" provisions. The bill as a whole, therefore, is more properly considered at the time in the Congressional budget schedule which is appropriate for legislation providing "new spending authority."

AMENDMENTS SUBMITTED FOR PRINTING

MIGRATION AND REFUGEE ASSISTANCE—S. 1668

AMENDMENT NO. 561

(Ordered to be printed and to lie on the table.)

Mr. DANFORTH (for himself, Mr. Sasser, Mr. Baucus, and Mr. Melcher) submitted an amendment intended to be proposed by them, jointly, to S. 1668, a bill to authorize additional appropriations for the Department of State for migration and refugee assistance for fiscal years 1980 and 1981.

(The remarks of Mr. Danforth when he submitted the amendment appear earlier in today's proceedings.)

HOME ENERGY ASSISTANCE ACT—S. 1724

AMENDMENT NO. 562

(Ordered to be printed and to lie on the table.)

Mr. HUMPHREY submitted an amendment intended to be proposed by him to S. 1724, a bill to authorize the Secretary of Health, Education, and Welfare to make grants to State in order to provide assistance to households which cannot meet the high cost of fuel, and for other purposes.

● Mr. HUMPHREY. Mr. President, I submit an amendment to S. 1724, the Home Energy Assistance Act. This amendment would make the fuel assistance program for 1981 and 1982 more truly a block grant program. Flexibility at the State level would be enhanced, and bureaucratic requirements would be reduced.

At a time when the need for fuel assistance is so critical and Federal resources are so strained, we cannot afford to waste money on spurious reporting requirements and manipulation from Washington. Administrative costs must be minimized. The block grant approach is the most effective means to that end. Also, if the program is to remain crisis intervention, it is best not to establish a weighty Federal apparatus. To create such a fixture would be to promote a permanent entitlement, and I do not believe that this is the Senate's intention.

My amendment would require each State to submit a simplified plan to HEW. Mandated redtape would be minimized. The Secretary would evaluate whether a State is addressing the goals of the legislation, but she would not concern herself with dotting i's and crossing t's. The States do not need HEW to tell them their duty toward their citizens. The States should not have to follow a specific Federal design.

The States are best able to administer a fuel-assistance program. The argument is no longer valid that they do not have the organization to complete a large agenda. The States have been implementing large Federal programs for years now. They have the means, and they know local situations and local needs.●

NOTICE OF HEARINGS

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, I wish to announce that the Select Committee on Small Business will hold a hearing on the "Business Economic Outlook." The hearing will begin at 9:30 a.m. on Tuesday, November 6, 1979, in room 424 RSOB. Senator Stewart will chair. The witnesses will be Mr. Vondal Gravlee, president, National Association of Home Builders; Mr. Allen Sinai, Data Resources, Inc.; and a panel consisting of Mr. David H. Hovey, associate dean, School of Business, Indiana State University; Mr. Stahrl Edmunds, dean, Graduate School of Administration, University of California, Riverside; and Mr. Lionel Kunst, president, Fabri-Quilt, Inc., North Kansas City, Mo.●

SUBCOMMITTEE ON ENERGY REGULATION

● Mr. JOHNSTON. Mr. President, on Tuesday, November 20, 1979, the Subcommitee on Energy Regulation of the Committee on Energy and Natural Resources will hold hearings on S. 1684, the Domestic Refinery Development and Improvement Act of 1979. These hearings will begin at 10 a.m. in room 3110 of the Dirksen Senate Office Building.

Questions about these hearings should be directed to Benjamin S. Cooper or James T. Bruce of the subcommittee staff at 224-9894.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. DeConcini. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate today beginning at 3 p.m., to hold a markup session on S. 10, "The Rights of the Institutionalized Persons."

This request has been cleared on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ALEKSANDR SOLZHENITSYN'S ANALYSIS OF MORAL DISTINCTIONS BETWEEN COMMUNISM AND CAPITALISM

● Mr. ARMSTRONG. Mr. President, in preparation for the SALT debate, I recently reviewed an article by the distinguished Russian author, Aleksandr Solzhenitsyn.

In December 1975, Reader's Digest published Solzhenitsyn's insightful analysis of the moral distinctions between communism and capitalism, between Russian totalitarianism and American concepts of self-government. The insights of this towering moral leader are, if anything, more relevant today than when they were first published. I hope that every Member of the Senate will take the time to reflect upon Solzhenitsyn's warning.

WAKE UP! WAKE UP!

(By Aleksandr Solzhenitsyn)

Is it possible to transmit the experience of those who have suffered to those who have yet to suffer? Can one part of humanity learn from the bitter experience of another? Is it possible to warn someone of danger?

How many witnesses have been sent to the West in the last 60 years? How many millions of persons? You know who they are: if not by their spiritual disorientation, their grief, then by their accents, by their external appearance. Waves of immigrants, coming from different countries, have warned you of what is happening. But your proud skyscrapers point to the sky and say: It will never happen here. It's not possible here.

It can happen. It is possible. As a Russian proverb says: "When it happens to you, you'll know it's true."

Do we have to wait until the knife is at our throats? Isn't it possible to assess the menace that threatens to swallow the whole world? I was swallowed myself. I have been in the red burning belly of the dragon. He wasn't able to digest me. He threw me up. I come to you as a witness to what it's like there.

Communism has been writing about itself in the most open way for 125 years. It is perfectly amazing. The whole world can read but somehow no one wants to understand what communism is. Communism is as crude an attempt to explain society and the individual as if a surgeon were to perform his delicate operations with a meat-ax. All that is subtle in human psychology and the structure of society (which is even more delicate) is reduced to crude economic processes. This whole created being—man—is reduced to matter.

Communism has never concealed the fact that it rejects all absolute concepts of morality. It scoffs at "good" and "evil" as indisputable categories. Communism considers morality to be relative. Depending upon circumstances, any act, including the killing of thousands, could be good or bad. It all depends upon class ideology, defined by a handful of people. In this respect, communism has been most successful. Many people are carried away by this idea today. It is considered rather awkward to use seriously such words as "good" and "evil." But if we are to be deprived of these concepts, what will be left? We will decline to the status of animals.

FREEDOM'S TAX

But what is amazing is that, apart from all the books, communism has offered a multitude of examples for modern man to see. The tanks have rumbled through Budapest and into Czechoslovakia. Communists have erected the Berlin Wall. For 14 years people have been machine-gunned there. Has the wall convinced anyone? No. We'll never have a wall like that. And the tanks in Budapest and Prague, they won't come here either. In the communist countries they have a system of forced treatment in insane asylums. Three times a day the doctors make rounds and inject substances into people's arms that destroy their brains. Pay no attention to it. We'll continue to live in peace and quiet here.

What's worst in the communist system is its unity, its cohesion. All the seeming differences among the communist parties of the world are imaginary. All are united on one point: your social order must be destroyed.

All of the communist parties, upon achieving power, have become completely merciless. But at the stage before they achieve power, they adopt disguises. Sometimes we hear words such as "popular front" or "dialogue with Christianity." *Communists* have a dialogue with Christianity? In the Soviet Union this dialogue was a simple matter: they used machine guns. And last August, in Portugal, unarmed Catholics were fired upon by the communists. This is dialogue? And when the French and the Italian communists say that they are going to have a dialogue, let them only achieve power and we shall see what this dialogue will look like.

As long as in the Soviet Union, in China and in other communist countries there is no limit to the use of violence, how can you consider yourselves secure or at peace? I understand that you love freedom, but in our crowded world you have to pay a tax for freedom. You cannot love freedom just for yourselves and quietly agree to a situation where the majority of humanity is being subjected to violence and oppression.

The communist ideology is to destroy your society. This has been their aim for 125 years and has never changed; only the methods have changed. When there is détente, peaceful coexistence and trade, they will still insist: The ideological war must continue! And what is ideological war? It is a focus of hatred, a continued repetition of the oath to destroy the Western world.

I understand, it's only human that persons living in prosperity have difficulty understanding the necessity of taking steps—here and now—to defend themselves. When your statesmen sign a treaty with the Soviet Union or China, you want to believe that it will be carried out. But the Poles who signed a treaty in Riga in 1921 with the communists also wanted to believe that the treaty would be carried out; they were stabbed in the back. Estonia, Latvia and Lithuania signed treaties of friendship with the Soviet Union and wanted to believe that they would be carried out; these countries were swallowed.

And those who sign treaties with you now, at the same time give orders for sane and innocent people to be confined in mental hospitals and prisons. Why should they be different? Do they have any love for you? Why should they act honorably toward you while they crush their own people? The advocates of détente have never explained this.

You want to believe, and you cut down on your armies. You cut down on your research. You eliminated the Institute for the Study of the Soviet Union—the last genuine institute which actually could study Soviet society—because there wasn't enough money to support it. But the Soviet Union is studying you. They follow what's going on in your institutions. They visit Congressional committees; they study everything.

NUCLEAR CHECKMATE

The principal argument of the advocates of détente is that détente is necessary to avoid nuclear war. But I think I can set your minds at ease: there will not be any nuclear war. Why should there be a nuclear war if for the last 30 years the communists have been breaking off as much of the West as they wanted, piece after piece? In 1975 alone, three countries in Indochina were broken off.

You have theoreticians who say: "The United States has enough nuclear weapons to destroy the other half of the world. Why should we need more?" Let the American nuclear specialists reason this way if they want, but the leaders of the Soviet Union think differently. In the SALT talks, your opponent is continually deceiving you. Either he is testing radar in a way which is forbidden by the agreement; or he is violating the limitations on the dimensions of missiles; or he is violating the conditions on multiple warheads.

Once there was no comparison between the strength of the U.S.S.R. and yours. Now theirs is becoming superior to yours. Soon the ratio will be 2 to 1. Then 5 to 1. With such a nuclear superiority it will be possible to block the use of your weapons, and on some unlucky morning they will declare: "Attention. We're marching our troops to Europe and, if you make a move, we will annihilate you." And this ratio of 2 to 1 or 5 to 1 will have its effect. You will not make a move.

A WORLD OF CRISIS

In addition to the grave political situation in the world today, we are approaching a major turning point in history. I can compare it only with the turning point from the Middle Ages to the modern era, a shift of civilizations. It is the sort of turning point at which the hierarchy of values to which we have been dedicated all our lives is starting to waver, and may collapse.

These two crises—the political and spiritual—are occurring simultaneously. It is our generation that will have to confront them. The leadership of your country will have to bear a burden greater than ever before. Your leaders will need profound intuition, spiritual foresight, high qualities of mind and soul. May God grant that you will have at the helm personalities as great as those who created your country.

Those men never lost sight of their moral bearings. They did not laugh at the absolute nature of the concepts of "good" and "evil." Their policies were checked against a moral compass. They never said "Let slavery reign next door, and we will enter into détente with this slavery so long as it doesn't come over to us."

I have traveled enough through your country to have become convinced that the American heartland is healthy, strong, and broad in its outlook. And when one sees your free and independent life, all the dangers which I talk about indeed seem imaginary; in your wide open spaces, even I get infected. But this carefree life cannot continue in your country or in ours. A concentration of world evil, of hatred for humanity is taking place, and it is fully determined to destroy your society. Must you wait until it comes with a crowbar to break through your borders?

NO MORE SHOVELS!

We in the Soviet Union are born slaves. You were born free. Why then do you help our slaveowners? When they bury us in the ground alive, please do not send them shovels. Please do not send them the most modern earth-moving equipment.

The existence of our slaveowners from beginning to end depends upon Western economic assistance. What they need from you is absolutely indispensable. The Soviet economy has an extremely low level of efficiency. What is done here by a few people, by a few machines, in our country takes tremendous crowds of workers and enormous masses of materials. Therefore, the Soviet economy cannot deal with every problem at once: war, space, heavy industry, light industry, and at the same time feed and clothe its people. The forces of the entire Soviet economy are concentrated on war, where you won't be helping them. But everything that is necessary to feed the people, or for other types of industry, they get from you. You are helping the Soviet police state.

Our country is taking your assistance, but in the schools they teach and in the newspapers they write, "Look at the Western world, it's beginning to rot. Capitalism is breathing its last. It's already dead. And our socialist economy has demonstrated once and for all the triumph of communism."

I think that we should at last permit this socialist economy to prove its superiority. Let's allow it to show that it is advanced, that it is omnipotent, that it has overtaken you. Let us not interfere with it. Let us stop selling to it and giving it loans. Let it stand on its own feet for 10 or 15 years. Then we will see what it looks like.

I can tell you what it will look like. It will have to reduce its military preparations. It will have to abandon the useless space effort, and it will have to feed and clothe its own people. And the system will be forced to relax.

The Cold War—the war of hatred—is still going on, but only on the communist side. What is the Cold War? It's a war of abuse. They trade with you, they sign agreements and treaties, but they still abuse you, they still curse you. In the depths of the Soviet Union, the Cold War has never stopped for one second. They never call you anything but "American imperialists." Do I call upon you to return to the Cold War? By no means, Lord forbid. What for? The only thing I'm asking you to do is to stop helping the Soviet economy.

In ancient times, trade began with the meeting of two persons who would show each other that they were unarmed. As a sign of this each extended an open hand. This was the beginning of the handclasp. Today's word "détente" means a relaxation of tension. But it would say that what we need is rather this image of the open hand.

Relations between the Soviet Union and the United States should be such that there would be no deceit in the question of armaments, that there would be no concentration camps, no psychiatric wards for healthy people. Relations should be such that there would be an end to the incessant ideological warfare waged against you and that an address such as mine today would in no way be an exception. People would be able to come to you from the Soviet Union and from other communist countries and tell you the truth about what is going on. This would be, I say, a period in which we would truly be able to present "open hands" to each other.●

MISSING OR DEAD IN ARGENTINA

● Mr. KENNEDY. Mr. President, it is a tragic comment on the condition of human rights in Argentina that a new word has entered the language of that country. That word is "desaparecido," which describes the condition of an estimated 15,000 Argentinians who have "disappeared" from society, whose whereabouts are unknown to their anguished families, and whose very existence is unacknowledged by the Government of Argentina.

"Disappearance" is a continuing phenomenon. The pattern of its execution is chillingly persistent. A person who is suspected of opposition to the government, sometimes on the most tenuous grounds, is kidnapped without warning from his or her home or off the streets by uniformed personnel or plainclothesmen. That is the last that is seen of them.

The pleas of anguished family members, the writs of habeas corpus, the international appeals on behalf of the missing persons are answered by a simple denial of any knowledge of them or responsibility for their disappearance. Thus the crime of abduction—and often torture—of Argentine citizens is compounded by anguish that the families of the desaparecidos feel. They must suffer in silence, not knowing if their loved ones are dead or alive, are subject to torture, are in ill or in good health, or are being treated well. Furthermore, many of them dare not approach the Government on behalf of their missing loved ones, for even innocent relatives asking for information about their loved ones have disappeared, never to be seen again.

Recent events in Argentina have confirmed the worst fears of the families of the disappeared. Last June, army commander in chief, Gen. Roberto Viola, made an ominous reference to "los ausentes para siemore," or "those who are gone forever." While General Viola refused to elaborate, this was taken by many to be an indication that many are classified as disappeared because they have been executed. These fears were increased after a recent decree by the Argentine Government that allows the Government to declare dead any person who has been missing for over 90 days. While this law may serve to clear up the legal problems of many of the families of the disappeared, it is feared that it may also be a further means for the Government to rid itself of the embarrassment of the searches by these families for their loved ones.

Mr. President, it is clear that at least part of the rationale for the tactic of "disappearances" is to lessen international concern and pressure on the Argentine Government. Insofar as such measures are directed at the United States, I would like to unequivocably say that concerned Americans will neither forget the disappeared nor will they cease to hold those responsible for the fate of 15,000 disappeared Argentinians accountable for their actions.

Mr. President, I would like to commend to my colleagues an outstanding article published on this subject in the New York Times magazine, entitled "Missing or Dead in Argentina." Written by Paul Heath Hoeffel and Juan Montalvo—the latter name being a pseudonym for an Argentine who fears reprisal should he ever return to his country—this article provides a detailed and clear account of disappearances in Argentina. It describes the phenomenon against the background of political life under the military junta that has ruled Argentinians since 1975, and through accounts of individual Argentinians who have become "los desaparecidos." And it reminds us of the responsibility of humanity for the return of the disappeared to their families, and for bringing to account the perpetrators of "los ausentes para siempre."

Mr. President, I request that "Missing or Dead in Argentina," published in the October 21, 1979, edition of the New York Times magazine, be printed in the Record at the conclusion of my remarks.

The article follows:

Missing or Dead in Argentina

(By Paul Heath Hoeffel and Juan Montalvo)

On the hot summer afternoon of Dec. 24, 1975, Dr. Laura Bonaparte, a psychologist in Buenos Aires, received an anonymous telephone call. She was told that her daughter Noni, 24, had been picked up by an army patrol in the slum area outside the city, where the young woman worked as a teacher. Dr. Bonaparte was alarmed because on the night before the army base of Monte Chingolo, near the same slum, had been attacked by urban guerrillas, and a fierce battle had taken place. News reports acknowledged that more than 100 persons had been killed.

Dr. Bonaparte went immediately to the slum, where frightened residents recognized her because of her strong resemblance to Noni. They described how soldiers in an army jeep had stopped Noni, apparently in a routine identity check, as she left a student's home. They decided to detain her.

Dr. Bonaparte then embarked on a Kafkaesque search for her daughter. She filed a writ of habeas corpus without results. She traveled each day from Buenos Aires to the provincial capital, La Plata, 35 miles south, to press the courts for news of her daughter. That failing, she enlisted the help of a national senator, also a family friend, who approached the army command directly. He was informed by a colonel that there was no possibility of discovering the whereabouts of Noni. She had become one of the desaparecidos.

Desaparecido is one of the more familiar terms of a new Argentine argot, a strange, forbidding vocabulary invented by an underworld of military and police personnel in their extralegal duties. The literal translation into English has a curiously passive sense to it: "to be disappeared." It disguises the ugly reality of clandestine abduction, torture and execution affecting tens of thousands of Argentines in recent years.

The desaparecidos are persons who, usually after being detained by teams of well-armed men, vanish without a trace into a world beyond all legal and human rights. They represent a broad cross section of Argentine society which opposes the right-wing military regime. The targeted victims are leftist extremists and their sympathizers, suspected of abetting the guerrilla violence against the regime. Others are innocent professionals, clergy, housewives, students and children unlucky enough to be caught up in a vast dragnet against subversion.

One of the most recent and visible examples of the ongoing terror is Jacobo Timerman, the 57-year-old newspaper publisher expelled from the country by the military junta last month. For many Americans, his plight dramatizes the issue of human rights in Argentina. Timerman, accused of subversive as editor of La Opinión, a Buenos Aires newspaper, suffered arrest, brutal torture and prolonged detention despite his acquittal by court investigators. Because of the complete breakdown of Argentina's judicial system in the area of human rights, only enormous international pressure—including appeals from President Carter and Secretary of State Cyrus R. Vance—saved him from the common fate of the desaparecidos.

Since the military government of Gen. Jorge Rafael Videla took power in March 1976, Argentine and international human-rights organizations have accused the Government of the disappearances of thousands of persons. Amnesty International estimates the number of desaparecidos at 15,000, a figure which high United States and Argentine Government officials acknowledge privately. Publicly, however, the Argentine Government denies any responsibility for the disappeared persons. Although in recent months it has acknowledged the existence of 5,000 such cases, it claims to know nothing about them.

What is the truth about the desaparecidos? Is it possible that the military government has an unwritten policy of eliminating its enemies, real or potential, simply by causing them to disappear? The Argentine Government is under growing domestic and international pressure to clarify the status of the disappeared persons. Because of its reluctance to do so, many observers now fear the worst.

The summer of 1975 was the last for both Noni Bonaparte and the Government of 43-year-old María Estela Martínez de Perón, better known as Isabel. It marked yet another stage in the bitter struggle between Argentina's main seats of power: the armed forces and Perónism, which have taken turns abusing popular mandates almost continually for the last 35 years.

After an 18-year exile, the aging Juan Domingo Perón wrested power from a military dictatorship through national elections in 1973, sharing the Presidential ticket with his third wife, Isabel. Perón promised to continue his populist policies of state capitalism, introduced when he ruled with his charismatic second wife, Eva Perón, Argentina's unofficial patron saint and the inspiration for his most progressive social and labor reforms.

When Perón died in 1974, Isabel became Latin America's first female chief of state. Her shrill efforts to duplicate Eva's popular appeal barely concealed the takeover by extreme right-wing Perónists in her Government. Government corruption and erratic economic policies quickly alienated all but the most fervent adherents to the working-class movement. The leftist Perónists, led by the Montonero guerrillas, who had harassed the previous military government for Perón's ill-fated return, resumed their attacks, this time directed at her increasingly violent regime.

Unable to control the nation by normal constitutional means, Mrs. Perón declared a state of siege in November 1974, handing over considerable power to the armed forces. Despite the growing temptation to restore order, the generals were in no hurry to take over the Government again. They had been humiliated by Perón's return and were determined to see the Government itself discredit Perónism once and for all.

The military also wanted to destroy the highly organized guerrilla groups, the leftist peronist Montoneros and the Marxist People's Revolutionary Army, or E.R.P., largely inspired by the ideas of Ché Guevara, an Argentine who had gone elsewhere to make revolution. By this time, the insurgent groups were reeling from intelligence operations by the military. In an effort to demonstrate its continuing military capacity, the E.R.P. mounted a full-scale assault against the army base of Monte Chingolo. The guerrillas made their move after dark, but because of a leak to army intelligence, they were the ones caught by surprise. The rout went on much of the night. Helicopter gunships equipped with searchlights and rockets hovered over the nearby slum area where Noni Bonaparte was later picked up, while troops made house-to-house searches for fleeing guerrillas.

Though Dr. Bonaparte knew that many people had died at Monte Chingolo, there was no reason for her daughter to have been killed, especially since she had been picked up the day after the raid. Dr. Bonaparte continued her search. On Dec. 30, through another army contact, she was told to check the cemetery of Avellaneda, a major industrial area nearby. "I started out to the cemetery to see if my daughter was on the list of dead, but I didn't dare go beyond three or four blocks of the cemetery because the stench of the bodies in decomposition was truly terrible. I couldn't continue. I was very scared and everything seemed so unbelievable and so horrendous."

On Jan. 8, a judge in La Plata told her that it would be necessary to sign a statement saying that Noni had died in the battle of Monte Chingolo. "I refused to sign it," Dr. Bonaparte remembers. "The judge told me that if I didn't, I wouldn't be able to retrieve my daughter's body. I demanded that they prove to me that she was dead. He told me that he had a paper with a number of a jar and that in that jar were the severed hands of my daughter, her identification."

At another point in her search, a local chief of police who had seen Noni's body told her: "But, Señora, you couldn't even call what was turned over to us a body." Finally he told her where Noni was: grave No. 28 in the Avellaneda cemetery, assuring her that all the dead were in individual coffins with crosses and identified by name. The following day she went to the cemetery with an armful of carnations. "It was horrifying what I saw. There were no crosses, no separate graves. There was an area about 18 feet square, the earth recently turned, covered with a pool of green water. I asked the undertaker: why the pool? He told me that it came from a depression made by the weight of the bodies, which had been brought in with power shovels and dumped there until the grave was dug. Then they were all thrown in at the same time. The undertaker wanted to count out 28 steps but only reached 16, stopped and said, 'Here it is.' I was shaken to see him walk over the grave. It was as if he were walking over my own body, as if I were buried underneath him, his steps hurt me so." Laura Bonaparte and her husband filed suit against the army for Noni's murder, a move which the authorities cautioned her against.

That March, the military moved to fill the vacuum of power created by Mrs. Perón. The economy was a shambles, with inflation out of control, reaching an annual rate of 330 percent. It was a long-awaited, bloodless, calculated coup. The military had considerable support to restore law and order. Order arrived—the law got lost in the shuffle. A few days before the military junta officially deposed Isabel Perón, Noni's husband, Alrian Saidon, also 24 years old, was gunned down in the street when he did not obey the command to halt. His body was never recovered.

Dr. Bonaparte decided to leave for Mexico. For her, the coup had brought no relief. In June, her husband, from whom she was separated, Dr. Santiago Bruchstein, 59, was abducted from his apartmant in downtown Buenos Aires. A nurse who witnessed the raid told Dr. Bonaparte that the kidnappers were furious about the murder charges that the Bonapartes had filed. "How could a rotten Jew dare accuse the military of assassination?" one abducter yelled at him. Dr. Bruchstein was taken to one of the vehicles used to cordon off the street for the raid. He has not been heard from since that day. The apartment, as is customary in such cases, was looted. The property of the desaparecidos is considered war booty, a considerable incentive in the abductors' work.

On May 11, Dr. Bonaparte learned in Mexico City that army personnel had made a predawn raid on her daughter Irene's apartment, where she lived with her husband, Mario, an architect, their daughter, Victoria, and Noni's orphaned son, Hugo. At 6 A.M. the security forces left with Irene and Mario. The two children were found in the lobby of the building with the address of their paternal grandparents pinned to their clothing. Irene and Mario have not been heard from again. Dr. Bonaparte contines to live in Mexico City without any word concerning her family's "disappearances."

Political violence during the Peronist period had reached unprecedented levels, yet in comparison with the past three years there was something curiously reassuring about it. The bloodletting between 1973 and 1976 was public, explicit and somehow comprehensible to most Argentines. Even the most sinister death squads, the Argentine Anti-Communist Alliance (A.A.A.), dedicated to the elimination of leftists, intellectuals and politicians, carried out their executions with chilling but open efficiency, often telephoning the news agencies to explain their actions. Bodies were dynamited, mutilated or carbonizados—burned beyond recognition. But there were funerals, there were mournings. The Government death squads' unmarked Ford Falcons parked in front of the presidential palace were a national disgrace, but everyone knew where they stood.

The Marxist guerrillas, the E.R.P., and the Montoneros, numbered perhaps 8,000 at their peak in 1975, with as many as 50,000 sympathizers drawn mostly from working-class and middle-class youth. They represented one of the largest guerrilla forces ever assembled in Latin America. Once on the defensive, their violence lost its theatrical quality and acquired a ghoulish edge of vengeance which finally degenerated into terrorist killing.

Toward the end of 1976 military clashes with the E.R.P. and the Montoneros had virtually ceased, while the number of reported disappearances had risen to an average of 15 a day. Soon it became clear that only the Government's security forces could carry out such flawless, elaborate operations.

The experience of 31-year-old Estrella Iglesias, a worker at the Squibb pharmaceutical plant outside Buenos Aires, is special because she is one of the disappeared who has reappeared after a year *afuera de la sociedad*, "outside of society," as it is put. Her release last May was a condition set by the Spanish Government for King Juan Carlos's state visit to Argentina earlier this year. Miss Iglesias, who had come to Argentina as an infant, technically remained a Spanish national. Aside from her release, her experience is typical of the *desaparecidos*.

In August 1978, 12 heavily armed men with a police dog came to her high-rise apartment and detained her for suspected connections with a small illegal Maoist group. Her abductors pushed her into one of several waiting cars. Familiar with the area through which they drove, Miss Iglesias realized that she was being taken to La Tablada Infantry Regiment, an army installation on the outskirts of Buenos Aires.

"When they took me from the car, they led me through a series of rooms until we reached one where, hitting and pushing me, they removed my clothes and tied me to a table. They began to torture me with applications of electric current to my genitals, breasts, toenails, mouth and gums; stretching my arms, mostly my right arm until they dislocated it; putting rats on my face and between my legs. All this was accompanied by questions as to my political activity, and my knowledge of other political groups and activists."

Torture and summary execution are policies which make "disappearances" necessary in the first place. Such activity must be untraceable, beginning with illegal abductions and the use of clandestine detention centers, usually at military installations.

Invariably, the clandestine centers described in scores of testimonies have torture areas, or, using the slang, *quirófanos* ("operating rooms"). The *picana*, or electric cattle prod, is the most common means of torture after beatings and psychological abuse. Another readily available method is the *submarino*—nearly drowning victims in vats of fifthy water. The torture and the interrogation are methodically coordinated.

Prisoners are almost always chained and encapuchados, forced to wear tightly fitting hoods which serve the dual purpose of disorienting the prisoners and preventing them from identifying their surroundings and their torturers.

After three days of torture, Miss Iglesias lost track of time. Between sessions, she was taken to another building within the army base and shackled half-naked to a wall. She repeatedly witnessed uniformed officers in the area. The officer who took charge of her transfer from la izquierda a la derecha—from illegal detention to legal status in a Federal prison—was a lieutenant colonel in the army.

While Miss Iglesias "was disappeared," her family's writ of habeas corpus, filed on her behalf, was rejected by the courts. A letter from the Ministry of the Interior in response to their inquiries assured them that she was not being held in any state facility. Not until Miss Iglesias was transferred to a Federal prison was she put in touch with her family. Charges against her were then dismissed by a court martial of four air-force officers and she was flown out of the country last spring.

Confronting the charges that the military is directly responsible for the disappeared persons and their fate, spokesmen for the Videla Government claim that the few legitimate cases which do exist represent excesses by groups "beyond its control." As Gen. Roberto Viola, army commander in chief and intimate of President Videla, has repeatedly claimed to visiting Americans, the human-rights organizations' lists of the disappeared largely comprise subversives killed in clashes with security forces who remain unidentified. Others on the lists, according to official explanations, are subversives killed as traitors by fellow guerrillas, and persons who have gone underground or who have slipped out of the country.

The lists compiled by human-rights groups, such as the Permanent Assembly for Human Rights in Argentina, Amnesty International and the Argentine Information Service Center in the United States, all politically independent organizations, are dismissed by the same Argentine officials as inflated and inaccurate. Yet, according to one Western diplomat who has carefully monitored the existing evidence: "The lists are assembled on the basis of different criteria—some are based on more concrete documentation than others. Whatever inaccuracies there are, they represent a tiny fraction of the total number of desaparecidos on the lists."

The Government's "out of control" hypothesis was widely accepted until well after the coup. The efficiency with which the E.R.P. and the Montoneros were brought under control, however, left little doubt that no unofficial group, left or right, remains capable of the type of paramilitary operations involved in thousands of disappearances.

The "out of control" theory, furthermore, presupposes a breakdown in the traditional military hierarchy where captains and colonels would exercise more authority than generals. Many observers reject this possibility as an intolerable situation which would pose a far greater threat to national security than any insurgent group might. According to the same diplomat cited above: "I think it would be more accurate to say that these groups are out of command, not out of control. Everyone is following orders there."

There is, however, evidence of a real breakdown in the traditional system of accountability in the Argentine military. The crisis is among the military commanders themselves rather than between senior and junior officers. Within the army, the central branch of the armed forces, the splits are between the so-called duros, or hard liners, and the blandos, those led by Videla and Viola, who recognize the limits of military power in Argentina. The duros, who maintain that subversion should be wiped out at any cost, see their more politically oriented peers as orchestrating their own demise.

The conflicts over command are reflected in the very structure of the Videla Government, which is considerably different from its numerous military predecessors. Notably absent is the traditional caudillo, the army commander with sufficient charisma to forge some unity within his government. President Videla is an upright officer with considerable political talents, but he is no caudillo. His overriding concern is to lend his Government some semblance of stability, particularly to investors abroad.

Videla's power as President ranks below that of the junta, whose power, also for the first time, is equally divided among the three branches of the armed forces. Today, the real power lies in the hands of the junta's commanders in chief, and especially in the four corps commanders of the army.

The disappearance of Héctor Hidalgo Solá illustrates how the power struggles within the junta have begun to over-shadow the military campaign against the Argentine left. Ambassador Solá, one of the key financial backers of the centralist Radical Civic Union Party, was pressed by President Videla to accept the post of Argentina's Ambassador to Venezuela. In Caracas, Solá spoke frequently about Argentina's imminent return to democratic rule. He was instrumental in arranging President Videla's state visit to Venezuela in May 1977. It is said that a Venezuelan condition for Videla's image-boosting visit to one of the few democratic states left in South America was the release of an ex-Radical Party senator, Hipólito Solari Yrigoyen, a critic of the regime who had been disappeared by the army in August 1976. Villas, commander of the Fifth Army Corps in the southern city of Bahía Blanca, Solari Yrigoyen was reluctantly returned to society.

In July 1977 Ambassador Solá returned to Buenos Aires for his daughter's wedding. On the morning of July 18, he was driving through the intersection of Libertador Avenue and Pueyrredón Avenue, a fashionable area of the city, when armed men in several vehicles stopped his car and abducted him. The ensuing diplomatic uproar over Solá's disappearance caused considerable embarrassment to President Videla, as was intended. One hypothesis is that Solá's kidnapping was an action by the duros as a warning to President Videla for having obliged the security forces to release Solari Yrigoyen. Since the incident (Solá is presumed dead), neither the President nor other blandos in the Government have seriously challenged the duros over the release of disappeared persons.

A more recent disappearance of a diplomat caused considerable alarm among well-born Argentines who thought that for the time being their problems were over. Forty-eight-year-old Elena Holmberg, who had recently returned from a diplomatic assignment in the Argentine Embassy in Paris, was driving her Fiat in Buenos Aires last Dec. 20 when a car with three men forced her off the road and abducted her at gunpoint. Miss Holmberg, a friend of President Videla's, had expected to dine that evening with Argentina's Ambassador to France.

On Jan. 11, Miss Holmberg's decomposed body was found floating in the Luján River. Unlike most of the 45 bodies which had washed up along the coast the month before, her body was identifiable because her head and arms had not been severed.

She had been an outspoken duro on the subject of wiping out subversion in Argentina. This fact fueled the concern of Government supporters that internal military feuds were deepening. Although Miss Holmberg's murder remains an official mystery, it is well known that she had denounced suspect financial dealings by naval officials who were working in Paris. More serious, she had reported the well-publicized meetings between navy strongman Adm. Emilio Massera and Montonero guerrilla leaders in Paris.

Aside from the economic headaches inherited by the junta, the disappeared person remains the central issue eroding the credibility and viability of military rule in Argentina. Since Government officials declared their total victory over armed insurgents nearly two years ago, popular pressure has steadily mounted for clarification of the status of the desaparecidos. As Patricia Derian, Assistant Secretary of State in charge of President Carter's human rights policy and central target of the Argentine junta's complaints against the United States, requested recently: "If only for humanitarian reasons, tell the families of the living where they are, tell the families of the dead what they need and deserve to know." The junta has remained silent.

The only military commander clever enough to get political mileage out of the issue is Adm. Emilio Massera, former chief of the navy and a member of the junta until last October. Massera, a *duro* turned *blando*, is precisely the man who would be *caudillo* had he chosen an army career. Ruggedly handsome, articulate, at ease in the labyrinthian world of Argentine politics, Massera has, since his retirement, stepped up contacts with the Peronists in an aggressive campaign to present himself as a populist Presidential candidate. His break with junta policies has earned him the enmity of anti-Peronist army officers, as well as more than one assassination attempt.

Admiral Massera took his campaign one dangerous step further by proposing to the junta that it make public the lists of the disappeared. He offered the navy's lists on the condition that the army and the air force submit theirs. His proposal, which found some echo among the *blandos*, was to end speculation about the disappeared once and for all, providing the next Government with a clean slate. "He sees the issue as a time bomb," explains a Massera intimate. "As the political situation gets more complicated, time is running out for the junta. Eventually the lists will surface and it's better for the military to release them now than have them fall into the wrong hands in several years."

Official rejection of the Massera proposal lent credence to many observers' worst suspicions—that the majority of the disappeared have been executed. The high cost of such an admission remains out of the question for much of the military. The same Massera intimate, when asked about the possibility of mass executions, responded: "There's no way you can hide 10,000 or 15,000 persons—even satellites would detect them. No, I wouldn't count on seeing them again."

In his Army Day speech last June, General Viola made an ominous reference to *los ausentes para siempre*—those who are gone forever—a term which was widely interpreted as a message about the disappeared. When human-rights groups requested a clarification of his term, Viola indicated that this was as far as the Government would go on the subject of the disappeared persons.

At the same time, word began to circulate in foreign embassies that those disappeared who had not already been eliminated by the *duros* were being executed in preparation for the investigation by the Organization of American States' Inter-American Committee on Human Rights, which arrived in September. A form of elimination repeatedly reported is the injection of curare into unsuspecting prisoners, causing death by suffocation. The bodies are then loaded onto aircraft and their bellies slit before being dumped into lakes or the ocean so they will sink permanently. *Comida para los pescados*—fishfood—is what they call the corpses.

When Bruce Alan Kiernan, the human-rights coordinator for the American Association for the Advancement of Science, visited Argentina last year, senior advisors to President Videla acknowledged the executions: "They told me that many persons in military custody were thrown out of helicopters into rivers and lakes, a tactic learned, they claimed, from the American experience in Vietnam."

A number of the more notorious torture centers have been closed down in recent months, causing more alarm as to the fate of their former inmates. The Navy Mechanics School in Buenos Aires, described in some detail in a number of testimonies, has been reconverted so that "even the Ping-Pong tables in the officers' lounge are back in place" according to one diplomatic source.

The visit last month by the O.A.S. mission is cited for this flurry of activity, which reached a feverish pitch last summer. In August, federal police raided the offices of four human-rights organizations, including the Permanent Assembly, the group working closely with the O.A.S. investigators.

Orville H. Schell, attorney for Aleksandr Godunov and chairman of the New York City Bar Association's mission to Argentina last April, characterized the break-ins as "a crude attempt by the Argentine Government to intimidate these groups from providing important information to the Human Rights Commission of the Organization of American States."

A State Department spokesman, Tom Reston, indicated that the American Embassy in Buenos Aires had been ordered to investigate charges of alleged secret detention centers and alleged execution of prisoners prior to the September O.A.S. investigation.

Shortly after the raids on human-rights offices, the junta passed a law designed to relieve pressure around the issue of the disappeared without actually acknowledging it. It reduces to a few months the period of time necessary for a disappeared person to be declared legally dead. Those affected would be the disappeared persons formally reported by their families in the period between the declaration of a stage of siege in 1974 and the promulgation of the law. Significantly, the law empowers the Government to initiate this process, thus short-circuiting the legal options of families in their search for disappeared relatives. The bill represents an indirect acknowledgement that the disappeared are indeed ausentes para siempre.

While recognized as a concrete improvement, the law remains a half measure. Washington's Patricia Derian says: "Because it does not deal with the central problem—accounting for the disappeared—it is only a Band-Aid which will eventually generate even more legal problems." Former Federal District Court Judge Marvin Frankel, who was a member of the New York City Bar Association mission to Argentina last spring, maintains: "This law represents a ghoulish evasion of Government responsibility. The Government is manipulating the relatives and the courts to avoid facing the issue of the disappeared."

The terror which the disappearances have produced is at once calculated and incalculable. The disappearance of a relative or friend has a different impact from that of a legal arrest or even an outright death. The families, often directly terrorized in the initial raid, live in fear that the abductors will return. Any protest, even the filing of a writ of habeas corpus, could destroy the chances of the disappeared person's release. Not only is the disappeared person taken fuera de la sociedad, but fear effectively neutralizes those close to the victim.

Alicia, a 34-year-old Argentine now living anonymously in New York with her 5-year-old son, fled Argentina two years after her husband, Daniel, was taken away and disappeared. She is still tormented by not knowing what happened to him: "My entire family has been paralyzed since Daniel was abducted. The authorities told us to wait, not to make any trouble. That would be the best insurance for his return."

While they are detained, there is clear effort to dehumanize the prisoners—in part to punish them, in part to break the societal bonds which control human exchange. A person who has been reduced to crazed incoherence by torture and deprivation makes continued neglect, abuse and eventual elimination much easier.

Evidence exists that the instillment of terror has not been completely effective in crushing the junta's opposition. The most dramatic example of the mobilization which the desaparecidos have inspired is the phenomenon of La locas de Plaza de Mayo—the so-called Mad Women of Plaza de Mayo.

On April 1976, scarcely a month after the military coup, the mother of disappeared persons began gathering every Thursday in the plaza in front of the Presidential palace. The women stood in silent vigil waiting for news of their children. The gathering soon became a defiantly public protest against the Government for it refusal to release names and information about the disappeared. Last October, Bruce Alan Kiernan asked the head of the Human Rights Working Group in the Argentine Foreign Ministry about the mothers. He was told, "Out of more than 200 mothers, only 25 are legitimate; the rest are crazy. They're mad women who don't even have children." Mr. Kiernan, however, reports, "Having personally interviewed about 70 women, I can categorically state that his assertion is not true. One cannot," he continues, "but feel insulted by these kinds of statements, which are such obvious distortions of the facts."

As the numbers of mothers grew (they have recently been nominated for a Nobel Peace Prize by the Spanish Socialist Party), so did Government harassment. On Dec. 8 and 9, 1977, 13 women and men, including two French nuns, were abducted during raids on meetings of mothers and supporters of desaparecidos. French reaction to the disappearances of 60-year-old Sister Léonie Duquet and Sister Alice Domon marked a turning point in international concern over the Argentine situation.

The nuns' abductors made a crude attempt to attribute the kidnappings to the Montonero guerrillas. A communiqué, supposedly from this organization, with a picture of Sister Alice and Sister Léonie sitting under their banner was sent to news agencies, only to be disclaimed by the Montoneros in a cable to United Press International a few days later. Even personal inquiries by President Valéry Giscard d'Estaing could not effect the reappearance of the nuns or the mothers. Privately, Admiral Massera acknowledged to Emilio Mignone—one of the Permanent Assembly for Human Rights and parent of a disappeared daughter—that the nuns had been executed. This presumably, has also been the fate of the nine mothers and two men.

The unending police raids and the reports of new disappearances have been sufficient warning to Argentines that no immediate changes are in store. From the hard liners' point of view, the tactic of making people disappear has been too successful to abandon under pressure. They are willing to pay the relatively high price of becoming international pariahs, along with Chile and South Africa, in order to purge the nation of what they see as godless subversives. Their policies, however, may be counterproductive in the long run. By trying to eliminate the threat of subversion through these violent means, they may actually be encouraging it. Nobel Peace Laureate Mairead Corrigan's words may very well prove to be prophetic. "I am afraid," she said, "that with each disappearance the Government has planted the seeds for future violence."●

PRESIDENTIAL CAMPAIGN COVERAGE

● Mr. GOLDWATER. Mr. President, as the 1980 political season begins, the perennial problems, like the perennial candidates, are beginning to appear. One of these problems that refuses to go away is the need for reasonable access by Federal candidates to the Nation's electronic media. Whether we like it or not, the effectiveness of this country's electoral process is heavily dependent on the whims of those who run our electronic media. A candidate's fortune can rise or fall depending on whether he or she is covered by the local television or radio station.

As the situation now stands, broadcasters are required to provide "reasonable access" or permit the purchase of reasonable amounts of air time by legally qualified candidates for Federal office. It is up to the Federal Communications Commission (FCC) to enforce this provision. In the past that agency has had substantial difficulty answering questions such as what is reasonable access? What is a legally qualified candidate? What are reasonable amounts of time?

The result has been that the broadcasters—and particularly the networks—have been left with the discretion to decide when the political season begins. Because of the nature of our electoral process, which could be described as ongoing, this is necessarily an arbitrary decision. The implications of leaving it in the hands of the networks are profound.

Some cynics might say that the networks have an interest in delaying the beginning of the political season as long as possible. If it starts in the fall of the year preceding the election and the networks are required to honor requests for political time, the popularity of network entertainment shows could suffer. The networks are faced with a conflict of interest: They must balance the public interest against their private interest.

Apparently these issues will be considered by the FCC. The networks have refused to completely honor requests for airtime from the Carter, Reagan, and Connally campaigns. The Carter campaign described their refusal as a "blatant denial" of reasonable access and filed a complaint with the FCC. The Congress will be watching the Commission's deliberations with interest. If the Commission and the networks do not produce a satisfactory solution, it will be incumbent on the Congress to attempt to solve the access question once and for all.

While awaiting the Commission's decision, I intend to write the campaign managers of the active Presidential candidates and the chairmen of the Republican and Democratic committees to solicit their recommendations for a legislative solution.

Mr. President, I ask that the story describing the networks' refusal, which appeared in the October 30, 1979 edition of the Washington Post, be printed in the Record.

The article follows:

CARTER CAMP SEEKS ORDER TO OBTAIN TV PRIME TIME

(By Edward Walsh)

President Carter's reelection campaign committee filed a complaint with the Federal Communications Commission yesterday, charging the nation's three commercial television networks with "a blatant denial" of Carter's right to purchase time on the networks for a political message.

The complaint asked the FCC to direct the networks to make available a 30-minute time slot during prime time between Dec. 4 and Dec. 7 for purchase by the Carter committee.

An FCC official yesterday said the commission is likely to consider the complaint Nov. 20, unless a special meeting is called before then.

Officials at CBS and ABC in New York said they had not seen the complaint and could not comment. But an NBC spokesman said the complaint has no merit and noted that "because of the problems inherent in the equal time law, presidential candidates in past elections have confined their early television buys to local stations in the states where primaries were being held."

The complaint was instigated by Gerald M. Rafshoon, the president's campaign advertising director, who was turned down by the networks when he asked to buy time for the first week in December. At issue is the Carter committee's desire to use national television time as a fund-raising device the first few days after Carter announces for reelection on Dec. 4.

Rafshoon is now producing a 30-minute film on the Carter presidency that is planned to be shown on network television between Dec. 4 and Dec. 7 in connection with hundreds of fund-raising parties the Carter campaign is planning across the country that week. The parties would be held when the film was to be shown.

In letters to Rafshoon that were included with the complaint, network executives generally pleaded that it was too soon before the 1980 presidential campaign to sell network time for political purposes.

CBS offered to sell the Carter committee five minutes at 10:55 p.m. Dec. 8, a Saturday night, and a five-minute segment during the day.

CBS has already sold five-minute segments at 10:55 p.m. to Republican presidential contenders John B. Connally and Ronald Reagan, but, like the other networks, turned down their requests for 30 minutes of prime time.

The Carter committee charged that the networks' refusal to sell it 30 minutes of prime time violated a requirement that candidates for federal office be given "reasonable access" to the airways.

The complaint also argued that the networks are devoting large amounts of their news programming to the presidential campaign, and therefore do not consider it "too early" in the political season, and that the CBS offer of five minutes on Dec. 8 is "insufficient in amount and unsuitable to the needs of the candidate."

An FCC official said there are no known precedents for the action by the Carter committee, although the FCC has ruled in other cases that the networks cannot be forced to sell time for nonpolitical purposes.●

HIGH INTEREST RATES DOWN ON THE FARM

● Mr. McGOVERN. Mr. President, just a few days ago there appeared in the Wall Street Journal an advertisement which even a year ago would have been unthinkable. The 37 Federal farm credit banks, the 13 banks for co-ops, the 12 Federal intermediate credit banks and the 12 Federal land banks announced the offering for sale of $3,350 million of consolidated systemwide bonds at an interest rate of approximately 14.4 percent. These were short term notes, 6 to 8 months. Consider for a moment what these banks must charge farmer borrowers.

The interest rate offered to lenders is symptomatic of the economic difficulties we are in. Inflationary pressures and the erosion in the value of the dollar relative to other major currencies spurred actions by the Federal Reserve Board in the form of discount rate hikes and restrictions regarding reserves held by banks. This shift in Federal Reserve policy is designed to dampen inflationary expectations by slowing the growth in the money supply. The immediate effects are higher interest rates and the reduced availability of credit.

There is discontent abroad in the land over inflation and an aversion by foreigners to accepting depreciating dollars. Interest rates are extremely high in terms of our historic experience. Yet farm families must have access to adequate and reasonably priced credit if they are to continue to produce at record levels. Each year farmers borrow tens of billions of dollars.

Just what does this mean for farmers? First, they must consider the risk of sharply increasing their debt in order to buy farm land and machinery. The risks have gone up with the cost of carrying the debts and the possibility of the much advertised recession. The new policy may reduce the upward rate of farmland prices.

Many livestock producers may already be adjusting their production plans. Cattle feeders are examining carefully the potential effects of feeder prices plus high interest rates on their profit picture. Hog producers are reappraising the desirability of borrowing money to pay for hundreds of thousands of dollars of high cost housing for their animals. Also, what will the much advertised recession do to demand for red meat?

Productivity is declining in various sectors in the United States. While output is decreasing, total employment keeps increasing. This indicates that more people are currently producing less than in the past. Thus, it is not surprising that inflation is rampant domestically, and the dollar vulnerable internationally.

According to the Bureau of Labor Statistics of the U.S. Department of Labor, the U.S. manufacturing productivity increased only 2.5 percent in 1978 over 1977. This compares with 8.3 percent in Japan, 4.9 percent in France, 4.2 percent in Canada, 3.7 percent in West Germany, 2.9 percent in Italy, and 1.8 percent in the United Kingdom.

For the 10 years through 1977, the U.S. manufacturing productivity increased 26.1 percent compared with 99.2 percent in Japan, 71.7 percent in France, 69 percent in West Germany, 67.8 percent in Italy, 46.1 percent in Canada, and 26.5 percent in the United Kingdom. The increase in the U.S. productivity was the lowest among the seven. In 1979, productivity in the private business sector declined 3.8 percent in the second quarter at a seasonably adjusted annual rate—the second decline in a row and the largest decline since the first quarter of 1974.

There is no way for farmers to escape the impact, in the short run, of higher interest costs on their factors of production. However, the farmers are a special case who need consideration. Farmers' productivity has gone up in a failing national productivity environment. Farmers need tremendous quantities of rising-cost energy, especially petroleum.

The really basic question is how to maintain the incentives needed for a continued high level of farm production when farmers are being caught between the scissors of higher costs of interest, machinery and energy and lower prices for farm products. This is especially true for would-be borrowers who are in the worst financial situation. These are the people that banks will consider the poorest financial risks.

I intend to ask the chairman of the Senate Agriculture Committee to call a hearing to hear witnesses on the financial situation affecting farmers. Out of this informational input, I hope that we can develop an economic strategy for agriculture and the Nation's food supply.●

THE ENERGY SECURITY CORPORATION

● Mr. ARMSTRONG. Mr. President, in a few days, the Senate will vote on whether to create an $88 billion Energy Security Corporation (ESC). The administration says such an agency is needed to stimulate an organized synthetic fuel production. Some proponents go so far as to suggest that a vote against ESC is a vote against synthetic fuel. Nothing could be further from the truth.

The Energy Security Corporation has considerable superficial appeal. The Nation needs synthetic fuel. And with OPEC becoming more and more intransigent, a crash program seems like a symbol of our moral and financial commitment to get unhooked from foreign energy sourecs. It is bold. Dramatic.

But the Energy Security Corporation is a seriously flawed concept. ESC would probably turn out to be one of the costliest boondoggles of all time. ESC would be likely to impede, rather than stimulate, synthetic fuel production. It also threatens seriously adverse environmental consequences.

MASSIVE GOVERNMENT BUREAUCRACY NOT NEEDED

The ESC is an idea which originated with people who have little or no direct experience in production of synthetic fuel. It is not supported by those who are knowledgeable of what it takes to stimulate meaningful production of energy from oil shale, tar sands, coal and so forth.

During the last several months, the Senate Energy Committee and other committees of the House and Senate have heard much testimony from industry experts, economists, engineers, financiers, scholars, and consultants. In effect, we have said to these authorities "what will it take to get synthetic fuel production moving?" Interestingly, almost none has suggested creation of the "Energy Security Corporation" or similar massive bureaucracy. Instead they have recommended measures designed to cut redtape and provide incentives for the private sector:

Fast track permitting process.

Decontrol of oil and natural gas prices.

Production tax credits (such as $3 per barrel tax credit).

Accelerated depreciation.

Guaranteed purchased plans or similar incentives.

INADEQUATE FINANCIAL CONTROLS

No one knows the ultimate cost of developing synthetic fuels. Consultants point out that the estimated cost per barrel of synthetic fuel is increasing rapidly. "Although there are many contributing factors, the most important single influence seems to be a steadily increasing knowledge of costs, as a result of more detailed engineering design," according to PACE consultants.

Synthetic fuel developed by the private sector will be subject to the stringent discipline of market economics. Many diverse ideas will be considered. But only when individual firms or consortia are willing to risk their own money on an idea will large sums be spent. Government administrators, on the other hand, often push expensive large scale programs when technological or economic factors do not warrant such development.

ESC IS NOT NEEDED

Hundreds of millions of dollars have already been committed by private sector companies to the production of synthetic fuel. Some companies say they are awaiting only the release of Federal lands for development. Another company states it will proceed at once with a large scale synthetic fuel production plant immediately upon the enactment of a $3 per barrel tax credit which, as you know, has twice been approved by the Senate and for which there is growing wide spread support in the House. Under the circumstances, it may turn out that creation of another large government bureaucracy would slow down, rather than stimulate, existing and contemplated synthetic fuel production plans. After all, what company will proceed on its own to do something without subsidy the same task for which it might obtain subsidy?

INAPPROPRIATE ANALOGIES

ESC has often been compared with the Manhattan and Apollo projects. However, both of these projects had a single customer for their output: the U.S. Government. And for these projects cost and economic factor was not a primary consideration. There was no substitute product on the shelf that could be used if the new product turned out to be too costly. If the devices worked technically, the projects were deemed a success. But energy technology, such as synthetic fuel development, will be successful only if many individual users, each considering a different situation, decide that the new technology has economic advantages over a wide array of alternatives available in the market.

POLITICAL CONSIDERATIONS

As long as the Government holds the purse string, ESC will be subject to political pressure. If past experience is any guide, there is every danger that decisions of project funding and research will be heavily influenced by political considerations rather than sound economics and technology.

ENVIRONMENTAL CONCERNS

If the Government bulldozes ahead with large scale programs, the impact upon the environment is likely to be far more adverse than if multiple, diverse, small scale efforts are undertaken within the discipline of the private economic market. A crash program—based on political rather than economic or technological considerations—is likely to have seriously adverse environmental and social consequences.

I look forward to the opportunity to discuss each of these and other considerations with you in detail. After careful study, I believe you will feel as I do that the Energy Security Corporation is a costly, unnecessary and undesirable approach to the Nation's synthetic fuel needs. If enough Senators will seriously study this issue I believe a majority will reach the same conclusion.●

DRUG REGULATION REFORM ACT OF 1979

● Mr. KENNEDY. Mr. President, during our consideration on September 26, 1979, of S. 1075, the Drug Regulation Reform Act of 1979, the distinguished Senator from Utah (Mr. HATCH) offered an amendment which would prohibit "a prescription drug in tablet, capsule, or other solid finished form that—

> (1) contains the same active ingredients in the same strength as another prescription drug in the same finished form;
>
> (2) is introduced into interstate commerce after the other drug was lawfully introduced into interstate commerce; and
>
> (3) is so nearly identical in overall appearance to the other drug as to create a substantial likelihood that ultimate consumers will not be able to distinguish between them.

The distinguished Senator from New York (Mr. JAVITS) was concerned that this amendment might adversely affect the pioneer substitution law of New York State. In urging that the amendment be accepted, I assured Senator JAVITS that the amendment would not impair New York's substitution law. I concluded by stating:

> If two products have different marks on them, even though they are the same color, size, and shape, they are not affected.

Senator HATCH, the author of the amendment, concurred in the statement I had made.

It has since come to my attention that Senator HATCH feels that "some confusion" has arisen over the precise meaning of the amendment. Accordingly, in the October 12, 1979, CONGRESSIONAL RECORD, the Senator has sought to "make clear" the effect the amendment will have. Specifically, he states that there may be instances where, compared to a previously marketed version of a drug, a subsequent generic competitor with the same color, size, and shape, but with a different trademark, name or the like, may in fact be prohibited.

This interpretation of the amendment differs entirely from the explanation which Senator HATCH and I agreed upon during consideration of the bill on the Senate floor. It is I believe, unacceptable.

Senator HATCH is concerned—if I understand him correctly—about the situation which arises when two versions of a drug are identical in color, size, and shape, and have marks which are so nearly identical that the two products cannot be distinguished by normal observation, but under very close scrutiny may turn out to have some slight variation in their marks. It is Senator HATCH's objective, I believe, to insure that in this circumstance the generic competitor is prohibited.

Let me assure Senator HATCH that, in precisely such a circumstance, the generic drug's mark would not be "different" as that word is used in ordinary conversation—and as I used it on the Senate floor. In such a circumstance, therefore, the generic product would be prohibited. The generic drug's mark would have to have something more than a slight variation to be "different" and to render the product itself legal.

Therefore, I believe that the explanation of Senator HATCH's amendment which he and I agreed upon on the Senate floor is altogether adequate when the ordinary meaning of words is taken into account, as we took them into account on the Senate floor.●

REGULATORY IMPACT STATEMENT ON S. 751

● Mr. MELCHER. Mr. President, on October 17, 1979, the Select Committee on Indian Affairs reported S. 751, a bill to amend Public Law 93–531, the Navajo-Hopi Land Settlement Act.

Through an oversight, the report 96–373 of the committee failed to include a regulatory impact statement, as required by rule 29.5 of the Standing Rules of the Senate.

Mr. President, S. 751 provides up to 160 life estates to be granted to certain individuals for whom relocation required under Public Law 93–531 would result in serious hardship. The Navajo-Hopi Relocation Commission must draft regulations governing applications for life estates.

The Secretary of Interior is directed to write regulations governing residency and visitation requirements on the life estates as well as regulations relating to feeding and grazing of livestock owned by life tenants. The committee considers that S. 751 will have a very limited regulatory impact, affecting, at most, 160 families.●

ADDRESS BY JAPANESE FOREIGN MINISTER TO THE UNITED NATIONS GENERAL ASSEMBLY

● Mr. KENNEDY. Mr. President, like many other Americans, I have observed and welcomed the increasingly active and constructive role Japan is playing in international affairs. This role has grown importantly in recent months, as our two governments have worked together to address virtually every issue of regional or global importance.

Our positions are not always identical, but our objectives are the same: A more peaceful, prosperous, and democratic world. Our governments consult—and cooperate—to a degree unique in postwar history on issues from Indochina to the Middle East, and from Africa to Latin America.

On September 25, Japanese Foreign Minister Sonoda addressed the U.N. General Assembly in New York. His theme was the need to wield economic strength and political influence in the cause of world peace and prosperity.

Mr. Sonoda summed up the essence of Japanese foreign policy over the last 2 years and laid out a course for the future. He explicitly noted that it is not only in the usual catalog of global issues—Indochina, Korea, southern Africa, the Middle East, SALT—that Japan can make a contribution to progress and stability.

The Foreign Minister addressed an area that has been particularly troublesome in recent times, economic relations, and gave full recognition to Japan's responsibility in that area. Specifically, he pledged that Japan will continue to foster international cooperation, including through the further opening of its domestic markets. This statement is welcome not only because of the favorable trend it portends for the future, but because, coming as it does in the context of a major foreign policy address, it signifies a new, long term and positive approach by Japan to its role in the world.

Mr. Sonoda's speech is an important statement by the Foreign Minister of one of our closest friends and most crucial allies. I commend it to my colleagues and request that it be printed in the RECORD.

The address follows:

STATEMENT BY H. E. MR. SUNAO SONODA

Mr. President: On behalf of the Government and the people of Japan, I should like to extend warm congratulations to Your Excellency, Mr. Salim, on your election as President of the Thirty-fourth Session of the General Assembly. I am confident that, under Your Excellency's impartial guidance based on superb wisdom and wealth of experience, this Session will be a most fruitful one.

I should also like to express my heartfelt appreciation to His Excellency, Ambassador Lievano, who contributed greatly to the successful conclusion of the Thirty-third Session of the General Assembly.

I take this opportunity also to pay sincere tribute to His Excellency, Secretary-General

Kurt Waldheim. We deeply appreciate his dedicated efforts toward the maintenance of international peace and security as well as toward the promotion of international co-operation, thus helping to realize the goals of the United Nations.

Mr. President: May I also take this opportunity to express my sincere welcome to St. Lucia on its admission to the United Nations. My country looks forward to deepening its cooperation with St. Lucia within the United Nations as well as in other contexts.

Mr. President: 1979 is significant as the transitional year from the 1970s to the 1980s. As we recall our experiences of the 1970s and reflect upon their implications for the future in our quest for world peace and prosperity, this Session of the General Assembly, held at such an important time, should in my view provide us with a new vigour and perspective for the coming decade.

Looking back on the 1970s, I consider it a time mixed with promise and disappointment in terms of world peace and prosperity.

While tensions have relaxed among certain States with different political systems—as seen, for example, in the progress in the strategic arms limitations talks between the United States and the Soviet Union, and in the normalization of relations between the United States and the People's Republic of China—elsewhere, in such areas as the Indochinese Peninsula, the Middle East, and Africa, regional confrontations and conflicts are continuing. In some regions, we have even witnessed the intensification of tensions.

While there have been real international efforts to promote the stable expansion of the world economy, as exemplified by the five Summit Meetings of the major industrial nations and the Tokyo Round Trade Negotiations, energy problems cast a vast and gloomy shadow over the future of the world economy and there is no solution in sight to such problems as inflation and recession.

While nation-building programmes of developing countries are progressing, the non-oil producing developing countries are experiencing extremely serious economic difficulties stemming from sharp increases in the price of oil. Prospects concerning North-South problems are complicated by a great number of difficulties due in part to the stagnation of the economies of industrialized countries.

While in the international political and economic arenas, interdependent and complementary relationships among nations are generally deepening, cooperative relationships between oil-producing and oil-consumming countries have not yet taken hold. Industrialized and developing countries continue to grope for an international order that is mutually beneficial.

These are no more than simple illustrations. Yet, as we look ahead on the basis of these experiences to the coming decade, the prospects for the international community do not allow us to be totally optimistic. At the same time, we need not be unduly pessimistic.

As I pointed out last year at the Thirty-third Session of the General Assembly, mutual dependence among nations and regions of the world transcends differences in social systems, size, abundance of natural resources, or stage of development, and this interdependence is growing at an increasingly rapid pace. Thus, no nation can maintain peace within its own borders unless peace prevails elsewhere in the world. And no country can plan its own economic prosperity in isolation from the development of the world economy as a whole.

These are the realities which all the countries of the world must approach dispassionately. In our quest for world peace and prosperity we must recognize the interdependence among nations as well as regions, and help each other and complement each other in a spirit of accommodation. If each nation bases its foreign policy on this recognition, I am convinced there will be a way to solve the difficult problems besetting all of us. One of the major tasks for the 1980s will be for each of us to renew our efforts in this direction.

Mr. President: My country maintains as its fundamental national principle the pursuit of peace and the refusal to become a military power that could pose a threat to another country. Thus, the basic objective of Japan's foreign policy is to contribute to world peace and prosperity by fully wielding its economic strength and political influence. This policy of course is based on the recognition that there can be no peace and prosperity throughout the world. We are determined to strengthen Japan's diplomatic efforts in international political, economic and social areas in order to contribute further to the peace and prosperity of the world community in the coming decade.

In so doing it is the policy of my Government to actively explore from a global perspective the ways in which it can help to achieve the stability and development of countries in various parts of the world, giving attention to the Asian and Pacific region in particular, but also recognizing the importance of the Middle East, Africa, and Latin America.

Mr. President: With this perception of the present and looking ahead to the future, I should like at this time to explain briefly my Government's position on the major problems confronting the international community today.

Mr. President: I should like to comment first of all upon the situation in Asia.

One of the most urgent tasks confronting us now is to secure peace and stability in Southeast Asia.

The ASEAN nations are steadily pursuing courses of national development based on the progress of regional cooperation. However, serious anxiety regarding the security of these nations is resulting from the conflicts and tensions in the Indochinese Peninsula and from the outflow of the refugees from that area.

In particular, the problem of Indochinese refugees is no longer solely a matter of humanitarian concern, but has become a destabilizing element in the Asian and Pacific region.

Although the United Nations Conference on Indochinese Refugees held in Geneva last July achieved significant results, thanks to the efforts of the Secretary-General and other United Nations officials, as well as to those of the various countries concerned, the problem has not been fundamentally resolved. Indeed, each country is called upon to strive even harder in its own way to help alleviate the difficult situation.

First, it is necessary that Viet Nam continue to exert every effort to stop the illegal departures of its people as it stated it would do at the Geneva Conference.

Second, in order to provide relief for the refugees as well as to lighten the burden of the first asylum countries, international cooperation should be further strengthened in the fields of the permanent resettlement of refugees and of financial contributions to UNHCR.

Determined to take an active part in this international endeavour, Japan decided to provide half the funds required this year for the UNHCR Assistance Programme for Indochinese Refugees. At the same time, we are making efforts to promote the resettlement of refugees in Japan and intend to expand gradually the target figure for resettlement in Japan, depending on the progress of the programme.

I feel it is important to stress, however, that the Indochinese refugee problem cannot be solved in any real way unless the peace and stability of this region is assured. In order to secure peace and stability in Indochina, it is essential that lasting peace in Kampuchea be restored. I am of the opinion that the only way to accomplish this is for all foreign forces to withdraw from Kampuchean territory so that the Kampuchean people may determine their own political future, free from any foreign intervention.

This is not in any sense an easy task, but we must do everything possible to accomplish it. I think it is important for us, as a first step, to make utmost efforts to promote the common recognition of the importance of restoring lasting peace in Kampuchea among the countries concerned, including all the parties to the Kampuchean conflict. It is on the basis of this belief that I have repeatedly proposed that a conference be convened in which the countries concerned, including all the parties to the Kampuchean conflict, would participate.

Mr. President: In conjunction with these long-range efforts, I should like to call attention to the very urgent task that demands immediate action in Kampuchea. In the devastated nation of Kampuchea, millions of people are stricken with disease and are in danger of starvation. There is undoubtedly a wide range of diverse political positions and opinions regarding Kampuchea's future. But whatever political position one may take, one cannot ignore the millions of Kampuchean people facing death due to starvation and disease.

I am convinced that humanitarian concerns must transcend political differences, and that it is of absolute importance for all parties, both inside and outside of Kampuchea, to take concerted action to bring to the Kampuchean people relief from the starvation and disease that is a living hell for them. What the Kampuchean people urgently need right now is not an exercise in political polemics, but rather food and medical supplies. It is our responsibility as human beings to see that the Kampuchean people get the supplies they need.

I should like to appeal, first of all, for the cooperation of all the parties to the conflict in Kampuchea in assuring that these humanitarian relief supplies reach those who are in need of them. I call specifically upon all the parties to the conflict to come to an immediate agreement with the international organizations concerned on a practical arrangement to ensure that such international relief measures be implemented safely and promptly.

Second, I should like to urge strongly that all the countries concerned make every possible effort to make such an arrangement, and that as many countries as possible participate in and cooperate with such international relief measures.

The Government of Japan is prepared to cooperate to the fullest extent of its abilities in these international relief measures.

Given the widespread and profound sympathy the Japanese people have for the Kampuchean people as they suffer catastrophic privation, the Government of Japan is determined to do everything possible, mobilizing the resources of both government and private sectors, to extend such cooperative assistance and relief.

Mr. President: Even as I am expressing these views on the Kampuchean problem—the most serious problem in Asia today—the implementation of relief measures is being further delayed. What is profoundly distressing are the movements that appear to be starting in Kampuchea which might lead again to an intensification of the fighting there.

No action must be allowed which would further aggravate the situation in Kampuchea, whatever the reason for such action may be.

I therefore strongly urge all the parties, including Viet Nam, who are directly involved in the conflict in Kampuchea to exercise prudence and restraint, and I reiterate my appeal to all the countries and parties concerned to make their utmost effort for the achievement of peace in Kampuchea.

Mr. President: Another major task confronting us in Asia is the relaxation of tensions on the Korean Peninsula.

At present, the dialogue between South and North Korea is suspended. The tripartite talks proposed jointly to North Korea by President Park of the Republic of Korea and President Carter of the United States, have not yet come about. Since the building of genuine peace and stability on the Korean Peninsula is a matter of deep concern to Japan, we hope that a substantive dialogue between South and North Korea will be resumed as promptly as possible. We, on our part, will continue to cooperate with all countries concerned to foster an international climate that is conducive to the relaxation of tensions on the Peninsula.

Mr. President: The problem in the Middle East is one of the most serious problems confronting the world today.

Japan maintains the position that it is essential that peace in the Middle East be just, lasting, and comprehensive. Thus, Japan thinks the Peace Treaty between Egypt and Israel should be a first step toward achieving a comprehensive peace in the area. We believe that such a peace should be achieved through the complete implementation of Resolutions 242 and 338 of the United Nations Security Council and the recognition of and respect for the legitimate rights of the Palestinians, including the right of self-determination in accordance with the United Nations Charter.

We believe that the future development of the negotiations now under way between Egypt and Israel on the question of the autonomy of the West Bank and Gaza will have a serious influence upon whether or not a comprehensive peace will be achieved in the Middle East. From this point of view, we strongly hope that, to avoid further delay in establishing peace in the area, the participation of the Palestinian Liberation Organization in the peace process will be realized, with Israel and the PLO mutually recognizing each other's position.

I strongly call on the participants involved in the talks regarding the autonomy of the West Bank and Gaza to display courage and flexibility in the negotiations in accordance with the relevant United Nations resolutions in order to achieve a result that is satisfactory to all the parties concerned. In this connection. I should like to urge Israel to refrain from any measures that would be detrimental to the atmosphere of the negotiations, such as the establishment of Israeli settlements in the occupied territories and its military actions in southern Lebanon.

Firm in the belief that stability and development in the Middle East are essential to the peace and prosperity of the entire world, Japan will continue, in accordance with its independent policy, to cooperate actively in the development efforts of the countries in that region. Out of this concern as well, we strongly hope that a just and lasting peace will be established as soon as possible.

Mr. President: The nations of Africa are Japan's vital partners in promoting world peace and prosperity. It is thus my country's policy to extend vigorous cooperation to the nation-building programmes of the African States.

The situation in Africa is, however, troubled in some areas. In particular, it is a matter of deep concern to Japan that a great number of people in southern Africa continue to suffer under the yoke of racial discrimination. I am profoundly distressed that progress toward the elimination of apartheid policies in South Africa has been so meager.

Regarding the question of Namibia, the Government of South Africa has embarked upon a dangerous course by seeking an internal settlement and totally disregarding the efforts of the United Nations. This is a serious situation and must be considered a challenge to the international community. I strongly urge South Africa to reconsider its policies and to cooperate wtih the United Nations in achieving Namibia's independence through elections held under the supervision of the United Nations. I should like on this occasion to confirm once again Japan's readiness to actively participate in and cooperate with the United Nations efforts to foster Namibia's peaceful transition to independence.

With regard to Southern Rhodesia, Japan sincerely hopes that independence under genuine majority rule will be peacefully realized as early as possible, and thus highly appreciates the agreement reached at the last Commonwealth Heads of Government Meeting. On the basis of this agreement, I earnestly hope that the parties concerned will continue, in a spirit of accommodation, their constructive talks at the Constitutional Conference now under way in London with the aim of establishing genuine majority rule in Southern Rhodesia.

Mr. President: The nations of Latin America are extremely important and are expected to assume increasingly greater responsibilities and roles in working for world peace and prosperity.

Recently I visited several Latin American nations, and was encouraged by the efforts they are making toward economic and social development and democratization. There is a growing trend among the nations of Latin America to search for peace and prosperity in a broader scope of interdependence that extends beyond a regional framework. I believe it will be the task in the 1980s of nations in other regions of the world to cooperate with the nations of Latin America as they strive to attain their aspirations.

There have been movements to direct attention and criticism to specific issues in the democratization processes of certain countries. I rather feel that democratization in these countries would be best promoted if we tried, while making conscious efforts to understand the positions and processes unique to each country, to help them with their democratization efforts.

Mr. President: Concurrent with the efforts to resolve the various regional problems which I have just mentioned, our important task is to effect, step by step, feasible disarmament measures.

I therefore welcome the signing of the SALT II Treaty by the United States and the Soviet Union, and I wish to express the hope that future negotiations on SALT III will result in further concrete progress in the quantitative reduction and qualitative control of strategic arms. I should like at this time to make a strong appeal once again for strengthening the regime for the non-proliferation of nuclear weapons, establishing as soon as possible a comprehensive nuclear test ban, and promoting disarmament negotiations relating to non-nuclear weapons, including the prohibition of chemical weapons.

Mr. President: Efforts exerted solely in the areas I have mentioned will not suffice to secure world peace and prosperity. Problems pertaining to the world economy present us with important and urgent tasks.

First, the world economy is beset with a number of difficult problems, notably those having to do with energy, inflation, and unemployment. In order to foster the stable expansion of the world economy under the current difficult circumstances, it is imperative that each country seek to strengthen its efforts toward international cooperation with a view to achieving its own economic prosperity within the framework of the stable expansion of the world economy as a whole, and in consideration of the interdependence between domestic and world economies.

Fully recognizing the responsibility and the role it must assume in the world economy, Japan will continue to make efforts that will foster international cooperation, including those designed to further open its domestic markets.

With regard to the energy question which will surely have a major impact on the future of the world economy, I should like to point out that it is very important for industrialized countries to assure that the various measures agreed upon at the Tokyo Economic Summit are faithfully implemented. These relate, in particular, to restraints in petroleum imports, the increased utilization of nuclear and other alternative sources of energy, as well as to the research and development of new sources of energy.

I believe that restrained oil consumption by industrialized countries, including my own, will help foster mutual trust between oil-producing countries and oil-consuming countries and thus lead to the creation of a more cooperative relationship between them regarding the efficient utilization of energy, which is a task for all mankind.

Further, because the energy problem is an important matter that concerns countries throughout the world, I believe it would be useful for the United Nations to consider how it could be best dealt with. Thus I shall follow with interest the initiatives to be taken by Secretary-General Waldheim on this subject.,

Another area of importance is the "nation-building" and "human resources development" efforts of developing countries. The qualitative improvement and quantitative expansion of economic and technical cooperation with these efforts must continue to be one of the most important policies of industrialized countries, including Japan. I should like particularly to emphasize that these efforts are all the more important at this time when the world economy is confronted with many difficult problems. Further, industrialized countries should make positive efforts to respond to the expectations and aspirations of developing countries for stabilizing their export of primary commodities and for the stable expansion of their export of manufactured products.

Japan, itself an Asian country, was late in joining the modern international community, and thus had to struggle resolutely in order to catch up with developed countries. Consequently Japan has deep sympathy with the desires and aspirations of developing countries for economic and social development. We believe that it is the responsibility of industrialized countries—including Japan—to respond to the legitimate expectations of developing countries regarding their economic and social development.

Accordingly, Japan makes it a basic policy to cooperate to the utmost of its capabilities with developing countries in their self-reliant efforts to promote their economic and social development.

The fact that Japan is making efforts to double its Official Development Assistance (ODA) within three years; that it is working toward untying assistance as well as softening the terms; and finally, that it has taken an active role for the establishment of the Common Fund, are all in conformity with its basic foreign policy. Japan will continue to firmly maintain this basic policy, and, in particular, intends to make greater efforts to expand the volume of its Official Development Assistance and improve the ratio of its ODA to its GNP.

In order to solve North-South problems, a continuous dialogue is necessary. In my assessment, UNCTAD V, held last May, was an important process for lending a future orientation to the North-South dialogue against the background of the agreement on the basic elements of the Common Fund.

Through this dialogue an increasing awareness of the interdependent and complementary relationship between the North and South should be developed from a long-term perspective, thus laying the foundation for genuine cooperation. This in my view is a prerequisite to the solution of the problem.

On the basis of these considerations, I believe it is important that the new International Development Strategy which we are about to formulate provide targets for the efforts of the international community in promoting the economic and social development of developing countries. In this sense, the new International Development Strategy should be a joint undertaking involving both developing and developed countries.

Furthermore, the new International Development Strategy should be formulated on the basis of realistic and practical considerations, giving due attention to the alleviation of absolute poverty, which is said to still be affecting more than 800 million people throughout the world, and in a manner which would enable relatively advanced developing countries to make further progress and thereby contribute to the expansion of the world economy as well.

Mr. President: Finally, I should like to say a few words regarding measures to strengthen the role of the United Nations in the maintenance of international peace.

It is a regrettable truth that the role played thus far by the United Nations in the maintenance of world peace has fallen far short of its original goals.

It will be difficult to try to change all at once the way in which the United Nations has functioned since its establishment more than thirty years ago. However, the role of the United Nations must be expanded to meet the changing needs of the international community, where worldwide interdependence continues to develop and the need for international cooperation and harmony is becoming increasingly urgent.

Therefore, as a first step in expanding the role of the United Nations in the maintenance of international peace, I should like to propose that its fact-finding functions regarding international disputes be strengthened. If the United Nations could maintain a firm grasp upon situations involving international disputes and present the international community with objective facts, it would be able, by appealing directly to world opinion, to exert pressure on countries concerned and thus facilitate the settlement of disputes.

For example, if I may at this point suggest a measure to be taken, each time an important dispute arose, a representative of the Secretary-General would be stationed in the area for a certain period to investigate the facts of the situation, and would report to the Secretary-General from time to time. The need for measures of this kind may be readily understood when one considers the developments in Indochina this past year.

Therefore, I believe that the United Nations should make maximum use of the fact-finding functions conferred upon the various organs under the United Nations Charter. In this way the United Nations would be able on its own to investigate the facts which would serve as a basis for debate in the world body. I should like to particularly point out that this is something the United Nations could start doing today if its Member States were willing to have it do so.

Mr. President: As I have previously mentioned, I am convinced that, as interdependent relations among countries and regions continue to grow, it will be our task in the 1980s to develop a basis for international cooperation that will lead to world peace and prosperity.

This is a tremendously difficult undertaking. But now, with the existence of weapons capable of annihilating all of mankind and with the emerging recognition that the natural resources and space available for man's use are limited, the people of each country must consider their own peace and prosperity as inseparable from that of the world. Each country must realize its responsibility and play an active role accordingly in achieving this common goal of mankind. This is, in my view, the only path open to the international community.

There are indeed a great number of problems in the international community, including those between East and West, North and South, and among industrialized nations as well.

I am convinced that solutions to all these problems could be found if each country would refrain from adopting attitudes of confrontation by insisting on its own views and interests and would enter discussions openheartedly for the shared goal of achieving world peace and prosperity—a long-cherished and common hope of mankind. I believe that the willingness of each country to open itself to such discussions will be the key to determining the course for the international community in the 1980s.

In closing, I should like to reaffirm my belief in man's powers of reason and innate wisdom. On the basis of this belief, I am confident that, as we look ahead to the decade of the 1980s, the prospects for the international community are promising.

Thank you.●

CAPT. WILLIAM AMSDEN, USN

● Mr. PELL. Mr. President, I regret to say that Capt. William Amsden, USN, a very distinguished naval officer with a long and gallant record, recently died in my State. He was a living example of the best traditions that the U.S. Navy typifies and served the Navy for almost half of his long life of 95 years.

I believe his career might be of interest to my colleagues and so ask that the attached article be printed in the Record.

The article follows:

[From the Newport Daily News]

Capt. William Amsden

Jamestown.—Retired Capt. William Faulkner Amsden, 95, of Whittier Road died yesterday morning in Peace Dale.

Capt. Amsden was born in Washington, D.C., while his father, Navy Lt. Charles Heath Amsden, was naval aide to President Cleveland.

He was graduated from Lake Forest Academy and entered the Naval Academy in 1904. He served several tours of duty at the Newport Naval Station, and on the Asiatic Station. When the United States entered World War I, he had command of the destroyer Barry in Manila, and he sailed her to Brest, France, where she was on convoy duty throughout the war.

After the war Capt. Amsden was commanding officer of the Newport Training Station, and studied at the War College. When the Spanish Civil War broke out he had command of the heavy cruiser Quincy that he had just commissioned. Quincy was ordered to proceed to Gibraltar to evacuate American citizens from the war zone, and she carried thousands from the various Spanish ports to safety in French Riviera ports.

Capt. Amsden was on duty at the Great Lakes Naval Training Station when the United States entered World War II and he quickly was assigned to convoy duty in the Pacific. Later he was ordered to establish and command the Waves Training School in the Bronx, N.Y., and while there 78,000 Waves were graduated.

He retired at the close of the war and settled in Jamestown. In the Navy he was renowned as a superb ship handler, a fine marksman of Olympic quality, and an able diplomat in crisis situations from China to Spain. His many decorations included the Navy Cross.

He leaves a daughter, Mrs. Samuel Wood Bryant of Jamestown, two grandsons and two great-grandsons. The funeral service will be private.●

FINANCE COMMITTEE ACTION WILL ENCOURAGE GASOHOL USE

● Mr. BAYH. Mr. President, last month I submitted, along with my distinguished celleagues, Senators McGovern, Church, and Stewart, three printed amendments to H.R. 3919, the Crude Oil Tax Act of 1979, designed to promote the production and use of gasohol. Last week the Finance Committee completed action on this bill and happily saw fit to include the changes proposed in my amendments in the bill they reported for Senate consideration. I would like to take this opportunity to express my appreciation to Senators Nelson and Baucus for sponsoring my amendments before the committee, and to thank the other members of the committee who supported these important proposals.

I am hopeful that these provisions will further encourage rapid development of a domestic alcohol fuels industry. They provide for simplified Federal regulation of alcohol fuel production, the replacement of the current excise tax exemption with a tax credit for alcohol used in producing gasohol, and a mechanism to grant refunds for excise taxes already paid on gasohol.

REGULATORY SIMPLIFICATION

The need for regulatory simplification is pressing, Mr. President, and provisions of S. 1200 incorporated by the Finance Committee into H.R. 3919 directly address barriers to production and distribution of alcohol fuels caused by Federal redtape and paperwork. These provisions respond to a demonstrated need; they are supported by the administration as well as the Finance Committee; and deserve the support of the full Senate and House.

Existing Bureau of Alcohol, Tobacco, and Firearms regulations were designed to apply to alcohol produced for use as a beverage or industrial feedstock, and not as a fuel. They are not designed to meet the needs of farmers interested in onfarm production of alcohol, or joint community or cooperative efforts to build small stills to meet local market demand, and they do not take into consideration the unique characteristics of the infant alcohol fuels industry. Unfortunately, the complexity of existing regulations has too often produced frustrating, irritating, and time-consuming delays for those wanting to get started in the field, or placed heavy regulatory burdens on potential producers.

The amendment adopted by the Finance Committee embodies the text of S. 1200, the Alcohol Fuels Regulatory Simplification Act of 1979, which I introduced along with 20 of my colleagues earlier this year. To make gasohol production and use a widespread reality, the amendment will permit the Secretary of the Treasury to waive some regulations, and simplify others, which are unnecessary when alcohol is being produced for use as an energy source.

This legislation was mandated by provisions in the 1978 Energy Tax Act which required the Bureau of Alcohol, Tobacco, and Firearms to send legislation to Congress recommending changes in current BATF regulations on alcohol to be used for energy purposes. As drafted by the Treasury Department, the new regulations would divide producers into three categories—small, medium, and large producers—with regulations varying according to the size of the facility. Regulatory requirements would be further adjusted depending on the ability of the producers to comply and the risk of revenue loss to the Government. For example, under the regulations drafted by the Department, small producers would no longer be required to post a bond, a requirement which has proven to be an obstacle to many individuals seeking to produce small quantities of alcohol for use as a fuel.

This amendment will be particularly valuable for farmers desiring to produce alcohol on their own farms to meet their own energy needs. The Treasury Department is currently issuing permits, under temporary and experimental authority, for such purposes. The number of applications for small scale production has increased dramatically, and presents further evidence of the growing interest in the country for gasohol and alcohol fuels generally. I shall ask that the proposed Treasury Department regulations and related materials pursuant to S. 1200 be printed in the Record at the conclusion of my remarks.

REPLACEMENT OF GASOHOL EXCISE TAX EXEMPTION WITH A PERMANENT TAX CREDIT

Mr. President, the 1978 Energy Tax Act further provided that gasoline used in gasohol be exempt from the 4 cents per gallon Federal motor fuels excise tax. This exemption was designed to last for 5 years, until the end of 1984. However, since the passage of this legislation, we have found that this mechanism for providing a tax incentive for gasohol has been lacking in several respects:

First, the exemption was available only for alcohol-gasoline blends that contained 10-percent alcohol and 90-percent gasoline, thereby providing no incentive for blends that contained more or less than 10-percent alcohol.

Second, the limit duration of the exemption created uncertainty among private sector investors who were considering capital investments in alcohol fuel production enterprises. Lending institutions were also hesitant to provide long-term financing that would outlive the duration of the Federal tax benefit.

Third, the tax benefit was available for alcohol produced abroad, or from foreign feedstocks. This made no sense, since the benefit was specifically designed to stimulate development of a domestic alcohol industry.

By taking positive action on several amendments offered to H.R. 3919, the Finance Committee has corrected these deficiencies. The committee has acted to replace the existing 4 cents per gallon excise tax exemption for gasohol with a 40 cents per gallon income tax credit for each gallon of alcohol mixed with gasoline. This credit will apply only to domestically produced alcohol derived from domestic sources. An additional 10 cents per gallon credit for alcohol produced from coal would also be established under the committee proposal.

The committee's action in extending this credit to the year 2000 is responsive to the need for an assured long-term Federal tax policy on gasohol. Additionally, since the credit applies to each gallon of alcohol used to produce a fuel, it encourages the use of alcohol in gasohol at the most practical proportion. The following chart shows how the price advantage of a gallon of gasohol increases under this tax credit provision when the amount of alcohol blended increases.

Percent per gallon of gasohol		Alcohol price reduction (in cents) due to tax credit
Alcohol	Gasoline	
5	95	2
10	90	4
20	80	8
30	70	12
40	60	16

So that the Congress may be continuously aware of the impact of this tax credit on the alcohol fuels industry, the Finance Committee language also requires the Treasury Department to periodically report to the Congress on several subjects related to this provision, including: a comparison of the costs of alcohol produced from different sources and added to fuels; an analysis of the effect on the alcohol fuels industry of a termination or reduction in this tax credit; the amount of revenue lost to the Treasury as a result of this credit; and any recommendations as to the appropriate level of subsidy to the alcohol fuels industry.

Mr. President, the exemption of gasohol from the 4 cents per gallon Federal excise tax has been a significant factor in the growing acceptance of gasohol by the consuming public. Unfortunately, as I noted above, that exemption has not proved to be as comprehensive a tax mechanism as originally believed, or as is now needed. The tax credit provided for in the Finance Committee bill goes far toward correcting these shortcomings.

My only concern about the Finance Committee's action is that the credit will now go to alcohol producers, not blenders themselves. This administrative change may indeed be helpful in eliminating paperwork for jobbers, co-ops, and service station dealers distributing gasohol. However, for the incentive to continue to stimulate gasohol sales, it is imperative that the tax savings associated with the new credit be passed along to consumers at the retail level. I have written to Senator Long, the distinguished chairman of the Finance Committee about this concern, and received assurances that this issue will be addressed in the committee's report. I ask unanimous consent that this letter be printed in the Record at the conclusion of my remarks. With this assurance, I strongly urge adoption of these provisions when H.R. 3919 is before the full Senate.

REFUND MECHANISM FOR EXCISE TAXES PAID

Finally, Mr. President, the Finance Committee adopted the tax refund provisions of S. 1746. I introduced this legislation earlier this year to permit gasohol distributors to receive excise tax refunds due them by the Treasury Department but denied them because of departmental delay in issuing regulations for the excise tax exemption which went into effect on December 31, 1978. During the first several months of 1979, no IRS regulations were in effect to allow gasohol retailers to take advantage of the exemption. Hence the tax was paid with assurances to some from the Treasury Department that a refund would be granted at a later date. Unfortunately, Treasury officials subsequently realized that no authority existed in law to grant the refund, even if it was deserved. The amendment adopted by the Finance Committee remedies this situation by establishing a procedure to allow a taxpayer to obtain a direct refund by filing a refund claim prior to July 1, 1980. This is a noncontroversial provision, Mr. President, which merely permits the Government to return funds due to taxpayers which have been denied them by slow Treasury implementation of the excise tax exemption.

Mr. President, adoption of these provisions by the Finance Committee are vital to the continued growth and development of our Nation's alcohol fuels industry and the public's use of this alternate fuel. Our experience with gas lines earlier this year, and predictions of further shortages in the future, tell this Senator that it is in the Nation's best interest to encourage the use of gasohol to the maximum extent possible. These amendments will encourage such use, and I urge their inclusion by the Congress in the Crude Oil Tax bill when it is sent to the President for his signature.

I submit for the Record the material to which I have referred.

The material follows:

U.S. Senate,
Washington, D.C., October 22, 1979.

Hon. Russell Long,
Chairman, Senate Committee on Finance,
Washington, D.C.

Dear Russell: I would like to take this opportunity to commend the Committee for the interest it has shown in alcohol fuels development during consideration of HR 3919, the Crude Oil Tax Bill. I am pleased that two proposals I made to provide for regulatory simplification as well as a method for refunding excise taxes paid on gasohol were adopted as amendments to this legislation. I was also quite pleased that the Committee extended the existing excise tax incentive to the year 2000.

I would, however, like to raise a concern with you about the amendment adopted by the Committee which would replace the existing excise tax exemption with a tax credit. It is my understanding that this credit will most likely be made available only to those firms actually producing alcohol, rather than those buying alcohol for blending in order to make gasohol for retail sale. If the credit is to be limited to alcohol producers, it is imperative to assure that the benefit of this tax incentive will be directly passed along to those at the retail level. If this is not assured, I am concerned that much of the recent stimulus to gasohol sales, attributable to the incentive provided by the excise tax exemption, may come to a halt.

I hope that the Committee will address this issue in the Committee report on H.R. 3919. By its action, the Committee has demonstrated its commitment to using the tax laws to encourage alcohol fuels production. It seems to me, however, that if we are truly interested in providing a tax incentive to alcohol fuels, we must assure that benefits be reflected in retail gasohol prices. I understand the Committee view that a tax credit limited to a few producers would be easier to administer than one available to a fairly large number of blenders. But, unless we can assure that the tax benefit is passed along to consumers, much of the momentum we have achieved toward the establishment of a nationwide gasohol sales network will be lost. If this is the case, the Committee's very worthwhile aim in extending and enlarging the credit will surely be frustrated.

I hope the Committee can address this issue before formally reporting the Crude Oil Tax Bill and I would be happy to work with you to accomplish our joint goals.

Sincerely,

BIRCH BAYH,
U.S. Senator.

Bill Analysis

The proposed bill would amend the Internal Revenue Code of 1954 to vest in the Secretary the authority to simplify pursuant to regulation the present statutory controls applicable to distilled spirits plants established solely for producing distilled spirits exclusively for fuel use.

Over the past year or so considerable interest has been expressed by persons to produce and use distilled spirits for fuel. The concept of using distilled spirits and blends containing distilled spirits and gasoline as motor fuel has been periodically discussed since World War I. Anticipating that existing production of petroleum and gasoline will not remain static, experts have constantly sought alternate energy sources. Successful experiments have been made with distilled spirits blended with gasoline as a motor fuel. A notable recent example is the Nebraska Gasohol Program, sponsored by the Agricultural Products Industrial Utilization Committee of the State of Nebraska. The "gasohol" tested in the Nebraska program is favorable. Others are also testing the expanded use of gasohol and the Treasury Department has received numerous requests concerning the possible establishment of plants of varying sizes.

The Internal Revenue Code of 1954 (chapter 51) establishes a detailed regulatory scheme for distilled spirits plants and persons involved in production of distilled spirits whether those spirits are intended for beverage or industrial use. The current regulatory scheme requires persons to follow qualification procedures, including registrations of distilled spirits plants, obtaining a permit for operation, and filing an operational bond and documents concerning construction and operation of the distilled spirits plants. In addition, the scheme provides for production of distilled spirits in a closed distilling system which requires on-premises supervision, by a Government officer. Presently, distilled spirits can be withdrawn free of distilled spirits excise tax ($10.50 per proof gallon) if it is first denatured by adding certain substances to render it unfit for beverage purposes.

The requirement in existing law that denaturing occur before the distilled spirits are removed from the bonded premises is intended to guard against the diversion of non-taxed paid distilled spirits to beverage use. The primary objective of the proposed bill is to simplify pursuant to regulation the present statutory controls applicable to distilled spirits plants established solely for producing distilled spirits exclusively for fuel use, while maintaining adequate safeguards to protect the revenue.

New section 5181 will vest authority in the Secretary to prescribe regulations for the establishment of distilled spirits plants solely for producing, processing, storing, using, and distributing distilled spirits exclusively for fuel use. The Secretary will have the authority to waive by regulation any provision of chapter 51 to facilitate the establishment and operation of such distilled spirits plants. For example, subsection (b) would authorize the Secretary to minimize the present qualification requirements for such distilled spirits plants and reduce the amount of bond requirements otherwise applicable to such an operation. However, the Secretary will not have authority to waive the payment of any tax provided for by chapter 51. Attached is the Treasury Department's proposed administrative action plan which sets forth the regulation envisioned over distilled spirits plants established under the provisions of this bill.

Subsection (c) will permit distilled spirits produced exclusively for fuel use to be withdrawn free of tax pursuant to new section 5214(a)(11). Subsection (d) prohibits the withdrawal, use, sale, or disposition of distilled spirits produced under the new section 5181 for other than fuel use. Additionally, for the protection of the revenue, subsection (d) requires that such spirits be rendered unfit for beverage use by addition of substances which will not impair the quality of the spirits for fuel use under such regulations as the Secretary shall prescribe prior to withdrawal from the bonded premises of a distilled spirits plant. Distilled spirits which are improperly withdrawn, used, sold, or disposed of will be subject to all provisions of law relating to taxable distilled spirits including those provisions imposing taxes and criminal penaltes.

Subsection (e) defines the term "distilled spirits" for purposes of section 5181 as not to include distilled spirits produced from petroleum, natural gas, or coal. Section 221 of the Energy Tax Act of 1978 establishes an exemption in sections 4041(k) and 4081(c) of the Internal Revenue Code from the Federal motor fuels excise tax for fuels mixed with "alcohol" which is defined as not including alcohol produced from petroleum, natural gas, or coal. Additionally, section 221 of the Energy Tax Act of 1978 requires the Treasury Department to recommend legislation to simplify the regulation of persons producing ethanol for use in producing gasoline or liquid fuel as described in section 4081(c). Thus, the definition of "distilled spirits" in subsection (e) of section 5181 corresponds with the definition of "alcohol" in section 4081(c).

Section 2 of the proposed bill amends section 5601(a) by adding a new paragraph (15) to provide criminal penalties for any person who withdraws, uses, sells, or otherwise disposes of distilled spirits except as authorized under section 5181. Section 3 adds a section 5214(a)(11) to authorize the withdrawal free of tax of distilled spirits produced under section 5181. Because of the nature of the withdrawal, free of tax, conforming amendments of a technical nature in sections 4 and 5 are required to section 5004(a)(2)(B) relating to termination of statutory liens on spirits withdrawn free of tax and section 5005(d) relating to relief from tax liability when spirits are withdrawn free of tax.

In addition, section 5025, relating to exemption from rectification tax, would be amended by adding a new subsection (m) to make it clear that processing of distilled spirts for fuel use under section 5181 would not constitute rectification and thus be taxable.

A cross reference to new section 5025(m) is added to section 5083, which lists exemptions from taxes under sections 5021 and 5081.

The attached package is the proposed administrative action plan setting forth the regulations envisioned for distilled spirits plants established under the provisions of this bill. Following the passage of this legislation this plan will be published in the form of proposed regulations. Comments from the Congress and the public as to possible improvements on this plan will be sought.

Basically, the plan defines the three categories of producers the Department anticipates will produce alcohol for fuel. Then, the general requirements for all producers are broadly outlined. The plan proceeds to delineate the specified requirements for each type of producer concerning the application for a distilled spirits plant permit and the bonding, security, and auditing requirements. The plan also explains the requirement to denature the alcohol and identifies some approved denaturing methods. In addition, the ATF inspection and oversight is described.

It is the Department's intention to have the regulatory package sufficiently developed to initiate the rulemaking process as soon as Congress approves the waiver authority. The Department estimates it will require an additional four to six months to finalize and implement the action plan.

Administrative Action Plan

CONTROL ON ALCOHOL FOR FUEL PLANTS

In the future, we anticipate that a diversity of individuals and organizations will apply to the Bureau of Alcohol, Tobacco and Firearms (ATF) for a permit to establish a plant for the production of alcohol to be used as a fuel. Some producers of this alcohol will use it to produce gasohol—a mixture of alcohol and gasoline—that can be used as a fuel. ATF desires to facilitate the production of fuel alcohol, while at the same time, to minimize resource costs for the individual and the Government and to sustain ATF's statutory responsibilities and obligations.

We envision three potential categories or sizes of gasohol producers. They are:

Small producers (producing less than 5,000 (100 proof) gallons of alcohol per annum).

Medium producers (producing less than 100,000 (100 proof) gallons of alcohol per annum) and,

Large producers (producing over 100,000 (100 proof) gallons per annum).

While specific ATF controls will vary at each production level, all gasohol production plants will be expected to:

File an application to obtain a permit to operate an alcohol production plant.

(Except for the small producers) file a surety bond to cover any tax liability on the alcohol produced.

Destroy the beverage character of the alcohol by adding gasoline, kerosene or other approved chemicals.

Maintain security to prevent the diversion of the alcohol for purposes other than fuel and

Maintain auditable records regarding production and disposition of the alcohol.

Outlined below are the specific controls for each level of production that ATF will apply.

APPLICATION FOR PERMIT

Small Producer: This applicant will be required to fill out a form (see Attachment A) identifying the owner(s) and operator(s) of the plant, the location of the plant, the production process used, and the environmental impact of the process.

Medium Producer: This applicant will submit the same application form as a small producer. All applicants are, in addition, required to submit proof that the applicant has obtained the requisite surety bond based on his expected volume of production. The applicant must have the owner of the property stipulate, through submission of another form, that the United States taxes on distilled spirits produced, has the priority over any claim against the property.

Large Producer: This applicant will submit a basic application supplemented by additional documentation. This documentation includes, but is not llimted to, precise and accurate information concerning the plant facilities, production processes, principals operating the plant, statement of title to the premises and interest in the equipment, source of funds invested in the facility, and diagrams depicting the operating facility. With additional experience, ATF will try to simplify the large producer's application requirements.

It is estimated that a completed application for a small or medium producer, will take ATF 30 days to process. The large producer's completed application should be processed in about 45 days.

BOND REQUIREMENTS

Individuals entering in the business of distilling alcohol are required to file bond to cover the liability for the excise taxes on the alcohol produced. This bond and the security requirements are designed to—

Prevent the loss of any tax revenue, and

Assure the alcohol produced is not diverted to illegal purposes.

ATF ascertains the bond by determining the volume of alcohol produced at a specific proof level over a specific period of time. The present rate is $10.50 per (100 proof) gallons produced over a period of 15 days. In general, the formula used to determine the bond is designed to minimize the financial burden on the producer and to also minimize the risk the Government takes regarding potential loss of tax revenue. The producer, in actuality, pays an annual premium which is less than the actual tax liability by securing a surety bond for the tax liability with an approved Treasury bonding company. (See Table 1 at Attachment B.)

Small Producer: There is no bond requirement for this producer. It is believed the risk to the revenue by this producer is limited because of the volume of alcohol production (5,000 at 100 proof gallons) and the probability of detection if significant quantities of production are diverted to illegal purposes.

Medium Producer: ATF will determine the bond based on the potential tax liability incurred by the producer during 15 days production of distilled spirits. For example, if the producer produces 100,000 (100 proof) gallons annually (the maximum allowable under this category) his tax liability will be $60,576. The approximate cost of a surety bond to the producer is $730 annually.

Large Producer: ATF will determine the bond requirement for this producer based on the potential tax liability incurred by the producer during a 15 day period. For example, if he produces 200,000 proof gallons annually, his potential tax liability is $121,154. However, the maximum sum of the bond would be $1,200.

CONSTRUCTION AND EQUIPMENT

Small Producer: ATF requires this producer to have equipment by which he can regularly and accurately determine the quantity and proof level of the alcohol produced. Basic equipment needed for gauging production is a receptacle with a calibrated sightglass installed or a calibrated dip stick, a cylinder, a thermometer, and a hydrometer. This requirement does not necessitate expensive or sophisticated gauging equipment. In addition, the applicant must have a storage facility for the alcohol produced which he can either lock or seal.

Medium Producer: While ATF will require medium production operations, owned/operated by a number of individuals (e.g. cooperatives), to have a closed production system, the individually owned medium operation will not have to have a closed production system. ATF will require a medium producer with a closed system to secure the system with his locks and seals accessible only to responsible personnel. ATF will, however, not levy any additional restrictions regarding the maintenance and security of the closed distilling system.

In general, the medium producer must have equipment to regularly and accurately determine the quantity and proof level of the alcohol produced. Basic equipment needed for gauging production is a receptacle with a calibrated sightglass installed or a calibrated dip stick, a cylinder, a thermometer, and a hydrometer. This requirement does not necessitate expensive or sophisticated gauging equipment. In addition, the applicant must have a storage facility for the alcohol produced which he can either lock or seal.

Large Producer: This producer is required to have a distilling system that is closed at all points and is designed to prevent the unauthorized removal of alcohol from the system without detection. The security of the system shall be maintained, and at present, ATF will control removal of alcohol from the system by meters or other devices such as locks and seals.

Legislation implementing the wine gallon concession negotiated as part of the MTN, however, will repeal joint custody and would replace it with a system of "all-in-bond" tax administration. If this legislation is passed then the large producer would maintain the security of the alcohol with his locks and seals.

SECURITY

ATF desires that producers provide security which will deter the unauthorized removal of the alcohol and its diversion to illegal purposes. Moreover, ATF anticipates that the producers will also be concerned with providing sufficient security to protect his product.

ATF will require producers to retain the alcohol produced either in a storage tank or some enclosure which he can lock and restrict the access of unauthorized personnel to the alcohol or the diversion of the alcohol to illegal purposes.

If the above security measures are not maintained or if ATF discerns a consistent pattern of inadequate security identifiable by frequent break-ins by unauthorized persons or diversion of the alcohol to unauthorized purposes, then ATF will require the producer to implement additional security measures

It is recognized, however, that the specific measures required to limit the risk of unauthorized intrusion will vary dependent on:

The volume of production.

The location of the facility (e.g., urban versus rural),

Type and construction of plant (e.g. concrete building versus wooden shed), and

The availability of local security (e.g. regular police patrols of area).

ATF could require one or any combination of the following additional security arrangements:

The erection of a fence around the plant or alcohol storage facility,

Flood lights,

Alarm systems,

Watchman service, and

Locked or barred windows.

The exact additional security requirements would depend on the extent of security problems, the volume of alcohol produced, the risk to tax revenue, and safety requirements

If an individual fails to implement the requisite security measures, then ATF may revoke his permit to produce alcohol for fuel. The impetus is on the producers to actively try to prevent unauthorized access to the alcohol; however, ATF will work with the individuals in choosing the appropriate security measures to correct any problems.

RECORDS AND REPORTING

ATF will require each producer to maintain records of his production process and the disposition of the alcohol. At regular intervals, the producer will provide information to ATF for verification and auditing. ATF would not require the producer to maintain a separate set of records if he maintains commercial records that contain the needed information. Commercial records maintained for accounting and tax purposes will suffice.

Small Producer: This producer would be expected to maintain records of:

The quantity and proof of alcohol produced,

The quantities and types of materials added to the alcohol to destroy the beverage character of the alcohol, and

The disposition of the denatured alcohol.

Once a year, the small producer will file a report with ATF stating the volume and proof of alcohol produced annually and the disposition of the denatured alcohol.

Medium Producer: This producer will maintain records of:

The volume and proof of alcohol produced,

The quantities and types of materials used to destroy the alcohol's beverage character, and

The disposition of the denatured alcohol.

Twice a year, the producer will file a report with ATF delineating the volume and proof of alcohol produced monthly, and its disposition.

Large Producer: This producer will maintain records of:

The materials received and used to produce alcohol,

The volume and proof of alcohol produced,

The quantities and types of material added to the alcohol to alter its beverage character, and

The disposition of the denatured alcohol.

Four times a year, the producer will file a report with ATF delineating the volume and proof of alcohol produced monthly and its disposition.

DESTRUCTION OF THE ALCOHOL'S BEVERAGE CHARACTER

ATF will require all producers of alcohol for use as a fuel to add substances to the alcohol destroying its beverage character—make it unfit for human consumption. This technique is called denaturing the alcohol. All alcohol produced by the producers must be denatured before it leaves the premises on which the production facilities are located.

There are many substances such as gasoline, kerosene, or other chemicals, which can destroy the beverage character of the alcohol. In addition, there are several different formulas for the destruction of the beverage character of alcohol. ATF, however, is willing to work with a producer to develop an acceptable formula which will meet his specific needs.

For example, either of the two following formulas, is acceptable for the destruction of the beverage character of alcohol.

Formula No. 1

To every 100 gallons of alcohol add 15 gallons of gasoline.

Formula No. 2

To every 100 gallons of alcohol add 15 gallons of kerosene.

AUDIT INSPECTIONS

ATF will inspect each category of producer and review his records periodically. The frequency of these inspections is based upon the volume of production, type of operation, type of organization, construction and security provided, and the producer's record of compliance with laws and regulations. These inspections will determine that the operations are being conducted in accordance with the laws and regulation. Depending on available resources, generally, we can anticipate an audit/inspection schedule no more frequently than now utilized for permittees with similar controls and tax liabilities. Existing audit/inspection periods vary from six months to three years.

ON-STAFF SUPERVISION

Small Producer: ATF would provide no direct on-site supervision. Proprietor would, without ATF supervision, measure production and add materials to destroy the beverage character of the alcohol.

Medium Producer: ATF would not provide direct on-site supervision. Producer would measure production and add materials to destroy the beverage character of the alcohol without ATF supervision.

Large Producer: In an effort to minimize the need for on-site Government supervision, ATF will require the producer to install a meter system which will accurately record alcohol production and monitor the addition of substances to destroy the beverage character of the alcohol.

ATTACHMENT A

APPLICATION FOR OPERATION PERMIT FOR PRODUCTION OF ALCOHOL FOR FUEL

1. Which type of alcohol will you produce? Ethanol——— Methanol——— (If an individual plans to make methanol he does not need to apply for a permit. Only ethanol or ethol alcohol producers are required to apply for a permit.)

2. Date of application.

3. Name, home address and phone number, principal business address of applicant and phone number. Social Security Number.

4. Name and address of plant if different from above location.

5. Identify any partners/others that will be involved in operations.

6. Provide the address of above.

7. Has any person listed above:

Ever been convicted of a felony or misdemeanor under Federal or State law? Yes——— No———

Ever been arrested or charged with any violation in the last three years of Federal or State law (convictions or arrest or charges for traffic violations need not be reported if such violations are not felonies)? Yes——— No———

Ever applied for, held, or been connected with a permit issued under Federal law, to manufacture, distribute, sell, or use spirits, or products containing spirits, whether or not for beverage use, or held financial interest in any business covered by such permit? Yes——— No———

Ever compromised, by payment of penalties or otherwise, any violation of any Federal law relating to Internal Revenue or Customs taxation of distilled spirits, wines, beer, or tobacco products? Yes——— No———

8. If the answer to any of the above questions is Yes, provide specific details below:

9. Are you a citizen of the U.S. Yes——— No———

a. If naturalized, give date and location where naturalization papers were issued.

b. If not a citizen, give current citizenship status.

10. Provide the names and addresses (No., Street, City, State, Zip Code) of five references, including at least one bank reference, as to your character and business responsibility.

1.
2.
3.
4.
5.

11. List your residences for the past ten years (Give Street Address, City, County, State, and Zip Code)

Period:
From: To:
Addresses:

12. State the amount of your investment, if any, in the business and sources of the funds invested. (Personal savings, loans, etc.; give name and addresses of institutions in which funds are on deposit or name and address of tender).

13. Describe the type of operation you desire to operate:

Equipment used.

Facilities used for plant operation.

Draw a diagram of the plant.

14. Environmental Data.

A. Heat and Power:

1. Describe types of heat and power to be used and their sources.

2. Note any air pollution that might result.

3. Identify any air pollution equipment proposed for use.

B. Solid Waste:

1. Describe approximate amount and composition of all solid waste to be generated.

2. Discuss proposed methods of disposal.

C. Liquid Waste:

1. Describe amount and content of any liquid waste to be generated, including the biological, chemical, thermal, or other discharge and the location at which such discharge may enter marginal waters.

2. Describe proposed method of disposal.

D. Noise:

1. Describe operational noise that may result from operation of plant.

E. Give the date or dates this activity will begin and end, if known.

F. Describe any methods or means used to monitor quality and characteristics of the discharge and the operation of equipment or facilities employed in the treatment or control of wastes or other effluence.

15. Statement of truthfulness of information provided and signature of applicant.

ATTACHMENT B

TABLE 1.—BOND AMOUNTS

Daily production (gallons)	Annual	Proof	Bond required for 15 days' production	Annual bond premium
5	1,250	160	$1,260	$24
5	1,250	190	1,496	24
10	2,500	160	2,520	36
10	2,500	190	2,993	36
12.5	3,125	160	3,150	48
12.5	3,125	190	3,751	48
20	5,000	160	5,040	72
20	5,000	190	5,985	72
100	25,000	160	25,200	312
100	25,000	190	29,925	360
1,000	250,000	190	100,000	[1] 1,200

[1] Maximum premium.

COMPARATIVE TYPE SHOWING CHANGES IN EXISTING LAW MADE BY PROPOSED BILL

Changes in existing law proposed to be made by the bill are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is underscored):

Title 26—Internal Revenue Code.

Chapter 51—Distilled Spirits, Wines, and Beer.

* * * * *

"§ 5004. Lien for tax

"(a) Distilled spirits subject to lien

* * * * *

"(2) Exceptions

The lien imposed by paragraph (1), or any similar lien imposed on the spirits under prior provisions of internal revenue law, shall terminate in the case of distilled spirits produced on premises qualified under internal revenue law for the production of distilled spirits when such distilled spirits are—

* * * * *

"(B) withdrawn from bonded premises free of tax under provisions of section 5214(a)(1), (2), [or (3),] (3), or (11), section 7510; or"

* * * * *

"§ 5005. Persons liable for tax

* * * * *

"(d) Withdrawals free of tax

All persons liable for the tax under subsection (a) or (b), or under any similar prior provisions of internal revenue law, shall be relieved of such liability as to distilled spirits withdrawn free of tax under the provisions of section 5214(a)(1), (2), [or (3),] (3), or (11), or under section 7510, at the time such spirits are so withdrawn from bonded premises."

* * * * *

"§ 5025. Exemption from rectification tax

* * * * *

"(m) Distilled spirits for fuel use

The processing of distilled spirits exclusively for fuel use produced under section 5181 shall not be deemed to be rectification within the meaning of section 5021, 5081 and 5082.

"[(m)] (n) Cross references"

* * * * *

"§ 5083. Exemption

"For exemption from tax under section 5021 or 5081 in case of—

* * * * *

"(16 Processing distilled spirits for fuel use, see section 5025(m)."

* * * * *

"Subchapter B—Qualification Requirements for Distilled Spirits Plants"

Table of Sections

* * * * *

"5181. Distilled spirits for fuel uses.

"§ 5181. Distilled spirits for fuel use.

* * * * *

"§ 5181. Distilled spirits for fuel use.

"(a) General

On such application and bond and under such regulations as the Secretary may prescribe distilled spirits plants may be established solely for producing, processing, storing, using, and distributing distilled spirits exclusively for fuel use.

"(b) Authority to exempt.

The Secretary, to the extent deemed necessary to effectuate the purposes of this section, may by regulation provide for the waiver of any provision of this chapter (other than this section) for distilled spirits plants established solely for producing, processing, storing, using, and distributing distilled spirits exclusively for fuel use. Nothing in this section shall be construed as authority to waive the payment of any tax provided for in this chapter.

"(c) Withdrawal free of tax

Distilled spirits produced under this section may be withdrawn free of tax from the bonded premises of a distilled spirits plant exclusively for fuel use pursuant to section 5214(a)(11).

"(d) Prohibited withdrawal, use, sale or disposition.

Distilled spirits produced under this section shall not be withdrawn, used, sold, or disposed of for other than fuel use. For protection of the revenue, distilled spirits produced under this section shall be rendered unfit for beverage use by addition of substances which will not impair the quality of the spirits for fuel use under such regulations as the Secretary shall prescribe prior to withdrawal from the bonded premises of a distilled spirits plant.

"(e) Definition

For purposes of this section, the term 'distilled spirits' does not include distilled spirits produced from petroleum, natural gas, or coal."

* * * * *

"[§ 5181.] § 5182. Cross references

* * * * *

"§ 5214. Withdrawal of distilled spirits from bonded premises free of tax or without payment of tax "(a) Purposes

• • • • •

"(10) without payment of tax by a proprietor of bonded premises for use in research, development, or testing (other than consumer testing or other market analysis) of processes, systems, materials, or equipment, relating to distilled spirits or distillery operations, under such limitations and conditions as to quantities, use, and accountability as the Secretary may by regulations require for the protection of the revenue[.]; or

"[11] free of tax in the case of distilled spirits produced under section 5181."

• • • • •

"§ 5601. Criminal penalties

"(a) Offenses

• • • • •

"(14) Distilling after notice of suspension

After the time fixed in the notice given under section 5221(a) to suspend operations as a distiller, carries on the business of a distiller on the premises covered by the notice of suspension, or has mash, wort, or beer on such premises, or on any premises connected therewith, or has in his possession or under his control any mash, wort, or beer, with intent to distill the same on such premises; or

"(15) Unauthorized withdrawal, use, sale, or distribution of distilled spirits for fuel use.

Withdraws, uses, sells or otherwise disposes of distilled spirits produced under section 5181 for other than fuel use;"

Energy Self-Sufficiency Now

(Mr. Lance Crombie of Webster, Minnesota is a farmer * * * he even carries business cards which attest to that fact. Crombie, however, has a number of sidelines that aren't exactly typical of a tiller of the soil

(Lance is, for instance, a former cancer researcher who holds a Ph.D. in microbiology, the inventor of a low-cost solar collector, a partner in the firm that distributes his invention, the chairman of the Minnesota State Heart Fund, an associate professor of pharmacy at the University of Minnesota, a member of the New York Academy of Science * * * and he's listed in Who's Who in the Midwest and Outstanding Young Men in the Midwest.

(Lance is also a moonshiner.

(A moonshiner? Yep, you read it right. You see, Crombie is the kind of guy who gets things done when they need doin', and he's not at all hesitant to back the system or throw out the "accepted" answers when he feels he can find a better solution by himself.

(So—when his family's fuel bills became more than their budget could bear—Lance sat himself down, designed a sun-powered still, and began to produce corn alcohol * * * which he planned to use to heat his home and power his farm machinery.

(It wasn't long, however, before his experiments brought about a head-to-head confrontation between Crombie and the Treasury Department's Bureau of Alcohol, Tobacco, and Firearms * * * the "revenuers".

(Surprisingly enough, Lance won that battle (he obtained permission to operate his still) and—in the process—he became a spokesman for the alcohol fuel "movement" * * * a group of people who feel that our continued dependence upon fossil fuels is the quickest possible route to energy bankruptcy, and that agriculture ought to be given the chance to take a whack at solving America's fuel problems.

(In order to find out more about Crombie, and about alcohol's use as a fuel, MOTHER sent staffer Bruce Woods to the Gopher State to interview the Minnesota Moonshiner. While there, Bruce managed to wedge some questions in among the corn combining, volunteer work, and alcohol "public relations" activities that had kept Lance awake for the previous 30 hours.

(In this transcript of Bruce and Lance's exchange, you'll discover that Lance Crombie is—indeed—a farmer * * * but a farmer who—quite possibly—holds the key to individual total energy self-sufficiency in his hands.)

PLOWBOY. Lance, it's obvious from everything that's gone on since we arrived at your home—the constant phone calls, the people stopping by for information and advice. etc.—that your distillation experiments have attracted a lot of attention. Just how did a Minnesota corn farmer wind up in the middle of this home-produced alcohol controversy?

CROMBIE. Well, to go back to the very beginning, I was born and raised on a dairy farm in North St. Paul, Minnesota. By the time I got out of high school I'd milked one heck of a lot of cows, so I decided to go to college . . . to try my hand at something other than udders for a while. I eventually graduated from the University of Minnesota with a Ph.D. in microbiology and a biochemistry minor. That was in the spring of 1968.

I went into lab work after graduation and was employed—for the next few years—doing research in the areas of immunization and cancer prevention. It wasn't long, though, before I began to realize that the job market for Ph.D.'s was getting pretty glutted . . . there were more people holding the degrees than there were positions for those men and women to fill. So, since I really wanted to get back to farming anyway, I bought a small place here in Webster in 1974. I've been able to expand it through the years, and now I run a little more than 600 acres of corn and wheat. I plan to switch some of it over to sunflowers next year and then maybe I'll make some money from farming for a change.

PLOWBOY. And after you returned to farm life you became interested in solar energy?

CROMBIE. I had to! You see, while we were adding to our acreage, we lived in a little house. My family was too big to stay in such cramped quarters for long, though, so I looked around and eventually found this monster home here. It had been a parish house, and the church offered it to me for $200 . . . on the condition that I move it.

Everybody I talked to told me that it would be impossible to transport a brick house of this size all the way out here to my property, and I always tend to get a little riled when I'm told that something's impossible. It took me a while, but I finally found a company that was willing to tackle the job. And, although those guys lost money on the contract, the publicity generated by the move brought them a lot of new business.

Anyway, the house became our bicentennial project. We had built a new basement for it before we moved it out here, and we went on to refurbish the whole structure . . . all of which added about $40,000 to the original $200 price tag.

And then the winter of 1976–77 came along. Our heating bill for January alone was over $450, and it had been running right around that figure for months. I didn't have that kind of money to burn. In fact—what with the house expenses on top of several years of non-profit farming—I didn't have much money at all! So I did a little research, gave the problem some thought, and designed an inexpensive, temporary, all-plastic inflatable solar collector . . . just to help us survive the winter without going broke.

The thing worked fine, too. I mean, it really helped, although we would have needed a number of collectors to heat this house. My brother and I decided that other folks might be interested in a solar heating system that wouldn't cost an arm and a leg to set up, though, so I redesigned the collector—made it more durable—and got a patent on the design. Then we formed a company called Chicago Solar and started traveling to various energy shows to market the units.

Whenever I demonstrated the collector, somebody would be sure to ask me, "But what do you do when the sun doesn't shine?" After a while I started telling 'em that I'd perfected a method of collecting moonbeams and that I'd supply a free bottle of moonshine with every solar collector I sold . . . because I didn't want my customers to get cold at night.

That joke, you see, started the whole alcohol thing . . . because it set me to thinking. My heating bills were still high, of course, and I needed to come up with something I could use to augment our solar heaters . . . or to fill in for them on cloudy days and such.

At the same time, I had about 45,000 bushels of corn sitting out there in my bins. It was worth around $1.60 a bushel on the market, and—since it had cost me almost $2.00 a bushel to grow—I wasn't about to sell the grain at that price.

So, I put two and two together and decided to turn all that corn into alcohol. I figured that I could use the fuel to heat my house, run my tractors, and all that.

There didn't seem to be much information available on alcohol stills per se, but I managed to find out a good bit about fermentation . . . which is just yeasts and bacterial action, stuff that I was pretty familiar with. So I built a crude little solar still, whipped up a batch of mash, and was ready to go.

I wasn't looking to get into trouble. In fact, I even went so far as to talk to the local sheriff before I started distilling. I asked him if he thought it would be OK if I experimented with solar stills and so forth . . . and he said that he didn't think I should.

But—one Sunday last March—I went ahead and set up the contraption anyway. I ran a batch of mash through the still and produced some crude 60- to 100-proof alcohol—ethyl hydroxide—just to test my design and find out what it could do.

Two Treasury Department Bureau of Alcohol, Tobacco, and Firearms agents—escorted by the sheriff—dropped by to see me the very next day. We had a three-hour "discussion"—really going back and forth—about the energy crisis, the cost of fuel, all sorts of things. The agents got pretty hot a couple of times, too, because I thought the whole situation was ridiculous and I kept needling them. I told the feds, for instance, that I was going to have them charged with armed robbery . . . after all, they had guns and they were trying to take my property. Eventually, they did decide that my setup was a still and—though I was never charged with anything—the agents confiscated the whole works.

PLOWBOY: Did you make any effort to get your still back from them?

CROMBIE. Oh, yeah! I kept in pretty close touch—by phone and letters—with the ATF Bureau. I tried to convince those guys that they might as well return my solar still, 'cause if they didn't I was just going to make another one. About a month later, though, the Bureau sent me a letter which said, in effect, that my still wasn't a still! They had decided that the design was much too primitive—that it was sort of like counting on your fingers as compared to operating a computer—and that it probably wouldn't work anyway.

So I drove right over to the ATF office in Minneapolis. The whole place went quiet when I walked in. They don't get to make many moonshine busts around here anymore, I guess, and everybody in the place knew about the confiscation, and—of course—about me.

Plowboy. The Untouchables ride again.

Crombie. Yeah, exactly. I told them—since they'd decided my "culture warmer" wasn't a still—that they had no right to keep it. (I called it a culture warmer—warming a yeast culture is a step used in producing high-quality feed—so they wouldn't get all upset again.) I was told that I couldn't have it because it was a container for illegal mash. So I politely suggested they dump out the mash and then return my invention to me, because I might want to patent it.

In order to get the still back, the ATF people told me, I'd have to post a bond for a hearing. (They claimed they were going to destroy the device if I didn't, but I think they just wanted to play with it.) Well, I only had about $18 invested in the thing, so it hardly seemed worth posting a bond. I talked to a few attorneys—to see what my options were—and got just about nowhere . . . until one of them suggested that I apply for an experimental distilled spirits plant permit. So I did just that . . . I mailed in my application on July 12.

Plowboy. Since other folks might want to follow your lead, please tell me how you went about applying for that permit.

Crombie. Sure, I want other people to apply. I wrote to the Office of the Director, Bureau of Alcohol, Tobacco, and Firearms, 1200 Pensylvania Avenue, Washington, D.C. 20044. I simply asked for a special variance—for a period of two years—of section 201.63, 201.64, 201.65, and 201.66 of Title 27 of the Alcohol, Tobacco, and Firearms Code.

I wrote, "It is my desire to test several sources of fermentable carbohydrates (corn, wheat, barley, and cellulose) with various bacteria and yeasts. I plan to build and experiment with solar stills of differing designs, efficiencies, materials, and costs . . . and to compare these with a classic boiling still. I will test farm uses of alcohol, including use in an oil-fired furnace, in diesel engines, in a corn dryer, and in automobiles."

Now using homemade alcohol in cars is a touchy situation because of the state and federal road taxes, which apply to any fuel powering any vehicle on public roads. Minnesota still has such a tax—it runs about 11¢ a gallon—although some states no longer levy road taxes on alcohol.

For that reason, I concluded my letter by saying that I would use this fuel on my farm, and that I planned to sell the solid fermentation by-products to my neighbors as hog feed. I assured the Bureau that the only waste matter produced would be carbon dioxide, and that all liquids would be used and recycled.

I received my permit last August 12, and now I can make "legal" alcohol for two years. Of course, this ATF approval is subject to a few conditions: I will—if I choose to sell any of the materials that I produce—need to post a bond to cover 15 days' worth of production. I also have to describe my plant . . . which will be two solar stills, hooked up in series, that feed into a storage tank.

Plowboy. The second still, then, will further refine the alcohol produced by the first one?

Crombie. Right. It'll allow me to produce a higher-proof fuel. I've written back to the Bureau a few times, just to see if I could get them to drop the bond requirement, but they won't back down on that. The bond will cost me $25—as near as I can figure it—which puts the cost of the permit (including postage and the like) right around $30.

What's important about my permit, though, is that it means that anyone can make his or her own alcohol . . . if that person cooperates with the appropriate agencies. Personally, I think the permits are unnecessary and that the requirement will be dropped. It may take a lot of pressure to do it, but I think the law will have to change.

Plowboy. You mentioned that you plan to sell your mash by-products to hog farmers . . . can you tell me more about that mash-based feed?

Crombie. It's available on the market . . . all of the big distillers produce it. The feed is called distiller's dried grains and solubles (DDGS). It's nothing new.

For that matter, there's nothing new about most of what I'm doing. Dr. William Jay Hale of Dow Chemicals predicted—way back in the 1930's—that we would one day be using alcohol as a fuel. He said that all we as a nation, would have to do is turn the farmers loose . . . make it profitable for them to grow starch crops for alcohol production. Hale calculated that it would take about 56 pounds of mixed grains to produce five gallons of "farmer's alcohol". This would leave 26 pounds of residue which, he said, would represent more nutritional value than was contained in the original grain!

In fact it's been claimed—I haven't had time to check the figures—that a group in Iowa has shown that hogs will gain weight up to 20 percent faster—when fed these distillation by-products—than they would on the same amount of whole grain.

Plowboy. That's not hard to believe. The University of Nebraska has demonstrated that young cattle fed on DDGS gained weight 12.8 percent more rapidly than did a control group fed equivalent quantities of grain.

But what about the still that produces this feed while it's perking out alcohol? Can you tell me how your little device works?

Crombie. Sure. This one here is about the simplest of several designs I've played with. It's just a 4' x 8' piece of plywood—any type of rigid form would do—that has 1½-inch wooden sides around its edges. The inner surface of the shallow box is painted black, or covered with black plastic, and then lined with a black cloth which absorbs the liquid as it trickles down. Of course, the dark surface heats up and causes the mash to evaporate rapidly.

Plowboy. The alcohol evaporates before the water does?

Crombie. Yeah, it vaporizes much more rapidly than water does. And, once the alcohol is in its vapor phase, it condenses on the still's clear cover (which could be glass, plastic, or fiberglass), adheres to the cover, and flows down the surface . . . because the still is set up at a slight angle.

The alcohol then drips off the lid and into the bottom of the still . . . below a one-inch-high partition which prevents any liquid mash from running into the holding area and contaminating the fuel.

Plowboy. How much can one of these little "distilleries" produce on a sunny day?

Crombie. Just as a rough estimate, I'd say that it'll turn out about eight to ten gallons a day, depending upon the mash mixture used.

Plowboy. What types of mash have you experimented with?

Crombie. My first concoction included corn, molasses, water, and baker's yeast . . . I don't even know what the concentrations of each ingredient were. I let it ferment for a few days, until it smelled sort of like beer, and then poured it into the still.

Since that first attempt I've tried wheat, straight sugar, oats, and commercially available cereals (which work great because they have so much white sugar in 'em). Ideally, you want between 12 percent and 15 percent sugar in your mash. In fact, I've found that the mixture itself isn't all that important as long as it makes sugar available to the yeasts.

Plowboy. Do any of these mash materials require special preparation?

Crombie. Some of 'em. If you start with corn, for instance, you have to break it down to "free" its sugar. This is usually done by cooking it or by adding acid to the mash. On a farm plant, though, corn could be most easily prepared by malting . . . which simply means sprouting the kernels. When the corn sprouts, its enzymes go to work on the starches and produce the necessary sugar.

Plowboy. One of the major advantages of this form of energy production seems to be the fact that most any organic material can be used to make alcohol.

Crombie. Yeah, it's incredible! Of course, some substances require a few extra steps before you can ferment 'em. You could even use cellulose—waste paper, wood, that sort of thing—for example, by introducing bacteria, Trichoderma derde (which produce enzymes that break the cellulose down into glucose), into the mash. If you have a sugar product though—say, certain fruits and pumpkins, sugar cane, or sugar beets—you can just dump it in a container and ferment it.

In fact, sugar beets would be the ideal crop for a person who has land and wants to produce his or her own fuel. If that farmer could grow five acres of the beets, dump 'em in a tank, and then distill the fermented mash, he or she could probably produce a full year's supply of alcohol.

Plowboy. I'm curious about some of the uses to which you've put this homemade fuel. How, for example, did you go about converting your car so it could run on "corn likker"?

Crombie. There are a number of ways to switch an auto over to alcohol. About the easiest method is to put a "T" fitting into the fuel line—like I've done—and add an auxiliary fuel tank which will hold a small amount of gasoline. Then you just start the car on gas, and—after its all warmed up—flip the "T" switch to shut off the gas flow and supply alcohol to the engine. The car will run just fine. Now, if you could design an alcohol tank in such a way that its contents would be warmed by their proximity to the engine, the system would work even better.

Plowboy. Why is this preheating necessary?

Crombie. Because alcohol doesn't vaporize as readily as gasoline does. You don't have to heat the alky, though. You can produce the same effect by modifying the car's carburetor. If, for instance, you enlarge the jets and put screens in 'em, or use a fuel injector, the end result will be the same . . . the liquid will vaporize easily and away you'll drive.

Plowboy. Is it that easy to convert an oil heater to run on alcohol?

Crombie. Sure. Anything down to a 70 percent-alcohol/30 percent-water solution will burn beautifully in an oil furnace. All you have to do is increase the size of the heater's fuel nozzle about 25 percent—a 90-degree nozzle works best—and then decrease the air adjustment until the flame is tuned in". Once you do that, you can just pump your alcohol into the furnace. It'll burn with a clean, hot, almost invisible yellow fire.

Plowboy. I've seen your furnace operate on alcohol—very effectively, it seems—but how efficient is the corn product as compared to fuel oil?

Crombie. Let me explain that in terms of the almost 70 percent (140-proof) alcohol that I burn . . . since even the simplest still can produce a fuel of that quality. Now, fuel oil only contains a substantially greater number of Btu's, per given amount, than alcohol. This means—in theory—that you'd have to burn a whole lot more alcohol to produce the same heat that a smaller amount of oil would provide. And that's exactly what would happen, too, if you burned pure (200-proof) alcohol. But as I said, the 70 percent alky solution contains 30 percent water. So you can "burn" that water along with the alcohol and still have a very hot flame. The water doesn't actually burn, of course, but you do end up consuming less pure alcohol than fuel oil to get the same amount of heat. And, as you saw in my furnace, the "corn likker" burns cleaner, too. It's a more "housebroken" fuel than oil is.

Incidentally, that water content comes into play when you compute the miles per gallon of alcohol used in autos, also. You might need more alcohol than gasoline to drive a certain distance, but you can run an automobile engine on a 60 percent-alcohol/40 percent-water solution . . . which—because the water extends the alcohol—can actually give pure alcohol an mpg advantage over certain types of gasoline.

Plowboy. The oil establishment has tried to discount the value of alcohol fuels by stating that more energy is used in the distillation process than is contained in the finished alcohol. It would seem that your solar still takes the wind out of that particular argument.

Crombie. I've seen figures which show that the energy expended in the production of 190-proof alcohol fuel makes up about 40 percent of the cost of the entire distillation process. But solar energy is virtually free. And that means, if you can wait for the sun to shine—which isn't much of an inconvenience to a home alcohol producer—you can use a solar still and save 40 percent on the cost of your fuel right there. That's a big plus in my book.

Plowboy. Do you feel, then, that homemade alcohol can be a major energy source? For instance, can the average American farmer produce alcohol for his or her own use and for sale at a profit?

Crombie. Definitely. In fact, I think that alcohol is—in many cases—a more important fuel source than solar energy or any of the other "alternatives". The United States in general—and our agricultural system in particular—needs a liquid fuel. After all, we're not going to be able to go back to horse-drawn plows and so forth without cutting our production drastically. We have to be able to use our tractors because they're the keys to our efficiency. And we can't run these farm implements on coal or geothermal energy or anything like that.

And farmers are in a better position than anybody to produce this "new" liquid fuel. Just take a look at the typical corporation. What does it take for one of those firms to manufacture anything? They have to have a president, a board of directors, secretaries, a corporation headquarters, stocks and stockholders, and any number of other people and items that cost money and add to the price of the goods produced.

The farmer, on the other hand, has cheap labor (in my case, anyway, that means mostly myself and my family). Almost all of the equipment that he or she would need is stuff that's on the farm already, the farmer's transportation costs wouldn't amount to much, and a farm has no bosses, no unions, none of that expensive organization. Can farmers compete with Mobil Oil in energy production? Damn right they can! Of course, Mobil Oil—or any of the fuel companies—could produce alcohol, too. But they'd have to buy our corn, wheat, and so forth to do it.

Plowboy. Which would help stabilize crop prices.

Crombie. That's right, that's right . . . and just in the nick of time, too. Last year, for instance, I raised the best corn crop of my life, about 140 bushels per acre, and I lost thousands of dollars on that harvest because the market prices were so low. If the corn were being converted to alcohol, though, the demand would always meet or exceed the supply, and we'd have prices for our crops that we could count on from one year to another.

Plowboy. Now that you have your permit, you can take steps to bring that new agricultural market into being. How about it? Where do Lance Crombie and his incredible solar still go from here?

Crombie. I'm going to convert one of my outbuildings . . . make its roof into one big, double-stage solar still that will produce between 10,000 and 20,000 gallons of alcohol a year.

Plowboy. How much will it cost you to set up that rooftop distillery?

Crombie. I've got it all figured out. You see. I have the buildings and the storage tanks already—most any farmer has spare outbuildings and a tank or two lying around—so the job won't involve much more than adding some clear fiberglass and a pump. The entire system won't cost me more than $1,500.

Even if somebody were to set up a similar still from scratch—a plant that would produce at least 10,000 gallons of alcohol a year—he or she could buy all new materials and still be ready to roll for somewhere in the neighborhood of $5,000.

Plowboy. That's a reasonable initial investment, but what would the economics of running such a still be? Since each different mash base would cause the figures to vary, let's stick with corn for the purpose of estimation.

Crombie. OK. I've done more pencil pushing with corn than with anything else, so that's easy.

Right now I could sell the DDGS feed produced by fermenting a bushel of corn for around $2.00 . . . which is about what it costs me to grow the corn. That same bushel will yield approximately five gallons of alcohol, though, and I can sell that for at least 50c a gallon. So, my gross income from one bushel of corn would be around $4.50. Now, I figure that the alky costs me about 10c a gallon to produce. If we add that 50c production cost (for five gallons) to the $2.00 that I spend growing the corn, we get a total expenditure of $2.50. That means I can make a $2.00 profit on every bushel that I ferment!

And there's another angle, too: The gasohol people are buying alcohol for around $1.30 a gallon, to mix with gasoline. Unfortunately, they need anhydrous alcohol, 200-proof stuff, because anything much below that percentage won't mix with the gasoline if it contains any water at all. But by forgetting the gasoline altogether and just burning a mixture of alcohol and water in the first place, I don't need 200-proof "corn squeezin's" anyway. The 140-, 160-, and 180-proof batches I'm makin' are plenty good enough for my needs.

Plowboy. Those are very impressive facts and figures. And I know they've led you to formulate some ideas about the economics behind the alcohol tax laws (the laws that were responsible for your run-in with the Alcohol, Tobacco, and Firearms people). Could you explain these views and tell me how they relate to the future of home-produced alcohol?

Crombie. OK, here are the facts: The United States government takes in approximately seven billion dollars a year in revenue from the alcohol tax. But—what with enforcement, bureaucratic red tape, and so forth—the government spends at least five billion dollars annually collecting those taxes. So, as taxpayers, our net take-home pay from alcohol taxation is about two billion dollars a year.

Now, during 1978 the government paid farmers—including me—a total of more than 22 billion dollars to not grow crops! So, if we eliminate the tax on booze and get rid of all of the farm subsidies—which would allow farmers to go into total crop production and make alcohol out of the surplus—the taxpayers, and the nation, will have a net income gain of 20 billion dollars . . . without even taking into consideration the decreased dependence on imported oil, the fact that we'll be switching some of our economy to renewable fuels, and so forth. It seems like a commonsense move to me.

Plowboy. What you're proposing, in effect, is a radical rethinking of the role of the farmer in this country.

Crombie. Exactly. You see, I feel—and this isn't just my idea, there are a lot of people who are thinking this way—that it's time for American agriculture to be set free, to be allowed to fill the dual role that it's capable of. Sure, farmers can produce food, they've always done that . . .

Plowboy. And food is just a form of stored energy.

Crombie. Right. But now, at the same time, those farmers can convert some of their extra "vegetable energy" into valuable liquid fuel.

And alcohol is the easiest to produce, least dangerous, most practical liquid fuel imaginable. It can be manufactured without a lot of expensive equipment and with very little specialized know-how. About all anyone really needs to learn is how to make a mash, and people could just fiddle around and figure that out for themselves . . . or get the basic information from any library that has beer- or winemaking books. Home alcohol plants are loaded with advantages, too. They can be just about any size; they produce no pollution, and they aren't likely to explode or anything like that . . . especially if they're solar powered.

Just imagine? The American farmer has always overproduced everything that he or she has tried to grow. However, if we put that farmer in the energy business (or, actually, recognize that agriculture has been an energy producer all along), before you know it there'll be so much fuel around that we'll have to have federal price supports for gasoline! Hell, we might even be able to buy Los Angeles back from the Arabs.

Plowboy. But, as you've said, agricultural alcohol production isn't a new idea. Why hasn't something been done before now?

Crombie. I guess the main reason is that the whole concept of alcohol as a fuel has never been promoted . . . not by the government and certainly not by the oil companies. Still, although you don't hear as much about alcohol as you might about the other forms of alternative energy, this fuel has already captured the interest of a large group of people.

You wouldn't believe the number of folks who are planning—as soon as possible—to construct 50- or 60-million-dollar plants . . . installations that could produce as much as 100,000 gallons of alcohol a day!

And there are other things that could swing the public toward this fuel, too. For instance, MMT-methlcycopentadienar manganese tricarbonyl (which is an octane-boosting additive used in unleaded gas)—has been found to be a pollutant and to be harmful to catalytic converters. It's supposed to be removed from the market any day now. And alcohol is the only alternative—at this point anyway—that has been approved to replace MMT.

Plowboy. Is there enough alcohol produced today to fill that need?

Crombie. No, not yet, but you'll be amazed by what's going to happen in the near future. Five years from now people will look back and wonder where all the alcohol plants came from. The fact is that everyone I know who understands anything about alcohol is trying to build a plant.

Plowboy. And why haven't we heard more about this groundswell?

Crombie. Because the public isn't interested! Most people don't know that alcohol burns well enough to fuel cars and heat homes, for one thing. And for another, folks just don't believe that it's possible to get a permit and actually produce alcohol. We've got this crazy stigma on moonshining, on top of an absolutely ridiculous law that says we can't make this liquid fuel.

The public is allowed to make all the methane it wants. People are free to use solar power, wind power, small hydroelectric power, and they're free to buy oil from the oil companies. Those firms have made an awful lot of money in the past, but now we've got a chance to decentralize liquid fuel production.

Think of the possibilities of having one alcohol plant in every township, or to supply any one small area. You see, the service range of these plants would be dictated by transportation costs. The most economical service area for an agricultural plant—as best I can figure—would be within a 40-mile radius of the distillery. These "neighborhood" outfits could be run cooperatively, or on a family-business basis . . . there's room for everybody!

And the effects that this decentralization could have on our energy supply, or on our balance of trade, are incredible.

Take all that damaged grain we ship overseas, for instance. We could use that moldy stock for the production of alcohol, and then ship quality grain overseas and sell it at a premium price. As it is we're peddling damaged merchandise, and we're not making any money or international goodwill from the transaction.

Plowboy. And the groundwork for a system of small-scale alcohol plants is being laid today?

Crombie. Yeah. Some of 'em are already in operation, and others are being organized all over the country. Believe me, gasohol—which is about the best-known side of the alcohol movement—is just the tip of a very large iceberg. People are getting involved in this, doing things on their own.

That guy who was around here today, for example, produces sorghum molasses down by the Iowa border. He drove all the way up here just to give me some of the stuff . . . so that I can test it and see how well it'll produce alcohol. He wants to set up a plant as a sideline to his sorghum operation.

Plowboy. The potential is certainly there . . . molasses should make an excellent mash. But what about you? Do you have any personal goals concerning this alcohol movement?

Crombie. All I want to do is make enough alcohol to run my farm and heat my house, with some left over to sell for a profit at a competitive price.

And I'd be really pleased if your magazine—through this article—could convince even a hundred more farmers to do the same thing . . . to just go ahead and start making alcohol for themselves.

Plowboy. What advice would you give to those hundred farmers?

Crombie. First. I'd tell 'em to learn all they can about basic fermentation rules and techniques. Then they should write to the Bureau of Alcohol, Tobacco, and Firearms and make a formal application—in triplicate—for a permit to make alcohol fuel and DDGS feed for their own use and for sale.

I can sum up my advice this way: Cooperate with the government agencies, because you don't have much choice right now. Be out front, tell 'em what you're going to do, and go ahead and do it.

Then, just set your still up on the front lawn, lean back, and let the sunshine make your moonshine! ●

VIETNAM VETERANS

● Mr. HEINZ. Mr. President, our Nation has a strong tradition of coming to the aid of those in need, of those who suffer from some disadvantage beyond their control. One of the foremost principles upon which our society is based is that all should have an equal opportunity to move forward and to achieve a decent standard of living.

Notwithstanding these traditions, we have presently in our society a group of men and women who are disadvantaged and who have not experienced the same progress as their peers. These men and women have been put in this position because of the sacrifices they have made for their country. I am referring to the thousands of Vietnam veterans whose readjustment problems have denied them the achievements and successes they would have had had they not served. It is time we stopped turning our backs on these men and women and provided them with the assistance they need to put them on a parity with their nonveteran peers.

The problems and needs of Vietnam veterans were described in an article which appeared today in the Washington Post. The article is truly an insight into the view of the Vietnam veterans as expressed by Robert Muller, the Executive Director of the Vietnam Veterans of America and a tireless, responsible advocate of the rights of these veterans. It is not necessary to agree with all the views in this piece to agree with its major point, the need for greater assistance to Vietnam veterans. I request that it be printed in the Record.

The article follows:

Casualties Still

(By Colman McCarthy)

Robert Muller, the former Marine Corps officer who has become the country's most tireless advocate for Vietnam veterans, is uneasy about getting mixed up with partisan politics.

But he can't help noticing which way the wind is blowing. "The people who have been coming forward with money and support," he said in a long conversation with me the other morning, "have been the more conservative groups. The Republicans are courting us, not the liberal Democrats."

Ten years ago, Muller came home from the war permanently crippled. He became one of the more prominent veterans against the war. His thinking was embraced by the leaders of the antiwar movement. "But where are these anti-war people now?" he wonders. "I can't find them. I'd like to take a full-page ad in the newspapers and say, 'Dear Liberals: For years your slogan was Bring the Boys Home. Well, we're home. Now where are you?' "

In the past, all of my meetings with Muller were marked by the intensity of his energy and hope. He was as driving as ever this time, but his spirit of hopefulness appeared to be under strain. A government-sponsored study, released the day before, confirmed that the psychological and social problems of Vietnam veterans were as severe as Muller and others had been saying all along. Now they even seemed worse.

Forty percent of the veterans studied still endure major emotional disorders. Seventy-five percent complain of readjustment problems in their jobs and marriages.

The findings are devastating enough, but they surface at least a decade after they were obvious to anyone—psychiatrists, family members, social workers—who took the time to listen to the veterans. The weight of this 10-year delay has itself become a crushing burden. It symbolizes to the veterans that those policy-makers who sent them to war have become deserters themselves—fleeing to the Swedens and Canadians of new issues like stronger national defense and the increasingly heard "Let's get tough with the Russians."

Muller has contempt for the politicians and military analysts who are pushing the country to new ventures in militarism. "We paid too great a price to get the lessons of Vietnam to ignore them. Yet here we are in 1979 willing to invest a minimum of $30 billion on what is a psychological crutch for the nation—the MX missile system. It's ludicrous to be talking about a new draft and another generation of soldiers to follow in the footsteps of the last group."

On the level of public relations, Muller has done well in winning legitimacy for his organization, the Vietnam Veterans of America. He helped on the film "Coming Home." He has been photographed with President Carter. Time magazine hails him as a young leader with a future.

But these pats on the back are nothing against the slaps in the face. In the past year, Muller has had seven meetings with a major corporation to get funds to keep his group going. He has yet to get a dollar. He has had five personal assurances of financial support from a former policy-maker who is now a corporation executive. No money has come. A major foundation was "deeply interested" but then backed off.

Muller, with constant pressures to meet a payroll for his small staff, is about to seek funds through national membership (Vietnam Veterans of America, 329 8th St. NE., Washington, D.C. 20002). Little question exists that the potential members are out there. But how many have it in them to be stirred, when nearly all the evidence points to massive national indifference?

As the recent study concludes, "a determined call" will be necessary, "one that will not be deflected by an initial cold reception. For part of the challenge is to pierce the shell of once hopeful young men who have responded to past disillusionment by restyling themselves as jaded realists."

The realism of the moment points in the opposite direction of healing the wounds of Vietnam. Muller's fears about the wave of new militarism sweeping the country are not groundless. In a Washington Post story last week on the stalled SALT II debate, a senator said, "We seem to have this low-grade chauvinistic fever since Vietnam. We're spoiling for a fight, trying to regain our lost manhood."

Forget that, Robert Muller says from his wheelchair. Let's just try to regain our lost men. ●

ADDRESS BY PRESIDENT CARTER AT NORTHEAST SUMMIT ON ENERGY

● Mr. PELL. Mr. President, yesterday President Carter visited Providence, R.I., and addressed the Northeast Summit on Energy hosted by the Coalition of Northeast Governors.

President Carter's address to the Northeast Summit was a concise and well-reasoned presentation of the actions our Nation must take to meet its energy needs and to eliminate the threat to our national well-being and our national security posed by our excessive reliance on imported oil.

I was especially pleased at the President's recognition of the particular problems of oil price and supply confronting the Northeast and his assurances of prompt Federal Government assistance to prevent hardship and suffering.

The overriding message delivered by the President, however, was not a regional one for the Northeast, but a national message—that all parts of the Nation, oil producing and oil consuming, must work together both to conserve energy and to produce energy.

As the President said:

> Now is the time for us to work together, to recognize that we have a common prob-

lem, a common challenge, that we face common questions.

Mr. President, I believe President Carter's address is an important one, and I ask that the text of his address be printed in the RECORD.

The address follows:

Governor Brendan Byrne, Governor Grasso, other members of this group who are distinguished leaders throughout the Northeastern part of our country: I can't think of any more appropriate subject for a summit conference anywhere in our Nation and particularly in this part of our country than you have chosen. Summits are ordinarily called when there is a matter of grave significance to a nation or to a group of nations.

I had a summit meeting with President Brezhnev in Vienna not long ago to talk about the peace of our generation throughout the world and the control of nuclear weapons. There was an economic summit earlier this year in Tokyo when the leaders of seven industrialized and democratic nations met to talk about the future of the Western World. And today we are addressing a subject that is equally as important because there are two things involved. One is the well-being of the people of our country and the other is the security of our Nation.

I don't make a statement like that lightly. When a President, the Commander-in-Chief of our Armed Forces says that the security of our Nation is at stake, the words should be chosen carefully and I choose them very carefully.

Our Nation has become overly dependent on foreign oil. This is a subject of grave importance to us.

In January of 1973, oil was selling freely around the world about $2.00 a barrel. That was about six or seven years ago. Now oil prices are more than ten times as great; on the spot market, 20 times as great, about $40 per barrel.

We relied on uncertain sources. We import half the oil we use. Along with oil, we import inflation and unemployment. Next year we will send from our country to foreign oil suppliers $70 billion. Think of the jobs and investment and a better life for the American people that could be bought with that kind of money.

Inflation is an all-pervasive burden on the American people. The driving force behind inflation is our overdependence on oil and the high prices paid for it. Four percentage points of our present inflation rate are directly attributable to one item—energy. If it weren't for the rapid increase in energy costs in the last six or eight months, the inflation rate now would be the same as it was in 1978 or the same as it was in 1977.

The people of our country are losing confidence in the future because they see that we rely on an undependable source which provides oil for a thirsty nation at uncontrollable prices.

This is a very serious subject and the fact that all of you would assemble here is proof that you agree with me about my expression of concern. In April of 1977, about 90 days after I had been sworn in as President, I presented to the people and to the Congress an analysis of the energy question and presented also to the Congress a proposal for a comprehensive national policy on energy. Mine was a lonely voice. I referred to the energy problem as the moral equivalent of war. This statement was ridiculed by the press, discounted by many people in our country, and after a year and a half, the Congress, after one of the most divisive and bitter and difficult debates in the history of our Nation, finally passed last year about 85 percent of the energy package that I had presented to them—not one word, however, about oil; not one word.

So here we sit, seven years after the first oil embargo, two-and-a-half-years after a comprehensive package had been presented to the Congress, still needing vital action by our Legislative Branch of the government and our country is still vulnerable.

There have been some beneficial changes made, however. The American people are now becoming aroused and the Congress is beginning to take action, even on oil. I am not discouraged about the future.

One very bright light throughout all this process has been the awareness of the Northeastern Governors and those who work with them, that this was indeed a serious problem.

I have had strong allies among the men and women at this table from the very beginning, and the fact that you are here indicates that their influence has been all-pervasive throughout the Northeastern part of our country.

You saw the dangers early, and you began to act. One of the things that has been a serious problem politically and otherwise has been the artificial controls on the prices of oil and natural gas, which have caused Americans to continue to depend upon oil to an unwarranted degree, to the exclusion of conservation, the shifting toward renewable supplies of energy like solar power and the realization among our Nation that we did have a serious problem on hand.

The most important single action that every single person in this country can take is to save energy, to conserve energy, to stop wasting energy. This is something that can be done at the national level, state, local levels of government, in private industry, in every community, in every family, in the life of almost every person. And I hope that everyone listening to my voice here in this room, or on television, or otherwise, will make an assessment today with family members; "What can I do as a patriotic American, and to help my Nation, yes, but also to help my community, my family and myself? What can I do to save energy in my home, going to and from work, to and from shopping, on my job?" There are myriad different ways that Americans can save energy if we make up our minds that it is important enough to do it.

And I might point out to you that this is not an unpleasant thing, it is not an unwarranted sacrifice. It will not even be an inconvenience. It will certainly not weaken our family structures, our community, our state or our Nation. It can be an exciting and productive and positive action. It can bring families together in a closer unity. It can strengthen communities. It can strengthen our nation. It is a patriotic gesture. It can be pleasant, not an unpleasant sacrifice.

The crux of the issue in conserving, meeting the needs of the American family, developing new supplies of energy is the windfall profits tax. The windfall profits tax is now being considered by the House and the Senate of the U.S. Congress. The House has passed a reasonable windfall profits tax, not as strong as I advocated, not as strong as I would like. The revenues are not as great as what I proposed, and the House put a ten-year limit on the application of the tax. It should be permanent, and the lost revenues below what I advocated should be restored.

The Senate Finance Committee has reported out a framework only of a tax structure that can be built on the floor of the Senate in the conference committee and ultimately by the Congress.

The House would give back to the oil companies as a portion of the unearned profits over a ten-year period $151 billion. The Senate Finance Committee would give back to the oil companies in unearned profits $374 billion, at the present price of oil as projected, and at the present inflation rate.

This could become a one trillion dollar giveaway to the oil companies. I hope that every one of you will help me to convince the Congress that an adequate and acceptable windfall profits tax should be levied on the oil companies to take away a major portion of their unearned profits because that would give us a reserve supply of money to be used for things that are crucial: First of all, to meet the needs of our American families, to pay the increased costs of energy. The increasing costs are inevitable. The poor families of our nation must have added financial help to pay those costs.

And the second need, of course, is to have a strong, consistent, permanent conservation program, to encourage Americans to do what is best for them, through tax credits, home audits, shifting away from the scarcer supplies of energy to more plentiful supplies of energy, the evolution of new kinds of energy from supplies which in our country are adequate, synthetic fuels from coal, geothermal supplies, biomass, low-level dams which have been abandoned in the past that can now be reconstituted, a heavy dependence upon insulation of homes, more efficient automobiles, research and development.

These things are all possible; in fact, in our country they are inevitable, provided we have adequate incentives and those incentives financially must be derived and can be derived only from a windfall profits tax.

It sounds so logical, it is so clearly to the advantage of our country that you might say, why the doubt, why the delay, why must the President continue to pound on this one subject for two-and-a-half years, yet without success?

I represent and lead, in effect, two different nations. One is the largest oil-consuming nation on earth. And the other nation is one of the largest oil-producing nations on earth. And in the past there has been one strong all-pervasive voice on Capitol Hill, and that has been the oil companies' lobbies.

Now, in the last couple of years, we have built up an effective countervoice as the American people have become aroused to protect their own interests. The third quarter oil company profits are adequate proof of the need for a rapid passage of the windfall profits tax in an acceptable form for me and for you.

We must meet the needs of the poor families, particularly in the northern part of our Nation. In April of this year, I made two basic pledges. One was that this winter we would have an adequate supply of home heating oil. At that time we were far below the reserve supplies needed. We have been successful with that. Our goal was 240 million barrels in reserve supply in October. We have already passed that point. We will have adequate fuel oil supplies for homes during this winter. That is a notable achievement. But the other part of that commitment was to provide from Federal revenues assistance for poor families, to help meet the rapidly increasing costs of home heating oil brought about by OPEC price rises.

Very quickly now, $250 million will be distributed throughout the country, particularly the northeast, for Governors to allocate through their own mechanisms for poor families. This is a growth of a program that I established the first year I was President, with the help of the Congress. It has been effective so far. We are advocating that this be increased substantially and that we add to the $400 million from this program another $1.2 billion to be paid out through other means to the poor families of this country.

In addition to that, we have advocated $2.4 billion per year for ten years to have a permanent stable predictable program, to meet these high needs of the poorer families in our midst. These revenues will come ultimately from the windfall profits tax, but in order to expedite the process, and not delay the payments until the windfall profits tax is passed, they will be paid out of general revenue funds and then repaid when the windfall profits tax is collected from the oil companies.

I would like to remind you again, however, that the best way, the cheapest way, the quickest way to cut down on costs, to make our Nation more energy-secure, and to reduce oil imports, is conservation—conservation. Every family can help. It is one of the most important and patriotic challenges that we have ever faced.

If we could just insulate, for instance, all the buildings in our country adequately, we would, in effect, have another Prudhoe Bay supply of oil, equivalent to the oil that we are deriving now from the recent discoveries in Alaska.

The tax credit for insulation of homes was passed a year ago. They are already in an embryonic stage of use of this ability for families to take credit on the income taxes to insulate their own homes—which they should do anyhow—about 10 percent of the middle- and upper-class families, the ones who pay the most income taxes, are already participating. That percentage will undoubtedly grow.

I would like to point out one other thing to you.

We have established, to make sure that energy supplies are distributed quickly and equitably in your region, a Fuel Oil Management Group. The headquarters for this group will be in Boston. It has already been constituted. It is comprised of representatives from the Department of Energy, the Department of Agriculture, the Department of Transportation, and to make sure that in cases of heavy snowfall or icing of waterways that we can overcome those difficulties rapidly, the Coast Guard and the Corps of Engineers.

The primary coordinating effort will be through the Governors so that if a distribution problem should arise during this winter, this group is already in existence, planning carefully to avoid mistakes and to avoid interruptions in supply, but eager to correct defects in the distribution whenever they should become apparent.

Our Nation is in a state of transition—from a time when fuel was so cheap that we never gave it a thought to a time when fuel is becoming so expensive that we can think of little else.

And it is very important that all of us—leaders with an effective voice and effective influence—unite. The delays have been unwarranted. They have damaged our country. We should have had a national energy policy five, six years ago. The challenges have not been easy to overcome. The questions have not been easy to answer. The problems have not been easy to solve. But it is too late to try to find scapegoats, to try to affix blame for delays. Now is the time for us to work together, to recognize that we have a common problem, a common challenge, that we face common questions.

All the Governors on this platform and I represent the same people. We are in it together. We need not fear the future. It may be that the early warnings and the increasing prices which were inevitable in any case have come at a time to restore our Nation's integrity, and to improve our Nation's security.

We have been blessed beyond all other nations, even in the field of energy. In its totality, our country has about 24 percent of all the energy supplies known on earth. The OPEC nations all put together have about 5 percent.

But ours are in forms that have not yet been adequately tapped—hydroelectric power, wood, coal, oil geothermal supplies natural gas, shale, tar sands. They are ready to be tapped by a nation that can marshal its resources in an effective way, which can unite with one another and not be divided from one another as we grasp for some selfish advantage in a time of transient shortage or transient inconvenience.

We have been blessed not only with reserve supplies of energy. We have been blessed with a form of government that makes us quickly sensitive to the needs and demands of the American people and we've been blessed with the free enterprise system which encourages innovation, dynamism, competition and flexibility.

So we have everything on our side. And with the passage of the proposals that I submitted to the Congress in April of 1977 and again in July of this year, our country will have the framework, with a comprehensive energy policy based on financing with the windfall profits tax to meet this challenge successfully. There is no reason for us to fear. We are going through a temporary time of inconvenience and rapid change. We were not adequately prepared for it by past action. But now we understand the problem much better.

My only plea to you in closing is this: that we not be divided one from another, that we not be confused or deluded, that we not dream of the restoration of past times when oil was plentiful and cheap. It will never come back. The chances are in the future that oil will be less plentiful and it is certain that oil will be more expensive. But we can accommodate this change because God has given us such tremendous blessings in our free Nation; an opportunity to cooperate. And we should not be distracted by allegations of impropriety among those who occupy positions of leadership.

We all have the same motivations, to have a Nation strong, competent, united, determined, concerned about those who are less fortunate than we, recognizing that we are a world leader, and recognizing that our Nation should be secure.

All these goals can be achieved if we work together and I have no doubt that you and I together and other Americans who share our common purpose can assure without further delay that we will make the greatest Nation on earth even greater in the future.

Thank you very much.●

JUANITA KREPS, SECRETARY OF COMMERCE: JANUARY 1977–NOVEMBER 1979

● Mr. MUSKIE. Mr. President, I rise to pay tribute to Juanita M. Kreps, the 25th Secretary of the U.S. Department of Commerce.

Mrs. Kreps has an excellent record of service as a member of the Cabinet, an educator, economist, and as a board member of some of the Nation's largest corporations.

As the first woman to be Secretary of Commerce, she has distinguished herself as an imaginative and innovative administrator.

As a member of the Senate Committee on Environment and Public Works, I have enjoyed the opportunity to work closely with Dr. Kreps. Her efforts to strengthen and expand the Economic Development Administration and the implementation of the coastal zone management program have been of tremendous value to my State of Maine. In particular, her efforts to promote a unique fish pier development program for Maine, combining the expertise of EDA, NOAA, and the Maritime Administration, will reap economic benefits for the State for many years to come. Maine citizens are especially appreciative of her efforts.

However, Mrs. Kreps will probably be best remembered for her tireless work to increase trade with Japan and the People's Republic of China.

Her negotiations with officials of the People's Republic of China will result in a substantial increase of American exports to the People's Republic of China within the next few years.

I regret that Mrs. Kreps will be leaving the Federal Government this week. She certainly will be missed. Yet, she leaves knowing that she has made a sizable contribution toward improving the well-being of our country.

I particularly appreciate her efforts for Maine and the country and I wish her every success in her future challenges.●

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 335, which has been cleared on both sides of the aisle.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 217) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1110.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. JAVITS. Mr. President, although the Budget Committee agreed to grant a waiver for S. 1110, the committee expressed concern that amendments could be adopted which would impact upon the fiscal 1980 ceilings established in the second concurrent budget resolution and, further, that House conferees may try to combine S. 1110 with H.R. 79.

Mr. BELLMON. Mr. President, I commend the managers of the bill for their responsiveness to the provisions of the Budget Act, especially the section 402 reporting requirements. Their agreement to offer a technical amendment to move forward by 1 year the effective date of this legislation eliminates the "late reporting" problem. While the impact of this bill would have been small in fiscal year 1980 our committee does not lightly recommend waiving the May 15 reporting requirement for authorization legislation.

I am aware that the House recently passed H.R. 79, the omnibus Postal Service legislation providing rate reductions for other classes of mailers. H.R. 79 also provides for an increase in the public service cost appropriation, and changes the management structure of the Postal Service. It appears that the costs of the House legislation would be substantial. CBO estimates costs to be approximately $0.4 billion in fiscal year 1980 and $2.6 billion over a 4-year period. A bill of this magnitude could only be accommodated within fiscal year 1980 ceilings established in the second concurrent resolution by forcing out other spending that now appears likely. Therefore, I would like to ask the distinguished ranking member of Energy, Nuclear Proliferation and Federal Services Subcommittee of the Governmental Affairs Committee about his intention and that of the committee regarding amendments to this legislation and the possibility that the House conferees may try to combine it with H.R. 79.

Mr. JAVITS. I thank Senator BELLMON for his kind remarks. Because my committee has not yet held hearings on these matters, it would be premature to speak to the provisions of the House bill. However, I can assure the Senator that my committee does not intend to use this legislation as a vehicle for a conference on H.R. 79. I have no intention of accepting any amendments which would make this legislation comparable to the House bill.

As I also have agreement that no amendments containing fiscal year 1980 authorizations will be offered, I can further assure the Senator that this bill will not pose any threat to the recently passed second concurrent resolution on the budget.

The PRESIDING OFFICER. Without objection, the resolution is agreed to.

The resolution is as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1110, a bill to include home delivery of children's publications in the existing rate for children's publications sent to schools. Such waiver is necessary because the Governmental Affairs Committee was unable to report the measure prior to the May 15 deadline due to priority business related to energy and nuclear waste issues. The committee intends to offer an amendment to S. 1110 postponing the effective date of enactment until fiscal year 1981 in order to comply with section 402(a) of the Act.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. JAVITS. I move to lay that on the table.

The motion to lay on the table was agreed to.

HOME DELIVERY OF CHILDREN'S PUBLICATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed, for not to exceed 15 minutes, to the consideration of Calendar No. 302, S. 1110.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1110) to include home delivery of children's publications in the existing rates for children's publications sent to schools.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs with an amendment on page 2, line 1, strike "(c)" and insert "(f)", so as to make the bill read:

S. 1110

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3626 of title 39, United States Code, is amended by adding the following new subsection at the end thereof:

"(f) In the administration of this section, the rate for a religious, educational, or scientific publication, other than a publication of a qualified nonprofit organization (within the meaning of former section 4358 (j)(2)), which is designed specifically for use at home as supplemental, educational reading by children fourteen years of age and younger, and which does not contain paid advertising, when mailed between a publisher or a distributor and the residence of the child, shall be the rate currently in effect for a classroom publication (within the meaning of former section 4358(j)(1) of this title).".

Mr. JAVITS. Mr. President, S. 1110 will allow certain children's publications to be mailed to the home at the same reduced rate which is currently in effect for publications which are mailed to the classroom.

Rising postal costs are a concern to all magazines, but present a particular problem to children's magazines which depend on subscription circulation for their revenues. Few, if any, juvenile magazines are sold on the newsstands. Thus, the mailing of subscription copies, plus the mailing of bills and direct mail subscription solicitation, are all affected directly by rising postage rates.

Furthermore, the current rate structure of second-class postage ignores the fact that children's magazines carry virtually no advertising. This is reflected in the per piece second-class postage charge which is the same for all magazines regardless of whether they carry advertising or not. Mass magazines, most of which enjoy very substantial advertising revenue, pay the same per piece charge as children's magazines which carry no advertising.

By redefining the classroom rate, my bill will provide the necessary relief to the children's publishers to allow them to continue. This bill will extend the current classroom rate to include those religious, educational or scientific publications that are designed specifically for use at home as supplemental, educational reading by children up to 14 years of age. Additionally, the bill will prohibit those publications that contain paid advertising from receiving the reduced rate, thus precluding publications which may be viewed as having questionable educational value.

Furthermore, I believe that this bill recognizes the importance of supplemental reading to the educational process. Juvenile magazines offer children hours of reading each month which is designed to challenge their minds, develop language skills, and stimulate creativity.

1979 has been proclaimed, "International Year of the Child" and I believe it would be appropriate to enact legislation which will benefit the development of the children of this Nation.

I note for the RECORD that joining me in cosponsorship of the bill are Senator JACKSON and Senator DANFORTH.

Mr. President, I thank Senator GLENN for facilitating the ability to pass this bill in the Senate. I thank Senator STEVENS, who had some deep concerns about something he wanted in the bill and held off because of his respect for the purpose of the bill.

I also thank Senator RANDOLPH for his wonderful cooperation in the same regard, and I thank the majority leader and the minority leader for allowing us to call up the bill.

Mr. STEVENS. Mr. President, I wish to join my good friend, the distinguished senior Senator from New York, in support of S. 1110. There is no question that the publishing industry in this Nation has been dealt a serious blow by the constantly rising postal rates. These rising postal rates, by the way, are as a result of the Postal Reorganization Act of 1970 requiring that each rate and the mailers who use that rate pay their fair share of postal costs as well as generally increasing prices.

Newspapers and magazines in particular have been the hardest hit because of their dependence on the U.S. mails as their primary mode of distribution. Individuals living in rural areas continue to look upon the U.S. Postal Service as the prime delivery service of information enabling them to keep abreast of current events and cultural activities throughout the world. If we are unable to assist all magazine and newspaper publishers, we at least can help the publications covered in this legislation—children's magazines.

I am pleased that the Senator from New York has expressed such strong interest in the welfare of our Nation's young people. Children's publications have contributed to the intellectual and cultural advancement of many of our youths. I know Senator JAVITS strongly believes in this bill and the individuals who will benefit most by its enactment. I believe we have an obligation to insure efficient and inexpensive delivery of magazines and newspapers to every segment of the American public.

Mr. President, as I stated before, there are a number of other classes of magazines which deserve similar consideration. I am the principle sponsor of one bill, S. 1096, which awaits final markup in the Governmental Affairs Committee. I am also a cosponsor of S. 1425, the substance of which forms the amendment to S. 1110. This amendment is to assist the very small publications whose subscriptions are less than 250,000 nationwide. It is the fate of these magazines that concerns me for they provide the American public with specialized journalism to meet particular needs. In addition, the new and upcoming publications with fresh and stimulating ideas would also benefit greatly by this amendment. Finally, the small daily and weekly newspapers throughout the Nation who supplement the major newspapers with important community events would benefit.

Mr. President, we cannot afford to price out of existence the specialized publications, the new and upcoming pieces of journalistic endeavors nor allow the local newspapers to diminish in importance when there are effective and logical ways to assist these publications. The amendment, offered by my good friend, the senior Senator from West Virginia, embodies such a remedy. I urge my colleagues to support the amendment, as well as final passage of S. 1110.

Mr. DANFORTH. Mr. President, home-delivered children's publications provide valuable, worthwhile, and educational information to all children. Not only are these magazines a means of enjoyment for young people, away from the television set, but they help to improve reading skills outside the classroom.

Without some kind of financial relief for the publishers of children's magazines, subscription rates will skyrocket, sending the cost above that affordable by the average American family, particularly for those living on lower incomes who might benefit most from these publications. At worst, publishing houses will have to shut down, thereby depriving all children the educational value of their publications.

As a father of five children, and as one who is very concerned about the quality of education for young people now and in the future, I strongly support passage of this legislation.

Mr. GLENN. Mr. President, S. 1110 is identical to a provision that was contained in H.R. 7700 as reported to the Senate last year by the Committee on Governmental Affairs. At that time, the Congressional Budget Office estimated the costs for fiscal years 1980 and 1981 at $3 million. I believe that estimate remains valid, though I understand that fiscal 1980 costs will be eliminated.

The costs would be incurred by permiting children's magazines sent to the home to receive reduced rates equal to applicable classroom rates, which are lower. The difference would be made up out of the Treasury as revenue foregone appropriations, assuming no failure by the Congress to appropriate.

Mr. President, S. 1110 has been approved at both the subcommittee level and the full committee level. And, while I have not been this bill's advocate, let me say that I do have sympathy with the publishers of the magazines in question. They do not share in the bounty provided by advertisers. Almost without exception, they carry little, if any, advertising at all. Their increased costs, specifically postage costs, have not been offset by advertising income. Nor are they apt to be.

The PRESIDING OFFICER. The committee amendment should be disposed of before an amendment is in order. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

AMENDMENT NO. 493

(Purpose: To reduce postal rates for small newspapers and magazines)

Mr. RANDOLPH. Mr. President, I call up amendment No. 493, which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. RANDOLPH), for himself, Mr. GOLDWATER, Mr. DURKIN, Mr. PACKWOOD, Mr. BURDICK, Mr. SCHWEIKER, and Mr. GRAVEL, proposes an amendment numbered 493.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 3, insert "(a)" after "That".

On page 2, line 11, strike out the end quotation marks and the end period.

On page 2, after line 11, insert the following:

"(g) Notwithstanding any other provision of this title, the per piece rate on the first 250,000 pieces of each issue of a publication subject to the highest per piece rate in rate schedules 200, 204, and 250 of the mail classification schedule established pursuant to section 3623 of this title shall be the category B per piece rate in the rate schedule 200 and the per piece rate for each piece of each issue of a publication subject to the highest per piece rate in rate schedules 205 and 206 of such mail classification schedule shall be the category E per piece rate in such schedule.".

(b) The amendments made by subsection (a) shall apply with respect to matter mailed after September 30, 1980.

Mr. RANDOLPH. Mr. President, this amendment is offered by me, and I am joined by Senators GOLDWATER, and DURKIN, PACKWOOD, BURDICK, and GRAVEL. I ask unanimous consent that the name of the distinguished Senator from Alaska (Mr. STEVENS) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Will the Senator include me?

Mr. RANDOLPH. Mr. President, I am delighted to ask unanimous consent that the name of the Senator from New York (Mr. JAVITS) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, the Senator from New York has been of service not only to the Senate in connection with this measure but to the country as well.

I think it is very important that we extend to small circulation newspapers and magazines the lower second-class rates approved by the Postal Rate Commission in its last postal rate case. Except for its effective date, my amendment is identical to S. 1425 which I introduced on June 27. Its purpose is the same as that offered in S. 1110 which is to provide the urgently needed postal rate relief to small publications. I say to the knowledgeable Senator from Ohio (Mr. GLENN), who handles the legislation, that without such relief we will not afford to a large segment of the American reading public the opportunity to do the reading that we now know is important to them.

The amendment applies to the small weekly and daily community newspapers published throughout West Virginia—in fact, in all our 50 States. It also covers the small magazine journals of opinion, such as the New Republic, Commonwealth, Nation, Atlantic, and Harper's.

All these publications richly nourish the flow of information and ideas in our society and stimulate citizen interest in the concerns and issues that often provide leadership and policy for the future of our country.

I feel strongly that these publications are the pamphleteers of the print media. Their contributions to public understanding are very essential. Knowledge would be diminished if readers were denied the opportunity to have these well reasoned and provocative materials vital to an informed and alert citizenry.

I make no further comment except to say that I believe that the able chairman who is now handling the legislation has the same feeling as do I.

Mr. GLENN. Mr. President, this amendment, incorporating the provisions of its sponsor's bill, S. 1425, is very similar, though not identical, to a provision in the postal bill reported to the Senate by the Committee on Governmental Affairs last year. That bill was not acted upon.

I understand the purpose, in short, is to provide some rate relief, primarily for small publications that cannot take advantage of presort discounts accorded by the Postal Service for bulk mailers who presort their mailings. The thrust is to give some relief to the first 250,000 copies of each issue of a publication otherwise subject to the highest rate applicable because they are not eligible for any statutory or regulatory subsidy or discount.

Mr. President, the various cost estimates on this amendment range between $12 million and $16.5 million a year, to become effective with fiscal year 1981. I believe, however, that it is possible that the cost may be somewhat lower because of very recent changes made by the Postal Service in the regulations governing the preparation of bulk mailings. Those changes would appear to offer the benefit of presort discounts to a wider range of mail.

Under the revisions, those mailers capable of complying with the new standards immediately can take advantage of the discounts they afford immediately. Others are given until February 3, 1980, to comply, to the extent possible, with the new standards for bulk mail preparation. To the extent that compliance is possible, those mailers will then get the benefits of the discounts.

I ask the sponsor one question in this regard. That is, does the sponsor agree with me that there is nothing in his amendment to permit mailers to choose noncompliance with the presort regulations when compliance is possible for them?

Mr. RANDOLPH. I am glad to respond. The Senator is correct. The amendment that I offered would not absolve any mailer from meeting the requirements of what we call "presortation." Our proposal provides that the rate relief be to publications, mostly small publications—such journals do not have a large number of subscribers or the density of circulation in certain areas, they are unable therefore to meet the minimum standards of up to 250,000 copies of any edition.

Mr. GLENN. I thank the Senator for making that very clear. I also make the point that there is no doubling of benefits because of this amendment to S. 1110. The publishers who benefit from the Senator from New York's bill will not get a second discount because of this amendment, since they already will have become the beneficiaries of a preferred rate.

Mr. RANDOLPH. The Senator is correct.

Mr. GLENN. Mr. President, if there are no further comments, I am happy to yield back my time.

Mr. RANDOLPH. I yield back my time.

Mr. JAVITS. I yield back my time.

Mr. GLENN. I move the adoption of the amendment of the Senator from New York as amended by the Senator from West Virginia.

The PRESIDING OFFICER. All time having been yielded back the question is on agreeing to the amendment of the Senator from New York, as amended by the amendment of the Senator from West Virginia.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 1110), as amended, was passed, as follows:

S. 1110

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a section 3626 of title 39, United States Code, is amended by adding the following new subsection at the end thereof:

"(f) In the administration of this section, the rate for a religious, educational, or scientific publication, other than a publication of a qualified nonprofit organization (within the meaning of former section 4358(j)(2)), which is designed specifically for use at home as supplemental, educational reading by children fourteen years of age and younger, and which does not contain paid advertising, when mailed between a publisher or a distributor and the residence of the child, shall be the rate currently in effect for a classroom publication (within the meaning of former section 4358(j)(1) of this title).

(g) Notwithstanding any other provision of this title, the per piece rate on the first 250,000 pieces of each issue of a publication subject to the highest per piece rate in rate schedules 200, 204, and 250 of the mail classification schedule established pursuant to section 3623 of this title shall be the category B per piece rate in the rate schedule 200 and the per piece rate for each piece of each issue of a publication subject to the highest per piece rate in rate schedules 205 and 206 of such mail classification schedule shall be the category E per piece rate in such schedules.".

(b) The amendments made by subsection (a) shall apply with respect to matter mailed after September 30, 1980.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, if Mr. Humphrey and Mr. Tsongas will bear with me briefly I will yield the floor just within 2 minutes. I realize they have been patiently waiting.

REQUEST FOR AUTHORITY FOR COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate tomorrow.

Mr. BAKER. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

ORDER FOR RECESS UNTIL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 12 o'clock meridian tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR BUMPERS AND SENATOR MOYNIHAN TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, Messrs. Bumpers and Moynihan be recognized each for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER AUTHORIZING THE FILING OF A REPORT ON S. 932

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that both Senators Jackson and Proxmire be permitted to file a joint report on the House message on S. 932 for their two committees, that they have until midnight tonight to file the joint report on the House message on S. 932 for their two committees, the Banking, Housing, and Urban Affairs Committee and the Energy and Natural Resources Committee respectively.

The PRESIDING OFFICER. Without objection, it is so ordered.

DIRECTING THE SENATE LEGAL COUNSEL TO REPRESENT SENATOR JACKSON AND THE SECRETARY OF THE SENATE

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a Senate resolution and ask that it be stated by the clerk.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 270) directing the Senate Legal Counsel to represent Senator Jackson and the Secretary of the Senate.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the resolution.

There being no objection, the Senate proceeded to consider the resolution.

Mr. ROBERT C. BYRD. Mr. President, Senator Jackson and Secretary Kimmitt have been subpenaed by counsel for John F. Arens in *United States of America* v. *Arens*, No. 79-154, pending in the U.S. District Court for the Eastern District of Pennsylvania. The subpenas request that various documents be produced.

Today the Senate need only resolve, pursuant to section 704(a)(2) of the Ethics in Government Act of 1978, Public Law 95-521, that the Office of Senate Legal Counsel be directed to represent Senator Jackson and Secretary Kimmitt in respect to these subpenas. At a future date, it may be necessary to address the propriety of producing the documents in question.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 270) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 270

Whereas, in the case of United States of America v. John F. Arens, (No. 79-154), pending in the United States District Court for the Eastern District of Pennsylvania in Philadelphia, subpoenas have been issued to United States Senator Henry M. Jackson and Secretary of the United States Senate J. Stanley Kimmitt, directing them to produce documents.

Whereas, title VII of the Ethics in Government Act of 1978, Public Law 95-521 ("the Act"), establishes the Office of Senate Legal Counsel and provides that the Senate may direct its counsel to represent the Senate, its committees, Members, officers, or employees.

Resolved, That pursuant to section 704(a)(2) of the Act the Senate Legal Counsel is directed to represent Senator Jackson and Secretary Kimmitt in respect to these subpoenas.

Mr. ROBERT C. BYRD. Mr. President, I thank both Mr. Tsongas and Mr. Humphrey for their kindness and courtesy in patiently waiting for recognition.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

SOVIET SUBMARINE AND BOMBER BASES IN CUBA

Mr. HUMPHREY. Mr. President, on October 10, I wrote to President Carter asking for information on Soviet military activities in Cuba. I have still heard nothing from the White House. I think that as newspapers around the country continue to divulge new details of Soviet activities in Cuba, the President has an obligation to level with the American people about the Soviet threat from Cuba.

Mr. President, we have just gone through a Cuban crisis of sorts over the belated discovery of a Soviet combat brigade in Cuba. We have yet to conclude this Cuban crisis, however, because Soviet actions in Cuba have long been endangering U.S. security in ways that far transcend the significance of the troops.

Twice, in 1972 and 1974, the Soviets reportedly sent *Golf* class diesel submarines to Cuba carrying long-ranged, nuclear-armed, submarine-launched ballistic missiles. Further, they have reportedly sent an *Echo* class nuclear submarine to Cuba carrying long-ranged, nuclear-armed, cruise missiles. Moreover, the Soviets have reportedly recently completed at the Cienfuegos Submarine Base a facility which may well be intended for the handling of nuclear warheads.

Moreover, the Soviets, in the last year have deployed a dozen Mig-23 fighter-bombers to Cuba which can quickly be adapted to deliver nuclear weapons. The Soviets have long been flying reconnaissance versions of the Bear intercontinental bombers back and forth from the U.S.S.R. to Cuba. These bombers fly surveillance up and down the U.S. east coast. These Bear bombers have established the dangerous precedent that long-range bombers can operate out of Cuba. There are also reports that special Soviet troops have recently been deployed to Soviet airfields in Cuba. Previously, these troops guarded nuclear weapons in East Germany.

Taken together, this activity suggests that the Soviets have created in Cuba both a strategic submarine base and a strategic bomber base. These bases could be activated against us very quickly. Given the difficulty U.S. intelligence had in discovering the Soviet brigade, we might not be able to detect the covert delivery of nuclear warheads to these bases.

I believe that these bases may constitute a violation of the United States-Soviet understanding which ended the 1962 Cuban missile crisis. This understanding prohibited Soviet offensive nuclear weapons of any kind in Cuba. These bases also violate the secret 1970–71 Cienfuegos understanding which specifically prohibited establishment of a Soviet strategic submarine base in Cuba.

Other Soviet actions in Cuba of a provocative nature include the use of up to 300 Soviet pilots to fly Cuban air defense interceptors, the presence of the Soviet combat brigade, and the introduction of more than 20 Soviet AN-26 long-range air transports capable of air lifting the Soviet brigade to Latin America. Thus, in addition to strategic bomber and submarine bases, the Soviets have in Cuba bases from which they can project force throughout Central and Latin America.

Mr. President, in 1977, Soviet General Beletsky told visiting U.S. Congressman CHARLES WILSON at the SALT negotiations that if the United States deployed cruise missiles in Europe after the SALT II protocol expires, the Soviets would feel free to introduce similar weapons into Cuba. This threat could imply deployment of Backfire bombers to Cuba. There are recent reports that the Soviets are strengthening and lengthening the runways at several airfields in Cuba, possibly for eventual Backfire deployment. There are also reports that they have sent Backfire aircraft mechanics to Cuba.

Cuba has thus become a bastion of Soviet military power at our very doorstep, in clear violation of solemn United States-Soviet understandings.

To add insult to injury, Mr. President, the Soviets are thought to be lying to the U.S. President about the function of their combat troops in Cuba, just as they lied to our Presidents about their Cuban activities in 1970 and 1962.

In conclusion, Mr. President, I think that the White House owes the American people an explanation for all these activities. The real Cuban crisis has yet to be addressed. Accordingly, I again call upon President Carter to respond to my letter of October 10.

I ask unanimous consent that a copy of my letter to the President be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., October 10, 1979.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: On September 13, 1979, I wrote to you expressing my deep concern over the presence of Soviet combat troops in Cuba. I am particularly troubled by arguments appearing in the press that Soviet combat troops may foreshadow the clandestine introduction of nuclear weapons, mobile MRBMs or even cruise missiles. I draw your attention particularly to an article (enclosed) by Paul Scott that appeared in the October 3, 1979 issue of the *Manchester Union Leader*. In his article, Mr. Scott makes some very serious accusations and reveals details about the nature of the Soviet military presence in Cuba that are very disturbing to me.

I plan to take this issue to the Floor given the urgency of the matter. I believe it is the responsibility of the Administration to respond to these allegations. Therefore, I request that you advise me as to the accuracy of the Scott article by October 11, 1979.

I respectfully request that you provide me with answers to the following questions:

1. Do the Soviet troops in Cuba bear any resemblance to those Soviet troops assigned to guard Soviet nuclear weapons in Eastern Europe? Have any of the Soviet combat troops now in Cuba previously been assigned the task of supervising and handling of Soviet nuclear weapons and missile systems in Warsaw Pact Countries?
2. Would you please delineate the precise location of Soviet troops in Cuba?
3. Are they situated in one particular area or scattered throughout Cuba?
4. How many Soviet troops and civilian and military advisers are in Cuba?
5. What is the deployment history of the Soviet Brigade which is presently in Cuba?
6. By service, please give me a detailed breakdown of the Soviet Union's military presence in Cuba (i.e., number of pilots, officers, enlisted men, equipment, etc.).
7. Would it be possible for the Soviets to clandestinely store nuclear weapons and even mobile missile systems in Cuba?

I would greatly appreciate a prompt handling of my request.

Sincerely,

GORDON J. HUMPHREY,
U.S. Senator.

DEPRESSION COMMEMORATION

Mr. HUMPHREY. Mr. President, as we commemorate the 50th anniversary of the Great Depression, we reflect on the current recession in our country and ask ourselves whether another Great Depression can occur here.

No doubt, there have been many changes since that fateful day on October 29, 1929, ranging from a greatly changed business structure to improved monitoring of economic activity and tighter Federal regulation of the activities of all financial institutions.

Events leading up to the crash of '29, however, did not occur in a single day, nor arise from a single cause. Instead, the crash and the depression which followed were the culmination of a series of events over a long period of time. Among these events was the enactment in 1929, of the Smoot-Hawley tariff, a levy which stifled business activity in our country and around the world.

The crash in the stock market was not the cause of the depression, but rather was a portent of it. The depression was deepened by an enforced contraction of the money supply by the Federal Reserve, which allowed a 27-percent decline in the money supply after the crash.

Mr. President, the more assurances I hear that a depression could not recur in America, the less I believe it. Let us not delude ourselves. Just as impediments to business thrown up by Government induced in the 1930's the severe business contraction known as the depression, today's impediments to business have the potential of causing another time of economic hardship for America.

To be sure, there is a distinct difference between monetary conditions of the 1930's and those of today. Ours is a problem of excessive expansion of the money supply by the Government, one of inflation, not one of contraction. But there is a worrisome similarity between today's economic situation and that of the incipient depression, namely the creation by the Government of impediments to business. Today's impediments are: An undependable currency, already alluded to; punitive taxation; inadequate allowance for depreciation; over-regulation; and capital made scarce by disincentives to its formation and by its being devoured by an insatiable government which can scarcely find enough of it to satisfy its enormous appetite for borrowing.

The statistics tell the story. Only 13.5 percent of U.S. gross domestic product went into the nonresidential or business investment from 1966 to 1976. This is only one-half the 26.4 percent rate of business investment in Japan during the same period. It is also substantially below West Germany's 17.4 percent, Canada's 17.2 percent, France's 16.7 percent and even below the United Kingdom's 14.9 percent.

Capital can only come from profit. Savings and investment capital provide the tools and machinery for increased production and the creation of more productive jobs for our workers. Capital is the energy of the economy for financing new businesses and modernizing existing plants. By demagoging against profit and penalizing success, our Government is destroying capital and killing the incentive to save and invest in new jobs which increase the wealth of all of our citizens.

What has happened to productive capital in the United States? It has been hogged by big government. People and companies which are not allowed to profit cannot invest. People and companies which are forced by the bureaucracy to waste their resources on mountains of Government-mandated paperwork cannot invest. People and companies which are overregulated by big government cannot invest. People and companies which feel themselves threatened by confiscatory taxes and politically inspired hate campaigns will not invest, even if they could afford to. Why should they take any risk of investment?

The cumulative effect of big government's inflation, steeply graduated taxes, double taxation of dividends, regulatory policies, controls over energy production, increased Government spending, and hate targeting of profitable activity has been to destroy much of the growth and progress which have in the past fueled the American economic success. These activities of big government have bought us a major slump in productive output and a deepening recession. Unless reversed, these factors will bring us increasing scarcity and the bitterness toward each other which comes from economic failure and stagnation.

It is now time to turn around the effect of 40 years of economic policy that has resulted in a built-in bias against savings and investment. It is an effort that we in Congress must begin immediately. Without immediate corrective action to stem the tide of increasing Government activity in our economic policy, fewer and fewer people will save and invest. And we will face deeper recessions, thereby recreating in the 1980's the spectre of the Great Depression years.

The choice is ours, Mr. President, a bright economic future, insured by policies which reward work, savings, investment, and entrepreneurism, or a dismal future toward which we are presently being led by punitive economic policies. It is not enough to pat ourselves on the back for having avoided so far another Great Depression and not enough to insist such a period of hardship could never befall the American people again. What is needed is action in emplacing policies of economic growth.

The PRESIDING OFFICER. The Senator from Massachusetts.

ARMS TO MOROCCO

Mr. TSONGAS. Mr. President, last week the Carter administration decided to permit the sale of OV-10 armed reconnaissance planes and Cobra helicopter gunships to Morocco. This followed months of heated debate, both within the administration and here in the Congress. This has been a controversial issue, Mr. President, but there now appears to be a wide acceptance of the President's decision here in the Senate. I, however, must speak out on this matter when so much is at stake. I oppose this sale of arms, Mr. President, and I want my views known.

This is not a routine purchase of American weapons, Mr. President. King Hassan of Morocco has committed his underdeveloped nation to a debilitating and ultimately unwinnable war in the former Spanish colony of the Western Sahara. The arms in question would be used directly in the conflict.

Morocco's thinly stretched forces face a determined and resourceful opponent in Polisario, a Western Sahara liberation group. The war is being fought for control of this mineral rich area in the Sahara. Morocco claims that the region is historically linked to the Moroccan throne and has annexed the entire region. The Polisario argue that the Moroccan annexation clearly violates the principle of self-determination for the region's inhabitants. They are fighting for the independence of the Western Sahara.

Mr. President, the history of this small, but dangerous war is complex. King Hassan's claims cannot be dismissed easily. The King has widespread domestic support for the war among his people. Historically, he can cite precolonial antecedents to a wider Morocco. More recently, Spain did confer control over most of the region to Morocco.

The Polisario, however, is right to contest the Moroccan annexation. Spain, Morocco, and Mauritania did not conduct a referendum in the Western Sahara before dividing the region between Morocco and Mauritania in 1976. Morocco's annexation of the Mauritanian sector in August of this year was a flagrant violation of decolonization practices. The people of the region are entitled to the basic right of self determination.

These contending arguments fuel a conflict of rival nationalisms. A resolution of this war will not come easily or soon.

It seems to me that neutrality in this war is the appropriate course for the United States to take. There are several reasons for this.

First, the principle of self determination is entirely consistent with our own national ideals and with accepted international standards. A plebescite for this region would allow the 75,000 inhabitants of the Western Sahara to express their will. A policy of U.S. neutrality will not interfere with this just solution.

Second, America has good relations with both Morocco and Algeria, the Polisario's major sponsor.

We have supported King Hassan with the sale of defensive weapons and grants of military aid. He, in return, has been supportive of the U.S. position in the Middle East. We have an obligation to assist the King in the defense of his country.

Algeria, on the other hand, has become a helpful and moderate force in Third World affairs. She supplies the United States with 9 percent of our crude oil imports. President Chadli Benjedid is a pragmatist seeking improved bilateral relations with our country.

We should not consciously alienate either of these two states. The partisan American approach which President Carter supports can only lead to a decrease in American stature in northwest Africa. What we need is a policy of neutrality to guide us through this conflict between two friends of the United States.

Finally, the Polisario has obtained widespread support for its cause in the Third World and Africa. Meeting in July of this year, the Organization of African Unity voted overwhelmingly in favor of a referendum and self-determination for the people of Western Sahara. At last count, 35 nations have recognized the Polisario's political arm, the Saharan Arab Democratic Republic. There seems to be little justification for openly supporting the aims of Morocco when that country enjoys so little support internationally.

This is a delicate and sensitive issue, Mr. President. I recognize the merits on both sides of the question. Yet, there is no doubt in my mind that the decision of the President is contrary to our interests in Africa and the world. There is no justification for throwing our support behind one side in this conflict. A policy of neutrality which strongly supports the principle of self-determination makes sense because it is right and because it is effective.

I bring to the attention of my colleagues two articles on this subject: One printed in Monday's Boston Globe, and the other in the October 12 edition of the New York Times. I request unanimous consent that they be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 12, 1979]

U.S., IN SHIFT, MAY SELL ARMS TO MOROCCO FOR SAHARA WAR

(By Bernard Gwertzman)

WASHINGTON, October 11.—The Carter Administration is nearing a decision whether to change its policy and supply arms, and possibly counterinsurgency training, to help Morocco in its conflict with guerrillas in Western Sahara.

A Cabinet-level meeting involving Secretary of State Cyrus R. Vance, Zbigniew Brzezinski, the national security adviser, Defense Secretary Harold Brown and other officials is to be held Tuesday to prepare recommendations for President Carter on the issue.

Pending the Tuesday meeting of what is known as the Presidential Review Committee, the Administration had no official comment on whether the policy would be changed.

Much seemed to hinge on the position to be taken by Mr. Vance. He is said to oppose any shift in policy but he is under pressure from within the Administration to bolster King Hassan of Morocco, a longtime friend of the United States.

In July, the Administration privately presented key Congressional committees with five options for responding to Morocco's widening conflict with Polisario guerrillas, and to Morocco's urgent requests for American aid to offset what it contends is Soviet and Algerian assistance to the Polisario.

SPAIN RELINQUISHED TERRITORY

The Polisario wants independence for Western Sahara, the former Spanish Sahara. The front, which depicts itself as a nationalist group representing the estimated 75,000 inhabitants of Western Sahara, has been waging war ever since Spain withdrew from the 105,448-square-mile territory in 1975 and turned it over to Morocco and Mauritania.

Last summer, Mauritania announced it was dropping out of the fight against the Polisario. Morocco then occupied the Mauritanian third of Western Sahara, in addition to its two-third.

Washington's policy toward the dispute has been ambiguous. It voted with a United Nations General Assembly resolution that called for self-determination in the region and has refused to recognize Morocco's annexation. But it has not turned its back on King Hassan and has not protested vigorously or publicly his Government's use of American equipment in Western Sahara, even though a 1960 aid agreement bars use of American equipment outside Morocco.

As the conflict wth the guerrillas intensified, Morocco, a longtime supporter of the United States, has urgently sought military equipment to help in the battle.

Last year, the Administration, under pressure from Saudi Arabia and Egypt to aid Morocco, considered modifying its 1960 aid agreement to sell Morocco armed reconnaissance planes and helicopters for use in the desert war. It withdrew from such a move as a result of Congressional opposition.

U.S. DRAFTED 5 OPTIONS

Three months ago, after the guerrillas had carried out attacks against Moroccan territory, as distinct from Western Sahara, the Administration presented the Senate Foreign Relations Committee and the House Foreign Affairs Committee with the options.

These ranged from the first option of adhering to the same policy of not providing arms for use in Western Sahara all the way to the fifth, supplying equipment such as OV–10 armed reconnaissance planes and Cobra helicopters and giving counterinsurgency training.

Congressional sources said that the National Security Council staff, headed by Mr. Brzezinski, and the Defense Department favored the fifth option on the ground that the United States could not risk being accused of "doing nothing" to aid King Hassan.

The State Department is divided because the African Bureau opposes additional aid, preferring to support the Organization of African Unity's call for a plebiscite in the territory.

On Sept. 20, the Senate Foreign Relations Committee held an unpublicized closed-door meeting and voted 6 to 4 to support selling American arms to Morocco for use against the Polisario but to oppose any counterinsurgency training.

The issue has become a troublesome one in the Administration. Those who would like to help King Hassan stress how reliable an American friend he has been, even though he at present opposes the Egyptian-Israeli peace treaty, and they say that if the United States does not come to his aid it will reflect poorly on Washington around the world. They also regard the Polisario as radical, supported by the Soviet Union and Cuba and armed by Libya and Algeria.

[From the Boston Globe, Oct. 29, 1979]

THE WAR IN MOROCCO SPREADS TO CAPITOL HILL

(By Cody Shearer and Maxwell Glen)

WASHINGTON.—There are few indications that Morocco is at war. In the crowded bazaars and sidewalk cafes, one hears little chatter about the $1 million-a-day military effort that, according to CIA estimates, is gradually bankrupting the country.

There is much talk and bruised feelings between the State Department and the National Security Council over President Carter's foolish decision to seek congressional approval for the sale of helicopter gunships and armed reconnaissance planes to Morocco's King Hassan II, who plans to use them against the Polisario guerrillas in the Spanish Sahara.

For four years, approximately 80,000 Moroccan soldiers have been tied down in a no-win war in the Spanish Sahara, the 150,000-square-mile phosphate-rich desert to the south. Since Spain ceded the territory in halves to Morocco and Mauritania in 1975, the indigenous Algerian-backed Polisarios have resisted incorporation by either country.

Several months ago, Mauritania relinquished its lower half of the territory to Rabat, but the Polisarios have refused to acquiesce. Recently, Morocco announced plans to make this lower half its 37th province and to hold elections—an action that has fueled more Polisario attacks.

These events have weakened the hand of Hassan, who for four years has tried to create a national, anti-Polisario consensus. Even though he now finds himself with a promise of more arms, he still faces debt and domestic criticism over his handling of the war—a situation not too dissimilar from what President Lyndon B. Johnson faced in 1968. In fact, diplomats have labeled this war "Morocco's Vietnam."

Unlike most chiefs of state, Hassan is directing this war himself. Two unsuccessful military coups in 1971 and 1972 prompted Hassan to deny his top-level generals any control over the on-site military operations.

Hassan's strong-handed control has produced a split within the military command. Top-echelon officers would like the monarch to take off his gloves and give them complete control over the war effort. Middle- and lower-level officers, faced with day-to-day combat, would prefer a negotiated settlement.

Hassan also fights a war with poorly trained and unmotivated troops. Recently the air force command removed parachutes from Morocco's expensive US-built F-5s as a subtle hint to its ejection-prone pilots.

The king's recent request to President Carter for more arms posed a difficult decision for the Administration. Both the State Department and the National Security Council agreed that Hassan couldn't win the war, but there was disagreement about the United States' proper course of action.

Carter was presented with three options: to give Hassan nothing, to give him weapons on a case-by-case basis; or give him whatever he would like.

In deciding to seek congressional approval of the third option last week, Carter shocked most foreign-policy observers and makers, including Secretary of State Cyrus Vance. On the other hand, he did manage to please Hassan, National Security adviser Zbigniew Brezezinski, the Joint Chiefs of Staff and the Carter-Mondale re-election committee.

A disgruntled analyst involved in the President's Moroccan decision said the President was swayed by Brzezinski and the Joint Chiefs, who convinced him that after the loss of U.S. influence in Iran, and Nicaragua, "We couldn't afford to turn our backs on another friend"—especially since Hassan has provided the U.S. with an excellent intelligence-monitoring site within his country.

Not surprisingly, Carter was particularly influenced by campaign aides who persuaded him that he would appear, in the words of one, "tough and strong, like a real leader," if he agreed to sell arms to Morocco.

But such a campaign pitch could backfire before its effects are felt in the first primaries.

For one thing, Carter's decision especially upset the moderate government of Morocco's neighbor, Algeria. Under the regime of Houari Boumedienne's successor, Benjedid Chadli, Algeria has pleased the U.S. by condemning Russian and Cuban intervention in Africa. Carter has thus irritated a country that supplies 9 percent of U.S. crude oil needs.

U.S. Rep. Stephen J. Solarz (D-N.Y.), chairman of the House subcommittee on Africa, after a recent trip to North Africa urged President Carter to give Morocco arms only for its defense and not for expansionary purposes in the Western Sahara. Solarz suggested that the Administration quietly encourage efforts by intermediaries to bring the parties to a peaceful settlement and that prohibitions against diplomatic contact wih the Polisarios be removed. Solarz now predicts that by agreeing to commit arms to a no-win for the sake of America's image, Carter has guaranteed another foreign policy battle on Capitol Hill.

It's too bad the President based his decision on 1980 politics and not common sense.

SPEECH BY SENATOR JEPSEN BEFORE DES MOINES, IOWA CHAPTER OF NAACP

Mr. BAKER. Mr. President, on August 25 of this year my good friend and colleague, Senator JEPSEN, had the occasion to address the Des Moines, Iowa Chapter of the NAACP. In that speech he addressed a number of issues of great concern to every American. I believe my colleagues will find Senator JEPSEN's remarks thought provoking and I commend their attention to this speech.

I ask unanimous consent that the text be printed in the RECORD.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

SPEECH BEFORE THE DES MOINES CHAPTER OF THE NAACP

I greatly appreciate the invitation of the Des Moines NAACP to this year's "Freedom Fund Banquet" . . . .

Your gracious invitation has afforded me my first opportunity as a United States Senator to meet and address a major Civil Rights organization and its representatives. You may be interested in knowing that the United States Senate was asked to vote on an amendment which would have prohibited any money appropriated to the Fiscal Year 1980 Labor-Hew Appropriations Act (H.R. 4389), from being used for the purpose of complying with any "timetable, goal, ratio, quota or other numerical requirement related to race, creed, color, national origin or sex in the hiring, promotion and admissions policy or practices of any individual or entity such as business, labor and institutions of higher education and vocational training.

The purpose of the amendment was to prohibit the use of race and sex quotas in the hiring and admissions practices of all aspects of American life. The amendment however, as drafted did not merely prohibit quotas . . . it also prohibited the use of goals, and timetables which would severely limit affirmative action and other remedies which were so strongly and courageously fought for by participants in the Civil Rights movement and community.

The United States Senate is firmly on record in opposition to quotas, and I concur with that position. However, I also concur with the Senate that we should not dismantle or be against a policy of the United States which seeks to address a historical practice of unlawful discrimination. Such a change in policy would be inconsistent with the civil rights that this nation proposed to guarantee in the Civil Rights Act of 1964.

Furthermore, I opposed this amendment because of the manner in which it was brought to the floor of the United States Senate. Affirmative Action, equal access to opportunities, and Civil Rights generally, are very sensitive issues today. These issues have been literally on trial, most recently in the U.S. Supreme Court in *United Steelworkers* vs. *Weber*.

In fairness to all interested parties, and the respective Congressional committees, any action by the Senate on the issue of Affirmative Action on a Friday evening at 10 minutes to 7:00 without the proper oversight and input of everyone concerned, would have been a sad commentary on justice and representative democracy.

In closing . . . I feel that it is very important to recognize here in this room the many representatives of the Des Moinse area business community. I have been a businessman for over 25 years. I understand your concerns as well as your goals and aspirations. I applaud your participation with the various civil rights organizations, particularly your involvement with the NAACP in Iowa.

The Civil Rights Movement in America is at a critical crossroad as to whether the great strides and accomplishments of the past, particularly the past 25 years, can be continued without the loss of lives, and great personal sacrifice and destruction to American cities and communities. A point as to whether in the next 25 years the Civil Rights community and America will keep pace with the unfinished agenda of insuring that all Americans will be treated equally under the laws, this is one of the challenges of the future.

Personally, in my opinion . . . there are adequate laws and constitutional quarantees already in place in our statutes and Codes. One of the next major steps in this nation's Civil Rights agenda is to make the law work in a manner which is fair and equally applied to all and partial to none.

It is going to take greater minds and equally greater patience and understanding to meet this agenda and the challenges of change which confronts us all . . . . The most significant and far reaching thing we can all do together is to have a meeting of the heart as well as a meeting of the minds. This is where progress can be truly made . . . . within our hearts. No law, regulation or rule can overcome the power of the heart. This is where I believe change must come in order to . . . . truly be one nation under God, indivisible, with Liberty and justice for all. There are tremendous problems facing this nation of which we "all" must seek to solve. Americans. I appreciate the recent position of the NAACP in supporting the deregulation of the oil industry, and also the promotion of a "full-growth" as opposed to a "no-growth" society.

America (especially Black America) needs "jobs". The energy crisis and the lack of an effective energy policy threatens existing and future job opportunities.

The "tax structure" is unfair to the poor, the elderly, and to families (especially young families). Property taxes are being raised in the name of preserving and providing social and essential services to the public when in reality services are either lacking or do not reach those who really need them most.

You and I, . . . all of us . . . must work together, we must talk to each other, and make a conscious and deliberate effort to resolve our differences. This is why I am here tonight, . . . and that is why the doors of my office will always be open to you for service.

Finally . . . I do not want to live in an America which is divided amongst the rich and the poor, the young and the elderly, the rural versus the urban, or the blacks against the whites.

I want to live in an America in which everyone (regardless as to whether you came here on the "MayFlower", or in chains as in "Roots", or as "Boat People") . . . will share in the advantages and opportunities this country has to offer.

Thank you.

Roger W. Jepsen,
U.S. Senator.

RECESS UNTIL TOMORROW

Mr. TSONGAS. Mr. President, I move that the Senate stand in recess until 12 o'clock tomorrow in accordance with the previous order.

The motion was agreed to; and at 7:49 p.m., the Senate recessed until Wednesday, October 31, 1979, at 12 meridian.

NOMINATION

Executive nomination received by the Senate October 30, 1979: .

DEPARTMENT OF STATE

Richard Cavins Matheron, of California, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Swaziland.

HOUSE OF REPRESENTATIVES—*Tuesday, October 30, 1979*

The House met at 12 o'clock noon and was called to order by the Speaker pro tempore (Mr. Wright).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

October 26, 1979.

I hereby designate the Honorable Jim Wright to act as Speaker pro tempore on Tuesday, October 30, 1979.

Thomas P. O'Neill, Jr.,
Speaker of the House of Representatives.

PRAYER

The Reverend William A. Holmes, D.D., senior minister, the National United Methodist Church, Metropolitan Memorial, Washington, D.C., offered the following prayer:

Almighty God, Judge of the Nation, Intercessor of the poor, Protector of the weak, and Shepherd of us all, we invoke Thy presence in this House. Where there is deliberation, may it be for the good of all. Deliver us from special interests that betray our common interests. Where there is debate, may it be on matters of density and substance. Deliver us from triviality and triteness, and where there is decision, may it be the hammered wisdom of a fiery process—a searing, searching, struggling process to shape the Nation to Thy purposes and will. Deliver us from serving other gods, O Thou who art the God above all gods, and the only God who is. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. ASHBROOK. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 370, nays 10, answered "present" 2, not voting 51, as follows:

[Roll No. 612]

YEAS—370

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Coelho
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dicks
Dingell
Dixon
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Fountain
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Lundine
Lungren
McClory
McCormack
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Moakley
Mitchell, N.Y.
Mollohan
Calif.
Montgomery
Moore
Moorhead,
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Myers, Ind.
Myers, Pa.
Natcher
Nedzi

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Ritter
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Roe
Rose
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Santini
Satterfield
Sawyer
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stratton
Studds
Stump
Swift
Symms
St Germain
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
Weiss
Whitten
Williams, Mont
Wilson, C. H.
White
Whitehurst
Whittaker
Whitley
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—10

Dickinson
Goodling
Grisham
Harkin
Holt
Jacobs
Mitchell, Md.
Quayle
Schroeder
Walker

ANSWERED "PRESENT"—2

Forsythe
Neal

NOT VOTING—51

Anderson, Ill.
Ashley
Andrews, N.C.
Boggs
Brown, Calif.
Burton, John
Clinger
Cavanaugh
Collins, Ill.
Coughlin
Crane, Philip
Diggs
Donnelly
Dougherty
Eckhardt
Edwards, Calif.
Fary
Flood
Ford, Mich.
Fowler
Frenzel
Holland
Holtzman
Hutto
Ireland
Jenrette
Jones, N.C.
Kastenmeier
Leach, La.
Lloyd
Luken
McCloskey
McDade
Mathis
Miller, Calif.
Moffett
Murtha
Pursell
Rodino
Rosenthal
Runnels
Sabo
Scheuer
Stockman
Stokes
Synar
Treen
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn

□ 1210

Mr. YOUNG of Missouri changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendment of the House to the amendment of the Senate numbered 7 to a bill of the House of the following title:

H.R. 4249. An act to amend title 23 of the United States Code, the Surface Transportation Assistance Act of 1978, and for other purposes.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 239) entitled "An act to authorize appropriations for programs under the Domestic Volunteer Service Act of 1973, to amend such act to facilitate the improvement of programs carried out thereunder, and for other purposes," agrees to a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. WILLIAMS, Mr. CRANSTON, Mr. NELSON, Mr. RIEGLE, Mr. HUMPHREY, and Mr. ARMSTRONG to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 117. Joint resolution to provide for a temporary extension of certain Federal Housing Administration authorities, and for other purposes.

□ 1220

DR. WILLIAM A. HOLMES

(Mr. JOHNSON of Colorado asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSON of Colorado. Mr. Speaker, our guest chaplain today was Dr. William A. Holmes, National Methodist Church, Metropolitan Memorial, here in Washington, D.C.

He is no stranger to many of our colleagues who attend his services regularly. He is widely known in our area for his powerful and eloquent sermons.

I would recommend to all of the Members who did not have the opportunity to hear Reverend Holmes' prayer, to examine it when it appears in the RECORD tomorrow, and I invite the Members to greet Dr. Holmes while he is here on the floor.

PERMISSION FOR SUBCOMMITTEE ON ECONOMIC STABILIZATION OF COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO SIT TODAY DURING 5-MINUTE RULE

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I ask unanimous consent that the Subcommittee on Economic Stabilization of the Committee on Banking, Finance and Urban Affairs be permitted to sit today while the House is in session under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, what is the gentleman going to be doing?

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, we are going to be considering the Chrysler legislation. This is done as a convenience for the gentleman from Florida (Mr. KELLY), and at his request.

Mr. ROUSSELOT. Further reserving the right to object, will the gentleman be marking up a bill while we have all this important legislation on the floor?

Mr. MOORHEAD of Pennsylvania. We are first going to meet to hear a witness. Then if we have the position from the Treasury, yes, the purpose of the request is to permit marking up the legislation. Otherwise, the gentleman would not make the request.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

SENATE'S NOISY AIRCRAFT BILL

(Mr. VANIK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VANIK. Mr. Speaker, as one who has sought over the years to control nuisances which impede on the public health, I have urged the adoption of water and air pollution controls and legislation to restrain the noise pollution that has reached intolerable levels at most American airports which are unfortunately located in close proximity to populated concentrations in the metropolitan areas.

The Senate, in its work on the airport development bill, substituted the language of its aircraft noise bill to relax rules on aircraft noise abatement.

America is threatened by another decade of damaging decibels which would adversely affect the conduct of business and the pursuit of normal life in areas near our major airports throughout the Nation.

In addition, this legislation would give the CAB authority to impose a 2-percent surcharge to be utilized by the aircraft and air transport industries to develop quieter planes with user taxes. The commercial airline industry struggled for years to bring about the decontrol of the commercial airlines in America. This effort would permit the terminating CAB to extend its hands from the grave into the public purse and transfer surcharge taxes to the air transport industry.

I hope that the House leadership will hold this bill up until the House has a little more time to see the dreadful direction this legislation is taking. In the alternative, the House conferees should be instructed not to permit the retreat from good sense in aircraft noise control or permit the CAB to have the testamentary capacity to reach into the pockets of the air traveling public for the benefit of the industry.

HELP FOR HEAT

(Mr. STEWART asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEWART. Mr Speaker, I rise to commend the membership of this House and our able leadership for the judicious consideration and prompt passage last week of an urgent supplemental appropriation for energy assistance to low-income people.

Too many Americans will suffer severe and possibly tragic hardships this winter unless they can obtain some help in facing soaring energy costs for home heating.

As a member of the House Appropriations Committee, I voted to appropriate $1.35 billion to provide home heating assistance for low-income people.

This appropriation is a small price to pay to help alleviate the burdens imposed on the poor by increased heating costs.

Mr. Speaker, I know that this winter people in Chicago and across the Nation will appreciate the speedy action on this measure taken by the House.

COL. COMMANDANT MICHAEL KOVATS MEMORIAL DAY

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, on this, the 203d anniversary of the establishment of the U.S. Cavalry, I am proud to introduce a joint resolution today honoring its founding father—Col. Commandant Michael Kovats.

In January of 1777, Colonel Kovats—who at the time was a distinguished Hungarian war hero—contacted Benjamin Franklin to offer his superior military expertise to the cause of American independence. He was appointed to serve under Polish Gen. Casimir Pulaski, and later was elevated to colonel and given the task of forming the first U.S. Cavalry, fashioning it after its European counterpart, the Huszar regiments.

It was while serving as commander of the newly organized Continental Cavalry that he led the successful effort to save the city of Charleston, S.C., from British occupation. He was killed during that battle on May 11, 1779—200 years ago. Many have hailed his heroics during that battle as a turning point in the development of American freedom.

Certainly, the significant contribution Colonel Kovats made to American independence should not go unnoticed, especially during this, the bicentennial anniversary year of his heroic death. That is why I am offering a joint resolution today, designating November 30, 1979, as "Col. Commandant Michael Kovats Memorial Day" and calling on the President to issue a proclamation urging the people of the United States to observe that day with appropriate ceremonies and activities.

Mr. Speaker, as one who has long advocated the need to more fully recognize the contributions made to our great Nation by ethnic Americans, I would like to respectfully acknowledge the efforts of Dr. Andrew T. Udvardy, president of the Col. Commandant Michael de Kovats Historical Society, and his colleagues who are in attendance here today. They have dedicated themselves, and worked successfully to focus much deserved attention on the supreme sacrifice Colonel Kovats made in the name of American independence. Further, the society has been able to convert the life and death of Colonel Kovats into an inspiration and renewed hope for the many courageous people throughout the world who are being denied even the most basic freedoms—including the proud people of their ancestral homeland, Hungary.

I am confident that our remembrance of Colonel Kovats will help to further our own efforts in the area of human rights and self-determination, and I urge my colleagues to join me in supporting this important resolution.

AS HEAD OF WORLD BANK, ROBERT McNAMARA SHOULD NOT BE ACTIVE IN POLITICAL CAMPAIGNS

(Mr. YOUNG of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YOUNG of Florida. Mr. Speaker, as we all know the 1980 Presidential election has been underway for months. A number of outstanding Members of this House have declared their candidacies, as well as a number of Senators and veterans of past campaigns. We can all look forward to an interesting election year.

Yesterday the distinguished Senator from Massachusetts made official what has been apparent for some time: He will compete with President Carter for his party's Presidential nomination.

Last evening, in reporting on this development, CBS Evening News showed Robert McNamara, the President of the World Bank, leaving a luncheon attended by Senator KENNEDY's campaign organizers and advisers. CBS News recalled that Mr. McNamara had been one of "the best and the brightest" of previous administrations and showed pictures of Mr. McNamara retreating down a stairwell eluding questions from reporters.

Mr. Speaker, Mr. McNamara has a right to support anyone he wants for President of the United States but if the nonpolitical status of the World Bank is to be preserved, its President should not be active in American political campaigns while he serves as President of the World Bank.

Mr. McNamara repeatedly has said the World Bank should not be politicized. He has refused to testify before congressional committees to explain World Bank policies. He does not have time to respond to questions about the World Bank's $60 million loan to Vietnam. Yet he does have time to return to the political arena for a gathering of the "best and the brightest" to help organize a campaign for President.

No matter how informal Mr. McNamara's relationship is to this campaign or how much he attempts to keep his efforts behind the scenes, it is clearly improper for him to retain his position as head of the World Bank while advising and supporting any political effort.

Mr. Speaker, Robert McNamara should not be allowed to have it both ways. Clearly he should resign as President of the World Bank before he continues any further participation in any Presidential campaign.

McNAMARA OUT

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, I support what the distinguished gentleman from Florida (Mr. YOUNG) has called for: The resignation of Robert Strange McNamara from the World Bank. Only one Member of the Congress of the United States has ever negotiated the Chappaquiddick Channel by swimming it. Only one Member of Congress has ever made it across that channel on his own power. And he was not a Member of the U.S. Senate. That person is this Congressman standing here before this body, me.

As a television investigative reporter, I went from Los Angeles to Martha's Vineyard about 2 weeks after the tragic death of Miss Mary Jo Kopechne and proved to this Member's satisfaction beyond a doubt in a thorough investigation, all on film, that a massive coverup took place, including the blocking of an autopsy and the denial to the Kopechne parents of the control over the body of their own daughter for 2 days.

When will that coverup be uncovered by the great press of this great United States?

The foreign policy architects who gave us Vietnam—rallied in Massachusetts that tragic July 1969 weekend and controlled all subsequent press releases. One of the leaders was Robert McNamara. He was very much an integral part of that fictitious series of statements that successfully, to date, perpetrated a hoax upon a naive American public. This coverup must end before there is any credibility to this current campaign for the Presidency of the United States.

I thank the gentleman from Florida for his courage in calling for McNamara's resignation because of involvement in yet another Presidential race. I realize I will have to sanitize and depersonalize some of the aforementioned remarks later today to bring them into conformity with House rules and precedents. However, I remind my former colleagues of the fourth estate: You do have access to unexpurgated color video film, gavel to gavel.

□ 1230

PARLIAMENTARY INQUIRY

Mr. SEIBERLING. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. SEIBERLING. Mr. Speaker, is it a violation of the rules of the House to attack a Member of the other body?

The SPEAKER pro tempore. It is a violation of the rules of the House to attack the character or integrity of a Member of the other body and the rule of comity also prohibits references either directly or indirectly to words or actions of a Member of the other body, with respect to his actions in that body. There is a delicate line which lies sometimes almost invisibly between a Member in his capacity as a Member of Congress, and that same individual in his capacity as a candidate for the Presidency or other office.

The Chair hopes and trusts that Members will exercise sufficient prudence and sufficient good taste that they will respect that difference.

Mr. SEIBERLING. Mr. Speaker, I will not demand that the secretary take down the words of the previous speaker, but in the light of the ruling that the Chair just made, if similar outbursts occur I will make that demand.

BIG OIL COMPANIES MUST BE DEALT WITH SOON

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, the big oil companies continue to receive the attention of the press, and rightly so. An article in the Washington Star newspaper last night informs us of the fact that the cost of decontrolling U.S. oil has been underestimated by the administration. The additional cost to the consumer is now estimated to be nearly $25 billion for the period between January 1, 1980 and October 1, 1981; with the major oil companies reaping a substantial windfall profit from this decontrol boondoggle.

This morning's Washington Post has an article entitled, "Plenty of Heating Oil: Price Is Rising." Mr. Speaker, I supmit that this is exactly what the major oil companies intended to happen when it decided to comply with the administration's request to stockpile 240 million barrels of home heating oil for this winter's needs. The big oil companies were fully aware of the profit ramifications once it began to store this large amount of heating oil.

The average price of this basic necessity has increased by 70 percent since the beginning of the year; however, the increased cost to the major oil companies which purchase this product has not risen by nearly that figure. The oil cartel which exists in this country is as interested in keeping OPEC prices down as the Middle Eastern cartel—not one bit.

Big Oil must be dealt with soon. The most effective vehicle which this membership possesses is the passage of a stiff windfall profits tax. We must pass this legislation immediately.

CONGRESS SHOULD BACK BILL TO CHANGE TITLE XIX

(Mr. GRASSLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRASSLEY. Mr. Speaker, it is a shame that we have a law on the Federal books that allows a widow lady in my State to give away a farm worth almost a million dollars to qualify for nursing home care under title XIX.

This weekend I visited nursing homes in the State of Iowa and continuously I had thrown at me the proposition: "Why should we allow this to happen?" There is presently a bill introduced in Congress that has bipartisan support that will change this portion of title XIX. I would urge everybody in this House to get behind that bill and get the law revised so that only those people in the country who have the need of title XIX do, in fact, qualify for title XIX and benefit from it.

The very wealthy should not be allowed to benefit from that law by subterfuge.

AID TO CAMBODIA SHOULD BE QUICK AND UNOBSTRUCTED

(Mr. ERDAHL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ERDAHL. Mr. Speaker, the decision of this Congress and our President to extend humanitarian aid to the starving and desperate people of Cambodia is to be commended. Now everything possible must be done to see this needed food and medicine is quickly delivered and properly distributed.

Reports that the Government of Cambodia is reluctant to accept this aid when millions of their own people are in danger of starvation is incomprehensible.

A recent column by Jack Anderson in Monday's Washington Post is equally disturbing. Mr. Anderson contends that officials in our own State Department are deliberately sabotaging our plan to aid these dying people because of feelings on Vietnam and Southeast Asia.

If even a part of Mr. Anderson's column entitled "State Department Obstructing Cambodian Aid" is true, it ought to disturb every compassionate American.

I will include this article in the appropriate section of the Record.

DICK CLARK RESIGNATION UNTIMELY

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, today it was announced that Dick Clark, President Carter's Special Ambassador for Refugee Affairs, will resign that position on November 1 in order to join the Presidential campaign of Senator Kennedy.

Mr. Speaker, it is disturbing that this occurs at this very crucial time when the refugee question is so acute when it confronts us in a way which has not confronted this country or this world in many, many years. I would hope that Mr. Clark might reconsider this, or at the very least do everything in his power to insure that the transition is a good one.

It is also very troublesome that this occurs at a time when the whole subject of refugee problems has the potentiality of becoming a highly politicized issue, which it ought not to be. We need the support of all Americans on this crucial issue, and I would hope we would all act to try and facilitate the efforts of the United States in relieving the tremendous problem that is now occurring in all of Southeast Asia, but most specifically in Cambodia.

PERSONAL ATTACKS ON HOUSE FLOOR DEPLORED

(Mr. BEARD of Rhode Island asked and was given permission to address the House for 1 minute.)

Mr. BEARD of Rhode Island. Mr. Speaker, a short while ago one of the members of the California delegation, Mr. Dornan, got up and made a vicious attack on Senator Kennedy.

I do not believe that this is the forum for that. In the 5 years that I have been here, very seldom have I ever heard attacks made on individuals. I do not think this is the forum for any of us, Democrats or Republicans, to play politics. This is a forum to deal with issues, not to attack another's personality or put out a set of innuendoes that could hurt a person.

I could in my own party, if I wanted to, attack our President daily, but I do not do that. This is not the forum for it. This is the forum for legislation.

I think Mr. Dornan of California should apologize before this body and apologize to Senator Kennedy to try to make an issue out of a campaign issue here.

That is all I have to say.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed a bill of the following title, in which concurrence of the House is requested.

S. 1905. An act to provide for the orderly restructuring of the Milwaukee Railroad, and for other purposes.

LABOR, HEW, AND RELATED AGENCIES APPROPRIATIONS, 1980

Mr. NATCHER. Mr. Speaker, I move to take from the Speaker's desk the bill (H.R. 4389) making appropriations for the Departments of Labor, and Health, Education, and Welfare and related agencies for the fiscal year ending September 30, 1980, and for other purposes, with Senate amendment No. 137 thereto, and insist on disagreement to the Senate amendment.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. Rostenkowski). The Clerk will report the Senate amendment No. 137.

The Clerk read the Senate amendment No. 137, as follows:

Page 47, strike out lines 9 to 12 inclusive, and insert:

Sec. 209. None of the funds provided for in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy. The Secretary shall promptly issue regulations and establish procedures to ensure that the provisions of this section are rigorously enforced.

MOTION OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Natcher moves that the House insist on its disagreement to the amendment of the Senate numbered 137.

The SPEAKER pro tempore. The gentleman from Kentucky (Mr. NATCHER) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. MICHEL) will be recognized for 30 minutes.

PREFERENTIAL MOTION OFFERED BY MR. WRIGHT

Mr. WRIGHT. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. WRIGHT moves that the House recede from its disagreement to the amendment of the Senate numbered 137 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert the following:

SEC. 210. None of the funds provided for in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or Public Health Service. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Kentucky (Mr. NATCHER).

Mr. NATCHER. Mr. Speaker, I yield such time as he may consume to the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, this is the same, identical amendment, word for word, provision for provision, that the House adopted in an attempt to resolve this impasse when we had before us the continuing resolution only short days ago.

I know of no perfect language; I know there is no language which can satisfy every Member of the House. I honestly believe, however, that the language embodied in this amendment comes as near as any possibly can come to being a workable and an acceptable compromise of two somewhat irreconcilable, deeply felt, and perhaps uncompromisable sets of convictions.

For that reason, because it would prohibit the use of any Federal funds to perform abortions except where the life of the mother is endangered or where rape or incest has occurred, I believe it is language that the House could embrace, and I urge its adoption as a means of resolving the impasse presently before us.

Mr. NATCHER. Mr. Speaker, I have no further requests for time at this time.

Mr. MICHEL. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, once more I understand and appreciate what the distinguished and able majority leader seeks to do. This is without question the most volatile and difficult and emotion-laden issue before this House. The problem is, the compromise that is offered does result in Federal funding of some abortions, and this is a position that I must resist and that I cannot accede to.

You know, it is interesting that we recently celebrated the 100th anniversary of the birth of Margaret Sanger, the patron saint, if you will, of birth control. Her birthday was celebrated by feminists across this country. It is also interesting to note that she opposed abortions. She always during her lifetime opposed abortions.

It is also of great interest that recently another woman was awarded the Nobel Prize, and this woman—I may be criticized by the American Civil Liberties Union for adverting to this woman because she is religious, but this woman lives in Calcutta, India, and she knows something about poverty and population and death. She is Mother Teresa of Calcutta. She is one of the most adamant opponents of abortion, and when you ask her about poverty, she says there is a special kind of poverty involved in saying we do not have room for one more baby.

□ 1250

Again, I understand and appreciate the effort being made, but I cannot support it, and I urge my colleagues to resist the acceptance of this proposed compromise and that we stand fast for the amendment that says no abortion except to save the life of the mother.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding and for his brief but eloquent statement in behalf of the right to life. I concur in what he says. The House has taken a strong position on this issue this year on repeated votes, and it should do so again. It seems to me it behooves us to go to the other body with the strongest possible language against abortion. I would also oppose the motion of the gentleman from Texas.

Mr. HYDE. I thank the gentleman.

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Arizona.

Mr. RUDD. I thank the gentleman for yielding. I want to add my support to the gentleman's valiant defense of life and urge defeat of the compromising motion of the gentleman from Texas.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding. I, too, wish to congratulate the gentleman for his leadership on this position. I do think we owe a debt of gratitude also to the members of the subcommittee who worked so earnestly for the language of the gentleman in the well, and I feel strongly about this issue—and I know the gentleman does—that I believe that when the issue does come before the House in a few minutes on a vote, I plan to ask for a recorded vote.

Mr. HYDE. The subcommittee has been heroic with a capital "H." I thank the gentleman.

● Mr. DONNELLY. Mr. Speaker, before casting our votes on this matter I would like to point out that our intent with regard to this restriction on Federal funds for abortion has been misrepresented and distorted by many of the Federal courts.

On one hand, some courts have held that the States must use their own funds to pay for whatever abortions the Congress is willing to fund. Otherwise, in the view of these courts, the States would be in violation of the medicaid title, title XIX of the Social Security Act.

On the other hand, several Federal courts have held that, regardless of what restrictions the Congress enacts on abortion funding, the States must in effect fund all so-called medically necessary abortions under the Social Security Act and under the regulations promulgated under it. In other words, these courts have held that the States do not have the right that we are exercising here today to decide what abortions they are going to fund.

The confusion in the courts is based upon the notion that the medicaid title of the Social Security Act somehow requires the States to fund abortions in the first place and that State refusal to fund abortions is somehow "unreasonable" under the Social Security Act and its regulations.

The fact is that Congress enacted the medicaid title into law in 1965 when practically every State made abortion a crime except to save the mother's life. Therefore, the medicaid title could not have been intended as a mandate to the States to fund "medically necessary" abortions, or any abortions. Any other conclusion would mean that the Congress intended to force the States to violate their own abortion laws, or change them if the States wished to receive Federal funds to enable them to provide care to their impoverished citizens. To impute such an intent to Congress is obviously nonsense. The Social Security Act does not require the States to use their funds for any type of abortion service. Yet, absurdly enough, there are courts in this Nation who are saying that this is in effect what the Congress actually intended when it enacted the medicaid title into law.

I think it is important to make it crystal clear that what we are dealing with now is the extent to which the Federal Government will pay for abortions. We do not intend to restrict the power of the States to refuse to pay for abortions to the extent they deem appropriate, any more than we intend to restrict their power to pay for abortions with their own funds to the extent that they may desire. The States are absolutely free to fund or refuse to fund abortions as they see fit, as they always have been. Whether the States fund or refuse to fund abortions is not a matter dictated by the Social Security Act or its regulations and, until such time as the Social Security Act is amended by Congress to require the States to fund abortions, the States are not required to do so.

The Congress has debated the extent to which Federal funds should be used for abortions for 4 years now. Many of the courts apparently believe that these heated and protracted debates represent nothing more than arguments on whether the costs of abortion should be borne by the Federal Government or shifted to the States. But anyone who has honestly read the record of these debates would know that we have understood our actions here would have some real effect. They would know that we have not regarded a Government-funded abortion to be in any sense an absolute right this body has ever conferred upon anyone. They would know that this body does not regard and has not regarded abortion to be like any other medical procedure and that we have not regarded it to be a benefit which ought to be financed by the Government except in the most extreme circumstances.

But some courts seem determined to convert our serious deliberations on this matter into a farce—full of sound and fury but signifying nothing—by requiring the States to pay for the very abortions for which we have refused Federal funds. In fact, the Congress has presumed all along that the States have the same authority that we have to decide the extent to which public funds should be used for abortions. This should have been self-evident from the history of our deliberations and of the medicaid title. However, because some courts and perhaps some administrators of the Social Security Act seem to be determined to override our will and the will of the legislatures of the States on this matter, I believe that this fact should now be plainly stated for the record once and for all.●

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). The question is on the preferential motion offered by the gentleman from Texas (Mr. WRIGHT).

CALL OF THE HOUSE

Mr. MICHEL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 613]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dixon
Dodd
Donnelly
Dornan
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Frenzel
Frost
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McDonald
McEwen
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rostenkowski
Roth
Rousselot
Roybal
Rudd
Russo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Symms
Tauke
Taylor
Thomas
Traxler
Trible
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Waxman
Weaver
Weiss
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

□ 1300

The SPEAKER pro tempore. On this rollcall, 368 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

LABOR, HEW. AND RELATED AGENCIES APPROPRIATIONS, 1980

Mr. NATCHER. Mr. Speaker, I move the previous question on the preferential motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the preferential motion offered by the gentleman from Texas (Mr. WRIGHT).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. VOLKMER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. DORNAN. Mr. Speaker, on that I demand a division.

On a division (demanded by Mr. DORNAN) there were—ayes 108, noes 66.

PARLIAMENTARY INQUIRY

Mr. DORNAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DORNAN. Mr. Speaker, in that 66 is more than a sufficient number to stand for a recorded vote, may I ask if it is within the rules of the House to ask for a recorded vote now?

The SPEAKER pro tempore. A recorded vote was requested.

Mr. DORNAN. The yeas and nays were asked for.

The SPEAKER pro tempore. The yeas and nays were requested and were refused.

The gentleman is certainly within his rights.

RECORDED VOTE

Mr. DORNAN. Mr. Speaker, I demand a recorded vote, and hope that the same 66 will stand courageously.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 187, noes 219, not voting 27, as follows:

[Roll No. 614]

AYES—187

Addabbo
Akaka
Alexander
Anderson, Calif.
Andrews, N.C.
Anthony
Ashley
AuCoin
Barnes
Beilenson
Bennett
Bingham
Blanchard
Bolling
Bonker
Brademas
Brodhead
Brooks
Brown, Calif.
Broyhill
Buchanan
Burton, John
Burton, Phillip
Butler
Carr
Chisholm
Clay
Cleveland
Coelho
Conable
Conyers
Corman
Danielson
Daschle
Davis, S.C.
Dellums
Derrick
Dickinson
Dicks
Diggs
Dingell
Dixon
Dodd
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
English
Evans, Del.
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Garcia
Giaimo
Gilman
Ginn
Glickman
Gonzalez
Gray
Green
Grisham
Guarini
Gudger
Hall, Ohio
Hamilton
Hance
Harkin
Harris
Hawkins
Hefner
Heftel
Holland
Hollenbeck
Horton
Howard
Hughes
Hutto
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Kastenmeier
Kogovsek
Kostmayer
Leach, Iowa
Lehman
Leland
Levitas
Lloyd
Long, Md.
Lowry
Lundine
McCloskey
McCormack
McHugh
McKinney
Maguire
Marks
Martin
Matsui
Mattox
Mica
Mikulski
Mineta
Mitchell, Md.
Mollohan
Moorhead, Pa.
Neal
Nolan
Obey
Ottinger
Panetta
Patterson
Pease
Pepper
Peyser
Pickle
Preyer
Price
Pritchard
Railsback
Rangel
Ratchford
Reuss
Rhodes
Richmond
Ritter
Roberts
Rose
Rosenthal
Roybal
Santini
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Slack
Smith, Iowa

Snowe
Solarz
Spellman
Stack
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Waxman
Weaver
Weiss
Whitley
Whittaker
Whitten
Williams, Mont.
Wirth
Wolff
Wolpe
Wright
Yates

NOES—219

Abdnor
Albosta
Ambro
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bereuter
Bethune
Bevill
Biaggi
Boggs
Boland
Boner
Bonior
Bouquard
Bowen
Breaux
Brinkley
Broomfield
Brown, Ohio
Burgener
Burlison
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clinger
Coleman
Collins, Tex.
Conte
Corcoran
Cotter
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Donnelly
Dornan
Duncan, Tenn.
Early
Edwards, Okla.
Emery
Erdahl
Erlenborn
Ertel
Evans, Ga.
Evans, Ind.
Fish
Fithian
Fuqua
Gaydos
Gephardt
Gibbons
Gingrich
Goodling
Gore
Gradison
Gramm
Grassley
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hanley
Hansen
Harsha
Heckler
Hightower
Hillis
Hinson
Holt
Hopkins
Hubbard
Huckaby
Hyde
Ichord
Jeffries
Jenkins
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kramer
LaFalce
Lagomarsino
Latta
Leath, Tex.
Lederer
Lee
Lent
Lewis
Livingston
Loeffler
Long, La.
Lott
Lujan
Luken
Lungren
McClory
McDade
McDonald
McEwen
McKay
Madigan
Markey
Marlenee
Marriott
Mathis
Mavroules
Mazzoli
Michel
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Pashayan
Patten
Paul
Perkins
Petri
Quayle
Quillen
Rahall
Regula
Rinaldo
Robinson
Roe
Rostenkowski
Roth
Rousselot
Royer
Rudd
Russo
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Skelton
Smith, Nebr.
Snyder
Solomon
Spence
St Germain
Staggers
Stangeland
Stanton
Stenholm
Stump
Symms
Tauke
Taylor
Traxler
Trible
Vander Jagt
Volkmer
Walker
Wampler
Watkins
White
Whitehurst
Williams, Ohio
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—27

Anderson, Ill.
Collins, Ill.
Coughlin
Crane, Philip
Dougherty
Fary
Flood
Goldwater
Holtzman
Ireland
Jones, N.C.
Leach, La.
Miller, Calif.
Moffett
Pursell
Rodino
Runnels
Sabo
Stockman
Synar
Thomas
Thompson
Treen
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn

□ 1320

The Clerk announced the following pairs:

On this vote:

Mr. Anderson of Illinois for, with Mr. Dougherty against.

Mr. Pursell for, with Mr. Coughlin against.

Mr. Thomas for, with Mr. Goldwater against.

Mr. Moffett for, with Mr. Philip M. Crane against.

Mr. Jones of North Carolina for, with Mr. Fary against.

Mrs. Collins of Illinois for, with Mr. Runnels against.

Mr. Thompson for, with Mr. Treen against.

Until further notice:

Mr. Rodino with Mr. Stockman.

Mr. Charles H. Wilson of California with Mr. Synar.

Ms. Holtzman with Mr. Flood.

Mr. Ireland with Mr. Bob Wilson.

Mr. Charles Wilson of Texas with Mr. Winn.

Mr. MARLENEE changed his vote from "aye" to "no."

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in the RECORD on today's debate on Senate amendment No. 137 to H.R. 4389.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky (Mr. NATCHER).

The motion was agreed to.

A motion to reconsider was laid on the table.

VETERANS' DISABILITY COMPENSATION AND SURVIVORS' BENEFITS AMENDMENTS OF 1979

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 2282) to amend title 38, United States Code, to provide a cost-of-living increase in the rates of disability compensation for disabled veterans and in the rates of dependency and indemnity compensation for survivors of disabled veterans, with Senate amendments thereto, and to concur in the Senate amendments with House amendments to Senate amendments which are at the desk.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will report the Senate amendments and the House proposed amendments to Senate amendments.

The Clerk read the Senate amendments and the House amendments to Senate amendments, as follows:

Senate amendments: Strike out all after the enacting clause and insert: That (a) this Act may be cited as the "Veterans' and Survivors' Benefits Adjustment Act of 1979".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—VETERANS' DISABILITY COMPENSATION BENEFITS

RATES OF DISABILITY COMPENSATION

SEC. 101. (a) Section 314 is amended by—

(1) striking out "$44" in subsection (a) and inserting in lieu thereof "$49";

(2) striking out "$80" in subsection (b) and inserting in lieu thereof "$89";

(3) striking out "$121" in subsection (c) and inserting in lieu thereof "$134";

(4) striking out "$166" in subsection (d) and inserting in lieu thereof "$184";

(5) striking out "$232" in subsection (e) and inserting in lieu thereof "$258";

(6) striking out "$292" in subsection (f) and inserting in lieu thereof "$324";

(7) striking out "$346" in subsection (g) and inserting in lieu thereof "$384";

(8) striking out "$400" in subsection (h) and inserting in lieu thereof "$444";

(9) striking out "$450" in subsection (i) and inserting in lieu thereof "$500";

(10) striking out "$809" in subsection (j) and inserting in lieu thereof "$899";

(11) striking out "$1,005" and "$1,408" in subsection (k) and inserting in lieu thereof "$1,117" and "$1,564", respectively;

(12) striking out "$1,005" in subsection (l) and inserting in lieu thereof "$1,117";

(13) striking out "$1,107" in subsection (m) and inserting in lieu thereof "$1,230";

(14) striking out "$1,258" in subsection (n) and inserting in lieu thereof "$1,398";

(15) striking out "$1,408" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$1,564";

(16) striking out "$604" and "$900" in subsection (r) and inserting in lieu thereof "$671" and "$1,000", respectively;

(17) striking out "$905" in subsection (s) and inserting in lieu thereof "$1,005"; and

(18) striking out "$175" in subsection (t) and inserting in lieu thereof "$194".

ELIGIBILITY FOR AID AND ATTENDANCE ALLOWANCE FOR CERTAIN VETERANS

(b) Subsection (r) of section 314 is further amended by—

(1) striking out "the" the first place it appears;

(2) striking out "or" after "this section" and inserting in lieu thereof a comma;

(3) inserting "or at the intermediate rate authorized between the rates authorized under subsections (n) and (o) of this section and at the rate authorized under subsection (k) of this section," after "subsection (p) of this section,"; and

(4) striking out "compensation under subsection (o) or (p) of this section—" and inserting in lieu thereof "compensation—".

INTERMEDIATE RATES

(c) Subsection (p) of section 314 is further amended by inserting before the semicolon at the end thereof a period and "Any intermediate rate under this subsection shall be established at the arithmetic mean between the two rates concerned".

AUTHORITY FOR ADMINISTRATIVE ADJUSTMENTS IN CERTAIN CASES

(d) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38 United States Code.

RATES OF ADDITIONAL COMPENSATION FOR DEPENDENTS

SEC. 102. Section 315(1) is amended by—

(1) striking out "$49" in clause (A) and inserting in lieu thereof "$54";

(2) striking out "$83" in clause (B) and inserting in lieu thereof "$92";

(3) striking out "$110" in clause (C) and inserting in lieu thereof "$122";

(4) striking out "$137" and "$27" in clause (D) and inserting in lieu thereof "$152" and "$30", respectively;

(5) striking out "$34" in clause (E) and inserting in lieu thereof "$38";

(6) striking out "$61" in clause (F) and inserting in lieu thereof "$68";

(7) striking out "$88" and "$27" in clause (G) and inserting in lieu thereof "$98" and "$30", respectively;

(8) striking out "$40" in clause (H) and inserting in lieu thereof "$44";

(9) striking out "$89" in clause (I) and inserting in lieu thereof "$99"; and

(10) striking out "$75" in clause (J) and inserting in lieu thereof "$83".

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

SEC. 103. Section 362 is amended by striking out "$218" and inserting in lieu thereof "$242".

EFFECTIVE DATE

SEC. 104. The amendments made by sections 101 (a), (b), and (c), 102, and 103 of this title and the provisions of section 101 (d) of this title shall take effect on October 1, 1979.

TITLE II—SURVIVORS' DEPENDENCY AND INDEMNITY COMPENSATION BENEFITS

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

SEC. 201. Section 411 is amended by—

(1) amending subsection (a) to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the persons upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade	Monthly rate
E–1	$330
E–2	341
E–3	349
E–4	371
E–5	381
E–6	390
E–7	409
E–8	431
E–9	[1]451
W–1	418
W–2	434
W–3	447
W–4	473
O–1	418
O–2	431
O–3	462
O–4	488
O–5	538
O–6	604
O–7	655
O–8	718
O–9	771
O–10	[2]844

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $486.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $904.";

(2) striking out "$35" in subsection (b) and inserting in lieu thereof "$39";

(3) striking out "$89" in subsection (c) and inserting in lieu thereof "$99"; and

(4) striking out "$45" in subsection (d) and inserting in lieu thereof "$50".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 202. Section 413 is amended by—

(1) striking out "$150" in clause (1) and inserting in lieu thereof "$167";

(2) striking out "$216" in clause (2) and inserting in lieu thereof "$240";

(3) striking out "$278" in clause (3) and inserting in lieu thereof "$309"; and

(4) striking out "$278" and "$56" in clause (4) and inserting in lieu thereof "$309" and "$62", respectively.

RATES OF SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 203. Section 414 is amended by—

(1) striking out "$89" in subsection (a) and inserting in lieu thereof "$99";

(2) striking out "$150" in subsection (b) and inserting in lieu thereof "$167"; and

(3) striking out "$76" in subsection (c) and inserting in lieu thereof "$84".

EFFECTIVE DATE

SEC. 204. The amendments made by this title shall take effect on October 1, 1979.

TITLE III—MODIFICATIONS OF CERTAIN VETERANS' LIFE INSURANCE PROGRAM PROVISIONS

ASSIGNMENTS OF NATIONAL SERVICE LIFE INSURANCE POLICY PROCEEDS BY BENEFICIARIES

SEC. 301. Subsection (b) of section 718 is amended by—

(1) striking out "his" and inserting in lieu thereof "such person's"; and

(2) inserting at the end thereof the following new subsection:

"(c) Except as to insurance granted under section 722(b) of this title, in any case involving a dispute between two or more persons, each of whom is claiming proceeds of a policy maturing on or after the date of the enactment of this subsection, an assignment of all or any portion of the proceeds to a person other than a person specified in subsection (b) of this section is authorized to resolve such dispute if the proposed assignee claims such proceeds on the ground that—

"(1) the insured during such insured's lifetime designated such proposed assignee as the beneficiary;

"(2) the insured contracted during such insured's lifetime with such proposed assignee to designate such proposed assignee as the beneficiary; or

"(3) such proposed assignee was named, during such insured's lifetime, in a judicial order or decree as a person whom the insured was ordered to designate as the beneficiary or to retain as the designated beneficiary.

Except in cases in which the insurance proceeds are payable in a lump sum, the designated contingent beneficiary, if any, must join in any such assignment by a person upon whose death or disqualification such contingent beneficiary's claim to the proceeds would be predicated.".

SEC. 302. Section 753 is amended by—

(1) inserting "(a)" before "Any";

(2) striking out "his" and inserting in lieu thereof "such person's"; and

(3) inserting at the end thereof the following new subsection:

"(b) In any case involving a dispute between two or more persons each of whom is claiming proceeds of a policy maturing on and after the date of enactment of this subsection, an assignment of all or any portion of the proceeds to persons other than a person specified in subsection (a) of this section is authorized to resolve such dispute if the proposed assignee claims such proceeds on the ground that—

"(1) the insured during such insured's lifetime designated such proposed assignee as the beneficiary;

"(2) the insured contracted during such insured's lifetime with such proposed assignee to designate such proposed assignee as the beneficiary; or

"(3) such proposed assignee was named, during such insured's lifetime, in a judicial order or decree as a person whom the insured was ordered to designate as the beneficiary or to retain as the designated beneficiary.

Except in cases in which the insurance proceeds are payable in a lump sum, the designated contingent beneficiary, if any, must join in any such assignment by a person upon whose death or disqualification such contingent beneficiary's claim to the proceeds would be predicated.".

AUTHORITY FOR DIVIDENDS—VETERANS' REOPENED INSURANCE

SEC. 303. Section 725 is amended by—

(1) inserting "and" after the semicolon in clause (6) of subsection (b);

(2) striking out before the period in subsection (b) the semicolon after "practicable" and all of clause (8);

(3) striking out clause (4) in subsection (c) and redesignating clauses (5), (6), and (7) as clauses (4), (5), an (6), respectively;

(4) inserting "and" after the semicolon in clause (5) (as redesignated by clause (3) of this section); and

(5) striking out in the first sentence in paragraph (1) of subsection (d) "shall be made from that fund" and inserting in lieu thereof a comma and "including payments of dividends and refunds of unearned premiums, shall be made from that fund and the interest earned thereon".

AUTHORITY FOR HIGHER INTEREST RATES FOR AMOUNTS PAYABLE TO BENEFICIARIES

SEC. 304. (a) Subchapter I of chapter 19 is amended by inserting at the end thereof the following new section:

"§ 726. Authority for higher interest rates for amounts payable to beneficiaries

"Notwithstanding sections 702, 723, and 725 of this title, where the beneficiary of an insurance policy issued pursuant to the provisions of this subchapter receives the proceeds of such policy under a settlement option under which such proceeds are paid in equal monthly installments over a limited period of months, the interest that may be added to each such installment may be at a rate that is higher than the interest rate prescribed in the appropriate section of this subchapter. The Administrator may, from time to time, establish such higher rate only in accordance with a determination that such higher rate is administratively and actuarially sound for the program of insurance concerned. Such higher interest rate shall be paid on the unpaid balance of such monthly installments.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 725 the following new item:

"726. Authority for higher interest rates for amounts payable to beneficiaries.".

SEC. 305. (a) Subchapter II of chapter 19 is amended by inserting at the end thereof the following new section:

"§ 761. Authority for higher interest rates for amounts payable to beneficiaries.

"Notwithstanding section 744(b) of this title, where the beneficiary of an insurance policy issued pursuant to the provisions of this subchapter receives the proceeds of such policy under a settlement option under which such proceeds are paid in equal monthly installments over a limited period of months, the interest that may be added to each such installment may be at a rate that is higher than the interest rate prescribed in such section. The Administrator may, from time to time, establish such higher rate only in accordance with a determination that such higher rate is administratively and actuarially sound. Such higher interest rate shall be paid on the unpaid balance of such monthly installments.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 760 the following new item:

"761. Authority for higher interest rates for amounts payable to beneficiaries.".

EFFECTIVE DATE

Sec. 306. The amendments made by this title shall take effect on the date of enactment of this Act.

TITLE IV—EXEMPTION OF VETERANS' ADMINISTRATION HOME LOANS FROM STATE ANTI-USURY PROVISIONS

Sec. 401. (a) Chapter 37 of title 38, United States Code, is amended by inserting at the end thereof the following new section:

"§ 1828. Exemption from State anti-usury provisions

"If, under any law of the United States, loans and mortgages insured under title I or title II of the National Housing Act are exempt from the application of the provisions of any State constitution or law limiting the rate or amount of interest, discount points, or other charges which may be charged, taken, received, or reserved by lenders, loans and mortgages guaranteed or insured under this chapter shall also be exempt from the application of such provisions.".

(b) The table of sections at the beginning of such chapter is amended by inserting at the end thereof the following new item:

"1828. Exemption from State anti-usury provisions.".

(c) The amendments made by this title shall be effective on the date of the enactment of this Act.

TITLE V—MISCELLANEOUS PROVISIONS

TECHNICAL AMENDMENTS

Sec. 501. (a) Paragraph (1) of subsection (c) of section 611 is amended by striking out "recognized by the Administrator for the purposes of" and inserting in lieu thereof "named in, or approved by the Administrator under,".

(b) Subsection (d) of section 612A is amended by striking out the comma after "this title)".

(c) Section 620A is amended by—

(1) striking out "of" after "treatment facilities" in paragraph (1) of subsection (a) and inserting in lieu thereof "for"; and

(2) striking out the comma after "such request" in paragraph (2) of subsection (d).

(d) Subsection (d) of section 663 is amended by striking out "order to carry" and inserting in lieu thereof "carrying".

(e) Subsection (a) of section 5005 is amended by striking out "section 5031 of this title" and inserting in lieu thereof "subchapter III of this chapter".

ASSISTANCE IN LOCATING CERTAIN INDIVIDUALS EXPOSED TO OCCUPATION HAZARDS DURING MILITARY SERVICE

Sec. 502. In order to effectuate more fully the policy underlying the enactment of section 6103(m)(3) of the Internal Revenue Code regarding the location, for certain purposes, of individuals who are, or may have been, exposed to occupational hazards, the Director of the National Institute of Occupational Safety and Health, upon request by the Administrator of Veterans' Affairs (or the head of any other Federal department, agency, or instrumentality), shall (1) pursuant to such section 6103(m)(3), request the mailing addresses of individuals who such Administrator (or such department, agency, or instrumentality head) certifies may have been exposed to occupational hazards during active military, naval, or air service (as defined in section 101(24) of title 38, United States Code) and (2) provide such addresses to such Administrator (or such department, agency, or instrumentality head) to be used solely for the purpose of locating such individuals as part of an activity being carried out by or on behalf of the Veterans' Administration (or such other department, agency, or instrumentality) to determine the status of their health or to inform them of the possible need for medical care and treatment and of benefits to which they may be entitled based on disability resulting from exposure to such occupational hazards.

Sec. 503. (a) The Secretary of Health, Education, and Welfare, in consultation with the heads of other appropriate Federal departments and agencies, shall conduct a scientific, epidemiological study of various populations to determine if there may be long-term health effects in humans from exposure to the class of chemicals known as "the dioxins", especially those dioxins produced during the manufacture of the various phenoxy herbicides including those used during the period of the Vietnam conflict.

(b) The report of the study shall include (1) a comprehensive review and professional analysis of the literature covering other such studies conducted or underway of such long-term health effects; and (2) a description of the results of epidemiological studies conducted by the Secretary of populations of chemical workers, agricultural workers, Service personnel and veterans, and others exposed in connection with the production or use of such phenoxy herbicides. Such report, together with such comments and recommendations as the Secretary and such department and agency heads may deem appropriate shall be submitted to the appropriate Committees of the Congress not later than two years after the date of the enactment of this Act.

Amend the title so as to read: "An Act to amend title 38, United States Code, to provide for a cost-of-living increase in the rates of service-connected disability compensation for veterans and dependency and indemnity compensation for surviving spouses and children of veterans that reflects an actual increase in the Consumer Price Index; to modify certain veterans' life insurance programs; and to exempt Veterans' Administration home loans from State anti-usury provisions; to provide for certain assistance in locating individuals who were exposed to occupational hazards during military service; and for other purposes.".

House amendments to Senate amendments: In lieu of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, insert the following:

That this Act may be cited as the "Veterans' Disability Compensation and Survivors' Benefits Amendments of 1979".

Sec. 2. Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—VETERANS' DISABILITY COMPENSATION BENEFITS

RATES OF DISABILITY COMPENSATION

Sec. 101. (a) Section 314 is amended—

(1) by striking out "$44" in subsection (a) and inserting in lieu thereof "$48";

(2) by striking out "$80" in subsection (b) and inserting in lieu thereof "$88";

(3) by striking out "$121" in subsection (c) and inserting in lieu thereof "$133";

(4) by striking out "$166" in subsection (d) and inserting in lieu thereof "$182";

(5) by striking out "$232" in subsection (e) and inserting in lieu thereof "$255";

(6) by striking out "$292" in subsection (f) and inserting in lieu thereof "$321";

(7) by striking out "$346" in subsection (g) and inserting in lieu thereof "$380";

(8) by striking out "$400" in subsection (h) and inserting in lieu thereof "$440";

(9) by striking out "$450" in subsection (i) and inserting in lieu thereof "$495";

(10) by striking out "$809" in subsection (j) and inserting in lieu thereof "$889";

(11) by striking out "$56", "$1,005", and "$1,408" in subsection (k) and inserting in lieu thereof "$62", "$1,104", and "$1,547", respectively;

(12) by striking out "$1,005" in subsection (l) and inserting in lieu thereof "$1,104";

(13) by striking out "$1,107" in subsection (m) and inserting in lieu thereof "$1,217";

(14) by striking out "$1,258" in subsection (n) and inserting in lieu thereof "$1,383";

(15) by striking out "$1,408" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$1,547";

(16) by striking out "$604" and "$900" in subsection (r) and inserting in lieu thereof "$664" and "$989", respectively;

(17) by striking out "$905" in subsection (s) and inserting in lieu thereof "$995"; and

(18) by striking out "$175" in subsection (t) and inserting in lieu thereof "$192".

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

RATES OF ADDITIONAL COMPENSATION FOR DEPENDENTS

Sec. 102. (a) Section 315(1) is amended—

(1) by striking out "$49" in clause (A) and inserting in lieu thereof "$54";

(2) by striking out "$83" in clause (B) and inserting in lieu thereof "$91";

(3) by striking out "$110" in clause (C) and inserting in lieu thereof "$121";

(4) by striking out "$137" and "$27" in clause (D) and inserting in lieu thereof "$151" and "$30", respectively;

(5) by striking out "$34" in clause (E) and inserting in lieu thereof "$37";

(6) by striking out "$61" in clause (F) and inserting in lieu thereof "$67";

(7) by striking out "$88" and "$27" in clause (G) and inserting in lieu thereof "$97" and "$30", respectively;

(8) by striking out "$40" in clause (H) and inserting in lieu thereof "$44";

(9) by striking out "$89" in clause (I) and inserting in lieu thereof "$98"; and

(10) by striking out "$75" in clause (J) and inserting in lieu thereof "$82".

(b)(1) Clauses (I) and (J) of such section (as amended by subsection (a)) are further amended by striking out "subsection" each place it appears and inserting in lieu there "section".

(2) Section 315(2) is amended by inserting "of this section" after "paragraph (1)"

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

Sec. 103. Section 362 is amended by striking out "$218" and inserting in lieu thereof "$240".

ELIGIBILITY FOR AID AND ATTENDANCE ALLOWANCE FOR CERTAIN VETERANS

Sec. 104. Section 314(r) is amended—

(1) by striking out "the" the first place it appears;

(2) by striking out "or" after "this section" and inserting in lieu thereof a comma;

(3) by inserting "or at the intermediate rate authorized between the rates authorized under subsections (n) and (o) of this section and at the rate authorized under subsection (k) of this section," after "subsection (p) of this section,"; and

(4) by striking out "compensation under subsection (o) or (p) of this section—" and inserting in lieu thereof "compensation—".

DETERMINATION OF INTERMEDIATE RATES

Sec. 105. Subsection (p) of section 314 is amended by inserting before the semicolon at the end thereof a period and "Any intermediate rate under this subsection shall be established at the arithmetic mean, rounded to the nearest dollar, between the two rates concerned".

TITLE II—SURVIVORS' DEPENDENCY AND INDEMNITY COMPENSATION BENEFITS

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

SEC. 201. (a) Subsection (a) of section 411 is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade	Monthly rate
E-1	$326
E-2	337
E-3	345
E-4	367
E-5	377
E-6	386
E-7	404
E-8	426
E-9	[1]446
W-1	413
W-2	430
W-3	442
W-4	468
O-1	413
O-2	426
O-3	457
O-4	482
O-5	532
O-6	598
O-7	648
O-8	710
O-9	763
O-10	[2]835

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $480.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $895.".

(b) Subsection (b) of such section is amended by striking out "$35" and inserting in lieu thereof "$38".

(c) Subsection (c) of such section is amended by striking out "$89" and inserting in lieu thereof "$98".

(d) Subsection (d) of such section is amended by striking out "$45" and inserting in lieu thereof "$49".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 202. Section 413 is amended—

(1) by striking out "$150" in clause (1) and inserting in lieu thereof "$165";

(2) by striking out "$216" in clause (2) and inserting in lieu thereof "$237";

(3) by striking out "$278" in clause (3) and inserting in lieu thereof "$306"; and

(4) by striking out "$278" and "$56" in clause (4) and inserting in lieu thereof "$306" and "$62", respectively.

RATES OF SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 203. Section 414 is amended—

(1) by striking out "$89" in subsection (a) and inserting in lieu thereof "$98";

(2) by striking out "$150" in subsection (b) and inserting in lieu thereof "$165"; and

(3) by striking out "$76" in subsection (c) and inserting in lieu thereof "$84".

TITLE III—AMENDMENTS TO CERTAIN VETERANS' LIFE INSURANCE PROVISIONS

AUTHORITY FOR DIVIDENDS—VETERANS' REOPENED INSURANCE

SEC. 301. (a) Subsection (b) of section 725 is amended—

(1) by inserting "and" after the semicolon at the end of clause (6); and

(2) by striking out the semicolon at the end of clause (7) and all that follows in such subsection and inserting in lieu thereof a period.

(b) Subsection (c) of such section is amended—

(1) by striking out clause (4);

(2) by redesignating clauses (5), (6), and (7) as clauses (4), (5), and (6), respectively; and

(3) by inserting "and" after the semicolon at the end of clause (5) (as so redesignated).

(c) The first sentence of subsection (d) of such section is amended by striking out "shall be made from that fund" and inserting in lieu thereof a comma and "including payments of dividends and refunds of unearned premiums, shall be made from that fund and the interest earned on the assets of that fund".

AUTHORITY FOR HIGHER INTEREST RATES FOR AMOUNTS PAYABLE TO BENEFICIARIES

SEC. 302. (a) Subchapter I of chapter 19 is amended by adding at the end thereof the following new section:

"§ 726. Authority for higher interest rates for amounts payable to beneficiaries

"Notwithstanding sections 702, 723, and 725 of this title, if the beneficiary of an insurance policy receives the proceeds of such policy under a settlement option under which such proceeds are paid in equal monthly installments over a limited period of months, the interest that may be added to each such installment may be at a rate that is higher than the interest rate prescribed in the appropriate section of this subchapter. The Administrator may from time to time establish a higher interest rate under the preceding sentence only in accordance with a determination that such higher rate is administratively and actuarially sound for the program of insurance concerned. Any such higher interest rate shall be paid on the unpaid balance of such monthly installments.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 725 the following new item:

"726. Authority for higher interest rates for amounts payable to beneficiaries.".

SEC. 303. (a) Subchapter II of chapter 19 is amended by adding at the end thereof the following new section:

"§ 761. Authority for higher interest rates for amounts payable to beneficiaries

"Notwithstanding section 744(b) of this title, if the beneficiary of an insurance policy issued under the provisions of this subchapter receives the proceeds of such policy under a settlement option under which such proceeds are paid in equal monthly installments over a limited period of months, the interest that may be added to each such installment may be at a rate that is higher than the interest rate prescribed in such section. The Administrator may from time to time establish a higher interest rate under the preceding sentence only in accordance with a determination that such higher rate is administratively and actuarially sound. Any such higher interest rate shall be paid on the unpaid balance of such monthly installments.".

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 760 the following new item:

"761. Authority for higher interest rates for amounts payable to beneficiaries.".

TECHNICAL AMENDMENTS

SEC. 304. Sections 718(b) and 753 are amended by striking out "his" and inserting in lieu thereof "such person's".

TITLE IV—EXEMPTION OF VETERANS' ADMINISTRATION HOME LOANS FROM STATE ANTI-USURY PROVISIONS

SEC. 401. (a) Chapter 37 is amended by adding at the end thereof the following new section:

"§ 1828. Exemption from State anti-usury provisions

"If, under any law of the United States, loans and mortgages insured under title I or title II of the National Housing Act are exempt from the application of the provisions of any State constitution or law limiting the rate or amount of interest, discount points, or other charges which may be charged, taken, received, or reserved by lenders, then loans and mortgages guaranteed or insured under this chapter are also exempt from the application of such provisions.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1828. Exemption from State anti-usury provisions.".

TITLE V—MISCELLANEOUS PROVISIONS

TECHNICAL AMENDMENTS

SEC. 501. (a) Section 611(c)(1) is amended by striking out "recognized by the Administrator for the purposes of" and inserting in lieu thereof "named in, or approved by the Administrator under,".

(b) Section 612A(d) is amended by striking out the comma after "this title)".

(c) Section 620A is amended—

(1) by striking out "of" after "treatment facilities" in paragraph (1) of subsection (a) and inserting in lieu thereof "for"; and

(2) by striking out the comma after "such request" in paragraph (2) of subsection (d).

(d) Section 663(d) is amended by striking out "order to carry" and inserting in lieu thereof "carrying".

(e) Section 5005(a) is amended by striking out "section 5031 of this title" and inserting in lieu thereof "subchapter III of this chapter".

ASSISTANCE IN LOCATING CERTAIN INDIVIDUALS EXPOSED TO OCCUPATIONAL HAZARDS DURING MILITARY SERVICE

SEC. 502. In order to effectuate more fully the policy underlying the enactment of section 6103(m)(3) of the Internal Revenue Code of 1954 regarding the location, for certain purposes, of individuals who are, or may have been, exposed to occupational hazards, the Director of the National Institute of Occupational Safety and Health, upon request by the Administrator of Veterans' Affairs (or the head of any other Federal department, agency, or instrumentality), shall (1) pursuant to such section 6103(m)(3), request the mailing addresses of individuals who such Administrator (or such department, agency, or instrumentality head) certifies may have been exposed to occupational hazards during active military, naval, or air services (as defined in section 101(24) of title 38, United States Code), and (2) provide such addresses to such Administrator (or such department, agency, or instrumentality head) to be used solely for the purpose of locating such individuals as part of an activity being carried out by or on behalf of the Veterans' Administration (or such other department, agency, or instrumentality) to determine the status of their health or to inform them of the possible need for medical care and treatment and of benefits to which they may be entitled based on disability resulting from exposure to such occupational hazards.

TITLE VI—EFFECTIVE DATES

EFFECTIVE DATES

SEC. 601. (a) The amendments made by titles I and II, and the provisions of section 101(b), shall take effect as of October 1, 1979.

(b) The amendments made by titles III, IV, and V shall take effect on the date of the enactment of this Act.

In lieu of the amendment of the Senate to the title of the bill, amend the title so as to read: "An Act to amend title 38, United States Code, to provide a cost-of-living increase in the rates of compensation paid to veterans with service-connected disabilities and in the rates of dependency and indemnity compensation paid to survivors of veterans, to modify certain veterans' life insurance programs, and to exempt Veterans' Administration home loans from State anti-usury laws; to provide for certain assistance in locating individuals who were exposed to occupational hazards during military service; and for other purposes.".

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments and the proposed House amendments to Senate amendments be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

☐ 1330

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object—and I do not plan to object—I would ask the gentleman from Mississippi (Mr. Montgomery) to explain what the amendments are, and I yield to the gentleman from Mississippi for that purpose.

Mr. MONTGOMERY. I thank the gentleman for yielding.

Mr. Speaker, on July 16, the House by a vote of 350 to 0 passed and sent to the Senate H.R. 2282, a bill that would have provided an 8.3-percent cost-of-living increase in disability compensation paid to service-connected veterans and the dependency and indemnity compensation paid to eligible survivors of veterans who died of service-connected disabilities. The cost of the bill as passed by the House was $577 million.

Mr. Speaker, the 8.3-percent increase in the rate was recommended based on a February Consumer Price Index projection by the Congressional Budget Office. As we all know, the rate of inflation has been much higher than anyone had estimated earlier this year. According to the latest Congressional Budget Office projection, the Consumer Price Index is expected to reach 10.9 percent since the last cost-of-living adjustment in compensation paid to our Nation's service-connected disabled veterans. The House-passed bill was amended by the Senate to raise the cost-of-living increase from 8.3 to 11.1 percent. This additional increase in compensation by the Senate would cost another $182 million.

Mr. Speaker, the House committee realizes the situation we face with the budget and we are very concerned with increasing Federal outlays. Nonetheless, no Member of the House desires to give our service-connected veterans a less than adequate cost-of-living adjustment. I can assure my colleagues that service-connected disabled veterans are not complainers. They recognize the serious problem confronting all of us today with inflation being what it is. They understand it is a serious issue and are willing to make certain sacrifices along with everyone else. I personally appreciate this attitude and the amendment we are proposing today is a compromise between the 8.3-percent cost-of-living adjustment previously passed by the House and the 11.1 percent passed by the Senate. The proposed amendment would provide for a 9.9-percent rate increase at a cost of $675.4 million in fiscal year 1980. This proposed compromise is about $83 million less than the amount proposed by the Senate. I think it is a reasonable compromise, Mr. Speaker. Under the circumstances, I think it is an adequate increase.

Mr. Speaker, in years past the Congress has provided increases beyond the amount reflected in the Consumer Price Index. On other occasions, we have provided less than the increase in the Consumer Price Index. Although the proposed increase this year would be about 1 percent less than the Consumer Price Index increase since last October, I want to point out, Mr. Speaker, that overall the service-connected disabled veterans have on balance received adequate adjustments in compensation rate increases.

For example, since 1917, the cumulative increase in the Consumer Price Index for the 100 percent service-connected disabled veteran drawing benefits has increased approximately 430 percent. The cumulative increase in compensation provided by the Congress during that period of time is approximately 911 percent. I make this point, Mr. Speaker, to show that although there may be a few years when the cost-of-living adjustment was not sufficient to meet the increase in the Consumer Price Index, overall the increases have been substantially more than the rise in the cost of living. I am, therefore, pleased, Mr. Speaker, to recommend the increase contained in the proposed House amendments.

In addition to the 9.9-percent cost-of-living adjustment in disability compensation and DIC rates, the proposed House amendments would also provide:

First. Payment of dividends on World War II veterans reopened insurance—VRI—policies. The VRI fund is not currently authorized by law to pay dividends. Since premium payments and interest coming into the fund exceed the cost of claims, a large surplus has accumulated in the fund which would allow the payment of dividends at no cost to the Federal Government. The payment of premiums would, however, increase the outlays from the fund. The estimated outlay increase shown for fiscal year 1980 only reflects the impact for three-fourths of the year, as the fund operates on a calendar year basis. The first dividend, therefore, would not be declared until January 1980.

Second. Higher monthly payments to payees of matured World War II national service life insurance—NSLI—and World War I U.S. Government life insurance—USGLI—policies. The beneficiary of a NSLI or USGLI policy has the option of receiving the proceeds of that policy in a limited number of monthly installments rather than in a lump sum. Interest is paid on the unpaid balance of such proceeds at the rate of 3 percent per annum. These unpaid balances are earning interest, however, at an average rate of 6.8 percent. The excess interest currently goes into the surpluses of the two funds and is paid out in dividends to policyholders. This provision would allow the administration to adjust the rate at which interest is paid to beneficiaries to the rate at which interest is actually being earned. There would be no Federal cost associated with this amendment, nor any significant change to total outlays, because the provision would only change the recipients of the outlays but not the total amount.

Third. Exemption of VA loans from limitations imposed by State constitutions and State usury statutes. This provision is almost identical to H.R. 411 which was introduced by the distinguished minority member of the committee, the Honorable John Paul Hammerschmidt, and which passed the House on June 25.

Fourth. Require the National Institute of Occupational Safety and Health to request from the Internal Revenue Service current mailing addresses of persons the Veterans' Administration certifies may have been exposed to health hazards while serving in the Armed Forces. The provision of such addresses is to be used solely for the purpose of locating certain veterans as part of an activity being carried out by or on behalf of the Veterans' Administration or other Federal agency to determine the status of their health or to inform them of the possible need for medical care and treatment and of benefits to which they may be entitled based on disability resulting from exposure to such occupational hazards. This amendment would be expected to result in some net savings to Federal expenditures as it would eliminate the need for these addresses to be obtained by the Veterans' Administration through less efficient means. Neither the increase in costs to NIOSH and IRS nor the savings to VA should be significant. If these changes are absorbed in the current funding levels of the three agencies, there would be no budgetary impact.

Mr. Speaker, as you are aware, the basic purpose of the disability compensation program throughout its history has been one of providing relief from the impaired earning capacity of veterans disabled as the result of their military service. The amount of compensation payable varies according to the degree of disability which in turn is required by law to represent, to the extent practicable, the average impairment in earning capacity resulting from such disability or combination of disabilities in civil occupations.

To be eligible to receive disability compensation, a veteran must have contracted a disease, suffered a nonmisconduct injury, or aggravated an existing disease or injury in the line of duty during active wartime or peacetime service and have been discharged under other than dishonorable conditions.

The following tables reflect how veterans, their dependents and their survivors will be benefited by the 9.9-percent cost-of-living increase:

	Increase (monthly rate)	
	From—	To—
Percentage of disability or subsection under which payment is authorized:		
(a) 10 percent	$44	$48
(b) 20 percent	80	88
(c) 30 percent	121	133
(d) 40 percent	166	182
(e) 50 percent	232	255
(f) 60 percent	292	321
(g) 70 percent	346	380
(h) 80 percent	400	440
(i) 90 percent	450	495
(j) 100 percent	809	889
Higher statutory awards for certain multiple disabilities:		
(k) (1) Additional monthly payment for anatomical loss or loss of use of, any of these organs: 1 foot, 1 hand, blindness in 1 eye (having light perception only), 1 or more creative organs, both buttocks, organic aphonia (with constant inability to communicate by speech), deafness of both ears (having absence of air and bone conduction) for each loss	56	62
(2) Limit for veterans receiving payments under (a) to (j) above	1, 005	1, 104
(3) Limit for veterans receiving payments under (l) to (n) below	1, 408	1, 547
(l) Anatomical loss or loss of use of both hands, both feet, 1 foot and 1 hand, blindness in both eyes (5/200 visual acuity or less), permanently bedridden or so helpless as to require regular aid and attendance	1, 005	1, 104
(m) Anatomical loss or loss of use of 2 extremities so as to prevent natural elbow or knee action with prosthesis in place, blind in both eyes, either with light perception only or rendering veteran so helpless as to require regular aid and attendance	1, 107	1, 217
(n) Anatomical loss of 2 extremities so near shoulder or hip as to prevent use of prosthesis or anatomical loss of both eyes	1, 258	1, 383
(o) Disability under conditions entitling veteran to 2 or more of the rates provided in (l) through (n), no condition being considered twice in the determination, or deafness rated at 60 percent or more (impairment of either or both ears service connected) in combination with total blindness (5/100 visual acuity or less)	1, 408	1, 547
(p) (1) If disabilities exceed requirements of any rates prescribed, Administrator of VA may allow next higher rate or an intermediate rate, but in no case may compensation exceed	1, 408	1, 547
(2) Blindness in both eyes (with 5/200 visual acuity or less) together with (a) bilateral deafness rates at 40 percent or more disabling (impairment of either or both ears service connected) next higher rate is payable, or (b) service-connected total deafness of 1 ear next intermediate rate is payable, but in no event may compensation exceed	1, 408	1, 547
(3) Anatomical loss or loss of use of 3 extremities, the next higher rate in paragraphs (l) to (n) but in no event in excess of	1, 408	1, 547
(q) This subsection repealed by Public Law 90-493.		
(r) (1) If veteran entitled to compensation under (o) or to the maximum rate under (p); or (effective Oct. 1, 1979) at the rate between subsections (n) and (o) and under subsection (k), and is in need of regular aid and attendance, he shall receive a special allowance of the amount indicated at right for aid and attendance in addition to such rates	604	664
(2) If the veteran, in addition to need for regular aid and attendance, is in need of a higher level of care, a special allowance of the amount indicated at right is payable in addition to (o) or (p) rate	900	989
(s) Disability rated as total, plus additional disability independently ratable at 60 percent or over, or permanently housebound	905	995
(t) Additional monthly allowance for a veretan in receipt of compensation for a disability not evaluated more than 90 percent disabling who has suffered a service-connected loss or loss of use of an extremity evaluated not less than 40 percent and has suffered a non-service-connected loss or loss of use the paired extremity evaluated as not less than 40 percent	175	192

In addition to basic compensation rates and/or statutory awards to which the veteran may be entitled, dependency allowances are payable to veterans who are rated at not less than 30 percent disabled. The rates which follow are those payable to veterans while rated totally disabled. If the veteran is rated 30, 40, 50, 60, 70, 80, or 90 percent disabied, dependency allowances are payable in an amount bearing the same ratio to the amount specified below as the degree of disability bears to total disability. For example, a veteran who is 50 percent disabled receives 50 percent of the amounts which appear below.

	Increase (monthly rate)	
	From—	To—
If and while veteran is rated totally disabled and—		
(a) Has a spouse but no child living	$49	$54
(b) Has a spouse and 1 child living	83	91
(c) Has a spouse and 2 children living	110	121
(d) Has a spouse and 3 or more children living	137	151
(Plus for each living child in excess of 3)	27	30
(e) Has no spouse but 1 child living	34	37
(f) Has no spouse but 2 children living	61	67
(g) Has no spouse but 3 or more children living	88	97
(Plus for each living child in excess of 3)	27	30
(h) Has a mother or father, either or both dependent upon him for support for each parent so dependent	40	44
(i) For a spouse who is a patient in a nursing home or who is so helpless as to require regular aid and attendance	89	98
(j) For each child who has attained age 18 and who is pursuing a course of instruction at an approved educational institution	75	82

The proposed amendments would increase the annual clothing allowance from $218 to $240 for veterans whose service-connected disabilities require the wearing or use of a prosthetic or orthopedic appliance which tends to wear or tear the clothing.

The following chart depicts the 9.9-percent rate increase provided for surviving spouses of deceased veterans whose deaths are service connected and who are receiving dependency and indemnity compensation (DIC) payments:

	From—	To—
Pay grade:		
E-1	$297	326
E-2	307	337
E-3	314	345
E-4	334	367
E-5	343	377
E-6	351	386
E-7	368	404
E-8	388	426
E-9	[1] 406	[1] 446
W-1	376	413
W-2	391	430
W-3	402	442
W-4	426	468
0-1	376	413
0-2	388	426
0-3	416	457
0-4	439	482
0-5	484	532
0-6	544	598
0-7	590	648
0-8	646	710
0-9	694	763
0-10 [2]	[2] 760	[2] 835

[1] If the veteran served as sergeant major of the Army, senior enlisted adviser of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps or master chief petty officer of the Coast Guard, the surviving spouses' rate is increased from $437 to $480.

[2] If the veteran served as Chairman of the Joint Chiefs of Staff; Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, the rate for the surviving spouse is increased from $814 to $895.

Increases from $35 to $38 monthly the additional DIC rate payable to surviving spouses for each child of the veteran under age 18.

Increases from $89 to $98 monthly the spouse's aid and attendance rate.

Increases from $45 to $49 monthly the spouse's housebound rate.

When there is no surviving spouse receiving dependency and indemnity compensation, payment is made in equal shares to the children of the deceased veteran. These rates are increased as follows:

	Increase (monthly rate)	
	From—	To—
1 child	$150	$165
2 children	216	237
3 children	278	306
Each additional child	56	62

Increases from $89 to $98 monthly the additional rate payable to a child who has attained the age of 18 but who became permanently incapable of self-support while under such age.

Increases from $150 to $165 monthly the rate payable concurrently with DIC payment to a widow with a child who has attained the age of 18 but who became permanently incapable of self-support while under such age.

Increases from $76 to $84 the rate payable to a child who has attained the age of 18 but who is no more than 22 and pursuing a course of instruction at an approved educational institution concurrently with DIC payment to surviving spouse.

Mr. Speaker, today there are approximately 2,255,000 veterans drawing service-connected compensation benefits each month from the Veterans' Administration. The breakdown of those who will receive benefits under this bill is as follows:

10 percent	876, 424
20 percent	352, 849
30 percent	314, 730
40 percent	183, 880
50 percent	114, 646
60 percent	80, 547
70 percent	38, 795
80 percent	19, 870
90 percent	6, 151
100 percent	209, 141
Schedular 100 percent rating	89, 199
Due to individual unemployability	119, 942
Total	209, 141

Mr. Speaker, there follows a current cost estimate from the Congressional Budget Office on the proposed House amendments. The cost of these amendments is well within the ceilings established by the second budget resolution recently adopted by the House.

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 26, 1979.

Hon. RAY ROBERTS,
Chairman, Committee on Veterans' Affairs, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate to H.R. 2282, the Veteran's Disability Compensation and Survivors' Benefits Amendments of 1979.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE,
September 26, 1979.

COST ESTIMATE

1. Bill number: H.R. 2282.

2. Bill title: Veteran's Disability Compensation and Survivors' Benefits Amendments of 1979.

3. Bill status: A possible amendment to the version of H.R. 2282 as passed by the Senate on August 3, 1979.

4. Bill purpose: This bill would increase the monthly rates of disability and survivors compensation by an average of 9.9 percent. In addition, it would extend eligibility for aid and attendance allowances to certain disabled veterans and would amend certain provisions in the veterans housing and insurance programs.

5. Cost estimate: This bill would result in additional future federal liabilities through extensions of existing entitlements and would require subsequent appropriation action to provide the necessary budget authority. The figures shown as "Required Budget Authority" represent an estimate of the additional budget authority needed to cover the estimated outlays that would result from enactment of H.R. 2282. Only those sections of the bill with a cost impact are addressed in the cost estimate.

	(By fiscal years, in millions of dollars)				
	1980	1981	1982	1983	1984
Required budget authority	675.4	682.5	690.0	697.9	705.9
Estimated outlays	624.2	685.7	693.4	701.2	709.3

(Detail shown under "Basis for Estimate" may not add to total due to rounding.)

The cost of this bill would fall within function 700.

6. Basis for estimate:

Title I

Sections 101–103: would increase the monthly rates of veterans' disability compensation by an average of 9.9 percent. The cost of the increase was calculated by multiplying the projected average benefit level in each year by 9.9 percent, then multiplying the result by the anticipated caseload level for that year.

	(By fiscal years, in millions of dollars)				
	1980	1981	1982	1983	1984
Required budget authority	555.3	562.8	570.3	577.8	585.4
Estimated outlays	510.8	561.9	569.5	577.4	585.4

Sections 104–105: would extend eligibility for aid and attendance allowances to veterans who are entitled to compensation at an intermediate rate between the rates provided by section 314(n) (title 38, U.S.C.) and section 314(o) and who are also entitled to additional compensation under section 314(k). According to the VA there were only 58 such cases receiving compensation in fiscal year 1978. There are no data available upon which to estimate the number of these veterans who would qualify for aid and attendance allowances. The maximum possible cost of this provision would be $688,000, if all the affected cases were determined to be eligible for the higher level aid and attendance allowance of $989 a month. This is not expected to be the case, however, since the types of disabilities involved are not likely to require the higher level of attendant care. If it is assumed that 50 percent of the newly eligible veterans would qualify for regular aid and attendance and an additional 10 percent would require the higher level care, the annual cost of this provision would be approximately $300,000.

Title II

Sections 201–203: would increase the monthly rates of disability and indemnity compensation by an average of 9.9 percent. The cost of the increase was calculated by multiplying the projected average benefit level in each year by 9.9 percent, then multiplying the result by the anticipated caseload level for that year.

(By fiscal years, in millions of dollars)

	1980	1981	1982	1983	1984
Required budget authority	120.1	119.7	119.8	120.1	120.5
Estimated outlays	110.6	120.0	120.0	119.9	119.9

Title III

Section 301: would authorize the payment of dividends from the Veterans Reopened Insurance (VRI) fund. The VRI fund is not currently authorized by law to pay dividends. Since premium payments and interest coming into the fund exceed the cost of claims, a large surplus has accumulated in the fund which would allow the payment of dividends at no cost to the federal government. The payment of dividends would, however, increase the outlays from the fund. The estimated outlay increase shown for fiscal year 1980 only reflects the impact for three-fourths of the year, as the fund operates on a calendar year basis. The first dividend, therefore, would not be declared until January 1980.

	(By fiscal years, in millions of dollars)				
	1980	1981	1982	1983	1984
Estimated budget authority	0	0	0	0	0
Estimated outlays	2.8	3.8	3.9	3.9	4.0

Sections 302–303: The beneficiary of a National Service Life Insurance (NSLI) or United States Government Life Insurance (USGLI) policy has the option of receiving the proceeds of that policy in a limited number of monthly installments rather than in a lump-sum. Interest is paid on the unpaid balance of such proceeds at the rate of 3 percent per annum. These unpaid balances are earning interest, however, at an average rate of 6.8 percent. The excess interest currently goes into the surpluses of the two funds and is paid out in dividends to policyholders. This provision would allow the Administration to adjust the rate at which interest is paid to beneficiaries to the rate at which the interest is actually being earned. There would be no federal cost associated with this amendment, nor any significant change to total outlays, because the provision would only change the recipients of the outlays, but not the total amount.

Title IV

Section 401: would exempt VA home loans from state anti-usuary laws and constitutional provisions. According to VA information, only the state of Arkansas would be significantly affected by this amendment. Other states either have state laws that exempt federal home loan programs from the restrictions of their usury laws or have interest ceilings high enough to avoid conflict with current interest rates. Although enactment of the provision would increase loan activity in Arkansas, the increase should not significantly raise total program costs.

Title V

Section 502: would require the National Institute of Occupational Safety and Health (NIOSH) to obtain from IRS current addresses of persons who may have been exposed to radiation or other occupational hazards during military service. This amendment would be expected to result in some net savings to federal expenditures as it would eliminate the need for these addresses to be obtained by VA through less efficient means. Neither the increase in costs to NIOSH and IRS nor the savings to VA should be significant. If these changes are absorbed in the current funding levels of the three agencies, there would be no budgetary impact.

7. Estimate comparison: None.

8. Previous CBO estimate: On June 21, 1979, CBO submitted an estimate of H.R. 2282 (shown below) as ordered reported by the House Veterans Affairs Committee. This earlier version of the bill provided for an 8.3 percent rate increase, and did not contain the provisions relating to the insurance and housing programs found in the current bill.

As passed in House, July 16	(By fiscal years, in millions of dollars)				
	1980	1981	1982	1983	1984
Required budget authority	577.0	581.6	588.9	596.2	603.5
Estimated outlays	530.9	581.2	588.3	595.6	602.9

On July 25, 1979, CBO submitted an estimate of S. 689 to the Senate Veterans Affairs Committee. H.R. 2282 was later amended by the Senate Committee to reflect the language originally contained in S. 689. This version of the bill provided for an 11.1 percent increase in compensation benefits as well as most of the housing and insurance amendments found in the current version. The original cost estimate of S. 689 is shown below.

As passed in Senate, Aug. 3	(By fiscal years, in millions of dollars)				
	1980	1981	1982	1983	1984
Required budget authority	758.1	765.5	773.6	784.1	792.3
Estimated outlays	700.2	768.7	776.8	787.1	795.6

9. Estimate prepared by: K. W. Shepherd (225–7766).

10. Estimate approved by: C. G. Nuckols, for James L. Blum, Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS PROPOSED TO BE AMENDED

Mr. Speaker, for the information of the Members, changes in existing law made by the bill, as proposed to be amended by the House amendments to the Senate amendments, are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

* * * * *

PART II. GENERAL BENEFITS

* * * * *

Subchapter II—Wartime Disability Compensation

* * * * *

§ 314. Rates of wartime disability compensation

For the purposes of section 310 of this title—

(a) if and while the disability is rated 10 per centum the monthly compensation shall be [$44] *$48;*

(b) if and while the disability is rated 20 per centum the monthly compensation shall be [$80] *$88;*

(c) if and while the disability is rated 30 per centum the monthly compensation shall be [$121] *$133;*

(d) if and while the disability is rated 40 per centum the monthly compensation shall be [$166] *$182;*

(e) if and while the disability is rated 50 per centum the monthly compensation shall be [$232] *$255;*

(f) if and while the disability is rated 60 per centum the monthly compensation shall be [$292] *$321;*

(g) if and while the disability is rated 70 per centum the monthly compensation shall be [$346] *$380;*

(h) if and while the disability is rated 80 per centum the monthly compensation shall be [$400] *$440;*

(i) if and while the disability is rated 90 per centum the monthly compensation shall be [$450] *$495;*

(j) if and while the disability is rated as total the monthly compensation shall be [$809] *$889;*

(k) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of one or more creative organs, or one foot, or one hand, or both buttocks, or blindness of one eye, having only light perception, or has suffered complete organic aphonia with constant inability to communicate by speech, or deafnes of both ears, having absence of air and bone conduction, the rate of compensation therefor shall be [$56] *$62* per month for each such loss or loss of use independent of any other compensation provided is subsections (a) through (j) or subsection (s) of this section but in no event to exceed [$1,005] *$1,104* per month; and in the event the veteran has suffered one or more of the disabilities heretofore specified in this subsection, in addition to the requirement for any of the rates specified in subsections (l) through (n) of this section, the rate of compensation shall be increased by [$56] *$62* per month for each such loss or loss of use, but in no event to exceed [$1,408] *$1,547* per month;

(l) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both hands, or both feet, or of one hand and one foot, or is blind in both eyes, with 5/200 visual acuity or less, or is permanently bedridden or so helpless as to be in need of regular aid and attendance, the monthly compensation shall be [$1,005] *$1,104;*

(m) if the veteran, as the result of service-connected disability has suffered the anatomical loss or loss of use of two extremities at a level, or with complications, preventing natural elbow or knee action with prosthesis in place, or has suffered blindness in both eyes, having only light perception, or has suffered blindness in both eyes, rendering such veterans so helpless as to be in need of regular aid and attendance, the monthly compensation shall be [$1,107] *$1,217;*

(n) if the veteran, as the result of service-connected disability, has suffered the anatomical loss of two extremities so near the shoulder or hip as to prevent the use of a prosthetic appliance or has suffered the anatomical loss of both eyes, the monthly compensation shall be [$1,258] *$1,383;*

(o) if the veteran, as the result of service-connected disability, has suffered disability under conditions which would entitle such veteran to two or more of the rates provided in one or more subsections (l) through (n) of this section, no condition being considered twice in the determination, or if the veteran has suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 60 per centum or more disabling and the veteran has also suffered service-connected total blindess with 5/200 visual acuity or less, the monthly compensation shall be [$1,408] *$1,547;*

(p) in the event the veteran's service-connected disabilities exceed the requirements for any of the rates prescribed in this section, the Administrator may allow the next higher rate or an intermediate rate, but in no event in excess of [$1,408] *$1,547.* In the event the veteran has suffered service-connected blindness, with 5/200 visual acuity or less and (1) has also suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at no less than 40 per centum disabling, the Administrator shall allow the next higher rate, or (2) has also suffered service-connected total deafness in one ear, the Administrator shall allow the next intermediate rate, but in no event in excess of [$1,408] *$1,547.* In the event the veteran has suffered the anatomical loss or loss of use, or a combination of anatomical loss and loss of use, of three extremities, the Administrator shall allow the next higher rate or intermediate rate, but in no event in excess of [$1,408] *$1,547. Any intermediate rate under this subsection shall be established at the arithmetic mean, rounded to the nearest dollar, between the two rates concerned;*

(r) Subject to section 3203(e) of this title, if any veteran, otherwise entitled to [the] compensation authorized under subsection (o) of this [section or] *section,* at the maximum rate authorized under subsection (p) of this section, *or at the intermediate rate authorized between the rates authorized under subsections (n) and (o) of this section and at the rate authorized under subsection (k) of this section,* is in need of regular aid and attendance, then, in addition to such [compensation under subsection (o) or (p) of this section—] *compensation—*

(1) the veteran shall be paid a monthly aid and attendance allowance at the rate of [$604] *$664;* or

(2) if the veteran, in addition to such need for regular aid and attendance, is in need of a higher level of care, such veteran shall be paid a monthly aid and attendance allowance at the rate of [$900] *$989,* in lieu of the allowance authorized in clause (1) of this subsection, if the Administrator finds that the veteran, in the absence of the provision of such care, would require hospitalization, nursing home care, or other residential institutional care.

For the purposes of clause (2) of this subsection, need for a higher level of care shall be considered to be need for personal health-care services provided on a daily basis in the veteran's home by a person who is licensed to provide such services or who provides such services under the regular supervision of a licensed health-care professional. The existence of the need for such care shall be determined by a physician employed by the Veterans' Administration or, in areas where no such physician is available, by a physician carrying out such function under contract or fee arrangement based on an examination by such physician. For the purposes of section 334 of this title, such allowance shall be considered as additional compensation payable for disability;

(s) If the veteran has a service-connected disability rated as total and (1) has additional service-connected disability or disabilities independently ratable at 60 per centum or more, or, (2) by reason of such veteran's service-connected disability or disabilities, is permanently housebound, then the monthly compensation shall be [$905] *$995.* For the purposes of this subsection, the requirement of "permanently housebound" will be considered to have been met when the veteran is substantially confined to such veteran's house (ward of clinical areas, if institutionalized) or immediate premises due to a service-connected disability or disabilities which it is reasonably certain will remain throughout such veteran's lifetime;

(t)(1) If the veteran (A) is entitled to receive compensation at any rate provided for under subsections (a) through (i) of this section and compensation under subsection (k) of this section, (B) has suffered the loss or loss of use of an extremity as a result of a service-connected disability ratable at 40 per centum or more, and (C) has suffered the loss or loss of use of the paired extremity as a result of a non-service-connected disability, not the result of the veteran's own willful misconduct, that would be rated, if service-connected, at 40 per centum or more, the monthly rate of compensation payable to such veteran shall be increased by [$175] *$192;*

(2) If a veteran described in paragraph (1) of this subsection receives any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the non-service-connected disability described in such paragraph, the increase in the rate of compensation otherwise payable under this subsection shall not be paid for any month following a month in which any such money or property is received until such time as the total of the amount of such increase that would otherwise have been payable equals the total of the amount of any such money received and the fair market value of any such property received.

§ 315. Additional compensation for dependents

Any veteran entitled to compensation at the rates provided in section 314 of this title, and whose disability is rated not less than 30 per centum, shall be entitled to additional compensation for dependents in the following monthly amounts:

(1) If and while rated totally disabled and—

(A) has a spouse but no child living, [$49] *$54;*

(B) has a spouse and one child living, [$83] *$91;*

(C) has a spouse and two children living, [$110] *$121;*

(D) has a spouse and three or more children living, [$137] *$151* (plus [$27] *$30* for each living child in excess of three);

(E) has no spouse but one child living, [$34] *$37;*

(F) has no spouse but two children living, [$61] *$67;*

(G) has no spouse but three or more children living, [$88] *$97* (plus [$27] *$30* for each living child in excess of three);

(H) has a parent dependent upon such veteran for support, then, in addition to the above amounts, [$40] *$44* for each parent so dependent;

(I) notwithstanding the other provisions of this [subsection] *section,* the monthly payable amount on account of a spouse who is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person, shall be [$89] *$98* for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this [subsection] *section;* and

(J) notwithstanding the other provisions of this [subsection] *section*, the monthly payable amount on account of each child who has attained the age of eighteen years and who is pursuing a course of instruction at an approved educational institution shall be [$75] *$82* for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this [subsection.] *section*.

(2) If and while rated partially disabled, but not less than 30 per centum, in an amount having the same ratio to the amount specified in paragraph (1) *of this section* as the degree of disability bears to total disability. The amounts payable under this paragraph shall be adjusted upward or downward to the nearest dollar, counting fifty cents and over as a whole dollar.

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Subchapter VI—General Compensation Provisions

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§ 362. Clothing allowance

The Administrator under regulations which the Administrator shall prescribe, shall pay a clothing allowance of [$218] *$240* per year to each veteran who because of disability which is compensable under the provisions of this chapter, wears or uses a prosthetic or orthopedic appliance or appliances (including a wheelchair) which the Administrator determines tends to wear out or tear the clothing of such a veteran.

CHAPTER 13—DEPENDENCY AND INDEMNITY COMPENSATION FOR SERVICE-CONNECTED DEATHS

* * * * *

Subchapter II—Dependency and Indemnity Compensation

* * * * *

§ 411. Dependency and indemnity compensation to a surviving spouse

(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the [persons] *person* upon whose death entitlement is predicated, at monthly rates set forth in the following table:

Pay grade	*Monthly rate*
E–1	$297
E–2	307
E–3	314
E–4	334
E–5	343
E–6	351
E–7	368
E–8	388
E–9	[1] 406
W–1	376
W–2	391
W–3	402
W–4	426
O–1	376
O–2	388
O–3	416
O–4	439
O–5	484
O–6	544
O–7	590
O–8	646
O–9	694
O–10	[2] 760

[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $437.

[2] If the veteran served as Chairman of Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $814.

Pay grade	*Monthly rate*
E–1	*$326*
E–2	*337*
E–3	*345*
E–4	*367*
E–5	*377*
E–6	*386*
E–7	*404*
E–8	*426*
E–9	*[1] 446*
W–1	*413*
W–2	*430*
W–3	*442*
W–4	*468*
O–1	*413*
O–2	*426*
O–3	*457*
O–4	*482*
O–5	*532*
O–6	*598*
O–7	*648*
O–8	*710*
O–9	*763*
O–10	*[2] 835*

[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $480.

[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $895.

(b) If there is a surviving spouse with one or more children below the age of eighteen of a deceased veteran, the dependency and indemnity compensation paid monthly to the surviving spouse shall be increased by [$35] *$38* for each such child.

(c) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by [$89] *$98* if the spouse is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(d) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by [$45] *$49* if the surviving spouse is, by reason of disability, permanently housebound but does not qualify for the aid and attendance allowance under subsection (c) of this section. For the purposes of this subsection, the requirement of "permanently housebound" will be considered to have been met when the surviving spouse is substantially confined to such surviving spouse's home (ward or clinical areas, if institutionalized) or immediate premises by reason of a disability or disabilities which it is reasonably certain will remain throughout such surviving spouse's lifetime.

* * * * *

§ 413. Dependency and indemnity compensation to children

Whenever there is no surviving spouse of a deceased veteran entitled to dependency and indemnity compensation, dependency and indemnity compensation shall be paid in equal shares to the children of the deceased veteran at the following monthly rates:

(1) one child, [$150] *$165;*

(2) two children, [216] *$237;*

(3) three children, [$278] *$306*; and

(4) more than three children, [$278]*$306*, plus [$56] *$62* for each child in excess of three.

§ 414. Supplemental dependency and indemnity compensation to children

(a) In the case of a child entitled to dependency and indemnity compensation who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, the dependency and indemnity compensation paid monthly to such child shall be increased by [$89] *$98*.

(b) If dependency and indemnity compensation is payable monthly to a person as a "surviving spouse" and there is a child (of such person's deceased spouse) who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the surviving spouse, in the amount of [$150] *$165*.

(c) If dependency and indemnity compensation is payable monthly to a person as a "surviving spouse" and there is a child (of such person's deceased spouse) who has attained the age of eighteen and who, while under the age of twenty-three, is pursuing a course of instruction at an educational institution approved under section 104 of this title, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the surviving spouse, in the amount of [$76] *$84*.

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CHAPTER 17—HOSPITAL, NURSING HOME, DOMICILIARY, AND MEDICAL CARE

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Subchapter II—Hospital, Nursing Home or Domiciliary Care and Medical Treatment

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§ 611. Care during examinations and in emergencies

(a) * * *

* * * * *

(c)(1) The Administrator may contract with any organization [recognized by the Administrator for the purposes of] *named in, or approved by the Administrator under*, section 3402 of this title to provide for the furnishing by the Administrator, on a reimbursable basis (as prescribed by the Administrator), of emergency medical services to individuals attending any national convention of such organization, except that reimbursement shall not be required for services furnished under this subsection to the extent that the individual receiving such services would otherwise be eligible under this chapter for medical services.

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§ 612A. Eligibility for readjustment counseling and related mental health services

(a) * * *

* * * * *

(d) The Chief Medical Director may provide for such training of professional, paraprofessional, and lay personnel as is necessary to carry out this section effectively, and, in carrying out this section, may utilize the services of paraprofessionals, individuals who are volunteers working without compensation, and individuals who are veteran-students (as described in section 1685 of this title) [,] in initial intake and screening activities.

* * * * *

§ 620A. Treatment and rehabilitation for alcohol or drug dependence or abuse disabilities; pilot program

(a)(1) The Administrator, in furnishing hospital, nursing home, and domiciliary care and medical and rehabilitative services under this chapter, may conduct a pilot program under which the Administrator may contract for care and treatment and rehabilitative services in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities [of] *for* eligible veterans suffering from alcohol or drug dependence or abuse disabilities. Such pilot program shall be planned, designed, and conducted by the Chief Medical Director, with the approval of the Administrator, so as to demonstrate any medical advantages and cost effectiveness that may result from furnishing such care and services to veterans with such disabilities in contract facilities as authorized by this section, rather than in facilities over which the Administrator has direct jurisdiction.

* * * * *

(d)(1) Any person serving in the active military, naval, or air service who is determined by the Secretary concerned to have an alcohol or drug dependence or abuse disability may not be transferred to any facility in order for the Administrator to furnish care or treatment and rehabilitative services for such disability unless such transfer is during the last thirty days of such member's enlistment period or tour of duty, in which case such care and services provided to such member shall be provided as if such member were a veteran. Any transfer of any such member for such care and services shall be made pursuant to such terms as may be agreed upon by the Secretary concerned and the Administrator, subject to the provisions of the Act of March 4, 1915 (31 U.S.C. 686).

(2) No person serving in the active military, naval, or air service may be transferred pursuant to an agreement made under paragraph (1) of this subsection unless such person requests such transfer in writing for a specified period of time during the last thirty days of such person's enlistment period or tour of duty. No such person transferred pursuant to such a request may be furnished such care and services by the Administrator beyond the period of time specified in such request [,] unless such person requests in writing an extension for a further specified period of time and such request is approved by the Administrator.

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Subchapter VII—Preventive Health-Care Services Pilot Program

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§ 663. Preventive health-care services

(a)(1) * * *

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(d) In [order to carry] *carrying* out the program provided for in this subchapter, the Administrator may not expend more than $10,000,000 in fiscal year 1980, more than $12,000,000 in fiscal year 1981, more than $13,000,000 in fiscal year 1982, more than $14,000,000 in fiscal year 1983, or more than $15,000,000 in fiscal year 1984.

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CHAPTER 19—INSURANCE

SUBCHAPTER I—NATIONAL SERVICE LIFE INSURANCE

Sec.
701. Definitions.
702. Premium rates and policy values.
703. Amount of insurance.
704. Plans of insurance.
705. Renewal.
706. Policy provisions.
707. Payment or use of dividends.
708. Premium payments.
709. Effective date of insurance.
710. Incontestability.
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718. Assignments.
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724. In-service waiver of premiums.
725. Limited period for acquiring insurance.
726. Authority for higher interest rates for amounts payable to beneficiaries.

SUBCHAPTER II—UNITED STATES GOVERNMENT LIFE INSURANCE

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761. Authority for higher interest rates for amounts payable to beneficiaries.

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Subchapter I—National Service Life Insurance

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§ 718. Assignments

(a) Assignments of all or any part of the beneficiary's interest may be made by a designated beneficiary to a widow, widower, child, father, mother, grandfather, grandmother, brother, or sister of the insured, when the designated contingent beneficiary, if any, joins the beneficiary in the assignment, and if the assignment is delivered to the Veterans' Administration before any payments of the insurance shall have been made to the beneficiary. However, an interest in an annuity, when assigned, shall be payable in equal monthly installments in such multiple of twelve as most nearly equals the number of installments certain under such annuity, or in two hundred and forty installments, whichever is the lesser. The provisions of this subsection shall not be applicable to insurance maturing on or after the date of enactment of this sentence.

(b) Except as to insurance granted under the provisions of section 722(b) of this title, any person to whom insurance maturing on or after the date of enactment of this sentence is payable may assign all or any portion of [his] *such person's* interest in such insurance to a widow, widower, child, father, mother, grandfather, grandmother, brother, or sister of the insured when the designated contingent beneficiary, if any, joins the beneficiary in the assignment. Such joinder shall not be required in any case in which the insurance proceeds are payable in a lump sum.

* * * * *

§ 725. Limited period for acquiring insurance

(a) * * *

(b) If, notwithstanding the applicant's service-connected disability, he is insurable according to the standards of good health established by the Administrator, the insurance granted under this section shall be issued upon the same terms and conditions as are contained in the standard policies of National Service Life Insurance except (1) five-year level premium term insurance may not be issued; (2) the net premium rates shall be based on the 1958 Commissioners Standard Ordinary Basic Mortality Table, increased at the time of issue by such an amount as the Administrator determines to be necessary for sound actuarial operations, and thereafter such premiums may be adjusted as the Administrator determines to be so necessary but at intervals of not less than two years; (3) an additional premium to cover administrative costs to the Government as determined by the Administrator at times of issue shall be charged for insurance issued under this subsection and for any total disability income provision attached thereto, and thereafter such costs may be adjusted as the Administrator determines to be necessary but at intervals of not less than five years; (4) all cash, loan, extended and paid-up insurance values shall be based on the 1958 Commissioners Standard Ordinary Basic Mortality Table; (5) all settlements on policies involving annuities shall be calculated on the basis of The Annuity Table for 1949; (6) all calculations in connection with insurance issued under this subsection shall be based on interest at the rate of 3½ per centum per annum; *and* (7) the insurance shall include such other changes in terms and conditions as the Administrator determines to be reasonable and practicable [; (8) the insurance and any total disability income provision attached thereto shall be on a nonparticipating basis]

(c) If the applicant's service-connected disability or disabilities render him uninsurable according to the standards of good health established by the Administrator, or if the applicant has a non-service-connected disability which renders him uninsurable according to the standards of good health established by the Administrator and such person establishes to the satisfaction of the Administrator that he is unable to obtain commercial life insurance at a substandard rate and such uninsurability existed as of the date of approval of this section, the insurance granted under this section shall be issued upon the same terms and conditions as are contained in standard policies of National Service Life Insurance, except (1) five-year level premium term insurance may not be issued; (2) the premiums charged for the insurance issued under this subsection shall be increased at the time of issue by such an amount as the Administrator determines to be necessary for sound actuarial operations and thereafter such premiums may be adjusted from time to time as the Administrator determines to be necessary; for the purpose of any increase at time of issue or later adjustment the service-connected group and the non-service-connected group may be separately classified; (3) an additional premium to cover administrative costs to the Government as determined by the Administrator at the time of issue shall be charged for insurance issued under this subsection and for any total disability income provision attached thereto (for which the insured may subsequently become eligible) and thereafter such costs may be adjusted as the Administrator determines to be necessary but at intervals of not less than five years and for this purpose the service-connected and non-service-connected can be separately classified: [(4) the insurance and any total disability income provision attached thereto shall be on a nonparticipating basis; (5)] *(4)* all settlements on policies involving annuities shall be calculated on the basis of The Annuity Table for 1949; [(6)] *(5)* all calculations in connection with insurance issued under this subsection shall be based on interest at the rate of 3½ per centum per annum; and [(7)] *(6)* the insurance shall include such other changes in terms and conditions as the Administrator determines to be reasonable and practicable.

(d)(1) All premiums and collections on insurance issued pursuant to this section and any total disability income provision attached thereto shall be credited to the Veterans Reopened Insurance Fund, a revolving fund established in the Treasury of the United States, and all payments on such insurance and any total disability provision attached thereto, *including payments of dividends and refunds of unearned premiums*, shall be made from that fund *and the interest earned on the assets of that fund*. For actuarial and accounting purposes, the assets and liabilities (including liabilities for repayment of advances hereinafter authorized, and adjustment of premiums) attributable to the insured groups established under this section shall be separately determined. Such amounts in the Veterans Special Term Insurance Fund in the Treasury, not exceeding $1,650,000 in the aggregate, as may hereafter be determined by the Administrator to be in excess of the actuarial liabilities of that fund, including contingency reserves, shall be available for transfer to the Veterans Reopened Insurance Fund as needed to provide initial capital. Any amounts so transferred shall be repaid to the Treasury over a reasonable period of time with interest as determined by the Secretary of the Treasury taking into consideration the average yield on all marketable interest-bearing obligations of the United States of comparable maturities then forming a part of the public debt.

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§ 726. Authority for higher interest rates for amounts payable to beneficiaries

Notwithstanding sections 702, 723, and 725 of this title, if the beneficiary of an insurance policy receives the proceeds of such policy under a settlement option under which such proceeds are paid in equal monthly installments over a limited period of months, the interest that may be added to each such installment may be at a rate that is higher than the interest rate prescribed in the appropriate section of this subchapter. The Administrator may from time to time establish a higher interest rate under the preceding sentence only in accordance with a determination that such higher rate is administratively and actuarially sound for the program of insurance concerned. Any such higher interest rate shall be paid on the unpaid balance of such monthly installments.

Subchapter II—United States Government Life Insurance

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§ 753. Assignments

Any persons to whom United States Government life insurance shall be payable may assign [his] *such person's* interest in such insurance to the spouse, child, grandchild, parent, brother, sister, uncle, aunt, nephew, niece, brother-in-law, or sister-in-law of the insured. Insofar as applicable, the definitions contained in section 3 of the World War Veterans' Act, 1924, in effect on December 31, 1958, shall apply to this section.

* * * * *

§ 761. Authority for higher interest rates for amounts payable to beneficiaries

Notwithstanding section 744(b) of this title, if the beneficiary of an insurance policy issued under the provisions of this subchapter receives the proceeds of such policy under a settlement option under which such proceeds are paid in equal monthly installments over a limited period of months, the interest that may be added to each such installment may be at a rate that is higher than the interest rate prescribed in such section. The Administrator may from time to time establish a higher interest rate under the preceding sentence only in accordance with a determination that such higher rate is administratively and actuarially sound. Any such higher interest rate shall be paid on the unpaid balance of such monthly installments.

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CHAPTER 37—HOME, CONDOMINIUM, AND MOBILE HOME LOANS

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SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

1820. Powers of Administrator.
1821. Incontestability.
1823. Direct loan revolving fund.
1824. Loan guaranty revolving fund.
1825. Waiver of discharge requirements for hospitalized persons.
1826. Withholding of payments, benefits, etc.
1827. Expenditures to correct or compensate for structural defects in mortgaged homes.
1828. Exemption from State anti-usury provisions.

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Subchapter III—Administrative Provisions

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§ 1828. Exemption from State anti-usury provisions

If, under any law of the United States, loans and mortgages insured under title I or title II of the National Housing Act are exempt from the application of the provisions of any State constitution or law limiting the rate or amount of interest, discount points, or other charges which may be charged, taken, received, or reserved by lenders, then loans and mortgages guaranteed or insured under this chapter are also exempt from the application of such provisions.

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PART VI—ACQUISITION AND DISPOSITION OF PROPERTY

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CHAPTER 81—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY

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Subchapter I—Acquisition and Operation of Medical Facilities

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§ 5005. Structural requirements

(a) Each medical facility (including each nursing home facility for which the Administrator contracts under section 620 of this title and each State home facility constructed or altered under [section 5031 of this title] *subchapter III of this chapter*) shall be of fire, earthquake, and other natural disaster resistant construction in accordance with standards which the Administrator shall prescribe on a State or regional basis after surveying appropriate State and local laws, ordinances, and building codes and climatic and seismic conditions pertinent to each such facility. When an existing structure is acquired for use as a medical facility, it shall be altered to comply with such standards.

* * * * *

In summary, Mr. Speaker, the proposed House amendments, in my opinion, reflect a reasonable compromise—one which I believe will enhance the lives of our service-connected veterans and many other veterans who have served our country.

I urge that the amendments be adopted.

Mr. HAMMERSCHMIDT. Mr. Speaker, I want to compliment the gentleman from Mississippi, the distinguished chairman of the Veterans' Affairs Subcommittee on Compensation, Pension, Insurance and Memorial Affairs, for his exposition of the amendment before us. I would also like to acknowledge the forthright leadership of committee Chairman RAY ROBERTS in surmounting the many obstacles that lay in its path.

As the result of the informal conversations with the other body, the amendment's provisions, I understand, are now acceptable to the Veterans' Affairs Committees of both Houses.

As the distinguished subcommittee chairman has said, the Veterans' Disability Compensation and Survivors Benefits Act of 1979 will grant a 9.9-percent rate increase to veterans drawing compensation from the Government for service-connected disabilities and to survivors drawing dependency and indemnity compensation.

The other body recently approved a higher rate, while our own compensation bill, passed July 16, specified an 8.3-percent increase. The behavior of the national economy during the intervening months has been such that it is evident the committee was overly optimistic in estimating the rate of inflation. Early this year, I had misgivings about the administration's ability to slow inflation and I introduced a bill providing a 10-percent increase in compensation rates. This bill differs from it by only one-tenth of 1 percent.

Many of you as well as myself are very concerned about bringing economy to Government; however, we cannot, in good conscience, shortchange veterans with service-connected disabilities. Social security recipients received a 9.9-percent increase. Certainly, we can provide no less for the service-connected and their survivors.

I am particularly pleased that this bill raises the rate of monthly compensation paid the so-called "K" award. This group of disabled veterans have not had an increase in their statutory award since 1976. I am also gratified that the committee adopted the substance of a bill I introduced to make a small group of seriously disabled veterans, previously overlooked, eligible for consideration by the Veterans' Administration of the aid and attendance allowance. At present only 58 veterans in the Nation come under this provision and its maximum cost is estimated at $679,000. Both these provisions will grant a measure of relief to veterans who have suffered disproportionately.

Mr. Speaker, we can never repay these veterans and survivors for their losses suffered as a result of military service to the Nation. We can, however, ease the economic difficulties caused by their disabilities. I recommend that our colleagues act favorably on the amendment before us.

Mr. Speaker, I will yield briefly, under my reservation, to the distinguished ranking minority member of the subcommittee, the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Speaker, I want to associate myself with the remarks of the gentleman from Arkansas in complimenting the chairman of the Committee on Veterans' Affairs and the chairman of the Subcommittee on Compensation, Pension, Insurance, and Memorial Affairs for their leadership and commitment in bringing this amendment before us.

As ranking member of the subcommittee, I can tell you it has not been an easy task. I have been examining closely every spending bill brought before Congress, probing for soft spots, trying to save every dollar of Federal funds possible. The proposal of the other body for a compensation increase was unacceptably high, yet no group of citizens has a better claim on the government than service-disabled veterans.

I believe the rate of increase included in the amendment now before us is reasonable. Compensation, throughout the history of this program, has been paid to veterans disabled as the result of their military service to make up earning capacity lost as the result of those disabilities. The amount paid monthly, therefore, varies according to the degree of impairment and the pay structure of civilian occupations. It follows that adjustments must be made in these payments during a time of inflation such as the one we are now going through.

A service-connected disability is one that has been so adjudicated by the Veterans' Administration. It is based on military medical records and other relevant evidence that may be presented by the veteran. Once service connection is granted, the percentage of disability is based on a physical examination by the VA.

The agency has established a schedule of rating disabilities as a guideline for measuring the degree of disability. Additional compensation may be paid for severe disabilities like blindness, or loss of a limb. These are the so-called statutory awards. For example, the amendment before us increases the statutory "K" award for the loss of a hand, foot, or eye.

It is evident, then, that compensation to be paid under this amendment, far from being charity or welfare, is payment for loss of capacity brought about by special service to the Nation. The amount required is $82.7 million less than would be necessary to finance the increase passed by the other body. I believe it to be equitable, meeting our obligations to service-connected veterans and their survivors; striking a reasonable compromise with the other body. I support the amendment, Mr. Speaker, and urge its adoption.

Mr. WOLFF. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from New York (Mr. WOLFF), a member of the committee.

Mr. WOLFF. I thank the gentleman for yielding.

Mr. Speaker, let me echo the sentiments of my colleagues here in congratulating the conference for coming up with this type of answer to the problem. I want to ask only one question. Will this have also an effect, however, on the social security payments of these people, and are we taking steps to remedy this problem that has existed where we have an increase in disability payments?

Mr. HAMMERSCHMIDT. Mr. Speaker, if I may respond to the gentleman, this has nothing to do with social security, since this is a compensation bill. However, I will say that the 9.9-percent increase is exactly the same as was indexed for the social security bill.

Mr. WOLFF. I thank the gentleman.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Speaker, actually one other matter should be brought to the attention of the Members of the House. This bill would be retroactive back to October 1, and the veterans, if we pass this legislation, in their checks will get this 9.9-percent cost-of-living increase back until October 1, but it will show up in their December 1 checks.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I wish to commend the distinguished subcommittee chairman, ranking majority member, (Mr. MONTGOMERY), and minority member, (Mr. HAMMERSCHMIDT), of the subcommittee, for their continuing efforts for our veterans and in bringing this measure back to the floor so expeditiously. I know that the committee is concerned about the October payments to our Veterans.

Mr. Speaker, I rise in support of the legislation, H.R. 2282, the veterans disability compensation and survivors benefits amendments which is before the House.

This legislation provides a deserving cost-of-living increase in disability compensation for veterans and also grants increases in the rates of dependency and indemnity compensation for survivors of disabled veterans. This increase is a 9.9-percent increase which is retroactive to October 1, 1979. The Congressional Budget Office estimates recommended this percentage, and all indications support this figure as an accurate one, taking into account the inflation rate and the escalating cost-of-living demands which have been faced by all Americans.

Mr. Speaker, let us not be hesitant in approving this legislation directly benefiting our veterans. Our veterans have sacrificed for our Nation, and our disabled veterans continue to make sacrifices even after their terms of service have expired. The disabled veteran, and his survivors, are symbols of a free America, an America free from threat. They are an inspiration to all of us. We owe them our gratitude. This 9.9 increase is barely comparable to the ever-rising inflation rate. Accordingly, I urge my colleagues to join in supporting the conference report on this legislation.

Mr. HAMMERSCHMIDT. I thank the gentleman for his contribution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MURPHY of New York). Is there objection to the request of the gentleman from Mississippi (Mr. MONTGOMERY) that the Senate amendments and the proposed House amendments to Senate amendments to be considered as read and printed in the RECORD?

There was no objection.

● Mr. ROBERTS. Mr. Speaker, I rise in strong support of the proposed amendments of H.R. 2282 being offered by the distinguished gentleman from Mississippi (Mr. MONTGOMERY).

The gentleman from Mississippi has explained in detail the proposed amendments—all of which are designed to enhance the lives of our service-connected disabled veterans and their eligible survivors. All Members are very concerned about the continuing rise in the cost of living. Inflation affects all of us; however, the most severe impact is to those on fixed incomes. I think the Congress has treated our Nation's service-connected disabled veterans well as the gentleman from Mississippi (Mr. MONTGOMERY), has pointed out.

Over the years, the record will show that on balance the cumulative increase in the compensation rates paid to the totally and permanently service-connected disabled veteran has exceeded the rise in the Consumer Price Index.

Mr. Speaker, we have been delayed in bringing this measure to the floor for consideration by the House because of the continuing debate between the House and Senate conferees on the ceilings to be established in the second budget resolution.

We have decided to proceed with the measure for several reasons. First, although the Budget Committee conferees continue to meet on issues still in disagreement, it is my understanding there is no disagreement on function 700 pertaining to veterans' benefits and services.

Second, our Nation's veterans are in dire need of the increase in compensation rates which would be retroactive to October 1, 1979. I think we should proceed to pass the measure so that this rate adjustment can be reflected in the December checks.

The bill as amended by the Senate has been pending in the House for several weeks awaiting final action by the Budget Committee. I am confident the compromise to be reached on the second concurrent budget resolution will be sufficient to provide the 9.9-percent rate increase as proposed in the House amendments, and I urge my colleagues to support the proposal offered by the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. Speaker, I want to thank the chairman of our Subcommittee on Compensation, Pension, Insurance, and Memorial Affairs for bringing this measure to the floor. I also want to acknowledge the dedicated service of the very able ranking minority member of the subcommittee, the distinguished gentleman from Ohio (Mr. WYLIE). I also want to pay tribute to my good friend, the very able ranking minority member of the full committee, the gentleman from Arkansas (Mr. HAMMERSCHMIDT). All of them have worked very closely with the other body in trying to bring about a reasonable compromise between the bills as passed by the House and Senate. We are most grateful for their continued good work on behalf of our Nation's service-connected disabled veterans.●

● Mr. DASCHLE. Mr. Speaker, 8.8 million veterans, almost one-third of the veterans in the United States today served during the Vietnam era; 57,000 died in Vietnam and over 530,000 are receiving compensation for disabilities, both physical and psychological, sustained while serving our country during the conflict in Southeast Asia. Vietnam produced more casualties for the Marine Corps than World War II. Because of the guerrilla nature of the fighting itself, with extensive use of mines and booby traps, and also because of improved medical treatment, Vietnam veterans often sustained and survived more serious crippling injuries than veterans of previous wars; 30,000 Vietnam veterans, including those with the most catastrophic injuries, are totally disabled.

Mr. Speaker, it is not our intention on the House Committee on Veterans' Affairs to single out one group of veterans as being more deserving than another.

Obviously, the amendment to the compensation bill we are considering today affects all veterans, no matter what their age, their service, or their disability. We have well over 2 million veterans from five wars currently receiving compensation for service-connected disabilities and close to 321,000 survivors eligible for an increase in DIC payments. I use the Vietnam era veteran as an example; as a reminder, from the recent past, of not only what the horrors of war can inflict upon a generation of Americans but as a reminder of our obligation to compensate for that sacrifice with our gratitude.

In many instances, unlike those from previous wars, the Vietnam veteran came home without the open appreciation of the American people. In many respects, he was welcomed more with a sense of relief than an upsurge of gratitude. As a result, the process of readjustment, especially for the disabled, has not been easy. I believe we can show our commitment to the Vietnam era veteran, and ease this readjustment process for the disabled, by maintaining the integrity of the compensation program provided for them. By acknowledging the service of the Vietnam veteran in this way, we pay tribute to the sacrifice of all those who have served our country in time of war.

Mr. Speaker, I wholeheartedly endorse the amendment as proposed by the gentleman from Mississippi.●

● Mr. ABDNOR. Mr. Speaker, I rise to take the opportunity to join the distinguished members who have so eloquently explained the provisions included in this legislation. Back in July when we overwhelmingly adopted the House version of the bill, it appeared that the 8.3-percent increase would be sufficient. That, unfortunately, has not been the case. This amendment, which the gentleman from Texas has offered, is most important. Its expeditious handling is necessary to provide assistance to those service-connected veterans and their dependents who depend on compensation and DIC.

The Veterans' Administration has indicated that any further delay will cost a significant amount of money to administratively activate a retroactive payment. I see no need to spend money simply because we have not acted in an expeditious manner.

Before yielding back the balance of my time, I would also note that H.R. 2282 contains language similar to H.R. 411, which this House unanimously passed earlier this year. As you will recall, this measure exempted loans made, guaranteed, or insured by the VA from State-imposed usury limits. As ranking member on the House subcommittee, I am most concerned that the loan guarantee program be available to every eligible veteran. I am also concerned that our actions do not deprive any State from exercising its responsibilities. The language in this bill does both. It guarantees the veteran an opportunity to utilize the benefit if he so chooses, and it provides the mechanism for the State to override this law if it so chooses.

Mr. Speaker, in closing, I would urge my colleagues to join in supporting the amendment offered by the chairman.●

● Mr. EDGAR. Mr. Speaker, as a cosponsor of the original House bill, H.R. 2282, I would like to give my full support to the amendment proposed by the honorable chairman of the House Veterans' Affairs Subcommittee on Compensation, Pension, Insurance, and Memorial Affairs. Our bill, H.R. 2282 was introduced last February and called for an 8.3-percent increase in compensation and DIC rates as recommended by the Congressional Budget Office. Since that time the members of our committee have watched the Consumer Price Index rise to the point where we felt we had to recommend raising that original cost-of-living increase projection.

Recently, the administration raised their cost-of-living wage increase due to go into effect for Federal employees for fiscal year 1980 from 5.5 percent to 7 percent; a jump of 1.5 percent. Our proposed raise in the compensation rate from 8.3 percent to 9.9 percent represents a hike of 1.6 percent and closely parallels the precedent set by the administration. A 9.9-percent increase would cost $98.4 million above our original estimate, but would still be well below the compensation guidelines accepted for the second budget resolution. In addition, the 9.9-percent increase proposed by this amendment is the same cost-of-living allowance granted to veteran pension recipients on June 1 of this year, as well as to all those receiving social security benefits.

Mr. Speaker, in my own State of Pennsylvania there are 128,000 service-connected disabled veterans, and close to 20,000 survivors of those who have died of service-connected causes presently receiving compensation and DIC benefits. These men, women, and children live every day of their lives with the tangible reminder of a sacrifice made in service to our country. Their pain and their loss does not decrease. I believe our Government must maintain our commitment and insure the compensation provided for them against devaluation at the hands of inflation.●

● Mr. MICA. Mr. Speaker, Florida has the fastest growing veteran population of any State in the Union. Of the 1.3 million veterans who have come to live in my State, 129,000 are currently receiving compensation for service-connected disability. Also, in Florida our government pays dependency and indemnity compensation to 26,691 survivors of those who have died of service-connected causes.

Our country has an historic obligation dating from Revolutionary War times to compensate those who have paid a price while serving our Nation in time of war. Compensation programs are designed to offset a veteran's decreased earning capability caused by service-connected disease or disability. In addition, surviving spouses and dependent children of veterans who die of service-connected causes are eligible for compensation payment to help make up for the loss of the family breadwinner.

Mr. Speaker, a large percentage of veterans who come to live in Florida do so to spend their retirement years. It is a know fact that service-connected disabilities tend to worsen or become more aggravated as time goes by, and coupled with problems associated with the aging process, can become even more disabling. There are now almost 13 million veterans from World War II, average age 60, who will soon be reaching retirement age in Florida and around the county. With older veterans faced with declining health and the prospect of living on a fixed retirement income we should make certain that their disability compensation is not arbitrarily reduced by inflation.

A 9.9-percent increase in compensation would raise from $44 to $48 the monthly payment to veterans with a 10-percent disability, while those with the most crippling disabilities, those rated 100 percent, would receive an increase from $809 to $889 per month.

I join with my colleagues on the House Committee on Veterans' Affairs both Democrats and Republicans, to endorse this amendment.●

● Mr. GRAMM. Mr. Speaker, I would like to offer my strong support for H.R. 2282, a bill introduced by my colleague from Mississippi, Mr. MONTGOMERY, to grant a 9.9-percent increase in compensation and DIC rates to service-connected disabled veterans and their survivors. But first, I would like to express my appreciation for the dedication of the gentleman from Mississippi, the chairman of our Compensation Subcommittee, in working to see this matter resolved in a manner both acceptable to the veterans of this country and in keeping with the guidelines of fiscal responsibility set down by the leadership of the House.

I would also like to offer my special thanks to the chairman of the full committee, the gentleman from Texas, who has worked long and hard in resolving this legislation, and whose position in this body has made him a powerful guardian of the rights and entitlements of over 30 million veterans in the United States today.

Mr. Speaker, I believe adopting a 9.9-percent increase in compensation and DIC rates to be a fair decision. Last year the Congress granted a 7.8-percent increase for service-connected disabled veterans and the widows and children of those who have died as a result of service-connected causes. We know that inflation, as evidenced by the Consumer Price Index has gone well beyond the figure. In his budget request to the Congress in January, the President recommended a 7.3-percent increase. At the time of the mid-session budget review the administration raised that estimate to 9.4 percent. Inflation has already surpassed that mark. I believe the 9.9-percent increase, as proposed by this amendment, is a much more realistic figure, and one that will be acceptable to the Senate and to the veterans we represent.●

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Mississippi (Mr. MONTGOMERY)?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to, under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

MISCELLANEOUS CHANGES IN INTERNAL REVENUE CODE

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5505) to simplify certain provisions of the Internal Revenue Code of 1954, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5505

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Short Title; Amendment of 1954 Code.

(a) Short Title.—This Act may be cited as the "Tax Administrative Provisions Revision Act of 1979."

(b) Amendment of 1954 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

Sec. 2. Payment of Interest Where Levy Has Been Wrongfully Made and Money Received by United States.

(a) In General.—Section 6343 (relating to release of levy and return of property) is amended by adding at the end thereof the following new subsection:

"(c) Interest.—Interest shall be allowed and paid at an annual rate established under section 6621—

"(1) in a case described in subsection (b) (2), from the date the Secretary receives the money to a date (to be determined by the Secretary) preceding the date of return by not more than 30 days, or

"(2) in a case described in subsection (b) (3), from the date of the sale of the property to a date (to be determined by the Secretary) preceding the date of return by not more than 30 days."

(b) Technical Amendment.—Subsection (a) of section 6621 is amended to read as follows:

"(a) In General.—The annual rate established under this section shall be such adjusted rate as is established by the Secretary under subsection (b)."

(c) Effective Dates.—

(1) The amendment made by subsection (a) shall apply to levies made after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

Sec. 3. Repeal of Requirement That Transferors of Certain Property To Exempt Organizations Must File Returns.

(a) General Rule.—Section 6050 (relating to returns relating to certain transfers to exempt organizations) is hereby repealed.

(b) Clerical Amendment.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking out the item relating to section 6050.

(c) Effective Date.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

Sec. 4. Repeal of Addition to Tax in Case of Jeopardy.

(a) General Rule.—Section 6658 (relating to addition to tax in case of jeopardy) is hereby repealed.

(b) Clerical Amendment.—The table of sections for subchapter A of chapter 68 is amended by striking out the item relating to section 6658.

(c) Effective Date.—The amendments made by this section shall apply to violations (or attempted violations) occurring after the date of the enactment of this Act.

Sec. 5. Repeal of Requirement That Information Be Furnished to the Service in Connection With Certain Options

(a) General Rule.—Section 6039 (relating to information required in connection with certain options) is amended to read as follows:

"Sec. 6039. Information Required in Connection With Certain Options.

"(a) Furnishing of Information.—Every corporation—

"(1) which in any calendar year transfers a share of stock to any person pursuant to such person's exercise of a qualified stock option or a restricted stock option, or

"(2) which in any calendar year records (or has by its agent recorded) a transfer of the legal title of a share of stock—

"(A) acquired by the transferor pursuant to his exercise of an option described in section 423(c) (relating to special rule where option price is between 85 percent and 100 percent of value of stock), or

"(B) acquired by the transferor pursuant to his exercise of a restricted stock option described in section 424(c)(1) (relating to options under which option price is between 85 percent and 95 percent of value of stock),

shall (on or before January 31 of the following calendar year) furnish to such person a written statement in such manner and setting forth such information as the Secretary may by regulations prescribe.

"(b) Special Rules.—For purposes of this section—

"(1) Treatment by employer to be determinative.—Any option which the corporation treats as a qualified stock option, a restricted stock option, or an option granted under an employee stock purchase plan shall be deemed to be such an option.

"(2) Subsection (a)(2) applies only to first transfer described therein.—A statement is required by reason of a transfer described in subsection (a)(2) of a share only with respect to the first transfer of such share by the person who exercised the option.

"(3) Identification of stock.—Any corporation which transfers any share of stock pursuant to the exercise of any option described in subsection (a)(2) shall identify such stock in a manner adequate to carry out the purposes of this section.

"(c) Cross References.—

"For definition of—

"(1) The term 'qualified stock option', see section 422(b).

"(2) The term 'employee stock purchase plan', see section 423(b).

"(3) The term 'restricted stock option', see section 424(b)."

(b) Technical Amendments.—

(1) Subsection (a) of section 6652 is amended—

(A) by inserting "or" at the end of paragraph (1),

(B) by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2), and

(C) by striking out "return referred to in paragraph (2) or (3)" and inserting in lieu thereof "return referred to in paragraph (2)".

(2) Section 6678 (relating to penalty for failure to furnish certain statements) is amended to read as follows:

"Sec. 6678. Failure To Furnish Certain Statements.

"In the case of each failure—

"(1) to furnish a statement under section 6042(c), 6044(e), 6049(e), or 6052(b), on the date prescribed therefor to a person with respect to whom a return has been made under section 6042(a)(1), 6044(a)(1), 6049(a)(1), or 6052(a), respectively, or

"(2) to furnish a statement under section 6039(a) on the date prescribed therefor to a person with respect to whom such a statement is required,

unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to so furnish the statement $10 for each such statement not so furnished, but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed $25,000."

(c) Effective Date.—The amendments made by this section shall apply with respect to calendar years beginning after 1979.

Sec. 6. Extension of Time for Filing Gift Tax Return for Fourth Calendar Quarter.

(a) General Rule.—Paragraph (1) of section 6075(b) (relating to due date for gift tax returns) is amended to read as follows:

"(1) General rule.—Except as provided in paragraph (2), returns made under section 6019 (relating to gift taxes) shall be filed on or before—

"(A) in the case of a return for the first, second, or third calendar quarter of any calendar year, the 15th day of the second month following the close of the calendar quarter, or

"(B) in the case of a return for the fourth calendar quarter of any calendar year, the 15th day of the fourth month following the close of the calendar quarter."

(b) Extension of Date for Filing Income Tax Return Treated as Extension of Date for Filing Gift Tax Return.—Subsection (b) of section 6075 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) Extension where taxpayer granted extension for filing income tax return.—Any extension of time granted the taxpayer for filing the return of income taxes imposed by subtitle A for any taxable year which is a calendar year shall be deemed to be also an extension of time granted the taxpayer for filing the return under section 6019 for the fourth calendar quarter of such taxable year."

(c) Technical Amendments.—Paragraph (2) of section 6075(b) is amended—

(1) by striking out "the 15th day of the second month after" and inserting in lieu thereof "the date prescribed by paragraph (1) for filing the return for", and

(2) by striking out "the close of" in subparagraphs (A) and (B).

(d) Effective Date.—The amendments made by this section shall apply to returns for gifts made in calendar years ending after the date of the enactment of this Act.

Sec. 7. Time for Payment of Manufacturers Excise Tax on Rods, Creels, Etc.

(a) General Rules.—Section 6302 (relating to mode or time of collecting tax) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) Time for Payment of Manufacturers Excise tax on Rods, Creels, Etc.—The tax imposed by section 4161(a) (relating to manufacturers excise tax on rods, creels, etc.) shall be due and payable—

"(1) in the case of articles sold during the quarter ending December 31, on March 31,

"(2) in the case of articles sold during the quarter ending March 31, on June 30.

"(3) in the case of articles sold during the quarter ending June 30, on September 24, and

"(4) in the case of articles sold during the quarter ending September 30, at such time as the Secretary may by regulations prescribe."

(b) Effective Date.—The amendment made by subsection (a) shall apply to articles sold on or after the first day of the first calendar quarter beginning after the date of the enactment of this Act.

Sec. 8. Transfer of Domestic Wine to Customs Bonded Warehouse for Certain Purposes.

(a) Transfer to Customs Bonded Warehouse.—Paragraph (4) of section 5362(c) (relating to withdrawals of wine free of tax or without payment of tax) is amended to read as follows:

"(4) without payment of tax for transfer to any customs bonded warehouse;".

(b) Withdrawal From Customs Bonded Warehouses for Use of Foreign Embassies, Legations, Etc.—Section 5362 is amended by adding at the end thereof the following new subsection:

"(e) Withdrawal From Customs Bonded Warehouses for Use of Foreign Embassies, Legations, Etc.—

"(1) In general.—Notwithstanding any other provision of law, wine entered into customs bonded warehouses under subsection (e)(4) may, under such regulations as the Secretary may prescribe, be withdrawn from such warehouses for consumption in the United States by and for the official or family use of such foreign governments, organizations, and individuals who are entitled to withdraw imported wines from such warehouses free of tax. Wines transferred to customs bonded warehouses under subsection (c)(4) shall be entered, stored, and accounted for in such warehouses under such regulations and bonds as the Secretary may prescribe, and may be withdrawn therefrom by such governments, organizations, and individuals free of tax under the same conditions and procedures as imported wines.

"(2) Withdrawal for domestic use.—Wine entered into customs bonded warehouses under subsection (c)(4) for purposes of removal under paragraph (1) may be withdrawn therefrom for domestic use. Wines so withdrawn shall be treated as American goods exported and returned.

"(3) Sale or unauthorized use prohibited.—Wine withdrawn from customs bonded warehouses or otherwise brought into the United States free of tax for the official or family use of foreign governments, organizations, or individuals authorized to obtain wine free of tax shall not be sold and shall not be disposed of or possessed for any use other than an authorized use. The provisions of paragraphs (1)(B) and (3) of section 5043(a) are hereby extended and made applicable to any person selling, disposing of, or possessing any wine in violation of the preceding sentence, and to the wine involved in any such violation."

(c) Effective Date.—The amendments made by this section shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act.

Sec. 9. Excise Tax Refunds in Case of Certain Uses of Tread Rubber.

(a) Refunds for Certain Uses.—Subparagraph (G) of section 6416(b)(2) is amended to read as follows:

"(G) in the case of tread rubber in respect of which tax was paid under section 4071(a)(4)—

"(i) used or sold for use otherwise than in the recapping or retreading of tires of the type used on highway vehicles (as defined in section 4072(c)),

"(ii) destroyed, scrapped, wasted, or rendered useless in the recapping or retreading process,

"(iii) used in the recapping or retreading of a tire the sale of which is later adjusted pursuant to a warranty or guarantee, in which case the overpayment shall be in proportion to the adjustment in the sales price of such tire, or

"(iv) used in the recapping or retreading of a tire, if such tire is by any person exported, used or sold for use as supplies for vessels or aircraft, sold to a State or local government for the exclusive use of a State or local government, or sold to a nonprofit educational organization for its exclusive use,

unless credit or refund of such tax is allowable under paragraph (3);".

(b) Use in Further Manufacture, Etc.—

(1) In general.—Paragraph (3) of section 6416(b) is amended by inserting after subparagraph (C) the following new subparagraph:

"(D) in the case of tread rubber in respect of which tax was paid under section 4071 (a)(4) used in the recapping or retreading of a tire, such tire is sold by the subsequent manufacturer or producer on or in connection with, or with the sale of, any other article manufactured or produced by him and such other article is by any person exported, sold to a State or local government for the exclusive use of a State of local government, sold to a nonprofit educational organization for its exclusive use, or used or sold for use as supplies for vessels or aircraft, unless credit or refund of such tax is allowable under subparagraph (C);".

(2) Technical amendments.—

(A) Subparagraph (E) of section 6416(b) (2) is amended by inserting after "paragraph (3)" the following: "(or in the case of the tread rubber on a recapped or retreaded tire, resold for use as provided in subparagraph (D) of paragraph (3)),".

(B) Subparagraph (C) of section 6416(a) (1) is amended by striking out "(b)(3)(C)" and inserting in lieu thereof "(b)(3)(C) or (D)".

(C) Subparagraph (A) of section 6416(b) (3) is amended by inserting "(D)," after "(C),".

(D) Subparagraph (A) of section 6416(b) (4) is amended by striking out "section 4071" and inserting in lieu thereof "section 4071 or a recapped or retreaded tire in respect of which tax under section 4071(a)(4) was paid on the tread rubber used in the recapping or retreading".

(c) Statute of Limitations.—Section 6511 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Special Rule for Certain Tread Rubber Tax Credits or Refunds.—The period for allowing a credit or making a refund of any overpayment of tax arising by reason of subparagraph (G)(iii) of section 6416(b)(2) with respect to any adjustment of sales price of a tire pursuant to a warranty or guarantee shall not expire therefor is filed before the date which is 1 year after the day on which such adjustment is made."

(d) Imported Recapped or Retreaded United States Tires.—Section 4071 is amended by adding at the end thereof the following new subsection:

"(f) Imported Recapped or Retreaded United States Tires.—

"(1) In general.—For purposes of subsection (a)(4), in the case of a tire which has been exported from the United States, recapped or retreaded (other than from bead to bead) outside the United States, and imported into the United States—

"(A) the person importing such tire shall be treated as importing the tread rubber used in such recapping or retreading (determined as of the completion of the recapping or retreading), and

"(B) the sale of such tire by the importer thereof shall be treated as the sale of such tread rubber.

"(2) Exception for certain taxable sales.—Paragraph (1) shall not apply with respect to the sale of any tire if such tire is sold on or in connection with the sale of an article on which tax is imposed under section 4061."

(e) Effective Date.—The amendments made by this section shall take effect on the first day of the first calendar month which begins more than 10 days after the date of the enactment of this Act.

Sec. 10. Application of Section 1034 in Case of Certain Members of Armed Forces.

(a) General Rule.—Subsection (h) of section 1034 (relating to sale or exchange of residence by members of Armed Forces) is amended to read as follows:

"(h) Members of Armed Forces.—

"(1) In general.—The running of any period of time specified in subsection (a) or (c) (other than the 18 months referred to in subsection (c)(4)) shall be suspended during any time that the taxpayer (or his spouse if the old residence and the new residence are each used by the taxpayer and his spouse as their principal residence) serves on extended active duty with the Armed Forces of the United States after the date of the sale of the old residence, except that any such period of time as so suspended shall not extend beyond the date 4 years after the date of the sale of the old residence.

"(2) Members stationed outside the United States, etc.—

"(A) Further extension of period.—In the case of any taxpayer who, during any period of time the running of which is suspended by paragraph (1)—

"(i) is stationed outside of the United States, or

"(ii) is required to reside in Government-owned quarters,

any such period of time as so suspended shall not expire before the later of the date provided for in paragraph (1) or the date 1 year after the date on which the taxpayer is no longer stationed outside of the United States or is no longer required to reside in such quarters, as the case may be.

"(B) Requirement of notice.—No extension shall be granted with respect to any residence by reason of subparagraph (A) for any period unless the taxpayer has filed notice (in such form and at such time as may be prescribed by regulations) claiming the benefits of subparagraph (A) for such period. The notice described in the preceding sentence, with respect to any residence, shall not be required to be filed more than once a year.

"(3) Extended active duty defined.—For purposes of this subsection, the term 'extended active duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period."

(b) Effective Date.—The amendment made by subsection (a) shall apply to sales of old residences (within the meaning of section 1034 of the Internal Revenue Code of 1954) after December 31, 1979.

SEC. 11. EXEMPT STATUS OF AUXILIARIES OF CERTAIN FRATERNAL BENEFICIARY SOCIETIES

(a) General Rule.—Subsection (1) of section 501 is amended by adding at the end thereof the following new sentence: "The preceding sentence to the extent it relates to discrimination on the basis of religion shall not apply to an auxiliary of a fraternal beneficiary society if such society (1) is described in subsection (c)(8) and exempt from tax under subsection (a), and (2) limits its membership to the members of a particular religion."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after October 20, 1976.

SEC. 12. EXTENSION OF CERTAIN TEMPORARY TAX PROVISIONS

(a) Government Health Provision Scholarship Programs.—Subsection (c) of section 4 of Public Law 93-483, as amended, is amended—

(1) by striking out "1980" and inserting in lieu thereof "1981", and

(2) by striking out "1984" and inserting in lieu thereof "1985".

(b) National Research Service Awards.—Paragragh (2) of section 161(b) of the Revenue Act of 1978 (relating to national research service awards) is amended by striking out "1979" and inserting in lieu thereof "1980".

(c) Deduction for Eliminating Architectural and Transportation Barriers to the Handicapped.—Subsection (c) of section 2122 of the Tax Reform Act of 1976 (relating to effective date for allowance of deduction for eliminating architectural and transportation barriers to the handicapped) is amended by striking out "January 3, 1980" and inserting in lieu thereof "January 1, 1983".

(d) Controversies Involving Whether Individuals are Employees for Purposes of the Employment Taxes.—

(1) In General.—Subsection (a) of section 530 of the Revenue Act of 1978 (relating to termination of certain employment tax liability for periods before 1980 is amended—

(A) by striking out "January 1, 1980" in paragraphs (1)(A) and (3) and inserting in lieu thereof "January 1, 1981",

(B) by striking out "1980" in the subsection heading and inserting in lieu thereof "1981", and

(C) by striking out "1979" in the heading for paragraph (3) and inserting in lieu thereof "1979 and 1980".

(2) Prohibition against regulations and rulings on employment status.—Subsection (b) of section 530 of the Revenue Act of 1978 is amended by striking out "January 1, 1980" and inserting in lieu thereof "January 1, 1981".

(e) Additional 2-Year Delay in Application of the Net Operating Loss Rules Added by the Tax Reform Act of 1976.—Paragraphs (2) and (3) of section 806(g) of the Tax Reform Act of 1976 (relating to effective dates for the amendments to sections 382 and 383 of the Internal Revenue Code of 1954) are amended by striking out "1980" each place it appears and inserting in lieu thereof "1982".

The SPEAKER pro tempore. Is a second demanded?

Mr. DUNCAN of Tennessee. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. Rostenkowski) will be recognized for 20 minutes, and the gentleman from Tennessee (Mr. Duncan) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. Rostenkowski).

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 5505, presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill currently before the House, H.R. 5505, makes various miscellaneous changes in the tax laws. In brief, the bill consists of three basic parts.

Sections 2 through 6 of the bill amend several provisions of subtitle F of the tax code to make certain modifications and otherwise eliminate certain unnecessary provisions. These provisions are part of the committee's ongoing effort to provide tax simplifications. Sections 2 through 6 were originally a part of H.R. 3900, a tax simplification bill introduced by Chairman Ullman and the ranking Republican member, Mr. Conable.

Sections 7 through 11 of the bill make five minor adjustments in the tax code. They were originally introduced and considered at the subcommittee level as individual bills. I will go into greater detail on these provisions later in my statement.

The final section of the bill, section 12, contains five extensions of certain tax provisions that are about to expire generally at the end of the current calendar year.

Let me now take the opportunity to briefly review the individual provisions contained in H.R. 5505.

Section 2 of the bill provides for the payment of interest when the Internal Revenue Service administratively determines that a wrongful levy of property has been made and money is returned to the owner of the property. This extends the same type of relief in the administrative rules of the code as is now available to a property owner who sues to recover the proceeds from property mistakenly taken by the service to satisfy someone else's delinquent tax liability.

Section 3 of the bill repeals a provision of existing law that requires the transferor of certain income producing property to an exempt organization to file an information return. This return is no longer necessary since the information is currently attainable from the transferee organization.

Section 4 of the bill repeals the 25-percent penalty imposed when a taxpayer violates the special termination of a taxable year jeopardy assessment provision under present law. Repeal of this penalty had been recommended by the Treasury Department in connection with legislation enacted in 1976. The repeal amendment was inadvertently omitted in that legislation.

Section 5 repeals the requirement that information relating to certain qualified and restricted stock options be furnished to the Internal Revenue Service. This is designed to eliminate unnecessary paperwork with respect to these options which are being phased out.

Section 6 provides that the due date for filing a gift tax return for the fourth calendar quarter or the calendar year would be April 15 of the following year. Thus the gift tax return due date would be consistent with the income tax due date for calendar year taxpayers. These changes are designed to facilitate voluntary taxpayer compliance.

Section 7 of the bill would make certain adjustments in the time for payment of the excise tax on fishing equipment to better coordinate such payments with the unique seasonal nature of this industry.

Section 8 would conform the treatment of domestic wine with imported wine so that transfers of such wine could be made to custom bonded warehouses without payment of tax. In addition, tax-free sales of such wine would be authorized under the same circumstances as currently authorized for distilled spirits under present law.

Section 9 would provide for certain adjustments in the excise tax paid on tread rubber.

Section 10 would extend the replacement period for nonrecognition of gain on the sale of a personal residence for members of the Armed Forces in certain cases where such individuals are stationed outside the United States or are required to reside in Government-owned quarters.

Section 11 would allow certain social clubs which are affiliated with fraternal beneficiary societies, currently exempt from tax under section 501(c)(8), to retain their exemption even though membership in those affiliated social clubs is limited to members of a particular religion in the same manner as membership is limited by the fraternal beneficiary society.

Section 12(a) would extend for 1 year the present exclusion from gross income of amounts received by participants in the uniformed services health professions scholarship program. It is my hope that the Select Revenue Subcommittee will be able to develop a permanent rule on the appropriate treatment of these Government grant programs early next session.

Section 12(b) would extend for 1 year the scholarship exclusion for National Research Service Awards.

Section 12(c) would extend for 3 years, section 190 of the Internal Revenue Code, which provides an incentive for the removal of architectural and transportation barriers for the handicapped and elderly by allowing a limited current deduction for capital costs incurred in removing these barriers.

Section 12(d) would extend for 1 year interim relief provided by section 530 of the Revenue Act of 1978 with respect to the clarification of certain workers for employment tax purposes. The Subcommittee on Select Revenue Measures is currently considering in executive session, H.R. 5460, legislation designed to provide a permanent solution to the worker classification problem. It is clear, however, that the controversial nature of the issue will preclude enactment of a permanent solution this year.

Section 12(e) would defer for an additional 2 years the effective date of provisions of the Tax Reform Act of 1976 relating to special limitations on net operating loss carryovers.

I have taken the time to detail each of the provisions in H.R. 5505 only because the diversity of the provisions precludes a general characterization which provides an adequate description. This bill was reported from the committee by a voice vote and I know of no substantive opposition to the provisions of the bill. In fact, in the two limited areas where controversy arose, amendments were adopted to address the concerns expressed. I urge the adoption of the legislation.

☐ 1340

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5505 which contains several bills passed by the Select Revenue Subcommittee of the Committee on Ways and Means. Of particular interest are the provisions of the bill which: First, extend the date on which certain gift tax returns may be filed to correspond with the filing date for income tax returns; and second, allow members of the Armed Forces, who sell their home and are stationed overseas, additional time to purchase a new principal residence and qualify for tax-free rollover treatment.

The bill also incorporates the provisions of H.R. 5530, extending certain temporary provisions of the Internal Revenue Code of 1954. Included in this group of provisions are an extension: First, of the delay of the effective date of the net operating loss rules enacted under the Tax Reform Act of 1976; and second, of the prohibition on the Internal Revenue Service issuing new rules or regulations concerning the classification of an individual as an employee or independent contractor for tax purposes. The extensions will allow the Committee on Ways and Means additional time to study several controversial and technical provisions and establish permanent rules for them.

The bill is supported by Treasury and I urge its immediate adoption.

Mr. Speaker, I have no further requests for time.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the rules and pass the bill, H.R. 5505, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PASSENGER SHIP INDUSTRY REVITALIZATION

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5472) to revitalize the pleasure cruise industry by clarifying and waiving certain restrictions in the Merchant Marine Act, 1936, and the Merchant Marine Act, 1920, to permit the entry of the steamship vessel *United States*, steamship vessel *Oceanic Independence*, steamship vessel *Santa Rosa*, and the steamship vessels *Mariposa* and *Monterey* into the trade, as amended.

The Clerk read as follows:

H.R. 5472

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Notwithstanding the provisions of section 506 of the Merchant Marine Act, 1936 (46 U.S.C. 1156), section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883), and any other provision of law, the Secretary of the department in which the United States Coast Guard is operating shall cause the vessel *Oceanic Independence* (official Coast Guard numbered 261147) and the vessel steamship *Santa Rosa* (official Coast Guard numbered 276598) to be documented as vessels of the United States entitled to engage in the coastwise trade, so long as—

(1) in the case of the *Oceanic Independence*—

(A) the vessel is in compliance with all other requirements for vessels engaging in the coastwise trade.

(B) any rebuilding of the vessel or repair work constituting a rebuilding, accomplished after enactment of this Act, shall be effected within the United States, its territories (not including trust territories), or its possessions, except that the vessel shall not lose its coastwise privileges by reason of having work necessary to install bow thrusters in the vessel and to equip it with a marine sewer sanitation system performed outside the United States, its territories (not including the trust territories) or its possessions before the vessel engages in the coastwise trade following enactment of this Act,

(C) the vessel is owned by a citizen or citizens of the United States as defined in the applicable laws prescribing the qualifications for vessels to engage in the coastwise trade, and

(D) for hire carriage in such trade is limited to passengers, their accompanying baggage, and one thousand measurement tons of cargo, of forty cubic feet each, per annum in any coastwise trade: *Provided*, That for hire carriage of cargo in excess of the aforesaid one thousand tons shall be unlawful.

(2) in the case of the steamship Santa Rosa—

(A) prior to such documentation the owner of the steamship *Santa Rosa* repays to the Secretary of Commerce, upon such terms and conditions as the Secretary may prescribe, an amount which bears the same proportion to the total construction differential subsidy paid for such vessel as the remaining economic life of the vessel computed from the date of documentation bears to the total economic life of the vessel, and

(B) for hire carriage in such trade is limited to passengers, their accompanying baggage, and one thousand measurement tons of cargo, of forty cubic feet each, per annum in any coastwise trade: *Provided*, That for hire carriage of cargo in excess of the aforesaid one thousand tons shall be unlawful.

SEC. 2. Section 2 of Public Law 92-296 (86 Stat. 140), as amended by Public Law 94-536 (90 Stat. 2497), is further amended by inserting after the words "American flag" the following: "in the coastwise and/or foreign commerce of the United States and/or between foreign ports notwithstanding the provision of section 506 of the Merchant Marine Act, 1936: *Provided*, That for hire carriage in coastwise commerce of the United States is limited to passengers, their accompanying baggage, and one thousand measurement tons of cargo, of forty cubic feet each, per annum in any single coastwise trade: *Provided*, That for hire carriage of cargo in excess of the aforesaid one thousand tons shall be unlawful,".

SEC. 3. Notwithstanding the provisions of section 506 of the Merchant Marine Act, 1936 (46 U.S.C. 1156), and any other provision of law or of prior contract with the United States, the steamship *Mariposa* and the steamship *Monterey* may, subject to the approval of the Secretary of Commerce, be allowed to remain under the American flag and operate totally both the coastwise and foreign commerce of the United States and/or between foreign ports: *Provided*, That for hire carriage in the domestic commerce of the United States is limited to passengers, their accompanying baggage, and one thousand measurement tons of cargo, of forty cubic feet each, per annum in any single coastwise trade: *Provided further*, That for hire carriage of cargo in excess of the aforesaid one thousand tons shall be unlawful. In the event the operator should elect to transfer either or both vessels to foreign-flag operation, nothing in this Act shall be construed as permitting these vessels in such circumstances to have any rights or ability whatsoever to operate in the United States coastwise trades.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). Pursuant to the rule, a second is not required on this motion.

The gentleman from New York (Mr. MURPHY) will be recognized for 20 minutes, and the gentleman from Maryland (Mr. BAUMAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 5472, which we are about to consider.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5472, a bill to revitalize the domestic passenger cruise ship industry, provide jobs for American seamen, and return the U.S.-flag to operating cruise ships.

The entire cruise trade generates annual revenues of $20 billion. The industry has doubled in the last 10 years, and is still growing. Current estimates are that revenues will increase by 35 percent within 4 years, if there are enough vessels to carry the passengers.

In 1978, more than 1.2 million passengers sailed on cruises from North American ports. That was a 10-percent increase over 1977. Unfortunately, virtually all of the revenues went to foreign-flag companies. This legislation will change that situation by clarifying and waiving certain restrictions in the Merchant Marine Act, 1920, and the Merchant Marine Act, 1936, to open the coastwise trade routes to five flag passenger vessels, the *United States, Mariposa, Santa Rosa, Oceanic Independence*, and *Monterey*. These vessels were all built in the United States with construction differential subsidy (CDS) funds.

A recent court decision, involving a CDS-built vessel, has created some concern about whether the proposed operations could proceed. This legislation will resolve those concerns and put these ships into our sailing waters.

Since four of these vessels are more than 25 years old, their statutory economic life has expired, and this legislation simply makes it clear that the restrictions in the Merchant Marine Act, 1936, have no application. As for the *Santa Rosa*, which is only 22 years old, these same restrictions would be waived. As a condition for operating in the coastwise trade, the *Santa Rosa*'s operators will repay that portion of subsidy which remains unused.

With regard to the *Oceanic Independence*, certain provisions of the Jones Act, which restrict the operation of foreign-flag vessels off U.S. shores, must be waived. The *Oceanic Independence* sailed under foreign registry at one time, and right now is being "rebuilt" in the statutory sense. Without this legislation, the Jones Act would be a legal bar to its operating in the coastwise trade.

H.R. 5472 was reported out of the committee unanimously, with strong support from all elements of the industry. Similar legislation unanimously passed the Senate earlier this year (S. 1281).

I strongly urge my colleagues in the House to support this important legislation.

☐ 1350

Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Speaker, I thank the chairman for yielding and want to commend the chairman, the gentleman from New York (Mr. MURPHY) for producing this legislation. He has been in the forefront of the merchant marine of the United States in a valiant, if not almost futile fight to change its direction from a rapidly diminishing Merchant Marine to hopefuly reasserting it into the international commerce on a substantial basis.

This legislation deals with only five vessels, but the change of direction is most significant. It would provide the American flag ship with the opportunity to engage in the profitable cruise trade where some foreign flags are now plying the waters of the world.

I am hoping that this legislation will pass, but even more significantly, the gentleman's efforts in this area are to be commended. I thank him.

Mr. MURPHY of New York. Mr. Speaker, I thank my colleague from New York, who is also the chairman of the Coast Guard and Navigation Subcommittee.

I might also note at this time that these ships meet the Coast Guard Safety Standards and will probably be, despite their age, the safest passenger vessels in the cruise trade, notwithstanding the younger age of many of the foreign flag vessels.

Mr. BAUMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. MCCLOSKEY), the ranking minority member of the Committee on Merchant Marine and Fisheries.

Mr. McCLOSKEY. Mr. Speaker, I thank the gentleman for yielding.

I am glad to support this legislation, but I would like to direct one or two questions to the chairman of the full committee, if I may.

In this bill we are limiting the cargo to be carried on these five passenger ships to incidental cargo and putting a limit of 1,000 measurement tons per year.

I have been contacted by the people who want the privilege of operating these ships in passenger trade who indicate some concern that they had hoped for a greater share of cargo flexibility in order to profitably operate passenger ships.

I wonder what the chairman's feeling is on that? If these five passenger vessels do not actually go into operation because of the limit on cargo capacity, will we not have to come back and consider this legislation further or supplementary legislation?

Mr. MURPHY of New York. Mr. Speaker, will the gentleman yield?

Mr. McCLOSKEY. I am happy to yield to the chairman of the committee.

Mr. MURPHY of New York. Mr. Speaker, in response to the gentleman I might say that the gentleman had offered an amendment in the committee that permitted incidental cargo to be carried by these passenger vessels. In that these vessels will be participating in the coastwise trade of the United States, and the fact that they were to come in as passenger vessels, and that is the intent of the legislation, to revitalize the U.S.-flag passenger operation, we did not want to conflict with ongoing cargo operation and perhaps impact existing companies that are not receiving subsidies but that are viable cargo carriers. We, therefore, limited it to 1,000 measurement tons per year per ship in our definition of incidental cargo. I think that is valid and wise. I frankly do not think we will have to come back later on for this reason: The ships were built as passenger vessels some 22 to 27 years ago and the cargo doors are placed in such a position that in order to move any type of cargo under existing cargo-handling mechanisms, one would have to enter through the forward part of the vessel. The cargo hold would be under where the bridge is at the present time, and it would be most difficult for any substantial amount of cargo to go in at this compartment.

I think we are not going to see any major modifications of the vessels with the intent to carry cargo. I think these vessels are purely designed for the purpose of carrying passengers, and I think the incidental cargo would be to carry such small amounts that would in the true sense of the word be incidental to the passenger operation.

Mr. McCLOSKEY. If I may respond to the chairman, I applaud the purpose of the bill and I support the bill because I think it is in the national interests of the United States if we have operating passenger vessels, even though they are over 25 years of age, operating, so should we be caught in a national emergency situation we would have operating passenger ships of value for defense purposes. But I do want to say if it turns out, as a practical matter, that the operation of the passenger ships requires that they get revenue from as much as 5,000 measurement tons per voyage, which is the capacity of the *Mariposa* and the *Monterey*, I would be prepared later to join in legislation that would permit a loosening of this cargo restriction because, as I understand it, they will be competing in the coast-side trade with nonsubsidized cargo ships. As I understand it, the capacity of 5,000 measurement tons per voyage compares, say, with 80,000 or 100,000 measurement tons on regular cargo ships, and I do not think the competition will be so great as to bear the burden of not allowing these ships to operate at all if that cargo carriage is necessary to their profitable operation.

On balance I agree with the chairman and I support the legislation. I hope we do not have to come back.

Mr. MURPHY of New York. If the gentleman will yield further, in response to my distinguished colleague from California, I might point out that all five of these ships, according to the testimony, would be operated from the gentleman's home State of California and would be operating in the Hawaiian trade. Right offhand, if we were to authorize 5,000 tons per ship per year, that would be 25,000 tons of cargo or probably two complete sailings on one of the existing domestic lines, Matson particularly, that has been bearing what I would call the extraordinary burden of funding with little assistance, the pension and welfare funds for the entire west coast labor contracts. I think we would have to go into some extensive hearings to insure that we were not impacting or impeding the viable economic operation of that dedicated domestic cargo carrier.

But I would say to my colleague I would entertain the reopening at some time in the future, if it was pointed out that perhaps a more incidental cargo movement was justified in that operation.

Mr. McCLOSKEY. I thank the chairman for his response and yield back the balance of my time.

Mr. MURPHY of New York. Mr. Speaker, I yield such time as he may consume to the gentleman from Hawaii (Mr. AKAKA).

Mr. AKAKA. Mr. Speaker, today we all have an opportunity to support legislation that will mark the beginning of the rebuilding of the once-proud U.S. passenger fleet.

With the passage of H.R. 5472, five passenger ships will be allowed to reenter the U.S. coastwide trade. Our citizens will be able to enjoy cruising on vessels flying the U.S. flag.

New jobs will be provided for our merchant seamen. U.S. shipyards are already working to renovate these vessels.

I urge your support for H.R. 5472.

Mr. MURPHY of New York. Mr. Speaker, will the gentleman yield?

Mr. AKAKA. I yield to the chairman of the committee.

Mr. MURPHY of New York. Mr. Speaker, I would like to commend my distinguished colleague from Hawaii for his tremendous influence in helping guide this legislation through the committee. The committee is acutely aware of the needs of the great State of Hawaii, the only State outside of California that does not have a viable Federal highway interstate system. We, therefore, hope we are compensating somewhat by bringing this passenger operation to the gentleman's State and, therefore, offering another great economic opportunity for American flags and American companies to participate in that very lucrative cruise trade.

Mr. AKAKA. I thank my chairman for his work on this bill and his tremendous leadership.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill (H.R. 5472), as amended.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will state that this is the last suspension, and this is the reason the Chair did not postpone the vote.

The vote was taken by electronic device, and there were—yeas 405, nays 0, not voting 28, as follows:

[Roll No. 615]

YEAS—405

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conte
Conyers
Corcoran
Corman
Cotter
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Symms
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—0

NOT VOTING—28

Anderson, Ill.
Collins, Ill.
Conable
Coughlin
Crane, Philip
D'Amours
Diggs
Eckhardt
Fary
Flood
Goldwater
Holtzman
Horton
Ireland
Jones, N.C.
Leach, La.
Miller, Calif.
Mitchell, N.Y.
Pursell
Rodino
Runnels
Sabo
Stockman
Synar
Treen
Williams, Mont.
Wilson, Bob
Winn

☐ 1410

The Clerk announced the following pairs:

Mr. Rodino with Mr. Goldwater.

Mr. Fary with Mr. Sabo.

Mr. D'Amours with Mr. Mitchell of New York.

Mr. Ireland with Mr. Williams of Montana.

Mr. Jones of North Carolina with Mr. Synar.

Ms. Holtzman with Mr. Horton.

Mr. Runnels with Mr. Anderson of Illinois.

Mr. Diggs with Mr. Conable.

Mrs. Collins of Illinois with Mr. Pursell.

Mr. Miller of California with Mr. Winn.

Mr. Flood with Mr. Coughlin.

Mr. Leach of Louisiana with Mr. Bob Wilson.

Mr. Eckhardt with Mr. Stockman.

Mr. Philip M. Crane with Mr. Treen.

So (two-thirds having voted in favor thereof), the rules were suspended, and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries be discharged from the further consideration of a similar Senate bill (S. 1281) to revitalize the pleasure cruise industry by clarifying and waiving certain restrictions in the Merchant Marine Act, 1936, and the Merchant Marine Act, 1920, to permit the entry of the vessels SS *United States*, SS *Oceanic Independence*, and SS *Santa Rosa* into the trade, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1281

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Notwithstanding the provisions of section 506 of the Merchant Marine Act, 1936 (46 U.S.C. 1156), section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883), and any other provisions of law, the Secretary of the department in which the United States Coast Guard is operating shall cause the vessel *Oceanic Independence* (official

Coast Guard numbered 261147) and the vessel steamship *Santa Rosa* (official Coast Guard numbered 276598) to be documented as vessels of the United States entitled to engage in the coastwise trade, so long as—

(1) in the case of the Oceanic Independence—

(A) the vessel is in compliance with the usual requirements for vessels engaging in the coastwise trade,

(B) any rebuilding or repair work on the vessel shall be accomplished after documentation as a vessel of the United States, except that the vessel shall not lose its coastwise privileges if the work necessary to install a bow thruster in the vessel and to equip it with sewage holding tanks to comply with international standards is performed outside the United States, its territories (not including the trust territories) or its possessions before the vessel engages in the coastwise trade following enactment of this Act,

(C) the vessel is owned by a citizen or citizens of the United States as defined in the applicable laws prescribing the qualifications for vessels to engage in the coastwise trade, and

(D) for hire carriage in such trade is limited to passengers and their accompanying baggage.

(2) in the case of the steamship *Santa Rosa*—

(A) prior to such documentation the owner of the steamship *Santa Rosa* repays to the Secretary of Commerce, upon such terms and conditions as the Secretary may prescribe, an amount which bears the same proportion to the total construction differential subsidy paid for such vessel as the remaining economic life of the vessel bears to the total economic life of the vessel, and

(B) for hire carriage in such trade is limited to passengers and their accompanying baggage.

SEC. 2. Section 2 of Public Law 92-296 (86 Stat. 140), as amended by Public Law 94-536 (90 Stat. 2497), is further amended by inserting after the words "American flag" the following "in the domestic and/or foreign commerce of the United States and/or between foreign ports notwithstanding the provision of section 506 of the Merchant Marine Act, 1936: *Provided*, That for hire carriage in the domestic commerce of the United States is limited to passengers and their accompanying baggage.".

MOTION OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MURPHY of New York moves to strike out all after the enacting clause of the Senate Bill, S. 1281, and to insert in lieu thereof the provisions of H.R. 5472, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: To revitalize the pleasure cruise industry by clarifying and waiving certain restrictions in the Merchant Marine Act, 1936, and the Merchant Marine Act, 1920, to permit the entry of the steamship vessel *United States*, steamship vessel *Oceanic Independence*, steamship vessel *Santa Rosa*, and the steamship vessel *Mariposa* and steamship vessel *Monterey* into the trade.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 5472) was laid on the table.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 341, MILWAUKEE RAILROAD SERVICE CONTINUATION

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 439 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 439

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 341) to require continuation of rail service by the Chicago, Milwaukee, Saint Paul, and Pacific Railroad for a period of forty-five days, and the first reading of the joint resolution shall be dispensed with. After general debate, which shall be confined to the joint resolution and the amendment made in order by this resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the joint resolution shall be read for amendment under the five-minute rule. In lieu of the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill, it shall be in order to consider the amendment in the nature of a substitute printed in the Congressional Record of September 28, 1979, by Representative Florio, said substitute shall be considered as an original joint resolution for the purpose of amendment under the five-minute rule, and all points of order against said substitute for failure to comply with the provisions of clause 7 of rule XVI and clause 5 of rule XXI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the joint resolution to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the joint resolution or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.J. Res. 341, the House shall proceed, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, to the consideration of the joint resolution S.J. Res. 81, and it shall then be in order in the House to move to strike out all after the resolving clause of the said Senate joint resolution and to insert in lieu thereof the provisions of H.J. Res. 341 as passed by the House.

□ 1420

The SPEAKER pro tempore. The gentleman from Texas (Mr. FROST) is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only I yield the customary 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 439 is an open rule providing for the consideration of House Joint Resolution 341 to require the continuation of rail service by the Chicago, Milwaukee, St. Paul & Pacific Railroad. The resolution provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce.

The Milwaukee Road, the Nation's seventh largest rail system, winds through 16 States on a 9,800 mile track from Indiana and Illinois on the East to Washington and Oregon on the West. In December 1977, the Milwaukee Railroad filed a petition for reorganization under bankruptcy laws in U.S. district court, and on April 23 of this year, the court-appointed trustee requested that the court embargo all but 3,500 miles of the 9,800 mile system. Such an embargo would have virtually eliminated all service west of Minneapolis. In order to give the Federal Government and private sector interests time to evaluate what might be done to salvage the system, the Committee on Interstate and Foreign Commerce reported House Joint Resolution 341 on May 30 as a committee amendment which placed a 45-day moratorium on the embargo of lines stretching through South and North Dakota, Montana, Idaho, Washington, and into Oregon.

However, on June 1, the bankruptcy judge rejected the embargo request contending that he did not have the authority to approve the embargo and gave the trustee until August 9 to submit a new reorganization plan. In August, the trustee submitted a reorganization plan that called for the embargo of service over the 6,400 miles of the system west of Miles City, Mont.

In September, a substitute to the reported resolution was drafted by the Transportation Subcommittee that would require the railroad to maintain full service pending the submission, approval and implementation of an employee or employee-shipper stock ownership plan. The substitute requires that such plan must be approved by the Interstate Commerce Commission by January 1, 1980 and implemented by March 1. The substitute also grants the bankruptcy court the authority to abandon and sell the Milwaukee Road lines should such a plan not be approved by the ICC, and provides for Federal loan guarantees and other Federal assistance. To the affected States, this new substitute became all the more critical when on September 27 the bankruptcy court ruled that the Milwaukee Road was facing a state of cashlessness and ordered abandonment effective November 1, 1979.

To address this situation, the Committee on Rules adopted House Resolution 439 which provides that in lieu of the amendment in the nature of a substitute recommended by the Commerce Committee now printed in the bill, it shall be in order to consider the amendment in the nature of a substitute which was printed in the CONGRESSIONAL RECORD of September 28 by Representative FLORIO, chairman of the Transportation Subcommittee. The substitute shall be considered as an original joint resolution for the purpose of amendment under the 5-minute rule.

The rule further waives points of order against the substitute for failure to comply with clause 7, rule XVI, the germaneness clause, and clause 5, of rule XXI, which prohibits appropriations in a legislative bill. The resolution also provides that upon conclusion of consideration of the resolution for amendment, a motion to recommit with or without instructions shall be in order.

Should the House pass House Joint Resolution 341, the rule provides that the House shall consider Senate Joint Resolution 81, the companion joint resolution passed by the Senate last May. A technical waiver of section 402(a) of the Congressional Budget Act is provided to enable the House to take up the Senate joint resolution since, as passed by the Senate, section 3 of the Senate resolution would authorize the enactment of new budget authority effective upon enactment and the Senate resolution was not reported on or before May 15, 1978.

However, since we are now in fiscal year 1980, and since it is the intention of the Commerce Committee to offer the House joint resolution as an amendment to the Senate measure, the Budget Act violation has been cured. The resolution also permits the House to strike all after the resolving clause of the Senate joint resolution and to insert in lieu thereof the text of House Joint Resolution 341 as passed by the House.

Mr. Speaker, the timely consideration of House Joint Resolution 341 and disposition of this matter by the Congress is a matter of grave concern to the residents of those States served by the Milwaukee Road. The Commerce Committee will more fully explain the critical nature of the Milwaukee Road situation and I would urge my colleagues to adopt this resolution so that the House may proceed to the consideration of House Joint Resolution 341.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman from Texas yield?

Mr. FROST. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, I notice that this resolution makes in order a nongermane amendment that was put in the CONGRESSIONAL RECORD of September 28; the amendment being offered by our colleague from New Jersey (Mr. FLORIO).

Can the gentleman inform the House whether this amendment was considered in the Committee on Interstate and Foreign Commerce or whether there is any Congressional Budget Office estimate on how much the amendment would cost and other such pertinent details as are usually found in committee reports but which are not forthcoming because of the waiver contained in the rule?

Mr. FROST. Mr. Speaker, I will yield to the gentleman from New Jersey (Mr. FLORIO), a member of the committee, to answer those questions.

Mr. FLORIO. Mr. Speaker, would the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from New Jersey.

Mr. FLORIO. The question is, whether these matters were considered by the committee. The answer to that question is no. These matters were brought to our attention as a result of some developments that occurred concerning the Milwaukee Road just a few days ago.

Mr. SENSENBRENNER. The amendment of the gentleman from New Jersey was offered by him on September 28. If this is such a crisis situation, why do we wait until today, a month and 2 days later, to bring up this rule and bring up this bill?

Mr. FLORIO. Mr. Speaker, may I ask for some clarification. There were two measures. The basic bill we are talking about, the substitute, is what the gentleman has in mind? There is another amendment to be offered by me as well.

Mr. SENSENBRENNER. The waiver applies to the substitute.

Mr. FLORIO. The basic bill that we are talking about today is a substitute in lieu of the resolution that was enacted by the full committee. The developments in this situation have been occurring on a daily basis. Last week the court provided the authority to the trustee to embargo, as of this coming Thursday, to offer an embargo, which is a termination of service, over the vast majority of this line.

☐ 1430

So conceivably the trustee can terminate service on Thursday; hence the emergency nature of the bill we have today.

Mr. SENSENBRENNER. It is my understanding, if the gentleman from New Jersey would yield further, that the substitute which the gentleman is planning on offering provides a certain preference in bankruptcy for moneys that are advanced by the Federal Government to pay for the labor protection provisions of the substitute.

It is my understanding that there is a law on the books, called the Tucker Act, which prohibits the Federal Government from dissipating the assets of a bankrupt.

This is a matter that is usually under the jurisdiction of the Committee on the Judiciary. I am wondering if the Commerce Commitee had given consideration as to the effect of this law relative to the Tucker Act.

Mr. FLORIO. Mr. Speaker, if the gentleman will yield further, the gentleman is addressing a question that had previously been discussed, but which has been resolved, because the moneys we are talking about are severance pay which will come out of the estate. There is no Federal Government money involved, and hence no ultimate Federal liability.

Mr. SENSENBRENNER. Mr. Speaker, if the gentleman will yield further, the Tucker Act applies in that particular instance, because the money that is being provided for the severence pay is coming from the estate of the bankrupt railroad. That gives a preference claim against the estate of the bankrupt railroad over and above the existing creditors of the bankrupt railroad.

I am asking if the Commerce Committee gave any consideration as to whether the Tucker Act would be violated by the arrangement the gentleman has just described.

Mr. FLORIO. Mr. Speaker, if the gentleman will yield further, the provision is not, as we interpret it, in violation of the Tucker Act. The trustee, incidentally, who has the responsibility of the creditors as one of his responsibilities, has agreed this is in the interest of the estate and in the interest of the creditors.

Mr. SENSENBRENNER. Mr. Speaker, I thank the gentleman.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, the able gentleman from Texas (Mr. FROST) has thoroughly explained the provisions of the rule and to an extent the provisions of the bill itself.

The measure provides a way to restructure the Milwaukee Railroad. I think that is important for commerce.

The bill also provides a means of shipper-employee and/or employee purchase of the railroad itself; so it does have some favorable factors.

Mr. Speaker, I have no requests for time. I urge the passage of the resolution and the bill when it is before us.

I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. BONIOR).

(By unanimous consent, Mr. BONIOR of Michigan was allowed to proceed out of order).

THE CRISIS IN CAMBODIA

Mr. BONIOR of Michigan. Mr. Speaker, I do this very reluctantly because I am reluctant to interrupt the debate; but what I want to talk about I think is important enough to do that.

I have a "Dear Colleague" letter that I am circulating this afternoon and it is necessary, because of the situation, that Members know about the letter. I am talking about the situation over in Cambodia. As time goes by, every second, literally hundreds of people are starving. We do not have to go into that this afternoon. I think people are very well aware of it. The letter I am requesting Members to sign would help alleviate some of the problem by letting the United States and the Soviet Union cooperate jointly in an airlift.

I would like to read the letter, if I could, to the Members right now and if Members wish to cosign the letter with me and other Members of the House, I will be available on the floor for signatures this afternoon.

The letter reads:

DEAR MR. PRESIDENT: We urge you to take immediate steps to launch a joint U.S.-Soviet airlift of trucks, food, medicine and other humanitarian and relief supplies to the people of Cambodia. The statistics on starvation and death in that country are well known to you, to the Congress and to the American people. We applaud your announcement on increased aid, and we note that the House has passed legislation authorizing some of that aid. Yet to date the U.S. contribution of food has been negligible. In fact, all western countries have supplied only 200 tons of emergency supplies over the past months of devastation.

Despite much talk, diplomats have failed to reach agreement with the Cambodian government on any large scale food distribution plan. Given the history of western and U.S. military involvement in Southeast Asia, we understand the reservations. Likewise, we understand the reservations over the possible use of U.S. aircraft for personnel returning to their country. We therefore believe that only a joint effort under which the U.S. and the U.S.S.R. share responsibilities is workable. Cooperation might take the following form: The U.S. would provide supplies, food and medicine, trucks and distribution and the Soviets would provide the planes to carry them.

We believe this is a feasible plan, since the Soviets already fly transports in and out of the area. Additional planes for humanitarian purposes would not post major logistical problems. While we have no guarantee that they would agree to the specifics of such a plan, we believe they would at least consider close cooperation.

The plan is not a panacea. It is expensive and the distribution of food and supplies will be monitorable by U.S. officials. Some of it may be even eaten or used by soldiers of one side or the other.

But such reservations at this late date must not deter us. We must remember above all that more food will get to starving people under this plan than is getting there now. We urge that you undertake immediate discussions with representatives of the Soviet Union to offer our help in delivering supplies without delay to the people of Cambodia. We believe that such a joint endeavor will underline the true meaning and true value of detente.

Mr. Speaker, I thank the House for its attention and for letting me address this issue and I thank especially the gentleman from Texas (Mr. FROST) for letting me speak out of order. I will be available on the floor for signatures on this letter to the President.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I rise in reluctant opposition to the rule that is before us. My purpose for engaging the gentleman from New Jersey (Mr. FLORIO) in a colloquy was to try to settle whether some of the legal issues that are raised by the gentleman's substitute have been resolved.

I do not believe that the gentleman's answer was convincing that there has been serious consideration into possible violations of the Tucker Act. The waiver that is contained in this rule of germaneness on the substitute amendment that the gentleman from New Jersey will offer bypasses the committee system entirely. There was no committee consideration within the Committee on Interstate and Foreign Commerce of the substitute.

Furthermore, there are items in this substitute relating to bankruptcy preferences which are properly in the jurisdiction of the Committee on the Judiciary.

We all want to make sure that the job is done to provide railroad service for those communities that have been served by the Milwaukee Railroad; but it is important that the job be done right, so that the fight that has gone on in court for the last 2 years will not go on in court for the next 10.

The continuing resolution attempted to resolve the problem of providing train service for a limited period of time along the Milwaukee route and that was improperly drafted, which is one of the reasons why this resolution is before us today.

I hope that we will not compound the error by passing this rule and bringing up a substitute out of order waiving the germaneness rule which has not been thoroughly thought out for all the legal consideration; so I would hope that this rule be defeated and we could go back and try again.

Mr. FROST. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 373, nays 33, answered "present" 1, not voting 26, as follows:

[Roll No. 616]

YEAS—373

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burlison
Burton, John
Burton, Phillip
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Conte
Conyers
Corcoran
Corman
Cotter
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Dickinson
Dicks
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gray
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Hightower
Hillis
Hinson
Holland
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
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Levitas
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lundine
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Mathis
Matsui
Mattox
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Mollohan
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Moorhead, Calif.
Moorhead, Pa.
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Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
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Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Rudd
Russo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Shannon
Sharp
Shelby
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—33

Archer
Ashbrook
Bauman
Broomfield
Burgener
Butler
Collins, Tex.
Dannemeyer
Devine
Dingell
Dornan
Gore
Gramm
Hansen
Heftel
Holt
Kelly
Kindness
Lewis
Lott
Lungren
McClory
McDonald
Martin
Myers, Ind.
Ottinger
Paul
Petri
Rousselot
Runnels
Sensenbrenner
Shumway
Stenholm

ANSWERED "PRESENT"—1

Green

NOT VOTING—26

Abdnor
Anderson, Ill.
Beilenson
Collins, Ill.
Conable
Coughlin
Crane, Philip
Diggs
Erlenborn
Fary
Flood
Holtzman
Ireland
Jones, N.C.
Leach, La.
Leland
Miller, Calif.
Mitchell, Md.
Pursell
Rodino
Sabo
Synar
Treen
Wilson, Bob
Wilson, C. H.
Winn

☐ 1450

The Clerk announced the following pairs:

Mr. Rodino with Mr. Bob Wilson.

Mr. Mitchell of Maryland with Mr. Pursell.

Mrs. Collins of Illinois with Mr. Conable.

Mr. Fary with Mr. Winn.

Mr. Ireland with Mr. Erlenborn.

Mr. Jones of North Carolina with Mr. Philip M. Crane.

Mr. Miller of California with Mr. Coughlin.

Mr. Charles H. Wilson of California with Mr. Abdnor.

Mr. Beilenson with Mr. Anderson of Illinois.

Mr. Leland with Mr. Leach of Louisiana.

Ms. Holtzman with Mr. Synar.

Mr. Sabo with Mr. Diggs.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. FLORIO. Mr. Speaker, I move that

the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 341) to require continuation of rail service by the Chicago, Milwaukee, St. Paul & Pacific Railroad for a period of 45 days.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. Florio).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 341) with Mr. Downey in the chair.

The Clerk read the title of the joint resolution.

The CHAIRMAN. Pursuant to the rule, the first reading of the joint resolution is dispensed with.

Under the rule, the gentleman from New Jersey (Mr. Florio) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. Madigan) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. Florio).

Mr. FLORIO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, to address the complex problem of reorganizing and restructuring a railroad which is vital to the Midwest, we have put together an amendment to the original House Joint Resolution 341 which is offered as a substitute. The substitute establishes the means to expedite the restructuring of the Milwaukee so as to provide the most efficient service to the maximum number of shippers. We believe it offers a model for restructuring railroads in bankruptcy, an occurrence we may see more of in the future.

At this point I think it is appropriate to recognize the assistance and cooperation of the ranking minority member, the gentleman from Illinois (Mr. Madigan), for his assistance in drafting this piece of legislation.

The substitute would give to the Bankruptcy Court the authority to order abandonment and sales. It would allow the trustee, in consultation with the Secretary of Transportation and the ICC maximum authority and time to arrange for the sale of lines to other carriers. It further establishes the authority of the Bankruptcy Court to order abandonments without time-consuming ICC procedures.

The substitute also provides that during the period when restructuring activities will be occurring employees and shippers may prepare and present to the Interstate Commerce Commission a proposal for an employee or employee/shipper purchase of the railroad.

To allow for restructuring to take place and the employee/shipper plan to be prepared, Federal funds under the Emergency Rail Services Act are available to maintain the operation of the railroad. The ERSA funding would be available until the Interstate Commerce Commission determined that an ESOP plan is, or is not, feasible—but in no event beyond March 1, 1980.

ERSA funds are made available in lieu of directed service, which is service ordered by the Interstate Commerce Commission, provided by other carriers over the Milwaukee property, but paid for by the Federal Government. The alternative directed service order would be available for 240 days, maintaining most of the present Milwaukee system through June of 1980 without any guarantee that restructuring would take place. I believe the provision of ERSA funds and the restructuring mechanisms included in the substitute make it far preferable to directed service.

The substitute also contains incentives for employees to remain in the railroad industry. It establishes a job placement program administered by the Railroad Retirement Board, and it requires other carriers to hire displaced Milwaukee employees. It provides moving expenses to employees who move to other carriers and unemployment benefits if they are then laid off.

Perhaps most importantly for the Milwaukee and the employees, the substitute establishes a severance pay arrangement which will allow the Milwaukee to reorganize into a smaller more efficient railroad. The employees presently have potential claims of approximately half a billion dollars against the Milwaukee estate. If the estate is required to pay those claims, there would be no remaining assets with which to continue the operation of the railroad.

In this substitute we have offered employees the option of taking severance pay figured at a reduced industry standard. They would be guaranteed the severance pay figure, to be advanced by the Federal Government but paid by the estate. The advance by the Federal Government would be guaranteed as an expense of administration of the estate.

The employees' choice of labor protection settled by litigation years down the road would not be prejudiced. But we have offered each employee a better option, and provided the estate with the ability to use its assets to reorganize the railroad. I have personally talked with the trustee, and the severance pay option is one which he strongly endorses.

Presently, the other body is considering its own Milwaukee legislation. While they have patterned their attempts after this substitute their proposal contains substantial differences. One such bill would freeze the entire Milwaukee system, at the expense of the Federal Government, until May 1980. Not only would this additional time result in a higher cost to the taxpayer, but also seriously hamper, if not prevent the Milwaukee from restructuring. Such action would cause a further drain to the Milwaukee that cannot be justified.

The committee believes that the substitute to House Joint Resolution 341 represents a reasonable and comprehensive approach to the problems confronting the Milwaukee, a tool for providing continued service to shippers and an innovative incentive package to keep employees in the railroad industry.

I would urge your support for this measure.

□ 1500

Mr. MADIGAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, nearly 2 years ago the Milwaukee Railroad filed bankruptcy. Last May the trustee for the Milwaukee Railroad filed a reorganization plan with the bankruptcy court which called for a massive restructuring of the Milwaukee Railroad system so as to stop the total erosion of the Milwaukee estate. When we acted in committee on House Joint Resolution 341 the judge was considering whether or not to prevent the abandonment of all service on the Milwaukee Railroad which was not necessary for the implementation of the trustee's plan to create a smaller railroad. At that time I was concerned about Congress and the Federal Government slipping into an easy, but costly solution for the Milwaukee Railroad. The easy, but costly solution to the problem of the Milwaukee Railroad would be to freeze the entire 10,500-mile system and create a ConRail-West by providing massive sums of Federal money to keep the railroad going.

The Senate passed Senate Joint Resolution 81 in May which would have frozen the Milwaukee Railroad system for a period of 90 days. House Joint Resolution 341 was a companion bill considered by the Interstate and Foreign Commerce Committee in May. I opposed House Joint Resolution 341 in committee because I did not feel that a total freeze of the Milwaukee system for any period of time solved any problems. As a matter of fact, I was convinced at that time that a 45- or 90-day freeze would only encourage subsequent freezes which would eventually lead to ConRail-West.

Mr. Chairman, it became clear that there were two major problems that had to be dealt with before any permanent solution could be found for the Milwaukee Railroad. First, there was a necessity of providing a mechanism for restructuring which would guarantee the shippers of the Midwestern and Northwestern part of the United States adequate rail service. Second, there was a necessity to face up to the fact that traditional labor protection had become so expensive that it was impossible to both restructure the Milwaukee Railroad and pay those labor protection costs.

Chairman Florio and I began a series of negotiations with the trustee of the Milwaukee, the Department of Transportation, the Railroad Brotherhoods, and many of the States served by the Milwaukee Railroad. It became clear that if a reasonable method could be found for selling parts of the Milwaukee Railroad to other railroads, the vast majority of shippers in the States served by the Milwaukee would continue to receive rail service because many lines would be bought by other railroads serving that part of the country. Under existing law, however, it is not an easy matter to sell railroad lines. Lengthy procedures are required before the Interstate Commerce Commission, and those procedures inevitably become bogged down in litigation and appeals making the process unworkable.

The substitute amendment proposed by Chairman Florio and I permits the prompt restructuring of the Milwaukee Railroad by establishing a process for orderly restructuring. The process first requires the Interstate Commerce Commission to consider the feasibility of converting the Milwaukee Railroad into an employee-shipper owned railroad.

Proponents of such a proposal must submit that proposal to the Interstate Commerce Commission on or before December 1 of this year. The Commission then has 30 days to determine whether or not such a proposal is feasible. Several studies have already been done concerning such a proposal and indicate that it is unlikely to be feasible. However, in an effort to carefully examine every possible solution for the Milwaukee Railroad problem, the Florio-Madigan substitute contains this final review of an employee-shipper ownership option.

If the Commission finds that such a proposal is feasible, the change of operating contract of the Milwaukee Railroad must take place no later than March 1 of next year. If the Commission finds that such a proposal is not feasible, the Milwaukee Railroad may begin the restructuring process as early as January 1.

Under the restructuring process, the bankruptcy judge in the Milwaukee case is given the authority to authorize sales of lines to other railroads as quickly as possible. The Secretary of Transportation is directed to assist the bankruptcy judge and the Milwaukee estate in attempting to find purchasers for Milwaukee lines which are not included in the trustee's proposal for restructuring the Milwaukee.

Since the process of finding purchasers for rail lines which the Milwaukee can no longer afford to maintain has been an ongoing one, I am convinced that nearly all of the shippers presently served by the Milwaukee Railroad will continue to have rail service. For example, both the Burlington Northern and Union Pacific Railroads have expressed interest in purchasing a number of Milwaukee lines. It is also my understanding that the Chicago and Northwestern Railroad has likewise expressed interest in a number of Milwaukee lines. The adoption of the substitute amendment will permit that restructuring process to go forward. It will also permit the prompt abandonment of those lines for which there is not a continuing need. The States in the region will also be given the opportunity to assist through their own programs and under the branchline subsidy program in assuring better rail service throughout the area. The Senate should accept the proposal in order to avoid a court order.

Under the trustee's proposal of reducing the size of the Milwaukee Railroad from a 10,500-mile railroad to a railroad slightly over 3,000 miles, one of the impediments to the reduction has been the high cost of traditional labor protection. Traditional labor protection in the railroad industry has been guaranteed both by law and contracts between railroad labor organizations and railroad management. Let me take a minute to describe traditional labor protection.

In 1933, the Federal Government froze all railroad jobs in an effort to stem the rising unemployment of the depression. In 1935, the Federal Government, the railroad industry, and the railroad labor organizations worked out what has become known as the Washington Job Agreement. Under the Washington Job Agreement, railroads were permitted to abolish jobs through normal attrition, but were required to protect an employee if a job was abolished because an abandonment, sale, or merger. That labor protection was eventually made part of the law. For example, both the Amtrak legislation and the 4-R Act require traditional labor protection when a railroad employee loses his job as a result of an abandonment, sale, or merger.

The specific labor protection under the Washington Job Agreement is 16½ months' separation pay or 6 years' guaranteed annual income, depending upon an election by the employee. In the case of the Milwaukee Railroad, traditional labor protection could run anywhere between $300 million and $1.2 billion depending upon the employee's election of an option. If the estate were required to pay that kind of labor protection, there would be not enough money to have any kind of reorganization of the Milwaukee Railroad.

Under the substitute amendment, labor protection has been radically changed by providing an option for the Milwaukee employee between taking his chances in receiving traditional labor protection or receiving certain specified labor protection under the amendment. Since traditional labor protection from the Milwaukee Railroad would be subject to lengthy litigation it is our belief that most employees would elect to receive the labor protection provided under this bill.

Mr. Chairman, it has been estimated that as a result of restructuring the Milwaukee Railroad to form a viable company, approximately 5,600 employees would lose their jobs. Under the substitute amendment, all of those employees would be given incentives to take a job with another railroad or receive a prompt but scaled down lump sum payment in lieu of traditional labor protection.

Labor protection benefits under the bill fall into two categories. First, an employee may elect to receive severance pay equal to $2,000 for each year of service he has up to a maximum for $25,000. If he elects severance pay, he is also entitled to new career training assistance in order to become qualified for a new job. The new career training assistance would be paid for by the Federal Government and would be limited to not more than $3,000 per employee.

The preferable option for the employee is to take a job with another railroad or the restructured Milwaukee. The bill contains incentives such as moving expenses and displacement allowances which encourage the employee to take another job in the industry.

One of the most important features of the substitute amendment is the determination of who pays for which benefit. All of the labor protection benefits except for supplementary unemployment insurance and new career training would come out of the assets of the Milwaukee estate. There is an aggregate cap placed on benefits from the Milwaukee estate of $75 million. The bill provides that the Government shall loan the Milwaukee the $75 million in order to make prompt payment of the benefits, but that the loan shall be considered as a cost of administration of the estate. In simple terms, that means that the Government would be paid back the $75 million before any other claims against the Milwaukee estate are paid.

I should add, Mr. Chairman, that at this point in time, the Milwaukee estate is sufficiently large to assure the repayment of this loan. The longer we force the Milwaukee Railroad to continue operation of all its railroad lines, the smaller the estate becomes because the Milwaukee Railroad is losing between $10 and $20 million each month that it presently operates.

The Federal expenditures for labor protection are limited to $5 million for the supplementary unemployment insurance and $1.5 million for new career training. Both of these programs are financed by the Federal Government in that they are designed to encourage employees to work rather than receive guaranteed annual income under traditional labor protection. The supplementary unemployment insurance benefit is limited to a period of 3 years and would become operative only when an employee is out of work. In addition, the supplementary unemployment insurance benefit is limited to an individual in an amount sufficient to bring an unemployed worker's income up to 80 percent of his normal compensation with the Milwaukee Railroad. Since unemployment in the railroad industry is relatively low, it is unlikely that the demand for supplementary unemployment benefits will be very great. In my judgment, the $5 million authorized in this bill will be more than sufficient to cover the total expenses under this program. At the same time, the existence of the program will provide the necessary security for a displaced Milwaukee employee to move his family to another area in order to take another job.

Mr. Chairman, it is never easy to solve the problems brought about by railroad bankruptcy. In my judgment, however, the substitute amendment provides the best available solution to the problems presented by the bankruptcy of the Milwaukee Railroad. I, for one, do not want to see a ConRail solution for the Midwest or Northwest. As you know, the Federal Government has already authorized and appropriated billions of dollars in order to keep ConRail operating. The same situation could develop in the Midwest and Northwest if we do not move promptly to permit the restructuring of the Milwaukee Railroad. Today, we have the opportunity to do just that in that the substitute amendment has been agreed to by all of the parties affected by the Milwaukee Railroad bankruptcy. The longer we wait, the more difficult it will be to provide a responsible and reasonable solution. I urge the adoption of this substitute and ask unanimous consent that a series of questions and answers concerning the amendment which I have prepared be inserted in the Record immediately following my remarks.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I would like to take this opportunity to express my support for the substitute amendment offered by Mr. Florio and Mr. Madigan to House Joint Resolution 341, which provides for full service continuation on the Milwaukee Road.

As ranking minority member of the Transportation Subcommittee of the House Committee on Appropriations, it has been a pleasure to work with both Mr. Florio and Mr. Madigan in seeking solutions to the rail problems that plague our Nation today.

The Chicago, Milwaukee, St. Paul & Pacific Railroad, more affectionately known as the "Milwaukee Road", declared bankruptcy on December 19, 1977. Last April, the trustee submitted a plan to the Bankruptcy Court to restructure the railroad and embargo the services on approximately 7,000 miles of the 9,400 mile system. Because of the possible adverse effect on shippers and employees of the railroad, the Commerce Committee reported out the original version of House Joint Resolution 341, which provided for the 45-day continuance of the entire railroad.

A number of alternatives to embargo have been proposed for providing continued operations on the Milwaukee Road. Many of the alternatives call for large expenditures of Federal funds without achieving restructuring or reorganization of the Milwaukee Road. It has also become increasingly obvious that some legislative solution to the question of labor protection is critical to the avoidance of the Milwaukee Road's dependence on Federal funds.

We have before us today an amendment in the nature of a substitute which will go a long way in achieving an equitable, and well-considered solution to the problems facing the Milwaukee Railroad. Mr. Florio and Mr. Madigan have developed a legislative package that is designed to: First, relieve the uncertainty of the employees and customers of the railroad; second, provide employees with fair treatment and opportunity to find other employment; third, restructure the railroad with a minimum use of Federal funds; and fourth, maintain the continuation of service essential to the majority of shippers who depend on the railroad.

Mr. Chairman, the House has spent a great deal of time over the past several years analyzing and reanalyzing the many difficulties the railroad industry is faced with as compared to other modes of transportation. We are increasingly cognizant of the need to maintain a viable rail network in this country. The lack of certainty facing the agricultural community in the Midwest with respect to getting their harvest to market is but one example of the urgent need to develop a mechanism which will provide certainty in the near future.

Mr. Chairman, the preservation of our Nation's network of rail transportation is dependent upon a variety of regulatory changes, as well as far reaching across the board improvements in the system of labor protection. This bill as amended by the Florio-Madigan amendment in the nature of a substitute will be a positive step in the right direction.

Mr. MADIGAN. I want to thank the gentleman for his contribution and also make note of the tremendous and diligent work done by the gentleman from New Jersey (Mr. Florio).

Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. Railsback).

Mr. RAILSBACK. Mr. Chairman, I would like to commend the work of the gentleman from New Jersey (Mr. Florio), and also the gentleman from Illinois (Mr. Madigan) who I think have worked very hard to come up with what I think is a very reasonable and very acceptable compromise.

Mr. Chairman, I rise in support of the Madigan-Florio substitute to House Joint Resolution 341 regarding the Milwaukee Railroad. Employees of the Milwaukee Railroad who are working in Savanna, Ill., which is part of the 19th Congressional District of Illinois have urged me to support this legislation because a significant number of them stand to lose their jobs due to the elimination of trackage from Council Bluffs, Iowa to Savanna, Ill.

The passage of this substitute to House Joint Resolution 341 will provide these employees with adequate labor protection and will give them the possibility of implementing an employee stock ownership plan. For this reason, I urge you to support a substitute to House Joint Resolution 341.

Mr. MADIGAN. I want to thank the gentleman for his contribution.

Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska (Mr. Bereuter).

Mr. BEREUTER. Mr. Chairman, the Milwaukee Road does not serve my district, but I rise in support of the substitute, House Joint Resolution 341 and commend the gentleman from New Jersey and the gentleman from Illinois for bringing it to us.

Mr. Chairman, this legislation will assure that fair treatment will be given to the employees of the Milwaukee Railroad, as well as the many customers on that line. With the restructuring of this railroad through this legislation we will be able to maintain essential services to the majority of shippers who depend on this railroad, and at a minimum cost to the Federal Government.

Mr. Chairman, I would especially draw the committee's attention to section 5 and section 18 of this legislation.

Section 5 will, appropriately, increase from $125 million to $200 million the amount of the allocation in the Emergency Rail Services Act of 1978. This will assist in solving problems involved in the bankruptcy of the Rock Island Railroad.

Section 18 will make applicable certain portions of the new Bankruptcy Act, which became effective October 1, 1979, to any railroad bankruptcy case, including the Rock Island Railroad, that was pending prior to that effective date.

I urge my colleagues to support this substitute.

Mr. FLORIO. Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin (Mr. Reuss).

Mr. REUSS. Mr. Chairman, I fully support the Commerce Committee's substitute to House Joint Resolution 341.

The resolution's solution for the problems of the bankrupt and cashless Milwaukee Road, a procedure to allow the Milwaukee Road quickly to abandon light-density, money-losing lines, is sound. It is the solution which was provided in my bill, H.R. 4686, which the Judiciary Committee approved September 13. It is, furthermore, the solution which we approved in the Bankruptcy Reform Act of 1978 for all railroad bankruptcies initiated after October 1, 1979.

But in the legislative process we began last May, we have grafted on to this sound concept so many delays, conditions, precedents, and side issues, that we have come close to torpedoing the idea of quick abandonments and the Milwaukee Road with it.

A little history illustrates why prompt implementation of the quick abandonment remedy is so important. Like many Midwestern railroads, the Milwaukee labors under the burden of a route structure more than a century old, a structure which was developed before trucking had cut deeply into rail's share of the Midwestern agricultural transportation market. After the middle of this century, cargo on Midwestern railroads dropped, but the route structure, propped up by the ICC and its antiquated railroad regulatory scheme, was pruned back. The Milwaukee's problems are compounded by its improvident expansion to the west coast in 1906 to 1909. Since that expansion the railroad has always been marginal, and has declared bankruptcy three times. With trucking's inroads, the Milwaukee's situation has moved from marginal to serious to desperate.

Chronically short of cash, the Milwaukee has deferred half a billion dollars of maintenance, increasing derailments, and slowing speed on many routes. The cash shortage led also to an equipment shortage, which impaired service, and business dropped off as service declined. The railroad was locked into a descending spiral of cash shortage, deferred maintenance, poor service, and even lower revenues.

Help seemed close at hand when, in early 1978, Stanley E. G. Hillman was appointed the Milwaukee's bankruptcy trustee. Hillman made it clear that the railroad's only hope was to get out from under the money-losing mainlines in the West, and some equally hopeless agricultural branch lines in the Midwest. The Milwaukee could then, Hillman reasoned, concentrate scarce resources and equipment on the profitable Louisville-Chicago-Milwaukee-Twin Cities mainline. Shortly after taking office, Hillman moved to abandon those money-losing lines which were bleeding the railroad dry.

But he was stymied by the ICC's leisurely, business-as-usual pace. The winters of 1978 and 1979 brought service to a standstill in the Midwest. Equipment which could have kept freight moving along the industrial Midwestern mainline was out of order or snowed in and there was no money for maintenance. The manufacturers and shippers in my district of Milwaukee, whose products can only be moved by rail, began to reexamine expansion plans in Milwaukee. Thousands of jobs and millions in investment hung in the balance.

But even though the Milwaukee Road abandonments were processed by the ICC under the provisions of the 4–R Act of 1976, which we passed to expedite abandonments, the process dragged interminably, and Milwaukee Road operating capital was inexorably drained.

By spring of 1979, cashlessness was imminent. The Milwaukee often had less than a day's cash in its accounts. On April 23, the trustee petitioned the bankruptcy court—the Federal District Court for the Northern District of Illinois, under Judge John McMillen—to discontinue service on 75 percent of the railroad's lines under the authority of the "embargo" section, 49 U.S.C. 11125.

While Judge McMillen and his special master, Chicago attorney Milton Gray, heard arguments for and against the embargo, last May, those who believed that the railroad might be profitable if run by an employee-shipper stock ownership plan (ESOP), were at work in Congress. If only the embargo could be delayed a little while, they said, ESOP backers could put together the capital to make their dream a reality.

In May they passed through the Senate Joint Resolution 81, providing for a 60-day moratorium on the embargo, financed by Federal loan guarantees. A similar measure, House Joint Resolution 341, cleared the Commerce Committee, also last May, but never reached the floor.

Before House Joint Resolution 341 could be acted upon, Judge McMillen ruled, on June 1, that he lacked power to order the embargo the trustee sought. Instead, he ordered the trustee to apply for $20 million in Federal loan guarantees under the Emergency Rail Services Act (ERSA) and to draw down all available funds from internal sources to keep the entire 9,800-mile system going. The judge's decision was clearly reluctant. He recognized that most of the obstacles to rational reorganization of the Milwaukee Road were placed there by the Federal Government, and that the only hope lay in congressional action.

On June 28, 1979, with 18 cosponsors, I introduced H.R. 4686. That bill would have allowed the court to do that which it had held it could not—order abandanment of money-losing lines—and would also have protected affected employees and shippers against adverse consequences of abandonments. Through the quick and helpful action by Chairman Don Edwards and the members of the Judiciary Committee's Subcommittee on Civil and Constitutional Rights, H.R. 4686 was favorably reported on August 1, 1979. The full Judiciary Committee likewise reported H.R. 4686 favorably on September 13.

Acting Transportation Secretary Graham Claytor on July 30 released four reports the Department of Transportation had commissioned on the Milwaukee Road, and in a cover letter summarized the reports' findings—that the Milwaukee Road was not potentially profitable as a transcontinental carrier, and that proposals for operating all or part of the railroad as an ESOP were not feasible. Consequently, Claytor said, the Federal Government would approve no further loan guarantees for the western lines and other unprofitable routes, and would oppose legislation seeking to prolong operation of the entire 9,800-mile system. The full text of Secretary Claytor's letter follows:

The Secretary of Transportation,
Washington, D.C.

Hon. Henry S. Reuss,
House of Representatives,
Washington, D.C.

Dear Mr. Chairman: I am pleased to transmit the enclosed studies and analyses concerning the "Western Lines" of the Milwaukee Railroad. This letter also discusses the conclusions we draw from them and outlines for you the course of action which we propose to follow concerning the Milwaukee Railroad, and particularly the "Western Lines."

First, let me summarize the contents of the enclosed documents.

The document titled "A Review of Booz-Allen & Hamilton's Milwaukee Road Strategic Planning Studies" (the BAH Review) discusses a report prepared for the Trustee (BAH Study) to assist him in determining whether any part of the Milwaukee system is reorganizable. The BAH Review was prepared by FRA staff and addresses the fundamental integrity of the BAH Study assumptions and procedures concerning the viability of the various segments of the Milwaukee Railroad.

Specifically, regarding the Western Lines, the report to the Trustee finds that the Western Lines configuration would provide significantly less traffic potential than other options for the Milwaukee Railroad while requiring a substantially higher level of rehabilitation investment. The report concludes that the 1977 contribution of the Western Lines was negative and held out little hope that a system configuration built around the transcontinental extension would generate sufficient cash flow over the long-term to justify the investment in rehabilitation required to become competitive with other railroads in the market.

In fact, according to the consultant, rehabilitation alone would not permit the Western Lines to generate a positive net operating income, leaving aside any coverage of fixed charges. Under a speculative scenario of rehabilitation plus long-term growth, the consultant calculated that a small operating profit could be achieved in 1986. However, the amount would not be sufficient to make up for operating losses incurred in the meantime or to service rehabilitation-related debt issued, even assuming that it were issued on very favorable terms. After summarizing and analyzing the BAH Study, the FRA-prepared BAH Review finds its underlying assumptions and methodology to be reasonable and consistent.

The consultant study titled "Traffic Effects Study: The Viability of the Western Lines of the Milwaukee Railroad" (Lines West Study) was commissioned by FRA in satisfaction of Section 303 of the Local Rail Services Assistance Act of 1978. The Lines West Study: 1) attributes a substantial operating loss to the Western Lines for 1977 and estimates that the lines generated revenue per route mile well below the Milwaukee system average; 2) identifies traffic flows on a commodity basis within the region served by the Milwaukee's Western Lines; and 3) examines the ability of the Western Lines to attract traffic through 1985. The study concludes that a significant portion of the 1977 traffic base is potentially susceptible to capture by other modes (trucks and barges) on the basis of comparative costs, and that the traffic could be retained only through uneconomic ratemaking.

The study titled "Assessment of the Financial Self-Sustainability of the SORE Lines West Proposal" (the SORE Study) was commissioned by the Office of the Secretary of Transportation in response to a request from several Members of Congress. The study assesses a proposal by a number of Milwaukee Railroad employees and former employees to acquire and operate the Milwaukee's transcontinental line and associated facilities west of St. Paul, Minnesota. The study analyzes the SORE proposal over a broad range of issues, technical subjects and assumptions.

The consultant generally accepts SORE's traffic and revenue projections with slight adjustments, but judges SORE's projected expenses as being overly optimistic (i.e., too low) in relation to the traffic to be recaptured. In addition, SORE's proposed method for acquiring the assets (i.e., by the assumption of $152 million of existing Milwaukee debt) is considered infeasible. Finally, the study argues that SORE would not be able to acquire and operate the Milwaukee's trans-Company to help finance its proposal.

In total, the study concludes that the SORE proposal, as presently constituted, cannot achieve self-sustainability and that pursuit of the proposal would require $1.092 billion in external financial support, including $370 million for rehabilitation, operating losses and establishment of an Employee Stock Ownership Plan, $84 million for branch line rehabilitation and $638 million for purchase of the Western Lines and associated facilities.

It should be noted that the latter amount is premised upon financing of the purchase of the assets through Government guarantees of securities redeemable in 10 years, with the amount adjusted for the time value of money. The report attributes a present value of $246 million to those assets. Thus, if the assets could be purchased outright by SORE, the total amount of external financial support needed would be $700 million instead of $1.092 billion.

The study goes on to state that in order to achieve self-sustainability SORE would have to significantly reduce operating expenses, essentially through innovative work rule changes; avoid paying for the initial assets assumed from the Milwaukee, perhaps by foregoing all labor claims to the Milwaukee estate in exchange for the assets; and receive Federal financial support of about $286 million for the required main and branch line rehabilitation programs as well as an initial loan to finance the employee stock ownership plan.

The study titled "Financial Analyses of the Impact on Labor and Labor Protection of the SORE Lines West Proposal" (Labor Impact Study) was commissioned by the Office of the Secretary of Transportation to examine the impact on labor of various approaches to dealing with the Milwaukee Western Lines and to explore the relevance of the Employee Stock Ownership Plan (ESOP) concept to these approaches.

The consultant examined four potential scenarios for the disposition of the Western Lines and the effect each would have on the affected Milwaukee employees. These were: 1) An embargo on all Western Lines traffic; 2) the Western Lines to be abandoned under existing ICC procedures; 3) the Western Lines to be reorganized in accordance with the SORE proposal; and 4) the SORE proposal to be implemented in the form of a traditional leveraged Employee Stock Ownership Plan.

Recognizing the difficulties inherent in estimating the actual job loss impact on the Milwaukee work force and the possible resultant cost to the estate, the consultant established a gross range of labor protection costs. In an embargo situation judged not to be subject to ICC authority, the consultant assumed that few employees would have separation payment rights.

The range of labor protection costs was thus only $31-$167 million. The range grew to $83-$521 million in the situation where all employees would be eligible for separation payments or guaranteed wages under ICC abandonment regulations. (The low end of the range assumes that all employees agree to a one time, front end settlement, versus a six-year earnings guarantee.)

The study also contains a discussion of Employee Stock Ownership Plans and evaluates the concept in relation to the SORE proposal and the SORE Study. The consultant's general conclusion is that any Western Lines reorganization must first demonstrate economic feasibility before an ESOP is considered.

From these studies and analyses we reach three major conclusions. First, the Western Lines of the Milwaukee are not likely to become self-sustaining, either independently or as part of a reorganized Milwaukee system. Whether one takes the optimistic traffic outlook of the SORE Study, the more moderate assumptions of the BAH Study, or the more pessimistic views of the Lines West Study, the conclusions in this regard are similar.

Even under optimistic assumptions, only minimal operating income can be generated by the Western Lines, and then not until the fifth year. Moreover, the analyses make no provision for paying interest or principal on the initial capital investments, costs which would be included in any normal business or public investment analysis. Even if the capital investments are assumed to be covered by external sources, total operating losses through 1985 far exceed total profits in all studies.

Thus, we conclude that the Western Lines have little if any likelihood of ever becoming self-sustaining and would not be able to generate sufficient income to repay, or even to pay the interest on, the large amounts of financing that would be necessary for rehabilitation and operating expenses and, in the case of the SORE proposal, for purchase of the involved properties.

Second, the concept of an Employee Stock Ownership Plan for the Western Lines of the Milwaukee does not appear to be practical. As is well demonstrated in the Labor Impact Study, for the sake of the employees and the public, operations of the Western Lines must be shown to be economically feasible before an ESOP can be deemed appropriate for consideration. Based upon these studies, we cannot say that Milwaukee employees should invest their personal assets or rights to labor protection in an ESOP for the Western Lines.

We make that statement in full recognition of the general effectiveness of employee ownership in improving operating efficiencies. However, the Western Lines lack the profitability potential to take advantage of the ESOP. On the other hand, it may well be that an ESOP will assist in the reorganization of a Milwaukee "core" railroad. In that case, the feasibility and benefits of an Employee Stock Ownership Plan should be determined in the reorganization process itself.

Third and given all of the above, the most responsible course of action appears to be to preserve selected Milwaukee Western Line services through the transfer of those services and necessary facilities to other railroads to the maximum extent possible.

To attempt to maintain the Western Lines operations, either as part of the reorganized Milwaukee Railroad or as an independent rail enterprise which would be dependent on large Federal financial contributions, would be inconsistent with the weight of sound economic analysis and would be an unjustifiable burden on the nation's taxpayers.

Before outlining the course of action which we propose to follow to achieve maximum preservation of economic rail service, let me review the recent activities of the various parties.

First, the Milwaukee Reorganization Court, as you know, denied a request from the Trustee to embargo the Western Lines on June 1, 1979. In denying that request, the Court ordered the Trustee to take immediate steps before the Interstate Commerce Commission to abandon the entire Milwaukee system, and to file a preliminary plan of reorganization with the Court before August 6. Previously the Court had permitted the Trustee to apply for $20 million in assistance under the Emergency Rail Services Act of 1970 (ERSA).

The Trustee has appealed the Court's denial of the embargo and the Indenture Trustees, representing major creditors, have appealed the Court's decision regarding ERSA borrowing. Decisions by the Court of Appeals are not expected until this fall.

The Trustee has taken the abandonment steps and is expected to file a preliminary reorganization plan with the Court by August 6. The plan will be based upon continued operation of a "core" railroad, along the lines outlined in his previous submissions to the Court. The Trustee also applied to us for the $20 million in ERSA assistance and we approved such assistance in an agreement dated July 12, 1979.

The Department has taken several steps to maintain the Milwaukee's services while appropriate arrangements are being worked out, and to assist in implementation of those arrangements.

First, the $20 million in ERSA assistance which we approved will be used to operate the system while the Trustee prepares his reorganization plan and presents it to the Court. We expect those funds to be sufficient to maintain the railroad's operations through the month of August and possibly through September.

Second, we and the Milwaukee have been looking for willing buyers for the Railroad's line in Iowa, under the authority of Section 401 of the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act). That process has involved the State of Iowa, four major railroads and two short lines. We have made progress and are optimistic that we can bring this restructuring in Iowa to a successful conclusion.

Third, and in connection with the Section 401 process, we have indicated to the parties our willingness to make funds available under Title V of the 4R Act to assist in the transfers of those properties.

This assistance would include, where applicable and justifiable on economic grounds, the funding of acquisition costs through loan guarantees under Section 511 and the funding of rehabilitation and labor protection costs incurred as part of an otherwise fundable project through the purchase of preference shares under Section 505, subject to legislation extending the preference share program. Enclosed for your information is a letter to the Milwaukee Trustee, dated June 18, 1979, that spells out our commitment to make the Section 401 process work.

That brings you up to date on the recent activities of the various parties. Let me now outline for you the general course of action which we intend to follow over the next several months.

Until now, we have felt it inappropriate to proceed with the Section 401 process on the Milwaukee's Western Lines, since the studies enclosed with this letter were not completed. However, based upon those studies, it is now appropriate to expand the Section 401 process to expedite the transfer of Milwaukee's services on the Western Lines to other railroads. In fact, we understand that the Milwaukee has been actively negotiating sales of portions of the Western Lines with other railroads for some time, and several of those sales may be consummated shortly.

In addition to using the Section 401 process, we intend to work with the states served by the Milwaukee's Western Lines to mitigate any negative effects of the cessation of Milwaukee service through the use of the Local Rail Service Assistance Program. In that regard, the Federal Railroad Administrator, who oversees that program, will work with affected states in their rail planning process and will be prepared to expedite applications for funds, whether they be for rail planning purposes or for project related purposes.

As a specific example of what can be done under that program, we have been working closely with the State of South Dakota to ensure that a major coal movement from Gascoyne, North Dakota to an electric utility plant in Big Stone City, South Dakota will continue uninterrupted. We have advised South Dakota that it may incur up to $2.3 million in costs for rehabilitation of the Milwaukee line over which the coal moves and we are hopeful that we will shortly be able to obligate those funds.

One other feature of the Local Rail Services Assistance Program which can be considered by the states in dealing with the cessation of Milwaukee service is the provision which allows states to "rail bank" lines which are abandoned but which may have future potential. That feature may be particularly relevant to states wanting to keep in place rail lines which serve potential future traffic growth areas.

Finally, we will continue to work closely with you and other members of Congress to determine what legislative action may be necessary to facilitate all of the steps that I have outlined above. For the moment, we endorse two provisions contained in legislation currently before the Congress. First, it is important that the Administration's proposals for rail deregulation and restructuring assistance be enacted as quickly as possible.

To the extent that enactment is delayed, however, the extension of the 4R Act Title V preference share program beyond September 30, 1979 is acceptable as an interim measure. That extension is provided for in both versions of the pending Amtrak Authorization Bill. We favor the House version of the extension which expands the program to include all railroads.

Second, we favor amending the Bankruptcy Act for railroads now in reorganization to provide their reorganization courts with the ability to order necessary abandonments without first obtaining the ICC's approval. This would bring existing bankruptcy procedures regarding abandonments into line with the new Bankruptcy Act, which becomes effective for bankruptcies occurring after September 30, 1979.

We are opposed to any legislation that would freeze the entire Milwaukee system and provide further Federal funds to support systemwide operations. ERSA funds for continuation of the existing system have so far been provided because of the desirability of completing our studies, of providing the Trustee and the Court the time to develop a reorganization plan, and of providing a period of notice and adjustment for affected shippers.

Those purposes will largely have been accomplished by the time that the $20 million in current ERSA assistance has been fully utilized. We envision, therefore, that we will require any future assistance to the Milwaukee to be used only for those portions of the system which are reorganizable.

Thank you for this opportunity to present you with our views.

Sincerely,

W. GRAHAM CLAYTOR, Jr.,
Acting Secretary.

Mr. Chairman, the effect of the July 30 Claytor letter was immediate. Because only Federal funds had stood between the Milwaukee Road and cashlessness, the imminent withdrawal of those funds for use on money-losing lines meant that the railroad would shortly be cashless with respect to those lines. This cashlessness would satisfy the condition precedent Judge McMillen had found lacking in June 1979. On August 10 the Milwaukee again asked to be allowed to embargo its money-losing lines and reduce its system to a profitable core. After another round of hearings, Judge McMillen found on September 27, 1979, that the Milwaukee was cashless and could begin its embargo on November 1.

On October 2, 1979, the U.S. Court of Appeals for the Seventh Circuit ruled on the Milwaukee Road's appeal of Judge McMillen's June 1 ruling on the first embargo request. Judge McMillen, the Seventh Circuit found, had erred in refusing to allow the Milwaukee Road to implement its embargo.

But a new obstacle to the obvious and sensible solution to the Milwaukee Road's problems materialized. As part of the continuing appropriations resolution which became law on October 12, 1979, the Senate passed, and the House acquiesced in, a preservation of the 9,800-mile system until November 30, 1979, a preservation paid for with federally-guaranteed funds.

All in all, to date the Federal Government—executive, legislative, and judiciary—has guaranteed that a wasteful 9,800-mile railroad system will be continued at least 6 months beyond the time it could have been reduced and made potentially profitable. The cost of the delay has been added debt for a bankrupt railroad, added liability for the taxpayers who guarantee the railroad's debt, and months of uncertainty for mainline shippers in the Milwaukee Road core, uncertainty which has forced them to reexamine commitments to stay and expand in the region.

Why have all these delays been sanctioned? In May, ESOP enthusiasts asked for 60 days delay to implement their plan. Although the resolutions enacting the delay did not become law, events have given ESOP backers a delay now guaranteed to be at least 180 days. The financing needed to underwrite an ESOP of all or part of the railroad appears to be no closer to reality than it was 6 months ago.

I yield to no one in my enthusiasm for employee-owned businesses. I worked to get an ESOP for the Chicago North Western several years ago. But the DOT studies—and, more important, the inability of ESOP advocates to make significant progress in their efforts to bring an ESOP to the Milwaukee Road—have convinced me that the chances of success for a Milwaukee Road ESOP are small. We should not be squandering additional millions of taxpayers' dollars pursuing the ESOP will-o'-the-wisp.

The committee's substitute for House Joint Resolution 341 will delay abandonment of money-losing lines up to 90 days beyond the delay—to December 1, 1979—enacted by the continuing appropriations resolution. The Milwaukee Road will be forced to undertake debt it cannot afford, the Federal taxpayer will be forced to guarantee that debt, with less chance of repayment than before, and Milwaukee Road shippers may be forced to go through another winter of uncertain service.

But despite my reservations, I support the committee's measure.

First, although the measure extends the potential delays of reorganization to March 1, 1980, a negative decision by the ICC on the ESOP proposal will end the delays no later than December 30. Every impartial study to this point has found an ESOP not to be feasible. An ICC decision to this effect will quickly deliver us from this endless source of delay.

Second, for the first time in this substitute measure we will set a date certain for the conclusion of the 9,800-mile Milwaukee Road system—no later than March 1, 1980. Previous delays have promised no relief at their conclusion, only a vague hope that with more delay a solution might be found.

Third, this bill represents a hard-won compromise on the labor protection question—a consummation devoutly to be wished.

Today's measure represents the outer limits to which a Milwaukee Road measure should go. Should a House-Senate conference produce a bill which further extends the delays, such a bill could be worse than none.

I am frequently asked by my colleagues: How is it that this country can have galloping inflation and incipient recession at one and the same time? My answer is that no longer can overall, boxcar, macroeconomic policies solve our problems, but we need the micro approach, the team approach, the cooperative planning approach.

Far broader than the issue of the Milwaukee Road today, important though that is, is that here we have on a bipartisan basis—and I commend Mr. Florio and Mr. Madigan and those who have worked with them—a proposal which is humane to the workers on the railroad, which cuts the bureaucratic red tape which has been a noose around the Milwaukee Road's neck for so many years, and which gives a great opportunity that the entire Milwaukee Road's economically viable trackage, in whatever hands, will operate so that shippers may send their goods to market and get the raw materials that they need.

I think this a great achievement: It uses the cooperation, planning approach that I believe is essential. I have been very pleased to work closely with Mr. Florio and Mr. Madigan and others on it. As I have said, it follows very closely the bill which I and 22 cosponsors introduced last June, when the railroad was breathing its last, a bill which was approved by the Subcommittee of the Judiciary Committee on Bankruptcies, and by the full Judiciary Committee.

The two fundamental elements of Florio-Madigan are that it allows the court at long last to order an abandonment, and that it blows the whistle on the interminable delays. Sure, if I had had my ideal in this bill, I would have wanted to have had that whistle blow in a few weeks, rather than possibly extending for the month or two that the bill extends it. But we live in a real world, and I understand precisely the motives of the authors in doing this.

So I think it is a splendid substitute amendment and I am all for it.

I would just ask the sponsor, Mr. Florio, this question: The other body has given some indication that it will not go along with the excellent principles entailed in the gentleman's substitute resolution. In my judgment, since the U.S. district court, in the absence of legislation, is perfectly empowered to do the right thing by the railroad and its workers, I would hope that the House conferees would—if it comes to a conference, and the other body is so improvident as not to accept our bill, which I hope we are presently going to pass—I would hope the House conferees could be steely of nerve and stout of spine, and simply tell the other body if it does not want our bill, no bill at all will serve the Nation perfectly well.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. REUSS. I yield to the gentleman.

Mr. FLORIO. Mr. Chairman, it is our hope and expectation that this bill has so much to commend it that when the other body sees what is in the bill they will accept this bill. We are hopeful that will happen.

Mr. REUSS. I am delighted to hear that.

Mr. FLORIO. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. McCormack).

Mr. McCORMACK. Mr. Chairman, I thank the gentleman from New Jersey for allowing me this time to comment.

I rise in support of H.R. 341 and the substitute by the gentleman from New Jersey and the gentleman from Illinois. I want to congratulate them for the truly outstanding job they have done in devising a pragmatic solution to the problems that are facing us with respect to the Milwaukee Railroad. It is all-important that we enact into law a rational plan to give the Milwaukee Railroad every opportunity to survive, to serve the people along the line all the way from the Midwest to the Northwest, and to give the workers an opportunity to do what they can to help make it function.

The substitute is a most commendable proposal, Mr. Chairman. There are areas in Washington State where serious harm will be done to farmers and businessmen if this or similar legislation is not enacted into law, legislation to keep the railroad service available. There are large agricultural areas in eastern Washington, west of Spokane, and east of Ellensburg where there is a distinct need for transportation such as the Milwaukee Railroad has provided especially for agricultural products such as wheat. So this legislation would make a great contribution to the area that I represent; and I am certain that this picture is repeated over and over again across the country, showing the importance of the railroad to the region and to the workers and to the economy and the country.

Ultimately the time will come when our reliance on rail traffic will grow again and we will use the railroads more than we have in recent years. So it is crucially important to keep them functioning today.

This resolution, if enacted into law, would accomplish this goal. So I congratulate the authors of this substitute, and urge that all Members support it.

Mr. MADIGAN. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin (Mr. ROTH).

Mr. ROTH. Mr. Chairman, I thank the gentleman from Illinois for yielding. I very much also want to congratulate the people on this committee for the hard work they have put into this legislation.

Legislation like this offers many dilemmas and it is often difficult to hammer out satisfactory answers. We in this House appreciate the time and the effort that the gentleman has devoted to this project and this legislation.

While I am concerned, and many of you are concerned, about the fiscal well-being of this Nation, we do have many responsibilities. This is one of them. I am concerned, and I know in speaking with other Members, many of you are concerned about some of the negative features in this bill.

For example, should we give $7 million in loan guarantees to a railroad that is declared bankrupt?

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We are concerned about requiring other railroads to give first preference to employees of the Milwaukee Road. We are also concerned about a special $6.5 million in unemployment benefits and training provided for one bankrupt industry. But, after all is considered, I think support of this substitute amendment is the only course of action left to us.

There are some compelling reasons for this. First, we must save the Milwaukee Road; we have no other alternative. Second, I believe this legislation will go a long way to make the Milwaukee Railroad solvent again. The alternative, of course, would be devastating to the Milwaukee Road and to our Federal Government. If there are no loan guarantees, we then have the traditional bankruptcy proceedings as the only other avenue. We cannot allow that to happen. Thus, if we are concerned about the railroad, concerned about the people and needs of our respective States, concerned about the best dollar of value for the dollar invested, then I think this is the only feasible solution left to us.

I urge the Members of this body to give an overwhelming vote to this legislation.

Mr. FLORIO. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Chairman, I rise in support of House Joint Resolution 341, which requires for the continuation of the Milwaukee Railroad over existing routes and at current levels of service through March 1, 1980. Certainly I want to commend the chairman of the subcommittee, Mr. FLORIO, and the members for their efforts.

The Milwaukee Railroad has and continues to play a major role in the transportation patterns of this country. Since its inception, this line has been a major mover of goods and resources in the Midwest. The expansion of the line to the Pacific Coast has increased the number of users and has provided an important link for transporting goods along the northern tier States. Farmers, consumers, miners, utilities, logging interests, and construction operations all depend upon the Milwaukee line to transport essential products. Without this line, farmers in many parts of the Midwest would not be able to send their produce to market; northwest timber could not be sent to the Midwest; and the coal of Montana, upon which we will rely more and more, will lie unmined because of a lack of adequate transportation.

The Milwaukee Road is a major carrier of grain and coal in this country. In 1978, the Milwaukee carried 68,681 carloads of grain and 111,253 carloads of coal. Without this alternative, the pressure on other already overburdened carriers would be too great. In all likelihood they would be unable to fill the void created by a discontinuance of the Milwaukee line and the increase in demand of a limited commodity will result in higher transportation costs.

The discontinuance of the Milwaukee line has serious economic repercussions. It will affect the livelihood of farmers, loggers, builders, consumers, bakers, all industries dependent upon Montana coal for power and the employees of the railroad.

The bill that we are now considering recognizes those negative impacts and is a statement that we must explore every alternative before allowing the Milwaukee Road to cut back its service. The procedures established in this bill give the employees and shippers of the Milwaukee Road an opportunity to assume management of the line and to maintain full service. It is in the interest of this country to explore these possible options to insure that every reasonable effort to continue service is permitted.

I am happy to see that House Joint Resolution 341 also contains extensive incentives and protections for the employees of the Milwaukee Road. If there is a cut back in service, these employees will suffer very greatly. We must try to alleviate any impacts that a service reduction will have on employees and the provisions of this bill adequately protects their interests. The orderly reforming of service is paramount to the varied economic interests that seek stability and predictability.

It is my hope however, that the employee incentive and protection provisions of this bill will never be implemented. That would mean that the Milwaukee Road has maintained its current service level and is continuing to make its full and positive contribution to American transportation. I urge my colleagues to support House Joint Resolution 341.

Mr. MADIGAN. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. DAVIS).

Mr. DAVIS of Michigan. Mr. Chairman, I rise in support of the amendment offered by the gentlemen from New Jersey and Illinois. I believe there is some concern, especially on the part of some of my midwest colleagues, that by allowing continued operation of the entire system we may be hurting our own area. Most of us are probably aware of the Department of Transportation report which recommended discontinuing service on western lines because they are a drain on the rest of the system. This report has been challenged as inadequate. However, I will not dwell on this. The point is, it is feared that maintaining the western lines may cause the collapse of the whole system and that we should, therefore, abandon those lines to save the lines in the Midwest.

I do not agree with this view. The problem faced by those communities in the Western States by the threatened abandonment means the disappearance of an integral part of their economy. It is a problem that has been faced by many of us in one form or another. In this case it happens to be a railroad abandonment and at this time it directly affects mainly the Western States. In other circumstances, though, it may be a military base closure, an airline pullout or an industry layoff. When something of this magnitude happens, it has a devastating impact on a community's economy.

With this amendment, we have an opportunity to save these communities from suffering this economic disaster by giving us a chance to provide a viable alternative to abandonment.

I believe it is a mistake to support abandonment of rail lines. The railroad industry needs to be supported and revitalized, particularly in view of the energy situation. Abandonment of this track would have a serious impact on efforts to reestablish an effective national railway system. I would also caution those Members who would support abandonment as a means of protecting lines within their district. While those lines may not be slated to be discontinued presently, who knows whether the same will hold true in the future? I urge my colleagues to examine closely the long-range consequences of this issue and to support this amendment.

Mr. FLORIO. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. HANLEY).

Mr. HANLEY. Mr. Chairman, I rise in support of the committee substitute to House Joint Resolution 341, the Milwaukee Railroad Service Act. Included in the committee substitute is language extending the time limit for 1 year on the development of an employee stock option plan for the Delaware & Hudson Railway.

As you know, last year we adopted legislation to allow the Delaware & Hudson to continue receiving U.S. Railway

Association section 211(d) loans on the condition that an employee stock option plan be put into place. The USDA was in charge with overseeing the approval of such an ESOP, which was to be finalized by December 31, 1979. Unfortunately, while the D. & H. made a good faith effort the USRA was simply not in a position to pass judgment on the D. & H. plan. Contained in this substitute is language to extend the deadline by 1 year until December 31, 1980. As such, it will not authorize the granting of any loans in excess of what Congress laid out in last year's legislation and all principals to the situation are in concurrence on the need for this basically technical change.

I want to emphasize that the D. & H. is the last competitor to ConRail in the Northeast and its continued viability until Federal reorganization efforts can be carried out is vital to the economic well being of the Northeast and the communities the railroads serve.

Mr. FLORIO. Mr. Chairman, I yield 3 minutes to the gentleman from South Dakota (Mr. DASCHLE).

Mr. DASCHLE. Mr. Chairman, I would like to add my support to the substitute to House Joint Resolution 341. This legislation provides a very credible opportunity for the employees and shippers of the Milwaukee Road, through an employee stock ownership plan, to purchase and run the Milwaukee.

Failure to pass this bill would mean that the Interstate Commerce Commission, on November 1 of this year, will begin directive service on the Milwaukee—a very expensive and chaotic undertaking, filled with uncertainties with regard to cost, jobs, employee benefits and service. There is no reason to believe that after the 8-month directive service period the Milwaukee would want to continue service on anything but the 3,000 mile core system it has identified in its reorganization plan. In addition, the cost of directive service is $50 to $60 million in grants. By contrast, the legislation we are considering today would provide ERSA loans to the Milwaukee while the employee stock ownership plan is being finalized. The ERSA loans are money being spent for a reason and have a chance of repayment to the Government.

The possible loss of 6,400 miles of the Milwaukee through the Nation's great grain and coal producing area—and the loss furthermore of the railroad's transcontinental shipping capability as we are increasing exports to the Far East—is ludicrous. Everyone knows that trains are the most fuel-efficient means by which to transport freight over long distances. Depending on the miles traveled and other factors, rail is up to 10 times more fuel efficient than trucks. Not only is it less expensive to ship by rail, but just as importantly, precious fuel is conserved. In the case of grain it costs approximately 20 cents more per bushel to ship by truck than rail. We can't have rail lines into every town in America, but generally speaking, where the rail lines already exist, it is senseless not to utilize them, or at least preserve the rights of way for future use.

If the Milwaukee management had its way, 6,400 miles of line would be abandoned. In South Dakota alone, nearly 1,000 miles of track, representing three-fourths of our rail lines, is up for abandonment. And while the main Milwaukee line in my State is included as part of the Milwaukee's core system, it seems very likely that the railroad will want to drop that line in a couple years, leaving South Dakota without a single main line railroad. Imagine trying to pick up all those grain shipments with trucks.

If we pass this substitute to House Joint Resolution 341, directive service will not be necessary and massive rail abandonments may not occur. Instead, the Milwaukee employees and shippers will complete their plan to purchase the railroad by December 1 and submit it to the ICC for approval. Under the provisions of this bill, the employee stock ownership plan must be operational by March 1, 1980. So as you can see, this legislation is not meant to prolong the uncertain fate of the Milwaukee. If the ICC disapproves the plan, the Secretary of Transportation, who will have already been conducting negotiations regarding the sale of Milwaukee lines to parties who intend to continue service on them, will expedite those sales. The court will have the authority to rule on abandonments, also in an expedited manner.

Another part of this bill concerns employee protection benefits. There are approximately 10,000 Milwaukee Road employees who currently have very little employee protection under a court-ordered abandonment. My office receives a great number of calls from Milwaukee employees who have lived in uncertainty about their jobs for several years, and in particular since the trustee went to court last spring to ask for an embargo on two-thirds of the system. It is estimated that half of these 10,000 employees would lose their jobs if the Milwaukee is able to abandon all but the core lines.

Under this bill, employees who lose their jobs or are transferred elsewhere would receive immediate benefits, provided they forego other traditional labor benefits which are usually accompanied by litigation and years-long delays in receiving claims. Every effort will be made to keep Milwaukee employees in the railroad business, including preferential hiring and moving expenses—I think this is an important provision. Railroading is a special industry and, as in farming, entire families, going back many generations, are often employed in the rail industry. Very often one of the first things a railroader tells me is how many years his family has been in the rail business.

Unfortunately, the deteriorated physical and financial condition of the Milwaukee Road is not a unique situation, and this legislation cannot address our national railroad problems. It is very clear that other railroads, in all sections of the country, are in deep financial trouble. Whatever the reasons for these circumstances, it is obvious that the private rail companies are neither inclined, nor in a position to, undertake the revitalization work necessary to bring the lines to the point where they can provide safe, fast, and reliable service.

The time for a national rail plan arrived years ago, but it has required the recent rolling barrage of rail bankruptcies and abandonments to bring this fact home to Members of Congress, Governors, and political decisionmakers across the Nation. We must have a rail plan based on a national rail network—an extensive rail system to which there is a definite Federal commitment. It must be a rail network to which there is relatively easy access for both transportation of people and to freight. If shippers and local governments know there is a permanent and good main line to which they can connect, they will have the incentive to maintain and use the branch lines which feed into those main lines. This is the same basis on which our Federal highway system works—federally owned and maintained interstate roads with State and county governments responsible for the lines that connect with them—I feel certain from talking with many colleagues and constituents that this is an idea whose time has come. I am actively studying this type of legislation, and expect to have colloquies on the House floor as part of a national debate on this issue.

But again, let me urge passage of the substitute to House Joint Resolution 341. It is a bill steeped in the realities of the short time frame in which we are operating. It is legislation which provides a chance for a highly motivated group of people to purchase, rehabilitate and run the Milwaukee Road, and failing that, it gives incentives to others who wish to purchase the Road, and finally it provides protection for Milwaukee employees.

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Mr. MADIGAN. Mr. Chairman, I yield 4 minutes to the gentleman from South Dakota (Mr. ABDNOR).

Mr. ABDNOR. Mr. Chairman, I, too, commend the committee for the valiant effort to achieve an 11th-hour compromise in the best interests of all concerned: The employees, the shippers, and the creditors of the Milwaukee Road alike.

The bankruptcy of the Milwaukee Road is perhaps the single most pressing issue facing the State of South Dakota. We stand to lose in excess of 900 miles of rail. That is more than any other State, as well as a greater percentage of our total rail trackage than any other State.

We are between a rock and a hard place, as they say; and, while I commend my colleagues from New Jersey (Mr. FLORIO) and Illinois (Mr. MADIGAN) for their efforts to address this dire situation legislatively, I am concerned as to the practical effect of this particular bill—the amendment in the nature of a substitute—upon rail service in my State.

Under existing law, which would be modified by the measure before us shippers along lines scheduled to be abandoned in South Dakota have been given to believe they would receive up to 240 days of directed service following termination of service by the Milwaukee Road. This impression has been conveyed by ICC's draft directed service orders, by pronouncements by public officials, and by unwillingness upon the part of shippers to recognize that service could very well, in fact, cease in a matter of days or weeks. The history of regulation of the railroads is too long and the existence of rail service, however inadequate, too much taken for granted for shippers to believe otherwise. The provisions of existing law with respect to directed service and the knowledge of actions taken to support other bankrupt railroads have contributed to the sense of disbelief in the immediacy of the threat of total loss of service as well.

I am not suggesting the creation of a ConRail West. Furthermore, I recognize that 240 days of directed service is not assured under existing law, nor is sufficient funding assured even if the ICC wished to provide for such an extended term of service. The fact remains, however, that 60 days of directed service is virtually guaranteed under existing law, with the clear possibility of an additional 180 days, for a total of 240 days.

According to a briefing paper put out by the Republican Policy Committee in support of the Florio-Madigan substitute, the directed service requirements of existing law "would probably be for at least 8 months and cost between eighty and one-hundred million dollars." My amendment, on the other hand, would only guarantee directed service for 2 months and would cost much less.

My constituents have made business commitments based upon the well-known provisions of existing law with respect to directed service and will incur unforseeable economic losses if it is not provided; yet the measure before us expressly precludes any directed service prior to March 1, 1981. This is inconsistent with the Senate bill, which does not foreclose the possibility of directed service. In the interest of reaching a speedy agreement with the Senate, I hope my colleagues will accept the amendment I am proposing.

If this measure is enacted without amendment, service on lines which are not included in the restructured system could be terminated as soon as December 1, if a plan for employee-shipper ownership is not submitted to ICC by that time. Surely, a plan will be submitted by that time; but, even so, service could terminate on January 1 if ICC finds the plan to be infeasible. In either case shippers could lose service sooner than they could have anticipated, taking into account existing directed service law and funding provided by Congress to keep the Milwaukee in operation with loans under the Emergency Rail Service Act.

It is simply not fair to keep shippers in a state of uncertainty over whether an ESOP will be approved and, if so, what it will look like and then, within a matter of hours or days, bring them face to face with the stark and final reality of total loss of service. That could very well be the effect of the Florio-Madigan substitute.

By freezing existing service by the Milwaukee with ERSA loans, it will provide a disincentive for good faith negotiations for transfers and sales of lines which have potential. Then, after January 1, if the ESOP is disapproved, there will be a further economic disincentive for the Milwaukee to take out optional further ERSA loans to continue service on lines they wish to abandon.

The measure before us offers a period during which shippers will be in a state of limbo and then slams them with the likely prospect of immediate loss of service thereafter. It does not provide a favorable climate for sales negotiations, and its timeframe for a final decision on all lines is unrealistic.

For example, the South Dakota Legislature, which will be considering creation of a regional rail authority, does not even convene until mid-January, after the January 1 date by which abandonments could occur if the ESOP is not found feasible. Likewise, shippers who may wish to pursue alternatives besides the general employee-shipper ownership plan will be denied a realistic opportunity to do so. Again, it is just not fair to put them in limbo and tie their fate solely to a plan in which they may have little voice.

Mr. Chairman, a primary purpose of the legislation before us today is to afford employees and shippers the opportunity to present a plan for ownership and operation of the Milwaukee rail system. The presumption is that such a plan will entail preservation of service on more lines than are included in the trustee's plan for reorganization, and I certainly endorse the proposition that the employees and shippers ought to be given every opportunity to present a plan toward that end. I strongly and sincerely hope such a plan is found by the ICC to be feasible. In that case, service will be maintained with ERSA loans until March 1 or until such time as the employee-shipper ownership plan is implemented.

It is the other possible outcome—that the plan is found to be infeasible—which concerns me, however. In that case, the legislation before us would after January 1 permit immediate sales, transfers, and abandonments, subject only to the approval of the bankruptcy court. In other words, the longstanding responsibility of the ICC to approve abandonments and to provide for directed service would be explicitly revoked—until March 1 of 1981.

Mr. Chairman, both the Milwaukee trustee and the director of South Dakota's Division of Railroads have taken the position that an employee-shipper ownership plan will not be viable. They believe, therefore, that any Federal moneys devoted to preserving service should be put into lines which will remain once the restructuring has been completed. While their arguments have some validity, I believe the measure before us takes the proper position in not prejudging the issue of feasibility but, rather, providing for an expeditious and decisive review by the ICC of employee-shipper ownership plans. In my view, the employees and shippers should be given the benefit of the doubt until the ICC issues its ruling.

I am greatly concerned with the present language of the bill, however. In providing the opportunity for presentation of the case for implementation of an employee-shipper ownership plan we should avoid the actual, unintended effect of curtailing service more quickly than might be the case under existing law. If that is to be the effect, I might be better advised to oppose this legislation.

I will offer an amendment to deal with this issue, and I hope that it will receive the committee's support.

Mr. FLORIO. Mr. Chairman, I yield 4 minutes to the gentleman from Montana (Mr. WILLIAMS).

Mr. WILLIAMS of Montana. I thank the gentleman from New Jersey for yielding and commend him for his diligent work on this important matter.

Mr. Chairman, unity has always been the hallmark of this Nation, and that unanimity has not always been easy to comprehend for we are 50 separate States, many hundreds of local and separate legal jurisdictions. We are a people who come from nations scattered throughout the world, and so some ask how we have achieved this unanimity which has characterized this Nation since its birth. The American people have always understood that the fabric of America can only be maintained in its entirety if it is preserved in all of its parts, and they through this Congress have never allowed the unraveling of a single thread of that fabric.

How do we maintain this fabric? We have various mechanisms. This Congress has always viewed equal opportunity as one of the mechanisms. A somewhat less emotional and perhaps more parochial mechanism has been the promoting of unanimity and of economic opportunity through the establishment of our arteries of commerce. This Congress has always been willing to help a little to dig the canals, to pave the highways, to pave and construct the airports, and to lay the railroads. It is that latter artery of commerce which has been found so important by our people who thought it was good business because it connected us one with the other. So how will this abandonment affect our whole fabric, our whole economic fabric? I maintain it affects each of our districts. It affects us through diminishing the development and delivery of our vital coal resources. The Department of Energy recently estimates that the demand for Fort Union coal—that is the coal from Montana, Wyoming, and the Dakotas—will increase to 75 million tons a year through 1995; 75 percent of that is hauled by rail. Ten million tons was unshipped last year because the railroads could not carry it. Railroad abandonment will affect the Nation because the price of grain will decrease. This railroad is vital in the hauling of western and midwestern grain.

The continental aspect of the Milwaukee must be preserved if we are to provide a proper market for the Midwest goods to the west coast. The continental nature of this railroad must be preserved if each of us in our own congressional districts and our own States is to benefit.

I urge my colleagues to support what I think is a nationally important bill to continue the unanimity which has long characterized this Nation.

Mr. MADIGAN. Mr. Chairman, I yield 3 minutes to the gentleman from Montana (Mr. MARLENEE).

Mr. MARLENEE. Mr. Chairman, I rise in support of House Joint Resolution 341 and wish to express my thanks to the distinguished chairman of the Commerce Committee, Mr. STAGGERS, and to Mr. FLORIO, chairman of the Transportation Subcommittee as well as the ranking member, Mr. MADIGAN, for the hard work and hours of devoted effort they have put into this legislation.

We in the Congress must recognize the national importance of the Milwaukee and pass this measure which will insure the continuation of this line for the present and future transport of agricultural and fuel commodities.

What we have on our hands today is a railroad that is attempting to commit suicide. A railroad that would die to collect the insurance benefits. And that my colleagues is the motive behind the bankruptcy.

What is the motive? The liquidation value of the railroad is estimated at $832 million. The debts of the railroad are about $400 million. And the value of the stock is about $217 million. The net return on liquidation after paying debts and over the value of the stock is $215 million. Why would they not grab the $215 million.

And it makes me mad that they would commit this evil deed. For when the railroad dies so does competition, and small towns become ghost towns and shippers are left with few alternatives.

I ask my colleagues, does it make sense to sever this artery at a time when the energy shortage is worrying and crippling every citizen of this country, does it make sesnse to abandon a major transporter of fuel commodities? At a time when agricultural products stand as our Nation's single best hope for getting us back to a favorable position in our international balance of payments, does it make sense to shut down a major transporter of our agricultural commodities?

We as a Congress spent millions to implement that treaty. Why? Essentially to keep the canal a vital, viable transportation link. A link to move goods from coast to coast.

Why should we not consider it just as important to keep the Milwaukee a transcontinental link?

Does it make sense to sever that transcontinental artery that transports vital fuel energy products? Does it make sense to sever that transcontinental artery that is vital to agricultural transportation.

The only people that this would make sense to is the Milwaukee management that have been trying to commit suicide by planned deterioration of roadbeds and service. Management calls it deferred maintenance—I call it suicide, and I do not think we should allow these people to cause this irreversible harm to our Nation.

The Milwaukee Railroad is the Nation's sixth largest carrier with 10,000 employees required to operate its 9,800-mile system. In December of 1977 the railroad filed a petition for reorganization under chapter 77 of the Bankruptcy Act. This came after years of low cash flow which has been attributed to increasing operating costs, and a policy of deferred maintenance which resulted in operating difficulties. Simply put, the railroad filed bankruptcy because of poor management.

Policies that include no marketing, no followup, no advertising; deferred maintenance—a fancy term for "let the roadbed go to pot," and no effort to find new customers. Following filing their petition, a trustee was appointed who made the initial determination that the Milwaukee would not be able to emerge from reorganization as a profitable carrier without withdrawing service from the vast majority of lines west of Minneapolis.

Since that time, the trustee has proposed an application to reduce the Milwaukee line to about 3,000 miles and cut the work force from 10,500 to 5,600 employees. This application for abandonment is presently undergoing the ICC's comprehensive abandonment process. Recently public hearings were held throughout the States that would be affected by such action and time and time again concerned citizens, shipper, employees, and community leaders testified as to the shortsightedness of this action.

To discontinue the Milwaukee west of Miles City as proposed by the trustee would in Montana mean the loss of 580 jobs, the further deterioration of an already burdened highway system. It would mean a slowup in industrial development. It is difficult for me to calmly discuss this move. Calmly discussing it is equivalent to calmly discussing slashing a major artery in our body. It might not kill us but it is going to be difficult to recover.

I want to impress to you that the possible loss of this service is not just a parochial problem affecting Montana; it has national and even international significance. The commodities that are carried on the Milwaukee are sold on the international market. Grains alone coming from the Northern States are significant in this country's trading with foreign nations and make up a major portion of our position in the world's marketplace and is becoming an increasingly important factor in our balance of payments. Our northern tier grain is moving in increasingly larger quantities west for export to the Orient through the west coast port facilities.

Of major concern also is the movement of coal. The Fort Union deposit which underlies the area adjacent to the Milwaukee roadbed is the largest known deposit of low sulphur coal in the country. The report of the National Transportation Policy Study Commission chaired by our colleague from Pennsylvania, Mr. SHUSTER, tells us that coal production will increase from 48 million tons in 1975 to over 500 million tons in the year 2000 in that region. The report shows that there will be a dramatic shift to western coal. However, the development of these western coal reserves while still in its infancy could be stifled if the Milwaukee is allowed to be abandoned. Due to the Power Plant and Industrial Fuel Use Act, which mandates that powerplants convert from oil to coal; the precarious nuclear energy situation and our national energy independence policy, even on a domestic scale we are going to become with each passing year more and more reliant on this deposit. And now Far East countries are becoming actively interested in western coal reserves via the west coast port facilities. They recognize the importance of the deposit as a world source of coal.

For some time now a group of concerned people—shippers and employees have been working together to see that the transcontinental line is preserved. This coalition made up of shippers, employees, and affected States formed the New Milwaukee Lines organization. The bill we have before us provides a vehicle for New Milwaukee Lines to take over the line at a minimum of Government expense. It provides for the coalition to present their plan to the ICC for its determination of the feasibility of an employee-shipper owned railroad to take over the Milwaukee's operation.

The bill also addresses the very serious area of labor protection. It provides that jettisoned employees who are affected with Milwaukee restructuring are afforded the benefit of moving expenses, supplemental unemployment benefits, relocation compensation and retraining allowances. It allows an employee to choose the option of receiving labor protection benefits quickly or waiting to receive traditional labor protection through the ICC process. Most of the labor protection benefits provided in the bill come from the Milwaukee estate—not the taxpayers.

This legislation is not and I repeat not an effort to produce a Western ConRail. It is a fair and inexpensive way to continue valuable rail service. The alternative is for the ICC to direct other carriers to operate over the line is estimated at a cost in excess of $100 million. Directed service grants are just that, grants—funds that cannot be recovered. ICC Chairman Dan O'Neal in a letter to Senator WARREN MAGNUSON said:

> In our judgment, it (directed service) is likely to be the most costly method by which the federal government can maintain railroad service where a railroad fails to generate sufficient cash for operations.

Some of you are going to point out that this is the third time this century that the Milwaukee has gone into bankruptcy. Some of you are going to point to the reports issued by the Department of Transportation that have all been negative. But the fact is those DOT-Federal Railroad Administration reports do not recognize how poor management has been. In Montana if it looks like a skunk and smells like a skunk we generally give it credit for being one. Present Milwaukee management has the stripes. A change of management is needed for the survival of what I think is a nationally important transportation link.

The Rail Labor Executives Association and New Milwaukee Lines commissioned the Policy and Management Association—a reputable consulting firm to do an independent analysis of the Milwaukee lines. The conclusions in the PMA study represent a departure from the conclusions offered by DOT. In addition to demonstrating the tremendous revenue potential of the Milwaukee's western lines based on shipping coal, grain and overseas containerized cargo, the PMA study found that "implementation of the system proposed by the trustee in his reorganization plan would have significant adverse impacts on economic growth in the Plains and Western States, foreign trade through Seattle-Tacoma Port, energy consumption by the transportation sector, the highway system and air quality." The PMA report shows that the trust's plan is shortsighted. It states that to allow the Milwaukee to abandon its western lines before considering every reasonable alternative might mean temporary security for States served by the trustee's core proposal but they face unavoidable disaster because without its transcontinental link the Milwaukee is doomed to fail.

This Congress just spent almost $500 million to implement the Panama Canal treaties. We did that basically to keep a viable transportation link open from East to West. I tell you the Milwaukee is just as important a transcontinental link.

I hope that the Congress recognizes this so that future generations will not look back when they desperately need the food along the northern tier and puzzle how we could let such a valuable transportation link die.

I urge my colleagues to vote for this bill.

☐ 1540

Mr. FLORIO. Mr. Chairman, I yield at this point to the very distinguished chairman of the full Committee on Interstate and Foreign Commerce (Mr. STAGGERS) who, along with the ranking member (Mr. BROYHILL), has been of very great help to our subcommittee.

I yield such time as he may consume to the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Chairman, I thank the chairman of the subcommittee (Mr. FLORIO) for yielding to me.

Mr. Chairman, I think this is an important subject. I would not be here to speak if it were not and if I did not think so.

I would like to congratulate the gentleman from New Jersey (Mr. FLORIO) and the gentleman from Illinois (Mr. MADIGAN) for the hard work that they have done. They have been congratulated by several others but I know of the work they did in meeting with the trustees and with the Department of Transportation and others in trying to work out some kind of a compromise and it has been a purely bipartisan effort to help all of America. They worked that out with great care and concern for all interested parties.

Mr. Chairman, I would also like to congratulate the gentleman from Montana (Mr. MARLENEE) and the gentleman from Montana (Mr. WILLIAMS) for the work they have done and that their staffs have done on this project. They have worked hard. In fact, all of the northern tier Congressmen representing those States across the northern tier have shown an interest in this legislation and have worked toward keeping this railroad going because they know of the importance of it.

I was asked just a few moments ago why I was interested in this railroad, because it does not come close to my district. Well, I am interested in it, Mr. Chairman, because it is important for the transportation of the essential goods from this region for the rest of the country. Anything that affects that section of the country, which is part of the "breakbasket" of America, as was said by the gentleman from Montana (Mr. WILLIAMS) is bound to affect the rest of the Nation.

Now the gentleman from Montana (Mr. WILLIAMS) spoke about unity and justice in this land and the five words our forefathers selected as the most important words in America. They are engraved right on this dias right here. The first two words are union and justice. It has been said without unity we could all be picked off one at a time and we would have no strength.

We must stand together as a nation. If something affects the northwest section of America, the rest of the Nation must come to their aid.

Mr. Chairman, there is no large amount of money involved. Some talk like there is a great amount of money involved here. There is a $6.5 million guideline for the supplemental unemployment insurance and retraining benefits and qualifying employees will be entitled to these benefits, notwithstanding these guidelines. We give that away to foreign countries many, many thousands of times over. Here we are trying to help a great section of the country that has done so much to build up this country in an economic, social, and every other way, to be a great and mighty nation. This is the least we can do.

If we were to go to the directed service as has been suggested, it would cost us an extra $80 million to start with for just a short period of time. I think that the authors of the bill have done a real job in working this out. It affects so many States in the northwest tier; Washington, Montana, Idaho, North and South Dakota, Minnesota, Wisconsin, Illinois, Iowa, Missouri, Indiana, and Michigan.

Mr. Chairman, I would like to say just before we came into the Committee of the Whole House on the State of the Union we received a message from the Senate saying they had passed their version of this bill just now and have sent it over to the House. The Senate has done their part. We need to pass this. We need to pass it now so we can get something done.

Mr. Chairman, I agree with the gentleman from Illinois (Mr. MADIGAN) that if the Senate is made up of reasonable men, they will accept our bill and ask the President to sign it so it will be in force by Thursday when the time limit is up. I hope they do and I think they will. I think the Senate is made up of men of reason and good judgment when they consider the House bill.

With that, Mr. Chairman, I will just say I think every Member of Congress should vote for this bill unless they have some particular reason for not voting for it. I can think of no reasonable reason that they should not vote for it. If this railroad goes down, they will have to use trucks and those trucks use four or five times the amount of energy that the railroad does. That does not make good sense. I do not know how they can explain to their people back home that they voted against the bill. I do not think there should be any votes against the bill.

Mr. Chairman, I hope the House will vote unanimously to pass the bill.

Mr. MADIGAN. Mr. Chairman, before yielding to the gentleman from Illinois (Mr. McCLORY), I want to express my appreciation to the gentleman from West Virginia (Mr. STAGGERS) and the gentleman from North Carolina (Mr. BROYHILL) for the guidance that they consistently and repeatedly provide to the gentleman from New Jersey (Mr. FLORIO) and myself and to other members of the subcommittee working on these transportation problems. It is a much easier job when you have people with the experience and knowledge of the gentleman from West Virginia (Mr. STAGGERS) and the gentleman from North Carolina (Mr. BROYHILL) around to give assistance when assistance is needed. On behalf of all the minority members of the subcommittee I want to express that appreciation.

Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. Mr. Chairman, I am in somewhat of a dilemma as are perhaps some other Members, especially those who have testified in the reorganization proceedings, urging that by retention of part of its trackage the Milwaukee Railroad might become a viable, self-supporting operation. Several of us suggested that if it was impossible to save the whole line, we ought to save that part which can be self-supporting.

Mr. Chairman, in my congressional district it is estimated that the Milwaukee Road serves 11 million commuters a year, those who ride the passenger trains to and from Chicago. We also have a great deal of freight traffic which is served by the Milwaukee Road in my congressional district. I certainly have nothing aginst those other parts of the country that are served by the Milwaukee Road. I tend to agree with the distinguished gentleman from West Virginia that we have a national problem here and we want to take a national, overall view. That is what I think we are doing here this afternoon.

Mr. Chairman, this legislation—it is the substitute bill, I believe we are talking about—should provide the best possible answer to the Milwaukee Road dilemma by permitting it to continue the maximum amount of its railroad service.

☐ 1550

I think it is vital to the farm communities, to the urban areas, and the suburban areas, and likewise I think, foremost perhaps, our national security that we save what we can of the Milwaukee Road.

We can enter into this whole discussion, the subject of energy conservation, because if you take these 11 million riders from my congressional district and put them in automobiles on the highways, you are certainly going to damage our effort to provide energy self-sufficiency.

So I am hopeful that through this legislation, the delays that are involved, and the rethinking that we are going to engage in, as well as the retention of jurisdiction in the court with regard to future decisions, our regard for the welfare of the employees and the efforts of the employees to take over the railroad, I hope that all these considerations will redound to the maximum benefit of the entire Nation, as the gentleman from West Virginia states it, so that not only my constituents, but the people of the entire Nation may be well served.

Mr. Chairman, my congressional district includes large areas of Lake McHenry, and Kane Counties, Ill., which are served by the Chicago, Milwaukee, St. Paul & Pacific Railroad. I am vitally interested both as a citizen and as Representative of my constituents in the continued operations of the railroad.

My district includes the cities of Elgin (part), Fox Lake, Grayslake, Gurnee, Ingleside, Lake Forest (part), and Libertyville (part), all of which are served by the Milwaukee Road. Under a contract with the RTA, the Milwaukee provides a suburban passenger service on two lines of the railroad, one extending westerly 37 miles from Chicago through Cook, DuPage, and Kane Counties to the city of Elgin. The other line extends northerly 74 miles from Chicago through Cook, Lake, and McHenry Counties to Walworth, Wis.

On the west line the Milwaukee Road operates 44 trains on weekdays, 24 on Saturday, and 12 on Sunday, handling a total of 5,130,248 riders in 1978. Its projected ridership on this line for the current year is 5,700,000 riders.

On the north line the Milwaukee Road operated 43 trains on weekdays, 18 on Saturday, and 12 on Sunday, handling a total of 4,704,028 riders in 1978. Its projected ridership for the current year is 5,400,000 riders.

In addition to the use of the Milwaukee's trains by residents of communities directly served they are used by residents of other nearby communities in my district, including Carpentersville, East Dundee, Fox Lake Hills, Gages Lake, Mundelein, Round Lake Beach, Round Lake Park, Sleepy Hollow, South Elgin, Valley View, and West Dundee.

In view of the energy crisis and the evercontinuing problem of road repairs and improvements to accommodate highway traffic, it would be tragic were the estimated 11,000,000 annual riders of the Milwaukee Road forced to drive their automobiles to and from work, an average of perhaps 50 miles per day round trip, or even perhaps an additional 10 miles per day round trip to reach other public transportation.

The Milwaukee Road is also an important freight carrier in my District. According to the company's statistics, the Milwaukee Road in 1978 originated or terminated a total of 2,989 carloads of freight at Libertyville, Grayslake, Round Lake, Ingleside, Fox Lake, Rondout, Abbott Park, Gurnee, Elgin, and Hampshire. The commodities included farm implements, petroleum products, chemicals, lumber, brick, boxes, iron and steel, and food products.

From my examination of pleadings and other information relating to the pending proceedings for the proposed reorganization of the Milwaukee Railroad, it is my view that the granting of an embargo to permit the discontinuance of operations of all but 3,400 miles of trackage of the Railroad would be in its best interests and in the best interests of the public.

It is reported that the retention of these 3,400 miles of railroad trackage for passenger and freight operations could, following reorganization of the railroad, permit a profitable operation of the railroad within the areas where it serves my constituents as well as other rural, urban and suburban areas where there is a maximum public need for its passenger and freight service.

As a Member of Congress I am intimately acquainted with the serious financial threats to virtually all railroad passenger service and to much of the freight railroad service throughout the entire country. Preservation of railroad service to the extent it is economically feasible through private financial support as well as some public assistance is in the national interest. Our Nation's economy and military security are directly involved in the preservation of our railroads to the maximum extent possible.

It seems clear to me that the best interests of my constituents will be served if the present passenger and freight service which the Milwaukee provides should continue. I have been informed that if the Milwaukee is required to continue to operate its entire 9,800 mile system, it soon will be depleted of cash unless funding is provided from Federal or other sources.

The pending measure may provide an answer to that financial dilemma.

It is primarily for these reasons of an overall interest in the public welfare as well as in the individual interests of those thousands of my constituents who are served by the Milwaukee Railroad as shippers, passengers, employees and shareholders that I express thoughtful and earnest support for legislation or other action to save the Milwaukee Road. I should add that the interest of the automobile owners are well served when passenger and freight services of the railroad are utilized and the highways are freed of the traffic which moves on the railroad tracks.

Mr. Chairman, I am hopeful that this legislation will enable us to preserve all—or that part of the Milwaukee Road which would be served by the 3,400 mile of trackage which the embargo would preserve.

● Mr. KASTENMEIER. Mr. Chairman, I support the Commerce Committee amendment to House Joint Resolution 341, providing for the orderly restructuring of the Chicago, Milwaukee, St. Paul & Pacific Railroad, commonly known as the Milwaukee Road. While not an ideal solution to the problems caused by the bankruptcy of one of the major freight railroads in the Midwest and Northwest, this legislation is a reasonable attempt to protect the interests of shippers, labor, creditors, and the affected States and communities. I hope, however, that the Congress will be persuaded to lock beyond this particular situation to the desperate need for additional assistance to the entire rail industry.

In 1977, the Milwaukee Road declared bankruptcy for the third time this century. The collapse of this 9,800-mile system threatens 16 States and 10,500 employees with serious economic disruption.

Despite this, there has been great reluctance on the part of the Congress and the administration to create a western version of ConRail out of the Milwaukee Road and the other ailing railroads in the region. Federal assistance has come in the form of loans exceeding $80 million under the Emergency Rail Services Act. Unfortunately, massive amounts of additional aid will be needed to maintain the Milwaukee Road as it now exists, having lost $82 million in 1978 and $64 million during the first half of 1979.

Clearly, the Milwaukee Road cannot long continue under these circumstances. In fact, the U.S. Department of Transportation opposes further assistance, except for those heavily traveled lines which can be organized into a smaller, economically viable railroad.

The Milwaukee Road has received court approval to do just that. Under a decision by a U.S. district court and the Court of Appeals for the Seventh District, the railroad may eliminate service on all but approximately 3,800 miles of its rail network on November 1 without going through normal Interstate Commerce Commission abandonment proceedings.

The resolution before us today, if amended as proposed by the Commerce Committee, provides one final opportunity to keep the Milwaukee Road operating in its entirety past October 31. The committee plan gives employee and shipper groups the option of submitting to the ICC a proposal under which they would take over operation of the Milwaukee Road.

If the ICC finds that this proposal is feasible, an employee-shipper organization must take control of the railroad no later than March 1, 1980. If the ICC rejects the plan, the Milwaukee Road may proceed with its court-approved reorganization on January 1, 1980.

In the event that the employee-shipper proposal is rejected, the committee amendment provides important protections to labor and shippers.

First, the ICC and the bankruptcy court are given authority to expedite sales of lines outside the core system to other railroads wishing to operate those segments.

Second, employees of the Milwaukee Road who are terminated as a result of the reduction in service will be given special assistance in finding employment with other railroads.

Third, employees who lose their jobs will be given the option of receiving separation pay quickly if they waive their rights to traditional labor protection benefits in the future.

Fourth, the Federal Government will pay supplemental unemployment insurance for those employees who find jobs with other railroads, but subsequently lose their new jobs. Those who take the separation pay option and are unable to find other railroad employment will be eligible for Government-funded new career training.

Finally, under the committee amendment, House Joint Resolution 341 increases the Emergency Rail Service Assistance Act loan ceiling by $75 million to allow the Department of Transportation to deal with the Milwaukee Road situation.

Frankly, it is difficult to be enthusiastic over any of the possible options for resolving the Milwaukee Road problem. If a workable employee-shipper ownership proposal is not forthcoming, the only other alternative to abandoning some or all of the railroad's operations is a huge Federal bailout. However, I commend the Commerce Committee for fashioning a reasonable compromise on a difficult and complex issue.

Looking past the specific problem we face with the Milwaukee Road, one fact is painfully clear. Our Government programs are not equipped to deal effectively with the massive abandonment of rail service throughout the country.

The U.S. Department of Transportation predicts that railroads will incur a shortfall in needed capital investment of at least $13 billion over the next few years. In his message to the Congress on railroad deregulation, President Carter stated that "without major changes in structure and operation, the railroads will be unable to generate the funds needed to sustain themselves. Within a few years, this shortfall could become so severe that it will paralyze the private railroad system and jeopardize its existence."

While deregulation of the industry is a needed first step, additional measures will be required. For example, the congressional Joint Economic Committee is holding hearings on a proposal for a national railroad trust fund to help provide needed capital.

I hope that the appropriate committees in both the House and Senate will give serious consideration to such ideas. We cannot continue to watch the Nation's railroads crumble one by one. We must look for new alternatives to revitalize the railroad industry, an industry which remains an essential part of our transportation system.●

Mr. HAGEDORN. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New Jersey and the gentleman from Illinois and I commend them on their diligent efforts to construct a workable solution to this perplexing issue. The problems of the Milwaukee Road have been with us for many years and we all look forward to an equitable arrangement to cope with them.

I do not have to reiterate the importance of the Milwaukee Road to the economy of the upper Midwest and indeed, the entire Nation. Suffice it to say that the agricultural community of this area is dependent upon an economically efficient and reliable transportation system. The Milwaukee Road constitutes a vital cog in that system, which if disrupted, can cause problems of major proportions; 1978 has been a particularly hard year for farmers in the upper Midwest in terms of their ability to move their crops to market. We have had to deal with a grain strike, the Milwaukee bankruptcy and the collapse of the Rock Island Railroad. If nothing else, these crises have illustrated the interrelationship between agriculture and transportation.

But while I am concerned that we reach a meaningful solution to the Milwaukee's problems, I am equally concerned that we do so in a manner that is least burdensome to the American taxpayer and least dependent upon the Federal Government.

In my opinion, half of this amendment conforms to this standard and half does not. Ironically, I find myself in support of the labor protection provisions of this substitute, which in my estimation constitute a reasoned, responsible approach to a difficult problem. Under current labor protection laws, the costs of reducing the Milwaukee's work force by the amount envisioned could cost the railroad anywhere from $300 million to $1.2 billion.

The expenditure of this amount of money for labor protection would seriously impair the Milwaukee's ability to reorganize into a smaller railroad. If this amendment passes, however, the bulk of the labor protection cost will be paid for by the Milwaukee estate, with the total benefits not to exceed a cap of $75 million. These funds will be loaned to the estate of the Government, but with the assurance that the loan will be given top priority for repayment.

Furthermore, the labor protection offered by this substitute places an emphasis on finding a job for displaced Milwaukee employees rather than paying them for not working. The Federal involvement in this area is limited to $5 million for supplementary unemployment insurance for those who take a job with another railroad and are subsequently laid off.

I am dismayed, however, with that part of this amendment which seeks to provide continued service over the entire Milwaukee system. The amendment provides an opportunity for a review by the Interstate Commerce Commission of the feasibility of an employee-shipper owned railroad to take over the Milwaukee Road's operations. It stipulates that such a plan must be submitted to the ICC by December 1, evaluated by December 31, and, if found to be feasible, implemented by March 1. My concern is that the Federal Government must bear the expense of keeping the railroad open for the 60-day period from now until December 31. I am not even sure where these funds, estimated to be between $20 and $40 million, will come from, but I assume they will come from the ERSA fund, which has its loan guarantee ceiling raised by this amendment from $125 million to $200 million.

Continued service along the Milwaukee lines is important. I have argued all along that only those lines which have proven to be economically efficient should be maintained as part of the scaled-down version of the Milwaukee. Therefore, I applaud those sections of the amendment which call for expedited sale of Milwaukee lines to other carriers where there is an interest in such purchases.

In short, Mr. Chairman, we are faced with a situation that requires immediate attention. The answer is not to freeze the entire Milwaukee system and support it with Federal dollars. The answer is not directed service by the ICC, which would cost the taxpayers hundreds of millions of dollars. Although I do not know what the total answer is, I believe part of it lies in this substitute amendment.

While I disagree with providing time at Federal expense for the study of an employee-shipper ownership plan, which most already concede is unfeasible, I support the labor protection provisions of the amendment. These measures do require some Federal involvement, but that involvement is necessary to insure continued service along at least the core of the system. And the authors of the system have taken great care to keep Federal expenditures to a minimum.

On balance, Mr. Chairman, I believe the advantages of this substitute outweigh the disadvantages and I urge my colleagues to lend their support to it.

Mr. BEDELL. Mr. Chairman, I am pleased to have this opportunity to speak in support of the Milwaukee Railroad legislation proposed by my distinguished colleague from New Jersey (Mr. Florio).

I would like to briefly state my position with respect to both this specific piece of legislation and the general problem of our Nation's railroads. First, as I am sure my colleagues are aware, the Milwaukee Railroad has been bankrupt since late 1977. To date, the Government has advanced over $80 million to the Milwaukee which is attempting to reorganize. I believe that the availability of Federal funds is important to provide assistance to prevent serious disruption of service to Iowa shippers and untimely termination of employment for those who work for the Milwaukee.

Because the Milwaukee is losing substantial amounts of money, however, a long-term solution that does not require the massive infusion of taxpayers money will have to be devised. The Milwaukee trustee has submitted a plan to the bankruptcy court which calls for reducing the current 10,500-mile system, extending from Chicago to Seattle, to a reorganized core of 3,400 miles. The Milwaukee's reorganization plan hits Iowa hard—calling for the embargo, sale, or abandonment of all but 141 of its 1,500 miles in Iowa. The only Iowa line retained in the Milwaukee core system is the gateway line running from Davenport through Ottumwa enroute to Kansas City.

There is thus, both a short-term and a long-term dimension to the problem presented by the Milwaukee Railroad. Admittedly, the most pressing question for the moment is how to proceed with the Milwaukee line, or more specifically, how to insure that transportation service on this line is continued. Obviously, the Milwaukee rail line is a vital link in the transportation of Iowa grain. It comprises some 21 percent of Iowa's total track rail mileage, and every effort should be made to see that transportation service is not interrupted during the harvest season. Because of the Milwaukee's reorganization plan however, the sooner a viable buyer is found for the abandoned and embargoed lines, the sooner long-term reliable service can be restored.

These are the reasons that I am happy to join in support of Mr. Florio's proposal. This legislation would provide the Milwaukee Railroad employees and shippers an opportunity to purchase the railroad, and barring that, would permit the bankruptcy court to authorize abandonments and sales of the lines to other railroads.

There are a number of well managed, aggressive, and well financed rail lines interested in taking over the Milwaukee lines, and Iowa badly needs an infusion of healthy rail service.

In the final analysis it must be apparent to all that there are great difficulties involved in seeking solutions to our Nation's rail transportation problems. The rail industry will continue to need financial help from the Government. The purpose of such assistance, however, should be to seek long-term efficiency and to facilitate change.

Mr Chairman, I strongly urge my colleagues to join in support of this measure to provide continued transportation service on the Milwaukee lines while also moving to assist and encourage a permanent long-term solution to this problem.

Mr. FLORIO. Mr. Chairman, I have no further requests for time.

Mr. MADIGAN. Mr. Chairman, I have no further requests for time and yield back the balance of my time.

The CHAIRMAN. Pusuant to the rule, the Clerk will now read the amendment in the nature of a substitute printed in the Congressional Record of September 28, 1979, by Representative Florio as an original joint resolution for the purpose of amendment in lieu of the committee amendment printed in the joint resolution.

The Clerk read as follows:

Amendment in the nature of a substitute:

Strike out all after the resolving clause and insert in lieu thereof the following:

CONGRESSIONAL FINDINGS

Section 1. (a) Congress hereby finds that—

(1) the severe operating losses and the deteriorating plant and equipment of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (hereinafter the "Milwaukee Railroad") threaten to cause cessation of its operations in the near future;

(2) a cessation of operations by the Milwaukee Railroad would have serious repercussions on the economies of the States in which the Milwaukee Railroad principally operates (the States of Washington, Montana, Idaho, North Dakota, South Dakota, Illinois, Iowa, Missouri, Michigan, Indiana, and Wisconsin);

(3) a cessation of operations of the Milwaukee Railroad would result in the loss of many thousands of jobs of railroad workers and other workers whose employment is dependent upon rail service over the lines presently operated by the Milwaukee Railroad;

(4) experienced railroad employees make a valuable contribution toward strengthening the railroad industry;

(5) other railroads have the ability and willingness to employ displaced Milwaukee Railroad employees;

(6) the ownership by employees or by employees and shippers of part or all of the Milwaukee Railroad may be a valuable tool in reorganization and should be given serious consideration;

(7) cessation of essential transportation services by the Milwaukee Railroad would endanger the public welfare;

(8) cessation of such services is imminent; and

(9) there is no other practicable means of obtaining funds to meet payroll and other expenses necessary for continuation of services and reorganization of the Milwaukee Railroad.

(b) The Congress declares that emergency measures set forth in this resolution must be taken to restructure the Milwaukee Railroad and to avoid the potential unemployment and damage to the economy of the region and of the Nation which a cessation of essential operations by the Milwaukee Railroad would otherwise cause.

SALES AND TRANSFERS

Sec. 2. (a) The Milwaukee Railroad, in consultation with the Secretary of Transportation, may negotiate and enter into agreements to sell all or any portion of its railroad system to any other rail carrier or to any other person. Such sale agreements may in no event become final and effective until the occurrence of an event described in section 23(b) of this joint resolution, or March 1, 1980, whichever first occurs.

(b)(1) The Secretary of Transportation, under the authority of section 5(a)-(e) of the Department of Transportation Act, may develop plans and enter into negotiations for the sale or transfer of any portion of the Milwaukee Railroad. In developing such plans and entering into such negotiations, the Secretary shall give preference to financially responsible persons, including governmental entities, negotiating for the purchase of any lines with the intent of providing common carrier service.

(2) The Secretary shall submit to the court having jurisdiction over the reorganization of the Milwaukee Railroad (hereinafter the "bankruptcy court") any proposal developed under paragraph (1) of this subsection for the sale or transfer of any portion of the Milwaukee Railroad. Such a proposal may in no event become final or effective until the occurrence of an event described in section 23(b) of this joint resolution, or March 1, 1980, whichever first occurs.

COURT APPROVED ABANDONMENTS AND SALES

Sec. 3. (a)(1) Upon the occurrence of an event described in section 23(b) of this joint resolution, or on March 1, 1980, whichever first occurs, the bankruptcy court may authorize the abandonment of lines of the Milwaukee Railroad pursuant to section 1170 of title 11 of the United States Code. Pending the expiration of the time for appeal of an abandonment order or the determination of any such appeal, the bankruptcy court may authorize the termination of service on a line to be abandoned, and the order authorizing such termination may not be stayed. In authorizing any abandonment pursuant to this section, the court shall require the carrier to provide a fair arrangement at least as protective of the interest of employees as that required under section 11347 of title 49 of the United States Code.

(2) Prior to the date specified in paragraph (1) of this subsection, the bankruptcy court may hear and consider any request for the abandonment of lines of the Milwaukee Railroad, and may fix the time for the Interstate Commerce Commission's report on the request, but it may take final action authorizing such abandonment only in accordance with such paragraph (1).

(b)(1) Upon the occurrence of an event described in section 23(b) of this Act, or on March 1, 1980, whichever first occurs, the bankruptcy court may authorize the sale or transfer of lines of the Milwaukee Railroad, subject to paragraph (2) of this subsection. In authorizing any such sale or transfer, the court shall provide a fair arrangement at least as protective of the interest of employees as that required under section 11347 of title 49 of the United States Code.

(2) The bankruptcy court may not authorize a sale or transfer pursuant to paragraph (1) of this subsection unless an appropriate application with respect to such sale or transfer is initiated with the Interstate Commerce Commission and, within such time as the court may fix, not exceeding 180 days, the Commission, with or without a hearing, as the Commission may determine, and with or without modification or condition, approves such application, or does not act on such application. Any action

or order of the Commission approving, modifying, conditioning, or disapproving such application is subject to review by the court only under sections 706(2)(A), 706(2)(B), 706(2)(C), and 706(2)(D) of title 5. An application may be initiated with the Commission prior to the date specified in paragraph (1) of this subsection.

(3) The bankruptcy court may, on a preliminary basis, authorize the sale or transfer of lines of the Milwaukee Railroad to another rail carrier. The court may permit the purchasing carrier to operate interim service over the lines to be purchased, and in operating such service it shall use employees of the Milwaukee Railroad to the extent such purchasing carrier deems necessary for the operation of such service. The bankruptcy court may take final action authorizing any such sale or transfer only in accordance with paragraph (1) of this subsection.

(c) Nothing in this section shall be deemed to affect the priorities or timing of payment of labor protection which might have existed in the absence of this joint resolution.

EMPLOYEE OR EMPLOYEE-SHIPPER OWNERSHIP PLAN

SEC. 4. (a)(1) No later than December 1, 1979, an association composed of representatives of national railway labor organizations, employee coalitions, and shippers (or any combination of the foregoing) may submit to the Interstate Commerce Commission a single plan for converting all or substantially all of the Milwaukee Railroad into an employee or employee-shipper owned company and a method for implementing such plan. The plan shall include a comprehensive evaluation of the prospects for the financial self-sustainability of the Milwaukee Railroad.

(2) The Commission shall, within 30 days after the date of submission of a plan under paragraph (1) of this subsection, approve the proposed plan if it finds that such plan is feasible. The finding of the Commission with respect to the feasibility of the plan shall be made pursuant to section 554 of title 5 of the United States Code, and for purposes of making such finding the plan as submitted shall be presumed to be feasible.

(3) The Commission shall make a finding that the plan submitted under this section is feasible if it determines that—

(A) adequate public and private financing is available to the proponents of such plan;

(B) such plan is fair and equitable to the creditors;

(C) implementation of such plan will occur by March 1, 1980; and

(D) the railroad can be operated on a self-sustaining basis.

For purposes of the determinations under this paragraph, adequate financing shall include all sources of private funds, the probable value and priority of valid claims against the estate, and Federal, State, or local funds available under programs (in existence as of January 1, 1980) which are or will be available to the proponent and which the proponent is likely to obtain.

(b) If the Commission finds that the plan submitted under this section is feasible, it shall submit its finding to the bankruptcy court. Within 10 days after the date of such submission, the bankruptcy court shall, after a hearing, determine whether such plan is fair and equitable to the creditors of the Milwaukee Railroad. The Commission's determination with respect to that issue shall be rebutted only by clear and convincing evidence.

(c) If the Commission finds that the plan is feasible and the bankruptcy court determines that the plan is fair and equitable to the creditors of the Milwaukee Railroad, the proponents of such plan shall, no later than March 1, 1980, take such steps as may be necessary to implement the plan.

(d) Except as provided in this section, the findings of the Commission with respect to the plan shall not be subject to review.

(e)(1) The trustee of the Milwaukee Railroad shall promptly provide to the person engaged in developing the employee or employee and shipper ownership plan under this section—

(A) its most recent reports on the physical condition of the railroad; and

(B) traffic, revenue, marketing, and other data necessary to determine the amount of the acquisition cost of the railroad or portion of the railroad that would be required to continue rail transportation over the railroad line.

(2) Information provided pursuant to this subsection shall be used only for purposes of preparing a plan and shall not be disclosed to any competitor of the Milwaukee Railroad.

EMERGENCY RAIL SERVICES ACT OF 1970

SEC. 5. (a) Subsection (a) of section 3 of the Emergency Rail Services Act of 1970 is amended by striking out "upon a finding" in the fifth sentence and all that follows in that subsection and inserting in lieu thereof a period.

(b) Section 3(c) of the Emergency Rail Services Act of 1970 is amended to read as follows:

"(c) The Secretary shall not guarantee any certificate under this section unless such certificate is treated as an expense of administration and receives the highest lien on the railroad's property and priority in payment under the Bankruptcy Act, except that this subsection shall not apply to certificates guaranteed for a railroad that is actively engaged in restructuring, as defined by the Secretary. For purposes of this subsection, the term "restructuring" includes an employee ownership plan or an employee-shipper ownership plan.".

(c) Section 3(e) of the Emergency Rail Services Act of 1978 is amended by striking out "$125,000,000" and inserting in lieu thereof $200,000,000".

(d) The Secretary of Transportation shall, under the authority of the Emergency Rail Services Act of 1970, immediately guarantee trustee certificates of the Milwaukee Railroad, on the basis of an estimate of the amount required to be provided under subsection (e) of this section, for purposes of allowing the Milwaukee Railroad to maintain its entire railroad system in accordance with section 23 of this joint resolution, and for purposes of financing the operations which the Milwaukee Railroad continues for the 60-day period beginning on the date of the occurrence of an event described in section 23(b) of this joint resolution or on March 1, 1980, whichever first occurs. Such guarantee shall be made without regard to the findings set forth in section 3(a) of the Emergency Rail Services Act of 1970.

(e) The Secretary shall guarantee trustee certificates of the Milwaukee Railroad pursuant to this section in an amount equal to the difference between (1) the total expenses incurred by such railroad attributable to the maintenance and the continuation of service in accordance with this section, and (2) the revenues of such railroad.

(f) Notwithstanding of the provisions of section 3(c) of the Emergency Rail Services Act of 1970, certificates guaranteed under this joint resolution shall be subordinated to the claims of any creditors of the Milwaukee Railroad as of the date of enactment of this joint resolution.

RAILROAD PREFERENTIAL HIRING

SEC. 6. Notwithstanding any provision of law which affects the granting of preferences or priorities or equal treatment in employment, each rail carrier shall give preference in hiring to any employee of the Milwaukee Railroad who is separated from his employment by reason of any reduction of service by such railroad occurring prior to March 1, 1981. For purposes of this section, "reason of any reduction of service" does not include resignations, retirement, or discharge for cause.

MOVING EXPENSES

SEC. 7. (a) Any employee of the Milwaukee Railroad—

(1) who, in connection with a restructuring transaction carried out by the Milwaukee Railroad prior to March 1, 1981, is required to make a change of residence prior to April 1, 1981, in order to maintain his employment with such railroad; or

(2) who is separated from his employment by reason of any reduction of service by the Milwaukee Railroad prior to March 1, 1981, and is required to make a change of residence, prior to April 1, 1981, in order to obtain employment with another rail carrier, shall be entitled to receive moving expense benefits in accordance with this section.

(b) The benefits to which an employee described in subsection (a) of this section shall be entitled are as follows:

(1) The actual expenses of moving such employee's household and personal effects.

(2) The actual, necessary traveling expenses of such employee and members of his family.

(3) The closing costs involved in disposing of a residence and acquiring a new residence, including a realtor's fee of not more than $3,000.

(4) If the employee holds an unexpired lease on a dwelling occupied by him as his home, reimbursement for all loss and cost in securing the cancellation of such lease.

(c) Claims for moving expense benefits under this section shall be paid by the Milwaukee Railroad, and shall be treated as administrative expenses of the estate of such railroad.

(d) Any claim of an employee for moving expense benefits under this section shall be filed with the Railroad Retirement Board. The Board shall determine the amount to which such employee is entitled under this section and shall certify such amount to the Milwaukee Railroad for payment.

SUPPLEMENTARY UNEMPLOYMENT INSURANCE

SEC. 8. (a) Any employee of the Milwaukee Railroad—

(1) who (A) is employed by the restructured Milwaukee Railroad, and (B) is separated from that employment by reason of any reduction of service by the Milwaukee Railroad occurring prior to March 1, 1984; or

(2) who (A) is separated from his employment with the Milwaukee Railroad by reason of a reduction of service, and obtains employment, prior to March 1, 1981, with another rail carrier, and (B) is separated from employment with such other carrier prior to March 1, 1984,

shall be entitled to receive monthly supplementary unemployment insurance in accordance with the provisions of this section.

(b) Each employee described in subsection (a) of this section shall be entitled to receive supplementary unemployment insurance during each month in which such employee is not employed, for all or a portion of such month, by the Milwaukee Railroad or another rail carrier. Each such employee shall be entitled to receive such insurance for a total of not more than 36 months, except that—

(1) the period of entitlement for assistance under this section shall not exceed the employee's total months of service with the Milwaukee Railroad; and

(2) no compensation shall be provided under this section after March 1, 1984, unless it is necessary in order to provide an employee with at least 8 months of such insurance, but after such date, such employee only shall receive such 8-month minimum if such employee is not employed continuously after such date.

(c) Supplemental unemployment insurance under this section shall be payable to an employee on a monthly basis in an amount equal to—

(1) eighty percent of such employee's average monthly normal compensation from employment with the Milwaukee Railroad during the period beginning June 1, 1977, and ending on the date of enactment of this joint resolution, less

(2) the sum of (A) the amount of any benefits payable to such employee for such month under the Railroad Unemployment Insurance Act or under any State unemployment insurance program, and (B) the amount of any earnings of such employee for such month from employment or self-employment of any kind.

(d) Entitlement to monthly supplementary unemployment compensation under this section shall be determined by the Railroad Retirement Board on the basis of an application therefor filed by an employee with the Board.

(e) Any supplementary unemployment insurance received by any employee pursuant to this section shall be considered to be compensation solely—

(1) for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

(2) for purposes of determining the compensation received by such employee in any base year under the Railroad Unemployment Insurance Act.

(f) The provisions of this section shall not apply to an employee in the event of his resignation, retirement, or discharge for cause from the employment of any rail carrier.

(g) As used in this section, the term "restructured Milwaukee Railroad" means the entity which operates the lines of railroad of the Milwaukee Railroad after March 1, 1980, as reduced or modified by the bankruptcy court.

(h) The first sentence of section 7(b)(7) of the Railroad Retirement Act of 1974 is amended—

(1) by striking out "The" and inserting "Notwithstanding any other provision of law, the" in lieu thereof; and

(2) by inserting "and the joint resolution entitled 'Joint Resolution to provide for the orderly restructuring of the Milwaukee Railroad, and for the protection of the employees of such railroad' " immediately before the period at the end thereof.

EMPLOYMENT OF MILWAUKEE RAILROAD EMPLOYEES

SEC. 9. (a)(1) Within 60 days after the date of enactment of this joint resolution, and at the end of each of the 16 following 30-day periods, the Milwaukee Railroad shall submit to the Railroad Retirement Board a list of individuals separated from employment with the Milwaukee Railroad who at the time of such separation indicated a desire to appear on a list to be distributed to all rail carriers. Each such list shall include the class or craft qualifications of each employee listed, his seniority status with the Milwaukee Railroad, and such other information as the Board considers appropriate. The first list shall include only individuals separated after the date of enactment of this joint resolution and before the date on which the list is submitted pursuant to this paragraph. Each subsequent list shall include only those individuals separated after the submission of the previous list and before the submission of such subsequent list.

(2) Within 5 days after each day specified in paragraph (1) of this subsection, the Railroad Retirement Board shall mail a copy of the list submitted to the Board by the Milwaukee Railroad by such date to all other rail carriers. In addition, the Board shall maintain a current copy of such list in each office of the Board.

(b)(1) Within 60 days after the date of enactment of this joint resolution, and at the end of each of the 16 following 30-day periods, each rail carrier shall submit to the Railroad Retirement Board a list of employment, by class and craft, available with such carrier as of the date of the submission of such list. Each such list shall set forth such information with respect to such employment as the Board considers appropriate.

(2) Within 5 days after each date specified in paragraph (1) of this subsection, the Railroad Retirement Board shall prepare a compilation of all of the positions of employment by class and craft submitted by each rail carrier by such date, and shall mail a copy of such compilation to each employee who, pursuant to subsection (c) of this section, notifies the Board of such employee's interest in such compilation. In addition, the Board shall maintain a copy of such compilation in each office of the Board.

(c) Any employee of the Milwaukee Railroad described in section 6 of this joint resolution may notify the Railroad Retirement Board that he is interested in receiving a copy of each compilation of positions of employment by class and craft prepared by the Board pursuant to subsection (b)(2) of this section.

(d) Within 20 days after the Railroad Retirement Board mails a compilation of employment positions to employees pursuant to subsection (b)(2) of this section, any such employee may submit a bid on any position contained in such compilation to the rail carrier which listed the position.

(e) Any rail carrier which, during the 20-day period after a compilation of positions is mailed, receives one or more bids on any employment position listed by such rail carrier in such compilation shall offer such employment position to the employee who submitted a bid on such position during such period who has the most seniority in the class or craft within which such position is listed. Such offer shall be made to such employee whether or not such rail carrier hired another person for such employment position during the period of time beginning on the date of the submission to the Board of the list containing such position and the last date on which bids were submitted by employees for such position pursuant to this section.

(f) Nothing in this section shall impair the seniority rights or other interests under a collective bargaining agreement of any person employed by a carrier which offers employment positions pursuant to this section, unless otherwise specifically authorized or required by applicable union law.

EMPLOYEE RELOCATION INCENTIVE COMPENSATION

SEC. 10. (a) Any employee of the Milwaukee Railroad—

(1) who is employed by the restructured Milwaukee Railroad; or

(2) who is separated from his employment with the Milwaukee Railroad by reason of a reduction of service, and obtains employment, prior to March 1, 1981, with another rail carrier,

shall be eligible for employee relocation incentive compensation in accordance with this section.

(b) Each employee described in subsection (a) of this section shall be eligible to receive a total of not more than 36 months of employee relocation incentive compensation under this section. No such compensation shall be provided after March 1, 1984, unless it is necessary in order to provide an employee with at least 8 months of such compensation, but after such date such employee shall only receive such 8-month minimum if such employee is employed continuously after such date.

(c)(1) Employee relocation incentive compensation shall be payable to each employee described in subsection (a) of this section in any month in which—

(A) eighty percent of such employee's average monthly normal compensation from employment with the Milwaukee Railroad during the period beginning June 1, 1977, and ending on the date of enactment of this joint resolution; exceeds

(B) such employee's compensation for that month from his new position with the Milwaukee Railroad.

(2) The amount of compensation payable to an employee shall be the amount by which the monthly compensation described in paragraph (1)(A) of this subsection exceeds the monthly compensation described in paragraph (1)(B).

(d) An employee shall not be eligible to receive compensation under this section during any month in which such employee receives supplementary unemployment insurance under section 7 of this joint resolution.

(e) Employee relocation incentive compensation under this section shall be paid by the Milwaukee Railroad, and shall be treated as an administrative expense of the estate of such railroad.

(f) Any claim of an employee for employee relocation incentive compensation under this section shall be filed with the Railroad Retirement Board. The Board shall determine the amount to which such employee is entitled under this section and shall certify such amount to the Milwaukee Railroad for payment.

(g) As used in this section, the term "restructured Milwaukee Railroad" has the meaning given to such term in section 8(q) of this joint resolution.

SEPARATION ALLOWANCE

SEC. 11. (a) Any employee of the Milwaukee Railroad described in section 6 of this joint resolution may, no later than April 1, 1981, elect to receive a separation allowance from the Milwaukee Railroad, in an amount equal to $2,000 for each year of completed service and, in addition thereto, full payment for all vacation time earned but not previously taken and of deferred compensation. The amount of separation allowance payable to an employee under this section shall not exceed $25,000.

(b) Any separation allowance under this section shall be paid by the Milwaukee Railroad, and shall be treated as an administrative expense of the estate of such railroad.

NEW CAREER TRAINING ASSISTANCE

SEC. 12. (a) Any employee who elects to receive separation allowance under section 11 of this joint resolution shall be entitled to receive from the Railroad Retirement Board expenses for training in qualified institutions for new career opportunities.

(b) To be entitled for assistance under this section, an employee must begin his course of training within two years following the date of his separation from employment with the Milwaukee Railroad.

(c) Entitlement to expenses for assistance under this section shall be determined by the Railroad Retirement Board on the basis of an application therefor filed by an employee with the Board.

(d) As used in this section—

(1) the term "expenses" means actual expenses paid for room, board, tuition, fees, or

educational material in an amount not to exceed $3,000;

(2) the term "qualified institution" means an educational institution accredited for payment by the Veterans' Administration under chapter 36 of title 38, United States Code.

ELECTIONS

SEC. 13. (a) Any employee who receives moving expense benefits under section 7 of this joint resolution, supplementary unemployment compensation under section 8, or employee relocation incentive compensation under section 10, shall not be eligible for a separation allowance under section 11 or for new carrier training assistance under section 12.

(b) Any employee who receives a separation allowance under section 11 of this joint resolution shall not be eligible for assistance under section 7, 8, or 10.

(c) Any employee who receives any assistance under section 7, 8, 10, or 11 of this joint resolution shall be deemed to waive any employee protection benefits otherwise available to such employee under the Bankruptcy Act, title 11 of the United States Code, subtitle IV of title 49 of the United States Code, or any applicable contract or agreement.

AUTHORIZATION OF APPROPRIATIONS

SEC. 14. (a) There is authorized to be appropriated to provide supplementary unemployment insurance under section 8 of this joint resolution not to exceed $5,000,000.

(b) There is authorized to be appropriated for new career training assistance under section 12 of this joint resolution not to exceed $1,500,000.

(c) There are authorized to be appropriated to the Railroad Retirement Board to carry out its administrative expenses under this Act not to exceed $750,000.

(d) Amounts appropriated under this section are authorized to remain available until expended.

OBLIGATION GUARANTEES

SEC. 15. (a) The Secretary of Transportation, under the authority of section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, shall guarantee obligations of the Milwaukee Railroad for purposes of providing moving expenses under section 7, employee relocation incentive compensation under section 10, and separation allowances under section 11. Such guarantee shall be entered into without regard to the requirements of subsection (g) of such section 511. Any obligation guaranteed pursuant to this section shall be treated as administrative expense of the estate of the Milwaukee Railroad.

(b) The aggregate unpaid principal amount of obligations which may be guaranteed by the Secretary pursuant to this section shall not exceed $75,000,000.

(c) If funds available to the Milwaukee Railroad pursuant to obligation guarantees of the Secretary of Transportation under this section are insufficient to pay the total amount of benefits and allowances for which employees are eligible under sections 7, 10, and 11 of this joint resolution, the Milwaukee Railroad shall reduce, on a pro rata basis, the amount provided under each such section.

(d) Except in connection with obligations guaranteed under this section, the United States shall incur no liability in connection with benefits and allowances provided under sections 7, 10, and 11 of this joint resolution.

TRANSACTION ASSISTANCE

SEC. 16. Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 845) is amended by adding at the end thereof the following new subsection:

"(f) REHABILITATION FOR COMMON CARRIER SERVICE.—Notwithstanding subsections (a) through (e) of this section, the Secretary shall immediately purchase redeemable preference shares or trustee certificates convertible to redeemable preference shares under this section to facilitate the rehabilitation and improvement of Milwaukee Railroad property that has been sold to another person or retained by the Milwaukee Railroad and that will be used for common carrier rail service.".

ASSESSMENT OF COAL HAULING NEEDS

SEC. 17. The Secretary of Energy shall immediately conduct an assessment of present and potential coal hauling needs in the area served by the Milwaukee Railroad and report his findings to the Congress within thirty days after the date of enactment of this joint resolution.

COURT APPROVED ABANDONMENT AND SALES IN PENDING CASES

SEC. 18. (a) Notwithstanding any other provisions of law, the court in any case pending under section 77 of the Bankruptcy Act on the date of enactment of the joint resolution may authorize the abandonment of lines of railroad pursuant to section 1170 of title 11 of the United States Code. Pending the expiration of the time for appeal of an abandonment order or the determination of any such appeal, the court may authorize the termination of service on a line to be abandoned, and the order authorizing such termination may not be stayed. In authorizing any abandonment pursuant to such section 1170, the court shall require the carrier to provide a fair arrangement at least as protective of the interests of employees as that required under section 11347 of title 49 of the United States Code.

(b)(1) Notwithstanding any other provision of law, the court in any case pending under section 77 of the Bankruptcy Act on the date of enactment of the joint resolution may authorize the sale or transfer of rail property, subject to the approval of the Interstate Commerce Commission under paragraph (2) of this subsection. In authorizing any such sale or transfer, the court shall provide a fair arrangement at least as protective of the interests of employees as that required under section 11347 of title 49, United States Code.

(2) The court described in paragraph (1) may not authorize a sale or transfer pursuant to such paragraph unless an appropriate application with respect to such sale or transfer is initiated with the Interstate Commerce Commission and, within such time as the court may fix, not exceeding 180 days, the Commission, with or without a hearing, as the Commission may determine, and with or without modification or condition, approves such application, or does not act on such application. Any action or order of the Commission approving, modifying, conditioning, or disapproving such application is subject to review by the court only under sections 706(2)(A), 706(2)(B), 706(2)(C), and 706(2)(D) of title 5.

(3) The court described in paragraph (1) may, on a preliminary basis, authorize the sale or transfer of lines of the carrier subject to the bankruptcy proceeding to another rail carrier. The court may permit the purchasing carrier to operate interim service over the lines to be purchased, and in operating such service it shall use employees of the carrier subject to the bankruptcy proceeding to the extent such purchasing carrier deems necessary for the operation of such service.

(c) The authority of the court having jurisdiction over the reorganization of the Milwaukee Railroad to authorize abandonments, sales, and transfers of lines of such railroad shall be governed by the provisions of section 3 of this joint resolution, rather than the provisions of this section.

(d) Nothing in this section shall be deemed to affect the priorities or timing of payment of labor protection which might have existed in the absence of this joint resolution.

DIRECTED SERVICE

SEC. 19. Until March 1, 1981, the provisions of this joint resolution shall be in lieu of any directed service under section 11125 of title 49 of the United States Code.

APPLICABILITY OF NEPA

SEC. 20. The provisions of the National Environmental Policy Act shall not apply to transactions carried out pursuant to this joint resolution.

AUTHORITY OF THE RAILROAD RETIREMENT BOARD

SEC. 21. (a) The Railroad Retirement Board may prescribe such rules as may be necessary to carry out its duties under this joint resolution.

(b) In carrying out its duties under this joint resolution, the Board may exercise such of the powers, duties, and remedies provided in subsections (a), (b), and (d) of section 12 of the Railroad Unemployment Insurance Act as are not inconsistent with the provisions of this joint resolution.

PUBLICATIONS AND REPORTS

SEC. 22. (a) Within 30 days after the date of enactment of this joint resolution, the Board shall publish, and make available for distribution by the Milwaukee Railroad to all its employees, a document which describes in detail the rights of such employees under sections 7 through 13 of this joint resolution.

(b) During the 2-year period beginning on the date of enactment of this joint resolution, the Railroad Retirement Board shall submit a report to the Congress every 6 months describing its activities under sections 7, 8, 9, 10, 11, and 12 of this joint resolution.

CONTINUATION OF SERVICE

SEC. 23. (a) Until the occurrence of an event described in subsection (b) of this section, the Milwaukee Railroad (1) shall maintain its entire railroad system, as it existed on the date of enactment of this joint resolution, (2) shall continue no less than the regular level of service provided by it as of that date, and (3) shall not embargo traffic (other than when necessitated by acts of God or safety requirements) or abandon or discontinue service over any part of its railroad system.

(b) The Milwaukee Railroad shall comply with the requirements of subsection (a) of this section until—

(1) an employee or employee-shipper ownership plan is not submitted to the Interstate Commerce Commission within the time period prescribed under section 4(a) of this joint resolution;

(2) the proposed plan is found by the Commission not to be feasible;

(3) the proposed plan is found by the bankruptcy court not to be fair and equitable to the creditors of the Milwaukee Railroad; or

(4) the plan is not implemented within the time period prescribed under section 4(c) of this joint resolution.

AMENDMENT TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

SEC. 24. Section 211(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 711(e)) is amended by striking out paragraph (2) and the sentence following that paragraph and inserting in lieu thereof the following:

"(2) increase the principal amount of such loan to such railroad, in an amount not to exceed $4,000,000, only if the Association makes the finding referred to in paragraph (1)(B) of this subsection, determines that such railroad is establishing an employee stock ownership plan which will be reviewed and approved by the Association, and assures that by December 31, 1980, the railroad will contribute to the employee stock ownership plan an amount of convertible preferred employer stock, or cash used to purchase convertible preferred employer stock, equal to the lesser of (A) 20 percent of the amount made available under this paragraph, or (B) 20 percent of the fair market value of the railroad as of that date.

The Association may not take any action pursuant to the preceding sentence of this subsection after December 31, 1980.".

REHABILITATION AND IMPROVEMENT FINANCING

SEC. 25. (a) CONSIDERATION OF APPLICATIONS.—Section 505(b)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(b)(2)) is amended—

(1) by inserting immediately after the comma at the end of clause (A) thereof the following: "except that if the Secretary determines, pursuant to clause (C) of this paragraph, that significant railroad restructuring will result from the project, the Secretary shall not consider the availability of funds from other sources but instead shall consider whether such restructuring benefits would be likely to be achieved if assistance were not provided,"; and

(2) by amending clause (C) thereof to read as follows: "(C) the public benefits, including any significant railroad restructuring, to be realized from the project to be financed in relation to the public costs of such financing and whether the proposed project will return public benefits sufficient to justify such public costs.".

(b) DEFINITION.—Section 501 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821) is amended—

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(8) 'restructuring' means any activity (including a consolidation, coordination, merger, or abandonment) which (A) involves rehabilitation or improvement of a facility or the transfer of a facility, (B) improves the long-term profitability of any railroad, and (C) results in the enhancement of the national rail freight system through the achievement of higher average traffic densities or improved asset utilization.".

Amend the title so as to read: "Joint Resolution to provide for the orderly restructuring of the Milwaukee Railroad, and for the protection of the employees of such railroad".

Mr. FLORIO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AMENDMENT OFFERED BY MR. FLORIO

Mr. FLORIO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FLORIO: Page 11, immediately after line 7, insert the following new section:

INTERIM EMPLOYEE ASSISTANCE

SEC. 7. (a) Any employee of the Milwaukee Railroad who is separated from his employment at any time during the six-month period beginning on (1) the date of the occurrence of an event described in section 25(b) of this joint resolution, or (2) March 1, 1980, whichever first occurs, shall be eligible to receive interim employee assistance under this section for the remainder of such six-month period, except that the period of eligibility for assistance under this section shall not exceed the employee's total months of service with the Milwaukee Railroad.

(b) Interim employee assistance under this section shall be payable to an employee on a monthly basis in an amount equal to—

(1) eighty percent of such employee's average monthly normal compensation from employment with the Milwaukee Railroad during the period beginning June 1, 1977, and ending on the date of enactment of this joint resolution, less

(2) the sum of (A) the amount of any benefits payable to such employee for such month under the Railroad Unemployment Insurance Act or under any State unemployment insurance program, and (B) the amount of any earnings of such employee for such month from employment or self-employment of any kind.

(c) Any claim for interim employee assistance under this section shall be paid by the Milwaukee Railroad in accordance with section 17 of this joint resolution, and shall be treated as an administrative expense of the estate of such railroad.

(d) Any claim of an employee for interim employee assistance under this section shall be filed with the Board in such time and manner as the Board by regulation shall prescribe. The Board shall determine the amount for which such employee is eligible under this section and shall certify such amount to the Milwaukee Railroad for payment.

(e) Any interim employee assistance received by any employee pursuant to this section shall be considered to be compensation solely—

(1) for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq); and

(2) for purposes of determining the compensation received by such employee in any base year under the Railroad Unemployment Insurance Act.

Mr. FLORIO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. FLORIO. Mr. Chairman, this amendment makes several technical changes in the substitute which I think are noncontroversial. It does make one substantive change, which cures a problem brought to our attention after the rule made the substitute in order.

As it stands, the substitute provides incentives for employees of the Milwaukee to move to other rail carriers. The incentives were designed so that workers had to work for another carrier to take advantage of the benefits. The substitute overlooks the fact that employees may want to move and eventually will move, but may not be able to do so for several months. We have provided no incentive for them to wait for up to 6 months for a job elsewhere in the industry.

To cure the problem, this amendment provides for 6 months of unemployment insurance for all displaced Milwaukee employees. If the employee eventually moves, his eligibility for other unemployment programs under the bill are reduced by the number of months of benefits he received under this program.

If, after 6 months of these unemployment benefits, the employee does not find employment elsewhere in the industry, the amount he received under this program is deducted from the severance pay to which he is otherwise entitled.

The 6 months of benefits in this amendment come from the estate of the Milwaukee, and will not cost the Federal Government a thing. The additional expense to the Milwaukee estate will be negligible since the payments are all deductible from other benefits to which employees are entitled.

The 6 months of unemployment benefits provide employees with the time to search for other employment in the industry, as we all want them to do. If they find that employment or do not, the benefits they receive are eventually subtracted from other benefits for which they are eligible.

I think it is a good and necessary change in the substitute, and I urge your support.

Mr. MADIGAN. Mr. Chairman, would the gentleman yield?

Mr. FLORIO. I would be happy to yield.

Mr. MADIGAN. Mr. Chairman, we have had the opportunity to review the gentleman's amendment on this side, and observe that it does not affect the $75 million cap contained in the substitute and we are supporting the amendment of the gentleman from New Jersey as being a good initiative.

Mr. FLORIO. Mr. Chairman, I thank the gentleman from Illinois.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. FLORIO).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. MADIGAN

Mr. MADIGAN. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. MADIGAN: On the first page, line 4, strike out "Chicago," and all that follows through "Railroad')" on line 6 and insert "Milwaukee Railroad" in lieu thereof.

On the first page, line 13, insert "Minnesota," immediately after "Indiana,".

Page 2, line 1, strike out the period and insert in lieu thereof a semicolon.

Page 2, line 20, strike out "operations" and insert "services" in lieu thereof.

Page 2, immediately after line 21, insert the following new section:

DEFINITIONS

SEC. 2. As used in this joint resolution—

(1) the term "bankruptcy court" means the court having jurisdiction over the reorganization of the Milwaukee Railroad;

(2) the term "Board" means the Railroad Retirement Board;

(3) the term "employee"—

(A) includes any employee of the Milwaukee Railroad who worked on a line of such railroad the sale of which became effective on October 1, 1979; but

(B) does not include any individual serving as president, vice-president, secretary, treasurer, comptroller, counsel, member of the board of directors, or any other person performing such functions;

(4) the term "Milwaukee Railroad" means the Chicago, Milwaukee, St. Paul and Pacific Railroad Company; and

(5) the term 'restructured Milwaukee Railroad'—

(A) means the entity operating the lines of the Milwaukee Railroad after the 6-month period beginning on (i) the occurrence of an event described in section 25(b) of this joint resolution, or (ii) March 1, 1980, whichever first occurs; but

(B) does not include (i) any line of the Milwaukee Railroad which is the subject of a proposed sale, transfer, or abandonment pending on the expiration of the 6-month period described in subparagraph (A) of this paragraph, or (ii) any entity formed pursuant to section 5 of this joint resolution.

Page 2, strike out line 23 and all that follows through "person." on line 2 of page 3, and insert in lieu thereof the following:

Sec. 3. (a) The Milwaukee Railroad may negotiate and enter into agreements to sell, to another rail carrier or any other person, all or any portion of its rail properties which are used in railroad operations as of the date of enactment of this joint resolution.

Page 3, line 4, strike out "23(b)" and insert "25(b)" in lieu thereof.

Page 3, line 5, immediately after the period insert the following new sentence: "In taking action under this subsection, the Milwaukee Railroad may consult with the Secretary of Transportation.".

Page 3, line 8, strike out "develop plans" and all that follows through "negotiations," on line 11 and insert in lieu thereof the following: "develop plans, participate in negotiations, and recommend to the trustee proposals for the sale or transfer of any rail properties of the Milwaukee Railroad which are used in rail operations as of the date of enactment of this joint resolution. In taking action under this paragraph,".

Page 3, strike out lines 15 through 19 and insert in lieu thereof the following:

"(2) Any sale or transfer proposal developed under paragraph (1) of this subsection shall be submitted to the bankruptcy court.".

Page 3, line 21, strike out "23(b)" and insert "25(b)" in lieu thereof.

Page 3, line 25, strike out "Sec. 3." and insert "Sec. 4." in lieu thereof.

Page 4, line 1, strike out "23(b)" and insert "25(b)" in lieu thereof.

Page 4, line 22, strike out "23(b)" and insert "25(b)" in lieu thereof.

Page 4, strike out line 24 and insert in lieu thereof the following:

transfer of a line of the Milwaukee Railroad to be used in continued rail operations, subject to the approval of the Interstate Commerce Commission under

Page 5, line 17, insert "of the United States Code" immediately after "title 5".

Page 5, line 20, strike out "The" and insert "Pending review by the Commission pursuant to paragraph (2) of this subsection, the" in lieu thereof.

Page 5, strike out line 23 and all that follows through line 1 on page 6 and insert in lieu thereof the following: "purchasing carrier to operate interim service as a common carrier over the lines to be purchased, without regard to section 10901 of title 49 of the United States Code. In operating such service, the purchasing carrier shall use employees of the Milwaukee Railroad to the extent necessary for the operation of such".

Page 6, line 6, strike out "labor" and insert "employee" in lieu thereof.

Page 6, line 10, strike out "Sec. 4." and insert "Sec. 5." in lieu thereof.

Page 7, line 9, strike out "creditors" and insert "estate of the Milwaukee Railroad" in lieu thereof.

Page 8, line 1, strike out "creditors" and insert "estate" in lieu thereof.

Page 8, line 6, strike out "creditors" and insert "estate" in lieu thereof.

Page 8, line 7, strike out "shall," and all that follows through "plan" on line 9 and insert "shall implement the plan no later than March 1, 1980" in lieu thereof.

Page 9, line 1, insert "or customer" immediately after "competitor".

Page 9, line 4, strike out "Sec. 5." and insert "Sec. 6." in lieu thereof.

Page 10, line 4, strike out "23" and insert "25" in lieu thereof.

Page 10, line 5, strike out "for purposes of financing the" and insert "as required to finance" in lieu thereof.

Page 10, line 8, strike out "23(b)" and insert "25(b)" in lieu thereof.

Page 10, line 17, insert "subsection (d) of" immediately after "with".

Page 10, strike out line 23 and all that follows through line 7 on page 11 and insert in lieu thereof the following:

RAILROAD HIRING

Sec. 7. Each person who is an employee of the Milwaukee Railroad on October 26, 1979, and who is separated or furloughed from his employment with such railroad (other than for cause) prior to March 1, 1981, as a result of a reduction of service by such railroad, shall have the first right of hire by any other rail carrier that is subject to regulation by the Interstate Commerce Commission for any vacancy that is not covered by (1) an affirmative action plan, or a hiring plan designed to eliminate discrimination, that is required by Federal or State statute, regulation, or executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this section, a rail carrier shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.

Page 11, redesignate section 7, as added by the amendment offered by Mr. Florio, as section 8.

Page 11, line 9, strike out "Sec. 7." and insert "Sec. 9." in lieu thereof.

Page 11, strike out lines 15 through 19 and insert in lieu thereof the following:

(2) who, in connection with a restructuring transaction carried out by the Milwaukee Railroad prior to March 1, 1981, is separated from his employment with such railroad and is required to make a change of residence, prior to April 1, 1981, in order to obtain employment with another rail carrier,

Page 11, line 20, strike out "entitled" and insert "eligible" in lieu thereof.

Page 11, line 23, strike out "entitled" and insert "eligible" in lieu thereof.

Page 12, line 11, strike out "Claims" and insert "Any claim" in lieu thereof.

Page 12, line 12, insert "in accordance with section 17 of this joint resolution" immediately after "Railroad".

Page 12, line 13, strike out "administrative expenses" and insert "an administrative expense" in lieu thereof.

Page 12, beginning on line 16, strike out "Railroad Retirement Board" and insert "Board, in such time and manner as the Board by regulation shall prescribe" in lieu thereof.

Page 12, line 17, strike out "to" and insert "for" in lieu thereof.

Page 12, line 18, strike out "entitled" and insert "eligible" in lieu thereof.

Page 12, line 21, strike out "Sec. 8." and insert "Sec. 10." in lieu thereof.

Page 13, beginning on line 2, strike out "by reason of a reduction of service," and insert "in connection with a restructuring transaction carried out by such railroad," in lieu thereof.

Page 13, line 20, strike out "and".

Page 14, line 1, strike out the period and insert "; and" in lieu thereof.

Page 14, immediately after line 1, insert the following new paragraph:

(3) there shall be deducted from such 36-month total one month for each month such employee received interim employee assistance under section 8 of this joint resolution.

Page 14, strike out lines 16 through 19 and insert in lieu thereof the following:

(d) An application for supplementary unemployment insurance under this section shall be filed with the Board in such time and manner as the Board by regulation shall prescribe.

Page 15, line 3, insert "(1)" immediately after "(f)".

Page 15, after line 5, insert the following new paragraphs:

(2) An employee shall not be entitled to receive supplementary unemployment insurance under this section if he has failed to exhaust all seniority rights or other employment rights under applicable collective bargaining agreements.

(3) An employee shall not be entitled to receive supplementary unemployment insurance under this section for any month or portion of a month in which such employee is unemployed due to normal seasonal unemployment patterns in the railroad industry.

Page 15, strike out lines 6 through 9 and insert in lieu thereof the following:

(g) For purposes of this section, any employee of the Milwaukee Railroad who is furloughed shall be considered to be separated from his employment.

Page 15, strike out line 20 and all that follows through line 15 on page 18 and insert in lieu thereof the following:

EMPLOYMENT OF MILWAUKEE RAILROAD EMPLOYEES

Sec. 11. (a) The Board shall prepare and maintain—

(1) a list of individuals separated from employment with the Milwaukee Railroad who indicate a desire to appear on a list to be available to rail carriers; and

(2) a list of employment, by class and craft, available wih rail carriers,

based upon information submitted to the Board by the Milwaukee Railroad and other rail carriers. Upon the request of any rail carrier, the Board shall make available to such carrier a copy of the list described in paragraph (1) of this subsection.

(b) The Board shall maintain the lists required by subsection (a) of this section through December 31, 1984.

Page 18, line 17, strike out "Sec. 10." and insert "Sec. 12." in lieu thereof.

Page 18, line 21, strike out "by reason of a reduction in service," and insert "in connection with a restructuring transaction carried out by such railroad," in lieu thereof.

Page 19, strike out lines 4 through 9 and insert in lieu thereof the following:

under this section, except that—

(1) no such compensation shall be provided after March 1, 1984, unless it is necessary in order to provide an employee with at least 8 months of such compensation, but after such date such employee shall only receive such 8-month minimum if such employee is employed continuously after such date; and

(2) there shall be deducted from such 36-month total one month for each month such employee received interim employee assistance under section 8 of this joint resolution.

Page 19, line 19, insert "or another rail carrier" immediately after "Railroad".

Page 19, strike out lines 20 through 23 and insert in lieu thereof the following:

(2) Employer relocation incentive compensation under this section shall be payable to an employee on a monthly basis in an amount equal to (A) the amount described in paragraph (1)(A) of this subsection, as computed for that employee, less (B) the amount described in paragraph (1)(B) of this subsection, as computed for that employee.

Page 20, line 1, insert "is eligible for or" immediately after "such employee".

Page 20, line 4, insert "in accordance with section 17 of this joint resolution" immediately after "Railroad".

Page 20, line 9, strike out "Railroad Retirement Board" and insert "Board, in such time and manner as the Board by regulation shall prescribe" in lieu thereof.

Page 20, strike out lines 13 through 15.

Page 20, strike out lines 17 through 25 and insert in lieu thereof the following:

Sec. 13. (a) Any employee of the Milwaukee Railroad described in section 7 of this joint resolution may, no later than April 1, 1981, elect to receive a separation allowance from the Milwaukee Railroad in accordance with this section.

(b) A separation allowance under this section shall be payable to an employee in an amount equal to $2,000 for each year of completed service and, in addition thereto, full payment of back pay and for all vacation time earned but not previously taken, except that—

(1) the total amount of separation allowance payable to an employee shall not exceed $25,000; and

(2) the amount of separation allowance payable to an employee shall be reduced by the amount of any interim employee assistance received by such employee under section 8 of this joint resolution.

Page 21, line 1, strike out "(b)" and insert "(c)" in lieu thereof.

Page 21, line 2, insert "in accordance with section 17 of this joint resolution" immediately after "Railroad".

Page 21, immediately after line 3, insert the following new subsection:

(d) The Milwaukee Railroad shall submit to the Board, in such form and manner as the Board by regulation prescribes, a report of each separation allowance paid by the Milwaukee Railroad under this section. The Board shall review each such report to determine whether such allowance was paid in accordance with this section.

Page 21, line 5, strike out "Sec. 12." and insert "Sec. 14." in lieu thereof.

Page 21, line 6, strike out "11" and insert "13" in lieu thereof.

Page 21, beginning on line 7, strike out "Railroad Retirement".

Page 21, line 15, strike out "Railroad Retirement".

Page 21, immediately after line 17, insert the following new subsection:

(d) No assistance may be provided under this subsection after March 1, 1984.

Page 21, line 18, strike out "(d)" and insert "(e)" in lieu thereof.

Page 21, line 21, insert "and" immediately after the semicolon.

Page 21, line 24, strike out the comma immediately after "title 38" and insert "of the" in lieu thereof.

Page 22, line 2, strike out "Sec. 13." and insert "Sec. 15." in lieu therof.

Page 22, line 3, strike out "7" and insert "9" in lieu thereof.

Page 22, line 4, strike out "8" and insert "10" in lieu thereof.

Page 22, line 5, strike out "10" and insert "12" in lieu thereof.

Page 22, line 7, strike out "11" and insert "13" in lieu thereof.

Page 22, line 7, strike out "carrier" and insert "career" in lieu thereof.

Page 22, line 8, strike out "12" and insert "14" in lieu thereof.

Page 22, line 10, strike out "11" and insert "13" in lieu thereof.

Page 22, line 11, strike out "7, 8, or 10" and insert "9, 10, or 12" in lieu thereof.

Page 22, line 13, strike out "7, 8, 10, or 11" and insert "8, 9, 10, 12, or 13" in lieu thereof.

Page 22, line 19, strike out "Sec. 14." and insert "Sec. 16." in lieu thereof.

Page 22, line 20, strike out "8" and insert "10" in lieu thereof.

Page 22, line 23, strike out "12" and insert "14" in lieu thereof.

Page 22, line 25, strike out "are" and insert "is" in lieu thereof.

Page 23, line 1, strike out "Railroad Retirement".

Page 23, line 6, strike out "Sec. 15." and insert "Sec. 17." in lieu thereof.

Page 23, line 9, insert "interim employee assistance under section 8," immediately after "providing".

Page 23, line 10, strike out "7" and insert "9" in lieu thereof.

Page 23, line 11, strike out "10" and insert "12" in lieu thereof.

Page 23, line 12, strike out "11" and insert "13" in lieu thereof.

Page 23, line 15, insert "an" immediately after "as".

Page 23, line 24, strike out "7, 10, and 11" and insert "8, 9, 12, and 13" in lieu thereof.

Page 24, line 1, immediately after the period insert the following new sentence: "The total liability of the Milwaukee Railroad for benefits and allowances under sections 8, 9, 12, and 13 of this joint resolution shall not exceed $75,000,000.".

Page 24, line 5, strike out "7, 10, and 11" and insert "8, 9, 12, and 13" in lieu thereof

Page 24, line 8, strike out "Sec. 16." and insert "Sec. 18." in lieu thereof.

Page 24, line 11, insert "(1)" immediately after "Service.—".

Page 24, line 18, insert "restructured" immediately after "by the".

Page 24, line 19, strike out the closing quotation marks and the following period.

Page 24, immediately after line 19, insert the following new paragraphs:

"(2) The Secretary may not take any action under this subsection—

"(A) prior to (i) the occurrence of an event described in section 25(b) of the joint resolution entitled 'Joint Resolution to provide for the orderly restructuring of the Milwaukee Railroad, and for the protection of the employee of such railroad', or (ii) March 1, 1980, whichever first occurs; or

"(B) after March 1, 1981.

"(3) Funds received from purchases by the Secretary pursuant to this subsection may not be used for the rehabilitation and improvement of any line of railroad which carried less than 3,000,000 gross tons of freight per mile during the previous calendar year.".

Page 24, line 21, strike out "Sec. 17." and insert "Sec. 19." in lieu thereof.

Page 25, line 2, strike out "Sec. 18." and insert "Sec. 20." in lieu thereof.

Page 25, line 12, strike out "such section 1170" and insert "this section" in lieu thereof.

Page 25, line 19, strike out "rail property" and insert "a line of railroad to be used in continued rail operations".

Page 26, line 13, insert "of the United States Code" immediately after "title 5".

Page 26, line 14, strike out "The" and insert "Pending review by the Commission pursuant to paragraph (2) of this subsection, the" in lieu thereof.

Page 26, strike out lines 23 through 25 and insert in lieu thereof the following:

(c) The authority of the bankruptcy court to authorize abandonments, sales, and transfers of lines of the Milwaukee Railroad.

Page 27, line 1, strike out "3" and insert "4" in lieu thereof.

Page 27, line 5, strike out "labor" and insert "employee" in lieu thereof.

Page 27, line 9, strike out "Sec. 19." and insert "Sec. 21." in lieu thereof.

Page 27, line 10, insert "on any line of the Milwaukee Railroad" immediately after "service".

Page 27, line 13, strike out "Sec. 20." and insert "Sec. 22." in lieu thereof.

Page 27, strike out line 17 and all that follows through "rules" on line 18 and insert in lieu thereof the following:

Sec. 23. (a) The Board may prescribe such regulations

Page 28, line 2, strike out "Sec. 22." and insert "Sec. 24." in lieu thereof.

Page 28, line 6, strike out "7 through 13" and insert "8 through 15" in lieu thereof.

Page 28, line 9, strike out "Railroad Retirement".

Page 28, beginning on line 11, strike out "7, 8, 9, 10, 11, and 12" and insert "8, 9, 10, 11, 12, 13, and 14" in lieu thereof.

Page 28, line 14, strike out "Sec. 23." and insert "Sec. 25." in lieu thereof.

Page 28, line 17, strike out "the date of enactment of this joint resolution" and insert "October 15, 1979" in lieu thereof.

Page 29, line 5, insert "or the Commission does not act within 30 days" immediately after "feasible".

Page 29, line 7, strike out "creditors' 'and insert "estate" in lieu thereof.

Page 29, line 10, strike out "4(c)" and insert "5(c)" in lieu thereof.

Page 29, line 13, strike out "Sec. 24." and insert "Sec. 26." in lieu thereof.

Page 29, line 14, strike out "711(e)" and insert "721(d)" in lieu thereof.

Page 29, strike out line 20 and all that follows through line 5 on page 30 and insert in lieu thereof the following: "paragraph (1)(B) of this subsection and determines that such railroad is making a good faith effort to establish an employee stock ownership plan for review and approval by the Association. Any such approval shall be conditioned upon a written commitment that by December 31, 1980, the railroad will adopt an employee stock ownership plan which will acquire employer stock with a fair market value of $200,000.".

Page 30, strike out line 10 and insert in lieu thereof the following: "Sec. 27. (a) Section".

Page 31, line 4, strike out "Definition.—".

Mr. MADIGAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read, printed in the Record and that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MADIGAN. Mr. Chairman, I rise to offer an amendment to the substitute amendment offered by Chairman Florio. The amendment I offer is essentially technical changes to the Florio substitute. It includes the addition of a section setting forth definitions of certain key terms used in the bill, and clarifications of provisions contained in the original substitute as introduced by Congressman Florio and myself.

For example, section 10 of our substitute amendment went into considerable specificity as to how the Railroad Retirement Board would proceed in matching available jobs throughout the railroad industry to specific separated Milwaukee employees who wanted to continue employment in the industry. This amendment clarifies that procedure and gives greater discretion to the Board in implementing the job bank concept.

The technical amendment also insures that hiring of Milwaukee employees by other railroads will not violate any provisions of existing civil rights statute.

Mr. Chairman, since the amendment contains technical changes which affect several sections of the bill, I ask that it be considered and approved en bloc.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I would be happy to yield.

Mr. FLORIO. Mr. Chairman, I would just reaffirm the representations that have been made. The amendment is a very helpful amendment. It will be of assistance in implementing the clear intent of the committee and the majority supports the amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Illinois (Mr. MADIGAN).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. DASCHLE

Mr. DASCHLE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DASCHLE: Page 31, after line 21, add the following new section:

OFFICE OF RAIL PUBLIC COUNSEL

SEC. 26. The Office of Rail Public Counsel may appear and be heard in the case before the bankruptcy court involving the reorganization of the Milwaukee Railroad, for purposes of representing affected shippers, localities, and municipalities with respect to the proposed abandonment of any lines of the Milwaukee Railroad.

Mr. DASCHLE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

Mr. DASCHLE. Mr. Chairman, this amendment would simply propose that we insure that the Office of Rail Public Counsel may represent shippers and other affected parties in this rail abandonment proceedings in bankruptcy court.

The counsel is currently working in South Dakota and Montana and Idaho, Washington, Wisconsin, and Michigan, helping the public gather information and present testimony for the very complicated process of rail abandonment proceedings; but with the passage of this law, rail abandonment rulings regarding the Milwaukee will be moved to the jurisdiction of the court. According to the GAO in a letter to Senator MELCHER of Montana, the Office can appear in court only on behalf of shippers after abandonment application has been through the ICC and then has been appealed to the court. Now we are bypassing the ICC on abandonments, and so this amendment is necessary to insure that the Office of Rail Public Counsel can continue the process it has begun of serving the public in the proposed Milwaukee abandonment.

Preparing and presenting testimony in a rail abandonment case is a very complicated matter—a shipper needs information on carloads shipped and received, effects of abandonment on employment, the effect of reduced employment on the local tax base, energy costs, and alternate forms of transportation. Most complex of all is the costing issues—these are issues requiring cost analysts. Three such analysts were employed in the recent hearings on the proposed Miles City west abandonment.

Shippers must know how the rail abandonment process works, how to participate, what kind of information is needed for testimony. The ICC holds public hearings, but does not help people with the process. You must remember that these local shippers are pitted against railroad attorneys in their testimony. The Office of Rail Public Counsel is needed in court to help shippers and others effected by possible abandonments, and to present testimony on behalf of others. To deny the public aid because authority for abandonment rulings has been switched from the ICC to the courts is simply unfair.

Mr. WILLIAMS of Montana. Mr. Chairman, will the gentleman yield?

Mr. DASCHLE. I would be happy to yield.

Mr. WILLIAMS of Montana. Mr. Chairman, with regard to the Rail Public Counsel, I have a report that indicates that a group called Rail Public Counsel has recently determined that this year the Milwaukee earned $2½ million as a positive profit contribution to their operation on the lines that they wish to abandon. Is this the same Rail Public Counsel that the gentleman wishes to have intervene in the abandonment hearings?

Mr. DASCHLE. The gentleman from Montana is absolutely right. They have done an incredible job in coming up with information and working with the shippers and certainly working with the States in our region to insure that this kind of information is made public.

Mr. WILLIAMS of Montana. Well, Mr. Chairman, I encourage my colleagues to support the gentleman's amendment and encourage the chairman to accept the gentleman's amendment.

The Rail Public Counsel, it seems to me, is the only Federal agency which has been able to identify the profit which the Milwaukee has indeed made on the lines they want to abandon.

Mr. DASCHLE. That is correct.

Mr. WILLIAMS of Montana. Mr. Chairman, I thank the gentleman.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. DASCHLE. I would be happy to yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I have reviewed the gentleman's amendment. There is some question as to whether the authority, that is, the Office of Rail Public Counsel, really has the authority to do what the gentleman seeks to do. I am of the opinion that it does, and in the interests of expediting procedures here today I am pleased to accept the gentleman's amendment.

Mr. DASCHLE. Mr. Chairman, I thank the gentleman.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. DASCHLE. I would be happy to yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, concurring with the remarks that the chairman of the subcommittee has made, I am under the impression that the Office of Rail Public Counsel would have the right to appear in these proceedings in Federal court in Chicago and I would interpret the gentleman's amendment as simply clarifying the intent of Congress as that intent should have been represented to everyone; so we certainly have no objection to the amendment.

Mr. DASCHLE. Well, Mr. Chairman, I certainly want to thank the gentleman and the chairman.

My only concern is that the GAO interpretation left some need for clarification and I think this amendment does that.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Dakota (Mr. DASCHLE).

The amendment was agreed to.

☐ 1600

AMENDMENT OFFERED BY MR. ABDNOR

Mr. ABDNOR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ABDNOR: Page 27, line 9, strike out "Until" and insert in lieu thereof "(a) Except as provided in subsection (b) of this section, until".

Page 27, after line 11, insert the following new subsection:

(b) The Interstate Commerce Commission shall order directed service under section 11125 of title 49 of the United States Code for a period of 60 days, and may order such directed service for an additional period of 180 days, on any line of the Milwaukee Railroad over which such railroad does not continue operations, prior to March 1, 1980, with financial assistance made available under section 5(d) of this joint resolution.

Mr. ABDNOR. Mr. Chairman, simply stated, my amendment would require 60 days of directed service on any line which the Milwaukee Railroad does not choose to continue to operate with ERSA loan funds after January 1. It would also preserve the option of the ICC to direct service on such a line for an additional period of up to 180 days, or a total of 240 days, consistent with existing law.

If the employee-shipper ownership plan is deemed by the ICC to be feasible, under the existing provisions of the Florio-Madigan substitute, the entire Milwaukee system will be maintained with ERSA loan funds until March 1 or until the plan is implemented, whichever occurs first. If the plan is found to be not feasible, my amendment would insure the continuation of service for a minimum of 60 days.

My amendment will provide another tool to facilitate the necessary restructuring of the Milwaukee system. It will afford the option of directed service to smooth the transition for sales and transfer of service to other railroads, and it will do so on lines which might otherwise fall by the wayside without deliberate consideration. It will enable the Milwaukee to embargo service on these lines and, thereby, avoid further encumbering the estate.

I am sure the creditors will like that, and the shippers should not object either because they will in all likelihood receive more service under my amendment than under the existing provisions of the law.

In my view, it is little to expect—considering the history of the regulatory morass which has contributed to the dire straits in which employees, shippers, and the Milwaukee Railroad find themselves—that a minimal period of 60 days directed service would be assured. Such a period would do more to facilitate reasonable consideration of sales offers, without unduly delaying the inevitable.

Mr. Chairman, let me say to the Members of the House that it was not too long ago that again we included funding in the continuing appropriations to sustain loans until November 30, and so people out in the hinterlands were led to believe that they were assured of that much. They were led to think then that they had directed service for another 60 days after that. At the very minimum, they were led to believe that they were going to have railroad service through the end of January.

In my part of the country, many sales are contracted for delivery in January, at the start of the new year. Contracts have been made, and now, on the basis of a change in railroad service, we may be working a real economic hardship on many businesses in my State.

Mr. Chairman, I think this is an absolutely necessary amendment.

Mr. DASCHLE. Mr. Chairman, will the gentleman yield?

Mr. ABDNOR. I yield to my friend, the gentleman from South Dakota.

Mr. DASCHLE. Mr. Chairman, I want to associate myself with the remarks of my colleague. I think this amendment adds some certainty to the shippers.

We are going into a time right now when our shippers are not going to know the status of their future, given the fact that if ESOP is rejected a month or so down the road, they simply are not going to have even directed service.

So this amendment gives them that security and takes them through the harshest period of the winter, during that period when certainly truck traffic is almost nonexistent in some parts of the upper Midwest. This amendment simply provides that kind of security.

Mr. Chairman, I think this is an excellent amendment and certainly one that deserves the support of the whole House.

Mr. ABDNOR. Mr. Chairman, I thank my colleague, the gentleman from South Dakota, and I urge support of the amendment.

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. ABDNOR. I yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Chairman, I would like to associate myself with the gentleman's remarks and say this in addition: Although the legislation is very fine tuned and the committee has done a wonderful job in bringing this legislation out, I think this amendment goes a little bit beyond that and extends the protection that many of the people need who are using this railroad and who have obligated themselves at this time.

This amendment gives them the protection and the assurance they need to wind up their business if we do not have a reorganization plan or if one is not finally put together.

Mr. ABDNOR. Mr. Chairman, I thank my colleague for those remarks.

Mr. WILLIAMS of Montana. Mr. Chairman, will the gentleman yield?

Mr. ABNOR. I yield to the gentleman from Montana.

Mr. WILLIAMS of Montana. Mr. Chairman, I, too, support this amendment, and I thank the gentleman for offering it. I encourage my colleagues to support the amendment.

Without the amendment, we are in effect granting the ICC authority which I believe should remain here in this House. Without this amendment, we are allowing the ICC to determine the fate of this railroad in a mere 60 some days, and I believe that we should retain that power in the House.

The CHAIRMAN. The time of the gentleman from South Dakota (Mr. ABDNOR) has expired.

Mr. FLORIO. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise reluctantly in opposition to the amendment because I know of the sincerity of the proponent and of those who are called upon to speak for it because of their own geographic considerations. However, I am just not sure that some of the proponents of the amendment fully understand what it is that is being advocated, and that 60 days of directed service will in fact probably provide less coverage to the affected areas than will the provisions in this bill, because if in fact this bill is enacted into law, we are talking about insured total service until at least January 1.

That at this point is in excess of 60 days, and then we are talking about potential extended full service until at least March 1.

The gentleman from South Dakota (Mr. ABDNOR) is asking for directed service for a 60-day period, and it is the intention of the ICC, as I understand it, to consider a number of different options for directed service, none of which will continue full service. The different options they have and the different packages they have will provide some proportion of full service but will not provide full service to the affected area.

In addition to that, the cost of the directed service, which will be less than full service, will be in excess of the full service that we are providing under this bill. That is to say our cost for full service is approximately $10 million a month. The expectation of the ICC is that the cost for directed service, which is less than full service, is approximately $15 million per month.

So unfortunately, what will happen is that there will be more Federal money expended for less service for the shippers in that area. Therefore, I am just at a loss to understand what the motivation is for this particular amendment.

Over and above that, at the end of the period of directed service there is no opportunity for restructuring. What will happen at the end of the period of directed service is that we will be back here in the Congress asking for a continued bail-out.

What I am suggesting is that what we have done is to try to strike a very delicate balance between those who would say, "Do nothing, have the embargo this Thursday and cut off 6,000 or 7,000 miles of service, eliminating the transportation needs of 5,000 people," and those who would say, "Freeze the system, have directed service for the system during this period of time, and at the end of that time we will come back to the Congress and ask for massive amounts of money to continue and to freeze the system."

Mr. Chairman, that is not acceptable as far as I am concerned and as far as I perceive the feelings of the House. We have struck a delicate balance, and unfortunately the gentleman's amendment will upset that balance. In addition, I am concerned about its working an adverse impact upon the area about which the gentleman is concerned.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I thank the distinguished subcommittee chairman for yielding.

If I might just add to what the gentleman has said, we are aware that the Union Pacific Railroad, the Burlington Northern Railroad, and the Chicago & Northwestern Railroad are all interested in buying railroad lines presently belonging to the Milwaukee Railroad. I presume those are all in the area about which the gentleman is concerned.

But if the prospective purchases by those three railroads still do not take into account some individual lines in which the gentleman is interested, we already have a program under the 4–R Act that would allow the States, including the gentleman's home State or the State of Montana or whatever other State is involved, to go in and pick up that railroad line and continue to operate it with Federal assistance.

☐ 1610

So we think, as the gentleman from New Jersey has suggested, that with existing Federal programs and with what we propose here through the restructuring, that we are providing the opportunity for better rail service than what would be provided by the amendment offered by the gentleman from South Dakota.

Mr. ABDNOR. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from South Dakota.

Mr. ABDNOR. I would like to ask the gentleman from New Jersey a few questions so that I can get this in proper order.

First, let me say that I do not intend to change the gentleman's plan. If it is going to do everything the gentleman says it will do, that will be fine. What I am suggesting is that this directed service be added in case the ESOP is found to be unfeasible.

Let me address one point, one statement, that I think needs clarifying. It is quite possible for areas of the railroad to be out of business within 30 days, by December 1, if the employees do not come up with a plan. We are saying, "Within 30 days from tomorrow you better present a plan to the ICC so that they can pass judgment." If not, service may cease on any part of the line the Milwaukee chooses to abandon.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. FLORIO) has expired.

(On request of Mr. ABDNOR and by unanimous consent, Mr. FLORIO was allowed to proceed for 2 additional minutes.)

Mr. ABDNOR. It could be out of service within 30 days, is that correct, in some instances?

Mr. FLORIO. The expectation is that when the plan is submitted, by the 1st of January the ICC must make a determination. So the system will keep running until the 1st of January.

Mr. ABDNOR. What if they do not have a plan proposed by that time, by December 1? Then what happens?

Mr. FLORIO. Moneys are provided under the ERSA program, the ERSA fund, for continuation for 60 days beyond that.

Mr. ABDNOR. Is that absolutely correct? Can we depend on that?

Mr. DASCHLE. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from South Dakota.

Mr. DASCHLE. Mr. Chairman, I would like to make a point here. That ERSA money would be available, but it goes directly to the Milwaukee, and the Milwaukee has the jurisdiction, as I understand it, on where that money is spent. It would not have to be spent in any given area that we would so direct or that we would see fit in our own judgment. That judgment is left entirely up to Milwaukee, which really makes the ERSA money somewhat valueless.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I would just make this point. First of all, I think that the ESOP study will be ready by December 1. I think it is likely that it could even be ready before then. It has been studied previously on three occasions in three different ways, and I do not think it is going to be too difficult to put together a fourth study. I fully anticipate that that study will be ready by December 1. I do not think that we need to be concerned about that here.

Mr. FLORIO. Mr. Chairman, I would just reinforce the gentleman's point that in fact it has been represented to me that the study is virtually ready to be submitted to the ICC.

Mr. ABDNOR. Mr. Chairman, will the gentleman yield to me again?

Mr. FLORIO. I yield to the gentleman from South Dakota.

Mr. ABDNOR. Mr. Chairman, the gentleman does realize that abandonments could take place almost immediately after ICC determines that the ESOP is not feasible?

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. FLORIO) has again expired.

(On request of Mr. DASCHLE and by unanimous consent, Mr. FLORIO was allowed to proceed for 3 additional minutes.)

Mr. ABDNOR. I ask the gentleman to bear in mind what I said earlier, that many agreements and contracts have been made in good faith—I am speaking principally of farmers in this case, and elevator operators up and down the line—assuming, under the power we had before, up until just recently, that they could go ahead and plan on having rail service available to them until at least the end of January. How are we going to have that now? The gentleman is talking about how many millions of dollars this is going to cost. Let me assure the gentleman that with agriculture and rural America being such as it is, you are going to see how it will hurt individuals in this situation if this line goes out of existence prior to when they had anticipated.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, if I may say, in response to the gentleman from South Dakota, the ESOP study is presented to the Commerce Commission. The Commerce Commission makes the determination as to whether or not it is feasible. While that study is ongoing, while the Commerce Commission is making that determination, the bankruptcy judge in Chicago is on a conditional or interim basis approving sales which can take place if and when the ESOP study is determined to not be feasible. If that is the eventuality, that the ESOP study is determined to not be feasible by the Commerce Commisison, up until that point no rail service has stopped. At that point, when that determination is made, the judge may then order the sales to proceed. They then are no longer interim things being considered or being conditionally approved by the judge, but they are finally approved. So, on many of those routes there is not any reason that there would be so much as 1 day of lost service.

I would remind the gentleman that there are three railroads which have expressed an interest in buying these lines. But there is not anything in this legislation at all that prohibits any shipper from coming forward to buy another line or any group of employees from coming forward to buy another line, or any of the States affected from making application to take over this line under the provisions of the 4-R Act branch line subsidy program.

Mr. ABDNOR. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from South Dakota.

Mr. ABDNOR. Mr. Chairman, I agree with everything the gentleman said. But bear in mind again that if the plan is turned down, service may end on January 1. My State of South Dakota has gone into great study and detail and has prepared a number of rail plans. Our legislature does not even go into session until mid-January. What do we do in the meantime? We know you cannot run every mile of track. We do not intend to do so in South Dakota. But they have a pretty practical plan coming up that they can make work, given the opportunity.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Dakota (Mr. ABDNOR).

The question was taken; and on a division (demanded by Mr. ABDNOR) there were—ayes 7, noes 16.

So the amendment was rejected.

Mr. SENSENBRENNER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like in support of the substitute amendment offered by the gentleman from New Jersey (Mr. FLORIO) and express congratulations to him and to the gentleman from Illinois (Mr. MADIGAN) for making the best of a very difficult situation. Without the substitute amendment that is before us today, the cost of providing service on the lines that will be abandoned by the Milwaukee Railroad will become prohibitively expensive, so prohibitively expensive, in fact, that many of the potential buyers of these lines might not be willing to invest their time and their money in taking the lines over and providing service.

The reason this bill is before the Committee of the Whole today is due to two decisions made by the Federal court in Chicago relating to the Milwaukee Railroad bankruptcy trustee's petition. In September Federal District Judge Thomas McMillan granted the trustee's petition to embargo approximately two-thirds of the lines presently being operated by the Milwaukee Railroad.

In the continuing resolution passed by the Congress earlier this month, the trustee was directed to make application to the Federal Railway Administration for a loan to continue service over the existing lines for another 30 days beyond the November 1 date set by the court. But those negotiations broke down, the application was rejected, and the court this past week stated that the railroad could embargo certain lines as of Thursday, November 1, 1979.

Particularly significant in the court's September decision, which I inserted into the RECORD on September 28, was the fact that the deficit of the Milwaukee Railroad was found by the court to be approximately $350,000 per day; and, furthermore, that over 80 percent of that deficit was attributable to those lines that were proposed to be embargoed.

The concern that I wish to express on the floor here today stems from the fact that this substitute amendment will continue service over the lines that are proposed to be embargoed until as long as the 1st of March. That will cost an average of $15 million per month.

The obligation to repay the loans which the Federal Government is advancing to provide this service will rest on the core of the reorganized Milwaukee Road. Most of the lines will be spared from embargoing during this interim period are in the Northwest and in States such as Montana, Iowa, and South Dakota. But the obligation to repay the loans that will continue service over those lines will largely rest with midwestern shippers over the remaining core of the railroad, particularly those in the States of Wisconsin, Illinois, Indiana, and Minnesota.

□ 1620

So with the understanding that there will be no further embargo extension requests beyond the time frame that is established in this bill, it is my intention to support the substitute that has been proposed by the gentleman from New Jersey (Mr. **Florio**).

It is my hope that those people who represent districts where lines will be embargoed under reorganization will get on with the show of reorganizing, so that the taxpayers initially and the shippers and consumers eventually along the lines of the Milwaukee core railroad will not be picking up the tab for continued service in an area of the country aside from their own.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Are there further amendments? If not, the question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. **Howard**) having assumed the chair, Mr. **Downey**, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the joint resolution (H.J. Res. 341) to require continuation of rail service by the Chicago, Milwaukee, Saint Paul & Pacific Railroad for a period of 45 days, pursuant to House Resolution 439, he reported the joint resolution back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore (Mr. **Howard**). Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute, as amended, adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. FLORIO. Mr. Speaker, in lieu of the present consideration of Senate Joint Resolution 81, provided by House Resolution 439, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1905) to provide for the orderly restructuring of the Milwaukee Railroad, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1905

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Milwaukee Railroad Restructuring Act".

CONGRESSIONAL FINDINGS

Sec. 2. (a) Congress hereby finds that—

(1) the severe operating losses and the deteriorating plant and equipment of the Chicago, Milwaukee, Saint Paul and Pacific Railroad Company (hereinafter referred to as the "Milwaukee Railroad") threaten to cause cessation of its operations in the near future;

(2) a cessation of operations by the Milwaukee Railroad would have serious repercussions on the economies of the States in which the Milwaukee Railroad principally operates (namely, the States of Washington, Montana, Minnesota, Idaho, North Dakota, South Dakota, Illinois, Iowa, Missouri, Michigan, Indiana, and Wisconsin);

(3) a cessation of operations of the Milwaukee Railroad would result in the loss of many thousands of jobs of railroad workers and other workers whose employment is dependent upon rail service over the lines presently operated by the Milwaukee Railroad:

(4) the ownership by employees or by employees and shippers of part or all of the Milwaukee Railroad may be a valuable tool in reorganization and should be given serious consideration;

(5) a cessation of essential transportation services by the Milwaukee Railroad would endanger the public welfare and reduce rail competition in the affected tier of States;

(6) a cessation of such services is imminent; and

(7) there is no other practicable means of obtaining funds to meet payroll and other expenses necessary for continuation of services and reorganization of the Milwaukee Railroad.

(b) The Congress declares that emergency measures set forth in this Act must be taken to restructure the Milwaukee Railroad and to avoid the potential unemployment and damage to the economy of the region and of the Nation which a cessation of essential operations by the Milwaukee Railroad would otherwise cause.

COURT-APPROVED ABANDONMENT AND SALES

Sec. 3. (a) (1) Upon the occurrence of an event described in section 11(b) of this Act, or on May 10, 1980, whichever first occurs, the bankruptcy court may authorize the abandonment of lines of the Milwaukee Railroad pursuant to section 1170 of title 11, United States Code. Pending the expiration of the time for appeal of an abandonment order or the determination of any such appeal, the bankruptcy court may authorize the termination of service on a line to be abandoned, and the order authorizing such termination may not be stayed. When a rail carrier is involved in a transaction under this section, the court shall require the carrier to provide a fair arrangement at least as protective of the interests of the employees who are affected by the transaction as that required under section 11347 of title 49, United States Code.

(2) Prior to the date specified in paragraph (1) of this subsection the bankruptcy court may hear and consider any request for the abandonment of lines of the Milwaukee Railroad, and may fix the time for the Interstate Commerce Commission's report on the request, but it may take final action authorizing such abandonment only in accordance with paragraph (1) of this subsection.

(b) Section 11346 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision, when the proceeding involves the sale or transfer of a line of a railroad in reorganization, the Commission shall give the proceeding preference over all other proceedings related to that type of carrier and make its decision at the earliest practicable time, not to exceed 90 days if the proceeding does not involve a significant competitive impact, nor 210 days in any event: *Provided, however,* That this subsection shall not apply to proceedings commenced prior to the date of enactment of this subsection.".

(c) Nothing in this section shall be construed to affect the priorities or timing of payment of employee protection which might have existed in the absence of this Act.

COURT APPROVED ABANDONMENTS IN PENDING CASES

Sec. 4. Notwithstanding any other provision of law, and except as provided otherwise in section 3(a), the court in any case pending under section 77 of the Bankruptcy Act on the date of enactment of this Act may authorize the abandonment of lines of railroad pursuant to section 1170 of title 11, United States Code. Pending the expiration of the time for appeal of an abandonment order or the determination of any such appeal, the court may authorize the termination of service on a line to be abandoned, and the order authorizing such termination may not be stayed. In authorizing any abandonment pursuant to such section 1170, the court shall require the carrier to provide a fair arrangement at least as protective of the interests of employees as that required under section 11347 of title 49, United States Code.

EMPLOYEE OR EMPLOYEE-SHIPPER OWNERSHIP PLAN

Sec. 5. (a) (1) No later than December 15, 1979, an association composed of representatives of national railway labor organizations, employees, and shippers (or any combination of the foregoing) may submit to the Interstate Commerce Commission a single plan for converting all or a substantial part of the Milwaukee Railroad into an employee or employee-shipper owned company and a method for implementing such plan. The plan, which may include one or more alternative system configurations, shall include a comprehensive evaluation of the prospects for the financial self-sustainability of that portion of the Milwaukee Railroad.

(2) The Commission shall, within thirty days after the date of submission of a plan under paragraph (1) of this subsection, approve the proposed plan if it finds that such plan is feasible. The finding of the Commission with respect to the feasibility of the plan shall be made pursuant to section 554 of title 5, United States Code.

(3) The Commission shall make a finding that the plan submitted under this subsection is feasible if it determines that—

(A) adequate public and private financing is available to the proponents of such plan;

(B) such plan is fair and equitable to the estate of the Milwaukee Railroad;

(C) implementation of such plan will occur by May 10, 1980;

(D) that portion of the railroad covered by the plan can be operated on a self-sustaining basis; and

(E) the plan contains an assessment of all operating practices, and includes the implementation of changes designed to achieve the greatest possible labor productivity increases consistent with safe operations and adequate service.

For purposes of the determinations under this paragraph, adequate financing shall include all sources of private funds, the probable value and priority of valid claims against the estate that will be released as part of implementation of the employee or employee and shipper ownership plan, and Federal, State, or local funds available under programs (in existence as of January 1, 1980) which are or will be available to the proponent.

(b) If the Commission finds that the plan submitted under this section is feasible, it shall immediately submit its finding to the bankruptcy court. Within ten days after the day of such submission, the bankruptcy court shall, after a hearing, determine whether such plan is fair and equitable to the estate of the Milwaukee Railroad.

(c) If the Commission finds that the plan is feasible and the bankruptcy court determines that the plan is fair and equitable to the estate of the Milwaukee Railroad, the proponents of such plan shall, no later than May 10, 1980, implement the plan.

(d) Except as provided in this section, the findings of the Commission with respect to the plan shall not be subject to review.

(e)(1) The trustee of the Milwaukee Railroad shall promptly provide to the person engaged in developing the employee or employee and shipper ownership plan under this section——

(A) its most recent reports on the physical condition of the railroad; and

(B) traffic, revenue, marketing, and other data necessary to determine the amount of the acquisition cost of the railroad or portion of the railroad that would be required to continue rail transportation over the railroad line.

(2) Information provided pursuant to this subsection shall be used only for purposes of preparing a plan and shall not be disclosed to any competitor or customer of the Milwaukee Railroad.

(f) In the implementation of any employee or employee and shipper ownership plan involving expenditures or guarantees of Federal funds as hereinafter provided, authorizations shall be conditioned upon an appropriate contribution from employees including such measures as exchange of assets for relinquishing labor protection claims and changes in work rules to increase productivity: *Provided, however*, That the employee-shipper actual or in kind contribution shall be no less than 25 per centum of the total required financing.

EMERGENCY RAIL SERVICES ACT OF 1970

SEC. 6. (a) Subsection (a) of section 3 of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(a)) is amended by striking out "upon a finding" in the fifth sentence and all that follows in that subsection and inserting in lieu thereof a period.

(b) Section 3(c) of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(c)) is amended to read as follows:

"(c) The Secretary shall not guarantee any certificate under this section unless such certificate is treated as an expense of administration and receives the highest lien on the railroad's property and priority in payment under the Bankruptcy Act, except that this subsection shall not apply to certificates guaranteed for a railroad that is actively engaged in restructuring, as defined by the Secretary. For purposes of this subsection, the term 'restructuring' includes an employee ownership plan or an employee-shipper ownership plan.".

(c) Section 3(e) of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(e)) is amended by striking out "$125,000,000" and inserting in lieu thereof "$200,000,000".

(d) The Secretary of Transportation shall, under the authority of the Emergency Rail Services Act of 1970, immediately guarantee trustee certificates of the Milwaukee Railroad, on the basis of an estimate of the amount required to be provided under subsection (e) of this section, for purposes of allowing the Milwaukee Railroad to maintain its entire railroad system and as required to finance the operations which the Milwaukee Railroad continues from the date of enactment of this Act until the sixty-day period beginning on the date of the occurrence of an event described in section 11(b) of this Act or on May 10, 1980, whichever first occurs. Such guarantee shall be made without regard to the findings set forth in section 3 (a) of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(a)). The provisions of section 3(b)(3) and of the last sentence of section 3(d) of such Act shall not apply to the guarantee of trustee certificates under this section.

(e) The Secretary shall guarantee trustee certificates of the Milwaukee Railroad pursuant to this section in an amount equal to the difference between (1) the total expenses found necessary by the trustee of such railroad for the maintenance and the continuation of service in accordance with subsection (d) of this section, and (2) the revenues of such railroad, both determined in accordance with the Uniform System of Accounts prescribed by the Commission.

(f) Notwithstanding any of the provisions of section 3(c) of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(c)), as amended by this Act, certificates guaranteed under this Act shall be subordinated to the claims of any creditors of the Milwaukee Railroad as of the date of enactment of this Act. No payment of interest or principal upon certificates guaranteed under this section shall be required until the conclusion of the Milwaukee Railroad reorganization proceedings, or three years from the date of enactment of this Act, whichever first occurs.

NEW CAREER TRAINING ASSISTANCE

SEC. 7. (a) Any employee who elects to receive a separation allowance shall be entitled to receive from the Railroad Retirement Board expenses for training in qualified institutions for new career opportunities.

(b) To be entitled for assistance under this section, an employee must begin his course of training within two years following the date of his separation from employment with the Milwaukee Railroad.

(c) Entitlement to expenses for assistance under this section shall be determined by the Railroad Retirement Board on the basis of an application therefor filed by an employee with the Board.

(d) As used in this section—

(1) the term "expenses" means actual expenses paid for room, board, tuition, fees, or educational material in an amount not to exceed $3,000;

(2) the term "qualified institution" means an educational institution accredited for payment by the Veterans' Administration under chapter 36 of title 38, United States Code.

(e) The Railroad Retirement Board may prescribe such rules as may be necessary to carry out its duties under this section.

(f) There is authorized to be appropriated for new career training assistance under this section not to exceed $1,500,000.

OBLIGATION GUARANTEES

SEC. 8. (a) The Secretary of Transportation, under the authority of section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831), shall guarantee obligations of the Milwaukee Railroad for purposes of providing protection of employees affected by restructuring, transactions, or reduction in service by the Milwaukee Railroad. Such protection may include, but need not be limited to, moving expenses, compensation for employee relocation and separation allowances. Such guarantees shall be entered into without regard to the requirements of subsection (g) of such section 511. Any obligation guaranteed pursuant to this section shall be treated as an administrative expense of the estate of the Milwaukee Railroad.

(b) The aggregate unpaid principal amount of obligations which may be guaranteed by the Secretary pursuant to subsection (a) of this section shall not exceed $75,000,000.

(c) If funds available to the Milwaukee Railroad pursuant to obligation guarantees of the Secretary of Transportation under subsection (a) of this section are insufficient to pay the total amount of benefits and allowances for which employees are eligible, the Milwaukee Railroad shall reduce, on a pro rata basis, the amount provided under each such section.

(d) Except in connection with obligations guaranteed under this section, the United States shall incur no liability in connection with benefits and allowances.

(e) Pursuant to the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, the Secretary of Transportation shall guarantee obligations to finance an equipment repair program for the Milwaukee Railroad, or its successors, during the remainder of 1979 and 1980. Obligations guaranteed under this subsection shall not exceed $30,000,000.

(f) Obligations guaranteed pursuant to subsection (e) of this section shall be subordinated to the claims of any creditor of the Milwaukee Railroad as of the date of enactment of this act.

TRANSACTION ASSISTANCE

SEC. 9. Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended by adding at the end thereof the following new subsection:

"(f) REHABILITATION FOR COMMON CARRIER SERVICE.—Notwithstanding subsections (a), (b), (c), (d) (1) and (2), and (e) of this section, the Secretary may purchase redeemable preference shares or trustee certificates convertible to redeemable preference shares under this section as necessary to facilitate the rehabilitation and improvement of Milwaukee Railroad property that has been sold to another person prior to November 1, 1980, or retained by the restructured Milwaukee Railroad, and that will be used for continuing rail service.".

APPLICATION OF NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 10. The provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall not apply to transactions carried out pursuant to this Act.

CONTINUATION OF SERVICE

SEC. 11. (a) Until the occurrence of an event described in subsection (b) of this section, the Milwaukee Railroad (1) shall maintain its entire railroad system, as it existed on the date of enactment of this Act, (2) shall continue no less than the regular level of service provided by it as of that date, and (3) shall not embargo traffic (other than when necessitated by acts of God or safety requirements) or abandon or discontinue service over any part of its railroad system.

(b) The Milwaukee Railroad shall comply with the requirements of subsection (a) of this section until—

(1) an employee or employee-shipper ownership plan is not submitted to the Interstate Commerce Commission within the time period prescribed under section 5(a) of this Act;

(2) the proposed plan is found by the Commission not to be feasible or the Commission does not act within 30 days;

(3) the proposed plan is found by the bankruptcy court not to be fair and equitable to the creditors of the Milwaukee Railroad; or

(4) the plan is not implemented within the time period prescribed under section 5(c) of this Act.

EMPLOYEE STOCK OWNERSHIP PLAN FOR SURVIVING PORTION OF MILWAUKEE RAILROAD

SEC. 12. If an event described in section 11(b) of this Act occurs, resulting in the survival of less than the entire Milwaukee Railroad system, then any relief provided for such surviving Milwaukee Railroad system under the Emergency Rail Services Act of 1970 or any other Federal legislation shall be conditioned upon good faith efforts by the Trustee and/or the Railroad to establish an employee stock ownership plan which plan shall embrace the purchase or acquisition of qualifying employer securities of the Milwaukee equal in value to 25 per centum of the amount of such relief provided.

AMENDMENT TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

SEC. 13. Section 211(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(e)) is amended by striking out paragraph (2) thereof and the sentence following that paragraph, and inserting in lieu thereof the following:

"(2) increase the principal amount of such loan to such railroad, in an amount not to exceed $4,000,000, only if the Association makes the finding referred to in paragraph (1)(B) of this subsection, determines that such railroad is making a good faith effort to establish an employee stock ownership plan for review and approval by the Association and receives a written commitment from the railroad that, by December 31, 1980, the railroad will adopt the employee stock ownership plan which will acquire qualifying employee stock with a fair market value of $250,000. The Association may not take any action pursuant to the preceding sentence of this subsection after December 31, 1980.".

AMENDMENTS TO THE DEPARTMENT OF TRANSPORTATION ACT

SEC. 14. (a) Section 5(h)(3)(B) of the Department of Transportation Act (49 U.S.C. 1654(h)(3)(B)) is amended—

(1) in the second sentence thereof, by striking "In accordance with the formula stated in this subsection, the", and inserting in lieu thereof "The"; and

(2) by adding at the end thereof the following: "Notwithstanding the provisions of this subsection, funds available for reallocation as of October 1, 1979, shall be reallocated by the Secretary solely to States which require supplementary assistance to mitigate the effects caused by the filing of large-scale abandonments by railroads in liquidation or reorganization under the Bankruptcy Act. In making such reallocation, the Secretary shall give consideration to the amount of mileage in the State for which an application for abandonment or discontinuance has been filed with the Interstate Commerce Commission in accordance with the provisions of section 10903 of title 49, United States Code, but has not been approved or denied. Consideration shall also be given to the relationship which such mileage bears to the total rail mileage in each State requiring supplementary assistance under this subparagraph.".

(b) The second sentence of section 5(h)(2) of the Department of Transportation Act (49 U.S.C. 1654(h)(2)) is amended by inserting immediately after "and" therein the following: ", except as otherwise provided in this subsection,".

MOTION OFFERED BY MR. FLORIO

Mr. FLORIO. Mr. Speaker, I offer a motion.

The clerk read as follows:

Mr. FLORIO moves to strike out all after the enacting clause of the Senate bill, S. 1905, and to insert in lieu thereof the provisions of the joint resolution (H.J. Res. 341) as passed by the House, as follows:

CONGRESSIONAL FINDINGS

SECTION 1. (a) Congress hereby finds that—

(1) the severe operating losses and the deteriorating plant and equipment of the Milwaukee Railroad threaten to cause cessation of its operations in the near future;

(2) a cessation of operations by the Milwaukee Railroad would have serious repercussions on the economies of the States in which the Milwaukee Railroad principally operates (the States of Washington, Montana, Idaho, North Dakota, South Dakota, Illinois, Iowa, Missouri, Michigan, Indiana, Minnesota, and Wisconsin);

(3) a cessation of operations of the Milwaukee Railroad would result in the loss of many thousands of jobs of railroad workers and other workers whose employment is dependent upon rail service over the lines presently operated by the Milwaukee Railroad;

(4) experienced railroad employees make a valuable contribution toward strengthening the railroad industry;

(5) other railroads have the ability and willingness to employ displaced Milwaukee Railroad employees;

(6) the ownership by employees or by employees and shippers of part or all of the Milwaukee Railroad may be a valuable tool in reorganization and should be given serious consideration;

(7) cessation of essential transportation services by the Milwaukee Railroad would endanger the public welfare;

(8) cessation of such services is imminent; and

(9) there is no other practicable means of obtaining funds to meet payroll and other expenses necessary for continuation of services and reorganization of the Milwaukee Railroad.

(b) The Congress declares that emergency measures set forth in this Act must be taken to restructure the Milwaukee Railroad and to avoid the potential unemployment and damage to the economy of the region and of the Nation which a cessation of essential services by the Milwaukee Railroad would otherwise cause.

DEFINITIONS

SEC. 2. As used in this Act—

(1) the term "bankruptcy court" means the court having jurisdiction over the reorganization of the Milwaukee Railroad;

(2) the term "Board" means the Railroad Retirement Board;

(3) the term "employee"—

(A) includes any employee of the Milwaukee Railroad who worked on a line of such railroad the sale of which became effective on October 1, 1979; but

(B) does not include any individual serving as president, vice-president, secretary, treasurer, comptroller, counsel, member of the board of directors, or any other person performing such functions;

(4) the term "Milwaukee Railroad" means the Chicago, Milwaukee, St. Paul and Pacific Railroad Company; and

(5) the term "restructured Milwaukee Railroad"—

(A) means the entity operating the lines of the Milwaukee Railroad after the 6-month period beginning on (i) the occurrence of an event described in section 25(b) of this Act, or (ii) March 1, 1980, whichever first occurs; but

(B) does not include (i) any line of the Milwaukee Railroad which is the subject of a proposed sale, transfer, or abandonment pending on the expiration of the 6-month period described in subparagraph (A) of this paragraph, or (ii) any entity formed pursuant to section 5 of this Act.

SALES AND TRANSFERS

SEC. 3. (a) The Milwaukee Railroad may negotiate and enter into agreements to sell, to another rail carrier or any other person, all or any portion of its rail properties which are used in railroad operations as of the date of enactment of this Act. Such sale agreements may in no event become final and effective until the occurrence of an event described in section 25(b) of this Act, or March 1, 1980, whichever first occurs. In taking action under this subsection, the Milwaukee Railroad may consult with the Secretary of Transportation.

(b)(1) The Secretary of Transportation, under the authority of section 5(a)-(e) of the Department of Transportation Act, may develop plans, participate in negotiations, and recommend to the trustee proposals for the sale or transfer of any rail properties of the Milwaukee Railroad which are used in rail operations as of the date of enactment of this Act. In taking action under this paragraph, the Secretary shall give preference to financially responsible persons, including governmental entities, negotiating for the purchase of any lines with the intent of providing common carrier service.

(2) Any sale or transfer proposal developed under paragraph (1) of this subsection shall be submitted to the bankruptcy court.

Such a proposal may in no event become final or effective until the occurrence of an event described in section 25(b) of this Act, or March 1, 1980, whichever first occurs.

COURT APPROVED ABANDONMENTS AND SALES

SEC. 4. (a)(1) Upon the occurrence of an event described in section 25(b) of this Act, or on March 1, 1980, whichever first occurs, the bankruptcy court may authorize the abandonment of lines of the Milwaukee Railroad pursuant to section 1170 of title 11 of the United States Code. Pending the expiration of the time for appeal of an abandonment order or the determination of any such appeal, the bankruptcy court may authorize the termination of service on a line to be abandoned, and the order authorizing such termination may not be stayed. In authorizing any abandonment pursuant to this section, the court shall require the carrier to provide a fair arrangement at least as protective of the interest of employees as that required under section 11347 of title 49 of the United States Code.

(2) Prior to the date specified in paragraph (1) of this subsection, the bankruptcy court may hear and consider any request for the abandonment of lines of the Milwaukee Railroad, and may fix the time for the Interstate Commerce Commission's report on the request, but it may take final action authorizing such abandonment only in accordance with such paragraph (1).

(b)(1) Upon the occurrence of an event described in section 25(b) of this Act, or on March 1, 1980, whichever first occurs, the bankruptcy court may authorize the sale or transfer of a line of the Milwaukee Railroad to be used in continued rail operations, subject to the approval of the Interstate Commerce Commission under paragraph (2) of this subsection. In authorizing any such sale or transfer, the court shall provide a fair arrangement at least as protective of the interest of employees as that required under section 11347 of title 49 of the United States Code.

(2) The bankruptcy court may not authorize a sale or transfer pursuant to paragraph (1) of this subsection unless an appropriate application with respect to such sale or transfer is initiated with the Interstate Commerce Commission and, within such time as the court may fix, not exceeding 180 days, the Commission, with or without a hearing, as the Commission may determine, and with or without modification or condition, approves such application, or does not act on such application. Any action or order of the Commission approving, modifying, conditioning, or disapproving such application is subject to review by the court only under sections 706(2)(A), 706(2)(B), 706(2)(C), and 706(2)(D) of title 5 of the United States Code. An application may be initiated with

the Commission prior to the date specified in paragraph (1) of this subsection.

(3) Pending review by the Commission pursuant to paragraph (2) of this subsection, the bankruptcy court may, on a preliminary basis, authorize the sale or transfer of lines of the Milwaukee Railroad to another rail carrier. The court may permit the purchasing carrier to operate interim service as a common carrier over the lines to be purchased, without regard to section 10901 of title 49 of the United States Code. In operating such service, the purchasing carrier shall use employees of the Milwaukee Railroad to the extent necessary for the operation of such service. The bankruptcy court may take final action authorizing any such sale or transfer only in accordance with paragraph (1) of this subsection.

(c) Nothing in this section shall be deemed to affect the priorities or timing of payment of employee protection which might have existed in the absence of this Act.

EMPLOYEE OR EMPLOYEE-SHIPPER OWNERSHIP PLAN

SEC. 5. (a) (1) No later than December 1, 1979, an association composed of representatives of national railway labor organizations, employee coalitions, and shippers (or any combination of the foregoing) may submit to the Interstate Commerce Commission a single plan for converting all or substantially all of the Milwaukee Railroad into an employee or employee-shipper owned company and a method for implementing such plan. The plan shall include a comprehensive evaluation of the prospects for the financial self-sustainability of the Milwaukee Railroad.

(2) The Commission shall, within 30 days after the date of submission of a plan under paragraph (1) of this subsection, approve the proposed plan if it finds that such plan is feasible. The finding of the Commission with respect to the feasibility of the plan shall be made pursuant to section 554 of title 5 of the United States Code, and for purposes of making such finding the plan as submitted shall be presumed to be feasible.

(3) The Commission shall make a finding that the plan submitted under this section is feasible if it determines that—

(A) adequate public and private financing is available to the proponents of such plan;

(B) such plan is fair and equitable to the estate of the Milwaukee Railroad;

(C) implementation of such plan will occur by March 1, 1980; and

(D) the railroad can be operated on a self-sustaining basis.

For purposes of the determinations under this paragraph, adequate financing shall include all sources of private funds, the probable value and priority of valid claims against the estate, and Federal, State, or local funds available under programs (in existence as of January 1, 1980) which are or will be available to the proponent and which the proponent is likely to obtain.

(b) If the Commission finds that the plan submitted under this section is feasible, it shall submit its finding to the bankruptcy court. Within 10 days after the date of such submission, the bankruptcy court shall, after a hearing, determine whether such plan is fair and equitable to the estate of the Milwaukee Railroad. The Commission's determination with respect to that issue shall be rebutted only by clear and convincing evidence.

(c) If the Commission finds that the plan is feasible and the bankruptcy court determines that the plan is fair and equitable to the estate of the Milwaukee Railroad, the proponents of such plan shall implement the plan no later than March 1, 1980.

(d) Except as provided in this section, the findings of the Commission with respect to the plan shall not be subject to review.

(e) (1) The trustee of the Milwaukee Railroad shall promptly provide to the person engaged in developing the employee or employee and shipper ownership plan under this section—

(A) its most recent reports on the physical condition of the railroad; and

(B) traffic, revenue, marketing, and other data necessary to determine the amount of the acquisition cost of the railroad or portion of the railroad that would be required to continue rail transportation over the railroad line.

(2) Information provided pursuant to this subsection shall be used only for purposes of preparing a plan and shall not be disclosed to any competitor or customer of the Milwaukee Railroad.

EMERGENCY RAIL SERVICES ACT OF 1970

SEC. 6. (a) Subsection (a) of section 3 of the Emergency Rail Services Act of 1970 is amended by striking out "upon a finding" in the fifth sentence and all that follows in that subsection and inserting in lieu thereof a period.

(b) Section 3(c) of the Emergency Rail Services Act of 1970 is amended to read as follows:

"(c) The Secretary shall not guarantee any certificate under this section unless such certificate is treated as an expense of administration and receives the highest lien on the railroad's property and priority in payment under the Bankruptcy Act, except that this subsection shall not apply to certificates guaranteed for a railroad that is actively engaged in restructuring, as defined by the Secretary. For purposes of this subsection, the term 'restructuring' includes an employee ownership plan or an employee-shipper ownership plan.".

(c) Section 3(e) of the Emergency Rail Services Act of 1978 is amended by striking out "$125,000,000" and inserting in lieu thereof "$200,000,000".

(d) The Secretary of Transportation shall, under the authority of the Emergency Rail Services Act of 1970, immediately guarantee trustee certificates of the Milwaukee Railroad, on the basis of an estimate of the amount required to be provided under subsection (e) of this section, for purposes of allowing the Milwaukee Railroad to maintain its entire railroad system in accordance with section 25 of this Act, and as required to finance operations which the Milwaukee Railroad continues for the 60-day period beginning on the date of the occurrence of an event described in section 25(b) of this Act or on March 1, 1980, whichever first occurs. Such guarantee shall be made without regard to the findings set forth in section 3(a) of the Emergency Rail Services Act of 1970.

(e) The Secretary shall guarantee trustee certificates of the Milwaukee Railroad pursuant to this section in an amount equal to the difference between (1) the total expenses incurred by such railroad attributable to the maintenance and the continuation of service in accordance with subsection (d) of this section, and (2) the revenues of such railroad.

(f) Notwithstanding of the provisions of section 3(c) of the Emergency Rail Services Act of 1970, certificates guaranteed under this Act shall be subordinated to the claims of any creditors of the Milwaukee Railroad as of the date of enactment of this Act.

RAILROAD HIRING

SEC. 7. Each person who is an employee of the Milwaukee Railroad on October 26, 1979, and who is separated or furloughed from his employment with such railroad (other than for cause) prior to March 1, 1981, as a result of a reduction of service by the such railroad, shall have the first right of hire by any other rail carrier that is subject to regulation by the Interstate Commerce Commission for any vacancy that is not covered by (1) an affirmative action plan, or a hiring plan designed to eliminate discrimination, that is required by Federal or State statute, regulation, or executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this section, a rail carrier shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.

INTERIM EMPLOYEE ASSISTANCE

SEC. 8. (a) Any employee of the Milwaukee Railroad who is separated from his employment at any time during the six-month period beginning on (1) the date of the occurrence of an event described in section 25(b) of this Act or (2) March 1, 1982, whichever first occurs, shall be eligible to receive interim employee assistance under this section for the remainder of such six-month period, except that the period of eligibility for assistance under this section shall not exceed the employee's total months of service with the Milwaukee Railroad.

(b) Interim employee assistance under this section shall be payable to an employee on a monthly basis in an amount equal to—

(1) eighty percent of such employee's average monthly normal compensation from employment with the Milwaukee Railroad during the period beginning June 1, 1977, and ending on the date of enactment of this Act.

less

(2) the sum of (A) the amount of any benefits payable to such employee for such month under the Railroad Unemployment Insurance Act or under any State unemployment insurance program, and (B) the amount of any earnings of such employee for such month from employment or self-employment of any kind.

(c) Any claim for interim employee assistance under this section shall be paid by the Milwaukee Railroad in accordance with section 17 of this Act, and shall be treated as an administrative expense of the estate of such railroad.

(d) Any claim of an employee for interim employee assistance under this section shall be filed with the Board in such time and manner as the Board by regulation shall prescribe. The Board shall determine the amount for which such employee is eligible under this section and shall certify such amount to the Milwaukee Railroad for payment.

(e) Any interim employee assistance received by any employee pursuant to this section shall be considered to be compensation solely—

(1) for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

(2) for purposes of determining the compensation received by such employee in any base year under the Railroad Unemployment Insurance Act.

MOVING EXPENSES

SEC. 9. (a) Any employee of the Milwaukee Railroad—

(1) who, in connection with a restructuring transaction carried out by the Milwaukee Railroad prior to March 1, 1981, is required to make a change of residence prior to April 1, 1981, in order to maintain his employment with such railroad; or

(2) who, in connection with a restructuring transaction carried out by the Milwaukee Railroad prior to March 1, 1981, is separated from his employment with such railroad and is required to make a change of residence, prior to April 1, 1981, in order to obtain employment with another rail carrier, shall be eligible to receive moving expense benefits in accordance with this section.

(b) The benefits to which an employee described in subsection (a) of this section shall be eligible are as follows:

(1) The actual expenses of moving such employee's household and personal effects.

(2) The actual, necessary traveling expenses of such employee and members of his family.

(3) The closing costs involved in disposing

of a residence and acquiring a new residence, including a realtor's fee of not more than $3,000.

(4) If the employee holds an unexpired lease on a dwelling occupied by him as his home, reimbursement for all loss and cost in securing the cancellation of such lease.

(c) Any claims for moving expense benefits under this section shall be paid by the Milwaukee Railroad in accordance with section 17 of the Act, and shall be treated as an administrative expense of the estate of such railroad.

(d) Any claim of any employee for moving expense benefits, under this section shall be filed with the Board, in such time and manner as the Board by regulation shall prescribe. The Board shall determine the amount for which such employee is eligible under this section and shall certify such amount to the Milwaukee Railroad for payment.

SUPPLEMENTARY UNEMPLOYMENT INSURANCE

SEC. 10. (a) Any employee of the Milwaukee Railroad—

(1) who (A) is employed by the restructured Milwaukee Railroad, and (B) is separated from that employment by reason of any reduction of service by the Milwaukee Railroad occurring prior to March 1, 1984; or

(2) who (A) is separated from his employment in connection with a restructuring transaction carried out by such railroad, the Milwaukee Railroad and obtains employment, prior to March 1, 1981, with another rail carrier, and (B) is separated from employment with such other carrier prior to March 1, 1984.

shall be entitled to receive monthly supplementary unemployment insurance in accordance with the provisions of this section.

(b) Each employee described in subsection (a) of this section shall be entitled to receive supplementary unemployment insurance during each month in which such employee is not employed, for all or a portion of such month, by the Milwaukee Railroad or another rail carrier. Each such employee shall be entitled to receive such insurance for a total of not more than 36 months, except that—

(1) the period of entitlement for assistance under this section shall not exceed the employee's total months of service with the Milwaukee Railroad;

(2) no compensation shall be provided under this section after March 1, 1984, unless it is necessary in order to provide an employee with at least 8 months of such insurance, but after such date, such employee only shall receive such 8-month minimum if such employee is not employed continuously after such date; and

(3) there shall be deducted from such 36-month total one month for each month such employee received interim employee assistance under section 8 of this Act.

(c) Supplementary unemployment insurance under this section shall be payable to an employee on a monthly basis in an amount equal to—

(1) eighty percent of such employee's average monthly normal compensation from employment with the Milwaukee Railroad during the period beginning June 1, 1977, and ending on the date of enactment of this Act, less

(2) the sum of (A) the amount of any benefits payable to such employee for such month under the Railroad Unemployment Insurance Act or under any State unemployment insurance program, and (B) the amount of any earnings of such employee for such month from employment or self-employment of any kind.

(d) An application for supplementary unemployment insurance under this section shall be filed with the Board in such time and manner as the Board by regulation shall prescribe.

(e) Any supplementary unemployment insurance received by any employee pursuant to this section shall be considered to be compensation solely—

(1) for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

(2) for purposes of determining the compensation received by such employee in any base year under the Railroad Unemployment Insurance Act.

(f)(1) The provisions of this section shall not apply to an employee in the event of his resignation, retirement, or discharge for cause from the employment of any rail carrier.

(2) An employee shall not be entitled to receive supplementary unemployment insurance under this section if he has failed to exhaust all seniority rights or other employment rights under applicable collective bargaining agreements.

(3) An employee shall not be entitled to receive supplementary unemployment insurance under this section for any month or portion of a month in which such employee is unemployed due to normal seasonal unemployment patterns in the railroad industry.

(g) For purposes of this section, any employee of the Milwaukee Railroad who is furloughed shall be considered to be separated from his employment.

(h) The first sentence of section 7(b)(7) of the Railroad Retirement Act of 1974 is amended—

(1) by striking out "The" and inserting "Notwithstanding any other provision of law, the" in lieu thereof; and

(2) by inserting "and the Act entitled 'An Act to provide for the orderly restructuring of the Milwaukee Railroad, and for the protection of the employees of such railroad' " immediately before the period at the end thereof.

EMPLOYMENT OF MILWAUKEE RAILROAD EMPLOYEES

SEC. 11. (a) The Board shall prepare and maintain—

(1) a list of individuals separated from employment with the Milwaukee Railroad who indicate a desire to appear on a list to be available to rail carriers; and

(2) a list of employment, by class and craft, available with rail carriers, based upon information submitted to the Board by the Milwaukee Railroad and other rail carriers. Upon the request of any rail carrier, the Board shall make available to such carrier a copy of the list described in paragraph (1) of this subsection.

(b) The Board shall maintain the lists required by subsection (a) of this section through December 31, 1984.

EMPLOYEE RELOCATION INCENTIVE COMPENSATION

SEC. 12. (a) Any employee of the Milwaukee Railroad—

(1) who is employed by the restructured Milwaukee Railroad; or

(2) who is separated from his employment with the Milwaukee Railroad in connection with a restructuring transaction carried out by such railroad, and obtains employment, prior to March 1, 1981, with another rail carrier,

shall be eligible for employee relocation incentive compensation in accordance with this section.

(b) Each employee described in subsection (a) of this section shall be eligible to receive a total of not more than 36 months of employee relocation incentive compensation under this section, except that—

(1) no such compensation shall be provided after March 1, 1984, unless it is necessary in order to provide an employee with at least 8 months of such compensation, but after such date such employee shall only receive such 8-month minimum if such employee is employed continuously after such date; and

(2) there shall be deducted from such 36-month total one month for each month such employee received interim employee assistance under section 8 of this Act.

(c)(1) Employee relocation incentive compensation shall be payable to each employee described in subsection (a) of this section in any month in which—

(A) eighty percent of such employee's average monthly normal compensation from employment with the Milwaukee Railroad during the period beginning June 1, 1977, and ending on the date of enactment of this Act; exceeds

(B) such employee's compensation for that month from his new position with the Milwaukee Railroad or another rail carrier.

(2) Employer relocation incentive compensation under this section shall be payable to an employee on a monthly basis in an amount equal to (A) the amount described in paragraph (1)(A) of this subsection, as computed for that employee, less (B) the amount described in paragraph (1)(B) of this subsection, as computed for that employee.

(d) An employee shall not be eligible to receive compensation under this section during any month in which such employee is eligible for or receives supplementary unemployment insurance under section 7 of this Act.

(e) Employee relocation incentive compensation under this section shall be paid by the Milwaukee Railroad in accordance with section 17 of this Act, and shall be treated as an administrative expense of the estate of such railroad.

(f) Any claim of an employee for employee relocation incentive compensation under this section shall be filed with the Board, in such time and manner as the board by regulation shall prescribe. The Board shall determine the amount to which such employee is entitled under this section and shall certify such amount to the Milwaukee Railroad for payment.

SEPARATION ALLOWANCE

SEC. 13. (a) Any employee of the Milwaukee Railroad described in section 7 of this Act may, no later than April 1, 1981, elect to receive a separation allowance from the Milwaukee Railroad in accordance with this section.

(b) A separation allowance under this section shall be payable to an employee in an amount equal to $2,000 for each year of completed service and, in addition thereto, full payment of back pay and for all vacation time earned but not previously taken, except that—

(1) the total amount of separation allowance payable to an employee shall not exceed $25,000; and

(2) the amount of separation allowance payable to an employee shall be reduced by the amount of any interim employee assistance received by such employee under section 8 of this Joint Resolution.

(c) Any separation allowance under this section shall be paid by the Milwaukee Railroad, in accordance with section 17 of this Act, and shall be treated as an administrative expense of the estate of such railroad.

(d) The Milwaukee Railroad shall submit to the Board, in such form and manner as the Board by regulation prescribes, a report of each separation allowance paid by the Milwaukee Railroad under this section. The Board shall review each such report to determine whether such allowance was paid in accordance with this section.

NEW CAREER TRAINING ASSISTANCE

SEC. 14. (a) Any employee who elects to receive separation allowance under section 13 of this Act shall be entitled to receive from the Board expenses for training in qualified institutions for new career opportunities.

(b) To be entitled for assistance under this section, an employee must begin his course of training within two years following the date of his separation from employment with the Milwaukee Railroad.

(c) Entitlement to expenses for assistance under this section shall be determined by the Board on the basis of an application therefor filed by an employee with the Board.

(d) No assistance may be provided under this subsection after March 1, 1984.

(e) As used in this section—

(1) the term "expenses" means actual expenses paid for room, board, tuition, fees, or educational material in an amount not to exceed $3,000; and

(2) the term "qualified institution" means an educational institution accredited for payment by the Veterans' Administration under chapter 36 of title 38 of the United States Code.

ELECTIONS

SEC. 15. (a) Any employee who receives moving expense benefits under section 9 of this Act, supplementary unemployment compensation under section 10, or employee relocation incentive compensation under section 12, shall not be eligible for a separation allowance under section 13 or for new career training assistance under section 14.

(b) Any employee who receives a separation allowance under section 13 of this Act shall not be eligible for assistance under section 9, 10, or 12.

(c) Any employee who receives any assistance under section 8, 9, 10, 12, or 13 of this Act shall be deemed to waive any employee protection benefits otherwise available to such employee under the Bankruptcy Act, title 11 of the United States Code, subtitle IV of title 49 of the United States Code, or any applicable contract or agreement.

AUTHORIZATION OF APPROPRIATIONS

SEC. 16. (a) There is authorized to be appropriated to provide supplementary unemployment insurance under section 10 of this Act not to exceed $5,000,000.

(b) There is authorized to be appropriated for new career training assistance under section 14 of this Act not to exceed $1,500,000.

(c) There is authorized to be appropriated to the Board to carry out its administrative expenses under this Act not to exceed $750,000.

(d) Amounts appropriated under this section are authorized to remain available until expended.

OBLIGATION GUARANTEES

SEC. 17. (a) The Secretary of Transportation, under the authority of section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, shall guarantee obligations of the Milwaukee Railroad for purposes of providing interim employee assistance under section 8, moving expenses under section 9, employee relocation incentive compensation under section 12, and separation allowances under section 13. Such guarantees shall be entered into without regard to the requirements of subsection (g) of such section 511. Any obligation guaranteed pursuant to this section shall be treated as an administrative expense of the estate of the Milwaukee Railroad.

(b) The aggregate unpaid principal amount of obligations which may be guaranteed by the Secretary pursuant to this section shall not exceed $75,000,000.

(c) If funds available to the Milwaukee Railroad pursuant to obligation guarantees of the Secretary of Transportation under this section are insufficient to pay the total amount of benefits and allowances for which employees are eligible under sections 8, 9, 12, and 13 of this Act, the Milwaukee Railroad shall reduce, on a pro rata basis, the amount provided under each such section. The total liability of the Milwaukee Railroad for benefits and allowances under sections 8, 9, 12, and 13 of this Act shall not exceed $75,000,000.

(d) Except in connection with obligations guaranteed under this section, the United States shall incur no liability in connection with benefits and allowances provided under sections 8, 9, 12, and 13 of this Act.

TRANSACTION ASSISTANCE

SEC. 18. Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 845) is amended by adding at the end thereof the following new subsection:

"(f) REHABILITATION FOR COMMON CARRIER SERVICE.—Notwithstanding subsections (a) through (e) of this section, the Secretary shall immediately purchase redeemable preference shares or trustee certificates convertible to redeemable preference shares under this section to facilitate the rehabilitation and improvement of Milwaukee Railroad property that has been sold to another person or retained by the restructured Milwaukee Railroad and that will be used for common carrier rail service.

"(2) The Secretary may not take any action under this subsection—

"(A) prior to (i) the occurence of an event described in section 25(b) of the Act entitled an 'Act to provide for the orderly restructuring of the Milwaukee Railroad, and for the protection of the employees of such railroad' or (ii) March 1, 1980, whichever first occurs; or

"(B) after March 1, 1981.

"(3) Funds received from purchases by the Secretary pursuant to this subsection may not be used for the rehabilitation and improvement of any line of railroad which carried less than 3,000,000 gross tons of freight per mile during the previous calendar year.".

ASSESSMENT OF COAL HAULING NEEDS

SEC. 19. The Secretary of Energy shall immediately conduct an assessment of present and potential coal hauling needs in the area served by the Milwaukee Railroad and report his findings to the Congress within thirty days after the date of enactment of this act.

COURT APPROVED ABANDONMENTS AND SALES IN PENDING CASES

SEC. 20. (a) Notwithstanding any other provision of law, the court in any case pending under section 77 of the Bankruptcy Act on the date of enactment of the act may authorize the abandonment of lines of railroad pursuant to section 1170 of title 11 of the United States Code. Pending the expiration of the time for appeal of an abandonment order or the determination of any such appeal, the court may authorize the termination of service on a line to be abandoned, and the order authorizing such termination may not be stayed. In authorizing any abandonment pursuant to this section, the court shall require the carrier to provide a fair arrangement at least as protective of the interests of employees as that required under section 11347 of title 49 of the United States Code.

(b)(1) Notwithstanding any other provision of law, the court in any case pending under section 77 of the Bankruptcy Act on the date of enactment of the act may authorize the sale or transfer of a line of railroad to be used in continued rail operations, subject to the approval of the Interstate Commerce Commission under paragraph (2) of this subsection. In authorizing any such sale or transfer, the court shall provide a fair arrangement at least as protective of the interests of employees as that required under section 11347 of title 49, United States Code.

(2) The court described in paragraph (1) may not authorize a sale or transfer pursuant to such paragraph unless an appropriate application with respect to such sale or transfer is initiated with the Interstate Commerce Commission and, within such time as the court may fix, not exceeding 180 days, the Commission, with or without a hearing, as the Commission may determine, and with or without modification or condition, approves such application, or does not act on such application. Any action or order of the Commission approving, modifying, conditioning, or disapproving such application is subject to review by the court only under sections 706(2)(A), 706(2)(B), 706(2)(C), and 706(2)(D) of title 5 of the United States Code.

(3) "Pending review by the Commission pursuant to paragraph (2) of this subsection, the" in lieu thereof. The court described in paragraph (1) may, on a preliminary basis, authorize the sale or transfer of lines of the carrier subject to the bankruptcy proceeding to another rail carrier. The court may permit the purchasing carrier to operate interim service over the lines to be purchased, and in operating such service it shall use employees of the carrier subject to the bankruptcy proceeding to the extent such purchasing carrier deems necessary for the operation of such service.

(c) The authority of the bankruptcy court to authorize abandonments, sales, and transfers of lines of the Milwaukee Railroad.

PUBLICATIONS AND REPORTS

SEC. 24. (a) Within 30 days after the date of enactment of this Act, the Board shall publish, and make available for distribution by the Milwaukee Railroad to all its employees, a document which describes in detail the rights of such employees under sections 8 through 15 of this Act.

(b) During the 2-year period beginning on the date of enactment of this Act, the Board shall submit a report to the Congress every 6 months describing its activities under sections 8, 9, 10, 11, 12, 13, and 14 of this Act.

CONTINUATION OF SERVICE

SEC. 25. (a) Until the occurrence of an event described in subsection (b) of this section, the Milwaukee Railroad (1) shall maintain its entire railroad system, as it existed on the October 15, 1979, (2) shall continue no less than the regular level of service provided by it as of that date, and (3) shall not embargo traffic (other than when necessitated by acts of God or safety requirements) or abandon or discontinue service over any part of its railroad system.

(b) The Milwaukee Railroad shall comply with the requirements of subsection (a) of this section until—

(1) an employee or employee-shipper ownership plan is not submitted to the Interstate Commerce Commission within the time period prescribed under section 4(a) of this Act;

(2) the proposed plan is found by the Commission not to be feasible or the Commission does not act within 30 days;

(3) the proposed plan is found by the bankruptcy court not to be fair and equitable to the estate of the Milwaukee Railroad; or

(4) the plan is not implemented within the time period prescribed under section 5(c) of this Act.

AMENDMENT TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

SEC. 26. Section 211(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(d)) is amended by striking out paragraph (2) and the sentence following that paragraph and inserting in lieu thereof the following:

"(2) increase the principal amount of such loan to such railroad, in an amount not to exceed $4,000,000, only if the Association makes the finding referred to in paragraph (1)(B) of this subsection and determines that such railroad is making a good faith effort to establish an employee stock ownership plan for review and approval by the Association. Any such approval shall be conditioned upon a written commitment that by December 31, 1980, the railroad will adopt an employee stock ownership plan which will acquire employer stock with a fair market value of $200,000.

The Association may not take any action pursuant to the preceding sentence of this subsection after December 31, 1980.".

REHABILITATION AND IMPROVEMENT FINANCING

SEC. 27. (a) Section 505(b)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(b)(2)) is amended—

(1) by inserting immediately after the comma at the end of clause (A) thereof the following: "except that if the Secretary determines, pursuant to clause (C) of this paragraph, that significant railroad restructuring will result from the project, the Secretary shall not consider the availability of funds from other sources but instead shall consider whether such restructuring benefits would be likely to be achieved if assistance were not provided,"; and

(2) by amending clause (C) thereof to read as follows: "(C) the public benefits, including any significant railroad restructuring, to be realized from the project to be financed in relation to the public costs of such financing and whether the proposed project will return public benefits sufficient to justify such public costs.".

(b) Section 501 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821) is amended—

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(8) 'restructuring' means any activity (including a consolidation, coordination, merger, or abandonment) which (A) involves rehabilitation or improvement of a facility or the transfer of a facility, (B) improves the long-term profitability of any railroad, and (C) results in the enhancement of the national rail freight system through the achievement of higher average traffic densities or improved asset utilization.".

SEC. 28. The Office of Rail Public Counsel may appear to be heard in the case before the bankruptcy court in the reorganization of the Milwaukee Railroad, for purposes of representing affected shippers, localities, and municipalities with respect to the proposed abandonment of any lines of the Milwaukee Railroad.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "An Act to provide for the orderly restructuring of the Milwaukee Railroad, and for the protection of the employees of such railroad."

A motion to reconsider was laid on the table.

A similar House joint resolution (H.J. Res. 341) was laid on the table.

AUTHORIZING CLERK TO CORRECT SECTION NUMBERS, PUNCTUATION, CROSS-REFERENCES AND OTHER TECHNICAL AND CONFORMING CHANGES IN ENGROSSMENT OF HOUSE JOINT RESOLUTION 341

Mr. FLORIO. Mr. Speaker, I ask unanimous consent that, in the engrossment of the joint resolution, the Clerk be authorized to correct section numbers, punctuation, and cross references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the joint resolution (H.J. Res. 341).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PRIORITY ENERGY PROJECT ACT OF 1979

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 467, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 467

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4985) to establish a coordinated, prompt, and simplified process for decisionmaking in regard to significant nonnuclear energy facilities, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs and one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider, immediately after the enacting clause of the bill is read, the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill, said amendment shall be considered as having been read, and all points of order against said amendment for failure to comply with the provisions of clause 7, rule XVI, are hereby waived. It shall be in order to consider the text of the bill H.R. 5660 if offered by Representative Udall as a substitute for the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce, and said substitute if offered shall be considered as having been read. No amendment to said amendment or to said substitute shall be in order except pro forma amendments for the purpose of debate and germane amendments printed in the Congressional Record by October 29, 1979. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted. In the event that the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce has been adopted, any Member may demand a separate vote in the House (1) on any amendment adopted to said amendment, in the event that the substitute offered by Representative Udall has been rejected; or (2) on any amendment adopted to the substitute offered by Representative Udall, if said substitute has been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 4985, the House shall proceed, sections 401(a) and 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, to the consideration of the bill S. 1308, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 4985 as passed by the House.

The SPEAKER pro tempore. The gentleman from Texas (Mr. FROST) is recognized for 1 hour.

Mr. FROST. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), for the purpose of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 467 provides for the consideration of the bill, H.R. 4985, which would establish a coordinated, prompt, and simplified process for decisionmaking in regard to significant nonnuclear energy facilities. The resolution waives all points of order against the bill for its failure to comply with the May 15 deadline for reporting new spending authority for the current fiscal year which is contained in section 402(a) of the Budget Act of 1974.

The resolution provides for 2 hours of general debate with 1 hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs and 1 hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce.

The resolution also provides that the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce and the substitute to be offered by Representative UDALL shall be open to germane amendments which have been printed in the CONGRESSIONAL RECORD by October 29, 1979.

Mr. Speaker, the resolution also provides that immediately after the enacting clause of H.R. 4985 is read, the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill shall be considered as having been read and all points of order against the amendment for failure to comply with the provisions of clause 7 of rule XVI, the germaneness rule, shall be waived. The resolution also makes in order the text of H.R. 5660 if offered by Representative UDALL as a substitute for the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce.

The resolution also permits a separate vote in the House any amendment that has been adopted in the Committee of the Whole to either the Commerce Committee's amendment in the nature of a substitute or the Udall substitute dependent upon which substitute is adopted. In other words, if the Udall substitute is adopted, the rule would allow separate votes on perfecting amendments to the Udall substitute. However, if the Udall substitute is rejected, the rule would allow separate votes on amendments to the Commerce amendment in the nature of a substitute. The only way a separate vote could be acquired on perfecting amendments to the Commerce substitute would be if Udall is rejected by the House.

The rule also permits a motion to recommit with or without instructions.

Finally, Mr. Speaker, the resolution provides that after the passage of H.R. 4985 the House shall proceed, sections 401(a) and 402(a) of the Budget Act to the contrary notwithstanding, to the consideration of the bill S. 1308. It shall then be in order in the House to move to strike out all after the enacting clause of the Senate bill and to insert in lieu thereof the provisions contained in H.R. 4985 as passed by the House.

Mr. Speaker, today we begin consideration of H.R. 4985, a bill to create an Energy Mobilization Board. We are all aware that the American people have grave concerns about the future strength of this Nation. These concerns stem partially from our continuing dependence upon foreign sources of oil. This dependence can only be detrimental to the continued growth and health of our nation. We have a responsibility today to act boldly and swiftly, but we must act with great care to build a national energy policy which will make us less dependent on nondomestic energy sources in generations to come.

The centerpiece of the administration's energy policy is the proposal to fast-track energy projects and at the heart of this fast track approach is the Energy Mobilization Board. The issue we face today is not whether or not we need this Board, but rather, how effectively we can develop new energy resources at a time when the Federal regulatory process is large and disjointed, causing in some cases extreme decision delays in the development of new energy sources.

The basic premise behind both the Udall-Clausen-Wirth and the Commerce Committee proposals today is a smooth streamlined decisionmaking process to expedite the development of new resources. We must carefully consider these approaches, from both the short-term and the long-term impact as they relate to our energy needs.

Mr. Speaker, the two proposals approach the expedition of priority energy projects in distinctly different ways. I would like to briefly summarize them. Both versions of the bill create a five-member Energy Mobilization Board to be appointed by the President, and both versions grant the Board considerable flexibility in choosing energy projects. The Commerce Committee version set no limits on the number of priority energy projects while the Udall-Clausen-Wirth verson limits the total number of projects under consideration by the EMB to 75, with no more than 20 projects designated in a year.

The two bills differ substantially on the issue of establishing and enforcing timetables for fast track energy projects, the issue of waiving laws which might delay fast tracked projects, and the issue of judicial review of EMB decisions.

The Commerce Committee version grants the Board the power to waive Federal, State and local substantive law. The Commerce Committee version does not establish binding agency decision schedules and bars judicial review of the EMB's decision to give fast track designation to any energy project.

On the other hand, the Udall-Clausen-Wirth proposal does not allow the waiver of substantive laws but instead establishes binding decisionmaking timetables with a court enforcement provision and allows a limited and expedited judicial review of EMB decisions.

Mr. Speaker, I would urge my colleagues to adopt House Resolution 467 so that we may proceed to the consideration of this critical legislation.

□ 1630

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I agree with the statement just made by the gentleman from Texas (Mr. Frost), but I would like to point out something that concerns me about this rule. The rule requires amendments to be printed in the Record by October 29. When the rule was voted out on October 25, it looked as if Members would have a sufficient notice of the need to have their amendments printed in the Record. Unfortunately, however, the rule was not filed until October 29; it was not available in printed form until October 30, the day after amendments had to be printed in the Record. Therefore, it is possible that some Members may not have received a timely notice of the requirement to have their amendments printed in the Record.

Ordinarily, a Member who did not have a printed copy of the rule could look in the Daily Digest part of the Record to see what kind of a rule was reported. But in this case the summary of the Rules Committee action in the Daily Digest described the rule as an open rule. Mr. Speaker, my concern is that some Members may have been precluded from offering amendments solely because they were not aware of the printing requirements. This Member is unable to tell my colleagues why this rule was not filed until October 29.

Mr. Speaker, the other provisions in this rule are more routine.

The rule provides 2 hours of general debate for the consideration of H.R. 4985, the legislation to create an Energy Mobilization Board.

Section 402(a) of the Budget Act is waived, because the bill provides authorizations for fiscal year 1980, but it was not reported by May 15, 1979, as the Budget Act requires. A majority of Budget Committee members recommended a waiver, since the President did not even propose this part of his program until after May 15. The Rules Committee agreed with the recommendation.

The 2 hours of general debate is to be equally divided between the Committee on Interior and Insular Affairs and the Committee on Interstate and Foreign Commerce.

The rule first makes in order H.R. 4985 as introduced. The rule then provides that immediately after the enacting clause is read it will be in order to consider the amendment in the nature of a substitute reported by the Committee on Interstate and Foreign Commerce. Points of order are waived against this substitute for failure to comply with the germaneness rule. The germaneness waiver is necessary because the waiver of State and local law provisions in the Commerce Committee bill goes farther than the waiver in the introduced bill.

The rule then provides that it will be in order to consider the text of a new bill, H.R. 5660 to be offered by the gentleman from Arizona (Mr. Udall) if it is offered as a substitute for the Commerce amendment. Amendments to each of these versions could then be offered, if they are germane and if they were printed in the Congressional Record by October 29. Pro forma amendments could also be offered.

After passage of the House bill, the rule also provides that it will be in order to insert the House passed language in the Senate bill S. 1308. Two waivers of the Budget Act are necessary in order to allow consideration of the Senate bill.

First section 401(a) of the Budget Act is waived. This waiver is necessary because the Senate bill includes contract authority not subject to the appropriation process.

Second, section 402(a) of the Budget Act is waived. This is necessary because the bill was not reported by the May 15, 1979, authorization deadline.

Since the House-passed language will replace the language in the Senate bill, the chairman of the House Budget Committee has written that he has no objection to these last two Budget Act waivers.

Mr. Speaker, the primary purpose of the legislation made in order by this rule is to establish an Energy Mobilization Board to expedite the Federal review of major nonnuclear energy projects.

While I will not try to go into the variations in the two main substitutes which are to be considered under this rule, I will mention cost. Both the Interstate and Foreign Commerce Committee version and the Udall version authorize $2 million for fiscal year 1980.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I am happy to yield to the gentleman.

Mr. MICHEL. Mr. Speaker, the gentleman has appropriately described the rule and answers in part the question I had intended to raise because, let us face it, yesterday, a Monday, Members were all given to understand there would be no rollcalls. Very few Members, if any, unless they had a bill to manage here on the floor, were present; there was no need for them to be here yesterday, Monday the 29th. The conclusion of business was 3 o'clock, as I understand it, and the rule was filed about 2:15 p.m., only 45 minutes' time in which Members could submit amendments for printing in the Record.

This is totally unfair and not altogether appropriate for this body to operate in this fashion. If that is the kind of machinery we are going to use as we get to winding up this session, then I suggest maybe we might have to employ whatever tactics are at our disposal under the rules to curb this kind of roughshod manner of running over the minority particularly, or any Member who has some legitimate amendment he might want to propose to this legislation.

Mr. LATTA. I could not agree more with the gentleman from Illinois. Hopefully no Member who is really interested in this legislation and has an amendment to be printed in the RECORD has been precluded under this process from doing so. I do not know whether there are any amendments floating around or not, but it is unfair to the Members of the House who are not aware of this printing requirement because of the late filing which has precluded them from offering their amendments.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I am happy to yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I share the concern expressed by the distinguished minority whip about the rights of Members being protected on this legislation, because it does impose the abnormal requirement of the preprinting of amendments, and they had to be printed by yesterday.

PARLIAMENTARY INQUIRY

Mr. Speaker, I wish to propound a parliamentary inquiry to the Chair. I cannot speak for other Members, but the gentleman from Maryland noticed that two amendments he had filed were either misprinted or printed erroneously as being both amendments to the same bill. The fact of the matter is one amendment was clearly labeled to the Udall substitute and one to the other substitute. I am wondering whether or not an amendment will then be in order if, in fact, it has been printed by the deadline but not printed correctly?

The SPEAKER pro tempore. The Chair would like to advise the gentleman that the Chair understands that corrected printings of the amendments will appear in today's RECORD.

Mr. BAUMAN. And that will not prevent Members from offering those amendments?

The SPEAKER pro tempore. The gentleman will be protected under the rule.

Mr. BAUMAN. I thank the gentleman. I think this serves as an example of the problem that occurs when enough time does not elapse before the deadline with proper notice to Members.

Mr. LATTA. Mr. Speaker, I have no further requests for time and reserve the balance of my time.

Mr. FROST. Mr. Speaker, I would like to make one comment and then I have a request for time.

In response to the points raised, there was a notice of the action of the Rules Committee that was published on October 25 and it was distributed to the minority, to the cloakroom and to the minority leader.

☐ 1640

There was discussion in the CONGRESSIONAL RECORD on October 26, last Friday, in which Mr. RHODES, the distinguished minority leader, described the action taken by the Rules Committee and commented upon the fact that amendments had to be published in the RECORD prior to the consideration of the bill.

Mr. Speaker, at this point I yield 3 minutes to the distinguished gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I thank the distinguished manager of the rule for his kindness in yielding this time to me.

Mr. Speaker, there has been a great deal of discussion about what goes into the legislation that would be before us under the rule. I would like to take a few minutes time, not to talk about what is in the legislation, but rather to talk about what is not in the legislation reported by the Commerce Committee and how the Commerce Committee bill is clearly the only fast-track bill.

Mr. Speaker, the first thing that should be known about the Commerce Committee bill is that it does not authorize the Board to do anything regarding waivers except to recommend to the President with regard to positive actions as regards substantive or procedural law. Second, the President is only afforded the power to recommend actions to the Congress. The only people that make a decision under the Commerce Committee bill with regard to waiver of procedure or with regard to waiver of substance is the Congress of the United States. That is done under the one-House veto provisions which are identical to the provisions used in forcing energy actions to the floor, which were crafted by a Congress to insure that any one Member could force the question to the floor and so that neither filibuster, nor archaic rule, nor recalcitrant format, nor time consideration could foreclose matters of that kind from coming before this body and the Senate for consideration.

The next thing is, there are a number of matters which cannot be waived. They include all labor laws, including working contracts—at page 50 of the bill; health and safety, worker compensation, activities of workers or their representatives—those cannot be impacted upon by the Board. Antitrust laws, criminal laws, waiver of any Federal, State, or local requirement which involves any primary air quality standard established under the Clean Air Act also may not be waived.

Also, any action which would enjoin or abridge the right or rights of persons arising under the Constitution cannot be waived. Last of all, water rights under State law, under Federal contract, compact may be waived by the Commerce Committee bill. The quality as well as quantity of the water is protected.

Under the amendment which will be offered by our colleagues from New Mexico and Nevada, Mr. LUJAN and Mr. SANTINI, a two-House affirmative action would be required for any waiver and it does not permit waivers of State or local laws. For that reason, I would urge my colleagues to note clearly what is at stake here, and urge them to support both the Commerce Committee bill and the Santini-Lujan amendment.

Mr. LATTA. Mr. Speaker, I yield myself 1 minute.

Just so that we are not setting any kind of precedent here, in view of the remarks made by the gentleman from Texas about the notice sent out by the Rules Committee, that is a very limited notice and does not go to all the Members. So, we do not want to follow that in the future as notice to the Members.

Mr. Speaker, I have no further requests for time.

Mr. FROST. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. UDALL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4985) to establish a coordinated, prompt, and simplified process for decisionmaking in regard to significant nonnuclear energy facilities, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4985, with Mr. FOLEY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Arizona (Mr. UDALL) will be recognized for 30 minutes; the gentleman from California (Mr. CLAUSEN) will be recognized for 30 minutes; the gentleman from Michigan (Mr. DINGELL) will be recognized for 30 minutes, and the gentleman from North California (Mr. BROYHILL) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, I yield myself 5 minutes.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I have a great deal of respect for the gentleman and his ability to orate. Would the gentleman like to have anyone here in the Committee of the Whole to listen to him?

Mr. UDALL. Oh, I will leave it up to the good judgment of the gentleman. I have found that with the advent of television sets in our offices where we can watch these debates, that sometimes we have bigger audiences than we really know about.

Mr. BAUMAN. I accede to the judgment of the gentleman, but I think seeing him in person is much more impressive, really.

Mr. UDALL. I thank my friend for his concern.

Mr. Chairman, our country is in trouble. We have serious energy problems. Usually, in a crisis, Americans are pretty good. The day after Pearl Harbor we rolled up our sleeves and went to work. Nobody thought the war was a hoax; nobody said that a bunch of oil companies were hiding our fleet in the Pacific. We knew that our fleet was at the bottom of the harbor.

I think that we are not so good, sometimes, in responding to a crisis that is not obvious and where there are deep divisions as we have today. But, as I read the American people, they want action. They would like the Federal Government and the State governments to start cooperating with private enterprise and the rest of our people in doing something about our energy problem. The American people have had a lot of lectures about conservation, and it is important and a lot of the solution is going to be in vigorous conservation, but I think that Americans also want some action on the supply side, to get going on supply.

That is why I supported the synthetic fuels bill that went through here a few weeks ago. I think the American people also want a couple of other things. They want action about increasing energy supplies. I believe they want to keep advances we made in these last couple of decades in safety on the job, in health, environmental protection and in real concern for the limited national water supply.

I think, second, the American people want to keep respect and concern for local laws, for States' rights, for the obligations and the privileges of our separate States. I do not think they want to overrun the Western States and make them national sacrifice areas and tear up the landscape.

Since 1973, with the first Arab oil embargo, we have been in a kind of national paralysis and indecision, seemingly unable to make decisions and to make them stick. What we badly need is a decision of consensus and harmony and constructive action on the energy front. So, it seemed to me last summer this idea of a fast track, which I first broached to the majority and the leaders, to the President and to the leaders of the Senate, that maybe we could get a consensus moving on the supply side of the equation on energy.

□ 1650

I hoped we could find something that could appeal to liberals and conservatives, to the Western Governors and to the Governors of the other States, and, indeed, to our friends, the environmentalists, who get kicked around so much about the problem of delay. So I envisioned a program in which we agree that no one is really served by delay or by institutional paralysis. To my surprise, some of the major environmental organizations came in and said, "We do not object to fast track. We do not object to decisions being made. We are willing to help cut through this institutional paralysis."

In your business or in your personal life sometimes getting a decision, any decision, a yes decision or a no decision, is better than paralysis or waiting 10 years and maybe not getting an answer even then. A classic case which will be mentioned in this debate is the Sohio pipeline. Our country had a glut of Alaskan oil on the west coast. There were simply no refineries and no adequate facilities to use that extra oil, and we desperately needed to get it to the Middle West where it hooked into the pipeline system. And here we go. We did not have to build a new pipeline.

It was not necessary to build a new pipeline at all because the Almighty, looking out for this country, had put a pipeline in the ground. This was an old gas line constructed back 20 or 30 years ago to bring natural gas from Texas to California when the supplies of gas were running out, and the line was unused. All we had to do was not fight for a new pipeline and go to the expense of building a new pipeline and getting the rights-of-way; all we needed was the national will to reverse the decision and get the pumps to move the oil from the Midwest to the rest of the country. What happened?

This oil company, ready to build the pipeline and put it into operation, was bogged down with 700 individual permits, many of them small, many of them overlapping, but 700 permits. And here we are with a country unable to make a decision on this pipeline. We could not find the will. Finally the oil company threw up its hands and said the heck with it and backed away, after an expenditure of $50 million.

It seemed to me that we could get a consensus and move out on the question of similar situations if we would deal only with procedure, and that we could get these energy projects, these high-priority energy projects, and move them up and get a yes-or-no decision in several months instead of several years. Our bill, the Udall-Clausen-Wirth-and many others-bill, gives this new Emergency Mobilization Board the power to do that job. What I foresaw as the right kind of an approach was to get a super expediter or mobilizer such as we had in World War II, who could cut through the redtape, knock heads together, and if we needed aluminum, steel, or some other product, go get that product.

I envisioned an expediter schedule where he could call in all units of local government and sit down and say, "We are going to get a yes-or-no decision on this time track. Two years from now we will have a decision." The thought was if this expediter could, combine hearings, and if one piece of paper could do the job, do one piece of paper instead of three, if we could do something in 1 month rather than 44 or 50 months, we would do that. We would combine environmental impact statements, hearings, and all the rest, and really cut through the redtape.

But there was a critical aspect of our proposal in the Committee on Interior and Insular Affairs, and that was we would not attempt to change substantive laws, Federal or local, and we would deal only with procedure. Years of debate have gone into the State and Federal laws. Many times the State legislatures have voted on an energy policy, and we should not carelessly or quickly overturn these laws in the States and at the Federal level, and we in our bill do not attempt to grant piecemeal, case-by-case, overrides of major laws on the Federal level.

There is a deep concern and suspicion among western Governors and western State legislators about federalism. The State develops a coastal zone policy, and along comes the Congress or Federal judges to override this, and we did not like this. This is why the western Governors are so concerned that we write a sound law that deals only with procedure. So we produced a bill in the Committee on Interior and Insular Affairs last summer, and it carried with a vote of 40 to 1.

We moved with dispatch because we thought the country needed a decision on the fast-track idea, and who have worked on our bill good solid conservatives like the gentleman from California (Mr. CLAUSEN), the gentleman from Idaho (Mr. SYMMS), and many others. The Committee on Interstate and Foreign Commerce has a joint referral. They got their bill out in September. Since then both committees have moved to blend the differences and to arrive at a kind of consensus bill, and we have made a number of changes, and we are willing to make others.

We believe the Committee on Interstate and Foreign Commerce can do likewise. The Committee on Interstate and Foreign Commerce, I am told, is prepared now to accept the Santini-Lujan amendment to take out overrides of State and local law. But they still have the Federal override, and even their State override is not complete. It still leaves considerable authority—the Santini-Lujan amendment—to override State laws, even though they profess not to do that, and we had better take a good look at that law.

One of the hookers in the Santini-Lujan approach is that State powers derived from basic Federal law, like the Strip Mining Act, or the Clean Air Act, or Clean Water or Toxic Substances, or Coastal Zone, or the Outer Continental Shelf, because the States are administering these laws under their own State rules and State laws, the Santini-Lujan amendment would treat these as Federal laws and permit broad and far-reaching overrides of the laws in your States. What makes many of us particularly fearful is the possibility of wholesale dismantling of important laws that took years to get on the books.

If you have two things, one, no limit on the number of projects, and, two, the power to waive existing laws, then you have a formula that could gradually override all the environmental and resource decisions of the State and Federal governments over the last several years.

So we ask support for our version of the bill. We think it is better; we think it will get the job done; we think it will not create tension and division between the Federal Government and Congress to override State and local laws.

Mr. CLAUSEN. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, our Nation can no longer afford to delay the development of new energy resources. The skyrocketing energy costs we have been facing are more than an inconvenience, they are squeezing middle and lower income families to the point of financial disaster.

As ranking minority member of the full Interior Committee and the Oversight and Investigations Subcommittee, I have had the opportunity to see how critical projects like the California pipeline which would have moved Alaska oil can be unreasonably delayed and even killed by redtape.

Consequently, our Nation's economic and security requirements are not being adequately addressed.

We need an energy distribution network which will effectively meet our energy needs in the decades ahead. This must be given priority attention by both the President and by Congress.

In the Interior Committee, we leaned over backwards in a bipartisan effort to develop what we believe to be an effective compromise which will satisfy the concerns we all have.

The basic objective of our substitute is to provide the Energy Mobilization Board with the authority and flexibility to speed up the decisionmaking process on priority energy projects at all levels of government.

The legislation—

First, establishes a Board to select priority energy projects.

Second, empowers the Board to streamline and enforce decision schedules and timetables for Federal, State, and local Agencies.

Third, empowers the Board to streamline Federal Agency procedures.

Fourth, preserves the rights and responsibilities of each level of Government for administration of the laws it has enacted.

Fifth, contains vital protection of State water rights.

We cannot rely on foreign supplies so we must move toward the rapid development of our own. We are a nation rich in coal, geothermal, solar and other fuels which are just waiting for us to develop them. We are also a nation blessed with a talent for innovation. We must encourage our scientists and engineers to find new ways to conserve energy and new ways to better utilize what resources we have.

Unfortunately, many of our scientists and innovative companies are being stymied by redtape and delay which make it uneconomical for them to move toward construction of new facilities or development of new techniques.

There are many examples which can be sited of projects which have been unduly delayed, but the one which comes to mind first is the SOHIO pipeline. The company worked for over 4½ years and spent approximately $58 million seeking the more than 700 permits that would allow the project to begin construction.

The SOHIO case has been both frustrating and tragic. Despite our attempts to pry the project loose from the bureaucratic stranglehold placed on it, the company was crippled by the delays and forced to abandon the project. The working out of new air pollution regulatory procedures was a major cause of the delays; however, at the time the project was abandoned these had been overcome, and it appears that environmental requirements would not have foreclosed construction. It was, instead, a case where delays caused the economics of a project to worsen to the point of it being unacceptable.

We are left with an abundance of crude oil on the west coast which exceeds our present refinery capacity and a lack of any adequate transportation network to move the oil eastward. An Energy Mobilization Board will assist in the development of a domestic energy transportation system. An effective network should include pipelines, seaports, terminal facilities and refineries. The Board will have authority over projects of this type.

The Congress has taken a bold step in creation of legislation establishing an EMB. We have a bipartisan effort to establish a mechanism which will allow us to cut through red tape and make the decisions necessary to bring more energy projects on line.

We will be making decisions. At times the Energy Mobilization Board might choose to reject a project because it is environmentally unsafe, ill-planned, misplaced, or incapable of producing the type of energy needed at the right time. These projects should be rejected but they should be rejected promptly, so we can concentrate our efforts on those that are acceptable.

The Interior and Insular Affairs Committee and the Interstate and Foreign Commerce Committee have both spent considerable time developing Energy Mobilization Board legislation. We have some differences which will unfold as we debate the specifics of our different bills and amendments to them.

At this time, I would like to emphasize the importance of our alternative, H.R. 5660 which was developed by the distinguished chairman of the Interior and Insular Affairs Committee, the gentleman from Arizona (Mr. UDALL), my colleague from Colorado (Mr. WIRTH), and myself. We did not simply reject the project of the Interior Committee but rather we took the best of our bill, the best of the Commerce Committee bill and the best of the Senate passed bill and molded them together into what we believe is an improved alternative.

Our bill has been cosponsored by more than 80 Members ranging in philosophical views and committee membership. This wide and diverse support demonstrates the degree to which we have been successful in arriving at the best possible vehicle for accomplishing our goal—prompt development of our domestic energy resources.

Under both versions, the EMB would set a "priority decision schedule" as a timetable for all decisions on projects designated as priority projects. The key issue is how this timetable is enforced and what powers the Board is given to bring about a decision.

Under the Commerce Committee bill, the enforcement includes the waiver of laws. If any agency of the Federal Government, States or local governments fails to meet the timetable laid out by the Board, the Board has the power to waiver the law or laws involved. This unprecedented power in the hands of people appointed not elected is a threat to our basic form of government. Many Governors, mayors, county officials, State legislators and others are deeply concerned over this granting of power to the EMB.

The so-called Udall-Clausen-Wirth bill adopts a more reasonable approach. We provide for court enforcement. If an agency fails to meet its assigned timetable for a decision, then the EMB is empowered to seek prompt court action to enforce the timetable.

If after 120 days, the court has not resolved the conflict and the agency has still not acted then the President is empowered to make the decision. This type of enforcement mechanism is not new. It has been used before and worked successfully as in the case of the Alaska Natural Gas Pipeline Act.

In addition, our substitute grants the EMB the authority to order Federal agencies to streamline a specific list of procedures such as hearings. State and local agencies may be ordered to employ streamlined procedures if they miss the project schedule deadline but only by the court not the Board.

The substitute is the only version which allows for the consolidation of Federal environmental impact statements. The substance of all environmental laws will be protected. We simply avoid the duplication of effort which occurs so often when multiple EIS's are required.

The Commerce Committee bill places no limit on the number of projects which can be designated as priority projects. In drafting our substitute bill we adopted a limitation of 75 total with no more than 20 designated each year. We believe a limitation on the number of projects is mandatory to avoid overloading the Board and preventing it from being able to act quickly on the most critical projects.

Our original Interior Committee bill limited the number to 24 total with no more than 6 in 1 year. Our substitute is a compromise between the two positions.

Our substitute also places a ceiling on the number of personnel which can be hired by the Board. We restrict the total to 60 people. Our objective is to mobilize an effective group of people which can move this country closer to energy independence. We do not intend to create another large bureaucracy which will mire itself in personnel, regulations, and its own redtape. A simple limitation on personnel will help prevent this. Coupled with this requirement is a phase out of the Board after 7 years.

I strongly support H.R. 5660 in that it represents a balanced approach in establishing an Energy Mobilization Board to cut through bureaucratic redtape when addressing domestic energy projects.

Over the past 2 years, I have served as the ranking minority member of the Subcommittee on Special Investigations.

This subcommittee was given in the 95th Congress the responsibility of overseeing the disposition of crude oil transported to Valdez, Alaska, through the Trans-Alaska Pipeline. The subcommittee has been interested in seeing to it that section 410 of the Trans-Alaska Pipeline Authorization Act (Public Law 93-153) is implemented.

This section provides, in part, that—

> (t)he President shall use any authority he may have to insure an equitable allocation of available North Slope and crude oil resources and petroleum products among all regions and all of the several states.

Last October the Special Investigations Subcommittee filed a formal report entitled "Disposition of Alaska North Slope Oil."

In that report within the supplemental views, I addressed the need for streamlining the decisionmaking process with respect to pipelines and the establishment of an effective domestic energy distribution network:

> We believe it is in the national interest that at the beginning of the first session of the 96th Congress, the Committee on Interior and Insular Affairs consider legislation to place in a priority category the various domestic alternatives to transport the West Coast surplus of Alaska North Slope crude to the inland regions of the United States. The Federal Government must eliminate the unnecessary bureaucratic red tape with respect to processing oil pipeline applications.
>
> This proposed Congressional action should in no way preempt States' rights concerning pipeline projects. However, whether it be Federal or State actions, interested parties must approach environmental issues in an equitable and reasonable manner.

In cosponsoring H.R. 5660, I believe the bill addressed the need to establish an Energy Mobilization Board to eliminate unnecessary delays while not preempting States' rights concerning energy projects. I am hopeful environmental issues will be addressed by the Board in an equitable and reasonable manner.

Hopefully, the Energy Mobilization Board will also develop a domestic energy transportation system. In the Special Investigations Subcommittee report of last October, I commented on the need for a network to address our domestic energy requirements in distributing energy equitably to all regions of the United States:

> An effective domestic energy distribution network, including pipelines, railroads, and tankers is the vital part of our overall energy program which fulfills that promise. In turn, a domestic energy distribution network assures the security of our Nation, as well as the economic well-being of the entire United States. It was for these purposes the Congress created our Interstate Defense Highway System.
>
> The more completely we design our domestic energy distribution network, the more efficient our use of energy. And that, in turn, is one avenue to energy independence, an urgent national need * * *. There is an apparent need for a domestic oil distribution network which at the present time is sadly lacking. Our oil mobilization systems leave much to be desired * * *.

It was due to these beliefs that I supported and cosponsored H.R. 5660. The Board is needed to chart a course for this Nation in establishing an energy distribution network second to none in the world.

I urge my colleagues to pay close attention to the amendments we will be offering and to support the so-called Udall, Clausen, Wirth substitute. You will be casting a wise vote which is in the best interests of our Nation.

□ 1700

Mr. DINGELL. Mr. Chairman, I yield myself 7 minutes.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Chairman, H.R. 4985 was introduced on July 27, 1979, and referred jointly to the Interior and Insular Affairs Committee and the Commerce Committee. It was reported by the Interior Committee on August 2 and by the Commerce Committee on September 21 with an amendment in the nature of a substitute.

H.R. 5660—THE LAWYERS FULL EMPLOYMENT ACT

Until Friday, October 19, 1969, these were the only two bills before the House. However, on that day, the Wirth-Udall bill (H.R. 5660) was introduced.

H.R. 5660 is a conglomeration of parts of bills, including provisions from the Commerce Committee's reported bill and the Senate-passed bill. But, unfortunately, these parts do not fit together. It has technical and substantive flaws. It is a lawyers dream. The Wirth-Udall bill will insure ample employment for Washington law firms and many other lawyers for years to come. It provides a rich opportunity for delay of critical energy projects. It is not a fast-track bill. It is a slow-track bill.

PURPOSE OF THE COMMERCE COMMITTEE BILL

This legislation is intended to provide coordination and expedition in the making of decisions by all levels of government that are crucial to approving critical nonnuclear energy production and conservation projects. It is not intended to create another bureaucracy but to insure that timely decisions are made, whether favorable or unfavorable. It will help avoid the need for separate legislation for energy projects, like the Sohio pipeline, long after applications for permits have been made.

Critical nonnuclear energy production and conservation projects include small and large hydroelectric projects, pipelines, utility projects, refineries, coal mines, and most importantly, conservation projects. No energy project can be initiated without securing approvals at all levels of government. State and local approvals are essential. Any delay in securing decisions at any level is costly and may well doom a project. The Commerce bill seeks to develop a process to overcome such delays.

THE BOARD AND ITS POWERS UNDER THE COMMERCE COMMITTEE BILL

The Commerce Committee bill provides for a five-member Energy Mobilization Board. The Board is not an independent agency. It is subject to the Sunshine Act, the Freedom of Information Act, the Administrative Procedure Act, the Federal Advisory Committee Act and other laws applicable to Federal agencies. There is no limitation on the number of personnel the Board may employ because such a limitation would be arbitrary and would hamstring the Board.

In carrying out its functions, the Board is authorized, among other things, to hold hearings, sue, intervene in agency proceedings, and issue subpenas. Within 60 days after all members of the Board are confirmed by the Senate, the Board must promulgate regulations governing its operations, including criteria and procedures to be followed by applicants seeking the designation of nonnuclear energy projects as priority energy projects. The Board will terminate on September 30, 1985.

The Wirth-Udall bill has similar provisions, except it establishes a 60-position limitation on the Board which is clearly unrealistic in light of the Board's functions and responsibilities. In addition, all regulations of the Board are delayed for 60 calendar days to provide an opportunity for either House of Congress to veto them.

PROJECT DESIGNATION AND EXPEDITED DECISIONS UNDER THE COMMERCE COMMITTEE BILL

The Commerce bill provides that—

After an application for designation of an energy project is received by the Board, 45 days is afforded for written comments by States, local agencies, and the public;

Within 45 days after the public comment period, the Board must decide on the application using criteria set forth in the bill and designate energy projects that are of sufficient national interest to be called priority energy projects;

After designation, the affected States may appoint members to serve on the Board as nonvoting members to participate in all decisions of the Board concerning that project;

When the Board designates a project as a priority energy project, the affected Federal, State, and local agencies have 30 days to transmit to the Board tentative schedules for making final agency decisions concerning the designated project;

Within 30 days after receipt of the tentative schedule, called a "project decision schedule," the Board must issue a schedule outlining the dates for final decisionmaking for all agencies;

The Board can adopt a schedule, in consultation, and hopefully in agreement, with the agencies that is shorter than that proposed by the agencies, but it cannot change agency procedures for hearings, notice, or cross-examination, nor can it change substantive law; and

The designation of a project as a priority energy project is not intended to tilt the agency decision for or against the project.

All of these deadlines, including the project decision schedule, can be extended by the Board on its own motion or on petition.

The Commerce bill does not, unlike Wirth-Udall, seek to set an arbitrary limit on the number of energy projects to be designated. Clearly, only those that are critical should be designated. It should be designated. It should not be easy to obtain a designation. But we cannot forecast how many should be designated.

NO JUDICIAL REVIEW OF DESIGNATION OF PROJECT UNDER COMMERCE COMMITTEE BILL

In furtherance of the objective of expedited decisionmaking, the Board's decisions to designate an energy project as a priority energy project, to revoke a designation, to extend deadlines, to establish a project decision schedule, or to act to insure compliance with that schedule, is not subject to judicial challenge, except as required by the Constitution.

All of these actions are administrative in nature. To subject to judicial review would result in significant delay. Of course, once an agency issues a decision and the decision is challenged, the court would not be precluded from considering actions of the Board in setting the schedule and its impact on the agency decision.

WIRTH-UDALL BILL PROVIDES FOR JUDICIAL REVIEW OF DESIGNATIONS OF PROJECT

Section 217(a) of the Wirth-Udall bill (H.R. 5660) provides that an action by the Board "granting or denying any order designating a proposed energy facility as a priority energy project * * * shall be subject to judicial review" for failure to comply with any requirement of the act, as well as for any violation of the Constitution. One requirement of the act is that the order designating the project contain a statement of the basis on which the designation was made addressing 14 criteria which the Board "shall consider." Any State or person who does not like a project may challenge the designation. Moreover, there is no time limit for bringing the action.

Section 217(b) of the Wirth-Udall bill provides that final agency actions and Presidential decisions must be filed within 60 days after notice thereof, but the 60-day period does not apply to challenges to a designation. Thus, a law suit for that purpose is never barred.

The administration advises me that this provision could add 2 years to the process. That is not fast track.

WIRTH-UDALL BILL PERMITS PROCEDURAL SHORTCUTS WITHOUT CONGRESSIONAL REVIEW

Section 211(a) of the Wirth-Udall bill attempts to give Federal, State, and local agencies authority to establish "special procedures" applicable to decisions in order to expedite decisions. The bill, however, does not state in what manner or to what extent State or local agencies, or for that matter, Federal agencies would establish such procedures. Normally, Federal procedures are established by statute or by rule. The rulemaking process is often time-consuming and is usually general in nature, and not project specific. Many States have a similar procedure. In our judgment, the Wirth-Udall bill provision is largely hortatory for State and local agencies because it fails to spell out how the changes will be made.

In the case of Federal agencies, the Wirth-Udall bill appears to provide a blanket waiver of Federal law and authorizes each agency to—

Consolidate proceedings;

Establish special filing requirements;

Substitute legislative-type hearings for trial type hearings; and

Establish special procedures to avoid issuance of preliminary decisions.

The Commerce Committee and the Santini-Lujan amendment recognize that such procedural changes are often substantive in nature and directly affect the ability of parties, including competitors, consumers, and environmental organizations, to challenge the need for, or adequacy of, a project. They should not be lightly changed. Thus, the Commerce Committee bill as amended by the Santini-Lujan amendment requires that such changes be accomplished only as part of a congressional process. Also, we do not try to delineate what procedures may be modified, because the procedures differ widely among agencies.

Section 211(c) of the Wirth-Udall bill gives the board blanket power to order a Federal agency, but not a State or local agency, to use any or all of the above procedures to meet the schedule without any congressional review. No opportunity for public input is provided. No judicial review of the Board's order is provided. It would apply to independent agencies like FERC and the ICC. It is a sweeping provision.

ENFORCEMENT OF THE PROJECT DECISION SCHEDULE

The controversial issue in this debate is how to enforce a project decision schedule for an energy project once established. Without an effective method of enforcement, it probably will be ignored. There have been numerous suggestions for enforcement, including reliance on the courts. Most of these approaches have flaws and could result in further delay.

If an agency misses a deadline, a court can only provide a new schedule establishing a new decision date. This order could be appealed. If the agency fails to meet the second deadline, the court could, of course, cite the agency head for contempt, but it is not likely that a court would put a Governor, the Administrator of the Environmental Protection Agency, or other governmental officials in jail or fine them.

Clearly, the enforcement procedure must work and not result in new challenges and further delays.

ENFORCEMENT UNDER WIRTH-UDALL BILL UNCERTAIN AND SLOW

Under the Wirth-Udall bill (H.R. 5660), if a Federal, State, or local agency fails to comply with project decision schedule, or it is "reasonably likely to fail" to comply, the Board is authorized, but not required, to go to an "appropriate" Federal district court and seek an order requiring the Federal, State, or local agency to comply with the schedule. Obviously, compliance is impossible if the decision deadline under the schedule has passed. The court cannot make the decision for the agency because the decision is discretionary with the agency. Thus, the court would have no recourse but to set a new schedule or tell the Board to do so.

However, in filing such a suit, the Board acts at its peril. Because the Wirth-Udall bill tells the court to examine the project decision schedule as part of that suit and if the court finds that agency action in accordance with the schedule, "would not insure adequate consideration of all matters * * *, would not insure adequate participation by parties * * *, would clearly be impracticable, or would deny any person due process of law," then the court must order the Board to revise the schedule which might result in further delay.

The Wirth-Udall proponents contend that the district court must act in 120 days. However, that is not so in every case. If the Board instituted the action on the basis that the agency is reasonably not likely to comply with the schedule by the decision date, the 120-day requirement will not apply until there is an actual failure to comply and a notice from the Board. Section 214(e)(3) of the Wirth-Udall bill states:

> If the court fails to act pursuant to subsection (b) or (c) of this section within 120 days of the filing with the court of such notice, the President may act . . .

Thus, the court proceedings cannot be aborted by the President until the Board files a notice with the court stating that—

First. The agency decision deadline passes and the agency has not decided;

Second. The national interest requires expeditious enforcement of the deadline; and

Third. The court is given an additional 120 days from the date such notice is filed with the court.

At this point the President may decide in lieu of the Federal, State, or local agency after giving notice to such agency.

One can readily observe that court enforcement will not result in a prompt decision. The administration advises me that it may take 5 years to reach a final decision under this process. Even if it took half that time, it is a slow and an uncertain process.

COMMERCE COMMITTEE ENFORCEMENT

The Commerce Committee bill seeks to avoid the legal morass of court enforcement. The bill requires that the Board monitor compliance and, in appropriate cases and under careful criteria, extend the schedule if needed. The Board can intervene in agency proceedings to insure compliance with the schedule. It can also go to court, if appropriate. The Commerce bill also authorizes waivers of procedural laws and regulations that impair decisionmaking in a timely fashion, but only subject to a one-House veto. It also authorizes waivers of substantive impediments, subject to a one-House veto.

SANTINI-LUJAN ENFORCEMENT

The Santini-Lujan amendment does not change the monitoring, intervention, or court enforcement provisions of the Commerce bill. It provides that if the Board finds, as part of its monitoring effort, that an agency has failed to comply with the decision deadline under the project decision schedule or that it is reasonably unlikely that it will comply with it, the Board shall—

Notify the agency and others of the failure;

Wait a minimum of 45 days; and

Then hold an expedited hearing to determine the reasons for the failure.

After the hearing, the Board has the option to—

Extend the deadline; or

Provide that the Board make a recommended decision in lieu of the agency; or

In the case of Federal law, waive the procedural or substantive impediment to decisionmaking subject to a two-House approval of the waiver by the Congress.

When the Board decides, it must complete the record and it must follow the same law, regulations, and precedents that the Federal, State, and local agency must follow. The Board makes a recommended decision to the President who has 45 days to affirm it or remand it back to the Board with instructions. If the President does not act within that period, the Board's decision becomes final. The final decision of the President or the Board is treated as an agency decision for purposes of judicial review. Such judicial review must be conducted under applicable Federal, local, or State law.

SANTINI-LUJAN WAIVER

The Santini-Lujan amendment establishes a narrowly drawn, limited procedure to waive certain Federal procedural and substantive requirements that present a substantive impediment to making a decision or to making a decision in a manner that will permit implementation of the project. Such waiver is possible after designation of a project, but before compliance by an agency subject to such Federal requirements with the project decision schedule. The waiver is subject to the following conditions:

It applies to Federal law and regulations only; it does not apply to State laws and regulation, such as those relating to siting.

Waivers must be on a project-by-project basis; they only apply to priority energy projects.

Waivers are not to be recommended by the Board or the President where reasonable alternatives exist, even if those alternatives are more costly, or where the delays associated with compliance would not be unreasonable.

Agency decisions cannot be waived.

Waivers cannot change or modify the laws or regulations on which the decision is based after the decision has been made.

Certain laws, relating to water rights, constitutional rights, labor, worker health and safety, civil rights, and antitrust and primary air quality standards cannot be recommended to be waived or waived under any provision of the bill with the Santini amendment; constitutional rights are protected.

The Board cannot waive any procedural or substantive provisions, it can only recommend waivers of such provisions to the President.

The President cannot waive any procedural or substantive provisions; he can only recommend such waivers to Congress.

The President must wait at least 30 days after receipt of the Board's recommendation before he can act on it.

The President can reject the Board's waiver recommendation, adopt it, or modify it.

The President must, among other things, find that national interest requires the waiver and that the public health and safety would not be unduly endangered.

The relevant laws or regulations need not be waived in their entirety; the waiver can include a less stringent requirement, and must include terms and conditions deemed necessary to minimize any adverse effects and to provide enhancement.

The Board does not make the final decision on the waiver, and the President does not make the final decision on the waiver—that decision is made by the Congress, which has 60 calendar days of continuous session to consider the waiver. Any Member can force a vote on the issue.

Congress must approve the waiver by two-House resolution of approval or it will not go into effect.

Congress has the final word.

There is precedent for the Santini-Lujan waiver provision in the Alaska Natural Gas Transportation Act of 1976 approved by the Interior and Commerce Committees. Indeed, the Santini-Lujan amendment affords added safeguards.

Waivers will not and should not be easy to obtain under these conditions. No one is anxious to see a waiver of any part of any law or regulation. However, the plain fact is that we lack an effective mechanism to resolve problems that arise when a law or regulation, or portion thereof, appears to prevent a needed and desirable energy project. We should not have to wait until the situation is desperate, as in the Sohio case, to seek a legislative solution. We should provide a procedure that includes adequate safeguards and provides the necessary safety valve from an all out effort to modify or repeal important environmental and other laws and regulations.

At every turn there are efforts to weaken these laws in one way or another. On several occasions, NEPA has been weakened by the Congress. This year Congress overrode the Endangered Species Act. Recently, the other body passed weakening amendments concerning strip mining. Regulatory reform and the one-House veto of regulations also could seriously undermine these laws. We can anticipate more efforts in this direction unless we provide a needed safeguard to permit needed energy production and conservation projects to proceed for our benefit and the benefit of future generations.

The National Governor's Association, in an October 29, 1979, letter to me, said that the NGA supports the Santini-Lujan amendment. The administration and labor support it also.

COMMERCE COMMITTEE DOES NOT CHANGE SUBSTANTIVE LAW APPLICABLE TO REVIEW BY COURTS OF AGENCY DECISIONS

The Commerce Committee has steadfastly resisted efforts to make wholesale changes in Federal, State, or local statutes establishing judicial review of decisions by Federal, State, or local agencies. The Commerce bill merely requires that actions under Federal law occur in the court of appeals for the circuit where a project is located and that such action be filed within 90 days after the final agency decision.

WIRTH-UDALL BILL CHANGES FEDERAL, STATE, AND LOCAL LAW APPLICABLE TO JUDICIAL REVIEW OF FEDERAL, STATE, OR LOCAL AGENCY DECISIONS—IT INVITES UNLIMITED LITIGATION

First, under Wirth-Udall, any Federal, State, or local agency action subject to a project decision schedule—whether or not it arises under Federal law—must be filed in the Federal Court of Appeals. Such actions must be filed within 60 days after notice that such agency action is final.

In addition, the Wirth-Udall bill introduces a wholly new and ambiguous standard of judicial review that invites extensive litigation and confusion. It is a lawyer's dream.

Under all the proposed "fast track" bills, energy projects that have been designated as priority energy projects and put on a fast track must still obtain all necessary Federal, State, and local agency permits and authorizations. If an applicant believes that an agency has unlawfully denied its application for a permit or other approval, or if an interested party believes that an agency has unlawfully granted an application, judicial review of the agency decision is available.

When a court reviews an agency decision, the court must determine whether the decision meets all the requirements of the particular law under which the agency operates. These laws may specify the conditions under which the court may set aside agency decisions. For example, some of these laws specify that an agency's decision may be set aside by a court if the agency decision is not supported by "substantial evidence." In other words, Federal, State, and local laws will establish the scope of court review of agency actions. The standards of review will be different from law to law and agency to agency.

The Wirth-Udall bill significantly limits the scope of court scrutiny of agency decisions. The grounds for judicial review of Federal, State, and local agency decisions are limited in that bill to actions which are in violation of the Constitution or actions which are "in excess of, or fall short of, statutory jurisdiction, authority, or limitations, or short of statutory right." Thus, the judicial review standards normally applicable to a project under Federal, State, or local law would be inapplicable to a priority energy project. The Wirth-Udall bill provides that a reviewing court could not hold unlawful and set aside agency action, findings, and conclusions which were: First, arbitrary, capricious, or an abuse of discretion; second, without observance of procedure required by law; or third, unsupported by substantial evidence. Thus, the bill deprives parties of important rights of review; rights which they would have retained had the energy project not been designated a priority energy project by the Board.

Several undesirable effects flow from this severe restriction of judicial review:

First, it will discourage energy project sponsors from seeking designation as priority energy projects and being put on a fast track because they will not be entitled to the full protection of the law that they would otherwise have had. Applicants trying to build energy projects would have to be particularly wary of getting on the fast track under the Wirth-Udall bill because there is a greater likelihood that an agency, faced with an approaching deadline, would issue a negative decision to avoid being hauled into court or superseded by the Board or the President. Thus, an applicant trying to build an energy project would face a stark Catch-22 decision: If he gets on the fast track he runs a serious risk of a negative agency decision and simultaneously decreases his ability to have a court overturn hastily reached or unsupported negative agency determinations. His fast track could rapidly become quicksand.

In addition, those who oppose an affirmative agency decision are similarly disadvantaged by this limitation of judicial review which is interested in the courts.

Second, the Wirth-Udall bill's limitation of grounds for judicial review constitutes an unacceptable intrusion into, and change of, State and local laws. This limitation reaches to any governmental action in the United States. The bill eliminates essential protection against arbitrary and capricious action by State and local agencies everywhere, even if a State or local government had seen fit to provide for greater court protection. This unnecessary trading on State, and local autonomy violates traditional notions of fair play and justice.

In addition, the judicial review standard of the bill differs significantly from that of the Administrative Procedure Act. The Administrative Procedure Act (APA) provides that a reviewing court shall set aside agency action, findings, and conclusions found to be, among other things, "in excess of statutory jurisdiction, authority or limitations, or short of statutory right." The wording of the judicial review provision of the Interior bill differs from the APA language: it provides judicial review for action which is "in violation, exceeds or falls short of statutory jurisdiction, authority, limitations, or right." The statutory provision for review of actions that fall short of statutory authority is ambiguous. It could be argued that this would permit appeal, and perhaps require reversal, of any agency decision which grants less than the full amount of relief authorized. In any event, the bill establishes a new standard of review, never before applied. This invites extensive litigation and confusion as the courts struggle to discern the meaning of this new standard of judicial review.

CONCLUSION

Mr. Chairman, I believe that the Commerce Committee bill with the Santini-Lujan amendment is superior to the Wirth-Udall bill. It provides greater protections, while expediting decisionmaking. Labor, industry, and business support the Commerce Committee bill. The administration supports the Commerce Committee bill.

At this point I want to provide the administration's evaluation of the delay expected by the Wirth-Udall bill (H.R. 5660). It is as follows:

ANALYSIS OF DELAY CAUSED BY JUDICIAL REVIEW PROVISIONS OF UDALL-WIRTH EMB PROPOSAL (H.R. 5660)

The Udall-Wirth EMB bill (H.R. 5660) would add years of delay to the fast-track process by injecting the courts into the process at two key points.

First, their bill subjects decisions of the EMB to designate specific projects for fast-track treatment to judicial challenge. This approach invites litigation by any interest that might object to a project, and could add over 2 years to the permitting process (see Attachment 1).

Second, the Udall/Wirth bill requires use of the courts to enforce deadlines for permitting decisions established by the EMB. If an agency misses a deadline, the EMB must seek an order from the U.S. District Court either enforcing the existing deadline or establishing a new one. If the agency thereafter fails to comply with the court order, the President is authorized to take over the decision. Assuming that it would not be necessary for the Board to seek a second court order to determine whether a violation of the first court order had occurred and that such a determination would be made by the Board (or President), the Udall/Wirth proposal could add as much as 3½ years of additional delay (see Attachments 2 and 3).

The relevant time requirements are summarized below:

	Minimum		Maximum	
	Years	Months	Years	Months
Udall/Wirth:				
Review of designation decision		4.5	2	1
Court enforcement of deadlines	1	2	5	5
Total	1	6½	7	6
Commerce Committee bill (with Santini-Lujan amendment): EMB enforces deadline by taking over decision		5.5	2	1
Additional time required under H.R. 5660 compared to amended Commerce Committee bill	1	1	5	5

TIME REQUIRED TO ENFORCE DEADLINES UNDER THE UDALL/WIRTH PROPOSAL

Trigger: Agency misses deadline for decision:

	Days
Step 1: Seek district court enforcement	15–30
Step 2: District court decides	15–120
Step 3: Appeal to court of appeals	15–60
Step 4: Court of appeals decides	15–180+
Step 5: Petition for certiorari to Superior Court	15 60
Step 6: Decision on petition	15–180
Step 7: Argument heard	60–90
Step 8: Decision	15–180
Step 9: State and local again fail to decide per order	90–180
Step 10: Return to district court to seek contempt	15–30
Step 11: District court agrees agency has violated court order	30–120
Step 12: Appeal to court of appeals	15–60
Step 13: Court of appeals decides	15–180+
Step 14: Petition for certiorari	15–60
Step 15: Decision on petition	15–180
Step 16: Argument heard	60–90
Step 17: Decision	15–180
Step 18: EMB completes record	15–90
Step 19: EMB/Pres. decides	15–30
Step 20: EMB decision to court of appeals	15–60
Sept 21–25: Appeals	120–690
Total	[1] 610–2, 850

TIME REQUIRED TO ENFORCE DEADLINES UNDER ADMINISTRATION PROPOSAL

Trigger: Agency misses deadlines for decision:

	Days
Step 1: EMB completes record	15–90
Step 2: EMB decides	15–30
Step 3: File appeal of decision in Court of Appeals	15–60
Step 4: Court of Appeals decides	15–90
Step 5: File petition for certiorari with Supreme Court	15–30
Step 6: Decision on petition	15–180
Step 7: Argument heard	60–90
Step 8: Supreme Court decides	15-180
Total	[2] 165–750

[1] 1⅔ yr to 7⅔ yr.

[2] 5½ mo to 2 yr 1 mo.

Mr. DINGELL. Mr. Chairman, Secretary of Energy Duncan, in an October 30, 1979 letter to the Speaker, supports the Commerce Committee bill with the Santini-Lujan amendment and opposes the Wirth-Udall substitute.

U.S. DEPARTMENT OF ENERGY,
Washington, D.C., October 30, 1979.
Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: The President deeply appreciates the prompt action taken by the Interstate and Foreign Commerce Committee and Interior Committee on legislation to establish an Energy Mobilization Board (EMB). If we are to avoid a growing and wholly unacceptable dependence on foreign energy sources, we must secure "fast-track" legislation to cut through the permitting maze that confronts domestic energy projects.

When the House takes up this important measure, the Administration's position will be as follows:

(a) The Udall-Wirth substitute (H.R. 5660), while in many ways close to the Administration's request, contains additional opportunities for judicial review which could cause significant and unnecessary delay. Accordingly, we oppose the Udall-Wirth substitute.

(b) The Commerce Committee bill, with the addition of the Santini-Lujan amendment, would substantially achieve the Administration's objectives. However, the bill would still contain a procedure for waiver of certain Federal laws subject to approval by Joint Resolution of Congress. As we have consistently stated, the Administration would strongly prefer a bill with no provision for waiver of substantive laws, except for those which might be covered by a "grandfather" provision. We therefore will support an amendment by Mr. Eckhardt which would remove the provision for substantive law waivers, as well as provide for judicial review of decisions to "grandfather" projects against changes in substantive law after establishment of a Project Decision Schedule.

As stated above, the Administration does not seek authority for any substantive waiver, and will support efforts to delete this authority on the House Floor. However, should the choice ultimately fall between the Udall-Wirth substitute and the Commerce Committee bill as amended by the Santini-Lujan amendment, we would support the latter as closest to our position, because it avoids the delays inherent in the addition of new opportunities for judicial review.

In closing, I wish to stress our appreciation for the leadership of Representative Udall and Representative Dingell who have worked so diligently to bring this important legislation before the House.

Sincerely,

C. W. DUNCAN, Jr.,
Secretary.

□ 1710

Mr. BROYHILL. Mr. Chairman, I yield 11 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, it is now axiomatic that the country is facing severe energy problems. Congress inability to rationally deal with these problems is threatening the economic and military security of our Nation.

In large part, our energy problems can be traced to a lack of commitment on our part to greater production of domestic sources of energy and to greater conservation. Over the next 2 days, this House will be called upon to show the American people how seriously committed it is to greater production and conservation of our precious energy resources.

Two alternative approaches to the Energy Mobilization Board are before the House: the Commerce Committee reported bill and the Udall-Wirth substitute. The Commerce Committee bill represents a realistic and workable approach to energy facility siting and implementation. The Udall-Wirth alternative is no alternative at all. It promises us endless litigation and unnecessary years of delay. In fact, the administration estimates that it would take anywhere from 1 to 5 years longer to build an energy facility under the Udall-Wirth approach than it would under the Commerce Committee bill.

There are many fundamental problems in the Udall-Wirth amendment that make it worse than no bill at all.

First, the Udall-Wirth amendment would permit the Energy Mobilization Board to designate only 75 projects during its 7 years of existence. This limitation insures that only the biggest and costliest projects will be given priority treatment.

Those of us who favor the Commerce Committee reported bill believe that the Board should have the authority to help implement a large variety of projects, including smaller projects such as solar, biomass, or hydroelectric projects. Although such projects may not be the most grandiose energy projects, they will contribute to a reduction in our Nation's oil imports and should, therefore, be eligible for consideration by the Board.

An additional disadvantage of the Udall-Wirth limitation on the number of projects is that their amendment does not define whether a coal mine, the railway spur to move that coal, the coal gasification plant and the gas pipeline to hook the plant up with the national natural gas pipeline would be considered as one or four "projects" against which the 75 project limitation applies. Thus, the Udall-Wirth bill invites litigation on the very first step of the fast tracking process.

Worse still, the Udall-Wirth bill permits immediate, full judicial review of the Energy Mobilization Board's decision to designate a priority energy project.

Those of us who support the Commerce Committee's fast track approach want the Board to have the discretion to speed the implementation of a worthy solar collection project, with the adjacent electric generating facility and its transmission lines, without having to become embroiled in delaying and debilitating litigation over whether such fast tracking exceeds some arbitrary, numerical limitation.

In addition, the Udall-Wirth amendment is worse than no fast track bill at all because their amendment not only invites but requires litigation anytime the Energy Mobilization Board tries to enforce the project decision schedule. Under their approach, the Board is required to go into court to seek an order requiring the tardy agency to issue its permit. Such an order is of course subject to appeal to the circuit court of appeals and the Supreme Court. The White House estimates that this judicial process alone can add between 6 months and 2½ years of delay. When this litigation is over and the court-ordered agency schedule is finalized, the Udall-Wirth bill permits the "bump-up" of the still delinquent agency decision to be made by the President.

However, under this bump-up approach, the President still has to finish the agency record for the decision and then make the decision using the same laws the agency would have used if it had made the decision when it was supposed to. Accordingly, if the decision ends up negative, the Udall-Wirth bill will have done little but add a layer of bureaucracy and years of litigation to the agency licensing process. Some "fast track."

This Nation needs an Energy Mobilization Board that can do more than perform cosmetic surgery on our energy problems. You are all familiar with the Sohio pipeline project. It was abandoned after the requirement of 700 separate permits and dilatory agencies delayed the construction date to the point that Sohio abandoned the pipeline project as uneconomic. There are other, less well known, examples of the need for fast tracking our needed energy projects.

Let me discuss another energy project—our strategic petroleum reserve. During hearings before the Subcommittee on Energy and Power on the SPR, I asked the Department of Energy to provide for the hearing record a discussion of how agency licensing contributed to the inexcusable delays experienced by the strategic petroleum reserve program. Although this Nation was supposed to have 500 million barrels of oil in storage by the end of next year, it only has 90 million barrels in storage today. Moreover, since April of this year, there have been no purchases of crude oil.

Part of the reason that our Nation is facing this problem with its SPR is that there was no "fast track" procedure to move the program through the labyrinth of agency permits. However, the Udall-Wirth bill would not have been much help. For example, the Federal EPA permitting process for ocean discharge of brine from the Bryan Mount SPR facility in Texas consumed 28 months, which resulted in increased construction and operation costs of more than $28 million. This delay also caused a storage shortfall of 20 million barrels during the last nine months of 1978. Because the Udall-Wirth bill encourages additional litigation whenever a project is designated or an agency is not meeting its deadlines, it is doubtful whether this EPA decision would have been more timely under the Udall-Wirth approach.

Another example of agency caused delays in the SPR program is the case of the West Hackberry SPR facility in Louisiana. There, a Corps of Engineers' permit to construct a portion of the permanent pump withdrawal system was delayed for 2 years because of the failure of the State of Louisiana to make a final decision on a siting proposal by the corps. Thus, withdrawal pumps were not available to the SPR facility until after the gasoline lines of this summer were gone. Because of the years of litigation opportunities associated with the Udall-Wirth amendment, their "fast track" approach would have afforded only modest expedition of this State agency siting permit process. Under the Commerce bill, as amended by the Santini-Lujan amendment, the Energy Mobilization Board could have designated the SPR project a priority project without costly litigation, and it could have required the State to make a decision—without having first to waste from 6 months to 2½ years in court.

I hope these real-life examples will demonstrate the practical need to adopt a fast track bill with some actual capacity for expediting the implementation of needed energy projects.

The American people are getting tired of the Congress passing cosmetic legislation. The overwhelming rejection of the proposal to reimpose price controls on middle distillates by this body 3 weeks ago is a good example of the Nation's growing awareness that cosmetic solutions to energy problems do more harm than good in the long run. Adoption of a superficial fast track bill that does not really accomplish anything will be worse than adopting no fast track legislation at all—because this Nation will lose 5 years or more waiting around to see that the quickie fast track approach we adopted will not work. I urge that you vote with me for the Commerce Committee-reported bill and the Santini-Lujan amendment, and vote against the Udall-Wirth amendment and the Interior Committee-reported bill.

□ 1720

Mr. Chairman, the time is late for our dealing with this problem. If we have a major energy shortage in the next few years and the Congress does not address the need to bring about these critical energy development projects in a timely fashion, we can properly be blamed by those who stand in the gasoline lines, by those who are standing in employment lines because their factories do not have power, by those who are in the schools and other institutions that need power to operate in our society with its usual social conscience oriented activities, and by those whose homes are cold, because we do not have the energy this country needs.

Mr. Chairman, I urge my colleagues to do something to create a real fast track piece of legislation.

Mr. CLAUSEN. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Chairman, I strongly support adoption of H.R. 5660, the Udall/Clausen/Wirth substitute "fast track" legislation, which I have cosponsored. I believe that this bill offers the most reasonable and just approach to expediting priority energy projects while preserving the integrity of State and local governments for enforcing their own laws and stimulating increased cooperation among all levels of government.

I think most of us agree that establishing a sound fast track procedure to expedite crucial energy projects is an integral part of our responsibility for meeting our domestic energy demands.

Among other things, the Udall/Clausen/Wirth proposal limits to 20 the number of new projects per year to be considered by a five-member Energy Mobilization Board. The bill provides the EMB with authority to set timetables for decisions and to streamline procedures. But the Board may only temporarily suspend Federal, State, or local laws promulgated after project construction, if such suspension poses no threat to public health and safety. In addition, the act provides mechanisms for accelerated judicial review.

Mr. Chairman, I think the Udall/Clausen/Wirth substitute empowers the Energy Mobilization Board with the flexibility necessary to coordinate, streamline, and expedite priority energy projects without jeopardizing the rights and jurisdiction of State and local governments, or preempting substantive Federal, State, or local laws. As you know, it is strongly supported by State and local governments and the environmental community. The substitute also contains a unique sunset provision; that is, the Energy Mobilization Board under Udall/Clausen/Wirth expires after 7 years. Prior to expiration, the EMB is directed to submit a comprehensive report to Congress identifying those Federal, State, or local requirements which it deems to be the cause of unnecessary delays in energy projects, accompanied by its recommendations for improving such requirements. In short, the substitute offers a process for expediting key energy projects in a timely manner, forcing agencies to streamline their decisions without altering the fundamental laws upon which these decisions are made.

Mr. Chairman, I urge that my colleagues support and vote for the Udall/Clausen/Wirth substitute fast track legislation.

Mr. DINGELL. Mr. Chairman, I yield 3 minutes to the distinguished chairman of the Committee on Interstate and Foreign Commerce, the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Chairman, let me say to my colleagues, to the gentleman from Michigan (Mr. DINGELL), and my good friend, the gentleman from Arizona (Mr. UDALL), that I believe this, without any question, is the most important issue that we have had come before this Congress this year, and we are sort of wobbling around, trying to work our way out of our energy problems and get something done to protect the future security of our Nation.

To me, the Commerce Committee bill on which the gentleman from Michigan labored so hard, will give us a goal, a light somewhere at the end of the tunnel that we can work toward and it shortens that tunnel very considerably. It gives us the chance to do something and get something done. If we do not do something, America is going to come to an impasse within the next few years, and the people are not going to tolerate the failure of the Congress to act.

I would say that if we do not do something to resolve our energy problems, something drastic is going to happen among the American people. The time has come for us to take some action, and the action is to adopt the Commerce Committee bill.

This must not be approached on a regional basis or a State basis; this is for America.

Let us remember the first words of our forefathers when they founded this Nation. They felt the most important word that we had in the English dictionary was "union," and the next most important was "justice" for all people. Now, "union" means that we have got to work together.

We cannot have any regionalism or statism or anything else in this energy matter. We have had enough of that.

As I understand it, under the Udall bill as proposed, approval of an urgently needed energy project can take up to 7 years, with all the delays the bill permits. I believe in the courts using them to assure justice, but I say the time has come for action. If America is going to meet its responsibilities, we are going to have to act now, not 5 years or 10 years from now.

If we do not do something and we face an emergency without energy, we could be in very serious trouble. If we are caught in war without adequate energy resources, then God help America. Let us try to solve our problems now and help ourselves just a little bit.

I am the author of the environmental protection bill, and I am proud of it. But I say there comes a time when specialized concerns cannot stand in the way of progress in this land, and cannot stand against our national security. Under the Commerce Committee bill we can work out a system that would be compatible with environmental protection and produce energy for the Nation. The time to do that has come and it is now, not in the next few weeks and not next year. The responsibility lies with each one of the Members of this Congress to act now.

☐ 1730

So I say, just as an example take the Sohio project. After 3 or 4 years they could not get approval. Everybody admitted the project would improve the environment of the Los Angeles air basin and, yet, after millions of dollars being spent, they just gave up. These same delays face us if we take the Udall bill. I say that under the Commerce Committee bill this would not be allowed to happen.

If you think our energy problem is serious and it is urgent that we act, you are going to vote for the Commerce Committee bill. If you do not think it is urgent vote for the Udall bill and you can go back home and tell your people that we are going to take the same easy, lazy way that we have taken for years and years and years, and we will not act to provide them the energy they need.

We need to develop our coal. Ninety-eight percent of our energy in this Nation is in coal. We must do something to develop quickly this resource for our people, Mr. Chairman we need to do it now, and not in the future. I hope that the Congress will see, in its wisdom, to vote for the Commerce Committee bill, which will speed up the progress. If there are environmental problems we can work them out at any time. Adoption of the Commerce Committee bill, will make it possible for us to get the energy that we need desperately in this country now.

The American people and the people of the rest of the world are watching us today. They are wondering whether we will have the courage and the foresight to take the responsibility that is rightfully ours. They will be reassured if we adopt the proposal of the Commerce Committee.

Ours is a sound and responsible proposal, which comes to the House with the strong, bipartisan support of the committee.

There is no question that there are going to be conflicts between priorities as we move in the future to meet our energy problems. There is also no question that we must have a better tool for resolving those conflicts, a tool that will protect the best interests of the American people and will allow us to proceed with urgently needed energy projects. The committee proposal does just that. It would place the responsibility for setting national priorities here where it belongs, with the Congress, the elected representatives of the people of this Nation.

There is no question that we need this tool. Time after time we have seen urgently needed energy projects stalled or abandoned because of pointless bureaucratic and judicial delay.

This does not mean that energy projects should or will be allowed to ride roughshod over environmental and other concerns. Quite the contrary, it will mean that decisions on priorities will be made by the elected representatives of the people, the very representatives who shaped the laws which now protect our lands and waters.

We have had the courage and wisdom to enact those laws. Now, when the security of the Nation is at stake, we should trust ourselves to have the courage and the wisdom to weigh priorities and make the decisions that are best for the Nation. That is what we have been elected to do. Let us do it now by adopting the Commerce Committee bill.

Mr. UDALL. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I really want to protest, before we go home tonight, the kind of shabby treatment we have had at the hands of the administration on this bill and to correct a statement that was made here two or three times by my colleagues earlier.

You talk about 7 years under the Udall-Clausen-Wirth bill, and you talk about all of this delay. In order to appease the administration, we advised the gentleman last Friday, his good staff last Friday, that the gentleman from Florida (Mr. Fuqua), the chairman of the Committee on Science and Technology, would offer an amendment to the judicial review section, which would, one, take away any review on an order designating the project as a fast track; second, cut the time for filing with the Supreme Court of all decisions from 60 days to 30 days, and, third, in order to appease the administration we move the enforcement action from the district court to the court of appeals to cut out one level of appeal.

Knowing that, the administration continues to peddle this phony letter which says that some lawyer, some junior lawyer, down at the Justice Department, assumes that every judge is stupid, is an idiot, that every conceivable delay that might be asked for would be granted, and come up with this 7-year period. It is nonsense.

We shortcut the judicial process in these three additional ways. The gentleman from Florida will also have an amendment. I hope the Members will all support him and we will not hear these kinds of complaints any more.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Colorado.

Mr. WIRTH. I thank the gentleman for yielding.

Mr. Chairman, I just wanted to note that this pattern of shabby treatment, in the good words of the chairman of the Committee on Interior and Insular Affairs, has characterized my opinion of the administration throughout the development of this fast-track process and their ambivalence and inability to decide where will be coming down on the bill.

I will be putting in the Record tonight, when the committee goes back into the full House, a complete record of this and a letter that I today sent to the President of the United States, outlining the tremendous ambiguity they displayed, resulting in the kind of shabby treatment the gentleman described.

Mr. DINGELL. Mr. Chairman, I yield myself 1 minute to reply to my good friend, the gentleman from Arizona.

The gentleman is telling us that he has found defects in his proposal. He apparently proposes to cut off, first of all, one instance of judicial review, namely the review of the designations of projects and bring his bill closer to the Commerce bill. He is indicating to us that by that amendment 2 years would be saved. That still leaves 5 years and 5 months of judicial review which would take place, according to the administration. He apparently plans to reduce the time for filing appeals by consumers, environmentalists, project competitors, the sponsors, and others from 60 days to 30 days. I wonder if these groups will like that change. It will, however, reduce the administration estimate to 5 years, 4 months. He also plans to move enforcement from the district court, which is the normal trial court, to the court of appeals which has no experience in trying questions of fact.

I just wanted the gentleman to know that he is still wasting 5 years and 4 months instead of 7 years and 6 months.

Mr. UDALL. If the gentleman will yield, that is a distortion of what the Fuqua amendment will achieve.

Mr. DINGELL. I want to make it very clear to the gentleman that all I am doing is quoting what the administration has said about the Wirth-Udall bill. If the gentleman has a difference with the administration, he can take it up with the administration. The Wirth-Udall bill will still cause 5 years, 5 months of delay. It is a slow track.

I also want to point out that our staff has reviewed the record and we find no such Fuqua amendment. Although we observe such an amendment by the gentleman from Arizona, but maybe we missed it.

Mr. CLAUSEN. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. Rousselot).

Mr. ROUSSELOT. Mr. Chairman, I appreciate the fact that my colleague, the gentleman from Colorado (Mr. Wirth), is going to put in the Record tonight what he considers was the shabby treatment of the administration. I was going to ask my colleague, the gentleman from Arizona, who I thought had excellent rapport with the White House, what was the shabby treatment, but if my colleague, the gentleman from Colorado, is going to list them all, I think we will all read it with great interest. But that surprises me, after I was down at the White House last night and listened to the description by the White House of all of the fine things this bill was going to do.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, does the gentleman have the phone number of the "Draft Kennedy" headquarters in case some of us want to call it?

Mr. ROUSSELOT. No; I do not. I am, as the gentleman knows, thinking about other things in California.

Mr. UDALL. I think the President has been battling the staff on this whole issue; they have deliberately distorted the provisions of the bill and they have deliberately ignored the major amendment that has been in the Record for the last 4 days.

Mr. ROUSSELOT. Will the shabby-treatment list that my colleague, the gentleman from Colorado, is putting in the Record adequately cover what has happened on this?

I certainly want to yield to my colleague, the gentleman from Colorado, to see what the shabby-treatment list is.

Mr. WIRTH. I have sent to the President today a letter outlining the development of this legislation from the time that it was first considered in the Commerce Committee when the Subcommittee on Energy and Power became involved with the legislation, when the administration suddenly was lobbying for substantive override, after the President had said very clearly that they were opposed to this kind of substantive override or waiver, a pattern which has existed from July until today, and that pattern is outlined in the letter which I will put in the Record tonight.

Mr. ROUSSELOT. Mr. Chairman, I do not have the Kennedy phone number. Does the gentleman have it?

Mr. WIRTH. Do I have the Kennedy phone number? No; I do not.

Mr. ROUSSELOT. My colleague, the gentleman from Arizona, wants the Kennedy phone number. I am wondering if the gentleman from Colorado can give it to him.

Mr. WIRTH. Would the gentleman like to have my phone number?

Mr. BROWN of Ohio. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I have yielded myself this time not to provide the Kennedy phone number to anybody or to talk about the shabby treatment that the administration may or may not have given to the gentleman from Arizona (Mr. Udall) or the gentleman from Colorado (Mr. Wirth); but I would say that I have observed shabby treatment of the committee system in this process because I am under the impression that, after reporting out an Interior Committee bill on August 2, 1979, that really is not the subject of discussion by anybody here. The Commerce Committee legislation has been presented for consideration by this body, and so has the Interior Committee bill. But that seems to have been abandoned, like a baby on the doorstep, and the committee, or at least parts of it, has gone down the street looking for other business. The other business is the Udall-Wirth substitute. I would suggest that it has been very difficult for those of us who do try to draft legislation in committee to know precisely where the bouncing ball is going to wind up. I gather that we are now going to have some other kind of version of this bill that will be taken care of by an amendment to be offered by the gentleman from Florida (Mr. Fuqua). It seems to me that the administration is not the shabby problem. The problem is whether or not we are going to pay attention to committee procedure.

Mr. UDALL. If the gentleman will yield, did the gentleman follow the committee procedure in the case of the 1-pound Santini amendment? Is that a product of the committee?

The CHAIRMAN. The time of the

gentleman from Ohio (Mr. BROWN) has expired.

Mr. WIRTH. Mr. Chairman, I include a letter which I sent to the President of the United States along with several comparisons dealing with the aspects of the pending legislation.

DEAR MR. PRESIDENT: I enjoyed the wide-ranging discussion of the energy crisis we had at dinner last night, and appreciate the growing sense of urgency you have helped instill in the Congress and throughout the country.

As you noted in your remarks, I disagree with your comments about the Energy Mobilization Board and the Udall-Clausen-Wirth substitute. The controversy between the Administration and the sponsors of our approach to the EMB continues. Again I want to point out the basic flaws that continue to plague the Administration's position—the differences between your stated EMB principles and the actions of White House and Department of Energy.

You have stated repeatedly that you do not favor the waiver or override of existing substantive law. I believe that all of the nearly 90 co-sponsors of the Udall-Clausen-Wirth substitute would agree with that position. Problems in federal, state, county or local substantive law should be corrected by the appropriate legislative bodies. It is entirely inappropriate for an appointed board to act in lieu of the Congress, State Legislatures, County Commissioners, City Councils, or to initiate a "fast-tracked" legislative process which has the same effect. In fact, such action by an appointed administrative board goes far beyond the design of our Federalist system and is, in my opinion, unconstitutional.

Unfortunately, your stated policy has not been and is not being, carried out by the Administration's operatives on the Hill:

1. In July, without previous notice, White House and DOE lobbyists worked in subcommittee to defeat my amendments to the Commerce Committee legislation which would delete the substantive waiver or override powers.

2. A similar pattern was apparent during full committee consideration of the EMB legislation in September. At that time, Stuart Eisenstat stated that the Administration was taking this apparently contradictory position for "tactical" reasons. With the passage of a Senate bill, which you strongly supported, this justification has disappeared, but the Administration's tactics have not changed.

3. Following completion of the Commerce Committee bill, I began discussions with Congressman Udall to join the best of the Interior and Commerce Committee bills. On six different occasions I contacted the policy-making staff in the White House, offering to try and come to some accommodation. None of these offers was answered. Weeks later after the intervention of third parties we finally had discussions with Bert Carp.

4. After Congressman Udall and I introduced our substitute, a lawyer at DOE developed an analysis of the court review and enforcement sections of the bill. The result was an incorrect interpretation of the legislation, arguing that our bill would delay decisions by 2–7 years. Despite agreement by Administration officials that, in several respects this was an incorrect analysis, the paper was widely distributed and has never been corrected. Obviously that incorrect information weighed heavily on your decision to oppose our bill.

5. In briefings by the Administration, reference is still made to this incorrect analysis, but the time frame has now been expanded to 8 to 10 years! These were the figures you used last night. Administration officials directly responsible for this legislation refuse to admit publicly the inaccuracy of their analysis, and are giving you faulty information. They appear to be bent on scuttling the Udall-Clausen-Wirth substitute through incorrect information.

6. Congressman Dingell has now agreed to accept Rep. Santini's amendment, which reputedly solves all the problems of the waiver of state and local law; this is being widely touted by Administration lobbyists. They have not made clear, however, that the Santini amendment does not change the provision allowing the override of Federal law (and state and local law dependent on Federal law). Nor, despite clear commitments to do so, are they fighting against this waiver of Federal law in the Commerce Committee legislation. Instead, Administration efforts are being directed entirely against our bill.

7. In fact, it was clear from the meeting Mo Udall's and my staff had with Mr. Carp and Lynn Coleman of DOE last Friday, that there was no Administration interest in compromise or in understanding that our approach might well be more effective. Despite the agreement by Congressman Udall and myself to amend our substitute on the floor, deleting judicial review of project designation and tightening our enforcement section (i.e. enforcement actions to be brought directly in the court of appeals instead of district court), no reference has been made by any of your staff to these changes.

8. It is inconceivable to me how the Administration can justify supporting the Commerce Committee bill which contains substantive waiver authority, while opposing our bill which is (1) stronger procedurally, (2) contains no waiver authority, and (3) differs only in its inclusion of the expedited, flexible weapon of court enforcement of deadlines.

9. The National Governors Association, the National Association of Counties, the League of Cities, and the Conference of Mayors are all strongly in support of Udall-Clausen-Wirth substitute. Why? Because they find that, even with the waivers aside, the enforcement provisions in the Commerce Committee bill, as amended by Santini, is completely unacceptable. The provisions allow the EMB to become a super-decision making body whenever a local polity does not act. Under the so-called "bump-up" provision, the authority to make decisions is taken over by the EMB; thus this appointed group must become expert in such diverse areas as California coastal management, Colorado water law, or Long Island zoning. This is a spread of expertise that is simply impossible without creating a super-bureaucracy, and a concentration of decision-making never envisioned in our Federalist system.

10. In our substitute we allow the use of this unprecedented authority; but only in the rare circumstances when a court failed to act within 120 days or an agency violated a court order. Unlike what you have been told, there can be no lengthy court enforcement proceedings under our bill. What we avoid are unnecessary denials of permits by state and local agencies who refuse to either give up jurisdiction to the EMB or make a decision on what they believe is an unreasonable time schedule.

Mr. President, it is important to you, to the credibility of the Administration and to the future of our country's energy policy that you understand the divergence between the Administration's stated goals and its actions. This disparity has been so consistent that I can only assume that your own oft-stated position is not shared by many people working for you. The result is considerable misunderstanding that leads to outright hostility, does not serve the Administration well, and certainly does not help develop the framework of trust and cooperation that should characterize our national efforts toward a broad energy policy.

Again thank you for your efforts and I hope that after this unfortunate episode has passed (and the Udall-Clawson-Wirth substitute becomes law), we can again work together on the urgent energy issues facing the nation.

With best wishes,
Sincerely yours,
TIMOTHY E. WIRTH.

Mr. WIRTH. Mr. Speaker, a summary comparison of the Udall-Clausen-Wirth version of H.R. 4985, the Energy Mobilization Board "fast track" legislation, with the Commerce Committee version as amended by Santini-Lujan was printed in the October 25, 1979, CONGRESSIONAL RECORD (page E5271). That comparison was a balanced statement for the portions of the bills it addressed, but it failed to address several other important provisions. The following comparison of the two versions is submitted as a supplement to, not a replacement for, the October 25 comparison. The Udall-Clausen-Wirth substitute, now H.R. 5660, is a rational and practicable means to expedite decisionmaking on priority energy projects. It does not give unprecedented powers to the Energy Mobilization Board to waive Federal, State, and local laws. It does enable swift judicial enforcement of project decision deadlines while retaining the legislative function where it belongs—in Congress, and in the State legislatures.

SUMMARY COMPARISON OF CERTAIN PORTIONS OF THE UDALL-CLAUSEN-WIRTH BILL (H.R. 5660) ESTABLISHING AN ENERGY MOBILIZATION BOARD AND THE COMMERCE COMMITTEE BILL (H.R. 4985) AS AMENDED BY THE SANTINI-LUJAN AMENDMENT

UDALL-CLAUSEN-WIRTH BILL	COMMERCE COMMITTEE BILL AS AMENDED BY THE SANTINI-LUJAN AMENDMENT
Size and independence of Energy Mobilization Board	
Limits to 60 the number of personnel to be employed by the Energy Mobilization Board.	No comparable provision.
Specifies that members and personnel of the Board shall not be responsible and subject to supervision or direction of any officer, employee or agent of the Dept. of Energy.	No comparable provision.

UDALL-CLAUSEN-WIRTH BILL	COMMERCE COMMITTEE BILL AS AMENDED BY THE SANTINI-LUJAN AMENDMENTS
Application procedures and criteria for project design	
Board shall keep copy of application for priority status available for public inspection or copying.	No comparable provision.
Requires Board to consider fourteen criteria in determining whether or not to designate a Priority Energy Project. These criteria include: (a) Magnitude of adverse environmental impacts and alternatives with fewer adverse impacts. (b) Extent to which applicant has filed required information with Board and extent to which project financing, insurance and labor requirements will be available. (c) Assessment of project in terms of cost effectiveness and energy efficiency.	Requires Board to consider twelve criteria. Criteria essentially the same as those in Udall-Clausen-Wirth bill, with exception of three criteria noted at left, which are not found in Commerce Committee bill as amended.
Early action requirements for applicants	
Board shall encourage applicants to file application with permitting agencies as soon as possible in order to expedite agency action.	No comparable provision.
Assistance to State and local governments	
Federal agencies are authorized to detail personnel to State and local agencies covered by Project Decision Schedule upon request on a reimbursable basis; Board and Federal agencies may provide assistance to State and local agencies to comply with such schedule.	No comparable provision.
State and Indian tribe participation	
Board must notify Governor of each State and Indian tribes in States in which Priority Energy Project is to be located; Governor and tribe may appoint a nonvoting member to serve on Board and participate in decisions respecting such project.	Does not require notification or EMB participation for Indian tribes.
Relationship to National Environmental Policy Act (NEPA)	
NEPA does not apply to: (a) decisions by Board whether or not to designate a Priority Energy Project. (b) promulgation or revision by Board of Project Decision Schedule. (c) action by Board or any agency to streamline procedures under Section 211 of bill. Board can require that one environmental impact statement may be prepared and used by all Federal agencies to satisfy NEPA.	No comparable provision. Does include same provision as H.R. 5660 that following designation of a Priority Energy Project, the Council on Environmental Quality determines whether a major Federal action is involved, chooses a lead agency; and allows the EMB to step in if CEQ fails to act.
Promulgation of Project Decision Schedule (PDS)	
Agencies are given 45 days after designation of a Priority Energy Project appears in the Federal Register to submit specified information to the Board for use in preparing a Project Decision Schedule.	Agencies have only 30 days to submit information.
Board has 45 days to consider information submitted by agencies before promulgating a Project Decision Schedule.	Board has only 30 days to consider agency information.
Consultation between Board and agencies on PDS	
Board must "conduct discussions with affected agencies and the applicant seeking mutual agreement on a practical and expedited Project Decision Schedule." (Sec. 209(a)).	Board must only "consult" with appropriate agencies. (Sec. 182 (a)).
Modification of Project Decision Schedule	
Board may not grant extensions of time under Project Decision Schedule to an agency or an individual unless that agency or individual has exercised "all due diligence in attempting to comply with the Schedule and is unable to comply with such schedule." (Sec. 210).	Addresses extensions applicable to agencies only. (Sec. 182).
Expiration of authority	
Board's authority expires seven (7) years after date of enactment.	Board's authority expires on Sept. 30, 1985 (six years).
Six months prior to expiration of its authority, Board shall submit to President and Congress a report and recommendations for Congressional action, including: (a) provisions of Federal, State, and local laws and regulations which have contributed most to unnecessary delay and the Board's recommendation for changes in such laws and regulations, or for other action to expedite decisionmaking. (b) reduction of imported oil attributable to Board action. (c) savings of time and expense in government and private sector due to Board actions. (d) activities of Board, status of designated projects, effectiveness in expediting projects, and any significant delays in Priority Energy Projects. (e) recommendations as to whether or not Board should be reauthorized.	No comparable provision.
At the same time, there shall be a report from the Comptroller General to Congress evaluating the performance of the Board.	No comparable provision.

Weaknesses of the Commerce Committee Bill and the Santini Amendment

Sponsors of the Commerce Committee bill will accept a floor amendment to be offered by Rep. Santini which modifies the power to waive laws included in the original Commerce bill. As modified, the Commerce bill would still authorize the Board to waive federal laws. Instead of waiving state and local laws, the Board could seize jurisdiction over virtually any federal, state or local agency decision at almost any time and make the decision in place of the agency. State and local governments are adamantly opposed to this provision, as they are to waivers of law.

1. Even with the Santini amendment, the Commerce Committee bill provides the Energy Mobilization Board with little independent authority to speed agency decisions.

The Board would have no authority to streamline agency procedures on its own. To consolidate two federal agency hearings, for example, the Board would have to waive the federal requirement involved, receive Presidential approval and obtain concurrence by both Houses of Congress.

To enforce decision deadlines on state and local agencies, the Board would be forced to assume responsibility for the decision itself, learn the applicable state or local law, review the record already compiled in the case, make the decision, and then submit it to the President for approval—an incredibly cumbersome and time-consuming enforcement process.

2. Even with the Santini amendment, the Commerce Committee bill authorizes broad waivers of state and local law.

By continuing to authorize the Board to override federal laws subject to two-House concurrence, the modified Commerce Committee bill allows any state plan or law flowing from a federal requirement to be overridden as well. State policies adopted under the Coastal Zone Management Act and the Solid Waste Disposal Act are two examples.

Even with the Santini amendment, the Board continues to have the power to postpone or override any federal, state or local requirement issued after a Project Decision Schedule is imposed (i.e. before agencies review the specific project!). State and local governments could be rendered powerless to deal with the potential impact of rapid new energy resource development. The Board, on its own, can postpone a new requirement even if public health and safety is threatened and this decision cannot be overturned in court.

3. The power to waive laws and broad authority to take decisions away from state and local agencies expose the entire process to court challenges which would tie up energy projects for years.

The broad waiver authority, initiated by a five-member appointed board, is unprecedented and rests on shaky constitutional ground; any project granted a waiver of law would be the target of interminable constitutional court challenges.

The authority for a federal agency to make decisions in place of responsible state and local agencies is also unprecedented and should only be used in the rarest and most serious of cases. Board decisions would be subject to challenge on constitutional grounds and on their substance: the Board would not have the expertise required to make quick and proper decisions on the intricacies of Western water law, Massachusetts health law, Long Island zoning law, and the host of other statutes it would be in the position of administering. On the other hand, "quick and dirty" Board decisions in these cases would not stand up in court.

4. Waiver power and broad authority to seize jurisdiction over decisions will encourage agencies to deny permits for energy projects.

Many state and local agencies have already said that if they are faced with making a decision on an unreasonable time schedule or having the EMB take the decision away from them (or waive laws), they will simply deny the permit. This is why court enforcement makes far more sense.

Mr. UDALL. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Wright) having assumed the chair, Mr. Foley, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4935) to establish a coordinated, prompt, and simplified process for decisionmaking in regard to significant nonnuclear energy facilities, and for other purposes had come to no resolution thereon.

PERMISSION TO REVISE AND EXTEND

Mr. WIRTH. Mr. Chairman, I ask unanimous consent that I may be permitted to revise and extend my remarks and to include extraneous matter in the Record relating to the debate today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, I did not hear the gentleman's request.

The SPEAKER pro tempore. The gentleman asked unanimous consent to revise and extend his remarks and to insert into the Record extraneous material related thereto.

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, I did not want to discommode the gentleman. The only reason I asked is in view of the fact of his intention to print a compendium of the shabby treatment of the administration. I did not know how much this was going to cost the taxpayers in terms of Record pages and printing costs.

Mr. WIRTH. If the gentleman will yield, for the gentleman's edification, it is a letter of 1½ pages single-spaced, 2¾ pages double-spaced.

Mr. BAUMAN. That is a lot of shabby treatment, but I will not object.

Mr. WIRTH. It is very concise, I will assure the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

Mr. BROWN of Ohio. Reserving the right to object, Mr. Speaker, is the gentleman saying "shabby" or "shaggy"?

Mr. WIRTH. If the gentleman will yield, I was looking forward to more of the shabby discussion tomorrow morning.

Mr. BROWN of Ohio. I thought the whole thing was a shaggy dog story, and I was getting confused.

Mr. WIRTH. Mr. Speaker, I thank the gentleman for his shaggy comments.

Mr. BROWN of Ohio. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

☐ 1740

ENERGY CRISIS ASSISTANCE PROGRAM SHOULD BE IMPLEMENTED QUICKLY

(Mr. HANLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HANLEY. Mr. Speaker, last week, the House of Representatives passed and sent to the Senate a bill which includes $150 million for the energy crisis assistance program administered by the Community Services Administration. That amount, together with $250 million appropriated earlier, will provide a total of $400 million for fiscal year 1980.

All Americans are feeling the effects of the decontrol of domestic oil prices and the price increases instituted by the OPEC countries. The poor are particularly hard hit. Although their energy consumption is lower than average, their expenditures for fuel and utilities represent a considerably larger than average share of their income. Furthermore, low-income families have little flexibility to adjust their budgets for higher fuel prices, and remain able to pay for food, shelter, clothing, and other necessities.

In the winter of 1978–79, heating oil was costing in upstate New York 48 cents a gallon. Right now, in upstate New York it is costing 87 cents a gallon. I know personally from having talked with literally hundreds of my constituents, many of whom are elderly or are on, fixed incomes, that they are not able to absorb this additional cost.

Since the end of last winter, consumers have witnessed dramatic increases in the price of all petroleum-based products. The impact, however, of rising home heating oil prices has a special and potentially devastating meaning for the 16 million American households who fall below 125 percent of the Federal poverty level. A 13 percent inflation rate combined with a doubling of last year's heating oil costs have seriously eroded their incomes, and thus their ability to meet their most basic needs.

With the onset of winter approaching rapidly, these Americans and many middle income wage earners will face some new and harsh realities. In addition to cost, oil users may be required to pay cash on delivery. In the past, fuel oil delivery companies have allowed customers to pay their bills 30 days after delivery. This changed circumstance, coupled with minimum purchase requirements, will only worsen an already serious situation.

New York State will be particularly hard hit by high home heating oil costs and cold temperatures. The New York State Department of Energy reports that our State's petroleum consumption is significantly greater than that of the Nation. The State's reliance on petroleum products accounts for approximately 66 percent of its total energy consumption. More than half the counties in New York State depend on oil for home heating. More importantly, all households in New York pay about one-third more than the national average for energy.

The $400 million earmarked by the House for the Community Services Administration program will be given out to States in block grants through this agency. This money can be used in a variety of ways to help low-income individuals who are having problems dealing with the cold, harsh winter. This money can be made available through vendor payments for heating charges, or even for supplying blankets and heaters to families in need.

This is not the only aid the House has approved. It also has appropriated $404 million to be distributed by the Department of Health, Education, and Welfare to all social security recipients in the country. Of course, individuals in the colder States will receive more than those in the warmer ones, but all SSI recipients will receive some payment, since it is believed that increased energy costs land particularly hard on the needy elderly.

The legislation which the House has passed now must go to a conference committee so that differences with the Senate bill can be ironed out. Because of the seriousness of this matter, I urge there be no long delays, and I am hopeful that the measure will be on the President's desk for his signature within the next 2 weeks.

STATEHOOD FOR PUERTO RICO

(Mr. CORRADA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CORRADA. Mr. Speaker, I am very pleased with the results of a Gallup poll which indicates that 59 percent of the American public will favor admitting the island as the 51st State of the Union if a majority of the people of Puerto Rico vote in favor of statehood, while only 25 percent would oppose it and 16 percent had no opinion. These results are much better than I would have expected, particularly since we have not yet started a full fledged campaign in favor of statehood for Puerto Rico. I am sure that when the majority of our people vote for statehood, as we expect in a 1981 plebiscite, and as we take our case in support of statehood to Congress and the American people, there will be overwhelming support for it.

Recently Congress approved a concurrent resolution committing itself to the principle of self-determination for the people of Puerto Rico and the right of the people of Puerto Rico to decide their own political future. Similar commitments have been made by the last six American Presidents beginning with President Eisenhower in 1953 and most recently by President Carter.

The natural and spontaneous support of 59 percent of the American people for statehood if the majority of the people of Puerto Rico support it and the moral commitment of the President of the United States and Congress to the principle of self-determination and majority rule, leave no doubt in my mind that the people of Puerto Rico should feel absolutely confident that a petition for statehood supported by the majority will receive favorable consideration in Congress.

It is really up to us, the people of Puerto Rico, to move toward full political dignity and equality as citizens of the United States while we retain our Hispanic heritage and the traditions and values of our Puerto Rican culture so endeared to all of us. I enclose copy of the release of this poll by George Gallup:

POLL REFUTES CASTRO'S CHARGE OF "COLONIALISM"

PRINCETON, N.J.—Gallup Poll findings provide a rebuttal of Fidel Castro's charge, made at the United Nations, that the United States is trying to perpetuate the "colonial status" of Puerto Rico.

U.S. citizens, in the survey, vote by a four-to-one ratio, to grant Puerto Rico its independence if a majority of Puerto Ricans vote for it. The American people would also favor giving Puerto Ricans statehood if they want it.

In his speech, the Cuban Premier claimed the U.S. government regards Puerto Rican independence as an "internal" problem for the U.S. to solve. The poll findings suggest that independence is, in fact, an internal problem for Puerto Rico, and independence has never had much support from the Puerto Rican people.

In a survey completed before Castro, in his role as Chairman of the Non-Aligned Countries, delivered his U.N. address the following questions were put to a representative sample of the U.S. public.

"If a majority of the people of Puerto Rico vote in favor of becoming the 51st U.S. state, would you favor or oppose having Puerto Rico admitted as a state in the Union?"

"If a majority of the people of Puerto Rico vote in favor of becoming a separate and independent nation, should the United States grant Puerto Rico its independence or not?"

Statehood for Puerto Rico, if the islanders want it, has the backing of 59 percent of Americans, with 25 percent opposed.

Independence is favored by an even larger majority of the U.S. public, 67 percent, with 17 percent opposed.

COMPARISON WITH 1962 SURVEY

The same survey questions were first asked in 1962 on the occasion of the 10th anniversary of Puerto Rico's commonwealth relationship with the U.S.

While majorities of Americans at that time approved of either statehood or independence for Puerto Rico, depending on the will of its people, statehood was the more popular of the two governmental forms, with 65 percent of U.S. citizens saying they would favor the admission of Puerto Rico as the 51st state of the union if the Puerto Rican people asked, with their votes, for statehood. Today, 59 percent of Americans support statehood.

On the other hand, independence was backed by 55 percent of the U.S. public in 1962, compared to 67 percent today.

The following table summarizes the survey results from both the 1962 and 1979 studies:

[In percent]

	1979	1962
Statehood for Puerto Rico?		
Favor	59	65
Oppose	25	18
No opinion	16	17
Should U.S. Grant Independence?		
Should	67	55
Should not	17	21
No opinion	16	24

PUERTO RICAN VIEWS

Under their current commonwealth political status, Puerto Rican citizens enjoy about the same degree of control over their internal affairs as do residents of the 50 states of the U.S. Puerto Ricans vote in their own primaries although they cannot participate in U.S. national elections. Most federal taxes, including federal income tax on locally-earned revenues, are not levied in Puerto Rico.

A recent expression of popular sentiment can be found in Puerto Rico's 1976 election results. The political party endorsing continuation of the commonwealth affiliation with the U.S. earned 45.3 percent of the popular vote; the party advocating statehood received a plurality of the vote, 48.3 percent, and the two parties espousing independence got 6.4 percent.

STATEHOOD, INDEPENDENCE GET WIDE U.S. BACKING

The current U.S. survey results indicate that if a change to either statehood or independent status is mandated by the Puerto Rican people, it would have widespread support among Americans in all major demographic groups.

Following are the national results and the findings by key demographic segments of the U.S. population.

[In percent]

	Favor	Oppose	No opinion
National	59	25	16
Men	62	27	11
Women	57	22	21
College	68	24	8
High school	59	25	16
Grade school	42	25	33
Under 30 years old	65	24	11
30–49 years old	65	23	12
50 years and older	49	27	24
Profession & business	66	24	10
Clerical & sales	55	29	16
Manual workers	62	23	15
Non-labor force	50	24	26
Republicans	61	24	15
Democrats	58	25	17
Independents	61	25	14
East	63	25	12
Midwest	58	26	16
South	54	26	20
West	63	19	18

Should U.S. Grant Independence?

[In percent]

	Should	Should not	No opinion
National	67	17	16
Men	69	19	12
Women	65	16	19
College	77	17	6
High school	67	18	15
Grade school	49	17	34
Under 30 years old	74	15	11
30–49 years old	71	17	12
50 years and older	58	19	23
Professional & business	74	16	10
Clerical & sales	71	15	14
Manual workers	68	17	15
Non-labor force	57	20	23
Republicans	66	20	14
Democrats	64	20	16
Independents	74	12	14
East	67	20	13
Midwest	67	17	16
South	66	16	18
West	69	16	15

The U.S. results reported today are based on personal interviews with 1,520 adults, 18 and older, interviewed in more than 300 scientifically-selected locations across the nation during the period September 28–October 1.

ST. NICHOLAS RUSSIAN ORTHODOX CHURCH DEDICATION

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, a week ago Sunday, October 21, I had the deep honor and privilege to join with the members of St. Nicholas Russian Orthodox Church, on Bridle Path Road in Bethlehem, Pa., as they dedicated and consecrated their beautiful new church.

The new St. Nicholas Church is a magnificent structure, certainly one of the most inspiring and lovely places of worship in the Lehigh Valley, with its five golden cupolas shining in the Sun to grace the rolling hills.

Being there witnessing the service and listening to the choir was, for me, a deeply moving experience, one that I will forever remember.

Coincidentally, this very special day for the parishioners of St. Nicholas Church happened to be my own birthday as well. Having lived in the Soviet Union as an exchange scientist for a year, having studied the Russian language, history, and culture, and having as I do, a deep interest in preserving the various ethnic cultures of my congressional district, it is easy to imagine why that sunny autumn day was so special to me.

In the broader sense, Mr. Speaker, the dedication of St. Nicholas Church in Bethlehem had a meaning even beyond the Lehigh Valley, extending to deeply held ideals of faith that go far back in time, far away in distance, and far ahead into the future. For, as I noted in my remarks on Sunday, there is today one unshakable force that no amount of persecution by the Communist Government in the Soviet Union can diminish—and that unshakable force is embodied in the church, which now as much as ever before, still stands between the people who live in 1979 and a society without justice.

Today, Mr. Speaker, the Communist rulers in the Soviet Union, Eastern Europe, and elsewhere are continuing their calculated campaign, begun many years ago, to effectively wipe the church off the face of the Earth in those areas under their control. But as we in the Lehigh Valley know, not only have they failed to conquer the church in the past, they will always fail to do so in the future.

With respect to giving support to Christian brothers and sisters who worship under the shadow of Communist rule, all Americans would do well to reflect upon the help and inspiration that churches such as St. Nicholas Russian Orthodox Church provide. As long as congregations such as St. Nicholas continue to grow and thrive and speak proudly of their faith—through such acts as the construction and consecration of such inspiring places of worship as the Bridle Path Road Church—governments and peoples around the world, be they friendly or unfriendly, will know that the continuity of faith will never be broken, and that the strength of human devotion to God will forever remain undiminished.

From 1916 to 1979, the congregation of St. Nicholas worshipped in a church located at 1521 East Sixth Street in Bethlehem. Now, in moving to the golden-spired new structure dedicated Sunday, the members of the church are in a symbolic way looking with great confidence to the future. In the words of Rev. Dimitri J. Voytilla, pastor of St. Nicholas:

> As we have inherited from our parents and forefathers, so shall we bequeath to our children a living example of devotion, courage and sacrifice.

I again extend my deepest congratulations and warmest wishes to the Reverend Voytilla and to each and every member of the congregation. And finally, let me again express my deepest thanks for the warmth of the welcome I received, and my gratitude for being allowed to participate in such a moving and inspiring milestone in the history of the Orthodox Christian faith in the Lehigh Valley.

CIVIL AERONAUTICS BOARD MAKING HARMFUL DETERMINATIONS FOR LOCAL COMMUNITIES

(Mr. DAVIS of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DAVIS of Michigan. Mr. Speaker, yesterday, an article appeared in the Washington Post dealing with safety in the commuter airlines field. In comparing the safety of commuters with that of commercial airlines, the article stated that the accident rate for commuters is three times greater. In addition to this, an even more alarming statistic is that the number of fatal accidents involving commuters has doubled this year over last.

This information points up one of the very real concerns with the ongoing airline deregulation process. The Civil Aeronautics Board is presently making determinations as to what kind of airline service small and medium-size communities will be left with in the future. One of the factors which the Board appears to be counting on is the ability of commuter airline companies to fill the void left in service by the pullout of the commercial companies.

Last month, I submitted a statement to the Public Works Aviation Subcommittee criticizing the CAB for its unilateral actions in determining air service. The Board is moving forward following its own idea of what constitutes "essential service," regardless of the opinion of people at the local level.

And with statistics such as those that appeared in the Post, is it any wonder that people at the local level are concerned over the prospect of being left with commuter service?

Another point of concern is whether commuter airlines would even be able to survive. The Post article noted that commuters are experiencing a crackdown in safety regulations. While I applaud any moves which will make this situation safer, tougher regulations are causing a number of commuters to drop from the market because of the high cost of compliance. Therefore, we are faced with the possibility of some areas being left with no air service at all.

This is, of course, a secondary concern to that of safety. In the words of the article, flying is "the most unforgiving form of transportation." I urge my colleagues to look closely at this situation as it is one which could easily return to haunt us.

In the Air: Commuter Surge Prompts Safety Crackdown

(By Douglas B. Feaver)

The commuter airline pilot realized he had big trouble immediately after takeoff. He could not lower the nose and was in immediate danger of crashing. So he turned around and hollered to some young passengers, "Want to see the takeoff? Run up here!" They did.

With the passengers' weight shifted to the front of the plane, the nose went down and the Puerto Rico International Airline (Prinair) pilot was able to land. The problem was that too much baggage had been loaded in the rear of the plane.

The incident happened in August 1977, according to testimony last week at a National Transportation Safety Board hearing in San Juan. It is one of many incidents involving improperly loaded planes and other problems that underline basic questions about commuter airline safety and the Federal Aviation Administration's willingness and ability to police the burgeoning commuter industry.

In this age of airline deregulation, many persons who fly for work or play are likely to find themselves aboard a commuter airliner. Big-name airlines such as United and American, and smaller ones like Ozark and Piedmont, are pulling out of small- and medium-sized cities, leaving commuter lines to fill the gaps.

Many of the commuter airlines are well run and have excellent safety records. Nonetheless, the standard of safety expected of commuters was not as high before deregulation as that expected of major airlines. Congress ordered the Federal Aviation Administration to beef up commuter safety, and new regulations are taking effect this year as commuter traffic increases.

Using statistics that the commuter airline industry thinks are most fair—accidents per 100,000 takeoffs—the accident rate for commuter airlines is three times that of their bigger brothers. Using other perfectly valid numbers it is easy to show that commuter accidents occur seven times as often.

Not all incidents aboard commuter flights have happy endings. For example:

On July 24, a Prinair flight took off from St. Croix, Virgin Islands, suddenly pitched upward, then fell to the runway. It was found to be more than 1,000 pounds overweight, and the center of gravity—the airborne fulcrum on which the airplane must balance—was 11 inches aft of tolerance because of improperly stowed baggage. Eight persons died.

On March 1, a Universal Airways flight took off from Gulfport-Biloxi Regional Airport in Gulfport, Miss., climbed to about 100 feet, turned sharply right and crashed, killing all eight persons on board. The safety board said the pilot failed to react properly to an emergency that started when the nose baggage door flew open and was hit by a propeller.

On March 10, a Swift Aire Lines flight ditched in Santa Monica Bay shortly after leaving Los Angeles International Airport. Three persons were killed. The safety board said the crew accidentally shut down the good engine after the other engine malfunctioned.

In the first seven months of this year, 48 persons have been killed in 10 accidents involving commuter aircraft. In 1978, five accidents in the same period killed 22 persons.

Domestic Airline Passenger Growth
[Millions of Passengers]

Year	Trunk airlines	Commuter airlines
1970	152. 5	4. 3
1971	155. 2	4. 7
1972	171. 8	5. 3
1973	182. 5	5. 7
1974	188. 9	6. 8
1975	187. 7	6. 7
1976	205. 2	7. 3
1977	221. 3	8. 5
1978	252. 7	10. 1
1979*	275	12. 0

* Projected.

SOURCES: Civil Aeronautics Board. Air Transport Association of America. Commuter Airline Association of America.

The safety board's investigations have found instances of improper maintenance, poor pilot training and lax supervision in the most unforgiving form of transportation.

Safety board chairman James B. King said in an interview that "the problem is the commuter accidents we are seeing now are no different from the ones we saw seven or eight years ago. They involve weight and balance questions, maintenance and training.

"We want to create a climate in which safety becomes a very important part of the operation."

King's job is to prod and complain—the safety board has no regulatory powers. The responsibility for commuter airline safety rests with the FAA.

What has the FAA been doing? It is in the process of imposing tougher regulations on commuter airlines.

The new rules are supposed to insure "to the maximum feasible extent" the level of safety provided by the big airlines. They emphasize the upgrading of training and maintenance, establish minimum management criteria for commuter airline operators and impose more paperwork. Most commuter airlines will be under those new regulations by the end of this year.

"I am confident," FAA Administrator Langhorne M. Bond said in a recent letter to interested parties, "that commuter safety will improve substantially" because of the regulations and stepped-up surveillance.

There are more than 200 commuter airlines flying regular schedules in the United States. They bear such names as Astro Airways Corp., Cochise Airlines and Trans Mountain Air Ltd.

These airlines fly about 1,200 aircraft and have been carrying increasing numbers of people during the last decade. They project a 19 percent rate of growth this year, from 10.1 million passengers in 1978 to more than 12 million.

That growth is encouraged by deregulation, which permits both commuter and major airlines to add or subtract cities from their routes with a minimum of governmental hassle.

The financial pressures on small operators to cut corners to survive stronger competition are regarded as real and disturbing.

On May 30, while the aviation community's attention was riveted on the Chicago DC10 crash that killed 273 persons five days earlier, a Downeast Airlines flight crashed just short of the airport in Rockland, Maine, killing 17. The pilot was making an instrument approach in foggy weather.

Downeast Airlines President Robert L. Stenger was asked at a safety board hearing:

"When an aircraft . . . has to fly to an alternate airport on account of weather, is that an extra expense to the company?"

"Definitely . . . ," he replied.

Several questions later, Stenger was asked if it was Downeast's philosophy that the pilot had the final authority to cancel a flight because of weather.

Stenger replied: "That is the philosophy, yes. But if he—that's his prerogative. If he wants to cancel the flight due to his discretion, then as far as I'm concerned it better be a legitimate reason, not just because he wants to do it. And [if] everyone else is willing to fly, and other companies are still flying, and he decides not to, then I don't feel that he's using his best judgment to his fullest capacity either."

The new FAA regulations, according to a number of commuter operators contacted, probably will improve commuter airline safety.

"I would say it is a significant increase [in safety] with the requirement for formality in the [training and maintenance] systems," said Ted Bell, director of operations for Commuter Airlines, which flies between Washington National and Binghamton, N.Y., among other places.

Richard X. Knipe, president of Mall Airways, which connects Albany to New York City area airports, said, "I think we're probably more safe. We have more people. I had to hire a director of maintenance and an operations manager," jobs he did himself before the regulations. "I'm paying them more money than I am myself," he added.

The other central question is whether the FAA is doing a decent job of enforcing its new regulations. The answer to that will not be known for a while, but all the commuter operators contacted said they had seen more FAA people in recent months than they ever wanted to.

The FAA is seeking to add 190 inspectors next year just to help with the extra load imposed by the commuter airlines.

Rep. John J. Burton (D-Calif.), chairman of the House Government Operations transportation subcommittee and a critic of the FAA's Bond, asked him at a recent hearing why more people were needed now when none were needed a year earlier.

"I changed my mind," Bond said.

□ 1240

YES, VIRGINIA, THERE IS LINKAGE

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Speaker, the other body is about to begin its deliberation on the SALT II treaty. There has already been substantial debate on this major issue and some definite patterns are emerging. The foremost pattern is that a double standard has been established concerning SALT. The administration has contended for months that the SALT II agreement should be considered on its own merits and that Soviet intentions in the world should be ignored for the sake of the broader issue of world peace. Now we find out that this antilinkage position is only supposed to apply to the critics of SALT. As for Mr. Carter and company they are linking ratification of SALT to everything including Mr. Carter's political survival, the existence of NATO, defense spending, intelligence considerations, and other quid pro quos.

This is very preposterous. Since when does one set of linkages have relevance while another set does not? I am a little suspicious of this ground rule when it is the appeasers in Foggy Bottom who are calling the plays. The issue of SALT is clearly not on the rhetorical ground staked out by the administration. It is on whether the Soviets can be trusted to carry out the terms of any agreement with the United States and whether it is in America's interest to limit its strategic arsenal if the Soviets are found to be trustworthy.

This is a tall order. We have already seen how the Kremlin has been able to circumvent SALT I. The violations regarding missile replacement and the Kremlin's ignoring U.S. protests are already legend. A recent article in the Washingtonian magazine even raises the prospect that we have not verified if all the missiles were removed from Cuba in 1962. With a track record like this only a fool or a dupe would sign his country's life away to such a pack of thieves and scoundrels. However, this is exactly what happened in June when Jimmy signed on the dotted line in Vienna. Now only the Senate has the ability to stop the White House from consigning America into the footnotes of history.

The U.S. Senate would do well to look at the world situation as it stands today. The troop situation in Cuba is but a small part of a broader move by the Kremlin to choke the economic life out of America. Iran is moving closer to the Soviet sphere providing the Kremlin with a major base of operations in the richest oil region of the world. There have already been signs that the oil blackmail weapon may be used by Iran to force the United States to extradite the shah. If this happens what would come next? The U.S.S.R. lost its hold on Suez in the 1967 war, but now it has combat troops stationed in Ethiopia and South Yemen poised to close off the Red Sea at will when the signal is given. Panama and Cuba now hold the Caribbean in check, and Castro is on the move to further consolidate his hold on the region in order to repay the many favors the Kremlin has done for him.

The prospect of the Soviets actually utilizing these regional positions is quite real. I know the Kremlin is not stupid enough to exploit all of their advantages at one time, as that would signal their intentions and shock the free world into mobilizing to meet the threat. Instead there will be an ongoing pressure to push America and its allies back. Some of these moves will masquerade as peace moves or nationalism, as it has so often before. Other times it will be straightforward demands for concessions through oil blackmail or threats to trade routes. Whatever the demands or the timing you can be sure it will come next year or in the next 5 or 10 years. We are dealing with an aggressive and persistant force that will only respond to a counterforce. Whether this is diplomatic or military is not as important as the act of having the United States draw the line and mean it when we say "go no further."

A message must be sent to the Soviets that America is still capable of standing up for freedom. A strong America is the only Nation able to meet the Soviets head on and still check their advances. SALT II is a sham on the scale of a nuclear Munich agreement. Only by its death in the Senate will the world be saved from the living hell of having the globe dominated by communism sometime in the next 20 years.

THOMAS ALVA EDISON

The SPEAKER pro tempore (Mr. SANTINI). Under a previous order of the House, the gentleman from Michigan (Mr. DINGELL) is recognized for 60 minutes.

Mr. DINGELL. Mr. Speaker, I am pleased to request time in our schedule today to honor Thomas Alva Edison on this Centennial of Light. A century ago, the world witnessed the genius and vision of this great American who turned darkness into light and night into day with the invention of the incandescent light bulb. Edison's invention not only laid the foundation for the utilization of electric power but provided the underpinnings for innumerable scientific advancements of the modern industrial age.

In cities and towns across the country a yearlong commemoration of Edison's invention and legacy has been coordinated by the International Committee for the Centennial of Light. At Greenfield Village in Dearborn, Mich., which is in my 16th Congressional District, ceremonies began October 21 with the reenactment of the invention of the electric light bulb at the Menlo Park Compound. Greenfield Village has long served as a looking glass into this Nation's early industrial beginnings, of which Edison's Menlo Park Laboratory is a significant part. Greenfield Village, which is renowned for its preservation of Edison's inventions largely through the efforts of Edison's cherished friend, Henry Ford, has enabled generations to recall with pride the accomplishments of American ingenuity.

Although Edison is commonly heralded for his most notable achievement, the light bulb, it is astounding to examine the scope of his creativity, which is manifested in his 1,093 U.S. patents. The list is incomparable and I mention only a few:

1868: Invented electric vote recorder.

1869: Invented electric stock ticker.

1872: Invented Motograph and duplex, quadruplex, sextuplex and multiplex telegraph systems.

1874: Invented "electric pen" and manual duplicating press.

1875: Discovered "etheric force." Twelve years later this was recognized as the foundation of wireless telegraphy or radio.

Invented automatic copying machine (mimeograph).

1877: Invented telephone transmitter and microphone.

Invented the phonograph.

1878: Invented the microtasimeter, a device indicating minute heat variations by electrical means:

1879: Invented the incandescent electric light.

1880: Invented magnetic ore separator.

Invented and installed first electric railway for freight and passenger use.

1885: Invented system of wireless telegraphy for use between moving trains and railway stations as well as ship-to-shore.

1891: Invented the motion picture camera.

1896: Invented the fluoroscope, using principles of x-ray for medicine and surgery.

1899: Invented the fluorescent light.

1902: Invented the alkaline storage battery.

1903: Invented the rotary kilns for cement production.

1912: Introduced the Kinetophone (talking motion picture).

1914: Invented a method for producing synthetic carbolic acid.

Invented the Telescribe, combining the telephone and the dictating phonograph.

Patented electric safety lanterns for use by miners.

We the benefactors of these valued contributions take inspiration from the brilliance and determination of Edison's life. In his lifetime, he changed the course of our Nation's destiny and shaped a quality of life unparalleled in the world.

Like Edison, who rekindled the light of the future, this historical observance rekindles our faith and confidence in mankind and the future for generations to come. The Centennial of Light hopefully will generate a new century of produtiveness and invention in finding solutions to the challenges of the future.

Mr. PEASE. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Ohio.

Mr. PEASE. I thank the gentleman for yielding.

Mr. Speaker, today I would like to commemorate the 100th anniversary of the invention of the incandescent light bulb and the man who invented it, Thomas Alva Edison. Thomas Edison was an inventor, industrialist, and a great individual who helped make the United States the richest and most technologically advanced Nation in the world. The electric light bulb has illuminated homes, schools, and industries in our Nation and countries throughout the world.

Thomas Edison was born in my district in Milan, Ohio, in February of 1847. He was the youngest in a family of seven children.

He always asked questions, although often he found the answer for himself. His curiosity got him into trouble a number of times. His father once found him sitting on a nest of goose eggs in the family barn trying to make them hatch; his father thought he was stupid. Once, while he was experimenting with fire, the family barn caught fire and was destroyed. He received a severe thrashing from his father.

Edison's family moved to Michigan when he was 7. After 3 months in school his teacher told him his brain was "addled" and he left. His mother taught him to read and he set up a simple laboratory at home to work on science projects. This is where he developed his great interest in electricity.

During his teens, he worked on the railroad, first as a newspaper boy and later as a telegraph operator. He loved working with the telegraph and invented several devices to improve it. All his earnings he reinvested in more inventions.

When Edison was 30, he had patents on a voting machine, stock ticker, automatic telegraph, telephone transmitter, phonograph, and numerous other inventions.

Then, Edison was presented with a new and challenging problem: The creation of the electric light and a system to deliver the electricity to homes and industries. During the fall of 1878, Edison tested his incandescent lamp with a platinum filament. The platinum filament was heated by electricity and gave off a glow. This was what Edison was after, but the platinum melted after 10 minutes.

Edison tried 1,600 different materials for a suitable alternative to the platinum filament. He finally experimented with carbon soot, mixed it with tar, and molded it into a filament. The carbon filament was inserted into the bulb and the bulb was exhausted of air. On October 11 and 12, 1879, Edison's carbon filament burned for 45 hours. It was heralded as one of the greatest discoveries of mankind.

In 1880, a year after he developed the carbon filament lamp, the Edison Electric Illuminating Co. was established to produce electric power for the city of New York. Edison's electrical system, besides providing light to homes and industries, made electricity available to machines and buildings.

Thomas Edison's genius shows that innovative ideas and hard work are essential to the solution of many problems facing our Nation. The young Edisons of today and tomorrow must be nurtured to insure that America fully develops its resources and remains an example of creativity and ingenuity to the rest of the world.

● Mr. CARR. Mr. Speaker, among the hardware, the light bulb filaments, the patents, the meters, and the generators that can be seen at the Smithsonian's Thomas Edison display, there is an exhibit with no gadgets at all—just a message.

This exhibit explains that not everyone was enthusiastic about the race to invent a practical incandescent light. Even in the face of an advancement so uncontroversial, there were those who were ready, out of self-interest, to stand in the way. The gas companies, who at the time had a monopoly on home and street lighting, felt threatened. They fought Edison's discovery and its practical application vigorously, but in vain.

If we are to commemorate the Centennial of Light with more than a celebration (though there is much to celebrate), perhaps we can learn a lesson from this chapter in the Story of Edison.

One of our greatest technical problems now confronts us: Keeping Edison's light bulb lit. Let us be skeptical of those who decry "wacky" alternative energy sources. Let us check to see who is paying their bills. Also, let us not place all of our energy eggs in the basket of those who control its old sources. Edison did not wait for the gas companies to develop the electric light.●

● Mr. RODINO. Mr. Speaker, I want to recognize the public participation that has been happening across the country to celebrate the centennial of Thomas Edison's invention of the incandescent light bulb. I also want to join in my colleagues' tribute to this great man for his countless contributions to human advancement.

The citizens of New Jersey's 10th Congressional District which I represent and those from every part of our State have been reeducating themselves on Thomas A. Edison, his life and work and its meaning for today's society. During the past week, the New Jersey Historical Commission hosted a Thomas A. Edison Symposium on Science and Technology at the Robert Treat Hotel in Newark; the Public Service Electric and Gas Co. conducted a special ceremony in Military Park, Newark, commemorating a "century of light;" and the Newark Public Library opened a new exhibit on the great inventor and his work.

Mr. Speaker, New Jersey's involvement in the Centennial of Light celebration is well-founded, for in the town of Menlo Park, just 15 miles from Newark, Thomas Edison worked night and day to unfold the mysteries of electric current. It was there, in 1879, that he invented the incandescent light bulb and then worked to perfect it.

Edison came to Newark in 1871, and started two factories to make laboratory supplies for his inventions. These factories were instrumental in his over 1,000 inventions which included the electric power system, the phonograph, motion pictures, the storage battery, and the mimeograph that have helped to enrich the lives of generations.

After he had made the light bulb a practical commodity, he opened his first lamp factory in 1881 in East Newark, just across the Passaic River from the city of Newark. That town, now known as Harrison, remains a home for industry in a region that has become America's industrial center, due to the ongoing development of Edison's inventions.

The State of New Jersey continues to honor this great American not only for his inventions which changed the way we all live on this planet, but for his inspiration that there are answers to our most difficult problems. Edison found answers to help his fellow man through courage, thought and perseverance. One-hundred years later, the same formula can be used to solve our problems.

Mr. Speaker, I am proud of New Jersey's continuing commitment to the lessons of Thomas Edison, and I am happy to join my colleagues in this public salute to another century of scientific initiative.●

● Mr. ROE. Mr. Speaker, I take great pleasure today in saluting the genius of Thomas Alva Edison during the 100th anniversary celebration of the invention of the incandescent electric light.

I join with the people of New Jersey who, like myself, take special pride in the fact that Edison's historic achievement took place in a small laboratory in Menlo Park, N.J. To this day, Edison, who must be recognized as America's greatest inventive mind, is referred to as "the Wizard of Menlo Park."

Soon after his invention of the electric light, Edison moved to a more modern and larger laboratory in West Orange, N.J., where he later developed the motion picture camera, which like the light bulb, would also have a far reaching effect on modern society. Among his other achievements at the West Orange lab were the invention of the storage battery, a cement mixer, the dictaphone, a duplicating machine and a method of making synthetic rubber from goldenrod plants.

Edison's achievements in New Jersey were recognized in 1956 when President Dwight D. Eisenhower signed a proclamation making Edison's research laboratory in West Orange a national monument. Glenmont, Edison's home in West Orange, became part of that monument in 1959. In 1962, both were redesignated as the Edison National Historic Site, under the management of the National Park Service.

Edison was very concerned with energy related matters. His major contribution to the world, the electric light, was further enhanced through his development of the world's first electric power station, making electricity available to millions of people for the first time.

It is most appropriate that we celebrate the genius of Edison at this time in our history when America faces an energy crisis that is the greatest threat to its survival since the Revolutionary War. Edison defined genius as "1 percent inspiration and 99 percent perspiration." We must take hold of that spirit in our efforts to alleviate the stranglehold being placed on this great Nation by the greed of the oil producing nations. Edison's determination to find answers to problems should be an inspiration to this Congress as it seeks to find a way to once again make America an energy-self-sufficient Nation.●

● Mr. CLINGER. Mr. Speaker, I rise in recognition of one of the great, seminal thinkers and inventors in the history of the American Republic—Thomas Alva Edison.

Unlike most of my colleagues, however, my remarks this afternoon will not focus on Mr. Edison's extraordinary and unparalleled contributions to American technology. Instead, I would like to acknowledge Mr. Edison's intimate association with the Chautauqua Institute, Chautauqua, N.Y.

Mr. Speaker, it is entirely appropriate that Thomas Edison and the Chautauqua Institute be commemorated together. Edison married the daughter of one of Chautauqua's principal founders, Mr. Louis Miller, and often spent his summers along the shores of Chautauqua Lake. Indeed, the "Wizard of Menlo Park" was an integral part of the early years of the institute; he remained one of Chautauqua's biggest benefactors well into the 20th century.

Both Edison and Chautauqua flourished in the aftermath of the American Civil War. As Edison sought to advance American society through technological invention, so Chautauqua sought to refine American culture through intellectual and spiritual yearning. Thomas Alva Edison embodies the genius of 19th century American industrialization; by the same token, Chautauqua embodies the reawakening of the American conscience.

It goes without saying that both Edison and Chautauqua contributed enormously to the legacy of modern America. Our magnificent heritage would not be the same without either one of them. Like Edison, my family and I are enamored of the Chautauqua Institute. For years now, the Clingers have literally grown up at Chautauqua; like the Edison family, the Clinger family is deeply indebted to Chautauqua.

Mr. Speaker, it has been my privilege to praise both Thomas Alva Edison and the institution with whom he had a unique and lasting liaison—Chautauqua.●

● Mr. STANGELAND. Mr. Speaker, the United States of America has been made great by people like Thomas Alva Edison, and it is an honor and a real pleasure to salute this distinguished gentleman who had such a tremendous impact on the lifestyle of people all over the world. He had one of the greatest minds to ever bless this country and his uncanny ability to visualize a concept and later put it into being was extraordinary and will probably never be duplicated. We owe so much to this gentleman who labored in his workshop to develop so many of the things we now take for granted. I think we should all be honored to know that the accomplishments of Thomas Edison, a truly great American, will be remembered and enjoyed for centuries to come. This is a true example of how the freedom we enjoy permits those who are creative to think and work to benefit all mankind.●

● Mr. McCLORY. Mr. Speaker, there are two reasons why it is appropriate for us to honor Thomas Alva Edison on the occasion of the 100th anniversary of his invention of the incandescent light bulb.

We honor him first for the enormous number and range of his inventions. While America has had other great inventors, the prodigality of Edison's inventive genius puts him clearly in a class by himself. With 1,093 patents to his name, Edison easily holds the record for most patents held by a single individual.

And the fields in which Edison did his greatest work—electricity and the reproduction and transmission of light and sound—have formed the foundation for vast new industries in electronics, in communications, and in information processing, which are continuing to change the technology of our society in revolutionary ways.

Mr. Speaker, there is a second reason why we should honor Thomas Edison. When we think of those qualities of personal nature which we believe to be characteristically American, we think of such qualities as persistence, diligence, and practical imagination, which Thomas Edison symbolized to a high degree. Edison once said that genius was 99 percent perspiration and 1 percent inspiration. In his case, at least, this was surely an exaggeration since, in addition to a capacity for hard work, Edison had to an extraordinary degree the American talent for practical know-how, for making things work, for finding new solutions to old problems. He was a tinkerer and a fixer and he was never satisfied that a thing could not be improved on.

Mr. Speaker, throughout this year, the International Committee for the Centennial of Light has engaged itself in bringing to the attention of the public, both here and around the world, the many legacies of Thomas Edison. Two of my constituents serve on that committee. They are Mr. William T. Ylvisaker, chairman and chief executive officer of Gould, Inc., and Mr. Albert B. Dick III, the chairman of A. B. Dick Co. Mr. Dick has special reason to appreciate Edison's inventive genius, since the early history of A. B. Dick Co. was closely connected with an Edison invention, the Edison mimeograph.

Mr. Speaker, I join with them and with my colleagues in honoring America's greatest inventor, Thomas Alva Edison.●

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

JOHN W. WYDLER BEFORE THE AMERICAN INSTITUTE OF PHYSICS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 15 minutes.

● Mr. GOLDWATER. Mr. Speaker, my good friend the ranking minority member of the Committee on Science and Technology, JOHN W. WYDLER of New York, gave a particularly interesting speech this month to the corporate associates group of the American Institute of Physics in Schenectady, N.Y.

Mr. WYDLER called for participation of the scientists and technologists in the public education process so that our citizens can obtain objective views of the real risk of energy technologies. Mr. WYDLER's comments on the difference between the administration and the Congress on nuclear policy are particularly informative.

I recommend his speech as required reading on U.S. energy policy:

SCIENCE AND THE PUBLIC TRUST

I speak to you tonight as a layman without extensive scientific training and I speak to you as a legislator that knows he needs your help. More important—the country needs your help. One of the most controversial aspects of our national energy policy revolves around the question of public trust. Public pressure results in political decisions that often ignore the scientific fact because the public is uninformed or misinformed. The public must be informed and it is your responsibility—and opportunity—to play an important role.

The question of public trust is dramatized, and the public's sensitivity to such issues is heightened, when technology moves from the research laboratory into the arena of demonstration, development and operation. A good example is the public reaction to the recent Three Mile Island nuclear accident. Public confidence in the nuclear physicist was not at all affected. But many of the people interviewed since TMI have indicated reservations about nuclear engineering.

The environmental effects of a technology do not become controversial until the government or industry is ready to demonstrate and utilize the technology. The Clinch River Breeder Reactor is striking proof of this fact. As long as the breeder concept was explored on a small scale, and on an experimental basis the environmentalists did not show great concern. But, when government and industry proposed to build a breeder plant which would actually generate 375 megawatts of electrical power, then the "hue and cry" resounded from the no-growth camp.

Such breakdowns of public trust adversely affect the formulation of national energy policy. The public perception of advanced technology must be improved to develop the public trust that will permit technology demonstration, without which all research is an academic exercise.

Strong national leadership and responsible public education are key requirements for maintaining public trust in science and technology. Without them, the citizenry can be subjected to scare stories with no foundation in reality. Such distortions misinform the public and distort the facts about the country's technological choices.

The broader question, of course, is whether this country will continue, as some perceptive technologists have recently noted, "to believe that science and technology have continually pushed the limitations of man's ability to live in the circumstances provided by nature" and that "there arts can continue to do so." Sustaining this belief will require public education to dispel current apprehensions about perceived negative impacts of science and technology.

In other words, how well we handle the public trust question in energy may determine our prospects for reaping future fruits from promising advanced technologies. Without public acceptance, technology will wither—and science will suffer. Whether we advocate nuclear fission or magnetic fusion power, we are all in this together. We are squared off against people who feel that any central power generation is morally wrong.

Let me cite a major instance of national energy policy where—based on gross misperceptions of real risks—the Administration decided to forsake advanced technology. They made this unfortunate choice chiefly on a visceral basis without any real comparative study. And in doing so, they contributed to the huge gap between perception and reality.

Just as technology historically has enabled man to tap increasingly large resources, the breeder reactor provides an avenue to a virtually limitless energy using natural uranium. However, the present Administration has steadfastly refused to make a commitment to demonstrate breeder reactor technology as a reasonable insurance policy on our energy future. It talks "solar" and "conservation" because they are sugar-coated words without adverse public reaction.

"Perceived risk" was cited as a major factor in the President's position on the Breeder. He began with a stated concern about the proliferation aspects of breeder technology and reprocessing. Although he has since given other reasons for killing the Clinch River Project, the President's rationale was first adopted in response to strong environmental pressures. His view is based on the assumption that the international community cannot arrive at a combination of proper technical fixes and collective safeguard agreements to minimize proliferation risks even within several decades.

In the near-term nuclear arena, the recent Three Mile Island accident is now serving as a reason for delaying rapid deployment of light water reactors. Certainly public perception of the consequences of a catastrophic nuclear accident calls for enhanced safety measures. Unfortunately, there is a climate of mistrust surrounding the nuclear industry since the early days of government involvement and this public perception has recently been exploited by nuclear opponents. The distorted picture which is displayed to the public may even have reduced the chances of using the accident results in a positive way so that nuclear safety can be improved.

We have heard calls for a nuclear moratorium in various states, including our great State of New York, based on the same unreasoned fear which the anti-nuclear zealots have shown and the Administration has reinforced. In addition to safety, the anti-nuclear critics have continued to use the nuclear waste management issue with great effectiveness. The Administration again has compounded the felony by refusing to state reasonable goals for terminal isolation of nuclear waste.

Anti-nuclear governors have seized upon this indecisiveness as a major reason for foreclosing the nuclear option. And yet the overwhelming facts are that in disposing of nuclear waste we have nothing to fear but fear itself.

It has become clear to us on the Committee on Science and Technology that a combination of sound waste treatment technology and careful geology can achieve reasonable terminal isolation goals. The Administration's mishandled study by the Interagency Review Group on waste management not only failed to stress the past federal experience in handling nuclear waste, but also left ambiguous the question of what really constitutes adequate isolation of nuclear waste. The average man thinks the problem is insoluble, while Edward Teller describes it as a non-problem.

The man in the street can hardly feel confident about the nuclear option when officials at the highest levels of government have provided such a warped and cloudy view of the real risks of the technology, and the President seems afraid to mention the word nuclear.

A classic case where we are just beginning to see efforts to kill a technology by creating public distrust is magnetic fusion energy. The Union of Concerned Scientists recently showed us "the tip of the iceberg" when they voiced concern about tritium as a fuel for fusion reactors.

I have been warning the fusion community for the past two years to expect increasing environmental "flak" as this concept moves into the technology development phase. I predict that, once it is announced that a fusion plant is to be built to demonstrate the technology in an integrated fashion and to generate electricity, then the attack will begin in dead earnest. It happened to Clinch River. It will happen to magnetic fusion. And I even predict it will happen to solar energy if and when it really becomes productive. Already attacks on the Solar Satellite are heard in Congress on environmental grounds.

The public will be told that tritium is the most sinister substance known to man—even more sinister than that devilish substance plutonium—and that fusion also raises proliferation concerns. The environmentalists will stress the technical possibility of a fission/fusion hybrid machine and the prodigious amounts of plutonium such a device would be capable of generating.

So will go the attack.

My warning is simple: the fusion community must begin now to counter all of these criticisms and emphasize the inherent safety of their reactors so that the public develops substantial trust in the concept. Some of the breeder reactor controversy could have been avoided if that sector of the fission community had laid more extensive ground work in informing the public on real and perceived proliferation concerns.

Realistically, of course, the approach taken in educating the public on these topics can slant public perception one way or another. The desire to sensationalize will always be present and we must assume that the real story will be distorted. Thus, we must utilize the devil's advocacy approach to work out rational counterpoints early in the game.

The most important ingredient to public trust in science and technology is the public perception of the scientist or technologist. Also, we must realize that, although the citizenry may hold the scientist in high regard, the technologist will undoubtedly come under suspicion whenever it appears that developed technology will affect the citizen in an adverse way. This may involve overlooking the obvious benefits of technology and focusing on its perceived environmental impacts or on safety concerns surrounding its use.

The bottom line is that strong leadership and responsible information which give the people the facts are absolute requirements if the public is to retain trust in science and technology. Public education must not be based on perceived risks which are misinterpreted by the extremists, but must be founded on the real technological risks derived from systematic comparisons of alternatives.

We have seen an extreme perception gap in nuclear power and the Administration is allowing it to grow. It would be fair to say the government should lead, but it will not. Politics will ensure a split voice or forked tongue—the media will stress the negative, and the decision will hang in the balance.

The public still trusts the scientists and that, for you, is both a burden and an opportunity. You must fill the perception gap with responsible public education because the citizenry will look to you for the facts.

Every scientist involved in the future of energy has a common stake in this battle for the minds of our citizens.

It will be little comfort if the fusion program grows, while the breeder program is killed. That would simply make fusion the next battleground. Science is merely a means to an end. The scientific community must mobilize its forces to educate the public.

As a nation, we must continue to believe that complex technology can be controlled and we must go forward with its development. Otherwise, technology will be curtailed all the way back to the laboratory bench.

I have been informed of both your visiting scientist program and the American Physical Society's visiting physicist program to provide hands-on experience to university scientists in an industrial environment. These are positive, proper activities for your organizations and I commend you.

It seems to me, however, that you must do more. A program intended to provide industrial lecturers to present the real costs and benefits of energy technology would be a natural extension of your existing programs. It would be logical for you, the AIP Corporate Associates, to sponsor such an information program. The AIP would make the decisions on lecturers and schedules and could provide a list of available lecturers and suggested topics to universities.

This would be a supplement to your existing programs. But just as important, as individuals and in your corporate capacities, you must expand your efforts in carrying the message to the American people. As scientists, you can present the facts about energy technologies.

You must insist that technologies be compared on an objective basis. You must use every reasonable mechanism of public education to push for reasonable choices.

Public education is your duty. Don't shrink from it. The future of America's technology and progress is at stake.●

COTTON, INC. RAISES QUESTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 5 minutes.

● Mr. FINDLEY. Mr. Speaker, following is a list of questions which I believe must be answered in order to dispel the cloud of suspicion which currently engulfs the cotton research and promotion program. Each day new evidence of impropriety surfaces. So desperate is the situation that the Inspector General of USDA concluded his recent report on the program with this terse statement:

Should all affected parties fail to address and resolve the issues and improve communications and information exchanges, we concluded that an option may be for the USDA to seek repeal or amendment of the Cotton Research and Promotion Act, removing the Federal Government from the program, and returning to a producer controlled voluntary program.

Recent evidence of conflict of interest that has come to light since the report was issued includes:

Discovery that the company owned by L. Don Anderson, the chairman of the Cotton Board which is charged with overseeing Cotton, Inc.'s budget and activities, sold between $4 and $5 million worth of cotton to foreign textile mills based upon side information obtained from Cotton, Inc.

The fact that a current member of the Cotton, Inc. executive committee and a former board member of Cotton, Inc. also sold millions of dollars worth of cotton based on inside tips provided by the Cotton, Inc. staff.

Documented in the USDA Inspector General's report and Cotton, Inc. internal memoranda are other examples of improprieties by Cotton, Inc. including:

Evasion by Dukes Wooters of the congressionally imposed limit on his salary.

Contribution of funds to the National Cotton Council in violation of a USDA General Counsel's memorandum advising against such contributions and contrary to a congressional prohibition against participation by Cotton, Inc. in any cotton referendum.

Encouraging the Cotton Board to violate the congressional prohibition against divulging the names of producers who request refunds.

Use of check-off funds to hire private detectives to harass Cotton, Inc. employees by ordering them to take lie detector and fingerprint tests.

Use of public and check-off funds for frivolous and unnecessary purposes, for example, a trip to the Olympics, football games, airfare on the Condorde, et cetera.

Throughout a decade of mismanagement, USDA has stood by as a silent partner in this whole affair.

There is more, much more, but I am certain my colleagues have the picture by now. Therefore, I have requested that the Agriculture Committee hold hearings to determine the full extent of impropriety, conflict of interest, mismanagement and waste of taxpayers and cotton growers funds that has plagued this program. It is time for Congress to give USDA unquestioned authority over the expenditure of funds under the cotton check-off program.

QUESTIONS FOR ASSISTANT SECRETARY BOBBY SMITH

(Numbers in ( ) refer to pages of the Inspector General's report.)

1. You are aware of the sale by Mr. Anderson's company of more than 15,000 bales of cotton as a result of inside tips from Cotton, Inc.

Mr. Anderson has more than just an appearance of a conflict of interest—he has actually had the opportunity to line his pocket based upon inside tips given to his firm by Cotton, Inc., information which instead should have been shared with all cotton producers.

You have been quoted in the press as stating, "Certainly, on the surface, this would indicate there could be a conflict of interest on Anderson's part." Will you recommend to the Secretary that Mr. Anderson be removed from the Cotton Board? Is Mr. Anderson being considered for reappointment to the Cotton Board? Wouldn't any employee of the Department of Agriculture who has even the appearance of such a flagrant conflict of interest be summarily dismissed?

2. Can you expect Congress, cotton producers, or the American people to believe that you are committed to cleaning up the mess at Cotton, Inc. when the man you put in charge of that task has such a flagrant conflict of interest as has Mr. Anderson?

On January 22, 1979 Dan Davis was appointed to the Cotton Board, presumably at your recommendation. Less than six months previously Mr. Davis was suspended from trading on the commodity futures market by the Commodity Futures Trading Commission because he was found to have manipulated cotton prices. Can you expect a man like that to help clean up the mess at Cotton, Inc.?

4. You were on the Cotton, Inc. board of directors when the board worked out its arrangement with the Boswell Company to supplement Wooters income above the statutory limit by using refunds of the cotton check-off program. Were you aware at any time that such an arrangement was under consideration?

5. The Inspector General reports that "In August, 1977 the Department significantly reduced its budget review process" of Cotton, Inc. Did you or anyone else at USDA participate in that decision? Who? Why was it made?

6. The Inspector General quotes the General Counsel of USDA as follows: "Whether these particular projects [in the 1978 budget] are proper or suitable projects for the program . . . are matters for initial administrative determination." Did you or anyone else at USDA participate in the decision to approve the 1978 budget for Cotton, Inc.? (17)

7. Did you participate in the change in regulations which gave Cotton, Inc. and Cotton Board members the right to participate in activities of the National Cotton Council as it attempted to drum up support for the cotton referendum? (37)

8. When did you begin work at the Department and when did you finally relinquish your seat on the board of directors of Cotton, Inc.?

Wasn't there approximately a six-month overlap? If so, did that present you with a conflict of interest? Were any of the decisions in questions 5–7 made during that period?

9. In 1975 the Inspector General concluded: "The Cotton Board needed to exercise additional oversight of Cotton, Inc. activities." (21)

In 1976 an independent study of Cotton, Inc. authorized by USDA concluded: "During the years which the Cotton Board has administered the cotton research and promotion order it has not exercised sufficient control, in our judgment, over the activities and expenditures of Cotton, Inc." (19)

In 1979 the Inspector General concluded: "Departmental involvement in the affairs of Cotton, Inc. was reduced in 1976 with the transfer of major oversight responsibilities to the Cotton Board and the discontinuance of departmental budget review committees. However, the Cotton Board has not effectively carried out these added responsibilities." (5)

The Inspector General also concluded that the Cotton Board "may not have the expertise in certain areas to adequately rule on the propriety of Cotton, Inc.'s research and promotion projects." (18)

With such an abysmal record concerning oversight, and with leadership that has such a checkered past, how can you justify giving the Cotton Board responsibility for cleaning up the mass at Cotton, Inc.?

10. Will a formal committee be appointed within the Agricultural Marketing Service to review Cotton, Inc. budgets as occurred prior to 1978 and as recommended by the Inspector General in his report? (11)

11. Will the Department insist that Cotton, Inc. combine its "own funds" with producers check-off funds in one account with all expenditures from that account subject to the approval of the Department of Agriculture? (29) (24)

12. Did Cotton, Inc. violate the law (7 USC 2106) when it gave funds to the National Cotton Council for supporting the cotton referendum in 1977? The General Counsel of USDA issued an opinion recommending that Cotton, Inc. not contribute its funds to the National Cotton Council. What steps did USDA take to insure that Cotton, Inc. abided by the General Counsel's opinion and did not violate the law? (36)

13. Did the fact that the Cotton Board divulged names of those requesting refunds to non-employees of the Cotton Board constitute a violation of law? Please provide me with the names of the part-time Cotton Board employees and any others who received this confidential information. (33)

14. Did the Joint Producer Information Committee, formed in February, 1978, have access to names of those cotton producers requesting refunds? (31)

15. The Cotton Board set aside 25 percent of its 1979 budget for the purposes of reducing refund requests. If that money were instead used to supervise Cotton, Inc. so that it did not generate so much bad publicity, refunds would automatically go down. Should the Cotton Board be permitted to use its funds for the purpose of reducing refund requests? The Inspector General recommends that Cotton, Inc. not use its budget for disseminating information or trying to reduce refund requests. (34) Will the Department insist that Cotton, Inc. abide by this recommendation?

16. Will the Department take whatever steps are required, including initiating or recommending the initiation of a law suit, to establish ownership of the Vapor-Phase Process, as the Inspector General recommends? (40)

17. The Inspector General reports that Cotton, Inc. provided "five items of information to the J. G. Boswell Company [which] resulted in one sale of 12,000 bales of cotton and a commitment of 12,000 additional bales." James Fisher, Boswell's Executive Vice President, is a member of the Executive Committee of Cotton, Inc. Do you believe it is appropriate for Fisher/Boswell to receive these inside tips, which result in the sale of millions of dollars worth of cotton, when the knowledge of these foreign sales opportunities is derived through the expenditure of cotton check-off funds provided by all cotton farmers?

18. The Inspector General reports that Cotton, Inc. also provided inside tips to Keith Walden, a former member of CPI and a member of the Board of Directors of Cotton, Inc. until 1972. The Inspector General states "12 referrals resulted in 30 shipments or commitments for a total of 13,941 bales of cotton between 1/77 and 4/79." Do you believe this kind of inside dealing is appropriate?

19. Was the issue of any conflict of interest that you may have had as a result of your membership on the Cotton, Inc. Board discussed in any internal memoranda? Please provide copies to me.

QUESTIONS FOR L. DON ANDERSON CHAIRMAN OF THE COTTON BOARD

1. The Inspector General has provided me with evidence of six inside tips your company received from Cotton, Inc. which resulted in the sale of more than 15,000 cotton bales through your company to foreign mills during the period of October, 1978 to June, 1979. What was your company's gross receipt for that cotton? What was your company's profit?

While you have been a member of the Cotton Board, have there been any other sales opportunity referrals for your firm from Cotton, Inc.? Describe them.

One of these inside tips which your firm received carried the notation at the bottom: "Will release this information to American Cotton Shippers late next week." Thus, your firm knew that you were being given preferential treatment well ahead of all other cotton producers.

2. Do you think it is proper for Cotton, Inc. to give your company these inside tips on cotton sales when the knowledge of these sales opportunities results from their activities which are funded entirely from check-off funds contributed by all cotton producers? Should your firm get a special advantage over other cotton producers?

3. As the person designated by Secretary Bergland as the chief watchdog of Cotton, Inc. and the person responsible for approving all of their expenditures, all of their activities, and their entire annual budget, how do you expect anyone to think you can maintain your objectivity when you have the opportunity to make thousands of dollars from inside tips which Cotton, Inc. gives your firm? Isn't this an enormous conflict of interest which would result in the immediate dismissal of any federal employee?

4. What is the name of the first individual at the Department of Agriculture who informed you, either directly or indirectly, of my request of October 17 for information in the Department's files concerning sales opportunity referrals from Cotton, Inc. to your firm?

5. When did you first learn that an arrangement was under consideration or had been made which effectively evaded the Congressional limitation on Mr. Wooters' salary by using a portion of Boswell's check-off funds to supplement Wooters' salary?

6. Were you aware of the Cotton Board's program of providing the names of producers requesting refunds to non-employees of the Cotton Board so that they could "educate" these producers and put pressure on them not to request refunds in the future? When did this practice stop? I have a letter dated August 28, 1978 from the manager of the Cotton Board, E. C. Gillespie, indicating that names were being divulged in violation of law even at that late date. (29–35)

7. Is it a violation of law to divulge information about refund requests to non-Cotton Board employees? (6)

8. Do you approve of Mr. Wooters' use of check-off funds to hire two private detectives to spy on Cotton, Inc. employees, demand that they take lie detector tests, and harass them so that ultimately two were forced to leave Cotton, Inc.?

9. Did you approve of the lavish fringe benefits accorded to Mr. Wooters and other top Cotton, Inc. executives, such as: use of automobiles, payment of club dues, payment for babysitting services, providing in-town accommodations, first-class travel and travel on the Concorde, payment of wives travel expenses, and a pension program that does not peg years of service to benefits re-

ceived? (43, 61) What steps have been taken to eliminate these lavish benefits as the Inspector General recommends? (42–45)

Questions for L. C. Unfred, Acting Chairman of the Cotton, Inc., Board of Directors

1. According to the Inspector General's report, when foreign buyers were brought to the United States, they were generally taken to see three specific producer/suppliers. (55) What are the names of the three producer/suppliers?

2. The Inspector General reports that Cotton, Inc. prepared background papers on two cotton producers which were then given to a European textile executive, and that these background papers "could be interpreted as Cotton, Inc.'s endorsement." Who were the two producers upon which you prepared background papers? (56)

3. The Inspector General states that Cotton, Inc. discourages using the Raleigh testing facility by producers who want to test their cotton, but that "a considerable number of such tests were conducted for one producer." (65) Who was the producer? Is this the same producer whose cotton was used in 4,830 of the 7,106 samples tested by Cotton, Inc.? (66) Was this producer's cotton stored in Cotton, Inc. warehouses? What is the current per bale charge for testing at the Cotton, Inc. facility?

4. The Inspector General states that Cotton, Inc. helped "a major U.S. supplier" take foreign sales away from another U.S. supplier. (72) Which U.S. supplier benefited when the foreign mill switched from one supplier to another? Which supplier lost out? (71)

5. Does Cotton, Inc. think it is appropriate to use the check-off money derived from all cotton farmers to benefit only these few cotton producers?

6. In your response to the subcommittee's letter, you stated "As a matter of company policy, procedures of this sort [that is, referrals of foreign sales opportunities] have been terminated since a year ago [that would be September of 1978]." However, Mr. Anderson's firm received six of these inside tips from Cotton, Inc. between October, 1978 and June, 1979 and sold 15,000 bales of cotton as a result. J. G. Boswell also received inside tips after September, 1978, one of which acknowledged that "their price may be too high . . . and possibly a merchant could ship at a less expensive price."

Did Cotton, Inc. lie to Congress? If this part of the Cotton, Inc. response to Congress is inaccurate, how can we be certain that other parts are not filled with inaccuracies?

7. Has Cotton, Inc. given similar inside tips and special advantages to other members of the Cotton, Inc. board of directors? Do you think it is proper for Cotton, Inc. to use check-off money derived from all cotton farmers to benefit the members of its board of directors to the exclusion of the cotton farmers who provide the money?

8. In your response to the subcommittee's letter, you stated "a single employee [of Cotton, Inc.] was asked if he would volunteer to take a polygraph test. When he declined, as was his privilege, the matter was dropped." In fact, at least four employees were asked to take polygraph or voice stress examinations—George Slater, Herbert Willcut, William Eickhoff, and a secretary. All declined. Yet the matter was not dropped. Employees were asked on two succeeding days to take polygraph or voice stress examinations and to submit to fingerprint tests. All refused. Did Cotton, Inc. lie to Congress? If this part of the Cotton, Inc. response to Congress is inaccurate, how can we be certain that other parts are not filled with inaccuracies?

9. Will Cotton, Inc., in the future, voluntarily release detailed budget and expenditure information, not only to the Cotton Board and the Department of Agriculture, but also to members of the House Agriculture Committee who request it? (18)

10. Is Cotton, Inc. charging itself rent for the Neal Street testing facility? Is this rent being paid from producers' check-off funds? Is this rent, together with rent from other leasors, being deposited in Cotton, Inc. "own funds"? (26)

11. Is income generated from patents, royalties, rents, earned interest, and all other sources returned to the Cotton Board or instead deposited in Cotton, Inc.'s "own funds" account? (41) Is not some of this income, if not most of it, derived, at least in part, from the expenditure of producer check-off funds?

12. The Inspector General recommends that Cotton, Inc.'s "own funds" be melded with check-off funds and that expenditure of all funds in the future be subject to approval of the Department of Agriculture. Will you abide by that recommendation? (29)

13. Has Cotton, Inc. provided the itemized listing of Cotton Producers Institute funds and check-off funds used in the development of Vapor/Phase process patents? Please send me a copy of the itemized list. (39)

14. Do you approve of Mr. Wooters' use of check-off funds to hire two private detectives to spy on Cotton, Inc. employees, demand that they take lie detector tests, and harass them so that ultimately two were forced to leave Cotton, Inc.?

15. Were you aware of the arrangement between Mr. Wooters and executive of the J. G. Boswell Company which effectively evaded the Congressional limitation on Mr. Wooters' salary by using a portion of Boswell's checkoff funds to supplement Wooters' salary?

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. Nelson) is recognized for 5 minutes.

● Mr. NELSON. Mr. Speaker, due to official business I was not present for rollcall No. 611 on Friday. If I had been present, I would have voted "yes" on House passage of H.R. 1885, to amend civil service retirement provisions as they apply to certain employees of the Bureau of Indian Affairs.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. Drinan) is recognized for 5 minutes.

● Mr. DRINAN. Mr. Speaker, due to a longstanding commitment in my congressional district—the 50th anniversary of the Boston College Law School—I was unavoidably absent from the House during the afternoon of Friday, October 26.

Had I been present, I would have voted as follows: "Yea" on rollcall No. 607, the rule providing for the consideration of H.R. 2313, authorizing appropriations to the Federal Trade Commission; "yea" on rollcall No. 608, the rule providing for the consideration of H.R. 4167, a bill to increase milk price supports; "yea" on rollcall No. 609, the conference report to accompany H.R. 4387, making appropriations to the Department of Agriculture and related agencies for fiscal year 1980; "no" on rollcall No. 610, the conference report to accompany S. 428, authorizing appropriations to the Department of Defense for fiscal year 1980; and "yea" on rollcall No. 611, providing retirement preference for certain employees of the Bureau of Indian Affairs.●

HEALTH COST RESTRAINT ACT OF 1979: H.R. 5740

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. Ullman) is recognized for 5 minutes.

● Mr. ULLMAN. Mr. Speaker, under the special order granted me today, I am pleased to provide information to my colleagues in the House and to those who read the Congressional Record on the very significant Health Cost Restraint Act of 1979 which I have introduced today. I am including at this point a series of documents which describe the proposal which I have introduced.

Statement of Representative Al Ullman Upon Introduction of the "Health Cost Restraint Act of 1979," H.R. 5740

Over the last decade, America's health bill has more than tripled—from $60.6 billion in 1968 to $192.4 billion last year. For every dollar of GNP, we're spending almost a dime for health care. Last year's annual jump was 13.2 per cent. This year's increase will be greater.

These are staggering statistics on paper. But in reality, most employees and employers are rarely faced with the actual cost of health insurance. The cost of America's health care is virtually invisible—"someone else pays."

The national debate on health has recently centered on health insurance for everyone. Certainly, most workers and their families would be protected. The cost to the taxpayer would rise billions of dollars. In the end, though, the illusion of "free" health care—paid by the government or an insurance company—will remain.

In short, we have come to expect almost unlimited health benefits at almost any price. National health insurance may give us more health insurance, but it certainly won't give us more health insurance for our dollar.

President Carter has asked Congress to initiate standby penalties for hospitals that don't hold cost increases to a national minimum. I support his goal, but the regulatory club only falls on one segment of the health cost system.

If we want to tie down health costs in this country, we must work back to the first step in the financing chain—the benefit package, and the incentives to increase its size.

That means asking consumers to take a look at exactly what the "last dollar" of health insurance really buys—and whether it is best spent elsewhere. That means forcing the consumer, the doctor, the hospital, and the insurance company to consider the wide range of health benefits and their price tags—and then decide exactly how much health protection a worker wants for his dollar.

To that end, I am introducing the Health Cost Restraint Act of 1979.

The proposal restructures the financing of our health care industry. It encourages competition within the health industry to offer more economic policies. It would check and stabilize the rising proportion of the GNP spent on health. By modest estimates, the proposal will reduce health care spending by more than $3 billion a year in 1984.

My plan is not a national health insurance proposal. It does not mandate broader health protection. It does not increase the layer of benefits. Nor does it cost the Federal government one added dollar.

The major cost constraint in my proposal imposes a limit on the tax free premium that an employer can contribute to a health plan.

Today, employee health benefits provided by the employer—whether direct payments or insurance policies—are not treated as taxable income to the employee. Moreover, the tax subsidy has no limit. Thus, employees would rather have a dollar of health insurance than a dollar of wages. While this tax incentive is largely responsible for the dramatic improvement in heatlh insurance coverage in this country over the last 30 years—it has also encouraged employees and employers to select the most expensive and comprehensive insurance available. Most employees today want "first dollar" coverage. That means health care without ever opening a checkbook. They never see a doctor's bill or a hospital check-out sheet. Health care is paid for by an invisible "third party."

With an increasing demand for more benefits covered by virtually automatic insurance payments, today's health finance system holds little incentive for anyone—including doctors and hospitals—to hold down costs.

By putting a cap on the tax free portion that an employer can contribute to an employee health plan, we can halt the runaway demand for expanding health benefits. The $120 monthly limit is sufficient to cover comprehensive care through a traditional insurance policy with modest deductibles or copayments—as well as a health maintenance organization (HMO). The limit will encourage employees to look for better buys in the insurance market and more carefully examine whether insurance for dental work, eye care, and prescription drugs is worth the extra expense.

If they choose a plan that costs more than the employer's $120 fixed contribution, they would pay the difference themselves. If they choose a plan that costs less than the employer's contribution, they would receive the difference in cash. If, for instance, employees wanted a low option plan costing $80, they would receive the $40 difference in their pay.

A second cost restraint in the bill requires employers to offer a low-cost health plan with consumer cost-sharing, or an HMO—as well as a traditional full-benefit insurance policy. Given today's tax structure, the employee is rarely given a choice of a low cost option that contains a comprehensive set of benefits.

Over the years, the employee has come to demand extraordinary health coverage as a national right. Rarely has he been forced to choose between a dollar spent on health and a dollar spent on something else. Consequently, today's health system has built-in incentives for doctors and hospitals to increase costs. They enjoy the finest billing system one could theoretically design. It reimburses all costs. The higher the fee, the more revenue that quietly flows from the employer and his insurance company. The patient and his doctor have no incentive to carefully choose the most economical approach to good care.

The emergence of HMO's has demonstrated that high quality, comprehensive health care can be provided at less expense than a traditional indemnity plan which relies on "fee for service" reimbursement. This new and efficient delivery concept eliminates the excuse for an open-ended tax subsidy for less efficient health plans.

Studies of private health plans that require even modest cost sharing by the employer—whether co-payments or deductibles—reveal discriminating use of health services. As cost sharing becomes wider spread, the selection of costlier benefits will certainly be determined by economy, rather than popularity.

In summary, my proposal strikes at several areas. It will reverse the incentives created by our tax system to select the most expensive health care coverage. It will create incentives for employees and employers to choose plans that contain cost incentive features. It will encourage, and ultimately force, employers to offer their employees a choice between plans that are prepaid and plans with substantial co-payment features. Unions and employers can work together to establish broad prepaid plans with substantial cost-reducing capability.

This proposal does not force anyone to join prepaid plans. It does not end the tax subsidy for medical care. It simply encourages competition. Ultimately, it would encourage doctors to form alternative health care delivery systems and actively compete in the marketplace for the patronage of employee groups.

SUMMARY OF THE HEALTH COST RESTRAINT ACT OF 1979

I. PROPOSED CHANGES TO TAX LAW

A. For all health plans a dollar limitation ($120 for family coverage) would be placed on the employer contribution to a health plan which is excluded from the employee's gross income;

B. In the case where the cost of any option offered under a health plan exceeds a trigger point ($75 for family coverage) the plan would have to meet certain requirements:

(a) the plan would be required to offer the choice of either an HMO (health maintenance organization) or a low cost option as an alternative to the higher cost option,

(b) all options under the plan would be required to provide specified minimum coverage, and

(c) the employer contribution to a health plan could not depend upon the option chosen by the employee.

If the above three requirements were not met, all employer contributions to health plans would be included in the employee's gross income.

II. PROPOSED CHANGES TO THE HMO ACT

Amend the HMO Act to allow more prepaid health plans to qualify for the mandatory dual choice provisions.

III. PROPOSED CHANGES TO MEDICARE

Modify reimbursement to HMO so that Medicare would pay on a prospective capitation basis 95 percent of the cost Medicare would otherwise incur in a geographic area in providing benefits to enrollees.

IV. PROPOSED CHANGES TO MEDICAID

Mandate a demonstration project of alternative health care delivery systems for the low income population.

EXPLANATION OF THE HEALTH COST RESTRAINT ACT OF 1979

I. TAX LAW CHANGES

A. Maximum health benefit exclusion

The maximum contribution to an employee's health plan which could be excluded from the employee's gross income and from wages for FICA and FUTA purposes would be $120 per month for family coverage for calendar year 1981. Correspondingly lower limits would apply for coverage for single individuals and married couples. These amounts would be indexed each year thereafter by the Medical Care Component of the Consumer Price Index.

Health plans would be defined to include plans for the provision of all types of medical care, including hospital, physician, surgical, dental, drug, eye and psychiatric care, but would not take into account disability coverage (i.e., periodic benefits in cash). Further, the definition of a "health plan" for any employee includes the aggregation of all health benefits regardless of the number of specific policies, insurance companies, or other arrangements.

B. Requirements for health plans in which the cost of any option exceeds a trigger point

If the cost (including both employer and employee contribution) for family coverage exceeds $75 per month under any option offered under a health plan, the plan would be required to provide (1) a choice of either an HMO or a low cost option, (2) minimum coverage, and (3) an employer contribution which would not vary substantially according to the option chosen by the employee.

1. Choice of Either Prepaid Health Plan or Low Cost Option

The plan would be required to offer employees the choice of either a prepaid health plan (see II, below) or a low cost option. A low cost option would be any option which costs less than the trigger point ($75 for family coverage) and which provides at least the minimum coverage described below. The plan could offer additional options.

2. Minimum Coverage

All options offered under the plan would be required to provide catastrophic coverage; specifically all options offered would have to cover hospital, physician, X-ray, diagnostic, and inpatient drug benefits, and would limit copayments and deductibles for the employee's family to $2,000 per year (also indexed by the Medical Care Component of the Consumer Price Index). This requirement would not apply to mental or psychiatric services, alcohol and drug abuse rehabilitation programs and certain other medical services. If a plan could not meet the requirements for minimum coverage for a family for $75 per month or less, then the $75 trigger would be increased to the cost required to provide minimum coverage.

3. Approximately Equal Contributions

If the mandated choice and minimum coverage requirements apply to a health plan, the employer contribution to a health plan for any given employee could not vary substantially according to the option chosen by the employee. With respect to any two options, the employer contribution for the less expensive option could not be less than that for the more expensive option minus 10 percent of the difference in total cost between the two options and could be no greater than the contribution for the more expensive option.

If the option chosen by an employee costs less than the employer contribution for the most expensive option, then the employer would be required to rebate to the employee the difference between the employer contribution to the more expensive option and the cost of the less expensive option minus no more than 10 percent of the difference in cost between the two options. The rebate would be subject to Federal income tax but would not be subject to FICA or FUTA taxes (except as provided in A above).

This rule would not require the employer contribution to be equal for all employees, but only for employees covered by the same health plan. Thus, the health plan and the employer contribution could vary by tenure, geographic area, salary level, etc.

4. Tax Impact of Failure to Meet Requirements

If the requirements for options, minimum coverage, or approximately equal contributions were not met, all employer contributions to health plans would be included in an employee's gross income. The employer and employee would also have to pay FICA taxes and the employer FUTA and withholding taxes.

II. HMO ACT CHANGES

A. Expanded definition

A firm would have to offer up to two "prepaid health plans" which desired to be offered. These plans would be defined to include plans which meet the requirements of Title XIII of the Public Health Service Act and plans which meet the requirements of that Act except for any or all of the following:

1. The requirements that at least one-third of the membership of the policymaking body of the plan be members of the organization,

2. The requirement to provide mental health services and medical treatment and referral for the abuse of or addiction to alcohol and drugs, and

3. The requirement that premiums not be adjusted to reflect the demographic characteristics of members.

This amendment would apply only to the mandatory dual choice provisions. Developmental loans and grants would continue to be available only to the organizations eligible under current law.

B. Modification to dual choice provision

A firm would have to offer an individual practice association (IPA) or a closed panel plan, as Title XIII currently requires. If no closed panel plan is offered, the firm would have to offer two IPA type plans. Conversely, if no IPA is offered, a firm would have to offer two closed panel HMOs. The two prepaid plans could not be offered by the same organization.

III. MEDICARE REIMBURSEMENT TO HMOS

The proposal would institute prospective Medicare reimbursement of HMOs ("prepaid plans" as defined in II.A. above) to conform to prevailing HMO practices. The proposal would provide that an HMO be paid, on a prospective basis, 95 percent of the costs of rendering the Medicare part A and B services in the community by providers other than HMOs. This risk reimbursement rate would be available to all HMOs that qualify for the dual choice provisions described above. The Secretary of HEW would estimate the HMO's cost of providing Medicare benefits by adjusting the HMO's "community rate" to reflect the higher utilization rates of the elderly. The difference between the risk reimbursement rate and the adjusted community rate would be used by the HMO to reduce cost sharing or finance broader benefits for enrolled beneficiaries. This difference would be agreed to in negotiation between the HMO and the Secretary on a prospective basis. A study evaluating the effect of these changes upon HMOs and enrollees would be mandated.

IV. MEDICAID EXPERIMENTS

The Secretary of Health and Human Services would implement demonstration projects at selected locations to determine the effect of a competitive reimbursement procedures on the Medicaid program (categorical and medically needy) and its beneficiaries. The demonstration project shall be of sufficient scope and carried out on a broad enough scale to allow the Secretary to evaluate fully:

(1) the relative advantages and disadvantages of using a central broker concept, either at the state or substate level, to assist beneficiaries in selecting among competitive health plans,

(2) the feasibility and effectiveness of equal dollar contributions from Medicaid to competing delivery systems. The waivers necessary to implement these demonstrations are authorized.

SECTION-BY-SECTION EXPLANATION OF THE HEALTH COST RESTRAINT ACT OF 1979

I. HEALTH COST RESTRAINT TAX ACT OF 1979

A. New rules and requirements relating to health plans

(Sec. 102 of the bill, new sec. 86 of the Code)

1. Inclusion in Income of Excess Employer Contributions to Health Plans

Under present law, generally the amount paid by an employer to a health plan for an employee (through insurance or otherwise) is not includible in the employee's gross income.

a. General rule: The bill, under certain circumstances, would cause some or all of the employer's contribution to a health plan on behalf of an employee to be treated as an excess contribution to the plan, includible in the employee's gross income.

b. Trigger point: The bill would apply only to health plans containing an option, the cost of which exceeds a trigger point. (The cost of a plan would include both employee and employer contributions.) Health plans which cost more than the trigger point would be subject to several requirements. If any of these requirements were not satisfied, the full amount of the employer contribution to such a plan on behalf of an employee, would be includible in the employee's gross income. Generally, the trigger point would be $75 per month for family coverage for calendar year 1981. If, for any reason, an employer could not purchase family coverage which met the minimum coverage requirement (see 2.b. below) for $75, then the trigger point would be increased to the cost of providing this coverage. Lower trigger points would apply to employees who had employee only or employee and spouse only coverage under a health plan.

Under the bill, the term health plan means an employer plan which provides (through insurance, reimbursement or otherwise) medical care for employees and their families. The definition of a health plan, with respect to any employee, would include the aggregation of all health benefits offered by employers under common control regardless of the number of specific policies, insurance companies or other arrangements.

Under the bill, if a group of one or more employers is offered a choice of coverage which differs from the choice of coverage offered to a second group of one or more employees, each such group would be treated as covered by a separate plan.

c. Exclusion limit: The bill would place a limit on the amount of the exclusion for employer contributions to a health plan on behalf of an employee. Any amount of employer contribution above the exclusion limit would be includible in the employee's gross income. The exclusion limit would be $120 per month for family coverage for calendar year 1981. Lower exclusion limits would apply to employees who had employee only or employee and spouse only coverage under a health plan.

d. Cost determination: Under the bill the employer could elect whether the determination of the cost of health coverage would be made on the basis of (1) all employees categorized by employee only coverage and employee and family coverage, or (2) employees categorized by employee only coverage, employee and spouse only coverage and employee and family coverage.

Employee cost within category would be determined on an average basis. Only employees covered by the plan could be taken into account. The employer contribution to the plan would be that portion of the cost per employee paid by the employer.

Under the bill, self-insured plans could determine the cost per employee per month annually on the basis of a reasonable estimate of the cost of providing the coverage for the record.

The cost of a health plan does not include any cost properly allocable to workmen's compensation or for a purpose other than providing medical care (e.g., certain disability payments).

2. Requirements for Health Plans Which Cost More Than the Trigger Point

a. In general: Under present law, there are no statutory requirements with respect to the specified health benefits under a plan, the availability of options under a health plan, or the amount of the employer contribution paid toward a health plan.

Under the bill, if the cost of a health plan exceeded the trigger point, the health plan would have to meet certain requirements with respect to (1) specified health benefits under a plan, (2) the options available to employees under the health plan, and (3) the amount of the employer contribution made to the plan on behalf of individual employees.

b. Minimum coverage: If the cost of any option offered under a health plan equals or exceeds the trigger point, all options offered under that plan would have to provide minimum coverage. Minimum coverage means benefits under a health plan for specified health care services. The specified health care services under the bill include, but are not limited to, (1) hospital inpatient and outpatient services, (2) physicians' services, (3) diagnostic, X-ray and laboratory services and (4) some home health services. Minimum coverage would not include benefits available under other insurance, the diagnosis and treatment of a mental condition, most cosmetic surgery, travel expenses (other than by ambulance) and various other services. In addition, under a plan providing minimum coverage, any deductibles and copayments required with respect to an employee for reasonable charges for specified health care services could not exceed $2,000 per year for 1981.

c. Low-cost option or HMO coverage: If the cost of any option under a health plan exceeds the trigger point, the health plan would have to offer either low cost coverage or an HMO (health maintenance organization) which meets the criteria of section 1310 of the HMO Act (as amended by Title II of the bill). Low cost coverage means a health plan which provides minimum coverage and which costs no more than the trigger point.

For example, if the cost of an employer provided health plan was $100 per month for family coverage in 1981 and the employer did not offer a qualified HMO, the employer would have to offer a low cost option which provided at least minimum coverage for $75 per month or less. If for any reason the employer could not obtain the required coverage for $75 or less, the employer would have to provide the required coverage at a greater cost, but the requirement would not apply if the cost of the minimum coverage were in excess of $100.

Employees would have to be given the choice of taking the low cost option (or the HMO) at least one time every 12 months.

d. Employer contributions to different options must be approximately equal: If the cost of a health plan has reached the trigger point, an employer would be required to make approximately equal contributions to all options offered under the plan. Employer contributions would be considered to be approximately equal if the employer contribution to the lower cost option was no less than the employer contribution to the highest cost option reduced by 10 percent of the difference in cost between the highest cost option and the lower cost option. The employer contribution to the lower cost option could not exceed the contribution to the next higher cost option.

For example, if the cost of an employer provided health plan was $100 per month for family coverage in 1981 and the cost of the lower cost family option was $50 per month, an employer would be considered to be making approximately equal contributions if the employer contributed $50 toward the highest cost option and an amount between $45 and $50 toward the lower cost option.

e. Rebates: If the cost of a health plan has reached the trigger point, an employer would be required to rebate to an employee the difference between the employer contribution to the highest cost option and the employer contribution to a lower cost option selected by the employee. For purposes of determining whether an employer has satisfied the requirement that employer contributions to all options offered under a plan are approximately equal, the amount of the rebate would be considered to be part of the employer contribution. The rebate would be included in gross income except to the extent it has already been included as an excess employer contribution under 1(c) above.

For example, assume that the cost of an employer provided health plan was $100 per month for family coverage in 1981 and the cost of the lower cost family option was $50 per month. If the employer paid the full cost of the highest cost option ($100), the employer would have to rebate at least $45 and no more than $50 to employees choosing the lower cost option in order to comply with both the equal contribution rule described above and the rebate requirement.

3. Adjustments for Increases in Medical Care Costs

The bill contains three different kinds of dollar limitations: (1) the trigger point which determines, based on cost, health plans subject to minimum coverage, choice of options and equal employer contribution requirements, (2) the limitation on the amount of the employer contribution excludable from gross income, and (3) the $2,000 limitation on deductibles and copayments for purposes of minimum coverage. Under the bill, these three types of dollar limitations would be increased annually based on the increase in the medical care component of the Consumer Price Index.

B. Employment tax amendments (sec. 103 of the bill, new sec. 3508 of the Code)

1. Treatment of Excess Employer Contributions

Under the bill, in the case where an amount is includible in an employee's gross income because either (1) the amount of the employer contribution exceeded the exclusion limit on such contributions, or (2) the plan did not qualify because certain requirements relating to minimum coverage, choice of options or equal employer contributions were not met, the amount includible in gross income would be treated as a cash payment to the employee and thus would be subject to Federal withholding tax, FICA, FUTA, and the railroad retirement tax.

2. Treatment of Rebates

Under the bill, rebates, to the extent they are not taxed as excess employer contributions, would be subject to Federal withholding tax, but would not be subject to FICA, FUTA, and the railroad retirement tax.

C. Effective date (sec. 104 of the bill)

1. In General

The provisions would apply to calendar months beginning after December 31, 1980.

2. Collective Bargaining Agreements

For health plans maintained pursuant to a collective bargaining agreement entered into before the date of introduction of the bill, the provisions of the bill which would require the inclusion of the entire employer contribution in an employee's gross income where the plan did not meet certain requirements relating to minimum coverage, choice of options and equal employer contributions would not apply to calendar months ending before January 1, 1984 covered by the collective bargaining agreement.

II. HEALTH MAINTENANCE ORGANIZATION'S AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

This section amends section 1310 of the Public Health Service Act by providing that if one staff model HMO and one IPA model HMO are currently not offered to employees and there are at least two qualified health maintenance organizations engaged in the provision of basic and supplemental health services in the area in which the employees of an employer reside, and have, in accordance with regulations of the Secretary, stated their willingness to be included in health benefits plans offered by such employer, and are not owned or controlled by the same legal entity, then such employer shall offer to its employees the option of membership in at least two such organizations.

The section also defines a qualified HMO for the purpose of the mandatory dual choice provision to include plans which meet the current requirements of Title XIII of the Public Health Service Act and plans which meet the requirements of that Act except for any or all of the following:

1. the requirement that at least one-third of the membership of the policymaking body of the plan be members of the organization,
2. the requirement to provide mental health services and medical treatment and referral for the abuse of or addiction to alcohol and drugs,
3. the requirement that premiums not be adjusted to reflect the demographic characteristics of members.

III. PAYMENTS TO HEALTH MAINTENANCE ORGANIZATIONS UNDER THE MEDICARE PROGRAM

Under the proposal, an HMO would be reimbursed, on a prospective basis, 95 percent of the per capita amount the Secretary estimates would be paid for services provided to medicare beneficiaries by other providers in the geographic area of the HMO. The 95-percent payment would be based on the cost of providing services to different actuarial groups. For example, the HMO would receive a lower per capita payment for a female aged 65 than a female aged 80. The Secretary would also estimate the amount that the HMO would charge its medicare members if that amount were determined using a community rating system, adjusted for utilization characteristics of medicare beneficiaries. If that amount were lower than the amount of medicare reimbursement, the HMO would have to return the difference to its medicare members in reduced premium payments and extra benefits. The HMO would determine what additional benefits are most appropriate for its enrollees.

Members of an HMO which has elected to be reimbursed under this new risk formula could not receive medicare payments for services not furnished by or through the HMO; the HMO would be responsible for providing all medicare-covered services to medicare enrollees. However, medicare beneficiaries enrolled in an HMO at the time the new method was first applied to the HMO could continue to seek medical care outside the HMO and be reimbursed by medicare in the usual manner unless the Secretary, because of the administrative costs or other administrative burdens involved, required the new method to apply to all members of a particular HMO.

An HMO would be defined as an entity which (a) provides all covered medicare benefits to medicare enrollees and (b) is organized and operated in the manner prescribed in Title XIII of the Public Health Service Act as amended by Title II of this bill. The requirements related to the benefits which must be offered to non-medicare enrollees would not be applicable.

The HMO would be required to have an open enrollment period at least every year during which it accepts medicare beneficiaries up to the limits of its capacity and without restrictions (except as may be authorized in regulations) in order in which they apply for enrollment. However, no HMO would have to accept proportionately more medicare enrollees than are represented in the population in the geographic area served by the HMO.

The section would mandate a study evaluating the extent of, and reasons for, the termination by Medicare beneficiaries of their membership in health maintenance organizations. The study would focus special emphasis on the quantity and quality of medical care provided in health maintenance organizations and the quality of such care when provided on a fee-for-service basis.

IV. MEDICAID DEMONSTRATION PROJECT

The Secretary of Health, Education, and Welfare would conduct at selected locations demonstration projects to determine the effect of a competitive marketplace model on reimbursement under the medicaid program. The demonstration projects would be of sufficient scope and carried out on a broad enough scale to allow the Secretary to evaluate fully:

1. the relative advantage and disadvantage of using a central broker concept, either at the State or substate level, to assist beneficiaries in selecting among competitive health plans;
2. different methods of incentives, and the effectiveness of each, which could be used to encourage alternative delivery systems to participate in a competitive environment;
3. the feasibility of equal dollar contributions from the medicaid program to competing delivery systems; and
4. the effectiveness of financial or other incentives to medicaid beneficiaries to enroll in alternative delivery systems, including, but not limited to, incentives such as (A) guaranteed medicaid eligibility, (B) coverage of additional services, and (C) sharing of savings.

Waivers necessary to implement these demonstrations would be authorized, including waiver of the applicability of incentive payments toward income eligibility criteria for public assistance, medicaid, and food stamp programs.

The Secretary of Health, Education, and Welfare shall issue a preliminary report to the Congress within 30 months after the date of the enactment and a final report no later than 63 months after enactment. There is authorized to be appropriated $10,000,000 for the administrative and research duties to be carried out under this section.●

YOUNG MEN AND WOMEN SHOULD BE ENCOURAGED IN THE PURSUIT OF SCIENTIFIC CAREERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 5 minutes.

● Mr. PEPPER. Mr. Speaker, 100 years ago, Thomas Alva Edison forever lifted the darkness of night with his invention of the incandescent lamp. This was by no means the first, nor would it be the last of Edison's many discoveries. But it is the invention of the light bulb for which we most honor him. When we speak of American ingenuity, we speak of Thomas Edison.

Because of the increasingly complex nature of technology, many Americans find present day scientific discoveries to be only remotely connected with their daily lives. This was not true of Edison's light bulb, it had an almost immediate impact on American society. Though it would be some time before transmission cables would reach into all areas of the country, eventually the great rural electrification program established by this Congress in 1936 led to the fulfillment of Edison's dream of making inexpensive light available to all Americans. From the beginning, Edison's vision extended beyond the simple invention of the light bulb to the creation of a complete electrical lighting system.

As chairman of the Select Committee on Aging, I am pleased to note that Thomas Edison continued working throughout his later years, obtaining several of the 1,033 patents he received during his lifetime after he had passed his 80th birthday. Edison's example should remove any doubt from those who believe that genius, much less simple competence, need dim with age.

Thomas Edison pioneered the idea of establishing research laboratories with employees paid to invent new products or improve those already on the market. Today, in the research laboratories of American industry, scientists continue to develop new products which will improve the quality of life. We must continue to encourage young men and women to pursue scientific careers in the spirit of Thomas Edison, the Wizard of Menlo Park. By doing so, we will insure that the United States remains in the vanguard of technological progress.●

PERSONAL EXPLANATION

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, I take this time to state my position on several rollcall votes that I missed on Wednesday, October 24, and Thursday, October 25, 1979.

The votes are as follows:

WEDNESDAY, OCTOBER 24

Rollcall No. 598, on an amendment to H.R. 3683, the Consolidated Farm and Rural Development Act, offered by Mr. Madigan of Illinois. The amendment was adopted by a vote of 326 to 84. Had I been present, I would have voted for this amendment.

Rollcall No. 959, on final passage of H.R. 3683, the Consolidated Farm and Rural Development Act. The bill passed by a vote of 393 to 14. I was paired for this bill and had I been present, would have voted for it.

THURSDAY, OCTOBER 25

Rollcall No. 600, on House Resolution 464, the rule providing for consideration of House Joint Resolution 430, Emergency Fuel Assistance Appropriations. The resolution was agreed to by vote of 355 to 47. I was paired for this resolution and had I been present, would have voted for it.

Rollcall No. 601, on an amendment to House Joint Resolution 430, emergency fuel assistance appropriations, offered by Mr. Hughes, of New Jersey. The amendment was agreed to by a vote of 381 to 17. Had I been present, I would have voted for the amendment.

Rollcall No. 602, on an amendment to House Joint Resolution 430, emergency fuel assistance appropriations offered by Mr. Michel, of Illinois. The amendment was rejected by a vote of 183 to 207. Had I been present, I would have voted against the amendment.

Rollcall No. 603, on final passage of House Joint Resolution 430, emergency fuel assistance appropriations. The resolution was agreed to by a vote of 290 to 105. I was paired for this resolution and had I been present, would have voted for it.

Rollcall No. 604, on a motion offered by Mr. Fascell, of Florida, that the House resolve itself into the Committee of the Whole for further consideration of H.R. 4955, supplemental refugee assistance authorization. The motion was agreed to by a vote of 342 to 8. Had I been present, I would have voted for the motion.

Rollcall No. 605, on an amendment to H.R. 4955, supplemental refugee assistance authorization offered by Mr. Zablocki, of Wisconsin. The amendment was agreed to by a vote of 362 to 10. Had I been present, I would have voted for the amendment.

Rollcall No. 606, on final passage of H.R. 4955, supplemental refugee assistance authorization. The bill passed by a vote of 301 to 69. I was paired for this bill and had I been present, would have voted for it.

THE SOCIAL SECURITY REFINANCING AMENDMENTS OF 1979

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the Record.)

● Mr. SEIBERLING. Mr. Speaker, I am introducing legislation today to reform the way in which social security is financed. In lieu of an extensive introductory statement, I am submitting for the Record a copy of the testimony I gave before the Social Security Subcommittee, along with a summary of the bill's provisions.

The social security refinancing amendments would eliminate the portion of the payroll tax currently used to fund medicare. The tax, which under current law is scheduled to increase rapidly from the current 6.13 percent on both employees and employers to 7.15 percent by 1986 and ultimately to 7.65 percent by 2001, would be reduced to 5.5 percent and held there until 2005, when it would rise to 7.5 percent. For the self-employed, the new tax rate would be 7.62 percent through 2004, when it would rise to 10 percent. These rates would actually bring a revenue increase over current law for the OASDI trust funds, and would eliminate the likelihood of a shortfall by 1983–84, as administration and congressional officials have forecast.

Under my bill, medicare would be funded from personal and corporate Federal income taxes, but the method of financing while unique is carefully crafted. The bill would establish an earmarked, or dedicated, portion of the income tax. Each taxpayer would be notified on his annual tax return of the amount of his tax earmarked to medicare, that is, the percent of his taxes which will be employed to fund the program. Use of an earmarked income tax guards against the temptation, in future Congresses, to increase medicare benefits without informing the taxpayers how much of their individual income tax will be used to pay for the increases. It also protects the concept that eligibility for medicare benefits is a right which workers earn through their tax contributions.

Since I do not propose an increase in Federal income taxes to fund medicare, the result of the bill's enactment would be a $13 billion tax reduction in 1980 (after subtracting the increased taxes from the OASDI rate increases). I believe that a tax cut in 1980 will be necessary and probably inevitable. Most economists are agreed that a payroll tax cut would be the most desirable kind, both because it would be counter-inflationary (in lowering business costs) and because it would increase the overall equity of our Federal tax system. I discuss these issues in greater detail in my testimony that follows these remarks.

Mr. Speaker, the use of an earmarked income tax to fund medicare was recently recommended by the Social Security Advisory Council, whose formal report is due in November. This proposal makes sense from a numbeer of viewpoints, and I hope that we will have a chance to consider it in the House in the near future.

Statement of Congressman John F. Seiberling on Social Security Financing Reform, Before The House Social Security Subcommittee, October 11, 1979

Mr. Chairman and members of the Social Security Subcommittee, I appreciate the opportunity to testify before you today on social security financing improvements.

Thanks to the many benefits of modern society, our population is living longer today, and the ratio of retirees to workers is constantly increasing. Men reaching age 65 today will live an average of 13.7 more years; women will live an average of 18 more years. Eleven percent of the current U.S. population is age sixty-five and older. By 2000 13% will have reached age 65, and by 2025, 18%—forty-nine million out of a population of 267 million—will be 65 or older.

In 1971, my first year in Congress, I introduced a bill to provide for one-third financing of social security from general revenues. In my introductory statement, I said that "the present system of financing social security has reached the breaking point, and unless the program is significantly reformed, it cannot continue to meet its goal of providing financial security for retired persons. In the long run, if we can continue to rely on the payroll tax as the sole source of social security revenues, when the postwar generation reaches retirement age, the tax burden on their children will become unbearable. While tinkering with the financing mechanism may bring shortrun relief, it will not solve our problems in the long run."

If that statement was true in 1971, it is even truer today. In the intervening years, Congress has increased, not decreased, social security's reliance on the payroll tax to fund benefits. Since 1971, we have had four social security tax increases, from 5.2% to 6.13% for employers and employees. The wage base has risen even more rapidly, from $7,800 to $22,900. A family of four whose income has remained at the median level from 1971 ($10,618) to 1979 ($17,105) has experienced a social security payroll tax increase from $406 to $1,160. And the worst is not over. Because of tax and wage base increases which Congress approved in 1977, the maximum social security tax payment will rise 41% from 1979 to 1981, from $1,404 to $1,975.

Economic developments of the 1970's add urgency to the demographic arguments for social security financing reform. Our paramount domestic concern today is inflation, which has been running this year at an annual rate of 13%. The devastating effect of inflation on retirees is difficult to exaggerate. In five years, a 10% inflation rate will reduce the purchasing power of a retiree's fixed income by about 40%. At the end of fifteen years, which corresponds roughly to the lifespan of a worker retiring today, a 10% inflation rate will have reduced the purchasing power of a dollar by 76%. Even a 7% inflation rate—which we would all welcome at this point—would result in a doubling of prices in only ten years, well within the average lifespans of today's retirees.

Ironically, we have been repeatedly warned that social security taxes are a significant cause of inflation. In 1977, the Bureau of Labor Statistics testified before the Joint Economic Committee that the 1977 payroll tax increase accounted for 1.1% of the 14% annual increase in hourly compensation. In 1978, G. William Miller, then Chairman of the Board of Governors of the Federal Reserve System, testified before the Senate Finance Committee that "the Board's staff has estimated that the scheduled [1979] increase in employer contributions to social security would add about one-half a percent to inflation next year, and one-half is a large number." In spite of these warnings, we are facing even larger tax increases in the near future.

For many years, Congress assumed that the payroll tax paid by employers was either absorbed out of profits or shifted backward to the worker in the form of smaller wage increases. Economists now believe that the employer's share is shifted forward, to the consumer, in the form of higher prices. In fact, Arthur Okun, a former chairman of the President's Council of Economic Advisers, testified last year before the Senate that "the payroll tax levied on employers is basically a hidden federal sales tax on consumers."

This did not matter much when the payroll tax was small, but under current law the combined employer-employee payroll tax exceeded 12% for the first time in 1978, and it will exceed 13% in 1981, 14% in 1985, and 15% in 1990, on larger and larger wage bases. These tax increases cause real consumer spending to decline and production and employment to fall. To counter higher prices, the Federal Reserve applies the monetary "brakes." Even if the Fed does not slow the growth of the nominal stock of money, the real value of the money stock will automatically decline because of the higher price level.

How has Congress handled the economic problems associated with an increase in the payroll tax? We have reduced the federal income tax, as if an income tax reduction cancels out a payroll tax increase. It does not. The payroll tax is regressive; the income tax is progressive. The payroll tax covers income of employees up to a specified amount; the income tax covers virtually all income, regardless of source, with no limitation. To raise the payroll tax while lowering the income tax is to reduce the progressivity, and thus the equity, of our overall tax systems while leaving unremedied the inflationary aspects of the payroll tax.

Two arguments are generally put forth against general revenue financing of social security. The first is that using general revenues would be a formal admission that social security is not "insurance," but a mechanism for income redistribution. I believe that such an admission is long overdue. Social security is a program to provide income security and health benefits for eligible retired persons, disabled workers, and their dependents.

Its benefits are not financed by past contributions; they are paid for by a mandatory tax on current income: A retiree's benefit is a worker's burden. Nor does tying a retiree's current benefit to his part contributions make the system an "insurance" system. The adequacy of any benefit, whether from social security or a public or private pension, is measured by the percentage of lost earnings which it replaces, so that any financing method would still have to depend on this or a similar mechanism to establish an appropriate benefit level. The "insurance" view of social security is further weakened by the progressive benefit structure, under which proportionately more of a lower-income worker's lost wages are replaced than are those of an upper-income worker. Final proof that social security is an income redistribution system is the fact that medicare benefits have no relation whatever to contributions.

For over a generation, the "insurance" myth of social security has led us to treat the payroll tax as a special creature, not to be judged by the same standards we seek to apply to the rest of our tax structure. As long as the payroll tax was a nominal one—even as late as 1965, when it was still only 3.6% on the first $4,800—we could persist in this myth without inflicting great harm on the taxpaying public. But it is time to recognize the payroll tax for what it is and reform it along with the rest of our tax structure.

The second argument generally put forth against general revenue financing is that without the discipline of the payroll tax, Congress would be unable to resist the political advantage of increasing benefits while forgoing the tax increases necessary to pay for them. I cannot believe that we distrust ourselves so much that we dare not make needed reforms, and harm the economy in the bargain. However, I believe that I have a proposal which satisfies those on both sides of this argument, as I will explain later.

On December 15, 1977, the same day that I reluctantly voted to approve the conference report on the social security financing amendments, I introduced a bill to provide an income tax credit for up to one-third of a worker's social security payroll taxes. This credit would have been reduced one-half percent for each $500 by which a worker's income exceeded the current wage base. The credit was to be refundable, and the IRS was to have adjusted withholding rates so that the amount of the credit would never have left the worker's paycheck or the economy. In this bill, I expanded on the earned income credit which Congress approved in 1975 "to offset the impact of the social security taxes on low-income persons," as described in the Ways and Means Committee report.

The concept of a credit for social security taxes has been introduced this year by Congressman Gephardt, a member of this Subcommittee. I am a cosponsor of his bill, H.R. 4990, and believe that it is an improvement over my 1977 proposal, because it allows businesses as well as individuals to claim the credit, which will help in the fight against inflation. Of course, the credit in H.R. 4990 is only for two years, so that Congress can re-examine the entire area of social security funding and seek the best permanent solution.

I believe that a tax cut will be necessary next year, and it goes without saying that I would prefer the Gephardt approach to another reduction in federal income taxes, for both its tax equity and its non-inflationary qualities. President Carter has also indicated his preference for a reduction in payroll taxes if there is a 1980 tax cut.

However, I do have one concern with the Gephardt approach. Social security's financing problems received a great deal of attention in the mid-1970's, and as a result, public confidence in the system plummeted, and has never recovered. Sixty-seven percent of respondents to a 1978 CBS/New York Times poll said that they doubted they would get enough out of social security to justify what they pay into it. This year, a major Lou Harris survey of American attitudes toward pensions and retirement found that 42% of respondents have hardly any confidence that the present social security system will be able to pay them benefits when they retire.

The fact that social security can indeed be put on a sound financial basis, and that the 1977 amendments need improvement because of unexpectedly high inflation and unemployment, are not the issues. The issue is public confidence in social security, and I believe that repeated congressional amendments to the system's finances will not improve that confidence. I think that the Subcommittee should adopt the Gephardt two-year credit as a fall-back position, and work first on permanent, long-term refinancing legislation which addresses all of the facets of this complex issue—the need for a tax reduction, the need to improve equity in our tax system, and the need to reduce inflationary pressures in our economy.

The public is ready for reform in social security financing; 50 percent of respondents to an ABC/Harris Survey this year favored using general revenues to fund a one-third cut in payroll taxes. With 13 percent inflation, the economy is ready for it. And I believe that Congress is ready for it; the House Democratic Caucus has endorsed a cut in payroll taxes for the past two years.

I am introducing legislation which I believe meets the three criteria we should be looking for in a social security refinancing bill. The broad outline of this proposal has been discussed many times before. It has been tentatively endorsed by the Social Security Advisory Council as one option to solve the system's short-term financing problems, and will probably receive final approval as a recommendation at the Council's meeting this weekend.

A similar proposal was suggested to this Subcommittee by CBO Director Alice Rivlin in her September 28 testimony. It is also quite similar to one proposed in legislation by distinguished members of this Committee, including Barber Conable and Abner Mikva, who recently resigned to become a U.S. Circuit Court judge. However, my bill has several features which I believe make it unique, and for which it warrants serious consideration by this Subcommittee.

My bill would cut payroll taxes in 1980 by $13 billion, from 6.13 percent to 5.5 percent. The entire income from this rate would go to the cash benefits portion of social security OASDI, which would constitute a tax increase for these two accounts over current law and eliminate any possibility of a short-term deficit, as CBO has projected under current OASDI tax rates for 1983–84. This 5.5 percent rate would remain in place until 2005. A tax cut of this type would be considered by practically all economists to be the best kind of cut.

This past July, the Democratic Steering and Policy Committee, of which I am a member, met with Michael Blumenthal, then Secretary of the Treasury, G. William Miller, then Chairman of the Federal Reserve Board, Nancy Teeters, a member of the Fed's Board of Governors, and Alice Rivlin, CBO Director. While none of them was prepared to endorse a tax cut at that time, each of them agreed that if a tax cut package became desirable, then it ought to include a cut in the payroll tax, which they agreed would be the least inflationary and would produce the quickest stimulus to a lagging economy.

Under my bill, medicare funding would be shifted to an earmarked, or dedicated, portion of existing personal and corporate income taxes. The earmarked portion of the individual tax would be computed by taking a flat percentage, as determined each year by the Treasury in consultation with HEW, of the individual taxpayer's tax payment, not to exceed $275 per taxpayer.

Use of a dedicated income tax protects both the earned-right concept of medicare and the "fiscal discipline" inherent in an earmarked tax. Since the earned-right concept is inapplicable to corporations, the portion of the corporate income tax dedicated to medicare would be computed simply by directing the Treasury to dedicate from corporate and business income tax revenues an amount equal to the total earmarked from individual taxes toward medicare.

The contribution base increases, now scheduled to rise from $22,900 to $25,900 in 1980 and $29,700 in 1981, would not be changed.

For the self-employed, the new tax rate is computed by applying the same percentage increase to the current OASDI rate as was applied to the employer/employee rate to yield 5.5 percent. The self-employed payroll tax would thus be 7.62 percent.

If any current social security program should be funded by general revenues, certainly it is medicare. Medicare is not a cash-benefit program: It provides health benefits, not money, to the elderly. Benefits bear no relation to a worker's contributions, but are determined solely by medical need.

To summarize the benefits of my legislation: It provides a tax cut of $13 billion for 1980. The tax cut provided is not only noninflationary, it is anti-inflationary and pro-employment. Businesses could pass on their labor cost savings immediately to consumers. Reduction of the payroll tax will help small businesses particularly, since the overwheming majority of their employees are within the wage base and a small-business employer thus pays the social security tax on the full amount of a much larger percentage of the payroll. Finally, the method in which the new medicare tax is collected ensures fiscal stability on the part of Congress and also guards against introduction of a means test.

Mr. Chairman, our system of retirement income has been compared to a three-legged stool, with social security, private pensions, and personal savings comprising those legs. Today, inflation is seriously jeopardizing all three. It is incumbent upon us to act quickly to reduce inflation and stop the destruction of our retirement security triad. Even under the best of circumstances, today's workers face an uncertain future. We owe them our best efforts to make their retirement as secure as possible.

Thank you.

Section-by-Section Analysis of the Social Security Refinancing Amendments

Section 101 (a) and (b) establish the new social security tax rates for employees and employers of 5.5 percent until 2005 and 7.5 percent thereafter.

Section 101(c) establishes the rate for self-employed, 7.62 percent until 2005 and 10 percent thereafter.

Section 102 allocates a portion of the new rate to the disability insurance trust fund, in accordance with figures supplied by actuaries at the Social Security Administration.

Section 201 provides that the medicare tax rate be terminated after 1979.

Section 202(a) provides for a new medicare financing system of matching corporate taxes with amounts collected from individuals under the provisions of 202(b). It also gives the Treasury authority to transfer from general revenues to the medicare trust fund as much money as the fund needs in the case of estimating errors by HEW or Treasury or unforeseen economic conditions.

Section 202(b) establishes the new method for medicare funding. Under this subsection, the Treasury Secretary (1) estimates the medicare trust fund's revenue need for the year; (2) establishes the percentage which, when applied to all individual returns, will raise one-half the needed revenue (the other half to be raised by matching corporate tax receipts); and (3) earmarks that amount for medicare. The subsection also sets a contribution limit of $275, to rise with increases in social security contribution and benefit bases.

Section 301 provides for notification on each taxpayer's return of the percentage of his or her taxes which will be earmarked to fund medicare.

Section 302 makes the effective date 1980.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Fary (at the request of Mr. Wright), for today, on account of official business.

Mr. Jones of North Carolina (at the request of Mr. Wright), for this week, on account of medical reasons.

Mr. Miller of California (at the request of Mr. Wright), for today, on account of medical reasons.

Mr. Rodino (at the request of Mr. Wright), for today, on account of illness in the family.

Mr. Winn (at the request of Mr. Rhodes), for an indefinite period, on account of attending the 34th United Nations General Assembly as a congressional delegate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Shumway) to revise and extend their remarks and include extraneous material:)

Mr. Goldwater, for 15 minutes, today.
Mr. Findley, for 5 minutes, today.

(The following Members (at the request of Mr. Pease) to revise and extend their remarks and include extraneous material:)

Mr. Nelson, for 5 minutes, today.
Mr. Drinan, for 5 minutes today.
Mr. Annunzio, for 5 minutes, today.
Mr. Weaver, for 10 minutes, today.
Mr. Gonzalez, for 15 minutes, today.
Mr. Ullman, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Shumway) and to include extraneous material:)

Mr. Leach of Iowa.
Mr. Clinger.
Mr. Conte.
Mr. Royer.
Mr. Rousselot.
Mr. Conable in two instances.
Mr. Abdnor.
Mr. Daniel B. Crane.
Mr. Ashbrook in three instances.
Mr. Hammerschmidt.
Mr. Roth.
Mr. Grassley.
Mr. Vander Jagt.
Mr. Gingrich.
Mr. Green.
Mr. Philip M. Crane.
Mr. Dornan.
Mr. Kemp in two instances.
Mr. McClory.
Mr. Michel in two instances.
Mr. Hyde.
Mr. Solomon.
Mr. Lagomarsino.
Mr. Stangeland.

(The following Members (at the request of Mr. Pease) and to include extraneous matter.)

Mr. Mineta.
Mr. Stark.
Mr. Markey in five instances.
Mr. Roe.
Mr. Yatron.
Mr. Donnelly.
Mr. Edgar.
Mr. Moakley.
Mr. Corrada.
Mr. Murphy of Illinois.
Mr. Skelton.
Mr. Evans of Indiana.
Mr. Vento.
Mr. Cotter.
Mr. Walgren.
Mr. Long of Maryland.
Mr. Garcia.
Mr. Nichols.
Mr. Downey.
Mr. Pepper in two instances.
Mr. Solarz.
Mr. Eckhardt.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on October 25, 1979, present to the President, for his approval, a bill of the House of the following title:

H.R. 4394. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes.

ADJOURNMENT

Mr. PEASE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 51 minutes p.m.), the House adjourned until tomorrow, Wednesday, October 31, 1979, at 10 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the third quarter of calendar year 1979 in connection with foreign travel pursuant to Public Law 95-384 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON EDUCATION AND LABOR, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1, AND SEPT. 30, 1979

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. George Miller	7/20	7/21	Switzerland		192.00					313.35	192.00
Flew on special U.S. Air Force plane with rest of delegation.											
Committee total					192.00						192.00

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

CARL D. PERKINS,
Chairman, Committee on Education and Labor.

Oct. 29, 1979.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FOREIGN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1979

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Barnes, M. D.	6/30	7/5	Mexico		450.00						450.00
Commercial transportation							467.00				467.00
Bierman, E.[3]	8/20	8/22	Spain		141.33						141.33
	8/22	8/24	Portugal		142.40						142.40
	8/24	8/28	Yugoslavia		300.00						300.00
	8/28	8/31	Austria		384.00						384.00
	8/31	9/3	Belgium		261.76						261.76
Military transportation							948.16				948.16
Bonker, D.	7/7	7/10	England		225.00						225.00
Commercial transportation							1,671.00				1,671.00
Bowen, D. R.	6/30	7/7	Mexico		450.00						450.00
Commercial transportation							467.00				467.00
Total					2,354.49		3,553.16				5,907.65
	8/8	8/9	Hong Kong		156.00		73.17				229.17
	8/9	8/10	Thailand		150.00						150.00
	8/10	8/12	Vietnam		150.00						150.00
	8/12	8/15	Sri Lanka		225.00						225.00
	8/15	8/17	Pakistan		70.20						70.20
	8/17	8/24	Soviet Union		225.00						225.00
Military transportation							1,451.93				1,451.93
Brady, J. J.[3]	8/20	8/22	Spain		154.00						154.00
	8/22	8/24	Portugal		150.00						150.00
	8/24	8/28	Yugoslavia		300.00						300.00
	8/28	8/31	Austria		384.00						384.00
	8/31	9/3	Belgium		321.00						321.00
Military transportation							948.16				948.16
Total					2,285.20		2,473.26				4,758.46
Broomfield, W.[3]	8/20	8/22	Spain		154.00						154.00
	8/22	8/24	Portugal		150.00						150.00
	8/24	8/28	Yugoslavia		300.00						300.00
	8/28	8/31	Austria		384.00						384.00
	8/31	9/3	Belgium		312.22						312.22
Military transportation							948.16				948.16
Carson, J.	8/6	8/8	Liberia		15.00		243.00				258.00
	8/8	8/9	Spain		77.00						77.00
Commercial transportation							1,391.00				1,391.00
Collins, C.	7/3	7/8	Martinique		156.00		713.00				869.00
Fenwick, M.	8/26	8/31	Italy								
	8/31	9/4	Belgium								
Commercial transportation							1,550.00				1,550.00
Totals					1,548.22		4,845.16				6,393.38
Finley, M.	7/3	7/18	Soviet Union								
Commercial transportation							952.00				952.00
Fithian, F.[3]	8/20	8/22	Spain		154.00						154.00
	8/22	8/24	Portugal		150.00						150.00
	8/24	8/28	Yugoslavia		300.00						300.00
	8/28	8/31	Austria		384.00						384.00
	8/31	9/3	Belgium		321.00						321.00
Military transportation							948.16				948.16
Galey, M. E.	7/20	7/22	Switzerland		96.00						96.00
Military transportation (W.H.)							680.84				680.84
Total					1,405.00		2,581.00				3,986.00
Goodman, M.	8/4	8/12	Thailand		477.57						477.57
	8/12	8/18	Sri Lanka		329.39						329.39
	8/18	8/23	India		450.00						450.00
	8/23	8/24	England		110.00						110.00
Commercial transportation							3,275.00				3,275.00
Gilman, B. A.	8/8	8/9	Hong Kong		152.10		73.17				225.27
	8/9	8/10	Thailand		150.00						150.00
	8/10	8/12	Vietnam		150.00						150.00
	8/12	8/15	Sri Lanka		221.77						221.77
	8/15	8/17	Pakistan		139.90						139.90
	8/17	8/24	Soviet Union		170.90						170.90
Military transportation							1,451.73				1,451.73
Total					2,351.63		4,799.90				7,151.53

Footnotes at end of table.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FOREIGN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1979—Con.

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Guyer, T	8/8	8/9	Hong Kong		156.00		73.17				229.17
	8/9	8/10	Thailand		150.00						150.00
	8/10	8/12	Vietnam		150.00						150.00
	8/12	8/15	Sri Lanka		225.00						225.00
	8/15	8/17	Pakistan		150.00						150.00
	8/17	8/24	Soviet Union		199.31						199.31
Military transportation							1,451.93				1,451.93
Holstine, J	7/19	7/22	Switzerland		192.00						192.00
Military transportation							680.84				680.84
	8/8	8/9	Hong Kong		156.00		73.17				229.17
	8/9	8/10	Thailand		150.00						150.00
	8/10	8/12	Vietnam		150.00						150.00
	8/12	8/15	Sri Lanka		225.00						225.00
	8/15	8/17	Pakistan		98.18						98.18
	8/17	8/24	Soviet Union		98.30						98.30
Total					2,099.79		2,279.11				4,378.90
Military transportation							1,451.93				1,451.93
Hyndman, P. V	8/4	8/13	Thailand		536.33		1,232.00				1,768.33
	8/13	8/14	Burma		75.00						75.00
	8/15	8/18	Sri Lanka		193.10						193.10
	8/18	8/23	India		421.89						421.89
	8/23	8/24	England		124.10						124.10
Military transportation							3,339.00				3,339.00
Ingram, G.[3]	8/20	8/22	Spain		154.00						154.00
	8/22	8/24	Portugal		150.00						150.00
	8/24	8/28	Yugoslavia		300.00						300.00
	8/28	8/31	Austria		384.00						384.00
	8/31	9/3	Belgium		321.00						321.00
Military transportation							948.16				948.16
Total					2,659.42		6,971.09				9,630.51
Ireland, A	8/8	8/9	Hong Kong		156.00		73.17				229.17
	8/9	8/10	Thailand		150.00						150.00
	8/10	8/12	Vietnam		150.00						150.00
	8/12	8/15	Sri Lanka		225.00						225.00
	8/15	8/17	Pakistan		70.71						70.71
	8/17	8/24	Soviet Union		161.66						161.66
Military transportation							1,451.93				1,451.93
Jewell, K.[3]	8/20	8/22	Spain		154.00						154.00
	8/22	8/24	Portugal		150.00						150.00
	8/24	8/28	Yugoslavia		300.00						300.00
	8/28	8/31	Austria		484.00						384.00
	8/31	9/3	Belgium		321.00						321.00
Military transportation							948.16				948.16
Total					2,222.37		2,473.26				4,695.63
Johnson, V	6/30	7/5	Mexico		369.12						369.12
Commercial transportation							414.00				414.00
Lagomarsino, R. J	8/8	8/9	Hong Kong		156.00		73.17				229.17
	8/9	8/10	Thailand		135.00						135.00
	8/10	8/12	Vietnam		115.00						115.00
	8/12	8/15	Sri Lanka		210.00						210.00
	8/15	8/17	Pakistan		126.00						126.00
	8/17	8/24	Soviet Union		209.54						209.54
Military transportation							1,451.93				1,451.93
Mann, J	9/9	9/13	Kenya		238.86						238.86
	9/13	9/16	Liberia		150.00						150.00
	9/16	9/21	Senegal		390.00						390.00
Commercial Transportation							1,483.50				1,483.50
Total					2,099.52		3,422.60				5,522.12
Nelson, C	8/7	8/9	Hong Kong		156.00		73.17				229.17
	8/9	8/10	Thailand		150.00						150.00
	8/10	8/12	Vietnam		150.00						150.00
	8/12	8/15	Sri Lanka		225.00						225.00
	8/15	8/17	Pakistan		150.00						150.00
	8/17	8/24	Soviet Union		127.63						127.63
Military transportation					1,451.93						1,451.93
Palmer, E. J	7/19	7/22	Switzerland		192.00						192.00
Military transportation (W.H.)							680.84				680.84
Perugino, R.[3]	8/20	8/22	Spain		76.73						76.73
	8/22	8/24	Portugal		148.56						148.56
	8/24	8/28	Yugoslavia		300.00						300.00
Total					3,127.85		745.01				3,881.86
	8/28	8/31	Austria		384.00						384.00
	8/31	9/3	Belgium		252.91						252.91
Military transportation							948.16				948.16
Pritchard, J	7/19	7/22	Switzerland		192.00						192.00
Military transportation							680.84				680.84
	8/18	8/20	Philippines		210.40						210.40
	8/21	8/25	Thailand		320.60		175.51				496.11
	8/26	8/27	Malaysia								
	8/27	8/29	Singapore		225.00						225.00
	8/30	8/31	Hong Kong		78.00						78.00
Commercial transportation							1,850.00				1,850.00
Schlundt, V. M	7/20	7/22	Switzerland		192.00						192.00
Military transportation (W.H.)							680.84				680.84
Solarz, S. J	7/20	7/22	Switzerland		192.00						192.00
Military transportation (W.H.)							680.84				680.84
Total					2,046.91		5,016.19				7,063.10

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[3]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[3]
	8/6	8/8	Liberia		40.00		243.00				283.00
	8/8	8/9	Spain		77.00		41.73				113.73
	8/9	8/14	Morcсco		300.00						300.00
	8/13	8/13	Mauritania								
	8/14	8/14	France		35.30						35.30
	8/14	8/17	Algeria		17.05						17.05
	8/17	8/19	Greece		150.00		90.23				240.23
	8/19	8/20	Cyprus								
	8/20	9/4	Turkey		525.00						525.00
Commercial transportation							2,768.00				2,768.00
Van Eemond, A.	7/20	7/22	Switzerland		192.00						192.00
Military transportation (W.H.)							680.84				680.84
Total					1,336.35		3,823.80				5,160.15
Weissman, S.	8/6	8/8	Liberia		13.00		243.00				256.00
	8/8	8/9	Spain		77.00		41.73				118.73
	8/9	8/14	Morocco		300.00						300.00
	8/13	8/13	Mauritania								
	8/14	8/14	France		35.25						35.25
	8/14	8/17	Algeria		33.72						33.72
	8/17	8/18	Italy		75.00		19.01				94.01
Commercial transportation							2,463.80				2,463.80
Wolff, L. L.	7/19	7/22	Switzerland		192.00						192.00
Military transportation (W.H.)							690.84				680.84
	8/8	8/9	Hong Kong		156.00		73.17				229.17
	8/9	8/10	Thailand		150.00						150.00
	8/10	8/12	Vietnam		150.00						150.00
Total					1,181.97		3,521.55				4,703.52
	8/12	8/15	Sri Lanka		225.00						225.00
	8/15	8/17	Pakistan		150.00						150.00
	8/17	8/24	Soviet Union		200.58						200.58
Military transportation							1,451.93				1,451.93
Zablocki, C. J.[4]	8/20	8/22	Spain		154.00		1,128.98				1,282.98
	8/22	8/24	Portugal		150.00		2,133.00				2,283.00
	8/24	8/28	Yugoslavia		300.00		3,420.10				3,720.10
	8/28	8/31	Austria		384.00		5,908.88				6,292.88
	8/31	9/3	Belgium		321.00		3,206.46				3,527.46
Military transportation							948.16				948.16
Total					1,884.58		18,197.51				20,082.09
Grand total for this quarter											93,314.90

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Traveled with Codel Zablocki—Transportation expenses for entire delegation filed on report of C. Zablocki for each country visited.

[4] Zablocki transportation figures represent in-country transportation expenses for the entire delegation in each country visited.

CLEMENT J. ZABLOCKI,
Chairman, Committee on Foreign Affairs.

Oct. 30, 1979.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON HOUSE ADMINISTRATION, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1, AND SEPT. 30, 1979

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[3]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[3]
Representative Charles Rose	9/24	9/26	Switzerland		200.00		849.00	0	0		1,049.00
Total					200.00		849.00		0		1,049.00

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

FRANK THOMPSON, JR.,
Chairman, Committee on House Administration.

Oct. 16, 1979.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON MERCHANT MARINE AND FISHERIES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1979

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Howell, Martin D.	7/15	7/18	Costa Rica	2,562	300.00		509.00				809.00
	8/10	8/12	Great Britain	152-31	345.00		[3] 3,719.85				5,467.85
	8/13	8/14	Belgium	6,232	214.00						
	8/15	8/16	West Germany	338.52	186.00						
	8/17	8/20	South Africa		300.00						
	8/21	8/26	Kenya	3,333.65	450.00						
	8/27	8/28	Hong Kong	790.60	156.00						
	8/29	8/30	Japan	21,490	97.00						
Kronmiller, Theodore	7/15	7/19	Costa Rica	640.50	[4] 300.00		390.00				690.00
McCloskey, Hon. Paul N.	7/9	7/11	England		318.00		821.00				1,139.00
Williams, Donna J.	7/8	7/14	England		636.00		821.00				1,457.00
Totals					3,302.00		6,260.85				9,562.85

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] $3,444.00—air fare $275.85—transportation by car from London to Antwerp to Frankfurt paid by State Department.

[4] Returned ¢1,060 ($124 U.S. dollars) to Embassy.

JOHN M. MURPHY,
Chairman, Committee on Merchant Marine and Fisheries.

Oct. 15, 1979.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SMALL BUSINESS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1, AND SEPT. 30 1979

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Nicholas Wultich	7/6	7/8	Canada[3]	0	100.00	0	82.66	0	22.50	0	205.16
Charles Szoka	7/6	7/8	Canada[3]	0	100.00	0	82.66	0	10.50	0	193.16
Totals					200.00		165.32		33.00		398.32

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Trip included stops in New York, N.Y., and Boston, Mass.; amounts listed represent travel from Boston to Montreal to Boston.

NEAL SMITH,
Chairman, Committee on Small Business.

Oct. 18, 1979.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1, AND SEPT. 30, 1979

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Wyche Fowler, Jr.	7/1	7/3	France	1,139.40	270.00		624.00				894.00
Hon. Fortney H. (Pete) Stark	7/20	7/21	Switzerland	313.35	192.00						192.00
Transportation furnished by Department of Defense.											
Hon. Charles A. Vanik	8/4	8/7	Czechoslovakia	2,349	225.00		177.00				402.00
Totals					687.00		801.00				1,488.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

AL ULLMAN,
Chairman, Committee on Ways and Means.

Oct. 30, 1979

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2726. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting a report of receipts and disbursements pertaining to the disposal of surplus military supplies, equipment, and material for the third quarter of fiscal year 1979, pursuant to section 813 of the Defense Appropriation Act, 1979; to the Committee on Appropriations.

2727. A letter from the Comptroller General of the United States, transmitting his certification of the Defense Department's estimate of revenues to be deposited in the Panama Canal Commission's fund for fiscal year 1980, pursuant to section 1302(c)(2) of the Panama Canal Act of 1979; to the Committee on Merchant Marine and Fisheries.

2728. A letter from the Comptroller General of the United States, transmitting a report on the examination of the financial statements of the insurance operations of the Federal Housing Administration, Department of Housing and Urban Development, for fiscal year 1978, pursuant to section 106 of the Government Corporation Control Act (H. Doc. No. 96–213); jointly, to the Committees on Government Operations, Banking, Finance and Urban Affairs, and ordered to be printed.

2729. A letter from the Acting Comptroller General of the United States, transmitting a report on the Department of Housing and Urban Development's section 8 existing housing program (CED–80–7, October 30, 1979); jointly, to the Committees on Government Operations and Banking, Finance and Urban Affairs.

2730. A letter from Director, Office of Science and Technology Policy, Executive Office of the President, transmitting a report on the national earthquake hazards reduction program; jointly, to the Committees on Interior and Insular Affairs and Science and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. REUSS: Committee on Banking, Finance and Urban Affairs. H.R. 5037. A bill, to amend the Federal Reserve Act respecting the positions of Chairman and Vice Chairman of the Federal Reserve Board; with amendment (Rept. No. 96–572). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BINGHAM (for himself, Mr. WOLFF, Mr. JEFFORDS, Mr. BONKER, Mr. MICA, Mr. BARNES, Mr. HALL of Ohio, Mr. WOLPE, Mr. FINDLEY, Mr. GILMAN, Mr. GUYER, Mr. GOODLING, and Mr. PRITCHARD):

H.R. 5737. A bill to amend the International Claims Settlement Act of 1949 to allow recovery by U.S. nationals for losses incurred in Vietnam; to the Committee on Foreign Affairs.

By Mr. FRENZEL (for himself and Mr. HEFTEL):

H.R. 5738. A bill to amend the Internal Revenue Code of 1954 to increase the amount of the deduction allowable for certain moving expenses; to the Committee on Ways and Means.

By Mr. MARLENEE (for himself and Mr. WILLIAMS of Montana):

H.R. 5739. A bill to authorize the Secretary of Agriculture to provide indemnity payments to producers and processors who suffer property losses attributable to contamination by polychlorinated biphenyls; to the Committee on Agriculture.

By Mr. ULLMAN (for himself, Mr. GIBBONS, Mr. GEPHARDT, and Mr. DOWNEY):

H.R. 5740. A bill to amend the Internal Revenue Code of 1954 to encourage cost restraints in employer-provided health benefit plans, to amend the Public Health Service Act and title XVIII of the Social Security Act to further encourage enrollment in health maintenance organizations, and to establish demonstration projects to determine the effect of marketplace competition on the medicaid program; divided and referred as follows: Title I to the Committee on Ways and Means; title II to the Committee on Interstate and Foreign Commerce; and titles III and IV concurrently to the Committees on Interstate and Foreign Commerce and Ways and Means.

By Mr. ULLMAN (for himself, Mr. CONABLE, Mr. CORMAN, and Mr. MOORE):

H.R. 5741. A bill to amend section 103 of the Internal Revenue Code of 1954 to provide that the interest on mortgage subsidy bonds will not be exempt from Federal income tax, and to exempt interest on certain savings from Federal income tax; to the Committee on Ways and Means.

By Mr. SEIBERLING:

H.R. 5742. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to reduce social security taxes and apply the proceeds thereof exclusively to the financing of the old-age, survivors, and disability insurance program, with the medicare program being hereafter financed from general revenues (earmarking a portion of Federal income tax receipts for that purpose) rather than through the imposition of employment and self-employment taxes as at present; to the Committee on Ways and Means.

By Mr. STARK (for himself, Mr. SCHEUER, Mr. REUSS, Mr. DELLUMS, Mr. WEAVER, Mr. MITCHELL of Maryland, Mr. WEISS, Mr. GARCIA, Mr. FAUNTROY, Mr. MCCLOSKEY, Mr. CLAY, Mrs. SCHROEDER, Mr. LELAND, Mr. CONYERS, Mr. DIGGS, Mr. NOLAN, Mr. STEWART, Mr. WAXMAN, Mr. RANGEL, Mr. GRAY, and Ms. HOLTZMAN):

H.R. 5743. A bill to redesignate the Federal building known and designated as the "J. Edgar Hoover FBI Building" as the "FBI Building"; to the Committee on Public Works and Transportation.

By Mr. BIAGGI:

H.J. Res. 435. Joint resolution designating November 30, 1979, as "Colonel Commandant Michael Kovats Memorial Day"; to the Committee on Post Office and Civil Service.

By Mr. LOTT (for himself, Mr. Montgomery, Mr. Stockman, Mr. Winn, Mr. Pepper, Mr. Collins of Texas, Mr. Hutto, Mr. Hall of Texas, Mr. Whittaker, Mr. Kemp, Mr. Lagomarsino, Mrs. Holt, Mr. Kindness, Mr. Jones of Tennessee, Mr. Hance, Mr. Goldwater, Mr. Patten, Mr. Burgener, Mr. Guarini, Mr. Sawyer, Mrs. Fenwick, Mr. Livingston, Mr. McDonald, Mr. Pashayan, Mr. Brown of Ohio, Mr. Cheney, Mr. Marriott, Mr. Hinson, Mr. Robert W. Daniel, Jr., Mr. Jenrette, Mr. Corcoran, Mr. Dicks, Mr. Evans of Delaware, Mr. Madigan, Mr. Frenzel, Mr. Rousselot, Mr. Ertel, Mr. Evans of Georgia, Mr. Dornan, and Mr. Campbell):

H.J. Res. 436. Joint resolution to authorize the President to proclaim November 16, 1979, as "American Enterprise Day"; to the Committee on Post Office and Civil Service.

By Mr. STUDDS:

H. Con. Res. 205. Concurrent resolution disapproving the sale of construction and modification services to Saudi Arabia; to the Committee on Foreign Affairs.

By Mr. MOAKLEY (for himself, Mr. Wright, Mr. Rhodes, and Mr. Rousselot):

H. Res. 468. Resolution to amend the Rules of the House of Representatives to provide greater flexibility in the establishment of the periods during which pages of the House may be employed, including authority to reduce the number of pages' positions during recesses or adjournments; to the Committee on Rules.

By Mr. ZABLOCKI:

H. Res. 469. Resolution providing for the printing as a House document of the study entitled "Soviet Diplomacy and Negotiating Behavior: Emerging New Context For U.S. Diplomacy" which was prepared at the request of the Committee on Foreign Affairs by the Congressional Research Service of the Library of Congress; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BEARD of Rhode Island:

H.R. 5744. A bill for the relief of Lawrence Lau, Marilyn Lau; to the Committee on the Judiciary.

By Mr. FISHER:

H.R. 5745. A bill for the relief of Michael Chinwen Ke; to the Committee on the Judiciary.

H.R. 5746. A bill for the relief of Harold William Merritt; to the Committee on the Judiciary.

By Mr. GRADISON:

H.R. 5747. A bill for the relief of Carol Heather Guthrie and Annie (Scott) Boyle; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1429: Mr. Carter and Mr. Andrews of North Dakota.

H.R. 1776: Mr. Cheney, Mr. Royer, and Mr. Bailey.

H.R. 2445: Mr. Grisham, Mr. Goldwater, and Mrs. Heckler.

H.R. 2653: Mr. Bingham, Mr. Buchanan, Mrs. Chisholm, Mr. Coleman, Ms. Ferraro, and Mr. Tauke.

H.R. 3883: Mr. Phillip Burton, Mr. Luken, Mr. Solarz, Mr. Richmond, Mr. Oberstar, Mr. Moffett, Mr. Charles H. Wilson of California, Mr. Scheuer, Mr. Moakley, Mr. Yatron, Mr. Coelho, Mr. Hall of Ohio, Mr. Jacobs, Mr. Garcia, Mr. Panetta, Mr. Dixon, and Mr. Murphy of New York.

H.R. 4056: Mrs. Fenwick.

H.R. 4128: Mr. Stack.

H.R. 4624: Mr. Weiss.

H.R. 4760: Mr. Lott.

H.R. 4917: Mr. Moakley.

H.R. 4939: Mr. McCormack and Mr. Forsythe.

H.R. 5166: Mr. Buchanan, Mr. Cavanaugh, Mr. Nichols, Mr. Nolan, Mr. Roth, and Mr. Yatron.

H.R. 5225: Mr. Kemp, Mr. Chappell, and Mr. Grassley.

H.R. 5308: Mr. Abdnor, Mr. Albosta, and Mr. Lott.

H.R. 5389: Mr. Mitchell of Maryland, Mr. Bingham, Mr. Hughes, Mr. Diggs, Mr. Weiss, Mr. Patten, Ms. Oakar, Mr. Flood, Mr. Stokes, Mr. Ambro, Mr. Zeferetti, Mr. Hollenbeck, Mr. Rodino, Mr. Rinaldo, Mr. Howard, Mr. Nolan, and Mr. Ford of Michigan.

H.R. 5478: Mrs. Fenwick.

H.R. 5548: Mr. Stark, Mr. Green, Mr. Rosenthal, Mr. Brodhead, Mr. Moakley, Mr. Moore, Mr. Lederer, Mr. Loeffler, Mr. Barnes, Mr. Heftel, Mr. Evans of the Virgin Islands, Mr. Waxman, Mr. Bingham, Mr. Wolpe, Mr. Scheuer, Mr. Downey, Mr. Rangel, Mr. Horton, Mr. Kemp, Mr. Panetta, and Mr. Moffett.

H.R. 5689: Mr. Green.

H.J. Res. 374: Mr. Skelton, Mr. Murphy of Pennsylvania, Mr. Bonior of Michigan, Mrs. Chisholm, Mr. Corcoran, Mr. Guyer, Mr. Bereuter, Mr. Beilenson, Mr. Stangeland, Mr. Corrada, Mr. Mathis, Mr. Dodd, Mr. Young of Alaska, Mrs. Fenwick, Mr. Pepper, Mr. Hyde, Mr. Preyer, Mr. McCloskey, Mr. Richmond, Mr. Waxman, Mr. Kemp, Mr. Addabbo, Mr. Grassley, Mr. Nolan, Mr. Brown of Ohio, Mr. Moakley, and Mr. Gradison.

H. Con. Res. 202: Mr. Ireland, Mr. Wirth, Mr. Hall of Ohio, Mr. Whitehurst, Mr. Erdahl, Mr. Hughes, Mr. Harris, Mr. Mineta, Mr. Benjamin, Mr. Hubbard, Mr. Gray, Mr. Mattox, Mr. Pease, Mr. Buchanan, Mr. Pritchard, Mr. Bonker, Mr. Yatron, Mr. Broomfield, Mr. Philip M. Crane, Mr. Goodling, Mr. Edwards of Oklahoma, Mr. Guyer, Mr. Weiss, Mr. Lungren, Mr. Simon, Mr. Sensenbrenner, Mr. Murphy of Illinois, Mr. Kostmayer, Mr. Rousselot, Mr. Dickinson, Mrs. Chisholm, Mr. Ford of Tennessee, Mr. Richmond, Mr. Rinaldo, and Mr. Horton.

H. Res. 446: Mr. Blanchard, Mr. Wirth, and Mr. Gray.

H. Res. 453: Mr. Hughes.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3398

By Mr. FOLEY:

—On page 2, line 17, redesignate "Sec. 3" as "Sec. 4" and immediately before such line insert a new section 3 as follows:

"Sec. 3. Section 1001 of the Food and Agriculture Act of 1977 is amended by adding at the end thereof a new subsection (c) as follows:

"(c) Notwithstanding any other provision of law, the established price for wheat of the 1980 crop shall be $3.63 per bushel and the established price for corn of the 1980 crop shall be $2.35 per bushel for any producers who do not exceed the acreage on the farm normally planted to crops designated by the Secretary, adjusted as determined necessary by the Secretary to be fair and equitable among producers: *Provided*, That the established price for any producers of such crops who exceed such acreage shall be computed under the applicable provisions of the Agricultural Act of 1949. The payment rate for grain, sorghum, and barley shall be such rate as the Secretary determines fair and reasonable in relation to the rate at which payments are made available for corn.".

By Mr. SEBELIUS:

—On page 2, line 17, redesignate "Sec. 3" as "Sec. 4" and immediately before such line insert a new section 3 as follows:

"Sec. 3. Notwithstanding any other provision of law, the established price for wheat of the 1980 crop shall be $3.88 per bushel and the established price for corn of the 1980 crop shall be $2.51 per bushel for any producers who do not exceed the acreage on the farm normally planted to crops designated by the Secretary, adjusted as determined necessary by the Secretary to be fair and equitable among producers: *Provided*, That the established price for any producers of such crop who exceed such acreage shall be computed under the applicable provisions of the Agricultural Act of 1949. The payment rate for grain, sorghum, and barley shall be such rate as the Secretary determines fair and reasonable in relation to the rate at which payments are made available for corn.".

H.R. 4904

By Mr. GRADISON:

—On page 66, after line 18, insert the following new section (and conform the table of contents):

IMPOSITION OF WORK REQUIREMENTS BY STATES AS CONDITION OF AID TO FAMILIES WITH DEPENDENT CHILDREN ELIGIBILITY

Sec. 114. Section 402 of the Social Security Act (as amended by sections 111(a)(2) and 118(b)(2) of this Act) is further amended by adding at the end thereof the following new subsection:

"(f) Nothing in this part or part C, or in any State plan approved under this section, or in any regulation prescribed to implement this part or part C or any such State plan, shall be construed to prevent a State from imposing (on such terms and conditions and in such cases as the State may find to be necessary or appropriate, whether or not such terms, conditions, and cases are consistent with subsection (a)(19) or part C) a requirement that an individual or relative, or any other person (living in the same home) whose needs are taken into account in making the determination under subsection (a)(7), perform employment (as defined by the State) as a condition or additional condition of eligibility for aid to families with dependent children, provided that a single parent or other relative of a child under the age of six who is caring for the child shall not be required to perform employment unless appropriate care is available for such child while the parent or relative is performing such employment.".

H.R. 4985

By Mr. YOUNG of Alaska:

—On page 34, line 3, insert a period after the number "1978", strike the remainder of the section through line 5, and add the following new section:

THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Sec. 176. No provision of this Act nor any action taken pursuant to this Act shall affect or interfere in any way with the requirement established by section 9(b) of the Alaska Natural Gas Transportation Act of 1976 that actions by Federal officers or agencies affecting the transportation system selected by the President and approved by the Congress pursuant to the provisions of that Act be expedited or with the precedence granted by section 9(b) to applications to or requests of Federal officers or agencies by that system."

Renumber subsequent Sections accordingly.

(To the amendment in the nature of a substitute offered by Mr. Udall) (H.R. 5660) —On page 10, after line 9, add the following new section:

THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Sec. 203. No provision of this Act nor any action taken pursuant to this Act shall affect or interfere in any way with the requirement established by section 9(b) of the Alaska Natural Gas Transportation Act of 1976 that actions by Federal officers or agencies affecting the transportation system selected by the President and approved by the Congress pursuant to the provisions of that Act be expedited or with the precedence granted by section 9(b) to applications to or requests of Federal officers or agencies by that system."

Renumber subsequent sections accordingly.

H.R. 5192

By Mr. ERLENBORN:

—Page 95, after line 16, insert the following new subsection:

(d) Section 428(a)(2) of the act is amended by adding at the end thereof the following new subparagraph:

"(C)(i) A student shall qualify for a portion of an interest payment under paragraph (1) if such student's adjusted family income at the time of execution of the note or written agreement evidencing such loan—

"(I) is less than $40,000; or

"(II) is equal to or greater than $40,000 and the eligible institution has provided the lender with a statement evidencing a determination of need and recommending a loan in the amount of such need.

"(ii) For purposes of this subparagraph, the adjusted family income of a student shall be determined pursuant to regulations of the Commissioner in effect at the time of execution of the note or written agreement evidencing the loan. Such regulation shall provide for taking into account such factors, including family size, as the Commissioner deems appropriate. In the absence of fraud by the lender, such determination of the need of a student under this subparagraph shall be final insofar as it concerns the obligation of the Commissioner to pay the holder of a loan a portion of the interest on the loan.".

—Page 115, after line 7, insert the following new section:

INTEREST RATE INCREASE

Sec. 436. Section 464(c)(1)(D) of the Act is amended by striking out "shall provide that the loan shall bear interest, on the unpaid balance of the loan, at the rate of 3 per centum per annum" and inserting in lieu thereof "shall provide, for a loan issued prior to October 1, 1980, that such loan shall bear interest, on the unpaid balance, at the rate of 3 per centum per annum, and shall provide, for a loan issued on or after October 1, 1980, that such loan shall bear interest, on the unpaid balance, at the rate of 7 per centum per annum".

By Mr. PETRI:

—Page 95, line 18 redesignate section 417 as 418, and immediately before line 17 insert the following new section:

CANCELLATION FOR MILITARY SERVICE

Sec. 417. Section 437 of the Act is amended—

(1) by amending the heading of such section to read as follows:

"REPAYMENT BY THE COMMISSIONER"

And

(2) by adding at the end thereof the following new subsection:

"(c)(1) From the amount appropriated under paragraph (4) which are available for this subsection, the Commissioner shall, subject to the allocation schedule established under paragraph (4)(B), repay the per centum or the amount specified in paragraph (3) of this subsection of the total amount of any loan described in clause (A), (B), or (C) of section 428(a)(1) and made after October 1, 1975, for each complete year of service after October 1, 1980, by the borrower under circumstances described in paragraph (2).

"(2) Loans shall be eligible to be repaid under paragraph (1)—

"(A) for service as an enlisted member of the Selected Reserve of the Ready Reserve of the Armed Force; or

(B) for service on active duty as an enlisted member of the Armed Forces.

"(3)(A) The per centum or amount of a loan which shall be eligible to be repaid under paragraph (1) of this subsection is—

"(i) in the case of service described in clause (A) of paragraph (2), 10 per centum or $500, whichever is more, for each year of qualifying service; or

"(ii) in the case of service described in clause (B) of paragraph (2), 20 per centum or $1,000, whichever is more, for each year of qualifying service.

"(B) If a portion of a loan is repaid under this subsection for any year, interest on the remainder of such loan shall accrue and be paid in the same manner as is otherwise required.

"(C) Nothing in this subsection shall be construed to authorize refunding any repayment of a loan.

"(D) Any individual who transfers from service described in clause (A) or (B) of paragraph (1) to service described in the other clause of such paragraph during a year shall be eligible to have repaid a portion of such loan determined by giving appropriate fractional credit for each portion of the year so served, in accordance with regulations of the Commissioner.

"(4)(A) There are authorized to be appropriated for the purposes of this subsection and section 465(b)—

"(i) $7,000,000 for fiscal year 1981;

"(ii) $11,000,000 for fiscal year 1982;

"(iii) $13,000,000 for fiscal year 1983;

"(iv) $14,000,000 for fiscal year 1984; and

"(v) $15,000,000 for fiscal year 1985.

"(B) The Secretary of Defense shall, by regulation, prescribe a schedule for the allocation of funds available under subparagraph (A) during any year for which such appropriation is not sufficient to pay the sum of the amounts eligible for repayment under this section and for cancellation under section 465(b). Such schedule shall allocate priorities for cancellation among the various services and military occupational specialties, but first priority shall be given for service that qualifies for special pay under section 310 of title 37, United States Code, as an area of hostilities.

"(C) The Commissioner shall equitably distribute the amount appropriated under subparagraph (A) between this subsection and section 465(b)."

—Page 115, after line 7 insert the following new section:

CANCELLATION FOR MILITARY SERVICE

Sec. 436. Section 465 of the act is amended—

(1) by adding at the end of paragraph (3) of subsection (b) the following new subparagraph:

"(D) Notwithstanding any other provision of this paragraph, the amount of a loan which shall be cancelled in the case of any service described in clause (D) of paragraph (2) shall be reduced by the amount by which the loan is cancelled under subsection (b) by reason of the same service."; and

(2) by redesignating subsection (b) as subsection (c) and by inserting immediately before such subsection the following new subsection:

"(b)(1) The per centum or the amount specified in paragraph (3) of this subsection of the total amount of any loan made after October 1, 1975, from a student loan fund assisted under this part shall be eligible, subject to paragraph (4)(B), to be cancelled for each complete year of service after October 1, 1980, by the borrower under circumstances described in paragraph (2).

"(2) Loan shall be eligible to be cancelled under paragraph (1)—

"(A) for service as an enlisted member of the Selected Reserve of the Ready Reserve of the Armed Forces; or

"(B) for service on active duty as an enlisted member of the Armed Forces.

"(3)(A) The per centum or amount of a loan which shall be eligible to be canceled under paragraph (1) of this subsection is—

"(i) in the case of service described in clause (A) of paragraph (2), 10 per centum or $500, whichever is more, for each year of qualifying service; or

"(ii) in the case of service described in clause (B) of paragraph (2), 20 per centum or $1,000, whichever is more, for each year of qualifying service.

"(B) If a portion of a loan is canceled under this subsection for any year, the entire amount of interest on such portion for such year shall be canceled.

"(C) Nothing in this subsection shall be construed to authorize refunding any repayment of a loan.

"(D) Any individual who transfers from service described in clause (A) or (B) of paragraph (1) to service described in the other clause of such paragraph during a year shall be eligible to have canceled a portion of such loan determined by giving appropriate fractional credit for each portion of the year so served, in accordance with regulations of the Commissioner.

"(4)(A) Funds for the purposes of this subsection shall be drawn from the appropriations made under section 438(c).

"(B) The Secretary of Defense shall, by regulation, prescribe a schedule for the allocation of funds available under subparagraph (A) during any year for which such appropriation is not sufficient to pay the sum of the amounts eligible for cancellation under this subsection. Such schedule shall allocate priorities for cancellation among the various services and military occupational specialties, but first priority shall be given for service that qualifies for special pay under section 310 of title 37, United States Code, as an area of hostilities.".

By Mr. WALKER:

—Page 210, after line 15 insert the following new section:

RESTRICTION ON QUOTAS

Sec. 1202. Title XII of the Act is further amended by adding at the end thereof the following new section:

"RESTRICTION ON QUOTAS

"Sec. 1204. The Secretary is authorized to utilize affirmative action programs to promote equal opportunity within higher education, and issue rules, regulations, standards, guidelines, recommendations, and orders for purposes of compliance with such programs provided that such programs do not utilize any ration, quota or other numerical requirement related to race, creed, color, national origin, or sex to require any individual or entity to take any action with respect to (1) the admission policies or practices of such individual or entity, or (2) the hiring or promotion policies or practices of such individual or entity.".

H.R. 5297

By Mr. WEAVER:

—Add a new section in title II:

"No amount authorized to be appropriated under this Act may be expended for the issuance of an operating license for a nuclear power plant unless the Commission has received from the State in which the power plant is sited, and has approved, an emergency evacuation plan for such State or, if applicable, a multi-State region."

EXTENSIONS OF REMARKS

LAVELLE SCHOOL FOR THE BLIND CELEBRATES ITS 75TH ANNIVERSARY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. BIAGGI. Mr. Speaker, I am pleased to bring to the attention of my colleagues a special event in my hometown of the Bronx which recently took place. The Lavelle School for the Blind celebrated its 75th anniversary last week—a celebration marked by glowing tributes from students, educators, and public officials who have been touched by its work for the blind and visually handicapped.

The Lavelle School was begun in a small apartment in 1904. According to the original charter, the purpose of the school is to perform such work among the blind as will tend to promote their mental, moral and physical development, welfare and advancement. The school is administered by the Sisters of St. Dominic of Blauvelt, largely due to the fact that the first pupil of the school went on to become the first Dominican nun. From there, Mary Davis, who then became Sister Mary Benigna, went on to receive an honorary doctor of humane letters degree from Fordham University in 1963.

It is truly a unique philosophy which guides the activities of the people who work at the Lavelle School. One of their policies demonstrates their belief that the home environment can provide a useful and supportive partner in the development of their students. Students are encouraged to go home daily whenever this is possible. The social development of the child can be enhanced by having his family and siblings accept him or her in familiar surroundings as an individual. However, a child with a handicapped condition due to visual impairment needs special attention as well. This is where the Lavelle School provides its most valuable assistance to these students—in the classroom.

Special education is provided so that the Lavelle students are able to achieve their full potential. The program offered to students is enriched by educational aids and tools, coupled with individualized instruction so that each pupil can develop at a rate commensurate with his own abilities. Class size is kept small, and each class is equipped with radios, tape recorders, and television to insure that students benefit from all forms of media communication and more importantly, they are learning what goes on daily in the world around them.

Over the years, the Lavelle School has been successful in producing a special kind of graduate, one who has reaped the benefits of specialized attention from both family and instructors. It is this kind of educational system—unique in form and style—that is a testimony to the diversity of the educational system of this country. As the ranking New York member on the House Education and Labor Committee, I have been witness to many different methods of teaching the handicapped, in both the public and the private arena. The Lavelle School is a sterling example of a small, but effective alternative educational method.

I also wish to note another fitting tribute paid to the Lavelle School by Terrence Cardinal Cooke, Archbishop of New York:

> It is so fitting that in this very month we have all shared the momentous and joyous occasion of the visit of our Holy Father to New York. He reminds us in clear words that our faith in the Lord and his Gospel calls us to loving service of all our brothers and sisters, especially the poor and sick.
>
> What a beautiful witness the Lavelle School has given for the past seventy-five years of dedicated people ready to answer the call of service to the blind and visually handicapped. Through creative and caring programs you have provided your students the full opportunities of life to which they are entitled. And we all know the marvelous way in which they have responded!

I wish to congratulate the faculty, the members of the board of trustees and the students of this unique educational institution. Through loving support and understanding combined with innovative programs, the members of the Lavelle School have built a reputation that we of the Bronx and all of New York City can be proud of.●

SCHOOLS ARE IN TROUBLE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. MICHEL. Mr. Speaker, Phi Delta Kappa magazine has published the results of a survey undertaken by the National Assessment of Educational Progress. Predictably, the results are grim: "* * * the Nation's high schools and their students are in real trouble."

At this point I want to insert in the RECORD, "NAEP at Age 10 Says: Schools Are in Trouble," from Phi Delta Kappa magazine, November, 1979:

NAEP AT AGE 10 SAYS: SCHOOLS ARE IN TROUBLE

The once-controversial National Assessment of Educational Progress (NAEP) is ending its first decade of measuring education achievement and reassessing periodically for possible change. After spending $55.2 million in federal tax dollars and after involving 810,000 students in assessment exercises, what is its message to the American people?

NAEP results since 1969 indicate clearly that the nation's high schools and their students are in real trouble. They also say that the first signs of trouble show up with 13-year-olds in the intermediate or junior high school. All is not grim, however, because the news is more positive from the assessments of 9-year-olds in elementary schools across the country.

The latest assessment results, which provide NAEP's first opportunity to measure change in mathematics achievement, illustrate this point. A comparison of 1973 and 1978 results shows a slight decline for 9-year-olds, a moderate decline for 13-year-olds, and an appreciable decline for 17-year-olds.

Here, in quick summary, is what NAEP has found in other subject areas assessed:

In science, achievement of all three age groups declined between 1970 and 1973; however, between 1973 and 1977 achievement of 17-year-olds continued to fall while that of both younger groups stayed about the same.

In reading, 9-year-olds displayed a slight improvement between 1971 and 1975, while achievement of 13- and 17-year-olds remained unchanged.

In writing, achievement as displayed in written paragraphs stayed about the same for 9-year-olds between 1970 and 1974, but the quality and coherence of 13- and 17-year-olds declined. Basic mechanics of writing—spelling, punctuation, and capitalization—showed few changes at any grade level.

In social studies, achievement of 9-year-olds did not change from 1972 to 1976; some declines were evident for 13-year-olds and larger drops occurred for 17-year-olds; both teenage groups also declined in their knowledge and attitudes regarding politics.

"While patterns across subject areas are not completely consistent," an NAEP spokesman pointed out, "some trends are apparent. There is a fairly strong pattern of declines for 17-year-olds, the only exception being in the area of reading. Results for 9-year-olds, however, usually did not change greatly between the early and mid-1970s, and improved somewhat in reading.

"Thirteen-year-olds," he continued, "were between these extremes, showing declines in some areas and not in other areas. Generally, their declines were not quite as large as those seen for the older teenagers."

The new math results, comparing 1973 assessments with 1978 assessments, show that on average 17-year-olds performed four percentage points lower than 17-year-olds five years ago and 13-year-olds performed two percentage points lower. The decrease in 9-year-olds' performance was about one percentage point.

● **This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.**

Results for skill in computing with whole numbers were mixed. Although there were fluctuations in computational abilities over the five-year period, performance was generally high and declines were, in large part, offset by gains.

Serious declines, however, were noted in problem-solving ability. Here are some examples:

In 1978, 56 percent of the 17-year-olds, compared to 65 percent in 1973, answered this problem correctly: "A car traveled eight kilometers in five minutes. At this speed, how many kilometers could it travel in one hour?"

In 1978, 52 percent of the 17-year-olds, compared to 60 percent in 1973, answered this problem correctly: "A hockey team won five of the 20 games it played. What percent of the games did it win?" Twenty percent of the 13-year-olds in both 1973 and 1978 answered it correctly.

In 1978, 13 percent of the 9-year-olds, 49 percent of the 13-year-olds, and 73 percent of the 17-year-olds, compared to 18 percent, 56 percent, and 81 percent respectively in 1973, answered this problem correctly: "What does $\frac{2}{3}$ of 9 equal?"

In 1978, 36 percent of the 13-year-olds and 53 percent of the 17-year-olds, compared to 43 percent and 61 percent respectively in 1973, solved this problem: "Express 9/100 as a percent."

One of the few bright spots in the math results was a significant improvement of 9-year-old blacks between 1973 and 1978. In 1973 an average of 18 percentage points separated black and white 9-year-olds' performances; by 1978 this difference had decreased to 13 percentage points. Although the 13-year-old blacks did not improve between the two assessments, their achievement did not decline as did their white counterparts'. By age 17, however, the favorable trends for blacks were no longer evident.

Another bright spot: Knowledge of metric terminology improved substantially between assessments. In 1978, 63 percent of the 13-year-olds, compared to 37 percent in 1973, correctly identified a kilometer as the largest measure of length in a list of metric units. Also, in 1978, 71 percent of the 17-year-olds correctly gave the English unit most nearly equivalent to a given metric unit—an improvement of 12 percentage points from 1973.

A panel of math experts assembled by NAEP to study the results was highly concerned with the generally low performance on problem-solving items and with the declines on these items that had occurred since 1973. It pointed out that the new emphasis in many schools on "the basics" has often resulted in a narrowing of the curriculum, with more attention focused on computational skills and knowledge of facts and definitions, and in less time spent on problem solving. It also noted that new textbooks have adopted a simplified approach to problem solving.

Unfortunately, in its press release disclosing the results, NAEP made time-pressed news reporters wade through four pages of copy before they could find out the changes that took place between assessments, which, after all, is the main purpose of NAEP. This is dangerous business, because it gives the impression that an attempt is being made to hide bad news. In recent years NAEP has tended to give good news equal billing with bad news, even though the importance of the negative results is often far more significant. Since nothing is more important to NAEP than its credibility, the appearance of possible slanting in the reporting of results is something to avoid at all costs. And instead of following NAEP's lead, the press played up the changes reported on page 5 of the press release.

NAEP, funded by HEW's National Institute of Education, releases detailed reports on the results of each assessment. Reports include useful recommendations to educators on actions they can take to eliminate weaknesses pinpointed by the studies, making them must reading for district and school staffs. Reports of the math assessment are *Changes in Mathematical Achievement, 1973–87* ($1.75); *Mathematical Skills and Knowledge* ($4.65); and *Mathematical Applications* ($4.50). They may be ordered from NAEP, Suite 700, 1860 Lincoln St., Denver, CO 80295.●

THE TRUTH ABOUT ALCOHOL

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. DORNAN. Mr. Speaker, Prohibition was a dismal failure. But there is nothing utopian about promoting the truth: health warning labels on alcohol bottles. Alcoholism in this country has become a major debilitating disease. Seventeen million alcoholics. One of the greatest hazards posed by alcohol is the danger to the unborn. Far too few pregnant women are aware of the dangers posed to their unborn children by the consumption of alcohol. Twin Circle has published a special report on the subject in the November 4, 1979, Sunday edition. I invite my colleagues to please take time from their busy schedules and read the following piece.

The report follows:

MODERATION MESSAGE MISLEADING—"FOR MOTHERS-TO-BE ANY ALCOHOL IS DANGEROUS" SAY MEDICAL EXPERTS

SEATTLE, WASH., November 4, 1979.—Government health experts are now urging Congress to require warning labels on all alcohol bottles.

"The health experts are to be commended, but I'm seriously concerned about the wording of the proposed label," states James W. Smith, M.D., president of the Schick Shadel Hospitals for the Control of Alcohol Addiction in Seattle, Washington.

"The main problem," asserts Dr. Smith, "is the use of the word 'excessive.' The proposed label reads 'Caution: Excessive use of alcoholic beverages may be harmful to your health, may be habit forming, and during pregnancy may cause birth defects. Heavy, rapid consumption can cause death.'

"The words 'excessive use' have such widely differing interpretations," explains Dr. Smith. "It might mean over two fifths of Scotch to one person, and two glasses of wine to another.

"The word 'excessive' is particularly hazardous to the 10 percent of the population who are genetically predisposed to alcohol addiction. For these people, any alcohol is dangerous."

Like Dr. Smith, Ruth Little, M.D., psychiatry professor at the University of Washington, has problems with the phraseology of the proposed warning label. One of the leading authorities on fetal alcohol syndrome, Dr. Little asserts, "There is no safe limit on the amount of alcohol a pregnant woman can drink.

"There is plenty of evidence showing a strong link between as little as one or two drinks a day and increased risk of lower birth weight, stillbirth, and other problems.

"For the mother-to-be, the wisest and safest course is to abstain.

"Sure, there are women who drink alcohol during their pregnancy and have beautiful babies, but the fact is they're taking a very dangerous risk.

"Many women just don't know about the dangers of alcohol. A new mother visited us last week. During her pregnancy, she drank a few beers a day. Her baby was born with central nervous dysfunction and facial abnormalties—typical fetal alcohol syndrome characteristics. She kept asking, 'why didn't anyone tell me?' "●

STATE DEPARTMENT OBSTRUCTING CAMBODIAN AID

HON. ARLEN ERDAHL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. ERDAHL. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

OBSTRUCTING CAMBODIA AID

Jimmy Carter's sanctimonious sermons on human rights have become a cruel mockery to millions of Cambodians, who are dying of starvation and disease—helpless pawns being sacrificed in the deadly chess game of big-power politics.

Despite assurances from the Carter administration that the United States would give food to Cambodians "irrespective of their political authority." officials within the Sate Department have deliberately sabotaged this humane policy, according to a wide variety of sources.

"The problem has been that people in lower levels, specifically in the East Asian desk, have been doing nothing but obstructing efforts to aid the Cambodians," one Capitol Hill source told our reporter Lucette Lagnado.

The Foggy Bottom bureaucrats have been blaming legal and congressional roadblocks for their inaction. But the real reason, according to our sources, is a deep-seated anti-Vietnam bias in the State Department.

Apparently it was feared that some relief supplies might fall into the hands of the Vietnamese invaders, helping them solidify their authority in Cambodia. Rather than run the risk, our callous diplomats chose not to implement the massive food program needed to prevent the virtual extinction of the Cambodian people.

The anti-Vietnamese "tilt" in the State Department was recently reflected in the shameful U.S. vote to seat the infamous Pol Pot regime in the United Nations, despite the evidence—which we have been reporting for more than four years—that is was responsible for the slaughter of millions of Cambodians since it seized power in 1974.

For reasons of global strategy, the United States deems it important to join the Chinese in support of Pol Pot, and oppose the rival government set up by Soviet-backed Vietnamese troops. "It was more important for us to give the Soviets a diplomatic kick than it was for us to feed the people," charged one knowledgeable source.

It's not as if the horrors of Cambodia's starving millions came as any surprise to our policymakers. The State Department has known since at least March that the unhappy country was facing a food shortage of catastrophic proportion, according to sources in the department and Congress. Intelligence reports informed the administration that only 5 to 10 percent of Cambodia's arable land was being planted last spring.

This was confirmed by a secret CIA report in early August, which offered the harrowing prediction that as many as 3.5 million people would starve to death as a result of poor harvests next December and January. Other reports indicated that typhus and malaria were decimating the population. There are virtually no children under age 5, and for every birth there are 10 deaths.

Footnote: Robert Oakley of the State Department's East Asian bureau denied that his office had failed to implement the policy on food aid to Cambodia. "The Vietnamese wouldn't let us" distribute the relief supplies, he said, and the program was hampered by strict monitoring procedures insisted on by Congress.●

PAY CONTINUITY ACT OF 1979

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. FISHER. Mr. Speaker, I have introduced a bill to assure the continuity of pay for Federal civilian and military personnel whether or not Congress has approved the appropriations bills or continuing spending resolution for their agencies in a timely fashion. If enacted, this proposal will put an end to the annual autumn aggravation suffered by thousands of Government employees. For the last several years, as September ends, their worrying begins: Will they get all, some, or none of the pay due them? This situation is becoming as predictable as the changing of the leaves. And it places an uncalled for and unnecessary burden on the employees.

The bill provides an appropriation for paying Federal employees and military personnel when no appropriation or continuing resolution has been enacted. Pay raises would be held in abeyance until the regular legislation was passed, at which time the raises would be paid retroactively. All these provisions would be triggered automatically and would require no further congressional action.

Despite the move several years ago, of the beginning of the fiscal year from July 1 to October 1, Congress seems to be unable to complete work on all the appropriations measures in time for the new fiscal year. This delay puts employees' pay in jeopardy. They are expected to continue to work as usual even though they are not assured that they will be paid on time and in full for their efforts. Usually the delay in passing the appropriations bills has little or nothing to do with the pay of Government employees. This is no way to run a Government. My bill would do away with the employees' uncertainty without interfering with the right of the House and Senate to debate fully the important program and other issues involved in the funding of executive agencies.

I believe that this pay continuity proposal is fair to Federal employees, both civilian and military. I urge its speedy adoption.●

NATIONAL SALES TAX AS A SOLUTION?

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. VENTO. Mr. Speaker, I want to call to the attention of my colleagues in the House an excellent article by Melvyn B. Krauss which appeared in the October 24 Wall Street Journal, zeroing in on the arguments for and against a national sales tax and the VAT system proposed by our respected colleague from Oregon, Mr. ULLMAN.

It seems to me that Mr. Krauss correctly identifies potential problems that might arise should the United States follow the lead of France in adopting a "value added tax." Krauss does not knock the concept for France where it most certainly is well suited to their tax environment, but he emphatically warns that what might work well in one economy, does not mean success in another—in this case the United States.

I think Mr. Krauss, while not so stating, believes, as do I, that we are at a crossroads in our history that clearly mandates the serious consideration of an alternative method of Federal taxation. None of us need sift through the letters we receive daily from our constituents reminding us that the Federal income tax is beleaguered with loopholes and inequities. At most, we have only applied Band Aides and we have avoided the necessary surgery to make our Federal tax system fair and equitable.

It may well be that Mr. Krauss' assessment that our serious problems of low savings, high inflation, and persistent trade deficits might be remedied, at least in part, by a national sales tax to replace corporate and personal income tax. It is well worth our consideration.

I submit Mr. Krauss' astute article for insertion in the RECORD at this time:

U.S. SALES TAX IS PERMISSIBLE TO VAT SYSTEM

(By Melvyn B. Krauss)

The imposition of a major new tax by a leading country appears to create inexorable pressures on other countries to adopt the same tax. The less-developed countries often have copied the tax structures of industrialized nations even though the taxes were not well-suited to their situation. And now Al Ullman, chairman of the House Ways and Means Committee, has proposed that the U.S. adopt Europe's value-added tax (VAT).

The first point to recognize about VAT is that it is a method of taxation rather than a tax per se. As applied in Europe, VAT is a complicated way of collecting a retail sales tax on consumption goods. Instead of taking the tax in one fell swoop at the retail level, VAT collects it piecemeal at every stage in the production-distribution process. But only the value added at each stage is taxed, so that no part of the total value of the goods sold to the final consumer is taxed more than once.

The reason the Europeans collect their sales tax in such a complicated way relates to the special tax situation of France, the country in which VAT was first introduced. VAT is well suited to the French tax environment where the large number of tax-recalcitrant retailers makes collection of a retail sales tax impractical. The value-added-tax cleverly avoids this problem by taxing a relatively small number of large producers rather than a large number of small sellers. French retailers are willing to collect VAT because it's the only way a refund can be obtained on the tax they themselves must pay on their own purchases.

The American tax environment, however, is not the French one. The administrative apparatus for imposing a national retail sales tax if we wanted one already exists in most areas. All that is required of the shopkeeper is to piggy-back the federal tax on top of the state and (sometimes) local sales taxes. The administrative cost of this would be an infinitesimally-small fraction of that of introducing the complicated VAT system. Businesses of all sizes will be right to consider the record-keeping costs of VAT as yet another burden imposed on them by Washington bureaucrats. And many small producers could go out of business because of these costs.

The real question, however, is whether we want a federal retail sales tax. If we do, there must be political guarantees that the new tax will not increase the overall federal tax burden. That is, that the federal sales tax will substitute for one of the other major federal taxes (the personal or corporation income tax, for example) at a constant level of government revenues. The record shows that the introduction of a new tax all too often serves as a back door for raising taxes rather than reforming them. Chairman Al Ullman of the House Ways and Means Committee says he'd link his VAT to an equivalent reduction in federal income and Social Security taxes, but that's easier said than done.

Assuming that such back-door tax increases can be avoided, there are at least three reasons to believe that there would be real economic benefits from substituting a national retail sales tax for, say, the personal income tax.

First, replacing the income tax by a sales tax would remove a considerable amount of the tax burden from savings. The sales tax specifically exempts savings from the tax. The income tax does not. The tax substitution therefore could be expected to increase the now deficient ratio of savings to national income in this country. The same argument applies if the sales tax were to replace the corporate income tax, though it would be less certain should the substitution be for the Social Security tax.

Second, shelving the income tax for a sales tax would provide automatic indexation of federal taxes for inflation. Since the sales tax would be imposed as a flat rate, inflation would increase the tax and tax base (consumption expenditure) in proportion. Thus, real taxes—the cost of taxes to the taxpayer in terms of goods and services—would be independent of inflation. It is well known that inflation increases real taxes with the present progressive personal income tax.

Finally, substituting the retail sales tax for any one of these three federal taxes—the personal and corporate income taxes or the Social Security tax—could be expected to improve the U.S. trade deficit and the value of the dollar. All three of these taxes are reflected in the price of the goods we export, while European exporters receive a rebate on VAT from their exports. International rules forbid export tax rebates for so-called "direct taxes," such as the income tax. Even should these rules be changed, it would be difficult for us to identify the precise amount of direct tax carried by the export and thus the rebate.

Under a VAT system, a complicated procedure must be set up for making export tax rebates. But under a national retail sales tax, the tax is imposed only at the retail level, no tax is levied on prior stages in the production and distribution process. Hence, no tax is levied on exports and no system need be established for rebates.

The retail sales tax and VAT have been labeled unfair by many "experts" on the grounds it is regressive. Because poor people are alleged to consume a larger part of their incomes than richer ones, the ratio of tax to income falls as income rises with both types of consumption taxes. But this argument is seriously incomplete. Over time, savings are converted into consumption either by the saver or his heirs. Thus ultimately income will be equal to consumption for rich and poor alike. Consumption taxes aren't regressive when the proper analytical framework is used.

Given the current U.S. problems of low savings, high inflation and persistent trade deficits, the time could not be more opportune for retiring the income tax (both corporate and personal) in favor of a federal tax on consumption. But we don't need VAT to accomplish this.●

WHAT ABOUT THE REPUBLICAN CANDIDATES?

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. ASHBROOK. Mr. Speaker, now that Senator KENNEDY has all but announced that he will be a candidate for President, I wonder if those media wizards at the three major networks will begin to give a little coverage to the other candidates for that office. I generally try to watch the evening news, time permitting, and in the last couple of months, I have not seen too much of the Republican candidates. I have talked to some of them and I know that they are out there campaigning but from the amount of news coverage they get, you would never know it.

It is not every day that I get a chance to see a John Connally or a Ronald Reagan out there on the stump. It is not often that I get to hear what a George Bush or a PHIL CRANE or a HOWARD BAKER is going to do about this mess that the Democrats have gotten us into. Or even my friend, Ben Fernandez, who tells everyone he is the man.

Last night, I watched Stephen Smith, Senator KENNEDY's brother-in-law/campaign manager but I did not see any of the Republican candidates reacting to the news. I heard all about Mayor Byrne's endorsement of the Senator but if I counted on the networks, I would never know who was supporting who for the Republican nomination. In fact, if I did not read the newspapers, I probably would not know who was running aside from President Carter and Senator KENNEDY.

It would seem to me that if the President is as unpopular with the American public as he appears to be, then the networks, in good conscience, could devote a little of their coverage to the alternatives rather than concentrating on a man who has virtually echoed Mr. Carter's voice in the Senate. I for one, would like to hear what my Republican friends have to offer but if those guardians of the first amendment at CBS, ABC, and NBC have their way, I will never know.

A couple of weeks ago, I heard George Bush say that he did not like to argue with the media because they always have the last word. He is probably right but if the public is to have a choice for President next year, it would be nice if they would let us have our first word.

Come on networks, let us hear what the Republicans have to say.●

ENERGY CONSERVATION IN NEW ENGLAND

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. MOAKLEY. Mr. Speaker, the need to conserve energy is paramount if we are to ever truly develop an energy program which is stable and effective. I am pleased to report that according to a recently released study done by the New England Regional Commission, New England has done a better job of conserving distillate fuel oil since the embargo of 1973 than has the United States as a whole.

TABLE 1.—SALES OF DISTILLATE IN NEW ENGLAND

[Millions of barrels] [1]

	1976	1977	Percent of total sales for 1977
Heating	106.156	101.178	85.7
Industrial	2.530	4.087	3.5
Oil companies	0.173	.232	.20
Railroads	1.182	.945	.80
Electric utilities	0.464	.568	.48
Other [2]	13.665	13.090	9.3
Total sales	124.17	120.10	100.

SALES OF DISTILLATE IN THE UNITED STATES

	1976	1977	Percent of total sales for 1977
Heating	543.895	537.530	43.7
Industrial	79.956	104.244	8.5
Oil companies	14.523	19.954	1.6
Railroads	97.467	99.306	8.1
Electric utilities	60.570	76.681	6.2
Other [2]	354.589	393.382	31.9
Total sales	1,151.000	1,231.97	100.

[1] Includes diesel fuel and kerosene-type jet fuel for electric utilities.

[2] Includes on- and off-highway diesel, vessels and military sales.

Source: Energy data reports, "Sales of Fuel Oil and Kerosene in 1977," DOE/EIA, Nov. 1978.

This news is particularly significant since the New England region relies on the use of distillates more than the rest of the country and most of the fuel, 86 percent, is used for heating purposes. Approximately 71 percent of the housing stock in New England relies on distillates as a primary fuel compared to 26 percent for the United States.

The New England Regional Commission study shows that distillate consumption per household has decreased in New England over the past decade. For the 1977–78 heating season, New England experienced more degree days—a 24-hour period during which the average temperature is 1° less than 65°—than other regions of the country while household energy consumption was not proportionately as high. Nationwide, households used only 2.3 percent fewer gallons of home heating oil on the average than residents in New England during the 1977–78 heating season while the number of degree days was 19.4 percent lower.

TABLE 2.—DISTILLATE CONSUMPTION PER HOUSEHOLD FOR 1970 TO 1978

Heating season	New England [1]	Heating degree days in New England [2]
1969/1970	1,591	6,805
1970/1971	1,655	6,824
1971/1972	1,601	6,550
1972/1973	1,533	6,421
1973/1974	1,421	6,329
1974/1975	1,477	6,470
1975/1976	1,319	6,178
1976/1977	1,422	6,982
1977/1978	1,328	6,875
1978/1979	1,271	

[1] Source: "Fuel Oil Heat and Solar Systems," September issue of each year.

[2] Source: U.S. Department of Commerce, National Climatic Center, "State, Regional and National Monthly and Seasonal Heating Degree Weighted by Population (July 1931–June 1978)."

TABLE 3.—REGIONAL AVERAGE RESIDENTIAL CONSUMPTION AND DEGREE DAY VARIATION

[1977/1978 heating season]

	Gallons consumed per residential customer [1]	Percent fewer gallons than New England	Heating season degree days [2]	Percent fewer heating season degree days than New England
New England	1,328		5,332	
Metropolitan New York	1,642	—23.6		
New York State			5,107	4.2
Other Mid Atlantic	1,294	2.6		
Mid Atlantic			5,082	4.7
South Atlantic	973	26.7	3,141	41.7
Midwest	1,294	2.6		
West	867	34.7		
All sections	1,297	2.3	4,300	19.4

[1] Source: Martha Mantho, "Margins Improve to Offset Rising Costs," from "Fuel Oil, Oil Heat and Solar Systems," vol. 37, No. 9.

[2] Source: American Gas Association, Gas Facts, 1977 data, 1978.

The energy conservation record of New England is good, but there still lies much room for continued improvement. As the Congress considers energy production and conservation bills in the future, it is important to remember the impact that increased incentives for home energy conservation and use of alternative energy sources can have on improving the conservation record of the whole country.●

NEW AMERICAN CITIZENS

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. LONG of Maryland. Mr. Speaker, it is with particular pleasure that I congratulate 15 residents of Maryland's Second Congressional District who have chosen to become American citizens, accepting all of the responsibilities that freedom and citizenship entail. I hope that my colleagues will join me in welcoming these new Americans and extending to them our wishes for a happy and prosperous life in the land we love.

They are:

Mr. Julius Y. Grunwald, Mrs. Myung H. Chon, Mr. Kin T. Chon, Mrs. Claudine M. Caralis, Mr. and Mrs. Jack Childers, Jr. in behalf of Elizabeth Childers, Mr. Jiri Vaclav Hradsky, Mrs. Seung N. Kim, Mr. Bambino I. Martins, Mrs. Zilca N. Efford, Miss Shou-Pin Lee, Mr. Eui-Seo Koo, Mrs. Inja Koo, Mr. Se B. Chang, Mrs. Yang S. Park, Mrs. Malwina Fastman.●

THE CRASH AND CLASSICAL ECONOMICS

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. KEMP. Mr. Speaker, Jude Wanniski owns the distinction of first pointing out the direct connection between the great stock market crash which occurred 50 years ago today, on October 29, 1929, and the heavy-handed Smoot-Hawley Tariff Act. In his book, The Way the World Works, Wanniski demonstrated that the immediate cause of the great crash was the market's anticipation of this sweeping tariff increase upon most traded goods. The market crashed in the final week of October on the news that the antitariff coalition in the Senate, the last major obstacle to passage of the bill, had collapsed.

Our major European trading partners, who depended heavily on trade with the United States to repay their vast war debt to mostly American creditors, retaliated with their own protectionist barriers. The world economy soon dipped into recession. Later, the same ill-advised Republican administration and Congress compounded their first mistake with a misguided and unsuccessful attempt to eliminate a recession-caused Federal deficit by more than doubling all income tax rates. What began as a recession turned into the worst economic catastrophe in our history, the Great Depression.

Far beyond merely satisfying the historical curiosity of a few economists, Wanniski's seminal contribution to modern supply-side economic theory has an important lesson for national economy policy today. History warns that excessive increases in economic disincentives can destroy the individual productivity on which our whole economy and society rests. Everyone loses—the individual American, the American Government, and the whole society. This message is especially relevant as a Democratic Congress and a Democratic administration experiment on a grand scale with tax-rate increases—in the income tax, in the social security payroll tax, and in new taxes on energy production. An article by Wanniski on the lessons of the crash appeared in last Friday's Wall Street Journal. I submit it for my colleagues' interest, hoping that we can learn enough from history to prevent another unnecessary economic debacle.

The article follows:

THE CRASH AND CLASSICAL ECONOMICS

(By Jude Wanniski)

Fifty years ago, the great Wall Street "Crash of '29" ended the boom of the Roaring Twenties and ushered in the Great Depression. This most cataclysmic economic event of the century had many victims, but one of the most important casualties was classical economic theory. When classical theory could not explain the Crash, it was ridiculed and replaced by modern economic schools that have dominated global politics ever since.

In late March 1977, I found what I believe is the key to the Crash. At the time an editor of this editorial page, I had taken a leave to research and write a general theory of the world political economy. And because it was to be partially based on a revival of classical economic theory, it was necessary that I somehow demonstrate that the Crash of 1929 was consistent with classical theory.

The importance of this discovery, outlined on this page two years ago (Oct. 28, 1977), is that it reaffirms the validity of Say's "law of markets," which is the keystone of classical theory. The discovery came just as the modern schools of Keynesianism and monetarism were in precipitous decline, unable to explain the Great Stagflation of the 1970s. Now, for the first time in half a century, young economists can proudly proclaim themselves as "supply siders," referring to the classical side of the "law of supply and demand." The modern schools grew out of the demand side of the equation, and it is suddenly no longer fashionable to be identified as such.

SURPLUS OF GOODS

The '29 Crash seemed to occur because of a surplus in the supply of goods, which is another way of saying a deficiency in the demand for goods. This negates Say's Law, named after Jean Baptiste Say, who formulated it between 1809 and 1819.

Say, the French popularizer of Adam Smith's "Wealth of Nations," wrote: "One can only buy with what one has produced," and "The one product constitutes the means of purchasing another," and "A product created offers, from that instant, a market for other commodities to the full total of its value." This became boiled down by others to: "Supply creates its own demand."

In other words, suppliers of goods come together in the marketplace to exchange goods. If a surplus appears in one place only, it's because in other places sufficient goods have not been produced to purchase that surplus. If a surplus appears everywhere, only an artificial barrier to commerce could have been the cause—some impediment to trade imposed by government. Thus, the free-marketeer's dictum to government of "laissez faire," roughly "hands off!"

In the last week of October in 1929 there were no signs that the dictum was being breeched. The market was simply collapsing around everyone's ears. The classical economists, without an explanation, were at the mercy of the modern economists who would argue that "Demand creates its own supply." Indeed, John Maynard Keynes would open his "General Theory," published in 1936, with a scathing denunciation of Say's Law. How could Say be correct, Keynes insisted, when everywhere there is excess supply? The problem, he argued, is in sufficient demand!

In short order, the classical "supply side" school almost ceased to exist, except as a laughing stock. The Keynesians took over with their demand arguments: The Depression occurred because of insufficient purchasing power among demanders of goods—and excessive savings among producers of goods. Their answer: Have the government fix up this imbalance by borrowing or taxing goods away from the producers of surplus and distributing them via government programs. Through "demand management" the government can "fine tune" the economy, keeping production and consumption balanced.

A more conservative "demand school" was also founded. The monetarists argued that the U.S. government printed too much money prior to October 1929 and printed too little money after that date. Their form of demand management is to have government money injected into or withdrawn from the private sector via bank reserves. In both liberal and conservative demand schools, by necessity, it is the government rather than the individual which has the central role, either through budgetary manipulation or monetary manipulation.

The classical economists of 50 years ago unfortunately did not have the benefit of "efficient markets theory" or they might have seen that it was the Smoot-Hawley Tariff Act of 1930 that caused the Crash of '29. The theory of efficient markets, developed at the University of Chicago in the 1960s, suggests the near instantaneous ability of markets to analyze new information and adjust prices accordingly. The concept would have led 1929's economists to look more closely at political news coming into the market.

That is, when news came to the 1929 marketplace that something bad was going to happen in 1930, it discounted these "rational expectations" into 1929 values, doing so expeditiously, efficiently. The market crashed in the last week of October 1929 as it absorbed the hard news that there would almost certainly be a tariff act passed into law the following year.

This was no puny tariff hike, but a huge increase in the duties of 20,000 commodities. American trading partners, outraged at this colossal protectionism, retaliated with tariff walls of their own. The efficiencies of the global marketplace were thus fractured and global trade shriveled. All economists agree the trade wars deepened a Depression that had already started. What I found in researching the period is the following:

On Sept. 3, 1929, the Dow Jones industrial average hit its peak of 381. The slow slide that commenced that day coincided with the return of the U.S. Senate from a summer holiday. Prior to the holiday, only 40 Republican Senators favored the steep tariff wall of Smoot-Hawley; surely the 56 Democrats and the Progressive Republicans in opposition would kill it. The bill, the only major piece of legislation before the Congress that autumn, had already passed the House of Representatives. By Oct. 21, when the bill came to the Senate floor after weeks of hearings, there were some gathering doubts about the ability of Democrats and Progressive Republicans to stop it. The DJI had dropped to 323.

Over the next eight days, Chairman Reed Smoot of the Senate Finance Committee, a Utah Republican, maneuvered amendments in a way that broke up the Democratic-Progressive coalition; the market churned dramatically during this splintering process. The news on the morning of Oct. 28, a Monday, was that the pro-tariff forces were now in the majority; the DJI fell 38 points that day.

The following day the reports out of Washington seemed aimed at assuring the stock market that the bill would pass, that the steep tariff would be good for American business. Another 30 points were lost as 16 million shares changed hands. On this Black Tuesday of 50 years ago, the DJI dropped to 230. But it was not until July 8, 1932, that it hit bottom, at 41. The market advance that then began coincided with Franklin Roosevelt's nomination on an anti-tariff platform.

Why would the market's anticipation of

Smoot-Hawley cause such a crash in values? The answer lies within the framework of classical theory: When suppliers of goods come together in the marketplace to exchange goods, they are discouraged if the government takes a huge tax bite out of each transaction. The tariff is a tax on international trade, the only kind of tax the U.S. Congress can impose on foreign citizens, which explains why stock markets collapsed around the world in 1929, not only in New York.

The U.S. economy, after all, was integrated with the rest of the world economy. The rest of the world owed U.S. citizens $30 billion in 1929, and the only way these IOUs could be paid off was if foreigners could export their goods to the U.S. in payment. As the tariff wall was seen going up, it would be difficult to collect the debt via goods passing over it; the value of financial assets had to be discounted accordingly.

A MORE SATISFYING EXPLANATION

This seems a more satisfying explanation of the Crash of 1929 than the traditional one, which most of us learned in junior high school, that "speculators" bid the price up and the market fell because it was too high. This view, which overlooks the global simultaneity of the Crash, only fits the modern demand theories.

Yes, the Depression that followed was characterized by surpluses everywhere, but Say would have observed that it had all been triggered by an artificial barrier to commerce, an impediment to trade imposed by government in the form of a tariff wall. Having explained the Crash, Say would then be in a position to explain away the current stagnation and inflation: The stifling barriers to commerce caused by unnecessarily high tax rates, unnecessary regulation, and a rootless, inconvertible currency that is manipulated in a futile attempt to alter production when it should be maintained as a reliable medium of exchange.●

WHAT MAKES AMERICA GREAT

HON. JAMES M. HANLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. HANLEY. Mr. Speaker, a lot has been said and printed about the alleged weakening of the American spirit. Surveys have shown that for the first time in our history a majority of Americans feel that the next 5 years will be worse than the last 5 years. Even the President of the United States complains that there is a malaise in the country.

Fortunately, not all the people of our great land feel this way. There are still some optimists, who speak out and write of an America still greater than any other nation on Earth. One of them is from my home district.

James Nolan of Sidney, N.Y., has composed an essay expressing his feeling about our country. It is entitled "What Makes America Great," and I offer it now to my colleagues.

The essay follows:

WHAT MAKES AMERICA GREAT

(By James Nolan)

To be an American is a gift, not something one is entitled to.

Our forefathers planted the acorn of Liberty and Justice for all, and since then, a mighty oak of freedom spreads out its majestic limbs as a haven for all who believe in the pursuit of happiness and peace.

"In God we trust" an ever present shadow of our destiny of greatness.

Like thunder coming from the heavens above, the name "America" awakens even the lost souls of humanity, that tomorrow could very well be their day of triumph.

Success and fame is not an impossible dream in America, it's an every day occurrence.

Most of us, from time to time, incur the trials and tribulations of life, still, in spite of our discomforts, we wouldn't trade any of them for all the promises of the master's of chains and slavery.

In America, we sleep at night without fear of enemy bombers flying overhead.

We have the right to vote for the party of our choice without fear of retaliation.

Any American, if he so desires, can attend the church of his choice without fear of prejudice.

A trial by a citizens' jury is a law of the land, something many other nations are denied, by their system of a hand-picked jury who are mere puppets of the state.

In the United States, our universities have an open door policy, the poor as well as the wealthy have equal opportunity.

In America, the right to disagree by peaceful protest is the privilege of every ciitizen.

The boy or girl who lives on the mythical "The wrong side of the tracks" has all the opportunity to some day, build their castle on "The right side of the tracks."

In America, the word impossible is never accepted as a final decision, it just takes a while longer to achieve.

I can't help but to stand with pride and tears of humility in my eyes, as the stars and stripes pass by, never once forgetting that each star represents the sacrifice, dedication and love that free men and women gave of themselves down through history to make this nation, my nation, the greatest country in the world.

Let no one who truly cherishes freedom, scar or defame the good earth that we were, as Americans, given the privilege of calling, "Our own native land, one people, one land, with a common cause to serve God and country.

We, all of us, must be on our guard to prevent anyone or any outside force from dethroning the United States as the greatest champion of all humanity.

Last but not least, we are not entitled to the honor of being called, "An American"—it was given to us as a gift.●

ASSOCIATION OF THE UNITED STATES ARMY RECOGNITION TO PUERTO RICO CHAPTER

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. CORRADA. Mr. Speaker, the Association of the United States Army (AUSA) has just concluded its 1979 annual meeting in Washington, D.C.

AUSA is a private, nonprofit educational organization whose members, civilian and military, join in supporting all aspects of national security. This organization has 118 worldwide chapters, who support the Army and AUSA objectives by sponsoring among other things: programs, social events, meetings, and rewarding activities for both the military and civilian communities. In Puerto Rico we have a chapter with 700 members dedicated to the objectives of the organization.

It is with great pride that I announce here that the Puerto Rico chapter of the AUSA received the following recognitions:

AWARDS

The Council of Trustees Award: Best Chapter Overall; Runner-up.

The Council of Trustees Award: Chapter Most Active in Pursuit of AUSA Objectives; Runner-up.

The General George H. Decker Award: Greatest Percentage Increase in Membership; Runner-up.

The Frank Pace, Jr. Award: Greatest Percentage Increase in Civilian Membership; Runners-up.

The Elvis J. Stahn Award: Greatest Corporate Member Participation; Commendable Performance.

The Ltg. Walter L. Weible Award: Best Overall Chapter Meetings; Honorable Mention.

The General John E. Hull Award: Best Chapter Support of Reserve Components; Winner.

It is quite obvious that the AUSA Puerto Rico chapter has been working hard toward excellence. This is a characteristic which clearly depicts the Puerto Ricans whenever they enter into any endeavor. It is the first time that such a recognition is made to the Puerto Rico chapter since it was formed.

It is worth praising their efforts and to commend them for having achieved these recognitions. It is not only the participation in the activities of the organization to which I refer; it is also to their sense of responsibility and pride in accomplishing their goals. To them my sincere congratulations.●

JOHN J. NEVIN

HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. MURPHY of Illinois. Mr. Speaker, on October 19 John J. Nevin announced his retirement as chairman and chief executive officer of Zenith Radio Corp. During his years as chairman of the company, John Nevin led the fight against the dumping of color television sets by Japanese manufacturers. His efforts were fruitful, evidenced by the recent reductions in dumping, and by congressional passage of a trade bill last July that tightens up existing antidumping and countervailing duty laws.

John Nevin recognized the problem of dumping long before the U.S. Government was willing to take any action against it. After 10 years of dumping—during which time 60,000 American TV workers lost their jobs—the Treasury Department belatedly moved to collect some dumping penalties only last March. What is more, the duties assessed by Treasury come nowhere near the figure that was originally recommended by the Customs Service in 1977.

John Nevin leaves Zenith Radio Corp. at a propitious time. Third quarter estimates show that Zenith has regained its position as the Nation's leading manufacturer of color TV's. Clearly, John's long and hard efforts to stem the flow of dumping did not interfere with his effectiveness in overseeing the day-to-day operations of his company.

Mr. Speaker, I wish John Nevin the very best as he pursues a new career outside the electronics industry. Those of us in Congress who know John will miss him, as will the people at Zenith. And I know that whatever position John takes, he will bring to it the same talents, imagination and energy that he exhibited as an outstanding officer of Zenith Radio Corp.●

FOREIGN EARNED INCOME ACT OF 1978

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. CONABLE. Mr. Speaker, last year, after exhaustive deliberation, the Congress adopted the Foreign Earned Income Act of 1978. A detailed analysis of the legislation's effect probably must await the Treasury Department's report on the first 2 years' application of the law. That report will not be available until the spring of 1981. However, it is clear that one adjustment is required now in order to avoid substantial harm.

Since the adoption of the 1978 act, one year's tax returns are already in and the second, current, year's may be projected. From this data, it is evident that Americans working abroad for nonprofit institutions such as religious, humanitarian relief, and academic research organizations have suffered a significant increase in their tax burdens. These increases have been so severe as to cause difficulties in sustaining the many worthwhile programs sponsored by the employing institutions. Trained personnel are more difficult to recruit. Limited budgets which rely on donations, Government grants, et cetera, for funding are being strained to the breaking point in order to meet these rising costs. As a result, programs are threatened with curtailment.

It is to remedy this hardship that my colleagues and I introduced H.R. 5730 to correct the difficulties created for American charities overseas by last year's Foreign Earned Income Act. Let me state at the outset that by no means do I favor wholesale revisions in the legislation enacted last year. Many Members of Congress involved in last year's legislation strongly feel that more time must pass in order to get a clear idea of what, if any, broad changes may be required. However, in this case, it is clear that an adjustment is urgently required to avoid great harm to the programs of charities abroad.

These problems arose when the method by which these employees compute their taxes was changed. In 1978, taxpayers had the option of choosing between a $20,000 exclusion—$15,000 for noncharity employees—or certain deductions, as specified, for such items as cost of living differentials, employer payments for extraordinary housing, schooling, and home leave expenses, et cetera. These deductions have been of little value to charity employees, particularly at their generally low rates of compensation and prerequisites.

Last year the system was changed and the right to use an exclusion was eliminated for all employees overseas, including charity workers, except for one very limited class of individuals; namely, those living in camps. These camp workers still have the choice of taking either a $20,000 exclusion or the deductions. The net effect of eliminating charity workers has been devastating.

Just how serious these increases have been is made clear by a few simple examples. Figures have been obtained from six of the International Agriculture Research Centers—the multinationally funded organizations which developed the new strains of miracle rice and wheat and which use, among others, American scientists on their staffs—indicating that the U.S. income taxes for their American employees have risen from 1977 to projected 1979 by approximately 526.6 percent. Income rose 21.06 percent during the same period. The average taxes paid went from $1,372 to $7,225. Indications are that the tax figures for university and religious employees have risen by roughly the same order.

Serious as these problems are for the individuals involved, they are not the primary reason why action is needed. The primary reason is that it is in our National interest to continue the efforts of these organizations and the effect of last year's legislation is to severely undercut them. These nonprofit organizations are confronted with very inelastic budgets. Unlike profitmaking organizations in the private sector, they lack a product which they can either market more widely or charge more to provide. There is no way, therefore, they can pass through increased labor costs. They must either reduce their programs or eliminate vitally needed personnel. Such a result is directly contrary to previously established Congressional policy as set forth in the Foreign Assistance Act. That basic document requires reliance on the charitable sector to the maximum extent possible in providing overseas assistance. Hampering the ability of these organizations to provide such services conflicts with this previously established policy. Furthermore, it will only lead to new pressures to expand our Federal relief programs at far higher net cost to American taxpayers. There is also some question as to whether similar relief and training programs would be as effective in the host countries in the Third World if run by the U.S. Government directly rather than through charitable organizations in our private sector.

Some persons question using the tax law to achieve social and foreign policy objectives. But as we all know, the tax law is used in many ways today for precisely those purposes. So, if it is in the National interest to maintain our labor competitiveness in the construction industry by allowing camp workers overseas to continue to use an exclusion in computing their taxes, surely it is of equal interest and value to our foreign policy and to our society to provide similar treatment for American charitable employees abroad.

Among the groups concerned with this problem are the International Agricultural Development Service; the National Association of State Universities and Land Grant Colleges; and the American Council for Voluntary Agencies for Foreign Service, Inc.—ACVS—whose members include Care, the Catholic Relief Fund, Lutheran World Relief, Christian Children's Fund, Baptist World Alliance, the Salvation Army, and most other prominent international service organizations.

Mr. Speaker, the effective and compassionate work carried forward by these organizations in coming to grips with such problems as malnutrition, lack of education, and outmoded agricultural production methods cannot begin to be replaced by Federal Government programs. These dedicated people serve in difficult conditions at low rates of pay because of their commitment to their ideals. Let us not undo their good works by failing to enact this corrective legislation.●

AGRICULTURAL DUST

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. GRASSLEY. Mr. Speaker, I recently received a copy of Accent, the newsletter of the Iowa Farm Bureau Federation, containing their policy on rural agricultural dust. Since this is an issue of such great importance to Midwestern and Southwestern States, I include their observations on EPA's policy in the RECORD at this point:

DUST POLICY

The Iowa Air Quality Commission has made a good move in resisting some changes the U.S. Environmental Protection Agency wants made in the state's clean air plan.

EPA has so far refused to approve Iowa's air quality plan because state officials want to subtract an allowance for rural fugitive dust as it applies to property and visibility. Iowa already has taken into consideration the important human health aspect which should be the major concern to EPA.

Rural fugitive dust is that dust generated from farm fields on the 34 million acres of farmland and from the 78,000 miles of unpaved rural roads.

We simply cannot farm without a certain amount of dust. This is especially true during times of hot, dry, windy conditions.

There are going to have to be drastic and unfavorable trade-offs if EPA wants to push the more stringent regulations. The cost to farmers and consumers of taking farmland out of production in order to control windblown dust from farm fields will be reflected in less food and higher food prices.

Many rural roads too would have to be closed to meet the unreasonable guidelines. This would inhibit the movement of farm products to market, greatly accelerate the cost of bus transportation for school districts, and place more demand on limited fuel supplies by forcing all vehicles to use certain designated routes. The cost of resurfacing or treating Iowa's extensive rural road system would be prohibitive.

In addition, industrial development and expansion in Iowa would be stifled.

Iowa's air quality record has been good and the Iowa plan recognizes the health related standards. EPA does not understand situations inherent in an agricultural state.

This is just another example of a federal agency assuming too much power. Iowa's environmental agency is better qualified to deal with specific air quality problems within the state than an outside agency that attempts to write one series of regulations to fit every part of the country.●

THE ENERGY SHORTAGE—WHO IS TO BLAME?

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. HAMMERSCHMIDT. Mr. Speaker, to date no single reason for the outrageous gasoline lines a few months ago has emerged from the various congressional inquiries on this subject. The Iranian revolution, increased American driving, bungling by the Department of Energy, and oil industry miscalculation or greed, have all been hurled as contributing factors. Recently, the noted columnist, Jack Anderson, authored an editorial which I believe was exceedingly well done and worthy of readership by everyone interested in the true cause of our inflationary spiral and the severity of our energy problems. If our energy crisis is indeed the moral equivalent of war, are we withholding ammunition to defeat the enemy? The text of the Anderson article follows:

ENERGY SHORTAGE

WASHINGTON, D.C., October 16, 1979.—If you suspected that the Carter administration was lying about the reason for those infuriating lines at the gas pumps a few months back, you were absolutely right.

The official explanation, dished out by then-Energy Secretary James Schlesinger and other Carter minions, was that the gas "shortage" had been caused by the disruptions of the Iranian revolution and a subsequent drop in overall imports of some 2 million barrels of oil a day.

The shocking truth, according to closely held intelligence documents we've obtained, is this: Not only was there no shortage, but the United States was actually importing MORE oil in every month from January to July than it did in the same period of 1978. During the crucial first three months of this year, when the loss of Iranian supplies was supposedly making the gas lines inevitable, U.S. imports were 250,000 barrels a day more than in the first quarter of 1978.

The cold, hard facts—which expose the administration's deceit—are detailed in a secret CIA report in our possession. Coupled with an internal White House memo, the figures in the CIA report reveal that Jimmy Carter was playing politics with the American motorists' frustration, cynically trying to aim their wrath at foreign oil producers—and away from Big Oil and the White House.

Incredibly, U.S. oil production in the first three months of this year was 150,000 barrels a day less than it was a year before, the CIA report shows. Domestic oil production in the months before the gas lines averaged 8.55 million barrels a day, compared to 8.7 million barrels a day in the quarter of 1978.

The 39-page CIA report, titled "International Energy Statistical Review" and dated Sept. 5, shows that world oil production in January, February and March was 60.2 million barrels a day, compared to the 59.9 million daily average for 1978. And in April and May, when Americans first began lining up for gasoline, world production had increased to 62 million barrels a day.

The CIA confirmed what was no secret—the Iranian revolution resulted in a dramatic drop in that country's oil production, from 5.2 million to 1.1 million barrels a day.

But that was more than made up by other oil-producing nations (with the notable exception of the United States). Saudi Arabia alone made up a huge chunk of the Iranian shortfall, increasing production from its 1978 daily average of 8 million barrels to 9.5 million.

Other nations that made their oil available to the United States were Mexico, Venezuela, Kuwait, Libya, Nigeria and the United Kingdom—even the Soviet Union and Red China. And America consumers eagerly bought it to the tune of 6.5 million barrels of imported crude per day during the first quarter of 1979.

What consumers also bought was the Carter administration's myth that the gas lines were all the fault of the greedy Organization of Petroleum Exporting Countries. An internal memo from the president's chief domestic adviser, Stuart Eizenstat, spelled out the political hay that could be made from the motorists' misery.

"We have a better opportunity than ever before," he wrote the president on June 28, "to shift the cause for inflation and energy problems to OPEC. . . . With strong steps we can mobilize the nation around a real crisis and with a clear enemy—OPEC."

If there had indeed been a "real crisis," such an administration ploy would be permissible political fun and games. But the CIA report shows there was no crisis, least of all one that could be blamed on OPEC. This raises the cynical administration tactic to the status of the Big Lie.

"Eizenstat was taking deadly aim at all those dirty Arab so-and-sos in his memo, but they came to our aid," a congressional energy expert commented to our associate Dale Van Atta.

Another expert concluded, after being shown the CIA report: "There was no worldwide shortage, and no shortage of imports. This is shocking, considering what Schlesinger was telling Congress at the time."

The real villains, it turns out, weren't the OPEC nations at all, but U.S. oil companies, which cut back production—and the Carter administration, which lied about it.●

EXPLANATION OF VOTES

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. GREEN. Mr. Speaker, for clarification I wish to note that members of my immediate family have a financial interest in a corporation affected by the legislation currently pending before the House—House Joint Resolution 341, Milwaukee Railroad service continuation. Shares of stock in the Chicago-Milwaukee Corp., the parent company of the Milwaukee Railroad, are owned by a trust for my children, for which I am a trustee, the estate of my father, for which I am an executor, and another member of my family. Consequently, I will be voting "present" on the rule providing for consideration of this matter and on all substantive rollcalls.●

STATEMENT CONCERNING THE ASSASSINATION OF CONGRESSMAN LEO RYAN AND THE JONESTOWN TRAGEDY

HON. BILL ROYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. ROYER. Mr. Speaker, as we near the first anniversary of the tragic death of Representative Leo Ryan, I am asked, from time to time, whether I am satisfied with the investigation into his death that has taken place to date, and whether I am satisfied that the Jonestown tragedy could not occur again. My reply, unfortunately, as to both questions, is that I am definitely not satisfied with the investigation, nor am I assured that, given the same facts and circumstances, another Jonestown tragedy could be averted. In point of fact, with the exception of the Foreign Affairs Committee staff report, what has gone on to date under the guise of "investigation" by virtually all parties concerned, is appalling. The administration seems totally indifferent to the fact that a U.S. Congressman was killed in the line of duty, but also that 900 plus Americans died in a foreign country, and I want to know why.

I am told that the FBI investigation into the death of Representative Ryan has concluded with the finding that no charges can be brought against any person in the United States at this time. The only person who is being held for trial by any government for the death of Representative Ryan is being held in Guyana, and it is unclear when, if ever, he will be tried. And yet, there were several survivors of Jonestown, and several members of the People's Temple who have returned to the United States. Based upon the facts as I know them, it is inconceivable to me that no one else who was affiliated with the People's Temple has been charged with some sort of criminal behavior. The apparent indifference with which the Department of Justice has treated this matter is wholly incredible. I can only speculate as to the reason for this attitude.

Accordingly, I am asking Congressman PETER RODINO, chairman of the Judiciary Committee, to immediately hold oversight hearings, in which the Department of Justice will appear and explain the exact nature of the investigation to date, why it has been terminated, and under what circumstances would they see fit to reopen the investigation and report to the American people who the killer or killers of Representative Ryan were.

Insofar as preventing a recurrence of the tragedy, the situation now is perhaps a bit more promising, but still woefully inadequate. The Foreign Affairs Committee staff report recommendations have, with possibly one exception, not been implemented, or even studied. In my opinion it is imperative that the various House committees which have jurisdiction over the several recommendations contained in the staff report immediately undertake the review and legislative action necessary to implement them.

I have cosponsored H.R. 5129 which will, if passed, remove some of the ambiguities in the Freedom of Information and Privacy Acts which gave rise to much of the initial confusion concerning how and in what form sensitive information concerning American citizens abroad could be transmitted to the State Department and appropriate law enforcement agencies. I call upon Representative Ryan's colleagues on the Foreign Affairs Committee to undertake all necessary action so that the staff recommendations may be implemented.

I have been informed by officials of the Department of State that they are in liaison with the Department of Justice to arrive at implementation measures for the State Department's recommendations on the matter, and that is heartening. But what I want to know is, what is going on within the Department to change the attitude toward consular affairs? I want to know why the Secretary of State was so indifferent toward the welfare of a substantial number of American citizens in a hostile foreign nation, living under conditions which could, at best, be described as peculiar. It appears to me that the State Department, under Secretary Vance, is only concentrating on the mechanism which was faulty instead of departmental attitudes, which all agree played a monumental part in the failure to accurately and correctly handle the matter.

Again, the impression that is indelibly printed in my mind is the indifference of the State Department to the plight of the Americans in Jonestown, the consequent failure of the Department to adequately prepare and conduct the congressional visit to Guyana, and the continued inability of the Department to come to grips with the root causes of this failure.

Therefore, I am requesting Chairman ZABLOCKI of the Foreign Affairs Committee to immediately convene oversight hearings in which the State Department will set forth the precise measures they have taken as a result of their own investigation, report and recommendations, and further, to answer some of the questions that linger in my mind. I will request that I be permitted to attend all of the oversight hearings, as an ex officio member so that I may hear the responses first hand, and ask the questions that have to be asked.

I am concerned that the basic problem which prevented the clear and unambiguous communications which were necessary between the Embassy and the Department, and between the State Department and Justice has not yet been addressed. I am concerned that there are no liaison precedures between the State Department and the Justice Department. I am concerned that both Departments have displayed such a lack of initiative and foresight that all future congressional delegations may be imperiled where unusual situations occur.

In that regard, I call upon the President to amend Executive Order 12036, which deals with surveillance of American citizens abroad, in light of what occurred in Guyana, and in the perspective of both the State Department and Foreign Affairs staff investigations and recommendations.

I call for the hearings I have mentioned immediately. It has been 1 year, almost, since that tragic death, and yet, if anything, the mystery grows deeper and deeper. If these hearings are not held within a reasonable time, and if they do not produce the answers to the questions I have outlined above, I will call for open, public hearings, so that every person who was, in any way involved, or affected by the Jonestown tragedy, and the assassination of Representative Ryan may be heard. It is high time that the administration faced this issue, and gave the answers that the American people deserve. I will do everything in my power to see that this is done.●

PERSONAL EXPLANATION

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. YATRON. Mr. Speaker, due to long-standing commitments to address the Berks County Bar Association and to attend several meetings in my congressional district, I was unable to be present and voting on a number of matters before the House on October 25 and 26. Had I been present, I would have voted in the following way:

Rollcall No. 601: On an amendment to House Joint Resolution 430 that directs the States, in establishing priorities for awarding funds, to provide for determining the extent to which increases in rents are caused by increases in heating costs and consider such portions of increases in rents to be increases in heating costs, "yea."

Rollcall No. 602: On an amendment that sought to provide for the distribution of all funds in the form of block grants to the States for energy allowances, "nay."

Rollcall No. 603: On final passage of House Joint Resolution 430, low-income energy assistance, "yea."

Rollcall No. 604: On consideration of H.R. 4955, supplemental refugee assistance, the House agreed to resolve itself into the Committee of the Whole, "yea."

Rollcall No. 605: On an amendment to H.R. 4955 that authorizes $30 million for use in furnishing assistance to alleviate the human suffering and starvation among refugees and other victims of the famine in Cambodia, "yea."

Rollcall No. 606: On final passage of H.R. 4955, "yeas."

Rollcall No. 607: On House Resolution 456 providing for the consideration of H.R. 2313, Federal Trade Commission authorization, "yea."

Rollcall No. 608: On House Resolution 385, providing for the consideration of H.R. 4167, milk price supports, "yea."

Rollcall No. 609: On the conference report on H.R. 4387, Agriculture appropriations, "yea."

Rollcall No. 610: On the conference report on S. 428, Department of Defense authorization, "yea."

Rollcall No. 611: On the passage of H.R. 1885, retirement preference for certain BIA employees, "yea." ●

WELFARE REFORM

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. ROTH. Mr. Speaker, for over a decade welfare reform has been a major national issue. There have been many proposals offered and examined by Government and Congress, but a true reform measure still has not been enacted. In my view, effective welfare reform is long overdue.

This becomes clear when you consider the amount of the taxpayers' money devoted to welfare. In 1977, Federal and State spending on welfare was estimated at $70 billion for some 55 programs. Some estimates place spending at over $80 billion in 1978 for 59 programs

There is a difference of opinion as to which programs comprise the welfare system. I suspect that better definition of Federal assistance programs would raise the total spending figure even more. But effective reform can only come from such an understanding. For example, in referring to welfare reform some persons think in terms of making the present system more effective, improving delivery of services, reducing fraud and abuse. Others think of welfare reform as spending even more money to provide more and more benefits. Let me hasten to add that I belong to the first group. I believe that we must do a better job in administering the present system in order to spend less money.

FRAUD AND ABUSE

Let me illustrate this with a few examples:

First, the Department of Health, Education and Welfare's "best estimate" of money wasted by fraud and abuse in key HEW programs in fiscal year 1977 was $6.3 to $7.4 billion. Compare that with the entire general revenue budget for the State of Wisconsin for fiscal years 1977 and 1978 at $4 billion and you quickly understand the need to improve the present system.

Second, many of the welfare benefits go to the nonpoor because some programs such as aid to families with dependent children (AFDC), food stamps, public housing, and supplemental security income (SSD) are designed to encourage recipients to supplement welfare with wages. As a result of the provisions of the welfare system, many recipients can remain eligible for welfare supplements even after their earnings have risen well above the poverty line. According to information from the Library of Congress, eligibility cutoffs are as high as $12,000 for families of four in some States.

Third, there is reason for concern about the number of persons who receive benefits from several programs at the same time. An HEW staff study shows

18 pecent of welfare recipients receive benefits from five or more welfare programs. In testimony before Congress in 1978, the Secretary of HEW estimated that about 30 million Americans received aid from just three of the major welfare programs sometime during 1977 (SSI, AFDC, and food stamps).

REDUCE COSTS TO TAXPAYERS

It seems to me that true welfare reform in its simplest terms must seek to change the system. To improve it, we must reduce its cost to the taxpayers. But the administration's latest welfare reform proposal is a fiscal disaster. It would cost approximately $6 billion more than the existing system. It would also be a giant step toward greater federalization of the welfare system.

Some believe that the aim of the welfare program is to eliminate poverty. But the program is not designed for this goal. Millions of American poor, such as working poor families and able-bodied childless couples, are excluded from Federal cash welfare because they are employable.

I recall, only too well, dealing with the basic questions of welfare reform on the State level. At that time, the Governor of Wisconsin called upon the State legislature to centralize the welfare assistance programs at the State level in his effort to gain efficiency and equality in benefits. I opposed such moves; however, they became law. But it was only a few years later that the same Governor stood before the press and public calling upon the Federal Government to pick up the total costs of our welfare system. He had determined the program was then too expensive for the State to carry.

WELFARE GOALS AND PRIORITIES

As we approach the concept of welfare reform, we must first determine the goals and priorities of our effort. We must determine whether the goal is total elimination of poverty or temporary assistance to those in need. We must determine whether the program should be assistance and incentives, or permanent subsidies. We must determine whether our goal is simple distribution of funds in the name of humanity, or an efficient, caring system. Most importantly, we then must decide how such a system can best be implemented.

If we have confidence in people, and we have confidence in our local governments, then we must begin the effort to reform the welfare system and return it to our local governments. If the people on the local level carry out the programs in a proper manner, as I am confident they will, we will then accomplish a more sensitive and a more efficient system for all.●

ENERGY BOARD RULE

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. ASHBROOK. Mr. Speaker, I am constantly amazed at the imagination displayed in drafting rules for this Chamber. The rule for H.R. 4985 definitely ranks as one of the most bizarre seen in this House for some time. It was not filed until after 2 p.m. yesterday. It put a deadline of 3:15 on Monday as the time for all amendments to be submitted into the Record. Yet we are not voting on the rule until today.

I have heard of putting the cart before the horse but this is ludicrous. There has been a lot of discussion about how important and how complex this bill is. We are going to have two substitutes in order and possibly the basic bill if the substitutes fail. The amendment process will be very complex given two different substitutes. I fail to see why there has to be a deadline for amendments. If this bill is as important as the leadership says it is, I wonder why they have closed the option of developing amendments as we debate the bill. Surely none of my colleagues are prepared to say that every possible fault in this bill and its substitutes have been discovered and that amendments have been drafted to cover all eventualities. What happens if a major flaw is unearthed during floor consideration? How do we deal with the flaw if no amendments are in the Record? The leadership assumes that we possess an incredible degree of foresight if they think all aspects of this bill have been assessed and weighed prior to floor consideration. Why have floor consideration if that is the case?

This Congress is becoming infamous for the erosion of openness in floor consideration. I see the stirring of King Caucus that reigned here for so many years. Do we really want the king to return to his throne? I think not. Quality Government comes from quality in the rules of lawmaking. Let us not have this fast-track bill become another spur in the railroad that is being established in this House.●

TAXES RISING TWICE AS FAST AS INFLATION

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. DANIEL B. CRANE. Mr. Speaker, I am sure not many of us are aware that there is something rising faster than prices these days—taxes.

In fact, taxes are now going up at a rate nearly twice that of inflation. Americans are paying more in taxes than they do for food, housing, and clothing.

Many candidates were elected to Congress last year on platforms that included tax cuts. The Republican budget of hope includes large tax cuts to stimulate the economy, similar to successful actions taken by President John Kennedy in the early sixties.

Recently the Mount Carmel, Ill., Daily Republican-Register pointed out these facts and others about the burden of taxation that every American must bear, and I would like to call the October 12, 1979, editorial to the attention of the American people.

The editorial follows:

Taxflation Is Here

If you want to see real inflation power, take your eyes off the gas pump meters and supermarket cash registers for a moment and study your tax statements.

Taxes—federal, state and local, the whole bundle—have been going up at a rate now approaching twice that of consumer prices. The comparative figures for 1978 were taxes up 13.2 percent, prices as measured by the Consumer Price Index up 7.6 percent in the 1968–78 period, the tax take swelled by 155.3 percent while price inflation was 87.5 percent.

And if that bottom line is bad news, some of the statistical details as laid out by Industry Week magazine are even worse.

Three major expenditures—food, housing and clothing—traditionally get the largest of consumer budgets. But as a consequence of taxflation, Americans are now shelling out more in taxes than they do for the three basics—$624.3 billion as compared to $575.1 billion last year.

The difference was $49.2 billion, about triple what it was only two years ago.

Tax growth while general, is uneven. State and local levies have increased more rapidly than federal—187.5 percent during the past decade compared to Uncle Sam's 133.9 percent. But while they may be gaining state and local government still take in only about half of what Washington extracts from the economy every year.

The fastest growing category is social insurance. Up 249 percent in 10 years, Social Security and kindred programs accounted for 26.3 percent of the total tax load in 1978.

On an individual basis, as Industry Week figures it, each American contributed $1,814 to the federal and $1,043 to state and local governments last year for a total tax payment of $2,857, which represented 57 percent of the per capita income from wages and salaries of $5,047.

And as a final measure of taxflation, the 1978 tax total of $624.3 billion was larger than the entire Gross National Product had been years earlier.

Of course, to be completely fair and accurate the figures would have to be adjusted for changes in the value of the dollar, that of 1978 being worth considerably less than that of 1963 as a result of inflation.

But then, that's what we're talking about, isn't it? ●

ENERGY MOBILIZATION DOES NOT REQUIRE A SELLOUT

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. EDGAR. Mr. Speaker, an excellent editorial on the fast track legislation the House is currently considering appeared in the Tuesday, October 30, edition of the Philadelphia Inquirer. In the opinion of that prestigious paper, the House should oppose the bill recommended by the Commerce Committee, even if Representative Santini's amendment thereto is adopted. To quote from the editorial:

> Taken to their most probable extension, the Dingell bill's provisions even with the Santini amendments would be dangerous—and should be unacceptable to anyone prudently concerned not only with preserving the protections of land, air and water, but with preserving due process of law.

The editorial continues by endorsing

the substitute bill offered by Representatives UDALL, CLAUSEN and WIRTH. I completely agree with the Philadelphia Inquirer that this bill must be adopted in lieu of the Commerce Committee bill. It is unacceptable and irresponsible—if not unconstitutional—to create a Federal board which could act, together with the President, to waive substantive Federal, State or local laws that stand in the way of priority energy projects.

I strongly urge my colleagues to read this editorial and to adopt the more responsible piece of legislation before them, the Udall-Clausen-Wirth substitute.

The editorial follows:

ENERGY MOBILIZATION DOESN'T REQUIRE A SELLOUT

Debate is scheduled to begin in the House of Representatives today on a measure of profound consequence to the nation's energy future and its physical environment. Important as the energy considerations are, and they are important, there is grave danger that the Congress will arm and fuse a time bomb.

The dispute concerns the makeup of a federal Energy Mobilization Board. The new agency is intended to give the government a method for cutting through red tape to expedite major projects to provide the U.S. with energy: Pipelines, synthetic fuel development, generating facilities, etc.

The Senate already has passed a bill which would establish the EMB, one of the Carter administration's energy proposals which is being plugged hardest this season. Today, two separate and fundamentally different bills will be taken up by the House.

There are a number of dangerous elements in the Senate bill. There will be strong lobbying by commercial interests and others to produce a House bill which is at least as dangerous. If that happens, there will be little or no hope that a responsible bill can be fashioned by the ultimate Senate-House conference committee.

Thus, the last-ditch effort to preserve environmental protections which the worst EMB proposals threaten almost certainly will come in the House today and tomorrow. The White House, eager to get some bill through, clearly has put primary emphasis on that showing signs of backing off prior commitments on basic environmental protection.

Most of the objectionable elements which the House will consider are in the Senate bill. They begin with the establishment of the Board itself, a five-member panel which would be dominated almost completely by its chairman, with its other members virtually powerless. All would be exempt from federal ethics and conflict of interests requirements, raising a real danger of commercial exploitation in the name of efficiency.

Another major defect of the Senate bill is that it establishes no prudent criteria for determining what a "priority" energy program or project is, leaving the board with the enormous power of deciding on what it will push forward with extraordinary leverage.

The most important element of the dispute, however, involves the ultimate power of the Board. There is heavy pressure to empower it to propose to the President and for the President to be able to suspend virtually all federal, state and local laws and regulations which are thought to be slowing down an energy project.

The bill recommended by the House Commerce Committee, and named for its chairman, John D. Dingell (D., Mich.), would allow waiver of all such laws—a potentially disastrous measure and a dreadful precedent.

There is an effort afoot to "improve" the Dingell bill with amendments sponsored by Rep. James D. Santini (D., Nev.). Taken to their most probable extension, the Dingell bill's provisions even with the Santini amendments would be dangerous—and should be unacceptable to anyone prudently concerned not only with preserving the protections of land, air and water, but with preserving due process of law.

There is a responsible alternative, and it will be before the House today, along with the Dingell bill. That is a measure which has been put forward by the House Interior Committee and designated the Udall-Clausen-Wirth substitute, after Reps. Morris K. Udall (D., Ariz.), Don H. Clausen (R., Calif.), and Timothy E. Wirth (D., Colo.).

The Udall *et al* bill is a sound proposal, restricting the unacceptable powers which the more dangerous propositions would grant. It deserves broad support, and should be the form of the bill which the House passes.

To have the House's decision be otherwise would be to invite abuses of power which are neither necessary to the expediting of energy projects nor acceptable to the basic system of legislative and regulatory due-process in this country.●

SUGAR STABILIZATION ACT

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. FISHER. Mr. Speaker, on October 23, the House considered the Sugar Stabilization Act of 1979, finally defeating this legislation by a vote of 249 to 158. I applaud this action by the House, and would like to clarify my reasons for consistently voting against this legislation both on the floor and in committee.

Supporters of this legislation have painted a rosy picture of the bill's purpose. The sugar bill, they say, would stabilize the domestic price of sugar for the consumer and guarantee a profitable return to the producer. Failure to pass the legislation, the supporters warn, will result in dire consequences—the most dire being the bankruptcy of the domestic sugar industry and the creation of an OPEC-like sugar cartel that will choke off supply and keep sugar prices high.

I do not agree with the arguments presented by the bill's supporters. The simple purpose of this bill, as I see it, is to keep low-cost foreign sugar from getting a larger share of the U.S. market. The method would be to protect the industry by enforcing a high price and providing a direct subsidy to producers. The final effect of these measures would be that the American consumers might be paying as much as $4 billion more for sugar in the next half decade.

There is no question but that passage of the Sugar Stabilization Act would have some of the effects that its supporters say it will. For instance, the bill would certainly stabilize prices for the consumer, but at artificially high levels. Stabilized prices are not necessarily the same thing as fair prices. Passage of the Sugar Stabilization Act would undoubtedly assure producers a return on their crops; it would also encourage stagnation and noncompetitiveness in sugar production. The agriculture industry in this country is the most resilient and efficient in the world; it has remained so in part because of its ability to adjust to changing conditions and markets, and I believe it must maintain this flexibility. As for the possibility of a sugar cartel, a cartel requires a finite supply which is controlled by relatively few nations; the sugar industry does not meet these conditions.

The arguments raised by the sugar bill supporters are not new ones. They are raised by every domestic industry that is seeking protection from foreign competition. In this case, I do not believe they are justified. I continue to think that, in the case of sugar, the marketplace and not the Government should determine the price.

One of the casualties of the defeat of H.R. 2172 is the failure to implement the International Sugar Agreement, a measure contained in title 1 of the bill. The United States signed this agreement on December 9, 1977, and for 2 years has failed to pass implementing legislation. On June 4, Congressman VANIK introduced a bill that would provide for the implementation of this international agreement, separate and apart from the provisions of the Sugar Stabilization Act. I urge my colleagues to give full consideration to Mr. VANIK's legislation and to pass it.●

JOAN MAYNARD

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mrs. CHISHOLM. Mr. Speaker, I would like to share with you the achievements of one of my constituents, Joan Bacchus Maynard. Ms. Maynard is the executive director of the Society for the Preservation of Weeksville and Bedford-Stuyvesant History. Her accomplishments with this organization were recently enumerated in the following article which appeared in the March/April 1979 issue of Historic Preservation.

The article follows:

I'M A PRESERVATIONIST

(By Joan Maynard)

The road that led to my involvement in historic preservation threads through a wealth of experiences from simple chance encounters to the complex birthright of my family.

The simplest factor was the suggestion nine years ago by an acquaintance met on a street corner that I might attend a meeting of a new group dedicated to the preservation of black history in Brooklyn. This group was the nucleus of the Society for the Preservation of Weeksville and Bedford-Stuyvesant History.

The president was Jim Hurley, who had recently discovered evidence to substantiate the existence of Weeksville, a 19th-century black community in Brooklyn. A senior citizen native to the area, William Harley, provided valuable insight into the project. They had discovered four frame farmhouses of pre-Civil War vintage located at the eastern boundary of Weeksville. This inspired the children of Public School 243 to suggest that the houses be saved and converted into a black history museum.

My interest in black history prompted me to join the group. At the time, they were in the process of having the houses declared New York landmarks. I was asked to serve on the architectural committee because of my art background. I worked closely with architect Harley Jones, who was completing a feasibility study for museum adaptation through a grant from the National Trust for Historic Preservation.

The more complex factor contributing to my interest in preservation began with my birth to two extraordinary people. My parents gave me the greatest gift through their example of hard work, sacrifice and information, a legacy their parents had passed on to them. They made me aware that black history began not with slavery but with the African culture, which made significant contributions to world civilization in areas of agriculture, metallurgy, government and philosophy.

My father, John W. Cooper, was born in Brooklyn in 1873, the son of pioneer ex-slaves moving north after the Civil War. He was a ventriloquist and had been in show business since 1895. In the early years, he played the vaudeville circuit and traveled with the minstrel shows. During World War II, he toured all 48 states with the USO, seeing the changes taking place in the United States. Because of my father's experience, as a child I learned firsthand what it was like to be a proud, intelligent black man traveling through parts of America where lynching was the accepted norm.

My mother gave me another insight. She was born Juliana St. Bernard in the West Indies and came to the United Sattes in 1921. Her skin color precluded her working in any but a domestic position. She was a great lady and the most industrious person I ever knew.

Our home, though modest, offered many books and much educational conversation. At school I was often able to rebut with facts and quotations erroneous remarks about black people or African history made by uninformed teachers. From the time I was nine years old my uncle took me to meetings of the Universal Negro Improvement Association (UNIA), an international organization founded by Marcus Garvey for the improvement of the lives of blacks. In short, I received a cultural vaccination to protect me against ignorant and racist people who could cause great emotional devastation and feelings of unworthiness and destructiveness, including self destruction, especially in young people.

The Society for the Preservation of Weeksville and Bedford-Stuyvesant History fulfills an important need: It preserves old buildings; but more than that, it saves a tangible part of the past and brings history aliye to the people of Bedford-Stuyvesant.

I believe that it is important for historic preservation to assist in the recovery of cities to benefit not only the affluent but all people. The Weeksville project does this and, on a more personal level, provides an opportunity for me to share the gifts of cultural survival my parents left as my heritage.●

PERSONAL EXPLANATION

HON. WILLIAM P. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. CLINGER. Mr. Speaker, on October 26, 1979, I was absent for the last vote of the day because of a death in my family. Had I been present, I would have voted in the following fashion:

Rollcall No. 611: H.R. 1885, retirement-preference for certain BIA employees. The House passed the measure to amend civil service retirement provisions as they apply to certain employees of the Bureau of Indian Affairs and of the Indian Health Service who are not entitled to Indian employment preference and to modify the application of the Indian employment preference laws as it applies to those agencies, "yea."●

NEW DIRECTIONS IN TAX POLICY

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. CONABLE. Mr. Speaker, I would like to bring to the attention of the membership the fact that on Monday and Tuesday, November 5 and 6, the gentleman from Oklahoma, Mr. Jones, myself and the National Journal will be sponsoring a conference entitled "New Directions in Tax Policy" at the Capital Hilton Hotel. The conference will run from Monday until Tuesday noon and will include major discussions on tax issues which will face not only the Congress, but the Executive branch, and the private sector in the next session. In addition to participation by Mr. Jones and myself, the chairman of the Ways and Means Committee, the gentleman from Oregon, Mr. Ullman, will deliver a major speech on his newly developed value added tax proposal. Senator Packwood from Oregon will speak on the subject of the Federal budget and tax policy and the Secretary of the Treasury will speak at the luncheon on Monday. We expect a large turnout and thought that we would advise our colleagues of this conference.

I anticipate that the issues to be discussed will be important to the development of a new tax policy and enclose the schedule of this conference in the Record at this point:

SCHEDULE OF "NEW DIRECTIONS IN TAX POLICY"

MONDAY, NOVEMBER 5

9:00–9:15. Introduction: Hon. Barber B. Conable, Jr. (R-NY); Hon. James R. Jones (D-OK); John Fox Sullivan, Publisher, *National Journal*.

9:15–10:15. Economic Policy and America's Future: Speakers: Rudy Penner, Robert Eisner. Moderator: John Fox Sullivan.

10:15–10:30. Break.

10:30–11:15. Federal Budget and Tax Policy: Speaker: Senator Robert Packwood, (R-OR), Member, Senate Finance Committee. Introduced by Hon. Barber B. Conable, Jr.

11:15–12:15. VAT and the Restructuring of Tax Policy: Speaker: Hon. Al Ullman (D-OR), Chairman House Committee on Ways and Means. Introduced by Hon. James R. Jones.

12:15. Luncheon Speaker—Secretary of the Treasury G. William Miller.

2:00–3:15. Capital Cost Recovery and Economic Expansion, 10/5/3: Speakers: Ernie Christian, Patton, Boggs & Blow. Richard Schubert, Bethlehem Steel. Moderator: Hon. Barber B. Conable, Jr.

3:30–5:00. Capital Formation Alternatives to the 10/5/3: Speakers: Bill Ballhaus, Beckman Instruments. Gordon Corey, Commonwealth Edison-Dividend Reimbursement. Robert H. B. Baldwin, Chairman, Morgan-Stanley. Moderator: Hon. James R. Jones.

5:00–7:00. Reception, Congressional Room.

TUESDAY, NOVEMBER 6

9:00–10:30. Impact of Inflation and Indirect Taxes on Capital Formation: Speakers: Mike McKevitt, NFIB. Fred Hickman, Chicago. Jack Meyers, AEI. Moderator: John Meagher.

10:30–10:45. Break.

10:45. Tax Policy for the '80s: Speakers: Hon. James R. Jones. Hon. Barber B. Conable, Jr. Moderator: Charls Walker.●

COMMENTS OF JAMES J. KASTER OF TEXAS SUPPORTING THE FTC FUNERAL INDUSTRY RULE

HON. BOB ECKHARDT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. ECKHARDT. Mr. Speaker, I have been asked by the chairman of the Consumer Protection and Finance Subcommittee of the House Commerce Committee, Jim Scheuer, to place the following letter in the record.

Its author, James Kaster, who is the legislative liaison for Gov. William P. Clements of Texas, writes in strong support of the proposed Federal Trade Commission Funeral Rule. As many of my colleagues know, this body will shortly be asked to vote on an amendment which would strip the Commission of its authority to regulate the funeral industry. I intend to strongly oppose such a measure and urge my colleagues to permit the FTC to continue its much needed regulation of this critical consumer area.

The letter follows:

OFFICE OF THE GOVERNOR,
Austin, Tex., October 19, 1979.

Hon. JAMES H. SCHEUER,
Chairman, Subcommittee on Consumer Protection and Finance, Washington, D.C.

DEAR CONGERSSMAN. SCHEUER: Please consider this a letter of support for the proposed Federal Trade Commission rulings regarding the funeral industry. It is my understanding that your committee is considering revoking the proposed rulings. I am a licensed funeral director and embalmer in the State of Texas and have been so licensed since 1968. I am currently not acting in the funeral business. Prior to becoming a funeral director and embalmer I was in the casket manufacturing business and called on approximately 70 funeral homes on a regular basis for 9 years.

I was also in the State Legislature as a Representative for 8 years. I give you this background so you will understand I think I know how the funeral business operates and I know the power that funeral directors have over State Legislatures. I fully support the proposed rules of the Federal Trade Commission as I think there is real abuse in too many instances in this business. Most funeral directors are reputable but a far too great a number are not reputable.

The government, in its wisdom has placed various protections for the consumer such as the truth in lending provisions when one borrows money. These provisions are there when a person is not emotionally upset and has all their normal economic defenses present. In contrast there is absolutely no protection for a person making one of the largest purchases in their lifetime, only behind the purchase of a home and an automobile when they are emotionally upset and all enomic defenses are down. It is ludicrous to offer a protection to people when they are perfectly all right and may or may not need it and to offer no protection to a person when they are at their most vulnerable.

I testified before the Federal Trade Commission in Los Angeles and would suggest that you obtain a copy of my testimony from the FTC if you need any further information.

I would also be glad to testify, should you so desire.

Sincerely,

JAMES J. KASTER,
Legislative Liaison.●

H.R. 5505

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. VANDER JAGT. Mr. Speaker, today the House of Representatives has under consideration H.R. 5505, Tax Administrative Provisions Revision Act of 1979. While this is not a major piece of tax legislation, the bill does make several needed changes in the Internal Revenue Code which are of great interest to the affected individuals and businesses.

Two provisions of H.R. 5505 are derived from legislation which I had sponsored earlier this year, and represent rather minor changes in tax law which do have a significant impact to those concerned. Section 10 of H.R. 5505 extends the period for rollover of capital gain on the sale of a residence for members of the Armed Forces who are stationed overseas or are otherwise required to live in Government-owned housing. Section 7 provides for a change in time for payment of excise taxes on fishing equipment.

Section 10 of H.R. 5505 dealing with treatment of servicemen's residences is virtually identical to H.R. 2667 which I introduced on March 6, and provides relief to those members of the Armed Forces who are faced with a substantial tax liability as a result of their lengthy tour of duty overseas or the Government's requirement that they reside in base housing. Under present law, a member of the Armed Forces serving on extended duty is generally not required to recognize the gain on the sale of a principal residence if he or she purchases and uses a new home within 4 years after the sale of the old one. However, with today's emphasis on reenlistment and extended tours of duty, in order to maximize the trained manpower we have now in our uniformed services, individuals sometimes have difficulty in repurchasing a new home within that 4-year period. Consider the situation of a military family which must relocate after transfer orders are given. Their home must be sold, sometimes in a rather short period. Then there is an overseas tour of duty, lasting up to 3½ years in many cases, and even longer in some. Then there is usually a period of additional training or schooling back in the United States, followed by an interim period before orders for a permanent assignment are made. That process can easily take more than 4 years, and is becoming more and more common as members of the Armed Forces are encouraged to extend their overseas tour of duty.

In addition, many service families are now required to reside in Government owned housing in order to maximize the utilization of these quarters. These families are similarly in a situation where they cannot repurchase a new residence in which they can roll over the gain from the sale of their old one.

In both of these situations, highly trained career service personnel are faced with the prospect of either continuing their service career and owing a substantial tax liability of their capital gain or resigning from the service in order to purchase a new principle residence. I think it is obvious that the U.S. Government should do everything possible to encourage, rather than discourage, skilled service personnel to remain in the Armed Forces, and section 10 of H.R. 5505 removes one small hindrance which has bothered many individuals by extending the period for rollover to 1 year after reassignment back to the United States and after which time they are no longer required to reside in Government owned housing.

Section 7 of H.R. 5505 changes the time for paying excise tax on fishing equipment as called for in H.R. 2459 which I cosponsored. Although the retail sale of sport fishing equipment is seasonal in nature, manufacturers of such equipment produce throughout the year to maximize use of capital and labor. The manufacturers frequently offer extended credit terms to wholesalers and retailers to encourage early purchases, thereby avoiding storage costs.

Although the extended credit delay collection of the sale proceeds of the fishing manufacturers equipment, the Federal Government has required payment of the excise tax relatively soon after the sale of the tackle. This has caused the fishing equipment industry some hardship, which can easily be overcome by changing the date for payment of the excise tax to more closely coincide with the period the manufacturers will receive their payment for the goods. Section 7 of H.R. 5505 establishes a revised schedule for collection of the excise tax that will not reduce the Government's revenues, but will be more convenient for the manufacturers to meet.

I do want to thank the distinguished gentleman from Illinois, Mr. ROSTENKOWSKI, who as chairman of the Subcommittee on Select Revenue Measures of the House Committee on Ways and Means gave deliberate and prompt attention to these two measures, as well as several other miscellaneous changes in the Internal Revenue Code. The gentleman from Oregon, Mr. ULLMAN, also deserves praise for scheduling consideration of H.R. 5505 in an expeditious manner.●

NATO IN MAJOR SEA MANEUVERS

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. DONNELLY. Mr. Speaker, in the Friday, October 19, 1979 edition of the Boston Herald American, there was an excellent article entitled, "NATO in Major Sea Maneuvers." Mr. Richard Lamere, the very able author of this thought-provoking article, in no uncertain terms draws the reader's attention to the evident need for a strong shipbuilding program in our great Nation. We cannot forget the relationship between a healthy shipbuilding capability and a secure national defense.

I insert the timely article by Mr. Lamere at this point in the RECORD:

Aboard H.M.S. *Hermes*—NATO nations engaged in "Ocean Safari," a major maritime exercise underway the past two weeks in the Norwegian Sea and North Atlantic, have the strength presently to meet a challenge by the Soviet Navy for control of the sea lanes, the Commander of the NATO fleet said.

However, Vice Admiral Thomas J. Bigley, USN, a native of Everett, Mass., and Commander Striking Force Atlantic, warns that by the mid–1980's the Soviet naval forces could be a much greater threat if NATO nations fail to keep pace with accelerated Russian shipbuilding. "Unless NATO nations continue to improve their sea capabilities, there could be deterioration in the 1980s," Admiral Bigley said as he visited the British helicopter carrier *Hermes* in the Norwegian Sea following "strong interest," he noted, by Soviet warships and planes in the big NATO fleet comprised of 70 ships from eight nations, 17,000 men and 200 aircraft.

The admiral noted that the Soviets have significantly increased their intelligence-gathering sorties by Bear and Badger aircraft over the NATO ships, compared to a year ago when a similar exercise (Northern Wedding) was conducted in the North Atlantic.

More than 50 Soviet planes flew over the NATO ships during the first week of the exercise. Several Soviet guided missile ships of the Krivak and Kresta Classes, along with trawlers, also watched the maneuvers. Although the Soviet pilots flew over the NATO fleet, Bigley said they did not make any low-level simulated attacks, although one Bear passed *Hermes* at an 800-foot altitude and another Bear flew nearby as the American admiral was being transported to the *Hermes* by helicopter. A Soviet destroyer also passed within a few hundred yards of the British helicopter carrier. "They (the Soviets) haven't trained their guns," Bigley said. "It's more intelligence," he explained.

Some of the Russian warships, Bigley said, had moved from the Caribbean to the Norwegian Sea and North Atlantic to observe the ships from several NATO countries—Belgium, Canada, the Federal Republic of Germany, The Netherlands, Norway, Portugal, the United Kingdom and the United States. The United Kingdom committed 25 ships to the exercise while the United States and the Netherlands each had 12 ships engaged in anti-submarine warfare, gunnery and replenishing-at-sea activities during the two-week period.

Ocean Safari 79 was scheduled by Admiral Harry D. Train, II, USN, Supreme Allied Commander Atlantic whose headquarters is in Norfolk, Va., to demonstrate and improve

NATO's capability to provide maritime support to Europe in time of crisis or war.

Admiral Bigley, the son of Mrs. William C. Bigley and the late Mr. Bigley, flew his flag aboard the Mayport, Florida based guided missile cruiser U.S.S. *Dale* (CG 19). "The Soviets in recent years have become a blue water navy, operating worldwide," Bigley said. "In Ocean Safari, we're getting close to part of their operating area. They want to gather intelligence of our forces . . . our smartness in seamanship and give us a subtle message that we don't control the ocean alone, and that they're out here also. The Soviets now operate a tremendous number of ships that continue to grow in size and sophistication."

"But we're also able to get a look at how they operate and their capabilities," Bigley stresses, adding, "It's a morale booster for our people. Our men know they are providing a deterrent force when they see the Soviet ships." The Everett-born three star admiral said the Soviets have a superiority in some of their long-range missiles, but he said the Russians can't match the U.S. and NATO's aircraft carrier striking force. Bigley said the Russians are concentrating approximately 12 percent of the Soviet Union's gross national product into building a fleet of worldwide proportions. The United States spends 6 percent of its G.N.P. for its defense posture.

"I'm excited with this Ocean Safari exercise," Bigley said. "I'm pleased with the capabilities of our people. They operate very sophisticated, complicated equipment and the young men maintaining the equipment are bright and intelligent. It's all very fast-moving, but we have the professionals to do the job." ●

THE CAMBODIAN FAMINE

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. MARKEY. Mr. Speaker, imagine a country whose population has dwindled from 8 to 4.7 million people over the past 10 years. Where there is no currency, no transportation system, and no communication system. A country where 80 percent of the children are suffering from severe malnutrition. Imagine a country where for every birth there are 10 deaths. This country, Mr. Speaker, is Cambodia—today.

It is estimated that 3 million Cambodians are suffering, mainly from starvation. Approximately 200,000 of them will die each month if something is not done to ease their situation. As a country who professes a firm belief in human rights, we must provide these people with at least the basic necessities of life. Is that too much to ask? If we truly believe in the prospect of human rights for everyone, we have an obligation to provide aid to these people.

There are no medical facilities in Cambodia, no doctors, and no supplies for medical treatment. Orphanages are filled with little children too weak to move. Their eyes are vacant and hollow. Their bellies swollen and distended. War and poverty are all these children know, it has been their life. We are in a position to stop all of this. We cannot look the other way, we must hold out our hand and share our wealth. It is desperately needed.

This crisis is much like that of the boat people. We can help, but it would be unreasonable for the United States to do this alone. We need help from other countries as well as various relief agencies. All nations should, and must, join in to give international support to the people of Cambodia. We must save them from almost certain death. I urge all nations to join in this common cause.

We, as a nation, have the opportunity to respond to the critical needs of others. We know what it is to be clothed and well fed. We must be generous in our action, and when we give aid, may we give in the spirit of survival for everyone. This is a crisis of a people more than of a country. We should be proud to help others. It is the nature of the United States.●

OLYMPIC IDEALS POLITICIZED

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. SOLOMON. Mr. Speaker, Olympic ideals were sacrificed to political expediency recently as the International Olympic Committee announced Taiwan may participate in the upcoming games only after adopting a flag and anthem other than its own. In making this demand the IOC was forced to discard Olympic Charter rule 64 which requires teams in the opening parade at the games must be accompanied by the names and flags of their countries.

The IOC went a step further and presumptuously claimed the right to approve any new flag and anthem Taiwan might substitute. Taiwan is a nation of 17 million people and its sovereignty is recognized by 21 countries of the world. It is not surprising Dr. C. S. Shen, Republic of China consultant to the Olympic Committee in Taiwan responded by stating:

> Fairness and conformity to rules are the basic cornerstones of athletic competition, and they are the most treasured by athletes. Therefore, we are not satisfied with the proposal.

The most sobering aspect to this decision is that the International Olympic Committee (IOC) was responding to pressure from the Carter administration. The Washington Post reported:

> Leaders of the IOC heeded an ominous letter from the U.S. State Department today and called on Taiwan to change its flag and anthem. The letter implied there would be embarrassment for the United States if the athletes of Taiwan went to the Winter Games.

The embarrassment is, instead, that the United States acquiesced to the pressures of the People's Republic of China and in turn unnecessarily applied pressure to the IOC to exclude Taiwanese young men and women athletes who have been working diligently for an opportunity to participate in a competition that should symbolize impartiality and international good will.

How far will the administration go to insult and discredit our former ally? This is a new low in State Department policy.

In recent years we have complained bitterly as other nations have interjected politics into the Olympics. It is sad but true that this time it is the United States applying the pressure.

Let the record show that over one-hundred Members of Congress co-signed a letter I sent to the IOC Executive Board urging a nonpolitical solution whereby Taiwan would have been able to participate under the same conditions and procedures as any other country.

This effort to isolate Taiwan will not go unnoticed. American credibility will suffer as a result, and understandably so. It is indeed ironic that a nation which has always championed freedom and equality should play such a key role in the denial of rights to another nation which is developing in democratic principles and free enterprise.●

TITLE III

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mrs. CHISHOLM. Mr. Speaker, I believe that the following remarks, which I will circulate as a "Dear Colleague" this week, will help to clarify a number of misconceptions about the title III program contained in H.R. 5192, the Higher Education Reauthorization Act of 1979. I hope that my colleagues will review these remarks as they consider H.R. 5192 this week.

This week the House will consider H.R. 5192, the Education Amendments of 1980. This bill will reauthorize and improve programs authorized by the Higher Education Act and other related measures. Over the last several weeks, recent newspaper reports have appeared which purport to reveal for the first time deficiencies in the focus and administration of title III, "The Strengthening Developing Institution Program," of the Higher Education Act. These news articles, while they have highlighted and rehashed findings contained in an 8-month-old report published last spring by the General Accounting Office, have omitted any discussion of the steps already taken by the Subcommittee to address many of these issues in the new legislation. In order to place these stories in their proper perspective, we have summarized below the specific actions the subcommittee has taken to respond to the allegations of abuse and mismanagement of the title III program.

In keeping with the subcommittee's careful review and close scrutiny of all programs during the reauthorization hearings, the subcommittee held 3 days of hearings which involved a detailed review of the management of the title

III program as well as the findings and recommendations in the GAO report. Witnesses at the hearings included GAO investigators who prepared the report, HEW administrative personnel, analysts from the National Center for Education Statistics, presidents of grantee institutions, and representatives of assisting agencies. Based on information gathered at these hearings, including a number of recommendations made in the GAO report, the subcommittee redrafted and significantly modified key title III statutory provisions.

The subcommittee heard testimony regarding the vagueness of the criteria used for determining eligibility for grants under the title III program. Convinced that incorporating a precise definition of a developing institution into H.R. 5192 would help improve administration of the program, the subcommittee included language in the bill which defines such institutions based upon an institution's low-income student enrollment and average educational expenditures per student. This firm and objective criteria will aid in streamlining the administration of the title III program.

Management considerations also motivated the subcommittee to provide a more clearly delineated focus for use of program funds by requiring participating institutions to use title III moneys to improve academic quality, institutional management and fiscal stability. H.R. 5192 expressly restricts use of title III funding to those purposes authorized in the bill. To further guide HEW in the selection of applications for funding, the subcommittee's bill lists a range of program activities such as faculty development, administrative management and improvement of academic programs to receive priority funding consideration. In direct response to a GAO recommendation, H.R. 5192 mandates that grantee institutions report yearly on their progress toward completing development activities and establish specific priorities to be achieved with title III funding. Of particular importance is a provision in the bill requiring each participating institution to submit a detailed analysis of its fiscal control and accounting procedures. The subcommittee also made it clear that it will take steps under its oversight authority to insure that the Secretary more carefully monitors disbursement of title III funding by program managers.

Testimony was also presented to the subcommittee concerning the role and operation of consortia and consultants specializing in providing title III assistance. Because the subcommittee was persuaded that irregularities and misuse of funds have occurred in conjunction with these arrangements, the requirement that institutions participate in such arrangements was deleted. Institutions which choose to continue to receive such technical assistance must now submit detailed reports on accounting procedures governing this arrangement, according to language in the report on H.R. 5192.

The subcommittee heard comments regarding the failure of institutions to progress and graduate from the title III program. Carefully constructed funding categories inserted into H.R. 5192 provide a new structural framework which includes incentives to enhance long-range institutional planning and movement through the program. The legislation is designed to restrict the length of participation in the program by creation of three new grant categories. For example, an institution may apply for a competitive, 1- to 3-year grant which is renewable. A new 4- to 7-year, nonrenewable grant is established with 25 percent of the program's appropriation reserved for this category. The reserve feature will insure availability of substantially larger grants to encourage multiyear planning which anticipates movement out of the program. Institutions receiving nonrenewable grants are foreclosed from applying for the renewable funding. The distinction in funding levels and duration of awards will provide important incentives for institutions to progress through the program.

A third component in the comprehensive title III funding package, challenge grants, is aimed at stimulating institutions to move away from dependency on Federal funding and seek alternative resources. By requiring that Federal funds be matched, the challenge grant program is designed to promote State and private sector investment in developing institutions. Implementation of the challenge grant program is delayed until 1982 to permit dissemination of information and development of solid proposals. The challenge grant initiative will involve a competitive application process with funding priority for institutions in the nonrenewable title III grant category. The challenge grant proposal provides a new mechanism and further incentive to eligible institutions in their quest for self-sufficiency and fiscal stability.

We urge our colleagues to carefully compare published criticism of the title III program with the improvements already made in H.R. 5192 and the accompanying committee report. These legislative modifications along with a new, aggressive management attitude in the Office of Education can achieve effective and efficient administration of the title III program.●

VETERANS' DAY

HON. WILLIAM R. COTTER

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. COTTER. Mr. Speaker, Veterans' Day, November 11, 1979, is a day we should all set aside to pay tribute to the men and women of the Armed Forces who fought so hard to defend our Nation, our Government, and to preserve the freedoms which we all enjoy.

Thousands of veterans in my district alone are still in hospitals suffering from illness and wounds received in battle in foreign lands.

We can never fully express our gratitude to this group who made such great sacrifices to protect our freedom.

I urge all Americans, but especially my constituents, to take time to visit on Sunday, November 11, these men and women in veterans hospitals or veterans homes, and to show their gratitude, respect and honor for all those who know the real meaning of Veterans' Day.●

FATHER JAMES C. FINLAY—25 YEARS OF SERVICE TO GOD

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. BIAGGI. Mr. Speaker, I wish to bring to the attention of my colleagues a special event which has recently occured in my home State of New York. A very special man in our community of the Bronx, has recently celebrated his 25th anniversary of his ordination into the Jesuit order. To those of us who know him well, those 25 years have not only been spent in service to God, but also in service to his fellow man and his community.

Father Finlay is known as a distinguished author and educator as well as a great humanitarian whose concern for his fellow man has never waivered in his daily activities. Since becoming President of Fordham University in 1972, he has worked to insure that the interests of private institutions are properly represented in the community, the city, the State and the country. He is chairman of the Legislative Committee of the Commission on Independent Colleges and Universities and I have had the privilege and the pleasure of working together with him on important issues which face the higher education community in New York State.

As the ranking New York member of the House Education and Labor Committee, I have become accustomed to hearing his name mentioned when crucial issues facing private institutions are discussed. He is known throughout the educational as well as the governmental community as a man who is familiar with the issues. Father Finlay is a most appropriate voice in the educational community in the State of New York for nonpublic schools and he is respected for his intellect as well as his appreciation of the problems which plague our educational system today.

Father Finlay did not arrive at Fordham University upon becoming president in 1972 for the first time. He attended college at Fordham from 1940–42 and was ordained a priest at the university on June 19, 1954. He became an instructor in political science in 1960, went on to become an assistant professor in 1961 and was named chairman of the department from 1963 to 1967. Upon becoming an associate professor in 1968, he was also named dean of the Graduate Schools of Arts and Sciences, where he remained from 1968 until he was named president of Fordham University in 1972.

While many people could make many observations about Father Finlay, I feel that a more appropriate tribute is best expressed in the words of a former student of Fordham who has retained many ideas about this man:

> A man with a special quality . . . a student knew that they were being addressed by a very learned man, but one who could make each concept taught so easily understood, and lead the student to feel the importance of the idea and become enthusiastic and emphasize with the circumstances of the idea or concept.
>
> He has great warmth and appeal . . . so open-minded and interested in everything . . . good wit . . . never passed a chance to bring up the lighter side of something when teaching or otherwise.
>
> You got the feeling when talking to him that he was secular, as well as priestly and that he had great experience in all professions . . . He was a very refined person, almost shy, but not really . . . He could be just as at home at a basketball game, as in the classroom.
>
> Father Finlay always went out of his way to contact students and do things for them that would enhance their classroom experience and education. It was such the case for me, when he made me a public affairs columnist for the campus newspaper, which was practically unheard of at the time.

While the words of colleagues and friends would also do justice to a tribute to Father James Finlay, it is often the words from the heart of the student which seem most appropriate. As an educator, Father Finlay has touched the lives of many who have had the privilege of knowing him as a teacher and a scholar, and more importantly, as a priest in service to God and his fellow man. It is my sincere wish that Fordham University and the Bronx community be blessed with his wisdom and guidance for many more years to come. He is truly a man for the people.●

TAXES AND THE INDEPENDENT CONTRACTOR

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. PHILIP M. CRANE. Mr. Speaker, on September 13, 1979, I introduced H.R. 5266 to clarify the tax status of the self employed and this bill was referred to the Ways and Means Committee on which I serve. I previously had the opportunity to study this issue as the ranking minority member of the 1978 Task Force on the Independent Contractor. As the Select Revenues Subcommittee continues to consider the tax status of independent contractors, they will profit from examining the new concepts in my legislation.

Fortunately, the very able ranking minority member of that subcommittee, the gentleman from Tennessee, Mr. DUNCAN offered an amendment based on a provision in my bill, to establish the tax status as independent contractors of workers who have a substantial investment in the tools of their trade.

In fact, my provision and the Duncan amendment are based on an employment tax ruling issued by the IRS in 1976, which I include at this point:

> TRUCKING INDUSTRY—CONTRACT OPERATORS
>
> (1) The issue of whether contract operators of trucking equipment are independent contractors of employees of a carrier for purposes of the Federal Insurance Contribution Act (FICA), the Federal Employment Tax Act (FUTA), and the Collection of Income Tax at Source on Wages (WT) will, under present law, be decided in favor of an independent contractor relationship where the facts are substantially similar to those in the cases of *United States* v. *Mutual Trucking Co.*, 141 F. (2d) 655 (6th Cir., 1944) and *United States* v. *Silk* and *Carter H. Harrison* v. *Greyvan Lines, Inc.*, 331 U.S. 704; CT. D. 1683, 1947-2 C.B. 167.
>
> (3) The combined effect of the above is to create a strong inference that a contract operator is an independent contractor when the following six factors are present:
>
> (a) he/she owns the equipment or holds it under a bona fide lease arrangement;
>
> (b) he/she is responsible for the maintenance of the equipment;
>
> (c) he/she bears the principal burdens of the operating costs, including fuel, repairs, supplies, insurance, and personal expenses while on the road;
>
> (d) he/she is responsible for supplying the necessary personal services to operate the equipment;
>
> (e) his/her compensation is based upon a division of the gross revenue or a fee based upon the distance of the haul, the weight of the goods, the number of deliveries or combination thereof; and
>
> (f) he/she generally determines the details and means of performing the services, in conformance with regulatory requirements, operating procedures of the carrier and specifications of the shipper;
>
> (4) The factors in (3)(a) through (e) above give contract operators substantial opportunity for profit and loss and the risks of enterprise, which are indications of independent contractor relationships.

The first four criteria (a-d) are specifically included in H. 5266 as criteria that one must satisfy in order to qualify unquestionably as independent contractors. Item (e) of the IRS ruling was not included because it is no longer valid. A 1977 case decided in the 9th Circuit Court of Appeals stated:

> The owner-operator keeps track of his own time and presents a bill for his services to the contractor or over-lying carrier. This is then compared against the records kept by the contractor or over-lying carrier to prevent padding of the bill.

The court ruled that owner-operators could be paid by the hour or by a fee based on mileage and tonnage.

The sixth criteria (f) in the IRS ruling was not included because it was too narrow. It referred only to shippers and carriers, and the safe harbor in my bill is intended to apply across-the-board to all who meet the assets test, not just shippers and carriers.

Mr. Speaker, in subcommittee markup, the Duncan amendment providing for an independent contractor status safe harbor based on invested assets was criticized because its opponents claimed it only applied to one occupation. This argument is directly contrary to the very reason we excluded item (f) from the IRS ruling. Moreover, I have received from the Bureau of Labor Statistics detailed occupation tables regarding the self employed.

These tables show that over 30 occupations can meet the assets test—also called economic reality—under the law, but most of the time could not come in under the control test safe harbor in H.R. 5266 and H.R. 3245.

In these 30 occupations, the individual does not always control the number of hours worked, and substantially all of the scheduling. In light of this additional information, I hope the subcommittee reconsiders its 5 to 4 vote against the Duncan amendment. Moreover, reconsideration would give statutory recognition to those concepts regarding the independent contractor which have judicial recognition.

Mr. Speaker, the courts have acknowledged at least two safe harbors—one based on the common law control test and the other based on the common law assets test—economic reality. For reasons I mentioned above, these two are not compatible in H.R. 5460 and H.R. 3245 and cannot be merged into one.

The Supreme Court has recognized two legal tests for independent contractor status in the Mutual Trucking case which is cited in the aforementioned IRS revenue ruling. The Court ruled:

> In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, he is an independent contractor.

For example, a Member of Congress could retain an independent photographer to take and develop pictures on specific days, at specific times and places. Because of the substantial investment in assets—expensive photography equipment—the photographer would meet the assets test, to be an independent contractor, but would be ruled out of consideration under the single, safe harbor in H.R. 5460 and H.R. 3245 because he would not control the scheduling or the hours worked.

Edward B. Miller, former chairman of the National Labor Relations Board, spoke on the law of the independent contractor at a recent meeting of the American Bar Association Institute. His comments verify the judicial strength of the assets test for independent contractor status:

> But the Congress, in 1947, reined in this Court-approved expansionist interpretation of the word "employee." It voiced its displeasure with the Hearst case and wrote into the statute a specific exclusion of independent contractors from the definition of employed. In so doing, it made abundantly clear that the common law tests should be applied in determining whether any person alleged to be an employee was in fact an employee or was instead an independent contractor.
>
> Instead, it told the Board and the courts to revert to the traditional common law definitions and let the chips fall wherever they might.
>
> I will soon conclude these background remarks, but I cannot do so without pointing out, as I did in my dissent in the Deaton case, relatively early in my career at the Board that even under the economic reality test and before the 1947 amendments, the Supreme Court, in the Greyvan case, had found truck owner-operators there to be independent contractors and not employees.
>
> On these facts the Supreme Court concluded, and I quote: "Where the arrange-

ments leave the driver-owners so much responsibility for investment and management . . ." they must be held to be independent contractors.

Thus, even under the interpretation of the law followed before the 1947 amendments, under the liberal economic reality test, a person who owned his own tractor and leased it to a trucking company in exchange for a percentage of the revenue obtained for hauling on orders solicited and obtained by the trucking company was deemed an entrepreneur, not an employee.

Other factors included in the common law test include a sort of economic reality point—that is, whether the one alleged to be employed is in fact engaged in a distinct occupation or business.

This last comment by Miller should receive special attention because there are many independent contractors—loggers, for instance—who may not have substantial investments, but are recognized as distinct occupations.

The Greyvan case, also decided by the Supreme Court, includes an important warning relevant to this issue. Justice Rutledge, in his concurring opinion, wrote:

> Here the District Courts and the Circuit Courts of Appeals determined the cases largely, if not indeed exclusively, by applying the so-called "common law control" test as the criterion. This was clearly wrong, in view of the Court's present ruling.

Mr. Speaker, this is exactly what the Select Revenue Subcommittee has done so far in their markup sessions—applied the control test as the sole criterion for determining who is independent—and this is clearly wrong.●

SOVIET PERSECUTION OF CATHOLICS

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. ROUSSELOT. Mr. Speaker, the persecution of Jews in the Soviet Union has gotten increased and deserved attention in recent years. But religious persecution in the Soviet Union is not limited to those of the Jewish faith alone. Religious freedom, a fundamental human right, is also systematically denied to Protestants and Catholics, among others.

Recently, one of my constituents, Mr. James L. Nichols of Alhambra, Calif., brought to my attention an article from the Visitor, the national Catholic family magazine, which relates quite graphically the persecution of the Catholic Church in the Soviet Union, particularly in the Ukraine and Lithuania.

It is my belief that we who live in a free and prosperous country should be reminded periodically that "all is not well" in many other parts of the world. Perhaps this article will inspire us to continue helping those who do not share in the blessings of liberty, and to remain ever vigilant against the forces of totalitarianism.

Mr. Speaker, I would like to share this article, "Modern Martyrs," by Fr. Albert Nevins, with my colleagues.

MODERN MARTYRS

(By Father Albert J. Nevins)

In all the talk about human rights little is said about the Catholic Church in the Soviet Union. Although the Russians signed the Helsinki agreement to gain concessions from the West, the Russians had no intention of giving up the total control of its citizens. Jewish intellectuals have been released to emigrate to Israel and the West largely because of constant pressure of publicity focused on them by free Jewish communities outside Russia. To gain Western concessions for the SALT Treaty the Soviets have let some Jewish dissidents go but only because it suits their own purposes. As for the Catholic Church, the persecution of religion continues unabated.

Catholics were always a minority in the Soviet Union and rather localized minorities at that. The Ukraine had a substantial Catholic population but bishops and priests were imprisoned and many Catholics were forcibly moved from the Ukraine. Large numbers were sent to Siberia where they are priestless. There is no seminary open in the Ukraine and the priests are getting old. There is rumored to be a strong underground movement. The general policy of the Soviets seems to be to avoid direct persecution where possible and to let time put the Church to death. This policy is effective. In Minsk, where there are 40,000 Catholics, there is not one functioning church. In Para, Catholics have kept their church open but have no priest. Belorussia is a region of closed churches with priests about 70 years old. One priest covers what was formerly 28 parishes. Seminaries have been closed and those which exist outside of Russia proper refuse to accept Russian candidates for fear that they are KGB agents. There have been cases where KGB agents were ordained and then given the job of sabotaging from within.

One of the saddest situations is in Lithuania which is predominantly Catholic. Seized by the Reds at the time of World War II, the West legitimatized its seizure in the Helsinki Accord which was what the Russians wanted. Since the Red takeover, the Church has been systematically persecuted. Typical of what is happening there is the case of the Diocese of Panevezys, where three priests were murdered by the KGB and six died in jail or in Siberia. Twenty priests who served more than five years in jail or Siberia died almost immediately after their release. Another 23 priests who are still alive served prison terms of five years or more, with the longest being 23 years. The Russians have denied another 12 priests the right to exercise their ministry. There are 10 parishes in the diocese now without priests.

The result of the persecution is that the Catholic Church has had to go underground. It is generally believed in Rome that the cardinal Pope John Paul created *in petto* (in secret) at the recent conclave was a Lithuanian bishop who would be further persecuted if publicly named. The underground Church in Lithuania has been smuggling out information to Lithuanian communities in the United States and Europe. The stories tell of homes of Catholics being searched for religious literature, of priests called before officials for talking to children, of children being punished and ridiculed in school by teachers for believing in God. One story concerned a government worker who was fired from his job because he knelt at the funeral of his mother.

The reports that reach the West show a Church of the catacombs but one that is vibrant. There are abundant vocations to the priesthood and religious life. Eucharistic devotion is strong and the people are united in resisting Russian interference. As one report of the recent date states: "The soul of the apostolate is alive, thirsting to spread the Catholic Faith throughout a vast land which has been subjected to atheism. The Catholic Church is working effectively in catacomb fashion: an underground press is flourishing, catechization is going on in a broad scale, in spite of all kinds of sacrifices." All of this is not done without cost. Four bishops have been martyred, two others are in exile. Some 600 priests have served or are serving prison terms. Hundreds of Catholics have been jailed and many martyred. Pray for Lithuania.●

AMERICAN MEDICAL RECORDS ASSOCIATION

HON. DAVID W. EVANS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. EVANS of Indiana. Mr. Speaker, during this week, the American Medical Record Association is holding its annual meeting in Washington, D.C. I would like to share with my colleagues some remarks by the chairman of the Subcommittee on Government Information and Individual Rights, Mr. PREYER. Mr. PREYER's comments discuss the issue of the privacy of medical records, an important matter which the subcommittee is currently considering.

The American Medical Record Association was founded in 1928, and has 23,000 members who are medical record practitioners. There people are interested in the field of medical record and health data.

As our society progresses into the age of computers and becomes more mobile, quick and accurate transmission of medical information will become critical. Medical record practitioners and the American Medical Record Association have an important role in the future of medicine. It is the purpose of the American Medical Record Association to promote the art and science of medical record administration and to improve the quality of comprehensive health information services for the welfare of the public.

REMARKS OF REPRESENTATIVE RICHARDSON PREYER BEFORE THE CONVENTION OF THE AMERICAN MEDICAL RECORDS ASSOCIATION, OCTOBER 23, 1979

An area of current legislation that may be of special interest to the American Medical Records Association is the confidentiality of medical records. In the House, the leading bill on this subject is the Federal Privacy of Medical Records Act which I introduced in March. In addition, Senator Javits has introduced a bill in the Senate, and the Carter Administration has offered its own proposal. All of these bills are based on the recommendations of the Privacy Protection Study Commission.

The American Medical Records Association is a recognized leader on the issue of confidentiality of medical records. The Association testified before the Privacy Commission in 1976, and recently testified on the current legislation before the Subcommittee on Government Information and Individual Rights which I chair. I also understand that AMRA has appeared before a Senate committee as well.

In reviewing the testimony before my subcommittee, I was especially interested in the statement of AMRA's goals. One of those goals is "to provide leadership in promoting appropriate use of health record information in the best interests of the public." I was struck by this because I think that it summarizes in one sentence the general purpose of medical privacy legislation. There are many different people interested in using medical record information for many different purposes. In each case, we must carefully consider whether the use of the information is appropriate and in the best interests of the public. This is not an easy task.

Looking a little more closely at the bills befor the Congress, I see three basic objectives. The first is to give individuals the right to inspect and to correct medical records. While there appears to be general agreement on the broad principles of patient inspection and correction, there is some dispute over how these rights should be qualified. The Subcommittee has received testimony, especially from psychiatrists, that unrestricted access to records could be harmful to the patient in some cases. Similarly, we have learned from medical records administrators that procedures for record corrections must be carefully structured so as to preserve the integrity of the record as a history of medical treatment. We are looking for an appropriate way to balance the different interests.

The second objective of the legislation is to restrict the disclosure of medical information without the consent of the patient. Limiting the disclosure of information by law is a complex and delicate task. The point is well illustrated by a recent Oregon law on criminal history records. The law prohibited the disclosure of information about arrests. Since a person is assumed to be innocent unless found guilty, information about an arrest is not always meaningful until there has been a conviction.

However, when this law took effect, it was discovered that the police were prohibited from telling anyone that a person had been arrested—even the person's husband or wife. This produced such an impossible state of affairs that, within a week of the effective date of the law, the Oregon legislature met to repeal it.

This story demonstrates the pitfalls of carelessly drafted legislation. It also explains why the Subcommittee has taken such a deliberate approach to the medical record privacy issue. It is not always easy to determine whether disclosure should be permitted or under what conditions the information should be used. Auditors, medical researchers, and law enforcement officers all claim to have a need to use medical information for an important purpose. Auditors seek to protect the fiscal integrity of government health programs. Researchers use information to protect the public health. Law enforcement officers want information to protect the public welfare. In each case, we have to decide whether the use of information is in the best interests of the public. This requires us to consider a multitude of factors.

The difficulty of these decisions can best be illustrated by a specific example involving the Secret Service. One of the functions of the Secret Service is the protection of the President. The Director of the Secret Service testified that information about phychiatric patients who may pose a threat to the President is very useful in performing this vital function.

The need of the Secret Service must be measured against the confidentiality interests of the patient in his relationship with his psychiatrist. Obviously, if confidentiality cannot be preserved, those in need of psychiatric help will be reluctant to seek treatment. We have not yet resolved this dilemma. However, we are exploring a solution that would permit disclosure of information to the Secret Service but that would severely restrict the use of the information by the Secret Service.

I would like to emphasize that my bill never requires disclosure of medical records unless the disclosure is required by another law. Thus, if disclosure to the Secret Service is permitted under the legislation, the decision to disclose will be made by the psychiatrist and not by the government.

The third objective of the legislation is to make it a crime to obtain medical information under false pretenses. We have received testimony suggesting that the acquisition of records from hospitals by false pretenses or by theft may not be uncommon. Some of the most interesting evidence came from the Royal Commission of Inquiry into the Confidentiality of Health Records in Ontario. The Royal Commission found that private investigators used false pretenses routinely to obtain medical records.

The role of investigative agencies and insurance companies came to light primarily as a result of the suspicion of a nurse in a small hospital near Niagara Falls. One night, the nurse received a phone call from someone claiming to be employed in a Toronto emergency room. The caller said that information about a patient—who had previously been treated at the Niagara Falls hospital—was needed for emergency treatment.

The nurse was suspicious and said that she would return the call. However, when she checked the phone number, she found that it did not belong to the Toronto hospital that the caller named. Several additional calls for the information were made, but the nurse refused to release any data.

Because the nurse had written down and kept the phone number, she was later able to give it to the Royal Commission staff. Based on this lead, the staff was able to trace the phone number to a specific investigative firm and gather enough evidence to apply for a search warrant of the firm's offices. The search produced evidence that medical information was obtained through false pretenses on a wholesale basis. The firm even hired registered nurses to make the pretext phone calls.

Using this information, the Royal Commission obtained search warrants for insurance companies that used the services of the investigative firm. This in turn led the Commission to other private investigative firms that had similar operations and then to other insurance companies. In this manner, the entire practice, which had not even been suspected at first, was exposed.

I am not sure how widespread these practices are in this country. Regardless, it is important that those who traffic in medical information be subject to strict criminal penalties.

Despite all the problems with drafting a medical privacy bill, we have been making steady progress. The Subcommittee which I chair has held seven days of hearings, and has heard from dozens of agencies, organizations, and individuals. Based on everything we have learned during the hearing process, a new bill is being drafted. If things go well, I hope to be able to introduce it in the next few weeks. Future activity is hard to predict at this time, but I am hopeful that we will be able to report a bill to the House floor sometime early next year.●

INFLATION CONTINUES TO PLAGUE AMERICAN FAMILIES

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. GINGRICH. Mr. Speaker, as we all know, our country's economy is presently suffering from the ravages of inflation, and the future does not look promising. To date, Congress has not made a real effort to combat this problem. Recently I received a letter from one of my constituents which succinctly summarizes the plight of the American family. Her plea for an effective solution is one which merits attention, one which cannot go unheeded.

Ellenwood, Ga., *Sept. 12, 1979.*

Dear Mr. Gingrich: During the past year, my husband has been promoted to a supervisor and has received two raises for his exceptional work at his company, National Linen. But what good does it do? Really, a person finally gets a decent raise and the electric company increases their rates or the telephone company theirs, or taxes, or some unexpected bill.

I cut out coupons to use at the grocery store. We have only one car, a 1970 Chevrolet, and we can't afford to buy an economical car. Only one television and we try religiously to conserve energy and keep our utility bills down. Even with these sacrifices, we're just getting by. I would even go to work, but a babysitter costs a fortune.

As I look at our daughter, who'll be a year old this month, I feel sad that we can't give her a birthday party without going into debt. But we're going to because she shouldn't suffer from the mistakes others have made. And Mr. Gingrich, a mistake has been made, a costly and degrading one. Our country's economy is the mistake and with it inflation is rampant. I don't know who made this awful mistake but it has to be corrected!

If I had a crystal ball that had all the answers, I would gladly give it to you, because I trust and know that you would help. But I don't, and the answers don't come easy. But for our daughter's future and her children's future, please find "the" answer. I know it is a lot to ask, but we need your help.

Sincerely,

Mrs. Betty Jackson.

Mrs. Jackson's dilemma is clearly one which all Americans share. But what has Congress done to solve this problem? Very little, Mr. Speaker. I think our failure to halt inflation and the steadily eroding value of the dollar speaks for itself.

This year a coalition of conservative Democrats and Republicans proposed a budget which would cut Federal spending, cut taxes, and bring the budget under control. We lost the battle for people like Mrs. Jackson, but that does not mean that in the future we cannot succeed.

Inflation will continue to plague the American people until Congress balances the budget and cuts taxes.●

WHAT'S IN A NAME?

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. STARK. Mr. Speaker, today I am introducing a bill which is intended to open to debate in the House an issue which was never discussed by this body—the decision by the Congress to memorialize J. Edgar Hoover, the late director of the Federal Bureau of Investigation, by naming the headquarters of this Nation's most important law enforcement agency for him.

The 1972 Senate committee report on legislation naming the new FBI building said:

> Mr. Hoover's life clearly reflected the ideals and virtues which he held so dear and worked so hard to preserve for all Americans. His patriotism, his devotion to duty, and his perseverance served him and this country well.

Whatever good may have been accomplished during the half century Hoover served as FBI director is overshadowed by the pervasive and enduring sense that his tenure was a reign of terror over certain segments of our population. The FBI, at and under his direction, "adopted tactics unworthy of our democracy and occasionally reminiscent of totalitarian regimes," the 1976 Senate Select Committee on Intelligence found. It concluded that—

> Unsavory and vicious tactics were employed—including anonymous attempts to break up marriages, disrupt meetings, ostracize people from their professions, and provoke target groups into rivalries that might result in deaths.

Thanks to previously classified documents released under the Freedom of Information Act and elaborated upon in the press, it is clear the legacy of Mr. Hoover's term as Director of the FBI is not one of outstanding law enforcement, but of systematic and deliberate violations of both constitutional rights and statutory law.

The list of abuses by the Hoover FBI is a long one, stretching over decades and touching groups all along the political and social spectrum. Under its counterintelligence program (COINTELPRO), recently released files show that the FBI infiltrated and agitated a number of the more active social groups in the mid-1960's. It is now hard to tell whether the actions of the Ku Klux Klan, the Black Panthers and other groups were original ideas or planted by the FBI.

The FBI became a cause of the problems it was trying to confront.

Under COINTELPRO, the FBI mailed anonymous letters to the spouses of intelligence targets in order to destroy their marriages.

The FBI worked to discredit student activists by publishing photographs of the intelligence targets at rallies and sending anonymous letters to their parents and employers.

The Director received reports and kept files on all newly elected Governors and Congressman. These files are still active. The FBI also kept data on persons (that is, reporters) who were critical of the Director, but otherwise not "guilty" of any wrongdoing.

From 1940–73, the FBI conducted mail opening campaigns resulting in the illegal opening of hundreds of thousands of first-class letters.

To discredit actress Jean Seberg's outspoken support for civil rights activity in the United States, the FBI planted rumors that she was pregnant by a member of the Black Panther Party.

The FBI investigated such "extremist" groups as the American Christian Action Council, the National Council of Churches, the Council on Racial Equality, and the Southern Christian Leadership Conference.

The FBI conducted warrantless microphone surveillance against civil rights groups.

The FBI conducted "black bag jobs"—surreptitious, illegal entries. These operations required the direct approval of Hoover. The authorization memo, in each instance, was not filed but destroyed. An internal FBI memo stated the FBI did not seek outside authorization because the procedure was clearly illegal.

From late 1963 until his death in 1968, Martin Luther King, Jr., was the target of an intensive campaign by the FBI to neutralize him as an effective civil rights leader. This campaign involved many of the documented, illegal techniques already described.

J. Edgar Hoover mocked every right he swore to uphold. Removing his name from the FBI building is the first step in facing up to one of the most threatening and scary episodes in recent American history. There is no better time to remove his name than during this Congress, when we will produce a charter for the FBI, a set of principles and guidelines for Federal law enforcement which has been made necessary because of our knowledge of what the FBI did at Hoover's direction, without the consent of Congress.●

THE CHILDREN ARE CRYING

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. GARCIA. Mr. Speaker, I deem it of single importance to share with my esteemed colleagues information about critical problems facing the poor in our urban centers. One of these problems is the availability and quality of medical care and health services for the children of the poor. In my own district, which includes the South Bronx in New York City, the infant mortality rate is staggering when compared to more affluent areas of the city. Problems of disease, mental retardation, and viral infections haunt the lives of many of the children who survive birth and infancy.

I recently read an article that graphically describes the health care problems of the urban poor in my district. It is entitled "The Children Are Crying" and is written by Clinton Cox.

Mr. Speaker, I ask that this article be entered in the RECORD so that as this body deliberates about an appropriate form of national health insurance, it can be reminded that any such program must be sufficiently comprehensive to provide vastly increased health services for the children of the urban poor.

The article follows:

THE CHILDREN ARE CRYING

(By Clinton Cox)

"The child was less than 2 years old and had diarrhea for three weeks. All that time his mother carried him around to different places trying to get help and all the time the child kept losing weight. Not once did a doctor or nurse do a medical history on him. Not once did anyone care enough to sit down and really try to find out what was wrong with the little fellow. Finally he got better, but some of the children around here die for lack of adequate medical care."—Day care center director.

There is a place nearby where too many infants die at birth; a place where they often weigh less than two and a half pounds and where, growing up, they develop asthma because of their small congested living quarters and pneumonia because there is no heat in winter.

Yet the government there is shutting down more and more of the few medical facilities, and private doctors have long since fled to pastures where the sick are able to pay for their healing.

The place is called the South Bronx, 3.2 square miles packed with 450,000 people at last official count, though each day brings several fires, more abandoned buildings and fewer people. But the number of sick children and the pain they carry never seems to lessen.

It was an average weekday night. The emergency room at Lincoln Hospital was crowded and noisy and looked more like the Port Authority bus terminal on a weekend than a place for treating the sick. Junkies wandered unchallenged through the hallways, stumbling in and out, taking naps on empty stretchers, starting fights. Three stumbled into a room off the main corridor near the entrance. There were loud noises, shouts, the sound of a chair being overturned. Only two walked out. Nobody bothered to look in the room.

The child was carried in by his mother. The time-honored ghetto strategy of trying to get quick medical help from the police by reporting a crime in progress failed to work when the police failed to respond. And so she hailed a passing gypsy cab. The boy was perhaps 4 and his forehead was bruised and bleeding. His left leg was twisted at too sharp an angle and every move brought a scream, though his mother carried him as gently as possible. He had fallen from a window, she said. They took their places in chairs among the various degrees of age and pain. A long time later they were still there . . . still waiting.

There are a few hopeful developments in the area—and one of them has come, not from the city or institutions that are supposed to look after the health needs of children, but from a small group of black and Hispanic mothers.

Five years ago Mrs. Gladys Valdivieso began the Child Care Health Project in Morrisania, an area with no private doctors and an infant mortality rate of 28.7 per 1,000 births compared to 11.1 in better-protected parts of Manhattan. Mrs. Valdivieso and the women who work with her are all employes of the Dr. Martin Luther King Jr. Health Center, which specializes in medical care and education for the area's low-income residents. They know from first-hand experience the difficulties of raising children in the South Bronx.

"We used to sit in the waiting room at Morrisania Hospital for hours," says Mrs. Valdivieso, "and the doctors treated you like dogs. By the time they got around to you, the child's nosebleed had stopped and the fever was gone. Since it was a city hospital you didn't have to pay any money, but you paid with your dignity. My kids survived. That's it—they survived."

The situation today is not that different for thousands of parents and youngsters, a fact the project is struggling to change. Mrs. Valdivieso and her staff work with half a dozen day care centers in trying to prevent sickness by early detection and by giving health education to day care staff, parents and children. But the city's budget trimming often undercuts them. At one point the city fired most of the day care staff the project was training. Another time the city closed some of the centers involved in the project. Still, Mrs. Valdivieso and her coworkers persevered.

"Health to us in the South Bronx is everything," Mrs. Valdivieso declared. "It's housing, community resources, what we eat, what we drink—everything."

Many parents didn't know how to use a thermometer and the staff of three family health coordinators taught them. Many mothers were overwhelmed by housing and school problems, so they were helped to solve some of the problems that kept families constantly on the verge of physical or emotional disintegration.

Over 70 percent of the children had undetected or inadequately cared-for health problems. Up to three undetected major physical problems, ranging from sickle cell disease to severe congestion to heart trouble, and emotional problems, too, were discovered in 119 of the initial 350 children who were given the first complete physicals of their lives. Dozens of youngsters had not been immunized against major contagious diseases.

Gradually project members began to make inroads and help children who had been ignored by society.

"For the first time someone has shown these parents how to begin taking control of the lives of their children and themselves in the area that's most important to them: their health," said Harold McCants, a widower with three children in the project.

"There's nobody else out there doing this kind of thing," said Miss Salynn McCullom, director of the Gramercy Day Care Center on West Tremont Ave. "In fact, we need a lot more from them or from somebody." She added that before the project began, youngsters in her center and others received a total of 15 minutes doctor time a year from the city.

But the project, which is funded by the Robert Wood Johnson Foundation in Princeton and will run another year at most, can reach only a fraction of the health-starved children in the South Bronx. The majority will continue to receive what they have been receiving all their lives: nothing.

"During the summer we had a large number of accidents and window falls," said Dr. Padma Patel, Lincoln's acting director of pediatrics. "This is peculiar to our neighborhood. In the spring we have a lot of pneumonia and meningitis. In the winter we have respiratory and viral infections. The children have trouble breathing and can be very sick. We have a very large number of asthma cases, some of it because of congested living quarters. Because of the lack of heating in cold weather we have a lot of pneumonia. Even when kids are improved they don't want to go home because they're in a warm comfortable room for the first time in their lives."

Sixty per cent of the 4,000 births a year at Lincoln are high-risk, according to Dr. Patel. "If there are problems in the mother then the baby may develop problems," she said. "There is a lack of pre-natal care for the mothers in our area, plus nutrition problems and toxemia. We have a fairly large number of drug-addicted mothers and the babies are addicted in the uterus. How badly they're addicted depends on how long the mother's been on drugs and how much she uses. Some mothers cut down on drugs even if they can't cut them out because they know it'll harm the baby. Lately drugs have been on the decrease and alcohol is on the increase, so many babies suffer from fetal alcoholic syndrome. They can be totally hyperactive and mildly retarded. These babies suffer from acute withdrawal symptoms if it's not detected that the mother is addicted. But many of the problems here are just basic nutritional problems."

The fight of the very young for life centers around the smallest of the small. There are 18 respirators in the hospital for babies who can't breathe, eat or swallow on their own, and more respirators are needed but probably won't be forthcoming because of budget cuts.

From inside the respirators tiny bewildered people look out at you with wrinkled faces and wise old eyes like beings born ancient, the tiny temples of their bodies housing the ills society says it can't afford to prevent or cure. They won't be able to leave until they weigh at least five pounds and can swallow and eat on their own. Some will never make it. Those who do will have to struggle for life in the increasingly hostile environment of the South Bronx.

"The children in a lot of these apartments eat the peeling, lead-based paint and it causes brain damage," said Dr. Lilia Evangelista, head of the Children Evaluation and Rehabilitation Clinic which is based at Lincoln. "There's a lot of crime in the streets and a lot of noise, so most kids are kept at home because the parent is afraid to let them out. So if she has four or five kids all cooped up, you can imagine the chaos and sickness."

Dr. Evangelista said many children "fall between the cracks. They get to be 13, 14 or 15 without anyone diagnosing their retardation or whatever. It takes time to make a referral and many teachers don't care. That is a crime. We have cases where the mother enrolls the kid in school and they say, "Don't bring him back here, he has problems." On the other hand, sometimes when a principal sees a retarded child he calls me right away."

But the clinic, like the project, can reach only a small part of those who need help. In 1970 there were 1,030 youngsters diagnosed as mentally retarded in the South Bronx and many more who had never been diagnosed. Many families hid their mentally retarded offspring away from the world in shame, and some still do. There were programs for 27 children in 1970. Today the situation is worse. Programs are being destroyed while the number of children with mental and physical disabilities is rising.

The clinic itself has less money and staff now than it had two and a half years ago when it was associated with the prestigious Albert Einstein College of Medicine of Yeshiva University. The future holds little promise for improvement as the city steadily slashes medical facilities.

And so the few doors still open for children who need medical care are being slammed in their faces in an area where there was little hope to begin with. And as each door is slammed, parent and child alike are increasingly cut off from a future likely to hold much hope of happiness. For some this lack of a future makes the present too bleak to endure.

"How many times we have had parents tell us they were ready to give up their child for adoption!" said David Goldberg, psychologist at the clinic.

Still some people continue to try to help, believing that the cries of pain from these children are as important as any others. "I'm hoping we'll get more money so we can continue the child care health project—and not just with six day care centers but with as many as possible," Mrs. Valdivieso said.

Goldberg motioned toward the world outside the hospital walls. It is a world where more than $100 million was spent by the city to rebuild a baseball stadium a few blocks away—and where hospital beds are being closed because the city doesn't have enough money to keep them open. It is a world where a youngster can reach the age of 15 before anyone officially notices he is mentally retarded. It is a world where children have a greater opportunity of being offered dope than regular medical care.

"What is our future going to be like if we don't help our own kids?" he asked.●

SOVIET TROOPS IN CUBA

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. HYDE. Mr. Speaker, the recent flurry of activity and rhetoric in Washington over the "sudden awareness" by the administration that there were approximately 3,000 Russian combat troops in Cuba, has subsided. Nevertheless, serious issues remain to be addressed.

In January 1977, as a goodwill gesture toward Fidel Castro, President Carter canceled overflights of Cuba by the SR71, our sophisticated intelligence/reconnaissance aircraft. In addition to denying our intelligence community the use of detailed photographs produced by overflights of the SR71, Mr. Carter signaled to the intelligence community itself that information on Cuba no longer had a high priority in his administration, and scarce technical and human intelligence resources were shifted to areas considered more urgent.

The discovery of Russian combat troops in Cuba resulted in some official floundering such as Senator CHURCH making the announcement dramatically, and the President asserting the status quo was unacceptable, then later minimizing the whole affair.

However a Chicago Tribune editorial as early as February 15, 1978, noted that—

> The news from Cuba grows more astonishing by the day. Soviet pilots and technicians are appearing in Cuba by the thousands, we now learn, to help "defend" Cuba (against whom?) and enjoy its balmy climate while Fidel Castro ships more and more Cubans off to do the Soviet Union's dirty work in the deserts of Africa.

The fact that the U.S.S.R. subsidizes Cuba at a rate of $8 million per day should be recognized as proof that Cuba, far from being "nonalined" is a Soviet puppet state.

The Carter administration, in its drive to have the Senate ratify the SALT II agreement, downgrades Russian-backed Cuban intervention in Angola, Ethiopia, South Yemen, Mozambique, Tanzania, Sierra Leone, Guinea, Rhodesia, and Zaire, as well as Central and Latin America.

One must wonder at the Soviets' dedication to peace and disarmament while fomenting wars and revolution all around the globe.

By his ambiguous response to the Russian presence of 3,000 combat troops in Cuba, Mr. Carter has signaled our impotence over this gradual military buildup only 90 miles from our shores. He has failed to use economic weapons such as withholding transfers of technology and grain to the U.S.S.R. (both of which the Soviets need badly) or announcing to them that certain trade concessions such as "most-favored-nation" status cannot be granted so long as Soviet provocations continue.

President Carter has exhibited dangerous naivete over the failures of our intelligence community to effectively monitor the Russian presence in Cuba. Never before has the United States been so reticent in asserting its own interests in an area so close to our shores.●

WHAT OIL PROFITS SHOULD AND SHOULD NOT BUY

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. DOWNEY. Mr. Speaker, the oil companies have tried to make the American public think that the huge increase in profits they are earning are both necessary and well deserved. The New York Times today printed a letter from Senator HOWARD METZENBAUM, of Ohio, that indicates how unjustified this price gouging really is. I agree completely with the Senator's views on this subject and commend his letter to the attention of my colleagues.

The text of the letter follows:

WHAT OIL PROFITS SHOULD AND SHOULD NOT BUY

To the Editor:

Mobil Oil recently spent some of its huge profits to respond to me with a paid advertisement in your newspaper [Sept. 27]. The ad attacked an article I wrote about a bill Senator Edward M. Kennedy, I and 11 other senators introduced to impose a 10-year moratorium to keep 16 oil companies from acquiring other giant companies.

The point of the bill is simple: The national interest requires the oil companies to use their enormous profits to produce and develop oil and energy. And those profits are going to swell even more in future years. Decontrol of oil prices will take from the American consumer and hand over to the companies as much as $160 billion in the next decade, even with a windfall profits tax.

These vast sums should be used to produce more energy and develop new technologies. They should not be used to buy up insurance companies, retailers, box manufacturers, truckers, hospital-supply, office-equipment, electric motor companies and the like, as the oil companies have done. Gulf even considered buying Ringling Brothers Circus.

As usual, the industry's tactic is to accuse its critics of misrepresentation. Let's see who's misrepresenting what.

Mobil says decontrol is no special favor because other industries are not controlled. But only the oil industry has been the beneficiary of tightly restricted supply by means of import quotas, production controls and now foreign cartels. These restrictions, incidentally, kept American oil prices well above foreign prices for many years.

Mobil says non-energy acquisitions were only 2 percent in 1977. But there is a trend, as many observers have noted, that will get stronger with the added cash billions in the next 10 years. In the first four months of 1979, for example, the oil majors proposed to spend over $2.6 billion on 21 acquisitions.

Mobil says it spent $86 million on research and development in 1978, no "paltry sum." But as a percentage of its $1.2 billion after-tax profits, it is a very small fracion of what many other industries regularly spend on research and development.

Mobil says it's not "fair play" to single out the oil industry in this legislation. But no other industry will get such huge unearned profits. And the oil companies have other special privileges, which have made them into what one investment analyst called "great cash-flow machines, expected to flow into the early 1980's on a sea of cash." What other industry so totally controls the supply of such a vitally needed product?

The oil industry is trying to have it both ways: It attempts to justify its resistance to a windfall profits tax on its excess profits arising from decontrol in the name of energy development, but then insists on its right to use these profits to buy up large businesses not related to energy.

While the average American is wondering how to pay for huge increases in heating oil and gasoline prices, the oil industry is wondering what to do with all its profits.

Mobil headlined its advertisement, "Senator Metzenbaum ought to know better."

Mobil does know better.

HOWARD M. METZENBAUM,
U.S. Senator from Ohio.●

IGNORANCE PLUS OPPORTUNISM EQUALS INFLATION

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. MICHEL. Mr. Speaker, in one of the most extraordinary statements ever made by a former high Government official, W. Michael Blumenthal, former Secretary of the Treasury in the Carter administration, has characterized the administration's inflation policies as "schizophrenic." Blumenthal, whose insider's knowledge cannot be doubted, has stated that Carter, afraid of alienating traditional Democratic constituencies by fighting inflation too hard, wanted to "tighten the belt" but not cut out "any important programs," cut down "on Government regulations," but not "offend any special interest groups."

In short, Blumenthal is saying the Carter administration wants to fight inflation but lacks the will and the knowledge necessary to make that fight.

I urge everyone to read Blumenthal's words. They are an indictment of the Carter administration. They are proof, if any were needed, that this administration is the single most inept, incompetent, and economically illiterate administration our Nation has ever endured. If Blumenthal is correct—and there is no reason to doubt him—from the very beginning, before the President-elect was inaugurated, Jimmy Carter and his closest advisers misunderstood the realities of the American economy. Millions of American families have had to pay dearly for the economic ignorance and political opportunism that have marked the Carter administration's handling of the inflation issue, according to the former Secretary of the Treasury.

While the President and his good old boys go around the country, showering tax dollars on every primary State, the results of their economic ignorance and political opportunism have made a disaster area of every family budget.

At this point I wish to insert in the RECORD, "Blumenthal: Schizophrenia Crippled Economic Policy" from the Washington Post, October 30, 1979.

The article follows:

BLUMENTHAL: "SCHIZOPHRENIA" CRIPPLED ECONOMIC POLICY

(By Hobart Rowen)

In an extraordinary on-the-record analysis of where the Carter administration "went wrong" in the formulation of economic policy, former treasury secretary W. Michael Blumenthal said that the president has never developed "a clear, simple, single economic philosophy" devoted to fighting inflation.

Blumenthal, one of four Cabinet members dismissed by President Carter last summer, blamed this on "a basic schizophrenia within the administration." On the one hand, he said, the president and his advisers are sincerely committed to an anti-inflation effort "if for no other reason than they know [inflation] is politically damaging."

On the other hand, Blumenthal said, "the liberals [in the administration] believe that high interest rates are bad, that fighting inflation hurts poor people and that we have to be very careful how we fight inflation in order not to hit 'the natural constituency of the Democratic Party.'"

This led to temporizing with the inflation problem, Blumenthal said. "So there has been an effort to fight inflation, but not too hard. It was tighten the belt, but don't cut out any important programs; cut down on government regulation, but don't offend any special interest groups. It made it difficult for the president to stand up and say: 'My economic philosophy is that inflation is the No. 1 problem, and that's what I'm going to stick to.'"

Blumenthal made these remarks, duplicating what he has been saying privately, in an extemporaneous public speech Friday night to the Washington Forum, a private business consulting group.

He said jokingly that he and three other Cabinet members fired at the same time had a meeting to create "an alumni association. But it didn't work out, because [Secretary of Energy] Jim Schlesinger insisted he should be chairman because he had been fired by two presidents."

Blumenthal said he was willing to list "a litany" of the administration's mistakes "in a spirit of letting it all hang out." As a preliminary, he gave a gloomy assessment of future prospects, predicting "more pressure" on the dollar, higher unemployment," high interest rates "for many months to come," and a 1980 federal budget deficit "closer to $50 billion than $40 billion."

He brusquely rejected as meaningless a suggestion made earlier in the week by Council of Economic Advisers Chairman Charles L. Schultze that "the underlying" inflation rate is 8 to 9 percent. "The real rate is what it is—13 percent," Blumenthal said. "When Charlie says 8 to 9 percent, that's what he'd like to see the rate drop to."

Blumenthal, who recently joined the Burroughs Corp. as a vice president and is scheduled to become that company's chief executive officer next year, traced the Carter administration's economic decision-making problems to "the very first meeting" at the Pond House in Plains, Ga., late in 1976 after the election.

"I think there is no doubt we underestimated the basic strengths of the American economy," Blumenthal said. "In Plains, all of the talk was about the necessity to stimulate the American economy. All of the concerns had to do with making sure that unemployment would not rise again."

In retrospect, Blumenthal said, this judgment—that unemployment was more of a danger than inflation—which he noted was common among private economists, and even endorsed by the outgoing Ford administration advisers—was wrong, and the programs to deal with it were a "misconception."

"The real problem was not a major slowdown, but really an endemic, inbuilt, growing inflationary pressure [but] we occupied ourselves with developing stimulus packages," he said.

He recalled that the "first big issue" was whether the president in 1977 "should change his mind" over a proposed $50 tax rebate.

"Heaven forbid that a president should ever change his mind!" Blumenthal said with a touch of sarcasm. "For the president ever to change his mind and admit it—that's a 'no, no' in government. You must never admit that you must change your mind about something."

For the first time publicly Blumenthal also admitted that one of the key mistakes related to the administration's policy on the dollar, and that as treasury secretary, he shared in the blame.

Blumenthal said that "we did not appreciate early and fully enough the potential for trouble in the currency markets," and that "we did not understand the impact of electronic communications." That, in essence, means foreign exchange markets never close down—when the East Coast U.S. markets close down, for example, others are open in Asia.

He denied, as he has before, that he tried to "talk the dollar down" in 1978 blaming that widely made accusation at that time on "some of the press." But he conceded that "saying that we recognized and understood that there would be these ups and downs clearly turned out to be an error."

He added that the administration failed to catch on early enough that there was "a vicious circle," in which inflation creates a weaker dollar "which in turns leads to more inflation and even an avalanche effect in the international currency markets."

Some of Blumenthal's administration colleagues have said privately that the former secretary's "naivete" contributed to this process. As the nation's chief financial officer, according to one official, Blumenthal didn't realize that if he said that the dollar had gone down only 2 or 3 percent, he was inviting the conclusion that he was willing to see it go down some more.

In addition to what he suggested was an understandable underestimate of the energy problem ("no one expected Iran to blow up the way it did"), Blumenthal also said that the administration never understood—and still doesn't—"how deeply ingrained is the inflationary psychology among American consumers and businessmen."

"We looked at our computer runs, which are based on earlier and past relationships with inflation much lower than it is today, and said:

"'If we have so much stimulus, we will have so much unemployment, and so much growth, and so much economic activity, and if we raise or lower taxes by such and such an amount, it will have such and such an effect.'

"But it never really worked out that way, because Americans began to believe in inflation, and expect inflation, and act so that they developed a stake in inflation, and that unfortunately happened—and is happening today."

Some of his sharpest words were reserved for unnamed persons in "the internal councils" who early fought "even very small" increases in the Federal Reserve Board's discount rate, fearing that economic growth and employment would be damaged. In the period, Blumenthal mentioned, this fight against higher interest rates was led by Schultze and White House assistant Stuart Eizenstat. Earlier this year, before his dismissal, Blumenthal also argued that the then chairman of the Federal Reserve Board, G. William Miller, was not following a strict enough monetary policy. Miller succeeded Blumenthal at Treasury.●

CONGRESSIONAL SALUTE TO THE HONORABLE HENRY GEORGE JACOBS OF NEW JERSEY, 1979 MAN OF THE YEAR—BOYS' CLUB OF PATERSON

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. ROE. Mr. Speaker, on Friday, November 2, the residents of the city of Paterson, my congressional district, State of New Jersey, will join together in testimony to an outstanding community and business leader, distinguished citizen and good friend, the Honorable Henry George Jacobs of Paterson, N.J., whose standards of excellence throughout his lifetime have earned him the most highly coveted citizen's award of the Boys' Club of Paterson—the Man of the Year. I know that you and our colleagues here in the Congress will want to join with me in extending our warmest greetings and felicitations to him, his good wife Dorothy, sons Brian and Mark, daughter-in-law Nancy, and granddaughter Rebecca, as we celebrate this milestone of achievement in their family endeavors.

The Boys' Club of Paterson is one of our Nation's most prestigious affiliates of the Boys' Club of America, serving 1,300 boys between the ages of 7 and 17 in the Greater Paterson area.

Mr. Speaker, we are all familiar with the noble traditions of the Boys' Clubs of America and their outstanding public service to the people of our Nation in helping our young men to achieve leadership qualities of self-reliance, character building, sportsmanship, fairplay, and eagerness to serve others. Their deeply committed endeavors in exercising measures to keep America beautiful, and attain greater communion and understanding in friendship and good will among all mankind are a significant investment in the enrichment and excellence of the quality of our way of life here in America.

Henry George Jacobs has by his example and lifetime of dedication to these same true American ideals personified exemplary leadership in his outstanding responsible service to our people which has truly enriched our community, State, and Nation.

Mr. Speaker, our Man of the Year George has brought great honor and prestige to the city of Paterson with his lifetime of good works and we are particularly proud of his compassion, dedication, and untiring efforts on behalf of our young people. He was founder and is currently president of Paterson's INCCA program, a major summer youth development and recreation program. He has established an annual scholarship at Don Bosco High School and has been a longtime contributor and strong supporter of the activities of the Boys' Club of Paterson. He is presently a member of the Boys Club's board of directors.

Mr. Speaker, his personal commitment to the economic, social, and cultural enhancement of our community has been a way of life for him. His business acumen and expertise has enabled him to achieve national recognition in the manufacturing industry. He is founder and chairman of the board of American Polymers, Inc., a major Paterson plastics firm. I was privileged and honored to appoint him as my delegate to the White House Conference on Small Business to represent our congressional district at this most important conference dedicated to seeking ways and means of providing an improved climate and way of doing business for our Nation's small business men and women in the private sector of our economy. He was recently presented with the William Paterson State College's "President's Medallion" for his outstanding service to the community.

Some of his additional affiliations with professional and civic organizations and in public service to our people include: trustee, Barnert Memorial Hospital, and the Daughters of Miriam Home for the Aged; past president, Passaic County Planned Parenthood, the Greater Paterson Chamber of Commerce, SANE Educational Development Fund, and the Greater Paterson Development Corp.

He also serves on the executive board of the New Jersey American Civil Liberties Union, Better Business Bureau of Passaic, Bergen, and Rockland Counties, Willowbrook Ministries and the Plastic & Metal Products Manufacturers Association. His affiliation also includes the National Catholic Honor Society, Institute of Applied Politics at Princeton, Philharmonic Society of Northern New Jersey, Paterson Rotary Club, Society of Plastics Engineers, New York Institute of Technology, Easter Seal Committee, NAACP, and the World Federalist. Recently he was elected chairman of Paterson's Private Industry Council.

Mr. Speaker, the fulfillment of the purpose, goals, and aims of the Boys' Clubs of America could not be achieved without the leadership of people like Henry George Jacobs and the strong team effort of volunteer and professional leaders of our communities who participate unselfishly and willingly of their busy schedules in passing these sterling traditions along to our youth of America.

The Boys' Club of Paterson, a private, nonprofit organization, was first opened in an abandonel Paterson firehouse in March of 1964. The membership quickly outgrew the dimensions of the building and in October of 1969 it opened the doors of a new, modern, million-dollar Boys' Club facility to the youngsters of the city.

Its year-round programs include athletics, crafts, health, education, recreation, and guidance, supervised by a professional staff, aided by part-time college staff and volunteers.

I wish to commend to you the following officers of the Boys' Club of Paterson who are leading citizens from the private, civic, and business sectors of the community currently serving on the governing board of the Boys' Club of Paterson:

The Honorable: Walter Porter, Jr., President; Eugene E. Babcock, Board Chairman; Allan Mikola, Vice President; William F. Papke, Vice President; Richard Mainardi, Vice President; Kenneth J. Arkind, Secretary; Donald F. Lesko, Treasurer; Dominic S. Padula, Assistant Secretary; Rodger L. Rickenbrode, Assistant Treasurer.

Mr. Speaker, it is with deep personal pride and pleasure that I take this opportunity to call your attention to this year's recipient of an award of excellence that expresses appreciation for the untiring, unselfish, herculean efforts of a highly compassionate individual. We do indeed salute an outstanding citizen, good friend and great American—the Boys' Club of Paterson's "Man of the Year"—the Honorable Henry George Jacobs.●

FUNDS FOR RESEARCH IN SPINAL CORD REGENERATION

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. WALGREN. Mr. Speaker, recently I introduced legislation, H.R. 4358, to provide funding for research into the area of spinal cord regeneration. I would like to recommend the following article from the Washington Post to my colleagues, in the hopes that it will increase all of our awareness of the urgent need for such a measure.

The article follows:

SPLICING SEVERED SPINAL CORDS: THE IDEA EXCITES SCIENTISTS

(By Victor Cohn)

A soldier, an athlete, a Gov. Wallace, a motorcycle rider—anyone—is shot or gets into an accident that crushes or cuts his spinal cord.

The result has always been an irrevocable sentence to lifelong paraplegia: paralysis from the waist down, the fate of 150,000 Americans today.

The reason is simple and blunt: the main nerve cells of the spinal cord, once severed, cannot grow back together.

Or can they? Scores of the world's best neuroscientists have almost suddenly begun asking this question.

In the last five years there has been an almost complete reversal of opinion about this once hopeless area, several leading scientists agreed at a specially called symposium at the Wilson Center of the Smithsonian Institution last week.

"Let's not raise any false hopes—we don't know how to solve the problem yet," said Dr. Donald Tower, head of the government's National Institute of Neurological and Communicative Disorders and Stroke, part of the National Institutes of Health.

"But the view that there is no hope of restoring the nerve pathways—the view you would have heard from virtually every scientist not long ago—is no longer held."

Two scientific leaders—Dr. Lewis Thomas, president of Memorial Sloan-Kettering Cancer Center, and Dr. Arthur Upton, head of NIH's National Cancer Institute—agreed that the time is ripe for what Thomas called a crash effort to collect information.

"I don't," Thomas emphasized, "mean a crash effort" like an Apollo or Manhattan project to produce a product—the product here being the ultimate way to make the nerves grow—but "a crash program to ask the questions" that could make that goal achievable.

"There is an awareness within the scientific community," he explained, "that an opportunity exists," that "it's time to go."

The "product," the method or knowledge that might make a paraplegic walk, could be "40 or 50 years off" or "a decade off" or "five years off," various scientists said.

But in the last five years, they reported, spending at NIH's neurological disease institute on the needed research has grown from $1 million to $7.6 million a year. The Veterans Administration has begun a $1 million-a-year program as a result of a strategy conference last year. Related scientific papers in world literature increased from a handful in 1970 to nearly 500 last year.

What has happened in the scientists' laboratories to make so amazing a shift possible?

Beginning in the 1950s, said Tower, "A number of observations began to show that the mammalian nervous system does show evidence of attempts to regenerate itself. The machinery for regeneration seems to be there."

The machinery, in essence, is the nerve cell, a main cell body with long axons (or arms) often stretching, in the case of the central nervous system, the brain and spinal cord, very long distances. The spinal cord has millions of such cells, with axons reaching from the brain as far as the base of the spine, 2 or 2½ feet away.

Tower said that in the last half-decade, in some cases the last few months:

"A lot of work" has helped scientists understand the molecular mechanisms, the processes that turn on and support the development of the central nervous system in infants.

Many studies, particularly those of Dr. Carl Cotman at the University of California at Irvine, have shown that in at least one area of the mammalian brain, severed nerve cells can sprout new connections.

Many people are looking at the "trophic factors," the elements or biochemical environments that make it possible for a severed nerve cell not only to sprout new connections but to make the right ones. It's no good for a nerve cell to sprout new fibers, Tower said, if they don't go to the right place to establish useful, not just random, motions.

Malcolm Wood and Melvin Cohen of Yale University reporting in the Oct. 19 issue of the magazine Science, have shown that if they sever the spinal cord neurons or nerve cells of lampreys—eel-like sea creatures—their axons regenerate and successfully form new synapses, or connections, with adjacent cells. And the lampreys again swim.

Wood and Cohen showed this by a promising new method—a way of marking specific nerve fibers "so you know which ones you're looking at," Tower said, "and that you're really looking at the important central nerve cells," not less important "local cells" that are easier to revive. The marking method is injection of a protein called HRP—for horseradish peroxidase—because it comes from the common horseradish.

Finally, Tower said, scientists have discovered new "nerve growth factors," proteins that combine with elements in the cells to help them grow. Rita Levi-Montalcini of the Laboratory of Cell Biology in Rome injected one such factor into the brains of young rats, and achieved not only growth of nerve cell axons but growth in a specific, desired direction.

Some researchers have attacked the problem more directly—cutting the spinal cords or nerve cells of dogs, cats or rodents and trying to restore growth and function.

Last year Dr. Carl Kao, now of the Veterans Hospital and Georgetown University here, told of his work on dogs in Wisconsin, surgically destroying 40 dogs' spinal cords, then transplanting nerves to restore function—even, apparently, walking—in four dogs.

Critics say he did not prove regrowth of the important long axons in the nervous systems, and probably stimulated only some useless walking-like reflexes in the animals' limbs.

Kao and his group are working with cats now, but he warned that there can be no application yet to human paraplegics.

"The science is not ready," he said at the Smithsonian. "We need more basic scientific information."

Dr. Albert Aguayo of McGill University, Montreal, who has also worked with small mammals—rats and mice—said, "You can get the axons to grow a few millimeters. But how do you get them to fill the gap"—to grow enough to cross the synapse or connection between cells—"so that's where we need basic research."

Dr. Richard Wyatt of St. Elizabeths Hospital and the National Institute of Mental Health told of his group's striking new work in grafting brain tissue from healthy to brain-damaged rats to alleviate movement disorders. It is possible, he said, that a grafting method might eventually help implant new nerve cells to correct human movement problems.

One thing scientists cannot say, these scientists emphasize, is where any new science will really take them.

The same facts that may or may not make nerve regeneration or nerve implants possible might combat diseases that attack nerve cells, like rabies and tetanus. Or the same information might combat the many nerve disorders that destroy normal movement speech and intelligence.

"What we can say," said NIH's Tower, "is that we've now got a lot of very bright people interested and working hard. And that's really the exciting thing. That's really the essential ingredient.

"We're now building up a critical mass that's inevitably going to pay some handsome dividends."●

THE DIVERSITY OF THE OLDER SET

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. SOLARZ. Mr. Speaker, throughout my legislative career, I have been deeply concerned with the problems confronting the elderly. Citizens over 65 years old are an increasing segment of the population in this country—11.2 percent of the total population. Unlike many stereotypes which portray older Americans as unproductive and forgetful, senior citizens are an important and richly diverse part of our society. Both for economic and personal reasons, the number of those over 65 who are working is increasing; and many of us in the Congress are continuing efforts to raise or eliminate mandatory retirement requirements based solely on age.

The medical profession believes that older people who stay active remain alert longer, and are happier as a whole than are those who are forced to stop working. For the benefit of my colleagues, I ask that we insert into the RECORD the following article which examines many of the problems associated with growing older. This piece, which appeared in the Wall Street Journal, indicates the tremendous potential of the elderly, if given the chance to remain productive.

The article follows:

Aging Americans: Diversity of Older Set Underscored in Studies of Health and Welfare

(By Gail Bronson)

No one can accuse 91-year-old Judge Harold S. Medina of slipping into his dotage.

As a senior judge in the federal appellate court in New York, he regularly hears some of the court's most significant cases. He also studies Latin and Spanish. And he drinks martinis with zest. Until he was 85, he had never been in a hospital. Then he suffered a stroke, a heart attack and blinding glaucoma in his right eye, all in quick succession. But he has scarcely slowed down.

"I'm a person who meets things face to face and deals with them without getting all excited," he says while driving a golf cart around his Westhampton property on Long Island. "I think this has a lot to do with being able to go on working. I may not be able to bathe or dress myself, or walk hardly, but my mind still seems to be working."

Judge Medina is a rather extraordinary member of a segment of the population that is getting increasing attention from social scientists and the medical profession these days—the over-65 set.

One reason for the attention is the increasing number of people in this group. Nearly 25 million Americans, or 11.2 percent of the population, are over 65, up from 20 million, or 9.8 percent, a decade ago. The increase will continue because of medical advances and the eventual effect of the postwar baby boom. Moreover, a man reaching age 65 today has an average life expectancy of 13.9 years and a woman 18.3 years—levels undreamed of a generation ago.

The increased attention is leading to a plethora of research and studies about aging—some of which are providing new insights into the aging process and some of which are dispelling ancient myths about older people.

The past lack of information about aging has caused older people to be misunderstood and stereotyped, gerontologists say, but for every archetypically senile senior there is an uncommonly capable old-timer, if not an Artur Rubinstein, a George Burns—or a Harold Medina.

"The study of aging and health is an exploding area," says Dr. Rubin Andres, clinical director of the National Institute of Aging, a federal agency. "In the past, scientists were grappling with conquering communicable diseases," and little attention was paid to the special problems of old age. With many of the diseases now defeated, he says, the health of the growing population of old people is attracting more and more interest.

MORE COMPLICATIONS

But researchers have a long way to go. "The aged are a more diverse, heterogeneous group than any other," says Dr. Robert N. Butler, the director of the institute. "We become more complicated as we grow older."

Dr. Andres adds, "People not only don't age at the same rates, but one person has many different ages within him, because different organ systems degenerate at varying speeds."

Although research on the complicated and profuse problems of aging is scarce, the National Institute on Aging has tracked some 1,100 men for varying periods over more than 20 years in Baltimore and recently added 200 women to the study. The study has confirmed some basic observations about longevity: the muscles lose mass over time, lungs move less air in and out, and the intensity of taste declines.

The study has also dispelled any notion that physical and mental health start to drop off sharply at a given age. Most of the men in the study begin to show some decline in mental processes after age 70, as determined by one test in logical reasoning. But many don't—and the institute is seeking to determine why.

"Despite physiological changes, the vast majority of elderly people can function quite well on their own," says Dr. Albert Fisk, medical director of the Regional Wisconsin Geriatric Center in Milwaukee. "These people are healthy despite the normal slowing down of their organ functions."

Some people's functions slow more rapidly than other people's, of course, and disease can have a debilitating effect on the most robust old-timer. But Dr. Butler says, "A lot of illness is self-engendered because people don't maintain themselves." And an important part of this maintenance, he says, is "keeping busy."

People who are forced to retire, for instance, often perceive of themselves as useless; they fail to get involved in activities, he says, and their health often suffers.

Judge Medina agrees. "If you use your mind," he says, "it has a perceptible influence on your well-being. If you just sit around chit-chatting about how bad Carter is, your mind loses its strength, and you gradually go downhill."

Dr. Ernest Gruenberg, the 63-year-old chairman of the mental-hygiene department at Johns Hopkins University's School of Hygiene and Public Health, says, "When I'm forced to retire as chairman, at 65, I'll look for another job. I enjoy work—it's always been a major part of my life. I don't just work to make a living."

Max Storch, 86, who has worked in New York's garment district for 60 years, still opens his shop for four hours a day. "It's to have a place to hang out," he says. "It gives me an outlook. I'd rather do that than nothing." And it partly accounts for his relatively good health, he adds.

A HOBBY FOR EVERYONE

Also attributing his good health to steady work is comedian-actor George Burns. About the time when he was resuming his film career four years ago, he underwent open-heart surgery. But three months later, to the amazement of his doctors, he went to work on a film.

"I feel fine, and I enjoy what I'm doing," says the 81-year-old Mr. Burns, who arises every day at 6 a.m., does exercise and then works, generally from 9 a.m. to 6 p.m. "What does it mean to retire?" he asks. "It means to do nothing—to collapse. Everyone should have something that gets them out of bed. A hobby, a girl." When he is home in Los Angeles, Mr. Burns plays bridge religiously, every afternoon.

"Aging of the brain is the prime evidence of growing older," says Dr. Leslie Libow of Long Island Jewish Hospital's Institute for Geriatric Care, but even that symptom is noticeable in relatively few people. Only about 10% of the population over age 65 shows some mental deterioration, such as partial memory loss.

Most older people remain capable of considerable physical activity, too, Dr. Libow says, and they should do whatever they are capable of doing that makes them feel good.

Remaining active members of the community, as most older people prefer to do if they are given the opportunity, "tends to slow the mental and aging process," Dr. Libow says. "It's a mystery as to how the mind affects the body, but it does."

THE JUDGE'S WISHES

"I hope that when I begin to get a little senile that somebody will take care of me at home instead of sticking me in an institution," Judge Medina broods. "A lot depends on tender loving care whether or not the mental process get better instead of just worse and worse. It's inhuman to take these nursing homes. It troubles me sometimes to think of what may happen to me, but as long as I've got Rosa (his 84-year-old companion) and my grandson, Ford, I think I'm going to be safe."

Although senility, or dementia, is one of the most feared diseases of old age, it is actually one of the least common. Dementia is a group of illnesses that cause a decline in intellectual function. Dr. Gene Cohen of the National Institute for Mental Health says studies indicate that up to 8% of the population over 65 may suffer dementia to some degree.

Alzheimer's disease, or senile dementia (formerly thought to be separate but now thought to be the same illness), accounts for 50% to 75% of the dementia cases. A progressive deterioration of brain tissue causes gradual breakdown in intellectual capacities such as short-term memory and abstract thinking. Apathy and personality alteration are also common.

The symptoms can be treated with drugs and psychotherapy, and physicians usually project an average life expectancy of eight to 10 years after diagnosis.

Physicians are encouraged by the results of therapy on patients like James Hughes of Dundalk, Md. The 79-year old widower was referred by his family physician to Johns Hopkins University Hospital for treatment over a year ago, when he was severely depressed by his wife's deteriorating health. He was then diagnosed with Alzheimer's disease as well.

"They (the physicians) helped me to keep from destroying myself," the retired Bethlehem Steel worker says. "They've helped me control my temper. Isn't it wonderful that my train of thought hasn't broken while talking to you?"

DOCTOR'S ANALYSIS

His physician, Peter Rabins, who is director of Hopkins's psychogeriatric inpatient service, says Mr. Hughes is in good physical condition, but is emotionally "a needy guy." He adds, "But I can only give him the support he gets from talking to me. He has improved tremendously over the past year. His depression has cleared up. But he can't live by himself because he can't organize his time; he gets confused. He doesn't understand that. Such impaired judgment is often characteristic of Alzheimer's disease."

Depression and dementia are often mistaken for each other, and, as in Mr. Hughes' case, that may occur together. Pseudo-dementia is a severe but reversible form of depression that can appear identical to senile dementia. Dr. Cohen at the mental-health institute says investigators believe that a quarter of all dementias occur in conjunction with ailments such as thyroid disease, diabetes and chronic infection. Treatment of the other diseases can curb the dementia as well.

New hope in the fight against senile dementia is provided by several research groups in Britain that have identified a biochemical defect in dementia patients—a defect that might be treatable.

But far outstripping dementia as an illness in older adults is ordinary depression—the No. 1 mental disorder in older adults. Dr. James Nininger of the Paine Whitney Clinic at New York Hospital says older people are often hit with feelings of malaise and loss of appetite. They have trouble sleeping, and they express feelings of guilt and hopelessness.

TREATMENT OF DEPRESSION

The symptoms of depression among the elderly are similar to those among younger people, but, Dr. Cohen says, "So often the serious psychological symptoms in young adults are considered nontreatable symptoms of old age in the elderly. Older people should seek help and not just accept these things as normal aging."

Outpatient treatment of depression is typical, but some patients are hospitalized for treatment with electroshock or drugs. Involutional depression (not caused by some stressful event in the patient's life) can occur and recur without apparent reason.

Norma Gottleib, 77, of Queens, N.Y., who was hospitalized for depression seven years ago, had a recurrence recently and was admitted to the Paine Whitney Clinic. "I came in because I found fault with myself," she says. "I don't want to live. What's the use. I don't deserve to be helped. Electric shock treatments may be my last chance." She recalls that she resisted the treatments seven years ago but adds that she "felt like a newborn person afterwards."

Rivaling senility as a cause for concern among older people is the subject of sexual abilities. "Sexual desires and performance are central to their concept of health and well-being," Dr. Libow of Long Island Jewish Hospital says. But he says surveys show that two-thirds of all men over 65 continue to be sexually active—and all of the women who have partners available are potentially active.

"It isn't true" that just because you grow old you can't have sex, says comedian George Burns. "I haven't given it up, but I'm not as good as I used to be," he says. "Nobody pays me any more."

"PSYCHOLOGICAL" PROBLEM

Myrna Lewis, co-author with her husband, Dr. Butler, of "Sex After Sixty," says that emotional stress can precipitate a spell of impotence in men. "But it's strictly psychological," she says. "The sexual arousal process for men may be slower," but the ability to perform isn't affected.

Miss Lewis points to a sociological consideration as well. "This generation of older people has to pioneer the idea that they are interested in sex so that young people and families will accept those interests," she says. "Children carry a double standard that older people should be monogamous or celibate just because they're old."

Lee and Anna Strasberg haven't any problems with this. A 77-year-old drama teacher and actor, Mr. Strasberg has two children, ages eight and 10, by his fortyish wife. Did they plan to have the children? "It was simply the result of natural activity," Mr. Strasberg says glibly. He believes that aging is largely a state of mind. "In fact, I'm worried that all my children (he has two others by a previous marriage) don't think I'm old at all and that I'm going to live forever."

EATING AND SLEEPING

Immortality isn't in the cards, but plenty of research is under way to try to prolong and enrich lives. The research includes studies on eating and sleeping patterns. "One's gut feeling," says Dr. Andres in Baltimore, is that nutrition should have profound effect on disease development and aging. However, he adds, at this point "it's impossible to define an ideal diet for older people with any confidence."

Sleeping patterns tend to be different in older people, but they don't necessarily sleep less. "Their 24-hour sleep cycle changes so that instead of large rhythms of waking and sleeping, it's broken into smaller time segments," says Dr. Elliot Weitzman at Montefiore Hospital in New York. Although older people may clip an hour or so off their nightly sleep, they often make up for it with afternoon naps—as Mr. Burns and Judge Medina often do.

George Burns tells a story about Jack Benny always complaining that he couldn't sleep last night. "I'd ask him how he slept the night before last. He'd say fine. So I'd tell him to sleep every other night. I feel that if I sleep, fine. If I don't, fine. If you can't sleep, try to stay awake. You won't be able to do it." ●

THE RED CROSS CERTIFICATE OF MERIT IS PRESENTED TO OFFICER DONNA BARNES

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. SKELTON. Mr. Speaker, a constituent of mine, Officer Donna Barnes, has recently been named to receive the Red Cross Certificate of Merit and the accompanying pin. You will recall that this is the highest award given by the American Red Cross to a person who saves or sustains a life by using skills and knowledge learned in a volunteer training program offered by the Red Cross.

On August 11, 1978, Officer Barnes, trained in Red Cross first aid, was dispatched, with her partner, to a residence to investigate a report of an illness. On arriving, they found a man sitting in a chair, apparently unconscious. After they placed the victim on the floor, the victim ceased breathing, so Officer Barnes began mouth-to-mouth resuscitation. Soon the victim responded, and was taken to a hospital. Without doubt, the use of first aid by Officer Barnes saved the victim's life.

Mr. Speaker, I bring this incident to the attention of this body as Officer Barnes' action exemplifies the highest ideals of the concern of one human being for another. I commend Officer Barnes on her meritorious action.●

DEMOCRATIC OPPORTUNITY FOR KOREA

HON. JIM LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. LEACH of Iowa. Mr. Speaker, the world was shocked last Friday by the brutal assassination of President Park Chung Hee of the Republic of Korea. As one of our closest allies in Asia, Korea occupies one of the great strategic vortexes of the world. Events there have once and could again vitally affect the strategic position of the United States.

For almost two decades President Park was the dominant figure in Korea, leading his country to its present economic vitality and military strength. Yet his strongly autocratic style of leadership and failure to provide for a peaceful transition of political power seem to have contributed to his death and denied him the opportunity to retire and rest on his significant accomplishments.

As Korea prepares to select its next President, many in the world will be watching to see if a more liberal style of political leadership evolves in this critical Asian state. Korea has set an enviable economic example in moving from poverty to prosperity.

It is not too much to hope that from its present tragedy Korea will adopt more democratic processes more compatible with its international economic position and with its relationship with the United States and other major industrialized democracies.●

MISS PEARL CHASE—A LEGEND IN HER TIME

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 30, 1979

● Mr. LAGOMARSINO. Mr. Speaker, heavy hearts and deep sorrow prevail in Santa Barbara, Calif., throughout the State and, indeed, in many parts of our Nation. Dr. Pearl Chase is dead at age 90. There is no way, given the time we have here, to adequately describe and to honor this amazing lady.

She was a champion of civic improvement and beautification. She was a devoted servant to all mankind. Her will to serve, her breadth of vision and power of initiative and organization were brought to bear in almost every phase of community life in Santa Barbara, and throughout the State.

In this age of urban and ecological crises, there are certainly those who would argue that our predecessors have failed in their efforts to develop our cities and to preserve our environment. But the failure would have been more grievous and the problems of the future even more awesome had it not been for the efforts of men and women who, like Miss Pearl Chase, have devoted their lives, without prompting or pressure, to the betterment of the human condition.

It is difficult to imagine Santa Barbara without Pearl Chase. Her long career is so intertwined with the growth and development of her beloved Santa Barbara as to be inseparable.

Because of this long and distinguished career I ask the Members of the House to join with me, and the multitude of those who have lost a dear and personal friend, in honoring the memory of Miss Pearl Chase.

SENATE—*Wednesday, October 31, 1979*

(Legislative day of Monday, October 15, 1979)

The Senate met at 12 o'clock meridian, on the expiration of the recess, and was called to order by Hon. CARL LEVIN, a Senator from the State of Michigan.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Our Father-God, in the solemn quietness of this midday devotion, help us to look upward, and inward, and outward. May we look upward to behold Thy majesty and glory. May we look inward to know our perverseness and willfulness, our need of the new birth and spiritual renewal. May we look outward to embrace all humanity. Keep us sensitive to human suffering and responsive to human need, not only in the moment of prayer but in daily living. Make us good workmen for Thy kingdom's sake. And in the end may we hear Thee say, "Inasmuch as ye have done it unto one of the least of these my brethren, ye have done it unto me."

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 31, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CARL LEVIN, a Senator from the State of Michigan, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. LEVIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ELIMINATION OF CERTAIN REQUIREMENTS FOR MEMBERSHIP ON THE SELECT COMMITTEE ON ETHICS

Mr. ROBERT C. BYRD. Mr. President, I am about to offer two resolutions on behalf of myself and Mr. BAKER. Before offering these resolutions, I would like to explain them.

The first resolution would waive the class requirements governing appointment to the Ethics Committee. Under existing rules regarding appointment of Members to the Ethics Committee, one Member from the majority party and one Member from the minority party shall have served in the Senate for less than 6 years. One Member of the majority party and one Member of the minority party shall be Members who have served in the Senate for less than 12 years but not more than 6 years. One Member of the majority party and one Member of the minority party shall be Members who, at the time of their initial appointment to the committee, shall be Members who have served in the Senate for 12 or more years.

Mr. President, the minority leader and I are jointly introducing a resolution to waive these class requirements and to end the restrictions governing the appointment of Members to the Ethics Committee. We have found it not only difficult, but virtually impossible at times to fill vacancies on this committee as they occur, when we are so restricted as to which Members can be appointed.

We feel these rules are unworkable and unnecessary, and that they impose a burden, a difficult hardship, upon the leadership as we attempt to fulfill our duties to appoint Members to fill vacancies on this committee.

Mr. President, I send the resolution to the desk and ask that it be stated by the clerk.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 271) eliminating certain requirements for membership on the Select Committee on Ethics.

Resolved, That the first section of Senate Resolution 338, 88th Congress, agreed to July 24, 1964, is amended by striking out subsection (d).

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the resolution.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BAKER. Mr. President, I wish to express my support for the resolution and to commend the majority leader for presenting it at this time.

I agree with him entirely that the present state of the situation is impossible to deal with. It creates conflicts, it limits the authority and the ability of the two leaders to select people who are qualified to serve and willing to serve on the Ethics Committee. At best, it is a thankless job. I think this will materially improve the situation, and I wish to support the resolution as offered by the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader.

There being no objection, the Senate proceeded to consider the resolution.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 271) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPOINTMENT OF MEMBERS OF THE SELECT COMMITTEE ON ETHICS

Mr. ROBERT C. BYRD. Mr. President, I now send to the desk the second resolution which appoints Senator HOWELL HEFLIN as chairman of the Senate Ethics Committee vice ADLAI STEVENSON, and appoints Senator MALCOLM WALLOP to fill a minority vacancy on the committee vice HARRISON SCHMITT.

This resolution is offered by me on behalf of myself and the distinguished minority leader, and I ask that the Senate proceed to its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 272) appointing members of the Select Committee on Ethics.

Resolved, That the following Senators are appointed to the Select Committee on Ethics: the Senator from Alabama (Mr. HEFLIN), Chairman, vice Mr. STEVENSON; and the Senator from Wyoming (Mr. WALLOP), Vice Chairman, vice Mr. SCHMITT.

A MAN TRULY WORTHY OF HIS TASK

Mr. ROBERT C. BYRD. Mr. President, one of the most important and sensitive committees in the Senate is the Select Committee on Ethics; and one of the most demanding positions to which a Senator can be appointed is to the chairmanship of that committee.

The resolution that I have introduced on behalf of myself and Mr. BAKER names our distinguished colleague from Alabama (Mr. HEFLIN) to serve in that capacity.

Senator HEFLIN is, I believe, uniquely qualified to fill this role with distinction. As a former chief justice of the Supreme Court of Alabama, he demonstrated a degree of integrity, skill, wisdom, compassion, and fairness that won the respect of members of the bar and judiciary, not only in his home State, but throughout this country, as well.

Since his election to the Senate, HOWELL HEFLIN has quickly won the admiration and respect of his colleagues in this Chamber. I might add that his assumption of the chairmanship of the Select Committee on Ethics would be a historic event, for it has been more

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

than 70 years since a freshman Senator has been appointed to serve as a chairman of a standing Senate committee during his first year in office.

The Ethics Committee, although it is a select committee, is a standing committee.

Senator HEFLIN received his undergraduate education at Birmingham-Southern College, and earned his law degree at the University of Alabama Law School, after serving in the Marine Corps and being wounded during World War II. He practiced law in Tuscumbia, Ala., from 1948 until 1971, when he won the election for the office of chief justice. Throughout his public career, he has shown himself to be a man of profound character, intellect, and ability. I am confident that his personal qualities and professional experience equip him distinctively to fulfill the enormous responsibilities that might be his as chairman of the Select Committee on Ethics.

In addition, I do not want to let this opportunity pass without expressing my own sincere appreciation to Senator ADLAI STEVENSON for the outstanding service that he has rendered in his term as chairman of the select committee. Senator STEVENSON has shown extraordinary maturity, diplomacy, and dedication in executing his responsibilities, and I am certain that I speak for all our colleagues in extending thanks to him for the caliber of his service and efforts.

Mr. President, the Select Committee on Ethics is one of the most significant parts of the structure of the U.S. Senate, for it serves as a concrete symbol to the Nation of the high standards expected and demanded of a Senator. In its functioning, it must proceed with delicacy, honor, and meticulousness. In Senator HEFLIN, we are fortunate to have a man eminently qualified to perform the important duties required of the chairman of this committee, and I believe that the Senators will concur in this judgment.

Mr. BAKER. Mr. President, I wish to pay special tribute to four of the most courageous and conscientious men in the Senate.

My colleague from New Mexico, Mr. SCHMITT, has just relinquished his duties as ranking Republican on the Senate Ethics Committee, after helping to lead that committee through one of its most difficult and challenging assignments. His fairness, his firmness, his sense of duty—even when that duty was most unpleasant—has won the respect of every Member of this body.

The Senator from Oregon, Mr. HATFIELD, has rendered similar distinguished service on the same committee under the same difficult circumstances. He is, for many of us, the standard of public morality, and his contribution to this committee has only enhanced that well-deserved reputation.

My friend from North Carolina, Mr. HELMS, has agreed to continue his service on the Ethics Committee, and I am grateful to him for that decision. Mr. HELMS is well known in his State as a man of great personal compassion, a man of strong religious principle, a virtuous man and a courageous one. His colleagues in the Senate have come to know him for these same qualities, and his continued service will be a considerable asset to the work of this committee.

I have reserved until last the gentleman from Wyoming, Mr. WALLOP, who has agreed to serve as the new ranking Republican on the Ethics Committee, succeeding Senator SCHMITT.

MALCOLM WALLOP has taken on one of the most sensitive responsibilities in the Senate. As we have seen on two occasions in recent months, the duties of the Ethics Committee demand the most of a Senator's power of reason, his sense of justice, his loyalty to this institution.

These duties fall hardest on the leadership of the committee, and Mr. WALLOP, having seen what is demanded, has agreed to assume these duties willingly.

These are four special men, Mr. President, and I thank them and commend them all.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 272) was agreed to.

EXTENSION OF CERTAIN AUTHORITIES RELATING TO THE INTERNATIONAL ENERGY PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I yield the remainder of my time to Mr. JACKSON.

Mr. JACKSON. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be discharged from further consideration of H.R. 5506, and that the Senate proceed to its immediate consideration.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5506) to amend the Energy Policy and Conservation Act to extend for 2 months certain authorities relating to the international energy program.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, the committee will be discharged and the Senate will proceed to its consideration.

Mr. JACKSON. Mr. President, H.R. 5506 would extend the limited antitrust defense provided by section 252 of the Energy Policy and Conservation Act of 1975 to the American oil companies which participate in the voluntary agreement established under the international energy program. Under existing law, the antitrust defense provision expires at midnight tonight. As passed by the House, H.R. 5506 would extend the expiration date for 2 months to December 31.

Mr. President, yesterday, the Senate considered and passed S. 1871 which deals with this same subject. As amended yesterday, S. 1871 would extend the antitrust defense until June 30, 1980, and would also place certain limitations on the President's authority to impose quotas or fees on oil imports. It is my understanding that the House of Representatives intends to go to conference on S. 1871. Obviously, action in the conference cannot be completed today. Therefore, I believe we should enact a short-term extension of the defense during the time the differences between the Senate and House versions of S. 1871 hopefully can be resolved.

Mr. President, in this connection, I send to the desk an amendment to H.R. 5506 which would extend the term of the antitrust defense for 1 month until November 30, 1979. I ask unanimous consent that the amendment be adopted.

UP AMENDMENT NO. 696

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON) proposes an unprinted amendment numbered 696:

On line 6 strike "December 31, 1979" and insert "November 30, 1979".

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (UP No. 696) was agreed to.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 5506) was read the third time, and passed.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, do I have a little time remaining?

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is now recognized.

DEATH OF MRS. DOVIE ODOM HATFIELD, MOTHER OF SENATOR HATFIELD

Mr. BAKER. Mr. President, it was with deep regret and sorrow I learned that the mother of our friend from Oregon, Mr. HATFIELD, has passed away.

Dovie Odom Hatfield was a Tennessean before she was an Oregonian. She was born in Morristown, Tenn., in 1893, and moved to Oregon 10 years later.

There she graduated from the Oregon Agricultural College, met and married Charles Hatfield, bore a handsome son, and served for many years as a school teacher and an active member of the Baptist Church.

Her son has surely made her proud. As the Governor of Oregon, and now as its senior Senator, he has built a reputation for enlightened leadership which few can equal. But he is known as well, perhaps better by some, as a man of faith, a man of principle, a man of integrity.

His mother's influence must surely have played a major part in both his intellectual and spiritual growth, and so we know we have lost an exceptional woman with the passing of Dovie Hatfield.

I know my colleagues join Joy and me in extending our deepest sympathy to MARK and his family in this time of sorrow.

Mr. President, I find it necessary to leave the floor at this point and return to the executive session of the Foreign Relations Committee, where they are considering an amendment that I have previously offered. Therefore, I now yield control of my time under the standing order to the distinguished majority leader for whatever purposes he sees fit.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader for his kindness.

PROLIFERATION OF NUCLEAR WEAPONS

Mr. ROBERT C. BYRD. Mr. President, in recent days it has been revealed that a small-yield nuclear device may have been detonated somewhere off the coast of South Africa about a month ago. These reports come at a time when there is growing international concern that Pakistan may be pursuing a nuclear weapons option. Less-well-documented but equally ominous reports circulate about half-a-dozen other nations that are suspected to be on the path toward a nuclear weapons capability.

The spread of nuclear weapons threatens world security. Proliferation of nuclear weapons introduces new sources of instability into a world already dangerously unstable. And the spread of nuclear weapons threatens to vastly increase the level of death and destruction that could result from international conflicts taking place around the world.

American security is particularly threatened by the spread of nuclear weapons because our international interests are so wide and varied: Any regional conflict fought with nuclear arms would threaten to draw in us and other outside powers. For this reason the United States assumed a leadership role in constructing a nonproliferation regime, especially in sponsoring the Nuclear Nonproliferation Treaty (NPT) that went into effect in 1970. This treaty has been signed and ratified by over 100 nations. And it is important to note that in the nonproliferation effort, the United States has had the support not only of our major allies, but also of the Soviet Union. As the major nuclear weapons states, the United States and the Soviet Union have realized that they have a particular responsibility for seeking to slow the spread of nuclear weapons. We have successfully cooperated in this effort for nearly 15 years.

The SALT II treaty that we will soon consider in the Senate is in part an implementation of the promise of the United States and Soviet Union under article VI of the NPT "to pursue negotiations in good faith on effective measures relating to the cessation of the nuclear arms race at an early date." This commitment is the political quid pro quo that we have offered in return for other nations' forswearing of nuclear arms. Unless we can show progress in slowing the nuclear arms completion between the United States and the Soviet Union, we open ourselves to the charge of not having kept our end of the nonproliferation bargain. Without progress in limiting the Soviet-American nuclear arms race, some other nations may begin to reassess their commitments to nonproliferation in an increasingly uncertain world.

The Carter administration's nonproliferation policy is particularly deserving of praise. It has been based on multidimensional approach to a problem that has complex technical, political, economic, and military components. Recent news is no reason to despair of our nonproliferation effort; rather, it is a reminder that we must continue on all fronts in seeking to slow the spread of nuclear weapons. Without the efforts of the last 3 years, it is almost certain that we would face a world in which several nations would be openly pursuing nuclear weapons options without substantial impediments. Such a world would be even more uncertain and dangerous than the one in which we live today.

SALT II's ratification is important for many reasons, and its beneficial impact in reinforcing our nonproliferation efforts is one of the most important. SALT II's ratification will not by itself resolve the proliferation problem any more than SALT II will by itself solve the problem of Minuteman vulnerability. However, in both cases, SALT II's ratification will make it easier to deal with these problems than it would be in the absence of SALT II. In our deliberations on the SALT II treaty, we naturally focus on the Soviet-American perspective. But we should not overlook the broader implications of the treaty, and the worldwide consequence of a failure to ratify it.

Mr. MOYNIHAN. Mr. President, will the majority leader yield for a moment?

Mr. ROBERT C. BYRD. Mr. President, I yield the remainder of my time to the distinguished Senator from New York.

Mr. MOYNIHAN. I thank the majority leader.

I have reserved some time this morning to speak to the subject the distinguished Senator has so ably addressed. I would like to make two comments, or perhaps three.

First, the majority leader is absolutely correct in calling attention to this event in the Southern Hemisphere. As it happens, I was the U.S. Ambassador to India at the time the peaceful nuclear device was exploded in the Rajasthan Desert, that device known throughout New Delhi as the bomb. As I said at the time to the Indian Government, and have said before, what a great mistake they made, that there they were in complete control of the subcontinent of India, no one could challenge them, but having gone nuclear they had opened the way for Pakistan to do the same in a situation where, in conventional arms, there was not the remotest danger of Pakistani aggression, but if a situation of nuclear arms exists there, because nuclear arms equalize, it is like the appearance of gunpowder in the age of armor.

The second point I would like to make is that many will wonder what implications for verification should be read from the uncertainty of our awareness of just what did happen in what appears to have been the Antarctic seas. I would say to the contrary, having spoken with Admiral Turner, and as a member of the Committee on Intelligence, I have been struck with how effective our detection devices were to pick up a microsecond flash in the most remote parts of the world and bring it back immediately to the attention of the President of the United States. And because we have not been able to find nuclear debris does not mean there was not a nuclear explosion. We have learned where the French have tested in the South Pacific that a small kiloton device need not produce debris.

But I would also point out the technology, that small devices are examples of advanced technology as against large devices, such being the nature of physics.

But, lastly, I would dare say to the majority leader, on the question of proliferation, that SALT II and SALT III are going to cause problems in the world, because of the letter the President wrote the Senator on Friday in response to his very careful assertion that a strong defense and a willingness to negotiate meaningful arms reductions are complementary components of a sound national security policy.

The President wrote back to say that nothing would make him cease from the development and deployment of the MX missile and the cruise missile. I will say that this has caused great problems for the protocol in the SALT II treaty and for the statement of principles, supposed to govern SALT III. If we are going to deploy our first "hard kill counterforce missile system" as a mobile missile the sort mentioned in the protocol, that will not be a message to the rest of the world that the joint statement's references to arms reductions will be implemented.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. ROBERT C. BYRD. I think the President's response should be read in the context of my letter, the whole context of my letter. I do not say in my letter that we should do thus and so. I tie both together, the upbuilding of our defense and the proceeding to arms reduction. What I am saying is how can we expect the Soviets to give concessions in SALT III unless we are in a position to have something that they want to concede. If we do not go ahead, if we stop now with cruise missiles, if we stop and never deploy them, if we de facto delay the deployment of the MX missile so that it would not be deployed until the year 2000, we cannot expect to meet the Soviets around the table in negotiating SALT III and expect them to give up anything because we will not have anything that they want us to give up. That was the purpose of my letter.

I think we ought to proceed in a parallel course. I should think, may I say to my dear friend from New York, that the President's response should be read in the light of the context of my letter to him. I see his response in a little different light than the Senator has construed it.

Mr. MOYNIHAN. I will take the liberty of providing the majority leader with a copy of the statement which elaborates on the point I am making this morning. I would like him to hear me say this: I wish the President was as clear on this point as the majority leader is.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator.

Mr. President, I have had discussions with respect to this question. I am very satisfied with his letter. It is clear, it is unequivocal, but I think it has to be read in the light of the question which was posed to the President.

I thank the distinguished Senator.

ORDER OF BUSINESS

Mr. MOYNIHAN. Mr. President, am I correct that there is time reserved for me under an order?

The ACTING PRESIDENT pro tempore. There is.

Under the previous order, the Senator from Arkansas is to be recognized at this point for 15 minutes, and then the Senator from New York.

Mr. MOYNIHAN. I thank the Chair.

RECOGNITION OF SENATOR BUMPERS

The ACTING PRESIDENT pro tempore. Under the previous order the Senator from Arkansas is now recognized for not to exceed 15 minutes.

CONSERVATION IGNORED AS A SOLUTION TO ENERGY PROBLEMS

Mr. BUMPERS. Mr. President, I want to spend a few moments talking about something that is near and dear to my heart as it deals with the present energy problems of the country and as those problems relate to the economic conditions of the country. It deals with conservation.

Mr. President, it has been said that conservation is prosaic or even boring, which may explain why it has been noted and quickly ignored as a solution to this country's energy problems. Billion dollar construction projects, such as pipelines, synfuels plants and reactors may seem more attractive, because they appear to provide tangible demonstrations that we are doing something about the problem.

Conservation, on the other hand, is not tangible. It is not exciting. It leaves no grand monuments to our resolution to solve the energy problems, because there are no monuments to thrift and efficiency. Still, conservation is our answer between now and 1990. We are the Saudi Arabia of waste. Everybody recognizes that we waste nearly 40 percent of the energy we use. If we eliminated that waste today, we would today eliminate the need to import any oil.

We have been slow in recognizing the value of conservation because of a popular misconception that our gross national product is proportional to energy consumption. A recent study conducted by the Harvard Business School demonstrates that this relationship did not exist in the past, and recent experience shows even more clearly that no such connection exists now. This is understandable, because energy which is wasted cannot contribute to the gross national product. Only productive uses of energy make such a contribution. There is also an assumption that conservation means discomfort or an unwanted change in lifestyle, but the opposite is true.

Mr. President, a preliminary study by the Mellon Institute concluded that if the United States had adopted a "least cost" energy policy 10 years ago, we could now be using 24 percent less energy. That policy would have been based upon conservation and the efficient use of fuels. It declared that a materially rewarding life is not dependent upon consuming quantities of energy, but upon sensibly deriving goods and services from it.

Since the oil embargo of 1973, there have been numerous examples of the powerful role that conservation can play. In 1973, the citizens of Los Angeles faced possible blackouts, so they set a target of reducing electricity use by 12 percent; they saved 18 percent. IBM instituted a conservation program, and at the end of 1977 it was consuming 39 percent less energy than in 1973, for a savings of $90 million. Ashland Chemical became more efficient and reduced its electricity use by 25 percent, with little inconvenience.

The transportation sector provides a huge reservoir of potential savings. It accounts for 26 percent of this Nation's total energy consumption. In fact, gasoline used daily in our cars amounts to one-ninth of the world's daily consumption of oil. One main source of conservation is mass transit. A greater source is better gas mileage in private automobiles. The savings resulting from the mileage targets set by the Energy Policy and Conservation Act of 1975 could save 20 billion barrels of oil between 1975 and 2000. That is twice the estimated reserves of the Alaskan North Slope.

The greatest source of possible conservation is in the Nation's 80 million private residences, one-third of which were built before 1940, when little or no insulation was installed. Retrofitting these houses can save huge amounts of energy. The Mellon study found that altering residential buildings a decade ago would have reduced fuel consumption in 1978 by 25 to 38 percent. In Portland, Oreg., expenditures of less than $1,000 per house reduced fuel use by 50 percent. In the area around Pudget Sound, expenditures of $200 reduced heating requirements by 22 percent. These are enormous returns upon relatively small investments.

In the area of industrial conservation, there is relatively little need for congressional stimulus, because the profit motive will dictate conservation.

In transportation the most important step, the imposition of mileage standards, has been taken, though in my opinion these standards should be more stringent.

More action, however, is needed to encourage residential conservation.

It is necessary not only for economic reasons, that is, to reduce imports of oil, but for humanitarian reasons. In 1973, energy costs constituted 18 percent of the costs of operating the average home. In 1975, that rose to 28 percent. It will undoubtedly be painfully higher this winter. For poor people, who already spend an average of 19 percent of their incomes on energy, some of whom spend 45 percent of their incomes for energy, these increases are becoming unbearable. Since the poor also tend to live in older, uninsulated houses, they need conservation assistance more and they will benefit most from an aggressive conservation program.

Mr. President, the Senate's Committee on Energy and Natural Resources has just reported S. 932, which may become commonly known as the "synfuels" bill. It should, however, become known for much more, because it establishes an energy plan not only to develop the Nation's resources, but also to call upon its resourcefulness to conserve our resources. The most important aspect of the conservation provisions is that they do not attempt to impose a monolithic plan upon the varying localities of the country. The bill avoids such inflexibility by adopting three separate approaches which call upon the initiative of the people, with the Government as a willing and ready partner.

One approach, modeled after a plan used successfully in Oregon, allows a utility to install conservation devices in its customers' homes. The utility will recover its costs in whatever manner the local utility commission provides. The theory is that installing the conservation devices is the equivalent to installing generating capacity which would otherwise have been necessary. Customers would be saved from rate increases necessary to pay for that construction.

A second approach is the Bradley plan, the plan of our distinguished colleague from New Jersey, which involves government participation. Under that plan, the Secretary of Energy designates an agency, which can be a unit of local government, to contract with local "energy conservation companies," which are private, profitmaking corporations, to conduct door-to-door energy audits.

Following the audits, the companies will offer to install energy savings devices at no cost to the owners of the buildings. The Secretary will pay the energy conservation companies for the energy they actually save the customer, pursuant to a rate initially negotiated between those energy conservation companies and the designated contracting agencies. Local utilities will pay the Secretary for energy actually saved, calculated according to the cost of capacity which otherwise would have been installed or fuel which otherwise would have been purchased to produce the conserved energy.

In addition to these two plans, which are mutually exclusive, there are matching grants and subsidized loans to the owners or tenants of buildings who install conservation devices and whose incomes are below specified levels. It is, in fact, the national median income. This program utilizes existing Federal agencies, so it does not create a new bureaucracy. It provides grants up to $300 to owners who spend up to $750 to install conservation equipment. The grant is calculated according to a sliding scale which is designed to induce people to do a complete job in insulating their homes, but it also recognizes that a great deal of conservation can be accomplished for a relatively small amount of money. Therefore, the grant is larger for the first $250 of expenditure, for example, than the second $250. This is to guarantee that the high-return measures are taken. The total grant is slightly higher for a renter, because greater incentives are required to induce someone who does not own a home to make improvements in that home.

There may be some people who will regard this conservation program as a mere giveaway, but that is not the case. Noting the ripple effect of importing large amounts of oil, the Harvard Business School study concluded that a barrel of foreign oil actually costs the economy between $30 and $80, and that calculation was based upon prices prevailing in early 1979, which ignores subsequent increases. That cost harms the entire economy by increasing inflation, the most insidious thief of all. In response to those harmful effects, we have provided tax credits for those who install energy conservation devices. But tax credits do not help the poor because they have no tax liability. So we have had to appropriate over a billion dollars—we just did it last week—to help them pay their energy bills this coming winter.

Conservation is a quick, cheap, certain and permanent method to reduce our harmful dependence upon foreign oil.

We can save a barrel of oil at a cost of $2 in some instances, and this is infinitely preferable to paying $30 to $80 a barrel.

Conservation involves tried and true technologies. We know it can be done. It is competitive with current energy sources at every stage. It will provide large numbers of permanent jobs. It will stimulate small businesses. It will enhance the environment. Above all, it will benefit those who need the benefit most.

I yield to the Senator from New York.

Mr. MOYNIHAN. Mr. President, before the Senator from Arkansas departs to other appointments, may I congratulate him for his remarks? The force of the argument is overpowering and one only wonders at the inability of some people to see the urgency of the argument also. It is elemental that what we save, we do not have to purchase and what we can produce at home, we do not have to buy abroad.

With respect to conservation, we are in a period immediately following a generation unprecedented in the history or the experience of mankind, in which Americans practically had free energy. I know in my part of the world, the U.S. Government, during World War II, financed the construction of a natural gas pipeline, natural gas having previously been just flared in Texas. Tenneco built it. It arrived in 1945 and natural gas sold for 6 cents per thousand cubic feet.

At about the same time, the production from the Persian Gulf began to appear in earnest on the East Coast of the United States, at a time when other nations had no demand for it. The wartime economies of Japan and Europe were devastated and they were still coal-burning in many respects. Oil sold at $1.50 a barrel. We had a generation of that. That was practically free energy. It is over.

But a period of free energy meant we wasted it and the problem of conserving it has to be made a much more attractive prospect after a period of profligate use, profligate by people who, being human, could not know that winter was coming. It has come, of course. The Senator from Arkansas speaks with energy and truth, and is probably not always welcome for that.

Mr. BUMPERS. I thank the Senator from New York for his comments.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New York is recognized for not to exceed 15 minutes.

RIGHTS OF THE LARGE AS WELL AS THE SMALL

Mr. MOYNIHAN. Mr. President, some will recall that shortly after the Second World War, a collection of essays was published in Great Britain, with the title "The God That Failed." It consisted of reminiscences and reflections by a series of distinguished Europeans who found themselves caught up in the radical totalitarian left politics of the 1930's and who had broken with that, such affiliations that they had acquired, and become reflective about the whole thing, and they described it. It was the first such event of its kind in intellectual history, not unimportant.

I was, as it happened, a student at the London School of Economics in those days and read this collection with great interest. I always remembered a particularly striking passage of the poet, Stephen Spender, the English poet, who described how, early in the Spanish Civil War, he was brought to Spain and shown the atrocities of the Falangists, then came back to Britain and became an active supporter of the Loyalist cause, as that was called, denouncing these atrocities and calling as much attention as he could to them.

Such was his success, as it were, being brought back again and again, and began, as he became more familiar with Spain at that time, to realize there were atrocities on all sides.

Then he said in a passage that remains with me, and I am sure others:

> It came to me that unless I cared about every murdered child indiscriminately, I did not really care about children being murdered at all.

That is a great lesson of truthfulness which the experience of the lives of this political age taught us. It is a good standard by which a public person might judge his own behavior.

It is against that standard, Mr. President, that I would like to have printed in the RECORD at this point a letter from Mr. Walter B. Wriston, who is chairman of Citibank, one of the most distinguished financial leaders of this age. I say "distinguished" with more than the casualness which sometimes accompanies that honorific in this body.

He has written a long letter in response to Senate 1246, a bill which would prohibit the 16 largest domestic oil companies from acquiring control, or merging with any other company having assets of $100 million, or more.

Mr. Wriston says that this is a bill of attainder and commands our concern as a constitutional issue.

It may sound aberrant, but it seems to me that there is something of a lynch mob surrounding the question of the rights of any corporation that can be called an oil company and that we become rather casual about their rights.

I do not attest to the accuracy of the constitutional assertion. Others would have different judgment, no doubt. While I do not associate myself of necessity, I should like to stand on the floor of the U.S. Senate and say that if we care about the rights of any individual, or any corporate individual, unless we care about all such rights we do not really care about such rights at all.

What Walter B. Wriston says about the constitutionality of this bill needs to be heard and deserves to be part of the Record, where it will be accessible to the Members of this body as they consider this legislation.

There being no objection, the letter was ordered to be printed in the Record, as follows:

October 16, 1979.

I am writing this letter to communicate to you my views opposing S. 1246. This bill would prohibit the sixteen largest domestic oil companies from acquiring control, or merging with, any other company having assets of one hundred million dollars or more.

I am aware that you have received extensive expert testimony and statements from others opposing enactment of this legislation. Most of this opposition is, quite appropriately, directed to the counter-productive consequences which the legislation would have for our domestic energy development as well as its potentially adverse impact on certain important international relations. To the extent that we have been able to review such opposing testimony and statements, we at Citibank concur in the views expressed therein.

However, I am writing this letter not merely to add Citibank's voice to views already expressed, but also to convey to you two broad and basic concerns that I have with the proposed legislation which transcend even its significant energy development and foreign affairs impact.

The proposed legislation would enact into law a Corporate Bill of Attainder. It would single out a few corporations in one industry and pronounce them guilty of an alleged crime (prospective monopoly) without trial or conviction. Were those corporations to be individuals, the law would conflict with Article I, Section 9 of the United States Constitution which denies Congress the power to pass any Bill of Attainder.

Why are these sixteen companies made the target of such a discriminatory legislative proposal? The reason is, obviously, that these companies happen to be engaged in a business activity—the domestic production and distribution of increasingly expensive and increasingly costly petroleum products—which has incurred general unpopularity. The pervasive danger of this kind of "Special Act" legislation is that, while today sixteen unpopular oil companies are the target, tomorrow the target could be a different but newly unpopular group of enterprises, or individuals.

The perceived offense committed by these sixteen target companies is that they exercised their liberties in ways which are different from those which some would have preferred them to. I am greatly concerned with any precedent that would punish selected companies, groups or individuals and deprive them of their rights simply because they have engaged in proper and lawful endeavors which, when viewed by hindsight now offend some members of our society. A bill of this kind adopts an ex post facto legislative approach offensive to our Constitutional order.

The sixteen target companies are already subject in all respects to existing anti-trust laws, regulations and policies. If any of them should enter into any merger or acquisition deemed to be anti-competitive, then the Department of Justice, Federal Trade Commission or other appropriate government authority is entirely free to challenge the transaction in the same manner and through the same procedures as any other supposedly anti-competitive transaction. A Special Act is not necessary.

It is part of our constitutional heritage for our legislators to be chosen through the popular elective process. But it is contrary to that heritage for the legislators, so chosen, to enact discriminatory laws which punish particular segments of our society based upon their current unpopularity.

Of equal concern to me is that the proposed legislative effort would prevent enterprises which are doing business in what we like to call a free marketplace from employing their resources and energies in such manner as they deem best. This effect of the bill offends both America's traditions and, in my judgment, its best interest.

In our society, private enterprise should be free to decide how to allocate its resources and energies so as to survive and to grow in the future. These decisions should be made on the basis of the particular enterprise's own judgment rather than on the basis of political aspiration or fear. So long as this nation adheres to a free market philosophy in preference to a centrally planned system, we must recognize that capital will flow from areas of less return to areas of greater return, just as water flows from high ground to low. We may attempt to enact laws to overcome this law of economics, but we shall be no more successful than if we were to enact laws to overcome this law of nature. This lesson was learned long ago by King Canute as he sought to hold back the tides on the shores of Britain.

Traditionally, our government has exercised its judgment in allocating economic resources through the instrumentality of taxation. However, the proposed legislation takes a quantum leap from that conventional process and dictates how private enterprises shall or shall not utilize their resources while continuing to own them. Such direct governmental interference in determining how private enterprise shall utilize its property is a dangerous step toward central state planning. What is proposed to be done today to sixteen oil companies could as well be done tomorrow to five bakeries or ten union pension funds.

Governments, ancient and modern, have repeatedly been seized with an urge to make resources appear at a time or place where they would not otherwise go through some form of mandated allocation. Yet the exercise almost universally proves just as futile as trying to make the grass grow taller in sparse patches of a lawn by cutting it shorter elsewhere. The result inevitably is that the poor patches remain so while the rich patches are damaged.

In a free market, the participants vigorously pursue their respective self interests. The interaction of competing market forces is the essence of our economic system. Efforts to allocate resources within the system by government fiat come into inevitable direct conflict with the very human, but relentless forces which drive the system. The central allocator's quandary is that, in the final analysis, he cannot hope to control anything unless he controls everything. The failure of such state planned economics is a lesson we cannot afford to ignore.

So I urge you not to enact this bill.

I urge you not to enact it because it is unfair and inappropriate legislation. This approach is offensive to our legal system and will not achieve what is hoped for.

Sincerely,

Walter B. Wriston.

SALT II TREATY

Mr. MOYNIHAN. Mr. President, on August 1, I introduced an amendment to the SALT treaty which would require the achievement of significant and substantial reduction in strategic arms in negotiations to be concluded by the end of 1981, or the SALT II treaty itself would lapse. The practical effect of this proposal would be to take the advisory language of a joint statement on SALT III—currently a nonbinding attachment to the treaty—and make it part of the treaty text itself. The purpose here is, quite unambiguously to force the pace of arms reduction in the SALT III negotiations.

The time limit established in my amendment, December 31, 1981, is drawn from the protocol to the treaty, an addition to the text, whose provisions expire on that date. The protocol says, among other things, that neither side will deploy mobile launchers for ICBM's, and that neither will deploy ground-launched cruise missiles with a range in excess of 600 kilometers. We have been assured by the administration that there is no intention of extending the protocol, and that the American weapon systems affected by it would not be available for deployment until 1982 in any event.

This is a rather complex introduction to a simpler point, but one needs the specifics in order to follow recent developments bearing on the fate of the SALT treaty in the Senate. In the first place, the majority leader has—in that manner we have come to associate with him—seen into the complex set of issues surrounding the SALT treaty, and has encouraged his colleagues to begin grappling with them. There are, as he has indicated in his approach to the treaty, two groups of issues which must be resolved if the treaty is to be ratified. The first affects our military programs, the second addresses the prospects for serious arms reductions in SALT III.

There is a sense in which the treaty itself joins these two questions together but not, I am beginning to believe, in the most useful and constructive way. Let me elaborate. I have referred to a joint statement of principles presumed to govern the next round of the SALT negotiations. That statement says that the parties will seek "significant and substantial reductions" in strategic offensive arms. But the statement also pledges the parties to seek a "resolution of the issues included in the protocol," that is, the issues of mobile ICBM's and ground-launched cruise missiles.

It is these two weapons systems which form the subject of a letter sent to the

Senate majority leader by the President on October 26. The purpose of the letter is to remove doubts as to the strength of the President's commitment to these two systems. The President writes:

> . . . I am prepared to assure you that none of our cruise missile programs (air, ground, or sea-launched) nor the MX program will be delayed or inhibited by the SALT II Protocol which will expire at the end of 1981.
>
> It is my firm intention to proceed with the testing, development, and deployment of the recently approved sheltered ground mobile MX basing system, and with the currently programmed cruise missile deployments. Both are needed for our defense, and I cannot envisage any circumstances under which there would be any de facto extension of the Protocol which would interfere with our firm intention to deploy these systems.

On the face of it, that is surely a "resolution of the issues included in the protocol," which the Soviets will no doubt seize upon to claim that the issue of reductions cannot be addressed either. They will attempt to give equal weight to the declaration on the protocol, a weight comparable to that we say we will give to reductions.

Now this is surely a curious development. If, in the judgment of the administration, the MX and cruise missiles programs are of such importance to the United States that nothing can interfere with their deployment, why in the world was their fate gratuitously attached to the problem of arms reductions? If, as the President suggests, the systems addressed in the protocol will not be affected by subsequent negotiations, why have a protocol whose substance appears to offer the Soviets something of an out on the question of reductions? Or was any of this considered at the time the fate of reductions somehow became linked to the "issues included in the protocol"?

It seems, on the face of it, that the relationship between the various parts of the treaty on the one hand, and the recent statement of the President on the other, seriously diminish the prospect for reductions in SALT III. Is this, in fact, what the President is trying to tell us?

There are, of course, powerful arguments to be advanced in support of the two military programs the President has endorsed, and in an era of rapid increases in Soviet military forces of all kinds, those arguments cannot be denigrated. Yet the manner in which these seem now to be developing suggests to me that the case for making the "reductions" aspect of SALT II obligatory has become more compelling. If the administration understands that its intentions regarding the MX and the ground-launched cruise missiles have compromised the prospects for strategic arms reductions, it should tell us. If it feels otherwise, it should so explain. If it feels that diminishing the prospects for reductions is justified by the necessity of deploying these two systems, it should explain that also. There are, after all, arguments to be made in all these areas, yet clarification of the prospects for SALT III has now become, in my judgment, an urgent matter.

For myself, I have become much influenced by the fate of unilateral declarations by the Senate in these areas, and their ineffectuality as seen over time. In 1972, for example, three declarations of congressional policy—advisory in nature—were attached to the resolution which ratified the Interim Agreement.

The first, proposed by Senator JACKSON, urged the President to conclude a second SALT agreement which would not leave the forces of the United States inferior to those of the Soviet Union. Whether that criterion has been met is, of course, arguable. But with regard to the two other instances of congressional "advice" there is no argument.

For the second declaration, originating with Senator CRANSTON, urged the convening of "Strategic Arms Reduction Talks" to reduce arms. Yet 7 years of SALT II negotiations have produced an agreement which allows for enormous increase in strategic weaponry.

As for the third declaration, it concerned so-called counterforce weapons. It was originated by former Senator Edward Brooke and called upon both the Soviet Union and the United States not to develop a first-strike potential.

At that time, which is to say 7 years ago, technological innovations were contemplated which would have given to our land-based missiles an improved "hard target kill capability"—which, in the general view, they did not then have to a meaningful degree. One could, of course, debate how much of this capability was already present in those forces at that time. But about the proposed MX system, there is no ambiguity.

It is also unambiguous that, in the past 7 years, the Soviets have made an unrelenting effort to acquire the kind of "counterforce" capability of which Senator Brooke spoke. Now, 7 years later, the decision to proceed with the MX indicates that the United States feels it, too, must establish a similar capability.

Whether any of these worthy objectives written into the SALT I proceedings in 1972 might have influenced reality if given real legislative "teeth," I, of course, cannot say. But surely, that history as we now know it argues for not replaying such episodes in our consideration of SALT II.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the President of the United States to our distinguished majority leader, the Senator from West Virginia (Mr. ROBERT C. BYRD).

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, D.C., October 22, 1979.

Hon. ROBERT C. BYRD,
Majority Leader, U.S. Senate,
Washington, D.C.

DEAR SENATOR BYRD: Thank you for your letter of October 19. I agree with you that "a strong defense and a willingness to negotiate meaningful arms reductions are complementary components of a sound national security policy."

During my Administration, I have energetically sought to enhance our overall defense capabilities and also to promote arms control negotiations with the Soviet Union. I have done so because it is my firm view that our defense programs and arms control are the twin pillars of our national security. Accordingly, I am prepared to assure you that none of our cruise missile programs (air, ground, or sea-launched) nor the MX program will be delayed or inhibited by the SALT II Protocol which will expire at the end of 1981.

It is my firm intention to proceed with the testing, development, and deployment of the recently approved sheltered ground mobile MX basing system, and with the currently programmed cruise missile deployments. Both are needed for our defense, and I cannot envisage any circumstances under which there would be any de facto extension of the Protocol which could interfere with our firm intention to deploy these systems.

Sincerely,

JIMMY CARTER.

Mr. MOYNIHAN. Mr. President, I would like to expand somewhat further on this point. It is an understandable and not unworthy concern to obtain a SALT agreement, a strategic arms agreement. The President seems to have taken a step which could preclude reductions in SALT III, because of the nature of the agreement itself. As I mentioned earlier, the MX missile—even if it were not the counterforce weapon it is designed to be—is a mobile ICBM, one of the systems which forms the subject of the protocol to the treaty. Meanwhile, according to the joint statement governing SALT II, that protocol—at least the issues in that protocol, and there really are not issues in it, but rather weapons systems—is one of the subjects agreed upon for negotiation in SALT III. The issues in the protocol and arms reductions are supposed to be discussed in SALT III, as the joint statement prescribes. So the issues are linked, and it is not as such the counterforce capability of the MX which links them, but rather the fact that the MX is a mobile ICBM. Now at the same time, of course, the MX will be a counterforce weapon, which raises other profound questions.

I recall for the Chair some of these numbers. In 1967 when the United States proposed SALT talks to Premier Kosygin, the Soviet Union had 700 warheads. Today it has 5,500. By the time of SALT II, it shall have 12,000 warheads—four warheads for every county in the United States, and we will have the same number in response.

That is not arms limitation, Mr. President. That is a legalized arms race, an arms race that acquires some acceleration from the fact that it is confirmed by joint agreement.

For the President to tell us that the MX will be deployed no matter what, without reference to its seeming inclusion as a subject for SALT III, is to suggest that he may be losing sight of the objective, of the goals of the process, and that he had been caught up in the process, or that he does not fully understand how the parts of SALT II relate to each other.

George Santayana described a fanatic as a man who redoubles his effort when he has forgotten his purpose.

This is almost beyond comprehension. When the Senate approved the joint resolution indicating approval of the SALT I interim agreement, Senator Brooke, that distinguished colleague we miss so much in this Chamber, arose and amended the resolution to say that the United States would never deploy a counterforce weapon, nor would the Soviet Union, and we, the Senate, made it clear this was so. We were making clear that we would not do this.

Mr. President, I ask unanimous consent to have printed in the RECORD that joint resolution so Senators may see what we said.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

JOINT RESOLUTION

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby endorses those portions of the Declaration of Basic Principles of Mutual Relations Between the United States of America and the Union of Soviet Socialist Republics signed by President Nixon and General Secretary Brezhnev at Moscow on May 29, 1972, which relate to the dangers of military confrontation and which read as follows:

"The United States of America and the Union of Soviet Socialist Republics attach major importance to preventing the development of situations capable of causing a dangerous exacerbation of their relations . . ." and "will do their utmost to avoid military confrontations and to prevent the outbreak of nuclear war" and "will always exercise restraint in their mutual relations," and "on outstanding issues will conduct" their discussions and negotiations "in a spirit of reciprocity, mutual accommodation and mutual benefit," and

"Both sides recognize that efforts to obtain unilateral advantage at the expense of the other, directly or indirectly, are inconsistent with these objectives," and

"The prerequisites for maintaining and strengthening peaceful relations between the United States of America and the Union of Soviet Socialist Republics are the recognition of the security interests of the parties based on the principle of equality and the renunciation of the use or threat of force."

SEC. 2. The President is hereby authorized to approve on behalf of the United States the interim agreement between the United States of America and the Union of Soviet Socialist Republics on certain measures with respect to the limitation of strategic offensive arms, and the protocol related thereto, signed at Moscow on May 26, 1972, by Richard Nixon, President of the United States of America and Leonid I. Brezhnev, General Secretary of the Central Committee of the Communist Party of the Soviet Union.

SEC. 3. The Government and the people of the United States ardently desire a stable international strategic balance that maintains peace and deters aggression. The Congress supports the stated policy of the United States that, were a more complete strategic offensive arms agreement not achieved within the five years of the interim agreement, and were the survivability of the strategic deterrent forces of the United States to be threatened as a result of such failure, this could jeopardize the supreme national interests of the United States; the Congress recognizes the difficulty of maintaining a stable strategic balance in a period of rapidly developing technology; the Congress recognizes the principle of United States-Soviet Union equality reflected in the antiballistic missile treaty, and urges and requests the President to seek a future treaty that, inter alia, would not limit the United States to levels of intercontinental strategic forces inferior to the limits provided for the Soviet Union; and the Congress considers that the success of these agreements and the attainment of more permanent and comprehensive agreements are dependent upon the maintenance under present world conditions of a vigorous research and development and modernization program as required by a prudent strategic posture.

SEC. 4. The Congress hereby commends the President for having successfully concluded agreements with the Soviet Union limiting the production and deployment of antiballistic missiles and certain strategic offensive armaments, and it supports the announced intention of the President to seek further limits on the production and deployment of strategic armaments at future Strategic Arms Limitation Talks. At the same time, the Senate takes cognizance of the fact that agreements to limit the further escalation of the arms race are only preliminary steps, however important, toward the attainment of world stability and national security. The Congress therefore urges the President to seek at the earliest practicable moment Stategic Arms Reduction Talks (SART) with the Soviet Union, the People's Republic of China, and other countries, and simultaneously to work toward reductions in conventional armaments, in order to bring about agreements for mutual decreases in the production and development of weapons of mass destruction so as to eliminate the threat of large-scale devastation and the ever-mounting costs of arms production and weapons modernization, thereby freeing world resources for constructive, peaceful use.

SEC. 5. Pursuant to paragraph six of the Declaration of Principles of Nixon and Brezhnev on May 29, 1972, which states that the United States and the Union of Soviet Socialist Republics: "will continue to make special efforts to limit strategic armaments. Whenever possible, they will conclude concrete agreements aimed at achieving these purposes"; Congress considers that the success of the interim agreement and the attainment of more permanent and comprehensive agreements are dependent upon the preservation of longstanding United States policy that neither the Soviet Union nor the United States should seek unilateral advantage by developing a first strike potential.

Mr. MOYNIHAN. Mr. President, that section 5 said:

> Congress considers that the success of the interim agreement and the attainment of more permanent and comprehensive agreements are dependent upon the preservation of longstanding United States policy that neither the Soviet Union nor the United States should seek unilateral advantage by developing a first strike potential.

That is SALT I. Here we are in SALT II already and the President is saying that we will develop that first strike potential regardless of anything that happens.

This is madness.

Mr. ROBERT C. BYRD. Will the distinguished Senator yield?

Mr. MOYNIHAN. I am happy to yield to the majority leader.

Mr. ROBERT C. BYRD. Will he please let me have a copy of my own letter and the response?

Mr. MOYNIHAN. Unhappily, I do not have a copy of the Senator's letter, only the response.

Mr. ROBERT C. BYRD. No, he has a copy of both.

Mr. MOYNIHAN. The Senator has; I do not.

Mr. ROBERT C. BYRD. Oh, I do? I do not have——

Mr. MOYNIHAN. The Senator must have a copy of the letter he sent to the President. I only have——

Mr. ROBERT C. BYRD. Not in my hand at the moment. I thought the Senator had a copy of my letter.

Mr. MOYNIHAN. I am sorry, only that quotation. If the President were as clear as the majority leader, the Senator from New York would be a happier and more confident man today.

Mr. ROBERT C. BYRD. I beg the Senator's pardon.

Now I have had delivered to me a copy of the letter which I wrote to the President, and a copy of the President's response.

I know the distinguished Senator will not take umbrage at my attempting to point out something in the letter which he has read a number of times, but I think for the RECORD I should say, with the Senator's indulgence, that the President, in the very first paragraph of his response to me says:

> Thank you for your letter of October 19. I agree with you that "a strong defense and a willingness to negotiate meaningful arms reductions are complementary components of a sound national security policy."

So the President recognizes we have to go further on a parallel approach to arms reduction and toward maintaining a strong defense.

He goes on and says in the second paragraph:

> During my Administration, I have energetically sought to enhance our overall defense capabilities and also to promote arms control negotiations with the Soviet Union. I have done so because it is my firm view that our defense programs and arms control are the twin pilars of our national security.

So it seems to me that the President is agreeing with the premise which I laid in my own letter and is assuring me and the public, through this letter, that we intend to continue on that twin approach, working for arms reduction and at the same time for a strong defense. Without the strong defense and without proceeding to look beyond the protocol period, it seems to me that we would not be enhancing the prospects of meaningful arms reduction in connection with central strategic systems and in connection with nuclear theater forces in Europe.

Mr. MOYNIHAN. Mr. President, I say to the distinguished majority leader—and I cannot repeat it too often—that if the President were as clear as he is, the Senator from New York would be a much relieved man. But I have to offer my statement that what the President says in the first paragraph is not what he says in the second and the third.

I say to the Senator that the outcomes of this process are rarely what we expect and genuinely desire them to be. When Secretary Kissinger began the SALT negotiations, one of his principal objectives was that neither side acquire a mobile missile; and here we are, 9 years later, with one.

Mr. ROBERT C. BYRD. Is the Senator maintaining that we should not proceed with the development and testing and deployment of an MX missile?

Mr. MOYNIHAN. No; I am not.

Mr. ROBERT C. BYRD. Is the Senator maintaining that we should not proceed to close the protocol and in the meantime say that at the termination of the protocol, we can indeed deploy sea-launched and land-launched cruise missiles with a range in excess of 600 kilometers?

Mr. MOYNIHAN. I assert to the Senator that the MX will never be built. The Soviets will know how to prevent it from being built in this country.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. ROBERT C. BYRD. I hope the Senator's prophecy will not come true. It disturbs me to think that the Soviets, in the words of the distinguished Senator, will not permit the MX to be built. I would rather take the word of the President of the United States. I am sure the Senator does not misunderstand what I am saying. I say it with all respect to the Senator, and I am sure he agrees with it. I am sure that we would both rather take the statement of the President of the United States and what we believe to be the right foresight on the part of Congress in dealing with these strategic systems in the future.

The Soviet Union already has these SS-20's, already has the Backfire, the theater nuclear weapons; and we have to go ahead with the development of the land-launched and the sea-launched cruise missiles in excess of 600 kilometers, if we hope to be in a position at the bargaining table with the Soviet Union to get concessions out of them.

I think we have to proceed with the MX, determined to build it. In the meantime, as we go through the negotiating process, if we find that the Soviets will offer concessions that are in the strategic interests of the United States, in the interests of our national security, and that those concessions may be based upon our making concessions, then I think that is the thing for the negotiators to decide upon. However, unless we have something that the Soviets are concerned about and with which we can bargain, we never will get any concessions out of them.

So I believe we have to proceed with the idea that we are going to build it, but with the full understanding and intention that as negotiations go forward, we are going to negotiate in the security interests of this country and our NATO allies and make our judgments from time to time based on the circumstances and the prospects of concession.

Mr. MOYNIHAN. Perhaps the majority leader will hear me briefly on three points.

First, I am concerned that this process never produces the outcomes desired.

We can see in our resolution in 1972, in Secretary Kissinger's negotiating positions, how we ended up with exactly the opposite of what we hoped to get. That is why I say reductions must be made obligatory in SALT III, or they will not happen.

Second, I would like to amend my statement to say that I did not intend to say that the Russians would not allow us to deploy an MX. I would like that to say for the record that the Russians will do their best to prevent it, by threatening to drop the warhead limits on their SS-18, the 10 limit, and by using their capacity for propaganda around the world against what will be asserted to be a nuclear first-strike danger by the United States.

They have said that the MX is against the spirit of SALT; they have said it cannot be verified. I expect, as I have tried to say in my statement, that they will hold that the joint principles agreed upon for SALT III are violated by the President's letter. They will. I think I know these people somewhat. They will.

Mr. ROBERT C. BYRD. I do not doubt that they will. We are seeing this effective propaganda talent that the Soviets have—we are seeing it demonstrated in Europe now, as they attempt to discourage NATO countries from proceeding with modernization.

Mr. MOYNIHAN. That is right. They are seeking to control our defense policy.

This is the third point and the last. The majority leader has been much too generous with his time and attention to a junior Senator. The years of deterrence doctrine educated the United States to think that strategic superiority was not in fact a viable or useful conception.

As Secretary Kissinger said in 1974, in what he has since said was an emotional moment: "What in the name of God is strategic superiority? What do you do with it?"

I will tell the Senator what strategic superiority is for. Strategic superiority is for making other people do what you want them to do.

We are going to have a taste of this in the 1980's such as we never have experienced, and it is not going to be a pleasant taste.

My only concern—and the Senator knows my concern—is limited to the fact that we have to find out very soon whether the Russians ever will agree to reductions in strategic nuclear weapons. I think it is very questionable whether they will. But if they are not going to, we cannot in conscience or duty or honor go on telling the American people that we have achieved an international regime in which strategic arms are limited, because in fact they are not.

I thank the majority leader for his courtesy and his attention. He is more than generous.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from New York for his fine statement.

I always marvel at the Senator's equanimity and his ability to articulate his deep thoughts so interestingly and so well.

I appreciate the work he is doing in the Senate for his State and for the country. His experience, which he brings to bear as he serves here from day to day, is invaluable to the Senate.

DEPOSITORY INSTITUTIONS DEREGULATION ACT

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of the pending business, H.R. 4986, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4986) to amend the Federal Reserve Act to authorize the automatic transfer of funds, to authorize negotiable order-of-withdrawal accounts at depository institutions, to authorize federally chartered savings and loan associations to establish remote service units, and to authorize federally insured credit unions to maintain share draft accounts, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AGRICULTURE APPROPRIATIONS, 1980—CONFERENCE REPORT

Mr. EAGLETON. Mr. President, I submit a report of the committee of conference on H.R. 4387 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4387) making appropriations for the Agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1980, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 24, 1979.)

Mr. EAGLETON. Mr. President, Senator BELLMON, the ranking minority member on the Agricultural Appropriations Subcommittee, is on his way, and I have some introductory remarks to make while awaiting his arrival.

Mr. President, the conferees on H.R. 4387, the Agricultural appropriations bill for 1980, met on September 13 and 18, and October 25. After a total of about 10 hours of very careful deliberations involving a number of significant issues, they agreed to what I think my colleagues will agree is a very reasonable compromise. I wish to compliment Chairman WHITTEN and the other House conferees, as well as my fellow Senate conferees for their careful work and reasoned effort. A particular note of thanks is due the staffs of the two Appopriations Committees—Bob Foster, Chip Hardin, and Toni Perla of the House committee staff, and Dick Lieberman, Ken Auer, Stephen Kohashi, Irma Hanneman, and Cathy O'Connor of the Senate committee staff—for their thorough and commendable efforts to craft a compromise in some very difficult areas.

Mr. President, the conference agreement includes new budget authority of $16,697,854,000 and transfers from the section 32 of $1,831,086,000 for total obligational authority of $18,528,940,000. There is a direct and insured loan level of $8,112,600,000, a guaranteed loan level of $1,600,000,000 and an authorization for spending in the rent supplement program of $393 million. As reported by the conference committee the bill is $2,961,000 less than the House bill, but $39,203,000 more than the Senate bill. It is $1,505,677,000 less than the President's budget request, but I must caution my colleagues that that is an illusory saving, since at least that much—and probably over $600 million more will be needed in a supplemental in order to maintain benefits in the food stamp program. Unfortunately, the conferees could not properly fund the food stamp program because of the current authorization ceiling on food stamp appropriations. I am hopeful that the House will take speedy action, as the Senate has done, to pass a new higher authorization, so that the Appropriations Committee can act on the $2.1 billion in food stamp requests now pending.

Mr. President, I ask unanimous consent that a table showing the specific amounts in the conference agreement, as well as the differences between the House and Senate versions, be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Agency and title	New budget (obligational) authority enacted to date fiscal year 1979	Budget estimates of new (obligational) authority fiscal year 1980	New budget (obligational) authority recommended in House bill 1980	New budget (obligational) authority recommended in Senate bill 1980	New budget (obligational) authority recommended by conferees	Increase or decrease (—) conference recommendations compared with—			
						1979 enacted	1980 budget estimate	1980 House bill	1980 Senate bill
TITLE I—AGRICULTURAL PROGRAMS									
PRODUCTION, PROCESSING AND MARKETING									
Office of the Secretary	$4,415,000	$4,534,000	$4,400,000	$4,534,000	$4,470,000	+$55,000	−$64,000	+$70,000	−$64,000
Departmental Administration	19,105,000	20,909,000	19,609,000	19,723,000	19,423,000	+318,000	−1,486,000	−186,000	−300,000
Working capital fund	(1,252,000)					(−1,252,000)			
Office of the Inspector General	23,095,000	34,151,000	24,727,000	25,527,000	25,527,000	+2,432,000	−8,624,000	+800,000	
Transfer from food stamp program	(8,922,000)		(8,924,000)	(8,924,000)	(8,924,000)	(+2,000)	(+8,924,000)		
Total, Office of the Inspector General	(32,017,000)	(34,151,000)	(33,651,000)	(34,451,000)	(34,451,000)	(+2,434,000)	(+300,000)	(+800,000)	
Office of the General Counsel	10,598,000	11,305,000	10,786,000	11,136,000	11,000,000	+402,000	−305,000	+214,000	−136,000
Federal Grain Inspection Service: Salaries and expenses	22,680,000	23,372,000	22,872,000	23,372,000	23,122,000	+442,000	−250,000	+250,000	−250,000
Science and Education Administration									
Agricultural research	343,416,000	344,872,000	363,142,000	372,479,000	370,573,000	+27,157,000	+25,701,000	+7,431,000	−1,906,000
Special fund (reappropriation)	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000				
Buildings and facilities	36,740,000					−36,740,000			
Scientific activities overseas (special foreign currency program)	5,750,000	7,500,000	5,750,000	5,750,000	5,750,000		−1,750,000		
Cooperative research	174,395,000	178,317,000	178,027,000	198,484,000	189,045,000	+14,650,000	+10,728,000	+11,018,000	−9,439,000
Extension activities	275,399,000	259,227,000	285,835,000	274,767,000	285,537,000	+10,138,000	+26,310,000	−298,000	+10,770,000
Technical information systems	7,527,000	7,835,000	7,835,000	7,835,000	7,835,000	+308,000			
Total, Science and Education Administration	845,227,000	799,751,000	842,589,000	861,315,000	860,740,000	+15,513,000	+60,989,000	+18,151,000	−575,000
Animal and Plant Health Inspection Service	237,319,000	220,976,000	237,583,000	248,241,000	245,631,000	+8,312,000	+24,655,000	+8,048,000	−2,610,000
Food Safety and Quality Service	279,531,000	279,930,000	278,430,000	278,430,000	278,430,000	−1,101,000	−1,500,000		
Economics, Statistics and Cooperatives Service	82,562,000	87,903,000	86,050,000	86,090,000	86,070,000	+3,508,000	−1,833,000	+20,000	−20,000
World food and agricultural outlook and situation board	1,009,000	1,045,000	1,045,000	1,045,000	1,045,000	+36,000			
Agricultural Marketing Service									
Marketing services	47,854,000	50,707,000	48,302,000	45,586,000	47,643,000	−211,000	−3,064,000	−659,000	+2,057,000
Payments to States and possessions	1,600,000		2,000,000		1,600,000		+1,600,000	−400,000	+1,600,000
Total, Agricultural Marketing Service	49,454,000	50,707,000	50,302,000	45,586,000	49,243,000	−211,000	−1,464,000	−1,059,000	+3,657,000
Total, Production, Processing and Marketing	1,574,995,000	1,534,583,000	1,578,393,000	1,604,999,000	1,604,701,000	+29,706,000	+70,118,000	+26,308,000	−298,000
FARM INCOME STABILIZATION									
Agricultural Stabilization and Conservation Service									
Salaries and expenses	227,527,000	190,586,000	190,586,000	182,546,000	186,586,000	−40,941,000	−4,000,000	−4,000,000	+4,040,000
Transfer from Commodity Credit Corporation	(99,865,000)	(152,389,000)	(152,389,000)	(152,389,000)	(152,389,000)	(+52,524,000)			
Total, salaries and expenses, ASCS	(327,392,000)	(342,975,000)	(342,975,000)	(334,935,000)	(338,975,000)	(+11,583,000)	(−4,000,000)	(−4,000,000)	(+4,040,000)
Dairy and beekeeper indemnity programs	3,240,000	400,000	3,290,000	400,000	3,290,000	+50,000	+2,890,000		+2,890,000
Total, Agricultural Stabilization and Conservation Service	230,767,000	190,986,000	193,876,000	182,946,000	189,876,000	−40,891,000	−1,110,000	−4,000,000	+6,930,000
Federal Crop Insurance Corporation									
Administrative and operating expenses	12,000,000	12,000,000	12,000,000	12,000,000	12,000,000				
Federal Crop Insurance Corporation fund	(13,229,000)	(13,557,000)	(16,500,000)	(16,480,000)	(16,500,000)	(+3,271,000)	(+2,943,000)		(+20,000)
Total, Federal Crop Insurance Corporation	(25,229,000)	(25,557,000)	(28,500,000)	(28,480,000)	(28,500,000)	(+3,271,000)	(+2,943,000)		(+20,000)

See footnotes at end of table.

Agency and title	New budget (obligational) authority enacted to date fiscal year 1979	Budget estimates of new (obligational) authority fiscal year 1980	New budget (obligational) authority recommended in House bill 1980	New budget (obligational) authority recommended in Senate bill 1980	New budget (obligational) authority recommended by conferees	Increase or decrease (—) conference recommendations compared with—			
						1979 enacted	1980 budget estimate	1980 House bill	1980 Senate bill
TITLE I—AGRICULTURAL PROGRAMS—Continued									
FARM INCOME STABILIZATION—Continued									
Commodity Credit Corporation									
New borrowing authority	$4, 509, 100, 000					—$4, 509, 100, 000			
Liquidation of contract authority	(990, 900, 000)					(—990, 900, 000)			
Total, new authority to borrow	(5, 500, 000, 000)					(—5, 500, 000, 000)			
Reimbursement for net realized losses	990, 900, 000	$3, 056, 189, 000	$3, 056, 189, 000	$3, 056, 189, 000	$3, 056, 189, 000	+2, 065, 289, 000			
Limitation on administrative expenses	(50, 100, 000)	(50, 700, 000)	(50, 700, 000)	(50, 690, 000)	(50, 700, 000)	(+600, 000)			(+$10, 000)
Total, farm income stabilization	5, 742, 767, 000	3, 259, 175, 000	3, 262, 065, 000	3, 251, 135, 000	3, 258, 065, 000	—2, 484, 702, 000	—$1, 110, 000	—$4, 000, 000	+$6, 930, 000
Total, title I, new budget (obligational) authority, agricultural programs	7, 317, 762, 000	4, 793, 758, 000	4, 840, 458, 000	4, 856, 134, 000	4, 862, 766, 000	—2, 454, 996, 000	+69, 008, 000	+22, 308, 000	+6, 632, 000
TITLE II—RURAL DEVELOPMENT PROGRAMS									
RURAL DEVELOPMENT ASSISTANCE									
Farmers Home Administration									
Rural housing insurance fund:									
Direct loans	(24, 000, 000)	(24, 000, 000)	(24, 000, 000)	(24, 000, 000)	(24, 000, 000)				
Insured loans	(3, 776, 000, 000)	(3, 406, 000, 000)	(4, 059, 000, 000)	(3, 766, 000, 000)	(3, 979, 000, 000)	(+203, 000, 000)	(+573, 000, 000)	(—80, 000, 000)	(+213, 000, 000)
Guaranteed loans	(500, 000, 000)	(500, 000, 000)	(500, 000, 000)	(500, 000, 000)	(500, 000, 000)				
Construction defects authorization	(1, 000, 000)	(5, 000, 000)	(5, 000, 000)	(5, 000, 000)	(5, 000, 000)	(+4, 000, 000)			
Rent supplement authorization	(425, 500, 000)	(393, 000, 000)	(393, 000, 000)	(393, 000, 000)	(393, 000, 000)	(—32, 500, 000)			
Home ownership assistance (authority to borrow)		954, 960, 000					—954, 960, 000		
Reimbursement for interest and other losses	320, 192, 000	320, 209, 000	320, 209, 000	320, 209, 000	320, 209, 000	+17, 000			
Reimbursement for rent supplement payments	47, 040, 000	76, 580, 000	76, 580, 000	76, 580, 000	76, 580, 000	+29, 540, 000			
Home ownership assistance payments		60, 000, 000					—60, 000, 000		
Total, rural housing insurance fund	(4, 668, 232, 000)	(5, 346, 749, 000)	(4, 984, 789, 000)	(4, 691, 789, 000)	(4, 904, 789, 000)	(+236, 557, 000)	(—441, 960, 000)	(—80, 000, 000)	(+213, 000, 000)
Agricultural credit insurance fund:									
Insured real estate loans	(875, 600, 000)	(879, 600, 000)	(949, 600, 000)	(949, 600, 000)	(949, 600, 000)	(+74, 000, 000)	(+70, 000, 000)		
Soil conservation loans	(30, 000, 000)	(22, 400, 000)	(30, 000, 000)	(30, 000, 000)	(30, 000, 000)		(+7, 600, 000)		
Operating loans	(925, 000, 000)	(700, 000, 000)	(875, 000, 000)	(875, 000, 000)	(875, 000, 000)	(—50, 000, 000)	(+175, 000, 000)		
Emergency loans[1]	(200, 000, 000)	(200, 000, 000)	(200, 000, 000)	(200, 000, 000)	(200, 000, 000)				
Reimbursement for interest and other losses	143, 565, 000	272, 809, 000	272, 809, 000	272, 809, 000	272, 809, 000	+129, 244, 000			
Total, agricultural credit insurance fund	(2, 174, 165, 000)	(2, 074, 809, 000)	(2, 327, 409, 000)	(2, 327, 409, 000)	(2, 327, 409, 000)	(+153, 244, 000)	(+252, 600, 000)		
Rural development insurance fund:									
Reimbursement for losses	107, 276, 000	91, 874, 000	91, 874, 000	91, 874, 000	91, 874, 000	—15, 402, 000			
Water and sewer facility loans	(900, 000, 000)	(700, 000, 000)	(700, 000, 000)	(700, 000, 000)	(700, 000, 000)	(—200, 000, 000)			
Industrial development loans	(1, 100, 000, 000)	(1, 000, 000, 000)	(1, 100, 000, 000)	(1, 100, 000, 000)	(1, 100, 000, 000)		(+100, 000, 000)		
Community facility loans	(250, 000, 000)	(250, 000, 000)	(250, 000, 000)	(250, 000, 000	(250, 000, 000)				
Total, rural development insurance fund	(2, 357, 276, 000)	(2, 041, 874, 000)	(2, 141, 874, 000)	(2, 141, 874, 000)	(2, 141, 874, 000)	(—215, 402, 000)	(+100, 000, 000)		
Rural water and waste disposal grants	282, 500, 000	265, 000, 000	300, 000, 000	300, 000, 000	300, 000, 000	+17, 500, 000	+35, 000, 000		
Very low-income housing repair grants	19, 000, 000	24, 000, 000	24, 000, 000	24, 000, 000	24, 000, 000	+5, 000, 000			
Rural housing for domestic farm labor	33, 000, 000	25, 000, 000	25, 000, 000	25, 000, 000	25, 000, 000	—8, 000, 000			
Mutual and self-help housing	13, 500, 000	5, 000, 000	5, 000, 000	5, 000, 000	5, 000, 000	—8, 500, 000			
Self-help housing land development fund	1, 000, 000					—1, 000, 000			
Rural community fire protection grants	3, 500, 000		3, 500, 000	3, 500, 000	3, 500, 000		+3, 500, 000		
Rural development planning grants	5, 000, 000		5, 000, 000	9, 000, 000	7, 000, 000	+2, 000, 000	+7, 000, 000	+2, 000, 000	—2, 000, 000
Rural housing supervisory assistance grants	2, 500, 000	1, 200, 000	2, 500, 000	1, 200, 000	1, 500, 000	—1, 000, 000	+300, 000	—1, 000, 000	+300, 000
Rural development grants	10, 000, 000	10, 000, 000	10, 000, 000	10, 000, 000	10, 000, 000				
Salaries and expenses	225, 245, 000	225, 818, 000	232, 318, 000	228, 278, 000	230, 518, 000	+5, 273, 000	+4, 700, 000	—1, 800, 000	+2, 240, 000
Transfer from loan accounts	(3, 500, 000)	(3, 500, 000)	(3, 500, 000)	(3, 500, 000)	(3, 500, 000)				
Total, salaries and expenses	(228, 745, 000)	(229, 318, 000)	(235, 818, 000)	(231, 778, 000)	(234, 018, 000)	(+5, 273, 000)	(+4, 700, 000)	—(1, 800, 000)	(+2, 240, 000)
Total, Farmers Home Administration	1, 213, 318, 000	2, 332, 450, 000	1, 368, 790, 000	1, 367, 450, 000	1, 367, 990, 000	+154, 672, 000	—964, 460, 000	—800, 000	+540, 000

See footnotes at end of table.

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						1979 enacted	1980 budget estimate	1980 House bill	1980 Senate bil
TITLE II—RURAL DEVELOPMENT PROGRAMS—Continued									
RURAL DEVELOPMENT ASSISTANCE—Continued									
Rural Electrification Administration									
Rural electrification and telephone revolving fund: [2]									
Electric loans	($850, 000, 000)	($735, 000, 000)	($850, 000, 000)	($850, 000, 000)	($850, 000, 000)		(+$115, 000, 000)		
Telephone loans	(250, 000, 000)	(250, 000, 000)	(250, 000, 000)	(250, 000, 000)	(250, 000, 000)				
Total, loans	(1, 100, 000, 000)	(985, 000, 000)	(1, 100, 000, 000)	(1, 100, 000, 000)	(1, 100, 000, 000)		(+115, 000, 000)		
Capitalization of Rural Telephone Bank [2]	(30, 000, 000)	(30, 000, 000)	(30, 000, 000)	(30, 000, 000)	(30, 000, 000)				
Salaries and expenses	25, 061, 000	25, 970, 000	26, 045, 000	26, 045, 000	26, 045, 000	+984, 000	+75, 000		
Total, Rural Electrification Administration	25, 061, 000	25, 970, 000	26, 045, 000	26, 045, 000	26, 045, 000	+984, 000	+75, 000		
Total, rural development assistance	1, 238, 379, 000	2, 358, 420, 000	1, 394, 835, 000	1, 393, 495, 000	1, 394, 035, 000	+155, 656, 000	−964, 385, 000	−$800, 000	+$540, 000
CONSERVATION									
Soil Conservation Service									
Conservation operations	262, 402, 000	253, 902, 000	259, 747, 000	272, 043, 000	264, 747, 000	+2, 345, 000	+10, 845, 000	+5, 000, 000	−7, 296, 000
River basin surveys and investigations	16, 487, 000	15, 810, 000	17, 061, 000	15, 801, 000	16, 487, 000		+686, 000	−574, 000	+686, 000
Watershed planning	11, 847, 000	6, 023, 000	12, 293, 000	6, 023, 000	10, 500, 000	−1, 347, 000	+4, 477, 000	−1, 793, 000	+4, 477, 000
Watershed and flood prevention operations	169, 607, 000	184, 908, 000	172, 524, 000	162, 524, 000	167, 524, 000	−2, 083, 000	−17, 384, 000	+5, 000, 000	−5, 000, 000
Resource conservation and development	25, 441, 000	2, 943, 000	32, 000, 000	32, 000, 000	32, 000, 000	+6, 559, 000	+29, 057, 000		
Great Plains conservation program	18, 689, 000	8, 426, 000	18, 689, 000	18, 689, 000	18, 689, 000		+10, 263, 000		
Rural clean water program [3]		75, 000, 000		75, 000, 000			−75, 000, 000		−75, 000, 000
Total, Soil Conservation Service	504, 473, 000	547, 003, 000	512, 314, 000	582, 080, 000	509, 947, 000	+5, 474, 000	−37, 056, 000	−2, 367, 000	−72, 133, 000
Agricultural Stabilization and Conservation Service									
Agricultural conservation program:									
Liquidation of contract authority	(115, 000, 000)					(−115, 000, 000)			
Appropriation	190, 000, 000	125, 000, 000	190, 000, 000	190, 000, 000	190, 000, 000		+65, 000, 000		
Forestry incentives program	15, 000, 000	10, 000, 000	15, 000, 000	15, 000, 000	15, 000, 000		+5, 000, 000		
Water Bank program	10, 000, 000		10, 000, 000	10, 000, 000	10, 000, 000		+10, 000, 000		
Emergency conservation measures	10, 000, 000	20, 000, 000	20, 000, 000	10, 000, 000	15, 000, 000	+5, 000, 000	−5, 000, 000	−5, 000, 000	−5, 000, 000
Rural clean water program [4]					50, 000, 000	+50, 000, 000	+50, 000, 000	+50, 000, 000	+50, 000, 000
Total, Agricultural Stabilization and Conservation Service	225, 000, 000	155, 000, 000	235, 000, 000	225, 000, 000	280, 000, 000	+55, 000, 000	+125, 000, 000	+45, 000, 000	+55, 000, 000
Total, Conservation	729, 473, 000	702, 003, 000	747, 314, 000	807, 080, 000	789, 947, 000	+60, 474, 000	+87, 944, 000	+42, 633, 000	−17, 133, 000
Total, title II, rural development programs: New budget (obligational) authority	1, 967, 852, 000	3, 060, 423, 000	2, 142, 149, 000	2, 200, 575, 000	2, 183, 982, 000	+216, 130, 000	−876, 441, 000	+41, 833, 000	−16, 593, 000
TITLE III—DOMESTIC FOOD PROGRAMS									
Food and Nutrition Service									
Child nutrition programs	1, 402, 035, 000	1, 450, 218, 000	1, 330, 215, 000	1, 275, 215, 000	1, 279, 215, 000	−122, 820, 000	−171, 003, 000	−51, 000, 000	+4, 000, 000
Transfer from sec. 32	(1, 411, 575, 000)	(1, 711, 083, 000)	(1, 831, 086, 000)	(1, 831, 086, 000)	(1, 831, 086, 000)	(+419, 511, 000)	(+120, 003, 000)		
Total, child nutrition programs	(2, 813, 610, 000)	(3, 161, 301, 000)	(3, 161, 301, 000)	(3, 106, 301, 000)	(3, 110, 301, 000)	(+296, 691, 000)	(−51, 000, 000)	(−51, 000, 000)	(+4, 000, 000)
Special milk program	142, 000, 000	32, 000, 000	142, 000, 000	142, 000, 000	142, 000, 000		+110, 000, 000		
Special supplemental food program (WIC)	569, 500, 000	771, 500, 000	771, 500, 000	749, 500, 000	757, 700, 000	+188, 200, 000	−13, 800, 000	−13, 800, 000	+8, 200, 000
Food stamp program [5]	6, 679, 200, 000	6, 926, 520, 000	6, 188, 600, 000	6, 187, 600, 000	6, 188, 600, 000	−490, 600, 000	−737, 920, 000		+1, 000, 000
Food donations programs:									
Needy family programs	12, 800, 000	39, 790, 000	39, 790, 000	39, 790, 000	39, 790, 000	+26, 990, 000			
Elderly feeding program	57, 000, 000	50, 500, 000	50, 500, 000	50, 500, 000	50, 500, 000	−6, 500, 000			
Total, food donations programs	69, 800, 000	90, 290, 000	90, 290, 000	90, 290, 000	90, 290, 000	+20, 490, 000			
Food program administration	76, 424, 000	84, 422, 000	80, 000, 000	84, 382, 000	82, 000, 000	+5, 576, 000	−2, 422, 000	+2, 000, 000	−2, 382, 000
Total, title III, new budget (obligational) authority, domestic food programs	8, 938, 959, 000	9, 354, 950, 000	8, 602, 605, 000	8, 528, 987, 000	8, 539, 805, 000	−399, 154, 000	−815, 145, 000	−62, 800, 000	+10, 818, 000

See footnotes at end of table.

Agency and title	New budget (obligational) authority enacted to date fiscal year 1979	Budget estimates of new (obligational) authority fiscal year 1980	New budget (obligational) authority recommended in House bill 1980	New budget (obligational) authority recommended in Senate bill 1980	New budget (obligational) authority recommended by conferees	Increase or decrease (—) conference recommendations compared with— 1979 enacted	1980 budget estimate	1980 House bill	1980 Senate bill
TITLE IV—INTERNATIONAL PROGRAMS									
Foreign Agricultural Service	$54, 215, 000	$54, 929, 000	$56, 129, 000	$56, 807, 000	$56, 427, 000	+$2, 212, 000	+$1, 498, 000	$+298, 000	—$380, 000
Office of International Cooperation and Development	199, 000	2, 964, 000	2, 964, 000	1, 864, 000	1, 864, 000	+1, 665, 000	—1, 100, 000	—1, 100, 000	
Public Law 480:									
Title I and III—Credit sales	339, 400, 000	280, 776, 000	280, 776, 000	222, 050, 000	280, 776, 000	—58, 624, 000			+58, 726, 000
Title II—Commodities for disposition abroad	466, 500, 000	438, 700, 000	438, 700, 000	438, 700, 000	438, 700, 000	—27, 800, 000			
Sales manager	(4, 202, 000)	(4, 608, 000)	(4, 608, 000)	(4, 598, 000)	(4, 608, 000)	(+406, 000)			(+10, 000)
Total, Public Law 480[6]	805, 900, 000	719, 476, 000	719, 476, 000	660, 750, 000	719, 476, 000	—86, 424, 000			+58, 726, 000
Total, title IV, new budget (obligational) authority, international programs	860, 314, 000	777, 369, 000	778, 569, 000	719, 421, 000	777, 767, 000	—82, 547, 000	+398, 000	—802, 000	+58, 346, 000
TITLE V—RELATED AGENCIES									
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE									
Food and Drug Administration									
Salaries and expenses	301, 954, 000	316, 296, 000	316, 296, 000	307, 796, 000	312, 796, 000	+10, 842, 000	—3, 500, 000	—3, 500, 000	+5, 000, 000
Buildings and facilities	10, 459, 000	4, 372, 000	4, 372, 000	29, 372, 000	4, 372, 000	—6, 087, 000			—25, 000, 000
Total, Food and Drug Administration	312, 413, 000	320, 668, 000	320, 668, 000	337, 168, 000	317, 168, 000	+4, 755, 000	—3, 500, 000	—3, 500, 000	—20, 000, 000
INDEPENDENT AGENCIES									
Commodity Futures Trading Commission	15, 836, 000	16, 366, 000	16, 366, 000	16, 366, 000	16, 366, 000	+530, 000			
Farm Credit Administration (limitation on administrative expenses)	(10, 925, 000)		(11, 897, 000)	(11, 897, 000)	(11, 897, 000)	(+972, 000)	(+11, 897, 000)		
Total, title V, new budget (obligational) authority, related agencies	328, 249, 000	337, 034, 000	337, 034, 000	353, 534, 000	333, 534, 000	+5, 285, 000	—3, 500, 000	—3, 500, 000	—20, 000, 000
RECAPITULATION									
Title I—Agricultural programs	7, 317, 762, 000	4, 793, 758, 000	4, 840, 458, 000	4, 856, 134, 000	4, 862, 766, 000	—2, 454, 996, 000	+69, 008, 000	+22, 308, 000	+6, 632, 000
Title II—Rural development programs	1, 967, 852, 000	3, 060, 423, 000	2, 142, 149, 000	2, 200, 575, 000	2, 183, 982, 000	+216, 130, 000	—876, 441, 000	+41, 838, 000	—16, 593, 000
Title III—Domestic food programs	8, 938, 959, 000	9, 354, 950, 000	8, 602, 605, 000	8, 528, 987, 000	8, 539, 805, 000	—399, 154, 000	—815, 145, 000	—62, 800, 000	+10, 818, 000
Title IV—International programs	860, 314, 000	777, 369, 000	778, 569, 000	719, 421, 000	777, 767, 000	—82, 547, 000	+398, 000	—802, 000	+58, 346, 000
Title V—Related agencies	328, 249, 000	337, 034, 000	337, 034, 000	353, 534, 000	333, 534, 000	+5, 285, 000	—3, 500, 000	—3, 500, 000	—20, 000, 000
Total, new budget (obligational) authority	19, 413, 136, 000	18, 323, 534, 000	16, 700, 815, 000	16, 658, 651, 000	16, 697, 854, 000	—2, 715, 282, 000	—1, 625, 680, 000	—2, 961, 000	+39, 203, 000
Transfer from sec. 32	1, 411, 575, 000	1, 711, 083, 000	1, 831, 086, 000	1, 831, 086, 000	1, 831, 086, 000	+419, 511, 000	+120, 003, 000		
Total obligational authority	20, 824, 711, 000	20, 034, 617, 000	18, 531, 901, 000	18, 489, 737, 000	18, 528, 940, 000	—2, 295, 771, 000	—1, 505, 677, 000	—2, 961, 000	+39, 203, 000
Consisting of:									
1. Appropriations	19, 411, 136, 000	18, 321, 534, 000	16, 698, 815, 000	16, 656, 651, 000	16, 695, 854, 000	—2, 715, 282, 000	—1, 625, 680, 000	—2, 961, 000	+39, 203, 000
2. Reappropriations	2, 000, 000	2, 000, 000	2, 000, 000	2, 000, 000	2, 000, 000				
3. Direct and insured loan level	8, 081, 600, 000	7, 172, 000, 000	8, 192, 600, 000	7, 899, 600, 000	8, 112, 600, 000	+31, 000, 000	+940, 600, 000	—80, 000, 000	+213, 000, 000
4. Guaranteed loan level	1, 600, 000, 000	1, 500, 000, 000	1, 600, 000, 000	1, 600, 000, 000	1, 600, 000, 000		+100, 000, 000		
5. Rent supplement authorization	425, 500, 000	393, 000, 000	393, 000, 000	393, 000, 000	393, 000, 000	—32, 500, 000			
Memoranda:									
1. Appropriations to liquidate contract authorizations	1, 105, 900, 000					—1, 105, 900, 000			
2. Appropriations, including appropriations to liquidate contract authority	20, 519, 036, 000	18, 323, 534, 000	16, 700, 815, 000	16, 658, 651, 000	16, 697, 854, 000	—3, 821, 182, 000	—1, 625, 680, 000	—2, 961, 000	+39, 203, 000
3. Transfers from sec. 32	1, 411, 575, 000	1, 711, 083, 000	1, 831, 086, 000	1, 831, 086, 000	1, 831, 086, 000	+419, 511, 000	+120, 003, 000		
4. Transfers from Commodity Credit Corporation	99, 865, 000	152, 389, 000	152, 389, 000	152, 389, 000	152, 389, 000	+52, 524, 000			

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[1] The budget request and bill provide no limitation for emergency loans. Funds are available in amounts necessary to meet the needs resulting from natural disasters.

[2] These amounts are excluded by law (Public Law 93-32) from the budget totals.

[3] A similar program is funded under the Agricultural Stabilization and Conservation Service.

[4] Funds for a similar program were requested under Soil Conservation Service.

[5] A budget amendment for an additional $1,411,454,000 for food stamps was received but passed over without prejudice by the conferees because of the lack of legislative authorization.

[6] A budget amendment for an additional $205,800,000 was passed over without prejudice by the conferees and will be considered at a later date.

Mr. EAGLETON. Mr. President, I do not intend to go into the details of the bill at this time. The action of the conferees is well detailed in the conference report and the statement of the managers, both of which appeared in the CONGRESSIONAL RECORD, October 24, 1979, pp. 29457–29464, and also as House Report 96–553. I ask unanimous consent to have printed in the RECORD a summary highlighting many of the key programs and the conference agreement relating to them.

There being no objection, the highlights were ordered to be printed in the RECORD, as follows:

Highlights of Major Actions Taken by the Conference Committee on H.R. 4387, Fiscal Year 1980 Appropriations for Agriculture, Rural Development, and Related Agencies

SCIENCE AND EDUCATION ADMINISTRATION

The conferees restated their view of the importance of a well-managed and well-coordinated agricultural research program that maintains and strengthens the long-term partnership between in-house resources and agricultural experiment stations at colleges and universities. The bill includes an increase in agricultural research, along with language directing the ways in which quality and efficiency of agricultural research can be improved through such methods as placing national research goals and priorities into sharper focus, improving coordination, utilizing peer review processes for both in-house, formula and special research funds, and improving productivity through sound program evaluation and appropriate changes in the scope and orientation of research programs.

Within the Science and Education Administration, funding for specific divisions and programs included:

Agricultural Research.—Provides $370,573,000 for agricultural research instead of $363,142,000 as proposed by the House and $372,479,000 as proposed by the Senate. The conferees split differences in funding for improving energy efficiency in crop and animal disease and production, tropical and subtropical research, and funded most of the Senate increases for aquatic weed research and yellow-star thistle research. Budget and House funding levels for operation of the USDA Human Nutrition Centers at Tufts University and Baylor College of Medicine at $2 million and $1 million respectively, were included in the agreement. The conferees provided $3,750,000 for small farms research, including $850,000 for establishment of a South Central small farms research center in Booneville, Arkansas. The conferees also provided for establishment and funding of a western nutrition center at Letterman Institute of Research in California, including staffing by 19 nutrition experts to be transferred from the Department of the Army.

Cooperative Research.—The conference agreement provides $189,045,000 for Cooperative Research, instead of $177,527,000 as proposed by the House and $198,484,000 as proposed by the Senate. The conferees agreed to $118,566,000 for Hatch Act grants—$3.5 million over the House figure, and $9.5 million more than the budget request. Seven million dollars was provided for special grants for animal health and disease research under P.L. 89–106, and $6 million for formula grants for animal health and disease research under Section 1433 of P.L. 95–113. The conferees also agreed to a competitive grants program of $16 million in lieu of the $25 million proposed by the Senate. Further, instead of $15 million in special grants proposed by the House, the conferees agreed to $2.5 million for high priority agricultural research.

Extension Activities.—Provides a total of $285,537,000 for Extension, instead of $285,835,000 as proposed by the House and $274,767,000 proposed by the Senate. Included within this agreement are $189,331,000 for grants under the Smith-Lever Act ($9.5 million over the budget, and $3.5 million over the House allowance), $51,810,000 for the Expanded Food and Nutrition Education Program, $3 million for urban gardening, $1,020,000 for the farm safety program, $11,500,000 for grants under the Bankhead-Jones Act, and $2.5 million for rural development education.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

The conference agreement provides $245,631,000 for the Animal and Plant Health Inspection Service instead of $237,583,000 as proposed by the House and $248,241,000 as proposed by the Senate. The conferees agreed to the House position providing $2 million for imported fire ant control, $1,325,000 for poultry diseases, $6,848,000 for tuberculosis eradication, and $4,730,000 for cattle tick control. The House receded to Senate adjustments providing $1.7 million for noxious weed control, $5,290,000 for eradication of scabies, $35,653,000 for control of screwworm, $6,512,000 for the Mediterranean fruit fly program. $4,041,000 for the citrus blackfly program, an $200,00 for the multiflora rose cooperative program. The conferees also agreed to provide $77,695,000 for eradication of brucellosis, in lieu of $70,195,000 proposed by the House and $85,195,000 proposed by the Senate.

AGRICULTURE MARKETING SERVICE

The conference agreement provides $47,643,000 for marketing services instead of $48,302,000 as proposed by the House and $45,586,000 proposed by the Senate. The agreement restores language deleted by the Senate which provides for the administration and coordination of payments to States, also includes $2,057,000 for wholesale market development work as proposed by the House and $12,712,000 for market news reporting as proposed by the Senate.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Appropriates $186,586,000 for salaries and expenses for the Agricultural Stabilization and Conservation Service instead of $190,586,000 as proposed by the House and $182,546,000 as proposed by the Senate. The reduction is based on higher commodity prices and an anticipated reduced workload in 1980 in county offices.

Dairy and Beekeeper Indemnity Programs.—The conference continues the Beekeeper Indemnity program in FY 1980, pending completion of the detailed review by the House Surveys and Investigations staff, due in January 1980.

CCC Loan Limits.—The conference accepts the Senate limitation of $500 million on loans that can be guaranteed by the CCC for production and marketing of industrial hydrocarbons and alcohols from agricultural commodities.

FARMERS HOME ADMINISTRATION

In the Rural Housing Insurance Fund, the conference agreement includes $2,280,000,000 for section 502 low-income rental housing loans as proposed by the House, and $868,000,000 for section 515 rural rental housing loans as proposed by the Senate. In the Rural Development Insurance Fund, the conferees deleted the Senate proviso that all business and industrial loans be guaranteed, and permits up to $10 million of such loans to be insured, compared with the House proposal that up to $50 million be insured.

The conferees agreed to $7 million for rural development planning grants, and $1.5 million for rural housing supervisory assistance grants. For FmHA salaries and expenses, $230,518,000 was provided instead of $232,318,000 proposed by the House and $228,278,000 proposed by the Senate. The conferees further expressed their strong concern over very serious abuses in the emergency loan program, involving the making of multi-million dollar loans to individuals at interest rates significantly below commercially available loan rates. The conferees directed that the Department hold in abeyance the approval of all large loans relating to the emergency disaster loan program until Congress has an opportunity to act on this matter in the authorizing legislation.

SOIL CONSERVATION SERVICE

For Conservation Operations, the conferees agreed to $264,747,000, the amount necessary to support the current level of permanent SCS staff. In the two other large programs, the conferees agreed to $167,524,000 for Watershed and Flood Prevention Operations instead of $172,524,000 as proposed by the House and $162,524,000 proposed by the Senate, and with respect to Resource Conservation and Development, the conferees agreed to continue the program and authorize six new area authorizations. The Senate had proposed using the $32 million appropriation to close out existing areas.

For the Rural Clean Water Program, the conferees agreed to provide $50 million to the ASCS instead of $75 million to the SCS as proposed by the Senate, and no funds as proposed by the House. These funds are to be used to fund highest priority projects and are to be selected primarily from applications previously submitted to the Secretary and approved by him in consultation with the Environmental Protection Agency Administrator.

CHILD NUTRITION PROGRAMS

The conferees agreed to provide $3,114,301,000 for child nutrition programs instead of $3,165,301,000 proposed by the House and $3,110,301,000 proposed by the Senate. This agreement was reached by reducing food service equipment assistance to $24 million, tightening up summer feeding operations and reducing the program by $47 million, and including various Senate legislative provisions mandating a sanctioning and administrative review system and making State administrative expenses contingent upon State cooperation in studies directed by Congress and requested by the Secretary.

SPECIAL SUPPLEMENTAL FEEDING PROGRAM (WIC)

The conferees provided a total of $771,500,000 for the WIC programs, utilizing $13.8 million of carryover balances to partially defray the new appropriations required.

FOOD STAMPS

The conferees agreed to provide $6,188,600,000, the legally authorized ceiling, but specifically stipulated that benefits are not to be cut in order to give Congress time to enact new authorizing legislation and to appropriate additional funds.

PUBLIC LAW 480

The conferees provided $901,730,000 for titles I and III as proposed by the House, instead of $843,004,000 as proposed by the Senate. Conferees also indicated that within the title II funds there is enough to carry out humanitarian aid to Cambodia and agreed to act expeditiously on the pending request for additional funds.

FOOD AND DRUG ADMINISTRATION

The conferees provided $312,796,000 for FDA salaries and expenses, a figure that was $3.5 million below the House bill, but did not make the full $8.5 million reduction recommended by the Senate. The conferees deferred a Senate-recommended appropriation of $25 million for the first phase of a new FDA laboratory, but this was done without prejudice and with the full expectation that the Department will provide reasonable buildings and facilities budget requests in the future.

Mr. EAGLETON. I am very pleased with the conference outcome. I believe the bill is fully acceptable to the administration—even though we did not do this exactly the way they wanted—but we did them in a very thorough and responsible fashion which will maintain our agriculture, rural development and feeding programs at needed levels in fiscal year 1980.

I want also to commend our distinguished colleague from Oklahoma, who with his experience as a practical farmer and long interest in agricultural matters, has been able to provide far more in expertise, sage advice and wise counsel than I could ever contribute to this bill.

I am pleased to yield to my distinguished colleague, Senator BELLMON, of Oklahoma.

Mr. BELLMON. Mr. President, I thank my friend, the Senator from Missouri.

I would like to begin by complimenting Senator EAGLETON for the splendid job he did in looking after the Senate's interests in our lengthy conference with the House. He had a singularly difficult task in dealing with this bill because of the adamant position almost always taken by the House conferees. I feel Senator EAGLETON did an extraordinarily good job in working out the serious differences that existed, and in bringing us a bill that is so close to the objectives that the Senate had in its original measure.

Mr. President, the bill as agreed to by the committee of conference totals $16,697,854,000 in new budget authority. This is within the subcommittee's allocation under the first concurrent budget resolution, so this bill is not a budget buster. It is within the ceiling that was set in the first resolution, and it conforms with the ceilings that have been tentatively agreed to by the conferees in the second budget resolution. We are locked now in a tough conference with the House on the second budget resolution, and this bill fits within the ceilings tentatively agreed to.

I must add, however, that anticipated later requirements for programs funded in this bill threaten to exceed the functional totals contained in the budget resolution. Among these later requirements are crop insurance subsidies, child nutrition, special milk and food stamp program supplementals.

Clearly the task confronting this subcommittee, and indeed, that of Congress is well spelled out for us, if we are to ever achieve the goal of a balanced Federal budget. It is the discipline in deferring program initiation and curbing program growth. It is the difficult work to make sure ongoing activities are managed in the most efficient manner possible. It is the resolve to set priorities and to stick with them.

Mr. President, I cannot recall a more extended and intensive consideration of the Agriculture Appropriations Act. As we grapple with increasing constraints on the Federal budget, the margin for tradeoffs and accommodation are rapidly disappearing. There are preciously few easy solutions left and the prolonged consideration of this bill reflects the difficulty of our task.

As I have already said, I am deeply indebted to the distinguished senior Senator from Missouri for his leadership, hard work and dedication as chairman of the Agriculture, Rural Development and Related Agencies Subcommittee of the Committee on Appropriations. I would also like to thank the staff of the subcommittee—Dick Lieberman, Ken Auer, and Irma Hanneman on the majority side, and Stephen Kohashi and Cathy O'Connor on the minority side—for their fine efforts on this measure.

Since the chairman has already provided a thorough summary of the conference agreement, I would only like to highlight a few issues.

Mr. President, the bill, as agreed to by the conferees, contains more than $8.5 billion for USDA domestic food programs. These activities constitute more than 55 percent of the total obligational authority contained in the bill. It is my hope that Congress will examine these programs more closely in the coming session than it has in the past and initiate the management improvements and programs changes that are necessary to contain the dramatically rising costs of these programs.

I am encouraged by the progress toward reducing costs in the summer feeding program reflected in this conference agreement. The conferees directed the Department of Agriculture to accelerate its efforts to eliminate fraud, abuse and waste and, accordingly, have reduced the funding for the program by $47 million.

However, I remind my colleagues that the first concurrent budget resolution assumed savings of $300 million in the special milk, summer feeding, school lunch, and WIC programs based on recommendations by the President. The Reconciliation Instruction which the Senate approved 90 to 6 in the second concurrent resolution continues to assume savings of approximately $250 million through actions to be initiated by the Agriculture and Appropriations Committees—in addition to the $47 million already achieved in this conference agreement. The only savings that have been achieved thus far are the result of Appropriations Committee action. If the additional $250 million in savings is also to be achieved, there must be further action by the Appropriations Committees and related action by the authorizing committee.

FMHA LOAN ACTIVITIES

The Farmers Home Administration is now the largest direct lending agency in the Federal Government, obligating almost $12 billion annually and piling up nearly half of the direct loan interest subsidy cost in the Federal budget. Additionally, this agency has a rapidly growing guaranteed loan account with $41 billion in outstanding commitments. Demand for FmHA assistance can only be expected to expand further with the constraints on private credit markets and the increasing capital requirements of rural areas.

Recently, a national network news program aired a shocking story on abuse in the FmHA disaster loan program where multimillionaire borrowers were obtaining huge subsidized loans. Congress intended such loans to help family farmers who could not get financial assistance elsewhere.

This TV program merely touched the tip of the iceberg, but it served to bring badly needed attention to the virtual explosion of Federal lending assistance. While most of these lending programs never show up in the budget process, they represent a potentially devastating influence on the private credit markets and are being expanded at an incredible pace. Beyond the macroeconomic impact of these programs, the Federal Government is exposing itself to huge contingent liabilities and expanding commitments for future loan subsidies. By the end of fiscal year 1980, the Federal Government will have over $400 billion in outstanding loan guarantees and be committed to nearly $17 billion in new loan subsidies on a discounted basis.

These activities must be brought under control. I am pleased that the Agriculture Appropriations Subcommittee has taken an active role in not only conducting oversight hearings on the management of the loan programs within its jurisdiction, but more importantly, it has succeeded in enacting annual ceilings on direct and guaranteed loan obligations. These steps must be adopted by other appropriations subcommittees. Hopefully, steps taken by the administration and Congress in connection with the fiscal year 1981 budget will yield a comprehensive mechanism to assert budgetary control over these costly activities.

Mr. President, I would also like to note the degree in which the conference agreement meet critical needs in maintaining and increasing our Nation's agricultural productivity. The cornerstone of our farmer's success is scientific and technological leadership and the bill contains urgently needed funds to maintain both the Federal and State agricultural research programs. The President's budget would have singled out agriculture for cuts in Federal outlays for research and development despite the proven effectiveness of agricultural research in improving products and productivity. I ask unanimous consent that a table showing research and development outlays contained in the President's budget be inserted in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

CONDUCT OF RESEARCH AND DEVELOPMENT BY SELECTED MAJOR DEPARTMENTS AND AGENCIES

[Outlays dollars in millions]

Department or agency	Fiscal year 1979	Fiscal year 1980	Change	Percent change
DOD—Military	$12, 145	$13, 433	+1, 288	+10.6
Energy	4, 508	4, 639	+131	+2.9
NASA	4, 224	4, 412	+188	+4.5
HEW	3, 218	3, 566	+348	+10.8
NSF	773	856	+83	+10.7
USDA	620	604	−16	−2.6
All other	2, 090	2, 157	+67	+3.2
Total	27, 577	29, 668	+2, 091	+7.6

Source: Special Analyses, Budget of the United States Government, Fiscal Year 1980. Special Analysis "L", p. 304.

Mr. BELLMON. The bill includes an increase of $61 million over the President's budget for agricultural research. This sum will provide the modest investment necessary to keep pace with inflation and will, over time, yield many times its cost in higher commodity yields and lower production costs.

The bill also contains increases for plant and animal pest control programs which are needed for optimum efficiency in Federal expenditures. These programs, like Brucellosis eradication and noxious weed control, are ongoing efforts which can further reduce production costs and lower the costs of food to consumers.

Mr. President, the bill as agreed to by the conferees represents a balanced approach between pressing needs and the imperative to reduce Federal outlays. I urge my colleagues to join in its support.

Mr. EAGLETON. Mr. President, I want to return the compliment to my distinguished colleague, Senator BELLMON. Without his intimate knowledge of agriculture, and I mean intimate and practical knowledge, it would have been very difficult for me and others on this committee to have fashioned as rational and as reasonable a bill as we now have before this body. I am always deeply in his debt.

● Mr. BAYH. Mr. President, the 1980 appropriations bill for the Department of Agriculture represents one of the most important appropriations bills passed by the Congress each year—vital to our Nation's farmers, to our Nation's consumers, to our and to the world's economy and well-being. The traditional role of the Department, to assist the Nation's farmers, is important. But in addition to producers of food, consumers of food, particularly the undernourished, are also served by the food assistance and educational programs of the USDA. And third, the housing and rural development programs of the Department assist in providing a better standard of living to rural residents.

Major events of the past several months have demonstrated again the crucial role that this Nation's agricultural productive capacity plays in the economy of the United States. Commercial sales of U.S. farm products abroad will earn more than $20 billion in foreign exchange this year. This is foreign exchange badly needed to offset the trade deficit brought by our massive oil imports. I would also mention the food being provided to refugees and to the starving people in other parts of the world.

Our ability to respond to the food needs of our people and of other countries of the world is no accident. The agricultural sector of the United States, more than 4 million persons working on more than 2.6 million farms, is the most productive in the world. The technology is the result of more than 100 years of research and extension by the agricultural experiment stations, State extension services, and land-grant universities. The public investment in developing and teaching improved farm methods has repaid itself many times over in terms of an abundant supply of food at reasonable prices. It has been one of our wisest investments.

The services of the State extension services are not limited to farm families however. This appropriation bill contains special grant money to fund the food and nutrition education program with $51.8 million in funds. Recent census data identified about 5.3 million families in poverty and studies indicate that many of these families lack the means or knowledge to obtain a balanced diet. This educational program is targeted to the needs of these families.

More than 1.5 million low-income families, representing 6 million family members, have been enrolled in this in-depth program. Families are taught to improve their diets through increased knowledge of nutrition, how to select and buy food, how to prepare and serve balanced meals, how to better manage their resources including gardens, food stamps, and improved food preservation, storage, and sanitation. Emphasis is placed on homemakers with young children.

The urban gardening program, funded at $3 million, is reaching out to city dwellers by training and sending out master gardeners—urban gardeners who receive 30 hours of training and agree to return at least 60 hours in service to other gardeners. Each urban garden is estimated to return about $200 in food savings above costs.

The total appropriations for our agricultural extension service for fiscal year 1980 is $278.9 million, or $3.6 million over last year. It is needed and will be well used, as it always has been.

The continued productivity of the agricultural sector requires adequate amounts of farm credit. The rural banking system, the Farm Credit System, and other lending institutions have done a capable job of providing farmers with the funds needed to acquire and improve farms, purchase machinery and equipment, and to finance production expenses. The Farmers Home Administration in the USDA provides credit for new farmers or those with limited resources, who cannot obtain funding from conventional lending sources. In addition, the Farmers Home Administration makes disaster assistance loans to assist farmers restore production after they suffer damages from natural disasters.

The Farmers Home Administration also plays a major role in rural housing. Credit assistance is provided for the repair or purchase of homes. The section 502 loans, for example, with a loan level of $2.28 billion in fiscal year 1980, are particularly important in that they are targeted to low- and moderate-income applicants—those for whom credit is seldom available in the commercial credit sector under reasonable terms. Section 502 loans are available for the construction, alteration, or improvement of dwellings in rural areas. These loans bear interest at less than market rates and under certain provisions a portion of the interest can be waived. The housing purchased under the section 502 program is modest in size, design and cost, but the program provides the opportunity for farm owners and other rural residents of limited financial means to obtain adequate housing. This year approximately 100,000 families will receive loans to purchase or upgrade their dwellings through this program.

The Department of Agriculture has always been a department of the people. Its programs have always reached out and involved people at the grassroots. Programs, such as the extension service and Farmers Home Administration that I have just described, are serving people in both rural and urban America with the very basic necessities of life—food and shelter. This appropriation bill recognizes and supports the great variety of needs which are served by USDA programs. While budgetary constraints have limited the funding that can be made available, the important program initiatives of recent years are maintained.●

RURAL CLEAN WATER PROGRAM

Mr. CULVER. Mr. President, the agricultural appropriations bill now under consideration provides funding for many important programs. A number of the ongoing efforts funded by this bill are vital to maintaining a strong and healthy food production system in this Nation.

I am particularly pleased that this legislation contains $50 million of initial funding for the rural clean water program. I believe this action by the Congress is a recognition that even in these years of tight budgets and fiscal restraint some national problems are too compelling to postpone for future consideration. The dual problems of soil erosion and pollution from agricultural runoff are, in my opinion, certainly deserving of immediate and serious attention.

The rural clean water program was created by an amendment I introduced in 1977 to the Federal Water Pollution Control Act. Hearings which I held in LeMars, Iowa, and hearings held by other members of the Environmental Pollution Subcommittee have established firmly the need for Federal assistance to help farmers control nonpoint source pollution from agricultural runoff and other rural sources. Agricultural runoff is the largest single source of water pollution in the Nation today. If it is not brought under control, we will continue to face both the degradation of our streams, rivers and lakes, and the declining productivity of our rich topsoil. This appropriations bill provides funds for the rural clean water program on an "experimental" basis. In light of the history of the debate concerning this program, I am hopeful that the Department of Agriculture will, in fact, "experiment" in a truly creative fashion and not simply treat it as an extension of current programs. The problem to be addressed by the rural clean water program has unique qualities, both with respect to the nature and geographic location of the most severe water pollution sources and with respect to the administrative aspects of the program's implementation.

The most important participants in the rural clean water program, of course, are farmers. Without a commitment on their part to controlling erosion and water pollution from their operations, no program can have much effect. The Agricultural Stabilization and Conservation Service and its local farmer-elected committees have long played an important role in encouraging farmers to participate in a wide range of Federal programs including soil conservation programs. I am convinced that they can effectively promote participation in this new program as well.

Other partners in this effort include the Soil Conservation Service, the Cooperative Extension Service, conservation districts, State and local "208" agencies, and both the State and Federal environmental protection agencies.

While a Federal assistance program must provide some mechanism for evaluating the areas of greatest need from among the various State proposals, section 208 of the Federal Water Pollution Control Act makes it clear that the States have the chief responsibility for developing and carrying out area- or statewide plans for reaching our clean water goals.

The Water Pollution Control Act established a framework within which these areas could be identified in each State. Many States have completed this task and have submitted to the Secretary of Agriculture Rural Clean Water Project applications. The process by which these applications were developed involved extensive research and study by the States. It also involved broad public participation by local farmers and other citizens interested in developing feasible approaches to solving local problems of water pollution.

I think it is extremely important that in implementing this experimental phase of the rural clean water program the Department of Agriculture take maximum advantage of the local initiative and interest that has grown out of the "208" planning effort. While the Federal Government must establish national priorities, it is still the local farmers and those who have worked with them in developing their pollution control plans that can most effectively implement these plans at the local level.

I believe that the appropriations bill report language on this point is consistent with the provisions of my amendment which created the program and hope that the Department can move ahead rapidly to begin implementation of these initial rural clean water projects.

One of our major objectives in creating this new program was to provide the States and the Nation's farmers an alternative to mandatory measures to control erosion and water pollution from farms. We have much to learn about the practices that will be most cost effective in meeting the nonpoint source pollution challenge. We have much to learn about the combination of incentives that will stimulate the needed conservation measures under a voluntary approach to erosion and water pollution control. Our past efforts have not been in vain, but they have been woefully inadequate to do more than slow the pace of a steadily worsening problem.

The problem of soil erosion and water pollution are not problems of the farmer alone. They are problems that affect the quality of life for all of us today and for generations to come. The economic costs of controlling these problems are likely to be substantial. For this reason it is imperative that every dollar of both private and public money invested in this effort be spent in a manner that will yield cost-effective results. This, in my view, can best be achieved if the program is carried out with broad local support and participation.

This initial funding for the rural clean water program represents a major step toward restoring to its proper place in national priorities the objective of protecting our soil and water. I urge my colleagues to support this appropriations bill and give our rural communities the opportunity to demonstrate their ability to provide creative solutions to pressing national problems.

BOONEVILLE SMALL FARMS RESEARCH CENTER

Mr. BUMPERS. Mr. President, I would like to thank the conferees for their many hours of hard work on this conference report. This report represents an effort to fund the necessary programs in the Department of Agriculture and related agencies for the next fiscal year and at the same time exhibit fiscal restraint by setting the appropriations for fiscal 1980 some $1.6 billion below the 1980 budget estimate.

One part of this appropriations bill and conference report is of particular interest and concern to me. It is the appropriation for the Small Farms Research Center in Booneville, Ark. The conference report appropriates some $850,000 in fiscal 1980 for the operation of the center.

There is a very pressing need today, Mr. President, for a small farms research and extension center. Over 65 percent of the farms in America are classified by the U.S. Department of Agriculture as small, with annual sales of $20,000 or less. Additionally, the number of small farms in this country is rapidly declining. Last year alone, we lost 40,000 farms or about 800 per week. Therefore, a research facility is desperately needed to disseminate information and new technologies in the area of small farm research.

The Bonneville Small Farm Research Center will be an ideal location and setting for conducting of small farm research. There is available some 2,000 to 3,000 acres, with buildings, located in a small farming community in the western part of my State. This availability of land and buildings coupled with the existing facilities at the University of Arkansas at Fayetteville make the Booneville site an excellent one for this research. This reason can be a tremendous step in developing and disseminating small farm production and marketing technologies. Also, the feasibility study conducted last year noted that this site could serve an area of 10 Southern and Southeastern States. The research center will, therefore, serve many persons conducting small farm operations in our Southern States.

In conclusion, Mr. President, I thank the members of the Appropriations Committee and the Senate conferees for developing the Small Farm Research Center at Bonneville. This center will constitute a new and greatly needed effort in the special problems facing the small or part-time farmer.

Mr. EAGLETON. Mr. President, I move the conference report be adopted.

The PRESIDING OFFICER (Mr. BRADLEY). The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BELLMON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will state the amendments in disagreement.

The assistant legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 5 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert "$7,772,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 6 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert "$19,423,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 19 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert "$16,548,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 19 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: "of which $10,000,000 shall be for insured loans and $1,090,000,000 shall be for guaranteed loans".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 72 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: "Agricultural Stabilization and Conservation Service Rural Clean Water Program".

"For necessary expenses for carrying out an experimental Rural Clean Water Program, $50,000,000, to remain available until expended and to be targeted at areas with identified and significant agricultural nonpoint source water pollution problems to be selected by the Secretary: *Provided*, That practices under the above program shall be recommended by the County Committees, approved by the State Committees and the Secretary, with the concurrence of the Administrator of the Environmental Protection Agency, or recommended by the Secretary, with the concurrence of the Administrator of the Environmental Protection Agency, and approved by the State Committees and the County Committees: *Provided further*, That such program shall be in addition to the regular Agricultural Conservation Program, and coordinated therewith, with the Soil Conservation Service and others providing technical assistance and the Agricultural Stabilization and Conservation Service providing administrative services for the program, including, but not limited to, the negotiation and administration of contracts and the disbursement of payments: *Provided further*, That such funds as may be required shall be transferred to the Soil Conservation Service, or others, for necessary technical assistance".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 77 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert "$1,279,215,000 is hereby appropriated,".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 84 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert "of which $757,700,000 is hereby appropriated and $13,800,000 is to be derived from prior-year balances,".

Mr. EAGLETON. Mr. President, I ask unanimous consent that the Senate concur en bloc in the amendments of the House of Representatives to the amendments of the Senate numbered 5, 6, 19, 60, 72, 77, and 84.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPOSITORY INSTITUTIONS DEREGULATION ACT

The Senate resumed the consideration of H.R. 4986.

Mr. PROXMIRE. Mr. President, this afternoon we take up again H.R. 4986, as reported by the Banking Committee. This is landmark legislation which will deregulate our financial institutions, making them more competitive in the future and enabling them to better serve the public interest.

The thrust of this bill is on deregulation and enhanced competition between financial institutions. Currently our financial institutions are so overly compartmentalized and fenced off with competition from one another that they are inhibited from fulfilling their public interest purposes.

For example, thrift institutions cannot offer checking accounts, consumer loans, or trust services. They cannot, therefore, offer the homeowner all the services he needs.

The homeowner, therefore, finds it more convenient to place his funds at commercial banks. To compensate for this defect the regulators have had to gerrymander a rate control structure that gives thrifts a differential advantage in what they can pay on deposits over what commercial banks are permitted to pay and interest rate controls in general have been pegged at below market rates—and I mean far below market rates—for most savers.

Perhaps the worst aspect of interest rate controls—or regulation Q as they are known in the marketplace—are that they discriminate against savers and are inflationary because they reward consumption at the expense of saving.

If you save money, you lose. It is ridiculous for the saving rate to be a maximum of 5¼ percent at a bank for a small saver, or 5½ percent at a savings and loan, when the inflation rate, as we all know, is about 13 percent. I do not know anybody who expects it to be much below 10 percent next year. That means that anybody who saves money is going to have less money at the end of the year than he had at the beginning, in real terms.

At the same time, regulation Q has failed because it has not prevented a collapse of the housing industry in periods of tight money except when the regulation is applied in a blatantly discriminatory way against small savers.

Mr. President, it is clear that the time has come to update our financial institutions and to make them more responsive to the public interest.

H.R. 4986 as reported by the Banking Committee will do the job that needs to be done now. I hope my colleagues will join with me in supporting this legislation.

Mr. TOWER. Mr. President, I support H.R. 4986, as reported by the Banking Committee, although I believe it is far from a perfect bill. Nonetheless, it does represent a major step in the direction of comprehensive financial reform which I have supported in the past.

The history on this legislation has been a long and tortuous one. The issues covered in it have been studied and debated at great length over the past decade.

It began in 1970 when President Nixon appointed the Hunt Commission to study the structure and regulation of our Nation's financial system. In 1975, the Senate passed the Financial Institutions Act, which contained many of the recommendations made by the Hunt Commission. The House Banking Committee also conducted a thorough review of this matter in 1975 in its study of financial institutions and the Nation's economy—the Fine study. Since then, a number of other studies have been conducted in this same area, the most recent being the President's interagency task force on regulation Q. H.R. 4986, which we are considering today, embodies many of the issues discussed in these and other studies.

H.R. 4986 would authorize interest-bearing transactions accounts for all depository institutions. These include share drafts at credit unions, automatic transfers at commercial banks, and remote service units at savings and loan associations. The authority for offering these accounts was ruled invalid last April by the U.S. court of appeals. The court gave Congress until January 1 of next year to authorize these services in statute. If Congress does not act by then, these services could no longer be offered to the public. The legislation also authorizes NOW accounts, which were not affected by the court decision.

In the past, I have been very concerned over the extension of NOW accounts to all depository institutions. It is quite clear that NOW accounts will raise the costs of funds to depository institutions. Those costs would be borne by the customers of those institutions in the form of higher borrowing rates or in increased charges for checking accounts or other financial services. In addition, high minimum balances could be required on NOW accounts in order to make them profitable. In other words, NOW accounts will not be very beneficial to account holders with a small amount of funds or those individuals with accounts which turn over rapidly.

In addition, efforts to authorize NOW accounts in the past have not always provided for competitive equity between different types of depository institutions offering similar types of financial services to the public. This is a principle which I strongly support.

For those reasons, I have not always supported legislation authorizing NOW accounts. However, the situation is far different today than it has ever been in the past. On the basis of the authority granted earlier by the financial institutions regulatory agencies, interest-bearing transactions accounts are now part of the Nation's financial fabric. There are nearly 2½ million individuals with either share drafts, automatic transfers or remote service unit accounts. It is obvious that Congress is not about to deny them these services in the future. In view of that, it seemed appropriate and essential that all institutions be given similar authority to offer interest-bearing transactions accounts in the form of NOW accounts.

H.R. 4986 also provides for an orderly phaseout of interest rate ceilings on deposits over a 10-year period. This will eventually allow all depository institutions to compete on the same basis for deposits and it will allow small savers to earn a market rate of return on their savings.

This bill also expands the powers of thrift institutions. This is important because those institutions need to be given the flexibility they need to compete in a world without interest rate ceilings.

While I support this legislation, I do have some reservations about certain provisions. I am particularly concerned over the requirement that the minimum denomination of money market certificates be reduced from $10,000 to $1,000 in 2 years.

I feel that this could significantly raise the costs of funds to depository institutions without generating any new savings in the process, and it could be particularly disruptive to the housing market. I intend, therefore, to support an amendment to strike this provision from the bill.

Of course, the real solution to financial stability and a healthy financial system is not addressed in this legislation. The real solution lies in prudent and responsible fiscal and monetary policies designed to reduce inflation. The changes made to the financial system in this bill are reactions to an unstable economic environment. They are designed to equip depository institutions to adjust to that unstable environment. All of this is a poor substitute for fundamental changes in economic policy that would lead to more stable economic conditions through a reduction in inflation and lower interest rates.

Of course, the House has passed a much narrower bill, which deals only with NOW accounts and the other interest-bearing transactions accounts struck down by the court. I, for one, believe that a much broader bill, along the lines of the bill we are considering today, is appropriate. If all institutions are going to offer interest-bearing transactions accounts, then they should compete fairly for those and other deposits. The bill reported by the Senate Banking Committee addresses this issue by phasing out interest-rate ceilings on all deposits over a 10-year period. I believe this is an essential part of this legislation, and I would hope that our colleagues in the House will agree.

UP AMENDMENT NO. 697

(Purpose: To amend Senator CRANSTON'S unprinted amendment No. 688, adopted October 29, 1979, to make clear that credit card authority is to be granted only after the Regulation Q provision is adopted)

Mr. PROXMIRE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 697.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 26, between lines 4 and 5 insert after "(5)" effective upon the enactment of legislation expressly providing for the elimination of interest rate controls on deposits and accounts".

Mr. PROXMIRE. Mr. President, this amendment would clarify the understanding that all of us on the floor had at the time the Cranston amendment was agreed to on credit cards, permitting credit cards to be issued by savings and loans.

It provides that credit card authority would only be effective when regulation Q is phased out. I think we agreed that all of those powers that we are giving to the savings and loans are necessary if regulation Q is phased out.

This would be consistent with that principle, which I believe we agreed to.

The PRESIDING OFFICER. If the Senator wishes to amend an amendment already agreed to, it takes unanimous consent.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the amendment be in order in spite of the fact that it amends an amendment already agreed to by the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. TOWER. I have no objection, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I am prepared to accept the amendment on behalf of the minority.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 698

(Purpose: To permit Savings and Loan Associations to invest in certain types of Money Market funds)

Mr. TOWER. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. TOWER) proposes an unprinted amendment numbered 698.

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 25, line 9, strike the final quotation mark and period in section 301 and insert the following:

"(F) INVESTMENT COMPANIES.—An association may invest in, redeem, or hold shares or certificates in any open-end management investment company which is registered with the Securities and Exchange Commission under the Investment Company Act of 1940 and the portfolio of which is restricted by such management company's investment policy, changeable only if authorized by shareholder vote, solely to any such investments as an association by law or regulation now or hereafter may, without limitation as to percentage of assets, invest in, sell, redeem, hold or otherwise deal with. The Board shall prescribe rules and regulations to implement the provisions of this subparagraph (F)."

Adding the following section 306:

"SEC. 306. Section 5A(b) of the Federal Home Loan Bank Act, as amended, is amended [by the italicized provisions] to read as follows:

'(b) Any institution which is a member or which is an insured institution as defined in section 401(a) of the National Housing Act shall maintain the aggregate amount of its assets of the following types at not less than such amount as, in the opinion of the Board, is appropriate: (1) cash, (2) to such extent as the Board may approve for the purposes of this section, time and savings deposits in Federal Home Loan Banks and commercial banks, (3) to such extent as the Board may so approve, such obligations, including such special obligations, of the United States, a State, any territory or possession of the United States, or a political subdivision, agency or instrumentality of any one or more of the foregoing, and bankers' acceptances, as the Board may approve, *and (4) to such extent as the Board may so approve, shares or certificates of any open-end management investment company which is registered with the Securities and Exchange Commission under the Investment Company Act of 1940 and the portfolio of which is restricted by such investment company's investment policy*; *changeable only if authorized by shareholder vote, solely to any of the obligations or other investments enumerated in the preceding clauses (1) through (3) of this subsection*. The requirement prescribed by the Board pursuant to this subsection (hereinafter in this section referred to as the "liquidity requirement") may not be less than 4 per centum or more than 10 per centum of the obligation of the institution on withdrawable accounts and borrowings payable on demand or with unexpired maturities of one year or less, or in the case of institutions which are insurance companies, such other base or bases as *The Board shall prescribe rules and regulations to implement the provisions of this subsection.*'"

Mr. TOWER. Mr. President, this amendment would allow savings and loan associations to invest in money market funds which in turn invest in the types of securities permitted for those associations. The amendment would, in other words, allow savings and loans to do indirectly, through a money market fund, what they can presently do directly. This amendment would merely provide an alternative means for savings and loans to invest in certain types of securities.

This amendment would provide savings and loan associations with the advantage of diversification, high liquidity, and higher yields offered on securities sold only in very large denominations. It would be particularly useful to small savings and loan associations who may not be able to devote the necessary time and expense to managing a sophisticated and high-yielding securities portfolio.

The Federal Home Loan Bank Board has no objection to this amendment. Mr. President, I ask unanimous consent that a letter from Chairman Janis to this effect be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FEDERAL HOME LOAN BANK BOARD,
Washington, D.C., September 20, 1979.

Hon. JOHN G. TOWER,
Committee on Banking, Housing, and Urban Affairs, Subcommittee on Financial Institutions, U.S. Senate, Washington, D.C.

DEAR SENATOR TOWER: We have been asked by your staff for comments on a proposed amendment to S. 1347, which would allow

Federal associations to invest in, sell or hold shares in mutual funds so long as the associations could invest directly in the instruments comprising the funds' portfolio. The Bank Board has no objection to its inclusion in the Bill. We find that the proposal may have potential benefits in the form of: (1) lower liquidity portfolio management costs; (2) higher liquidity portfolio yields; and, (3) greater flexibility in the management of liquidity portfolio cash flows.

Our principal concern relates to the unregulated nature of money market funds. We feel strongly that appropriate legal safeguards must be taken to assure that S&L associations investing in such funds do not face the possibility of fund redemptions being frozen or of partial default of principal or interest arising from improper management practices. It is essential that the liquidity of these funds be at least as great as current association investment practices. Bank Board regulations would have to deal with these concerns.

Please feel free to call on me or my staff if you have any further questions.

Sincerely,

JAY JANIS,
Chairman.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. TOWER. I yield.

Mr. PROXMIRE. Mr. President, I commend the Senator on this amendment. As I understand it, this would not give the savings and loans any new power that they could not exercise by going into the market and buying the component parts of the funds. All this does, as I understand it, is to make it more efficient so that a small savings and loan, and most are reasonably small, would be able to get the diversification without having to get in and buy a whole series of different securities. Is that correct?

Mr. TOWER. The Senator's analysis of the amendment is absolutely correct. It does not, I repeat, permit savings and loans to do anything indirectly that they are not already permitted to do directly. It really is primarily to assist the small S&L's which do not have the resources to participate directly. I believe the amendment should be accepted on those grounds.

Mr. PROXMIRE. Mr. President, I support the amendment.

Mr. MORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. MORGAN. Mr. President, at first blush this would sound like it might be a good amendment. Will the Senator give me an example? The amendment says an association may invest in, redeem, or own shares or certificates in any open-end management investment company which is registered with the Securities and Exchange Commission under the Investment Act of 1940. Will the Senator give me an example of one of those? I am not quite sure I understand what the Senator is talking about.

Mr. TOWER. There are a number of investment companies, commonly known as money market funds at the present time, including the Fund for Government Investors, Government Securities Services, Dreyfus Money Market, Inc., Merrill, Lynch Government Funds, Inc., and so forth.

The proposed legislation would not expand the categories of investment which associations are permitted to make. It would simply allow an alternative means by which associations may make such permissible investments.

Mr. MORGAN. Mr. President, if we could have a quorum call for a minute or two so I may read the amendment, it is a pretty long amendment.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, if the Senator from Texas will yield for a very short colloquy, I think maybe we can clear this up.

Mr. TOWER. I yield to the Senator from North Carolina.

Mr. MORGAN. Mr. President, as I understand the Senator's amendment, an S. & L. could not invest in any money market certificate or fund that held instruments which an S. & L. could not already invest in directly.

Mr. TOWER. That is correct. In other words, this would not permit an S. & L. to do something indirectly that it would not permit it to do directly.

I think it is good that we establish that as legislative history so that there will be no question.

Mr. MORGAN. That is what I am seeking to do.

In other words, if S. & L.'s want to invest in a money market certificate or fund registered with the Securities and Exchange Commission, the assets of that fund would have to be limited to those instruments or debentures or bonds, whatever it is, that the S. & L. can now presently invest in.

Mr. TOWER. That is correct.

Mr. MORGAN. Mr. President, I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

POSITION OF THE NATIONAL ASSOCIATION OF HOMEBUILDERS OF H.R. 4986

Mr. MORGAN. Mr. President, on Tuesday during the closing seconds of the discussion of H.R. 4986, the Depository Institutions Deregulation Act, Chairman PROXMIRE and I disagreed as to the position of the National Association of Homebuilders. For the record, and for the understanding of my colleagues, I want to clarify just exactly what the Homebuilders have had to say about this bill.

On October 10, the National Association of Homebuilders issued a "Legislative Flash" to their members urging their opposition to this bill, based on their concern that the elimination of regulation Q would "mean higher cost mortgage money, thus eliminating even more families from the ability to acquire a home of their own," and on their concern that "elimination of the differential could force thrifts to operate more like banks and focus less on housing."

Moreover, the President of the National Association of Homebuilders, Mr. Vondal S. Gravlee, and his counterpart at the National Association of Realtors, Mr. Donald I. Hovde, signed a letter which warned that "the reform of this Nation's financial institutions is a complex issue and could possibly threaten the economic viability of a Nation which is already suffering the grave hardships of inflation and the shrinking value of the dollar."

The Depository Institutions Deregulation Act, they said, "will lead to an unprecedented increase in interest rates for home mortgages which could put costs, finally, beyond the ability of people to own their own homes."

I want to repeat that, because I personally feel very strongly that this will be the ultimate effect of the bill that we are about to pass. They said that it will lead to an unprecedented increase in interest rates for home mortgages, which could put costs, finally, beyond the ability of people to own their own homes.

Long-term interest rates in the range of 12 to 16 percent are likely, they say, if this bill is adopted.

Mr. President, I ask unanimous consent that the full text of the letter signed by the president of the National Association of Realtors and the president of the National Association of Homebuilders be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OCTOBER 17, 1979.

Hon. ROBERT B. MORGAN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MORGAN: In the near future you will likely be addressing an issue which will affect the more than fifty million Americans who will be purchasing homes in the next decade. The Financial Reform proposals (S. 1347, the Depository Institutions Deregulation Act of 1979) which will phase out Regulation Q, lower the money market denominations from $10,000 to $1,000, and broaden consumer powers for savings and loan associations has one key drawback: It will lead to an unprecedented increase in interest rates for home mortgages which could put costs, finally, beyond the ability of people to own their own homes. We are likely talking about mortgage interest rates in the range of 12–16 percent long-term.

The reform of this nation's financial institutions is a complex issue and could possibly threaten the economic viability of a nation which is already suffering the grave hardships of inflation and the shrinking value of the dollar. While studying these proposals it is important to look beyond the immediate benefits to the saver and consider who is going to be affected by the higher mortgage interest rates that would surely follow a lifting of savings interest ceilings.

We feel that the bill as now written is incomplete. In 1975 the Senate passed similar legislation but made its action conditional on the consideration by the Finance Committee of a tax credit proposal to accompany the phase-out of Regulation Q and the loss of the differential. No similar provision is being contemplated by the Senate this year, even though there is a strong current running toward encouraging savings in America by use of tax incentives.

Not to consider financial reform and tax incentives to savers in tandem would be a lost opportunity indeed. Just when the tide is moving in the direction described, just when a national commitment to savings and not consumption alone is close to realization, the Senate of the United States is being asked to deal with the wholesale reform of the financial structure of this nation in a vacuum. Tax incentives could help replace current powers for thrift institutions which would be lost under the bill approved by the Senate Committee on Banking, Housing, and Urban Affairs.

We are in favor of permitting savers to share in interest returns which more accurately reflect the rising cost of inflation. However, we feel that the concepts embodied in this legislation are not the way to achieve this end and that a distinction should be made between transient funds and permanent funds. It is our fear that while this legislation would certainly permit small savers to enjoy higher rates, these savings would not represent a simple transfer of existing passbook funds. The result would be no increase in the supply of available funds, but merely an increase in cost incurred by financial institutions, a cost which inevitably must be passed on to the consumer.

The position of our collective membership of more than 800,000 opposes the lowering of minimum money market certificate denominations and recommends following the precedent of the 1975 Financial Institutions Act in not permitting this bill to be considered until additional tax provisions, such as tax incentives for savers becomes a part of that consideration.

Next year, it is our understanding that Congress will be considering major tax legislation. There is time enough to take the fateful step contemplated in S. 1347 when this tax legislation is up for consideration.

With the potential dangers of this legislation harshly affecting the savings pool which supplies mortgage money to the public, we sincerely hope you will oppose passage of S. 1347, certainly until such a time when depository institutions can offer consumers incentives to save and investors be encouraged to make mortgage loans.

The National Association of Realtors and the National Association of Home Builders appreciate the opportunity to share their views on S. 1347 and urge you to seriously consider its effect on the cost of housing to the American home buyer.

Sincerely,

VONDAL S. GRAVLEE,
President, National Association of Home Builders.

DONALD I. HOVDE,
President, National Association of Realtors.

Mr. MORGAN. Mr. President, yesterday, when we concluded our debate on this bill, we were talking about the effects on the small saver and on the consumer by the reduction of money market certificates from the minimum of $10,000 down to $5,000. I had read to the Senate a portion of Mr. Henry Schechter's statement. He, as I mentioned earlier, is the director of the AFL–CIO Department of Urban Affairs. His statement, I think, presents one of the clearest analyses, the only clear analysis, of this matter that I have found in the records of the hearings of the Committee on Banking.

I think that, at this time, I should like to continue to read from that statement, because I think it shows that the majority of consumers, with and without savings, particularly families of low income, including one-half of the elderly families, would probably suffer a net economic loss as a result of higher interest payments on savings under prevailing market conditions and monetary policies. So, now, I am going to read from that statement again:

EFFECT ON THE "SMALL SAVER"

Beside the potential increased economic instability that can arise from the unsound financing induced by an intensified competitive escalation of interest rates on savings, the latter process can also have an inequitable impact on low-income families. This would be the opposite of the intended effect of the recently popularized cause of providing greater equity for "small savers" who are concentrated in low-income brackets. A competitive escalation of interest rates on savings paid by lenders will be reflected in higher rates on mortgage and personal loans paid directly by consumers, and higher business loan rates that will be passed on to consumers in increased prices.

One of the main justifications presented for payment of higher interest rates on savings is the inequity suffered by "the small saver", who is precluded from receiving as high a rate of interest as the larger saver who can invest in $10,000 savings certificates. Removal of Reg Q regulatory ceilings on different types of savings accounts and leaving it to the gentle mercies of the free market, however, will not give the small saver the same options as the holder of larger amounts of savings. The latter can buy floating rate notes issued by large banks, or shares in a money market fund, or U.S. Treasury bills and notes, whenever those or other securities will yield higher returns.

More importantly, in the context of providing greater equity, the "small saver", who has not been described or defined by proponents of higher rates on savings, must also be considered as a consumer and a borrower. And the costs resulting from higher interest rates that would have to be borne by consumers, as well as benefits, should be examined. Direct and indirect impacts, upon different categories of consumer borrowers, non-savers as well as savers, should be considered.

As the interest rates on savings at depository institutions are raised, they will demand higher yields on their loans and other investments. Competition will force other types of intermediaries seeking household funds to pay higher rates. In order to maintain operating margins about costs of funds, all intermediaries will raise loan rates; so will households on direct investments that they make. Yields to household investors would be increased on money market fund participation shares and on large certificates of deposit bought by such funds, on Treasury bills and commercial paper, etc. Higher money costs borne by depository institutions paying higher rates on savings would be reflected in their loan interest rates. Higher loan interest rates, in turn, will be reflected in higher prices for goods and services. Increased loan rates will be borne by consumers directly in mortgage, personal and installment loan credit, and indirectly in the prices of goods and services.

The incidence of benefits and costs of higher interest rates, that would be engendered through the increased payments of interest via new savings instruments, can be gleaned in broad outline from the appended table, "Savings Accounts by Income and Age", from the 1977 Survey of Consumer Credit conducted by the Survey Research Center of the University of Michigan. Certificates of deposit are included in the savings accounts amounts.

Mr. President, I ask unanimous consent the table be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SAVINGS ACCOUNTS[1] BY INCOME AND AGE

[Percentage distribution of families]

	Savings accounts						
	None	$1 to $499	$500 to $1,999	$2,000 to $4,999	$5,000 to $12,499	$12,500 or more	Total
All families	37	16	13	11	10	13	100
Total family income:							
Less than $5,000	58	17	9	6	5	5	100
$5,000 to $9,999	40	23	13	11	6	7	100
$10,000 to $14,999	28	24	17	10	9	12	100
$15,000 to $19,999	20	23	19	15	11	12	100
$20,000 to $24,999	17	14	21	17	20	11	100
$25,000 or more	16	6	10	14	19	35	100
Age of family head:							
Under age 25	30	43	15	8	2	2	100
25 to 34	31	26	21	11	6	5	100
35 to 44	30	16	16	14	14	10	100
45 to 54	31	12	12	14	14	17	100
55 to 64	43	10	6	9	13	19	100
65 or older	50	4	7	10	10	19	100

[1] Including certificates of deposit.

Mr. MORGAN. Mr. President, obviously the 37 percent of all families with no savings accounts would have no benefits of increased interest income from savings. However, they would have to absorb the costs of higher loan interest rates, directly in credit obligations assumed and indirectly in the prices of purchased goods and services whose production or marketing had been at least in part credit-financed.

Parenthetically, I might add, that includes most consumer goods on the market today. The nonsavers, as might be expected, are a relatively high proportion of families with incomes of less than $10,000. It is interesting to note also that among families with age of head 65 years or older, 50 percent were found to have no savings.

So a large portion of the nonsavers, or those earning less than $10,000, who have no savings, and over half of those 65 years of age who have no savings, would not benefit at all, but would be penalized by having to pay higher costs for consumer goods manufactured by those industries who borrow and use credit, and that includes practically all of them, as well as the actual cost of money they might borrow to buy consumer products, such as a new refrigerator, or a new stove, or a new automobile, or those who try to buy a home.

Another 29 percent of all families have savings accounts, but in amounts of less than $2,000. An increase of 1 to 3 percentage points in interest paid on $500 to $2,000 of savings would mean from $5 to $60 more annually in interest income for such savers, who account for a high proportion of families in the $10,000 to $20,000 family income bracket. Their annual expenditures are apt to total 10 times their annual average amount in savings accounts. Increases in prices of, for example, 0.1 to 0.3 percent, reflecting higher interest costs to producers, distributors and servicers, would offset any savings interest income gains; any greater price increases due to higher interest rates would more than offset the gains from increased rates on savings.

Even among the 21 percent of households who have savings accounts of between $2,000 and $12,500, there probably are many in the 25- to 44-year age brackets who would be obtaining mortgage loans who would have a net cost increase as a result of a higher structure of interest rates. Considering the fact that an average mortgage loan is apt to be more than four or eight times as much as $10,000 or $5,000, respectively, in savings; if mortgage interest rates rise by more than one-fourth as much as average savings interest rates—which would be likely—the new mortgagor household would be a net loser.

The group having mostly net gainers would be among the families with savings of $12,500 or more, representing 35 percent of those with incomes of $25,000 or more and about one-fifth of those aged 55 or more. They are unlikely to obtain new mortgage loans, since most of this group is probably well housed.

The contours of the distributions of family savings by income and age found in the 1977 survey were similar to those found in similar surveys by the University of Michigan Consumer Research Center in the sixties and seventies. The surveys have all been financed by the Federal Reserve Board.

In summary, therefore, the majority of all consumers—with and without savings—particularly families of low income including one-half of elderly families—would probably suffer a net economic loss as a result of higher interest payments on savings under prevailing money market conditions and monetary policies.

Mr. President, that concludes the statement. I think it is perhaps the finest analysis of who will benefit and who will suffer from the lowering of the money market certificates.

Mr. President, at this point I ask unanimous consent that the Senator from Kentucky (Mr. FORD), the Senator from South Dakota (Mr. PRESSLER), and the Senator from North Carolina (Mr. HELMS), be added as cosponsors of printed amendments numbered 542, 543, 544, 545, and 546 to H.R. 4986, the Depository Institutions Deregulation Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, this bill was called up last Tuesday, and we began some extended debate on the bill. I said to my colleagues then—if I did not say it on the floor—that I was not engaging in extended debate for the purpose of preventing the issues from coming to a vote, but that I was trying to engage in a debate in order to alert my colleagues in the Senate to some of the provisions of this bill. That is what I have tried to do.

One of my distinguished colleagues said to me yesterday afternoon: "You know, there are a number of provisions in this bill that I think are bad. Why hasn't somebody lobbied me on this? Why hasn't somebody been to me and told me this bill was bad?"

About the only explanation I could offer him was that there is a little good for almost every group; therefore, they were willing to accept it, to get what little good there was. But after about a week's debate, some of them decided that maybe the overall bill was not in the best interests of the country, the consumer, or the financial institutions.

As I mentioned several times, the bill before us, if enacted, will tend to homogenize all financial institutions in this country by doing a number of things.

First of all, it would put the thrift institutions, the savings and loan institutions, into the checking account business. They are called NOW accounts—Negotiable Order of Withdrawal. But for all practical purposes, it is nothing in the world but a checking account.

In addition, this bill will say to the savings and loan institutions—which historically have devoted their assets and resources to home loans, thereby enabling 60 percent of the homeowners in America to own their homes—it will say to them: "Because we know you are going to be damaged by this bill in your ability to attract savings, we are going to let you get into the consumer loan business. Up to 10 percent of your assets can be put into financing consumer loans and other types of investments."

That kind of financing carries a much higher rate of interest. The proponents of this bill have said, "We know that if we eliminate regulation Q, the interest differential, you are going to have to pay higher interest rates in order to compete with the banks. Therefore, we are going to let you get into the consumer loan business."

Mr. President, I have said since 1975 that once you put the foot into the door with respect to changing the nature of the savings and loan institution and making it a consumer loan outfit, then, in effect, the next year it will be 20 percent; the next year, 30 percent. Lo and behold, my prophecy came true before we even passed the bill.

The Senator from Massachusetts already has an amendment pending on the floor to increase the amount of assets of mutual savings banks to 20 percent saying, of course, "we cannot quite get along with 10 percent."

Mr. President, it was just last year that the mutual bank bill was passed and authorized 10 percent of assets in other lending for mutual savings banks—and these institutions exist mostly in the Northeast. But it was last year that the bill was passed which authorized them to have 10 percent of their assets in consumer loans, and there was a colloquy on the floor between the distinguished Senator from Massachusetts (Mr. Brooke) who was sponsoring it and, if my memory serves me correctly, my chairman, Mr. PROXMIRE, but I stand to be corrected on that, as to whether or not they would not be back here asking for an increase.

The crux of the colloquy was that Mr. Brooke assured us that, no, 10 percent would be adequate. But in just 1 year the mutual savings banks are already back here saying, "Raise the limit."

So I say to my colleagues if we pass this bill today, the ultimate effect would be that year after year after year we will be extending the investment rights of savings and loans to the consumer field to the point where they will no longer be interested or will not be able to make home loans.

What else are we saying in this bill? We are not only saying "you can offer checking accounts," saying this to savings and loans, but "you can finance automobiles and household furniture at high interest rates." We are also saying that "you can get into trust powers," a field historically reserved to banks.

So on the savings and loan side, Mr. President, what we are doing is saying, "Move closer to the commercial banks," and I am telling you they are going to move, and they are going to move fast.

Let me say something else, Mr. President: With the exception of a few S. & L.'s in the northeastern part of this country, which sort of had the situation forced on them, I have not heard a hue and cry from savings and loans anywhere across America for NOW accounts.

I spoke to a group of savings and loan officials in Denver, Colo., earlier this year, a stock savings and loan group, and I expected to find a hostile audience. I expected them to be pushing for NOW accounts, so I started off my speech by saying, "I am going to tell you what I think about them and then you try to convince me I am wrong."

Well, I told them, and they came up and said, "That is exactly what we agree with." They said in the whole State of California there probably were only two S. & L.'s that favor checking accounts, and I think one of them was the one that ran the ad the chairman referred to. So there has been no hue and cry by the savings and loans for it because they know, Mr. President, that once they are made to look like a bank and to act like a bank, they are going to lose the competitive edge given to them by regulation Q, which this Congress did in the sixties in order to enable them to invest in home loans. That is exactly what happened.

This bill today purports to phase out regulation Q over a period of 10 years. But mark my words, even if it is not done under this bill, phased out within 2 or 3 years, as soon as savings and loans get into the checking account business, the interest of the commercial banks will be so strong in eliminating that edge that this Congress will eliminate it, and I probably would go along with them because it is not fair for them to have their cake and eat it, too. In other words, it is not fair for them to have the advantage of regulation Q and also be competing directly with commercial banks.

So again let me say on the savings and loan end we are moving them into the commercial bank area. What are we doing on commercial banks? We are saying, "All right, you can pay interest on savings accounts, you can have transactional accounts," or whatever you call them. "You can have automatic transfers."

(Mr. BAYH assumed the chair.)

So, as then Secretary Blumenthal said before our committee when I questioned him on two different occasions, "The distinguishing characteristics between commercial banks and thrift institutions once this bill is passed will be much, much narrower."

There are some other provisions in this bill which I think are extremely dangerous. One of them is the provision that I have been talking about earlier, which lowers the money market certificates from $10,000 down to $1,000. As was so ably pointed out by Mr. Schechter, the economist from the AFL–CIO, at first blush this idea sounds great, you are helping the little saver. But, as he also pointed out, they are exactly the ones who are going to have to bear the brunt of the increased cost. Over half of the people in America 65 years of age and older have no savings accounts. They are going to have to pay for this increased cost by way of groceries they buy in the grocery store, and in consumer products.

Most of the people who have small savings accounts that would be benefited are those who are earning above $20,000 a year. So I am saying that instead of being a small-saver provision it is going to be one that is going to cost the small consumer, and what it is going to do is to make a mass withdrawal—I think the financial world has a fancy word, that I finally learned how to say, called disintermediation. What it means is when these people start taking their $1,000 out of passbook savings and putting it into 10, 11, and 12 percent money market certificates, it means those savings and loans which have been willing to make commitments for 20, 30, and 40 years at 4, 5, 6, and 8 percent interest are going to go busted.

That is what is recognized by some of the proponents of this bill because there is a printed amendment on our desks, called amendment No. 560, which might very well be called the bailout amendment. In other words, when these institutions get into trouble financially because of this bill, we are going to let the Government bail them out again. It is sort of like a doctor cutting a man up so he will have a chance to sew him up. In other words, we want to bankrupt them, bust them, so we will have a chance to get them indebted to the Federal Government and then let the Federal Government bail them out.

I had a letter yesterday afternoon from a savings and loan here in Arlington which said they still had some loans that were made years ago at 4.5 percent.

Now, I can tell you one that I know about very personally. I still have a loan on my home in Lillington that I put on in 1960 at 6 percent and, as I told my colleagues yesterday, I have got a little savings account in that bank, some money in there, that they are paying me 8 percent on in a certificate, while I am paying them 6 percent on borrowed money.

So when you draw out all these passbook savings, there is no way in the world they can hold these 6 percent mortgages, 7 percent mortgages, and 8 percent mortgages without going busted. That is why the bailout amendment is here.

The impact of all these things cannot be fully foreseen at this time when we have an unstable and unpredictable economic situation.

What about regulation Q? Some of my friends in the S. & L.'s have said, "Well, regulation Q is going to be phased out over 10 years." Well, it might, but the chances are that if this Congress does not act at all, it will be gone in a couple of years because this says that the limitations on interest shall be raised at least a half percent per year—at least. Well now, it is theoretically possible that there is going to be a difference between S. & L.'s and banks until the end of the 10-year period. But what happens when it gets beyond the market? Then they are both paying the same thing. The differential might still be there, but if the rates or limitations are higher than the market will bear, then they are both going to be competing for the same money, and S. & L.'s are not going to have that differential.

So, Mr. President, there are other objectionable provisions in this bill. However, I now want to talk about the practicality of what we are doing. All of us know that this year the Federal courts ruled that share drafts of credit unions were illegal, that is, federally chartered credit unions, that there was no legal authority for Federal credit unions to have checking accounts.

Now, I am using "checking accounts" loosely, but that is roughly what share drafts are. And that they had to stop these accounts by January 1, which is only 2 months from tomorrow.

The court also said that banks were not authorized to have automatic transfers from savings accounts to checking accounts, which they had been doing. But they also said, "You have until January 1 for Congress to correct this situation, and if Congress does not do anything by January 1, then you have got to stop it."

They said also that remote service units of savings and loans were not authorized by Federal law, and therefore unless Congress did something between now and January 1, they would have to go out of existence.

Those things are corrected in the House bill that was sent over here, and they are also corrected in the pending bill. I think in all fairness that they ought to be authorized. Practicality demands that we go ahead with these services which millions of consumers use.

The thing about it is that credit union people tell me that if they are going to have to quit on January 1, they are going to have to begin to phase down almost immediately. So they are going to have to know, and know very soon.

What the House has said to the Senate, and made it perfectly clear, is that they are not going to accept all these ornaments, such as the elimination of regulation Q, or the reduction of money market certificates, and the effective mandatory participation in the Federal Reserve. The House bill did include nationwide NOW accounts, but they are not going to accept all of these other controversial things.

So what is going to happen? We are going to get it back in conference, we are going to get bogged down, the Senate will be involved in a debate on SALT, and January 1 is going to roll around, and those credit union people are going to be awfully upset when they lose their checking privileges. They have been to my office and I am sure they have been to every Senator's office in Washington, because it is greatly disturbing to them.

So what I am about to do, Mr. President, is offer an amendment that I think we can all live with, that will take care of these emergency matters, and then it will give us next year to consider the Federal Reserve question and others in this bill. I understand the chairman is preparing now to mark up the bill that is pending in our committees having to do with our reserve requirements for the Federal Reserve, and that will give us an opportunity for further consideration of permanent legislation.

So, Mr. President, I am going to send up an amendment in the nature of a substitute. And this is what my amendment would do: I think it takes all the emergency matters into consideration. It takes two or three items that the Senate spoke very clearly on yesterday and puts them into one bill. It, first of all, will authorize Federal credit unions to continue to use share drafts. It will authorize federally chartered banks to continue automatic transfers from savings to checking. It will authorize federally chartered savings and loans to continue the practice of remote service units; in other words, it will prevent a disruption of the services offered by these financial institutions prior to the court order.

Yesterday the distinguished Senator from California offered an amendment increasing the Federal deposit insurance on savings accounts at savings and loan institutions and banks from $40,000 to $50,000. I think, in the light of the inflationary times, that this is an entirely reasonable proposition. I think it would enable savings and loan institutions to attract some more money. So my amendment in the nature of a substitute will include that.

Now, last year the Banking Committee, on which I serve, worked long and hard to try to simplify one of the most complex and complicated of all laws, the Truth in Lending Act—that is the form that you get when you go to a bank and they have to tell you what the interest rates and charges are, and so forth. It is so complex now that a lawyer would have to sit down and read it to understand it, and then I am not sure he or she could understand it.

We came out last year with a very fine bill, and that was added to this bill yesterday. So my amendment in the nature of a substitute includes truth in lending.

It is going to include another provision, Mr. President, which I do not like, which I have voted against every time, but nevertheless the Senate decidely defeated my efforts yesterday by preempting State usury laws. The Senate voted for preemption, I believe, 70-some to 13. And trying to be pragmatic and being a realist, I know that there are some Members in the Senate who could not vote for my amendment in the nature of a substitute unless that matter is taken care of. So, while I personally object to preemption of State laws, as this body knows, and have gone on record as often as I could against preemption of State laws, I have included that.

UP AMENDMENT NO. 699

So, Mr. President, I send forward an amendment in the nature of a substitute which incorporates the matters that I have just talked about.

The **PRESIDING OFFICER**. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN) proposes an unprinted amendment in the nature of a substitute numbered 699.

Mr. **MORGAN**. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and substitute therefore the following:

TITLE I

Sec. 101. It is the purpose of this Act to provide specific authority—

(a) for Federally-chartered savings and loan associations to estabish remote service units;

(b) for Federally-chartered credit unions to utilize share draft accounts;

(c) for Federally-insured banks to automatically transfer funds from savings accounts to checking accounts; and

(d) to specify that the utilization of this service does not constitute the payment of interest on demand accounts within the meaning of 12 U.S.C. 1832(a).

Sec. 102. § 19(i) of the Federal Reserve Act (12 U.S.C. 371a) is amended by adding at the end thereof the following:

"Notwithstanding any other provision of this section, a member bank may permit withdrawals to be made automatically from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to written authorization from the depositor to make such payments or transfers in connection with checks or drafts drawn upon the bank and under such terms and conditions as the Board shall prescribe for such accounts".

The operation of the automatic transfer services described herein shall not constitute the payment of interest on demand accounts.

Sec. 103. § 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended by inserting "(1)" after "(g)" and by adding at the end thereof the following new paragraph:

"(2) Notwithstanding the provisions of paragraph (1), an insured nonmember bank may permit withdrawals to be made automatically from a savings deposit that consists only of funds deposited to the credit of and in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or transfer of credit to a demand or other deposit account of the same depositor pursuant to a written authorization from the depositor authorizing such payments or transfers in connection with checks or drafts drawn by the depositor upon the bank, pursuant to terms and conditions prescribed by the Board of Directors".

The operation of automatic transfer services as described herein shall not constitute the payment of interest on demand accounts.

Sec. 104. § 5(b)(1) of the Home Owners Loan Act of 1933 (12 U.S.C. 1464(b)(1)) is amended by adding at the end thereof the following:

"Nothing contained in this section prohibits the establishment of remote service units by associations for the purpose of crediting existing savings accounts, debiting such accounts, crediting payments on loans, and the disposition of related financial transactions as provided in regulations prescribed by the Board. Transactions with such remote service units may be accomplished through written, oral, telephonic, or electronic means or any combination thereof which may be authorized by the Board. Such remote service units shall not constitute a branch of an association."

The operation of remote service units described herein shall not constitute the payment of interest on demand accounts.

Sec. 105. § 107(6) of the Federal Credit Union Act (12 U.S.C. 1757(6)) is amended by inserting after "prescribed by the Board" the following: ", and to permit negotiable or nonnegotiable drafts to be utilized to withdraw shares from a share draft account subject to such terms, rates, and conditions as may be prescribed by the Board".

The utilization of share drafts as described herein shall not constitute the payment of interest on demand accounts.

Sec. 106. The amendments made by this Act shall take effect on January 1, 1980.

TITLE II—INSURANCE OF ACCOUNTS

Sec. 201(a). The following provisions of the Federal Deposit Insurance Act are amended by striking out "$40,000" each place it appears therein and inserting in lieu thereof "$50,000":

(A) The first sentence of section 3(m) (12 U.S.C. 8113(m)).

(B) The first sentence of section 7(i) (12 U.S.C. 1817(i)).

(C) The last sentence of section 11(a) (12 U.S.C. 1821(a)).

(D) The fifth sentence of section 11(i) (12 U.S.C. 1821(i)).

(2) The amendments made by this section are not applicable to any claim arising out of the closing of a bank prior to the effective date of this section.

Sec. 201(b). The following provisions of Title IV of the National Housing Act are amended by striking out "$40,000" each place it appears therein and inserting in lieu thereof "$50,000":

(A) Section 401(b) (12 U.S.C. 1724(b)).

(B) Section 405(a) (12 U.S.C. 1728(a)).

(2) The amendments made by this section are not applicable to any claim arising out of a default, as defined in section 401(d) of the National Housing Act, where the appointment of a conservator, receiver, or other legal custodian as set forth in that section becomes effective prior to the effective date of this section.

Sec. 201(c). The second sentence of section 207(c) of the Federal Credit Union Act (12 U.S.C. 1787(c)), is amended by striking out "$40,000" and inserting in lieu thereof "$50,000".

(2) The amendment made by this section is not applicable to any claim arising out of the closing of a credit union for liquidation on account of bankruptcy or insolvency pursuant to section 206 of the Federal Credit Union Act (12 U.S.C. 1787) prior to the effective date of this section.

(d) The amendments made by this section shall take effect on the thirtieth day beginning after the date of enactment of this Act.

TITLE III—TRUTH IN LENDING SIMPLIFICATION

SHORT TITLE

Sec. 301. This title may be cited as the "Truth in Lending Simplification and Reform Act".

DEFINITIONS

Sec. 302. (a) Section 103(f) of the Truth in Lending Act is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "The term 'creditor' refers only to a person who both (1) regularly extends, whether in connection with loans, sales of property or services, or otherwise, consumer credit which is payable by agreement in more than four installments or for which the payment of a finance charge is or may be required; and (2) is the person to whom the debt arising from the consumer credit transaction is initially payable on the face of the evidence of indebtedness or, if there is no such evidence of indebtedness, by agreement. Notwithstanding the foregoing, a person who regularly arranges for the extension of consumer credit, which is payable in more than four installments or for which the payment

of a finance charge is or may be required, from persons who are not creditors is a creditor, and in the case of an open end credit plan involving a credit card the card issuer and any person who honors the credit card and offers a discount which is a finance charge are creditors."; and

(2) by redesignating the references to sections 127(a)(6), 127(a)(7), 127(a)(8), 127(b)(9), and 127(b)(11) in the next succeeding sentence as references to sections 127(a)(5), 127(a)(6), 127(a)(7), 127(b)(8), and 127(b)(10), respectively.

(b) The first sentence of section 103(g) of the Truth in Lending Act is amended to read as follows: "The term 'credit sale' refers to any sale in which the seller is a creditor.".

EXEMPTED TRANSACTIONS

Sec. 303. (a) Section 103(h) of the Truth in Lending Act is amended by striking out "household, or agricultural" and inserting in lieu thereof "or household".

(b) Section 103 of the Truth in Lending Act is amended by redesignating subsection (s) as subsection (x), and by inserting a new subsection (s) as follows:

"(s) The term 'agricultural purposes' includes the production, harvest, exhibition, marketing, transportation, processing, or manufacture of agricultural products by a natural person who cultivates, plants, propagates, or nurtures those agricultural products, including but not limited to the acquisition of farmland, real property with a farm residence, and personal property and services used primarily in farming, and the term 'agricultural products' includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, and any products thereof, including processed and manufactured products, and any and all products raised or produced on farms and any processed or manufactured products thereof.".

(c) Section 104 of the Truth in Lending Act is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Credit transactions involving extensions of credit primarily for business, commercial, or agricultural purposes, or to government or governmental agencies or instrumentalities, or to organizations.";

(2) by amending paragraph (3) to read as follows:

"(3) Credit transactions, other than those in which a security interest is or will be acquired in real property, or in personal property used or expected to be used as the principal dwelling of the consumer, in which the total amount financed exceeds $25,000."; and

(3) by striking out paragraph (5).

OPEN END CREDIT PLAN

Sec. 304. Section 103(i) of the Truth in Lending Act is amended to read as follows:

"(i) The term 'open end credit plan' means a plan under which the creditor reasonably contemplates repeated transactions, which prescribes the terms of such transactions, and which provides for a finance charge which may be computed from time to time on the outstanding unpaid balance. A credit plan which is an open end credit plan within the meaning of the preceding sentence is an open end credit plan even if credit information is verified from time to time.".

MODEL FORMS

Sec. 305. Section 105 of the Truth in Lending Act is amended by inserting "(a)" before "The", and by adding at the end thereof tho following:

"(b) The Board shall publish model disclosure forms and clauses for common transactions to facilitate compliance with the disclosure requirements of this title and to aid the borrower in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures. In devising such forms, the Board shall consider the use by creditors of data processing or similar automated equipment. Nothing in this title may be construed to require a creditor to use any such model form or clause prescribed by the Board under this section. A creditor shall be deemed to be in compliance with the disclosure provisions of this title with respect to other than numerical disclosures if the creditor (1) uses any appropriate model form or clause as published by the Board, or (2) uses any such model form or clause and changes it by (A) deleting any information which is not required by this title, or (B) rearranging the format, if in making such deletion or rearranging the format, the creditor does not affect the substance, clarity, or meaningful sequence of the disclosure.

"(c) Model disclosure forms and clauses shall be adopted by the Board after notice duly given in the Federal Register and an opportunity for public comment in accordance with section 553 of title 5, United States Code.

"(d) Any regulation of the Board, or any amendment or interpretation thereof, requiring any disclosure different from that previously required by this chapter, chapter 4, or chapter 5, or regulation of the Board promulgated thereunder shall have an effective date of that October 1 which follows by at least six months the date of promulgation, except that the Board may at its discretion take interim action by regulation, amendment, or interpretation to lengthen the period of time permitted for creditors to adjust their forms to accommodate new requirements or shorten the length of time for creditors to make such adjustments when it makes a specific finding that such action is necessary to comply with the findings of a court or to prevent unfair or deceptive disclosure practices. Notwithstanding the foregoing, any creditor may comply with any such newly promulgated disclosure requirements prior to the effective date of the requirements.".

COMPONENTS OF FINANCE CHARGE

Sec. 306. (a) Section 106(a) of the Truth in Lending Act is amended by striking out ", including any of the following types of charges which are applicable" and inserting in lieu thereof the following: ". The finance charge does not include charges of a type payable in a comparable cash transaction. Examples of charges which are included in the finance charge include any of the following types of charges which are applicable".

(b) Section 106(d) of the Truth in Lending Act is amended by striking out paragraphs (3) and (4).

ACCURACY OF ANNUAL PERCENTAGE RATE

Sec. 307. (a) Subsection (c) of section 107 of the Truth in Lending Act is amended to read as follows:

"(c) The disclosure of an annual percentage rate is accurate for the purpose of this title if the rate disclosed is within a tolerance not greater than one-eighth of 1 per centum more or less than the actual rate or rounded to the nearest one-fourth of 1 per centum. The Board may allow a greater tolerance to simplify compliance where irregular payments are involved.".

(b) Subsection (e) of section 107 of the Truth in Lending Act is amended by striking out "(c) or".

(c) Subsection (f) of section 107 of the Truth in Lending Act is repealed.

RESTITUTION

Sec. 308. Section 108(a) of the Truth in Lending Act is amended by adding at the end thereof the following:

"(e)(1) In carrying out its enforcement activities under this section, each agency referred to in subsection (a) or (c), in cases where an annual percentage rate or finance charge was inaccurately disclosed, shall notify the creditor of such disclosure error and is authorized in accordance with the provisions of this subsection to require the creditor to make an adjustment to the account of the person to whom credit was extended, to assure that such person will not be required to pay a finance charge in excess of the finance charge actually disclosed or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower.

For the purposes of this subsection, except where such disclosure error resulted from a willful violation which was intended to mislead the person to whom credit was extended, in determining whether a disclosure error has occurred and in calculating any adjustment, (A) each agency shall apply (i) with respect to the annual percentage rate, a tolerance of one-quarter of 1 percent more or less than the actual rate, determined without regard to subsection 107(c) of this title, and (ii) with respect to the finance charge, a corresponding numerical tolerance as generated by the tolerance provided under this subsection for the annual percentage rate; except that (B) with respect to transactions consummated after two years following the effective date of this section, each agency shall apply (i) for transactions that have a scheduled amortization of ten years or less, with respect to the annual percentage rate, a tolerance not to exceed one-quarter of 1 percent more or less than the actual rate, determined without regard to subsection 107(c) of this title, but in no event a tolerance of less than the tolerances allowed under subsection 107(c), (ii) for transactions that have a scheduled amortization of more than ten years with respect to the annual percentage rate, only such tolerances as are allowed under subsection 107(c) of this title, and (iii) for all transactions, with respect to the finance charge, a corresponding numerical tolerance as generated by the tolerances provided under this subsection for the annual percentage rate.

"(2) Each agency shall require such an adjustment when it determines that such disclosure error resulted from (A) a clear and consistent pattern or practice of violations, (B) gross negligence, or (C) a willful violation which was intended to mislead the person to whom the credit was extended. Notwithstanding the preceding sentence, except where such disclosure error resulted from a willful violation which was intended to mislead the person to whom credit was extended, an agency need not require such an adjustment if it determines that such disclosure error:

(A) resulted from an error involving the disclosure of a fee or charge that would otherwise be excludable in computing the finance charge, including but not limited to violations involving the disclosures described in subsections 106 (b), (c), and (d) of this title in which event the agency may require such remedial action as it determines to be equitable, except that for transactions consummated after two years after the effective date of this section, such an adjustment shall be ordered for violations of subsection 106(b);

(B) involved a disclosed amount which was 10 percent or less of the amount that should have been disclosed and (i) in cases where the error involved a disclosed finance charge, the annual percentage rate was disclosed correctly; in which event the agency may require such adjustment as it determines to be equitable;

(C) involved a total failure to disclose either the annual percentage rate or the finance charge, in which event the agency may require such adjustment as it determines to be equitable; or

(D) resulted from any other unique circumstance involving clearly technical and nonsubstantive disclosure violations that do not adversely affect information provided to the consumer and that have not misled or otherwise deceived the consumer.

In the case of other such disclosure errors, each agency may require such an adjustment.

"(3) Notwithstanding the above paragraph (2), no adjustment shall be ordered (A) if it would have a significantly adverse impact upon the safety or soundness of the creditor, but in any such case, the agency may require a partial adjustment in an amount which does not have such an impact, (B) if the amount of the adjustment would be less than $1, except that if more than one year has elapsed since the date of the violation, the agency may require that such amount be paid into the Treasury of the United States, or (C) except where such disclosure error resulted from a willful violation which was intended to mislead the person to whom credit was extended, in the case of an open-end credit plan, more than two years after the violation, or in the case of any other extension of credit, (i) with respect to creditors that are subject to examination by the agencies referred to in subsections 108(a)(1) through (3) of this title, except in connection with violations arising from practices identified in the current examination and only in connection with transactions that are consummated after the date of the immediately preceding examination, provided that where practices giving rise to violations identified in earlier examinations have not been corrected, adjustments for those violations shall be required in connection with transactions consummated after the date of the examination in which such practices were first identified; (ii) with respect to creditors that are not subject to examination by such agencies, except in connection with transactions that are consummated after May 10, 1973; and (iii) in no event after the later of (a) the expiration of the life of the credit extension, or (b) two years after the agreement to extend credit was consummated.

"(4)(A) Notwithstanding any other provision of this section, an adjustment under this subsection may be required by an agency referred to in subsection (a) or (c) only by an order issued in accordance with cease and desist procedures provided by the provision of law referred to in such subsections.

"(B) In the case of an agency which is not authorized to conduct cease and desist proceedings, such an order may be issued after an agency hearing on the record conducted at least thirty but not more than sixty days after notice of the alleged violation is served on the creditor. Such a hearing shall be deemed to be a hearing which is subject to the provisions of section 8(h) of the Federal Deposit Insurance Act and shall be subject to judicial review as provided therein.

"(5) Except as otherwise specifically provided in this subsection and notwithstanding any provision of law referred to in subsection (a) or (c), no agency referred to in subsection (a) or (c) may require a creditor to make dollar adjustments for errors in any requirements under this title, except with regard to the requirements of section 165.

"(6) A creditor shall not be subject to an order to make an adjustment, if within sixty days after discovering a disclosure error, whether pursuant to a final written examination report or through the creditor's own procedures, the creditor notifies the person concerned of the error and adjusts the account so as to assure that such person will not be required to pay a finance charge in excess of the finance charge actually disclosed or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower.

(b) This section shall take effect upon enactment.

EFFECT ON OTHER LAWS

SEC. 309. Section 111(a) of the Truth in Lending Act is amended to read as follows:

"(a)(1) This title does not annul, alter, or affect the laws of any State relating to the disclosure of information in connection with credit transactions, except to the extent that those laws are inconsistent with the provisions of this title, and then only to the extent of the inconsistency. The Board shall, upon its own motion or upon the request of any creditor, State, or other interested party, submitted in accordance with procedures prescribed in regulations of the Board, determine whether such inconsistencies exist. If the Board determines that a State-required disclosure is inconsistent, creditors located in that State may not make disclosures using the inconsistent term or form, and shall incur no liability under the law of that State for a good faith failure to use such term or form, notwithstanding that such determination is subsequently amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

"(2) The Board shall, upon its own motion or upon the request of any creditor, State, or other interested party, submitted in accordance with procedures prescribed in regulations of the Board, determine whether any disclosure required under the law of any State is substantially the same in meaning as a disclosure required under this title. If the Board determines that a State-required disclosure is substantially the same in meaning as a disclosure required by this title, then creditors located in that State may make such disclosure in compliance with such State law in lieu of the disclosure required by this title, except that the annual percentage rate and finance charge must always be disclosed as required by section 122.".

ANNUAL REPORTS

SEC. 310. (a) Section 114 of the Truth in Lending Act is amended by striking out "Not later than January 3 of each year after 1969" and inserting in lieu thereof "Each year".

(b) Section 18(f)(5) of the Federal Trade Commission Act (15 U.S.C. 58a(f)(5)) is amended by striking out "not later than March 15".

(c) Section 707 of the Equal Credit Opportunity Act is amended by striking out "Not later than February 1 of each year after 1976" and inserting in lieu thereof "Each year".

GENERAL DISCLOSURE REQUIREMENTS

SEC. 311. Sections 121 and 122 of the Truth in Lending Act are amended to read as follows:

"§121. General requirement of disclosure

"(a) Subject to subsection (b), a creditor or lessor shall disclose to the person who is obligated on a consumer lease or a consumer credit transaction the information required under this title. In a transaction involving more than one obligor, a creditor or lessor, except in a transaction under section 125, need not disclose to more than one of them if the one given disclosure is a primary obligor.

"(b) If a transaction involves one creditor as defined in section 103(f), or one lessor as defined in section 181(3), that creditor or lessor shall make the disclosures. If a transaction involves more than one creditor or lessor, only one creditor or lessor shall be required to make the disclosures. The Board shall by regulation specify which creditor or lessor must make the disclosures.

"(c) The Board may provide by regulation that any portion of the information required to be disclosed by this title may be given in the form of estimates where the provider of such information is not in a position to know exact information.

"(d) The Board shall determine whether tolerances for numerical disclosures other than the annual percentage rate are necessary to facilitate compliance with this title, and if it determines that such tolerances are necessary to facilitate compliance, it shall by regulation permit disclosures within such tolerances.

"§ 122. Form of disclosure; additional information

"(a) Information required by this title shall be disclosed clearly and conspicuously, in accordance with regulations of the Board. The terms 'annual percentage rate' and 'finance charge' shall be disclosed more conspicuously than other terms, data, or information provided in connection with a transaction, except information relating to the identity of the creditor. Regulations of the Board need not require that disclosures pursuant to this title be made in the order set forth in this title and, except as otherwise provided, may permit the use of terminology different from that employed in this title if it conveys substantially the same meaning.

"(b) Any creditor may supply additional information or explanation with any disclosures required under chapter 4 and, except as provided in section 128(b)(1), under this chapter.".

RESCISSION

SEC. 312. (a)(1) Subsection (a) of section 125 of the Truth in Lending Act is amended to read as follows:

"(a) Except as otherwise provided in this section, in the case of any consumer credit transaction (including opening or increasing the credit limit for an open end credit plan) in which a security interest, including any such interest arising by operation of law, is or will be retained or acquired in any property which is used as the principal dwelling of the person to whom credit is extended, the obligor shall have the right to rescind the transaction until midnight of the third business day following the consummation of the transaction or the delivery of the information and rescission forms required under this section together with a statement containing the material disclosures required under this title, whichever is later, by notifying the creditor, in accordance with regulations of the Board, of his intention to do so. The creditor shall clearly and conspicuously disclose, in accordance with regulations of the Board, to any obligor in a transaction subject to this section the rights of the obligor under this section. The creditor shall also provide, in accordance with regulations of the Board, appropriate forms for the obligor to exercise his right to rescind any transaction subject to this section.".

(2) Section 103 of such Act, as amended by section 3(b), is amended by adding at the end thereof the following:

"(v) The term 'material disclosures' means the disclosure, as required by this title, of the annual percentage rate, the method of determining the finance charge and the balance upon which a finance charge will be imposed, the amount of the finance charge, the amount to be financed, the total of payments, the number and amount of payments, and the due dates or periods of payments scheduled to repay the indebtedness.".

(3) Subsection (b) of section 125 of the Truth in Lending Act is amended by striking out "ten" in the second and final sentences thereof, and inserting in lieu thereof "20".

(4) Subsection (b) of section 125 of the Truth in Lending Act is amended by adding at the end thereof the following new sentence: "The procedures prescribed by this subsection shall apply except when otherwise ordered by a court.".

(5) Subsection (c) of section 125 of the

Truth in Lending Act is amended by inserting "information, forms, and" after "whom".

(6) Section 125 of the Truth in Lending Act is amended by striking out subsections (e) and (f) and inserting in lieu thereof the following:

"(e) This section does not apply to (1) a residential mortgage transaction as defined in section 103(u); (2) a transaction which constitutes a refinancing or consolidation (with no new advances) of the principal balance then due and any accrued and unpaid finance charges of an existing extension of credit by the same creditor secured by an interest in the same property; (3) a transaction in which an agency of a State is the creditor; or (4) advances under a preexisting open end credit plan if a security interest has already been retained or acquired and such advances are in accordance with a previously established credit limit for that plan.

"(f) An obligor's right of rescission shall expire three years after the date of consummation of the transaction or upon the sale of the property, whichever occurs earlier, notwithstanding the fact that the information and forms required under this section or any other disclosures required under this chapter have not been delivered to the obligor, except that if (1) any agency empowered to enforce the provisions of this title institutes a proceeding to enforce the provisions of this section within three years after the date of consummation of the transaction, (2) such agency finds a violation of section 125, and (3) the obligor's right to rescind is based in whole or in part on any matter involved in such proceeding, then the obligor's right of rescission shall expire three years after the date of consummation of the transaction or upon the earlier sale of the property, or upon the expiration of one year following the conclusion of the proceeding, or any judicial review or period for judicial review thereof, whichever is later.

"(g) In any action in which it is determined that a creditor has violated this section, in addition to rescission the court may award relief under section 130 for violations of this title not relating to the right to rescind.".

(b) Section 103 of the Truth in Lending Act is amended—

(1) redesignating subsection (t) as subsection (w); and

(2) by inserting after subsection (s) the following:

"(t) The term 'dwelling' means a residential structure or mobile home which contains one to four family housing units, or individual units of condominiums or cooperatives.

"(u) The term 'residential mortgage transaction' is one in which a mortgage, deed of trust, purchase money security interest arising under an installment sales contract, or equivalent consensual security interest is created or retained against the consumer's dwelling to finance the acquisition or initial construction of that dwelling.".

OPEN END DISCLOSURES

SEC. 313. (a) Section 127(a) of the Truth in Lending Act is amended—

(1) by adding at the end of paragraph (1) thereof the following new sentence: "If no such time period is provided, the creditor shall disclose that fact.";

(2) by striking out paragraph (5), and redesignating paragraphs (6), (7), and (8) as paragraphs (5), (6), and (7), respectively; and

(3) by amending redesignated paragraphs (5) and (6) to read as follows:

"(5) Identification of other charges which may be imposed as part of the plan, and their method of computation, in accordance with regulations of the Board.

"(6) In cases where the credit is or will be secured, a statement that a security interest has been or will be taken in (A) the property purchased as part of the credit transaction, or (B) property not purchased as part of the credit transaction identified by item or type.".

(b) Section 127(b)(2) of such Act is amended to read as follows:

"(2) The amount and date of each extension of credit during the period, and a brief identification, on or accompanying the statement of each extension of credit in a form prescribed by the Board sufficient to enable the obligor either to identify the transaction or to relate it to copies of sales vouchers or similar instruments previously furnished, except that a creditor's failure to disclose such information in accordance with this paragraph shall not be deemed a failure to comply with this chapter or this title if (A) the creditor maintains procedures reasonably adapted to procure and provide such information, and (B) the creditor responds to and treats any inquiry for clarification or documentation as a billing error and an erroneously billed amount under section 161. In lieu of complying with the foregoing requirements, in the case of any transaction in which the creditor and seller are the same person, as defined by the Board, and that person's open end plan has fewer than 15,000 accounts, the creditor may elect to provide only the amount and date of each extension of credit during the period and the seller's name and location where the transaction took place if (A) a brief identification of the transaction has been previously furnished, and (B) the creditor responds to and treats any inquiry for clarification or documentation as a billing error and an erroneously billed amount under section 161.".

(c) Section 127(b) of the Truth in Lending Act is amended by striking out paragraph (7) and by redesignating paragraphs (8), (9), (10), and (11) as paragraphs (7), (8), (9), and (10), respectively.

(d) Redesignated paragraph (7) of section 127(a) of the Truth in Lending Act is amended by striking out "each of two billing cycles per year, at semiannual intervals" and inserting in lieu thereof "one billing cycle per calendar year, at intervals of not less than six months or more than eighteen months".

(e) Subsection (c) of section 127 of the Truth in Lending Act is repealed.

(f) Section 143 of the Truth in Lending Act is amended by striking out "or the appropriate rate determined under section 127(a)(5)".

(g) Section 161(a) of the Truth in Lending Act is amended by redesignating the references to sections 127(b)(11) and 127(a)(8) as references to sections 127(b)(10) and 127(a)(7), respectively.

OTHER THAN OPEN END DISCLOSURES

SEC. 314. (a) Subsection (a) of section 128 of the Truth in Lending Act is amended to read as follows:

"(a) For each consumer credit transaction other than under an open end consumer credit plan, the creditor shall disclose each of the following items, to the extent applicable:

"(1) The identity of the creditor required to make disclosure.

"(2) The 'amount financed', using that term, which shall be the amount of credit which the consumer has actual use. This amount shall be computed as follows, but the computations need not be disclosed and shall not be disclosed with the disclosures conspicuously segregated in accordance with subsection (b)(1):

"(A) take the principal amount of the loan or the cash price less downpayment and trade-in;

"(B) add any charges which are not part of the finance charge or of the principal amount of the loan and which are financed by the consumer, including the cost of any items excluded from the finance charge pursuant to section 106;

"(C) subtract any charges which are part of the finance charge but which will be paid by the consumer at the time of the consummation of the transaction, or have been withheld from the proceeds of the credit; and

"(D) subtract any required deposit balance, in accordance with regulations of the Board.

"(3) The 'finance charge', not itemized, using that term.

"(4) The finance charge expressed as an 'annual percentage rate', using that term. This shall not be required if the amount financed does not exceed $75 and the finance charge does not exceed $5, or if the amount financed exceeds $75 and the finance charge does not exceed $7.50.

"(5) The sum of the amount financed, any required deposit balance, and the finance charge, which shall be termed the 'total of payments'.

"(6) The number, amount, and due dates or period of payments scheduled to repay the total of payments.

"(7) In a sale of property or services in which the seller is the creditor required to disclose pursuant to section 121(b), the 'total sale price', using that term, which shall be the total of the cash price of the property or services, additional charges, and the finance charge.

"(8) Descriptive explanations of the terms 'amount financed', 'finance charge', 'annual percentage rate', 'total of payments', and 'total sale price' as specified by the Board. The descriptive explanation of 'total sale price' shall include reference to the amount of the downpayment.

"(9) Where the credit is secured, a statement that a security interest has been taken in (A) the property which is purchased as part of the credit transaction, or (B) property not purchased as part of the credit transaction identified by item or type.

"(10) Any dollar charge or percentage amount which may be imposed by a creditor solely on account of a late payment, other than a deferral or extension charge.

"(11) A statement indicating whether or not the consumer is entitled to a rebate or credit, or is subject to a penalty, if the obligation is refinanced or prepaid in full pursuant to acceleration or otherwise.

"(12) A statement that the consumer should refer to the appropriate contract document for any information it provides about nonpayment default, the right to accelerate the maturity of the debt, and prepayment rebates and penalties.

"(13) In any residential mortgage transaction, a statement whether a subsequent purchaser or assignee of the consumer may assume the debt obligation on its original terms and conditions.".

(b) Section 128(b) of such Act is amended to read as follows:

"(b)(1) Except as otherwise provided in this chapter, the disclosures required under subsection (a) shall be made before the credit is extended. Except for the disclosures required by subsection (a)(1) of this section, all disclosures required under subsection (a) and any disclosure provided for in subsection (b), (c), or (d) of section 106 shall be conspicuously segregated from all other terms, data, or information provided in connection with a transaction, including any computations or itemization.

"(2) In the case of a residential mortgage transaction, as defined in section 103(u), which is also subject to the Real Estate Settlement Procedures Act, good faith estimates of the disclosures required under subsection (a) shall be made in accordance with regulations of the Board under section 121(c) before the credit is extended, or shall be delivered or placed in the mail not later than three business days after the creditor receives the consumer's written application, whichever is earlier. If the disclosure statement furnished within three days of the written application contains an annual percentage rate which is subsequently rendered inaccurate within the meaning of section 107(c), the creditor shall furnish another statement at the time of settlement or consummation.".

(c) Section 128(c) of the Truth in Lending Act is amended—

(1) by inserting "(1)" after "(c)";

(2) by striking out "deferred payment price" and inserting in lieu thereof "total sale price"; and

(3) by adding at the end thereof the following new paragraph:

"(2) If a creditor receives a request for a loan by mail or telephone without personal solicitation and the terms of financing, including the annual percentage rate for representative amounts of credit, are set forth in the creditor's printed material distributed to the public, or in the contract of loan or other printed material delivered to the obligor, then the disclosures required under subsection (a) may be made at any time not later than the date the first payment is due.".

(d) (1) Section 129 of the Truth in Lending Act is repealed.

(2) The table of sections of chapter 2 of the Truth in Lending Act is amended by striking out item 129 and inserting in lieu thereof:

"129. [Repealed].".

(e) (1) Section 126 of the Truth in Lending Act is repealed.

(2) The table of sections of chapter 2 of the Truth in Lending Act is amended by striking out item 126 and inserting in lieu thereof :

"126. [Repealed].".

(f) (1) The table of sections of chapter 2 of the Truth in Lending Act is amended by striking out item 128 and inserting in lieu thereof:

"128. Consumer credit not under open end credit plans.".

(2) The caption of section 128 of such Act is amended by striking out "Sales" and inserting in lieu thereof "Consumer credit".

CIVIL LIABILITY

SEC. 315. (a) Section 130 of the Truth in Lending Act is amended—

(1) by striking out "in such action" in subsection (a)(2)(B) and inserting in lieu thereof "under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same creditor";

(2) in subsection (a)(3), by inserting "or in any action in which a person is determined to have a right of rescission under section 125" after "liability";

(3) by amending subsections (b), (c), and (d) to read as follows:

"(b) A creditor or assignee has no liability under this section or section 108 or section 112 for any failure to comply with any requirement imposed under this chapter or chapter 5, if within sixty days after discovering an error, whether pursuant to a final written examination report or notice issued under section 108(c)(1) or through the creditor's or assignee's own procedures, and prior to the institution of an action under this section or the receipt of written notice of the error from the obligor, the creditor or assignee notifies the person concerned of the error and makes whatever adjustments in the appropriate account are necessary to assure that the person will not be required to pay an amount in excess of the charge actually disclosed, or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower.

"(c) A creditor or assignee may not be held liable in any action brought under this section or section 125 for a violation of this title if the creditor or assignee shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error. Examples of bona fide error include, but are not limited to, clerical, calculation, computer malfunction and programing, and printing errors, but an error of legal judgment with respect to a person's obligations under this title is not a bona fide error.

"(d) When there are multiple obligors in a consumer credit transaction or consumer lease, there shall be no more than one recovery of damages under subsection (a)(2) for a violation of this title.";

(4) by adding at the end of subsection (e) the following new sentence: "This subsection does not bar a person from asserting a violation of this title in an action to collect the debt which was brought more than one year from the date of the occurrence of the violation as a matter of defense by recoupment or set-off in such action, except as otherwise provided by State law.";

(5) by inserting ", section 108(b), section 108(c), section 108(e)," after "this section" in subsection (f);

(6) by adding the following new sentence at the end of subsection (g): "This subsection does not bar any remedy permitted by section 125."; and

(7) by amending subsection (h) to read as follows:

"(h) A person may not take any action to offset any amount for which a creditor or assignee is potentially liable to such person under subsection (a)(2) against any amount owing by such person, unless the amount of the creditor's or assignee's liability under this title has been determined by judgment of a court of competent jurisdiction in an action of which such person was a party. This subsection does not bar a consumer then in default on the obligation from asserting a violation of this title as an original action, or as a defense or counterclaim to an action to collect amounts owed by the consumer brought by a person liable under this title.".

(b) Section 130(a) of the Truth in Lending Act is amended—

(1) by inserting ", including any requirement under section 125," immediately after "this chapter"; and

(2) by adding at the end thereof the following: "In connection with the disclosures referred to in section 127, a creditor shall have a liability determined under paragraph (2) only for failing to comply with the requirements of section 125 or of section 127(a) or of paragraph (4), (5), (6), (7), (8), (9), or (10) of section 127(b) or for failing to comply with disclosure requirements under State law for any term which the Board has determined to be substantially the same in meaning under section 111(a)(2) as any of the terms referred to in section 127(a) or any of those paragraphs of section 127(b). In connection with the disclosures referred to in section 128, a creditor shall have a liability determined under paragraph (2) only for failing to comply with the requirements of section 125 or of paragraph (2), (3), (4), (5), (6), or (9) of section 128(a), or for failing to comply with disclosure requirements under State law for any term which the Board has determined to be substantially the same in meaning under section 111(a)(2) as any of the terms referred to in any of those paragraphs of section 128(a). With respect to any failure to make disclosures required under this chapter or chapter 4 or 5 of this title, liability shall be imposed only upon the creditor required to make disclosure, except as provided in section 131.".

LIABILITY OF ASSIGNEES

SEC. 316. (a) Section 131 of the Truth in Lending Act is amended to read as follows:

"§ 131. Liability of assignees

"(a) Except as otherwise specifically provided in this title, any civil action for a violation of this title or proceeding under section 108 which may be brought against a creditor may be maintained against any assignee of that creditor only if the violation for which such action or proceeding is brought is apparent on the face of the disclosure statement, except where the assignment was involuntary. For the purpose of this section, violations apparent on the face of the disclosure statement include, but are not limited to (1) disclosures which can be determined to be incomplete or inaccurate from the face of the disclosure statement or other documents assigned, or (2) disclosures not made in the terminology required by this title.

"(b) Except as provided in section 125(c), in any action or proceeding by or against any subsequent assignee of the original creditor without knowledge to the contrary by the assignee when he acquires the obligation, written acknowledgement of receipt by a person to whom a statement is required to be given pursuant to this title shall be conclusive proof of the delivery thereof and, except as provided in subsection (a), of compliance with this chapter. This section does not affect the rights of the obligor in any action against the original creditor.

"(c) Any consumer who has the right to rescind a transaction under section 125 may rescind the transaction as against any assignee of the obligation, regardless of whether such assignee is a creditor under this title.".

(b) Section 115 of the Truth in Lending Act is repealed.

(c)(1) The table of sections of chapter 1 of the Truth in Lending Act is amended by striking out item 115 and inserting in lieu thereof:

"115. [Repealed].".

(2) The table of sections of chapter 2 of the Truth in Lending Act is amended by striking out item 131 and inserting in lieu thereof:

"131. Liability of assignees.".

LIABILITY OF CREDIT CARDHOLDER

SEC. 317. Section 133(a) of the Truth in Lending Act is amended to read as follows:

"(a) A cardholder shall be liable for the unauthorized use of a credit card only if the card is an accepted credit card, the liability is not in excess of $50, the card issuer gives adequate notice to the cardholder of the potential liability, the card issuer has provided the cardholder with a description of a means by which the card issuer may be notified of loss or theft of the card, which description may be provided on the face or reverse side of the statement required by section 127(b) or on a separate notice accompanying such statement, the unauthorized use occurs before the card issuer has been notified that an unauthorized use of the credit card has occurred or may occur as the result of loss, theft, or otherwise, and the card issuer has provided a method whereby the user of such card can be identified as the person authorized to use it. For the purpose of this section, a card issuer has been notified when such steps as may be reasonably required in the ordinary course of business to provide the card issuer with the pertinent information have been taken, whether or not any particular officer, employee, or agent of the card issuer does in fact receive such information.".

DISSEMINATION OF ANNUAL PERCENTAGE RATES

SEC. 318. (a) Chapter 2 of the Truth in Lending Act is amended by adding at the end thereof the following new section:

"§ 136. Dissemination of annual percentage rates

"(a) The Board shall collect, publish, and disseminate to the public, on a demonstration basis in a number of standard metropolitan statistical areas to be determined by the Board, the annual percentage rates charged for representative types of nonsale credit by creditors in such areas. For the purpose of this section, the Board is authorized to require creditors in such areas to furnish information necessary for the Board to collect, publish, and disseminate such information.

"(b) The Board is authorized to enter into contracts or other arrangements with appropriate persons, organizations, or State agencies to carry out its functions under subsection (a) and to furnish financial assistance in support thereof.".

(b) The analysis of such chapter is amended by adding at the end thereof the following new item:

"136. Dissemination of annual percentage rates.".

CREDIT ADVERTISING

SEC. 319. (a) Section 143 of the Truth in Lending Act is amended to read as follows:

"§ 143. Advertising of open end credit plans

"No advertisement to aid, promote, or assist directly or indirectly the extension of consumer credit under an open end credit plan may set forth any of the specific terms of that plan unless it also clearly and conspicuously sets forth all of the following items:

"(1) Any minimum or fixed amount which could be imposed.

"(2) Where periodic rates may be used to compute the finance charge, the periodic rates expressed as annual percentage rates.

"(3) Any other term that the Board may by regulation require to be disclosed.".

(b) Section 144 of the Truth in Lending Act is amended by striking out paragraphs (1) through (4) of subsection (d) thereof, and inserting in lieu thereof the following:

"(1) The downpayment, if any.

"(2) The terms of repayment.

"(3) The rate of the finance charge expressed as an annual percentage rate.".

CORRECTION OF BILLING ERRORS

SEC. 320. (a) Section 161(b) of the Truth in Lending Act is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by inserting after paragraph (5) the following:

"(6) Failure to transmit the statement required under section 127(b) of this Act to the last address of the obligor which has been disclosed to the creditor, unless that address was furnished less than twenty days before the end of the billing cycle for which the statement is required.".

(b) Section 161(c) of such Act is amended by inserting after "account" the first time it is used a comma and the following: "which may include finance charges on amounts in dispute,".

CREDIT BALANCES

SEC. 321. (a) Section 165 of the Truth in Lending Act is amended to read as follows:

"§ 165. Treatment of credit balances

"Whenever a credit balance in excess of $1 is created in connection with a consumer credit transatcion through (1) transmittal of funds to a creditor in excess of the total balance due to an account; (2) rebates of unearned finance charges or insurance premiums; or (3) amounts otherwise owed to or held for the benefit of an obligor, the credit shall:

"(A) credit the amount of the credit balance to the consumer's account;

"(B) refund any part of the amount of the remaining credit balance, upon request of the consumer; and

"(C) make a good faith effort to refund to the consumer by cash, check, or money order any part of the amount of the credit balance remaining in the account for more than six months, but no further action is required in any case where the consumer's current location is not known by the creditor and cannot be traced through the consumer's last known address or telephone number.".

(b) The table of sections of chapter 4 of the Truth in Lending Act is amended by striking out item 165 and inserting in lieu thereof:

"165. Treatment of credit balances.".

GOVERNMENT EXEMPTION

SEC. 322. (a) Section 113 of the Truth in Lending Act is amended to read as follows:

"§ 113. Effect on governmental agencies

"(a) Any department or agency of the United States which administers a credit program in which it extends, insures, or guarantees consumer credit and in which it provides instruments to a creditor which contain any disclosures required by this title shall, prior to the issuance or continued use of such instruments, consult with the Board to assure that such instruments comply with this title.

"(b) No civil or criminal penalty provided under this title for any violation thereof may be imposed upon the United States or any agency thereof, or upon any State or political subdivision thereof, or any agency of any State or political subdivision.

"(c) A creditor participating in a credit program administered, insured, or guaranteed by any department or agency of the United States shall not be held liable for a civil or criminal penalty under this title where the violation results from the use of an instrument required by any such department or agency.

"(d) A creditor participating in a credit program administered, insured, or guaranteed by any department or agency of the United States shall not be held liable for a civil or criminal penalty under the laws of any State (other than laws determined under section 111 to be inconsistent with this title) for any technical or procedural failure, such as a failure to use a specific form, to make information available at a specific place on an instrument, or to use a specific typeface, as required by State law, which is caused by the use of an instrument required to be used by such department or agency.".

(b) The table of sections of chapter 1 of the Truth in Lending Act is amended by striking out item 113 and inserting in lieu thereof:

"113. Effect on governmental agencies.".

ORAL DISCLOSURES

SEC. 324. (a) Section 146 of the Truth in Lending Act is amended to read as follows:

"§ 146. Use of annual percentage rate in oral disclosures

"In responding orally to any inquiry about the cost of credit, a creditor, regardless of the method used to compute finance charges, shall state rates only in terms of the annual percentage rate, except that in the case of an open end credit plan, the periodic rate also may be stated and, in the case of an other than open end credit plan where a major component of the finance charge consists of interest computed at a simple annual rate, the simple annual rate also may be stated. The Board may, by regulation, modify the requirements of this section or provide an exception from this section for a transaction or class of transactions for which the creditor cannot determine in advance the applicable annual percentage rate.".

(b) The table of sections of chapter 3 of the Truth in Lending Act is amended by striking out item 146 and inserting in lieu thereof:

"146. Use of annual percentage rate in oral disclosures.".

EFFECTIVE DATE

SEC. 324. The amendments made by this title shall take effect upon the expiration of two years after the date of enactment of this Act. All regulations, forms, and clauses required to be prescribed under the amendments made by this title shall be promulgated at least one year prior to such effective date. Notwithstanding the foregoing, any creditor may comply with the amendments made by this title, in accordance with the regulations, forms, and clauses prescribed by the Board, prior to such effective date.

TITLE IV—INTEREST RATE AMENDMENTS REGARDING STATE USURY CEILINGS ON CERTAIN LOANS

SEC. 402(a). Section 5197 of the Revised Statutes, as amended (12 U.S.C. 85), is amended by inserting in the first and second sentences before the phrase "whichever may be the greater", the following: "or in the case of business or agricultural loans in the amount of $25,000 or more, at a rate of 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located.".

SEC. 402(b). The Federal Deposit Insurance Act (12 U.S.C. 1811–1831) is amended by inserting after section 23 the following new section:

"SEC. 24. (a) In order to prevent discrimination against State-chartered insured banks with respect to interest rates, if the applicable rate prescribed in this subsection exceeds the rate such State bank would be permitted to charge in the absence of this subsection, a State bank may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run.

"(b) If the rate prescribed in subsection (a) exceeds the rate such State bank would be permitted to charge in the absence of this paragraph, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than is allowed by subsection (a) when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from the State bank taking or receiving such interest.".

SEC. 402(c). Title IV of the National Housing Act (12 U.S.C. 1724–1730f) is amended by inserting after section 411 the following new section:

(a) If the applicable rate prescribed in this section exceeds the rate an insured institution would be permitted to charge in the absence of this section, such institution may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the institution is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run.

"(b) If the rate prescribed in subsection (a) exceeds the rate such institution would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than that prescribed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from the institution taking or receiving to read as follows:

SEC. 402(d). Subsection (h) of section 308 of the Small Business Investment Act of 1958 is amended to read as follows:

"(h) (1) The purpose of this subsection is to facilitate the orderly and necessary flow of long-term loans and equity funds to small business investment companies to small business concerns.

"(2) In the case of a business loan the principal amount of which is $25,000 or more, the small business investment company making such loan may charge interest on such loan at a rate which does not exceed the lowest of the rates described in subparagraph (A), (B), and (C).

"(A) The rate described in this subparagraph is the maximum rate prescribed by regulation by the Small Business Administration for loans made by any small business investment company (determined without regard to any State rate incorporated by such regulation).

"(B) The rate described in this subparagraph is the maximum rate authorized by an applicable State law which is not preempted for purposes of this subsection.

"(C) (i) The rate described in this subparagraph is the Federal Reserve rate or the maximum rate authorized by applicable State law (determined without regard to the preemption of such State law).

"(ii) For purposes of clause (i), the term 'Federal Reserve rate' means the rate equal to the sum of 5 percentage points plus the discount rate on 90-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district in which the principle office of the small business investment company is located.

"(iii) The rate described in this subparagraph shall not apply to loans made in a State if there is no maximum rate authorized by applicable State law for such loans or there is a maximum rate authorized by an applicable State law which is not preempted for purposes of this subsection.

"(3) A State law shall be preempted for purposes of paragraph (2)(B) with respect to any loan if such loan is made before the earliest of—

"(A) July 1, 1981;

"(B) the date, after the date of the enactment of this paragraph on which such State adopts a law stating in substance that such State does not want this subsection to apply with respect to loans made in such States; or

"(C) the date on which such State certifies that the voters of such State, after the date of the enactment of this paragraph, have voted in favor of, or to retain, any law, provision of the constitution of such State, or amendment to the constitution of such State which prohibits the charging of interest at the rates provided in this subsection.

"(4) (A) If the maximum rate of interest authorized under paragraph (2) on any loan made by a small business investment company exceeds the rate which would be authorized by applicable State law if such State law were not preempted for purposes of this subsection, the charging of interest at any rate in excess of the rate authorized by paragraph (2) shall be deemed a forfeiture of the greater of (i) all interest which the loan carries with it, or (ii) all interest which has been agreed to be paid thereon.

"(B) In the case of any loan with respect to which there is a forfeiture of interest under subparagraph (A), the person who paid the interest may recover from a small business investment company making such loan an amount equal to twice the amount of the interest paid on such loan. Such interest may be recovered in a civil action commenced in a court of appropriate jurisdiction not later than 2 years after the most recent payment of interest."

SEC. 402(e). In order to prevent discrimination against any financial institution chartered pursuant to the statutes of the United States with respect to interest rates if the applicable rate prescribed in this section exceeds the rate such federally chartered financial institution would be permitted to charge in the absence of this section, the federally chartered financial institution may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the federally chartered financial institution is located.

(b) If the rate prescribed in subsection (a) exceeds the rate such federally chartered financial institution would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a) the taking, receiving, reserving, or charging a greater rate than is allowed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the loan carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of interest paid from the federally chartered financial institution taking or receiving such interest.

SEC. 402(f). If any provision of this title or the application of such provision to any person or circumstance shall be held invalid, the remainder of the title and the application of such provision to any person or circumstance other than that as to which it is held invalid shall not be affected thereby.

SEC. 402(g). The amendments made by this title and the provisions of this title shall apply only with respect to loans made in any State during the period beginning on the date of enactment of this Act and ending on the earlier of—

(1) July 1, 1981;

(2) the date, after the date of the enactment of this Act, on which such State adopts a law stating in substance that such State does not want the amendments made by this title and the provisions of this title to apply with respect to loans made in such State; or

(3) the date on which such State certifies that voters of such State, after the date of the enactment this Act, have voted in favor of, or to retain any law, provision of the constitution of such State, or amendment to the constitution of such State which prohibits the charging of interest at the rates provided in the amendments made by this title and the provisions of the title.

SEC. 402(a). Section 19 of the Federal Reserve Act (12 U.S.C. 461 et seq.) is amended by inserting after subsection (j) the following new subsection:

"(k) No member bank or affiliate thereof, or any successor or assignee of such member bank or affiliate or any endorser, guarantor, or surety of such member bank or affiliate may plead, raise, or claim directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such member bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regarding or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such member bank or affiliate or to any other person.".

SEC. 402 (b). Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by inserting after subsection (j) the following new subsection:

"(k) No insured nonmember bank or affiliate thereof, or any successor or assignee of such bank or affiliate or any endorser, guarantor, or surety of such bank or affiliate may plead, raise, or claim, directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such bank or affiliate or to any other person.".

SEC. 402(c). Section 5B of the Federal Home Loan Bank Act (12 U.S.C. 1425b) is amended by inserting after subsection (d) the following new subsection.

"(e) No member or nonmember association, institution, or bank or affiliate thereof, or any successor or assignee, or any endorser, guarantor, or surety thereof may plead, raise, or claim, directly or by counterclaim, setoff or otherwise, with respect to any deposit or obligation of such member or nonmember association, institution, bank, or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such member or nonmember association, institution, bank, or affiliate or to any other person.".

SEC. 402 (d). The amendments made by this title shall apply only with respect to deposits made or obligations issued in any

State during the period beginning on the date of the enactment of this Act and ending on the earlier of—

(1) July 1, 1981;

(2) the date, after the date of the enactment of this Act, on which such State adopts a law stating in substance that such State does not want the amendments made by this title to apply with respect to such deposits and obligations; or

(3) the date on which such State certifies that the voters of such State, after the date of the enactment of this Act, have voted in favor of, or to retain any law, provision of the constitution of such State, or amendment to the constitution of State which limits the amount of interest which may be charged in connection with such deposits and obligations.

SEC. 403 (a). Title II and III of the Act entitled "An Act to authorize the regulation of interest rates payable on obligations issued by affiliates of certain depository institutions, and for other purposes", approved October 29, 1974 (Public Law 93–501; 88 Stat. 1557), are hereby repealed, except that—

(1) the amendments made by title II of such Act and the provisions of such title shall apply to any loan made in any State during the period specified in section 206 of such Act; and

(2) the amendments made by title III of such Act shall apply to any deposit made or obligation issued in any State during the period specified in Section 304 of such Act.

SEC. 404. Section 5197 of the Revised Statutes, as amended (12 U.S.C. 85), is amended by inserting in the first and second sentences before the phrase "whichever may be the greater", the following: "or in the case of business or agricultural loans in the amount of $25,000 or more, at a rate of 5 per centum in execess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located,".

SEC. 405. The Federal Deposit Insurance Act (12 U.S.C. 1811–1831) is amended by adding at the end thereof the following:

"SEC. 26. (a) In order to prevent discrimination against State-chartered insured banks with respect to interest rates, if the applicable rate prescribed in this subsection exceeds the rate such State bank would be permitted to charge in the absence of this subsection, a State bank may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run.

"(b) If the rate prescribed in subsection (a) exceeds the rate such State bank would be permitted to charge in the absence of this paragraph, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than is allowed by subsection (a) when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from the State bank taking or receiving such interest.".

SEC. 406. Title IV of the National Housing Act (12 U.S.C. 1724–1730(f)) is amended by adding at the end thereof the following:

"SEC. 414. (a) If the applicable rate prescribed in this section exceeds the rate an insured institution would be permitted to charge in the absence of this section, such institution may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the institution is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run.

"(b) If the rate prescribed in subsection (a) exceeds the rate such institution would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than that prescribed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from the institution taking or receiving such interest.".

SEC. 407. Section 308 of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661), is amended by adding at the end thereof the following:

"(i)(1) In order to facilitate the orderly and necessary flow of long-term loans and equity funds to small business concerns, as defined in the Small Business Act, if the maximum interest rate permitted by the Small Business Administration exceeds the rate a small business investment company would be permitted to charge in the absence of this subsection, such small business investment company may in the case of business loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any such loan, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the small business investment company is located.

"(2) If the rate prescribed in paragraph (1) exceeds the rate such small business investment company would be permitted to charge in the absence of this subsection, and such State fixed rate is thereby preempted by the rate described in paragraph (1), the taking, receiving, reserving, or charging a greater rate than is allowed by paragraph (1), when knowingly done, shall be deemed a forfeiture of the entire interest which the loan carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of interest paid from the small business investment company taking or receiving such interest.".

SEC. 408. (a) In order to prevent discrimination against any financial institution chartered pursuant to the statutes of the United States with respect to interest rates, if the applicable rate prescribed in this section exceeds the rate such federally chartered financial institution would be permitted to charge in the absence of this section, the federally chartered financial institution may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the federally chartered financial institution is located.

(b) If the rate prescribed in subsection (a) exceeds the rate such federally chartered financial institution would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate than is allowed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the loan carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of interest paid from the federally chartered financial institution taking or receiving such interest.

SEC. 409. If any provision of this title or the application of such provision to any person or circumstance shall be held invalid, the remainder of the title and the application of such provision to any person or circumstance other than that as to which it is held invalid shall not be affected thereby.

SEC. 410. The amendments made by this title shall apply to any loan made in any State after the date of enactment of this title, but prior to January 1, 1981.

Mr. MORGAN. Mr. President, this amendment might be labeled the "Emergency Financial Institutions Act of 1979." It would eliminate the problems of millions of our citizens who have special accounts in credit unions, banks, and savings and loan associations that were outlawed by the Federal court decision on April 20 of this year.

This amendment will also take care of the emergency problems that many financial institutions have with State usury laws, as modified by the Cochran amendment that was adopted by this body by a vote of 73 to 13 on Monday, October 29.

This amendment would also take care of the truth-in-lending problems that were worked out between Senator GARN and Senator PROXMIRE.

Finally, this amendment would include the insurance of accounts increase from $40,000 to $50,000, which is currently in the bill. This provision would help to raise an additional $10 to $12 billion for home financing.

These four amendments take care of the genuine emergency problems that currently exist among the customers of financial institutions. It is simple, straightforward, timesaving and costsaving amendment that will allow a quick solution to our present problems.

Leaders in the House of Representatives have already stated several times that they do not have time to properly process all the provisions of H.R. 4986, now before the Senate.

As a matter of fact, the House Banking Committee voted overwhelmingly to send back a skeleton bill to the Senate if we pass H.R. 4986 in its present form.

This amendment will save dollars and time and will take care of almost all the badly needed financial legislation for 1979. We can then carefully address ourselves next year to the other provisions in this bill which need additional study and consideration, including a host of amendments which will be offered to this bill if we continue.

Mr. President, I urge a vote in favor of this amendment.

Mr. PROXMIRE. Mr. President, I strongly oppose the pending amendment. Senator MORGAN's amendment strikes most of the bill reported by the committee and substitutes a provision that would merely authorize the continuation of share draft accounts in credit unions, automatic transfer accounts in commercial banks, and remote service units in savings and loan associations, and preserves the status quo with all of its unfairness and inefficiency. It does leave in place the Federal override of State mortgage usury laws which passed the Senate overwhelmingly with the support of the managers of the bill on Monday, and it leaves in place the truth-in-lending simplification provision that has passed the Senate before.

Mr. President, this amendment would scuttle a 6-year effort by both Houses of Congress and three administrations to restructure our financial system so as to achieve greater equality between competing institutions and preserve the viability of thrift institutions. If we do not act now, these thrift institutions are going to be in much more severe trouble as the months go on.

This bill, if it were not amended by the Morgan amendment, would stabilize the flow of mortgage credit and provide depositors with an equitable return on their savings.

A similar financial reform bill was passed by the Senate in 1975 by a vote of 79 to 14. We voted on most of these provisions before. It did not clear the House and that is why we have to act on it again. But it passed overwhelmingly, by about a 5-to-1 vote.

If the Morgan substitute amendment passes, here are some of the vital provisions that will be dropped from the bill:

One, we would no longer have new lending powers for Federal savings and loan associations, including the power to make consumer loans and broaden mortgage lending authority on a par with national banks. These powers are essential for preserving the future viability of savings and loan associations.

On Monday I read to the Senate in response to Senator MORGAN a letter from the Chairman of the Home Loan Bank Board speaking for the entire Board, in which he said that this legislation was imperative and urgent if savings and loan associations are going to be able to continue. Nobody speaks with more authority or knowledge than the Chairman of the Home Loan Bank Board. That is his job. He is our expert on it.

Also, this bill would knock out the nationwide NOW accounts for households and nonprofit organizations. That is a bill that passed the House 10 to 1. It is a bill which would put into national effect a provision that has been in effect for New England now for a number of years, to the satisfaction of virtually everybody up there. The consumers, of course, like it, and the bankers have found it is something they can support. Most of the really strong opposition in the Senate and House has come from New England, where they have had experience with it. We know for years on the Banking Committee that the New England Senators on the Banking Committee, who fought so hard for NOW accounts, Senator McIntyre, Senator Brooke, and now Senator TSONGAS and others, have been the leading advocates. They know it from practical experience. They have lived with it. They feel it is something that is appropriate and necessary.

Also, these NOW accounts will allow banks and savings and loans to compete equally with credit unions offering share drafts. I might say these provisions in the bill which would be knocked out by the Morgan amendment are strongly supported by credit unions. The credit unions feel they need it, too, for those institutions to be able to grow and develop and provide the kind of service they provide.

The Morgan amendment would knock out a gradual lifting of interest rate ceilings on savings deposits so as to provide savers with an equitable return on their savings. The gradual lifting of these ceilings will also permit financial institutions to compete with unregulated intermediaries, including the money market and mutual funds.

Mr. President, the issues contained in H.R. 4986 will not disappear if the Morgan amendment succeeds. There is always enormous pressure not to change, to keep everything the way it is. Obviously, the facts have changed, the economy has changed, the level of interest rates unfortunately has changed dramatically. The competition for these funds is growing very rapidly. We have to recognize that. If we stand still, it is going to mean very, very serious problems for thrift institutions, for borrowers, and for the housing industry.

The market will not let these issues go away. Everyday money flows out of thrift institutions, out of housing, and into money market funds. We demonstrated the other day that it is flowing out at the rate of about $1 billion a month. The Senate has the responsibility to act now to protect the long-term viability of thrift institutions and their commitment to housing. As I say, both Houses of Congress and three administrations have extensively studied these issues for the last 6 years. Higher interest rates and the resulting flow of funds away from depository institutions have accentuated the need for financial reform. The need for timely action has never been greater. I therefore urge the Senate to vote against the Morgan amendment.

I would like to say one more thing. The Morgan amendment does nothing for the small saver whatsoever. H.R. 4986 is a package designed to give the small saver a fair return on savings and give the thrifts added earnings. That is so important, in the first place as a mater of sheer, simple, economic justice. If you have $10,000 you can get a 13- or 14-percent return. If you have $5,000 or $1,000 you are a small saver and no way, you just cannot get it. You have to settle for 5 percent.

So from that standpoint it is essential.

Mr. President, there is nobody in public office today who does not recognize that the No. 1 problem of this country is inflation. The way to meet inflation is to encourage people to save money, to give them a reward. Let us use these interest rates. Nobody likes high-interest rates but if you have them, let us make sure that people get a reward for saving their money, so they do the anti-inflationary job they are supposed to do. They are ineffective if people only get 5 percent on their money when inflation is 15 percent.

Senator MORGAN's amendment is one sided. It overrides mortgage ceilings, giving higher rates, but does nothing for the saver. The lack of balance is fatal and I oppose the amendment for that reason.

The Federal Home Loan Bank Board has authorized variable rate mortgages for thrifts. H.R. 4986 sanctions those variable rate mortgages but requires the saver to be paid a fair rate of return.

The Morgan amendment would give an unconscionable windfall to thrifts so I hope the Senate would reject it.

I might mention the list of supporters: The President of the United States, The President's task force on regulation Q, the Federal Reserve Board, the Federal Deposit Insurance Corporation, the Comptroller, the agency that is more responsible for our thrifts than any other, the Home Loan Bank Board, the American Bankers Association, the Credit Union Trade Association, the credit unions, the National Savings & Loan League, a whole series of groups of savings people including the Grey Panthers, the Association of Retired Persons, and the National Credit Union Administration.

Mr. FORD. Will the Senator yield for one question? Are all of these associations just named in support of the committee's legislation?

Mr. PROXMIRE. That is correct.

Mr. FORD. They are all in favor of it?

Mr. PROXMIRE. That is correct.

Mr. RIEGLE. Is the Senator sure of that?

Mr. PROXMIRE. Will the Senator point out one I have listed that is not?

Mr. RIEGLE. I want to take a look at the list. I just wondered if the list did contain only people who were endorsing this.

Mr. PROXMIRE. Well, that is right. We have telegrams, letters, statements from them. I have just received it from the staff, who have gone over this material very carefully.

Mr. MORGAN. Will the Senator yield for a moment on that point?

Mr. PROXMIRE. I yield.

Mr. MORGAN. I spoke earlier with regard to this and put in the RECORD th letter from the Home Builders and also the National Association of Realtors. Yesterday, the Senator from Wisconsin read a letter from Mr. Janis. It is really interesting. I want to quote from yesterday's Washington Star, October 30, 1979. Mr. Janis, who is Chairman of the Home Loan Bank Board, whose letter the Senator read yesterday, had this to say:

> Among the other key points made at yesterday's opening session:
>
> Janis said the proposed reduction of the minimum deposit on six-month money-market certificates from $10,000 to $1,000 is "disastrous, stupid and silly and what's more, I think the people who proposed it know it."

Mr. PROXMIRE. As the Senator will recall, in our colloquy on Monday, we made it very clear that Janis opposed that particular portion of the legislation, but supported everything else in it.

Mr. FORD. Will the Senator yield for a question?

Mr. PROXMIRE. Yes.

Mr. FORD. I think the Senator has been relating to the Bank Board today as endorsing the whole package. I am not sure who of those he represents out there is going to endorse the whole package.

Mr. PROXMIRE. Let me read what Janis said:

> Let me state clearly and unequivocally that the Bank Board, charged by Congress with responsibility for the safety and soundness of thrift institutions, strongly supports passage of this legislation.

Mr. FORD. Then he is quoted as saying there are parts of it he is against.

Mr. PROXMIRE. Then I read to the Senate the other day—

> It is true that there are parts of this bill, such as lowering the cost of the money market certificate (MMC) to $1,000, that we do not support because we do not believe this to be possible nor desirable at this time.

That is the position I told the Senate about. But in general, the other parts of the legislation, he supports.

Mr. TOWER. Mr. President, I can add little to what the distinguished Senator from Wisconsin has said in opposition to the amendement in the nature of a substitute, which in fact only authorizes share drafts, automatic transfers, and remote service units and, therefore, deals only with the three financial services that were struck down by the U.S. court of appeals last April. What is proposed by the Senator from North Carolina is, I think, just a piecemeal and inadequate answer to the very complex and significant developments that are occurring in our Nation's depository system. Therefore, I join with the Senator from Wisconsin, the chairman of the committee, in urging that the Senate reject the amendment of the Senator from North Carolina.

Mr. FORD. Mr. President, I rise in support of the substitute amendment presented by the distinguished Senator from North Carolina. I think we have to listen to those people whom we represent and their attitude as it relates to this piece of legislation. I believe I am relating what the Senator from North Carolina said about the piece of legislation that he is attempting to amend by presenting a substitute amendment. He said that there is just a little bit of sweep through the whole piece of legislation that people are saying, if we do not take this, we do not get anything.

I have heard about NOW accounts and how important it is. If I read right or my information is correct, the New England banks, those institutions in New England who now are authorized NOW accounts, said if they do not keep regulation Q, they do not want the NOW accounts.

I think the Senator from North Carolina needs to be complimented, because the further we go along in the debate on this legislation, more bubbles are coming to the surface to indicate what is wrong with this piece of legislation. We hear the endorsement of the Federal Home Loan Bank Board that it is all right, but—they do not approve of this, they think this would be disastrous to the institutions. It is awfully hard for me to take an endorsement when, at the same time, they are saying that if this goes through, it will be disastrous to our institutions and our ability to have money to lend at a reasonable rate of interest.

I think I am quoting correctly that when I asked the distinguished Senator from Wisconsin yesterday about reducing the money market certificates from $10,000 to $1,000, that more of the passbook savings would come out of the institutions, there would be less money to lend as it relates to mortgages on homes, which is the S. & L.'s basic responsibility, and that would increase the interest rates, he said the whole piece of legislation basically would increase the interest rates on mortgage loans. It seems to me that is an indictment on the total piece of legislation.

Also, we are saying to all of our lending institutions, "We want you to be the same. We want the banks to be savings and loans, the savings and loans to be banks, Federal credit unions to do everything the banks and savings and loans can do." What we are doing is saying that from now on, you are going to get interest on your bank account if this original piece of legislation passes—and I hope it does not—so the bank is going to start charging. I do not know what it is going to cost per check, but they are going to start charging. And the only people that are still going to be able to come out on top are those with a sizable bank deposit, probably at $1,000 or more in their deposit.

We are talking about helping the little fellow; always, we are talking about helping the little fellow, and we start adding up additional charges on that small depositor and it is going to cost him money. So as we pound our fists and raise our voices in defense of the little depositor, the small fellow out there, we find in the record that we are increasing his interest rates; we find in the record it is going to cost him more to write a check; we find in the record that we are going to credit cards and the one account, write one check. People are again going to corner the market as relates to plastic cards.

I am very, very concerned, Mr. President, that if we do not accept the Morgan amendment and we look at what the House has said—and I think we have had enough experience with the tenacity of the House of Representatives in conference lately—that we are going to hurt the Federal credit unions by not allowing a piece of legislation that will be acceptable to the House to go with so they cannot have their share drafts. I want to help the Federal credit unions. I want them to have their share drafts. But I cannot vote for a piece of legislation that has regulation Q, NOW accounts, all these other good things that we are now imposing on the people in our States and they do not want it.

Even in a letter of endorsement, they point out the bad features of the bill and why do we not take them out, why do we not start rendering?

Mr. President, I hope my colleagues will accept the hard work of the distinguished Senator from North Carolina and give a vote that will give us additional opportunity. Sure, we say it has been going for a long time. I am sure many of those who have been around this body longer than I have and probably will stay longer than I will have been working on legislation that has taken longer than 6 years. So, Mr. President, I support the position of the distinguished Senator from North Carolina (Mr. MORGAN).

Mr. PROXMIRE. Mr. President, unless other Senators want to speak, I am going to move to table the amendment.

Mr. EXON. Mr. President.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I should like to engage in a colloquy with my friend from North Carolina, possibly my friend from Kentucky, my friend from Wisconsin, and my friend from Texas, and anyone else who may care to join in.

Yesterday, I rose on the floor and called attention to the fact that when the Senate approved, by a lopsided vote, 73 to 13, the Cochran amendment the day before yesterday, I thought it was one of the worst invasions of States rights that we had seen in the U.S. Senate. I have been here only a short time now, but I have been here and I have heard Senators get up on this floor and talk about States rights and what it is all about. It seems to me, Mr. President, that with regard to the amendment that is being offered by the Senator from North Carolina—and if I can get things worked out, I intend to offer an amendment to his amendment if necessary to try to do something about the wholesale violation of States rights that was rushed through the U.S. Senate the day before yesterday without public hearing.

What we have done, I suspect the Chair might know, Mr. President, is to say to the States that big brother in Washington knows best, that the usury laws in the States of this Union, where they have them, just do not amount to anything for a year and a half, until July 1.

I have seen States rights advocates on top of States rights advocates stand up in the well of the U.S. Senate the other day and vote to do away with fundamental States rights on such a fundamental thing as the usury rate.

I am talking about this in hopes that the small number of Senators on this floor, and hopefully their aides, or other Senators not on the floor at the present time, will hear my voice and take another look, hopefully, if we can, at a very fundamental and very serious invasion of States rights—if we are really interested in States rights.

I certainly know and realize and recognize that we have a rather critical situation in some parts of the United States today, Nebraska included, with ever-rising interest rates.

In the State of Nebraska, Mr. President, for example, we have a usury law and from time to time we have to raise the usury rates in Nebraska to keep up with the national money market.

At this time, Mr. President, the Governor of the State of Nebraska and members of the Nebraska Legislature are in discussion as to whether or not they should have a meeting of the Nebraska Legislature for the purpose of raising the usury rate in Nebraska, which now, for the most part, is 12.5 percent per annum.

It has been the decision of the Governor of the State of Nebraska, despite several appeals, not to hold a special session of the Nebraska Legislature. Although I have not been brought up to date in the last day or so, it is my understanding that most of the members of the Nebraska Legislature, who would have the responsibility to pass such an increase in the usury law, do not want to hold a special session of the Nebraska Legislature where they could, rather easily, raise the usury rate.

There are probably many reasons why they do not wish to do this, not the least of which might be the fact that they do not want to take the political heat to raise the interest rates.

But aside from that fact, which is mere speculation on my part at the present time, the Nebraska Governor and the Nebraska Legislature are saying, the Nebraska Legislature comes into session immediately after the first of January next year, and that during this time of especially high intrest rates, while everybody is panicking, assuming the interest rates will keep as high in the immediate future, at least, we better have a little cooling off period here. Nebraskans being cautious people, being people who do not panic very easily, are similarly saying, "Let's just cool it. Let's just cool it until January when the Nebraska Legislature in its regular process comes into session, and if we are facing the situation we possibly could be facing for November and December, it is time then for the Nebraska Legislature to act under the Nebraska statute and under what has traditionally been considered States rights."

I would hope, therefore, that my colleagues on the floor of the U.S. Senate would not feel that it is imperative upon them to override the wishes of the people of the State of Nebraska, the Governor of the State of Nebraska, and most of the members of the Nebraska Legislature, by saying that big daddy in Washington, D.C., on the banks of the Potomac, knows best once again, and what we are going to do here with this measure we rushed through, without public hearing, is that we will take care of you and you do not have to pay any attention to your usury rates for a year and a half, until July 1, 1981. Let us just take care of this for you like big papa has always done in Washington, D.C.

It seems to me that Senators who are concerned about States' rights should be joined by Senators who may not be traditionally as much concerned about States rights as some of us and say, "Now, wait a minute, what are we doing in this matter of dictating to the States who have usury laws, that they do not have to pay any attention to those usury laws for a year and a half, and some 2 or 3 months after that?"

I am speaking to my friend the Senator from Wisconsin on the bill. I intend to offer an amendment. Before I do that, I would like to engage in colloquy with my friend from North Carolina, or any others, on the matter I have brought out, particularly with regard to the usurpation of States rights with regard to usury rates.

I yield, Mr. President, to my friend from North Carolina.

Mr. MORGAN. Mr. President, I am delighted to participate in such a colloquy because I could not agree more with the Senator from Nebraska than I do.

I stated as emphatically and as strongly as I could on Monday when this amendment was adopted that I thought it was one of the most flagrant abuses of Federal power that I had seen.

Usury laws have historically been the prerogatives of States. I say to my colleague from Nebraska that I doubt that many of our colleagues who voted to preempt State usury laws last Monday realized that in many cases they were increasing the interest limitations from something like 12 or 10 percent to as high as 17 percent. I believe it ran 5 percent above discount rates. So that was a substantial increase in the usury rates.

I say to my colleague, the only reason I included it in this substitute bill was in an effort to try put together a package, an emergency package, that I thought they could support, the Senate having spoken 73 to 13 on the usury preemption question. If the Senator sees fit to offer an amendment to my substitute, I will vote for it.

Mr. EXON. I thank my friend from North Carolina.

Mr. President, I would like to ask the manager of the bill a question or two, if I might, at this time. Will the Senator from Wisconsin yield?

Mr. PROXMIRE. Yes; I am happy to yield to my friend from Nebraska.

Mr. EXON. Could the manager of the bill advise me, maybe it is in the RECORD already, could he advise me what was the consideration in the committee with regard to waiving the States' usury rates?

Mr. PROXMIRE. Well, what the committee did, the committee provided this override would go only to mortgage loans.

Mr. EXON. Would only go to what? I am sorry.

Mr. PROXMIRE. We provided two things. In the first place, we provided in the State of Arkansas there be an override of both agricultural and business loans.

Then we provided in committee that there would be an override on home mortgage loans nationwide.

I think the Senator from Nebraska has made an excellent point, one that many from the committee share, that we should be very reluctant at any time to override any State law, let alone any constitutional provision.

I might tell my good friend from Nebraska that I was asked by Arkansas Senators as long as 3 years ago, and I refused to do it on the grounds we should not impose our judgment on a State government. But the situation became so very serious in Arkansas, so tough for their lending institutions and for the whole economy, that they felt it was absolutely imperative we act. So we took the action with respect to Arkansas.

With respect to mortgage loans, we find there are a number of States in which the usury laws are going to be just very quickly made so restraining it will be virtually impossible to get a mortgage loan.

Therefore, the committee felt they should act with respect to mortgages.

When Senator COCHRAN offered his amendment, as manager of the bill I supported it, and other members of the committee supported it, because as the Senator knows, after the committee made its report on October 6, we had that "Saturday Massacre" by the Federal Reserve Board, in which the Federal Reserve Board made a decision to adopt very stringent restraining policies, which everybody expects to raise interest rates sharply over the next several months.

Under those circumstances, we felt that Senator COCHRAN was correct, that we had to override the usury statute, but we were very careful again in how we did it. We provided that the override would expire after a year and a half, and we provided that the State government itself could reverse the override at any time by simply having the State legislature act.

Mr. EXON. I thank the Senator. Perhaps I can follow up on that a little.

It is true, then, that when the bill came to the floor for action, there was no consideration on the part of the committee to override any usury rates by the States, whether they were in the statute or whether they were in the Constitution.

Mr. PROXMIRE. The bill did contain an override on home mortgage loans nationally and on business and agricultural loans in Arkansas.

Mr. EXON. They had it on mortgage loans but not on business or other commercial loans?

Mr. PROXMIRE. Agricultural loans.

Mr. EXON. Then it came to the floor, and I believe 2 or 3 weeks ago, by voice vote, we adopted an amendment to help Arkansas out of its particularly peculiar problem. If I understand the Arkansas law correctly, it is in the constitution at the present time that before you can have a change in the constitution, you have to go through some kind of process, probably an initiative petition or, more likely, action by the Arkansas Legislature, to change the constitution, to change the usury rate. That, in turn, as I understand it, would have to go to a vote of the people.

Since this would be a process of many months, I recognize that because of Arkansas' peculiar situation, they were entitled to some consideration, possibly, since the request, as I understood it, came from Arkansas elected officials through their U.S. Senators.

Does the Senator from Wisconsin know whether that is an accurate scenario?

Mr. PROXMIRE. The Senator is exactly right. That is precisely what happened.

Mr. EXON. Can the Senator from Wisconsin explain to me how California and Texas got into the picture?

Mr. PROXMIRE. Because they both have constitutional provisions.

Mr. EXON. Do those States find themselves similarly situated?

Mr. PROXMIRE. It is not quite the same, but it was somewhat similar. They both have usury provisions in their constitutions.

Therefore, you cannot simply have the legislatures meet and take an action which would be effective. You have to have an extraordinary amendment to the constitution, which, as the Senator knows, takes time. I cannot tell the Senator how long it would take, but it would take time. In the meantime, it not only would be punishing for the financial institutions in the States but also devastating for the local business people who could not get credit.

Mr. EXON. Aside from California, Arkansas, and Texas, many other States in the Union—I do not have the number—have no usury laws at the present time. Is that correct?

Mr. PROXMIRE. Some do, some do not; that is correct. There are 16 or 18 that have usury laws on the books, but many States do not. The Senator is correct.

Mr. EXON. I say to the Senator from Wisconsin that I have read part of the CONGRESSIONAL RECORD of the day before yesterday, when the Cochran amendment was adopted. I noticed that the explanation for the adoption of that amendment had to do with an emergency situation, that, basically, with the rising interest rates, we had caught the States off guard. Many of their legislatures could not be called into session conveniently. Therefore, because of the emergency situation, we had to make some provisions through Congress, so that they could escape these dire circumstances with which they were confronted—in some cases, legitimately so. Is that correct?

Mr. PROXMIRE. That is correct.

Mr. EXON. If we have an emergency situation, why did we pick the date of July 1, 1981, more than a year and a half away, to correct an emergency situation? I think most of us here recognize that all or most of the States will have a regular session of their legislature coming up sometime shortly after the first of the year.

Mr. PROXMIRE. The Senator is correct.

I think the Senator makes a perfectly proper challenge of that date. That date was related to the date we had for Arkansas. It will take Arkansas until July 1, 1981, as I understand it, to make that change. Therefore, that was in the legislation for Arkansas, and we simply adopted that date for the other States.

I cannot tell the Senator how long all the other States would be likely to take in the ordinary course of events for them to be able to change the law; but it was our feeling that it would give them enough time to do so and that no States would be in a position in which they could not change the law conveniently, if they wished to do so.

Mr. EXON. My question has to do with this: Except for Arkansas, which I recognize has a special problem—and I made no objection when we voted by voice vote on special consideration for Arkansas, and I would have no objection to making some special considerations for California and Texas, if that is necessary. I understand that they are the only two other States that have some special problems.

I get back to the situation I mentioned. The Senate was told over and over in debate the other day, in explanation of why the Cochran amendment was necessary, that we had an emergency situation. Then we followed with action that I am not sure that all the Members of the Senate understood, by delaying a year and a half any action the States would have to take on their own or under their usury laws.

Mr. PROXMIRE. The Cochran amendment, which was adopted and is part of the bill, states as follows:

> A State law shall be preempted for purposes of paragraph (2)(B) with respect to any loan if such loan is made before the earliest of—
>
> (A) July 1, 1981;
>
> (B) the date, after the date of the enactment of this paragraph, on which such State adopts a law stating in substance that such State does not want this subsection to apply with respect to loans made in such States.

So that it would be possible for the State to meet within a week or a few days and restore their usury statute. They can act very promptly, if they wish to do so.

Mr. EXON. I thank the Senator from Wisconsin for the explanation.

The fact still remains that if what we have adopted in the Senate with the Cochran amendment—what we would be doing, in essence, would be saying to any State that wished to do so, "You don't have to touch your usury rates. You can slide along on what Big Brother has done out of Washington, D.C., to as long as July 1, 1981."

Is that correct?

Mr. PROXMIRE. The Senator is correct.

Mr. EXON. I want to get back to one other point. Why was the date of July 1, 1981, chosen? What is magical about that date? Can anyone explain that to me?

Mr. PROXMIRE. Yes; there is nothing magical about the date except with respect to the State of Arkansas, as I understand it, and the Senator from Arkansas can correct me if I am wrong. This is the date prior to which they could not amend their constitution, complete the amendment and provide for a change in their usury laws that would put them back into business before that date. So we had established that for Arkansas. I realize the rest of this amendment does not apply to Arkansas, but we simply took that from the Arkansas statute, applied it here because we felt it was a limited period. After all, it is not forever, it is 18 months, and it would give every State legislature, virtually, an opportunity to meet in due course and act on it.

I do not think there is anything magic about it. If the Senator would like to amend it to make that date earlier I would not personally see an objection to it; others might.

Mr. EXON. I guess I have an objection. I thank my friend from Wisconsin for that explanation. I think I have spoken about the invasion of the States rights issue. I think, therefore, after the explanation I have just listened to, that, it seems to me, all of the States in the Union are having an invasion of their right to set their own usury rates by the Federal Government only to accommodate Arkansas.

It would seem to me that while I agree that Arkansas has some problem, and while I would be in favor of granting them—and, as I said before, possibly California and Texas—some special consideration, I just do not like the fact, and I would think that most of my colleagues on the floor of the Senate would not like the fact, of their States being dictated to, that they do not have to do anything about the usury rates until July 1, 1981, which happens to be a special consideration to Arkansas.

I am hopeful, I say to the floor manager of the bill, that possibly we could work out some reasonable compromise on this matter. I am opposed unequivocally to the matter of the Federal Government telling Nebraska, which has a usury rate and has the wherewithal under its law to raise that usury rate if it wants to, "Please understand we are not telling you, Nebraska, what to do, but we are saying that effective with this legislation, if it passes and if it is signed by the President of the United States, any lender in the State of Nebraska could go above the usury rate established for over 200 years of Nebraska State law," and that the only way Nebraska could rescind that would be to have a meeting of the legislature and say, "No, we do not want that. We are going to change it."

I suggest to the Senator I think we are putting the cart before the horse when we adopt legislation up here on a supposed emergency basis that is over a year and a half down the road, and then being good enough to say, "But if you do not like it you can change it at the State level."

I suspect that most of the people in Nebraska and most of the people in all of the other States of the Union would believe that that certainly is a matter of putting the cart before the horse.

Mr. President, I have worked out an amendment that might be able to partially work us out of this dilemma. While saying once again I am opposed to it in total, I suspect realistically speaking—and I try to be a realistic individual—when 73 of my colleagues, knowing what they were doing or not, on the floor of the U.S. Senate the day before yesterday voted for the Cochran amendment, I suspect it would not be reasonable for me to think they are going to come in here and turn it around.

However, I hope that just as a small token in recognition of what we are doing or not doing in the Senate we would realistically face the situation that the July 1, 1981 date is not a realistic date under any terms of an "emergency" and I think we could agree that maybe we could shorten that period down to something like July 1, 1980, which certainly would be less than the year and a half figure we used in passing the Cochran amendment the other day.

The only explanation the Senator has given me is one of convenience. I suspect somewhere along the line that July 1, 1981 date happened to be in the bill that came over from the House of Representatives, that we happened to tack on the amendment by the Senator from Mississippi.

Therefore, I suggest to the manager of the bill that if we have a true emergency—a true emergency could not possibly, except for the States of Arkansas, possibly Texas and California—last more than 6 months.

I am about to offer an amendment to cut down the time, and if I may suggest to the manager of the bill we suggest the absence of a quorum for 5 minutes, we might be able to work it out.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 700

Mr. MORGAN. Mr. President, after listening to my colleague and reading his proposed amendment, I believe I could modify my substitute amendment and still keep faith with my colleagues with whom I talked, because it would preempt all usury laws, just as the Cochran amendment did on Monday, until July of next year, which would give legislatures the right to consider it in regular session.

If there is a State that does not have a regular session in the even year—and I think most of them do now—they would still have adequate time to have a special session. So this would take care of the situation in Senator COCHRAN's State, and then with those with constitutional amendments it would give them an additional year in which to take care of it.

So, Mr. President, I ask that my substitute amendment be modified to incorporate the provision of the amendment as prepared by the Senator from Nebraska.

The PRESIDING OFFICER. The Senator has the right to modify his amendment, and it will be so modified.

The modification is as follows:

At the end of title IV add a new section: Notwithstanding the provisions of this act to the contrary, the preemption of State usury laws provided by this Title shall expire on July 1, 1980 except in those States having a constitutional provision establishing maximum interest rates in which case the preemption shall expire on July 1, 1981.

Mr. MORGAN. Mr. President, unless someone else has something to offer, I believe that the issue has been fairly debated. But I do wish to summarize what my amendment in the nature of a substitute does and what it does not do, so that my colleagues who are listening in their offices and their staff members may know exactly what it would do.

My amendment in the nature of a substitute contains four basic provisions. First, it overturns the court of appeals decision permanently and first, authorizes the credit union share draft, second, authorizes automatic transfers, and third, authorizes savings and loan remote service units. Parenthetically, those are the three things that the court decision outlawed. This would restore the status quo, and do it permanently.

The second provision of my proposal retains the provision adopted on Monday increasing the insurance of deposits from $40,000 to $50,000 per account. That is, the second provision retains the provision which increased the insurance of deposits from $40,000 to $50,000. Third, it retains the truth-in-lending simplification portion of the measure which was adopted yesterday; and fourth, it maintains the usury override provision until July of next year with regard to those States that have statutes, and until July of 1981 for those States which have constitutional provisions. So every State should have adequate time to take care of the usury law.

Those are the four provisions.

Now, the amendment in the nature of a substitute omits some important things which I think my fellow Senators are concerned about. First, it omits the phase-out of regulation Q and nationwide NOW accounts. Those are two very controversial issues. It omits the provision that lowers the money market certificates from $10,000 to $1,000. It omits the Federal Reserve authority over nonmember institutions; and it omits all other provisions other than the four contained in the first part of my explanation.

I believe, subject to correction by anyone who is listening, that that is what my amendment in the nature of a substitute would do.

Mr. PROXMIRE. Mr. President, I move to lay on the table the Morgan amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. MATSUNAGA) and the Senator from Wisconsin (Mr. NELSON) are necessarily absent.

I further announce that the Senator from Nevada (Mr. CANNON) is absent on official business.

I further announce that, if present and voting, the Senator from Hawaii (Mr. MATSUNAGA) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

I also announce that the Senator from Oregon (Mr. HATFIELD) is absent due to a death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 57, nays 38, as follows:

[Rollcall Vote No. 380 Leg.]

YEAS—57

Bellmon
Bentsen
Boren
Boschwitz
Bradley
Burdick
Chafee
Church
Cochran
Cohen
Cranston
Culver
Danforth
Dole
Durenberger
Garn
Glenn
Hart
Hatch
Hayakawa
Heinz
Humphrey
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Magnuson
Mathias
McGovern
Moynihan
Muskie
Packwood
Pell
Percy
Proxmire
Ribicoff
Riegle
Roth
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stevenson
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Zorinsky

NAYS—38

Armstrong
Baucus
Bayh
Biden
Bumpers
Byrd, Harry F., Jr.
Byrd, Robert C.
Chiles
DeConcini
Domenici
Durkin
Eagleton
Exon
Ford
Goldwater
Gravel
Heflin
Helms
Hollings
Huddleston
Inouye
Lugar
McClure
Melcher
Metzenbaum
Morgan
Nunn
Pressler
Pryor
Randolph
Sarbanes
Sasser
Stennis
Stewart
Stone
Talmadge
Thurmond
Young

NOT VOTING—5

Baker
Cannon
Hatfield
Matsunaga
Nelson

So the motion to lay on the table was agreed to.

UP AMENDMENT NO. 701

(Purpose: To lengthen the repayment period for a bank stock loan from 12 to 25 years and prohibits the Federal Reserve from denying an application to form a one-bank holding company because the repayment period is up to 25 years)

Mr. BOREN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BOREN) proposes an unprinted amendment numbered 701.

Mr. BOREN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add a new section, 413, to Title IV, on page 40, between lines 12 and 13, as follows: Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) is amended by adding at the end thereof the following: "Notwithstanding any other provision of law, the Board shall not follow any practice or policy in the consideration of any application for the formation of a one-bank holding company if following such practice or policy would result in the rejection of such application solely because the transaction to form such one-bank holding company involves a bank stock loan which is for a period of not more than 25 years. The previous sentence shall not be construed to prohibit the Board from rejecting any application solely because the financial arrangements are considered unsatisfactory."

Mr. BOREN. Mr. President, the purpose of this amendment is to ease the debt-servicing burdens of small one-bank holding companies and to insure that bank ownership will not become limited to only those with large amounts of wealth.

This amendment lengthens the repayment period for a bank stock loan from 12 years up to a maximum of 25 years and prohibits the Federal Reserve Board from denying an application for the formation of a one-bank holding company solely because the repayment period for the loan is greater than 12 years. I want to emphasize, however, that the Board will still have the authority to reject any application if the financial arrangements are considered unsatisfactory.

One-bank holding companies have been used effectively in serving the financial needs of small community-based banks and promoting the local ownership of banks. While I share the concern of the Federal Reserve in wanting to insure that one-bank holding companies are sound financial institutions, I believe we must recognize the increased financial pressures placed upon them and their banks.

Since 1972, the Federal Reserve has required bank stock loans acquired through one-bank holding companies to be repaid within 12 years. During this same period of time, however, changes in economic conditions have contributed to the increase in the cost of these loans. In 1972, the prime rate charged by banks for bank stock loans ranged from 4¼ percent to 5⅞ percent, today the rate is over 14 percent. In 1972, the inflation rate was about 3 percent and today it exceeds 13 percent.

These increases, coupled with the added cost of the Financial Institutions Regulatory and Interest Rate Control Act passed by Congress last year, have resulted in a heavier debt burden for bank acquisitions. The higher cost of financing, combined with the short-term 12-year payout schedule, are making it nearly impossible for capable individuals who do not have large amounts of money ever to own a small bank in their community.

Mr. President, I urge the acceptance of this amendment. I believe it may be acceptable to the managers of the bill.

Mr. PROXMIRE. Mr. President, as I understand this amendment, it eases the debt service burden of bank holding companies by extending the time of repayment from 12 to 25 years.

Mr. BOREN. That is correct.

Mr. PROXMIRE. As I understand it, the Federal Reserve Board is reluctant about this amendment. In fact, they oppose it. But I am inclined to take the amendment to conference for a full discussion of it, including the Federal Reserve Board's position.

I understand the amendment does not prohibit the Board from denying bank stock acquisition loans on safety and soundness grounds. Is that correct?

Mr. BOREN. The Senator from Wisconsin is correct. The Board would still have full authority to deny them on the basis of soundness. This is simply to say that they could not deny them on the basis of the payout period alone.

Mr. PROXMIRE. Mr. President, as I say, I am willing to accept the amendment, with the caveat that we have to discuss this at some length with the Federal Reserve and it would be discussed in conference.

Mr. BOREN. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. I yield to the Senator from Texas.

Mr. TOWER. Will the Senator from Nebraska yield to the Senator from Iowa for the purpose of introducing a distinguished parliamentarian who is visiting the Senate today?

Mr. EXON. Certainly, I will yield to the Senator from Iowa.

VISIT TO THE SENATE BY MEMBER OF NATIONAL ASSEMBLY, LAGOS, NIGERIA

Mr. JEPSEN. Mr. President, it is my privilege to introduce to the Senate and welcome to the Senate 'Lere Adesinsa from Nigeria, who was a new senator on October 1. He is in the back of the room. I would like to give Senators the opportunity to say hello.

RECESS

Mr. TOWER. Mr. President, I ask unanimous consent that the Senate stand in recess for 2 minutes without the distinguished Senator from Nebraska losing his right to the floor so that Members might meet our guest.

There being no objection, the Senate, at 3:41 p.m., recessed until 3:43 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BAUCUS).

Mr. EXON. Mr. President, I yield for 2 minutes to my friend from South Dakota.

Mr. McGOVERN. Mr. President, I ask unanimous consent that this brief intervention on behalf of Senator CHAFEE and I be placed in the RECORD after the disposition of the bill now pending.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Pursuant to the above order, the proceedings which occurred at this point relative to the introduction of a declaration to the resolution of ratification on the SALT treaty are printed under routine morning business.)

Mr. CHAFEE. Mr. President, I thank the Senator from South Dakota and the Senator from Nebraska for this time.

Mr. McGOVERN. I thank the Senator from Nebraska for yielding to Senator CHAFEE and I. I appreciate his consideration.

I appreciate the remarks of the Senator from Rhode Island.

DEPOSITORY INSTITUTIONS DEREGULATION ACT

The Senate continued with consideration of H.R. 4986.

UP AMENDMENT NO. 702

Mr. EXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. EXON) proposes an unprinted amendment numbered 702:

At the end of the committee substitute add a new section:

Notwithstanding any provision of this Act to the contrary, the preemption of State usury laws provided by this Act shall expire on July 1, 1980 except in those States having a constitutional provision establishing maximum interest rates in which case the preemption shall expire on July 1, 1981.

Mr. EXON. Mr. President, I do not think it will take a great deal of time for debate on this amendment. I do not know whether the managers of the bill have anything to say about it. We have debated it at great length on the last issue.

The amendment I have offered was offered as a part of the amendment by the Senator from North Carolina, which failed on the tabling motion. I will offer a brief explanation.

The measure before the Senate, as it presently reads, has invaded the States rights issue on the matter of States rights usury laws.

I have made several statements on the floor and explained how badly I think the Senate has been mistaken in its action.

All this amendment would do would be to shorten the time for the invasion of the States' usury laws from the July 1, 1981, date, as it presently stands, to July 1, 1980—1 full year. In other words, rather than saying we are going to knock out the State usury laws for a year-and-a-half-plus, we are saying that we will do it for 6 months-plus.

It seems to me that most of us would agree that if we are taking this action because of an emergency, then certainly 6 months-plus will give the States more than adequate time to meet any emergency situation that might exist. Most States, if not all, will have regular sessions of their legislature well before July 1, 1980. Therefore, I am not satisfied that we should do this at all. But in a spirit of compromise, and recognizing that there may be some places where there is an emergency, we are extending the States' waiver of the usury laws only until July 1, 1980, except that, as the amendment clearly states, those States that have difficulty in their constitution with usury laws have until July 1, 1981.

In summary, all the amendment does is to cut down from July 1, 1981, to July 1, 1980, the time period in which States must act on the usury laws in their own right, as they historically have, except the States that have constitutional problems, and I believe those States are Texas, Arkansas, and California. Those States have until July 1, 1981, as the bill now calls for.

I yield the floor at this time, but I will be asking for the yeas and nays on this vote.

Mr. PROXMIRE. Mr. President, the Senator from Nebraska, the Senator from North Carolina, and I have been discussing this matter for some time. We debated it at considerable length when the Morgan amendment was pending, and I think Senators understand it. It does sharply modify the time provided in the Cochran amendment.

I think we should rely to some extent on the advice of the author of the amendment which was adopted by the Senate by a vote of 72 to 13. If the Senator from Mississippi is willing to accept the amendment, I think we can take it by voice vote.

Mr. COCHRAN. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. COCHRAN. I appreciate very much being notified of the pending amendment. I wish I could have had the benefit of the statement by the Senator from Nebraska in support of the effort. I know that it was attached a moment ago to the Morgan amendment, which was tabled.

The only problem I have with the amendment is that it sets up two kinds of rules. One for States where there are constitutional impediments; another rule for States where there are legislative restrictions as to interest rates.

Other than that difficulty, which we got into when we made one special rule for the State of Arkansas, I have no problem with the 6 months, except that there are a few States which probably will feel squeezed by that time limit. I can think of at least two or three States where the legislature is scheduled to go into session next year in April. If this bill is passed and becomes law quickly, that may impose some tighter squeeze on them. I do not know.

For example, the legislature in my State goes into session in January, and I do not think it would impose any hardship. So it is not from a parochial standpoint that I am even suggesting that that might be a problem.

Mr. PROXMIRE. Mr. President, if the Senator will yield on that point, in the course of the debate it was suggested that in the event a State is constrained as to time, it could have a special session, if necessary. This is such a vital issue for many States that the feeling is that they would do so.

The Senator from Nebraska raises the fact that we are overriding State law. I know that the Senator from Mississippi feels strongly about that, too. So we should make the override as limited and as brief as possible and give the States the most immediate opportunity and incentive for standing up and taking their own position.

Mr. COCHRAN. I have no real problem with this, because I respect the intentions and admire the initiative of the Senator from Nebraska in trying to insure that this is interpreted as what it is meant to be—an emergency and temporary measure on the part of Congress because of the unusual circumstances caused by the precipitate increase by the Federal Reserve Board in the discount rate. Many people in our States are simply out of business, unable to do business, because of the circumstances we have right now.

So, with the understanding that the chairman of the committee is recommending that we accept this amendment—is that his recommendation?

Mr. PROXMIRE. The Senator is correct.

Mr. COCHRAN. And if the Senator from Texas concurs in that, I will offer no objection to accepting the amendment.

Mr. TOWER. I am prepared to concur.

Mr. PROXMIRE. Mr. President, I will be happy to have a voice vote.

Mr. MORGAN. Mr. President, I just want to thank my distinguished colleagues, especially the Senator from Nebraska, who has helped work out this difficult problem in an admirable way.

I would still argue that the State legislatures, in an emergency session, could have remedied this. But I think this can be justified on a need of compelling interest, and it limits the time. More important, it does not shift the burden, which is one of the big things about which I have been concerned.

So I thank the chairman and the Senator from Mississippi, and I thank the Senator from Nebraska for offering this amendment.

Mr. BUMPERS. Mr. President, will the Senator yield?

Mr. EXON. I yield.

Mr. BUMPERS. Does the amendment go to the preemption of usury on housing, or does it go only to the Cochran amendment that was adopted yesterday?

Mr. PROXMIRE. The amendment, as I understand it, goes only to business and agricultural loans, not to home mortgage loans.

Mr. BUMPERS. Does the sponsor of the amendment agree with that?

Mr. EXON. I do agree with this. The Senator is correct.

Mr. BUMPERS. I thank the Senator.

Mr. EXON. Mr. President, I thank my colleagues for their consideration. Since there seems to be general agreement, I will be pleased if we can accept this amendment.

I appreciate the Senator from Mississippi coming to the floor. He was the sponsor of the original amendment. He made the point that one of the objections he had was the fact that it did not treat all States alike.

I point out in that regard that California, I believe, has been excepted in the bill so far as NOW accounts are concerned. So I am not sure that it is necessarily too inconsistent.

Also, the Senator from Mississippi made a statement that I think should be emphasized: that it may put a squeeze on some States to act. Again, that is one of the reasons for the amendment; because I think if we take the statements that have been made that the Senate is acting in good faith on an emergency basis, then we have given enough time. If it requires some squeezing in the States to get the job done, that is their responsibility.

I thank the distinguished majority and minority managers of the bill for their cooperation.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska.

The amendment was agreed to.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. TSONGAS). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STEWART. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CAMBODIA

Mr. STEWART. Mr. President, I take this opportunity to commend my distinguished colleagues, Senator SASSER, Senator DANFORTH and Senator BAUCUS, for their just concluded trip to Bangkok and Phnom Penh. I believe that their efforts to expedite relief efforts in Cambodia reflect a great degree of courage and compassion. I am hopeful that the trip will pave the way for swift international reponse to the continuing tragedy in Indochina.

I would like to applaud the Carter administration for its commitment to provide close to $70 million in relief assistance to the Cambodians. This pledge, in response to calls for massive aid from the world community, is essential if international relief efforts in Cambodia are to be effective.

There is no need for me to recount in detail the grim situation in Cambodia, where famine and disease currently threaten the lives of millions of men, women and children. Torn by war, brutal political oppresssion and starvation, the population of that country has already been reduced from 8 million in 1970 to between 4 and 5 million at present. The Cambodian people now face the real possibility of complete extinction.

Reports indicate that food production this harvest will be at most 20 percent of normal; only 5 percent of the rice paddies appear to be in cultivation, and the main rice crop, due to be harvested in December and January, is virtually nonexistent. Observers also point out that there is a severe shortage of doctors, medicine and medical facilities in Cambodia; one estimate is that there are only 55 practicing physicians in the entire country; 80 percent of the children in Cambodia are suffering from the severest form of malnutrition. Without massive international aid, it is believed that 2.5

million people face the prospect of immediate starvation.

The recent response of the world community to the Cambodian tragedy has been encouraging. The United States has pledged to provide one-third of the $100 million in aid requested by the major relief organizations; Japan, Sweden, and other Scandinavian and Western European nations have also agreed to donate significant amounts of money for the assistance efforts.

Unfortunately, as we are all aware, the relief efforts have been greatly hampered by the continued fighting between the Vietnam-backed government of Heng Samrin, and the ousted forces of Pol Pot, who still claim to be the legitimate rulers of Cambodia. Each faction has sought to prevent relief from being given to the other side; the Heng Samrin government has refused to grant relief workers visas unless it was assured control over distributing all the food and medical supplies. It is only in the past 2 weeks that an understanding was reached, and the government agreed to let officials of UNICEF and the International Red Cross monitor the delivery of relief aid. I am heartened that assistance now seems to be going to both sides in the fighting, and that food from Thailand is being channeled directly into the areas of Cambodia still under Pol Pot's control.

There are, however, enormous logistical problems which remain to provide relief. The physical infrastructure of Cambodia has been decimated by years of fighting; the country's major seaport, Kompong Som, is in very poor condition. There is, moreover, an enormous shortage of cars, trucks, and barges to distribute the aid, as well as fuel and spare parts to keep these vehicles operating. While airplanes can bring substantial amounts of relief into Cambodia, it is estimated that such flights could only provide one-half of the required 1,000 tons of rice which the Cambodians need to receive each day. Given the great amounts of aid that must be distributed in the next several months, overland shipment of supplies now represents the most efficient form of transport.

It is in this light that the efforts of Senators Sasser, Danforth, and Baucus are so crucial. They discussed with Cambodian officials the possibility of opening a "land bridge" for convoys of food supplies between Thailand and Cambodia, a move that would greatly expedite the delivery of food and medical supplies. Unfortunately, members of the Heng Samrin government now appear reluctant to allow such a route to be established. This refusal is particularly disheartening, given the fact that Vietnamese officials initially approved the idea, and that these officials also expressed their willingness to guarantee the security of the convoys passing through areas of Cambodia under the control of Pol Pot's forces.

Like everyone else, I am still hopeful that the "land bridge" can be opened in the near future, and that through this and other means, the United States and the rest of the international community can bring a halt to the sufferings of the Cambondian people. Without such swift action, thousands of Cambodians will continue to die each day for the next several months. I want to again strongly commend my colleagues for their efforts to avert this holocaust.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STEVENSON. Mr. President, I call up——

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPOSITORY INSTITUTIONS DEREGULATION ACT

The Senate continued with consideration of H.R. 4986.

AMENDMENT NO. 557

(Purpose: To strike out section 412)

Mr. STEVENSON. Mr. President, I call up amendment No. 557.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. Stevenson), for himself, Mr. Percy, Mr. Tsongas, Mr. Lugar, Mr. Morgan, Mr. Moynihan, Mr. Javits, Mr. Levin, and Mr. Durenberger, proposes an amendment numbered 557.

On page —

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 40, strike out lines 6 through 12.

Mr. STEVENSON. Mr. President, I ask unanimous consent that Andrew Carothers of my staff be accorded the privileges of the floor during consideration of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, this amendment to H.R. 4986 would strike section 412 of the Depository Institutions Deregulatory Act. That section makes an important change in the Bank Holding Company Act by prohibiting, for the first time, the establishment of national banks limited to trust services by a bank holding company outside the company's home State. This change was not discussed in hearings on the bill, was not included in S. 1334 and S. 1347 (the original bills dealing with financial deregulation), and was not brought to the attention of committee members prior to, or at the time of, markup.

The Federal Reserve Board and the Comptroller of the Currency oppose the new restriction embodied in section 412. I ask unanimous consent that a letter from Chairman Paul Volcker of the Federal Reserve Board dated October 23, 1979, be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENSON. As Chairman Volcker states, section 412 would adversely affect the availability of trust services. It is anticompetitive and discriminates against federally chartered institutions.

Despite the significance of the issue, the restrictive provision was offered in the committee markup as the last section of a lengthy amendment entitled "Comptroller's Housekeeping Amendments." S. 1334, the original "Comptroller's Housekeeping" bill, does not include such a provision, and in fact the Comptroller opposes it.

Mr. President, I ask unanimous consent that another letter, this one stating the opposition of the Comptroller and addressed to me, also be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. STEVENSON. Mr. President, wholly apart from the merits of this prohibition, it seems to me that before Congress enacts such a significant change in the law, we should hold some hearings, we should receive comments, hear from all sides, debate the issue, and then make a reasoned judgment. That is not the case at this point.

The new section 412 was buried in the "Termination of Closed Receivership Fund" title of that amendment and was not germane to closed receivership funds. To say the least, this provision has received little attention in committee. Before such a significant change is approved, we should hold hearings, receive comments, and debate the issue.

Section 412 would narrow the scope of activities which the Federal Reserve Board may approve for bank holding companies by adding to the Bank Holding Company Act the definition of a bank which may not be acquired by a holding company outside its home State, a national bank limited to trust operations. Under the Bank Holding Company Act, interstate banking is prohibited—not interstate trust operations. This section would prevent a bank holding company from operating a trust company in another State even though it did not take deposits or make loans or otherwise engage in banking.

It is argued that section 1504 of the Financial Institutions Regulatory Act—FIRA—passed last year inadevertently provided new authority for establishing federally chartered trust company subsidiaries by out-of-State holding companies. In fact, under authority contained in the National Bank Act, the Comptroller has chartered seven trust banks since 1973. Only recently, in litigation challenging the exercise of that authority brought by competitors of a national trust bank in New Jersey, has the Comptroller's authority been challenged. Section 1504 of FIRA was enacted as an amendment to the National Banking Act to affirm the old authority. It did not confer new authority. The interstate establishment of banks limited to trust functions was already permitted by law.

Section 412 of this bill fundamentally changes Federal law by amending the law that was in existence prior to FIRA and is now the law in section 3 of the Bank Holding Company Act.

Mr. JAVITS. Will the Senator yield?

Mr. STEVENSON. Yes, I yield.

Mr. JAVITS. I would like to express my support of this amendment, but perhaps more important, I would like for the Senator, if he would, to note two arguments made by the chairman of the Federal Reserve Board, Paul Volcker, in a letter which he sent to our colleague in the House, Congressman St Germain. He said:

> It should be noted that section 412, intended to make nationally chartered trust organizations subject to the interstate prohibition of the Bank Holding Company Act, would have an anticompetitive effect in the provision of trust services. Moreover, it would appear to be discriminatory against national banks since presumably a State chartered limited trust organization would not be subject to the same prohibitions.

I ask my colleague, the author of the amendment, if he would be good enough to comment on those two points: One, the fact that it would reduce the competition for trust business by barring out of State national banks, and, two, that it would discriminate against such banks because they are national since State chartered organizations would not be subject to the same prohibitions.

Mr. STEVENSON. Mr. President, the Senator from New York makes a wise point. Not only did the chairman of the Federal Reserve Board make the same point, that this is anticompetitve legislation, but it is also made by the Comptroller of the Currency. Both of these authorities oppose this measure, and for the reasons mentioned by the Senator from New York. It is anticompetitive. It would deprive the public of trust services, and it poses more regulation at a time when most Members of the Congress have some inclination to deregulate.

Finally, in response to my good friend from New York, I would simply suggest that before such a major change is made in the law with its anticompetitive implications, there should be some hearings. Some attention should be given to the issue in the committees of the Congress before the action is taken. That has not been the case.

While the final opinions of Senators on interstate competition in the provision of financial services may differ, the matter warrants an opportunity to hear all sides and reach informed opinions on the issue.

This issue is part of a larger issue involving the financial industry's market structure and all interstate bank holding company activities. The administration will shortly send to the Congress a report on geographic restrictions on bank and holding company activities, as required by the International Banking Act. When we have had a chance to review this report and hold hearings on all facets of the issue, it would be timely to legislate. It is not today.

We may find that competition, with consumers given the opportunity to choose their financial services, is the best way to improve the financial system and protect against undue concentrations of power. Section 412 is anticompetitive. It requires more Government regulation.

Mr. President, we should not approve this unexamined prescription for regulation at the expense of competition without an opportunity for the public to be heard.

I urge support for the amendment.

EXHIBIT 1

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM,
Washington, D.C., October 23, 1979.

Hon. ADLAI E. STEVENSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENSON: Your letter of October 22 requests our views on an amendment to section 5169 of the Revised Statutes contained in section 412 of the "Depository Institutions Deregulation Act of 1979," H.R. 4986, recently reported by the Senate Banking Committee.

Last year, section 5169 of the Revised Statutes was amended by section 1504 of the Federal Institutions Regulatory and Interest Rate Control Act of 1978, to provide that a National Bank Association heretofore or hereafter chartered "is not illegally constituted solely because its operations are or have been required by the Comptroller of the Currency to be limited to those of a trust company and activities related thereto." Section 412 of H.R. 4986 would further amend this section of the Revised Statutes to provide that such a nationally chartered limited purpose trust company "shall be deemed an additional bank within the contemplation of section 3 of the Bank Holding Company Act of 1956."

Section 3(d) of the Bank Holding Company Act of 1956, as amended, provides that a bank holding company may not acquire "any additional bank located outside of the State in which the operations of such bank holding company's banking subsidiaries were principally conducted on the effective date of this amendment. . . ." However, this interstate prohibition would not be applicable to a limited purpose trust company because the Bank Holding Company Act now defines a bank to be an institution that (1) accepts demand deposits, and (2) engages in the business of making commercial loans.

Under the Bank Holding Company Act and Regulation Y issued thereunder, a trust company is considered to be a nonbanking activity and trust company activities are one of the activities determined by the Board to be so closely related to banking or managing or controlling banks as to be a proper incident thereto.

The proposed amendment in section 412 of H.R. 4986 represents an attempt to protect present providers of trust services from prospective competition. In general, the Board has found that both *de novo* and across State lines entry into authorized nonbanking activities add an extra competitive dimension. Consequently, the limitations proposed in section 412 have anticompetitive implications and, as such, threaten to have an adverse impact on the public interest in the availability of competitive sources of trust services.

Moreover, it should be noted that section 412 introduces a distinction between Federally chartered and State chartered institutions in the Bank Holding Company Act. Under the provisions of this amendment, State chartered limited purpose trust organizations would not be subject to the limitation on banks under section 3(d) of the Bank Holding Company Act, but would continue to be subject to the nonbank provisions of that Act.

I trust that these views will be helpful to you in your consideration of this amendment.

Sincerely,

PAUL A. VOLCKER.

EXHIBIT 2

COMPTROLLER OF THE CURRENCY,
ADMINISTRATOR OF NATIONAL BANKS,
Washington, D.C., October 25, 1979.

Hon. ADLAI E. STEVENSON III,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENSON: In response to your request, we are pleased to have the opportunity to express the concern of this Office with proposed Section 412 of H.R. 4986 which has recently been favorably reported to the Senate floor by the Committee on Banking, Housing, and Urban Affairs. As explained in the Senate Report accompanying the Bill, that particular provision is intended to make clear that special purpose national banking associations may not be chartered across state lines. See S. Rep. No. 96–368 (October 15, 1979), at 23.

In 1978, the Congress clarified the authority of the Comptroller to charter national banking associations with powers limited to the offering of trust services. That clarification, contained in Section 1504 of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (FIRA), Pub. L. No. 95–630 (November 10, 1978), was enacted in response to a judicial challenge regarding the establishment of a limited charter association in New Jersey. In fact, our Office had chartered seven such institutions since 1973. Only that particular litigation necessitated seeking statutory clarification of our authority to do so.

Proposed Section 412 of H.R. 4986 is presumably intended to prohibit the chartering of a national banking association with limited trust powers from being established by a bank holding company across state lines. We remain unconvinced, however, that the issue of the interstate establishment of trust companies subsidiaries of bank holding companies has been afforded sufficient Congressional consideration to justify the proposed provision especially as it relates to the broader questions involving all forms of interstate holding company activities. Moreover, the proposed section is itself technically inadequate to effect its announced purposes.

The chartering of national trust companies is a matter wholly separate from the establishment of bank holding company subsidiaries across states lines. The authority of holding companies to establish trust companies—either state or federally chartered—on an interstate basis is derived entirely from the provisions of the Bank Holding Company Act. That law bars bank holding companies from acquiring out-of-state commercial banks, that is, banks which accept deposits and make commercial loans, but does permit their engaging across state lines in a limited range of other activities commonly associated with banking, including trust services. Section 1504 of FIRA does not affect that authority in any way. In fact, before the enactment of FIRA, at least two holding companies with the approval of the Federal Reserve Board had established trust company subsidiaries on an interstate basis, under both national and state charters.

In our opinion, it would be most premature at this time to enact a new restrictive prohibition against any one form of holding company activity without re-evaluating the principles which have long been applied equally to other types of permissible interstate activities of holding companies. The broader issues involving all forms of interstate bank holding company activities and the existing market structure should, in our opinion, be reconsidered before any further prohibition upon interstate holding company activities, which is designed to protect particular local interests, is enacted. In fact, the Administration is nearing completion of a study, which was undertaken at the request of Congress, to review the entire issue of geographic restrictions on bank and holding company activities. We recommend that any legislative action on the issue of interstate trust operations at least await the completion of that report. As you know, this Office has a long standing policy of favoring a free and open system of competition among all providers of financial services. We believe that any geographical restraints on competition should over time be eliminated, and further statutory restraints upon competition not be enacted.

In recognition of the need to more fully consider the entire issue of interstate holding company activities, and the inappropriateness of enacting a provision which fails to address both federal and state chartered trust companies, the House Subcommittee on Financial Institutions Supervision, Regulation & Insurance recently removed a provision similar to proposed Section 412 from proposed H.R. 5280, to be more appropriately considered together with amendments to the Bank Holding Company Act. It is my understanding, that the House Subcommittee has taken the issue under advisement to be considered in light of the need for amendment to the Bank Holding Company Act.

In conclusion, we believe that the proposed prohibition regarding the interstate establishment of national banking associations with limited trust powers is essentially anticompetitive and should not be enacted. The Congress should, in our opinion, more fully consider the issue in the light of the soon to be completed study regarding all geographical restrictions on bank and holding company activities. Finally, the specifically proposed provision is inadequate to accomplish its intended purposes because it fails to address the establishment of state-chartered trust companies to be acquired by out-of-state holding companies.

Sincerely,

JOHN G. HEIMANN,
Comptroller of the Currency.

The PRESIDING OFFICER. The Senator from Florida.

Mr. STONE. Mr. President, right now there are seven national bank holding companies attempting to open trust companies in Florida. These include Bankers Trust, Continental Illinois, and Morgan Holding Corp. The trust assets of the seven money-center banks amount to $116.6 billion. The trust assets of all the banks in Florida amount to only $9 billion. So those seven holding companies have nearly 13 times our trust assets.

Florida's total banking assets are $37.6 billion compared with $148.3 billion for just these seven bank holding companies. How in the world can the banks in my State, or very many other States, even begin to compete with the awesome power of these giants? The answer is that they could not. They would be wiped out in the trust arena because all the lucrative trust accounts would go to the bank holding companys' in-State trust company.

These money-center banks have made it clear they are after the cream of the accounts. Let me quote to you from the testimony of Mr. Samuel Hunt, who appeared as a witness for Continental Illinois Corp. at its hearing on its application before the Office of the Comptroller of the Currency:

We feel it appropriate to direct our marketing effort at that segment of the market which we feel we can serve best; that happens to be individuals who have a net worth of about $1 million, or who have manageable assets of about a half million dollars.

We do not have any minimum size accounts which we accept or reject; but, our pricing policy is designed to appeal to those who want the highest quality service, and who are willing to pay a significant price to achieve that.

In some respects, that limits the availability of our service to individuals who have relatively less wealth, or assets to manage.

These money-center banks do not want to serve the trust needs of the people of Florida or of Iowa or of Texas. They want to come in and raid our banks of the big accounts that make it possible for our banks to handle any size trust—right down to the smallest. Small trusts just are not as profitable as large trusts. If our banks do not have a mixture of large and small accounts, they will not be able to do trust work at all.

I do not think the Comptroller is following the law or the clear intent of the Congress in reviewing applications for out-of-State branches by national bank holding companies. Section 412 of H.R. 4986 makes our intent unmistakable—the Comptroller does not have this authority.

Mr. President, I urge my colleagues whose States do not have money-center banks (and that is most States) to oppose this amendment.

The PRESIDING OFFICER. The Senator from Alabama.

UP AMENDMENT NO. 703

(Purpose: To amend the Bank Holding Company Act of 1956)

Mr. STEWART. Mr. President, I send to the desk an amendment which is a substitute for the language proposed to be stricken by the Stevenson amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Alabama (Mr. STEWART) proposes an unprinted amendment numbered 703 as a substitute for the Stevenson amendment numbered 557.

Mr. STEWART. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 40, strike out lines 6 through 12 and insert in lieu thereof the following:

SEC. 412. (a) Section 5169 of the Revised Statutes is amended by adding at the end thereof of the following: "Notwithstanding the provisions of the preceding sentence, a national banking association the operations of which are limited as provided in the preceding sentence shall be deemed an additional bank within the contemplation of section 3 of the Bank Holding Company Act of 1956.".

SEC. 413. Section 3(d) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)) is amended by inserting "(1)" after "(d)" and by adding at the end thereof the following:

"(2)(A) Except as provided in subparagraph (B), the restrictions contained in paragraph (1) regarding the acquisition of shares or assets of, or interests in, an additional bank shall apply to the acquisition of shares or asset of, or interests in, a trust company.

"(B) Subparagraph (A) shall not apply with respect to the acquisition of shares or assets of, or interests in, a trust company if such acquisition was approved by the Board on or before November 1, 1979, and if such trust company opened for business on or before November 1, 1979.

"(C) For the purpose of this paragraph, the term 'trust company' means any company whose powers are limited to the powers specified in subsection (a) of the first section of the Act entitled 'An Act to place authority over the trust powers of national banks in the Comptroller of the Currency', approved September 28, 1962 (12 U.S.C. 92a), for a national bank located in the same State in which such trust company is located.".

Mr. STEWART. Mr. President, the amendment I have just offered contains the language that is already in the bill and has already been spoken to by the Senator from Florida, the Senator from Illinois, and the Senator from New York. The further addition we have made in the amendment we have offered would simply allow States the same rights they have with respect to trust companies which they presently have with respect to banks. Each State, in other words, under this amendment, can decide whether it wishes out-of-State entry.

Section 412 of the bill that is presently before us is only half the loaf. It will prevent the Comptroller of the Currency from chartering trust companies across State lines. However, many States charter trust companies at the State level. Under the same Federal court decision, recently handed down by a Federal district court, which was discussed by the Senator from Florida, States will be compelled to charter trust companies across State lines unless Congress acts.

In response to the statement made by the Senator from New York that national trust companies were being discriminated against by the language presently in the act, I say that this would make the act a uniform-type situation as it would apply, in the manner in which we have worded it, to State-chartered trust company entries the same as nationally chartered trust companies.

Mr. STONE. Will the Senator from Alabama yield for a short question and comment?

Mr. STEWART. Certainly.

Mr. STONE. I thank the Senator.

Is it not the fact that the State banking associations from the Senator's State of Alabama and from the following States oppose the Stevenson amendment but support the amendment of the Senator from Alabama: Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Hawaii, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, West Virginia, Wisconsin, and Wyoming?

Mr. STEWART. It is my understanding that that is correct.

Mr. STONE. I thank the Senator.

Mr. STEWART. I think we need to answer the question that was raised by the Senator from New York about the discriminatory element of the amendment as it presently stands in this substitute. In addition, I think, in all fairness to the Senator from Illinois and the Senator from New York, they raised questions about the competitive situation that should be addressed. Those things were, I assume, in the substitute amendments.

It goes without saying that the trust industry is already highly concentrated. I think we need to recognize that when we talk about competition. The top 30 trust entities in this country have as much under management as the remaining 3,000 trust entities in this country. This concentration is increasing. Without adoption of the language that we are talking about here today, certainly, that possibility would be enhanced.

The Senator from Florida indicated that they are having difficulties in his State today. I point out to my colleagues in the Senate that that possibility would not only be limited to Florida. If we do not pass the language that we are considering here today in the substitute amendments, I suggest that that would be true in the majority of the States save, possibly, three. Those are the States that contain the money-center banks. The State of New York would be one. With all due respect, the State of Illinois, which is represented ably by the Senator from Illinois who spoke earlier, would be one, and perhaps California. But in Florida, I think we need to know exactly what has happened.

Three applications for national bank charters limited to trust powers have been filed there with the Comptroller of the Currency. Five trust company applications have been filed with the Florida Comptroller's office. And let us see who is making applications for those trust privileges.

On March 20, 1979, Bankers Trust, a New York corporation, with affiliate banking assets of $24.4 billion and trust assets of $30 billion, filed an application.

On May 14, 1979, the United States Trust Corp., with affiliate bank assets of $1.7 billion and trust assets of $11.7 billion, filed a trust company application for Palm Beach, Fla.

On May 14, the Detroit Bank Corp., with affiliate bank assets of $4 billion and trust assets of $2.7 billion, filed a trust company application.

On April 30, 1979, Continental Illinois Corp., with affiliate bank assets of $31.1 billion and trust assets of $6.9 billion, filed an application for a national bank limited to trust powers.

On April 23, 1979, Manufacturers Hanover Corp., with affiliate bank assets of $38.4 billion and trust assets of $12.5 billion, filed a trust company application for Miami, Fla.

I could read on and on. Those applications were filed, Mr. President, at a time when the assets—it is my understanding, the total assets in Florida, and I stand to be corrected on this—of all the institutions in that State, were no more than $9 billion.

I think it speaks to the fact that those institutions are not going to be able to meet the competition. They are not going to be able to secure the size of trust accounts that give any capability to compete. I think when we talk about competition, we need to talk about not only the fact that these large-sized banking institutions have the capability to move into other States but that, also, the competition that they will face in those States from the State institutions, will not have the capability to compete with them. The concentration of the trust industry, in my opinion, is something that will also have an effect on us in this country. It is something we need very much to be concerned about.

Institutional investors control almost 50 percent of the Nation's capital markets and 8 of the top 10 institutional investors are bank trust departments. I am quite sure some of them are involved in attempts to acquire banking institutions with trust capabilities in the State of Florida. As I have said, it is not going to be limited to the State of Florida. They are heading elsewhere.

Further concentration in the trust industry, in my opinion, will further concentrate the equity markets. It will hinder capital formation for small- and medium-sized regional corporations. A recent Library of Congress study found that trust institutions have a tendency to invest in the largest and best-known blue chip companies. Companies such as Morrison's in Mobile, Ala., which is a company that is fairly large sized in my State, but certainly would not come to the attention, I think, of most money-center trust company analysts, would have difficulty finding financial aid or raising equity capital to enhance its capabilities as far as the company is concerned.

They would just be out of reach and out of consideration by these large-sized, money-centered trust institutions that are making a move in Florida now and could be doing it in Alabama next week and in Utah the week after that.

If we want to talk about what effect this will have on competition, I think we need only look at certain other industries in this country to see what the concentration, as far as the holdings of those institutions, has done to prices.

Just take oil, for instance. Plenty of people are still concerned about that, concerned about the centralizing of decisions in energy. Now we are talking about the same thing in the financial world.

Frankly, I would urge my colleagues to take that into consideration when they are voting on it. I ask that they support this amendment.

Mr. President, at this time I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. STEVENSON. Mr. President, everybody is for deregulating the other fellow, and on it goes. More regulation; less competition.

This substitute amendment proposes more regulation than section 412. It proposes to regulate the interstate activities of State trust companies by bank holding companies.

The issue raised by this substitute to my amendment goes back all the way to the Articles of Confederation. I do not know how far this process could go. It contemplates States hiding behind their boundaries, protecting their trust facilities and other industries from competition, all at the expense of not only the people of those States, but the national welfare.

This is an anticompetitive substitute for an amendment which seeks to enhance and enlarge competition in the provision of trust services.

I emphasize trust services because it has nothing to do with banking services. A lot of figures have floated around that are irrelevant.

These are not interstate banking activities. My amendment and the substitute are addressed to interstate trust services.

All my amendment proposes to do is to permit holding companies to continue providing the same trust services they are already permitted by law. Let the people choose their trust services; let them benefit from the competition the interstate provision of trust services offers.

If, for some reason I cannot see, there is some need to change the law in order to impose more regulation on the activities of banks and to stifle competition in the provision of trust services, then we ought to have hearings. We ought to consider the issue and not make a major change in the law with no careful consideration of the arguments on both sides, no opportunity for debate in committee, and against the advice of the Comptroller of the Currency and the Chairman of the Federal Reserve Board.

Mr. President, the amendment that is offered as a substitute for my amendment would compound the anticompetitive implications of section 412 in the bill by preventing State banks, as well as national banks, from providing trust services across State lines.

As such, it is more anticompetitive and proposes more regulation. Before acting on it and on section 412, I suggest to the Senate that we should hold some hearings and hear both sides.

I urge the Senate to defeat this substitute and to approve the amendment which I originally offered.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I favor the Stewart substitute to the Stevenson amendment. I oppose the Stevenson amendment for a number of reason.

First, section 412 of the bill that is now pending provides that when the Comptroller charters a national bank to get in the trust business, that national bank may not be chartered across State lines.

Therefore, it carries out the spirit of the McFadden Act. The McFadden Act is going to be debated and discussed in our committee at great length. It is an act that has been on the books for 40 years. Maybe it should be repealed. But we ought to wait for the judgment of the administration, which has studied this very carefully for a long time.

It is coming down shortly. We should have hearings on it and decide on the basis of whether or not we feel we ought to have the kind of local ownership, or we ought to have the kind of competition, the Senator from Illinois is championing.

There is a lot of merit in what the Senator from Illinois argues for. It may be that banks in the big cities, Chicago, Milwaukee, Boston, and so forth, are more efficient. It may be their trust services are better and more efficient and more competent and can provide a better service.

But there is a great deal of merit in the local ownership of banks and trust companies. I think that is attested to by the fact that we have in this country 14,000 banks. We have a very large number of trust companies now. Local ownership means the local owners can know the character of the people in their community. That is not true in big cities, of course. But it is in many small towns in every one of our States.

I think it is something we should be very careful about changing.

We have a banking system that is quite different from that of any country in the world. Canada has five big banks. Most of the countries have a very small number of banks.

Of course, we, as I say, have proliferated in our banking system. I think it served our country and our needs very well.

So I hope we do not act in favor of the Stevenson amendment. If we do, I think we are prejudging the McFadden Act, a determination that should be made deliberately by the committee at a later time.

As I say, I support the Stewart amendment because I think that is in keeping with the spirit of the McFadden Act inasmuch as it would provide that neither federally chartered nor State-chartered trust companies could be able to operate across State lines.

For that reason, I favor the amendment by the distinguished Senator from Alabama (Mr. Stewart).

● Mr. CHILES. Mr. President, I rise in support of the amendment offered by my distinguished colleague from Alabama. I wholeheartedly endorse the thrust of this amendment to include States-chartered trust companies under the prohibition against interstate acquisition or branching of trust operations by national bank holding companies.

Recently, considerable attention has been focused on the question of geographical limitations currently imposed on our Nation's financial and banking institutions. Because the answers we finally arrive at will have a significant impact on these institutions and our economy in general, a very thoughtful and deliberate approach has been taken in this matter. Now, however, the Comptroller of the Currency has, singlehandedly, decided to alter this process and essentially take matters in his own hands by chartering national bank holding associations limited to trust powers across State lines. I think this a very premature move and one that flies in the face of congressional intent.

When Congress passed the Financial Institutions Reform Act last year, section 1504 was included to affirm the Comptrollers authority to charter trust operations within the same State. There was, however, no menion that this section would allow the Comptroller to charter a trust operation across State lines. The Comptroller took it upon himself to interpret section 1504 in this manner. I believe he is completely wrong in this interpretation. In addition to my concern, I think it is important to note that the Comptroller's actions were also questioned by the distinguished chairman of the Senate Banking Committee, Senator Proxmire and his counterpart in the House, Congressman Reuss. In a joint letter dated August 14, 1979, they expressed their concern and indicated in no uncertain terms that they knew of no intention by either the Senate Banking Committee or the House Banking Committee to provide the Comptroller with the authority to charter trust operations on an interstate basis.

While I am concerned about the Comptroller's actions relative to their unknown consequences on our Nation's financial institutions and our economy, I am also concerned about the impact on the State of Florida and other non-money-center States, especially in the South and Midwest. Already this year, the Comptroller of the Currency and the Florida comptroller have received some 10 applications by money-center banks to open interstate trust operations in Florida. This, I believe, threatens the competitive balance that now exists in Florida and threatens to undermine the basic pluralistic, nonconcentrated banking structure that has enabled us to enjoy the most successful, secure financial system in the world.

Since the competitive balance is viewed as a positive element of our system, let us see what Florida bankers would have to contend with should interstate branching or acquisition of trust operations be approved. First, the total banking assets of the money-center banks attempting to do business in Florida amount to some $148 billion. Total assets held by Florida banks amount to only $37.6 billion. Second, the trust assets of the money-center banks total $116.6 billion compared to Florida's total trust assets of approximately $9 billion. Looking at these figures, I would say it would be awfully tough for Florida's bankers to compete with the financial resources of the Nation's money-center banks. I am sure the same situation holds true for other States and I am concerned that we are only seeing the tip of the iceberg in the applications filed for interstate trust operations in Florida.

I am in complete agreement with section 412 of H.R. 4986 and firmly believe that we have a responsibility to put an end to the Comptroller's actions until such a time as Congress has the opportunity to completely review this practice and its impact on our financial institutions. My only regret is that section 412 as it currently reads, does not go far enough. Accordingly, I am pleased to support my colleague from Alabama in his efforts to include State-chartered trust companies in the prohibition against bank holding company acquisition of trust operations located outside their principal place of business unless a State has passed legislation expressly permitting such an acquisition.●

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Alabama.

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Hampshire (Mr. Durkin), the Senator from Hawaii (Mr. Matsunaga), the Senator from Wisconsin (Mr. Nelson), and the Senator from Georgia (Mr. Nunn) are necessarily absent.

I further announce that the Senator from Nevada (Mr. Cannon) is absent on official business.

I further announce that, if present and voting, the Senator from Hawaii (Mr. Matsunaga) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker) is necessarily absent.

I also announce that the Senator from Oregon (Mr. Hatfield) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators who wish to vote on this amendment?

The result was announced—yeas 61, nays 32, as follows:

[Rollcall Vote No. 381 Leg.]

YEAS—61

Bayh
Bellmon
Bentsen
Biden
Boren
Bumpers
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Chiles
Church
Cochran
Cohen
Culver
Danforth
DeConcini
Dole
Eagleton
Exon
Ford
Glenn
Goldwater
Gravel
Hart
Heflin
Helms
Hollings
Huddleston
Inouye
Jackson
Johnston
Laxalt
Leahy
Long
Magnuson
Mathias
McClure
McGovern
Metzenbaum
Morgan
Muskie
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Simpson
Stafford
Stennis
Stevens
Stewart
Stone
Talmadge
Thurmond
Tower
Warner
Weicker
Young
Zorinsky

NAYS—32

Armstrong
Baucus
Boschwitz
Bradley
Burdick
Chafee
Cranston
Domenici
Durenberger
Garn
Hatch
Hayakawa
Heinz
Humphrey
Javits
Jepsen
Kassebaum
Kennedy
Levin
Lugar
Melcher
Moynihan
Packwood
Pell
Percy
Pressler
Schmitt
Schweiker
Stevenson
Tsongas
Wallop
Williams

NOT VOTING—7

Baker
Cannon
Durkin
Hatfield
Matsunaga
Nelson
Nunn

So Mr. Stewart's amendment (No. UP 703) was agreed to.

The PRESIDING OFFICER. The substitute amendment offered by the Senator from Alabama (Mr. Stewart) having been agreed to, under the precedents of the Senate the amendment of the Senator from Illinois is not acted upon.

Mr. STEWART. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, is there an amendment pending?

The PRESIDING OFFICER. There is no amendment pending.

Mr. ROBERT C. BYRD. Does a Senator wish to call up an amendment?

Mr. MORGAN. Mr. President, I have an amendment.

Mr. BELLMON. Mr. President, will the Senator from North Carolina yield to me?

Mr. ROBERT C. BYRD. I have the floor. I yield to the Senator from Oklahoma.

WILL ROGERS DAY

Mr. BELLMON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of House Joint Resolution 3. It is a joint resolution having to do with designating November 4 as "Will Rogers Day."

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, the Committee on the Judiciary acted favorably last night on a joint resolution (S.J. Res. 32) which I understand is identical, word for word, with the House resolution, and I presume the Senator wants to take up the resolution passed by the House, since it has already passed that body.

Mr. BELLMON. That is right.

Mr. THURMOND. We have no objection to that.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, the Senator from Oklahoma has cleared it on this side, and I understand it has been cleared with the Judiciary Committee. He therefore may proceed.

The PRESIDING OFFICER. The joint resolution will be stated.

The assistant legislative clerk read as follows:

> A joint resolution (H.J. Res. 3) designating November 4, 1979, as "Will Rogers Day."

The PRESIDING OFFICER. Without objection, the joint resolution will be considered as having been read twice, and the Senate will proceed to its consideration.

Mr. BELLMON. Mr. President, next Sunday marks the 100th anniversary of the birth of Will Rogers a humble Oklahoman who became one of the most famous and beloved personalities of the 20th century.

From his birth on November 4, 1879 on his father's ranch near Oologah, Indian Territory, till his death in a plane crash at Point Barrow, Alaska on August 15, 1935, his life was an inspiration for all Americans.

Will Rogers was a study of contrasts. Born of Cherokee Indian heritage, of which he was most proud, he always thought of himself as a cowboy. He got his start as an entertainer by doing rope tricks. Although he rose to become the companion of presidents and kings, he disdained the trappings of stardom and preferred an old blue serge suit to fancy dress. Despite the lack of a formal education, he displayed a wisdom that has survived through the ages.

Many of his comments are as pertinent today as they were a half-century ago. His observations are particularly applicable to Congress and the Federal Government.

For example, consider what he had to say about bureaucracy:

> The government has not only hundreds but literally thousands in Washington to see that no man can personally tend to his own business. They go there to do it for him and a mob always gets panicky quicker than an individual.

And that was before many of the present Federal regulations were written.

Will Rogers commented frequently about U.S. foreign policy. Here are some typical remarks:

> There's one thing no nation can ever accuse us of and that's secret diplomacy. Our foreign dealings are an open book . . . generally a check book.
>
> America has a unique record. We never lost a war and we never won a conference in our lives.

Another favorite subject was politics, which he called the best show in America. Some of today's candidates would do well to remember these sayings:

> You can't beat an administration by attacking it. You have to show some plan of improving it.
>
> Conditions and not oratory is going to settle the next election.
>
> Everybody is trying to save the country, only they're trying to do it in different ways, and it's too big. The country is too big for all of them put together to spoil.

Will Rogers was a frequent visitor to Washington, which he called a "joke factory" and he could often be seen in the Senate or House gallery watching the proceedings with a grin, or having a bowl of chili in a Capitol dining room.

As a journalist, he covered every national political convention, Democrat and Republican, from 1920 to 1932, and both parties felt the sting of his barbed wit. He said:

> I generally give the party in power the more digs, because they are generally doing the country the most damage.

Several efforts were made to draft him for public office—even President—but he firmly resisted. Yet he has been remembered far longer than many politicians of his era.

One of Oklahoma's two statues in the Capitol is the Jo Davidson bronze of Will Rogers which stands just outside Statuary Hall. When this statue was dedicated on June 6, 1939, the late Alben Barkley, then a Senator from Kentucky, had these insightful comments:

> It has been in America sometimes the idea that greatness was limited largely to men who hold public station, that the ermine of public office was an indispensable thing to American greatness, and those of us who hold office even for a temporary period sometimes are prone to imagine that we are more powerful and more august, and are to be revered more than those who are not entrusted by their fellow man with official robes; but I have sometimes wondered whether the man who occupies the Governor's chair or the Senator's toga or the judicial robe has, after all, rendered greater service to mankind than the man who walks in the humble ways, sometimes in the valley where the sun never shines upon him.

Throughout his life, Will Rogers walked in the humble ways. Although he became world famous as an actor, author, humorist, critic, businessman, aviation enthusiast, and world traveler, he never lost the common touch.

He was a shining example of one of his most popular sayings:

> It's great to be great, but it's greater to be human.

Mr. President, on Sunday, November 4, in his hometown of Claremore, Okla., this Will Rogers Centennial celebration will be brought to a climax with the issuance of a special commemorative stamp and other ceremonies.

Last February Members of the Oklahoma congressional delegation introduced a joint resolution authorizing and requesting the President to designate November 4, 1979, as "Will Rogers Day." That resolution was passed by the House of Representatives last Friday, October 26, and is now before the Senate for approval.

Mr. President, Will Rogers gave a great deal to this country. During the tumultuous years in which he lived, no one did more than he to help Americans understand themselves, their opportunities, and their responsibilities. He was truly an American legend.

Mr. President, the Congress of the United States can do no less than recognize the contributions which this great American made to this country and to our citizens, by creating a special day in his honor.

I urge the approval of this joint resolution.

Mr. ROBERT C. BYRD. Mr. President, I yield to the junior Senator from Oklahoma.

Mr. BOREN. Mr. President, I am honored today to cosponsor this resolution offered by my distinguished colleague from Oklahoma, Senator HENRY BELLMON, calling on the President to designate November 4. 1979, as Will Rogers Centennial Day in the United States.

This humble Oklahoman, an Indian-cowboy born in Indian territory who received little formal education, captured the hearts of millions of people, both in our country and abroad.

But only we as Oklahomans can, and do, claim him for our own.

Will Rogers continues to be Oklahoma's

favorite son. In a poll conducted by a national wire service recently, Oklahomans overwhelmingly listed Will Rogers as the most well-known Oklahoman in history.

It is a fitting tribute to him and to his many accomplishments that the Nation honor Will Rogers on the 100th anniversary of his birth.

During his lifetime—which began near Oologah, Okla., on November 4, 1879, and ended in the tragic plane crash with Wiley Post near Point Barrow, Alaska, on August 15, 1935—Will Rogers became internationally known as a humorist, newspaper columnist, entertainer, radio announcer, and timely commentator on the events of the day.

He was one of the best read men in America. Will Rogers was a man who spoke the common language, and his words of humor touched the lives of Americans both during his lifetime, and continuing to today.

President Franklin D. Roosevelt spoke of Will Rogers and of his "kindly humor which, while seeing facts, could always laugh at fantasy." Of Rogers' commentaries on the world, President Roosevelt said:

> While I had discussed European matters with many others, both American and foreign, Will Rogers' analysis of affairs abroad was not only more interesting but proved to be more accurate than any other I have heard.

As Will Rogers himself said in one of his most well-known statements, "I never met a man I didn't like." Lesser known is his comment, which speaks much of Will Rogers the man, "It's great to be great, but it's greater to be human."

The spirit of Will Rogers lives on, not only in his films, newspaper columns, and other published works, but in the Will Rogers Memorial which is located on the site where he had planned a home overlooking Claremore, Okla.

Will Rogers is buried on that site, overlooking Rogers County, Okla., a county named for the Rogers family. Thousands will be on hand this Sunday to honor him and to wish him a happy 100th birthday.

One of those persons who will attend the memorial service for Will Rogers is Maggie Culver Fry of Claremore, Oklahoma's poet laureate.

Mrs. Fry has penned lyrics to a song entitled "Will of the Oologah Country" which has been used to publicize this anniversary year of Will Rogers' birth. Her song is as follows:

> Once a boy was born in Cherokee land, Will Rogers was his name. And the range he rode was the whole wide world as he roped his way to fame.
>
> This homey sage loved rich and poor; he knew the ways of state. When his life was done under midnight sun he was numbered with the great.
>
> Every golden fall at the round-up call, in Claremore town today. They talk of Will who spoke no ill of the ones who came his way.
>
> Everybody knew Will—of the Oologah Country. Where the skies are clear, and the prairies wide. And he roped the world with the ring of his laughter. But nobody knew how far he would ride.

I urge my colleagues in the Senate to support this resolution which recognizes Oklahoma's favorite son, Will Rogers.

The PRESIDING OFFICER. The question is on the third reading of the joint resolution.

The joint resolution (H.J. Res. 3) was read the third time, and passed.

The preamble was agreed to.

Mr. BELLMON. Mr. President, I ask unanimous consent that the text of the joint resolution, with its preamble, be printed in the RECORD.

There being no objection, the preamble and the joint resolution were ordered to be printed in the RECORD, as follows:

H.J. RES. 3

Whereas Will Rogers, in a lifetime of wise and humorous commentary on events in this nation and throughout the world, made a tremendous contribution to human betterment through his gentle yet penetrating wisdom;

Whereas from Cherokee Indian and European ancestry, born on an Indian Territory farm, he was a true product of the frontier civilization of our Great Plains as well as its unique combination in Oklahoma;

Whereas he became world famous as rodeo performer, Broadway entertainer, movie and radio star, and above all as daily columnist for some 350 newspapers throughout the United States;

Whereas he became Oklahoma's best known native son and the most celebrated private citizen of the United States in his lifetime;

Whereas Will Rogers possessed the priceless gift of being able to judge people and events both kindly and keenly, personifying affection for his fellow man;

Whereas he improved the standard of public life throughout America by his witty and constructive commentary, making this a better place in which to live; and

Whereas the approaching 100th anniversary of his birth is a fitting occasion to dedicate ourselves to a rebirth of the goodwill and public spirit he exemplified: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to designate November 4, 1979, as "Will Rogers Day" in commemoration of the one hundredth anniversary of the birth of William Penn Adair Rogers, noted American philosopher-humorist.

Mr. BELLMON. I ask unanimous consent that Senate Joint Resolution 32 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPOSITORY INSTITUTIONS DEREGULATION ACT

The Senate continued with the consideration of H.R. 4986.

Mr. BUMPERS. Mr. President, will the majority leader yield for a question?

Mr. ROBERT C. BYRD. I yield to the Senator from Arkansas.

Mr. BUMPERS. I just thought the majority leader might take a head count on amendments remaining, and give all of us an idea of how long we are going to be in session tonight, and so on.

Mr. ROBERT C. BYRD. Yes; Mr. President, I will respond to the question by asking the Senator from North Carolina (Mr. MORGAN) and the manager of the bill (Mr. PROXMIRE) how long they need on the amendment Mr. MORGAN is about to call up.

Mr. MORGAN. Mr. President, the amendment I am about to call up is the one that would eliminate the provision reducing money market certificates down from $10,000 to $1,000. I have argued it extensively, and I do not anticipate taking over 5 or 10 minutes, at the most. I understand one or two of our colleagues have statements on it.

Mr. PROXMIRE. Mr. President, I will have a substitute for the Morgan amendment.

Mr. ROBERT C. BYRD. Can we agree to a time limit on the Morgan amendment and the substitute at this time?

Mr. PROXMIRE. It is fine with me.

Mr. MORGAN. As far as I am concerned, 10 minutes would be adequate, but there are probably two or three other statements, and I do not want to exclude anyone else.

Mr. ROBERT C. BYRD. Would this be agreeable: Thirty minutes on an amendment by Mr. MORGAN, to be equally divided between Mr. MORGAN and Mr. PROXMIRE, and 30 minutes on the substitute, to be equally divided between Mr. PROXMIRE and Mr. MORGAN, and then have a vote, and after those votes we will resume tomorrow on the bill, because there are a number of Senators who have promises they have made to their children tonight, and to their wives, perhaps, about this important time?

So I make that proposition. I make that request.

Mr. JOHNSTON. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. Could we get that question stated, first?

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. JOHNSTON. Mr. President, reserving the right to object, did the Senator say that those two votes would be back to back?

Mr. ROBERT C. BYRD. I did not, but I am constrained to so request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, in answer to the question of the Senator from Arkansas, once these two amendments are disposed of, the Senate will go over until tomorrow and resume consideration of the pending measure at about 12 noon.

AMENDMENT NO. 546

(Purpose: To strike the section mandating a reduction in the minimum denomination of money market certificates from $10,000 to $1,000)

Mr. MORGAN. Mr. President, I call up my amendment No. 546, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

Mr. TOWER. Mr. President, may we have order?

The PRESIDING OFFICER. Will the Senate please be in order? May we have order in the Senate?

The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN) proposes amendment numbered 546.

Mr. MORGAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> Beginning on page 17, line 20, strike all which follows through page 18, line 10.

Mr. STONE. Will the Senator yield for a unanimous-consent request?

Mr. MORGAN. I yield.

Mr. STONE. Mr. President, I ask unanimous consent that I be listed as a cosponsor of the amendment of the Senator from North Carolina.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, this is the amendment that most Members know about. It would delete that part of the bill which reduces money market certificates from $10,000 down to $1,000, all in the name of the small saver.

Mr. President, I am offering this amendment because I think the provision would be devastating to the homebuilding business in America, it would be devastating to the savings and loan industry, and, as a matter of fact, there is an amendment lying on the desk which would provide for bailouts if this provision in the bill is passed.

It has been argued that this reduction is for small savers, but the most analytical discussion of this contention that I have seen anywhere was prepared by Mr. Schecter, the economist for the AFL–CIO, who points out that the small savers are the ones who will be hurt by it. Over half of the people over 65 in America have no savings accounts. Those who would benefit are those making above $15,000 and $20,000 a year.

What happens if you eliminate these and put all of them under the higher interest rate is that those elderly persons, those small savers, so called, are going down to the grocery store and they are going to have to pay higher prices for their groceries and other goods because the grocer is operating on credit and the manufacturer is operating on credit. So, in effect, the reduction really only benefits those who are able to handle their savings on their own.

I want to read briefly the letter from Mr. Janis, the president of the Home Loan Bank Board with regard to this. It sets out the effect far more clearly than I can.

> DEAR SENATOR CRANSTON: In response to your request, we have analyzed the impact of implementing the provision of S. 1347 that could lead to a lowering of the minimum denomination on money market certificates to $1,000.

Mr. President, could we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MORGAN. To continue:

> We estimate the percentage of passbook accounts of S&Ls would decrease to 16 percent of total accounts by the second quarter of 1980 if the minimum denomination were lowered. This compares to 24 percent without any such change. In addition, there would be an attrition of maturing long-maturity certificates into higher rate MMCs so that there would also be a reduction in long-term certificates as a percentage of total accounts.
>
> The results on earnings would be highly adverse. A reduction in the minimum denomination of MMCs to $1,000 is estimated to result in a rate of return on assets of .14 of 1 percent by the second half of 1980 compared to .34 of 1 percent if this action were not taken. Even the latter rate of return would be the lowest that S&Ls have experienced in the post-World War II period and compares with .82 of 1 percent in 1978. With the MMC at $10,000, S&Ls would be experiencing severe earnings problems, particularly in light of the recent Fed actions, and would imply about 20 percent of all S&Ls having a negative income. With the even lower rate of return on assets implied by the $1,000 minimum denomination, we estimate that 37 percent of S&Ls would have a negative income during the second half of 1980.
>
> The impact on S&Ls in the Boston and New York Federal Home Loan Bank districts would be more devastating. These associations have a higher proportion of their savings accounts in passbook accounts and already suffer from low profitability. A reduction in the minimum denomination on MMCs would, in the second half of 1980, produce a loss of .23 of 1 percent on assets for S&Ls in the Boston district, with over 57 percent of S&Ls having a negative income. It would produce a loss of .25 percent of 1 percent on assets in the New York district, with over 52 percent of S&Ls in this district having a negative income. The impact on mutual savings banks, concentrated in the Northeast, would be particularly devastating.

It goes on.

I think, Mr. President, that letter states the case better than I could ever state it. Remember now that the S. & L.'s are the ones who have provided 60 percent of the homeownership loans in America.

Mr. President, I ask unanimous consent that Senator WALLOP, of Wyoming, be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Will the Senator yield?

Mr. MORGAN. I yield.

Mr. RIEGLE. I commend the Senator from North Carolina for his efforts all day long to try to put forward the points he feels strongly about with respect to this legislation. It is very complex legislation about which people can disagree. The effort he has made today has been important on all points. On this particular matter, I rise to support his amendment and I will vote with him.

When this issue was raised in the Banking Committee, we did not discuss it at great length, as most members of the Banking Committee will recall. We had a brief discussion.

As a matter of fact, as the record will show, I inquired of the chairman if any staff work had been done, or if any analysis had been made, which would show what the displacement of funds would be and ultimately what the effect would be on mortgage lending if this proposal were adopted.

At the time, the chairman will recall, and other Members will recall, the answer was that there was no staff analysis that this was being put forward on the basis of it being a concept. The chairman was proposing the amendment, which he felt was an attractive idea, but there was not the kind of formal, professional staff analsyis which would support the proposal.

So I proposed an amendment in committee which would work in such a way that this provision would not go into effect if there were a finding that the reduction would have an adverse effect on the lending institutions, in general, and on mortgage lending in particular. Without dissent, as I recall, that was accepted as a modifying amendment because at the time we did not have any hard data. I think that amendment was accepted by the chairman, and again with the idea in mind, that if we did not have the facts we did not want to be in a position where we would cause an adverse effect.

Now we have some analyses and I am frank to say I am disturbed by it. Mr. Janis is the head of the Home Loan Bank Board and he is not only a highly competent individual in that capacity, and he had an excellent record before that in the Department of Housing and Urban Development, but he has written a very clear letter which raises a number of disturbing points. I want to review those, if I may, in terms of what is in his letter. It has just been read into the RECORD by the Senator from North Carolina.

The letter indicates, among other things, that if this provision which is presently in the bill, and which was adopted without debate and without a factual analysis, is left in the bill the analsyis by the Home Loan Bank Board is that it would reduce the amount of money in passbook accounts by 33 percent.

That, by itself, is a tremendous additional shock wave to bring on the savings and loan institutions at a time when disintermediation has been occurring at a rapid rate and many of them are in a very adverse operating situation.

There is no money available, even at the high interest rates, for mortgage lending. It is a major problem in the United States and I do not think we ought to take an action here that is going to make it worse.

He goes on to point out in his letter that the return on assets, on the $1,000-denomination certificates if we take this step, would be reduced from one-third of 1 percent to one-seventh of 1 percent. That would be the lowest rate of return since World War II.

In addition, he pointed out that 37 percent of the savings and loans would have a negative income in the second half of 1980.

He pointed out that New England would be particularly affected, that almost 60 percent of the S. & L.'s in that region of the country would have a negative income.

He indicated that in New York, 52 percent of the savings and loans would have a negative income. In the case of California, where savings and loans are operating in the Nation's highest income area, the savings and loans, using conservative estimates, would lose 75 percent of their income in 1980.

I think we have to understand what the role of savings and loans is in our society. They principally provide financing to home buyers at reasonable rates. They are now in a terrible squeeze because many of the existing mortgages in their portfolios are at 8.5 percent or 9 percent and they now find themselves in a situation where they have to pay up to 12 percent on short-term savings.

Lowering the minimum on money-market certificates from $10,000 to $1,000 is an attractive idea. I think, while it has a very popular ring to it, we have to really evaluate what the consequences are to those same people when they come in to seek money to finance a home. If the money is not there, then we have done them no favor.

So, the question of the impact on the small saver and the return on his money, I think, is a fair one. But I think the solution lies not in reducing the money market certificates offered by S. & L.'s from $10,000 to $1,000, but by providing that earnings on the small savings account be tax free. I think that is a step that is long overdue. The jurisdiction, unfortunately, falls in another committee, but I would like to see the Committee on Finance act to remove taxes on earned income in savings accounts by small savers. It would be a way, I think, to stimulate the rate of savings in the United States and, ultimately, capital investment.

I think the tax incentive route is a far wiser way for us to go than to take a step that the head of the Federal Home Loan Bank Board tells us is going to drain a third of the assets out of the S. & L.'s, which are struggling to keep their heads above water at the present time.

This is a complex issue. Ultimately, it boils down to a question of whether we are going to have money available for people for home mortgages. I happen to feel very strongly about that, because one of the things I think is basic to the United States in terms of economic justice is the availability of money for people to buy their own homes; for families starting out and others to be in a position to actually become homeowners. To price mortgage money out of reach with the notion that, somehow or other, we are doing something that actually helps the little person, I think, is really not fair. I do not think it is honest in the sense that it really portrays an inaccurate picture of what the effect would be.

The PRESIDING OFFICER. Will the Senator suspend?

The Senator from North Carolina has 2 minutes remaining.

Mr. MORGAN. I yield the 2 minutes to the Senator from Michigan.

Mr. RIEGLE. I thank the Senator.

Mr. President, I say in conclusion that we are much better off to recognize that the existing administrative organizations within the Government are in a position to take this step if they should decide to. They are absolutely free to do it as the law reads today. So if and when analysis indicates that this is a wise step to take, I think they will take the step. But the fact that we now have data in hand that we did not have during the markup that demonstrates that we can do great harm here—in the name of equity. I think wisdom indicates that we are far wiser to have the kind of protection that is in the law presently. That means we should support the amendment of the Senator from North Carolina and strike this item from the bill.

I yield back the remainder of the time to the Senator from North Carolina.

Mr. MORGAN. Mr. President, if I could reserve the remainder of my time and borrow 2 minutes for Senator TOWER.

Mr. PROXMIRE. Mr. President, I am happy to yield what time the Senator wants. Two minutes?

Mr. TOWER. Yes.

Mr. President, I shall be very brief. I just want to express my strong support for the amendment offered by the Senator from North Carolina. I fear that the impact of the provision of the bill as it is will be to raise costs to be borne by home buyers and other borrowers. I think the phaseout of regulation Q is going to result in substantial assistance in more equitable treatment of the small savers. Therefore, I think that, considering the disruptions that would result from lowering the figure from $10,000 to $1,000 in our savings institutions, the amendment of the Senator from North Carolina should be adopted.

Mr. MORGAN. Mr. President, let me say just one thing in the few seconds I have.

I thank my distinguished colleague from Michigan, especially for pointing out that there is a need for incentives for small savers. I have joined with the Senator from Texas (Mr. BENTSEN) and others to provide a tax break on income earned on savings. That is the way to help small savers, as I have already pointed out in my argument earlier today. As the Senator from Michigan has pointed out, this reduction is not going to help the small saver by pricing him out of home mortgage loans and increasing the cost of doing business.

Mr. President, I yield back the remainder of my time.

Mr. PROXMIRE. Mr. President, I yield back the remainder of my time.

UP AMENDMENT NO. 704

(Purpose: To strike the section mandating a reduction in the minimum denomination of money market certificates from $10,000 to $1,000)

Mr. PROXMIRE. Mr. President, I offer an amendment that takes precedence over the pending amendment. The amendment is at the desk. I ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 704.

In lieu of the language proposed to be stricken insert the following:

(e) Upon unanimous agreement the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board shall reduce the minimum denomination of all certificates of deposit to not more than $1,000 as soon as feasible and in any event within two years after the date of enactment of this Act, except that if the Board of Governors of the Federal Reserve System in unanimous agreement with the Board of Directors of the Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board, determine that economic conditions warrant or that such action is necessary to avoid a threat to the economic viability of depository institutions, they may postpone the reduction required by this subsection. When such determination is made and postponed, it shall be reported to the Congress.

Mr. PROXMIRE. Mr. President, I yield myself such time as I may require, which is not very much.

I think the Senator from North Carolina, the Senator from Michigan, the Senator from Texas and others have made a very good point here. I think they are right. To the extent that we reduce the money market certificate from $10,000 to $1,000, sure, we accommodate the small saver, they say, but it can be at the great expense of savings and loans. I am aware of that. This amendment would go to that very problem.

How would it go to it? As we know, the Home Loan Bank Board, as Mr. Janis reminded us in a letter here, is charged by Congress with the responsibility for the safety and soundness of thrift institutions. It opposes, at the present time, reducing or lowering the cost of the money market certificate to $1,000.

What this amendment does is provide that the Home Loan Bank Board would have to approve the reduction of the certificate from $10,000 to $1,000. That means that this gives the toughest kind of test, because the Home Loan Bank Board has the responsibility, as I say, for determining whether or not S. & L.'s are safe and sound. We are telling them that we want them to reduce that certificate, but the head of the Home Loan Bank Board has indicated very clearly to us that he will not do it if he feels that this will adversely affect the safety and soundness of the savings and loan institutions.

Mr. President, I think this is a good accommodation. It is a reasonable accommodation. What it means is that we are going to give the small saver an opportunity to make the kind of 14-percent or 12-percent return on his money market certificate that the big saver has now. The overwhelming majority of the American people do not have $10,000 in cash. Many of them have $5,000, $3,000, $2,000. There is no reason in the world why they should not be encouraged to save this money.

Certainly, if this legislation has any purpose, it is to encourage savings, to combat inflation, by rewarding people who save their money rather than spend it.

So I think this compromise I am offering here is the kind of compromise the Senate can accept.

After all, I cannot think of any institution that is in a better position to make a judgment on the effect on the savings and loan institutions than the institutions we charge with the responsibility for their safety and soundness.

Let me finish with a couple of words about this.

Mr. President, I oppose removing the small saver amendment from the bill.

Not only is regulation Q inflationary but it is blatantly discriminatory against the small saver.

Regulation Q authorizes insured financial institutions to pay market rates to savers with $10,000 or more for a 6-month term. Passbook savers on the other hand are limited to a return of 5½ percent.

Lets face it. The only reason that regulation Q sets such a discriminatory rate is that the regulators have concluded that the small saver is a captive of financial institutions. They may be right to a great extent. But what a cynical policy.

I want every Senator to know that a vote to delete the small saver provision is a vote against the small saver—and a vote for continued Government cynical policies.

The small saver is entitled to a fair rate of return. The small saver should not be required to subsidize borrowers. Borrowers in many cases are better off financially than savers. This Nation needs to encourage saving.

One estimate is that over the past 13 years savers have lost $20 billion in interest because of regulation Q. Think of a retired couple with $6,000 of savings. Regulation Q forced this couple to subsidize the borrower and the institution $270 a year in lost interest. That is $22.50 a month; $22.50 a month will buy a hot breakfast every day for a retired couple. Why should they be forced by the Government to give up $22.50 a month.

This amendment is particularly objectionable because section 107(e) provides the regulatory authority to postpone the reduction of the MMC to $1,000 if economic conditions warrant the action is necessary to avoid a threat to the economic viability of depository institutions.

Removing section 107(e) means that Congress will not go on record as removing the discrimination against the small saver even if it is economically reasonable.

I cannot support the continuation of this discriminatory policy and I oppose the Morgan amendment.

Now, we are told by some they prefer to give the small saver a tax break. That is fine, but a very large number of small savers have income so small they do not pay very much in taxes, or pay nothing in taxes. They have a very low marginal rate.

The difference between getting 5.5 percent that is tax exempt and getting 13 percent that is taxable, after all, does not really help the small saver very much. He is far better off if he has the opportunity to get the 13-percent rate.

So, as I say, what we try to do in this amendment is to permit the certificate to be reduced from $10,000 to $1,000, but giving the agency with the responsibility in this country for determining the safety and soundness of the savings and loans the right to, in effect, veto it.

Mr. BUMPERS addressed the Chair.

Mr. PROXMIRE. I am happy to yield to my friend from Arkansas.

Mr. BUMPERS. Mr. President, I just want to direct a question to the distinguished chairman and floor manager of the substitute. Here is the way the amendment reads:

> (e) Upon the unanimous agreement the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board shall reduce the minimum denomination of all certificates of deposit to not more than $1,000 as soon as feasible and in any event within two years after the date of enactment of this Act.

Does that mean with or without unanimous agreement between these three agencies that they must issue money market certificates of $1,000, within 2 years?

Mr. PROXMIRE. It means with unanimous agreement of all the regulators, including the Home Loan Bank Board.

Mr. BUMPERS. The way I read it, it says unanimous between these three, they shall reduce the denomination of these certificates as soon as feasible. Then it goes on to say, but, in any event, within 2 years after date of enactment.

My reading of that is that if they have a unanimous agreement, they can do it at any time, but they may not postpone it under any circumstances beyond 2 years.

Mr. PROXMIRE. No. Then on line 25 of the bill, we insert that except that if the Board of Directors of the Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board determine that economic conditions warrant or that such action is necessary to avoid a threat to the economic viability of depository institutions, they may postpone the reduction required by this subsection.

So that after 2 years they have the right to postpone it.

Mr. BUMPERS. But only under those conditions?

Mr. PROXMIRE. No limit as long as they feel it would have this kind of effect on the savings and loan institutions.

Mr. BUMPERS. Is it fair to say the effect of the amendment is that unless they reach a decision—unless they determine in that unanimous agreement that economic conditions do not warrant the reduction, or that such reduction is a threat to the economic viability of depository institutions, they must make one of those two findings, or both of those findings, in order to postpone it by the 2 years?

Mr. PROXMIRE. No.

Mr. BUMPERS. What must they do to postpone this decision for 2 years?

Mr. PROXMIRE. They have to have unanimous agreement in order to reduce the certificate from $10,000 to $1,000. They have to make that determination and report to Congress.

But the Home Loan Bank Board has the right to dissent, and if they dissent the certificate could not be reduced.

Mr. BUMPERS. What we have here then is an effective veto from any one of these three organizations?

Mr. PROXMIRE. The Senator is correct.

Mr. BUMPERS. I would like to support the Senator's amendment because the way I read it, first, it gives the S. & L.'s the opportunity to get the portfolios in shape so they can pay a larger interest rate on small deposits.

But they have got a serious problem.

My home loan in Arkansas is 5½ percent. It dates back to 1962.

My wife always tries to get me to pay my loan off. I am resistant.

But I know a lot of these S. & L.'s have a whole parcel of loans like mine in their files.

But their effective rates of interest income are probably well below 10 percent. If there is no distinction between the $1,000 and $10,000 certificates, and I do not think there ought to be under normal conditions, we have got the thing in reverse. Small savers need the interest worse than the big savers do.

I would like to see them get it. But I have to be responsible and thoughtful about what will happen to savings and loans.

Mr. PROXMIRE. I wholeheartedly agree. That is exactly why I offered the amendment this way, because the whole purpose of the Home Loan Bank Board is to protect the safety and soundness of savings and loan institutions in the country, and unless they agree, the certificates would not be reduced.

So we put it squarely up to them. They have to be brought in for unanimous agreement by the regulators.

Mr. BUMPERS. The one thing I like about the amendment is, obviously, these three would not agree until the S. & L.'s, hopefully, got their portfolios in order and could afford to pay.

Mr. PROXMIRE. That is right.

Mr. BUMPERS. Pay a higher rate of interest to small depositors.

Mr. PROXMIRE. That is right.

I thank the Senator.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MORGAN. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 15 minutes.

The Senator from North Carolina.

Mr. MORGAN. Mr. President, I think it is appropriate that my chairman offered this amendment on Halloween because it is like a wolf in a sheep's clothing. When analyzed, it leaves us just where the bill did, except in worse condition.

First of all, if the Board has the authority now to do it, and they do have that authority, then if we take the chairman's argument, it does not mean much.

We make a lot to do about legislative history in this Senate. But as I recall my interpretation of the law, the courts can only refer to legislative history when the meaning of the law is not clear from the four corners of the statute. The Senator from Arkansas was exactly right. If we read this amendment as proposed, it is exactly as the Senator said, they shall reduce them to $1,000 within 2 years if feasible and, in any event, within 2 years.

So that is clear as it can be and that would not allude to legislative history.

Mr. PROXMIRE. If the Senator will yield, let me say that we do this on unanimous agreement. That was not true in the original bill. We modified that; we change it.

Mr. MORGAN. I say to the Senator that that may have been his interpretation of it, but that is not the way it reads.

Second, even if we accept that and go down to the portion after 2 years, if we accept the Senator's interpretation, they would have to do it, unless they could find that these economic conditions were met. Who has the burden of proof is extremely important, and we argued it here a long time.

One other comment: I think I have to be pragmatic. I want the Senate's position on money market certificates to be clear. I do not want the conference committee to have flexibility to come back with something that the Senate did not want at the time we debated. That is what this amendment would do.

Make no mistake about it: This amendment will end up doing exactly what the bill does. This is too important a matter to take lightly.

I want to read the last three paragraphs of Mr. Janis' letter, which I failed to read earlier. He says:

> I thought you might be interested in an analysis of the effect of the $1,000 provision done by Home Savings and Loan Association in California, the country's largest savings institution. Using conservative estimates, their analysis indicates a cost increase of 70 basis points in 1980 if the provision were adopted. This represents a substantial decrease in income for this institution, on the order of 75 percent.
>
> Over the long run, we remain committed to a phasing-out of rate control. I stated this in my support of S. 1347, which, at that time, did not include the provision to reduce the minimum denomination. However, any such phasing-out, including a reduction in the minimum denomination on MMCs, must take account of the extremely difficult financial environment facing thrifts.
>
> The information contained in this analysis was obtained before the recent Fed actions. If data had been available, the results would have been even more devastating.
>
> Sincerely,
>
> JAY JANIS.

Mr. President, I think the case is made. After all time has expired, I intend to move to table the amendment of the chairman to the amendment I have offered.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, I ask unanimous consent that we may have a brief quorum call, without it counting against the time of either side.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DECONCINI). Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I ask unanimous consent to modify my amendment as follows, and the modification would read:

> (e) Upon unanimous agreement the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board shall reduce the minimum denomination of all certificates of deposit to not more than $1,000 as soon as feasible except that if the Board of Governors of the Federal Reserve System or the Board of Directors of the Federal Deposit Insurance Corporation or the Federal Home Loan Bank Board determines that economic conditions warrant or that such action is necessary to avoid a threat to the economic viability of depository institutions, the reduction required by this subsection shall be postponed. When such determination is made and postponed it shall be reported to the Congress including the reasons therefore.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? The Chair hears none, and without objection, the amendment is modified.

Will the Senator send the modification to the desk?

Mr. MORGAN. Mr. President, did the Senator read "The Board of Governors of the Federal Reserve Bank, the Federal Deposit Insurance Corporation"——

Mr. PROXMIRE. I think the Senator is correct. I modify my amendment to be sure that the FDIC is included as well as the Federal Reserve Board.

The PRESIDING OFFICER. Without objection, the amendment will be so modified.

Mr. PROXMIRE. FDIC, as well as the Federal Reserve Board, and the Federal Home Loan Bank Board.

The amendment, as modified, is as follows:

> In lieu of the language proposed to be stricken insert the following:
>
> (e) Upon unanimous agreement the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board shall reduce the minimum denomination of all certificates of deposit to not more than $1,000 as soon as feasible except that if the Board of Governors of the Federal Reserve System or the Board of Directors of the Federal Deposit Insurance Corporation, or the Federal Home Loan Bank Board, determine that economic conditions warrant or that such action is necessary to avoid a threat to the economic viability of depository institutions, the reduction required by this subsection shall be postponed. When such determination is made and postponed it shall be reported to the Congress including the reasons therefor.

Mr. MORGAN. Mr. President, how much time do I have?

The PRESIDING OFFICER. Ten minutes and 11 seconds remain.

Mr. MORGAN. Mr. President, if I could have the attention of the Senate for a moment——

The PRESIDING OFFICER. The Senate will be in order. The Senator is entitled to be heard.

Mr. MORGAN. I would like to state what I understand this amendment to be so that the chairman and I can verify it in a colloquy, because I want to make sure my colleagues who have been supporting me feel comfortable with it, too.

What this does is say that the Federal Reserve, the FDIC, and the Home Loan Bank Board shall reduce the minimum denomination of money market certificates to not more than $1,000 as soon as feasible, except if the Federal Reserve or the FDIC or the Home Loan Bank Board determines that economic conditions warrant or that such action is necessary to avoid a threat to the economic viability of depository institutions, they shall postpone the required action and then report it to the Congress, and their reasons why.

So the effect of this seems to me to be that what we are saying as a Senate is that we want to do it just as soon as feasible, as soon as economically feasible and, at the same time, protecting the thrift institutions. Either one of the regulators can veto it.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. MORGAN. Yes.

Mr. TOWER. That means that should any one of these three regulatory agencies dissent from a decision to reduce to $1,000 that that reduction could not occur. In other words, any one of the three regulatory agencies would have a veto power; is that correct?

Mr. MORGAN. That is my understanding.

Mr. PROXMIRE. The Senator is absolutely correct. It is my intention, and it is correct. Furthermore, I want to say to my good friend from North Carolina, to make it clear, that we had an informal discussion on this, but I want to go on record as saying that I would insist in conference that we stick with this language and that we not in any way exclude the opportunity for the Federal Home Loan Bank Board to, in effect, have a veto because otherwise the amendment, I think, would obviously distort the intention of the Senate.

Mr. MORGAN. I thank my chairman.

Mr. President, unless there are questions, just let me say that I really think this is something we all can live with, because all of us would like to see denominations lowered if we can do it without jeopardizing the validity of thrift institutions.

This amendment expresses to these agencies that we think, "You shall do it unless one of you thinks that it is not wise for the reasons specified." Is that substantially correct?

Mr. PROXMIRE. That is right except I do think maybe it is better in present law in a sense, but I think it is better, as I look at it, because it is a clear intention of the Senate and Congress as expressed here that we want those certificates reduced, and it is in the interest of the small saver, it is in the interest of the country, and it is in the interest of fighting inflation to do so, and I think this language has force, otherwise I certainly would not have offered the amendment.

Mr. MORGAN. I thank the Senator. I think my chairman is right.

Mr. PROXMIRE. Mr. President, will the Senator permit us to vitiate the yeas and nays on this? Several Senators have indicated they are so anxious to get home. Some have already left.

The PRESIDING OFFICER. No yeas and nays have been ordered.

Mr. PROXMIRE. Fine.

Mr. MORGAN. Mr. President, unless somebody who is interested in this matter has some objection, I am willing to accept it and willing to yield back all of my time.

Mr. PROXMIRE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back? The question is on agreeing to the amendment, as modified, of the Senator from Wisconsin.

The amendment, as modified, was agreed to.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. TOWER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TOWER. We have adopted the substitute offered by the Senator from Wisconsin. Does the question now recur on agreeing to the amendment of the Senator from North Carolina, or what is the parliamentary situation?

The PRESIDING OFFICER. The amendment of the Senator from Wisconsin was in the form of a motion to strike out a section of the bill and insert in lieu thereof new language, as a substitute for an amendment in the form of a motion to strike out the same section. Therefore, the prior motion made to strike out that very section would not be voted on, but would fall.

Mr. PROXMIRE. Then, as I understand it, the amendment that has just been voted on is in the bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. HEINZ. Mr. President, I rise in support of the bill before us today, H.R. 4986, because it represents an effort to treat the small saver fairly, and because it reflects a balanced attempt to adjust our banking system in accordance with economic trends of recent years.

In my view, there are three truly important changes mandated by H.R. 4986. First, interest bearing transaction accounts would be authorized for all depository institutions. Second, regulation Q, which has statutorily limited the interest depository institutions can pay on passbook savings accounts, would be phased out over a 10-year period, along with the differential which provides that commercial banks must pay one-fourth percent less on passbook savings accounts than thrifts. Third, thrift institutions would be granted certain additional powers in order to help them offset the elimination of the interest rate ceiling and the differential.

Mr. President, I am supporting these three provisions of H.R. 4986 because I believe that, taken together, they are in the long run best interest of depositors and savers, of financial institutions and our banking system in general, and our economy as a whole. Let me briefly review my reasons for this position.

First, I support the authorization of interest-bearing transaction accounts for all financial institutions because I believe that congressional sanction of such accounts is a long-overdue recognition of the right of the customer of financial institutions to be paid for the use of his money at all times. Of course, most large business depositors have already adopted sophisticated cash-flow methods and earn interest on their money almost all of the time anyway. Once more, it is the average American—the young worker just starting out, the retiree, or the small businessman—who is losing out now when his money is in a demand deposit account.

The Federal court decision which suspended the implementation of interest-bearing transaction accounts requires that existing accounts of this type be disbanded by January 1, 1980. Such an outcome would be unfair both to those individuals who began such accounts before the court decision, and to those who would benefit from such accounts were they to receive congressional sanction. Therefore, I urge congressional approval of interest-bearing transaction accounts for all our financial institutions.

I also want to note, Mr. President, that a number of smaller financial institutions have expressed to me their concern that the implementation of interest-bearing transaction accounts would be harmful to their viability. Even though I believe the authorization of such accounts to be in the public interest, I am concerned about the viability of our smaller financial institutions. It is for this reason that I support the provision in H.R. 4986 which requires that Federal bank regulatory agencies report each year to the Congress on the economic viability of all depository institutions. I shall carefully review such reports, and otherwise monitor the effect that this legislation, should it become law, may have on smaller financial institutions.

Second, I support the gradual phase-out of interest rate ceilings, along with the interest rate differential. Whatever one's evaluation of the abstract merits of the ceiling and differential, the fact remains that they are not currently of much assistance to the beneficiaries they were designed to help—thrifts and the housing industry. Conditions in the economy have led to a glaring disparity between the amount of interest that savers can earn on savings accounts at thrifts and the amount they can earn through other types of investments such as money market funds. As a result, there is underway a substantial outflow of funds from the thrifts to these other types of investments. Under such circumstances, the ceiling and differential are irrelevant at best, and a positive detriment at worst, to the financial success of thrifts, and to the goal of assuring a continuous flow of funds into the housing sector of our economy.

Additionally, Mr. President, I weighed into this equation the unfairness of the present situation to the average American. The regulation Q ceiling, under current economic conditions, means that the saver without large sums to invest cannot take advantage of the higher interest rates that the same thrift institutions offer to big depositors. A few small savers are now beginning to take advantage of larger higher interest rates offered by nonbanking system financial institutions. But the average small saver is not sophisticated enough about these funds to utilize them well. Further, such nonbanking system funds are not federally insured, and the small saver would stand to lose much more in the unlikely event that such funds should collapse than would the bigger, more sophisticated investors. I have concluded that we must not make the small saver continue to suffer for a situation that is in no way the fault of the small saver.

I am very much aware of the potential problems that the removal of the statutory ceiling and differential could possibly create for at least some of our thrifts, especially smaller ones. In this regard, Mr. President, I have supported an amendment to this bill which would mitigate the impact of the removal of the differential and ceiling on mutual savings banks by granting federally chartered mutuals certain additional powers, and I will make a separate statement on this matter.

Nonetheless, I have concluded that the elimination of the ceiling and the differential is imbued with sufficient statutory flexibility so that it can be carried out in a manner that does the least possible damage to the condition of our thrift institution. Additionally, the Congress is free at any time to review the progress of this transition, and to consider whether any additional measures are required to assure the soundness and stability of the banking system as a whole. As a member of the Banking Committee, I will be paying particularly close attention to these matters, and will speak out should unanticipated problems in this area develop.

Third, I fully support the granting of additional asset powers to thrifts provided in H.R. 4986. It is only fair that if we are taking away the competitive advantages which we previously bestowed upon thrifts, and if we are asking them to compete in the open market for funds, that we give them the tools with which to compete effectively.

Mr. President, I am not completely convinced that the powers granted in H.R. 4986 are sufficient to enable mutual savings banks to compete effectively under the new conditions, and as I noted earlier, I am supporting an amendment which would grant certain additional powers to mutuals. However, on balance, H.R. 4986 is a reasonable attempt to render equity to thrifts, and I fully support it as far as it goes.

There are, of course, a number of other provisions of H.R. 4986, and I shall not go into detail on each of these issues. I will only note that I am generally supportive of the bill as a whole, including the section which would require the bank regulatory agency to permit savings institutions to permit certificates of deposit in denominations of under $10,000.

Mr. President, I am aware of the concerns which many thrift institutions have expressed concerning this provision. I have carefully weighed this matter and am forced to conclude that, as with the interest rate ceiling and differential, it is not fair to small savers, among whom are our senior citizens, to exclude them from the opportunity to try to keep pace with inflation. In order to prevent any financially destabilizing effects, I supported the addition in committee of language to this section which allows a delay of up to 2 years in the implementation of this section, or even longer should economic conditions warrant a further delay. This modification is essential, given current financial conditions. With it we can make the strong policy statement that current certificate of deposit regulations are unfair to the small saver and should be ended as soon as reasonably practicable.

Finally, Mr. President, I want to briefly review some of the important issues that are related to this legislation. They include the future of small financial institutions, the future of the housing industry, the future of savings in this country, and the future course of our economy.

SMALL FINANCIAL INSTITUTIONS

For a variety of reasons, most importantly the fact that the elimination of the interest rate ceiling and the differential would probably create intense competition for available funds, smaller financial institutions, especially those which are tied down with long-term, fixed, low-interest mortgages, are most directly threatened by the new system that this legislation would create. It is for this reason that Senator TSONGAS and I will be offering our amendments to give certain thrift institutions a stronger earnings potential.

I would add, however, that we must be sensitive to the problems of our smaller financial institutions, not only with respect to this matter, but also with respect to several other important banking system questions which we will be considering in the next months and years. Rather than reacting on an ad hoc basis every time banking legislation is considered, I believe we need to conceptualize the role that smaller financial institutions should play in our banking system, and our economy in general in the decades ahead. Only by having an idea of that proper role, can we intelligently decide these major questions that will come before us.

HOUSING

The housing industry is, of course, concerned about this legislation because it fears that there would be a drying up of funds from thrifts, or possibly interest rates so high as to be beyond the reach of the average buyer. To this, I must respond that both of those fears are being realized now, even without this legislation.

Again, we need to conceptualize the total future relationship of the banking system to the housing industry. Do we want only certain financial institutions to continue to be the primary source of funds for housing? What are alternative ways of providing such funds, both utilizing thrifts, and also utilizing other financial and nonfinancial institutional fund sources. How do other nations finance their housing? I offer no answers at this time; rather I point out the need for longer range thinking in this area if we are to make intelligent decisions.

SAVINGS

A third area of concern that is brought out by this legislation is in the area of savings as such. Mr. President, I will not go into any detail on this matter, as my colleagues are well aware of the very low levels of savings in the United States in recent years. Do we want to encourage more saving? I think the answer is yes, and we need to focus on the best ways to do so. We are caught in a vicious cycle of low savings contributing to low productivity, and low productivity leading to less output, which in turn both directly—through less take-home pay, and indirectly—through its contribution to inflation—leads to less saving. I believe that an undispensable part of any solution to our productivity problems involves increased incentives for saving.

U.S. ECONOMY

All of this brings me to my last point, and it is one that is so obvious that I shall not take much time discussing it. The principal reason we have to consider this legislation at this time is because of our unchecked inflation. In this regard, I endorse the additional views to H.R. 4986 of Senator TOWER, who states that—

> The real solution to financial stability and a healthy financial system lies outside enactment of this legislation. It really rests in responsible and prudent fiscal and monetary policies designed to reduce inflation. The changes made to the financial system in this bill are reactions to an unstable economic environment. All of this is a poor substitute for fundamental changes in economic policy that would lead to more stable economic conditions through a reduction in inflation and lower interest rates.

Thus, to conclude, Mr. President, this legislation is really a reaction to a mismanaged economy. We need to conceptualize our long-range priorities both with respect to our financial system, and concerning our economy as a whole. Only by increasing our productivity and by spurring savings and capital formation can we create the economic conditions conducive to a truly healthy and stable banking system.

• Mr. BUMPERS. Mr. President, the financial emergency that exists in Arkansas is a result of the usury limit in our 1874 Constitution and has been mentioned in the Senate many times during the debate on H.R. 4986. Arkansas has been almost paralyzed by our constitutional provision which imposes an absolute, strictly construed 10 percent simple ceiling on all contracts of interest. If this ceiling is exceeded, the contract is void as to principal and interest. A constitutional convention has recently concluded deliberations in Arkansas, but the usury issue will not be referred to the people of Arkansas for a vote until November 1980.

Mr. President, in light of our constitutional usury limit, I am particularly interested in section 305(a)(1) of H.R. 4986 which preempts State constitutional usury limits as they apply to loans or mortgages on residential real property. It is my understanding that section 305 (a)(1) preempts a constitutional or statutory usury limit on any loan, mortgage, or advance on residential real property made after the date of enactment of this act if the loan or advance is described in section 527(b) of the National Housing Act.

This preemption shall apply to loans, mortgages, or advances on residential real property made by State banks and State savings and loan institutions, as well as national banks and Federal savings and loan institutions provided they are federally insured.

Mr. PROXMIRE. This Senator's understanding of section 305(a)(1) is correct.

Mr. BUMPERS. I raise this question because the State-chartered banks are feeling even greater pressure than are the national banks in Arkansas. Under Federal law, national banks can charge interest at the rate of 1 percent above the Federal discount rate for 90-day commercial paper. State banks cannot charge more than 10 percent per annum. Consequently, many State banks are calling their loans, and if remedial legislation is not passed soon, most State banks will be trying to become national banks.

It is also my understanding that a State may override the preemption provision in section 305(a)(1) by adopting a statute within 2 years after the date of the bill's enactment establishing the State's interest ceiling.

Mr. PROXMIRE. The Senator's understanding of this provision is correct. The Arkansas General Assembly could pass a statute overriding the preemption provision in section 305(a)(1) within 2 years after the bill's enactment.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business of not to exceed 30 minutes, and that Senators may speak therein up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

OFFICIAL BRITISH VIEW OF IMPACT OF SALT II ON NATO

Mr. HELMS. Mr. President, we have heard much about the supposed opinions of our NATO allies on the passage of SALT. We have even been told that failure to ratify the treaty would have a seriously disruptive impact on the cohesion of NATO.

Of course, we must recognize that when our allies are asked about SALT, diplomatic courtesy more or less requires them to say that SALT is wonderful. After all, as far as strategic defense is concerned, our NATO allies are client states. The treaty is between the United States and the Soviet Union. If the United States is satisfied with the treaty, an ally cannot very well say it is dissatisfied.

But NATO relations are something else again. Our allies can speak up on whether passage or nonpassage of SALT would affect NATO relationships. Only a couple of weeks ago, when the Government of the Federal Republic of Germany was asked in the Bundestag whether nonpassage of SALT would affect NATO, the official answer given was "No."

Now, Mr. President, similar questions were put in the British Parliament yesterday afternoon. Both the Secretary of State for Defense, Mr. Francis Pym, and the Prime Minister, Mrs. Margaret Thatcher, answered unequivocally and stated that Britain's loyalty to NATO is unshakable, no matter what happens to SALT II in Congress. In fact, in answer to a question put in Commons by the Right Honorable Julian Amery, Mr. Pym indicated that SALT II is not the work that is of most concern to NATO. Mr. Amery, the former Air Minister, is one of the wisest counselors in the Commons, and he has performed a signal service in asking the question.

Similarly, Lord Cranborne, one of the brightest of the younger members of the House, elicited from the Prime Minister the important statement that the failure of the SALT agreement would not lead to the disintegration of NATO. Indeed, the Prime Minister said that NATO is "a very much stronger alliance than that, and will continue to be this country's shield into the future."

Mr. President, I ask unanimous consent that the text of the questions and answers from Hansard's Debates for October 30, 1979, be printed in the RECORD at the conclusion of my remarks.

There being no objection, the excerpt from Hansard's Debates was ordered to be printed in the RECORD, as follows:

QUESTIONS PUT IN THE HOUSE OF COMMONS, OCTOBER 30, 1979

To the Secretary of State for Defense, Mr. Francis Pym:

Mr. AMERY. I accept that the government has made it clear that they would endorse the SALT II Agreement, but will my right honorable friend assure the house that our loyalties in NATO will remain unshakeable, whether or not the SALT II agreement goes through Congress?

Mr. PYM. I can give my right honorable friend that assurance. On the work that is of most immediate concern to NATO, we believe that what we have in mind is necessary whether or not the SALT II agreement is signed.

To the Prime Minister, Mrs. Margaret Thatcher:

Viscount CRANBORNE. Will my right honorable friend take time today to consider whether she agrees with the Carter Administration that failure to ratify the SALT agreement will lead to the disintegration of NATO?

The PRIME MINISTER. I do not believe that that would lead to the disintegration of NATO. NATO is a very much stronger alliance than that, and will continue to be this country's shield into the future.

BRADA STATEMENT REPRESENTATIVE OF NATO OPINION

Mr. HELMS. Mr. President, we have been told about how much our NATO allies desire the ratification of the present SALT II treaty by the U.S. Senate. The vote on a resolution by the NATO Assembly in Ottawa last week is being quoted to support this opinion.

The NATO countries were told by both Moscow and Washington to be for the ratification of the treaty. Those governments in Europe which are under Socialist influence are, of course, for the ratification not of their own will. The other allies just follow the advice from both the West and the East. In this way, the resolution must be understood.

In reality, if confronted with the facts, if asked concretely, our NATO allies do not want to interfere with the deliberations of the U.S. Senate concerning the ratification of the SALT II treaty. Despite being under heavy pressures, our allies do not want to prescribe to U.S. Senators how they should vote, as the Soviet leaders have done on several occasions. And we can be sure that our NATO allies—except the Communist and leftwing parties in the NATO countries—do not wish the United States to ratify a treaty which would damage the interests of America and her friends and which would weaken all of us.

The resolution by the NATO Assembly should be seen as a resolution calling for more defense efforts and sacrifices on the part of our allies. This is its only sense. It would be a disservice to our friends should we interpret it in any other way.

In the countries of our allies there are men who have studied the SALT II situation and who have been able to come to a more differentiated and qualified standpoint than that which is possible in a general resolution of principles which necessarily deals with the surface of things.

Dr. George Brada of Munich, Federal Republic of Germany, on a visit to the United States, summed up the standpoint of the Europeans who do not believe that the wishes of the Soviet Union are the best guide for free nations. He reminds us also that morale must be the basis of all political acts.

Mr. President, I ask unanimous consent that Dr. Brada's statement be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

SALT II

(By Dr. George Brada, Munich, Germany)

The aspects of the SALT II treaty are not merely military, political and economic. Underlying all human acts is the moral basis. In the history of their great people, in the times before the arrival of Communism, Americans used to act from moral principles, both religious and human.

A look at the SALT II treaty gives us an indication of the present morale of the free world.

(1) The negotiations and the conclusion of SALT II have corresponded entirely to what we have been accustomed to seeing in the last decades: Whenever the West and the Soviet Union have met and negotiated, the West has given in and the Soviet Union has won. Thus the SALT II treaty is no exception or deviation from the developments and events since the foundation of Communism in Russia after World War I. It is the logical continuation of these developments.

(2) SALT II was concluded and signed just before the Presidential election in the U.S.A. The Soviet timing was, as always, precise. The President of the United States wanted to have a success before the election, and he accepted exactly the success offered by Moscow. The treaty is a matter of election politics. The Soviets are experts in the elections in Western countries.

(3) The NATO allies have been exhorted by both the Communist Soviet Union and the United States to be in favor of the treaty. They have hardly a choice. From the American administration they certainly have got some carrot-and-the-stick treatment; they expect also more American protection for their countries in exchange, with less of their own effort and sacrifices.

From the Soviet Union they were promised more good will. Principally, they are being intimidated by Moscow, divided, and in the absence of a real U.S. leadership, are seeking separated expedient advantages and special treatment from the Soviet Union. The Socialist and Socialist-Liberal governments and political parties in Europe do support this pro-Soviet treaty, of course, also out of ideological reasons.

The support for the treaty, pressured upon the NATO allies, is, of course, being used again by the American administration to influence the U.S. Senate. It has been a unique concerted movement to prescribe how the Senate should vote.

(4) This pro-Soviet treaty is inequitable. Only the Soviet Union is permitted to have heavy missile launchers. The Soviet Backfire bombers—a threat not only to Europe but also to Alaska—are not included. The Protocol of the treaty forbids until 1982 U.S. cruise missile with the range of more than 600km in Europe, and the noncircumvention provision can prevent the U.S.A. from sharing technology and weapons with its allies. These provisions, especially the Protocol, cannt be later abolished without new Western concessions to the Soviet Union, and they tie the hands of the West in future negotiations (also in SALT III). Through the acceptance of this treaty, the West has no positions for future negotiations, except the self-chosen positions of weakness.

The future treaties with the Soviet Union won't be equitable, either, because the Western countries refuse to build up their strength first and then to negotiate from it. They fell in love with negotiations from the position of weakness which is a self-destructive philosophy.

(5) The treaty is an illusion, a hoax. These are only (inequitable) limitations of silos and missile launchers in it. There are no limitations on missile warheads. The treaty will bring about an enormous increase of the number of warheads. The danger of an atomic war will increase. The fact that Western governments can propagandize this treaty as a nuclear limitation treaty shows the depth of the Western morale. The West seems to be not only equal to the Soviet Union in this point, but already really inferior.

(6) The treaty is, from the Western standpoint, stupid. The Soviet Union cannot and need not afford any further build-up in launchers anyway. First, it has the ability with this treaty, to destroy the U.S. missiles with its own missiles. Second, the financial means and the technological possibilities of the Soviet Union are exhausted. Also without a SALT II treaty, the Soviet Union cannot do more than with the treaty. Thus the treaty puts restrictions only on the U.S.A. It is a real SALT-treaty—a "Stop the American Lead in Technology" treaty.

(7) Real verification is impossible. The Soviets can partly encrypt the telemetry. This means that they will conceal what they want, and make accessible mainly misleading false data. The Western intelligence will be happy to accept the falsifications as it has been in the past. We have seen the failures of Western intelligence continuously since World War I and especially after World War II—not only in Cuba and Iran.

(8) Back in Europe, American officials have excused the inequities in atomic weapons by indicating that the U.S.A. has some much more effective secret new weapons in coming which the Soviet Union does not have. Therefore, it is not necessary to have a good SALT II treaty.

First, it would be a sin and a crime only in the eyes of the Communists, should the United States once again, after many years, be stronger. (After all, it was the fact that the USA was stronger which prevented great wars in the past).

Second, this is a treaty on atomic weapons, not on any secret future weapons.

After all we can be sure that, before long, the new secrets will get to Moscow in the same way as the old ones have gotten.

(9) The leaders of the Soviet Union interferred personally in the deliberations of the U.S. Senate and demanded categorically the ratification of SALT II.

On the surface, it would seem that this pressure would hamper the ratification, that it would be self-defeating and counterproductive. But in reality, the Soviet leaders did not make any mistake. They are so sure of their victory that they could afford to make their pressure statements for other purposes. They wanted to show to the nations of the world that they are those who are giving recommendations and directions to the policies of the U.S.A., that they are those whose wishes and orders are being followed.

(10) Those who seem to think that the goodwill of the Communists is the real guarantee for peace and temporary freedom are saying that the effects of an eventual nonratification of the present SALT II treaty would be horrible. Of course the Soviet Union would become very angry. It would last a couple of months before Moscow would calm down again and try to negotiate a second best treaty.

On the other hand, in case the present treaty is not ratified, the NATO, however soft on Communism it is appearing to be now, is not going to fall apart and disintegrate. The reasons for the existence of the Alliance are deeper than only the desire to comply with the wishes of the Soviet Union.

The rejection of the SALT II treaty would obviously unite the NATO countries, give them the spirit of moral level; it would make out of the objects of Communist moves and pressures active free men again.

Once in the future, this will doubtlessly happen, and the free nations will then with abhorrence remember the time in which they tried to be—morally and otherwise—equal or inferior to the Communist Soviet Union.

AMERICAN ENTERPRISE DAY

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Mississippi on a matter which has been cleared on both sides.

Mr. COCHRAN. I thank the distinguished majority leader for yielding to me.

Mr. President, I ask unanimous consent for the immediate consideration of Calendar Order No. 418, Senate Joint Resolution 109, authorizing the proclamation of November 16, 1979, as "American Enterprise Day."

The PRESIDING OFFICER. The joint resolution will be stated.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 109) to authorize the President to proclaim November 16, 1979, as "American Enterprise Day."

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

Mr. COCHRAN. Mr. President, there is widespread concern about declining productivity and innovation in our country, and numerous legislative proposals have been made for Federal programs to reverse this trend.

Before these programs can truly be effective, however, we need to insure that the public is aware of the opportunities that still exist for individual initiative. That is what American Enterprise Day is all about. The focus of such a day will be on our schools. Local business and labor organizations will be encouraged to participate in school programs to emphasize the opportunities available for those who have ideas and are willing to work to carry them out.

The PRESIDING OFFICER. The joint resolution is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, follows:

S.J. RES. 109

Whereas America's enterprise system is a cornerstone in our society; and

Whereas that system has produced the highest standard of living in the world; and

Whereas that system depends on and rewards individual initiative and innovation; and

Whereas American productivity is vital to the world's economy and must be encouraged; and

Whereas the continuance and growth of our enterprise system depends in large part on the education of America's young men and women concerning that system: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating November 16, 1979, as "American Enterprise Day" and encouraging appropriate Government agencies to foster the recognition of the significance of America's enterprise system on that day.

MILITARY CONSTRUCTION AUTHORIZATIONS, 1980

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1319. This has been cleared with the other side.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1319) entitled "An Act to authorize certain construction at military installations, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Military Construction Authorization Act, 1980".

TITLE I—ARMY

AUTHORIZED ARMY CONSTRUCTION PROJECTS

SEC. 101. The Secretary of the Army may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

UNITED STATES ARMY FORCES COMMAND

Fort Bragg, North Carolina, $2,900,000.
Fort Campbell, Kentucky, $16,550,000.
Fort Drum, New York, $690,000.
Fort Greely, Alaska, $820,000.
Fort Hood, Texas, $12,000,000.
Fort Hunter Liggett, California, $2,900,000.
Fort Lewis, Washington, $7,400,000.
Fort Meade, Maryland, $18,500,000.
Fort Ord, California, $17,380,000.
Fort Polk, Louisiana, $26,810,000.
Fort Richardson, Alaska, $4,450,000.
Fort Riley, Kansas, $28,350,000.
Fort Sheridan, Illinois, $1,200,000.
Schofield Barracks, Hawaii, $2,750,000.
Fort Stewart/Hunter Army Air Field, Georgia, $39,900,000.
Yakima Firing Center, Washington, $1,100,000.

UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND

Camp Perry, Ohio, $1,000,000.
Fort Belvoir, Virginia, $2,420,000.
Fort Benning, Georgia, $7,500,000.
Fort Bliss, Texas, $30,000,000.
Fort Eustis, Virginia, $6,410,000.
Fort Benjamin Harrison, Indiana, $4,450,000.
Fort Knox, Kentucky, $9,750,000.
Fort Leavenworth, Kansas, $1,690,000.
Fort Lee, Virginia, $3,960,000.
Fort Rucker, Alabama, $5,580,000.
Fort Story, Virginia, $2,450,000.
Fort Leonard Wood, Missouri, $6,350,000.

UNITED STATES ARMY MATERIEL DEVELOPMENT AND READINESS COMMAND

Aberdeen Proving Ground, Maryland, $8,400,000.
Anniston Army Depot, Alabama, $4,850,000.
Badger Army Ammunition Plant, Wisconsin, $650,000.
Crane Army Ammunition Activity, Indiana, $2,490,000.
Detroit Arsenal, Michigan, $4,400,000.
Harry Diamond Laboratories, Maryland, $2,800,000.
Dugway Proving Ground, Utah, $520,000.
Indiana Army Ammunition Plant, Indiana, $1,010,000.
Iowa Army Ammunition Plant, Iowa, $2,060,000.
Joliet Army Ammunition Plant, Illinois, $5,800,000.
Kansas Army Ammunition Plant, Kansas, $650,000.
Lake City Army Ammunition Plant, Missouri, $3,800,000.
Letterkenny Army Depot, Pennsylvania, $1,200,000.
Lexington-Blue Grass Army Depot, Kentucky, $1,500,000.
McAlester Army Ammunition Plant, Oklahoma, $1,470,000.
Michigan Army Missile Plant, Michigan, $2,550,000.
Fort Monmouth, New Jersey, $1,650,000.
Newport Army Ammunition Plant, Indiana, $1,550,000.
Picatinny Arsenal, New Jersey, $7,950,000.
Radford Army Ammunition Plant, Virginia, $6,100,000.
Red River Army Depot, Texas, $8,600,000.
Redstone Arsenal, Alabama, $8,500,000.
Riverbank Army Ammunition Plant, California, $1,100,000.
Rock Island Arsenal, Illinois, $5,900,000.
Rocky Mountain Arsenal, Colorado, $6,500,000.
Scranton Army Ammunition Plant, Pennsylvania, $3,750,000.
Seneca Army Depot, New York, $8,350,000.
Sharpe Army Depot, California, $1,650,000.
Sierra Army Depot, California, $770,000.
Tobyhanna Army Depot, Pennsylvania, $10,410,000.
Tooele Army Depot, Utah, $1,050,000.
Volunteer Army Ammunition Plant, Tennessee, $810,000.
Watervliet Arsenal, New York, $1,300,000.
White Sands Missile Range, New Mexico, $5,750,000.
Yuma Proving Ground, Arizona, $4,300,000.

AMMUNITION FACILITIES

Holston Army Ammunition Plant, Tennessee, $830,000.
Indiana Army Ammunition Plant, Indiana, $10,490,000.
Lake City Army Ammunition Plant, Missouri, $140,000.
Lone Star Army Ammunition Plant, Texas, $1,890,000.
Longhorn Army Ammunition Plant, Texas, $170,000.
Louisiana Army Ammunition Plant, Louisiana, $670,000.

Milan Army Ammunition Plant, Tennessee, $450,000.

Radford Army Ammunition Plant, Virginia, $67,350,000.

Riverbank Army Ammunition Plant, California, $280,000.

Scranton Army Ammunition Plant, Pennsylvania, $720,000.

UNITED STATES ARMY COMMUNICATIONS COMMAND

Fort Huachuca, Arizona, $570,000.

Fort Ritchie, Maryland, $7,850,000.

UNITED STATES MILITARY ACADEMY

United States Military Academy, West Point, New York, $13,350,000.

UNITED STATES ARMY HEALTH SERVICES COMMAND

Walter Reed Army Medical Center, District of Columbia, $650,000.

MILITARY TRAFFIC MANAGEMENT COMMAND

Bayonne Terminal, New Jersey, $920,000.

Oakland Army Base, California, $1,100,000.

Sunny Point Terminal, North Carolina, $32,540,000.

Outside the United States

KWAJALEIN MISSILE RANGE

National Missile Range, $2,900,000.

UNITED STATES ARMY FORCES COMMAND

Panama Area, Canal Zone, $26,060,000.

UNITED STATES ARMY, JAPAN

Okinawa, $2,700,000.

UNITED STATES ARMY, EUROPE

Germany, various locations, $126,630,000.

UNITED STATES ARMY INTELLIGENCE AND SECURITY COMMAND

Various locations, $2,800,000.

EMERGENCY CONSTRUCTION

Sec. 102. The Secretary of the Army may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of $20,000,000. The Secretary of the Army, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire on October 1, 1980, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

MINOR CONSTRUCTION

Sec. 103. The Secretary of the Army is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $52,620,000.

FOREIGN CURRENCY FLUCTUATIONS

Sec. 104. If the estimated cost to complete any construction or acquisition outside the United States authorized for the Army in this Act or in a Military Construction Authorization Act enacted before the date of the enactment of this Act has increased above the amount authorized for such construction or acquisition because of fluctuations in foreign currency exchange rates, the amount authorized shall be deemed increased by the amount necessary to accommodate increased costs for such construction or acquisition resulting from fluctuations in foreign currency exchange rates. The total amount of increases in authorizations under the authority of this section may not exceed $31,434,000.

TITLE II—NAVY

AUTHORIZED NAVY CONSTRUCTION PROJECTS

Sec. 201. The Secretary of the Navy may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

Inside the United States

MARINE CORPS

Marine Corps Base, Camp Lejune, North Carolina, $24,630,000.

Marine Corps Base, Camp Pendleton, California, $14,200,000.

Marine Corps Air Station, Cherry Point, North Carolina, $4,450,000.

Marine Corps Air Station, Kaneohe Bay, Hawaii, $4,800,000.

Marine Corps Recruit Depot, Parris Island, South Carolina, $4,500,000.

Marine Corps Development and Education Command, Quantico, Virginia, $7,300,000.

Marine Corps Air Station, Tustin, California, $3,400,000.

Marine Corps Base, Twentynine Palms, California, $5,700,000.

Marine Corps Air Station, Yuma Arizona, $4,000,000.

CHIEF OF NAVAL OPERATIONS

Naval Submarine Support Base, Kings Bay, Kingsland, Georgia, $20,330,000.

COMMANDER IN CHIEF ATLANTIC FLEET

Naval Air Station, Brunswick, Maine, $150,000.

Naval Amphibious Base, Little Creek, Virginia, $1,670,000.

Naval Submarine Base, New London, Connecticut $15,850,000.

Naval Station, Norfolk, Virginia, $5,500,000.

Naval Air Station, Oceana, Virginia, $14,700,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Station, Adak, Alaska, $19,950,000.

Naval Amphibious Base, Coronado, California, $1,600,000.

Naval Air Station, Lemoore, California, $6,300,000.

Naval Magazine, Lualualei, Hawaii, $16,000,000.

Naval Air Station, Miramar, California, $4,050,000.

Naval Air Station, North Island, California, $1,450,000.

Naval Station, San Diego, California, $9,200,000.

Navy Submarine Support Facility, San Diego, California, $3,200,000.

Naval Air Station, Whidbey Island, Washington, $2,650,000.

CHIEF OF NAVAL EDUCATION AND TRAINING

Fleet Combat Training Center, Atlantic, Dam Neck, Virginia, $720,000.

Naval Training Center, Great Lakes, Illinois, $6,300,000.

Naval Air Station, Memphis, Tennessee, $1,400,000.

Fleet Antisubmarine Warfare Training Center, Atlantic, Norfolk, Virginia, $1,200,000.

Naval Air Station, Pensacola, Florida, $820,000.

Fleet Training Center, San Diego, California, $8,300,000.

BUREAU OF MEDICINE AND SURGERY

Naval Regional Medical Center, Camp Pendleton, California, $2,050,000.

Naval Regional Medical Center, San Diego, California, $5,900,000.

CHIEF OF NAVAL MATERIAL

Naval Air Rework Facility, Alameda, California, $3,500,000.

Puget Sound Naval Shipyard, Bremerton, Washington, $2,545,000.

Puget Sound Naval Supply Center, Bremerton, Washington, $1,000,000.

Charleston Naval Shipyard, Charleston, South Carolina, $2,250,000.

Naval Weapons Station, Charleston, South Carolina, $5,000,000.

Polaris Missile Facility Atlantic, Charleston, South Carolina, $7,500,000.

Naval Air Rework Facility, Cherry Point, North Carolina, $750,000.

Naval Weapons Center, China Lake, California, $4,350,000.

Naval Weapons Station, Concord, California, $3,950,000.

Naval Weapons Support Center, Crane, Indiana, $690,000.

Naval Weapons Station, Earle, New Jersey, $7,100,000.

Naval Air Rework Facility, Jacksonville, Florida, $3,600,000.

Navy Fuel Depot, Jacksonville, Florida, $1,400,000.

Portsmouth Naval Shipyard, Kittery, Maine, $6,250,000.

Long Beach Naval Shipyard, Long Beach, California, $8,250,000.

Naval Air Engineering Center, Lakehurst, New Jersey, $700,000.

Navy Ship Parts Control Center, Mechanicsburg, Pennsylvania, $2,400,000

Naval Supply Center, Norfolk, Virginia, $25,960,000.

Naval Air Rework Facility, North Island, California, $3,200,000.

Naval Air Test Center, Patuxent River, Maryland, $4,540,000.

Pearl Harbor Naval Shipyard, Pearl Harbor, Hawaii, $7,300,000.

Navy Public Works Center, Pearl Harbor, Hawaii, $1,000,000.

Philadelphia Naval Shipyard, Philadelphia, Pennsylvania, $510,000.

Naval Construction Battalion Center, Port Hueneme, California, $1,200,000.

Norfolk Naval Shipyard, Portsmouth, Virginia, $22,650,000.

Naval Ocean Systems Center, San Diego, California, $8,800,000.

Navy Supply Center, San Diego, California, $11,600,000.

Naval Weapons Station, Seal Beach, California, $960,000.

Naval Surface Weapons Center, Solomons Island, Maryland, $860,000.

Mare Island Naval Shipyard, Vallejo, California, $16,220,000.

Naval Weapons Station, Yorktown, Virginia, $2,270,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Adak, Alaska, $6,505,000.

Outside the United States

MARINE CORPS

Marine Corps Base, Camp Smedley D. Butler, Okinawa, Japan, $11,700.000.

OFFICE OF NAVAL RESEARCH

Al Ghardaqa Marine Laboratory, Hurgada, Arab Republic of Egypt, $30,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Air Station, Bermuda, $860,000.

Naval Station, Keflavik, Iceland, $17,650,000.

Naval Station, Roosevelt Roads, Puerto Rico, $1,300,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Air Facility, Midway Island, $3,900,000.

NAVAL FORCES EUROPE

Naval Station, Rota, Spain, $6,600,000.

Naval Air Facility, Sigonella, Italy, $9,700,000.

CHIEF OF NAVAL MATERIAL

Navy Public Works Center, Guam, Mariana Islands, $3,700,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Station, Harold E. Holt, Exmouth, Australia, $2,500,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Edzell, Scotland, $1,400,000.

EMERGENCY CONSTRUCTION

Sec. 202. The Secretary of the Navy may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount $20,000,000. The Secretary of the Navy, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire on October 1, 1980, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

MINOR CONSTRUCTION

Sec. 203. The Secretary of the Navy is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $33,325,000.

AL GHARDAQA MARINE LABORATORY, EGYPT

Sec. 204. The Secretary of the Navy is authorized to expend excess foreign exchange funds in the amount of $580,000 for the construction of a multipurpose marine biological laboratory at the Al Ghardaqa Marine Laboratory, Hurgada, Arab Republic of Egypt.

TITLE III—AIR FORCE

AUTHORIZED AIR FORCE CONSTRUCTION PROJECTS

Sec. 301. The Secretary of the Air Force may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, $3,740,000.

Kelly Air Force Base, Texas, $6,350,000.

Newark Air Force Station, Ohio, $860,000.

Robins Air Force Base, Georgia, $7,236,000.

Tinker Air Force Base, Oklahoma, $12,100,000.

Wright-Patterson Air Force Base, Ohio $13,200,000.

AIR FORCE SYSTEMS COMMAND

Arnold Engineering Development Center, Tennessee, $6,500,000.

Eglin Air Force Base, Florida, $5,100,000.

Hanscom Air Force Base, Massachusetts, $8,600,000.

Johnson Space Center, Texas, $12,400,000.

Maui Optical Site, Hawaii, $3,650,000.

White Sands Missile Range, New Mexico, $2,100,000.

AIR TRAINING COMMAND

Keesler Air Force Base, Mississippi, $840,000.

Lackland Air Force Base, Texas, $5,400,000.

Laughlin Air Force Base, Texas, $4,500,000.

Mather Air Force Base, California, $1,650,000.

Maxwell Air Force Base, Alabama, $6,600,000.

Sheppard Air Force Base, Texas, $2,050,000.

Vance Air Force Base, Oklahoma, $1,500,000.

ALASKAN AIR COMMAND

Elmendorf Air Force Base, Alaska, $13,400,000.

MILITARY AIRLIFT COMMAND

Andrews Air Force Base, Maryland, $1,190,000.

Kirtland Air Force Base, New Mexico, $1,500,000.

Little Rock Air Force Base, Arkansas, $510,000.

McChord Air Force Base, Washington, $4,100,000.

Richards-Gebaur Air Force Base, Missouri, $1,100,000.

Scott Air Force Base, Illinois, $10,060,000.

Travis Air Force Base, California, $6,300,000.

STRATEGIC AIR COMMAND

Castle Air Force Base, California, $5,300,000.

Ellsworth Air Force Base, South Dakota, $17,000,000.

Grand Forks Air Force Base, North Dakota, $4,900,000.

Griffiss Air Force Base, New York, $7,150,000.

Grissom Air Force Base, Indiana, $4,700,000.

K. I. Sawyer Air Force Base, Michigan, $5,200,000.

March Air Force Base, California, $6,600,000.

Minot Air Force Base, North Dakota, $5,100,000.

Offutt Air Force Base, Nebraska, $2,190,000.

Vandenberg Air Force Base, California, $109,300,000.

Various Locations, $14,200,000.

TACTICAL AIR COMMAND

Bergstrom Air Force Base, Texas, $7,850,000.

Cannon Air Force Base, New Mexico, $5,750,000.

Davis-Monthan Air Force Base, Arizona, $5,540,000.

England Air Force Base, Louisiana, $6,390,000.

George Air Force Base, California, $18,350,000.

Holloman Air Force Base, New Mexico, $4,200,000.

Homestead Air Force Base, Florida, $8,370,000.

MacDill Air Force Base, Florida, $2,350,000.

Moody Air Force Base, Georgia, $4,140,000.

Mountain Home Air Force Base, Idaho, $60,000.

Nellis Air Force Base, Nevada, $3,690,000.

Shaw Air Force Base, South Carolina, $2,780,000.

AIR NATIONAL GUARD

Buckley Air National Guard Base, Colorado, $1,950,000.

OUTSIDE THE UNITED STATES

AEROSPACE DEFENSE COMMAND

Thule Air Base, Greenland, $3,150,000.

AIR FORCE SYSTEMS COMMAND

Mahe Tracking Station, Seychelle Islands, $550,000.

Various locations, $2,350,000.

MILITARY AIRLIFT COMMAND

Roberts International Airport, Liberia, $4,950,000.

PACIFIC AIR FORCES

Kadena Air Base, Japan, $1,100,000.

Kunsan Air Base, Korea, $4,010,000.

Osan Air Base, Korea, $20,080,000.

Taegu Air Base, Korea, $510,000.

TACTICAL AIR COMMAND

Howard Air Force Base, Canal Zone, $6,185,000.

UNITED STATES AIR FORCES IN EUROPE

Germany, various locations, $16,640,000.

United Kingdom, various locations, $14,920,000.

Various locations, $40,370,000.

EMERGENCY CONSTRUCTION

Sec. 302. The Secretary of the Air Force may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of $20,000,000. The Secretary of the Air Force, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization will expire on October 1, 1980, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

MINOR CONSTRUCTION

Sec. 303. The Secretary of the Air Force is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $28,960,000.

FOREIGN CURRENCY FLUCTUATIONS

Sec. 304. If the estimated cost to complete any construction or acquisition outside the United States authorized for the Air Force in this Act or in a Military Construction Authorization Act enacted before the date of the enactment of this Act has increased above the amount authorized for such construction or acquisition because of fluctuations in foreign currency exchange rates, the amount authorized shall be deemed increased by the amount necessary to accommodate increased costs for such construction or acquisition resulting from fluctuations in foreign currency exchange rates. The total amount of increases in authorizations under the authority of this section may not exceed $4,067,000.

Sec. 305. (a) Section 301 of the Military

Construction Authorization Act, 1976 (Public Law 94–107; 89 Stat. 555), is amended by striking out "$74,738,000" in the item relating to the authorization for acquisition and construction at various locations for the United States Air Forces in Europe and inserting in lieu thereof "$61,838,000".

(b) Section 602(3) of such Act is amended by striking out "$102,846,000" and "$485,869,000" and inserting in lieu thereof "$89,946,000" and "$472,969,000", respectively.

SEC. 306. (a) Section 301 of the Military Construction Authorization Act, 1977 (Public Law 94–431; 90 Stat. 1357), is amended—

(1) by striking out "$38,000,000" in the item relating to the authorization for acquisition and construction at various locations for the United States Air Forces in Europe and inserting in lieu thereof "$31,600,000"; and

(2) by striking out "$13,180,000" in the item relating to Nuclear Weapons Security and inserting in lieu thereof "$12,480,000".

(b) Section 602(3) of such Act is amended by striking out "$56,650,000" and "$736,409,000" and inserting in lieu thereof "$49,550,000" and "$729,309,000", respectively.

SEC. 307. Section 301 of the Military Construction Authorization Act, 1975 (Public Law 93–552; 88 Stat. 1754), is amended by striking out "$9,000,000" in the item relating to the authorization for acquisition and construction for the Aerospace Corporation at Los Angeles, California, and inserting in lieu thereof "$20,500,000".

TITLE IV—DEFENSE AGENCIES

AUTHORIZED CONSTRUCTION PROJECTS FOR THE DEFENSE AGENCIES

SEC. 401. The Secretary of Defense may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for defense agencies for the following acquisition or construction:

INSIDE THE UNITED STATES

DEFENSE LOGISTICS AGENCY

Defense Depot, Memphis, Tennessee, $670,000.

Fuel Terminal, Ozol, California, $3,650,000.

Fuel Terminal, Escanaba, Michigan, $600,000.

DEFENSE MAPPING AGENCY

Defense Mapping Agency Hydrographic/Topographic Center, Bethesda, Maryland, $825,000.

OFFICE OF THE SECRETARY OF DEFENSE

Classified Activity, Fort Belvoir, Virginia, $2,800,000.

OUTSIDE THE UNITED STATES

DEFENSE LOGISTICS AGENCY

Defense Fuel Support Point, Wake Island Air Force Base, $11,400,000.

OFFICE OF THE SECRETARY OF DEFENSE

DEPARTMENT OF DEFENSE OFFICE OF DEPENDENTS' EDUCATION

Alconbury Royal Air Force, United Kingdom, $2,340,000.

Atsugi Naval Air Facility, Japan, $580,000.

Bad Hersfeld, Germany, $770,000.

Baumholder, Wetzel Housing Area, Germany, $1,920,000.

Grafenwoehr, Germany, $1,640,000.

Keflavik Naval Air Station, Iceland, $1,700,000.

Ludwigsburg, Germany, $570,000.

Pruem Air Station, Germany, $1,000,000.

Schwaebisch Gmuend, Germany, $575,000.

Seoul, Yongsan, Korea, $3,290,000.

Soesterberg, Camp New Amsterdam, Netherlands $3,300,000.

Yokota East Air Base, Japan, $2,450,000.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

Various locations: For the United States' share of the cost of multilateral programs for the acquisition or construction of military facilities and installations (including international military headquarters) for the collective defense of the North Atlantic Treaty Area, $150,000,000. Within thirty days after the end of each calendar-year quarter, the Secretary of Defense shall furnish to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives a description of obligations incurred by the United States for the United States' share of the cost of such multilateral programs.

EMERGENCY CONSTRUCTION

SEC. 402. The Secretary of Defense may establish or develop installations and facilities which he determines to be vital to the security of the United States and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of $10,000,000. The Secretary of Defense, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public works undertaken under this section, including real estate actions pertaining thereto.

MINOR CONSTRUCTION

SEC. 403. The Secretary of Defense is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $5,250,000.

FOREIGN CURRENCY FLUCTUATIONS

SEC. 404. If the estimated cost to complete any construction or acquisition outside the United States authorized for the defense agencies in this Act or in a Military Construction Authorization Act enacted before the date of the enactment of this Act has increased above the amount authorized for such construction or acquisition because of fluctuations in foreign currency exchange rates, the amount authorized shall be deemed increased by the amount necessary to accommodate increased costs for such construction or acquisition resulting from fluctuations in foreign currency exchange rates. The total amount of increases in authorizations under the authority of this section may not exceed $9,377,000.

DEFICIENCY AUTHORIZATION FOR HIGH ENERGY LASER FACILITY, WHITE SANDS, NEW MEXICO

SEC. 405. (a) Section 401 of the Military Construction Authorization Act, 1978 (Public Law 95–82; 91 Stat. 358), is amended by striking out "$33,449,000" in the item relating to the High Energy Laser Facility at White Sands, New Mexico, and inserting in lieu thereof "$40,749,000".

(b) Section 602(4) of such Act is amended by striking out "$55,909,000" and inserting in lieu thereof "$63,209,000".

SEC. 406. (a) Section 401 of the Military Construction Authorization Act, 1979 (Public Law 95–356; 92 Stat. 576), is amended by striking out "$120,000,000" in the item relating to North Atlantic Treaty Organization Infrastructure and inserting in lieu thereof "$140,000,000".

(b) Section 602(4) of such Act is amended by striking out "$217,610,000" and inserting in lieu thereof "$237,610,000".

TITLE V—MILITARY FAMILY HOUSING AND HOMEOWNERS ASSISTANCE PROGRAM

AUTHORIZATION TO CONSTRUCT OR ACQUIRE HOUSING

SEC. 501. (a) The Secretary of Defense. or the Secretary's designee, is authorized to construct or acquire sole interest in existing family housing units in the numbers and at the locations hereinafter named, but no family housing construction shall be commenced at any such location in the United States until the Secretary shall have consulted with the Secretary of Housing and Urban Development as to the availability of suitable private housing at such location. If agreement cannot be reached with respect to the availability of suitable private housing at any location, the Secretary of Defense shall notify the Committees on Armed Services of the Senate and the House of Representatives, in writing, of such difference of opinion, and no contract for construction at such location shall be entered into for a period of thirty days after such notification has been given. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise.

(b) With respect to the family housing units authorized to be constructed by this section, the Secretary of Defense is authorized to acquire sole interest in privately owned or Department of Housing and Urban Development held family housing units in lieu of constructing all or a portion of the family housing authorized by this section, if he, or his designee, determines such action to be in the best interests of the United States, but any family housing units acquired under authority of this subsection shall not exceed the cost limitation specified in this section for the project nor the limitations on size specified in section 2684 of title 10, United States Code. In no case may family housing units be acquired under this subsection through the exercise of eminent domain authority, and in no case may family housing units other than those authorized by this section be acquired in lieu of construction unless the acquisition of such units is hereafter specifically authorized by law.

(c) Family housing units: Fort MacArthur, California, two hundred units, $11,500,000.

(d) The amount specified in this section may, at the discretion of the Secretary of Defense, or the Secretary's designee, be increased by 10 per centum, if he determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time such estimate was submitted to the Congress. The amounts authorized include the costs of shades, screens, ranges, refrigerators, and all other installed equipment and fixtures, the cost of the family housing unit, design, supervision, inspection, overhead, land acquisition, site preparation, and installation of utilities.

LEASING OF FAMILY HOUSING

SEC. 502. (a) Section 2686(c) of title 10, United States Code, relating to leases for military family housing, is amended by striking out "$300" in paragraph (1) and inserting in lieu thereof "$310".

(b) Section 2675(d) of title 10, United States Code, relating to leases in foreign countries, is amended—

(1) by striking out "$485" and "$850" in the first sentence of paragraph (1) and inserting in lieu thereof "$550" and "$970", respectively; and

(2) by striking out "18,000" in paragraph (2) and inserting in lieu thereof "20,000".

AUTHORIZATION OF APPROPRIATIONS

SEC. 503. (a) There is authorized to be appropriated for fiscal year 1980 for use by the Secretary of Defense, or the Secretary's designee, for military family housing as authorized by law for the following purposes:

(1) For construction of, or acquisition of sole interest in, family housing, including minor construction, an amount not to exceed $14,500,000, and for planning, an amount not to exceed $900,000.

(2) For support of military family housing, including operating expenses, leasing, maintenance of real property, payments of principal and interest on mortgage debts incurred payment to the Commodity Credit Corpora-

tion, and mortgage insurance premiums authorized under section 222 of the National Housing Act (12 U.S.C. 1715m), an amount not to exceed $1,716,494,000.

(3) For homeowners assistance under section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374), including acquisition of properties, an amount not to exceed $5,000,000.

(b) The amounts authorized to be appropriated in subsection (a) may be increased to the extent additional funds are appropriated to defray increased pay costs associated with actions taken pursuant to law.

TITLE VI—AUTHORIZATION OF APPROPRIATIONS AND ADMINISTRATIVE PROVISIONS

WAIVER OF RESTRICTIONS

SEC. 601. The Secretary of each military department may proceed to establish or develop installations and facilities under this Act without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), and sections 4774 and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on land includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes, as amended (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or lands includes authority to make surveys and to acquire land and interests in land (including temporary use), by gift, purchase, exchange of Government-owned land, or otherwise.

AUTHORIZATION OF APPROPRIATIONS

SEC. 602. There are authorized to be appropriated for fiscal year 1980 such sums as may be necessary for the purposes of this Act, but appropriations for public works projects authorized by titles I, II, III, IV, and V shall not exceed—

(1) for title I: inside the United States $535,370,000; outside the United States $192,524,000; minor construction $52,620,000; for a total of $780,514,000.

(2) for title II: inside the United States $397,080,000; outside the United States $59,340,000; minor construction $33,325,000; for a total of $489,745,000.

(3) for title III: inside the United States $395,596,000; outside the United States $118,882,000; minor construction $28,960,000; for a total of $543,438,000.

(4) for title IV: a total of $214,707,000, including $5,250,000 for minor construction.

(5) for title V: military family housing and homeowners assistance program, $1,736,894,000, including $3,000,000 for minor construction.

COST VARIATIONS

SEC. 603. (a) OVERALL TITLE TOTAL LIMITATION.—Notwithstanding the provisions of subsections (b), (c), (d), and (g), the total cost of all construction and acquisition in each of titles I, II, III, and IV may not exceed the total amount authorized to be appropriated in that title.

(b) VARIATIONS IN INSTALLATION TOTALS—UNUSUAL VARIATIONS IN COST.—Except as provided in subsections (c) and (d), any of the amounts specified in titles I, II, III, and IV of this Act (other than in sections 103, 203, 303, and 403) may, at the discretion of the Secretary of the military department or Director of the defense agency concerned, be increased by 5 per centum when inside the United States (other than Alaska or Hawaii), and by 10 per centum when outside the United States or in Alaska or Hawaii, if the Secretary of the military department or Director of the defense agency concerned determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time such estimate was submitted to the Congress.

(c) VARIATIONS IN INSTALLATION TOTALS—ONLY ONE PROJECT AT AN INSTALLATION.—When the amount named for any construction or acquisition in titles I, II, III, or IV of this Act involves only one project at any military installation and the Secretary of the military department or Director of the defense agency concerned determines that the amount authorized must be increased by more than the applicable percentage prescribed in subsection (b), the Secretary of the military department or Director of the defense agency concerned may proceed with such construction or acquisition if the amount of the increase does not exceed by more than 25 per centum the amount named for such project by the Congress.

(d) VARIATIONS IN INSTALLATION TOTALS—REPORTS BY THE SECRETARY OF DEFENSE.—When the Secretary of Defense determines that any amount named in title I, II, III, or IV of this Act must be exceeded by more than the percentages permitted in subsections (b) and (c) to accomplish authorized construction or acquisition, the Secretary of the military department or Director of the defense agency concerned may proceed with such construction or acquisition after a written report of the facts relating to the increase of such amount, including a statement of the reasons for such increase, has been submitted to the Committees on Armed Services of the Senate and House of Representatives, and either (1) thirty days have elapsed from the date of submission of such report, or (2) both committees have indicated approval of such construction or acquisition. Notwithstanding the provisions in prior Military Construction Authorization Acts, the provisions of this subsection shall apply to such prior Acts.

(e) COST AND SCOPE VARIATIONS OF INDIVIDUAL PROJECTS; REPORTS TO CONGRESS.—No individual project authorized under title I, II, III, or IV of this Act for any specifically listed military installation for which the current working estimate is greater than the statutory upper limit for minor construction projects, may be placed under contract if—

(1) the approved scope of the project is reduced in excess of 25 per centum; or

(2) the current working estimate, based upon bids received, for the construction of such project exceeds by more than 25 per centum the amount authorized for such project by the Congress;

until a written report of the facts relating to the reduced scope or increased cost of such project, including a statement of the reasons for reduction in scope or increase in cost, has been submitted to the Committees on Armed Services of the Senate and House of Representatives, and either thirty days have elapsed from the date of submission of such report, or both committees have indicated approval of such reduction in scope or increase in cost, as the case may be.

(f) ANNUAL REPORT TO CONGRESS.—The Secretary of Defense, or the Secretary's designee, shall submit an annual report to the Congress identifying each individual project (other than a project authorized under section 103, 203, 303, or 403) which has been placed under contract in the preceding twelve-month period and with respect to which the then current working estimate of the Department of Defense based upon bids received for such project exceeded the amount authorized by the Congress for that project by more than 25 per centum. The Secretary shall also include in such report each individual project with respect to which the scope was reduced by more than 25 per centum in order to permit contract award within the available authorization for such project. Such report shall include all pertinent cost information for each individual project, including the amount in dollars and percentage by which the current working estimate based on the contract price for the project exceeded the amount authorized for such project by the Congress.

(g) COST AND FLOOR AREA VARIATIONS—SOLAR ENERGY.—The Secretary of Defense shall encourage the utilization of solar energy as a source of energy for projects authorized by this Act where utilization of solar energy would be practical and economically feasible. In order to equip any project authorized by this Act with solar heating equipment, solar cooling equipment, or both solar heating and solar cooling equipment, the Secretary of Defense may authorize increases in the cost limitations or floor area limitations for such project by such amounts as may be necessary for such purpose. Any increase under this section in the cost or floor area of a project authorized by this Act shall be in addition to any other increase in such cost or variation in floor area limitations authorized by this or any other Act.

CONSTRUCTION SUPERVISION

SEC. 604. Contracts for construction made by the United States for performance within the United States and its possessions under this Act shall be executed under the jurisdiction and supervision of the Corps of Engineers, Department of the Army; the Naval Facilities Engineering Command, Department of the Navy; or such other department or Government agency as the Secretaries of the military departments recommend and the Secretary of Defense approves to assure the most efficient, expeditious, and cost-effective accomplishment of the construction authorized in this Act. The Secretaries of the military departments shall report annually to the President of the Senate and Speaker of the House of Representatives a breakdown of the dollar value of construction contracts completed by each of the several construction agencies selected together with the design, construction supervision, and overhead fees charged by each of the several agents in the execution of the assigned construction. Further, such contracts (except architect and engineering contracts which, unless specifically authorized by the Congress shall continue to be awarded in accordance with presently established procedures, customs, and practice) shall be awarded, insofar as practicable, on a competitive basis to the lowest responsible bidder, if the national security will not be impaired and the award is consistent with chapter 137 of title 10, United States Code. The Secretaries of the military departments shall report annually to the President of the Senate and Speaker of the House of Representatives with respect to all contracts awarded on other than a competitive basis to the lowest responsible bidder. Such reports shall also show, in the case of the ten architect-engineering firms which, in terms of total dollars, were awarded the most business, the names of such firms, the total number of separate contracts awarded each firm, and the total amount paid or to be paid in the case of each such action under all such contracts awarded such firm.

REPEAL OF PRIOR YEAR AUTHORIZATIONS; EXCEPTIONS

SEC. 605. (a) As of October 1, 1980, all authorizations for military public works, including family housing, to be accomplished by the Secretary of a military department in connection with the establishment or development of installations and facilities, and all authorizations for appropriations therefor, that are contained in titles I, II, III, IV, and V of the Military Construction Authorization Act, 1979 (Public Law 95-356; 92 Stat. 565), and all such authorizations contained in Acts approved before September 8, 1978, and not superseded or otherwise modified by a later authorization, are repealed except—

(1) authorizations for public works and for appropriations therefor that are set forth in those Acts in the titles that contain the general provisions; and

(2) authorizations for public works projects as to which appropriated funds have been obligated for construction contracts, land acquisition, or payments to the North Atlantic Treaty Organization, in whole or in part, before October 1, 1980, and authorizations for appropriations therefor.

(b) Notwithstanding the provisions of subsection (a) of this section and of section 605 of the Military Construction Authorization Act, 1979 (Public Law 95–356, 92 Stat. 583), authorizations for the following items shall remain in effect until October 1, 1981:

(1) Barracks Complex—Trainee construction in the amount of $14,967,000 at Fort Benning, Georgia, authorized in section 101 of the Military Construction Authorization Act, 1978 (Public Law 95–82; 91 Stat. 358).

(2) Brooke Army Medical Center Hospital Alteration in the amount of $10,000,000, at Fort Sam Houston, Texas, authorized in section 101 of the Military Construction Authorization Act, 1978 (Public Law 95–82; 91 Stat. 358).

(3) Reception Station construction in the amount of $5,886,000 at Fort Benning, Georgia, authorized in section 101 of the Military Construction Authorization Act, 1978 (Public Law 95–82; 91 Stat. 358).

(4) POMCUS Maintenance Complexes in the amount of $33,768,000 at Kaiserslautern, Pirmasens, Germersheim, Gerzweski Barracks, Mannheim, Miesau, Nahbollenbach, and Neureut Kaserne, all in Germany, authorized in section 101 of the Military Construction Authorization Act, 1978 (Public Law 95–82; 91 Stat. 360).

(5) Morse Training Building construction in the amount of $2,400,000 at Naval Technical Training Center, Pensacola, Florida, authorized in section 201 of the Military Construction Authorization Act, 1978 (Public Law 95–82; 91 Stat. 362).

(6) Medical/Dental Branch Clinic construction in the amount of $4,350,000 at the Navy Regional Medical Center, Pearl Harbor, Hawaii (Naval Station, Midway Island), authorized in section 201 of the Military Construction Authorization Act, 1978 (Public Law 95–82; 91 Stat. 362).

(7) Relocation of the weapons range from the Culebra Complex in the amount of $12,000,000 for the Atlantic Fleet Weapons Range, Roosevelt Roads, Puerto Rico, authorized in section 204 of the Military Construction Authorization Act, 1974 (Public Law 93–166; 87 Stat. 668) and extended in section 605(b) (H) of the Military Construction Authorization Act, 1976 (Public Law 94–107; 89 Stat. 565) and in section 605(b)(4) of the Military Construction Authorization Act, 1978 (Public Law 95–82; 91 Stat. 376).

(8) Municipal Sewer Connection in the amount of $4,150,000 for the Navy Public Works Center, Norfolk, Virginia, authorized in section 201 of the Military Construction Authorization Act, 1978 (Public Law 95–82; 91 Stat. 363).

(9) High Energy Laser Facility construction in the amount of $33,449,000 at White Sands, New Mexico, authorized in section 401 of the Military Construction Authorization Act, 1978 (Public Law 95–82; 91 Stat. 369).

UNIT COST LIMITATIONS

Sec. 606. None of the authority contained in titles I, II, III, and IV of this Act shall be deemed to authorize any building construction project inside the United States in excess of a unit cost to be determined in proportion to the appropriate area construction cost index, based on the following unit cost limitations where the area construction index is 1.0:

(1) $48 per square foot for permanent barracks; or

(2) $52 per square foot for unaccompanied officer quarters;

unless the Secretary of Defense, or the Secretary's designee, determines that, because of special circumstances, application to such project of the limitations on unit cost contained in this section is impracticable. Notwithstanding the limitations contained in prior Military Construction Authorization Acts on unit costs, the limitations on such costs contained in this section shall apply to all prior authorizations for such construction not heretofore repealed and for which construction contracts have not been awarded by the date of the enactment of this Act.

EFFECTIVE DATE FOR PROJECT AUTHORIZATIONS

Sec. 607. Titles I, II, III, IV, and V of this Act shall take effect on October 1, 1979.

TITLE VII—GUARD AND RESERVE FORCES FACILITIES

AUTHORIZATION FOR FACILITIES

Sec. 701. Subject to chapter 133 of title 10, United States Code, the Secretary of Defense may establish or develop additional facilities for the Guard and Reserve Forces, including the acquisition of land therefor, but the cost of such facilities shall not exceed the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $14,537,000; and

(B) for the Army Reserve, $19,824,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserves, $12,790,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $23,500,000; and

(B) for the Air Force Reserve, $7,500,000.

WAIVER OF CERTAIN RESTRICTIONS

Sec. 702. The Secretary of Defense may establish or develop installations and facilities under this title without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), and sections 4774 and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on lands includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes, as amended (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or land includes authority to make surveys and to acquire land and interests in land (including temporary use), by gift, purchase, exchange of Government-owned land, or otherwise.

CONTRIBUTIONS FOR GUARD AND RESERVE FORCES FACILITIES

Sec. 703. (a) Section 2233 of title 10, United States Code, is amended—

(1) by striking out "and" after clause (3);

(2) by striking out the period at the end of clause (4) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new clause:

"(5) contribute to any State or Territory, Puerto Rico, or the District of Columbia, such amounts for the acquisition, construction, expansion, rehabilitation, or conversion by the failure of existing facilities to meet the purposes of this chapter. A contribution made for an armory may not be more than 75 percent of the cost of construction of which it is applied.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1979.

INCREASE IN MAXIMUM CONTRIBUTION FOR GUARD AND RESERVE FORCES FACILITIES WITHOUT NOTIFICATION TO CONGRESS

Sec. 704. Paragraph (1) of section 2233a of title 10, United States Code, is amended by striking out "$100,000" and inserting in lieu thereof "$175,000".

TITLE VIII—GENERAL PROVISIONS

REVISIONS TO MINOR CONSTRUCTION AUTHORITY

Sec. 801. Section 2674 of title 10, United States Code, relating to minor construction, is amended—

(1) by adding at the end of subsection (b) the following new sentence: "Approvals under the preceding sentence are not required for projects at specified locations that have been identified in the annual military construction program submitted by the Department of Defense to the Committees on Armed Services of the Senate and the House of Representatives."; and

(2) by adding at the end of subsection (f) the following new sentence: "Such notice is not required for projects at specified locations that have been identified in the annual military construction program submitted by the Department of Defense to the Committees on Armed Services of the Senate and the House of Representatives.".

AMENDMENT WITH RESPECT TO DEVELOPMENT OF SOURCES OF ENERGY ON MILITARY LANDS

Sec. 802. Section 803 of the Military Construction Authorization Act, 1979 (30 U.S.C. 1002a), is amended as follows:

(1) The section heading is amended to read as follows:

"DEVELOPMENT OF SOURCES OF ENERGY ON OR FOR MILITARY INSTALLATIONS".

(2) Subsection (b)(1) is amended by inserting "or on private property" after "jurisdiction".

AMENDMENT WITH RESPECT TO USE OF SOLAR ENERGY SYSTEMS

Sec. 803. (a) Section 804 of the Military Construction Authorization Act, 1979 (42 U.S.C. 5504a), is amended by striking out "facilities" and inserting in lieu thereof "buildings that are to be heated or cooled".

(b) Subsections (b) and (c) of such section are amended to read as follows:

"(b) The Secretary of Defense shall require that all family housing constructed by the Department of Defense under the authority of this Act or any Act enacted after the date of the enactment of this Act shall include solar energy systems to the extent that engineering analyses demonstrate that the inclusion of such systems is cost effective.

"(c) For the purposes of this section, the cost effectiveness of a solar energy system shall be determined by lifecycle cost analyses that take into account original investment cost and estimated operation and maintenance over the expected life of the building. Notwithstanding the results of such life cycle cost analyses, solar energy systems shall be installed when the benefit/cost ratio exceeds .80.".

USE OF ROI-NAMUR ISLAND

Sec. 804. (a) The Secretary of Defense may pay to the owners of the land of Roi-Namur Island, Marshall Islands, District of the Trust Territories of the Pacific Islands, such amount as the Secretary of Defense determines to be in the public interest for the use after 1960 of Roi-Namur Island by the Government of the United States.

(b) Subsection (a) shall take effect on October 1, 1979, and shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

LAND CONVEYANCE, SAN DIEGO, CALIFORNIA

Sec. 805. (a) The Secretary of the Navy (hereinafter in this section referred to as the "Secretary") is authorized to acquire, by condemnation or otherwise, all right, title, and interest of the city of San Diego, California (hereinafter in this section referred to as the "city"), in and to a tract of land consisting of 40 acres, more or less, in the Balboa Park in San Diego, California. Land acquired pursuant to this section shall be used as the site for construction of any new Navy hospital or medical center that is authorized to be constructed in the greater San Diego area after the date of the enactment of this Act and for related purposes.

(b) The Secretary is authorized to convey to the city, in consideration for the acquisition under subsection (a), all right, title, and interest of the United States in and to all or any part of the real property (including improvements thereon) of the Naval Regional Medical Center, San Diego, that has been conveyed, leased, or otherwise made available to the United States by the city.

(c) The exact acreage and legal description of any land acquired or conveyed under this section shall be determined by surveys which are satisfactory to the Secretary.

(d) This section shall take effect on October 1, 1979. The authority of the Secretary to obligate funds under this section shall be effective only to the extent that appropriated funds are available for that purpose.

LAND CONVEYANCE, TUSTIN, CALIFORNIA

SEC. 806. (a) Subject to subsection (b), the Secretary of the Navy (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Irvine Company, a Michigan corporation, all right, title, and interest of the United States in and to a parcel of land consisting of approximately 84 acres located in the northeastern portion of the Marine Corps Air Station (Helicopter), Tustin, California, together with the improvements on such land. Such conveyance shall be made subject to such terms and conditions as the Secretary considers to be in the public interest.

(b) In consideration for the conveyance by the Secretary under subsection (a), the Irvine Company shall—

(1) convey to the United States land and interests in land that the Secretary considers to be equivalent in value to the land conveyed by the Secretary under subsection (a) and that are otherwise acceptable to the Secretary.

(2) pay the costs of relocating the Military Affiliate Radio Station (MARS) radio facilities and the skeet range facilities located on the land conveyed under subsection (a), and

(3) pay all costs of surveys, appraisals, and evidence of title involved in both such conveyances.

(c) The exact acreages and legal descriptions of the lands to be conveyed under subsections (a) and (b) shall be determined by surveys which are satisfactory to the Secretary.

(d) The Secretary is authorized to accept any land conveyed under subsection (b), and any such land shall be administered by the Secretary.

LAND CONVEYANCE, HUNTSVILLE, ALABAMA

SEC. 807. (a) Subject to subsection (b), the Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey, without monetary consideration, to the Alabama Space Science Exhibit Commission (an agency of the State of Alabama) all right, title, and interest of the United States in and to the real property described in subsection (c). Any real property conveyed under the preceding sentence shall be conveyed for use as a permanent site, in addition to the real property conveyed under Public Law 90–276, for the Alabama Space Science Exhibit.

(b) The conveyance authorized by subsection (a) shall be subject—

(1) to the condition that the real property so conveyed shall be used by the State of Alabama as a permanent site for an Alabama Space Science Exhibit to display suitable public exhibits of United States weaponry and allied subjects, developments of the National Aeronautics and Space Administration, and space-oriented exhibits of other United States Government departments, agencies, and instrumentalities and that if such property is not used for such purpose, all right, title, and interest in and to such real property shall revert to the United States, which shall have the right of immediate entry thereon, and

(2) to such other conditions as the Secretary may prescribe to protect the interest of the United States.

(c)(1) The real property referred to in subsection (a) is a certain tract or parcel of land containing 300 acres more or less (less that land occupied on the date of the enactment of this Act by the Department of the Navy), lying within range 1 west, township 4 south, parts of sections 8 and 9, and more particularly described as beginning at the established northeast corner of the Alabama Space and Rocket Center, running east along the Redstone Arsenal northern boundary, thence south along the Redstone Arsenal eastern boundary to a point north of the northwest corner of the intersection of Patton Road and Goss Road, thence west parallel to the north site of Goss Road to MacDonald Creek, thence northwesterly parallel to the east bank of the creek to the northern line of the Tennessee Valley Authority easement, thence west along the easement to the Alabama Space and Rocket Center established corner, thence north and east along the Alabama Space and Rocket Center boundary to point of beginning.

(2) The exact description of such property is to be determined by an accurate survey approved by the Secretary.

LAND CONVEYANCE, CHARLESTON, SOUTH CAROLINA

SEC. 808. (a) The Secretary of the Air Force (hereinafter in this section referred to as the "Secretary") is authorized to acquire by exchange all right, title, and interest of the Charleston County Aviation Authority (hereinafter in this section referred to as the "Authority") in and to a replacement hazardous cargo handling area to be constructed by the Authority at the Charleston County Airport, South Carolina, for the Air Force.

(b) As consideration for the acquisition under subsection (a), the Secretary is authorized to convey to the Authority all right, title, and interest of the United States in and to land (and improvements thereon) having a fair market value not more than the fair market value of the property to be acquired.

(c) The exact acreages and legal descriptions of the properties to be acquired or conveyed under this section shall be determined by surveys which are satisfactory to the Secretary and to the Authority.

BOLLING AIR FORCE BASE EXTENSION

SEC. 809. Section 607(b) of the Military Construction Authorization Act, 1966 (Public Law 89–188; 79 Stat. 818), is amended by striking out "January 1, 1980" both places it appears and inserting in lieu thereof "October 1, 1984".

PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS WITH RESPECT TO CERTAIN BASE CLOSURES

SEC. 810. (a) No action with respect to the closure of, or the realinement of, the Army Training Command at Fort Dix, New Jersey, may be taken unless and until the Secretary of the Army has prepared an environmental impact statement in accordance with the requirements of the National Environmental Policy Act of 1969 with respect to the proposed closure or realinement. Such environmental impact statement shall place special emphasis on socio-economic factors in the affected area.

(b) No action with respect to the closure of, or the realinement of, the Air Training Command at Goodfellow Air Force Base, San Angelo, Texas, may be taken unless and until the Secretary of the Air Force has prepared an environmental impact statement in accordance with the requirements of the National Environmental Policy Act of 1969 with respect to the proposed closure or realinement. Such environmental impact statement shall place special emphasis on socio-economic factors in San Angelo, Texas, and the surrounding area.

(c) No action with respect to the closure of, or the realinement of, Fort Indiantown Gap, Annville, Pennsylvania, may be taken unless and until the Secretary of the Army has prepared an environmental impact statement in accordance with the requirements of the National Environmental Policy Act of 1969 with respect to the proposed closure or realinement. Such environmental impact statement shall place special emphasis on socio-economic factors in the affected area.

(d) No action with respect to the closure of, or the realinement of, New Cumberland Army Depot, New Cumberland, Pennsylvania, may be taken unless and until the Secretary of the Army has prepared an environmental impact statement in accordance with the requirements of the National Environmental Policy Act of 1969 with respect to the proposed closure or realinement. Such environmental impact statement shall place special emphasis on socio-economic factors in the affected area.

(e) No action with respect to the closure of, or the realinement of Fort Monroe, Hampton, Virginia, may be taken unless and until the Secretary of the Army has prepared an environmental impact statement in accordance with the requirements of the National Environmental Policy Act of 1969 with respect to the proposed closure or realinement. Such environmental impact statement shall place special emphasis on socio-economic factors in the affected area.

TECHNICAL AMENDMENTS TO THE MILITARY CONSTRUCTION AUTHORIZATION ACT, 1979

SEC. 811. The Military Construction Authorization Act, 1979 (Public Law 95–356; 92 Stat. 565) is amended as follows:

(1) Sections 102, 202, and 302 are amended by striking out "upon the date of enactment of the Military Construction Authorization Act for fiscal year 1980" and inserting in lieu thereof "on October 1, 1979".

(2) Section 603(a) is amended by striking out "(a), (b), (c)" and inserting in lieu thereof "(b), (c), (d)".

Amend the title so as to read: "An Act to authorize certain construction at military installations for fiscal year 1980, and for other purposes.".

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate disagree to the amendments of the House, agree to the request of the House for a conference on disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. HART, Mr. JACKSON, Mr. CANNON, Mr. HARRY F. BYRD, JR., Mr. NUNN, Mr. THURMOND, Mr. TOWER, Mr. WARNER, and Mr. HUMPHREY conferees on the part of the Senate.

SECOND CONGRESSIONAL BUDGET RESOLUTION, 1980, 1981, AND 1982—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I submit a report of the committee of conference on Senate Concurrent Resolution 36 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the concurrent resolution (S. Con. Res. 36) revising the congressional budget for the U.S. Government for the fiscal years 1980, 1981, and 1982, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record of October 23, 1979.)

Mr. ROBERT C. BYRD. Mr. President, this report is being submitted at this time because section 305 of the Budget Act requires the conferees to report back in disagreement after 7 days if they have been unable to reach final agreement.

The conferees have made substantial progress and the House has requested further conference in an effort to resolve the matters in disagreement. We will now take the necessary parliamentary steps to return to conference.

Mr. President, I move that the Senate agree to the conference report.

The PRESIDING OFFICER (Mr. Baucus). The question is on agreeing to the motion.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate disagree to the House amendment to Senate Concurrent Resolution 36 and agree to the further conference requested by the House and that the Chair be authorized to appoint conferees.

The motion was agreed to; and the Presiding Officer appointed Mr. Muskie, Mr. Magnuson, Mr. Hollings, Mr. Chiles, Mr. Biden, Mr. Johnston, Mr. Bellmon, Mr. Domenici, Mr. Packwood, and Mr. Armstrong conferees on the part of the Senate.

SENATOR COHEN'S REMARKS TO THE NORTH ATLANTIC ASSEMBLY OTTAWA, CANADA

Mr. TOWER. Mr. President, I want to draw the attention of my colleagues to remarks prepared by Senator Cohen for the meeting of the North Atlantic Assembly which took place in Ottawa last week.

Ambiguous signals from the White House in recent weeks concerning U.S. military policies, SALT, and the vital issue of European theater nuclear force modernization have created much turmoil and misunderstanding in NATO capitals. Our allies have been hard-pressed to distinguish substantive and worrisome policy pronouncements from political rhetoric, and it was important that their fears be relieved by a forthright separation of truth from fiction. Senator Cohen's text served that purpose extremely well.

At the outset, he exploded the myth that the SALT II treaty can or should be considered in isolation from other Soviet activities designed to expand her influence at Western expense. In Senator Cohen's words:

> Agreements that provide for equal aggregates of weapons cannot produce equality where unequal military trends and intentions exist.

The central theme of Senator Cohen's remarks was to stress the imperative of NATO theater nuclear force modernization. This requirement, long recognized on both sides of the Atlantic, has recently been subverted by the administration through its efforts to assert a wholly illogical linkage between TNF and the ratification of SALT.

Senator Cohen reaffirmed the U.S. commitment to theater nuclear forces modernization—with or without SALT—as an absolutely essential program to redress the imbalance in theater nuclear forces as well as being a necessary precondition to any hope of success in SALT III.

Perhaps most importantly, however, Senator Cohen made clear to our allies that U.S. constancy and fidelity to our NATO allies is not conditioned upon the ratification of SALT II. In fact, as Senator Cohen so eloquently pointed out, the best evidence of renewed U.S. leadership would be firm action by the Senate to correct the serious inequities contained in the treaty and concurrent action to strengthen our own defense posture.

Senator Cohen's remarks went far toward resolving much of the confusion introduced by the administration in recent weeks and were extremely beneficial in calming allied fears over our ability to deal rationally with straightforward military issues. We all owe Senator Cohen a debt of gratitude, and I commend his remarks to each of my colleagues, and ask unanimous consent that his statement issued before the North Atlantic Assembly be included in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement By Senator William S. Cohen

The Senate debate on the SALT II treaty, while still incomplete, has been instrumental in shaking the fruit of many of our comfortable assumptions from the tree of self-delusion.

The euphoria that accompanied the first SALT agreement is gone. The United States is no longer wedded to a great faith that arms control is an island of super power cooperation in the sea of political, economic and military competition. We are finally coming to an understanding of the nature of the adversaries we and the free world face.

I believe that there is an emerging consensus in the United States that arms control agreements are not negotiated in a vacuum and cannot be considered in splendid isolation from global military and political realities. Agreements that provide for equal aggregates of weapons cannot produce equality where unequal military trends and intentions exist.

Ironically, at the SALT II milestone the United States finds that it must increase its defense efforts because the hoped-for restraint has not been achieved. What a dramatic act of hypocrisy that the process forces us to speak of arms control while we act to rearm. As my colleague Senator Moynihan has said—"The gods must weep."

In Europe, there remain many policy makers whose enthusiasm for SALT II remains undiminished by the failure of the final product to achieve its stated goals. It is hoped that the process will produce a momentum of its own and the failures of today will rise up from the ashes of rejection and take form in SALT IV or VII.

I do not seek to dampen this optimism for the future but rather to temper it with the lessons of the past. I do not ask you to give up the effort to achieve meaningful arms reductions, or defer indefinitely the dream of peace.

I came today to urge you not to lower your defenses.

Never before, since the founding of the NATO alliance 30 years ago, has it been faced by the military and consequently the political challenge that we are faced with today. To be timid in our response would invite even greater challenge. We need not become alarmists but we must become realists. We must state the facts as they are even if more comforting illusions must be abandoned in the process.

A careful listener to the praise some NATO allies publicly and enthusiastically heap upon the SALT II treaty will notice that the praise seems less motivated by any affection for the particular substance of the agreement than from a paralysis of thought resulting from an anxiety over the consequences of its rejection. But we must consider rejection—coldly, practically, and carefully—because rejection of the treaty unless it is amended is a very real possibility.

The treaty is a complex document, one that must be and is being scrutinized by the United States Senate. There should be no rush to final judgment under pressure from the Administration or from this Alliance.

Examination so far has revealed a SALT II treaty which is imperfect and invites change—change necessary to make the agreement fair, equitable and verifiable.

Among the most troublesome and perplexing aspects are those which bear on the future security of Europe such as the manifestly unequal Protocol, the uncertain implications of the non-circumvention provisions, and the exclusion of backfire bomber.

We are all committed to the concept of "detente" although the term has remained a fickle and elusive spirit. At times it is a difficult task to discern whether we are its master or its servant. With or without this SALT agreement, we remain committed to the improvement of East-West relations and to the achievement of meaningful arms control. The time has come when we should no longer tolerate invoking the words "arms control" and using the phrase as a pretext for further arms competition.

To our fellow NATO parliamentarians who say, You must ratify the SALT II treaty or the NATO alliance will unravel or our efforts to modernize NATO's theater nuclear forces will fail, I say we do not see the logic of your argument.

First, I do not believe that any European leader would act to weaken NATO or would acquiesce in its dissolution because of actions taken by the United States Senate to strengthen it. Secondly, the Senate cannot be deterred from its constitutional responsibilities by such arguments. We cannot take seriously the linkage of SALT to long range theater nuclear force modernization because to accept such linkage would be to conclude that our allies are not fully dedicated to their own defense.

Let me suggest that among the critics of the treaty are to be found some of Europe's greatest friends, and our criticism is motivated by a genuine concern over the impact of this unequal treaty on the strength of the alliance.

Our commitment to our European allies is firm. It will not vary if SALT II is accepted or rejected. But to suggest that NATO will fracture, dissolve or seek accommodation with the Soviet Union, may set a test that cannot be passed and suspend the Alliance over an abyss from which it cannot retreat or cannot be rescued.

PERNICIOUS ILLUSIONS ABOUT OIL PROFITS

Mr. TOWER. Mr. President, in recent weeks, the American public has been subjected to a barrage of misleading headlines and overblown rhetoric about the level of income earned by the Nation's major petroleum companies. The current excitement, of course, stems from the publication of oil company financial reports for the 3-month period ending September 30, 1979. Compared to the third quarter of 1978, which for many companies was a depressed quarter in terms of earnings and profits, the third quarter of 1979 presents a favorable contrast for many companies.

Do these quarterly profits and earnings comparisons demonstrate that oil companies in general are more profitable than other U.S. corporations? Do these figures demonstrate the need for additional, special taxation of revenues derived from the production of domestic oil or natural gas? The answer must be, of course, a resounding no.

The fact remains that, despite third quarter 1979 earnings and all of the anti-oil demagoguery, U.S. petroleum companies' profits are about in line with those of other U.S. companies. This is even more significant when one recognizes that the business of exploring for and producing oil and gas in the United States is more capital intensive and subject to greater risk than most other business endeavors.

Quarterly profit comparisons are meaningless in measuring the overall profitability of a company or industry. The standard most commonly used to assess profitability is the ratio of profits to investment, referred to generally as rate of return on investment. Using all of the accepted methods for calculating rate of return on investment, oil company profitability is about the same as that for all U.S. manufacturing companies.

In 1978, for instance, the leading 25 integrated U.S. oil companies had an average rate of return of 13.6 percent, measured on the basis of net income as a percent of stockholders' equity. In comparison, U.S. manufacturing companies in that same year averaged a 15.9 percent rate of return. The results are similar for the year 1977, with a 13.4 percent return for petroleum versus a 14.9 percent return for manufacturing, and for the year 1976, with a 14 percent return for petroleum versus a 15 percent return for manufacturing.

The years 1976–78 were not unusual years in terms of oil company profitability in relation to the profitability of other U.S. companies. During the 11-year period 1968–78, oil company profitability was very similar to that for total manufacturing. In fact, for the 25 leading oil companies, return on equity was below the all-manufacturing group average in 7 of the 11 years.

Newspaper headlines and exaggerated political rhetoric notwithstanding, the general trend of oil company profits has not been altered by 1979 profits results—including the third quarter reports so far announced. When all of the 1979 profit figures are in for the year, it may be that the average oil company rate of return will exceed that of manufacturing by a few percentage points; but oil profits last year were several points below those of manufacturing. It is unlikely that this general trend will change significantly, even with decontrol of oil prices.

Moreover, rather than attempting to penalize oil companies for any economic successes they may enjoy, we should be cheering them on. The solution of our Nation's energy problem is a job of massive proportions, and one which will only be made more difficult by crippling the U.S. energy industry.

Studies by the Bankers Trust Co., the Chase Manhattan Bank, and the U.S. Department of Energy have each estimated that, just to maintain current reserves, oil companies will need to spend in the United States through the mid-1980's from $20 billion to $26 billion annually, in constant 1977 dollars, on exploration and development alone. That figure is about double what the companies have invested annually in exploration and development under price controls since 1973.

If we are truly serious about the need to solve our energy problem and reduce our dependence on foreign sources, then we must give our American private enterpirse system a realistic chance to meet the challenge. We can do that by eliminating the existing burdens of Government overregulation which now stifle necessary capital investment in new energy supplies.

The economic incentives provided by the possibility of profit is an essential ingredient in the effective functioning of the American economic system. Few politicians or news journalists seem to appreciate that fact. One notable exception is Joseph Kraft, who writes for the Washington Post. In a recent column appearing in the Post on October 25, 1979, entitled "Who Profits From Profits?" Mr. Kraft commented on the role of profits in fostering the economic health of the country. I ask unanimous consent that the text of this excellent commentary by Joseph Kraft be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record as follows:

[From the Washington Post, Oct. 25, 1979]

Who Profits From Profits?

(By Joseph Kraft)

"Prices are up, profits are up, and the oil companies want more. But it is not fair to the American people that they should have more."

At first that sounded just great. Surefire, right-on stuff. The stuff out of which leadership is made, Jimmy Carter standing up to the big, bad oil giants and their obscene profits.

But think a minute. Are the oil companies truly unfair to the American people? If not, why say so? And what is the impact of the charge on that overriding domestic and foreign priority—the reindustrialization of America?

Exxon, the biggest of the oil companies, provides the best test. Its profits for the third quarter of this year amounted to a record $1.1 billion. That, measured against the third quarter of 1978, represented an increase of about 120 percent.

But third-quarter earnings in 1978 were abnormally low—lower than at any time since the second quarter in 1973. Moreover, special considerations—a change in the British tax laws and currency fluctuations—accounted for over a quarter of the gains.

Only about a third of all the operating profits came from the United States, which has relatively tight price control compared with the rest of the world. Earnings on investment stood with much of American industry—at about 18 percent.

Those numbers, to be sure, do not justify going into mourning for poor little Exxon. But the implication that Exxon works to the disadvantage of this country looks weak indeed. On the contrary, the evidence is that Exxon, like most international companies, gives most of the breaks to its home base. The United States, in other words, tends to benefit from the major oil companies.

Political reasons for knocking the companies abound all the same. There has been a big recent rise in the price of home heating oil and gasoline. More increases are bound to come. The country is mad and apt to get madder. At least a portion of the blame rests on the actions of the Carter administration. So the president needs a scapegoat on which to foist responsibility. In this populist country, at a moment when all authority is suspect, the companies are the best one around.

The more so as Carter now has to prove his leadership capacities. One measure is the fate of a proposed windfall profits tax on the oil companies, which is now before the Senate.

A stiff tax has already been approved in the Finance Committee. It will surely be made stiffer by the full Senate, and in the conference with the House. By hitting out at the oil companies now, the president puts himself in position to claim credit for something bound to happen anyhow. He bets on a sure thing.

Only the innocent or the disingenuous can take offense at such tactics. Seeming to soak the rich is the essence of good politics in this populist country. But we ought to be clear about the cost of populist politics.

The starting point for counting the cost is the plight of what I have called Big America. The major industrial producers—the makers of steel, chemicals, autos, rubber, ships and many other such items—are in trouble.

They are subject to severe regulation by what I have called Little America—those primarily interested in fair employment, the environment and the consumer. They are also being severely challenged by competing firms in Japan, West Germany and other countries.

But this country cannot casually abandon industry for a service economy. Defense, for one thing, is at stake. For another, there is the matter of jobs—especially jobs for minorities in hard-pressed urban centers. So the health of the country is, in the long run, bound up with the revitalization of industry.

The reindustrialization of America, unfortunately, is not going to be established by corner banks, family farms or even medium-sized industry. It will take General Motors to stand up to Volkswagen, an IBM to match Toshiba, and Alcoa to deal with Pechiney.

This country has already done itself grave damage by bad-mouthing its steel industry, its nuclear power companies and its airplane manufacturers. It cannot afford to act as though all business is bad, big business worse and international big business still worse. Neither can it afford a president whose political stock depends on cultivating these pernicious illusions.

THE PI PROPERTY SCANDAL—NEED FOR GAO INVESTIGATION

Mr. PROXMIRE. Mr. President, in view of the recent exposures of fraud in connection with PI Properties, Inc. of Washington, D.C., I am calling on the General Accounting Office to investigate what failures at HUD allowed this breakdown to take place.

I understand that the Justice Department is conducting an investigation of PI activities which could result in criminal prosecutions. Quite apart from criminal matters, which I do not nor would not prejudge, what I want to find out is why HUD did not act. What caused the foulup?

Therefore, as chairman of the Senate Banking, Housing, and Urban Affairs Committee, which has jurisdiction over housing legislation, and as chairman of the Subcommittee on HUD-Independent Agencies of the Senate Appropriations Committee, which has jurisdiction over HUD funds, I have written the General Accounting Office to ask them to investigate this matter to determine what noncriminal failures in administration allowed this to happen.

Here is why we need the investigation.

According to reports, three officials of PI Properties, Inc., diverted, misappropriated, and stole at least $600,000 from the U.S. Government and from low-income tenants during the past 4 years. Findings were supported with details gleaned from a former PI bookkeeper and corporation records.

If this were the first time it had happened or a glaring exception to a generally excellent record, that would be one thing.

Stories of fraud in HUD housing are not new. There were great windfalls in the 608 construction program; there were serious scandals in the section 235 homeownership program. There has been big money to be made in housing. And a great number of smart operators stand ready to make it. As one of the Clifton Terrace victims said:

> Larceny becomes a part of people when there is money involved, especially when it's Federal money.

The windfalls and the scandals of the past have inevitably led to pronouncements of change. There have been shakeups in top management; implementation of new procedures; installation of modern computers; introduction of new audit and inspection systems; improvement of staff training, and even handbooks written on how to do it to train housing fraud investigators on how it is done.

Yet, as the new disclosures showed, painfully little has changed. The costly lessons of the past have not yet been learned. Clifton Terrace is not the first fraud HUD has had to acknowledge—and fear, if it reveals something about HUD's administrative practices, that it will not be the last.

What is particularly distressing about Clifton Terrace is that it happened right here in Washington, right under the eyes of HUD and, in fact, under the eyes of not one but three different HUD Secretaries. It happened in a project you can almost see from the HUD building. A project that stands on one of the most commanding sites in the District. A project that has symbolized for many years the housing problems of the District of Columbia and America's inner cities.

I find it shocking to read that HUD continued to provide financial assistance to the project despite early warnings by some HUD staff, and despite the fact that required audits could not be conducted because, as one HUD investigator said, "How can we investigate records that weren't there?"

And I find it depressing to read that aid was continued despite recommendations of staff to terminate the project apparently because top HUD officials failed to respond or did not care to take decisive action.

I find it incredible that so many could be intimidated for so long by so few, and that from the very beginning "deep interest" by top HUD officials in the project shielded it from objective evaluation and sound management practices. I am deeply disturbed by reports that the basic accounting principle used by PI, Inc. was that expenses should always be equal to or exceed revenues since HUD would pay the bill—and that it took HUD so long to realize this.

We have heard a lot in recent years about white-collar crime and we are considerably more knowledgeable about the way big business corporations have, even with the most respectable of certified audits, manipulated their books in order to siphon off millions of dollars for unethical and illegal activities. Clifton Terrace is not unique. Nor is fraud in connection with housing unique. A top Justice Department investigator told one of my housing staff not long ago. "You name me the industry, and we'll find you the fraud."

Nonetheless, this new disclosure should give us pause when we realize we are spending over $4 billion a year to assist low- and moderate-income persons secure decent housing. How much of that money is being siphoned off by crooks? Will our next scandal involve section 8 housing assistance on which we now spend over $1 billion in new contracts yearly? Or will it involve an urban development action grant for which we will spend $675 million this year?

That is why I have asked the General Accounting Office to examine HUD's procedures in the Clifton Terrace fraud in order to determine what went wrong. Why did it take HUD a full 15 months after an unsatisfactory audit by its Inspector General to take back a project on which only four mortgage payments had been made in 3 years? Why did not a fuse blow out somewhere in HUD?

I am asking the GAO to tell us where in HUD's bureaucracy fuses should be wired so that there would not be another fraud like Clifton Terrace.

I ask unanimous consent that a copy of my letter to Comptroller General Staats appear at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON BANKING,
HOUSING, AND URBAN AFFAIRS,
Washington, D.C., October 30, 1979.

Mr. ELMER B. STAATS,
Comptroller General of the United States, General Accounting Office, Washington, D.C.

DEAR MR. COMPTROLLER GENERAL: I am writing to request that the General Accounting Office conduct an investigation of HUD's management and audit procedures in the Clifton Terrace case, in order to determine why they failed to bring about corrective measures sooner.

I would like to know, particularly, why it took HUD a full fifteen months after an unsatisfactory audit by its Inspector General to take back a project on which only four mortgage payments had been made in three years. Also, why did it take so long, with such a record of nonpayment and certain staff warnings for HUD top management to recognize that the demonstration project was not working?

I would hope that GAO would, in light of its efforts to get Federal agencies to improve their oversight of audit recommendations, be able to identify where HUD's system could be wired with fuses that would automatically stop the flow of Federal funds when the system is imbalanced.

I would appreciate your early response to this request.

Sincerely,

WILLIAM PROXMIRE,
Chairman.

REMINDERS FROM THE PAST MOLD THE FUTURE

Mr. PROXMIRE. Mr. President, last week in Cologne, West Germany, an event occurred that demonstrated that the past cannot be forgotten. Outside a small courtroom, 200 French Jews gathered. They were waiting for the start of a trial of three former Nazi SS officers accused of ordering the death of more than 33,000 Jews during World War II.

Why did the protesters travel all the way to assemble outside the Cologne courtroom? What was the message of their demonstration?

It was, Mr. President, a simple message. It showed that the despicable Nazi genocide of over 6 million Jews was far from forgotten. True realization of what actually happened is only beginning.

The holocaust has deeply scarred not only the memories of Jewish survivors, but of anyone who attempts to fully understand the reality of Hitler's "final solution." They are scars that show. They are scars that remind.

We will be reminded by books, films, and demonstrations. We will be reminded by trials of Nazi officers accused of heinous crimes committed over 30 years ago. We will be reminded, Mr. President, by the worldwide effort to prevent the recurrence of such genocide.

Why, then, have we not learned from the past? Why have we not fully participated in the global crusade to protect human rights? Why have we not ratified the Genocide Convention?

The United States cannot erase the scars from the holocaust. But we can learn from them. We can realize the magnitude of the job that lies before us as defenders of human rights.

It is the job of the Cologne court to recall the past. It is our job to mold the future. I urge my colleagues to ratify the Genocide Convention.

MIKE FLANAGAN—CY YOUNG AWARD WINNER

Mr. DURKIN. Mr. President, I would like to take this opportunity to commend New Hampshire's own Mike Flanagan, who yesterday was named the American League's Cy Young Award winner, given annually to the top two pitchers in baseball. A fireballing southpaw for the Baltimore Orioles, Mike hails from my own hometown of Manchester. As the ace of the American League champions, Mike led the major leagues with 23 wins this past season. Along the way he racked up 190 strikeouts, third in the American League, while allowing a paltry 70 walks.

As durable as he is accurate, Mr. Flanagan completed 16 games while pitching in 266 innings. Under the pressure of a heated pennant race, Mike remained cool as a cucumber winning 16 of 19 games over the summer months. A rugged New England upbringing paid off in the opening game of the world's series, when he defeated the Pittsburgh Pirates 5 to 4 on a mud-soaked field in 40° chill.

It is said that the most difficult feat in sports is to hit a pitched ball. Surely, Mike's 100-mile-per-hour fastballs and deceptive curves would lead even the best major league hitters to concur with this observation. I extend the congratulations of the State of New Hampshire to Mike Flanagan, and wish him every success in the future.

Mr. President, I ask unanimous consent that a feature story on Mike Flanagan and his family, written by Mr. Guy Nadeau of the Manchester Union Leader, and an article by Fred McMane be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

There's Lot of Joy Now in Flanagan N.H. Household

(By Guy Nadeau)

Mike Flanagan had a little secret he shared with his dad, Eddie Flanagan, before the major league season opened last spring.

Shortly after hearing the inevitable news late Tuesday afternoon that his son, pitcher elite from a Baltimore Orioles pitching corps which is the class of the major leagues, indeed was official recipient of the coveted Cy Young Award in the American League, the elder Flanagan took it all in stride and did a little reflecting on the season past.

"I may be letting the cat out of the bag but he told me before the season started that he was going to try to win twenty-five," Eddie Flanagan told the Union Leader.

Well, Mike didn't quite make it but of course came close enough, collecting 23 wins to go with nine setbacks, best in the majors in 1979 and thus making him a shoo-in for the Cy Young. "The whole key in sports today is injuries," opined Flanagan, himself a professional baseball player in days gone by. The fact that his son escaped injury during the regular season was a key factor in his success, both during the season and during the American League playoffs and subsequent World Series appearances, feels the long-time resident of Manchester.

Mike Flanagan just missed the 20-game mark in 1978 when he was hampered the last few months by a painful ankle. It persisted somewhat into spring training in 1979 until, finally, it was decided he was overdue to wear an arch support.

"Do you remember in high school they wanted him to wear an arch support"? One doctor said he should, the other thought he should not," recalled Ed Flanagan, "and he didn't." Arch support and all, Flanagan went on to put it all together the past summer, disrupting a pattern wherein he had been plagued the few previous seasons by periods of inconsistency, posting winning, and certainly fine records, but short of the magic twenty.

The fact that Flanagan, at age 27 and only in his third full year in the majors, was able to annex the Cy Young in such a brief period of time has brought joy but not necessarily surprise to the Flanagan household of Eddie and Lorraine and the rest of the Flanagan clan, Kathy and Elaine.

"I thought his concentration in the World Series was better than during the regular season; he was consistently ahead of the hitters," Ed Flanagan related to the Union Leader after hearing the news via a phone call from his son at his townhouse in Cockeysville, Md. "We're just happy for him. I know he was shooting for it. He maintains he doesn't have any goals, but he has 'em every year," said Flanagan after learning that his son had collected 26 of a possible 28 first-place votes, the others awarded to New York Yankee hurlers Ron Guidry and Tommy John.

While giving his son his just credit, Ed Flanagan is quick to also credit veteran Jim Palmer as being, "on paper, the best pitcher." He also feels that Mike pitched best in his second Series mound appearance, when he was the loser, than he did when he won the opener against the Pittsburgh Pirates. Also cognizant of the fact his son also had just received the American Legion Baseball Graduate of the Year award, the elder Flanagan said he expects Mike to return to New Hampshire, and his new home in Amherst, around Nov. 8. "He has banquets to do in Baltimore, plus the fact I don't think Kathy is quite ready to travel yet," the reference to Mike's wife who was hospitalized for a time.

"I guess he'll want to go out and rake the leaves," quips Ed Flanagan.

And there are a few of us around who could use whatever talents Mike Flanagan has in that direction to alleviate our autumnal backyard accumulations.

Just as long as he dons that ever-necessary arch support.

Flanagan received 26 first place votes and 136 points to easily outdistance left-handers Tommy John and Ron Guidry of the New York Yankees. John had 51 points and Guidry, last year's winner, received 26. Each got one first place vote.

Jim Kern of Texas was fourth with 25 points and Mike Marshall of Minnesota was fifth with seven points. Jerry Koosman of Minnesota received five points and Dennis Eckersley of Boston and Aurelio Lopez of Detroit each got one point.

Flanagan, who also got two second place votes, was the only pitcher named on all 28 ballots.

In his third season as a member of the Orioles starting rotation, Flanagan was a key factor in helping Baltimore to the American League East title. Besides posting the best record of 23–9 and an earned run average of 3.98. Flanagan was the club's "meal ticket" throughout the season.

While Palmer was hurt and did not win a game for two months during the middle of the season, Flanagan picked up the slack by going 9–3 from June 27 through Aug. 27. Over the season Flanagan proved to be one of the league's most durable pitchers, hurling 245 innings and going the distance 16 times.

Flanagan, an overpowering pitcher who struck out 190 batters, started the season slowly and was only 5–4 as of May 30. But from the first of June through the second week in September, he won 16 of his next 19 decisions to help the Orioles build a comfortable lead in the tough AL East race.

He tied Nolan Ryan of California and Dennis Leonard of Kansas City for the AL lead in shutouts and he finished third behind Ryan and Guidry in strikeouts.

In winning AL Cy Young honors, Flanagan becomes the third Oriole pitcher to take home the coveted plaque. Palmer previously won it in 1973, '75 and '76 and Mike Cuellar was the co-winner in 1969 when he shared it with Detroit's Denny McLain.

Flanagan, whose father, Ed, a Queen City resident, pitched in the Boston Red Sox organization, signed with the Orioles in 1973 after they made him their seventh selection in the June draft. He spent 3½ seasons in the minor leagues, winning honors as the best left-hander in the International League in 1975, and finally made the Orioles midway through the 1976 season.

He made the Orioles' starting rotation in 1977 and posted a 15–10 record with a 3.64 ERA. Last year he recorded a 19–15 record despite being plagued by tendinitis in his left ankle and the back of his foot. During the offseason he underwent extensive therapy and the problem did not bother him this year.

John, signed as a free agent by the Yankees last season after playing out his option with the Los Angeles Dodgers, was 21–9 and Guidry recorded an 18–8 mark in addition to leading the league in ERA with 2.78.

Mike Flanagan: Cy Young Award Winner

(By Fred McMane)

New York—New Hampshire's Mike Flanagan, a hard-throwing left-hander who replaced eight-time 20-game winner Jim Palmer as the ace of the Baltimore Orioles pitching staff this season, Tuesday was named winner of the American League's Cy Young Award.

The 27-year-old Flanagan, the major leagues' top winner with 23 victories, was a clear-cut choice as the AL's best pitcher in the balloting of 28 members—two from each city—of the Baseball Writers Association of America.

AMERICA IN THE WORLD ARENA

Mr. THURMOND. Mr. President, America's position in the world is of grave concern to all of us. Whether or not the United States is slipping from its role of global leadership has been hotly debated.

Recently I noticed an article which offers some interesting insight into the role of our Nation in a rapidly changing world. This article, "America in the World Arena" by Anthony Harrigan, outlines some of the potential problems facing our Nation and provides an important guideline for the conducting of American foreign policy.

Mr. President, in order to share this fine article with my colleagues, I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AMERICA IN THE WORLD ARENA

(By Anthony Harrigan)

It's very important for the American people to take a dispassionate look at the array of powers in existence or emerging—from the perspective of U.S. security and economic well-being.

Certainly, the world is a vastly different place from a generation ago. The World War II generation came to adulthood with an awareness of American omnipotence, with the first use and exclusive possession of the atom bomb, with overwhelming naval power, and with U.S. military bases scattered around the globe.

Today, the United States is in a position of increasing military inferiority versus the Soviet Union, its principal adversary. Restoration of American military might is the number one requirement for survival.

It's also important to look beyond the immediate defense measures and consider the threats that may face the Republic in the decades ahead.

Many new powers have emerged or are emerging. They are eager for a place in the sun and for a share of the wealth the United States has enjoyed in the 20th century. They may use military means in an effort to effect the wealth transfers they seek. Other nations, now friendly to us, may discover strategic and economic imperatives which may alter their relationship to the United States.

The biggest question mark in the global arena is Japan.

Enoch Powell, the British parlamentarian, in a fascinating speech last January, said of Japan: "A nation of 112 million human beings, of intense industrial potential, situated in a key position of an offshore archipelago, can no more—even less—remain strategically and militarily inert than can China."

We must agree with that. The prospect of a militarily inert Japan is unreal. Being of the generation that remembers Pearl Harbor, I always have been respectful of Japan's war-waging capabilities and fearful of its militancy. I think the era of a quiet, submissive Japan is near an end.

The United States doesn't know what to do about Japan's military potential. On the one hand, we find the burden of Pacific region defense very heavy in these times of economic austerity. Our burdens would be eased temporarily if Japan increased the size of its armed forces and assumed defense responsibility for Southeast Asia, as well as strengthened anti-submarine forces in the North Pacific.

On the other hand, while people in official positions are unwilling to even hint at it, there is an underlying fear of a heavily re-armed Japan. How would Japan employ strong armed forces?

Japan today is even more dependent on foreign energy and raw materials than it was in the 1930s. A chain of tankers links Japan to oil resources in the Middle East—across the Indian Ocean. Japan also obtains oil from Indonesia, iron ore from Australia, and coal from South Africa. In addition, Japan is interested in obtaining oil from Mexico. Large numbers of Japanese emigrants have moved to Brazil. In other words, Japan has the widest oceanic interests, ranging across the Pacific and Indian Oceans.

Dr. Charles Burton Marshall, in an address at the Naval War College, has reminded us that "In our experience, the Pacific stands as the most bitterly contested of oceans." . . . More warships lost or destroyed by the U.S. Navy lie in those waters than all others. The U.S. has sustained war across that ocean—with mixed success—through fifteen of the past 36 years.

In World War II, Japan's ambition was to seize the island-continent of Australia. Today, Japan has a huge economic and strategic stake in Australia. Nearly half of Australia's mineral exports are to Japan. In 1976–77, Japan was the single biggest importer of the following Australian products: coal, iron ore, pig iron, copper ore, zinc, and various food products. Japanese companies also have interests in Australian mining operations.

T. B. Millar of the Australian National University in Canberra recently wrote that Japan "may well be, over the next 50 years or more, the most decisive influence for Australia. She may well take toward Eastern Asia and the Western Pacific a role similar to that of Britain toward Europe in the 19th century."

Will Japan's influence be benign? Or will there be a new Japanese empire, heavily armed, oppressive and determined to dominate South Asia and the Indian Ocean world?

Only time will give us the answer. But I doubt that a strong, heavily armed, ambitious and determined Japan would be easy to live with. Japanese security arrangements might well extend across the South Pacific to include South American countries. Japan's search for raw materials for its industries will be the central theme of its foreign policy in the next half century. And this search in the past is what led to war in the Pacific.

Our concern about Japan's future role parallels a similar concern about Communist China. The United States is lending its support to the industrialization and modernization of China with only scant attention to the long-range consequences of the process. As one writer has said, between the two countries there are profound discongruities reflecting diversities of value and purpose.

True, we have an advantage in keeping China apart from the Soviet Union, from preventing a consolidation of communist powers, and in making it necessary for the Soviets to maintain an army of observation on its Asian border.

But there will be other consequences of a buildup of China. To quote again from Enoch Powell, China "now appears to be positively seeking the role of a superstar on the world stage that it has hitherto studiously and characteristically declined."

The emergence of an industrially and militarily effective China will pose grave problems for Japan and affect its future outlook and development. If Japan is drawn into the process of modernizing China, we have to consider the ultimate effect on Japan of such a relationship. What would be the effect on American interests? One can't begin to answer this question, but it is one that Americans should address. However it is answered, I suspect that it will mean grave danger for us. After all, our interest is in a minimum number of power centers.

There are many other regional or national situations that pose problems for us. We will have to reckon with stronger countries in several areas—Brazil, for example, and a nuclear-armed India. The Third World countries, in general, are likely to be thorns under our skin for many years to come.

Deepak Lal of India, writing in Quadrant of Sydney, Australia, envisions continuing Third World pressure on the industrialized world, chiefly the United States, for transfers of wealth, plus an acknowledgement of "status and respect" for the new nations of Afro-Asia. "There is always the danger," he writes, "that if [economic] development is not as rapid as [the Third world nations] think is necessary, they might try more direct methods and follow the route of the barbarian hordes who destroyed the Greco-Roman Empire and civilization."

Population pressures are certainly going to be one of the principal pressures or determinants on the world scene in the decades ahead. Already, we are keenly aware of the need for new arrangements with Mexico. We fear that we may have a new Bangladesh on our doorstep if Mexico's oil resources aren't put to work in a constructive way. Population is closely related to religious and cultural considerations, and it is beyond our ability to influence population growth in other countries.

We shouldn't ignore the possibility of vast numbers of future boat people arriving uninvited in the West, as they are arriving today in relatively small numbers in Australia, Malaysia, Hong Kong and the Philippines.

Huge populations, of course, mean cheap labor and usurpation of manufacturing occupations that are traditional in the Western industrialized countries.

One can't be sure how to deal with these situations. It's only reasonable to conclude, however, that it isn't to our advantage to assist in the modernization process of remote, backward lands. We need—at home—the resources that would be committed to such tasks. We ought to avoid creating new economic and military competitors. Our national interest lies in low levels of power elsewhere. We should engage in very limited commitments abroad both economic and military. We should maintain the closest ties with countries that are most compatible with us in terms of history, culture and political tradition.

No one can forecast where America will be a century from now. Time is full of secrets. We can only plan for what is just over the horizon two or three decades from now. Farther into the future, we may want to depart from a continental strategy. For the time being, however, I believe we ought to turn away from the vague and undefined internationalism of the post-World War II era when global conditions were very different and much less complicated.

Most certainly, in my view, Americans should reject the notions of world order being enunciated by Secretary of State Cyrus Vance and National Security Adviser Zbigniew Brzezinski.

Their ideas were spelled out in speeches at the end of April, 1979. Dr. Brzezinski said: "We cannot pursue a Eurocentric or even a primarily trilateral policy" with Western Europe and Japan. He called for "broader global engagements" and declared that the world of the 1980s and 1990s could not be organized on a "Pax America" basis. Secretary Vance said we would imperil our future if we "used our power to resist change in the world"—no doubt a reference to administration inaction with respect to Iran. Dr. Brzezinski further said that the U.S. government sought "a world community built not on the domination of a single sector, a single culture or a single ideology, but a community which draws on global diversity."

I construe this to mean that he accepts a sharing with forces hostile to the United States and Western civilization. In realistic terms, such a global policy would mean more appeasement of adversary states and more economic concessions to them as a price for their refraining from aggression. The Vance-Brzezinski policy is one of acquiescence in the face of hostile forces.

Syndicated columnist Michael Novak, recently described the Vance-Brzezinski outlook, saying:

"It has been clear in their recent addresses that Secretary Vance and Dr. Brzezinski believe that the role of American power under their direction is to decline in dominance and pre-eminence, in recognition of 'other centers' of power in a 'pluralistic' and 'interdependent' world. . . . Naturally, Secretary Vance does not say that U.S. policy is one of cowardice, decline and self-chosen inferiority. Naturally, he describes it as a 'new maturity.' It is always necessary to put a refined face on decline."

It's to be hoped that the American people will reject a foreign policy that is defeatist about our security. We need to turn away from the fashionable notions of Mr. Vance and Dr. Brzezinski, the thinking that is best characterized by the term "no-win." We need a harder, more realistic stance. As a British writer has said, "No great self-respecting nation can be content to imagine itself locked forever in the embrace of a current fashion or a current alignment. Nationhood is about independence; and independence is about survival under all contingencies, imaginable and unimaginable. A nation which refuses to imagine the currently unimaginable has forfeited its own status."

The United States finds it difficult to break out of the ring of liberal internationalism—the global community ideas expressed by Vance and Brzezinski. Why? In part because the media are so committed to these ideas and don't give the public exposure to contrary concepts. This is part of the thought control that Alexander Solzhenitsyn referred to in his Harvard commencement address—the limitation of options by muzzling discussion of all but a few ideas.

Beyond this, we have to bear in mind the impact of our past. Dr. Marshall has said that the approach of the United States to global struggle "reflects a privileged historic past, remote from theaters of strategic competition, with security a bestowed condition, peace demonstrably the inherent situation, and war therefore regarded as obviously abnormal."

Unfortunately, we no longer enjoy a privileged position. We are under siege in a variety of ways. We may be denied access to vital energy and raw materials in the Middle East and the Southern Hemisphere. We face many internal barriers to effective action on the world scene. We have hostile elements within. As Leopold Tyrmand of the Rockford College Institute said in a recent essay, "the conscience of the procommunist, leftist or socialist in America is quite a simple device: it tells him that everything that's bad for America is a priori good in general."

I come to the end of this paper without offering any clear direction for U.S. foreign policy, other than stressing the necessity of rebuilding our armed forces, strengthening our continental ties, and proceeding with caution in dealing with the powers of the world. Perhaps this is a sufficient guideline. Too often we have been trapped by grandiose designs and by extravagent expectations of friends and foes. As we rearm, we must reexamine the world scene, reassessing the direction and potential of many countries.

One thing is certain: we shall have to be very prudent if we are to survive the difficulties ahead. We must believe in ourselves again—very deeply. We must be, as Alfred Kingon, said recently—"strong in military might, economic might, moral conviction, integrity and national character."

HOW WE LOSE WARS

Mr. THURMOND. Mr. President, a distinguished American military leader, Marine Corps Gen. Lewis Walt, now retired, has published an excellent article in the October 1979 issue of American Legion magazine, entitled "How We Lose Wars."

This incisive article deals with military preparedness and foreign policy. General Walt also points out how we fail to understand the Soviets and what steps we should take to redress our national security problems.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HOW WE LOSE WARS AND PEACE

(By Gen. Lewis M. Walt, USMC, retired)

It's a fact. If the leaders of the Soviet Union decided to destroy us tomorrow or next month, there is nothing the United States government could do to stop them except surrender.

Think about it. We have no civil defense. We have no antiballistic missile system. We don't even have a credible defense against Soviet bombers or MIG-23s based in Cuba. Most of our air defense radar has been dismantled or converted to civilian use. The Air Force has been left with just over 300 fighter-interceptors to guard the entire nation.

No generation of Americans has ever before been so recklessly placed at the mercy of so pitiless and powerful an enemy. The last defense, a strategic nuclear arms force strong enough to deter Soviet aggression, has been allowed to deteriorate to the point that it no longer represents a viable deterrent. For the first time, a nuclear first strike is now a realistic option for Soviet planners.

There are no incoming missiles in our skies because the Soviet leaders believe that with patience they can, in a short time, force us to surrender without a war. I am not talking about some date in the distant future, but some date within the next three to five years. Their ultimatum, when it comes, will present an American President with the terrible choice between a thermonuclear war which would destroy us but not the Soviet Union, and surrender of the American people to an oligarchy of tyrants whose viciousness and brutality have no match in the long history of man's cruelty.

Such a prospect strikes most Americans as an impossibility. It is not an impossibility. It has become a probability, and if the SALT II treaty is ratified, it will become a certainty.

SALT II is the climax of over 30 years of wrong thinking, timid leadership, refusal to recognize reality, and plain cowardice that has propelled the United States from a position of unquestioned superiority and safety to its present position of military inferiority, economic weakness, spiritual malaise, and peril.

We have very little time left in which to save our freedom and our nation. The immediate goal must be the defeat of SALT II in the U.S. Senate. The Panama Canal treaties were a grave error, but not a fatal one. Ratification of SALT II will be the last nail in the coffin of the American people.

Some of you must be asking, "Can this really be true? Is the U.S. really weaker than the Soviet Union? Are our nuclear forces truly no longer a deterrent? Could the Soviets actually win a nuclear war? Could the United States be defeated by Soviet conventional forces in Europe or the Middle East? Is nuclear blackmail a real possibility? Could our economy be devastated by a Soviet-backed cutoff of oil and other minerals? Is our Navy too weak to keep open the sea lanes?"

Well, the answers to all of those questions is, "Yes," and the answer to why you didn't already know it is, "Your politicians have been hiding the truth." In my book, "The Eleventh Hour," I answer each of those questions in detail. I also put the present situation into the context of what has been happening for the past 39 years. I tell you who made the key decisions and why.

In the space the editors of your magazine have graciously provided me, I hope to briefly summarize the situation and suggest some ways you, Americans of proven courage and loyalty, can help the nation for which you have already sacrificed so much. In fact, it is you to whom my book is addressed.

First, we must stop SALT II. I am leading a drive to collect one million signatures on petitions urging the Senate to reject the treaty and I hope you will join that effort by writing your own senators.

Those of us who have observed and studied the Soviet Union are not fooled by their doubletalk. Most young SALT II supporters don't remember or know about the Baruch Plan of 1947, a Super SALT Agreement which would have ended the nuclear arms race once and for all. At that time, even though the U.S. had a nuclear monopoly and could have commanded the world, we offered to turn over to an international agency all of our atomic weapons and all of our nuclear technology to be used solely for peaceful purposes. This magnanimous offer was flatly rejected by the Soviet Union as was the offer of Marshall Plan aid. To the public, it marked the beginning of the Cold War but to those few honest students of communism it only reaffirmed what they had been saying all along—that the Soviet Union was bent on world conquest.

Today, SALT II is only a part of the Soviet plan for world conquest. They hope it will accomplish the same two goals SALT I accomplished—to freeze us into a position of military inferiority and to provide a psychological weapon with which they can prevent us from taking the right steps to save ourselves.

It was "in the spirit of SALT" that our disarmament lobby and weak leaders: (1) halted production of Minute Man III; (2) slowed the production of the Trident program; (3) killed the B-1 bomber; (4) cut Navy ship building in half; (5) decided to delay deployment of the neutron warhead; and (6) delayed work on both the cruise and mobile missile systems.

The mobile missile system which President Carter belatedly authorized in the hope of winning votes for SALT II will not be ready for deployment until 1989. That's about seven years too late. Long before then, the Soviets will be able to knock out our land-based missiles, most of our bombers and half of our submarines and still have enough nuclear reserves for second, third and fourth strikes.

The one weapons system which could be quickly produced to offset their current superiority, the cruise missile, is severely limited by the SALT II agreement. No wonder the Soviets and the Communist Party of the U.S. are waging an all-out campaign for ratification! SALT II will do only what the Naval Treaty of 1922 did—lead to war.

How can American leaders be so wrong? Is there treason to be found? Is there a conspiracy? No, I don't believe either of those apply. I think the answer is much more simple—so simple, in fact, most of us failed to recognize it.

Let's look at a few basic concepts. A nation is nothing more than a collection of individuals and the sum of their individual decisions determine the fate of the nation. Similarly, a government is also a collection of individuals and government policy is nothing more than the effect of their individual decisions.

Unfortunately, no matter how great and grave the decisions to be made, the only people available to make them are ordinary human beings. There is no magic elite of people with divine knowledge, though there is an elite of wealthy and educated people who act as if they had divine knowledge.

Since World War II, virtually all foreign policy decisions have been made by men who are members of or servants of the Eastern Establishment, that loosely defined group of people characterized by great wealth and global interests. These are the men who compose what Sen. Daniel Moynihan calls ". . . the interlocking elites" which set American foreign policy.

Their decisions, like all decisions, reflect not only their assessment of a given set of circumstances but also their personal value systems and their basic beliefs about the nature of the world.

I have seen on many battlefields young men make the decision to sacrifice their lives. Their decisions reflected their values and beliefs. They chose death, not because they did not value life, but because they valued other things—a buddy's life, their sense of duty, their love of country—more than their own lives.

To put it bluntly, too many of our decision-makers have valued other things more than freedom and more than their country. And that is why we are in the sorry mess we are in today. Most of these decision-makers are materialists.

It is no accident that I have just described American foreign policy since 1945, for the true foreign policy of the United States, as opposed to those policies which were publicly proclaimed from time to time, has been based on the premise of avoiding at all costs a serious confrontation with the Soviet Union.

Like the men who made the decisions, the policy reflects their materialistic values.

Once you recognize that we have two foreign policies—one public, which proclaimed traditional values of freedom and willingness to oppose aggression—and one private, which can be summed up as appeasement—then the events of the last four decades make sense.

The Berlin Airlift, which was presented to the American public as a decisive response to the Soviet blockade, was in fact an evasion of confrontation. Instead of smashing through the illegal blockade, we flew over it.

When I landed in Korea, first as commander of the 5th Marine Regiment, I certainly believed in our publicly proclaimed policy of punishing communist aggression. So did Gen. Douglas MacArthur. He was fired and the rest of us were disillusioned. It soon became apparent that our real policy was to accept a costly stalemate rather than risk a wider war.

In retrospect, I believe it was no accident that we fought for the first time under the command of the United Nations. Events proved it was a perfect instrument for enforcing the stalemate which our foreign policy experts had decided to accept.

I was required, for example, to submit plans of attack to U.N. headquarters 24 hours in advance. I soon discovered that the Chinese were always waiting for us. On one occasion, one of my radiomen intercepted a Chinese message indicating an attack was planned on my sector of the line. I did not notify U.N. headquarters. Instead, I planned a surprise for the Chinese which cost them about 1,000 attackers. The next morning, I received a sizzling reprimand for failure to report the intercept and for expending too many rounds of artillery!

In later years, we would proclaim Captive Nations Week and beam encouraging messages to the East Europeans only to stand by and watch Soviet tanks crush the rebellions of East Germans, Hungarians, Poles and Czechs.

In the 1960s, we still publicly proclaimed the Monroe Doctrine but we did not prevent the Soviet Union from converting Cuba into a Soviet military base. Now we have given away the Panama Canal and turned our backs on the anti-communist government of Nicaragua.

Even President Kennedy's brave initial response to the Soviet introduction of missiles into Cuba was eroded by his foreign policy advisers until, in the end, we not only gave up our original demand for on-site inspections but also agreed to protect the Castro regime from Cuban patriots!

In Vietnam, the same double policy produced the same results. We committed American boys in the name of preventing a communist takeover of South Vietnam, but made sure they could not win a decisive victory.

Also in the early 1960s, the foreign policy appeasers evolved a new policy—disarmament. Again, the public was excluded from the deliberations and never fully informed of the decisions and implications of those decisions.

The key decision was to abandon voluntarily American nuclear superiority which our resources and ingenuity could have maintained indefinitely. The idea was to allow the Russians to catch up with American nuclear arms. These misguided materialists believed that if there were no threat of the United States winning a war with the Soviet Union, Soviet leaders would become easier to live with.

To help the Soviet Union catch up, American nuclear weapons programs were halted or delayed, the bomber defense system was scrapped and civil defense was put on a shelf. Because the American people would never have tolerated such an insane decision, they were misled with high-sounding talk of détente, arms control qualitative superiority, and mutually assured destruction.

The Soviets naturally had never agreed to seek nuclear parity. No doubt astounded by the stupidity of our policy, they began the most massive and intense arms buildup in human history. This is the key decision which has brought us to our present peril. This is the decision which is the father of SALT I and SALT II.

We have now come full circle. A deliberate policy of appeasement based on a cowardly fear of the Soviet Union has evolved into the insane notion of unilateral disarmament and reliance on pieces of paper to preserve and protect our children.

In these policies you can see all the fear, timidity and greed of the materialistic philosophy which is so obsessed with finding the cheapest, safest path that it ends up blinding its believers from seeing reality.

The foreign policy elitists are naked failures. We did exactly what they said we should do. We avoided confrontation, we practiced appeasement, we gave up nuclear superiority. And now the results are plainly visible. The world is littered with corpses of people who put their trust in the United States. Out of 151 nations in the U.N., fewer than 25 can be called free. Communist powers control the heart of the Euro-Asian land mass and are aggressively outflanking the West in the Middle East, Africa and the Caribbean. The Soviet leaders did not get easier to live with. They became more hostile, more aggressive, more powerful, and more dangerous. United States prestige, influence, military and economic strength are all at record lows. The United Nations has become an open hotbed of anti-Americanism, espionage and hypocrisy. Foreign cartels openly declare war on American consumers.

Is the American dream over? I don't think so. What the last four decades proves is that the American people were right and the elitists were wrong. At least now, the way out is clear. We must flush the elitists out of positions of influence and replace them with courageous, common sense Americans.

I think there are ten elements necessary to our survival. I hope you will consider them as you try to influence your present Congressmen or work to elect new ones.

1. We must regain strategic military superiority. This is the only way to avoid falling victim to nuclear blackmail and to prevent our enemies from trying a first-strike attack.

2. We must build a strong combination of strategic defenses. The only way our offensive weapons can act as a deterrent is for the Soviets to know that we can survive a nuclear exchange and continue to fight.

3. We must greatly strengthen our conventional forces so that we can keep the sea lanes open, project our power, and if necessary, fight and win a non-nuclear war.

4. We must restore our security and intelligence-gathering capability. Spy satellites have a role to play, but they are no substitute for trained and dedicated men and women.

5. We must cut off the flow of technology and credit to the communist powers. Stopping this increasing flow of technology, machines, food, and money would be the most damaging blow we can strike short of military action.

6. We must establish an honest, open foreign policy based clearly on the national interests of the American people.

7. We must disengage from the United Nations and other world organizations which have become hostile to the United States. Once free of this burden, we can form new relationships with like-minded nations.

8. We must amend the Constitution to forbid deficit spending except in time of national emergency in order to cure the cancer of inflation.

9. We must strengthen the independence of state and local governments as insurance against the loss of liberty from within.

10. Finally, we must reestablish our spiritual strength by rejecting materialism and those leaders who have lost their faith in God, country, and the American people.

This is the eleventh hour. Events are moving swiftly. I addressed my book and this article to veterans because I firmly believe that the 29 million Americans who have demonstrated their courage and dedication can be the difference between defeat and victory.

I am asking you once again to go into battle, only this time in the arenas of politics and political action to save a nation for which you have already sacrificed so much. Only if we show the same dedication, the same fierce determination, the same willingness to make personal sacrifices that brought us victory on the battlefield can we hope to save our children and grandchildren from death or slavery.

Having spent my life among Americans under fire in three wars I have not the slightest doubt that we can be successful.

FAMILY AND RELIGIOUS COMMUNITY CONFERENCE

Mr. THURMOND. Mr. President, I recently attended the second annual family and the religious community conference banquet that was sponsored by Transactions, Inc., of Washington, D.C.

This event gave me an opportunity to learn more about the activities of Transactions, Inc. The activities of this fine organization have benefited countless people, and the conference provided an opportunity for different groups to discuss ways of helping communities.

The conference had several noble objectives:

First. To reaffirm the family and the religious community as resources for developing inner strength.

Second. To provide information that can assist the family and the religious community in serving the needs of individuals and groups more effectively.

Third. To explore ways of mobilizing the family and the church for solving the problems that plague communities in today's society.

Fourth. To develop strategies for involving children, adults, and senior citizens in full participation of the family and church.

Fifth. To establish networks of communication between individuals, groups and agencies as a way of continuing the exploration of problems and potential solutions.

Sixth. To strengthen the awareness of the community and to develop strategies for the mobilization around important issues.

These are certainly outstanding goals, and I commend Transactions, Inc. for their fine work in presenting such a valuable conference.

Mr. President, I would particularly like to take this opportunity to recognize the president and founder of Transactions, Inc., Dr. Lovenger H. Bowden. Through her efforts and dedicated work, Dr. Bowden has done an outstanding job in promoting the many worthy projects of Transactions, Inc. As the driving force behind this fine organization, she has steered Transactions, Inc. onto a course of effective community service which has affected countless individuals. I commend Dr. Bowden for her outstanding work in helping make Transactions, Inc. such an efficient organization.

THE GROWTH OF THE ELDERLY POPULATION IN AMERICA

Mr. STEVENS. Mr. President, I would like to bring to the attention of my colleagues an important article that recently appeared in the Wall Street Journal concerning the growth of the elderly population in America.

This article discusses the impact that an increasing aging population will have on our ability to keep up with the demands for services in the areas of housing, health care, and energy. Of particular importance is the crisis we will face with the Social Security System when the "baby boom" generation begins drawing from the System. Congress has mandated several studies to assess the present System and find new methods for its financing.

The 96th Congress will be addressing these issues in the months ahead and I think it is important that we are all aware of their significance.

I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Aging Americans: As Lives Are Extended, Some People Wonder if It's Really a Blessing

(By James C. Hyatt)

Americans are living longer than ever.

The lowered death rate, well below what was being projected a few years ago, has enormous ramifications for the Social Security program, insurance actuaries, employers, politicians and economists.

But for the older people themselves, the question often is whether extended lives are a blessing or a curse.

"It doesn't mean a lot to live into your 70s if you don't feel good," says Dr. Robert N. Butler, director of the National Institute on Aging. At the Senate Special Committee on Aging, staff director Bentley Lipscomb agrees. "We've been adding a lot of years to people's lives, but we haven't, in some cases, been adding a lot of life to people's years."

Besides the health and psychological problems that often accompany advancing age, there are the economic problems, compounded these days by the effects of high inflation on pension income and savings. "With inflation going the way it is, maybe we can't afford to live that long," says Preston Bassett, an actuary on the staff of the President's Commission on Pension Policy.

Whatever the abstract economic merits of living longer, recent longevity data have been impressive. In the past decade, the death rate among people over 65 fell 14 percent. The peak year for all deaths in the U.S. was 1973, and the number has been lower every year since, despite a larger population.

The expected impact on the over-65 population at first doesn't seem particularly startling. That segment currently represents 11.2 percent of the population, and at current death rates, the share will rise to 12.2 percent by the year 2000. If the death rate held steady, the group would grow from 25 million to 32 million. But if the death rate continues to drop at the recent pace, the over-65 population would reach 38 million in the two decades.

Moreover, the population of the very old will be increasing faster in the years ahead. In 1970 less than one in five Americans was 80 or older; in 20 years, it will be one in four. The share of the 65-to-69 population will drop to 29 percent from 35 percent in the 20-year period.

GRAYING OF BABY BOOMERS

But the ranks of the over-65 set will begin to swell after 2010, when those born during the postwar baby boom start turning 65—and members of the baby-boom generation will continue to join the over-65 set for the succeeding two decades.

With the greater life expectancy, experts have begun to talk of the "young old," those who just turned 65, and the "old old," those in their 80s or older. "It is almost as if there are two groups of aged," Dr. Butler says, "those who are healthy, vigorous and contributing. And those who as a consequence of aging have protracted economic and emotional dependencies; they tend to be 75, 80 and above."

The aging of the population over 65 creates greater income needs and higher pension costs. More families include two generations over 65. Because women outlive men by almost eight years, they are often becoming isolated and impoverished. In an older society, inflation will impose a particularly heavy burden. The very old are far more likely than others to need expensive medical care. Housing also becomes more complicated.

Still, the picture isn't totally gloomy. As a whole, today's elderly population is healthier and more independent than in the past. It is becoming considerably more politically active. "What we really have is a triumph of survivorship," Dr. Butler declares.

Recent changes in lifespan are especially remarkable because they have been so sudden, and because much of the gain in life expectancy has been at the older ages. People aren't older merely because they survived infancy, childhood and middle age. The over-65 population itself "has been getting older and is expected to continue doing so for a few decades," Jacob S. Siegel, a mortality expert at the Census Bureau confirms. The declines in death rates "are really quite dramatic," says Harry M. Rosenberg, head of the mortality-statistics branch at the National Center for Health Statistics.

Improved treatment of heart disease is the leading cause of the decline in death rates, he says, but better health care across the board, reduced smoking and new medical technologies also are increasing longevity.

The death rate for heart disease for persons over 85 fell 24 percent in the last decade; for stroke, 33 percent; for influenza and pneumonia, 37 percent. In the 14 years up to 1968, life expectancy at age 65 rose only two-tenths of a year, to 14.6 years. But in the next nine years, it rose to an average 16.3 years—13.9 years for males and 18.3 years for females.

One major consequence of an aging population is increased demand for health care. Among the aged, "demand for services is growing faster than their absolute numbers," says Beth Soldo, senior research associate at the Georgetown University Center for Population Research.

If those over 65 continue to enter nursing homes at current rates, the number of residents will increase from 1.3 million last year to 2.1 million at the turn of the century. If death rates continue to fall, however, the nursing-home population could reach 2.8 million.

Greater life spans are already being noticed by groups that care for older people—especially the 5 percent of the elderly in nursing homes. At the National Lutheran Home for the Aged in Washington, residents "are coming in later, are often sicker, and their length of stay is shorter," Richard Reichard, director, says.

In the past decade, the average age of admission to the home has risen almost two years—to 82 years, five months. Age at death has risen 14 months, to 86. To care for the older population, the home's new $11 million, 300-bed facility will offer intermediate and skilled nursing care in each housing unit, and every room will be equipped with call bells. (Residents able to afford full rates pay $1,172 a month.)

The federal government's health budget will soar as a result of the changes in age structure. The U.S. Department of Health, Education and Welfare has estimated that federal programs for the elderly, which cost $112 billion in fiscal 1978, could more than triple to $350 billion by early next century, even without inflation.

Similarly, the Carter administration forecasts a large increase in medical-care costs as World War II veterans reach 65 and become eligible for medical care in veterans' hospitals. The over-65 veteran population is 2.7 million; by 1984, it will reach four million, and two years later, 5.5 million. In 1995, over-65 veterans will exceed 8 million.

Housing needs, too, will intensify with an aging population. Older persons are more likely to live in older homes, needing costly repairs. Rising taxes and energy costs will impose greater burdens on the very old. And housing problems are particularly severe for elderly renters, especially those in central cities.

The suburbs also are starting to feel the aging of the population. A new study by the Urban Institute, a Washington research organization, finds the number of suburban households headed by someone 65 or older rose 31 percent between 1970 and 1976; most live in housing built around World War II.

"Suburban areas can be expected to be the location choice of an increasing share of the elderly population over the next 10 to 20 years," the report declares; as a result, suburban areas will face "increasing demands for facilities, housing and housing-related services" for those elderly persons.

Moreover, the overall number of households composed of elderly persons is headed sharply higher. Latest Census Bureau projections put the number at 21.5 million in 1995, compared with 15.2 million this year. The number of elderly women living alone will increase to 8.7 million from 5.5 million.

For many elderly persons, "isolation still is the No. 1 problem," says Mr. Lipscomb of the Senate Aging committee. "These people get cut off from the mainstream of human existence." Particularly vulnerable to crime, they can "literally become prisoners in their own houses," he says.

Many elderly persons live with relatives, of course. But demographic trends are also diminishing the ability of families to support their elderly relatives. As two-income families become common, many women who in the past would have been able to care for an elderly relative in the home are no longer available. "The pool of care-givers is drying up," says Sara E. Rix, a research scientist at the nonprofit Center on Work and Aging in Washington. "Lack of time is the major problem people have in caring for older people."

Moreover, many elderly widows "don't have children to fall back on because they passed through the Depression, a time of low fertility, in their childbearing years," observes Peter Morrison, a senior researcher at the Rand Corp.

And in other families, due to advancing longevity, more "young old" children find they have to care for "old old" parents. A woman in her late 60s "might have a 92-year-old mother who is healthy and a 70-year-old husband in bad shape," says Paul Kerschner, a legislative and research official for the American Association of Retired Persons. "The pressures on that woman are incredible."

Longevity also will aggravate the squeeze on retirement income. Pension costs obviously rise when beneficiaries live longer. Pension plans that fail to recognize that "are going to wind up with a bad case of underfunding," says a New York actuary. He estimates that an employer must pay 3 percent more in pension costs for each extra year a retiree lives.

At the same time, inflation is grinding away at the living standard of the elderly; at an annual inflation rate of 5 percent, a $100 benefit 10 years later is worth only $61; at 10 percent, only $39. John Abraham, a research official for the Communications Workers of America, estimates that a member of the union who retired with 20 years of service at American Telephone & Telegraph Co. in late 1971 had lost 46 percent of his company pension by Jan. 1, 1979, "despite all of the adjustments that were made." Thus, he says, "the problems of retirees are going to be a priority issue" at the union's next round of bargaining with AT&T in 1980.

The cost of retirement will become particularly hefty early in the next century, when those born during the baby boom start turning 65. At that time, relatively fewer younger workers will be paying into the Social Security system, a demographic fact that is at the heart of the system's long-term financing woes.

Despite the pressures that an ever-older population will place on health, housing and income needs, experts stress that there is a bright side to the picture. "When we think about the kinds of problems of the near future, we get our information by looking at those who are currently old. This (comparison) may mislead us badly," says Dr. George Maddox, director of Duke University's Center for the Study of Aging and Human Development.

He suggests that tomorrow's elderly population will be better educated, in generally better health, and will enjoy a "somewhat more secure economic status." One example: Currently, the percentage of persons age 75 and over "who don't have a natural tooth in their head is incredibly high, and a very real problem in terms of their nutrition," he says. But he expects that problem to ease considerably for the younger millions covered by dental insurance.

Dr. Butler of the National Institute on Aging confesses to some regrets about his phrase "the graying of America," which gained considerable attention a few years ago: "When we talk about 'graying,' we may be creating an image of a doddering, unproductive, stagnant society. That's very unfair and inaccurate. We may simply have a maturer population with a very different distribution."

An older society, he theorizes, "may be a heck of a lot better one, with less emphasis on the youth culture, more sense of maturity and growth. We'll see more novels with an older protagonist, different kinds of music. Perhaps there'll be the invention of new sports, and very interesting changes in consumer interests."

The larger question, Dr. Butler says, is how society "comes to grips with the reality of human change." He cites the plethora of products designed to disguise wrinkles, gray hair, and aging skin. "All of these are efforts to pretend that somehow aging doesn't occur to us."

RUSSIAN BISHOP'S HOUSE IN SITKA, ALASKA

Mr. STEVENS. Mr. President, recently an article appeared in the Alaska Fest magazine on the Russian Bishop's House in Sitka, Alaska.

As the former capital of Russian America, Sitka was endowed with a legacy of Russian buildings and artifacts. Unfortunately, most have perished. Yet, one great example of Russian rural architecture remains in the Bishop House. This building is one of the oldest in Alaska, dating back to 1842. The chapel in this building is listed as the oldest house of Orthodox worship in continuous use in the Western Hemisphere.

I want to share this article with my colleagues because the Bishop House is presently being restored with a grant from the Heritage, Conservation, and Recreation Service. By 1983 it is expected that restoration of the Bishop House will be completed, and open to the public as a part of the Sitka National Historic Park.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE HOUSE THE BISHOP BUILT

(By Karen L. Lew)

Sitka's heritage has three faces: the Tlingit who inhabited Sitka Island probably centuries before any white person appeared on the North American continent; the Russians who, in establishing New Archangel in 1804, renamed the island Baranof after Alexander Baranof, the colony's manager; and the Americans who purchased the vast territory of Russian-America, or Alaska, for $7,200,000 in 1867.

Each of these heritages has occupied, and continues to occupy, a place in Sitka's history. Perhaps more than any other place, what is now Castle Hill, most distinctly portrays that history.

Known to the Kiks. adi Clan of the Tlingit Indians as the "knootlian," site of their ancestral home, this rocky outcropping in Sitka Sound was the site of the four principal community houses of the Kiks. adi Clan.

Hoping to preserve a friendly atmosphere with the Kiks. adi, Baranof's party built its 1799 settlement six miles north of the Native village. The Russian fort, which was dedicated to Archangel Michael, was unwelcome in Tlingit territory and was destroyed in less than two years after its completion.

In 1804, Baranof returned to Sitka with a Russian and Aleut attack force backed by the gunboat Neva. The Tlingit had prepared for a return by building their own fort at the mouth of the Indian River several miles south of the "castle hill" site. Unaware that the Natives had moved to the fort, the Russians stormed the hill only to find it empty. They quickly attacked the Tlingit fort and after a six-day seige the Russians overcame the Tlingit and burned their fort.

Baranof returned to Castle Hill. He took possession of it in the name of the Russian government and replaced the Kiks. adi buildings with Russian-American Company chief manager's quarters and the new Russian fort, dedicated this time to Archangel Gabriel. It became known as New Archangel and finally Sitka—the Tlingit name for the island on which it was located.

Thereafter followed a series of Russian forts and eventually an imposing governor's mansion called "Baranof's Castle," even though Baranof died 18 years before it was built in 1836.

The last Russian occupant on Castle Hill was Prince Demitri Petrovich Maksoutoff, who was the last Russian governor of Alaska in charge of the territory transfer to the United States.

The transfer ceremony took place at 3:30 p.m., on October 18, 1867. United States troops attached to Company F of the Ninth Infantry, under the command of Colonel Jefferson C. Davis, accompanied U.S. General Lovell H. Rousseau and the Russian commissioner, Captain Alexei Pestchovroff of the Imperial Navy, to a site outside the governor's mansion on Castle Hill.

As the Russian Double Eagle was lowered, Russian guns fired a 21-gun salute which was echoed, shot by shot, by American ships in the harbor. As the Stars and Stripes were raised, the salute was reversed with American guns firing first and Russian fire answering alternately.

This ceremony has been reenacted each year since 1954 on Alaska Day, October 18, by the non-profit Alaska Day Festival Committee in Sitka. The Ninth Infantry from Fort Wainwright, Alaska (descended from the original Ninth Infantry) and Sitka's local Ninth Infantry, complete with period uniforms and muskets, participate in the commemoration.

Baranof's Castle, or its last replacement, burned in 1894, and the United States replaced the structure with a U.S. Agriculture experimental station which remained until 1956. Today the site is designated by the National Park Service as Alaska's first Registered National Historic Landmark.

With the castle destroyed, another vestige of Sitka's Russian heritage was lost. But two other major Russian buildings still stood. They represented perhaps the most enduring aspect of Russia's presence in Sitka—the Russian Orthodox Church.

St. Michael's Cathedral, dominating the center of downtown Sitka, was built between 1844 and 48. Thirty-five years after the finding of the Sitka parish, plans for building the cathedral were drawn up by the "apostle of Alaska," the many-talented Bishop Innocent (Father Ivan Veniaminov), bishop of Alaska, Kamchatka and the Aleutian Islands. Built with the financial aid of the Russian-American Company, the cornerstone of St. Michael's Cathedral was laid in 1844; the cathedral itself was dedicated in 1848.

In 1966, a fire destroyed St. Michael's Cathedral. Through the efforts of Sitkans, its many priceless art treasures—including icons and artifacts from the Mother Country—were saved. Eight years of reconstruction, financed greatly through fund-raising activities by Sitka residents, resulted in the dedication and re-opening in 1975 of a near replica of the original St. Michael's Cathedral, as seen on our front cover this month.

That leaves only the Russian Bishop's House as the most significant intact Russian building in Sitka, and one of the oldest in Alaska. At the moment, the outside of the building is shielded from view by plywood panels. Inside, it's suspended on 150 jacks to stabilize the badly deteriorated and sagging 137-year-old building.

These presently unattractive trappings are part of a massive effort on the part of the National Park Service to save and restore this complex and interesting part of American history—the colonization of Alaska by Czarist Russia.

In 1841, after Father Ivan Veniaminov made a world tour, he recognized the need for one office to head the Russian Orthodox clergy in Russian-America. Through a series of 20-year charters it became the official representative of the Russian Imperial government in Alaska.

Veniaminov set out to establish the

Church Consistory at Sitka. The Russian-American Company, whose 1823 charter from the Czar charged the company with support of the Orthodox Church in Alaska, built the structure to serve as a central location for the business offices and teaching facilities of the church. Built at a cost of 25,000 rubles, the two-story structure of squared spruce logs, sheathed, in siding and roofed with iron sheeting, was described by the Bishop as "a mansion," unlike the simple dwelling he had expected.

In December 1843, Veniaminov took up residence in the completed building. It housed a newly-dedicated private chapel as well as his quarters on the second floor, and a work and school center on the first.

The chapel, the Church of the Annunciation, is listed as the oldest house of Orthodox worship in continuous use in the Western hemisphere. The brightly attractive room contained many historical objects. The testament on the altar was presented to the Church of the Trinity in the village of Ross (Fort Ross, California) in 1816 and then was transferred to Sitka when the Russian southward expansion was abandoned 30 years later.

The building—known then as the Russian Mission—also housed a school for Sitka children. It was sometimes referred to as the Russian Orphanage. It may well have been used as an orphanage on an "as needed" basis, especially since it coincided as a residence school for young men. The theological seminary was transferred to the Russian Bishop's House in Sitka from Petropavlovsk in Siberia in 1845.

Throughout its 136 years of use, it would appear the building's second floor was consistently a residence for orthodox clergy and a place of worship. The first floor, however, has seen a wide range of uses, according to research done by Marilyn Knapp, president of the Sitka Historical Society. It was not only school and office space, but it was also used as a traveler's inn in the 1880's; a day school; a boarding school for Creole (children of Russian fathers and Native mothers), Aleut, Tlingit and Eskimo young men training for the clergy from the 1840's to approximately 1917; a private newspaper printing office in the 1920's; a meeting place, circa 1915 to 1920, for teaching Sitka's young people the Russian language; a tea house and antique shop from the late 1940's to 1950's; the 1939–49 meeting place for the Sitka Women's Club, and a meeting place for the Sitka Historical Society from 1957 to 1966.

In 1858, the seminary was moved from the Russian Mission in Sitka to Yakutsk in eastern Siberia. When the Russian-American Company—the church's main source of support—lost its final charter in 1863, financial difficulties increased. After the transfer of Alaska to the United States in 1867, and the departure of most of the Russians in Alaska, there were still more difficulties in supporting the far-removed mission. The Holy Synod of the Russian Orthodox Church in Moscow began shifting the center of church control from Sitka to San Francisco in 1868. By 1872 the move was completed and from then until 1903, the presence of a bishop in the Sitka building was primarily that of a visitor, according to Knapp's research. It seems apparent that permanent residents of the Russian Bishop's House during that period were priests and other missionaries who continued their missionary work in Alaska.

For many years after the transfer, teachers at the school were financed by the Church in Russia. The Bolshevik Revolution in 1917, however, cut all ties, severing the Russian Church in America from its parent and benefactor. Aid from Russia progressively dwindled. A church once supported by the Russian state now found itself in a different nation, one where church and state functioned separately.

From 1904 to 1969, eight Russian Orthodox bishops lived at the Russian Bishop's House in Sitka. The last was Bishop Theodosius (Lazar), Bishop of Sitka and Alaska from 1967 to 1971. With little funding for building maintenance, the structure's integrity diminished, eventually forcing the church to vacate the building in 1969.

Its historic significance increased and in 1962, the structure was registered as a National Historic Landmark. The Sitka Historical Society launched a massive campaign to raise funds for its restoration, but when St. Michael's Cathedral burned in 1966, the money was diverted to that reconstruction project.

In 1972, three years after Bishop Theodosius left, the federal government authorized the purchase of the Russian Bishop's House and its inclusion within Sitka National Historic Park. The following year, the National Park Service took possession of the house, the adjacent school building, and the surrounding grounds.

By around 1983, the National Park Service hopes to have completed the multi-million-dollar project which will restore the Russian Bishop's House and open it to the public.

Carefully stripping through the many layers of paint and wallpaper, searching through archival records for information on historical remodeling projects and furnishings, digging drainage trenches and supervising stabilization procedures, even removing ovens brick by brick (labeling each brick for later restoration), are just a few of the tasks which Gene Ervine of Sitka National Historical Park has taken on for what he considers "his project."

Through Ervine's efforts, and those of many specialists at the National Park Service's Pacific Northwest Regional Office, Harper's Ferry Center, and Denver Service Center, the Russian Bishop's House will be restored to its 1853 period.

The second floor of the Russian Bishop's House will be restored to its original use and the chapel will be rededicated for services. The first floor—about which less is accurately known—will be restored to house a museum on Russian-American history.

Five main themes will be depicted in the museum: the search for natural resources (primarily sea otter) which brought people to Sitka, and how those resources affected them; the Native culture in the area; the Russian-American Company; the Russian Orthodox Church and Veniaminov; and a section to elucidate the building and the restoration process.

When restoration is completed, the Russian Bishop's House will provide a prime resource for interpreting the history of Russia in America. It will complement the existing Sitka National Historical Park visitor center and parkland which commemorate the Tlingit culture.

Thus, through the efforts of Sitka's third historic visage, the other two heritages—Tlingit and Russian—are being remembered.

HEARING IT FROM HENRY

Mr. MATHIAS. Mr. President, recently I asked a distinguished foreigner who knows us well, who has lived among us and who has been acquainted with presidents and pedagogs, to name the most interesting American he had met. Without hesitation he replied "Henry Kissinger."

The disciplines of time and space have limited the privilege of knowing Henry Kissinger to a relatively small number of people, many of them in privileged positions like my foreign friend. With the publication of Henry Kissinger's memoirs "White House Years" that circle can dramatically expand.

The value of joining the Kissinger circle was eloquently described by James Reston in the New York Times on Sunday, October 28, 1979. Mr. Reston says-

> This is probably the most serious attempt ever made to explain the decision-making process, good or bad, and to illuminate the interplay of politics, personalities, the press, and even of accident on final decisions.

When one considers that this judgment is made by one of our most widely read and broadly experienced journalists it is rare praise. It appears not among the book reviews but in the editorial section. Reading Reston on Kissinger should encourage every Senator to read Kissinger on the "White House Years." That would be an educational exercise that would undoubtedly benefit the Senate and so I ask unanimous consent that Mr. Reston's article be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Hearing It From Henry

(By James Reston)

Washington, October 26.—Henry Kissinger has written a four-pound book (1,521 pages) at a little over $5 a pound, which is in keeping with the inflationary trend of these days, but the view here is that it is the most remarkable insider's political memoir of our time.

That is really a rather modest compliment, for most books written by or for our highest officials usually make more money than sense, and are almost as deficient in historical perspective as they are in literary distinction.

Kissinger's "White House Years" is unusual in several respects. He wrote it himself—an original idea in this town. It is written in clear and muscular English prose—maybe because he began, as a German immigrant boy, with respect for the English language and mastered its grammar, poetry and even its subtle wit.

Also, Kissinger almost avoided—but not entirely—the temptation of most high officials and their ghosts to try to prove that they never made a mistake, or if they did, it was somebody's else's fault. His explanation of the bombing of Cambodia, which contributed to the unbearable tragedy of that silent and amiable people and their children, has not convinced even his most devoted friends.

But that is only one part of Kissinger's report on his White House years. He has been almost recklessly frank in reporting, with the utmost precision, the problems placed before our country while he was in the White House: the tangles and dilemmas and even the mistakes.

His story of the anatomy of this book is interesting. When Kissinger left the State Department after the election of President Carter, he went to Acapulco with a footlocker full of books. "You have to remember," he told me, "that I hadn't read an unclassified serious book for eight years."

In the footlocker, he had most of the Presidential memoirs, beginning with General Grant's, which he still regards as the best. Also the memoirs of Churchill, de Gaulle, Adenauer, former Secretary of State Acheson and the books of the British Prime Ministers Eden and Macmillan.

"You understand," he said, "I'm not comparing myself to these people. I was merely looking for models. Macmillan impressed me very much, but the one who probably influenced me the most was de Gaulle. . . . He was a good model because he defines and because he had a conceptual framework, a larger purpose and a gift of explaining how the particular problem of the day related to his philosophy and his goals."

In 1977 Kissinger spent six weeks in Acapulco with his footlocker full of books. He lived in Puerto Marques in a house owned by former President Alemán of Mexico. He agrees that this was not an unbearable hardship.

He had a staff of four researchers. They collected all the documents by subject and by year and these he read, "about 12–15 hours a day" from March until December of 1977. He then prepared a bibliography of the important documents, and by July began writing little essays on people—and these vignettes remain among the real gems of his book. In December of 1977, after a bit of a struggle to get the whole book in focus, he began writing chapters.

"I wrote about a chapter a week," he says, "and rewrote them four or five times. I would do one chapter in long-hand, then Peter Rodman, who was my chief researcher, would check it for accuracy and another researcher, who was an expert on that particular subject, would doublecheck it."

Then Kissinger would send a finished chapter to two of his former State Department aides, Winston Lord and Bill Rogers, the former Latin American expert at State, and he would rewrite the chapter again, and submit this version to outside objective scholars.

Whatever anybody thinks about the decisions made in Kissinger's White House years, this is probably the most serious attempt ever made to explain the decision-making process, good or bad, and to illuminate the interplay of politics, personalities, the press, and even of accident on final decisions. In this sense, it is a remarkable achievement of reducing unbelievable diversity to some kind of entity that can be understood by a careful reader.

He has now finished six chapters of his second volume but is having a tussle with it. "You see, Volume One was sort of a linear thing in which we had a concept," he explains. "Volume Two deals really with catastrophe, the disintegration of executive authority. . . . There really is a sharp break at Watergate.

"The turmoil of the first term, bad as it was, was a debate about national policy and America's role in the world. The turmoil of the second term was the personal struggle of Richard Nixon and really had no relationship to the policy we were trying to pursue. . . ."

A popular complaint is that nobody really knows what's going on in Washington, or how officials here reach decisions about things that affect people's lives. Well, Kissinger has given about the best description of the process possible. If you can hold all 1,500 pages of it, it may break your back, and if you read it carefully, it may break your heart, but it is worth risking both.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

INDUSTRIAL INNOVATION—MESSAGE FROM THE PRESIDENT—PM 129

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Commerce, Science, and Transportation, the Committee on Environment and Public Works, the Committee on Governmental Affairs, the Committee on the Judiciary, and the Committee on Labor and Human Resources, jointly, by unanimous consent:

To the Congress of the United States:

Industrial innovation—the development and commercialization of new products and processes—is an essential element of a strong and growing American economy. It helps ensure economic vitality, improved productivity, international competitiveness, job creation, and an improved quality of life for every American. Further, industrial innovation is necessary if we are to solve some of the Nation's most pressing problems—reducing inflation, providing new energy supplies and better conserving existing supplies, ensuring adequate food for the world's population, protecting the environment and our natural resources, and improving health care.

Our Nation's history is filled with a rich tradition of industrial innovation. America has been the world leader in developing new products, new processes, and new technologies, and in ensuring their wide dissemination and use. We are still the world's leader. But our products are meeting growing competition from abroad. Many of the world's leading industrial countries are now attempting to develop a competitive advantage through the use of industrial innovation. This is a challenge we cannot afford to ignore any longer. To respond to this challenge, we must develop our own policies for fostering the Nation's competitive capability and entrepreneurial spirit in the decades ahead. This Message represents an important first step in that direction.

I am today announcing measures which will help ensure our country's continued role as the world leader in industrial innovation. These initiatives address nine critical areas:

Enhancing the Transfer of Information
Increasing Technical Knowledge
Strengthening the Patent System
Clarifying Anti-trust Policy
Fostering the Development of Small Innovative Firms
Opening Federal Procurement to Innovations
Improving Our Regulatory System
Facilitating Labor/Management Adjustment to Technical Change
Maintaining a Supportive Climate for Innovation.

INITIATIVES

1. *Enhancing the Transfer of Information.* Often, the information that underlies a technological advance is not known to companies capable of commercially developing that advance. I am therefore taking several actions to ease and encourage the flow of technical knowledge and information. These actions include establishing the Center for the Utilization of Federal Technology at the National Technical Information Service to improve the transfer of knowledge from Federal laboratories; and, through the State and Commerce Departments, increasing the availability of technical information developed in foreign countries.

2. *Increasing Technical Knowledge.* We have already made significant efforts to assure an adequate investment in the basic research that will underlie future technical advances. This commitment is reflected in a 25 percent growth in funding during the first two years of my Administration. I am taking some additional steps that will increase Federal support for research and development:

First, I will establish a program to cooperate with industry in the advancement of generic technologies that underlie the operations of several industrial sectors. This activity will broaden the $50 million initiative I announced in May to further research in automotive research. Second, in order to help harness the scientific and technological strength of American universities, I have directed a significant enhancement in support of joint industry-university research proposals. This program will be modeled on a successful program at the National Science Foundation, and I have set a target of $150 million in Federal support for it.

3. *Strengthening the Patent System.* Patents can provide a vital incentive for innovation, but the patent process has become expensive, time-consuming, and unreliable. Each year, fewer patents are issued to Americans. At my direction, the Patent and Trademark Office will undertake a major effort to upgrade and modernize its processes, in order to restore the incentive to patent—and ultimately develop—inventions. I will also seek legislation to provide the Patent and Trademark Office with greater authority to re-examine patents already issued, thereby reducing the need for expensive, time-consuming litigation over the validity of a patent.

For over thirty years the Federal agencies supporting research and development in industry and universities have had conflicting policies governing the disposition of pertinent rights resulting from that work. This confusion has seriously inhibited the use of those patents in industry. To remove that confusion and encourage the use of those patents I will support uniform government patent legislation. That legislation will provide exclusive licenses to contractors in specific fields of use that they agree to commercialize and will permit the government to license firms in other fields. If the licensee fails to commercialize the inventories, the government will retain the right to recapture those rights. I will also support the retention of patent ownership by small businesses and universities, the prime thrust of legislation now in Congress, in recognition of their special place in our society.

4. *Clarifying Anti-trust Policy.* By spurring competition, anti-trust policies can provide a stimulant to the development of innovations. In some cases, however, such as in research, industrial cooperation may have clear social and economic benefits for the country. Unfortunately, our anti-trust laws are often mistakenly viewed as preventing all cooperative activity.

The Department of Justice, at my direction, will issue a guide clearly explaining its position on collaboration among firms in research, as part of a broader program of improved communication with industry by the Justice Department and the Federal Trade Commission. This statement will provide the first uniform anti-trust guidance to industrial firms in the area of cooperation in research.

5. *Fostering the Development of Small Innovative Firms.* Small innovative firms have historically played an important role in bringing new technologies into the marketplace. They are also an important source of new jobs. Although many of the initiatives in this Message will encourage such companies, I will also implement several initiatives focused particularly on small firms.

First, I propose the enhancement by $10 million of the Small Business Innovation Research Program of the National Science Foundation. This program supports creative, high-risk, potentially high-reward research performed by small business. Further, the National Science Foundation will assist other agencies in implementing similar programs, with total Federal support eventually reaching $150 million per year.

Second, in order to experiment with ways to ease the ability of small firms to obtain start-up capital, I will help establish two Corporations For Innovation Development to provide equity funding for firms that will develop and market promising high-risk innovations. These not-for-profit firms will be established with State or regional capital and the Federal government will provide each with matching loan funds up to $4 million.

6. *Opening Federal Procurement to Innovations.* The Federal government is the Nation's largest single purchaser of goods and services. Through its purchases, the Federal government can influence the rate at which innovative products enter the market.

For that reason, I am directing the Office of Federal Procurement Policy to introduce procurement policies and regulations that will remove barriers now inhibiting the government from purchasing innovative products. Special attention will be given to substituting performance for design specifications and, wherever feasible, selection will be on the basis of costs over the life of the item, rather than merely the initial purchase price.

7. *Improving our Regulatory System.* During my Administration, I have already taken a number of actions to help assure that regulation does not adversely affect innovation. Working with the Congress, I have moved successfully toward deregulation of airlines and other industries, and I expect the pressure of competition to trigger innovative new ways to cut costs and improve service. In environmental health and safety regulation, I have emphasized the use of cost-impact analysis, where appropriate, to take account of the burdens on industry in the regulatory process. To provide better coordination between the regulatory agencies, I have created the Regulatory Council, composed of the heads of 35 regulatory agencies. This Council is working to reduce inconsistencies and duplications among regulations, to eliminate needless rule-making delays, to reduce paperwork, and to minimize the cost of compliance.

I am today proposing additional steps to improve our regulatory system. First, the Administrator of EPA will intensify his efforts, wherever possible, to use performance standards in regulations, specifying only the required goal, rather than the means of achieving it. Second, all Executive Branch environmental, health and safety regulatory agencies will prepare a five-year forecast of their priorities and concerns. This information will give industry the time to develop compliance technology. Third, all administrators of Federal executive agencies responsible for clearance of new products will be directed to develop and implement an expedited process for projects having a strong innovative impact or exceptional social benefit, and to do so without jeopardizing the quality of the review process.

8. *Facilitating Labor and Management Adjustment to Technical Change.* Although innovation can increase the number of workers employed within an industry over the long term, or even create an entire new industry, individual innovations may occasionally cause workers to be displaced.

In order to assure adequate time for workers and management to adjust to changes caused by innovations, I am directing the Secretaries of Labor and Commerce to work jointly with labor and management to develop a Labor/Technology Forecasting System. The System would develop advance warning of industrial changes and permit timely adjustments.

9. *Maintaining a Supportive Federal Climate.* The initiatives announced in this Message are only the first steps in our efforts to ensure American technological strength. We must also develop and maintain a climate conducive to industrial innovation. The Federal government must take the lead in creating that climate. And the Federal government's efforts must be continuing ones. I am committed to these goals.

I am charging the National Productivity Council with the continuing tasks of monitoring innovation, developing policies to encourage innovation and assisting the Departments and agencies in implementing the policies announced today. I am also establishing a Presidential award for technological innovation to make clear to this Nation's inventors and entrepreneurs that we place the highest national value on their contributions.

Each of the initiatives I have just proposed supports an important component in the innovation process. In combination, these initiatives should make a major difference in our Nation's ability to develop and pursue industrial innovation. However, these incentives will not by themselves solve our current difficulties in encouraging needed innovation. In our economic system, industrial innovation is primarily the responsibility of the private sector. The manager of the firm must decide whether to develop and market innovative new products or whether to find and employ new ways of making existing products. Although the Federal government can establish a climate that encourages innovative activity, it is the private sector that finally determines whether innovation will take place.

In addition, the steps outlined in this Message must be viewed in the context of our current severe inflation problem. With costs rising at an abnormally high rate, managers naturally have a disincentive to spend the sums needed for adequate industrial innovation. I understand and fully appreciate that changing certain of our tax laws could provide additional incentives for investment in innovation. Indeed, my approval of adjustments in the capital gains tax in the Revenue Act of 1978 has alleviated some shortages of venture capital. Many of the suggested alterations of our tax system are intertwined with other economic challenges—such as fighting inflation. While it might be possible to make changes in the tax code that would promote innovation, these changes should not be viewed in isolation from other aspects of our economy. I will therefore evaluate tax laws affecting industrial innovation at the time that I consider my fiscal policies for Fiscal Year 1981.

CONCLUSION

Innovation is a subtle and intricate process, covering that range of events from the inspiration of the inventor to the marketing strategy of the eventual producer. Although there are many places in the chain from invention to sale where we have found modification of Federal policy to be appropriate, there is no one place where the Federal government can take action and thereby ensure that industrial innovation will be increased. We have therefore chosen a range of initiatives, each of which we believe to be helpful. In aggregate, we expect them to have a significant impact. Nonetheless, they represent only an early skirmish in what must be a continuing battle to maintain the technological strength of the American economy. I pledge myself to this task and ask the Congress to join me in meeting our common challenge.

JIMMY CARTER.

THE WHITE HOUSE, *October 31, 1979.*

Mr. **ROBERT C. BYRD.** Mr. President, I ask unanimous consent that a message from the President of the United States, received today, relative to the development and commercialization of new products and processes, be jointly referred to the Committees on Commerce, Science, and Transportation; Environment and Public Works; Governmental Affairs; Judiciary; and Labor and Human Resources.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 12:03 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 428. An act to authorize appropriations for fiscal year 1980 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for fiscal year 1980 for civil defense, and for other purposes; and

H.R. 4249. An act to amend title 23 of the United States Code, the Surface Transportation Assistance Act of 1978, and for other purposes.

The message also announced that the House has passed the bill (S. 1905) to provide for the orderly restructuring of the Milwaukee Railroad, and for other purposes, with amendments in which it requests the concurrence of the Senate.

At 6:30 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House agrees to the amendment of the Senate to the H.R. 5506, an act to amend the Energy Policy and Conservation Act to extend for 2 months certain authorities relating to the international energy program.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 4387. An act making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1980, and for other purposes;

H.R. 5218. An act to amend the Foreign Assistance Act of 1961 to authorize special Caribbean hurricane relief assistance; and

H.R. 5506. An act to amend the Energy Policy and Conservation Act to extend for two months certain authorities relating to the international energy program.

The enrolled bills were subsequently signed by the President pro tempore (Mr. MAGNUSON).

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2400. A communication from the Deputy Secretary of Energy, transmitting, pursuant to law, Energy Action DOE No. 5, an amendment to the Strategic Petroleum Reserve Plan; to the Committee on Energy and Natural Resources.

EC-2401. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the first annual report on the End-Stage Renal Disease Program; to the Committee on Finance.

EC-2402. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council of the District of Columbia on October 9, 1979; to the Committee on Governmental Affairs.

EC-2403. A communication from the Attorney General of the United States as Chairman of the Rehabilitation Act Interagency Coordinating Council, transmitting, pursuant to law, the annual report on the activities of the Council for fiscal year 1979; to the Committee on Labor and Human Resources.

EC-2404. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the annual report of the National Technical Institute for the Deaf for fiscal year 1978; to the Committee on Labor and Human Resources.

EC-2405. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, proposed regulations pertaining to the administration of the Primary Matching Payment Account; to the Committee on Rules and Administration.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, October 31, 1979, he presented to the President of the United States the following enrolled bill:

S. 428. An act to authorize appropriations for fiscal year 1980 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for fiscal year 1980 for civil defense, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MOYNIHAN, from the Committee on Environment and Public Works, without amendment:

S. 1655. A bill to designate the building known as the Department of Labor Building in Washington, D.C., as the "Frances Perkins Department of Labor Building" (Rept. No. 96-388).

S. 1491. A bill to designate the building known as the Federal Building, at 211 Main Street, in Scott City, Kansas, as the "Henry D. Parkinson Federal Building" (Rept. No. 96-389).

S. 1535. A bill to name a certain Federal building in Rochester, New York, the "Kenneth B. Keating Building" (Rept. No. 96-390).

S. 1686. A bill to designate the building known as the Federal Building in Wilmington, Delaware, as the "J. Caleb Boggs Building" (Rept. No. 96-391).

By Mr. CHURCH, from the Committee on Foreign Relations, without amendment:

H.R. 5279. An act to provide for the distribution within the United States of International Communication Agency film entitled "Reflections: George Meany" (Rept. No. 96-392).

By Mr. COCHRAN, from the Committee on the Judiciary, without amendment, but with a preamble:

S.J. Res. 109. A joint resolution to authorize the President to proclaim November 16, 1979, as "American Enterprise Day".

S.J. Res. 32. A joint resolution to designate November 4, 1979, as "Will Rogers Day".

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. CHURCH, from the Committee on Foreign Relations:

Anthony C. E. Quainton, of Washington, Director of the Department of State's Office for Combatting Terrorism, for the rank of Ambassador.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: Anthony C. E. Quainton.
Post: Rank of Ambassador.
Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses names, none.
4. Parents names, none.
5. Grandparents names, none.
6. Brothers and spouses $50; names, Rodney F. Quainton $50; March/April 1978, Cong. A. Mikva (Ill.), Senator L. Percy (Ill).
7. Sisters and spouses names, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. CHURCH, from the Committee on Foreign Relations:

Harry Roberts Melone, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Rwanda.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: Melone, Harry R.
Post: Ambassador to Rwanda.
Nominated: September 24, 1979.
Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, Domnica Melone, none.
3. Children and spouses names, Sandra Melone, none.
4. Parents names, Dorothy S. Melone, none.
5. Grandparents names, dead.
6. Brothers and spouses names, none.
7. Sisters and spouses names, Anne and Elgin Deidrick, none. Mary and Charles Post, $75.00, September 1978, Susan Engeliten.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. CHURCH, from the Committee on Foreign Relations:

Barbara W. Newell, of Massachusetts, for the rank of Ambassador during the tenure of her service as the U.S. Permanent Representative to the United Nations Educational, Scientific, and Cultural Organization at Paris, France.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: Barbara W. Newell.
Post: Ambassador of UNESCO.
Nominated: August 15, 1979.

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses names, none.

4. Parents names, C. E. Warne, about $25 a year 1975–79, Democratic Party.

5. Grandparents names, none.

6. Brothers and spouses names, Paul Nelson; $20, 1977, Bozeman.

7. Sisters and spouses names, Margaret W. Nelson, 1976–$100, Fisher, ABC, 1977–$40, Howell, Democratic, Karydis, Democratic, 1978–$100, Fisher, ABC, 1979–$12 ABC.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. CHURCH, from the Committee on Foreign Relations:

Robert B. Oakley, of Louisiana, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Zaire.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: Robert B. Oakley.

Post: Ambassador, Zaire (Africa).

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses names, none.

4. Parents names, Mrs. J. B. Oakley, Shreveport, La., October 1978, Senator J. B. Johnston (D. La.).

5. Grandparents names, none.

6. Brothers and spouses names, Mr. and Mrs. Thomas Elliott, Fort Wayne, Ind. April 1979, Winfield Moses, Democratic candidate for Mayor of Fort Wayne.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. CHURCH, from the Committee on Foreign Relations:

Anne Forrester Holloway, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Mali.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: Anne Forrester Holloway.

Post: Ambassador.

Contributions, amount, date, and donee:

1. Self, $25, 1976, Marion Barry for Council.

2. Spouse, $10, 1976, Jimmy Carter Presidential Campaign; $50, 1976, Campaign to Re-elect Andrew Young; $50, 1974, John Wilson for City Council.

3. Children and spouses names (minors).

4. Parents names, none.

5. Grandparents names, N/A.

6. Brothers and spouses names, N/A.

7. Sisters and spouses names, N/A.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. CHURCH, from the Committee on Foreign Relations:

Abelardo Lopez Valdez, of Texas, for the rank of Ambassador during his tenure of service as Chief of Protocol for the White House.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: Abelardo Lopez Valdez.

Post: Chief of Protocol.

Nominated: September 13, 1979.

Contributions, amount, date, and donee:

1. Self, $100, 1978, Toney Anaya (New Mexico).

2. Spouse, none.

3. Children and spouses names, N/A.

4. Parents names, none.

5. Grandparents names, none.

6. Brothers and spouses names, none.

7. Sisters and spouses names, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. CHURCH, from the Committee on Foreign Relations:

William J. vanden Heuvel, of New York, to be the Deputy Representative of the United States to the United Nations, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: William J. vanden Heuvel.

Post: The Deputy Representative of the United States to the United Nations.

Contributions, amount, date, and donee:

1. Self.

In addition to the contributions reported in the attached "Addendum E" which was filed in June 1977 at the time of my appointment as United States Ambassador to the European Office of the United Nations and other organizations, the following contributions have been made since that time.

Donor, amount, date, and donee:

Self, $100, November 25, 1977, Vermont Democratic Committee.

Self, $250, April 9, 1979, McGovern Campaign Committee.

ADDENDUM E

Report of Federal Campaign Contributions: January 1, 1973 through April 20, 1977:

Donor, amount, date, and donee:

Self, $500, March 12, 1974, Democratic Congressional Dinner Committee.

Self, $500, February 26, 1975, Williams in 1976 (Senator Harrison Williams).

Self, July 22, 1975, Committee to Re-elect Edward Kennedy.

Self, $250, October 28, 1975, Jimmy Carter Presidential Campaign.

Self, $750, December 10, 1975, Jimmy Carter Presidential Campaign.

Self, $250, April 12, 1976, William Lehman Congressional Campaign Fund.

Self, $500, October 7, 1976, Senator John Tunney Campaign Committee.

Self, $500, October 21, 1976, Daniel P. Moynihan for Senate Committee.

Self, $100, November 9, 1976, Abzug for Senate.

2. Spouse, none.

3. Children and spouses names, none.

4. Parents names, none.

5. Grandparents names, none.

6. Brothers and spouses names, none.

7. Sisters and spouses names, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. CHURCH, from the Committee on Foreign Relations:

Thomas O. Enders, of Connecticut, to be the Representative of the United States of America to the European Communities, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: Thomas O. Enders.

Post: Com USEC Brussels.

Contributions, amount, date, and donee:

1. Self, none. 2. Spouse, none. 3. Children and spouses names, none. 4. Parents names, Alice and Ostrom Enders, May 24, 1979.

1976: Avon Republican Town Committee, $50; Connecticut Republican Key Committee, $250; Weicker for Senate Committee, $250.

1977: Connecticut Republican Party, $15; Connecticut Republican Key Man Committee, $250; Avon Republican Town Committee, $35.

1978: Republican National Committee, $100; Connecticut Republican Key Man Committee, $250; Republican National Campaign Membership, $100; Republican National Campaign Membership, $100.

1979: Connecticut Republican Key Man Committee, $250.

5. Grandparents names, none.

6. Brothers and spouses names, none.

7. Sisters and spouses names, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. CHURCH, from the Committee on Foreign Relations:

William O. Sykes, of Maryland, to be Deputy Director of the Peace Corps.

Genta A. Hawkins, of California, to be an Assistant Administrator of the Agency for International Development.

Thomas O. Quinn, of Rhode Island, to be a Member of the Board for International Broadcasting.

(The above nominations from the Committee on Foreign Relations were reported with the recommendation that it be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ARMSTRONG:

S. 1960. A bill to authorize the Secretary of the Interior to convey certain lands in

Mesa County, Colorado to Ute Water Conservancy District, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. JAVITS (by request):

S. 1961. A bill to amend the Higher Education Act of 1965 to strengthen and improve the student loan programs so as to assure the availability of funds to students to attend the institution of higher education of their choice, to strengthen the procedures for the repayment of such loans, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. PELL (for himself and Mr. Chafee):

S. 1962. A bill to amend the Federal Water Pollution Control Act to revise the allotment formula for grants for construction of treatment works; to the Committee on Environment and Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JAVITS (by request):

S. 1961. A bill to amend the Higher Education Act of 1965 to strengthen and improve the student loan programs so as to assure the availability of funds to students to attend the institution of higher education of their choice, to strengthen the procedures for the repayment of such loans, and for other purposes; to the Committee on Labor and Human Resources.

HIGHER EDUCATION AMENDMENTS

● Mr. JAVITS. Mr. President, during the past month, the Subcommittee on Education, Arts and Humanities, of which I am a member, has been holding hearings on reauthorization of the Higher Education Act of 1965. One of the most thoughtful and articulate spokespersons before the subcommittee has been Congresswoman Shirley Chisholm, who testified on October 10 regarding her views on programs of Federal institutional and student aid. At Mrs. Chisholm's request, and as a useful addition to the debate in the Senate on these issues, I am introducing today, by request, a Senate companion to her Higher Education Amendments of 1980, H.R. 5680, introduced on October 23. As this legislation is an amalgam of the bill currently under consideration in the other body and the loan proposals offered by Senators Kennedy and Bellmon, I hope that my colleagues will give Mrs. Chisholm's initiative their most careful attention.

I ask unanimous consent that Mrs. Chisholm's letter to me of October 9, be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

House of Representatives,
Washington, D.C., October 9, 1979.

Hon. Jacob Javits,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

Dear Jake: For more than a year, I have been working on issues and legislation associated with the reauthorization of the Higher Education Act which expired September 30, 1979. Because of my interest and commitment to improving the educational needs of children and youth of this nation, I have closely monitored the reauthorization of this Act, particularly those provisions which impact on the delivery of educational programs and services to predominately low income and educationally disadvantaged students. I intend to introduce my own reauthorization legislation to ensure that the interests of this group of students are appropriately addressed. I am writing to solicit your assistance in the introduction of my legislation in the Senate. (I have attached a copy of my draft bill for your review.) Already the House bill, approved by the Education and Labor Committee includes several of my major recommendations.

I have seen a great number of changes in the education arena during my eleven year tenure in Congress, and I have participated, as a former member of the Education and Labor Committee, in many efforts and movements to try and make this society more accountable to upgrading the quality of educational opportunities for our youth. While I recognize that we both have seen a great number of successes, we know that there is still a large task at hand. If there is any one major issue to successfully emerge this year in the area of education, it was without a doubt the creation of a cabinet level Department of Education. While my views may differ with those of many of my colleagues in the House and Senate on this particular issue, you and I and many of our colleagues share the same sentiment of providing equal access to educational opportunities for all children in this nation. The Higher Education Reauthorization is still another instrument for reforming and improving those much needed programs and services to ensure equality of opportunity in higher education. I should emphasize that I am scheduled to testify before the Senate Subcommittee on Education, Arts and Humanities on October 10. I am especially delighted to participate in the Senate reauthorization process, and I am seeking your assistance to this end.

I would greatly appreciate a response to my request as soon as possible, so that I may be able to present details of my legislation to the Senate. If the expedience of the House Education and Labor Committee is any indication as to how quickly the Senate will act on this legislation, I would anticipate that the Senate subcommittee will complete its initial work on the reauthorization within a few weeks.

Thank you in advance for any assistance you can lend. I remain,

Sincerely,

Shirley Chisholm,
Member of Congress.●

By Mr. PELL (for himself and Mr. Chafee):

S. 1962. A bill to amend the Federal Water Pollution Control Act to revise the allotment formula for grants for construction of treatment works; to the Committee on Environment and Public Works.

WASTEWATER TREATMENT—A CLEAR PRIORITY

Mr. PELL. Mr. President, today I am introducing with my colleague, Senator Chafee, legislation to amend the Federal funding formula for wastewater treatment construction grants in the Clean Water Act.

My legislation is designed to bring the funding more in line with clear antipollution priorities, to correct some inequities in funding distribution and to simplify the complex method of computing each State's share of the funds.

The current funding formula, used to determine each State's share of wastewater treatment construction grants, is a complicated one that resulted from the unhappy marriage of separate House and Senate formulas.

As currently written, the Clean Water Act does not contain this formula, although it does refer to a table of percentages contained in a committee print.

That table is the result of a House-Senate conference committee decision to compromise on a funding formula by taking the three-part House version, including at least 10 general computations, and the six-part Senate version, including at least 11 general computations, adding their products and dividing by 2.

Although the result of this compromise appears as tidy columns of percentages, the initial reasoning behind them is lost and the results do not demonstrate any clear reflection of either national or regional wastewater treatment priorities. Those priorities, however, obviously do exist and they should be spelled out.

The formula that is spelled out in my legislation would accomplish this by giving top priority (50 percent) to secondary treatment; second priority (33⅓ percent) to either, first, new interceptor sewers and combined sewer overflow; or second, new interceptor sewers and higher than secondary treatment; and third priority (16⅔ percent) to correction of infiltration.

There is a provision for a floor of 0.5 percent which would be funded, as in the current formula, from a $75 million authorization. If that full amount is not appropriated then, as provided in existing legislation, all would share equally in the reduction.

Although this formula may appear complex, it is simplicity itself when compared to the existing formula. Both formulas are applied to a survey of national wastewater treatment construction needs that is conducted every 2 years by the Environmental Protection Agency. The existing formula uses 1976 figures and my bill would require the use of more recent figures.

The 1978 needs survey presented a summary of national needs in six basic categories as follows:

[In billions of U.S. dollars]

Need category:		
1	secondary treatment	9.7
2	higher than secondary treatment	10.6
3a	correction of infiltration	2.4
3b	sewer rehabilitation	4.8
4a	new collection sewers	19.0
4b	new interceptor sewers	6.7
5	control of combined overflow	25.7
6	treatment/control of storm water	45.7

In attempting to express national priorities within these needs categories, Congress concentrated correctly on the need to reduce pollution from raw or partially treated sewage through the construction of secondary and higher treatment plants and collection systems.

The Congress reached the reasonable decisions that control of combined sanitary and storm sewer overflow was not as high a priority as secondary treatment because the pollution effects were not as great nationally. That decision did not, however, take some important regional factors into consideration.

The Congress also decided, quite correctly in my view, that the frightfully expensive treatment or control of storm waters alone (not when combined with sanitary sewerage) should not be addressed yet as a Federal funding priority.

There also has been one substantial alteration of this general funding emphasis, initiated by the House Appropriations Committee. The Environmental Protection Agency now requires that all requests for higher than secondary treatment with an incremental cost over $3 million be reviewed for approval by the Agency's administrator.

I believe that all of these broad decisions, although extremely difficult, were wise ones. There remain, however, substantial difficulties in the translation of these broad decisions into practice through the existing cumbersome, nationwide funding formula.

The existing formula, based on the 1976 needs surveys, can be expressed as follows:

1. (a) 50 percent Categories 1 (secondary treatment), 2 (higher than secondary treatment), and 4b (new interceptor sewers);

(b) 25 percent Categories 1 (secondary treatment) and 5 (control of combined overflow);

(c) 25 percent 1975 population.

2. (a) Best of 1975 population or Categories 1 (secondary treatment), 2 (higher than secondary treatment), 3a (correction of infiltration), 4b (new interceptor sewers) and 5 (control of combined overflow);

(b) Prorated back to 4.5B.

(c) With floor of 0.5 percent.

(d) With floor to insure no lower than lower of 1975 population or Categories 1, 2, 3a, 4b and 5.

(e) With floor to insure no greater than 25 percent reduction from fiscal year 1977 Supplemental (S–57).

(f) Prorated back to 4.5B.

3. Add the products of the computations in formulas one and two and divide the total by 50 percent.

It should be obvious from even a quick review of this formula that there is no clear expression of national wastewater treatment construction priorities to be found in the formula. Some of those priorities are implicit in the formula, but they have been trapped in a web of compromises and bled dry of meaning.

A quick review of the formula that I am proposing will illustrate my point. My formula can be expressed as follows:

1. 50 percent Category 1 (secondary treatment).

2. 33⅓ percent either Categories 4b (new interceptor sewers) and 5 (combined sewer overflow) or Categories 4b and 2 (higher than secondary treatment).

3. 16⅔ percent Category 3a (correction of infiltration).

I am deeply indebted to Senator Chafee, my colleague from Rhode Island and a member of the Senate Committee on Environment and Public Works, and to officials of the Environmental Protection Agency for reviewing my proposed formula and suggesting improvements that I have incorporated into it.

Originally, I had included a separate population factor in my formula. I decided to eliminate this separate factor, at the suggestion of EPA officials and with the concurrence of my colleague, because both current population and population estimates for the 2000 are an inherent part of the 1978 needs survey.

I would, however, like to emphasize a critical difference between the approach to regional problems in my formula and the approach reflected in the existing formula. That difference is seen in the second part of my formula.

The existing formula does not recognize regional differences between higher than secondary treatment needs and combined sewer overflow control needs. This inflexibility hurts both regions with higher than secondary treatment needs and regions with combined sewer overflow needs.

Generally, the most serious combined sewer overflow problems are in States with older cities that have not separated their storm and sanitary sewer systems. Likewise, the most serious higher than secondary treatment needs are in States with more recently settled areas.

My formula resolves this potential conflict by using only the greater of the two needs in computing a State's share of Federal funding. As a result, higher than secondary treatment needs and combined sewer overflow needs are given identical priority in the formula and States are entitled to receive funds to address whichever is the more urgent need for them.

In my own State of Rhode Island, pollution by wastewater has threatened the environment of Narragansett Bay, a priceless recreational and commerce resource and an abiding source of natural beauty.

Gov. J. Joseph Garrahy and officials at the Rhode Island Department of Environmental Management have been working hard, in cooperation with local governments, to abate this pollution but need more assistance from the Federal Government to address the State's most serious combined sewer overflow problems.

Whenever Rhode Island has a heavy rainstorm or a spring thaw, the rush of storm water through combined sanitary and storm sewers overwhelms treatment facilities and washes pollutants into Narragansett Bay. I am not speaking here of trace elements and slight pollution, but of wholesale pollution ranging from industrial waste to human feces.

An article in the Providence (R.I.) Journal of October 16, 1979, quoted a report by the Rhode Island Department of Environmental Management's statewide planning program staff that the cost of meeting Federal antipollution standards first outlined in 1972 could be between $844 million and $1 billion for Rhode Island alone.

I cite these figures to underscore the tremendous and costly wastewater treatment problems facing my own State. These problems are by no means unique in the country, but Rhode Island and other States throughout our country need a clear definition of national priorities and proportionate funding to address those priorities.

The annual appropriation for formula funding of wastewater treatment construction grants has been steadily declining. The current appropriation is only $3.4 billion, although Congress authorized $5 billion. There are numerous reasons for this decline, including a substantial backlog of project funding in some States and a strong desire to reduce Federal spending.

In my own opinion, however, a clear definition of priorities within the funding formula is necessary to assure that the taxpayer's money is spent wisely on wastewater treatment construction.

I recognize the need for restraint in Federal Government spending and the need to eliminate the Federal Government budget deficit as soon as possible, but we cannot make wise decisions on spending priorities unless we have a clear policy on the priorities of various material needs.

My funding formula would not increase Federal spending for wastewater treatment construction, but it would clearly define priorities for that construction.

Mr. President, I have statistics on how my formula would affect each State's share of wastewater treatment construction, and I ask unanimous consent that they be printed at this point in the Record, together with the text of the bill.

There being no objection, the bill and table were ordered to be printed in the Record, as follows:

S. 1962

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Section 205(c) of the Federal Water Pollution Control Act is amended to read as follows:

"(c)(1) Sums authorized to be appropriated pursuant to section 207 for the fiscal years 1978 and 1979 shall be allotted for each such year by the Administrator not later than the tenth day which begins after the date of the enactment of the Clean Water Act of 1977. Notwithstanding any other provisions of law, sums authorized for such fiscal years shall be allotted in accordance with table 3 of Committee Print numbered 95–30 of the Committee on Public Works and Transportation of the House of Representatives.

"(2) Sums authorized to be appropriated pursuant to section 207 for the fiscal years 1980 and 1981 shall be allotted for each such year by the Administrator not later than the tenth day which begins after the date of the enactment of this paragraph. Notwithstanding any other provision of law, sums authorized for such fiscal years shall be allotted in accordance with paragraphs (3) and (4) of this subsection.

"(3) Based upon the data contained in the 1978 Needs Survey, submitted by the Administrator in accordance with section 516(b)(1)(B) of this Act, each State's allotment shall be computed under paragraph (4) using the following percentages:

"(A) Such State's need as a percentage of national need as determined under Needs Survey Category I.

"(B) Such State's need as a percentage of national need as determined under either (i) the sum of Needs Survey Categories II and IVB, or (ii) the sum of Needs Survey Categories IVB and V, whichever such percentage is greater.

"(C) Such State's need as a percentage of national need as determined under Needs Survey Category IIIA.

"(4) Each State's allotment shall be determined as follows:

"(A)(i) Each State's percentage determined under paragraph (3)(A) shall be multiplied by 50 percent.

"(ii) Each State's percentage determined under paragraph (3)(B) shall be multiplied by 33⅓ percent.

"(iii) Each State's percentage determined under paragraph (3)(C) shall be multiplied by 16⅔ percent.

"(B) For each State, the percentages determined for such State under clauses (i), (ii), and (iii) of subparagraph (A) shall be added together, resulting in the total need percentage for such State.

"(C) The total percentage for each State, as determined under subparagraph (B), shall be reduced on a pro rata basis so that the sum of the total need percentages for all the States is equal to 100 percent.

"(D) The total need percentage for each State, as determined under subparagraph (C), shall be the percentage used in making the allotments under paragraph (2) of this subsection, except that the amount each State receives shall be adjusted in accordance with subsection (e).".

(b) The amendment made by this Act shall be effective on and after October 1, 1979.

State	Current formula	New formula
Alabama	1.2842	1.2970
Alaska	.4235	1.2881
Arizona	.7757	.7291
Arkansas	.7513	.5975
California	7.9512	11.5008
Colorado	.9187	1.2411
Connecticut	1.1072	1.2285
Delaware	.3996	.5000
D.C.	.3193	.5000
Florida	3.8366	4.1222
Georgia	1.9418	1.6233
Hawaii	.7928	1.2657
Idaho	.4952	.5000
Illinois	5.1943	2.8403
Indiana	2.7678	2.6067
Iowa	1.2953	1.4631
Kansas	.8803	1.5430
Kentucky	1.4618	1.5215
Louisiana	1.2625	1.7893
Maine	.7495	1.3176
Maryland	2.7777	1.0235
Massachusetts	2.9542	3.4806
Michigan	4.1306	2.3701
Minnesota	1.8691	.9631
Mississippi	.9660	1.1241
Missouri	2.4957	3.7427
Montana	.3472	.5000
Nebraska	.5505	.5778
Nevada	.4138	.5000
New Hampshire	.8810	1.0392
New Jersey	3.5715	4.8289
New Mexico	.3819	.5000
New York	10.6209	11.5167
North Carolina	1.9808	1.5758
North Dakota	.3107	.5000
Ohio	6.4655	4.6966
Oklahoma	.9279	.5984
Oregon	1.2974	.9416
Pennsylvania	4.3616	3.4942
Rhode Island	.5252	.8053
South Carolina	1.1766	1.0554
South Dakota	.3733	.5000
Tennessee	1.5486	1.8863
Texas	4.3634	3.1013
Utah	.4457	.5020
Vermont	.3845	.5000
Virginia	1.9602	2.0758
Washington	1.7903	3.2717
West Virginia	1.7903	1.4912
Wisconsin	1.9503	1.5221
Wyoming	.3003	.5000

CLEAN WATER ACT CONSTRUCTION GRANT ALLOTMENT FORMULA

Mr. CHAFEE. Mr. President, I am pleased to join with Senator Pell today in introducing legislation regarding the allotment formula for the Clean Water Act's construction grant program.

What we are talking about are priorities for this country's sewage treatment efforts. The construction grant program has become the largest national public works program. From 1973 to 1980, $32 billion has been appropriated for sewage treatment work. In 1977, the Congress reaffirmed its commitment to municipal waste water treatment by authorizing $24.5 billion for the construction grant program for fiscal years 1978 through 1982.

The construction grant program is a cornerstone of the Clean Water Act. That act requires Government and industry to work to meet standards and goals for cleaning up our rivers, lakes, bays, and coastal areas. The key goal is that our waters eventually be fishable and swimmable. We are setting our sights high with that goal, but the health, environmental, and recreational benefits are worthy of this effort.

Mr. President, we are pouring out millions, indeed billions of dollars for municipal sewage treatment. I think we have to target those dollars to best meet the basic needs which still exist. As a member of the Environment and Public Works Committee, I have worked with Senators Randolph, Muskie, Stafford, and other colleagues on the Clean Water Act during the last couple of years. In 1977, the committee learned that while 90 percent of industry had met the 1977 standard of best practicable technology, only 50 percent—half—of our cities had reached the required secondary treatment level. We took several steps in the 1977 amendments to give the cities more time and renewed authorizations in the sewage treatment program.

It is now 1979 and I think we need to take another look at how those dollars are targeted. We need to take that look long before 1982, so that the remaining authorized moneys will be used to the best advantage.

We are introducing this bill today in the hopes of bringing attention to the major municipal treatment problems which still remain and need to be dealt with. Let me mention a couple of basic provisions of the legislation before going into more detail.

First of all, the distribution of grant moneys should be in accordance with the latest needs of our cities and towns. Moneys are authorized for the next 3 years and we should target it as aptly as possible. Our bill provides that the 1978 EPA needs survey should replace the 1976 survey as the beginning focal point of setting priorities.

Second, needs categories under current law are maintained, with a clarification of national priorities.

Finally, there is a minimum of 5 percent so that no State gets less than that percentage of the whole, as provided for by a specific authorization. Of course if the full amounts are not appropriated in any year, all States would share in the reduction.

Now let us look at the types of treatment priorities we are considering.

Senator Pell has mentioned the categories of treatment currently eligible for Federal assistance under the Clean Water Act's title II. These include secondary treatment, advanced treatment, interceptor sewers, infiltration correction, and combined sewer overflow work. Secondary treatment is the municipal treatment standard required by 1977 in the act originally. Now that deadline has been moved to 1983.

We do a great disservice to our clean water goals if sufficient weight is not given to the secondary treatment category. My own capital city of Providence, R.I., is barely meeting primary, much less the secondary level of treatment. Other old medium and large cities are in the same situation. For many of them, secondary treatment is an extremely expensive, yet necessary proposition. One goal of the legislation we are introducing today is to give top priority to secondary treatment in the construction grant allotment formula for the States.

Another monumental treatment problem faced by many of our older communities is combined sewer overflow. When wastewater and domestic sewage combine with urban runoff in the same sewer system, it can spell disaster for the central treatment plant in terms of overflows. Again, in Providence, there are approximately 125 overflow events per year. Much of this overflow is heavily polluted and has contributed to the closing of Narragansett Bay to shellfishing. To witness the loss of use of our State's most valuable natural resource because of sewage pollution is indeed a travesty.

The legislation we are introducing today includes a commitment to the combined sewer overflow problem. It is readily apparent that spending money on treatment of combined sewer overflow is more cost beneficial than trying to separate the miles and miles of combined sewers in many of our communities. After the secondary treatment category, the allotment formula suggested in this legislation gives second priority to either combined sewer overflow treatment and new interceptor sewers or to higher-than-secondary treatment and interceptors. Thus, States with substantial special needs for either combined sewer overflow work or advanced treatment are given the chance to receive sufficient funds geared to their special problems.

Mr. President, I look forward to working on clean water construction grant priorities with Chairman Randolph, Senator Stafford, and Senator Muskie on the Environment and Public Works Committee. A great deal of money for treatment will be going out to the States in the next few years. We must be sure that dollars are going where the needs are. We need to keep in mind the secondary treatment deadline in the early 1980's.

I am pleased to note that Senator Muskie, chairman of the Environmental Pollution Subcommittee, is also examining our treatment priorities. He has asked EPA for their analysis of the current grant formula and whether the formula is truly geared to our most pressing treatment goals.

I would urge that the efforts several of us are making on this issue lead to Environment and Public Works Committee consideration of the Clean Water Act's grant program priorities this coming spring.

I would also note that clean water and sewage treatment responsibility rests on no one's shoulders alone. State and local governments must be willing to share with the Federal Government the financial burden of cleaning up our streams and waterways. They must use sound judgment in setting their local treatment priorities. They must utilize the grant dollars efficiently.

The legislation we are introducing today attempts to give a clearer picture to clean water treatment priorities, by setting a definite, less complicated allotment formula. Yet we maintain flexibility by recognizing that some needs are regionally different and there should be room in a formula to provide for these differences.

We are not increasing the grant program, in times of a worsening economy. We are seeking for our Federal dollars the best investment possible in clean, healthy waters.

ADDITIONAL COSPONSORS

S. 91

At the request of Mr. THURMOND, the Senator from Wyoming (Mr. SIMPSON) was added as a cosponsor of S. 91, a bill to amend title 10, United States Code, to remove certain inequities in the Survivor Benefit Plan provided for under chapter 73 of such title, and for other purposes.

S. 1121

At the request of Mr. HAYAKAWA, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 1121, a bill to amend the Saccharin Study and Labeling Act.

S. 1411

At the request of Mr. CHILES, the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1411, a bill to improve the economy and efficiency of the Government and the private sector by improving Federal information management.

S. 1794

At the request of Mr. MELCHER, the Senator from Michigan (Mr. RIEGLE), the Senator from Montana (Mr. BAUCUS), and the Senator from Arkansas (Mr. BUMPERS) were added as cosponsors of S. 1794, a bill to amend the Public Health Service Act to provide for research concerning Reye's syndrome, and for other purposes.

S. 1950

At the request of Mr. JAVITS, the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1950, a bill to waive the time limitation on the award of certain military decorations to members of the intelligence and reconnaissance platoon of the 394th Infantry Regiment, 99th Infantry Division, for acts of favor performed during the Battle of the Bulge.

AMENDMENT NO. 517

At the request of Mr. JAVITS, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of amendment No. 517, intended to be proposed to S. 2, the Sunset Act of 1979.

AMENDMENTS NOS. 542, 543, 544, 545, AND 546

At the request of Mr. MORGAN, the Senator from South Dakota (Mr. PRESSLER), the Senator from Kentucky (Mr. FORD), and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of amendments Nos. 542, 543, 544, 545, and 546 intended to be proposed to H.R. 4986, an act to amend the Federal Reserve Act to authorize the automatic transfer of funds, to authorize negotiable order-of-withdrawal accounts at depository institutions, to authorize federally chartered savings and loan associations to establish remote service units, and to authorize federally insured credit unions to maintain share draft accounts, and for other purposes.

AMENDMENT NO. 557

At the request of Mr. STEVENSON, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of amendment No. 557 intended to be proposed to H.R. 4986, an act to amend the Federal Reserve Act to authorize the automatic transfer of funds, to authorize negotiable order-of-withdrawal accounts at depository institutions, to authorize federally chartered savings and loan associations to establish remote service units, and to authorize federally insured credit unions to maintain share draft accounts, and for other purposes.

AMENDMENTS SUBMITTED FOR PRINTING

SALT II—EX. Y, 96–1

AMENDMENT NO. 563

(Ordered to be printed and to lie on the table.)

Mr. MCGOVERN (for himself and Mr. CHAFEE) submitted an amendment intended to be proposed by them, jointly, to the resolution of ratification of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Strategic Offensive Arms (Ex. Y, 96–1).

Mr. McGOVERN. Mr. President, as in executive session, on behalf of myself and Senator CHAFEE, I submit today a declaration to the resolution of ratification to the SALT II treaty.

The purpose of this declaration, which would be an understanding of the treaty, is to, first of all, express the disappointment of the Senate that we have not been able to achieve substantial reductions to date in the level of strategic arms through the SALT process, to say, in effect, that unless significant and substantial reductions can be achieved in the SALT III process, that it would be the sense of the Senate that third SALT agreement would not be approved by the Senate.

I think a good many Senators embracing a broad ideological spectrum in the Senate are uneasy and concerned about the failure of either SALT I or SALT II to bring about genuine reductions in strategic systems.

So what the Senator from Rhode Island and I have in mind is to put the Senate on record, to put the administration on record, and to serve notice on the Soviets that while we may go along with SALT II, we do so with the understanding that SALT III is going to achieve the significant and substantial reductions that are pledged in the statement of principle.

The SALT process has thus far failed to meet our expectations for genuine reductions in nuclear arsenals. Both the Soviet Union and the United States are now worse off in terms of the nuclear threat directed against them than when the SALT process began in 1969. Trying to achieve greater security through mutual and equitable reductions in SALT is like walking down an escalator: No matter how much effort is made to move downward, the process seems to carry arsenals to ever higher levels.

The use of SALT as an arms race management device rather than as an arms reduction device has become a major obstacle preventing achievement of the very goals SALT was created to secure. The first goal was to limit and reduce weapons. The second goal was to improve United States-Soviet relations.

Neither of these goals has been achieved. By the expiration of SALT II, both sides will have more than tripled their arsenals of nuclear warheads over the pre-SALT period. SALT has been largely irrelevant to the major strategic developments of this era, namely MIRV's and first-strike accuracy refinements.

This falure to limit arms and reduce substantially the threat to our security has created new political insecurities on both sides since the Soviet Union and the United States can each comply with the SALT treaty provisions while simultaneously increasing the threat directed against the other side. This insecurity and uncertainty about the other side's true intentions make substantially reductions more difficult to achieve, thus fueling new doubts and fears and raising the level of tension and suspicion.

The result of this vicious cycle is that we are ending up with both a SALT treaty and arms escalation. And we are ending up with SALT without détente. It is clear to me that the SALT process is not working. We cannot afford to seek new cosmetic agreements just for the sake of keeping the SALT process alive when the process is no longer effective—and may even have become counterproductive.

If SALT II were the end of the road, I could not in good conscience support it. I must first be assured that genuine reductions will be the goal of any future SALT negotiations and that a realistic method exists to achieve them. It is a commonsense observation that SALT II must be passed before SALT III is possible. But for those of us sincerely interested in arms reductions, there can be no SALT II without a clearly visible outline for SALT III. My vote depends on it.

The most important step the Senate can take to protect our security is to change the direction of the arms escalator by demanding that SALT do more to protect our security. The declaration on SALT III which Senator CHAFEE and I are proposing today is an attempt to shift the arms race into reverse.

A consensus has emerged in the SALT debate in favor of mutual and equitable deep cuts in weaponry. The agreement of military and civilian witnesses, public and private, treaty opponents and supporters, Republicans and Democrats in favor of reductions may be the most noteworthy outcome of the debate.

Now our challenge is to translate this bipartisan consensus on arms reductions into a concrete and effective strategy for achieving deep cuts in SALT III.

We need a dramatic new strategy for several reasons. First, major reductions will elude us if SALT continues on a business as usual basis. The unstable relations between the United States and the Soviet Union, the gallop of weapons technology and the inherently escalatory impact of the SALT bargaining and ratification processes tend to prevent true arms limitations. We must chart a new course.

Second, we need a new strategy because the experience of congressional action in SALT I proves that merely calling for reductions in the abstract is not enough. In the SALT I resolution, Congress adopted, under Senator CRANSTON's sponsorship, an amendment which urged the President—

> To seek at the earliest practicable moment Strategic Arms Reductions Talks . . . in order to bring about agreements for mutual decreases in the production and development of weapons of mass destruction.

We cannot afford simply to repeat this call for reductions without proposing either a strategy or any hint of a sanction.

Third, we need a strategy because there are ominous suggestions within the administration that it does not accept the consensus formed in the Senate for reductions. The fashionable argument at the moment is that arms control has failed because negotiations have focused too much on reductions and too little on minor stabilizing agreements which could better manage the nuclear arms race. But arms control has failed, not because the reductions were too big, but because they were too little and too late. SALT is in trouble on all sides of the political spectrum not because negotiators focused too little on arms race managment, but because they focused too much attention on it while neglecting the goal of reductions. We need to send a tough message to the administration that we regard genuine arms reductions as the centerpiece of any future agreement. There is nothing inherently contradictory about arms reductions and qualitative limitations to improve strategic stability.

Fourth, a realistic strategy will help us probe the intentions of the Soviet Union. Thus far, the record is unclear. On the one hand, the Soviets did make actual reductions in SALT II. Their reductions will not be militarily significant, but they are politically significant. On the other hand, the Soviets rejected any significant lowering of the Vladivostok ceilings. We have to make every reasonable effort to achieve equitable reductions through negotiations with the Soviet Union. Any SALT III strategy must take into account the fact that an arms reduction agreement must satisfy two parties. The SALT III debate will become pointless if it is reduced to a rhetorical attempt to disarm the Soviet Union just as any Soviet attempt to use SALT to unilaterally disarm the United States would fail.

There are several other limitations as well. First, there are constitutional limitations. The negotiating power is a plenary Presidential power. The Senate cannot force the President to negotiate nor should we tie his hands in negotiations. But neither can we abdicate the Senate's role to offer advice. SALT as arms limitation is like the Emperor who wore no clothes. We do not want to straitjacket the President. But we can and should tailor a new suit.

A second limitation is the requirement of realism. We cannot reverse the arms race overnight. The habits of overpreparation and the perceptions of worst cases are too deeply ingrained in the thinking of both sides. SALT III will not be a magic solution to the security problems of either side. Senators will not agree on every detail of SALT III just as we disagree on the details of SALT II. But we need to begin the process. We need to create the political and military conditions for a demilitarized world.

Since it is still autumn, let me use a World Series analogy for SALT III. The SALT III understanding which Senator CHAFEE and I are proposing today is not a grand slam home run for arms reductions. None of us can do that now because the bases are not loaded. But as a result of the new consensus on arms reductions in the SALT debate, we have managed to get a few runners on base. Our task now at a minimum is to advance the runners and score some runs.

The declaration I am proposing today offers a realistic strategy for genuine arms reductions. It urges the President to pursue continuous year-by-year reductions in the ceilings and subceilings of the SALT II treaty to take advantage of the treaty already negotiated while setting in motion an effective and sustainable process of strategic arms limitation. Senator CHAFEE and I believe it is a realistic new departure which can be supported by SALT II treaty proponents and by opponents of all persuasions.

Mr. President, I would like now to describe the provisions of the declaration on SALT III.

The declaration begins with an expression in paragraph (1) of disappointment that the SALT negotiations have failed to achieve major reductions in and more significant controls on strategic nuclear forces.

The declaration then recognizes that the parties have already agreed in the joint statement of principles and basic guidelines to seek "significant and substantial reductions" in the numbers of strategic offensive arms in SALT III, as well as qualitative controls on arms, and endorses these objectives as means to strengthen strategic stability and enhance the national security of the United States. It seems to me that the joint statement of principles has received far too little attention in the SALT debate.

Mr. President, I ask unanimous consent to insert the text of the joint statement of principles at the end of my remarks.

The essence of the declaration appears in the instruction to the President in paragraph (3) to negotiate continuous year-by-year reductions in the SALT II ceilings and subceilings. This combines a realistic approach to take advantage of the treaty already secured through 7 years of negotiations with the need to reverse the SALT process and embark on a new process of equitable and systemmatic arms limitations.

The effect of this proposal would be to shrink the SALT II agreement structure by a quantity of launchers or by a percentage every year—say 5 or 10 percent. None of us approves of SALT II very much in its present form. But at the very least it can usefully serve as a baseline for beginning future reductions. By using the SALT II ceilings and subceilings as a baseline, we can move to reductions quickly because we can take advantage of an agreed set of numerically equal ceilings and subceilings. The alternative is to reinvent the wheel by reopening negotiations on the numerical limitations in the hope of securing some additional miniscule advantage.

I sympathize with my colleagues who wish to recommit the SALT II treaty for further negotiations to seek lower limits. But the annual reductions approach is consistent with their interest in reducing the SALT II levels. It offers a method for negotiating the reductions without taking the risk of undoing all the arrangements.

Gen. David C. Jones, chairman of the Joint Chiefs of Staff, agrees with me that percentage annual reductions is a reasonable strategy for reductions in SALT III. General Jones wrote to me in a recent letter stating:

> I welcome the broader thrust of your proposal. I believe the idea of annual reductions, including necessary dismantlement, on the order of 5 percent of agreed mutual limits would be reasonable and would help preserve the necessary balance.

I would like to make clear that I have not asked General Jones for a specific endorsement of this declaration. His statement should not be interpreted as such an endorsement. But he does support the year-by-year percentage reductions concept as one possible acceptable approach to SALT III.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of the letter from General Jones at this point in my remarks.

There being no objection, the letter was ordered to be printed in the RECORD as follows:

Office of the Chairman,
The Joint Chiefs of Staff,
Washington, D.C., August 6, 1979.
Hon. George McGovern,
U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

Dear Senator McGovern: I appreciated the opportunity to discuss arms control objectives with you on Tuesday and to review your draft declaration for SALT II Resolution of Ratification.

It is clear from your draft that we share a mutual concern about the outcome of SALT II—its failure to achieve deeper constraints on the strategic forces of both sides—and one overarching common objective—to get on immediately after ratification of SALT II with negotiations which will lead to substantial reductions and restraints. The

Joint Chiefs of Staff have consistently supported the goal of deeper reductions, with the additional proviso that they be mutual and balanced.

I welcome the broader thrust of your proposal. I believe the idea of annual reductions, including necessary dismantlement, on the order of 5 percent of agreed mutual limits would be reasonable and would help preserve the necessary balance.

I believe there are two key elements necessary to make this approach workable. One is that, as numbers are reduced, margins of capability become more important, and adequate verification therefore becomes still more vital. In my judgment, cooperative measures to supplement national technical means of verification will have to be an integral part of SALT negotiations in the days ahead.

Also, we must recognize that the Soviet approach to arms control shows no evidence of being based on altruism. We must insure that they have the necessary incentives to make significant reductions as a matter of national interest. Unilateral reductions on our part have been conspicuously unsuccessful in creating these incentives and I am convinced that only by a visible U.S. capability and determination to enforce equality, at any level, will the Soviets perceive their interests served by a balance of strategic forces at lower levels. This will require substantially more effort on our part.

If we proceed resolutely on that course, I believe we have a far better chance of meeting the objectives which you and I, as well as many others, support for SALT III.

Sincerely,

DAVID C. JONES,
General, USAF.

Mr. McGOVERN. Mr. President, the SALT II ceilings and subceilings could be reduced by a percentage figure each year, for example, 5 or 10 percent, for a period of years leading to a reduction which would qualify, in the words of the joint statement, as "significant and substantial." An across-the-board annual reduction by a percentage figure could be quick to negotiate. It could be done as a SALT III agreement or as an amendment to SALT II under article XVII of the treaty.

One of the major benefits of this approach would be to create new public confidence by showing a process of reductions spread over a reasonable period. Since there would not be any big jumps in any single year, it could be accepted by our military and civilian security planners. A gradual and sustainable process is needed to improve the diplomatic climate between the United States and the Soviet Union.

It should be noted that there is no requirement in the declaration for either a minimum cumulative reduction or a minimum term of years for the reductions. The negotiators should have maximum flexibility to reach agreement on these provisions.

However, it should be clear that this declaration utilizes the joint statement agreement on significant and substantial reductions as a starting point. The annual reductions and the cumulative reductions must be significant and substantial.

In addition, these significant and substantial reductions must be negotiated and put into effect quickly to be strategically meaningful.

In my own view, a 25-percent to 30-percent cumulative reduction in the SALT II ceilings and subceilings over the duration of SALT III should be regarded as the minimum acceptable definition of significant and substantial reductions. A 30-percent reduction could be achieved at a 5-percent rate over 8 years, an 8-percent rate over 5 years, or by a 10-percent rate over 4 years. I suggest these figures to convey a sense of magnitude. We do not want cosmetic reductions. We need to start cutting arsensals down to size.

I recently asked the Library of Congress to analyze the likely impact of 5-percent and 10-percent annual cuts in the ceilings and subceilings of SALT II for American and Soviet forces. The Library of Congress study examines the impact of 5 percent and 10 percent annual reductions on American and Soviet strategic forces. The study examines a "most likely case" result in terms of delivery vehicles and launchers, warheads, megatonnage, and equivalent megatonnage. It should be pointed out that negotiations would have flexibility to implement the percentage annual reductions program to produce outcomes which are different from the ones analyzed by the Library of Congress. Therefore, the Library's findings are illustrative rather than definitive of the impact of this declaration if it were implemented.

If the percentage reductions were to begin in 1981 on a compounded basis, a 5-percent annual reduction would leave the United States in 1988 with approximately 1,500 launchers and delivery vehicles and about 8,400 warheads. The Soviets would have the same number of launchers and about 7,250 warheads. So even a 30-percent reduction spread over 8 years at a 5 percent annual rate would leave both sides with enormous overkill. The Library's estimates include an American deployment of MX and Soviet retention of the maximum number of heavy ICBM's permitted under the reduced ceilings.

I would like to see the reductions go further than 30 percent. For example, the Library of Congress study predicts that a 10-percent annual reduction beginning in 1981 would leave both sides by 1990 with 785 launchers and delivery systems each while permitting the United States under the most likely scenario with 5,200 warheads and the Soviets with 4,700 warheads.

Mr. President, I ask unanimous consent to insert the text of the Library of Congress study, entitled, "Reducing the Number of U.S. and Soviet Strategic Offensive Weapons: An Analysis of Two SALT III Options, Based on the SALT II Ceilings," along with the letter of transmittal from the Honorable Gilbert Gude, at the conclusion of my remarks. I would like to thank the Library's analysts, Dr. Anibal Tinajero and Dr. Stuart Goldman, for their excellent research.

Paragraph (4) defines the terms ceilings and subceilings for the purpose of this declaration. According to paragraph (4), the annual reductions would apply to the 2250 aggregate number of launchers and delivery vehicles, the 1320 MIRV's and heavy bombers with cruise missiles, the 1200 MIRV'd ballistic missiles, the 820 land-based MIRV'd ICBM's and the 308 land-based heavy MIRV'd ICBM's. This makes clear that Soviet heavy ICBM's should be considered a subceiling which must be reduced. If adopted, the percentage reductions idea would lower the number of heavy missiles aimed at us. In my view, this is a more important question than whether we have the abstract right to build heavies which we do not plan to do any way. A 5-percent annual reduction of Soviet MIRV'd SS-18's beginning in 1981 would lower them by 1990 to 184 from 308 while a 10-percent, annual reduction by 1990 would lower them to 108.

Paragraph (5) of the declaration urges that exceptional efforts should be made to reduce land-based ICBM's equipped with MIRV's, which are the most destabilizing weapon system. It should be feasible, for example, to reduce the other ceilings by 5 percent and the MIRV'd ICBM subceilings by 7 percent or 8 percent. The negotiators should make this attempt.

Paragraph (6) reinforces the agreement in the joint statement to seek more far-reaching, qualitative limitations. While the SALT process takes a modest step forward, nuclear arms technology is galloping ahead. MIRV technology negated the benefits from SALT I. Now, counterforce accuracy improvements threaten to negate the modest benefits of SALT II. In addition, new antiballistic missile technology, particle beam weapons, and laser systems are all waiting in the wings.

Technology must not be allowed to race ahead of diplomacy. Subparagraphs (A) and (B) represent endorsements of the agreements by the parties in the joint statement of principles. Subparagraph (c) is an attempt to address the problem of proliferating warheads which seems to negate the military benefits of quantitative reductions in the number of launchers. The SALT II fractionation limit was a small first step, but the limits permitted each side are more than adequate for counterforce capabilities. SALT III must do more to assume the survivability of existing forces and to promote strategic stability by imposing more effective qualitative controls.

Subparagraph (D) makes clear that qualitative constraints should be applied to emerging new areas of technology as well.

Any program of reductions and qualitative limitations must be adequately verifiable by national technical means or by additional cooperative measures where these are required. Paragraph (7) of the declaration emphasizes this requirement. It should be noted, however, that quantitative reductions on an annual percentage basis would be one of the most easily verifiable agreements to make. I do not anticipate that reductions and dismantling would raise any new verification problems. However, the declaration makes clear that cooperative measures should be resorted to if they are needed.

Paragraph (8) states the conclusion of the Senate that any new agreement to reduce should be given effect as soon as possible and, in any event, well in advance of the expiration in 1985 of the SALT II treaty. The parties have already agreed in article XVI to begin promptly negotiations to achieve a new agreement as soon as possible. This undertaking deserves our support. But we must go the next step as well so that reductions can begin before the highest levels permitted in SALT II have been reached. The sooner a new agreement can be put into effect, the better off we will be in terms of national security. If we wait until 1985, it will take us many additional years of reductions just to make up for the lost time.

This paragraph also makes clear that the parties should consider accomplishing the annual reductions program through amending SALT II. Utilizing the SALT II ceiling and subceilings as the baseline for future reductions will facilitate this amendment option and would obviate the need to go through another lengthy round of comprehensive negotiations. If both parties want to enhance their own security and clarify their intentions to the other, then the negotiation of a single percentage reduction figure to be applied to the SALT II levels is the most direct approach to take.

Paragraph (9) requests the President to transmit a report to the Senate on the SALT III negotiations by the expiration of the protocol at the end of 1981. It is reasonable to expect that substantial negotiations will have occurred and that the outlines of a possible agreement will have emerged at that time. At least the proposal for percentage annual reductions should have been presented by that time.

Finally, paragraph (10) makes clear that the Senate regards the achievement of an agreement on substantial and significant reductions as the precondition for its consent to any future SALT treaty. The issue is whether the goal of substantial reductions will be taken seriously or whether this declaration will be ignored or finessed in the negotiations. The Senate must make clear to this and to future administrations that the SALT process has failed and that the priorities of the negotiators must move away from cosmetic agreements which codify the existing arms race and move toward serious reductions in arsenals which can improve the security of the United States.

This final paragraph states the present intention of the Senate regarding a possible future event. There are constitutional limitations since the Senate cannot bind a future Senate with regard to the advice and consent power. But this statement of present intention should be regarded with great care and caution by the administration since there is nothing in the forseeable future which is likely to cause a shift of opinion about SALT in Congress other than a significant new arms limitation initiative. Therefore, although this declaration does not impose any legally binding obligations on a future Senate, it does convey accurately a climate of opinion which is not likely to change unless substantial reductions become the order of the day.

Mr. President, SALT III will undoubtedly include a full agenda of difficult and complex issues. Senator CHAFEE and I have not attempted to address each and every one in this declaration. For example, the whole matter of theater nuclear systems is not covered in this declaration. We decided to prune away most other issues not because they should not be included in the negotiations, but because we want to focus the attention of the Senate and of the American people on the centerpiece of arms limitations talks—the concept of visible, systemmatic, and meaningful reductions. Arms reductions which are mutual, equitable, and substantial are the only true guarantees of national security in the nuclear age.

Mr. President, I ask unanimous consent that the text of this declaration, together with a relevant study by the Library of Congress be printed in the RECORD.

There being no objection, the amendment and material were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 563

Before the period at the end of the resolution of ratification insert a comma and the following: "subject to the declaration that the Senate—

"(1) expresses its disappointment that strategic arms limitations talks between the United States and the Union of Soviet Socialist Republics (hereafter in this declaration referred to as the 'Parties') have failed to achieve an agreement providing for major reductions of, and more significant qualitative limitations on, strategic nuclear forces;

"(2) endorses the agreement of the Parties under the Joint Statement of Principles and Basic Guidelines for Subsequent Negotiations on the Limitation of Strategic Arms (hereafter in this declaration referred to as the 'Joint Statement'), signed on June 18, 1979, to pursue, through further negotiations for an agreement on further measures for the limitation and reduction of strategic arms, the objectives of significant and substantial reductions in the numbers of strategic offensive arms and qualitative limitations on such arms, and affirms that the attainment of such objectives would strengthen strategic stability, maintain international peace, and enhance the national security of the United States;

"(3) urges and requests the President, at the earliest possible moment during the SALT III negotiations, to pursue continuous year-by-year reductions in the ceilings and subceilings under the Treaty so as to take advantage of the Treaty already negotiated and to begin a sustainable and effective process of reductions in strategic arms which promotes strategic equivalence and strategic stability;

"(4) intends the phrase 'ceilings and subceilings under the Treaty', as used in paragraph (3) of this declaration, to mean—

"(A) the aggregate number of strategic offensive arms permitted to each Party under Article III of the Treaty;

"(B) the number of fixed heavy intercontinental ballistic missile (ICMB) launchers permitted under paragraphs 3 and 7 of Article IV of the Treaty; and

"(C) the number of such arms permitted under each limitation of Article V of the Treaty;

"(5) urges that the President, in seeking an agreement on reductions in such arms, make exceptional efforts to reduce the number of ICBMs equipped with multiple independently targetable reentry vehicles (MIRVs);

"(6) urges the President, during SALT III negotiations, to seek further agreement on qualitative limitations on strategic offensive arms for the purpose of promoting strategic stability and strategic equivalence and of assuring the survivability of strategic nuclear forces, including—

"(A) restrictions on the development, testing, and deployment of new types of strategic offensive arms;

"(B) restrictions on the modernization of such arms which were developed, tested, or deployed on the date of entry into force of the Treaty;

"(C) restrictions on and reductions in the number of reentry vehicles with which ICBMs, submarine-launched ballistic missiles (SLBMs), and Air-to-surface ballistic missiles (ASBMs) may be flight-tested or deployed; and

"(D) restrictions on potentially destabilizing advances in technology relating to strategic nuclear weapons;

"(7) emphasizes that any qualitative or quantitative reductions or restrictions called for under this declaration should be adequately verifiable by national technical means or by additional cooperative measures which contribute to the effectiveness of verification of compliance with the Treaty by national technical means, as provided by the Joint Statement;

"(8) supports the undertaking by the Parties in Article XIV of the Treaty to begin promptly negotiations to achieve agreement as soon as possible, and concludes that the Parties should also seek to give effect well in advance of 1985 to new agreements or to amendments to the Treaty, as provided in Article XVIII of the Treaty, which are consistent with this declaration;

"(9) requests the President, not later than December 31, 1981, to prepare and transmit to the Senate a report on the progress achieved during SALT III negotiations; and

"(10) expresses its intention not to advise and consent to the ratification of any SALT III Treaty which does not comply substantially with this declaration".

REDUCING THE NUMBER OF U.S. AND SOVIET STRATEGIC OFFENSIVE WEAPONS: AN ANALYSIS OF TWO SALT III OPTIONS, BASED ON THE SALT II CEILINGS

With the conclusion of the SALT II Treaty, one argument which has arisen in the debate has been directed toward the limitations of existing approaches to arms control because they have failed to achieve sizeable reductions in strategic weapons inventories. Therefore, it is appropriate to explore alternative approaches that might form a basis for future U.S.-Soviet strategic arms control negotiations. One type of approach is based on various proposals that the Soviet Union and the United States would agree to percentage annual reductions of inventories, either from the ceilings imposed by SALT II or from actual inventories as of the coming into force of SALT II. Annual reductions of both 5 percent and 10 percent from the preceding year's level have been suggested, using the ceilings established by the SALT II Treaty as a starting point. This set of proposals, then, consists of two distinctive options:

OPTION I

A five (5) percent annual reduction of the numbers of strategic offensive arms allowed under the provisions for ceilings contained in the SALT II Treaty. Annual reductions to begin January 1, 1981, and to continue through the end of 1990. The percentage reduction on the arms ceilings would be applied on the prior year's ceilings.

OPTION II

Same as Option I, except that the annual reduction of the ceilings would be ten (10) percent.

PURPOSE AND SCOPE

Assessment of these options must include consideration of what the composition of each side's strategic forces would be over the course of an agreement. The purpose of this analysis is to project likely—or at least plausible—U.S. and Soviet strategies for maintaining inventories within ceilngs established under each of the options identified above, and then to identify the number of strategic nuclear delivery systems, nuclear warheads and their aggregate yields and "equivalent megatonnage" (EMT), and the effect on current strategic weapon programs if the United States and the Soviet Union agreed to one of the weapons reduction options stated above. An overall assumption is that the two countries could agree on adequate means of verifying that the various reductions had occurred. Because only unclassified data were used in projecting the strategic offensive weapon inventories, numbers of warheads and their yields, the numbers presented herein should be considered rough approximations. Congressional testimony by officials of the Department of Defense has been used as a primary source in projecting what weapon systems are being planned for introduction or retirement. For the derivation of aggregate number of warheads and yield, figures presented by a former government official during recent hearings on the SALT II Treaty were used. Individual citations are provided where appropriate.

For purposes of background, data regarding existing U.S. Soviet inventories (as of June 18, 1979, the signing of the SALT II Treaty) of strategic offensive weapons are presented below.

The U.S. declared that as of June 18, 1979, it possessed the following numbers of strategic arms subject to the limitations provided for in the SALT II Treaty: [1]

Launchers of ICBMs	1,054
Launchers of SLBMs	656
Heavy Bombers	573
Total Inventory	2,283

Contained within these totals are the following numbers and types of strategic arms:

Launchers of ICBMs:	
Minuteman III	550
Minuteman II	450
Titan II	54
Launchers of SLBMs:	
Poseidon	496
Polaris	160
Heavy Bombers:	
B–52	569
B–1	4

The U.S.S.R. declared that as of June 18, 1979 it possessed the following numbers of strategic arms subject to the limitations provided for in the SALT II Treaty: [2]

Launchers of ICBMs	1,398
(Launchers of MIRVed ICBMs)	(608)
Launchers of SLBMs	950
(Launchers of MIRVed SLBMs)	(144)
Heavy bombers	156
Total SNDVs	2,504

Contained within these totals are the following numbers and types of strategic arms:

Launchers of ICBMs:	
SS–18	26
SS–18 (MIRVed)	171
SS–19	30
SS–19 (MIRVed)	171
SS–17	20
SS–17 (MIRVed)	100
SS–13	60
SS–11	709
SS–9	111
Launchers of SLBMs:	
SSN–18	148
SSN–17	12
SSN–8	292
SSN–6	502
Heavy Bombers:	
Bear and Bison	156

PROJECTED U.S. AND SOVIET STRATEGIC OFFENSIVE WEAPON INVENTORIES UNDER OPTION NO. I

Under both options, ceilings for each year are derived from the initial SALT II ceilings. Thus, if one component of either country's force were below a ceiling for a given year, it would not have to reduce that component by 5 percent or 10 percent, but rather just assure that it remained below a ceiling which was established by a 5 percent or 10 percent reduction. Shown below are the annual strategic weapons ceilings that would limit U.S. and Soviet forces under Option No. I.

OPTION NO. I—PROPOSED SALT III CEILINGS—5 PERCENT ANNUAL REDUCTIONS

[SALT II ceilings used as initial allowable inventories [1]]

	End of year—									
	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
MIRVed ICBM's (820) [1]	779	740	703	668	635	603	573	544	517	419
MIRVed ballistic missiles (1,200) [1]	1,140	1,083	1,029	977	929	882	838	796	756	718
MIRVed ballistic missiles and ALCM bombers (1,320) [1]	1,254	1,191	1,132	1,075	1,021	970	922	876	832	790
Delivery systems (2,250) [1]	2,138	2,031	1,929	1,833	1,741	1,654	1,571	1,493	1,418	1,347

[1] Under the provisions contained in the SALT II Treaty, by the end of 1980 the Soviet Union and the United States cannot possess more than 2,250 delivery systems. Within this ceiling, 1,320 delivery systems can be MIRVed ballistic missiles and ALCM bombers. However, only 1,200 MIRVed ballistic missiles are allowed within the 1,320 subceiling, and no more than 820 of the 1,200 MIRVed ballistic missiles may be ICBM's. The Soviet Union would not be permitted to possess more than 308 "heavy" ICBM's (SS–18's and SS–19's).

Based on these ceilings, estimates of the projected U.S. and Soviet strategic offensive weapon inventories are shown in Tables I and II (pages 9 and 14).

The figures presented in Table I are based on the following assumptions:

(1) The U.S. would continue to rely on the strategic "triad" (land-based intercontinental ballistic missiles [ICBMs], submarine-launched ballistic missiles [SLBMs], and land-based bomber aircraft) for its strategic nuclear weapons inventory. Assumptions regarding the retirement of certain weapons systems are based on the requirement to achieve the reduced levels under the proposed SALT III ceilings. The systems cited for retirement or projected modernization were chosen on the basis of the assumption that there is a need for a balanced triad of modern weapon systems within the allowable ceilings.

(2) 100 Minuteman III ICMs would be armed with MK–12A RVs by the end of 1981, another 100 in 1982, and 100 in 1983. The Air Force plans to equip 300 Minuteman III ICBMs with MK–12A reentry vehicles (RVs) starting in FY 1980.

(3) 25 M–X ICBMs would be deployed by the end of 1986, and deployments would continue at a rate of 60 missiles per year until 238 missiles are operational. It is also assumed that all Minuteman III missiles would be retired by the end of 1990, in the interest of maintaining balanced capabilities of the ICBM forces in relation to the SLBM and bomber aircraft forces. The Air Force plans to achieve initial operational capability (IOC) of the M–X ICBM system when it deploys 10 missiles in September 1986, and full operational capability (FOC) after it has deployed 200 missiles by the end of 1989.

(4) 19 Poseidon-equipped nuclear-powered ballistic missile submarines (SSBNs) would be retired from the strategic forces by the end of 1986 (three in 1982, six in 1983, five in 1984, four in 1985, and one in 1986).[3] The 12 remaining Poseidon SSBNs (each equipped with 16 SLBM launchers) would be "backfitted" with Trident I SLBMs at the rate of two SSBNs per annum (three by the end of 1979, four in 1980, four in 1981, and one in 1982). The Navy plans to "backfit" 12 Poseidon SSBNs with Trident SLBMs starting FY 1980. According to the Navy, 11 of these SSBNs will be armed with Trident I SLBMs by the end of 1981.

(5) Twelve Trident SSBNs (each equipped with 24 SLBM launchers) would be deployed by the end of 1990. Eight Trident SSBNs (Ohio-class) have been authorized and funded. The Navy projects that two Trident SSBNs would be operational by the end of 1981, three in 1982, five in 1983, seven in 1985, and eight in 1986. It is assumed that additional Trident SSBNs will be authorized, and that delivery of additional Trident SSBNs would start in 1987 at the rate of one per year. Trident SSBNs will be equipped initially with Trident I SLBMs, and later armed with Trident II SLBMs. It is assumed that Trident II SLBMs would be deployed in Trident SSBNs commissioned after 1985.

(6) Five B–52 bombers would be equipped with air-launched cruise missiles (ALCMs) by the end of 1981, and additional B–52s would be equipped with ALCMs at a rate of 20 bombers per year. The Air Force plans to arm about 120 B–52s with ALCMs. The IOC of one B–52G equipped with ALCMs is planned for September 1981, and the last ALCM is to be delivered in January 1987.[4]

(7) The Air Force would try to retain most of its currently strike-configured B–52 bombers.[5] However, the oldest of these bombers would be retired, to permit the retention of Titan II and Minuteman II ICBMs in the strategic inventory. The four existing B–1 bombers would be retained through 1983 to serve as research and development (R&D) aircraft.

(8) The inventory of Titan II ICBMs would be reduced by 5 percent per annum, if the Soviet Union insisted that the five percent annual reduction of "heavy" ICBMs must also apply to the U.S. inventory of Titan ICBMs.

(9) Polaris SSBNs (each equipped with 16 SLBM launchers) would be retired shortly after they complete 20 years of service. It is projected that the number of Polaris SSBNs in service would be seven by the end of 1981, five in 1982, three in 1983, two in 1984, and one in 1985.

Footnotes at end of article.

TABLE I.—PROJECTED U.S. STRATEGIC OFFENSIVE WEAPON INVENTORIES UNDER PROPOSED OPTION NO. I FOR SALT III

Delivery system	End of year—									
	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
Minuteman III (MK-12)	450	350	250	250	250	173	45			
Minuteman III (MK-12A)	100	200	300	300	300	300	300	219	100	
M-X						25	85	145	200	238
Subtotal MIRVed ICBM's	550	550	550	550	550	498	430	364	300	238
Poseidon	320	256	160	80	16					
Trident I (Backfit)	176	192	192	192	192	192	192	192	192	192
Trident I (Ohio class)	48	72	120	144	168	168	168	168	168	168
Trident II (Ohio class)						24	48	72	96	120
Subtotal MIRVed ballistic missiles	1,094	1,070	1,022	966	926	882	838	796	756	718
B-52 (with ALCM's)	5	25	45	65	85	88	84	80	76	72
Subtotal MIRVed ballistic missiles and ALCM bombers	1,099	1,095	1,067	1,031	1,011	970	922	876	832	790
B-52	338	318	298	276	222	194	161	131	102	75
B-1	4	4	4							
Titan II	51	49	46	44	42	40	38	36	34	32
Minuteman II	450	450	450	450	450	450	450	450	450	450
Polaris	112	80	48	32	16					
Grand total	2,054	1,996	1,913	1,833	1,741	1,654	1,571	1,493	1,418	1,347

The figures for Soviet forces presented in Table II are based on the following assumptions:

(1) While maintaining a large force of fixed, land-based ICBMs, the U.S.S.R. would deploy an increasing proportion of its strategic weapons in SLBMs and land-based bomber aircraft carrying ALCMs. This shift away from the earlier, predominantly land-based ICBM posture would derive from both improved technological capability and a desire to increase the mobility/survivability of their weapons against the threat of a U.S. "first strike" employing highly accurate M-X missiles. The resulting Soviet strategic posture would come to resemble the U.S. "triad," but with less reliance on bomber aircraft.

(2) SS-18 heavy ICBMS would be deployed to the maximum limit allowed by treaty. The full deployment of 308 missiles allowed by SALT II would consist of 280 MIRVed missiles, each with eight RVs. This would provide for targeting each of the 1,054 U.S. ICBM silos with two RVs with some reliability. A total of 28 SS-18s would be deployed with single 20 MT warheads for extremely hard targets, such as command centers, dams, etc. These deployments would be reduced by the proposed reduction rate. In 1986 all remaining single-warhead SS-18s would be MIRVed to maximize the number of RVs. The new SS-X (discussed below), with a single 15 MT warhead, would take over the SS-18s' role against extremely hard targets.

(3) SS-19 and SS-17 ICBMs would be deployed in numbers sufficient to reach the ceiling allowed for MIRVed ICBMs, when combined with SS-18s. Under SALT II, 512 SS-19s and SS-17s would be deployed (820 minus 308 SS-18s) as follows: 240 MIRVed SS-19s with six RVs each, 200 MIRVed SS-17s with four RVs each, and 36 SS-19s and 36 SS-17s with single warheads. The MIRVed SS-19s and SS-17s would provide a total of 2,240 RVs, identical in number and mission to the MIRVed SS-18s, providing perfect redundancy or back up. The single-warhead SS-19s and SS-17s would be MIRVed in 1986 to maximize the number of RVs, as the new single-warhead SS-X missile is deployed in 1986.

(4) Nine new Typhoon-class SSBNs, equipped with SSN-18 MIRVed SLBMs would be deployed. One such ship is being prepared for service now,[6] two would be deployed by 1981, and one more would be added annually through 1988 to a total of nine. The number of such ships would not exceed nine in order to keep within the proposed SALT III ceiling on MIRVed ballistic missiles.

(5) The nine Delta III-class SSBNs equipped with SSN-18 MIRVed SLBMs would remain in service through 1990.

(6) A new air launched cruise missile carrier (CMC) would be developed. It is estimated that each new CMC would carry approximately 20 ALCMs. Fifteen such CMCs would be deployed in 1986, and 30 more would be added annually to a total of 137 in 1990.

(7) The 750 SS-11 ICBMs deployed in December 1978[7] would be retired by 1985 to comply with the treaty ceiling of allowable strategic nuclear delivery systems.

(8) The U.S.S.R. would exercise its SALT II Treaty option of developing one new ICBM with its SS-X, a large (but technically not a "heavy") ICBM. SS-X would carry a single 15 MT warhead,[8] since by the 1986 deployment date the U.S.S.R. would already be at the treaty ceiling of MIRVed ballistic missiles. Initial deployment of SS-Xs would be 60 in 1986, building to a total of 277 in 1990. Soviet production capacity of approximately 125 missiles per year would make possible a much larger and more rapid deployment of SS-Xs, but the limits of Option I would result in the deployment as described above.

(9) The 60 SS-13 ICBMs presently deployed[9] would be retired in 1985 and 1986 as a result of the decreasing limits under Option I, and the initial deployment of 60 SS-X ICBMs in 1986.

(10) All SS-9 ICBMs as well as Golf-class SSBs and Hotel-class SSBNs would be retired from the strategic forces prior to 1981, replaced by more modern weapons. The Golf- and Hotel-class boats, followed by Yankee and Delta I's, could be converted to other uses, such as sea-control submarines.

(11) The Yankee I-class SSBN, equipped with 16 SSN-6 SLBMs would be modified (backfitted) to accommodate 12 SSN-17 SLBMs. The SSN-17 is estimated to have 48 percent greater range and 2½ times greater accuracy than the SSN-6. Assuming a backfitting capability of six boats per year, the three backfitted SSBNs deployed in December 1978[9] (designated Yankee II-class) would rise to 10 in 1981 and 16 in 1982, equipped with 192 SSN-17 SLBMs. In 1982, the 22 Yankee I-class boats deployed in 1981 would be reduced by the backfit program to 16. The number would shrink to 12 in 1986, three in 1987, and zero in 1988 as a result of the annual reductions under the limits of Option I. Eight of the 16 Yankee II-class SSBNs would be retired in 1988, six more in 1989, and the last two in 1990.

(12) The four Delta II-class SSBNs, each equipped with 16 SSN-8 SLBMs would remain deployed through 1990.

(13) The 18 Delta I-class SSBNs, each equipped with 12 SSN-8 SLBMs would remain deployed through 1990.

(14) A Strategic Long Range Bomber Force would be kept in service. It would rely on old Bear and Bison aircraft until the new, ALCM-equipped bomber is deployed beginning in 1986. Thirty-three Bear bombers would be deployed from 1981 to 1985, of which one would be lost through attrition. Fifteen Bears would be retired in 1986, and the remaining 17 in 1987. Thirty-five Bisons, carrying the Kangaroo air-to-ground missile, would be deployed from 1981 to 1985, of which one would be lost through attrition. Eighteen Bisons would be retired in 1986, four more in 1987, and the remainder in 1988, at which time the Long Range Bomber Force would be comprised entirely of ALCM bombers.

Footnotes [1] through [11] on p. 30348.

TABLE II.—PROJECTED SOVIET STRATEGIC OFFENSIVE WEAPON INVENTORIES UNDER SALT III PROPOSED OPTION NO. I

Delivery system	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
SS-18[1]	27	25	24	22	21					
SS-18 (MIRV)	266	253	240	229	217	226	215	204	194	194
SS-19[1]	34	34	34	34	34					
SS-19 (MIRV)	228	228	228	228	228	262	262	262	209	145
SS-17[1]	34	30	26	22	18					
SS-17 (MIRV)	190	170	151	133	117	110	57			
Subtotal, MIRVed ICBM's[2]	779	740	703	668	635	598	534	466	403	329
SSN-18 (MIRV) (Typhoon class)	40	60	80	100	120	140	160	180	180	180
SSN-18 (MIRV) (Delta III class)	144	144	144	144	144	144	144	144	144	144
Subtotal, MIRVed ballistic missiles	963	944	927	912	899	882	838	790	727	653
Bombers (ALCM)						15	45	75	105	137
Subtotal, MIRVed systems and ALCM bombers	963	944	927	912	899	897	883	865	832	79

TABLE II.—PROJECTED SOVIET STRATEGIC OFFENSIVE WEAPON INVENTORIES UNDER SALT III PROPOSED OPTION NO. I—Continued

Delivery system	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
SS-11	295	231	147	67						
SS-X						60	160	252	277	277
SS-13	60	60	60	60	48					
SSN-17 (Yankee II class)	120	192	192	192	192	192	192	96	24	
SSN-6 (Yankee I class)	352	256	256	256	256	192	48			
SSN-8 (Delta II class)	64	64	64	64	64	64	64	64	64	64
SSN-8 (Delta I class)	216	216	216	216	216	216	216	216	216	216
Bear	33	33	33	32	32	17				
Bison	35	35	34	34	34	16	8			
Grand total	2,138	2,031	1,929	1,833	1,741	1,654	1,571	1,493	1,413	1,347

[1] All SS-17, SS-18, and SS-19 missiles are counted as MIRVed ICBM's under Article II of the SALT II Treaty, since they have been flight tested in a MIRVed mode. Some of these missiles may be deployed with single warheads.

[2] The subtotal of MIRVed ICBM's includes single-warhead as well as MIRVed SS-17, SS-18, and SS-19 ICBM's, as explained in note above.

Presented in Tables III and IV is a breakdown of the aggregate number of U.S. strategic nuclear warheads and their aggregate yield in megatons (MT), deployable with the respective delivery systems shown in Table I. The figures presented in these tables are based on the following unclassified estimated data and assumptions:

(a) Minuteman III ICBMs can carry three MK-12 or MK-12A MIRVs. The MK-12 RV is equipped with a 0.17 MT warhead. The MK-12A RV is equipped with a 0.335 MT warhead.[10]

(b) M-X ICBMs will be equipped with 10 MK-12A MIRVs.

(c) The average Poseidon SLBM carries nine MIRVs. Each RV carries a 0.04 MT warhead.[10]

(d) The average Trident I SLBM will carry about eight MIRVs. Each RV will carry a 0.100 MT warhead.[10]

(e) The average Trident II SLBM will carry about eight MIRVs. Each RV will carry a 0.150 MT warhead.

(f) Each B-52 bomber equipped with ALCMs will carry 20 missiles. Each ALCM will have a 0.200 MT warhead.[10]

(g) B-52s not armed with cruise missiles will carry an average weapons load consisting of two bombs and four SRAMS (short range attack missiles). Each bomb will be armed with a 1 MT warhead, and each SRAM will be equipped with a 0.200 MT warhead. The aggregate weapons yield for B-52s equipped with bombs and SRAMs, shown in Table IV, is derived by multiplying the number of aircraft shown in Table I by 2.8 MT (2 MT for two bombs plus 0.800 MT for four SRAMs equals 2.8 MT). The B-1 R&D aircraft are counted within the ceiling on delivery systems, but are considered to be non-operational bombers.

(h) Titan II ICBMs carry a single 9 MT warhead.[11]

(i) Minuteman II ICBMs carry a single 1.2 MT warhead.[11]

(j) Polaris SLBMs carry three MRVs (multiple reentry vehicles). Each MRV is equipped with a 0.220 MT warhead.[11] Polaris SLBMs are counted as single-warhead ballistic missiles under the terms of the SALT II treaty.

FOOTNOTES

[1] Statement of Data on the Numbers of Strategic Offensive Arms as of the Date of Signature of the [SALT II] Treaty. In U.S. Congress. Senate. Treaty on the Limitation of Strategic Offensive Arms and Protocol Thereto (SALT II Treaty). Message from the President . . . June 25, 1979. Executive Y, 96th Congress, 1st session. Washington, U.S. Govt. Print Off., 1979. p. 70.

[2] Statement of Data on the Numbers of Strategic Offensive Arms as of the Date of Signature of the [SALT II] Treaty. In Ibid., p. 69.

[3] Some of the POSEIDON SSBNs have a substantial number of years of seaworthiness left in them, and could be converted into sea-control submarines (SSNs) for the protection of the sea lanes.

[4] U.S. Congress. House. Committee on Armed Services. Hearings on Military Posture and H.R 10929, Department of Defense Authorization for Appropriations for Fiscal Year 1979 . . . 95th Cong., 2d sess. Part 3 of 7 parts, book 1 of 2 books. Research and Development, Title II. February, March, and April, 1978. (H.A.S.C., no 95-567) Washington, U.S. Govt. Print. Off., 1978. p. 245.

[5] As of June 18, 1979, there were 343 strike-configured B-52s. Statement of Paul H. Nitze, in U.S. Congress. Senate. Committee on Foreign Relations. The SALT II TREATY. Hearings . . . 96th Cong., 1st sess. on Ex. Y, 96-1 . . . July 1979, Part 1. Washington, U.S. Govt. Print. Off., 1979. p. 452. Hereafter cited as "Nitze statement, SALT II hearings."

[6] The number of SLBM launching tubes on the Typhoon SSBN is not available from unclassified sources. This study assumes 20 launching tubes.

[7] John M. Collins, *American and Soviet Military Trends: A Statistical Summary, 1970–1978*. August 22, 1979. 96 pp. (Draft, to be published.)

[8] Nitze statement, SALT II hearings, p. 460.

[9] John M. Collins, *American and Soviet Military Trends: A Statistical Summary, 1970–1978*. August 22, 1979. 96 pp. (Draft, to be published)

[10] Nitze statement, SALT II hearings, p. 458.

[11] Nitze Statement, SALT II hearings, p. 458.

TABLE III.—PROJECTED U.S. STRATEGIC WARHEADS DEPLOYABLE UNDER PROPOSED OPTION NO. I FOR SALT III

Delivery system	End of year									
	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
Minuteman III (MK-12)	1,350	1,050	750	750	750	519	135			
Minuteman III (MK-12A)	300	600	900	900	900	900	900	657	300	
M-X						250	850	1,450	2,000	2,380
Subtotal, MIRVed ICBM's	1,650	1,650	1,650	1,650	1,650	1,669	1,885	2,107	2,300	2,380
Poseidon	2,880	2,304	1,440	720	144					
Trident I (Backfit)	1,408	1,536	1,536	1,536	1,536	1,536	1,536	1,536	1,536	1,536
Trident I (Ohio class)	384	576	960	1,152	1,344	1,344	1,344	1,344	1,344	1,344
Trident II (Ohio class)						192	384	576	768	960
Subtotal, MIRVed ballistic missiles	6,322	6,066	5,586	5,058	4,674	4,741	5,149	5,563	5,948	6,220
B-52 (ALCM's)	100	500	900	1,300	1,700	1,760	1,680	1,600	1,520	1,440
Subtotal, MIRVed ballistic missiles and ALCM bombers	6,422	6,566	6,486	6,358	6,374	6,501	6,829	7,163	7,468	7,660
B-52	2,038	1,908	1,788	1,656	1,332	1,164	966	786	612	450
B-1	NA	NA	NA							
Titan II	51	49	46	44	42	40	38	36	34	32
Minuteman II	450	450	450	450	450	450	450	450	450	450
Polaris	112	80	48	32	16					
Grand total	9,063	9,053	8,818	8,540	8,214	8,155	8,283	8,435	8,564	8,592

TABLE IV.—PROJECTED U.S. STRATEGIC MEGATONNAGE DEPLOYABLE UNDER PROPOSED OPTION NO. I FOR SALT III

Delivery system	End of year									
	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
Minuteman III (MK-12)	230	179	138	128	128	88	23			
Minuteman III (MK-12A)	101	201	302	302	302	302	302	220	101	
M-X						84	285	486	670	797
Subtotal, MIRVed ICBM's	331	380	430	430	430	474	610	706	771	797
Poseidon	115	92	58	29	6					
Trident I (Backfit)	141	154	154	154	154	154	154	154	154	154
Trident I (Ohio class)	38	58	96	115	134	134	134	134	134	134
Trident II (Ohio class)						29	58	86	115	144
Subtotal, MIRVed ballistic missiles	625	684	738	728	724	791	956	1,080	1,174	1,229
B-52 (ALCM's)	20	110	180	260	340	352	336	320	304	288
Subtotal, MIRVed ballistic missiles and ALCM bombers	645	784	918	988	1,064	1,143	1,292	1,400	1,478	1,517
B-52	946	890	834	773	622	543	451	367	286	210
B-1	NA	NA	NA							
Titan II	459	441	414	396	378	360	342	324	306	288
Minuteman II	540	540	540	540	540	540	540	540	540	540
Polaris	74	53	32	21	11					
Grand total	2,664	2,708	2,738	2,718	2,615	2,586	2,625	2,631	2,610	2,555

Presented in Tables V and VI is a breakdown of the aggregate number of Soviet strategic nuclear warheads and their aggregate yield in megatons (MT), respectively, deployable with the weapons systems shown in Table II.

The figures presented in Tables V and VI are based on the following unclassified data and assumptions.[12]

(a) Single warhead SS–18 ICBMs will carry a 20 MT warhead.

(b) MIRVed SS–18s will carry eight RVs of 1 MT each; but beginning in 1986, MIRVed SS–18s will be deployed with 10 RVs of 1 MT each. The new generation of MIRVed SS–18s will be deployed at the rate of 37 annually so that all SS–18s will carry 10 RVs by 1990.

(c) Single warhead SS–19 ICBMs will carry a 10 MT warhead. MIRVed SS–19s will carry six RVs, each with a 0.75 MT warhead.

(d) Single warhead SS–17 ICBMs will carry an 8 MT warhead. MIRVed SS–17s will carry four RVs, each with a 0.75 MT warhead.

(e) Typhoon-class SSBNs will be equipped with 20 MIRVed SSN–18 SLBMs, each of which will carry seven RVs of 0.2 MT.

(f) Delta III-class SSBNs will be equipped with 16 MIRVed SSN–18 SLBMs, each of which will carry three RVs of 0.5 MT.

(g) The new CMC will carry approximately 20 large ALCMs, each with a 0.2 MT warhead.

(h) The SS–11 will carry a single 1 MT warhead.

(i) The SS–X, the one new ICBM permitted under SALT II, will carry a single 15 MT warhead.

(j) The SS–18 will carry a single 0.75 MT warhead.

(k) Yankee II-class SSBNs will carry 12 SSN–17 SLBMs, each with a single 0.75 warhead.

(l) Yankee I-class SSBNs will carry 16 SSN–6 SLBMs, each with a single 1 MT warhead.

(m) Delta II-class SSBNs will carry 16 SSN–8 SLBMs, each with a 1 MT warhead.

(n) DELTA I-class SSBNs will carry 12 SSN–8 SLBMs, each with a 1 MT warhead.

(o) Bear bombers will each carry only one Kangaroo missile with a 1 MT warhead.

(p) Bison bombers will each carry four 1 MT gravity bombs.

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[12] Nitze statement, SALT II Hearings, p. 459–60.

TABLE V.—PROJECTED SOVIET STRATEGIC WARHEADS DEPLOYABLE UNDER SALT III PROPOSED OPTION NO. I

Delivery system	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
SS–18	27	25	24	22	21					
SS–18 (8 MIRV's)	2,128	2,024	1,920	1,832	1,736	1,512	1,128	744	368	
SS–18 (10 MIRV's)						370	740	1,110	1,480	1,840
SS–19	34	34	34	34	34					
SS–19 (MIRV)	1,368	1,368	1,386	1,386	1,386	1,572	1,572	1,572	1,254	870
SS–17	34	30	26	22	18					
SS–17 (MIRV)	760	680	604	532	468	440	228			
Subtotal MIRVed ICBM's	4,351	4,161	3,994	3,828	3,663	3,894	3,668	3,426	3,102	2,710
SSN–18 (MIRV) (Typhoon class)	280	420	360	700	840	980	1,120	1,260	1,260	1,260
SSN–18 (MIRV) (Delta III class)	432	432	432	432	432	432	432	432	432	432
Subtotal MIRVed ballistic missiles	5,063	5,013	4,786	4,960	4,935	5,306	5,220	5,118	4,794	4,402
Bombers (ALCM)						300	900	1,500	2,100	2,740
Subtotal MIRVed systems and ALCM bombers	5,063	5,013	4,786	4,960	4,935	5,606	6,120	6,618	6,894	7,142
SS–11	295	231	147	67						
SS–X						60	160	252	277	277
SS–13	60	60	60	60	48					
SSN–17 (Yankee II class)	120	192	192	192	192	192	192	96	24	
SSN–6 (Yankee I class)	352	256	256	256	256	192	48			
SSN–8 (Delta II class)	64	64	64	64	64	64	64	64	64	64
SSN–8 (Delta I class)	216	216	216	216	216	216	216	216	216	216
Bear	33	33	33	32	32	17				
Bison	140	140	136	136	136	64	32			
Grand total	6,343	6,205	5,890	5,983	5,879	6,411	6,832	7,246	7,475	7,699

TABLE VI.—PROJECTED SOVIET STRATEGIC MEGATONNAGE DEPLOYABLE UNDER SALT III PROPOSED OPTION NO. I

Delivery system	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
SS–18	540	500	480	440	420					
SS–18 (8 MIRV's)	2,128	2,024	1,920	1,832	1,736	1,512	1,128	774	368	
SS–18 (10 MIRV's)						278	555	833	1,110	1,380
SS–19	340	340	340	340	340					
SS–19 (MIRV)	1,026	1,026	1,026	1,026	1,026	1,179	1,179	1,179	941	653
SS–17	262	240	216	176	144					
SS–17 (MIRV)	570	510	453	399	351	330	171			
Subtotal, MIRVed ICBM's	4,876	4,640	4,435	4,213	4,017	3,299	3,033	2,786	2,419	2,033
SSN–18 (MIRV) (Typhoon class)	56	84	112	140	168	196	224	252	252	252
SSN–18 (MIRV) (Delta III class)	216	216	216	216	216	216	216	216	216	216
Subtotal, MIRVed ballistic missiles	5,148	4,940	4,763	4,569	4,401	3,711	3,473	3,254	2,88	2,501
bombers (ALCM)						60	180	300	420	548
Subtotal, MIRVed systems and ALCM bombers	5,148	4,940	4,763	4,569	4,401	3,771	3,653	3,554	3,307	3,049

TABLE VI.—PROJECTED SOVIET STRATEGIC MEGATONNAGE DEPLOYABLE UNDER SALT III PROPOSED OPTION NO. I—Continued

Delivery system	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
SS-11	295	231	147	67						
SS-X						900	2,400	3,780	4,155	4,155
SS-13	45	45	45	45	36					
SSN-17 (Yankee II class)	90	144	144	144	144	144	144	72	16	
SSN-6 (Yankee I class)	352	256	256	256	256	192	48			
SSN-8 (Delta II class)	64	64	64	64	64	64	64	64	64	64
SSN-8 (Delta I class)	216	216	216	216	216	216	216	216	216	216
Bear	33	33	33	32	32	17				
Bison	140	140	136	136	136	64	32			
Grand total	6,383	6,069	5,804	5,529	5,285	5,368	6,557	7,686	7,758	7,484

Presented in Table VIa is a breakdown of the aggregate number of "equivalent megatons" (EMT)[13] deployable with the respective number of U.S. strategic nuclear warheads shown in Table III. Comparable data of aggregate EMT for Soviet nuclear warheads (shown in Table V) are presented in Table VIb.

With the exception of U.S. B-52 bombers armed with bombs and SRAMs, and POLARIS SLBMs, the aggregate EMT of both U.S. and Soviet forces is computed by multiplying the aggregate number of warheads of each weapon system by the EMT value of the warhead. The aggregate EMT of B-52s armed with bombs and SRAMs is computed by multiplying the number of bombers (Table I) by the aggregate EMT of the weapons load carried by each bomber.[14] In the case of POLARIS SLBMs, however, the EMT of each POLARIS SLBM is derived by multiplying by three the EMT of the warhead carried by each MRV.

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[13] EMT is a relative measure of the area destructive capability possessed by a nuclear warhead of given yield (Y). EMT is computed by the following

$$EMT = Y^{2-3}$$

Where the yield of the warhead (Y) is in megatons (MT).

[14] The aggregate EMT of two 1 MT bombs plus four 0.200 MT SRAMs is approximately equal to 3.37.

TABLE VIa.—PROJECTED U.S. STRATEGIC EMT DEPLOYABLE UNDER PROPOSED OPTION NO. I FOR SALT III

Delivery system	End of year									
	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
Minuteman III (MK-12)	414	322	230	230	230	159	41			
Minuteman III (MK-12A)	145	289	434	434	434	434	434	317	145	
M-X						121	410	699	965	1,148
Subtotal, MIRVed ICBM's	559	611	664	664	664	714	885	1,016	1,110	1,148
Poseidon	337	269	168	84	17					
Trident I (Backfit)	303	331	331	331	331	331	331	331	331	331
Trident I (Ohio class)	83	124	207	248	290	290	290	290	290	290
Trident II (Ohio class)						54	108	163	217	271
Subtotal, MIRVed ballistic missiles	1,282	1,335	1,370	1,327	1,302	1,389	1,614	1,800	1,948	2,040
B-52 (ALCM's)	34	171	308	445	581	602	575	547	520	492
Subtotal MIRVed ballistic missiles and ALCM bombers	1,316	1,506	1,678	1,772	1,883	1,991	2,189	2,347	2,468	2,532
B-52	1,138	1,071	1,004	930	748	654	543	442	344	253
B-1	NA	NA	NA							
Titan II	221	212	199	190	182	173	164	156	147	138
Minuteman II	508	508	508	508	508	508	508	508	508	508
Polaris	122	87	52	35	17					
Grand total	3,305	3,384	3,441	3,435	3,338	3,326	3,404	3,453	3,467	3,431

TABLE VIb.—PROJECTED SOVIET STRATEGIC EMT DEPLOYABLE UNDER SALT III PROPOSED OPTION NO. I

Delivery system	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
SS-18	199	184	177	162	155					
SS-18 (8 MIRV's)	2,128	2,024	1,920	1,832	1,736	1,512	1,128	744	368	
SS-18 (10 MIRV's)						370	740	1,110	1,480	1,840
SS-19	158	158	158	158	158					
SS-19 (MIRV)	1,129	1,129	1,144	1,144	1,144	1,298	1,298	1,298	1,035	718
SS-17	136	120	104	88	72					
SS-17 (MIRV)	627	561	499	439	386	363	188			
Subtotal, MIRVed ICBM's	4,377	4,176	4,002	3,823	3,651	3,543	3,354	3,152	2,883	2,558
SSN-18 (MIRV) (Typhoon class)	96	144	123	239	287	335	383	431	431	431
SSN-18 (MIRV) (Delta III class)	272	272	272	272	272	272	272	272	272	272
Subtotal, MIRVed ballistic missiles	4,745	4,592	4,397	4,334	4,210	4,150	4,009	3,855	3,586	3,261
Bombers (ALCM)						103	308	513	718	937
Subtotal, MIRVed systems and ALCM bombers	4,745	4,592	4,397	4,334	4,210	4,253	4,317	4,368	4,304	4,198
SS-11	295	231	147	67						
SS-X						365	973	1,533	1,685	1,685
SS-13	50	50	50	50	40					
SSN-17 (Yankee II class)	99	158	158	158	158	158	158	79	20	
SSN-6 (Yankee I class)	352	256	256	256	256	192	48			
SSN-8 (Delta II class)	64	64	64	64	64	64	64	64	64	64
SSN-8 (Delta I class)	216	216	216	216	216	216	216	216	216	216
Bear	33	33	33	32	32	17				
Bison	140	140	136	136	136	64	32			
Grand total	5,994	5,740	5,457	5,313	5,112	5,329	5,808	6,260	6,289	6,163

PROJECTED UNITED STATES AND SOVIET STRATEGIC OFFENSIVE WEAPON INVENTORIES UNDER OPTION NO. II

OPTION NO. II—PROPOSED SALT III CEILINGS—10 PERCENT ANNUAL REDUCTIONS (SALT II CEILINGS USED AS INITIAL ALLOWABLE INVENTORIES)

[Strategic weapon ceilings proposed under Option No. II]

	End of year—									
	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
MIRVed ICBM's (820)[1]	738	664	598	538	484	436	392	353	318	286
MIRVed ballistic missiles (1,200)[1]	1,080	972	875	787	709	638	574	517	465	418
MIRVed ballistic missiles and ALCM bombers (1,320)[1]	1,188	1,069	962	866	779	702	631	568	511	460
Delivery systems (2,250)[1]	2,025	1,823	1,640	1,476	1,329	1,196	1,076	969	872	785

[1] Under the provisions contained in the SALT II Treaty, by the end of 1980 the Soviet Union and the United States cannot possess more than 2,250 delivery systems. Within this ceiling, 1,320 delivery systems can be MIRVed ballistic missiles and ALCM bombers. However, only 1,200 MIRVed ballistic missiles are allowed within the 1,320 subceiling, and no more than 820 of the 1,200 MIRVed ballistic missiles may be ICBM's. The Soviet Union would not be permitted to possess more than 308 "heavy" ICBM's (SS-18's and SS-9's) within the allowable ceilings.

Based on these ceilings, estimates of the projected U.S. and Soviet strategic offensive weapon inventories are shown in Tables VII and VIII. The figures presented in Table VII are based on the following assumptions:

(1) The U.S. would continue to rely on the strategic "triad" for its strategic nuclear weapons inventory. Assumptions regarding the retirement of certain weapon systems are based on the requirement to achieve the reduced levels under the proposed SALT III ceilings. The systems cited for retirement or projected modernization were chosen on the basis of the assumption that there is a need for a balanced triad of modern weapon systems within the allowable ceilings.

(2) It is also assumed that all Minuteman III missiles would be retired by the end of 1990, in the interest of maintaining balanced capabilities of the ICBM forces in relation to the SLBM and bomber aircraft forces.

(3) Twenty-five M-X ICBMs would be deployed by the end of 1986, and deployments would continue at a rate of 60 missiles per year until 202 missiles are operational.

(4) An eventual U.S. goal would be an SSBN force consisting entirely of Trident SSBNs. All 31 Poseidon SSBNs would be retired from the strategic forces by the end of 1986 (one by the end of 1981, nine in 1982, nine in 1983, six in 1984, three in 1985, and three in 1986). If the Navy retained the Poseidon SSBNs, the construction of Trident SSBNs would have to stop. Current plans call for seven Poseidon SSBNs to be "backfitted" with Trident I SLBMs by the end of 1980. The calculations used to derive the data in Table VII assume that the "backfit" program would be canceled, because it would not be cost effective to equip additional Poseidon SSBNs with Trident I SLBMs if they were to be retired shortly thereafter.

(5) Nine Trident SSBNs would be deployed by the end of 1990. It is also assumed that the Trident II SLBM would not be deployed through the end of 1990, because seven Trident SSBNs would be equipped with Trident I SLBMs by the end of 1985.

(6) Five B-52 bombers would be equipped with ALCMs by the end of 1981, and additional B-52s would be equipped with ALCMs at the rate of 20 bombers per year.

(7) The United States would retain a balanced bomber force consisting of B-52s equipped with ALCMs and B-52s equipped with bombs and SRAMs. However, to be able to do so, the United States would retire some Minuteman III ICBMs.

(8) The inventory of Titan II ICBMs would be reduced by 10 percent per annum.

(9) Polaris SSBNs would be retired shortly after they complete 20 years of service. It is projected that the number of Polaris SSBNs in service would be seven by the end of 1981, five in 1982, three in 1983, two in 1984, and one in 1985.

TABLE VII.—PROJECTED U.S. STRATEGIC OFFENSIVE WEAPON INVENTORIES UNDER PROPOSED OPTION NO. II FOR SALT III

Delivery system	End of year									
	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
Minuteman III (MK-12)	450	350	250	238	184	111				
Minuteman III (MK-12A)	100	200	300	300	300	300	273	156	49	
M-X						25	85	145	200	202
Subtotal, MIRVed ICBM's	550	550	550	538	484	436	358	301	249	202
Poseidon	368	224	80							
Trident I (Backfit)	112	112	112	96	48					
Trident I (Ohio class)	48	72	120	144	168	192	216	216	216	216
Trident II (Ohio class)										
Subtotal, MIRVed ballistic missiles	1,078	958	862	778	770	628	574	517	465	418
B-52 (with ALCM's)	5	25	45	65	79	74	57	51	46	42
Subtotal, MIRVed ballistic missiles and ALCM bombers	1,083	983	907	843	779	702	631	568	511	460
B-52	338	312	292	266	252	215	169	128	90	56
B-1	4	4	4							
Titan II	49	44	39	35	32	29	26	23	21	19
Minuteman II	400	400	350	300	250	250	250	250	250	250
Polaris	112	80	48	32	16					
Grand total	1,986	1,823	1,640	1,476	1,329	1,196	1,076	969	872	785

The figures for projected Soviet inventories under Option II are presented in Table VIII, and are based on the following assumptions:

(1) The Soviet strategic posture would come to resemble the U.S. "Triad," but with less reliance on bomber aircraft.

(2) The SS-18 "heavy" ICBM would be deployed to the maximum limit allowed by treaty, reduced annually by the proposed limits of Option II. In 1986, all remaining single-warhead SS-18s would be MIRVed to maximize the number of RVs, as some of the new SS-X (discussed below) probably would be deployed against extremely hard targets.

(3) SS-19 and SS-17 ICBMs would be reduced in number and eventually retired from service (1986 for SS-17s and 1990 for SS-19s) in order to allow the maximum deployment of SS-18 ICBMs and SSN-18 SLBMs.

(4) Five new Typhoon-class SSBNs equipped with SSN-18 MIRVed SLBMs would be deployed: two by 1981 and one added each year until the total of five is reached in 1984. Production of Typhoon-class SSBNs would be restricted to five by the limits on MIRVed ballistic missiles established by the proposed reductions.

(5) The nine Delta III-class SSBNs equipped with SSN-18 SLBMs would remain in service through 1990.

(6) A new CMC would be developed capable of carrying approximately 20 ALCMs. Fifteen CMCs would be deployed initially in 1986, with approximately 30 added annually to a total of 100 in 1990.

(7) All SS-11 ICBMs would be retired by 1983 to allow retention of more modern strategic nuclear delivery systems.

(8) A new ICBM, designated SS-X, would be developed and deployed with a single 15 MT warhead. SS-X would be deployed at the rate of approximately 40 per year beginning in 1986, reaching a total of 153 in 1989. The total would be frozen at 153 by the limits established by the proposed reductions.

(9) All SS-13 ICBMs would be retired by 1983.

(10) The 22 Yankee I-class SSBNs with their SSN-6 SLBMs would be retired from the strategic forces as follows: eight in 1984, four in 1985, seven in 1986, and the last three in 1987. It would not be economical to backfit these boats to fire the improved SSN-17 SLBM, since the boats would be retired from service so rapidly.

(11) The 10 Yankee II-class SSBNs equipped with SSN-17 SLBMs would remain in service through 1985. Two would be retired in 1987 and the remaining eight in 1988 to comply with the decreasing PAR/SALT III Treaty limits.

(12) The four Delta II-class SSBNs with their SSN-8 SLBMs would remain in service through 1990.

(13) Of the 18 Delta I-class SSBNs with their SSN-8 SLBMs, nine would be retired from the strategic forces as follows: six in 1989 and three in 1990.

(14) Approximately 70 Bear and Bison bombers would be kept in service in the Long Range Bomber Force through the mid-1980's, when they would be replaced by the new CMC. (See note 6 above.)

TABLE VIII.—PROJECTED SOVIET STRATEGIC OFFENSIVE WEAPON INVENTORIES UNDER SALT III PROPOSED OPTION NO. II

Delivery system	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
SS-18[1]	25	22	19	17	15					
SS-18 (MIRV)	252	227	205	185	167	164	148	133	120	108
SS-19[1]	34	34	34	34	34	2				
SS-19 (MIRV)	228	228	228	228	228	228	182	115	41	
SS-17[1]	33	26	21	16						
SS-17 (MIRV)	166	127	19	58	21					
Subtotal, MIRVed ICBM's[2]	738	664	598	538	465	394	330	248	161	108
SSN-18 (MIRV) (Typhoon class)	40	60	80	100	100	100	100	100	100	100
SSN-18 (MIRV) (Delta III class)	144	144	144	144	144	144	144	144	144	144
Subtotal, MIRVed ballistic missiles	922	868	822	782	709	638	574	492	405	352
Bombers (ALCM)						15	46	76	106	108
Subtotal, MIRVed systems and ALCM bombers	922	868	822	782	709	653	620	568	511	460
SS-11	223	75								
SS-X						40	80	121	153	153
SS-13	60	60								
SSN-17 (Yankee II class)	120	120	120	120	120	120	96			
SSN-6 (Yankee I class)	352	352	352	224	160	48				
SSN-8 (Delta II class)	64	64	64	64	64	64	64	64	64	64
SSN-8 (Delta I class)	216	216	216	216	216	216	216	216	144	108
Bear	33	33	31	31	26	26				
Bison	35	35	32	32	34	29				
Grand total	2,025	1,823	1,637	1,469	1,329	1,196	1,076	969	872	785

[1] All SS-17, SS-18, and SS-19 ICBM's are counted as MIRVed ICBM's under Article II of the SALT II Treaty, since they have been flight tested in a MIRVed mode. Some of these ICBM's may be deployed with single warheads.

[2] The subtotal of MIRVed ICBM's includes single-warhead as well as MIRVed SS-17, SS-18, and SS-19 ICBM's, as explained in note above.

Presented in Tables IX and X is a breakdown of the aggregate number of U.S. strategic nuclear warheads and their aggregate yield in megatons (MT), respectively, deployable with the weapons systems shown in Table IV. The figures presented in Tables IX and X are based on the data and assumptions used in deriving the projections on warheads and yield estimated for Option No. I.

TABLE IX.—PROJECTED U.S. STRATEGIC WARHEADS DEPLOYABLE UNDER PROPOSED OPTION NO. II FOR SALT III

	End of year—									
Delivery system	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
Minuteman III (MK-12)	1,350	1,050	750	714	552	333				
Minuteman III (MK-12A)	300	600	900	900	900	900	819	468	147	
M-X						250	850	1,450	2,000	2,020
Subtotal, MIRVed ICBM's	1,650	1,650	1,650	1,614	1,452	1,483	1,669	1,918	2,147	2,020
Poseidon	3,312	2,016	720							
Trident I (Backfit)	896	896	896	768	384					
Trident I (Ohio class)	384	576	960	1,152	1,344	1,536	1,728	1,728	1,728	1,728
Trident II (Ohio class)										
Subtotal, MIRVed ballistic missiles	6,242	5,138	4,226	3,534	3,180	3,019	3,397	3,646	3,875	3,748
B-52 (ALCM's)	100	500	900	1,300	1,580	1,480	1,140	1,020	920	840
Subtotal MIRVed ballistic missiles and ALCM bombers	6,342	5,638	5,126	4,834	4,760	4,499	4,537	4,666	4,795	4,588
B-52	2,028	1,872	1,752	1,596	1,512	1,290	1,014	768	540	336
B-1	NA	NA	NA							
Titan II	49	44	39	35	32	29	26	23	21	19
Minuteman II	400	400	350	300	350	250	250	250	250	250
Polaris	112	80	48	32	16					
Grand total	8,931	8,034	7,315	6,797	6,570	6,068	5,827	5,707	5,606	5,193

TABLE X.—PROJECTED U.S. STRATEGIC MEGATONNAGE DEPLOYABLE UNDER PROPOSED OPTION NO. II FOR SALT III

	End of year—									
Delivery system	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
Minuteman III (MK-12)	230	179	128	121	94	57				
Minuteman III (MK-12A)	101	201	302	302	302	302	274	157	49	
M-X						84	285	486	670	677
Subtotal, MIRVed ICBM's	331	380	430	423	396	443	559	643	719	677
Poseidon	132	81	29							
Trident I (Backfit)	90	90	90	77	38					
Trident I (Ohio class)	38	58	96	115	134	154	173	173	173	173
Trident II (Ohio class)										
Subtotal, MIRVed ballistic missiles	591	609	645	615	568	597	732	816	892	850
B-52 (ALCM's)	20	100	180	260	316	296	228	204	184	168
Subtotal, MIRVed ballistic missiles and ALCM bombers	611	709	825	875	884	893	960	1,020	1,076	1,018
B-52	946	874	818	745	706	602	473	358	252	157
Titan II	441	396	351	315	288	261	234	207	189	171
Minuteman II	480	480	420	360	300	300	300	300	300	300
Polaris	74	53	32	21	11					
Grand total	2,552	2,512	2,446	2,316	2,189	2,056	1,967	1,885	1,817	1,646

Presented in Tables XI and XII is a breakdown of the aggregate number of Soviet nuclear warheads and their aggregate yield in megatons, respectively, deployable with the weapons systems shown in Table VIII. The figures presented in Tables XI and XII are based on the same data and assumptions used in deriving the projections estimated for Option No. I.

TABLE XI.—PROJECTED SOVIET STRATEGIC WARHEADS DEPLOYABLE UNDER SALT III PROPOSED OPTION NO. II

Delivery system	1981	1982	1983	1984	1985	1986	1987	1998	1989	1990
SS-18	25	22	19	17	15					
SS-18 (8 MIRV's)	2,016	1,816	1,640	1,480	1,336	1,136	832	536	256	
SS-18 (10 MIRV's)						220	440	660	880	1,080
SS-19	34	34	34	34	34	2				
SS-19 (MIRV)	1,368	1,368	1,368	1,368	1,368	1,368	1,092	690	246	
SS-17	33	26	21	16						
SS-17 (MIRV)	664	508	364	232	84					
Subtotal, MIRVed ICBM's	4,140	3,774	3,446	3,147	2,837	2,726	2,364	1,886	1,382	1,080
SSN-18 (MIRV) (Typhoon class)	280	420	640	700	700	700	700	700	700	700
SSN-18 (MIRV) (Delta III class)	432	432	432	432	432	432	432	432	432	432
Subtotal, MIRVed ballistic missiles	4,852	4,626	4,518	4,279	3,969	3,858	3,496	3,018	2,514	2,212
Bombers (ALCM)						300	920	1,520	2,120	2,160
Subtotal, MIRVed systems and ALCM bombers	4,852	4,626	4,518	4,279	3,969	4,158	4,416	4,538	4,634	4,372
SS-11	223	75								
SS-X						40	80	121	153	153
SS-13	60	60								
SSN-17 (Yankee II class)	120	120	120	120	120	120	96			
SSN-6 (Yankee I class)	352	352	352	224	160	48				
SSN-8 (Delta II class)	64	64	64	64	64	64	64	64	64	64
SSN-8 (Delta I class)	216	216	216	216	216	216	216	216	144	108
Bear	33	33	31	31	26	26				
Bison	140	140	128	128	136	116				
Grand total	6,060	5,686	5,429	5,062	4,691	4,788	4,782	4,939	4,995	4,697

TABLE XII.—PROJECTED SOVIET STRATEGIC MEGATONNAGE DEPLOYABLE UNDER SALT III PROPOSED OPTION NO. II

Delivery system	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
SS-18	500	440	380	340	300					
SS-18 (8 MIRV's)	2,016	1,816	1,640	1,480	1,336	1,136	832	536	256	
SS-18 (10 MIRV's)						220	440	660	880	1,080
SS-19	340	340	340	340	340	20				
SS-19 (MIRV)	1,026	1,026	1,026	1,026	1,026	1,026	819	518	185	
SS-17	264	208	168	128						
SS-17 (MIRV)	498	381	273	174	63					
Subtotal, MIRVed ICBM's	4,644	4,211	3,827	3,488	3,065	2,402	2,091	1,714	1,321	1,080
SSN-18 (MIRV) (Typhoon class)	56	84	128	140	140	140	140	140	140	140
SSN-18 (MIRV) (Delta III class)	216	216	216	216	216	216	216	216	216	216
Subtotal, MIRVed ballistic missiles	4,916	4,511	4,171	3,844	3,421	2,758	2,447	2,070	1,677	1,436
Bombers (ALCM)						60	184	304	424	432
Subtotal, MIRVed systems and ALCM bombers	4,916	4,511	4,171	3,844	3,421	2,818	2,631	2,374	2,101	1,868
SS-11	223	75								
SS-X						600	1,200	1,815	2,295	2,295
SS-13	45	45								
SSN-17 (Yankee II class)	90	90	90	90	90	90	72			
SSN-6 (Yankee I class)	352	352	352	224	160	48				
SSN-8 (Delta II class)	64	64	64	64	64	64	64	64	64	64
SSN-8 (Delta I class)	216	216	216	216	216	216	216	216	144	108
Bear	33	33	31	31	26	26				
Bison	140	140	128	128	136	116				
Grand total	6,079	5,526	5,052	4,597	4,113	3,978	4,183	4,469	4,604	4,335

Presented in Table XIIa is a breakdown of the aggregate number of "equivalent megatons" (EMT)[15] deployable with the respective number of U.S. strategic nuclear warheads shown in Table IX. Comparable data of aggregate EMT for Soviet nuclear warheads (shown in Table XI) are presented in Table XIIb.

With the exception of U.S. B-52 bombers armed with bombs and SRAMs, and POLARIS SLBMs, the aggregate EMT of both U.S. and Soviet forces is computed by multiplying the aggregate number of warheads of each weapon system by the EMT value of the warhead. The aggregate EMT of B-52s armed with bombs and SRAMs is computed by multiplying the number of bombers (Table VII) by the aggregate EMT of the weapons load carried by each bomber.[16] In the case of POLARIS SLBMs, however, the EMT of each POLARIS SLBM is derived by multiplying by three the EMT of the warhead carried by each MRV.

TABLE XIIa.—PROJECTED U.S. STRATEGIC EMT DEPLOYABLE UNDER PROPOSED OPTION NO. II FOR SALT III

Delivery system	End of year									
	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
Minuteman III (MK-12)	414	322	230	219	169	102				
Minuteman III (MK-12A)	145	289	434	434	434	434	395	226	71	
M-X						121	410	699	965	974
Subtotal, MIRVed ICBM's	559	611	664	653	603	657	805	925	1,036	974
Poseidon	387	236	84							
Trident I (Backfit)	193	193	193	165	83					
Trident I (Ohio class)	83	124	207	248	290	331	372	372	372	372
Trident II (Ohio class)										
Subtotal, MIRVed ballistic missiles	1,222	1,164	1,148	1,066	976	988	1,177	1,297	1,408	1,346
B-52 (ALCM's)	34	171	308	445	540	506	390	349	315	287
Subtotal, MIRVed ballistic missiles and ALCM bombers	1,256	1,335	1,456	1,511	1,516	1,494	1,567	1,646	1,723	1,633
B-52	1,138	1,051	984	896	849	724	569	431	303	189
B-1	NA	NA	NA							
Titan II	212	190	169	151	138	125	112	100	91	82
Minuteman II	452	452	395	339	282	282	282	282	282	282
Polaris	122	87	52	35	17					
Grand total	3,180	3,115	3,056	2,932	2,802	2,625	2,530	2,459	2,399	2,186

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[15] EMT is a relative measure of the area destructive capability possessed by a nuclear warhead of given yield (Y). EMT is computed by the following formula:

$$EMT = Y^{2-3}$$

Where the yield of the warhead (Y) is in megatons (MT).

[16] The aggregate EMT of two 1 MT bombs plus four 0.200 MT SRAMs is approximately equal to 3.37.

TABLE XIIb.—PROJECTED SOVIET STRATEGIC EMT DEPLOYABLE UNDER SALT III PROPOSED OPTION NO. II

Delivery system	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
SS-18	184	162	140	125	111					
SS-18 (8 MIRV's)	2,016	1,816	1,640	1,480	1,336	1,136	832	536	256	
SS-18 (10 MIRV's)						220	440	660	880	1,080
SS-19	158	158	158	158	158	9				
SS-19 (MIRV)	1,129	1,129	1,129	1,129	1,129	1,129	901	570	203	
SS-17	132	104	84	64						
SS-17 (MIRV)	548	419	300	192	69					
Subtotal, MIRVed ICBM's	4,167	3,788	3,451	3,148	2,803	2,494	2,173	1,766	1,339	1,080
SSN-18 (MIRV) (Typhoon class)	96	144	219	239	239	239	239	239	239	239
SSN-18 (MIRV) (Delta III class)	272	272	272	272	272	272	272	272	272	272
Subtotal, MIRVed ballistic missiles	4,535	4,204	3,942	3,659	3,314	3,005	2,684	2,277	1,850	1,591
Bombers (ALCM)						103	315	520	725	739
Subtotal, MIRVed systems and ALCM bombers	4,535	4,204	3,942	3,659	3,314	3,108	2,999	2,797	2,575	2,330
SS-11	223	75								
SS-X						243	487	736	913	931
SS-13	50	50								
SSN-17 (Yankee II class)	99	99	99	99	99	99	79			
SSN-6 (Yankee I class)	352	352	352	224	160	48				
SSN-8 (Delta II class)	64	64	64	64	64	64	64	64	64	64
SSN-8 (Delta I class)	216	216	216	216	216	216	216	216	144	108
Bear	33	33	31	31	26	26				
Bison	140	140	128	128	136	116				
Grand total	5,712	5,233	4,832	4,421	4,015	3,920	3,845	3,813	3,714	3,433

JOINT STATEMENT OF PRINCIPLES AND BASIC GUIDELINES FOR SUBSEQUENT NEGOTIATIONS ON THE LIMITATION OF STRATEGIC ARMS

The United States of America and the Union of Soviet Socialist Republics, hereinafter referred to as the Parties,

Having concluded the Treaty on the Limitation of Strategic Offensive Arms,

Reaffirming that the strengthening of strategic stability meets the interests of the Parties and the interests of international security,

Convinced that early agreement on the further limitation and further reduction of strategic arms would serve to strengthen international peace and security and to reduce the risk of outbreak of nuclear war,

Have agreed as follows:

First. The Parties will continue to pursue negotiations, in accordance with the principle of equality and equal security, on measures for the further limitation and reduction in the numbers of strategic arms, as well as for their further qualitative limitation.

In furtherance of existing agreements between the Parties on the limitation and reduction of strategic arms, the Parties will continue, for the purposes of reducing and averting the risk of outbreak of nuclear war, to seek measures to strengthen strategic stability by, among other things, limitations on strategic offensive arms most destabilizing to the strategic balance and by measures to reduce and to avert the risk of surprise attack.

Second. Further limitations and reductions of strategic arms must be subject to adequate verification by national technical means, using additionally, as appropriate, cooperative measures contributing to the effectiveness of verification by national technical means. The Parties will seek to strengthen verification and to perfect the operation of the Standing Consultative Commission in order to promote assurance of compliance with the obligations assumed by the Parties.

Third. The Parties shall pursue in the course of these negotiations, taking into consideration factors that determine the strategic situation, the following objectives:

(1) significant and substantial reductions in the numbers of strategic offensive arms;

(2) qualitative limitations on strategic offensive arms, including restrictions on the development, testing, and deployment of new types of strategic offensive arms and on the modernization of existing strategic offensive arms;

(3) resolution of the issues included in the Protocol to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Strategic Offensive Arms in the context of the negotiations relating to the implementation of the principles and objectives set out herein.

Fourth. The Parties will consider other steps to ensure and enhance strategic stability, to ensure the equality and equal security of the Parties, and to implement the above principles and objectives. Each Party will be free to raise any issue relative to the further limitation of strategic arms. The Parties will also consider further joint measures, as appropriate, to strengthen international peace and security and to reduce the risk of outbreak of nuclear war.

VIENNA, *June 18, 1979*.

For the United States of America, JIMMY CARTER, President of the United States of America.

For the Union of Soviet Socialist Republics, LEONID BREZHNEV, General Secretary of the CPSU, Chairman of the Presidium of the Supreme Soviet of the USSR.

Mr. McGOVERN. Mr. President, if I may, I will yield for a moment to the Senator from Rhode Island.

The PRESIDING OFFICER. Without objection, the declaration will be received.

Mr. CHAFEE. Mr. President, I thank the Senator from South Dakota for yielding at this time.

Mr. President, I am particularly pleased to join Senator GEORGE McGOVERN, in introducing this declaration regarding negotiation of a SALT III treaty. There are several reasons for this.

First of all, I am a supporter of the SALT process and of the SALT II treaty. I believe that SALT holds the promise of reducing the threat of nuclear war under which we all live. And I believe that the SALT II treaty secures very real benefits to this country while, at the same time, allowing us to pursue the strengthening and modernization of our national defense.

Second, I believe that the Senate's consideration of the SALT II treaty should be and must be a bipartisan exercise. It must be, because without bipartisan support, this treaty will never receive the Senate's two-thirds vote on the resolution of ratification.

In this regard, earlier this afternoon, I joined in a press conference with five other Senators who have expressed their support of the SALT II treaty. This group included Members from both sides of this body, Democrats and Republicans, who said that they represented the "broad, bipartisan support which speaks as strongly for the strength of this treaty as anything does—and bodes well for its ultimate approval."

Third, I believe that the American people and the rest of the world are ready for the superpowers to begin a genuine and meaningful effort in the direction of arms reductions. Of course, this is what the Senator from South Dakota was referring to. While the SALT II treaty secures meaningful limitations on the strategic nuclear arsenals of both sides, and even secures some reductions on the part of the Soviets, it does not provide the deep cuts that we all look forward to. So I am glad to join my distinguished colleague from South Dakota today in proposing a method for reduction—not just limitation but reduction—of the strategic arsenals of the United States and the Soviet Union.

Mr. President, it has been estimated that the strategic nuclear arsenals of the United States and the Soviet Union contain the equivalent of three tons of high explosives for every man, woman and child on this Earth. It is time—indeed, the time is long overdue—that we address this problem and get some reductions.

The purpose of this proposal is to declare that at least part of the agenda for SALT III will be to secure continuous year-by-year reductions in the ceilings and subceilings of the SALT II treaty, and this is very important. In this way we can simply and naturally build on the fruits of negotiations that have been conducted by three administrations over a 7-year period. The SALT II limits—including the 2,250 aggregate, the 1,320, 1,200, and 820 subceilings and the 308 "heavy" intercontinental ballistic missile subceiling—could all be reduced by a negotiated figure on a year-by-year basis.

We do not wish to tie the negotiators hands in all of this, and we have expressly refrained from setting an exact figure or figures which the reductions should or must equal. Nonetheless, it is my hope that the United States and the Soviet Union could agree to significant and substantial reductions in the numbers of strategic arms—perhaps even 30 percent reductions over the duration of the SALT III treaty. I think that the Congressional Research Service report titled "Reducing the Number of U.S. and Soviet Strategic Offensive Weapons," which we have asked be inserted into the Record, is useful in showing that this figure is not unreasonable.

Mr. President, it is my belief that the whole SALT process has become so complicated that many of our citizens—indeed, many people everywhere in the world—can no longer easily grasp the meaning of what we have attained in the SALT II treaty. The beauty of our proposal here today is that it is simple, natural, and straightforward. Using the ceilings and subceilings already established by the SALT II treaty, United States and Soviet negotiators have only to agree on a figure or figures which will be applied to each preceding year's level to establish the annual reductions.

While the administration is free to negotiate any reductions it wishes, the size of the figure will make it exceedingly clear to the Congress, the American people and to the world whether the SALT process is really working. If the best they can do is a 1 percent reduction each year for 10 years, for example, we will all know immediately that the prospect for significant and substantial reduction is dim. And we can respond accordingly. However, if the negotiators agree to a 5 percent annual reduction over 8 years, we will know immediately that the SALT process is working to significantly reduce the massive strategic arsenals whose warheads threaten us all.

Mr. President. It goes without saying that Senator McGovern and I come from different parties, different regions of the country, and different political viewpoints. But we have worked long and hard on this declaration together, because we are both convinced that the further buildup of the strategic arsenals of the United States and the Soviet Union must be stopped. We are not made more secure by the possession of these weapons in the numbers they now total. We are made less secure. So Senator McGovern and I dedicated ourselves here today to the proposition that, whatever else it achieves, SALT III must produce reductions in the strategic arsenals of both sides. And we sincerely hope that our colleagues will join us in this important bipartisan undertaking.

NOTICES OF HEARINGS

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

● Mr. STEWART. Mr. President, I wish to announce that the Subcommittee on Agricultural Research and General Legislation which I chair has scheduled a hearing on S. 770, a bill to prohibit futures trading in potatoes. The hearing will be held on Thursday, November 15, beginning at 9 a.m. in room 324, Russell. A limited number of public witnesses will be accepted. Anyone wishing further information should contact the Agriculture Committee staff at 224-2035.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the sessions of the Senate on Wednesday, November 7, 1979, Thursday, November 8, 1979, and Friday, November 9, 1979, to hold hearings on S. 1946, the Railroad Transportation Policy Act of 1979.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NUCLEAR REGULATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Nuclear Regulation of the Committee on Environment and Public Works be authorized to meet during the session of the Senate today to review the report of the President's Commission on the Accident at Three Mile Island.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

GASOLINE

● Mr. GOLDWATER. Mr. President, appearing in the Review of the News, July 11, 1979, there was a most interesting article on gasoline pointing out some of the major difficulties which face this country in bringing to the citizens an adequate, constant and perpetual supply of energy. I am placing this in the Congressional Record because starting with the fact, which this article points out, that we appropriate almost $11 billion for the Department of Energy to satisfy its nearly 20,000 employees who do not produce anything, down through all the cruel, hard facts of what this Congress and others have built in to the prevention of proper oil and energy from our own resources, should make my colleagues think if they will but read it. Taking the controls off of oil and gas sources in this country would, in my humble opinion, make the United States self-sufficient within 5 years; do away with 20,000 employees and a nearly $12 billion budget, and if the President is sincere about his constant talking about cutting the power of Government, here is a very good place to start. I ask that this article be printed in the Record.

The article follows:

Gasoline

As you sit in line waiting to get gasoline because of the shortage, please remember that all this hassle was caused by deliberate federal policy. And that the $10.8 billion Department of Energy, with its nearly 20,000 employees who produce no energy whatever, has a vested interest in maintaining the "crisis." Indeed, President Carter this May said the American people need a "few demonstrable shortages" of gasoline in order to get us to conserve. Not more production, mind you, but more inconvenience so we will be willing to accept the "inevitable."

Such shortages are easily created. All that is required comments Nobel Prize-winning economist Milton Friedman, is to have "the government legislate a maximum price that is below the price that would otherwise prevail." That is what happened in August of 1971 when President Nixon imposed wage and price controls. But when controls were lifted elsewhere in 1973, they were continued on the petroleum industry. And when prices are kept below what they would be in a free market, as surely as night follows day, consumption is encouraged even as production is discouraged. That is exactly what happened. Domestic crude-oil production since controls were implemented has been falling by about four percent a year.

Meanwhile, only one major refinery has been built in the United States during the past six years because of government price regulation and environmental restrictions. There was, for instance, the incredible harassment of an enormous facility in California that was to have been the world's cleanest refinery. Dow Chemical finally walked away from this project in disgust after being forced to spend $1 million just on the preliminary government paperwork.

Never mind that there is a desperate need for such facilities in California, where the crude is high in sulphur and requires special, expensive refining to meet fanatical environmental standards. California, you see, not only has a "glut" of its own heavy crude but also of the heavy crude from Alaska.*

But, should you actually build a billion-dollar refinery to process that Alaska crude, it must be done according to D.O.E. regulations. "You must pass through capital costs evenly across your product mix," reported the Wall Street Journal for May 16th. "So if you invest in new gasoline equipment, you have to raise your price for fuel oil, even if fuel oil is a drag on the market and consumers are crying for gasoline. Naturally, few refineries were built under these rules. A few months ago DOE figured this might be a problem and introduced something called a 'tilt' rule to cure it. It takes more than a few months to build a refinery, but the tilt rule is an open admission by DOE that for six years it has inhibited modernization of refineries.... Chiefly due to the mismatch of [types of] crude and [ecology rules applied to] refineries, refineries in California have been operating at about 80 percent of capacity during the great gasoline shortage."

What we are dealing with here is out-and-out sabotage, Sohio spent millions trying to get approval to build a pipeline to move Alaskan oil from California to the interior of the country where it could be refined without harassment. Environmentalists attacked the project through the courts and the government bureaucracy until it also became too expensive and was dropped. Thus the abundance of crude on our West Coast must make a long and expensive trip through the Panama Canal to the refineries in the East and on the Gulf.

As you know, it was also the environmentalists and the federal bureaucracy who forced on us the use of unleaded gasoline. Unleaded requires more oil per barrel of crude than does leaded. Use of unleaded has now risen to 42 percent of gasoline consumption, a demand 20 percent higher than last year. Refining capacity for the unleaded, however, hasn't followed suit because of the harassments we have cited. And, according to John O'Leary, Deputy Secretary of D.O.E., there are no major refinery expansions or improvements on line for the next two years. Secretary O'Leary blames D.O.E.'s price rules.

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* In fact, some 23,000 of California's 66,500 oil wells have been closed because it is now uneconomical to open them. Independents explain that 15,000 of these could be redrilled if only the Department of Energy would put its price mechanism where the sun doesn't shine.

Federal regulations also prevent refiners in other parts of the country, where there are no gasoline lines, from sending gas where it is needed until everyone on their "list" has been given his share. This is because we already have a system of rationing called "allocations," which (until March) froze supply patterns at the 1972 sales figures. Such figures, alas, ignore demographic and other changes. The base period has been changed three times in recent months—to 1973, to 1978, and will revert to 1977 in October. Maybe. The bureaucratically controlled petroleum marketplace must put up with 3,000 pages of such stifling and constantly changing regulations.

The solution is simple. If all price-controls were dropped at once and allocations eliminated, the gasoline lines would disappear. In the short run, prices would rise a few cents, but the market would quickly clear. And if the Department of Energy were also abolished, with its $10.8 billion budget, taxpayers would reap a boon equivalent to nine cents per gallon of gasoline sold—which is the equivalent amount of tax money required to support D.O.E.

Should we abolish the Department of Energy? Consider the D.O.E.'s "entitlement" program, which is supposed to "equalize" refinery costs for domestic oil and the O.P.E.C. oil that now represents almost half of our consumption. Since foreign oil from the cartel is more expensive than U.S. crude, the refiner of the latter is required to pay the former. It's virtually a subsidy for using foreign crude! Little wonder O.P.E.C. has driven its prices up 500 percent in six years.

Meanwhile, the President's two-and-a-half year decontrol of "old" oil prices ensures that all the available oil will not come to market when we need it—now. As one producer explained a while back: "Why produce oil now at $6 a barrel, when in 28 months, (we) can get $15 to $20 a barrel." Federal price control policy made it profitable to hold back gasoline production, because the growing sellers' market allowed legal price increases that were previously deferred.

The meddling is unbelievable. For instance, D.O.E. first ordered oil companies to stay out of the "spot" market of uncontracted supplies, then abruptly reversed itself. Likewise, in April, the energy bureaucracy mandated an early buildup of fuel oil for next winter, despite any shortages of gasoline it might cause; then a month later (after the shortages resulted) it ordered production of more gasoline. Such destructive shifting of policy is par for the course with the energy bureaucrats. In the past decade, the bureaucracy has called for a shift from coal-burning power plants to oil; then reversed itself; then reversed again. The consumer paid millions for these conversions.

At the same time, future domestic oil production is under attack by the ecofreaks. Environmentalists have recently frozen development of a block of land in Alaska that totals more than the acreage of all California and where geologists believe there may be the equivalent of one or two more "Prudhoe Bays." You get some idea of what that means when you know that Prudhoe Bay is estimated to contain one-third of our proven oil reserves. Just one part of this newly frozen "wilderness" might well produce 14 billion barrels of oil, but will not be allowed to do so—because, it is explained, some precious caribou visit the area six weeks a year. In fact the Environmental Protection Agency has just proposed new "waste" regulations estimated by the American Petroleum Institute to cost $45.5 billion a year! That is a figure about double the industry's budget for exploration, drilling, and production for oil and gas, and is even larger than our total O.P.E.C. bill last year. The cost of this E.P.A. proposal would bleed the industry by two to three times its after-tax profits—but you will pick up the tab for this at the pump.

Federal harassment is simply overwhelming. The National Environmental Policy Act of 1969, for instance, held up for six years the Alaska oil pipeline while foreign cartelists laid the groundwork for O.P.E.C. In like fashion, development of our outer continental shelf has been slowed, though on February 1, 1977, there was a retroactive doubling of rental fees on most federal offshore oil and gas leases. According to recent testimony, it now takes the Bureau of Land Management up to three years to process an exploration permit. In sparsely populated Nevada, there is a backlog of oil and gas applications totaling more than 530 leases covering one million acres. In Montana there are some 3,000 backlogged applications.

Is all of this accidental? Apparently not. In fact collectivists in our government have set out purposely to create these shortages. The D.O.E. has prepared a document called an Energy Emergency Planning Guide. As the New York Times for November 24, 1978, reported: "The Energy Department plans to stage fake energy emergencies around the country in the next three years. . . . 'Throughout the exercises no participation will have an advance knowledge of the scenarios or of the mock emergencies to be used,' the draft report says."

Add to these contrivances last summer's large demand for gasoline; last winter's extreme cold; the disruption of 17.5 million barrels of Iranian gasoline as a result of Carter's betrayal of the Shah; the government's 46 million barrel "emergency" gasoline allocation to states and "priority" users (about 15 percent of total supply); the sharp drop in domestic production resulting from price controls; and, lo and behold—shortages.

Remember the coffee crisis of a few years ago? What if we had set up a Department of Coffee, which subsidized foreign tea growers; allocated "old" coffee to previous consumption levels; demanded a windfall profits tax on coffee growers; set up an odd-even-day sales policy and regulated the hours of sales; proposed Coffee Stamps for the poor; and had, in short, done everything possible to ensure that the marketplace could not set its own price based upon supply and demand? We would have guaranteed panic buying, hoarding, a continued "crisis," and permanent shortages. Thankfullv, that did not happen. It is happening to gasoline.

What about oil company profits? Are the greedy oil companies ripping us off? Data Resources places the profit margin of the oil firms, as a percentage of revenue, at 4.5 percent—which is below average for American industry. And yet the President has declared a new "windfall profits" tax on the oil industry.

To repeat, if oil price controls and allocations were lifted, the gasoline lines would dwindle. If the federal government would get out of the way, we would be awash in as much gasoline and heating oil as is demanded. The crisis we face is man-made, and the men who made it are in Washington, D.C., running amuck. Those gasoline lines are all that should be needed to prove Jefferson was right in asserting that government governs best which governs least.

WILLIAM P. HOAR.

DISASTER ASSISTANCE TO THE CARIBBEAN ISLANDS

● Mr. **JAVITS**. Mr. President, as an original cosponsor of H.R. 5218, I am gratified that the Senate has passed this bill which authorizes the appropriation of $25 million for emergency assistance to the Caribbean nations that have been devastated by the recent hurricanes in that region.

In view of the tragedy and devastation to the Dominican Republic, Dominica, and other parts of the Caribbean, which have resulted from Hurricane David and the heavy rains of Hurricane Frederic, it is imperative that the United States continue to provide emergency aid and reconstruction assistance to this area. To date, the Dominican Republic and the nation of Dominica have suffered the most. It is estimated that 4,000 persons have died and 450 persons have been injured in the Dominican Republic. In addition, there are approximately 105,000 displaced persons and 160,000 persons who are homeless as a result of the storm. In Dominica, it is estimated that 38 people have died; 2,500 have been injured, and approximately 60,000 people—over 80 percent of the total population—are homeless.

In addition, the hurricanes have caused tremendous losses to the economies of these two countries, which are heavily dependent on their agricultural sectors. These countries are in desperate need of reconstruction assistance. The Dominican Republic suffered a total loss of approximately $1 billion, with losses in the agricultural sector alone totaling about $125 million. The damage to the rice, coffee, cocoa, and sugar fields was extensive; and it will be years before the agricultural sector recovers its productive capacity. The transportation infrastructure in some areas of these countries also was completely destroyed, and the destruction of electric power and water systems has exposed large sections of the population to contagious disease.

In addition to our humanitarian concern for the people of these islands, our assistance will have another important benefit. By rebuilding the economic foundation of these countries, our reconstruction aid would help insure that the recently formed democratic system of government in the Dominican Republic continues.

While the efforts of the Carter administration and U.S. private agencies have been laudable in easing the immediate crisis, they have not been enough. I hope that the administration will act in an expedient manner to implement this bill, which has been passed by both Houses of Congress, and which will provide ongoing relief and launch the reconstruction efforts which are necessary to rebuild the hurricane-stricken islands of the Caribbean.●

PEACE IN THE MIDDLE EAST

● Mr. **ROTH**. Mr. President, on October 11, Governor John Connally made a controversial speech on the subject of peace in the Middle East.

This premise is that the United States should now present a number of far-reaching new proposals for a comprehensive peace settlement. He outlines a nine-point proposal including Israeli withdrawal of occupied territories, Palestinian self-determination, resolution of the status of Jerusalem, a customs union between Israel and the Palestinian homeland, a joint Israeli-Palestinian development bank, Arab agreement not to use oil as a political weapon, a new international treaty to guarantee peace in the Middle East, and an American military presence in that region.

I do not think it appropriate, wise, or necessary for the United States to try to dictate an overall peace accord at this time. The kind of peace we want—a genuine and lasting peace—is going to be the end process of a long and difficult period of bargaining. The United States has played and should continue to play an important role in facilitating negotiations, but the future compromises will be a product of the domestic decisions of the disputing parties. To try to force a peace, based on an outside perspective, could well jeopardize the progress made so far.

I believe the most important immediate task of American diplomacy in the Middle East lies in consolidating the very fragile peace process already begun between Egypt and Israel. Both governments have made very difficult internal decisions to come as far as they have. The Egyptians are deeply concerned about their position within the Arab world. They want time to prove to their neighbors that they were right in participating in the peace process.

The Israelis are rightly concerned about their security, and they want time to test the good faith of the other side. The United States also has a long-standing and continuing national interest in the security of Israel, as the only real democracy and consistent friend of the United States in the Middle East.

The questions of self-determination for the Palestinians and the eventual political status of Jerusalem are extremely controversial. To insist these issues must be decided at this point could well destroy the basis for agreement that now exists. We want to ensure that both the Israeli and the Egyptian Governments become more and more committed to the peace process, and we do not want to give those parties within each country opposed to the agreement an opportunity for scuttling it.

Finally, I have serious reservations regarding a U.S. military presence at permanent bases in the Middle East. To be of real value, such a presence must be desired by the countries of the region themselves and be supported by the people of the United States. So far these conditions are not true.●

OIL COMPANY PROFITS

● Mr. GOLDWATER. Mr. President, what is a windfall profit? I spent a good part of my life in business and, frankly, the only explanation I have of it is an unusually high return on money or an unusually high percentage of profits to sales which is the way most profits are measured in this country. Naturally, when an oil company reports a profit of over a billion dollars and that represents an increase of some 200 percent, the average American gets upset and feels that he has been, in effect, ripped off. Frankly, I think American business has done a terrible job down through the years of explaining to the average citizen and, particularly the average politician just what constitutes profits and what is a normal profit and what is a big profit and, also, what is a loss?

When I was in business, making 10 percent on sales was a rather common occurrence. Today that same business makes 2½ percent on sales and it is considered an outstanding national success. Now if all of a sudden that firm made 10 or 8 percent I would say the profits had become excessive in relation to sales, and I think we can apply the same thing to any other business; the oil business, the Washington Post, which just enjoyed a tremendous increase in profit, the national networks which are enjoying some of their best years, the airlines the same, so why become all excited because an oil company has had a large profit and a large increase in profits compared to last year which was, and we have to recognize it, not a good year.

The President's insistence on forcing the oil companies to divest themselves of their profits indicates that the President does not have much idea of business outside of peanuts, and I cannot imagine, though, that that is run any differently. He either makes it or he does not. When you take profit away from a corporation or a business or an individual, you take away the chance to build new businesses and large, old businesses, buy new tools and, most importantly, create new jobs. Now taking profits away from American corporations and applying them to Government built programs is no way in the world to create jobs or insure prosperity. To the contrary, it is a certain way to add to inflation and to hasten the day of depression.

The Wall Street Journal just a few days ago had a fairly good article on this subject entitled, "The Big Oil Rip-Off." Hoping that my colleagues and others who read the Record will notice what the Journal had to say, I ask that this article be printed in the Record. Please remember, profits made this country, profits provide jobs, profits guarantee the future of America and the Government with its growing control over everything only guarantees the socializing of America and the end of everything that all of us have held dear in our economic system.

The article follows:

The Big Oil Rip-Off

Motorists fumed over gasoline lines in the summer, fuel prices soared, filling station service deteriorated—and now, Exxon reports its third quarter profits were up 119 percent from a year before. If the oil politicians had written the scenario for piling new taxes on the oil industry they couldn't have planned it better.

Indeed, Herblock had an anti-oil cartoon in the Washington Post the very morning of the Exxon announcement; Jimmy Carter said the big oil profits aren't "fair to the American people" and James G. Archuleta, of the Oil, Chemical and Atomic Workers Union called the Exxon profits "pornographic," which presumably is even worse than obscene. And yesterday the House reversed its previous decision to end gasoline price controls and allocations, apparently in the belief that keeping controls would punish the oil companies for their success.

To start to put this in perspective, you have to ask who gets these profits. Not Exxon's hired managers, as well compensated as they surely are. The profits go instead to shareholders, either directly as dividends or indirectly through share appreciation if profit is reinvested within the business. So who are these shareholders now so widely accused of greed?

Some 65 percent of Exxon's shares are held by institutions. These are pension funds, insurance companies, mutual funds and other mechanisms for small savers to pool their resources. Plus charitable and educational foundations, colleges and universities and the like. Employe pension funds alone own 28 percent of Exxon. Just what does Herblock have against retired people?

The question is even more pertinent if you notice that most of Exxon's profit gains were overseas, while most of the shareholders are Americans. If you insist on seeing profits as an income transfer, they were a transfer from European consumers to America's social welfare institutions for the retired aged. Hardly a cause for yelling or screaming on the New Jersey Turnpike; maybe so on M1 to London.

But anyone who might wish to rise above penny dreadful analysis has to ask about the origin of these profits. Why are the oil companies making so much money? In fact, the companies themselves have little control over most of the variables—prices, exchange rates, taxes, Iranian politics—that govern their profit rates. They really do not even have the option of trying to lower their profits by cutting prices, since in the short run only so much oil is available, and since prices below market-clearing levels would leave them swamped with orders they could not fill. Gas lines and the like would return; this is also likely to be the actual effect of yesterday's House vote.

In any industry, when prices rise faster than the overall rate of inflation, as oil product prices did this last year, it reflects, in simplest terms, diminished competition. The diminished competition in the oil industry this past year resulted not from a lack of competitors—there are 28 sizable oil companies—but the political restraints that have been applied to the energy industry, including all the products that compete with oil.

The Natural Gas Act crimped domestic drilling of natural gas, which was rising healthily before the act was passed. Environmental laws have curtailed coal use and expanded demand for unleaded gasoline, which requires more crude oil to produce than leaded gasoline. Pressures from the "No More Nukes" Yippees have stalled nuclear power development.

All of this is now to be remedied by piling still more burdens on domestic energy production. The windfall profits tax, which has gotten such a marvelous boost from the Exxon numbers, will further discourage U.S. oil production, reducing the total world supply of oil and practically guaranteeing that world prices and the overseas profits of the major oil companies will continue to rise. This will bring more screaming and yelling and more Herblock cartoons from Washington. And with the screaming and yelling will come new regulation, new taxes, new restrictions on domestic energy production.

Oil industry executives, many of whom would probably like nothing better in this poisoned political environment than to report a 1 percent profit decline, will continue to be benumbed by all the political and legal pressures that interfere with their fundamental goal of finding, producing and selling fuel.

The oil politicians, gearing up to run next fell on how forcefully they have championed the interests of the consumers, couldn't have written a better scenario. We wonder, however, if there won't come a point when the consumers and voters will begin to ask if they really need friends like these.●

THE FINAL RESOLUTION OF THE 25TH ANNUAL ASSEMBLY OF THE ATLANTIC TREATY ASSOCIATION

● Mr. JAVITS. Mr. President, on October 9–13 in Washington, the Atlantic Treaty Association held its 25th annual assembly. In attendance were 450 delegates from the 15 NATO countries, including NATO Secretary Gen. Joseph Luns, Dr. Karl Kaiser of West Germany, the ATA's president Dr. Karl Mommer, Vice President MONDALE, NSC Director Brzezinski, and many others who provide leadership in the North Atlantic Alliance.

The Atlantic Treaty Association is an international voluntary organization of private citizens and national leaders who are united in our belief that the world's security rests on the continued strength and viability of the West, its principles and institutions, and that the West's survival rests on the continued vitality of the North Atlantic Alliance. I am an honorary director of the Atlantic Alliance, which supports and organizes the ATA's programs and activities in the United States.

At the conclusion of its meetings in Washington, the ATA adopted a final resolution, which concludes that the Alliance is perhaps entering the most dangerous period it has yet faced by virtue of the growing conventional and nuclear buildup of the Soviet Union and its satellites in the Warsaw Pact. The final resolution states the prescription that the Alliance must adopt to meet this common threat as follows:

First. NATO's conventional and theater nuclear forces must be the subject of a significant modernization program which should also be complemented with arms control negotiations to reach a stable balance in Europe;

Second. To continue the arms control process, SALT II must be ratified by the Senate; this recommendation coincides with that of the plenary session of the North Atlantic Assembly which just concluded its annual meetings in Ottawa, Canada; these recommendations make it clear that NATO's support for ratification of SALT is deeply and broadly based;

Third. Political interaction with the Soviet Union, détente, must not be a one-sided affair and by definition includes Soviet compliance with its own undertakings such as in the Helsinki agreement and restraint by the Soviet Union to expand its area of direct and indirect domination; and

Fourth. There is a potential for effective use by NATO of nonmilitary modes of competition to expose Soviet economic, social and political vulnerabilities, thereby, demonstrating the attractiveness of the Western model to the world.

I believe that this final resolution of the Atlantic Treaty Association is an important document that represents a broad based Alliance consensus assessing the challenge and the tasks before us. I commend it to my colleagues' reading and, accordingly ask that it be printed in the RECORD.

The resolution follows:

FINAL RESOLUTION

1. The Atlantic Treaty Association held its 25th Annual Assembly in Washington on 9–13 October 1979, and took as its theme the worldwide nature of the Soviet challenge to the West. The meeting was chaired by Dr. Karl Mommer.

2. The A.T.A. is an international voluntary organization of private citizens which believes that the North Atlantic Alliance has to stay strong if the West is to survive. This year, on its own 25th Anniversary, and the Alliance's 30th, it feels a measured concern about the dangers likely to arise in the next few years.

3. The West faces a major military problem in the years immediately ahead. For the past dozen years or more, the Soviet Union has been increasing its military spending by 3 percent to 5 percent a year, while that of NATO as a whole has been dropping. The result, unless we take urgent and continuing action, is that the Warsaw Pact will be stronger than the North Atlantic Alliance in almost every major category of weapon through the first half of the 1980s. However, in the future, the Soviet Union also faces difficulties. The economy of the Soviet sphere has never caught up with that of the West, and its growth rate is now falling steadily. The totalitarian system cannot deal with its internal problems as flexibly as the pluralist West can. In the Soviet Union itself, there is likely to be growing tension among its different ethnic minorities and nationalities in the closing years of the century.

4. To deal with the dangers ahead, this Assembly believes that it is essential for the Alliance to meet the growth of Soviet armament at each of the three main levels of our defences:

(a) At the least, the Alliance has to carry out in full its decision to increase its defense spending by about 3 percent a year in real terms between 1979 and 1986. Much of this money will be needed to make sure that NATO's non-nuclear forces in Europe are strong enough, and quickly reinforceable enough, to remove any Soviet temptation to believe that they might be overwhelmed by a surprise attack. The more that Alies can cooperate in arms production, the less money will have to be spent. The Assembly especially calls on members to contribute to the economic and military strengthening of the south-east European allies.

(b) This Assembly believes that the growing strength in nuclear weapons in Europe, such as the SS–20 missile and the Backfire bomber, represents a challenge to the Alliance which must be met by an appropriate response. Such a response should include an adequate Western nuclear deterrent as well as an offer of arms control negotiations on the balance of nuclear weapons affecting Europe. But the Assembly recognises—as the Vienna talks on non-nuclear force cuts have shown—that such negotiations may drag on for years, and it does not wish the Soviet Union to maintain or increase its lead in the meantime.

(c) At the level of intercontinental nuclear weapons, it is important that the Soviet-American competition should be curtailed in ways that increase stability and do not lessen Western security. The Assembly hopes that the present debate on SALT–1 in the American Senate will remove doubts expressed, on both sides of the Atlantic, on this score. If SALT–2 is ratified, it should be followed by further efforts to cut the nuclear armouries.

5. The Assembly believes that a calm and steady effort for real détente with the Soviet Union and its allies is necessary, in order to reduce the danger of war, to implement the human rights promised at Helsinki, and to maintain public support in the West for the measures outlined above. In a world of peaceful competition, the Western system will prove more attractive. But the Assembly does not believe that a better East-West relationship is compatible with (a) the Soviet attempt to establish military superiority over the West; (b) the attempt by the Soviet Union to expand its area of domination in the world through the use of force, directly or indirectly; (c) the attempts by the Soviet Union and its allies to distort the proclaimed aim of détentee by maintaining or even intensifying the suppression of human rights and national self-determination.

6. The Soviet Union is now extending its political power outside Europe, especially in Africa, the Middle East, and southern Asia. This is of concern to the people of these areas; it also affects the security of the Atlantic Alliance because of the oil and other resources that come from these regions, and the Alliance's dependence on uninterrupted use of the sea. Without widening NATO's formal zone of responsibility, we believe that the action needed to deal with problems arising outside the Treaty area can, and should, be taken as the need arises by those member governments which believe action is necessary. So far as possible, all NATO members should be kept informed of their Allies' response to these challenges. To this end, we suggest that a monitoring committee should be set up, with sub-committees to watch events in the Middle East, Africa, Southern Asia and Central America. The task of these committees would be to observe, to analyse, and to seek consensus; it would be left to individual countries, or groups of countries, to decide whether this should be followed by action.

7. We further believe that more attention should be paid to the non-military aspects of the challenge of peaceful competition, and that the Atlantic community should bring a more systematic approach to the working out of a political strategy appealing to its own electorates and understandable to the Third World.

8. The Alliance is entering a dangerous period, perhaps the most dangerous it has yet faced. The Assembly welcomes the renewed commitment, expressed at this meeting by the government of the United States, to the freedom and security of Western Europe. But the leaders of the West must have the intellectual honesty to recognize the difficulties ahead, and the moral courage to persuade public opinion of what has to be done. The purpose of the A.T.A. is to assist them by informing public opinion, especially young people, of the issues involved.

9. The Assembly warmly thanks the Atlantic Council of the United States for its efficiency in organising the meeting, and the government of the United States for its hospitality.

THE ATLANTIC COUNCIL
OF THE UNITED STATES,
Washington, D.C., October 23, 1979.

Hon. JACOB K. JAVITS,
Old Senate Office Building,
Washington, D.C.

DEAR JACK: Many thanks for your message sending your greetings and indicating you found it impossible to attend the XXVth Annual Assembly of the Atlantic Treaty Association held here in Washington a week ago. We were sorry you could not be with us but we appreciate your thoughtfulness.

On the whole I think the meetings were a great success. We had some 450 delegates from the 15 NATO countries. The discussions were lively and interesting and I think the foreign delegates appreciated the hospitality we extended them.

During the last session of the Assembly, Karl Mommer, outgoing president of the ATA, paid a very warm tribute to the United

States. All the delegates present rose and paid their tribute with prolonged applause. It certainly made one feel very proud to be an American!

I am enclosing a copy of the Final Resolution approved by the Assembly. I would be very grateful, if you think it appropriate, if you would have it inserted in the Congressional Record. Some Members of the Congress might be interested in the position which the ATA took on various foreign policy questions.

Cordially yours,

KENNETH RUSH,
Chairman.

SALT AND SOVIET STRATEGY

● Mr. HUMPHREY. Mr. President, the American people are now coming to realize that there has been far more to the SALT negotiations over the years than simply a good faith attempt by the superpowers to reduce strategic weaponry. It is becoming clear that the Soviets have been engaged in a new form of warfare, namely, negotiating us into a corner and themselves into a position to dictate political events around the world.

The Wall Street Journal of October 31, 1979 contains an editorial which goes to the essence of the Soviet negotiating strategy. I insert it in the RECORD to share it with my colleagues. Additionally, the same issue of the Wall Street Journal contains an interview with Norman Podhoretz written by Edmund Fuller. I wish to have printed that portion dealing with the issue the American-Soviet struggle for dominance, since that is pertinent to our consideration of SALT II.

The material follows:

BREZHNEV'S GAMBIT

Early this month, Leonid Brezhnev politely offered to talk about reducing the number of missiles aimed at Western Europe if NATO agrees to abandon plans to modernize its nuclear arsenal. Brezhnev's gambit is indicative of how the Soviets now use arms-control negotiations as an offensive weapon to gain real military advantage.

Moscow is engaged in a vast nuclear build-up against allied forces in Western Europe. It has deployed about 120 SS–20 missiles, which are highly accurate long-range mobile missiles with three independently targeted warheads, and introduced the supersonic Backfire bomber. These weapon systems are not limited by SALT or any other agreement.

By contrast, NATO has almost no offsetting theater-nuclear weapons; only 18 farcical French land-based missiles, an estimated 40 submarine based Poseidons not well adapted to theater warfare, and 156 American F–111 fighter-bombers.

For more than a year, NATO countries have been stuck over what to do in response to the new Soviet SS–20s and Backfires. The U.S. has offered to base 464 ground-launched cruise missiles and 108 new Pershing-2 ballistic missiles in Western Europe in the early 1980s. NATO ministers are slated to make a decision in December on the U.S. proposal.

One thing complicating the decision is the prospect of more negotiations with the Soviets, despite the fact that in the lengthy Mutual and Balanced Force Reduction Talks the two sides have been unable to agree even on the actual composition of *present* forces. At the NATO conference in Belgium in September, Henry Kissinger complained about the idea of delaying our decision to try to negotiate removal of the SS–20s. The former Secretary of State predicted, "If this is our position, all the Soviets have to do is to begin a negotiation to keep us from doing what they are already doing, negotiation or no negotiation."

This is precisely the gambit Mr. Brezhnev played in his Berlin speech. His decision to withdraw 20,000 of the 400,000 Soviet troops stationed in East Germany and to cut its tank force by 1,000 to 6,000 represents only a fractional reduction. It would leave the U.S. troops in the region outnumbered by 80,000, and pulling these Russian soldiers back to the border would still keep them in easy reach of West Germany. The offer to dismantle some older Soviet missiles, whose role is already being taken over by the SS–20 and Backfire, is only a token gesture.

Cracks in the alliance have already appeared over this issue, and Mr. Brezhnev's proposition could thus prove to be a harmful wedge. Most observers recognize the phoniness of Mr. Brezhnev's offer, but this is how the Kremlin plays the arms-control game.

What is true of Mr. Brezhnev's gambit has unfortunately become true of arms control generally. In its hearings on SALT-II, the Senate Foreign Relations Committee has been voting down "killer amendments," that is, anything disagreeable to the Soviets. But in the process Senator Howard Baker has compiled a record of the treaty's one-sidedness: its provision for 308 Soviet heavy missiles not allowed the U.S., its exclusion of the intercontinental-capable Backfire and so on. This is not an accident, but the inevitable result when the U.S. negotiates for arms control and the Soviets negotiate for military advantage.

Harvard Professor Richard Pipes has recently written on the Soviet objectives in SALT for the Committee on the Present Danger. He finds they want four things: To inhibit U.S. response to Soviet long-term strategic programs; to fix the number of U.S. systems and thus facilitate the task of rendering them harmless; to prevent an American technological achievement from suddenly neutralizing their build-up; and to create in the U.S. a political atmosphere obstructive to defense expenditures.

Arms control is well worth pursuing, but genuine arms control can't be achieved if the U.S. allows the Soviets to use the negotiations as an offensive weapon. The way to make the Soviets negotiate seriously is to break the present pattern. Proceeding with theater nuclear forces in Europe is one step toward that end. But an even clearer message would be the outright rejection of the strategic arms agreements.

A TALK WITH NORMAN PODHORETZ

(By Edmund Fuller)

Recently I went to the office of Commentary for a conversation with its editor, Norman Podhoretz, about his new autobiographical book, "Breaking Ranks" (Harper & Row), reviewed here on Oct. 15. Mr. Podhoretz long has been an embattled figure within the New York literary/intellectual community. Once in the ranks of certain radical movements of the early 1960s, he broke with them and now is called by some a "neoconservative," though he regards himself as a liberal centrist.

His earlier autobiographical book, "Making It," described his growing up in Brooklyn and after high school making the daring voyage to another country, Manhattan, to study simultaneously at the Jewish Theological Seminary and Columbia University. Columbia won out. Later he went to England for three years of graduate work at Cambridge—perhaps not as big a voyage as the first one. He became known as a literary critic and an essayist on socio-political matters. In 1960 he became editor of Commentary.

POSE OF SELFLESS DEDICATION

"Making It" was attacked by many of his literary associates for letting out the "dirty secret" that "success" was the goal of many of them who professed to be above all that. "Breaking Ranks" scouts as hypocritical the pose of selfless dedication to the general good assumed by the radical movements. I asked what he thought would be the response to the current book.

"It's possible that it will have a friendlier reception than I fear in some quarters because there has been a certain change in the wind. There's a greater willingness to entertain these ideas—at least to listen to them."

Since the subtitle of the book is "A Political Memoir" we talked of a few of those ideas, growing from the controversies of two decades traced in his chronicle. What does he think about the present posture of the U.S. in the world?

"I'm very worried about it. I think we've been in a period of strategic retreat from the responsibility we undertook after the Second World War to contain Soviet expansion and the spread of Communist influence generally. We've been moving away from that responsibility in a policy of retreat that has been disguised under various euphemisms, toward a posture that I don't hesitate to call neoisolationist in our relationship to the Soviet Union. It's a posture that increasingly deserves the term 'appeasement.'

"The Soviet Union is on the move, in a period of clear imperial dynamism and expansionism, as seen in the greatest peacetime military build-up in the history of the world and in its political thrust in to Africa, Latin America, and the Middle East. The retreat of American power will simply give a green light to the reach of Soviet power virtually to the ends of the earth. That would spell the end of any possibility of liberty and freedom everywhere in the world, ultimately including the U.S. It would lead to a new age of political/cultural/social barbarism."

What about SALT II?

"I'm opposed to SALT II on both technical and political grounds. SALT I was an instrument for the achievement of strategic parity by the Soviet Union. I'm afraid that SALT II would express American acquiescence to strategic superiority by the Soviet Union and I think that would be a calamity."●

REMARKS OF GENERAL HAIG AT THE NATIONAL CONVENTION OF THE MILITARY ORDER OF WORLD WARS

● Mr. GOLDWATER. Mr. President, the former commander of NATO, Gen. Alexander Haig, Jr., has been speaking out before the American people and speaking in a plain, sensible way. Just recently he addressed the National Convention of the Military Order of World Wars. His remarks are the kind that Americans should be listening to and I hope that my colleagues will read what I am asking to be printed in the RECORD.

The address follows:

REMARKS OF GENERAL ALEXANDER M. HAIG,

You honor the thousands of faceless Americans in and out of uniform who've dedicated their lives to the service of their country, who, sensing their duty, seek to perform it despite personal cost, who, loving their country and the unique freedoms that provides, seek to protect it, and who, believing in their God, seek to serve Him by serving their fellow man. It is a distinct pleasure in that sense that I accept your Distinguished Service Award tonight. It is a wonderful personal privilege for me to have an opportunity to be with you; I feel like I've come home after a rather rugged month and certainly a rugged week.

I am quite aware of the distinguished record of this magnificent organization whose membership have so consistently over the history of this country, since its founding, made the ultimate contribution to our security and safety and freedoms.

It has been a rather spicy six months for me because, when I announced I'd be leaving Europe rather prematurely, and that was accompanied with rumors that I might be interested in returning to our nation's capitol to set up semi-permanent residence, a degree of tension if not suspicion developed between the supreme allied commander and the administration in Washington.

In fact, about six weeks ago, as we were having our defense ministers' meeting in Brussels, I was sitting alongside Harold Brown, our Secretary of Defense. One of his aides came in and brought a New York Times that had on the front page, "Haig will return home to fight SALT II." And Harold leaned over and said, "Al, you know that old Army ditty, 'Old soldiers never die; they just slowly fade away'?" And I said, "Yes, Harold." He said, "Well, in your case we're hoping for an instantaneous exception.

You can imagine Harold's chagrin three weeks later when he almost had one as I almost got blown up on the way to work. Well, I got in to the office, and I had an urgent call from Washington. It was Harold. He said "Al, I just called to tell you we didn't do it."

I said, "Harold, thank God you called. I was a little confused." "On the one hand, I hadn't sensed enough competitive political support for me to justify such drastic action, but," I said, "on the other, it was so badly muffed, I couldn't help but think of you."

You know, as I go about and make my remarks to groups such as this, I'm frequently asked, what's happened to the defense forces in Europe? Do we still have the kind of vigor and leadership that is so essential in this critical age? And I like to remind my questioners of the experiences of a young naval officer, British naval officer this past summer, who was given command of one of our fast new frigates in NATO.

He was a very ambitious young naval officer, so he invited the local parliamentarian from his district, who had a reputation for influencing the advancement of young naval officers. And he positioned him on the bridge alongside of him at a NATO exercise in the North Atlantic.

Throughout the exercise our young hero performed flawlessly under the admiring glances of the parliamentarian. And as the exercise drew to a conclusion, he was afraid that he hadn't quite executed the coup de grace that he had hoped. So he floorboarded the frigate, moved up through the entire fleet, passed the flagship and back into position, again under the admiring glances of the parliamentarian.

At that moment a young sailor came in from the bridge with a message. He said, "Sire, I have a message from the flagship." Our hero being sure it was further affirmation of his prowess, said, "Very well, young man. Read it. Read it aloud." And it went something like this: In all my born days I've never seen such a blundering idiot. You almost rammed the flagship. Signed, the Admiral.

Well, our young hero's lips tightened. He quickly regained his composure. He said, "Very well, young man. Take that below decks and have it decoded immediately."

So you see our youth is still rather agile. But I also got questions about the older fellows. And I like to recall the story of a very illustrious French general who'd been a member of NATO before De Gaulle withdrew their forces, now retired and living in Paris.

Recently his wife reached her 80th birthday, and simultaneously with that octagenarian milestone, she arose in the morning with dizziness, nausea that followed her through noon. This situation continued for a week. She went to her doctor, explained her problem. He launched a whole series of tests, radiological, blood tests, metabolic tests. He said, "Madam, best you go home until I complete the diagnosis." He called her a week later. She returned to his office. There was a whole battery of specialists lined up against the wall with serious looks on their faces.

He said, "Madam, best you sit down for the diagnosis." She sat down. He said, "Madam, you're pregnant." She looked at him. She said, "Doctor, that's impossible." She said, "I'm 80 years old. My husband is 85." He said, "Madam, we've given you every test known to modern medical science. It's irrefutable. You are pregnant."

She leapt up from the doctor's chair to rush home and tell her husband, found he was at the club playing cribbage. She dialed him on the phone. He answered the phone. She said, "You old goat, you got me pregnant." And he responded, "And who is this calling?"

So, you see, despite all of the terrible tales you may hear these days, the alliance has not lost its vigor at either end of the spectrum.

Now, in a more serious vein, I have returned home after almost 4½ years in NATO Europe, rather prematurely, because I have returned with a deep sense of concern about the drift of our country here at home, about the perception of that drift abroad and the impact it is having on traditional friends and allies and their resulting policies.

And I suppose this great nation of ours in its 200 years of history has experienced similar malaise in the past. But I do not believe ever in our history that these difficulties have converged with a series of changes in the international and strategic environment which would pose comparable gravity.

And so it is because of these conversion factors that I feel I can best serve the purposes of this nation by speaking to these concerns, and I intend to do so in the period ahead.

Now, I'd like to compress for you very quickly the reasons why this concern is held so deeply by me. First, because of the topic of SALT II itself, worsening strategic balances in the nuclear area between ourselves and the Soviet Union, and I've emphasized that during the decade and the period from 1981 until perhaps 1987–88, with or without SALT II the United States is going to be inferior to the Soviet Union in a number of critical areas of measurement of strategic nuclear power. For that reason I have personally welcomed the debate now going on associated with the ratification of SALT II itself. I've made the point in my testimony that this dangerous period is such that in the process of ratification we as a nation must finally at long last step back and reassess several aspects of our national security and foreign policy.

First, it is the relationship between ourselves and the Soviet Union as we proceed in a number of functional areas under the rubric of detente to seek improved East-West relations. And secondly, we as a nation must step back and assess our nuclear doctrine, because either by conscious decision or de facto implication we as a nation are drifting and have been steadily drifting for a period of a decade into a posture of nuclear inferiority to the Soviet Union. We are increasingly becoming a captive of a so-called MAD concept, Mutual Assured Destruction, in which we as a nation would establish as policy the elimination of populations as the prime element of our nuclear defense concept.

I have testified this past week that this is both sterile and profoundly immoral as a policy for our nation to pursue. But perhaps more importantly, it would be a devastating policy for a president of the United States to have to preside over in a period of increasing Soviet interventionism throughout the world, in the maintenance of stability in these crises which will inevitably occur in the period ahead, when we are deprived of a backdrop of equal capability in the nuclear area.

I've made the point that we must reassess our East-West relations, our strategic nuclear doctrine, and, in the context of those reassessments, then put in place the military programs that should be designed to sustain those two interlocking policies. Until such a thing is done, it would be inconceivable to me that we could proceed mindlessly with the ratification of SALT II because we cannot assess with clarity the risks associated with the flaws in this agreement. And only until we have that as a backdroo can such a precise assessment be made.

That has been a disturbing contribution by me to a number of the advocates for SALT II, but I would suggest that we as a nation are well served by such a profound and fundamental reassessment. It is a reassessment, incidentally, which could be completed within a matter of months and certainly before the first of the year if we set about it in a serious way.

I have also insisted and feel that, as we proceed with these central strategic agreements, we've got to be sure where we are going with our theater nuclear capabilities, because like it or not, American negotiators began in SALT II to engage theater nuclear systems through the protocol.

There are a number of other factors that are converging that will make the decade of the '80s extremely dangerous, because some of the decisions we make on our central strategic area with or without SALT are not going to be realized until close to the end of the coming decade, regardless of what we do today, because technology has caught us in a bind. These other aspects are perhaps equally dangerous for us. First, it is the probability of a changing leadership in the Soviet Union. In the past we've enjoyed what I call the inherent inability of totalitarian regimes to provide for a smooth transition of power, and it has usually resulted in some conservative post-power change policies on the part of the Soviet Union. But we have also enjoyed since the Second War generations of Soviet leaders who went into office acutely conscious of the great sacrifices that the Second World War cost the Russian people—20 million casualties.

I'm not so sure that the coming leadership will be so imbued. Rather, we will find men increasingly the product of the third and fourth generation Marxist-Lenist state who are acutely aware of the accomplishments of the Soviet Union in building an unprecedented level of military power. And so we as Western nations must be very much aware of the potential danger of the changing attitudes of Soviet leaders.

Whoever those leaders turn out to be, they are going to be the subject of increasing paranoia with respect to Communist China, especially as China has set a new course for itself to reach a superpower status by the turn of the century. And there's a window for such worried Soviet leaders to take preemptive action to prevent the emergence of China as a competitive threat along their border. So this too adds to the dangers of the decade with which we are faced.

But, perhaps even most importantly, are the fundamental changes that are occurring within the Soviet Union itself. I have watched over the last four years the Soviet leaders, constantly disappointed by their failure to achieve the economic growth aims that they have established for their nation. This coming year it will again be hovering at the three percent level, far below what they have consistently established in their five-year programs and consistently lowered as performance did not meet the goals that were established.

Secondly, our Soviet friends will be again confronted with historic failures in the agricultural sector. Despite the fact that they are driving larger and larger proportions of their population into the agricultural sphere, they have been unable to achieve the increased productivity they've so long sought.

They also, as we in the Western industralized nations have already begun to feel, will be increasingly constrained in their energy needs—oil and petroleum. Perhaps most importantly of all, this new paranoiac Soviet leadership, on the one hand so full of China, on the other hand cocky and reassured by the military power they have accumulated, will be increasingly faced with changing, demographic balances within the Soviet Union.

Today 50 percent of the Soviet populations are non-Russian in ethnic character. I'm talking about the nine republics of Moslem character in the Southern Soviet Union, Latvia, the Ukraine, the other republics, whose birth rates are burgeoning as Russian birth rates are declining. It's a rarity today to find a Soviet who has more than one or two children. This is not true among the non-Russian populations of the Soviet Union. This will result in greater pressures for greater autonomy among these non-Russian people and at the same time a greater voice in the conduct of Soviet policy.

Our Soviet friends have been very generous in the past in transferring these burdens and failures to their Eastern European allies, and as they do this, these pressures will be superimposed on centrifugal forces already underway in Eastern Europe. We saw it this past spring as the Warsaw Pact began to insist on higher defense expenditures, and some of the Eastern European powers raised their hand in objection.

We saw it as the Soviet Union attempted to orchestrate a consistent Warsaw Pact condemnation of China's intervention into North Vietnam, and again we saw some of these member states raise their hands in resistance, and we saw it recently in the visit of the new Polish Pope to his own homeland, where restive stirrings were clearly in evidence.

From all of these factors several conclusions should be drawn for all of us as Americans. First, it is clear that we are not faced with the inevitable, inexorable rise in success of Marxist-Leninism. Precisely the opposite. It is a profound failure. And, indeed, in historic terms we may be seeing the unraveling of this totalitarian system at long last, certainly not in contemporary terms but in historic terms.

We should hope as Americans that a responsible Soviet leadership would turn inward and address its energies to the solution of the pervasive problems of social justice within its own sphere of influence. But must we not be influenced by the historic reality that nations in the past, plagued with internal failures and enjoying an excess level of capability have consistently and regularly indulged in external diversions to divert their people from the internal difficulties and to insure their incumbency. I'm not so sure that some of the increased activity by the Soviet Union we are witnessing today in Africa and the Middle East and Eurasia is not already a manifestation of the consequences of these internal failures.

All of this suggests to me that we in the West are faced with a historically dangerous as well as a historically beneficial period and that, if we can muster the will, the unity, the resolve to weather our way through this decade of the '80s, certainly there is a light at the other end of the tunnel.

But if we fail to measure up to the challenges with which we are now faced, I think the dangers of our retaining our freedoms are high indeed. Some years ago we as a nation set upon a twin-pillared policy of detente and improving East-West relations on the one hand and deterrence or defense, the maintenance of the necessary strength on the other.

I have witnessed the success and failure of that policy over the last three years, and I've watched unchallenged, illegal, blatant Soviet interventionism in Angola, in Ethiopia in the establishment of a client state there, in Southern Yemen, where a client state was established a year ago, the efforts made this past spring to overrun Northern Yemen by Papsi forces from Southern Yemen, the activity of Soviet forces in Afghanistan, participating with client forces in overcoming a counter-liberation movement to insure that their current inroads are preserved. Then I begin to wonder whether we in the Western World have properly assessed the implications of these unchallenged inroads, not only on our traditionally friendly allies, but on those other nations of the free world who are equally threatened and upon whose convergence of policies we so vitally depend, Saudi Arabia, the Gulf States of the Middle East, who produce for the West today the vital resources that keep our societies functioning and our industry efficient and effective.

And so I think the time has arrived where we as Americans must step back and ask whether or not we are correctly integrating, orchestrating and managing what are still vastly Western superior political, economic and security assets, to insist as we must that necessary and desirable historic changes occur within the accepted rules of international law.

This is going to require, in my view, a new kind of post-Vietnam American leadership, a leadership that recognizes that our sterile involvement in Southeast Asia is over, but a leadership that also recognizes that our post-Vietnam paralysis and self-mesmerizing stifling of American leadership throughout the world must also be over. It is a new post-Vietnam leadership that must be built upon a global strategy which, in concept with our allies, effectively concerts the political and economic and security assets of the Western world.

And by so doing we should be able, with greater clarity than we have recently, to sort out those events happening throughout the world which represent a vital threat to our national interests from those which are best left to local solution. It's a new kind of American leadership that must recognize that we can no longer afford the hyperactive American activity that characterized our international affairs since the Second War—where we as Americans saw Soviet duplicity behind every single deleterious event on the strategic horizon. But it's a leadership that must not shirk from challenging blatant, illegal Soviet interventionism wherever it occurs.

It's an American leadership that recognizes that the days are gone when the United States alone, as a consequence of the unique superiority we enjoyed at the end of World War II, could move in and out of global crisis situations and alone bring about outcomes that met the collective interest of the free world. And, you know, I've reminded our friends in Western Europe on every occasion I could, that the days are also gone when they could sit on the sidelines and alternatively carp or support as the United States alone bore the burdens of their freedom and protection.

It is perhaps above all a new post-Vietnam American leadership that continues to recognize that this is the greatest nation on earth—a nation that has been the recipient for 200 years of generations who have come to this land to experience and flourish with personal fulfillment, with the assurance of the individual liberties, from lands where such freedoms were not permitted either by right of birth or governmental fiat.

It is a leadership that must recognize that, if indeed this is the greatest land and the greatest system known to modern man, then it cannot be immoral to pursue policies designed to protect the vital interests of this nation. And how important and long overdue it is to shed that sackcloth and ashes attitude from which we emerged from our experience in Southeast Asia and recognize the importance and the vitality and the great benefits of this land.

I returned from almost five years abroad with the conviction that were there that kind of visionary, sensitive, cooperative American leadership provided our allies in Europe and our friends in Asia, they would respond and carry their share. You know, we need do no more. We dare do no less.

It was some 35 years ago that the great World War II leader, Winston Churchill, described this as the century of the common man. Unfortunately, he added, the same century has witnessed more common men destroy more common men with greater facility than in any other five centuries in the history of mankind. The time has come for you and me to give our very best to insure that we do not leave a more frightening legacy for our children.

I know it's getting late, and that you have more business. And I think it would be charitable for me to again express my deep gratitude to each and every one of you, to tell you what a great pleasure and honor it has been for me to be with you and to tell you how much I admire your patriotism, your love of country and what I sense to be your energies to insure that it is preserved. Thank you very much.●

CZECHOSLOVAKIA AND ITS INTERNATIONAL HUMAN RIGHTS PLEDGES

● Mr. JAVITS. Mr. President, I am often perplexed as to why governments sign international agreements which they so soon thereafter do not take seriously and flout. Czechoslovakia's President Husak's signature on the Helsinki Final Act is a case in point. During the Belgrade meeting, which convened to review each signatory's implementation of the Final Act's provisions, the Czechoslovak Government chose to sentence four members of the Charter '77 group for their activities in promoting the rights guaranteed in the very same Helsinki agreement signed by Czechoslovakia and the other international human rights agreements to which Czechoslovakia is a party. Last week, the Prague Government once again revealed the way it flouts its international obligations by sentencing six other members of Charter '77 to prison for attempting to realize the pledges to which their government had committed their country.

Of the six convicted Charter members—Vaclav Havel received a 4-year prison sentence, Peter Uhl, Vaclav Benda, Jiri Dienstbier, and Otta Bednarova will be spending 3 to 5 years in prison and Dana Nemcova was given a 2-year suspended sentence. Their crime, according to the Czechoslovak court, was "subversion," Their true "crime," however, was knowing the truth and not being afraid to write about it. They were also not afraid to join a Charter '77 subgroup called the Committee for the

Defense of the Unjustly Prosecuted, which the Czechoslovak Government labelled a subversive and illegal group.

Mr. President, I am not the only one who finds it difficult to believe how a group which has sought in its 3-year existence, a "constructive dialogue" with its own government and which has sought "to know and act upon its rights and duties in the field (of human rights)" as promised in the Helsinki accords, can be considered subversive and illegal. I am also not the only one who finds it difficult to believe how a government such as Czechoslovakia's which, during the Belgrade meeting, repeatedly chided the West for its "unconstructive" approach, can ever expect a "constructive" approach to human rights and other issues, when it choses to ignore the Final Act's human rights provisions. With the next CSCE review meeting just 1 year away, human rights will continue to be the focus of that meeting as long as the Final Act's human rights pledges continue to be consistently violated by Czechoslovakia and comparable countries.

The Madrid conference has a long and important agenda, which includes such vital proposals as the strengthening of the Final Act's provisions on military and economic cooperation. But it will be difficult, if not impossible, to move ahead in areas where there has been progress in some countries, when in others there has been no progress at all in human rights.

Last week's trial in Prague is further evidence of that lack of progress in Czechoslovakia. It has not, fortunately, gone unnoticed throughout the world and it will not go unnoticed at the Madrid meeting. I would therefore like to join the distinguished politicians, academics and individuals in all parts of the world who have protested against the Czechoslovak court's actions and have beseeched the Czechoslovak Government to reverse the court's decisions and to begin to treat its international human rights pledges as seriously as its citizens must view them.●

WHY SHOULD GOVERNMENT GET A FREE RIDE?

● Mr. DOLE. Mr. President, section 8 of article I of the Constitution sets forth the powers of the Congress. First among these is the "Power To lay and collect Taxes, Duties, Imposts, and Excises." The 16th amendment gives Congress the specific power "to lay and collect taxes, from whatever source derived." Together these provisions lay the constitutional foundation for our present income tax system.

Both section 8 and the 16th amendment appear to envision action by Congress to impose taxes and provide for their collection. Each provision sets forth an affirmative power, "to lay and collect" taxes. The clear implication is that Congress must establish, or "lay," the tax, before it can be collected. Certainly there is no justification for inferring that Congress could collect taxes without a structure for the tax that makes the obligation to pay certain and understandable. Such a result would be contrary to any notion of equity, and indeed would strike at the heart of the issue that led to the establishment of our Republic: Taxation without representation.

Despite this fact, each year the Government collects a tax that was never laid by Congress. Even worse, this tax is not made known to our citizens, save those who are astute followers of the economy and the income tax system. The Treasury is glad to receive the revenues from this tax, and there are many politicians who resist the notion of making the tax known to the public, or of subjecting it to congressional action.

This tax is the inflation tax penalty, or "taxflation." It is raised not by act of Congress, but by the cumulative actions of Congress that have helped make inflation endemic to our society. When Congress declines to control spending and set policies that will encourage stable economic growth, inflation results. Taxflation is the further consequence, as people try to keep pace with the rate of inflation. Whether they succeed or not, their efforts push them into higher tax brackets where they pay a higher rate of tax. Purchasing power may have declined, but the citizen's tax liability has increased. The result is a windfall in revenues for the Federal Government, and a free ride for a Congress looking for new opportunities for spending.

Taxflation represents an abdication of Congress power and responsibility to lay taxes. Instead of adjusting the real rate of tax, Congress allows the effective rate to rise due to inflation. Congress escapes blame for raising taxes, but it takes the credit for "tax cuts" that merely moderate the taxflation penalty for a short time.

Mr. President, this is not in the spirit of the Constitution, nor is it consistent with our best traditions. That is why I have introduced the Tax Equalization Act, S. 12, which would adjust the tax brackets and fixed dollar amounts according to the rate of inflation, thereby making tax rates constant relative to income levels. Congress would, as the Constitution envisions, have to act to raise taxes. The bill would also give Congress a significant incentive to restrain inflation.

Political expediency is not a sound reason to allow taxflation to continue, in contradiction of Congress responsibility under the Constitution. It is time to end that contradiction by passing the Tax Equalization Act. It is not merely a priority, but an obligation upon this Congress.●

ADDRESS OF CLARE BOOTHE LUCE UPON PRESENTATION OF THE SYLVANUS THAYER AWARD

● Mr. GOLDWATER. Mr. President, one of the most coveted awards presented by the United States Military Academy is the Sylvanus Thayer Award given each year to an outstanding American who has performed in a patriotic, thoughtful manner for our country. The recipient this year was the Honorable Clare Boothe Luce who has served his country in an extremely outstanding way. It is a fine speech, done in her typically fine fashion, and I ask that it be printed in the RECORD.

The address follows:

ADDRESS BY THE HONORABLE CLARE BOOTHE LUCE

General Goodpaster, General Finlay, Ladies and Gentlemen of the Corps, Distinguished Guests:

Everyone desires and needs the good opinions of others to be happy. I have sometimes lived for days on a sincere compliment. But nothing so nourishes our spirits as recognition by those we hold in highest esteem. I will thrive on this honor you have done me the rest of my days.

But although it goes straight to my heart, I'm trying not to let it go to my head. I know I do not rate with the heroic figures who have been given the Sylvanus Thayer Award. I am a brave woman. But I am no heroine. I am nevertheless profoundly grateful to you for bestowing Fame on me by association.

I suspect that the fact that this is the first year that there are women in all four classes is not unrelated to my good fortune. No doubt the Graduates' Association wanted the women of the Corps who stay the course to know they will be welcomed, and no honors barred, to the officer class of the world's finest military professionals. And what better way to flag this message than to give the Thayer Award to a woman? I am just damned lucky I was chosen to be that first women.

I know that the women of the Corps will see to it that I'm not the last, and that, in course of time, they will produce from their own ranks, a first-rate heroine.

Now at this point, custom requires the recipient of the Award to make a few remarks born of personal experience.

Well, I don't want for experience of living. I have lived more than a third of all the years since the signing of the Declaration of Independence. It was the last third, in case you are wondering; and it has included all but three years of this century—the first three.

The principal thing I've learned in my lifetime is that you and I, and all Americans are living in the best of all centuries, the best of all countries, and under the best of all forms of government.

The material progress that the United States has made in just the last 50 years is the marvel of all ages, and the envy of all peoples.

I was born in New York City in the prime years of the gas-light, wood-bin, coal scuttle, pump handles, outhouse, horse-and-buggy era. My grandparents and parents believed like everyone else in my childhood that America was destined to become—in say a century or so, a country as great as any of the mighty powers of Europe.

My grandfather, who owned the largest livery stable in Hoboken, was absolutely certain that in another decade there would be two horses and carriages in every man's stable.

But certain tho' my grandfather was of progress, he would have sent for the horse-drawn booby-wagon if someone had tried to convince him that in just a few decades, people in London or Tokyo could sit in their living-rooms and see and hear the President making a speech from the White House; that men would be walking on the moon; that millions and millions of Americans would be tripping around the globe in flying machines; that surgeons would be able to swap old hearts for new and reattach severed limbs; that the vast Colonial Empires of all the great powers would be lying in ruins, and that America, following her victories in two world wars, would emerge at mid-20th century the greatest, richest, strongest power the world had ever known.

The speed with which America achieved political, economic, and military superiority in the first half of this century would have made my grandfather a little dizzy—had he lived to see it. But he would have had no trouble explaining why it happened. He and my grandmother had come to America in the 1800s (as had about 40 million other immigrants) to find Liberty. He knew that Liberty has no meaning save as it means Freedom for the individual—religious freedom, political freedom, economic freedom; and he knew the proper goal of these freedoms is to give the individual the chance to become what he or she is capable of becoming.

My grandfather would have had no trouble understanding that the miracle of progress America made in the first half of this century was produced by a free political and economic system which had released the physical and mental energies of mililons of people.

Well, some of you are thinking, if this is such a glorious century, and America is such a great country, and we have such a fine form of government, how come we are in so much trouble today?

Well, Theodore Roosevelt—my first President, told Americans more than 30 years ago how the country might get into the kind of trouble we are in.

"The things that will destroy America," he warned, "are prosperity-at-any-price, safety-first instead of duty-first, the love of soft living, and the get-rich-quick theory of life." And, "if we seek merely swollen, slothful ease" and accept "ignoble peace," then he said, "bolder and stronger people will pass us by, and will win for themselves the domination of the world."

Our democratic form of government is the highest form known to man. But it requires the highest type of human nature—a type which has always and everywhere been in the minority. Yet it is always the majority that chooses, not only the course, but the leaders who are then pledged to follow it. The majority has—at least in the last decade increasingly chosen "prosperity-at-any-price and safety-first instead of duty-first." The majority have ceased to be patriots, for patriotism, as Theodore Roosevelt saw it, is the sense of collective responsibility for the economic stability and the military security of the nation.

We seem to have entered that period which history tells us always marks the hour of greatest danger to a democracy. This is when its citizens persist in raiding their own treasury, and when faced with a strong and avowed enemy—"a bolder and stronger people"—they substitute the ideal of peace for the idea of national security.

It is then that a democracy is doomed to depression and defeat unless it is rescued from its follies of its unthinking majority by those thinking minorities which Thomas Jefferson called "The natural aristocracies of brains and talent."

West Point exists to train and educate an aristocracy of military leaders. You are today the best military educational institution in the country.

So you know that the condition of our military establishment in relation to that of the U.S.S.R. is real cause for alarm; that American power, both nuclear and conventional, has been steadily eroding since the mid-60s; and that if this trend is not soon—and sharply—reversed, the U.S. will probably become a second, perhaps even a third-rate power before this century is ended.

Your study of military history has also taught you that an ally is a friend you can always count on to count on you. If our NATO allies should become convinced that our military power—in relation to the U.S.S.R.'s—is irreversibly crumbling, they will—indeed, they must, as a matter of survival—design their own policies of Detente and collaboration with the Kremlin, and you may be sure, these will leave us isolated in our own hemisphere, and tragically vulnerable to attack.

But it is certainly arguable that the conquest of the U.S. by force of arms is not likely in this century. For even if our military position grows considerably weaker, we would still retain a fearsome nuclear second-punch capacity.

What now seems more likely to happen is the collapse of our industrial system, which is today not only inflation ridden, but is over 50% dependent on Middle East oil. The truly shameful and humiliating fact is that six years after the Arab oil embargo, our government still has no realistic policy—political or military—for securing our access to Arab oil in the amounts, no less at the prices, necessary to maintain the productivity of our economy.

Congress and the media together have virtually destroyed the capacity of our Intelligence Service to intervene covertly in foreign countries in the effort to prevent anti-American forces from bringing down friendly governments. So if tomorrow Saudi and Kuwait should go the way of Iran, we could do nothing to prevent it—short of war—and we would be plunged into a depression far worse than that of the '30s, from which there could be no issuance save war, or political submission—and dependence—on the Soviet Union—the only oil self-sufficient industrial nation in the world today.

Can we turn things around before it is too late to spare our country suffering, humiliation, or war?

I am an optimist, although in my experience the principal difference between optimists and pessimists is that pessimists are generally better informed. But optimism about the future is reasonable. For the future is always uncertain, and good things as well as bad can happen. Indeed, only one good thing need happen to turn things around: a rebirth of that national will and sense of high purpose that has carried America safely through all the other great crises in our history.

"Every true man," wrote Emerson, "is a cause, a country and an age."

No rebirth of will or purpose, or patriotism are needed here at West Point.

Members of the Corps, you are of that true and happy breed who have a cause in life who have accepted freely the stern disciplines of mind and body that will make you successful in that mission, and who have the courage, if your country should require it, to risk your lives in its cause. You know why you are living, what you are doing, and who you are doing it for. The path of honor, duty, country, is a hard one, but a straight one. You'll find no one on it going around in circles lost and confused, as so many people these days are. And you will enjoy all your lives the respect and the gratitude of your countrymen.

I thank you, with all my heart, for that parade on the plain. This has been the proudest and happiest day of my life.

My only regret is that I will not live long enough to see much of you on that long gray line become the great soldier-statesmen, soldier-scholars, or soldier's soldiers of tomorrow. Would you please remember me maybe once when you do? ●

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the Record at this point the four notifications I have just received.

The notifications follow:

Defense Security Assistance Agency,
Washington, D.C., October 24, 1979.

Hon. Frank Church,
Chairman, Committee on Foreign Relations,
U.S. Senate,
Washington, D.C.

Dear Mr. Chairman: Pursuant to the requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80–10, concerning the Department of the Army's proposed Letter of Offer to the Republic of Korea for defense articles and services estimated to cost $29.2 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Ernest Graves,
Lieutenant General, USA.

Attachments.

[Transmittal No. 80–10]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Republic of Korea.

(ii) Total estimated value:

	(In mililons)
Major Defense equipment *	$0.0
Other	29.2
Total	29.2

(iii) Description of articles or services offered:

Four (4) AN/TSQ–73 air defense command and control systems (Missile Minder) and associated support equipment, special tools, spare parts, publications, training, and field engineering services.

(iv) Military Department: Army (WBH).

(v) Sales commission, fee, etc. Paid, offered or agreed to be paid: None.

(vi) Date report delivered to Congress: October 24, 1979.

Defense Security
Assistance Agency,
Washington, D.C., October 23, 1979.

Hon. Frank Church,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80–11, concerning the Department of the Army's proposed Letter of Offer to Israel for defense articles and services estimated to cost $32.6 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Ernest Graves,
Lieutenant General, U.S.A.

Attachments.

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* As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

[Transmittal No. 80–11]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION (b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Israel.

(ii) Total estimated value:

	(In millions)
Major Defense Equipment*	$31.1
Other	1.5
Total	32.6

(iii) Description of articles or services offered:

Two hundred and fifty (250) MIM-72C Improved Chapparral air defense missiles.

(iv) Military Department: Army (XJI).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Date report delivered to Congress: Oct. 23, 1979.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., Oct. 23, 1979.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-13, concerning the Department of the Air Force's proposed Letter of Offer to Saudi Arabia for defense articles and services estimated to cost $1.5 billion. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.

Attachments.

[Transmittal No. 80–13]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Saudi Arabia.

(ii) Total estimated value:

	(In millions)
Major Defense Equipment*	$0.0
Other	1.5
Total	1.5

(iii) Description of articles or services offered:

Construction and modification of technical facilities, such as avionic shops, engine shops, and aircraft hangars; housing and community facilities; roads; and utilities in support of the Royal Saudi Air Force (RSAF) F-15 program (PEACE SUN).

(iv) Military Department: Air Force (YAT).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Date report delivered to Congress: Oct. 23, 1979.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., October 23, 1979.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 80-16, concerning the Department of the Air Force's proposed Letter of Offer to Korea for defense articles and services estimated to cost $85.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.

Attachments.

[Transmittal No. 80–16]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Korea.

(ii) Total estimated value:

	(In millions)
Major Defense Equipment*	$0.0
Other	85.0
Total	85.0

(iii) Description of articles or services offered:

Cooperative Logistics Supply Support Arrangement, requisition case (FMSO II) for follow-on spares and supplies for support of ROKAF aircraft of U.S. origin and other items of U.S. manufacture (e.g., F-4, F-5, A-37, T-33, T-37, and C-123 aircraft).

(iv) Military Department: Air Force (KBH).

(v) Sales commission, fee, etc. paid, offered or agreed to be paid: None.

(vi) Date report delivered to Congress: Oct. 23, 1979.●

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million, or in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that two such notifications were received on October 25, 1979.

Interested Senators may inquire as to the details of these preliminary notifications at the offices of the Committee on Foreign Relations, room S-116 in the Capitol.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., October 24, 1979.

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Northeast Asian country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.

Attachments.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., October 24, 1979.

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Northeast Asian country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.●

PUBLIC TRANSPORTATION, PUBLIC PARTICIPATION, AND ENERGY CONSERVATION

● Mr. WILLIAMS. Mr. President, public transportation is experiencing a renaissance in every region of the United States. I want to take this opportunity to remind my colleagues that the full potential of the Nation's public transportation program as an integral part of a national energy policy has yet to be realized.

Mr. President, I have been involved with the Federal public transportation since its inception in the early 1960's. Since then, I have extolled its social, environmental, economic, and energy virtues without letup or pause.

At times it was a lonely and difficult struggle to persuade my colleagues of the need to rehabilitate existing mass transportation facilities and expand bus and rail operations in all areas of the country.

The record of the last few years is proof positive that public transportation today is enjoying a rebirth as its tangible benefits are enjoyed by an increasing number of communities and individuals. The Federal public transportation program is now a permanent and growing part of our national transportation policy. It has become an indispensable component in a variety of urban development and rehabilitation projects in cities across the land. And in these days of expensive and scarce oil and gasoline, it is often the most cost-effective, energy-responsible means of personal travel.

Mr. President, the features of the transit program have become universally recognized since the oil-producing countries first began flexing their petro muscles during the oil embargo of 1973–74. Today, we face a far more serious problem. We are entering an era in which an overriding national and international concern will be a shortage of energy. This means inflation we cannot completely master, a new international equation, and above all, it means there will have to be adjustments in our individual lifestyles.

A major adjustment that each of us will face is the plain fact that we must curb our appetite for the automobile and restrict unnecessary automobile use. In short, we must end our love affair with the personal convenience and luxury of the automobile, except for essential use. Today, the average auto occupancy is 1.3 passengers. Just for routine home to work commute trips, Americans use 1.8 million barrels of gasoline each day. And almost 1.4 million of those barrels are burned by commuters driving to and from work alone. If we are to conserve petroleum, we simply cannot be so profligate in the future. And if we are to break the automobile habit, people must have an alternative to transport them to the office, the theater, the supermarket, and to church.

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* As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

The use of public transportation to provide mobility while conserving energy is recognized by Mr. John C. Sawhill, the Deputy Under Secretary of the Department of Energy. A recent article in the Washington Star reports that Mr. Sawhill said, "the Government has to improve the quality of mass transit as an alternative to cars." As far as I can recall, Mr. Sawhill's statement is the first by any high-ranking Federal energy official that recognizes that a national energy policy which does not stress public transportation is an incomplete, and probably unsuccessful, policy.

Mr. President, because of the early vision of the Congress and the forward-looking policies of many State and local officials, I am pleased to tell my colleagues that such an alternative is already in place in many parts of the United States. Each day, trains and buses are carrying tens of millions of people. Patronage has been increasing steadily and significantly. This weekend, the New York Times carried a front page article entitled "New Figures Show Transit Growth May Outlast Gas Scarcities of 1970's." The message of this article is that Americans are using existing public transportation facilities in record numbers and that others would do the same if the facilities were available and ways could be found to defray the added costs of providing additional service.

Mr. President, some of the facts in this article illustrate the increasing popularity of public transportation:

> In the Philadelphia suburbs this summer, nearly 30 percent more riders than last year swamped work bound trains and buses.
>
> More than 31,000 commuters formed ride-sharing plans in San Antonio.
>
> And in Los Angeles, perhaps the most car-dependent of the Nation's largest cities, so many commuters have been turning to public transit that the city has ordered 1,200 new buses.

There are other transit success stories from all over the Nation—New York, Chicago, Minneapolis, Hartford, Washington, D.C. This is evidence that Americans would rather line up for a bus or a train than at the local filling station. It is the best evidence of the willingness of the American people to shelter their pocketbook from the excessive costs of gasoline, lend a hand in the war against inflation and energy independence, and to sacrifice some of their freedom of movement in order to come to grips with the energy crisis.

Mr. President, this national phenomenon is not transitory. It signals the rebirth of public transportation. It is a tribute to our years of labor.

At the same time, it is a stark reminder of how much more needs to be done. To maintain this increasing ridership, the equipment and facilities used in public transportation must be rehabilitated and modernized in many parts of the country. In still others, bus fleets must be expanded. And we must continue on the present course toward integrating the various modes of transportation to maximize the total benefits which can accrue to a particular area or region in purely transportation terms and to realize the other economic, social, housing, and environmental dividends from our investments in improved public transportation.

Mr. President, as we approach the 1980's we must change the focus of the present public transportation program. The original predicate for the program was to prevent the further decline and collapse of most large transit systems in the country. But this founding principle is no longer sufficient to permit the large scale improvements necessary to create a public transportation system that will meet the Nation's needs through the next decade. In most of the large cities that have extensive rapid transit systems, equipment is run down, subway stations are outmoded, and service is substandard. In many cities, the lack of equipment and facilities has seriously undermined the growth and acceptance of transit systems as a viable alternative to the automobile. This situation has serious economic and social implications in the 1980's if petroleum supplies continue to be tight and Americans are not provided with acceptable alternatives to the automobile.

Mr. President, every level of government will be called upon to develop comprehensive transportation strategies and effective ways to raise and expend Federal transportation dollars in concert with locally raised funds. President Carter has recognized the need for additional spending by proposing a $13 billion public transportation investment program over the next decade to be funded from the windfall profits tax. These are encouraging signals from an administration that has been publicly skeptical about public transportation as a top national priority. And I applaud my colleagues from the Appropriations Committee, especially the chairman of the Subcommittee on Transportation, Senator BAYH, for the recognition contained in their committee report on the 1980 appropriation bill (H.R. 4440; S. Rept. 96–377).

> The fiscal year 1980 funding request, consistent with the Administration's goal of controlling inflation, is sufficient only to maintain the status quo: to prevent further deterioration of rail systems and to replace a portion of the overage bus fleet. At a time when the restricted availability of petroleum makes the importance of having an extensive, efficient, and effective public transportation system a matter of national priority in order to maintain the viability of our cities, this Committee does not believe that we can afford to limit the Federal support of public transportation to maintaining the status quo.

Mr. President, the Federal public transportation program is a success story by almost any yardstick. Its worth is best attested to by the upward ridership trend representing the daily decisions of millions of individuals. This is an important barometer of public attitudes. It is the best testimony that the program has achieved a notable degree of success. It is the happiest of circumstances as the Congress prepares to broaden and expand the program early next year.

Mr. President, I request that the following newspaper articles be printed in the RECORD. The first is from the New York Times this past Sunday. The second is from the Washington Star concerning the forward looking and frank views of John Sawhill on this program.

The articles follow:

[From the New York Times, Oct. 28, 1979]

NEW FIGURES SHOW TRANSIT GROWTH MAY OUTLAST GAS SCARCITIES OF 70's

(By Ernest Holsendolph)

WASHINGTON, October 27.—In the Philadelphia suburbs this summer, nearly 30 percent more riders than last summer swamped work-bound trains and buses. More than 31,000 commuters joined ride-sharing plans in San Antonio. And in Los Angeles, perhaps the most car-dependent of the nation's largest cities, so many commuters have been turning to public transit that the city has ordered 1,200 new buses.

All this is part of a national phenomenon-associated with the energy crisis of 1979. But the growing demand for mass transit, after declining for three decades and reaching a low point in 1972, seems likely to outlive the sporadic gas shortages of this decade.

The trend is encouraging to municipal officials who are grappling with the auto-related problems of traffic congestion, air pollution and scarce parking space. But they are worried, too, about their aging transit equipment, and fearful that their needs for large amounts of Federal money to repair and expand their systems will go unmet.

Figures compiled here by the American Public Transit Association show that the gas lines of spring and summer brought about the largest patronage increases of this decade, but that the growth has been uninterrupted for 25 months.

BIG-CITY INCREASES

The figures for August, the latest month for which the association has a fully audited report on the nation's transit systems, showed an 8.4 percent increase over August 1978. Transit experts take this as evidence that commuters by the thousands are lining up for buses instead of for gas.

"Ridership began to rise gradually in April," said Louis B. Olsen, general manager of the Minneapolis-St. Paul Metropolitan Transit Commission. "Then it reached a crescendo." The commission expected ridership to rise 2.5 percent this year, he said, but experienced an increase of 10 percent.

New York City and Chicago, with extensive transit systems of subways, buses and commuter trains, showed increases of 6.5 percent and 6.3 percent in August over a year earlier. Indianapolis, which relies on buses, had a gain of 8.1 percent.

Many other moderate-sized cities were showing much larger, sustained gains in the year ended last August. Hartford had a 17 percent increase, San Jose was up 31 percent, and Washington, with a new subway system, had a 34 percent gain.

The biggest ridership gains in most metropolitan areas were in suburbs and outlying sections, whose commuters face the longest trips and, therefore, the greatest vulnerability to high gas prices and uncertain supplies. In the New York metropolitan area, for example, the bus systems on Long Island registered a 17 percent gain, against an overall increase for the area of just 6.5 percent.

NEW DEMAND POSES PROBLEMS

Most transit systems, whose equipment has deteriorated in an era of scarce transit funds, were hit hard by the new demands for service.

The Southeastern Pennsylvania Transit Authority, which operates Philadelphia's metropolitan system, is chronically short of vehicles even in good times, and its 8-year-old buses, 34-year-old trolleys and 47-year-old Broad Street subway cars were swamped.

To meet the demands of the 1980s, the authority says, it will need 1,400 new buses. It now has 1,235, but 20 percent or more are likely to be out of service for maintenance on a given day.

For cities where reliance on mass transit is somewhat newer, such as Los Angeles, equipment is needed not only for replacement but also for expansion.

"We have simply been passing up people," said Michael Barnes, an official with the Southern California Rapid Transit District. "We've added 200 buses, 40 of which were on loan to Seattle."

Virtually all transit officials say the Carter Administration's pledge last month of $1 billion a year for 10 years in new Federal transit money is not only overdue, but also may well be inadequate. A recent study directed by United States Representative Bud Shuster, Republican of Pennsylvania, recommended spending eight times that amount.

PLEDGE "LESS THAN IT APPEARS"

"We're not doing a lot of projects because we have inadequate funding," said Bernard Ford, general manager of Chicago's Regional Transportation Authority. "We're actually getting less from the Federal Government this year than last. The $10 billion is less than it appears in terms of new money. Even a billion dollars spread over the country is not so big a number as it seems."

The President, in a recent speech to transit officials at their annual meeting in New York, promised to help propel the nation's public transportation system into a "quantum leap" of improved and expanded services.

Some transit officials said the $10 billion mentioned by President Carter would be significantly high only if it is focused on bus purchases and not on rail systems, which are much more expensive and benefit relatively few cities. Nevertheless, rail systems are being built or have been proposed in Baltimore, Miami, Buffalo, Detroit, Honolulu and in Portland, Oregon.

Nor do any transit officials expect ridership increases to bring mass transit into an era where heavy public subsidies are no longer required. The economics of mass transit, they note, are such that the increased costs of expanded service outpace the increased revenues.

GOVERNMENTS ENCOURAGE USE

Transit officials appear eager to keep and increase the new passengers. San Antonio, as an inducement to its employees to stay with mass transit, is paying $5 of the $20 monthly ticket price for any city worker who takes the bus.

Other cities are trying to stimulate the growth of van pools and car pools. Many are providing special bus transportation for elderly or handicapped people.

Most cities are planning a variety of answers to future transportation needs, including more buses, new trolleys and "light rail systems"—modern-day streetcars that usually travel on exclusive rights-of-way.

A prime example is Los Angeles, which is planning an 18-mile rapid-rail system but it is also working on expanded services on its buses and modification of its freeway system to better accommodate them.

[From the Washington Star, Oct. 29, 1979]

Sawhill Hints DOE Stress on Conservation

(By Roberta Hornig)

In a major Department of Energy policy shift, Deputy Secretary John C. Sawhill says the principal emphasis of U.S. energy policy "has to be on conservation."

Sawhill called for a "massive" program of making existing American homes and buildings more energy efficient and said he supported a serious program of pushing the production of gasohol as a substitute for gasoline in automobiles.

The department's new No. 2 man, in an interview last week, said he does not believe "the traditional responses to reduce oil imports will be adequate."

He defined the traditional responses as expanded nuclear power, coal production and synthetic fuels.

He also said he does not believe higher energy prices alone are "nearly enough" to curb U.S. energy consumption.

"We need major government action that goes beyond the market solution," Sawhill said. "Conservation is the only real alternative available to us."

Sawhill's philosophy is a change from department policy under former Secretary James R. Schlesinger. Under Schlesinger, who resigned in mid-July, the department preached conservation through higher prices. That philosophy was reflected in the decision to phase out price controls on domestic oil.

Schlesinger was contemptuous of the development of gasohol as part of the solution.

Sawhill's pro-conservation stance is the strongest to date of any member of the Carter administration.

The White House has belatedly embraced conservation measures initiated on Capitol Hill. Sawhill's boss, Secretary Charles Duncan, has spoken in favor of conservation, but not in specific terms.

Sawhill said the energy programs proposed so far by the administration "are effective but not the end of the line." He said "the development of a number of conservation initiatives" is one of his major jobs.

"We've got to work very hard to get every home and business in the country operating on an energy conservation basis," he said. He added that he is attracted to pending legislation sponsored by Sens. Bill Bradley, D.-N.J., and Paul Tsongas, D-Mass.

The two senators have proposed having an "energy doctor" visit American homes and recommend ways to make them more energy efficient. The "doctor" would help the homeowner locate reputable contractors and obtain financing at a reasonable rate.

"We need a mechanism for delivering energy conservation. That is a government role," Sawhill said.

In supporting a gasohol-development program, Sawhill said the government needs a way "to stop autos from consuming so much gasoline." He also said the government has to improve the quality of mass transit as an alternative to cars.

Sawhill, an economist who quit as president of New York University to join DOE last month, is serving his second stunt as a key figure in the shaping of U.S. energy policy.

In 1974–75, under the Nixon administration, he was director of the DOE's predecessor, the Federal Energy Office.

It was Sawhill's outspoken attitude on the need for conservation—at that time through a stiffer gasoline tax to dampen consumption—that led to his abrupt firing by President Ford.

Sawhill sees two major changes in the world energy situation between his first service in government and his return.

On the plus side, he said he sees "a lot more sophistication" in government decisions on energy problems.

On the negative side, he said, are the changing roles of members of the Organization of Petroleum Exporting Countries, particularly the diminution of Saudi Arabia's role as a dominant, and moderating, force within the cartel.

In the early to mid-1970s, Saudi Arabia had a dominant role and the ability to more or less control OPEC pricing decisions by the threat of increased oil production.

"Today Saudi Arabia has increased production and (OPEC) prices are still rising," Sawhill said.

"This indicates to me that it is no longer possible for any one country to control or dominate world energy prices," he said, adding that this has caused a "much less structured, much less orderly, much more volatile" world oil market.●

INCREASED PRIVATE CAPITAL INVESTMENT IN SHORESIDE FISHERIES FACILITIES

● Mr. PACKWOOD. Mr. President, today Senators MAGNUSON, LONG, and myself join in announcing legislation designed to increase private capital investment in shoreside fisheries facilities.

The United States, with the fourth largest coastline and the third largest continental shelf in the world, has almost one-fifth of the world's marine fish resources within 200 miles of its coastline. With passage of the Fishery Conservation and Management Act of 1976, Congress extended U.S. jurisdiction over fisheries in a zone extending 200 miles offshore. Under the act, the American fishing industry was given first opportunity to harvest and process resources found within the zone. Three years later, despite some sizable American gains, foreign vessels continue to fish off our coasts, take the catch home, and often export the processed fish back to the United States. This year, foreign harvests within the 200-mile U.S. fishery zone will amount to 2½ times the domestic harvest. The United States now imports 70 percent of its seafood, resulting in a fisheries trade deficit approaching $2.5 billion annually. This is an appalling situation, made even more so by the fact that, given our abundant resources, it is so unnecessary.

The primary reason for the U.S. fishing industry's inability to reach its potential has been identified by the Fisheries Development Task Force of the National Oceanic and Atmospheric Administration:

> The lack of adequate port and harbor facilities is an impediment to development of every major non-traditional species off the U.S. coast. Most new and expanded fisheries need new, improved, or expanded dock space, freezing capacity, storage and refrigerated warehouse facilities, vessel repair facilities, or support services.

The Conservation Foundation, upon completing a study of 135 seaports, reached the same conclusion:

> The major problem of expanding fisheries in many ports is a lack of shoreside facilities.

These inadequate facilities have kept the domestic fishing industry from reaching its full economic potential by taking advantage of the 200-mile fisheries zone.

My own State of Oregon provides an

accurate example of this shortcoming, yet shows potential for an encouraging remedy. Off the Oregon coast lie some of the most abundant fisheries on the west coast. These are Pacific whiting, a fish eaten in vast quantities throughout the world. In this country, Pacific whiting is a nontraditional species, seeking consumer recognition in new markets. Unfortunately, it is the Russian and Japanese fishermen who are exploiting this resource, and Japanese companies who are selling Pacific whiting to American markets. Over 200,000 metric tons of whiting can be harvested each year off the Oregon coast. Currently, 85 percent is being harvested by foreign fishermen, and an even higher percentage is processed by them.

This is a travesty, but one with a very desirable solution. Within close proximity to the Pacific whiting fisheries are numerous ports such as Coos Bay, Newport, and Astoria, among others, which, given sufficient capital investment, could provide the necessary facilities to support expanded American fishing. Facilities such as boat moorage and repair, and modern fish processing, storage, and distribution facilities are essential to allow American fishermen to finally displace foreign fishing off the Oregon coast, and within the 200-mile U.S. fisheries zone generally.

It is apparent that a means must be found to infuse the fisheries industry with sufficient capital to develop shoreside fisheries facilities. Fortunately, there have long existed two mechanisms by which private investors have been encouraged to invest in commercial vessels, including fishing boats. Section 1104 of the Merchant Marine Act of 1936 provides for obligational loan guarantees for up to 87.5 percent of the cost of the vessel. Section 607 of the act is the capital construction fund, which provides for a Federal income tax deferral mechanism to stimulate capital accumulation for replacement vessels. We propose that both programs be made available to investors in moorage, ship repair and fish storage, processing and distribution facilities.

CAPITAL CONSTRUCTION FUND

Under current law (46 U.S.C. 1177) individuals or businesses may place pretax income into an individual capital construction fund account. The taxpayer's taxable income is reduced to the extent of his contribution to this capital construction fund. Neither these funds nor the investment earnings therefrom are subject to Federal income taxation if they are eventually invested in American-built vessels. The U.S. Treasury recoups deferred income tax revenues, by reducing the taxpayers basis in the new vessel to the extent that capital construction fund moneys, financed the purchase of the ship.

The Eastland Fisheries Survey, an 18-month study mandated by Senate Concurrent Resolution 11 (93d Congress), analyzed the needs and priorities in all sectors of the fishing industry, and developed a national consensus on recommendations to Congress. We are today proposing enactment of one such recommendation:

> The Congress should extend the application of the Capital Construction Fund as embodied in the Merchant Marine Act of 1936 as amended, to include shoreside facilities directly related to harvesting, processing, and marketing.

The General Accounting Office has also recommended that—

> The financial (Federal) programs should be utilized to the extent that they can meet the needs of fishermen and processors.

NOAA's own fisheries development task force identified the inability to attract venture capital as an impediment to expansion of the fisheries industry. The task force suggested:

> The government could consider supporting legislation to extend the coverage of the existing loan guarantee and Capital Construction Fund programs to shoreside facilities such as processing plants, warehouse and cold storage facilities, and other associated facilities.

The capital construction fund mechanism is designed to assist investors seeking to raise the large amounts of capital necessary to build sophisticated commercial vessels.

Shoreside fisheries facilities are equally, if not more costly. An Alaskan salmon processing facility was recently installed at the cost of $15 million plus the cost of the land. Renovation of the Boston fish pier will cost approximately $30 million. An integrated, modern port and fish processing facility along the Oregon coast will require a similar high level of investment.

Extension of the capital construction fund program to shoreside facilities will allow the private sector to accumulate the capital it needs to make these large investments.

LOAN GUARANTEE PROGRAM

Section 1104 of the Merchant Marine Act of 1936 (46 U.S.C. 1271 et seq.) authorizes Federal loan guarantees for up to 87.5 percent of the purchase price of commercial vessels, including fishing boats. We propose to extend the eligibility for the loan guarantees to shoreside facility expenditures.

The loan guarantee program is a necessary complement to the capital construction fund for two reasons:

First, it provides a means by which all companies can obtain financing for fisheries facilities. Loan guarantees provide companies unable or unwilling to commit large amounts of capital to a capital construction fund with an attractive alternative. The loan guarantee program will benefit any company that can demonstrate the economic soundness of its proposed fisheries facility.

Second, much of the difficulty in attracting investment capital lies in the area of developing fisheries. Companies seeking to expand their activity in underutilization fisheries such as Pacific whiting and other Pacific ground fish find financing a major obstacle. With a Federal loan guarantee, these companies will be better able to attract capital, and at lower interest rates.

The current loan guarantee program for fishing vessels is administered by the National Marine Fisheries Service of NOAA. Because the Federal Government has had to assume very few loan obligations, the loan guarantee program has produced surplus income for NOAA. In fiscal year 1979 the National Marine Fisheries Service will show income of $750,000 above the cost of administering the program, including personnel and overhead.

Ironically, the program simultaneously is suffering a shortage of personnel, severely limiting the number of loan guarantees granted. Failure to grant loan guarantees to the eligible applicants only serves to delay the date when American fishermen will realize their full economic potential. I will continue to work with my colleagues on the Commerce Committee to assure efficient operation of this program.

I believe our amendments would act as a stimulus for industry development of the underutilized species, as well as renovation of facilities and expansion of traditional fisheries. This will result in increased U.S. employment in the seafood industry, a reduced balance-of-payments deficit in seafood products, and insure that the American industry is in the position to provide needed protein for the Nation's consumers for the world market. Our amendments are in concert with the basic intent of the Fishery Conservation and Management Act. If enacted, they will dramatically increase the ability of the private sector to raise the capital it needs to displace foreign fishermen within our 100-mile-fishing zone.

Following is the text of amendments to S. 1656 which Senators MAGNUSON, LONG, and myself intend to offer during an upcoming executive session of the Committee on Commerce, Science, and Transportation:

> Subsection (a) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177) is amended to read as follows:
>
> "(a) AGREEMENT RULES.—Any Citizen of the United States owning or leasing one or more eligible vessels (as defined in subsection (k)(1)), or one or more fisheries facilities (as defined in subsection (k)(9), may enter into an agreement with the Secretary of Commerce under, and as provided in, this section to establish a capital construction fund (hereinafter in this section referred to as the 'fund') with respect to any or all of such vessels or fisheries facilities. Any agreement entered into under this section shall be for the purpose of providing—
>
> "(1) replacement vessels, additional vessels, or reconstructed vessels, built in the United States and documented under the laws of the United States for operation in the United States, foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States, or
>
> "(2) replacement, additional, or reconstructed fisheries facilities and shall provide for the deposit in the fund of the amounts agreed upon as necessary or appropriate to provide for qualified withdrawals under subsection (1). The deposits in the fund and all withdrawals from the fund whether qualified or nonqualified shall be subject to such conditions and requirements as the Secretary of Commerce may by regulations prescribe or are set forth in such agreement; except that the Secretary of Commerce may not require any person to deposit in the fund for any taxable year more than 50 percent of that portion of such person's taxable income for such year (computed in the manner provided in subsection (b)(1)(A) which is attributable to

the operation of the agreement vessels or fisheries facilities or from the sale or marketing of fish or fish products (as defined in paragraphs (11) and (12) of subsection (k)."

(b) CEILING ON DEPOSITS.—Subsection (b) of section 607 of such Act is amended—

(1) in subparagraph (A) of paragraph (1) by inserting "or which is attributable to the operation of the agreement fisheries facilities or from the sale or marketing of fish or fish products" before the comma at the end thereof;

(2) in subparagraph (B) of paragraph (1) by inserting "or fisheries facilities" after "vessels"; and

(3) in subparagraph (C) of paragraph (1) and in paragraph (2) by inserting "or fisheries facilities" after "vessel" each place it appears.

(c) QUALIFIED WITHDRAWALS FROM THE FUND.—Subsection (f) of section 607 of such Act is amended—

(1) in subparagraph (A) of paragraph (1) by inserting "or a fisheries facility," after "vessel"; and

(2) in subparagraph (C) by inserting ", a fisheries facility," after "reconstruction of a qualified vessel".

(d) TAX TREATMENT OF QUALIFIED WITHDRAWALS.—Subsection (g) of section 607 of such Act is amended—

(1) in paragraphs (2) and (3) by inserting "fisheries facility," after "vessel," each place it appears; and

(2) in paragraphs (4) by inserting "fisheries facilities," after "vessels,".

(e) DEFINITIONS.—Subsection (k) of section 607 of such Act is amended by adding at the end thereof the following new paragraphs:

(9) "The term 'fisheries facilities' means all or a portion of any new or used structure (or appurtenance thereto), located in the United States, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Marianas, and any other Commonwealth, territory or possession of the United States, which is designed or used for the landing, receiving, processing or other treatment, distribution or storage of fish or fish products from one or more fisheries, and includes any associated land, equipment, or machinery."

(10) The term 'agreement facility' means any fisheries facility which is subject to an agreement entered into under this section.

"(11) The term 'fish' means any species of living aquatic resources excluding aquatic mammals and birds.

"(12) The term 'fish products' means any product which is made wholly or in part from any fish or portion thereof, except products which contain fish only in small proportions and which are exempted from definition as a fishery product by the Secretary.".

Section 1104(a) of the Merchant Marine Act, 1936 is amended by—

(1) redesignating paragraph (4) as paragraph (5);

(2) striking out "or" at the end of paragraph (3), and by adding immediately after such paragraph the following new paragraph:

"(4) financing or refinancing fisheries facilities,"

(3) inserting after paragraph (5) (as redesignated by this section) the following: "For the purpose of this paragraph (4) the term 'fisheries facilities' means all or a portion of any new or used structure (or appurtenance thereto), located in the United States, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Marianas, and any other Commonwealth, territory or possession of the United States, which is designated or used for the landing, receiving, processing or other treatment, distribution or storage of fish or fish products from one or more fisheries, and includes any associated land, equipment, or machinery."●

THE RESIGNATION OF JUANITA M. KREPS AS SECRETARY OF COMMERCE

● Mr. RANDOLPH. Mr. President, I add my tribute to others being given today to Commerce Secretary Juanita M. Kreps.

Secretary Kreps has held the post of Secretary of Commerce since January of 1977. During that time she has amply demonstrated her capabilities in the administration of a very complex agency.

The Department of Commerce oversees a multitude of Federal programs. Among those are several economic development programs under the jurisdiction of the Committee on Environment and Public Works, which I chair. Some of the achievements of the Economic Development Administration and the agency during the period of Juanita Kreps' stewardship will reflect her success.

During Secretary Kreps' tenure, the Economic Development Administration developed and carried out procedures for implementing the 1977 Public Works and Economic Development Act, directing particular attention to a new requirement that 10 percent of round II local public works grants be awarded to minority business enterprises. Currently, about $600 million is projected to be awarded to minority-owned businesses under this program.

Under round II of the local public works program, more than 8,500 projects totaling $4 billion were approved by EDA for State and local governments. Disbursements under this program already exceed $3.3 billion.

President Carter's commitment to the economic development needs of this country can be seen in the increased level of program activity being requested for the Economic Development Administration. This administration's fiscal year 1980 budget request was $1.4 billion, over a billion dollars more than the fiscal year 1978 request of $212 million by President Ford. This greatly increased level of funding reflects the President's commitment to economic development programs, and also his confidence in the Department of Commerce and Secretary Kreps to carry them forward.

Under Secretary Kreps, the Commerce Department has been administering the President's Steel Loan Guaranty Program, under which guaranties totaling over $250 million have already been approved for four companies. Two additional approvals totaling nearly $170 million are projected for the first quarter of fiscal year 1980.

In 1977 the Commerce Department, at Secretary Kreps' direction, organized the highly successful White House Conference on Balanced National Growth and Economic Development, authorized by legislation I sponsored. This conference created a forum for the involvement of local, State, and Federal officials in meetings across the country for the discussion of critical economic issues.

Following the recommendations of the conference, the Committee on Environment and Public Works developed S. 914, the National Public Works and Economic Development Act of 1979. This legislation reauthorizes existing economic development programs and incorporates important new authorities. It specifically embodies a conclusion reached by the conference and subsequently recommended by the President that a regional growth policy process be instituted. This portion of the legislation reflects a finding of the conference that the varied economic problems in regions of the Nation suggest a need for strong State and local action to develop regional balanced growth policies and to focus local, State, and Federal funds in accordance with these strategies. It was determined by the conference, the President, and subsequently by the Senate, that the programs through which such efforts should be channeled are the existing title V regional commissions and the Appalachian Regional Commission.

The legislation developed by the Committee on Environment and Public Works reflects this and a number of other findings of the White House Conference on Balanced National Growth and Economic Development, which was spearheaded by Secretary Kreps. It is my hope that it will become law before the end of this session of Congress.

Mr. President, over the past few years I have had many opportunities to counsel with Secretary Kreps on important economic development issues, both through the hearing process and in personal discussions. I have been impressed with her wisdom, with her dedication, and with her warmth. Mr. President, Juanita Kreps cares about people. That concern for others is apparent through everything she has done over a career of over 30 years in the academic field and in posts at the State and Federal level. She has contributed to the Department of Commerce not only superior administrative ability, but a sense of compassion that is sorely needed in our modern bureaucracy. It is with regret that I bid her farewell.●

● Mr. HOLLINGS. Mr. President, it is with deep regret that we see Juanita Kreps leave her post as Secretary of Commerce this week. She has been an innovator and trailblazer throughout her career. She has been a noted professor, economist, author, member of the stock exchange, and vice president of a major university.

The list of her accomplishments is unending, and her time at the Commerce Department is no exception. She has led a major trade delegation to Japan, worked for improved trade with the People's Republic of China, and expanded export policy in general. She has worked toward the development of coastal zone management and strengthened the merchant marine.

It has been my pleasure to work with her on matters of communication, oceans, textiles, foreign trade, and economic grants, and I always have been impressed with her strength, her leadership, her graciousness, her courage, and her tremendous talent. Juanita Kreps has made a contribution to this city and to the Federal Government that will not soon be forgotten. I wish her the best of fortune as she faces new challenges in the private sector and hope that we can continue to look to her for advice and guidance in the future.●

PROPOSED ENERGY SECURITY CORPORATION

● Mr. ARMSTRONG. Mr. President, with the vote on the proposed Energy Security Corporation only a few days away, I want to call to your attention the broad-based alliance that has been formed to defeat this legislation.

The alliance consists of Senators from all sections of the country, almost all of the major environmental organizations, members of the academic community, and large and small business groups.

Because of widespread opposition to the creation of an Energy Security Corporation, I thought that you would be interested in reviewing statements alliance representatives made at a press conference Wednesday morning, and I ask that they be printed in the Record.

The material follows:

Statement by Senator William Proxmire

Good morning. I would like to welcome you to this press conference. We have a large and diverse group of speakers, and everyone is going to want to say a few words about their particular interest in this matter.

I would like to start the proceedings by briefly discussing what has brought this group together. Although there are relatively few things with which everyone at this table would agree, I believe that we all agree that an Energy Security Corporation to manage an all-out $88 billion synfuels program is a bad idea. I would like to discuss why I believe Congress should not create a federal Corporation to manage the synfuels program.

I agree that synthetic fuels should be given a fair chance. However, I also believe that the only chance the synthetic fuels industry has to develop is if we keep the federal government out of the management and promotion of this industry. The bill approved by the Banking Committee, which I support, places primary reliance on market forces. It provides limited federal financial assistance for a program to demonstrate synfuels technologies on a commercial basis, in order to develop the information about costs, technological readiness, and environmental impacts that would allow the private sector to take over and do the job.

Creating an independent and unaccountable federal corporation for the sole purpose of promoting synfuels would guarantee that the federal government would attempt to force rapid development of a large synfuels program. It would also guarantee the expenditure of massive amounts of federal funds. The Energy Committee bill, which would create the Corporation, provides $88 billion in authorizations.

Paradoxically, according to several people who testified before the Banking Committee, creation of the Corporation with $88 billion in spending authority would not necessarily promote faster development of synfuels or the long term health of the industry. It could actually hinder synfuels development by promoting excessive reliance on the government, by over-committing to untested technologies which might fail, and by guaranteeing a substantial role for the federal government in all stages of the program. This last point is particularly important. There was general agreement among witnesses before the Banking Committee that government involvement in synfuels should decline once the technologies have been demonstrated on a commercial basis. At that point, the questions would have been answered, and everyone would know which processes work and how well they work.

Thank you for coming. We'll be pleased to take questions later. I will now ask Senator Armstrong if he would like to say a few words.

Statement of Senator Armstrong

In a few days, the Senate will vote on whether to create an $88 billion Energy Security Corporation (ESC). The administration says such an agency is needed to stimulate an organized synthetic fuel production. Some proponents go so far as to suggest that a vote against ESC is a vote against synthetic fuel. Nothing could be further from the truth.

The Energy Security Corporation has considerable superficial appeal. The nation needs synthetic fuel. And with OPEC becoming more and more intransigent, a crash program seems like a symbol of our moral and financial commitment to get unhooked from foreign energy sources. It's bold. Dramatic.

But the Energy Security Corporation is a seriously flawed concept. ESC would probably turn out to be one of the costliest boondoggles of all time. ESC would be likely to impede, rather than stimulate, synthetic fuel production. It also threatens serious adverse environmental consequences.

Massive Government bureaucracy not needed: The ESC is an idea which originated with people who have little or no direct experience in production of synthetic fuel. It is not supported by those who are knowledgeable of what it takes to stimulate meaningful production of energy from oil shale, tar sands, coal, etc.

During the last several months, the Senate Energy Committee and other committees of the House and Senate have heard much testimony from industry experts, economists, engineers, financiers, scholars and consultants. In effect, we have said to these authorities "what will it take to get synthetic fuel production moving?" Interestingly, almost none has suggested creation of the "Energy Security Corporation" or similar massive bureaucracy. Instead they have recommended measures designed to cut red tape and provide incentives for the private sector:

Fast track permitting process;

Decontrol of oil and natural gas prices;

Production tax credits (such as $3 per barrel tax credit);

Accelerated depreciation; and

Guaranteed purchased plans or similar incentives.

Inadequate financial controls: No one knows the ultimate cost of developing synthetic fuels. Consultants point out that the estimated cost per barrel of synthetic fuel is increasing rapidly. "Although there are many contributing factors, . . . the most important single influence seems to be a steadily increasing knowledge of costs, as a result of more detailed engineering design," according to PACE consultants.

Synthetic fuel developed by the private sector will be subject to the stringent discipline of market economics. Many diverse ideas will be considered. But only when individual firms or consortia are willing to risk their own money on an idea will large sums be spent. Government administrators, on the other hand, often push expensive large scale programs when technological or economic factors do not warrant such development.

ESC is not needed: Hundreds of millions of dollars have already been committed by private sector companies to the production of synthetic fuel. Some companies say they are awaiting only the release of federal lands for development. Another company states it will proceed at once with a large scale synthetic fuel production plant immediately upon the enactment of a $3 per barrel tax credit which, as you know, has twice been approved by the Senate and for which there is growing wide spread support in the House. Under the circumstances, it may turn out that creation of another large government bureaucracy would slow down, rather than stimulate, synthetic fuel production plans. After all, what company will proceed on its own to do something without subsidy the same task for which it might obtain subsidy?

Inappropriate analogies: ESC has often been compared with the Manhattan and Apollo projects. However, both of these projects had a single customer for their output: the U.S. government. And for these projects cost and economic factor was not a primary consideration. There was no substitute product on the shelf that could be used if the new product turned out to be too costly. If the devices worked technically, the projects were deemed a success. But energy technology, such as synthetic fuel development, will be successful only if many individual users, each considering a different situation, decide that the new technology has economic advantages over a wide array of alternatives available in the market.

Political considerations: As long as the government holds the purse string, ESC will be subject to political pressure. If past experience is any guide, there is every danger that decisions of project funding and research will be heavily influenced by political considerations rather than sound economics and technology.

Environmental concerns: If the government bulldozes ahead with large scale programs, the impact upon the environment is likely to be far more adverse than if multiple, diverse, small scale efforts are undertaken within the discipline of the private economic market. A crash program—based on political rather than economic or technological considerations—is likely to have seriously adverse environmental and social consequences.

I look forward to the opportunity to discuss each of these and other considerations with you in detail. After careful study, I believe you will feel as I do that the Energy Security Corporation is a costly, unnecessary and undesirable approach to the nation's synthetic fuel needs. If enough Senators will seriously study this issue I believe a majority will reach the same conclusion.

Wallop Opposed to Energy Security Corp.

Washington.—Senator Malcolm Wallop, R-Wyo., today said he opposed creation of the Energy Security Corp. because it represented an incomprehensible and unprecedented intrusion of the federal government into the country's economy.

Wallop said the sheer financial impact of the corporation was greater than the combined assets of the top three companies in the Fortune 500 rankings.

The Wyoming Republican made the remarks during a news conference hosted by senators opposed to creating the new agency.

"Even the federal government cannot repeal the laws of thermodynamics," Wallop said. "It doesn't matter how much money you set aside—whether it is the $88 billion proposed or more—science must still overcome the obstacles to the efficient commercialization of synthetic fuel facilities.

"Private competition not government owned corporations alone can surmount these obstacles. We need assistance, not possession," he said.

Legislation creating the ESC would authorize appropriations of at least $88 billion to carry out goal-oriented projects to reduce the nation's dependence on foreign crude oil.

"Despite arguments to the contrary, this is essentially an expensive, oversized demonstration program in an area where many witnesses have pointed to problems and uncertainties," Wallop said.

"A too early commitment to build a commercial-scale facility invites inefficiency. We cannot make effective commitments when dealing with unknowns."

The Carter administration originally pushed for an ambitious program with a goal of 2.5 million barrels of oil per day equivalent by 1990. Downward assessments now place the figure at 1.5 million barrels a day, Wallop said.

"We must compare this $88 billion figure with the cost of other goal-oriented projects. The transcontinental railroad cost $16 million. The Manhattan Project was $2 billion. The Apollo program put a man on the moon for $23 billion," Wallop said.

"The ESC approach to synthetic fuel development is not justified given the alternatives for oil import reduction and competitive alternatives in the synthetic fuel marketplace," Wallop said.

"U.S. oil import reduction could be achieved in large measure by more conservation and more conventional oil and gas production. This nation should proceed without further delay with energy price decontrol, expand the Department of Energy synthetic fuel demonstration program and give the market a chance to operate before committing the country to a large-scale synthetic fuel expenditure through a new agency creating even more bureaucracy.

"The country's course will be cast for the rest of this century by the sheer momentum of 88 billion hastily committed dollars."

Statement on Energy Security Corporation
By Senator Harrison Schmitt

In 1977, Congress enacted the Department of Energy (DOE) Organic Act. This department, we were told, was going to solve all of our problems. We were told there were too many different agencies and departments dealing with the energy problem and we needed to consolidate our efforts in order to implement a strong, consistent energy policy.

A mere two years later, we are now being told the Department of Energy can't handle the job. So what are we asked to do? First, we are asked to establish and Energy Mobilization Board to make decisions on energy policy that the DOE and the President can't seem to make.

Now, they are trying to create an Energy Security Corporation outside of the government to develop our mid-term energy resources again because DOE and the President can't seem to make any decisions.

There are a lot of ridiculous ideas floating around, but this is the most ridiculous thing I have ever heard of.

Just who are we trying to kid? The American people, that's who!

If it were up to me, I would call it the Energy Insecurity Corporation!

If we are deciding that the government can't work effectively to develop our resources, rather than create a new corporation, let's allow the private enterprise system to operate the way it was intended.

To put $20 billion, or more precisely $88 billion, into a corporation developing a crash program in a technology when we do not have the infrastructure to support it, does not make sense to me. There are major questions of coal accessibility, water availability, environmental considerations and equipment availability, that probably make the goals in this Act impossible to meet.

But, if we are hellbent on doing this, then it's okay with me as long as we use synthetic money which is all we will have if we don't use some common sense pretty soon!

Statement by Senator Bob Packwood On Synthetic Fuels Development

The Senate will soon take up energy legislation that could have a profound effect on the future of this country—the people, the economy, the land. The central issue is how we will develop our abundant alternatives to imported oil. Solar energy, synthetic fuels, conservation, geothermal: all of these have potential to greatly reduce, and eventually eliminate our dependence on unreliable energy sources.

We may disagree on the relative importance of these alternative energy sources. I support the conclusions of the Harvard Business School. Conservation and small scale solar, with proper incentives, will save the most oil in the shortest time at the least cost. Still, we need liquid fuels. We must start now to investigate and develop the most viable synthetic fuel technologies.

To get to the bottom of this issue we must ask one question. Energy consumers must ask it. Taxpayers must ask it. Energy companies, environmentalists, state and local governments must ask it: can we rely on a lavishly funded, centralized government energy company to develop our alternative energy sources?

I think the answer will be loud and clear: NO. The Energy Security Company proposed by the President will behave like a giant supertanker: Once it has reached full speed, we will find it nearly impossible to change its course, or slow it down. Considering the unknown waters it must chart, beset with economic and environmental hazards, the voyage could be a disaster.

I have always believed the best thing the government can do to develop alternative energy is to lend the private sector a helping hand, and then get out of the way. The Finance Committee's approval of new tax credits for conservation, solar, and synthetic fuels reflects this philosophy.

We can pull ourselves out of this energy crisis if we marshal the individual and business ingenuity so abundant in this country.

Uncle Sam can get the ball rolling by reducing the economic risk through tax incentives, loan subsidies, guarantees, and purchase commitments. We don't need him running an Energy Security Corporation.

Statement by Senator Gary Hart

Creating a Federal Corporation to initiate a private and competitive synthetic fuels industry is a lot like starting a range fire to cook a sage hen. I'd rather we try to roast the bird over a camp fire.

The idea of starting a Federal corporation was inspired by the equally bad idea to spend $88 billion. That amount of money would more likely establish a hodgepodge of companies perpetually dependent upon the Federal treasury. Or, at $2 billion per plant, the Federal corporation could conceivably buy 40 synthetic fuel plants, capable of producing nearly 2 million barrels of oil per day.

From the beginning, it has been clear that the question facing us is not whether to develop synthetic fuels—clearly, we must. The question is how to do it, how fast and at what cost.

There are four strong arguments against the proposed Energy Security Corporation.

1. Most people in this country in and out of the business community do not want more Federal intervention in the energy marketplace. They want less. The Energy Security Corporation would provide more government intervention, with vast financial resources outside the control of both the President and the Congress. The Exxon Corporation spends about $2.5 billion per year in investments. The President's Energy Security Corporation would spend around $8 billion per year. I believe the people in this country do not want a Federal corporation three times bigger than the Exxon oil company.

2. Another argument against the Energy Security Corporation is based on the size of the job to be done. The President presumed the Corporation would commit the $88 billion toward the construction of about 30 synthetic fuels plants during the next six years. According to the expert consultants to the Budget Committee Task Force on Synthetic Fuels, this overly ambitious program would likely be self-defeating, if its goal included the development of an industry to be economically competitive and thus economically self-sufficient.

Most leaders in Congress now seem to be gravitating toward a first-stage synthetic fuels program which would test six to ten processes in full scale private plants. Price guarantees would be the primary incentive mechanism. Several of these plants may be initiated by tax credits, rather than price or purchase guarantees. Thus, the proposed corporation would have only about six price guarantees to negotiate over the next few years.

3. The administrators of the synthetic fuels program should not be allowed to spend many billions of dollars without full Congressional approval. A price guarantee contract for a single 50,000 barrel-per-day plant will obligate the treasury to spend about $3 billion between 1985 and 2000. Congress, not an Admiral, approves in detail each $2 billion aircraft carrier to be built. Similarly, Congress should approve each decision to sign a price guarantee. Once approved, however, the Congress should appropriate sufficient funds, to cover the life of the project, just as it would appropriate enough to complete the construction of an aircraft carrier.

4. A first phase of testing six to ten synthetic fuels technologies should be completed before ultimate production goals are set. The President's proposal would require the simultaneous construction of duplicate plants to achieve its 1990 production goals. Such duplicate plants should constitute the second phase of the synthetic fuels program after some plants are actually producing oil from the first phase.

We could compare commercial sized synthetic fuels plants to a new type of battleship which has only been tested at a one-tenth size scale model. The President's proposal is tantamount to ordering an armada of the new battleships to be constructed simultaneously, before even one full size ship is tested at sea.

In summary, the country would best be served with an aggressive commercial test program and a minimum of Federal intervention. And subsidies should be visible where they exist. An Energy Security Corporation is neither needed for this size effort, nor desirable. Duplicate plants should not be initiated until the technology is proven effective in a commercial demonstration.

For this reason, I will oppose the Energy Security Corporation as proposed by the Energy Committee. It is not enough to be against a proposal, however, and I will offer an alternative plan which should achieve the goals without the problems posed by the President's proposal.

Small Business Rejects Energy Security Corporation

Washington, D.C.—Small business has rejected the idea of an energy security corporation proposed by the Administration, according to a poll by the National Federation of Independent Business (NFIB), the nation's largest small business organization.

The 585,000 NFIB members were asked recently if they favored or opposed the creation of an energy security fund to finance research and development of new energy technologies. A solid 58 percent voiced opposition to the idea and 38 percent supported it. Four percent were undecided.

Small business thinks government should stay out of the energy-producing business, said NFIB Washington Counsel James D. "Mike" McKevitt in announcing the survey results.

"When it is profitable to produce and market synthetic fuels, then private enterprise will be there to do the job. Until then, a massive syn-fuel development program is just a waste of the tax-payers' money," McKevitt stated.

With an $80 billion pricetag, the energy security corporation would be another drain on an already overburdened federal budget, he said. "And that's just the beginning. Business knows how to put an end to unsuccessful projects, the federal government just keeps pouring more money into them."

He also said that getting the government involved in energy development would add an unnecessary political element to the serious business of finding answers to our energy problems.

In the same survey, NFIB members voted in favor of the continued development of nuclear power and removing the price controls on gasoline. They opposed mandatory rationing of gasoline.

NFIB is a nonprofit, nonpartisan organization. The following are the survey results broken down by state:

[In percent]

State	Pro	Con	Undec.
Alabama	41	55	4
Alaska	29	68	3
Arizona	33	64	3
Arkansas	39	57	4
California	37	59	4
Colorado	34	63	3
Connecticut	51	44	5
Delaware	45	49	6
Florida	41	56	3
Georgia	39	58	3
Hawaii	45	52	3
Idaho	30	66	4
Illinois	37	58	5
Indiana	36	59	5
Iowa	42	53	5
Kansas	36	59	5
Kentucky	47	49	4
Louisiana	31	65	4
Maine	46	50	4
Maryland	43	52	5
Massachusetts	46	50	4
Michigan	42	54	4
Minnesota	43	52	5
Mississippi	38	59	3
Missouri	36	59	5
Montana	35	63	2
Nebraska	37	59	4
Nevada	39	58	3
New Hampshire	42	55	3
New Jersey	47	48	5
New Mexico	31	66	3
New York	43	53	4
North Carolina	42	54	4
North Dakota	38	57	5
Ohio	39	58	3
Oklahoma	28	69	3
Oregon	38	57	5
Pennsylvania	41	54	5
Rhode Island	45	54	1
South Carolina	37	59	4
South Dakota	40	55	5
Tennessee	39	56	5
Texas	29	68	3
Utah	31	65	4
Vermont	45	50	5
Virginia	41	55	4
Washington	40	56	4
West Virginia	43	53	4
Wisconsin	42	55	3
Wyoming	33	63	4
Washington, DC	50	38	12

Statement of Brock Evans Concerning Synthetic Fuels

Synthetic fuels pose serious environmental and health hazards, including excess water consumption, degradation of water quality, risks to human health from toxic materials and carcinogens, reduction of air quality, and new threats to important wildlife resources.

The establishment of a Synthetic Fuels Corporation will only heighten these dangers. The Corporation will encourage those decisions most likely to create environmental problems. It will spend incredible sums of money without any public control. It is devoted to a single goal—the construction of a synthetic fuels industry—to the exclusion of protecting other values. It will be next to impossible to reverse commitments by the Corporation to construct these multi-billion dollar facilities if they prove to be economic or environmental turkeys. It will speed the establishment of an industry faster than our ability to solve the problems it will create.

The Corporation will reverse the most important public protections obtained the past decade.

It may commit billions to environmentally risky projects without preparation of an environmental impact statement which can assess whether such projects should be built or ways to reduce their danger.

It will proceed with decisions without consulting state governments, federal agencies, or the public.

It will proceed with a second phase of synfuel plant construction before the first synfuel plants have been built, tested or operated.

Many citizens have raised questions about recent developments in the energy industry. The Corporation will not solve them; it will make them worse. It eliminates any meaningful public control over future synthetic fuels industry or over our energy future. It cannot create a standard against which the private synfuels industry can be measured; the Corporation will only be able to build those plans which will be such losers that the private sector will not touch them.

Should we commit $90 billion to these new technologies before we fully understand their environmental consequences, how to correct the problems, or even before we know whether they work? We think not. By far the preferable approach will be to demonstrate a range of technology at a limited scale first and commit greater resources to more productive and reliable investments in energy conservation and renewable resource development.

Statement of Thomas L. Kimball

Of all the options available to this nation for reducing our dependence on foreign sources of oil, none has the potential for causing more widespread and serious environmental damage than the crash synthetic fuels effort proposed by the Carter Administration and the Senate Energy Committee. These adverse environmental impacts range from the problems caused by increased strip mining in arid western regions, through the implications of diverting scarce western water resources to synfuel production, to the many pollutants produced in the conversion of coal and oil shale to synthetic fuels. Scientists warn against increased loading of the atmosphere with CO_2 which may already be leading to a serious, adverse climatic shift. The problems of disposing of massive amounts of solid waste and the environmental aspects of the well known socio-economic impacts of the boom town development also argue against a crash synfuels program.

It may be—and I stress the word *may*—that with foresight, commitment, research and a little luck these problems can be solved or mitigated to an acceptable degree. The problem is that this is *not* certain. Many of the synfuel technologies are unproven at any significant scale. *None* have ever been demonstrated anywhere in the world at the scale which the Corporation would be given 88 billion tax dollars to attempt. In its commercialization effort, the Corporation could commit the country to dozens of synfuel plants before there is any real operating experience with a single one.

Simply on the basis of the environmental problems, any synfuels development effort should be responsible, logical and restrained. The crash effort advocated by the President and the Energy Committee is the opposite. With the potential of other options, such as conservation, solar, and renewables, enhanced recovery, production of heavy crude oil, and unconventional natural gas to offset more foreign oil, faster, at a lower cost and using proven technology, the crash synfuel/synthetic fuels corporation approach borders on the irrational.

The Energy Coalition, representing five million Americans, strongly endorses the type of approach to synfuels development embodied in the bill reported by the Senate Banking Committee. Synfuels, far more than its other alternatives, should be continually re-evaluated and compared to other options in the normal appropriations and oversight process. We urge the Senate to defeat the proposal to create a Corporation which would frustrate such a responsible approach.

Coalition Supports Drive To Kill Synfuels Corporation

The Energy Coalition today announced its support for a bipartisan Senate effort to defeat attempts by the Administration and the Senate Energy Committee to establish a massive, autonomous Synthetic Fuels Corporation. As outlined in legislation reported by the Energy Committee, the SFC would have virtually unchecked powers to spend $88 billion over the next decade to commercialize synthetic fuels.

The Coalition strongly supports the approach to synthetic fuels adopted by the Senate Banking Committee which provides major incentives to build first-of-a-kind commercial scale plants to test the various synfuel technologies. The Banking Committmittee bill creates no new Federal bureaucracy and strictly limits the Government role to absorbing the risks involved in building the first commercial scale plants. Any further synthetic fuels development is left to the private sector or to later legislative initiative which can be crafted after more is known about the technical feasibility, economic viability and environmental impact of various synfuel processes.

Spokesmen for the Energy Coalition emphasized their opposition to two key aspects of the Administration-Energy Committee plan: the creation of an autonomous entity devoted solely to synthetic fuels and the irrevocable commitment of $88 billion to one energy source. Thomas Kimball, Executive Vice President of the National Wildlife Federation stated, "We can not solve our energy problems by putting all of our resources and efforts into synfuels—an untried and risky technology—and ignoring safer, less risky approaches that we know will work right now. Why is there no similar effort to push conservation, solar energy, enhanced recovery of domestic oil and gas and the other energy technologies that are available today at far less cost."

Brock Evans, Director of the Washington Office of the Sierra Club noted: "If the experience of the last two decades has taught us anything, it is that a single purpose corporation is the worst vehicle for energy planning and policy. A synfuels corporation will spend money on synfuels plants whether they work or not, whether they are environmentally sound or not and regardless of the existence of more cost-effective ways to reduce our energy. It will be like the old and discredited Atomic Energy Commission, pushing one approach to the exclusion of others."

The Coalition is joined in its opposition to a synfuels corporation by representatives of large and small business, the financial community and the energy industry itself.

The Energy Coalition—A Coalition for Renewable Resources and Energy Efficiency—is a joint enterprise of nine major national citizens groups and over one hundred local and regional organizations organized to address issues raised by the Administration's recent energy proposals. A full listing of member organizations—representing over five million citizens—is attached.

As of October 31st, state, local and regional organizations have become Associate Members of the Energy Coalition. Additional organizations will be added as the Energy Mobilization Board and synthetic fuels debates continue. Associate Members currently include:

ALABAMA

Birmingham Audubon Society.
Alabama Solar Coalition.

ARKANSAS

Arkansas Ecology Center.

CALIFORNIA

California Trout, Inc.
Citizens Coordinate Century 3.
Citizens for Better Environment.
Community Environmental Council.
Ecology Center of Southern California.
Environmental Center of San Luis Obispo County.
Friends of Wildlife.
Planning and Conservation League.
Tri-City Ecology Center.
Welfare Recipients League.

COLORADO

American Wilderness Alliance.
National Environmental Health Association.

CONNECTICUT

Conservation Law Foundation of Connecticut.
People's Action for Clean Energy.
Save our State.
Shame, Inc.
Connecticut Transportation Coalition.
Jim Etter, CT Counsel, Conservation Law Foundation of CT.

DISTRICT OF COLUMBIA

American Public Health Association.
Audubon Society of Mid-Atlantic States.
Center for Renewable Resources.
Children's Foundation.
Clean Water Action Project.
Environmentalists for Full Employment.
Native American Rights Fund.
Washington Area Bicyclist Association.

FLORIDA

Broward County Audubon Society.
Florida Solar Coalition.

HAWAII

Life of the Land.

IDAHO

Idaho Conservation League.

ILLINOIS

Illinois Environmental Council.
Illinois South Project.
Lake Michigan Federation.
Prairie Alliance.

INDIANA

Indiana Division Energy Committee.
Izaak Walton League of America, Fort Wayne Chapter.

IOWA

Calhoun County Environmental Action.
Community Action Research Group.
Environmental Coordinating Organization.
Free Environment.

KANSAS

Environmental Awareness Center, Kansas State University.

KENTUCKY

Kentuckiana Solar Society.

MARYLAND

Chesapeake Energy Alliance.
Solar Action of Maryland.

MASSACHUSETTS

Berkshire National Resources Council.
Conservation Law Foundation.
Liberal Religious Youth.
Massachusetts Association of Railroad Passengers.
New England Wildflowers.

MISSOURI

Coalition for the Environment.

MONTANA

Alternative Energy Resources Organization.
Regional Energy Advocacy Program.

NEW JERSEY

Association of New Jersey Environmental Commissions.
Committee for a SANE National Nuclear Policy.
Maplewood Environmental Action Group.
Youth Environmental Society.

NEW MEXICO

Southwest Research Information Center.

NEW HAMPSHIRE

New Hampshire Association of Railroad Passengers.
Sea-Coast Anti-Pollution.

NEW YORK

Bronx Council for Environmental Quality.
Citizens for Clean Air.
Consumer Action Now.
Institute for Public Transportation.
Lyman Langdon Audubon Society.

OHIO

Citizens for Clean Air and Water.
Coalition for Safe Electric Power.
Ohio Public Interest Research Group.
Ohio Environmental Council.
Personal Mobility Committee.

OREGON

Oregon Solar Institute.

PENNSYLVANIA

Citizens Environmental Task Force.
Committee of Pennsylvania Environmental Groups.
Delaware Valley Citizens Council for Clean Air.
Group for Recycling in Pennsylvania.
McKeever Environmental Learning Center.
Mobilization for Survival.
Semple Street Food Cooperative Association.
Women's International League for Peace and Freedom.

RHODE ISLAND

Conservation Law Foundation of Rhode Island.
Ecology Action for Rhode Island.
Rhode Island Solar Energy Association.

SOUTH CAROLINA

South Carolina Environmental Coalition.

SOUTH DAKOTA

Black Hills Energy Coalition.
South Dakota Resources Coalition.

TENNESSEE

Tennessee Citizens for Wilderness Planning.
Tennessee Conservation League.

TEXAS

Texas Solar Action Coalition.

UTAH

Utah Solar Energy Society.

VIRGINIA

Centec Consultants, Inc.
Northern Virginia Conservation Council.

WASHINGTON

Washington Environmental Council.

WEST VIRGINIA

New River Energy Center.
Technology Education Program.

WISCONSIN

Alternative Power Alliance.
Wisconsin Environmental Decade.

WYOMING

Powder River Resources Council.
Wyoming Outdoor Council.

STATEMENT BY MEL HORWITCH

Since the end of World War II the U.S. has experienced disappointment over synthetic fuels. In the late 1940's a massive $8 to $9 billion synthetic fuels program was proposed by the Secretary of Interior and the Secretary of Defense to free the country from an allegedly dangerous dependence on foreign oil. Incredibly low estimates for oil-from-coal were given: approximately 12 to 14 cents per gallon. Of course, we opted for more foreign oil and increased natural gas.

A surge of interest and optimism over synthetic fuels again appeared in the 1960's. The Department of Interior's office of coal research ignited this enthusiasm by sponsoring a relatively small research program during the sixties. Bullish forecasts of low costs and predictions of a "flourishing" synthetic fuels industry were heard throughout the middle and late 1960's.

Oil and some gas companies began to consider coal a potential feed stock for their refineries, pipelines and petrochemical plants. The lure of synthetic fuels led them to acquire coal, particularly in the west where at the time no large market existed for steam coal.

By the early 1970's, however, more discouraging estimates for the cost of getting oil and gas from coal again emerged, and the flush of optimism again vanished when all participants discovered that liquefied or gasified coal was much more expensive than petroleum or natural gas. Even after the oil embargo (when synthetic fuel was again briefly in the limelight as part of Project Independence); synfuel costs were found to be much higher than natural gas or crude oil.

This historical track record in synthetic fuels—of grandiose schemes and attractive technological and economic promises, followed by disappointment and dramatically rising cost estimates—should give us pause at this time when we are presented with the most ambitious proposals for synthetic fuels ever encountered in the United States.

In addition to the high costs of end products and to the environmental problems associated with synthetic fuels there is still another problem with a crash effort in synthetic fuels: its opportunity penalties. Synthetic fuels is a long-term option. A massive program will not solve the problem of long gas lines in the next decade. But it will also tie up funds, human resources, and facilities that could focus on a diverse array of short-term and long-term energy options (including a more modest strategy in synthetic fuels). We should not put all our eggs in one big technological basket.

A massive synthetic fuels program is an example of choosing a conceptually simple technocratic solution for what is a complex societal problem. It is also an example of over-concentration—an action which would leave us highly vulnerable to risk of total failure since we would have foregone other options.

All large-scale, public-private technological endeavors can experience dramatic life-cycles which often end in failure. The SST, for example, evolved from a contained aerospace effort to an increasingly fragmented and weakened program within the government to ultimately a society-wide symbol of environmental degradation. Nuclear power evolved in a similar way. Programs which are protected by a national defense or war time cloak or an absolute presidential commitment usually survive intact. We should not, therefore, project the success of a massive synthetic fuels effort by equating it with the development of synthetic rubber during the Second World War or with putting a man on the moon.

What I recommend with regard to synthetic fuels is a modest effort, say the equivalent of a half dozen projects rather than the 20 plus that are now being suggested. We need a portfolio of synthetic activities that range across the spectrum in terms of technological risk (including first, second, and third generation technologies), scale (including laboratories, pilot plants, demonstration plants and perhaps a commercial plant), location, and type of raw material. Our goal should be to create a capability and expertise in synthetic fuels. Perhaps by 1990 we will be producing the oil equivalent of 250 thousand to 500 thousand barrels per day of synthetic fuels. More importantly however, our learning in this area will have been accelerated. With this more modest but more realistic strategy in synthetic fuels—a portfolio approach—we will keep our degrees of freedom and be more efficient in dealing with our energy problem, including maintaining choices involving synthetic fuels.

FEDERATION OF AMERICAN SCIENTISTS

The Federation of American Scientists released today a letter being sent to all members of the Senate which opposes the synthetic fuels provision of S932 (in the Energy and Natural Resources Committee bill) that would allocate $88 billion to subsidize a commercial synthetic fuels industry. The letter is attached.

The Federation of American Scientists is a 35 year old civic organization devoted to science and society issues with a membership of 5,000 scientists including 50 percent of America's Nobel prize winners.

FEDERATION OF AMERICAN SCIENTISTS.

DEAR SENATOR: The Senate will shortly be voting on the synthetic fuels provisions of two versions of bill S. 932—one produced by the Committee on Energy and Natural Resources, and the other by the Committee on Banking, Housing and Urban Affairs. With one prominent exception, the overwhelming consensus of our specialists is to view the drift towards a government-subsidized synthetic fuel program which these provisions represent with considerable alarm.

The bill offered by the Energy Committee is of particular concern. It authorizes an enormous sum, $88 billion, to be spent in a two-phase program by a government-owned Synthetic Fuels Corporation with the goal of producing by 1995, 18% of the present U.S. oil deficit—1.5 million barrels of oil equivalent per day. To achieve this goal, up to $20 billion would be spent at the outset to test synfuel technologies. The remainder of the $88 billion would then be spent to develop these technologies commercially.

The bill is structured so that the second phase would almost automatically follow the experimental first phase. True, the Corporation would have to submit a proposed comprehensive strategy to Congress within three years after the passage of the bill to initiate the second phase. But, unless this plan is vetoed by either house of Congress, its strategy will be automatically accepted. Moreover, as presently drafted, no further Congressional action would be required to appropriate most of the money for the second phase. This is because the bill authorizes the Secretary of the Treasury to establish an $88 billion synthetic fuels account from which the Corporation can draw. Any debts it incurs would therefore have to be honored automatically by the government. Even if this extraordinary flaw is rectified by Congress before the vote, as may be done, it shows how easily such raids on the Treasury are prone to take place in this matter and how much Congressional persistence and attention will be required to prevent a subsidized synthetic fuels program from growing prematurely.

The notion of creating a government corporation to push a synthetic fuels technology reflects a potentially costly misconception of how the American economy functions. We would make these points:

1. There is no need to subsidize a commercial synthetic fuels program if synthetic fuels can be produced at competitive prices and little point in doing so if they cannot.

To the extent that synthetic fuels are feasible technically, and competitive economically, private industry will be willing to invest in their production without government subsidization. There is, after all, nothing inherent in a synthetic fuels program that makes it different from other programs in which the private sector is willing to invest. It requires no new fundamental scientific or technological advances, as exemplified by the existing South African program. And though large capital expenditures are required, they are less than that required for many other projects undertaken by industry, such as the Alaskan oil pipeline. Long lead times are required, but these are no longer than those required in designing and producing a new type of airplane.

Where the government has tried to subsidize analogous efforts, it has risked major errors. For example, Congress narrowly avoided subsidies for the supersonic transport; the complete failure of the French and British subsidized Concorde to find a market shows dramatically how foolish such subsidies would have been.

2. The proposed synthetic fuels program could lock us into particular technologies which may be neither efficient nor economic.

It is private industry and not the government—in the form of some Synthetic Fuels Corporation—which is in the best position to determine which technologies are most economic. As American history has repeatedly shown, private enterprise is more flexible and more highly motivated than government bureaucracy.

3. A subsidized synthetic fuels program like that proposed by the Energy Committee would create sweetheart deals in which the business firms participating would have the option of substantial profit without taking substantial risks.

Specifically, companies would know that under a broad range of circumstances they would be reimbursed for "any reasonable costs" arising from actions that "could not have been reasonably foreseen". Their own commitment would not need to be great because they could enter into "joint venture" arrangements with the Synthetic Fuels Corporation in which they would have the right to purchase the Corporation's share of ownership if things went well. And if things went badly, the affected business could be bought out by the Corporation under a broad range of criteria, with the option of leasing the project back. These advantages simply diminish the vigilance of the business concerns.

4. Government subsidized programs of this kind cannot, by their nature, produce the desired results: a true test of the competitiveness of the technology.

First, private industry would go into the synthetic fuel business under a false set of profit signals induced by the protective climate of backing by the Synthetic Fuels Corporation. Second, the cost-effectiveness of the synthetic fuel technology would be largely time-dependent, and out-of-date by the year in which it was completed. Specifically, the competitiveness of the fuel produced would depend upon the relationship between the cost of the capital required to build the plant at the start and the future price level of competitive oil a decade later when the plant actually produced. In the absence of a long term continuation of subsidization, interested companies would not be much better off in determining whether to invest in synthetic fuels than they are now. The importance of these two points cannot be overemphasized because the Energy Committee bill is predicated on the belief that many new synfuel plants would be built after the liquidation of the Corporation and that the quantity of synthetic fuel produced by these latter investments would far exceed that produced during the existence of the Corporation.

5. The proposed subsidy program would be detrimental to the economy by competing with other more desirable investments.

This program could only drain badly-needed capital from throughout the economy for an inefficient use which, in turn, would limit the productive capacity of the economy in the next decade, thereby contributing to future unemployment.

6. A large-scale synthetic fuels program would put undesirable demands on the environment.

The major resources from which synthetic fuels would be produced are found, for the most part, in the arid West where reclamation of mined areas would be difficult. Also, both resource mining and production would drain already scarce water supplies in those areas. Finally, water and air quality would most likely be affected adversely by mining and production operations. These environmental costs would likely escalate the already high cost of synfuels production.

7. A subsidized synthetic fuels program would artificially inflate energy consumption and discourage diversification.

In these days of dwindling fossil fuel reserves, prices should be permitted to rise to their true economic values in order to limit consumption. Yet, the synthetic fuels program would artificially hold prices down, thus giving the wrong signal to consumers about reducing their consumption.

At the same time, these consumers would actually be paying for the increased production cost of synfuels through taxes. In addition, the incentive for new exploration of conventional energy sources or development of other energy technologies would be reduced because producers would find it easier and less risky to take government subsidies for synthetic fuels production.

8. The proposed synthetic fuels program might have to be subsidized long after the liquidation of the Corporation.

Synthetic fuels might never sell unless the government continues to subsidize the price difference between synfuels and conventional oil. Plants in which large amounts of capital have been invested might force the government to make hard choices between giving up the investment on the one hand or keeping unprofitable plants in business on the other.

9. There are other areas where government subsidies could be more cost effective.

An outstanding example of this is conservation. Unlike synfuels, the rate of return for conservation is known to be high. Furthermore, once the subsidization is made to secure the benefits of conservation by insulating houses or increasing automotive mileage, there is no need for further subsidization. Also, in conservation, the homeowner, unlike private industry, may either not have the profit incentive or the ability to make the necessary expenditures without government assistance.

10. Above all, very few believe that in the long run synthetic fuels would provide more than a fraction of the U.S. energy deficit in this era.

Synfuels would be a diversion, not a solution. While it is possible to imagine America learning to conserve enough energy to live within its energy resources, a synthetic fuels program could not be expected to grow to proportions large enough to resolve the energy crisis. Oil shale and tar sands exist in large quantities, but water, capital, and environmental constraints would prevent unlimited expansion of the synfuels approach.

Although the bill offered by the Banking Committee has many of the same problems as the Energy Committee bill, we do not view it with as much concern because it is not as far reaching. It would authorize the expenditure of $3 billion by the government in purchase commitments, price guarantees, and loan guarantees for the development of demonstration synfuel plants. No commercialization program would follow and no government-owned corporation would be formed. Production goals would not be established. Finally, in direct contrast to the Energy Committee bill, the $3 billion would have to be appropriated directly by Congress before it could be committed to be spent.

In the final analysis, we think that conservation is vastly preferable over synthetic fuels to reduce the dependence of this country on foreign fuels. Conservation costs average $10 to $12 per barrel of oil equivalent, while synfuels cost estimates are generally upwards of $30. In addition, conservation has far fewer technical and environmental problems than synthetic fuels, and it can reduce our immediate dependence on foreign fossil fuels by more than the most ambitious synfuels production programs.

Of course, conservation can only go so far. But research has indicated that it will buy enough time to carry us into the next century with existing traditional fuels. By that time, with careful planning, a diversified energy production program could be put into place. It might include some synthetic fuels, but it should also include such renewable energy sources as wind and solar. To insure that such a program will be put into place, it is important to continue research and demonstrations in these technologies. A large financial commitment to synthetic fuels commercialization will only divert funds from the other technologies and thereby limit the development of a future balanced energy program. .

In summation, a commercially viable synthetic fuels industry cannot be created in a synthetic economic context. Violating the basic rules of the free market is more likely to create white elephants than it is to successfully prime the pump of synfuels. Indeed, the government tendency to subsidize energy prices discourages industry from synthetic fuel production because businessmen fear tampering with their own prices.

When the time for synfuels comes, American firms will recognize it and act accordingly. Now is certainly not the time to be wasting scarce capital pursuing the traditional American predilection for high technology solutions designed to permit "consumption as usual" at subsidized costs. On the other hand, it is time for the United States to consider energy in the context of "limits to growth", to move towards conservation, and, above all, to stop subsidizing energy costs, in particular, and tampering with the energy market system in general.

Sincerely,

Frank von Hippel,
Chairman.
Jeremy J. Stone,
Director.

Audubon Supports Banking Committee Synthetic Fuels Proposal

National Audubon Society President Russell W. Peterson today announced his organization's support for the Senate Banking Committee version of a synthetic fuels commercialization program.

Noting that there are "serious environmental, technological, and economic questions involved," he decribed the Banking Committee's proposal as a "more measured and accountable" program than the $88 billion plan advocated by the Senate Energy and Natural Resources Committee.

"We believe the development of these technologies should proceed in a manner which allows for thorough evaluation of the problems and potential of various processes before massive and irrevocable financial and production commitments are made," he said.

Peterson expressed concern that the Energy and Natural Resources Committee proposal places control of the $88 billion program in the hands of an independent and autonomous Synthetic Fuels Corporation. "We believe that the responsibility for a synthetic fuels program should remain with the Congress and existing agencies, and not with an autonomous agency, accountable to no one," he declared.

The Audubon Society President noted that the organization's long standing interest in, and commitment to, a diversified energy program, with heavy emphasis on conservation and the development of renewable resources. He expressed the concern that a large financial commitment to synthetic fuels production will divert funds from conservation and renewables—the energy sources which will have to serve as the foundation of our nation's future energy system.

Peterson is a member of the President's Commission on the Accident at Three Mile Island, which made its report to the President yesterday. The National Audubon Society, a membership environmental organization, has some 400,000 members and 436 local chapters across the country.

WHAT'S WRONG WITH THE U.S. GOVERNMENT?

● Mr. MATHIAS. Mr. President, foremost among the questions we in Congress receive from all segments of the electorate today is the one which asks: "What's wrong with the U.S. Government?" I receive at least 100 letters every week from Marylanders who are deeply concerned about what they perceive to be governmental waste, inefficiency, overregulation, and unresponsiveness.

Since President Franklin D. Roosevelt's New Deal, the U.S. Government has moved into the center of this country's social and economic arenas. Many of the fundamental changes wrought by the New Deal and its programs were a direct reaction to the misery and anguish spawned by the Great Depression, which began with the collapse of the stock market in October 1929. The Federal Reserve System, the Securities and Exchange Commission, the Federal Trade Commission, and a legion of alphabetized agencies quickly became part of the American political language. And every President since FDR has added programs and has proposed legislation to increase the role of Government in American life. President Truman's Fair Deal and President Eisenhower's Great Crusade responded to the desire of the American people for an activist Government. In the 1960's as President Lyndon B. Johnson moved to complete President John F. Kennedy's unfinished agenda as well as Franklin Roosevelt's, the relationship of the individual to the Government shifted again. In fact, the concentration of power rose to an even more intense level. Congress moved to complete the unfulfilled social and economic agendas, and also to reverse a century's disparity in civil and voting rights and equality of opportunity, as well as to initiate new programs and regulations governing nearly every aspect of American life. Presidents Nixon, Ford, and Carter have operated more or less within that 45-year tradition.

Great changes have taken place in American life, and many Americans are perplexed by them.

Mr. President, a recent series of articles in the Baltimore Sun by Carl P. Leubsdorf provides an excellent starting point for examining the fundamental relationship between Americans and their Government. In six articles Mr. Leubsdorf looks at the way governmental policy has changed this relationship over the past four decades, analyzes its major trouble spots and examines some proposed solutions to problems of modern governance. I recommend the series to all of my colleagues and ask that it be printed in the Record.

The material follows:

Contemporary Problems Leave U.S. Political System Straining to Cope

(By Carl P. Leubsdorf)

Washington.—Every month more than $550 million worth of food stamps roll off the printing presses in Philadelphia and New York's Bronx and go out to one in every 12 American households. One in every 20 families, meanwhile, is getting federal welfare payments, while one in each 25 benefits from federal housing subsidies.

To these Americans, the federal government is vital. The multibillion-dollar array of programs initiated over the last 45 years of the New Deal and Great Society eras has helped to keep many of them from falling into social and economic oblivion.

At this most basic level, the government is working.

And yet it is a government no one seems satisfied with.

Americans have been enveloped in 20 years of explosive governmental growth. Government regulates the air they breathe, the fabrics they wear, their food and water. The automobile is designed as much by Washington bureaucrats as by Detroit engineers: engines, seat belts, bumpers, frames, the gasoline pumped in and the exhaust that comes out, the size, shape, speed—all are affected by government policy.

The 20 years that began with the election of John F. Kennedy in 1960 have produced a cleaner environment, safer workplaces and highways, giant gains in equality of opportunity, a more open government—and a deep reservoir of public discontent.

"In a broad sense, I think the government is working surprisingly well," said Loyd Hackler, a Washington lobbyist and former White House and Senate aide who now advises the Carter administration.

"But at the same time, there are so many programs and such complexity that I don't know of a single individual within the country who doesn't have a legitimate complaint with the government," Mr. Hackler added.

The discontent is a paradox to some observers like Anne Wexler, a long-time political activist and now a top aide to President

Carter. "You're looking at a country where 98 million people are working and just 5 million are not, and where the standard of living is higher than it has ever been," she said. The people who created the political upheavals of the last two decades have won most of their battles and the country is better off for it, she says.

But with the approach of the 1980s, the struggle in Washington has changed fundamentally.

In 1965, at the peak of his power, the late President Lyndon B. Johnson sent Congress 63 major proposals covering seemingly every major problem of society—civil rights, education, conservation, Indian rights, auto safety, Medicare, farm subsidies, job training and many more. The majority of this large Great Society program was enacted.

In 1977, President Carter asked Congress to make sweeping changes in one crucial area—energy—and the result has been a continuing national failure. Some important measures were passed, notably a new law making natural gas more available throughout the country. But the frustrating, unresolved debate has exposed:

A president unable to focus the attention of Congress and the public effectively on important national needs. The "Imperial Presidency" that seemed so threatening a decade ago has been substantially weakened, largely because of President Johnson's disastrous Vietnam venture, Richard M. Nixon's Watergate debacle and perceived mistakes of Jimmy Carter.

A Congress that has taken power away from the presidency, but cannot use it effectively.

Authority in Congress has been diffused, by a decade of political reforms that gave more power to individual legislators. Loyalty to political parties has withered, both in Congress and among the public, further weakening leadership in the House and Senate. And with legislators increasingly nervous about their own political survival, local and regional needs come first, creating impossible problems for a national energy plan that helps some regions and hurts others.

A federal government so enmeshed in detail that it moves by inches, seeming to serve the army of lobbyists encamped in Washington, while its actions become incomprehensible to more and more of the general public.

To some thoughtful analysts of government, its complexity is now a serious national problem.

"When I was a youngster," said Dr. Milton S. Eisenhower, "I used to wonder what de Tocqueville meant when he said that a democracy contained in it the seeds of its own destruction. I think I understand what he meant now.

"The problems that we face have become sufficiently complicated that not only does the average citizen's mind not fully comprehend them, but even some of the most sophisticated minds do not. We've had great problems in the past but they were within the understanding of the mass of the people," added the 80-year-old president emeritus of Johns Hopkins University and brother of the late President Dwight D. Eisenhower.

If the public cannot follow what the government is doing, the government does not have a clear sense of what the public wants, either.

The real obstacle to an energy policy, said John F. O'Leary, the departed deputy secretary of energy, "is the lack of conviction on the part of a fairly good bloc of the American people as to what the problem is in energy."

"You can't really fault the Congress for having a poor response up to date, because there was no consensus out there."

Many of the problems have even become too complex for Congress, says David Stockman, a young conservative Republican from Michigan whose sharp critiques of Congress have gained attention.

"We've had a quantum leap in the areas of federal responsibility, which means a quantum leap in the required knowledge to make a halfway informed decision," Mr. Stockman said.

"It is impossible for even the most ambitious, hardworking, bright and determined member [of Congress] to absorb enough information to do well in his committee work, not to mention what is required on the floor of the House," Mr. Stockman said.

In many respects, the complexity is a natural evolution from the burst of domestic legislation in the 1960s and 1970s.

There were two basic themes underlying the Great Society programs enacted under President Johnson.

First, there was no problem government could not solve if it wanted to. Second, America's resources were unlimited. The same self-confidence ran through the wave of consumer protection and environmental legislation of the 1970's.

"Vietnam destroyed both of those underlying premises," said Charles D. Ferris, for many years a top aide to former Senator Mike Mansfield (D, Mont.) and now chairman of the Federal Communications Commission.

The mainspring of the Great Society—like the New Deal of President Franklin D. Roosevelt—was a commitment by government to solve problems that society was unable or unwilling to solve, says Mr. Ferris. "Not that the solutions were perfect," he said. "It was an acceptance of responsibility to do something."

Now the dominant Washington view is exactly opposite: "We can't do everything," Ferris said.

A government in that position must make choices, provoking tougher competition between regions and economic groups, between business and labor, between industry and consumer groups.

The domestic programs of the last two decades are no longer seen as broad campaigns to curb pollution or end poverty or improve health care. As these programs have filtered down through an expanding network of regulation, they single out winners and losers. The losers may be workers who blame a lost promotion on equal employment programs; a chemical plant fighting a tough pollution-control order; a contractor who bids unsuccessfully for a government contract, or a gas station owner who wants a larger fuel allotment. The demands for special treatment have made Washington a Tower of Babel.

"The White House sits on a hill surrounded by a thousand saboteurs," said Representative Stockman. "Any major decision can't be done by executive decision; it has to be done by legislation. And those saboteurs who circle the White House have enough alliances with subcommittee chairmen up here, or with other links in this whole complicated process, that they get their way.

"The basic problem is that everybody has rights, but nobody makes decisions," said Mr. Stockman. "We delegate authority to do something about distributing gasoline or cleaning up the air. Then, the agency has to make formal rulings and that is so complicated, it takes them two or three years to do it. And when that gets done someone is going to find one line that's bad and haul them into court to start all over again.

"Then, once the agency's rule-making is finally completed, and you've navigated all these shoals, the first time the rule is applied, somebody sues. We've got the system short-circuited because there are so many opportunities along the way for a decision to be stopped.

"I'm beginning to think that the checks and balances, divided government can't work in an age of hyper-politicized interest group politics," he said.

Any president would have had trouble in the late 1970s, contends Harrison Wellford, a former Senate aid and chief architect of Mr. Carter's attempts to reorganize government.

"There has been an extraordinary flowering of single-issue interest groups that makes the old-time coalition building very hard because they won't compromise," he said.

"You have to learn to use some interests to get others and develop that art of wheeling and dealing to a fine skill." he said. But he conceded that "this administration hasn't been that interested in doing that," although "it is probably the preeminent skill required in the presidency right now, if you want to be the least bit activist."

Washington today is almost obsessed by all the programs and initiatives that failed or fell short, leaving governmental leaders gun-shy about bold new actions.

Mr. Wellford said, "The disarray in our doctrines—and probably economic advice is the best example of this—makes it hard to develop a sustained position on anything, because no one is really confident that an opinion today is really sound. There isn't the ideological underpinning that carries you through a bad time.

"And I think the final thing—which pervades everything—is that people are afraid. They don't think the future will be as good as the past. There is a real concern over what things will be like 10 or 20 years from now, and that makes people very conservative."

It may be that the government and the public are out of phase—a theory often offered by the White House aides.

After the turmoil of the Kennedy assassinations, the Vietnam era, the civil rights movement and the urban riots, a majority in the country was ready for a breathing spell in the 1970s. It elected Richard M. Nixon in 1968 with that in mind.

But the Nixon years brought no relief from turmoil. The war continued, and was succeeded by the Watergate and impeachment dramas, delaying the period of quiet consolidation that the country yearned for. That made it much more difficult for Mr. Carter to arouse public support for his brand of activism.

Ironically, Mr. Carter sensed that the country was more interested in having government work better than in launching new programs. His campaign has been to reorganize government, to reform welfare, health and tax laws, to consolidate energy programs.

But this has left Mr. Carter trapped in the complexity he hoped to overcome.

"Carter sought engineering solutions when the real requirement was policy clarity," contends Representative Stockman. First of all, the public needs to understand government. The Carter approach, he said, "was doomed from the start."

But the Carter reorganization effort really failed because of the realities of government today, the interlocking relationships between congressional committees, private lobbies and the federal bureaucracy.

"Of all the things that government is resistant to, it's probably most resistant to the changes that need to be made internally," said Jody Powell, Mr. Carter's press secretary. "The institutional inertia . . . it's like hitting a stone wall, and the stone wall reaches out and tries to knock the ——— out of you."

Perhaps, said Representative Morris K. Udall (D, Ariz.), Mr. Carter's leading Democratic presidential rival of 1976 and a thoughtful analyst of government, the current period is like the 1840s and the 1850s. Then the lack of a national consensus on key issues, mainly slavery and national unity, led to a paralyzed government and a succession of one-term presidents.

"Nobody could get more than four years," he said. They were not very distinguished presidents at that, but stitched together a coalition that wanted change but quickly fell apart.

"Since 1963, we've had five presidents in 16 years," Mr. Udall said. "You say it's all very special circumstances, but those circumstances were produced by a time of turmoil. This is a reflection of it."

Carter Weaknesses Added to Erosion of Presidency

(By Carl P. Leubsdorf)

Washington.—As he sat in his home in Plains, Ga., in late 1976 to plan the new administration, the presidency must have appeared to Jimmy Carter to be a relatively simple, even manageable, office.

Three years later, he has discovered what in retrospect looks almost inevitable. The Presidency of 1979 is far weaker than it was 20 or 10, or even 3 years ago, thanks to Lyndon B. Johnson and Vietnam, Richard M. Nixon and Watergate, and even Mr. Carter himself.

This erosion in presidential authority has frustrated the first president in eight years to serve with a Congress controlled by his own party.

More than anything else, that decline was set off by the two acts that exemplified the most extreme tendencies of what historian Arthur M. Schlesinger, Jr. labeled just six years ago as the "Imperial Presidency". Mr. Johnson's ill-fated escalation of U.S. involvement in Vietnam and Mr. Nixon's misuse of authority climaxed by the Watergate scandals.

In both cases, presidential misuse of power led to a resurgence of assertiveness in Congress, which had been hungering for a larger share of governmental decision-making.

Key senators countered Mr. Johnson's escalation in Vietnam by mobilizing national sentiment against the war. Then, they sought to tie the hands first of President Johnson and later of President Nixon in pursuing it, culminating in the 1973 War Powers Act that placed institutional limits on the president's power to commit U.S. troops overseas.

Even before Mr. Nixon became enmeshed in Watergate, his unilateral impoundment of funds appropriated by Congress led to the 1974 Budget Act, barring that practice and giving lawmakers a larger share on government fiscal decisions.

During eight years of Republican presidential control, the Democratic leaders of Congress became increasingly independent of the executive branch and had no intention of surrendering power just because a Democrat regained the presidency.

In this climate, Jimmy Carter ran for and won the presidency in 1976. To some degree, the seeds of his presidential problems were planted in those long-ago days of 1975 and 1976 when he traveled the country in virtual solitude, attacking the Washington way of doing things and vowing to shake things up when he got to the White House.

That was when the underlying enmity between him and this city's Democratic congressional establishment was formed. Though that might have eased if Mr. Carter had helped Democratic legislators at the polls, his narrow victory produced virtually no coattail effect.

As he campaigned, Mr. Carter heightened expectations for his presidency. He promised major changes, such as tax reform, national health insurance and a wholesale reorganization of the bureaucracy.

His warnings that the promises would be difficult to carry out were often overlooked. The impression that stuck—and probably got him elected—was of a man so determined to get his way that change would inevitably follow it was an impression that later damaged him severely when he attained the office and was unable to produce the promised changes.

So Mr. Carter entered the White House January 20, 1977, handicapped by institutional changes, the burden of his promises and a less-than-forceful personality—which, though compelling in the living rooms of Iowa and New Hampshire, had proved less powerful in the rallies and the media campaigning of the fall.

From the perspective of nearly three years, it now seems evident that he added to those initial difficulties with major miscalculations that enlarged the weakening of presidential power that was already under way.

Mr. Carter's miscalculations may be less significant than problems that were not of his making. But the net result has been to place an aura of incompetence and failure around his presidency, deserved or not.

He went too far, in reaction to the "Imperial Presidency," in giving his presidency the common touch.

From the day he walked down Pennsylvania avenue on Inauguration Day, the Carter White House had an affinity for symbolism, especially any that promised to remove the "imperial" label from the presidency. It took the flags off the presidential limousines (they went back within months), it stopped playing "Hail to the Chief" (for more than a year), and it sold the presidential yacht. Later, many presidential advisers would agree they had made a mistake.

In addition to the practical aspects—people couldn't recognize the limousine without the flags and the yacht was useful for wooing congressmen—the symbolism was faulty, too.

"Because of Watergate," one aide noted, "we have denied the presidency its mystery. We've removed the pomp and ceremony and, yet, leadership does require a certain aura. And I don't really think people want a good old fellow from down the street as their president. They want to think there's something superior."

Mr. Carter failed to broaden his thin inner circle, leaving himself surrounded with inexperienced aides incapable of achieving his ambitious goals.

"It's sort of like the colonels in Greece," said an experienced Washington lobbyist. "They knocked off a government. They could win coups. But what have you got after they've done it?"

"The first thing he should have done," said a senior administration official, "should have been to clean out the people who got him elected and bring in a bunch of people who were eminently practical, pragmatists, to run his government for him. The people around the president are still the same people who participated with him in the election. It would be sheer happenstance if those people were appropriate to run the government."

It is widely accepted that the Carter congressional liaison operation has been a disaster, starting with Frank Moore, the soft-spoken Georgian who was placed in charge despite a total lack of prior Washington experience.

After three years, Mr. Moore still suffers from inexperience. When a prominent Democrat suggested Mr. Carter invite the two top congressional Republicans to his Camp David domestic summit earlier this summer, Mr. Moore reportedly replied, "Why should we do that for them?" The answer, of course, was that it would have helped Mr. Carter. As Representative John J. Rhodes (R., Ariz.), the House GOP leader, observed, "We would then have been a tacit partner in it."

Still, many people agree, the problems go beyond the immediate impact of such day-to-day mistakes.

"Members of the House and Senate go home every two or three weeks," pointed out a veteran congressional staffer. "They talk to opinion leaders in their home districts, and the things they most like to hear are anecdotes that tell what's really going on in Washington.

"And the most prominent anecdotes on the Hill in this administration are about the screw-ups by the White House staff in its dealings with Congress. I think that has a tremendous impact on the president's rating in the polls. That's how the perception of the administration is shaped."

"Each administration that goes into the White House tries to reinvent the wheel," said Bryce Harlow, who served for many years as an aide both in the Capitol and the White House. "They usually do so with their chins out, and they tell all the old hands 'go take a jump,' because they know better. And on top of that, the old hands, in their view, probably don't much count and probably goofed things up. And they're going to fix all that and do it better.

"The Carter boys were especially that way because of the nature of their campaign. And they were trying to keep faith with their campaign and say 'a plague on all of your houses,' which of course offends the powers that be. They didn't think that the powers had to be. And it's taken them 2½ years to discover that they are, and have to be, and that the stream goes on, no matter what they do."

The president's decision to shift power from the White House staff to the individual cabinet secretaries caused serious unforeseen problems.

It was almost an article of faith with Mr. Carter that his cabinet members would be free to run their departments without the White House interference that marked the Nixon administration. That was supposed to give the president time to deal with the major issues.

Instead, loose controls created a free-for-all within the administration's top levels with cabinet secretaries disputing White House wishes on budgets, appointments and policies.

"In some cases," said a high executive branch official, "there was almost open warfare by some cabinet members against the kinds of things we were doing, even after the president indicated what he wanted." A prime example, officials said, was Joseph A. Califano, Jr.'s opposition to Mr. Carter's proposal to create a separate Department of Education, removed from his sprawling, unmanageable HEW empire.

When Governor Robert Graham of Florida testified on Capitol Hill in favor of the new department, he was suddenly removed as the chairman of a presidential advisory panel on education. "HEW insisted that was totally independent of his testimony," an administration official said, but to the White House it looked like an act of revenge by HEW.

Mr. Carter's midsummer cabinet purge, in which Mr. Califano and four fellow cabinet members were removed, was intended to stop such activity. But a more basic decision, still in effect and too late to reverse, prevented Mr. Carter from exercising more control over his own administration in the way that a stronger president, such as Mr. Johnson, would have done and did.

"One of the problems that these guys [at the White House] have is that they don't really direct departments and agencies, and the people on the Hill know that."

The speaker was a Washington lobbyist, often consulted by the White House, who served there under a past Democratic administration.

President Carter's aides were determined to avoid centralized control, he continued. "My advice to them early on was, okay, do that. But make goddamn sure you own all of the congressional liaison people. But the liaison people they named, virtually all former Hill staffers, don't have any loyalty to the White House. Their loyalty is to their cabinet member. And in the process, the White House gave away the government."

Mr. Carter has been so enmeshed in details that he has been unable to provide broad leadership to the nation.

The most striking example was Mr. Carter's comprehensive study of the federal tax laws during his first year in the White House. He had promised tax reform as a candidate and to him that required an understanding of its intricacies.

"I knew we were going down the tubes with Carter when I saw he had carried up to Camp David a copy of the tax bill. I called Charley Walker [a former Republican official in the Department of the Treasury] and said, 'This man's lost his mind. He'll never understand it, and if he thinks he does, we're in awful trouble.' It showed that he couldn't separate the wheat from the chaff. That's what you've got a secretary of the treasury for, and an assistant secretary for tax policy."

That comment by Bryce Harlow is echoed elsewhere in Washington. Tom Korologos, who worked in the Senate before joining the congressional liaison staff under Presidents Nixon and Ford, blamed the White House staff.

"The function of the White House staff is to keep the trash of government away from the president," he said. But not in the Carter White House. With no chief of staff until recently, it was Mr. Carter himself who set out to serve as its chief operative, for everything, including, initially, who used the White House tennis court.

Mr. Powell conceded Mr. Carter's obsession with detail has proven to be a problem.

"We clearly understood during the campaign that the country was looking beyond programs and politics. But when we walked in the White House, frankly, we began to behave as if those assumptions were no longer valid. And we immediately became immersed in programs and politics.

"There was an accurate perception on our part that, since we were not experienced and this went all the way to the president, that we had to get some experience fast, in the nuts and bolts of the mechanics, and that the only way to do it was to get into it much more deeply than you ever wanted to maintain. And we got so concerned with compensating for our weaknesses that we neglected our strengths."

But Mr. Carter has been handicapped by even deeper factors that, like the problems resulting from Vietnam and Watergate, have weakened the president's ability to function effectively.

One is the decline in influence of the nation's two major political parties, and a weakening of the ties binding presidents and members of Congress through their parties, in part because reforms in the presidential nominating system enable outsiders like Mr. Carter to achieve the presidency.

"It has often been said by the Democrats that, since they have the Congress, if they also win the presidency, they can stop divided government and things will be fine," observed Stephen Hess, a speechwriter in the Eisenhower White House and a student of the presidency.

"But the Carter experience has proven that there is more to it than that. Neither the president nor the Congress needs the party label to get elected any more. The president doesn't start with a base of support as the party leader, and no member of Congress is beholden to him. Without a party base, it is infinitely more difficult to govern."

Another factor is intense coverage by the news media of the presidency and of every one of its foibles.

"I think you guys give him a brief period," said Loyd Hackler, a former Johnson White House aide who is now a lobbyist and part-time Carter adviser, "and then hold him up to the expectations. And nobody can live up to expectations.

"The focus and the intensity of interest on the White House probably make it impossible for any president to be regarded as successful."

Future presidents, said Senator Gary Hart (D, Colo.) will have to learn how "to tame the press" so that it doesn't "focus on every wart and crack." Added Senator Charles McC. Mathias, Jr. (R, Md.), "Even statesmen are human beings who can't be pulled apart and shredded."

In a sense, the reaction against the powers of the presidency that has occurred in the last decade was inevitable. Only the timing was political.

"It really started with John Kennedy," contended Mr. Harlow, citing Mr. Kennedy's use of the FBI to investigate the steel industry, the use of supposedly confidential tax returns to pressure critics and the political use of government contracts.

A White House aide in both the Eisenhower and Nixon administrations, Mr. Harlow has been around Washington for 40 years and offers a broad, though undeniably Republican, perspective of that period.

"These things set the stage for Watergate in the sense that the presidency was getting too big for its trousers. It was getting away from the traditional and constitutional controls that we had.

"The Watergate orgy would have been a Lyndon orgy, or a Lyndongate, if there had been a Republican Congress. But the Democratic Congress protected him.

"There had to be a redoing of the presidency and the White House to pull in its horns. It had gotten out there too far. The office had been abused by successive administrations, and someone's head had to roll. It turned out to be Nixon's."

And Jimmy Carter, and his successors, will pay the price, until the evident inability of Congress to use its increased powers swings the political pendulum back to the White House.

INSTITUTIONAL CHANGE HAS WEAKENED CONGRESS

(By Carl P. Leubsdorf)

WASHINGTON.—"Act in the national interest," pleaded Representative Thomas P. (Tip) O'Neill, Jr. Don't think of parochial concerns, of "whether I am getting as much gas in Massachusetts as you are in Arizona or New York or somewhere else."

But the speaker of the House was asking too much in today's political climate. So President Carter's plan for standby gasoline rationing, painfully put together just a day earlier in the Senate, was thrown out last May in the House by a one-sided 246–159 margin.

The vote meant that in the summer of 1979, with the nation's gasoline supplies dependent upon the fragile Middle East situation, the country would remain without a national plan for handling a possible severe emergency shortage.

The urgent need for such a plan could not overcome one of the greatest weaknesses in Congress today: lack of a national sense overriding the special interests of different regions and groups.

Legislators seem determined to judge issues according to their impact on their own constituents, an attitude that renders them increasingly vulnerable to a growing array of "single issue" groups that ignore the whole to concentrate on one area.

"The nub of the problem is that most people—and by people I mean the constituencies and those who represent them—don't really care about the whole country anymore," said Abner Mikva, a thoughtful former Democratic congressman from Chicago who recently became a federal appeals judge.

"There really isn't a strong sense of national identity and unity in America. There is no sense of nationhood. And whatever else the House does or does not do, it is very good at reflecting the national attitude."

But there is a second weakness, and it was epitomized by the futile effort made by Speaker O'Neill on the gas rationing issue. That is the broad diffusion of power and the collapse in institutional cohesion that renders the House and Senate sometimes helpless to confront key issues—at the very time Congress has wrested authority away from the deimperialized presidency.

Though Mr. O'Neill is clearly the strongest individual to occupy the speaker's chair since the days of Sam Rayburn two decades ago, he is institutionally the weakest speaker of modern times.

The Congress of today, both for better and for worse, is a far cry from its predecessors. In the late 1950s and the early 1960s, the reins of power were held tightly by a few people, the Democratic leadership and the senior committee chairmen, most of them Southern Democrats.

In the Senate, the power was Lyndon Baines Johnson, senator from Texas, majority leader from 1955 to 1961 and, after the tragedy in Dallas, the nation's ill-fated president in the Vietnam era. He ruled the Senate with an iron hand.

The House was similar with its power revolving around the speaker, Sam Rayburn (D, Texas), who had been Mr. Johnson's mentor, and his allies, the major chairmen; the parliamentarian, Lewis Deschler, and others who met with him every afternoon for a drink in the first-floor hideaway that became known as Mr. Sam's "Board of Education." Both houses operated under a strict seniority system, with the chairmanships going automatically to the committee members who had served longest.

With the 1960s came change. It happened first in the Senate, where Mr. Johnson's successor, the kindly Mike Mansfield (D, Mont.), moved quietly to spread power in the wake of the influx of younger, more liberal Democrats in 1958. He gave every Democratic senator a major committee assignment and then a subcommittee chairmanship, adding to his colleagues' influence and power at the expense of the leadership's control.

TEN YEARS OF CHANGE HAVE DIFFUSED AUTHORITY, WEAKENED CONGRESS

Gradually, the old Southern guard began to die off or retire and chairmanships drifted into the hands of Northern and Western Democrats more in tune with the national party. But by that time reforms in Senate procedures had left chairmen first among equals.

Mr. Mansfield and his successor, Senator Robert C. Byrd (D., W. Va.), treated all Democrats as equals, rather than exercising the control as Mr. Johnson had done. Although the number of senators needed to limit debate has been lowered to 60, the retention of the "filibuster" and a perpetually crowded calendar often enable a minority of 41 senators to prevent the majority from acting.

In the House, change came more slowly, but also more explosively, in a wave of reform that has scarred the institution's ability to function.

Thomas Rees, a California Democrat who came to the House in the mid-1960s and retired in frustration 10 years later, recalled how things were.

"It was a real constipation at the top, in which newer members never had the opportunity to look good. I was on the Banking Committee for eight years before I was on a conference committee."

Much of that has changed. The seniority system is dead in the House. The caucus of

House Democrats picks the committee chairmen and the 148 House subcommittee chairmen as well.

The power of the House parlimentarian to refer bills to a single committee is gone. Now, bills sometimes go to several panels which then send conflicting versions to the full House, further complicating matters.

In the Senate, the caucus also elects chairmen. So far, seniority has been followed, probably because junior members have so much power, including subcommittee chairmanships, they have no reason to upset the system.

Everything takes place in the open: hearings, markup sessions at which the bills are written, even the Senate-House conferences at which differing measures passed by the two bodies are reconciled. The changes make Congress more honest, but restrict independence by making members more instantly accountable to pressure groups.

If structural changes are the first major difference, a second is in the kind and caliber of the individual members.

"It certainly is a far different Congress from when I came here," said Representative John J. Rhodes (R., Ariz.), the conservative Arizonan who has been the House GOP leader since 1973. "The atmosphere is more contentious, and the desire to get along is muted, to say the least.

"I really believe the reduction in the average age of the Congress and the reduction of the length of service has probably changed the system more than any other single factor. And the general opinion in the country has a lot to do with it, too. The young-man-in-a-hurry syndrome, the 'me' decade—all that is much more pronounced.

"The attitude used to be that, if you stayed around long enough, you'd be a committee chairman. Now, you find members not willing to wait. There is a lot of playing to the new members, bringing them along faster and giving them authority."

By 1979, fewer than half of the members of the Senate and House had served in the previous decade. Less than 10 percent of each have served as long as 20 years.

In addition, the caliber of members has changed. Twenty years ago, the intellectual leadership in Congress came from the wily old Southern Democrats and the Northern liberals. Now, Republicans are more of a force, especially in the Senate.

A third major change has been the growth of staffs. In the past five years, the Senate has hired an additional 700 legislative assistants.

A similar growth has occurred in the House, where the number of committee staff members has tripled in the past eight years, while each member has gone from 12 to 15 to 18 full-time staff members. This summer, each was allowed four part-time aides.

The additional staff has been justified on the grounds that Congress needed to compete with the executive branch. But it has had an additional effect.

"It's like assigning a reporter, who then has to write a story every day to justify his own existence," said a House subcommittee chairman. "The staff has the same bloody thing. They have to show that their boss has some power, and that he, as a staff man for his boss, is serving some purpose." Which means more bills, more hearings, more activity.

Much of what is being done is aimed not at solving national problems but at reelection of members, of what Dr. Milton S. Eisenhower termed the achievement of "electoral immortality."

In 1966, half of the 48 freshmen Democrats who had been swept into office in the Johnson landslide of 1964, most of them in normally Republican districts, were defeated. Ever since, the Democratic leadership has stressed the importance of freshmen of insuring their own survival. Of the 78 Democratic freshmen elected in 1974, just 2 were defeated in 1976, one because of a sex scandal.

All of these changes have had one overriding impact: They have diffused power on Capitol Hill. While this has meant a more democratic process, it has also made it far more difficult to get things done.

The institutional changes have come at a time when there has been a vast expansion in the congressional workload, due to the growth in government.

In time there were fewer and fewer areas in which there was not some sort of government action. New programs became increasingly difficult to pass. And the battlegrounds became the programs themselves, as debate often focused on whether a district or a state would benefit from a program, rather than whether or not it needed it.

A typical example, pointed out several years ago in an article entitled "The Social Pork Barrel" by David Stockman, now a Michigan congressman, was the debate one year on the government's major school aid program, the Elementary and Secondary Education Act.

Of the 19 amendments, Mr. Stockman noted, 15 dealt with the allocation formula, the way in which the federal pie was sliced.

"When we go to the floor to vote on these social programs, we don't consider policy alternatives," he said. "It's all a computer printout on how much money is going to your district. I don't know how many times I have walked in the door of that chamber and had somebody hand me a computer printout.

"The classic case occurred a couple of months ago when Carter was trying to cut out part of impact education aid, the federal assistance to school districts that include large numbers of federal employees. I got a letter from Herb Harris [Democratic congressman from northern Virginia] that said: 'Dear Dave: I just thought you should know that the various programs in your district would lose $175,000. I hope you will join with me tomorrow to restore the aid.'

"There's a hyperapprehension, even paranoia about voting wrong. Too many members are afraid of offending 16 sugar beet producers, or 4 school districts out of 90. I think you ought to be willing to take some lumps. Besides, I don't think you'll be hurt that badly when all is said and done. I don't think that pork barrel votes are going to do you in. Something that's visceral and emotional, like abortion or busing, but if you vote to cut out impact aid or the HEW budget, I don't think you're going to suffer an irrevocable loss at the polls."

Nevertheless, that fear exists. It has been intensified by the growing pressure of "single interest" lobbying groups. While "single issue" politics—the idea that a vote on one issue is more important than an overall record—was strongly identified with liberals and their support for civil rights and opposition to the Vietnam War, in recent years it has been more of a conservative phenomenon centering on such issues as abortion, gun control and other emotional subjects.

Edmond F. Rovner, who has worked for a couple of New York congressmen as well as for former Governor Marvin Mandel of Maryland and the Interior Department, explained how such pressure works in practice.

When he was working for Representative Jonathan Bingham (D, N.Y.) and the congressman was pushing a gun control amendment, a colleague came up to him right after the vote. "I want to tell you, Jack, I think you're right," he told Mr. Bingham. "I voted against you, but I think you're right.

"The people in my district who would like gun control are a majority," he explained. "If I vote against them, they'll be disappointed, they'll be upset. But they'll judge me on a whole range of issues. And they will indulge me this time this wrong vote, as they see it.

"The ones who are against gun control are going to do it on one issue, and I'll lose every one of them, regardless of what else I do. It's the intensity factor."

Senator Abraham A. Ribicoff (D, Conn.), who is retiring next year, said congressmen and senators lose their perspective on pressure groups.

'There isn't a pressure group that isn't basically a small minority of the population as a whole. And this is what politicians fail to realize. I think the best thing for a politician to do is to take on a pressure group, because I think he'd have the respect of the overall majority against the pressure group. I don't know a single vote that will ever make or break a politician. Everything that looks horrendous on a single day is soon forgotten and another issue takes its place."

While some people in Washington especially in the White House, seem to despair of the way Congress is working—or not working—there are several offsetting considerations.

First, for all its eagerness to seize power, Congress hasn't gone the full route. Despite the creation of the Congressional Budget Office and the new budget committees, the administration budget still sets the tone for the year's budget debate, as this year's Carter budget with its domestic spending cutbacks has proven once again.

Then, the essential work of Congress does get done. The money is eventually provided, and such important issues as the Panama Canal treaties, last year's Middle East aid package and even some energy measures ultimately do get passed.

Finally, the diffusion has produced a more democratic institution in which individual members have more meaningful roles. "I surely don't want to go back to the age of the Pooh-Bahs," said Howard Shuman, an aide to liberal senators since the Johnson days.

The situation in which Congress does its own thing while the executive branch fumes in frustration is hardly new. Since the end of the New Deal burst of legislation in the late 1930s, that has generally been the rule except during the 89th Congress, which passed Mr. Johnson's Great Society programs in 1965 and 1966, and in emergencies. And though many people consider the energy situation an emergency, that perception is clearly not shared by the public.

Stephen Hess, of the Brookings Institution, noted that "the presidency has been up for so many years that we forgot that government is on a fulcrum, that the Constitution is really a teeter-totter or a see-saw between the two action branches of government. And suddenly, what Watergate and Vietnam did was to give the Congress the opportunity to reassert itself."

Mr. Hess predicted a readjustment back would come, that "Congress will at some point do something that will be its form of Watergate or Vietnam, probably in foreign policy, where there is no great evidence that the Congress can act any more responsibly than the president."

"You have to bear in mind that this is a period of relative tranquility," said Bryce Harlow, who has been watching Congresses come and go for 40 years as a Pentagon staffer, a congressional aide, a White House staff member and a lobbyist. "At such a time, the President is down and the Congress is up. Why Because the government doesn't make much difference.

"In my solitude," he said at his home in the West Virginia hills overlooking the Potomac River, "I've been laughing at most of what the Congress has been doing. They think they're putting permanent restraints on the White House. They think they're putting check reins on the president of the United States.

"Well, you just let a war start, and look at what they'll do. Why, they'll run like a bunch of rabbits, and they must. And they'll turn the government all over to the president of the United States. And if they don't, he'll do it anyway."

Congress Seeks Legislative Veto To Cover Policy-Making Failures

(By Carl Leubsdorf)

Washington.—In 1944, Representative Carl Vinson was concerned that the Navy might try to change the contract governing the Elk Hills (Calif.) petroleum reserve that it had supervised since the Teapot Dome scandal some two decades earlier.

So the influential Georgia Democrat tried to give a veto power over any such change to his House Naval Affairs Committee. When the attorney general ruled it unconstitutional, Mr. Vinson settled for a clause requiring the Navy to consult with his panel.

That incident symbolizes the modern development of the legislative veto, a weapon that is transforming the power relationship between Congress and the executive branch.

More and more, Congress is trying to control the government's actions in politically sensitive areas by adopting amendments that give it authority to review or block specific actions by government officials and regulators.

Bryce N. Harlow calls the legislative veto "a device to circumvent the Constitution." Once Mr. Vinson's aide, later one of the top business lobbyists in Washington and a senior member of the Eisenhower and Nixon White House staffs, Mr. Harlow sees the legislative veto as symbolic of the crisis in the government's decision-making process.

"Congress is supposed to set the policies for the government, and the executive branch is supposed to run it," says Mr. Harlow. The legislative veto gives Congress a share of the power to run the government.

It is an issue that faces a series of crucial tests in Congress over the next few weeks as critics in both houses seek to curb a single federal agency, the Federal Trade Commission.

The rush to establish a legislative veto over the FTC and other federal agencies is rearguard action by Congress, arising from its failure to control government policies in the traditional manner, both critics and supporters of the movement agree.

"Legislative veto is an admission they've lost control of the policy-making machinery," said Charles D. Ferris, a liberal and for many years a top aide to Senator Mike Mansfield, the longtime majority leader and now ambassador to Japan. Mr. Ferris now is chairman of the Federal Communications Commission.

"Theoretically, legislative veto is a good idea," argued Representative David A. Stockman, a young conservative Republican from Michigan. "But the reason it's almost required is that we won't make the policy decisions. We delegate authority and then get upset when mission-oriented bureaucrats promulgate decisions that are totally unacceptable to us."

But that is only part of it. Much of the pressure for legislative veto is coming from the business community, which does not like the pro-consumer tone taken in recent years by agencies such as the FTC, especially since President Carter has named several longtime "public interest" activists to them.

"I think there is no doubt that these agencies are now staffed with people who represent the public and consumers more than in the past," said one of these appointees, Robert Pitofsky, a member of the Federal Trade Commission. "And the commissioners are on the whole less sympathetic with the philosophic viewpoint of the regulated industries.

"But that's the way it's supposed to be. Most of the qualified critiques of these agencies thought there should be a wider range of viewpoint in them."

A prominent business lobbyist agrees that the legislative veto is seen by business as a means of checking unpalatable governmental regulation.

"The business community used to have a great deal more control of the regulatory agencies than it has now," he said. "The consumer and environmental movements changed that, and, in my personal opinion, for the better.

"But now the people running the regulatory agencies have never been in business and don't understand business. They perceive things differently from just a matter of profits. They are doing what they think is good for the country, and they aren't as receptive as they once were to the business community.

"So the business community is having to go back to the Congress and say, in effect, 'Hey fellows, they've gone too far. Help us curb them.' And they also say 'We reelect you guys, we can change you. But we don't have a helluva lot to say about those guys over there.' "

But is legislative veto a good governmental tool, he was asked.

"No," he replied quickly. "The Congress was not created to be an administrative body. It created these agencies. It can eliminate them and pass laws that restrict them. But it hasn't so that we, the business community, see that the only way to put real curbs on what we think is excessive regulation is that the Congress ought to come back and give itself veto authority."

Mr. Harlow made a similar point. While he still believes in the traditional lines of demarcation between the executive and legislative branches, as a Washington representative for Procter & Gamble Company he favors the legislative veto.

"Right now," he said, "legislative veto is regarded by most of my friends as an evil but necessary device. Temporarily, until you straighten these agencies out. But I do think it's a silly practice."

Although the legislative veto was used sporadically over the past five decades, it came into vogue during the Nixon years.

"It came with Nixon, only because he came to symbolize the deeper distrust by Congress of the executive branch," said Representative Gillis W. Long, a shrewd Louisiana Democrat.

"I think it's a basic mistrust of government, and of the fact that government's not working."

In the 93d Congress, which climaxed with the impeachment drive against Mr. Nixon and his resignation, no fewer than two dozen laws were passed with such restrictions in them. Since then, the focus has broadened as conservatives and liberals alike go after a variety of executive agencies.

The current major battle, which many people think will set the tenor for future efforts, deals with the FTC. A number of restrictive proposals are pending, but the most important is an amendment by Senators Sam Nunn (D. Ga.) and Harrison J. Schmitt (R. N.M.) to give Congress a veto over all FTC decisions.

A vote is expected in the Senate this fall. The outcome is considered crucial, since it is generally believed the House will go along with almost any sort of a legislative veto. At a recent hearing, commissioners of the FTC were lectured by Senator Howard W. Cannon (D., Nev.) chairman of the Senate Commerce Committee, that, regardless of the outcome, they can now expect "the most vigorous type of oversight that your agencies have probably ever experienced."

Meanwhile, the House is considering three amendments that would curb specific probes by the commission. One would bar an investigation of the funeral industry, another would suspend a probe of breakfast cereals and a third would bar efforts to regulate agricultural cooperatives.

The reason the FTC has become a particular target is fairly obvious. A 1974 law broadened its authority to write "rules" to limit what it believed to be unfair practices in entire industries, such as used cars or funeral homes, rather than act on a case-by-case basis against individual firms.

Then, Mr. Carter named as FTC Chairman Michael Petschuk, who helped design that law when he was counsel of the Senate Commerce Committee.

Mr. Pitofsky, a key staff member of the FTC during an earlier activist phase in the early 1970s and now one of its five commissioners, admitted he was surprised to discover how "broad and ill-defined" its powers are—thanks to Congress.

"I do believe that this agency, along with others, has a really remarkable legislative grant of authority," he said. "And even I am a little surprised at how comprehensive the rules that we write have turned out to be, how big the hearing records are and how complicated the issues are. And, therefore, I think there is some room for reform in the way rulemaking is going on. But a one-house veto by Congress isn't the answer.

"It doesn't address the real problem. The real problem is the immense complexity and volume of the record in these problems."

Mr. Pitofsky has doubts that a congressional staffer could review intensively a 24,000-page FTC record and come up with a thoughtful appraisal.

"I'm afraid what will happen is that it won't be the House, it will be some committee; and it won't be that committee, it will be the staff of that committee. And I'm afraid they're going to respond to political pressure. And where is that pressure going to come from? The pressure will come from that segment of industry that is affected by the rule."

As with so many other problems in government today, Mr. Pitofsky raised the problems posed by complexity—and the question of whether an already burdened Congress will be able to cope with this additional problem.

After all, it was Congress that initially granted these vast powers to agencies such as the FTC. And it is Congress that is supposed to be looking after the way they administer—or oversee—them, through the process known as oversight.

Every day, the congressional calendar is filled with oversight hearings, but the problem in most cases, the FTC commissioner went on, is that congressional oversight generally "focuses on relatively minor, odd aspects of these agencies, and very rarely measures what's going on in them. Most oversight hearings don't seem to have a lot to do with an across-the-board evaluation of what's going on in the agencies."

Former Representative Thomas M. Rees (D. Calif.) put it more directly.

The purpose of many congressional hearings, he contends, is not a careful review of how the FTC or another federal agency is doing—the oversight process. More often, the intent is publicity.

"Everything tends to be something of a cheap shot," he said. "How do I get 10 column inches in the Baltimore Sun? How do I get on the television news?"

The legislative veto and the sunset bills, which build in expiration dates for programs and agencies, are extremely popular in Congress now, because, Mr. Long pointed out, "they are regarded as panaceas for the fact that the government is not working very well. Everyone is looking for structural mechanisms to correct problems that are basically not structural."

In the end, the major impact of such devices will probably be to make an already complex, slow-moving process somewhat slower and more complicated. Some supporters would gladly settle for that.

"The argument," noted Representative John J. Rhodes (R. Ariz.), the House GOP leader, "is that things are being done to the American public that Congress didn't intend to have done, and over which it has no direct control.

"If the regulations are at fault and you get a look at them and have a veto, you will either exercise it or put the agency on notice that you could exercise it. They would be less likely then to send up regulations that would be unlikely to pass muster.

"We obviously don't want to go over every doggone regulation that an agency puts out. But if we have the authority to do so, we feel that 85 percent of the purpose will have been served."

Commissioner Pitofsky noted what the impact has been already. "Just look at the rules proposed by this agency," he said. "Every single rule was cut away back in response to criticism."

But he added that it is fiction to claim that the legislative veto will permit the "voice of the people" to be heard on FTC issues. "We're talking about intricate regulations," he said. "The only people who are going to address these issues are going to be the special interests who are affected by the regulations."

Representative Morris K. Udall (D, Ariz.) said that in the never-ending struggle between Congress and the executive branch, legislative veto "is a swing of the pendulum a little too far.

"There's got to be a balance between Congress keeping a piece of the action in making public policy and paralyzing the administrators where they can't carry it out.

"While the Constitution contemplates everybody checking everybody, there was always a presumption of good faith in the different departments, and a willingness to allow a little play in the joints of the system.

"Now, in reacting to the period of the Imperial Presidency, we've gone overboard in tying down the executive's ability to be flexible. That's the danger of something like the legislative veto. Ultimately, though, it will work out."

Failures of Great Society Are Blamed on the Attempts To Do Too Much, Too Soon

(By Carl P. Leubsdorf)

Washington.—At the climax of the two-year burst of activism that put Lyndon B. Johnson's "Great Society" onto the statute books, Congress in late 1966 passed the Model Cities program.

But political realities—the need to get more votes—transformed what had been planned as a carefully targeted demonstration program, aimed at coordinating a variety of urban programs in a few needy cities, into another generalized federal aid program. And that set the pattern.

"We did that for Model Cities," recalled Howard Shuman, then and now a top aide to Senator William E. Proxmire (D, Wis.). "We did it for depressed areas. And we did it for a lot of others."

"We were going to give it all to 8 to 10 pockets of poverty in the country, and what we had to do was to universalize it to get it through."

"In the Senate (where 50 percent of the members represent just 15 percent of the people), they had to do it to get the votes of the small states. And in the House, they had to do it get the votes of the Southern Democrats."

"When the Area Redevelopment Act was passed," said Edmond F. Rovner, a congressional aide during the 1960s, "there was one application I'll never forget. It was from a county in Kansas with a 3 percent unemployment rate."

Even that county qualified for economic aid because Congress had decided the act was to be a national program, said Mr. Rovner. "It had to be in every state. They had to get something."

This diluted the impact of these programs. Then the costs of the Vietnam War escalated, inflation became rampant, and many programs evolved differently than originally planned.

More than a decade later, many of the bright promises of the Great Society have not been realized.

Yet, like everything else about the modern-day American government, that judgment is controversial.

Few would now want to halt the vast panoply of New Deal-Great Society programs, and even fewer would see any way to do it.

Yet, as a recent study by George Washington University's Center for Social Policy Studies seems to confirm, it is probably impossible to measure accurately their effectiveness and true impact. No one knows, for example, what the cities would have been like without these programs.

What remains are differing opinions that largely follow political and philosophical lines.

Liberals and Democrats, on the whole still think the programs worthwhile, though many concede the obvious problems that have arisen. Conservatives and Republicans are convinced more than ever that the programs were fatally flawed.

The arguments of both sides are true to a substantial extent. Clearly, while many programs have failed to meet impossible goals, such as ending poverty, they have made an enormous difference to many people and have insured against a repetition of the nation's Great Depression experience.

Yet, they have developed differently than anticipated, have spawned a variety of side effects and have played a major role in fueling the inflation that persists today.

Mr. Rovner, who later served in Governor Marvin Mandel's cabinet, recalled that reviews of Lyndon B. Johnson's Great Society programs showed that fully a third of all Americans formerly living below the poverty line had moved above it.

"If he had only promised a 25 percent improvement," Mr. Rovner said, "and got 33 percent, it would have been regarded as a herculean achievement. But it got denigrated because he had over-promised. When he passed Medicare and Medicaid, he promised no one would get sick. . . .

"In fact, while it didn't eliminate illness, Medicaid did reduce to a considerable degree the times that old people were faced with a choice between bankruptcy and suffering."

Charles D. Ferris, who played a key role in enactment of Great Society legislation as an aide to Senator Mike Mansfield, the Senate majority leader during that period, has a similar reaction.

"I think we have achieved a helluva society from the standpoint of equality of opportunity. The real impediments to individuals, to women, to minorities, to the poor, have been substantially overcome, though some still exist.

"But the Great Society was oversold. It went a great deal of the way towards dealing with problems, though it didn't solve them. The important thing was and is the commitment to accept responsibility at the national level."

If the social legislation of the 1960s was oversold, it was also overfed, contributing to an ever-expanding federal bureaucracy.

"What we were advocating then is not what we've got now, vastly beyond anything we ever asked for or anything we ever desired," said Mr. Shuman, a veteran Senate aide, in discussing federal aid to education.

"The impact has been that the quality of education, as measured by tests, has even shown a decline.

"What we were after was to try to equalize the economic contribution to education by providing federal help to poorer areas. What we got instead was a vast new lobby.

"We're now financing, through the federal government, virtually every university in the country. I know whole departments in universities where every member of that department is getting a federal grant.

"I'm sick about it all. It really does make a liberal person like myself go back and think about the 'foot in the door' proposition."

Was such a vast growth in federal influence and interference inevitable, as conservative critics warned at the time?

"I don't think so," Mr. Shuman said. "The purpose of the federal government, and the purpose of the New Deal and Great Society reforms, was so that we could protect the poor and the weak. But in the guise of protecting the poor and the weak, we've sort of helped everybody everywhere. And those with the biggest, most powerful economic groups, which are also the most vocal groups, were able to get the lion's share of the aid."

Representative Morris K. Udall (D, Ariz.) looks at it from another standpoint: What would things be like if the Great Society programs had not been passed?

"Are schools any better?" he asked. "Not particularly. But I think your basic point of comparison is what would the schools have done had we not had such a program.

"While there have been some failures and while some of it has been wasted, I think that, by and large, educators, parents and others would agree that, on balance, this whole flood of different kinds of aid to education has been a success."

And Anne Wexler, a top presidential aide who began in politics as an anti-war activist in the 1960s, said that, "The people who were creating those upheavals [of the 1960s] have essentially won their battles, and the country is better for it.

"The anti-war movement won, the civil rights movement won, the women's movement won, and the environmentalists won. And they won because the government responded."

"I get annoyed," Representative Udall said in a recent speech, "at the claims of the loyal opposition who cluck that we Democrats find ourselves entrapped by our own New Deal.

"The New Deal was not a bust. Social Security is one of the best programs any country ever had. And so is the Federal Housing Administration, which has allowed so many Americans to own their own homes. We've kept the stock market honest and we have tried to help the family farmer with financing.

"Similarly, the Great Society was not a bust. Medicare, for example, brings relief to millions of old people. Don't tell me we were not right to try to make the war on poverty. I won't apologize for my votes in the 1960s when we thought we had the money and the national commitment to fulfill our pledges to our society."

Mr. Udall went on to say that it was "wasteful, destructive and divisive war that diverted money and attention from social programs and social problems." And it was Richard M. Nixon's dismantling of them "that resulted in those programs never having a chance to match the promise they gave," he said.

But Senator Abraham A. Ribicoff (D, Conn.), a one-time supporter of vast government social programs when he was President John F. Kennedy's secretary of health, education and welfare, now has an opposite view. He thinks the Great Society was basically a failure.

"I think one of the great problems that you have," he said, "is that ideas of planners on paper look good and sound good, but when you deal with people, you realize that it becomes another proposition entirely.

"I came to the conclusion after my stay in the Cabinet that it is impossible to make a plan for the whole country, multibillion dollars in scope, and put it into place and make it work." Any program of that magnitude must be tested on a small scale first, he said.

"And the greatest harm you can do is to pass a program that is well intentioned and then fails in the delivery, which causes disillusionment," he said. "But if you try it out and find that it doesn't work, you can go to something else and in the process you are not wasting billions of dollars that could have been used for worthwhile programs."

Many conservative critics of the Democratic social legislation say it should not have been tried. Representative John J. Rhodes (R, Ariz.), the House Republican leader for the past six years, noted that no sooner were the Great Society programs (which he generally opposed) enacted, than the nation found itself up to its ears in the Vietnam War.

And Mr. Johnson, downplaying the cost of war, tried to have both "guns and butter," Mr. Rhodes said.

"That was back in the days when some people thought we could afford anything. So there we were, fighting a very expensive war and, at the same time, putting into place the most expensive social programs ever known to man. And the economy just couldn't stand up to that.

"Of course, the Great Society program was not just a great expense in the 1960s. In fact, it's an increasing thing. Although the objectives of a lot of the programs were commendable—especially the idea that people shouldn't go hungry—the idea that you could do it all now, immediately, and not suffer any economic consequences turned out to be very naive.

"If you had left those resources in the private sector and not redistributed that income in that particular manner, then the dividends from the investment of resources to make other resources would have resulted in an economy that was infinitely richer, infinitely more capable supplying all segments of society with a better life than we have now."

Yet, both the Rhodes analysis and Mr. Udall's complaints about the impact of the war and the Nixon policies are somewhat simplistic.

The Vietnam War not only ended an era in which the majority in Congress believed that the nation's resources were unlimited. It set off a wave of inflation that persists today. And that, in turn, changed the attitudes of many Americans.

"Things really have improved a lot since 1960," contended Harrison Wellford, a former aide to Senator Philip Hart (D., Mich.) and now associate director of the Office of Management and Budget.

"But people are nervous that these improvements are going to be taken away from them. They really are frightened about it. If you think of all the people who have saved and built a home in the suburbs a lot better than anything their parents ever lived in, and now they have to ask themselves if they really can afford to live out there.

"And that makes them angry. They feel tricked, cheated. And if you add up all the people in that category, you have a lot. That's why inflation is such an insidious morale destroyer. It hits all those people who have denied themselves, didn't take the next vacation, saving up money to buy that home in Nag's Head. And now they can't do it."

Stephen Hess, a White House aide during the late Eisenhower years who now analyzes politics and government at Washington's Brookings Institution, noted another complicating factor.

"It's nonsense to think that the money [in the Great Society programs] is down the drain.

"But there were also unanticipated consequences because of the complexity. The tax code wasn't designed to break up families. And AFDC [Aid for Families with Dependent Children] wasn't designed to throw the father out of the house. As the laws got more complex because these were more complicated subjects, these things happened as well.

"Underlying it all is the fact that government since the 1960s has been asking an entirely different sort of question than it once did, questions such as how do you clean the atmosphere, how do you teach Johnny to read? The purpose of government before was to print the money and make sure the federal prisons ran, mail out veterans' checks.

"Were such programs oversold? Of course, that's always the nature of the system." Perhaps it was not possible to do those things, Mr. Hess said, "and certainly not in the time frame that government was proposing."

Mr. Rovner concludes by saying:

". . . Government, by and large, runs well if you measure it by what you can rationally expect of it."

"It can't do well pushing a program that puts burdens on people, such as regulatory programs. It never does well in an area where it has to deal with a lot of nonrepetitive problems.

"Government can always be improved. But I don't think it is any more inefficient than Macy's or any other large private business."

Ways Hunted To Make Government Work Better

(By Carl P. Leubsdorf)

Washington.—When the Constitution was being written in 1787, the framers initially wanted to bar the president from seeking reelection, in part because they feared he would spend all his time lobbying the congressmen who would have the power to reelect him.

Ultimately the founding fathers created a strong presidency, independent of Congress, and the proposed reelection bar was dropped.

Now, however, it is gaining new support, and for an ironic reason. As Dr. Milton S. Eisenhower put it, "The president in his first term runs for four years for a second term. He starts running on the first day that he is in office."

The proposal for a six-year, non-reelectable presidential term is the single most popular institutional reform currently being advocated for the nation's complex, often faltering governmental system in which both the weakened chief executive and the members of Congress are increasingly consumed with the politics of reelection.

In recent years, it has received support from many distinguished Americans, including former Senators Mike Mansfield (D, Mont.) and George D. Aiken (R, Vt.); former Presidents Dwight D. Eisenhower and Lyndon B. Johnson; President Carter, and a long list of political scientists.

"The reason," President Carter told a group of editors last April, "is that no matter what I do as president now, where I am really trying to ignore politics . . . a lot of the things I do are colored through the news media and in the minds of the American people by, 'Is this a campaign ploy, or is it genuinely done by an incumbent president in the best interests of our country, without any sort of personal advantage involved?' "

In addition to the six-year presidential term, reformers often favor limiting congressional tenure, perhaps to 12 years. Representative John J. Rhodes (R, Ariz.), the House GOP leader, proposed one six-year presidential term, two six-year Senate terms and a maximum of four three-year House terms, with national elections occurring then every third, rather than every second, year.

Tom Korologos, who worked for a Republican senator and the Nixon and Ford White Houses before becoming a private lobbyist, said he thinks government has gotten so out of control that there should be a general manager, nominated by the president, confirmed by the Senate and serving a 15-year term.

Dr. Eisenhower, who has given more attention to institutional reforms than virtually anyone, has suggested the creation of two offices of executive vice president—one to supervise domestic agencies, with the other to supervise foreign-policy ones—to free the president from day-to-day involvement in government. The two "super cabinet" members would be nominated by the president and confirmed by the Senate.

"In any huge organization," he said, "the man at the top can't possibly run it. He has to be able to delegate intelligently."

Capitol Hill, meanwhile, is filled with myriad proposed changes. They range from further limits on Senate filibusters to insure majority rule in that body, to changes in the Senate and House committee setups, to measures providing greater congressional control over the executive branch.

But all have two major flaws. One is that they would be extremly difficult to enact, either by Congress or, in the case of the six-year term, by passing a constitutional amendment.

Second, they may not really be getting to the heart of the problem. "In my view," said David Stockman, the conservative Republican congressman from Michigan who is sharply critical of almost everything about the current system, "these things are gimmicks."

"I don't think institutional changes are going to offer much of a solution. I think it's going to take creating a critical mass of impatience in this country that can be seized by a strong presidential leader to force changes in this complicated, land mine-ridden system."

Of course, added Mr. Stockman, the real solution would be parliamentary government, where the party with a congressional majority would control the executive branch, and failure to win a key legislative test would require new elections. But, he conceded, "that will never happen."

Others also make the point that, when all is said and done about the institutions of government, the difference between relatively effective and relatively ineffective may depend primarily on the individuals who wield the power.

"I would say that the failures (of government) in many instances are personal failures," said Senator Abraham A. Ribicoff (D, Conn.), citing the recent enactment of complex, far-reaching trade legislation as an example of the fact that the institutions can be made to work.

"When the Tokyo round (of trade talks) started," he said, "I would say that everyone thought it wouldn't go through. You know, you had protectionism, unemployment, special interests involved. But there was a close working relationship between the executive branch (and the Congress)—it was part of the genius of Bob Strauss (the former Democratic national chairman who was Mr. Carter's special trade negotiator)—and key people in the House and Senate were kept apprised of the negotiations and every decision being made.

"Here was a measure that was changing the rules of international trade for the next decade. And yet this goes through with seven negative votes in the House and four in the Senate.

"Now when they say that the institution and the government can't work, I say it can work. The system can work if you realize the complexities and how many factors have to be taken into account . . . so that everybody knows what's going on—it can work."

Future presidents, said Senator Gary Hart (D, Colo.), who might seek to become one, "must recapture the ability to frame the issues" so that the public will understand subjects that have become "so complex, so intricate and so interrelated.

"The president must not only be an educator, but a communicator," he added, noting that the ability to use the media was a major factor in the success of President Franklin D. Roosevelt and John F. Kennedy.

Even Dr. Milton Eisenhower, who feels so strongly about the need for change that he hopes to write a book on his proposals, conceded that "after all of these steps, there is no substitute for the right leadership."

"When Franklin D. Roosevelt came into office, first he made the people believe in him. And then, miraculously, they began believing in themselves. Nobody believes anybody anymore. People won't believe there is an energy crisis, for God's sake.

"If a candidate for president will tell the people the unvarnished truth about the four, five or six problems that threaten us, I not only think they will believe him, but if he will then go on to propose a tough program to deal with these problems, I think they'd be so goddam grateful they'd sweep him into office."

Though Dr. Eisenhower, among others, feels that the energy situation represents a crisis requiring drastic action, every measure of public sentiment shows that the country remains unconvinced.

"The stagnated government of today," according to Bryce Harlow, a veteran aide of Republicans in Congress and the White House reflects the fact that "the American people aren't crying out for a crisis solution to anything."

"If the American people want anything very badly for an appreciable period, they'll get it. That's the glory of our system. But they don't know what they want, and they don't worry about it very much. They certainly don't worry about it consistently. So the government waffles, reflecting accurately what the people are doing.

"You might say, 'Doesn't the government have any leadership responsibilities?' Sure it does. But no matter what President Carter does in office, this is a time of relative tranquility. At that time, the presidency is down, and the Congress is up. Why? Because the government doesn't make much difference.

"I'm not worried about the institutions of this government. They're in the Constitution. The government, institutionally, is self-operating."

While this is certainly true, it doesn't do much for flagging public confidence in government. When he was running for president in 1976, Jimmy Carter said that one of his major goals was to restore such confidence by making government more efficient, and thus more receptive to the needs of individuals.

That was really the purpose of his efforts to reorganize the federal government, efforts that never got beyond a series of limited relatively minor proposals with only a narrow impact.

While top presidential aides are convinced Mr. Carter will resume his reorganization efforts if reelected, the prospects for massive change appear to be dim.

"The system has a lot of self-correction in it," said Stephen Hess, who has studied government for nearly two decades at Washington's Brookings Institution. But, he added, "It's a messy system. A lot of it has to do with whether you're an optimist or a pessimist. But it's always been a messy system."

And the American government has clearly gotten messier as it has gotten bigger and more complex. As time has gone on, it has become harder and harder to change.

"The reason that things stay the way they are is that somebody out there likes it the way it is," said Tom Korologos. "And that's the way it's going to stay." ●

GASOHOL: SOLUTION TO THE GAS SHORTAGE

● Mr. HAYAKAWA. Mr. President, the production of gasohol from agricultural products has expanded quickly to the point where it has begun to appear in markets far from the Corn Belt. I would like to draw the attention of my colleagues to an article appearing in the November issue of the Atlantic Monthly which discloses an alternative raw material for the production of gasohol and request that the article be printed in the RECORD. According to the author, Mr. Eliot Janeway, oil and petrochemical companies could contribute significantly to gasohol production by refining alcohol in their own facilities from a byproduct in the refining process. The amount of gasohol derived in this manner could displace as much as 667 million barrels of crude oil a year and would reduce our annual trade deficit drastically.

I strongly urge my colleagues to read this article and to consider the value of this ignored source of gasohol.

The article follows:

GASOHOL—SOLUTION TO THE GAS SHORTAGE

(By Eliot Janeway)

Alcohol is back in the news again, in as big a way as during Prohibition. At once the oldest chemical product known to technology and the simplest to refine from a variety of raw materials, alcohol is readily mixable (or, as the chemists say, miscible) with gasoline. Blended in the ratio of one part alcohol to nine parts unleaded gasoline, gasohol can free the United States from reliance on the OPEC countries and provide a painless alternative to the ultimatum President Carter has delivered: Use less and pay more for automobile fuel.

Hair shirts of the sort the President prescribes do not fit the country's style or its frame. The country runs on its carburetors; the economy will stall if people can't drive. But practical conservation at the point of fuel production, which is what gasohol offers, would keep the economy moving.

Working people have more sense than policy- and opinion-makers do, and they're onto the pocketbook promise of alcohol—not merely as consumers with a vested interest in their lifestyles, but as income-earners who need to stay on wheels to stay ahead of their creditors. That is why gasohol is becoming the hottest liquid product since bathtub gin.

If gasohol becomes the boon it could and should become, little credit will go to the Administration or to the oil industry. Big oil's hostility to the use of alcohol as a fuel additive goes back to the turn of the century, and took on overpowering strength when, in the 1930s, a brilliant chemist named William Jay Hale, with the strong backing of Henry Ford, built great momentum behind a campaign to bolster the farm economy and provide an alternative source of fuel by intensive production of alcohol for mixing with gasoline. Rather than join in the movement and profit from it, big oil fought successfully against it, leaving Hale to conclude, "We are the boobs of the world."

The gasohol initiative was suppressed by a corporate alliance between Du Pont and Standard Oil of New Jersey (now Exxon). Du Pont not only dominated the chemical industry; it controlled General Motors. The three of them together were quick to recognize the need of the gasoline refining process for a chemical additive, but they committed the country to lead and against alcohol.

In our time, Carter's Administration, brought into power by an anti-establishment campaign, has joined with the oil companies and with the farm college economists, the most reactionary element among the economic fraternity, in denigrating gasohol. Nevertheless, gasohol has managed to bludgeon its way back into the picture, courtesy of the Corn Belt states and the pressure brought to bear in Congress by the farm lobby. Over White House resistance, farm and sugar state senators forced on the Administration a four-cents-a-gallon exemption on the federal excise tax on alcohol produced from agricultural products. This cut was not enough to make gasohol competitive in price with unleaded gasoline until Governor Robert Ray stepped in with an additional eight-cents-a-gallon exemption on Iowa's excise tax, thus enabling gasohol to sell as premium gas within pennies of the price of gasoline in Iowa. Since then, Governor Otis R. Bowen of Indiana has followed suit. Gasohol production quickly expanded (to a capacity of over 60 million gallons a year by the end of the summer) and began trickling into markets as far from the Corn Belt as Connecticut and Massachusetts. Even in Idaho, Senator Frank Church is pitching his defensive reelection campaign on a promise to deliver gasohol.

Iowa was spared the trauma of gas lines and could ignore the demagoguery that depicts the gas pinch as welcome. Moreover, Governor Ray by his action extended to the excise tax area the principle, demonstrated by Presidents Kennedy and Johnson, that lower income tax rates begin by stimulating the economy and end by netting the Treasury higher revenues. Meanwhile, Governor Ray has introduced an element of realism into the folklore surrounding the so-called price mechanism. The prices paid by the public at retail are the prices of goods plus the tax markup. While President Carter has parroted the Wall Street Journal's fine theory that higher prices will ration gasoline consumption (though this year's run-up has clearly failed to do so), Ray and Congress have demonstrated that politicians can make excise taxes every bit as flexible as prices are supposed to be.

In the Corn Belt, the two major oil companies with the largest domestic reserves, Amoco and Phillips, have decided to "join the enemy"; they have won permission from the Department of Energy to buy corn fermented alcohol to mix with their own unleaded production for marketing as gasohol. Two of the largest international oil companies, Gulf and Texaco, are following suit. But a bigger breakthrough is yet to come. The oil and petrochemical companies could produce more and cheaper alcohol for blending into gasohol by refining alcohol in their own facilities—certainly if they were given the same tax break that the farmers have won for their product. Inexplicably, the industry has not exploited that opportunity and has thereby associated itself with the official fiction that only farmers can furnish the alcohol ingredient for gasohol. This is big oil's way of saying that the farmers wield the political clout to get excise tax cuts for their alcohol production, and that big oil doesn't. It is also big oil's admission that it does not dare speak up for benefits to itself even when they happen also to be good for the country.

Meanwhile, now that the farmers have won their fight for excise tax relief, a startling development at the Purdue Engineering Laboratory suggests that it might not have been needed if we had not taken a wrong turn away from alcohol nearly fifty years ago. Two researchers at Purdue, Michael R. Ladisch and Karen Dyck, published a paper in the August 31, 1979, issue of Science, reporting:

"We have found a way to dehydrate ethanol in which the combustion energy of the ethanol product exceeds the energy needed to carry out the dehydration by a factor of 10." They call for a resumption of the research made in this field nearly half a century ago.

Back in the embattled gasohol front, however, the agricultural tax exemption is a must for now, and so is its extension to plant-made alcohol to make possible a far greater flow of crude-oil-conserving gasohol into the nation's gas pumps. The oil companies already have on hand an abundance of the necessary raw material. The basic gaseous by-product in all oil refining and petrochemical operations is ethylene. Hydrated (a simple reaction with water), it produces ethyl alcohol ready for mixing with unleaded gasoline: four pounds of ethylene can be converted into one gallon of alcohol, or ethanol. The United States has ethylene to burn. In fact, that is exactly what we are doing: wasting it in many ways in the refineries when it could be converted into ethanol. The Stanford Research Institute, professing entire innocence of the consequences of its findings, reported last year that the oil industry was still flaring off 10 billion pounds of ethylene a year into the smog above its fractionating towers.

The 2.5 billion gallons of alcohol gone with the wind as a result of the oil industry's addiction to waste in its refineries could contribute more than half the alcohol we need to close the gasoline gap, a gap whose size is readily calculated. On a business-as-usual basis we burn more than 100 billion gallons of gasoline a year, 40 percent of it unleaded (the proportion of unleaded production may run as high as 45 percent by next summer, even though the Environmental Protection Agency has delayed its unleading deadline for one year to increase gasoline production). A 10 percent mix of alcohol with unleaded calls for a little less than 4 billion gallons of alcohol a year. The evangelical peddling of conservation at the gas pump. where it will hurt the working consumer, is distracting the energy debate from the overdue need for conservation at the point of production, where it will help.

Nor is this all. The country's chemical industry—including the petrochemical operations of the oil industry—admits to a conservatively rated ethylene capacity of 37 billion pounds a year. But thanks to the gas crisis, 8 billion pounds—not less than 21 percent of our ethylene production capacity—have been knocked out of action by the combination of falling sales and rising costs. Moreover, another 6.5 billion pounds are scheduled to come on line by 1981. The capacity now idle could produce another 2 billion gallons of alcohol a year, and the ethylene due by 1981 could add another 1.6 billion gallons. That makes a total of 6.1 billion gallons of alcohol a year to be derived chemically—enough to keep the country comfortably ahead of the gasoline shortfall.

Other expedients are crying out for use, too. To take just one example, the oil refineries routinely burn by-product ethylene as refinery fuel. Switching to fuel oil, which they sell for much less than ethylene, would actually widen their margins and win them gratitude. Fuel oil sells for about fifty cents a gallon, or seven cents a pound. Ethylene, with about the same heat value, hydrated into ethanol for gasohol use and sold at fifty-two cents a gallon, would bring thirteen cents a pound—the present price for ethylene which continues to waver and weaken by the month. In fact, the ethylene glut is so large, it is holding prices at 1976 levels despite paranoiac claims by the industry that demand is outstripping supply. Some oil and chemical industry analysts are now privately admitting that the ethylene glut could be with us through 1985.

Any poll of representative opinion would come up with a bare 5 percent recognition factor of the reality that the world oil surplus and the domestic gasoline squeeze have been developing independently of each other. There is no longer any denying the world oil surplus. The Washington *Post* reports that even the CIA, which is not exactly swift in its perceptions, estimates 1979 world oil production as running 5.8 percent ahead of last year, when supply was glutted and demand was booming, despite the curtailment in Iran, the cutbacks by the cartel, and the shutdown of rigs in the U.S. due to decontrol hopes and tax fears. The wires are crackling from Rotterdam and London to every point in the world offering tanker loads at deepening price concessions, subject to slow pay. These offers to dump crude are eliciting more laughs than sales. No one is hurting for lack of crude oil imports into the U.S., as the Washington *Post* coverage makes clear. The major oil companies are embarrassed because of the ease with which they stepped up their oil imports even after crude oil flows from Iran were shut off, while in the United States, gas lines were making headlines.

The product of the relationship between the Carter Administration and the oil companies is the myth that U.S. gasoline supplies ease or tighten according to crude oil imports. The recent pinch at the pumps goes all the way back to the three-way alliance of Standard Oil of New Jersey, Du Pont, and General Motors, which Ford failed to break up and which committed the country to lead additives. By a fateful coincidence, the environmentalists won their fight to take lead out of the refining process at the same time that OPEC declared war against the U.S. However, while the environmentalists were concentrating on their anti-lead crusade, they were not alert to the need to substitute an alternative additive, or to the availability of alcohol for the role. The oil companies, after their fashion, were intent on going along with the mandate to take the lead out of gasoline since they had lost their fight: Normal oil refining practice had come of age relying on lead additives to raise the octane rating and, at the same time, maximize the yield of gasoline recovered from each barrel of crude. But as the lead continues to go out of the refinery, the gasoline yield from crude oil continues to come down.

Technical ignorance, even about such a rudimentary matter, is normal for the government. It is also standard operating practice for the bookkeepers who now run the auto industry. As for the engineers who run the oil companies, they have bruises and blood to show for their confrontations in the public domain; and so they had an alibi for having kept their silence until the environmentalists were caught gumming up the works. Yet not a peep was heard from Motor City.

The special world of domestic gasoline flows is more responsive to regulatory edicts from Washington than to world oil supply signals. If Carter had his political wits about him, he would have blamed the one-sided regulatory zeal of the previous administration for our gas problems instead of seizing on the spectacle of gas lines as an opportunity to claim credit for having told us so.

The bottom line is that after five years of entirely nonpartisan bureaucratic momentum, we are getting 14 percent less gasoline out of a given amount of crude oil flowing through the refineries. For the previous fifty years, an average dose of lead additive (a few grams per gallon) had been relied on to raise the base octane rating of gasoline by 8 points. Consequently, refineries were able to produce a base gasoline of only 80 octane and still market an 88-octane gasoline. The lead additive made it possible for oil companies to use less oil and make more gasoline. By contrast, unleaded requires more intensive processing and yields lower octanes. For years the gasoline yield from crude oil stood at 54 percent and had reached a record high of 54.5 percent in 1974 before the unleading requirement. But taking the lead out of 40 percent of all the gasoline we consume has lowered the overall yield (regular and unleaded) to 47 percent; the yield of unleaded alone from crude is now estimated to be down to about 42.5 percent.

It is not as if lead were the only octane booster conceivable or available in the refining process. It happens that alcohol has a 100-octane rating. It creates no emission problems and provides a powerful weapon for outgunning OPEC without shooting ourselves. The environmentalists would have been on unassailable ground today if they had done their technical homework and had promoted the substitution of alcohol for lead additives.

The simple expedient of providing the incentives to convert ethylene into ethyl alcohol would insure against further gas crunches without reverting to pollution, and it would also slash imports of crude oil. Just 4 billion gallons would displace 28 billion gallons, or 667 million barrels, of crude oil per year. Each gallon of ethanol produced from oil and gas mixed with 9 gallons of unleaded will displace no less than 7 gallons of crude oil.

(For the benefit of those interested in the calculation, here's how it works. Each gallon of alcohol would replace 2.35 gallons of crude oil which would otherwise be needed to produce unleaded gasoline. In addition, because alcohol improves the yield of unleaded gasoline from crude oil by raising its octane rating, only 1.83 gallons of crude oil instead of 2.35 would be needed to make a gallon of gas. Since alcohol improves the gasoline yield by a factor of .52 gallons of crude per gallon [2.35 — 1.83 = .52], one gallon of alcohol added to 9 gallons of unleaded fuel would save an additional 9 x .52, or 4.68 gallons of crude oil; 4.68 added to 2.35 equals 7.03 gallons of crude oil saved for every gallon of alcohol added to 9 gallons of unleaded to make gasohol. Four billion gallons of alcohol could, therefore, effect a 28-billion-gallon yearly reduction in crude oil consumption.)[1]

At $22 a barrel, OPEC's present contract price, a 28-billion-gallon reduction of imports would knock $14.67 billion off the nation's annual oil import bill—roughly half the yearly trade deficit. It would also cut consumption of OPEC crude by 25 to 30 percent.

There remains the mystery of why this simple arithmetic has failed to produce the political arithmetic needed to put it to work. The success story of the farm bloc in putting across alcohol fermented from corn provides the clue. The propsal to refine alcohol chemically from oil and gas is being celebrated with exactly the same chorus of derision that greeted the farm bloc at the outset of its crusade: either it won't work or it doesn't pay. The cliche that higher energy prices will balance the market equation ignores the prime fact of market life: that excise taxes on staples such as gasoline are flexible, but that consumer dependence on gas isn't and, therefore, neither is consumer demand.

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[1] I must confess to a special dependence for this calculation. Since the spring of 1974, my brother, R. N. Janeway, president of the Janeway Engineering Company of Troy, Michigan, and a pioneer in the development of ethyl gas, has been circulating memoranda in Washington aimed at showing our technological intelligentsia how to convert by-product and semi-finished chemicals already in abundance to ethyl alcohol for blending with refined oil into gasohol. He had nothing to gain from his advocacy and I have no connection with his company.

More precisely, excise taxes are as flexible as the political muscle put behind them to make them flexible. Not only have the oil and chemical industries failed to protest the statute which grants the federal excise tax exemption to agricultural derived gasohol but denies it to a chemically derived alcohol additive; they have not even uttered a word against the technological know-nothings who ordered the lead out of the refinery without substituting clean-burning alcohol. The oil companies have provoked the fury of the people as profiteers and con artists when they could have won their gratitude, and made more money in the process, by producing chemically derived gasohol. More ruinous and counterproductive still, the villain's role in which the oil companies have been cast has made them the target for punitive income taxes. They might have assumed, instead, a hero's role by seeking the excise tax incentives that the situation demands and which not even their most strident critics on the left would begrudge them.

The technology, the raw materials, and the incentives are all at hand, but a nation in which the chemists and engineers are making the economic decisions while the Ph.D.'s in human relations are making the technical decisions seems strangely unable to exploit them. Gasohol offers a way to avoid a ludicrous eventuality: a government sponsored gasoline shortage in the face of a worldwide crude oil price collapse. The rest of the world is already anticipating the latter. If anything is surer than OPEC opportunism and American confusion, it is that alcohol can be produced more cheaply from the chemical by-products of oil and gas than from fermented corn, provided the tax is right. At $2.80 a bushel, the raw material cost for making a gallon of alcohol from corn is about $1.10, while the cost of a gallon of alcohol from ethylene is only about fifty-two cents. Chemically derived alcohol is cheaper and more energy-efficient than agriculturally derived alcohol, as every country experimenting with both already knows. If corn alcohol is a sell-out in Iowa, chemical alcohol is bound to be a bargain in New Jersey, given the same excise tax relief. If the government officials and technological intelligentsia insist on disputing the potential of gasohol, let them tell us why.●

ADDRESS OF SENATOR FORD BEFORE THE COAL NOW CONFERENCE

● Mr. HEINZ. Mr. President, in a speech delivered before the Coal Now Conference held earlier this month in Chicago, Senator Ford demonstrated the importance to our Nation of increasing the utilization of our vast coal reserves as an alternative to imported oil. I agree with Senator Ford's analysis and believe that our Nation needs a comprehensive energy strategy that includes an effective coal development program now. Coal must play a dominant role in efforts to free us from dependence on oil. Resolving our energy problems will not be easy, but with the leadership provided by Senator Ford in the coal caucus I am confident we can develop a coherent national energy policy.

Coal is an abundant resource, whose potential we have yet to fully realize. It is inexpensive and more could be used simply by converting plants that are presently burning oil and gas to burning coal. Most importantly, no foreign country controls our coal supplies and therefore no foreign country can dictate the price of coal or control its production in a manner that would adversely affect our economy. I commend Senator Ford for his strong stand on this issue, and I hope that my colleagues will take note of the points Senator Ford has raised so well. I ask that the text of his remarks be printed in the Record.

The address follows:

Text of Remarks to Coal Now Conference

You've asked me here to speak to you at a very perplexing time for the coal industry and I'm going to try to choose my words very carefully. You have every right to be skeptical about the promises you keep hearing about the role that coal will allegedly be given as part of a national energy strategy.

After all, since 1977 you've been told by the President and Congress about how this nation will soon embark on a massive new commitment to coal in order to reduce our growing dependence on foreign sources of energy.

You have waited patiently for this new direction to materialize, but all the while stockpiles of coal continue to mount, more mines are closing down, workers are being laid off, small operations are going under, and times are getting worse instead of better.

You feel that you have either been misled or duped. You're frustrated. You're confused. And I don't blame you one bit.

In the meantime, you're still waiting for the day that will find stability throughout the industry.

You're still waiting for the day when government will satisfy those great expectations with actions that stand behind the unkept promises of the past.

Most of all you're still waiting for the day when America will be able to point to a workable national energy strategy—one which will assign a vital role to coal.

We do not have a national energy strategy today. I know it. You know it. The entire country knows it. And I'm afraid I know the reason why, because our failings, our shortcomings and our lack of foresight are all too clear as we continue to stumble forward in search of a solution.

We do not have a national energy strategy because a good many people in this country—including some in Congress—still refuse to acknowledge that our problems are for real.

We do not have a national energy strategy because we as a nation have refused to learn from the lessons of the past and moved to correct the imbalance between production and consumption that has left us at the mercy of foreign lands.

Finally, we do not have a national energy strategy because the various elements within our nation have put their own parochial interests ahead of the national good.

We have the consuming states squaring off against the producing states. We have the various segments of the energy industry pitted against each other for a piece of the action.

As a result, our vision has been obscured by all the competing interests. Instead of a solution, we have a stalemate that will never be broken until we put our own selfish interest aside and accept the fact that we either sink or swim together.

There is no consensus now. There never has been one, and there is not one on the horizon as to in what direction this country should move to solve its longstanding energy problems.

The only way all the pieces will ever fall together is when someone comes forth with the strong, forceful leadership necessary to say this is the way we are going to do it . . damn the polls and full speed ahead.

You are looking at one individual who knows that we are sitting on the near and mid-term answer to our current problems, and that answer, of course, is the hundreds of years of coal reserves which this nation has at its disposal.

For some unknown reason—perhaps because the answer is so obvious, there are those who prefer to continue grasping at other alternatives—alternatives which can in no way match coal's potential for short and mid-term relief.

Meanwhile the industry waits and waits for the word, even a single solitary sign, that coal has not been cast to the sidelines. You've asked me here today to try to predict how much longer that wait will be.

That is a question for which no answer exists, but I can tell you this: any way you slice it, the future of the coal industry will be in large part determined by certain decisions Congress will make this year.

As far as I am concerned, there are four crucial areas toward which our efforts should be focused during this session of Congress if coal is to be allowed to make anything more than a token contribution to solving America's energy problems.

First of all there must be an immediate and substantial commitment to the increased burning of raw coal. There's an opportunity right here to make a significant reduction in our daily consumption of oil, and we continue to look right past it.

The President's Coal Commission has identified 117 plants with 341 generating units capable of being converted to coal which, if achieved, would save the nation 724,000 barrels of oil a day. Forty-four of those plants could be converted almost immediately to save 244,000 barrels but at last word all those plants were still burning oil or natural gas.

When will these plants ever switch? That will happen only when the Federal government tells them that they have to—or else.

We've heard alibis, apologies and excuses about why these facilities cannot or will not be converted to coal, but the bottom line is this: until the Federal government takes an unbending posture on what must be done, it will never, never happen.

We've got to make it mandatory that coal-capable facilities now burning oil and gas convert to coal as quickly as possible. We've got to require that new large industrial burners be absolutely prohibited from burning oil and gas except under the most extreme circumstances. Exemptions must be the exception rather than the rule. Congress mandated this in 1973, 1975 and again in 1977. Yet, there has been no forceful administrative response.

There can be no ifs, ands or buts about it, if any conversion program is to attain the desired result—and it will require the strongest possible position, not a wishy-washy approach, if we expect it to work.

Last month I created a stir with a little piece of legislation that would force 66 facilities to convert to coal within a specified period of time.

You should have seen the phone lines light up in my office the next day.

I was chastised for moving too quickly. I was criticized for using a list that was incomplete and outdated. But nobody has yet to tell me to my face that the basic principle underlying the purpose of my bill was wrong.

Yes, my bill created a stir, but only because it brought to light just how dismal our efforts in this area have been to date. It brought to light just how woefully weak the conversion efforts of the past had been. And, most of all, it brought to light how the Department of Energy, with its limited authority in this area, has been content to turn the other cheek, ignoring the one most obvious strategy—next to conservation, of course—that could have an immediate and positive impact on our energy picture.

The day after I introduced this bill, the wheels started moving. We learned that the Administration was just about ready to come forth with a proposal of its own. We were asked if we could possibly wait until they were ready. This was, mind you, the long-awaited list that had been promised for months, but had somehow mysteriously avoided ever seeing the light of day.

Given the new-found momentum, I feel reasonably certain that before the 96th Congress is history, you will see legislation—strong legislation—mandating the conversion of a large number of coal-capable facilities within a short, but reasonable period of time.

I can just about guarantee you that it would not be like the conversion bills of the past that have been subject to administrative loopholes and exceptions because—in this one instance at least—we have learned from our mistakes.

The second area that must receive Congressional attention is reducing the many restrictions that have been saddled on coal from before it is mined until after it is burned. We've finally reached the point where the industry is producing as much paper as coal—and that just isn't right.

Some regulation is essential. Some standards are necessary, but what we're seeing now amounts to nothing less than overkill.

No agency has been singled out more for exceeding its authority than the U.S. Office of Surface Mining. As one who helped write the final version of the legislation two years ago, I can say without fear of contradiction that the hundreds of regulations which this agency has issued since its creation have gone far beyond the original Congressional intent.

Last month nearly 70 of my Senate colleagues agreed with this assessment and sent OSM a message saying that it had gone too far. The message we sent was in the form of an amendment returning the primacy for administration of this law to the states, which was what Congress intended in the first place.

How this amendment will fare in the House of Representatives is still uncertain. Chairman Udall is not favorably disposed toward it. Secretary Andrus has gone on record that should it pass, he will recommend a Presidential veto.

I am not in a position to predict what might eventually happen in the House, but let me just remind you of the fact that no one ever expected it to come out of the Senate alive in the first place, and you already know what happened there.

If we want to have a stable coal market, we have to find ways to cut the cost of regulation which is driving the price of domestic coal so high that in some markets buyers are finding it more economical to use coal that has been imported from overseas.

The third area in which we must move is in improving this country's coal transportation network. It will do little good for government to mandate increased conversion to coal and then do nothing to help make sure that coal can be delivered to its markets.

Whether it be by highway, rail, or water, the current coal transportation network is inadequate and will in no way be capable of handling the tripled coal production that President Carter wants to see by 1995.

We have already gone through the experience of insufficient locomotives and hopper cars to transport the coal we have now to market in certain parts of the country. A study completed last year by the Federal Highway Administration estimated that it will cost $9.5 billion through 1985 just to maintain and build those roads necessary to meet national energy needs.

This area is one that has been overlooked for far too long, and it must be given long-overdue attention before we can count on coal to fulfill our many expectations.

Finally, Congress needs to embark on the most intensive synthetic fuels program this nation has ever seen, and this is where the future for coal rests.

A program such as this is something we could and should have done years ago. Because we didn't, the cost of undertaking such an effort will now run into the billions and billions of dollars.

Some argue that the cost is too high and that we should proceed with caution before spending that much money. Sure, the cost will be high—but this is money that we are investing in America—not sending overseas as we will do with more than $60 billion for the purchase of energy alone this year.

The cost will be high—but who can put a price tag on the value of America's national security. And, like it or not, this is the bottom line.

So, where do we stand today?

The enthusiasm which greeted those early proposals for a massive synthetic fuels program—an enthusiasm inspired by the long gasoline lines earlier this year—seems to have lost much of its momentum now that the long lines have gone away.

One by one those early proposals are being watered down substantially by the many Congressional committees that all want to have a piece of the action.

Instead of setting a 1990 deadline, we're now talking about 1995. Instead of $22 billion for the program in 1980, we're now talking in terms of $3 billion. And instead of setting production goals of 2.5 million barrels a day by 1990, we've lowered our sights to just a third of that.

We are on the verge of seeing yet another rerun of the past which, because of indecision and inaction, would mean continued helplessness and uncertainty over future energy supplies.

This nation remains scared—yes, scared—to take that one giant step necessary to help us regain control of the ability to control our destiny, and I have no explanation or excuse for this.

Somehow the spirit of the past that has helped this nation overcome any and all adversity is missing. Where it has gone, I do not know, but we had better rediscover it—and fast!

We know what the problem is. We know there is a solution. But we refuse—because of the unknown factors which might be involved—to try to solve it.

No wonder there is a crisis of confidence in our country today.

Americans are accustomed to a government that responds with solution in time of crisis. They are unused to—and uncomfortable with—uncertainty and indecision. Because government has been unwilling—not unable, but unwilling—the people's faith has understandably been shaken.

The only way that faith can ever be restored is for government to face up to its responsibility to lead, not just to follow in trying to come to grips with our energy dilemma.

I'm not ready to throw in the towel. I think there's still a chance that it will happen, and that coal will be given the chance it deserves to play a major role.

I've got to be encouraged—and you should be too—on the new-found momentum which has been established. The lopsided vote on the surface mining amendment, the strong opposition that met efforts to water down the legislation creating the Energy Mobilization Board, and the unanimous approval of an amendment granting fast track status to any utility which applies for it in order to convert to coal all are positive indicators that we may be succeeding in getting our message across.

As long as we have individuals in the Senate like Robert Byrd, John Heinz and the other dedicated members of the coal caucus . . . as long as there are people like Jay Rockefeller and his colleagues on the President's coal commission who are determined to chart a responsible and well-reasoned course that will be hard to ignore . . . as long as there are people like this, then there still is reason to be optimistic.

What I can promise you today is that those of us who believe in coal now—not later—will continue to give our best to this effort, no matter what it may require.

I can only hope that it will be good enough and soon enough . . . not for individuals like Wendell Ford, not for the welfare of the coal industry . . . but for the good of a country whose future strength and security depends on it.●

ENERGY LEGISLATION

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, at the conclusion of routine morning business tomorrow, will the Senate not automatically resume consideration of the Depository Institutions Deregulation bill?

The PRESIDING OFFICER. That will be the pending business.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I ask unanimous consent that when the Senate proceeds to the consideration of the message from the House of Representatives on S. 932, the amendment in the nature of a substitute reported by the Committee on Energy and Natural Resources as a substitute for the House substitute for the Senate bill be considered as agreed to as original text for the purpose of further amendment, and that the amendment in the nature of a substitute reported by the Committee on Banking, Housing, and Urban Affairs as a substitute for the House substitute for the Senate bill be considered as a substitute for the amendment in the nature of a substitute from the Committee on Energy and Natural Resources.

I further ask unanimous consent that the Senator from Wisconsin (Mr. PROXMIRE) be recognized to call up the first floor amendment relating to synfuels, that he retain the right to modify that amendment, notwithstanding this agreement, and that his amendment be voted on before any other amendments or motions relative to the bill can be made.

If the Proxmire amendment is adopted, it will be treated as original text for purposes of further amendment.

This request has been cleared with Mr. JACKSON and with Mr. PROXMIRE, chairmen of the Energy Committee and the Banking Committee respectively.

Mr. STEVENS. Reserving the right to object, Mr. President, I would ask that the minority leader not seek final approval of this until we can secure the presence of the Senator from Wyoming who asked to be present. I also understand the Senator from New Mexico and the Senator from Idaho, who are involved in handling this matter, would like to be involved in a colloquy at this time with the majority leader on the matter.

Mr. McCLURE. Mr. President, reserving the right to object, I wonder if we might change the unanimous-consent agreement to indicate that the amendment to be offered by the Senator from Wisconsin (Mr. PROXMIRE) would be a proposed substitute for title 1 of the bill as reported by the Energy and Natural Resources Committee, and that any modification which he might be allowed to make would relate only to title 1 of the reported measure.

Mr. ROBERT C. BYRD. Mr. President, I would have to clear that request with the distinguished Senator from Wisconsin and the distinguished Senator from Washington (Mr. JACKSON).

Mr. McCLURE. Further reserving the right to object, Mr. President, I wonder if, in checking with them, we cannot also check the possibility that the Energy and Natural Resources Committee would have the same right to modify title 1 of that bill that the Senator from Wisconsin would have in modifying his proposed substitute.

Mr. ROBERT C. BYRD. Mr. President, I obviously cannot speak for the two Senators. We met yesterday and cleared this with the two chairmen on yesterday. The agreement was presented to the minority to run by Senators on that side of the aisle. I am in no position to say that the two Senators, Mr. JACKSON and Mr. PROXMIRE, would be agreeable to this proposition. I would not have any difficulty with it personally. Let me see if we can check with Senator JACKSON and Senator PROXMIRE and see if they can come to the Chamber.

Mr. DOMENICI. Will the leader yield for a moment?

Mr. ROBERT C. BYRD. Yes.

Mr. DOMENICI. I believe there could be objection to Senator McCLURE's request on title I, but I have a question as to the effect of this proposal without in any way modifying it.

If I read it correctly, it says that we are going to have two substitutes up here and Senator PROXMIRE can modify his substitute—I have no objection to that, and I cannot anyway—and then before any amendments can be made to the Energy Committee bill, he will have a vote on his substitute in toto.

Mr. ROBERT C. BYRD. No.

Mr. DOMENICI. If that is not true, then it eliminates some concern I have. I read language in there that just kind of says that. May I read one sentence to the leader?

Mr. ROBERT C. BYRD. I think, Mr. President, the distinguished Senator from New Mexico has misinterpreted the language. The amendment that Mr. PROXMIRE would be allowed to modify, as referred to in the language in the request, would be by way of a perfecting amendment to the basic vehicle, the House substitute amended by the Senate substitute. In other words, the bill that has been reported by the Energy Committee would be superimposed on the House bill and would be considered as original text. Mr. PROXMIRE could offer a substitute but he could also offer an amendment by way of a perfecting amendment to the Senate bill which had been substituted for the House language. It is that perfecting amendment that he would be allowed to modify, not his substitute which is setting off over here on another track.

Mr. DOMENICI. Let me ask a basic question, and I will use a hypothetical amendment. We follow the procedure and we have both bills before us, the Energy Committee's and Senator PROXMIRE's substitute to the Energy Committee bill. We have them both. I, a Senator, or any Senator, want to offer an amendment to the Energy Committee bill before we vote on the Proxmire substitute. We want to have a yea-and-nay vote. We want to dispose of it. I read this to say that Senator PROXMIRE is entitled to a vote on his substitute before we are entitled to a vote modifying our Energy Committee substitute amendment.

Mr. ROBERT C. BYRD. I think what the Senator wants to do will be done. The problem here is we are talking about various substitutes. Under the rules, votes on perfecting amendments to a bill will have precedence over votes on a substitute or on amendments to a substitute.

Mr. President, I suggest the absence of a quorum.

Mr. President, I withhold that for a moment.

Mr. President, I will shortly yield the floor. I was told this had been cleared on the other side of the aisle. Mr. DOMENICI had called me on the telephone today on this very issue, and I think he and I had clarified the matter to his satisfaction. I suggested that he be on the floor so that we could have this colloquy and we could make a record of it. But I had no reason to suppose that there would be reservations of objections which might lead to objections unless the agreement was changed. I was told this had been cleared on the Republican side of the aisle.

For the moment, Mr. President, I withdraw the request.

Mr. STEVENS. Mr. President, I thank the majority leader. I think it is a matter of the clearance process because of the failure to contact the members of the committee on our side who are actively involved in it. I do apologize to my friend for the circumstance, but it is a matter of very extreme importance to those on the Energy Committee. I appreciate his withdrawal of the request at this time.

CONVICTION OF CZECHOSLOVAK DISSIDENTS

Mr. PELL. Mr. President, on October 22 the Czechoslovak Communist regime sentenced six dissidents to jail sentences for their actions in defense of human rights. The only "crime" that these dissidents have committed was to call upon their government to honor the pledges made in August 1975 in the Final Act of the Conference on Security and Cooperation in Europe that was held in Helsinki, Finland.

This action of the Czechoslovak Government constitutes a gross violation of the Helsinki accord. In this connection, the Council of Free Czechoslovakia, an organization based in New York City, last week issued a very perceptive statement and analysis of the Czechoslovak Government's action. I ask unanimous consent that the full text of this statement be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

PRAGUE REGIME CONDEMNS THE HELSINKI DECLARATION

On October 22, 1979, after five months of imprisonment, the Czechoslovak communist regime brought before a Prague court six of the ten imprisoned members of the Committee for the Defense of the Unjustly Persecuted and signatories of Charter 77.

The regime of Gustav Husak decided on this step in spite of numerous protests by foreign governments, organizations, political parties and personalities of the Western world who singularly declared the actions taken by the Prague regime against Czechoslovak dissidents as contrary to international conventions pertaining to human rights and especially as contrary to the Helsinki Agreement.

In the polemics concerning the meaning of the Helsinki Agreement which has taken place between the West and the East, the Prague regime has repeatedly stated that it is respecting human rights because the latter guarantee to its citizens the so-called social rights and has belittled the position taken by the Western countries stressing respect for traditional political, cultural, and religious rights.

For obvious reasons the indictment the Husak government has prepared against the six dissidents could not very well accuse them of calling for the observance of human rights. It had to consist of something sinister, namely, of a fabricated story according to which the six are guilty of antistate activity because of their contacts with periodicals in the West and for becoming an instrument in the creation of a "counterrevolutionary fifth column under the protection of foreign patrons," including those in NATO. These are the words with which the editorial of *Rude Pravo*, the official organ of the Czechoslovak Communist Party, defines the guilt of the six on October 20.

The Prague regime turned its back on the whole of international public opinion which since May of this year has been protesting against the unlawful attitude of the Czechoslovak government. The Prague regime is mistaken in its belief that its arrogant and irresponsible policy will stifle the opinion of the non-communist world.

We are certain that international public opinion will, after the passing of a guilty verdict in Prague, protest more than ever before against the arbitrariness of the Husak regime.

The Czechoslovak people back home and the Czechs and Slovaks who live in exile vehemently protest against this newest step of the Czechoslovak communist government and express their solidarity with the victims of Prague's socialist pseudojustice. We are reminding the world that the Czechoslovak communist government, by deciding to bring the dissidents to trial, has in fact condemned the Helsinki Agreement.

REPRESENTATIVE JOHN BRADEMAS AWARDED HONORARY DOCTORATE FOR ARTS LEADERSHIP BY CITY COLLEGE OF NEW YORK

Mr. PELL. Mr. President, our colleague in the House of Representatives, Representative JOHN BRADEMAS, not only serves as the distinguished majority whip of the House but also for many years has been the principal sponsor in the House of Representatives of legislation to support the arts and humanities in our country.

As chairman of the Subcommittee on

Education, Arts and the Humanities of the Senate Labor and Human Resources Committee, I have worked closely with Mr. BRADEMAS in this effort.

I am very pleased to say, Mr. President, that JOHN BRADEMAS' outstanding leadership for the arts was recognized on Thursday, October 25, 1979, when he was awarded the honorary degree of "Doctor of Humane Letters" by the City College of New York.

Representative BRADEMAS was honored during ceremonies marking the dedication of Aaron Davis Hall, a new performing arts facility to house the Leonard Davis Center for the Performing Arts of CCNY.

Mr. BRADEMAS also delivered the principal address on this occasion.

Mr. President, I am pleased to ask unanimous consent to have printed in the RECORD the text of the citation which accompanied the honorary degree as well as the text of Congressman BRADEMAS' address on this occasion.

There being on objection, the text was ordered to be printed in the RECORD, as follows:

DOCTOR OF HUMANE LETTERS, CITY COLLEGE OF NEW YORK

JOHN BRADEMAS

The Democratic Congressman from Indiana has been a prime force in bringing the federal government's support to the flourishing artistic institutions of our country. The legislation which he sponsored resulted in the establishment of the National Endowment for the Arts, the National Endowment for the Humanities, and the Museum Services Act. He is currently hard at work to organize and establish a White House Conference on the Arts. His energy and skill have given deeply appreciated sustenance and encouragement to artists and to lovers of the arts all across America.

REMARKS OF CONGRESSMAN JOHN BRADEMAS

It is for several reasons a great pleasure to be here with you this afternoon.

First, I'm always glad to visit New York City which, in addition to everything else it is, is the vital center of cultural activity in this country, indeed, the world.

I was here just a few weeks ago for the opening of the Metropolitan Opera's new season—a magnificent performance of "Otello"—and I was struck then, as I always am, by the way the normal flow of the seasons is reversed in the performing arts. Autumn, rather than spring, is the time that brings creation and rebirth.

So it is fitting that we meet on a fine fall day to dedicate a center that will further enrich the cultural life of this city.

Second, I count myself fortunate to be included with so many outstanding figures in being awarded an honorary degree by one of our country's great centers of learning, the City College of New York.

May I take this opportunity to congratulate your new President, Alice Chandler, on the significant responsibility she has undertaken as well as salute your retiring President, Robert Marshak, on his many contributions to this institution and to American higher education.

A CELEBRATION OF TALENT

And finally, I am pleased to be here because we join in a celebration of the arts. Indeed, the other persons whom CCNY has today chosen to honor represent a remarkable diversity of outstanding achievement in the performing arts of our country:

Yip Harburg, a City College graduate whose mastery of the lyric has for decades graced the music of America;

Arthur Mitchell, whose Dance Theatre of Harlem, a company of extraordinary scope and power, is just concluding a highly successful run in Washington;

Douglas Turner Ward, whose work as an actor is matched only by his contributions as a founder and continuing force behind the Negro Ensemble Company;

Ella Fitzgerald, who has seemed always a part of all our lives (indeed, I remember seeing her in a midnight concert with Norman Granz' "Jazz at the Philharmonic" at the Concert Gebouw Hall in Amsterdam nearly thirty years ago);

Louise Nevelson, whose extraordinary feel for form and shape has given millions of people new eyes with which to see the world (only last month I was present when a museum in my home district unveiled one of her works);

And Arnold Picker, a valued personal friend, whose unstinting efforts on behalf of film and of his alma mater receive today the recognition they so much deserve.

All these men and women are worthy of our admiration and our appreciation and I am honored to share this moment with them.

AT HOME WITH THE ARTS

Now, in the midst of this celebration of music and dance, theatre and film, you may be wondering, "Why do we listen to a politician from the plains of Indiana?"

I can neither sing nor dance nor play an instrument. When it comes to the drama, however, few Congressmen or Senators will make so sweeping a denial of talent!

For twenty-one years, however, as a member of the Committee on Education and Labor of the United States House of Representatives, I have been intimately involved in helping write laws that provide Federal support to the National Endowment for the Arts and to the National Endowment for the Humanities, support for museums and for libraries and for schools and colleges and universities.

Much of my service in public life, therefore, has been devoted to the effort that brings us together here today—strengthening the place of the arts in the life of our country.

So, I feel at home with you.

And what an impressive place to call home! . . . and not merely Aaron Davis Hall, which is impressive enough, but City College in its entirety.

For well over a century, CCNY has provided education of quality for students who might otherwise have gone without.

In recent times, City College has taken on an additional but no less vital responsibility. The age of "open admissions" has given less vital responsibility. The age of "open admissions" has given new force to City's intention, expressed at its founding, to educate "the children of the whole people."

And through all the changes and all the controversies, City College has remained committed not only to the whole people but to the "whole person" as well, with, for each student, an opportunity to discover and nurture an aesthetic dimension to life.

Aaron Davis Hall is a stirring reaffirmation of that commitment.

And surely it must be a great joy to Leonard and Sophie Davis, longtime close friends of mine and two people whose generosity of purse is rivaled only by their generosity of spirit, to see the splendid institution which they have made possible. All of us join in thanking Leonard and Sophie for this Hall, this Center of the Performing Arts and for what will happen here.

ON CREATIVITY OFF BROADWAY

In concentrating on four great art forms—music, dance, theatre, and film—City College has chosen areas in each of which the United States occupies a leading position among the nations of the world.

The breadth and diversity of this country have brought forth an astonishing wealth of musical accomplishments of every kind—by individual performers and by outstanding groups of every size.

Similarly in dance, the creative influences in America are as limitless as the freedom to test them, and the quality of the American dance achievement is surpassed nowhere in the world.

In theatre, the lights of Broadway have been augmented—some would say outshone—by talent and invention displayed off-Broadway, off-off-Broadway, and even further off-off-Broadway in increasingly important local and regional theatres.

And although the impact of American films is already worldwide, today's revolution in communications technology means that the work of the American filmmaker and of all those associated with the cinematic arts will have still greater influence in the years ahead.

In each of these fields, the Davis Center is committed to these standards of variety and excellence.

City College will provide for all four of these art forms a two-track degree system. Both those whose interests in the performing arts are primarily avocational and those who seek professional careers will be served by this Center. In providing professional training leading to a Bachelor of Fine Arts Degree, City College is offering instruction to be found nowhere else in the vast city university system. All this is an "Upper West Side Story" of which you at City can be justifiably proud.

AWAKENING ALL THE SENSES

Now I have been invited to talk with you a little about where we are today—"adspice"—in respect of the arts in American life?

Let me in turn ask: What light do Davis Hall and the Davis Center shed on our consideration of "adspice"—the present—not simply for City College but for our wider society?

Let me respond to both questions in several ways and warn you that my comments are intended to be instructive rather than exhaustive.

First, I think it clear that the Davis Center makes a powerful case for the marriage of arts and education. A knowledge of the arts is valuable in and of itself. It is valuable, too, as a tool to acquire knowledge in other disciplines. I recall in this latter connection James Michener's words during hearings I conducted two years ago that "the arts, properly taught, are basic. They, more than any other subject, awaken all the senses—open the learning pores."

Or, as Ernest Boyer, the former United States Commissioner of Education, once put it, art "is not a frosting or a frill" but "an essential part of the common core of education."

But City College goes beyond even these two considerations—art for art's sake and art as an instrument of learning. City recognizes that those special individuals who choose to make their professional way in the various performing arts struggle against enormous odds. The Davis Center will equip them for that struggle.

Even as the arts are indispensable to human life, so, too, are our colleges and universities becoming more important to the fullest development of the arts. In this respect, to use David Rockefeller, Jr.'s. term, the American educational community is helping all of us in "coming to our senses."

My second comment is this: That if the Leonard Davis Center is to be a laboratory for the performing arts, there could be no better place to conduct your experiments than here in Manhattan. For New York is the culture in which culture can grow, the broth which accepts all the lightning the universe unleashes and, from the tumult, creates life.

Another thought: We appear to be entering a period of growing attention to the arts on the part of our young people. The reason for this change are by no means clear. Perhaps it is a function of increased leisure time and the search for new means of filling it.

Or we may be seeing a reaction on the part of those whose major concerns have up to now been grade point averages and placement services.

Perhaps, with respect to dance and theatre, the awakened interest in the arts represents a greater comfort with the human body—its appearance, its movement, its relationship with space and time.

Or maybe this burgeoning interest in the performing arts is the result of wider exposure to them through television. Which comes first? No one can say with assurance. Obviously PBS brings us opera or ballet in the belief that an audience for them is already there.

But I take it as a matter of common sense—and faith—that these broadcasts create new audiences as well.

One could also point to more activities in the arts on the local level. If television offers exposure to work of the highest quality from our nation's leading cultural centers, the growth of local opera and dance companies, theatre groups and orchestras offers more immediate access to the arts for young people and for not-so-young people in communities of virtually every size.

My own home town of South Bend, for example, can now take almost as much pride in its arts center in our new Philip Johnson-designed Century Center Convention Building, in our two symphony orchestras and our having commissioned Mark DiSuvero for a sculpture in the middle of the St. Joseph River as we do in our local football team. And I would have said this even if Notre Dame had defeated USC last weekend!

DAVIS CENTER AND THE COMMUNITY

This promise of community involvement is, in my view, one of the most impressive aspects of the Davis Center. The Center has pledged to serve as a bridge between the Morningside Heights Campus and the people of the Heights as well as of the Upper West Side and Harlem. City College thus takes a broad view of its constituency, and the result will be excitement, involvement and commitment for the community beyond the college.

My final observation is this: That the uncertain history which early on characterized the Davis Center underscores the importance, as we seek to strengthen the arts in communities all across America, of fashioning close partnerships among several sectors: federal, state and local governments; business and labor; colleges and communities.

Such partnerships are all the more important today as we seek to resolve the conflict between heightened interest in the arts, on the one hand, and tightened pocketbooks, on the other.

As one who has spent much of his adult life working in Congress on behalf of the arts, I can assure you that the numbers of Senators and Congressmen of both political parties who support the arts is growing year to year.

And that support takes many forms.

FEDERAL GOVERNMENT A CATALYST

The Federal Government, acting chiefly through the National Endowment for the Arts, is a source of direct financial assistance to arts groups and to talented individuals.

The Federal Government is a catalyst for more support of the arts from the states and towns and cities.

Thanks in large measure to the stimulus of the NEA, state governments appropriated nearly 20 percent more for the arts last year than in the previous year.

Both the National Arts and Humanities Endowment have successfully used challenge grants—one Federal dollar to match three non-Federal dollars—as a lever to encourage more giving by individuals and by business and industry

The Federal government is also an important sounding board for generating more public awareness of the arts.

During my years as Chairman of the subcommittee with jurisdiction over the arts and humanities, I conducted hearings all over the United States on a variety of legislative measures to help the arts.

I worked closely with my Senate counterpart, Claiborne Pell of Rhode Island, not only to extend and expand the efforts of the two Endowments.

Senator Pell and I also, during the past few years, produced the Museum Services Act, which created the Institute of Museum Services, an agency that now provides grants to museums of every kind—art, history, science and technology—and to zoos and botanical gardens, to help meet general operating expenses.

And we wrote the Arts and Artifacts Indemnity Act to enable museums in the United States to mount exhibitions of art from other countries without having to pay huge insurance premiums—and this law has already made possible such shows as Pompeii and Dresden, King Tut and the Aegean Islands exhibit that opened yesterday at the Metropolitan Museum, not to speak of many other more modest exhibitions in museums all over America.

Later this year our Subcommittee will hold hearings on legislation to continue the two Endowments as well as the Museum Services and Indemnity Acts.

And I hope that my colleagues and I will have the views of those who teach and learn at this college on these and other proposals aimed at enhancing the quality of the arts in America and opening the doors of opportunity for wider participation in them.

"BUILD, DREAM AND SING"

So, if I have a message to leave with you on this joyous occasion, it is that I share—as do most of my colleagues in Congress—your conviction here at the City College of New York that the arts must have a crucial place in the life of our country and of our people.

These, then, are a few of the lessons I offer from these ceremonies of dedication.

As I observed earlier, I am well aware that the road that has brought us to this moment—the dedication of this magnificent hall to house the activities of this splendid center—has been long and difficult.

But because of your vision and persistence, you have arrived.

Some of you know that my father was born in Greece, but I hope that you will not accuse me of ethnic chauvinism if I conclude these remarks with some lines of the new Nobel laureate in poetry, Odysseus Elytis:

> We will go together, and let them stone us
> And let them say we walk with our heads in
> the clouds—
> Those who have never felt, my friend,
> With what iron, what stones, what blood,
> what fire,
> We build, dream, and sing.

You have dreamed and you have built.
And now you can sing.

FEDERAL FIRE PREVENTION AND CONTROL ACT AUTHORIZATIONS

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Cannon, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1160.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1160) entitled "An Act to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

Section 1. Section 17 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 17. (a) There are authorized to be appropriated to carry out the foregoing provisions of this Act, except as otherwise specifically provided, with respect to the payment of claims, under section 11 of this Act, an amount not to exceed $24,799,000 for the fiscal year ending September 30, 1980, which amount includes—

"(1) $4,875.000 for programs which are recommended in the report submitted to the Congress by the Administrator pursuant to section 24(b)(1);

"(2) $10,430,000 for the National Academy for Fire Prevention and Control; and

"(3) $307,000 for adjustments required by law in salaries, pay, retirement, and employee benefits.

"(b)(1) There are authorized to be appropriated for the additional administrative expenses of the Federal Emergency Management Agency, which are related to this Act and which result from Reorganization Plan Numbered 3 of 1978 (submitted June 19, 1978) and related Executive orders, an amount not to exceed $600,000 for the fiscal year ending September 30, 1980.

"(2) Paragraph (1) of this subsection shall take effect on the date on which a permanent Director for the Federal Emergency Management Agency is appointed by the President pursuant to section 102 of Reorganization Plan Numbered 3 of 1978, or the date on which all functions, agencies, and officers specified in sections 201, 202, 203, and 301 of Reorganization Plan Numbered 3 of 1978 are transferred to the Federal Emergency Management Agency, whichever is later.".

Sec. 2. Section 21(b)(4) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2218(b)(4)) is amended by striking out: "$100 a day" and inserting in lieu thereof "the daily equivalent of the maximum annual rate of basic pay then in effect for grade GS-15 of the General Schedule (5 U.S.C. 5332(a))".

Sec. 3. Section 16(b) of the Act entitled "An Act to establish the National Bureau of Standards", approved March 3, 1901 (15 U.S.C. 278f(b)), is amended to read as follows:

"(b) Authorization of Appropriations.—For purposes of this section, there are authorized to be appropriated an amount not to exceed $5.650.000 for the fiscal year ending September 30, 1980, which amount includes—

"(1) $525,000 for programs which are recommended in the report submitted to the Congress by the Administrator of the United States Fire Administration pursuant to section 24(b)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2220(b)(1)); and

"(2) $119,000 for adjustments required by law in salaries, pay, retirement, and employee benefits.".

UP AMENDMENT NO. 705

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the amendment of the House with an amendment that I send to the desk on behalf of Mr. CANNON.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia, on behalf of Mr. CANNON, proposes an unprinted amendment numbered 705:

Strike out all after the enacting clause, and insert:

"SEC. 1. Section 17 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216) is amended to read as follows:

'AUTHORIZATION OF APPROPRIATIONS

'SEC. 17. (a) There are authorized to be appropriated to carry out the foregoing provisions of this Act, except as otherwise specifically provided, with respect to the payment of claims, under section 11 of this Act, an amount not to exceed $25,210,000 for the fiscal year ending September 30, 1980, which amount includes—

'(1) $4,781,000 for programs which are recommended in the report submitted to the Congress by the Administrator pursuant to section 24(b)(1);

'(2) $9,430,000 for the National Academy for Fire Prevention and Control;

'(3) $307,000 for adjustments required by law in salaries, pay, retirement, and employee benefits;

'(4) $500,000 for additional rural firefighting technical assistance and information activities;

'(5) $500,000 for the study required by section 26 of this Act; and

'(6) $110,000 for the study required by section 27 of this Act.

'(b) There are authorized to be appropriated for the additional administrative expenses of the Federal Emergency Management Agency, which are related to this Act and which result from Reorganization Plan Numbered 3 of 1978 (submitted June 19, 1978) and related Executive orders, an amount not to exceed $700,000 for the fiscal year ending September 30, 1980.'.

"SEC. 2. Section 21(b)(4) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2218(b)(4)) is amended by striking out: '$100 a day' and inserting in lieu thereof 'the daily equivalent of the maximum annual rate of basic pay then in effect for grade GS-15 of the General Schedule (5 U.S.C. 5332(a))'.

"SEC. 3. Section 16(b) of the Act entitled 'An Act to establish the National Bureau of Standards', approved March 3, 1901 (15 U.S.C. 278f(b)), is amended to read as follows:

'(b) AUTHORIZATION OF APPROPRIATIONS.—For purposes of this section, there are authorized to be appropriated an amount not to exceed $5,650,000 for the fiscal year ending September 30, 1980, which amount includes—

'(1) $525,000 for programs which are recommended in the report submitted to the Congress by the Administrator of the United States Fire Administration pursuant to section 24(b)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2220(b)(1)); and

'(2) $119,000 for adjustments required by law in salaries, pay, retirement, and employee benefits.'.

"SEC. 4. The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et. seq.) is further amended by adding at the end thereof the following new section:

'SEC. 26. (a) The Administrator shall, within ten months of the date of enactment of this section, complete a study of the effectiveness of smoke detectors, heat detectors, and sprinkler suppression systems in saving live, preventing injuries, and limiting property damage in fires, which report shall be submitted to the Congress and the President. In conducting such study, the Administrator shall consider, among other factors—

'(1) whether and the extent to which such devices and systems have been and are effective in reducing the severity of fires, including estimates with respect to the potential for savings in lives, and injury prevention attributable to the operation of such systems and devices:

'(2) the experience of Federal organizations, States, localities, and other political subdivisions which have required the use of such systems and devices; and

'(3) a description of Administration programs regarding smoke detectors, heat detectors, sprinkler suppression systems and other systems, together with an analysis of the utilization of these systems and devices as a result of these programs.

'(b) If the Administrator determines, as a result of the study conducted pursuant to subsection (a) of this section, that smoke detectors, heat detectors, sprinkler suppression systems or other similar systems or devices either have been or may be of assistance in the detection and control of fire, the Administrator shall include, as part of the report conducted pursuant to this section, recommendations regarding what should be the Federal role, if any, with respect to creating incentives for the use of such devices or systems by the public, by business concerns, and by Federal, State, and local governments. In making such recommendations, the Administrator shall consider—

'(1) the incentives, including financial incentives, which might be developed to require or facilitate installation within new or existing buildings of smoke detectors, heat detectors, sprinkler suppression systems, or any combination of such systems, or other similar systems and devices; and

'(2) the benefits, if any, of demonstration or other such programs directed at residents in high impact fire areas in order to increase the use of smoke detectors, heat detectors, sprinkler suppression systems, or other systems or devices.

'(c) As part of its report submitted pursuant to this section, the Administrator shall provide specific legislative proposals to the Congress for implementing any recommendations made pursuant to this section.

'(d) Upon request of the Administrator, each Federal department and agency shall furnish to the Administrator such information, data, estimates, and statistics, and allow the Administrator access to all information in its possession, as the Administrator may reasonably determine to be necessary for the conduct of the study required by this section.'

"SEC. 5. The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) is further amended by adding at the end thereof the following new section:

'FIREFIGHTER SAFETY STUDY

'SEC. 27. (a) The Administrator shall conduct a review of firefighter safety. Such review shall include, but need not be limited to—

'(1) an analysis of the current situation with respect to the safety of firefighters;

'(2) an analysis of the effectiveness of protective garments, firefighting breathing equipment, personal communications systems, and other protective subsystems, together with recommendations for improving such equipment in order to further firefighting safety;

'(3) development of a plan for increased technology transfer to firefighting units of more effective technologies in the areas identified in paragraph (2) of this subsection.

'(b) The Administrator shall submit to Congress the results of such review, together with appropriate recommendations for legislation, not later than March 31, 1980.' ".

● Mr. CANNON. Mr. President, I would like to provide a little background in regard to this legislation. The Senate Commerce, Science, and Transportation Committee consistently has been deeply concerned about the unnecessary toll in lives and property caused by fire in this country. There are more than 8,000 fire-related deaths in this Nation each year. The cost due to fire is more than $13 billion annually. To combat these problems, the committee was instrumental in the development of the U.S. Fire Administration and the Center for Fire Research. Also, the committee has long sought to facilitate the development of the U.S. Fire Academy to train firefighters throughout the country in the most advanced techniques of fire prevention and control. I am, therefore, pleased to state that the U.S. Fire Academy was recently dedicated and now can begin to carry out its extremely important functions.

In order to insure that these organizations can operate effectively, the Senate earlier this year passed legislation to provide for authorizations for appropriations of the programs of the U.S. Fire Administration and the Center for Fire Research. This legislation contained significant authorizations for the U.S. Fire Academy and major authorizations for programs to combat arson, which is one of the fastest growing crimes in this country. It authorized a comprehensive study directed at determining what the Federal role should be in creating incentives for the utilization of smoke detectors, heat detectors, and sprinkler systems by the public. Also, it authorized firefighter protection programs, rural programs, and the information gathering functions of the U.S. Fire Administration.

The House recently amended this legislation and sent it back to the Senate in slightly modified form.

After careful consideration of the House and Senate legislation, I believe the amendments I am offering today provide for an amalgamation of the best parts of the House and Senate bills.

The amendments will provide the following changes from the legislation originally passed by the Senate:

First, the amendment would provide explicit funding for the Federal Emergency Management Agency's administrative expenses in relation to the U.S. Fire Administration.

Second, the amendment would provide explicit funding for base pay increases for the U.S. Fire Administration and the Center for Fire Research.

Third, the amendment would slightly increase the authorizations for the Center for Fire Research. It should be emphasized that this change is particularly focused on increased research and development in the area of arson prevention.

Fourth, the amendment would authorize a study in regard to firefighter protection. This study will analyze the effectiveness of various firefighter equipment, including firefighting breathing equipment, personal communications systems, and other protective subsystems. It will examine various means of how to improve such equipment in order to further firefighter safety. This study will try to determine how to insure that when there is improvement in such equipment, the utilization of this equipment by fire companies throughout the country will be facilitated. Our hearings have demonstrated that firefighting is one of the most dangerous professions in the United States, and this study is essential to lay the foundation for improving the means for greater safety in this area.

Finally, this amendment would slightly lower the overall authorization levels in comparison to the levels contained in the earlier Senate legislation. This lessening of the authorization level is possible due to the fact that it has been determined, after discussions with the U.S. Fire Administration, that a slightly lower authorization level would be adequate for the U.S. Fire Academy in fiscal year 1980. Mr. President, I believe these amendments are balanced, reasonable, and needed. I strongly urge their adoption by the Senate.●

● Mr. PACKWOOD. Mr. President, I urge the Senate to support the compromise bill worked out between the Senate and the House. The bill authorizes appropriations for fiscal year 1980 to carry out the programs of the U.S. Fire Administration under the Federal Fire Prevention and Control Act. The Senate Commerce Committee has scrutinized these programs and believes these programs will help to reduce deaths, injuries, and property damage due to fire.

The compromise bill continues to emphasize the need for increased Federal support for the training and safety of our country's firefighters. It recognizes the value of an exchange of information, ideas, and technology between Federal, State, and local government and firefighters. The compromise also recognizes the need for programs tailored to the rural communities of this Nation where loss due to fire is most devastating. The compromise bill also retains the Senate provision for a study of the need for Federal incentives for smoke detectors, heat detectors, and sprinkler systems.

As has been mentioned, 1979 and 1980 are critical years for the U.S. Fire Administration. The U.S. Fire Administration itself has recently been part of a structural reorganization. The U.S. Fire Academy for the first time has a permanent home. In addition, the Senate confirmed only last March the nomination of Gordon Vickery to be Administrator of the U.S. Fire Administration. I am sure he is well on his way to reviewing the programs and structure of his administration. I wish him well. It is important to recognize that a program's success can be determined by the caliber and attitude of the people who work with it.●

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

TIME LIMITATION AGREEMENT—S. 1668

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, at such time as Calendar Order No. 390, S. 1668, the Migration and Refugee Assistance Act, is called up and made the pending business before the Senate, there be a time agreement on that bill as follows: Four hours equally divided on the bill to be controlled by and divided between Mr. CHURCH and Mr. JAVITS; 40 minutes equally divided on any amendment; 30 minutes equally divided on an amendment by Mr. CRANSTON on the Indochinese refugee assistance program; 30 minutes on an amendment by Mr. DANFORTH on Cambodian assistance; 45 minutes on an amendment by Mr. HELMS on the use of private voluntary agencies for Cambodian assistance; 20 minutes on any debatable motion, appeal, or point of order if the Chair entertains debate by the Senate on such point of order, and that the agreement be in the usual form.

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 1668

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the transportation appropriations bill or on the disposition of the bank financing bill, whichever is the later, the Senate then proceed to the consideration of the migration and refugee assistance bill, S. 1668.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELOCATION OF NAVAJO AND HOPI INDIANS

Mr. MELCHER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 751.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 751) entitled "An Act relating to the relocation of the Navajo Indians and the Hopi Indians, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That subsection (d) of section 6 of the Act of December 22, 1974 (88 Stat. 1712; 25 U.S.C. 640d), hereinafter referred to as the "Act of December 22, 1974", is amended by striking the period at the end thereof and inserting, in lieu thereof, a colon and the following: "*Provided further,* That the Secretary shall cause an appraisal to be made of any and all lands partitioned to the tribes pursuant to either section 4(a) or 8(b). Such appraisal shall be submitted to the appropriate United States district court and the tribes within one hundred and eighty days after the date of enactment of this proviso for such lands as are already partitioned, whether by interim or final order, or one hundred and eighty days after the entry of an interim or final order of partition as to lands not yet partitioned on such effective date.".

SEC. 2. Section 8 of the Act of December 22, 1974, is amended by striking all of subsection (c) and inserting, in lieu thereof, the following:

"(c)(E) Either as a part of or in a proceeding supplementary to the action authorized in subsection (a) of this section, either tribe, through the chairman of its tribal council for and on behalf of the tribe, including all villages, clans, and individual members thereof, may prosecute or defend an action for the types of relief, including interest, specified in section 18 of this Act, including all subsections thereof, against the other tribe, through its tribal chairman in a like representative capacity, and against the United States as to the types of recovery specified in subsection (a)(3) of such section 18 and subject to the same provisions as contained in said subsection, such action to apply to the lands in issue in the reservation established by the Act of June 14, 1934 (48 Stat. 960).

"(2) In the event the Hopi Tribe or Navajo Tribe is determined to have any interest in the lands in issue, the right of either Tribe to recover hereunder shall be based upon that percentage of the total sums collected, use made, waste committed, and other amounts of recovery, which is equal to the percentage of lands in issue in which either Tribe is determined to have such interest.

"(3) Neither laches nor the statute of limitations shall constitute a defense to such proceedings if they are either prosecuted as a part of the action authorized by this section or in a proceeding supplemental thereto, if instituted not later than twenty-four months following a final order of partition and exhaustion of appeals in an action filed pursuant to this section.".

SEC. 3. Section 10 of the Act of December 22, 1974, is amended by adding at the end thereof the following new subsections:

"(c) Lands partitioned pursuant to this Act, whether by interim or final order of the court, shall be subject to the jurisdiction of the tribe to whom partitioned and the laws of such tribe, regulating land use, shall apply to such partitioned lands, except as may be otherwise provided in section 13(a) and 31 of this Act, as amended.

"(d) Any development of lands in litigation pursuant to section 8 of this Act and further defined as 'that portion of the Navajo Reservation lying west of the Executive Order Reservation of 1882 and bounded on the north and south by westerly extensions, to the reservation line, of the northern and southern boundaries of said Executive Order Reservation,' shall be carried out only upon the written consent of each tribe except for the limited areas around the village of Moenkopi and around Tuba City. Each such area has been heretofore designated by the Secretary. 'Development' as used herein shall mean any new construction or improvement to the property and shall include placement of mobile homes and buildings on the property and further includes public work projects, power and water lines, public agency improvements, and associated rights-of-way."

SEC. 4. Section 11 of the Act of December 22, 1974, is amended by—

(1) striking the period at the end of subsection (a) and inserting, in lieu thereof, the following: ": *Provided,* That no lands in the State of Arizona, lying north and west of the Colorado River, shall be available for selection under this subsection.".

(2) striking all of subsection (b) and inserting, in lieu thereof, the following:

"(b) The Commission is authorized to purchase or otherwise acquire, except by eminent domain, not to exceed fifty thousand acres of land for the benefit of the Navajo or Hopi Tribes which shall be used for the purpose of facilitating the resettlement of heads of households required to relocate pursuant to this Act or to otherwise accomplish the purpose of this Act. Any of such lands, which are contiguous or adjacent to the Navajo Reservation, shall be taken by the United States in trust for the Navajo or Hopi Tribe and shall be administered as a part of the Navajo or Hopi Reservation, as the case may be. Any independent authority to acquire lands which may be derived from section 5 (a)(1) of this Act is hereby terminated.

There is hereby authorized to be appropriated, effective in fiscal year 1981, not to exceed $10,000,000 to carry out this subsection.".

Sec. 5. Section 12 of the Act of December 22, 1974 is amended by—

(1) inserting, in paragraph (1) of subsection (g), the phrase "an independent legal counsel," after the phrase "Executive Director,".

(2) amending subsection (h) to read as follows:

"(h) The Commission is authorized to provide for its own administrative, fiscal and housekeeping services.".

(3) redesignating subsection (i) as subsection (j) and inserting a new subsection (i) as follows:

"(i) (1) The Commission may call upon any other department or agency of the Federal Government to assist it in carrying out its responsibilities under this Act and such departments and agencies shall, to the extent permitted by law, provide such assistance.

"(2) To facilitate the coordination of other Federal programs with the efforts of the Commission—

"(A) the area directors of the Phoenix and Navajo area offices of the Bureau of Indian Affairs and the Indian Health Service shall consult with the Commission on the proposed budget for the Navajo and Hopi Tribes for any fiscal year prior to the submission of such proposed budget to the central office of each agency. The Commission shall comment on such proposed budgets with respect to the implementation of this Act. A copy of such comments shall be submitted by the Commission to the Committee on Appropriations and the Select Committee on Indian Affairs of the United States Senate and the Committee on Appropriations and the Committee on Interior and Insular Affairs of the United States House of Representatives.

"(B) no Federal grant to, or contract with, the Navajo or Hopi Tribe, other than by the Bureau of Indian Affairs or the Indian Health Service, shall be approved until the Commission shall have had forty-five days within which to review and comment on such grant application or proposed contract from the standpoint of compatibility with the intent and purposes of this Act.

"(3) The Office of Managtment and Budget shall establish such procedures as may be necessary to insure compliance with the provisions of this subsection and shall insure that all relevant programs and services of the Federal Government are marshalled and coordinated toward the expeditious implementation of this Act, as amended.".

Sec. 6. Subsection (a) of section 13 of the Act of December 22, 1974, is amended by adding at the end thereof the following sentence: "Nothing herein or in any other provision of law shall be construed as authorizing any person to retain, maintain, or graze livestock on such lands without the consent of the tribe to whom the lands are partitioned, except those members of the Navajo Tribe, residing on Hopi-partitioned lands, who have applied and have been certified by the Commission as eligible for relocation.".

Sec. 7. Clause (5) of section 13(c) of the Act of December 22, 1974, is amended by striking the word "thirty" and inserting, in lieu thereof, the word "ninety".

Sec. 8. Section 15 of the Act of December 22, 1974, is amended by adding a new subsection (f) as follows:

"(f) Within one hundred and eighty days after the date of enactment of this subsection, the Commission shall review the economic and social conditions of the families of heads of households who were evicted from the Hopi Reservation as a consequence of the decision in the case of United States versus Kabinto (456 F.2d 1087 (1972)). Based upon that review, the Commission may certify such heads of households as eligible for benefits under subsections (a), (b), and (d) of section 15 of this Act, but the Commission, in its discretion, may make available less than the full amount of benefits authorized in such subsections. The Commission's determination under this subsection shall be final.".

Sec. 9. Section 19 of the Act of December 22, 1974, is amended by adding a new subsection (c) as follows:

"(c) (1) Conservation practices, including grazing control and range restoration activities in the joint use area as required by subsection (a) of this section, shall be coordinated and executed with the concurrence of the tribe to whom the particular lands in question have been partitioned.

"(2) Surveying, monumenting, and fencing as required by subsection (b) of this section shall be completed within twelve months after the date of enactment of this subsection with respect to lands partitioned pursuant to section 4 of this Act and within twelve months after a final order of partition with respect to any lands partitioned pursuant to section 8 of this Act.

"(3) The livestock reduction program required under subsection (a) of this section shall be completed within eighteen months after the date of enactment of this subsection.

"(4) All projects instituted by the Secretary or any other agency of the Federal Government in relation to conservation, range restoration, or reclamation on partitioned lands or otherwise in connection with the relocation plan shall be eligible for contract by either tribe.".

Sec. 10. Section 23 of the Act of December 22, 1974, is amended by adding the following sentence at the end thereof: "In the event that the tribes should negotiate and agree on an exchange of lands pursuant to authority granted herein the Commission shall make available 125 per centum of the relocation benefits provided in sections 14 and 15 of this Act to members of either tribe living on land to be exchanged to other than his or her own tribe, except that such benefits shall be available only if, within ninety days of the agreement, a majority of the adult members of the tribe who would be eligible to relocate from exchanged lands sign a contract with the Commission to relocate within twelve months of the agreement or such later time as determined by the Commission and such additional benefits shall only be paid to those who actually relocate within such period.".

Sec. 11. Section 25(a) (5) of the Act of December 22, 1974, as amended by the Act of July 30, 1979 (Public Law 96-40), is further amended by striking the figure "$1,000,000" and inserting, in lieu thereof, the figure "$3,000,000": *Provided*, That no new budget authority for fiscal year 1980 is authorized to be appropriated.

Sec. 12. The Act of December 22, 1974, is amended by adding at the end thereof the following new sections:

"Sec. 27. (a) To facilitate and expedite the relocation efforts of the Commission, there is hereby authorized to be appropriated annually, effective in fiscal year 1981, not to exceed $6,000,000 as a discretionary fund.

"(b) Such funds may only be used by the Commission to—

"(1) match or pay not to exceed 30 per centum of any grant, contract, or other expenditure of the Federal Government, State or local government, tribal government or chapter, or private organization for the benefit of the Navajo or Hopi Tribe, if such grant, contract, or expenditure would significantly assist the Commission in carrying out its responsibilities or assist either tribe in meeting the burdens imposed by this Act.

"(2) engage or participate, either directly or by contract, in demonstration efforts to employ innovative energy or other technologies in providing housing and related facilities and services in the relocation and resettlement of individuals under this Act.

Not to exceed 5 per centum of such funds may be used for the administrative expenses of the Commission in carrying out this section.

"(c) The Secretary of the Interior and the Secretary of Health, Education, and Welfare, as appropriate, shall assign the highest priority, in the next fiscal year after the date of enactment of this subsection, to the funding and construction of the Hopi high school and a Hopi medical center consistent with any plans already completed and approved by appropriate agencies of the respective departments.

Sec. 28. (a) No action taken pursuant to, in furtherance of, or as authorized by this Act, as amended, shall be deemed a major Federal action for purposes of the National Environmental Policy Act of 1969, as amended.

(b) Any transfer of public lands pursuant to this Act shall be made notwithstanding any provision of the Federal Land Policy and Management Act (Public Law 94-579; 40 U.S.C. 1701 et seq.).

"Sec. 29. (a) In any litigation or court action between or among the Hopi Tribe, the Navajo Tribe and the United States or any of its officials, departments, agencies, or instrumentalities, arising out of the interpretation or implementation of this Act, as amended, the Secretary shall pay, subject to the availability of appropriations, attorney's fees, costs, and expenses as determined by the Secretary to be reasonable. For each tribe, there is hereby authorized to be appropriated not to exceed $120,000 in fiscal year 1981, $130,000 in fiscal year 1982, $140,000 in fiscal year 1983, $150,000 in fiscal year 1984, and $160,000 in fiscal year 1985, and each succeeding year thereafter until such litigation or court action is finally completed.

"(b) Upon the entry of a final judgment in any such litigation or court action, the court shall award reasonable attorney's fees, costs and expenses to the party, other than the United States or its officials, departments, agencies, or instrumentalities, which prevails or substantially prevails, where it finds that any opposing party has unreasonably initiated or contested such litigation. Any party to whom such an award has been made shall reimburse the United States out of such award to the extent that it has received payments pursuant to subsection (a) of this section.

"(c) To the extent that any award made to a party against the United States pursuant to subsection (b) of this section exceeds the amount paid to such party by the United States pursuant to subsection (a) of this section, such difference shall be treated as if it were a final judgment of the Court of Claims under section 2517 of title 28, United States Code.

"(d) This section shall apply to any litigation or court action pending upon the date of enactment of this section in which a final order, decree, or judgment has not been entered, but shall not apply to any action authorized by section 8 or 18(a) of this Act.

"Sec. 30. (a) No payments, pursuant to section 14 and 15(b) of this Act, shall be made to any head of household who has not signed a contract for relocation under existing eligibility criteria of the Commission prior to enactment of this section and who did not, as determined by the Commission, physically reside within the joint use area on the date specified in section 14(c) or 15(c), as the case may be.

"(b) Any head of household who has not signed a contract for relocation under existing eligibility criteria of the Commission prior to enactment of this section and who, but for the enactment of this section, would have been eligible for benefits under section 14 and 15(b) shall be paid $5,000 from funds appropriated pursuant to section 25(a) (1) or (4).

"Sec. 31. (a) In the event the District Court grants life estate leases pursuant to section 5 of this Act, the following standards shall apply:

"(1) eligibility for such life estate leases shall be governed by the following factors:

"(i) the applicant for a life estate lease must have been at least seventy years of age on December 22, 1974; or

"(ii) the applicant for a life estate lease must have been at least sixty-five years of age on December 22, 1974, and must establish to the satisfaction of the court that the probable long-term effects of the relocation would cause extreme personal hardship; or

"(iii) the applicant for a life estate lease must establish to the satisfaction of the court that he or she is more than fifty per centum disabled, as certified by a medical doctor.

"(2) all applications for life estate leases must be filed with the District Court on or before June 30, 1980.

"(3) the Court shall grant no more than fifty life estate leases.

"(4) each life estate shall include a fenced grazing tract of not more than twenty-five acres and an additional tract of up to three acres for a homesite. Such homesite shall be surveyed and monumented, but shall not be fenced unless requested by the life tenant.

"(5) the tenure of such life estate lease shall be for the life of the applicant or his or her spouse, whichever is longer.

"(6) the granting of a life estate lease to any person shall preclude that person, his or her spouse, and any dependent minor children living in that household from receiving any relocation benefits except fair market value for improvements and actual moving expenses to be paid by the Secretary upon termination of the lease.

"(b) The Secretary shall pay, on an annual basis, the fair market rental value of such life estate leases to the tribe to whom the lands leased were partitioned: *Provided*, That the Secretary may, in his discretion, recover not to exceed one-half of such amount from the trust funds of the tribe of which such life tenants are members.

"(c) All other matters relating to life estate leases and/or tenants shall remain within the discretion and jurisdiction of the District Court which shall apply its own existing criteria to the extent such criteria are not inconsistent with the provisions of this section.".

Amend the title so as to read: "An Act to amend the Act of December 22, 1974 (88 Stat. 1712; 25 U.S.C. 640d).".

Mr. MELCHER. Mr. President, I move that the Senate disagree to the amendments of the House and ask for a conference of the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint conferees.

The motion was agreed to, and the Presiding Officer (Mr. DeConcini) appointed Mr. Melcher, Mr. Inouye, Mr. DeConcini, Mr. Cohen, and Mr. Hatfield conferees on the part of the Senate.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, now that Mr. Boren is present in the Chamber, I ask unanimous consent that the Senate proceed to the consideration, in executive session, of the nominations on the calendar which, as I understand it, are cleared as follows, and Mr. Stevens is here to agree or disagree: Calendar Order numbered 419, and then Calendar Orders beginning with Government National Mortgage Association on page 1, and then Calendar Orders beginning under Department of State on page 2, going through New Reports on pages 3, 4, and 5.

Mr. STEVENS. There is no objection. I am pleased to join the majority leader in that request.

Mr. ROBERT C. BYRD. I thank the Senator.

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed en bloc to consider and confirm all of the nominations thus enumerated with the following exceptions; Calendar Orders Nos. 430, 445, 446, 447, and 448.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection, the nominations are considered and confirmed.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Jane McGrew, of Maryland, to be General Counsel of the Department of Housing and Urban Development.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

Ronald P. Laurent, of Illinois, to be President, Government National Mortgage Association.

NATIONAL SCIENCE FOUNDATION

Francis Severin Johnson, of Texas, to be an Assistant Director of the National Science Foundation.

William Klemperer, of Massachusetts, to be an Assistant Director of the National Science Foundation.

DEPARTMENT OF STATE

The following-named Foreign Service officers for promotion from class 1 to the class indicated.

John Gunther Dean, of New York, to be Career minister.

Samuel W. Lewis, of Texas, to be Career minister.

Stephen Low, of Ohio, to be Career minister.

Williams H. Luers, of Illinois, to be Career minister.

Richard W. Murphy, of Maryland, to be Career minister.

James W. Spain, of Florida, to be Career minister.

O. Rudolph Aggrey, of the District of Columbia, to be Career minister for information.

THE JUDICIARY

Thomas A. Clark, of Florida, to be U.S. circuit judge for the 5th circuit.

Arthur L. Alarcon, of California, to be U.S. circuit judge for the 9th circuit.

Harry Pregerson, of California, to be U.S. circuit judge for the 9th circuit.

Anna Diggs-Taylor, of Michigan, to be U.S. district judge for the eastern district of Michigan.

Juan Guerrero Burciaga, of New Mexico, to be U.S. district judge for the district of New Mexico.

Barbara B. Crabb, of Wisconsin, to be U.S. district judge for the western district of Wisconsin.

Terrence T. Evans, of Wisconsin, to be U.S. district judge for the eastern district of Wisconsin.

Alan N. Bloch, Pennsylvania, to be U.S. district judge for the western district of Pennsylvania.

Alcee L. Hastings, of Florida, to be U.S. district judge for the southern district of Florida.

Scott E. Reed, of Kentucky, to be U.S. district judge for the eastern district of Kentucky.

Robert H. Hall, of Georgia, to be U.S. district judge for the northern district of Georgia.

Dale Emerson Saffels, of Kansas, to be U.S. district judge for the district of Kansas.

Harold Arnold Ackerman, of New Jersey, to be U.S. district judge for the district of New Jersey.

Dickinson Richards Debevoise, of New Jersey, to be U.S. district judge for the district of New Jersey.

H. Lee Sarokin, of New Jersey, to be U.S. district judge for the district of New Jersey.

Anne Elise Thompson, of New Jersey, to be U.S. district judge for the district of New Jersey.

Neal P. McCurn, of New York, to be U.S. district judge for the northern district of New York.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Nathan J. Stark, of Pennsylvania, to be Under Secretary of Health, Education, and Welfare.

William Brownlee Welsh, of Virginia, to be an Assistant Secretary of Health, Education, and Welfare.

Billy M. Wise, of Virginia, to be an assistant Secretary of Health, Education, and Welfare.

Mr. ROBERT C. BYRD. Mr. President, the clerk may proceed with those nominations which were excepted.

The PRESIDING OFFICER. The nominations will be stated.

The second assistant legislative clerk read the nomination of Stephanie K. Seymour, of Oklahoma, to be U.S. circuit judge for the 10th circuit.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominees from the State of Oklahoma be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. BOREN. I thank the majority leader.

Mr. President, I am particularly proud that this list of nominees includes the names of five distinguished Oklahomans, Stephanie K. Seymour, to be judge of the 10th Circuit Court of Appeals, Frank H. Seay, to be judge for the Eastern District of Oklahoma, Lee R. West, to be judge for the Western District of Oklahoma, and Thomas R. Brett and James O. Ellison, to be district judges for the Northern District of Oklahoma.

All these individuals are extremely well qualified. They will bring to the Federal bench the highest standards of competence and integrity. All five were recommended by panels of outstanding citizens representing a cross section of the people of our State. They were recommended to the President after participating in the most comprehensive selection process ever used in our State to fill Federal judicial vacancies.

I am very pleased that the President has seen fit to nominate persons of such high caliber.

I thank the majority leader.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Stephanie K. Seymour, of Oklahoma, to be U.S. circuit judge for the 10th circuit.

Frank Howell Seay, of Oklahoma, to be U.S. district judge for the eastern district of Oklahoma.

Lee Roy West, of Oklahoma, to be U.S. district judge for the western district of Oklahoma.

Thomas Rutherford Brett, of Oklahoma, to be U.S. district judge for the northern district of Oklahoma.

James Oliver Ellison, of Oklahoma, to be U.S. district judge for the northern district of Oklahoma.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote en bloc by which the various nominees were confirmed en bloc.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOREN. Mr. President, I ask unanimous consent that the President be notified forthwith of the confirmation of the nominees from the State of Oklahoma.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of all the remaining nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 11:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 11:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER RELINQUISHING TIME OF THE LEADERSHIP UNDER THE STANDING ORDER TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time of the two leaders under the standing order tomorrow be relinquished.

Mr. STEVENS. Mr. President, I have no objection. The minority leader is otherwise engaged at that time, and I think that is a wise move.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF CERTAIN SENATORS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the prayer and after the disposition of the approval of the Journal tomorrow, the following Senators be recognized, each for not to exceed 15 minutes: Mr. LEAHY to be first; that he be followed by Mr. HUDDLESTON; that he be followed by Mr. MOYNIHAN, then by Mr. DURENBERGER, Mr. CHAFEE, and Mr. LUGAR.

The PRESIDING OFFICER. Without objection, it is so ordered.

DESIGNATION OF PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the remarks of Mr. HUDDLESTON tomorrow, there be a brief period for the transaction of routine morning business of not to exceed 15 minutes, and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT—H.R. 4440

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate proceeds to the consideration of Calendar Order No. 395, H.R. 4440, there be a time agreement as follows: 2 hours equally divided between Mr. BAYH and Mr. MCCLURE on the bill, 30 minutes equally divided on any amendment, 20 minutes on any debatable motion, appeal, or point of order if such point of order is presented to the Senate; provided further that the agreement be in the usual form as to division and control of time; and ordered further that, no later than 3 o'clock tomorrow afternoon, the Senate proceed to the consideration of this bill if requested by the majority leader after consultation with the minority leader or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, in the order with reference to the hour of 3 o'clock, does the request read 3 o'clock specifically or no later than 3 p.m.?

The PRESIDING OFFICER. No later than 3 p.m.

Mr. ROBERT C. BYRD. I thank the Chair.

RECESS TO 11:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 11:30 a.m. tomorrow morning.

The motion was agreed to; and at 6:49 p.m., the Senate recessed until tomorrow, Thursday, November 1, 1979, at 11:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 31, 1979:

DEPARTMENT OF STATE

Patricia M. Byrne, of Ohio, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Socialist Republic of the Union of Burma.

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

Robert D. Hormats, of Maryland, to be a Deputy Special Representative for Trade Negotiations, with the rank of Ambassador, vice Alonzo Lowry McDonald, Jr., resigned.

Michael Brackett Smith, of Maryland, to be a Deputy Special Representative for Trade Negotiations, with the rank of Ambassador, vice Alan William Wolff, resigned.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 31, 1979:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Jane McGraw, of Maryland, to be General Counsel of the Department of Housing and Urban Development.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

Ronald P. Laurent, of Illinois, to be President, Government National Mortgage Association.

NATIONAL SCIENCE FOUNDATION

Francis Severin Johnson, of Texas, to be an Assistant Director of the National Science Foundation.

William Klemperer, of Massachusetts, to be an Assistant Director of the National Science Foundation.

DEPARTMENT OF STATE

The following-named Foreign Service officers for promotion from class 1 to the class of career minister:

John Gunther Dean, of New York.
Samuel W. Lewis, of Texas.
Stephen Low, of Ohio.
William H. Luers, of Illinois.
Richard W. Murphy, of Maryland.
James W. Spain, of Florida.

O. Rudolph Aggrey, of the District of Columbia, a Foreign Service Information officer of class 1, for promotion to the class of career minister for information.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Nathan J. Stark, of Pennsylvania, to be Under Secretary of Health, Education, and Welfare.

William Brownlee Welsh, of Virginia, to be an Assistant Secretary of Health, Education, and Welfare.

Billy M. Wise, of Virginia, to be an Assistant Secretary of Health, Education, and Welfare.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Thomas A. Clark, of Florida, to be U.S. circuit judge for the fifth circuit.

Arthur L. Alarcon, of California, to be U.S. circuit judge for the ninth circuit.

Harry Pregerson, of California, to be U.S. circuit judge for the ninth circuit.

Stephanie K. Seymour, of Oklahoma, to be U.S. circuit judge for the 10th circuit.

Anna Diggs-Taylor, of Michigan, to be U.S. district judge for the eastern district of Michigan.

Juan Guerrero Burciaga, of New Mexico, to be U.S. district judge for the district of New Mexico.

Barbara B. Crabb, of Wisconsin, to be U.S. district judge for the western district of Wisconsin.

Terence T. Evans, of Wisconsin, to be U.S. district judge for the eastern district of Wisconsin.

Alan N. Bloch, of Pennsylvania, to be U.S. district judge for the western district of Pennsylvania.

Alcee L. Hastings, of Florida, to be U.S. district judge for the southern district of Florida.

Scott E. Reed, of Kentucky, to be U.S. district judge for the eastern district of Kentucky.

Robert H. Hall, of Georgia, to be U.S. district judge for the northern district of Georgia.

Dale Emerson Saffels, of Kansas, to be U.S. district judge for the district of Kansas.

Harold Arnold Ackerman, of New Jersey, to be U.S. district judge for the district of New Jersey.

Dickinson Richards Debevoise, of New Jersey, to be U.S. district judge for the district of New Jersey.

H. Lee Sarokin, of New Jersey, to be U.S. district judge for the district of New Jersey.

Anne Elise Thompson, of New Jersey, to be U.S. district judge for the district of New Jersey.

Neal P. McCurn, of New York, to be U.S. district judge for the northern district of New York.

Frank Howell Seay, of Oklahoma, to be U.S. district judge for the eastern district of Oklahoma.

Lee Roy West, of Oklahoma, to be U.S. district judge for the western district of Oklahoma.

Thomas Rutherford Brett, of Oklahoma, to be U.S. district judge for the northern district of Oklahoma.

James Oliver Ellison, of Oklahoma, to be U.S. district judge for the northern district of Oklahoma.

HOUSE OF REPRESENTATIVES—*Wednesday, October 31, 1979*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Make a joyful noise to the Lord, all the lands. Serve the Lord with gladness. Come into His presence with singing.—Psalms 100: 1, 2.

O gracious Lord, You have given to us responsibility to serve this Nation and all the people, graciously bestow upon us enthusiasm and commitment for the daily tasks. Help us all to see how good deeds done for others, however small, can bring a sense of satisfaction and purpose to living. When the difficulties and concerns of life press against us, grant us courage and the knowledge that Your spirit will give us peace. We pray, O Lord, that You would give us joy and gladness to lift our hearts and strengthen us on our way. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On October 29, 1979:

H.R. 3173. An act to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for fiscal year 1980, and for other purposes.

On October 30, 1979:

H.R. 4580. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1980, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 5218. An act to amend the Foreign Assistance Act of 1961 to authorize special Caribbean hurricane relief assistance.

The message also announced that the Senate agrees to the amendments of the House with amendments to a bill of the Senate of the following title:

S. 1871. An act to extend the existing antitrust exemption for oil companies that participate in the agreement on an international energy program.

PASS WINDFALL PROFITS TAX PROMPTLY

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, the administration is currently faced with the largest U.S. inflation rate since the year after World War II. One of the primary components of the current 13- to 14-percent inflation rate is the dramatically higher cost for petroleum products, such as home heating oil and gasoline. Energy alone accounted for 38 percent of the September increase in the Consumer Price Index.

The President has finally felt compelled to order an investigation of oil refiners' profit margins which have skyrocketed by 37.5 percent during the month of September. This probe of the oil industry is the result of discrepancies between public profit reports and data supplied to the Council for Wage and Price Stability.

Mr. Speaker, these big oil companies, even utilizing their most sophisticated and complex accounting methods, clearly are not in compliance with the Government's voluntary price guidelines. We must not tolerate the big oil companies' totally disregarding the national policy of price standards. How can Big Oil justify these profit margin figures, when the rest of society is attempting to live fairly closely within the guideposts?

This is just another manifestation of the major oil companies disdain for the American consumer. Congress is obliged to stand on behalf of our oppressed citizens and pass the windfall profits tax as soon as possible.

MARTIN LUTHER KING STADIUM

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, the question of whether we should declare a national holiday honoring Dr. Martin Luther King will soon be debated in this House.

May I suggest that the question of honoring Dr. King should not be confined to the single question of a national holiday.

There is no national holiday for Abraham Lincoln—or Thomas Jefferson—yet we honor them.

In short, the fact that we do not have a national holiday for an esteemed American does not in any way mean we do not honor him. We find other and better ways of paying tribute.

May I suggest that we consider renaming Robert F. Kennedy Stadium after Dr. King. It would be a 365-days-a-year reminder to the Nation's Capital of Dr. King. In a city with a sizable majority black population, Martin Luther King Stadium would be welcome as tribute to an admired and revered leader. Changing the name would in no way take away from the late Senator Kennedy's glory, but would, instead, remind us of the close connection between Senator Kennedy and the ideals of Dr. King.

A holiday passes and is gone. It soon degenerates into a day off and not a day of reverence for the honored person. But a stadium remains.

I intend later today to introduce a bill to effect that change, and would invite cosponsors of my proposal.

CHRYSLER CORP. NEEDS HELP NOW

(Mr. EVANS of Delaware asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVANS of Delaware. Mr. Speaker, yesterday's announcement by the Chrysler Corp., that they have lost nearly $461 million during the last quarter has added even greater urgency to the need for immediate Federal action to help the company and its employees.

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

According to Treasury Secretary Miller, Chrysler will be forced into bankruptcy within 2 months if we in this Congress do not act now.

Instead of asking "Can we afford to help?" we should be asking ourselves "Can we afford not to help?" If we allow Chrysler to fail, the potential risk of a loan guarantee will pale in comparison to the unbelievable impact on our economy that a Chrysler collapse would have.

I therefore call upon both the Carter administration to get behind a financial plan to help Chrysler, and the leadership of this House to use its considerable weight to push the legislation through. We must act within the next 2 weeks—before it becomes too late.

LITMUS TEST PROPOSED FOR DEMOCRATS

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, my Democratic colleagues these days are between a rock and a hard place as to which way to flop. Strictly out of compassion I want to announce that a constituent of mine has developed a litmus paper which can assist in solving this dilemma. You merely insert the harmless paper in your mouth and if it turns deep red your basic latent tendency is to accelerate the rush toward national bankruptcy by jumping on the KENNEDY bandwagon. If it turns out light red, you should stick on the Carter sinking ship even though the crew is beginning to bail out. Selecting between tweedledee and tweedledum is never easy, but this litmus paper test should make the process easier.

WELFARE REFORM PROPOSALS OF HOUSE REPUBLICAN POLICY COMMITTEE

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, I rise today to fire the first shot in the battle that will be waged on this floor in the days ahead over the issue of welfare reform. Yesterday, the House Republican policy committee clearly defined those battlelines: The Republican approach provides decentralized programs which permit individual States to create and tailor their own welfare programs to target appropriate benefits and services for the needy. The Democrat approach, on the other hand, constitutes a major step toward a centralized, national universal guaranteed income program.

I am proud to say, Mr. Speaker, that the Republican policy committee unanimously endorsed the Rousselot-Conable welfare reform initiative, H.R. 4460, a bill that translates the Republican approach into concrete legislative programs. At the same time, the Republican policy committee flatly rejected H.R. 4904, the Democrat-sponsored bill that is devoid of any ideas other than a continued expansion of Federal presence.

Finally, Mr. Speaker, despite these basic philosophical, substantive differences, I wish to serve notice that the first battle on the issue of welfare reform will take place over a procedural matter. The decision by the majority-controlled Rules Committee that the Republican initiative may not be offered on the House floor as a substitute for the Democrat proposal is a blatant example of the arrogant use of power at its worst.

Closing down the marketplace of ideas by precluding even so much as debate on the Republican initiative is procedural tyranny in an institution that holds itself out as the world's showplace of democracy. The House Republican policy committee rejects that tyranny. And it is our hope that a majority of the Members of this House will join with us to allow the free flow of ideas to once again return to the floor of the House of Representatives.

□ 1010

PROVIDING FOR FURTHER EXPENSES OF INVESTIGATIONS AND STUDIES CONDUCTED BY PERMANENT SELECT COMMITTEE ON INTELLIGENCE

Mr. BRADEMAS, from the Committee on House Administration, submitted a privileged report (Rept. No. 96–573) on the resolution (H. Res. 452) to provide for the further expenses of investigations and studies to be conducted by the Permanent Select Committee on Intelligence, which was referred to the House Calendar and ordered to be printed.

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 452) to provide for the further expenses of investigations and studies to be conducted by the Permanent Select Committee on Intelligence and ask unanimous consent for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 452

Resolved, That for the further investigations and studies to be conducted by the Permanent Select Committee on Intelligence, not to exceed $40,000 of the total amount provided by H. Res. 96 may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(i) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 72a(i)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from Indiana for 1 hour.

Mr. BRADEMAS. Mr. Speaker, House Resolution 452 enables the permanent Select Committee on Intelligence to expend up to $40,000 of its 1979 expense funds for the purposes of hiring consultants. The primary expense resolution for the committee's 1979 expenses for investigations and studies set a ceiling of $10,000 for consulting services.

The increased consulting authorization will be used to conduct an indepth, independent study of the intelligence community staff, a support organization for the Director of Central Intelligence in his role as head of the intelligence community.

Mr. Speaker, this resolution does not call for any more money to be authorized for the committee.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PRIORITY ENERGY PROJECT ACT OF 1979

Mr. UDALL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4985) to establish a coordinated, prompt, and simplified process for decisionmaking in regard to significant nonnuclear energy facilities, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4985, with Mr. FOLEY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, October 30, the gentleman from Arizona (Mr. UDALL) had consumed 11 minutes of general debate; the gentleman from California (Mr. CLAUSEN) had consumed 11 minutes of general debate; the gentleman from Michigan (Mr. DINGELL) had consumed 12 minutes of general debate; and the gentleman from North Carolina (Mr. BROYHILL) had consumed 12 minutes of general debate.

The Chair recognizes the gentleman from North Carolina.

Mr. BROYHILL. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, the purposes and goals of this bill have been well debated in the two committees that have jurisdiction over it. It has become a most controversial issue as one side and the other have leveled charges against the version they do not like.

The purpose of the bills is to establish an Energy Mobilization Board (EMB) which would have authority to evaluate certain high priority energy projects on a case-by-case basis. The goal of this legislation is to assist in increasing needed energy supplies in this country, and to route that energy to the markets where it is demanded.

It should be apparent to all the growing need for this legislation. We are importing almost 50 percent of our petroleum needs from foreign sources. We are literally at the mercy of the OPEC nations as they use their economic muscle to drive up the cost of energy to the Western World. In fact, they are showing no mercy, and the Carter administration now tells us that the outflow of dollars to the oil-producing nations will total over $70 billion in calendar year 1980. This is the most massive transfer of wealth in the history of the world. This entire imbalance in trade and our total dependence on others for energy is causing severe economic problems here at home. It is time to take action now to correct this situation.

Obviously the solution to becoming energy independent is to be found in more than one legislative proposal. Energy research, conservation measures, incentives to switch to alternate fuels, promotion of solar and alternate fuels; all of these are needed. Also, we need legislation like this.

Why?

The reason is that in recent years, we have witnessed large numbers of energy projects halted because of time-consuming, complex, procedural delays. The process for obtaining the necessary permits for a large project such as a transcontinental pipeline or a synthetic fuels plant, is complicated and uncoordinated. There has been a paralysis of decisionmaking with respect to critical energy projects which, if nothing is done to correct it, can threaten the very security of our Nation and the economic future of our children as we slowly run out of energy here at home or the dollars to pay for energy abroad.

Let me cite for the record just a few of the proposed major energy projects which have been canceled because of procedural delays in obtaining needed permits:

Eighteen refineries with a capacity of 3,355,000 barrels of crude oil per day;

Eight coal gasification projects with a capacity of producing 1,539 MMCF/D; the equivalent of approximately 300,000 barrels of crude oil per day;

Seven nonnuclear electric power generating projects with a capacity to produce 8,702 megawatts of electricity;

Three liquified natural gas projects;

One coal liquefaction project; and

Two oil terminal and pipeline projects.

Included in this list of canceled projects is the pipeline project recently canceled by Sohio. After 5 years and the expenditure of over $50 million trying to obtain some 700 permits, Sohio gave up on trying to construct a West-East pipeline to bring Alaska crude to the energy starved East. Sending that product through the Panama Canal adds $2 per barrel to the cost to the consumers.

Mr. Chairman, the problem of energy project terminations and cancellations due to litigation and regulatory delays is critical to our Nation in the development of an appropriate and adequate national energy policy. Project terminations often frustrate Federal energy policy, dampen private initiative, and may leave critical national policy questions in the hands of State and local governments. The large amounts of time, money, and other resources expended by private companies on the innumerable local, State, and Federal permitting processes which are required for individual energy projects is staggering. The extremely high rate of energy project cancellations, abandonments, and terminations over the past decade has forced many responsible and prudent energy company managers to seek diversification, alternative investments, and offshore opportunities as better investments of their shareholders' money. Of course, the unattractive climate for energy projects has restricted our domestic supply options.

One major deterrent to the development of domestic energy projects is litigation or the threat of litigation. The testimony of the chairman of the Council on Environmental Quality (CEQ) to the Energy and Environment Subcommittee of the House Interior and Insular Affairs Committee on July 11, 1979, provides an indication of the amount of Federal litigation which has occurred concerning the legal sufficiency and factual adequacy of environmental impact statements. The chairman testified that:

> . . . During the first 8 years since NEPA's enactment (January 1, 1970 through December 31, 1977) . . . 988 NEPA lawsuits were filed . . .
>
> . . . NEPA-related injunctions were issued in 202 cases. . . .
>
> . . . of the 988 NEPA lawsuits . . . 94 cases involved specific energy projects.

The Nation is struggling through a continuing energy crisis which challenges the foundation of our entire economy. Yet, any incentives for energy development which may be provided by our Federal energy policy may be nullified completely by the types and frequency of litigation which the Nation has experienced in the last decade. The litigation problem must be resolved if sufficient domestic energy resources are to be developed. A process must be created to identify those energy projects which uniquely serve the national interest and to determine the tradeoffs which will be permitted to make the projects operational.

Creating an adequate and viable process will not be easy. One way to start developing such a process is to pass this bill and get on with the job.

Several different proposals have been advanced to "cut red tape" and to provide a "fast track" for certain energy projects. I believe the Commerce Committee bill provides the best balanced approach to this issue because it establishes expedited decisionmaking at all levels of government without depriving agencies of their traditional roles and because it establishes expedited congressional consideration of a Presidential recommendation for special consideration for any priority energy project.

The Commerce Committee bill establishes an Energy Mobilization Board. The Board's primary functions are to designate certain energy projects that are in the national interest as "priority energy projects" and to establish a schedule—called a Project Decision Schedule—for all Federal, State, and local decisions that must be made with respect to the project.

In establishing the Project Decision Schedule, the Board is given the authority to modify time requirements established by statute and regulations. However, the Board is not authorized to change procedures. Thus, for example, the Board may change a 30-day time allowance to 20 days but it may not eliminate a requirement for a trial type hearings, including the right to cross examination.

The Board has authority to establish procedures necessary to insure compliance by agencies with the Project Decision Schedule and to take action it determines is appropriate to bring agencies into compliance, including going into court or participating in agency proceedings.

When it is determined by the President that a Federal law, regulation, or ordinance will substantially impede the implementation of a priority energy project, this bill permits the President, subject to approval by both Houses of Congress, to waive or modify that law, regulation, or ordinance only as it affects that specific project. The President must also determine that the waiver is in the national interest, and that it will not endanger the public health or safety. In addition, any waiver must "include such terms and conditions * * * necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver."

In addition to these restrictions on the use of the waiver authority, this bill provides that certain broad categories of laws may not be subject to waiver: Criminal laws, labor laws, antitrust laws, civil rights laws, the primary air quality standard of the Clean Air Act, and water rights.

I believe that these restrictions and prohibitions on the use of waiver authority granted under this bill are sufficient to insure that the waivers will not be used in any wholesale fashion, but rather only to the extent that a specific requirement impedes an individual priority energy project. In order to insure that the national interest in fact does require the waiver and that the public health and safety are properly considered, both Houses of the Congress shall review the proposed waiver and must approve it.

After considerable study of the two bills before us, I am convinced that the Commerce Committee bill represents a realistic and workable approach to cutting redtape and procedural delays.

The Commerce bill provides that the deadlines on the Project Decision Schedule are binding on all Federal, State, and local agencies, and that the Board may extend these deadlines or enforce these deadlines by its choice of the following mechanisms: Jawboning, participation in agency proceedings, court action, or by recommending to the President the waiver or modification of laws or regulations which would prevent an agency decision from permitting implementation of the project. On the other hand, the Udall bill still retains many opportunities for lawyers to stall or delay decisions through continued court action.

Much has been said about the authority in the Commerce Committee bill to waive Federal law or State and local laws. The Santini amendment adopted to the Commerce Committee bill does not authorize outright waiver of State or local laws and regulations. It does provide authority for the Board to act in the event the local agency fails to act in a timely fashion. If the local agency acts in a timely fashion, that decision is final; if not, the Board can use its authority to make the decision. However, that decision must be based on a complete record and must be consistent with applicable Federal, State, and local laws and regulations. In any event, the Board can only recommend the decision. The President can affirm or reject it. Once the decision is final, it is subject to the normal requirements of judicial review.

There is limited authority under the Santini amendment for the waiver of Federal laws and regulations on a project-by-project basis. In the instances where the Board recommends that a law or part of a law be waived or modified with respect to a specific project, the President must then make an independent determination that the specific waiver or modification is in the national interest. Any Presidential decision to waive Federal law is subject to the adoption of a joint resolution of both Houses during a period of 60 calendar days to affirm the decision. The resolution would be considered under expedited procedures which assure that a vote will be taken on the House and Senate floors.

As we continue formulating legislative policy to develop our energy reserves in this country, it seems to me we need a major reevaluation of those laws and regulations which are hampering economic development in this country. This bill is not the cure-all for bureaucratic delays which has characterized the building of major energy facilities over the past decade. There is nothing in this bill which assures a reevaluation of the mountain of regulations which are hampering the production and use of petroleum, coal, or synthetic fuels.

In order that we might provide jobs for our people, we must have energy. Millions of new jobs are needed each year. By the year 2000, just 20 years away, over 25 million new jobs will be needed. Where is the energy to be found to provide those jobs?

The Congress should be working to insure that laws and regulations which detrimentally affect energy and economic development are reevaluated in the years ahead. In the meantime, let us pass this legislation as a modest first step in making sure that needed energy projects are constructed in a timely manner.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I would be delighted to yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding. I listened to the preliminary debate yesterday. The gentleman from Maryland represents a district which includes 55 percent of the land and water area of the State of Maryland. Our area is the location of one of only three liquefied natural gas facilities in the United States which recently suffered what was called a major accident. We have two nuclear powerplants located in our area. We who live on the Chesapeake Bay are the recipients of the waters of the Susquehanna, which as everyone knows, is the river on which the Three Mile Island nuclear facility is located.

The gentleman from Maryland is sympathetic to the argument made by the gentleman from North Carolina about the need for more energy, but I am also concerned and would like some response about what the legislation the gentleman's committee proposes would do to the rights of States or local jurisdictions, and their power by zoning ordinances or other laws now on the books to control development in their areas.

□ 1020

I understand the overriding need for power, but I also think we have a Federal system that may well be in jeopardy and the question is whether the tradeoff is worth it.

Mr. BROYHILL. If I may quickly respond to the gentleman, the Members on our side at least have agreed or will agree to the Santini amendment which will be offered at a later time. The Santini amendment does not authorize outright waiver of State or local laws and regulations. What it does provide for, however, is authority for the Energy Mobilization Board to act in the event that the local agency fails to act in a timely fashion. I think the gentleman could go along with that as a way to get this bill enacted.

Mr. BAUMAN. I thank the gentleman for the reference to that amendment. I shall listen closely to the debate. However, does that amendment permit an override if, in fact, the local jurisdiction acts in a timely fashion?

Mr. BROYHILL. It does not provide for an override. It is only an effort to speed up the procedural process.

Mr. UDALL. Mr. Chairman, I yield 6 minutes to the gentleman from Colorado (Mr. Wirth).

Mr. WIRTH. Mr. Chairman, as one of the authors of the Udall-Clausen-Wirth substitute, I wanted to quickly review the history of the development of that substitute and then to outline briefly for the Members of the House the differences between the two bills, the Dingell bill and the Udall-Clausen-Wirth substitute.

I think everybody agrees on the need for a fast track. I think that has been very eloquently stated by the majority leader, the gentleman from Texas (Mr. Wright), by the gentleman from Michigan (Mr. Dingell), by the gentleman from Arizona (Mr. Udall), by the gentleman from Ohio (Mr. Brown), et al. The question before us now is, Mr. Chairman, how do we achieve that fast track? The Udall bill came out of the Committee on Interior and Insular Affairs, the first bill out of any of the committees in the House. It contained a procedural fast track at the Federal level. The fast track legislation was also referred to the Committee on Interstate and Foreign Commerce; in that committee and in its Subcommittee on Energy and Power, chaired by the distinguished gentleman from Michigan (Mr. Dingell), there were very, very deep differences about the specifics of a fast track. Those same differences appeared in the deliberations of the full committee and there were generally 25 votes on one side and 15 votes on the other in the Committee on Interstate and Foreign Commerce, related to specific provisions of the fast track.

Mr. Chairman, a number of dissidents on the Committee on Interstate and Foreign Commerce, who did not agree with the extraordinary powers granted the Federal Government in the Energy Mobilization Board in the Dingell bill, after the bill passed out of the Committee on Interstate and Foreign Commerce, met with the gentleman from Arizona (Mr. Udall) to see if it might be possible to accommodate the concerns that we had about these extraordinary powers and join that with the good procedural measures that were in the bill conceived by the Committee on Interior and Insular Affairs.

We came to some preliminary agreements and then attempted to arrive at a broader agreement with the gentleman from Michigan (Mr. Dingell) and the bill presented by the Committee on Interstate and Foreign Commerce, through the good auspices of the Speaker's office and others to attempt to come to an accommodation.

After a great deal of negotiation, Mr. Chairman, it was very clear that such accommodation was not going to be possible and, consequently, we introduced the Udall-Clausen-Wirth bill which now has broad sponsorship on both sides of the aisle, ideologically, geographically and politically. That bill is the substitute before us today.

Mr. Chairman, I should also add that our bill also has the very strong sponsorship of the National Governors' Association, the National Association of Counties, and the Conference of Mayors'-League of Cities.

There remain four major differences between the two pieces of legislation, the Dingell bill and the Udall-Clausen-Wirth substitute.

The first difference relates to waivers. We have heard a great deal of discussion about the waiver power in the Dingell bill. The Santini amendment will provide that the Dingell bill can no longer waive State, county, and local law, and from our perspective that is indeed to significant improvement. However, that also brings along with it a number of other issues that we think are very deeply troubling in the Santini amendment.

Mr. Chairman, the Udall-Clausen-Wirth bill has no waiver of Federal, State, county, or local law. The differences between the bills, therefore, are a waiver at the Federal level, assuming that the Santini amendment is accepted to Dingell. So, we have worked out most of the agreements on the waiver situation and I understand that the gentleman from Texas (Mr. Eckhardt) will be offering an amendment to delete the waiver of Federal law from the Dingell bill.

Mr. Chairman, the second major difference between the 2 pieces of legislation relates to procedures. The Udall-Clausen-Wirth bill has written in the authority of the EMB to develop a procedural fast track, to have one environmental impact statement, for example, at the Federal level; to have joint hearings, to have a collapsed and speeded up approval process for permits and so on. That, I believe, is a much stronger measure in the Udall-Clausen-Wirth bill than it is in the Dingell bill where, to have any of this procedural fast tracking, it is necessary to go to the President and to the Congress for approval.

Third, Mr. Chairman, the enforcement mechanism is very important and that is where the major problems, we think, lie with the Santini bill.

Essentially, the enforcement situation goes as follows: In both bills there is a defined time limit for a fast track. The question is: if an agency does not meet that time limit, how does that fast track for that deadline become enforced?

Under the Udall-Clausen-Wirth bill that time frame is enforced in the court of appeals. The Energy Mobilization Board goes to the court of appeals to enforce that fast track. Under the Dingell bill, as amended by Santini, the authority is bumped up to the Energy Mobilization Board. The major problem with that is that the Energy Mobilization Board, therefore, has to become instant expert on coastal zoning in the State of the gentleman from Maryland (Mr. BAUMAN) or in Colorado water law or California coastal management or Louisiana wetlands. It seems to me a very broad array of authority and expertise which it is very difficult to expect an agency to have.

Mr. Chairman, the final issue that remains between these two bills is the issue of court review. There has been significant misunderstanding and misrepresentation on this subject. That will be cleared up at the time when the gentleman from Florida (Mr. FUQUA) will offer an amendment to the Udall-Clausen-Wirth substitute which will clear up all of those misunderstandings. It seems to me that the differences remaining between the two bills are very significant and I would hope that the committee would find itself voting against the Dingell bill which is, in fact, a Build a Bureaucracy and Federal Power Grab Act of 1979," and would be able to vote for the legislation in the Udall-Clausen-Wirth bill.

Mr. Chairman, the debate over this legislation has been raging for nearly a month in the House—in the Halls, on the telephones and in the mails. I would imagine many of my colleagues are as relieved as Chairman UDALL, Congressman CLAUSEN, and I to see this debate finally reach the floor.

Over the past month, I have discussed this legislation with colleagues on both sides of the aisle. In some of those conversations, and in last night's debate, there was a tenor which profoundly disturbs me.

The events of the past 6 months have created a new atmosphere of crisis in energy policy. Last spring's Iranian oil cutoff and the resulting gas lines, this year's 60-percent increase in oil prices, translated directly to the consumer in gasoline and heating oil price hikes, have created intense pressure for the Congress to take immediate, firm steps toward relieving our dependence on foreign oil.

From one perspective, at least, that is a healthy chain of events which can have a constructive impact on the House. Major progress in energy policy requires a national sense of urgency—a recognition by the public that our energy problems are real, and that they are neither temporary nor a creation of oil companies seeking to swell their profits. For 6 years, since our first major energy shock during the Arab oil embargo of 1973 and 1974, we have made progress in small steps because there was little public constituency for large ones.

That sense of urgency, and a new willingness to make compromises on other fronts in the name of increased energy production, are what have brought the Energy Mobilization Board before the House. As my colleagues know, I have been a strong supporter of the concept of fast tracking Government decisions on key energy projects ever since the idea was first broached by Chairman UDALL in the early days of this Congress.

The myriad Federal, State, and local requirements which new energy facilities must meet have created a massive procedural bottleneck which is injecting serious delays into the development of new energy resources. A procedural fast track, administered at the Federal level, is a clearly necessary innovation.

The compromise that such a fast track requires is a substantial surrender of State and local authority to a Federal agency—the surrender of State and local governments' authority to set their own timetables for decisionmaking and to have total control over the procedures they use. That there is a clear and strongly expressed willingness to take these steps among State and local agencies across the country is a measure of our society's commitment to a strong national effort on the energy front.

That is the constructive side of Americans' demand for a coordinated, strong national energy policy.

The other side of that coin is, quite simply, dangerous. A sense of urgency and demands for action often translate into a search for simple solutions.

That search is an old story to all of us—we have been faced with the simple solution to our energy problems with great regularity over the past 5 years. In the vast majority of cases, I am proud to say, we have had the good sense to recognize that there are no simple answers to our complex energy problems—or that the easy, politically attractive course frequently creates larger problems than it solves in the long run.

I sincerely hope that that recognition will prevail today, because the decisions we face have impacts well beyond energy policy. They are votes not only on how we can best speed the development of new energy resources, but votes also on the ability of our fundamental institutions of government to meet the test of time.

The basic question facing the House today is not whether to create an Energy Mobilization Board. The real question is far greater:

Can we create an effective, coordinated response to our energy crisis within the basic framework of our 200-year-old federalist system of government?

THE COMMERCE COMMITTEE BILL

Mr. Chairman, the Commerce Committee bill presents us with a simple answer to that question—no, we cannot, its provisions say.

The bill, even as it will apparently be amended answers that we can only speed energy decisionmaking by going outside our constitutional process, by circumventing the traditional division of rights and responsibilities in our system of government.

In my view, that simple solution is one which refuses to face up to an important challenge—the challenge of working within our democratic institutions.

Under the amended Commerce Committee bill, the Energy Mobilization Board would have two basic powers: The power to waive Federal laws when it views a Federal agency as a source of delay, and the power to make virtually any decision at any time in place of the responsible State or local agency. Those appear on the surface to be powers which allow the Board to address the institutional causes of delay directly.

In reality, those powers are inadequate. In reality, the Commerce Committee bill provides the Board with little independent authority to speed energy decisionmaking.

The Commerce bill provides the Board with no power to streamline agency proceedings on its own. To take the simple step of consolidating two agency hearings, for example, the Board would either have to waive Federal law, win Presidential approval and seek congressional concurrence, or step into the shoes of the agencies involved and make their substantive decisions itself. Both are time consuming and complex processes.

The Board's authority to enforce deadlines on agencies is also severely limited. It would have to engage in the same delay-producing processes simply to force an agency to meet a deadline.

In short, the Board would be musclebound, hamstrung by its own power.

Further, the power to waive laws and the power to take decisions away from State and local agencies expose the entire fast-track process to constitutional challenge in the courts—challenge which cannot be barred by Congress. Mr. Speaker, the power to waive laws rests on clearly shaky constitutional ground; regardless of what the courts finally decided, any project granted a waiver of law would be the automatic target of constitutional court challenges which would tie the project up for years.

Finally, the power to seize jurisdiction from State and local agencies is a great deal less simple and direct than it appears. Think through the steps the Board would be required to take to employ this simple power.

First, the Board would be forced to review the applicable State or local law involved in making the decisions—laws in which it would have not administrative expertise. Those laws range from Western water law, to Long Island zoning law, to Pennsylvania public health and safety law, and a host of other statutes.

The Board would then be forced to review the record already compiled by the agency involved in the case, resolving both issues of law and issues of fact in making its decision. Finally, the Board would make and present its decision to the President, who would essentially begin the process all over again, reviewing the law and the record.

This is hardly an effective enforcement process to be employed for every decision, from the simple to the complex. Not only does it add delay, but it raises the probability of additional court challenges. Each and every decision the Board in Washington makes in place of the agency at home will be suspect in the courts, who will review the substance of the Board's final decisions. It is highly doubtful that those decisions can bear that scrutiny. Every decision struck down, or the subject of serious challenge on substance will seriously delay key energy projects.

Mr. Chairman, the simple solutions, because they operate outside the Constitution, are prescriptions for slow track, not fast track.

THE UDALL-CLAUSEN-WIRTH SUBSTITUTE

In drafting our substitute, Mr. Chairman, Chairman UDALL, Congressman CLAUSEN and I were motivated by a dual concern. First, we believe and based our work on the principle that proper participation by State and local governments in energy decisionmaking is essential to speeding energy decisions. Second, we were motivated by a serious concern that ignoring the legitimate division of rights and responsibilities in our Federal system was a prescription for further tangling of the decisionmaking process. We worked toward two basic goals:

First. The Energy Mobilization Board must have broad independent authority to speed Government energy decisions—constitutional authority it can exercise on its own, without Presidential and congressional involvement. To accomplish this, we have empowered the Board to set binding timetables for agencies at all levels of government, the power to order the direct streamlining of Federal agency proceedings without waivers of law or intervention in the substance of decisions; the power to consolidate Federal environmental impact statements to a single requirement; and the power to postpone for up to 5 years the imposition of new Federal, State, or local requirements which would prevent the timely completion or operation of a priority energy project.

Second, we have provided for tough, rapid enforcement of decision deadlines on recalcitrant agencies, and expedited court review when it is necessary. Clearly, the courts will play a role in the fast track process, whether that is a part of the Energy Mobilization Board or not. If we seek to empower the Board to step beyond the Constitution, the courts will become involved on constitutional grounds. The courts cannot be shut out: Our system was designed to make them an integral part of our governmental process.

Consequently, rather than risk tying energy projects up in lawsuits on complex constitutional issues, we have brought them into the process for decisions on some very simple issues. The Board may seek to enforce its deadlines through court orders—a simple enforcement matter which courts handle frequently today. There has been a broad misrepresentation of this enforcement process as an opportunity for extended litigation. I can only characterize that misreprentation as deceptive. In our legislation, we have placed national emergency priority on court enforcement of deadlines and instructed them to expedite consideration of the Board's enforcement requests.

We have further limited this process by placing a 120-day limit on court review. If the courts have not acted within 120 days of a deadline, or if an agency has violated a court enforcement order, the President is empowered to step in and make the final decision in place of the agency. This power, broadly used in the Commerce bill, is an invitation to constitutional challenges and should only be used in the most serious and rarest of cases. But the power exists to use it in such cases in the Udall-Clausen-Wirth substitute, and it guarantees speedy action on energy decisions.

Finally, instead of making State and local governments the targets of the Board's action, we have attempted to make them partners. The entire fast track process will break down if the Board is automatically made an enemy of State and local governments, as it is in the Commerce bill. There is no surer way to guarantee court challenges which will tie energy projects up in court than to run roughshod over the legitimate rights of State and local governments. If that happens, every opportunity for challenge will be exploited. Therefore, the substitute does not permit the override of existing or future State or local substantive law; only in the rarest of cases will the Federal Government seek to step into the shoes of a State or local agency, making its decisions in its place; and finally, in establishing deadlines, the Energy Mobilization Board is specifically instructed to seek mutual, written agreement among all agencies involved in decisions on an energy project and provide those agencies with assistance in meeting their timetables.

Mr. Chairman, the Udall-Clausen-Wirth substitute was drafted to meet the basic challenge we face in speeding energy decisionmaking: The challenge of moving institutions in a timely fashion while insuring their proper participation in the process—it creates for the Board real strength in setting and enforcing deadlines of Federal, State, and local agencies.

That strength is not an illusion hobbled by the Achilles' heel on constitutional court challenges. It is not the simple politically easy solution.

It is the most effective solution proposed in either House of Congress.

The CHAIRMAN pro tempore (Mr. HAMILTON). The Chair recognizes the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Chairman, I yield 6 minutes to the gentleman from Illinois (Mr. CORCORAN).

Mr. CORCORAN. Mr. Chairman, you know and our colleagues in the House know that we have a very serious energy problem in this country; and the pending legislation is proof enough that regulatory roadblocks to energy development are a major cause of our problem.

As a member of the Energy and Power Subcommittee, I constantly hear from my colleagues and our witnesses alike how Federal laws impede energy production in the United States. The committee hears this from both sides of the aisle—my colleague from Nevada, JIM SANTINI, got a bill amended in committee this spring so that oil drilling muds and brines would be dealt with more fairly, and how many times have we heard my senior colleague on the subcommittee, JIM COLLINS, outline such problems, and recently here on the floor during consideration of the Safe Drinking Water Act authorization?

BACKGROUND

Let us look at our overall energy situation—both where we are today and what has occurred over the past decade. We started off in 1970 importing just over eight quadrillion British Thermal units to meet our energy needs; this was up to 18 quads by last year. Taking our exports into account, our net energy trade has tripled—from 5 quads to almost 17. This can be blamed on several factors, and certainly our pricing policies and technological abilities and simply our energy reserves themselves can explain much of this. But, I think that realistically we must agree that national policies affecting energy production have played a role in this, and particularly our problems in managing the bureaucracies that carry out those policies slow our needed shift toward energy self-sufficiency.

In specific areas, our coal output in 1978 was just slightly higher than it was when the decade began. In fact, coal production has actually dropped from the 2 previous years. We have some excess capacity in that sector, but I think we should be alarmed and start asking questions about why coal—our key to the energy future in the United States—has not been fully exploited lately. Without being too simplistic, coal utilization is undoubtedly hobbled by our actions here in the Federal Government.

Natural gas supplies from American sources are also down. Output fell by almost 2.5 quads since the turn of the decade. Crude oil production slipped by 353 million barrels since 1970. It has been lower than present levels during the interim, but recent additional oil from the Alaskan North Slope has made up somewhat for declining production in the Lower 48 States.

In sum, our energy production began the decade with a 5.2-percent increase from the previous year. Since then, we have not boosted yearly output by more than 1.3 percent, and in 4 years production actually fell by up to 2 percent.

When we began this decade, we were importing about one-eighth of the energy needed to meet our demand. As of last year, our demand had risen somewhat but our imports of energy had risen to total one-fourth of the energy we consumed. How many times have we heard about the "thin line of tankers stretching halfway around the world"? Our import dependence is a danger that cannot be stressed enough.

I personally think we should do all we can to reduce this dependence. We must proceed on all fronts if we are to find the answer. We must find the reason why only one major oil refinery has been built within our borders since 1973, though demand for domestically refined petroleum rose 18 percent since then. We must determine the factors which led to the termination, cancellations, or abandonments of the widely disseminated list of 43 terminated major energy projects Mr. BROWN of Ohio shared with our committee. Project terminations often frustrate Federal energy policy and cause the unproductive expenditure of massive amounts of scarce expert time and funds.

So tenuous is our energy future that we have seen unofficial emissaries travel to the Middle East in attempts to attain the related goals of peace and more secure supplies of Mideast oil so that social and economic progress in the United States will not be foreclosed. We have increasingly observed the linkage of energy imports to our foreign policies.

The importance of energy security for our Nation in its pursuit of social goals has been underplayed, I feel. Some plausible scenarios forecast severe economic disruptions and stagnation last seen 50 years ago during the Great Depression—which began with Black Tuesday, October 29, 1929. The transport fuel shortages which occurred this past summer after Iranian oil exports to the United States abruptly fell caused havoc in truck, rail, and personal transportation sectors. Yet, this shortfall was quite mild in comparison to the great risk to which we are today exposed by our dependence on foreign energy supplies. Where there was violence on the Nation's highways, threatened and actual cessation of rail movements from the lack of diesel oil, great danger to the critical spring planting activities of our country's farmers and many similarly adverse effects during that actually mild supply interruption, I hesitate to imagine the consequences of a truly substantial import cessation.

THICKET OF FEDERAL ENERGY LAWS AND REDTAPE

The Department of Energy's annual report lists the various Federal laws and regulations which affect energy production within our borders. It lists 54 separate laws dealing with the environment, health and safety with which the Department is involved. Also, DOE has identified 23 Executive orders that either are Presidential initiatives or required by statutes that affect our energy situation. The Department's comprehensive environment, health and safety program has identified 10 sets of regulations that relate to energy in the area of water standards. For seven other categories of regulations, the specific rules are "to be identified when study is completed," which leads me to really wonder how complex a web we have woven if it takes an actual study just to identify the various regulations affecting energy. In two categories, the lead agencies have been identified. There are 28 different guidelines, standards and criteria that DOE has identified which involve energy issues, and three groups of these standards have not yet been fully researched.

So we can see that problems can easily arise when an energy project is confronted with such an extensive network of Federal laws and rules that affect our energy supplies, transportation, use and production. Our Energy and Power Subcommittee studied one recent instance wherein Federal practices hobbled an energy project of substantial significance—the Sohio west-to-east pipeline.

My colleagues in the House may remember early this year when Sohio withdraw from the pipeline project because of the 50 Federal permits and 700 State and local permits that were required. The delays caused by the redtape in this case resulted in a doubling of the projected cost of the project. The real cause of Sohio's problems were the State permits, since a provision in the National Energy Act allowed for expedited disposition of applications for Federal permits. Beginning in July 1975, Sohio attempted to meet Federal, State, and local regulations. In testimony before the Energy and Power Subcommittee, Sohio's chairman, Whitehouse, noted that—

> The problems were diverse, and yet always interrelated. Each aspect of the project required the involvement of a wide variety of Federal agencies and departments and every level of state and local government in California, Arizona, New Mexico and Texas. During this same period new Federal and state laws were adopted and a wide variety of new Federal and state regulations were put into effect.

It all added up to an overwhelming degree of futility in getting all the necessary government approvals.

COST OF EMB

Further evidence of the complexity of current conflicts between the dual goals of energy production/conservation and environmental protection is found in the Congressional Budget Office estimate of the costs to the Federal Government due to the creation of the proposed Energy Mobilization Board. Though the estimated outlays chart supplied by CBO as printed in the House Commerce Committee report reflects only the bill's provision for $2 million in funding in fiscal year 1980, a more extensive cost estimate is found in the CBO report for the Senate EMB legislation, S. 1308. In that calculation, which is founded on similar assumptions to those of the House Commerce version, CBO estimates that $13 million will be needed in fiscal year 1984 and that a total of $47 million will be required in additional Federal expenditures simply to expedite priority energy projects over the first 5-year period of the EMB's existence. Other additional expenditures are expected to be required of the non-Federal governments involved in the EMB's work.

This funding requirement, coupled with the CBO estimate of the need for 200 additional positions to carry out EMB responsibilities, clearly illustrates just how labyrinthine—even bewildering—our laws affecting energy development have become. Like Topsy, they seem to just grow and grow. Previously, I mentioned the 54 Federal laws found by DOE to be related to at-home energy development and conservation. Let us take a moment or two—perhaps, on second thought, this will take more than a moment—to ponder just an enumeration of the various laws for which the Congress is responsible:

WATER

Wild & Scenic Rivers Act.
Soil & Water Resources Conservation Act.
Federal Water Pollution Control Act amended by Clean Water Act.
Safe Drinking Water Act (as amended in 1977).
Rivers & Harbors Act (Refuse Act).
Water Resources Research Act.
Ports & Waterways Safety Act.
Marine Protection, Research & Sanctuaries Act (as amended in 1976).
Deepwater Port Act.
Water Resources Planning Act.
Fish & Wildlife Coordination Act.
Flood Disaster Protection Act.
Federal Power Act.
Non-Nuclear Energy Research & Development Act.
Toxic Substances Control Act.

HISTORIC/ARCHEOLOGIC

Antiquities Act.
Historic Sites and Buildings Act.
National Historic Preservation Act (as amended in 1976).
Archeological & Historic Preservation Act.
Archeologic & Historic Salvage Act.

HEALTH AND SAFETY

Clean Air Act (as amended in 1977).
Occupational Safety & Health Act.

CONSERVATION

Energy Policy and Conservation Act.
Energy Conservation and Production Act.
Wild & Scenic Rivers Act.
Soil & Water Resources Conservation Act.
Land & Water Conservation Fund Act.

SOCIOECONOMIC

Clean Air Act (as amended in 1977).
Uniform Relocation Assistance & Real Properties Acquisition Policies Act.

BIOTA

Fish & Wildlife Coordination Act.
Marine Mammal Protection Act.
Endangered Species Act.
Federal Environmental Pesticide Control Act (as amended in 1975).

AIR

Clean Air Act (as amended in 1977).
National Emission Standards Act.
Noise Pollution & Abatement Act.
Energy Supply & Environmental Coordination Act.

TRANSPORTATION

Trans-Alaska Pipeline Act of.
Deepwater Port Act of.

NOISE

Noise Control Act of (as amended in 1976).
Act to Require Aircraft Noise Abatement Regulation.
Clean Air Act (as amended in 1977).
Noise Pollution & Abatement Act.

LAND USE

Resource Conservation and Recovery Act of.
Surface Mining Control & Reclamation Act of.
Coastal Zone Management Act of.
Solid Waste Disposal Act.
Federal Land Policy & Management Act.
National Forest Management Act.
Mineral Leasing Act.

COORDINATION

Intergovernmental Cooperation Act.
Clean Air Act Amendments.
Coastal Zone Management Act.
Circular A-95.
Advisory Council on Historic Preservation.
Fish & Wildlife Coordination Act.
Energy Supply & Environmental Coordination Act (as amended in 1975).

NEP II

Clearly, with such a myriad of laws, we are bound to have problems. Let us now look at what the second biennial national energy plan as submitted to Congress by President Carter has to say about our situation.

This plan was sent to the Hill in the spring of this year. Like so many other required reports, it is often overlooked in the fray of legislative action. In a separate chapter entitled, "Making Decisions Promptly and Fairly," the plan's authors mention the types of delays that "can lead to unintended policy outcomes and undesirable energy uses." For instance the plan notes:

> Coal is a critical transition fuel, but today a new coal-fired powerplant in one state requires nearly 30 permits. The costs of nuclear power have spiralled in part due to regulatory delays that have no relation to the proper consideration of safety or environmental issues. The permitting problems for coal, nuclear and other energy supplies are likely to worsen as the more benign sites for new energy facilities are taken.

COMMERCE COMMITTEE VIEWS

Mention of problems in expediting priority energy projects is found also in the additional views appended by several of my minority colleagues on the Commerce Committee. In the introduction to these views, my associates note that "virtually every major energy project proposed over the past 10 years has been subject to unnecessary delay brought about by bureaucratic foot-dragging, changing legislative and regulatory requirements, and seemingly endless litigation."

With respect to the particular problem of judicial delays, they point out that "protracted litigation, or the threat of litigation, has become a major weapon to those who believe in a 'no growth' economy." The record of the past decade bears out this conclusion.

A BETTER APPROACH

Mr. Chairman, what we really need to do is comprehensively review the various laws that are perceived to be impeding the planning and implementation of energy projects in this country. We need this review now in the context of the total economic, energy, and environmental situation in which we find ourselves. The objectives of the Clean Air Act, the Clean Water Act, and other such laws are objectives with which we can all agree. But the objectives of clean air and water, for instance, must be viewed in the context of the total current economic, energy, and environmental situation.

In an October 10 statement, a former Deputy Administrator of the Environmental Protection Agency, John Quarles, stated succinctly:

> . . . current regulatory requirements do present a major challenge to the siting and construction of energy projects and can cause delays or obstacles impeding expansion of national energy supply. The EMB proposals, however, threaten to create misleading expectations as to the manner and timing by which these problems can be resolved. It is extremely doubtful that an EMB, as proposed by the pending bills, can cut an easy pathway through the present regulatory thicket. The real need is to begin a thoughtful and detailed review of the regulatory framework in order to make necessary modifications in it.

Without this kind of comprehensive review of the various environmental laws and regulations, we in the Congress are simply avoiding reality and ducking the real issue.

We have it in our power to review those laws here in the Congress. One of the House committees from which the EMB bill emerged, Interstate and Foreign Commerce, has within its jurisdiction a good number of the various laws which are often cited as impeding energy projects. There is no reason why we should not demand that the appropriate congressional committees, in cooperation with the appropriate executive agencies and the public, review these laws and make recommendations to Congress for reform. That review itself should be "fast tracked," as should final congressional action and executive implementation regarding those recommendations.

I have been in contact with the Administrative Conference of the United States, and in a September 19 letter to me, senior staff attorney Jeffrey S. Lubbers suggests some steps in the direction of improving upon the regulatory maze in which we find ourselves. First, the Conference has recommended utilization of self-imposed time limits on agency action. Second, the Conference has recommended techniques for reducing the levels of agency review of initial decisions by agency administrative law judges. Third, Lubbers notes that the regulatory reform legislation of Senator **Ribicoff** and the administration includes amendments to the Administrative Procedures Act designed to shift agency economic regulatory considerations from the sphere of adjudication to the speedier and more inclusive sphere of rulemaking. Fourth, in the area of judicial review of major energy-related decisions, another possibility suggested by Lubbers is the enactment of a statute giving precedence on the appeals courts' dockets to such cases.

Finally, Lubbers states that—

> While these initiatives should serve to take some of the slack out of the system and make for incremental reduction in the time needed to conclude agency action.

He also recognizes that—

> There are no obvious shortcuts: hard regulatory choices engender partisanship by affected interests, require extraordinary justification by the responsible agency and almost always result in court challenges.

Another approach which might be useful is the approach embodied in the Endangered Species Act, as amended. The Endangered Species Act, in one form or another, has been law for 10 years and is almost always listed as one of those laws which impede energy projects. Last year, however, the law was amended in a way which might be applicable to other laws. The 1978 amendments established a procedure through which Federal agencies can receive exemptions from the requirements of the act from a seven-member committee. The committee consists of six Federal officials, plus an individual from the affected State appointed by the President.

Thus far, that Endangered Species Committee has considered three applications for exemptions. It granted an exemption relating to the Grayrocks Reservoir in Wyoming, denied an exemption relating to the Tellico Dam and Reservoir which was overturned by the Congress, and is now considering an application relating to a proposed oil refinery in Eastport, Maine. The point is that the exemption process providing this safety valve mechanism seems to be working in the case of the Endangered Species Act, and, it seems to me, ought to be considered in terms of other existing laws. Obviously, it is workable, and it is meeting with the support of the Congress, judging by the passage of improvements to the act by a voice vote recently in the House of Representatives.

Another interesting case which could have further applicability is that of the National Commission on Air Quality, established by the 1977 amendments to the Clean Air Act. That law established the NACQ for 3 years and directed it to evaluate the act and recommend to the Congress alternative strategies aimed at cleaning the air and keeping it clean. Apparently, the administration did not take the Commission seriously, because it was almost a year before the President named the 13 Commissioners. A Director was not named until the fall of 1978, and the first public hearing did not occur until January 1979.

Two points are relevant here. First, the Congress had the foresight to establish this Commission and provided the administration with the opportunity to move ahead in evaluating the Clean Air Act but, rather than expeditiously naming the Commissioners, the White House chose to delay their appointment for almost a year. Now, the same administration that delayed implementation of a real opportunity for serious review of one of the laws perceived to hinder energy projects is asking the Congress to create yet another bureaucracy in the form of an EMB to supervise the implementation of the Clean Air Act as well as other environmental laws. One can only hope that the President will not delay naming the EMB members as long as he did in the case of the NACQ.

Secondly, it is instructive to note that this independent Commission took 6 months to get itself organized enough to have its first public hearing. This 6 months followed the initial 1-year period it took for the President to name the Commissioners. The Commission is already saying that it needs a 1-year extension beyond its current August 7, 1980. expiration. The point is that this small staff of 45, independent, congressionally established Commission was not really in full operation until a year and a half after it was authorized. It takes time to establish a new agency, especially when it is independent of established departments and hence has no clout. Regardless of how well intentioned, an independent EMB would be facing the same organizational difficulties.

Mr. Chairman, I recognize and deplore the excessive regulatory delay in the governmental decisionmaking process. As I have pointed out already in some detail, we must improve this process in order to make it more responsive to the common good for every American. We must assure ourselves that it works to resolve the natural conflicts involved to satisfy the public interest, not the special interests. Otherwise, we face further dependence on foreign oil, which puts the United States in an increasingly vulnerable position from both the standpoint of our economy and our national defense.

Therefore, it is urgent and imperative that this Congress take a multifaceted course of action to solve the energy crisis facing us. However, the pending Energy Mobilization Board is not even part of the solution; and there are several reasons why I oppose this legislation.

As the Washington Post pointed out Monday, October 29, 1979, in discussing both the Commerce Committee and Interior Committee proposals:

> The combatants seem to have overlooked the basic point that this kind of legislation is wrong in principle.

This argument on the principle of the matter is my basic objection to both bills. If the problem is that our Government is not working well because of excessive redtape, and good government goals such as clean air and more energy, which come into conflict with one another in our government agencies or in our courts, then let us roll up our sleeves and get down to the important and necessary business of reforming and working out these problems in a reasonable, coherent, and orderly fashion. That, in my judgment, is the only way to solve this problem, which brings me to my second objection to these bills.

The bills before us will not work. They will not break the Government logjam on energy projects. The will not get this country moving again in solving our energy problems. The reason is, they will not reach the root causes of the Government roadblocks which stymie key energy projects, such as production facilities, refineries, transmission lines, and the like, whether for conventional or unconventional projects. The root cause of these roadblocks is a body of law developed primarily in this decade by Congress. Unless we face up to this and take steps which make these laws work in the best interests of all Americans, no amount of rhetoric or power vested in a few agencies like the proposed EMB can make them responsive, unless we make some basic changes in the U.S. Constitution and our form of government itself.

Thus, I oppose this EMB legislation because it will not work, it will not back out foreign oil, it will not produce more energy in the United States, and worse yet, it distracts the Congress and the American people from doing something to break the regulatory logjam on energy projects. We are deluding ourselves if we think this legislation will solve our problems.

It is not the first time we have passed more laws and created more Government agencies thinking we are doing something to help the people of this country. Yet we have survived those mistakes. But this time it is different. This time it is tragic. This time it is downrght dangerous. This time it is more than just a waste of time, effort, and people's hard-earned tax dollars. This time, in our delusion, we are failing to deal with the real problems, and as a result, we will become more dependent on OPEC oil every day.

This is the tragedy; it is not just the waste that concerns me. What disturbs me is the neglect, the failure to address our real regulatory problems with real solutions when time is running out and our energy supplies are getting shorter every day.

This EMB proposal is not only wrong in principle, Mr. Chairman, it violates the constitutional and Federal system of government we have enjoyed for so many years. The unprecedented powers sought by the President and the proponents of this legislation are opposed by all of the public interest associations of Governors, legislators, mayors, and county officials who have testified before our committees. They do not want an Energy Big Brother like the EMB overriding State, county, local, or even Federal laws, and neither did our Founding Fathers.

Moreover, even if these extraordinary powers to waive substantive and procedural laws are granted, the EMB will not make a dent in the body of law which confronts energy growth programs in our private sector. I will grant that if the proponents get the substantive waiver powers they want, there may be some temporary successes at a few points along the battle line, but even these proposals give unhappy applicants and unhappy litigants measures for recovery. And you can be sure, Mr. Chairman, they will use every procedural and legal step allowed to protect their interests—no matter how long it takes, and no matter to which court the case must eventually go.

□ 1030

Mr. CLAUSEN. Mr. Chairman, I yield 8 minutes to the gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Chairman, I rise in support of the substitute version of the Priority Energy Project Act embodied in the text of H.R. 5660—the bill commonly referred to as the Udall-Clausen-Wirth bill. This bill, of which I am a cosponsor, represents the combined efforts of a number of individuals on both the Interior and Interstate Commerce Committees to devise a "fast-track" mechanism that will clear away obstacles to the construction of vital energy projects without trampling Federal, State, and local laws which have been authored with legitimate public purposes in mind.

All of us participating in today's debate recognize the paramount importance of developing domestic sources of energy in order to reduce this Nation's risky dependence on foreign oil. One of the major impediments to energy development has been the tremendous delays that occur as various projects work their way through a bureaucratic maze of paperwork and administrative detail to receive clearances from Federal, State, and local authorities.

Many of the public laws, now found in our statutes, which affect energy development were designed with every good intention in mind. They provide for local and State input into the decisionmaking process. They protect our environment. They establish the safety standards to protect the public's interest.

The problem, however, is that the process for meeting all of these requirements has become so cumbersome and time-consuming that energy projects remain paper projects for many years before they reach the point of construction. Often, the projects never reach fruition, as simple frustration or inflated costs force sponsors to cancel their plans. A classic example was the Sohio interstate pipeline proposal which would have efficiently brought Alaska crude oil to the excess refinery capacity located in Texas. The agencies and government of the State of California by its actions and especially its inaction acted as though California was not a part of the Nation—not interested in expeditiously and reasonably acting to ease our energy problems.

We can no longer afford such excessive delays. It is from this premise that the concept of "fast-track" was born. The Interior Committee on which I serve and the Commerce Committee have been working for many weeks now in preparing the legislative proposals now before the House.

Both will create a five-member Energy Mobilization Board charged with the responsibility of designating energy projects for "fast track" treatment and then shepherding those projects through the Federal, State and local regulatory maze.

In creating such a Board, there is no doubt that we will be placing significant authority into its hands. In so doing, we must guard against the possibility, as described in a recent Christian Science Monitor editorial, that it will "turn into a Frankenstein's monster laying waste the Constitution in a manner the good doctor never intended."

I believe the compromise embodied in H.R. 5660 strikes the acceptable balance to achieve the goal of removing procedural roadblocks to energy development without dismantling Federal, State or local laws. We are asking Members of the House to make a thoughtful, deliberative choice. Our bill offers the possibility of a cure to the delays and frustrations which have characterized energy development. At the same time, our proposal attempts to insure that the cure we recommend does not become "the monster the doctor never intended."

The key provisions of H.R. 5660 are as follows:

It would establish a five-member Energy Mobilization Board empowered to designate up to 75 priority projects with not more than 20 designated in any one year.

It gives authority to the Board to set binding time schedules for Federal, State, and local agencies but only after consultation and cooperation with the States.

It does not allow for waivers of substantive Federal, State, or local laws except for a certain limited body of laws enacted after commencement of construction of the project in which case the Board may suspend the law temporarily.

It establishes an expedited and limited judicial review similar to the judicial review process granted under the Alaska Natural Gas Pipeline Act.

It preserves State water rights.

It allows the President to make a decision applying existing law when an agency has failed to do so in the required time set by the project decision schedule, but only after time has been given for recourse to the courts.

By voting for our proposal, Members will be supporting the need to act quickly and wisely. You will be voting to give State and local governments an equitable opportunity to have their views considered and their laws upheld.

In the interests of compromise, both sides of this debate have attempted to bring their bills closer together. However, there remain several very crucial differences between the Udall-Clausen-Wirth substitute and the Commerce Committee's modified bill. These relate to (1) the waiver of Federal law and (2) the enforcement mechanism for deadlines for governmental permitting and licensing decisions. Also, there is an important distinction with respect to the protection of State water rights. In each instance, the Udall-Clausen-Wirth substitute offers Members the more responsible alternative.

Now, because my colleagues have been and will be addressing the first two points, I would like to begin by focusing on the question of State water rights—undoubtedly one of the most important areas of concern to Representatives from the Great Plains and Western States. The language contained in the Udall-Clausen-Wirth substitute clarifies that the water necessary for the development of energy projects will be acquired and used in conformity with existing State water allocation systems. The water language in the substitute does four things:

Insures that nothing in the act will be construed as granting the United States or its agents a new right to use water;

Insures that appropriations of water for a priority energy project or any energy project be made pursuant to State law;

Insures that nothing in the act will alter any provision of State water law; and

Insures that if a State exercises conditions on water permits, that exercise will not be prohibited as being a burden on interstate commerce.

There is widespread and legitimate concern in the Great Plains and Western States that the additional development of energy projects will impose a severe burden on already tightly stretched water supplies. As a Representative from a prime agricultural-producing State, I cannot understate the depth of concern my constituents have as they stand by and watch Congress attempt to enact an energy program.

The system of water law that has developed in our region is based on the appropriation doctine which protects those who use water by recognizing the proprietary right of those who first divert water and put it to a beneficial use. It is a comprehensive system, and regardless of the amount of water that is available in any given year, all water users are certain of their rights to water in relationship to all other water users on a stream. This system of water allocation is not a roadblock to new users who may either acquire rights to unappropriated water should it be available or purchase and transfer rights from existing water users. But, all users will be protected, for they will either have their water or be compensated for loss of it.

The new push for massive energy development, of which this bill is a part, along with recent Federal claims that run contrary to the long recognized authority of States to allocate water supplies, has resulted in the concern that I address.

Our region is willing to make its contribution in the push for domestic energy development—but it wants assurances that our system of water law which has developed over the years and works reasonably well will not be trampled over by the Federal Government. It is important, therefore, to clarify that whoever develops energy in this country, the water necessary for that development will be acquired and used in conformity with existing State water allocation systems. The language contained in the Udall-Clausen-Wirth substitute provides that clarification. It makes clear that only through State systems will all rights be recognized and protected.

I know that those supporting the Commerce version of the legislation believe that their language to protect State water rights is adequate. I would point Members specifically to page 34, section 216(d) of the Udall-Clausen-Wirth substitute which, in my judgment, contains the important distinction making our language the preferred approach.

Because water that might be used or diverted as a result of construction of an energy project may cross State lines, this section of our bill makes clear that any State law or action inhibiting the water flow will not be considered a burden on interstate commerce. Therefore, the courts could not overturn State water laws in favor of Federal action on the basis of the interstate commerce clause of the U.S. Constitution.

Just as there are instances when Federal law must justifiably preempt State law, there are also times when State law must supersede Federal action. I can think of no more critical area than water law for this to be the case. This language is precedent setting with respect to water law but it is essential.

□ 1040

Mr. Chairman, I would like to spend the next minute and a half speaking extemporaneously about the crucial differences between the two basic proposals.

We heard some rhetoric yesterday about the Udall-Clausen-Wirth bill being the "slow-track" or the "side-track" approach. First, when it comes we are talking about what was originally proposed. Therefore, I have to address my comments to the original Commerce bill and not to something theoretical, such as the Santini-Lujan amendment, because it is at this point theoretical.

I would have to characterize the Commerce bill in the light of the discussion that went on yesterday as a "ride-over-'em-roughshod" bill. That is right, it is a "ride-over-'em-roughshod" bill; that is exactly when it is without the Santini-Lujan amendment.

Mr. Chairman, I hope that the Santini-Lujan amendment is enacted. We cannot in this country justifiably say to one region of the Nation, "We are going to draw a line around you, and we are going to say to you that the old protections and the actions of your local and State elected officials as expressed in law and regulations can be trampled upon." That is not acceptable. It is not acceptable.

We have heard a few comments in the hours that have intervened between yesterday and today about adding subsection 216(d) of the Udall-Clausen-Wirth bill to the Commerce bill, and I would like to have the Members think about that possibility—a necessity. The Members will find that approach referred to as the Cheney amendment. That action is essential. Rather than looking at the bargaining that may be undertaken to place the Cheney amendment on the Commerce bill, I intend to make the case—and I think others will do the same—that language duplicating subsection 216(d) is essential to the passage of any bill.

Perhaps my rhetoric was a little bit overwrought when I referred to the other bill as the "ride-over-'em-roughshod" bill, but that is precisely what I intended. The language is overwrought, but I think that is in fact the type of exaggeration we saw yesterday in this debate.

We are both, the Members on the two sides, trying to arrive at some sort of reasonable approach, and I ask the Members, particularly those who support the Commerce bill today, to examine the Santini-Lujan amendment and to realize quite clearly that it does not address the problem with the Interstate Commerce clause of the Constitution of the United States. In fact, it does not address that problem.

The best approach embodying the protections that we need in the water law and in a variety of other areas is an approach that does not trample the protections afforded by the Constitution to our federal system—a system that has already received many blows by this Congress and by the executive branch of the U.S. Government. The Commerce Committee bill, if not amended, will be an extreme blow to Federal-State relations and to the federal system of government itself.

Mr. Chairman, our best protection, a balanced, reasonable approach, is found in the bill that we have come to call the Udall-Clausen-Wirth bill. I ask for the

Members' support of this substitute in the course of debate today.

The balance of my statement, Mr. Chairman, will focus on the other two critical differences between our proposal and that offered by the Commerce Committee.

Under the Udall-Clausen-Wirth substitute, Federal, State and local agencies would be given specific authority to take a number of procedural shortcuts to expedite the decisionmaking process. The Board on its own authority could require Federal agencies to take such actions as consolidating proceedings, eliminating unnecessary paperwork duplication and eliminating layers of review. State and local agencies could be ordered by a court to employ similar procedures if the Board felt that they would or are likely to miss deadlines established in the project decision schedule.

Our proposal does not permit any substantive waiver of Federal, State, or local law, except in the case of a grandfather clause whereby the Board would be given special authority to delay implementation of a new Federal, State, or local requirement that might delay completion of a project already cleared for construction.

To accomplish the goal of expedited energy development, it is necessary to create an Energy Mobilization Board with a fairly broad grant of authority if it is truly to have any "teeth to it." But, such a grant of power cannot be so sweeping as to trample over the rights of State and local governments which are closest to the people and responsive to their legitimate concerns and interests. There are differences among regions of this country and between individual States that cannot be ignored by politicians or bureaucrats in Washington. What will work in one section of the country may be dead wrong for another. Our bill not only recognizes that fact, it guards against such unwarranted intrusion by a federally created board. Our bill is supported by the major State and local government groups.

The other major area where the two proposals differ is the section dealing with enforcement. Our bill has a two-step enforcement mechanism. If an agency does not meet or is reasonably unlikely to meet deadlines established in the project decision schedule, the Board is required first to seek a court order. The court may in turn order an agency to use streamlined procedures, add more staff or take other actions to enable it to comply with the deadline. Courts are instructed to expedite enforcement actions in every way. Only in those rare instances where an agency chooses to violate a court order or the court fails to act quickly, will the decision be "bucked" to the President.

Our proposed enforcement mechanism is a realistic and flexible weapon. Unlike the modified Commerce proposal, it will not bog the Board down in making decisions about western water law, local zoning ordinances, State health statutes, and a whole range of other laws.

During the course of this debate and the amendment process, there will be efforts to bring the two competing proposals closer together. As Members follow the debate, I believe they will come to recognize that the provisions of the Udall-Clausen-Wirth substitute represent a realistic and equitable approach to creating an effective process for expediting consideration of priority energy projects—a process that will protect State and local governments and the environmental, health, and safety concerns that prompted legislative activity at all levels of government.

Mr. DINGELL. Mr. Chairman, I yield 5 minutes to my distinguished friend, the gentleman from Nevada (Mr. SANTINI).

Mr. SANTINI. Mr. Chairman, I appreciate the gentleman's yielding this time to me.

Mr. Chairman, certainly all the Members of this body would agree that the legislative examination that we will be conducting today on so-called fast-track legislation is one of the most meaningful exercises that this House of Representatives will be pursuing with regard to energy production in the United States of America this year.

I wish that this kind of legislative consideration were not of necessity. I wish that in the legislative environment, in the committee and on this House floor, we had taken the time over the years to keep track of and to trace the practical applications of the legislative products of this body.

There are approximately 35 permits which must be obtained as a result of Federal legislation before we can open a coal mine. There are numerous permits before one can begin the construction of oil refinery. Perhaps that is the reason that in recent years 18 oil refineries have not been constructed in the United States of America. Those refineries would have represented, in terms of vital energy production, 3.3 million barrels a day to this Nation. We do not have them.

I think most Members would concur that in the ideal environment the best way to deal with regulations and perhaps modify legislative mistakes that we have made is to deal with them individually. But in the meantime, in the real legislative world, I believe that we are compelled to consider the legislative deliberation that we are looking at today as the one immediate, meaningful legislative course of action we can pursue.

When the House goes into its 5-minute rule, the gentleman from New Mexico (Mr. LUJAN) and I intend to offer an amendment to the bill that was reported from the Committee on Interstate and Foreign Commerce. I believe that this amendment addresses itself to a serious deficiency in that bill.

Under the Commerce Committee bill, Federal, State, and local laws could be waived by the President if the Board so recommends and the Congress does not object. We move to improve that bill in two specific areas. First, our amendment will remove the Board's power to recommend waivers of existing State and local laws.

Second, our amendment will increase the role played by Congress in approving the Federal waiver process by compelling affirmative consideration by both the House and the Senate of the United States. Under our amendment, rather than having a one-House veto provision, both Houses of Congress must concur.

In effect, this represents the passing of new legislation. Because a waiver cannot be made unless it is approved by the Board and by the President and then voted affirmatively by both the House and the Senate, this kind of legislative action is not a course that we will be frequently pursuing. But I believe that we must have some realistic mechanism in place to deal with the problem, given the emergency proportions of the energy issue.

Mr. Chairman, I will ask my fellow members of the committee, is that not the bottom line?

We will hear much debate in the course of the morning and afternoon about elements of difference between the proposal of the distinguished chairman of the Committee on Interior and Insular Affairs, the gentleman from Arizona (Mr. UDALL), and the proposal of the distinguished chairman of the Subcommittee on Energy and Power, the gentleman from Michigan (Mr. DINGELL), as, hopefully, amended by Santini-Lujan. But what we are looking at is the bottom line and the question of whether the Members of this body agree that given the enormous magnitude of the energy problem in this country, we must have rapid decisionmaking.

The CHAIRMAN pro tempore. The time of the gentleman from Nevada (Mr. SANTINI) has expired.

Mr. DINGELL. Mr. Chairman, I yield 2 additional minutes to my distinguished friend, the gentleman from Nevada (Mr. SANTINI).

Mr. Chairman, I will ask my friend, the gentleman from Nevada, if he will yield to me briefly at this time.

Mr. SANTINI. I am happy to yield to the subcommittee chairman.

Mr. DINGELL. Mr. Chairman, the gentleman from Nevada (Mr. SANTINI) and his colleague, the gentleman from New Mexico (Mr. LUJAN), have worked long and hard on this amendment, and I think that their labors have been extremely fruitful. They have come forward with an amendment which, I believe, helps the bill and which lays to rest controversies which have been stirred up by persons who have been opposed to the bill, some of whom are well-meaning and some of whom are otherwise.

Mr. Chairman, I want to commend the gentleman for the leadership he has displayed, and I wish to indicate to him that his amendment is fully acceptable. I intend to support the amendment when it is offered.

Mr. SANTINI. Mr. Chairman, I thank the gentleman from Michigan (Mr. DINGELL), and I am encouraged by his support.

Mr. Chairman, addressing the bottom line, balancing the decisions that we will be called upon as Members of this body to make here today, I pose this question to the Members, and I would invite at least their intellectual, if not verbal, response: Do we believe that there are any circumstances confronting this Nation that could compel rapid decisionmaking about energy production in our Nation?

□ 1050

We have dismal examples of failure in the past. I think that that precedent suggests realistically that we better be prepared with a specific legislative vehicle in place to respond in a very short time to a very serious energy crisis confrontation.

Our bill permits, under the extraordinary circumstances of a board and a President and two votes by the Congress of the United States, a waiver of a Federal substantive law that may well be the barrier to expeditious legislative or other action or consideration. The alternative legislative proposal does not permit immediate action when faced with a crisis.

The CHAIRMAN pro tempore. The time of the gentleman from Nevada (Mr. SANTINI) has again expired.

Mr. DINGELL. Mr. Chairman, I yield 2 additional minutes to the gentleman from Nevada.

Mr. SANTINI. Mr. Chairman, I would suggest earnestly to my fellow members of the committee another bottom line consideration.

Time is supposed to be the essential ingredient that we are examining in terms of the respective merits of these two major legislative proposals. Because of the fact that the Udall proposal failed, failed, failed the time test, the administration has come forward in support of the combined legislative efforts of the gentleman from Michigan, the gentleman from New Mexico, the gentleman from Ohio, and myself.

The administration has provided to the Members of this House the facts and figures that, in minimum, the Udall bill would require 1 year, 1 month more than the Dingell-Brown-Santini-Lujan proposal, and at maximum could take 5 years, 5 months more to get action or decision.

If we as Members of this House of Representatives are dealing in meaningful, relevant, tangible terms of trying to get a procedure for expeditious consideration of energy-related questions, it seems to me that at the very least the administration is exactly right, that the Dingell-Brown and Santini-Lujan proposals are the legislative vehicles that will succeed in getting decisionmaking implemented when national interest so dictates.

Mr. CORCORAN. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Illinois.

Mr. CORCORAN. I thank the gentleman for yielding.

Mr. Chairman, there has been a lot of discussion about the so-called Sohio project. I am just wondering, in view of the apparent adoption of the gentleman's amendment by the sponsors of the Commerce Committee bill, how we would speed up projects like the Sohio project?

The CHAIRMAN pro tempore. The time of the gentleman from Nevada (Mr. SANTINI) has again expired.

Mr. DINGELL. Mr. Chairman, I yield myself 1 minute. I will use that time first to respond to the gentleman from Illinois, and then I will yield additional time to the gentleman from Nevada.

Mr. Chairman, the answer is that we are going to expedite all of the Federal process. In good time, I am well satisfied it will be quite plain that we will have to take some steps to deal with delays, frivolous delays of the kind that occurred out in the State of California.

I would point out to the Members that the Board, under the Santini amendment, is compelled to report to the Congress on the causes of delays.

Mr. Chairman, I now yield 1 additional minute to my friend, the gentleman from Nevada (Mr. SANTINI).

Mr. SANTINI. Mr. Chairman, I could not have said it better myself.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding.

Mr. Chairman, will the gentleman tell me whether or not the administration is asking for substantive waivers? The gentleman's amendment preserves the substantive waiver but provides a different method of authorizing it. Would the gentleman tell me whether the administration is seeking a substantive waiver at all?

Mr. SANTINI. Mr. Chairman, I will respond by saying that I cannot speak in a representative capacity about the position of the administration. It is my understanding that they are not supporting substantive waiver per se but, in balance, because of the time considerations, they believe that the Dingell-Brown-Santini-Lujan vehicle is the best way to proceed.

Mr. ECKHARDT. I have heard the opposite position expressed by Secretary Duncan, that the administration felt that substantive waivers were not necessary.

Mr. SANTINI. I thought I said that. But if it confirms the gentleman's information, all right.

Mr. ECKHARDT. The administration does not feel substantive waivers are necessary.

Mr. LENT. Mr. Chairman, may I inquire how much time the gentleman from North Carolina (Mr. BROYHILL) has remaining?

The CHAIRMAN pro tempore. The Chair will advise the gentleman from New York that the gentleman from North Carolina (Mr. BROYHILL) has 7 minutes remaining.

Mr. LENT. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, few of our colleagues in this Chamber question the need for an energy prioritization program for development of critical energy projects which will bring us closer to that elusive goal of energy independence. What we debate today is the approach to take on the road to that goal.

I support fast track legislation because of the urgent necessity to break the iron grip of the OPEC oil cartel, and I endorse the Commerce Committee bill because I regard it as the most balanced priority program when coupled with adequate safeguards against abuse—especially with the addition of the proposed Santini-Lujan amendment which will be accepted.

To me, the committee bill, with the Santini-Lujan amendment, represents the best compromise available among the competing legislative avenues available to us. It adequately protects the interests of environmentalists and State and local officials alike.

The Commerce Committee bill already contains prohibitions against waivers of Federal, State, and local laws in such areas as water regulation, primary ambient air quality standards, and criminal and antitrust laws.

The Santini-Lujan amendment addresses a concern that many of us have had ever since the Commerce Committee reported out its bill—the question of substantive waivers of State and local laws. The amendment simply prohibits State and local law waivers except those enacted after the project decision schedule is established. And it adds the requirement of a two-House congressional approval of any attempt to waive Federal law.

I urge my colleagues to support the moderate, workable, compromise approach to priority energy programing that is represented by the Commerce Committee bill with the Santini-Lujan amendment. It avoids the threat of time consuming litigation; it offers the most reasoned approach to expediting major domestic energy projects; and it presents our best hope to unshackle this Nation from its dependence on foreign oil.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. LENT. I yield to the gentleman from Ohio.

● Mr. ASHBROOK. Mr. Chairman, I am very troubled by this bill that we have before us. I have heard my colleagues discuss energy issues this entire Congress, but very rarely do I hear them talk about the basic problem before us. That problem is the Congress itself. We can make the case for fast tracking in almost every policy area in the Federal Government. Redtape pervades every sector of Government action. Housing, transportation, social services, and military procurement are all hampered and delayed by multiple levels of decisionmaking and the mountains of reports that must be filed. We could spend an entire Congress just establishing boards to send priority projects in various areas on end runs around the bureaucracy.

Would fast tracking of various programs be useful? I do not think so. The real fault lies in Congress inability to look at the larger picture and to assess the impact of diverse demands being lumped onto the same programs. Energy development not only has to stand the test of cost effectiveness and usefulness, it must pass the inspection of environmental safeguards, economic concerns, and maybe labor or social concerns like equal opportunity and wage rates. Each one of these requirements were passed by this Chamber because a majority felt these individual concerns needed to be addressed within the Federal Government. It is difficult to project the impact each of these initiatives would have on energy or what they would do when they all collided on some energy project. However, we are now seeing what we have wrought. It is not easy to have to face up to the fact that the Congress in its haste to address diverse concerns over the years has made a shambles of America's energy resources just because it was not a high priority at the time. Who is to say that some other major need may develop similar paralysis in the future because of the actions of this body?

The real need today is not to create some quick fix to take the voters wrath off of the Congress, but to reform the way things are done so that we do not paint ourselves into some future corner. Part of this process is to have the Congress more accountable to the people. Backroom deals and cosmetic votes may allow legislation to get passed and Members to get reelected, but that should not be why we are here. The standards for success of a Congress should be what we have done for the Nation, not how many bills were passed or how many votes were taken. A sage once said he did not speak unless he could improve the silence. A Congress should not act unless its action could improve the Nation. Many times no action is the best course to follow. It is unfortunate that many here believe that inaction always means nothing is being done.

My first concern with this bill is that it does not address this larger issue of policy development in Congress. It is a bandaid on a cancerous growth. It might help for a short time, but it does not kill-off the disease that will eventually devour the body politic. Better planning by this House and a new dedication to facing the tough tradeoffs that diverse demands bring about are the only ways the Government and the Congress will develop long-term solutions. I will be offering an amendment that will take a small step in this direction later on.

Turning to the specifics of the bill I have a number of problems. There are no safeguards in the bill or its substitutes to prevent the Board from becoming just another arm of the Carter reelection effort. The ability of a Board loaded with Presidential appointees to dole out fast tracked energy projects is a formidable tool for an incumbent President facing stiff opposition within his own party and from the Republican Party. What is there to prevent the first priority projects from being located in New Hampshire, Florida, and Wisconsin? What is there to prevent the timing of such anointing of these programs from falling 2 to 3 days before the primary election day? We should ponder these scenarios before we sign off on this Board.

Where will this Board be located? The bill and its substitutes are silent about the Board's location. The President wants the board within the Executive Office of the President. This opens the door for even more abuse of the expansive powers of the Board. One amendment will be offered to locate this entity in the Department of Energy. We should think long and hard about where the Board is placed. DOE is certainly better than under Jimmy, but are the pressures of incumbency going to filter into the Board's actions there as well? This President has not been hesitant to use the tools of his Office to stack the politic deck. We saw what happened in Florida, just a few weeks ago, regarding a nonbinding straw poll. How will this Board function once the stakes are higher?

Political influence is not my only concern with this bill. The matter of the Board's role in handling State governments is very troubling. We live under a Federal system which places the States as separate autonomous governments when dealing with functions within their borders. To say that the Federal Government can designate certain projects as above the law of that State is to build a major new beachhead for Federal authority within the State capitals. Energy development is certainly a pressing issue in this Nation, but the risks of eroding our basic system of government should be weighed in the balance.

Bureaucracy itself is a major problem in this bill. A television commercial has been trumpeting that more is less, but I fail to see this ever happen in Government. I have been in this town since 1961 and I cannot remember any time when more bureaucracy has created less. Every consolidation has led to more expenditure and more personnel. Every reorganization has usually cost more money than it ever saved. Even the Commission on Federal Paperwork created more paper and even some forms of its own. It is simply force of habit in this town for Government to create more of itself. I really wonder how a new bureaucratic entity like this Mobilization Board will be able to reverse this long established tradition. Is the future of energy in this country able to afford such an experiment?

I hope that the amendments that we will debate and consider in the next day or so will be able to clarify these concerns. It would be a disaster of major proportions if this Chamber passes a bill that does nothing more than pass the buck. The Congress should have the courage to face up to its responsibilities and pass laws that will assure energy resources in the United States by seeking long-range solutions, and by reforming the policymaking role this Chamber has established for itself.●

Mr. UDALL. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. CARR).

Mr. CARR. Mr. Chairman, I doubt that I can say all that I want to say in 3 minutes. Perhaps if the chairman has a few more minutes he would be kind enough to give them to me.

I think it is important that someone should stand on the House floor and argue the position that we do not need any of this fast track legislation at all. I am painfully aware of the political reality around here. It seems as though we have a political stampede. Anything with the title of energy or the defense of the country gets all of the maximum effort that this House can muster. I think what we are doing here is terribly premature, and I would like to be, even if it is a lonely voice, a voice that says that what we are doing here is premature, unwise. It is going to end up costing this country a lot more, both in energy and time and money, than it is worth.

We have not engaged in a very deliberative process ourselves. The very legislation that we are considering here today has itself been put on a fast track. It has been crafted with a great deal of care and deliberation by those who have put their time and attention to it, but this is a monumental piece of legislation that needs more study. It needs more time. It needs more deliberation than we have been able to give to it. It has been slammed together, and I think I can say that, as one of the principal authors, with several of my other colleagues in the Interior Committee, of the Interior version.

We are told that there are only two versions, that we have to choose between the Udall-Wirth proposal and the Dingell-Commerce Committee proposal. Actually, I suppose that in reality that is true. But I lament the fact that the Interior Committee and my good friend, the gentleman from New Mexico (Mr. LUJAN), myself and several others worked and toiled hours into the night sometimes to put together a piece of legislation using a consensus approach, a bill that was reported out of our committee by a vote of 40 to 1, the bill that is on the House floor today, a bill that is not getting even a glimmer, not even a glimmer, of consideration here as we propel ourselves to either Udall-Wirth or to the Dingell proposal.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. CARR. I would like to yield, if the chairman will give me a little extra time.

Mr. JOHNSON of Colorado. I think I can get a couple minutes from the gentleman from California, if the gentleman will yield.

Mr. CARR. What we have today here is no convincing evidence of a morass of Government redtape. We only have conjecture. It is well-intended conjecture coming out of things like the Sohio pipeline.

□ 1100

The CHAIRMAN pro tempore. The time of the gentleman from Michigan has expired.

Mr. CLAUSEN. Mr. Chairman, I yield 1 additional minute to the gentleman from Michigan (Mr. CARR).

Mr. CARR. Mr. Chairman, I cannot even do justice to 1 additional minute, but let me try here. We have only conjecture. We have no real evidence by way of hearing or record created that anything that we are trying to do with our best efforts is really going to do the job.

I would submit to this body that what we are going to do here is put together a law which probably the 50 State Governors and their attorneys general, well financed, are going to wrap up in court, determining the constitutionality of this waiver provision and that waiver provision, and we are not going to have even a fast track.

What we are doing here is political insurance for ourselves to go back in an election year and tell our people that we have voted to do something about energy. It will be a cruel hoax.

Mr. MOFFETT. Mr. Chairman, will the gentleman yield?

Mr. CARR. I yield to the gentleman from Connecticut.

Mr. MOFFETT. Mr. Chairman, the gentleman just saved me some time and gave my speech. I would like to commend the gentleman for his excellent remarks.

Mr. CARR. Mr. Chairman, delay in deliberation is not always the enemy, I would tell the House and the American people.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan (Mr. Carr) has again expired.

Mr. CLAUSEN. Mr. Chairman, I yield 2 additional minutes to the gentleman from Michigan (Mr. Carr).

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. CARR. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Chairman, I want to endorse what the gentleman from Michigan is saying. I felt the bill we passed out of the Committee on Interior and Insular Affairs was a well considered and a protective bill for the States and also did provide for a mechanism to expedite the hearing process.

What the gentleman is saying about that bill, I think, is absolutely and totally correct. I regret the fact that we are not really going to consider and debate that bill from the Committee on Interior and Insular Affairs. As a result of the parliamentary circumstances, I believe the Udall-Wirth-Clausen substitute is the best possible way to go, but I endorse what the gentleman is saying about the merit contained in the original version of the Committee on Interior and Insular Affairs.

I thank the gentleman for yielding.

Mr. CARR. I thank the gentleman for his comments.

I, too, am a cosponsor of the Udall-Wirth concept, knowing that we are going back to fallback position after fallback position after fallback position, and my colleague, the gentleman from New Mexico (Mr. Lujan), has fallen back to a Santini-Dingell kind of position. We are all groping here, but I think somebody ought to stand here and admit that we are groping and that we do not know what we are doing.

We have not had the hearings we need to assure the American people that what we are doing is going to reap a result and reap a benefit.

This in many respects is the biggest power grab of the century.

Even the War Production Board, which serves as a model for all that we are doing here, never allowed the waiver of State laws, never allowed the waiver of Federal laws, and never allowed the waiver of local laws. This has to be considered a premature stampede.

I just hope that some people will be able to stand up and call it for what it is, and I hope some people will vote against the Dingell provision, even as improved.

I hope some people will vote against the Wirth-Udall provision, even as it represents an improvement, and I hope that we would have the honesty to go back and say that we need more time and more deliberation; and we will get a better result.

Mr. CLAUSEN. Mr. Chairman, I yield 3 minutes to the gentleman from New Mexico (Mr. Lujan).

Mr. SHUMWAY. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. Mr. Chairman, I yield to the gentleman from California.

● Mr. SHUMWAY. Mr. Chairman, I realize that we have spent some time debating essentially two proposals, which, on examination, differ more in form than substance. In the process, we seem to have ignored a more fundamental question: Does the recommended board accomplish the real purposes desired? I think not.

I oppose the concept of an "energy mobilization board' in the strongest terms possible. When I ran for Congress I espoused a platform which promoted less Government involvement in the private sector. Today I find myself fighting Government intervention in the public sector.

By voting for an EMB, we are asking the taxpayers of this country to pay for the privilege of having the Federal Government creep even deeper into their lives. Like it or not, we are talking about another Government agency with commissioners, staff, a general counsel, office space, telephones, travel allowances, and cost-of-living increases. These things cost money—taxpayers' money. Rather than making Government more efficient, we are advocating its growth and influence.

Who are we as Representatives in Congress to say that we can give unelected "officials" a blank check to delve into the affairs and priorities of State and local governments?

I will be the first to concur that all too often the three levels of government each with a myriad of regulations tends to slow energy projects; however, the creation of an energy mobilization board does nothing about revising these regulations. An EMB would conveniently side-step them while inconveniently leaving them intact. Does that really make sense? The question then becomes: Why were regulations imposed in the first place? I submit the real reason the EMB concept was introduced is an attempt by the administration to affix a band-aid to a festering dilemma. Mr. Chairman, I am confident that the people of this country do not want band-aids—they are asking for major surgery.

In all the fervor to see this marvelous approach to our Nation's energy ills rushed through Congress, I have yet to see or hear one piece of information which would lead me to believe that Congress has even considered dealing with the heart of the problem—Federal regulations.

I contend we as Members of Congress need to get down to the business of identifying the problem areas in regulatory agencies and revise or repeal the regulations to insure they no longer inhibit the construction process.

There is something inherently wrong with our system when a fast track label must be attached to a project to insure its approval. This is precisely my point. The system is wrong. Let us fix the system. We have to work within the system—not run away from it.

I genuinely feel that if this Congress is as concerned about the ills of regulation as it purports to be, then we should certainly commence the appropriate legislative means to cure it.

We are talking here about national priorities. The EMB would label a project a "national priority" and see that this priority would be ramrodded through the system. Mr. Chairman, I would like to submit that the overregulating regulatory agencies should be declared a "national priority" by Congress and be dealt with through the legislative process.●

Mr. LUJAN. Mr. Chairman, we find ourselves in a position that is really hard to understand. It is kind of like the ad which reads, "You have come a long way, baby," because now you can smoke, as if that were one of the great things, which enhances the life of someone, to be able to smoke.

We have come a long way, perhaps a little too long away. We have gotten ourselves all tied up with all kinds of laws and we are paralyzed. We cannot move ahead with energy projects. I agree with the gentleman from Michigan (Mr. Carr) that adding another department of Government to the already huge volumes of law that we have is the answer, is properly not the answer.

Be that as it may, there is no question in my mind that we are going to have some kind of fast-track legislation, and so we might as well try to get it in as good a shape as we possibly can; and that is the attempt that the gentleman from Nevada (Mr. Santini) and myself are making at this point.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Chairman, with reference to a comment made by the gentleman from Michigan (Mr. Carr), the gentleman said back in World War II that we did not give all this authority to the War Mobilization Board.

I would point out that I have a list in my hand of at least 23 laws or Executive orders that are on the books today that were not on the books at the time of World War II. I am just not sure that the War Production Board or Mobilization Board could have gotten their job done under those circumstances. These laws include:

FEDERAL LAWS APPLYING TO MAJOR ENERGY PROJECTS

(From the Report of the Interior Committee)

1. Clean Air Act.

a. Prevention of Significant Degradation of Air Quality Permit.

b. Non-Attainment Permit.

c. New Source Performance Standards (requires best available technology).

d. Visibility Impairment limits.

2. Clean Water Act.

a. National Pollutant Discharge Elimination System permit.

3. Rivers and Harbors Act.

a. permit required if navigable waters affected.

4. Resource Conservation and Recovery Act.

a. permit required for waste disposal.

5. Surface Mining Control and Reclamation Act.

a. permit for surface mining.

6. Toxic Substances Control Act.

7. National Environmental Policy Act.

8. Safe Drinking Water Act.

9. OSHA.

10. Fish and Wildlife Coordination Act.

11. Endangered Species Act.

12. Antiquities Act of 1906.

13. Federal Coal Mine Safety and Health Act.

14. National Historic Preservation Act of 1966.

15. Wilderness Act of 1964.

16. Nonnuclear Energy Research and Development Act.

17. Forest and Rangeland Renewable Resources Act.

18. Wild and Scenic Rivers Act.

19. Federal Land Policy and Management Act of 1976.

20. National Pipeline Safety Act.

21. Protection of Bald and Golden Eagles (U.S. Code).

22. Executive Order 11988—Floodplain Management.

23. Executive Order 11990—Protection of Wetlands.

Mr. LUJAN. Mr. Chairman, let me move on to another subject, because I think many of the Members are confused about whether they ought to go with the Udall-Wirth-Clausen substitute or the Dingell-Brown amendment.

First of all, there was a question as to what the administration's position is on this. I have a letter in my hand dated October 30 from Charlie Duncan, the Secretary of Energy, which says—

> Should the choice ultimately fall between the Udall-Wirth substitute and the Commerce Committee bill as amended by the Santini-Lujan amendment, we would support the latter as being closer to our position.

There is no question at all that we have that support of the administration. I would like to address some of the objections and how we intend to clear them up.

The CHAIRMAN pro tempore. The time of the gentleman from New Mexico (Mr. LUJAN) has expired.

Mr. CLAUSEN. Mr. Chairman, I yield 2 additional minutes to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, I thank the gentleman.

One of the sections deals with the State and local government waiver provision in the bill. There cannot be, if our amendment is adopted, a waiver of State and local government laws. That takes care of those of us who want to do right by the States.

I also happen to think that it does the right thing for those who are worried about water problems in the West. That takes care of those particular arguments.

The other argument to be made here is that if we are going to waive Federal law, then let us do it in a fashion that is acceptable. We cannot just move ahead and have one Board overrule all of the various Federal laws. This procedure calls for what we would do anyway in passing a law, except in a reverse expedited manner.

Normally, the two Houses pass a bill and send it to the President for signature. In this case, the President recommends a waiver, and it must have a two-House positive action, so it is in a sense the same procedure, except reversed, that we use in passing any laws.

The last one is just a fairness provision, and that is that if any law is passed after a project is declared an energy priority project, then they should have 5 years to comply with that new law.

I think that we are being very careful and very deliberative. This amendment strengthens the bill of the Committee on Interstate and Foreign Commerce, and I think that with this amendment, it should be acceptable to anyone who has had any objections to it in the past.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. Mr. Chairman, I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, the major difference between the procedure we normally follow in passing a bill and the Santini-Lujan procedure is what the Suntini-Lujan procedure would put us under a 60-day time constraint, so we would be under tremendous pressure. That is often not enough time for proper consideration of complex issues.

Mr. LUJAN. Mr. Chairman, that is all that is needed, 60 days. I have seen bills passed here in less than 60 days.

□ 1110

Mr. UDALL. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Chairman, we are on a fast track passage of the fast track bill and I fear we are running roughshod over some of our most cherished traditions of law.

Should we not pause and consider what we are doing? Waiving laws for unknown results; empowering a Mobilization Board with powers even Congress treats cautiously; setting precedents of grave import. Are we acting in panic?

This Nation faces serious energy problems, perhaps a looming energy/economic disaster; but the blind rush to develop extremely costly, possibly unproductive energy facilities by removing any regulatory barrier that might come in the way is no answer to our problems.

There is no question that energy conservation remains this Nation's greatest energy resource. No Member of this House will deny that; we all pay lipservice to it daily. But we still have not acted upon it. Instead of a dangerous commitment to a Mobilization Board designed to undermine some of our greatest laws, we should make a real commitment to conservation which is the cheapest, most plentiful, cleanest energy source available. Conservation is also the speediest solution; we can put it to use immediately. Only conservation can resolve our immediate problems.

Rather than addressing the difficult institutional problems involved with moving toward the decentralized use of renewable and small scale resources, instead of providing the people of this country with the tools to conserve energy, we are going to waive any legitimate obstacles to the quick approval and construction of centralized, top-heavy, complex, cumbersome, inflationary, and environmentally destructive synfuels plants.

The projects that are meant to benefit by these extraordinary waiver provisions are not being built, not because of regulatory delay or environmentalist obstructionism, but because they are of dubious value and questionable economics. They need waivers of law not because they suffer at the hands of overregulation, but because they are problem makers, not problem solvers. Permit procedures are a very necessary check on the complex quality of the facility and on the massive outlays of money required to build a synthetic fuels plant or a lengthy pipeline. The development of these huge projects could constitute an irreversible commitment of tremendous quantities of capital and to potentially disastrous environmental effects. Without sound and extensive public consideration of the need, cost and effects of such a project, the Nation may well find itself spending billions of tax dollars for little energy and plentiful environmental damage.

Massive crash programs to develop synthetic fuels programs without proper regulatory consideration will not mitigate either our energy or economic problems. It will do the exact opposite: the removal of these checks and balances and the resulting rush to approval of these facilities will only exacerbate our problems. In other words, our actions will serve one purpose: to make our energy system and our economic system that much more inefficient and unproductive.

The determination of need for a facility, the analysis of environmental consequences and the understanding of the real costs of large, complex projects takes time; it must if we are to get good decisions. If the Nation needs energy so badly that it cannot afford time for good decisions, it should turn decisively toward the conservation technologies that are readily available. If it will not even do that, the Nation and its economy are not only going to hell, but going to hell on a fast track.

The CHAIRMAN. The time of the gentleman from Oregon has expired.

Mr. WEAVER. Mr. Chairman, I would ask if Mr. DINGELL would give me 2 more minutes.

Mr. DINGELL. Mr. Chairman, I am not quite sure what my good friend would say, but in the interests of full debate I yield him 2 minutes.

Mr. MOFFETT. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Connecticut.

Mr. MOFFETT. I thank the gentleman for yielding.

I am glad the gentleman has placed an emphasis on conservation. My own Government Operations Subcommittee has found that by putting water flow restricters in showers and faucets and doing low-cost or no-cost things like that you can save or otherwise produce, in fact, as much energy as you could with all of these synfuels in the next 10 years.

With regard to what has been said around here about the Sohio pipeline, I think it needs to be said those 700-plus permits they are always crying about and that we all read about in the newspapers, and when I heard about it I said this is horrible, and I am sure the gentleman did, turned out to be, the vast majority, 600-plus of them turned out to be routine road crossings that they had. Sohio pounced on the situation, and it is true of all of the special interests that have been trying to see these laws rolled back and have tried to have too much of a tilt toward development and to push this Congress in that direction rather than emphasizing conservation, and they are grasping onto fast track as a way for them to have their way.

Mr. WEAVER. May I point out that Sohio could build its pipeline now but does not because it says it is unprofitable. Would fast track have implemented an unprofitable pipeline?

Mr. MOFFETT. If the gentleman will yield further, I am not sure that they ever really wanted that pipeline.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I will yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, it is the delay that has made the pipeline project unprofitable. If you run out of your oil supply up there in Alaska and, because of regulatory delay, you do not have the opportunity to use that pipeline for most of the lifetime of the oil supply, and then be able to amortize it only in the last few months of its need, it becomes clearly unprofitable. If you shorten the life of the pipeline down to the last 3 weeks of the oil left up there in Alaska, can you not understand that a $55 million investment would not pay out in such a short period of time?

Mr. WEAVER. But the price of oil has gone up.

Mr. BROWN of Ohio. It is the delay that has made it unprofitable.

Mr. WEAVER. The price of oil is going up and the pipeline should be even more profitable.

Mr. MOFFETT. Will the gentleman yield further?

Mr. WEAVER. I yield to the gentleman.

Mr. MOFFETT. One year of the delay was Sohio's own doing because they went to court and took a gamble and they lost.

Mr. UDALL. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, obviously there is an emergency and it is not only an immediate but also a long-term emergency and probably it will last for at least the rest of this century.

I happen to disagree in part with my friend from Oregon. I think the solution requires both conservation to the maximum degree and also requires expeditious development of new sources. The argument is over the best way to do it.

In a recent column by David S. Broder, the distinguished political writer, he said:

> The need to slice through the red tape is recognized by everyone. The question is how to do it without creating a new center of arbitrary power in Washington and destroying the responsibility the Constitution gives States and localities for the welfare of their own citizens.

There is a temptation in times of crisis to dispense with carefully built safeguards and the rule of law. In such circumstances, it is often helpful to return to some of the first principles on which our system is based.

James Madison, in the Federalist Papers, said this:

> The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny.

We will do well to remember his words in evaluating the proposals before us. Somehow we managed to get through two world wars without giving the War Mobilization Board, or its World War I equivalent, any powers to override State, Federal, or local laws. Is that not amazing? What powers were they given? Congress gave them the power to set priorities and to impose deadlines. That is what the Udall-Wirth substitute does in this situation.

It is unfortunate that we got into this hassle about overriding substantive laws. I think it is pretty clear what interests are behind that move: the utility companies, the oil industry, the coal industry, who are chafing under the restraints that we have rightly imposed to protect the public from unsound projects and dangerous processes.

A recent column by Anthony Lewis, the distinguished writer, in the New York Times, said this, referring to the proposal to give the EMB or the President a power to waive substantive laws:

> It is an astonishing concept: one utterly contrary to the traditions of American federalism and constitutional democracy. Another amazing fact is that the idea is being supported by aides to Jimmy Carter, who has repeatedly said he is against any such Presidential power.

At least he said it until the day before yesterday.

Mr. CLAUSEN. Mr. Chairman, I yield 3 minutes to the gentleman from Wyoming (Mr. CHENEY).

Mr. CHENEY. Mr. Chairman, I rise in support of the Udall-Clausen-Wirth fast track bill.

As my colleagues know, I represent a major energy-producing State. Last year Wyoming produced nearly 2 million barrels a day of oil-equivalent energy, and I know that it will produce substantially more energy than this within a very few years. In order to provide a perspective on the magnitude of this production, you should know that is about the same amount of energy that we import from Saudi Arabia and Libya put together. I favor new energy development, and as you know, I have supported efforts ranging from decontrol of energy prices, to tax incentives, to outright loan guarantees and grants, to support energy research and development and production. In short, my constituents know energy production; for many of them it is their life's work; and they support increases in it.

I believe they agree with me that there is a need for a coordinating capability at the Federal level for new energy project development, whether it is called an Energy Mobilization Board or by some other name. The only significant issue is what powers are given to that Board. I believe that in deciding what powers to give the Energy Board, we are making a watershed decision about the future role of the States in the American federal system. I cannot support the idea that the States should become administrative districts of the Federal Government, and so I support the Udall-Clausen bill, which I believe will provide a vital role for the States in energy project decisionmaking while allowing timely development of the Nation's energy resources.

In part, at least, it is a question of alternatives. There are some who would propose a very broad grant of authority to the Board, and defend that grant, which clearly runs counter to normal principles of legislation in a democratic society, by reference to a supposed emergency.

I believe, however, that there is still time for reasoned, controlled, orderly development of our resources, if we are only willing to pay the price of this development. It is the worst sort of sophistry to clamor, on the one hand, for cheap energy, while, on the other, demanding the creation of an autocratic board with unlimited authority to promote energy development. In both instances, the solution is a solution for today alone—not a solution which will give the Nation confidence and power as it proceeds from the 20th into the 21st century.

The people of my State are looking for longer term solutions—solutions that allow energy development to take place in a timely fashion while allowing the State to exert reasonable control of the shaping of this energy project development. I think the Udall-Clausen-Wirth bill provides for this balance; specifically:

In the event a State will not meet a reasonable deadline for decisionmaking on an energy project, the Federal Government can act. While this is a last-resort provision, there is no doubt it can be used.

A reasonable judicial review of decisions made by the Energy Mobilization Board is provided for. While some delay results from court proceedings of any kind, by now we are agreed as a society that some court review of most administrative action is appropriate—and it will continue to be until Congress begins to aggressively review such action.

There is no bar in this legislation to prevent the Board from asking Congress for revisions in existing law. What the bill does is to make it clear that it is not congressional policy to proceed on the basis of such waivers or revisions. It is, in effect, a vote of confidence in existing substantive laws in the energy and environmental areas.

There may be those of you who are wondering about the State laws that are involved here. In Wyoming, we have some carefully devised and responsible State laws aimed at seeing that energy development takes place in an orderly and acceptable manner. These laws, such as our plant siting statute, our permitting requirements and our environmental protection standards, are not roadblocks to energy development. My experience has been that when energy companies come to my office to talk about problems with Government, they come to talk about problems with the Federal Government.

Let us be clear about what we are doing with the Energy Board legislation. We are not rewriting existing energy or environmental laws, and we are not restructuring the legislative branch of the Government. What we are doing is to restructure the way the executive branch of the Government handles energy project development. What I oppose is restructuring the Federal system when the need is for a restructuring of the executive branch.

I have some more particular concerns with this legislation. As my colleagues may know, there are some significant differences between the two bills with respect to water law. The Dingell-Brown bill contains a very general provision which, in attempting to maintain the status quo in this area, will likely be productive of significant amounts of litigation. The Udall-Clausen-Wirth bill, on the other hand, contains carefully crafted language which has already been adopted by the Senate. This language is designed to insure that all energy project development takes place pursuant to State water laws. In the process, it creates a unitary State water law system for energy development, a situation which I believe will benefit both energy developers and residents of the water-scarce States.

There are significant differences between these two bills, and I am confident that when my colleagues consider the need for preserving the Federal system as we meet our energy needs, they will support the Udall-Clausen-Wirth bill.

☐ 1120

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. CHENEY. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I thank the gentleman for yielding. As the gentleman knows, I was born in the West, and I have some sensitivity for the feelings of the gentleman in the well and my friends in the West. The Commerce Committee bill says that the Board may not do the following: Waive any Federal, State, or local requirement which relates to, and then it goes on and says, contravene any interstate compact, provision of State or local law, or Federal contract, relating to water rights or to the appropriation, delivery or use of water pursuant to such rights.

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. DINGELL. Mr. Chairman, I yield 1 additional minute to the gentleman from Wyoming.

It says that they cannot get into any of these water rights matters. I am extremely sensitive to the gentleman's position.

Mr. CHENEY. If I may make the point, and I want to congratulate the gentleman certainly on what his intent is because I believe he does truly intend to protect the States in this area, but I would point out that there is one major element of concern to us of the West. That is the possibility that the commerce clause of the Constitution provides the opportunity for challenges to the constitutionality of our water laws.

What I would like to have included, if we may, in the legislation, the fast-track legislation, which has already been included in the legislation that passed the other body, is language that safeguards those requirements of State water law from challenge under the commerce clause of the Constitution.

Mr. DINGELL. I appreciate very much the comments of the gentleman because I want to see to it that we do not injure him in the State water rights in the legislation, and I want to see to it that the rights of the gentleman and citizens of Wyoming and the other States are fully protected insofar as their water rights are concerned.

Mr. CHENEY. I thank the gentleman for his comments.

Mr. CLAUSEN. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Chairman, I have listened with a great deal of interest to this debate. I must say that I am not exactly sure where I will come down in the final analysis, but as a conservative I do think that certain principles ought to be discussed in relation to any legislation of this nature. This bill suggests the creation of a five-man Federal Board, a majority of which, will be the dictators on energy questions.

I do not think I have to make the usual obeisance to meeting energy needs in this country. I have tried to meet those needs by my votes. That need is well established, but I listened the other day to the majority leader of the House, Mr. WRIGHT—with all due respect to him—castigate the maze of Federal laws that have brought us to our knees on the energy question. I have no doubt that he and a majority of his party probably voted for every one of those laws.

Nowhere in this discussion have I heard any of my liberal colleagues—and I tend to agree with some of them and I hope it does not make them too uncomfortable—make any suggestions that we ought to go back systematically and change these energy restrictive laws one by one. Having said that, and having noticed that the same liberals who now oppose this Board are the ones who made it necessary, I still have to rely on fundamental principles. One of those principles is the constitutional arrangement between the States and the Federal Government, and another is the basic distribution of powers between the judiciary, the Executive, and the Congress.

I have real questions in my mind about whether I want to hand over to a majority of three out of five appointees, who will serve at the pleasure of the President—any President, this one included—and woud have life and death power over the zoning ordinances of Talbot County, Md., or over the powerplant siting laws of the State of Maryland, or over water rights of Wyoming as has been mentioned by the gentleman from Wyoming. I have to seriously question what direction you are taking here. I appeal to the Members of the House to balance the need for energy against the need to preserve our Constitution, against the need to preserve State and local laws and the need to preserve the rights of the individual citizens we represent. I represent nearly 600,000 citizens of the State of Maryland who need energy just as much as everyone else, but I must say that leads me to be very cautious in supporting any legislation that would denigrate their rights as citizens of the State of Maryland and of the United States.

The CHAIRMAN. The time of the gentleman from Maryland has expired.

Mr. DINGELL. Mr. Chairman, I yield one additional minute to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I thank the gentleman for yielding. I share the concerns of the gentleman, which is one of the reasons that the Commerce Committee bill was drawn in the fashion as it has been drawn; that is, to afford the Board no powers other than to make recommendations to the President, to afford the President no powers except to make a recommendation to the Congress, and then to see to it that the Congress, through a two-House approval, makes the decision under a process which permits any single Member to force that measure on to the floor for a congressional decisionmaking process.

I wonder if that would assuage the gentleman's feelings.

Mr. BAUMAN. I am willing to listen to the debate and see what happens to the Santini-Lujan amendment. The Udall substitute appears to me to meet the concern that I express, but I also have to say that the people I see here today, the liberals of this House who usually want all the power to go to the Federal Government, have never been concerned before about any increase of any Federal agency's power, and I welcome their new forward concern about too much Government power.

Mr. UDALL. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. WOLPE).

Mr. WOLPE. Mr. Chairman, I rise in opposition to the Commerce Committee bill.

On July 16 the President urged the creation of an "Energy Mobilization Board" as a principal part of his program to reduce U.S. oil imports by 4.5 million barrels per day by 1990. The administration is counting on the production of synthetic fuels to reduce our imports by 1.5 million barrels per day. At the same time, the administration only expects energy conservation to reduce oil imports by 750,000 barrels per day in 1990. This is in sharp contrast with the conclusions of Harvard Business School, which has found that we could cut oil imports by 5 million barrels per day by 1990 by embarking upon a massive energy conservation program.

Before we act upon this measure, I submit that we must consider the larger question: Where is the administration's energy policy leading us?

While I strongly believe that there is an urgent need to reform the regulatory process to develop more efficient licensing procedures for the construction of vital pipeline and refinery projects, the creation of a powerful Energy Mobilization Board would not even require our attention if we were committed to the effective conservation of energy. We would not be considering this legislation if we were committed to industrial cogeneration, a serious residential and commercial conservation effort, and the development of more efficient automobile engines.

In addition, a successful energy conservation program would not depend upon the creation of a Federal body to preempt the authority of State and local government. It is obvious that the President's crash program to develop synthetic fuels cannot even get off the ground without a vast expansion of Federal power. In this connection, I wish to associate myself fully with the observations of the gentleman from Maryland with respect to the serious constitutional questions at issue. This legislation would simply not be necessary if we were not embarking upon a premature commitment to the development of highly questionable synthetic fuel technologies long before we understand their costs and environmental consequences.

The creation of an Energy Mobilization Board is unfortunately consistent with the often-refuted policies of the past which were based upon the assumption that "Washington knows best." I would submit that the American people know better. I strongly believe that we must make a concerted effort to increase, not diminish, the role of State and local government in seeking solutions to our energy problems. We should be striving to form an effective partnership with State and local government—not preempting their authority.

I am convinced that by involving individuals, small business, local and State governments—in other words, tapping the ingenuity of the American people—we can begin to find creative solutions to our Nation's energy problems.

□ 1130

What we ought to be doing at this time is developing a comprehensive, coherent, energy policy, not trying to find a quick fix that is going to represent, in my judgment, a massive subsidy to private industry that will be ultimately far more costly to the American taxpayer than a sound energy conservation program that could displace petroleum far more rapidly, more efficiently, and more cheaply between now and 1990.

Mr. UDALL. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, I hope I do not make my friend, the gentleman from Maryland, uncomfortable, but he made a darned good speech and I want to associate myself with most of what he said. In the bills and laws that have come out of our committee for strip mining and surface mining I think he makes a critically important point. Are we going to give someone, an unelected bureaucrat down at an agency, the power to override what the people of Maryland, Arizona, and Colorado want to do? That is one of the key features here. They are not suggesting that we proceed in an orderly way to pass our laws; they are saying let us do it in a crisis panic attitude, and I object to it. Too often in this busy world in a time of crisis we grasp what is perfect or insist on what is perfect and lose what is good.

I talked to the president of a cooper company who said, "For $10 million we cleaned out 97 percent of the pollution that goes up that stack, but it will not take $10 million to get that last 3 percent; it will take $100 million to get it." I think there are times when we develop what I call a zero defect syndrome. We are going to clean up every project that can have any kind of impact. Are we going to be delayed by every project or not that is going to be on the track? My point is let us get an expediter to function, have someone there to get the railroad cars, get the aluminium, and get whatever we need for the energy project, to cut through the redtape, to bang heads together and get people to sit down and discuss it and shorten the time involved.

Let us not have five environmental impact statements when we can have one. Let us combine hearings and have two or three at one time. But we spend all of this time debating not the good that is going to come from the bill; we spend most of our time debating on how we are going to enforce it, in those rare situations where some bureaucrat or Governor will not say "Yes" or will not say "No," or sign off one way or the other on the project. There are two approaches to this problem. There is the "ride roughshod" approach as my friend, the gentleman from Nebraska, describes it.

We are going to run over everybody who gets in the way, State laws, local laws, referendums, decisions passed by the people. We are going to make sure nothing is going to get in the way. There is no limit on the projects. We are going to have as many fast track projects as we can get. But if everybody is on the fast track, nobody is on the fast track. They are worrying about clogging the courts with litigation. We are worried about clogging the Congress. They are going to have us voting here for the next 10 years on everything. The Congress is going to be the arbiter of whether an LNG plant is properly designed. We are going to be spending all this time voting on new energy projects.

We say let us shorten the time. Let us shorten the procedure. Let us put things together and not try in this fashion to piecemeal repeal these laws that took us years to get on the books. So let us stick with the procedure and approve that which the good solid conservatives and States righters have done in cosponsoring our bill. Let us get the job done. We rely on court proceedings in a very narrow range. We limit the time to file a court proceeding. We limit the grounds on which a case can proceed. We believe the way to get America off dead center on these energy projects is the way I propose, and I hope the Members vote for the Udall-Clausen-Wirth bill and reject the Commerce Committee approach, even with the Santini-Lujan amendment, which will not do as much good as its proponents believe. But we will talk about that as we get into the debate.

Mr. DINGELL. Mr. Chairman, I yield myself the remaining time I have.

Mr. Chairman, we have before us two bills, the first of which is a fast track bill. It is a bill that was reported by the Committee on Interstate and Foreign Commerce. If you will read the statement on the placard out there in the hall, in the lobby, you will find that the Commerce Committee bill is a fast track proposal.

If you will look at the bill offered by my good friend, the gentleman from Arizona (Mr. UDALL), not by the Committee on Interior and Insular Affairs, you will find that it is a slow track, or a sidetrack procedure. It is one which has two judicial reviews—the designation of the project and the final court review which takes place on the basis of the action of the board, all of which the administration says will take 7 years, 6 months.

The gentleman from Arizona (Mr. UDALL) complains about the fact that there would be too much congressional supervision under our bill, but the gentleman from Arizona is apparently unaware that every regulation that is issued by the Energy Mobilization Board, which he sponsors, must come to the Congress for a one-House veto—every single regulation, even technical changes in the regulations.

The difference between the Commerce Committee bill and the bill offered by the gentleman from Arizona (Mr. UDALL) is a very simple difference—the Commerce Committee bill gets you a decision in a quick, but careful manner. The slow track-sidetrack Udall proposal gets you endless court litigation in two different instances, plus congressional review. We felt that there ought not be a board which could rush about waiving laws, so we set up a very careful procedure, one of which says that the Board recommends to the President in full daylight, after having proceeded in daylight; then the President holds it on his desk for 30 days; then he rejects it or recommends it to the Congress with changes, if appropriate, and the Congress has 60 days in which to consider it.

The Board can do nothing; it is the Congress that makes the decision. That I think, is the important difference. The Udall proposal will take more time in judicial review alone, apart from the proceedings that antedate it, than did the entire Sohio case, and in instances of these priority energy projects we must recognize that time is the determining factor as to whether the energy project goes forward. No one is going to come in for an energy project designation that is going to involve him in 7 years of litigation under the Udall bill.

I urge the Congress to adopt the Commerce Committee bill.

● Mr. HARRIS. Mr. Chairman, America's most critical problem today is inflation. But the principal cause of double-digit inflation is the energy crisis. We must increase our energy supplies through domestic production. To do that we must expedite the consideration of domestic energy projects.

I am a cosponsor of the Udall-Clausen-Wirth energy mobilization legislation, H.R. 5660. This bill is designed to speed consideration of important domestic energy proposals by eliminating redtape and duplicative procedures that delay approval or disapproval of energy projects. That point is crucial—energy mobilization must not be used as a blank check for the energy industry. It must be designed to expedite decisions so that we can get on with the good projects, and dispose of the bad.

The bill reported by the House committee failed to meet this test. The commerce bill provided a greased path to the energy industry. It ran roughshod over State and local governments and flaunted the careful environmental requirements which have been enacted in recent years.

The Udall-Clausen-Wirth bill on the other hand, preserves the integrity of State and local laws. It strengthens the partnership between different levels of government by preserving the authority and prerogative of those governments. And equally important, the Udall-Clausen-Wirth bill does not lose sight of those environmental requirements of the National Environmental Policy Act and the Clean Air Act. Under the pressure of inflation and energy problems, some would do away with these environmental protections. But the requirements of Federal, State, and local laws are not frivolous. Proper evaluation of the environmental and economic efficacy of energy proposals is essential.

The question of air pollution, water supply and water quality, chemical byproducts, projects siting, and financing are key questions. They cannot be ignored or bypassed. The Udall-Clausen-Wirth bill insures that all of these factors are considered, but in a timely fashion.

The Commerce bill provides for an unlimited number of priority projects. Under the Commerce definitions, every energy project could be granted priority status. The Udall bill on the other hand, places a reasonable limit on the number of priority projects. Fast tracking should not become a routine procedure. It should be used with discretion and commonsense. Otherwise, the fast track will be clogged by every proposal coming under the magic label of "energy."

Finally, the Udall bill has a sunset provision building in a review of EMB operations. That way, when the EMB comes up for review, Congress will have the information it needs for an intelligent decision.

Enactment of this energy mobilization legislation is an important step in resolving the energy crisis. But it must not be allowed to create more problems than it solves. We can—we must—solve our energy problems without destroying our environment or wreaking havoc on the family budget.

I am pleased to cosponsor the Udall-Clausen-Wirth bill to create an effective Energy Mobilization Board. I urge my colleagues to support H.R. 5660.●

● Mr. FRENZEL. Mr. Chairman, like most Members, I want to help speed the completion of major energy projects. But like most of my constituents, I am not wholly persuaded that any new Federal agency is really going to reduce redtape. An agency to cut other agencies' redtape is reminiscent of a previous proposal for a new agency to regulate regulatory agencies which do not regulate properly.

Based on the record of Federal agency delays, of usurpation of lawmaking authority, and of general incompetence, a healthy scepticism about a new agency is a normal reaction.

The EMB versions now pending seem to me to be an excuse for, or an alternative to, the President managing the bureaucracy effectively. There are no significant powers in any of these bills that are not available to the President or the Congress now. The President can force agencies to make timely decisions right now. He can recommend changes in laws to Congress now. Congress can change laws right now.

Of the versions, the Udall amendment seems to me to be more apt to prolong decisionmaking rather than speeding it up. The appeals process is endless. The opportunities for litigation, both serious and frivolous, would be expanded.

The Commerce Committee bill as amended by the Santini-Lujan amendment is clearly superior.

I will vote for this bill if the the Udall amendment is rejected, but I do so without real enthusiasm. Our President says he needs it, so I will help him get it. I doubt it will help much, but the possibilities for positive results would seem to outweigh those for a negative outcome.●

● Mrs. SCHROEDER. Mr. Chairman, the House is considering legislation to establish an Energy Mobilization Board to regulate Federal, State, and local agency consideration of proposed nonnuclear energy projects. I have serious reservations about the creation of this Board. One of my major concerns is that cutting redtape may in reality become the gutting of carefully drafted Federal and States laws designed to balance our energy needs with our need to protect the public health and safety and the quality of the environment. My concern in this area is increased by the fact that Colorado could be the site of "fast track" synthetic fuel projects with potentially disastrous impacts on health and the Rocky Mountain environment.

For these reasons, I urge my colleagues to join me in supporting the Udall-Clausen-Wirth substitute. The substitute is a carefully designed bill which will provide the Board with the power it needs to insure that agencies do not delay unnecessarily in applying substantive standards to proposed facilities. If an agency falls behind in the decisionmaking timetable established by the Board, the Board can call upon the full powers of the Federal courts to enforce the schedule. Unlike the approach taken by the Commerce Committee bill and the Santini-Lujan amendment, however, the Udall-Clausen-Wirth substitute is not based on the preemption of Federal, State, and local agency prerogatives or the waiver of Federal and State law.

Throughout the debate on this legislation, both in the House and in the Senate, it has been suggested that waivers of the Clean Air Act are necessary for the development of major new energy facilities. It is in this light that I commend to my colleagues a recent internal study on prevention of significant deterioration (PSD) permits by region VIII of the Environmental Protection Agency. The EPA is responsible for issuing PSD permits for energy facilities under the Clean Air Act. The study shows that EPA region VIII has always processed these permits within 12 months of receiving a completed application and that the major cause of delay in such permitting has been incomplete or otherwise inadequate applications. Moreover, region VIII has recently established a program to eliminate or minimize this and other causes of delay in permit processing.

Fortunately, the drafters of the Udall-Clausen-Wirth substitute recognize that application problems are often major causes of delay in agency permitting and have included two provisions which will go a long way toward preventing this type of delay. Section 204(d) provides that in considering whether to designate a project as a priority energy project—

> (t)he Board shall encourage prospective applicants for Priority Energy Projects to file applications for any necessary agency actions with the appropriate agencies as soon as possible in order that any eventual agency action may be expedited.

In addition, section 210(a) provides that the Board will not extend any time period on the Project Schedule applicaable to the applicant unless the Board determines that the applicant "has exercised all due diligence in attempting to comply with the Schedule and is still unable to comply."

I urge my colleagues to insure that preemption of Federal and State government prerogatives or the gutting of laws not be sanctioned to correct a problem based largely upon the refusal of energy project applicants to supply agencies with adequate information in a timely fashion.●

● Mr. BEDELL. Mr. Chairman, the issue we are considering here today poses a tradeoff between expediting domestic energy production so that the United States can lessen its dependence on foreign sources of oil and loosening some of our environmental controls in order to achieve this goal. With most forms of synthetic fuel production, in fact, we do not even really know at this point exactly what environmental costs will be incurred. However, I would like to point out that this is not true for all synthetic sources of energy. What I call the synthetic fuel, alcohol, poses no such threat to the environment, and yet it does greatly alleviate our dependence on OPEC oil without the significant leadtime problems inherent in many other energy programs. Therefore, I would like to urge that as we consider this so-called fast-track legislation, our attention encompass not only massive investment projects such as oil shale and coal gasification, but that attention also be given to energy projects that would produce alcohol from renewable resources.

Not only does the actual production of alcohol from renewable resources not pose any significant environmental threats, its use also is environmentally benign. In its most common use, gasohol, a mixture of 90 percent gasoline and 10 percent alcohol, it is actually known to cause a net reduction of emissions. Mr. Chairman, I raise this issue because I think it is important to emphasize, as a cosponsor of the Udall-Clausen-Wirth bill, that the legislation we are considering here today does not mean that we have to sacrifice the environment in order to alleviate our current energy problems. We should not approach this problem as an either/or issue of either having development of domestic energy sources despite the possible environmental costs or of having a liveable environment. There are solutions, such as the one I have mentioned, where we can have both.

In some ways, it can be argued that alcohol produced from such diverse renewable sources as agricultural commodities, forestry residues, and municipal wastes represents a symbiotic relationship between energy production needs and environmental protection. Indeed, once the technology for cellulose conversion becomes commercialized, this country will actually be able to produce energy while, at the same time, it rids itself of wastes that now pose substantial social, economic, and environmental costs.

However, Mr. Chairman, I should clarify here that alcohol fuel production is not a panacea for our energy problem. What we need is a wide range of energy programs which each contribute to our domestic supply of energy. In this sense, alcohol production, due to its very short leadtime advantages and its environmental benigness, deserves our support.●

● Mr. EDWARDS of California. Mr. Chairman, I want to associate myself with the supporters of the Udall-Clausen-Wirth substitute to the Commerce Committee's energy priority legislation of 1979. I would have preferred to have this legislation referred to the Judiciary Committee for careful consideration of each of the possible constitutional problems which a fast-track Energy Mobilization Board presents. Unfortunately, the frenzy on Capitol Hill over the production of synthetic fuels will not allow for a careful, diligent, and judicious review of all aspects of this new EMB. Faced with this reality that some form of an EMB will be approved by the House, I applaud the work of Messrs. UDALL, CLAUSEN, and WIRTH for their efforts to keep the EMB within the bounds of our Constitution.

Several editorials have appeared in our major newspapers in the last month which describe a scenario that could occur under the Commerce Committee bill. The astonishing idea of having an Energy Board which can waive our environmental laws, our civil rights laws, and countless other Federal laws all in the name of fast-track energy production is bewildering. I ask my colleagues, does this concept really sound like a provision of democratic government?

Our forefathers sat down two centuries ago and designed a Constitution that has served us very well. They envisioned a balance of Federal, State, and local laws to coordinate a symphony of governing interests and values. Our court system was instituted to interpret these various laws which were enacted by this Congress and the many State houses throughout the new Nation. Careful guarantees were made in order to protect each and every citizen's rights through the due process of law.

Can my colleagues envision any agency of the Federal Government having the right to work outside the constitutional framework of our present law and our court system? Imagine a Commerce Department that decides to waive all our interstate transportation laws. What would my colleagues from the Midwest do if no airplanes landed in their home States, and all trains and trucks whistled straight through their districts? Picture, if you can, a Department of Labor with the power to waive all substantive and procedural laws throughout the land. All bargaining contracts with our labor unions could immediately halt. All mine safety and other protective laws for American workers could be waived, all in the name of more production for America.

In passing this legislation to fast-track energy development, we open the doors for more fast-track types of projects, all with the specific and heralded purpose of making the world a better place—overnight! There is no quick and easy path in a democratic society such as ours to solve an energy shortage that has been building for years. I urge my colleagues not to tear apart the Constitution by passing this ill-advised legislation reported by the Commerce Committee.●

● Mr. RUDD. Mr. Chairman, it is not without reservation that I support the establishment of an Energy Mobilization Board.

I share the concerns of many of my colleagues that a preferable course of action would be for Congress to undertake a thorough analysis of the existing Federal laws which have obstructed critical energy related projects throughout the United States.

Especially close examination should be focused on the Department of Energy and the Environmental Protection Agency, two overly restrictive bureaucracies which have contributed in large measure to our energy problems through their proliferation of confusing and counterproductive rules and regulations. Indeed, it occurs to me that our citizens would probably have had more dependable energy supplies and simultaneously saved a great deal of their tax dollars if Congress had never established these costly bureaucracies in the first place.

Instead, we are establishing a new Federal entity to overcome the redtape and procedural delays created by these and other Federal agencies.

I am optimistic that we have provided a prudent degree of authority for the Board to act expeditiously and wisely in expediting urgently needed energy projects. I believe that the gravity of our present energy situation compels us to make this good faith effort in the national interest. The final version of the bill is a reasonable and workable approach.

There are approximately three outcomes which may result from the establishment of an Energy Mobilization Board.

The first possibility is that the Board will be able to provide the essential leadership and coordinated effort to encourage the construction of energy-related plants, pipelines, et cetera, which are needed for our Nation's future energy independence from expensive and unstable foreign supplies.

It is with the fervent hope that this will be the eventual outcome of our action today that I am supporting this legislation. I believe the House has added appropriate safeguards to prevent the Board from infringing on the legitimate prerogatives of the individual States and yet sufficient authority to cut through the mounds of Federal redtape which have so seriously impeded energy development in the past.

Given the present energy project slowdowns, I believe that it is imperative for Congress to give this "fast track" concept a chance to work.

The second scenario would be one in which the Energy Mobilization Board simply evolves into another deadweight agency in the energy development process and neither helps nor hinders the timetables for new energy projects.

The third and most disturbing possibility is that the Board will itself prove counterproductive by perpetuating and extending the very delays it is being created to eliminate. It could become an energy immobilization board.

I am concerned that without adequate congresisonal oversight, the second or third scenarios could easily develop. Our responsibility is only beginning by establishing this agency. We must be viligant to see that it will get the job done which needs to be done.

If, however, the Board fails to accomplish congressional objectives, I will be among the first to urge reconsideration of the "fast track" concept and the elimination of the Board. The bill insures congressional review by providing automatic termination of the Board in 1985 unless specifically reauthorized by Congress.

I hope that adoption of this bill will not deter the House from undertaking the review of existing laws which themselves have proven to be such impediments to efficient energy development. Nor should it ease congressional conscience that our energy problems have been solved. We must continue to work to establish policies which will encourage adequate energy supplies for our citizens in the years ahead. Hopefully, this is a significant step in that direction.●

Mr. BROYHILL. Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. All time having expired, the Chair will read the portions of the rule which will guide the Chair regarding the amendment process.

Pursuant to the rule, immediately after the enacting clause of the bill is read it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill, which shall be considered as having been read. It shall be in order to consider the text of H.R. 5660 if offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute, and said substitute if offered shall be considered as having been read. No amendment to said amendment or to said substitute shall be in order except pro forma amendments for the purpose of debate and germane amendments printed in the CONGRESSIONAL RECORD by October 29, 1979.

The Clerk will read the enacting clause.

Mr. BROWN of Ohio. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 617]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bonker
Bowen
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rostenkowski
Roth
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

□ 1150

The CHAIRMAN. Three hundred and seventy-nine Members have answered to their names, a quorum is present, and the Committee will resume its business.

The Clerk will read the enacting clause.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled,

The CHAIRMAN. The Clerk will designate the Committee amendment in the nature of a substitute:

The Committee amendment in the nature of a substitute reads as follows:

Page 2, line 3, strike all after the enacting clause and insert beginning on page 27, line 3, an amendment in the nature of a substitute offered by the Committee on Interstate and Foreign Commerce:

That (a) title I of the Energy Policy and Conservation Act (42 U.S.C. 6201 and following) is amended by adding the following new part at the end thereof:

"PART C—PRIORITY ENERGY PROJECTS

"SHORT TITLE

"SEC. 171. This part may be cited as the "Priority Energy Project Act of 1979".

"PURPOSES

"SEC. 172. The purposes of this part are to exercise the congressional authority under the Constitution to regulate interstate commerce by—

"(1) providing a means to designate certain nonnuclear energy conservation and production projects, other than energy research and demonstration projects, the prompt implementation of which is in the national interest; and

"(2) establishing coordinated schedules for the expeditious making of Federal, State, local, and other governmental decisions, including judicial review thereof, respecting such designated projects, consistent with other applicable provisions of law, and establishing certain other procedures regarding such designated projects.

"DEFINITIONS

"SEC. 173. As used in this part, the term—

"(1) 'Agency' means a Federal agency or an agency or instrumentality of a State or local government or of a special governmental authority.

"(2) 'Agency decision' means any decision required to be made, or any other action required to be taken, by any agency with respect to any Priority Energy Project.

"(3) 'Board' means the Energy Mobilization Board established pursuant to section 174.

"(4) 'Energy project' means any project or device to be used, or activity to be carried out, by any person in connection with the exploration for, the development, transportation, production, commercialization of, or the conservation or efficiency in the use of, any form of energy. Such term includes any equipment, building, mine, well, rig, pipeline, transmission line, processing project transportation-related device, manufacturing project, or installation or any combination thereof to be used for such purposes.

"(5) 'Federal agency' means an executive agency as defined in section 105 of title 5 of the United States Code, the departments described in section 102 of such title 5, and the Executive Office of the President.

"(6) 'Person' means any individual, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust, estate, or any entity organized for a common business purpose, any Federal agency, any agency or instrumentality of a State or local government, or a special governmental authority.

"(7) 'Priority Energy Project' means a proposed energy project which is designated pursuant to section 177 of this part.

"(8) 'Special governmental authority' means an interstate or regional authority or an Indian tribe.

"(9) 'State' means any of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"ENERGY MOBILIZATION BOARD; ESTABLISHMENT AND AUTHORITY

"SEC. 174. (a) The President is authorized to establish for purposes of this part an Energy Mobilization Board to consist of five members appointed by the President, by and with the advice and consent of the Senate, from among persons who are specially qualified by reason of their education, training, or experience to carry out the functions of the Board. Such members shall serve at the pleasure of the President. One member of the Board shall be designated Chairman by the President.

"(b) Members of the Board, other than the Chairman, shall be entitled to receive compensation at the rate prescribed for level IV of the Executive Schedule. The Chairman shall be entitled to receive compensation at the rate prescribed for level III of the Executive Schedule. While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code. The Board shall have a General Counsel appointed by the President, by and with the advice and consent of the Senate, who shall be entitled to receive compensation at the rate prescribed for level V of the Executive Schedule.

"(c)(1) The Chairman shall have the power to appoint and fix the compensation of an Executive Director and such additional personnel as he deems necessary to carry out the functions of the Board.

"(2) Upon request of the Chairman, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Board to assist the Board in carrying out its functions.

"(3) The Chairman may procure temporary and intermittent services for the Board under section 3109(b) of title 5 of the United States Code.

"(4) Consistent with applicable provisions of law, the Administrator of General Services shall provide to the Board on a reimbursable basis such facilities and administrative support services as the Chairman may request.

"(d)(1) The Board may hold such hearings, sit and act at such times and places, take such testimony and receive such evidence, promulgate such regulations and issue such orders, as may be necessary to carry out its functions under this part. The Board may institute, or participate in, such court or agency proceedings as may be necessary to carry out its functions under this part. For purposes of such regulations, the provisions of section 501 of the Department of Energy Organization Act shall apply to the Board in the same manner as such provisions apply to the Secretary of Energy, and the provisions of section 552b of title 5 of the United States Code shall apply to the Board notwithstanding any other provision of law.

"(2)(A) The Board may issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under the authority of the Board. Such attendance of witnesses and the production of such evidence may be required from any place within any State at any designated place of hearing within any State.

"(B) If a person issued a subpena under this paragraph refuses to obey such subpena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may (upon application by the Board) order such person to appear before the Board to produce evidence or to give testimony relating to the matter concerned. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process of any court to which application may be made under this paragraph may be served in the judicial district in which the person required to be served resides or may be found.

"(C) The subpenas of the Board shall be served in the manner provided for subpenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

"(e) Whenever the Board submits to the President or the Office of Management and Budget, any legislative recommendation or testimony, or comments on any legislation, prepared for submission to the Congress, the Board shall concurrently transmit a copy thereof to the Committee on Energy and Natural Resources of the United States Senate and to the Committees on Interior and Insular Affairs and on Interstate and Foreign Commerce of the United States House of Representatives.

"(f) Upon the request of the Congress or any committee or subcommittee thereof, the Board shall promptly provide to the Congress, or to such committee or subcommittee, any records, reports, documents, materials, and other information which is in the possession of the Board or any of its employees and which is requested by the Congress or by such committee or subcommittee. The Board shall keep the Committee on Energy and Natural Resources of the United States Senate and the Committees on Interior and Insular Affairs and on Interstate and Foreign Commerce of the United States House of Representatives fully and currently informed concerning its activities. The Board shall submit an annual report to such committees concerning the actions taken, or to be taken, under this Act. The report shall contain such other information relating to energy projects as the Board deems appropriate.

"CERTAIN PROJECTS NOT COVERED

"SEC. 175. Nothing in this part shall apply to any project related to the production of nuclear energy, including any facility which is required to be licensed under the Atomic Energy Act of 1954 or which is otherwise subject to the authority of the Nuclear Regulatory Commission under title II of the Energy Reorganization Act of 1974, or to any project which is, or may be, approved under the provisions of title V of the Public Utility Regulatory Policies Act of 1978 or under the provisions of the Revised Statutes, title 90, page 2903.

"AUTHORITY TO APPLY FOR PRIORITY STATUS

"SEC. 176. (a) The Board shall promulgate regulations establishing procedures and criteria for the submission to the Board, and for the consideration by the Board, of applications for an order designating an energy project as a Priority Energy Project under this part. Such procedures and criteria shall require applications to include such detailed information as the Board deems necessary to—

"(1) enable it to make such a designation under this part,

"(2) identify each agency required to make an agency decision with respect to such project,

"(3) enable such agencies to identify the agency decisions which they are required to make with respect to such project, and

"(4) enable the Board to establish a Project Decision Schedule for the applicant and for such agencies.

"(b) The Board shall require any person making an application under this section to file with the Board such additional information as it deems necessary, including—

"(1) an adequate design proposal for the project;

"(2) economic data on the costs and benefits of the project; and

"(3) an analysis of the environmental impacts of the project, including an analysis of mitigating measures which may be taken to minimize any environmental, health, or safety hazards.

"(c) An application for an order designating an energy project as a Priority Energy Project may be submitted to the Board by any person in accordance with the procedures and criteria established under subsection (a).

"(d) Promptly following receipt of an application filed under this section, the Board shall publish notice of such filing, together with a summary description of the application, in the Federal Register and shall notify the appropriate agencies and the Senate Committee on Energy and Natural Resources and the House Committees on Interstate and Foreign Commerce and on Interior and Insular Affairs. The Board shall afford forty-five days after publication of notice in the Federal Register for such agencies and other interested persons to submit written comments for the Board's consideration.

"DESIGNATION OF PRIORITY ENERGY PROJECTS

"SEC. 177. (a) Not later than forty-five days after expiration of the comment period under section 176(d) with respect to any application under section 176, the Board shall—

"(1) issue an order in accordance with this part designating the energy project with respect to which such application was submitted as a Priority Energy Project if it determines that such project is of sufficient national interest for such project to be so designated, or

"(2) refuse to issue such an order.

"(b) The Board shall publish any order making a designation under subsection (a) in the Federal Register and shall provide a copy of such order to the Senate Committee on Energy and Natural Resources and the House Committees on Interstate and Foreign Commerce and on Interior and Insular Affairs.

"(c) In determining whether or not to make a designation under subsection (a), the Board shall consider—

"(1) the extent to which the energy project would reduce the Nation's dependence upon imported oil or upon other nonrenewable resources;

"(2) the magnitude of any economic, social, and environmental impacts and costs associated with the energy project in relation to the impacts and costs of alternatives to such project;

"(3) the extent to which the energy project would make use of renewable energy resources;

"(4) the extent to which the energy project would conserve energy;

"(5) the extent to which the energy project would contribute to the development of new production or conservation technologies and techniques;

"(6) the time that would normally be required to obtain all necessary agency decisions;

"(7) the adverse impacts that would result from—

"(i) the designation of the energy project as a Priority Energy Project, or

"(ii) any delay in completion of the energy project which would result from the failure to make such a designation;

"(8) the extent to which the energy project would impinge upon presently available or future water resources;

"(9) the comments received concerning the energy project;

"(10) the regions of the country that will be most heavily impacted by the energy project as well as most benefited by the project;

"(11) the availability of significant economic, environmental, or technical data; and

"(12) the anticipated effects upon competition in the energy industry, and the extent to which such designation will create competitive inequities among applicants.

In the case of any order designating a project under this section, the order shall contain a statement of the basis on which such designation was made.

"STATE PARTICIPATION

"SEC. 178. Upon designation of any Priority Energy Project, the Board shall promptly notify the Governor of each State in which any portion of such Project is proposed to be located, and each such Governor may appoint a nonvoting Member to serve on the Board to participate only in decisions of the Board respecting such Project, including decisions relating to the Project Decision Schedule. The provisions of section 174(b) shall not apply to the Member of the Board appointed under this section.

"COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

"SEC. 179. Promptly following designation of an energy project as a Priority Energy Project, and before establishment of a Project Decision Schedule under section 182, the Council on Environmental Quality shall determine whether any Federal action relating to the Priority Energy Project will be a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969. If the Council determines that any such action relating to a Priority Energy Project will be a major Federal action, the Council shall designate the lead agency for purposes of complying with the National Environmental Policy Act of 1969. If the Council on Environmental Quality fails to make any determination or designation (or both) required under this section before establishment of the Project Decision Schedule, the Board may make such determination or designation (or both).

"EXTENSION OF DEADLINES

"SEC. 180. The Board may extend the time for receiving comments under section 176(d), the time for making its determination and publication under section 177 in the case of any application for designation of any energy project as a Priority Energy Project, the time for agencies to transmit information under section 181, and the time for publication by the Board under section 182(a) of a Project Decision Schedule. Any such extension shall be consistent with the purposes of this part and shall be for only such period as may be necessary, as determined by the Board.

"AGENCIES TO TRANSMIT INFORMATION

"SEC. 181. Not later than thirty days after notice appears in the Federal Register of an order of designating an energy project as a Priority Energy Project, each agency having authority to make any agency decision with respect to such Project or any part thereof, shall transmit to the Board—

"(1) a compilation of all significant actions required to be taken by such agency and by the applicant before such decision can be made and a summary of the procedural requirements applicable to such actions and to the making of such decisions;

"(2) a tentative schedule for completing such actions and making such decisions;

"(3) a statement of the amount of funds and personnel available to the agency to take such actions and make such decisions and of the effect that taking such actions and making such decisions will have on other actions required to be taken by the agency, together with a finding as to whether or not such funds and personnel are adequate for such purposes; and

"(4) such other information as the Board may require.

Notwithstanding section 557(d) of title 5 of the United States Code, or any other provision of law relating to ex parte communications, any officer or employee of an agency to which this section applies may provide information to the Board and consult with the Board relating to any Priority Energy Project at any time and in any manner.

"PROJECT DECISION SCHEDULE

"SEC. 182. (a) Not later than thirty days after agencies are required to transmit information under section 181 with respect to any Priority Energy Project, the Board, in consultation with the appropriate agencies, shall publish in the Federal Register a Project Decision Schedule for all agency decisions relating to such Project. The Project Decision Schedule shall clearly identify the order in which such decisions must be made by each agency concerning the Project and shall clearly identify the deadlines applicable to such decisions. The Project Decision Schedule may also suggest concurrent review of applications and joint hearings by such agencies.

"(b)(1) The Project Decision Schedule shall be consistent with the tentative schedules transmitted to the Board under section 181 unless the Board determines that a different schedule is essential in order to expedite and coordinate agency review, and published, together with the Project Decision Schedule, its reasons for such determination.

"(2) Whenever the Project Decision Schedule is not consistent with any schedule which would otherwise apply, such Project Decision Schedule shall apply in lieu of such otherwise applicable schedule and shall be binding on the agency and on all other persons to which the Schedule applies.

"(3) In the case of agency decision or action subject to the Project Decision Schedule, the agency may modify any schedule applicable to such action or decision (including a schedule relating to actions of any applicant or other person and including any schedule established by statute) where the agency determines that such modification will facilitate compliance by the agency with the Project Decision Schedule. No such agency may modify the Project Decision Schedule pursuant to the authority contained in this paragraph.

"(4) The Project Decision Schedule, and any other schedule which is modified under paragraph (3), shall be reasonably designed to insure adequate consideration of all matters concerning such Project under applicable law and to insure adequate participation by parties in applicable proceedings.

"(5) Any agency may consolidate, to the maximum extent practicable, its proceedings respecting actions and decisions which are subject to the Project Decision Schedule with the proceedings of other agencies respecting actions and decisions which are also subject to such Schedule.

"(c) In consultation with any person responsible for—

"(1) filing on behalf of a Priority Energy Project any application or other petition for an agency decision, or

"(2) taking any other action on behalf of such project which is necessary before such agency decision may be made

and with appropriate agencies, the Board shall include in the Project Decision Schedule a schedule containing deadlines for submissions by such person for any license, permit, or other approval which must be obtained in connection with the project. The schedule shall indicate the date on which any such filing shall be made and the materials which must be submitted.

"(d) Upon the petition of any agency to which the Project Decision Schedule applies, or on its own motion, the Board may modify the Project Decision Schedule at any time. No extension of any time period applicable to any agency under such Schedule may be granted unless the Board determines that—

"(1) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule; or

"(2) it would be impracticable for the agency to reach a decision or to complete the required action within the specified time, taking into account the personnel and funds available to the agency for complying with such Schedule.

"MONITORING OF COMPLIANCE BY BOARD

"SEC. 183. The Board shall monitor compliance with the Project Decision Schedule by the agencies and persons to whom the Schedule applies and may require such agencies and persons to submit to the Board such information regarding compliance with such Schedule as the Board deems necessary and appropriate for such purposes. If the Board determines that a Priority Energy Project is being delayed or threatened with delay, the Board shall determine the reason for such delay or threatened delay and notify the appropriate agencies and other persons of its determination. Following such notification, the Board shall publish such reasons in the Federal Register, and may take such actions as it deems appropriate to bring such agency and other persons into compliance with the Project Decision Schedule. If the Board determines that any person responsible for—

"(1) filing on behalf of a Prior Energy Project any application or other petition for an agency decision, or

"(2) taking any other action on behalf of such Project which is necessary before such agency decision may be made,

has failed or refused to promptly file such application or petition or take such other action, the Board shall either revise such Project Decision Schedule or revoke the designation of such Priority Energy Project under section 177.

"AGENCY OBLIGATIONS NOT AFFECTED

"SEC. 184. (a)(1) Except as may otherwise be provided pursuant to the establishment or modification of a deadline or timetable by the Board under section 182 or pursuant to the modification of a schedule by an agency under 182(b)(3), the Project Decision Schedule and each agency decision and other action with respect to which a deadline or timetable is specified on the Project Decision Schedule shall be consistent with the statutory obligations applicable to the agencies governed by such Schedule.

"(2) Paragraph (1) shall be subject to section 185.

"(b) Except as permitted under the authorities referred to in subsection (a), nothing in this part shall—

"(1) affect the application to any energy project of any requirement established by, or pursuant to, Federal, State, or local law,

"(2) affect the basis on which any agency decision is made with respect to such a project, or

"(3) affect or influence the outcome of any such agency decision.

"(c) Nothing in this part shall be construed to affect the authority or independence of any independent Federal regulatory agency.

"WAIVERS OF FEDERAL, STATE, OR LOCAL LAW

"SEC. 185. (a)(1) If, after designation of a Priority Energy Project and before compliance with the Project Decision Schedule by the agencies to which such Schedule applies, the Board determines, after consultation with the agencies concerned, that any Federal, State, or local requirement presents a substantial procedural or substantial substantive impediment to the making of any agency decision in a manner which will permit the implementation of a Priority Energy Project according to the Project Decision Schedule, the Board may recommend to the President that such requirement be waived in whole or in part. The Board may also review any Federal, State, or local requirement enacted or promulgated after establishment of the Project Decision Schedule for any Priority Energy Project to determine if such requirement may present a substantial procedural or substantial substantive impediment to the implementation of the Project and, upon making such a determination, the Board may recommend to the President that such requirement be waived in whole or in part.

"(2) Any waiver recommended under this section may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived. Such waiver shall also include such terms and conditions as the Board, in consultation with the agencies responsible for the administration of the requirements proposed to be waived, deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver.

"(3) A recommendation under this subsection for the waiver of any requirement shall be published in the Federal Register, together with a statement of the reasons on which the recommendation is based. Any agency affected by such waiver and any other concerned person may submit views respecting such recommendation to the President and may make such views public during the thirty-day period specified in subsection (b).

"(b) Not earlier than thirty days after publication in the Federal Register of a recommendation for a waiver under subsection (a), the President may, if he determines a waiver to be in the national interest and that such a waiver would not unduly endanger the public health and safety, transmit such determination to the Congress together with a detailed identification of the requirement to be waived, a statement of the extent to which such waiver would apply, and a statement of the President's reasons for making such determination. Any waiver transmitted under this section may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived. Such waiver shall also include such terms and conditions as the President deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver. The President's transmittal under this section shall also set forth any differences between the waiver recommended by the Board and the waiver transmitted to the Congress.

"(c)(1) Except as provided in paragraph (3), any waiver with respect to which the President has made a determination which is transmitted to Congress under subsection (b) shall take effect at the expiration of the first period of sixty calendar days of continuous session of Congress after the date of its receipt by the Senate and House of Representatives unless, before the expiration of such sixty-day period, such determination is disapproved in the same manner as an energy action may be disapproved under section 551 of the Energy Policy and Conservation Act.

"(2) In applying the provisions of section 551 of the Energy Policy and Conservation Act to a determination under this subsection, any reference in such section 551 to an energy action shall be treated as a reference to a determination transmitted under this section, subsections (a), (c), (e), (f)(2)(A), and clauses (i) and (ii) of subsection (f)(5)(B) of such section shall not apply, any reference in such section 551 to five days shall be treated as a reference to thirty days, and any reference to a fifteen-calendar-day period shall be treated as a reference to a sixty-calendar-day period.

"(3) A determination transmitted under this section may take effect at any time subsequent to the date specified in paragraph (1) if such subsequent time is set forth in such determination.

"(c) The agencies responsible for the administration of any requirement waived under this section shall monitor compliance by the Project with the terms and conditions of such waiver, and such terms and conditions shall be enforced by such agencies in a manner consistent with their authorities pursuant to otherwise applicable law.

"PROHIBITION AGAINST WAIVER OF CERTAIN RIGHTS AND LAWS

"SEC. 186. (a) Nothing in this part shall authorize, or be construed to authorize, the Board or the President to alter any Federal, State, or local requirement, except to the extent a Schedule established or modified by the Board under section 182 contains a deadline or timetable which applies in lieu of an otherwise applicable deadline or timetable.

"(b) No recommendation may be made by the Board with respect to a waiver, no determination may be transmitted by the President with respect to a waiver, and no waiver may take effect under section 185, if such waiver would—

"(1) waive any Federal, State, or local requirement which relates to—

"(A) the rights, working conditions (including health and safety), compensation, or activities of workers or their representatives,

"(B) antitrust laws (as defined in section 3(1) of the Public Utilities Regulatory Policies Act of 1978),

"(C) criminal laws, or

"(D) civil rights laws;

"(2) waive any Federal, State, or local requirement which involves any primary air quality standard established under the Clean Air Act;

"(3) have the effect of impairing or abridging any right or rights of any person arising under the Constitution of the United States;

"(4) contravene any interstate compact, provision of State or local law, or Federal contract, relating to water rights or to the appropriation, delivery or use of water pursuant to such rights; or

"(5) have the effect of abridging or impairing the rights of any person under any provision of law to receive compensation from the owner or operator of any Priority Energy Project for loss of any property interest as a result of the construction or operation of such Project.

"(c) Notwithstanding any provision of this part, no requirement may be waived under this part with respect to any pipeline for the transportation of coal, except that the Board may impose deadlines for agency decisions with respect to such a pipeline which deadlines may be shorter than those which might otherwise apply and the Board may also require concurrent review of applications and consolidated or joint hearings by agencies in the case of agency decisions relating to such a pipeline.

"JUDICIAL REVIEW

"SEC. 187. (a)(1) A determination of the Board to designate or not to designate any energy project as a Priority Energy Project under section 177, the granting or denying of an extension under section 180, the establishment of a Project Division Schedule under section 182, and any action of the Boardffi to designate or not to designate any to judicial review, except as may be required by the Constitution of the United States.

"(2) The making of any waiver recommendation by the board or waiver determination by the President under section 185 shall not be subject to judicial review, except as required by the Constitution or as permitted under paragraph (3).

"(3) Any person may bring an action against the United States in the appropriate United States court of appeals not later than thirty days after the approval of a determination transmitted by the President to the Congress under section 185 requesting the court to enjoin or grant other appropriate relief with respect to any waiver approved pursuant to such determination if such waiver is inconsistent with any prohibition contained in section 186, and such court may grant such relief. In any such action, the expedited procedures set forth in subsection (b)(2) shall apply.

"(b)(1) Any action brought in any court of the United States for review of any final agency decision which is covered by a Project Decision Schedule may only be brought in the United States court of appeals for the circuit in which the Priority Energy Project concerned is, or is proposed to be, located and may only be brought within ninety days following the date on which notice is published that such decision has become final or within such shorter time period as may be required under other applicable law. Any such action shall be barred unless brought within the period specified under the preceding sentence.

"(2) The court shall assign any action referred to in paragraph (1) for hearing, and shall complete such hearing, at the earliest possible date. Such action shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at that time, shall be expedited in every way by such court, and shall be consolidated, to the greatest extent practicable, with other actions relating to the same Priority Energy Project which are brought in such court or in any other court of the United States. Any reviewing court shall also expedite and consolidate such review to the maximum extent practicable.

"(3) Nothing in this subsection shall be construed to affect the jurisdiction of any court of the United States or of any State or political subdivision thereof. Any agency decision with respect to which review could have been obtained under this subsection may not be subject to judicial review in any other proceeding.

"EFFECTIVE DATE

"SEC. 188. The Board shall promulgate regulations for carrying out its functions under this part (including regulations establishing procedures and criteria under section 176) not later than sixty days after the date on which all initial members of the Board have been confirmed by the United States Senate. No application may be submitted under this part for designation of any project as a Priority Energy Project before promulgation of such regulations.

"EXPIRATION OF AUTHORITY

"SEC. 189. The Board shall cease to exist, and the authority provided to the Board under this part, shall terminate, on September 30, 1985. Notwithstanding the previous sentence, any Project Decision Schedule established under this part for any Priority Energy Project prior to the expiration of such authority, and, to the extent practicable, the other provisions of this part applicable to such project, shall continue to be applicable to such project after September 30, 1985.

"AUTHORIZATION

"SEC. 190. There is authorized to be appropriated to the Board to carry out the provisions of this part not more than $2,000,000 for the fiscal year 1980, and not more than such sums as may be necessary for succeeding fiscal years, subject to annual authorizations.".

(b) The table of contents for such Act is amended by inserting after the item relating to section 166 the following:

"PART C—PRIORITY ENERGY PROJECTS

"Sec. 171. Short title.
"Sec. 172. Purposes.
"Sec. 173. Definitions.
"Sec. 174. Energy Mobilization Board; establishment and authority.
"Sec. 175. Certain projects not covered.
"Sec. 176. Authority to apply for priority status.
"Sec. 177. Designation of priority energy projects.
"Sec. 178. State participation.
"Sec. 179. Compliance with NEPA.

"Sec. 180. Extension of deadlines.
"Sec. 181. Agencies to transmit information.
"Sec. 182. Project decision schedule.
"Sec. 183. Monitoring of Compliance by Board.
"Sec. 184. Agency obligations not affected.
"Sec. 185. Waivers of Federal, State, or local law.
"Sec. 186. Prohibition against waiver of certain rights and laws.
"Sec. 187. Judicial review.
"Sec. 188. Effective Date.
"Sec. 189. Expiration of authority.
"Sec. 190. Authorization.".

AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

Mr. UDALL. Mr. Chairman, I offer an amendment as a substitute for the committee amendment in the nature of a substitute, which is printed in the RECORD and is in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The amendment reads as follows:

Amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute offered by the Committee on Interstate and Foreign Commerce:

TITLE I—FINDINGS, PURPOSES, AND DEFINITIONS

FINDINGS AND PURPOSES

SEC. 101. (a) The Congress finds that—

(1) the United States faces a severe energy shortage which has created a national emergency;

(2) this emergency endangers the national economy and the national defense;

(3) temporary measures are necessary to expedite decisionmaking on important energy projects and proposals;

(4) expeditious decisionmaking requires strict compliance with the time schedules and deadlines authorized by, and administered pursuant to, this Act; and

(5) delays in the exercise of the regulatory authorities of Federal, State, and local agencies relating to energy projects and proposals may exacerbate the national emergency and may constitute an undue burden on interstate commerce.

(b) The purpose of this Act is to provide for a coordinated, integrated, expedited, and simplified process for making Federal, State, and local agency decisions, and for carrying out other Federal, State, and local actions, which are required in connection with proposed nonnuclear energy projects where it is determined that the projects are of sufficient national interest to warrant such a process.

DEFINITIONS

SEC. 102. As used in this part, the term—

(1) "Agency" means a Federal agency or an agency or instrumentality of a State or local government or of a special governmental authority.

(2) "Agency action" means any decision required to be made, or any other action required to be taken, by any agency with respect to any Priority Energy Project.

(3) "Board" means the Energy Mobilization Board established pursuant to section 201.

(4) "Energy project" means any project or device to be used, or activity to be carried out, by any person in connection with the exploration for, the development, transportation, production, storage, commercialization of, or the conservation or efficiency in the use of, any form of energy. Such term includes any equipment, building, mine, well, rig, pipeline, transmission line, processing project, transportation-related device, manufacturing project, or installation or any combination thereof to be used for such purposes. Such term includes any such project, device, or activity which is to be used or carried out on Federal lands for such purposes and any such project, device, or activity located upon the public lands or which relies substantially upon fuels extracted from the public lands to be used for such purposes.

(5) "Federal agency" means an Executive agency as defined in section 105 of title 5 of the United States Code, the departments described in section 102 of such title 5, and the Executive Office of the President.

(6) "Person" means any individual, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust, estate, or any entity organized for a common business purpose, any Federal agency, any agency or instrumentality of a State or local government, or a special governmental authority.

(7) "Priority Energy Project" means an energy project, or a proposed energy project, which is designated pursuant to section 204 of this Act.

(8) "Special governmental authority" means an interstate or regional authority or an Indian tribe.

(9) "State" means any of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

TITLE II—PRIORITY PROJECTS

ENERGY MOBILIZATION BOARD; ESTABLISHMENT AND AUTHORITY

SEC. 201. (a) The President is authorized to establish for purposes of this Act an Energy Mobilization Board to consist of 5 members appointed by the President, by and with the advice and consent of the Senate, from among persons who are specially qualified by reason of their education, training, or experience to carry out the functions of the Board. Such members shall serve at the pleasure of the President. One member of the Board shall be designated by the President as the Chairman.

(b) Members of the Board, other than the Chairman, shall be entitled to receive compensation at the rate prescribed for level IV of the Executive Schedule. The Chairman shall be entitled to receive compensation at the rate prescribed for Level III of the Executive Schedule. While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code. The Board shall appoint a General Counsel who shall be entitled to receive compensation at the rate prescribed for level V of the Executive Schedule.

(c) (1) The Chairman shall have the power to appoint and fix the compensation of an Executive Director and such additional personnel, not to exceed 60 persons, as he deems necessary to carry out the functions of the Board.

(2) Upon request of the Chairman, the Secretary of Energy or the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Board to assist the Board in carrying out its functions.

(3) The Chairman may procure temporary and intermittent services for the Board under section 3109(b) of title 5 of the United States Code.

(4) Consistent with applicable provisions of law, the Administrator of General Services shall provide to the Board on a reimbursable basis such facilities and administrative support services as the Chairman may request.

(5) In the performance of their functions, the members, employees, or other personnel of the Board shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of the Department of Energy.

(d) (1) The Board may, for the purpose of carrying out its functions, hold such hearings, sit and act at such times and places, take such testimony and receive such evidence, promulgate such regulations and issue such orders as may be necessary to carry out its functions under this Act. The Board may institute, or participate in, such court or agency proceedings as may be necessary to carry out its functions under this Act. For purposes of such regulations, the provisions of section 501 of the Department of Energy Organization Act shall apply to the Board in the same manner as such provisions apply to the Secretary of Energy, and the provisions of section 552b of title 5 of the United States Code shall apply to the Board notwithstanding any other provision of law.

(2) (A) The Board may issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under the authority of the Board. Such attendance of witnesses and the production of such evidence may be required from any place within the United States at any designated place of hearing within the United States.

(B) If a person issued a subpena under this paragraph refuses to obey such subpena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may (upon application by the Board) order such person to appear before the Board to produce evidence or to give testimony relating to the matter concerned. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process of any court to which application may be made under this paragraph may be served in the judicial district in which the person required to be served resides or may be found.

(C) The subpenas of the Board shall be served in the manner provided for subpenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(e) Whenever the Board submits to the President or to the Office of Management and Budget any legislative recommendation or testimony, or comments on any legislation prepared for submission to the Congress, the Board shall concurrently transmit a copy thereof to the Committee on Energy and Natural Resources of the United States Senate and to the Committees on Interior and Insular Affairs and on Interstate and Foreign Commerce of the United States House of Representatives.

(f) Upon the request of the Congress or any committee or subcommittee thereof, the Board shall promptly provide to the Congress, or to such committee or subcommittee, any records, reports, documents, materials, and other information which is in the possession of the Board or any of its employees and which is requested by the Congress or by such committee or subcommittee. The Board shall keep the Committee on Energy and Natural Resources of the United States Senate and the Committees on Interior and Insular Affairs and on Interstate and Foreign Commerce of the United States House of Representatives fully informed concerning its activities and shall submit an annual report to the Congress at the end of each fiscal year concerning the actions taken or to be taken under this Act. Each such report shall, to the extent possible, contain the information described in section 220(b).

(g) (1) Regulations promulgated under

this section shall be submitted to both Houses of Congress on the same day and shall take effect at the expiration of 60 calendar days of continuous session of Congress thereafter unless, before the expiration of such 60-day period, such regulations are disapproved in the same manner as an energy action may be disapproved under section 551 of the Energy Policy and Conservation Act.

(2) In applying the provisions of section 551 of the Energy Policy and Conservation and Policy Act to a regulation under this subsection, any reference in such section 551 to an energy action shall be treated as a reference to a regulation transmitted under this section, subsections (a), (c)(2), and (f)(2)(B), and clauses (i) and (ii) of subsection (f)(5)(B) of such section shall not apply, any reference in such section to 5 days shall be treated as a reference to 15 days, and any reference to a 15-calendar-day period shall be treated as a reference to a 60-calendar-day period.

(3) A regulation transmitted under this section may take effect at any time subsequent to the date specified in paragraph (1) if such subsequent time is set forth in such regulation.

CERTAIN PROJECTS NOT COVERED

SEC. 202. Nothing in this Act shall apply to any project related to the production of nuclear energy, including any facility which is required to be licensed under the Atomic Energy Act of 1954 or which is otherwise subject to the authority of the Nuclear Regulatory Commission under title II of the Energy Reorganization Act of 1974.

AUTHORITY TO APPLY FOR PRIORITY STATUS

SEC. 203. (a) The Board shall promulgate regulations establishing procedures and criteria for the submission to the Board, and for the consideration by the Board, of applications for an order designating an energy project as a Priority Energy Project under this Act. Such procedures and criteria shall require such applications to include such detailed information as the Board deems necessary to—

(1) enable it to make such a designation under this Act;

(2) identify each agency required to make a decision with respect to such project; and

(3) enable it to determine the agency decisions which must be made with respect to such project.

(b) The Board shall require any person making an application under this section to file with the Board such additional information as it deems necessary, including—

(1) a design proposal for the project;

(2) economic data on the costs and benefits of the project;

(3) the energy to be produced or conserved by the project; and

(4) an analysis of the social, health and safety, and environmental impacts of the project, including an analysis of mitigating measures which may be taken to minimize any environmental, social, health, or safety hazards.

(c) An application for an order designating an energy project as a Priority Energy Project may be submitted to the Board by any person in accordance with the procedures and criteria established under subsection (a).

(d) Promptly following receipt of an application filed under this section, the Board shall publish notice of such filing, together with a summary description of the application, in the Federal Register and shall notify the appropriate Federal, State, and local agencies, the Governors of affected States, and the Senate Committee on Energy and Natural Resources and the House Committees on Interstate and Foreign Commerce and on Interior and Insular Affairs. The Board shall take reasonable steps to notify other interested parties. The Board shall afford 45 days after publication of notice in the Federal Register for such agencies and other interested persons to submit for the Board's consideration written comments concerning whether or not the project should be designated as a Priority Energy Project.

(e) The Board shall keep on file, and make available for public inspection and copying, at the main office of the Board and in such other places as the Board deems appropriate, such portions of any application for designation of a project as a Priority Energy Project as are not matters described in section 552(b) of title 5 of the United States Code.

DESIGNATION OF PRIORITY ENERGY PROJECTS

SEC. 204. (a) Not later than 45 days after expiration of the comment period under section 203(d) with respect to any application under section 203, the Board shall—

(1) issue an order in accordance with this part designating the energy project with respect to which such application was submitted as a Priority Energy Project if it determines that such project is of sufficient national interest for such project to be so designated, or

(2) refuse to issue such an order.

(b) The Board shall publish any order making a designation under subsection (a) in the Federal Register and shall provide a copy of such order to the agencies, Governors, and committees referred to in section 203(d) and shall take reasonable steps to notify other interested parties.

(c) In determining whether or not to make a designation under subsection (a), the Board shall consider—

(1) the extent to which the energy project would reduce the Nation's dependence upon imported oil or upon other nonreneweable resources;

(2) the magnitude of any economic and social impacts and costs associated with the energy project in relation to the impacts and costs of alternatives to such project;

(3) the extent to which the energy project would make use of renewable energy resources or conserve energy;

(4) the extent to which the energy project would contribute to the development of new production or conservation technologies and techniques;

(5) the time that would normally be required to obtain all necessary agency decisions;

(6) the adverse impacts that would result from—

(i) the designation of the energy project as a Priority Energy Project, or

(ii) any delay in completion of the energy project which would result from the failure to make such a designation;

(7) the extent to which the energy project would impinge upon presently available or future water resources;

(8) the comments received concerning the energy project;

(9) the regions of the country that will be most heavily impacted by the energy project as well as most benefited by the project;

(10) the availability of significant economic, environmental, or technical data;

(11) the anticipated effects upon competition in the energy industry, and the extent to which such designation will create competitive inequities among applicants;

(12) the magnitude of any adverse environmental impacts associated with the project and the existence of alternatives that would have fewer adverse impacts;

(13) the extent to which the applicant is prepared to complete, or has already completed, the significant actions which the applicant in consultation with the Board anticipates will be identified under section 203 as required from the applicant, including the extent to which financing, insurance, and labor requirements for the project will be available; and

(14) the extent to which the project has been assessed in terms of cost effectiveness and energy efficiency.

Any order designating a project under this section shall contain a statement of the basis on which such designation was made, addressing each of the above criteria.

(d) The Board shall encourage prospective applicants for Priority Energy Projects to file applications for any necessary agency actions with the appropriate agencies as soon as possible in order that any eventual agency action may be expedited. The Board shall consider any failure to file such applications in a timely fashion in making its determination on an application under this section.

(e) Not more than 75 Priority Energy Projects may be designated by the Board, and not more than 20 of such Projects may be designated in any one calendar year.

ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

SEC. 203A. (a) Upon request of any State or local agency covered by the Project Decision Schedule for any Priority Energy Project, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such Federal agency to such State or local agency to assist the State or local agency in carrying out its functions with respect to such Project.

(b) To the greatest extent practicable, the Board and other Federal agencies may provide assistance authorized by law to State and local agencies to assist such State and local agencies in complying with any Project Decision Schedule.

RELATIONSHIP TO NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 205. (a) The provisions of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) shall not apply to any—

(1) determination by the Board under section 204 (relating to designation of a Priority Energy Project);

(2) promulgation or revision of a Project Decision Schedule by the Board under any provision of this Act; or

(3) action by the Board or by any agency under section 211 (relating to streamlining of procedures).

(b) Promptly following designation of an energy project as a Priority Energy Project, and before establishment of a Project Decision Schedule under section 209, the Council on Environmental Quality shall determine whether any Federal action relating to the Priority Energy Project will be a major Federal action within the meaning of section 102(2) of the National Environmental Policy Act of 1969. If the Council determines that a Priority Energy Project will require such a major Federal action, the Council shall promptly designate the lead agency for purposes of complying with the National Environmental Policy Act of 1969. If the Council fails to make any determination or designation (or both) required under this section before establishment of the Project Decision Schedule, the Board may make such determination or designation (or both).

(c) Notwithstanding any other provision of law, the Board, after consultation with the Council on Environmental Quality and appropriate Federal agencies, may require that one environmental impact statement be prepared and that such statement be used by all Federal agencies to satisfy their obligations under the National Environmental Policy Act of 1969.

STATE PARTICIPATION

SEC. 206. Upon designation of any Priority Energy Project, the Board shall promptly notify the Governor of each State and each Indian tribe in which any portion of such Project is proposed to be located, and each such Governor and tribe may appoint a nonvoting member to serve on the Board to participate in decisions of the Board respecting such Project, including decisions relating to the Project Decision Schedule. The provisions of section 201(b) shall not apply to any member of the Board appointed under this section.

EXTENSION OF DEADLINES

SEC. 207. The Board may extend the time for receiving comments under section 203 (d), the time for making its determination under section 204 in the case of any application for designation of any energy project as a Priority Energy Project, and the time for agencies to submit information under section 208. Any such extension shall be consistent with the purposes of this Act and shall be for only such period as may be necessary, as determined by the Board.

AGENCIES TO SUBMIT INFORMATION

SEC. 208. Not later than 45 days after notice appears in the Federal Register of an order designating an energy project as a Priority Energy Project, each agency having authority to make any decision with respect to such project or any part thereof, shall transmit to the Board—

(1) a compilation of all significant actions required to be taken by such agency and by the applicant before such decision can be made and a summary of the procedural requirements legally applicable to such actions and to the making of such decisions;

(2) a tentative schedule for completing such actions and making such decisions and a statement of those procedural changes, if any, the agency proposes to implement pursuant to section 211;

(3) a statement of the amount of funds and personnel available to the agency to take such actions and make such decisions and of the effect that taking such actions and making such decisions in accordance with such Project Decision Schedule will have on other actions required to be taken by the agency, together with a finding as to whether or not such funds and personnel are adequate for such purposes; and

(4) such other information as the Board may require.

Notwithstanding section 557(d) of title 5 of the United States Code, or any other provision of law relating to ex parte communications, any officer or employee of an agency to which this section applies may provide information to the Board and consult with the Board relating to any priority energy project at any time and in any manner requested by the Board.

PROJECT DECISION SCHEDULE

SEC. 209. (a) Upon receipt of the information required to be submitted pursuant to section 208 respecting any Priority Energy project, the Board shall conduct discussions with affected agencies and the applicant seeking mutual agreement on a practical and expedited Project Decision Schedule for such Project. Such agreements shall be in writing whenever possible. Not later than 45 days after agencies transmit information under section 208 with respect to any Priority Energy Project, the Board shall publish in the Federal Register a Project Decision Schedule for all agency decisions relating to such Project. The Project Decision Schedule shall clearly identify the order in which such decisions must be made by each agency concerning the Project and shall clearly identify the deadlines applicable to such decisions. The Project Decision Schedule may also recommend concurrent review of applications and joint hearings by State and local agencies.

(b)(1) The Project Decision Schedule shall be consistent with the tentative schedules transmitted to the Board under section 208 unless the Board determines that a different schedule is essential in order to expedite and coordinate agency review, and publishes, together with the Project Decision Schedule, its reasons for such determination.

(2) Whenever the Project Decision Schedule is not consistent with any schedule that would otherwise apply, such Project Decision Schedule shall apply in lieu of the otherwise applicable schedule and shall be binding on the agency and on all other persons to which the Schedule applies.

(3) In the case of agency action subject to the Project Decision Schedule, the agency may modify any schedule (other than the Project Decision Schedule) applicable to such action (including a schedule relating to actions of any applicant or other person and including any schedule established by statute) where the agency determines that such modification will facilitate compliance by the agency with the Project Decision Schedule.

(4) The Project Decision Schedule, and any other schedule which is modified under paragraph (3), shall be reasonably designed to insure complete consideration of all matters concerning such Project under applicable law and to insure adequate participation by interested parties in applicable proceedings.

(c) In consultation with affected agencies and any person responsible for—

(1) filing on behalf of a Priority Energy Project any application or other petition for an agency decision, or

(2) taking any other action on behalf of such project which is necessary before such agency decision may be made

and with appropriate agencies, the Board shall include in the Project Decision Schedule a schedule containing deadlines for filings by such person for any license, permit, or other approval which must be obtained in connection with the project. The schedule shall indicate the date on which any such filing shall be made.

MODIFICATION OF PROJECT DECISION SCHEDULE

SEC. 210. (a) Upon the petition of any agency to which the Project Decision Schedule applies, or on its own motion, the Board may modify the Project Decision Schedule at any time.

(b) No extension of any time period applicable to any agency under such Schedule may be granted unless the Board determines that—

(1) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule; or

(2) it would be impracticable for the agency to reach a decision or to complete the required action within the specified time,

taking into account the personnel and funds available to the agency for complying with such Schedule.

(b) No extension of any time period applicable to any action specified on such schedule which is required to be taken by any person other than an agency may be granted unless the Board determines that such person has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule.

STREAMLINING PROCEDURES

SEC. 211. (a) All Federal, State, and local agencies having authority to make any decision with respect to a Priority Energy Project may establish special procedures applicable to such decision if the agency determines such procedures are a necessary means of expediting such decision or of complying with the Project Decision Schedule applicable to such Project and if such special procedures provide for effective participation by interested parties in proceedings relating to the decision. Such special procedures shall be consistent with all requirements governing the agency's actions, except that, notwithstanding any such requirement, any Federal agency may—

(1) consolidate, to the maximum extent practicable, its proceedings respecting actions and decisions which are subject to the Project Decision Schedule with the proceedings of other agencies, including Federal, State, and local agencies which are also subject to such Schedule;

(2) establish requirements applicable to the filing of applications or other information which eliminate unnecessary duplication;

(3) substitute legislative-type hearings in lieu of trial-type hearings, except that in any cases in which—

(A) a formal hearing including an opportunity for cross-examination of witnesses is authorized by any provision of statute other than this Act, and

(B) the agency determines there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in a formal hearing.

the agency shall designate such dispute for resolution in a formal hearing conducted in accordance with the statute providing for such hearing.

(4) conduct proceedings, except where formal hearings are required under paragraph (3) (A) or (B), in which parties may submit written data, views, or arguments and written responses to the data, views, or arguments submitted by other parties, as the agency or the presiding employee may specify and in which oral presentation is limited to brief oral argument;

(5) establish procedures for issuing final decisions in which the presiding employee at any hearing may be required to certify the hearing record to the agency for decision without an initial decision; or

(6) utilize any combination of procedures authorized by this subsection.

(b) The procedures referred to in paragraph (5) may also—

(1) require the presiding employee to submit the record to the agency without a recommended or tentative decision, but with such analysis of the record as the agency may specify; and

(2) permit the agency to omit a tentative or recommended decision if it determines that due and timely execution of its functions so requires.

(c) If the Board finds that those procedures proposed to be used by a Federal agency to make any decision of the agency necessary for compliance with the Project Decision Schedule will not permit the agency to comply with such Schedule, the Board may order the agency to implement any or all of the special procedures described in this section with respect to the decision if the special procedures will provide for effective participation by interested parties in proceedings relating to the decision.

MONITORING OF COMPLIANCE BY BOARD

SEC. 212. The Board shall monitor compliance with the Project Decision Schedule by the agencies and persons to whom the Schedule applies and may require such agencies and persons to submit to the Board such information regarding compliance with such Schedule as the Board deems necessary and appropriate for such purposes. If the Board determines that a Priority Energy Project is being delayed or threatened with delay, the Board shall determine the reason for such delay or threatened delay and notify the appropriate agencies and other persons of its determination. Following such notification, the Board shall publish such reasons in the Federal Register. If the Board determines that any person responsible for—

(1) filing on behalf of a Priority Energy Project any application or other petition for agency decision may be made,

(2) taking any other action on behalf of the Project which is necessary before an agency decision may be made.

has failed or refused to promptly or correctly file such application or petition or take such other action, the Board shall either—

(A) revise such Project Decision Schedule by extending the applicable deadlines by an amount of time equivalent to the delay caused by such person, or

(B) revoke the designation of the project as Priority Energy Project.

AGENCY OBLIGATIONS NOT AFFECTED

SEC. 213. (a) Except as may otherwise be provided pursuant to—

(1) the establishment, modification, or revision of a deadline or timetable under any provision of this Act, or

(2) the establishment of special procedures under section 211,

the Project Decision Schedule and each agency decision and other action with respect to which a deadline or timetable is specified on the Project Decision Schedule shall be consistent with the statutory obligations applicable to the agencies governed by such Schedule.

(b) Except as permitted under the authorities referred to in subsection (a), nothing in this part shall affect the application to any energy project of any requirement established by, or pursuant to, Federal, State or local law.

(c) Nothing in this part shall be construed to—

(1) affect the basis on which any agency decision is made with respect to such a project, or

(2) affect or influence the outcome of any agency decision.

ENFORCEMENT OF PROJECT DECISION SCHEDULE AGAINST FEDERAL, STATE, OR LOCAL AGENCIES

SEC. 214. (a) If any agency has failed or is reasonably likely to fail to comply with a Project Decision Schedule, the Board may bring an expedited enforcement action in the appropriate United States district court against the agency head or other responsible official.

(b) In any action brought under this subsection, if the court determines that any agency has failed, or is reasonably likely to fail, to comply with a Project Decision Schedule, the court shall order the agency to act in accordance with the Schedule unless subsection (c) applies.

(c)(1) If the court determines that the agency has failed or is reasonably likely to fail to comply with a Project Decision Schedule but that action in accordance with the Project Decision Schedule would not insure adequate consideration of all matters concerning such project under applicable law, would not insure adequate participation by parties in applicable proceedings, would clearly be impractical, or would deny any person due process of law, the court shall instruct the Board to revise the Project Decision Schedule to require the agency to complete consideration of the applicant's request as soon as practicable. Immediately upon receipt from the Board of a certified copy of the revised Project Decision Schedule, the court shall issue an order directing the agency to comply with such Schedule.

(2) The court may order the agency to assign additional personnel to the decision or action, or to utilize any of the special procedures enumerated in section 211.

(3) Upon failure of any agency to meet any deadline included in a compliance schedule imposed by the court, the court shall take such measures as it deems necessary and appropriate, including citation and punishment of the responsible officials for contempt of court.

(d)(1) Upon filing of an action by the Board under this section, the agency and other interested parties shall have 15 days in which to file a written response. Any further filings required by the court shall be prepared within 15 days or less. The court may limit offers of proof to written documents except that the court shall hold at least one hearing concerning such action.

(2) Not withstanding any other provision of law including any other provision of this Act, any action brought under this section and any appeal therefrom shall be assigned for hearing and completed at the earliest possible date, shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at the time, and shall be expedited in every way by such court. No such appeal may be brought after 60 days after a final decision by the lower court.

(e)(1) If any Federal, State, or local agency has failed to make a decision or take action pursuant to a court order issued pursuant to subsection (b) or (c), the President may perform the action or make the decision in lieu of the agency.

(2) The President shall notify an agency that he has determined that the agency has failed to make a decision or perform an action within the time required by such court order and that the President intends to decide in lieu of the agency. If the agency has not acted or decided within 15 days of such notification, the agency shall transmit to the President forthwith all records in the possession of the agency pertinent to that decision or action. The President shall take whatever additional action is necessary to develop an adequate record for a final decision or action.

(3) In any action under this section, whenever the Project Decision Schedule deadline for such action has passed, the Board may file notice with the court stating that the deadline has passed and that the agency has failed to take the action required by the Project Decision Schedule. The Board shall advise the court that the national interest described in section 101 of this Act requires expeditious enforcement of the deadline. If the court fails to act pursuant to subsection (b) or (c) of this section within 120 days of the filing with the court of such notice, the President may act pursuant to paragraphs (1) and (2).

(4) In performing an action under this section in lieu of an agency, the President shall apply the Federal, State, or local law that would have been applied had the Federal, State, or local agency performed the action.

SUSPENSION OF NEW REQUIREMENTS

SEC. 215. (a) Upon an application of any agency or any person acting on behalf of a Priority Energy Project, the Board shall determine if any requirement of Federal, State, or local law which has been enacted or promulgated after commencement of construction of any facility which is part of the project would prevent timely completion or operation of such facility. Such application shall identify the requirement with respect to which the application is made. If the Board determines that any such requirement will prevent the timely completion or operation of such facility, the Board is authorized to order the temporary suspension of the application of such requirement to such facility for such time as necessary to allow the facility to comply with the requirement.

(b) No order temporarily suspending the application of any requirement to any facility may be issued under subsection (a) unless the Board, in consultation with the agency responsible for implementing the requirement, finds that the temporary suspension will not create any significant risk to public health or safety.

(c) No order under this section may continue in effect after the last day of the fifth year after such order is originally issued.

(d) No order under this section may modify or impair in any way—

(1) any Federal, State, or local requirement which relates to—

(A) the rights, working conditions (including health and safety), compensation, or activities of workers or their representatives,

(B) antitrust laws (as defined in section 3(1) of the Public Utilities Regulatory Policies Act of 1978),

(C) crimes based on common law, or

(D) civil rights laws;

(2) any Federal, State, or local requirement which involves any primary air quality standard established under the Clean Air Act;

(3) any right or rights of any person arising under the Constitution of the United States;

(4) any interstate compact, provision of State or local law, or Federal contract, relating to water rights or to the appropriation, delivery, or use of water pursuant to such rights; or

(5) the rights of any person under any provision of law to receive compensation from the owner or operator of any Priority Energy Project for loss of any property interest as a result of the construction or operation of such Project.

(e) For the purposes of this section, "commencement of construction" means that the owner or operator of a facility has obtained all necessary preconstruction approvals or permits required by Federal, State, or local laws or regulations and either has—

(1) begun or caused to begin, a continuous program of physical onsite construction of the facility including site clearance, grading, dredging, or land filling in preparation for the fabrication, erection, or installation of the building components of the facility, or

(2) entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the facility to be completed within a reasonable time.

For the purpose of this subsection, interruptions resulting from acts of God, strikes, litigation, or other matters beyond the control of the owner shall be disregarded in determining whether such construction is continuous.

WATER LAW

SEC. 216. (a) Nothing in this Act shall be construed as expanding or conferring upon the United States, its agents, permittees, or licensees any right to acquire rights to the use of water.

(b) The United States, its agents, permittees, or licensees shall appropriate water within any State for an energy project pursuant to procedural and substantive provisions of State law, regulation, or rule of law governing appropriation, use, or diversion of water.

(c) The establishment or exercise pursuant to State law, of terms or conditions including terms or conditions terminating use, on permits or authorizations for the appropriation, use, or diversion of water for energy projects shall not be deemed because of any interstate carriage, use, or disposal of such water to constitute a burden on interstate commerce.

(d) Nothing in this Act shall alter in any way any provision of State law, regulation, or rule of law or of any interstate compact governing the appropriation, use, or diversion of water.

JUDICIAL REVIEW

SEC. 217. (a)(1) Action by the Board granting or denying any order designating a proposed energy facility as a Priority Energy Project under section 204 and action by the Board under section 215 suspending the application of any requirement of Federal, State, or local law to any facility shall be subject to judicial review only for failure to comply with any requirement of this Act or for violation of any provision of the Constitution of the United States.

(2) Action by the Board—

(A) establishing, modifying, or revising a Project Decision Schedule under any provision of this Act;

(B) requiring the use of any special procedures under section 211; or

(C) granting or denying any extension under section 212

shall not be subject to judicial review in any proceeding other than an enforcement proceeding brought by the Board against an agency head of other responsible official under section 214 or a proceeding for review of any final agency action to which such Schedule, procedures, or extension applied.

(3) Any action of the Board other than an action described in paragraph (1) or (2) shall not be subject to judicial review except as to the requirements of the Constitution.

(b)(1) Any action referred to in subsection (a) and any action brought in any court of the United States for review of—

(A) any final agency action which is covered by a Project Decision Schedule.

(B) any Presidential decision under section 214(d) may only be brought in the United States court of appeals for the circuit in which the Priority Energy Project concerned is, or is proposed to be, located, or where the claim arose, and may only be brought within 60 days following the date on which notice is published that such decision or action has become final or within such shorter time period as may be required under other applicable law. Any such action shall be barred unless brought within the period specified under the preceding sentence. Any agency action which is covered by a Project Decision Schedule or any Presidential decision under section 214 shall not be subject to judicial review unless such action is in violation of the Constitution of the United States or in excess of, or falls short of, statutory jurisdiction, authority, or limitations, or short of statutory right.

(2) The court shall assign any action referred to in paragraph (1) for hearing, and shall complete such hearing, and issue its decision at the earliest possible date. Such action shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at that time, shall be expedited in every way by such court. In order to expedite the just and complete resolution of issues involved in any such action, a reviewing court may, notwithstanding limitations imposed by any other law or rule of law—

(1) consolidate the action with any other action relating to the same Priority Energy Project which is brought in such court, or

(2) transfer the action to any other United States court of appeals for the purposes of such consolidation.

Any reviewing court shall also expedite and consolidate such review to the maximum extent practicable.

(c) Nothing in this section shall affect the jurisdiction of the courts of any State or political subdivision thereof except that any agency action respecting which judicial review could have been obtained under this section may be reviewed only as provided in subsection (b).

(d) In issuing a final order in any action for review of any final agency action which is covered by a Project Decision Schedule, the court may award costs of litigation (including attorney and expert witness fees) to any party, and assess such costs against any party when in the determination of the court such action was brought frivolously with no essential purpose beyond delay.

SUPREME COURT REVIEW

SEC. 218. (a) Any party seeking review in the Supreme Court of any judgment or order (including interlocutory judgments or orders) of a circuit court of appeals pursuant to this Act must file a petition for writ of certiorari within 60 days after the decision of the lower court or the appeal shall be barred.

(b) Any review by the Supreme Court shall be assigned for hearing and completed at the earliest possible date.

REGULATIONS

SEC. 219. The Board shall promulgate regulations for carrying out its functions under this Act not later than 60 days after the date on which all initial members of the Board have been confirmed by the United States Senate. No application may be submitted under this Act for designation of any project as a Priority Energy Project before promulgation of such regulations.

EXPIRATION OF AUTHORITY

SEC. 220. (a) The Board's authority shall expire 7 years after the date of enactment of this Act. Notwithstanding the previous sentence, the provisions of the Act shall continue to be applicable to all energy facilities designated as Priority Energy Projects prior to the expiration of the Board's authority.

(b) Six months prior to the expiration of Board authority as provided in subsection (a) of this section, the Board shall submit to the President and to the Congress a detailed report and recommendations for congressional action which shall include, but not be limited to, the following:

(1) a comprehensive report for the life of the Board on its activities including the functioning of the selection and designation process for Priority Energy Projects; the status of all designated projects; the effectiveness of the Board's actions in expediting the development and construction of energy projects; and any significant delays in the completion of Priority Energy Projects and the causes thereof;

(2) the estimated reduction in barrels of imported oil that may be attributed to Board action, and a comparison of the potential for such reduction with and without such action;

(3) estimated time and funds saved by Federal, State, and local governments, and the private sector by minimizing delays, inflation impacts, and other factors which would have increased the time and expense of project completion without Board action;

(4) recommendations as to whether or not the Board should be reauthorized, and recommendations and their justification for any changes that should be made in the authorizing statute to enable the Board to better fulfill the purposes of this Act; and

(5) those provisions of Federal, State, and local statutes, regulations, or requirements which in the Board's opinion and through its experience in carrying out the provisions of this Act, have contributed most significantly to unnecessary delays in project approval, construction, and operation, and the Board's recommendations for changes in such provisions or for other action to expedite the decisionmaking process, without detracting from the intent and integrity of such statutes or regulations, and which would eliminate the need for such Board.

(c) On or before the date established for the submission of the report of the Board to Congress in subsection (b), the Comptroller General of the United States shall submit to Congress a report evaluating the performance of the Board. The report shall set forth findings and recommendations with respect to the program, and shall include:

(1) an assessment of the effectiveness of the program and the degrees to which the original objectives of the program have been achieved;

(2) an identification of any trends, developments, and emerging conditions which are likely to affect the future nature and extent of the problems or needs which the Board is intended to address;

(3) an assessment of the relative merits of alternative methods which could be considered to achieve the purposes of the program;

(4) an assessment of the energy supply, environmental, legal, and social impacts of the Board; and

(5) such additional information as may be requested by Congress.

AUTHORIZATION

SEC. 221. There is authorized to be appropriated to the Board to carry out the provisions of this part not more than $2,000,000 for the fiscal year 1980, and not more than such sums as may be necessary for succeeding fiscal years, subject to annual authorizations. Notwithstanding any other provision of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

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The CHAIRMAN. Does the gentleman from Arizona (Mr. UDALL) wish to be recognized in support of his substitute amendment at this time?

Mr. UDALL. I do not, Mr. Chairman.

AMENDMENT OFFERED BY MR. SANTINI TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. SANTINI. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. SANTINI to the amendment in the nature of a substitute: Strike out page 46, line 1 and all that follows down through line 12 on page 49 and substitute:

"ENFORCEMENT OF PROJECT DECISION SCHEDULE

"SEC. 185. (a)(1) If the Board determines, pursuant to its monitoring under section 183, that an agency has failed, or is reasonably likely to fail, to make an agency decision within the time required by the Project Decision Schedule, the Board shall provide notice of its determination to the appropriate agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, any parties to the agency proceeding concerned, and the Governor of each State affected by that project. After a period of at least 45 days after such notification, the Board shall promptly conduct on an expedited basis an informal hearing for the purpose of determining the cause of the delay and the actions taken to achieve compliance. A transcript shall be kept of any such hearing.

"(2) Within 30 days after any hearing under paragraph (1), the Board may, in furtherance of the purposes of this part—

"(A) modify the Project Decision Schedule to the extent necessary to provide an extension of time for that agency to make the agency decision involved if—

"(i) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule, and it would be impracticable for the agency to reach a decision or to complete the required action within the specified time, and

"(ii) a previous extension has not been provided under this subsection for that agency decision;

"(B) issue an order under subsection (b) providing for a decision under that subsection in lieu of the agency decision involved; or

"(C) make a recommendation under subsection (c) for a waiver under that subsection in the case of any Federal requirement applicable to any agency.

No determination by the Board under paragraph (1) and no modification of a Project Decision Schedule by the Board under subparagraph (A) of this paragraph shall be subject to judicial review, except as may be required by the Constitution of the United States. If, following modification of the Project Decision Schedule under subparagraph (A) the agency fails to make the agency decision concerned in compliance with such modified Schedule, the Board may take action under subparagraph (B) or (C), as appropriate, without conducting a further hearing under paragraph (1).

"(b) (1) The Board may issue an order referred to in subsection (a) (2) (B) to have a decision under this subsection be made in lieu of the agency decision. Notice of any such order shall be published in the Federal Register and transmitted to the agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, the President, the Governor of each State affected and the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Any order under this paragraph shall not be subject to judicial review, except as may be required by the Constitution of the United States.

"(2) (A) Upon receipt of notice of an order under paragraph (1), the agency involved shall transmit forthwith all records in the possession of the agency pertinent to that decision or action. The Board shall take whatever additional action authorized under this part as may be necessary to obtain an adequate record for a final decision.

"(3) (A) The Board shall promptly issue a recommended decision under this subsection after obtaining an adequate record for the decision. The recommended decision shall be published in the Federal Register, shall be submitted to the President, together with the record on which it is based, and shall be transmitted to the Governor of each State affected by the project.

"(B) Any recommended decision of the Board under this subsection shall be consistent with any requirement established by, or pursuant to, Federal, State, or local law which would be applicable in the absence of an order under this subsection.

"(4) (A) Within 45 days after any recommended decision has been submitted to the President under paragraph (3), the President shall—

"(i) make a decision to affirm the recommended decision, in which case the recommended decision shall be considered final, or

"(ii) shall remand it to the Board with instructions to modify the recommended decision to the extent the President determines to be appropriate and consistent with any requirement established by, or pursuant to, Federal, State, or local law.

Following any remand under clause (ii), the Board shall promptly issue a final decision in accordance with such instructions. If the President fails to affirm or remand such decision within such 45-day period, the Board's recommended decision shall be considered final.

"(B) Any final decision under subparagraph (A) shall be considered a final decision in lieu of the agency decision involved. Except as provided in section 187(b), such final decision shall be subject to judicial review in the same manner and to the same extent as would apply to the agency decision involved.

"(c) (1) After designation of a Priority Energy Project and before compliance with the Project Decision Schedule by the agencies to which such Schedule applies, or pursuant to subsection (a), the Board may recommend to the President the waiver, in whole or in part, of any Federal requirement which it finds presents a substantial procedural or substantial substantive impediment—

"(A) to the making of an agency decision, or

"(B) to the making of such agency decision in a manner which will permit implementation of the project.

A recommendation may not be made to the President for a waiver under this subsection and a recommendation may not be made under subsection (b) if the agency has made the agency decision involved at the time of such recommendation.

"(2) (A) Any waiver recommended under this subsection may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived. Such waiver shall also include such terms and conditions as the Board, in consultation with the agencies responsible for the administration of the requirements proposed to be waived, deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver and to further enhancement **efforts** for aspects adversely affected by the energy project.

"(B) A recommendation under this subsection for the waiver of any requirement shall be published in the Federal Register, together with a statement of the reasons on which the recommendation is based. Any agency affected by such waiver and any other concerned person may submit views respecting such recommendation to the President and may make such views public during the thirty-day period specified in paragraph (3).

"(3) Not earlier than thirty days after publication in the Federal Register of a recommendation for a waiver under this subsection, and after considering public and agency comments, the President may, in furtherance of the purposes of this part, transmit such recommendation to the Congress, if he determines—

"(A) such a waiver to be in the national interest,

"(B) that there is substantial evidence to support the Board's determination and recommendation, and

"(C) that such a waiver would not unduly endanger the public health and safety.

Any recommendation so transmitted shall be accompanied by a detailed identification of the requirement to be waived, a statement of the extent to which such waiver would apply, and a statement of the President's reasons for making such recommendation, together with a summary of the agency views on such waiver. Any recommendation transmitted under this paragraph may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived together with provisions for the enforcement of such less stringent requirement or other alternative by the agency responsible for the administration of the requirement proposed to be waived. Such waiver shall also include such terms and conditions (and provisions for their enforcement by the agency responsible for the administration of the requirement proposed to be waived) as the President deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver and to further enhancement efforts for aspects adversely affected by the Project. The President's transmittal under this subsection shall also set forth any differences between the waiver recommended by the Board and the waiver transmitted to the Congress.

"(4) (A) Any waiver with respect to which the President has made a recommendation which is transmitted to Congress under this subsection shall take effect at the expiration of the first period of sixty calendar days of continuous session of Congress after the date of its receipt by the Senate and House of Representatives if, before the expiration of such sixty-day period, such recommendation is approved by each House of the Congress in the same manner as is provided for approval of energy conservation contingency plans under section 552 of this Act, except that in applying the provisions of section 552 of this Act to a recommendation of the President transmitted under this subsection, any reference in such section 552 to an energy conservation contingency plan shall be treated as a reference to a recommendation of the President transmitted under this subsection, any reference in such section 552 to twenty calendar days shall be treated as a reference to thirty calendar days and subsections (b), (d) (2) (B), and (d) (7) of section 552 shall not apply.

"(B) A recommendation transmitted under this section may take effect at any time subsequent to the date specified in subparagraph (A) if such subsequent time is set forth in such recommendation.

"(5) Each agency responsible for the administration of any requirement waived under this section shall monitor compliance by the Project with the terms and conditions of such waiver.

"(d) (1) The Board, on its own motion or upon an application of any person acting on behalf of a Priority Energy Project, shall determine if any requirement of Federal, State, or local law which has been enacted or promulgated after establishment of the Project Decision Schedule, but before commencement of commercial operation of any facility (as determined by the Board) which is part of the Project, would present a substantial impediment to implementation of the Project. Such application shall identify the requirement with respect to which the application is made. If the Board determines that any such requirement will present such an impediment, the Board may in furtherance of the purposes of this part—

"(A) order the temporary suspension of the application of such requirement to such facility for only such time as necessary to allow such person to make good faith efforts to comply with such requirement, but not in excess of 5 years after the date on which commercial operation of such facility commences; or

"(B) submit a recommendation to the President that such requirement be waived in whole or in part.

No determination of the Board under this subsection shall be subject to judicial review except as may be required by the Constitution of the United States.

"(2) No order temporarily suspending the application of any requirement to any facility may be issued under paragraph (1) (A) unless the Board, in consultation with the agency responsible for implementing the requirement, finds that, during the period of such suspension, the facility will make a good faith effort to meet the requirement suspended.

"(3) A recommendation submitted to the President under paragraph (1) (B) for the waiver of any requirement shall take effect as provided in, and shall be subject to the same provisions as apply in, the case of recommendations for waiver set forth in subsection (c).

"(e) (1) Not later than 45 days after the establishment of a Project Decision Schedule for a Priority Energy Project, the Board and any agencies which may be covered by such Project Decision Schedule shall identify and publish notice in the Federal Register of the requirements of Federal, State, and local law applicable to such Project which may present any substantial procedural or substantial substantive impediment to the implementation of the Project. Such notice shall include an analysis of the impact of such requirements on the Project. The Board may extend the 45-day period in appropriate cases.

"(2) If the Board finds, after publication of the notice under paragraph (1) and based upon the analysis required under paragraph (1), that—

"(A) any requirement identified under paragraph (1) may present any substantial procedural or substantial substantive impediment to the implementation of the project; and

"(B) there is no opportunity under applicable law for an agency decision in a manner which would overcome such impediment and permit implementation of the Project,

the Board shall submit a copy of its analysis under paragraph (1), together with appropriate recommendations concerning the requirement, to the President (in the case of a requirement of Federal law), the Governor (in the case of a requirement of State or local law), to the affected agencies, and to the appropriate committees of Congress. Any recommendation under this subsection to the President may include a recommendation in accordance with subsection (c). The Governor and such affected agencies shall take into consideration the Board's recommendation and shall report to the Board within such time as may be specified by the Board. Such report shall state whether or not the Governor or agency accepts or rejects the recommendations of the Board, together with the reasons for such acceptance or rejection. If the Governor or agency accepts such recommendations in whole or in part, such report shall include an explanation of the actions the Governor or agency will take and when such actions will be taken.

"(f) In bringing any civil action in any court (other than the Supreme Court) to enforce any order or requirement under this part, the Board shall be represented by the General Counsel of the Board (or any attorney employed by the Board), notwithstanding the provisions of title 28 of the United States Code. Such General Counsel (or attorney employed by the Board) shall supervise, conduct, and urge any civil litigation in any such action.

Page 45, line 6, after "182" insert "or 185 (a) (2) (A)".

Page 49, line 19, after "182" insert "or 185 (a) (2) (A)".

Mr. SANTINI (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. The Chair will first inquire of the gentleman, was the amendment which the gentleman is offering printed in the RECORD according to the rule?

Mr. SANTINI. Yes; it was, Mr. Chairman.

The CHAIRMAN. The gentleman from Nevada (Mr. SANTINI) asks unanimous consent that further reading of the amendment be dispensed with, and that it be printed in the RECORD.

Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. SANTINI. Mr. Chairman, the gentleman from New Mexico (Mr. LUJAN) and I have labored long and hard to offer to this body a constructive addition to the legislative proposal for fast-track of the Committee of Interstate and Foreign Commerce. The short and sweet of the differences contained in our amendment proposal are these:

We strike the waiver of State and local government laws, and we add the feature that instead of a one-House veto, before there can be any waiver of Federal substantive law, there must be an affirmative vote by the House and an affirmative vote by the Senate. These proposals are condensed and contained in a time frame that provides for reasonable implementation of executive and legislative decisionmaking.

Mr. Chairman, I will state to the Members of this House and this committee that after all of the argumentation and debate are stripped away from the comparative analysis of the Dingell-Brown proposal and the Udall-Wirth-Clausen proposal, and when the very constructive addition that is being offered by the gentleman from New Mexico and myself is added to the Dingell bill, we have one essential foundational difference between the two legislative proposals.

On the one hand, the gentleman from Arizona (Mr. UDALL) does not propose that there be any waiver under my circumstances at any time of Federal substantive law. The Dingell bill, as amended by our proposal, would allow, with the adoption of that amendment, a waiver of Federal substantive law under these extraordinary circumstances: First, the Energy Mobilization Board would have to target that particular project; second, the President would have to find it in the national interest; and, third, this House and the U.S. Senate would have to vote affirmatively in support of that waiver.

Now for some, this mechanism is not expeditious enough; for others, it offers to their impending contemplation a wholesale assaut on the 24 to 35 Federal laws that in some way, shape, or form, have impeded energy development in this Nation.

I rather think that objective projection would suggest that our amendment, in the combination of Santini-Lujan and Dingell-Brown, affords a moderate, reasonable response to a national imperative that is energy productive. I believe that it is exaggerated rhetoric to suggest that this House would find itself overwhelmed with a legislative assault that would contemplate eradication of every Federal law dealing with environmental protection, and that day in and day out we would find ourselves compelled in this House to address some modification, change, or waiver of Federal law. I think that is unmitigated rhetorical nonsense.

I would suggest to those Members of this body who are not foreclosing consideration of one point of view or the other that when our amendment proposal does in meaningful, practical terms is to provide that in those instances where we have intransigent bureaucracy, unresponsive rule or regulation, or indifferent governmental process, the very presence of the possibility that that particular institution or agency or that particular law would be challenged in this House of Representatives or in the United States Senate will itself represent the salutary, constructive positive response that probably we should have been receiving out of the bureaucratic institutions from the inception of the law.

The CHAIRMAN. The time of the gentleman from Nevada (Mr. SANTINI) has expired.

(By unanimous consent, Mr. SANTINI was allowed to proceed for 2 additional minutes.)

Mr. SANTINI. Mr. Chairman, this amendment puts the persuasive influences of rational, deliberate, and responsive decisionmaking in the hands of those who are seeking to reach energy production and a resolve of our Nation's energy problems. I think this is a balanced approach, I think it is responsible, and I think it is a complement to the legislative efforts already completed by our Committee on Interstate and Foreign Commerce.

Mr. DINGELL. Mr. Chairman, will my good friend, the gentleman from Nevada, yield?

Mr. SANTINI. I am happy to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, the gentleman from Nevada (Mr. SANTINI) was much concerned about this issue in the Committee on Interstate and Foreign Commerce. We strove mightily to find a way of dealing with the concerns he had at that point. We continued our discussions, the gentleman offered his amendment, and on the basis of those discussions we have concluded the amendment is eminently commendable.

Mr. Chairman, I am happy to offer my support for the amendment, I urge my colleagues to vote for it, and I commend the gentleman for offering it.

Mr. SANTINI. Mr. Chairman, I thank the gentleman for his gracious remarks and for his support.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I am happy to yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, I believe that the gentleman's amendment which is offered to the version of the Committee on Interstate and Foreign Commerce is a significant improvement over the Commerce bill as it now stands.

In line with what I think is a proper procedure when we have divided viewpoints on two bills, I believe it certainly is proper that each committee should be afforded the opportunity to improve on its particular version.

So, therefore, Mr. Chairman, I would suggest that the House support this amendment.

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Mr. SANTINI. I am grateful for the support of the gentleman from California.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Ohio.

The CHAIRMAN. The time of the gentleman from Nevada (Mr. SANTINI) has expired.

(On request of Mr. BROWN of Ohio and by unanimous consent, Mr. SANTINI was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman,

I, too, want to congratulate the gentleman in the well, the gentleman from Nevada (Mr. SANTINI), who, in combination with the gentleman from New Mexico (Mr. LUJAN), has offered an amendment which clears up a problem that is, quite frankly, bothering many of the Members of the House. The issue concerns the power of the Federal Government to supersede State and local law. It has been done on several occasions. I am willing to see the gentleman's amendment accepted, and I think it is a positive contribution to the process of our legislating on this issue and the resolution of the energy problem.

I might say to the gentleman in the well, however, that I have heard frequently referred to, as an example of the thing that needs to be addressed, the 700 to 750 licenses required by the so-called Sohio pipeline from California through Arizona, New Mexico, to Texas, that would have brought oil from Alaska to be refined in Texas and then distributed to the Midwest.

I would have to say to the gentleman that I think that the process that saw that delay was partly the result of the State of California putting unreasonable limitations and delay on the building of that pipeline. So I think that we may, at some future date, unless we can get the States to think more in terms of the national interest, be faced with this problem again; but for the moment I think we ought to lay the issue aside so that we can proceed with this legislation.

Mr. Chairman, I congratulate the gentleman in the well for his effort.

The CHAIRMAN. The time of the gentleman from Nevada (Mr. SANTINI) has again expired.

(On request of Mr. BAUMAN and by unanimous consent, Mr. SANTINI was allowed to proceed for 3 additional minutes.)

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

Mr. Chairman, I, too, think the amendment is an improvement over the Commerce bill. But may I simply contrast my understanding of the gentleman's amendment? If, under this amendment, the State or local jurisdiction fails to act within a specified time which may be imposed upon them by the Energy Mobilization Board, does that then allow this Federal Board to make the decision for the State or local agency based on State or local law?

Mr. SANTINI. Exactly.

Mr. BAUMAN. But the State or local agency itself would lose that power, they would have to at that point give way to the members of the Federal Board to make the decision?

Mr. SANTINI. Only in that instance where the State or local government fails to act and there is no reasonable explanation or response for the failure to respond or act. I would suggest to the gentleman that that basic mechanism is contained in both the Udall proposal and in the Dingell proposal. I would suggest to the gentleman that that essential ingredient in substance, is true of both bills.

Mr. BAUMAN. And what judicial appeal would be allowed under the gentleman's amendment if the State or local jurisdictional body objected to this taking over of their powers?

Mr. SANTINI. That is a very good question. Contrast the two pieces of legislation. On the one hand, the Udall proposal says that in this intermediate period of time, as part of a four-step process, there would be 120 days for a judicial appeal to be exercised. Our proposal, if adopted, made part of the Dingell bill, would allow for appeal at the end of that decisionmaking process, rather than in the intermediate phase.

I think there is another significant difference. When we look at the appellate rights at the end, the Udall bill restricts appeal to, one, constitutional grounds, whatever that encompasses—it is probably an automatic entitlement anyway—and then it says the only other grounds on which an appeal could be exercised in this context would be some kind of a rewritten provision that they have taken out of the Administrative Procedures Act that provides for appeal. I think there are eight provisions in the Administrative Procedures Act that lays out the grounds for appeal.

The Udall bill does an interesting thing that I cannot begin to understand to this date, and perhaps the gentleman will be better able to. They rewrite one of those grounds for appeal and engraft on that. I suggest that it creates a great deal of uncertainty, at the very least, and perhaps obstruction, at the most, in terms of State or local government appeal or anybody else seeking to appeal a determination by the board and a conclusion by the President or this House.

Mr. BAUMAN. I thank the gentleman for his explanation.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from California.

The CHAIRMAN. The time of the gentleman from Nevada (Mr. SANTINI) has again expired.

(On request of Mr. GOLDWATER and by unanimous consent, Mr. SANTINI was allowed to proceed for 1 additional minute.)

Mr. GOLDWATER. Mr. Chairman, I rise in support of the amendment.

So we are going to expedite the process by which this country develops it's energy resources? We are going to undertake projects to develop our energy potential to the fullest? When President Carter got high on his horse this past summer with a sense of urgency that this Energy Mobilization Board was the ticket to energy self-sufficiency, I did not bat an eyelash.

"No more redtape," is the rallying cry. "If we have this Board, the regulations, the paperwork, the environmental impact statements—forget it. This Board will whisk away any problems relating to the building of new facilities to accommodate our commitment to energy independence."

Come on now. It sounds great. But is not this proposal just another plug in the dike? I am yet to be convinced that any of the proposals on this floor today will achieve their laudable objectives. Not long ago, when a group of students in my district asked me to explain our national energy policy, I was at a loss. Our vision is very inspirational. Our approach is very ambitious. But the role of Government in directing energy policy is in a massive state of confusion. It is one big hodgepodge.

Of the choices open to us, I am skeptical that any are actually going to succeed in honoring deadlines, establish effective schedules, waive the encumbrances, or set the priorities that need to be set.

Because of the substantive thrust of the Commerce Committee bill, I am lending my support to it. Not that it will do that much better a job of promoting the needed projects. Not that it will not create a plethora of new regulations itself. Not that a spawning ground of litigation will not result. But I think an important improvement in the legislation lies in the adoption of Santini-Lujan.

This amendment is deserving of our acceptance because it enables the States to proceed with their own plans for an appropriate balance between technological advancement in the development of energy resources, and environmental protection. The miserable failings of the Federal Government in directing an effective energy policy makes it only proper that the States be given the opportunity to call their own shots without further complications from Washington.

So, while I question the ultimate benefits of any measure we send to the President for his signature, I do think the provisions of the Commerce Committee bill, as amended by Santini-Lujan, is the best of the options available. I urge an "aye" vote on the amendment.

Mr. SANTINI. I am grateful for the gentleman's support and I thank him for it.

Mr. KRAMER. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Colorado.

The CHAIRMAN. The time of the gentleman from Nevada (Mr. SANTINI) has again expired.

(On request of Mr. KRAMER and by unanimous consent, Mr. SANTINI was allowed to proceed for 2 additional minutes.)

Mr. KRAMER. Mr. Chairman, I have several questions I would like to clarify with respect to the amendment that the gentleman is offering.

Mr. SANTINI. I would be happy to clarify.

Mr. KRAMER. One question pertains to what would be affected under section 185(d).

It is intended that the suspension and waiver provisions with respect to newly enacted laws would apply to State and local tax laws?

Mr. SANTINI. No, it is not.

Mr. KRAMER. I thank the gentleman. I have one other question.

With respect to section 185(e), which requires identification of possible impediments to project implementation and sets forth the procedure for the Governors, agencies, and the President for dealing with those impediments and for the Governors and affected agencies to respond to the Board regarding their actions on the Board's recommendations, does this provision in any way grant authority to either Governors or to affected State and local agencies to waive or modify State or local law requirements in order to act on the Board recommendations?

Mr. SANTINI. That is a very good question. It does not increase or decrease the authority in one way or the other.

Mr. KRAMER. So if the Governor were to act on recommendations that the Board gave to the Governor, the Governor would have to act pursuant to what was already existing State law?

Mr. SANTINI. Yes.

The CHAIRMAN. The time of the gentleman from Nevada (Mr. SANTINI) has again expired.

(On request of Mr. OTTINGER and by unanimous consent, Mr. SANTINI was allowed to proceed for 3 additional minutes.)

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, there is one thing that I would really like to address to both the gentleman in the well and to my good chairman, which concerns me about the gentleman's amendment. I applaud the gentleman's exemption from State and local governments in the override of substantive provisions. I would like to ask the gentleman about the so-called bump up provisions. I understand it that if action is not taken within the prescribed time, then the board is allowed to make a decision. It is my understanding that a principal objection of the chairman, the gentleman from Michigan (Mr. DINGELL), and the gentleman in the well to the original legislation of the Interior Committee was having a board making decisions that are in the proper province of Congress to make. Now we have this as a part of the gentleman's amendment, which the gentleman from Michigan is supporting. I wonder about the gentleman's opinion as to the soundness of having a board which is not responsible to the public making these kinds of important decisions.

Mr. SANTINI. I appreciate the question. I will do my best to respond.

First of all, if it entailed the waiver, if we were discussing waiver circumstances of any kind, the only mechanism under my proposed amendment that is integrated with the Dingell-Brown bill would allow is that that must go to the President and then in turn it must come back to the House of Representatives and the Senate for support. So to that extent, if we were talking in the waiver arena, the gentleman's fears would be allayed.

In the second sphere, when we are talking about not waiver but we are talking suspension, what my amendment attempts to do is to say this: In that limited circumstance, where it is an imperative to suspend temporarily a new law in order to afford the energy project sufficient time to respond, that that seems to be a more ministerial or administrative act; and in view of the fact that it does not entail any kind of permanent substantive waiver, that it is appropriate, in terms of expeditious consideration, that that kind of activity be handled by the Board.

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Mr. OTTINGER. Mr. Chairman, as a practical matter, it is going to be a waiver, is it not, because once the plant is built and the law is suspended, the plant is going to be built, and the toxic substances or whatever it is that we are concerned about are going to be doing their harm. It really involves a very substantive decision with respect to suspension of vital health and safety legislation.

Mr. SANTINI. I would take a different interpretation of the issue than the gentleman. I think—not to answer the question directly—what it does is provide a flexibility within the machinery to respond to the circumstances where a project has a project decision schedule applicable to it but commercial operation of the project has not yet commenced and a new law comes on the line.

The CHAIRMAN. The time of the gentleman from Nevada (Mr. SANTINI) has expired.

(At the request of Mr. OTTINGER and by unanimous consent, Mr. SANTINI was allowed to proceed for 1 additional minute.)

Mr. SANTINI. Mr. Chairman, the project has been designated, has received a fast track schedule but is not yet in commercial operation, and at that point there is a change in the law. It seemed unreasonable to me in that context not to provide some flexibility for the particular entity that was designated but not yet in commercial operation to have time to comply or respond to the law, and that given that reality and a 5-year time limitation, it seemed reasonable to me that they should not be delayed in operating the project while they attempted to comply with a new law; but they should be awarded sufficient time within which to comply or respond to that new law.

Bear in mind in final analysis and protection at the top of this process is the right of absolute appeal unimpaired or unencumbered by any language constraint such as that contained in Udall and contained in Wirth.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, these could be suspensions of provisions that are vital to the health and safety of people. That is the concern.

The CHAIRMAN. The time of the gentleman from Nevada (Mr. SANTINI) has again expired.

(By unanimous consent, Mr. SANTINI was allowed to proceed for 2 additional minutes.)

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Colorado.

Mr. WIRTH. Mr. Chairman, I thank the gentleman for yielding.

I want to follow up on the question asked by the gentleman from New York, relating to the bump-up procedure. In section 185(b)(1), the Santini substitute says that the Board may issue an order referred to in subsection (A)(2)(b) to have a decision under this subsection made in lieu of the agency decision.

Does that mean that the Energy Mobilization Board can make the decision for a State, county, or local agency?

Mr. SANTINI. No; it does not. That means that in the limited context that we are looking at the situation where the project has a project decision schedule but commercial operation has not yet been initiated. A local law comes on line after the Board approval of the project.

Mr. WIRTH. Mr. Chairman, if the gentleman will yield further, this is in relation to the time frame and the bump-up procedure. It has nothing to do with grandfathering. This has to do with the bumpup. The part of the legislation I am referring to relates to, as I understand it, and I want a clarification from the gentleman, if an agency has not made a decision effectively, what the Santini amendment does, as I understand it, is that it allows the Energy Mobilization Board, the Federal Government, to make that decision for the local agency.

Mr. SANTINI. In the instance where the local agency refuses to act in the time frame.

Mr. WIRTH. That is precisely what I wanted to get at.

I thank the gentleman for that clarification.

Mr. SANTINI. Mr. Chairman, I think it is important to note what it is designed to do is provide a reasonable kind of administrative machinery that will answer and respond to the questions of the gentleman from Ohio with regard to delay, delay, delay, and time consumed, time consumed, time consumed, in not acting at either State, local, or Federal level.

As the gentleman knows further, his proposal and the proposal of the gentleman from Arizona (Mr. UDALL) contain essentially the same kind of mechanism, because the gentleman recognized, as we recognized, that there must be some way to deal with the total inaction at the State or local level.

Mr. WIRTH. Mr. Chairman, I thank the gentleman.

Mr. WRIGHT. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Nevada (Mr. SANTINI).

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, we produced a bill in our committee, and the Committee on Interstate and Foreign Commerce produced a somewhat different bill. Sooner or later, we are going to have to choose between them. We adopted a rule which will make that possible.

I take the view that the Santini amendment to the bill of the Committee on Interstate and Foreign Commerce is within their option and within their right. If they want to improve it with the Santini amendment that is fine with us. I hope the gentleman will show the same courtesy when we try to perfect our amendment with the amendment of the gentleman from Florida (Mr. FUQUA), which cuts out all this phony argument about 7 years of delay under our bill and really speeds up the judicial process.

I saw the 7-year poster still out in the hall there. I would suggest maybe someone take it down.

I want to say that the Santini amendment does not do what it is advertised to do.

I am going to vote for it. I agree with the gentleman from California (Mr. CLAUSEN) that they have a right to improve the bill if they want to.

Santini-Lujan is advertised as taking away the right to waive State or local laws. It does not end the waiver of State and local laws for in the Clean Air Act, safe drinking water, surface mining, and coastal zoning, and many other Federal laws. State enforcement procedures are based on Federal law and would be waived. So Santini is an improvement, but not much of one.

I will vote for it.

I thank the gentleman from Texas for yielding.

Mr. WRIGHT. I thank my distinguished friend for his comments.

Mr. Chairman, in view of the time consumed, I wonder if I might have additional time.

(By unanimous consent, Mr. WRIGHT was allowed to proceed for 8 additional minutes.)

Mr. WRIGHT. Mr. Chairman, I rose initially in support of the Santini amendment. It now seems apparent that both sides agree that the Santini amendment should be adopted. It will clear up once and for all the apprehensions which had existed on the part of some State and local units of government that this Congress might be getting ready to override their powers and their laws roughshod.

Let it be understood that with the adoption of this Santini amendment, we shall not be overriding any State law. Those laws will be sacrosanct. They will be enforced under the States' provisions. Particularly State water laws have an almost sanctified quality to western Governors in some jurisdictions where water is more precious than oil or gold or uranium or any other resource of the Earth. The Santini amendment preserves intact and inviolate the laws of the State and local jurisdictions. It does not preempt them.

It does permit, of course, just as the Udall bill also permits, that in those instances where a local unit of government were simply to drag its feet and refuse to make any decision under its own laws, that question might then come to the Energy Mobilization Board and be decided in conformity with the laws of that State. Without that provision, there would not be any possibility of a fast track. We shall respect and abide by State laws. But we cannot permit any State to stymie a badly needed Federal project through sheer refusal to decide on permit applications and things of that sort.

I know all of the Members have heard the horrible examples, the worst of the horror stories. Perhaps the best known of them, of course, was the Sohio pipeline. After 5 years, $50 million, 700 applications for often duplicative permits, the company simply threw up its hands and gave up, because it became apparent due to the delays and the built-in regulatory morass that it simply was not going to be able in less than 9 or 10 years of wasted effort to do that which everyone recognized was clearly in the interest of the United States of America. That was to build a pipeline from the west coast of this country to mid-America, where we could utilize between 400,000 and 500,000 barrels of oil daily from our reserves in Alaska, cutting down by that much upon the expensive Middle Eastern oil, reducing by that much our profound and shameful reliance on foreign producers.

In addition to that, the proposed pipeline would have made it possible for our consumers to have enjoyed oil from our Alaskan find at about $2 a barrel cheaper, because it could have been transported by the more efficient means of a pipeline rather than having to go by barge through the Panama Canal and be landed at the gulf coast. That project with all its benefits to our Nation went by the boards because of the regulatory morass. That is far from a unique situation.

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Because of this morass, there is a need for some orderly procedure as provided in the Santini amendment whereby this Congress can say, Enough, enough. We pass a law and then the administrative agencies superimpose upon that law layers upon countless layers of additional requirements which have the force and effect of law.

Surely there have to be times, if we are serious about making this country energy sufficient again, where this Congress will want the orderly opportunity which the Santini amendment provides for us to review that situation and to say, Well, it is more important that this pipeline be built than it is that this petty requirement suggested by this administrative agency be fulfilled.

Let me show my colleagues a flow chart, better described I think as a slow chart, developed by the Union Oil Co. to show all of the requirements that have to be met in a thermal energy project. If my colleague, Mr. ALEXANDER, would assist me, I think my arms are not long enough. All of these requirements have to be met to qualify, to permit a geothermal project in the Western States. Surely some of this needs to be trimmed down. This amounts to about 7 or 8 years.

Yes, Members of Congress voted for most of these laws, but Members of Congress did not vote for most of the regulations that have been superimposed upon those laws. In a recent 2-year period, while Congress was enacting some 500 public laws, the bureaucracy was propounding almost 1,000 new regulations. Those are the things that hamstring our enemy efforts. Members of Congress most certainly did not vote for this kind of thing.

Let me give you one example of where one of these laws really ought to be set aside. These lists on the backboard are some 23 laws that almost always get involved in an energy project. This other chart contains a list of some 13 agencies which usually must give clearance.

In one instance, reductio ad absurdum, admittedly, but certain not unique, out in Wyoming there was an effort to explore for minerals, for oil and coal, that this Nation needs. Exploration was held up by the U.S. Department of the Interior. An application was made that we waive this rule of the Department of the Interior. Here is the response.

I shall read it to my colleagues:

> BUREAU OF LAND MANAGEMENT,
> RAWLINS DISTRICT OFFICE,
> *Rawlins, Wyo., March 20, 1979.*
>
> Attn: Mr. David F. Banko.
> DAVIS OIL CO.,
> *Denver, Colo.*
>
> DEAR MR. BANKO: This is in response to your request for a variance regarding the sage grouse strutting-nesting complex stipulations attached to the above mentioned lease and well site. At this time available data suggest that noise from around-the-clock drilling operations tend to suppress sage grouse strutting activities. Combined with the fact that the proposed lease and well site is located within the nesting habitat associated with two strutting grounds, we feel the variance should not be granted in order to protect this resource.
>
> Since there is a lack of research data on this problem (noise effects on sage grouse strutting, etc.) the Bureau is proposing a research study to determine these effects. However, because of our planning system and budget requirements, we do not anticipate starting the field work for at least three years. After this study has been completed, the data may show that variances of this type may be granted.
>
> Sincerely yours,
> RON WENKER,
> *Area Manager.*

So for 3 years an inspector with the Department of the Interior arbitrarily holds up a vital energy exploration because he just does not know if maybe the sage grouse might not like any such activity near their strutting grounds. And this minor official cavalierly says it will be at least 3 years before he can get around to studying it. That is the kind of thing we will need to have the opportunity to lay aside if both Houses in their deliberate judgment decide that energy for this Nation is more important than that sort of secondary consideration.

I can name you dozens of similar examples. One of the laws that those of us on the Public Works Committee struggled and labored to bring forth and about which we were very proud was the water pollution law of 1972. We thought we had created a monument to clean water. Among other things, we provided that a hydroelectric power development should not spew back into the stream water so hot that it would kill the plant life or create the bad kind of algae that robs that water of its natural oxygen;

a very logical provision of law. But do you know what the regulatory agency decided that we had meant? They decided to require anybody building a hydroelectric powerplant to install such costly equipment and undergo such time-consuming delays as to cool off the water in the Southern States about 10 degrees cooler than it runs in the natural stream. How ridiculous. What a waste. Surely that is one of those things that the Congress, in its wisdom, if called upon in the interest of producing energy for this Nation, should have wanted to deliberately set aside.

So the Santini amendment provides that opportunity, an orderly way in which Federal laws, not State laws, as erroneously interpreted by these agencies, whose members often thirst to write law without the inconvenience of running for Congress, may be set aside in specific instances when the Nation's energy future is at stake.

There seems to be nothing more logical than that, that this Congress, which wrote the laws, should have an orderly way to set aside or waive those laws as interpreted by the voracious regulation writers. That is what the Santini amendment provides. That is what I support. I think every Member of this House can embrace that kind of arrangement. If not, then we shall have to confess we are just not really serious about making this country energy sufficient again. Surely no challenge to our future so grave as this challenge posed by those who hold the economic windpipe of this Nation in their fists, has occurred since World War II. It is, indeed, the moral equivalent of war.

I remember World War II when Franklin Roosevelt said we are going to build a ship a day; we are going to build 50 planes a week; we are going to create in this country a synthetic rubber industry so we will not be at the mercy of the Japanese who cut off our rubber supplies.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent Mr. WRIGHT was allowed to proceed for 2 more minutes.)

Mr. WRIGHT. President Roosevelt did not say we are going to build a ship a day if it is found not to be disturbing to the sage grouse after a 3-year study. He did not say we are going to build 50 planes a week if some administrative board holds that it will not be offensive to a snail darter or some other species. No; President Roosevelt said we were going to do it, and we did. If we win this war for America's energy security again, we are going to have to show the determination to do things just as resolutely. This is the way to do it, the Santini amendment, and the Interstate and Foreign Commerce Committee bill. That is what I support. That is what I think all of us can embrace.

I want to commend and compliment my colleagues on the other committee, on the Interior and Insular Affairs Committee. I think they have come forward with an earnest effort. I do not in any sense charge them with bad faith. The basic idea of a fast track was first enunciated to me by the gentleman from Arizona (Mr. UDALL). So I want to commend all who have worked on this for good faith. But if we want a bill that will really work, that will get the job done, that will give Congress a way to cut through that jungle of redtape, then I think we should support the Santini amendment and the Interstate Foreign Commerce Committee bill.

Mr. ALEXANDER. Will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Arkansas.

Mr. ALEXANDER. I appreciate the gentleman yielding and I applaud the gentleman's remarks. I support the Santini amendment.

In listening to the gentleman's speech it occurred to me that we might extract from a rule of physics a paraphrase that applies to the impasse that has been presented in this country when the forces of production meet the forces of preservation, and that rule which occurs to me would be that for every energy production there is an equal and opposite environmental protection reaction. The only way we can resolve this impasse and move forward to resolve the energy crisis is to establish this board which will have the authority to make the decisions that are necessary for this Nation to move forward.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(At the request of Mr. GONZALEZ and by unanimous consent, Mr. WRIGHT was allowed to proceed for 1 additional minute.)

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to my colleague from Texas.

Mr. GONZALEZ. Mr. Chairman, I rise to ask the gentleman to yield for a question.

First, does this amendment in any way change the main exemption in the pending bill with respect to nuclear energy?

Mr. WRIGHT. Nothing in this bill, nor in this amendment, nor, as I understand it, in the Interior and Insular Affairs Committee bill, nor in any amendment I am aware of to be offered to that bill, involves nuclear power.

Mr. GONZALEZ. However, it would have something to do with the Federal safe drinking water law, would it not?

Mr. WRIGHT. I think any of the provisions in the legislation conceivably might have some application to the Federal safe drinking water laws only to the extent that the agency charged with the responsibility of making a finding with regard to whether or not a proposed project would adversely affect the safe drinking water of a region had failed to respond or failed to make its finding.

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Only in that instance would the Energy Mobilization Board come into the picture. Even then the water laws of the State and the national safe drinking water law would be protected.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(At the request of Mr. GONZALEZ and by unanimous consent, Mr. WRIGHT was allowed to proceed for 1 additional minute.)

Mr. GONZALEZ. Mr. Chairman, I raise that only because the main city I have the honor to represent is wholly dependent for its water on one source, and that is an aquifer source. In the Safe Drinking Water Act of 1975 we had an express provision placed in there with this in mind. This is the only municipality in the United States that has this unique situation.

Would not the gentleman say that it is not contemplated in the intent of this amendment or the bill that, in a situation where a sizable city, the 3d in Texas and the 11th in the Nation, is wholly dependent on a single source of water, that a Federal regulation intended to protect that source would be lifted in a struggle between a particular industrial development or synthetic fuel development and that source?

Mr. WRIGHT. Most emphatically I would respond that among the priorities safe drinking water has to be first, because it is the one and only thing for which there is no substitute, and nobody has ever discovered any synthetic for drinking water.

Mr. GONZALEZ. I thank the distinguished gentleman from Texas.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(At the request of Mr. BROWN of Ohio and by unanimous consent, Mr. WRIGHT was allowed to proceed for 1 additional minute.)

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, the gentleman in the well has made the analogy of World War II, I think not illogically, because the President of the United States declared this whole energy problem back in April of 1977 to be the moral equivalent of war. World War II lasted 44 months and, indeed, perhaps the gentleman mentioned and included the synthetic rubber project which the gentleman mentioned because the Japanese had taken Southeast Asia, were done in a few short months.

I would like to ask the gentleman in the well a question. I have some information, I think developed by the Department of Energy, on what the process in the legislation known as the Udall-Wirth bill would take in terms of minimum time. My information is that they would take at least 18 months, 18½ months minimum, and perhaps as much as 7½ years.

Under the Commerce Committee bill, the information I have is that the minimum time within which we can get a decision on these projects is 5½ months, and the maximum is 2 years and 1 month.

I just say to the gentleman, is this a wartime situation in those terms or not? Are we trying to shorten it up? Lord, under the Udall-Wirth bill and the amendment, the war would be over before we could get some of these problems resolved. Would the gentleman agree?

Mr. WRIGHT. To quantify the precise amount of time under either proposal may be impossible. I do not know. I do not know that the Udall-Wirth system would take 7 years or 5 years, or what the administration fears it may. I do think it logical, however, to conclude that the Commerce Committee bill will act more rapidly and will permit decisions to be made more expeditiously. Certainly it would allow the Energy Mobilization Board to list more quickly and without subject to court challenge projects to go on to the fast track, and to enforce its own regulations rather than having to go to the courts for enforcement.

I think it logical to conclude, without trying to stipulate time frames that might not be accurate, that a faster track would be served by the Commerce Committee bill with the Santini amendment. Of course, I would concur with the gentleman that this is the moral equivalent of war, and we do not have any time to waste.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

Mr. BROWN of Ohio. Mr. Chairman, I ask unanimous consent that the gentleman from Texas be given 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BROWN of Ohio. Mr. Chairman, I ask that only to observe that the thrust of this legislation is to deal with energy projects that certainly are not going to be accomplished within a few months. This will take years to build and undertake, but we know how fragile the situation is. The deterioration of Iran came within a period of 2 or 3 months, and the shortage after the collapse of the shah came to this country within 3 months. That is only one limited source of supply. If we lose that supply and do not have some of these projects underway, we shall be in serious jeopardy.

Mr. WRIGHT. I agree with the gentleman. We live in an age when the compression of time has taken on fantastic proportions. What we do, we must do quickly.

Mr. UDALL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, since everyone seems to be, maybe for different reasons, in favor of the Santini-Lujan amendment, I will not take too much time to discuss it. I enjoyed the majority leader's presentation, and I think he put things in an accurate context.

There are two approaches. We know we need to get going as a country on new kinds of energy projects. There are really two basic approaches. Our approach says, "Let's deal with procedures, cut the redtape, change one piece of paper instead of 42 pieces of paper, but let us not, as the other approach suggests, let us not use this bill to try to correct mistakes in Federal laws. Let us not overrule the voters of California, the voters of Florida or the voters of some other State who have decided what they have to do in a particular context. Let us set that aside for another time and get through the redtape and get going."

Let me make one point, if I may. We started out under the philosophy I have expressed, with no right for this Energy Mobilization Board or anyone else to waive or override Federal laws; no right to waive or override State laws; no right to waive or overide local laws or State constitutions. We know this is a bad idea, and we could get most of the job done by expediting procedure.

The other side started out with the idea that the Energy Mobilization Board was so important that they had this power to override all kinds of local, State, and Federal laws. I think that maybe the majority leader would be interested to know that Joseph Lash, biographer of Roosevelt, sent me a letter last week in which he expressed horror at the very idea that anyone was using Roosevelt as a precedent to waive all kinds of laws. The War Mobilization Board of World War II built a ship a day or 10 planes a day and did not have any right to ride roughshod over Federal, State, and local laws. There was an expediting function working within the laws of the land.

We started with procedure and no substantive waivers. They start out with the broad power to waive everything, all kinds of laws at all levels. They now advocate the Santini-Lujan amendment. They tell us we have gone a long way and we are going to protect State and local laws and simply leave this unelected Board with the right to override Federal laws, but when you read the fine print in the Santini amendment, what you find is that you cannot override State and local laws except—and one of the exceptions is if the State law is derived from the Federal law.

There are a lot of laws that have been patterned in the last 20 years on Federal statutes. The Federal law states that States that want to administer the Federal law can come in and have a State program and pass their State laws consistent with the Federal law.

My friend from San Antonio will be not very happy to know that one of the laws on the fast track is the Safe Drinking Water Act, clean air, the Clean Water Act, the strip mining bill, coastal zoning, and you can override those to a fare-thee-well. So, they have given you back something, going away a little bit, but there is a whole long list where they do not give much, where the expediter, the Mobilization Board, can override.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I thank the gentleman, because he has made a misstatement that I know he does not want to stand in the record.

Mr. UDALL. The gentleman always corrects me when I make mistakes.

Mr. DINGELL. It must be observed that the Board here has no authority either under the Commerce Committee bill with or without the Santini-Lujan amendment to override any Federal, State, or local law. The Board can only recommend waivers to the President.

□ 1250

The President cannot waive any such law. He only has the power to reject the Board's recommendation or to recommend a waiver to Congress. Under the Santini-Lujan amendment, the Congress must approve his recommendation or it has no effect.

Mr. UDALL. I am in agreement with the gentleman. He has stated the situation correctly. But the question is, do we want the Congress day in and day out, week in and week out, to hold hearings and be debating and voting on whether to override some particular State law?

Mr. DINGEL. That is quite a different point, than the question of whether or not the Board would be able to override a law. The Board, I reiterate, waive a law. It must be observed that the gentleman's amendment (H.R. 5660), the amendment offered by the gentleman from Arizona (Mr. UDALL) requires that every regulation that the Board issues must come before the Congress for review and a one-House veto. That provision will surely tie up his committee and the Commerce Committee and both Houses.

Mr. UDALL. The gentleman from Michigan cannot have it both ways. He cannot say congressional review is valuable and we ought to have it on some matters but not on others.

Mr. DINGELL. I say it should be done on issues of substance that are meaningful and not engage in embroiling and quarreling as we would be compelled to do under the gentleman's bill.

Mr. Chairman is to quote from the National Governor's letter of October 29, 1979, to Members about the "bump-up" provisions of the Santini-Lujan amendment and the Wirth-Udall bill. Governor Lamm said:

> We continue to be troubled by the inclusion of the so-called "bump-up" provision (in both the Santini amendment and the Udall-Wirth substitute) that allows the President to intervene and make a decision for state and local agencies when a deadline has been missed. This provision intrudes on the sovereignty of state and local governments and raises questions of basic workability.

Both bills have "bump-up" provisions. The Wirth-Udall would let the President, acting through the Board, make decisions when a Federal, State, or local agency fails to decide under the schedule. The Santini-Lujan amendment has the same provision.

The Santini-Lujan amendment does not permit waivers by the Board of any laws.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. BROWN of Ohio, and by unanimous consent, Mr. UDALL was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding.

Mr. Chairman, I would like to try to referee between the gentleman from Arizona, Mr. UDALL, and the gentleman from Michigan, Mr. DINGELL, merely to suggest that if the Congress does have the right to waiver in rare cases, perhaps we would be getting a little bit more attention from some people who make the idiotic bureaucratic decisions like the one on the ruffled grouse that the gentleman from Texas referred to. Would it not be logical that some of the people would back off a little bit on some of these idiotic conclusions that are reached?

Mr. UDALL. I will say to the gentleman that we have got to get tough with them. I am just as angry as the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT), is on this point. The Congress passed a bill on Sohio. We may get angry enough at the State of California one of these days to override their law on substance as well as procedure.

Mr. BROWN of Ohio. The process is that the Energy Mobilization Board recommends to the President. The President, after time for consideration and comment, recommends to the Congress, and the Congress, after time for consideration and lobbying by those people affected, has to take a vote on that issue.

Mr. UDALL. The gentleman says it clogs the courts; we say yours clogs the Congress, and we are trying to speed up the decisionmaking.

Mr. BROWN of Ohio. It becomes a two-House decision just like the legislation that we finally had in the Sohio pipeline case.

Mr. UDALL. I have got all the work I need to do in my committee without sitting in a hearing about some refinery in Philadelphia, or whether we ought to override the city ordinance of San Antonio.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

Let us take the Outer Continental Shelf Lands Act. We spent about three Congresses, about 6 years—over the opposition of the oil industry, I might say—developing an act that might provide for sound economical development of our offshore oil that provides for certain safeguards. For example, if the Mexican Campeche oil well that has spilled in the Gulf of Mexico had been installed under the OCS Act which we passed in this Congress, it would have had to meet certain safety requirements, certain design requirements, and the coast of Texas would not be suffering from the results possibly of a very bad operation.

What the gentleman from Michigan is saying is that despite the fact that it took 6 years to get that law in place and it took 7 years to get a strip mining law, we are going to within 60 days, of which only 30 would be available for floor action, try to decide whether or not a particular waiver of those acts was sound, and I suggest that that is not a sound way to legislate. If the Udall bill passes and we have an EMB that has power to set deadlines and priorities, and if they run into a problem with a particular law, then let us come in and address it in an orderly way instead of having a time limit put on Congress so that we act under tremendous pressure to get something out.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield so that I may respond to the gentleman from Ohio (Mr. SEIBERLING)?

Mr. UDALL. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding.

I just say to my colleague, the gentleman from Ohio (Mr. SEIBERLING), that nobody in this legislation has recommended that we be able to override Mexican law. What we are trying to do is address the idiotic law or the idiotic reading of the law by people like this person who made the decision on the ruffled grouse. Nobody wants to override law to encourage oil spills. What we are trying to do is see that things like this do not happen to make us further in thrall on our energy problem to people like the Mexicans or anybody else.

Mr. SEIBERLING. Nobody wants to, but that is what the bill would permit.

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Nevada.

Mr. SANTINI. I thank the gentleman for yielding. My very good chairman, the gentleman from Arizona (Mr. UDALL), and I have maybe a modest point of difference here.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. SANTINI, and by unanimous consent, Mr. UDALL was allowed to proceed for 2 additional minutes.)

Mr. SANTINI. If the gentleman will yield further, the gentleman has alluded in his comments in the well to the fact that where he saw an urgent national need, he responded, such as in the Sohio pipeline case. I would suggest that there is another bill that the gentleman originated that would have a parallel course and with a similar legislative response: the Alaskan Natural Gas Act. I would suggest to my chairman that in both of those instances what we had is an exemplification of this House responding under accelerated circumstances to a preconceived national need, using essentially the mechanisms that my amendment proposed. I am trying to do nothing more than to convince in time-frame circumstances exactly what the chairman of the Committee on Interior and Insular Affairs did and the chairman of the Committee on Interstate and Foreign Commerce did in those two specific pieces of legislation.

Mr. UDALL. But look what we have done. Those were big projects. They needed to be expedited. The Congress could take the time to do it. That is why I started out with six really big projects, six a year. We went to 12 and then to 25, and now it is up to 75. If you put everybody on the fast track, you have got nobody on the fast track. I am willing to go on big projects in tough situations like the Alaska natural gas case, to take it up and consider overriding some laws.

Mr. SANTINI. If the gentleman will yield further, the gentleman cannot have it both ways. He cannot have this Board sending all of its rules and regulations over here to the House of Representatives and say he is saving time then, and yet say but if we are going to have a waiver of a Federal law, that is going to be on a major project.

Mr. UDALL. I have not been hung up on this review of regulations. That has never been an important matter to me.

Mr. Chairman, I urge a vote for the Santini amendment, and for the Fuqua amendment when it is offered.

Mr. LUJAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment. Mr. Chairman, we are facing a time that is just hard to believe in this country. We have paralyzed ourselves on many of these projects. I have a list, sitting over there at the desk, of various projects that have for some reason or another been canceled in recent years. Granted, not all of them are because of Federal regulations; some of them are because of economic reasons. But many, many are because of Federal regulations.

There were 18 refineries that were canceled, with a capacity of 3,350,000 barrels of crude oil per day; eight coal gasification projects with the capacity of producing natural gas at the equivalent of 300,000 barrels of crude oil a day; seven nonnuclear electric generating projects with a capacity of 8,000 megawatts; three liquefied natural gas import projects; one coal liquefaction project; two oil terminals and pipelines. I submit to this House that we do not have a resource shortage in this country; we have an energy problem because we cannot get at these resources.

□ 1300

We have a vehicle by which we can resolve these problems and that is the Committee on Interstate and Foreign Commerce bill and I intend to support it. It is not a perfect vehicle. The gentleman from Nevada (Mr. SANTINI) and I are attempting to improve on that vehicle.

Mr. Chairman, let me address, particularly to our western friends, one of the problems we see in the committee bill. As a matter of fact, we see the problem in all of the bills making their way through the legislative process, and that is the water question. I am going to limit myself just to that particular argument because I think it is a very important argument that needs to be made.

Mr. Chairman, the Committee on Interstate and Foreign Commerce bill specifically says there will not be any waiver of anything that deals with laws or regulations relating to water rights or the appropriation, delivery or use of water pursuant to such rights. This amendment also addresses that problem. We remove State and local governments from the waiver provisions of this bill.

Mr. Chairman, it is now my understanding that another amendment will be offered to further clarify that problem. The gentleman from Wyoming (Mr. CHENEY), I understand, is going to offer an amendment that further clarifies that and I intend to support that amendment.

Mr. Chairman, I tell my western friends, it is not an intent to tamper in any way at all with any water laws of our States or any of the customs or practices of water rights and water law in our States.

I would ask the Members of this Committee of the Whole to approve this amendment because I think that with this addition, it makes the Committee on Interstate and Foreign Commerce bill a very, very suitable way to solve this problem.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I would be glad to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I congratulate the gentleman from New Mexico. The gentleman has worked very hard on this amendment, he has consulted with the Committee on Interstate and Foreign Commerce and has worked with my good friend, the gentleman from Ohio (Mr. Brown), and I and he have done so in a most statesmanlike and dignified manner and in a way which does credit not only to him, but to the House. I commend the gentleman and, as I have indicated, I am happy to support the Santini-Lujan amendment because of the great merit that it has.

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Chairman, I would like to compliment the gentleman on what he and the gentleman from Nevada have done in preparing this amendment. I would like to confirm what I think I heard, that is, that the gentleman does feel that perhaps the language now in the Udall-Clausen-Wirth bill, section 216(d), as placed in the Record by the gentleman from Wyoming (Mr. Cheney), perhaps with some refinements by the gentleman from California (Mr. Moorhead), would be a step in the right direction.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Bereuter and by unanimous consent, Mr. Lujan was allowed to proceed for 1 additional minute.)

Mr. LUJAN. I think both the bill of the Committee on Interior and Insular Affairs and the bill presented by the Committee on Interstate and Foreign Commerce would be acceptable on this point. I have the same concerns, being a westerner, as the gentleman has. I think both bills are acceptable now as far as the water language is concerned. However, to further clarify the problem, I would hope this would be accepted.

Mr. BEREUTER. Then the gentleman would support the Cheney amendment?

Mr. LUJAN. I will be supporting the Cheney amendment.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman.

Mr. ECKHARDT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have the pleasure of being on both of the committees who have presented these bills. I know the gentleman from Nevada has been most serious in devising his amendment. Indeed, it is not unlike the Sharp amendment that was offered on the Committee on Interstate and Foreign Commerce which I supported and, as I recall, the gentleman supported. I think the chairman of the subcommittee at that time was opposed to it but perhaps because this is somewhat different.

I would like to say most of the argument here has not gone to the merits of the Santini amendment as against the existing Dingell bill but rather has gone to the argument of whether or not delayed or tardy process or imperfect process should be waived only, or whether delayed, tardy process plus substantive law should be waived.

Mr. Chairman, the gentleman from Nevada (Mr. Santini) really does not go to that because he retains in his amendment the same authority to waive substantive process but by a different means and I think a better means than in the original Dingell bill. The original Dingell bill provided that a waiver of substantive process would take effect by administrative action only, in the event that neither House exercised a one-House veto.

Mr. Chairman, the major thrust of the Santini amendment, as I understand it, is to require that there be affirmative action by both Houses before such process is waived.

However, Mr. Chairman, there is one provision in the bill that does not provide for such protection and that is of concern to me and I rise mostly to ask questions about that matter. I might say right off that I intend to support the Santini amendment because I think the gentleman from Michigan (Mr. Dingell) and the gentleman from Nevada (Mr. Santini) are entitled to perfect their bill. I think this amendment makes their bill better but I think the questions I am going to raise might indicate that there are some things that are not perfected by the amendment and some things that give me great pause.

Mr. Chairman, if the gentleman from Nevada will respond, I should like to raise a question on the draft of the Santini amendment that I have before me. This is a typed draft and the pertinent language is on page 9. It deals with section (d)(1) and deals with that somewhat limited area of concern where, for instance, a State may enact legislation with respect to its legitimate concerns perhaps it is concerned about the boomtown situation or perhaps it is concerned about the issue of pollution within that State or what have you—and it raises these concerns after the project decision schedule has been put into effect but before commencement of commercial operations of the facility.

Now, as I understand, Mr. Chairman, the Santini amendment would permit an order by the Energy Mobilization Board which could suspend application of these requirements to the facility for such time as is necessary to allow the producers of the facility to make good-faith efforts to comply, say, with that State requirement but not to exceed 5 years. However, there could be a suspension, I assume, of such requirements without subjecting this to the congressional affirmative action process. Am I correct in that?

Mr. SANTINI. Will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Nevada.

Mr. SANTINI. That is correct and I would add further that it seemed to me that this was an extension in significant part of the provision contained in the Udall-Clausen-Wirth bill that allowed for a similar extension up to 5 years under similar conditions.

Mr. ECKHARDT. Mr. Chairman, I am somewhat concerned about it in both bills, frankly. It is not that I do not feel there should be some reasonable suspension but the thing that troubles me is in the next paragraph; it provides that no determination of the Board under this subsection shall be subject to judicial review except as may be required by the Constitution of the United States.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Eckhardt was allowed to proceed for 2 additional minutes.)

Mr. ECKHARDT. Now, there is also the requirement that there be consultation with the agency responsible for implementing the requirement, as, for instance, consultation with the State, the States concerned, say, about the building of a plant converting coal to oil, concerned about the fact it is going to bring a lot of people into a little area, a little town of maybe 1,500. The gentleman's State has a number of those little towns.

□ 1310

Now, under the terms of this amendment it would be required that there be consultation with the State agency or with the Federal agency in the case of a suspension. It is also provided that the suspension is for the purpose of permakes no requirement of a good faith effort to comply; but suppose the EMB makse no requirement of a good faith effort to comply and suppose it grants a suspension for 5 years without any reasonable basis whatsoever. In sum, the State was perfectly reasonable in its requirement, but the Energy Mobilization Board decides, without complying with the directives of the States to suspend substantive requirements for 5 years. As I read this, there is no judicial review, except as may be required by the Constitution of the United States; so, in effect, the last word is with the Energy Mobilization Board as to whether or not they consulted with the State agency.

Would that be a fair conclusion?

Mr. SANTINI. Mr. Chairman, if the gentleman will yield further, in the isolated context of dealing with first and foremost a State or local law that had a consequence of shutting down the project, dealing with the further isolated factual context of the law that has been enacted after establishment of the project, but before its commercial activity, so I think we are looking at this thing in a very limited time frame.

The CHAIRMAN pro tempore (Mr. Danielson). The time of the gentleman from Texas (Mr. Eckhardt) has again expired.

(At the request of Mr. Dingell, and by unanimous consent, Mr. Eckhardt was allowed to proceed for 2 additional minutes.)

Mr. SANTINI. Mr. Chairman, will the gentleman yield further?

Mr. ECKHARDT. I yield to the gentleman.

Mr. SANTINI. Mr. Chairman, my sense and I believe the sense of Messrs. UDALL, WIRTH, and CLAUSEN as well, was that there had to be some mechanism to deal with the realistic practical problem of having a law enacted after commencement of a project that would have the consequence of shutting it down.

Mr. ECKHARDT. Mr. Chairman, I agree with that. I am not disagreeing with that proposition. I am concerned with the proposition of limiting judicial review to only those matters which are of constitutional dimensions.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, inherent in the gentleman's question is a point to which I think the gentleman is not paying close heed; that is, that the Board can only suspend those activities that would inhibit carrying forward the project. The Board, for example, would not have the authority over a collateral question of zoning to prevent boomtowns from going crazy. It would not have the authority to suspend any requirement which would prevent the project from going forward, relating to health or safety.

Again, I direct the attention of the gentleman to the broad number of provisions of law which cannot be suspended under the Commerce Committee bill. The gentleman should have those in mind. These provisions include worker health and safety and labor laws and water laws. A State would not be inhibited from using its police power wisely so long, as under this particular provision, it did not prevent a State from going forward, or as it has authority to scrupulously and wisely defend those kind of projects.

Mr. ECKHARDT. Mr. Chairman, if the gentleman would yield back to me, who decides whether or not a State has inhibited the project? It is the EMB.

I am not concerned about some reasonable provisions for suspensions.

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. ECKHARDT) has again expired.

(By unanimous consent, Mr. ECKHARDT was allowed to proceed for 2 additional minutes.)

Mr. ECKHARDT. Mr. Chairman, I am not concerned with that, but I am concerned with the truncated judicial view that only goes to whether or not the Constitution has been violated.

The thing is that if we write limitations like the limitation that these matters shall be matters that actually hold up the project or that the suspension is necessary in order to proceed with the project or that the suspension may only be for a period of time while good faith efforts to comply with State or Federal law are in effect; but then if we say that the court cannot review it, we might as well not have written the limitations, because there is no way to get enforcement of the provisions.

Let me conclude by merely saying, nevertheless, that I agree with the amendment and I think it is better than the original proposition, but it does need further perfecting and at such time as I may do so properly, I shall attempt to do that.

Mr. CORCORAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not have any quarrel with the amendment that has been offered by my colleagues, the gentleman from Nevada and the gentleman from New Mexico. I supported those measures in the Commerce Committee and I will support them here this afternoon; however, I think it still raises some questions about the effectiveness and capacity of the proposed Energy Mobilization Board.

During the general debate on the measures, I asked one of the makers of the amendment, the gentleman from Nevada, whether or not in view of the fact that time and time again as we considered this fast track legislation, the subject of the Sohio pipeline was brought up as an example of the very type of thing we wanted to prevent from happening with the Energy Mobilization Board this amendment would weaken it. Well, if we can recall the facts and circumstances surrounding that unfortunate development, there were some 700 State and local permits involved. The effect of this amendment would be to deny or take away from the Energy Mobilization Board the authority to deal with those kinds of State and local problems; so I would have to assume that the proponents of the legislation would concede that they are weakening their measure by the adoption of this particular amendment in which they are enthusiastically in support.

Second, however, I think the problem that is raised is that when we consider what really constitutes the regulatory explosion that has developed over the last 10 years that is causing our problem, the fact is that it is not just Federal statutes. The plethora of State and local legislation, especially in the new areas where Government is now setting standards, emanates from the Federal statutes and from the Federal laws that have been passed in the last several years.

As has been pointed out by the gentleman from Arizona, this amendment does have a safety valve escape provision so that there are certain Federal statutes, as well as local and State statutes, that can still be brought under the procedures of this particular Energy Mobilization Board.

So I would conclude by saying, as I tried to suggest in debate, that until we get to the root causes, until we review the legislation that is on the books today, in order to bring about the kind of flexibility, bring about the kind of moderation, bring about the kind of framework within which we can balance these equally good goals of more energy on the one hand and clean water on the other, we are just kidding ourselves, we are just deluding ourselves into thinking that what we are working out here today is going to put energy projects on a fast track.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I would ask the gentleman one question. I had occasion to read the Commerce Committee report and they addressed specifically the concept embodied in the Santini-Lujan amendment. In their report they rejected it out of hand, saying that the Board would not be impartial, so it could not be expected to administer State and local laws properly. The Board would start with the desire to see the energy project approved. The report also said the Board would not have the expertise or experience in order to make such decisions about local or State laws, and if they did acquire it, it would take an enormous staff to do so.

Last, the Commerce Committee reports that the concept may even delay things, because the Board would have to perfect a record against judicial appeals; so the committee rejected it.

Now they are telling us it is a great approach.

Now, I enjoy delicious ironies, but sometimes they are a little hard to digest.

Mr. CORCORAN. I do not think there has been any change, I would say to the gentleman from Maryland. I think the intent of passing a bill, any bill, so we can give a bill to this country, so we can convince ourselves that we are moving energy, is probably the primary determinant in the acceptance of this amendment.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from Connecticut.

Mr. WIRTH. Mr. Chairman, I think the point just made by the gentleman from Maryland (Mr. BAUMAN) illustrates very clearly the other half of the Santini amendment. The first half, which precludes the Energy Mobilization Board from waiving State, county, or local law, is a very positive contribution. I will, therefore, vote for Santini.

The other half of Santini is the part that causes the very severe problems. As the gentleman knows, the attempt has been made on the floor to say that Santini solves all the State, county, and local problems.

☐ 1320

The CHAIRMAN pro tempore. The time of the gentleman from Illinois (Mr. CORCORAN) has expired.

(On request of Mr. WIRTH, and by unanimous consent, Mr. CORCORAN was allowed to proceed for 2 additional minutes.)

Mr. WIRTH. Mr. Chairman, will the gentleman yield further?

Mr. CORCORAN. I yield to the gentleman from Colorado.

Mr. WIRTH. Mr. Chairman, the argument has been made on the floor that Santini solves all of the State, county, and local problems. If that were the case, why is it that the Governors, the county officials, and the mayors are all supporting Udall-Clausen-Wirth rather than Dingell, as amended by Santini?

I think the reason for that has been carefully pointed out by the gentleman from Maryland and by the gentleman in the well recently in their discussions.

The provision for the so-called bump-up provision in the Santini bill which the gentleman from Nevada and I talked about earlier provides the EMB with this extraordinary authority to make decisions for State, county, and local governments.

Now, can we expect a small group—and obviously it is going to be a small group in EMB—to become instantly knowledgeable on California coastal management issues or on Colorado water issues within a 45-day period? There are lawyers in Colorado who have spent 50 years trying to fathom the complexities of Colorado water law. It is absurd to suggest that somehow the Energy Mobilization Board is going to be able to make all of these decisions for State, county, and local governments.

The gentleman from Illinois (Mr. Corcoran) is absolutely correct in pointing out this major fallacy. The Santini amendment goes a long way in correcting earlier problems, but remaining is this very, very complicated decisionmaking process of EMB.

Mr. Chairman, if the gentleman will yield further, it seems to me that we are also, through Santini, inviting a very severe slow track. I cannot imagine how many constitutional lawsuits would be brought on the ability of the Federal Government to make decisions for State, county, and local governments. It just does not make any sense that that would happen, and that is why the Governors, the counties, and the mayors are supporting Udall-Clausen-Wirth and are not supporting the Dingell bill, as amended by Santini.

Mr. Chairman, I thank the gentleman for yielding.

The CHAIRMAN pro tempore. The time of the gentleman from Illinois (Mr. Corcoran) has again expired.

(By unanimous consent, Mr. Corcoran was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. Mr. Chairman, I will yield in just a moment, but first I want to comment, if I may, on what was said by the gentleman from Colorado (Mr. Wirth).

What is tragic and what is dangerous about the fact that there will be litigation on these cases that come before this proposed Energy Mobilization Board, and then in the end nothing happens, is that meanwhile we continue to go forward without taking steps to deal with our basic problems with our statutes and with other Federal programs which have had the effect of denying the development of energy here in this country. And the tragic result is that we become more and more dependent on OPEC oil.

Mr. Chairman, this particular proposal will not work. That is what is wrong with it. It will not work unless we want to change the Constitution and unless we want to make basic changes in our form of government.

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from Nevada.

Mr. SANTINI. Mr. Chairman, I appreciate the gentleman's yielding.

First, Mr. Chairman, let me say that I think it is perhaps misleading—and I know that my good friend, the gentleman from Colorado (Mr. Wirth), did not quite intend that—to suggest that the Governors and counties have not endorsed the Santini proposal. My information is exactly to the contrary. My communications have been that they very much support that proposal.

Mr. CORCORAN. Mr. Chairman, right on that point, if I may reclaim my time, I think the genteman from Colorado (Mr. Wirth) might be able to explain that point further.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from Colorado.

Mr. WIRTH. Mr. Chairman, everybody agrees that the first half of Santini is a good thing to do, to preclude the waiver of State, county, and local laws. On the final product of Udall-Clausen-Wirth versus Dingell, as amended by Santini, the Governors, counties, and mayors are supporting Udall-Clausen-Wirth for the very reason of the bump-up provision that the gentleman has clearly illustrated.

That is the bottom line. Where are those decisions going to be made? Are they going to be made by EMB or at the local decisionmaking level?

Mr. SANTINI. Mr. Chairman, if the gentleman will yield, I think it is again misleading to suggest that is the sole determinant issue as between Udall-Clausen-Wirth on the one hand and Dingell, as amended by Santini, on the other.

The final decision is not the board's in both instances; the final decision is the President's.

The CHAIRMAN pro tempore. The time of the gentleman from Illinois (Mr. Corcoran) has again expired.

(On request of Mr. Santini, and by unanimous consent, Mr. Corcoran was allowed to proceed for 2 additional minutes.)

Mr. SANTINI. Mr. Chairman, will the gentleman yield further?

Mr. CORCORAN. I yield to the gentleman from Nevada.

Mr. SANTINI. Mr. Chairman, granting the power comes down on the one hand, it is the feeling and impression and disposition of my good friend, the gentleman from Colorado (Mr. Wirth), and the gentleman from Arizona (Mr. Udall) that somehow it is preferable to have this 120-day, one-judge intermediary action as a more meaningful resolve of the very fundamental questions that the gentleman has raised to having the energy board.

I, having been a trial judge, know first and foremost that there is not a trial judge in the land who is prepared to address and deal with problems of the complexity the gentleman from Colorado (Mr. Wirth) has suggested.

I will say, No. 2, that we are building in a major impediment to implementing decisionmaking by taking the issue and sticking it in court in the intermediate stage, because that court may be beleaguered and overwhelmed with litigation, and the trial judge is not going to have the time or the expertise in 120 days to 240 or 500 days, whatever it is, to resolve the problem while the judge and his one law clerk try to figure out what the problem is and what its impact is.

Mr. CORCORAN. Mr. Chairman, I thank the gentleman from Nevada (Mr. Santini) for his remarks. I will reclaim my time, and I will yield to the gentleman from Ohio (Mr. Brown) later.

Mr. Chairman, let me just comment by saying the gentleman is really making an excellent case for the need to review the entire body of regulatory law that has emanated out of Washington in the last 10 years.

What the gentleman is suggesting and what the gentleman from Ohio (Mr. Brown) said in general debate is that there will only be rare occasions when the EMB process will lead to the President and have the President submit it to the Congress so there will be action on the waiver. The point is that there are thousands of energy projects that ought to be going forward, not just a handful.

The CHAIRMAN pro tempore. The time of the gentleman from Illinois (Mr. Corcoran) has again expired.

(On request of Mr. Brown of Ohio, and by unanimous consent, Mr. Corcoran was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I think it might be helpful to my colleagues if I were to read the language in the Udall-Wirth bill. If the gentleman will have the patience to suffer me that opportunity, I will read from page 29 of that bill.

Mr. CORCORAN. Mr. Chairman, because the gentleman has had patience with me, I will have patience with him.

Mr. BROWN of Ohio. Mr. Chairman, the language on page 29 of the Udall-Wirth bill is as follows:

> (e)(1) If any Federal, State, or local agency has failed to make a decision or take action pursuant to a court order issued pursuant to subsection (b) or (c), the President may perform the action or make the decision in lieu of the agency.
>
> (2) The President shall notify an agency that he has determined that the agency has failed to make a decision or perform an action within the time required by such court order and that the President intends to decide in lieu of the agency. If the agency has not acted or decided within 15 days of such notification, the agency shall transmit to the President forthwith all records in the possession of the agency pertinent to that decision or action. The President shall take whatever additional action is necessary to develop an adequate record for a final decision or action.

Mr. Chairman, the President is required to take into consideration all of the agency's steps, but the President makes the decision.

In this legislation—the gentleman's legislation—the President takes over State and local decisions.

It seems to me that we are arguing about distinctions that are not very significant. The major difference between the Commerce bill and the Udall-Wirth bill is that in the legislation the gentleman from Colorado (Mr. WIRTH) and the gentleman from Arizona (Mr. UDALL) hawked up at the last moment, we have the opportunity for 120 days of judicial delay before the President takes over for the agency.

The CHAIRMAN pro tempore. The time of the gentleman from Illinois (Mr. CORCORAN) has again expired.

(By unanimous consent, Mr. CORCORAN was allowed to proceed for 2 additional minutes.)

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. Mr. Chairman, before I yield to the gentleman from Nebraska, let me just comment on what the gentleman from Ohio (Mr. BROWN) has described is the very case for the failure of the EMB, because if it has to go through all that process in order to get just one or two additional energy projects, just one or two refineries built in this country for example, we clearly are going to continue to be at the mercy of OPEC and foreign oil.

Mr. Chairman, I now yield to the gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I followed with interest the discussion between the gentleman from Colorado (Mr. WIRTH) and the gentleman in the well concerning the practical problems of the bump-up procedure.

I have to first say that clearly I support the Santini-Lujan amendment, but I do say that we ought to look at the constitutional defects that are in here. Under the Constitution, we have things like the zoning law, various siting laws. The 10th amendment, gives the States exclusive power in those areas with the States then able to delegate such powers to their political subdivisions. These powers of the States cannot be assumed by the Federal Government or delegated to it. We have a constitutional problem where those kinds of matters are bumped up to the Federal Government and then placed under Federal control.

It is at least arguably constitutional, on the other hand, for the Federal Government, under the Udall-Clausen-Wirth approach, to force a decision by a political subdivision on a State, because we are not removing that decision from their authority. So I think the Udall-Clausen-Wirth approach is constitutionally arguable, while the bump-up procedures of the Commerce bill, even as amended, is not constitutional when such matters being bumped up are clearly within the exclusive authority of the States.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from Colorado.

Mr. WIRTH. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, we are into a discussion here and asking this question: How does one enforce the fast track? That is a very significant difference as between the Dingell bill, as amended by Santini. and the substitute measure.

□ 1330

The enforcement in the Dingell-Santini bill is through the bump-up to the Energy Mobilization Board. If a local government does not make that decision, you bump it up to the EMB. What we have done is followed the normal constitutional process and said, "If you do not make that decision, EMB can take them to court and say, 'Make that decision.'" You go to the court of appeals and say, "You make the decision." Going through the court process is part and parcel of 200 years of constitutional history in this country. We say "Go to court." The court says, "Make that decision."

The CHAIRMAN pro tempore (Mr. DANIELSON). The time of the gentleman from Illinois (Mr. CORCORAN) has expired.

(On request of Mr. SANTINI and by unanimous consent, Mr. CORCORAN was allowed to proceed for 2 additional minutes.)

Mr. CORCORAN. Mr. Chairman, I will yield to the gentleman in just a second, after commenting that if the Founding Fathers were here, I am sure they would support the gentleman from Colorado.

I now yield to the gentleman from Nevada (Mr. SANTINI).

Mr. SANTINI. Mr. Chairman, following up with the exchange of dialog with regard to the National Governors' Association, I have a letter in my hand from a Governor by the name of Richard D. Lamm, chairman of the Committee on Natural Resources and Environmental Management, dated October 29, 1979. He states in the fourth paragraph of that same letter:

> We continue to be troubled by the inclusion of the so-called "bump-up" provision (in both the Santini amendment and the Udall-Wirth substitute) that allows the President to intervene and make a decision for state and local agencies . . .

That essentially goes to the bottom-line proposition that the gentleman in the well has made so well. But I think it is somewhat misleading to suggest that the Governors have endorsed and supported on the one hand Wirth-Udall and, on the other hand, rejected the Santini-Lujan improvements on Dingell and Brown.

Mr. CORCORAN. Mr. Chairman, If I may reclaim my time, I think that the major concern of the Governors and other general purpose government officials is the substantive waiver, and that has been the problem from the very beginning at the State and local level.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I think it is also, with all due respect to the gentleman from Colorado, somewhat misleading to suggest that under the Udall-Wirth bump-up provision that in some mysterious way there is no question about how these decisions are made. There is some question about how they are made. They are bumped up to the President. That is what the Udall-Wirth bill does. And the decision, whether it is made by the President or EMB or the court itself, can be taken from the States under both bills. But the point of it is that under the gentleman's legislation, you have an extended process to get to that.

AMENDMENT OFFERED BY MR. FUQUA TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. FUQUA. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will report the amendment.

Mr. BROWN of Ohio. Mr. Chairman, reserving a point of order, to which part of the bill are we now having an amendment offered? I just did not hear the gentleman's statement.

The CHAIRMAN. The Chair will advise the gentleman from Ohio that this is an amendment offered by the gentleman from Florida (Mr. FUQUA) to the Udall substitute.

Mr. BROWN of Ohio. Mr. Chairman, that is in order at this point?

The CHAIRMAN. It is in order at this point if otherwise in order.

PARLIAMENTARY INQUIRY

Mr. SANTINI. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SANTINI. Would it not be proper procedure to first of all dispose of the pending amendment and then address the amendment being offered by the gentleman from Florida (Mr. FUQUA)?

The CHAIRMAN. The Chair will advise the gentleman that the gentleman from Florida (Mr. FUQUA) is within his rights to offer the amendment at this time since it is an amendment to the Udall substitute. The Chair assumes that the question will be put first on the Santini amendment.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. FUQUA to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute: Page 34, line 12, strike out "granting or".

Page 35, strike out lines 9, 10, and 11, and substitute:

(3) Action by the Board granting an order designating a proposed energy facility as a Priority Energy Project under section 204 shall not be subject to judicial review except as to the requirements of the Constitution of the United States.

Page 27, line 22, strike out "district court" and insert in lieu thereof "court of appeals".

Page 37, line 17, strike out "60" and substitute "30".

Page 15, line 20, strike out "203A" and substitute "205", renumber the succeeding sections accordingly and make the necessary conforming changes.

Page 22, line 17, strike out "(b)" and substitute "(c)".

Page 26, line 4, after "person" and insert "(other than an agency)".

Mr. FUQUA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment offered as a substitute for the amendment in the nature of a substitute be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FUQUA. Mr. Chairman, I had intended to wait until after the Santini-Lujan amendment had been disposed of to offer my amendment, but I have been waiting for almost 2 hours and I thought I would go ahead, under the rules, and offer my amendment.

The amendment has been mentioned previously, Mr. Chairman.

The amendment I am offering modifies the judicial review section 217 of the Udall substitute.

The first improvement under the language of the amendment is to deny judicial review of the decision of the Energy Mobilization Board in designating a proposed energy facility as a Priority Energy Project.

The concept of judicial review is prescribed for the unsuccessful applicant who is denied a designation by the Mobilization Board, but eliminates one of the court challenges which had been pinpointed by opponents as causing undue delay. This same concept is also contained in the Senate-passed bill.

The second improvement streamlines the enforcement provisions of the substitute which can be sought through the courts by the Mobilization Board where an agency has failed, or is reasonably likely to fail to comply with the Project Decision Schedule. My amendment eliminates one step by changing the court where the action could be brought to the court of appeals, rather than the "appropriate U.S. district court" which is contained in the substitute. This change would eliminate one of the most time-consuming steps in the appeals process. It further clarifies the purpose of the substitute to create a powerful lever in the hands of the Mobilization Board without removing the power to make decisions from the existing Federal, State, or local agency.

The third part of my amendment reduces the time a judicial review can be requested of the Supreme Court to 30 days instead of 60 days as contained in the substitute. The purpose of the reduction in time is simply to make each step as expeditious as possible, but within the bounds of fairness and reasonableness.

I urge the adoption of my amendment.

Clarifying note.—If the Agency has failed to make a decision or perform an action within the time required for the court order the Board may advise the Court that the national interest requires expeditious enforcement of the deadline. At that time the President can step in and decide that he will act in lieu of the Agency. The power to decide can, in other words, be shifted to the President.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to my friend, the gentleman from California.

Mr. CLAUSEN. I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman has offered a very constructive amendment. The whole thrust of our effort has been to expedite the judicial review process, and I think that this goes a long way in eliminating some of the nuisance suits that have been causing much of the delay and concern. It provides that there be no judicial review of designation, denial however is reviewable; schedule enforcement actions are brought in the U.S. Court of Appeals instead of the district courts; and finally the time for bringing any appeal in the Supreme Court is reduced from 60 to 30 days. So far as we are concerned, we are prepared to accept this amendment.

Mr. FUQUA. I appreciate the gentleman's comments.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, this is a good amendment. I discussed it a little bit earlier in the day. We have tried to hone up and fine tune our proposal as we have come along. The gentleman's suggestions here to speed up the judicial review in these three ways will give us a more effective bill, and I am pleased to support it.

Mr. FUQUA. I thank the gentleman.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we are now getting to the point where we can have an appreciation of the defects of the Wirth-Udall amendment, which is properly called the slow-track, sidetrack amendment. As a matter of fact, it would probably be best called the Slow-Track, Sidetrack, Massive Litigation and Lawyers' Full Employment and Enjoyment Act of 1979.

If you will look at this chart, this is the estimate by the administration of the massive amount of time that would be consumed in bringing order out of chaos in which we now find ourselves with regard to one single Energy Mobilization Board Priority Energy Project.

Observe: In the first instance, we see that judicial review of the project designation will take 4½ months, at the minimum, and 2 years 1 month at the maximum.

The amendment offered by our good friend, the gentleman from Florida (Mr. Fuqua), would strike that portion of the delay, but would retain judicial review of any rejection of an application for a designation. So he has eliminated somewhere between 4½ months and 2 years 1 month from the massive amount of time which would be consumed by the inordinately long Federal review. But that still leaves over 5 years of judicial review.

The Members should understand that one of the reasons that these cases take so long to process is the fact that it is the courts which take their sweet time to review these questions.

The gentleman from Florida (Mr. Fuqua) recognizes this wisely—and I commend him for it, because he has come halfway toward the Commerce Committee bill. He says that we would eliminate review of the project designations, but remaining would be the court enforcement of the Project Decision Schedule, which, according to the administration, would take between 14 months and 5 years 5 months.

The gentleman from Florida (Mr. Fuqua) has wisely—and I commend him again for this—tried to eliminate 30 days by saying that he would cut the time that an individual would have to get the matter into the Supreme Court from 60 to 30 days.

That is both good and bad. Let me explain to the Members why. First of all, reducing that time to 30 days is probably very good. But reducing it to 30 days from 60 days may very well affect adversely the rights of party litigants to process their appeal. This reduction would apply to appeals from decisions by Federal, State, or local agencies.

□ 1340

Now that raises a potential constitutional question, By curtailing time so much that you will find that the rights of citizens to have an adequate review of constitutional questions or other questions will be denied, and as a result you will have a constitutional test about the second part of the Fuqua amendment, which is reducing the time to get into the Supreme Court to 30 days.

Let us hear what the administration has said would happen under the judicial review provisions of the parts which would remain concerning enforcement of the schedule. Remember, the enforcement of the schedule does not ever get to the court, until such time as certain triggering actions have been taken by the Energy Mobilization Board.

For example, under the Udall-Wirth proposal, if an agency is likely to fail to meet a deadline, the Board can haul it into court. This could occur, for example, on the first of December. But the 120-day limitation does not begin on that date. The Energy Mobilization Board must first find that the decision deadline has passed and that there has been no agency decision. Then the Board must send a notice to the court telling the court of these facts. The court must then act within 120 days after that notice. That notice might be sent as late as the first of May of the following year, which would mean that it would be 120 days plus the period between the first of May and the first of the previous December, or actually 7 months added to the 7½ years.

Now, admittedly, the gentleman has removed another 30 days from this time if he gets by the constitutional question of curbing the rights of citizens to get into the Supreme Court.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. Dingell) has expired.

(By unanimous consent, Mr. Dingell was allowed to proceed for 5 additional minutes.)

Mr. DINGELL. It must be observed that the gentleman from Florida (Mr. Fuqua), my dear friend, has reduced the period here by 2 years 1 month to 5 years 4 months by subtracting a 30-day period. So we are now down to 5 years 4 months of judicial review.

Remember, the Sohio pipeline was killed by only 7 years of judicial review.

Now, here are some of the things that the administration says, and I put these in the Record last night so my colleagues could see what is involved.

Let me just read what all this would take.

An appeal of the EMB decision is filed in the Federal Court of Appeals, 15 to 60 days. Court of Appeals decide issue, 15 to 180 days. Petition for certiorari filed with the U.S. Supreme Court, 15 to 60 days. Supreme Court decision on petition, 15 to 180 days. Argument heard, 60 to 90 days. Decision in the Supreme Court, 15 to 180 days; total, 135 to 750 days, just in that one instance.

Hear our own enforcement of the deadline. Agency misses deadline for decision. Step one, seeks district court enforcement—that is taken out by the amendment offered by the gentleman—15 to 30 days. District court decides, 15 to 120 days. Appeal to the court of appeals, 15 to 60 days. Court of appeals decision, 15 to 180 days. Petition for certiorari to the Supreme Court, 15 to 60 days. Decision on petition, 15 to 180 days. Argument heard, 60 to 90 days. Decision, 15 to 180 days.

State and local again failed to appeal to decide the order, 90 to 180 days, EMB completes record, 15 to 90 days. EMB president decides, 15 to 30 days. EMB decision to the court of appeals, 15 to 60 days. Court of appeals decides, 15 to 180 days. Petition for certiorari, 15 to 60 days. Decision for petition, 15 to 180 days. Argument heard, 60 to 90 days. Decision, 15 to 180 days; total, between 430 and 1,950 days, 1 year 2 months to 5 years 5 months.

Now there is one other thing that has not been observed. The Wirth-Udall bill says that the action may be brought in any appropriate district court. The Fuqua amendment says it can be brought in any appropriate circuit court of appeals. That could be the Circuit Court of Appeals for the District of Columbia.

Thus, the Wirth-Udall bill, as amended by Fuqua, says that the matter has to come to Washington for decision or to some other court, quite possibly far distant from the homes of the persons who would be affected.

More importantly, the Fuqua amendment puts the matter in the circuit court of appeals.

The circuit court of appeals is a very nice place, but it is an appellate court. It is not a trial court. It is totally unaccustomed to function as a trier of questions of fact.

As a result, there is more probability for error at that level and more certainty that the review in the Supreme Court will be much more complex.

Now, admittedly, there are attempts to impose a 120-day limit on the time that the court may consider such enforcement, but the Wirth-Udall proposal does not tell you when the 120 days begins.

Is that 120 days for the trial of the question? Or is that 120 days for the trial and for the appeal of the question? And does that appeal include the appeal clear up to the Supreme Court?

That question is answered neither by the amendment offered by the gentleman from Florida or by the authors of the original legislation, the gentlemen from Arizona (Mr. UDALL) and from Colorado (Mr. WIRTH).

As a result, what are the rights of the persons except to still further litigate these obscure questions, which are left in by the Wirth-Udall slow-track, sidetrack, litigatious delay and Lawyers full employment and merriment amendment.

Mr. UDALL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am glad that we finally have it out, and I hope that somebody will get the word down to the White House that this chart and accompanying papers which have been peddled to the Members of the House by the administration last week are incorrect by at least 2½ years.

I can argue with my friend from Michigan about how incorrect, but at least we have saved 2½ years of the argument.

Let us talk about what is really involved here. The system in our bill is pretty simple and is going to take care of things 95 percent of the time, or 97 percent of the time.

I talked earlier today about this feeling somehow we are going to get every case, we have got to have regulations that will get not 99 of them, but every time; we will find a solution for every problem.

We deal on the basis that most of the things are going to be handled by sensible people, that Governors are rarely going to be adamant. The courts are not manned by judges who are idiots, that lawyers are not lurking on the corner trying to find new ways to stretch things out.

The way our system works is this. The mobilizers call in everybody and say:

> Gather at my office next week. We put the pipeline or refinery on a fast track. Everybody who has got a permit to grant in this whole process, the county zoning board, the mayor, Governor, EPA, you all come rally around. We are going to make a project decision schedule. We are going to cut it under two years if we can. We are going to give everybody enough time, but we are not going to give them unusual time.

So, we get it all set up and the whole thing is going to be decided in a couple of years.

Most of the time, that is it. It is going to be done. But what the gentleman from Michigan (Mr. DINGELL) and his friends are very anxious to do is find legislation that will make sure that those rare cases, the 2 or 3 percent where the Governor is standing out on the freeway and says, "Bar the door," or the mayor has refused or the county board will not do what their own law requires them to do. Somehow they believe that we have got to make very sure we have the machinery to take care of them in every single case.

□ 1350

As I say, 97 percent of the time we are going to be all right. In the cases where we are not all right, where we have an obdurate mayor or Governor, or the head of EPA, and it kind of blows your mind to expect that the EPA, appointed by the President, is not going to carry out a decision that this board, appointed by the President, has suggested, but if we set up a sensible procedure to go to court in these few cases where there will be disobedience to the decision schedule, it will work out.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Colorado.

Mr WIRTH. Mr. Chairman, I thank the gentleman for yielding, and I am delighted that the gentleman from Arizona has pointed out the specious nature of all of these time schedules being sent down by the administration by some junior lawyers there. People in the White House have admitted that the time frames referred to in the previous discussion were incorrect.

We should point out very carefully two things. One, there is a 120-day period of time for the court to act if an agency misses its decision deadline. We are not talking about 2 years or 5 years. Very clearly laid out in the legislation is 120 days after an agency misses that decision. Then EMB can go to court and say "You make the decisions." And to make that even more acceptable, the EMB can go to court if it appears that it is likely that an agency is going to miss a decision. So even before that 120 days kicks in, the EMB can go to court and say "Are you having problems meeting the time frame? If you are, we will work that out reasonably," and reasonable men can agree.

What we are trying to do, as the gentleman pointed out, is to force that decisionmaking where it belongs, at the State, county, or local level, not to have it at the Federal level.

Mr. UDALL. I want to make one more point. For the Members who have not followed all of this legalistic jargon as we have gone along, I want to ask my colleagues to remember two basic things. The lawsuits we are talking about here are not against little old ladies in tennis shoes or the Sierra Club's defense fund. We are talking about lawsuits brought against the head of an agency, or the Governor, or a local official to follow the project decision schedule that he has probably agreed to in the first place.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Florida.

Mr. FUQUA. Mr. Chairman, I thank the gentleman for yielding. I think he is making one of the most important points about this part of the amendment. As the gentleman points out, these are very major issues that are going to be going before a court of appeals and not a district judge. They will probably wind up in the court of appeals anyhow if we still have that provision. It is not trying to eliminate white-collar crime or some little old lady where someone has stolen her tennis shoes. It is very important issues, and I appreciate the gentleman making that point.

The other point I wanted to make is if our courts are that bad, as has been pointed out by our good friend from Michigan, we probably need a fast-track for the court legislation to get it unclogged, because it is a national crime if that situation exists. That situation does not exist, and the gentleman knows that.

Mr. UDALL. I agree with the gentleman.

Mr. FUQUA. And it can move faster.

The CHAIRMAN. The time of the gentleman from Arizona has expired.

(At the request of Mr. FUQUA and by unanimous consent, Mr. UDALL was allowed to proceed for 3 additional minutes.)

Mr. UDALL. Mr. Chairman, I could take the law of Florida and give me a half an hour and I will draw up a schedule that will take 12 years and 14 months to foreclose on an uncontested mortgage. That is what they have done. It used to fool people in law school the first or second year, but it does not fool anybody these days, I do not think.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, just to add validity to the points being made, I would like to read specifically from H.R. 5660 where it states:

> In any action under this section, whenever the Project Decision Schedule deadline for such action has passed, the Board may file notice with the court stating that the deadline has passed and that the agency has failed to take the action required by the Project Decision Schedule. The Board shall advise the court that the national interest described in section 101 of this Act requires expeditious enforcement of the deadline. If the court fails to act pursuant to subsection (b) or (c) of this section within 120 days of the filing with the court of such notice, the President may act pursuant to paragraphs (1) and (2).

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I will always yield to the learned gentleman from Ohio.

Mr. BROWN of Ohio. I appreciate that. The gentleman who asked that the gentleman yield is not too learned. I just was trying to add and subtract here.

The gentleman said the information given out by the Department of Energy was wrong by 2½ years. I guess what that means is that under the gentleman's proposal that it really only takes 5 years to get these decisions.

Mr. UDALL. That whole thing was phony from the beginning. It was some junior lawyer's idea of how to impress his bosses by taking out a hypothetical situation and assuming the worst, and even the peddlers of this thing now have to agree that they were wrong by 2½ years. The 5½ years is just as wrong as the 7.

Mr. BROWN of Ohio. If the gentleman will yield further, if we have 7½ and we take away 2½, that leaves 5 years.

Mr. UDALL. That is an awful long time, and if my bill or my amendment would take 5 years to make a decision, then I will vote against it, and I will work against it.

Mr. BROWN of Ohio. The Interstate and Foreign Commerce Committee bill does not take 2½ years at the longest instance.

Mr. UDALL. But it dumps all of this on the Congress. We do not have enough to do. You will have the Congress in here deciding every morning on whether or not to allow a refinery out in south Texas. We do not have time for that.

Mr. BROWN of Ohio. If the gentleman will yield further, if the idea is fast track, then 2½ years at the longest versus 5 years is some improvement in the Interstate and Foreign Commerce bill over the gentleman's proposal. At the other end, 5½ months is clearly an improvement over 18 months. Does the gentleman argue that it is going to take less than 18 months at the minimum under the gentleman's proposal?

Mr. UDALL. I hope the gentleman will join us in passing the Fuqua amendment and then we can choose the gentleman's procedure, the gentleman's enforcement procedure against ours. That is the choice that the House will have to make very soon now.

Mr. BROWN of Ohio. If the gentleman could tell me, under what amount of time, if we accept the Fuqua amendment?

Mr. UDALL. I think we are going to see a very rare use of this, and I suspect that when we do see it used that it will be done expeditiously.

Mr. BROWN of Ohio. But what is the time frame; could we be specific?

Mr. UDALL. No one can tell the time frame. The gentleman's amendment narrows it to 120 days and cuts down the filing time, and even our friend from Michigan (Mr. DINGELL) agrees that we have saved 2½ years.

Mr. BROWN of Ohio. But, if we can have the specifics of that, it takes 120 days plus how many days, plus how many days, if the gentleman could add it up?

Mr. UDALL. I cannot give the gentleman that information.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nevada (Mr. SANTINI) to the amendment in the nature of a substitute.

The question was taken; and the Chair announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DINGELL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 415, noes 1, not voting 17, as follows:

[Roll No. 618]

AYES—415

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik

Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOES—1

Forsythe

NOT VOTING—17

Ashbrook
Brown, Calif.
Byron
Crane, Philip
Diggs
Edwards, Okla.
Flood
Hopkins
Jones, N.C.
Leach, La.
Mitchell, N.Y.
Pepper
Pickle
Rodino
Treen
Wilson, C. H.
Winn

□ 1410

Mr. DANNEMEYER changed his vote from "no" to "aye."

So the amendment to the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. FUQUA) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute.

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. CHENEY TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. CHENEY. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. CHENEY to the amendment in the nature of a substitute: On page 51, after line 11, add a new section 187 (renumbering succeeding sections accordingly) as follows:

WATER LAW

(a) Nothing in this Act shall be construed as expanding or conferring upon the United States, its agents, permittees, or licensees any right to acquire rights to the use of water.

(b) The United States, its agents, permittees or licensees shall appropriate water within any State for an energy project pursuant to procedural and substantive provisions of State law, regulation, or rule of law governing appropriation, use, or diversion of water.

(c) The establishment or exercise pursuant to State law, of terms or conditions including terms or conditions terminating use, on permits or authorizations for the appropriation, use, or diversion of water for energy projects shall not be deemed because of any interstate carriage, use, or disposal of such water to constitute a burden on interstate commerce.

(d) Nothing in this Act shall alter in any way any provision of State law, regulation, or rule of law or of any interstate compact governing the appropriation, use, or diversion of water.

Mr. CHENEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

The CHAIRMAN. The Chair will ask the gentleman if in accordance with usual practice his amendment was printed in the RECORD in accordance with the rule.

Mr. CHENEY. It was printed in the RECORD, Mr. Chairman.

The CHAIRMAN. The gentleman qualifies.

Mr. CHENEY. Mr. Chairman, my amendment specifically carries out something that I think everybody who has been involved with this fast-track legislation has indicated on at least one occasion they support, and that is the notion that we need to preserve and protect the prerogatives of the States with respect to State water law.

Specifically the language I am offering to the so-called Dingell-Brown bill would make it abundantly clear that any water that is appropriated in connection with an energy project has to be appropriated in accordance with State procedures.

Second, it makes it clear that the imposition by a State, of terms and conditions on the appropriation of that water shall not be deemed an undue burden on interstate commerce under the commerce clause of the Constitution.

Finally, it states unequivocally that nothing in the act shall alter in any way any provision of State law, regulation, or rule of law, or of any interstate compact governing the appropriation, use, or diversion of water.

This is a fairly straightforward amendment, I believe, Mr. Chairman, and it seeks to carry out the intent that has been expressed both by the sponsors of the version of the bill offered by the Committee on Interstate and Foreign Commerce, by the sponsors of the version of the bill offered by the Committee on Interior and Insular Affairs, and also by the President himself. I would like to quote, if I might just for a moment, from a statement that President Carter made in Albuquerque when he met recently with the Western Governors concerning fast-track legislation.

> I have and will continue to support legislative language to make it clear that federally supported energy development should be accomplished without pre-emption or change of state water laws, rights or responsibilities.
>
> We must respect the rights and responsibilities of our State governments—and when the issue is priorities of water use in a state, the state must and does have the ability to say "No" through existing state water allocation systems. This right must and will be protected in the energy proposals now pending before the Congress.

□ 1420

The purpose of my amendment, Mr. Chairman, is to carry out that intent.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. CHENEY. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, I want to congratulate the gentleman for offering this amendment. I think it is a good thing that he has done so. We have to always be watchful about the intrusion of the Federal Government into the water law areas which are the sole jurisdiction of States.

Mr. Chairman, I agree with the gentleman 100 percent and would ask the House to support the gentleman's amendment.

Mr. CLAUSEN. Will the gentleman yield, Mr. Chairman?

Mr. CHENEY. I will be happy to yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, I want to commend the gentleman for offering the amendment. I would hope that the leadership of the Committee on Interstate and Foreign Commerce would accept the amendment because there is no issue that is more of concern to the people of the West than the question of State water rights. The gentleman has been a genuine champion in the committee to see that those western water rights are preserved, particularly in those areas where there is going to be an impact resulting from energy projects. I would hope that the leadership would accept the gentleman's amendment.

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. CHENEY. I yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Chairman, I rise in support of the amendment now being offered by my distinguished colleague from Wyoming (Mr. CHENEY). His amendment would attach the crucial provisions on water law now provided in the so-called Udall-Clausen-Wirth substitute version of H.R. 4985 to the version sponsored by the Commerce Committee.

In the course of today's debate, we have been examining the various differences between the two proposals to provide a mechanism for expediting consideration of major energy projects. The language on water law being proposed in the Cheney amendment is absolutely crucial to whatever proposal this House finally adopts.

Mr. CHENEY is to be commended for his leadership role in this very important area—one that is of paramount importance to the State and region which he represents. I was pleased to work with him and the distinguished ranking minority member of the Interior Committee (Mr. CLAUSEN), on the amendment. Also, I believe the minority staff of the Interior Committee deserves a special thank you for their efforts on the legislation itself, and particularly the language preserving State water rights by addressing the concerns about State water rights in relation to the interstate commerce clause of the Constitution.

There is widespread and legitimate concern in the Great Plains and Western States that the additional developments of energy projects will impose a severe burden on already tightly stretched water supplies. As a Representative from a prime agricultural producing State, I cannot understate the depth of concern my constituents have as they stand by and watch Congress attempt to enact an energy program.

The system of water law that has developed in our region is based on the appropriation doctrine which protects those who use water by recognizing the proprietary right of those who first divert water and put it to a beneficial use.

It is a comprehensive system, and regardless of the amount of water that is available in any given year, all water users are certain of their rights to water in relationship to all other water users on a stream. This system of water allocation is not a roadblock to new users who may either acquire rights to unappropriated water should it be available or purchase and transfer rights from existing water users. But, all users will be protected, for they will either have their water or be compensated for loss of it.

The new push for massive energy development, of which this bill is a part, along with recent Federal claims that run contrary to the long recognized authority of States to allocate water supplies, has resulted in the concern that I address.

Our region is willing to make its contribution in the push for domestic energy development—but it wants assurances that our system of water law which has developed over the years and works reasonably well will not be trampled over by the Federal Government. It is important, therefore, to clarify that whoever develops energy in this country, the water necessary for that development will be acquired and used in conformity with existing State water allocation systems. The language contained in the Udall-Clausen-Wirth substitute provides that clarification. The Cheney amendment to the Commerce bill is identical and will make clear that only through State systems will all rights be recognized.

Because water that might be used or diverted as a result of construction of an energy project may cross State lines, the amendment makes clear that any State law or action inhibiting the water flow will not be considered a burden on interstate commerce. Therefore, the courts could not overturn State water laws in favor of Federal action on the basis of the interstate commerce clause of the U.S. Constitution.

Just as there are instances when Federal law must justifiably preempt State law, there are also times when State law must supercede Federal action. I can think of no more critical area than water law for this to be the case. This language is precedent-setting with respect to water law and a crucial element in any legislation which would create an energy mobilization board.

I urge the House to adopt the Cheney amendment.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman. I wish to commend the gentleman from Wyoming, my colleague, for his outstanding work in this effort. I think this amendment is crucial to the passage of any Energy Mobilization Board legislation and I firmly support it.

Mr. ABDNOR. Mr. Chairman, will the gentleman yield?

Mr. CHENEY. I yield to the gentleman from South Dakota.

Mr. ABDNOR. Mr. Chairman, I commend the gentleman from Wyoming for his meritorious amendment. I just want to say that in many parts of our country many of our people are much more up tight about water even than energy and this would do much to settle that issue.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. CHENEY. I would be happy to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, as I understand the amendment offered by the gentleman from Wyoming, it does not change existing laws with regard to water rights and it is not intended to do so.

Mr. CHENEY. That is correct.

Mr. DINGELL. It simply preserves them intact as they precisely are at this moment.

Mr. CHENEY. That is my understanding.

Mr. DINGELL. With that, I have no objection to the amendment. I am particularly pleased that it is limited to energy projects and does not affect other activities such as those related to fish and wildlife resources. It also does not set any precedent.

I am particularly concerned about subsections (b) and (c) of the amendment. I understand that subsection (b), requiring that appropriations of water for an energy project be made pursuant to State law, is not intended to limit, restrict, or infringe upon the ownership or beneficial use of any water right or right to the use of water held or owned by the United States of America by and for an Indian tribe. Water rights held by the United States for Indian tribes, or held by the tribes themselves, are not intended to be subjected by this provision to the substantive or procedural law of any State, to any extent other than that to which they might be subject in the absence of this provision, either in connection with an energy project or otherwise.

Also subsection (c) is quite limited. It is intended to insure that terms or conditions regarding the possible or certain termination of the right to use water, under a permit lawfully issued pursuant to State law, shall not be subject to attack or recission by action of any agency or permittee or by decision of any court, by reason of the asserted effect any such termination clause, term or condition might have upon interstate commerce through temporary or permanent interruption of the interstate carriage or use of such water.

With these understandings, I can support the amendment.

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. CHENEY. I yield to the gentleman from Nevada.

Mr. SANTINI. Mr. Chairman, I want to join with my colleagues in the House who have already expressed themselves in behalf of this amendment. I think it is an excellent thrust in the right direction. I commend the gentleman on his courageous and ongoing efforts to protect western water.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. CHENEY. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, the Cheney amendment is essential to the protection of State water rights. It has four basic and rather simple provisions. Allow me to explain:

First. It indicates that the Fast-Track Act shall not be read as giving the United States, its agents, permittees, or licensees any rights to acquire water.

Second. It states that if the United States, its agents, permittees, or licensees want to appropriate water they must appropriate the water only in accordance with State water law—both substantive and procedural.

Third. It says that if a State, under its laws, places terms and conditions on water appropriation for energy projects, those terms and conditions cannot be declared unconstitutional as a burden on interstate commerce.

This is the essential protection Western States must have for our water.

Fourth. It states, as well, that the fast-track bill does not change any State law, any State regulation, or any State rule of law, or any interstate compact concerning water law.

This amendment is similar to the amendment adopted unanimously by the full Interior Committee last Wednesday.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. CHENEY. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I join in congratulating the gentleman in the well on his amendment and I support his amendment and hope that my colleagues will do the same.

The CHAIRMAN pro tempore (Mr. DICKS). The question is on the amendment offered by the gentleman from Wyoming (Mr. CHENEY) to the amendment offered as a substitute for the amendment in the nature of a substitute.

The amendment to the amendment offered as a susbtitute for the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. MOORHEAD OF CALIFORNIA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. MOORHEAD of California. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

> Amendment offered by Mr. MOORHEAD of California to the amendment in the nature of a substitute: Page 37, line 17, strike all after the word "upon" down through line 18, and insert in lieu thereof the following: "the quantity and quality of presently available and future water resources;".

Mr. OTTINGER. Mr. Chairman, I reserve a point of order.

I would like to inquire if the gentleman has printed this amendment in the RECORD.

Mr. MOORHEAD of California. The amendment has been printed in the RECORD.

The CHAIRMAN pro tempore. The amendment has been printed in the RECORD.

The point of order of the gentleman from New York is noted.

Mr. MOORHEAD of California. Mr. Chairman, with respect to the Committee on Interstate and Foreign Commerce version of the legislation, the powers of the Board are set forth and among the factors the Board is required to consider as far as the designation of an energy project as a priority project is concerned is the extent to which the energy project in question would impinge upon presently available or future water resources.

Mr. Chairman, my amendment would change that section to read: The extent to which the energy project would impinge upon the quantity and quality of presently available and future water resources.

Mr. Chairman, the matter of adequate and unpolluted water supplies is of great concern to Western States because we are not blessed with the abundance of water resources enjoyed by other regions of the country. It would not be an exaggeration to say that water is just as important as energy. We need both. One without the other is not acceptable. In the Commerce Committee we added language to H.R. 4985 that forbids the waiver or modification of any interstate compact, provision of State or local law, or Federal contract relating to water rights or to the appropriation, delivery, or use of water pursuant to those rights. This is an important provision.

Additionally, we added a provision requiring the Energy Mobilization Board to consider an energy project's impact on present and future water resources before the EMB could designate a project as a priority energy project. This language was added in the Subcommittee on Energy and Power without any controversy. The amendment now before the House clarifies the scope of this particular criterion by insuring that the EMB considers the impact of a project on water quality as well as water supply. Westerners know that the quality of our water resources is just as important as the quantity of water available to us. Salinity and chemical wastes can totally destroy the value of our water resources.

It is intended that the EMB shall seriously consider the impact that an energy project will have on present and future water supply and quality before the EMB designates a project as a priority project. If, after receiving all the evidence, it appears that an energy project would constitute a clear and present danger to the quality and supply of water resources intended for purposes other than energy production, the EMB would be taking an irresponsible position should the Board go ahead and designate such a project as a priority project. I believe we should give the Board this kind of guidance as it seeks to get necessary energy projects underway without unreasonably impinging upon water resources.

Additionally, the Congress should have at its disposal the information I am asking the Board to consider. The Congress should have this information if it is asked to approve a modification of law pursuant to an EMB recommendation. I ask an "aye" vote.

Mr. DINGELL. Mr. Chairman, would the gentleman yield?

Mr. MOORHEAD of California. I will be happy to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I thank the gentleman for yielding.

The gentleman is a very valuable member of the Committee on Interstate and Foreign Commerce and offered the original language with regard to water rights and the strict and stern exclusion of those matters coming under the jurisdiction of the Board.

It was our understanding at the time we accepted that amendment so ably offered by the gentleman that this was the intent of the amendment. I am satisfied it remains so. I think it is still the intent of the committee bill that it should be so and I observe that the amendment simply clarifies it and with that I support the amendment.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of California. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I, too, join in commending the gentleman in the well for offering his amendment. It is merely a clarifying amendment. It was the understanding of the subcommittee and the committee when the gentleman from California (Mr. Moorhead), who is one of the leaders on the subcommittee in the energy field, offered this amendment that we had taken care of the gentleman's water law concerns.

Yet when we looked at it after the work had been finished in the subcommittee and the full committee, it was felt it would be advisable to put the language in a slightly different form so as to make it absolutely clear to any judicial interpretation in the future that we intended to embrace the water quality issue along with the amount of water and the contract assurances about water that were clearly stated in the amendment originated by the gentleman from California (Mr. Moorhead).

Mr. Chairman, I think the amendment at this time is appropriate, noncontroversial and should be accepted without question.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of California. I yield to the gentleman from California.

Mr. CLAUSEN. I want to commend the gentleman for offering what I think is an improving amendment, albeit to the bill of the Committee on Interstate and Foreign Commerce. Nevertheless, I want to make sure, if this assessment is correct, that it really requires the Board, prior to designation, to actually consider the impact the project might have on both the quality and the quantity of available and/or future water resources. Do I understand that correctly?

Mr. MOORHEAD of California. That is the purpose of my amendment.

Mr. CLAUSEN. Mr. Chairman, as far as we are concerned we would support the amendment. We thank the gentleman for his effort.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of California. I yield to the gentleman from Colorado.

Mr. WIRTH. Mr. Chairman, I commend the gentleman for adding this amendment to the Dingell bill. I think it is helpful. Some of us, as you will remember, tried to offer this in full committee at which time it was turned down and we are delighted to see it as part of the Dingell bill as this time. I thank the gentleman for offering the amendment.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of California. It was not really turned down. The committee did not want to consider it at the time. The gentleman from Michigan (Mr. Dingell) told me he would consider it here on the floor.

I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I was chairman of the subcommittee. I handled this legislation in both the subcommittee and the full committee. The gentleman from Colorado has just said this amendment was turned down in full committee or in subcommittee. That happens to be at wide variance with the truth. I simply want the Record to be corrected on that point.

Mr. WIRTH. Will the gentleman yield?

Mr. MOORHEAD of California. I yield to the gentleman from Colorado.

Mr. WIRTH. The original amendment offered by the gentleman from California had to do with water rights; is that not correct? We attempted to amend that by defining water rights with regard to quantity and quality. We had a major discussion in the subcommittee and in the full committee.

Mr. MOORHEAD of California. That amendment is in the bill in another section that deals with a prohibition on the waiver of water rights laws. We are now dealing with provisions that set forth the powers of the Board as far as the designation of priority projects is concerned.

Mr. WIRTH. I thank the gentleman for his amendment and I think it is helpful.

□ 1430

Mr. DINGELL. Mr. Chairman, if the gentleman from California would yield further, this amendment was never before the subcommittee and was never before the full committee and was never considered in either place. I want the Record to so indicate.

Mr. MOORHEAD of California. That is correct.

The CHAIRMAN pro tempore (Mr. Dicks). Does the gentleman from New York (Mr. Ottinger) insist on his point of order?

Mr. OTTINGER. I do not, Mr. Chairman. I withdraw my point of order.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. Moorhead) to the amendment in the nature of a substitute.

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. MOORHEAD OF CALIFORNIA TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. MOORHEAD of California. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Moorhead of California to the amendment offered by Mr. Udall as a substitute for the amendment in the nature of a substitute: On page 34, line 7, after the word "way", insert the following: "any Federal contract for delivery of water or".

Mr. MOORHEAD of California. Mr. Chairman, section 216 of this bill, in my view, alleviates the fears of many of us that an Energy Mobilization Board would result in Federal usurpation of State water rights. However, section 216 is deficient in that it may not protect existing water rights that are based on Federal contracts rather than State law. This is the case, for example, in the lower Colorado River region where millions of domestic water users in Arizona and California are dependent on Colorado River water that by Federal law—the Boulder Canyon Project Act of 1928—may only be appropriated pursuant to a contract with the Secretary of Interior.

Therefore, if we are to fully protect existing water rights section 216(d) should be amended to include Federal contractual rights among the water rights that would be protected by this bill. I might add that such Federal contract rights are partially protected in section 215 of this bill, which refers to waivers of substantive law enacted subsequent to the beginning of construction of a priority energy project.

Thus, my amendment would conform the water rights language in section 216 and 215 and provide the complete water rights protection that I am certain was intended.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of California. I would be happy to yield to my colleague, the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, again I would hope that the leadership would accept this amendment, because as I know the gentleman knows, in California the principle of the Federal contract for the delivery of water is an extremely important one. I think this clarifies it and I hope the leadership will accept the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. MOORHEAD) to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute.

The amendment to the amendment offered as a substitute for the amendment was agreed to.

AMENDMENT OFFERED BY MR. RAHALL TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. RAHALL. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. RAHALL to the amendment in the nature of a substitute:

Page 38, strike out line 7 and all that follows down through the end of section 177 and substitute:

which such designation was made and such other information as may be appropriate.

"(d) Upon receipt of an application pursuant to section 176 of this part for the designation of an electric powerplant, as defined in section 103(a)(7) of the Powerplant and Industrial Fuel Use Act of 1978, as a Priority Energy Project and after an opportunity for public comment on such application pursuant to such section, the Board shall designate such powerplant as a Priority Energy Project, in accordance with section 177, if such powerplant is seeking, as determined by the Secretary of Energy, to use coal or a coal derived fuel as the primary energy source either (1) through conversion to such fuel from the use of oil or natural gas as the primary energy source for such powerplant, or (2) through construction of a new powerplant to replace an existing powerplant that uses oil or natural gas as the primary energy source.

"(e) The Board shall encourage prospective applicants for Priority Energy Projects to file applications for any necessary agency decisions with the appropriate agencies as soon as possible in order that agency decisions may be expedited.

Mr. OTTINGER. Mr. Chairman, I reserve a point of order.

Mr. Chairman, I wonder if the Chair could not protect the Committee by assuring that all the amendments that are offered are printed in the RECORD.

The CHAIRMAN. The Chair will inquire, was the amendment printed in the RECORD?

Mr. RAHALL. Mr. Chairman, I have an amendment that was printed in the RECORD.

I also have an amendment by the gentleman from Michigan (Mr. DINGELL) that was printed in the RECORD and through negotiations between the two of us, I am offering the amendment of the gentleman from Michigan (Mr. DINGELL) at this point.

Mr. OTTINGER. Mr. Chairman, I withdraw my reservation of a point of order.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state the parliamentary inquiry.

Mr. BAUMAN. Mr. Chairman, do I understand that under this rule that governs the consideration of this bill that any Member can offer any amendment that was printed in the RECORD, no matter who the author of the amendment was?

The CHAIRMAN pro tempore. The gentleman is correct. That is the correct interpretation.

Mr. BAUMAN. Well, that certainly offers many possibilities.

Mr. RAHALL. Mr. Chairman, this amendment would direct the Board, upon application by a utility, to designate as a priority energy project any conversion of an electric generating plant from oil or gas to coal, or coal-based synthetics. Any new facility designed to replace or phase out an existing oil or gas burning facility would receive similar treatment.

The purpose of my amendment is to expedite approval of those projects which are designed to get utility boilers off oil or gas and onto coal or coal derivatives. This amendment is consistent with our often-expressed national objective of converting utility boilers to coal as rapidly as possible, thus freeing more oil and natural gas for other, more efficient uses. We are all aware of instances in which conversion to coal has been thwarted by regulatory delays. I believe that my amendment will reduce the number of these instances to an absolute minimum.

I want to stress that my amendment does not require that every utility boiler conversion or replacement be designated as a priority energy project. Neither does my amendment require that all boilers be converted to coal immediately. Rather, my amendment merely would extend priority treatment to those projects which, in the opinion of their owners, require "fast-track" treatment.

This amendment is similar to one offered in the Senate by Senator HUDDLESTON and adopted by the Senate on a voice vote.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. RAHALL. Yes, I will be glad to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, the gentleman has held most fruitful and I believe helpful discussions in which we have worked out the differences that existed with regard to this amendment. This amendment will make possible a more expeditious shift toward a coal economy. I commend the gentleman for offering it. I have no objection to its adoption.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. RAHALL. Yes, I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, this is an amendment, I understand, to the Commerce Committee bill, the Dingell-Santini bill?

Mr. RAHALL. Yes, that is correct.

Mr. UDALL. Well, I have taken the position earlier with the gentleman from California (Mr. CLAUSEN) that the gentleman from Michigan (Mr. DINGELL) and his colleagues have a right to present their version of the bill any way they want to.

Therefore, I will support this amendment; but let me make clear what we are getting into here. There is not a Member of this body that does not have some pet energy project, some local thing about which they are concerned. We started out with six. We said the EMB was going to take six of the most desperately needed projects each year. Now we have got a wide-open situation and we will be here for several days, I predict, with many Members offering amendments to take care of particular local circumstances. If everybody is on the fast track, nobody is on the fast track and here we are saying without having any idea how many applications there will be or how many projects there will be, where they will be located or their relative merits; we are saying that this kind of project must always be on the fast track.

I think we are making a mistake, but if the Dingell forces want it that way, I will go along.

Mr. RAHALL. Mr. Chairman, if I might respond to the comments of the gentleman from Arizona, I can certainly appreciate the fact that if we make all projects fast track projects, it dilutes the meaning of this legislation. However, I think it is very important to keep in mind that this particular amendment I am offering, which grants fast track status to coal conversion projects is something that we can have and is readily on line now. It is not 5 or 10 years down the road. Coal is with us today. These projects, some 60 some projects that have been identified by the President's Commission on Coal can save the equivalent of 724,000 barrels of oil a day by 1985. They are ready, if we can just get going on them.

I think that this is where this type of priority legislation is set apart from the many other projects that we might be considering. It is ready. It is here now and it is ready to move.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. RAHALL. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I appreciate the gentleman from West Virginia yielding to me.

I would have to say to the gentleman from Arizona and to the gentleman from West Virginia, that I would hope that we would accept the fact that coal is not a parochial issue. It is a national answer to the energy problem. It was expressly identified as such in the National Energy Act last year where we legislated, I trust with the support of the gentleman from Arizona and others, the concept of coal as a replacement fuel for the oil which holds us in thrall to the Middle East and other parts of the world. So, in this instance it seems to me that it is perfectly appropriate to do what the gentleman in the well wants done. In effect, we did that last year with the passage of the National Energy Act.

Mr. Chairman, I support the amendment of the gentleman and I think it ought not to be considered controversial.

Mr. RAHALL. Mr. Chairman, the gentleman is very correct. I might also add that the Congress recognized this problem in 1973 in its first passage of coal conversion legislation. Unfortunately, there was not enough teeth in that legislation. There has been only one such conversion under that act. That was just recently at the Braden Point plant in Massachusetts, and then with the passage of the 1978 law that the gentleman referred to; there has still not been enough teeth in the laws that are on the books. This is an attempt to show that we are serious about converting to coal and that the Congress is taking action, stronger action than we have in the past.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield further?

Mr. RAHALL. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, we have some laws on the books that make it either difficult to mine or difficult to burn coal and, at the same time, there are laws are on the books that encourage us to use coal. Now, that is precisely the kind of dichotomy into which the Congress has gotten itself.

I think the amendment of the gentleman will help us clarify where our national priorities really lie.

Mr. RAHALL. Mr. Chairman, I appreciate the gentleman's comments and certainly realize there is a myriad of problems.

This amendment does not address those problems with coal production and coal utilization which Congress should consider separately.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. RAHALL. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, I rise in support of the gentleman's amendment and agree with his comments. I think the gentleman does this House a great service by presenting this amendment, because it does represent a realization that we in this country must somehow relax the tenacious grip of foreign oil countries on the United States.

□ 1440

Coal, it seems to me, does represent a realistic alternative to this grip which the oil countries have on the United States. Ohio, my own State, for example, has tremendous coal reserves, as do many other States in the United States.

The CHAIRMAN pro tempore. The time of the gentleman from West Virginia (Mr. RAHALL) has expired.

(On request of Mr. CORCORAN, and by unanimous consent, Mr. RAHALL was allowed to proceed for 2 additional minutes.)

Mr. WYLIE. Mr. Chairman, will the gentleman yield further?

Mr. RAHALL. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, in conclusion, let me say that I think coal is a great reserve that we can use to save oil in the case of a national emergency situation as a realistic alternative energy source, and I thank the gentleman for offering his amendment.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. RAHALL. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, it is clear that this particular amendment does give priority energy status to coal and coal conversion. My concern would be this:

Would this cause the Energy Mobilization Board to just consider coal to the exclusion of other priority energy projects? What kind of assurance do we have that that would not be the case?

Mr. RAHALL. No, this would not say that the Energy Mobilization Board must consider coal exclusively, as much as I feel coal is our most plentiful natural resource and is one that can and does solve our energy needs. I think other criteria established in this bill for the consideration of priority energy projects assures that a wide spectrum of energy projects is to be considered by the board.

Mr. DINGELL. Mr. Chairman, if the gentleman from West Virginia (Mr. RAHALL) will yield, the specific answer to the question, I will say to the gentleman from California (Mr. CLAUSEN), is "No."

Mr. CORCORAN. Mr. Chairman, will the gentleman yield?

Mr. RAHALL. I yield to the gentleman from Illinois.

Mr. CORCORAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, while I do not have any quarrel with the amendment, I just want to make a few comments in passing.

Both the gentleman in the well and the gentleman from Ohio (Mr. BROWN) have made the point that this simply deals with the coal conversion aspect of the whole process whereby we want to convert to coal. The basic problem, however, is still the mining of the coal.

We did pass legislation, as the gentleman from Ohio (Mr. BROWN) pointed out, and we are not producing more coal as a result of the legislation that was passed last year, despite the mandate of the Congress.

Therefore, I would ask the gentleman this question: How is his amendment going to produce more coal?

Mr. RAHALL. Mr. Chairman, as I stated, this amendment does not address the myriad of problems we are concerned with in coal production and coal utilization. This amendment is merely an attempt to use the coal that is stockpiled and laying on the ground in the coal fields at the present date and put back to work the thousands of coal miners who are presently unemployed.

Mr. Chairman, we can do this immediately. Synthetic fuels is down the road, but this is immediate.

The CHAIRMAN pro tempore. The time of the gentleman from West Virginia (Mr. RAHALL) has again expired.

(On request of Mr. BROWN of Ohio, and by unanimous consent, Mr. RAHALL was allowed to proceed for 1 additional minute.)

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. RAHALL. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I would have to say to the gentleman from Illinois (Mr. CORCORAN) and the gentleman from West Virginia (Mr. RAHALL) that we are all aware that there are certain inhibitions against producing coal and still more inhibitions against using that coal once produced to solve our energy problem.

That is exactly the kind of dichotomy the Congress finds itself facing on many of these issues relating to the environment, the economy, safety, and all the laudable goals that may run into conflict with our need for energy, including inhibiting energy production in this country.

The issue that we must address ultimately in this Congress, when those things come into contradiction, is: "What is our position?" We all want to be environmentalists all the time; we all want to be energy producers all the time, and we all want to be for a strong economy all the time, but sometimes there are conflicts. It seems to me that the fact that we have not addressed these conflicts has destroyed some public confidence in the Congress.

I would say to the gentleman from Illinois (Mr. CORCORAN) that that is what we are trying to do in the Commerce version of this bill. That is why this bill is important to the country, and the country is judging us on our actions here.

Mr. OTTINGER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I oppose this amendment for the reasons that were outlined so well by the gentleman from Arizona (Mr. UDALL), because it really makes a mockery of the entire fast-track procedure in the designation of projects as priority energy projects.

There are some 70 of these coal conversions efforts that are presently under way, and there are a great many more contemplated. Indeed, under the National Energy Act there are a great many more mandated.

This amendment says, "in accordance with section 177," which I presume still leaves the fast-track decision subject to some further determination by the Board, but it still says they shall be designated priority energy projects. That certainly is going to give some priority to these projects over all others, otherwise there would be no purpose or effect to the amendment.

The purpose of the fast-track legislation was to take very important energy projects and waive certain laws under the Udall version or to provide expedited procedures under the Udall bill in order to see to it that those very important projects could be expedited. Now, this would take every coal conversion project that comes before the land and, subject to section 177, give that priority status, and it seems to me that distorts entirely the purpose of the law.

We are going to get other very important generic projects that are put before us for priority treatment. I might want to give priority to every conservation project and every solar energy project. Somebody else might want to give priority to every hydrogen project or to every OTEC project that comes through. But then we are left with no meaningful language remaining in this fast-track legislation.

So, Mr. Chairman, I do hope that the committee will reject this provision, because it is going to invite the proliferation of similar preferences and, I think, subvert the intention of the fast-track legislation.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I have similar reservations about this amendment, and I come from somewhat of a coal-producing State. When I first saw it, I thought, "Well, this is a good idea," but the more I thought about it, I felt it depends on how many projects the Energy Mobilization Board is going to be able to handle.

If they have to handle these things automatically, in other words, if they get these preferences, then that means that the people will have to evaluate all those State laws and regulations and give those people preference on those projects.

Then what happens to the other projects? This is what bothers me.

I note that this language appears basically in the Senate bill, and if the gentleman's amendment is adopted here, that pretty well fixes it in. I was wondering then what happens to everything else. That is what concerns me about the amendment.

Mr. OTTINGER. Mr. Chairman, that is precisely the concern we all have.

Mr. VOLKMER. It is not that I am against coal conversion. I am all for it. I believe it is one way we can get around the problem, and we need to do it.

Mr. OTTINGER. Mr. Chairman, I would say to those who are interested in economy in Government that if we start blanketing in priorities for every project for coal conversion, every project for synthetic fuels, and if every other project which we think is important is going to be handled by this Board, the Board is going to have to have a staff of thousands.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I think some of the great wisdom in this debate was given to us by the gentleman from Illinois (Mr. CORCORAN). He pointed this out.

Less than 2 years ago we created the Department of Energy. We were going to have the authority in one place. We were going to have an energy leader, a czar, a man who knew what was going on, a man who understood the energy issue and would lead us in this field.

Then 2 years later we said that what we need is not a Secretary of Energy or one man to lead us; we need someone between him and the President, a board of some kind or another czar of some kind that would appear.

They are asking for 50 people, but there will be 5,000 people there if we put every project everybody can dream up automatically on this fast track. That is what concerns me about the workability of this amendment.

Mr. OTTINGER. Mr. Chairman, it is my understanding that there are other amendments of this nature to give priority status.

I would urge this: That when we are creating a five-member board and giving them enormous authority, where there are projects subject to delays and there are important projects that could be considered for fast track; if we include every project, whether there is a delay or not, on the fast track, it seems to me that would be a great mistake.

Mr. RAHALL. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I am glad to yield to the author of the amendment.

Mr. RAHALL. Mr. Chairman, I appreciate the gentleman's yielding.

The gentleman has mentioned the economy of the situation and the desires of all of us who are concerned with savings. I might add here that the cheapest way for us to switch from our dependence on foreign oil is through coal conversion. The cheapest way is with us now, not 5 or 10 years from now, as is the case with our synthetic fuel process. The cheapest way is to convert from oil and gas-burning processes to coal-fired facilities.

I pointed out earlier the experience the Brayton Point, Mass. utility has had.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. OTTINGER) has expired.

(By unanimous consent, Mr. OTTINGER was allowed to proceed for 1 additional minute.)

Mr. RAHALL. Mr. Chairman, if the gentleman will yield further, the utility at the Brayton Point plant has demonstrated that they are saving their consumers $10 million, despite the cost of $130 million for the conversion.

So this is a way for us not only to save the consumers money, to save money for the people who use the power generated by utilities, but also to save our utilities and save the taxpayers money, and lessen the dependence of our Nation on foreign oil.

Mr. OTTINGER. Mr. Chairman, I am not arguing against coal burning. I think that may be advantageous. But I think most of the projects, because they are advantageous, have no need to claim the time and attention of this Board to get this special fast-track treatment.

□ 1450

If there is an important coal project and it is in trouble because of regulatory delays, or whatever, then the fast-track treatment may be called for. But to require that the Board consider every one of these projects I think is a terrible mistake.

Mr. WYLIE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the reason that I am supporting this amendment is because I think it is very, very important that we get away from our dependence on foreign oil. It seems to me as if coal represents our best opportunity to do that. We have adequate reserves of coal in this country and, given the uncertainties of the other alternative energy sources, the long-lead times, which the gentleman from New York talked about a little while ago, which we do not have in the case of coal, or need not have, it seems to me as if we need right now a realization of a national policy which would lead to a greater use and utilization of our one real big energy resource which we have in this country and which could lead us away from dependence on foreign oil.

I think the gentleman from West Virginia (Mr. RAHALL) has done this body a great service by his amendment. This amendment does not necessarily mean that we need to place the same emphasis on other sources of energy which are not so plentiful, are perhaps not so available to us; but coal is available and it can be used now. One of the problems we have had in Ohio is that the U.S. Environmental Protection Agency has not been too helpful to us in the use of coal. I think that the establishment or the enunciation of a national effort as far as the utilization of coal as an alternative energy source is very desirable, and again I compliment the gentleman from West Virginia for his leadership in this way.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the gentleman's yielding.

Mr. Chairman, what my colleague, the gentleman from Ohio, has said makes excellent sense to me.

Is there anything in this amendment that does undue harm for a proper consideration for environmental problems as it relates to pollution?

Mr. WYLIE. No. It does not repeal any environmental protection laws.

Mr. ROUSSELOT. As it relates to pollution.

Mr. WYLIE. As it relates to pollution, no, of course not. But I think what it would do is that it would rifle-shot consideration of realistic modifications of environmental protection laws maybe. It would, I think, more importantly, encourage a rifle-shot approach to coal gasification and coal liquefaction. I think that is our real ace in the hole.

I saw on television the other night that Texaco is producing gas from coal right now. We know the country of South Africa is producing an oil or a liquid from coal which they are using for energy. I do not understand, why if South Africa can liquefy coal, why we cannot do it in this country. It seems to me that the kind of priority the gentleman from West Virginia calls for in his amendment would emphasize the fact that we ought to get on with using our coal as an energy source more quickly in this country.

Mr. ROUSSELOT. If the gentleman will yield further, does this amendment help speed up the process of freeing up a powerplant to make utilization of coal? Is that its intent?

Mr. WYLIE. That is my understanding. I think that is the real purpose of the amendment and the real thrust behind it. It could speed up the conversion from oil-fired plants and gas-fired plants to coal. I think that is the whole purpose behind the amendment; assuming it is, I support it. If its purpose is otherwise, then I have been misinformed.

Mr. ROUSSELOT. I appreciate the gentleman raising this point, and I think both the gentleman from Ohio and the gentleman from West Virginia are correct. We need to make much better use of this resource, and I think the time is now. I appreciate the gentleman's comments on the subject.

Mr. WYLIE. I thank the gentleman for his significant contribution.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I wish to associate myself with the remarks of the gentleman from Ohio (Mr. Wylie) and I also wish to support the proposed amendment to the Energy Mobilization Board legislation by the gentleman from West Virginia (Mr. Rahall), which would help the utilities in my region in the southeastern part of New York State, which have recently been ordered to convert from oil to coal but have been stymied by the extensive amount of paperwork and hearings that are required for the approval of such conversion. This amendment which provides for a priority classification of a conversion project would certainly help our utilities to expedite the conversion that is required of them by the Department of Energy.

Mr. Chairman, I am in support of this amendment because it gives a priority status to any utility that pursues the President's request in switching their plants from burning oil and/or gas to burning coal.

The critical goal of gaining independence from imported oil cannot be more accurately addressed than by taking the necessary steps to utilize the vast amounts of coal reserves that this Nation has at its ready disposal. I use the term "ready disposal" for several reasons. First, the Federal Government owns approximately 70 percent of western coal resources and can influence the development of another 20 percent that borders on Federal lands. Moreover, the regulations under which coal is mined are largely Federal or affected by Federal minimum standards.

Since the entire purpose of the Energy Mobilization Board is to speed up the production of energy projects that will help maintain our economy with energy sources other than those imported, I do not know of any domestic energy source so close to that goal. Although I favor alternative sources of energy, many of them are simply too far down the road in terms of research, development, and commercialization to do us any substantial good in the immediate future. I am thinking of solar energy, geothermal, biomass, and other natural energy forms. Secondly, the degree of conversion necessary to switch to coal is significantly less than that of other forms of energy. Simply put, it takes less effort and funds to switch from burning oil to coal, than it does to install newer technologies—or for that matter—to continue to burn imported oil.

Many argue that the burning of coal is an environmental hazard. Recent studies have indicated that this is no longer the case. Plants can, and should, install scrubbers that bring the burning of coal well within stringent environmental air quality standards. Although it is still expensive to install such scrubbers, I wonder how much more expensive it actually is than buying imported oil, an oil that not only burns a hole in our national debt, but national security as well. I believe that once utilities have the right to burn coal, the free market will in due course adjust and stabilize the implementation costs of such items needed to convert to coal.

Others contend that coal mining will disrupt the environment to an unacceptable degree. Under current legislation, mining is prohibited when it may adversely affect fragile lands with important historic, cultural, scientific, or esthetic values, or harm natural systems. I wish only to point out that our resource base of coal is so vast that restrictions on access to certain deposits that fall within this criteria, would not prevent coal from being produced in sufficient quantities to meet demand.

Mr. Chairman, the major utilities in my congressional district have informed me that the savings that could and would be carried over to the consumer by switching from oil to coal would be significant. The Orange and Rockland utilities have informed me that simply switching from a lower sulfur fuel to a higher sulfur fuel would amass a savings of $3.9 million. It does not take much to figure out that the difference in costs between coal and oil would substantially increase such savings.

Accordingly, Mr. Chairman, I urge my colleagues to support the Rahall amendment.

Mr. WYLIE. The gentleman is right and is to be commended for his participation.

Mr. Chairman, I think coal is a realistic answer to our dependence on foreign oil and could help keep in reserve the valuable oil that we have here in the United States for a possible national security emergency. I urge adoption of the amendment.

Mr. PERKINS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, first, I wish to compliment both the chairman of the Interstate and Foreign Commerce Committee and the subcommittee chairman, the gentleman from Michigan (Mr. Dingell); likewise, the gentleman from Arizona (Mr. Udall), the gentleman from California (Mr. Clausen), and all others involved, who have done a tremendous job. I know there are varying viewpoints, but that perhaps is as it should be.

Mr. Chairman, my view simply is that our Nation is so desperate and vulnerable on the energy front that our future as a free and strong people is seriously jeopardized unless we act forcefully and expeditiously to establish our own energy independence.

In that regard, we need to develop energy projects on a priority basis similar to wartime emergency procedures such as those which gave rise to the synthetic rubber and aviation fuel industries during World War II.

The existence of redtape and procedural delays and impediments will choke off those projects before they can get off the ground without legislation of this kind.

Mr. Chairman, I also want to state that, in connection with the Rahall amendment, we should adopt this amendment and thereby establish coal conversion as a priority.

When we depend upon the OPEC countries for over 8 million barrels of oil a day, we are in a serious situation. In my judgment, if we had real trouble overseas, if this oil was about to be closed off on us, we would come back here and enact a very much stronger piece of legislation. But I think that today, with all of the coal that we have in this Nation and the know-how that we have, and not doing anything about it—in fact, we really do not have an energy policy as such in this country—we should already be on a massive commercial scale basis in producing synthetic fuels from coal. But that is not the case. Here we are merely talking about the utilities that have not converted to coal. We discussed this in 1976, and only 2 months ago—I know many Members of the House do not realize this—we had utilities in the Philadelphia, Pa., area that went from coal to oil, which is a terrible situation and further drain upon this economy. There is no earthly reason why if they do not want to burn a high-sulfur coal, that they cannot burn metallurgical coal, where you will not have any pollution concerns. It can be done just as economically, within a dollar or two on the ton, as it can, perhaps, on high-sulfur coal.

Our Energy Department is presently letting utilities switch the other way. I am talking about switching from coal to oil. And they have done that within the last 2 months.

If there ever was a time in this country when we needed an amendment of this kind, it is now. I hope the amendment will pass, and I hope that it will be adhered to in this Government, because if we are going to continue to become more energy-dependent, it will not be long until the gasoline prices are going to be $1.25 a gallon. And this time next year you will see the gasoline prices at $1.50.

I think we should commence to act now and utilize coal, like we did during World War II and at other times in this country, and lessen this drain and dependency on foreign oil. It would be my hope, Mr. Chairman, that we would not have any votes in this chamber against an amendment of this kind. It is very much needed, and if we are ever going to become self-independent from these OPEC countries, this is a good place to start. It is, I might say, a timid way at that. We should be going at it much stronger. We should be going full gallop instead of crawling. But it is the best that we have before us at the present time, and I would therefore urge the adoption of this amendment, Mr. Chairman.

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I think this is a good amendment, one that is long overdue. Every Member in the Chamber should be for it and vote for it.

Ninety-eight percent of U.S. energy reserves are in coal, and developing those reserves is the hope of the future for America. We should develop coal now. In fact, we should have been developing it over the past 30 years. As the previous speaker, the gentleman from Kentucky (Mr. PERKINS), just said, coal can help make us independent of the OPEC nations. Certainly if we come to a war or any extreme emergency that interferes with our oil imports, we are going to need every bit of the energy we can get out of our coal. Even without an emergency goal it is the only hope I can see right now for rapid development of energy to serve this Nation.

I urge every Member to vote for this amendment.

☐ 1500

Mr. ECKHARDT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I wish Members would read both this amendment and read the provisions of the act that are referred to in it. The amendment does not give a boost just to coal as a fuel. It gives a boost to derivatives of coal. That is the production, for instance, of oil from coal, and gives that a boost ahead of, for instance, the production of gas from lignite, or gas from geopressurized brine. If we ultimately produce a great amount of gas from geopressurized brine, I would assume we would probably permit continued use of gas for generation of electricity.

What this does is give a boost toward synthetic fuels produced from coal.

The actual production of coal will hardly qualify anyway, because there is no particular need for fast-track legislation in the production of coal itself.

The amendment is directed not toward coal but toward production of other things from coal, and it gives a leg up to those industries that produce other things like oil or gas from coal rather than from another source.

Now, it may be said this really does not do much, because it reads that the action must be in accordance with section 177, but section 177 says that one of the things that has to be considered is the anticipated effects upon competition in the energy industry and the extent to which such designation will create competitive inequities among applicants.

What we are doing here is answering item 12 in favor of coal. We are saying that Congress determines that coal shall get a leg up on every other source of energy.

Once we get into this game of regionally supporting a particular source of energy, we merely make this a bill one in which a single particular approach to solving a problem gets a governmental boost.

Now do you want to do that? Perhaps we do need to relieve some of the pressures and impediments against moving forward in the production of energy. If we do that, let us do it without weighting the balance for one type of industry as against another.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Kentucky.

Mr. PERKINS. I thank the gentleman for yielding.

Let me say to our distinguished friend from Texas (Mr. ECKHARDT), that I think he is making a good argument in behalf of the amendment.

We have the know-how now to make the derivatives from coal, all synthetic fuels. We should have been moving in that direction for a long period of time on a commercial scale, and we have not done anything. We are late.

We certainly should at least compel the utilities at the earliest possible date to get away from oil and utilize coal.

Mr. ECKHARDT. If I may reclaim my time. I have voted for a similar objective in the bill last year with respect to the use of gas. I have also supported the proposition of moving coal by slurry pipeline. In every way I favor the use of coal.

What this goes to is not the direct use of coal so much as it goes to the question of creating synthetic fuels from coal. If you are going to do that, let synthetic fuels be produced from whatever source, lignite, coal, geopressurized brine, what have you.

I just do not want to throw the balance in favor of one process against another.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

I agree with what the gentleman says, but I think we have to take focus on what this amendment does. That is what really is of concern, I think. It gives some priority to putting every one of these projects on fast track and requires the Board to consider every project. There could be hundreds of projects.

I think that is the main objection. I am for conversion of coal. I am for demonstration of creation of synthetic fuels. If there are real obstacles involved, take a few of those important projects and put them on a fast track. When you say the Board must consider putting every project on a fast track—they would be subject, to be sure, to the strictures of the procedures under section 177—I think that is a mistake.

Mr. MILLER of Ohio. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise in support of this important amendment, because today this country is importing from OPEC nations such quantities of crude oil that the problems of such a course threaten to overwhelm us. When we consider the merits of coal, we must realize that the current energy situation should not exist.

Thirty-one months ago, President Carter proclaimed the moral equivalent of war against the country's energy crisis. The program he sent Congress proposed that Americans learn to live with less energy and use it more efficiently. The President's elaborate energy proposal focused attention on the production and use of coal as an alternative to the Nation's increasing reliance on gas and imported oil.

Nearly 90 percent of the Nation's energy reserves consists of coal. At current production rates, we have enough coal to last for centuries. It is with this vast potential in mind that President Carter proposed to nearly double coal production by 1985 from the 673 million tons mined in 1977 to 1.25 billion tons. Since 1973, and the oil embargo which nearly crippled the American economy, coal has been designated the flagship of our national energy policy. In the past 2 years, however, that policy has been vague, subject to unrealistic environmental demands and inconsistent.

A General Accounting Office study concluded that doubled coal production in just 7 years will be extremely difficult because "at every stage of its development coal has problems—in mining, refining, transporting, storing, and burning." With every energy-related piece of legislation this House considers, we have the chance to remove the hurdles confronting the coal industry. We have an obligation to do so.

Emphasis on coal production and use is both proper and necessary—especially in Ohio. Ohio has a resource of approximately 41 billion tons of bituminous coal of which approximately 20 billion tons are recoverable. Coal's proximity to Ohio's energy-intensive industries and electric utilities make it an even more attractive fuel. Ohio is not only a major coal producer, but it is the largest coal-consuming State in the Nation. Ohio consumes almost 12 percent of the coal burned in the United States, more than New York, New Jersey, and Pennsylvania combined.

The coal industry in Ohio is directly responsible for providing more than 15,000 jobs and an annual payroll in excess of $235 million. It has been estimated that the coal industry contributes another $800 million to the economy of Ohio's 24 coal-producing counties in support of industries, businesses, and services associated with king coal.

Emphasis on coal production can be appreciated most in terms of jobs. Southern Ohio is directly dependent upon the coal mining industry and as coal goes, so goes the region. Unemployment rates in the region I represent have dropped from the post-World War II days when coal was overlooked in favor of oil and gas. But even in the wake of an alleged renewed concentration on coal, unemployment remains too high.

EPA's mandates have already cost 4,000 jobs in the coalfields of Ohio. An economy of a region long dependent upon coal is threatening to break, while this Nation sits on top of rich coal reserves. The irony is uncalled for and totally unacceptable.

Historically a leader in coal production and a barometer of the industry's health and welfare, Ohio has tried to help win the energy war the President declared long ago. But the people of Ohio now have good reason to doubt that the Government will, in actuality, permit, let alone encourage, full utilization of coal. As is so often the case, Government is not the answer to problems involving coal. Government is the problem. Environmental regulations are slowing coal production to a walk, and the ultimate outcome of EPA intervention into the mining industry is having a devastating impact on the economy of both the Appalachian States and the Nation in general.

As I noted a moment ago, Ohioans vividly remember the days in the not-too-distant past of double-digit unemployment and economic hardship. We can also quickly recall our experiences of the winters of 1976, 1977 and 1978, with school closings, fuel shortages, record-breaking low temperatures, and job cutbacks. Such memories should serve to remind us all that resolutions coming from this House best be ones which will prevent history from repeating itself.

The threat of plant closings, increased utility rates and job reductions as a result of environmental campaigns was the very point that prompted me to offer a jobs protection amendment to the Clean Air Act when it was before the House in May, 1977. Very simply, my amendment provided that, when a State's unemployment rate was 6.5 percent or more, a 5-year variance could be granted to a power facility emitting sulfur dioxide. The amendment was defeated by the House. In my estimation, the House said that nothing—not even the protection of jobs and coal production—should stand in the way of environmental laws. We have a chance to change that thinking now. Coal deserves a chance.

Earlier this month, I met with DOE officials to again underscore the importance of Ohio coal. In this case, the meeting was to underscore the use of Ohio coal for a proposed coal gasification plant in Noble County, Ohio, that would convert southeastern Ohio coal into pipeline quality gas. Our current energy crisis does not afford us the luxury of waiting. Yet DOE will not render a decision on the Noble County project until sometime next year. While the energy crisis worsens, Washington fiddles, jobs are jeopardized, and coal remains in the ground.

I am giving my strong support to this amendment which would direct any newly created Energy Mobilization Board to give priority attention to those coal-related projects—such as electrical generating powerplants—coming before the board for review. The objective of the Energy Mobilization Board is to eliminate redtape in the consideration of domestic energy alternatives. While that is an honorable objective, its practicality must yet be determined. There should be no question that any such board—if ultimately created by the Congress—should give the highest priority to coal-related projects and programs. I have stressed that fact today and I will continue to stress that fact until the production and use of coal is given the attention it needs and deserves.

I urge House adoption of this amendment.

Mr. WOLPE. Mr. Chairman, I rise in opposition to the amendment, but I must say I think it is a useful contribution to the debate on the question of the creation of the Energy Mobilization Board. This amendment makes clear that what is before us today is a decision not only about the way in which we might reform the regulatory system to overcome major obstacles in the way of energy production and distribution in this country, but also about the future direction of our energy policy.

Up to now the debate has centered very heavily on the relationship between the Federal authority created in this legislation and State and local governments, and the constitutional issues that are presented in that relationship. These are vital issues. They deserve the debate they have received.

However, what is also at stake is the question of whether or not this country is about to make a major new commitment that will for many years into the future determine the course of energy policy in this country.

The real purpose of the Energy Mobilization Board, which was proposed by the President in conjunction with the proposed Energy Security Corporation, is to facilitate the production of synthetic fuels to meet the administration's oil import reduction goals.

In a sense, the goal of the amendment that is before us would already be accomplished by the mere creation of the Energy Mobilization Board, particularly if the Commerce Committee version of the Board were to be accepted.

In its energy programs, the administration proposes to tap a variety of energy sources in the effort to achieve a 4.5-million-barrel-of-oil-per-day displacement by 1990. There has been considerable discussion of conservation and of solar energy, but the unhappy reality is that the administration has been paying only lip service to these alternatives. If you take a look at the administration's working papers, at the actual numbers that have been developed by the administration, it turns out that of the 4.5-million-barrel-displacement goal, only something in the neighborhood of 750,000 barrels is to be achieved by conservation, while between 1½ to 2½ million barrels is expected from synthetic fuels. The centerpiece of the President's energy program, in short, is the production of synthetic fuels. That is the reason we are talking today about the Energy Mobilization Board.

The unproven, highly questionable technologies that are at stake here demand in my view a cautious approach to the development of this new energy direction.

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In the Science and Technology Committee we received testimony from the Rand Corp., indicating that of the demonstration synthetic-fuel projects presently in place the average cost overrun is 2½ times their initial estimate. That is not to say synthetic fuels cannot play an important role in our energy future. It is to say that we ought to be cautious in creating the mechanism to promote the rapid development of these synthetic-fuel technologies.

All of the effort that has gone into this debate up to this point, in my judgment, could be far more usefully spent in the development of an energy policy based upon energy conservation and the development of renewable energy resources which would not require the waiving of Federal law or the preempting of local authority.

I would argue, to the contrary, that to the extent we are focusing attention now on expanding the power of the Federal Government, and of diminishing that of State and local governments, we are running directly contrary to what is really needed in this country—the local mobilization of all of the available community resources at the State and local as well as the national level in the interest of a sound and rational conservation program.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. WOLPE. I am pleased to yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I certainly agree with what the gentleman says. I would like to point out something that is very significant. A study was made in 1979 by the Department of Energy which revealed that of all coal-fired plants between the years 1965 and 1976, 80 percent of projected capacity came online on time or early. Then I quote:

> Where lag has occurred, its main causes have been equipment failures, delivery delays, and labor problems.

The fact of the matter is that with respect to these plants we are talking about, and I realize that they are subject to the 177 procedures, but we are going to require this Board to address itself to 80 percent of the projects that would come in on time as well as the 20 percent of the projects that might need expedited treatment. Where expedited treatment is called for, this facility is provided. It is supposed to be for national priority energy projects; it is not supposed to be for every plant that comes down the line in a particular technology.

What the gentleman says about synthetic fuel plants, of course, is absolutely true. They have not been proven in this country yet.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan has expired.

(At the request of Mr. Ottinger and by unanimous consent, Mr. Wolpe was allowed to proceed for 1 additional minute.)

Mr. OTTINGER. Mr. Chairman, will the gentleman yield further?

Mr. WOLPE. I yield to the gentleman.

Mr. OTTINGER. Mr. Chairman, to put these automatically onto the fast track makes absolutely no sense at all.

Mr. WOLPE. I thank the gentleman for his observation. I would only add one other point that I think needs to be stressed. In the administration's own estimates they have brought forward, it turns out that to displace a single barrel of petroleum by a serious residential conservation effort would be at a cost of roughly $10 per barrel of oil displaced. That same barrel displacement via synthetic fuels, given the present state of technology, is estimated to range between $30 and $40 a barrel. This is a very simple kind of dollar and cents comparison, and I submit that we ought to be doing what makes the most economic sense, as well as the most environmental sense for the future of this country.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan has again expired.

(At the request of Mr. Perkins and by unanimous consent, Mr. Wolpe was allowed to proceed for 2 additional minutes.)

Mr. PERKINS. Mr. Chairman, will the gentleman yield to me?

Mr. WOLPE. I will be pleased to yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, let me say to the gentleman in the well that we had the know-how, in response to Mr. Ottinger, to make synthetic fuels, liquefaction from coal was working well in 1953 at Louisiana, Mo., when we closed the plant down for lack of appropriation. We had gasification from coal at Gordo, Ala., that was working well when we closed down in 1953. We have had the know-how for more than 40 years. Germany used it. It is now in South Africa. We have had it in this country and we are right back today where we were 30 years ago in this country. We should be on a commercial scale.

But notwithstanding that, here we are only trying to bring about a situation that should not have been in existence for many years, and that is the mandate that the utilities presently using oil switch back to coal. I would hope that there would not be any votes in the House of Representatives against this proposal. I watched them all switch in the early fifties from coal to oil when they were getting it dumped on the eastern seaboard for 50 cents a barrel, and putting all of the coal people in the country out of business.

It was predicted then that this was going to take place, becoming dependent upon the OPEC countries and Venezuela and everybody else, but it is time we at least started crawling to switch back, even though we should be running. We should at least be crawling and this amendment will let us crawl just a little bit to require the utilities to switch back to coal.

I hope there is nobody against this amendment.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan has again expired.

(By unanimous consent Mr. Wolpe was allowed to proceed for 2 additional minutes.)

Mr. WOLPE. Mr. Chairman, let me just say that I thank the gentleman for that contribution. The intent here is not to again alter that conversion policy. Indeed, we want to continue the oil to coal conversion policy of the Federal Government.

Let me say, furthermore, that I am not one who has been opposed to the demonstration projects that are underway presently in an effort to try to make the maximum use of the vast coal reserves available in this country.

Mr. PERKINS. If the gentleman will yield to me further, but what priority do we have that is as high as this priority insofar as the Mobilization Board is concerned presently?

Mr. WOLPE. My concern, as I indicated earlier, is that the Mobilization Board is shifting the priority of our national energy policy from one of a focus upon conservation and development of renewable energy resources, toward a misguided concentration upon fossil fuel and synthetic fuel technologies. In my judgment, that is an inappropriate shift in direction, and I intend to support the Udall-Clausen version of that bill, because I think it allows a more rational approach to the prioritization of the projects that will be before the Energy Mobilization Board.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. WOLPE. I will be pleased to yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, several arguments have been made here that are not quite correct. The gentleman from New York (Mr. Ottinger) said all projects involving coal would automatically be included as priority projects. That is not correct and he knows it.

In order to get a project included as a priority project, its sponsors have to apply to the Board. The gentleman said that 80 percent of the coal projects are either on time or ahead of schedule. Certainly they would not apply to become priority projects. Why should they? The Board would not have to address these at all. He said that most of the others were delayed by equipment failures, delivery delays, and labor problems. It would not do these projects any good to ask for priority status because the Board could not do anything about their problems. The Board would not have to address these projects. The only projects left and the only projects the Board would have to address are those few that are held up by bureaucratic or judicial delays and those are the projects this legislation is designated to deal with.

But, the gentleman from Michigan (Mr. Wolpe) says he is for the Udall amendment. That explains why he is against this amendment. But I say that it is very important to America to expedite the development of our coal reserves. This amendment would do that and it should be included in the bill. If we are going to get started, as the gentleman from Kentucky said, we need to start now. In fact, we should have started 25 or 30 years ago. But in spite of the fact that we are 30 years late, we must start now.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. WOLPE. I yield to the gentleman.

Mr. OTTINGER. Mr. Chairman, I would like to acknowledge to my chairman that if I said automatic I was incorrect. Under section 177 it would still have to go before the Board.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan has again expired.

(At the request of Mr. Ottinger and by unanimous consent, Mr. Wolpe was allowed to proceed for 30 additional seconds.)

Mr. OTTINGER. Mr. Chairman, if the gentleman will yield further, if this amendment is going to have any meaning, it means it is going to have some kind of a preference before the Board over other projects, and I think that is not called for. Otherwise there is no need for the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from West Virginia (Mr. Rahall) to the amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. Ottinger) there were—ayes 46, noes 7.

So the amendment to the amendment in the nature of a substitute was agreed to.

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AMENDMENT OFFERED BY MR. CORCORAN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. CORCORAN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Chair will ask the gentleman, was the amendment printed in the Record?

Mr. CORCORAN. Yes, Mr. Chairman, it was.

The Clerk read as follows:

Amendment offered by Mr. Corcoran to the amendment in the nature of a substitute: On page 28, after line 11, insert:

"(4) 'Department' means the Department of Energy.";

In line 12, strike out "(4)" and insert in its place "(5)"; and

In line 22, strike out "(5)" and insert in its place "(6)".

On page 29, in line 1, strike out "(6)" and insert in its place "(7)";

In line 7 strike out "(7)" and insert in its place "(8)";

After line 9, insert:

"(9) 'Secretary' means the Secretary of Energy.";

In line 10, strike out "(8)" and insert in its place "(10)";

In line 12, strike out "(9)" and insert in its place "(11)"; and

Strike out lines 18 through 20, inclusive, and insert in their place the following:

"Sec. 174. (a) There is hereby established within the Department an independent regulatory commission to be known as the Energy Mobilization Board.

"(b) The Board shall be composed of five members appointed by the President, by and".

On page 30, in line 3, strike out "(b)" and insert in its place "(c)";

In line 18, strike out "(c)" and insert in its place "(d)"; and

Strike out lines 22 through 25, inclusive, and insert in their place the following:

"(2) the Secretary shall provide to the Board such support and facilities as the Board determines it needs to carry out its functions."

On page 31, strike out lines 4 through 7, inclusive, and insert in their place the following:

"(4) In the performance of their functions, the members, employees, or other personnel of the Board shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of any other part of the Department, except the Secretary."; and

In line 8, strike out "(d)" and insert in its place "(e)".

On page 32, strike out lines 20 and 21, and insert in their place the following:

"(f) In each annual authorization and appropriation request under this Act, the Secretary shall identify the portion thereof intended for the support of the Board and include a statement by the Board (1) showing the amount requested by the Board in its budgetary presentation to the Secretary and the Office of Management and Budget and (2) an assessment of the budgetary needs of the Board. Whenever the Board submits to the Secretary, the President, or the Office of Management and Budget, any legislative recom-".

On page 33, in line 4, strike out "(f)" and insert in its place "(g)"; and

After line 19, insert the following:

"(h) For the purposes of chapter 9 of title 5, United States Code, the Board shall be deemed to be an independent regulatory agency.".

Mr. CORCORAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. DINGELL. Mr. Chairman, reserving the right to object, has this amendment been printed in the Record?

The CHAIRMAN pro tempore. The Chair asked the gentleman that, and he said that the amendment had been printed in the Record.

Mr. DINGELL. It was exactly the amendment that was printed in the Record?

Mr. CORCORAN. Exactly.

Mr. DINGELL. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. DINGELL. Mr. Chairman, I reserve a point of order against the amendment.

Mr. CORCORAN. Mr. Chairman, my amendment would establish the Energy Mobilization Board within the Department of Energy. Two years ago, Congress created the DOE because we found that, to whatever extent Government is involved in energy matters, formulating and carrying out a national energy policy requires the integration of major Federal energy functions into a single department in the executive branch of our Government.

Clearly, this proposed EMB is a major energy function. All of the debate on the issue thus far demonstrates that we in the House of Representatives see it as a major addition to our Federal energy programs. Obviously, the President regards it so because he made it a major part of this latest message on energy.

Not only should it be placed in the DOE because of its importance, but also because it should be coordinated with other Federal energy-related activities. In fact, some argue that it will serve to coordinate long-range energy plans either directly or indirectly.

I think there should be coordination between conventional and unconventional energy strategies; there should be coordination among the fossil fuels so we use so that we meet our demand and so that we know how much of each type is needed. There should also be coordination in Federal policy on how much and when we will have adequate renewable energies like wind, solar, and biomass. Furthermore, there should be coordination between producing energy supplies and conserving and using more efficiently our energy supplies.

Mr. Chairman, organization begets policy. If we in this Congress decide to reverse the reorganization measure of the last Congress, we are stepping backward in energy. We lose control, we lose policy accountability, and we dilute the authority vested in the Secretary of Energy to be responsible for the energy policies we give DOE to administer. We do not want three energy agencies, one at DOE, one at EMB, and another one at the proposed Energy Security Corporation, now pending in Congress.

I hope the Members will support my amendment.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I want to congratulate my colleague in the well for what seems to me to be a very useful and intelligent suggestion. I noted in the paper this morning the difficulties with the NRC, a Board in which nobody has real responsibility and it is very difficult to say who ought to do what.

Under the gentleman's suggestion, the responsibility would lie with the Secretary of Energy, who is a person who is in the limelight and who has a responsible Cabinet position. I think the suggestion is an excellent one, and I would hope that it would be considered with very great care by the body.

Mr. CORCORAN. I thank the gentleman for his support.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I would also like to speak in support of the gentleman's amendment. Does the gentleman's amendment give the Secretary of Energy a veto power over this Board?

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(At the request of Mr. Ottinger and by unanimous consent, Mr. Corcoran was allowed to proceed for 2 additional minutes.)

Mr. CORCORAN. The answer to the gentleman's question is "Yes."

Mr. OTTINGER. So, the relationship between the FERC and the Secretary would be the same as under the gentleman's amendment for the Energy Mobilization Board?

Mr. CORCORAN. If the gentleman asks the question, would the relationship between my proposal and the Federal Energy Regulatory Commission be the same, the answer is no, because there is a difference. With respect to FERC, it is completely an independent regulatory commission. That would not be true in the case that I propose for the Energy Mobilization Board.

I think in most instances it would be quite the same, but with one exception; that is, there would be supervisory and responsibility control by the Secretary over the Energy Mobilization Board.

Mr. OTTINGER. So the Secretary could veto a recommendation?

Mr. CORCORAN. Yes, the amendment itself is silent on that point, but that would be my intention.

Mr. OTTINGER. I think that is an important clarification. I think it makes it even better from my point of view because it does make the Secretary of Energy responsible for the energy policy of the country, and this Energy Mobilization Board would just be making recommendations.

Mr. Chairman, I urge adoption of the amendment.

Mr. CORCORAN. I thank the gentleman. I would conclude by saying that we have already, both proponents of the Udall measure and proponents of the Dingell measure, recommended that the President be brought into the process. I think that process ought to work through the channel of the Secretary of Energy.

Mr. MYERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Does the gentleman's amendment change the authority or power of EMB in any respect?

Mr. CORCORAN. No; as far as what the various authorities will be that we might ultimately give to the EMB, it does not change any provisions. Under the proposal pending—not by my amendment, but the basic legislation—the Energy Mobilization Board would be a separate bureaucracy, completely distinct, so that the only limit we would place pursuant to my amendment would be that it would be within the organizational structure of the Department of Energy and subject to the Secretary and ultimately subject to the President, of course.

The CHAIRMAN pro tempore. The time of the gentleman from Illinois has again expired.

(By unanimous consent Mr. Corcoran was allowed to proceed for 2 additional minutes.)

Mr. MYERS of Indiana. If the gentleman will yield further, it still gives the same power and authority to override rules and regulations and laws to the Department of Energy through the EMB that exists in the bill as we now have it?

Mr. CORCORAN. My amendment deals simply with the placement of the organization in the agency. The powers that will be granted it is something we will work out here in the House and in conference with the other body at a later date.

The CHAIRMAN pro tempore. Does the gentleman from Michigan insist on his point of order?

Mr. DINGELL. No; Mr. Chairman, I do not. I simply rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Michigan is recognized for 5 minutes.

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Mr. DINGELL. Mr. Chairman, with all respect and affection for the author of this amendment, I must observe it would be easier to debate with him if he were aware of the contents of it. I would point out that according to the language of the amendment provided to me it says as follows:

> There is hereby established within the Department an independent regulatory commission to be known as the Energy Mobilization Board.

My good friend tells us that the Secretary will be able to override the rules and the actions of the Board. Further appears the language as follows:

> In the performance of their functions, the members, employees, or other personnel of the Board shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of any other part of the Department.

He then tells us that the agency will be subject to veto by the Secretary. Obviously, the language of his amendment does not conform in either particular to the comment that he has made to the committee. Although I have great affection and great respect for the gentleman who is the author of this amendment, I am compelled to, first of all, point out the inconsistencies of his comments with the content of his amendment and, second, to rise in opposition to an amendment which, according to the remarks of the gentleman, would place the agency as an independent regulatory commission within the Department of Energy but subject to the veto of the Secretary, which in fact, according to the language of the amendment it is not. The Board as contemplated by any proposal that is before this body at this time is not a regulatory body. Neither bill gives the Board any regulatory functions. It would clearly not be of the same status as FERC, the Federal Energy Regulatory Commission, the Energy Regulatory Agency in the Department of Energy, or the ICC, or the FTC as independent agencies. The Board should not be lodged in DOE. That is simply putting it down into a most anomalous and curious position. It is supposed to override actions, for example, of the Department of Energy, from within we must assume according to the language of the amendment as it is presented to us.

Second, the agency is not a permanent agency. On the contrary, the Federal Energy Mobilization Board is a temporary agency under any piece of legislation that is before this body at this time. Its functions may very well complement the Department of Energy, but it must deal with many agencies and it must deal unencumbered by the Department of Energy policies and practices. It must be pointed out that the policies and practices and pronouncements of the Energy Mobilization Board as constituted under either piece of legislation before us would be substantially encumbered and subject to rather mischievous internal monopolies, relations, and politics if it were placed inside the Department of Energy.

I think it has to be recognized that when the gentleman from Arizona (Mr. Udall) and I and the other Members began our work on the earliest proposals of fast-track legislation, it was under the Department of Energy umbrella. The President very strongly recommended the Board in recognition of the fact that this agency must have freedom apart from the bureaucratic wrangling, infighting, and boondoggling that goes on between the Department of Energy and other governmental agencies, and that it should not be included in those agencies.

I do not like new agencies, but the proposal before us is very carefully crafted. The Energy Mobilization Board under the Committee on Interstate and Foreign Commerce bill is subject to the Sunshine Act; it is subject to the Administrative Procedures Act; it is subject to the Freedom of Information Act; and it is subject to all of the other Federal laws that give it a particularly public responsibility and particularly public exposure in its undertakings. I cannot tell what the consequences of this amendment would be with regard to that, but I would suspect that not inconceivably then the agency would come, according to the comments the gentleman has made, under the sovereignty of the Department of Energy.

It is my judgment that that would be bad. It is my judgment rather that the agency should be independent, and it is going to deal with perhaps the major single economic, political, social, and resource crisis that is faced by this Nation, and to place it in DOE, in my judgment, would be very, very bad, particularly in view of the fact that my good friend, its author, does not seem to be aware of what the language of the amendment does with regard to the creature that he would create.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(At the request of Mr. Corcoran, and by unanimous consent, Mr. Dingell was allowed to proceed for 2 additional minutes.)

Mr. CORCORAN. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. Yes; I would be happy to yield to the gentleman from Illinois.

Mr. CORCORAN. I thank the gentleman for yielding.

I can understand the differences that the gentleman from Michigan (Mr. Dingell) and I might have on the policy question of where to locate the proposed Energy Mobilization Board, but I would like to clarify the point that he made at the outset of his comments, and that is with respect to the authority that the Secretary of Energy would have under my proposal. The gentleman will note that the language reads:

> On page 31, strike out lines 4 through 7, inclusive, and insert in their place the following:
>
> "(4) In the performance of their functions, the members, employees, or other personnel of the Board shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of any other part of the Department, except the Secretary."

So it is by that language that the proposed amendment would give to the Secretary of Energy the additional authority to review and supervise and have policy control over the Energy Mobilization Board.

Mr. DINGELL. The gentleman ought to read further. It says:

> In the performance of their functions—

This is the gentleman's amendment, not mine—

> the members, employees, or other personnel of the Board shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of any other part of the Department, except the Secretary; and

Mr. CORCORAN. No.

Mr. DINGELL. Either they are under the supervision of the Secretary or they are not. I am not at war with the gentleman's amendment. The gentleman's amendment seems to be at war with itself, and if he will explain it, I would be glad to yield to him.

Mr. CORCORAN. Mr. Chairman, there is confusion here because the amendment that the gentleman is reading is not the correct amendment.

Mr. DINGELL. It is the amendment published in the Record on the 22d of October, 1979. Has the gentleman published other proposals here?

Mr. CORCORAN. This is amendment No. 1 to H.R. 4985.

Mr. DINGELL. That is right. This is printed in the Record of October 22, 1979, to H.R. 4985. I have it here.

Mr. CORCORAN. I have it here, too.

Mr. DINGELL. I would be glad to give the gentleman the correct one.

Mr. CORCORAN. The amendment that is pending does include the phrase "except the Secretary."

Mr. DINGELL. Maybe the gentleman should have published the proper amendment. I can only function on the basis of the amendment that I have published in the Record here.

Mr. Chairman, I urge that the amendment be defeated.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words.

(By unanimous consent, Mr. Conte was allowed to speak out of order.)

JOCOBO TIMERMAN OF ARGENTINA IS RELEASED FROM PRISON

Mr. CONTE. Mr. Chairman, I want on behalf of one Jocobo Timerman of Argentina to thank all of my colleagues in the House of Representatives for their constant effort, their vigilant effort, in seeking his release from prison after 26 months of incarceration both in prison and in house arrests in Argentina. Jocobo Timerman was the publisher and the editor of el Nacion newspaper, one of the most respected newspapers in all of Latin America. Only because of his outspoken words for freedom in that part of the world was he incarcerated in prison without a trial. It was because of the efforts of the Members of this House and the U.S. Senate and others of like mind that Jocobo Timerman is now free. He wanted me to express his gratitude. It is our pleasure to have him as a visitor to the House of Representatives today.

Thank you all.

Mr. BROWN of Ohio. Mr. Chairman, will the genleman yield?

Mr. CONTE. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding.

I want to congratulate the gentleman in the well (Mr. Conte) for his effort in this behalf and also suggest that the Inter-American Press Association has been helpful in this regard and has stood for a number of years for the same standards of freedom of speech and written expression that the gentleman in the well stands for and that other people in this Chamber, including the subject of the gentleman's comments, stand for.

☐ 1540

Mr. CONTE. I want to thank the gentleman from Ohio. The gentleman from Ohio is absolutely correct.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Illinois (Mr. Corcoran) to the amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. Dingell) there were—ayes 14, noes 14.

RECORDED VOTE

Mr. CORCORAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 56, noes 357, not voting 20, as follows:

[Roll No. 619]

AYES—56

Ambro
Ashbrook
Bauman
Beilenson
Bonior
Broomfield
Carney
Conable
Conte
Corcoran
Crane, Daniel
Dannemeyer
Derwinski
Eckhardt
Edgar
Erlenborn
Findley
Gilman
Gingrich
Goodling
Grisham
Hansen
Holt
Holtzman
Jeffries
Johnson, Colo.
Kastenmeier
Kemp
Kildee
Kramer
Livingston
McClory
Maguire
Moffett
Moore
Myers, Ind.
O'Brien
Ottinger
Fanetta
Petri
Railsback
Rudd
Schroeder
Seiberling
Sensenbrenner
Shannon
Shumway
Shuster
Simon
Symms
Trible
Vanik
Walker
Weiss
Wirth
Wolpe

NOES—357

Abdnor
Addabbo
Akaka
Albosta
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Devine
Dickinson
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kindness
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Peyser
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Roe
Rose
Rostenkowski
Roth
Rousselot
Roybal
Royer
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Sebelius
Sharp
Shelby
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vander Jagt
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wilson, Tex.
Wolff
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—20

Alexander
Conyers
Crane, Philip
Dornan
Edwards, Okla.
Flood
Giaimo
Jones, N.C.
Leach, La.
Murphy, Ill.
Pickle
Roberts
Rodino
Rosenthal
Runnels
Schulze
Treen
Williams, Ohio
Wilson, C. H.
Winn

☐ 1550

Messrs. BONIOR of Michigan, KILDEE, FINDLEY, and SYMMS changed their votes from "no" to "aye."

Mr. CARTER changed his vote from "aye" to "no."

So the amendment to the amendment in the nature of a substitute was rejected.

☐ 1600

AMENDMENT OFFERED BY MR. HUCKABY TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. HUCKABY. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The CHAIRMAN. The Chair will ask the gentleman from Louisiana (Mr. Huckaby), has the amendment been printed in the Record according to the rule?

Mr. HUCKABY. It has, Mr. Chairman.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. Huckaby to the amendment in the nature of a substitute: Page 41, line 19, after the period, insert: "The objective of the Board in determining any different schedule under this paragraph shall be to provide that, to the maximum extent practicable and consistent with the provisions of this part, such different schedule shall not result in a total time for the Federal, State, or local agency action to which such schedule applies which exceeds 12 months from the date on which application is made for such Federal, State, or local agency action by a person acting on behalf of the Priority Energy Project.".

Mr. HUCKABY. Mr. Chairman, this amendment is very simple, and yet I think it cuts to the heart of the entire purpose of EMB, and that is to reduce the time frame and designates the time it takes either local, State, or Federal agencies to react to and to respond on applications for energy projects.

Both the Commerce bill and the bill offered by the gentleman from Arizona (Mr. Udall), known as the Udall-Wirth-Clausen bill, I think, are deficient in the fact that neither of them has any reference point whatsoever insofar as the time frame within which we expect the EMB to react or the time frame within which we expect the local, State, or Federal agencies to react is concerned.

My amendment does not mandate; rather, it merely establishes as a benchmark the provision that we expect the local government, the State government, or the Federal Government, that is, the agency involved, to react upon an application within 12 months from the time it is submitted.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I am happy to accept the amendment, and I rise in support of the amendment.

Mr. Chairman, this amendment improves section 182 of the Commerce Committee bill by providing a nonbinding goal for the Board to establish project decision schedules that seek to obtain final agency decisions within 12 months after a completed application is filed with the applicable agency for the project. The goal does not tie the hands of the Board, because it recognizes that applicable law and due process may require more time. The schedule must, for example, comply with section 182(b)(4), section 184, and section 179. It seeks to expedite the process, while providing reasonable and necessary flexibility. It is an acceptable goal.

Mr. Chairman, I thank the gentleman for yielding, and I commend him for offering this amendment.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I am happy to yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I have no objection to the amendment offered by the gentleman from Louisiana (Mr. Huckaby). I think it is a commendable amendment, and, frankly, if we could have all the decisions made in the Federal Government within 12 months, we would all be better off.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I am happy to yield to the chairman of the committee.

Mr. UDALL. Mr. Chairman, I have no objection to the amendment, which does state an objective. I think we can accept it, if the gentleman does it in that fashion.

This ought to bring some comfort to those who have listened to complaints of having waited for 5 years, 7 years, or 8 years for approval. Our target has always been to have approval within something like 12 to 18 months.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, I recognize that the original Interior bill has a provision for 9 months. This is a more realistic timeframe.

As I understand it, this amendment is offered to the Commerce version of the bill, and so we accept the amendment.

Mr. HUCKABY. Mr. Chairman, I thank the gentleman.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Louisiana (Mr. Huckaby) to the amendment in the nature of a substitute.

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. HUCKABY TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. HUCKABY. Mr. Chairman, I now offer the same amendment which was just now considered and agreed to, to the Udall-Clausen-Wirth substitute, since the chairman of the committee indicated that he will accept it.

The CHAIRMAN pro tempore. The Chair will inquire, has the amendment been printed in the Record?

Mr. HUCKABY. Yes, it has, Mr. Chairman.

Mr. Chairman, this is the exact same amendment that was just agreed to.

The CHAIRMAN. Without objection, the gentleman's amendment is considered as read and will be printed in the Record.

There was no objection.

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute is as follows:

Amendment offered by Mr. Huckaby to the amendment offered by Mr. Udall as a substitute for the amendment in the nature of a substitute: Page 20, line 15, after the period, insert: "The objective of the Board in determining any different schedule under this paragraph shall be to provide that, to the maximum extent practicable and consistent with the provisions of this part, such different schedule shall not result in a total time for the Federal, State, or local agency action to which such schedule applies which exceeds 12 months from the date on which application is made for such Federal, State, or local agency action by a person acting on behalf of the Priority Energy Project.".

The CHAIRMAN pro tempore. The gentleman from Louisiana (Mr. Huckaby) is recognized for 5 minutes in support of his amendment.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, this is the amendment that was just approved, except that it is now offered to our bill rather than to the Dingell bill. I urge an "aye" vote on the amendment.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I am happy to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, it is not my position to approve or disapprove amendments that are offered to the Udall bill, but I do observe that this amendment will not deal with the question of a judicial review, which as I pointed out, will take about 5½ years. It will not reduce the time.

Mr. HUCKABY. Mr. Chairman, the gentleman is correct, this does not deal with the question of judicial review.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, we are prepared to accept the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Louisiana (Mr. Huckaby) to the amendment offered by the gentleman from Arizona (Mr. Udall) as a substitute for the amendment in the nature of a substitute.

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. YOUNG OF ALASKA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. YOUNG of Alaska. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Chair will ask the gentleman from Alaska (Mr. Young), has the amendment been printed in the Record?

Mr. YOUNG of Alaska. It has been printed in the Record, Mr. Chairman.

The CHAIRMAN pro tempore. Is there objection to the present consideration of the amendment?

There was no objection.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. Young of Alaska to the amendment in the nature of a substitute: On page 34, line 3, insert a period after the number "1978", strike the remainder of the section through line 5, and add the following new section:

THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Sec. 176. No provision of this Act nor any action taken pursuant to this Act shall affect or interfere in any way with the requirement established by section 9(b) of the Alaska Natural Gas Transportation Act of 1976 that actions by Federal officers or agencies affecting the transportation system selected by the President and approved by the Congress pursuant to the provisions of that Act be expedited or with the precedence granted by section 9(b) to applications to or requests of Federal officers or agencies by that system."

Renumber subsequent sections accordingly.

Mr. YOUNG of Alaska (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Alaska?

Mr. DINGELL. Mr. Chairman, reserving the right to object, and I am sure I will not object, this is the amendment, as I understand it, that the gentleman showed the committee?

Mr. YOUNG of Alaska. Mr. Chairman, if the gentleman will yield, this is the exact same amendment that I discussed with the chairman of the subcommittee.

Mr. DINGELL. Mr. Chairman, I withdraw my reservation of objection, and I will state that we have no objection to the amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

The Clerk concluded the reading of the amendment.

Mr. YOUNG of Alaska. Mr. Chairman, I believe the substance of this amendment is straightforward and that the intent is clear. The purpose of my amendment is to insure that no provision of the Energy Mobilization Board legislation will alter, repeal, or preempt any portion of the Alaska Natural Gas Pipeline Act of 1976.

By enacting the Alaska Natural Gas Transportation Act of 1976, the Congress specifically determined that the Alaska Natural Gas Transportation System is an energy project which must be built because it is in the national interest. In order to expedite the much-needed construction of this system, Congress included, in section 9(b), a "fast track" form of legislation. Section 9(b) provides that all actions of Federal officers and agencies with respect to consideration of applications or requests connected with construction of the system shall be expedited and that any such application or request shall take precedence over any similar application to or request of the Federal officer or agency.

The purpose of this amendment is to insure that the precedence granted by Congress to this critically important energy project is not preempted or impeded. The Alaska Natural Gas Transportation System is one of the most important energy projects pending today and has been specifically recognized as such by the Congress. This body has a responsibility to this Nation to assure that no action will be taken to subvert or bypass construction of the Alaska Natural Gas Transportation System. In complying with this responsibility, my amendment provides that actions taken pursuant to the Energy Mobilization Board legislation shall not interfere with the precedence or the direction for expedited action mentioned in the Alaska Natural Gas Transportation Act of 1976.

In sum, my amendment assures that the gas pipeline will retain its proper priority in obtaining action by Federal Government agencies and officials on its applications and requests for Federal action.

I urge my colleagues to support this amendment.

AMENDMENT BY MR. YOUNG OF ALASKA

On page 34, line 3, insert a period after the number "1978", strike the remainder of the section through line 5, and add the following new section:

THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

SEC. 176. No provision of this Act nor any action taken pursuant to this Act shall affect or interfere in any way with the requirement established by section 9(b) of the Alaska Natural Gas Transportation Act of 1976 that actions by Federal officers or agencies affecting the transportation system selected by the President and approved by the Congress pursuant to the provisions of that Act be expedited or with the precedence granted by section 9(b) to applications to or requests of Federal officers or agencies by that system."

Renumber subsequent sections accordingly.

AMENDMENT BY MR. YOUNG OF ALASKA

(To the amendment in the nature of a substitute offered by Mr. UDALL.)

On page 10, after line 9, add the following new section:

THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

SEC. 203. No provision of this Act nor any action taken pursuant to this Act shall affect or interfere in any way with the requirement established by section 9(b) of the Alaska Natural Gas Transportation Act of 1976 that actions by Federal officers or agencies affecting the transportation system selected by the President and approved by the Congress pursuant to the provisions of that Act be expedited or with the precedence granted by section 9(b) to applications to or requests of Federal officers or agencies by that system.

Renumber subsequent sections accordingly.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I will accept the amendment.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, this amendment is to be offered to the Interior Committee bill as well?

Mr. YOUNG of Alaska. We are offering it to the Interior Committee bill as well.

Mr. CLAUSEN. Mr. Chairman, we accept the amendment.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I think the amendment has merit to a considerable degree. What it does in fact is protect the Alaskan Natural Gas Pipeline Act from being interferred with by this legislation. That legislation was dealt with before. That pipeline objective was dealt with in a separate piece of legislation. To a great extent, this amendment is after that action.

Mr. Chairman, I think the amendment is acceptable.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, as I indicated, I have no objection to the amendment. I thoroughly share with the gentleman the purposes of the amendment, and I accept it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alaska (Mr. YOUNG) to the amendment in the nature of a substitute.

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. YOUNG OF ALASKA TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. YOUNG of Alaska. Mr. Chairman, I offer the same amendment that was just agreed to to the Udall substitute for the amendment in the nature of a substitute.

The CHAIRMAN pro tempore. Is there objection to the present consideration of the amendment?

There was no objection.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Alaska to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute:

On page 10, after line 9, add the following new section:

THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

SEC. 176. No provision of this Act nor any action taken pursuant to this Act shall affect or interfere in any way with the requirement established by section 9(b) of the Alaska Natural Gas Transportation Act of 1976 that actions by Federal officers or agencies affecting the transportation system selected by the President and approved by the Congress pursuant to the provisions of that Act be expedited or with the precedence granted by section 9(b) to applications to or requests of Federal officers or agencies by that system.

Renumber subsequent sections accordingly.

Mr. YOUNG of Alaska (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Alaska?

Mr. VOLKMER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk concluded the reading of the amendment.

□ 1610

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Alaska (Mr. YOUNG) to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute.

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. FUQUA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. FUQUA. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. FUQUA to the amendment in the nature of a substitute: On page 27, strike all of line 16, and substitute the following: "including energy research and development projects,".

On page 33, line 13, following "Commerce", insert "and the Committee on Science and Technology".

On page 35, line 18, after "Affairs", insert "and Science and Technology".

On page 36, line 16, after "Affairs", insert "and Science and Technology".

Mr. FUQUA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. DINGELL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. DINGELL. Mr. Chairman, is this an amendment that has been published in the RECORD?

Mr. FUQUA. Yes, it is.

Mr. DINGELL. No change?

Mr. FUQUA. No.

The CHAIRMAN pro tempore. The gentleman from Florida (Mr. FUQUA) is recognized for 5 minutes in support of his amendment.

Mr. FUQUA. Mr. Chairman, the amendment I am offering simply clarifies the scope and the purpose of the bill to include research and development projects. Several of the projects that are furthest along in design are those projects authorized by the Committee on Science and Technology in previous authorization bills. The amendment also adds the Committee on Science and Technology, where appropriate, to the reporting requirements contained in the bill. I am informed by the gentleman from Michigan (Mr. DINGELL) that it is agreeable to both sides.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, the committee which the able gentleman chairs has heavy energy research and development responsibilities and does a good job. Clearly this amendment is in order.

Mr. FUQUA. I thank the gentleman.

Mr. CLAUSEN. Mr. Chairman, if the gentleman will yield, we are prepared to accept the amendment.

Mr. BROWN of Ohio. Mr. Chairman, if the gentleman will yield, we have no objection to the amendment either.

Mr. FUQUA. I thank the gentlemen.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Florida (Mr. FUQUA) to the amendment in the nature of a substitute.

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. FUQUA TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. FUQUA. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The CHAIRMAN pro tempore. Has the gentleman's amendment been printed in the RECORD?

Mr. FUQUA. Yes, it has, Mr. Chairman.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

> Amendment offered by Mr. FUQUA to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute: In section 201(f) after the words "Foreign Commerce" insert "and on Science and Technology".
>
> In section 203(d) after the words "Insular Affairs" insert "and on Science and Technology".

Mr. FUQUA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FUQUA. Mr. Chairman, this is a similar amendment to the one previously accepted, and I think it has been indicated by both the gentleman from Arizona (Mr. UDALL) and the gentleman from California (Mr. CLAUSEN) that it is acceptable.

Mr. CLAUSEN. If the gentleman will yield, we have agreed to accept the amendment.

It is identical to the one that was offered to the Commerce bill?

Mr. FUQUA. Yes.

Mr. CLAUSEN. We are prepared to accept it.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Florida (Mr. FUQUA) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute.

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. OTTINGER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. OTTINGER. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute, which is at the desk and which has been printed in the RECORD as required by the rule.

The Clerk read as follows:

> Amendment offered by Mr. OTTINGER to the amendment in the nature of a substitute: Page 29, line 24, after the period, add "The Board shall include representation from environmental and consumer interest groups.".

Mr. OTTINGER. Mr. Chairman, at the present time there is no specification as to the qualifications of the five members of the Energy Mobilization Board in either the Dingell bill or the Udall bill; it would thus be possible for the administration to appoint five oil company executives or five other special-interest representatives to constitute the Board. Since so many of the problems that are involved with respect to decisions as to whether or not a project should receive fast track do include environmental and consumer problems, it seems appropriate that at least one member of the Board should have a background in those areas. That is all the amendment requires. I would urge adoption of the amendment. It would provide for some diversity with repect to the board.

Mr. BROWN of Ohio. Mr. Chairman, I rise to oppose the amendment offered by the gentleman from New York (Mr. OTTINGER).

Mr. Chairman, I think it ought to be pointed out again just what this Energy Mobilization Board is supposed to do. The Energy Mobilization Board is supposed to identify those projects which should be given fast-track consideration both from the standpoint of the implementation of legal decisions with references to laws, but also make a judgment as to what the most desirable projects are from the standpoint of what would produce for our country the most energy in the shortest period of time and become the demonstrations of the most practical energy-producing technologies.

That is not a consumer issue. It is not an environmental issue. It is not an issue that relates to foreign affairs. It is an issue of technical qualification as to who can make a judgment on the most desirable projects to be given the fast-track approach.

It would be my assumption that we would have people who would know something about these projects, energy production, and not that we are trying to separate out a whole series of special-interest areas for representation on the Board.

The language in the bill that came out of the Committee on Interstate and Foreign Commerce provides that the Governors of affected States, where these projects would be undertaken, can sit in as part of the Energy Mobilization Board and express the geographic interests of their communities. I think that makes sense. But to start identifying now all of the special interests that we have in our society and put on the Board representatives of those special interests it seems to me is destructive of the whole purpose of the establishment of the Energy Mobilization Board in the first place. I know the interest of the gentleman from New York in this whole consideration and also, of course, his interest in protecting consumers in environmental issues. But I must oppose him in his effort to modify or further qualify the people who would serve on this Board.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment, with the highest regard, the greatest esteem and the greatest affection for the author of the amendment, who is one of the most valuable members of the Subcommittee on Energy and Power. That does not, however, Mr. Chairman, change the fact that this is an amendment that is undesirable. The purpose of the Energy Mobilization Board is to create a situation whereby the Nation will be able to move forward in the expediting of projects of critical importance from the standpoint of energy.

The committee considered the question of what type of Board there should be and what should be its constitution and its membership. The committee came to the conclusion that we should not have three members, but that we should have five members. We even decided that we should permit the Governors to have nonvoting participants in order to give them the opportunity to have their views heard. We did not give them a vote for the very good reason that a vote by someone appointed by someone other than the President would probably convert the Board into basically an unconstitutional entity.

The amendment would require representatives of consumers and environmental "groups." The term "group" is not defined. I would point out that the committee considered this idea and decided that it would not be good to have representatives of specific groups, but the committee report does express the concern of the committee, and it says as follows:

> In adopting the administration's proposal to establish a new Energy Mobilization Board, the committee fully agreed with the decision of the Interior Committee to broaden the membership of the Board to five members and to subject this Board to the Sunshine Act and other statutes applicable to other Federal agencies. The committee believes that

an expanded membership will insure a better opportunity for the President to include persons representing a broad spectrum of views. Consumer and environmental views should be represented on the Board, as well as the views of those who favor expanded energy development. The Board should also include persons who recognize the need to expedite energy projects that conserve energy or that use wastes or other renewable sources to produce energy.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from New York.

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Mr. OTTINGER. Mr. Chairman, I thank the gentleman for yielding.

When the gentleman expresses his affection and esteem, I always know he is about to oppose an amendment, but I share that affection and esteem. The gentleman is a fine chairman.

I understand the gentleman's concern. I appreciate the report language.

I wonder if the gentleman would allow me to make this language consistent with the gentleman's language and ask unanimous consent that it read, "* * * representation from environmental and consumer interests * * *" rather than "* * * groups."

Mr. DINGELL. Mr. Chairman, I have no objection to that request.

Mr. OTTINGER. Mr. Chairman, I ask unanimous consent to change the amendment so to read:

The Board shall include representation from environmental and consumer interests.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. CLAUSEN. Mr. Chairman, I reserve the right to object.

Mr. BAUMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from New York.

Mr. OTTINGER. If the President is going to make these determinations, the people who we are interested in getting are people who have been active and are knowledgeable in terms of these projects in connection with their environmental concerns. I think we can leave the President that authority properly to choose highly qualified people in these areas to participate in these decisions.

Mr. DINGELL. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Ottinger) to the amendment in the nature of a substitute.

The amendment to the amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. SYMMS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. SYMMS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Symms to the amendment in the nature of a substitute: Section 187(b), page 53, after line 13 insert the following new subsection (4):

"(4) In issuing a final order in any action for review of any final agency action which is covered by a Project Decision Schedule, the court may award costs of litigation (including attorney and expert witness fees) to any party when in the determination of the court such action was brought frivolously with no essential purpose beyond delay."

Mr. SYMMS. Mr. Chairman, the purpose of my amendment is to provide the courts with authority to award costs of litigation to any party where the court finds that action brought before it was brought frivolously with no essential purpose beyond delaying the implementation of a priority energy project. We must not allow the no-growthers in this country to seek judicial review to block energy projects as they have done over the last 15 years so successfully. If they are going to sue frivolously to delay energy projects then the courts should make them pay the bill

The language in my amendment is the same as that contained in the Surface Mining Control and Reclamation Act of 1977 and, furthermore, this language was adopted by the Interior Committee in its consideration of this measure.

I urge my colleagues to support this amendment.

Mr. LOEFFLER. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Texas.

Mr. LOEFFLER. Mr. Chairman, I thank the gentleman for yielding.

I wish to commend the gentleman for this fine amendment. Certainly we do want to cut down on frivolous lawsuits. We do know, in fact, many individuals will file ill-conceived judicial approaches in an effort to curb those projects which are determined to be priority energy projects.

Therefore, this side of the aisle is happy to accept the gentleman's amendment, and again appreciate the efforts by the gentleman from Idaho (Mr. Symms).

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I thank the gentleman for yielding.

I have no objection to the gentleman's amendment.

Mr. SYMMS. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Idaho (Mr. Symms) to the amendment in the nature of a substitute.

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. SEIBERLING TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. SEIBERLING. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Seiberling to the amendment offered by Mr. Udall as a substitute for the amendment in the nature of a substitute: Page 32, line 4, strike out "or".

Page 32, line 5, insert "or" after the semicolon.

Page 32, after line 5, insert:

(E) providing access to, or acquisition of, information by any agency or other person;

Mr. SEIBERLING. Mr. Chairman, on page 31 of the Udall-Wirth-Clausen substitute, it is provided that an order temporarily suspending a law that was passed or regulation passed after the approval or after the construction of a project will not apply to any Federal, State, or local requirement contained in certain types of laws.

This amendment would simply add to that list freedom of information type of laws.

Obviously, a Freedom of Information requirement is not going to have any effect on whether an energy project moves ahead or does not move ahead. It seems to me that this is a reasonable and very simple amendment. I would hope that it would be accepted by the committee.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I have no objection to the amendment. I think its purpose and its effect are as the gentleman has stated.

Mr. SEIBERLING. I thank the gentleman.

I do not think there is any further explanation needed. I would hope it would be accepted by the other sponsor of the substitute, the distinguished gentleman from California (Mr. Clausen).

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, does amendment protect confidential information relating to proprietary interests?

Mr. SEIBERLING. It does not affect it one way or another. It simply preserves whatever existing laws there are or may be with respect to Freedom of Information. Of course, the U.S. Freedom of Information Act does expressly protect proprietary information.

Mr. CLAUSEN. Mr. Chairman, we will accept the amendment.

Mr. SEIBERLING. Mr. Chairman, I thank the gentleman and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Seiberling) to the amendment offered by the gentleman from Arizona (Mr. Udall) as a substitute for the amendment in the nature of a substitute.

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. SEIBERLING TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. SEIBERLING. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Seiberling to the amendment offered by Mr. Udall as a substitute for the amendment in the nature of a substitute: On page 32, line 18, following the word "interest" insert a comma and add "or death or personal injury".

Mr. SEIBERLING. Mr. Chairman, this amendment applies to the same subsection as the previous amendment.

Again, the Udall-Wirth-Clausen substitute provides that no order suspending an ex post facto law would nullify or impair in any way the rights of any person under any provision of law to receive compensation for the loss of any property interest as a result of the construction or operation of the project.

This amendment would simply include the right to recover for personal injuries or deaths. It seems to me quite in order to preserve the rights of individuals to recover for any such injury or loss.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I support the amendment.

Mr. SEIBERLING. I thank the gentleman.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, we will support the amendment.

Mr. SEIBERLING. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. SEIBERLING) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute.

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was agreed to.

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AMENDMENT OFFERED BY MR. BAUMAN TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. BAUMAN. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute, which was printed in the RECORD.

The Clerk read as follows:

Amendment offered by Mr. BAUMAN to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute: On page 32, after line 19, insert the following:

"(6) the will of the electorate as ascertained in any local or state initiative or referendum which was specifically related to the establishment of an energy project."

Mr. BAUMAN. Mr. Chairman, this amendment goes to the section of the Udall substitute which prohibits waivers of certain types of laws in certain circumstances. The amendment says that the Board could not issue an order that would modify or impair in any way the outcome of a referendum or initiative in any local or State jurisdiction which specifically related to the establishment of an energy project.

In other words, if the voters of a given jurisdiction had voted not to allow the location of such an energy project within their area, and the will of the electorate had been expressed through the appropriate means at a primary or general election, the Federal Board could not override that expression of the popular will. I think this amendment is very important because it is quite obvious that in such a situation the issue of whether the location of the energy facility would be allowed in that jurisdiction would have been contested at some length. The issue would have progressed to the point where the State law or local law would have allowed a vote on that issue, following a campaign of debate both pro and con on the issue, and the people of the State or local area would have voted. It seems to me when all of that has been accomplished it is not appropriate for a Federal agency to step in and simply overrule the electorate's will. For that reason I offer the amendment.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I think one of the reasons our bill has drawn such a broad base of support is its States' rights feature. I think the gentleman's amendment proposes that States' rights are going to be asserted and they are going to be in effect. Out in the West, particularly, but even in the gentleman's State of Maryland, we have had a good deal of discussion and concern and debate.

Montana, California, and other States have actually passed referenda after a great deal of publicity and after a lot of fighting, and they have fixed a State policy. I think that this State policy ought to have a little extra dignity and force as the gentleman's amendment would give to it, and we are going to strongly support States' rights wherever we can. The gentleman's amendment I think is a good amendment and I support it.

Mr. BAUMAN. I thank the gentleman. I have no doubt that the combination of his support and my offering the amendment will overcome all obstacles.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, this is an extension of States' rights provisions, and certainly is viewed as a vehicle in many ways to express the people's interest. So we will go along with the amendment.

Mr. BAUMAN. I thank the gentleman who is a coauthor of the substitute.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, since we have the Lujan-Santini amendment in the Interstate and Foreign Commerce Committee bill, I do not think this will affect our legislation, so I do not object to it.

Mr. BAUMAN. I thank the distinguished gentleman from Michigan for his lack of opposition.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. BAUMAN) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute.

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. WAXMAN TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. WAXMAN. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute, which has been printed in the RECORD.

The Clerk read as follows:

Amendment offered by Mr. WAXMAN to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute: Page 31, in line 7, after the word "authorized", insert the following: ", after consultation with the agencies responsible for implementing any such requirement,".

Page 31, line 9, after the period insert: "No order under this section applicable to any facility may be issued following completion of construction of such facility.".

Page 32, after line 19, insert:

(e)(1) In order to mitigate the risk to public health and safety from any orders issued under this section, any suspension of a requirement pursuant to this section shall be conditioned on the imposition of a less stringent requirement or other alternative to the requirement.

(2) No order under this section may be issued unless such order sets forth a schedule containing increments of progress which will result in compliance within the time period specified in the order.

(3) In establishing less stringent or alternative requirements under paragraph (1), and increments of progress under paragraph (2), the Board shall obtain, and give full consideration to, the recommendations of the agencies responsible for implementing the requirements to be suspended.

(4) The agencies responsible for implementing the requirements to be suspended shall monitor and enforce the terms and conditions of any order issued pursuant to this section.

Page 32, line 20, strike out "(e)" and substitute "(f)".

Mr. WAXMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Chairman, the amendment I am offering to the Udall-Clausen-Wirth substitute is a perfecting amendment designed to clarify the intent of section 215 of the bill, regarding the suspension of new requirements.

My amendment provides, first, that such suspensions can only be granted up to the time construction is completed; and second, that all such suspensions must, in order to protect public health and safety, be conditioned on the imposition of a less stringent or other alternative requirement. I incorporated a similar amendment into the bill passed by the Commerce Committee.

Section 215 of the substitute provides that the Board may grant a priority energy project a temporary suspension—

and not a permanent waiver—for up to 5 years of any Federal, State, or local requirement established after construction on the project has begun which might prevent its timely completion or operation.

I have been especially concerned with the effect of any waiver or suspensions of law governing these energy projects. The laws we have on the books are essential to protect public health and the environment. They were enacted over the past decade to serve that very purpose. The power to continue them in effect should rest solely with the Congress, and not with a five member Board whose only concern is to speed energy development. Greater considerations have to be balanced here. And in a time when there are many complaints over the scope of Federal authority, it is ironic indeed that we would vest vast new powers into a tiny Federal agency.

Equally important, it is proposed that we permit these laws to be waived in order to expedite the construction of energy projects whose hazards to health and the environment are barely known and poorly understood. We are talking about toxic wastes, which may be carcinogenic, from synthetic fuels plants. We are talking about huge increases in emissions of carbon dioxide and other poisonous gases into the air—with effects which could persist for generations. We are talking about the possibility of contaminating the precious water resources in the West.

I do not believe it is at all wise to pose such risks to the American people. I had hoped that legislation creating an Energy Mobilization Board would be especially sensitive to these concerns—that we could clear the procedural obstacles to energy development, but leave the substantive provisions of law intact.

But it is clear that we will pass a bill which contains the authority to suspend laws. The question before us is: Under what terms shall such suspensions be granted?

My amendment provides two safeguards to this extraordinary grant of authority.

It states that no suspension under section 215 can be issued after construction of a priority energy project has been completed—that is, when the facility has the physical ability to start up its operations. This is necessary to prevent an energy project from being granted endless suspensions of law once its operations have begun. The whole purpose of the suspension process under section 215 is to insure the timely completion and operation of the energy project. The necessary suspensions for both construction and operation should be sought before construction is completed, and not issued after operations have begun.

The second safeguard addresses the terms and conditions of any suspension under section 215.

I believe it is important that interim requirements—less stringent than those which are suspended but necessary to protect public health, safety, and the environment—be imposed. My amendment would require this as a condition of any order under this section.

It also provides that no suspensions may be issued unless the energy project commits to take the necessary steps to be in full compliance with the suspended requirement by the time the suspension expires.

Section 215(a) states that suspensions can be granted in order to provide "such time as necessary to allow the facility to comply with the requirement."

The clear intent is that the project will meet the original requirement after the suspension expires. My amendment will guarantee that energy projects will not neglect to take the steps necessary to be in compliance by the time the suspension terminates.

Finally, my amendment provides that the appropriate agencies are to help the Board devise the interim requirements if a suspension is granted, and to monitor and enforce the terms and conditions of the suspension order itself.

This is a very modest amendment, Mr. Chairman, which I trust further refines the purpose of section 215 to protect public health, safety, and the environment in the event these suspensions are granted.

I urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WAXMAN) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute.

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. HOPKINS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. HOPKINS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment by Mr. HOPKINS to the amendment in the nature of a substitute: On page 38, lines 12–13, strike "nonvoting" and insert in lieu thereof the word, "voting."

Mr. HOPKINS. Mr. Chairman, much of the debate on this measure has centered on the extent to which we in this Chamber wish to permit a federally appointed "superboard" to trample on the prerogatives of State and local authorities.

Now I am as determined as anyone here today to see this Nation increase its domestic production of energy, so that we may rapidly reduce our dangerous dependence on foreign sources of oil.

Just this morning, it was reported that America's oil imports rose 6 percent last month in volume—and fully 13 percent in cost. This is a trend which must be reversed and I think Congress should take the lead in that effort. But, let us face it: Fast track is just one part of what will have to be a wide-ranging, comprehensive effort if it is to be successful. Fast track will help, to be sure, but it can be no more than a part of the answer.

This distinction, it seems to me, is an important one. For, if we were talking about the key to our entire energy supply problem—if fast track was the magic answer—we might be willing to pay a somewhat higher price for America's energy salvation. But, since we are not talking about some energy "panacea," then perhaps we ought to drive a harder bargain on behalf of our States.

Perhaps we ought to work a bit harder to strike a balance between the compelling national need for more energy supplies, and the long-cherished tradition in this country of State and local control over such matters as zoning, land use and water rights.

Both versions of this bill go part of the way toward recognizing the right of States to participate in the deliberations of a Federal board acting on projects within their borders.

But, neither the committee's bill nor the substitutes go far enough. Their provision for the participation of a nonvoting delegate, in my opinion, is a telling admission by the proponents that residents of affected States have a very real interest in the deliberations of an Energy Mobilization Board.

But, how is the Board structured? The American people as a whole—whose interest is likely to be indirect—have five voting representatives on the Board whose impact will be very direct.

On the other hand, the residents of a State in which a priority energy project was located—whose interest is likely to be far more direct—would have a single, nonvoting representative, whose impact on the Board's decisions will be indirect, at the very best.

My amendment would alter that equation slightly. Very simply, when the deliberations of this Energy Mobilization Board are of sufficient importance to a State to warrant the participation of a delegate from that State, I would argue that we ought to put our money where our mouths are.

In other words, let us give that State-appointed delegate a vote. Let us give his bark some bite. If our objective with this Board is truly to try to strike a balance between the national interest and the rights of States and localities, then why are we stacking the deck to 5 to 0 against the States and local communities?

We all agree that America needs to step up domestic energy production. We all agree that a number of very promising projects are being strangled by government regulation at every level. And I support the goal of cutting much of that redtape for the most important projects—although, if it were even remotely possible—I would prefer to eliminate most of it outright.

But, I am determined to do my part to insure, that in the process, the price we pay for what is only a small fraction of the total solution, does not include an absolute disregard for the very real property interests, environmental concerns, and quality of life which are so important to the millions of American citizens who will have to live with the consequences of the Energy Mobilization Board's decisions.

I would respectfully say to my colleagues that support for my amendment is support for a vote and a voice for these people. I think we owe them that much.

I will conclude by saying, "no priorization without representation."

□ 1640

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. HOPKINS. I will be delighted to yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I congratulate the gentleman for his amendment, as I would indeed because I put an identical amendment in the RECORD and it was on my motion in the Commerce Committee that a representative of affected Governors was put on these boards at all.

If it is really to protect the States and the local interests through the States, the States representatives ought to have an effective voice. An effective voice would be a vote. I think it can do no harm. Certainly, if we are dealing with a program that the State is opposed to, we have got a real problem and one that ought to be dealt with with great circumspection, great caution. Having voting ability seems to be highly desirable. I urge adoption of the gentleman's amendment.

Mr. HOPKINS. I thank the gentleman.

Mr. DINGELL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it is with a great deal of respect for the gentleman who offered this that I, regretfully, oppose the amendment. I rise in opposition to the amendment, because it has certain defects that have to be understood by the House. As my colleagues who serve with me on the Commerce Committee will understand, it was in large part as a result of the insistence of the gentleman from New York (Mr. OTTINGER) and myself that under the Commerce Committee bill the Governor has a representative on the Board so that he might represent the thoughts and concerns of the people of the State affected.

There are certain problems, however, in going beyond that. A pipeline might go through 10 or 12 States, such as the Northern Tier pipeline or the proposed new pipeline on the gulf coast. Under the gentleman's amendment we could conceivably have 8 or 10 or 12 or 14 State representatives sitting on the Energy Mobilization Board. Given that system, it would not be a Federal Energy Mobilization Board at all, but rather a State-dominated Board which would probably be composed of some States which favor it and some States violently opposed to it. Indeed, the result would be a Board composed of States who regard themselves as solely the representatives of a single State as opposed to the representing concerns of national dimensions.

As a result of this, the amendment has great potential for mischief because representatives of each State in which the project would be geographically situated would have an opportunity to sit on this Board and vote.

Now, the second point—and this is probably the most grevious flaw in this—is that the Justice Department has repeatedly pointed out to this committee that when we set up boards of this kind and try to give Governors representation, to give the Governor's representative or a person who is appointed by someone other than the President a vote raises grave constitutional questions. In other words, it is a Federal board. The Constitution reserves to the President the power, the duty, and the right to appoint those who will serve on that Board. For us to seek to change that would be to raise grave constitutional questions.

I reiterate to my good friend that we are aware of his concerns. He is a serious representative of the people he serves, and he is seeking to do what is right, but the hard fact of the matter is that if we adopt this amendment we accept two things which are undesirable: First, we would weigh it against the truly national orientation it should have, and second, it would raise serious constitutional questions. Of equal importance, we may find under the proposal of the gentleman that voting representatives from States outside that geographic area primarily affected will cast the dominant votes against the State in which the energy project will be principally located.

For example, for an electric powerplant, States to be served by the plant might determine that it would be a splendid idea to locate that plant in the State where it is going to be located as opposed to the State which it serves and where the benefits might be conferred.

So, I would urge my colleagues on the committee to reject the amendment.

Mr. HOPKINS. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Kentucky.

Mr. HOPKINS. Mr. Chairman, I appreciate my colleague's remarks, and certainly I want him to know that I intend to support his bill. I am merely trying to perfect it, as he has indicated, to the best of my ability.

Mr. DINGELL. I am satisfied that the gentleman's motives are best.

Mr. HOPKINS. What I wanted to ask the gentleman was, how many multi-State projects does he suspect there might be?

Mr. DINGELL. I can give the gentleman no good estimate of that. I can tell the gentleman that almost every pipeline will be multi-State. I can tell the gentleman that dams and things of that kind will possibly be multi-State because the impoundments of water would go back across State lines. I would suspect that electrical transmission lines will probably be multi-State. I think there is a pretty good chance that coal gasification plants would be multi-State. I would suspect that certain natural gas pipeline and gathering facilities would be multi-State.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I think it is possible that we might have a gasification plant in Ohio that would draw from the Ohio River, which actually is owned by the State of Kentucky, the State the gentleman represents here.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(By unanimous consent Mr. DINGELL was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. And, we will have air in West Virginia, so that the multiple interests the gentleman suggests are many and varied. I do think there is a point here about the question of having several States voting on the Board, and then really frustrating the interest of the State where the project is located.

Mr. DINGELL. I would reiterate by pointing out that we might find States which would be the beneficiaries of energy projects that, by having voting representation on the Board, might out vote the State that would be the particular loser from an environmental or other standpoint.

Mr. HOPKINS. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Kentucky.

Mr. HOPKINS. Mr. Chairman, I thank the gentleman. It seems to me, Mr. Chairman, that if we have a multi-State project and we have six or seven States involved, and those Governors or their appointees all vote against the project, there must be just cause and good reason for voting aganst a certain project, which is the point I am trying to get at.

□ 1650

Mr. DINGELL. We were concerned that the Governors have a role in this. We have given them the right to appoint nonvoting participants. I would call the attention of the gentleman to the Commerce Committee's bill as amended by the Santini-Lujan amendment. The Board may no longer consider the waiver of State laws, but, equally importantly, Federal waivers must come before the Congress. The waiver would only become effective upon the enactment of a joint resolution of approval by both Houses of Congress under expedited procedures. As a consequence States would have adequate representation through their able Representatives here, in Congress—like the gentleman from Kentucky who is the author of this—to conduct the necessary debate and override.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding.

There is also, I might say to the gentleman from Kentucky (Mr. HOPKINS), protective legislation written into the language of the bill of the Committee on Interstate and Foreign Commerce on page 46, section 185(a)(2) with reference to the waivers which says:

> "(2) Any waiver recommended under this section may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived. Such waiver shall also include such terms and conditions as the Board, in consultation with the agencies responsible for the administration of the requirements proposed to be waived, deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. Brown of Ohio, and by unanimous consent, Mr. Dingell was allowed to proceed for 1 additional minute.)

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield further to me to conclude?

Mr. DINGELL. I yield to the gentleman.

Mr. BROWN of Ohio. The thought—and that is that already built into the legislation—is an effort to mitigate any untoward effects that might be involved in the waiver procedure. Presumably that would also be true with reference to any effort to foreshorten the protections of the law.

Mr. DINGELL. That is correct. I would point out that the Governor's representative sitting on the Board may raise those matters. I am sure he would have an opportunity to bring these matters to the attention of those who represent his State in the Congress when the matter comes before the Congress, if his recommendations were not carefully acceded to by the Board.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky (Mr. Hopkins) to the amendment in the nature of a substitute.

The amendment to the amendment in the nature of a substitute was rejected.

Mr. SEIBERLING. Mr. Chairman, I move to strike the last word.

Mr. Chairman, section 215 of the Udall-Wirth-Clausen substitute authorizes the Board to temporarily suspend any Federal, State, or local requirements enacted or promulgated after the commencement of construction of any energy priority project upon application by the project.

In considering the application for suspension, the Board must consider: First, whether the requirement would prevent timely completion or operation of a designated project, and second, whether the temporary suspension of any requirement would create a significant risk to public health or safety.

Board actions under section 215 would be subject to judicial review as provided in the bill "for failure to comply with any requirement of this act." I want to ask the gentleman from Arizona (Mr. Udall) if it is intended that such review could include review of the Board's decision that suspension was necessary for the period in question.

Mr. UDALL. If the gentleman will yield, the answer to his question is "Yes." The question of whether any time delay is necessary for a facility to comply with any new requirements, and for how long, would be subject to judicial review as provided in section 217.

Mr. SEIBERLING. I thank the gentleman for clarifying this point. I would also ask the gentleman whether it is intended that the judicial review provided under this section could include review of the Board's decision that the suspension of a requirement would not result in significant risk to public health and safety.

Mr. UDALL. The answer again is "Yes." Any finding related to a suspension's effect on public health and safety would be subject to judicial review under section 217(a)(1).

Mr. SEIBERLING. I thank the gentleman.

Mr. Chairman, I yield back the remainder of my time.

AMENDMENT OFFERED BY MR. DUNCAN OF TENNESSEE TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. DUNCAN of Tennessee. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The CHAIRMAN. Is the amendment printed in the Record in accordance with the rule?

Mr. DUNCAN of Tennessee. It is printed in the Record.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. Duncan of Tennessee to the amendment in the nature of a substitute: On page 53, after line 13 insert the following new section.

REPORT

Sec. 188. Not later than December 31, 1981, and annually thereafter, the Board shall prepare and transmit to the Congress a report which contains a comprehensive list of all Federal laws and regulations that significantly hinder the completion of energy projects, and which includes an anlysis of why each law or regulation listed in the report is a significant hindrance to the completion of such projects.

And redesignate succeeding sections accordingly.

Mr. DUNCAN of Tennessee. Mr. Chairman, we are today considering legislation to authorize an Energy Mobilization Board for the express purpose of expediting certain nonnuclear energy projects. We are all vaguely aware that laws passed by the Congress, and regulations issued by the various agencies have contributed greatly to the problem of finishing energy projects on a reasonable schedule. Yet we have no idea exactly how serious the problem is. Although I suspect it is much more serious than many of us ever thought it would be.

In order that we might grasp this problem in all its complexity, I am offering a simple amendment that would require that not later than December 31, 1981, a duly authorized Energy Mobilization Board would provide the Congress with a comprehensive list of Federal laws and regulations that significantly hinder the completion of energy projects. Furthermore, each law and regulation would be analyzed as to the nature and extent of its hindrance. In addition, such a report would be filed annually for as long as the Board remains in existence.

The adoption of this amendment would provide us with a needed perspective for dealing with a very pressing problem. It would provide us with a tool for correcting mistakes of the past. It will force us to regularly reevaluate past actions in the light of current reality. It will aid us in the execution of our oversight responsibilities.

It is not my intention that a task force or additional bureaucracy be created to carry out the responsibility of compiling the annual review. I think the various agencies involved have the resources with which to identify and analyze the laws and regulations in question. The Board's responsibility would be to organize and transmit the information it receives to the Congress in a suitable form. I would think that this annual exercise would be of great help to the Board itself, as well as to the Congress.

I urge my colleagues to give serious consideration to this proposal. It is most worthy of your support.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding. I would like to support the gentleman very emphatically on his amendment. What we are trying to do with this legislation is to make clear to us which Federal laws and others laws are inhibitory in our ability to build projects to produce energy in this country and try to free us from the control that our foreign supply sources now have over us. Frankly, I wish I had thought of this amendment when the bill was in the subcommittee because I would have certainly offered it and put it in the basic legislation. I think the gentleman is to be congratulated for his attentiveness to the detail of this bill, and he has made a specific contribution to the effort that we are all interested in; that is, trying to get away from dependence on foreign energy sources.

Mr. DUNCAN of Tennessee. I thank the gentleman for his comments.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee (Mr. Duncan) to the amendment in the nature of a substitute.

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. AKAKA TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. AKAKA. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The CHAIRMAN. Is the amendment printed in the Record according to the rule?

Mr. AKAKA. Yes, it is printed in the Record.

The Clerk read as follows:

Amendment offered by Mr. Akaka to the amendment offered by Mr. Udall as a substitute for the amendment in the nature of a substitute: On page 5, line 21, strike all of Section 201(c)(1) and insert in lieu thereof. "The Chairman shall have the power to appoint an Executive Director who shall be entitled to receive compensation at the rate prescribed for level V of the Executive Schedule. The Chairman shall have the power to appoint and fix the compensation of additional personnel, not to exceed 50 persons, as he deems necessary to carry out the functions of the Board."

□ 1700

Mr. AKAKA. Mr. Chairman, I am offering an amendment to the substitute, the Udall-Clausen-Wirth bill. The amendment is simple. The amendment reduces bureaucracy and increases efficiency.

It restricts further the size of the EMB staff from 60 to 50, and sets the salary of the EMB Executive Director at level V of the executive schedule. This same salary level does apply to the EMB Chief Counsel.

In reviewing the Udall-Wirth bill, I noted the great care taken to meet the objective of expedited energy decisions within clearly defined limitations. My amendment would continue in that same vein of setting a limitation.

I urge your support of this amendment, and I yield now to the chairman of the Committee on Interior and Insular Affairs (Mr. UDALL).

Mr. UDALL. If the gentleman will yield, I do not want to make any promises about what might happen to the gentleman's amendment in conference, because there are strong feelings on the other side of the Capitol on this subject.

Mr. Chairman, our bill limits the total employees of EMB to 60. The gentleman would reduce that to 50, but he would also include persons detailed. I do not know how much of a workload they can handle with that many people but I am willing to go with it for today to see how it works out. I think the gentleman is constructive and is trying also to lower the level of the Executive Director from an executive level IV to V. I am sure we will have other ideas on this in Congress but if it will help the gentleman by writing it now, I will be glad to support it.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. AKAKA. I yield to the gentleman from California.

Mr. CLAUSEN. How did the gentleman arrive at the figure of 50 for purposes of inclusion in the amendment?

Mr. AKAKA. I arrived at 50 as being a size of staff that could handle the work that EMB will be destined to handle. I looked at 50 as being half of a hundred and in the intent of reducing the bureaucracy and encouraging efficiency, I felt 50 was a good number.

Mr. CLAUSEN. We had put the cap, as the gentleman from Arizona had stated, at 60 because on the basis of discussions we had with Mr. Eizenstat and Mr. Schlesinger, they felt that it would be in that area where they could handle it satisfactorily and it is for that reason we do not want to tamper with that particular figure.

Mr. Chairman, I do not know what will be the disposition of this in conference, but as far as I am concerned I would be inclined to oppose this and hold to what we have but if the committee chairman wants to go along with it it is all right with me.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. AKAKA. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, this is an illustration of where we are going at cross purposes. We have a whole series of amendments which say every coal conversion must be fast track and other programs must be fast track and the Board has to do all these other things and make all these reports. Then we turn around and say, "Now, we are squeezing you down on the number of people to do all of this expanded work."

Mr. Chairman, I think we should have a small mobilization board on a fairly small staff and we ought to pick the really big, important energy projects every year and go and not try to do everything all at once.

Mr. DINGELL. Mr. Chairman, would the gentleman yield?

Mr. AKAKA. I do yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, with the amount of litigation this Board is going to do by reason of the massive amount of time they are going to spend in court, they probably will need at least 50 lawyers but if the gentleman is prepared to accept that kind of arrangement on the basis of litigation that is going to go about 5½ years per case, I am not disposed to quarrel with it insofar as the bill is concerned.

Mr. AKAKA. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. LOWRY). The question is on the amendment offered by the gentleman from Hawaii (Mr. AKAKA) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute.

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. KRAMER TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. KRAMER. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment. It has been printed in the RECORD according to the rule.

The Clerk read as follows:

Amendment offered by Mr. KRAMER to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute: On page 17, line 21, strike the word "nonvoting" and insert: In lieu thereof the words "voting" and on line 22, after the word "in" insert the words "and vote on", and

On line 24, after the period insert the following: "Each such vote cast by such Member shall be counted in the proportion that the number of States represented by such Members bears to one. For purposes of tallying such votes, any fraction greater than .50 shall be counted as one vote and any fraction less than .50 shall not be counted.".

Mr. KRAMER. Mr. Chairman, this amendment is similar but nevertheless different than the one just previously offered by my colleague from Kentucky (Mr. HOPKINS). The Hopkins amendment expressed the same concerns that I have about a totally federally oriented board being able to take recommendations by State officials but without giving those State officials any real meaningful say-so.

Mr. Chairman, I do understand the reservations, however, of the distinguished chairman of the subcommittee of the Committee on Interstate and Foreign Commerce when he indicated the possible problems that might exist with interstate pipelines and ther multi-State projects.

Mr. Chairman, this amendment is carefully structured in a way that I believe gives the States a really meaningful representation and yet obviates the problem that the distinguished subcommittee chairman suggested, by only providing for, collectively, one vote for all State members regardless of their number, and then further providing that that one vote will then be cast by the majority wishes of those States that are representative.

Now, Mr. Chairman, what this will do is, simply give the States a strong or a meaningful say-so, a strong voice in those close cases where the board is split 3 to 2 or 2 to 3, because the States, then, will have the opportunity of not defeating a proposal that the majority of the members of the board may favor in a 3 to 2 situation but it will have the opportunity to create a tie on that board, in which case there will be a necessity for some rethinking, some relooking and taking into serious consideration some State concerns that have been voiced but that have not at least been heeded or heard.

Mr. Chairman, I believe this is a reasonable approach. It simply will allow State participation in the board voting of one-sixth of the entire board membership and I think it will help you make a better partnership between the States and the Federal Government if, indeed, this kind of approach is ever going to work.

Mr. Chairman, I would like to make just one additional comment about the other reservation and objection my colleague from Michigan stated in his rebuttal to my colleague from Kentucky. That was this. He was concerned about some possible Justice Department reports about the constitutionality of such an approach. I would suggest to the Members of the body that that same issue of constitutional muster, I think, is one that can be raised about many sections of this approach and many sections of both of these bills because we do for the first time I think have a real intrusion or a potential intrusion by the Federal Government, by Federal entities, upon areas that have traditionally by the Constitution been reserved to the States, the local governments and communities. I think none of us will ever know whether any of these provisions are going to indeed pass constitutional muster until they are ruled upon and I guess many of these provisions, indeed, if this concept is adopted by this body, will in fact be tested by our courts over the years.

Mr. Chairman, I hope this will be a reasonable approach which will be supported on both sides of the aisle, that will give the States a voice but certainly not an overpowering voice in this prospective partnership between the States and the Federal Government.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. KRAMER. Certainly I will yield to my colleague from New York.

Mr. OTTINGER. I would just like to say as I supported the amendment of the gentleman from Kentucky, I think this is an improvement upon that amendment and does take into account some of the concerns expressed by the gentleman before and I would hope that my good chairman could support this amendment.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. KRAMER. I yield to the gentleman from Arizona.

Mr. UDALL. The intentions of the gentleman are good. We must support States' rights. In fact, in both committees we wrote in the idea, and it is not totally unprecedented, of States affected having a right to have a member on this Board. However, if you are changing it from a nonvoting member who has all the rights to sit there and protect his State's interests and argue the facts, if you give him that right I think you have given him most of what the States are entitled to. I think they would be satisfied with it.

□ 1710

The problem now, and the gentleman has an ingenious idea of dividing it up into six-tenths of a fraction of a vote or something and coming out with a vote and that upsets the five-man size, the five-person size of the Board, and really makes the vote six, which has a potential for adding a stalemate to the Board which is trying to undo stalemates in the energy production business.

I think it is a well-intended idea, but I think it is a bad idea. The States are adequately represented on the Board without a vote.

The CHAIRMAN pro tempore (Mr. Lowry). The time of the gentleman from Colorado (Mr. Kramer) has expired.

(At the request of Mr. Udall, and by unanimous consent, Mr. Kramer was allowed to proceed for 1 additional minute.)

Mr. KRAMER. Mr. Chairman, if I might just respond briefly, I think to characterize this amendment as upsetting the Board, I think hopefully is not a correct one. What it will do, though, is permit in those instances I think where there is an overriding State interest and there is State unanimity of opinion about an approach that the Board is taking and then the Board is internally divided itself, because it is only in that instance when this amendment would have any impact when the Board has internally divided itself by a 3-to-2 margin would the States be able I think to stop a situation where potentially they can be run over roughshod. I do not think that is anything that any of us want. If we are going to have a smooth operation, let us give the States a meaningful say-so, not a predominant say-so, but one that has some teeth in it.

I think just to permit them to give recommendations is simply window dressing without real effectiveness.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is with great regret that I rise in opposition to this amendment. I have a very high regard for the gentleman from Colorado, who has offered it.

I observe, Mr. Chairman, that the problems I had with the other amendment of similar character have not been abated by this amendment. As a matter of fact, the novel second paragraph raises additional questions. I will try to deal rapidly with the questions raised by the able gentleman from Colorado in the amendment. First, the Department of Justice has indicated time after time in connection with similar questions that the constitution of a Board wherein one voting and participating member would be appointed by persons other than the President of the United States would raise grave and serious constitutional questions. The Constitution reserves specifically by its terms to the President the power and the duty to appoint persons to Boards of this kind and subjects them to ratification by the Senate.

Since the amendment offered by the gentleman does not subject these State appointees to ratification by the Senate, it raises further constitutional questions.

Beyond this point, it raises additional questions. First of all, on multi-State projects, it does not work as neatly as my good friend, the gentleman from Colorado, would have us believe. For example, if you have an electric powerplant in Colorado or Wyoming, under this proposal the representative of every State served by the electric powerplant would be entitled to name one representative.

The originating State, let us say Colorado or Wyoming, which has abundant reserves of strippable coal would find that it might have one vote on that Board, as opposed to five or six or seven or eight votes accorded the other States.

If you will observe how these electrification projects go, you would find that every State that would be down the line would be tapping off power. It is pretty obvious to me that the Governors of every one of those States would say, "Fine, we do not care anything about Wyoming or Colorado where this energy project will be located. What we want to do is have our representative vote to have them provide the generation and we will get the power."

Now, it is hard to call that a national approach. As a matter of fact, if we were to find it would work, we would probably find that the Governors of those several States who would be receiving the benefits would all appoint the same fellow. He would get one vote and the representative of the Governor of the State in which the power would originate under this proposal would get zero votes. I am sure that is not a consequence that the gentleman from Colorado happens to want.

So, regretfully, I point out that the amendment does not do what my good friend wishes it to do. In point of fact, it creates not only constitutional questions, but it raises very substantial questions as to whether it benefits the State in which the energy project would be located.

Now I yield to the gentleman from California, and since I have mentioned the gentleman from Colorado, I would yield next to the gentleman from Colorado.

Mr. CLAUSEN. Mr. Chairman, I thank the gentleman for yielding. I do commend the gentleman for offering the amendment. I am troubled with how it would actually work, because clearly, we are dealing with very limited numbers, five voting members. For that reason as far as this Member is concerned, and I believe it is essentially the position of the members of the committee, we moved in the direction of adding the nonvoting members so that they could serve in an advisory capacity and then hopefully have people with technical competence serving on the voting membership position of the Energy Mobilization Board.

I think the gentleman has made a contribution to the legislative history so that clearly we can address some of those things once the legislation is enacted.

I thank the gentleman.

Mr. DINGELL. Mr. Chairman, I now yield to the gentleman from Colorado. I have mentioned the gentleman and I owe him that.

Mr. KRAMER. Mr. Chairman, I thank the gentleman for yielding.

I would only make two points in response to the arguments that the gentleman has raised.

First, there is a precedent for doing this. I am sure there are other examples, but I have one here and I have several others.

The Appalachian Regional Commission, for example, was created to develop plans and programs authorized under the Appalachian Regional Development Act of 1965 and U.S. statutes.

The Commission consists of the Governors and other alternates or their alternates of the 13 Appalachian States and a permanent Federal cochairman appointed by the President with the advice and consent of the Senate; so there is some precedence for this.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan (Mr. Dingell) has expired.

(By unanimous consent, Mr. Dingell was allowed to proceed for 1 additional minute.)

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield on that?

Mr. DINGELL. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, I would simply make the point that that is a regional Commission. What we are talking about here is a national policy objective.

Mr. DINGELL. Mr. Chairman, I agree with the gentleman, we have a national Board and a national responsibility. I do not think national policy would be carried out under the kind of proposal we have here.

I regret that I have to disagree with the gentleman, but I urge rejection of the amendment.

Mr. KRAMER. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. Briefly, if I have the time.

Mr. KRAMER. Mr. Chairman, I would just make two further points. We have been talking about a constitutional issue. It does not really matter whether it is a regional or a national commission.

Second, the gentleman's concern about six or seven States ganging up on an unwilling State and thereby depriving that State of a choice, I think is unjustified in that under the present stage as the bill is presently postured they simply have no say-so at all. They have no vote. At least this gives them the opportunity to have a meaningful choice.

Mr. DINGELL. But what I point out to my friend, the gentleman from Colorado, is that the same result would obtain under the gentleman's amendment.

Again, regretfully, I oppose it.

Mr. WEISS. Mr. Chairman, I move to strike the requisite number of words.

(Mr. WEISS asked and was given permission to revise and extend his remarks.)

Mr. WEISS. Mr. Chairman, I address myself to the Commerce Committee version of the Priority Energy Project Act of 1979 (H.R. 4985), the so-called fast-track legislation.

As currently written, this bill allows the Energy Mobilization Board to waive Federal laws which constitute "a substantial procedural or substantial substantive impediment" to certain energy projects. A provision so open-ended and so threatening to the rule of law is inherently antithetical to our democratic form of Government.

Federal statutes carefully crafted over two centuries can, under this bill, be overturned and ignored by bureaucratic and Presidential determination. Do we who are sworn to uphold our Constitution really want to empower an unelected body to decide what laws enacted by Congress can stand and which ones can be overriden with impunity?

The issue I present is the limitation of the damage which this board can inflict on the federal system by explicit agreement that the bill exempts the Freedom of Information Act (5 U.S.C. 552) from the list of laws that can be discarded in the name of energy development.

Like so many of the statutes subject to bureaucratic abuse under H.R. 4985, the Freedom of Information Act is directly rooted in the Constitution of the United States and is the product of long congressional consideration and debate. Through this act, the citizens of our Nation are guaranteed the right of access to Government information which has a direct bearing on their lives and liberty. Enabling the Energy Mobilization Board to bar access to information would be tantamount to undercutting the first and fifth amendments and to denying citizens the means to petition their Government for redress of grievances.

I do not quarrel with the need to increase our Nation's energy supplies and to decrease our dependence on vulnerable and expensive fuel imports. I do, however, object strongly to legislation that represents a very serious threat to civil liberties and constitutional procedures.

And that, Mr. Speaker, is precisely what we are debating here today. The so-called fast-track bill is about energy mobilization, yes, but it is also very much about the type of government we wish to have in this country.

As New York Times columnist Anthony Lewis recently observed in regard to the fast-track philosophy as currently constructed: "It is an astonishing concept—one utterly contrary to the traditions of American federalism and constitutional democracy." David Broder of the Washington Post similarly noted that the legislation "will certainly damage the Federal system and diminish the accountability of those exercising authority in Washington."

Defending the Freedom of Information Act from the political whims of the moment is admittedly no panacea for the many ills that afflict fast-track legislation. It is, however, an important first step.

Even those of us here today who believe fervently in the merits of the fast-track approach will, I think, agree that the Freedom of Information Act should not be regarded as a substantive or procedural impediment to energy projects. I fail to see how citizens' access to information about proposed projects can be denied by even the staunchest advocates of fast-track.

Mr. Chairman, I had intended to offer an amendment to the Commerce Committee bill which, in essence, would have accomplished the same thing as that of the gentleman from Ohio (Mr. SEIBERLING) to the Udall-Wirth substitute. However, I have been informed that as finally drafted, and as it appears before us now, the Commerce Committee bill does not permit the waiver of any of the provisions of the Freedom of Information Act. On the assumption that my understanding is correct, it would not be necessary to offer my amendment.

For the sake of clarity and to establish legislative history, I would like to ask the distinguished gentleman from Michigan (Mr. DINGELL) whether my understanding is correct.

I would be pleased to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, the gentleman is totally correct. When the bill was originally proposed by the administration, it included waivers of the Freedom of Information Act, the Sunshine Act and the Administrative Procedures Act. The bill as reported from the Commerce Committee tolerates no waivers to any of those three laws. All of them must be complied with by the Board.

It is my intention that the Board should comply with the FOIA and that its activities should be subject to the Freedom of Information Act, the Administrative Procedures Act and the Sunshine Act, so that they function in the open, in the broad glare of sunlight, and so that the Congress has full access to the information.

I would not look with kindness on any attempt by the Board to escape from that scrutiny.

I just want to commend the gentleman for raising this point. The gentleman has made the legislative history of this matter entirely clear.

I do not think that those statutes could in any way fall under the category of the kind of statutes that could be waived by the Board since none of those would stand in the way of construction of a project of this sort.

Mr. WEISS. Mr. Chairman, I thank the gentleman from Michigan.

I deeply appreciate the support of the gentleman from Michigan in spelling out this guarantee of free discussion about our plans for energy development.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Colorado (Mr. KRAMER) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute.

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. KRAMER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee of the Whole appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

☐ 1720

The CHAIRMAN pro tempore. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 620]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling

Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Roe
Rose
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Van Deerlin
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zeferetti

The CHAIRMAN pro tempore (Mr. Lowry). Three hundred and eighty-seven Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN pro tempore. The pending business is the demand of the gentleman from Colorado (Mr. Kramer) for a recorded vote.

Mr. KRAMER. Mr. Chairman, I withdraw my request for a recorded vote, and I demand a division.

On a division (demanded by Mr. Kramer) there were—ayes 45, noes 124.

So the amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. KRAMER TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. KRAMER. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

PARLIAMENTARY INQUIRY

Mr. DINGELL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. DINGELL. Mr. Chairman, was the amendment printed in the Record in accordance with the rule? Was that in accordance with the rule prior to Monday last?

Mr. KRAMER. Yes.

The CHAIRMAN pro tempore. The gentleman assures us that that is correct.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. Kramer to the amendment offered by Mr. Udall as a substitute for the amendment in the nature of a substitute: On page 29, line 17, after the word "Federal" strike the comma and the words "State, or local"; and

On page 30, line 18, after "Federal" strike the comma and the words "State, or" and on line 19, strike the word "local" and the comma, and on line 20, strike the words "State, or local".

Mr. KRAMER. Mr. Chairman, this amendment would eliminate the President's authority to make decisions in lieu of State or local agencies. It leaves intact the President's authority to make a decision in lieu of a Federal agency.

The purpose of fast-track legislation is to expedite the development of priority energy projects. It is a good purpose, but it should not be carried out at the expense of preempting or overriding State and local laws and requirements.

Our energy problems are serious, but are they so serious and so critical that they justify dismantling our carefully crafted and constructed Federal System of Government and laws?

Does it require Federal officials to substitute their judgments or to allow or even require Federal officials to substitute their judgment for the decision of State and local officials who are most accountable to the people affected by these decisions, open the door to further Federal control over lives and livelihoods and constitutes a dangerous subversion of States rights and of the protections afforded citizens by their State and local governments?

The preemption of State and local decisionmaking by the President is unnecessary and unwarranted authority. The principal problems of delay are not generated at the local level.

I would like to give this body one example of a number of examples that I could give this body that were provided us by the Colorado Mining Association. They are repeated, and this is typical, not unique.

The Wyoming fuel company has an existing coal operation, mining 640 tons per day, with a total payroll force of 16 employees. Knowing that they needed additional coal reserves to fulfill and sustain coal sales, they applied well in advance to the BLM for a short-term criteria lease on adjacent Federal lands in March of 1979. Their application was reviewed by the BLM as to completeness and accepted.

Next, the Bureau of Land Management and the U.S. Geological Survey reviewed the application, which was estimated to take 8 weeks.

The USGS then advised the BLM that they must first drill out the reserves with their own drilling rig. Two holes, for a total of 300 feet, were drilled which took 7 weeks. The normal drill time within industry for this type of job would be 1 week.

After this, due to internal USGS delays, an additional 12 weeks was required, so the USGS did not report back to the Bureau of Land Management until August 1979, 5 full months after application by the operator, which was 3 full months over the original estimate.

Only after this point, did the Bureau of Land Management now notify the operator that, due to new regulations promulgated on July 19, 1979, a new reserve study would be necessary due to new regulations on short-term criteria coal leases. The operator was not notified of this new delay until late August 1979.

At present, the BLM is now preparing an environmental assessment with the earliest completion date, for the lease, of mid-February, 1980.

The existing coal operation will be mined out by February of 1980, and after the lease is issued, assuming it is, the total mining plan must now be submitted to the Office of Surface Mining for review by the Office of Surface Mining, the U.S. Geological Survey, the Bureau of Land Management, and the State of Colorado Mined Land Reclamation Board.

☐ 1750

According to the new, final Office of Surface Mining regulations, only after this review can the mine plan be approved. The operator estimates this will take at least 6 months and the earliest possible time it could be back into production is August of 1980.

The result? Shutting down an existing operation; laying off 13 employees; salary eliminated from the economy, loss of royalties to the Federal Government and, in this case, another prime example of Federal regulatory overkill and damaged rapport between yet another coal operator and the Government agencies.

The real problem we are facing, I think, is one of a lack of Federal cooperation and not one of State cooperation, and this example clearly points this up.

In addition, this legislation already contains substantial mobilization authority absent the Presidential power. If the agency fails to meet a deadline, the Board can go to court to seek a remedy, and the court has full powers not only under its inherent constitutional powers, but also under the powers granted in the bill to make sure those States and local agencies render a decision within time and on time, and if they do not can, in fact, act as though they themselves were the local or the State agency.

I think the court authority is an established and an appropriate mechanism for enforcement of Federal law. But through this bill what we are doing is putting the President in the place of the State and local decisionmaking authorities. I think that is a very big mistake. It establishes a very bad precedent. And if we have any, I think any respect for the viability of the concept of reserving to the States and the local communities those things traditionally reserved to them, I think we ought to strike this Presidential power from the bill.

Mr. UDALL. Mr. Chairman, I rise to oppose the amendment.

Mr. DINGELL and I have not agreed on everything, but I believe this is one area of the bill where we do agree. Already in the Dingell bill is a provision for the so-called bump-up where an obdurant mayor, Governor, or agency head will not approve, and the question is then: can he then go up to the President to enforce the law? We think the provision in our bill is sound and the provision the gentleman from Colorado would strike from the bill effectively would undo the major portion of our enforcement thrust in these critical fast track projects. I would hope the amendment would be defeated.

Mr. DINGELL. Mr. Chairman, I rise to strike the last word and in opposition to the proposal.

Mr. Chairman, I have been highly critical of the bill offered by my good friend from Arizona (Mr. UDALL). I must confess it is, in my view, a weak bill. But I would point out that the so-called bump-up is in both bills.

I would point out that bump-up is not indispensable to the Interstate and Foreign Commerce Committee bill. I would also point out that if it is removed from the Udall bill there is really literally nothing remaining in terms of an enforcement mechanism whereunder the decisionmaking process can be moved to a successful conclusion.

So it is with those understandings and with regret that I oppose the amendment offered by the gentleman from California.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Colorado (Mr. KRAMER) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment offered in the nature of a substitute.

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. VOLKMER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. VOLKMER. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute, which has been printed in the RECORD.

The CHAIRMAN pro tempore. The amendment has been printed in the RECORD in accordance with the rule?

Mr. VOLKMER. It has, Mr. Chairman.

The Clerk read as follows:

Amendment offered by Mr. VOLKMER to the amendment in the nature of a substitute: On page 38, line 20, following "sec. 179", insert "a".

On page 39, following line 10, insert the following:

"(b) Notwithstanding any other provision of law, the Board, after consultation with the council on Environmental Quality and appropriate Federal agencies, may require that one environmental impact statement be prepared and that such statement be used by all Federal agencies to satisfy their obligations under the National Environmental Policy Act of 1969."

Mr. VOLKMER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. DINGELL. Mr. Chairman, reserving the right to object, that is exactly the amendment the gentleman published in the RECORD?

Mr. VOLKMER. Yes, it is.

Mr. DINGELL. Regarding the national environmental policy?

Mr. VOLKMER. Yes, it is.

Mr. DINGELL. I thank the gentleman, and I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. VOLKMER. Mr. Chairman, this amendment clarifies the bill of the substitute from the Committee on Interstate and Foreign Commerce to provide that there will be one, the necessity for one environmental impact statement. This is language that was taken actually from the the gentleman from Arizona, Mr. UDALL, and his bill, which I think makes sense. It provides basically that rather than having more than one agency prepare and have an environmental impact statement, you only need one. The one would satisfy all obligations under the National Environmental Policy Act of 1969. Rather than have a multiplicity and a duplication and the time consumption caused by more than one environmental impact statement, I would offer this amendment to the gentleman from Michigan's bill in order to provide a little more fast-track to the bill.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I will be glad to yield.

Mr. CLAUSEN. Mr. Chairman, this provision I think is comparable to what we have in the Interior and Insular Affairs Committee.

Mr. VOLKMER. It is identical and copied from it. I will give the gentleman credit for it.

Mr. CLAUSEN. I would urge the Committee on Interstate and Foreign Commerce to accept the amendment.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield for a clarification?

Mr. VOLKMER. Yes, I yield to the gentleman.

Mr. BROWN of Ohio. Mr. Chairman, the gentleman printed three amendments, as I understand it.

Mr. VOLKMER. Yes, that is correct. They are misprinted basically, in other words, as to how they would go, but this is the amendment for page 38, line 20, following section 1, "Notwithstanding any other provision of law, the Board, after consultation * * *" This is on NEPA, the environmental impact statement. That is all it does. It says nothing about the number of employees nor the number of projects.

Mr. BROWN of Ohio. If the gentleman will yield further, I would have to say to the gentleman that I have no objection to the amendment and would recommend its passage.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. Yes, I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I have no objection.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Missouri (Mr. VOLKMER) to the amendment in the nature of a substitute.

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. VOLKMER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. VOLKMER. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. VOLKMER to the amendment in the nature of a substitute: On page 38, following line 4, insert the following new subsection:

"(d) Not more than 100 Priority Energy Projects may be designated by the Board, and not more than 20 of such projects may be designated in any one calendar year."

Mr. VOLKMER. Mr. Chairman, this would limit the number of projects which the Committee on Interstate and Foreign Commerce bill could provide for the Energy Mobilization Board, at least could provide during the period of time of the Board, and also no more than 20 in any one calendar year. This is similar to the language that was contained in the substitute of the gentleman from Arizona and the gentleman from California, even though theirs provides for 75 and 20, but I thought we could have the Board handle 100 priority energy projects. However, I do feel that there should be a limit of some kind put on the number that can be designated as priority projects.

As I have heard today listening to the debate on the floor, we hear the question of whether we will have any priority projects or whether our projects will become the same after a while and there will be no priority for projects because one amendment that was adopted designated up to maybe even 74 projects automatically. I feel the Board should be required, and my amendment would require them basically to, right from the beginning, start looking and say is this a priority or is this just another project. But if we do not have a limit on it, what I am afraid of is the Board will just start taking one, and then the next one, and the next one, and start processing them for approval, and approval, and pretty soon we do not have any priorities at all. This means that the Board knows when they start out for that year they only get 20, so they are going to have to prioritize.

That is what I think we need, is prioritizing so that we do have necessary energy-producing projects that we absolutely need in this country, and not just the run-of-the-mill projects that are being taken care of anyway and that are not of the necessary priority. Therefore, I feel very strongly that this amendment should be adopted to the bill of the Committee on Interstate and Foreign Commerce and that it just makes sense in order to require a prioritizing by this Energy Mobilization Board.

☐ 1800

Mr. BROWN of Ohio. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have just accepted the previous amendment. I hope the gentleman will understand that I have great respect for his interest in the legislation, but I would have to say that the Commerce Committee specifically avoided putting a limit on the number of energy priority projects for a primary reason; that is, that we are not quite sure how the Energy Mobilization Board might have to deal with a rather complicated project.

For instance, let us suggest, as I did earlier I think, a coal gasification and liquefaction plant in my own State of Ohio. It might be necessary to put the plant in the proximity of the coal mine. Many of these are now closed in Ohio because we have not had the demand for coal that many of us envisioned might be the case. If they had to open that mine and undertake some special effort to do that, if they had to build a short-line railroad to move the coal from that mine to the gasification or liquefaction plant, if they had to build a pipeline to deliver the gas, how many priority projects is that? Is that a single priority project, or are each of these steps a separate priority project? That is where the problem comes in, and where the canker gnaws.

The fact is we did not want to limit the number because, while those are all aggregated into a single project, they might in fact require different actions of different kinds. So, for that reason we felt that it was not proper to designate a number.

Let me just say also that I would agree with the gentleman, we do not want every project undertaken established as a priority energy project. Indeed, many energy projects should not receive priority treatment because they do not significantly enhance the national interests. So, it is not that every project, or even the same kind of project, is going to wind up receiving priority treatment.

I do not think in the very nature of the Energy Mobilization Board that we envisioned the idea that every energy project that comes along is going to be designated as a priority energy project or a necessary project to be brought before the Board as a priority project, but I would say that we do not want a limitation because if we have 20, we might be using up 5 priority projects in the example I have given, and we may want to put in 2 or 3 coal gasification plants or 1 coal gasification plant and 1 coal liquefaction plant, or 1 refinery or one of something else in, and pretty soon we cannot do them all in a single year because we have a limitation of 20.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I have thought about this, but on the other hand what concerns me is the fact that what we are providing for is basically—if it works right, the way everybody hopes it will work—providing for a fast-track. That is very inviting to anybody right now who is trying to get a project going, whether it is just a plain old coal mine, no matter how big. That takes a lot of time.

What I am concerned about is that without a limitation at all, every one of these concerns will automatically file an application and we are going to be inundated.

Mr. BROWN of Ohio. If the gentleman will allow me, the EMB does not have to designate fast track projects for everyone who files an application.

Mr. VOLKMER. I realize that and I agree with that, but they will have quite a bit of pressure to do so and they are going to have, I am afraid, more paperwork than is necessary.

Mr. BROWN of Ohio. If we have any confidence in the Energy Mobilization Board at all, and I do——

The CHAIRMAN pro tempore. The time of the gentleman from Ohio has expired.

(By unanimous consent Mr. BROWN of Ohio was allowed to proceed for 1 additional minute.)

Mr. BROWN of Ohio. If one has confidence in the Energy Mobilization Board concept, then one has to conclude that just because I write in and ask for a priority status for my project, where there may be a very questionable possibility of my being able to produce energy under that project, and a very questionable nature of my project with reference to what it does to the environment, the Energy Mobilization Board is perfectly free to say no. In fact, that is why we have got them there. Their responsibility is to say no to projects that are not valid, economic, and sensible projects, technologically feasible and sound.

Mr. VOLKMER. Then the gentleman would assure me that in the event they do not operate that way, then he would come back with legislation to make sure that they do, because there is no safeguard in here?

Mr. BROWN of Ohio. I would certainly hope that they would not recommend any nonviable projects. I would oppose the whole concept if I thought so.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words, and I rise reluctantly to oppose the amendment offered by my good friend from Missouri.

Mr. Chairman, I rise in opposition to the amendment because I am satisfied that we will face this question of limitation of numbers of projects, and I believe this is a matter that should be addressed forcefully at this time. The Commerce Committee did address this and was concerned about the number of projects, but we recognized a number of facts.

First of all, the Board's judgment as to whether or not a project will be on fast track is not subject now under either proposal to judicial review. So the Board has real independence in determining whether a project ought to go on the fast track or whether it in fact ought not. That is the first point.

The second point is that we are led to believe that if the Board has the authority it will put everything that comes up on fast track. That is not true because the Commerce Committee did impose very clear tests as to what qualifications a project must have before it can achieve fast track status. Beyond that, there is something else that we have to address. That is, there are natural limitations. The Board will only put a certain number of projects on fast track because it recognizes that there is only a certain amount of capital and the Board has only a certain amount of time, and there are only a certain number of projects.

So, it is not going to clog the capital markets, and it is not going to clog its schedule with a selection of large number. On the contrary, it is going to winnow very selectively among those.

There are some other arguments against having a number attached to the projects. One is simply this: As my colleagues have observed, the behavior of panels like the Energy Mobilization Board over the years, they will have observed that this kind of panel always finds the point that started out as a ceiling, and that ceiling becomes not a ceiling, but rather becomes a floor. So, if we say to the Board no more than 50, no more than 75, or no more than 100, as this amendment would do, in fact what we are doing is telling that Board that in its judgment they should move forward with 100 projects.

I do not happen to think that they should pick 100, or 75, or 50 or any other number. They should pick a number which comports to the broad public interest, and they should do it acting under the guidance in the legislation to select a proper number.

Lastly, there is another point that should be addressed by this body; that is, if we set a ceiling of say, 100, that 100 will not be small projects. That 100 will be big projects. That 100 will not be simple projects; they will be high-technology projects which afford the greatest damage to environment and other concerns. I would urge to my colleagues that that argument alone is a strong argument against fixing a number, because we compel the big ones to be put on line because they are losing a lot of gas and employment. The hard fact of the matter is that these projects are not going to be all large projects and not high-technology projects.

☐ 1810

And they are not going to all be energy production projects. A lot of them are going to be conservation projects. A lot of them are going to be simple projects. A lot of them are going to be oriented toward something like putting a small low-head dam on a river somewhere

where it needs to be done to establish technology with regard to new turbines. It also affords opportunity, if you give some judgment to the Board, to select different kinds of technologies that might otherwise be foreclosed.

Last of all, I would urge my colleagues to know that this Board is going to try to achieve those projects which are going to give the greatest benefit in terms of moving new technology. If you impose a number limitation, you will probably require that the Board choose those technologies which will afford the greatest opportunity for optimal production and for a quick payoff. I would urge for that reason that this kind of thing should not be imposed on the bill. We ought to trust the Board to exercise its good judgment and leave them the opportunity to make the decision that it should make, unfettered with this, unfettered by the bill but guided rather by the guidelines which are included in this bill, which point out what the Board should do in terms of achieving a workable new technology in projects which are going to benefit all of us.

I urge my colleagues to reject the amendment.

Mr. OTTINGER. Mr. Chairman, I move to strike the requisite number of words. I rise in strong support of this amendment. I would like the attention of the chairman of the Energy and Power Subcommittee of the Committee on Interstate and Foreign Commerce, the gentleman from Michigan (Mr. DINGELL), if I could. This is one of the major differences between the Commerce Committee bill and the Interior Committee bill, and I think if the chairman of the Commerce Committee bill wants to get support in what will obviously be a very close vote, he would be well advised to accept it. There is no question that what is intended here to be fast track is large, high-technology projects. When the President speaks to this Board as he did the other night—the Secretary of Energy—he is talking about coal gasification and coal liquefaction projects, multibillion-dollar projects. If I thought this were really going to be used to accelerate low-head hydro and solar projects, I would be much more enthusiastic about it.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding. The gentleman knows very well that that is one of my intentions. The authority of the Board should be used to accelerate not only the large energy projects but to accelerate the small ones that offer us a great opportunity to move forward in terms of energy self-sufficiency.

Mr. OTTINGER. I genuinely hope that the gentleman is correct, and I would add to his legislative history that I hope that some of the low-technology projects would be considered if this procedure is adopted, but I am very doubtful, with the attitude that has been expressed by the administration, and I am very concerned as well by the attitude of many in this body that has been expressed here today to include all classes of projects wholesale. It was obviously the intent of the gentleman from West Virginia (Mr. RAHALL) and the chairman of our full committee and the chairman of the Committee on Education and Labor to have every coal project in the country be fast-tracked. I grant that they did not succeed in making it automatic. They are still subject to consideration by the Board, but there is real pressure there to include every single coal conversion product in the country, and if that is so, this Board is just going to have a job of enormous proportions. The procedures that are going to have to be involved are going to be overwhelming, and the whole concept of fast track is going to be badly perverted. So I think having a few projects, limiting it according to the importance of the projects, makes a great deal of sense. I think it improves substantially the Commerce Committee bill, and I urge its adoption. I congratulate the gentleman from Missouri (Mr. VOLKMER) for offering the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Missouri (Mr. VOLKMER) to the amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. VOLKMER) there were—ayes 11, noes 37.

So the amendment to the amendment in the nature of a substitute was rejected.

Mr. UDALL. Mr. Chairman, since tonight is Halloween and I must get home and get my fierce mask on so I can reach the residence of the gentleman from Maryland (Mr. BAUMAN) and frighten him tonight——

Mr. BAUMAN. If the gentleman will yield, trick or treat?

Mr. UDALL (continuing). And after consultation with my colleague, the gentleman from Michigan (Mr. DINGELL) and others, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. LOWRY, Chairman, pro tempore, of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4985) to establish a coordinated, prompt, and simplified process for decisionmaking in regard to significant nonnuclear energy facilities, and for other purposes, had come to no resolution thereon.

A FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4387) entitled "An act making appropriations for agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1980, and for other purposes" and that the Senate agree to the amendments of the House to the amendments of the Senate numbered 5, 6, 19, 60, 72, 77, and 84 to the above-entitled bill.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3434. An act to amend the Social Security Act to make needed improvements in the child welfare and social services programs, to strength and improve the program of Federal support for foster care of needy and dependent children, to establish a program of Federal support to encourage adoptions of children with special needs, and for other purposes; and

H.R. 5506. An act to amend the Energy Policy and Conservation Act to extend for two months certain authorities relating to the international energy program.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the concurrent resolution (S. Con. Res. 36) entitled "Concurrent resolution revising the congressional budget for the U.S. Government for the fiscal years 1980, 1981, and 1982."

The message also announced that the Senate disagrees to the amendment of the House to Senate Concurrent Resolution 36 and agrees to a further conference requested by the House on the disagreeing votes of the two Houses thereon and appoints Mr. MUSKIE, Mr. MAGNUSON, Mr. HOLLINGS, Mr. CHILES, Mr. BIDEN, Mr. JOHNSTON, Mr. BELLMON, Mr. DOMENICI, Mr. PACKWOOD, and Mr. ARMSTRONG to be conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 3434) entitled "An act to amend the Social Security Act to make needed improvements in the child welfare and social services programs, to strengthen and improve the program of Federal support for foster care of needy and dependent children, to establish a program of Federal support to encourage adoptions of children with special needs, and for other purposes" requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LONG, Mr. TALMADGE, Mr. RIBICOFF, Mr. MOYNIHAN, Mr. BOREN, Mr. DOLE, Mr. HEINZ, and Mr. ROTH to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1319) entitled "An act to authorize certain construction at military installations, and for other purposes," agrees to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HART, Mr. JACKSON, Mr. CANNON, Mr. HARRY F. BYRD, JR., Mr. NUNN, Mr. THURMOND, Mr. TOWER, Mr. WARNER, and Mr. HUMPHREY to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1110. An act to include home delivery of children's publications in the existing rates for children's publications sent to schools.

AMENDING THE ENERGY POLICY AND CONSERVATION ACT

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5506) to amend the Energy Policy and Conservation Act to extend for 2 months certain authorities relating to the international energy program, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 1, line 6, strike out "December 31, 1979" and insert "November 30, 1979".

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, am I correct in my understanding that this is simply a temporary extension of this power for a period of how long?

Mr. DINGELL. If the gentleman will yield, the House-passed bill was for 60 days and extended the ability of U.S. oil companies to participate in International Energy Agreement actions with regard to the sharing of oil and production information with regard to energy supplies. The Senate action cuts that bill back from 30 days to 60 days.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding. I concur with what the gentleman from Michigan (Mr. DINGELL) has said and would recommend that we proceed with this piece of legislation so that we can address it in an orderly fashion later on. It is an extension and we need it at this point.

Mr. DINGELL. If the gentleman will permit me, I would just observe that the Senate has changed it from 30 days. The Senate has put it in a similar bill which extended that authority for a longer period, so it will deal with the question of import quotas. We have not seen the Senate action; I do not know what it is.

Mr. BROWN of Ohio. If the gentleman will yield further, I concur with that also. I think it is necessary for us to take a little time to look at what the Senate has proposed in their other legislation. The legislation before us will deal with the problem until we have a chance to look at what the Senate did. I do not know whether it will be necessary that we have hearings on it, but I will recommend to the gentleman from Michigan (Mr. DINGELL) that we have hearings on it so at least we will have some understanding of what the legislation contains.

□ 1820

Mr. DINGELL. We will very probably have hearings.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Michigan (Mr. DINGELL)?

There was no objection.

A motion to reconsider is laid upon the table.

MULTI-FAMILY SERVICES MOVE

(Mr. BONER of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONER of Tennessee. Mr. Speaker, I rise today to join with my fellow Tennessee delegation in voicing our strong opposition to a reported move by the Department of Housing and Urban Development of the Nashville Multi-Family Services Division headquarters to the area office in Knoxville, Tenn. I have personally contacted both the White House and the Secretary of HUD Moon Landrieu to "suspend their present actions." I wish to alert Congress and our fellow citizens of Tennessee to this fast breaking development. At this time, Mr. Speaker, I wish to insert in the RECORD a copy of the delegation's letter to the President urging reversal of the proposed move.

I am particularly upset that this proposal has been "decided" without any consultation either with elected officials or the people most involved with these activities. This is just another case of the left hand not knowing what the right hand is doing.

I have also learned that HUD employees in the Nashville office were told in a meeting last week that they should not discuss the move with any elected officials outside HUD. This is absolutely unacceptable. Federal employees should be encouraged to speak up when they see actions that are detrimental to the public, not be muzzled as is the apparent case here.

Just 2 months ago, HUD signed a 5-year lease for 16,000 square feet of office space in One Commerce Plaza at a cost of $147,688 per year, and suddenly they are going to move half of the employees' functions to another city. And just 3 months ago a memorandum circulated in the Atlanta regional office which said that the multifamily service unit would remain in Nashville. And suddenly they are going to move. I would like to know what has occurred to cause this flip-flopping by HUD's Atlanta office. And I intend to get answers.

I was also interested to see that the HUD Deputy Regional Administrator was reported in the press Monday as indicating that the alternative to moving the multifamily unit to Knoxville would be moving the entire area office out of Knoxville and back to Nashville. I think this might not be a bad idea. I have been studying just such a possibility and had not planned to take any action in this regard until sometime next year. In light of these current circumstances, perhaps the timetable should be moved up.

Mr. Speaker, the letter follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 30, 1979.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Reports circulating in newspapers throughout Tennessee yesterday indicated that the Department of Housing and Urban Development, through its Regional office, will seek to move the Multi-Family Services Division headquarters from Middle Tennessee to the area office in Knoxville. We vigorously oppose this move and should like to ask your assistance in intervening to prevent what we consider an ill-timed, poorly coordinated decision.

The Multi-Family Services Division, administering the critically needed Section 8 Federal funds to our citizens, services the Nashville-Memphis area, Western and Middle Tennessee. We feel that the geographic location of this HUD office is key to the proper servicing of the entire banking, mortgage and financial community of our state. To move this service to the extreme portion of the state and require a builder and his professional associates, contractors, architects, designers, lawyers, and others to travel farther and longer to reach this governmental unit is inconceivable to us. Aside from the obvious servicing problems there are economic considerations at play here—the costs associated with leasing the present space in Nashville? The status of the employees affected by the move? The impact on the financial community in Memphis and Nashville and all the areas in Middle and Eastern Tennessee? The costs of the move to the taxpayers?

We would be happy to meet with you directly to explain our feelings in this matter and would hope that your office could see fit to pursue a positive conclusion which can be reached on the prevention of any move to Knoxville by functions of Tennessee HUD.

Sincerely,
BILL BONER,
AL GORE,
ED JONES,
HAROLD FORD,
MARILYN LLOYD BOUQUARD,
Members of Congress.

PROTECTING MIDSIZE COMMUNITIES UNDER AIRLINE DEREGULATION

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PANETTA. Mr. Speaker, since Congress passed the Airline Deregulation Act of 1978, there has been a great deal of controversy over this first attempt at lessening governmental regulation in a major sector of our economy. I think that, on the whole, our experiment with airline deregulation has been successful in promoting competition in the industry, eliminating inefficient regulations, and limiting costs to the consumer. I am concerned, however, that the apprehension of many about the act's impact on rural and small urban communities has proven to be justified in many instances.

The Monterey Peninsula in my own district exemplifies the problems of California communities generally. Before deregulation, Monterey was served by four certificated carriers. Since that time, two of these have left Monterey to enter long-distance markets. Of the remaining two, one has cut back its service sharply and may soon request permission to leave entirely. Boardings and deplanements at Monterey declined from an average 52,000 per month in 1978 to 41,000 per month in 1979. While demand at Monterey is clearly sufficient to make service there profitable for a well-equipped commuter airline, the commuters operating in Monterey today are far too small to meet this demand. Monterey is in a difficult position; it may have to wait 10 or 12 years before the slowly growing commuter airline industry in California can adequately meet the needs of the communities there.

The problem in California is widespread, being especially severe in communities such as Bakersfield and Chico. While Monterey has retained a greater level of service than these others, its needs are also greater. A highly populous area, it is also heavily dependent upon the tourist related industries for its economic vitality. Adequate transportation to and from the peninsula is essential to the livelihoods of many Monterey Peninsula residents.

Of course, the Airline Deregulation Act did require that the Civil Aeronautics Board (CAB) determine the "essential" transportation needs of eligible communities and granted the Board the power to exercise regulatory powers to insure that service at these communities did not fall below the "essential" level. Additionally, realizing that the transition from a regulated air industry to a deregulated one should occur gradually, Congress gave the act a 10-year life.

Now the CAB has announced what this essential level is to be. The Board has set one figure to be applied across the board for every eligible community, regardless of the particular needs of each. In a recent speech, Chairman Cohen explained the CAB's reasoning in setting this figure:

> All the studies we could find show that profitable service can be provided with 20 passengers a day in the market . . . To be on the safe side, we decided that if profitable service can be provided with 20 passengers, we will consider paying a subsidy to support service for up to 40 passengers a day in each direction. We are convinced that any point that has this many passengers will attract a carrier who will operate without a subsidy.

This apparently generous determination neglects the fact that for many communities in California and elsewhere there are no commuter airlines sufficiently equipped to meet the demand which exists in those areas which have lost the service of one or more certificated carriers. Setting the essential level at this low figure denies our Nation's small communities the time they need to attract suitable replacements for certificated carrier service among the available commuter airlines. The Board's action also denies the computer airlines themselves the time which they need to expand their operations in a careful and cautious manner in order to serve these communities effectively and safely. The consequence in many areas has been that the trunk carriers are reducing service far more swiftly than the smaller commuter airlines can expand into these markets.

Monterey is served by two commuters today. Together, they provided service to some 1,300 passengers a month. This is far from the level necessary to meet the needs of the community, which lost some 11.000 seats a month between 1978 and 1979. Two major carriers have been allowed to pull out of Monterey; conceivably, air service could be permitted to decline further until it reached the designated level of 80 seats a day. Mr. Chairman, if the communities of the Monterey Peninsula were left with this minimal level of service their citizens would experience severe economic and personal hardship. Many of the visitors who are attracted to this scenic area each year would be discouraged from traveling to the peninsula. Business activity would decline dramatically and thousands of peninsula residents would be displaced by the loss of jobs as well as the difficulty of moving in and out of Monterey themselves.

Monterey faces an additional problem beyond the very low essential air service level set by the CAB; because it is still served by two certificated carriers, the peninsula is ineligible for assistance under the small communities air service portion of the Deregulation Act. Only after a further pullout occurs, and the seven cities of the Monterey Peninsula are left with one major airline to serve their needs, does the act grant the CAB the authority to regulate air service there. To my mind this constitutes a great injustice to communities which need a high level of air service yet are unable to compete with the more profitable interstate markets for service from trunk carriers.

I feel this problem requires the attention of the framers of that act, and I am consequently addressing the following letter to Chairman ANDERSON of the House Aviation Subcommittee:

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 26, 1979.

Hon. GLENN M. ANDERSON,
Aviation Subcommittee,
Washington, D.C.

DEAR MR. CHAIRMAN ANDERSON: As you know, the deregulation of the airline industry has brought with it both benefits to our nation's air travelers as well as difficulties for those communities outside the major transportation corridors of our nation.

While the Deregulation Act did provide mechanisms to insure that the adjustment to a deregulated industry would occur gradually for communities threatened with the loss of essential air service, that portion of the act applies exclusively to those cities and towns which are left with only one certificated air carrier. However, the needs of many medium sized communities throughout our nation exceed this minimum level established in the act. While these areas have a high demand for air service, they are unable to compete with the more profitable inter-state markets for service from trunk carriers.

Additionally, it will take some number of years before the smaller airlines can expand their operations to meet the need which exists in these communities. The consequence will be a difficult period of transition, and the impact is certain to be especially severe in those communities, such as the Monterey Peninsula in my own district, which depend heavily upon tourism for their economic base.

It is clear that the framers of the act did not intend it to cause such dislocation. Indeed, the new Section 419 attests to the consideration which was given to providing for a smooth transition period. However, the swift loss of air service in mid-size communities, coupled with the lack of sufficiently equipped replacement airlines, has created an unforeseen difficulty in some areas. Under present law, communities like Monterey must be practically devastated by reduced air service prior to receiving any assistance from the Civil Aeronautics Board.

In light of these circumstances, I feel it is essential to ask that the Subcommittee seriously consider amending the act to include mid-size communities among those points which are eligible for protection by the CAB under Section 419.

Monterey is served by only two certificated carriers today, which is exactly half of those being utilized prior to the act. Despite this serious situation it will have to lose one more carrier before, under the existing act, it would be considered an "eligible point" qualifying for assistance under the act. I am not requesting a return to the pre-1978 status quo; we have seen the many advantages which a free market environment offers. However, by providing for a graduated reduction in the service of trunk carriers at mid-size communities, we can allow commuter airlines the time they need to grow in a careful, safe manner, as well as protect the vital economic interests and transportation needs of key communities throughout our nation.

Thank you for your time and attention to this important matter.

LEON E. PANETTA,
Member of Congress.

CORRECTING OVERSIGHT IN LAW INVOLVING VETERANS WITH AMYOTROPHIC LATERAL SCLEROSIS

(Mr. HAMMERSCHMIDT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAMMERSCHMIDT. Mr. Speaker, today I am introducing legislation that will correct an oversight in the law regarding the presumption of service connection relating to amyotrophic lateral sclerosis.

Title 38 now provides that a veteran who develops, from within 7 years after the date of his discharge, the condition known as multiple sclerosis—MS—to the extent that it is 10 percent or more disabling will be awarded service connection for the condition. This award may be made even though there is no evidence of such disease during service. This is one of a broad group of diseases affecting motor nerve cells that control muscles Another in this group of diseases is called amyotrophic lateral sclerosis.

The disease of amyotrophic lateral sclerosis is also known as Lou Gehrig's disease because of the famous baseball player who suffered from the illness and was forced to take dramatic leave of the sport at the height of his popularity. It is similar to, but not the same as multiple sclerosis.

No one knows the exact cause of this insidious disease but the latest medical research is focused on the possibility of a slow-acting virus. The disease can progress very slowly. Ten percent of its victims are still alive 10 years after its diagnosis. Some may live for 20 years.

The early symptoms of ALS and other diseases causing muscular atrophy may be no more severe than fatigue, a condition that could easily be overlooked in the service and the years immediately following. Eventually, however, the victim loses control over his muscles. One can easily imagine the tragedy such a disease visits on the individual suffering from it and his family.

A veteran who incurred this disease in service could remain symptom-free for at least 7 years. The bill I am introducing today recognizes the latest findings of medical research by including ALS within section 312 of title 38.

INDUSTRIAL INNOVATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96-214)

The SPEAKER laid before the House the following message from the President of the United States; which was read, and, together with the accompanying papers was referred to the Committee of the Whole House on the State of the Union and ordered to be printed:

To the Congress of the United States:

Industrial innovation—the development and commercialization of new products and processes—is an essential element of a strong and growing American economy. It helps ensure economic vitality, improved productivity, international competitiveness, job creation, and an improved quality of life for every American. Further, industrial innovation is necessary if we are to solve some of the Nation's most pressing problems—reducing inflation, providing new energy supplies and better conserving existing supplies, ensuring adequate food for the world's population, protecting the environment and our natural resources, and improving health care.

Our Nation's history is filled with a rich tradition of industrial innovation. America has been the world leader in developing new products, new processes, and new technologies, and in ensuring their wide dissemination and use. We are still the world's leader. But our products are meeting growing competition from abroad. Many of the world's leading industrial countries are now attempting to develop a competitive advantage through the use of industrial innovation. This is a challenge we cannot afford to ignore any longer. To respond to this challenge, we must develop our own policies for fostering the Nation's competitive capability and entrepreneurial spirit in the decades ahead. This Message represents an important first step in that direction.

I am today announcing measures which will help ensure our country's continued role as the world leader in industrial innovation. These initiatives address nine critical areas:

Enhancing the Transfer of Information

Increasing Technical Knowledge

Strengthening the Patent System

Clarifying Anti-trust Policy

Fostering the Development of Small Innovative Firms

Opening Federal Procurement to Innovations

Improving Our Regulatory System

Facilitating Labor/Management Adjustment to Technical Change

Maintaining a Supportive Climate for Innovation.

INITIATIVES

1. *Enhancing the Transfer of Information.* Often, the information that underlies a technological advance is not known to companies capable of commercially developing that advance. I am therefore taking several actions to ease and encourage the flow of technical knowledge and information. These actions include establishing the Center for the Utilization of Federal Technology at the National Technical Information Service to improve the transfer of knowledge from Federal laboratories; and, through the State and Commerce Departments, increasing the availability of technical information developed in foreign countries.

2. *Increasing Technical Knowledge.* We have already made significant efforts to assure an adequate investment in the basic research that will underlie future technical advances. This commitment is reflected in a 25 percent growth in funding during the first two years of my Administration. I am taking some additional steps that will increase Federal support for research and development:

First, I will establish a program to cooperate with industry in the advancement of generic technologies that underlie the operations of several industrial sectors. This activity will broaden the $50 million initiative I announced in May to further research in automotive research. Second, in order to help harness the scientific and technological strength of American universities, I have directed a significant enhancement in support of joint industry-university research proposals. This program will be modeled on a successful program at the National Science Foundation, and I have set a target of $150 million in Federal support for it.

3. *Strengthening the Patent System.* Patents can provide a vital incentive for innovation, but the patent process has become expensive, time-consuming, and unreliable. Each year, fewer patents are issued to Americans. At my direction, the Patent and Trademark Office will undertake a major effort to upgrade and modernize its processes, in order to restore the incentive to patent—and ultimately develop—inventions. I will also seek legislation to provide the Patent and Trademark Office with greater authority to re-examine patents already issued, thereby reducing the need for expensive, time-consuming litigation over the validity of a patent.

For over thirty years the Federal agencies supporting research and development in industry and universities have had conflicting policies governing the disposition of pertinent rights resulting from that work. This confusion has seriously inhibited the use of those patents in industry. To remove that confusion and encourage the use of those patents I will support uniform government patent legislation. That legislation will provide exclusive licenses to contractors in specific fields of use that they agree to commercialize and will permit the government to license firms in other fields. If the license fails to commercialize the inventories, the government will retain the right to recapture those rights. I will also support the retention of patent ownership by small businesses and universities, the prime thrust of legislation now in Congress, in recognition of their special place in our society.

4. *Clarifying Anti-trust Policy.* By spurring competition, anti-trust policies can provide a stimulant to the development of innovations. In some cases, however, such as in research, industrial cooperation may have clear social and economic benefits for the country. Unfortunately, our anti-trust laws are often mistakenly viewed as preventing all cooperative activity.

The Department of Justice, at my direction, will issue a guide clearly explaining its position on collaboration among firms in research, as part of a broader program of improved communication with industry by the Justice Department and the Federal Trade Commission. This statement will provide the first uniform anti-trust guidance to industrial firms in the area of cooperation in research.

5. *Fostering the Development of Small Innovative Firms.* Small innovative firms have historically played an important role in bringing new technologies into the marketplace. They are also an important source of new jobs. Although many of the initiatives in this Message will encourage such companies, I will also implement several initiatives focused particularly on small firms.

First, I propose the enhancement by $10 million of the Small Business Innovation Research Program of the National Science Foundation. This program supports creative, high-risk, potentially high-reward research performed by small business. Further, the National Science Foundation will assist other agencies in implementing similar programs, with total Federal support eventually reaching $150 million per year.

Second, in order to experiment with ways to ease the ability of small firms to obtain start-up capital, I will help establish two Corporations For Innovation Development to provide equity funding for firms that will develop and market promising high-risk innovations. These not-for-profit firms will be established with State or regional capital and the Federal government will provide each with matching loan funds up to $4 million.

6. *Opening Federal Procurement to Innovations.* The Federal government is the Nation's largest single purchaser of goods and services. Through its purchases, the Federal government can influence the rate at which innovative products enter the market.

For that reason, I am directing the Office of Federal Procurement Policy to introduce procurement policies and regulations that will remove barriers now inhibiting the government from purchasing innovative products. Special attention will be given to substituting performance for design specifications and, wherever feasible, selection will be on the basis of costs over the life of the item, rather than merely the initial purchase price.

7. *Improving our Regulatory System.* During my Administration, I have already taken a number of actions to help assure that regulation does not adversely affect innovation. Working with the Congress, I have moved successfully toward deregulation of airlines and other industries, and I expect the pressure of competition to trigger innovative new

ways to cut costs and improve service. In environmental, health and safety regulation, I have emphasized the use of cost-impact analysis, where appropriate, to take account of the burdens on industry in the regulatory process. To provide better coordination between the regulatory agencies, I have created the Regulatory Council, composed of the heads of 35 regulatory agencies. This Council is working to reduce inconsistencies and duplications among regulations, to eliminate needless rule-making delays, to reduce paperwork, and to minimize the cost of compliance.

I am today proposing additional steps to improve our regulatory system. First, the Administrator of EPA will intensify his efforts, wherever possible, to use performance standards in regulations, specifying only the required goal, rather than the means of achieving it. Second, all Executive Branch environmental, health and safety regulatory agencies will prepare a five-year forecast of their priorities and concerns. This information will give industry the time to develop compliance technology. Third, all administrators of Federal executive agencies responsible for clearance of new products will be directed to develop and implement an expedited process for projects having a strong innovative impact or exceptional social benefit, and to do so without jeopardizing the quality of the review process.

8. *Facilitating Labor and Management Adjustment to Technical Change.* Although innovation can increase the number of workers employed within an industry over the long term, or even create an entire new industry, individual innovations may occasionally cause workers to be displaced.

In order to assure adequate time for workers and management to adjust to changes caused by innovations, I am directing the Secretaries of Labor and Commerce to work jointly with labor and management to develop a Labor/Technology Forecasting System. The System would develop advance warning of industrial changes and permit timely adjustments.

9. *Maintaining a Supportive Federal Climate.* The initiatives announced in this Message are only the first steps in our efforts to ensure American technological strength. We must also develop and maintain a climate conducive to industrial innovation. The Federal government must take the lead in creating that climate. And the Federal government's efforts must be continuing ones. I am committed to these goals.

I am charging the National Productivity Council with the continuing tasks of monitoring innovation, developing policies to encourage innovation and assisting the Departments and agencies in implementing the policies announced today. I am also establishing a Presidential award for technological innovation to make clear to this Nation's inventors and entrepreneurs that we place the highest national value on their contributions.

Each of the initiatives I have just proposed supports an important component in the innovation process. In combination, these initiatives should make a major difference in our Nation's ability to develop and pursue industrial innovation. However, these incentives will not by themselves solve our current difficulties in encouraging needed innovation. In our economic system, industrial innovation is primarily the responsibility of the private sector. The manager of the firm must decide whether to develop and market innovative new products or whether to find and employ new ways of making existing products. Although the Federal government can establish a climate that encourages innovative activity, it is the private sector that finally determines whether innovation will take place.

In addition, the steps outlined in this Message must be viewed in the context of our current severe inflation problem. With costs rising at an abnormally high rate, managers naturally have a disincentive to spend the sums needed for adequate industrial innovation. I understand and fully appreciate that changing certain of our tax laws could provide additional incentives for investment in innovation. Indeed, my approval of adjustments in the capital gains tax in the Revenue Act of 1978 has alleviated some shortages of venture capital. Many of the suggested alterations of our tax system are intertwined with other economic challenges—such as fighting inflation. While it might be possible to make changes in the tax code that would promote innovation, these changes should not be viewed in isolation from other aspects of our economy. I will therefore evaluate tax laws affecting industrial innovation at the time that I consider my fiscal policies for Fiscal Year 1981.

CONCLUSION

Innovation is a subtle and intricate process, covering that range of events from the inspiration of the inventor to the marketing strategy of the eventual producer. Although there are many places in the chain from invention to sale where we have found modification of Federal policy to be appropriate, there is no one place where the Federal government can take action and thereby ensure that industrial innovation will be increased. We have therefore chosen a range of initiatives, each of which we believe to be helpful. In aggregate, we expect them to have a significant impact. Nonetheless, they represent only an early skirmish in what must be a continuing battle to maintain the technological strength of the American economy. I pledge myself to this task and ask the Congress to join me in meeting our common challenge.

JIMMY CARTER.

THE WHITE HOUSE, *October 31, 1979.*

TRIBUTE TO HON. JUANITA M. KREPS

The SPEAKER. Under a previous order of the House, the gentleman from North Carolina (Mr. ANDREWS) is recognized for 60 minutes.

Mr. ANDREWS of North Carolina. Mr. Speaker, it is with great pleasure that I have this afternoon reserved 1 hour for a special order to pay tribute to the Honorable Juanita M. Kreps.

Today she steps down as the first woman and the first economist to serve as Secretary of the U.S. Department of Commerce, and I congratulate her on a job very well done.

For the past 3 years, I have been one of a very few Members of this body privileged to represent a member of the Cabinet.

Mrs. Kreps, a native of the coal-mining town of Lynch, Ky., and a graduate of Berea College in the Bluegrass State, is a longtime resident of Durham, N.C., and of the congressional district I am privileged to represent.

She earned a master's degree and later the doctorate in economics at Duke University, and, for more than 20 years, she was a member of Duke's faculty and administrative staff.

She began as a visiting instructor at Duke and rapidly won promotion to associate professor, full professor, dean of the Women's College, assistant provost, and, in 1972, she was named a James B. Duke professor of economics. In 1973, she was appointed university vice president.

But, Juanita Kreps' distinguished career has by no means been limited to the Duke campus.

Her Government service has been extensive—as a consultant to the U.S. Special Committee on Aging, as a member of the Social Security Advisory Council, as a member of the Office of Economic Opportunity's Task Force on the Older Poor and of the National Commission for Manpower Policy. She has also been a member of the Labor Department's Small Grants panel and of its Committee on Research of the National Manpower Advisory Committee. She served, too, on the Commission on the Operation of the Senate and as a North Carolina delegate to the White House Conference on Aging.

Mrs. Kreps has been president of the Southern Economic Association, vice president of the Gerontological Society, chairman of the board of trustees of the Educational Testing Service, and chairman of the American Council on Education's Commission on Academic Affairs. At the time she was named Secretary of Commerce, she was president-elect of the American Association for Higher Education.

She is the author, coauthor or editor of at least nine books and the author of numerous monographs and articles. She is an expert in several fields of economics and is considered one of the top people in the world on the subject of retirement and pensions policies.

When selected by President Carter to be Secretary of Commerce, Mrs. Kreps was serving on the board of directors of the New York Stock Exchange and of several major corporations, including Eastman Kodak, Western Electric, J. C. Penney, R. J. Reynolds Industries, North Carolina National Bank, and North Carolina Blue Cross-Blue Shield.

She and her husband, Dr. Clifton H. Kreps, Jr., Wachovia Professor of Banking at the University of North

Carolina, are the parents of three children.

Not surprisingly, this remarkable woman is a member of Phi Beta Kappa and the holder of at least six honorary degrees. In 1976 she received the North Carolina Public Service Award.

Although only I among us can welcome her back to Durham and to the Fourth District of North Carolina, I feel sure that many of my colleagues in the House will want to join me in expressing sincere gratitude to Juanita for the fine job she did as Secretary of Commerce and in wishing her well as she rejoins her family and Duke University.

She brought to this job intelligence, modesty, dedication, and a graceful and unassuming manner. Although not one to seek the limelight or publicity, her achievements have been considerable and substantial.

Shortly after Secretary Kreps announced her resignation about a month ago, The Wall Street Journal in its October 5 issue published the following story headlined, "Business Executives Laud Juanita Kreps' Trade Achievements," with the subhead, "Departing Chief of Commerce Is Praised Particularly for Getting Business in China."

[From the Wall Street Journal, Oct. 5, 1979]

BUSINESS EXECUTIVES LAUD JUANTIA KREPS' TRADE ACHIEVEMENTS—DEPARTING CHIEF OF COMMERCE IS PRAISED PARTICULARLY FOR GETTING BUSINESS IN CHINA

Juanita Kreps, the outgoing Secretary of Commerce, left very favorable impressions on the business executives with whom she dealt, and many credit her with strong actions toward promoting U.S. exports, particularly with the growing market in China.

Mrs. Kreps's efforts to get business in China "have been outstanding," says James R. Golden, Ford Motor Co.'s director of international government affairs. "I've been very pleased with what she's done."

He said he was especially impressed with the trade agreement framed when Mrs. Kreps visited China in May. The accord "will give all U.S. business, whether buying or selling, an advantage," he said. "She expedited the agreement greatly, and came back with what is generally thought to be a good agreement."

Robert E. Adams, the president of the American Chamber of Commerce in Hong Kong, called her "an empressive woman, outstanding." He noted that when she met the American business community in Hong Kong after her visit to China, it signaled "that she did want a dialogue with American businessmen overseas. We were impressed by her competence."

Mrs. Kreps, who cited personal reasons for her resignation, played a "very positive role in the development of China-U.S. relations," according to Lewis B. Shanks, vice president of WJS Inc., a Washington-based company that specializes in trade with China and the Soviet Union. "The Chinese seemed to respect her a great deal. The general attitude in the China trading community was very popular toward her," Mr. Shanks added.

During Mrs. Kreps's one-week visit to China, she signed a claims and assets agreement, initialed a trade agreement that hasn't yet been submitted to Congress for approval and signed accords in a number of other areas ranging from meteorology to technical data collection and storage.

COMMERCIAL EXHIBITIONS

She also signed an agreement to exchange commercial exhibitions; the U.S. will hold one in Peking in November 1980 and China will be holding exhibitions in several U.S. cities next year.

Mr. Adams, of the American Chamber of Commerce in Hong Kong, said that as a result of the talks "a lot more information is coming out of China," including data important to such activities as U.S.-Chinese joint ventures and U.S. bank loans to China.

A spokesman for the Pullman Kellogg division of Pullman Inc. said Mrs. Kreps had been "very helpful" in the company's business relationship with China, which dates to 1973. He added that Mrs. Kreps' departure, expected at the end of the month, shouldn't have much of an effect on the company's dealings with Peking.

Other companies expressed similar sentiments about their operations after her departure. A spokesman for Genesco Inc., a shoe, apparel and retailing concern based in Nashville, said Mrs. Kreps' programs "didn't really have much of an effect on us."

And an official with one major auto maker described the trade accord with China as "peripheral" and said, "I don't think it helped or hurt" business relations with China. She "did show some additional interest in the international aspect of commerce. For that, I give her a plus," he added.

"ENERGETIC PERSON"

Richard D. Ford, the executive director of the Port of Seattle, called the 58-year-old Mrs. Kreps "an energetic person who was trying hard to respond to trade needs." Those sentiments were echoed by Julian Scheer, senior vice president of corporate affairs for Dallas-based LTV Corp. He said the company "really regrets" her departure, adding that "we thought she did an excellent job. She was an economist and a very good one with an effective tenure in office."

John Dingee, director of international operations for Randor, Pa-based Chilton Co., credits Mrs. Kreps with making U.S. businessmen more aware of overseas markets. "The one thing that stands out in my mind regarding her tenure was her strong promotion of exports in general," he observed.

Chilton, a publishing company, produces books in Russian and Chinese promoting American technical knowledge.

Mr. Dingee recalls that Mrs. Kreps was a hit among Russian leaders at a dinner at the Kremlin last December. Mrs. Kreps "certainly made quite an impact on (Communist Party chief Leonid) Brezhnev. He kissed her. You don't normally kiss the minister of foreign trade."

Another newspaper, the Raleigh, N.C., News and Observer on October 8 published this editorial favorably appraising Secretary Kreps' tenure in the Cabinet. Its headline said, "Kreps: A Sense of Duty:"

KREPS: A SENSE OF DUTY

Secretary of Commerce Juanita Kreps can hold her head high when she returns to North Carolina at the end of this month. In her resignation after almost three years in the Cabinet post, Dr. Kreps acted with the same sense of duty and air of quiet dignity that marked her service to the Carter administration.

As the only women ever to hold the Commerce position, Mrs. Kreps passed the tests that count for either sex. She proved she had the ability to do the job. She got results at home and abroad that were good for Commerce and good for the country.

Her record shows that she coalesced an agency with 38,500 employees, 13 divisions and highly disparate functions, with good to high marks given her for almost every important activity she undertook. She did this apparently amid family and other personal strains that, even in lesser degree than hers, disconcert high public servants new to Washington.

This native Kentuckian, born in a coal-mining community, reached the mountaintop in public service. She negotiated a trade agreement with China and made six other major agreements in foreign trade. She met world leaders in such capitals as Moscow, Peking and New Delhi. She administered billions of dollars successfully and absorbed new duties for her agency with confident efficiency. Criticism that her resistance to a proposed reorganization of Commerce robbed it of greater influence pales beside her accomplishments.

It's no wonder Chancellor Kenneth Pye of Duke University says the institution would be delighted to welcome back its former academic vice president. Mrs. Kreps, one suspects, will look back on her Washington experience with a great deal of pride and few regrets. And with her background, she has much to offer academic, government and corporate America in future service.

I am pleased also to call my colleagues' attention to an editorial that will appear tomorrow in the Durham, N.C., Morning Herald. The editors of Mrs. Kreps' hometown newspaper transmitted this editorial to my office this afternoon so that I could include it as part of our special order. It will have the headline, "Welcome Back, Mrs. Kreps":

WELCOME BACK, MRS. KREPS

Juanita M. Kreps left her job as Secretary of Commerce Wednesday. Of the 25 who have held that post since 1913, she was the first economist and the first woman. She had departed her position as vice president of Duke University to take the high-level business post in January, 1977. In so doing, she assumed responsibility for the most heterogeneous federal department, one whose 38,000 employees are engaged in everything from forecasting the weather and testing consumer products to overseeing the American merchant marine and supervising the $6 billion local public works program.

Her 30 years of experience in the academic field as teacher, writer, and administrator served her well. Her experience on the boards of the New York Stock Exchange, J. C. Penny, Eastman Kodak, and R. J. Reynolds Industries contributed to her index of expertise. But, even more important, her personal commitment to the formidable task carried her to significant accomplishments. President Carter himself once told her she had taken a third-rate department and made a first-rate one of it.

She defined the biggest single problem between business and government as that of different basic objectives: on the one hand, to produce profitably and on the other hand, to foster broad social issues. Increasing dialogue between business and government was, therefore, a major goal for her. By combining her concern for people with her business acumen, she made sharp, constructive inroads into the consciousness of both public and private sectors.

Mrs. Kreps strove valiantly for the development of sound economic policy. Her organizational talents pulled the department's programs into sharper focus. That she ran into difficulty at times is largely due to the historic role of the Commerce secretary. Her own qualities imprinted on the department and left it a far better place than it was before her.

A soft-spoken Southern lady, Mrs. Kreps built a reputation for directness and firmness, coupled with a gentility rarely evidenced in the worlds of finance or politics. She was determined to "do the significant," and she did—against difficulties.

She was a voice for lightening the federal regulatory burden on business and for new tax policies to stimulate economic growth. She was a voice for reining the growth of federal spending and the establishment of national spending priorities. She was a voice for eliminating structural impediments to competitive markets and for increased business investment.

Her days were long and demanding, but she found time to keep her home ties in Durham. She will return, with well-deserved accolades, to a warmly receptive town and gown community.

Juanita, all that I really need to say, for the folks back home, is that we respect you. We appreciate you. We love you. We welcome you back to North Carolina. And specifically, we welcome you home—to Durham.

Mr. GUDGER. Mr. Speaker, the departure of Juanita Kreps from Washington, after nearly 3 years as an outstanding Secretary of Commerce—the first woman ever to serve in that Cabinet post—leaves me with decidedly mixed feelings.

As a North Carolinian, I am pleased to see her return to my State where she had served so well as vice president at Duke University before her appointment by President Carter.

On the other hand, Dr. Kreps and I came to Washington at the same time to assume our separate duties and I have no doubt that her absence will diminish me somewhat. She has been a vital force and a source of pride for our North Carolina contingent.

Juanita Kreps was remarkably qualified to become Secretary of Commerce as the first economist ever to serve in a job which demands such qualifications. Nor has she disappointed those of us who began to brag as soon as her appointment was announced.

Her list of accomplishments at Commerce is long and impressive, highlighted by the trade agreement with the People's Republic of China, enforcement of the antiboycott law, progress in developing export administration legislation, establishment of 24 new foreign-trade zones, 4 new subzones, and expansion of several existing zones.

I could go on and on down the list, but suffice it to say that even those who may at first have voiced doubt as to her capability to handle the challenging tasks of Commerce have become strong enthusiasts of our lady from Durham.

Juanita is a native Kentuckian who many years ago adopted my native State. Now she is returning to North Carolina and my heartfelt thanks for a job well done go with her.

Her presence, however, will not totally disappear from the national scene. She has already accepted appointment to the President's Commission on National Goals. And, knowing her as I do, I am confident she will continue to seek out challenges and continue to make me proud when I say: "I am a friend of Juanita Kreps."

● Mr. ROSTENKOWSKI. Mr. Speaker, I welcome the opportunity to join my colleagues in tribute to the Honorable Juanita M. Kreps. In her 3 years as Secretary of Commerce she has achieved an enviable record of achievement. Because of my work on the Subcommittee on Trade and, more recently, my appointment to the President's Export Council, I have a great deal of interest in the Departent of Commerce, particularly its trade promotion programs and its attempts to provide greater accessibility to foreign markets. Also, I have always believed that international mutuality and understanding can be facilitated through the exchange of materials, services, cultures, and ideas. It is very much my belief that Mrs. Kreps' strong and positive role in enhancing dialog and encouraging cooperation among the countries of the world through the productive avenues of commerce and trade will be of lasting significance to peace among nations.

Juanita Kreps proved to be a brilliant economist, a skilled executive, a wise and graceful person. I wish her all good fortune in the future and commend her service to our country.●

● Mr. VAN DEERLIN. Mr. Speaker, I would like to join in and offer my congratulations to Secretary Kreps on a job well done.

I expect that my district will profit directly from her assiduous attention to trade expansion between the United States and China. We in San Diego will long benefit from her work if this new venture in international cooperation is continued with the same energy with which she began it.

But beyond this, Secretary Kreps achievement has been to succeed so remarkably in what was, for the most part, a man's world. Because of her record in education and Government, dealing in the abstruse arts of economics and business, young women throughout the country have undoubtedly raised their sights—and should find these heights more accessible.●

● Mr. DRINAN. Mr. Speaker, I welcome this opportunity to commend Juanita Kreps for her fine service to the Department of Commerce. As Secretary, Mrs. Kreps has continually demonstrated high standards of professionalism.

Mrs. Kreps has worked tirelessly and diligently to represent U.S. interests abroad. During her tenure as Secretary, she was instrumental in negotiating the Trade Agreement with the People's Republic of China, the implementation of which will serve to facilitate trade with the PRC in previously unopened areas.

In an attempt to balance U.S. trade with Japan, the Commerce Department, under Mrs. Kreps, established the Joint United States-Japan Trade Facilitation Committee. Through the work of this committee, U.S. goods and services which were previously unavailable for export to Japan are now serving to counter our trade deficit.

Through the efforts of Mrs. Kreps in many areas of U.S. policy, we are making great strides toward reducing our trade imbalance and improving the opportunities for all American businesses including minorities.

Although I lament the loss of Mrs. Kreps form the Department of Commerce, I wish her continued success and happiness as she reenters the private sector.●

● Mr. ANDERSON of California. Mr. Speaker, today is the day that Secretary Juanita Kreps steps down as the first woman and first economist to serve as Secretary of Commerce. After a distinguished period of service in the Commerce Department, Secretary Kreps is returning to academia and to the private sector.

I am sorry to see the Federal Government lose such a dedicated and talented public servant. There have been a number of notable accomplishments during her tenure. For one, the Secretary was instrumental in the establishment of 24 new foreign-trade zones and 4 new subzones, as well as the expansion of several existing zones. One of these new zones is the Long Beach foreign-trade zone, in my congressional district.

Another area of achievement under the direction of the Secretary was the implementation of round II of the local public works program, under which 8,500 projects totaling $4 billion were approved for State and local governments in a period of 72 days. Disbursements already exceed $3.3 billion.

The Secretary also established the first policy initiative by any administration to encourage economic development of the U.S. fishing industry.

I want to commend Secretary Kreps for the exemplary work she has done at Commerce. I also want to wish her well in her new endeavors.●

● Mr. JONES of Oklahoma. Mr. Speaker, it is an honor for me to join my distinguished colleague from North Carolina in paying tribute to the Honorable Juanita M. Kreps. Ms. Kreps has had an outstanding private career in academia, and she has certainly matched those accomplishments in her public career as the first woman Secretary of Commerce.

She joined intelligence, business acumen, and 3 years hard work to produce one of the most effective Secretaries of Commerce. The list of her accomplishments is long, but surely the trade agreement framed with China during her visit there would head that list. That agreement, though noteworthy, is typical of her performance as a member of the Cabinet.

I know that I speak for the business people in the First District of Oklahoma, indeed for all Americans, when I say that Secretary Kreps deserves our gratitude and our thanks for distinguished service to her country. We will miss the expertise she brought to her job and the sense of dedication with which she served, but I hope and am confident that her future will prove as successful as her past has been. I wish her every happiness as she returns to private life.●

● Mr. ANDREWS of North Dakota. Mr. Speaker, I am pleased to have the opportunity to join many of my colleagues in paying tribute to Secretary Juanita Kreps as she prepares to step down from her most distinguished and well-suited position as Secretary of Commerce.

I have had the privilege of working with Secretary Kreps over the past 3 years when she has appeared before the State, Justice, Commerce Appropriations Subcommittee on which I sit. In that time, I have observed Dr. Kreps to be a very effective Department head whose dedication to her responsibilities was always apparent.

Her positive, energetic attitude has always impressed me and I know she will continue to possess this quality in whatever new challenges she may encounter as she leaves her Cabinet post.

Dr. Kreps has provided the U.S. businessman with greater knowledge and awareness of overseas markets for his products. Her work with the Chinese trading community is especially commendable. While certainly not the least of her accomplishments, her response to the trade needs of this country will not soon be forgotten. It is my great hope that her successor will carry on the great work in this important area that Secretary Kreps has begun.●

● Mr. ROE. Mr. Speaker, I am pleased to join in today's salute to a great lady and good friend, the Honorable Juanita M. Kreps, whose standards of excellence as our Nation's distinguished Secretary of Commerce have truly enriched our communities, States, and Nation.

We are all proud of her outstanding record of accomplishments as a member of the President's Cabinet and applaud her for the richness of her wisdom, quality of her leadership, sincerity of purpose and the unprecedented distinction of being the first woman and first economist to serve our people in this high office of public trust.

Mr. Speaker, to bring to everyone's attention the vast scope of responsibility, both nationally and internationally, that she has executed with great sensitivity, perception and preeminence, I would like to reiterate at this point in our historic journal of Congress the purposes and programs charged to the Department of Commerce which she administered in addition to her singular role of advising the President on Federal policy and programs relating to the industrial and commercial segments of the national economy directly affecting the life and destiny of each and every citizen of our country. The Department's mandate most effectively carried out through her superb and exemplary leadership and administrative ability responding with a great sense of duty is expressed and dimensioned, as follows:

> The Department of Commerce encourages, serves, and promotes the Nation's economic development and technological advancement. Within this framework and together with a policy of promoting the national interest through the encouragement of the competitive, free enterprise system, the Department provides a wide variety of programs. It offers assistance and information to domestic and international business; provides social and economic statistics and analyses for business and government planners; assists in the development and maintenance of the U.S. merchant marine; provides research for and promotes the increased use of science and technology in the development of the economy; provides assistance to speed the development of the economically underdeveloped areas of the Nation; seeks to improve understanding of the Earth's physical environment and oceanic life; promotes travel to the United States by residents of foreign countries; assists in the growth of minority businesses; and seeks to prevent the loss of life and property from fire.

Mr. Speaker, as chairman of the Subcommittee on Economic Development, I have had the great privilege and honor of working with Secretary Kreps and am deeply appreciative of her outstanding contribution to the deliberations of our committee in promulgating some of the most important economic development and recovery measures of our time.

As she takes leave of Washington and returns to her hometown, we send with her our deepest appreciation for all of her help as we reflect upon a record of achievement in the world of commerce that will serve as a lasting memorial to her splendid administration—an unforgettable place in the history of our country—and a legacy to our people and particularly the business community of our Nation and all nations throughout the world that has truly made a difference.

For a job well done, above and beyond the call of duty, we do indeed salute a most capable administrator, a distinguished citizen, an esteemed statesman, grand lady and great American—the Honorable Juanita M. Kreps.●

● Ms. MIKULSKI. Mr. Speaker, I am pleased to join with my colleagues in paying tribute to Juanita Kreps, the first woman and first professional economist to serve as Secretary of Commerce. She is returning to the world of academia after 3 years of dedicated service in our Government.

Juanita Kreps was nominated to be Secretary of Commerce by President Carter in December of 1976 and was sworn into office in January of 1977. In the 3 years she has been in office she has proven herself to be a dynamic and dedicated woman and has a long list of accomplishments to her credit. She proved she had the ability and the intelligence to do the job and has rated the highest praise from her fellow workers.

Among her many accomplishments as Secretary of Commerce, she played a major role in concluding a trade agreement with the Peoples Republic of China that opens new commercial opportunities for Americans. Ms. Kreps was also instrumental in bringing about the national export policy—NEXPO—making export expansion a high national priority. Under Ms. Kreps, the Commerce Department established the first policy initiative by any administration encouraging economic development of the fishing industry in the United States. This policy provides an environment which will stimulate economic growth of U.S. fisheries and expansion of foreign and domestic markets.

Juanita Kreps must be commended for the excellent work she has done in her 3 years as Secretary of Commerce. She has also been a warm and caring friend and those of us who knew her well will miss her greatly. We wish her the best and are truly sad to see her go.●

● Mr. CARTER. Mr. Speaker, I am pleased to join in saluting Secretary of Commerce Juanita Kreps for her superb service since being sworn into office in January 1977.

Secretary Kreps was born in Harlan County, Ky., in the district I represent. She received her undergraduate education at Berea College in Madison County, which also is in my district, and she remains a trustee for that unique and highly acclaimed school. I would like to believe that her Kentucky beginnings have in part helped Secretary Kreps to achieve all that she has in private life and to accomplish all that she has as Commerce Secretary in the past 34 months.

Secretary Kreps put to good use her impressive academic and working knowledge of business affairs as head of Commerce. She is to be commended in particular for her focus on increasing export markets for this country's goods and for her successful negotiation of our new trade agreement with the People's Republic of China.

I want to wish Mrs. Kreps well as she returns to private life and to thank her for a job well done.●

● Mr. BROYHILL. Mr. Speaker, today is the final day of service for Dr. Juanita Kreps as the Secretary of the Department of Commerce. Dr. Kreps' return to North Carolina is our State's gain; however, it represents a loss for the Federal Government.

Dr. Kreps has served as the first female Secretary of Commerce with unusual distinction. She brought a considerable degree of experience to this position. In fact, history will record her as the first economist to ever serve in the position of Secretary of this important Federal Department.

The Secretary of Commerce was called upon many times to represent the United States abroad, and Dr. Kreps performed magnificently in this role. She always knew exactly what she was talking about, and she represented the administration and the country well. Her ability to negotiate was tested, especially in the Chinese trade negotiations, and she always did well, both with foreign and U.S. leaders.

Duke University and the State of North Carolina both look forward to the return of Dr. Kreps to her home. It is certain that she will make use of the experiences she has enjoyed during the past 3 years in Washington as an integral part of the administration. She certainly ranks as one of the President's best appointees, and I join her many friends in wishing much happiness for her and her family as she returns to the Tar Heel State.●

● Mr. PEPPER. Mr. Speaker, Secretary of Commerce Juanita Kreps' resignation from President Carter's Cabinet becomes effective today, leaving the Federal Government poorer for her loss. The success she has enjoyed through her endeavours in education, business, and Government stand as a testament to the unique talents Mrs. Kreps possesses.

As Secretary of Commerce, Juanita Kreps has established a record of accomplishments that will be a challenge to her successors. During her tenure, the Commerce Department vigorously promoted foreign trade agreements which will strongly benefit our Nation. I believe that the policies Mrs. Kreps has pursued contributed to our prosperity and tended to strengthen our economy. Whatever the issue, whether it be assisting minority businesses, encouraging the economic development of the U.S. fishing industry, or promoting tourism, Secretary Kreps always kept the best interests of the United States and the American people at heart. I greatly appreciated her efforts.

While Mrs. Kreps was Secretary, the Department of Commerce enforced the anti-boycott law signed by President Carter in 1977, a policy which has helped secure major concessions from countries that attempt to pressure American companies into engaging in boycott behaviour. The efforts to improve the competitiveness of American textile and apparel manufacturers have enjoyed the strong support of Secretary Kreps, in recognition of the importance of protecting American jobs. A careful examination of the budget requests made by the EDA during Secretary Kreps' tenure clearly demonstrate the commitment she and the administration have given to the economic development needs of our country. It is this kind of enlightened leadership which we need.

I have always found it a pleasure to work with Secretary Kreps and I regret to see such a dedicated public servant leaving the Cabinet. I believe that Mrs. Kreps has many more contributions to make to the American people, and wish her much success in the many years ahead.●

● Mr. HAMMERSCHMIDT. Mr. Speaker, it is indeed a privilege for me to join in paying tribute to the Honorable Juanita M. Kreps, on the day she steps down as the first woman and the first economist to serve as Secretary of the U.S. Department of Commerce. I will certainly echo the many fine things that have been said. My colleagues from North Carolina should be proud of her record of service.

I would like to personally commend her distinguished and effective service as Secretary of Commerce, and wish her future happiness upon her return home, as she resumes her teaching career at Duke University.

Many distinguished citizens have already remarked about her favorably appraised tenure in the President's Cabinet. As the only woman to ever hold the Commerce position, Secretary Kreps was victorious. She proved that she had the ability to do an outstanding job. All who dealt with her in her capacity as Secretary of Commerce were impressed by her obvious competence and dedication.

As ranking minority member of the Economic Development Subcommittee of the Public Works Committee, I had a vital interest in the Commerce Department, since principal economic development programs are housed in the Economic Development Administration of the Commerce Department. Early in her tenure, I was pleased to verify that Secretary Kreps did, in fact, consider economic development to be one of the most important functions of the Department of Commerce.

She recognized the Economic Development Administration's important role through its work in local public works projects and also for its long-range mission of formulating the economic development program for the Nation as a whole.

In addition, I labored closely with her as a sponsor of the 1977 Public Works Act under which more than 8,500 projects totaling $4 billion were approved for State and local governments in a period of 72 days. All involved in this effort were impressed by her ability to effectively address basic economic problems in rural and urban areas.

Currently, Secretary Kreps' commitment to the economic development needs of this country can be seen in the increased level of program activity being requested for EDA.

The Secretary also administered the community emergency drought relief program to provide grants and loans to communities for emergency water system improvements necessitated by the 1976–77 drought. Under this effort 250 projects worth over $175 million were approved in less than 4 months.

Her economic background has been especially helpful, given the Department of Commerce's responsibility for collecting and analyzing basic economic and social data and given its responsibility for facilitating business activity at home and abroad. Secretary Kreps believed that a primary function of the Department was to be a major participant in the economic policymaking process—analyst of our economic problems and the evaluator of economic development.

As an economist, she succeeded in bringing her experience and training to bear on the problems before us and by working with Congress to develop some new approaches to the basic challenges facing the Department of Commerce.

Her accomplishments in the trade areas are outstanding. She negotiated a trade agreement with China and made six other major agreements in foreign trade. Specifically, her trade agreement with China has been heralded as opening new commercial opportunities for all Americans. As Secretary, she traveled extensively throughout the Soviet Union, Eastern Europe, North Africa, Japan, and over the world seeking out new trade agreements. She deserves much credit for her strong actions to promote U.S. exports to respond to our mounting trade deficit.

Furthermore, she has actually led the crusade within the present administration to increase Government support for U.S. exports and has recently expressed her concern that the Foreign Corrupt Practices Act and other Government regulations were harming American sales abroad.

The Secretary strove to develop expert administration legislation that satisfies two conflicting interests—those who want to limit high technology exports for national security reasons and those who wish to liberalize regulations and expand high technology exports. Under her leadership, export expansion has become a high national priority and progress has been made in several areas.

Juanita Kreps has fulfilled her goal as Secretary of Commerce in that she has sought to support and promote improvements in the quality of life for all citizens through balanced economic growth and as an advocate of an efficiently operating free market system. She labored tirelessly toward the maintenance of a competitive, sound and innovative marketplace, both domestically and internationally as an essential objective. Her accomplishments have contributed to our national security and a more stable economic system by providing job opportunities and offering incentives for the more equitable and efficient production and distribution of goods and services.

Secretary Kreps should rightfully recall her years of public service in Washington with a great deal of pride.●

● Mr. O'NEILL. Mr. Speaker, I commend the distinguished gentleman from North Carolina (Mr. ANDREWS) for reserving this Special Order and am delighted to join my colleagues in paying tribute to the Honorable Juanita Krebs, on the day that she steps down as Secretary of Commerce.

The first woman and first economist to serve as Secretary of the U.S. Department of Commerce, Juanita Krebs is one of the most remarkable individuals to serve in a President's Cabinet. An educator, author, and administrator, Juanita Krebs had already distinguished herself in the private and public sectors before she became Secretary of Commerce. Throughout her life she had performed each succeeding task with the full measure of human energy, enthusiasm and dignity; and she brought these admirable qualities to her new position in the Carter administration.

I can remember the first time I met Secretary Krebs, soon after she had joined the President's Cabinet. I thought, "The President has made a wise choice here," for Juanita Krebs makes a favorable and lasting impression on everyone who meets her.

Then I really got to know her, and I can truthfully say that she inspired confidence in all of us who had the privilege to work closely with her in the last 3 years. Juanita Krebs is competent and enthusiastic about her responsibilities. Dedicated, she possesses a strong sense of duty; quiet, and low keyed, Juanita Krebs is unpretentious; above all, Secretary Krebs is a real lady in the finest way. Yet beneath that genteel and softspoken exterior, Juanita Krebs is a tough negotiator and a shrewd politician.

To chronicle all her achievements during her tenure as Secretary of Commerce would not alone earn the merits she deserves. Her capable efficiency and influence have demonstrated real leadership in the field of international trade. Secretary Krebs worked closely with American business men and women, encouraging them to become more aware and knowledgeable of overseas markets. Her efforts in the promotion of exports in general will be felt in business circles for many years to come. The dialog which she developed with American business people overseas has inspired renewed confidence and cooperation between American business enterprises and the U.S. Government.

Secretary Kreps played a positive and significant role in the development of United States-China relations and earned the respect and admiration of the

Chinese and American negotiators with whom she worked to produce a substantial trade agreement between the United States and the People's Republic. This trade agreement will open up new commercial opportunities for Americans, and at the same time, safeguard against market disruptions to our domestic economy.

In addition to the trade agreement with China which will result in a tripling of American exports to the PRC in the next 5 years, Secretary Kreps negotiated six other major agreements in foreign trade. She met world leaders in Moscow, Peking, and New Dehli. Under her leadership and guidance the Carter administration established the Joint United States-Japan Trade Committee which has already corrected some of the trade imbalances which the United States has had with Japan, and she has been an articulate spokeswoman chairing the President's National Export Policy Task Force which has made export expansion a high national priority.

We, in the New England region, are particularly grateful of her support of American textile and apparel manufacture and for her efforts to improve the competitiveness of this American industry.

As an administrator of a large Federal agency, Secretary Kreps receives high marks of excellence. She has controlled billions of dollars, successfully managed nearly 50,000 employees and 13 divisions with highly diverse functions, and absorbed new duties for her agency with the same sense of responsibility and quiet dignity that marked her meetings with Premier Brezhnev in Moscow, her trade negotiations in Peking and her meetings of the Export Policy Council.

Secretary Kreps can leave Washington with a sense of pride and the knowledge of a job well done. She had much to offer, she gave totally of herself and her talents, and the results of all her endeavors in the last 3 years have been good for American business, for international trade and commerce and for the Nation at large.

To all of us who know and love Juanita Kreps, we understand her reasons for leaving Washington service at this time, and we wish her and her family well. We also wish Juanita every success in her next endeavor, and we look forward to seeing her back in future Government service.

Juanita Kreps is a dear and beautiful person. I want her to know that as long as I am Speaker, my door is always open. May God bless her and her family.●

● Mr. VANIK. Mr. Speaker, I want to take this opportunity to pay tribute to Juanita Kreps, Secretary of Commerce, who regretably will be leaving office this week to return to the private life which she has so unselfishly sacrificed in her 3 years of dedicated service in President Carter's administration.

As the first lady and first economist to serve as Secretary of Commerce, Dr. Kreps left very favorable impressions on the American business community particularly with respect to the Commerce Department's role in the multilateral trade negotiations, negotiations of a bilateral trade agreement with the People's Republic of China, and most recently with the strengthening of the agency in President Carter's proposed executive branch trade functions reorganization.

In addition to the important staff work on the multilateral trade negotiations provided by Secretary Kreps' trade policy group, she personally played a leading role in the operation of the industry advisory committees, established by the Congress in the Trade Act of 1974, which provided invaluable private sector input into the negotiating process. Without question, the success of this effort, for which Mrs. Kreps deserves full credit, in large part made it possible for the Congress to accept the MTN agreements and implement them in the Trade Agreements Act of 1979.

Secretary Kreps has vigorously led the effort to make the Department of Commerce a more important and effective agency in the trade area and has succeeded in this regard by having the important antidumping and countervailing duty functions transferred from the Treasury Department to Commerce. These tools of U.S. trade policy are basic elements of the Trade Subcommittee's jurisdiction, and it is my expectation that the Commerce Department will administer its new statutory responsibilities in a most efficient and effective manner.

Mrs. Kreps must also be credited for expanding the role of her agency in the fields of export trade promotion and the vast expansion of the Department's overseas representation of the business community. These are other important elements of the President's trade reorganization proposal.

Finally, Secretary Kreps should be given special recognition for the leadership role she played in concluding a bilateral trade agreement with the People's Republic of China. This agreement, on which the Subcommittee on Trade will hold its initial hearings tomorrow, promises important future benefits for American traders.

Dr. Juanita Kreps' accomplishments as Secretary of Commerce are impressive, and her confident and efficient administration of the Commerce Department will be missed.●

● Mr. RAHALL. Mr. Speaker, today, the Honorable Juanita M. Kreps, the first woman and the first economist to serve as Secretary of Commerce steps down from that post.

I would like to take this opportunity, Mr. Speaker, to join with my colleagues who are honoring Mrs. Kreps for the 3 years of excellent service she has given this country.

As the only woman ever to hold the Commerce position, Mrs. Kreps passed the tests that count for either sex. She proved she had the ability to do the job. She got results at home and abroad that were good for Commerce and good for the country.

It is no surprise that the Raleigh, N.C., News and Observer, made this comment concerning Mrs. Kreps, because North Carolina residents, especially those who have been associated with Duke University, have long known the qualities that Juanita Kreps possesses.

In 1955, Mrs. Kreps joined the Duke faculty, and when her service there ended in 1977, she was the academic vice president.

In 1967, I entered Duke University, and during 4 years there I too learned to respect the work of Mrs. Kreps. Her service at Duke received the same acclaim that she is now receiving regarding her work at the Commerce Department.

She was impressive in framing the trade agreement with China, and was effective in her dealings with the Soviet Union. She was indeed a competent and forceful negotiator.

As a Duke alumnus, I am proud to share an association with Mrs. Kreps, and as a Member of Congress, I want to commend her for the work she has done for the United States. I wish her and her family the very best in the future.●

● Mr. BINGHAM. Mr. Speaker, the return of Juanita Kreps to private life is a serious loss to the Federal Government, to the business community, and to the American public, and I am pleased to join with my colleagues in paying tribute to her.

As chairman of the Subcommittee on International Economic Policy and Trade, which handles the Export Administration Act, I have worked closely with Secretary Kreps and her key assistants in the Commerce Department. The Export Administration Act is one of the key pieces of legislation implemented by the Commerce Department. It is a complex statute which attempts to balance the need to protect our national military security with the need to maintain a strong economy through exports and a strong competitive position in international markets. Its effective implementation is no small feat.

Fundamental improvements in the Commerce Department's administration of the export control program were formulated under Mrs. Kreps' guidance as Secretary of Commerce. She fought hard and effectively for exports and against arbitrary and excessive controls. She was, for example, the major voice against expanding export controls to encompass oil drilling technology, insisting that the President not make a decision on the now-famous Dresser case until all procedures required by the Export Administration Act had been fulfilled and she had made a decision for the President's review. Her view prevailed in that case, which I believe is to her credit and is but one example of her effectiveness.

Mrs. Kreps has presided over the Commerce Department at a particularly trying time. The deficit in our national balance of trade has been unprecedented, making her a frequent bearer of bad tidings to the President and to the public. That very little has been done to redress that deficit must be blamed upon Federal departments and officials other than the Commerce Department, and upon the Congress. For her part, Mrs. Kreps, with the committed support of former Assistant Secretary of Commerce Frank Weil, formulated and fought for a comprehensive set of initiatives to put our balance of trade back in order. Unfortunately, only a portion of those recommendations were endorsed by the President, and few have been enacted by the Congress or otherwise implemented. With our trade deficit continuing to worsen, we may yet come to appreciate her recommendations.

Mrs. Kreps' most visible accomplishment, of course, was her role in the normalization of our economic relations with China. For that she is particularly to be commended. With the United States-China trade agreement now pending before the Congress, perhaps the greatest tribute we could pay to her would be to approve most-favored-nation trade status for China, thereby bringing her work to fruition and giving effect to the trade agreement which she negotiated and signed on behalf of the United States. Hopefully the Congress will do that in the near future.

I have refrained, Mr. Speaker, from mentioning that Mrs. Kreps is the first Secretary of Commerce in our history who happens to be a woman. About that, I would only say that I hope and trust that the excellence of her service as Secretary of Commerce will bring us all the more quickly to the time when women in any and every high political office will be so commonplace as to be unworthy of note.

I wish Mrs. Kreps well in private life, and hope that she will continue to participate from time to time in Government affairs and public issues so that we may continue to benefit from her thoughtfulness and leadership.●

● Mr. FOUNTAIN. Mr. Speaker, it was with great regret that I learned of the resignation of Juanita M. Kreps as Secretary of Commerce. Her dedication and contributions to this country in her nearly 3 years in that position followed in the tradition of another North Carolinian, Luther Hodges, Sr., who served as Secretary of Commerce under the Kennedy administration, and incidentally, whose son, Luther Hodges, Jr., is now Under Secretary of Commerce, and doing, I am told, a great job.

While we hate to see Mrs. Kreps leave the Department, I know that I speak for all North Carolinians in welcoming her back to Duke University, which is in close proximity to the University of North Carolina at Chapel Hill, which has a constituency I am honored to represent here in the Congress.

Before her nomination to this position by President Carter, Juanita Kreps was vice president of Duke University in Durham, N.C., where she earned her Ph. D. in economics. Prior to becoming vice president, she served as dean of the Women's College and Assistant Provost for 3 years and as a James B. Duke Professor of Economics. She authored two books, "Sex in the Marketplace: American Women at Work" and "Lifetime Allocation of Work and Income," and coauthored numerous books and articles in the field of economics as well. She served on the boards of directors for the New York Stock Exchange, Inc.; R. J. Reynolds Industries; J. C. Penney Co.; Eastman Kodak Co.; North Carolina National Bank; Teachers Insurance and Annuity Association; College Retirement Equities Fund; Western Electric; and North Carolina Blue Cross-Blue Shield. She also served on numerous State and Federal advisory committees, councils and commissions in areas ranging from economic opportunity and manpower policy to aging and social security.

She is therefore eminently qualified for the cabinet position she is giving up, which is another reason we hate to see her depart. As Secretary of Commerce, her accomplishments have been many. I would like to focus on just two of those—her dedication and success in enhancing this Nation's trading posture and her impressive record in working with the textile industry.

Last fall, in response to recommendations made by Secretary Kreps, President Carter announced a national export policy, the first Presidential commitment to a coordinated series of actions designed to correct the deficit by increasing sales of American goods abroad. As a result, Eximbank programs are more accessible to smaller exporters, Congress has received a recommendation for another major increase in the Bank's loan authorization, and the Department of Commerce has begun work on a computerized information system which will provide U.S. exporters with prompt access to information concerning international marketing opportunities and will expose American products to foreign buyers.

In addition, disincentives to exporting are under review; regulatory agencies are considering the trade impact of new regulations; the Justice Department is giving expedited treatment to export-related requests, particularly in the antitrust area; a business guide for compliance with the Foreign Corrupt Practices Act is being developed; and the day-to-day export licensing decision process is being improved.

Last spring Secretary Kreps inaugurated a new era of trade with China. After a hiatus of 30 years the United States and the People's Republic of China took the first official step toward becoming trading partners again when she initiated the treaty with her Chinese counterpart during her visit to China. During the same visit Secretary Kreps signed two agreements calling for the exchange of scientific and technological information, the landmark agreement establishing collaborative efforts in atmospheric science and technology as well as an historic agreement which will bring close collaboration between oceanographers and fishery scientists of the United States and China for the first time. Earlier this month the Commerce Department announced one of the specific results of the commercial exhibitions agreement she reached with the Chinese in May: The United States will sponsor a national exhibition in Beijing—Peking—which will include exhibits from five industrial sectors—agricultural machinery and farm equipment, power generation and distribution equipment, textile machinery and equipment for production of consumer goods, petroleum exploration and extraction equipment, and transportation equipment.

I have been particularly impressed with her dedication to a responsible Federal textile and apparel policy. The U.S. textile and apparel industry, with 29,000 plants in the country, employs 2.3 million workers, 1 of every 8 American workers in manufacturing. To prevent low-cost foreign imports from disrupting the American market, the United States has 19 bilateral agreements with foreign producers.

Secretary Kreps and her staff played a major role in the renegotiation of 17 expiring agreements covering textiles and apparel during 1978. Under her leadership, we can see the results of the promise, in March of 1979, in the White House white paper concerning the textile industry, of continuing vigorous enforcement of this program in sensitive categories.

In addition, Secretary Kreps' Commerce Department has developed a textile import monitoring system (TIMS) to provide the textile program better and faster access to information on the fiber textile and apparel industry and improve the Department's analytical capability. By automating key reports necessary to implement the restraint program, the Department's commitment to a responsible and effective program can now be more fully realized.

Just as importantly, Secretary Kreps has recognized the significant export potential of the textile and apparel industry. She has initiated an export expansion program, developed by her Department jointly with the industry, which includes surveys to identify overseas market opportunities, regional seminars, overseas trade shows, domestic exhibits, overseas trade missions, and a study to determine the feasibility of establishing export trading companies for textiles and apparel.

On October 19, a first of a kind agreement with the U.S. Apparel Council was signed whereby the council, with $150,000 in funding from the Commerce Department, will provide an export liaison service to foster awareness of market opportunities abroad and to form a unified export strategy for this diversified industry.

I am particularly pleased to note that the second export conference sponsored by the Department will be held in my home State of North Carolina. Cosponsored by the American Textile Manufacturers Institute, the International Trade Center/North Carolina, the National Association of Hosiery Manufacturers, the American Yarn Spinners Association, and the Textile Manufacturers Association in North Carolina, Alabama, Georgia, and South Carolina, this forum will provide a vital service to the apparel industries in these States.

As a member of the House Foreign Affairs Committee which has jurisdiction over the export promotion programs of the Department of Commerce, I applaud her dedication and commitment to all of these efforts which will surely enhance this Nation's trade position.

I would also like to make brief mention of two other programs under her jurisdiction at the Commerce Department—the coastal zone management program of NOAA and the local public works program of EDA. During Secretary Kreps' tenure, the Department approved North Carolina's coastal zone management program and has provided substantial assistance to our State in the area of fisheries development. These actions are particularly noteworthy given the important contribution the State's coastal resources have for the economic well-being of North Carolina.

Also under the Secretary's tenure, the Department successfully implemented round II of the local public works program which was proposed by President Carter in January 1977, as part of the administration's 2-year economci stimulus package. Under Secretary Kreps' leadership, the Department approved more than 8,500 projects totalling $4 billion for State and local governments in a period of 72 days. In the State of North Carolina, 110 projects were approved totaling $45,454,000. Disbursements under this program already exceed $3.4 billion and by the end of fiscal year 1980, the Economic Development Administration anticipates that 95 percent of the program will be completed. Secretary Kreps certainly deserves our appreciation for successfully carrying out this program.

I was happy to be present when, just a few weeks after taking office, Secretary Kreps made her first appearance before the House Foreign Affairs Committee, and calmly and confidently responded to questions which one who had been in office for such a short time would not be reasonably expected to answer. Secretary Kreps was the first woman and the first economist to serve as Secretary of Commerce. She will be remembered for both. But more importantly, she will be remembered for having made a first-rate contribution to the Carter administration and to the American people during her service as Secretary. We in North Carolina are proud of this fact.●

● Ms. FERRARO. Mr. Speaker, it is with respect and admiration that I join my colleagues in paying tribute to Juanita M. Kreps as she steps down as Secretary of Commerce. Mrs. Kreps' service to the Carter administration and the Nation will long be remembered, and it was an honor for me to have the privilege of working with her during the past 10 months.

Secretary Kreps is the personification of the vitality and dedication that we should seek to fill the top ranks of Government. Under her stewardship, the Commerce Department broadened U.S. trade relations and strengthened American industry throughout the globe. Her integrity and wisdom are qualities valued by this administration, and by all Americans.

As a woman, Juanita Kreps epitomizes the strength and capabilities of the women in this country who are ready to move into the top ranks of Government and business. As a member of the administration, she has shown a continued commitment and loyalty to the people of this country. To the Department, she brought skill and expertise and used these talents to guide U.S. trade and promote international exports, so important to our economy. Certainly, she will take these skills to any project she may pursue in the future and they will benefit from them.

Perhaps most important is the enthusiasm Mrs. Kreps has brought to her work and to the Federal Government. It is this enthusiasm for the tasks which lay ahead of her which will continue to make those of us who have been fortunate enough to work with her here, in Washington, proud to have known her.

Certainly, we should all be proud of the accomplishments of Juanita Kreps, for those accomplishments have reinforced the effectiveness of our system of government.

I am sure that the students, faculty and administration of Duke University will be delighted by the return of Mrs. Kreps to that institution. Her range of experience, from foreign trade relations to domestic politics will enhance her already keen academic skills.

I would like to use this forum to publicly wish Juanita Kreps the best of luck in her future endeavors and to thank her for serving her country as she has.●

Mr. PREYER. Mr. Speaker, I am very pleased that special recognition is being given to the Secretary of Commerce, Juanita Kreps. Those of us who know her well are gratified that her professional skills and personal grace, so well known to us in North Carolina, have received the wider public attention which they deserve.

Dr. Kreps will be remembered as one of the most able Commerce Secretaries in the history of the United States. When President Carter said he wanted to bring competent people into Government, he was surely speaking about Juanita Kreps.

She has carved new frontiers in foreign trade, capped by the historic agreement which she signed in the People's Republic of China. Until she came to the Commerce Department, trade with foreign nations was reserved for only the largest U.S. companies. Her efforts have made foreign trade important to all of us and available to companies of any size.

However, to speak of Juanita Kreps merely in terms of her tangible accomplishments is shortsighted. She radiates charm and warmth, and has a unique ability to turn a stranger into a friend. There really is not much more one can say about a person. Her personal popularity, both at home and abroad, is very much intertwined with her success as a negotiator and administrator. She demonstrated that you can administer a large agency, get results at home and abroad and do it without raising your voice. She showed you can be highly efficient while remaining a thoroughly civilized being.

Simply said, I prefer to think of Juanita Kreps as a unique blend of competence and grace. The President, the Congress, and the business community have lost a Secretary in whom they could trust. But, unlike titles, friendship, and dignity are not transient in nature. Juanita Kreps will always be our friend.

The good news is, she is returning to North Carolina. From this superb vantage point she will continue to serve our Nation.

☐ 1830

CONGRESSIONAL PAY REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. TAUKE) is recognized for 5 minutes.

● Mr. TAUKE. Mr. Speaker, the question of congressional pay reform has been a particularly hot issue during the last few weeks. It has not only stimulated controversy among Members, but it has also created a bad image of Congress in the eyes of the American public. Vast criticism has been heeped upon Congress for the chaotic and complicated way that that body handles the issue of salary adjustments.

Therefore, to help simplify and clarify the whole question of congressional wage adjustments, I recently introduced legislation entitled "the Congressional Pay Reform Act of 1979."

This bill includes three major components:

First. It defers congressional pay adjustments until the beginning of the next Congress;

Second. It requires a recorded vote in each House for annual congressional pay adjustments; and

Third. It provides that congressional pay questions be considered independently of other appropriations bills.

The Congressional Pay Reform Act of 1979 would not only prevent Members from voting for a pay increase for themselves while they are still on the public payroll, but it would also require each Member to take a public stand on salary issues. At the very least, we owe this to our constituents.

In addition, the bill would free the question of salary adjustments from the entanglement of other appropriations bills and would preclude Federal agency appropriations from being held hostage to congressional pay increases. Moreover, automatic cost-of-living increases would not accrue to Members, and future increases for Federal judges and top level executive branch Government officials would not be tied to congressional wage increases.

The issue of congressional pay reform has been a source of debate and controversy for many years. The time has now come for Congress to act to end this institutional embarrassment. The Congressional Pay Reform Act of 1979 would not only provide us with a simple, yet effective, way to accomplish that objective, but it would also assist us in preventing the interruption of the normal operation of the Federal Government.●

LEGISLATION TO CORRECT LAW WITH REGARD TO VETERANS' BENEFITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. HAMMERSCHMIDT) is recognized for 5 minutes.

● Mr. HAMMERSCHMIDT. Mr. Speaker, today I am introducing legislation for myelf and the gentleman from Virginia (Mr. BUTLER) which will correct what is an anomaly under current law with regard to veterans benefits.

There is no question that a stigma has hung over the heads of veterans who received bad paper discharges. Currently, a mechanism exists which allows a veteran with a less than honorable discharge to take his case before the Board for Correction of Military Records for review. In many cases, the Board finds that errors were made and discharges are corrected or modified. These modifications are often made after a long period of time has elapsed.

Because the delimiting period which exists for veterans' educational benefits begins on the original date of discharge, many of these veterans, who benefit from the upgraded discharge, are denied the opportunity to utilize this important readjustment benefit. So, in effect, even though an error by the military has been corrected, some veterans are denied their entitlement because of the period of time which has elapsed.

Section 1662(b), title 38, United States Code, states in effect that any veteran who has had his discharge reviewed and upgraded, subsequent to that review, will be eligible to receive GI bill education benefits with the 10-year delimiting date becoming effective on the date of the upgrade. The section pertains, however, only to veterans who served on active duty from February 1, 1955. Stated simply, this legislation will provide an equal opportunity to veterans who served prior to February 1, 1955. It grants them a way to use their educational benefits to erase problems which they have faced because of the bad paper discharges by utilizing educational benefits.●

PASQUALE M. DE MARCO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, I rise today to pay tribute to the late Dr. Pasquale M. De Marco, the dedicated and humanitarian civic leader in our Chicago community who founded Chicago's Northwest Hospital and was its executive director.

Dr. De Marco's death on October 20 is a tremendous loss to the people of the Northwest Side of Chicago in the 11th Congressional District I am honored to represent, for he had dedicated his entire life to the well-being of others.

Dr. Pat, as he was affectionately called by thousands, was a compassionate, understanding, loving human being. He will be sorely missed by many thousands of people, but especially by me because he was my friend for over 25 years and I had the privilege of watching him grow in wisdom, charity, and effectiveness year by year over that quarter century.

Dr. Pat radiated love of his fellow man, and there are countless numbers of people whom be befriended. He was known to give generously of his own resources to hospital patients who could not afford to pay themselves.

Dr. De Marco's record of integrity, his humanitarian achievements, and his ready smile made him a respected leader in the day-to-day activities of the hospital, and the doctors, the nurses, and the employees on the hospital staff all admired this remarkable man.

A native of Brooklyn, N.Y., Pat De Marco attended Long Island University where he received his bachelor of science degree in 1940. Subsequently, he moved to Chicago where he attended the Chicago Medical School. Truly an American success story, he worked hard to achieve the honored title of doctor of medicine, and worked equally hard to found and build a much needed humanitarian institution in service to the people of Chicago. It was his vision and his love of people that were responsible for this great edifice he so tirelessly worked to create over the years.

Dr. De Marco started Northwest Hospital with the purchase in 1955 of a tiny 33-bed facility. In the years since that time, he worked ceaselessly to expand the services and capabilities of the not-for-profit hospital, and he saw it grow to the great 350-bed institution Chicagoans now treasure at Addison and Central Avenue.

Only a year ago, Dr. De Marco was instrumental in securing approval to add 166 medical and surgical beds in a new 7-story building also housing a new surgical unit and expanded auxiliary facilities. Truly, Northwest Hospital is a living monument to the betterment of life, and to the ability, the talent and hard work of Dr. De Marco.

In addition to all of his work at the hospital, Pat De Marco found time to participate in many other civic endeavors. He was a lifetime member of the Joint Civic Committee of Italian Americans, a recipient of the Israel Bond 1971 David Ben-Gurion "Man of the Year Award," a member of the board of directors of the First National Bank of Lincolnwood, a member of the Lay Advisory Board of the Villa Scalabrini Home for the Aged, and a past chairman of the Columbus Day Parade.

The numbers of Pat De Marco's friends are legendary, for he was loved by everyone who came in contact with him because of his very warm personality and warm heart. His passing is a great loss to his thousands of friends, and he will always be remembered, not only as a true friend, but as a great builder, a lover of people, and a servant of his fellow man.

My wife, Angeline, joins me in extending our deepest sympathy to his devoted wife, Helen, to his two lovely daughters, Antonia and Maria, his brother, Frank, and their families. Pat's life was a splendid and inspiring example to all of us and will continue to inspire all of us.●

ACID RAIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 15 minutes.

● Mr. LAFALCE. Mr. Speaker, today I am introducing a major environmental bill which would help alleviate the problems caused by acid precipitation in this country. Many of my colleagues may already be aware of the potentially debilitating effects of acid precipitation. Many lakes and streams are now sterile, unable to support aquatic life other than moss and algae. Many forests and buildings can also be damaged by acid precipitation. And we can speculate as to the adverse health effects of this environmental phenomenon.

The increase in the frequency and severity of acid precipitation is thought to be caused by a number of different factors. One suspected reason is any increase in the atmosphere in the amounts of sulfur, nitrogen, and chlorine compounds. In addition, ironically, recent advances in air pollution control may have unintentionally intensified the problem because devices which remove particulates from factory smokestacks tend to make the remaining exhaust more acidic than it would otherwise be, and the higher smokestacks intended to disperse the pollutants more widely have the secondary effect of enabling the acidic particulates to travel farther.

Because air currents do not confine their paths to geographic boundaries, the acid rain effects of these increased concentrations are often felt long distances from the activities which cause the higher levels. Thus, the acid precipitation problem is not a problem of individual States, nor, in fact, solely of this country. The problems associated with acid rain were a topic of major concern at the United States-Canadian Inter-Parliamentary Conference I attended in August because both countries are contributing to each others problems in this respect.

Europe has long had an extensive air monitoring program which has allowed them to collect the necessary data to identify and analyze the problems involved. It is time for the United States to formulate a comprehensive plan and policy to deal with this problem, and coordinate public and private sector programs to ameliorate the problem. In addition, we must also work with our neighboring countries to assure an adequate understanding and solution to the problem.

The bill which I am introducing acknowledges our lack of knowledge and seeks to extend our understanding of the problem by increasing the scope and intensity of research on its causes and cures. This bill has also been introduced in the Senate by Senator DANIEL P. MOYNIHAN.

The bill I am introducing will provide the following:

First, it creates an Acid Precipitation Task Force composed of eight members from a variety of governmental agencies, which will be responsible for the development and implementation of a comprehensive plan for a 10-year effort to ameliorate the effects of acid rain. The plan will emphasize research in the initial years and implementation programs designed to mitigate the effects of acid rains in the later years. This effort will include:

Coordinating all Federal programs that deal with acid rain and coordinating with international efforts;

Establishing research and demonstration programs aimed at understanding the causes and effects of acid rain, and

Provisions for the allocation of authorized funds for the establishment of State programs and local efforts such as: capital expenditures for emission controls; programs designed to restore areas affected by acid rains and community extension programs designed to involve local groups in the overall program.

Second, it would authorize $152 million over an 11-year period intended as an addition to those funds currently being spent throughout the Federal Government on acid rain programs. This authorization represents an increase of 150 percent over current annual funding levels. Of this amount $15 million is targeted for State programs and $50 million for university and other research and demonstration centers.

Third, it would include provisions for an annual report to Congress which documents the progress made to date on meeting the goals of this act. This report will also summarize expenditure rates and the need for additional funding. The comprehensive plan is to be modified on the basis of this evaluation.

At the end of the 11-year period the task force is expected to disband unless Congress determines that a need to continue the effort is warranted. If this is true, then new legislation would be required. Thus the bill does not set up a bureaucracy which will continue in perpetuity.

Mr. Speaker, over 300 lakes in my State are now sterile due to the effects of acid rain. However, New York is not unique in suffering the consequences of this environmental phenomenon. My colleagues, Mr. VENTO and Mr. OBERSTAR of Minnesota, are introducing this bill with me today because the great State of Minnesota is also suffering similar effects from acid rain.

As I stated earlier, acid precipitation knows no geographical boundaries—not local, State, national or international. I await my colleagues comments and support for this measure, for the problems it is intended to solve affect us all.●

WOMEN UNDER SOCIAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. FERRARO) is recognized for 10 minutes.

Ms. FERRARO. Mr. Speaker, Thursday and Friday, the Subcommittee on Social Security of the Ways and Means Committee will be holding hearings on the treatment of women under social security. As a member of the Aging Committee's Task Force on Women and Social Security, I appreciate the attention that the Ways and Means Committee is giving this pressing matter.

It is indeed unfortunate that social security is based on an outdated notion of the traditional American family and their work patterns. In fact, in light of the economic hardships and inequities that the current system places on millions of American women, it is more than unfortunate—it is a travesty.

The social security system was born in an era when men went into the work force as the sole breadwinner, and the wife remained at home to care for the house. That may have been the typical American family in 1939, but it is not today. Last year, nearly half of the married women in the country worked. Sixty-two percent of the women between the ages of 24 and 35 work outside of the home. And 70 percent of those women are married, live with their husbands, and have children under the age of 18. Most are working because in these inflationary times, one paycheck is no longer sufficient to meet the growing cost of living. Given the recent economic indicators, the economic pressures which are forcing women to leave the home and enter the workplace will not be abated in the foreseeable future.

Social security is undergoing its own mid-life crisis. It has not kept pace with the changing work patterns of Americans.

The time has come to restructure the social security system so that it responds to the needs and contributions of working women and assures them financial security in their retirement. The testimony received by our task force over the past 9 months has exposed a system replete with inequities and inadequacies.

First, many women shift from the wage earner to homemaker role in order to take the time necessary to raise their families. During the time they spend away from the workforce, they receive no benefits. That, in itself, is not inequitable. The inequity arises when they retire completely, and find that the computation of their benefits has included their nonearning years, and their benefits are sharply reduced. The system should be structured so that women who combine paid work and homemaker roles are not penalized.

The homemaker can find herself further penalized by the failure of the system to provide disability benefits if she becomes unable to continue performing her household tasks. Eligibility for disability benefits requires the covered worker to work 5 of the last 10 years. Many homemakers find that they are ineligible for disability, even though they have worked enough quarters to obtain retirement benefits.

Widows and divorced women also find that the system does not cover their needs, or reflect their contributions to the system. Prior to 1977, in order to receive dependents benefits, a divorced spouse must have been married to the beneficiary for 20 years. The Congress lowered that requirement to 10 years in the Social Security Amendments of 1977. Unfortunately, even with that change, divorced women still are not adequately covered by the system. Obviously, the women who was married for less than the required 10 years will receive absolutely no benefits. Furthermore, even if a divorcee were to qualify for her dependents benefits, she is only entitled to one-third of the couple's benefits. Many divorced women rely entirely on their social security benefits for their income and find that they are thrust into poverty because of the inadequacy of benefits paid to divorced spouses.

Widows are in similar straits. In order to receive benefits they must be either disabled, or age 60. As a result, many a widow faces the prospect of no immediate income if her husband happens to die before her 60th birthday. In light of the fact that older women are the fastest growing poverty segment in the United States, this is a tragedy. Forty percent of all older women live in poverty. Seven out of every ten social security recipients who are eligible for welfare happen to be women. The system, instead of providing security for these women, is accelerating their entry into poverty.

Perhaps the most glaring inconsistency and inequity in the list of discriminatory social security provisions is the difference between benefits paid to one- and two-earner couples. Under the system, a dependent spouse is given a benefit equal to 50 percent of the earner's benefit. Therefore, the one-earner couple receives benefits equal to 150 percent. On the other hand, there is the two-earner couple. Here, if they are a typical working American man and woman, she will earn approximately 60 percent of his income. The working wife may also—in fact she probably did—spend some time out of the work force raising her family. Therefore, it is more than likely that the two-earner couple will receive total benefits which are no higher than those of the couple where there is only one breadwinner.

The current situation is an untenable one. Motherhood seems to be grounds for penalizing women. Widows are forced into poverty as a result of inadequate benefits. Divorced wives find that they, too, are inadequately covered. Women who do leave the home to work find that their retirement income is not increased by their years in the work force.

Concern for these inequities is abundant. Possible solutions have been laid on the table year after year. Wilbur Cohen, who was among the original authors of the Social Security Act, testified before our task force that it was his opinion that no major restructuring should occur until we have secured the integrity of the trust funds. I, for one, am willing to take the trustees assurances that the trust funds are secure, and proceed with legislative relief addressing the inequities of social security.

The HEW Task Force on the Treatment of Women Under Social Security put forth two models for discussion—the two-tier approach and the earnings sharing concept. The two-tier model would provide a national minimum benefit regardless of contributions to the social security system. The second tier of this double-decker system would be an earnings-related benefit payable only to covered workers. The earnings sharing plan injects the community property concept into the social security system. Under this model, total earnings of the couple would be equally divided on an annual basis. Earnings sharing would give each partner in the marriage his or her own social security benefits.

Both of these models are useful springboards for a thorough debate of the treatment of women under social security. It is not necessary, at this time, to endorse one over the other. It is necessary for all of us to recognize the blatant shortcomings of the social security system and to address them with the expediency that they deserve.

The Task Force on Women and Social Security has laid the foundation and established the record necessary for the legislative writing committees—the House Ways and Means Committee and the Senate Finance Committee—to address the problems. I urge my colleagues on Ways and Means to recognize that each day we wait to correct the situation, we are economically victimizing American women and their families. The issue is an important and immediate one, and I call upon the House to help nurture the social security system through its mid-life crisis.

Thank you.

VOTE RECORD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. Synar) is recognized for 5 minutes.

● Mr. SYNAR. Mr. Speaker, on Tuesday, October 30, 1979, I was absent from the House due to some longstanding commitments in Oklahoma. Had I been present, I would have cast my vote as follows:

Rollcall No. 612: To approve the Journal for Monday, October 29, "Yes."

Rollcall No. 614: Concur to Senate amendment 137 to H.R. 4389 Labor/HEW conference report, "Yes."

Rollcall No. 615: Passage of H.R. 5472, "Yes."

Rollcall No. 616: Rule for House Joint Resolution 341, Milwaukee Railroad, "Yes."

DR. FAYE EAGLES HONORED BY CHIROPRACTIC ASSOCIATION

(Mr. BROYHILL asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. BROYHILL. Mr. Speaker, Dr. Faye B. Eagles of Rocky Mount, N.C., has recently been named as the National Chiropractor of the Year by the American Chiropractic Association.

Dr. Eagles is a long-time personal friend of mine, and I am pleased that she has been honored by her colleagues in the chiropractic profession.

She exemplifies the spirit of volunteer service in her community, State, and Nation. Gov. James Holshouser selected her as the first woman to serve on the important Commission for Health Services in North Carolina several years ago. Another "first" to her credit was her election as the first woman to head the North Carolina Chiropractic Association.

In short, Dr. Eagles is a credit to her community, to her profession, and to our Nation. I congratulate her on all her accomplishments and I know that my colleagues join with me in wishing her success in the future in her many and varied endeavors.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. Charles H. Wilson of California (at the request of Mr. Wright), for today, on account of official business.

To Mr. Rodino (at the request of Mr. Wright), for today, on account of illness in the family.

To Mr. Williams of Ohio (at the request of Mr. Rhodes), after 3:30 p.m. today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Sensenbrenner) to revise and extend their remarks and include extraneous material:)

Mr. Tauke, for 5 minutes, today.

Mr. Hammerschmidt, for 5 minutes, today.

Mr. Solomon, for 60 minutes, on November 1.

(The following Members (at the request of Mr. Donnelly) to revise and extend their remarks and include extraneous material:)

Mr. Gonzalez, for 15 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Weaver, for 10 minutes, today.
Mr. LaFalce, for 15 minutes, today.
Mr. Van Deerlin, for 5 minutes, today.
Ms. Ferraro, for 10 minutes, today.
Mr. Reuss, for 20 minutes, today.
Mr. Synar, for 5 minutes, today.
Mr. Alexander, for 15 minutes, November 1, 1979.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Zeferetti, and to include extraneous matter.

Mr. Broyhill, to revise and extend remarks during general debate on Energy Mobilization Board.

(The following Members (at the request of Mr. Sensenbrenner), and to include extraneous matter:)

Mr. Conte.
Mr. Findley.
Mr. Hopkins.
Mrs. Holt.
Mr. Daniel B. Crane in two instances.
Mr. Paul.
Mr. Gilman.
Mr. Ashbrook in three instances.
Mr. Campbell.
Mr. Clinger.
Mr. Shuster.
Mr. Philip M. Crane.
Mr. Jeffries.
Mr. Michel.
Mr. Carter.
Mr. Kemp.
Mr. Anderson of Illinois in two instances.

(The following Members (at the request of Mr. Donnelly), and to include extraneous matter:)

Mr. Barnes in two instances.
Mr. Hamilton.
Mr. Edgar.
Mrs. Schroeder in four instances.
Mr. Gramm.
Mr. Roe.
Mr. McDonald in five instances.
Mr. Rosenthal.
Mr. Flood in 10 instances.
Mr. Patterson.
Mr. Ottinger.
Mr. Solarz.
Mr. Long of Maryland.
Mr. Vento.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1110. An act to include home delivery of children's publications in the existing rates for children's publications sent to schools; to the Committee on Post Office and Civil Service.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 428. An act to authorize appropriations for fiscal year 1980 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for fiscal year 1980 for civil defense, and for other purposes.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4249. An act to amend title 23 of the United States Code, the Surface Transportation Assistance Act of 1978, and for other purposes;

H.R. 4387. An act making appropriations for Agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1980, and for other purposes.

H.R. 5218. An act to amend the Foreign Assistance Act of 1961 to authorize special Caribbean hurricane relief assistance; and

H.R. 5506. An act to amend the Energy Policy and Conservation Act to extend for two months certain authorities relating to the international energy program.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

H.R. 4249. An act to amend title 23 of the United States Code, the Surface Transportation Assistance Act of 1978, and for other purposes.

ADJOURNMENT

Mr. DONNELLY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 37 minutes p.m.), the House adjourned until tomorrow, Thursday, November 1, 1979, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2731. A letter from the Director, Federal Emergency Management Agency, transmitting a report that the Agency acquired no real or personal property during the quarter ended September 30, 1979, pursuant to section 201(h) of the Federal Civil Defense Act of 1950, as amended; to the Committee on Armed Services.

2732. A letter from the Secretary of Health, Education, and Welfare, transmitting the 12th annual report of the National Technical Institute for the Deaf by the Rochester Institute of Technology, pursuant to section 5(b)(3) of Public Law 89-36; to the Committee on Education and Labor.

2733. A letter from the Deputy Secretary of Energy, transmitting Energy Action DOE No. 5, an amendment to the strategic petroleum reserve plan setting forth the method of drawdown and distribution of the reserve, pursuant to sections 154(b), 159(d), and 551(b) of the Energy Policy and Conservation Act of 1975 (H. Doc. No. 96-215); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

2734. A letter from the General Counsel of the Department of Energy, transmitting notices of meetings relating to the international energy program to be held November 6-8 in London, England, and November 6 and 7 in Paris, France; to the Committee on Interstate and Foreign Commerce.

2735. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting an interim rule to amend the regulations establishing a direct sale program for process and feedstock users of natural gas; to the Committee on Interstate and Foreign Commerce.

2736. A letter from the Director, International Communication Agency, transmitting a draft of proposed legislation to amend section 212 of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

2737. A letter from the executive director, American Historical Association, transmitting the report of the audit of the organization for the year ended June 30, 1979, pursuant to section 3 of Public Law 88-504; to the Committee on the Judiciary.

2738. A letter from the Principal Deputy Under Secretary of Defense (Research and Engineering), transmitting a report on Department of Defense procurement from small and other business firms during October 1978-May 1979, pursuant to section 10(d) of the Small Business Act, as amended; to the Committee on Small Business.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BRADEMAS: Committee on House Administration. House Resolution 452. Resolution providing for the further expenses of investigations and studies to be conducted by the Permanent Select Committee on Intelligence (Rept. No. 96-573). Referred to the House Calendar.

Mr. BROOKS: Committee on Government Operations. Report on the National Archives film-vault fire, Suitland, Md., December 7, 1978 (Rept. No. 96-574). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. EMERY (for himself, Mr. White, Mr. Whitehurst, Mr. Montgomery, Mr. Ichord, Mr. Jenrette, Mr. Robinson, Mr. Nichols, Mr. Corrada, Mr. Young of Alaska, Mr. Bowen, Mr. Lott, Mr. Hinson, Mr. Whitten, Mr. McDonald, and Mr. Evans of the Virgin Islands):

H.R. 5748. A bill to amend title 32, United States Code, to modify the system of accountability and responsibility for property of the United States issued to the National Guard; to the Committee on Armed Services.

By Mr. FLORIO (for himself and Mr. LaFalce):

H.R. 5749. A bill to amend the Solid Waste Disposal Act to provide authority to respond to releases of hazardous waste which is presently unregulated at the Federal level and which endanger public health and the environment, to establish a hazardous waste response fund to be funded by a system of fees, to establish prohibitions and requirements concerning certain unregulated releases of hazardous waste, and to provide for liability of persons responsible for releases of hazardous waste, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce and Public Works and Transportation.

By Mr. HAMMERSCHMIDT (for himself and Mr. Butler):

H.R. 5750. A bill to amend title 38, United States Code, to allow each veteran with an upgraded discharge to receive full educational benefits without regard to the date of the veterans' initial discharge from service; to the Committee on Veterans' Affairs.

By Mr. KOGOVSEK:

H.R. 5751. A bill to more adequately protect archeological resources in southwestern Colorado; to the Committee on Interior and Insular Affairs.

By Mr. MOAKLEY:

H.R. 5752. A bill to provide for a program of review of State laws with regard to solar energy, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs, Public Works and Transportation, and Science and Technology.

By Mr. MONTGOMERY (for himself, Mr. White, and Mrs. Holt):

H.R. 5753. A bill to amend title 10, United States Code, to provide that certain full-time training duty of members of the National Guard shall be considered as active duty for training in Federal service for the purpose of laws providing benefits for members of the National Guard and their dependents and beneficiaries; to the Committee on Armed Services.

By Mr. PAUL:

H.R. 5754. A bill to amend the Internal Revenue Code of 1954 to allow the deduction for contributions to individual retirement savings without regard to whether the taxpayer is an active participant in any pension plan and to increase the maximum amount allowable as a deduction for such contributions and for contributions to retirement plans for self-employed individuals; to the Committee on Ways and Means.

By Mr. RINALDO (for himself, Mr. Preyer, Mr. Eckhardt, and Mr. Neal):

H.R. 5755. A bill to protect the interests of consumers and provide information to consumers regarding the effective use of smoke detectors through the establishment of smoke detector placement demonstration projects, to require the Consumer Product Safety Commission to take into account the results of such projects in connection with the promulgation of certain consumer product safety standards, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce and Science and Technology.

By Mr. SOLARZ:

H.R. 5756. A bill to provide for the delegation of duties by professional standards review organizations under title XI of the Social Security Act; jointly, to the Committees on Interstate and Foreign Commerce and Ways and Means.

By Mr. SOLOMON:

H.R. 5757. A bill to grant a Federal charter to the Italian American War Veterans of the United States; to the Committee on the Judiciary.

By Mr. STAGGERS (for himself and Mr. Pashayan):

H.R. 5758. A bill to authorize and request the President to issue a proclamation designating September 23, 1980, as "National Farmers' Day"; to the Committee on Post Office and Civil Service.

By Mr. TAUKE:

H.R. 5759. A bill to defer congressional pay adjustments until the beginning of the next following Congress, to require a recorded vote in each House for annual congressional pay adjustments, to provide that appropriations of funds for congressional pay be considered separately, and for other purposes; jointly, to the Committees on Post Office and Civil Service and Rules.

By Mr. EDWARDS of Alabama:

H.R. 5760. A bill to amend the Internal Revenue Code of 1954 with respect to the amount deductible in the case of casualty losses of timber; to the Committee on Ways and Means.

H.R. 5761. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of casualty losses in the case of fruit or nut trees; to the Committee on Ways and Means.

By Mr. HAMMERSCHMIDT:

H.R. 5762. A bill to revise provisions of title 49, United States Code, with regard to the regulation of the trucking industry; to the Committee on Public Works and Transportation.

H.R. 5763. A bill to amend title 38 of the United States Code to provide that progressive muscular atrophy or amyotrophic lateral sclerosis developing a 10 percent or more degree of disability within 7 years after separation from active service during a period of war shall be presumed to be service connected; to the Committee on Veterans' Affairs

By Mr. LaFALCE (for himself, Mr Oberstar, and Mr. Vento):

H.R. 5764. A bill to determine the causes and effects of acid precipitation throughout the United States and to develop and implement solutions to this problem; jointly, to the Committees on Interstate and Foreign Commerce and Science and Technology.

By Mr. MICHEL:

H.R. 5765. A bill to rename the RFK stadium in the District of Columbia as the Martin Luther King, Jr. Memorial Stadium; to the Committee on the District of Columbia.

By Mr. SKELTON (for himself, Mr. Evans of Georgia, Mr. Shelby, Mr. Ginn, Mr. Lederer, Mr. Dornan, Mr. Won Pat, Mr. Runnels, Mr. Weaver, Mr. Stump, Mr. Ichord, Mr. Beilenson, Mr. English, Mr. Corrada, Mr. Montgomery, Mr. Nolan, Mr. Dan

Daniel, Mr. Schulze, Mr. Albosta, Mr. Lujan, Mr. Charles Wilson of Texas, Mr. Rose, Mr. Baldus. Mr. Hyde, Mr. Petri, Mr. Bevill. Mr. Burgener, Mr. McDonald, Mr. Jenkins, Mr. Hughes, Mr. Carter. Mr. Bailey, Mr. Stangeland, Mr. Watkins. Mr. Jones of Oklahoma, Mr. Benjamin, Mr. Winn, Mr. White, Mr. Kazen, Mrs. Holt, Mr. Hillis, and Mr. Treen):

H.R. 5766. A bill to amend title 10, United States Code, to authorize additional Reserve Officers' Training Corps scholarships for the Army, to provide a certain number of such scholarships for cadets at military junior colleges, to authorize the Secretary of the Army to provide that cadets awarded such scholarships may serve their obligated period of service in the Army Reserve or Army National Guard of the United States, and for other purposes; to the Committee on Armed Services.

By Mr. STRATTON (for himself and Mr. Fish):

H.R. 5767. A bill to amend title I of the Federal Water Pollution Control Act to authorize a demonstration project for the reclamation of the Hudson River; to the Committee on Public Works and Transportation.

By Mr. BARNES:

H. Res. 470. Resolution to amend the rules of the House of Representatives to provide for the continuance of authority to pay employees of the various agencies in the absence of the timely enactment of appropriations for such agencies; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII,

317. The Speaker presented a memorial of the Legislature of the Territory of Guam, relative to Guam's political status, which was referred to the Committee on Interior and Insular Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. LAGOMARSINO:

H.R. 5768. A bill for the relief of Jorge Luis Arceo; to the Committee on the Judiciary.

By Mr. PATTERSON:

H.R. 5769. A bill to reinstate and validate U.S. oil and gas leases Nos. OCS–P–0218 and OCS–P–0226; to the Committee on Interior and Insular Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 516: Mr. Pashayan.

H.R. 1297: Mr. Collins of Texas and Mr. Donnelly.

H.R. 1853: Mr. Mitchell of Maryland, Mr. Paul, Mr. Neal, Mr. D'Amours, Mr. Cavanaugh, Mr. Mattox, Mr. Barnard, Mr. Ritter, Mr. McDonald, and Mr. Symms.

H.R. 3574: Mr. Annunzio, Mr. Edwards of Oklahoma, Mr. Fish, Mr. Goldwater, Mr. Guyer, Mr. Kelly, Mr. Mathis, and Mr. McKinney.

H.R. 4513: Mr. Hyde, Mr. Young of Alaska, Mr. Donnelly, Mr. Mineta, and Mr. Fazio.

H.R. 4697: Mr. Ireland and Mr. Bereuter.

H.R. 4960: Mr. Whitehurst and Mr. Simon.

H.R. 5080: Mr. Cheney.

H.R. 5169: Mr. Jeffords, Mrs. Spellman, Mrs. Schroeder, Mr. D'Amours, Mr. Downey, Mr. Ertel, Mr. Blanchard, and Mr. Frost.

H.R. 5225: Mr. Albosta, Mr. Robinson, and Mr. Cheney.

H.R. 5394: Mr. Kemp, Mr. Hutto, Mr. Kindness, Mr. Kramer, Mr. Mottl, and Mr. Bevill.

H.R. 5403: Mr. Anderson of California, Mr. Beilenson, Mr. Coelho, Mr. Danielson, Mr. Edwards of California, Mr. Fazio, Mr. Hawkins, Mr. Johnson of California, Mr. Lloyd, Mr. McCloskey, Mr. Matsui, Mr. Mineta, Mr. Roybal, Mr. Santini, Mr. Stark, Mr. Bob Wilson, and Mr. Charles H. Wilson of California.

H.R. 5610: Mr. Atkinson, Mr. Bedell, Mr. Winn, Mr. Zeferetti, and Mr. Gibbons.

H.R. 5660: Mr. Moffett, Mr. Conyers, Ms. Holtzman, Mr. Guarini, and Mr. Rangel.

H.J. Res. 321: Mr. Brodhead, Mrs. Bouquard, Mr. Dougherty, Mr. Markey, Mrs. Chisholm, Mr. Symms, Mr. Addabbo, and Mr. Thompson.

H.J. Res. 385: Mr. Downey.

H.J. Res. 391: Mr. Stanton, Mr. Collins of Texas, Mr. Rahall, Mr. Winn, Mr. Pepper, Mr. Coelho, Mr. Duncan of Tennessee, Mr. Lagomarsino, Mr. Flood, Mr. Hansen, Mr. Lott, Mr. Murphy of Pennsylvania, Mr. Addabbo, Mr. Pashayan, Mr. Brown of Ohio, Mr. Mattox, Mr. Mazzoli, Mr. Lujan, Mr. Whittaker, Mr. Roe, Mr. Dingell, Mr. Wolpe, Mr. Spence, Mr. Wolff, Mr. Frenzel, Mr. Scheuer, Mr. Mitchell of New York, Mr. Kindness, Mrs. Holt, Mr. Marriott, Mr. Evans of Georgia, Mr. Vento, Mr. Livingston, Mr. Stenholm, Mr. Anthony, Mr. Peyser, Mr. Hall of Texas, Mr. Conte, Mr. Gradison, Mr. Hagedorn, Mr. Foley, Mr. Hillis, Mr. Miller of Ohio, Mr. Kostmayer, Mr. Roth, Mr. Goodling, Mr. Broyhill, Mr. Grisham, Mr. McKinney, Mr. Nichols, Mr. Neal, Mr. Skelton, Mr. Mathis, Mr. Andrews of North Dakota, Mrs. Fenwick, Mr. Quillen, Mr. Bauman, Mr. Moore, Mrs. Smith of Nebraska, Mr. Murtha, Mr. Quayle, Mr. Hanley, Mr. Rinaldo, Mr. Hollenbeck, Mr. Nelson, Mr. Broomfield, Mr. Preyer, Mr. Young of Alaska, Mr. Cleveland, Mr. Dougherty, Mr. Whitley, Mr. Findley, Mr. Murphy of New York, Mrs. Heckler, Mr. Walker, Mr. Stangeland, Mr. Symms, Mr. Johnson of Colorado, Mr. Bailey, Mr. Lederer, Mr. Shannon, Mr. Forsythe, Mr. Whitehurst, Mr. Leath of Texas, Mr. Green, Mr. Dellums, Mr. Gudger, Mr. Hinson, Mr. Erdahl, Mr. Annunzio, Mr. Benjamin, Mr. Shuster, Mr. Mottl, Mr. Carney, Mr. Johnson of California, Mr. Brademas, Mr. Young of Florida, Mr. Guarini, Mr. Yatron, Mr. Burgener, Mr. White, Mr. Robinson, Mr. Grassley, Mr. Rhodes, Mr. John L. Burton, Mr. Nedzi, Mr. Traxler, Mr. Martin, Mr. Buchanan, Mr. Minish, Mr. Ashbrook, Mr. Paul, Mr. Ratchford, Mr. Shumway, Mr. Roberts, Mr. Conable, Mr. Dodd, Mr. Kramer, Mr. Badham, Mr. Dornan, Mr. Bafalis, Mr. Williams of Ohio, Mr. Bereuter, Ms. Oakar, Mr. McClory, Mr. Courter, Mr. Davis of South Carolina, Mr. Lent, Mr. Marks, Mr. Michel, Mr. Leach of Iowa, Mr. Wampler, Mr. Rudd, Mr. Edwards of Oklahoma, Mr. Fazio, Mr. Guyer, Mr. Dickinson, Mr. Evans of the Virgin Islands, Mr. Bethune, Mr. Treen, Mr. Fish, Mr. Schulze, Mr. Corcoran, Mr. Frost, Mrs. Snowe, Mr. McDonald, Mr. Hammerschmidt, Mr. Lewis, Mr. Cavanaugh, Mr. Emery, Mr. Deckard, Mr. Clausen, Mr. Dan Daniel, Mr. Corrada, Mr. Ritter, Mr. Taylor, Mr. Ichord, Mr. Daniel B. Crane, Mr. Hopkins, Mr. Rousselot, Mr. Steed, Mrs. Boggs, Mr. Edwards of California, Mr. Waxman, Mr. Loeffler, Mr. Sebelius, Mr. Latta, Mr. Erlenborn, Mr. Hance, Mr. Synar, Mr. Jeffries, Mr. Madigan, Mr. Dannemeyer, Mr. Regula, Mr. Davis of Michigan, Mr. Fascell, Mr. Gaydos, Mr. Gingrich, Mr. Lungren, Mr. Rose, Mr. Patten, Mr. Stewart, Mr. Horton, Mr. Beard of Tennessee, Mr. Abdnor, Mr. Sawyer, Mr. Marlenee, Mr. Cheney, Mr Wyatt, Mr. Carter, Mr. Evans of Delaware. Mr. Kemp, Mr. Royer, Mr. Wylie, Mr. Edwards of Alabama, Mr. Tauke, Mr. Petri, Mr. Clinger, Mr. Thomas, Mr. Bennett, Mr. Moorhead of California, Mr. Swift, Mr. Kelly, Mr. Gilman, Mr. Trible, Mr. Montgomery, Mr. Pritchard, Mr. Derwinski, Mr. Zablocki, Mr. Derrick, Mr. Vander Jagt, Mr. Lee, Mr. Myers of Indiana, Mr. Coleman, Mr. Solomon, Mr. Hyde, Mr. O'Brien, Mr. Jenrette, and Mr. Holland.

H. Con. Res. 122: Mr. Murphy of Pennsylvania, Mr. Guyer, Mr. Murphy of Illinois, Mr. Kostmayer, and Mr. Patten.

H. Con. Res. 201: Mr. Lagomarsino, Mr. Markey, Mr. Solomon, Mr. Carney, Mr. Murphy of Pennsylvania, Mr. Bevill, Mr. Symms, Mr. Whitehurst, Mr. Hughes, Mr. McDonald, Mr. Dannemeyer, Mr. Edwards of Oklahoma, Mr. Collins of Texas, Mr. Rousselot, Mr. Carter, Mr. Lungren, Mrs. Fenwick, Mr. Kemp, Mr. Albosta, Mr. Shumway, Mr. Myers of Indiana, Mr. Sensenbrenner, Mr. Harsha, Mr. Snyder, Mr. Cheney, Mr. Bethune, Mr. Rousselot, Mr. Young of Alaska, Mr. Miller of Ohio, and Mr. Loeffler.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2608

By Mr. HARRIS:

(Page and line numbers refer to H.R. 5297.)

—Page 11, after line 15, add the following new section:

Sec. 303. The Atomic Energy Act of 1954 is amended by adding a new section to read as follows:

"Sec. 235. Sabotage of Nuclear Facilities.—

"(a) Any person who willfully injures, destroys, or contaminates or attempts to injure, destroy or contaminate, any nuclear production facility or utilization facility licensed under this Act, any nuclear waste storage installation licensed under this Act, any special nuclear material or byproduct material possessed pursuant to a license issued by the Commission under section 53 or section 81 of this Act or pursuant to a license issued by a State under an agreement entered into under section 274 of this Act, or any special nuclear material or byproduct material contained in a carrier, shall be fined not more than $10,000 or imprisoned for not more than ten years, or both.

"(b) For purposes of this section—

"(1) the term 'carrier' means any motor vehicle, railroad train, or aircraft; and

"(2) the term 'nuclear waste storage installation' means a facility or area the purpose of which is to contain nuclear byproduct material.".

(b) The table of contents for such Act is amended by inserting the following new item after the item relating to section 234:

"Sec. 235. Sabotage of nuclear facilities."

H.R. 4904

By Mr. JONES of Oklahoma:

—Page 104, after line 11, insert the following new part (and conform the table of contents):

Part G—Block Grant Demonstration Program

ESTABLISHMENT OF PROGRAM

Sec. 133. (a) Part A of title IV of the Social Security Act (as amended by the preceding provisions of this Act) is further amended by adding at the end thereof the following new section:

"BLOCK GRANT DEMONSTRATION PROGRAM

"Sec. 419A. (a) (1) In order to provide an effective test of the ability of the various States and counties to create their own welfare programs as an alternative to the program of aid to families with dependent children, there is hereby established a five-year block grant demonstration program under which at least three participating States and at least three participating counties—

"(A) may receive payments under this section for any quarter beginning on or after October 1, 1981, and ending prior to October 1, 1986, and

"(B) may (except as otherwise provided in this section) use such payments, to benefit and promote the social welfare of children and families with children, without regard to the requirements and limitations applicable under the program of aid to families with dependent children.

The States and counties participating in the program under this section shall be selected in the manner provided in paragraphs (2) and (3). Any State which participates in such program for any quarter shall not receive any payment for such quarter under section 403; and any State that includes a county which participates in such program for any quarter shall have its payment for such quarter under section 403 appropriately reduced so as to exclude the portion thereof otherwise attributable to such county.

"(2)(A) The Governor of any State which desires to participate in the block grant demonstration program under this section, or which includes a county that desires to participate in such program, may submit a request for such participation to the National Oversight and Evaluation Panel established under subsection (f), at any time during the fiscal year 1980 and in such manner and form as the Panel may prescribe. At the close of such fiscal year the Panel shall transmit to the Secretary, from among all of the States and counties submitting such requests, its nominations (for participation in the program) of specific groups of States and counties which meet the criteria described in the next sentence and which could (if selected) participate in the program in a manner contributing significantly to the achievement of the objectives of this section. In making such nominations the Panel shall to the maximum extent possible (i) assure that all of the various regions of the United States, and areas with differing economic and industrial bases, are appropriately represented and that the participating States and counties reflect as wide a diversity as is possible in their population density, their benefit levels, their per capita income, and the percentage of their population below the poverty level, and (ii) take into account the extent to which the States and counties requesting participation have developed realistic and comprehensive proposals which indicate their ability to manage and administer successfully a test of the type described in this section.

"(B) In order to assist interested States and counties in developing their plans and proposals for participation in the block grant demonstration program, the Secretary is authorized upon application to make planning grants to States and counties which demonstrate a firm intention to seek selection as participants in the program, a need for assistance in the development of such plans and proposals, and a significant potential for successful participation. Such grants shall be made as soon as possible after funds have been made available therefor, and shall be made and allocated among the applicant States and counties on such terms and conditions (consistent with the preceding sentence) as the Secretary may prescribe. No such grant shall exceed $1,000,000; and the aggregate of the grants made under this subparagraph shall not exceed $15,000,000.

"(3) As soon as possible after the nominations are transmitted under paragraph (2)(A) (and in any event no later than 18 months after the date of the enactment of this section), the Secretary shall make the final selection, from among such nominations, of the three or more States and the three or more counties which are to participate in the block grant demonstration program; and any State or county selected to participate in the program shall commence such participation no later than the first day of the third calendar quarter beginning after such final selection (or on October 1, 1982, if that date is subsequent to the first day of such third calendar quarter).

"(4) A State or county may terminate its participation in the block grant demonstration program beginning with any quarter which—

"(A) begins at least three years after the beginning of the quarter for which that State or county first participated in the program, and

"(B) begins at least six months after the date on which the Governor of the State notifies the Secretary of that State's or county's election to terminate participation in the program.

"(b)(1) Each State or county participating in the block grant demonstration program for any quarter shall receive, for such quarter, a payment in an amount equal to 25 percent of its adjusted base period amount for the fiscal year in which such quarter falls. No payment may be made under this section for any quarter beginning after September 30, 1986.

"(2)(A) The base period amount for any State shall be equal to the total amount which the Secretary determines would have been payable to such State for the fiscal year beginning October 1, 1978 (hereinafter in this section referred to as the 'base period'), under paragraphs (1), (3), and (5) of section 403(a), taking into account the provisions of section 1118 of this Act and section 9 of the Act of April 19, 1950 (64 Stat. 47), but computing such total amount without regard to subsections (c) through (j) of section 403, and increasing such total amount by the amount of expenses incurred for social and supportive services provided in accordance with section 402(a)(19)(G).

"(B) The base period amount for a county located in any State shall be equal to the portion of such State's base period amount, as determined under subparagraph (A), which is attributable (under regulations prescribed by the Secretary) to expenditures made in that county during the base period under the State's plan approved under section 402.

"(3)(A) The adjusted base period amount for any State or county—

"(i) for the fiscal year beginning October 1, 1979, shall be equal to its base period amount, and

"(ii) for the fiscal year beginning October 1, 1980, and each fiscal year thereafter, shall be equal to its adjusted base period amount for the preceding fiscal year as adjusted for such State or county in accordance with subparagraph (B); except that the adjusted base period amount for any State for the fiscal year beginning October 1, 1981, shall not be less than the base period amount which would have been determined for such State under paragraph (2)(A) if the amendments made by sections 115 and 116 of the Social Welfare Reforms of 1979 had been in effect throughout the fiscal year beginning October 1, 1978.

"(B) The adjusted base period amount of any State or county as determined under subparagraph (A) shall be increased for each fiscal year, starting with the fiscal year beginning October 1, 1980, by an amount equal to the product of—

"(i) the adjusted base period amount as determined (for such State or county) for the preceding fiscal year, and

"(ii) a percentage equal to the percentage increase (if any) in the Consumer Price Index prepared by the Department of Labor, and used in determining cost-of-living increases under section 215(i) of this Act, for the second quarter of the preceding fiscal year as compared to such Index for the second quarter of the second preceding fiscal year (rounded to the nearest one-tenth of 1 percent).

For purposes of this subparagraph the Consumer Price Index for any quarter shall be the arithmetical mean of such index for the three months in such quarter.

"(c)(1) Each State or county participating in the block grant demonstration program shall use the payments made to it under this section to conduct such activities and provide such assistance as in its judgment will most effectively benefit and promote the social welfare of children and families with children in that State or county, without regard to the requirements and limitations which would otherwise apply in the program of aid to families with dependent children under this part; and for this purpose, except as provided in paragraphs (2) and (3), the State or county may waive any or all of such requirements and limitations (other than those relating to fair hearing procedures under section 402(a)(4) and section 415) including the requirements and limitations relating to the work incentive program under part C and the child support program under part D of this title.

"(2) Notwithstanding paragraph (1)—

"(A) the average amount or value of the assistance provided by any State or county to families of a given size and composition and with a given income for any quarter under the block grant demonstration program, and the type or types of assistance available in any State or county to families of a given size and compensation and with a given income under such program, shall be the same throughout the State or county (except that, in the case of a State, the amount or value of such assistance may be varied on a regional basis, with the approval of the Secretary, to reflect differences in living or housing costs);

"(B) the amount or value of the assistance provided by any State or county to a family for any quarter under the block grant demonstration program, when added to such family's earnings for that quarter, may not be less (as determined by the Secretary), on account of the State's or county's treatment of work expenses or its requirements for disregarding earnings or for any other reason, than the amount of the aid to families with dependent children which would have been paid to such family for that quarter under the State plan approved under this part, in addition to those earnings, if such State or county had continued to be subject to the provisions of such State plan without regard to this section;

"(C) the total amount or value of the assistance provided by any State or county for any quarter under the block grant demonstration program may not be less (as determined by the Secretary) than the total amount of the aid to families with dependent children which was paid under the State plan approved under this part in that State or county for the corresponding quarter in the base period; and

"(D) the total amount of the expenditures made from State and local funds for assistance provided in any State or county for quarters in any fiscal year under the block grant demonstration program may not be less (as determined by the Secretary) than the total amount of the expenditures made from State or local funds for aid to families with dependent children under the State plan approved under this part for the corresponding quarters in the base period (or, if it would result in a higher total amount, for the corresponding quarters in the fiscal year immediately preceding the fiscal year in which the State's or county's participation in the program begins).

"(3) A State or county may require single parents of children less than 6 years of age to perform work or undergo training, as a condition of their eligibility for assistance under the block grant demonstration program, only if appropriate care is available for such children while the parents are performing such work or undergoing such training.

"(4) Any State or county participating in the block grant demonstration program may utilize up to 25 percent of the funds made available to it under this section in the first four quarters of its participation in such program, up to 35 percent of such funds in the second four quarters of such participation, and up to 45 percent of such funds in any subsequent period of four consecutive quarters for the purpose of providing employment for individuals who are eligible for assistance under the program rather than for the purpose of providing assistance in the form of cash payments or otherwise; but no individual shall be required, as a condition of assistance under the program, to perform employment (under the preceding provisions of this paragraph or otherwise) for remuneration which is less than the Federal minimum hourly rate under the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a) (1)).

"(d) As a condition of its participation in the block grant demonstration program, each State and county shall agree to monitor, measure, and report from time to time to the Secretary (for purposes of Federal quality control determinations under section 403 (j) of this Act as well as to assist in the administration of this section) the error rates being experienced under such program as contrasted with the error rates most recently experienced (prior to such participation) under the State plan approved under section 402.

"(e) (1) In order to assure that the block grant demonstration program under this section achieves its objectives and contributes significantly to the improvement of Federal assistance to needy families with children, there is hereby established a national panel to be known as the National Oversight and Evaluation Panel.

"(2) The Panel shall be composed of 11 members, as follows:

"(A) two members selected by the Speaker of the House of Representatives;

"(B) two members selected by the President pro tempore of the Senate;

"(C) three members selected by the President;

"(D) two members selected by the Minority Leader of the House of Representatives; and

"(E) two members selected by the Minority Leader of the Senate.

Members of the Panel shall be chosen (as soon as possible after the date of the enactment of this section but in any event within 6 months after such date) from among persons who are particularly qualified to participate in the establishment of the block grant demonstration program, and to oversee the conduct and administration of such program, by reason of their experience, accomplishments, and expertise in various fields both related and unrelated to welfare assistance.

"(3) In addition to its function of nominating the States and counties to participate in the block grant demonstration program as provided in subsection (a) (2), the Panel shall conduct a continuing comprehensive evaluation of the activities of such States and counties under this section, including assessments of the administrative effects of the program, of the cost implications of the program, and of the impacts of the program upon recipients of assistance, and shall perform such other oversight and evaluation functions (including comparisons of the administration and accomplishments of the program with the administration and accomplishments of the program of aid to families with dependent children in selected States and counties not participating under this section) as may help to carry out the purpose of this section and to achieve the objectives of the block grant demonstration program.

"(4) The Secretary shall provide the Panel with such staff assistance and facilities as it may need in order to carry out its functions under this section.

"(d) (1) Except as otherwise specifically provided, the block grant demonstration program under this section shall be treated for all purposes, with respect to any participating State (or with respect to a participating county in any State), as constituting a program of aid to families with dependent children under such State's plan approved under section 402.

"(2) For purposes of the medical assistance program carried on by any participating State under its plan approved under title XIX of this Act (including determinations of a State's authority under section 1902(h) to deny medical assistance coverage with respect to children deprived of parental support or care by reason of the unemployment of a parent), any individual receiving assistance under the block grant demonstration program under this section shall be deemed to be receiving aid to families with dependent children under the plan of such State approved under this part.".

(b) Section 403 of such Act is amended by adding at the end thereof the following new subsection:

"(k) The provisions of this section shall not apply to any State or county with respect to any quarter for which such State or county is receiving a payment under section 419A of this Act.".

REVIEW AND REPORT BY COMPTROLLER GENERAL

SEC. 134. (a) The Comptroller General of the United States shall conduct a continuing study and evaluation of the block grant demonstration program under section 419A of the Social Security Act, of the Federal regulations and procedures prescribed or established to implement such program and of the activities nad accomplishments of the participating States and counties thereunder (including field studies at the operational level.)

(b) Within six months after the approval and selection of any State or county for participation in the block grant demonstration program, the Comptroller General shall submit to the Congress an analysis of such State's or county's plans for participation in the program.

(c) The Comptroller General shall submit to the Congress an interim report with respect to the study and evaluation under subsection (a) no less often than once each year during the period when the block grant demonstration program is in operation, and shall submit to the Congress a final report within one year after completion of the program.

(d) No payment may be made under section 419B of the Social Security Act to any State or county which fails to cooperate with the reasonable requests of the Comptroller General in carrying out his duties under this section, for so long as such failure to cooperate continues.

H.R. 5192

By Mr. TAUKE:

—Page 41, after line 4, add the following:

"(8) describe in a comprehensive manner any development project for which funds are sought under the application and include—

"(A) a description of the various components of the development project, including the estimated time required to complete each such component;

"(B) in the case of any development project which consists of several components (as described by the applicant pursuant to subparagraph (A)), a statement identifying those components which, if separately funded, would be a sound investment of Federal funds and those components which would be a sound investment of Federal funds only if funded under this title in conjunction with other parts of the development project (as specified by the applicant);

"(C) an evaluation by the applicant of the priority given any development project for which funds are sought in relation to any other projects for which funds are sought by the applicant under this title, and a similar evaluation regarding priorities among the components of any single development project (as described by the applicant pursuant to subparagraph (A));

"(D) in the case of a request for an award for a period of more than one year, a statement of reasons explaining why funds are necessary for each year of such period and why a single year award would be inadequate;

"(E) information explaining the manner in which the development project will assist the applicant to prepare for the critical financial problems that all institutions of higher education will face during the subsequent decade as a result of declining enrollment, increased energy costs, and other problems;

"(F) a detailed budget showing the manner in which funds for any development project would be spent by the applicant; and

"(G) a detailed description of any activity which involves the expenditure of more than $25,000, as identified in the budget referred to in subparagraph (F).

Page 41, line 3, strike out "and"; line 4, strike out the period and insert in lieu thereof "; and".

—Page 41, after line 4, insert the following new sections:

"APPLICATION REVIEW PROCESS

"SEC. 306. (a) The Secretary shall request from institutions of higher education nominations of persons qualified to review applications for grants under this title. The Secretary shall review the nominations received under this subsection and shall select from among such nominations a sufficient number of qualified individuals to conduct the reviews required under subsection (b). Included among the individuals selected by the Secretary shall be representatives of the types of institutions receiving grants under this title. No individual shall be selected by the Secretary unless such individual has expertise in the evaluation of projects described under section 304(a) and is sensitive to the unique needs of developing institutions.

"(b) (1) All applications submitted under this title by institutions of higher education shall be read by a panel of readers composed of individuals selected by the Secretary under subsection (a). The Secretary shall ensure that no individual assigned under this section to review any application has any conflict of interest with regard to the application which might impair the impartiality with which the individual conducts the review under this section.

"(2) All readers selected under subsection (a) shall receive thorough instruction from the Secretary regarding the evaluation process for applications submitted under this title, including—

"(A) explanations and examples of the types of activities referred to in section 304(a) that should receive special consideration for grant awards under this title;

"(B) an enumeration of the factors to be used to determine the quality of applications submitted under this title; and

"(C) an enumeration of the factors to be used to determine whether a grant should be awarded for a project under this title, the amount of any such grant, and the duration of any such grant.

"(c) In awarding grants under this title, the Secretary may take into consideration only those factors enumerated under the instructions given to the readers under subsection (b)(2), and only to the extent and in such manner as specified under such instructions.

"COMMITTEE ON REVIEW

"SEC. 307. (a)(1) There is established a committee to be known as the Committee on Review (hereinafter in this section referred to as the "Committee"), which shall consist of ten members appointed by the Secretary, as follows:

(A) One member who is a representative of private junior colleges.

"(B) One member who is a representative of private institutions that award bachelor's degrees.

"(C) One member who is a representative of public junior or community colleges.

"(D) One member who is a representative of public institutions that award bachelor's degrees.

"(E) Six other members who are representatives of any of the institutions referred to in subparagraphs (A) through (D).

"(2) In appointing the members of the Committee, the Secretary shall consult with, and review any recommendations received from, associations which represent the interests of the various sectors of the post secondary education community.

"(3) No individual who is an officer or employee of the United States shall serve as a member of the Committee.

"(4) The terms of the members of the Committee shall be two years, except that of the members first appointed, five shall be appointed for terms of one year, as designated by the Secretary at the time of appointment.

"(b)(1) Any vacancy in the Committee shall be filled in the same manner in which the original appointment was made.

"(2) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

"(3) A member may serve after the expiration of his term until his successor has taken office.

"(c)(1) Members of the Committee shall each be entitled to receive $150 for each day (including travel time) during which they are engaged in the actual performance of the duties of the Committee.

"(2) While away from their homes or regular places of business in the performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

"(d)(1) The Committee shall review, for each fiscal year beginning after September 30, 1980, all grant award recommendations made by the readers used by the Secretary to review applications under this title pursuant to section 306. After reviewing such recommendations, the Committee shall submit to the Secretary a report which contains—

"(A) the recommendations of the independent readers regarding the institutions to be awarded grants under this title;

"(B) such recommendations as the Committee considers appropriate to provide for equitable adjustments in the amounts recommended by the readers for grants in order that the total amount recommended for all grants under this title shall not exceed the amount appropriated for such purpose, such other recommendations as the Committee may consider appropriate, and an explanation of the reason for each recommendation; and

"(C) recommendations of the Committee (reflecting any adjustments required to be made under subparagraph (B)) regarding the amount and duration of any grant to be awarded under this title.

"(2) The Secretary shall be responsible for reviewing the report submitted by the Committee and for making the final determinations with respect to grants under this title.

"(3) Not later than June 30 of each year (beginning in 1981), the Secretary shall publish in the Federal Register, in ranked order reflecting the amount of any grant awarded under this title, the following information:

"(A) The name of each institution which submitted an application under this title.

"(B) The average score given to any such application by the readers under section 306, and any changes in the average score recommended by the Committee (including an explanation of the reasons for such changes).

"(C) The recommendations of the Committee regarding the recipients of grants under this title and the amount of such grants.

"(e) The Secretary shall provide to the Committee such administrative support services and personnel as the Committee may request to enable it to carry out its duties under this section."

Page 41, line 6, strike out "306" and substitute "308".

Page 42, line 17, stirke out "307" and substitute "309".

Page 43, line 12, strike out "309" and substitute "310".

—Page 89, after line 14, insert the following new subsection (and redesignate the succeeding subsections accordingly):

(b) Section 428(d) of the Act is amended—

(1) by redesignating clauses (A) and (B) of paragraph (2) as clauses (i) and (ii), respectively;

(2) by redesignating paragraphs (1) and (2) as subparagraph (A) and (B), respectively;

(3) by inserting "(1)" immediately after "(d)"; and

(4) by adding at the end thereof the following new paragraph:

"(2) No provision of any law of the United States or of any State (other than a statute applicable principally to such State's student loan insurance program) which prohibits or restricts the attachment or garnishment of wages, salaries, or commissions under the control of an employer or any other person in order to enforce a money judgment for the repayment of a loan shall apply if—

"(A) such judgment is obtained by the United States; and

"(B) such loan is insured (i) by the United States under this part, or (ii) by a State or nonprofit private institution or organization under a program covered by an agreement made pursuant to subsection (b) of this section.".

—Page 114, after line 11 insert the following new subsection:

(c) Section 467 of the Act is amended by inserting "(a)" immediately after "SEC. 467." and by adding at the end thereof the following new subsection:

"(b) No provision of any law of the United States or of any State (other than a statute applicable principally to such State's student loan insurance program) which prohibits or restricts the attachment or garnishment of wages, salaries, or commissions under the control of an employer or any other person in order to enforce a money judgment for the repayment of a loan shall apply if such judgment is obtained by the United States for the purposes of collection under section 463 (a)(5) or under subsection (a) of this section of a loan made under this part.".

EXTENSIONS OF REMARKS

TRIBUTE TO CHARLES A. BISBEE ON HIS RETIREMENT AS SUPERINTENDENT OF THE HOLYOKE SOLDIERS' HOME

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. CONTE. Mr. Speaker, I would like to take this opportunity to publicly acknowledge and tribute my friend Charles A. Bisbee of Chesterfield, Mass., who recently announced his intended retirement from the superintendency of the Holyoke, Mass., Soldiers' Home effective December 28, of this year.

Charlie's tenure as superintendent of the Holyoke Soldiers' Home and as president of the National Association of State Veterans' Homes was the culmination of a long and distinguished career in public service. He served as Representative to the Massachusetts State House from 1949 to 1963, then as State Senator from 1963 to 1966. At the completion of his term in the senate, he was appointed to the post of associate commissioner of the State Department of Public Works by then Governor John Volpe.

Although Charlie's career in government may have given him the administrative expertise necessary for oversight of the Holyoke Soldiers' Home, his career in the military provided him with insights into the situation of the veteran—insights that were manifested in his compassionate manner of providing services at the soldiers' home in the face of tight budget constrictions. Charlie gained his firsthand knowledge of the military in World War II, having entered the U.S. Army as a private in 1942, and having been discharged from active duty as a captain in 1946.

Charlie is a graduate of Northampton Commercial College and the New England Institute of Embalming. His family has operated the Bisbee Funeral Home in Chesterfield for many years, and Charlie has always been one of the most active members of that community. He has been chairman of the town's civil defense committee, master of the Chesterfield Grange, commander of the Cummington Post of the American Legion, and member of the Hampshire Lodge of Masons.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

I have always shared Charlie's concerns over providing adequate housing and health care for those who have defended this country in military service, and who are indeed in need of these facilities. Charlie coupled his concerns with his administrative talents and served a stewardship that was both able and humane. His position as president of the National Association of State Veterans' Homes gave him a broad perspective on the needs of veterans, a perspective he often shared with me, his friend and Congressman. He never let down the veterans of western Massachusetts.

I hope my colleagues will join in honoring Charles Bisbee on his retirement, and wish him good health and good fortune in the years ahead. He will be missed not only as a fine administrator, but as a true patriot and humanitarian.●

IN SUPPORT OF HOSPITAL COST CONTAINMENT

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. ROSENTHAL. Mr. Speaker, this year Congress can take a decisive step against continued hospital inflation. Although rising costs have been evident in other segments of the economy, inflation in the hospital industry is all the more insidious because of its persistence over the years and its heavy toll on all American pocketbooks. Although 90 percent of all Americans are covered by some form of health insurance, Federal, State, and local governments pay for 55 percent of all hospital costs. Thus, increasing hospital expenditures produce an ever-growing tax burden while health insurance premiums and out-of-pocket expenditures continue to rise as well.

Congress has, in the hospital cost containment legislation, a good opportunity to save billions of dollars for the Government and individual hospital patients because the legislation is relatively inexpensive to administer. A recent New York Times editorial points out the urgent need for this program and discusses the success that similar State programs have had in recent years. I urge my colleagues to support this legislation and include the editorial in the RECORD at this point:

CURBING HOSPITAL COSTS

Maybe there is going to be a national hospital cost control law after all. The Carter administration proposed and the Senate approved such legislation last year, but the House Commerce Committee prevented action. Yesterday the committee filed a report endorsing a cost control bill. The House Ways and Means Committee had already approved a similar bill. Backers of the idea to force hospitals to hold costs down believe the favorable action by two powerful committees may forecast victory in the House during this session of Congress.

It is by no means certain. The lobbyists for hospital and physicians organizations have been successful in convincing many reoresentatives that anything but a voluntary approach to hospital cost controls would result in bureaucratic restrictions on hospitals that would be very unpopular with their constituents. This is an appealing argument in this age of deregulation, but it is, we believe, wrong.

For many years the rise in hospital costs ran far ahead of that for other segments of the economy. Even now, when hospitals across the nation are involved in an organized voluntary effort to hold down costs, their inflation rate still is outpacing the consumer price index.

Whatever success has been achieved under the voluntary program is due in large part to the fear in the profession that without such a program, mandatory controls will be imposed. If legislation invoking mandatory controls becomes a dead issue, you can look for hospital costs to begin climbing even faster.

The legislation Congress is being asked to pass allows for voluntary efforts to cut costs, with no red tape. Only if the voluntary goals are not met does the mandatory program take over.

Bureaucratic intereference with and burdens upon hospitals are not inevitable with a mandatory program. Maryland has had a mandatory hospital cost control program for five years that has not harmed hospitals but has slowed inflation. In the past two years, costs to patients and insurers here rose at only about two-thirds the nationwide rate.●

THE CUBAN CRISIS, 1979

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. McDONALD. The Foreign Relations Committee of the American Legion recently proposed a resolution on the current Cuban crisis over the question of Soviet combat formations present on the island. This resolution was subsequently passed by the National Executive Committee of the American Legion this October. The resolution calls for a complete accounting of Soviet missiles, troops, ships and planes on the island of Cuba. The American public has a right to know the size of the dagger that is pointed in our direction. Therefore, I feel this resolution, which has been sent to the President, should be acted upon by the President and the Congress forthwith. I hope my colleagues agree.

The text of the resolution follows:

RESOLUTION

Whereas, agreements were made on October 28, 1962, between the governments of the Soviet Union and the United States which included, among other provisions, the establishment of Soviet bloc military forces and equipment in Cuba,

Whereas, large numbers of Cuban troops, technicians, and Soviet equipment have been deployed to Africa, Central and South American countries and other parts of the World during the past decade, and

Whereas, current estimates of Soviet bloc forces located in Cuba vary from 3,000 to 30,000 personnel and the sizes of Soviet fleets, air squadrons and military equipment also vary, and

Whereas, the Administration states that the United States has the capability of determining and verifying Soviet activities and military forces wherever they exist, and

Whereas, the real issue has been covered up—how many Soviet airplanes, bombers, missiles and submarines are stationed in Cuba and whether any submarines are stationed in Cuba and whether any submarine bases have been established there, are far more dangerous to our security and those neighboring nations than a few Soviet armed forces. The American People are entitled to know the truth in order to adaquately counteract the spread of communism in the Western Hemisphere, now therefore, be it.

Resolved, by the National Executive Committee of The American Legion in regular meeting assembled in Indianapolis, Indiana, on October 17–18, 1979, that The American Legion urges the administration to determine and make public any agreements which exist between the Soviet Union and the United States regarding Cuba, and further determine, verify, and make public the size, types, and locations of any and all Soviet bloc military forces and equipment currently located inside and nearby Cuba and be it further

Resolved, that the United States Congress require the executive branch to make such information available to the public.●

YEAR OF THE CHILD

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mrs. SCHROEDER. Mr. Speaker, as we gear up for the fun and festivities of Halloween, I would like to insert the following editorial from the Denver Post, reminding my colleagues of the noble efforts of the UNICEF program. It is only appropriate that in the International Year of the Child we honor efforts where children are helping children. UNICEF, is one of those efforts. The amount of money they raise during Halloween may not be the megabucks that corporations or Congress can muster, but the genuine simplicity and sincerity of the spirit behind those contributions cannot be matched anywhere:

YEAR OF THE CHILD

There is grim irony in the designation of 1979 by the United Nations Children's Fund (UNICEF) as International Year of the Child.

The objective had been to make it a time of celebration and hope everywhere for children, the most helpless of our kind. It turned out to be a year of hunger, fear, desperation and death.

Millions of children in Cambodia are starving. Unknown dangers on high seas and hostile shores await thousands of boat people and their families fleeing oppression in Vietnam. Civil war in Nicaragua left 80 percent of the children diseased and undernourished. The fighting in Uganda destroyed schools, left wells polluted and made life a shambles. The list of disaster areas could go on—Afghanistan, the Kurdish areas of Iran, Ethiopia.

UNICEF ability to bring relief to some of these areas is limited. But the story is not all grim. In more than 100 countries it has helped to make the future of youngsters a little brighter and more hopeful.

Each year at Halloween American children are given an opportunity to share their plenty and good fortune in a small way through UNICEF. Little ghosts and goblins are encouraged to collect money to support UNICEF's humanitarian goals instead of "trick or treating" for themselves.

Trick or Treat for UNICEF was begun by a Sunday school class in Pennsylvania 28 years ago when its members raised $17 for less fortunate children. Over the years others joined the crusade: $50 million has been raised to support nutrition, education and health programs.

This year the need is greater than ever. Parents once again can support UNICEF, and teach their children something about social responsibility, by encouraging them to collect dimes and quarters for other little kids instead of candy for themselves.

There are two other activities in the Denver area this month for the benefit of children that deserve mention. An international gourmet dinner for the benefit of UNICEF is being held Oct. 26. And the third annual Diplomatic Ball, sponsored by the Consular Corps of Colorado for the American Field Service student exchange program, is scheduled for Oct. 20. The student exchange program enables high school youngsters from many nations to study for a year in the United States while living in American homes. American students also go abroad. They pay their way when they can, but funds are needed to supplement parental contributions.

Today's children are the hope of tomorrow. Programs to improve their health save them from hunger and privation, enhance their understanding and develop leadership, need our support.●

BUDGET DEFICITS CAUSE INFLATION

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. DANIEL B. CRANE. Mr. Speaker, finally many people are beginning to see that the source of inflation is one place and one place only—this House Chamber.

As Nobel prizewinners Frederick Hayek and Milton Friedman have been teaching for many years, inflation results when worthless printing press "funny money" is dumped on the economy to cover the excesses of Congress.

The Olney, Ill., Daily Mail has reminded us of our duty to the taxpayers. Although this newspaper laments the lack of fiscal integrity in the House, and opines that we have forgotten the necessity of balancing the budget, I hope that is not the case. In fact, the past few years have evidenced remarkable progress in convincing the liberal big spenders of the error of their ways. We are still a few votes short of keeping wasteful spending under control, but the next couple of elections may well turn this around.

My colleagues would do well to heed the warning of the Olney Daily Mail.

The article follows:

[From the Olney (Ill.) Daily Mail, Oct. 3, 1979]

FORGOTTEN DISCIPLINE

With all the far-reaching economic adjustments put into effect or proposed for congressional action, the one major stimulant to inflation remains unchecked. The federal budget for the current fiscal year is falling deeper into deficit spending.

It is futile at this point to predict with any degree of certainty what the eventual deficit may be, although the budget office undoubtedly will spend many hours doing so. The track record on predicting deficits in recent years has been dismal.

But the slowdown in the economy does guarantee the mix thrown into the projections a few months ago already is outdated. Should revenues not meet budgeted anticipations or expenditures continue to rise—both very real possibilities—the anticipated deficit will grow.

In which case some will argue that sizable deficits are not all that bad during periods of recession. They may even be necessary to expand the economy.

If that is true, deficits exceeding $50 billion in a two-year period ought to provide much stimulation. Have they? Not noticeably.

Nor is a still heavier dose of the same weak medicine the answer to improved economic health, as undoubtedly some will propose. The solution to fiscal solvency requires lowering budget deficits, not expanding them.

That is a discipline all but forgotten in Washington. Neither the Carter administration nor Congress seems disposed to try it now.●

THE UNITED STATES AND OVERSEAS CONSTRUCTION

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. MICHEL. Mr. Speaker, rather than analyzing the article I am about to insert in the RECORD, allow me to simply list three of the facts contained in the article. Once you see these facts, I know you will want to read the article itself, to see why our Nation finds itself in such a dilemma.

Here are the facts:

When it comes to international construction, that is, construction performed by one nation's companies within the borders of another nation, the United States is in fifth place among the world nations. Five years ago we dominated this field.

Between June 1975 and April 1978, European firms captured 51 percent of the construction contracts in the Middle East. U.S. firms had to settle for 10 percent.

In 1976 the United States had 18 percent of all overseas business in construction work. By 1978 that figure was down to 7.9 percent and falling.

At this point I insert in the RECORD, "Foreigners Surpass U.S. Overseas: Government Bears Brunt of Blame" from Construction Equipment magazine, October 1979:

FOREIGNERS SURPASS U.S. OVERSEAS: GOVERNMENT BEARS BRUNT OF BLAME

Only five short years ago, American knowhow dominated the overseas construction scene. Work volume and volume of heavy equipment exports far outstripped that of our foreign counterparts.

Then we, the Gentle Giant of the Western World, developed an incurable case of international scruples. We are hobbled by our own legislative hands, and continue to pour dollars into oil-producing countries rather than attract some of that money back. And as a result, our lofty position in international construction has slipped to fifth.

True, the dollar volume of Middle East construction is not what it used to be. But relatively speaking, U.S. contractors are being shorn of their competitive edge.

Between June, 1975 and April, 1978, European firms captured 51 percent of the construction contracts in 14 Middle East countries. Asian—mostly Japanese—firms grabbed 27 percent. This left U.S. firms with a paltry 10 percent, although they hold up to 40 percent of the world's construction and engineering capacity, estimates the accounting firm of Arthur Andersen & Co.

EUROPE EDGES U.S.

And, as Henry Kissinger once noted, stronger European trade and political alliances are surfacing somewhat at the expense of American clout abroad. A French firm recently won a $430 million design construction project package in Iraq. A British company picked up a $42 million airport paving job in Jordan. A Dutch joint venture took a $16.5 million harbor dredging contract near Qatar. And Kuwait's version of Disneyland, designed by an American firm, will be created by an Italian construction firm.

U.S. firms have lost that inside track on the path to overseas work. The United States is surpassed by Japan, South Korea, West Germany and—that's right—Italy. In 1976, U.S. contractors gulped 18% of all overseas business. By 1978 the percentage nosed down to 7.9% and falling, figures from National Construction Association show.

"I don't think the Europeans or the Japanese are any better than us in buliding things," says William A. Hoffman, Jr., principal owner and president of Hoffman International, Inc.

Hoffman, whose construction company did 65% of its $16.5 million business abroad in 1978, pinpoints several factors frustrating U.S.-based international contractors.

"It's simply a dollar-and-cents thing where they (foreign firms) can construct more cheaply because they have government assistance," he says.

Some trade experts believe, for instance, the Koreans are nearly unbeatable on underground utility, power station, site development and foundation bids because of the enormous government support.

"Most of the European countries and Japan have protection of credit and from the political risk of doing business in a foreign country, low interest rate loans and favorable tax treatment—all the things that we don't do in the United States," says Hoffman.

What the United States does do in the tax arena hurts plenty. While other governments do not tax their nationals working outside their borders, the U.S. Government imposes normal Federal income taxes on Americans working overseas. Still worse is that many competing nations in fact give their laborers incentives to go to work abroad.

LEGAL OVERKILL

In fact, a glut of rules and regulations affecting overseas business hobbles U.S. firms.

Much the same apologetic mood, which after Watergate ripped the cloak and dagger from the Central Intelligence Agency, also impedes U.S. contractors' overseas business. The Foreign Corrupt Practices Act and various anti-boycott rules make it difficult for U.S. firms to operate in the Middle East, a real construction hot spot until last year.

Even environmental regulations hold back U.S. business abroad. In 1978, for instance. Congress almost stuck environmental riders on the back of any loans to come out of the Export/Import Bank.

"Thus," says Los Angeles Times columnist Nick Thimmesch, "a loan for construction for a coal-fired electric plant in West Germany would have had to guarantee that the plant would not contribute to acid rainfall in Scandinavia."

In the export of heavy equipment too, the U.S. Government seems to be the country's own worst enemy.

Even though the wind is getting knocked out of the sails of U.S. firms trying to compete abroad, restrictive rules roll on. Robert M. Gants, vice president of the National Constructors Association and committee director of the U.S. & Overseas Tax Fairness Committee, sees tax and antitrust laws as the culprits.

"The United States is being held back from effective competition overseas by antitrust laws that may have merit in our domestic economy, but that have little real basis in international arena," he says.

Gants says that companies are leary of combining forces into export associations. Because of ambiguous antitrust laws, potential members fear their alliance may nail them with a lawsuit.

"You sometimes think that the way our legislators operate is inscrutable," says Ernie Burali-Forti, director of FMC Corporation's Construction Equipment International Division.

Burali-Forti notes that a sure-fire way of funneling your country's money back home is through a giant, solid business like construction exports. But even with a record trade deficit in 1978 of $28.5 billion, U.S. equipment manufacturers find it harder than their foreign counterparts to do business abroad.

"The trade deficit function of exports has been very well understood by other countries, but not by the United States," he says.●

THE MESSAGE FROM THE GOLD MARKET

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. PAUL. Mr. Speaker, there has never been a government in history that could be trusted with a printing press, and this one is no exception.

Once all discipline is removed from the money supply—once there is no backing by something of intrinsic value—there is no restraint on the politicians' desire to expand government "services" without increasing open taxes, by simply printing up the cash and expanding credit in the banking system.

President Nixon removed the vestiges of gold backing for our dollar in 1971. Since then, the politicians have gone wild.

As paper money loses its value more and more quickly, people all over the globe are turning once again to gold—that form of money that keeps its value no matter what governments do or do not do.

When even the establishmentarian Fortune can discuss the official remonetization of gold, we may be on the way to dollar sanity: A full gold-coin standard.

Only this, and nothing less, will prevent political abuse of the people's money.

[From Fortune, Nov. 5, 1979]

THE MESSAGE FROM THE GOLD MARKETS

(By Martin Mayer)

The gold market has always had some confusing sleight-of-hand qualities, but like all markets it conveys messages. And the message from its recent gyrations is unmistakable. The ten-year-old U.S. effort to demonetize gold—to make the metal just another commodity, like rubber or tin—is faltering. A monetary system based on paper alone has proved to be inflationary and is increasingly unacceptable to much of the world.

The appropriate response to this message is not quite so clear. The U.S. Treasury acknowledges that its policies happen to look bad right now, but believes that everything will be okay if people will only show some patience. The European central banks argue that gold's assault on the dollar might end if the Federal Reserve System would set U.S. interest rates at levels that offer savers a "real" return of at least 3 percent—and keep them there. The staff of the International Monetary Fund has pushed for something called a "substitution account," which might offer dollar holders who want out an alternative to gold. On October 6, by moving dramatically to increase the cost of lendable funds, the Fed signaled its agreement that the problems of the dollar had reached crisis proportions.

Out in the private sector, as the market testifies—and, secretly, inside many of the finance ministries—economists are beginning to feel that none of this will work; the disarray of the monetary system is structural, and what was described from its beginnings in the mid-1970's as a "nonsystem" cannot be made to function by any political process now known to man. Eminent figures, far from the "goldbug" lunatic fringe, have begun to call for a complete reversal of policy, for an acknowledge "remonetization," for a dollar once again officially convertible to gold. Not, of course, at the price of $35 an ounce that the U.S. maintained from 1934 to 1971 (while the prices of everything else tripled), but at a price related to what has been paid this year in the markets. Asked about the prospects for remonetization at his October 9 news conference, President Carter said, "I doubt that that's in prospect." But then, sounding not very sure of himself, he added, "Certainly not for this year."

The news stories from the gold markets have stunned many Americans, but they have not really conveyed the sense of astonishment felt by the experts. Nobody ever predicted—nobody ever imagined—the tidal wave that has swept over the gold markets in the wake of demonetization. All the recognized oracles, in fact, had pointed the other way. In 1960, the *Economist* printed a fantasy, supposedly the future memoirs of the then director of the International Monetary Fund. The memoirs revealed that demonetization, the refusal of the monetary authorities to buy gold at a fixed price, had made the metal all but worthless—until the Bank of England found that dentists would pay $2.50 an ounce for gold to be used in fillings.

For those looking at a possible remonetization of gold, the key question is whether the monetary authorities have been buying. The official American position is that nothing of the sort has happened, and to keep people from thinking the contrary Washington has been emitting some loud high-pitched noises that come out sounding like a whistle in a graveyard. "Since there's no indication that central banks are involved in the buying," the Treasury's F. Lisle Widman insisted, commenting on this September's run-up in gold, "we're not really concerned."

It's true that only one central bank—Singapore's—is publicly active in the gold markets, and that only thirteen governments of less developed countries have placed "reserve bids" with the IMF at its monthly auctions (thereby guaranteeing their acquisitions of gold at the average bid price). And none of the major financial powers represented in the Bank for International Settlements reports any increase in its gold holdings.

Widman's confidence may nevertheless be misplaced, for there may be a considerable volume of demand out there representing governments. In Saudi Arabia, for example, there is little difference between purchases by banks and purchases by the government. Another ambiguous case: last year, Brazil and Argentina borrowed heavily in the Eurodollar market and bought marks with the proceeds, contributing to the turmoil in the currency exchanges; this year, they are believed to be reducing their dollar reserves still further and squirreling away gold. Traders say that the Japanese government has arranged for the purchase of gold by Japanese industry, allegedly for stockpiling purposes, but possibly to increase the government's own holding in ways that would not have to be reported to the IMF or the BIS. Both Robert Guy of Britain's N.M. Rothschild & Sons Ltd. and consultant Edward M. Bernstein, the eminent American analyst of balance-of-payments problems, have said in recent months—as statements of informed belief rather than solid fact—that a number of central banks are surreptitiously in the market.

Geoffrey Bell of the British banking house of J. Henry Schroder, who is running a new Rockefeller Foundation project studying the international monetary system, has a more cautious formulation. "We don't know if the central banks are buying," says Bell. "What we can say for sure is that none of them is selling." Since the gold run-up began half a dozen years ago, noticeable quantities of gold have been released to the market only by bankrupt Portugal and Zaire, India (in an effort to control its own black market), Mexico (in its time of troubles in 1977), the IMF, and the United States. "There's a difference between gold and tin as commodities," Bell comments. "The difference is that central banks don't hold tin in their reserves.". . .

Anyone looking for evidence of creeping remonetization might find some in the design of the European Monetary System, which was put in place in early 1979 to link the currencies of Germany, France, Italy, Benelux, Denmark, and Ireland. At its center is a European Monetary Cooperation Fund—a pooled reserve of foreign currencies and gold on which the member countries can draw to intervene in the markets for purposes of maintaining the relative parity of their currencies. At market-related prices recently, the gold component of the EMS reserves ran more than $30 billion, or about two-thirds of the total fund.

The U.S. Treasury, predictably, discounts the significance of this gold-based reserve, Under Secretary Anthony Solomon attributing it to the Europeans' "need to come up with as large a sum as possible in the pooled accounts." Deputy assistant secretary Widman claims that "they had no other way to allocate drawing rights on their fund."

Anthony Solomon insists that all this government gold is *not* money—at least, not money that the governments would ever consider using to pay their bills. "There's more turning to gold as a storehouse of value," he says. "I agree with that. But you have to look at money in a narrower sense. Will the central banks depart from their understanding not to transfer gold to each other as payments? I don't see any likelihood that the central banks and the governments would *ever* agree to remonetization "

Solomon's comment looks more like a game played with definitions than like a sober view of realities. Since the days of Sir Thomas Gresham (who died in 1579), it has been understood that "bad money drives out good"—that whenever people have a choice between two moneys they will tend to spend one of them (the "bad" money, which is expected to lose value over time) and hoard the other (the "good" money, which is expected to retain its value)....

It is Gresham's Law that, finally, explains why the runup in gold prices fails to provide mountainous new supplies. Whatever the new rules are at the IMF, the world's monetary authorities want to keep gold as the convincing reserve behind their currencies—as the "good" money that everyone will accept in the worst crunch. And if the governments don't trust each other's paper, the world's private hoarders are unlikely to disgorge their gold....

At first, the Treasury took the position that this frenzy in the gold market was irrelevant to the condition of the dollar—after all, gold prices were rising in all currencies, not just dollars. In the end, however, the United States cannot ignore the worldwide gold frenzy, because it can lead to a spiral of dollar depreciation and domestic inflation of disastrous significance.

The danger lies in the fact that the vast majority of the gold purchasers are spending dollars, not other currencies, to buy the metal. They are the same people who last year bought marks and francs, driving down the exchange value of the dollar. And even when the markets finally begin to view gold as "fully priced," the dollar itself may not recover. The world looking at the dollar will see a stock problem (immense holdings in weak hands) as well as a flow problem (American deficits, which may or may not persist through the recession). Eighteen months after the then director of the International Monetary Fund proposed a "substitution account" to remedy the stock problem, U.S. policymakers have finally, grudgingly, conceded the need for such a program. But it is not expected to start for at least two years, and we don't have that much time.

In the eyes of a growing number of analysts, an option that we do have is open and aboveboard remonetization of gold. The U.S. could again offer to buy or sell gold for dollars at a certain price, or within certain price ranges. A report calling for consideration of a return to official dollar-gold convertibility has been issued by a new International Monetary Advisory Board including Martin Feldstein (president of the National Bureau of Economic Research), Arthur Laffer, Nicholas Krul of Geneva's Gulf & Occidental Investment Co., and Kurt Richebächer, executive manager of the Dresdner Bank. Eugene Birnbaum, chairman of the board, has gone further, calling for a return to pegged exchange rates based on an established price for gold.

Some Americans who have been scornful of gold in the past have begun to argue that its return is not necessarily detrimental to U.S. interests. "What should our attitude be to what's happening in the gold market?" Congressman Henry Reuss ruminated the other day. He has been chairman of the international payments subcommittee for eighteen years, holding annual hearings on monetary problems,. in which he enthusiastically supported the reduction and then elimination of gold as a monetary factor. "Well, I don't think we should spend any time trying to fight gold or demonetize it, or bring down the price by dumping. We should thank our lucky stars we've got it."

A return to gold cannot be achieved by the stroke of a pen, however, and the Bretton Woods system is gone forever. The purpose of fixing a price range for gold would now be to discipline a multicurrency system rather than to keep a single currency (the dollar) as a fixed reference point. All the major trading nations are now and would continue to be gold holders, and the price range would have to be set by agreement. What that range should be is a crucial decision: set too low, the gold price might lead to a deflationary drain of gold to private (and Arab government) holders; set too high, it might stimulate rather than repress inflation.

However difficult the remonetization of gold would be, the maintenance of today's international-exchange system, with its demonstrated inflationary bias, seems impossible. The private markets have lost their faith, not just in currencies, but in governments (including international governmental bodies), and now demand some degree of "automaticity" in the system. Whatever its defects, gold seems to offer at least a degree of automaticity. Unless some other credible source of monetary discipline can be found, structuring the system to make central bankers fear the loss of gold will look increasingly attractive.

Perhaps the most persuasive American advocate of a return to convertibility was the late Milton Gilbert (he died several weeks ago), who had been chief economist of the Bank for International Settlements in Basel. Gilbert liked to tell a story from his early days on that job. Among the assistants he found waiting for him, he recalled, was "a very intelligent young Italian. Once a month he took part of his pay, and bought gold coins for his wife. I remonstrated with him about it once, and he said, 'Look, don't you Americans come over here and try to tell us how to live. I go home and I give that coin to my wife, and I tell her, "If something happens to me, and to the bank and all the governments, you can go into the countryside and give it to a farmer, and with that coin you can eat for a week." ' I came around to the opinion that he knew something I didn't know." ●

LEST WE FORGET

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. McDONALD. Mr. Speaker, today we were supposed to consider H.R. 5461—a bill to make Martin Luther King's birthday a paid Federal holiday. There are many reasons to be opposed to another Federal holiday, but lest we forget some of King's prior associations and activities, I would like to place in the RECORD at this point an article from the Review of the News for April 24, 1968. I commend it to the attention of my colleagues:

LEST WE FORGET

Who killed Martin Luther King? And why?

Well, who stood to profit?

You will recall that King first came to notice in 1955, as head of the Montgomery Bus Boycott launched by Mrs. Rosa Parks. Mrs. Parks was a student at the Highlander Folk School, which was organized with the help of Don West, then district director of the Communist Party of North Carolina, and which was of course a Communist training school—cited as such by several government agencies. And King ran the boycott of the Montgomery Improvement Association, which had been formed by the Rev. Fred Shuttlesworth, who is a former convict, says the Joint Legislative Committee on Un-American Activities of the State of Louisiana, and "has been affiliated with several communist-front organizations."

Another former convict is Bayard Rustin, who in 1953 was arrested by the Pasadena Police Department for homosexual activities. The Allen-Scott Report for August 16, 1963, reports that in 1936, as a college student, Rustin joined the Youth Communist League, "and was active in its operation on the campus and elsewhere"; and that in World War II, he was arrested for making speeches opposing our war against Hitler, and served twenty-six months in federal prison.

And in 1955 he became Dr. King's "secretary."

In March, 1957, at a meeting in Atlanta, they formed the Southern Christian Leadership Conference. The meeting probably couldn't have been called in February, because Mr. Rustin, Dr. King's secretary, was then attending the sixteenth national convention of the Communist Party.

The president of SCLC was of course the Rev. Dr. King. The vice-president of SCLC was the Rev. Fred Shuttlesworth. And Shuttlesworth later also became the new president of the Southern Conference Educational Fund—which has been described by three government agencies as a department of the Marxist Conspiracy. It was organized by Communists, is run by Communists and is the most important Communist organization in the South.

Mr. Carl Braden has served as field director and has been named under oath as a Communist Party member. His wife Anne, an SCEF official, has also been named under oath as a Communist.

Mr. Braden is a former convict, of course. You have to be to get anywhere in the Movement. While in Louisville, he was convicted of a felony—a little matter involving some dynamite.

Mr. Aubrey Williams was SCEF president until 1963. In April, 1954, he was named under oath as a Communist. It was Williams, a Communist, whom Shuttlesworth—King's vice president—replaced as president of SCEF, a Communist organization.

And there was James A. Dombrowski, executive director of SCEF, who has also been named under oath as a Communist Party member.

On October 7, 1958, Dr. King wrote a letter to Anne Braden, in which he urged her and her husband Carl—both already well known as Communists—to become permanently associated with his SCLC.

And on August 16, 1960, King wrote the following letter to Communist Dombrowski: "Dear Jim, This is just a note to acknowledge receipt of your letters of recent date. We, too, were more than happy to have you in our home, the fellowship was very rewarding. I will expect to hear from you when Bishop Love returns to the country. At that time we can set the date for an Atlanta meeting. Very sincerely yours, Martin."

In fact, King actually filed an affidavit in federal court in New Orleans, strongly supporting Dombrowski and SCEF—and refused to repudiate the affidavit even after being shown proof that he was actually a Communist.

Indeed, a photograph exists which shows Martin Luther King along with Anne Braden, Carl Braden and James Dombrowski (the last three all identified Reds), the back of which reads as follows in Dombrowski's handwriting: "The 6th Annual Conference of the Southern Christian Leadership Conference, Birmingham, Alabama, September 25 to 28, 1962."

And there is a check, issued by the Southern Conference Educational Fund, signed by James A. Dombrowski, and dated March 7, 1963, to the order of Martin Luther King, in the amount of $167.74, with a notation on it: "New York expenses"—and Dr. King's endorsement on the back.

The Louisiana Committee on Un-American Activities concludes that the Southern Christian Leadership Conference—founded by Dr. King—is "substantially under the control of the Communist Party through the influence of the Southern Conference Educational Fund and the Communists who manage it."

There is also the fact that on the Labor Day weekend of the year 1957, in a speech at the Communist Highlander Folk School, King called Communist Aubrey Williams "one of the noble personalities of our times," and had his picture taken with Abner W. Berry, of the Central Committee of the Communist Party.

And there is Hunter Pitts O'Dell, who was exposed in 1956 as a southern district organizer for the Communist Party, in 1962 as a member of the National Committee of the Communist Party—and as late as the summer of 1963, was still employed by Dr. King to help run the SCLC.

In fact, we read in the *Boston Globe* of April 15, 1964: "Official warnings have again been given to King about another, even more important associate who is known to be a key figure in the covert apparatus of the Communist Party. After the warnings, King broke off his open connection with this man, but a second-hand connection none the less continues. . . ."

And last September, the nationally syndicated *Allen-Scott Report* revealed that "the FBI has unimpeachable evidence, including photographs, showing that King is now listening to a man who . . . has been one of the Communist party's biggest money raisers in this country." He it was apparently who wrote King's statement in April, 1967, at the UN, that Congress is "wild with racism"; and his statement later in the year, at his SCLC convention, that the U.S. is the "greatest purveyor of violence in the world today."

Dr. King of course was the inventor of "nonviolence." What actually was "nonviolence?" How did it work? Well, in *Saturday Review* for April 3, 1965, he tells us:

"1. Nonviolent demonstrators go into the streets to exercise their constitutional rights.

"2. Racists resist by unleashing violence against them.

"3. Americans of conscience in the name of decency demand federal intervention and legislation.

"4. The Administration, under mass pressure, initiates measures of immediate intervention and remedial legislation."

Now, remember, this isn't my idea. This is straight from King himself. And observe that according to Dr. King himself, the violence that usually occurred in one of his demonstrations wasn't unexpected, wasn't to be avoided, wasn't something to be sorry about. It was exactly what he wanted. It was the point to the whole Production.

It was in fact, said Dr. King, the *only reason* for a "non-violent" demonstration: to generate more pressure on the Congress to install more collectivism.

"For weeks," explains Newsweek of March 22, 1965, "Martin Luther King had been escalating his Selma voter-registration campaign toward the state he calls 'creative tension'—the setting for a paroxysm of segregationist violence that can shock the nation to action. . . ."

"The Negroes' rationale in holding night marches," explains the New York Times of February 24, 1964, "is to provoke the racist element in white communities to show its worst."

So King's "nonviolence," to repeat, not only wasn't in any way an attempt to avoid violence—according to King himself, violence was an inescapable, essential, desirable part of it. "Nonviolence" meant only that King himself did not use the violence—he caused it. He provoked it, finally forcing "racists"—everyone who doesn't own a pair of sandals and doesn't need a bath—either to lie down and die or to retaliate, so that King could play the innocent victim. "Nonviolence" in short was nothing else but a demonstration of dialectical materialism, the pseudoscience invented by Marx, according to which Marxists advance by controlling both sides of the conflict; by advancing a thesis, which provokes an antithesis—a reaction by reactionaries—a struggle which produces a synthesis, which becomes a new thesis, and continues until the complete victory of Socialism.

"In short," said King in Stride Toward Freedom (New York, Harper & Row, 1958, pp. 94–95), "I read Marx as I read all of the influential historical thinkers—from a dialectical point of view, combining a partial yea and a partial no. . . . The Kingdom of God is neither the thesis of individual enterprise nor the antithesis of collective enterprise, but a synthesis which reconciles the truths of both."

So the ironic truth is that King contributed to his own murder. For in Memphis he was once again applying his philosophy of "nonviolence," was he not? Once again, he was trying to provoke violence according to stage 2 of his tactics.

And he succeeded.

And what were the "immediate intervention and remedial legislation" King was after according to stage 4?

In the Selma March, for instance, in 1965, the violence he provoked according to stage 2, followed on schedule by the sympathy of stage 3, caused the lightning passage of the "voting rights" bill, under which the federal government grabbed from the states power to register voters—the point being, of course, that in any dictatorship, whether Communist or Nazi, all the power must be centralized.

And soon King's organization will launch his "Poor People's March" on Washington. The plan as you know envisions the actual interruption of Congress unless "poor people" are handed about $100 billion—which would be used as usual to recruit, train, finance and defend the Communist gangs which are destroying our country, through the "war on poverty." For such an amount of course you have to put on a good show. You need some really bloody "nonviolence."

And where is it all heading? What is the goal? Suppose the "Poor People's March" does manage to interrupt Congress. Suppose in fact that so many "poor people" physically occupy the government, that the government is paralyzed and cannot function. What would we have?

What we would have of course is the Russian Revolution. We would have a coup—the seizure of our government by "nonviolence": by force.

Now imagine once again that you are one of the small band of rich, educated and not at all oppressed conspirators secretly running the communization of America. And once again you are looking down from your skyscraper in New York. Your scheme to create a race war is going very well. You are sorry you had to wait so long, of course—you remember wishing years ago that you could immediately indulge your great love of killing—but you knew that Americans of both colors had to be properly prepared. So you began with something Americans could be sold: "nonviolent integration," and you used a clergyman named King to sell it—to capitalize on the fact that black Americans have sometimes been the victims of injustice—and to sell it so as deliberately to create the bitterness you need.

But now it's 1968, and your scheme is going very well. There's lots of beautiful killing and blood. "Watts was glorious," you said, if you happen to be Herbert Aptheker. Now you no longer need to bother with such nonsense as "integration." Yet at the same time, you have serious problems. Your use of King is being more and more exposed. His use of violence is becoming understood. Everybody says he is becoming unpopular. In fact, he is turning from an asset into a liability. "Reactionaries" are preventing the passage of important Communist legislation. King is doing his best, but you are having difficulty, for instance, getting that $100 billion.

Suppose King were violently removed? you ask yourself. You no longer need him—so suppose he were brutally murdered as part of his next demonstration of dialectical materialism. That would be the ultimate in "nonviolence." With one 30.06 bullet you could blame "white racism," as usual, restore King's reputation, further accustom Americans to martial law, pass your Communist legislation—and at the same time notify your troops around the country that "nonviolence" is dead, too, and should be replaced by guerrilla warfare.

So you call in your shooters and you order the hit.

Observe the first results of the murder. Riots and looting raged for a week, making Americans of both races furious. Many feel great sympathy for the victim. And in New York, Nelson Rockefeller was able to ram through a $6 billion "urban renewal" program which lets the state intervene over the heads of the mayors.

Rockefeller participated by the way in a memorial march for King, arm linked with Charles Kenyatta, head of Harlem's Mau Mau Society—named for the Communist terrorists of Kenya. Whether or not Kenyatta is just another psycho, I don't know, but he specializes in appearing in public with a machete on which a Bible has been impaled.

In fact that's what he was carrying when Rockefeller took his arm.

And in Washington, Johnson's Communist housing bill was passed. When the Communists grabbed Russia, they naturally also grabbed housing, using the welfare of workers as the excuse. They didn't say they were doing it for black people, because no black people are there. They said that everyone had the "right" to a certain living space, and moved those who had less in with those who had more. Remember that no black people were involved—everybody who was, was as white as the Governor of Mississippi—so those who resisted weren't racists, were they? They resisted because the point as always was not to establish "racial justice," but to control the population. And Party members and sympathizers naturally got the best.

The same thing will now begin to happen here.

This is why we must continue telling the truth about Martin Luther King; not for revenge, or just to destroy a phony reputation, but because of the use to which his murder—like that of John F. Kennedy—is being put.

So who killed King?

The fact that Ramsey Clark heads the investigation is suspicious enough. Anybody who believes Clark has any interest in truth should be sent immediately to me. I'm trying to sell the Brooklyn Bridge. And observe that his investigation already smells like last week's mackerel.

If and when Clark ever presents a suspect, you can bet we will be told that he is a "right-wing extremist."

So what should Americans do now?

1) Demand that we be told all the facts and that the investigation continue until King's killers are found. Then we might as well also find out who killed Medger Evers, blew up the four little black girls in that church in Birmingham in 1963, and helped Communist Oswald kill Kennedy.

2) Refuse to be intimidated. King was almost entirely a creation of public relations—of a bunch of crooked reporters, most of them white. Like the barrage of publicity after the Kennedy assassination, the current propaganda is designed not only to advance Communism but to demoralize the opposition—to make Americans uncertain and guilty. In fact, on Long Island, for instance, hoodlums stoned automobiles whose drivers refused to turn on their headlights "for the King." Needless to say, the growing number of Americans of both colors aware of what King really was, and really was doing, will not be given coverage on CBS. You are not as alone as that lie net would have you think.

3) Continue exactly as we have been—telling the truth—explaining that "free handouts" are nothing but the bait of dictators; that the trouble in this country isn't caused by black people, but by the small band of criminals—most of them white—who have been framing them; and that the "civil rights movement," which now has taken the life of Martin Luther King, was designed from the beginning to enslave us all.●

YOSEF MENDELEVICH

HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. ZEFERETTI. Mr. Speaker, I would like to call to the attention of my colleagues an article that appeared in the October 7 edition of the Washington Post. The article, by Phil McCombs, describes the plight of Yosef Mendelevich whom I have adopted as my prisoner of conscience. In reading the following column, I ask my distinguished colleagues to reflect on the religious and political freedom we enjoy in the United States and to work for the release of Yosef Mendelevich, who is being denied these basic human rights.

The article follows:

STRUGGLE OF SPIRIT: A SOVIET PRISONER'S FATE AND FAITH

(By Phil McCombs)

After he joined the underground, Shimon Grilius practiced for prison. He slept on a hard bed without a blanket. He put margarine instead of butter on his bread.

"Why are you using margarine?" his mother asked.

He lied so she would not carry a burden.

Three years later, after he had been betrayed, he found that his preparation had not been sufficient. The horror of life in a Soviet prison was unimaginable.

Doubly so for a Jew. Grilius quickly became a very religious, Orthodox Jew. It helped him survive.

"In order to live, you don't just get up in the morning and eat. There is a spiritual dimension to life. I learned how low a person can sink if he is without religion, if he relies only on human rationalizations."

Grilius, 34, is a short man with a long red beard. He wears a black suit and a Boston Blackie hat with a black skullcap underneath.

Grilius is in Washington seeking to interest American authorities in the fate of another Jew, Yosef Mendelevich, who remains in prison in Russia.

Mendelevich was convicted of crimes against the Soviet state after participating in a plan to hijack a plane and escape to Israel in 1970. He is the only Jew among those convicted not to have been released and allowed to leave Russia.

The leaders of the hijack attempt, Mark Dymshits and Eduard Kuzmetsov, were freed last April with other Soviet dissidents in exchange for two Russian spies.

Two non-Jews who participated in the attempt, Alexei Murzhenko and Yuri Fiodorov, also remain in prison.

It is Mendelevich whom Grilius came to know and love in prison as a spiritual mentor. Grilius now fears that his friend remains behind and has been singled out for special torments because he is a deeply religious Jew who insists on wearing his skullcap, demands kosher food and refuses to work on the sabbath.

Just the sort of things that tend to drive prison authorities wild.

Mendelevich.

He tried to grow a beard as a symbol of his orthodox faith. The guards handcuffed his hands behind his back and hoisted him from the handcuffs until is toes swung free of the ground.

While he hung that way, they shaved him.

After he refused to work on the sabbath, Mendelevich was taken out of the flatiron plant and put to work shoveling dirt.

In poor health to begin with, he deteriorated. He was given an aspirin from time to time, no other medication.

Loads of dirt to be shoveled were scheduled to arrive just before the beginning of the sabbath. The Jews in the prison rallied to help so that Mendelevich could avoid dishonoring the holy day.

Talking in the barracks was not allowed. Outside in often freezing weather, Mendelevich taught Grilius to speak Hebrew.

Grilius recounted this tale from Mendelevich's youth in Riga, Latvia:

"During the war, the Nazis killed 20,000 Jews near Riga and buried them in a ravine. There was no marker for the mass grave.

"Surviving Jews passed on the information. Starting at age 16, Mendelevich led gatherings of Jews at the grave. They marked it. They petitioned the Soviet government for an official marker. The official marker that finally arrived said 20,000 had died there, but did not identify the dead as Jews.

"Mendelevich continued to lecture groups of Jewish youths at the grave-site in Hebrew.

"Mendelevich and his family repeatedly tried to obtain exit visas to go to Israel. They were refused. Finally he was arrested in the hijack attempt.

"They knew they were being followed the morning they were arrested. They decided to go ahead anyway, as an act of leadership and faith. Mendelevich has a frail body but an extremely strong spirit. If Dymshits and Kuznetsov were the leaders, Mendelevich was the spirit and the heart of the operation."

Mendelevich was sentenced to 12 years at hard labor. He has served nine.

Grilius was released at the end of his term in 1974. He then was allowed to emigrate to Israel with his father and mother. Mendelevich's mother and sister were also allowed to go.

Mendelevich was left behind.

For six years, he has not seen his family. He has not been allowed to receive a letter for a year.

He wrote, in one of the monthly letters he is allowed to send, to his sister. "I do not believe that you have ceased to love me. . . ."

He is not allowed books.

"I can't improve my mind," he wrote in another letter. "My intelligence seems to be going down all the time. I can no longer adequately express myself because I am not allowed to study or ask questions. In this way, they are destroying me. . . ."

Not hearing from his family, he dreams of them and imagines them as they must be.

"You can suffer hunger, you can suffer a cutoff of letters, you can suffer hard work—but the fact that father died is a greater hurt to me than all the other sufferings. . . ."

He is a poet.

"In the summer it's more pleasant because it's not so cold here. Even the crows in the morning don't say, 'Caw, caw.' It seems more like, 'Ah, Ahhh. . . .' " ●

PERSONAL EXPLANATION

HON. LARRY J. HOPKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. HOPKINS. Mr. Speaker, on Friday, September 28, I found it necessary to be absent from the House of Representatives after 3 p.m.

My early departure enabled me to catch the last flight to Lexington which would permit me to visit my wife before she underwent major surgery the following morning.

During my absence, I missed seven recorded votes. I would like to take this opportunity to indicate how I would have voted, had I been present for those votes:

"Yea" on the conference report to accompany S. 237, the Magistrates Act of 1979.

"Yea" on final passage of H.R. 2795. the U.S. Travel Act amendments.

"Yea" on final passage of H.R. 3642, the emergency medical services extension.

"Nay" on the motion to order the previous question on the rule to consider H.R. 2859, the Domestic Volunteer Service amendments.

"Yea" on adoption of the rule to consider H.R. 2859.

"Yea" on the motion to resolve into committee on H.R. 2859.

"Yea" on adoption of the rule to consider H.R. 2172, the International Sugar Agreement.●

DR. THOMAS S. AUSTIN, RECIPIENT OF PRESIDENT'S DISTINGUISHED FEDERAL CIVILIAN SERVICE AWARD

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. BROWN of California. Mr. Speaker, it is a pleasure for me to bring to the attention of my colleagues an honor soon to be bestowed on Dr. Thomas S. Austin, who more than 33 years served this country.

Lord Nelson, England's famous naval hero, suffered from seasickness throughout his entire life. Needless to say, the man who destroyed Napoleon's fleet did not let it interfere with has career. Dr. Thomas S. Austin contracted polio in 1952 and was confined to a wheelchair. He not only learned to live with his personal weakness, he conquered it. Most of us have our own little "seasickness" too. For some it may be physical, for others psychological. Usually it is a private war, carried on quietly within ourselves. No one will pin a medal on us for winning it, but nothing can dim the satisfaction of knowing we did not surrender. Dr. Thomas S. Austin is one such person.

It was recently announced that the President will soon give this fine gentleman the Distinguished Federal Civilian Service Award. A great many of his achievements have gone unheralded, but certainly not unappreciated by the many individuals he has helped and inspired in one way or another throughout the years.

I am pleased to share with my colleagues this brief summary of his activities:

SUMMARY OF ACHIEVEMENTS

Thomas S. Austin is Director of the Environmental Data and Information Service (EDIS), a former director of the National Oceanographic Data Center, and a world authority on marine science affairs and scientific data and information management. His distinguished career of public service spans more than 33 years.

Dr. Austin's creativity and outstanding leadership are illustrated by his development of EDIS capabilities to respond to critical national problems. In support of national efforts to increase energy resources, for example, EDIS has provided tailored environmental data and information products needed to plan, design, build, operate, and monitor the environmental impacts of offshore drilling rigs, supertanker ports, floating nuclear powerplants, and the Alaska pipeline. EDIS also played a significant role in the Department of the Interior's national heating oil allocation program for the winter of 1973–74.

During the heating and cooling seasons, EDIS issues projections of natural gas and electricity demand for multistate regions of the conterminous United States to the Department of Energy, other Federal agencies, state energy agencies, and industry. DoE also uses EDIS data in its formula to allocate Federal funds to the States to insulate the homes of low-income citizens.

At Dr. Austin's direction, EDIS has provided tailored climatic guidance needed by architects and builders to design energy-conserving homes. It also has worked with DoE to rehabilitate available solar radiation data in a form most useful for solar energy applications. In addition, in response to DoE requests, EDIS established a test data base for the Ocean Thermal Energy Conversion (OTEC) program, identified areas requiring additional observations, provided data products to DoE, and implemented an operational OTEC data base.

In cooperation with DoE and USGS, EDIS developed the first detailed maps of geothermal energy sources for the western United States, Alaska and Hawaii and the Gulf Coast.

EDIS crop-yield models and evaluations of potential effects of climatic fluctuations on national and global grain supplies are used by the Department of Agriculture in its crop-yield assessments. They also are used by the State Department in awarding disaster relief to Caribbean and Sahelian countries.

An EDIS oil spill trajectory risk model has been used in the licensing process for deep-water ports in the Gulf of Mexico, during the ARGO MERCHANT oil spill emergency, and in environmental baseline assessments of Mid-Atlantic, New England, and California outer continental shelf oil and gas lease areas.

In the National Strategic Petroleum Reserve Program, EDIS studies of the potential ecological effects of the disposal of huge volumes of saturated brine into the Gulf of Mexico play a part in decisions as to the location of brine discharge sites and the design of the disposal systems. EDIS also designed and is implementing a program of physical, chemical, and biological monitoring before, during, and after salt-dome leaching operations.

The development of EDIS' capability to undertake these and other new programs and services in direct response to critical national needs—while still providing traditional data products and services to a user community that has increased four-fold since he became director of EDIS—is one of the most impressive of Dr. Austin's achievements. But there are many others.

For many years, Dr. Austin has been a prime mover in shaping national and international policies in marine science affairs and environmental data management. He planned and coordinated the first international survey sponsored by UNESCO's Intergovernmental Oceanographic Commission in 1963, demonstrating that large ocean areas could be successfully studied through international cooperative efforts. Later, he developed the National Oceanographic Data Center into a model for similar national centers subsequently established throughout the world.

As Director of EDIS, Dr. Austin has improved user services, cut costs, developed a capability to provide multidiscipline data and information products and services, and developed a prototype national referral system for environmental data, information, and literature. Under his direction, EDIS also has provided experiment design, data management, and analysis support to large-scale international research programs designed to acquire better understanding of the air/sea coupling which controls environmental fluctuations.

I am sure my colleagues in the House join me in wishing Dr. Thomas S. Austin many more successful and fulfilling years.●

THE DANCE OF THE LEMMINGS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. ASHBROOK. Mr. Speaker, if we are to believe the national media the 1980 Presidential elections should be canceled because the investiture of Senator EDWARD KENNEDY has already taken place. The parade of news personalities singing joyous praises about the impending Kennedy coronation is the logical extreme of the national media creating their own reality. When the real world does not fit into their ideological mold they must flee toward fantasy in the hopes that the public will be guillible enough to follow their lead and make fiction a fact. The nostalgia boom for Camelot and the recent saturation of the airwaves and newspapers with Kennedy propaganda makes it clear that it will be a long 1980 for those of us who want more for America than the warmed over politics of expectation.

Just like in a number of recent political films the Republican Party is not even mentioned. To even allude to the fact that there is an alternate to the Democratic Party seems to be too great a concession by the powers that be. All indications are that the word has come down from the mountain that nothing, even the feelings of the American voter, should get in the way of Mr. KENNEDY's triumphal march to the White House. The polls all show that the revisionism of American political reality has taken hold. Senator KENNEDY outdistances all rivals. But we need to look at the pattern of support in order to realize that we are seeing the selling of a candidate 1980 version.

The media has decided that the 1980 turf will be fought on the issue of leadership. This is the stuff of major headlines and firery speeches. It is a natural for the highly paid camp followers like Barbara Walters to coo and swoon about for the next year. For all of its posturing about the need for the voters to decide on the basis of issues and substance the news media prefers central casting to the American mainstream in placing people in the Oval Office.

I have watched the trench lines being dug these last few days as the Democrats begin to form their lines of assault. It is clear that if the veneer of rhetoric is stripped from the Kennedy and Carter images all we have left is the half baked and discredited ideas that gave us the monumental waste of the Great Society and the shattered expectations and overblown political promises that ignited the riots of 1966 and 1967. America knows both in its heart and mind that the false prophets of government growth have brought nothing but disaster and economic decline to the United States.

No matter how it is packaged, whether with a down home southern accent or a cultured Harvard accent the result is still the same: inflation, tax increases, deficits that dry up capital, more government spending, less private initiative, and frontal assaults on American values and the American family by legions of social engineers. The voters have rebeled against this vision by throwing many of the rascals out of office. Dick Clark from Iowa who stood for appeasement abroad and intervention at home watched his incumbancy crumble at the polls in 1978. Now he has announced for the Kennedy dynasty. Other fixtures of the ill-begotten sixties are now lining up to relive their glory days of riots, busing, unrest, and big government. The only thing going for them is the revisionism of the media that is telling the country that the sixties were not that bad. They say that the lies of Johnson, and the incompetence of Jack Kennedy did not really happen, and that those who bring these things up have no right to do so. Only by forgetting the past can the liberal clack capture the future.

America will hopefully see through this ploy. As the liberals rally around Senator KENNEDY and call upon the Nation to join their march to oblivion we should remember that they stand for everything this Nation is now against. They are for more government intervention into our lives; they are for the government taking a bigger bite out of our paychecks; they are for nationalization of the family: they are for having the government telling us what to do. They place their faith in the outmoded ideas that underlie their tight little cocktail circles. They have a distinct contempt for the American voter. Their glamour and their highly publicized patronage chic artists and causes that are in vogue may sway some voters into thinking that this is the type of people who we want in charge. We should all remember that it is preferable to read about the liberal beautiful people in fan magazines than to foot their bill for their warped vision of America. The voters must wake up to this situation or face the prospect of following the lemming over the cliff of Camelot.●

SOLAR ACCESS ALTERNATIVES ACT

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. MOAKLEY. Mr. Speaker, it is clear that the use of solar energy will be a prominent part of our future energy inventory. With each passing year, the investment by both the private and public sectors in this alternative energy source is increasing. For fiscal year 1980, Federal solar funding will reach $1 billion for all Federal agencies' programs.

To protect and further encourage solar investment by Government, industry, and homeowners, laws must be enacted to assure solar energy system owners adequate access to sunlight for their solar systems. How best to protect solar rights, I believe should be addressed by the State and local governments rather than through a comprehensive Federal approach. But, I also feel that it is incumbent upon the Federal Government to provide incentive and assistance to the States and communities to develop access laws that suit their local and regional needs.

To accomplish this, I have introduced legislation which has been sponsored in the Senate by GARY HART entitled, the Solar Access Alternatives Act. This bill requires the Department of Energy to work with all interested State and local governments in identifying and adopting legal alternatives to assure solar access.

It is the aim of this legislation to help produce solar access laws that fit local needs and try to prevent passage of ill-considered legislation which may hinder rather than foster solar development. This bill will also give the Department of Energy the chance to demonstrate its leadership in this area by coordinating and encouraging work in the field of solar rights.

To further show the Federal Government's commitment to fully developed solar technologies, this legislation also calls for all Federal agencies to construct and maintain their facilities (including vegetation) in a manner which is consistent, to the maximum extent practicable, with State and local laws governing access to sunlight.

The time to promote solar access is now. For the United States today, there are only about 40,000 solar buildings and many of these have been installed without the protection of solar access laws. If solar technologies are to contribute 20 percent of our total energy resources by the year 2000, we must protect solar consumers' access to sunlight in the most equitable way possible. By providing support, as well as committing itself to compliance to local access law, the Federal Government will help meet its responsibility to promote use of solar energy.

The bill follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Solar Access Alternative Act".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress hereby finds and declares that:

(1) Solar energy is an abundant, renewable, and nonpolluting source of energy;

(2) It is in the national interest to promote and encourage the use of solar energy systems which would effectively reduce consumption of irreplaceable fossil fuels and decrease our nation's dependence on foreign oil;

(3) The viability of solar energy as an alternative energy resource ultimately depends upon direct access to the sun's rays;

(4) a solar energy user's legal right to sunlight varies from State to State and is, for the most part, unclear and undefined;

(5) a solar energy user whose solar collector or device is shaded by a neighboring structure may have no legal redress;

(6) measures which help clarify legal access to solar energy can play a vital role in stimulating advances in technology and eliminating institutional barriers;

(7) methods can be devised that will serve to protect the solar user from a shadow and avoid litigation between neighbors; while promoting the development and use of solar energy devices; and

(8) compliance with State and local solar access laws by the Federal government, to the extent practicable with respect to buildings constructed and maintained by it, is essential to eliminate potential barriers to the use of solar energy.

(b) It is the purpose of this Act to assist States to conduct Solar Access Reviews, to identify legal alternatives to assure access to direct sunlight and methods of encouraging adoption of such legal alternatives, and to encourage compliance by Federal buildings with State and local solar access laws.

DEFINITION

SEC. 3. For the purposes of this Act the term—

(1) "solar energy user" means any individual, sole proprietership, partnership, corporation, association, or other organization, which utilizes any system, method, construction, device or appliance relying on the use of the sun's rays, rather than on conventional energy sources, and which conforms to the standards of such systems established by the Secretary;

(2) "State" means any State of the United States of America and includes any terriory or possession of the United States;

(3) "Solar Access Review" means a comprehensive study to identify local alternatives to assure access to direct sunlight and methods of encouraging adoption of such legal alternatives;

(4) "Secretary" means the Secretary of Energy; and

(5) "Regional Solar Energy Center" means an organization established for the purpose of accelerated introduction of commercial solar energy technology in support of national policy goals and programs authorized under the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901).

SOLAR ACCESS REVIEWS

SEC. 4. (a) Not later than July 1, 1980, the Secretary of Energy, acting in conjunction with an identifiable administrative unit of the State government of each of any interested State, shall develop a plan to enable States to conduct Solar Access Reviews, to identify legal alternaives to assure access to direct sunlight and methods of encouraging adoption of such legal alternatives. Such plan providing for a Solar Access Review shall, at a minimum—

(1) identify all existing and potential legal and institutional barriers to solar energy within each State;

(2) recommend changes in applicable laws, ordinances, codes and regulations to facilitate commercialization of solar technologies;

(3) contain model provisions for solar access in new subdivisions or developments;

(4) provide for the review of the relationship between barriers to solar access and urban growth;

(5) provide for a review of State and local efforts to consider solar energy in the land use planning process;

(6) compile and review all State and local laws which could interfere with or impact upon direct access to sunlight by a solar energy user;

(7) provide that all solar energy reviews shall be transmitted to regional solar energy centers; and

(8) provide that the development and coordination of workshops and programs for State and local officials with regard to building codes, zoning ordinances, and other State and local laws that affect access to solar energy.

(b) The Regional Solar Energy Centers referred to in subsection (a)(7), in conjunction with the National Solar Energy Research Institute, shall—

(1) act as a clearinghouse for all information with regard to solar access for all public authorities within the region served by each center; and

(2) foster the maximum utilization of existing information and technology in the development of solar access alternatives.

(c) The Secretary of Energy in conjunction with participating states regarding any solar access review shall—

(1) make available all existing data, research, model provisions, and other pertinent information relating to solar access to the regional solar energy center serving the participant's region; and

(2) continue to make available in the form of quarterly reports, any and all efforts and progress achieved in conjunction with any solar access review to the regional solar energy center serving the participant's region.

(d) Each regional solar energy center shall compile all information received regarding solar access and legal barriers to solar access and shall make such information available upon request to any State or local unit of government within their region.

SEC. 5. Each department, agency, or instrumentality of the United States engaged in the construction of or maintenance of any building or structure shall construct or maintain, such building or structure in a manner which is consistent, to the extent practicable, with State and local laws governing access to sunlight.●

COAL FOR OUR ENERGY FUTURE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. PHILIP M. CRANE. Mr. Speaker, coal is one of our Nation's most abundant energy resources. Then why has its use as an energy source declined in recent years? The answer is obvious to anyone in the coal industry; in fact, obvious to anyone in the energy industry in the United States today. It is the Federal Government involvement in energy production and use. It has been Federal energy regulation that has indirectly caused an increase in the amount of foreign oil we import. Restrictions on the energy industry overall, and more directly on the coal industry, have made foreign energy sources cheaper to use. Within the coal industry, the Government virtually restricts every aspect of coal production and use, from mining, to transporting, to burning.

Our vast coal resources must be developed and used. However, to do so, we must modify or eliminate excessive Government restrictions, beginning with coal mining and ending with coal-fired powerplants. Requirements under the Surface Mining Control and Reclamation Act (SMCRA) unnecessarily increase costs of producing coal, reduce production, and lock up reserves. Between 1969, the year the Coal Mine Health and Safety Act was passed, and 1976, the average output per man-day worked at underground mines declined 42 percent. While insuring mine safety, we must utilize our coal resources. To this end, some bureaucratic regulations will have to be cut back or possibly eliminated.

Much of our coal resources are owned by the Government or found on federally owned land and the Government, for all practical purposes, has ceased leasing them to the industry, while legislation is in the progress to lock up Federal lands. This land has to be made available to coal producers. The accessibility of mineral rich land, without overburdening and costly restrictions, will give the coal producers the incentive to develop our coal resources. Tax cuts to the coal industry, to all of America's industry, are needed to encourage production as well as spur our economy. Once production increases, which requires increased energy use, the benefits will be seen in an improving economy.

Once coal is extracted from the ground, it is transported to facilities for use. Transportation costs for coal have become prohibitive, especially rail freight rates. Deregulation has improved the airline industry. Since governmental regulations have stifled the railroads, deregulation has to be a necessary solution. Use of coal will naturally increase as its production and transportation costs are improved.

Several large factors weighing against the use of coal for electricity are environmental. The Environmental Protection Agency's air and water quality requirements make coal use costly or impossible in some cases. Certainly we need to be concerned about our environment, however, we must also be aware of facts, such as an increasing reliance on foreign nations for energy sources, which has harmful effects on our energy use as well as on our economy. This past spring the Environmental Protection Agency proposed more stringent regulations regarding the emissions of sulfur dioxide from coal-fired powerplants. If EPA's strict emission requirements had been approved, much of the coal found in the Midwest could not have been used to produce electricity. Myself, as well as many other Congressmen and State officials, expressed our concerns over this fact and EPA listened. While the emission limits became more strict, they did not eliminate the use of coal as an energy source. With less regulation, utilities will be encouraged to use coal because it will be economically viable with other energy sources.

Close examination must be made of unnecessary and costly Government regulations which limit the use of our Nation's coal reserves. I think we will find that many Government regulations are repetitious, therefore most can be eliminated. I am not saying eliminate all Government regulation on the coal industry, but reevaluate and limit these regulations. The coal is there but Government has kept it buried. Without excessive Government, that coal can be recovered and used to make our Nation energy independent.●

REINSTATING CERTAIN OIL LEASES WILL BOOST DOMESTIC PRODUCTION NOW

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. PATTERSON. Mr. Speaker, I am introducing legislation today which will resolve a long standing dispute between the holders of certain offshore oil leases in the Santa Barbara Channel and the U.S. Government. The genesis of this dispute can be traced to the 1969 Union Oil Co. oil well blowout and resulting events which interrupted the exploration activities of a consortium of nine independent oil companies, led by Pauley Petroleum of Los Angeles, Calif. The Pauley group's exploration activity was several miles from the blowout and did not cause or contribute to it but, as a result of the turmoil following the blowout, all activities had to be halted. The Pauley group was never able to complete exploration or development.

The legal proceedings arising out of this interruption dragged on for a decade. In January of this year, the Court of Claims dismissed the group's damages claim and pointed the way to the remedy which I propose today. The court stated:

> Perhaps the legislative or executive branches could, as a matter of grace or policy, extend their lease terms to permit them to drill further (if they still wish to) in an effort to discover oil in commercial quantities, but of course, we cannot take that step.

Accordingly, the Pauley group now seeks relief from the Congress.

Mr. Speaker, there is ample precedent for legislative reinstatement of Federal oil and gas leases. For example, in the 95th Congress, the Interior Committee favorably reported legislation to reinstate and extend certain oil and gas leases. Both bills became public laws (Public Law 95-77 and Public Law 95-586). Thus, I believe this legislation for reinstatement of mineral leases is strongly supported by legislative precedents.

Mr. Speaker, in discussing oil and gas exploration in the Santa Barbara Channel, it is important to note the need for adequate environmental protection of this part of California's coast. The Pauley group is firmly committed to safeguarding the channel's environment and will, of course, comply with all pertinent and relevant provisions of the Outer Continental Shelf Lands Act Amendments of 1978.

In conclusion, Mr. Speaker, I want to emphasize to my colleagues that the Pauley group is not seeking a bailout or special Government compensation. Legislative reinstatement is a fair and equitable course for the companies and for the Government. It will avoid additional lengthy litigation, obtain rapid development of the leases, obtain immediate financial benefits for the Government, and correct over a decade of misunderstandings.●

CHARLES W. MILLS, AMERICAN NEWSPAPERMAN

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. DANIEL B. CRANE. Mr. Speaker, often I wish that my colleagues could accompany me through my congressional district and explore the rural heartland of our Nation Here we would see honest, hard-working men and women—good neighbors who care about one another.

Stable families produce stable communities, as my constituents know. The cement that insures stability in many cases is the local, family-owned newspaper.

Unfortunately, the family-operated newspaper is fast disappearing, owing to a variety of causes.

Vandalia, one of the most beautiful towns in Illinois and State capitol from 1820-40, has enjoyed the services of the Vandalia Union and the Vandalia Leader for many years. Under the inspired direction of Charles Mills, and his father before him, the Leader—and later the Union—has played a major role, perhaps the major role, in building Vandalia and Fayette County.

Mr. Mills has sold his newspaper to new owners whom he believes will continue the traditions of the past. I certainly hope that the new owners recognize the wisdom of this course.

I join with the people of Vandalia and Fayette County in honoring Charles Mills for his countless services to the community, and hope to see his hand in the paper for many years to come, as he has offered his advice and assistance to the new ownership.

His recent editorial, characteristically modest, marks the transition, and I insert it in the RECORD as testimony to the kind of newspaperman on which our Nation was founded.

The editorial follows:

VANDALIA LEADER-UNION—CHANGING OF THE GUARD . . .

(By Charles W. Mills)

It was not easy to hand over the keys to a business, as we did this week, after more than 42 years of almost constant devotion to meeting deadlines and trying to build a better newspaper for this community.

But we also realize that we cannot go on forever. There must be change, now or at a point down the road. And so, the decision was made to sell, mainly for health reasons.

The change does, however, bring to an end more than 100 years of family newspaper operations in Vandalia, through the Vandalia Union and the Vandalia Leader. It is a changing world and methods of operation have become more and more complex and expensive, making it difficult to almost impossible for family newspaper ownership today.

It could be said that printer's ink flows in my veins, because I grew up in a newspaper shop. I watched my father, facing defeat, dig out of the ruins after a fire destroyed the Vandalia Leader printing plant in 1924. As a small boy, I helped catch newspapers as they dropped from the old cylinder press, and then helped fold them by hand. Then came the depression, and at times my father had to dig into his own pocket to meet the payroll.

But again, it was that fighting spirit that kept the business alive and a spirit that has helped guide me when the going got rough. There is satisfaction in helping put together the news of a community and supporting community projects. And through this effort we have watched the newspaper grow, first into one of the largest weekly newspapers in Southern Illinois, then see a family dream come true when a new printing plant (the present one) was completed in 1953, and later to start publishing a semi-weekly with the acquisition of the Vandalia Union.

Today, as we sit back and begin to take life a little easier after some rather hectic years, we would like to feel that those years of sweat and tears have not been in vain. We would like to believe that in bringing this newspaper to its present form it is appreciated by those who read it.

We have seen many changes in that span of years . . . from a hand-fed press to a new flat-bed perfecting press that turned out 3000 copies of an 8-page paper per hour, then to our present offset press capable of printing 20 pages in one section at a speed of 14,000 copies per hour. And we've seen technical changes in type composition from the old hot metal Linotype machines to the new electronic monsters which spit out type faster than words can be spoken.

Throughout the years the philosophy of this newspaper has been to be fair in its presentation of the news even though sometimes situations have made such decisions difficult. The paper has tried to present the happenings of Fayette County in such a way that it will appal to everyone in the area.

And to be sure, we are aware that these accomplishments would not have been possible without the friendship and support of our many readers and the business community. And yes, the many loyal people who have worked for us through the years . . . many of them unknown to the readers. They have given of their talents to make The Leader-Union an outstanding paper.

We have entrusted the keys to new ownership which we believe will do everything within its power to carry on the traditions of the past. There will be changes. No two people do things exactly alike . . . but the changes will be gradual and for the better, in the constant effort to present a better product.

After a few weeks out of surgery, we will be back to help Larry Timbs and his staff continue to provide Vandalia with the kind of newspaper any community would be proud to claim as its own.

We wish the new management success.●

PERSONAL EXPLANATION

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. CLINGER. Mr. Speaker, on October 30, 1979, I was absent from part of the legislation business on the floor of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 612: Journal. The House approved the Journal of Monday, October 29, 1979, "yea."●

THE OVERSEAS DEVELOPMENT COUNCIL: A UNIQUE ROLE IN AMERICAN PUBLIC POLICY

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

○ Mr. BARNES. Mr. Speaker, 2 weeks ago, in response to what was clearly emerging as one of the greatest human tragedies in history, the President of the United States offered $7 million in relief assistance for Cambodia. Last week, minutes after being visited by 40 national religious and public service leaders, the President raised that pledge to $70 million. The photograph of these leaders flanking the President as he made his announcement commanded the front page of newspapers across the country.

It is possible that the President may have wanted to pledge a larger figure, but it is doubtful that he would have felt free to do so had he not had such a testimony of public leadership support for a ten-fold increase in assistance. I think, therefore, that it can accurately be said that the response of the U.S. Government to the holocaust of hunger in Cambodia would have been shamefully slower had it not been for the moral and political courage of 40 leaders of America's private sector.

What prompted their action? Who brought them together? Who had the political and moral sensitivity to know that action was necessary and when it would be most effective?

Mr. Speaker, the Overseas Development Council has once again demonstrated the invaluable role in American public policy which is played by private voluntary organizations devoted to national service and the human interest.

This is only one of numerous times that the Overseas Development Council has distinguished itself as a leader in this uniquely American institutional character. It was a similar ODC initiative, marshaling religious and secular leaders, which prompted an adequate U.S. response to the worldwide food shortage of 1974. And it is ODC which, many times each year, and especially through its annual Agenda for Action: The United States and World Development, reminds us of the special responsibilities—and the manifold potential for benefit—of a cooperative U.S. approach to the problems of the developing nations.

The Overseas Development Council is now beginning its 11th year of voluntary leadership in the formulation of U.S. public policy. I commend its work to the attention of my colleagues, and I wish ODC well in its second decade. I particularly extend my good wishes to the Council's new President, John W. Sewell.

For my colleagues' information, I insert the list of participants in last week's national consultation on the Cambodian famine.

The list follows:

CONSULTATION ON FAMINE IN CAMBODIA

CHAIRMAN

Reverend Theodore M. Hesburgh, C.S.C., Chairman of the Board, Overseas Development Council and President, The University of Notre Dame.

PARTICIPANTS

Mr. Lloyd Bailey, Executive Director, U.S. Committee for UNICEF.

Mrs. Marjorie Craig Benton, Chairman, Save the Children Foundation.

Mr. Frederick Bowen, Hebrew Immigrant Aid Society.

Reverend George Chauncey, Chairman, Interreligious Task Force on U.S. Food Policy.

Mr. Leo Cherne, Executive Director, International Rescue Committee.

Terence Cardinal Cooke, Archbishop of New York.

Dr. Robert S. Denny, General Secretary, Baptist World Alliance.

Mr. Theodore Engstrom, Executive Vice President, World Vision Relief Organization.

Mr. David Elder, Director of Asian Programs, American Friends Service Committee.

Ms. Deni Frand, Indochina Refugee Action Center.

Honorable John J. Gilligan, Chairman, New Directions.

Mr. James P. Grant, President, Overseas Development Council.

Dr. Eugene Grubbs, Consultant for Relief Ministries of the Foreign Missions Board, Southern Baptist Convention.

Reverend J. Harry Haines, Assistant General Secretary, Board of Global Ministries, United Methodist Church.

Reverend J. Bryan Hehir, Director, Division of Justice & Peace, U.S. Catholic Conference.

Mrs. Linda Gibson Hiebert, The Indochina Project.

Ms. Joan Holmes, Executive Director, The Hunger Project.

Ms. Barbara Howell, Bread for the World.

Reverend Chester J. Jump, Jr., Executive Director, Board of International Ministries, American Baptist Churches, U.S.A.

Rabbi Bernard Mandelbaum, Executive Vice President, Synagogue Council of America.

Mr. Leon Marion, Executive Director, American Council of Voluntary Agencies for Foreign Service.

Reverend Paul McCleary, Executive Director, Church World Service.

Honorable Harry C. McPherson, Jr.

Mr. Larry Minear, Representative for Development Policy, Lutheran World Relief.

Honorable Daniel Parker, Former Administrator, Agency for International Development.

Rabbi Stanley Rabinowitz, Adas Israel Congregation, Washington, D.C.

Reverend Neill Richards, Coordinator, Hunger Action Program, United Church of Christ.

Honorable William D. Rogers.

Mr. Louis Samia, Executive Director, CARE.

Dr. Joseph Short, Executive Director, OXFAM America.

Mr. Edward Snyder, Executive Secretary, Friends Committee on National Legislation.

Mr. Howard Sollenberger, Consultant to the Board of the Unitarian Universalist Service Committee on International Programs.

Dr. Jeremy Stone, Director, Federation of American Scientists.

Ms. Dorothy Taaffee, Director of International Services, The American Red Cross.

Bishop John Walker, Episcopal Bishop of Washington.

Honorable Charles W. Whalen, Jr., President, New Directions.

Ms. Bjorg Wilson, UNICEF Information Services.

Ms. Patricia Young, Church Women United.●

BATTLELINES DRAWN ON WELFARE REFORM

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. SHUSTER. Mr. Speaker, yesterday the House Republican Policy Committee clearly drew the battlelines over the upcoming debate on welfare reform. The House of Representatives will be presented with a clear choice: Continued expansion of the Federal role or an innovative approach which gives individual States a greater stake in the welfare programs for their citizens. It is important that the Members realize that this philosophical difference exists and that the Members be given the opportunity to debate and vote on the competing initiatives on the floor of the House.

I commend the policy statement of the House Republican Policy Committee to all of my colleagues for an explanation of the substantive and procedural issues surrounding the welfare reform proposals.

The statement follows:

HOUSE REPUBLICAN POLICY COMMITTEE CALLS FOR 'REAL' WELFARE REFORM

The House Republican Policy Committee recognizes the need for government involvement in welfare programs. The Policy Committee believes that these programs must be both sensible in scope and sensitive in their response to the very real needs of families who find themselves with insufficient resources to meet even the most basic requirements of their children. Further, the Republican Policy Committee believes that this government involvement could be best achieved through a federal block grant approach which gives the states a stake in providing these services in an efficient and economical fashion.

To transform this philosophical approach into concrete legislative proposals, Republican and some Democratic Members introduced H.R. 4460—an initiative that provides true welfare reform. Specifically, this Republican alternative provides for the following goals:

Eliminate the open-ended federal matching program, substituting a block grant program in its place;

Provide a strong incentive for the states to eliminate error, waste, and fraud in welfare programs and to reduce overall welfare spending;

provide fiscal relief to all states which may be used to reduce over all state welfare spending and to increase basic benefits for the truly needy;

encourage the states with the lowest basic family welfare benefits to increase their benefit levels;

permit the states complete discretion to require work as a condition of eligibility for family welfare benefits;

reverse the trend toward complete federalization of welfare by permitting some demonstration states to design and implement their own family welfare program tailored to meet the needs of the individual state and its poor.

Based on the above philosophical approach to government's role in meeting the basic needs of its more unfortunate citizens, the House Republican Policy Committee flatly rejects H.R. 4904, the so-called Social Welfare Reform Amendments of 1979. This proposed legislation is a misnomer; rather than reform legislation, it represents a major step toward a national, universal, guaranteed income program.

Specifically, the Democrat bill provides:

An increase of $2.8 billion in federal spending, bringing the total cost of these programs to $5.5 billion;

An expansion of eligibility by altering the Income and Assets Test to allow potential eligible recipients to deduct the value of their house, household goods, personal effects and one car not valued at over $4,500, plus other assets of between $750 and $1,750, depending on state's limit;

A prohibition against states requiring welfare recipients to work for their benefits;

That all states must provide a nationally established minimum level of benefits of 65% of the official poverty level.

Despite claims by proponents that H.R. 4904 is merely an incremental change in the existing system, the Republican Policy Committee believes that the bill constitutes a comprehensive attempt to institute a universal guaranteed income redistribution scheme. The Republican Policy Committee wishes to emphasize the dichotomy between this centralized federal bureaucratic approach of the Democrat majority and the opposing approach of the Republicans. Philosophically, the Republican approach provides decentralized programs which permit individual states to create and tailor their own welfare programs to target appropriate benefits and services for the needy. The approach provides humane assistance to those in need while helping them take responsibility for meeting their families' needs and doing so with a system that eliminates errors, fraud and abuse.

The House Republican Policy Committee endorses H.R. 4460—a Welfare Reform Bill truly worthy of its name!

Finally, the House Republican Policy Committee wishes to express its scorn for the actions of the Democrat majority on the House Rules Committee. In an attempt to foist the Majority Party's views on the American public, the Democrat controlled Rules Committee ruled that the Rousselot-Conable initiative may not be offered as a substitute to the Democrat bill for consideration on the Floor of the House. This arrogant exercise of power only compounds the Democrat error. Not only is the majority proposal devoid of ideas other than a continued expansion of the federal presence, but that same party acts with impunity to close down the marketplace of ideas. Through manipulation of House procedures, the Majority precludes even so much as debate on the Republican initiative.

The American people have the right to know that this one example is but the tip of the iceberg. The Democrats—having controlled Congress almost continuously for the past 50 years—have grown self-serving. With utter disregard for the well-being of the American public, the Democrat House leadership uses its preponderant power not to pass the best possible legislation but, rather, to cast its members in the best possible political light.

Comparison of the Democrat and Republican proposals for welfare reform lends inexorably to one conclusion: Democrats have become complacent while Republicans continue to offer innovative answers to America's problems. ●

GENERAL ROWNY SPEAKS AT THE PULASKI DAY DINNER

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. KEMP. Mr. Speaker, when the diplomatic history of this decade is written, I am confident that the record will speak well of the accomplishments of Lt. Gen. Edward L. Rowny. General Rowny, as a member of the U.S. delegation to the Strategic Arms Limitation from March 1973 to June 1979 served as the most effective—and in too many cases, the only—spokesman for the military interests of the United States in those difficult negotiations. As a consequence of his labors, both the Congress and the Nation are far better informed of the grave risks we will assume if the SALT II treaty is ratified by the Congress. Unlike too many of his military colleagues, General Rowny acted on the strength of his convictions, resigning from the Army following the signing of a treaty he believed to be contrary to the interests of the United States.

It is entirely fitting then that General Rowny was invited to address an assembly on the 200th anniversary of Pulaski's death. His remarks reflect the experience of more than four decades as a distinguished combat commander in three wars as well as a representative of Joint Chiefs of Staff in the sensitive diplomatic role at the SALT II negotiations. General Rowny's views are forcefully stated and deserve the careful consideration of the Congress.

The remarks follow:

ADDRESS OF LT. GEN. E. L. ROWNY

Distinguished Guests: In trying to think why I was selected to be your speaker tonight, my first reaction was that perhaps it is because my four sons are all over six feet tall. As my 6'4" son says, he comes from a long line of Poles.

My second reaction was that I was selected because of my unique ancestry. As some of you know, I am the only descendant of a Pole whose father has documents proving he came over on the Mayflower. This situation occurred when my father, an immigrant, applied for citizenship. Seeing that the clerk was sleepy and stupid, when my father was asked what ship he came over on, he said, "The Mayflower".

However, I think the probable reason I was selected to be your speaker was because of my recent stand on the SALT Treaty. As many of you know, I asked to be relieved of military service in May of this year because I could not support the SALT II Agreement that finally emerged. I think it important that you know that I was selected to be a member of the SALT Delegation because for over 20 years prior to that time I had been stressing the value of negotiating on strategic arms. My view was—and is—that an agreement is desirable if, and only if, it is not detrimental to the security of the United States. Since this Agreement would, in my view, undermine our security, I felt the only honorable thing for me to do was to leave the service and speak out against the Treaty.

I did not reach my decision to quit lightly. It is not easy to throw overboard 42 years of training and belief in loyalty. I had no desire to be regarded as being disloyal.

Also, I do not relish the prospect of diminishing the power and the prestige of the President of the United States, especially in the conduct of foreign affairs. However, after taking these considerations into account, I decided that the security interests of the U.S. demanded my primary loyalty, and therefore—reluctantly—I took off my uniform.

I won't take advantage of this captive audience to try to convince you that I'm right. I only ask that you read the SALT II Treaty itself and weigh the pros and cons.

As I mentioned to you earlier, I am very much in favor of the SALT process. I do not believe that renegotiation of this Treaty in an effort to reach a fair and equitable agreement will spell the end of—or even prolong for long—further negotiations on SALT. I am convinced that the Soviets need and want a Treaty—and need it more badly than we. I think they have done a good job of concealing that fact and have gotten us to do the wooing. In Talleyrand's words, a good negotiator is not the demandeur. He tells us that when you negotiate, "Pas trop de zele"—Don't show too much zeal.

Reading and studying the SALT Treaty is not easy; it is a long tortuous document, a lawyer's nightmare. The subject matter is complex, mind-boggling, full of contradictions, and, I would add—arcane. But studying the Treaty's merits is the only way I know you can reach your own conclusions.

However, you did not come here to hear about me but to hear about Count Casimir Pulaski. Once more, let me briefly indulge myself in another personal note. I have heard about Pulaski ever since I was a little boy when my uncle designed and built the Pulaski Monument in Baltimore.

Pulaski came to this country because he had a strong belief in a fundamental principle. This principle is that men can elect their own leaders and govern themselves by a democratic process. He fought for this principle, not only in a military and therefore a physical way, but also in a moral way which often requires the greater courage. We tend to forget that people who fight for principle are often in the minority, are attacked, and stand alone. Pulaski, like George Washington himself, did not have any easy time of it. Like Washington, Pulaski had his detractors, some of whom called upon Washington to relieve him of his command. To his everlasting credit, Washington kept Pulaski in the service and was able to benefit by his magnificent cavalry charges. Pulaski was to the American Revolution what Patton was to World War II. As you know, Pulaski lost his life in battle at Savannah, and is today considered a national hero.

Of what significance is Pulaski's example to us? Aside from the camaraderie and opportunity of getting together with old friends, what should we reflect upon this evening?

I think we should reflect upon the fact that most of us are professionals and should improve our professionalism to the utmost. With all the well-meaning principles in the world, and even with the courage to carry them out, if we are not competent we contribute little to our fellowman or to our society as a whole. Recently, more persons of Polish heritage have come to the fore and are gaining the recognition they deserve. I could give you examples in all professions. Where would the country be today without the courageous stand of a jurist like Leon Jaworski or our own beloved Al Mazewski? Where would we be without the eminent legislators like Senator Muskie and Congressmen Derwinski and Zablocki? Where would the Administration be without the intellectual guidance and tough stand of Zbig Brzezinski? Where would our military be without the outstanding military leadership of Admiral Hyman Rickover and General "Brute" Krulak? Where would we be without the contribution of our Polish-American Nobel Prize winner in medicine—Doctor Schally? Where would we be without a helicopter pioneer like Frank Piasecki or a businessman like Ed Piszek, or a religious leader like Cardinal Krol, or an artist like Anna Adamska. And I could go on and on.

But to return to our professionalism, and most of us here tonight belong to one or another profession, let's examine our own responsibilities and obligations. Professionalism has more to it than simply acquiring skills; it entails involvement and leadership. Because of the high stakes involved in committing others' lives in combat, we in the military have always placed high emphasis on the truth. In current jargon, we "tell it like it is." I think the times cry out for leadership and for people who are willing to "tell it like it is."

We live in an age that demands that we think deeply about our form of government and how we can make it work better. We are being challenged today by a world power that has a bankrupt philosophy. Simply because this world power is able to exploit our sense of fair play, and—more importantly—because it is backed up by an ever-growing military might, we now face a serious challenge to the security and well-being of our friends, which could quickly develop into a threat to our own security. This other power is led by people who have absolute faith that "good socialism" will surpass and supplant "evil capitalism".

We are, of course, worried about our domestic probems. And we should be. Our rate of inflation is running high and unemployment has not yet significantly decreased. It is hardly disputed that we are heading for a recession. Nevertheless, these problems, important as they are, are less important to us in the long run than our military security.

To return briefly to SALT, we in the U.S. have our priorities backward, whereas the Soviets have theirs right side up. The Soviets first set their national goals, then plan and program their military forces to carry out those goals and finally, give consideration to the control of arms. They use arms control as yet another tool with which to compete. We, on the other hand, place arms control at the top of our priorities. We make it the centerpiece of our foreign policy. We alow our military forces to be tailored to fit our expectations of the outcome of that process. What results, as we are now seeing in the Middle Eeast, is that we have insufficient military power that we can project to accomplish our foreign policy goals.

As for myself, I have two short-range objectives. First, I want to see SALT removed from page one and placed on page twelve or thirteen of our newspapers. That is where it belongs. Second, I would like to put my 6½ years of negotiating experience to use so that future negotiators are not doomed to repeat the mistakes of the past. Time doesn't permit me to go into negotiating tactics. We have strengths and weaknesses—so do they. On balance, however, they bring their strengths to bear and exploit our weaknesses so that they gain from the negotiative process.

Tonight, I would like to exhort each of us to reflect upon what he can do and what he should do. What can we, who share with Pulaski the common heritage and common background of professionals, do? I would call on each of us to reflect deeply on the blessings we enjoy with our form of government. Think the unthinkable—think about the consequences of losing our freedom.

Where does involvement start? I hold that it starts with using our professionalism and influence to broaden our sphere of interests. This means that we should rise up in indignation at the human rights violators, against whom President Carter so courageously stands. In particular, we should speak up and act against genocide in Vietnam today. We should do something about the several millions of people who are doomed to starve in Cambodia unless something immediate and drastic is done. We should re-read the history of Poland since World War II and not only try to understand why Poland was allowed to fall behind the Iron Curtain, but to reflect on whether or not it is doomed to stay there permanently. We should look at the crimes against humanity that were perpetrated at the Katyn Forest and see to it that this sordid chapter is seen by the world as an extension of the Holocaust.

One hundred and fifty years ago, when our country was barely a half-century old, an astute observer of the American scene, de Tocqueville, assessed America's strengths and weaknesses. Our strengths were—and are—many. Our principle weakness, as he saw it, was the difficulty a democracy would have in conducting a viable foreign policy. We now see de Tocqueville's prophecy coming true—we are having difficulty conducting a successful foreign policy. James Reston has recently questioned whether we have the ability to govern at all. This is not because we lack ideas and ideals, but because we have let our military strength fall behind. We must speak up. Our country cannot "do it on the cheap." We need strength in order to carry out our ideas and ideals, we need strength for the coming challenge to our security.

We should ask ourselves the question that the late British thinker, Alistair Buchan, asked several years ago: "Can a society which bases its leadership upon a consensus from below compete with a society which is controlled at the top?"

My contention is that there is no reason why we cannot do so. The inspiration of a Pulaski, the anniversary of whose death we mark this week, is re-enforced by the inspiration of another living, vibrant, charismatic Pole, John Paul II. Who among us can say that the Pope is not a man of courage? His views are not popular to all, but he is "telling it like it is." He is exhorting us to place aside our materialistic considerations, permissiveness, and the selfishness of affluence. He is asking us to have faith in the deeper spiritual means of life.

I think therefore that we should take a few minutes tonight to reflect upon what Walter Lippman said in 1943 while we were in the midst of deep trouble in World War II. He wrote: "In the supreme moments of history, terms like duty, truth, justice and mercy—which in our torpid hours are tired words—become the measure of decision."

Let us ask ourselves: Are we doing everything we can in the areas that really count? Have we learned anything from the example of Pulaski? Here was a man who laid his principles on the line and sacrificed his life that we might enjoy the fruits of liberty. We as Americans of Polish descent are not being asked today to lay down our lives, but to extend ourselves—to give of ourselves. Therefore, we should ask ourselves, "What can I do that Pulaski's sacrifice may not have been in vain?"

Thank you.●

SURE RECESSION

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mrs. SCHROEDER. Mr. Speaker. on Monday I expressed my views on how spooky I thought the Federal Reserve's high interest policy is. Today is Halloween so let me share an editorial from the Rocky Mountain Journal for they think the Fed is spooky also.

The editorial follows:

> The Federal Reserve Board has certainly precipitated a recession and perhaps worse with its latest actions.
>
> The Board increased the discount rate a full one percent, abandoning its policies of

tightening the screw a quarter turn at a time. It also increased reserve requirements on "hot money" deposits, allowing the banks to lend less on a given deposit base.

The purpose of the Fed's action is frankly to create a recession based on the proposition that it confronts a choice of evils: recession on one hand, or rampant inflation on the other.

We predict that the Fed's actions will encourage both evils. We will see a recession which will not curb inflation.

The Fed's actions are based on the premise that money is a commodity and that increasing the cost of its purchase will diminish demand.

We would prefer a policy which attacked the problem in another way. We believe that the money supply should be increased by encouraging savings. The Fed believes it has done this by assuring a higher return for savers and by discouraging them from borrowing. Yet the increases in the interest rates do not get passed on to those who might do the significant saving. The small saver's return is so pitifully beneath the rising curve of prices that he prefers to purchase, at whatever cost, rather than be mulcted by the money market.

The Congress, at a stroke, can give him greater incentive to save than the Federal Reserve Board. It can lift income taxes on personal savings up to, say, $50,000, encouraging thrift and making real money available for homes and business enterprise.

The United States trails the rest of the industrialized world in the amount of personal income in savings. We save only 4.5 per cent of our income. Germans save more than 12 per cent and Japanese as high as 22 per cent. Venture capital comes from personal savings, not from federal policy. Ergo, federal policy should be to lower the price of the commodity called money by making it more plentiful in real terms.

As it is now, as interest rates climb, those who need the venture capital will pay for it at whatever price and pass that cost along to the consumer. An average man's savings bill would encourage savings, discourage feckless and inflationary purchasing and make more venture capital available at reasonable cost.●

THE BOTWINS OF SAN PEDRO

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. ANDERSON of California. Mr. Speaker, the community of San Pedro, Calif., is a unique and marvelous place. The nearby Los Angeles Harbor and the area's historic architecture make it one of the most beautiful spots along the southern California coast. The friendly and warm manner of the local residents, however, is what gives it the special character that makes it so unforgetable and dear to those who know the area. Today, I take this moment to honor two individuals who by their concern for family, neighbors, and community, typify this fine quality. I speak of Frances and Sam Botwin.

It was 35 years ago that the Botwins came to San Pedro. Since then, they have established themselves as a family of business success, and as contributors to countless community betterment efforts. The Botwin-owned Cabrillo Liquors store, located in San Pedro on Gaffey Street, has become a local landmark, widely known for its special wine collection. It was the first retail liquor store to be noted in Vines and Wines magazine. Twice, it has received positive reviews in Liquor Store magazine. This fame has come as a result of Sam Botwin's expert knowledge of fine wines which has been recognized by his appointment to the wine advisory boards of Liquor Store and Home Beautiful magazines. Even the State of California has made note of this store's success; the State Wine Advisory Board named it one of the four most knowledegable wine centers in southern California.

Through these same years, Frances Botwin has been establishing her own reputation as one of the most dedicated and generous leaders in the community. She was the originator and first president of the Peninsula Homeowners Coalition, an areawide organization that has, time after time, led campaigns to protect the pleasant character of San Pedro. Her drive and initiative made her the first president of the White Point PTA; as well as vice president of the Los Angeles organization.

In official capacities, she has served on the Marina Advisory Committee, and the San Pedro Area Planning Committee.

Mr. Speaker, November 5, 1979, will mark the 40th wedding anniversary for the Botwins. These have been years of happiness for them and all who have had the good fortune to share their friendship. My wife, Lee, joins me wishing them a most joyous 40th anniversary. We take this occasion to wish them more success and good fortune. We also send the same to the Botwin's daughter, Kim, and her family—husband, Bob and daughters Justin and Jessica—and to the Botwin's son Michael and his wife, Anne.●

AID FOR CAMBODIAN REFUGEES

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. SOLARZ. Mr. Speaker, I would like to commend the actions of various religious leaders throughout the world in helping to alleviate the suffering of the Cambodian people. In particular, I would like to applaud the efforts of the Catholic Relief Services, a U.S. based organization, which has pledged a quarter of a million dollars in order to get adequate medical aid and much needed food to the people of Cambodia. This is being done in part, by Operation Rice Bowl. Operation Rice Bowl is an annual Lenten program of prayer and sacrifice in which American Catholic families eat a frugal meal once each week during Lent and contribute the savings to provide food and food-related assistance to the world's poor.

At this time I would like to submit for publication in the Record an article which appeared October 11, 1979, in The Tablet, the Brooklyn Dioceses newspaper. This article is an excellent illustration of the work being done by Catholic Relief Services to help the millions of starving Cambodians.

The article follows:

"RICEBOWL" FUNDS TO AID STARVING INDO REFUGEES

In response to the worsening refugee situation in Cambodia, Catholic Relief Services committed an additional $150,000 to help feed the starvation-menaced population, bringing the CRS commitment to the people of Cambodia up to $250,000 within a 10-day period.

Bishop Edwin B. Broderick, CRS executive director, said "this $150,000 comes from the Operation Rice Bowl collection gathered during Lent, which American Catholics and others have contributed specifically to help provide food assistance to those who need it most."

Ten days earlier, Bishop Broderick pledged $100,000, provided by the American contributors, to continue a series of mercy truck convoys to provide food, medicines and other supplies to an estimated 60,000 along the Thailand/Cambodian border.

A new Vietnamese offensive in Cambodia is expected to create 200,000 refugees and "inside the country the prediction is for mass starvation," according to Joseph S. Curtin, Jr., CRS Program Director in Thailand.

Bishop Broderick said it was decided to increase the CRS commitment to Cambodian aid to a quarter of a million dollars because "the dimensions of this new catastrophy demand we take action now." He added: "We cannot stand around wringing our hands, deploring the mass starvation that hangs over Cambodia; what resources we have are being placed on the line to save lives—it's as simple as that."

CRS/Thailand began the mercy convoys last June by providing $50,000 for the first three-truck convoy from Bangkok to the border in cooperation with the Catholic Office for Relief and Refugees of the Thai Bishops. When that proved successful, the U.S. Office of Foreign Disaster Assistance gave CRA $300,000 for a total of 10 convoys.

On September 17, Bishop Broderick earmarked $100,000 from contributions given to the CRS Southeast Asian Refugee Fund to pay for additional convoys to the border since the U.S. funds had run out.

"Now as the situation grows steadily worse, I have decided that CRS will use $150,000 of Rice Bowl funds to provide feeding for Cambodian refugees," the Bishop said.

In addition to setting the $150,000 aside for Cambodian refugee help, Bishop Broderick also instructed the CRS international headquarters staff and Mr. Curtin in Bangkok to put together a plan for its use as quickly as possible. "We have to move fast on this one," the Bishop said.

The first convoys carried 21 tons of rice, two tons of salted turnips (a local food), 3,900 cans of milk, 732 plastic bottles of fish sauce, and medical supplies. Later convoys have varied in size. Thai officials alert refugees at various border areas that a convoy is arriving, and a group of refugees is sent to the border site to receive the goods.

Mr. Curtin said his 10-truck convoy was met by about 1,000 men who were later joined by some 500 women and 100 ox carts to carry the supplies back to their refugee camps in the mountainous jungle border area.

"The desperate hunger of the refugees we are helping . . . is only the tip of the iceberg," Mr. Curtin said. "Satellite photos of Cambodia show only five percent of the normal rice crop has been planted this season."

Mr. Curtin said at a press conference that Cambodia has been in turmoil since the 1975

Communist takeover and is now in the midst of a civil war involving several factions. Almost the entire population has been uprooted and displaced from their original homes.

"Religious activities were about the first things to go," he said. "There is nobody in monks robes, temples are not being used. No Christian clergy are known to remain."

CRS had an active program in Vietnam, Laos, and Cambodia. "Those three we lost when the Communist took over," Mr. Curtin said. Now we are in Thailand, helping some of the same people we worked with before.

Operation Rice Bowl is an annual Lenten program of prayer and sacrifice in which American Catholic families eat a frugal meal once each week of Lent and contribute the savings to provide food and food-related assistance to the world's poor. Begun in 1976, Operation Rice Bowl has contributed more than $10 million for CRS projects and programs around the globe.

"If ever there was a need that fitted into the concept of Rice Bowl, the plight of the people of Cambodia today is it," the Bishop said. "Thank God we have the funds available so we can begin meeting this new challenge to Christian charity and concern."●

A SALUTE TO ST. JOSEPH COUNTY, MICH.

HON. DAVE STOCKMAN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. STOCKMAN. Mr. Speaker, it is with pleasure that I bring to the attention of my colleagues the sesquicentennial celebration soon to take place in St. Joseph County, Mich. It was 150 years ago—on November 4, 1829—that actual government was first established within the present limits of St. Joseph County. County residents will celebrate their 150 eventful years through special displays at the county fair, an open house at the county courthouse in Centreville, and a tour of historical sites in the county.

I have spent many pleasant hours in St. Joseph County myself, enjoying the lovely countryside with its beautiful greenery and rolling woods—interspersed everywhere with lakes and streams. The county, in fact, is named after a river. Entering the county from the east, the historic St. Joseph River is only an overgrown creek. Flowing out of the county to the southwest, it is a rushing picturesque river. On its way, it gathers the waters of Swan Creek, Prairie River, Fawn River, and the White Pigeon River.

Although for many decades the land was enjoyed only by the sparse native population of Pottowatomies and Shawnees, American settlers moving westward arrived in droves after the late 1700's. By 1829, there were enough settlers that establishment of local county government seemed appropriate. Asahel Savery, one of St. Joseph County's leading citizens in those early days, oversaw the creation of the new government. When the Territorial Council authorized regional government for the area in November 1829, court was first held—with the usual jurisdictions and functions—at Savery's home on the White Pigeon Prairie.

White Pigeon was selected as the temporary seat of justice because it was, at that time, the largest settlement. After the growth and development of other areas of the county, however, it became evident that a more central location was needed. On the basis of prevailing sentiment and liberal land donations, recommendations were made to the Governor, who issued a proclamation on November 22, 1831, locating the county seat at Centreville, where it has remained to this day.

Since those early days, St. Joseph County has grown and prospered tremendously. It is now home to thousands of happy families, as well as flourishing industry and agriculture. I invite my colleagues in the Congress to join me in saluting St. Joseph County, Mich.●

NON-VOTING

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, October 31, 1979, into the Congressional Record:

NON-VOTING

The American political system is confronted with a formidable challenge. The problem is the declining number of voters who show up at the polls on election day. If the trend of the past few years continues, the prospect is for a crumbling of the very foundations on which the government is based. The question is how long the government can function without the legitimacy that comes from a genuine mandate of the people.

The statistics on voter turnout are truly discouraging. In 1840 more than 80% of all eligible voters cast ballots in the presidential election. In the last race for president, however, just over 54% of the eligible population voted. More discouraging are the percentages for off-year elections. In November of 1978, for example, voter turnout fell below 38%. Almost 100 million Americans did not see fit to exercise their most fundamental democratic right. The decline in voting becomes even more significant when we consider some of the various steps that have been taken to boost voter participation. New laws to eliminate discrimination, lower the voting age, reduce the residency requirements, simplify the registration, and allow for absentee registration and voting have had remarkably little effect.

In a political system based on the consent of the governed, non-voting means that citizens are simply not giving their consent to be governed. The health of a democracy is adversely affected by non-voting in a number of specific ways: the fewer the people who bother to vote:

The stronger the minorities, special interest groups, and individual zealots who adopt extreme positions and disdain compromise;

The weaker the safeguards against politicians who would abuse the authority entrusted to them;

The harder it becomes to formulate public policy in the interest of the common good;

The easier it becomes for media manipulators to dominate the political process by claiming to know the will of the people.

By casting a ballot, the voter not only chooses a public official but also indicates the direction he wants the government to go and affirms the democratic process. Affirming the process is by far the voter's most important act. By voting, he expresses his confidence in democracy and his belief that it is good for America, that it will yield, more likey than any other political system, honorable leadership, wise public policy, and sufficient restraints on the use of lawful power. By voting, he shows that he is alert to the conduct of those who would act in his name.

There is no optimal level of political participation in a democracy, but the steep drop in voting of recent years cannot help but adversely affect the health of the American political system. Voter turnout in the United States is lower than that of any other democracy in the world, except Botswana. There is a serious incongruity in the fact that the world's greatest democratic power has one of the poorest records of voter participation. Personally, I believe that the non-voting of millions of Americans is the major story in politics today. It overshadows the question of the direction that public policy should take. It even overshadows the problem of consensus-building in our pluralistic and open society.

Far more attention must be given to the reasons why millions of Americans decide not to participate in the election of public officials. Some of the more important reasons for nonvoting include the weakening of party loyalty, the decline of the political party itself, the confusion felt by citizens in the face of large and complex institutions and increasingly difficult problems, the influence of the mass media (especially television, with its superficial treatment of issues), and the remaining administrative complications of registration and voting. As I see it, however, the chief reasons for non-voting by a substantial number of Americans are these: the people are disenchanted with the political process, disgusted with their leaders, and disillusioned with the failure of the government to meet their needs. Across the length and breadth of the land there is a frustration with the seeming unresponsiveness and incompetence of the government, doubt about the integrity of public officials, and a growing feeling of powerlessness to effect any change for the better. It is likely that voter participation will continue to ebb until these attitudes are altered and some sense of hope is restored to the political process.

Our task, difficult though it may be, is to make the non-voter believe that voting matters. The contest with the non-voter will ultimately determine the fate of the American political system.●

THE INVESTIGATION OF CLAIMS OF IRANIAN BRIBERY

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. BARNES. Mr. Speaker, last February a representative of the revolutionary Iranian Government made a statement to me claiming that Members of Congress, as well as other public leaders of the United States, had been the subjects of bribery and blackmail by the former imperial government. Mr. Shahriar Rouhani, then the chief of the provisional embassy, claimed that he had evidence to substantiate this allegation, but was unwilling to make that evidence public or to turn it over to U.S. authorities.

I considered it mav duty, as a Member of the House, to report this claim to the gentleman from Florida (Mr. BENNETT), who chairs the Committee on Standards of Official Conduct, as well as to other appropriate officials, urging that a complete and thorough investigation be undertaken, either to verify Mr. Rouhani's allegations, or to affirm the good name and integrity of the U.S. Congress.

Eight months later, the staff of the Committee on Standards of Official Conduct, under the leadership of independent counsel, has completed its investigation of Mr. Rouhani's allegations. This investigation was conducted in consultation and coordination with other investigatory authorities, including the Department of Justice and the Department of State. I have carefully reviewed the committee's report, and am satisfied that the investigation was thorough, competent, and convincing beyond the slightest shadow of doubt.

The investigation did not uncover any evidence at all of any wrongdoing, improper conduct, or conduct conducive to compromise of any Member or former Member of the House of Representatives. The results of the committee's study, and the thoroughness of its investigation, leave me with no reason whatsoever to believe that there was any validity at all to Mr. Rouhani's claim that he had evidence or even cause to suspect that any Member or former Member of this House had engaged in any activity which compromised that Member's integrity or the integrity of this Congress.

Mr. Speaker, I commend to my colleagues the "Report of the Staff's Study of Alleged Misconduct by Members of the House of Representatives Involving the Former Government of Iran," as adopted by the Committee on Standards of Official Conduct on October 24, 1979. More importantly, I commend this study to the attention of the American people. I believe that it fully and fairly erases any questions of confidence which may have been raised by the self-serving allegations of a now-discredited individual.●

RECENT INTERNAL EPA STUDY DETERMINES REASONS FOR DELAY

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mrs. SCHROEDER. Mr. Speaker, the House will soon consider legislation to create an Energy Mobilization Board. While the establishment of the Board seems inevitable, I think it is important to point out some of the reasons for the delays in the Federal permitting processes which some of us are so concerned about.

This document, which I offer for the record, was prepared by the region VIII office of the Environmental Protection Agency. Its contents suggest that we could best expedite the Federal permitting process by educating the permittees on how to properly complete the necessary applications.

RECENT INTERNAL EPA STUDY DETERMINES REASONS FOR DELAY

Region 8 of the Environmental Protection Agency recently inventoried its PSD applications and decisionmaking since PSD regulations were first promulgated on December 5, 1974.

This evaluation found the following reasons for delay:

1. The major reason for delay was for incomplete applications. Applicant ignorance of EPA requirements and confusion led to many incomplete applications.

2. Premature applications, especially those attempting to avoid the August 7, 1978, deadline—after which additional monitoring was required—delayed agency processing for a limited period of time.

3. Disputes between EPA and the applicant concerning applicability and best available control technology have occasionally caused delay.

4. EPA must wait for state permits on some occasions. This delays the permit, but not the project.

5. Some developers have suggested that "EPA take its time" because they were not ready for construction.

Most importantly, EPA Region 8 has always processed PSD permits within 12 months after they were deemed complete.

Region 8 has also established a program to eliminate or minimize the major causes of delay, including:

1. The establishment of a detailed application package and workshops to aid developers in understanding the full requirements of the law.

2. Joint state-federal application submission.

3. 4-6 month processing time.

4. Continued public participation and involvement—which has not significantly delayed agency decisionmaking.●

HISTORY OF AMERICAN GUN CONTROL LEGISLATION

HON. JAMES E. JEFFRIES

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. JEFFRIES. Mr. Speaker, the issue of gun control has been hotly debated for several years. But in that debate, the history of gun control legislation and the ensuing controversies have not been adequately chronicled. At least not until September 22. That is when John M. Snyder, director of public affairs for the Citizen's Committee for the Right To Keep and Bear Arms delivered an address at a seminar of the Second Amendment Foundation here in Washington.

I would like to recommend that my colleagues read Mr. Snyder's remarks which follow:

HISTORY OF AMERICAN GUN CONTROL LEGISLATION

203 years ago today, Nathan Hale was executed as an American spy by officers of the British Crown.

Tomorrow, exactly 200 years after John Paul Jones boarded the Serapis, the naval Battle of Flamborough Head will be reenacted off the English Coast in the North Sea.

These are merely remembrances of past events but celebrations of freedom, commemorations of the sacrifices of our forefathers endured for the securing of individual rights against governmental tyranny.

The shooting began on April 19, 1775, when troops of the British Crown marched on Lexington and Concord under orders to confiscate the American colonists' arm. The shot heard round the world was fired to prevent a tyrannical government from taking away Americans' guns. Other rights were secured in the revolutionary process which followed but the linchpin which held them together was the right which guarantees them all—the right to keep and bear arms.

So important was this that it was included in the Bill of Rights and became the Second Amendment to the United States Constitution. Throughout most of our Nation's history since that time, this right has been held inviolate. With the advent of socialism in the 1930's, however, came the first successful Federal legislative attempts to institute some form of gun control. Inocuous as the National Firearms Act of 1934 and the Federal Firearms Act of 1938 may seem, they did constitute the first feet in the door towards limiting what had therefore been considered an unfettered right.

The National Firearms Act of 1934 was supposedly designed to regulate so-called criminal type firearms—submachineguns, sawed off shotguns, flashlight guns, palm guns, pen guns and so forth.

The Federal Firearms Act of 1938 prohibited a firearms dealer or manufacturer from shipping any firearm to a resident of a State which required a license to purchase a firearm unless the purchaser first exhibited his license.

While gun rights proponents at the time protested these Federal intrusions on the right to keep and bear arms, there was not so great a hue and cry as to make gun control a major public issue at the time. After all, what law-abiding citizen needs a submachinegun or a sawed off shotgun anyway? Besides, individuals wishing these items for collector purposes could obtain them with a Treasury permit, to the tune of $200 per permit per item—at 1930's prices. All the '38 Act did, it was said, was help certain States enforce their own gun laws.

Then came Pearl Harbor, America's involvement in World War Two, the great post war boom, the Korean War, the Red Scare of the 50's, the peace, progress and prosperity administration of the last President to serve two full terms in the White House, the administration of the youngest man ever to be elected President of the United States.

And then, in November of 1963, his assassination.

And then it hit the fan on gun control.

Actually, several pertinent factors were operative in the early 60's.

During 1961 and 1962, Sen. Thomas J. Dodd of Connecticut, Chairman of the Subcommittee to Investigate Juvenile Delinquency of the Senate Judiciary Committee, held 10 days of public hearings on the "Effects on Young People of Violence and Crime Portrayed on Television." So extensive were these hearings that the official printed record of them took up over 2,500 pages. Significantly, though, Sen. Dodd never submitted an official report on these hearings and never submitted legislation in the matter.

Instead, he turned his attention to gun control at around the same time the television networks turrned their attention to gun control. No one has formally alleged that there was a connection between these two happenings.

On January 29, 1963, Sen. Dodd opened public hearings on the general subject of the availability of mail order firearms to juvenile Americans. On August 2, he introduced S. 1975, which would have required only a simple notarized sworn statement for the mail order purchase of handguns.

On November 22, President Kennedy was assassinated.

On November 27, Sen. Dodd introduced a series of amendments to S. 1975. These would have made the bill applicable to all firearms, including rifles and shotguns, and would have required that the contents of the notarized sworn affidavit be certified by the chief law enforcement officer of the purchaser's locality as being true to the best of his knowledge and belief.

Thus began a national public debate in Congress, in the press, in television and radio, which while culminating with passage of the Gun Control Act of 1968 five years later, is still going strong with a prognosis that it will continue going strong for years to come.

While it would be impossible here to go into every aspect of the debate leading to passage of the Gun Control Act of 1968, which aspects have been detailed comprehensively in Robert J. Kukla's book on Gun Control, we can discuss some of the highlights of that debate and some of the major provisions of the Act itself.

Shortly after the public discussion began, it became obvious that the objective of gun control proponents was not reasonable regulation leading to a reduction in criminal violence but outright subversion of the Second Amendment and the confiscation of firearms in private hands in the United States. While all gun control proponents did not necessarily state publicly this position, most did advocate firearms owner licensing and firearms registration, which has been a first step toward general confiscation in other societies, especially in totalitarian ones, such as Communist Russia and Nazi Germany. Most recently, after the success this past summer of the leftist takeover in Nicaragua, the provisional government demanded that citizens turn in their firearms.

President Lyndon B. Johnson called for general licensing and registration, as did several presidential commissions which he appointed, most notable the National Commission on the Causes and Prevention Violence. Interestingly, the Executive Director of that now-defunct commission, Lloyd N. Cutler, was recently named by President Carter to shepherd ratification of the Second Strategic Arms Limitation Treaty through the Senate.

Also favoring the licensing and registration approach were Sen. Robert F. Kennedy of New York and Sen. Edward M. Kennedy of Massachusetts, Sen. Jacob Javits of New York, Sen. Charles Percy of Illinois, Sen. Henry Jackson of Washington, Sen. Warren Magnuson of Washington, Sen. Walter Mondale of Minnesota, now Vice President of the United States, Sen. Abraham Ribicoff of Connecticut, Sen. Thomas Dodd of Connecticut, Sen. Daniel K. Inouye of Hawaii and a number of others who have either retired or been retired by their constituents.

The gun control promoters were supported by the television networks and much of the print media in the United States, such as Newsweek, Time, The Ladies Home Journal, Playboy, McCall's, The Tribune and scores of others. The Washington Post, however, definitely led the pack. In 1968 alone, for instance, the paper ran 77 consecutive editorials on 77 consecutive days supporting Sen. Dodd's measures.

Another salient factor was the development, for the first time in the United States, of organizations founded solely for the purpose of promoting gun control in America. First of these was the National Council for a Responsible Firearms Policy, founded in the mid-60's. One of this organization's endeavors was promotion of Carl Bakal's book, The Right to Keep and Bear Arms, later reissued under the more appropriate title, No Right to Keep Bear Arms.

My own personal involvement in this national debate running from 1963 through 1968 began right in the middle of this period, 13 years ago this month, in September of 1966. At the time, I was studying for my Masters degree in Political Science here in Washington at Georgetown University and began what was to turn out to be an eight year stint on the editorial staff of the The American Rifleman, the official monthly journal of the National Rifle Association.

At the time, the NRA was the only national organization representing American gun owners and it was, unprepared, really, for the political onslaught and media blitz unleashed against legitimate firearms ownership in the United States. At the time the NRA had a two man legislative office whose purpose was not to fight gun control legislation but to advise members on how to comply with the various Federal, State and local firearms statutes already in existence. Its public relations staff was concerned primarily with promotion of the shooting sports and NRA's involvement therein. The politically oriented Rifleman staff members included Ashley Halsey, Jr., the Editor, and myself, and that was it.

Of the U.S. Senators who took up the cause of the American gun owner in forthright manner during those dark days only Sen. Strom Thurmond of South Carolina and Sen. John Tower of Texas remain.

With the President of the United States, the Majority Party in both Houses of Congress and most of the national media against the gun owner, there was not really much we could do and it is amazing, in retrospect, that we did as well as we did.

The Rifleman, I think, did a most credible job in exposing the opposition and its ultimate objectives. In addition, Franklin L. Orth, a former Assistant Secretary of the Army who served as NRA Executive Vice President, wrote to NRA members asking them to write their Senators and Representatives on the issue. Other organizations followed suit. There was even an organization of hunting dog owners and lovers which included printed postcards in its periodical for ready and handy return to Members of Congress. This all had some effect. One acquaintance of mine who was working in the Senate at the time told me that Congress had never received so much mail on a single issue since the Army-McCarthy hearings in the 1950's.

Given this background, one can understand how the 1968 assassinations of Sen. Robert F. Kennedy and Rev. Martin Luther King, Jr. served as a double catalyst for legislative activity which resulted in passage of the Gun Control Act of 1968.

This act incorporated the National Firearms Act of 1934 and the Federal Firearms Act of 1968 and:

Eliminated all mail order and other interstate purchases by unlicensed individuals of all firearms, ammunition and ammunition components except in rare special circumstances.

Prohibited all over the counter sales of rifles, shotguns or ammunition to persons under 18 and out of state residents, except that adult residents of continguous States can make such purchases through an affidavit procedure, and also prohibited all over the counter sales of handguns and their ammunition to persons under 21.

Permitted only Federal licensees to ship rifles, shotguns, handguns or ammunition across State lines.

Licensed gun collectors to buy and dispose of firearms or ammunition interstate as curios or relics, by mail or over the counter, subject to the same regulations as firearms dealers.

Required the permission of the Secretary of the Treasury, in addition to an import license from the State Department, for the importation of ammunition or firearms other than arms barred by the military surplus ban.

Renamed the Alcohol and Tobacco Tax Division of the Internal Revenue Service the Alcohol, Tobacco and Firearms Division and charged it with enforcement of the law. Later, this was taken out from IRS and made the Bureau of Alcohol, Tobacco and Firearms of the Treasury Department.

Imposed penalties of up to five years imprisonment or a $5,000 fine, or both, for violation of any provision of the law.

While gun control advocates lost several times on attempts to institute national gun owner licensing and firearms registration, they could have been well satisfied at the time with passage of the Gun Control Act of 1968, the most restrictive gun law passed on the Federal level in this Nation.

The fact that this was not the case, however, was evident from a reading of full page ads run in June in both The Los Angeles Times and The New York Times by the Fellowship of Reconciliation which demanded "Disarm America's private Citizens—ourselves. The country needs a much stiffer gun control law. Insist that all private ownership of guns be outlawed; that the guns now around be collected and destroyed."

The gun control advocates then proceeded to follow a divide and conquer legislative strategy and directed their attention to handguns. By 1972, Sen. Birch Bayh of Indiana, who had succeeded Sen. Dodd as Juvenile Delinquency Subcommittee Chairman, managed to have S. 2507, which would have eliminated the manufacture of one third of the models of all handguns made in the United States, brought to the floor of the Senate. Inaccurately described by Sen. Bayh as merely a bill to regulate so-called cheap "Saturday Night Special" handguns, the measure did pass the Senate. However, it died later that year in the House Judiciary Committee. Its Chairman, Rep. Emanuel Celler, who favored gun control, commented "we're a gun Nation and the members of the Committee are very gun conscious."

1972, then, was the last year a major piece of gun control legislation came before either House of Congress for a vote. Two years later, when Sen. Bayh ran for reelection, he nearly lost his shirt, and his position on gun control was generally given as one of the reasons why. Subsequently, he gave up his chairmanship of the Subcommittee to Investigate Juvenile Delinquency for a position as Chairman of the Subcommittee on the Constitution. However, several patriotic American organizations have targeted him for defeat next year.

In 1976, the House Judiciary Committee reported, by a vote of 20–12, H.R. 11193, which would have prohibited the future manufacture, importation or assembly of so-called "concealable" handguns, defined to include more than 50% of the new handguns being sold in the United States, including many expensive, high-quality pistols and revolvers, empowered the Bureau of Alcohol, Tobacco and Firearms to eliminate, through regulations, up to 120,000 of the Nation's 160,000 federally licensed firearms dealers, denied self-defense as a legitimate reason for handgun purchase by setting "minimum requirements" for new handguns similar to present Treasury Department importation criteria for handguns "suitable for sporting purposes," made it a Federal crime for an American citizen to purchase more than one handgun in any 30 day period; and begun a system of centralized national registration of all persons purchasing handguns from dealers. This bill never made it through the House Rules Committee and thus was the last and most recent gun control bill to have been reported by a Committee of Congress.

Indeed, it would seem that in recent years the tide in Congress is shifting in favor of American firearms owners, who comprise well over half the adult population of the United States. Last year, after the BATF attempted surreptitiously to institute national Federal gun registration by bureaucratic fiat, both Houses of Congress voted overwhelmingly not only to instruct BATF to knock it off, but also to slash $4.2 million out of the Bureau's requested budget as well.

None of this means that the battle is over or even, necessarily, that we are on the way to conclusive victory. It means that gun owners are better organized and more politically motivated than they were in 1968. Since that time, we have seen a burgeoning of pro-gun organizations in the United States: The Citizens Committee for the Right to Keep and Bear Arms, the Second Amendment Foundation, Gun Owners of America, the Firearms Lobby of America, The American Pistol and Revolver Association, the NRA Institute for Legislative Action, the Right to Keep and Bear Arms Political Victory Fund, the Gun Owners of America Action Committee and the NRA Political Victory Fund.

These groups, and others, have articulated the views of America's gun owners where, when and how they need articulation: in Congress, in the media and among gun owners generally. Three years ago, I, on behalf of the Citizens Committee for the Right to Keep and Bear Arms, presented the signatures of 1.5 million Americans from every State in the Union on petitions calling for repeal of the Gun Control Act of 1968 to Sen. James A. McClure of Idaho just a few blocks from here on the steps of the U.S. Capitol. At the time, Sen. McClure, who will speak to us this evening, called the outpouring of signatures "an unprecedented effort by a genuine citizens' lobby."

At the same time, though, we must keep in mind that gun control forces are more organized than at any other time in the past. At least two national organizations have come into existence since 1968. These are Handgun Control, Inc., formerly the National Council for Handgun Control, and the National Coalition to Ban Handguns. Already this year, these two groups have reported lobbying expenditures alone of well over $260,000—and one of them failed to report expenditures for the second quarter, as required by law.

As things stand at present, the range of firearms related bills introduced in each Congress runs from totally unacceptable legislation like H.R. 40, by Rep. Jonathan Bingham of New York, which would ban private handgun possession in the United States and impose penalties of up to five years imprisonment and up to $5,000 in fines, or both, for the possession of each handgun, to most desirable legislation such as S. 38, by Sen. McClure, and H.R. 1174, by Rep. John M. Ashbrook of Ohio, which would repeal outright the Gun Control Act of 1968.

One of the more preferable bills within these parameters is H.R. 5225, introduced last week by Reps. Ashbrook, Robert E. Bauman of Maryland, F. James Sensenbrenner, Jr. of Wisconsin, Michael L. Synar of Oklahoma and Harold L. Volkmer of Missouri. Titled "The Federal Firearms Law Reform Act of 1979," this recognizes some of the injustices perpetrated against American gun owners and dealers by BATF enforcement of the Gun Control Act of 1968 and seeks to rectify the Act in these respects. As Congressman Ashbrook said, however, this would be "an interim measure designed to curb abuses by the BATF" and not the final statement on the Gun Control Act of 1968.

The BATF came under fire in the Senate this past summer, too, when the Appropriations Subcommittee on Treasury, Postal Service and General Government held public oversight hearings into the antics of BATF and its agents. According to William M. Pace, Executive Director of the National Association of Treasury Agents, the Second Amendment Foundation Publication, The BATF's War On Civil Liberties: The Assault on Gun Owners, "was the basis for the hearings." This study is available during these proceedings and is well worth reading.

One thing that BATF, Kennedy and the gun control lobby never tries to explain is why, eleven years after the effective date of the Gun Control Act of 1968, the criminal homicide and non-negligent manslaughter rate is three times what it was in 1968. Nor do they ever mention, when they cite the statistic that 48% of these criminal acts are committed with handguns, that these 9,178 handguns represent only 183 ten thousandths of one percent of the 50 million handguns in private hands in the United States, and that, conversely, 99.999817% are clean. Nor do they, when they state blithely that Americans have wanted more gun control for 40 years, ever refer to the most comprehensive survey of registered voters' attitudes on gun control, to date, the Decision Making Information report of March 8, 1979, which indicates that 83% oppose a handgun ban, 54% see no need for more gun control laws and 88% believe they have an individual right to keep and bear arms. Nor do they, when they trot out a gun control advocate like Patrick Murphy, ever mention the GMA Research Corporation 1977 report on police officers' attitudes which reveals that 80% think gun control legislation has no effect on crime in their area and 86% would keep a firearm for the protection of their families and property if they were civilians.

The mendacity of the gun control lobby is surpassed in significance only by the potential menace they constitute for the continuance of legitimate firearms ownership in the United States. To thwart their statist and elitist designs, it is incumbent upon us to battle them tooth and nail in the trenches, dugouts and foxholes which dot the political and legislative landscape. To do this effectively, we must maximize our potential. We must band together and fight like hell for, as Benjamin Franklin said, "if we do not hang together, we shall most assuredly all hang separately." ●

AIRMEN'S MEMORIAL BUILDING

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mrs. HOLT. Mr. Speaker, it is my privilege to inform my colleagues that on Friday, October 26, the Air Force Sergeants Association (AFSA) had ground-breaking ceremonies for their Airmen's Memorial Building, which will serve as the international headquarters for AFSA.

In recent years the AFSA has distinguished itself as a professional association representing the active duty, retired, Air National Guard, Air Force Reserve, and former enlisted men and women of the U.S. Air Force. Its principal objective has been to strive to maintain a viable Air Force career for its more than 133,000 members by representing them through both legislative and personal action.

Congress and the Defense Department recognize AFSA as a primary resource contributing to the over all understanding of the needs of enlisted Air Force personnel. Association representatives are frequently sought out to testify at hearings both on Capitol Hill and at the Pentagon. The association also serves as an information link for its members, keeping them aware of pertinent policies, programs, and legislation. This function is met through AFSA's monthly magazine, Sergeants, and their Lobby Ledgers.

Mr. Speaker, I would like to commend AFSA's international president CMSgt. Walter E. Scott, USAF, Ret.; their executive council; the executive director, Mr. Frank C. Fini; and their deputy executive director and spokesman for legislative matters, CMSAF Donald L. Harlow, USAF, Ret., on their dedication and professionalism. I know that AFSA will continue to provide the leadership that our Nation needs to insure its security, and caring for the enlisted members that it so proudly serves.●

NAVAL CONSTABULARY IN THE PACIFIC

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. FINDLEY. Mr. Speaker, on October 23, 1979, the Japanese Chief of Naval Defense announced that Japan has decided to participate with the United States, Canada, Australia, and New Zealand in coordinated naval exercises in the central Pacific next Spring. This is an unprecedented and most welcome step by the Japanese which could have important and positive ramifications on our defense relationship with this nation—a relationship which, in light of the dangerous increase in the size of the Soviet Pacific fleet coupled with a reduced U.S. military presence in the region, is in dire need of reappraisal. It is time, I feel, for a new type of partnership between the United States and its Asian friends and allies to meet the growing challenge and provide adequately for security and defense needs.

These Pacific maneuvers commenced in 1971, and this is the first time Japan has agreed to participate in naval maneuvers with our Pacific allies. Their absence up to now is largely the result of the strong, post-World War II aversion among the Japanese to anything military. In recent years, however, these attitudes have changed as the Japanese have become increasingly concerned about America's reliability in their senior defense partner. Since the early 1970's they have witnessed a gradual American disengagement from Southeast Asia. U.S. withdrawal from Vietnam and Taiwan, and the plan to reduce the U.S. presence in South Korea, have created a sense of unease. The Japanese tend to regard the U.S. military presence in Korea as an indication of the degree of our commitment to regional security and have understandably become quite apprehensive that our withdrawal, however gradual, may signal a diminution in their own security. With the steady buildup of Soviet naval forces, particularly in and around Vietnam, many Japanese feel that the U.S. 7th Fleet possesses only a limited capability of defending Japanese sealanes in the event that the Soviet Union, either directly or by proxy, interferes with its oil lifeline through these waters.

In consequence of this, Japan has made a concerted effort to improve qualitatively its self-defense forces. The Japanese Armed Forces, for the first time since World War II, have been ordered to prepare a comprehensive defense plan which has necessitated widening the definition of defensive weapons—the only type they are legally entitled to possess—to include some which normally would be viewed as having offensive capabilities. They rationalize, and quite rightly, that an adequate self-defense necessarily includes incorporating offensive capabilities. The F–15 fighters, P3C Orion antisubmarine reconnaissance aircraft, and Grumman E2C Hawkeyes were therefore purchased from the United States and added to their defensive arsenal.

Despite these modest changes in attitudes toward armaments, the Japanese are still unwilling to develop a greatly expanded offensive capability. There is still no evidence that there will be any change whatsoever in Japan's nonnuclear policy. Nor should there be.

But the fact remains that this recent change in Japanese defense policy has, to a certain degree, been influenced by what Ambassador Mike Mansfield describes as our inadequate Pacific defense. He says:

> U.S. air and naval forces in the Asian Pacific area should be beefed up and should be given parity, at least, with those in the Atlantic and Western Europe.

Present U.S. force levels do not assure our Pacific allies that we are able to proceed expeditiously throughout the region to meet Soviet or Soviet-inspired challenges. Nor will final adoption of the Law of the Seas Treaty hopefully next summer guarantee sealane safety and security in the Pacific. The actual implementation of the principles which assure unimpeded transit and overflight through straits will be dependent upon national interpretation, arbitration, and other factors which give little reason for the United States and other powers to relax their naval presence in that part of the world.

I propose, therefore, that the United States and its allies devise a system which brings the major naval powers of the region together in what I choose to describe as a Pacific naval constabulary for the purpose of establishing various procedures for implementing and building upon the principles of the Law of the Seas. Under this plan, member nations of ASEAN—Singapore, Malavsia, Thailand, Indonesia, and the Philippines—plus Australia, New Zealand, Japan, and the United States would contribute to a multinational fleet which would patrol the Pacific and Indian Ocean sealanes as a police force of sorts, emphasizing safety in all aspects for all vessels using those international waters. It would not be a full-fledged defense system which would alter or supplant in any way the United States-Japan Mutual Security Treaty, the ANZUS Treaty, or any of our other collective security systems. Instead, its mission would be far more limited—to assure sealane safety and security in the Pacific and Indian Ocean areas.

Other than the United States, Japan certainly has the greatest stake in maintaining open sealanes. Japan could make a substantial contribution to regional security through its participation in this system. And, because this would be done under U.S. leadership and auspices, the new Japanese role need not cause domestic or regional anxieties. With the apparent change in Japanese attitudes toward defense matters, the establishment of a Pacific naval constabulary should be well received by the Japanese as serving their own interests as well as those of their neighbors and allies. And, in these times of fiscal restraint, this multilateral approach makes sense. Effective, continuing coordination of sealane patrols, maneuvers, and communications, gives promise of maximum effect from the resources of the individual nations taking part. It would instantly strengthen sealane safety and security without additional capital investment.

It is high time that the United States demonstrates to our Pacific allies our concern over what they perceive as their growing regional vulnerability. A Pacific naval constabulary, such as the one I envision, could help fill the dangerous void in security policy in this vital region of the world.●

A WESTERN "BULLET"?

HON. LIONEL VAN DEERLIN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. VAN DEERLIN. Mr. Speaker, today Jim Corman, Jerry Patterson and I are reintroducing the Southwest Coast Corridor Act. The language is the same as H.R. 5403, but we now have 17 additional cosponsors from California and Nevada.

This is an impressive show of support for modernized rail service for the Southwest—service such as the Northeast is already getting. The time has come to share the benefits of improved passenger rail service.

Train travel in the Southwest, and West generally, continues to gain popularity. On the San Diego-Los Angeles run alone, ridership in 1979 is up 35 percent over 1978—and 1978 was a very good year. In addition to increases on the regular routes, a new train has been added from Los Angeles to Ogden, Utah, through Las Vegas.

We must not sit on our hands waiting for the next gasoline crunch to hit. We ought rather to be building for the future, developing alternatives to auto travel as other countries are doing. The French, for example, have just unveiled an 185-m.p.h. train between Paris and Lyon. We will be happy to get a 120-m.p.h. train. Average speed on the San Diegan is now about 55 m.p.h.

While the future security of this country might well depend on the efficiency of our energy use, we have fallen far behind the rest of the world in the technology of efficiency. This bill is a modest step toward catching up in the area of transportation.

I hope some day to see a rail line in the Southwest with a performance record like the Japanese "Bullet" train. They have had no serious accidents on that line in the 15 years it has been in operation and—brace yourself—they have made money in all but the first year.

That is the sort of planning and building we must do in this country. Let us start now.●

MANDATORY CONTROLS ARE NEEDED

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. MOFFETT. Mr. Speaker, today the Democratic Caucus met to consider a resolution giving the President authority to impose wage and price controls. With inflation in the double digits and predictions by Alfred Kahn that these inflation levels would probably remain for a long time, the wage and price control route is the only way we have to call a halt to this economic crisis. On this very matter, I strongly urge my colleagues to read the following article which appeared in the Op-Ed page of the Washington Post several days ago. It conveys the sentiments of the majority of Americans, according to the polls, who want mandatory controls. These controls will give us extra time to attack the new inflation which is driving prices upward most markedly in energy, food, health and housing.

The article follows:

High Inflation Hype

(By Clayton Fritchey)

> The country can relax. Inflation is now in the hands of Madison Avenue. The word is that President Carter has enlisted the advertising industry in his drive to curb the cost of living.
>
> It may seem strange that an industry hitherto known for its genius in promoting spending should now be called on to help subdue it. Nevertheless, the Advertising Council is working with the administration on a "multi-media" campaign focused on the theme, "We can all beat inflation if we just use our dollars and sense."
>
> It sounds like something conceived by the wonderful folks who gave us "Whip Inflation Now" (better known as WIN), which was launched with 21 guns by Gerald Ford to spearhead his psychological war on inflation back in 1974. It was so juvenile and palpably inadequate that it was soon laughed off the scene, accompanied by soaring prices that finally climbed to a 12 percent inflation rate—the highest on record until recently topped by the 13-plus rate under Carter.
>
> The advertising writers helping the Carter administration have developed a booklet "to alert the American public to the dangers of continued inflation." One suggestion (from an adman no less) says, "If you don't think you can afford something, don't buy it." Were the American people to take that seriously, the country would collapse like a punctured tire.
>
> If Carter is looking to former presidents for hints on how to handle inflation and also win reelection, he would be better advised to take a tip from Richard Nixon. Like Car-

ter, Ford relied on feeble wage and price guidelines, resulting in both recession and inflation, or "stagflation." He also ended up being the only incumbent president to be defeated since 1932. Although Nixon had denounced mandatory wage-price controls all his political life, he abruptly embraced them in 1971 when inflation began going up and he began going down in the polls.

With controls holding prices to about a third of what they are today, Nixon's easy money policy produced such prosperity that he carried 49 out of 50 states in his record 1972 reelection. Later he abandoned controls, but only after he was safely back in the White House.

President Carter says that "whatever it takes to control inflation, that's what I will do." Except, among other things, the following:

Initiate mandatory wage and price controls. Effectively curtail importation of foreign oil. Nationalize the profiteering oil industry. Control domestic oil profits instead of phasing them out. Stop federal deficits. Balance the budget. Eliminate farm price supports. End maritime subsidies. Repeal protective tariffs and quotas for steel, textiles, cheese, television sets and other goods. Trim inflationary, non-productive military spending. Reform taxation to stimulate productivity. Reduce Social Security payroll deductions. Clamp a ceiling on runaway interest rates.

So, understandably, Carter's pledge to stop inflation is a qualified one. What he is really saying, along with the American public, is that inflation is the worst of all economic diseases, except for most of the cures for it.

The one cure—mandatory wage and price controls—that is consistently favored by a majority of the public is the one that Carter still says he will not adopt. Only a couple of weeks ago, however, the president said he fully supported the Federal Reserve Board's new tight money/high interest rate policy, but he already is weakening on that stand.

The president is currently saying that "interest rates are too high," and he is telling the labor unions that he won't "fight inflation with your jobs." When Paul Volcker, chairman of the Fed, warned a few days ago that "the standard of living of the American people has to decline," the president promptly said, "I don't agree."

In the wake of the Volcker policy, the stock market has already suffered a $200 billion loss, and the prime interest rate has soared to an alarming new high of 15 percent. It's not hard to see why the president is uneasy, and why Labor Secretary Ray Marshall was emboldened to say that the Fed's policies "are a very inefficient way to deal with inflation."

It's not hard, either, to see why a leader of Carter's own party, Sen. Henry Jackson, is now predicting that "clearly, the American people, out of sheer frustration, are going to demand mandatory controls, and you're going to see them enacted into law in 1980 by the Congress."

The Wall Street Journal, an avid opponent of controls, convened a cross-section of Midwest Americans last week to discuss inflation. The panel, it reported, was unanimously for wage and price regulation.●

COMPARATIVE POLITICAL SYSTEMS

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. LONG of Maryland. Mr. Speaker, I am pleased to make welcome twelve 10th-grade students and their teacher who are today visiting the Capitol from the Garrison Forest School in Garrison Forest, Md., the school from which my daughter, Suzanna Elizabeth Long, now Mrs. Phillip L. Moore, graduated.

My constituents are taking a course entitled "Comparative Political Systems." They will attend committee meetings and observe floor action in the House and Senate. I am certain that the trip coordinator, Mr. Bayly Buck, and the students, Heather Beck, Margaret Bowers, Karin Gieske, Carden Kohler, Catherine Lewis, Susan Moxley, Lisa Redifer, Suzanne Smith, Polly Wharton, Larkin Mott, Amanda Coroon, and Lizbeth Arauz, will have a memorable day and I appreciate this opportunity to meet with them.●

SOVIET UNION TRAVEL

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. CARTER. Mr. Speaker, many thousands of Americans already are planning to attend the 1980 Summer Olympic Games in Moscow.

On Tuesday, October 30, the Christian Science Monitor published a very informative article offering advice to those who might be considering traveling to the Soviet Union.

The author is a member of my personal staff, Susan Lively, from Danville, Ky., and daughter of U.S. Sixth Circuit Court of Appeals Judge and Mrs. Pierce Lively.

Ms. Lively is a bit of an expert on travel in the Soviet Union as she spent 6 months last year working as a tour guide for the Agriculture USA exhibit there. As part of her job, she explained American agriculture and rural life in Russian to more than 50,000 Soviet visitors.

I believe this article is both instructive and entertaining, and I commend it to the other Members of this body and to anyone who wishes to understand, as the Monitor states, that, in order to find picturesque, dramatic Russia, you have to deal with the Soviet Union.

The article follows:

USSR Olympics: It's A Good Idea to go With A Group

(By Susan Lively)

Russia. It brings to mind troikas whirling through endless snow-swept steppes, monks in icon-laden Byzantine churches, peasant weddings, gaily dressed dancers, and mournful balalaikas.

Soviet Union. By contrast, it evokes the image of a gray, humorless, bullying bureaucracy determined to control all of the 250 million people within its borders. Yet, both images are inextricably part of the same country.

Unfortunately, for the Western visitor to discover anything of the first, he must also come to terms with the second. Next year, while the 1980 Olympics are in Moscow, an estimated 20,000 Americans will visit the Soviet Union. They will all be contending with the bureaucracy in the form of Intourist, the official Soviet tourist agency. Intourist manages hotels and restaurants for foreigners, arranges tours with its own buses and guides, and makes other internal travel arrangements, including transportation to and from hotels and airports or train stations.

The Russian Travel Bureau in New York has been designated as the general sales agency for Americans traveling to the Olympics. During the period of the Olympics, July and August, 1980, the agency is offering 15- and 22-day tours that include six nights in Moscow, where most Olympic events are being held. The 15-day tour includes stays in two additional cities; the 22-day trip offers visits to five other cities. In addition to hotel rooms, travel arrangements, and most meals, these tours include excursions, theater tickets, and the services of Intourist guides.

To make the most of a trip to the Soviet Union, there are several things a traveler should keep in mind. First, it is necessary to make plans far in advance. This will be particularly true during the Olympics, since many hotel rooms assigned to Americans for this period have already been filled.

Second, most travelers should accept the fact that they are tourists and will do best to travel with officially recognized tour groups. Intourist is simply not equipped to handle independent travelers. During the Olympics, virtually all visitors will be traveling on package tours. Tourists who are not traveling on such tours have very low priority, in the eyes of Intourist bureaucrats.

For instance, a tourist may arrive at the door of his hotel restaurant and encounter a surly doorman who announces that there is no room in the half-filled dining room, in which all space is reserved for Intourist groups. If the traveler does manage, by bullying or bribe, to get past this formidable doorman, he may next encounter an impatient waiter, who announces that the regional specialties on the menu are only for groups—and our "second-class citizen" may order specialties on the menu are only for groups only stroganoff or cutlets. And since Soviet restaurants are invariably full, it will be even more difficult to find a meal outside the hotel.

In traveling throughout the Soviet Union, the author had her worst experience with this problem in Urgench, a small, dusty city in Uzbekistan, on the edge of the Kara Kum Desert, where a small hotel was opened for foreigners in 1978. Our nongroup of eight hungry individuals descended on the hotel dining room. It was empty except for a Polish tour group whose members were gorging themselves on the local delicacies of shashlik, pilaf, flat Eastern bread, and melon. Other long tables were set with bread and fruit in readiness for other groups. After a 10-minute screaming match with the doorman, we managed to be seated at an unset table, and an irritable waiter finally informed us that we could order only borsch—the Uzbek delights were for Intourist parties. After further cajoling, bribes, and compliments regarding Uzbek cuisine, the waiter succumbed and brought us the pilaf, bread, and fruit left over from the Polish group's meal.

Individual tourists can arrange through Intourist to take sightseeing tours of cities or surrounding attractions. Of course, an individual tourist may also look around on his own, but unless he speaks Russian, it could be rather difficult to decipher the public transportation system.

A tourist may also learn that he does not have confirmed reservations for his travel. As soon as the author's party got into a city, it was necessary to confirm the travel arrangements for the next city on the itinerary. Foreigners are booked only on certain flights, and these flights are sometimes filled with Intourist groups and important Soviets. When we arrived in Urgench, we informed an Intourist agent that we were to fly to Bukhara the next day. He checked our "reservations" and calmly told us that there were seats for only four of us on the next day's flight, and that the other four in the group would have to stay in Urgench an extra day. We discussed the matter among ourselves and decided on a strategy.

The next day we all checked out of the hotel and demanded to be taken to the airport. The ploy worked. Intourist simply could not cope with foreign tourists without hotel rooms who refused to leave the Intourist airport waiting room until they got on a plane. Seats were found for all of us on the flight to Bukhara.

Given the compelling advantages of traveling with a group, there are many kinds of groups and many kinds of tours from which to choose. A traveler should consider which cities he wishes to visit and the length of time he wishes to stay in each city. Only certain cities are open to Westerners and stays are limited, especially during peak travel times.

A third thing to remember in planning a trip is that the Soviet Union is not all Russia. The Russian Republic is only one of 15 Soviet republics, and only about half of all Soviets are Russian. There are many diverse cultures in the Soviet Union, and many other cities are as interesting to foreign tourists as Moscow, Leningrad, and Kiev. Americans seem to find the Baltic, Caucasian, and Central Asian areas particularly interesting.

The three Baltic republics of Estonia, Latvia, and Lithuania were absorbed by the Soviet Union in 1940, but the United States still does not officially recognize them as part of the Soviet Union. These three tiny republics have a decidedly Central European air about them, with old ports, winding, cobbled streets, and a feeling of industry and cleanliness. Tallinn, Estonia, will be the site of sailing competitions during the Olympics, and the Russian Travel Bureau will include this city on one of the Olympic tours. Another tour will include a visit to Riga, Latvia.

The Caucasian republics of Armenia, Azerbaijan, and Georgia are inhabited by a crazy quilt of nationalities. Georgians and Armenians are very proud of their ancient cultures, with their tradition of hospitality for visitors. Caucasian food is spicy and delicious, and restaurants are full of frenetic music and dancing. Two Olympic tours will take tourists to Tbilisi, Georgia, and one will include a visit to Baku, Azerbaijan.

Soviet Central Asia is a huge area seldom visited by American tourists. It includes the republics of Uzbekistan, Turkmenistan, Kirghizia, and Tadzhikistan. The major tourist cities, Tashkent, Samarkand, and Bukhara, have all the mystery of the East. Many of the ancient mosques, schools, and mausoleums, with their beautiful tilework, have been restored. In Central Asia, the marketplaces are usually the centers of activity, with brightly robed men presiding over their piles of melons and pomegranates, women wearing many tiny braids and "lightening" print dresses selling herbs and talismans, bakers slapping the traditional flat loaves of bread onto the walls of stone ovens, and men chatting and drinking innumerable pots of green tea as they lounge on teahouse platforms. The 22-day Olympic tours include visits to Samarkand, Tashkent, and Bukhara.

A final point the traveler should keep in mind is the need for patience and tolerance. A Byzantine influence lives on in the Soviet Union, and things often seem much slower and more complicated than might seem necessary. Restaurant checks are still totaled up on an abacus, and each floor of the hotel has a *dezhurnaya*—a woman who hands out room keys and keeps track of the comings and goings of hotel guests. A trip as simple as going across the city to visit a museum can become fantastically complicated. Taxis are scarce in many places, and other public vehicles are jammed with riders. Sometimes city maps disappear from the newsstands for weeks, and those that are available are often incomplete and inaccurate. However, a patient and energetic tourist can learn a great deal about a city and its people by asking directions in English or pidgin Russian as he walks or takes public transportation.

A further complication for a Western visitor is the necessity of having on hand two sets of currency—Russian and Western. Foreigners must declare all currency as they enter the country and must show the currency declaration form, as well as receipts for all money exchanges, when they exit the country. This system is designed to prevent exchange of currency with the numerous young black marketeers who sidle up to foreigners on the streets whispering "dollari?" . . . "jeansi?" Many Soviet hotels have dollar bars and gift shops, which sell choice items at reasonable prices for hard currency. The problem comes at the checkout counter. The cashier totals up the purchases in rubles, then converts the total into the purchaser's currency. The hapless visitor who doesn't have the correct amount to the last penny must receive change in francs, marks, or even perhaps in chocolate bars. When the tourist tried to unload this assorted change on the next visit to a foreign-currency shop, he is told he must pay in only one currency. So unless the visitor plans to start a foreign coin collection, he should bring along an assortment of change and small bills.

If the Western traveler follows these few rules and has a bit of luck he will not only survive the bureaucracy of the Soviet Union, but will also see the Russia of his romantic dreams, and will meet some warmhearted people. Soviets, especially in smaller cities, are curious about foreigners, particularly Americans. After a brief conversation in a café or theater, they may invite a tourist home and treat the guest to their finest delicacies. Russian generosity is often embarrassing to Americans, so it is a good idea to bring some small gifts for hotel "key ladies," tour guides, and newfound friends. Popular gifts are panty hose, art books, maps of the United States, Frisbees, and plastic tote bags with English brand names on them.

The Soviet Union is a country of contradictions—socialism imposed upon a varied peasant culture. As Winston Churchill said, "Russia is a riddle wrapped in a mystery inside an enigma." Each visitor will gain much as he unwraps the layers firsthand. The 1980 Olympics provide a good opportunity to accept this challenge.●

TRUE WAY TO FIGHT INFLATION AND RECESSION: REFORM OUR ECONOMIC STRUCTURE

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

• Mr. REUSS. Mr. Speaker, I include a transcript of my interview today on CBS Capitol Cloakroom conducted by correspondents George Herman, Marya McLaughlin, and Susan Spencer:

Q. Congressman Reuss, was there a monumental mistake by the Federal Reserve Board that caused chaos in the marketplace?

A. I still think it was a monumental mistake; however, coming from a body, the Congress, which is not above making mistakes of its own, I advocate now and then charity, and I think we ought to display that. What happened—this monumental mistake—was that the Federal Reserve, accepting an erroneous computer printout from one of the large New York banks, overstated the money supply by some 4 billion dollars. What happened was that the market, both speculators, and honest widows and orphans who buy bonds and stocks, seeing this huge explosion in the money supply said to themselves, "Oh my goodness, this is catastrophic, it's careening out of control, the Federal Reserve will have to take terribly severe action against it, so we'd better sell our stocks and sell our bonds because they're going to go down." Well, during the month of October, 1979, there was about a $200 billion selloff in the stock and bond markets, a greater amount, incidentially, than in October, 1929, whose, unhappy memory we're celebrating this month.

This means, of course, that people have less money to spend, it means that the markets are disrupted, and so it was a monumental mistake, but the Federal Reserve this week, when we called them before us, assured us that to err is human, and they're going to try to improve their procedures so that it's doesn't happen again. So we hope that this Three Mile Island of the monetary world will be a one-time event.

Q. What assurance does the American public have, though, that this could not have been a manipulated error, first of all; or secondly, that the Federal Reserve really may not be telling us the truth about it?

A. I know the people on the Fed; I think they are honorable and honest men and one honest woman—there being just one woman on the Board of the Fed. I believe them. I think it was an innocent error as far as the Federal Reserve was concerned. I have no evidence whatever that it wasn't an innocent error on the part of the New York bank and everybody else. But I do have to point out that if somebody wanted to make a billion, all they had to do was to get into the money supply figures incorrect information like this, then sell short like crazy during most of October while the market was going down, and then, by releasing the true figures and confessing error, start buying long and make another bundle.

Q. But you don't think anything like that happened?

A. I did ask the Federal Reserve to make a thorough-going investigation of just who was buying and selling, long and short, in the month of October, because I think it's necessary to put suspicions to rest. I don't have the slightest evidence. But whenever there is an opportunity to make that kind of a bundle, I think it's up to the government to put the facts on the table, and that's what I asked for, and that's what the Federal Reserve promised to do.

Q. What about the Federal Reserve saying that they never make decisions on those figures—that they always know there is some margin, you know, and they just kind of ignore. . . .

A. Well, they are basically right. The Federal Reserve should not and does not make money supply decisions on one week's blip on the radar screen, or even two weeks. But what happens is that investors and speculators in the market make decisions of transcendent importance.

Q. So the Fed's action was not based on those figures. The reaction of the people and the market was what happened to those figures.

A. That's right.

Q. Should those figures have been released when—I mean the story about what did the Fed know and when did they know it—were the figures corrupted and all that kind of thing?

A. Yes, as I suggested to the Federal Reserve when I found out about it after the event, I think since the Fed knew for three successive weeks that maybe these figures were corrupted, that they should have given a "The Surgeon General warns you that this may cause cancer" kind of warning on their figures. Their answer was, "Well, everybody knows that these figures are very flakey and no sensible person should rely on them." Well, unfortunately, the markets are made up of people sensible and insensible, and there were enough of the latter to contribute—I don't say they did the whole thing—but to contribute to the biggest selloff in the market we've had for 50 years.

Q. Getting beyond this rather flakey event and series of events . . .

HSR. I'm glad to hear you say that, because I don't think the goof of October is in the long run going to be what's important. I think what's important is what we're going to do about our economy.

Q. Let's look at the long run and the Fed's operation and let ask you: can the Fed actually control inflation by manipulating interest rates or the money supply?

A. No, it can't. It has to do its part. It has got, for example, and I applaud it, to maintain overall control over the monetary aggregates, and see that they don't explode. They're doing that. I approve of that. That's fine. But, beyond that, the Fed can't control the kind of inflation from which we're suffering, and the best evidence of that is that it isn't being controlled.

We're suffering from 13 or 14 percent inflation despite years of very sober Federal Reserve Board Chairmen who inveigh against inflation every day. No, it seems to me that we're going to get inflation and, for that matter, recession and stagnation in this country under control when and only when we realize that what is wrong with this country is not so much overall fiscal and monetary policy, but structure. What do I mean by structure? I mean the way we produce and sell food. I mean our energy policy. I mean our homebuilding and housing laws and policies. I mean our transportation policies. I mean the policies . . .

Q. Structure of our tax policies?

A. And tax policy. Structure means to a modern economist what structure means to a good fisherman. A good fisherman knows that when he goes out after bass, placid though the surface of the lake may be, what really counts is how those stones are structured 20 or 30 feet below the surface. And we haven't been doing this in our economy. We've been ignoring structure, which is why we have dumped into our lap Chrysler, the collapse of the midwestern railroads, the downgrading of our United States steel industry, the fact that our. . . .

Q. Is anybody attacking it, though? Is anybody starting to work . . .

A. Nobody except us cats. We've been trying to do it.

Q. What ought the Fed do that it isn't doing to get at the kinds of things you're talking about.

A. The Fed ought to exercise humility, and tell the world that its little dance with the money supply, necessary though it is, is but a tiny part of the true fight on inflation and recession.

Q. Congressman, you're talking about the fishermen and the stone and all that. Structure is in stone, really, and it's going to take a lot to change all those items that you mention.

A. You're quite right, if I can interrupt. It will take a generation, which is why we should start tomorrow, and not wait any longer.

Q. Right. But—I hate to use the word bandaids—what are the bandaids that are going to keep us going?

A. Fine. I'm glad you asked that question. We need a little bandaid. Look what we've got. November is a'comin' in. Congress is about to adjourn. Congress will reconvene in late January, and there will be about four months of sensible possible action. Then we're in a presidential campaign, and forget it, from the standpoint of really doing anything important about the problems of our country.

So we're talking about four or five months. What could be done? What kinds of things are there which will fight inflation, fight recession, and save energy? Well just the other day, earlier this week, confronting three of the nation's economists—John Kenneth Galbraith of Harvard, Walter Heller of Minneapolis and Alan Greenspan of Wall Street—I got them, more or less, to agree that there is a short-term bandaid program which would do some good, and which wouldn't make things worse.

You see, those people now who are advocating huge tax cuts across the board to fight recession are just going to make recession worse. And those people now who are squeezing the money supply until the pips squeak in an effort to fight inflation are just going to make unemployment worse; men and women are going to lose jobs, despite what President Carter says, because of this policy.

Q. So what's a little bandaid?

A. The little bandaid is as follows . . . and it's little.

1. Put a new tax, to raise around $20 billion, on gasoline and certain luxuries—luxury consumer durables, furs, jewelry, as, incidentally, Herbert Hoover, of all people, advocated back in 1932. Hoover was not always wrong. If you accompanied it by a humane cushioning program, so that those who need gasoline to get to work and for other essential purposes got inexpensive tax-free gasoline, you could then raise enough money in revenues so that you could do what we really ought to do, which is repeal the increase in the social security payroll tax. That's a very inflationary thing, and it's going up again in January. And that's a disaster, because that means that the em-employer, particularly the nice employer who employs a lot of people, has his costs raised, and he's just going to have to pass those on.

Q. Yield for a question, Mr. Chairman. You're talking about a neutral balance—you raise exactly as much as you spend.

A. Exactly. So you also satisfy—and I think they've got to be satisfied—the budget balancers, and the European money masters. So here is a way of fighting inflation, fighting recession, and fighting energy waste, which would do the nation for the next year.

Q. Congressman, for an awfully long time most people thought that the way to fight inflation for them personally was to go out and buy a house. That was kind of the conventional wisdom. When couples had enough money, they would do this and they figured they were in good shape and they could always sell it and make a bundle. Is that still true, do you think?

A. Yes, I do. Though, of course, it's going to be less true in the days to come.

Q. What are we looking at in interest rates?

A. A good home in a good location, with a roof that doesn't leak, is a marvelous investment, and furthermore, you can live in the thing. That's better than stamps and coins and gold and even stocks and bonds. So I continue the advice I have given to my friends—and taken myself—for some years, which is, get yourself a nice little home.

Q. If you can . . .

A. If you can. Now, of course, high interest rates are murder. Gibraltar Savings and Loan in California is charging 16 percent for a mortgage, and you've got to plunk 50 percent down. So there are more and more Americans who are cut out of the home market, and this is a tragedy, and it's also social dynamite. If you divide Americans into 50 percent homeowners and 50 percent disgruntled renters who are at war with their landlords, that is not a very edifying society.

Q. What is it going to do to the home building industry and also to some productivity that we need in the economy?

A. It's going to cause the homebuilding industry to go "kerplunk", unfortunately, and that's bad because then home builders dissolve their work forces and the remaining construction workers naturally enough demand an extremely high hourly wage because they point out they only work half a year, whereas their kids like to eat 365 days a year.

Q. Do you or the economists have a bandaid for that?

A. Well, my little bandaid that I've just suggested would help that, because my bandaid involves a social contract between the Administration and the Congress on one side, and the Federal Reserve on the other. You see, as Mr. Herman has pointed out, my program is fiscally neutral. It doesn't involve increasing the deficit. Now it may sound funny for a so-called progressive Democrat to advocate not increasing the deficit, but I think that's what we need to position ourselves to do in the next year. Then we could turn to Mr. Volcker and the Federal Reserve and say, "Now look, we've done our bit on the fiscal side. It's up to you to stop increasing interest rates as dramatically as you have, and let them start going downward." I think they should start going downward right now, incidentally.

Q. Do you turn to anybody else? Do you turn to unions and say "do your part and ask for somewhat less"? Do you turn to manufacturers and say—in other words, is there some jawboning or some wage and price influence of some kind?

A. Yeah, I think there should be a modest social contract, not mandated by law, but if you had the kind of program I've just suggested, we could go to the unions and say, "Look, America's unions have been pretty good. They have sat still so far for wage increases which have been less than the increase in the cost of living. Labor has tightened its belt." Now, we're not going to ask Labor to be the total fall guy, but we're going to ask a continued patriotic belt-tightening approach.

And then we should turn to industry and ask them, in view of this social contract, to do the same thing. The first thing I would do, incidentally, if I were in a position to do so, would be to turn to the oil companies and say, "Look, your profits are astronomical, and instead of putting it into new drilling, as you promised you'd do, you're putting it into more conglomerate mergers. And this doesn't bring one additional ounce of oil into being, so, gentlemen, we've got news for you. We're going to put you under controls once again, because you have proved yourselves unworthy. You were weighed in the balance, and you've been found wanting. And instead, we're gonna discourage the excess use of wasteful gasoline by tax, so that Uncle Sam, rather than the oil companies, can get the money. And Uncle Sam can then use that extra revenue to lift the terrible payroll tax burden from the back of the worker and the employer without jeopardizing the social security fund."

Q. Congressman, one question before we go on to the politics. Chrysler. Should we save them? Should you save them?

A. I feel very sorry for Chrysler management, Chrysler dealers, and particularly for the 150,000 Chrysler workers. But getting back to the point of structure that I've been talking about, wouldn't it have been better if, taking a lead from Germany and Japan, back in 1975, when it became apparent that the Arabs were going to up the price of gasoline something terrible, we—government, labor, management—had convened in Detroit and said, "Look, we're on a collision course here. Ford, General Motors, Chrysler, insist on making gas guzzlers, thus giving all the compact car business to Volkswagen, Fiat, Renault, and the Japanese manufacturers. We therefore are going to try to work with Detroit to see that we do the right thing."

We didn't do it. We now are confronted with Chrysler, and my answer as of the moment is that we shouldn't, via bailout, encourage Chrysler to keep on doing that which got it into its troubles in the first place.

Q. Let me ask you. We have a lot of people announcing for President every day. Big fights in both parties. Is politics going to overtake the economic problems that we have, and if we get into next year without some solving of them, will we let them slide?

A. Well, I hope just the contrary—that politics will induce some of the candidates to start making sense and talking about what I think is the fundamental question, which relates to the economic structure of this country, and the imperative need to start reforming it now, meanwhile applying a little bandaid for the next 12 months. But until we repair our structure of how we do things, we're going, not the way of Germany and Japan toward greater productivity, but the way of tired old Britain toward second-ratedness.

Q. Since Teddy Kennedy has said that the economic situation, inflation and the present lack of solving it, is one of his main things. Is there time for Jimmy Carter to turn it around?

A. Absolutely. And it's also time for Teddy Kennedy and whoever to state in crystalline terms just what they mean by leadership. Everybody's for leadership. What is needed, of course, are concrete visions of the future, and of what we might do to recapture the American team spirit—cooperation and planning—which made us great in the first place. We've lost it.

Q. Do you agree with Kennedy's contention that part of the reason we're in this mess was that the President took so long to recognize that inflation was as serious as it has become?

A. Yes, I would agree with that—the President and, mainly, the White House, which has been so deplorably weak. The President I admire very much. But he's been surrounded by lightweights.

Q. You said with flat assurance that absolutely there is time enough for the President or for Senator Kennedy to turn the situation around. Do you see any signs that either is turning around to what you consider the right course?

A. Well, certainly not the Administration. They keep making the same old mistakes, which make the structure of this country worse. As for Senator Kennedy, he has not had his moment on the stage yet, and we'll have to hear what he has to say.

Q. Do you think you understand what his economic policies are and what his inclinations are to do about the economy?

A. Not fully, no. Many of the things he said have been good music as far as I am concerned, but he has not yet stated what his economic outlook is, and I want to hear it.●

TRIBUTE TO ALFRED E. WOOD

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. CAMPBELL. Mr. Speaker, a grateful Nation extends its congratulations to Mr. Alfred E. Wood of Aberdeen, Md. on the occasion of his retirement from Federal service today. For 35 years, Mr. Wood has set an example of faithful dedication to duty and untiring effort to meet his responsibilities. He has been a credit to Federal civil service. Our thanks, admiration and best wishes go with Mr. Wood this day.●

FUNERAL FOR FTC FUNERAL REFORM?

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. OTTINGER. Mr. Speaker, I would like to call to the attention of my colleagues an editorial that appeared in the St. Petersburg Times on October 24. As you probably know, the FTC authorization bill and three amendments to it will be voted upon by the House later this week. I am particularly concerned, and urge you to vote against the amendment to be offered by Congressman Russo which seeks to restrict the FTC's power to curtail abuses in the multibillion-dollar funeral industry.

Few of us realize how significant an expense a funeral is for the average consumer. In fact, funerals represent the third largest purchase a consumer makes after buying a car and a home. Nonetheless, basic price information is generally not made available over the phone or itemized on a price list.

Consumers particularly vulnerable during this time of family distress should not be victimized or exploited by profiteering funeral entrepreneurs. In response to this need for consumer protection the FTC has proposed a rule which simply mandates the disclosure of price information and other relevant information.

It is a very bad precedent indeed to have Congress interfere with ongoing proceedings on behalf of the special interest of a particular industry, especially when the reform enjoys such a broad base of public support as is the case here, including labor, senior citizen, consumer and religious groups, as well as from Federal, State, and local officials. This incisive editorial confirms the need for funeral reform, and I hope you will read it. More importantly, I urge you to vote against the Russo amendment.

The text of the editorial follows:

A FUNERAL FOR THE FTC?

Fair competition! Consumer protection! Noble words, and more than 60 years ago the Congress created an agency, the Federal Trade Commission (FTC), to breathe life into them.

But the FTC was a paper tiger, sleeping in the sun while the hyenas and jackals continued picking the poor consumer's bones.

That is, it was. A few years ago, Congress tired of having the FTC make consumer law ad hoc, one culprit at a time. It gave the FTC power to lay down trade regulations saying in advance how entire industries should behave. Next, Jimmy Carter came along and appointed a fine new FTC chairman, Michael Pertschuk.

The tiger stirred. It roared. And, as one might expect, the jackals and hyenas are scared of losing their free lunch. They've ganged up on the FTC, they have it at bay, and they just might be about to pick its bones clean.

The issue is a bill, two years overdue, to reauthorize the FTC. The House has insisted on giving either house of Congress the power to overrule the FTC when it adopts trade regulations that displease special interests. So far, the Senate has refused to go along with this, but the Senate's back finally is bending.

Of course, Congress ought to have the last word over agencies such as the FTC, to which it has delegated lawmaking power. But what two houses give, it should take two houses to take back.

This week or next, the House will vote on an FTC bill that embodies the one-house veto, a gimmick of dubious constitutionality. At least this version is as benign as the consumer protection subcommittee dared to make it. If the House voted, say, to toss out an FTC rule protecting people who buy used cars, the Senate would have 30 days to overrule the House.

The veto power is far from the worst of what lurks in the House. Three pending special interest amendments would curtail the FTC's attack on alleged monopoly in the breakfast cereal industry; forbid the FTC from investigating agricultural marketing cooperatives, and prevent the FTC from enforcing some sensible and sadly overdue funeral industry regulations that have been under development for six years.

If the FTC isn't to be allowed to represent the consumer vis-a-vis funerals, what of the other industries it is investigating, such as medicine, mobile homes, new home construction and used cars? "If we can't win funerals," says a friendly House staff member, "we can't win any of those."

The FTC's investigation proved that funerals cost too much because the consumers have too little choice in how they are carried out and because there is hardly any price competition. It also documented disgraceful conduct by a minority of funeral directors.

In the public interest, the rules would require itemized price disclosure and prohibit such goulish practices as embalming without permission and forcing relatives to purchase expensive caskets when—as in immediate cremation—they are not necessary.

The rules themselves would not be necessary if the states had acted. But, apart from a few such as Arizona, Texas and Florida, state regulation is at the whim of the industry, discouraging competition and shielding the unscrupulous practitioner. Florida's new law, made possible by a "sunset" deadline on the toothless old law, was modeled on the proposed FTC code.

The FTC's rules would benefit citizens of all states, including the few which have responded to the need. On Oct. 10, the Arizona State Board of Funeral Directors and Embalmers emphatically endorsed the FTC's efforts, saying:

". . . Funeral services consumers are uniquely vulnerable . . . The demonstrated need exists for active and aggressive coordinated enforcement efforts by federal, state and local consumer fraud agencies in this area . . ."

There could be no greater consumer fraud than for the Congress to create high-minded laws and agencies, only to repudiate them when they threaten to fulfill their purposes. . . .●

NEW YORK CITY CELEBRATES 75TH SUBWAY ANNIVERSARY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. BIAGGI. Mr. Speaker, on October 28, the city of New York quietly celebrated a most significant event—the

75th anniversary of its first full day of subway operation.

On that memorable day back in 1904, 150,000 passengers paid 5 cents to travel the 9-mile route from City Hall to 145th Street and Broadway. Today, nearly 3.5 million people pay 50 cents to ride the 239-mile system that sprawls from the Westchester line to the Rockaways.

The original City Hall station, where the first subway riders—a group of financiers and city officials—departed is now a turn-around loop. It was closed to the public when it became too small to handle the system's longer trains and massive crowds.

While the New York City subway is not the oldest system in the world—London's was built in 1863—it was the first in the United States, and despite its age, underground mass transit may just be coming into its own.

The energy crisis of 1979 has created a national phenomenon that has resulted in a growing demand for mass transit, following a 30-year decline which reached a low point in 1972. Further, data shows that the growth has been uninterrupted for the past 25 months, indicating that the recent increase in mass transit use may be more than just temporary.

For the period from August 1978 to August 1979, there has been an 8.4 percent increase in mass transit use nationally. New York City showed a 6.5 percent increase, and Washington, with a new subway system, had a 34-percent gain.

So, it would appear that after 75 years, the New York City subway system, and underground mass transit in general, is alive and well. Rail systems are being built or have been proposed in Baltimore, Miami, Buffalo, Detroit, Honolulu, and Portland. Certainly, this is a tribute to the New York City subway, which has been so successful in combating traffic congestion, scarce parking spaces, air pollution, and of course, the energy problem.

Mr. Speaker, at this time, I would like to insert an historical overview of the subway's 75 years, as provided by a recent New York Daily News article. I wish to join the Daily News in honoring the proud past of our Nation's first subway system, and in calling for some necessary improvements.

The article follows:

NOTE FROM UNDERGROUND: SUBWAY IS 75 TODAY

(By Don Gentile)

At 2:35½ p.m., Oct. 27, 1904, someone shouted, "Watch the closing doors," some wise guy probably asked, "Why, what are they gonna do?" and New York had a subway and a new species of human known as homus sardinus.

The route traveled took that first subway train "an amazing nine miles underground" from City Hall to 145th St. and Broadway.

There was Mayor George McClellan at the throttle—silver for the occasion. He and a bevy of public officials were like children with a new toy. It was nearly five hours before paying passengers were allowed onto the strange new means of rapid transportation that yesterday very quietly celebrated the 75th anniversary of its first full day of operation.

Remarkably, noted the old New York Sun, "there wasn't a single casualty" from 7 p.m. to midnight when 150,000 passengers took those pioneer steps onto the IRT subway.

"SUBWAY EYE"

Of course, a few alarmists were aboard that first day of rides underground and reported a strange new sickness that was dubbed "subway eye." It was kind of a dizziness followed by lethargy that came from trying to count upright steel girders along the route. Scores of passengers underwent a kind of hypnosis and "went to sleep."

There were many "firsts" noted. F. B. Shipley secured for himself a place in the history of the subway by becoming the first passenger to surrender his seat to a woman. Shipley was from Philadelphia.

At those first token booths, a fierce bidding ensued to possess the first ticket. The change clerk in the Times Square station turned down an offer of $25. Instead, he paid the five cents fare and kept one of the first tickets himself.

For years following that first ride underground, subway riders were considered curiosities.

What followed in the next 75 years is a kind of conditioning process that continues today—a conditioning that enables New Yorkers to expect the unexpected, to bear the smells and the oddballs, to notice whether that hand is simply brushing by accidentally or reaching into a pocket.

Those nervous jitters and slight sense of panic when a train stalls have their seeds in several catastrophic accidents during the subway's first 25 years.

It was Aug. 24, 1928 and the evening rush for home had just begun. The same crowds were pushing their way into the Times Square IRT station in the same way they had done for years. A 10-car New Lots Ave. express was jammed.

Just south of 40th St., the train passed over a switch that wasn't operating properly. The seventh and eighth cars rumbled safely over the switch. The ninth car's forward trucks followed the path but suddenly the rear of the car swung off the tracks at a crazy angle. The defective switch had locked shut.

Panic prevailed. Windows and doors were smashed and frantic passengers surged to the tracks. Over 700 doctors, nurses, police and firemen gave aid in this worst of all underground accidents. When the damage was counted, 16 persons were dead and 160 had been mangled.

Mayor James Walker immediately ordered the arrest of IRT president Frank Hedley, if mechanics wanted for questioning by police were not produced. In the end, mechanical failure was pegged as the cause and cries for better evacuation plans resulted.

HISTORY REPEATING ITSELF

If anything, to look nostalgically at the subway system is to look at history repeating itself over and over again.

This familiar sounding headline introduced a Daily News story in January 1949: "Mechanical Bugs Louse Up Pretty New Subway Cars." The story highlighted electric defects in 74 of 274 new cars ordered.

The following year, "The city's transit police began an intensive drive to rid the subways of known criminals." Police described the 38 men arrested in that particular war on crime as "lush workers—purse snatchers and pickpockets."

Five years later, the Transit Authority "stepped up its war against crime in the subways" and increased its police force to 835 men.

In January 1957, Transit Police Chief Thomas O'Rourke proudly announced that the "time has come when teenage packs are no longer considered a menace to the subway riding public," thanks to a "crackdown."

A year later, 44 teenagers were rounded up after two persons were stabbed on the subways in the latest incident of all-out warfare between youth gangs.

WAR ON HOODLUMS

By 1965, Mayor Robert Wagner was announcing an "all-out war on hoodlums, toughs and junkies who have been terrorizing the city's subway riders." An extra 1,000 cops worked extra duty in the dangerous night hours.

But the 75 years of stories from the underground are not all tales from the crypt.

In September 1939, John Durkin was arrested in the subway at 43d St. and Eighth Ave. for assaulting Miss Frances Murphy. But Durkin wasn't actually doing much assaulting. He was decked with a left hook that Jack Dempsey would have envied.

Murphy, who had been wearing a veil, lifted it to disclose a full beard and moustache. Durkin had picked on the bearded Gorilla Lady of the World's Fair "Strange As It Seems" show.

Back in March 1956, an embarrassed Transit Authority had to recall thousands of free passes it had given out to employes. It seems the cardboard passes were the same colors used by Horn & Hardart bake shops for packing take-out orders. Many persons simply cut the cardboard bakery boxes to the size of the real pass.

That same year, the Transit Authority proudly announced it was testing subway cars that would play recorded music. The move ended at the announcement stage.

Harvard grad James Sidney Law, in 1967, gained fame on the subway riding through every station on every line in the record time of 22 hours, 11 minutes and 30 seconds—using one token. He hasn't ridden the subway since.

But millions of others use the "hole in the ground" each day, so Happy Birthday IRT, BMT, and IND. You're getting older, but can't you get a little better?●

CONGRESSIONAL SALUTE TO WILLIAM J. MEANS AND ANTHONY J. DUDA, EAGLE SCOUTS

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. MURPHY of Pennsylvania. Mr. Speaker, the Boy Scouts of America is an institution that admirably encourages our young citizens to serve their fellow Americans. Confidence in themselves and service to their community is enhanced by encouraging the young participants to excel through the ranks of this scouting organization by assisting in civic activities. These activities create worthwhile services to the American public. I commend William J. Means and Anthony J. Duda for attaining the esteemed rank of Eagle Scout for which each worked diligently to attain. As a result of the qualities displayed by these two young men, it is only fitting that we recognize their accomplishments exemplified by this distinguished award.

During the difficult times that have faced this country, a large percentage of our leaders who have led us to prosperity have been former scouts. Today in government, business, and industry, many of the decisionmakers who direct our country's fate are former scouts. Certainly, when tomorrow's generation receives the torch of leadership, names such as William J. Means and Anthony J. Duda will be among those who continue this country's proud traditions and heritage.

I include the following letters:

WESTMORELAND-FAYETTE COUNCIL,
TROOP 620,
Uniontown, Pa., October 15, 1979.

DEAR SIR: We are pleased to extend to you an invitation to honor us with your presence on November 3, 1979 at St. Mary's School Hall, Uniontown, Pennsylvania.

At this gala affair attended by you and many distinguished persons like yourself and others in the city, state, government, and many well wishers, we the Members of Scout Troop 620, will honor William J. Means for attaining and being awarded the highest rank in scouting—"EAGLE". As you know, this is a very hard feat to accomplish and very few reach this honor.

It is with this in mind that we are planning such a grand affair. May we ask that if this request will interfere with your schedule, we would appreciate a commendatory letter to William for this Achievement.

We would appreciate it if this honor could be read into the Congressional Record and a copy sent to present to the Eagle Scout.

Please send your response to George Blanda, 29 Cooper Street, Uniontown, Pa. 15401. The program will start at 8:00 p.m.

Respectfully,
JOSEPH A. HUDAH, SR.,
Scout Master.
GEORGE A. BLANDA,
Awards Chairman.

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 29, 1979.
Mr. GEORGE A. BLANDA,
Awards Chairman,
29 Cooper Street, Uniontown, Pa.

DEAR MR. BLANDA: Thank you for advising me of the Awards Ceremony on behalf of Eagle Scouts Duda and Means. Enclosed you will find certificates from my office commending both of these young men for their attainments.

I do hope that by the time this letter is transcribed my remarks will be entered and printed into the Official Record of Congress and I will forward them to you.

I regret that I had previously agreed to speak at the Northwestern Washington County Medical Center First Annual Banquet and I will be unable to enjoy the pleasure of being with you to honor these two fine young men.

Very truly yours,
AUSTIN J. MURPHY.

TROOP 620,
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Respectfully,
JOSEPH A. HUDCH, SR.,
Scout Master.
GEORGE A. BLANDA,
Awards Chairman.●

THE HAZARDOUS WASTE RESPONSE ACT OF 1979

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. FLORIO. Mr. Speaker, releases of hazardous wastes from inactive and abandoned sites is the most serious environmental problem facing our Nation today. The past months have brought to public attention a series of inadequate and illicit hazardous waste management practices. These practices have imposed unacceptable social and environmental burdens, as well as staggering cleanup costs on our society. Such tragedies as occurred at Love Canal, N.Y., Valley of the Drums, Ky., and Pittston, Pa., and scores of other cases throughout the country have revealed a pattern which is both alarming and dismaying. Decades of improper disposal practices have resulted in a legacy of potentially thousands of problem sites which may require billions of dollars in response costs.

Current Government authority to correct this problem is extremely limited. Government response to inactive and abandoned sites under existing funded statutory authority first requires documentation of an imminent and substantial threat to public health or welfare and successful judicial action to enjoin responsible parties before any remedial actions may occur. This can require months and often years. Where a responsible party cannot be identified or is not financially viable, no effective Government response is authorized by existing laws, unless the disposal site discharges oil or specifically designated hazardous substances into navigable waters.

For these reasons I am today introducing the Hazardous Waste Response Act of 1979. The bill would establish a comprehensive system of notification, emergency Government response, enforcement, and liability for releases of hazardous wastes from inactive and abandoned disposal sites. Specifically, the bill would:

Require owners or operators of hazardous waste sites or others who might contribute to hazardous waste releases to notify the Government if a release takes place.

Empower Government to respond promptly to releases at inactive and abandoned sites.

Prohibit releases from inactive and abandoned sites. Persons responsible for a release would be required to take remedial actions. Government action is only authorized when responsible parties fail to take necessary response actions.

Establish liability without fault to enable persons and governmental agencies to recover from responsible parties.

Establish a fund to assure moneys to carry out these authorities. The fund would be raised from Federal appropriations and an industry-based fee. The fund would raise $1.3 billion over a 4-year period.

Enlist the aid of the States by authorizing the Federal Government to make grants to States, enter into cooperative agreements, or contract with States to respond to releases at sites. If response costs exceed $300,000 at a given site, States would be required to contribute 10 percent of the response costs.

The Interstate and Foreign Commerce Subcommittee on Transportation and Commerce held a series of hearings and undertook extensive deliberations on "Superfund" legislation as applied to inactive and abandoned disposal sites. The bill I am introducing today is a result of those hearings and deliberations.

I am hopeful that Congress will give prompt attention to this bill. By so doing the Government will be able to respond effectively to the public health and environmental threats posed by hazardous waste at inactive and abandoned disposal sites. The health and safety of our citizens cannot afford anything less.●

ROLLCALL VOTE

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Ms. HOLTZMAN. Mr. Speaker, I was unable, due to illness, to be present for the following votes on September 25, 1979. Had I been present I would have voted as follows:

Rollcall No. 502, "yes";
Rollcall No. 504, "no";
Rollcall No. 505, "no." ●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings, when scheduled, and any cancellations, or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, November 1, 1979, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

NOVEMBER 2

9:30 a.m.

Armed Services

General Procurement Subcommittee

To receive testimony on the sale of U.S. Navy vessels.

224 Russell Building

Judiciary

To resume hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.

2228 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold hearings on a proposal to transfer the functions of the Cost Accounting Standards Board to the General Accounting Office.

5302 Dirksen Building

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

Finance

Business meeting on pending nominations and calendar business.

2221 Dirksen Building

Foreign Relations

Business meeting, to continue markup of the SALT II Treaty (Exec. Y. 96th Cong., 1st sess.).

4221 Dirksen Building

Governmental Affairs

To resume oversight hearings focusing on the organizational and management aspects of the Department of Energy.

3302 Dirksen Building

Joint Economic

To hold hearings on the employment-unemployment situation and price data information for October.

6226 Dirksen Building

2:30 p.m.

Finance

Taxation and Debt Management Generally Subcommittee

To hold hearings on S. 1691, to create an appellate court with exclusive jurisdiction over all Federal civil tax appeals.

2221 Dirksen Building

NOVEMBER 5

9:30 a.m.

Judiciary

To resume hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.

2228 Dirksen Building

*Labor and Human Resources

Handicapped Subcommittee

To hold oversight hearings on the implementation of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (P.L. 95-602).

4232 Dirksen Building

10:00 a.m.

Select on Indian Affairs

To hold hearings on S.J. Res. 108, to validate the effectiveness of certain plans for the use or distribution of funds to pay judgments awarded to Indian tribes.

154 Russell Building

2:00 p.m.

*Appropriations

Military Construction Subcommittee

To mark up H.R. 4391, making appropriations for military construction programs of the Department of Defense.

S-128, Capitol

NOVEMBER 6

9:00 a.m.

Agriculture, Nutrition and Forestry

Agricultural Credit and Rural Electrification Subcommittee

To hold oversight hearings to examine the current operations of the Farmers Home Administration, focusing on recent problems relating to the outstanding debt to the agency and personnel problems associated with loan supervisions and counseling; also to examine the implementation of the guaranteed agricultural loan programs and the economic disaster loan program; and to review the installation of a management information system at the agency.

324 Russell Building

Environment and Public Works

Resource Protection Subcommittee

To hold hearings on S. 1882, to provide for the control of interstate and foreign commerce in fish and wildlife.

4200 Dirksen Building

9:30 a.m.

Governmental Affairs

Intergovernmental Relations Subcommittee

To resume hearings on S. 1108, to provide relocation assistance and guidelines for displacement of individuals who are forced to leave their homes and neighborhoods because of Federally funded projects.

3302 Dirksen Building

Judiciary

Business meeting on pending legislation and nominations.

2228 Dirksen Building

Select on Small Business

To resume hearings to examine the economic outlook for the small business.

424 Russell Building

NOVEMBER 7

9:00 a.m.

Commerce, Science, and Transportation

To hold hearings on S. 1946, proposed Railroad Transportation Policy Act.

235 Russell Building

Energy and Natural Resources

To hold closed hearings to review the current international crude oil supply and demand situation.

S-407, Capitol

Environment and Public Works

Resource Protection Subcommittee

To hold oversight hearings to review and compare worldwide wildlife conservation programs.

4200 Dirksen Building

9:30 a.m.

Governmental Affairs

Intergovernmental Relations Subcommittee

To continue hearings on S. 1108, to provide relocation assistance and guidelines for displacement of individuals who are forced to leave their homes and neighborhoods because of Federally funded projects.

1318 Dirksen Building

Labor and Human Resources

To hold hearings on S. 1089, to revise the reporting and recordkeeping requirements under the Employee Retirement Income Security Act (ERISA) and to enforce the IRS Code requirement with respect to pension plans.

4232 Dirksen Building

Labor and Human Resources

Handicapped Subcommittee

To continue oversight hearings on the implementation of the Rehabilitation, Comprehensive Service, and Developmental Disabilities Amendments of 1978 (P.L. 95-602).

457 Russell Building

10:00 a.m.

Governmental Affairs

To resume oversight hearings focusing on the organizational and management aspects of the Department of Energy.

3302 Dirksen Office Building

2:00 p.m.

*Environment and Public Works

Environmental Pollution and Resource Protection Subcommittees

To resume joint markup of S. 1480, 1325, and 1341, bills to provide for adequate and safe treatment of hazardous substances being released into the environment.

S-207, Capitol

Judiciary

To hold hearings on pending nominations.

2228 Dirksen Building

2:30 p.m.

Finance

Taxation and Debt Management Generally Subcommittee

To hold hearings on H.R. 2797, making technical, clerical, conforming, and clarifying amendments to provisions of the Revenue Act of 1978.

2221 Dirksen Building

NOVEMBER 8

9:00 a.m.

Armed Services

General Procurement Subcommittee

To resume oversight hearings to review past and current Soviet defense expenditures and programs.

1114 Dirksen Building

Commerce, Science, and Transportation

To continue hearings on S. 1946, proposed Railroad Transportation Policy Act.

235 Russell Building

9:30 a.m.

Agriculture, Nutrition, and Forestry

Nutrition Subcommittee

To hold oversight hearings on dietary training programs offered to health professionals.

324 Russell Building

10:00 a.m.

Environment and Public Works

Environmental Pollution Subcommittee

To hold hearings on S. 1136, to develop an integrated program of financial assistance to provide States and local governments with greater flexibility in handling various environmental programs.

4200 Dirksen Building

Labor and Human Resources

Education, Arts, and the Humanities Subcommittee

To mark up S. 1386, authorizing funds through fiscal year 1985 for the National Endowment for the Arts, the National Endowment for the Humanities, and Institute of Museum Services; and S. 1429, authorizing funds through fiscal 1982 for programs under the Museum Services Act.

4232 Dirksen Building

Select on Indian Affairs

To hold hearings on S. 1273, to restore Federal recognition to certain bands of Paiute Indians.

154 Russell Building

2:00 p.m.

Judiciary

To hold hearings on pending nominations.

2228 Dirksen Building

NOVEMBER 9

9:30 a.m.

Commerce, Science, and Transportation

To continue hearings on S. 1946, proposed Railroad Transportation Policy Act.

235 Russell Building

Judiciary

To resume hearings on S. 1612, to create a statutory charter which defines the policy and intent of the investigative authority and responsibilities in matters under the jurisdiction of the FBI.

2228 Dirksen Building

10:00 a.m.

Environment and Public Works

Environmental Pollution and Resource Protection Subcommittees

To resume joint markup of S. 1480, 1325, and 1341, bills to provide for adequate and safe treatment of hazardous substances being released into the environment.

4200 Dirksen Building

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To hold oversight hearings on title III, providing aid to developing institutions, of the Higher Education Act.

4232 Dirksen Building

NOVEMBER 13

9:30 a.m.

Environment and Public Works

Business meeting on pending calendar business.

4200 Dirksen Building

Judiciary

To resume consideration of S. 1246, to protect against the growth of a monopoly power among major petroleum companies and to encourage oil companies to invest profits back into oil exploration, research, and development.

2228 Dirksen Building

10:00 a.m.

Governmental Affairs

To resume oversight hearings focusing on the organizational and management aspects of the Department of Energy.

3302 Dirksen Building

NOVEMBER 14

9:30 a.m.

*Commerce, Science, and Transportation

To resume oversight hearings to review proposed technical methods for industrial development.

235 Russell Building

Foreign Relations

To hold hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2d sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).

4221 Dirksen Building

10:00 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Research and General Legislation Subcommittee

To hold joint hearings with the Committee on Commerce, Science, and Transportation on S. 1408 and 1650, bills to provide for the development of aquaculture in the United States.

324 Russell Building

Commerce, Science, and Transportation

To hold joint hearings with the Subcommittee on Agricultural Research and General Legislation of the Committee on Agriculture, Nutrition, and Forestry on S. 1408 and 1650, bills to provide for the development of aquaculture in the United States.

324 Russell Building

Governmental Affairs

To continue oversight hearings focusing on the organizational and management aspects of the Department of Energy.

3302 Dirksen Building

NOVEMBER 15

9:00 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Research and General Legislation Subcommittee

To hold hearings on S. 770, to prohibit further abuse and trade price manipulation within the potato futures market.

324 Russell Building

9:30 a.m.

Foreign Relations

To continue hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C. 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2d sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).

4221 Dirksen Building

Governmental Affairs

Intergovernmental Relations Subcommittee

To resume oversight hearings to examine the scope of the general revenue sharing policy.

3302 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation

To hold hearings on the nomination of James V. Day, of Maine, to be a Federal Maritime Commissioner.

235 Russell Building

Energy and Natural Resources

Parks, Recreation, and Renewable Resources Subcommittee

To hold hearings on S. 1567, to protect and restore certain coastal lands on Yaquina Head in Oregon.

3110 Dirksen Building

Governmental Affairs

To continue oversight hearings focusing on the organizational and management aspects of the Department of Energy.

3302 Dirksen Building

NOVEMBER 16

9:30 a.m.

Foreign Relations

To continue hearings on the following international treaties proposing human rights: the International Convention on the Elimination of All Forms of Racial Discrimination Treaty (Exec. C, 95th Cong., 2d sess.); the International Covenant on Economic, Social and Cultural Rights Treaty (Exec. D, 95th Cong., 2d sess.); the International Covenant on Civil and Political Rights Treaty (Exec. E, 95th Cong., 2d sess.); and the American Convention on Human Rights Treaty (Exec. F, 95th Cong., 2d sess.).

4221 Dirksen Building

10:00 a.m.

Finance

Public Assistance Subcommittee

To hold oversight hearings on alleged fraud and mismanagement practices within HEW directed toward erroneous State payments to recipients of the Aid to Families with Dependent Children and Medicaid programs under the Social Security Act.

2221 Dirksen Building

Joint Economic

To resume hearings to examine the current unemployment trends and any relation thereto to the increase in criminal activity.

340 Cannon Building

NOVEMBER 20

9:30 a.m.

*Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings on S. 1250, to develop techniques for analyzing and stimulating technological and industrial innovation by the Federal Government.

5110 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation

Merchant Marine and Tourism Subcommittee

To resume hearings on S. 1460, 1462, and 1463, bills to facilitate and streamline the implementation of the regulatory part of the U.S. maritime policy.

235 Russell Building

Energy and Natural Resources

Energy Regulation Subcommittee

To resume hearings on S. 1684, to provide for the development, improvement, and operation of domestic refinery capabilities.

3110 Dirksen Building

Select on Indian Affairs

To hold hearings on S. 1730 and 1832, bills to declare certain lands in the States of Arizona and New Mexico to be Indian reservation lands.

1202 Dirksen Building

NOVEMBER 26

10:00 a.m.

Select on Indian Affairs

To hold hearings on S. 1855, authorizing funds through fiscal year 1982 to provide technical assistance for tribally controlled community colleges.

5110 Dirksen Building

NOVEMBER 28

9:30 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Production, Marketing, and Stabilization of Prices and Foreign Agricultural Policy Subcommittees

To hold joint hearings to examine the implications of grain sales to the Soviet Union on the U.S. transportation system.

457 Russell Building

10:00 a.m.

Select on Indian Affairs

To hold hearings on S. 1466, to provide for distribution of certain judgment funds in favor of the Delaware Tribe of Indians and the absentee Delaware Tribe of Western Oklahoma.

1202 Dirksen Building

NOVEMBER 29

9:30 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Production, Marketing, and Stabilization of Prices and Foreign Agricultural Policy Subcommittees

To continue joint hearings to examine the implications of grain sales to the Soviet Union on the U.S. transportation system.

457 Russell Building

DECEMBER 4

10:00 a.m.

Select on Indian Affairs

To hold hearings on S. 1507, to provide for the purchase of certain facilities, lands, and water rights in and around the San Luis Rey River and Lake Henshaw, California, to be operated and maintained by specified bands of Mission Indians.

Room to be announced

CANCELLATIONS

NOVEMBER 1

10:00 a.m.

Banking, Housing, and Urban Affairs

Consumer Affairs Subcommittee

To continue oversight hearings on the truth-in-lending enforcement activities of Federal financial regulatory agencies.

5302 Dirksen Building

NOVEMBER 8

10:30 a.m.

Labor and Human Resources

Health and Scientific Research Subcommittee

To mark up S. 988, authorizing funds through fiscal year 1983 to increase the effectiveness of research in biomedical sciences.

155 Russell Building

HOUSE OF REPRESENTATIVES—*Thursday, November 1, 1979*

The House met at 10 a.m.

The Reverend Arthur Nelson Forsberg, Advent Lutheran Church, Wyckoff, N.J., offered the following prayer:

Grace to this House and to all who labor here.

Heavenly Father, it is good to be reminded again and again, that of all Your creatures on this Earth, only those created in Your image can speak, think, formulate ideas. Nothing else in Your kingdom has that privilege.

How will we use that privilege this day, Lord? In our lesser moments, we can behave like false prophets preserving things only for ourselves. But we can in our high moments speak in the "tongues of men and angels." Speak words that crumble barriers, heal division, and honoring Your name, lead to justice, peace, and love.

With Your good counsel let us give testimony of that truth this day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. SYMMS. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SYMMS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 355, nays 12, answered "present" 2, not voting 64, as follows:

[Roll No. 621]

YEAS—355

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Anthony
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bouquard
Brademas
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burton, Phillip
Butler
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Devine
Dicks
Dingell
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Levitas
Lewis
Livingston
Loeffler
Long, La.
Lott
Lowry
Lujan
Lundine
Lungren
McClory
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Maguire
Marlenee
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pursell
Quillen
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Stack
Staggers
Stangeland
Stanton
Sark
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wirth
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zeferetti

NAYS—12

Derwinski
Dickinson
Goodling
Harkin
Jacobs
Lloyd
Luken
Mitchell, Md.
Moffett
Schroeder
Walker
Wilson, Bob

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

ANSWERED "PRESENT"—2

Forsythe
Neal

NOT VOTING—64

Ambro
Andrews, N.C.
Applegate
Bonker
Bowen
Breaux
Burlison
Burton, John
Byron
Cheney
Chisholm
Conyers
Crane, Philip
Dellums
Derrick
Diggs
Dixon
Dodd
Eckhardt
Edwards, Okla.
Evans, Ind.
Fisher
Flood
Ford, Mich.
Garcia
Gray
Hall, Ohio
Hansen
Holtzman
Ichord
Johnson, Colo.
Jones, N.C.
Leach, La.
Lent
Long, Md.
McCloskey
McCormack
McHugh
Markey
Marks
Marriott
Mathis
Miller, Calif.
Murtha
Pritchard
Quayle
Rahall
Rhodes
Rodino
Rose
Rosenthal
Runnels
Shumway
Simon
St Germain
Steed
Swift
Treen
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Young, Alaska
Zablocki

□ 1010

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 3. Joint resolution designating November 4, 1979, as "Will Rogers Day."

The message also announced that the Senate agrees to the amendment of the House with an amendment to a bill of the Senate of the following title:

S. 1160. An act to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and for other purposes.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 751) entitled "An act relating to the relocation of the Navajo Indians and the Hopi Indians, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MELCHER, Mr. INOUYE, Mr. DECONCINI, Mr. COHEN, and Mr. HATFIELD to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 1873. An act to establish a procedure for the processing of complaints directed against Federal judges, and for other purposes; and

S.J. Res. 109. Joint resolution to authorize the President to proclaim November 16, 1979, as "American Enterprise Day."

□ 1020

MAMIE DOUD EISENHOWER

(Mr. GOODLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOODLING. Mr. Speaker, one of America's beloved First Ladies and my leading constituent passed away last evening in Walter Reed Hospital.

Mamie Doud Eisenhower was a great inspiration to Ike the general, Ike the President, and Ike the father. She represented America well as a First Lady and was never too busy, no matter how fragile her health may have been, to serve her Nation, the State of Pennsylvania, and the community of Gettysburg in Adams County, which she loved so much.

Residents of the 19th District and the Nation will surely miss her but are so thankful that such a lovely lady as Mamie Doud Eisenhower passed our way.

The special order for Mamie will be on Wednesday the 7th.

GENERAL LEAVE

Mr. GOODLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my 1-minute speech today on the death of Mamie Doud Eisenhower.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

ODD-EVEN PLAN SHOULD BE REINSTITUTED

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, 2 months ago, on September 12, I addressed the House and urged that the Governors of Maryland and Virginia and the Mayor of the District keep in place the odd-even gasoline rationing system.

They did not do so and the arrival of the beautiful fall weather led to a sudden rise in gasoline usage which now seems to be resulting in shortages at the pump.

Further we now learn that two-thirds of the stations in our area are served by Amoco, Exxon, Texaco, Sunoco, and Shell. By "the luck of the draw," as one expert put it, these are the only five companies whose gasoline supplies are short for the coming months.

Before the situation gets out of hand again, I hope that local officials will reinstitute and enforce an odd-even plan. Also I hope that the Department of Energy will review its regulations and see to what extent they are responsible for a small national shortfall of 1 to 4 percent being turned into a 7- to 17-percent shortfall in this area. We have a new Energy Secretary here with an old problem that his predecessor claimed to have solved last spring.

Since this House voted to keep gasoline allocations and price controls in place I hope that his prompt action to make the system work will validate our judgment and trust in him.

WITHDRAWAL OF NAME OF MEMBER AS CONSPONSOR OF H.R. 5040

Mr. DASCHLE. Mr. Speaker, I ask unanimous consent to withdraw my name as a cosponsor of H.R. 5040.

The SPEAKER. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

MAMIE EISENHOWER

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I am saddened this morning as I know all Americans are to learn of the death of Mamie Eisenhower.

Each First Lady brings to the American people a special gift. For some it is an identification with a special cause, for others a gift for politics. In Mamie's case it was a combination of innate dignity and natural graciousness.

She was indeed a revered First Lady—and she was always a lady first. She was a mother and a President's wife, but she was always herself. She had a disarming personality that made anyone feel at ease and at home in her presence.

She was a great lady. I think it is safe to say that Mamie would have wanted no epitaph.

My condolences to David and Julie and her grandchildren.

CHARTER OF WORLD BANK PROHIBITS POLITICAL ACTIVITY ON THE PART OF ITS OFFICERS

Mr. YOUNG of Florida. Mr. Speaker, on Tuesday I reported to the House that Robert McNamara, President of the World Bank, had been discovered attending a campaign strategy luncheon with other close political advisers of Senator EDWARD KENNEDY. I said that Mr. McNamara had a right to support anyone he wants for President of the United States but that he should resign his position at the World Bank if he continues to participate in the Kennedy-for-President campaign.

Mr. McNamara's participation in a political campaign is clearly in direct violation of the charter of the World Bank. Section 10 of article IV of the World Bank's Articles of Agreement starts out by stating:

> The Bank and its officers shall not interfere in the political affairs of any member.

The United States is a member of the World Bank. We provide roughly one-fourth of the World Bank's funds. We are the largest single contributor to the Bank in all the world.

Participation in a political campaign is clearly interference in the political affairs of our country and, according to a CBS television news report, Robert McNamara has participated in at least one part of the Kennedy-for-President campaign.

Robert McNamara should resign. He is violating the charter of the World Bank.

In fact, he is violating the very article of the charter that he has repeatedly cited in attempting to argue that this Congress cannot place restrictions on America's contributions to the World Bank.

If Mr. McNamara believes what he has said so often—that the World Bank should not be involved in politics—then he has an important decision to make. He cannot have it both ways.

I would think, Mr. Speaker, that lobbyists for the Carter administration, who have been so active in pushing Mr. McNamara's arguments in the Halls of Congress, may also want to consider whether this member of the "best and the brightest" has passed the point of continued usefulness.

BUSINESS PROFITS

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, many Congressmen during the past week have been critical of oil company profits. Oil companies need to make profits so they can reinvest capital in more exploration and development, keep the business going, and pay their taxes. Everytime an oil company shareholder receives a dollar in dividends, the Government receives $13 in taxes. Yesterday the Wall Street Journal reported that earnings of automobile companies are down. General Motors' earnings were down 96 percent, Ford's profits were down 66 percent, and Chrysler posted a $460 million loss. Auto companies are suffering from excessive Government regulations. Remember when an oil company shareholder receives a dollar in dividends, the Government receives $13 in taxes. What this country needs is more business profits and less Government regulations.

FEDERAL AID TO CHRYSLER

(Mr. HILLIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILLIS. Mr. Speaker, I was pleased to read the news report in the Washington Post this morning announcing that the White House will recommend a $1.2 billion loan and loan guarantee package for Chrysler.

As a cosponsor of H.R. 5630, which authorizes loans and loan guarantees to Chrysler, I do not see any available alternatives to Federal assistance that insures the economic stability of the corporation. Chrysler is in the middle of a massive reorganization and rebuilding program which will make it profitable in the near future. That program must be completed and successful for Chrysler to survive.

It will be impossible for Chrysler to obtain the requisite capital to complete its total reorganization and rebuilding without Federal assistance. Federal aid to Chrysler is philosophically the correct step to take. It is the pragmatic step. It prevents great unnecessary human and economic disruption. It is in our best interest that loans and loan guarantees be granted to Chrysler to prevent its bankruptcy.

I support and commend the administration's decision to assist Chrysler and urge the Congress to follow suit before the end of this year.

□ 1030

FUNERAL INDUSTRY EXPLOITATION OF BEREAVED FAMILIES REMAINS UNCHANGED

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SCHEUER. Mr. Speaker, as you and all of our colleagues know, a number of us, supported by a coalition of religious, civic, and labor organizations, are opposing an attempt to prevent the FTC from issuing a rule to protect against the misdeeds of a segment of the funeral industry.

Yesterday, we had a press conference with Esther Peterson, Special Assistant to the President for Consumer Affairs, Bess Myerson, former New York City Consumer Commissioner, and more than a dozen nonprofit organizations.

Yesterday afternoon I received a communication from the person who has done more study and analysis in this industry than any other person in this country, Ms. Jessica Mitford. For the benefit of our colleagues and other readers of the RECORD, I insert herewith the text of her communication.

OAKLAND, CALIF., *October 30, 1979.*

Congressman JAMES H. SCHEUER,
Subcommittee on Consumer Protection and Finance, U.S. House of Representatives, Washington, D.C.

Sixteen years after "The American Way of Death" was published, the pattern of financial exploitation of bereaved families by undertakers remains virtually unchanged. Intercession on behalf of the victims is imperative. Proposed FTC rule as developed by original staff deserves full support. According to "The Director," official organ of the National Funeral Directors Association, the NFDA "has spent over $750,000 and committed close to another $175,000" to fight the FTC rule (The Director, September 1979, page 22).

I commend to you the words of Lord Essex, written centuries ago yet as pertinent as ever: "How long, I would ask, are we to be subjected to the tyranny of custom and undertakers? Truly, this is all vanity and vexation of spirit—a mere mockery of woe, costly to all, far, far beyond its value; and ruinous to many, hateful and abomination to all; yet submitted to by all, because none have the moral courage to speak against it and act in defiance of it."

Yours sincerely,

JESSICA MITFORD.

TRIBUTE TO MRS. MAMIE DOUD EISENHOWER

(Mr. BARNARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARNARD. Mr. Speaker, I would like to pay special tribute this morning to the memory of Mrs. Mamie Doud Eisenhower, wife of our 34th President who passed away earlier today at the Walter Reed Medical Center.

As a native of Augusta, Ga., I remember well the many enjoyable days that the Presidential family spent in Augusta, at the famous Augusta National Golf Club. And for this reason, I harbor a special fondness for the former President and his regal First Lady.

I know I speak for the people of Augusta when I say that those were wonderful days and the memory of her infectious smile, her warmth, her dignity, and strength will remain in our hearts forever.

HIGH OIL PRICES CAUSE AUTO INDUSTRY PROBLEMS

(Mr. SEIBERLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SEIBERLING. Mr. Speaker, I was very interested in the comments of the gentleman from Texas (Mr. COLLINS) comparing the oil company profits to those of the automobile industry. Of course, one of the reasons why General Motors' profits are down and Ford is in trouble and Chrysler is in deep trouble is the tremendous escalation in the price of oil.

I would think that at least our own American oil companies would try not to aggravate the problem by gouging the public further and increasing the price of oil and accelerating inflation. It also has a ripple effect on the tire industry, the steel industry, and all of the other industries that are dependent on the auto industry.

TRIBUTE TO MRS. MAMIE DOUB EISENHOWER

(Mrs. FENWICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. FENWICK. Mr. Speaker, I too would like to speak about Mrs. Eisenhower, who died last night. Much has been said about her life by friends who knew her.

But I think one of her most noble and finest acts, a lesson to every single one of us in this Chamber, is what she refused to do. She was lonely, and old, and not well, living alone on that farm. She tried living, apparently, with a relative in town, but it did not work out. She wanted to enter the home for the widows of Army officers but found there was a waiting list. They wanted to put her at the head of the waiting list, and bypassing all those who had already applied. Mrs. Eisenhower refused, and went back alone to her farm.

That is a lesson: Not to take advantage of privilege, to take your turn; to stand in line and not to jump because you belong to a famous family or because your husband, indeed, was President of the United States.

This action on Mrs. Eisenhower's part showed a certain nobility of spirit—a kind of citizenship we do not see very often. It speaks to a very high principle and a noble heart. I would like that mentioned, too, concerning this woman now dead.

ORGANIZATION OF AMERICAN STATES CONDEMNATION OF THE UNITED STATES IRONIC

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, this morning's Associated Press dispatch from La Paz, Bolivia, informs us that the Organization of American States has voted 16 to 1 to condemn—get that—condemn the United States because of an increase in the Panama Canal tolls on October 1 of approximately 29.3 percent.

These are the same Latin American countries that urged us to approve the Panama Canal treaties. The entire amount of that canal toll increase is required for what? To pay $75 million to $100 million a year to Panama; to Panama as required by those same treaties. Now, if these countries did not know when they supported these treaties that they were going to have to pay increased tolls as a direct result their leadership is not worthy to be in office.

But I would also point out that President Carter promised us that these Panama treaties would bring about a new era of understanding and respect for the United States in Latin America. You see the respect: Condemnation, because we had to raise the tolls to meet the terms of the treaties they wanted us to pass. They cannot have it both ways.

TIME IS NOW TO PASS HOUSE WINDFALL PROFITS TAX

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, once again the big oil companies are gearing up for another round of gas lines for the American motorist. Recent articles in the Christian Science Monitor and today's Washington Post forecast gloomy months ahead for the driving public. Spot shortages of gasoline, with some lines at the pumps, have begun to reappear, according to a report released by the American Automobile Association. The primary reason for the shortfalls is that dealers are not receiving large enough gasoline allocations.

A number of States again have resorted to limited purchases at the stations. In the Washington area, there is expected to be between 7 and 17 percent less gas available this November than last November.

Mr. Speaker, it is clearly unthinkable for the major oil companies to perpetrate another gasoline-line charade on consumers who are attempting to prepare for the winter heating season.

According to CIA intelligence documents, not only was there no shortage this past summer, but the United States was actually importing more oil in every month from January to July than it did in the same period of 1978.

We simply cannot allow the American public to receive the brunt of big oil's profiteering. We must pass the House version of the windfall profits tax which raises nearly twice as much revenue as the Senate finance version.

It is high time we passed the House windfall profits tax to prevent this profiteering.

ARMY RECRUITERS NOT PERMITTED IN MANY SCHOOLS

(Mr. McEWEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McEWEN. Mr. Speaker, Army Chief of Staff Gen. Edward C. Meyer said recently that—

> Army recruiters are not permitted in about 25 percent of the Nation's high schools. About 25 percent of the high schools permit recruiters to visit only during their annual job fairs.

I find it shocking that, at a time when the defense of our Nation is dependent upon an All-Volunteer Army, in many of our high schools recruiters are not permitted at all to tell what the Army has to offer and, in many others, they are allowed in only at job fairs when young men and women are about to graduate.

Some of my colleagues have expressed concern about the quality of soldiers in today's Army. What can one expect when recruiters cannot contact potential recruits in our schools. Must they resort to meeting them in bars and discos?

Army recruiters want only to explain their program to young Americans and at a time which will not interfere with scheduled classes. They do not ask students to leave school in midsemester to join the Army.

They seek high school graduates—not dropouts. They encourage this by offering better jobs, schooling, and other incentives to those who earn a diploma. Under the delayed entry program, interested students may enlist earlier, but they do not report for duty until after graduation. Why, then, should our schools deny entry to military recruiters?

Article 1, section 8 of the U.S. Constitution, declares that

> The Congress shall have power . . . to raise and support Armies . . . provide and maintain a Navy . . . make Rules for the Government and Regulation of the land and naval forces.

Clearly, as Members of this body, we all bear responsibility for bringing this about.

The recruitment program of the All-Volunteer Army is in serious trouble. I urge that my colleagues—those who do not want a return to the draft and those who just want the volunteer system to work—vigorously encourage school officials in their districts to cooperate in this effort, which is so vital to the defense of our country.

GOVERNMENT ALLOCATION SYSTEM MAJOR CONTRIBUTOR TO GASOLINE SHORTAGES

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, we hear in this chamber many complaints about the oil companies on a daily basis, and I guess it is not very popular to defend them. But it seems to me something ought to be said in terms of the Federal allocation system that we have. The major reason we have had the terrible gas lines, particularly in California and other States, was the allocation system of the Federal Government.

In this body we apparently like to attack companies when they happen to be able to do something and like to say that the Federal Government can do nothing wrong. It seems to me if we are so upset about the profits of oil companies there is one good way we can get rid of these profits: We can take the people in Government who give us a deficit year after year after year, put them in charge of the oil companies, and we will then make sure they will never make a profit. In fact, they will then start making deficits like our Federal Government has done so successfully for so many years. Mr. Speaker, what we need on questions of energy production is more informed realism and less inflammatory rhetoric.

□ 1040

PERSONAL STATEMENT

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, last Tuesday I rose to support the distinguished gentleman from Florida (Mr. Young) in his call for the resignation of Mr. Robert Strange McNamara from the World Bank for valid reasons. In looking at the Record of my remarks of that day, I happened to hold them up to the light just now and I found an evil watermark that burns through from the reverse page and reflects upon my honor and my accurate remarks of Tuesday. These stains on my honor from the following page are the unexpurgated, the unsanitized remarks containing direct attacks upon me by namely the very distinguished gentleman from Rhode Island (Mr. Beard) on last Tuesday.

Now, he says here in his remarks that I made a vicious attack upon a fellow Member of Congress, that I engaged in innuendo, that I attacked another's personality. Untrue. Poor analysis.

And I think this is most unfair, and rather than ask him to purge the permanent Record, of his intemperate emotional outburst, I have a better idea.

I am going to give that distinguished scholar from Rhode Island an assignment. I enthusiastically also give this assignment to the distinguished gentleman from Ohio (Mr. Seiberling). And I do it also for our friends in the fourth estate up there who need your assistance as they have been unable to determine a most important answer to a haunting question. It is a simple one and it involves lawyers of the summer of 1969. We all know what happened to the lawyers of the summer of 1972; they all went to jail. How about the boys of summer 1969. How did Joseph Gargan, soon to be a judge in the great Commonwealth of Massachusetts and a first cousin of a Member of Congress; and how did Paul Markham his Chappaquiddick cohort and also a lawyer admitted to the bar of the great Commonwealth of Massachusetts, how did they, these two lawyers, get from small Chappaquiddick Island to the Martha's Vineyard side? How did they accomplish this feat, I ask the distinguished gentlemen from Rhode Island and Ohio (Mr. BEARD; Mr. SEIBERLING)? How? They have never claimed that they swam the Chappaquiddick Channel as I have, and as no one else in this Congress, in either body, other than I ever have. You have your assignment, gentlemen. Good luck. Mr. Speaker, I yield back the balance of my time.

LIMITING DEBATE ON AMENDMENTS IN DISAGREEMENT ON SENATE CONCURRENT RESOLUTION 36

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent that debate in the House on Wednesday next or any day thereafter on any motion to dispose of amendments in disagreement or amendments thereto on Senate Concurrent Resolution 36 be limited to not to exceed 3 hours, to be equally divided and controlled by the gentleman from Ohio (Mr. LATTA) and myself.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

Mr. LATTA. Mr. Speaker, reserving the right to object, I make this reservation not to object, but to ask the gentleman from Connecticut a couple of questions. The reason I am not objecting to this request for 3 hours rather than 1 hour is that the conference has been going on for some 3 weeks. It has finally been resolved, and I think this is a reasonable request to debate this matter for 3 hours on the floor.

But, I ask the gentleman specifically about the time when we can expect this matter on the floor. He asks for sometime after Wednesday next, but I do not think that is very certain. I would like to have some idea as to when this matter, which is a very important matter, will be coming to the floor for consideration.

Mr. GIAIMO. If the gentleman will yield——

Mr. LATTA. I will be happy to yield.

Mr. GIAIMO. As the gentleman knows, this is the conference report on the budget. As he knows, we have been in conference with the Senate for about 3 weeks, and we completed work on it last night. We are in agreement on everything except one item, and that is the issue of reconciliation. Therefore, we would come up not as a conference report but as an amendment in disagreement. Therefore, we would be limited to a 1-hour debate.

I do not think 1 hour is sufficient to debate what is in the resolution, to explain all of the agreements which we have made. I do not think 1 hour would be sufficient to debate the matter in disagreement; the one disagreement, which involves the very important issue of reconciliation. Therefore, I think we should have an hour and a half each, you and I, so that we can have a full and meaningful discussion of this very important piece of legislation.

As the gentleman knows, the Senate most likely will take up the matter on Wednesday. It is conceivable that it could take it up before Wednesday, but I doubt it. But in any event, the Senate has to act first. My guess is that they will act on Wednesday, and we will probably be in order to go ahead later on Wednesday or on Thursday.

I asked for Wednesday or any day thereafter. My guess would be that it would probably be Thursday, but the leadership must determine the schedule for this matter.

Mr. LATTA. If I may reclaim my time, I know that the leadership tries to schedule these matters at the pleasure of the chairman whenever possible, and if our chairman requests that this not be scheduled on Wednesday, since the House will not be in session on Monday and Tuesday, I think it would be a reasonable request and it would give the membership a little more opportunity to go over this very important conference report and especially to consider the matter of reconciliation. I think if we can get some assurance from the gentleman that he will make that request, it would answer a lot of questions being raised on this side.

Mr. GIAIMO. Let me say to the gentleman that I will try to work with him to accommodate that proposal that it come up on Thursday, but I have not talked to the leadership and I would not want to make an absolute commitment before I spoke to them that we would absolutely rule out Wednesday. I just do not know what the schedule looks like for next week, nor am I the one to determine that, but I certainly would work with the gentleman to try to see to it that this bill comes on Thursday.

Mr. LATTA. I appreciate that. The second question I raise is whether or not we will have a clear-cut up or down vote on the matter of reconciliation.

Mr. GIAIMO. Well, we get into difficulties when we try to describe an up or down, clear-cut vote on reconciliation. The way in which this matter, Senate Concurrent Resolution 36, will come before us will be that it will be sent over from the Senate, which will have acted on it and presumably would have passed it. As the gentleman knows, it will contain therein all the items which we agreed upon in conference, and also the one item upon which we did not agree, and that is the reconciliation issue. Therefore, it would be my intention to move in the House to concur in the Senate concurrent resolution with an amendment. The amendment would be to delete reconciliation, and we would get a vote on that, and if that vote prevailed we would then have adopted the conference report without reconciliation. So, I think that would be an up or down vote on reconciliation.

Mr. LATTA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

PRIORITY ENERGY PROJECT ACT OF 1979

Mr. UDALL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4985) to establish a coordinated, prompt, and simplified process for decisionmaking in regard to significant nonnuclear energy facilities, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4985, with Mr. FOLEY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, October 31, pending were the Interstate and Foreign Commerce Committee amendment in the nature of a substitute and a substitute amendment therefor offered by the gentleman from Arizona (Mr. UDALL).

Are there any further amendments?

AMENDMENT OFFERED BY MR. OBERSTAR TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. OBERSTAR. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The CHAIRMAN. Was the gentleman's amendment printed in the RECORD?

Mr. OBERSTAR. It was printed in the RECORD, Mr. Chairman.

The Clerk read as follows:

Amendment offered by Mr. OBERSTAR to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute: Page 40, after line 20, insert the following new section:

"PRIORITY ENERGY PROJECTS UNDER TITLE V OF THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1979

"SEC. 220A. In the case of a proposed crude oil transportation system to transport crude oil to northern tier and inland States approved by the President under section 507 of the Public Utility Regulatory Policies Act of 1978, upon application of any person acting on behalf of such system, the President may apply one or more provisions of this Act to the system if the application of the provision or provisions would, in the opinion of the President, expedite its completion.

☐ 1050

Mr. OBERSTAR. Mr. Chairman, the purpose of this amendment is to give discretionary authority to the President to apply one or more provisions of this fast track legislation to a project that this Congress has already designated as a priority project, that is, a west-to-east crude oil pipeline which is vitally important to northern tier States. It just gives that discretionary authority to the President; it does not mandate anything for him to do. We simply would like to benefit—those of us in northern tier States—from any expedition that may result from this legislation so that the northern tier area may get the crude oil that we need our refineries and consumers.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding. The gentleman has been in the forefront of a fight to get a northern tier pipeline bill so we can move some of this Alaskan oil to the Midwest where it is needed. I have discussed his amendment with him, and it simply says the President may apply the fast track to this very important project. I have no objection to the amendment, and I congratulate the gentleman for his effort.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from California.

Mr. CLAUSEN. I thank the gentleman for yielding. The gentleman has discussed his amendment with me. It also has been the subject of extensive discussion before the Committee on Interior and Insular Affairs. I think this is a significantly improved amendment that will add to our objectives in the Interior bill, and so we will accept the amendment.

Mr. OBERSTAR. I thank the gentleman.

Mr. Chairman, I will also state that I have a second amendment which I would like to offer immediately following this one of the bill of the Committee on Interstate and Foreign Commerce. The language of that amendment is identical in substance and purpose to this one.

The CHAIRMAN. Is there further discussion on the amendment? If not, the question is on the amendment offered by the gentleman from Minnesota (Mr. OBERSTAR) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute.

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. OBERSTAR TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. OBERSTAR. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The CHAIRMAN. Is the gentleman's second amendment printed in the RECORD in accordance with the rule?

Mr. OBERSTAR. It was, Mr. Chairman.

The Clerk read as follows:

Amendment offered by Mr. OBERSTAR to the amendment in the nature of a substitute: On page 34, line 5, strike out the period and insert in lieu thereof the following: "; except that in the case of a proposed crude oil transportation system to transport crude oil to northern tier and inland States approved by the President under section 507 of the Public Utility Regulatory Policies Act of 1978, upon application of any person acting on behalf of such system, the President may apply one or more provisions of this Act to the system if the application of the provision or provisions would, in the opinion of the President, expedite its completion.".

Mr. OBERSTAR (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. DINGELL. Mr. Chairman, will the gentleman from Minnesota yield?

Mr. OBERSTAR. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding. Mr. Chairman, the gentleman and I have been friends for a long time. He has discussed the matter with me. I happen to think it has a great deal of merit, and on behalf of the Committee on Interstate and Foreign Commerce I am most pleased to accept the gentleman's amendment.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding. I find no objection to the amendment and would encourage my colleagues to support it.

Mr. OBERSTAR. I thank the gentlemen.

Mr. BONKER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Minnesota (Mr. OBERSTAR).

The competing west-to-east crude oil pipeline projects top the list of proposals that should not be subject to the authority of the Energy Mobilization Board or the other provisions of this bill.

They are already on their own, special "fast track," which Congress established in 1978 in title V of the Public Utility Regulatory Policies Act.

Expedited consideration of all these proposed pipelines has been underway for many months. The process is now in midstream. How well has it worked? The results are mixed.

The pace of Federal review certainly has speeded up.

On the other hand, the Federal environmental impact statement, which is now near completion, is widely acknowledged to be deficient in many areas.

And some of the latest and most important studies of the pipelines' merits did not reach Secretary of the Interior Cecil Andrus in time for full and careful consideration before the title V time schedule required him to make recommendations on which of the proposals should be expedited even further.

A similar element of uncertainty hangs over our deliberations here today. Despite our best efforts, we cannot predict with complete confidence the outcome or the impact of the new course we are charting for energy-related decisionmaking.

Mr. Chairman, I recognize that a majority in this House has concluded that the national interest requires that we accept this uncertainty in return for getting moving on energy projects that are languishing in the traditional regulatory process.

However, the gentleman from Minnesota is not merely seeking to move a group of stalled crude oil pipeline proposals off a siding and onto a fast track. He is suggesting a high speed switch from one fast track to another. The chances of ultimately derailing a wise and proper decision are very high. Moving from a partially tried and tested procedure to totally new ground rules entails risks that we need not take.

A new Energy Mobilization Board will be busy enough in the months ahead assessing projects that truly are mired in regulatory delay. It need not waste valuable time with crude oil pipelines that already have the benefits of title V consideration.

The House is laboring long and hard this week to develop a balanced, reasonable Energy Mobilization Board bill. The House did similar good work in 1978 in perfecting fast-track provisions in title V to expedite consideration of the west-to-east pipeline proposals.

In that spirit, let us not now rush to override that procedure in mid-stream. Let us let title V work.

I hope that you will join me in opposing the Oberstar amendment.

A second consideration involves the merits of the pipeline proposals.

Pipeline promoters point to a glut of Alaskan oil on the west coast and to an impending crude oil shortage in several northern States to justify their projects. These conditions are important to any of the alternatives but are especially vital to the Northern Tier Pipeline Co. proposal, which, at 900,000 barrels per day, is the largest.

In fact, any long-term west coast oil surplus is a myth.

The Alaska pipeline will soon be delivering 1.5 million barrels per day. According to a study for the State of Alaska, that is optimum production from the Prudhoe Bay field.

West coast refinery use of this oil increased from 587,000 barrels per day in 1978 to 853,000 barrels this year. So-called surplus Alaskan oil moving through the Panama Canal decreased from 433,000 barrels per day in 1978 to 269,000 barrels this year. And, according to a Senate Energy Committee survey, west coast refiners could use right now another 181,000 barrels of Alaskan crude daily if they could get it. Total west coast demand for Alaskan crude could top 1.3 million barrels per day as early as 1981, the committee reported.

The Alaska State study predicts a permanent, drastic decline in Prudhoe Bay production. Optimum output can be maintained at 1.5 million barrels per day until 1985; it will then drop to a mere 200,000 barrels per day by 1995.

More oil has been and undoubtedly will be found in Alaska, but Federal energy and geologic analysts can find no indications of the existence of another Prudhoe Bay, where unique geologic conditions trapped the largest single reservoir of oil ever found in North America.

From where, then, will any of the proposed pipelines get the oil needed to support their very large throughput requirements? They will have to turn to foreign sources. They will be moving large quantities of imported oil, not domestic oil, to American consumers.

Alternatives to a big, new pipeline exist for the northern States.

Canada is phasing out oil exports, but United States-Canadian oil exchanges can, according to the Department of Transportation, continue to meet key localized supply shortages.

Smaller scale pipeline projects in the Midwest can serve other northern State needs. New oil discoveries have occurred in North Dakota. Major oil finds are thought to be likely in the Overthrust Belt. And new Federal synthetic fuel programs should develop major production facilities in the coal- and oil shale-rich western interior States.

The trends, in short, are running against any major, long-lasting crude oil shortfall in the northern States.

● Mr. SWIFT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, with the support of both Mr. DINGELL and Mr. UDALL it is clear that this amendment by Mr. OBERSTAR is going to pass. I think that is unfortunate in light of the fact that it will give special treatment to one energy-related project—so special that it amounts to a triple fast track.

The Northern Tier Pipe Line project is already fast tracked under PURPA procedures. It would now be fast tracked under EMB. And finally, the amendment short cuts EMB designation procedures giving the President the authority to simply assign it priority treatment. That's three fast tracks and it is at least two too many.

I oppose this amendment and will make a more detailed statement on this special interest legislation on the floor this evening under special orders.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. OBERSTAR) to the amendment in the nature of a substitute.

The amendment to the amendment in the nature of a substitute was agreed to.

Mr. FISH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the Udall-Clausen-Wirth substitute. I believe that this proposal provides the most desirable and effective method to help speed governmental decisionmaking on critical energy projects. The establishment of an Energy Mobilization Board, as called for under this legislation, will expedite the completion of energy projects that are necessary to help our Nation reduce its reliance on uncertain foreign oil supplies and conserve needed energy supplies.

I would like to commend my colleagues for their fine work in bringing this proposal to the floor. They have spent many long hours in fashioning this well-thought-out proposal. As a result of their hard work, I am confident that a responsible and balanced approach for expediting energy decisions will be adopted.

We are facing perhaps one of the most serious crises ever to confront our Nation. Our Nation's inability and unwillingness to face the energy issues squarely and to take drastic action in the last 5 years have now come to haunt us. This energy crisis has drained the financial strength of our country and now seriously threatens our national security.

Our Nation has only recently awakened to our pressing energy problems. The long lines at the gasoline stations and the dramatic increases in the price of gasoline have made us painfully aware of the seriousness of our energy situation. Developments in Iran, Saudi Arabia, and elsewhere, as well as the crude oil price increases recently passed by the OPEC-cartel, have served notice that our Nation can no longer afford to be dependent on foreign supplies of oil.

These events have made it imperative that we press forward with the development of our domestic, inexhaustible energy resources. We must now take advantage of the potential billions of barrels of oil shale, tar sands and heavy oil deposits, and the vast abundance of coal reserves which lie in our country. The question has become not whether we will need to develop our alternative energy resources, but instead, when will they be needed. If they are not developed in a timely fashion, I am afraid that our Nation may suffer a severe economic and political crisis by the late 1980's or early 1990's.

I believe that the legislation now before us represents a significant step to help our Nation solve its energy problems. The idea behind the Energy Mobilization Board is vital to our future energy development. Without an end to the regulatory burdens which have hopelessly bogged down energy facilities of all kinds, future energy development will grind to a slowing halt. We must cut some of that redtape now.

I see the Udall-Clausen-Wirth substitute as the right way out of the bureaucratic maze surrounding critical energy projects. This proposal will provide the needed efficiency required for energy decisionmaking, and help our Nation develop our vast abundance of energy supplies. It will give reasonable authority to an Energy Mobilization Board to set appropriate and coordinated program decision schedules. Moreover, it will provide for a strong Board with effective enforcement powers through appropriate channels, giving due consideration to the sovereignty of Federal, State, and local governments.

After careful consideration and long review, I have concluded that I must oppose the Commerce Committee version for fast track legislation. Under this version, far-sweeping authority would be given to the Energy Mobilization Board to waive procedural or substantive requirements of Federal, State, or local laws, environmental or otherwise. This authority is certainly not necessary, and moreover, not in the best interests of our Nation.

The idea of leaving the present procedures in place for most projects, while waiving them for a favored few, is a fundamentally bad one. I believe that it is repugnant to our Federal system to allow this new entity to block the application of laws previously passed by elected bodies like ourselves. It is an invitation to litigation that will only serve to aggravate the present delays facing energy projects.

We need to give the Board real power to do a real job, but the Commerce Committee version would give the Board unprecedented and unwarranted powers. In fact, because of the authority vested in the EMB under this version, constant congressional review of the Board's actions is required. This continuous review could seriously hamper the ability of the Board to meet its goals. We must provide a way to allow the Board to do its job in an effective manner. A more responsible approach would be to adopt the Udall-Clausen-Wirth substitute, which offers far greater flexibility and authority to the Board to act on its own.

We must be realistic about what we do here today. We cannot ignore the chorus of protests from our Nation's Governors, mayors, county executives, and State legislators who object to the Commerce Committee version. They have threatened, and I believe that they certainly will, challenge the legislation in court if we adopt the Commerce version. These challenges will take years to resolve, and in the meantime, we will have nothing.

Mr. Chairman, today we can help our Nation get on the right energy track. I do not doubt that my colleagues would agree that our decisionmaking processes need to be streamlined. However, we must carefully consider how much an EMB should be released from Federal accountability that has been so often abused in the past. Despite its safeguards, the Commerce Committee version goes too far beyond our interests in expediting energy decisionmaking. A more preferable approach is the Udall-Clausen-Wirth substitute, and I urge my colleagues to support this proposal.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding. The gentleman has been a strong supporter of States rights and local rights in government, and I would like to congratulate him on his statement and point out that the National Governors Association in a telegram today has reiterated its support for our bill and against the Dingell bill. Our bill is supported by the National Association of Counties, the National Conference of State Legislatures, the League of Cities and the Conference of Mayors, the people who would be overridden in many cases under the other bill.

Mr. FISH. I thank the gentleman.

Mr. Chairman, I yield back the remainder of my time.

Mr. DERWINSKI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, a wise man once said, "Two wrongs don't make a right." Rephrasing that truism in philosophic terms. "The end does not justify the means." It is from this position that I wish to advise the Members of my reasoning on legislation to establish the Energy Mobilization Board or, as it is interestingly described, the "fast track vehicle."

The idea behind the proposal is the overabundance of regulation. Why not eliminate the regulatory overkill rather than establish a new bureaucracy to fight other bureaucracies?

Part of the problem facing us is the excessive rhetoric and resulting emotionalism that has been generated. The President has not helped by his periodic verbal jousts with the energy matter, and in that commentary I make reference to his populist rhetoric damning American corporations whereas the real culprit in the energy field is the Government.

Of the two basic bills before us, I believe the Udall-Clausen-Wirth version is the lesser of evils. However, since both the Commerce Committee bill and the Interior Committee bill will be substantially modified prior to a final showdown between the two, none of the authors of the legislation may be able to recognize his brainchild.

I believe that the bill we finally process must respect State and local jurisdiction, and in so doing, avoid new constitutional issues.

We must achieve a time frame for final agency decisions that will be as short as practical. We must not create within a new bureaucracy a totally new, open-end power structure.

And most of all, we must keep in mind that our goal must be to substantially stimulate domestic energy consumption so as to reduce our dangerous dependence on foreign energy sources.

The CHAIRMAN. Are there any further amendments to the amendment offered as a substitute or to the amendment in the nature of a substitute?

Mr. DINGELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this opportunity to summarize the principal differences between the Wirth-Udall bill and the Commerce Committee bill as amended by my colleagues, the gentleman from Nevada (Mr. SANTINI) and the gentleman from New Mexico (Mr. LUJAN). Mr. Chairman, with regard to regulations, the Wirth-Udall bill requires all regulations promulgated by the Board to be transmitted to the Congress, to lay before us for 60 calendar days of continuous session, and to be subject to a one-House veto. The amount of time that would be consumed in this kind of undertaking, before the Board could even address its basic responsibilities, is literally incalculable.

□ 1100

This one-House veto requirement would include initial board regulations establishing criteria and procedures for reviewing applications for designation of energy projects, technical changes in regulations and administrative regulations. This requirement would delay critical energy projects and would tie up the Congress and its committees in endless hearings and markups on unimportant matters.

Now, my dear friend, the gentleman from Arizona (Mr. UDALL) has complained about the way things would work in the House if the Commerce Committee bill should pass. However, the Wirth-Udall bill would provide congressional review with regard to a vast plethora of trivia. These are matters that could be reviewed by congressional oversight.

Mr. Chairman, it should be noted that the Commerce Committee bill has no such delaying provision. We rely on normal committee oversight and the annual authorization process.

Mr. Chairman, there are some other differences. Let us look at the enforcement of the project decision schedule. The Wirth-Udall bill requires that if the Federal, State or local agency fails to make a decision on time or is reasonably likely not to make a decision on time, the Board may file suit against the agency in the appropriate court of appeals. This includes the Court of Appeals for the District of Columbia or any other court of appeals scattered anywhere about the United States. It is rather obvious that litigants will file in the court which best suits them. Under the Commerce Committee bill court review of agency decisions must take place in the court in the area in which the project is to be located. The court cannot make the agency decision. It cannot order the agency to decide. The Wirth-Udall bill says the court shall order the agency to act in accordance with the schedule. However, if the deadline under the schedule has passed, all the court can do is to extend the schedule, which includes still further delay.

Mr. Chairman, the administration estimated that the first version of the Udall-Wirth bill could result in about 7 years of delay. Because of the addition of the amendment offered by the gentleman from Florida (Mr. FUQUA) the delay is now down to about 5 years 4 months. On the other hand, the Commerce-Santini-Lujan bill lets the board extend the schedule without relying on the court. Result, no delay caused by another trip to the court.

Mr. Chairman, there has been a lot of talk about the Presidential bump-up. Earlier I resisted the Presidential "bump-up" concept, but the House, in its wisdom, yesterday accepted an amendment which imposed the Presidential "bump-up" concept on the Commerce Committee bill. We now have a situation where the bump-up exists in both the Udall-Wirth bill and in the Commerce Committee bill in almost exactly the same form. Under Wirth-Udall if the board finds the agency decision date under the schedule has passed and the agency has not made the decision, it must first go to the court to enforce the Project Decision Schedule. After 120 days, if the court has not acted, the President can decide in lieu of the agency.

Mr. Chairman, here is where some really mischievous consequences occur. First of all, the President cannot conduct the hearings that have to be conducted. Therefore, he must refer this matter to one of the regular Federal agencies for hearings and for the completion of the record. The question is, who will be the agency that will do that. I cannot tell you. Is it going to be the Department of Energy? Is it going to be the Energy Mobilization Board, by whose actions the matter has resolved itself into court or is it going to be the Office of Management and Budget? Strong arguments could be made against the implications of each one of these actions, particularly on the grounds that they constitute a most undemocratic infringement on the rights of the individual who might oppose the project by placing him in a very unsympathetic forum.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. DINGELL was allowed to proceed for 5 additional minutes.)

Mr. DINGELL. Mr. Chairman, there are some other problems that have to be recognized with respect to the Wirth-Udall bill. Must the record be completed? And, if so, who will complete it? These questions are not resolved.

Mr. Chairman, as I pointed out in my remarks yesterday, the 120 day period of time does not begin to run until such time as the Board has sent an appropriate notice to the court. But does the 120 days run during the court appeal or does it run just during the procedures of the circuit court of appeals? The question remains unanswered and I do not believe even the authors of that particular proposal can tell you what the circumstances are with regard to the running of the time.

Equally important, Mr. Chairman, is that the circuit court of appeals has never been a trial court. The Udall-Wirth proposal would compel that court, the circuit court of appeals, to function as a trial court. This would create strong probabilities of additional delays, denials of procedural and substantive rights to litigants and the consequences that a body which is unfamiliar with trial practice would be compelled to make decisions of fact. Obviously, no court so constituted is the proper forum in which decisions of this kind should properly be made.

Mr. Chairman, under the Commerce-Santini-Lujan bill if the agency has failed to make a decision or is unlikely to do so the Board must give notice to the agency, wait 45 days and then hold a hearing to determine the reasons for the failure to make a decision. If there is good cause for the delay then the Board may extend the schedule. If the Board does not extend the schedule, it may make a recommended decision to the President in lieu of the agency action. The Board must first complete the record so that all are fairly treated. The decision must be in accordance with applicable Federal, State, or local law. The President has 45 days to affirm the recommended decision or to remand it to the Board with instructions. As one can see, the bump-up is quite similar in both bills but it must be recognized that the bump-up is better in the Commerce Committee bill.

Now, Mr. Chairman, I think there are certain other things that have to be recognized. If we want a fast-track bill to cut through the decisionmaking maze that curses this country, then there is only one thing you can do and that is to pass a bill which forces a decision. The Udall-Wirth bill will take longer than the completion of World War II and it will take longer than the delay that it took with regard to the completion of the Sohio pipeline, about which my colleague from Arizona complains so much.

Equally important, Mr. Chairman, is another question that has to be addressed: that is that even after the completion of the Udall bill, residual questions will remain. One of the problems that existed with regard to the Sohio pipeline was that even after all the permits would have been issued it was announced by people in California that they intended to fight the matter in court and to prevent that project from commencement of construction.

One of the reasons that the Board must, under appropriate safeguards, have the ability to waive Federal substantive law, is to prevent these questions from being litigated ad infinitum after the Board has acted, something which has never been addressed by my good friend from Arizona (Mr. UDALL) and by the Committee on Interior and Insular Affairs.

Mr. Chairman, I want my colleagues to know, that under the Commerce Commitee bill, no unelected board may waive any legislation with regard to substantive law. That can only be done by affirmative action by the Congress, by both Houses under the Santini-Lujan amendment.

Lastly, Mr. Chairman, it should be recognized that in bringing these matters to Congress we convert what might have been questions a court would decide after lengthy delays into questions which are essentially political and we resolve them here in the open.

□ 1110

Mr. GRAMM. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I will be happy to yield to my good friend, the gentleman from Texas.

Mr. GRAMM. Mr. Chairman, I thank my chairman for yielding. I would simply like to make two points. First, I would like to urge my colleagues to check very carefully leaflets that have been handed out on the House floor today and yesterday which do not bear the name of any Member and which have outright distortions of facts in making assertions of differentials that are supposed to exist between the Udall version of the bill and the Commerce Committee bill. Looking at one distributed today, there are clearly two instance of outright distortion of facts. I urge my colleagues to look at these things very closely and to give them the attention they deserve, given that the person who handed them out would not even put his name on them.

Second, Mr. Chairman, I would like to read one paragraph from a letter written to me by the Associated General Contractors of America.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. DINGELL) has expired.

(At the request of Mr. GRAMM, and by unanimous consent, Mr. DINGELL was allowed to proceed for 2 additional minutes.)

Mr. GRAMM. Mr. Chairman, will the gentleman yield further?

Mr. DINGELL. I would be happy to yield.

Mr. GRAMM. Now, I would point out to my colleagues that the Associated General Contractors of America represent the major construction companies of this country who will build the priority energy projects of this country if we are capable of cutting through the red tape and allowing that construction to occur; so I would ask that we simply impugn to them in assessing this letter that they want to build projects. That is their primary interest.

The letter reads as follows:

THE ASSOCIATED GENERAL
CONTRACTORS OF AMERICA,
Washington, D.C., October 19, 1979.
Hon. PHIL GRAMM,
U.S. House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR CONGRESSMAN GRAMM: The Associated General Contractors, which represents the U.S. construction industry and whose members will build the contemplated energy facilities, has given careful consideration to the Energy Mobilization Board "fast-track" proposals pending before the House of Representatives. As between the Interior and Insular Affairs and the Interstate and Foreign Commerce Committee's bills, it is our considered opinion that the Commerce Committee bill is a stronger and more sensible approach, indeed the only alternative. In fact, the Interior bill, as amended by Udall-Clausen-Wirth, would be worse than no legislation at all.

Mr. DINGELL. Mr. Chairman, I commend the gentleman.

I would point out that nobody is going to invest billions of dollars in an energy project, and we are talking about many projects that are going to cost billions of dollars, in order just to get himself into a lawsuit that is going to take somewhere between 5 and 7½ years to resolve.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. Yes, I would yield to the gentleman from Colorado.

Mr. WIRTH. Mr. Chairman, I just wanted to associate myself with the comments of the gentleman from Texas about shameful distortion of facts. I think we have seen a great number of those over the last 10 days, particularly with reference to the time frames that have been laid out. That has been the subject of significant debate here and in front of us we still have a long 7½-year time frame which I believe fits into the category referred to by the gentleman from Texas.

Mr. Chairman, I thank the gentleman for yielding.

Mr. DINGELL. Mr. Chairman, I pointed out that the 7½-year time frame, with the amendments now adopted by the committee yesterday, is down to only about 5½ years. I just wanted my colleagues to see what the original version of the Udall bill would have done.

I want to observe that persons around here who pass out documents that are unsigned tend to reflect on their own credit, I think, most adversely and I suspect they will reveal themselves sooner or later.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. DINGELL) has again expired.

(At the request of Mr. WYDLER, and by unanimous consent, Mr. DINGELL was allowed to proceed for 2 additional minutes.)

Mr. WYDLER. Mr. Chairman, will the gentleman yield to me?

Mr. DINGELL. Yes, I am very happy to yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I rise in support of the Dingell bill and in opposition to the Udall amendments.

Mr. Chairman, today we have finally come to grips with the fact that some tough decisions will have to be made to develop a synthetic fuels industry for this country. We cannot allow regionalism or an overwhelming preoccupation with the environment to prevent the United States from having this critical production capability. We are still facing an alarming degree of dependence on foreign oil and, although we realize that there will be more waste in a crash program than a gradual development program, we must retain a sense of urgency. I urge my colleagues to recognize that the parochialism of no one State or locality should stand in the way of our national security. The "collective will" we exercise here should be that priority energy projects are to be expedited without major compromises in health and safety.

Our Committee on Science and Technology has over the past 3 years hammered out a demonstration plant program which is the basis for building a synthetic fuels production capability. We must tailor economic incentives to match the real promise of these technologies while we oversee construction of the authorized demonstration plants in a timely manner.

No single bill, no matter how carefully crafted, will satisfy all the Members of the House. However, on the principle that the Energy Mobilization Board must be given real muscle to catalyze Federal, State, and local agencies to prompt decisions I am supporting the Commerce bill. This is the third energy supply bill we have considered in this session. We passed the Moorhead bill and the Department of Energy authorization by overwhelming margins. I think the Commerce bill deserves a similar mandate to demonstrate that congressional intent is to truly put projects on the "fast track" that makes good sense. We have been stuck on the starting blocks for much too long.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. DINGELL) has again expired.

(At the request of Mr. UDALL, and by unanimous consent, Mr. DINGELL was allowed to proceed for 1 additional ute.)

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I would be glad to yield to my good friend.

Mr. UDALL. Mr. Chairman, I thank my friend for yielding.

I want to clear the record. The two documents that were referred to here were put out by my staff. We have all been working late hours as this debate went forward and I said to get out a couple memos on these two questions that people were talking about on the floor.

Mr. DINGELL. I see.

Mr. UDALL. The gentleman from Texas is correct, names should have been signed to them. They should bear the auspices of the House Interior Committee.

Mr. DINGELL. Mr. Chairman, I can only assume the gentleman must be ashamed of them. That is why he did not sign them.

Mr. UDALL. No; I am very proud of them. They are very accurate.

I will apologize for not having a name on there, if the gentleman will agree that that 7½ year figure has no basis in fact.

Mr. DINGELL. I will agree with the gentleman right now that it is 5½ years. This 7½ year figure shown on the chart is the original figure.

Mr. UDALL. All right.

Mr. DINGELL. I detailed all that yesterday.

Mr. UDALL. Mr. Chairman, will the gentleman point out on that chart where the author is indicated?

Mr. DINGELL. It says, "based on estimates made by the administration."

I will be more than happy to take credit for making the chart. I have had the chart brought in twice. I am not one who sneaks around here with documents.

Mr. UDALL. I appreciate that.

Mr. DINGELL. I will agree with the gentleman that by the amendment adopted yesterday the gentleman has cut his proposal from 7½ to 5½ years.

Mr. UDALL. Well, we have cut it to 120 days.

Mr. DINGELL. I find that statement unsupported.

Mr. UDALL. A little later in the debate I will point out that we have cut it to 120 days. If the gentleman wants to know how long the procedure will take, the answer is 120 days.

Mr. DINGELL. I will be delighted to hear how the gentleman has cut it to 120 days.

I would point out that I indicated yesterday the period of time that would be involved.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. DINGELL) has again expired.

(At the request of Mr. BROWN of Ohio, and by unanimous consent, Mr. DINGELL was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I would be more than happy to yield to my friend, the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, perhaps there is one statistic on which both the gentleman in the well and the chairman of the Interior Committee can agree and that is that 40 percent of our foreign imports come from the Gulf of Persia. An even greater percentage of our imports must come through the Caribbean to get to this country, either as refined products, having been refined in the Caribbean, or to be refined mostly in the gulf coast of the United States. That is about 20 percent of our supply. We just passed here a couple weeks ago, I guess, maybe last week, a rationing bill which I supported in the final analysis, even though I am not enthusiastic about rationing as a solution to our energy problems, that provides for the President to put rationing into effect if we have a 20-percent shortfall. If we have a 20-percent shortfall because of the collapse of governments in the Middle East or because of the closing of the Gulf of Persia through those narrow Straits of Hormuz, where 40 percent of our oil must traffic, the American people will be justified in their criticism of the U.S. Congress if we have not acted in the strongest possible way to encourage our domestic energy resources. If this Congress passes a cosmetic bill that says to the American people, "Don't worry, it's all taken care of, we have the right to shorten a few procedures here and it's only going to take you five years to get one of these projects underway that will supply domestic sources so that we are no longer relying on some of that foreign oil," I think the Congress will continue to be even more seriously the laughing stock of the country.

I would urge my colleagues to support the version of this bill that came out of the Commerce Committee so that we can have some assurance that these projects will be put underway.

Mr. SEIBERLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think it is unfortunate that the implication continues to be made that somehow the Dingell approach will solve our energy problem and the Udall approach will not.

The question simply is what is the best way to expedite new energy projects.

Yesterday I made a point about the importance of the rule of law in our society and the danger of waivers of substantive law. At that point, because of the President's remarks on Monday, it looked like the President had abandoned his position that he was opposed to waivers of substantive law. However, when I got back to my office last night, I was delighted to find a letter from Secretary of Energy Duncan to Speaker O'NEILL which contains this statement:

> As we have consistently stated, the Administration would strongly prefer a bill with no provision for waiver of substantive laws, except for those which might be covered by a "grandfather" provision.

That description clearly fits the Udall-Wirth-Clausen bill, but not the Dingell bill, as amended.

Then Secretary Duncan's letter goes on to say:

> We therefore will support an amendment by Mr. Eckhardt which would remove the provision for substantive law waivers, as well as provide for judicial review of decisions to "grandfather" projects against changes in substantive law after establishment of a Project Decision Schedule.

□ 1120

No such amendment has been offered to the bill from the Committee on Interstate and Foreign Commerce nor does it have any such provision.

However, it is gratifying that we now have the administration's position—at least its position as of yesterday—finally down in black and white.

Furthermore, it is gratifying to know that this is not an issue in the current Presidential contest. I have a copy of a letter which Senator EDWARD KENNEDY sent in September to Senator HENRY JACKSON which contains this statement:

> To give the Energy Mobilization Board "carte blanche" authority to waive substantive provisions of law without any meaningful standards to govern that decision is inconsistent with our constitutional system of government predicated on the rule of law. It is also inconsistent with our federal scheme of government which places great value on the sovereignty of state governments, particularly where the health and safety of their citizens are concerned.

The gentleman from Arizona (Mr. UDALL) yesterday referred in the course of debate to a letter which he had received from Joseph Lash, who is the biographer of President Roosevelt and who commented on the fact that President Roosevelt during the World War II emergency was very careful to try to see that the Government's emergency powers were not used in a manner to override important substantive laws. And as I pointed out yesterday, the Congress was very careful not to give the War Mobilization Board the power to waive substantive laws. Yet somehow we had the greatest production effort in the history of the United States with a board that had no power to waive substantive laws. It did have the power to set deadlines and set priorities, and that is what the Udall-Wirth-Clausen bill does.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I will yield in just a minute.

Mr. Chairman, there have been substantive laws passed, of course, since that time, and we are concerned about whether they will unreasonably block important energy projects. But the proper way to address that problem is that, when situations arise where it becomes clear that a particular law needs amending, we go through the normal legislative process. To try to amend the laws under a 60-day time constraint, with a gun at our heads and with people demanding that we act immediately because there is an emergency situation, is not the way we have traditionally operated, and it is not the proper way to proceed now.

Mr. Chairman, in the letter that the gentleman from Arizona (Mr. UDALL) received from Mr. Lash, Mr. Lash quotes some lines from the famous play, "A Man for All Seasons," and I would like to read this quote to the Members because I think it has a bearing on our deliberations.

In Robert Bolt's play about Sir Thomas More, A Man for All Seasons," More, in the play, says to his son-in-law that he would "give even the Devil the benefit of the law." His son-in-law replied that he would cut down every law in England to get at the Devil."

More countered:

> And when the laws were down and the Devil turned round on you—where would you hide . . . the laws all being flat? This country's planted thick with laws from coast to coast, man's laws, not God's—and if you cut them down—and you're just the man to do it—d'you really think you could stand upright in the winds that would blow then?

That is the end of the quote. Those who have seen the play will remember that it is probably the high point of the whole play.

Are we going to try to cut down our system of law, or are we going to follow the traditional separation of powers that relies on the courts to do the job of interpreting and enforcing the laws?

Mr. Chairman, I will now yield to the gentleman from Ohio (Mr. BROWN).

The CHAIRMAN. The time of the gentleman from Ohio (Mr. SEIBERLING) has expired.

(On request of Mr. BROWN of Ohio, and by unanimous consent, Mr. SEIBERLING was allowed to proceed for 3 additional minutes.)

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman be kind enough to yield?

Mr. SEIBERLING. I will be pleased to yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, first let me say to the gentleman in the well that I came to the Congress in 1966, some 21 years after the war ended, and because we did not write the War Production Board legislation in as good a way as I think the Committee on Interstate and Foreign Commerce has written this legislation, we were still involved in litigation growing out of that War Production Board. In 1966, we were still trying in this Congress to settle some of the claims that came out of that legislation.

Mr. Chairman, I would hope that we would do a better job than the job that was done by the War Production Board legislation.

Mr. SEIBERLING. We did win the war, however.

Mr. BROWN of Ohio. And we have got to win this one, too. That is why I urge that we need better legislation than the legislation we had at that time.

The gentleman from Ohio (Mr. SEIBERLING) gave a rather lengthy quote from the play, "A Man for All Seasons." I would like to give a longer quote from the letter that Charles Duncan, Secretary of Energy, sent to our Honorable Speaker on October 30. The gentleman from Ohio perhaps did not see this or he would have read it all.

Mr. SEIBERLING. I did not state that I was reading the whole letter.

Mr. BROWN of Ohio. Mr. Chairman, I am quoting from the letter, as follows:

> However, should the choice ultimately fall between the Udall-Wirth substitute and the Commerce Committee bill as amended by the Santini-Lujan amendment, we would support the latter as closest to our position, because it avoids the delays inherent in the addition of new opportunities for judicial review.

Mr. Chairman, I would say to the Members that the Secretary's letter tends to endorse rather emphatically the bill of the Committee on Interstate and Foreign Commerce at the juncture at which the bill stands now in consideration by this body. I think there is no question about that and the fact that even the President's remarks are contained in this letter from Charles Duncan, the Secretary of Energy. To characterize their support from this letter as being for the Udall-Wirth substitute, I think, really strains the interpretation under any circumstances.

Mr. Chairman, the gentleman and I may agree on the interpretation of "A Man for All Seasons," but we disagree rather emphatically on the interpretation of Secretary Duncan's letter.

Mr. SEIBERLING. Mr. Chairman, all I can say in answer to that is this: I did not intend to indicate that the administration was supporting the Udall-Wirth-Clausen substitute. The letter clearly is saying that if they have to choose, they are going to take the Dingell substitute.

But my point was this: that on the one hand they are saying they are opposed to waivers of substantive law, and on the other hand they are saying, "But not very much." It seems to me that the dedication of the President to the rule of law ought to be at least as great as that of the Congress, and I hope the Congress shows that it is so dedicated.

Mr. BROWN of Ohio. Mr. Chairman, if the gentleman will yield further. I am also dedicated to the rule of law, but I think on occasion it is necessary for us to address law when it gets in the way of some serious problems.

We have had laws in this Congress that have had to be repealed. I would suggest to the Members that we now have laws that are inhibiting us in some way, and they must be addressed because of our serious energy problem.

Mr. SEIBERLING. Mr. Chairman, I suggest to the gentleman that the way to do that is to take up legislation to change the laws, not to override them in this unconstitutional way.

Mr. CARR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will try not to take my full 5 minutes.

Mr. Chairman, yesterday I got up in general debate and made some comments about how this whole energy issue was causing a stampede and causing us not to act with the due deliberation that I think the American public expects we ought to exercise. I think the debate here has really borne that out. We have had all these wild swings in estimations about how much damage this is going to do and how much damage that is going to do, what direction this judicial review is going to take and what direction that judicial review is going to take. No one knows for certain.

We have the administration down at the other end of Pennsylvania Avenue which has taken every position on the block. We have members of our own committees who have taken contradictory positions. There are very few Members among the members of the committees, as we have worked our way through this issue, who have kept a consistent position. I will admit to being one of the Members who have changed positions.

So we have now what I think has become somewhat of a comedy. Some of it centers around this whole issue of judicial review.

This legislation is terribly premature. It needs more study. We are talking about judicial review out of the Committee on Interstate and Foreign Commerce and out of our committees' expertise. We have some attorneys on both committees. Judicial review probably ought to have gone to the Committee on the Judiciary, although we have some overlapping membership on these committees.

But let me give the Members one Member's perspective on this whole judicial review matter. I had a little experience in this as a government attorney before I came to Congress. The long history of the development of judicial review in this country has been a massive tug of war between the Congress and the courts. We tighten it up and the courts go off and interpret, through the Constitution rather than statute, a right to review.

I would submit to the Members that what we are doing here today to try to change or shorten judicial review or cut it off is an exercise in futility. It is an exercise in futility because the courts are going to do what they are going to do, and the futility here is that both of these alternatives are in effect an attempt to abolish the judiciary of this country when we come to the sacrosanct subject of priority energy projects. I am telling the Members that that just will not happen. No matter which alternative this House supports, either of these alternatives is going to be tied up in the courts for years, by well-financed Attorney General suits throughout the United States.

□ 1130

None of these laws are going to be implemented until they have been reviewed once, maybe twice, maybe three or four times by the Supreme Court of this country, and in the meantime we will all go back to our districts and tell our people that we did something about energy to get this fast track moving.

I suggest that it just "ain't" going to happen and that we ought to face up to that fact. While I would recommend a vote for Udall-Wirth, I would really vote no on all of this stuff.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. CARR) has expired.

(On request of Mr. GUDGER and by unanimous consent, Mr. CARR was allowed to proceed for 3 additional minutes.)

Mr. GUDGER. Mr. Chairman, will the gentleman yield?

Mr. CARR. I yield to the gentleman from North Carolina.

Mr. GUDGER. I thank the gentleman for yielding.

Mr. Chairman, I rise to associate myself with many of the remarks of the gentleman and to respond in some degree, if I may, by way of introduction and then by way of question to a comment made earlier by the gentleman from Texas (Mr. GRAMM) in suggesting that there had been some papers circulated without subscription.

My purpose is to refer to some papers that were circulated with subscription, with my name on it, with the name of the gentleman from Ohio (Mr. SEIBERLING) on it, and other members of the Committee on the Judiciary on it. In that particular circulated document yesterday we said, and I think we said correctly, that the Udall-Clausen-Wirth substitute, as amended by the Fuqua amendment, maintains respect for the vehicle which has enforced our laws for two centuries, the courts. It provides the courts with an unequivocal mandate to enforce deadlines for agency action set by the Energy Mobilization Board and explicitly authorizes the courts to order an agency to streamline its procedures, assign extra staff to a required decision, and impose penalties upon officials responsible for delay.

The Fuqua amendment writes a specific 120-day deadline, writes a specific 15 days for paper filing and writes a specific limitation of direct review by the Supreme Court, and thus limits the process that the Court of Appeals is to perform.

I point out, if I may, that all of this is recognizing the vehicle which our Constitution charges with the enforcement of our laws and specifies how it is to function with particularity.

Now my comment to the gentleman is this: It seems to me that advocates of the Commerce Committee substitute say that we must keep the courts out of the process and urge that the courts have gone too far in the enforcement of environmental safety and health laws that the Congress has enacted.

If that is true, I submit: What is the lesson for us?

Is it not the lesson that when the Congress gives the court a job to do, that they do it forcefully and effectively, and if we give the courts the job of reviewing only within restricted time and within restricted responsibility areas, and we limit the number of projects authorized by the Udall bill to 75—there are no limits in the Dingell bill—and we limit the number of projects which may be approved each year to 20—thereby limiting the number of cases that the courts can entertain, are we not then giving the courts the responsibility to forcefully and effectively enforce the deadlines that the EMB can impose and get this job done? And I ask the gentleman, does not the gentleman agree that the courts will do just that?

Mr. CARR. Mr. Chairman, I think the courts will give their very best effort to enlist their functions in the fight for energy sufficiency. But you cannot prescribe the powers of the courts under the U.S. Constitution. And believe you me, from the point of view of an environmental lawyer—and I was one at one time—an intelligent and crafty and clever environmental lawsuit, with a sympathetic judge, can tie this thing in knots for years, notwithstanding deadlines. But I would agree with the gentleman—and he is a learned and distinguished colleague who also serves on the committee on the Judiciary—that the courts, I think, will do their level best, and I do think that we will have a minimum of delay under the Wirth-Udall substitute.

Mr. GUDGER. And does the gentleman agree that the Udall-Clausen-Wirth substitute actually tells the court what the court's function is to be and leaves it for the court to carry out a specific mandate rather than leaving the court carte blanche, which could in turn lead into some of those dilemmas that the gentleman has described?

The CHAIRMAN. The time of the gentleman from Michigan (Mr. CARR) has again expired.

(On request of Mr. WEISS and by unanimous consent, Mr. CARR was allowed to proceed for 2 additional minutes.)

Mr. CARR. In response to the gentleman, Mr. Chairman, actually this Congress and previous Congresses have put all kinds of roadblocks and constrictions and constraints and narrowing to judicial review. And the courts have tried to follow that. But when the courts are determined to protect rights under the Constitution of the United States, nothing we do here is going to change that, nothing. And the delays will pertain not to the statute but to the Constitution. Unless you are suggesting that we amend the Constitution or that we somehow or another alter or abolish the Judiciary, they are going to carry out their function just as we insist upon carrying out our function and the Executive insists on carrying out its function.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. CARR. I yield to the gentleman from New York.

Mr. WEISS. I thank the gentleman for yielding.

Mr. Chairman, I want to associate myself fully with the remarks of the gentleman in the well. I share his concern that in our haste to pretend that we are going to be doing something to solve the Nation's energy problems, we will be seriously undermining the Constitution of the United States. I think that his statement and that of the gentleman from Maryland (Mr. BAUMAN) yesterday were probably the most profound and the most pertinent to that issue that we have heard in the course of this debate.

I think that in a calmer time, when the gentleman from Ohio (Mr. BROWN) has occasion to reread his statement about how our laws, when they get in the way, ought to be shunted aside—in essence that is what he said—I think that he will upon reflection regret having said that.

I think that between the two bills, the Udall-Wirth bill makes more sense, but I think ultimately we ought not to be adopting either one.

The entire notion of bypassing either substantive or procedural provisions of Federal and/or State and local laws strikes me as antithetical to our constitutional form of democratic government. It is for this primary reason that I ultimately cannot support either the Udall or Dingell measures.

Both bills create an Energy Mobilization Board which would be invested with the power to override or ignore actual statutes or their spirit in the name of domestic energy development. While I agree wholeheartedly that the Nation must decrease its dependence on expensive and vulnerable fuel imports, I do not believe that it should do so at the cost of undermining civil liberties and toppling constitutional balances.

Under Mr. DINGELL's bill, for example, the board could waive Federal laws which in the opinion of this unelected and unaccountable body constitute a "substantial procedural or substantial substantive impediment" to certain energy projects. This kind of carte blanche authority to sidestep the legislative process cannot be reconciled with the central concept of due process.

Another facet of the fast track approach that is insupportable in my view involves the provisions for judicial review of the Board's decisions. The Dingell measure limits judicial review authority only to those areas where the bill specifically states that the Board cannot waive substantive law. In practice, the Board could waive statutes such as the Toxic Substances Act and not be subject to judicial review of such a decision. The Udall substitute is somewhat preferable in this regard, but it, too, places limits on the courts' role by setting a 30-day deadline for judicial review of any decision made by the Board.

In sum, I simply do not see the need for an Energy Mobilization Board invested with such enormous authority and the dangerous potential to upset our system of checks and balances. Domestic energy development is vital, yes, but the fast track approach is not the solution to our problems. Indeed, creation of the proposed Board will not necessarily expedite energy projects and will definitely imperil our Constitution.

The Board's proponents say it will cut useless redtape and overcome bureaucratic obstacles. But we do not need a special governmental body to accomplish these aims. Congress is quite capable of reaching these objectives through its normal legislative procedures, as was clearly demonstrated in the House's consideration and passage of synthetic fuel measures designed to speed up this type of energy development.

Creation of an Energy Mobilization Board would represent a most alarming precedent. What other superbureaucracies could then be manufactured in the name of some other urgent national concern? I have faith in our economic and political system to resolve our current energy problems without resorting to such an extraordinary and highly questionable panacea.

I urge my colleagues to join me in rejecting fast track legislation. It is a bad idea that endangers our democracy and which would probably do very little to improve our energy situation.

Mr. CARR. I thank the gentleman for his contribution.

Mr. OTTINGER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have decided, with difficulty and reluctance, to support the Udall substitute. I say "with difficulty and reluctance" because I think there are very real issues here, and I would like to say that I do not like coming to a different conclusion than my chairman, the gentleman from Michigan (Mr. Dingell). He is a person for whom I have great love and affection and enormous respect. I really think he is one of the ablest Members of this body and one of its leading environmentalists. I have learned a great deal from him. For those people who question his motives in this legislation, I would say they are dead wrong.

The real issue here and the need for this legislation I think derives not from the need to accelerate energy projects. I think that is a bugaboo. It is a bugaboo that has been spread through this land by the energy companies and the utilities who want to do away with protection of health and safety, who find it inconvenient not to be able to pour toxic substances in our water and on our land, who find it inconvenient not to be able to spew poisons in our air. So they have used these laws as an energy scapegoat and they say, "If we can get these laws out of the way somehow or another, we can solve our energy crisis." It is just nonsense, absolute nonsense.

A recent study by the Department of Energy of delays in major energy projects shows that those projects have been delayed, not by health and safety regulations; they have been delayed by technical problems, equipment failures, and labor problems and a host of other reasons. Only a small percentage of energy projects have in fact been delayed by the application of essential health and safety regulations.

The real reason for this legislation is not to accelerate energy projects. It is a disguised attack on our health and safety laws. The legislation is advanced because of this antiregulation atmosphere that has been spread by the energy companies and their allies.

But there is a real reason for passing fast track legislation—it is because of the real danger that exists that if we do not have this fast track legislation, then in the hysterical climate created by the utilities and energy companies, Congress will succumb to these pressures and really impair with the basic protections of our health and safety laws.

So I think the very close question that has to be decided here and the very difficult one is: Do we need something as drastic as that which the gentleman from Michigan has put forward, with its waivers of substantive laws, albeit protected by affirmative congressional action, in order to prevent the future decimation of our health and environmental laws, or will in fact the Udall bill, with its accelerated time schedule, do that job? I do not think it is an easy question at all.

I have decided that I would support the Udall substitute basically on that issue, however. There is something repugnant about taking the laws that we have considered here very carefully, about which we have had hundreds of hours of hearings, about which the testimony has shown that people here in our country are being killed by the actions of the energy companies in failing to protect the health and safety of our people, that we should be able to suspend those laws under conditions of great pressure.

Granted, the amendment offered by the gentleman from Nevada (Mr. Santini) has greatly improved the bill. The bill now requires positive action by both Houses of Congress in order to suspend the laws, but it will be done under a climate of great pressure, under a climate when we are going to be considering some supposedly marvelous energy improvement like the synfuels program that has been proposed by the President, which he claimed is going to produce 2½ million barrels of oil by 1990; and albeit that that is nonsense, the fever is going to sweep through the House, people are going to want to go ahead and suspend the laws in order to get that project accomplished.

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I think that is too great a danger for us to undertake. That is basically why I prefer the Udall substitute.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for the kind words he said about me. I reciprocate, because he is one of the most valuable Members we have in this body. He is one with whom I have worked for many years on many things, including conservation and environmental laws.

I do not want the legislative history to reflect that the Commerce Committee bill permits waivers to be issued lightly.

First of all, it should be understood that at page 6 the Commerce Committee bill says as follows:

> The recommendation for waiver can only take place if the Board finds (a) such waiver to be in the national interest; (b) that there is substantial evidence to support the Board's determination and recommendation; and (c) that the waiver would not unduly endanger the public health and safety.

The CHAIRMAN. The time of the gentleman from New York (Mr. Ottinger) has expired.

(At the request of Mr. Dingell and by unanimous consent, Mr. Ottinger was allowed to proceed for 3 additional minutes.)

Mr. DINGELL. Beyond that, at page 50 in the Commerce Committee bill, there is a long list that details those matters that may not be waived. The Board may not recommend the waiver of any legislation dealing with the rights, the working conditions, including health and safety, compensation or activity of workers or their representatives and, going further down, states that State water rights cannot be impaired, either as to quantity or as to quality.

Now, more importantly, I would point out that we are seeing to it that these questions come to the Congress on an accelerated basis, go to the committees of jurisdiction, whether it be the Commerce Committee or the Committee on Interior and Insular Affairs, or the Committee on Public Works, so that they can receive proper but expedited treatment.

Any Member can see to it that they come to the floor under full and open debate.

More importantly, the Commerce Committee legislation assures that the Administration Procedure Act, the Sunshine Act, the Freedom of Information Act and all of the statutes of that sort, apply to the Board—to see to it that the consideration of matters before the Board are conducted in the open.

The Board's waiver recommendation must lay on the President's desk for at least 30 days. He cannot submit a waiver recommendation to Congress until such time as the public has had a chance to familiarize itself with the content of the Board's recommendations to the President and to comment thereon, so as to provide the fullest opportunity for decisionmaking in which the Congress and the public will be fully involved.

Mr. OTTINGER. When I say that I have enormous respect for the gentleman from Michigan, I say that not just to be polite or go through the norms of congressional courtesy. It is because I have that respect, and I think the gentleman knows it.

I would like to say that if we must consider a waiver of laws, he has provided the utmost in protection for such a waiver. All of the procedures that one has to go through for a waiver that the gentleman from Michigan describes, are accurate, and in fact the Congress must act affirmatively in order to be able to get that waiver of law.

I think that, given the gentleman's feeling that you do have to have the waiver, he has done as careful and able a job crafting it as could possibly be done. That is what makes the decision so difficult.

As I said, I do not think this is an easy choice at all. However, the fact of the matter is that at the time we act on a waiver under accelerated procedures we are going to be under a climate of great pressure. It will not be the normal legislative process with full hearings and markup.

I understand the reason the gentleman from Michigan advocates a waiver procedure. I just find that that is a step which I am unwilling to take, to provide even under that kind of protection for the waivers of laws that his amendment provides a provision which provides for waiver of substantive health and safety laws under accelerated procedures, gives me very, very great concern.

The CHAIRMAN. The time of the gentleman from New York (Mr. Ottinger) has expired.

(At the request of Mr. Seiberling and by unanimous consent, Mr. Ottinger was allowed to proceed for 1 additional minute.)

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

I would simply like to point out this, that if we provide for substantive waivers of law and we try to cut short judicial review except on constitutional issues, then every case is going to involve a constitutional issue; and that will almost guarantee Supreme Court review, and thereby actually end up prolonging rather than shortening the time frame.

Mr. OTTINGER. I do not like either of the bills, but I would say to the gentleman from Michigan (Mr. Carr), and my good friend from Oregon (Mr. Weaver), who are opposing any bill, that there is a real need for fast track legislation, because in some cases there in fact has been inordinate delay.

Secondly, if we do not have this relief valve, I am afraid the industry pressures will be overwhelming to throw out the very important health and safety legislation we have passed. I am very concerned about the provisions of both bills that provide for the suspension of laws that may come into being after a particular project has been fast tracked.

The CHAIRMAN. The time of the gentleman from New York (Mr. Ottinger) has again expired.

(By unanimous consent, Mr. Ottinger was allowed to proceed for 1 additional minute.)

Mr. OTTINGER. Most of the projects that we are talking about here are new technology. They are highly complex, multibillion dollar ventures.

We do not know a lot of the environmental problems that are going to arise with respect to these projects. So the health and safety laws that may be passed subsequent to its designation as a priority energy project—or the States may want to pass subsequently, may protect against dangers to the health and safety of the people of which we are not yet aware. To suspend such laws for 5 years is the equivalent of a waiver, because at the expiration of 5 years, the damage will have been done.

Nonetheless, I think that this legislation has to go through to avoid a still greater danger of weakening or killing our environmental protection.

I think the real question that has to be decided, and I come down on the Udall side, but I do not think it is easy, is whether we have to have the more drastic measures of the Dingell bill in order to preserve the vital legislation for the protection of health and safety that we have passed.

Mr. Chairman, I urge support of the Udall amendment and, with it or without it, support of the bill.

Mr. SHARP. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, like the previous speaker, I rise with reluctance, because a lot of energy and effort and good will have gone into this issue by parties on all sides. I find it difficult to judge what it all means.

I must say that I come down on behalf of the Santini proposal to the Dingell bill, the Commerce Committee bill, because I think that we do have to provide an orderly and a reasonable way in which this Congress can judge on a timely basis some of the critical projects and whether or not we need to undo a particular regulation or a particular provision of law; and let us understand again that we do not allow under this proposal a waiver of law by the EMB.

We allow for the President to trigger consideration by the U.S. Congress as to whether or not to overturn or to alter existing law. That is what we are talking about, a perfectly legal, a perfectly constitutional, way to make laws in this country, because it requires, as the Constitution requires, that it have the agreement of the three basic parties of the Government—the President, the House and the Senate.

I think over the long haul this proposal has a better chance of providing orderly consideration, a better chance of seeing to it that we have a good public record, and that we do it in a timely fashion, than to allow what I think is happening in this country, and that is a growing frustration over extensive regulation, extensive rules, many of which I think are critical to the well being of the future of this country.

That frustration becomes increasingly generalized, increasingly dynamic, and we respond increasingly with "Do anything." I think that will be the ultimate mistake.

We frankly, in both the Interior Committee and the Commerce Committee, moved with lightning speed, but it was to late on the Sohio pipeline question, at a time when we did not look for alternative environmental standards in California. Instead, we said, "Do anything and do it now."

I think that is a very poor way to operate in terms of either handling the energy problem or in terms of handling the environmental standards.

Let me say something about the remarks of the gentleman from Ohio (Mr. Seiberling), for whom I have the greatest respect, and I think there are few who can match his dedication to having a society of law, both domestically and internationally. He read passages of "A Man for All Seasons," that I required my students in government to read. In fact, I required them to read the entire play, because I think it is a critical statement. But, I must say that we have to recognize in this body that the disparagement of law, which is very real in our society today, is in many instances the result of the increasing complexity of the law, the increasing number of jurisdictions that make law for our people, the increasing difficulties of enforcing that law in our society, and the increasing number of examples that are highlighted throughout the mass media of where the system does foolish things.

□ 1150

That is no reason for us to dump the law, but it is a reason for us to recognize that if we do not allow for timely, orderly consideration to overturn what people think is foolishness, we only ask for the continuing disparagement of the law, we only ask for sweeping disposal of our environmental protection laws.

It is a difficult question, I admit. None of us know how often the procedure will be used. But let us remember while this Board sits and while this Board acts, so does the Presidency of the United States, so does the Congress of the United States, so does the court system. We are not about to abandon the U.S. Constitution, we are not about to delegate such sweeping powers to any board that we are going to lose the fundamentals of our Constitution.

I am not convinced the difference between these two bills is as dramatic as some would have us understand. But I do think the time has come for us to say we will provide a way to consider, in certain cases, and I hope they will be extreme cases, in a timely manner, whether or not we ought to make exemptions to specific rules and regulations. I think that will not only protect our energy future, I think that holds hope for protecting our health and our safety future for our people.

We have to find a way to work out the difficulties on a case-by-case basis of the conflicting goals in our society. I hope we can do that, and I would urge the passage of the Interstate and Foreign Commerce Committee bill.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

(At the request of Mr. Glickman and by unanimous consent, Mr. Sharp was allowed to proceed for 2 additional minutes.)

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. SHARP. I am happy to yield to the gentleman.

Mr. GLICKMAN. Mr. Chairman, I would like to compliment the gentleman on his fine, very, very appropriate statement.

I have had serious problems with these bills too. I was an original sponsor of the Udall concept, but after a serious reflection I have changed my mind and I come down on the side of the gentleman, not only because I do not believe there are that many fundamental differences between the bills but, above all, I think that the bill of the Committee on Interstate and Foreign Commerce deals with the energy problem as a Federal issue, which it is, and the Udall bill will continue to deal with the issue as a bifurcated approach that will, in fact, tend, not necessarily with the intention, but will tend to stifle energy development.

I voted against the Department of Education bill last month because I felt that was a uniquely State and local issue that did not belong, on a policymaking basis, at the Federal level. But there is no question that energy is Federal. I wish it were not, but it is. There is no question that we are bleeding to death, as the majority leader has said so many times. And there is no question in my mind that the Dingell bill, with appropriate safeguards—and I have read it, and they are there—does reflect upon the fact that energy is a Federal issue and must be handled in that manner.

I compliment the gentleman and I would urge my colleagues to support the Dingell approach.

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. SHARP. I am happy to yield.

Mr. SANTINI. Mr. Chairman, I want to echo the compliment expressed so well by the gentleman from Kansas (Mr. GLICKMAN).

My only regret is that in the gentleman's thoughtful, considered expression on this House floor we did not have every single Member who honestly remains undecided on this issue to share and hear the gentleman's sentiments and expressions, because I think they would have proven ultimately persuasive. The gentleman is not a Representative who callously and in a carefree fashion takes to the House floor to enunciate a position on every conceivable issue this House faces. The gentleman's thoughtful and provocative observations really deserve to have a larger audience than we have here today of those Members who are undecided. I hope that they are watching it at home or on TV.

Mr. SHARP. The gentleman is overly generous.

Mr. MYERS of Indiana. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do not recall in recent years hearing as many Members give testimony that they do not like any of the above; yet, come to the conclusion that they are going to vote for something. I guess that is the choice we all must make today.

In the few years that I have been here I have seen a great many Members take the well and be critical of the authority or the rights that various agencies, commissions of the executive have usurped from this body. I certainly have shared in that concern. But today we are being asked not to give the authority to usurp, we are throwing it away, and just about every Member who has been here to the well or spoken on this issue has cited the problems that we have in finding solutions to our problems of excessive bureaucracy, or more rules and regulations than we can cope with. Yet today we are being asked once again, just one more time to create one more agency, one more bureaucracy.

Now, we have stacked on, horizontally, just about all of the layers that our society can accept, and more than industry, the energy industry can accept and still satisfy the problem. We have so many rules and regulations that nothing can get through. But as many have testified, this is not the only area, in energy, where we have this problem. Yet today we are deciding that we cannot stack another one on horizontally, so we will start to stack them vertically with an agency that we are going to create, the Energy Mobilization Board, vertically so that they can slice through all of the layers of regulations.

Is it not about time this body really accept its responsibilities and, instead of creating another agency downtown, to cut through the horizontal layers; why do we not take on headlong the problem that really exists? It is not only for energy, but for a great many other problems that face our country, which is too much Government. That is really what everyone has said here today. Yet, is the proper remedy today one more agency? I think it is not.

I am going to vote "no" on everything today. I have come to the conclusion, after 2 days of testimony, that I agree with just about what everyone has said here, that the remedy is not what we are considering today. So let us not just stack one more layer of bureaucracy, let us get down to the real cause, and usually that is because we have given away too much authority. Creating a Board to do what we seem not to have the courage to do is not a solution to our energy problems.

Mr. STAGGERS. Mr. Chairman, I rise to strike the requisite number of words.

I would like to compliment the gentleman from Arizona (Mr. UDALL) for the way he has conducted his support of his program. I would say he is one of the most able men in Congress and I think one of the most fair. It is perhaps regrettable that he did not reach his ambition of being the President of the United States, although President Carter is a fine and moral man who is dedicated to America and is unquestionably doing the best he can.

We are in an emergency. I would agree with the gentleman who just spoke, we have too many layers of bureaucracy, one layer on top of another. But I think this new entity is necessary because it will allow us to cut through the other layers and deal with the current emergency.

I cannot go back home without people saying something to me about energy. They want, they demand that we do something about energy. This is our opportunity.

A lot of people are saying that we are acting in haste. That is simply not true. This Congress should have acted 30 years ago. We knew then that we were going to run out of oil. We have known we would have to develop other energy resources through all of these years. How can anyone say that we are acting in haste. Quite the contrary. The time is late, maybe too late. Perhaps we are now too late with too little.

All of us know that Russia has an influence in the Middle East, a terrific influence. A picture recently appeared on the front page about visitors from South Yemen in Russia. This morning's paper talks about Iraq breaking off with Iran. The handwriting is there on the wall. We know sooner or later that our oil is going to be cut off, and indications are that it may well be sooner.

Here we sit in debate as to what we are going to do. There is no question that we need to do something, and I believe that the bill of the Committee on Interstate and Foreign Commerce is the best way. It does hasten the cure and it does not limit the number of projects that can be given priority status. We are going to have to have more than 100 projects across America sometime soon if we are going to do anything toward supplying the energy that we will need.

We have heard talk about the Board cutting through laws and cutting out laws. That is not true. Look at the proposal of the Committee on Interstate and Foreign Commerce. We only give to the Board the power to recommend; both Houses of Congress must act affirmatively on that recommendation or nothing happens.

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Another thing, some Members are intimating that we are doing something permanent. That, too, is not true. The Board goes out of existence in 1985. This is only a temporary action to get things started.

Here we have a temporary mechanism under which the Congress makes the final decision. What more can we ask than that?

We have to act effectively now. Nigeria has said that it is going to cut down on the oil it sells the United States. Several other countries have said that they are going to do the same thing; others have threatened to raise their prices. What are we waiting for? The emergency is here. Now is the time to act, and we had better choose in our own minds which bill does it most efficiently and the quickest.

I strongly recommend the Commerce Committee bill.

If we enact this bill, then we will have an answer when we go back home and people in our districts ask, "What did you do in order to help get oil for this country in the time of emergency?" Then we can say "I acted forcefully and effectively to protect the interests of the people and the security of the Nation."

Mr. MILLER of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, a number of my colleagues will speak today about the Energy Mobilization Board and the need for a fast-track process by which we can speed up priority energy projects that are in the national interest. I think, however, that most of us in this Chamber have agreed that some form of EMB is needed, and that the debate is now focused on what kind of board, what powers it should be given, and which version of the Board will remove the most roadblocks to a necessary project.

I would like to focus my attention this afternoon on one small portion of the Udall-Clausen-Wirth compromise bill, a section that is not contained in either the original Interior Committee bill, nor the objectionable Commerce Committee bill. This provision of the bill will allow the Energy Mobilization Board to require a single environmental impact statement for all Federal agencies.

This is one of the most important sections in the bill. We continually hear people complaining about Federal paperwork and redtape, and here is a real chance to do something about it. This provision will not eliminate any portion of the EIS, nor limit input into it from various agencies and groups. All it asks is that the Federal Government work together with one voice on these projects that are so important to the Nation.

The Commerce Committee bill sets up a lead agency for all the work on a priority project, but does not require one EIS for that project. The new regulations from the Council on Environmental Quality are an attempt to cut down on some of the paperwork involved in an EIS, and in many cases the regulations permit a single EIS. They do not, however, require a single EIS as the EMB could do under the Udall-Clausen substitute. We all know how complicated and controversial many of these priority energy projects are, and that there may be arguments between different agencies. This section of the substitute bill will get those agencies together before any final decision is made, so that any avoidable delay that might result from differing agency viewpoints will be eliminated.

In conclusion, Mr. Chairman, let me remind my colleagues here today that when Americans complain of overregulation, redtape, and bureaucracy, they are referring most often to the Federal Government. In the Udall-Clausen substitute, with the EIS provision, we have a chance to do something about this paperwork without damaging our protection of the environment. I urge my colleagues to support the substitute.

AMENDMENT OFFERED BY MR. MAGUIRE TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. MAGUIRE. Mr. Chairman, I offer amendments 3 to 5 en bloc to the amendment offered as a substitute for the amendment in the nature of a substitute.

The CHAIRMAN. Is the amendment printed in the RECORD in accordance with the rule?

Mr. MAGUIRE. Yes, it is, Mr. Chairman.

Mr. Chairman, I ask unanimous consent that the amendment be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. DINGELL. Mr. Chairman, reserving the right to object, was this amendment printed in the RECORD in conformity with the rule?

Mr. MAGUIRE. Yes, they were.

Mr. DINGELL. In conformity with the rule on Monday last?

Mr. MAGUIRE. Yes.

Mr. DINGELL. Mr. Chairman, are we going to consider three amendments?

The CHAIRMAN. The unanimous-consent request pending before the committee is whether the amendments may be considered en bloc.

Mr. DINGELL. Mr. Chairman, I would have to object to that.

The CHAIRMAN. Objection is heard.

Mr. MAGUIRE. We will deal with them separately.

The Clerk read as follows:

Amendment offered by Mr. MAGUIRE to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute: Page 11, line 2, strike "such additional information as it deems necessary, including".

Page 11, line 8, strike "and".

Page 11, line 13, strike "." and insert in lieu thereof:

"; and

"(5) such additional information as it deems necessary."

Mr. MAGUIRE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. DINGELL. Mr. Chairman, reserving the right to object, can we know what the amendment is?

Mr. MAGUIRE. All the amendments have been available to the Clerk and were printed in the RECORD.

Mr. BROWN of Ohio. Mr. Chairman, could we find out what it is?

Mr. DINGELL. I also want to know what amendment it is, because we may have a point of order against it.

The CHAIRMAN. The Chair instructs the Clerk to report the amendment.

Mr. BROWN of Ohio. Mr. Chairman, I would like to reserve a point of order.

The CHAIRMAN. The Clerk has been instructed by the Chair to report the amendment.

The Clerk concluded the reading of the amendment.

Mr. MAGUIRE. Mr. Chairman, first let me say that I am for procedural "fast-track" in order to speed up the decisionmaking process for justifiable and necessary energy projects. Certainly we would benefit from setting deadlines for the hearings, filings, counterfilings, impact statements, and decisions of Federal, State, and local authorities. Our energy needs are too critical to permit endless bureaucratic haggling to tie up a needed new refinery or powerplant. It is clear that procedural reforms are necessary to force agencies to act with the dispatch that our national energy problems require. But I am against the notion that an Energy Mobilization Board should have sweeping power, beyond setting deadlines, to waive substantive law.

Granting such broad authority to a small, appointed group in Washington sets a dangerous precedent for our system of government and invites comparison with the Gulf of Tonkin resolution—to the degree that it furnishes a carte blanche to ignore our Nation's laws and the desires of the American people. Local zoning ordinances, State land and water laws, Federal health, safety, labor, and environmental laws—all of these could be brushed aside if a new breed of Washington super-bureaucrat is granted this power. The President has not asked for it, and I oppose it. Frankly, the people who want to get rid of the Clean Air Act or the Clean Water Act are using this bill as a device to cut the heart out of these laws, or the laws that deal with hazardous waste disposal or worker health and safety. If they were honest about it, they would agree to a speed up of procedural requirements, but they would not expand the Energy Mobilization Board bill to give the Board the authority to wipe out substantive law, and that is the critical issue before the Congress now.

It seems to me that the need for an Energy Mobilization Board arises to some extent from a failure of government. Since well before I was first elected, I have believed that Congress has failed to exercise adequate oversight into the actual effects of legislation. We seem to pass laws and never look back. Certainly the energy and environment area is one in which there has been a tendency to pass complicated and often contradictory laws. But the answer does not lie in permitting the overriding of every law on the books at every level of government. An example of what can happen is the routing of the trans-Alaska oil pipeline which was pushed through Congress without a careful review of alternatives. The result: a glut of oil on the west coast, where it is not needed, and the need now to build another pipeline to the Midwest to move the oil to where it was needed all along.

Often, in order to make a given energy facility acceptable under current law, all that is necessary is to shift location or change the size of a planned facility in order to preserve environmental and health values. We are not remotely talking about eliminating those facilities altogether, and that's one of the points that has been obscured in the debate. People continue to talk about these matters as if it were energy projects versus health and environmental values. In fact, you can often do both if you are just the least bit intelligence about it. But if you throw out the fundamental law for health and the environment you may end up with a very undesirable situation in which you have unnecessarily compromised your health and environmental values. Maybe in the short run you have some energy projects, but chances are you could have had them anyway—if you were just careful about how you designed them.

I want to congratulate the gentleman from Arizona (Mr. UDALL), the gentleman from California (Mr. CLAUSEN) and the gentleman from Colorado (Mr. WIRTH) for the excellent work they have done on this important legislation and I emphatically support their amendment as opposed to the Commerce Committee bill. I do feel that their amendment needs some clarifications and revisions and in that spirit I offer a number of amendments and would like to engage the sponsors in a series of colloquies.

Mr. Chairman, one of the purposes of the section of the bill to which my first amendment pertains is to reduce frivolous or poorly drawn applications for priority energy project status submitted to the Board. The purpose of this amendment is a simple reorganization of the language on page 11.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, this is an amendment to the substitute Mr. CLAUSEN and I have proposed. The gentleman from New Jersey discussed it with me. I do not think it makes any major changes.

Mr. MAGUIRE. I thank the gentleman.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, this is a clarifying amendment. We are in concurrence with it.

Mr. MAGUIRE. Mr. Chairman, in light of the fact that the amendment has been accepted by both sides, I call for the question.

The CHAIRMAN. Does the gentleman from Ohio press his point of order?

Mr. BROWN of Ohio. No, Mr. Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. MAGUIRE) to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute.

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. MAGUIRE TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. MAGUIRE. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. MAGUIRE to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute: Page 23, line 14, strike "agencies, including Federal, State, and local agencies" and insert in lieu thereof, "Federal agencies".

Mr. MAGUIRE. Mr. Chairman, this amendment has also been accepted by both sides, it is my understanding. The purpose of the amendment is to make clear that the section is not intended to authorize a Federal agency to order the consolidation of State and local agency proceedings with its own. The amendment does not prevent, however, and presumably this would continue to be done, voluntary consolidation by State and local agencies of their proceedings with those of Federal agencies if any requirements governing State or local acts permit or require it.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I am agreeable to the amendment. We have discussed it and we find that it is acceptable.

Mr. MAGUIRE. I thank the gentleman.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, on this side we agree to the amendment.

Mr. MAGUIRE. I thank the gentleman.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I just wanted to ask the gentleman to describe the impact of the amendment.

Mr. MAGUIRE. I just attempted to do that. The amendment simply alters the language so that it is clear that a Federal agency may not come crashing down on a State or local jurisdiction and order a consolidation of a hearing process; for example, telling the people of the gentleman's State or his county that they have to appear in Washington for a consolidated hearing.

But, to the extent that local and State laws permit it, local agencies would still be able to consolidate with Federal agencies on a voluntary basis. Of course, the language would continue to apply to Federal agencies in terms of consolidation of Federal proceedings.

Mr. BROWN of Ohio. The language is currently optional, is it not, in the legislation?

Mr. MAGUIRE. It is unclear.

Mr. BROWN of Ohio. I read the language on lines 9 and 10, "* * * any Federal agency may * * *." It seems to me that makes it quite optional.

Mr. MAGUIRE. But it leaves it entirely to the discretion of that Federal agency, which would mean that if they made a decision that they will in fact come crashing down on a local jurisdiction without that jurisdiction being able to do anything about it.

Mr. BROWN of Ohio. Is this foreshortening the State and local agency decisions?

Mr. MAGUIRE. It does not foreshorten them.

Mr. BROWN of Ohio. So it in effect slows up the fast track? I am trying to get at what the purpose is.

Mr. MAGUIRE. The reason both sides have agreed to this is that it does not slow up the fast track, but clarifies the intent of the legislation.

□ 1210

The amendment is in conformity with the intent of the drafters of the legislation, but it was felt in discussing this that it needed to be clarified, and the amendment has been accepted.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from California.

Mr. CLAUSEN. I thank the gentleman for yielding. We agreed with the basic language as the gentleman has read it, that it was optional in the legislation, that is, we simply agreed to accepting this amendment because it carries out and clarifies what we propose to do.

Mr. BROWN of Ohio. If the gentleman will yield, it looks at State and local agencies from this optional action by the Energy Mobilization Board, is that correct, or by the Federal agencies? Is that not correct?

Mr. CLAUSEN. I do not see that.

Mr. BROWN of Ohio. Perhaps I am too naive to just get up and ask these questions to try to find out what the amendment does. If it has been accepted to the Udall-Wirth bill, I suppose I should have no interest in it, but perhaps those people who have to vote on the Udall-Wirth bill as a substitute for the Commerce Committee bill might like to know what it does, and I was trying to find out.

Mr. MAGUIRE. I might say to the gentleman the amendment is before him. It has been explained. If he prefers to vote against it, he may do so.

Mr. BROWN of Ohio. I intend to, I think, from the explanation I have been given because when I do not get an explanation, I do not like to see something put in legislation without it having been made clear. Perhaps the gentleman from Arizona (Mr. UDALL) could make it clear to me, if the gentleman from New Jersey would yield further.

Mr. MAGUIRE. I would be happy to yield to anyone who wants to contribute to the discussion.

The CHAIRMAN pro tempore (Mr. GLICKMAN). The time of the gentleman has expired.

The question is on the amendment offered by the gentleman from New Jersey (Mr. MAGUIRE) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute.

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 12, noes 9.

So the amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. MAGUIRE TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. MAGUIRE. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. MAGUIRE to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute: Page 4, line 11, strike "an energy project, or".

The CHAIRMAN pro tempore. Is the amendment printed in the RECORD in accordance with the rule?

Mr. MAGUIRE. Yes, it is, Mr. Chairman.

Mr. Chairman, I do not intend to press this amendment because I understand that the gentleman from Arizona (Mr. UDALL) has a clarification of his intent. I would like to ask the gentleman from Arizona about the definition in section 102(7) of a priority energy project. As the gentleman knows, the definition in the Udall-Clausen-Wirth bill differs from the Commerce Committee definition in that it is broader than a "proposed energy project." I assume the gentleman intends this to cover projects which may have already begun the permit process but, before completing construction, may encounter procedural delays which would spur an applicant to seek priority energy project status.

I would like to ask the gentleman, is that correct?

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Arizona.

Mr. UDALL. Yes, that is correct. Because the definition of proposed may be somewhat vague, we wanted to assure that facilities which may be somewhere beyond the initial conceptual phase but before the final construction phase would receive consideration under this legislation.

Mr. MAGUIRE. Then am I also correct in understanding that the gentleman does not intend the broader language in section 102(7) to apply to facilities which will have completed construction at the time of enactment of this legislation?

Mr. UDALL. The gentleman is correct. It is not our purpose to cover such facilities. I hope in the light of this the gentleman will ask unanimous consent to withdraw his amendment. We have it clarified.

Mr. MAGUIRE. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. BROWN of Ohio. I thank the gentleman.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Jersey (Mr. MAGUIRE)?

There was no objection.

AMENDMENT OFFERED BY MR. MAGUIRE TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. MAGUIRE. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The CHAIRMAN pro tempore. Was this amendment printed in the RECORD?

Mr. MAGUIRE. Yes, it was, Mr. Chairman.

The Clerk read as follows:

Amendment offered by Mr. MAGUIRE to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute: Page 24, line 16, after "argument;" insert "or".

Page 24, strike lines 17 through 20.

Page 24, line 21, strike "(6)" and insert in lieu thereof "(5)".

Page 24, strike lines 23 through line 7 on page 25.

Page 25, strike "(c)" and insert in lieu thereof "(b)".

Mr. MAGUIRE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD. I do not intend to press the amendment but rather engage in colloquy.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. MAGUIRE. Mr. Chairman, I would like to clarify with the gentleman from Arizona the intent of the language on pages 24 and 25 of his bill relating to the role of presiding employees at Federal agency hearings in the agency decisionmaking process. I am concerned that this section should not be construed to mean that agencies may ignore the substance of a hearing record or the views of the presiding officer regarding that record.

Mr. UDALL. If the gentleman will yield, the streamlining procedures in this bill, of which this is one, are vital instruments to achieving the purposes of this act. However, we do not intend that a presiding employee should be cut out of the agency decisionmaking process, or that an agency decision should be made without due regard for that employee's analysis of the record. The schedule adopted by an agency under the bill should permit adequate review and analysis of all relevant issues in a proceeding and we recognize that the active involvement of a presiding employee is essential to that process.

Mr. MAGUIRE. Let me further inquire if the gentleman's intent in section 211 is to allow agencies to begin their review of a priority energy project before a presiding officer completed his or her analysis?

Mr. UDALL. That is correct. We wanted to allow for concurrent review without interfering with the work of the presiding officer.

Mr. MAGUIRE. Mr. Chairman, in light of this clarification, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Jersey.

There was no objection.

AMENDMENT OFFERED BY MR. MAGUIRE TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. MAGUIRE. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The CHAIRMAN pro tempore. Is the amendment printed in the RECORD in accordance with the rule?

Mr. MAGUIRE. Yes, it is, Mr. Chairman.

The Clerk read as follows:

Amendment offered by Mr. MAGUIRE to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute: Page 5, line 1, strike ", from among persons who are specially qualified by reason of their education, training, or experience to carry out the functions of the Board."

Mr. MAGUIRE. I do not intend to press this amendment either. Obviously all of us want qualified persons appointed to the Board, but I wanted to ask the gentleman from Arizona (Mr. UDALL) as to his intention with regard to whether persons would be deemed qualified if they had energy industry backgrounds, or whether the gentleman had in mind a broader definition.

Mr. UDALL. If the gentleman will yield, this issue has come before us in a number of ways, and the gentleman from New York offered an amendment which said one of those slots is reserved for somebody who is an environmentalist or has an environmental background. A suggestion was made that somebody from the oil industry or energy industry ought to have a seat carved out for them. Our position has been to resist all of this earmarking of seats on the Board and to leave to the President the job of getting well-rounded, fair, public-minded kinds of citizens to do the right job and not be bounded by legislation that spells out particular backgrounds and that sort of thing. So I think the gentleman's amendment would be a step away from what we are trying to do. I would hope the President in making these appointments would get the kind of outstanding people everyone could have confidence in.

Mr. MAGUIRE. I thank the gentleman for that clarification. I do not intend to press the amendment and, Mr. Chairman, I ask unanimous consent that the amendment be withdrawn.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AMENDMENT OFFERED BY MR. MAGUIRE TO THE AMENDMENT OFFERED BY MR. UDALL AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. MAGUIRE. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The CHAIRMAN. Is the amendment printed in the RECORD in accordance with the rule?

Mr. MAGUIRE. It is, Mr. Chairman.

The Clerk read as follows:

Amendment offered by Mr. MAGUIRE to the amendment offered by Mr. UDALL as a substitute for the amendment in the nature of a substitute: Page 17, line 20, after "located" insert: "or which is contiguous to any such state and is likely to be substantially affected by the discharge of any contaminants, pollutants, or emissions, as determined by the Board".

Mr. MAGUIRE. Mr. Chairman, it will be recalled by the Members that yesterday we defeated an amendment which would have added a voting member to the Energy Mobilization Board from areas that might be affected by a specific energy project under consideration by the Board. It was fairly widely felt in the House that that amendment went too far. This amendment simply allows some flexibility on the part of the Board itself with respect to the designation not of a whole bunch of people but of somebody who has a substantially affected interest and is contiguous, and it would be a nonvoting presence. The Board itself would be completely in control of the situation in terms of whether it wished to make such an appointment or did not wish to make such an appointment. So I would hope that we could give the Board that additional flexibility, not an additional vote they would have to deal with. But an additional person, if they felt that a contiguous area was substantially affected, could then participate in the discussion.

Mr. UDALL. Mr. Chairman, will the gentleman yield to me?

Mr. MAGUIRE. I would be happy to yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding. I have resisted similar amendments to this part of the bill. I know the gentleman is well intentioned, but affected States, if you are in the Midwest somewhere, might be 5 or 6 or 7, and instead of a 5-man Board, you in that particular case would have a 10-man or an 11-man Board.

☐ 1220

The fact they do not vote but still are members I do not think cures the problem.

Mr. Chairman, we think we have a procedure in which all of the States in interest that are affected will be brought into this fast-track process, and I really think it is a little awkward and too complicated for me to add a provision of this kind. I hope the gentleman will not press it.

Mr. MAGUIRE. I thank the gentleman for his comment. I understand the gentleman's feelings. I do not think as a practical matter we would be dealing with five or six additional people, I think we would be dealing with one or two in most cases. There are not that many States contiguous to other States, and I would hope we could give the Board this additional flexibility.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New Jersey (Mr. MAGUIRE) to the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute.

The amendment to the amendment offered as a substitute for the amendment in the nature of a substitute was rejected.

Mr. WEAVER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute.

Mr. Chairman, I believe that the arguments for the Udall substitute are inherent in the letter put out by the proponents of the Santini-Lujan Commerce bill, in behalf of the Santini-Lujan Commerce amendment and bill, and I will not repeat them.

I want to say, I look up in the House and see these giants who have led this House in great environmental legislation, the chairman of the Committee on Interior and Insular Affairs (Mr. UDALL), the chairman of the Energy and Power Subcommittee of the Committee on Interstate and Foreign Commerce, the gentleman from Michigan (Mr. DINGELL), and I want to thank them for all they have done in the past.

However, I must follow in the footsteps of a great predecessor in Oregon, Senator Wayne Morse, because I know he would have wanted me to come on the floor now and say that this legislation is all wrong.

Mr. Chairman, I heard yesterday that in World War II we had a mobilization board and we went to bat. Think about the fact that we at that time used one-tenth the energy in this Nation we use today. Think that Germany, with its synthetic fuel plants, mobilized to the hilt, produced 50,000 barrels of synthetic fuel a day in World War II, one-fourth of 1 percent of the amount of oil that we use in this country today.

A distinguished Member said yesterday we were paralyzed.

Mr. Chairman, I do not imagine how we could say that. We use, waste, throw away one-third of the world's energy. Is that paralysis? Actually, it is a paralysis of gluttony. An obese glutton stuffing himself with food has a food shortage? The very gluttony is our problem, not the production of energy.

Mr. Chairman, if we continue to use energy in the fashion we do today we are heading to bankruptcy. We will destroy our dollar and our economy.

Mr. Chairman, once before there was a great peak in our economy and it brought about the 1929 crash caused by arrogant greed. Ten years ago the environmental movement hit a peak with the passage of the National Environmental Protection Act. The industrial counterattack set in and now we are seeing the peak of that counterattack against our environmental laws in this legislation we have before us today.

The powerful corporations, the arrogant economic aristocracy which dominates this Nation, want to produce energy, which we will turn around and waste. And damn the cost to our people, damn the inflation it will cause, damn the laws that now check their excess and restrain these corporate giants from their rampant greed.

Mr. Chairman, these corporate aristocrats are like the giveaway boys of the 1950's who tried to give away our public domain lands. They are at it again. They are giving away our paychecks, giving away our environment, and now, with this legislation, they are giving away our Constitution, giving away our checks and balances.

This, Mr. Chairman, is confused and dangerous legislation. It should all be defeated.

Mr. PEYSER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I regret at this time asking the Members to take more time after all this debate to help one Member make a decision on how to vote. At this time, as I stand here in the well, I have not made up my mind. I must admit that when I started and this legislation was brought to the floor and consideration began, I was supporting the Udall-Wirth bill. I am not saying at this time I am not supporting it but I do have a couple of questions that are very vital to me and I would ask that the appropriate Members on either side perhaps can respond to me.

Mr. Chairman, I have a letter I just received addressed to Members of the House of Representatives from the National Association of Counties, the National Conference of State Legislators, the National Governors' Association, the League of Cities, and the U.S. Conference of Mayors. One section of it is the section that concerns me and I would like to really find out what is the answer. I quote from the letter:

> Although the Santini amendment was designed to limit waivers of State and local laws in order to cure constitutional defects in the Commerce bill, it still retains this waiver for State and local laws enacted after an energy project decision schedule has been established.

Mr. Chairman, I would like to ask, What does that mean at this point? Does that mean that State and local laws can still be waived with the Santini amendment?

Mr. LUJAN. Mr. Chairman, will the gentleman yield to me?

Mr. PEYSER. I will be glad to yield to the gentleman from New Mexico.

Mr. LUJAN. I will be glad to answer that question for the gentleman. First of all, the flat statement that any State and local laws cannot be waived is correct. There is a grandfather clause in the amendment that says that once a project has been designated as a priority energy project and it is moving along, you cannot then pass a law to immediately halt it. There is a grandfathering in of that to give that particular project time to overcome the difficulties that it is having.

Mr. PEYSER. Mr. Chairman, I thank the gentleman. That explains it to me, many other Members may have understood that, but I did not.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I will be happy to yield to the gentleman from Texas.

Mr. ECKHARDT. I do not believe that the Santini amendment affects the right of EMB to suspend, under the circumstance that you have described, State and local laws, except to the extent that the Cheney amendment dealt with the question of water, because section 186 specifically refers to and excepts from waiver certain provisions of law relating to water, civil rights, antitrust, and such things. But it does not except these from suspension provisions. That is one defect I think needs correcting in the event that the Udall substitute is not adopted.

Mr. Chairman, I think the gentleman has put his finger on an extremely important point. Though State and local laws are removed from the waiver proposals, the suspension proposals still embrace them except to the extent that the Cheney amendment protects water.

☐ 1230

Mr. PEYSER. Mr. Chairman, I thank the gentleman for his explanation.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I will be glad to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I have great affection for the gentleman from Texas and it always pains me when I differ with the gentleman; but the language of section 186 is crystal clear. The title reads as follows:

> Prohibition Against Waiver of Certain Rights and Laws.

The language of section 186 reads as follows:

> "SEC. 186. (a) Nothing in this part shall authorize, or be construed to authorize, the Board or the President to alter any Federal, State, or local requirement, except to the extent a Schedule established or modified by the Board under section 182 contains a deadline or timetable which applies in lieu of an otherwise applicable deadline or timetable.

The language is quite clear.

Then to add what was pointed out by my good friend and colleague, the gentleman from New Mexico (Mr. LUJAN), an author of the Santini-Lujan amendment, to say as follows:

> That for laws enacted after the establishment of the project decision schedule, but before commercial operation of the facility begins, a waiver may occur, but only until such time—

First of all, only if that law is a substantial impediment to implementation of the project.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. PEYSER) has again expired.

(At the request of Mr. Dingell, and by unanimous consent, Mr. Peyser was allowed to proceed for 3 additional minutes.)

Mr. DINGELL. Mr. Chairman, I point out that under the Commerce Committee bill the suspension may be for only up to 5 years provided the energy priority project makes a good faith effort to comply with the law, and that is the only instance in which that may occur.

Now, I would point out further that under the Wirth-Udall bill, the Board may suspend under similar circumstances for up to 5 years any Federal, State, or local requirement, which has been enacted or promulgated after commencement of the construction of the energy project if the Board finds that such requirement would delay timely completion or operation of the project and such suspension poses no problem insofar as public health.

I think that sets the matter to rest.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I would be glad to yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, the gentleman from Michigan very correctly reads the language and if the gentleman in the well notes the language of the amendment he would note that waivers would not apply under certain conditions, but the exceptions do not refer to suspensions. The term waiver is used to the exclusion of suspension.

What happened was that in the Santini amendment a new type of process was added to the bill dealing with suspensions and section 186 was not corrected to include both waivers and suspensions.

Besides that, the provisions of the Santini bill do not permit judicial review in the suspension field of anything other than action exceeding constitutional authority.

Now, let us assume, for instance, that a suspension does not exceed constitutional authority, but is granted for 5 years where the project suspension would only call for a shorter period of time to comply with substantive law. There is no way to go to court to enforce the conditions of the Santini bill, unless an unconstitutional situation could be pointed out.

I respectfully disagree with the gentleman from Michigan, though I appreciate the gentleman's great respect for my ability to interpret the law.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I would be glad to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I regret to say that the gentleman from Texas is confused on this matter. In the gentleman's confusion, the gentleman may sow confusion in the House.

I would regret to have the legislative history on this matter or a matter as important as this be confused.

The hard fact of the matter is that the word "waiver" is to be construed broadly. It includes complete waiver or it includes a modification, alteration, or suspension and that is the intention of the committee. That is the language of the committee report and the gentleman is in error.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. Peyser) has again expired.

(By unanimous consent, Mr. Peyser was allowed to proceed for 2 additional minutes.)

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I would be glad to yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, it is so hard to find an undecided voter around here, that when the gentleman professed to be one, I thought I had better get up and get in the act in here.

There is one other thing that we ought to be aware of here. The Santini-Lujan amendment, which was agreed to, has a hooker in it. It takes away any power to override or suspend or waive State and local laws; but we have developed a pattern of laws, I have some of them here, the Toxic Substances, the Clean Air, the Clean Water Act, Surface Mining, Coastal Zoning, where we have said to the States, "If you want to administer the law with your own State laws and regulations, you may do so."

All right, the language in their amendment talks about Federal requirements and Federal requirements would be included in the kind of things I have talked about, which could be overridden, which could be waived; so while they tell you we are giving you a lot of ground here, we are making it impossible to override State and local laws, there are a lot of them they will be able to override under that provision.

Mr. PEYSER. Mr. Chairman, I thank the gentleman and all the gentlemen and the chairman for their enlightenment. My concern has been that we do not override the State and local governments in their laws and we do not have a legislative procedure that simply can wipe them away.

My understanding that the gentleman from New Mexico gave me was that the State and local laws are protected in this situation. There is evidently a question under certain circumstances as to whether the suspension of these laws can be enacted or carried out for a certain period of time, which is an element, frankly, that I honestly had not even considered until the gentleman brought it up.

I will struggle with that decision myself.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. Peyser) has again expired.

(By unanimous consent, Mr. Peyser was allowed to proceed for 1 additional minute.)

Mr. PEYSER. Mr. Chairman, I will struggle with that situation myself and try to reach what I hope is a sound conclusion.

There is one other question and I do not want to delay the time here, but there has been this question of time. I direct this to the gentleman from Arizona. It has been repeatedly stated about this 5 years or 5½ years. I am trying to find out, is this real, is this really a situation that is facing us or is it not? That is what I really do not understand.

Mr. UDALL. Mr. Chairman, if the gentleman will yield, what has happened here is that a junior lawyer took the proposed bill and assumed that all judges were idiots, that lawyers were lurking in the corridors, that old ladies with tennis shoes were abroad in the land and every conceivable delay and every conceivable decision was appealed, something like 5 years; but the truth is that our amendment takes 120 days. That is the truth. That is the judicial review period. It goes to the court of appeals and they are required to respond and to rule within 120 days.

You can take the Supreme Court from there if you want to, but the court turns down about 90 percent of all the appeals for review. The Supreme Court acted in 15 days on the Pentagon Papers case.

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, an issue has been raised on which I would like clarification about the Santini-Lujan amendment. I would like to ask, if I might be able, to direct a question to the author of that amendment, the gentleman from New Mexico (Mr. Lujan).

As I understood his amendment, there would not be a waiver of State law permitted. My question is, if the State law was pursuant to or in implementation of a Federal law, such as the Clean Air Act or the Clean Water Act, would the prohibition against waiver of a State law apply to those State laws that have been adopted pursuant to Federal direction?

Mr. LUJAN. Mr. Chairman, if I understand the gentleman correctly, the gentleman's question is would a State Clean Air Act be subject to waiver under this bill, even if it was mandated by some other Federal law.

Mr. WAXMAN. That is correct.

Mr. LUJAN. The State Clean Air Act could not be waived under the provisions of this act.

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for that clarification.

Mr. CLAUSEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to congratulate my colleagues on the Interstate and Foreign Commerce Committee, the gentleman from Michigan (Mr. Dingell) and the gentleman from Ohio (Mr. Brown), for presenting an effective debate and would also like to commend my colleague from Colorado (Mr. Wirth) and our distinguished chairman of the Interior and Insular Affairs Committee (Mr. Udall) for their diligent effort.

The debate has served to move us closer to agreement on a proper vehicle which will enable us to "fast track" energy projects. The debate has also served to highlight a very real culprit, overregulation. It is clearly in the interests of our Nation to move ahead quickly with the development of our energy resources and to cut through the maze of redtape which has slowed this process.

The central issue in our debate appears to be the effectiveness of the decision enforcement mechanisms in the two bills.

As my colleagues know, the Udall-Clausen-Wirth bill uses the courts to enforce deadlines. Only when the court fails does our bill use the so-called bump-up procedure.

We do not believe that our method will cause any undue delay and, in the final analysis, we believe it will get the job done faster than the method outlined in the Commerce Committee bill.

The court method is a tested procedure which does work. The immediate bump-up in the Commerce Committee bill is likely to be challenged on constitutional grounds, and may never be used, or could cause delay.

One important point which has been overlooked is the fact that under our procedure the EMB does not have to wait until a deadline has passed to act. The Board can act before the deadline is reached if it believes such action will further speed up the process.

We also direct the court to act quickly and if they do not act to order a decision within 120 days after the deadline is missed, then we can take stronger action by allowing the President to make the agency decision.

Our method is fair and reasonable. It also is effective.

Our bill is also unique in that it contains a streamlining procedure which the Commerce bill does not address at all. We provide a means whereby agencies can consolidate hearings, replace formal trial-type hearings with legislative-type ones, and skip levels of review within an agency.

Our bill places a cap on the number of personnel which can be hired by the Board. We are concerned about the possibility of creating a new layer of bureaucracy. Our bill prevents this.

The fundamental theme of our bill is to provide an Energy Mobilization Board with the authority and flexibility to speed decisionmaking on key energy projects while preserving the rights and responsibilities of our States.

I would like to bring to the attention of my colleagues an extraordinary recent example of why we need "fast track" legislation.

As you will recall, the Alaska Natural Gas Transportation Act of 1976, Public Law 94-586, gave the President the authority to select the route by which Alaskan natural gas would be delivered to the lower 48. The President's decision mandated the all-land pipeline and construction of a western leg to bring the gas into California and other Western States.

The Alaska Natural Gas Transportation System sponsors propose to "prebuild" portions of the eastern and western delivery legs to carry some Alberta-source gas temporarily surplus to Canadian needs, in advance of Alaskan gas deliveries. The plan, which includes the early delivery of 240 million cubic feet of gas to southern California over prebuilt portions of the western leg and connecting systems, is going through the hearing process at the Federal Energy Regulatory Commission. Witnesses before our special Oversight and Investigations Subcommittee recently testified that the FERC hearing process with regard to the western leg prebuild was almost completed, all of the Western delivery system sponsors' evidence having been filed in support of the proposal. We were heartened by FERC Chairman Curtis' statement that the Commission hopes and intends to issue its decision on the western leg prebuild by the end of this year.

Now that picture has radically changed: The FERC staff has just announced that it is seeking to file, more than 2 months after the time designated for the filing of any further evidence by staff, some new testimony by a staff witness which suggests doing away with western leg prebuilding altogether in favor of the previously discredited FERC staff idea requiring Western consumers to rely upon "displacement delivery" of natural gas from Eastern U.S. pipelines rather than on direct delivery of the gas into the Western States over the new western leg facilities.

I am distressed that FERC staff would at this late hour try once again to sever the western leg from the Alaska Natural Gas Transportation System. The stipulation in the Alaska Natural Gas Transportation Act 4 years ago requiring a direct Western delivery system was a direct message to FERC staff that direct delivery was essential and that delivery by placement was unacceptable to the entire Western delegation in Congress.

This inexcusably dilatory filing by staff will, if allowed, almost certainly dash any hopes of the FERC's reaching a decision on the western leg prebuild proposal by the end of this year.

This type of bureaucratic delay is what we are attempting to avoid by passage of a "fast track" bill. I strongly urge my colleagues to vote for the Udall-Clausen-Wirth substitute.

□ 1240

The CHAIRMAN pro tempore (Mr. Glickman). The time of the gentleman from California (Mr. Clausen) has expired.

(By unanimous consent, Mr. Clausen was allowed to proceed for 3 additional minutes.)

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman from California for yielding.

Mr. Chairman, a few minutes ago we had a discourse, to establish on a little legislative history, involving the gentleman from New Mexico (Mr. Lujan), the gentleman from Ohio (Mr. Brown), the gentleman from California (Mr. Waxman), and the gentleman from New York (Mr. Peyser). Despite the legislative history they established, I think that we cannot ignore what the language plainly indicates, and if I could, I would refer the Members to section 185(d)(1), which comes to us via the Santini-Lujan amendment. I will quote that language, and I will shorten it to bring out the essential parts of it:

> The Board, on its own motion or upon an application of any person acting on behalf of a Priority Energy Project, shall determine if any requirement of Federal, State, or local law which has been enacted or promulgated after establishment of the Project Decision Schedule, but before commencement of commercial operation * * *

And then the language describes two actions the Board can take. One in subsection 185(d)(1)(A), is a suspension of the application or a suspension of local and State law.

The second action the Board can take under subsection 185(d)(1)(B)—and this is an important point as well—is to "submit a recommendation to the President that such requirement be waived in whole or in part."

So despite what we heard a few minutes ago, when we consider a local or State law that is enacted after the project decision schedule is established, there can be a suspension of the requirement, and, of course, there can be a waiver, and that waiver is subject to whether this Congress takes concurrent action in a 60-day period covering committee and floor actions of the Congress.

Mr. EVANS of Delaware. Mr. Chairman, will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from Delaware.

Mr. EVANS of Delaware. Mr. Chairman, I would just like to add one caveat. I think the Energy Mobilization Board, regardless of which version we adopt, is just a step—perhaps only a small step—in developing energy independence for this country. I hope the public and the Congress will not be lulled into a false sense of energy security. Of the two versions, I do support the Udall-Wirth-Clausen approach.

Mr. Chairman, there can be no question that it is in the national interest to hasten the sitting and construction of energy facilities. There can be no question that at least some of the delay we are experiencing can be attributed to numerous and complicated government regulations, although the extent to which this is a problem is certainly open to debate.

However, I find the whole concept of an Energy Mobilization Board most troubling. I am concerned about the concept of giving an Energy Mobilization Board powers that may alter the balance between our three branches of Government—the executive, the legislative, and the judicial, and I am especially concerned about taking steps which may well erode the powers and rights of our State and local governments. We are, after all, a nation of individual States, and I place a great deal of weight on their rights and the wisdom of their decisions.

In a recent Washington Post editorial, David Broder hit the nail on the head:

> The need to slice through red tape is recognized by everyone. The question is how to do it without creating a new center of arbitrary power in Washington and destroying the responsibility the Constitution gives States and localities for the welfare of their own citizens.

I find the concept of an Energy Mobilization Board troubling indeed, and I find that it raises many questions. Will the creation of yet another government agency solve any of our problems? After all, why do we have a Department of Energy? Will the kind of projects that are likely to be expedited by an Energy Mobilization Board be the kind of projects we really need and want? Will creation of an Energy Mobilization Board encourage people to think that conservation, efficiency, and small-scale alternatives are no longer needed, just at a time when these options are attracting increasing interest?

There will be many, many amendments offered today, to both the Interior and Commerce Committees versions of this legislation, and the distinctions between the bills may become quite blurred.

However, in comparing the Udall-Wirth-Clausen substitute and the Commerce Committee bill including the amendment by Representatives SANTINI and LUJAN, I clearly favor the Udall approach. The key reasons are as follows:

First, the Udall approach limits both the number of projects which may be placed on a fast track, and the number of employees of the Board. I would favor even a lower limit on the number of projects, because I believe that only a very few are worthy of the special treatment afforded by the priority energy project designation.

Second, the emphasis of the Udall approach is on streamlining procedures, not circumventing laws and regulations. I am very much in favor of consolidating procedures, cutting redtape and the like, but when it comes to the waiver of existing Federal laws, or new laws at a Federal State, and local level the Congress should proceed most cautiously. While I recognize that under the Santini amendment, any such waivers require approval of both Houses of Congress, it is done so under a "fast track" procedure which allows only "up" or "down" votes at the committee level or on the floor. Congress always has the authority to override laws, but I think such legislation should be carefully scrutinized and move through all the normal channels.

Third, both the Udall and Santini approaches allow for the Board or the President to step in and make decisions in lieu of Federal, State, or local agencies when those agencies have failed to meet established schedules. But before taking that somewhat drastic step, the Udall amendment calls for judicial enforcement of a project schedule. I think that the use of judicial enforcement—the use of an impartial body to weigh the particulars of a given situation is—an important safeguard, especially where our State and local agencies are concerned.

Finally, I think it is important that when we give an Energy Mobilization Board the power to temporarily suspend the application of new laws at a Federal State, or local level that the Board should employ some strong standard to protect public health and safety.

It is my understanding that the Santini amendment—unlike the Udall amendment, in this particular case—grants the Board suspension authority which does not rest on a standard of public health and safety.

In conclusion, I must reiterate my concern with any fast track legislation. But, of the two versions presented here, I favor the Udall-Wirth-Clausen amendment because it emphasizes streamlining procedures rather than waiving laws, and it does so in a way that best safeguards the integrity of the three branches of Government at Federal, State, and local levels.

Mr. WRIGHT. Mr. Chairman, I rise in opposition to the substitute.

Mr. GRAMM. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1250

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The Chair recognizes the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Chairman, I rise in opposition to the Udall-Wirth-Clausen substitute. I hope the Members will reject it. Not because it is a bad bill. I do not think it is a bad bill, and I do not think it is worse than no bill at all, as the general contractors or someone else is supposed to have said. I think it is an honest attempt to improve a bad situation. But I just do not think it is a good enough bill. I do not think it cuts sufficiently through the delays that have been crippling this Nation's attempts to achieve energy independence.

You can take any one of several positions. One or two Members, to my dismay and surprise, have come to the floor and have virtually said, "We do not need to do anything. Everything is just going fine." But I do not believe that. That may be an honest position, but I do not think it is an intellectually respectable position. Things are not going fine. We are dependent upon foreign sources for one-half of the oil that our Nation uses. We are at their mercy. What was a drain of about $8 billion in 1973 has escalated to an expected drain of $70 billion next year. Things are not going fine. We do need to do something.

Or you can take the position, perhaps, "Well, there is not anything much the Congress can do about it; the courts will just drag it out as they see fit and we are powerless to correct the delays." You can take that position if you want to. If I held that position, I would not want to be in Congress. If I did not think the Congress of the United States possessed the power to correct an obvious evil that is weakening this Nation, sapping our strength, adding daily to the inflation that eats out the substance of the American people—if I did not think we could do anything about it—I do not think I would want to be here. There would not be any point in it all.

Now there are two attempts to do something about it. The one attempt, the Commerce Committee attempt, undertakes to do more, and that is why I am for it. There might be a question asked, "Why should there be any opportunity at all for this Congress, in the case of an extremely important national energy project, to waive the application of any law?"

We do not waive State and local law. We preserve those sacrosanct. But why should we have that opportunity, that option, with regard to Federal law? Let me tell you why. During a recent 2-year period, while the Congress of the United States was enacting some 500 public laws, the regulation-writing bureaucracy was promulgating some 10,000 regulations, each of which has the force and effect of law. It is those regulations and administrative interpretations, appended to and encrusted upon the laws of the United States, as often as not contrary to the intent of Congress, which are bogging down the vital efforts of this Nation to make itself energy sufficient. These are the Federal legal impediments which we shall need the means to waive on occasion if necessary projects are to get done.

□ 1300

Some few Members have sought to minimize the cruel reality of delays. They saw we have exaggerated the evil. No delays? Let me give you a few examples:

We tried to make a fast track as best we could under the laws then, existent out of the Alaska pipeline. It was absolutely vital to the Nation. The best estimate is that, notwithstanding that determination on our part, the intractable efforts of those who salivate to slow down progress, to have no development, to create a no-growth policy in this country, abetted by their rights to the courts, slowed that project down by at least 4 years. That needless delay resulted in the cost of at least $3 billion more to the American taxpayer.

Is that all right? Is that good enough? I do not think it is.

Let me give a few more examples: 14 years have elapsed—14 years—since Consolidated Edison won official approval by the Federal Power Commission to build a generating plant at Storm King Mountain in New York—14 years.

Those who opposed the growth, saying then that they thought it would be better if they had nuclear plants, dragged it out and dragged it out. There were court cases and administrative delays. It has not been started yet—14 years after its approval. I do not think that is good enough. I think we have to do something to stop that kind of interminable delay.

Six years have elapsed since refinery projects were proposed in Maine and Virginia. They have not been started yet.

Six years have passed since Montana utilities began seeking permits for a coal-fired powerplant, and it has not been started yet.

At the end of 1977, 938 lawsuits had been filed against energy projects in the United States under the National Environmental Policy Act alone.

The CHAIRMAN. The time of the gentleman from Texas (Mr. WRIGHT) has expired.

(By unanimous consent, Mr. WRIGHT was allowed to proceed for 3 additional minutes.)

Mr. WRIGHT. Sixty of those project sponsors finally just folded up and quit, because they decided it was too long a road, and cost too much money to fight it out through the courts.

Are we willing to let that happen to this country? While we are letting that happen, our cost in foreign energy is escalating. Foreign countries that are not capable of running their own affairs are quite capable of disrupting ours. They are blackmailing us. We have been publicly threatened by Nigeria, which supplies us about 1 million barrels a day. If we did not take the position they wanted us to take with respect to recognition of Zimbabwe-Rhodesia, they said they might find a way to withhold their oil from us. Yasser Arafat has threatened an Arab boycott unless we negotiate with the PLO.

We have made ourselves that vulnerable. I have a quarrel with any nation anywhere in the world which thinks we are so slavishly dependent upon their oil that they can blackmail us into foreign policy positions that are not our own. Yet that is the position we are reaching unless we take dramatic action on energy.

Will we get ourselves out? Every day we delay, our plight becomes more difficult and our world situation weakens. Three years ago, in 1976, we decided that the Alaska natural gas pipeline ought to be a priority project. It has not been started yet. The Department of Interior and the Federal Energy Regulatory Commission have not even been able to decide the diameter of the pipe or at what pressure it will operate or whether it will be elevated or conventional—and 3 years have slipped by. Every day of delay on that pipeline costs the American consumers $3 million. Its delay is costing us a billion dollars a year. Is that all right? I do not think it is all right.

I think we need the strongest possible fast-track bill. We must say not only to the American people that the Congress is capable of addressing this serious problem and working our way out of this morass, but we must say also to the world that this democracy of ours still is capable of producing and making this Nation energy sufficient again.

Mr. UDALL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, my friends, the majority leader, is one of the great people in this institution. I met in his office a few months ago and we talked about this national paralysis.

I am just as mad as anybody about these delays. There is no reason why we cannot say yes or no to energy projects quickly. There is no reason why we cannot say to the American people that help is on the way, that we have got a consensus that the Government is going to start working with the private sector, and we are going to do something, not just on the conservation side of the energy problem, but on the supply side as well.

I think the American people want action and they want it now.

The question is how do you go about it? Members have got a choice to make in a few minutes. What kind of an approach are we going to take? I think both are well-intentioned and both have some logic behind them.

Let me tell my colleagues about a couple of the key differences before they vote. Our bill says, yes, you can override State requirements or local requirements, or you can override Federal requirements of these Federal laws, but you do it only on procedure.

If the State of Kentucky has a procedure which says you take 6 years to make a decision on a coal gasification plant, we say, "Make it 6 months or 6 weeks, instead of 6 years." We deal with procedure. We take that position deliberately. We think you ought not repeal all of the environmental, health, and safety laws of the last 20 years on a piecemeal basis and dismantle them one by one.

We say, let us stay away from substance. Let us respect the States. Let us respect the committees of Congress which have developed and secured enactment of the Federal laws. Let us respect the local county governments and let their laws stand as much as we possibly can. But the Commerce Committee substitute goes quite the other way.

The majority leader expressed that position very well. It is a legitimate position to take. I respect people who take it. They say, "We are going to get this plant built, and we do not care what stands in the way." The steamroller is moving. If a State has got a coastal law—like California or Florida and a Member is proud of it and it took 10 years to negotiate it out—too bad, friend, some nonelected bureaucrat is going to be able to say, "Your law is not adequate, get out of the way." It goes to Congress finally, but I think this Congress has got enough of a workload today without having literally hundreds of these things referred to us.

We put a limit on the number of priority energy projects in our substitute. I started out with six. I said, "Let's get six big ones a year and move them." We went to 25, and now we are at 75. The other bill has an unlimited number of projects that can be put on the fast track.

We limit court review, and they do not.

Now there is a feeling around here that somehow we build a judicial monster here that is going to go on 5 to 7 years, and that the Commerce Committee substitute does not have any review problem.

Let me tell the Members something. There is not any way we are going to stop people who are angry, under the U.S. Constitution, from seeking judicial review.

The Commerce Committee bill is going to have judicial review if we pass it, only it is going to be uncoordinated and not very effectively focused.

We deal with the judicial review problem directly. Our time is not 7 years. Our time is 120 days. The Fuqua amendment adopted yesterday addressed this problem.

Mind you, these lawsuits we talk about are lawsuits by the expediter, the Federal Government, against the Governor, who will not say yes or no, or the State zoning board which will not say yes or no, or the coastal zoning board which will not say yes or no. Under the Fuqua amendment, we have a limit of 120 days. We have got a real formula in our bill.

Let me warn the Members what they are doing. If we say there are no limits to the number of fast-track projects we can have, we have really said everybody is fast track. I think we have learned that if everybody is fast track, nobody is fast track. We are going to create a huge bureaucracy. We limit it in our bill to 50 people down at this new Energy Mobilization Board.

If we let every coal mine, and every new powerplant, and every refinery on the fast track, a huge bureaucracy will be required—another layer in between the Department of Energy and the President.

□ 1310

You see, if you have unlimited override of State and local laws, and if you have no limit on the number of projects, then you are just going to be voting day after day, and week after week, to gradually dismantle the whole system of laws that we have struck for a balance. We debated for years and months about where the balance point is between getting clean water and clean air and our energy and resource needs.

I sometimes think the best ideas are simple ideas. Do not try to solve all of our problems with one bill. We tend to do this in Congress. We write a bill and we are going to get every last case when we would be doing well to get 95 percent of them. The same thing with clean air. Let us get largely clean air but not insist on unfairly going for that last 1 percent.

The idea in our bill is a simple idea. It says let us get an expediter like we had in World War II. Let us cut through redtape, knock heads together. If we need railroad cars when they are missing, if they are held up with a shortage of aluminum or steel, let us get to the steel plant and find out what is slowing things down and put some of the majesty of the U.S. Government behind what the majority leader is talking about. We want a decision.

We heard environmental groups come before our committee and they say that they have been given bum raps, that they did not mind having the decisions made, but let us have a fair process by which to force a yes or no decision in a reasonable time. What they fear and what the State and local government people fear is a congressional machine that will overrun and override State and local laws and decisions. That is why the Governors and the National Association of Counties, and the mayors, and the people on the other levels of government are unhappy about the Commerce Committee bill and, in most cases, are instead supporting our version.

The CHAIRMAN. The time of the gentleman from Arizona has expired.

(By unanimous consent Mr. UDALL was allowed to proceed for 2 additional minutes.)

Mr. UDALL. We have an expediter, and we have something else. We have a provision to combine things. If one environmental impact statement will do the job, why have five? The expediter, the Energy Mobilization Board, can combine environmental impact statements. They can shorten times—not change laws, but shorten times—and call everybody in and say that we are going to get a decision—yes or no—on this project. We say to the States if your law provides for 5 years, how about making that 5 weeks. Then you get it all laid out on a schedule, and the schedule becomes binding on everybody, and the only enforcement problem you get into is when a Governor will not decide. Then we have a process by which you can take him to court and make him decide. So I think we have the best approach.

Our approach does not undertake the job of piecemeal dismantling of State, local, and Federal laws. Our bill gives the Energy Mobilization Board the power it needs, and that is the way to go.

I urge the support of the Udall-Clausen-Wirth substitute.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words and rise in opposition to the Udall-Wirth proposal.

Mr. Chairman, I will not take my full time because I recognize the body is ready to vote. But I think there are some things that have to be understood.

My good friend and colleague tells us that they can deal with the State procedure. That is correct, they can. There is no real, meaningful review either in the Congress or in the courts of that action. Under the bill of the Committee on Interstate and Foreign Commerce with the Santini-Lujan amendment there cannot be any override of State procedure or substance.

More importantly, what are the problems that exist here? The problems are not only there can be no decision, but the problems are that the decision is delayed and protracted.

But the worst problem is that even after the decision is made by the regulatory bodies of the States and the Federal Government, that oftime that matter then drifts into court where it resides for a period of time that is intolerable.

I think it ought to be recognized that the Udall-Wirth proposal sanctifies that process and assures these matters will drift into the courts and will stay there and reside there ad nauseum. It also insures that there will be further attacks on environmental laws and unfortunately they will be emasculated. We must have a safety valve to try to prevent such events.

I think there are some other points that have to be considered. A basic, fundamental principle on which this Congress has functioned in cutting redtape has been to have the matter decided on the basis of a congressional veto. The Committee on Interstate and Foreign Commerce's bill converts litigation into substantive questions which are decided here by the people's elected Representatives.

We see to it that the matters come to the House and to the other body for an appropriate decision on a project-by-project basis so as to prevent wholesale dismantling of environmental and labor laws.

It should be remembered we have adopted the Santini-Lujan amendment to the Interstate and Foreign Commerce Committee bill. The Santini-Lujan amendment says that there will be no override of State substantive law and no override of the State procedure. The idea is to move these matters expeditiously and to see to it that the Congress does the things that are necesary to abate the litigation which has gone on so long over questions like whether we shall build a small hydro project, a refinery, or become more reliant on coal and alternative resources.

I read into the RECORD yesterday the administration's statement of the period of time that it would take for the issues to resolve under the Udall-Wirth proposal. Under the Fuqua amendment a period of about 2 years plus 30 days has been cut from that period of judicial review. There remains at this time the provision which requires the Board to resort to judicial review in the Udall-Wirth proposal. The administration says that it can take up to 5 years 5 months, even allowing for the reduction in time which we have made in terms of reducing the total overall amount of time consumed for judicial review by the Fuqua amendment, which was adopted with my support the other day.

I say when this Nation cannot decide questions of this importance in a period less than 5 years 5 months, we are in deadly trouble. The Nation imports 8½ million barrels of oil a day. The Nation is subject to having its energy supplies shut off at any moment by foreign action. We are literally being hemorrhaged white. We are exporting $70 billion every year because we cannot get energy sufficient.

I say to this country that it is necessary that we resolve these problems. I say that we should resolve these problems not only as to big projects, and having a limitation on the numbers, but by resolving them as to having little projects and to having conservation as well as production projects. If we go toward a limitation on projects we will have only the big projects resolved. If we go toward the approach of the bill of the Interstate and Foreign Commerce Committee, we will be able to resolve any kind of a question which resolves itself before the Congress as to whether or not a low head dam might be constructed on a small river, or whether or not we might go to some kind of new technology which might be relatively small in its total, immediate impact, but which might be enormous in terms of the ability to later conserve or to generate new energy.

I urge my colleagues to reject the Udall-Wirth proposal, accept the on Interstate and Foreign Commerce Committee approach, and let us go forward with the production of energy.

Let us provide the safety valve for our valuable and important environmental laws. Let us protect labor laws and occupational health and safety laws. Let us not be fooled into thinking that a weak EMB bill will stave off those who want to overturn these laws and go even further, namely overturn agency decisions.

Mr. BROWN of Ohio. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the distinction between the bill of the Committee on Interstate and Foreign Commerce and the Udall-Wirth bill with respect to what constitutes "procedure" is not all that great, except that I think we have clearly demonstrated in our debate that the bill of the Committee on Interstate and Foreign Commerce operates on a faster track than the Udall-Wirth substitute.

But let me tell my colleagues what the bill of the Interstate and Foreign Commerce Committee does not do.

It does not, as the gentleman from Arizona has said, repeal laws. We repeal no laws. All we do is bring to this body, when it is necessary, the opportunity for the Congress to act, both this House and the other body, on any law that is going to get in the way of developing an energy project that we consider to be in the national interest. This bill, however, provides more than just congressional review of some portion of the law. It can even provide for modification of some regulation that somebody in the bureaucracy has decided follows logically from the basic law we passed, but which we may not agree with.

A lot of us have favored that concept of being able to address regulations when they get in the way of national interests. Are we at this juncture then going to say oh, no, we do not have the courage to do that, nor the judgment, nor the good sense?

Congress has already made some modifications of Federal requirements in the case of the snail darter, not because we wanted to, but because we had to. The Endangered Species Act permitted a fish a couple of inches long, with a dot behind its ear, as the inhibiter of a major energy project. The Commerce bill would have permitted Congress, on an expedited basis, to determine the need for a modification of that law because the bill refers to energy projects which are of a conventional nature, such as hydroelectric dams, as well as exotic projects.

A lot of Members on my side of the aisle, and I would like to address my remarks primarily to my side of the aisle, have suggested to me that, "Oh, well, what we really ought to do is go through all of this compendium of laws that we have and change all of the inhibiting laws."

□ 1320

Do you really think you can do that? Do you really think you will have a chance for that in time to address the energy problems with the present composition of the Congress and the chairman now in control of the committees? I do not have any illusions about that. My guess is that many of you do not either. Major legislation changes is not one of the viable options that we have.

Now, if we are not going to do that, then the other question I have to ask you is, do you believe that there is an energy crisis? If you do not, then what difference does it make whether we pass anything? Of course, maybe we should vote for the Udall bill because it looks good, nice and cosmetic, and we can appear to have done something. We can go home and say, "We tried to address the energy crisis with the Udall bill. It did not work." Are you going to be proud of that? I do not think so.

I would suggest to you that you also know that I am not a bleeding heart.

Let me just say that the future of this country has to have energy if we are going to provide the jobs we need for a growing America. Most of us believe in that. If we do not have the energy, we are not going to have the opportunity to address the tragic reality of the 35-percent unemployment among black teenagers, and a general unemployment that is going to increase if our country does not have the opportunity to expand.

I am for conservation. I would say to a couple of my friends who criticized our approach here as not addressing conservation adequately, that if you want to conserve, I think we can get some energy sources from conservation. However, I have always been, and our side has always been, consistently for production. If we are for production, then we ought to be in favor of doing something about the things that get in the way of production; the lawsuits, the inhibitions of law, and the overzealous regulation writers.

If we do not have the courage for that, then we do not have the right to go home and make an address about our being among the leadership of the Nation.

I am not an alarmist, but remember that 40 percent of our imported oil—that is, 20 percent of our total oil use—comes from the Persian Gulf. We saw what happened when we lost 5 to 7 percent of our imports with the collapse of Iran. And yet, we do not have the courage to address this problem directly. How then, are we going to explain it to the American people if Saudi Arabia goes down and we lost 20 percent of our imports? Oh, we voted for the rationing bill so that we could ration the shortage. Is that what we are for as Republicans? I do not think so. Over 40 percent of that imported oil comes through the Strait of Hormuz. We have got problems in that part of the Middle East that a lot of us think ought to be addressed, but we are unwilling to address the need for production in this country by looking at some of our own laws and seeing what has to be done to keep them from stifling our energy growth.

I think that many of the energy projects would be basic ones. As I said, not all of these are exotic projects. Some are going to be basic things we need, such as refinery retrofitting, and hydroelectric projects.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent Mr. BROWN of Ohio was allowed to proceed for 2 additional minutes.)

Mr. BROWN of Ohio. If we are unwilling to address the establishment of a refinery in this country because we cannot have that refinery built because it is inhibited by law or by lawsuits, then what are we going to do? We are surely not going to have any shale oil, because, let me tell you, 75 to 80 percent of all the shale oil is on Federal lands. The Federal land laws, which are interpreted by the people in command of the Government, prohibit us from doing anything with this shale oil development. What about building coal gasification plants? Well, maybe, maybe, unless somebody can think of some lawsuit or some regulatory barrier to stop that kind of a project.

I would suggest to my colleagues on my side of the aisle that if we really want to impress our constituents with our ability to step up and swing at the ball when we have a tough problem, we ought to vote for the Commerce Committee bill in this instance. This will show our constituents that we have the courage to address the problems of this country with firmness and in such a way that the country can progress, that we are not after cosmetic solutions, that we are not after populist positions, that we are trying to address our Nation's energy problems in a realistic way. I would urge you to support the Commerce Committee version of this bill and vote down the Udall substitute. Let us go on about the business of trying to produce the energy that our country needs for its future.

The CHAIRMAN. The question is on the amendment, offered by the gentleman from Arizona (Mr. UDALL) as a substitute for the amendment in the nature of a substitute, as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. UDALL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 192, noes 215, not voting 26, as follows:

[Roll No. 622]

AYES—192

Abdnor
Akaka
Ambro
Anderson, Calif.
Ashbrook
Aspin
AuCoin
Baldus
Barnes
Bauman
Beard, R.I.
Bedell
Beilenson
Bereuter
Bethune
Bingham
Boland
Bolling
Bonior
Bonker
Brodhead
Brown, Calif.
Burton, John
Burton, Phillip
Carr
Cavanaugh
Cheney
Chisholm
Clausen
Clay
Coelho
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
D'Amours
Danielson
Daschle
Deckard
Dellums
Derwinski
Dicks
Dixon
Dodd
Donnelly
Dornan
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Emery
Erdahl
Evans, Del.
Evans, Ind.
Fazio
Fenwick
Findley
Fish
Fisher
Florio
Ford, Tenn.
Fowler
Fuqua
Garcia
Gephardt
Gilman
Gingrich
Goldwater
Goodling
Gore
Gradison
Gray
Green
Grisham
Guarini
Gudger
Hall, Ohio
Hammerschmidt
Harkin
Harris
Harsha
Hawkins
Heckler
Hollenbeck
Holtzman
Howard
Hughes
Ireland
Jacobs
Jeffords
Johnson, Calif.
Johnson, Colo.
Kastenmeier
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Lehman
Livingston
Lloyd
Long, Md.
Lowry
McCloskey
McDonald
McHugh
McKinney
Maguire
Markey
Marlenee
Matsui
Mavroules
Mica
Mikulski
Miller, Calif.
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moore
Murphy, Pa.
Neal
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patterson
Paul
Pease
Petri
Preyer
Pursell
Quayle
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Rose
Roth
Roybal
Sabo
Scheuer
Schroeder
Seiberling
Sensenbrenner
Shannon
Simon
Smith, Nebr.
Solarz
Spellman
St Germain
Stack
Stark
Stewart
Stokes
Studds
Swift
Symms
Synar
Tauke
Thompson
Udall
Van Deerlin
Vander Jagt
Vanik
Vento
Walgren
Walker
Waxman
Weaver
Weiss
Whitehurst
Williams, Mont.
Wirth
Wolpe
Yates
Young, Mo.

NOES—215

Addabbo
Albosta
Alexander
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashley
Atkinson
Badham
Bafalis
Bailey
Barnard
Beard, Tenn.
Benjamin
Bennett
Bevill
Biaggi
Blanchard
Boggs
Boner
Brinkley
Brademas
Breaux
Brooks
Bouquard
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carter
Chappell
Cleveland
Clinger
Coleman
Collins, Tex.
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Davis, S.C.
de la Garza
Derrick
Devine
Diggs
Dingell
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
English
Erlenborn
Ertel
Evans, Ga.
Fary
Fascell
Ferraro
Fithian
Flippo
Foley
Ford, Mich.
Forsythe
Fountain
Frenzel
Frost
Gaydos
Giaimo
Gibbons
Ginn
Glickman
Gonzalez
Gramm
Grassley
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hance
Hanley
Hansen
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Holt
Hopkins
Horton
Hubbard
Huckaby
Hutto
Hyde
Ichord
Jeffries
Jenkins
Jenrette
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Latta
Leath, Tex.
Lederer
Lee
Leland
Lent
Levitas
Lewis
Loeffler
Long, La.
Lott
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McEwen
McKay
Marks
Martin
Mathis
Mattox
Mazzoli
Michel
Miller, Ohio
Minish
Mollohan
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nelson
Nichols
O'Brien
Pashayan
Patten
Pepper
Perkins
Peyser
Pickle
Price
Quillen
Rahall
Railsback
Ritter
Roberts
Robinson
Roe
Rousselot
Royer
Rudd
Russo
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sharp
Shelby
Shuster
Skelton
Slack
Smith, Iowa
Snowe
Snyder
Solomon
Spence
Staggers
Stangeland
Stanton
Steed
Stenholm

Stockman
Stratton
Stump
Taylor
Thomas
Traxler
Trible
Ullman
Volkmer
Wampler
Watkins
White
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Tex.
Wright
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Zeferetti

NOT VOTING—26

Anderson, Ill.
Bowen
Collins, Ill.
Crane, Philip
Dickinson
Edwards, Okla.
Flood
Jones, N.C.
Leach, La.
Madigan
Marriott
Montgomery
Moorhead, Pa.
Pritchard
Rhodes
Rodino
Rosenthal
Rostenkowski
Runnels
Shumway
Treen
Wilson, Bob
Wilson, C. H.
Winn
Wolff
Zablocki

□ 1340

The Clerk announced the following pairs:

On this vote:

Mr. Rodino for, with Mr. Dickinson against.

Mr. Anderson of Illinois for, with Mr. Jones of North Carolina against.

Messrs. McDONALD, GOLDWATER, and MITCHELL of New York changed their votes from "no" to "aye."

So the amendment offered as a substitute for the amendment in the nature of a substitute, as amended, was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BAUMAN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. BAUMAN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The amendment was printed in the RECORD according to the rule.

The Clerk read as follows:

Amendment offered by Mr. BAUMAN to the amendment in the nature of a substitute: On page 51, after line 2, insert the following:

"(6) have the effect of contravening the will of the electorate as ascertained in any local or State initiative or referendum which was specifically related to the establishment of an energy project."

Mr. BAUMAN. Mr. Chairman, this amendment is virtually identical to an amendment that was adopted to the Udall substitute yesterday.

I offer the amendment today to the pending substitute of the Committee on Interstate and Foreign Commerce simply because I think that it embodies an important right that all of us should wish to protect. If this Federal energy board is to have the power to override various Federal, State, and local laws, it seems to me that the section which prohibits any waiver of certain rights and laws on page 49, section 186, should contain clearly the stipulation that this board should not have the power to override the will of the electorate in a given jurisdiction as it pertains to the establishment of any energy project.

Mr. Chairman, I have reference to situations in which a proposal has been made to establish, let us say, a powerplant or other facility and this has been met with local opposition. It could be opposition on a statewide basis.

In such a case a public debate then occurs and this may be followed by a referendum or initiative in which the voters are subjected to a campaign pro and con on this issue. Then they are allowed to have a vote in the primary or general election under State or local law. The outcome is either approval or disapproval. It seems to me that this Federal Board, if it is not to overturn various State and local rights and laws, should not be empowered to overturn the outcomes of these local or State votes I have described.

Mr. Chairman, my amendment would simply say that the Federal emergency board for this purpose could not issue any orders that would have the effect of contravening the local will of the electorate on a State or local basis, and I would hope that the very democratic gentleman from the State of Michigan would accept that.

Mr. DINGELL. Mr. Chairman, would the gentleman yield?

Mr. BAUMAN. I yield to my esteemed colleague.

Mr. DINGELL. Mr. Chairman, I think I understand what it is the gentleman is interested in but my real concern here is, it says, "would have the effect of contravening the will of the electorate as ascertained in any local or State initiative or referendum."

Would the gentleman tell me which referendums he refers to, those which occur prior or subsequently to the action of the Board concerning waivers of State or local laws under the grandfather provision or those which would relate specifically to the project or which would be general in character of the kind that might be involved. Let us say, in the adoption of a home-rule charter for a county or perhaps the adoption of a State constitution which might be inconsistent with the creation of the particular project but which might not deal specifically with that project? In other words, does the referendum to which the gentleman refers in his amendment deal specifically with the specific project or is it a broad general referendum which might refer to any kind of a project or to a specific project? Would the referendum have to be before or after the agency decision?

Mr. BAUMAN. Mr. Chairman, the gentleman has posed several questions. The first one I will refer to deals with the point of time. My interpretation as to the point in time when this provision, should it become law, would apply, would be simply that it could not contravene an order of this emergency board unless the local or State vote occurred prior to the issuance of the Board's order.

□ 1450

Mr. DINGELL. Mr. Chairman, if the gentleman will yield further, what the gentleman is saying. If the Board came forward with an order and there was a later referendum, that that referendum could not contravene the order of the Board.

Mr. BAUMAN. My interpretation would be that it could not subsequently subject the order of the Board to a referendum or initiative.

Mr. DINGELL. Mr. Chairman, if the gentleman would permit, I think there is one more point.

Mr. BAUMAN. I yield.

Mr. DINGELL. There is one more thing, that the recommendation of a Board or of an agency acting pursuant to or collaterally with the Board, am I correct in that appreciation?

Mr. BAUMAN. Well, I would have to defer to counsel on that, because I have not researched about other agencies acting on behalf of the Board. My amendment is addressed to the limitations contained in section 186, which pertains to the Board, as I understand it.

Mr. DINGELL. I think I understand the gentleman and we will have to deal with the question of whether other agencies would be involved.

I would assume that since the gentleman is not directing his attention to the Board, the gentleman is also not directing his intentions through the amendment at agencies which would be functioning essentially under orders of the Board in connection with the scheduling.

The referendum or initiative must be project specific. It must be precise and not general in nature. It must take place prior to any action by the Board to recommend a waiver under the grandfather provision.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. BAUMAN) has expired.

(At the request of Mr. DINGELL, and by unanimous consent, Mr. BAUMAN was allowed to proceed for 3 additional minutes.)

Mr. BAUMAN. So far as the effect in time, the gentleman from Maryland would have to say that it is his intention that this would not allow the Board or any agency acting on behalf of the Board to reverse a referendum previously held.

So far as the application to a specific energy project, the amendment would be strictly interpreted; that is to say that the amendment would apply only to a specific proposed energy project and not to any general prohibition in State constitutions or general laws of the State or local government unless they resulted from a referendum or initiative.

Mr. DINGELL. In other words, what the gentleman is saying, the referendum would have to be on a specific project, as opposed to being a general term that might be, for example, in some kind of a home rule charter for a county or some kind of a provision which might relate to a bond issue or something of that sort.

Mr. BAUMAN. What the gentleman is saying is that when in 1974 an overwhelming majority of the citizens of St. Mary's County, Md., voted against locating a petroleum refinery at the mouth of the Potomac, that decision could not be overruled by this Board subsequently.

Mr. DINGELL. I see.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, in light of the gentleman's support on that last vote, would the gentleman like me to speak for or against the gentleman's amendment? I will do either one.

Mr. BAUMAN. Well, I will say to the gentleman from Arizona that in view of the fact the gentleman did not keep his pledge to trick or treat at my house last night, I am not sure what value his support will have; but obviously in view of the outcome of the last vote, it will have much more value than my support for the gentleman's substitute.

Mr. UDALL. Mr. Chairman, let me say to my friend that the gentleman has a good amendment. The local people's decision where you spend money and have a referendum and debate it, and not some county court make a decision, but the people make a decision, I think it ought to have the extra dignity given by the gentleman's amendment.

Mr. BAUMAN. This is what I would call a democratic amendment and I thank the gentleman from Arizona.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. Yes, I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, if I understand the amendment offered by the gentleman from Maryland, it is to prohibit the Energy Mobilization Board from designating as a priority energy project that, prior to designation of that project as a priority energy project, has been disapproved by a vote of the people of the particular community where the project would be located; is that correct?

Mr. BAUMAN. Community or State, yes.

Mr. BROWN of Ohio. Well, if that is the thrust of the gentleman's amendment, I see nothing wrong with the amendment and will support the gentleman in his amendment offered.

Mr. BAUMAN. Mr. Chairman, I thank the gentleman.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I am also concerned about the precise kind of situation here. As I detect it, the gentleman is referring to referendums which dealt with the specific project and the specific circumstances, as opposed to some general provision as the gentleman had indicated to me earlier; is that correct?

Mr. BAUMAN. That is correct unless the general prohibition was adopted by popular vote.

Mr. DINGELL. Mr. Chairman, I assume then that the gentleman is only trying to have this amendment be consistent with the actions that were taken by the committee earlier in connection with the Lujan-Santini amendment, and since the Lujan-Santini amendment eliminates action with regard to State and local law and overriding State and local law, the amendment would have limited effect. It could not affect recommendations to waive Federal law. It would only apply to grandfather-type waivers that relate to State or local actions.

The CHAIRMAN. The time of the gentleman from Maryland has expired.

(At the request of Mr. DINGELL, and by unanimous consent, Mr. BAUMAN was allowed to proceed for 1 additional minute.)

Mr. DINGELL. Mr. Chairman, if the gentleman will yield further, I would assume that this is coextensive with that. Given that understanding as expressed in this colloquy, I have no objection to the amendment.

Mr. BAUMAN. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. BAUMAN) to the amendment in the nature of a substitute.

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. ECKHARDT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. ECKHARDT. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The CHAIRMAN. Was the amendment printed in the RECORD according to the rule?

Mr. ECKHARDT. Yes, Mr. Chairman. It is the amendment which was printed in the CONGRESSIONAL RECORD, October 29, 1979, p. 29869.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT to the amendment in the nature of a substitute: Strike out page 46, line 1 and all that follows down through line 2 on page 51 and substitute:

"ENFORCEMENT OF PROJECT DECISION SCHEDULE

"SEC. 185. (a)(1) If the Board determines, pursuant to its monitoring under section 183, that an agency has failed, or is reasonably likely to fail, to make an agency decision within the time required by the Project Decision Schedule, the Board shall provide notice of its determination to the appropriate agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, any parties to the agency proceeding concerned, and the Governor of each State affected by that project. After a period of at least 45 days after such notification, the Board shall promptly conduct on an expedited basis an informal hearing for the purpose of determining the cause of the delay and the actions taken to achieve compliance. A transcript shall be kept of any such hearing.

"(2) Within 30 days after any hearing under paragraph (1), the Board may in furtherance of the purposes of this part—

"(A) modify the Project Decision Schedule to the extent necessary to provide an extension of time for that agency to make the agency decision involved if—

"(1) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule, and it would be impracticable for the agency to reach a decision or to complete the required action within the specified time, and

"(ii) a previous extension has not been provided under this subsection for that agency decision; or,

"(B) issue an order under subsection (b) providing for a decision under that subsection in lieu of the agency decision involved.

No determination by the Board under paragraph (1) and no modification of a Project Decision Schedule by the Board under subparagraph (A) of this paragraph shall be subject to judicial review, except as may be required by the Constitution of the United States. If, following modification of the Project Decision Schedule under subparagraph (A), the agency fails to make the agency decision concerned in compliance with such modified Schedule, the Board may take action under subparagraph (B) without conducting a further hearing under paragraph (1).

"(b)(1) The Board may issue an order referred to in subsection (a)(2)(B) to have a decision under this subsection be made in lieu of the agency decision. Notice of any such order shall be published in the Federal Register and transmitted to the agency, the person responsible for finding on behalf of the Priority Energy Project the application or other petition for the agency decision involved, the President, the Governor of each State affected and the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Any order under this paragraph shall not be subject to judicial review, except as may be required by the Constitution of the United States.

"(2)(A) Upon receipt of notice of an order under paragraph (1), the agency involved shall transmit forthwith all records in the possession of the agency pertinent to that decision or action. The Board shall take whatever additional action authorized under this part as may be necessary to obtain an adequate record for a final decision.

"(3)(A) The Board shall promptly issue a recommended decision under this subsection after obtaining an adequate record for the decision. The recommended decision shall be published in the Federal Register, shall be submitted to the President, together with the record on which it is based, and shall be transmitted to the Governor of each State affected by the project.

"(B) Any recommended decision of the Board under this subsection shall be consistent with any requirement established by, or pursuant to, Federal, State, or local law which would be aoplicable in the absence of an order under this subsection.

"(C) A recommendation may not be made under this subsection if the agency has made the agency decision involved at the time of such recommendation.

"(4)(A) Within 45 days after any recommended decision has been submitted to the President under paragraph (3), the President shall—

"(i) make a decision to affirm the recommended decision, in which case the recommended decision shall be considered final, or

"(ii) shall remand it to the Board with instructions to modify the recommended decision to the extent the President determines to be appropriate and consistent with any requirement established by, or pursuant to, Federal, State, or local law.

Following any remand under clause (ii), the Board shall promptly issue a final decision in accordance with such instructions. If the President fails to affirm or remand such decision within such 45-day period, the Board's recommended decision shall be considered final.

"(B) Any fiscal decision under subparagraph (A) shall be considered a final decision in lieu of the agency decision involved. Except as provided in section 187(b), such final decision shall be subject to judicial review in the same manner and to the same extent as would apply to the agency decision involved.

"(c)(1) The Board, on its own motion or upon an application of any person acting on behalf of a Priority Energy Project, shall determine if any requirement of Federal, State, or local law which has been enacted or promulgated after establishment of the Project Decision Schedule, but before commencement of commercial operation of any facility (as determined by the Board) which is part of the Project, would present a substantial impediment to implementation of the Project. Such application shall identify the requirement with respect to which the application is made. If the Board determines that any such requirements will present such an impediment, the Board may in furtherance of the purposes of this part order the temporary suspension of the application of such requirement to such facility for only such time as necessary to allow such person to make good faith efforts to comply with such requirement, but not in excess of 5 years after the date on which commercial operation of such facility commences.

"(2) No order temporarily suspending the application of any requirement to any facility may be issued under paragraph (1)(A) unless the Board, in consultation with the agency responsible for implementing the requirement, finds that, during the period of such suspension, the facility will make a good faith effort to meet the requirement suspended.

(d)(1) Not later than 45 days after the establishment of a Project Decision Schedule for a Priority Energy Project, the Board and any agencies which may be covered by such Project Decision Schedule shall identify and publish notice in the Federal Register of the requirements of Federal, State, and local law applicable to such Project which may present any substantial procedural or substantial substantive impediment to the implementation of the Project. Such notice shall include an analysis of the impact of such requirements on the Project. The Board may extend the 45-day period in appropriate cases.

"(2) If the Board finds, after publication of the notice under paragraph (1) and based upon the analysis required under paragraph (1), that—

"(A) any requirement identified under paragraph (1) may present any substantial procedural or substantial substantive impediment to the implementation of the project; and

"(B) there is no opportunity under applicable law for an agency decision in a manner which would overcome such impediment and permit implementation of the Project, the Board shall submit a copy of its analysis under paragraph (1), together with appropriate recommendations concerning the requirement, to the President (in the case of a requirement of Federal law), the Governor (in the case of a requirement of State or local law), to the affected agencies, and to the appropriate committees of Congress. The Governor and such affected agencies shall take into consideration the Board's recommendation and shall report to the Board within such time as may be specified by the Board. Such report shall state whether or not the Governor or agency accepts or rejects the recommendations of the Board, together with the reasons of such acceptance or rejection. If the Governor or agency accepts such recommendations in whole or in part, such report shall include an explanation of the actions the Governor or agency will take and when such actions will be taken.

"(e) In bringing any civil action in any court (other than the Supreme Court) to enforce any order or requirement under this part, the Board shall be represented by the General Counsel of the Board (or any attorney employed by the Board), notwithstanding the provisions of title 28 of the United States Code. Such General Counsel (or attorney employed by the Board) shall supervise, conduct, and argue any civil litigation in any such action.

"PROHIBITION AGAINST WAIVER OF CERTAIN RIGHTS AND LAWS

"Sec. 186. (a) Nothing in this part shall authorize, or be construed to authorize, the Board or the President to alter any Federal, State, or local requirement, except to the extent a Schedule establishing or modified by the Board under section 182 or 185(a)(2)(A) contains a deadline or timetable which applies in lieu of an otherwise applicable deadline or timetable.

(b) No order by the Board under Section 185(c) may modify or impair in any way—

(1) any Federal, State, or local requirement which relates to—

(A) the rights, working conditions (including health and safety), compensation, or activities of workers or their representatives.

(B) antitrust laws (as defined in section 3(1) of the Public Utilities Regulatory Policies Act of 1978),

(C) crimes based on common law, or

(D) civil rights laws;

(2) any Federal, State, or local requirement which involves any primary air quality standard established under the Clean Air Act;

(3) any right or rights of any person arising under the Constitution of the United States;

(4) any interstate compact, provision of State or local law, or Federal contract, relating to water rights or to the appropriation, delivery, or use of water pursuant to such rights; or

(5) the rights of any person under any provision of law to receive compensation from the owner or operator of any Priority Energy Project for loss of any property interest as a result of the construction or operation of such Project.

Page 45, line 6, after "182" insert "or 185 (a)(2)(A)".

Mr. ECKHARDT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. DINGELL. Mr. Chairman, reserving the right to object, I want to know what the amendment is, so I know which one we are addressing. The gentleman has had three amendments published and I am still not clear as to which this is.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield on the gentleman's reservation?

Mr. DINGELL. Yes, I yield.

Mr. ECKHARDT. It is the amendment that begins in the CONGRESSIONAL RECORD, October 29, 1979, p. 29869 at approximately the bottom of the first column.

Mr. DINGELL. Mr. Chairman, I will not object, but I am still having trouble finding it.

Let me just object for the time being and as soon as enough has been read so that I can identify it, I will withdraw the reservation of objection.

The CHAIRMAN. Objection is heard.

The Clerk will report the amendment.

The Clerk continued to read the amendment.

Mr. ECKHARDT. Mr. Chairman, I renew my request that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object, and I will object, we are still trying to find the amendment.

The CHAIRMAN. If the gentleman would wait until the Chair puts the unanimous-consent request.

Mr. ROUSSELOT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard; but the Chair will first put the question and then the gentleman from California may object.

The gentleman from Texas asks unanimous consent that further reading of the amendment be dispensed with.

Is there objection to the request of the gentleman from Texas?

Mr. ROUSSELOT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will resume the reporting of the amendment.

The Clerk continued to read the amendment.

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Mr. DINGELL (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with, and that the amendment be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object, do we know which one of the three amendments is being offered?

Mr. DINGELL. Mr. Chairman, if the gentleman will yield, the answer to that question is "Yes."

Mr. ROUSSELOT. Is it the two-page amendment or the one-page amendment?

Mr. DINGELL. It is a several-page amendment, a copy of which I have here.

Mr. ROUSSELOT. What is the page number?

Mr. ECKHARDT. Mr. Chairman, if the gentleman will yield, it starts out on p. 29869, at the bottom of the first column.

Mr. ROUSSELOT. And it goes over to p. 29870? Are we talking about the same amendment?

Mr. ECKHARDT. That is correct.

Mr. ROUSSELOT. Mr. Chairman, I thank the gentleman, and I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan that further reading of the amendment be dispensed with, and that the amendment be printed in the RECORD?

There was no objection.

The CHAIRMAN. The gentleman from Texas (Mr. ECKHARDT) is recognized for 5 minutes in support of his amendment.

Mr. ECKHARDT. Mr. Chairman, this amendment acts on two sections of the bill: Section 185, previously amended by the Santini amendment, and section 186, which has some related questions that the gentleman from New York (Mr. PEYSER) was addressing before the vote on the last amendment.

The amendment has this effect: It strikes the language in the Santini amendment under (C) that gives the Board authority to make recommendations under subsection (c) for a waiver under that subsection in the case of any Federal requirement applicable to any agency. The amendment further strikes from the Santini amendment all language contained in (c)(1) providing for the process by which such waivers of substantive Federal law are submitted for affirmative congressional action.

The reason for that is that by eliminating section (C) there would be no authority for waiving substantive Federal law.

The amendment has the effect of leaving intact all authority under the Dingell bill with respect to removing a matter from the consideration of the agency and taking it for consideration by the board where the board has not acted promptly. It does not change such provisions.

The amendment also has this effect: It also provides or preserves the Board's authority to suspend laws. However, the amendment adds additional protection to guard against abuse of the suspension authority.

As the Members will recall, the gentleman from New York (Mr. PEYSER) was raising a question in the well a moment ago as to what happens about suspension of State and Federal laws. I have stated that I believe that under the Dingell provisions of section 186, since we have specifically listed areas in which waiver of State and Federal law is not permitted like water, labor questions, civil rights, and so forth, and since only the waiver had been protected and the suspension language had been added later in section 185 by the Santini amendment, there would still be authority for the EMB to suspend certain regulations under section 185 even though certain regulation was immunized from waiver. This amendment also corrects that question.

Mr. Chairman, there has been some question raised by a story in the Washington Star this morning as to whether this amendment is favored by the President. The President, of course, had favored the general structure of the Dingell bill and felt that the Dingell bill only would give sufficient authority to accomplish the objectives that have been argued for here. I think that question is completely answered by a letter that I have received. The letter, dated November 1, 1979, and containing the address, "The White House," at the top, states as follows:

> DEAR BOB: I strongly support your amendment which would eliminate waivers of substantive Federal laws except for the power to grandfather projects against exceptional burdensome requirements imposed after the project decision schedule has been adopted. My own position is clear. I support an Energy Mobilization Board which can effectively cut through the procedural red tape, and I see no need for broad authority to waive Federal laws.
>
> I appreciate your help in securing a board which meets these tests.
>
> Sincerely,
>
> JIMMY CARTER.

The CHAIRMAN. The time of the gentleman from Texas (Mr. ECKHARDT) has expired.

(On request of Mr. DINGELL, and by unanimous consent, Mr. ECKHARDT was allowed to proceed for 2 additional minutes.)

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the distinguished chairman of the subcommittee.

Mr. DINGELL. Mr. Chairman, I thank my good friend for yielding to me.

Mr. Chairman, I am curious about this. As I detect from the gentleman's amendment, it strikes subsection (c)(1) and following language of the Lujan-Santini amendment, is that correct?

Mr. ECKHARDT. That is correct.

Mr. DINGELL. Mr. Chairman, as I detect further, the Lujan-Santini amendment, in subsection (c)(1) and following language is authority for waivers of, first, substantive law, is that correct?

Mr. ECKHARDT. That is correct.

Mr. DINGELL. And also it is authority for waivers of procedural law, is that correct?

Mr. ECKHARDT. Well——

Mr. DINGELL. Mr. Chairman, I will tell the gentleman that the answer to that is "Yes."

Mr. ECKHARDT. Yes, it is correct. The gentleman need not ask me if he knows the answer. I will agree that he is correct, however.

Mr. DINGELL. So, then, the answer is that this amendment would strike procedural and substantive waivers by the Energy Mobilization Board; is that correct?

Mr. ECKHARDT. Well, it depends on what the gentleman means by "procedural."

Mr. DINGELL. It is not too hard to just say "yes" or "no."

Mr. ECKHARDT. Well, it is too hard for me to say "yes" or "no" when I want to qualify my answer, and I intend to do so.

Mr. Chairman, if the gentleman will allow me to reclaim my time, I will say this: That what I have done here is stricken out first the provisions under (C) which give the Board authority to make recommendations under subsection (c) for a waiver under that subsection in the case of any Federal requirement applicable to any agency. So what we do under (C) is remove from the President the authority to make any waiver, substantive or procedural.

However, the gentleman's bill otherwise permits the placing of legislation on the fast track by removing from the agency's authority the determinations where the agency has not moved sufficiently rapidly. That is preserved in this amendment, but the waiver of substantive and procedural authority is removed.

The CHAIRMAN. The time of the gentleman from Texas (Mr. ECKHARDT) has again expired.

(On request of Mr. OTTINGER, and by unanimous consent, Mr. ECKHARDT was allowed to proceed for 3 additional minutes.)

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I would like to congratulate the gentleman from Texas (Mr. ECKHARDT) on his amendment.

I had hoped that this amendment would be considered prior to the earlier vote, because if this amendment had been adopted, I could have supported the Dingell version. I think this does leave in place the best possible procedure for fast-tracking legislation.

Mr. Chairman, I hope the amendment will be adopted.

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Mr. ECKHARDT. I thank the gentleman for his support.

Mr. Chairman, I may say that I find myself in the same position. If this amendment is passed, I could support the legislation. And I shall support the legislation. If this amendment is not passed, in my opinion, the Dingell amendment as presently written provides for suspension without review of Federal and State law. This amendment corrects that question. It removes the authority to suspend all substantive or procedural matters other than those specifically defined in the Dingell amendment, which specifically defined areas are the ones that permit the removal of an authority from an agency that has not moved in accordance with law, and also those restrictions which impose deadlines which become unreasonable, that is, the provisions permitting a project decision schedule. These specifically permit certain procedural waivers.

I think that we have here a compromise that perhaps may bring us together on a very difficult question.

Mr. UDALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in some distant Presidential campaign I remember a slogan, "Bring us together." And this characterizes the amendment that is now before us.

A number of colleagues have commented how the processes work. We started out over here and the Commerce Committee there, and we have gradually worked to where the differences are much smaller. I find myself in the same place as my colleague, the gentleman from New York. If this amendment passes, I will vote with a good deal of enthusiasm for the Commerce bill on final passage. If it does not, I think it is worse than no bill at all and it is kind of a sham, and I am going to vote against it.

I am going to watch something very interesting. You know, I complained here the other day about the White House and the double game, the devious kind of double, shabby game they have played with us, posturing for States' rights and then supporting, putting on a full court press for a substitute that overrides States' rights, telling us that they wanted a bill with no override at any level, and then going all out for a Commerce Committee bill which could override thousands of State and local and Federal laws.

I had an old professor once, who said, "Your 'now wherefors' do not agree with your 'whereases.'" And they were sort of telling us whereas we want no overrides and we want to build this, that and the other, and whereas the Udall bill has those provisions, now, therefore, we are for Dingell. That is essentially what they have been saying.

But I am a kind and forgiving fellow, and I will await with great interest the administration's position. I saw the

White House lobbyists in huge numbers outside the doors on this last vote, and it is clear that they held the margin to defeat us. But I will watch with great interest just how hard they are lobbying for this Eckhardt amendment which the President himself, in today's letter, says he wants.

Remember, our objections to the Commerce bill are two. We said we do not like the override of State and local law. My friend, the gentleman from New Mexico (Mr. LUJAN), and my friend, the gentleman from Nevada (Mr. SANTINI), came along and said, "We have taken care of that. Our amendment has been adopted, it is now in the Commerce bill. We do not know anything about State and local laws. Hurray."

Our second objection to the Commerce substitute was the wide provisions to override Federal laws.

The gentleman from Texas (Mr. ECKHARDT) comes along with an amendment which says that you cannot override Federal law.

I will be watching intensely when the doors open up here to see how the White House is lobbying on this one. With the Santini amendment and the Eckhardt amendment, this bill is about 90 percent of what we were asking for, we have all been brought together, we can all shake hands and have a good cheer and go home.

So I urge strong support of the Eckhardt amendment. It is kind of a put-up-or-shut-up amendment, so far as I am concerned, with the White House.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding, and I share the gentleman's view. Of course, I am not in touch with the White House to quite the extent that some of you may be, so I have had no troubles of that kind. But I am heartily prepared to vote for this Commerce bill if the House accepts the Eckhardt amendment. I think we have done most of what we wanted to do.

Mr. UDALL. I agree with my colleague.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, would the gentleman agree—I thought I heard him say this, and I just want to clarify it—that even without the Eckhardt amendment there is no question but that under the present legislative proposal that there can be no waiver of State and local laws?

Mr. UDALL. I was shocked when I heard the gentleman say that before, because the Commerce staff and my own staff had looked at it and said that it exempted. But the hooker in the Santini-Lujan substitute was the federally derived laws. The New Mexico law derived on the basis of Federal statute is not covered and could be overridden.

Mr. LUJAN. It is Federal requirement.

Mr. UDALL. Federal requirement. I heard the gentleman say he did not intend that, that he intended to take away completely authority to override State and local laws. If that is what his amendment does, I am all for it. I think it is great. With that and the Eckhardt amendment, we have almost everything I have been fighting for. We have no override of State laws and no override of Federal laws.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I would like to just comment that I, too, support the Eckhardt amendment. But I would like to say that I have already been approached, right at the end of the last vote, by the staff out there that the gentleman mentioned, saying that, "Now we have got to get the Eckhardt amendment adopted." So they were already working on it before the other vote was finished.

Mr. UDALL. Maybe we can restore peace and brotherhood in the White House and they will send me a rose or something. Who can tell?

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Nebraska.

Mr. BEREUTER. I thank the gentleman for yielding.

Mr. Chairman, I would just remind the gentleman and reiterate the point that I tried to make before, when talking about the Lujan-Santini amendment. The waivers and suspensions are still there for State and local laws passed subsequent to putting something on the project review schedule.

Mr. UDALL. The distinguished gentleman made that point earlier, and I think it is very important.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I think this amendment takes care of the gentleman's proposition, and I do not think it was taken care of originally.

Mr. COLLINS of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by my good friend, the gentleman from Texas (Mr. ECKHARDT).

As the gentleman said, he could accept the bill if we accepted this amendment. I want to tell the Members that there is nothing left in the bill if we accept this Eckhardt amendment. It absolutely just guts it from one end to the other. There is nothing left if the Eckhardt amendment passes, as I see it.

I want to remind the Members how critical the energy crisis is in America. Six years ago we were importing $3 billion in oil. This year the United States is importing $60 billion in oil. We all heard the President yesterday. He already anticipates we will be importing $70 billion in oil next year. This country must get self-sufficient in energy. If we wanted to strike something, what Congress ought to do, is strike the Department of Energy, just obliterate it. But this bill is a step in the right direction. However, with the Eckhardt amendment we are just going to knock the knees out from under what is left of it.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, I was worried that this was going to be a big love feast, that we were all going to come together on this amendment. And I appreciate the gentleman bringing up and noting that we do not all agree. The gentleman's amendment, as I understand it, one of the important features of it, is that we not waive Federal law. I think it is very important that we do so, but we are going to do it in an orderly manner.

We are going to get it as a recommendation from the President of the United States. Then both houses have to act positively on it. We could do that any time. This procedure merely makes it on a fast-track basis, accelerates the time in which it normally takes to do such a thing. Today if we want to waive a Federal law, we just bring it before the House, take it to the Senate, pass it, take it to the President, and it in effect waives it.

But what we are doing here is simply doing the same thing except in the reverse way, that it comes from the President to both houses. It is a perfectly acceptable, perfectly legitimate way of doing it. I would hope that we do not all rush forward to agree to support the Eckhardt amendment, because in effect what it is saying is that we cannot change the law on an accelerated basis but we must just take it on a slow basis.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I think the gentleman from New Mexico has put his finger on the issue. This procedure is almost the same as the machanism by which we would amend or repeal a law. But the word "waiver" does not refer to the full law. The word "waiver" refers to the waiver for one project of some part of a law that has been identified by the Energy Mobilization Board as being inhibitive. And even then, you bring it back with a Presidential recommendation that the law be waived for that one project only, and both houses have to vote positively to do that. Now, that is about as close as you can get to the mechanism by which we pass laws.

The point is that the gentleman from Texas (Mr. ECKHARDT) does not even want to speed up consideration of these things on that basis. He said, "Oh, no, no. Let us go ahead and make it be a repeal of the full law or some part of that law and take it through the committee procedure and have the committee chairman, who does not want to do that, stand in the way of the Congress working its will so that we can get an energy program going."

That is the distinction. And the gentleman from New Mexico, I think, put his finger right on the point. It is whether or not we are going to speed up our action on these projects.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Georgia.

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Mr. LEVITAS. I thank the gentleman for yielding.

The gentleman from Texas is absolutely correct. Either we are engaged in a struggle for energy sufficiency that has the moral equivalency of war or we are not. Either we need this legislation or we do not. The adoption of the Eckhardt amendment, together with the adoption of the Lujan-Santini amendment already, which I think went too far in cutting back on this legislation, would gut this legislation, and we might as well not have it, because we just would be blowing smoke in the face of the American people.

This legislation is absolutely necessary if we are to achieve energy sufficiency. The adoption of the Eckhardt amendment would gut it completely.

All we are saying here, as the gentleman from New Mexico and the gentleman from Ohio have already pointed out, is that where the President proposes a waiver, where he proposes a waiver and both Houses of Congress have to approve it, then it is waived. That is almost the same thing as passing a statute, which we can do, but we do not have to repeal the whole statute. We can fast-track the single change that is essential to our national security. That is preferable to the wholesale repeal of important environmental and other laws. I urge the defeat of the Eckhardt amendment. I am sorry we cut back as much as we have, but let us stop now, and let us pass effective legislation.

Mr. COLLINS of Texas. I thank the gentleman from Georgia.

Mr. WRIGHT. Mr. Chairman, I rise in opposition to the Eckhardt amendment.

The Eckhardt amendment would effectively make a shambles of any opportunity that Congress might have to expedite any energy project under this legislation. I am aware that the President has made a public statement to the effect that he opposes waivers of substantive law, but that he favors waivers on procedural questions.

The Eckhardt amendment strikes from the legislation any opportunity to waive procedural matters as well as substantive law.

Mr. ECKHARDT. Mr. Chairman, would the distinguished majority leader yield?

Mr. WRIGHT. I yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding.

The Eckhardt amendment does not touch the procedural waiver provisions in the original Dingell bill in any way.

Mr. WRIGHT. Well, the Eckhardt amendment touches the waiver provisions in the Santini amendment which supplanted the original Dingell bill. I think the gentleman should acknowledge that.

Mr. ECKHARDT. As a matter of fact, the distinguished chairman of the subcommittee was complaining that the Eckhardt amendment did not even permit the stopping of procedural waivers. I wish the two gentlemen would get together on how they construe the amendment.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the distinguished gentleman from Michigan and ask him if my interpretation is not correct.

Mr. DINGELL. The majority leader has correctly interpreted this for the House.

What the gentleman from Texas (Mr. ECKHARDT), has done, has been to strike the provisions from the bill for procedural waivers and for substantive waivers.

I asked the gentleman from Texas (Mr. ECHKARDT) this question very specifically. He responded, yes, and then he proceeded to go into a rather lengthy, complicated explanation, which I will not describe as obfuscation, although it might very well be so described, by pointing out that he dealt with a number of other matters.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Texas.

Mr. ECKHARDT. I hesitate at any time to take the gentleman's words down, but to refer to another gentleman's action as obfuscation——

Mr. DINGELL. Mr. Chairman, I did not call it obfuscation.

Mr. WRIGHT. Permit me to reclaim my time.

I certainly do not accuse my colleague from Texas of bad faith in any sense at all, but he does strike from the bill the Santini language. And that is the only language now in the bill which permits the Congress to have an orderly opportunity to speed up an energy project by waiving any of these many, many requirements that have been written into the laws, not by Congress in most cases but by administrative agencies whose appointees thirst to write law without the inconvenience of running for Congress.

Those are the things we need to have the opportunity to waive if we are to have a fast track. I suggest that to adopt the Eckhardt amendment would be to do violence to the whole purpose of this legislation. It would make it a less effective instrument in my opinion than the original Udall-Wirth proposal would have been, if we were to take away from Congress any opportunity whatever to compress these time periods, to weed out these redtape jungles that have grown up around our procedures.

It seems to me that the Santini amendment is very narrowly prescribed. It does not run roughshod over anybody, but it does give the Congress an orderly opportunity to weigh and evaluate which is more important, this particular energy project in the interest of the Nation or this particular, maybe minor, provision of the law as interpreted perhaps by some minor bureaucrat who can hold the project up for 6 years, 7 years, 10 years, or 14 years, in the cases that I enumerated earlier.

So, for that reason, if we want an effective bill, I think it is imperative that we reject this amendment.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Yesterday the gentleman had a great story about the sage grouse mating dance, and it was not that that was identified in any law we passed. It was the decision by somebody that that was covered by the law.

The same thing applies to the snail darter. We had to address that problem here.

The CHAIRMAN. The time of the gentleman from Texas (Mr. WRIGHT) has expired.

(At the request of Mr. ECKHARDT and by unanimous consent, Mr. WRIGHT was allowed to proceed for 1 additional minute.)

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Texas.

Mr. ECKHARDT. I think the distinguished majority leader has misspoken on one point. Perhaps we may disagree on what all procedural matters are, but I think the gentleman will agree with me that my amendment does not remove the provision by which project decision schedules may be established and indeed shortened.

It also does not remove the provisions by which there may be suspensions of law where the decision schedule has gone into effect prior to the passage of the law. It does not remove those kinds of procedural accelerations of the action.

Now what more procedure does the gentleman want to speed up the project?

Mr. WRIGHT. If we are to accept that the gentleman's intent is precisely what he says, and I do accept that the gentleman's intent is precisely what he says, then still the gentleman would do away with any opportunity for the Congress to act. He might preserve intact the power of the Board to compress schedules, but he would leave the Congress bereft of the opportunities that are provided to this Congress in the Santini amendment whereby we could make a judgment and decide that this is an important project, and that these procedures that have been spelled out in administrative law are less important to the Nation than the completion of the project. That is what I think we must preserve in this bill if we are to have an effective law.

Mr. DINGELL. Mr. Chairman, I rise in opposition to the Eckhardt amendment.

Mr. Chairman, I sent word to my good friend from Texas, because I wanted him to be here on the floor when I discussed this matter.

Mr. Chairman, I have here the letter of the President on this matter, dated November 1, sent to the gentleman from Texas (Mr. ECKHARDT).

It says:

> Dear Bob—

And goes through one paragraph—

> My own position is clear. I support an Energy Mobilization Board which can effectively cut through procedural redtape, and I see no need for broad authority to waive Federal laws.

He is referring to procedural redtape that he wants to be able to have the EMB cut through.

The amendment offered by the gentleman from Texas strikes from the Board the authority to recommend to the Congress waivers of certain procedural and substantive rules and statutes of the Federal Government.

The first paragraph of the President's letter says:

> I strongly support your amendment which would eliminate waivers of substantive Federal laws except for the power to grandfather projects against exceptionally burdensome requirements imposed after the project decision schedule has been adopted.

□ 1430

What the gentleman's amendment does is to go well beyond what the President requested. It strikes both substantive and with procedural waivers. He did not ask for that.

The Secretary of Energy, Mr. Duncan, sent a letter to Mr. O'Neill, the Speaker, in which he said:

> We, therefore, will support an amendment by Mr. Eckhardt which would remove the provision for substantive law waivers as well as to provide for judicial review of decisions on grandfathered projects against changes in substantive law after the establishment of a project decision schedule.

What does that amendment, offered by my good friend from Texas, do? It strikes section 186, as amended by Santini-Lujan. Section 186 is the section which, among other things, deals with the recommendations of the Board to the Congress with regard to both substantive and procedural waivers. The proposal does not even include the authority included in the Wirth-Udall bill for the Board to order Federal agencies to changes procedures and to do so without any review by Congress or approval by Congress. Some of these are:

To consolidate proceedings respecting actions and decisions which are subject to the project decision schedule.

The establishment of requirements applicable to filing applications or other information which would eliminate unnecessary duplication.

To substitute legislative hearings in lieu of trial type hearings.

The gentleman will recall that he was in the well and I asked him, does this deal with substantive law? He said yes, it does, and I concurred. I said does it deal with elimination of recommendations with regard to procedural waivers. The gentleman said yes it does.

Then the gentleman went on and referred to some other things which are permitted elsewhere in the bill, but which, in my judgment, leaves less than a skeleton, there are no bones, no muscles, and certainly no life to the proposal.

Mr. ECKHARDT. Mr. Chairman, will the genteman yield?

Mr. DINGELL. Since I have mentioned the gentleman, I will be happy to yield to him.

Mr. ECKHARDT. The gentleman has said I have removed, as I understood him to say, section 186. I do, but I replaced section 186 with almost the same language.

Mr. DINGELL. That is correct, but the gentleman does not substitute——

Mr. ECKHARDT. Will the gentleman yield further?

Mr. DINGELL. I will yield in a minute, but I want to make sure we have this correct and that we conduct an orderly debate. The gentleman does remove the authority of the Board to recommend substantive and procedural waivers. This is not what the White House said they supported. They said they supported elimination of substantive waivers of law only. This amendment is an elimination of both substantive and procedural recommendations by the Board and the President to the Congress.

I will be happy to yield to the gentleman further.

Mr. ECKHARDT. If the gentleman will yield further, the exact language which I placed in the Record has been in the Record in accordance with the rule, since Monday of this week.

Mr. DINGELL. I do not challenge that.

Mr. ECKHARDT. The language has gone to the President, it has been looked at by the chief counsel for DOE. The President knew precisely what my amendment was when he came out with the statement that he recommended it.

Mr. DINGELL. The gentleman very well knows that the gentleman has several amendments published in the Record and we had a great deal of difficulty here on the floor trying to sort out which of the amendments it was that the gentleman offered.

Mr. ECKHARDT. If the gentleman will yield further, the reason for the three amendments was to prevent some kind of an amendment that would forestall one or the other of my amendments. The amendments are identical with respect to 185.

The CHAIRMAN. Time of the gentleman from Michigan has expired.

(By unanimous consent, Mr. Dingell was allowed to proceed for 2 additional minutes.)

Mr. DINGELL. Mr. Chairman, the simple answer is we have here before us an amendment offered, I am sure in the best of good faith, by the gentleman from Texas (Mr. Eckhardt) which purports to be that which is supported by the administration. In fact, as I have pointed out, it is not supported by the administration, because the administration supports, as its letters plainly say, only the striking of recommendations which relate to substantive waivers of law by the Energy Mobilization Board.

With all due respect for my good friend, and a great deal of affection besides, I observe this is simply not the amendment requested by the administration. If my colleagues favor the Udall proposal I would say to the Chair that the best thing they could do would be to vote against the Eckhardt amendment to the Interstate and Foreign Commerce Committee bill because it leaves the Board with less authority than that which the Board would have had under the Udall proposal.

If the gentleman desires, I will be happy to yield to him again.

Mr. ECKHARDT. Well, I would merely state that the gentleman misstates if he says that the President does not approve the amendment, because he has seen all three, and I have the letter here.

Mr. DINGELL. I believe I have spoken to the substance of the matter and I think it is very clear. I urge rejection of the amendment.

Mr. LUJAN. Mr. Chairman, I move to strike the last word.

I will not attempt to discuss if there is any question whether procedural law is waived or not. I shall address myself strictly to the waiver of substantive law.

We have been very careful in making as a part of this legislation the ability to waive certain parts of substantive law for very, very good reason.

First of all, the argument has been made that we can bring up an amendment to a particular law and pass it through the House and the other body and then move it on to be signed by the President, and that that is the way to do it. First of all, Mr. Chairman, we may not want to change the entire law, we may just want to grant a small exception in the case of one project, but have that law apply to other projects or, in fact, to the rest of the country.

The second reason why it is necessary to bring this before the full House and the other body, upon recommendation of the President, is that there is a provision that if the House does not take it up that it becomes a privilege, that it must come up before either body, and that is because of the power of the chairmen of the committees in many instances. Many of my colleagues on the Interior and Insular Affairs Committee will know there is general agreement that there must be some amendments to the Surface Mining and Reclamation Act. As a matter of fact, the other body has passed some amendments to that particular act because, in many cases, it has been an impediment to the mining of coal.

But the chairman of the committee, because the other body added what is known as the Rockefeller amendment, and he objects to that particular type of wording in the bill, even though he has said that we need some amendments to that law, but because it has that particular Rockefeller amendment in the bill of the other body, he will not bring it up and has told us so. So a chairman has tremendous power in holding up a bill, and there must be a mechanism by which we can bring up these subjects to the attention of the full House and the other body. I urge the defeat of the Eckhardt amendment.

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I will be glad to yield.

Mr. SANTINI. Mr. Chairman, although we find ourselves in somewhat the posture of defending the wisdom of our own amendment efforts, many Members of this House share the conviction that what we were attempting to do represented a wise course of action. I would urge those same Members to continue to endorse that course of action.

What we are proposing is that where a Federal, substantive law represents an impediment to a national interest energy program that it seems reasonable, under the mechanical formula that we have constructed in our bill, to bring it through the Board, to the President, to this House and to the other body. That is exactly why the gentleman from New Mexico and myself thought that this amendment was so eminently reasonable, because that is what is happening in this House today, except we are dealing with it on an ad hoc, spontaneous, eruptive basis.

If we need some piece of legislation to move Alaskan natural gas, then we come charging from the Interior and Insular Affairs Committee, or charging from the Committee on Interstate and Foreign Commerce, running onto the House floor saying, my goodness, we need some emergency legislative response for Alaskan natural gas. When we look to the problem of Sohio, my good friend and the chairman of the Interior and Insular Affairs Committee says my goodness, we must respond to this, we need legislative change, and we come charging to the House floor. Then our Committee on Interstate and Foreign Commerce charges to the House floor to make a change in the substantive law because that substantive law is recognized by almost all interests concerned as standing in the way of meaningful energy development on a major national scale.

The snail darter is a matter that we have treated in an ad hoc, spontaneous way seven or eight times on this House floor.

☐ 1440

What it seems to me is reasonable is that under the formula that we have constructed, since we are doing exactly the same thing now in terms of change in substantive law, that we should do it in the context of a calendar, we should do it in the context of orderly procedure, we should do it in such a fashion so that, as my good friend from New Mexico pointed out, one subcommittee chairman or one full committee chairman could not stifle consideration on this House floor of a change in the law that a majority of this body deems is an imperative in terms of national energy needs. I believe that this is an eminently reasonable way to try and construct a procedural response to deal with substantive law changes, and I believe it is much better than the existing chaos in which we find ourselves today.

The CHAIRMAN. The time of the gentleman from New Mexico has expired.

(At the request of Mr. Ottinger and by unanimous consent, Mr. Lujan was allowed to proceed for 1 additional minute.)

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I will be happy to yield.

Mr. OTTINGER. Mr. Chairman, I thank the gentleman for yielding. I think it is important not to mislead the body. This law as it is presently constructed, with this amendment, would have had no effect on Sohio at all, would it, since the delays there were entirely a question of granting State permits?

Mr. SANTINI. No, that is not exactly right. In either the Interior Committee or the Commerce Committee there were Federal procedures and laws involved in that delay. That is first.

Second there was thought to be a matter of sufficient national imperative and importance that we had to put the stamp of this House on it in order to get it enacted into law. That did involve modification of existing Federal substantive statutes. Now, I think this is the proper course of action. The gentleman agreed with that point of view; I believe Mr. Eckhardt supported it; I believe Mr. Udall supported it.

What I am attempting to do here in crafting this amendment is to create an orderly, systematic way in which we can address these issues of national importance instead of doing it from the top of our heads, the seat of our pants, or the bottom of the committee.

Mr. WIRTH. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I am delighted at this point to be in agreement with the White House on the Eckhardt amendment. President Carter has written to Congressman Eckhardt, and he said, "I strongly support your amendment."

I have just now talked to Mr. Bert Carp of the Domestic Council, who confirms that the Eckhardt amendment offered on the floor, that this amendment is the amendment which the White House supports. Further, I think it should be pointed out for the record that this amendment offered by Mr. Eckhardt does not in any way interfere with the procedures set up in the Santini amendment. It does not address the bump-up procedures, which is the enforcement mechanism in the Santini amendment. It does not affect that at all.

What the Eckhardt amendment does is three simple things. It deletes the waiver of existing Federal law. It deletes their potential of a waiver of new Federal, State, or local laws. It provides that any postponements of new requirements are subject to judicial review.

Let us now review the pattern, if we might, on both pieces of legislation in the debate and how we got to where we are in the drafting of the bill.

In the Commerce Committee there was a minority of members of that Commerce Committee which strongly disagreed with the proposition of the waiver of Federal, State, county, or local law. We attempted to fashion a bill which was just defeated, the Udall-Clausen-Wirth substitute, which did not address the waiver issue. That said that we cannot waive laws, but was a procedural fast track.

The fact of that defeat has now gotten us back into this fundamental issue again of whether or not we are going to waive existing laws. The question before us is, who writes law in this land? The distinguished majority leader has just talked to us about the bureaucrats who wish to write law without the inconvenience of running for Congress. I think it is very important that we ask the other side of that question. We want to ask about those who want to repeal laws in this land without the inconvenience of running for the Congress.

People in the United States who are being protected by clean air laws in California or Colorado; by toxic substances laws in the Hudson River or in Lake Michigan or the James River, there is a procedure set out in the Constitution by which we pass those laws in this land, and that is here in this Congress. If we have a problem with that law, let us come back here and change the law and not allow a handful of appointed people, with reference to the President or a one-House veto or a two-House concurrence, go about changing it. If there is a problem, when we have a problem in amending those laws, it is up to us in the committee system.

If we do not like the way the law is, let us go after the regulatory body and exercise the oversight we have responsibility for. Let us not approve a cockamamie proposition by which we circumvent the constitutional issue.

Mr. Chairman, I wish my colleagues would support the Eckhardt amendment.

Mr. BROWN of Ohio. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have to rise to criticize the remarks made by the gentleman from Colorado. He talked about some bureaucrat waiving the law. That is nonsense. Under the Commerce-Santini-Lujan proposal, the waiver procedure is the same procedure used by the Congress to repeal laws. I tried to make that point before, and I am sure the gentleman from Colorado understands it because he is a very bright Member of Congress.

The way it is done is that the Energy Mobilization Board identifies that part of the law or regulation that is inhibiting with reference to one of these priority energy projects. It recommends to the President that the law in that respect—that limited respect—be waived. There is an opportunity during that period of time, while the President has it under consideration, for people to make their representations to the President and say, "Oh, no, don't waive it," or "Don't recommend it be waived."

Then, the President makes up his mind and recommends to the Congress—not just one House, but under Santini-Lujan it is both Houses—and both Houses speak to that waiver proposal.

Now, what is the process by which a law would be amended or repealed otherwise? It would be both Houses voting to amend or repeal by a majority vote, and then the President signs it. What is the distinction between this procedure and the one provided in the Commerce bill, as amended by Santini-Lujan? The distinction is that normally in the Congress, a bill to amend existing laws, has to go through the subcommittee and the full committee procedure, and at any stage of the game a subcommittee chairman or a full committee chairman, or perhaps the Rules Committee, or perhaps the Speaker by not scheduling it, can say, "We are not going to take that up. We do not want to repeal that law. We do not want to amend that law."

Mr. Udall could do that in the Interior Committee; Mr. Dingell could do that in the Subcommittee on Energy and Power of the Commerce Committee; Mr. Staggers could do it in the Commerce Committee if he did not want to address change.

No, we have an expedited procedure in the Commerce bill, as amended, where, under the Santini-Lujan amendment, any Member of Congress can bring up the issue and we promptly vote on a bill to make a specific waiver of that limited provision of law or regulation for this one energy project. Under the Commerce bill, as amended, the waiver of laws is not done, as was suggested by the gentleman from Colorado, by some bureaucrat. It is done by both Houses of the Congress standing up and voting on the issue.

Now, what could be closer to the normal process of repealing or amending the law? I think the two House approval provision in the Santini-Lujan amendment eliminates the constitutional question, and I think it gives us an opportunity, because it works through an expedited procedure, for us to get the amendatory legislation loose from those committees which currently inhibit change of some of these laws.

□ 1450

If we do not want those laws, if we want to waive the application of those laws to a particular project, then we vote one way. If we do want that law, if we do not want to modify that law with respect to a particular project, we vote another way. If we want that snail darter and do not want the Tellico Dam, we vote for the snail darter. If we want the Tellico Dam, we vote for the Tellico Dam. It is as simple as that, and I do not see what is so complicated about it or what is so dreadful about it that the gentleman from Texas (Mr. ECKHARDT) says we ought to take this waiver provision out of the bill.

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Nevada.

Mr. SANTINI. I thank the gentleman for yielding. He very well enunciated and summarized a response. I was attempting to get the attention of the gentleman from Colorado (Mr. WIRTH) at the time he yielded back his time to pose a question to him that I think is most fundamental, and I would hope each Member would ask the question in discussing the merits of the Eckhardt amendment. Assume, as he contends, that it does permit procedural waiver, then we get ourselves in the curious definitional box of trying then to sort out what is procedural on the one hand and what is substantive on the other. There is no delineation or definition of the distinctions between procedural and substantive anywhere in that amendment. That situation invites an extraordinary potential for legal challenge ad infinitum, because one person's procedure is very much another person's substance. There will be a multitude of serious differences of opinion on what constitutes procedure on the one hand and what represents substance on the other.

Mr. BROWN of Ohio. Let me say to the gentleman that I think the thing that afflicts us in this body is our unwillingness sometimes to make these hard decisions, and I do not fault my colleagues for that; I have been guilty of that myself from time to time. When we get into an environmental versus an energy issue, it is tough to make that decision. We all want to be environmentalists. I would not want to waive environmental law. I would not repeal most of the environmental laws we have passed. While I might vote against repealing of a law, I might very well vote for a temporary suspension or waiver of a part of that law to get an energy project going if I thought that energy project was sufficiently in the national interest.

Mr. STAGGERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we are talking about environmental law and other things here when I think we ought to be talking about national survival. When you consider the situation in this world today, and the threats that we face, we could be in a war within 1 or 2 years. If that happened and we had failed to provide energy resources to replace foreign oil we would be unprepared, and the finger of history would point at this Congress and say, "You failed to make preparation for our security." We can and we must start making that preparation now, not next year or the year after.

Every hour that we wait and waste is an hour that we should be working toward our own security. That is why this legislation is so important. We debate the fine points of law, and this and that, but what we are really talking about is our future. There are times in our history when we must act. I think every safeguard must be put in the law we pass here. The Commerce Committee bill has done that. Any proposed waiver would have to be recommended by the Board to the President, recommended by the President to Congress, and approved by both Houses. That is more than adequate protection. I think all the rest of this talk is nothing more than a discussion of semantics and the philosophy of each of us as individuals, and maybe we each just want to have our way over some fine and unimportant point. This must stop. The time has come now to act and not put it off any more. I do hope the Eckhardt amendment is defeated. I think the gentleman from Texas is one of the most effective and learned men on our committee, but I think he is wrong in this. He probably thinks he is right, but he is not thinking right for the interests of America. Our national security is at stake, and I think we ought to vote the amendment down and vote the Commerce Committee bill up immediately.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding. I tend to sympathize with the gentleman's position, but some of us feel that if we destroy the Constitution, we have lost the greatest assurance of our security.

Mr. STAGGERS. The gentleman would know if he has been listening to the debate that this has nothing to do with the Constitution. We have taken every precaution so that the gentleman, if he is a Member of Congress at that time, will have a chance to vote on any recommended waiver for any proposed project, and so will the Members of the Senate. The gentleman should remember that safeguarding the Constitution of the United States also requires providing for the security of the Nation. The Constitution, which Commerce Committee bill respects and conforms to in every respect, will do the gentleman precious little good if we fail to provide for the Nation's security and our Government falls into enemy hands.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT) to the amendment in the nature of a substitute.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ECKHARDT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes, 153, noes 250, not voting 30, as follows:

[Roll No. 623]

AYES—153

Akaka
Ambro
Anderson, Calif.
Ashley
Aspin
AuCoin
Baldus
Barnes
Bedell
Beilenson
Bereuter
Biaggi
Bingham
Blanchard
Boland
Bolling
Bonior
Brademas
Brodhead
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Cheney
Chisholm
Clausen
Clay
Coelho
Conable
Conyers
Corman
Coughlin
D'Amours
Danielson
Daschle
Deckard
Dellums
Derwinski
Dixon
Dodd
Donnelly
Dornan
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Calif.
Erdahl
Evans, Del.
Fascell
Fazio
Fenwick
Fish
Fisher
Florio
Ford, Tenn.
Fuqua
Garcia
Gephardt
Gilman
Glickman
Gonzalez
Goodling
Gore
Gradison
Gray
Green
Guarini
Hall, Ohio
Harkin
Harris
Hawkins
Hollenbeck
Holtzman
Howard
Hughes
Hutto
Ireland
Jeffords
Johnson, Colo.
Kastenmeier
Kildee
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Leach, Iowa
Leland
Lowry
McCloskey
McHugh
McKinney
Maguire
Markey
Matsui
Mattox
Mavroules
Mica
Mikulski
Miller, Calif.
Mineta
Mitchell, Md.
Moakley
Moffett
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patterson
Paul
Pease
Peyser
Pursell
Rangel
Reuss
Richmond
Rinaldo
Roybal
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Simon
Smith, Nebr.
Solarz
St Germain
Stark
Stokes
Studds
Swift
Synar
Thompson
Udall
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
Williams, Mont.
Wirth
Wolpe
Yates
Young, Mo.

NOES—250

Abdnor
Addabbo
Albosta
Alexander
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Archer
Ashbrook
Atkinson
Badham
Bafalis
Bailey
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bethune
Bevill
Boggs
Boner
Bonker
Bouquard
Breaux
Brinkley
Brooks
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Carter
Chappell
Cleveland
Clinger
Coleman
Collins, Tex.
Conte
Corcoran
Cotter
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Davis, S.C.
de la Garza
Derrick
Devine
Dickinson
Dicks
Dingell
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Emery
English
Erlenborn
Ertel
Evans, Ga.
Evans, Ind.
Fary
Findley
Fithian
Flippo
Foley
Ford, Mich.
Forsythe
Fountain
Frenzel
Frost
Gaydos
Giaimo
Gibbons
Gingrich

Ginn
Goldwater
Gramm
Grassley
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Holt
Hopkins
Horton
Hubbard
Huckaby
Hyde
Ichord
Jacobs
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kramer
Latta
Leath, Tex.
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McDonald
McEwen
McKay
Madigan
Marks
Marlenee
Martin
Mazzoli
Michel
Miller, Ohio
Minish
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
O'Brien
Pashayan
Patten
Pepper
Perkins
Petri
Pickle
Preyer
Price
Quayle
Quillen
Rahall
Railsback
Ratchford
Regula
Ritter
Roberts
Robinson
Roe
Rose
Rostenkowski
Roth
Rousselot
Royer
Rudd
Russo
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shuster
Skelton
Slack
Smith, Iowa
Snowe
Snyder
Solomon
Spence
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stratton
Stump
Symms
Tauke
Taylor
Thomas
Traxler
Trible
Ullman
Vander Jagt
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wright
Wyatt
Wydler
Wylie
Yatron
Young, Fla.
Zeferetti

NOT VOTING—30

Anderson, Ill.
Applegate
Bowen
Broomfield
Collins, Ill.
Crane, Philip
Diggs
Edwards, Okla.
Ferraro
Flood
Fowler
Jones, N.C.
Leach, La.
Lederer
Marriott
Mathis
Pritchard
Rhodes
Rodino
Rosenthal
Runnels
Shumway
Spellman
Stack
Treen
Wilson, C. H.
Winn
Wolff
Young, Alaska
Zablocki

□ 1610

The Clerk announced the following pairs:

On this vote:

Mr. Anderson of Illinois for, with Mr. Broomfield against.

Mr. Rodino for, with Mr. Lederer against.

Messrs. KOSTMAYER, MINISH, and LOWRY changed their votes from "no" to "aye."

Messrs. HALL of Texas, EVANS of Georgia, SKELTON, and MINISH changed their votes from "aye" to "no."

So the amendment to the amendment in the nature of a substitute was rejected.

The CHAIRMAN. Are there additional amendments to the amendment in the nature of a substitute?

Mr. OTTINGER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, many of us who supported the gentleman from Arizona and the gentleman from Texas (Mr. Eckhardt) may feel badly bruised by the results of the last couple votes; but I would earnestly urge that we vote for final passage as being in the best interests of the environment and the country.

I will tell you that while I do not like the waivers of substantive law and I think I made that clear, under the Dingell bill they are circumscribed to the maximum extent possible, with the greatest possible protections, pursuant to the very able work of the gentleman from Michigan (Mr. Dingell). A recommendation of the Board and the President are required and affirmative action by both Houses of Congress.

I know many of my environmental friends are going to disagree with me, but I will tell you that if we do not have this safety valve, if we do not have a means to expedite energy projects that are considered to be urgent for the country, then what we are going to see is a wholesale decimation of the environmental laws, because the pressures are going to be too great against us; that is regardless of the lack of merits of the need for fast track legislation to speed energy projects.

I honestly believe that we do not need this kind of fast track in order to expedite energy projects, but the antiregulatory sentiments are such in the land and the urgency is such with respect to energy issues that there is a willingness to sweep almost any law aside that might impede energy production. If we fail to pass this bill, I predict that every energy bill in the future and every environmentally related bill will contain exemptions of laws that are far more sweeping than those in this bill, and without the protections here afforded.

I urge my friends and colleagues to vote for passage of this legislation as being in the best interests of the country, in the best interests of the environment, and in the best interests of the protection of the health, safety, and welfare of our citizens.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I will be glad to yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, it may be a rare occasion, but I respectfully disagree with the gentleman's conclusion rather emphatically.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I would be glad to yield first to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I think we can get a vote on this thing shortly. We are all through with the amendments that I am aware of. I respect my friend, the gentleman from New York, but I have come to exactly the opposite conclusion.

This bill as it is now constituted is a formula for dismantling laws that were put together in this Congress through the appropriate committees in full debate over the last 20 years. It is a formula to suspend and avoid and run roughshod over a whole lot of State and local laws.

I think we can do better than this, even though the Senate bill has no waivers or overrides in it; I think we would be better off to vote this bill down and try to write a better one sometime.

Mr. OTTINGER. Well, of course, I have the greatest respect for my friend, the gentleman from Arizona, and I decided to support the gentleman's version of this legislation; but this bill does not run roughshod over our laws and procedures. It does require congressional action in order to waive any of these laws; to be sure, under an expedited procedure and at a time when there is great pressure. That is why I supported the substitute of the gentleman from Arizona. But the Dingell bill does preserve our basic constitutional framework. It does require Congress to act and that is after the Emergency Board acts and the President acts, so I do think that there are very real safeguards.

The choice now is not between what I would have liked, the amendment of the gentleman from Arizona or the amendment of the gentleman from Texas (Mr. Eckhardt) and that of the gentleman from Michigan (Mr. Dingell). The choice now is whether we are going to have the Dingell bill or nothing.

I think it is in the interest of environmental protection that we adopt the Dingell bill.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I would be happy to yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I compliment the gentleman on his remarks and I would like to give one more reason to vote on this bill. Nobody has mentioned the word nuclear in this entire debate. This is a method to fast track nonnuclear projects.

I submit that if we do not have that method, that we are going to see those projects bottled up, that the only alternative left will be toward an active development, a faster than active development toward nuclear power. I think this bill provides a good balance in that regard.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I want to compliment the gentleman because the gentleman as the former chairman of the Environmental Study Conference in the House, I think, speaks with some authority on this issue. I think the gentleman is absoluteley right.

The best way for us to protect our environmental laws is to waive them in all degree when it is absolutely necessary and by an act of this Congress and not to have them stand in the way of the development of energy in this country.

Mr. OTTINGER. Mr. Chairman, I thank the gentleman for his kind and wise remarks. He is absolutely right. I know there was great doubt on behalf of many of our colleagues who really think that the environmental and safety laws are overregulatory and ought to be weakened or eliminated, as to whether or not they should support the Dingell bill for this very reason—that it would be harder to impair environmental regulations with passage of the Dingell version as a safety valve; so I very earnestly believe that it is in our best interest and in the interest of the House and safety of Americans to now support this legislation.

Mr. DANNEMEYER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the Commerce Committee language as amended by the Santini-Lujan proposal but, in so doing, I think it only appropriate to make a few observations. All of us, regardless of whether we favor Santini-Lujan or the Udall-Clausen-Wirth substitute, are acutely aware of the importance of energy to every American, but I wonder if we have given sufficient consideration to two other things—the tremendous complexity of the proposals before us and, even more basic, why such proposals become necessary in the first place.

Taking those points in order, I do not know about other Members but, I do know that in assessing these proposals myself, I was amazed at the labyrinth we will be creating no matter what the outcome of the vote on the options before us. Not only is there a maze of existing Federal law, but we have State law, local zoning regulation, environmental impact statements, court decisions, and now we are going to add waivers, bumpup and project decision schedules. It is enough to make one's head spin and if anyone can say for sure just what will come of all this, that person is more of a prophet than heretofore has been acknowledged. If anything, this bill is living testimony to the all-too-prevalent assumption that Government is the answer for everything whereas our experience with the Department of Energy, if anything else, should suggest the contrary.

Such being the case, one wonders why another layer of bureaucracy; why not just amend the laws that are causing the energy bottlenecks in the first place? Indeed, that is a very good question—and I hope this House and the other body will begin addressing it head on in the near future. Oblique approaches, such as we are considering today, may have a certain degree of merit, but they also run the risk of missing the mark or causing more problems than they resolve.

Which brings me to the second point—why are we in the position of having to consider complicated, oblique approaches in the first place? Where have things gone astray? There are a lot of valid answers to those questions but let me suggest one that may not have been suggested often enough—that, in some cases, we are being led astray.

Not too long ago, last year in fact, Dr. H. Peter Metzger who received his Ph. D. at Columbia University and who is now manager of public affairs for the Public Service Co. of Colorado, made a speech to the national meeting of the American College of Nuclear Medicine. His speech was entitled, "The Coercive Utopians: Their Hidden Agenda," and in it he pointed out that no longer is the relationship between the Government agencies responsible for environmental and energy matters and the so-called public interest advocates of a "no growth, less energy" policy strictly an adversary one. Contrariwise, Dr. Metzger states that 14 people in the latter category received appointments to key positions in the Federal Government in 1977 and early 1978 and, in several instances, it would appear these folks wound up defending Federal law against no-growth legal challenges that they themselves had helped develop. If such be the case, is it any wonder we are considering fast track legislation here today? Not only does existing law throw up impediments to energy development the "no-growth" philosophy seems to have ardent and effective advocates inside as well as outside of Government. To the extent that is true, the effectiveness of fast track as an expediting tool may be further impaired.

That is not to say we should reject fast track altogether. Far from it. Fast track can provide a focus, an impetus if you will, for getting things moving. The Santini-Lujan language will sharpen that focus far more clearly than the Udall-Clausen-Wirth substitute, which is why I support it. But, however effective Santini-Lujan may be, it is still no substitute for two other steps that need to be taken. One Congress can take—to change the laws so as to remove, not just waive, the impediments to responsible energy development. The other is up to the American voter—to change the people who have the responsibility for properly administering these laws. And the only way to do that is to change the administration that appoints the people.

● Mr. GOLDWATER. Mr. Chairman, this legislation meets with my disapproval for one basic reason: It is an admission to ourselves and to our constituents that we have done nothing to this point except enact shabby, ineffective laws in the area of energy policy. The President, fearful that he will be accused of not taking action on the energy problem, has sent this proposal to the Hill, and I do not think it is worth our approval.

Why not just admit that changes have to be made in the existing apparatus? Would it not be better to go back over the maze of regulatory procedures we have already enacted, and make the necessary changes there, rather than create a new layer of bureaucracy, with new rules, a new, but certainly no better approach, and all the vague and ambiguous powers that this Board would have.

As one who has strongly advocated innovative energy technologies and a greater commitment to energy development, it is not easy for me to vote "no" on a bill which is designed to expedite our forging ahead with energy production. In monitoring this debate I am more convinced than ever that an Energy Mobilization Board will plunge us only deeper in the bureaucratic quicksand we presently find ourselves in. Let us go back to the drawing board, rewrite the laws as they exist now, and scrap any plans for a Government body which only exacerbates the present situation of chaos and confusion.●

● Mr. CORCORAN. Mr. Chairman, this debate is winding down to a close, and before we take final action on the proposed Energy Mobilization Board, I would like to make a final statement.

The Committee of the Whole House has worked its will on the amendments, and what is pending for the approval or disapproval of the House of Representatives is the product of a long, deliberative legislative process to create an independent EMB putting key energy projects on a so-called fast track through the governmental decision-making process.

There are two basic reasons why I do not think the House should support this measure even in its final form. First, it is wrong in principle; and second, it will not work.

It is wrong in principle because we simply cannot correct excessive Government with more excessive Government. Too much Government in energy is not corrected by more Government in energy.

As I have said so many times in the consideration of this bill in our Commerce Committee and here in the full House, the extremes, the loopholes, the technicalities, the contradictions, the duplications in the regulatory explosion emanating from Washington during the last decade must be faced directly, as we have done with the Endangered Species Act, in order to balance Government protection for both special, narrow interests and the public interest. This is the only way we can remove the energy roadblocks and get moving on domestic energy to get ourselves out from under the increasing domination of the OPEC oil cartel.

And that leads me to my second argument against this pending EMB—it would not work. Unless we deal directly with the intractible Federal statutes themselves, as is the sole responsibility of Congress, they will not bend nor breakdown even in the face of the unprecedented powers granted to this EMB proposal. I do not care how long we debate this flawed concept, or how many new waiver powers we give it; just as Congress—thank God—cannot repeal the laws of nature, nor the laws of physics and chemistry, we cannot repeal the U.S. Constitution.

Furthermore, I think we have to get away from the notion that we can solve the energy problem by helping a few major projects, such as might have happened with the notorious Sohio project that has been a stimulant for this EMB idea or the well known shale oil project in Colorado. Both from a conventional and an unconventional energy standpoint, I believe more energy for the United States will come from hundreds of thousands of energy activities by the actions of the people of this country in a more free market, not from a handful of projects privileged for one political reason or another to get a fast-track ticket from this proposed EMB.

Finally, Mr. Chairman, let me say that as a businessman and a public servant before coming to Congress, I was very interested in two recent articles in Fortune magazine giving personal accounts of their experience in this regard by Michael Blumenthal and Donald Rumsfeld. Both of these outstanding Americans have had experience in the public and private sectors, and I commend to my colleagues these illuminating articles for their general reading enjoyment. However, I mention them today because of a theme common in the articles by both Blumenthal and Rumsfeld. They say the key difference between Government and business is that in the latter, performance is everything, whereas in Government, appearance is everything.

I can think of no better case in point for this argument than this EMB. It gives the appearance of "doing something about energy" and this may get President Carter and Members of Congress through the next election, but the results, if any, will not be in for a long time to come, so none of us will really be held accountable for our actions until then. However, if nothing more is done by Congress to solve our energy problems than this continuation of what we have been doing since the Arab oil embargo of 1973, which has increased our dependence on OPEC oil from about 30 percent to more than 50 percent, then that day of accountability may find the United States itself in a very desperate position along with those who failed this test of leadership.●

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the Committee on Interstate and Foreign Commerce, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

☐ 1520

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Murtha) having assumed the chair, Mr. Foley, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4985) to establish a coordinated, prompt, and simplified process for decisionmaking in regard to significant nonnuclear energy facilities, and for other purposes, pursuant to House Resolution 467, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CORCORAN

Mr. CORCORAN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. CORCORAN. Absolutely, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Corcoran moves to recommit the bill, H.R. 4985, to the Committee on Interior and Insular Affairs and to the Committee on Interstate and Foreign Commerce.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. UDALL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 299, noes 107, not voting 27, as follows:

[Roll No. 624]

AYES—299

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashley
Aspin
Atkinson
Bafalis
Bailey
Baldus
Barnard
Beard, R.I.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Boggs
Boland
Boner
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brooks
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
Davis, S.C.
de la Garza
Derrick
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Dornan
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Erlenborn
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Findley
Fisher
Fithian
Flippo
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Frenzel
Frost
Fuqua
Garcia
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goodling
Gore
Gradison
Gramm
Grassley
Green
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jenkins
Jenrette
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Lagomarsino
Latta
Leath, Tex.
Lee
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Marks
Marlenee
Martin
Mathis
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Ottinger
Pashayan
Patten
Patterson
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rostenkowski
Royer
Rudd
Russo
Santini
Satterfield
Scheuer
Schulze
Sebelius
Sharp
Shelby
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stratton
Stump
Tauke
Taylor
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wright
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zeferetti

NOES—107

Anderson, Calif.
Ashbrook
AuCoin
Badham
Barnes
Bauman
Beard, Tenn.
Beilenson
Bingham
Bolling
Bonior
Brodhead
Brown, Calif.
Burton, John
Burton, Phillip
Carr
Chisholm
Clay
Conable
Conte
Conyers
Corcoran
Crane, Daniel
Daschle
Deckard
Dellums
Derwinski
Dixon
Donnelly
Drinan
Eckhardt
Edgar
Edwards, Calif.
Emery
Erdahl
Evans, Del.
Fenwick
Fish
Forsythe
Goldwater
Gonzalez
Gray
Grisham
Hansen
Hawkins
Holt
Holtzman
Howard
Jacobs
Jeffords
Jeffries
Johnson, Calif.
Kastenmeier
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Leach, Iowa
Livingston
McCloskey
McDonald
Maguire
Markey
Matsui
Miller, Calif.
Moore
Myers, Ind.
Nolan
Oberstar
Obey
Panetta
Paul
Pease
Petri
Pursell
Quayle
Railsback
Richmond
Roth
Rousselot
Roybal
Sabo
Sawyer
Schroeder
Seiberling
Sensenbrenner
Shannon
Simon
St Germain
Stark
Stokes
Studds
Swift
Symms
Synar
Thomas
Udall
Vander Jagt
Walker
Weaver
Weiss
Wirth
Wolpe
Yates

NOT VOTING—27

Anderson, Ill.
Bowen
Broomfield
Collins, Ill.
Crane, Philip
English
Ferraro
Flood
Florio
Fowler
Gaydos
Jones, N.C.
Leach, La.
Lederer
Marriott
Pritchard
Rhodes
Rodino
Rosenthal
Runnels
Shumway
Stack
Treen
Wilson, C. H.
Winn
Wolff
Zablocki

☐ 1530

The Clerk announced the following pairs:

On this vote:

Mr. Lederer for, with Mr. Florio against.

Until further notice:

Mr. Rodino with Mr. Anderson of Illinois.

Ms. Ferraro with Mr. Flood.

Mr. Gaydos with Mr. Shumway.

Mr. Rosenthal with Mr. Winn.

Mrs. Collins of Illinois with Mr. Marriott.

Mr. Jones of North Carolina with Mr. Pritchard.

Mr. Fowler with Mr. Philip M. Crane.

Mr. Charles H. Wilson of California with Mr. Broomfield.

Mr. Zablocki with Mr. Bowen.

Mr. Wolff with Mr. Stark.

Mr. English with Mr. Runnels.

Mr. BURGENER and Mr. MOFFETT changed their votes from "no" to "aye."

Mr. McCLOSKEY changed his vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. DINGELL. Mr. Speaker, pursuant to the provisions of House Resolution 467, I call up from the Speaker's table the Senate bill (S. 1308) to provide for an expedited and coordinated process for decisions on proposed nonnuclear energy facilities, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DINGELL moves to strike out all after the enacting clause of the Senate bill, S. 1308, and to insert in lieu thereof the provisions of the bill, H.R. 4985, as passed, as follows:

That (a) title I of the Energy Policy and Conservation Act (42 U.S.C. 6201 and following) is amended by adding the following new part at the end thereof:

"PART C—PRIORITY ENERGY PROJECTS

"SHORT TITLE

"SEC. 171. This part may be cited as the "Priority Energy Project Act of 1979".

"PURPOSES

"SEC. 172. The purposes of this part are to exercise the congressional authority under the Constitution to regulate interstate commerce by—

"(1) providing a means to designate certain nonnuclear energy conservation and production projects, including energy research and development projects, the prompt implementation of which is in the national interest; and

"(2) establishing coordinated schedules for the expeditious making of Federal, State, local, and other governmental decisions, including judicial review thereof, respecting such designated projects, consistent with other applicable provisions of law, and establishing certain other procedures regarding such designated projects.

"DEFINITIONS

"SEC. 173. As used in this part, the term—

"(1) 'Agency' means a Federal agency or an agency or instrumentality of a State or local government or of a special governmental authority.

"(2) 'Agency decision' means any decision required to be made, or any other action required to be taken, by any agency with respect to any Priority Energy Project.

(3) 'Board' means the Energy Mobilization Board established pursuant to section 174.

"(4) 'Energy project' means any project or device to be used, or activity to be carried out, by any person in connection with the exploration for, the development, transportation, production, commercialization of, or the conservation or efficiency in the use of, any form of energy. Such term includes any equipment, building, mine, well, rig, pipeline, transmission line, processing project, transportation-related device, manufacturing project, or installation or any combination thereof to be used for such purposes.

"(5) 'Federal agency' means an executive agency as defined in section 105 of title 5 of the United States Code, the departments described in section 102 of such title 5, and the Executive Office of the President.

"(6) 'Person' means any individual, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust, estate, or any entity organized for a common business purpose, any Federal agency, any agency or instrumentality of a State or local government, or a special governmental authority.

"(7) 'Priority Energy Project' means a proposed energy project which is designated pursuant to section 177 of this part.

"(8) 'Special governmental authority' means an interstate or regional authority or an Indian tribe.

"(9) 'State' means any of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"ENERGY MOBILIZATION BOARD; ESTABLISHMENT AND AUTHORITY

"SEC. 174. (a) The President is authorized to establish for purposes of this part an Energy Mobilization Board to consist of five members appointed by the President, by and with the advice and consent of the Senate, from among persons who are specially qualified by reason of their education, training, or experience to carry out the functions of the Board. Such members shall serve at the pleasure of the President. One member of the Board shall be designated Chairman by the President.

"(b) Members of the Board, other than the Chairman, shall be entitled to receive compensation at the rate prescribed for level IV of the Executive Schedule. The Chairman shall be entitled to receive compensation at the rate prescribed for level III of the Executive Schedule. While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code. The Board shall have a General Counsel appointed by the President, by and with the advice and consent of the Senate, who shall be entitled to receive compensation at the rate prescribed for level V of the Executive Schedule.

"(c)(1) The Chairman shall have the power to appoint and fix the compensation of an Executive Director and such additional personnel as he deems necessary to carry out the functions of the Board.

"(2) Upon request of the Chairman, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Board to assist the Board in carrying out its functions.

"(3) The Chairman may procure temporary and intermittent services for the Board under section 3109(b) of title 5 of the United States Code.

"(4) Consistent with applicable provisions of law, the Administrator of General Services shall provide to the Board on a reimbursable basis such facilities and administrative support services as the Chairman may request.

"(d)(1) The Board may hold such hearings, sit and act at such times and places, take such testimony and receive such evidence, promulgate such regulations and issue such orders, as may be necessary to carry out its functions under this part. The Board may institute, or participate in, such court or agency proceedings as may be necessary to carry out its functions under this part. For purposes of such regulations, the provisions of section 501 of the Department of Energy Organization Act shall apply to the Board in the same manner as such provisions apply to the Secretary of Energy, and the provisions of section 552b of title 5 of the United States Code shall apply to the Board notwithstanding any other provision of law.

"(2)(A) The Board may issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under the authority of the Board. Such attendance of witnesses and the production of such evidence may be required from any place within any State at any designated place of hearing within any State.

"(B) If a person issued a subpena under this paragraph refuses to obey such subpena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may (upon application by the Board) order such person to appear before the Board to produce evidence or to give testimony relating to the matter concerned. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process of any court to which application may be made under this paragraph may be served in the judicial district in which the person required to be served resides or may be found.

"(C) The subpoenas of the Board shall be served in the manner provided for subpenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

"(e) Whenever the Board submits to the President or the Office of Management and Budget, any legislative recommendation or testimony, or comments on any legislation, prepared for submission to the Congress, the Board shall concurrently transmit a copy thereof to the Committee on Energy and Natural Resources of the United States Senate and to the Committees on Interior and Insular Affairs and on Interstate and Foreign Commerce of the United States House of Representatives.

"(f) Upon the request of the Congress or any committee or subcommittee thereof, the Board shall promptly provide to the Congress, or to such committee or subcommittee, any records, reports, documents, materials, and other information which is in the possession of the Board or any of its employees and which is requested by the Congress or by such committee or subcommittee. The Board shall keep the Committee on Energy and Natural Resources of the United States Senate and the Committees on Interior and Insular Affairs and on Interstate and Foreign Commerce and the Committee on Science and Technology of the United States House of Representatives fully and currently informed concerning its activities. The Board shall submit an annual report to such committees concerning the actions taken, or to be taken, under this Act. The report shall contain such other information relating to energy projects as the Board deems appropriate.

"CERTAIN PROJECTS NOT COVERED

"SEC. 175. Nothing in this part shall apply to any project related to the production of nuclear energy, including any facility which is required to be licensed under the Atomic Energy Act of 1954 or which is otherwise subject to the authority of the Nuclear Regulatory Commission under title II of the Energy Reorganization Act of 1974, or to any project which is, or may be, approved under the provisions of title V of the Public Utility Regulatory Policies Act of 1978; except that in the case of a proposed crude oil transportation system to transport crude oil to northern tier and inland States approved by the President under section 507 of the Public Utility Regulatory Policies Act of 1978, upon application of any person acting on behalf of such system, the President may apply one or more provisions of this Act to the system if the application of the provision or provisions would, in the opinion of the President, expedite its completion.

"THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

"SEC. 176. No provision of this Act nor any action taken pursuant to this Act shall affect or interfere in any way with the requirement established by section 9(b) of the Alaska Natural Gas Transportation Act of 1976 that actions by Federal officers or agencies affecting the transportation system selected by the President and approved by the Congress pursuant to the provisions of that Act be expedited or with the precedence granted by section 9(b) to applications to or requests of Federal officers or agencies by that system.

"AUTHORITY TO APPLY FOR PRIORITY STATUS

"SEC. 177. (a) The Board shall promulgate regulations establishing procedures and criteria for the submission to the Board, and for the consideration by the Board, of applications for an order designating an energy project as a Priority Energy Project under this part. Such procedures and criteria shall require applications to include such detailed information as the Board deems necessary to—

"(1) enable it to make such a designation under this part,

"(2) identify each agency required to make an agency decision with respect to such project,

"(3) enable such agencies to identify the agency decisions which they are required to make with respect to such project, and

"(4) enable the Board to establish a Project Decision Schedule for the applicant and for such agencies.

"(b) The Board shall require any person making an application under this section to file with the Board such additional information as it deems necessary, including—

"(1) an adequate design proposal for the project;

"(2) economic data on the costs and benefits of the project; and

"(3) an analysis of the environmental impacts of the project, including an analysis of mitigating measures which may be taken to minimize any environmental, health, or safety hazards.

"(c) An application for an order designating an energy project as a Priority Energy Project may be submitted to the Board by any person in accordance with the procedures and criteria established under subsection (a).

"(d) Promptly following receipt of an application filed under this section, the Board shall publish notice of such filing, together with a summary description of the application, in the Federal Register and shall notify the appropriate agencies and the Senate Committee on Energy and Natural Resources and the House Committees on Interstate and Foreign Commerce and on Interior and Insular Affairs, and Science and Technology. The Board shall afford forty-five days after publication of notice in the Federal Register for such agencies and other interested persons to submit written comments for the Board's consideration.

"DESIGNATION OF PRIORITY ENERGY PROJECTS

"SEC. 178. (a) Not later than forty-five days after expiration of the comment period under section 177(d) with respect to any application under section 177, the Board shall—

"(1) issue an order in accordance with this part designating the energy project with respect to which such application was submitted as a Priority Energy Project if it determines that such project is of sufficient national interest for such project to be so designated, or

"(2) refuse to issue such an order.

"(b) The Board shall publish any order making a designation under subsection (a) in the Federal Register and shall provide a copy of such order to the Senate Committee on Energy and Natural Resources and the House Committees on Interstate and Foreign Commerce and on Interior and Insular Affairs and Science and Technology.

"(c) In determining whether or not to make a designation under subsection (a), the Board shall consider—

"(1) the extent to which the energy project would reduce the Nation's dependence upon imported oil or upon other nonrenewable resources;

"(2) the magnitude of any economic, social, and environmental impacts and costs associated with the energy project in relation to the impacts and costs of alternatives to such project;

"(3) the extent to which the energy project would make use of renewable energy resources;

"(4) the extent to which the energy project would conserve energy;

"(5) the extent to which the energy project would contribute to the development of new production or conservation technologies and techniques;

"(6) the time that would normally be required to obtain all necessary agency decisions;

"(7) the adverse impacts that would result from—

"(i) the designation of the energy project as a Priority Energy Project, or

"(ii) any delay in completion of the energy project which would result from the failure to make such a designation;

"(8) the extent to which the energy project would impinge upon the quantity and quality of presently available and future water resources;

"(9) the comments received concerning the energy project;

"(10) the regions of the country that will be most heavily impacted by the energy project as well as most benefited by the project;

"(11) the availability of significant economic, environmental, or technical data; and

"(12) the anticipated effects upon competition in the energy industry, and the extent to which such designation will create competitive inequities among applicants.

In the case of any order designating a project under this section, the order shall contain a statement of the basis on which such designation was made and such other information as may be appropriate.

"(d) Upon receipt of an application pursuant to section 176 of this part for the designation of an electric powerplant, as defined in section 103(a)(7) of the Powerplant and Industrial Fuel Use Act of 1978, as a Priority Energy Project and after an opportunity for public comment on such application pursuant to such section, the Board shall designate such powerplant as a Priority Energy Project, in accordance with section 177, if such powerplant is seeking, as determined by the Secretary of Energy, to use coal or a coal derived fuel as the primary energy source either (1) through conversion to such fuel from the use of oil or natural gas as the primary energy source for such powerplant, or (2) through construction of a new powerplant to replace an existing powerplant that uses oil or natural gas as the primary energy source.

"(e) The Board shall encourage prospective applicants for Priority Energy Projects to file applications for any necessary agency decisions with the appropriate agencies as soon as possible in order that agency decisions may be expedited.

"STATE PARTICIPATION

"SEC. 179. Upon designation of any Priority Energy Project, the Board shall promptly notify the Governor of each State in which any portion of such Project is proposed to be located, and each such Governor may appoint a nonvoting Member to serve on the Board to participate only in decisions of the Board respecting such Project, including decisions relating to the Project Decision Schedule. The provisions of section 174(b) shall not apply to the Member of the Board appointed under this section.

"COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

"SEC. 180(a). Promptly following designation of an energy project as a Priority Energy Project, and before establishment of a Project Decision Schedule under section 183, the Council on Environmental Quality shall determine whether any Federal action relating to the Priority Energy Project will be a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969. If the Council determines that any such action relating to a Priority Energy Project will be a major Federal action, the Council shall designate the lead agency for purposes of complying with the National Environmental Policy Act of 1969. If the Council on Environmental Quality fails to make any determination or designation (or both) required under this section before establishment of the Project Decision Schedule, the Board may make such determination or designation (or both).

"(b) Notwithstanding any other provision of law, the Board, after consultation with the Council on Environmental Quality and appropriate Federal agencies, may require that one environmental impact statement be prepared and that such statement be used by all Federal agencies to satisfy their obligations under the National Environmental Policy Act of 1969.

"EXTENSION OF DEADLINES

"SEC. 181. The Board may extend the time for receiving comments under section 176 (d), the time for making its determination and publication under section 178 in the case of any application for designation of any energy project as a Priority Energy Project, the time for agencies to transmit information under section 182, and the time for publication by the Board under section 183(a) of a Project Decision Schedule. Any such extension shall be consistent with the purposes of this part and shall be for only such period as may be necessary, as determined by the Board.

"AGENCIES TO TRANSMIT INFORMATION

"SEC. 182. Not later than thirty days after notice appears in the Federal Register of an order designating an energy project as a Priority Energy Project, each agency having authority to make any agency decision with respect to such Project or any part thereof, shall transmit to the Board—

"(1) a compilation of all significant actions required to be taken by such agency and by the applicant before such decision can be made and a summary of the procedural requirements applicable to such actions and to the making of such decisions;

"(2) a tentative schedule for completing such actions and making such decisions;

"(3) a statement of the amount of funds and personnel available to the agency to take such actions and make such decisions and of the effect that taking such actions and making such decisions will have on other actions required to be taken by the agency, together with a finding as to whether or not such funds and personnel are adequate for such purposes; and

"(4) such other information as the Board may require.

Notwithstanding section 557(d) of title 5 of the United States Code, or any other provision of law relating to ex parte communications, any officer or employee of an agency to which this section applies may provide information to the Board and consult with the Board relating to any Priority Energy Project at any time and in any manner.

"PROJECT DECISION SCHEDULE

"SEC. 183. (a) Not later than thirty days after agencies are required to transmit information under section 181 with respect to any Priority Energy Project, the Board, in consultation with the appropriate agencies, shall publish in the Federal Register a Project Decision Schedule for all agency decisions relating to such Project. The Project Decision Schedule shall clearly identify the order in which such decisions must be made by each agency concerning the Project and shall clearly identify the deadlines applicable to such decisions. The Project Decision Schedule may also suggest concurrent review of applications and joint hearings by such agencies.

"(b)(1) The Project Decision Schedule shall be consistent with the tentative schedules transmitted to the Board under section 182 unless the Board determines that a different schedule is essential in order to expedite and coordinate agency review, and publishes, together with the Project Decision Schedule, its reasons for such determination. The objective of the Board in determining any different schedule under this paragraph shall be to provide that, to the maximum extent practicable and consistent with the provisions of this part, such different schedule shall not result in a total time for the Federal, State, or local agency action to which such schedule applies which exceeds twelve months from the date on which application is made for such Federal, State, or local agency action by a person acting on behalf of the Priority Energy Project.

"(3) In the case of agency decision or action subject to the Project Decision Schedule, the agency may modify any schedule applicable to such action or decision (including a schedule relating to actions of any applicant or other person and including any schedule established by statute) where the agency determines that such modification will facilitate compliance by the agency with the Project Decision Schedule. No such agency may modify the Project Decision Schedule pursuant to the authority contained in this paragraph.

"(4) The Project Decision Schedule, and any other schedule which is modified under paragraph (3), shall be reasonably designed to insure adequate consideration of all matters concerning such Project under applicable law and to insure adequate participation by parties in applicable proceedings.

"(5) Any agency may consolidate, to the maximum extent practicable, its proceedings respecting actions and decisions which are subject to the Project Decision Schedule with the proceedings of other agencies respecting actions and decisions which are also subject to such Schedule.

"(c) In consultation with any person responsible for—

"(1) filing on behalf of a Priority Energy Project any application or other petition for an agency decision, or

"(2) taking any other action on behalf of such project which is necessary before such agency decision may be made

and with appropriate agencies, the Board shall include in the Project Decision Schedule a schedule containing deadlines for submissions by such person for any license, permit, or other approval which must be obtained in connection with the project. The schedule shall indicate the date on which any such filing shall be made and the materials which must be submitted.

"(d) Upon the petition of any agency to which the Project Decision Schedule applies, or on its own motion, the Board may modify the Project Decision Schedule at any time. No extension of any time period applicable to any agency under such Schedule may be granted unless the Board determines that—

"(1) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule; or

"(2) it would be impracticable for the agency to reach a decision or to complete the required action within the specified time,

taking into account the personnel and funds available to the agency for complying with such Schedule.

"MONITORING OF COMPLIANCE BY BOARD

"SEC. 184. The Board shall monitor compliance with the Project Decision Schedule by the agencies and persons to whom the Schedule applies and may require such agencies and persons to submit to the Board such information regarding compliance with such Schedule as the Board deems necessary and appropriate for such purposes. If the Board determines that a Priority Energy Project is being delayed or threatened with delay, the Board shall determine the reason for such delay or threatened delay and notify the appropriate agencies and other persons of its determination. Following such notification, the Board shall publish such reasons in the Federal Register, and may take such actions as it deems appropriate to bring such agency and other persons into compliance with the Project Decision Schedule. If the Board determines that any person responsible for—

"(1) filing on behalf of a Priority Energy Project any application or other petition for an agency decision, or

"(2) taking any other action on behalf of such Project which is necessary before such agency decision may be made,

has failed or refused to promptly file such application or petition or take such other action, the Board shall either revise such Project Decision Schedule or revoke the designation of such Priority Energy Project under section 178.

"AGENCY OBLIGATIONS NOT AFFECTED

"SEC. 185. (a)(1) Except as may otherwise be provided pursuant to the establishment or modification of a deadline or time table by the Board under section 183 or 186(a)(2)(A) or pursuant to the modification of a schedule by an agency under 183(b)(3), the Project Decision Schedule and each agency decision and other action with respect to which a deadline or timetable is specified on the Project Decision Schedule shall be consistent with the statutory obligations applicable to the agencies governed by such Schedule.

"(2) Paragraph (1) shall be subject to section 186.

"(b) Except as permitted under the authorities referred to in subsection (a), nothing in this part shall—

"(1) affect the application to any energy project of any requirement established by, or pursuant to, Federal, State, or local law,

"(2) affect the basis on which any agency decision is made with respect to such a project, or

"(3) affect or influence the outcome of any such agency decision.

"(c) Nothing in this part shall be construed to affect the authority or independence of any independent Federal regulatory agency.

"ENFORCEMENT OF PROJECT DECISION SCHEDULE

"SEC. 186. (a)(1) If the Board determines, pursuant to its monitoring under section 184, that an agency has failed, or is reasonably likely to fail, to make an agency decision within the time required by the Project Decision Schedule, the Board shall provide notice of its determination to the appropriate agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, any parties to the agency proceeding concerned, and the Governor of each State affected by that project. After a period of at least 45 days after such notification, the Board shall promptly conduct on an expedited basis an informal hearing for the purpose of determining the cause of the delay and the action taken to achieve compliance. A transcript shall be kept of any such hearing.

"(2) Within 30 days after any hearing under paragraph (1), the Board may, in furtherance of the purposes of this part—

"(A) modify the Project Decision Schedule to the extent necessary to provide an extension of time for that agency to make the agency decision involved if—

"(i) such agency has exercised all due diligence in attempting to comply with the Schedule and is unable to comply with such Schedule, and it would be impracticable for the agency to reach a decision or to complete the required action within the specified time, and

"(ii) a previous extension has not been provided under this subsection for that decision;

"(B) issue an order under subsection (b) providing for a decision under that subsection in lieu of the agency decision involved; or

"(C) make a recommendation under subsection (c) for a waiver under that subsection in the case of any Federal requirement applicable to any agency.

No determination by the Board under paragraph (1) and no modification of a Project Decision Schedule by the Board under subparagraph (A) of this paragraph shall be subject to judicial review, except as may be required by the Constitution of the United States. If, following modification of the Project Decision Schedule under subparagraph (A), the agency fails to make the agency decision concerned in compliance with such modified Schedule, the Board may take action under subparagraph (B) or (C), as appropriate, without conducting a further hearing under paragraph (1).

"(b)(1) The Board may issue an order referred to in subsection (a)(2)(B) to have a decision under this subsection be made in lieu of the agency decision. Notice of any such order shall be published in the Federal Register and transmitted to the agency, the person responsible for filing on behalf of the Priority Energy Project the application or other petition for the agency decision involved, the President, the Governor of each State affected and the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Any order under this paragraph shall not be subject to judicial review, except as may be required by the Constitution of the United States.

"(2)(A) Upon receipt of notice of an order under paragraph (1), the agency involved shall transmit forthwith all records in the possession of the agency pertinent to that decision or action. The Board shall take whatever additional action authorized under this part as may be necessary to obtain an adequate record for a final decision.

"(3)(A) The Board shall promptly issue a recommended decision under this subsection after obtaining an adequate record for the decision. The recommended decision shall be published in the Federal Register, shall be submitted to the President, together with the record on which it is based, and shall be transmitted to the Governor of each State affected by the project.

"(B) Any recommended decision of the Board under this subsection shall be consistent with any requirement established by, or pursuant to, Federal, State, or local law which would be applicable in the absence of an order under this subsection.

"(4)(A) Within 45 days after any recommended decision has been submitted to the President under paragraph (3), the President shall—

"(i) make a decision to affirm the recommended decision, in which case the recommended decision shall be considered final, or

"(ii) shall remand it to the Board with instructions to modify the recommended decision to the extent the President determines to be appropriate and consistent with any requirement established by, or pursuant to, Federal, State, or local law.

Following any remand under clause (ii), the Board shall promptly issue a final decision in accordance with such instructions. If the President fails to affirm or remand such decision within such 45-day period, the Board's recommended decision shall be considered final.

"(B) Any final decision under subparagraph (A) shall be considered a final decision in lieu of the agency decision involved. Except as provided in section 189(b), such final decision shall be subject to judicial review in the same manner and to the same extent as would apply to the agency decision involved.

"(c)(1) After designation of a Priority Energy Project and before compliance with the Project Decision Schedule by the agencies to which such Schedule applies, or pursuant to subsection (a), the Board may recommend to the President the waiver, in whole or in part, of any Federal requirement which it finds presents a substantial procedural or substantial substantive impediment—

"(A) to the making of an agency decision, or

"(B) to the making of such agency decision in a manner which will permit implementation of the project.

A recommendation may not be made to the President for a waiver under this subsection and a recommendation may not be made under subsection (b) if the agency has made the agency decision involved at the time of such recommendation.

"(2)(A) Any waiver recommended under this subsection may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived. Such waiver shall also include such terms and conditions as the Board, in consultation with the agencies responsible for the administration of the requirements proposed to be waived, deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver and to further enhancement efforts for aspects adversely affected by the energy project.

"(B) A recommendation under this subsection for the waiver of any requirement shall be published in the Federal Register, together with a statement of the reasons on which the recommendation is based. Any agency affected by such waiver and any other concerned person may submit views respecting such recommendation to the President and may make such views public during the thirty-day period specified in paragraph (3).

"(3) Not earlier than thirty days after publication in the Federal Register of a recommendation for a waiver under this subsection, and after considering public and agency comments, the President may, in furtherance of the purposes of this part, transmit such recommendation to the Congress, if he determines—

"(A) such a waiver to be in the national interest,

"(B) that there is substantial evidence to support the Board's determination and recommendation, and

"(C) that such a waiver would not unduly endanger the public health and safety.

Any recommendation so transmitted shall be accompanied by a detailed identification of the requirement to be waived, a statement of the extent to which such waiver would apply, and a statement of the President's reasons for making such recommendation, together with a summary of the agency views on such waiver. Any recommendation transmitted under this paragraph may be conditioned on the imposition of a less stringent requirement or other alternative to the requirement which is to be waived together with provisions for the enforcement of such less stringent requirement or other alternative by the agency responsible for the administration of the requirement proposed to be waived. Such waiver shall also include such terms and conditions (and provisions for their enforcement by the agency responsible for the administration of the requirement proposed to be waived) as the President deems necessary to mitigate any adverse effects (including effects on public health, welfare, or the environment) associated with such waiver and to further enhancement efforts for aspects adversely affected by the Project. The President's transmittal under this subsection shall also set forth any differences between the waiver recommended by the Board and the waiver transmitted to the Congress.

"(4)(A) Any waiver with respect to which the President has made a recommendation which is transmitted to Congress under this subsection shall take effect at the expiration of the first period of sixty calendar days of continuous session of Congress after the date of its receipt by the Senate and House of Representatives if, before the expiration of such sixty-day period, such recommendation is approved by each House of the Congress in the same manner as is provided for approval of energy conservation contingency plans under section 552 of this Act, except that in applying the provisions of section 552 of this Act to a recommendation of the President transmitted under this subsection, any reference in such section 552 to an energy conservation contingency plan shall be treated as t reference to a recommendation of the President transmitted under this subsection, any reference in such section 552 to twenty calendar days shall be treated as a reference to thirty calendar days and subsections (b), (d)(2)(B), and (d)(7) of section 552 shall not apply.

"(B) A recommendation transmitted under this section may take effect at any time subsequent to the date specified in subparagraph (A) if such subsequent time is set forth in such recommendation.

"(5) Each agency responsible for the administration of any requirement waived under this section shall monitor compliance by the Project with the terms and conditions of such waiver.

"(d)(1) The Board, on its own motion or upon an application of any person acting on behalf of a Priority Energy Project, shall determine if any requirement of Federal, State, or local law which has been enacted or promulgated after establishment of the Project Decision Schedule, but before commencement of commercial operation of any facility (as determined by the Board) which is part of the Project, would present a substantial impediment to implementation of the Project. Such application shall identify the requirement with respect to which the application is made. If the Board determines that any such requirement will present such an impediment, the Board may in furtherance of the purposes of this part—

"(A) order the temporary suspension of the application of such requirement to such facility for only such time as necessary to allow such person to make good faith efforts to comply with such requirements, but not in excess of 5 years after the date on which commercial operation of such facility commences; or

"(B) submit a recommendation to the President that such requirement be waived in whole or in part.

No determination of the Board under this subsection shall be subject to judicial review except as may be required by the Constitution of the United States.

"(2) No order temporarily suspending the application of any requirement to any facility may be issued under paragraph (1)(A) unless the Board, in consultation with the agency responsible for implementing the requirement, finds that, during the period of such suspension, the facility will make a good faith effort to meet the requirement suspended.

"(3) A recommendation submitted to the President under paragraph (1)(B) for the waiver of any requirement shall take effect as provided in, and shall be subject to the same provisions as apply in, the case of recommendations for waiver set forth in subsection (c).

"(e)(1) Not later than 45 days after the establishment of a Project Decision Schedule for a Priority Energy Project, the Board and any agencies which may be covered by such Project Decision Schedule shall identify and publish notice in the Federal Register of the requirements of Federal, State, and local law applicable to such Project which may present any substantial procedural or substantial substantive impediment to the implementation of the Project. Such notice shall include an analysis of the impact of such requirements on the Project. The Board may extend the 45-day period in appropriate cases.

"(2) If the Board finds, after publication of the notice under paragraph (1) and based upon the analysis required under paragraph (1), that—

"(A) any requirement identified under paragraph (1) may present any substantial procedural or substantial substantive impediment to the implementation of the project; and

"(B) there is no opportunity under applicable law for an agency decision in a manner which would overcome such impediment and permit implementation of the Project,

the Board shall submit a copy of its analysis under paragraph (1), together with appropriate recommendations concerning the requirement, to the President (in the case of a requirement of Federal law), the Governor (in the case of a requirement of State or local law), to the affected agencies, and to the appropriate committees of Congress. Any recommendation under this subsection to the President may include a recommendation in accordance with subsection (c). The Governor and such affected agencies shall take into consideration the Board's recommendation and shall report to the Board within such time as may be specified by the Board. Such report shall state whether or not the Governor or agency accepts or rejects the recommendations of the Board, together with the reasons for such acceptance or rejection. If the Governor or agency accepts such recommendations in whole or in part, such report shall include an explanation of the actions the Governor or agency will take and when such actions will be taken.

"(f) In bringing any civil action in any court (other than the Supreme Court) to enforce any order or requirement under this part, the Board shall be represented by the General Counsel of the Board (or any attorney employed by the Board), notwithstanding the provisions of title 28 of the United States Code. Such General Counsel (or attorney employed by the Board) shall supervise, conduct, and argue any civil litigation in any such action.

"PROHIBITION AGAINST WAIVER OF CERTAIN RIGHTS AND LAWS

"SEC. 187. (a) Nothing in this part shall authorize, or be construed to authorize, the Board or the President to alter any Federal, State, or local requirement, except to the extent a Schedule established or modified by the Board under section 183 or 186(a)(2)(A) contains a deadline or timetable which applies in lieu of an otherwise applicable deadline or timetable.

"(b) No recommendation may be made by the Board with respect to a waiver, no determination may be transmitted by the President with respect to a waiver, and no waiver may take effect under section 185, if such waiver would—

"(1) waive any Federal, State, or local requirement which relates to—

"(A) the rights, working conditions (including health and safety), compensation, or activities of workers or their representatives,

"(B) antitrust laws (as defined in section 3(1) of the Public Utilities Regulatory Policies Act of 1978),

"(C) criminal laws, or

"(D) civil rights laws;

"(2) waive any Federal, State, or local requirement which involves any primary air quality standard established under the Clean Air Act;

"(3) have the effect of impairing or abridging any right or rights of any person arising under the Constitution of the United States;

"(4) contravene any interstate compact, provision of State or local law, or Federal contract, relating to water rights or to the appropriation, delivery or use of water pursuant to such rights; or

"(5) have the effect of abridging or impairing the rights of any person under any provision of law to receive compensation from the owner or operator of any Priority Energy Project for loss of any property interest as a result of the construction or operation of such Project.

"(6) have the effect of contravening the will of the electorate as ascertained in any local or state initiative or referendum which was specifically related to the establishment of an energy project.

"(c) Notwithstanding any provision of this part, no requirement may be waived under this part with respect to any pipeline for the transportation of coal, except that the Board may impose deadlines for agency decisions with respect to such a pipeline which deadlines may be shorter than those which might otherwise apply and the Board may also require concurrent review of applications and consolidated or joint hearings by agencies in the case of agency decisions relating to such a pipeline.

"WATER LAW

"SEC. 188. (a) Nothing in this Act shall be construed as expanding or conferring upon the United States, its agents, permittees, or licensees any right to acquire rights to the use of water.

"(b) The United States, its agents, permittees or licensees shall appropriate water within any State for an energy project pursuant to procedural and substantive provisions of State law, regulation, or rule of law governing appropriation, use, or diversion of water.

"(c) The establishment or exercise pursuant to State law, of terms or conditions including terms or conditions terminating use, on permits or authorizations for the appropriation, use, or diversion of water for energy projects shall not be deemed because of any interstate carriage, use, or disposal of such water to constitute a burden on interstate commerce.

"(d) Nothing in this Act shall alter in any way any provision of State law, regulation, or rule of law or of any interstate compact governing the appropriation, use, or diversion of water.

"JUDICIAL REVIEW

"SEC. 189. (a)(1) A determination of the Board to designate or not to designate any energy project as a Priority Energy Project under section 178, the granting or denying of an extension under section 181, the establishment of a Project Decision Schedule under section 183, and any action of the Board under section 184, shall not be subject to judicial review, except as may be required by the Constitution of the United States.

"(2) The making of any waiver recommendation by the board or waiver determination by the President under section 185 shall not be subject to judicial review, except as required by the Constitution or as permitted under paragraph (3).

"(3) Any person may bring an action against the United States in the appropriate United States court of appeals not later than thirty days after the approval of a determination transmitted by the President to the Congress under section 186 requesting the court to enjoin or grant other appropriate relief with respect to any waiver approved pursuant to such determination if such waiver is inconsistent with any prohibition contained in section 187, and such court may grant such relief. In any such action, the expedited procedures set forth in subsection (b)(2) shall apply.

"(b)(1) Any action brought in any court of the United States for review of any final agency decision which is covered by a Project Decision Schedule may only be brought in the United States court of appeals for the circuit in which the Priority Energy Project concerned is, or is proposed to be, located and may only be brought within ninety days following the date on which notice is published that such decision has become final or within such shorter time period as may be required under other applicable law. Any such action shall be barred unless brought within the period specified under the preceding sentence.

"(2) The court shall assign any action referred to in paragraph (1) for hearing, and shall complete such hearing, at the earliest possible date. Such action shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at that time, shall be expedited in every way by such court, and shall be consolidated, to the greatest extent practicable, with other actions relating to the same Priority Energy Project which are brought in such court or in any other court of the United States. Any reviewing court shall also expedite and consolidate such review to the maximum extent practicable.

"(3) Nothing in this subsection shall be construed to affect the jurisdiction of any court of the United States or of any State or political subdivision thereof. Any agency decision with respect to which review could have been obtained under this subsection may not be subject to judicial review in any other proceeding.

"(4) In issuing a final order in any action for review of any final agency action which is covered by a Project Decision Schedule, the court may award costs of litigation (including attorney and expert witness fees) to any party when in the determination of the court such action was brought frivolously with no essential purpose beyond delay.

"REPORT

"SEC. 190. Not later than December 31, 1981, and annually thereafter, the Board shall prepare and transmit to the Congress a report which contains a comprehensive list of all Federal laws and regulations that significantly hinder the completion of energy projects, and which includes an analysis of why each law or regulation listed in the report is a significant hindrance to the completion of such projects.

"EFFECTIVE DATE

"SEC. 191. The Board shall promulgate regulations for carrying out its functions under this part (including regulations establishing procedures and criteria under section 177) not later than sixty days after the date on which all initial members of the Board have been confirmed by the United States Senate. No application may be submitted under this part for designation of any project as a Priority Energy Project before promulgation of such regulations.

"EXPIRATION OF AUTHORITY

"SEC. 192. The Board shall cease to exist, and the authority provided to the Board under this part, shall terminate, on September 30, 1985. Notwithstanding the previous sentence, any Project Decision Schedule established under this part for any Priority Energy Project prior to the expiration of such authority, and, to the extent practicable, the other provisions of this part applicable to such project, shall continue to be applicable to such project after September 30, 1985.

"AUTHORIZATION

"SEC. 193. There is authorized to be appropriated to the Board to carry out the provisions of this part not more than $2,000,000 for the fiscal year 1980, and not more than such sums as may be necessary for succeeding fiscal years, subject to annual authorizations.".

(b) The table of contents for such Act is amended by inserting after the item relating to section 166 the following:

"PART C—PRIORITY ENERGY PROJECTS

"Sec. 171. Short title.
"Sec. 172. Purposes.
"Sec. 173. Definitions.
"Sec. 174. Energy Mobilization Board; establishment and authority.
"Sec. 175. Certain projects not covered.
"Sec. 176. The Alaska natural gas transportation system.
"Sec. 177. Authority to apply for priority status.
"Sec. 178. Designation of priority energy projects.
"Sec. 179. State participation.
"Sec. 180. Compliance with NEPA.
"Sec. 181. Extension of deadlines.
"Sec. 182. Agencies to transmit information.
"Sec. 183. Project Decision Schedule.
"Sec. 184. Monitoring of compliance by Board.
"Sec. 185. Agency obligations not affected.
"Sec. 186. Enforcement of Project Decision Schedule.
"Sec. 187. Prohibition against waiver of certain rights and laws.
'Sec. 188. Water law.
"Sec. 189. Judicial review.
"Sec. 190. Report.
"Sec. 191. Effective date.
"Sec. 192. Expiration of authority.
"Sec. 193. Authorization.".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to establish a coordinated, prompt, and simplified process for decisionmaking in regard to significant nonnuclear energy facilities, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 4985) was laid on the table.

DIRECTING CLERK TO CORRECT SECTION NUMBERS, PUNCTUATION MARKS, AND CROSS-REFERENCES IN ENGROSSMENT OF HOUSE AMENDMENTS TO S. 1308

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Enrolling Clerk be directed to correct section numbers, punctuation marks, and cross-references in the engrossed bill.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Michigan?

There was no objection.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

PERSONAL EXPLANATION

Mr. GAYDOS. Mr. Speaker, on H.R. 4985 where I am reported as not voting, I want the Record to show that I did insert my card. I did press the button. I would have voted affirmatively if it had registered by electronic device. That is on rollcall No. 624.

PERMISSION FOR SUBCOMMITTEE ON ENERGY RESEARCH AND PRODUCTION OF COMMITTEE ON SCIENCE AND TECHNOLOGY TO MEET TOMORROW MORNING WHILE HOUSE IS IN SESSION

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that the Subcommittee on Energy Research and Production of the Committee on Science and Technology may be permitted to meet tomorrow morning while the House is in session.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman tell us what he is going to be doing?

Mr. McCORMACK If the gentleman will yield, this is an oversight hearing on nuclear energy. We are starting at 9 o'clock in the morning so that we can conclude the hearing.

Mr. ROUSSELOT. It is just oversight?

Mr. McCORMACK. It is just oversight.

Mr. ROUSSELOT. There is no markup of any bill?

Mr. McCORMACK. No, there is no markup.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

☐ 1540

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3994, RESOURCE CONSERVATION AND RECOVERY ACT AMENDMENTS OF 1979

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 96–578) on the resolution (H. Res. 473) providing for the consideration of the bill (H.R. 3994) to amend the Solid Waste Disposal Act to authorize appropriations for the fiscal year 1980, to make certain technical changes, to strengthen the regulatory and enforcement mechanisms, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2608, AUTHORIZING APPROPRIATIONS TO NUCLEAR REGULATORY COMMISSION FOR FISCAL YEAR 1980

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 96–577) on the resolution (H. Res. 472) providing for the consideration of the bill (H.R. 2608) to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2603, AUTHORIZING APPROPRIATIONS FOR DEPARTMENT OF ENERGY FOR NATIONAL SECURITY PROGRAMS FOR FISCAL YEAR 1980

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 96–576) on the resolution (H. Res. 471) providing for the consideration of the bill (H.R. 2603) to authorize appropriations for the Department of Energy for national security programs for fiscal year 1980, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2063, ECONOMIC DEVELOPMENT AND PUBLIC WORKS ACT OF 1979

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 96–579) on the resolution (H. Res. 479) providing for the consideration of the bill (H.R. 2063) to amend the Public Works and Economic Development Act of 1965 to extend the authorization for 3 additional years, which was referred to the House Calendar and ordered to be printed.

WELFARE REFORM AMENDMENTS OF 1979

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 465, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 465

Resolved, That upon the adoption of this resolution it shall be in order, section 303 (a)(4) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4904) to amend the Social Security Act to reform the program of aid to families with dependent children, to make improvements in the standards for eligibility and benefits in the program of supplemental security income, and to provide for the improved administration of both programs, to make related amendments to the Internal Revenue Code of 1954, and for other purposes, and the first reading of the bill shall be dispensed with, and all points of order against the bill for failure to comply with the provisions of clause 5, rule XXI are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment under the five-minute rule. No amendments to the bill shall be in order except: (1) amendments recommended by the Committee on Ways and Means, which shall not be subject to amendment, all points of order against the amendments recommended by the Committee on Ways and Means now printed in the bill for failure to comply with the provisions of section 303(a)(4) of the Congressional Budget Act of 1974 (Public Law 93–344) and clause 5, rule XXI, are hereby waived, and said amendments shall be considered en bloc and considered as read and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole; and (2) an amendment printed in the Congressional Record of October 23, 1979 by, and if offered by, Representative Jeffords of Vermont, and said amendment shall not be subject to amendment, and all points of order against said amendment for failure to comply with section 303(a)(4) of the Congressional Budget Act of 1974 (Public Law 93–344) and clause 5, rule XXI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from South Carolina (Mr. Derrick) is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Tennessee (Mr. Quillen), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 465 provides the consideration of the bill, H.R. 4904, Social Welfare Reform Amendments of 1979. This legislation makes reforms in the program of aid to families with dependent children, it makes improvements in the standards for eligibility and benefits in the supplemental security income program, and it provides improvements in the administration of both of these programs.

The rule grants 2 hours of general debate with the time to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. Only amendments recommended by the Committee on Ways and Means and an amendment, if offered by Representative Jeffords of Vermont, may be offered. These amendments shall not be subject to amendment. The committee amendments will be considered en bloc and will not be subject to a demand for a division of the question in either the House or the Committee of the Whole. A motion to recommit is in order upon completion of consideration of the bill.

The rule provides waivers of section 303(a)(4) of the Budget Act and clause

5 of rule XXI so that the bill may be considered.

Section 303(a)(4) of the Budget Act prohibits the consideration of a bill which provides new entitlement authority to become effective during a fiscal year before the first concurrent resolution on the budget is agreed to. Section 104 of the bill modifies the treatment of income to become effective in fiscal year 1982. As the first concurrent resolution of the budget for fiscal year 1982 has not yet been adopted, the bill would be subject to a point of order without this waiver.

Clause 5 of rule XXI prohibits an appropriation in a legislative bill. The waiver applies to several sections of the bill.

Mr. Speaker, H.R. 4904 makes important improvements in the existing system, it strengthens work incentives while solving many of the inequities of our current system. I urge my colleagues to adopt House Resolution 465 so that we may proceed to the consideration of this legislation.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have a rule before us today on which the previous question should be defeated. A new rule should be offered. Actually, the welfare reform amendments of 1979 are a first step toward a guaranteed income.

I think it is ridiculous for this House to consider such a proposal under a modified closed rule, and in the Committee on Rules, I offered an amendment to make in order as a substitute to title I, the Rousselot-Conable-Jones amendment, to provide for block grants, grants to go to the States and let the States tighten the welfare program and do whatever is necessary for reform.

□ 1550

That amendment was narrowly defeated. I see nothing wrong at all, Mr. Speaker, with the House working its will here and the States of this Nation having a say-so in the development and carrying out of a welfare program. I call upon the Members of the House to go along with me in defeating the previous question on this rule.

Mr. Speaker, raising the benefits to 65 percent of the poverty level is encouraged, but not mandated, with $400 million available to low benefit States only for this purpose under the bipartisan amendment, as a substitute to title I. What is wrong with that?

A pilot test in 10 States is authorized so that States can use bloc grants to design welfare programs free of existing Federal regulation. I ask: what is wrong with that? The bloc grant substitute is the first step toward a decentralized program with State control. The committee bill, which the rule that is being offered on the floor now would permit, is the first step toward a national, universal, guaranteed income program.

The block grants substitute encourages States to eliminate error, waste, and fraud. The committee bill increases open-ended Federal matching funds and reduces State incentives to use funds wisely.

The block grant substitute encourages low benefit States to increase their welfare grants. The committee bill mandates a national minimum benefit.

What is wrong with the block grant approach?

State and local control is desirable. The State and local level is where they know how to find the welfare fraud and the welfare fraud is great. The block grant substitute gives States discretion to require work for benefits. The committee bill permits recipients to refuse to work, paying in excess of minimum wage for families of four in many States. In other words, the committee bill, which will be considered under the rule being offered, encourages people not to work. It would allow them to say, oh, yes, we have the welfare pouch in our hands and we are not going to work. I do not think that is right.

What is wrong with the block grant approach?

The block grant substitute leaves coverage for two-parent families to State discretion. The committee bill mandates coverage of two-parent families. You encourage the welfare rolls to increase under such a program, and it does not make sense to me. The block grant substitute permits up to 10 States to use funds to design and implement their own programs. The committee bill has no pilot test.

I say to each Member of the House, let us vote down the previous question, let us make the Rousselot-Conable-Jones amendment as a substitute to title I in order. Let us give the States and local governments of this Nation an opportunity to do something worthwhile for the people instead of encouraging the welfare rolls to increase.

Pilot programs are necessary. Our welfare program, as it exists, is a sham. Certainly the people who need it should have it but, at the same time, if we are going to keep increasing the rolls, increasing the benefits, leading to a national, universal guaranteed income, then we are on the wrong track.

I urge my colleagues to vote no on the previous question so that a substitute rule can be offered.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I am happy to yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I want to join with the gentleman from Tennessee in expressing my opposition to this rule.

The gentleman is quite correct, the issue presented in this legislation, that of welfare reform, is one of the major political issues facing this Nation today. It is one that is most in the minds of taxpayers as well as those who may need the assistance of such programs.

The problem we face in the way the bill is brought to us is very much as the gentleman described it, whether or not the House will have its ability to work its will on this legislation. The only reason that this bill is being brought to us under a closed rule, allowing one relatively minor amendment, is that apparently the majority on the Ways and Means Subcommittee that controls this legislation does not want to be bothered with the nuisance of having Members of the House being able to offer amendments and to vote on them on the floor.

This is a continuing trend that we have seen in recent weeks. It may be justified to some degree in some instances, but on an issue of this depth and of this importance, and when many Members came before our committee and asked for the right to offer amendments, to deny them the right to offer a minority substitute even is totally, I think, unfair. I think if this is allowed to continue on bill after bill it is going to hurt both sides of the aisle, because someday their turn will come, no matter what group we may consider ourselves to be a part of.

So I urge a voting down of the previous question so that we can offer a substitute rule that will accommodate and allow the offering of the amendments the committee has requested to make in order.

Mr. QUILLEN. I thank the gentleman for his contribution. He is exactly right. I think today is the test, today is the opportunity to get rid of the idea of a national, universal, guaranteed income.

I urge my colleagues to vote against the previous question.

Mr. DERRICK. Mr. Speaker, I yield, 4 minutes to the gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. Mr. Speaker, I rise in opposition to the rule and urge that the previous question be defeated.

I think we should be very clear about what we are being asked to do under this rule. We are being asked to decide one of the most far-reaching, fundamental policy changes that we have considered in this, the 96th Congress. We are being asked to make this far-reaching decision under a closed rule. There will be no opportunity to debate, no opportunity to vote on an alternative approach to this sweeping policy change, no opportunity even to offer a simple amendment to this sweeping policy change.

This is not the way this great deliberative body ought to proceed. What is this sweeping policy change we are deciding today? It is to federalize the remaining vestiges of States welfare programs. The implications of this in terms of budget policy are enormous, and these implications come at a time when Americans are demanding less Federal spending and more balanced budgets.

The implications of this policy change with regard to the growth of Federal bureaucracy are also enormous. These implications come at a time when Americans are demanding cutbacks in Federal bureaucracy, cutbacks in Federal regulation.

Yet we are told by this closed rule that H.R. 4904 is really the only answer to the Nation's welfare problems, that federalizing welfare is the answer from on high, chiseled in stone, that cannot be amended by this House. In other words, the Members of this body are being given a take-it-or-leave-it proposition on this very complicated question of welfare reform.

Do most of the Members of this House really believe that we have an accurate enough information base and data base on which to turn over America's welfare programs and administration to HEW?

Are we so sure that H.R. 4904 is better than an experimental welfare program funded by block grants to the States; or is it better than a negative income tax program; or is it better than requiring a work requirement program and day care programs? I submit that the answer to these questions is no. We do not have an accurate enough data base to make that decision, and yet if we pass this rule we will be denied the opportunity to debate, or to choose any one of these alternatives to federalizing welfare.

Before voting on this rule I would also encourage my colleagues to seriously consider what federalization of welfare will do to our attempts to cut back on Federal spending and to balance the budget in the next few years.

□ 1600

H.R. 4904 shows us merely the tip of the spending iceberg. It establishes new entitlement programs and expands that portion of the Federal budget which we call uncontrollable items. Already, 75 percent of the Federal budget falls into the entitlement or uncontrollable category, and that is one of the major reasons why we are not able to balance the budget today.

Now, here we are with this rule giving ourselves no opportunity to do anything but to expand even further the uncontrollables in the Federal budget, and the entitlement programs. It may well be that the House will decide that H.R. 4904 is the best answer to welfare, but it seems to me that we ought, at the very least, we ought to be able to seriously debate and vote on a substitute approach as embodied in the Rousselot-Conable-Jones of Oklahoma amendment. The only way we can have this opportunity is to vote down the previous question.

Mr. Speaker, I urge my colleagues to vote down the previous question to this rule.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Speaker, I rise in opposition to the rule proposed on House Resolution 465. In all material purposes this is a closed rule. It is not an appropriate vehicle for the consideration of a complex piece of major legislation like the welfare bill.

This rule denies the House an opportunity to hear the arguments advanced in support of amendments, to evaluate them and to decide accordingly. By cutting off the amending process in this way, the rule reduces the participation of the House to merely an up or down vote, take it or leave it. This is no way to consider a bill that culminates literally a decade of work, a measure which will have significant and lasting impact on each and every congressional district.

This closed rule is not a partisan issue. As I hope we will hear from the other side of the aisle. Democrats as well as Republicans will have their amendments stifled under this rule.

Some supporters may feel that the bill is in trouble. They may fear that opening it up to amendments may jeopardize its chances for passage.

Frankly, exactly the opposite is true. I believe a number of Members now inclined to vote against final passage would reconsider their vote if some key amendments were accepted.

Let me discuss briefly three such amendments. I hope you will have a chance to hear them debated more fully later this afternoon.

First, there is a block grant substitute for title I of the committee bill. This amendment would replace the open-ended Federal matching with an indexed block grant that includes $1 billion in fiscal relief and $400 million for low-benefit States to raise their benefits to 65 percent of the poverty level, and a high-unemployment allowance. It also allows States the option to impose work requirements and authorizes a 10-State pilot test to see how well States could use welfare funds free of the constraints of Federal rules and regulations.

Second, a number of Members would like to approach the block grant concept by first testing it in a limited number of States and localities. A pilot test would permit this to occur.

Finally, an option for States to require welfare recipients to work has substantial appeal, particularly in light of the bill's expansion of the program for two-parent families.

Now, unless this rule is opened up, none of these options can be considered. The recommittal motion would be the only avenue open, and that motion does not allow the kind of debate and discussion that these amendments deserve.

Therefore, I hope you will join me in voting against the previous questions so that a substitute rule can be offered which allows an orderly debate of at least a few of the major alternatives along the lines I have suggested.

There are precious few items in this bill to appeal to many Members. A closed rule will only insure that this continues to be the case.

Mr. DERRICK. Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, why should the Ways and Means Committee exercise the sole prerogative of having closed rule on the vast majority of bills reported out of that committee when other committees are forced to submit to an open or a modified open rule? The traditional argument is that Ways and Means bills deal with highly technical, complicated tax provisions and that would be dangerous to the Nation to open up the Internal Revenue Code to irresponsible or uninformed tinkering by this House. However, H.R. 4904 is not a tax bill—it is a spending bill and in this way is no different than the bills brought to the floor by other authorizing committees. Certainly, the Armed Services Committee would not be permitted to bring a defense authorization bill to the floor under a closed rule. The Ways and Means Committee, when nontax bills are being considered should be no different.

Mr. Speaker, I am shocked and disappointed that there would be this attempt to bring a bill we worked on and debated extensively in committee—where amendments were brought forward—some passed, some did not—and suddenly we slam the door shut on the ability of the Members of this House in some way to contribute to the legislative process by offering amendments that might be helpful to the bill.

I wish to urge my colleagues to vote against the previous question and allow us to have a rule that will permit some amendments, several of which have been discussed by the ranking minority member of the Ways and Means Committee, the gentleman from New York (Mr. CONABLE), and allow us to work our will as an entire House on this issue.

This legislation before us today, H.R. 4094, includes vast financial commitments for the future. By supporting a closed rule, you will put the House in the position of having to vote up or down on substantial increases in entitlements for the future—I think this is an unfair position. We would not do it in a defense authorization bill and some of the very Members now advocating this closed rule would be among the first to stand here and argue against a rule of this type for a defense bill, and properly so.

So I am terribly disappointed, after very healthy debate in the Ways and Means Committee, that we have suddenly slammed the door shut on the ability of this House to address such important issues as work requirements and assets test and eligibility regulation. We have no chance to do so, as my colleague from Oklahoma, an active member of the Ways and Means Committee, Mr. JONES, has said. If the Members vote for this closed rule, they are slamming the door shut on a true discussion of work requirements, eligibility for the program, reduction of State discretion, and elimination of incentives to return to productive activity.

Prohibiting amendments from being offered to H.R. 4094 will merely contribute to the federalization of the welfare program and will be a major step in increasing the ultimate costs of the program, both for the Federal Government and for the States.

I urge my colleagues, if they have heard the call of many of their constituents who say, "What are you doing to try to improve the welfare program of this Nation," I urge them to vote against closing down our ability to offer some amendments. Most of them were considered in committee and would not "undo years of careful work" as the Members will be told. These amendments will address important issues relating to welfare reform that will affect us for many years to come.

Now, this bill, regardless of what its advocates may say, mandates a guaranteed national income—make no mistake about it. Do not allow yourselves to be painted into a corner of having to support a guaranteed national income in order to tell your voters that you supported "welfare reform." Defeat the previous question on the rule and give us all an opportunity to vote for true welfare reform—the Rousselot-Conable-Jones block grant substitute.

☐ 1610

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Mississippi (Mr. Lott).

Mr. LOTT. Mr. Speaker, for those who like the present welfare system, they are going to love H.R. 4904, the Committee on Ways and Means bill, Social Welfare Amendments of 1979. As I understand it, it will cost the taxpayers more. It will put more people on the welfare rolls, and it does not provide for workfare.

All of us understand the need for a safety net under the people of this country who are sick, who are disabled, who are elderly, and genuinely poor; but at the same time I think we need to have some provisions in here for some alternative considerations. We need to have some consideration of workfare.

We need to consider this block grant approach that the gentleman from California (Mr. Rousselot) and the gentleman from Oklahoma (Mr. Jones) have talked about, the bipartisan substitute, H.R. 4460. It has incentives for savings that the States can provide for, and then they can take those savings and give them back to the needy people of those States. It is a very positive approach.

Quite frankly, I was surprised when the Committee on Rules came up with the rule that it did. During the discussion of the rules, it looked like we were going to have at least a rule making in order this Rousselot-Jones substitute to be considered on the floor. Even the chairman of the Committee on Rules seemed to be saying that he favored it, and he said, "I think it is important everybody have a fair shot at what we are going to vote on. I do not suggest that that is the only view that anybody could have, but that is the view I have." I urge my colleagues on this most important issue that the American people feel so strongly about, that we have the option at least to consider one alternative, defeat the previous question, give this body the opportunity to debate alternatives and allow the various viewpoints to be heard when we take up the debate.

Mr. Speaker, I yield back the remainder of my time.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. Findley).

Mr. FINDLEY. Mr. Speaker, I feel that our constituents would agree on this proposition, that those who get benefits from our Government and are able-bodied ought to do something in return for those benefits. You can call that workfare; you can choose another label; but I think it is sound commonsense that is best for the person receiving benefits and certainly best for society in general.

The major defect, in my opinion, of the rule that is before us now is that it does not permit us to correct a very glaring defect in public law, or regulation, whichever it is. Present law and regulation do not permit workfare projects to be carried out by State and local units of government. I sought to get the Committee on Rules to make in order an amendment that I felt was entirely consistent with the will of the Congress, because it is almost identical to language that is now in the food stamp law. Under that food stamp law there are now five pilot projects scattered geographically throughout this country, and in those project areas food stamp recipients who are required under the food stamp law to be hunting for a job are also required to work off, at the minimum wage level, tasks for local units of government in exchange for their food stamp benefits. I sought to make in order an amendment to this bill which would establish and require two pilot projects in each of the 10 districts of the Nation on this same workfare project. Unfortunately, the Committee on Rules did not see fit to make that amendment in order. I really believe the Committee on Rules in making that decision went in the face of American public opinion.

I believe our constituents would really like to have the opportunity presented to local units of government to establish workfare programs through which those local units of government would get some useful tasks performed by those getting welfare benefits. I believe also that this would inure to the benefit of the welfare recipients, give them a new dignity that is very important in their activity, and give them work experience which could very well lead to useful full-time employment in either the private or the public sector. Because of this glaring defect in the rule now pending, I urge my colleagues to vote against the previous question.

Mr. DERRICK. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. Phillip Burton).

Mr. PHILLIP BURTON. Mr. Speaker, it was about 9 years ago—I think it was 1969 or 1970—when I appeared in this well as a Democratic liberal, to the consternation of a good number of the colleagues on my side of the aisle, supporting a closed rule requested by the Nixon administration on legislation then being developed by the distinguished gentleman from Arkansas (Mr. Mills) and the gentleman from Wisconsin (Mr. Byrnes). I noted at that point in time, as did the committee, that welfare policy leads itself to simplistic solutions when the problems are really quite intricate, and we would be well advised to deal with the fundamental policy and not open up the entire welfare code. At that point in time we carried a majority of the Members, as I recall it a very narrow majority, perhaps maybe a narrow minority on the Republican side, and we carried by a bare majority the Democrats on our side. Therefore, some 9 years or so ago this House enacted or passed a welfare reform bill called the Nixon family plan.

I understand my dear friend, the gentleman from California (Mr. Rousselot)—if he was in the House then, and I think he was, but I am not sure—I do not know how he voted, but I do know the man whose counsel he has solicited, among others, convinced our then Republican Governor, Mr. Reagan, that the Nixon welfare plan was ill advised. It was noted in debate then that the current plan at the time, still the law we have today, is grossly inequitable, unfair, and unmanageable, and some order and equity should be brought out of this chaos. It was predicted then accurately that if welfare reform were not enacted, if we did not enact that plan—which I might note was more liberal than this proposal, and I live with that characterization—if we did not enact that plan, welfare costs in this country were going to skyrocket. And lo and behold, welfare costs in this country skyrocketed. In those days we lost some on our side who rank among our finest liberals because they said it was not enough. To those I said, "If we do not move now to make some correction, all of these inequities are going to persist and we are going to have the poor under identical circumstances being treated entirely differently, depending on which side of the State or in whose bounty they live."

I urge my colleagues on the minority side, this is a sound proposal. Admittedly, it is a modest one. It will do a great deal to bring some rationality out of this irrational process, some equity out of this inequitable situation. I think it would be quite myopic if those on the Republican side of the aisle fail to grant this rule their vote.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. PHILLIP BURTON. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate my colleague's yielding. As the gentleman knows, most of the amendments we are talking about are not radical proposals, nor would they substantially increase the costs, so we do not need to worry about voting against the previous question, because they are mostly amendments that were considered in committee.

☐ 1620

Admittedly we did not have quite enough votes. They are easily understood. It relates to work requirements and other things. I think the gentleman would be pleased to know that the amendments we are trying to get simply offered here do not radically change the present law. As a matter of fact, they are less radical than this bill. I thought I would help the gentleman out. We would be glad to have the gentleman's vote against the previous question.

Mr. PHILLIP BURTON. I appreciate the gentleman's observation, if I may reclaim my time. There is a work requirement component in this bill, just as there was in the Nixon bill and that is a fact. The further fact is if we do not take this opportunity to bring, as I said earlier, some order out of this indefensible chaos, we will learn and the American taxpayers will learn to regret it. We have massive disincentives to work under the current law and it ought to be changed as provided in this bill.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. Michel).

Mr. MICHEL. Mr. Speaker, 1 year ago, Dr. Martin Anderson of Stanford University wrote a book entitled, "Welfare: The Political Economy of Welfare Reform in the United States." This book is recognized as the definitive study of welfare reform. Let me quote Dr. Anderson:

> The institution of a guaranteed income will cause a substantial reduction—perhaps as much as 50 percent—in the work effort of low-income workers. As long feared by the public, and recently confirmed by independ-

> ent research studies, such a massive withdrawal from the work force would have the most profound and far-reaching social and economic consequences for our society.

Dr. Anderson has reminded us that a guaranteed income—no matter what form it takes—is destructive to low-income families.

I bring this to your attention for obvious reasons.

The bill before us contains the following:

An increase of $2.2 billion in Federal spending, bringing the total cost of these programs to $5.5 billion.

An expansion of eligibility by altering the income and assets test to allow potential eligible recipients to deduct the value of their house, clothing, and two cars as long as one car is not valued at over $4,500.

A prohibition against States requiring welfare recipients to work for their benefits;

A provision that all States must provide a nationally established minimum level of benefits of 65 percent of the official poverty level.

Can there be any doubt that the nationally established minimum level of benefits is a beachhead from which the shock troops of a centralized welfare system plan to make their final assault on the States?

Can there be any doubt that behind the emotional rhetoric of compassion lies the calculated plans for a universal guaranteed income?

When you look at the provisions of the "social welfare reform amendments" bill you realize the bill is misnamed.

It is concerned with the deformation, not the reformation of the current system.

It is concerned with centralization of power and not social welfare.

And, of course, what we are actually confronted with is not an amendment process but a veritable revolution in welfare.

The true name of this bill should be the "Deformation and Centralization Welfare Revolution of 1979."

True welfare reform must take into account the fact that, whether the big government experts like it or not, Mississippi is different from Illinois, and Texas is different from Rhode Island, and Maine is different from California.

Those differences are not simply geographic. They are demographic. They are economic. They are rooted in different traditions, different lifestyles, different outlooks on life and work and welfare. The people of the States should not be stretched out on some Procrustean bed to fit some Washington scheme. Any welfare proposal that ignores the difference between States and increases costs is no reform.

What we should be doing is reforming the welfare system in a manner that allows the individual States freedom to respond to local realities and that reduces welfare costs, rather than increasing them.

Two years ago, I introduced a welfare reform bill that would have enabled us to reduce Federal welfare expenditures by $1.5 billion, and at the same time would have provided $2 to $3 billion in fiscal relief to the States. The bill would have accomplished these savings through various incentives and requirements designed to reduce the error rates, eliminate the ineligibles, correct structural deficiencies, strengthen the work options and requirements, and increase the opportunities for State experimentation with alternatives.

Since then, we have been able to undertake several of these steps through the appropriations process. We have acted to reduce error rates by requiring that the States reduce their error rates to 4 percent by September 30, 1982.

We have put the pressure on for overall reductions in waste, fraud, and abuse by requiring HEW to achieve a 2-year reduction of $1 billion in such excesses.

We have initiated a demonstration study of the monthly retrospective reporting system which has the potential of reducing welfare costs by upwards of 10 percent.

This is the direction we ought to be headed in—tightening up the administration of the program, but continuing to leave benefits levels up to the individual States and giving those States greater leeway to try other approaches, rather than further nationalizing another program.

We are being asked to vote for a bill the name of which is misleading, the true purpose of which is disguised and the ultimate effort of which will be disastrous.

I strongly urge that we seek true welfare reform which means trusting the people of the States. This bill cannot and will not accomplish this.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. SOLOMON).

Mr. SOLOMON. Mr. Speaker, the American people do not mind helping those people who truly need help but the problem is with the system the way it is today we do not have enough money to help those people who really need help.

Mr. Speaker, I just came out of the New York State Legislature where I spent many years on the ways and means committee and the social services committee and time after time when we tried to deal with over $1 billion in fraud, abuse and waste in our welfare system in New York State, a $1 billion waste, we were shot down by the Department of Health, Education, and Welfare, threatening us with the loss of Federal aid coming to New York State if we tried to correct the problem. They said we were in violation of existing requirements of the Department of Health, Education, and Welfare and existing Federal statutes.

Mr. Speaker, I am distressed that many of the recommendations brought by myself and other Members who came out of those State legislatures who know where the problems are, have been turned down. We have expressed these recommendations to the gentleman from California (Mr. ROUSSELOT) about these amendments, many of which are incorporated in his amendments, which under this rule, will not even be allowed on the floor for consideration.

This rule will deprive Members of this House the opportunity to offer amendments that would strengthen this legislation and bring about badly needed welfare reform.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin (Mr. PETRI).

Mr. PETRI. Mr. Speaker, I rise in opposition to the rule on H.R. 4904. There are several rather troubling sections of this bill, H.R. 4904, the rule for which we are considering.

I think all of us have heard from the National Governors' Association as well as our State and local welfare administrators about the positive aspects of this bill. In many respects, it is a good bill. But I believe a few of its provisions represent some very shaky public policy.

A new section added to welfare law under H.R. 4904 is entitled "Limitation of Fiscal Liability of States: Hold Harmless." This section states that beginning in 1981, and continuing through fiscal year 1986, a State would be held harmless for the amount by which AFDC expenditures—plus the increases in medicaid and administrative costs caused by AFDS caseload growth—exceed 95 percent of the 1979 level of State expenditures for AFDC.

To leave this hold harmless provision so open-ended, is essentially an invitation to the States to cease and desist in their efforts to control the rising numbers of families receiving benefits.

Another section of H.R. 4904, establishes a Federal block grant program to assist States in meeting emergency needs of families with children. These are funds to help out in floods, fires, accidents, disasters, "uncontrollable, unpredictable or nonroutine events."

Effective October 1, 1981, the allocation is set at $200 million to be shared among the States "on an entitlement basis and would be adjusted annually for changes in the consumer price index."

Entitlement, as we all know, is a catchword for open-endedness in funding provisions.

Yet another section of this bill provides that beginning January 1, 1981, the State's share of AFDC and AFDC–UF costs would be reduced by 10 percent. Beginning October 1, 1981, the State's share of AFDC–UP would be reduced by an additional 20 percent. For example, as of October 1, 1981, New York State's share of AFDC would be reduced from 50 to 45 percent and from 50 to 35 percent for AFDC–UP.

The changes that I have noted are an invitation to fiscal irresponsibility on the part of the States. In the limit to States' fiscal liability, the hold-harmless provision—we are not even talking about holding the States to their 1979 levels of expenditures, but rather to 95 percent of this past year's expenditures.

And even this ceiling on the States' responsibilities is qualified by the alternative of the mandated national minimum benefit level, if it is higher than that 95 percent of 1979 spending. And both figures are yet again qualified by an allowance for adjustments according to the Consumer Price Index to the year being calculated.

Moreover, this hold-harmless section

is recognized by the States as "fiscal protection against unexpected increases in cost."

The entitlement program established for emergency assistance payments to the States sets up an open-ended situation under which the Federal Government is obliged to kick in whatever matching amount is necessary to meet the States' self-determined needs. This mechanism defies our attempts to get a handle on the Federal budget.

Finally, the increasing share of AFDC expenditures which the Federal Government will be obligated to assume under H.R. 4904, is absolutely unconscionable. Especially when we consider the reported budget surpluses that several State governments have collected in recent years, and the Federal budget deficit deemed acceptable by the House-Senate conference committee yesterday, $29.8 billion—just under the magic mind-boggler of $30 billion.

What kind of example would the Federal Government, this Congress be setting by adopting these proposed programs?

Can we honestly endorse this measure as sound public policy?

While the budget estimates for this bill, H.R. 4904, spell out reasonable savings for fiscal year 1980—$186 million saved, by the time these sections, to which I object, are implemented, this figure metamorphoses into an additional $912 million in Federal outlays for fiscal year 1981, then up to $2.9 billion for 1982, $3.5 billion for 1983—to a deafening roar of $4.067 billion for 1984.

We are providing more than a cushion here for "uncontrollable, unpredictable or nonroutine events."

This is tantamount to adding fuel to a hot-air balloon which is bound to soar to unforeseen budgetary heights.

The generosity of the Federal Government, as specified under H.R. 4904, is a cruel hoax on the American taxpayer. These so-called welfare reforms will have to be funded by someone, and we all know who that someone will be.

I urge a vote against the rule.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Speaker, I would urge my colleagues to vote down the previous question. The welfare system in this country is a mess. That is acknowledged by recipients, it is acknowledged by taxpayers, it is acknowledged by those who work within the system. What it needs is an overhaul, not a tinkering such as we are asked to consider in the bill before us today. What it particularly needs is a strong work requirement, something which is not included in the bill before us today. What we are being asked to consider is the fact that this is a one-way street, that welfare reform is only a one-way street, that we cannot deviate from the march toward federalization and guaranteed national income.

Mr. Speaker, I think what we are saying on our side of the aisle is that there are some other alternatives, responsible alternatives that should be considered by this House as a means to clean up and really overhaul the welfare system.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Arkansas (Mr. BETHUNE).

Mr. BETHUNE. Mr. Speaker, as a new Member here, I have sat and listened to the debates all year long. One thing that seems manifestly clear to me is that central government has assumed for itself more responsibility than it can discharge. We have weighted ourselves down with various responsibilities and duties that could well be taken care of by the State and local governments to the point where not only the bureaucracy but the Congress is actually discombobulated.

□ 1630

We have just gone through a 2-day debate here on the Energy Mobilization Board where we are not trying to do anything positive. We are just trying to undo in the case of energy what has been done wrongly over so many years and to dismantle some of the bureaucracy.

This shift to central government is always accompanied by increased spending. I agree that we are just federalizing the system here, but it seems to me that we ought to at least have a chance to debate the proposal of the gentleman from California (Mr. ROUSSELOT) which would allay that shift to the central government. In a question such as this of such great magnitude, we should defeat the previous question.

Mr. QUILLEN. Mr. Speaker, I would like to inform the gentleman from South Carolina that I have one more request for time.

Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. GRADISON).

Mr. GRADISON. Mr. Speaker, in the time remaining, let me summarize the case against this rule. It is a very simple case. This is totally inflexible. It permits no serious consideration of any alternatives. The only option available is a motion to recommit with 5 minutes on each side, hardly an opportunity to give this bill the attention which it deserves and to consider alternatives in any sort of depth.

This bill, indeed, is so one-sided that passing it in its present form would indeed be sending H.R. 4904 and the whole issue of welfare reform to a very uncertain future in the other body.

I am convinced that those who desire true welfare reform are hurting their cause by insisting on an essentially closed rule.

If you want increased Federal control of welfare, support this rule.

If you believe that the way to reform the welfare system is to pump billions of dollars into the Federal system, support this rule.

If you oppose work requirements for welfare, support this rule.

For myself, I think we can do better than H.R. 4904.

I intend to vote against the previous question and for a substitute rule.

Mr. QUILLEN. Mr. Speaker, I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield 4 minutes to the gentleman from Oregon, the distinguished chairman of the Committee on Ways and Means (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, I have listened to the speakers label this bill as guaranteed income. I consider myself somewhat of an authority on that, because in 1970 I led the fight against guaranteed income and again in 1972 and again in 1978.

This, I want to tell my colleagues in the House, is the sound, constructive alternative to guaranteed income. This is incremental reform. This is what we have been and what I have been struggling to achieve for a long time. I am rather surprised that some of my good friends, particularly those on the committee on the minority side are disowning a product that by and large they have supported in concept and one that, indeed, does tighten up the system, one that, indeed, does eliminate some of the abuses that all of us are complaining about.

Mr. Speaker, I want to commend the chairman of the subcommittee, the gentleman from California (Mr. CORMAN). This has gone through the legislative process, through the subcommittee in very thorough consideration. The administration has worked long and hard with the subcommittee in developing a sound bill. We went over it again in the full committee. We made some changes and some corrections.

I want to say that if you are tired of the welfare mess, so-called, and all of us know that it has its messy characteristics, if you are tired of it, this is the way to go.

Now, the main source of the opposition is from those people who want block grants. Well, you know, we have been giving out a lot of money to the States and localities, but what you are saying is throw some more money at them in a block grant with no Federal standards or requirements. Well, we are not going to do that. This Congress is not, the next one is not.

The only realistic approach to welfare reform is what we have before us, a well worked out soundly conceived bill.

Let me run through this very quickly. You have payments now based in this bill on actual income, not future income. That is what we have been working for. It cleans up a lot of the problems. Income must be reported on a monthly basis in place of 6 months or a year or whatever. This is a tightening provision, and important reform.

We have had work requirements, but they do not work, they have not worked. In this bill we have real work requirements. You do not get on welfare without passing through a very rigid work requirement.

Under the present system, you can get welfare up to $15,000. We have tightened that up. You cannot do that anymore under this bill. Here we have an economic incentive to always take a job. In other words, you are better off by working than you are on welfare under the provisions of this bill.

It reduces administrative costs. It reduces payment error rate. These have been some of the problems in the welfare system.

Certainly, there is some minimum amount of extra cost, but where is that extra cost? It is increasing the earned income tax credit which will in turn reduce welfare rolls.

The SPEAKER pro tempore (Mr. MURTHA). The time of the gentleman from Oregon (Mr. ULLMAN) has expired.

Mr. DERRICK. Mr. Speaker, I yield 1 additional minute to the gentleman from Oregon.

Mr. ULLMAN. Mr. Speaker, the second part of this minimal increase in cost is cashing out food stamps for SSI recipients. I have been opposed to cashing out food stamps, but here in the case of SSI it is absolutely ridiculous to go to all the expense and trouble of having food stamps and cash payments also; so we have a real good administrative reform.

Finally, we provide a minimum floor for AFDC and food stamp benefit levels for families with children.

Now, Mr. Speaker, the House would not be well served by defeating this rule. It would open the gates to conflicting amendments and bitter controversy. We would upset a balance that has been developed with hard and laborious effort on the part of a lot of people who know the system and want to tighten it and want to clean it up; so I strongly urge the Members of this body to vote for the rule, for the previous question, and then get on with real welfare reform in this bill.

Mr. QUILLEN. Mr. Speaker, I urge the defeat of the previous question. We have heard a good speech. We have heard some good remarks, but I would like to remind the Members of the House that HEW itself admits to the loss of $6 billion or $7 billion, welfare being one of the programs administered by HEW. If the Federal Government can lose and not account for $6 billion or $7 billion in one department, what is wrong with letting the States of this Nation have some control so they can try to end the corruption, end the welfare disarray, end the confusion, and straighten the program out.

The block grants are so important that I urge the Members to vote against the previous question.

Mr. JOHN L. BURTON. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I would be happy to yield to the gentleman from California.

Mr. JOHN L. BURTON. Mr. Speaker, I am delighted to see that the gentleman has so much faith in Gov. Jerry Brown that the gentleman wants him to have all this money.

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, I urge a vote in the affirmative for the previous question. This is the legislative process at work at its best, legislation that has been well considered by the Committee on Ways and Means, legislation that has been well considered and a rule that has been well crafted by the Committee on Rules of this House.

We have before us a rule that allows amendments from the Committee on Ways and Means, amendments from the gentleman from Vermont (Mr. JEFFORDS), and a motion to recommit. There is ample opportunity to address the major questions concerned in ths legislation.

To do other than to vote for this rule, to vote for the previous question, would mean that we would have upon the floor a situation that would be unbearable and would serve no one, those who support this legislation and those who do not support it. It would not serve this House or the legislative process. I ask that we vote in support.

Mr. Speaker, I move the previous question on the resolution.

□ 1640

The SPEAKER. pro tempore. the question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. QUILLEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 209, nays 177, not voting 47, as follows:

[Roll No. 625]

YEAS—209

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Annunzio
Anthony
Ashley
Aspin
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Coelho
Conyers
Corman
Cotter
D'Amours
Danielson
Daschle
Davis, S.C.
de la Garza
Dellums
Derrick
Dicks
Diggs
Dodd
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Fary
Fascell
Fazio
Fisher
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Ginn
Glickman
Gonzalez
Gore
Gray
Green
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hance
Hanley
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Holland
Holtzman
Howard
Hubbard
Hutto
Ireland
Jenrette
Johnson, Calif.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Lehman
Leland
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCormack
McHugh
Maguire
Markey
Matsui
Mattox
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md
Moakley
Moffett
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Nedzi
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Roberts
Roe
Rose
Rostenkowski
Roybal
Russo
Sabo
Santini
Scheuer
Schroeder
Seiberling
Shannon
Simon
Skelton
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Staggers
Stark
Steed
Stewart
Stratton
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
White
Whitley
Whitten
Williams, Mont.
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Mo.
Zeferetti

NAYS—177

Andrews, N.C.
Andrews, N. Dak.
Archer
Atkinson
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bennett
Bethune
Breaux
Brinkley
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Donnelly
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fenwick
Findley
Fithian
Forsythe
Fountain
Frenzel
Gilman
Gingrich
Goldwater
Goodling
Gradison
Gramm
Grassley
Grisham
Guyer
Hagedorn
Hamilton
Hammerschmidt
Hansen
Heckler
Hillis
Hinson
Hollenbeck
Holt
Hopkins
Horton
Huckaby
Hughes
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Jones, Okla.
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Lott
Lujan
Lungren
McClory
McCloskey
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Marks
Marlenee
Martin
Mathis
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Neal
Nelson
O'Brien
Pashayan
Paul
Petri
Pursell
Quillen
Railsback
Regula
Rinaldo
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Watkins
Whitehurst
Whittaker
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wydler
Wylie
Young, Fla.

NOT VOTING—47

Abdnor
Anderson, Ill.
Applegate
Ashbrook
Bereuter
Bowen
Broomfield
Clay
Collins, Ill.
Crane, Philip
Dingell
Dixon
Dougherty
English
Evans, Ga.
Ferraro
Fish
Flood
Fowler
Giaimo
Harsha
Johnson, Colo.
Jones, N.C.
Leach, La.
Lederer
Marriott
Mavroules
Mollohan
Murphy, Ill.
Patterson
Pritchard
Quayle
Rhodes
Rodino
Rosenthal
Runnels
Shumway
Stack
Stokes
Treen
Wampler
Wilson, C. H.
Winn
Wirth
Wolff
Young, Alaska
Zablocki

□ 1650

The Clerk announced the following pairs:

On this vote:

Mr. Lederer for, with Mr. Rhodes against.

Mr. Clay for, with Mr. Shumway against.

Mrs. Collins of Illinois for, with Mr. Wampler against.

Mr. Dixon for, with Mr. Young of Alaska against.

Mr. Stokes for, with Mr. Ashbrook against.

Mr. Murphy of Illinois for, with Mr. Winn against.

Mr. Fowler for, with Mr. Marriott against.

Messrs. GILMAN, ANDREWS of North Carolina, DAVIS of Michigan, and

HORTON changed their votes from "yea" to "nay."

Mr. TRAXLER changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BAUMAN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 202, noes 181, not voting 50, as follows:

[Roll No. 626]

AYES—202

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Annunzio
Anthony
Ashley
Aspin
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bouquard
Brademas
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Coelho
Conyers
Corman
Cotter
Danielson
Daschle
Davis, S.C.
de la Garza
Dellums
Derrick
Dicks
Diggs
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Fary
Fascell
Fazio
Fisher
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Ginn
Gonzalez
Gore
Gray
Green
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Holland
Holtzman
Howard
Hubbard
Hutto
Ireland
Jenrette
Johnson, Calif.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Lehman
Leland
Lloyd
Long, Md.
Lowry
Luken
Lundine
McCormack
McHugh
Maguire
Markey
Matsui
Mattox
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Nedzi
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Roe
Rose
Rostenkowski
Roybal
Russo
Sabo
Santini
Scheuer
Schroeder
Seiberling
Shannon
Simon
Skelton
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Staggers
Stark
Stewart
Stratton
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Waxman
Weaver
Weiss
White
Whitley
Whitten
Williams, Mont.
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Mo.
Zeferetti

NOES—181

Andrews, N.C.
Andrews, N. Dak.
Archer
Atkinson
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bereuter
Bethune
Breaux
Brinkley
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Devine
Dickinson
Donnelly
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fenwick
Findley
Fithian
Forsythe
Fountain
Frenzel
Gilman
Gingrich
Glickman
Goldwater
Goodling
Gradison
Gramm
Grassley
Grisham
Guyer
Hagedorn
Hammerschmidt
Hansen
Harsha
Heckler
Hillis
Hollenbeck
Holt
Hopkins
Horton
Huckaby
Hughes
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Jones, Okla.
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Lott
Lujan
Lungren
McClory
McCloskey
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Marks
Marlenee
Martin
Mathis
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Neal
Nelson
O'Brien
Pashayan
Paul
Petri
Pursell
Quillen
Railsback
Regula
Rinaldo
Ritter
Roberts
Robinson
Roth
Rousselot
Royer
Rudd
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Volkmer
Walker
Watkins
Whittaker
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wydler
Wylie
Young, Fla.

NOT VOTING—50

Abdnor
Anderson, Ill.
Applegate
Ashbrook
Bedell
Bonker
Bowen
Broomfield
Clay
Collins, Ill.
Crane, Philip
Dixon
Dougherty
Edwards, Calif.
Evans, Ga.
Ferraro
Fish
Flood
Fowler
Giaimo
Hinson
Johnson, Colo.
Jones, N.C.
Leach, La.
Lederer
Marriott
Mavroules
Moffett
Mollohan
Murphy, Ill.
Patterson
Pritchard
Quayle
Rhodes
Rodino
Rosenthal
Runnels
Shumway
Stack
Steed
Stokes
Treen
Wampler
Whitehurst
Wilson, C. H.
Winn
Wirth
Wolff
Young, Alaska
Zablocki

□ 1710

The Clerk announced the following pairs:

On this vote:

Mr. Lederer for, with Mr. Winn against.

Mr. Clay for, with Mr. Young of Alaska against.

Mr. Dixon for, with Mr. Abdnor against.

Mr. Murphy of Illinois for, with Mr. Marriott against.

Mr. Stokes for, with Mr. Ashbrook against.

Mr. Fowler for, with Mr. Shumway against.

Mrs. Collins of Illinois for, with Mr. Hinson against.

Mr. Rodino for, with Mr. Broomfield against.

Until further notice:

Mr. Wolff with Mr. Anderson of Illinois.

Mr. Charles H. Wilson of California with Mr. Dougherty.

Mr. Steed with Mr. Fish.

Mr. Rosenthal with Mr. Philip M. Crane.

Mr. Giaimo with Mr. Pritchard.

Mr. Applegate with Mr. Quayle.

Mr. Bedell with Mr. Leach of Louisiana.

Ms. Ferraro with Mr. Runnels.

Mr. Jones of North Carolina with Mr. Whitehurst.

Mr. Wirth with Mr. Wampler.

Mr. Mollohan with Mr. Evans of Georgia.

Mr. Bowen with Mr. Edwards of California.

Mr. Moffett with Mr. Bonker.

Mr. Zablocki with Mr. Mavroules.

Mr. Stack with Mr. Patterson.

Mr. McDADE changed his vote from "aye" to "no."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. Without objection, a motion to reconsider is laid on the table.

Mr. BAUMAN. Mr. Speaker, I object to laying the reconsideration motion on the table.

The SPEAKER pro tempore. Objection is heard.

Mr. CORMAN. Mr. Speaker, I move reconsideration.

The SPEAKER pro tempore. The gentleman from California (Mr. CORMAN) moves reconsideration.

Mr. BOLLING. Mr. Speaker, I move to table the motion to reconsider.

The SPEAKER pro tempore. The question is on the motion to table offered by the gentleman from Missouri (Mr. BOLLING).

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—ayes, 102; noes, 76.

So the motion to table was agreed to.

REQUEST FOR PERMISSION TO FILE CONFERENCE REPORT ON SENATE CONCURRENT RESOLUTION 36, SECOND BUDGET RESOLUTION, FISCAL YEARS 1980, 1981, AND 1982

Mr. JONES of Oklahoma. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report and the amendment reported in disagreement thereto on the Senate concurrent resolution (S Con. Res. 36), revising the congressional budget for the U.S. Government for fiscal years 1980, 1981, and 1982.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

AUTHORIZING CERTAIN BUSINESS AND AGRICULTURAL LOANS

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 2515) to authorize certain business and agricultural loans, notwithstanding interest limitations in State constitutions or statutes, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

TITLE III—LIMITATION

SEC. 301. This Act shall apply only in those States having a constitutional provision which provides that all contracts for a greater rate of interest than 10 per centum per annum shall be void, as to principal and interest.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

Mr. SENSENBRENNER. Mr. Speaker, reserving the right to object, I reserve the right to object to ask the gentleman from Rhode Island if this matter has been cleared with the gentleman from Ohio (Mr. STANTON).

Mr. ST GERMAIN. To the best of my knowledge, absolutely.

Mr. SENSENBRENNER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

REQUEST TO AUTHORIZE CLERK TO RECEIVE MESSAGES FROM SENATE AND THE SPEAKER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS DULY PASSED, NOTWITHSTANDING ADJOURNMENT

Mr. ALEXANDER. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Wednesday, November 7, 1979, the Clerk be authorized to receive messages from the Senate, and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

THE INDIVIDUAL SAVINGS AND INVESTMENT ACT OF 1979

(Mr. HOLLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HOLLAND. Mr. Speaker, today my colleague Mr. MARTIN of North Carolina and I are introducing the Individual Savings and Investment Act of 1979. This legislation would substantially improve the rate of savings in the United States by permitting an individual to establish a special account, called a "rollover account," in a bank, savings and loan association, or similar institution to which he could contribute cash and stock and bonds of domestic corporations. All capital gains, dividends, and interest realized in the account would be nontaxable until withdrawn from the account. The amount of cash contributed to the rollover account plus all the income realized in the account would be invested and reinvested in stocks, bonds, or interest bearing deposits.

The rollover account we are introducing would provide a broad and comprehensive approach to reducing the antisaving bias in our tax system. The bias against saving sharply reduces the incentive to save, and has resulted in the low rate of personal saving we see today. Without an adequate rate of saving, we cannot achieve a stable, high investment, high growth economy in the years ahead. A low rate of saving means fewer resources can be devoted to investment, reducing our prospects for productivity growth, and for increases in our standard of living.

Economic growth depends upon the availability of new capital, capital that must come primarily from the savings of individuals and businesses. The demand for capital today is increasing at a faster rate than has been the case in previous years. Yet the bias in our tax system against saving and investment makes the capital costs of American business greater than in almost any other industrialized nation. This high cost of capital has been a factor in our declining rate of productivity growth and has eroded the competitive position of the United States in world markets.

The slowdown in the growth rate of productivity has been particularly pernicious. If we are to attain our key national goals of promoting a higher standard of living, creating a sufficient number of jobs for our expanding labor force, and restraining price inflation, we must reverse the slowdown in capital spending for both research and development and for new plant and equipment. Recent studies have shown this slowdown to be a major factor in the declining rate of productivity growth.

The Joint Economic Committee (JEC), in its midyear review of the economy, concludes that "personal saving is a major source of funds for investment and productivity increases." The JEC also notes that the rate of growth of productivity in the United States since World War II has lagged behind every one of our major trading partners. Productivity in Japan grew four times faster than in the United States in that time period while it grew 2½ times faster in France, Italy, and Germany. Great Britain posted productivity gains two to three times of our own, according to the midyear review.

In addition, the rate of real nonresidential fixed investment as a percent of real gross domestic product in the United States also posted a worse record than that of the other major industrialized countries, according to the 1979 Economic Report of the President.

From 1966 to 1976, the United States devoted only a 13.5-percent share of GDP to investment while Japan averaged almost twice as much with a 26.4-percent share in that period. Canada averaged 7.2 percent; France, 16.7 percent; West Germany, 17.4 percent; and Great Britain, 14.9 percent in that 10-year period.

The antisaving bias in our tax laws is reflected in the rate of personal saving in the United States. As a percent of personal income, the rate of personal saving has averaged between 6 and 6½ percent over the past three decades. On a downward slide over the past 3 years, the savings rate dropped to a low of 4.7 percent in the final quarter of 1978. Also during that quarter, commercial banks experienced the largest net outflow of savings deposits since the Federal Reserve began keeping these statistics in 1965. The personal savings rate has averaged just over 5 percent during the first two quarters of 1979, but preliminary figures indicate a much lower savings rate for the third quarter.

Not only is the rate of personal saving in the United States lower than those of our trading partners, but the U.S. rate is falling while savings rates in other countries are on the rise. In Japan, for example, the rate of savings increased from 18.5 percent in 1967 to 21.5 percent over the past decade. Savings rates in Canada, Great Britain, France, and Germany have risen over the same time period, too.

The special problems of this decade—stubborn rates of inflation, declining productivity growth, lagging capital investment and intractable budget deficits—all point toward the need for new approaches to economic and tax policy to promote the long neglected goals of increased saving and investment. It is these problems that the Individual Savings and Investment Act of 1979 addresses. It is a bold approach and an approach suited to the needs of a broad range of individual savers.

Many savings bills have been introduced in this Congress. Consideration is being given to legislation designed to exempt interest earned on savings deposits; to liberalize the present dividend exclusion, to defer the taxation of reinvested dividends, and to roll over capital gains from one small business to another. Each bill would act to allocate capital to a specific use but not one of these measures contains the comprehensive approach offered by the Individual Savings and Investment Act of 1979.

Our proposal would act to encourage saving and investment in three primary ways. First, the tax-free rollover would be tax neutral across a broad range of traditional forms of savings, including stocks, bonds, and interest bearing deposits. It is these types of savings which most directly and immediately provide funds to the financial and business communities for the widest array of productive capital investment. This tax neutrality means that the individual may choose among the forms of savings without tax consequences, thus permitting needed flexibility for saving and investment.

Second, our proposal is a less complex approach for the individual than many proposals designed as incentives to new savings. Once the individual establishes his rollover account, he may elect to give the trustee of the account investment discretion or retain the right for himself. Accounting for the assets in the rollover account will be handled by the trustee. Tax consequences are realized only when funds are withdrawn from the savings stream.

Third, the initial revenue loss would not be great under this proposal. While the static revenue loss would build in later years, the "feedback" effects from the higher rate of economic growth forthcoming from the increased rate of saving and investment should act to offset this factor.

The rollover concept proposed in this bill is not complicated. The rollover account could be established in a bank, savings and loan association, or other institution approved by the Treasury. Although in the form of a trust, the rollover account would operate more as a custodial investment account. The trustee could be given investment discretion in which case the trustee would not only hold the funds in the account on behalf of the individual but would also determine their investment and reinvestment. Alternatively, the individual could retain the right to direct investment in which case the trust would merely hold the funds in the account on the individual's behalf and execute investment and reinvestment orders in accordance with the individual's instructions. In both cases, the rollover account would be a separate trust account.

Funds in the rollover account could only be invested in stock or securities of a domestic corporation or in interest-bearing deposits. This limitation avoids the complexities associated with direct investment such as real estate while at the same time providing the individual a wide range of choices among the traditional forms of savings.

With respect to capital gains, the effect of the rollover account is as if one stock were permitted to be exchanged tax free for another or were permitted to be sold for cash without the recognition of gain, provided the proceeds were reinvested in another stock. However, the rollover account also permits a change from a stock to a bond and permits the additional flexibility of holding the proceeds in an interest-bearing account.

With respect to dividends, the rollover account achieves a result similar to "dividend reinvestment" proposals except that the rollover account provides additional flexibility because the dividends can be invested in stock or securities of a corporation other than the one from which the dividend was received, and the dividend may be deposited in an interest bearing account.

Under the proposed bill an individual may maintain only one rollover account at a time. He may, however, terminate one rollover account by withdrawing all the funds, and then the next succeeding taxable year establish another account. A husband and wife may each establish a rollover account, whether or not they file a joint return.

The trust will be exempt from tax and will not be required to file an income tax return but will instead be required to file an annual information return.

The individual would not be taxed on income accumulated in the rollover account but will be taxed in the taxable year in which he withdraws that accumulated income from the trust. Any amount withdrawn from the rollover account will have the same character in the hands of the individual as it had in the account; that is, either capital, capital gain, or ordinary income consisting of interest and dividends.

This identification of withdrawals is accomplished in the simplest manner possible: The trustee is required to maintain on its books, but not to segregate assets, three separate funds; a capital fund which represents the total of all amounts contributed to the account, a capital gain fund which represents all net long-term capital gain realized by the trust, and an ordinary income fund which represents interest and dividends received by the trust plus net short-term capital gains realized by the trust. Any withdrawals will be treated as first having come out of the ordinary income fund, next out of the capital gain fund and finally out of the capital fund.

This is an example of how it would work:

Individual A established a rollover account in 1980 to which he contributed $10,000 in each of the years 1980, 1981, and 1982. Through investment and reinvestment by the trustee the account had by the end of 1982 received $3,000 in dividends and had realized net long-term capital gains of $5,000. At the end of 1982, the balance in the account and the balance in each of the three separate funds is as follows:

Account balance	$38,000
Capital fund balance	30,000
Capital gain fund balance	5,000
Ordinary income fund balance	3,000

In July of 1982, Individual A withdrew $5,000 from the account. The withdrawal is treated as consisting of $3,000 of dividends and $2,000 of capital gain. When Individual A files his tax return for 1982, he will include in income $3,000 of dividends and $2,000 of long-term capital gain.

The rule for ordering the priority of withdrawals from the rollover account is significant. Once having made a contribution to a rollover account and having accumulated income from that investment, there is a substantial incentive for the individual to leave both the originally contributed principal amount and the accumulated income in the rollover account and thus in the savings system. Because withdrawals are first deemed to come out of the ordinary income fund, the individual cannot, without paying tax, merely leave the accumulated income in the rollover account and withdraw the originally contributed principal for consumption purposes.

Under certain circumstances, an individual will be treated as having made a withdrawal from the rollover account even though no amount has actually been distributed from the account. The most significant "deemed withdrawal" from a rollover account arises when an individual has for the taxable year a net long-term capital loss from transactions outside the rollover account. In that event, the individual will be treated as having in the same taxable year withdrawn a corresponding amount from the capital gain fund.

If funds remain in the rollover account at the death of the individual, the balance in the account will be automatically distributed to the designated beneficiary or to the estate. The beneficiary or estate will be taxed on the accumulated income received.

Although losses realized by the trustee on investment and reinvestment will not be recognized currently, upon termination of the rollover account a loss may be realized as a capital loss of the year in which the account is terminated.

ENCOURAGING PEOPLE TO INVEST

(Mr. MARTIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARTIN. Mr. Speaker, as the gentleman from South Carolina, our distinguished colleague (Mr. HOLLAND), has reported to the House just a few minutes ago, he and I are today introducing legislation, the Individual Investment and Savings Act, to encourage investors to put their money into our American free enterprise system.

One of the things that has been troubling this country in recent years, since 1969, when major changes were made in the Tax Code, is that investors finding themselves locked in on current investments have declined further investment in the stock market. Particularly this has been true of younger investors. Prior to 1969 there was a steady increase in investment and investors at a rate of 7 percent a year, but immediately after 1969 there began a sharp decline, particularly among young investors, which has continued.

We believe this legislation will encourage them to put their money into investments to keep it working for the American economy, create new jobs, and thus restore confidence in the free enterprise system.

Mr. Speaker, I am pleased to join my colleague, Mr. HOLLAND, in introducing the Individual Savings and Investment Act of 1979. This measure would bring about a dramatic shift in our tax policy. Our tax code today is biased against saving and, unfortunately, biased toward consumption. This bill would allow an individual to put his savings into a rollover account and defer taxes on his savings, be they interest, dividends, or capital gains so long as he continues to save. But, when that individual withdraws any amount of his savings from the rollover account, for purposes of consumption, it will be subject to the full burden of Federal income taxes. In other words, the impact of our bill would allow a tax deferral on savings but a tax on consumption of earnings.

The Individual Savings and Investment Act of 1979 addresses the problem of low rates of personal saving, a major concern of the Joint Economic Committee in its midyear review of the economy. The committee concluded:

> Personal saving is a major source of funds for investment and productivity increases.

Personal saving has accounted for close to two-thirds of net private savings over the post-war period. Yet much higher levels of personal saving are needed to lead to an increase in our Nation's capital stock, thus improving productivity, creating new jobs, and raising real wage levels for all Americans.

Mr. Speaker, our tax policy today treats saving as a "sin" and the individual saver as a "sinner." An individual who promptly spends his income, even if for "wine, women, and song," is only taxed once. He is taxed when it is earned in the first place. An individual who is thrifty and saves, putting some money in a savings account or buying stocks and bonds, however, is taxed twice. Again, he is taxed when the income is earned; but he is also taxed on the interest, dividends, or capital gains generated from his savings, even if that return is zero in constant dollars.

Saving is a discretionary activity. Before one saves, one may probably ask several questions: What kind of return will I get from my savings and investment in the form of interest, dividends, or hopefully even capital gains? What risk is there in my investment? Will I be able to protect myself against even higher rates of inflation? And, how much will I be able to really keep after taxes?

Unfortunately, today the combination of high rates of inflation and the bias in our Tax Code against saving work against the interest of the individual saver if he chooses, in fact, to save and invest instead of engaging in current consumption. Consider first the case of the small saver who probably puts his money in a savings and loan association.

It is no secret that the rate of inflation is high and climbing. The Consumer Price Index currently stands at an annual rate of over 13 percent, and the long-term underlying rate is 8 or 9 percent. Interest returns for small savers who rely primarily on passbook savings accounts range from 5.5 percent on passbook accounts to 8 percent on deposits held for 8 years. Adjusting these returns for inflation gives a negative rate of return on even the highest yielding accounts and this means a real loss for the small saver. Since interest income is subject to the personal income tax at rates ranging from 14 to 70 percent, the saver's real loss is increased. In fact, the real rate of return on savings, after taxes, for both big and small savers turned negative in 1973 when inflation really hit the economy and has remained so ever since.

Next, consider the ill-fated saver who puts his money into the stock market even when stocks are doing relatively well. National Bureau of Economic Research economists Martin Feldstein and Joel Slemrod did an analysis of stocks sold in the very good stock market year of 1973 when investors paid taxes on some $4.6 billion in capital gains. But when the costs of these shares were adjusted for inflation, using "constant dollars," the $4.6 billion gain turned out to be a $1 billion capital loss. Individuals thus were paying taxes on nominal capital gains, which were actually losses when adjusted for inflation. Again, the combination of inflation and taxes "did in" thrifty individual investors.

The impact of this devastating combination of high rates of inflation and a tax code biased against savings by the individual saver should come as no surprise. It had driven many well-to-do savers into tax free municipal bonds. Middle-class taxpayers have turned to various tax shelters and to tangible nonfinancial investments such as real estate, antiques, and art which can be used, enjoyed, and also appreciate in value. Solomon Bros. recently compared the compound rates of return on tangible assets with that of bonds and corporate equities for the period 1968–78. The results were startling: Chinese ceramics, 19.2 percent; gold, 16.3 percent; rare U.S. stamps, 15.4 percent; old masters, 13 percent; U.S. nongold coins, 13 percent; diamonds, 12.6 percent; U.S. farmland—dollars per acre—10.6 percent; housing, 9.2 percent; silver, 9.1 percent; foreign exchange, 6.2 percent; Consumer Price Index, 6.1 percent; Solomon Bros. Bond Index—total return—6.1 percent, and the Standard and Poor composite—total return—2.8 percent. Is it any wonder that the knowledgeable individual saver puts his discretionary income into tangible assets rather than in economically productive forms of saving and investment.

The Individual Savings and Investment Act of 1979 which Mr. HOLLAND and I are introducing ameliorates the antisaving bias in the tax code and thereby should increase the dismally low rates of personal saving in the United States today. The rate of personal saving in the United States as a percentage of disposable income averaged between 6 and 6½ percent over the past three decades. But in 1976, it fell to 5.8 percent; in 1977 it dropped to 5 percent; and in 1978 it was only 4.9 percent. The personal savings rate for the first two quarters of 1979 averaged about 5.2 percent. It was a rate lower than that of any major industrial country. According to the Organization for Economic Cooperation and Development (OECD), the Germans will save about 17 percent of their incomes this year, the French even more, and the Italians about 25 percent of their disposable income.

What is even more alarming are recent trends in personal savings rates. In the period 1967–77, the personal savings rate rose from 18.5 percent up to 21.5 percent in Japan, from 8.5 percent up to 13.9 percent in Great Britain, from 6.2 percent up to 9.8 percent in Canada, from 15.9 percent up to 16.1 percent in France, from 11.3 percent up to 14 percent in Germany. But, during the same period, the personal savings rate fell from a low 7.5 percent down to 5 percent in the United States. In the third quarter of 1979, personal savings rates in the United States fell to 4.1 percent. And lest we assume a person salt away $410 out of a $10,000 salary, remember that that 4.1 percent includes net reduction in debt.

A sound and effective national policy to control inflation is critical to increasing the rate of personal saving; however, a shift in U.S. tax policy away from a bias against saving and for consumption is equally necessary. The Individual Savings and Investment Act of 1979 would defer taxes on any form of saving until the interest, dividends, and capital gains are withdrawn for the purpose of consumption.

That is sound tax policy and that is why, contrary to U.S. policy, most industrial countries encourage private saving in their tax codes. In Canada, for example, the first $1,000 of interest, dividends, and capital gains received by an individual is exempt from the individual income tax. In Germany, married couples with annual incomes of up to approximately $26,300 may receive tax free from the government a cash grant of 14 percent of the amount invested in qualified securities. Similar cash grants are available for qualified personal savings accounts.

Japan also offers special incentives for the individual saver, focusing on smaller amounts of savings. For example, the interest on savings deposits with the post office up to 3 million yen—or approximately $13,600—is exempt from income tax. The Japanese saver may also earn interest tax free on savings of even a greater amount made through his employer. In France, the taxpayer may choose to have his income from securities and from savings generally taxed at a 33⅓ percent withholding tax rate rather than included in taxable income at higher rates. Great Britain also offers incentives to the small saver. The interest from certain savings deposits, with approved institutions, is exempt from the individual income tax, up to a maximum of approximately $135 per taxpayer.

This bill is a trade-off for the Treasury just as it is a trade-off for the saver and investor. The Treasury, like the saver, forgoes an immediate gratification—consumption of taxes deferred—for a greater gain later. Neither the individual nor the Treasury should eat the Nation's seed corn. But, eat it we do when the individual is encouraged by the tax code to choose gratuitous and conspicuous consumption or nonproductive assets over production savings and investment, and that is what happens when Treasury taxes more heavily such productive savings and investment than it does the conspicuous consumption.

Mr. Speaker, in summary, the Individual Savings and Investment Act of 1979 would reverse the present tax bias against saving; it would increase the reward for thrift in the United States. It would make a dollar saved at least as valuable as a dollar spent on current consumption. The resulting increased levels of personal saving would give the nation the opportunity to enlarge its capital stock, to generate greater productive capacity, to dampen inflation, and to raise the standard of living of its people.

THE RECLAMATION MANAGEMENT REFORM ACT

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MILLER of California. Mr. Speaker, today I am introducing the Reclamation Management Reform Act of 1979. The intent of this comprehensive legislation is to bring some order, fiscal integrity and managerial sense to the Federal reclamation program. The purposes section of this legislation describes the intent and goals of the bill:

(a) reaffirm the sound underlying principles of the federal Reclamation program, and to amend the provisions of the Reclamation laws consistent with contemporary agricultural and fiscal policies;

(b) assure, to the maximum extent practicable, that the benefits of the Reclamation program are enjoyed by the widest number of family farmers who are actively engaged in the operations of farms which receive benefits under the Reclamation laws;

(c) establish revised limitations on acreage which may be served by federal water, and establish a fair and impartial method for the orderly disposal of excess lands;

> (d) assure the timely repayment of the costs of the project features utilized by beneficiaries;
>
> (e) establish a method for the calculation and periodic revision of rates for water service in order to protect the federal taxpayer from unjustified and unreasonable subsidies;
>
> (f) reduce the wasteful consumption of limited water resources by promoting the conservation and most efficient use of water, consistent with sound agricultural practices and technological feasibility;
>
> (g) establish programs of water resource management to reduce the severe depletion of groundwater resources; and
>
> (h) provide for adequate participation in the contract negotiation and discussion process by potentially affected parties, and to assure that there is adequate congressional oversight and review of such contracts and the federal Reclamation program.

For years, reclamation and water policies were the special interests of a select few, but no longer. Today, we realize that decisions made about the future of the reclamation program affect the Treasury of the United States, the production of vitally needed food and other produce, and the management of precious water resources.

Over the years, most farmers in the reclamation program have complied with the spirit and the letter of the law. Many of the original purposes of the 1902 act have been fulfilled. Lands without adequate water supplies, but with enormous productive potential, have been transformed into some of the most profitable farmland in the entire world. To achieve this end, literally billions of public dollars have been spent, and continue to be spent in gigantic subsidies to project beneficiaries.

Successful as this phase of the program has been, there have also been great failures. The tremendous public underwriting of this reclamation effort was justified by its planners as a means to encourage the settlement of the West, and its development as an agricultural region. At the heart of the law was the fundamental underlying assumption that the tremendous subsidies inherent in the reclamation program—which amount to as much as $5 billion annually—were to benefit and encourage family farming.

This social phase of the program has been less successful.

> The very purpose of this bill—

The program's designer, Congressman Francis Newlands, wrote in 1902—

> is to guard against land monopoly and to hold this land in small tracts for the people of the entire community.

With that admirable goal in mind, the Congress has appropriated about $12 billion to construct the massive reclamation facilities in the 17 Western States.

It is crucial to note that, in many cases, the law is being observed. All of the excess land in the West, which would have to be disposed of, constitutes but one-tenth of 1 percent of the Nation's farmland. The question is not the proportion of land which is in violation of the law, but rather who owns that noncomplying land.

For most reclamation farmers, the acreage and operatorship criteria established in my bill would cause no real problem, since it expands the old 160-acre limit, and provides for class I equivalency in lesser productive regions. Even in California, where 80 percent of the excess land is located, the average size farm is about 150 acres, which is several times less than the 640 acres I propose. So this legislation is, in all but a few select cases, not going to work any hardship, and is in fact generous.

But let us look briefly at those who would be most affected, and who have organized and spent small fortunes to lobby against this legislation, and who would alone benefit from the emasculation of the intent and purpose of the Reclamation Act. These are not small farmers who would have to whittle down their farms; they are not irrigators who, over the years, accumulated 500 or 600 acres. They include not small farmers, but some of the largest and most influential agribusinesses and corporations in the world: Tenneco West, Inc., 64,941 acres; J. C. Boswell Co., 110,000 acres; Southern Pacific Land Co., 106,430 acres, and others like Standard Oil, Chevron, Boston Ranch, Getty Oil, and Salyer Land Co.

These interests, and others like them, came to the Congress hat in hand, and pleaded for these projects to be built, knowing full well that they would fall under the Reclamation Act. They proposed amendments to exempt their projects from the acreage provisions, and when those amendments failed in the Congress, they sought legal relief. When those efforts failed, they came to the Congress with high-paid, well-connected lobbyists and are attempting to reverse the law.

No one ever required them to participate in these projects. No one was ever forced to sign a water service contract. No one ever was compelled to sign a recordable contract to dispose of excess lands, unless they wanted to continue to receive the benefits of subsidized projects. But they did want those benefits, and over the years they have received many billions of dollars in income as a result of this program. The United States complied with its share of the bargain: It has built and operated the water projects for the irrigators. Now, when it is their turn to fulfill their part of the bargain, a select few have instead chosen to attempt to destroy the program.

The bill which I am introducing today acknowledges that changes have occurred in American agriculture since 1902, and changes in the Reclamation Act are essential in order to bring the program into accord with economic and management principles which will serve us into the 21st century. This bill makes those changes, consistent with the original intent of the program which is to assure that the benefits from reclamation are dispersed as broadly as reasonable.

While we acknowledge that changes in agriculture require modification, we must also realize that changes must similarly be made for the benefit of the taxpayers who underwrite this program.

If an acreage limitation of 160 acres is unsuited to 1980, then massive price subsidies must be phased out, too.

If a strict residency requirement is inappropriate, then the extravagant wasting of our precious and limited water resources must be stopped.

Similarly, we must assure that our overall water resources are managed in an efficient, conserving manner. The reclamation program today, however, actually encourages the overconsumption of water resources through antiquated pricing mechanisms and by the absence of any efficiency mandates concerning use in irrigation.

For nearly all of the debate on reclamation law reform, the word never mentioned has been "water." But water is the very heart of the reclamation program, and one can no more discuss reclamation without mentioning water than one can discuss energy without discussing oil. Indeed, the parallels between demand and supply, conservation and pricing, and past and future uses are very similar between energy and water, except that the tremendous supply crunch in water is still a few years away. But it is coming, and this legislation is a key place to reform the way in which 85 percent of our Nation's water resources are used—in agriculture.

The Departments of Interior and Agriculture, and EPA have just concluded a major study in which they find that we could produce 2 to 5 million acre-feet of water over the next 30 years through the expenditure of about $5 billion. Anyone familiar with water development knows that this is a very good buy. There is phenomenal potential for conservation. A GAO study recently concluded that as much as one-half of our irrigation water is not being used efficiently, which amounts to many billions of gallons of water annually.

Nationally, it has been estimated that over the next 10 years, residential water users could save $22.5 billion through conservation and reclamation, and industry could save an additional $52 billion, and that is among municipal and industrial users who consume only 15 percent of our water resources. Imagine the potential among those who consume the remaining 85 percent.

It is essential that we recognize that water conservation and management, pricing reform, and similar measures contained in my legislation, must be included as fundamental features of any new reclamation law.

Reclamation began as a development program; in the future it will be a management program, and the resource which must be efficiently managed is water.

I believe that most Members of this body, and most of the participants in the reclamation program, can and will support this bill. Those whom we know will oppose its provisions do not seek the reform of reclamation law, but its elimination, either by outright repeal, or by exempting themselves from its provisions.

But most people will acknowledge that those courses are not in the interest of the country, the taxpayer, or the agricultural community. Through the reclamation program we have created major competitors of farmers in other regions of the country, especially in the Midwest and the South. We had originally assured farmers in those areas that the reclamation program would not undercut their own regional economics, and we must maintain this program to fulfill those promises. We must reduce the massive subsidies which are not longer needed to encourage settlement, but which today enrich a select few far beyond reasons. These are some of the purposes of the legislation which I introduce today, and which I call upon my colleagues to support.

SECTION-BY-SECTION DESCRIPTION OF THE RECLAMATION MANAGEMENT REFORM ACT

Sec. 2. Definitions. Includes various definitions ("qualified recipient", "landholding", "leasing", "excess land"). This section establishes an operatorship test, mandating personal and continual involvement in daily farming operations by the landowner or lessee in lieu of a mileage residency test. Waivers are permitted for retirees, for health reasons, due to the need to accumulate "start-up capital", and for current landowners.

Sec. 3. Acreage limitation. This section establishes an acreage limitation of 640 acres, owned and leased. The section also contains specific provisions concerning recordable contracts for the disposal of excess lands in order to remain eligible for water service or other benefits.

Sec. 4. Equivalency. A Class I equivalency formula would be devised to apply to non-Class I lands in areas which have a growing season of less than 180 frost free days, or which are in excess of 3000′ elevation.

Sec. 5. Repayment of construction charges. Payouts legally entered into are approved, but no lump sum payout is permissible. Following full payment, the Secretary could waive the acreage limitation only if he finds that a stable pattern of family farming has been established.

Sec. 6. Leasing. Leasing would be permitted if an owner had derived income from the landholding for 10 years (or less, if permitted by the Secretary), a proviso designed to reduce speculation and turn-around leases.

Sec. 7. Disposition of excess lands. Excess lands could be sold to immediate lineal family members, or could be entrusted to the Secretary for impartial disposal. Long term lessees and workers would have the right of first refusal for lands they had worked on for more than 5 years prior to enactment. The Secretary could offer neighbors first refusal opportunities. All other land would be disposed of, in various land sizes, by the Secretary using an impartial method. The section also includes restrictions on resale to prevent speculation on formerly excess lands.

Sec. 8. Water pricing. New water service contracts would include a sale price at least equivalent to the cost of delivery, except that the Secretary may reduce this amount if he finds that such a price would result in "undue economic hardship". He also could increase prices to stimulate water conservation and efficient use. All contracts lasting more than three years would be reviewed, and the water price reestablished, every three years.

Sec. 9. Conservation of water resources. This section requires the Secretary to identify, within two years, those districts receiving Reclamation benefits with the greatest priority for the conservation of water resources. The Secretary is directed to advise those districts of federal programs which could assist irrigators in financing and developing conservation programs, and is directed to request the Congress to authorize water conservation proposals. Irrigators failing to comply with conservation mandates would not be eligible for additional federal water supplies.

Sec. 10. Groundwater management. The Secretary would identify, within two years, those Reclamation areas with serious groundwater overdraft problems, and would require them to submit a plan for conjunctive use of surface and groundwater supplies in order to reduce excessive depletions.

Sec. 11. Irrigation of new lands. Lands not irrigated one year prior to enactment would not be eligible to receive project water unless the land were non-marginal, there was no groundwater overdraft, and the irrigator was in compliance with sections 9 and 10.

Sec. 12. Public participation and congressional review. Requires a period of public review of new contracts, and mandates public participation in discussions and negotiations concerning new contracts. Contracts would be subject to Congressional review and, if affecting significant quantities of water, Congressional approval.

Sec. 13. Exemptions. Allows exemptions from provisions of the Act in specific circumstances, e.g., temporary flooding.

Sec. 14. Foreign ownership. Ownership of lands receiving Reclamation benefits would be limited to U.S. citizens, resident aliens, and their spouses.

Sec. 15. Administrative provisions. Technical.

Sec. 16. Reporting. Technical.

Sec. 17. Penalties and enforcement. Establishes penalties for knowing violations of the Act.

Sec. 18. Recovery of excess subsidy. Requires recipient of excess subsidy benefits to repay the federal Treasury such excess benefits if accrued because of unsuccessful beneficiary initiated litigation or administrative delays.

Sec. 19. Regulations. Grants the Secretary authority to promulgate regulations to implement this Act.

Sec. 20. Authorizations. Authorizes necessary funding.

Sec. 21. Reaffirmation of 1902 Act. Reaffirms provisions of 1902 Reclamation Act as amended, except as provided in this Act.

□ 1720

LEGISLATION INTRODUCED TO PROVIDE REFUNDABLE TAX CREDIT FOR RESIDENTIAL USERS OF HEATING OIL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. SOLOMON) is recognized for 60 minutes.

Mr. SOLOMON. Mr. Speaker, today I have joined with a number of my Republican colleagues from New York in sponsoring legislation which would provide a refundable tax credit for residential users of heating oil. Our legislation, which is modeled after a measure introduced earlier by my colleague from Massachusetts (Mr. CONTE) would provide a maximum tax credit of $400, with the size of the credit reduced by 1.5 percent of the consumer's income over $30,000. Hence, the credit would be fully phased out at about $56,600. The legislation also contains a provision which would require that the credits be paid for from revenues received from the crude oil windfall profits tax.

In the past several months, we have seen OPEC increase its prices by more than 60 percent, and we have seen profit margins at the refinery level more than double. Even if there are no further increases in the cost of heating oil this winter, the average heating oil consumer will be paying perhaps 75 percent more for heating fuel than he was paying a year ago. This situation places low-income homeowners in a precarious position, and we have already acted to assist those individuals. But it also would have a crippling impact on the middle-income homeowner, who might well find that he is paying 10 percent or more of his disposable income for fuel to heat his home. This legislation would allow an individual with a moderate income to take credit for up to a third of his heating oil expenses, up to a maximum of $400.

Mr. Speaker, the middle-income taxpayer is the one who provides the money so that we can give fuel assistance and other types of aid to those individuals who are most hurt by inflation. I believe it is time we gave some relief to the people who foot the bills. Coupled with an economywide, 15-percent inflation rate, the increased cost of heating oil will cause a severe hardship for many middle-income Americans who cannot take advantage of any other Federal income supplementation programs.

This legislation would have another benefit, in that it would insure that relief went to other individuals who might be reluctant to take advantage of the fuel assistance programs already in effect. I cite specifically our elderly citizens, who are eligible for help under the energy crisis intervention program who are simply too independent and to proud to take advantage of that program.

Mr. Speaker, in conclusion, the costs of heating oil hurts everyone, but there are gaps in current legislative authority which preclude middle-income citizens and, indeed, many others with lower incomes which are above arbitrarily established poverty guidelines, from receiving 1 penny of assistance. This legislation will close this gap and insure that all who are deserving of assistance receive it. I am pleased that there are so many of my colleagues, not just from the heating oil dependent Northeast, who support heating oil tax credits, and I urge the enactment of this type of legislation.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to my colleague from New York.

Mr. GILMAN. Mr. Speaker, I rise to express my support for the bill introduced by my colleague from New York (Mr. SOLOMON), and to thank him for his leadership in putting forward this bill, which is so badly needed by the American people.

This winter will be a very cruel one—the American people will be heating their homes with extraordinarily expensive oil.

The Congress has moved—quite appropriately, I think—to help our least fortunate citizens to manage their home heating bills. Recently, we passed House Joint Resolution 430, which would provide $1.35 billion in relief to those in most desperate straits.

It is now time to turn our attention to the many others who are being hurt by the sharp home heating oil price increase of recent months.

The bill sponsored by the gentleman from New York, and which I have cosponsored, provides a 33⅓-percent tax credit of up to $400 for heating expenses incurred this winter. The credit would phase out gradually between an adjusted gross income of $30,000 and $56,000 when it would phase out completely. This phaseout would insure that those with substantial incomes do not receive an unneeded tax credit at the expense of the general revenue base.

Mr. Speaker, the profits of the oil industry shock the conscience of the American people. It is necessary for the Government to provide protection by means of an effective excess profits tax, changes in the allocation system, and assistance to both the neediest and the struggling middle class.

Accordingly, I urge our Congress to join with us in this effort to alleviate the burdens of high priced home heating oil.

Mr. SOLOMON. Mr. Speaker, I would like to thank the gentleman from New York for his help in this matter, which is of grave concern to the people who live in the Northeast.

Mr. LENT. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to my colleague from New York.

Mr. LENT. Mr. Speaker, I wish to commend my colleague from New York, the Honorable GERALD B. SOLOMON, for taking this special order today. In doing so, he is providing yet another opportunity for this Congress to focus on the serious and growing more urgent need for relief for users of home heating oil as they attempt to cope with double digit inflation and skyrocketing fuel oil prices.

Fuel oil price increases are particularly burdensome for residents of the Northeast who are not only heavily dependent on home heating oil to heat their homes, but who must pay higher than average prices to stay warm. With fuel prices nearly double what they were last year and the heating season hardly yet begun, the time to act on tax legislation to assist home heating oil users is now.

Much has been said about the need for emergency energy assistance for low income families and senior citizens, and I wholeheartedly endorse the legislation this House of Representatives passed last week to provide $1.35 billion in emergency funding. This legislation will help as many as 16 million low income American households pay their winter heating bill, and I hope it will be enacted into law without delay.

But what of America's hard-pressed middle-income families who must also deal with spiraling fuel costs while they also are trying to conserve precious fuel supplies? Many middle-income Americans are actually consuming less fuel in the spirit of conservation, but they are paying more for it than ever before.

To help these Americans who would not be eligible for assistance under this energy assistance program, I have introduced legislation, H.R. 5325, the home heating oil price relief bill. I agree with my colleague, Mr. SOLOMON, that this is the most simple, direct approach to providing needed relief, and I would commend him for developing an even more beneficial proposal which would go even further in granting tax relief for home heating oil users.

My proposal provides for a Federal income tax credit of up to $125 per family for those using fuel oil to heat their homes or apartments. Its focus is on those users of oil who would not be eligible foı assistance under the low-income program but who are still in need nonetheless. The tax credit approach is simple to administer and offers a direct method of providing relief. I am gratified that the Senate Finance Committee has approved a tax credit proposal to assist home heating oil users, and I would hope this discussion would prompt early action in the House of Representatives.

Protection from rising prices pushed upward as a result of decontrol is not unprecedented. Last year, when Congress deregulated the price of natural gas, it guaranteed that residential gas users would not have to bear the immediate effects of decontrol. Included in the Natural Gas Policy Act are the incremental pricing provisions which require utilities to pass through all high priced gas to industrial users, not to residential consumers. Thus, even though the decontrol of natural gas is phased in residential consumers are insulated from the impact of decontrol. This insulation is no less due users of home heating oil as we move in phases toward domestic oil price decontrol.

Furthermore, it is important to note that users of home heating oil are the only class of homeowners, who will, in fact, be contributing to the windfall profits tax on oil which is the anticipated source of funding for our energy program. Only home heating oil users will be contributing toward that tax on their heating fuel.

If that is not enough to convince any skeptics as to precedent, let me add that President Carter's proposed crude oil equalization tax (COET) of several years ago included a home heating oil consumer rebate recognizing that since oil users were the only homeowners being asked to pay the cost of that tax, the cost should be rebated dollar for dollar rebate.

I support the broadest possible tax credit program we can develop in the Congress to assist home heating oil users, and I join in my colleague's efforts to push for prompt congressional action in this most important area.

Mr. SOLOMON. Mr. Speaker, I want to thank the gentleman for his remarks, and thank him also for the assistance he gave me in helping to draft this legislation.

PRODUCTION VERSUS PRESERVATION: ONE WAY TO MOVE OFF CENTER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 15 minutes.

Mr. ALEXANDER. Mr. Speaker, I have introduced today a bill which will help stretch our scarce dollar resources for protecting and conserving fish and wildlife habitat and natural areas. I have taken this step because of my concern about the disappearance of our wetland and forest habitat resources for fish and wildlife.

In my travels through my own State of Arkansas and in other States throughout the years I have observed field after field of wetland and forest land being cleared for conversion to other uses. The problems, economics and attitudes of our society are constantly changing. As the national per capita income increases, the desire for open spaces, leisure, and play during vacation and time off also increases.

The level of consciousness of the State and the condition of the environment in which we live has leaped upward with the marked increase in the standard of American living since World War II.

Congress has responded to the desires and aspirations of the American people for more open space, for cleaner air and water, and enhanced environment by enacting numerous laws beginning with the National Environmental Policy Act of 1969 designed to preserve and protect the environment. The volumes of environmental laws that Congress and some States have enacted equal the national emphasis evidenced by the production laws which have been written since the Industrial Revolution which began in the 19th century.

I would expect that laws designed to protect, preserve, and improve the environment are as many in scope, depth, and breadth as the laws enacted to facilitate and encourage the production of food and energy that sustain the material standard of living of the American people. This proliferation of environmental protection laws has, however, created a dilemma in the United States.

But man does not live by bread alone. The emerging "leisure class" is as dedicated to environmental protection as the "working class" is concerned with producing the daily bread. While well intended and important to present and future generations this proliferation of environmental protection laws has, however, created a dilemma in the United States. It is, I believe, a fair paraphrase for Newton's second law of physics to state that: For every food and energy production action, there is an equal and opposite environmental protection reaction.

The Cache Basin confrontation in Arkansas is a classic example of the stalemate that is faced in our society today when the need for food production is confronted with the desire for environmental preservation.

Hence, a dilemma exists for there is no mechanism to resolve disputes that occur when production is off-set with preservation. While Congress has enacted laws to preserve and protect the environment according to the wishes of the American people, Congress has failed to provide a mechanism which would resolve disputes that result in an impasse between production and preservation.

It is ironic that today the House has authorized establishment of an Energy Mobilization Board which is the first device that has been devised to resolve these disputes that have developed between production and preservation. The Government is tied up in a Gordian knot.

Therefore, solutions are scarce when concerned and sincere citizens are so dedicated to their cause that they are unable to agree on facts that should be conspicuous to impassioned observers.

When Government is stymied, when a log jam clogs up the decisionmaking process, one alternative remaining for action to preserve and protect the environment is individual actions. Accordingly I have written a bill to facilitate individual action to provide an avenue for action where impasse permeates the decisionmaking process.

This conflict between food and energy production and environmental protection is a trend about which former Congressman Frank E. Smith of Mississippi wrote in the introduction to his book, "The Politics of Conservation" (1966), when he said:

> Emphasis in conservation problems shifts with the changing environment, but though there may be fluctuations, the importance of these problems will be even greater in the future than it has been in the past. . . . Part of the conservationist philosophy grows out of the concept of harmony between man and nature. In our own country that concept of harmony must prevail if we are to learn how best to live and work with each other in achieving the potential our nation so plainly offers us.

Like Mr. Smith, I do not hold to the belief that we can, or should freeze our Nation's natural wetland and forest resources at status quo. But, like Mr. Smith, I believe that it is essential to the future of our Nation that we preserve the vital harmony between man and nature.

The bill I have introduced can help us do that. It would exempt from Federal capital gains taxes lands sold or exchanged in fee simple or by easement for use in fish and wildlife conservation or for the preservation of natural areas. It would give governmental agencies and private, nonprofit fish and wildlife management and natural area management preservation organizations a better competitive position when the bidding starts on such resources. It would give private landowners who would like to sell their land for fish and wildlife management or natural area preservation purposes a more realistic choice between doing that and letting it go for commercial development purposes.

Before deciding on the final shape of my proposal I asked for review and suggestions from a number of individuals and organizations across the Nation who have particular experience and interest in fish and wildlife or natural area management and preservation. Their interest in the proposal caused them to circulate it to still other persons and groups.

Among those expressing support of the concept in my bill are: The National Wildlife Federation, the Arkansas Game and Fish Commission, the Oklahoma Department of Wildlife Conservation, the Louisiana Department of Wildlife and Fisheries, the Louisiana Wildlife Federation, Inc., the Louisiana Wildlife Biologists Association, the South Dakota Department of Game, Fish and Parks, the Mississippi Wildlife Federation, and the Mississippi Chapter of the Wildlife Society.

I urge my colleagues to study this proposal carefully and will welcome their active support and cosponsorship.

While there is, as yet, no comprehensive data on the conversion of wetlands and forest lands to other purposes, we do have some estimates. And, the Department of the Interior has underway a national wetlands inventory that will attempt to identify national trends in wetlands conversion. That inventory will not be completed for 2 years. I hope that the Congress will not delay so long before taking action on my proposal.

Two decades ago the U.S. Soil Conservation Service estimated that there originally were 127 million acres of naturally occurring wetlands in the lower 48 States. An estimate by the national wetlands inventory says that this acreage has dropped to 75 million, a reduction of about 40 percent.

It has been estimated that 300,000 acres of wetland is converted to other uses annually. This is believed to be a conservative estimate.

While few would dispute that only God can make a tree, many people have believed that man can make a marsh. And, a series of large-scale experiments by the U.S. Corps of Engineers may prove this to be true.

But, we should not let our Nation get into a position of having to create wetlands because we have allowed our natural wetlands to be drained and put to other uses.

Although national, comprehensive wetlands data is not available, we have some on regional developments. "Our Nation's Wetlands: An Interagency Taskforce Report," which was coordinated by the Council on Environmental Quality, discusses some of this.

For instance, of California's original 3.5 million wetland acres, in 1954 only 450,000 remained. In 1959 it was estimated that 45 percent of Connecticut's coastal marshes had been lost since a 1914 survey. Based on current rates of conversion, it was predicted that only 14 percent might remain by the year 2000.

Surveys of the rainwater basin of south-central Nebraska disclosed that that State had lost 80 percent of its marshes by the 1960's. Southeastern Wisconsin had lost 61 percent by 1968.

Estimates are that 40,000 acres of the Prairie Pothole Region of Minnesota, Nebraska, North Dakota, and South Dakota were converted from wetlands to other uses in each of the years 1974 and 1975. A survey conducted by the U.S. Fish and Wildlife Service in 1974 found that more than 40 percent of the potholes that were in western Minnesota in 1964 had been destroyed.

There are about 750 million forested acres in the United States, out of a land area total of 2.3 billion acres. This is about one-third of our total acreage. In 1977 the U.S. Forest Service classified 488 million acres as commercial forest land. Of this acreage, about 351 million was privately owned. The rest was in Federal or other public ownership.

In the lower Mississippi Valley region, which includes parts of Arkansas, Louisiana, and Missisippi, clearing of delta hardwood forest was occurring at the rate of 160,000 acres per year in 1976.

The U.S. Soil Conservation Service has estimated that U.S. forest land decreased by 70 million acres between 1967 and 1975. SCS's "potential cropland study" estimated that 2 million acres of rural land was converted to urban uses each year between 1967 and 1975. SCS also estimated that during this period another 1 million acres of rural land was inundated annually with water for water resource development projects.

These data on wetland and forest land disappearence trends are alarming. We need to provide greater incentives to our people to protect these natural resources. The mechanism in my bill is one way of doing that.

SUMMARY OF THE BILL

Sec. (a) adds a new section, number 128, to part III of subchapter E of Chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income).

Sec. 128(a) would exclude from gross income the gain from sales or exchanges of real property to an eligible conservation authority if the property is to be used primarily for fish and wildlife conservation or preservation as a natural area.

Sec. 128(b)(1) defines as an eligible conservation authority the United States, any state including the District of Columbia, and any organization which is described in section 501(c)(3) of the Code and which is exempt from tax under section 501(a) of the Code and which has as one of its purposes management of real property for fish and wildlife conservation or preservation as a natural area or the acceptance of such property for the transfer to another eligible conservation authority.

Sec. 128(b)(2) defines "natural area".

Sec. 128(c) requires the written approval of the Secretary of the Interior and of the head of the State agency with responsibility for fish and wildlife management or natural area preservation in the state where the property is located before the income from the sale or exchange can be eligible for this tax exclusion.

Sec. 128(d)(1) provides that the seizure, requisition or condemnation of property will be treated as a sale or exchange and that transfers of this by state action will not require state agency head approval to qualify for the tax exclusion and those made this way by the United States will not require approval of the Secretary of the Interior to qualify.

Sec. 128(d)(2) specifically allows the tax exclusion to apply even if sport hunting, sport fishing or other wildlife-oriented recreation is conducted on the land dedicated for fish and wildlife management or natural area-oriented recreation is permitted on land dedicated to preservation as a natural area.

Sec. 128(d)(3) provides that income from sales or exchanges of easements to land may be excluded from gross income for tax purposes if the terms of the easement insure compliance with fish and wildlife management or natural area preservation requirements of the law.

Sec. (b) makes technical changes in the table of sections of part III of the Code.

Sec. (c) provides that the provisions of the new Sec. 128 will be effective after the date of enactment into law.

H.R. 5771

A bill to amend the Internal Revenue Code of 1954 to exclude from gross income amounts received from certain sales of land to the United States, any State, or certain tax-exempt organizations, if the primary use of such land after the sale is for purposes of fish and wildlife conservation or preservation as a natural area

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by redesignating section 128 as section 129 and by inserting after section 127 the following new section:

"Sec. 128. Exclusion of Gain From Certain Sales of Real Property To Be Used for Fish and Wildlife Conservation or Preserved as a Natural Area.

"(a) General Rule.—Gross income does not include gain from the sale or exchange of real property—

"(1) which is acquired by an eligible conservation authority, and

"(2) the primary use of which after such sale or exchange will be for purposes of fish and wildlife conservation or preservation as a natural area.

"(b) Definitions.—For purposes of this section—

"(1) Eligible conservation authority defined.—The term 'eligible conservation authority' means—

"(A) the United States,

"(B) any State, including the District of Columbia, and

"(C) any organization which is described in section 501(c)(3) and exempt from tax under section 501(a), and a purpose of which is—

"(i) the management of real property for purposes of fish and wildlife conservation or preservation as a natural area, or

"(ii) the acceptance of real property for purposes of the transfer of such property to another eligible conservation authority for any purpose described in clause (i).

"(2) Natural area.—The term 'natural area' means an area—

"(A) which contains outstanding ecological diversity or possesses unique species, significant geological or fossil evidence of earth history, or examples of scenic grandure, or unusual examples of biotic communities, and

"(B) which is relatively free of man's intervention.

"(c) Sales and Exchanges Must Be Approved by State and Federal Officials.—

"(1) In general.—This section shall not apply to a sale or exchange of property unless such sale or exchange is approved in writing by—

"(A) the head of the agency of each State in which any portion of such property is located which has responsibility in such State to carry out fish and wildlife management or natural area preservation (as the case may be), and

"(B) the Secretary of the Interior.

"(2) Approval by the Secretary of the Interior.—The Secretary of the Interior shall approve in writing a sale or exchange of real property under paragraph (1)(B) only if after such sale or exchange—

"(A) the primary use of such property in perpetuity will be for purposes of fish and wildlife conservation or preservation as a natural area, and

"(B)(i) in the case of an eligible conservation authority described in subsection (b)(1)(C)(i), the Secretary of the Interior determines that the fish and wildlife management plans or natural area preservation plans (as the case may be) of such authority with respect to such property will assure such management or preservation, and

"(ii) in the case of an eligible conservation authority described in subsection (b)(1)(C)(ii) which accepts property for transfer to another eligible conservation authority, the Secretary of the Interior determines that—

"(I) the fish and wildlife management plans or natural area preservation plans (as the case may be) of such authority with respect to such property before such transfer will assure such management or preservation, and

"(II) the plans of the eligible conservation authority to whom such property is transferred will assure such management or preservation.

"(d) Special Rules.—For purposes of this section—

"(1) Involuntary conversions.—

"(A) In general.—The seizure, requisition, and condemnation of property shall be treated as a sale or exchange of such property.

"(B) Approval not required in certain circumstances.—

"(i) By state.—In the case of a sale or exchange which meets the requirements of this section and which is carried out by seizure, requisition, or condemnation (or threat or imminence thereof) by any State, the approval described in subsection (c)(1)(A) shall not be required with respect to such State.

"(ii) By United States.—In the case of a sale or exchange which meets the requirements of this section and which is carried out by seizure, requisition, or condemnation of property (or threat or imminence thereof) by the United States, the approval described in subsection (c)(1)(B) shall not be required.

"(2) Recreational use permitted.—A sale or exchange of real property shall not fail to meet the requirements of subsection (a)(2) merely because after such sale or exchange—

"(A) in the case of property to be used for fish and wildlife conservation purposes, sport hunting, sport fishing, or other wildlife-oriented recreation is conducted on such property pursuant to State and Federal laws, and

"(B) in the case of property to be preserved as a natural area, natural area-oriented recreation is conducted on such property pursuant to State and Federal laws.

"(3) Certain easements eligible for exclusion.—An easement shall be treated as real property if the requirement of subsection (a)(2) is satisfied by reason of the easement with respect to the real property which is subject to the easement."

(b) The table of sections of such part III is amended by striking out the item relating to section 128 and inserting in lieu thereof the following:

"Sec. 128. Exclusion of gain for certain sales of real property to be used for fish and wildlife conservation or preserved as a natural area.

"Sec. 129. Cross references to other Acts."

(c) The amendments made by this Act shall apply to sales and exchanges after the date of the enactment of this Act.

INDIVIDUAL SAVINGS AND INVESTMENT ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. Martin) is recognized for 60 minutes.

● Mr. MARTIN. Mr. Speaker, earlier today, the gentleman from South Carolina (Mr. Holland) and I introduced and discussed the Individual Savings and Investment Act, introduced in the other body by Senator Heinz. This measure is designed to offer an attractive tax inducement for more people to invest and reinvest in the productive sectors of our economy, by allowing tax deferral on gains and earnings of a new investment trust fund that were rolled over into new investments. So long as the proceeds were not withdrawn from the trust account into disposable accounts for consumption, but were left in the investment trust account, there would be no tax liability. Only upon withdrawal or distribution from the account would any part of it be considered as income and therefore taxed as such.

So that our colleagues and the public may be able to study its provisions, I would now like to give a more detailed explanation of the bill:

I. GENERAL EXPLANATION OF TAX-DEFERRED ROLLOVER ACCOUNT

An individual would be permitted to establist a special trust account, with a bank or similar institution, to which he could contribute cash for investment by the trustee and to which he could contribute any stock or securities of a domestic corporation. The amount of cash contributed to the rollover account plus all income realized in the account would be invested and reinvested in stocks, bonds or interest-bearing deposits. At the election of the individual, either the trustee would be given investment discretion, or the individual could retain the right to direct the trustee in the investment and reinvestment of funds in the rollover account.

The individual would not be allowed a tax deduction for contributions to the account. However, all capital gains, dividends and interest realized in the account would be nontaxable until withdrawn from the rollover account. When withdrawn from the rollover account, all previously accumulated capital gains, interest and dividends would be taxed to the individual in the same manner as if he had realized that income directly, in the year of the withdrawal.

II. MORE DETAILED EXPLANATION

A. General nature of rollover account

The rollover account could be established with a bank or a savings and loan association. With the approval of the Treasury, other institutions, perhaps brokerage houses, could qualify. Although in the form of a trust, the rollover account would operate more as a custodial investment account. The trustee could either be given investment discretion in which case the trustee would not only hold the funds in the account on behalf of the individual but would also determine their investment and reinvestment; or the individual could retain the right to direct investment in which case the trust would merely hold the funds in the account on the individual's behalf and execute investment and reinvestment orders in accordance with the individual's instructions. In both cases, the rollover account would be a separate trust account.

B. Eligible investments for a rollover account

The funds in a rollover account could only be invested in stock or securities of a domestic corporation or in interest-bearing deposits. This limitation avoids the complexities and other problems associated with direct investment, such as in real estate for example.[1] At the same time, the limitation permits the individual nearly a full range of choice among the traditional forms of savings.[2]

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[1] Direct investments would introduce the necessity of dealing with depreciation, investment tax credits and the like. Also, in the case of some direct investments which produce tax losses in the early years, the rollover account would be disadvantageous.

C. Traditional principles underlying rollover account

With respect to capital gains, the effect of the rollover account is as if one stock were permitted to be exchanged tax-free for another or were permitted to be sold for cash without the recognition of gain, provided the proceeds were within some time period reinvested in another stock. The rollover account achieves the same result except that it permits a change from a stock to a bond and also permits the additional flexibility of holding the proceeds in an interest-bearing account. With respect to dividends, the rollover account achieves a result similar to "dividend reinvestment" proposals which have been made in the past,[3] except that the rollover account provides additional flexibility because the dividends can be invested in stock or securities of a corporation other than the one from which the dividend was received, and the dividend may be deposited in an interest-bearing account.

D. Only one rollover account may be Maintained

An individual can maintain only one rollover account at a time. He can, however, terminate one rollover account by withdrawing all the funds, and then the next succeeding taxable year establish another account. A husband and wife could each establish a rollover account, whether or not they file a joint return.

E. Tax-exempt nature of rollover account trust

The trust will be exempt from tax and will not be required to file an income tax return instead it will be required to file annual information returns.

F. Taxation of individual; and identification of source of withdrawals

The individual would not be taxed on income accumulated in the rollover account, but will be taxed in the taxable year in which he withdraws that accumulated income from the trust.

It is critical to identify the source of any amount withdrawn from a rollover account because the amount will have the same character in the hands of the individual as it had in the account, i.e., either capital, capital gain or ordinary income consisting of interest and/or dividends. This identification of withdrawals is accomplished in the simplest manner possible: The trustee is required to maintain on its books, but not to segregate assets, three separate funds; a capital fund which represents the total of all amounts contributed to the account; a capital gain account which represents all net long-term capital gain realized by the trust; and an ordinary income fund which represents interest and dividends received by the trust plus net short-term capital gain realized by the trust.

Any withdrawal will be treated as first having come out of the ordinary income fund, next out of the capital gain fund, and finally out of the capital fund.

EXAMPLE

Individual A established a rollover account in 1980 to which he contributed $10,000 in each of the years 1980, 1981, and 1982. Through investment and reinvestment by the trustee the account had by the end of 1982 received $3,000 in dividends and had realized net long-term capital gains of $5,000. At the end of 1982, the balance in the account and the balance in each of the three separate funds is as follows:

Account balance	Capital fund balance	Capital gain fund balance	Ordinary income fund balance
$38,000	$30, 000	$5, 000	$3, 000

In July of 1982, Individual A withdrew $5,000 from the account. The withdrawal is treated as consisting of $3,000 of dividends and $2,000 of capital gain. When Individual A files his tax return for 1982, he will include in income $3,000 of dividends and $2,000 of long-term capital gain.

The rule for ordering the priority of withdrawals from a rollover account is significant. Once having made a contribution to a rollover account, and having accumulated income from that investment, there is a substantial incentive for the individual to leave both the originally contributed principal amount and the accumulated income in the rollover account, and, thus, in the savings system. Because withdrawals are first deemed to come out of the ordinary income fund, the individual cannot, without paying tax, merely leave the accumulated untaxed income in the rollover account and withdraw the originally contributed principal for consumption purposes.

G. Deemed withdrawal from rollover account

Under certain circumstances, an individual will be treated as having made a withdrawal from the rollover account even though no amount has actually been distributed from the account. If an individual transfers a portion of his interest in a rollover account, or pledges any portion as security for a loan, that portion of the account will be treated as having been distributed. However, if an individual's interest is transferred to his spouse pursuant to a divorce decree, no transfer will be deemed to have occurred.

The most significant "deemed withdrawal" from a rollover account arises when an individual has for the taxable year a net long-term capital loss from transactions outside the rollover account. In that event, the individual will be treated as having in the same taxable year withdrawn a corresponding amount from the capital gain fund (to the extent thereof). For example, if for the year 1980, the individual had a net long-term capital loss of $1,000 from transactions outside the rollover account, and, if at the end of 1980, the balance of the capital gain fund in the rollover account was $1,000, the individual would be treated as having withdrawn $1,000 of long-term capital gain which would exactly offset the $1,000 long-term capital loss.

H. Distribution of balance in rollover account to a beneficiary

If the individual neither makes nor is treated as having made, a withdrawal from the rollover account, no amount of income accumulated in the rollover account will be taxed to him, but, at his death the rollover account will terminate and the entire balance in the account will automatically be distributed to his designated beneficiary or, in the absence of a designated beneficiary, to his estate. The beneficiary or estate will be taxed on the accumulated income received.

I. Loss Upon Termination of Account

Although losses realized by the trustee on investment and reinvestment will not be recognized currently, upon termination of the rollover account a loss may be realized and treated as a capital loss of the year in which the account is terminated.[4] Such loss would be the amount, if any, by which the total of all amounts contributed to the rollover account exceeds the total of (i) the amount distributed upon termination of the account plus (ii) all amounts previously withdrawn from the account.●

FIGHTING BUREAUCRACY WITH MORE BUREAUCRACY—THE WRONG APPROACH TO OUR ENERGY FUTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

● Mr. KEMP. Mr. Speaker, the fast track legislation before us today certainly generated a lot of activity. At last count there were some 90 amendments vying for attention, as everyone rushed to fast track their favorite energy program and fashion the charter for this new Federal agency. And my office has been flooded with "Dear Colleagues" that sing the praises of "fast track"—I am told it will reduce our dependence on OPEC, increase domestic energy production, help develop our coal resources and alternative forms of energy, resolve the national interest conflict between environmental protection and energy independence, and increase our energy conservation at home. How could anyone oppose such an entity?

I agree, of course, that something must be done about the excessive Government regulation which is strangling the U.S. energy industry. Price and allocation controls have discouraged domestic production and the development of alternative energy sources. A large percentage of our known and potential resources are under lock and key on Federal lands. Some very difficult tradeoffs must be made if we are to open up Federal lands to energy exploration. The National Gas Act which passed last year has tremendously increased the paperwork burden on small independent energy producers.

There is no doubt that existing legislation has stopped many energy projects dead in their tracks. And I would be leading the fight for fast track if I believed it addressed these monumental problems which face our domestic energy producers. But this Energy Mobilization Board is just camouflage, another layer of bureaucracy, an energy mirage. When the dust settles, the U.S. energy industry will still be hopelessly bound by Government regulations, still import half our oil, and still be subject to the shortages and long gas lines of last summer. Fast track is a simplistic approach to a complex problem. It will produce very little new energy at a very high cost.

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[2] Residential real estate, most particularly a personal residence, is one form of "savings" excluded from the rollover account. However, since a personal residence does not produce taxable income, as distinguished from imputed economic income, the rollover account concept is by definition inapplicable.

[3] The "dividend reinvestment" proposals generally operate as follows: If a corporation declares a dividend, shareholder A could elect to receive the dividend and pay tax on it, but shareholder B could elect to defer receipt of the dividend, i.e., "reinvest" the dividend in which case shareholder B would not have to pay tax until later.

[4] If the account terminated the first year, the loss would be a short-term capital loss. Any loss resulting from a termination after the first year would be a long-term capital loss.

Mr. Speaker, the first problem with this fast-track legislation is its close association with the administration's crash synfuels program. Despite the many and grandiose claims that have been made, speeding up the administration's synfuels development program would be the primary duty of the EMB. The EMB was proposed by President Carter in his July 15 energy speech, along with a request for $88 billion for synfuels development. The administration's estimates of the energy to be produced through this crash program assume both a budget outlay of $88 billion and the presence of a fast-track Board.

And a powerful Federal authority would indeed be necessary, for large-scale production of synfuels poses serious threats to our environment. The pollutants that will be given off from liquefaction plants include hydrocarbons, phenols, combustion gases, acids, alcohols, inorganic acid salts, and cyanides, all potentially hazardous substances.

Carbon dioxide, in addition, will be released into the atmosphere, as will air and water vapor from cooling towers. The potential global hazards associated with increased carbon dioxide levels in the Earth's atmosphere are great. Any accumulation of CO_2 and other heat-absorbing gases warms the atmosphere, which could ultimately result in a shift of climatic zones, drastic changes in food production, and a rise in sea level by as much as 20 feet world-wide.

The pollutants discharged from various waste water treatment plants pose potential water quality problems as well.

But the risks of large-scale synfuels production are economic as well as environmental. There is very strong evidence to support the argument that synthetic fuels will not be competitively priced if their commercial development is started today. In fact, the very companies that have received, or are about to receive, Department of Energy contracts on synthetic fuel projects have quite evidently and explicitly made a judgment that synthetic fuel technology is not commercially feasible at the present time.

When the companies that know the most about a process, that have invested a considerable sum of their own money over the past 10 years, and have access to extremely good data about the potential markets for synthetic fuel products, come out and say they are unwilling to invest in the projects as a commercial venture, should we not at least consider the possibility that they have a good economic rationale?

To make matters worse, much of the known deposits of coal and oil shale needed for synfuels production are located in the West, where water is scarce and there is ongoing controversy over water rights. And as everyone knows, the water requirements for synfuels production are very high. Even with conservation and recycling, it is generally assumed that fairly large quantities of water will be required. The water is needed primarily in the conversion and cooling processes, but water is also needed for mining, coal preparation, ash disposal, and land reclamation.

The many environmental, economic and land use problems that surround synthetic fuels production are reason to question any headlong stampede into synfuels. But they are also the primary reason we have this fast-track legislation before us today. Large-scale synfuels production would be held up for years by the environmental and land use protections which concerned Americans have voted into place, and rightly so. Even with the $88 million and strong EMB the administration has requested for its crash synfuels program, we would only see, at best, 8.5 million additional barrels of oil a day produced by 1990. On the other hand, immediate decontrol of oil, gas, and natural gas would result in a short-term increase of 1.5 to 2 million barrels a day and an additional 10 million barrels a day by 1990, according to a recent study by the Heritage Foundation. It is clear that we need not sacrifice the environment, State and local rights, and millions of Federal dollars to move toward energy independence. Synfuels are not the answer and neither is the Energy Mobilization Board.

The second problem with fast-track is the possibility of large-scale violations of State and local rights.

Setting up a small, elite group to alter Federal, State, and local laws, and in some instances to act in place of Federal, State, and local agencies, is wrong in principle. This board could easily become an unresponsive, untouchable, and uncontrollable power in itself. If the people of Buffalo object to locating a new refinery in their community, should they be forced to accept a Federal decision overriding their State and local laws? If a coal liquefaction plant is to be built in Montana, requiring immense quantities of water, should the people of Montana and nearby States be content to have the crucial and complex issues of Western water law decided by a Federal board? Waiving even "procedural" regulations can effect the protection of our environment and health, for these statutory procedures are often part of the effort to insure the proper workings of the law. We must remember that if severe environmental damage occurs, it will be the local residents who suffer. They should have the final vote in such decisions.

Third, even at such costs, our new EMB will not do much to speed up many of the priority energy projects we are talking about.

A recent study by the Library of Congress reveals that, in large part, the delays behind energy projects reflect a lack of concensus on the worth or need for the proposed project. A 1979 DOE survey of all coal-fired plants concluded that—

An Environmental Policy Institute survey of coal and nuclear powerplant documents found that, according to the utilities involved, the main causes of delays were factors like strikes, labor shortages, late delivery of equipment, equipment failure, changes in plans or design, or financial problems.

The major cause for cancellation or delay of LNG terminals, coal gasification or liquefaction projects, and powerplants have been questions surrounding the economic feasibility of the project—LNG or coal gas—or need for the electricity to be generated—powerplants. And in the case of refineries and oil pipelines, the causes of delay are complex and tend to reflect the specific circumstances surrounding each project.

In additional views to the Commerce Committee report, a large percentage of the committee's members stated that—

> This bill does not assure that there will be a major reevaluation of the laws and regulations which are strangling economic development in this country. Nor will this bill cure the bureaucratic delays and duplication which has characterized the building of any energy facility over the past decade. Nor does this bill insure a reevaluation of the myriad of regulations which are hampering the production and use of petroleum and coal.

In light of these views, how much of an impact on energy production can this legislation really have?

But the final, and maybe the most important weakness of an EMB, is the specter of setting up another layer of bureaucracy to solve problems which were caused by Government regulation in the first place. Creating another Federal agency is not the answer. In 1977 Congress created the Department of Energy in order to integrate all major Federal energy functions into a single department 'for coordinated and effective administration." Some of us have questioned the wisdom of that decision, but nevertheless, we now have one energy spokesman. Now, the administration wants two more energy spokesmen—the EMB and Energy Security Corporation, which will finance the Carter synthetic fuels projects. This on top of an energy bureaucracy that has done little but create shortages and misallocations through a thoughtless regulatory system.

The future is easy to predict. An EMB created today will soon say its five-member Board cannot contain the expertise now shared among hundreds at the Federal, State and local levels. Then the Board will begin building its own huge staff with paperwork and all the rest—thus becoming another slow-moving bottleneck through which today's energy producers must pass.

Mr. Speaker, Congress is hiding behind this fast-track gimmick—it is afraid to come out and challenge the real problems, many of which resulted from past congressional blunders. We must be brave enough to take another look at the Clean Air Act, the Clean Water Act, the Wilderness Act, the new strip mining legislation. Setting up another Government agency to do a responsible assessment of our energy future is a cowardly escape. And the power entrusted to this panel threatens some of the underlying safeguards that have been built into our Constitution. Congress must be brave enough to remove the price controls and allocation regulations. the burdensome paperwork and the stifling tax structure that is keeping American energy producers down. Only by restoring the incentives for energy exploration, development and production will we make a significant move toward energy independence and adequate energy supplies at prices the American consumer can afford. Let us not fight bureaucracy with more bureaucracy.●

CONGRESS AND THE PRESIDENT RESPONSIBLE FOR HIGH INTEREST RATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. Leach) is recognized for 30 minutes.

Mr. LEACH of Iowa. Mr. Speaker, the Federal Reserve Board's recent decision to raise the discount rate to unprecedented levels and tighten the money supply has produced understandable criticism in Congress, particularly from members of the Democratic Party.

Accordingly, I think it responsible to point out that the steep increase in interest rates which we have witnessed this past month is only in small measure Federal Reserve Board responsibility. The Federal Reserve Board is independent of Congress and the Executive only to the point it must work within the constraints established in the fiscal arena. Responsibility for the current debilitating interest rate structure must be shouldered squarely by Congress and President Carter. A fiscal policy that mortgages debt to future generations is a fiscal policy that necessitates a tough monetary policy. The new, stringent monetary policy of the Federal Reserve Board is thus directly related to the abdication of fiscal leadership in the Congress and the unwillingness or inability of the President to set an anti-inflation standard.

President Carter is substantially responsible for these high interest rates—not because he appointed the Federal Reserve Chairman—but because this administration has created the largest leadership crisis in the history of international capital movements. The European money brokers as well as the oil rich mandarins of Middle Eastern capital are appalled at the weakness they perceive in the White House and have reflected their concerns by trading dollars for Deutsche marks and Swiss francs, and by hedging their currency holdings with gold. President Carter, is being nailed to a cross of gold—a cross built on skepticism in Presidential leadership and congressional responsibility.

In the last 2 weeks the administration has responded to the dollar stability crisis by announcing new Treasury gold sales, and policies related thereto, and by announcing its intention to float new Deutsche mark denominated Treasury debt. Problems of the dollar, it has implied, can be corrected in the short-term by selling off part of our national gold reserves and by issuing more of the so-called Carter bonds.

The voluntary selling of so much gold is unprecedented in modern times. In fact, the decision of the Carter administration to reduce the deficit by selling gold may well be a national scandal, given the loss to the Treasury that the sales imply and the multimillion-dollar loss to the American people that the administration's mistaken gold price prognostications have produced thus far.

I stress this last point. The Carter administration has sold gold in the past year at less than half the market value achieved in recent weeks. If a sales vice president of a corporation made such a mistake, he would quickly be asked to look for new employment. Yet, to date, the public is generally unaware of the disquieting decision to sell gold in the first place, and just how weak the bargaining ability of the administration has proven to be.

The selling off of our gold reserves for short-term gain is analogous to a farmer who loses $10 an acre on a 100-acre corn crop but misleads himself into thinking he really did not lose any money if at the end of the year he also sells an acre of his land for $1,000. Actually, just as the farmer is poorer at the end of the year if he sells part of his land, so is the U.S. Treasury when it sells its gold, as are the American people to whom the gold belongs in the first place.

The Carter bond sales would appear even more imprudent. Simply stated, the Carter administration has embarked on a course of speculation on the American dollar. As a major facet of the dollar rescue program announced last November, and expanded upon in recent weeks, the President approved the sale abroad of up to $10 billion of Treasury securities denominated in foreign currencies. The purpose of the sale of these Carter bonds is to derive foreign currencies which can then be available to support intervention by the United States in foreign exchange markets to counter any significant drop in the dollar's value. The essence of this operation is speculation, using borrowed funds with the U.S. taxpayer taking the risk.

The United States has played this high-stakes game before. From 1961 to 1971 the Treasury sold foreign currency notes to monetary authorities in six European countries. These U.S. notes were called Roosa bonds and the experience is not encouraging for the new Carter bonds. As of December 31, 1978, realized losses on retired Roosa bonds totalled $845.6 million.

One reason for this enormous taxpayer loss is that on January 20, 1977—the day President Carter assumed the Presidency—the American dollar was worth 2.50 Swiss francs, but subsequently dropped so precipitously that the Treasury became committed to paying almost a third more on our Swiss debt obligations than would have been the case if the dollar had held at the level it was at the end of the Ford administration.

Sale of Roosa bonds was justified as a means of forestalling foreign purchases of U.S. gold in order to assist in maintaining the Bretton Woods monetary system of fixed par values and gold convertibility. Treasury claims these bond sales resulted in our retention of 36 million ounces of gold. But this claim would appear a chimera in that the gold quickly went out the window. In the 10 years when Roosa bonds were being sold and rolled over, the U.S. gold stock decreased from 501.4 million ounces in 1961 to 289.5 million ounces in 1971. That loss of 211.9 million ounces was almost six times the claimed saving of 36 million ounces resulting from the sale of Roosa bonds. Unfortunately, it was not until August 1971 that the United States finally suspended the convertibility of officially held dollars into U.S. gold. If it were not for the Roosa bond sales, this decision would almost certainly have been made years earlier.

Thus, while our Government has had some experience selling foreign currency denominated debt, that experience was a bad one. More importantly, Roosa bond sales were made during a period of fixed exchange rates. The selling abroad of substantial Treasury debt today during an era of more flexible exchange rates involves entirely unprecedented risk taking and makes currency speculators out of American taxpayers. If the Carter administration and this Congress continue their policy of deficit spending we may well have to buy back our Deutsche mark and Swiss franc obligations with substantially depreciated dollars. In other words, the taxpayers in the next administration will foot the bill for the very dangerous dollar diplomacy of this one.

These policies of the administration reflect embarrassing dollar weakness. So do some of the panaceas gaining currency in Congress. Last week Chairman Henry Reuss of the House Banking Committee proposed we give serious consideration to the institution of credit controls as a method of bringing interest rates down. I am very skeptical. Advocating the establishment of credit controls is asserting more faith in the Washington bureaucracy than experience warrants. To believe that credit controls will solve the interest rate and inflation problem is analogous to believing gas rationing produces more energy. All the rationing of credit or gas does is allocate a shortage. The effect is to create distortions and inequities in the economy—not to mention the embittered divisions of those who become short-changed. What America needs is a more restrained and balanced fiscal policy, not new contorted controls that Washington has proved so decisively inept at administering every time it tries.

Chairman Reuss also called on the Federal Reserve to reexamine its money supply assumptions and be ready to announce a new higher temporary monetary range. A growth ceiling of 7.5 percent, he charged, has put the economy in a boa constrictor's embrace. The conclusion of Chairman Reuss is accurate—the economy is in a reptilic squeeze—but a short term increase in the money supply is a palliative, not a solution. Hyping the money supply causes lurches in the economy. It reflects a "Fed knows best" philosophy that is likely to exacerbate inflation even further and places more pressure in the long run to increase interest rates.

Last week, also, the majority leader, Mr. Wright of Texas, criticized the unprecedented 15-percent prime rate and correctly pointed out that high interest rates may be a formula for creating both inflation and recession in the same economy. But, incorrectly, he blamed the high interest rates exclusively on a "misbegotten" policy of the Federal Reserve Board.

Politically speaking, congressional liberals simply cannot have their cake and eat it too. It defies all economic logic to support liberal spending policies and at the same time blame the monetary authorities for high interest rates. The refusal to confront inflation with sound fiscal policy denies Congress the moral imprimatur to object to stringent Federal Reserve policy. While it is the duty of this Congress to exercise oversight of the monetary function, our real challenge is to get our fiscal house in order. Credit controls may be entertaining to speculate about; increasing the money supply may allow more inflated credit; blaming high interest rates exclusively on the Federal Reserve Board may be politically expedient; but these assertions represent a sideshow to the real business of government. There is simply no substitute for fiscal discipline.

Monetary and fiscal policy should move together rather than in opposite directions. What is needed to bring interest rates down is for Congress to have the courage to say "No" to excessive spending.

In this regard, it should be stressed that high interest rates are particularly cruel to poor and moderate income Americans. The concern for the poor that liberal legislators evidence in voting for excessive Government programs represents a "mistake of the heart"—but a mistake nonetheless. High inflation, high interest rates, low private sector job creation are more devastating to the poor than the counterbalancing effects of all the government assistance programs combined.

Skyrocketing interest rates have choked off funds for new plants and equipment. They have deprived States like my own with usury ceilings of any credit at all for housing in the last few months. And where credit is available in America, high interest rates have made it literally impossible for millions of American families to afford a home.

Since the first of this year alone, the increase in interest has added some $40,000 to the ultimate cost of paying for a $50,000 home on a 30-year mortgage.

It has added $115 a month to the payments a young family would have to make to purchase such a home. This legislated robbery of young families by Congress goes hand in hand with the increase in tax liabilities for all Americans. Government induced inflation not only pushes people into higher tax brackets, but it adds substantially to the cost of servicing the national debt. Since the first of the year, the increase in interest rates alone has added $4 billion to the cost of servicing the national debt. This is $4 billion more the American people will have to pay in taxes, and for which we will get nothing in return.

In short, the unconscionably high interest rates we see today are congressionally dictated interest rates. They are presidentially dictated interest rates. They are Democratic interest rates. If the American people want reprieve, they should seriously consider voting for new leadership and new fiscal discipline.

□ 1730

Mr. STANTON. Mr. Speaker, will the gentleman yield?

Mr. LEACH of Iowa. I yield to the gentleman from Ohio.

Mr. STANTON. I thank the gentleman for yielding. First, let me express my thanks and appreciation to the distinguished gentleman from the First District of Iowa for taking the time to present to this House, and hopefully to this Nation, one of the major problems, if not the most major problem, that this country faces today. He has adequately pointed out, through his service on our committee, that while we do not have a Democrat or a Republican dollar and incentive left in this country, nor do we look at partisanship as a means of accomplishing a goal within our committee that, indeed, his concern should be the concern of all of us not only on our side of the aisle but for the entire Congress when it comes to the subject of inflation and the decrease in the value of the dollar. His example was the cost to somebody who would spend $40,000, I think the gentleman said, in addition to what he would at the start of this year, on a $50,000 mortgage over 30 years—is that the example?

Mr. LEACH of Iowa. That is correct.

Mr. STANTON. It is incredible and, of course, it hits every one of us in our districts and the young people back home who want us to come forth with leadership, and who are asking the question, "Why? Why? Why?" Of course, we know the answer. The gentleman has repeated the answer for anyone who will listen.

Now is the time to do something we have not done in the last 2 years, and that is to combine the fiscal and monetary restraint that is so necessary to protect the further devaluation of the American dollar. So I extend to the gentleman my personal congratulations. I hope that from now on in the well of this House and wherever we can be heard that our voices will ring out. We have sat back too long, realizing what was going on, but for some reason or another we were not speaking out as the American people have charged us with the responsibility of doing. I hope the gentleman tonight will start a precedent that will long be continued here in the House.

Mr. LEACH of Iowa. I appreciate the contribution of the gentleman from Ohio and recognize his leadership as the highest on the Committee on Banking, Finance and Urban Affairs matters, and certainly in economic matters as well.

MOTOR CARRIER ENERGY CONSERVATION AND REGULATORY REFORM ACT OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. HAMMERSCHMIDT) is recognized for 15 minutes.

● Mr. HAMMERSCHMIDT. Mr. Speaker, I would like to bring to the attention of my colleagues a bill which I introduced yesterday concerning regulation of the trucking industry. The bill, H.R. 5762, is entitled the Motor Carrier Energy Conservation and Regulatory Reform Act of 1979.

As you know, Congress is currently considering a number of proposals to "deregulate" or "reregulate" the motor carrier industry. There has been considerable discussion that these proposals either go too far in deregulating the industry or do not go far enough.

It is a great pleasure for me to introduce a bill which tries to find a middle ground. It goes further than the trucking industry's proposals but is not nearly as sweeping as the administration's deregulation proposals.

Much of the study and research which led to this bill was done in consultation with an industry that includes a group of the largest shippers in my district. I thank them for their help and commend them for their valuable advice and judgment.

Mr. Speaker, I hope that H.R. 5762 will make a useful contribution to the discussions taking place in the Congress. I am, of course, open to any suggestions for ways in which the bill can be improved. It is by no means set in concrete.

I urge my colleagues to consider this bill carefully. It makes a number of meaningful reforms in the regulation of the motor carrier industry, without going so far as to create disorder in the industry.

H.R. 5762

A bill to revise provisions of title 49, United States Code, with regard to the regulation of the trucking industry

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Motor Carrier Energy Conservation and Regulatory Reform Act of 1979".

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"SEC. 2. Unless otherwise specified, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or provision, the section or provision amended or repealed is a section or provision of subtitle IV of title 49, United States Code.

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ENTRY CONTROLS

SEC. 3. (a) Section 10922 is amended by redesignating subsections (c), (d), (e), and (f) (and all cross references thereto) as subsections (d), (e), (f), and (g), respectively, and inserting after subsection (b) the following new subsection:

"(c) (1) In any proceeding under subsection (a) of this section involving a motor common carrier of property, the Commission shall require, subject to section 10927(a) of this title, that each certificate shall specify the transportation to be provided by the carrier.

"(2) In making a determination under subsection (a) of this section with respect to a motor common carrier of property, the Commission shall consider—

"(A) the ability and the willingness of the carrier to provide service to meet the reasonable needs of shippers;

"(B) the reasonable broadening of the commodities or categories of commodities described in certificates of motor common carriers of property where in individual cases the shipping public's need for such action has been demonstrated to the Commission; and

"(C) upon application, the removal of existing operating restrictions, including circuitous routes, if the applicant demonstrates adequately to the Commission that such restrictions are wasteful and that a public need for removal exists.

"(3) In any proceeding under subsection (a, of this section involving a motor common carrier of property, the Commission shall require that a carrier protesting a grant of operating authority supply evidence to the Commission that such protesting carrier—

"(A) possesses authority to handle the traffic for which authority is applied;

"(B) is fit, willing, and able to provide service that meets the reasonable needs of the shippers involved; and

"(C) has either performed service or solicited business, on a reasonable regular basis, within the scope of the application.

"(4) In making a determination under subsection (a) of this section with respect to a motor common carrier of property, the Commission shall consider, upon request of the applicant, the level of rates proposed to be charged by such applicant. Subject to section 10322 of this title, if the certificate is issued, the proposed rates shall remain at the proposed level for a period of not less than twelve months from the effective date of the certificate.".

(b) Section 10923(b)(2) is amended by—

(1) striking out "and" at the end of subparagraph (C);

(2) striking out "shippers." at the end of subparagraph (D) and inserting in lieu thereof "shippers; and"; and

(3) adding at the end thereof:

"(E) with respect to a permit as a motor contract carrier of property, the requirements contained in section 10922(c) of this title.".

INTERCORPORATE HAULING

SEC. 4. Section 10524 is amended by—

(1) inserting "(a)" before "The"; and

(2) adding at the end thereof the following new subsections:

"(b) Notwithstanding subsection (a) of this section, transportation of property by motor vehicle, with or without charge, by one incorporated company for another, or between an incorporated company and parent company, may be conducted without a certificate or permit issued by the Commission under this subtitle if—

"(1) the parent company notifies the Commission prior to the commencement of operations stating its intention to engage in intercorporate hauling of property; and

"(2) such notice contains a listing of participating subsidiary companies and an affidavit that the parent company owns a majority of each such subsidiary company.

"(c) A Commission-receipted and returned copy of the notice submitted under subsection (b) of this section shall be carried within the operator area of all motor vehicles conducting such operations.".

RATE BUREAUS

SEC. 5. Section 10706(b) is amended by—

(1) inserting "(1)" after "(b)"; and

(2) adding at the end thereof the following new paragraphs:

"(2) The Commission, in considering applications for approval of ratemaking agreements filed by motor common carriers of property under this section, shall—

"(A) permit a motor common carrier of property, including elected or designated representatives of groups of motor common carriers of property, to discuss, vote, or agree on any matter pertaining to traffic only if that representative, or any motor common carrier of property represented can participate;

"(B) permit all shippers, shipper groups, or associations representing shippers, to discuss, at a designated location, any matter concerning an existing or proposed provision in accordance with subparagraph (A) of this paragraph; and

"(C) not permit joint consideration, discussion, or action to protest or otherwise seek the suspension of any rate or classification filed by a member motor common carrier of property pursuant to section 10708 of this title where such rate or classification is established by independent action.

"(3)(A) Discussion on single-line and interline proposals of motor common carriers of property shall be strictly limited to comments upon the proposal and shall specifically exclude any agreement expressed or implied, to approve, disapprove, or withdraw the proposal. Comments that a proposed rate or rates will result in discrimination or preference or prejudice between shippers or localities or other similar statements shall be permissible. Comments that a proposed rate or rates will be noncompensatory, will adversely affect the movement of traffic, or will necessitate adjustments in other rates or similar statements shall not be permissible, except that such statements shall be permissible if supported with cost or other justifications related to affected shippers, shipper groups, or shipper associations.

"(B) The proponent of the proposal shall have the right to amend the proposal at any time prior to submission of the proposal to a vote. At the conclusion of any such discussion or, if no discussion is held, of the proposal as finally submitted by the proponent shall be voted on in accordance with this section.".

MOTOR CARRIER RATEMAKING

SEC. 6. Section 10701 is amended by adding the following at the end thereof:

"(e) With respect to proceedings to determine the reasonableness of rate levels for a motor carrier of property or group of motor carriers of property, or with respect to proceedings to determine the reasonableness of a territorial rate structure where rates are proposed through agreements between motor carriers of property authorized by section 10706 of this title, the Commission shall, within 12 months after the date of enactment of the Motor Carrier Energy Conservation and Regulatory Reform Act of 1979, promulgate and thereafter continually maintain standards and procedures for the establishment of rate levels adequate under honest, economical, and efficient management to cover operating and capital costs, including a fair and reasonable rate of return. In promulgating such standards, operating costs shall include the cost of capitalization of leases, the replacement cost of useful equipment and facilities, and capital cost of other equipment and facilities. The standards adopted by the Commission under this subsection shall not enable motor carriers of property to achieve a rate of return more than 2 percent greater than the average national business return on equity.".

EXPEDITING MOTOR CARRIER PROCEEDINGS

SEC. 7. (a)(1) The title to section 10322 is amended to read as follows:

"§ 10322. Initial decisions".

(2) The analysis of subchapter II of chapter 103 is amended by striking out

"10322. Initial decisions—nonrail proceedings."

and inserting in lieu thereof

"10322. Initial decisions.".

(b)(1) Subchapter II of chapter 103 is amended by inserting after section 10327 the following new section:

"§ 10327a. Commission action and appellate procedure in motor carrier of property proceedings

"(a) Notwithstanding sections 10322, 10323, and 10324(c) of this title, this section applies to a matter before the Interstate Commerce Commission involving a motor carrier of property providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title.

"(b) A division, individual Commissioner, employee board, or employee delegated under section 10305 of this title to make an initial decision in a matter related to one of those motor carriers of property shall complete all evidentiary proceedings related to the matter by the 180th day after assignment of the matter. The initial decision shall be submitted to the Commission in writing. If evidence is submitted in writing or testimony is taken at a public hearing, the initial decision shall be submitted to the Commission in writing by the 120th day after completion of all evidentiary proceedings and shall include—

"(1) specific findings of fact;

"(2) specific and separate conclusions of law;

"(3) an order; and

"(4) justification of the findings of fact, conclusions of law, and order.

"(c) The Commission, or a division designated by the Commission, may void the requirement of an initial decision under subsection (b) of this section and may require the matter to be considered by the Commission or that division on finding that the matter involves a question of Commission policy, a new or novel issue of law, or an issue of general transportation importance, or that it is required for the timely execution of its functions.

"(d) In a proceeding under this section, after the parties have had at least an opportunity to submit evidence in written form, the Commission shall give them an opportunity for briefs, written statements, or conferences of the parties. A conference of the parties must be chaired by a division, an individual Commissioner, an employee board, an employee delegated to act under section 10305 of this title, or an employee designated by the Commission.

"(e) Copies of an initial decision under subsection (b) of this section shall be served on the interested parties. An initial decision becomes an action of the Commission on the 20th day after it is served on the interested parties, unless—

"(1) an interested party files an appeal during the 20-day period, or by the end of an additional period of not more than 20 days, if authorized by the Commission or division designated by the Commission; or

"(2) the Commission stays or postpones the initial decision under subsection (g)(2) or (j) of this section within the period or additional period referred to in clause (1) of this subsection.

"(f)(1) Before an initial decision becomes an action of the Commission, the Commission, or a division or board designated by the Commission, may review the initial decision on its own initiative, and shall review an initial decision if an appeal is filed under subsection (e)(1) of this section. However, a board may not decide an appeal from an initial decision if the appeal may be further appealed to the Commission.

"(2) An initial decision may be reviewed on the record on which it is based or by a further hearing. If an initial decision is reviewed, it shall be stayed pending final determination of the matter, and it is an action of the Commission only after the final determination is made. If an appeal is filed under subsection (e)(1) of this section, the final determination shall be made by the 180th day after the appeal is filed.

"(3) Review of, or appeal from, an initial decision shall be conducted under section 557 of title 5. The Commission may prescribe rules limiting and defining the issues and pleadings on review under section 557(b) of that title.

"(g) (1) The Commission may, at any time on its own initiative because of material error, new evidence, or substantially changed circumstances—

"(A) reopen a proceeding;

"(B) grant rehearing, reargument, or reconsideration of an action of the Commission; and

"(C) change an action of the Commission.

An interested party may petition to reopen and reconsider an action of the Commission under this paragraph under regulations of the Commission.

"(2) The Commission may grant a rehearing, reargument, or reconsideration of an action of the Commission that was taken by a division designated by the Commission if it finds that—

"(A) the action involves a matter of general transportation importance; or

"(B) the action would be affected materially because of clear and convincing new evidence or changed circumstances.

An interested party may petition for rehearing, reargument, or reconsideration of an action of the Commission under this paragraph under regulations of the Commission. The Commission may stay an action pending a final determination under this paragraph. The Commission shall complete reconsideration and take final action by the 120th day after the petition is granted.

"(h) An action of the Commission under this section and an action of a designated division under subsection (c) of this section is effective on the 30th day after service on the parties to the proceeding unless the Commission provides for it to become effective on an earlier date.

"(i) Notwithstanding this subtitle, an action of the Commission under this section and an action of a designated division under subsection (c) of this section is final on the date on which it is served, and a civil action to enforce, enjoin, suspend, or set aside the action may be filed after that date.

"(j) The Commission may extend a time period established by this section for a period of not more than 90 days. The extension shall be granted if a majority of the Commissioners agree to it by public vote. The Commission shall send a written annual report to each House of Congress about extensions granted under this subsection. The report shall specify each extension granted (classified by the type of proceeding involved) together with the reasons for and duration of each extension.

"(k) If an extension granted under subsection (j) of this section is not sufficient to allow for completion of necessary proceedings, the Commission may grant a further extension in an extraordinary situation if—

"(1) at least 7 Commissioners agree to the further extension by public vote; and

"(2) not later than the 15th day before expiration of the extension granted under subsection (j) of this section, the Commission submits a written report to the Congress that a further extension has been granted. The report shall include—

"(A) a full explanation of the reasons for the further extension;

"(B) the anticipated duration of the further extension;

"(C) the issues involved in the matter before the Commission; and

"(D) the names of personnel of the Commission working on the matter.".

(2) The analysis of subchapter II of such chapter 183 is amended by inserting after

"10327. Commission action and appellate procedure in rail carrier proceedings."

the following:

"10327a. Commission action and appellate procedure in motor carrier of property proceedings.".

(c) Section 11701 is amended by adding at the end thereof the following new subsection:

"(d) A formal investigative proceeding begun by the Commission under subsection (a) of this section related to a motor carrier of property is dismissed automatically unless it is concluded by the Commission with administrative finality by the end of the third year after the date on which it was begun.".

LOSS AND DAMAGE CLAIMS

SEC. 8. (a) Chapter 117 is amended by adding at the end thereof the following new section:

"§ 11711. Actions against motor common carriers of property

"(a) Notwithstanding any other provisions of this title, all actions brought under and by virtue of section 11707 against a motor common carrier of property (except those that may also include claims for the recovery of attorneys fees) shall be brought in the first instance only before the Interstate Commerce Commission by the filing of a complaint in writing setting forth therein the nature of the action and the amount of money claimed therefor. The order of the Interstate Commerce Commission shall be binding upon all parties to such disputes unless revised on judicial review. Issues arising in the determination of such actions shall be determined in the most expeditious manner and, so far as practicable and legally permissible, without formal hearing or other proceedings. In all actions filed with the Interstate Commerce Commission in accordance with this section, appellate review of the orders of the Commission issued to dispose of such matters shall only be by a district court of the United States in a district through or into which the defendant carrier operates, and any aggrieved party shall, upon request timely made to the courts receive an opportunity for a trial before a jury as a disputed issue of fact.".

(b) The analysis of such chapter is amended by adding at the end thereof the following:

"11711. Actions against motor common carriers of property.".

BACKHAUL AUTHORITY

SEC. 9. (a) Subchapter II of chapter 105 is amended by adding at the end thereof the following new section:

"§ 10527. Backhaul authority

"Notwithstanding any other provisions of law, there any motor carriers of property has authority pursuant to section 10922 of this title to transport commodities or categories of commodities only in one direction, the Commission shall, upon request from the carrier, revise such carrier's authority to allow the carrier to transport such commodities or categories of commodities in either direction. In the event no return movement exists of such commodities or categories of commodities, the Commission shall revise the carrier's authority to allow the carrier to transport general commodities for backhaul purposes.".

(b) The analysis of subchapter II of chapter 105 is amended by inserting at the end thereof:

"10527. Backhaul authority.".

TRIPLEASE OF PRIVATE CARRIAGE

SEC. 10. Section 10526 is amended by adding at the end thereof the following new subsection:

"(c) Nothing in this subtitle shall be construed to authorize the Commission to regulate the duration of any lease, contract, or other arrangement for the use of any motor vehicle carrying only property and driver or the amount of compensation to be paid for such use where—

"(1) a motor vehicle to be used—

"(A) is that of a farmer, a cooperative association, or a federation of cooperative associations; or

"(B) is that of a private carrier of property by motor vehicle and is used for triplease or used regularly in the transportation of property of a character embraced within subsection (a)(6) of this section or perishable products manufactured from perishable property of a character embraced within subsection (a)(6) of this section; and

"(2) such motor vehicle is to be used by the motor carrier in a single movement or in one or more of a series of movements, loaded or empty, in the general direction of the general area in which such motor vehicle is based.".

ELIMINATION OF GATEWAYS

SEC. 11. Section 10922 is amended by adding at the end thereof the following new subsections:

"(h) Any certificate issued to a motor common carrier of property under this subchapter shall specify the service to be rendered and the territory within which the motor carrier is authorized to operate; and there shall, at the time of issuance and from time to time thereafter, be attached to the exercise of the privileges granted by the certificate such reasonable terms, conditions, and limitations as the public convenience and necessity may from time to time require, including terms, conditions, and limitations as to the extension of the territory of the carrier, and such terms and conditions as are necessary to carry out, with respect to the operations of the carrier, the requirements established by the Commission under chapter 111 of this subtitle. No terms, conditions, or limitations shall restrict the right of the carrier to add to its equipment and facilities within the territory specified in the certificate, or new territory added to existing territory, as the development of the business and the demands of the public shall require.

"(i) Notwithstanding any other provisions of law, if the certificate of any motor common carrier of property issued pursuant to this section contains fixed termini, gateway, or route restrictions, the Commission shall, upon request from the carrier, revise such carrier's certificate to permanently eliminate such fixed termini, gateway, or route restrictions.".●

TEXTILES STATEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER) is recognized for 5 minutes.

Mrs. HECKLER. Mr. Speaker, a pamphlet dealing with textile and apparel quotas and consumer prices is being publicized by an organization called Consumers for World Trade. The pamphlet, entitled the "Cost of Protectionism," is based on a study done by David G. Hartman. This pamphlet, a rehashing of selected earlier studies, attempts to show that unimpeded imports save the American consumer money.

While I have long been an advocate of expanding trade opportunities, I must point out that this pamphlet is a gross distortion of the positive role orderly marketing agreements play in strengthening the U.S. economy. Trade certainly can provide a dynamic engine of growth for certain sectors of the economy, but Mr. Hartman neglects any consideration of the complex negative effects which can evolve in other sectors.

Mr. Hartman, and the sources on which he relies, theorize that American consumers are hurt by import restraints. He fails to take many factors into account which make his figures less useful. For example, he and the sources on which he relies fail to take into account the fact that time and again the level of imports is substantially lower than the level of restraints, a situation which negates all his calculations.

Nor do Mr. Hartman and his sources give recognition to the social cost of unemployment brought about when imports displace vast numbers of American workers and reduce job opportunities. They fail to note that many women workers deprived of employment cannot relocate to other communities, where jobs might be available, because of family attachments or, because of their lack of alternative skills, cannot switch occupations. They fail to recognize that the alternative to work is unemployment, with its hardships and social costs, including the payments of unemployment compensation, adjustment assistance, or public welfare.

While Mr. Hartman alleges that apparel and textiles are most heavily protected, he fails to inform his readers that over recent years, prices of textiles and apparel rose by much less than most other items, including those that are far less heavily protected. For example, in recent years, textile and apparel prices rose by an annual average of 1.8 percent. Over the same period, general merchandise prices rose an average of 6.9 percent per year. Mr. Hartman also fails to recognize that, while differences in prices between imported and domestic garments do exist at wholesale level, the important question is whether the ultimate consumer benefits by these differences when shopping in retail stores.

Mr. Hartman also generates misleading impressions by such statements as "the textile industry has for a number of years exported more than it imported." If he had taken the trouble, he could have discovered that the quantity of fabric imported as yard goods and as apparel by far exceeds the quantity American industry was able to export. For example, imports of textile and clothing exceeded exports during 1960 by approximately $248 million. By 1978, imports exceeded exports by approximately $5.0 billion. The growth in imports, and particularly the problems of surges in imports, remain constant problems.

Furthermore, Mr. Hartman fails to take account of at least two recent investigations which reached a different conclusion. On July 19, 1977, the Subcommittee on Trade of the Ways and Means Committee published a Library of Congress study on "Imports and Consumer Prices" (WCMP 95-43). With respect to apparel, it affirms that there are strong indications that the American retailer typically takes a higher markup and profit on imported items, thus putting in grave question—to say the least—whether the American consumer sees any price benefit from imports.

In March 1979, the Congressional Budget Office published a background paper on "U.S. Trade Policy and the Tokyo Round of Multilateral Trade Negotiations." Therein the following incisive passage appears:

> This case for free trade has always recognized certain exceptions—cases in which free trade was not necessarily desirable. Domestic production in certain industries should, for example, be maintained even if foreign production were cheaper in order to reduce that threat that international political developments could interrupt the supply of essential goods . . . Domestic industries facing predatory foreign competition might in some cases require protection since, if such competition succeeded in destroying a domestic industry, thereby leaving a foreign supplier as the sole source of supply, the foreign producer would be left free to raise prices in the future. Temporary protection from foreign competition might also ease the adjustment to changed economic conditions of workers in industries that are no longer competitive in international markets.

And referring to the recent Multilateral Trade Negotiations (MTN), the CBO study states:

> The price effects of trade liberalization are * * * likely to be quite small. (P. 32.)

The fact remains that American consumers for years have had full access to billions of dollars of imported textile and apparel items. Competition between goods produced in this country and those made abroad existed throughout this period and did not provide the American consumer with substantially lower costs. The small rise in textile and apparel prices referred to above documents this fact.

Mr. Hartman seems to be so anxious to fashion a case that he ignores facts of which an economist should be conscious. Thus he seeks to compare employment changes in textiles by reference to 1975 levels. This, of course, was the year of a major postwar recession. Thus, Mr. Hartman deliberately ignores and distorts the impact of business cycles on the patterns of production and employment. The reality is that, except for the recession year of 1975, the industry's employment level today is the lowest of any year since World War II. Since 1965, employment in the textile and apparel industry has fallen by approximately 24 percent.

We must always recognize the truth, that while an average American worker spends his income as a consumer, he derives his income as a producer. If he is to be a consumer, he must have a job. Competition for jobs in the textile and apparel industry is affected by the fact that in many countries wages are substantially lower than in this country. In Sri Lanka the standard wage is a mere 25 cents per hour, in Taiwan and Korea the wage is 50 cents per hour. The low wages and poor working conditions would be—and properly so—illegal in the United States. It is important, therefore, to take into account that there are presently 194,000 textile and apparel workers who are jobless and that another 125,000 are employed part time because full-time work is not available.

Raising the employment level in this industry is a matter of increasing importance to the United States. A healthy textile and apparel industrty is of vital importance to the welfare of American agriculture. Cotton and wool producers in many States are basic suppliers to our textile industry—about half of our cotton crop and most of our wool clip depend on the ability of the domestic textile industry to absorb them.

We cannot ignore the fact that the textile and apparel industry is one of the largest employers of factory labor in this country, providing one out of every eight jobs. It is the largest employer of female workers in the manufacturing field. The industry provides a threshold occupation for new entrants into the labor force. It provides a significantly greater proportion of job opportunities to black and other minority workers than manufacturing as a whole. It provides many critically needed jobs in the underdeveloped areas of this country, such as Appalachia, where the alternative is public assistance. And it provides job opportunities, in some of our maturing, older cities in which the textile industry is the economic base.

At a public hearing held by members of the House Ways and Means Subcommittee on Trade in Fall River, Mass., my colleagues realized from the poignant plea of the workers that the public welfare alternative would be financially costly to the American consumer/taxpayer as well as damaging to the American spirit. The United States cannot afford to lose these job opportunities, already heavily impacted by the rise of imports.

Textile and apparel facilities are critically important in the Nation's mobilization planning. They must be in place should any emergency interdict supplies of goods from overseas. Little wonder, therefore, that the Quartermaster General of the Army concluded that this industry was second only to steel in strategic importance during World War II.

It is neither politically nor socially desirable for industrialized societies like the United States to ignore the fact that many jobs have to be safeguarded to provide a full spectrum of job opportunities for its citizens. While cost considerations may be significant, they cannot be viewed in isolation from the many important objectives involved in the economic and social policy of a country. Thus, the United States takes account of the effect of industrial activity on the environment, even though improvements in the quality of life for the average American may involve additional costs. Nor can any modern society reduce the level of living of its population to the standards that prevail in Southeast Asia or central Africa just because they do not have a minimum wage or choose to ignore their environmental and other problems. This is why any modern society, faced with the choice of seeing its plants close and its job prospects diminish in essential industries like textiles and apparel, must take proper action to safeguard what needs to be preserved.

This is what, in fact, the United States has been doing in the case of textiles and apparel at little or no cost to the American consumer.

THE TRADE CLARIFICATION ACT OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. COTTER) is recognized for 5 minutes.

● Mr. COTTER. Mr. Speaker, as you know, on October 23, the President transmitted to the Congress an agreement on trade relations between the United States and the People's Republic of China. This morning our Trade Subcommittee began hearings on this agreement, and on House Concurrent Resolution 204, which would approve the extension of nondiscriminatory—most-favored nation—treatment with respect to the products of the People's Republic of China provided in that agreement.

In all of the publicity about the extension of MFN to China, I believe one important factor has been blatantly ignored: that is, the effect upon our domestic industries by competition from a nonmarket economy that has over 800 million low-income people.

Many of our domestic industries have already encountered large quantities of PRC products being sold in overseas markets at prices well below any price which a free-market producer could reasonably charge. What impact will a normalization of trade relations which this potential economic giant have on our industries, many of which are already labor intense? As a result of my work on the Trade Subcommittee, I have come to the realization that our present trade laws, as they apply to nonmarket economies, are weak and inadequate, and will not meet the demands which will be made of them when U.S. firms are positioned in a competitive market with the Chinese.

Therefore, I have joined with my colleague on the Trade Subcommittee, Mr. SCHULZE, in introducing the Trade Clarification Act of 1979, and Senator JOHN HEINZ is today introducing a companion bill in the Senate.

This legislation proposes a simple and speedy alternative to the tangled remedies presently available in our antidumping laws to domestic industries who have experienced market disruptions due to large numbers of imports priced below fair market value.

Our current trade laws offer a domestic manufacturer two remedies against such an influx of injurious imports from nonmarket economies: the Antidumping Act and section 406 of the Trade Act of 1974.

The Antidumping Act is aimed at unfairly designated law prices. "Dumping" is determined by comparing the price the foreign manufacturer charges in its own country with the price that same manufacturer is charging for its product in the United States; if the foreign producer's U.S. price is lower than the price in the producer's country—after adjustments for shipping costs, duties, et cetera, is considered—the foreign manufacturer is dumping. Thus, a special duty can be charged to offset the amount by which the foreign producer is dumping products in the United States.

However, with respect to nonmarket economies, it is generally conceded that the home market price is meaningless. The prices and costs in nonmarket economies are typically set for political, rather than economic reasons. Neither free-market demand conditions nor real costs of production are decisive factors in typical nonmarket economies. Consequently, our antidumping laws contain a special provision for judging whether or not imports from a nonmarket economy are being "dumped." Section 205(c) of the Antidumping Act of 1921—now section 773(c)—permits the Secretary of the Treasury to use the prices charged in a free-market economy—as the foreign market value in comparing the foreign producer's price in the United States.

It is unfortunate that the executive branch has in the past used this provision to play politics with the Antidumping Act—the Polish golf car case is a classic example.

When the domestic golf cart industry charged Poland with "dumping," the administration, after shopping the entire world, could not find any other golf car producer that charged less than the Polish manufacturer—or a U.S. producer—was charging in the United States. Thus, it constructed a hypothetical price, based on what it would cost a Polish golf car producer to make a Polish golf car in Spain, where no golf cars are produced. This unusual procedure was instituted to enable the administration to decide the dumping case in favor of the Poles, and thus fulfill a commitment apparently given to the Polish Government during President Carter's December 1977 visit.

The second remedy now available to a domestic industry faced with an influx of imports from nonmarket economies is contained in section 406 of the Trade Act of 1974. Under this provision, an American industry need only prove to the International Trade Commission that it has been caused a certain amount of injury in order to justify the imposition of relief, which could be in the form of quotas, higher tariff rates, or a combination of the two. The catch here is that the law permits the President to disapprove, for whatever reasons, the imposition of any of the relief ordered by the Commission.

Thus, once again, as with dumping from nonmarket economies, the American manufacturer is subjected to having its legally authorized relief depend on foreign policy considerations which are totally extraneous to the manufacturer's market situation.

This bill is aimed at correcting the distortions which have been made of the remedies set out in our trade laws which were specifically implemented to protect our domestic markets from injury.

However, this bill is not a protectionist measure. It is simply an attempt to allow U.S. companies to prove dumping or injury by adopting a test which requires nonmarket economies to sell its products at a price which is the lowest price charged in a free market economy or set to the country from a free-market economy. The bill attempts to balance the concern of consumers for lower prices with a fair deal for domestic industries.

I am hopeful that our Trade Subcommittee can schedule hearings on this measure at an early time so that we can address this deficiency in our trade laws, and make the necessary changes before the normalization of trade with the People's Republic of China places our domestic industries under a pressure which may be too great for them to bear.

Mr. Speaker, at this point I would like to insert a section-by-section analysis of my bill which I believe will provide my colleagues with a precise understanding of the legislation, and the inadequacies in our domestic law which it attempts to correct.

SECTION-BY-SECTION ANALYSIS

This bill amends the Tariff Act of 1930 and the Trade Act of 1974 to provide a more coherent and easily administered body of trade law concerning imports from countries that do not have free-market economies.

SECTION 1

Section 1 of the bill amends subsection (c) of section 773 of the Tariff Act of 1930, as amended, which specifies the methods for determining foreign market vaule when non-market economies are accused of dumping.

The term "non-market economy country" would replace the term "State-controlled economy." This change would bring subsection 773(c) into line with the bill's amendment to section 406 of the Trade Act of 1974; section 406 is amended by replacing "Communist country" with "non-market economy country." Both subsection 773(c) and section 406 are concerned with the same countries and the same problem of non-market pricing; using the same terminology clarifies their interrelationship.

Section 1 would also amend section 773(c) to make it clear that the foreign market value of goods from non-market economy countries should be determined by examining the prices or costs of the most comparable free-market producer or producers, i.e., the producers that are located in a free-market economy country, including but not limited to the United States, and that are most nearly comparable to the non-market economy producer in size, sophistication, and technology. Although it was the Treasury Department's practice at the time subsection 773(c) was first enacted to compute the foreign market value of non-market imports by looking to prices or costs in third countries with comparable producers, that policy has since been changed in favor of seeking out the most comparable country. This change has not been a success. Trying to measure the "comparability" of market and non-market countries is virtually impossible; in practice, the new policy confers undue discretion upon administrators and contributes to great uncertainty about what our trade laws require. This amendment would correct the problem.

SECTION 2

Section 2 of the bill amends section 406 of the Trade Act of 1974. At present, section 406 authorizes the International Trade Commission ("the Commission") to recommend relief whenever it determines that products of a Communist country are causing market disruption with respect to an article produced by a domestic industry. As now written, section 406 recognizes only one form of market disruption—a rapid surge in imports constituting a significant cause of material injury, or threat thereof, to a domestic industry. Because there is nothing unfair about importers' increasing their market share in open competition, section 406 as now written offers only temporary relief to U.S. industries, and even that relief is subject to modification by the President. It is true that non-market economies are especially prone to volume surges and other erratic supply patterns, but they also pose a special danger of unfair pricing, because non-market enterprises need not operate at a profit if they serve other goals, such as bringing in hard Western currency. The proposed amendment would broaden the definition of market disruption to include artificial pricing.

Subsection 2(a). This subsection would strike out the term "Communist country" and replace it with the term "non-market economy country." Because the primary focus of this bill is on a country's economic structure and not its politics, using an economic rather than a political term seems appropriate.

This subsection also recognizes the danger that non-market countries will engage in below-cost pricing by permitting the Commission to find market disruption caused by increased imports or artificial pricing or both.

Subsection 2(b). This subsection establishes a special procedure for modifying the relief recommended by the Commission. If the Commission recommends relief for market disruption caused by artificial pricing, the President may report that he intends to take action differing from the recommendation. His modification may be put into effect if within 90 days Congress adopts a concurrent resolution approving it. Thus a domestic industry that has proven its case to the Commission may be denied relief by Congress and the President. This is because relief under section 406 will sometimes implicate large issues of foreign policy, and supervision by elected officials serves as a safety valve for the exceptional case in which overriding national interest justifies disregarding a proven injury to U.S. industry.

Nonetheless, artificial pricing is an unfair international trade practice, akin to dumping or subsidizing exports. Neither dumping nor subsidy (countervailing duty) cases are subject to a Presidential override. Non-market countries should not escape the consequences of engaging in unfair artificial pricing unless the President and Congress agree that an exception is necessary. By placing the burden of persuasion on the President, the bill ensures that exceptions will be recommended by the Executive only in a small number of genuinely important cases.

This subsection also proposes other procedural changes in section 406; the changes are necessitated by the nature of the artificial-pricing problem. For example, the relief regarded by the Commission would not be subject to subsections (d), (h) or (j) of section 203 of the Trade Act of 1974.

Subsection 203(d) is inapplicable because it prohibits increasing the rate of duty to (or imposing) a rate which is more than 50 percent ad valorem above the rate (if any) existing at the time of the proclamation. But if the Commission is to have the power to impose duties sufficient to eliminate artificial pricing, it must have the power to impose substantial specific duties on products that ordinarily have no ad valorem duty or no duty at all. Because nonmarket economies control the price of their goods, the declared value is subject to manipulation, so that any relief awarded by the Commission could easily be defeated if an ad valorem limitation applied. And, of course, it would be entirely appropriate to impose duties on artifically priced goods even though the goods ordinarily enter duty-free.

Subsection 203(h) provides that relief shall terminate 5 years after the day it takes effect and recommends that relief be reduced gradually over this period. While this may be a valid rule of thumb when imports have increased substantially but no unfair practice has been shown, artificial pricing is an intentional breach of the rules of international trade. If the danger of further violations continues, so should the relief. Therefore, the new bill states that relief for artificial pricing may be granted or extended for more than 5 years, but only if the danger of such disruption is likely to continue for more than five years.

Subsection 203(j) is equally inapplicable. It provides that no investigation shall be made with respect to an article which has received relief under section 201 (or section 406) unless two years have elapsed since the last day on which import relief was provided with respect to such articles. Again, requiring a domestic industrty to wait two years before renewing its claim for relief seems sensible with respect to a provision offering only temporary refuge from surging imports, but the requirement is out of place in a provision dealing with an unfair practice like artificial pricing. The bill provides instead that the grantng of relief for market disruption caused by artificial pricing shall not operate to prevent the initiation of an investigation based on allegations that circumstances have changed since the end of the investigation leading to relief. Without a provision of this nature, non-market countries could continue to maintain an artificial advantage by dropping their prices even further once duties have been imposed under section 406. The provision is also necessary to permit a showing that inflation, or some other recent development, requires adjustment in the relief granted by the Commission.

Subsection 2(c). At present, section 406(c) permits the President to request a Commission investigation and to take emergency action with respect to market disruption caused by increased imports. The bill would permit him to do the same with respect to market disruption caused by artificial pricing.

Similarly, 406(d) now permits the President to initiate international consultations if he determines that there are reasonable grounds to believe that a country's increased imports are causing market disruption. This subsection would permit him to take the same action with respect to disruption caused by artificial pricing.

Subsection 2(d). The definitions contained in this section are the heart of the bill.

At present, section 406 applies only to countries "dominated or controlled by Communism." While this definition has the virtue of indisputably identifying the most obvious non-market economies, it does not deal with the economic nature of the problem. Accordingly, the bill supplements this definition by adding an economic concept drawn from the antidumping laws, specifically section 773(c) of the Tariff Act of 1930. A non-market economy country is defined as a country whose economy is controlled to an extent that sales or offers of sales of merchandise in that country or to countries (including any country dominated or controlled by Communism) other than the United States do not reflect the true market value of the merchandise.

The subsection also makes several improvements in the existing definition of market disruption caused by increased imports. Under the proposed amendment, such disruption would be held to exist within a domestic industry whenever direct or indirect imports of articles, like an article produced by such domestic industry, are increasing, either absolutely or relatively, so as to be, either alone or in combination with imports from other non-market economy countries, a cause of material injury, or threat thereof, to such domestic industry or a cause of material retardation of the establishment of a domestic industry. This definition takes into account the possibility that an increased volume of indirect imports from non-market countries will cause injury. The current test for comparable articles has been streamlined by dropping the phrase "or directly competitive with" in favor of defining "like article" in a manner parallel to the definition used in antidumping and countervailing duty cases (section 771(10) of the Tariff Act of 1930). A like article is defined as an article which is like, or in the absence of like, most similar in characteristics and uses with an article subject to an investigation under this section.

The bill deletes the requirement in section 406 that imports be increasing "rapidly." This resolves a discrepancy between section 406 and the other provision for relief against increasing imports, section 201 of the Trade Act of 1974. The amendment also provides for cumulation of all non-market economy imports in determining the cause and extent of injury. This is because many non-market countries are part of a single, close knit economic community, so that coordinated export policies are a likelihood. The bill would also delete the requirements that nonmarket imports be a "significant" cause of material injury; it adopts instead the standard of the antidumping and countervailing duty laws which require that the challenged imports be a cause of material injury. See Tariff Act of 1930, sections 701 and 731. The bill also borrows from these laws the rule that relief may be awarded when the challenged imports are a cause of material retardation of the establishment of a domestic industry.

As has been explained, the bill adds a provision to section 406 permitting relief for market disruption caused by artificial pricing. It is similar in many details to the definition of disruption by increased volume discussed above. Because artificial pricing is so similar to other unfair trade practices, such as dumping and export subsidies, it is especially important to make the rules and remedies parallel in all three areas. Market disruption by artificial pricing is held to exist within domestic industry whenever an article, like an article produced by such domestic industry, is imported directly or indirectly from a non-market economy country or countries at a price below the lowest free-market price of like articles, so as to be, either alone or in combination with imports from other non-market economy countries, the cause of material injury, or threat thereof, to such domestic industry or a cause of material retardation of the establishment of a domestic industry.

The key to the new provision is the rule that non-market imports should not be priced below the "lowest free-market price of like articles." This price is defined as the lowest average price, adjusted for differences in quantity, level of trade, duties or other factors required to insure comparability, charged for like articles in this country by either: (a) a producer from an appropriate free market country, including the United States, if that producer provides more than 5 percent of the apparent United States consumption of like articles; or (b) the aggregate of all producers from any appropriate free-market country, including the United States, that supplies more than 5 percent of the apparent United States consumption of like articles.

In essence, this definition permits non-market producers to charge the lowest price offered by any significant individual supplier or by all suppliers from any country responsible for a significant portion of domestic consumption. The five-percent requirement is designed to exclude anomalous producers or countries, whose prices may be affected by unusual circumstances (including ownership by a non-market enterprise). Ordinarily, the Commission can be expected to use the prices charged by an aggregate of producers from a single country in preference to the prices of a single producer. Using an aggregate price forestalls serious confidentiality problems and is generally more appropriate; the output of an entire non-market country should ordinarily be compared to the output of another entire country and not to that of a single firm. Nonetheless, the bill gives the Commission discretion to administer the new provision in a flexible manner consistent with the bill's intent. For example, the Commission may adjust prices to reflect differences in quantity, level of trade, duties, and other factors necessary to assure comparability. It may determine the prices of importers from a particular country by conducting a sample. Generally, the principles established in the countervailing duty and antidumping laws will assist the Commission in administering the new law.

In order to avoid the choice of an inappropriate country for purposes of comparison, the bill forbids comparisons to goods from other non-market economy countries or to articles that are subject to countervailing duty or antidumping determinations.

Finally, the bill defines domestic industry as any industry producing an article in whole or in part in the United States, including any territory or possession of the United States. Watch producers in the Virgin Islands and Guam have already been hard-hit by the importation of watch subassemblies from the Soviet Union at extremely low prices. If the Soviet Union is granted MFN status and if it begins to import watches directly at artificial prices, a major portion of the insular possessions' economy could be wiped out. This provision would make it clear that section 406, as amended, protects the workers and industries of American possessions as vigilantly as it protects labor and business elsewhere in the United States.●

COMMONSENSE IN OIL INDUSTRY ECONOMICS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HIGHTOWER) is recognized for 10 minutes.

Mr. HIGHTOWER. Mr. Speaker, I rise as an advocate for some commonsense in our discussions of a very inflammatory subject: oil industry economics.

I confess to having been astounded last week when I heard that one multinational corporation had reported more than $1.1 billion in profits for its third quarter operations. I serve on the Appropriations Committee, in which billions of dollars are routinely discussed, but in every debate I try to keep in mind what a billion dollars represents, and it is no easy task. Therefore, the figures reported by the press and media this week about oil companies' profits have staggered my imagination.

However, having read long articles about the profits of Exxon and Gulf, for instance, I found that the most telling statistic was glaringly conspicuous by its absence, the percentage of profit. Exxon's revenue during the third quarter was reportedly $20.6 billion. Its net profit was reported to be $1.14 billion. A simple exercise in arithmetic, which none of the stories has reflected, would seem to show a net profit of 5.5 percent. The Gulf Oil Corp. reported a profit of $416 million on revenue of $7.74 billion, a net profit of 5.4 percent.

It is not easy to compare oil earnings with other industries. Nor is a comparison quite as uncomplicated as a simple exercise in arithmetic.

In the Oil Daily of October 29, 1979, Mr. Charles DiBona, president of the American Petroleum Institute, responded to questions from newsmen on this subject:

He said exceptional profits on overseas operations accounted for much of the total year-to-year increase. For example, he said profits on domestic operations of the four biggest U.S. oil companies increased an average of 29 percent from 1978 to 1979 on domestic operations. At the same time, the increase on foreign operations averaged 150 percent.

Mr. DiBona noted that the oil companies continue to invest more than their total earnings in energy exploration. Again using figures from Exxon, Mobil, Gulf, and Standard of Indiana, he said the firms reinvested 166 percent of their profits during the first 9 months of 1979.

He also noted that return on total assets of 14 major oil companies totaled 6 percent in the first 9 months of 1978 and 9.6 percent in the first 9 months of 1979. He compared those figures to return on assets for 64 nonoil firms of 9 percent in 1978 and 8.4 percent in 1979.

Return on sales showed a similar pattern. In 1978, the oil companies had a return of 4.3 percent compared with 6.6 percent for other industries, and in 1979 it grew to 5.8 percent compared to 6.6 percent.

Return on capital employed was 15.1 percent in 1979's first 9 months for the oil companies compared with 13.5 percent for other firms, compared with 9.7 and 12.3 percent in 1978.

Return on stockholders' equity was 21.2 percent for the oil companies in 1979 compared with 18.2 percent for nonoil, while the return in 1978 was 13.5 percent for the oil firms and 16.5 percent for others.

Mr. DiBona commented:

> They are all the same pattern. Last year we were below the industry average, and this year we're above it.

He said, however, that for 3 of the last 5 years, oil companies were below the U.S. industry average in return on stockholders' equity. During the last 10 years, the return totaled 13.7 for all industries and 13.9 for the oil industry.

Gulf Oil Corp. reported last week that its net profits were less than its projected capital expenditures. As a case in point Gulf had announced earlier this year that it intended to boost its refining capacity by 9 percent over the next 3 years. It plans to do so by modifying existing refineries, not by building a new refinery. No one seems to want a new refinery in his or her area, with the consequence that no new refineries have been built on the east coast, where they are desperately needed, for the last 10 years. Gulf's projected capital expenditures to boost its refining capacity by only 9 percent will be a quarter of a billion dollars.

Where will the money that is needed to expand our own energy production come from? Where will the money come from to help redirect this Nation on the road toward energy self-sufficiency? The House of Representatives has authorized Federal programs to help develop alternate energy sources, and I believe that is necessary, but as its share of the total expenditures that will be required it represents only a drop in the bucket. At a time when the prime interest rate has climbed to 15¼ percent it has become difficult for an individual or a corporation to borrow necessary capital. I do not hesitate to reaffirm my conviction that the most logical source of funds for necessary capital expenditures is from profits. Capitalism is not a dirty word to me, nor is its inseparable twin, profits.

Those who condemn profits have their heads in the sand and refuse to accept the reality that profits have fueled our economy for 200 years, allowing the United States to ascend to a position of world leadership during its relatively brief history. Profits will continue to fuel the Nation's growth unless the Congress throws roadblocks in its path. Unemployment lines lengthen only when workers are laid off and new jobs are not available. Unemployment compensation, which is a net drain on the economy, diminishes only when the Nation's businesses are making profits.

In summary, I would urge my colleagues to look beyond the headlines when they read about oil industry profits. It is a truism that everything is relative.

☐ 1740

GASOHOL MARKETING FREEDOM ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Dakota (Mr. DASCHLE) is recognized for 5 minutes.

● Mr. DASCHLE. Mr. Speaker, earlier this year I introduced the Gasohol Marketing Freedom Act, legislation to facilitate the sale of gasohol by the managers of the Nation's branded franchise gasoline stations. The Gasohol Marketing Freedom Act, which would amend the Petroleum Marketing Practices Act, would eliminate the mixture of ethyl alcohol and gasoline as grounds for the termination of a franchise or nonrenewal of a franchise agreement and would prohibit franchisors from engaging in acts of economic reprisal or discrimination against franchised dealers who chose to sell gasohol to their customers.

Franchised gasoline dealers are clearly subtly and not so subtly pressured by franchisors not to sell gasohol. Although franchised dealers are independent businessmen and women, because of franchisor pressure and opposition, they lack the freedom to choose if they will offer gasohol for sale to their customers. Until the more than 146,000 "independent" managers of the Nation's branded franchise gasoline stations, which comprise 82 percent of the gas stations in the Nation, are assured the right to market gasohol and can freely choose without reservation to market gasohol, gasohol will not be marketed by thousands of franchised dealers and will consequently not be available to countless consumers.

For the benefit of those Members who may not yet be familiar with the Gasohol Marketing Freedom Act, I request the text of this measure which is currently cosponsored by 66 Members be printed in the RECORD. I would also like to note the distinguished Congressman from Michigan's Sixth District, Mr. CARR, is a cosponsor of the Gasohol Marketing Freedom Act although he is not listed as a cosponsor of the present printing of this bill.

H.R. 3958

A bill to amend the Petroleum Marketing Practices Act to facilitate the sale of gasohol by franchised gasoline dealers

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Gasohol Marketing Freedom Act of 1979".

SEC. 2. Section 102(b) of the Petroleum Marketing Practices Act (15 U.S.C. 2802(b)), relating to grounds for termination or nonrenewal of gasoline dealer franchises, is amended by adding at the end thereof the following new paragraph:

"(4)(A) Notwithstanding paragraphs (2) and (3), the sale, consignment, distribution of gasohol, the offering (by advertising or otherwise) of gasohol, or any other act directly related to the sale, consignment, or distribution of gasohol (including the mixture of motor fuel and alcohol) is not grounds for termination of a franchise or a nonrenewal of a franchise relationship.

"(B) Subparagraph (A) does not apply to any violation by any person of any reasonable restriction under a franchise regarding the source of supply of any motor fuel which is a component of gasohol sold, consigned, or distributed by such person.".

SEC. 3. (a) Title I of the Petroleum Marketing Practices Act (15 U.S.C. 2801 and following) is amended by redesignating section 105 as section 106 and by inserting after section 104 the following new section:

"REPRISALS OR DISCRIMINATION AGAINST RETAILERS OR DISTRIBUTORS OF GASOHOL

"(a) No franchisor may engage in any act of economic reprisal against any person who is a franchisee of that franchisor because of that person's sale, consignment, or distribution of gasohol or any other act by that person which relates to the sale, consignment, or distribution of gasohol and which is not a grounds for termination or nonrenewal under section 102(b)(2) or (3).

"(b) For purposes of subsection (a), an act of economic reprisal includes any act or attempt of reprisal or discrimination against a person which had or would have had a substantial adverse economic effect on that person.".

(b) Section 105 of such Act (15 U.S.C. 2805) is amended—

(1) by striking out "SEC. 105" and inserting "SEC. 106" in lieu thereof;

(2) by striking out "102 or 103" where it appears in subsections (a) and (d) and inserting "102, 103, and 105" in lieu thereof;

(3) by inserting before the period in the first sentence of subsection (c) the following: ", or, in the case of a failure to comply with the requirements of section 105, that the franchisor engaged in an act (or attempted to engage in an act) which had (or would have had) a substantial adverse economic effect on the franchisee";

(4) by inserting before the period in the last sentence of subsection (c) the following: "or section 105 (as the case may be)".

(c) Such Act is amended by redesignating section 106 as section 107, and by striking out the last two items in the table of sections under the heading relating to title I and inserting in lieu thereof the following:

"Sec. 105. Reprisals or discrimination against retailers or distributors of gasohol.
"Sec. 106. Enforcement.
"Sec. 107. Relationship of this title to State law.".

SEC. 4. Section 101 of the Petroleum Marketing Practices Act (15 U.S.C. 2801), defining terms used in such Act, is amended by adding at the end thereof the following new paragraphs:

"(20) The term 'gasohol' means alcohol, or any mixture containing at least 10 percent or more (by volume) of alcohol, suitable for use as a fuel in self-propelled vehicles designed primarily for use on public streets, roads, and highways.

"(21) The term 'alcohol' includes methanol and ethanol but does not include alcohol produced from petroleum, natural gas, or coal.".●

NORTHERN TIER PIPELINE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. SWIFT) is recognized for 10 minutes.

Mr. SWIFT. Mr. Speaker, given the support the Oberstar amendment received from both Mr. DINGELL and Mr. UDALL, its adoption this morning was assured. But some mention should be made for the record as to the very special treatment being accorded this one, solitary project and some objection ought to be raised as to the unique consideration being given to this particular project—consideration so unusual we know it has never been accorded any other energy related project and will probably never again be accorded another energy related project.

The Oberstar amendment says that a west-to-east pipeline shall be eligible for designation by the President as a fast-track project. That amounts to a triple fast tracking for which no other project will ever be eligible.

What are the three areas of special treatment for a Northern Tiger pipeline?

One, it is already on a fast track—the expedited procedures of PURPA.

Two, with this amendment it would also be eligible for fast tracking under the Energy Mobilization Board procedures.

And three—not satisfied with double fast tracking—the Oberstar amendment fast tracks the fast track by exempting this one project from the designation procedures of the EMB itself.

Now, Mr. Speaker, how much is too much? How much special consideration does any one project deserve?

The answer does not lie in all the delays this project has suffered, because it has suffered none. There has been no delay by Federal, State or local regulations. This amendment would triple fast track, a project that is not even ready to go.

My State, Washington, has a model siting procedure. It is a one-stop process that works quickly and effectively. And it is waiting to act—if it ever gets a final proposal. The delays in the Northern Tier Co.'s proposal, for example, have been caused by the company—changing its application.

This amendment fast-tracks everything except the applicant—but makes in order every imaginable fast-tracking for the applicant when it finally gets ready. Talk about special treatment.

In fact, let us do talk about special treatment. This amendment is clearly blatant special-interest legislation—tied to an important bill so it can slide through on the momentum of the host legislation.

All of this is especially disturbing because, with all of this special treatment, this coddled project will not produce one drop of oil, one kilowatt of electricity, one Btu of heat, or any energy in any form at all. It is just a transportation vehicle. Yet it is being accorded unusual and very special treatment—so exceptional one would think this was the universal solution to the entire energy problem of this Nation.

Instead, there is considerable opinion that this pipeline, if built, could well become a 1,500-mile-long white elephant. Both the Interior Department's draft report and the Cardullo report raised serious questions about any need for it; questions about inadequate supply and inadequate demand in the Midwest after supplies already projected come on line.

Yet we are going to triple-track this one project just as if there was justification for this special treatment.

Even the recommendation the Secretary of the Interior made on behalf of the Northern Tier Co.'s proposal was lukewarm. If my wife starts telling me she loves me in the tones Secretary Andrus used to endorse Northern Tier, I am going to start looking for the "other man."

Still, we are going to accord this questionable project special triple tracking, a fast track of a fast track of the fast track.

Mr. Speaker, we are going to do some very foolish things in response to the energy crisis. And we are going to do some things of questionable judgment. It is doubtful, however, that we will do anything that will upon the reflection of history look so blatantly helpful to a special interest with so little justification as the amendment we adopted this morning—the "one and only, never-to-be-seen-again, Northern Tier special-interest triple track."

□ 1750

HEARINGS ON WOMEN IN THE MILITARY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. WHITE) is recognized for 5 minutes.

● Mr. WHITE. Mr. Speaker, due to considerable interest expressed by Members of the House and in view of the importance of the issue to our national defense posture, I wish to announce that the Military Personnel Subcommittee of the Committee on Armed Services will commence hearings on the issue of women in the military on November 13, 1979.

The ranking minority member of the subcommittee, Mrs. HOLT, joins me in stating that it is the subcommittee's intention to conduct a complete review of all facets of the issues involved.

We will conduct hearings during the week of November 13, 1979, and thereafter as necessary. Members of the House, or outside organizations desiring to present testimony on the issue should contact the subcommittee staff at either 225-7560 or 225-6703.●

STATEMENT OF HON. CHARLES A. VANIK ON THE COMMENCEMENT OF HEARINGS ON MOST-FAVORED-NATION STATUS FOR THE PEOPLE'S REPUBLIC OF CHINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 10 minutes.

Mr. VANIK. Mr. Speaker, at the time the conclusion of the trade agreement was announced between our Nation and the People's Republic of China, I expressed the hope that our Government would deal with this issue on an even-handed basis with both the People's Republic of China and the Soviet Union.

I agree there should be no linkage, that action on one nation should not be contingent on action for another. The issues involved between the nations are vastly different and should be separately considered. However, what we do with respect to this proposal could have an effect on the emigration hopes of hundreds of thousands in the Soviet Union.

The President has made a determination that China has met the requirements of the waiver authority provided in the Trade Act. However, the emigration issue is only a quadrant of concepts of human rights in the Congress and by the American people. American concepts on human rights extend far beyond the provisions of the Trade Act. It has extended to other essential rights of man. America has reacted many times against the actions of oppressive governments. The vote of every individual Member of Congress does not necessarily follow the statute, it follows his own concept on the issue of human rights.

It is difficult to measure the progress of human rights in a closed society. Nor can we assume that a low key level of dissent is evidence or proof of the absence of suppression.

Although the Soviet Union has not made human rights assurances, although it has denied emigration visas to long-waiting applicants, and although it has jailed citizens seeking exit visas, it has permitted 141,882 citizens to leave the U.S.S.R. since 1974 and is currently issuing visas at an unprecedented rate of 60,000 per year. I want this policy to continue.

I do not want America to undertake a trade relationship or any kind of priority or preference between the People's Republic of China and the Soviet Union. I do not want to see my country play the so-called China card and play either of these major powers against each other. We proceed with consideration of MFN for China only because the formal requirements are in a better condition of readiness.

It is my hope that before we conclude this determination, the issue of SALT will be favorably resolved by the Senate. It is also my hope that in the intervening period and as we carry on our deliberations on this issue, constructive discussions will proceed at an appropriate diplomatic level between our Government and the Soviet Union to determine if present emigration actions are indicative of a trend.

The Soviet Union could assist in this matter by dealing forthrightly with the long-waiting applicants and deal compassionately with those imprisoned for seeking emigration. Under these conditions I would be constrained to consider similar MFN action for the Soviet Union—without a formal assurance. The deed would serve as well as the promise. However, this action would have to be initiated by the President, who would have to be persuaded by helpful circumstances.

In our action on this issue we bear responsibility for the emigration hopes of hundreds of thousands in the Soviet Union. Our responsibility is indeed grave.

Although our action on this issue is not linked with SALT, it must be considered in the climate of SALT. If SALT II is approved, a better trade relationship may be a logical next step. If it should fail, a better trade relationship is even more essential to serve as a surviving pillar for détente.

This trade agreement and any similar agreement with the U.S.S.R. is subject to a congressional review in a little over 6 months by this same 96th Congress. The risk of error is less in this short period. If circumstances change, the relationship can be terminated by a majority in either House on a vote that can be demanded by any one of the 535 Members of the Congress. There are adequate human rights safeguards. If the human rights conditions deteriorate in any nation receiving MFN treatment under the Trade Act of 1974, I promise to lead the effort to terminate the relationship.

We will proceed to the consideration of MFN for China objectively on the merits.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. VANIK. I am pleased to yield to my distinguished colleague, the gentleman from California, a distinguished member of the Committee on Ways and Means.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague yielding.

Do I interpret what the gentleman has presented very carefully before the House tonight that there is any attempt to weaken the Jackson-Vanik provisions of present law?

Mr. VANIK. There is no attempt to change any of the provisions of the law. The procedures that I have suggested are entirely within the format of title IV of the Trade Act of 1974.

Mr. ROUSSELOT. I guess what I am asking is that there is no outside group or interest group trying to weaken that excellent provision, is there?

Mr. VANIK. I do not see any tangible efforts of any effort to change the language. As a matter of fact, I have taken the position that the language of the Trade Act as far as I am concerned is in concrete.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman's comments.

Mr. VANIK. Mr. Speaker, I yield back the balance of my time.

INTRODUCTION OF A BILL TO EXTEND THE PROVISIONS OF TITLE XII OF THE MERCHANT MARINE ACT, 1936, RELATING TO WAR RISK INSURANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. MURPHY) is recognized for 5 minutes.

● Mr. MURPHY of New York. Mr. Speaker, this bill would extend permanently the life of title XII of the Merchant Marine Act, 1936 (U.S.C. 1281-1294). Section 1214 of the act, pursuant to amendment by Public Law 94-523 (90 Stat. 2474), now provides that the authority under that title shall expire on September 30, 1979.

Title XII authorizes the Secretary of Commerce with the approval of the President, to provide insurance against loss or damage by war risks with respect to vessels, cargos, crew life and personal effects, and liabilities related to ownership or operation of the vessels, when commercial insurance cannot be obtained on reasonable terms and conditions. The purpose of title XII is to maintain the flow of the U.S. waterborne commerce, including the maintenance of essential transportation services for the Department of Defense. War risk insurance was provided by the Government in both World War I and World War II, and proved effective in protecting the civilian and military commerce of the United States, with total premium receipts in excess of losses paid.

Title XII of the Merchant Marine Act, 1936, was enacted with the outbreak of the Korean war in 1950. It was temporary legislation that expired in 5 years. Past extensions of the title XII authority had been for 5-year periods, expiring on September 7 of each fifth year. The last extension was for 3 years, terminating on the date corresponding to the end of the new fiscal year established by the Congressional Budget and Impoundment Control Act of 1974.

War risk protection has been provided through the issuance, for a fee, of interim binders under which Government war risk insurance will attach immediately when commercial war risk insurance terminates under the automatic termination clauses in the commercial policies.

Section 1203(a) of the 1936 act authorizes the Secretary to provide insurance not only to American vessels, but also to "foreign-flag vessels owned by citizens of the United States or engaged in transportation in the waterborne commerce of the United States or in such other transportation by water or such other services as may be deemed by the Secretary to be in the interest of the national defense or the national economy of the United States when so engaged."

The regulations of the Maritime Administration have been demonstrated to be adequate for the suspension of the program when national security needs have been satisfied. Therefore, it is unnecessary to burden the Congress each 5 years for extensions of this vital program. This bill would merely eliminate the necessity for repeated congressional action on a measure which should be in place when needed.●

WELFARE REFORM AMENDMENTS OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. PEASE) is recognized for 5 minutes.

● Mr. PEASE. Mr. Speaker, I rise in support of the Welfare Reform Amendments of 1979. I urge my colleagues to also support the bill and oppose the motion to recommit.

Attempts at improving the welfare system have been going on for some time. A welfare reform act was approved by committee and passed by the House in the 95th Congress. The other body did not bring the measure up. In 1974 the distinguished Congresswoman from Michigan, Mrs. Griffiths, promoted a reform bill that went even further than this bill or the one in the 95th Congress.

H.R. 4904, the Welfare Reform Amendments of 1979, addresses many areas of welfare—ranging from the establishment of a national minimum benefit level to an increase in the earned income credit to changes in the manner that persons qualify for supplemental security income (SSI).

Mr. Speaker, I am especially pleased that the bill contains language (section 217) that will significantly lower the amount of SSI benefits paid to legal aliens who have been admitted to our country after they have been "sponsored" by an American citizen.

The existing abuse of the SSI system was first brought to wide public attention by the CBS television program "60 Minutes." Aliens who are not able to prove sufficient financial assets or have waiting employment must be "sponsored" by an American citizen, and although the sponsorship agreement was meant to relieve Government of the costs of supporting an individual if he or she could not do so himself, the courts have held that the agreement is actually only a moral commitment—leaving Government supporting the destitute alien.

After a General Accounting Office report showed the extent of the SSI-alien problem, I introduced legislation that would require the sponsorship agreement to be a legally binding agreement formally holding the sponsor to the support of the alien for a period of 5 years. Separate and in addition to that bill I introduced legislation that would require that an alien reside in the United States for 5 years before he or she could be eligible to receive SSI benefits. This two-prong approach was meant to assure that Government would not be required to pay SSI benefits in a case where court challenges or other legal problems might arise.

Some 50 Members of the House joined me in sponsoring these bills, Mr. Speaker.

While section 217 of H.R. 4904 does not incorporate either of the bills that I introduced, its net effect will be to vastly reduce the number of aliens drawing SSI benefits. Consequently, Federal payments will be reduced and taxpayers' money will be saved. Savings will grow at about $7 million per year to about $24 million in 1984.

The bill accomplishes this result by attributing the income of the sponsor to the alien for purposes of determining eligibility for SSI. This situation would hold for 3 years but not apply in the case of an alien who became blind or disabled after admission to the United States.

Mr. Speaker, I believe that my strong feelings about the question of SSI benefits to aliens have been addressed by this section of the bill.

I urge adoption of the bill.●

CRISIS OF CONFIDENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. GLICKMAN) is recognized for 5 minutes.

● Mr. GLICKMAN. Mr. Speaker, we have an energy crisis; I am convinced of that. But we also have a real crisis of confidence. There are growing numbers of Americans who are not convinced that we do have an energy crisis. Instead, they read about major oil company profits soaring and read reports of fuel being held back and come to the conclusion that there is a conspiracy behind the shortages and price hikes. Until we effectively address that doubt—either by proving it wrong or by correcting the situation which allows such alleged collusion, we cannot expect to bring doubting Americans into the fight to resolve our energy dilemma.

We do not have the time to use the normal procedures to clear the air. We need to move expeditiously, just like we have been talking about doing these last few days in connection with consideration of the "fast-track" legislation. Investigations by the Department of Energy or the Justice Department will not do the trick. They are burdened with too many responsibilities to give a thorough investigation of the major oil companies and their compliance with Federal pricing, import and resale, and antitrust laws and regulations the kind of priority it needs. For that reason, I have introduced legislation today to authorize establishment of a Special Prosecutor, along the lines of that set up to investigate the Watergate affair, to get to the bottom of the allegations that are circulating wih regard to major oil companies' activities.

My bill would restrict the investigation only on the largest oil companies, those with worldwide daily volume of 1.6 million barrels or more. My understanding is that this threshold will affect only the seven or eight largest oil companies. I propose targeting the investigation on those firms because that is where any real problem would logically lie. After all, facts and figures speak strongly for the fact that the independent oil and gas producers are the ones who are out front in risky exploration and development of new reserves. And the mid-sized refiners and marketers are providing some competition in what is an overly concentrated industry. It does not make good sense to tie up the Special Prosecutor's resources and time looking at firms that are clearly making a positive contribution to our energy picture. Likewise, we should not hamper their positive efforts by tying up those smaller firms in pointless legal or investigatory efforts.

But with regard to the majors, my bill would give the Special Prosecutor broad authorities to pursue a truly effective investigation. It would not be limited to violations of just one law. It would cover Federal laws and regulations governing energy pricing, sales, and imports. It would also cover possible anticompetitive practices of those major oil firms which we all know are heavily integrated. The Prosecutor would have a wide range of powers to act in those areas. He would have authority to direct the FBI and other investigative agencies of the Federal Government to gather and provide him information. He could conduct grand jury proceedings, issue indictments if warranted, and participate in a wide range of judicial activities. Further he would have access to all relevant materials held by Federal agencies and would be authorized to contest executive privilege, if necessary to secure those materials.

In addition to his "prosecutorial" functions, the Special Prosecutor would be directed to report to the Congress and appropriate executive agencies recommendations for changes in law or regulations which he might deem appropriate and necessary to assure that the laws are enforced fully as they are applicable to the big oil companies. Those recommendations should provide the Congress with the material we would need to review those laws with an eye toward changing our laws to make sure we do not get into a situation like we face today again. The Prosecutor would also have authority to report information to State and local officials with regard to possible violations of their laws and to assist them in following through on such findings.

We cannot afford to have the situation we have now in terms of people not believing we have a crisis continue. Until we do, we cannot expect the kinds of changes that are going to be necessary to make sure that our energy consumption is rational. And we need to know, in this period of high inflation, that pricing policies as decontrol goes forward are legitimate. By introducing this legislation, I am not saying that there are violations or abuses. I am merely saying that there is a prevailing sense in sectors of the American population that such might be the case. We need to get an answer, one way or the other. We need to make sure it is an independent assessment and a candid one. It needs to be one in which there can be confidence. And we need the answer soon so the American people and the energy industry can work together at resolving what is one of our Nation's most serious problems.●

GERMANY COULD HELP THE WORLD WITH A TIGHTER FISCAL POLICY, EASIER MONETARY POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. Reuss) is recognized for 15 minutes.

● Mr. REUSS. Mr. Speaker, the West German Central Bank has just raised its discount rate by 1 full percentage point, from 5 to 6 percent. The move was the fourth such action this year, during which interest rates in the Federal Republic have more than doubled, while money growth has been virtually flat.

The Bundesbank's action escalates our fast-developing international interest rate war. Shortly, we will see the effects: renewed instability on the foreign exchange markets, renewed decline of the international dollar, and renewed pressure on the Federal Reserve to lift U.S. interest rates again and crunch our economy a little further.

For several months now I have warned against letting interest rate competition between the Federal Reserve and the Bundesbank get out of hand. Now, it appears that even Federal Chancellor Helmut Schmidt has come to share this concern. The Federal Chancellor refused to endorse the Bundesbank's action, and let it be known in private that he had "definite reservations." If this is true, then perhaps there exists an opportunity for an agreement between political leaders in both countries to bring this spiral to a halt. Chairman Volcker and Secretary Miller should waste no time in responding to Chancellor Schmidt's signals.

The irony of the present situation is that it is so unnecessary. If Germany wishes to fight oil-led inflation by macroeconomic, fiscal and monetary means, it has massive scope for action on the fiscal side that would not have the same deeply adverse consequences for the United States. Germany is still pursuing a stimulative fiscal policy, with an aggregate budget deficit at least twice as large, as a fraction of GNP, as our own.

Germany has recently taken a number of fiscal actions—tax reductions and increases in spending—that are inflationary and that could be rescinded in favor of greater monetary ease.

First. Effective January 1, 1979, income tax schedules were changed to reduce the direct tax on household factor income, the equivalent of an 11 billion DM tax cut. The Government also increased children's allowances and provided for an early retirement option that amounted to an equivalent 2.75 billion DM tax cut.

Second. Effective January 1, 1979, Federal expenditures were increased by 2.75 billion DM.

Third. Maternity benefits were increased by 0.75 billion DM effective July 1, 1979.

Effective July 1, 1979 there was an increase in the rate of value-added taxation, amounting to a tax hike of 6.5 billion DM. Net effect for 1979: an increased stimulus of 10.75 billion DM, only partly offset by tax revenues that are rising rapidly due to growth and inflation.

In addition, Germany now plans still more fiscal expansion, starting at the beginning of next year:

First. Effective January 1, 1980, there will be an increase in tax-free income allowances, and some portion of educational expenses will be tax deductible, amounting to an effective tax reduction of 2.25 billion DM; and

Second. Effective January 1, 1980, there will be a reduction in nonprofit business taxes amounting to 2.75 billion DM.

These actions will come on the same day that U.S. fiscal policy, through our foolish and not-yet-rescinded rise in the social security payroll tax, will become even more sharply contractionary than at present. They portend future monetary tightness by the Bundesbank, as it struggles to overcome the inflationary effect of Bonn's election year actions, and even greater future tensions with the United States. All of it, as I have said, is strictly avoidable if the German authorities act now to reverse the course they are on.

Last Monday, October 29, a distinguished economist and former chairman of the Council of Economic Advisers, Walter Heller, testified before the Joint Economic Committee. He warned in no uncertain terms of the danger in the course we and the Germans are now on:

> (The) escalation in the interest rates, and especially the German escalation, has been extremely damaging to the dollar. The dollar problem, in very considerable part, is a Deutschemark problem.
>
> And they, of course, are operating at what they think is a virtuous cycle of a stronger mark, and then lower import prices and a still stronger mark and so forth. But that is at the expense of the rest of the world.
>
> And if we get into a competitive interest rate warfare and play that same game, the entire world will suffer.
>
> And it is interesting, you know, we hear a great deal about the virtues of the German approach. But the result of that approach is that in the past five years they have had much slower growth rates and much higher unemployment than the rest of the OECD . . . The costs have been very heavy.

I support, and I will continue to support, a moderate U.S. monetary policy that is aimed at a gradual deceleration of inflation. But an interest rate war with the Germans, far from fighting inflation, makes it worse by unnecessarily adding to business costs. It will deepen the recession as the supply of mortgage money, consumer credit and capital and small business loans begin to dry up. And it is bad international relations.

The Federal Reserve should take the lead in persuading the Bundesbank to declare a truce in the interest rate war. Chairman Volcker is a man with enormous prestige among bankers around the world. He should use that prestige now to win their cooperation. But overall German economic policy, including fiscal policy, is the province of the German Government, not of the Bundesbank. What is needed is a tighter German fiscal policy which will permit an easier German monetary policy. It is hard to imagine a more important topic of conversation for the President and the Chancellor.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Ms. Ferraro (at the request of Mr. Wright), from 2 p.m. today and Friday, November 2, on account of illness.

Mr. Nichols for Friday, November 2, 1979, on account of official business in Third Congressional District, State of Alabama.

Mr. Rodino (at the request of Mr. Wright), for today, on account of illness in the family.

Mr. Charles H. Wilson of California (at the request of Mr. Wright) for November 1 and 2, on account of representing the President at the funeral of the late President Park of Korea.

Mr. Wolff (at the request of Mr. Wright), for November 1 and 2, on account of representing the President at the funeral of the late President Park of Korea.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Sensenbrenner) to revise and extend their remarks and include extraneous material:)

Mr. Goodling, for 1 hour, November 7, 1979.

Mr. Martin, for 1 hour, today.

Mr. Kemp, for 10 minutes, today.

Mr. Leach of Iowa, for 30 minutes, today.

Mr. Hammerschmidt, for 15 minutes, today.

Mrs. Heckler, for 5 minutes, today.

(The following Members (at the request of Mr. Synar) to revise and extend their remarks and include extraneous material:)

Mr. Cotter, for 5 minutes, today.

Mr. Hightower, for 10 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 15 minutes, today.

Mr. Weaver, for 10 minutes, today.

Mr. Daschle, for 5 minutes, today.

Mr. Swift, for 10 minutes, today.

Mr. White, for 5 minutes, today.

Mr. Vanik, for 10 minutes, today.

Mr. Murphy of New York, for 5 minutes, today.

Mr. Pease, for 5 minutes, today.

Mr. Glickman, for 5 minutes, today.

Mr. Reuss, for 15 minutes, today.

Mr. Preyer, for 60 minutes, on November 8, 1979.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Sensenbrenner) and to include extraneous matter:)

Mr. Broyhill.

Mr. Kemp in two instances.

Mr. Rousselot.

Mr. McCloskey.

Mr. Findley.

Mr. McKinney.

Mr. Gilman.

Mr. Petri.

Mr. Hillis.

Mr. Daniel B. Crane.

(The following Members (at the request of Mr. Synar) and to include extraneous matter:)

Mr. ROSENTHAL in 10 instances.
Mrs. BOUQUARD in five instances.
Mr. HAMILTON in 10 instances.
Mr. CAVANAUGH in five instances.
Mrs. BYRON in 10 instances.
Mr. FROST.
Mr. MATTOX.
Mr. GRAMM.
Mr. HOLLAND in five instances.
Mr. VAN DEERLIN.
Mr. IRELAND.
Mr. PEASE.
Mr. MINETA.
Mr. STARK.
Mr. ASHLEY.
Mr. McDONALD in three instances.
Mr. VENTO in three instances.
Ms. FERRARO.
Mr. RODINO.
Mr. ERTEL.
Mr. DODD.
Mr. DOWNEY.
Mr. EDGAR.
Mr. MINISH.
Mr. RAHALL.
Mr. CONYERS.

SENATE BILL AND JOINT RESOLUTION REFERRED

A bill and joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1873. An act to establish a procedure for the processing of complaints directed against Federal judges, and for other purposes; to the Committee on the Judiciary; and

S.J. Res. 109. Joint resolution to authorize the President to proclaim November 16, 1979, as "American Enterprise Day"; to the Committee on Post Office and Civil Service.

ENROLLED JOINT RESOLUTION SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 3. Joint resolution designating November 4, 1979, as "'Will Rogers Day."

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills and a joint resolution of the House of the following titles:

On October 31, 1979:

H.R. 4387. An act making appropriations for Agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1980, and for other purposes;

H.R. 5218. An act to amend the Foreign Assistance Act of 1961 to authorize special Caribbean hurricane relief assistance; and

H.R. 5506. An act to amend the Energy Policy and Conservation Act to extend for 2 months certain authorities relating to the international energy program.

On November 1, 1979:

H.J. Res. 3. An act designating November 4, 1979, as "Will Rogers Day."

ADJOURNMENT

Mr. SWIFT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 56 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, November 2, 1979, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2739. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense equipment to Greece (Transmittal No. 80-12), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

2740. A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation entitled "Chrysler Corporation Loan Guarantee Act of 1979"; to the Committee on Banking, Finance and Urban Affairs.

2741. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of District of Columbia Act 3-112, to establish the real property tax rates for tax year 1980, and for other purposes, pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

2742. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Greece (Transmittal No. 80-12), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2743. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment and services to Greece (Transmittal No. 80-15), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

2744. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of a proposed new records system for the U.S. Marine Corps, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2745. A letter from the Records Officer, U.S. Postal Service, transmitting notice of three proposed new records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2746. A letter from the Chairman, Federal Election Commission, transmitting proposed regulations pertaining to the Presidential primary matching payment account, pursuant to section 9039(c) of the Internal Revenue Code of 1954, as amended (H. Doc. No. 916-216); to the Committee on House Administration and ordered to be printed.

2747. A letter from the Deputy Assistant Secretary of the Interior for Indian Affairs, transmitting a proposed plan for the use and distribution of the judgment funds awarded to the Kickapoo Tribe of Kansas and the Kickapoo Tribe of Oklahoma in Indian Claims Commission dockets Nos. 315 and 338, pursuant to sections 2(a) and 4 of Public Law 93-134; to the Committee on Interior and Insular Affairs.

2748. A letter from the chairman, Board of Directors, Future Farmers of America, transmitting the audit report of the organization for the 2-month interim period ended August 31, 1979, pursuant to section 3 of Public Law 88-504; to the Committee on the Judiciary.

2749. A letter from the Administrator of General Services, transmitting a prospectus proposing alterations at the U.S. Postal Service Building, 115 East Sixth Avenue, Gary, Ind., pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

2750. A letter from the Administrator of General Services, transmitting a prospectus proposing the construction of a U.S. courthouse and parking facility in East St. Louis, Ill., pursuant to section 7 of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

2751. A letter from the Comptroller General of the United States, transmitting a report on weaknesses in the Army's manpower management system (FPCD-80-9, October 31, 1979); jointly, to the Committees on Government Operations and Armed Services.

2752. A letter from the Comptroller General of the United States, transmitting a report on New York City's efforts to deal with its fiscal problems (GGD-80-5, October 31, 1979), pursuant to section 107 of Public Law 95-339; jointly, to the Committees on Government Operations and Banking, Finance and Urban Affairs.

2753. A letter from the Comptroller General of the United States, transmitting a report on the Federal Government's drug enforcement and supply control efforts (GGD-80-4, October 25, 1979); jointly, to the Committees on Government Operations, Foreign Affairs, Interstate and Foreign Commerce, the Judiciary, and Ways and Means.

2754. A letter from the Acting Comptroller General of the United States, transmitting a report on the declining U.S. mining and mineral-processing industry (ID-80-04, October 31, 1979); jointly, to the Committees on Government Operations and Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BONKER: Committee on Foreign Affairs. House Concurrent Resolution 200. Concurrent resolution expressing the sense of the Congress with respect to the Baltic States and with respect to Soviet claims of citizenship over certain U.S. citizens; with amendments (Rept. No. 96-575). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 471. Resolution providing for the consideration of H.R. 2603. A bill to authorize appropriations for the Department of Energy for national security programs for fiscal year 1980, and for other purposes (Rept. No. 96-576). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 472. Resolution providing for the consideration of H.R. 2608. A bill to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes (Rept. No. 96-577). Referred to the House Calendar.

Mr. FROST: Committee on Rules. House Resolution 473. Resolution providing for the consideration of H.R. 3994. A bill to amend the Solid Waste Disposal Act to authorize appropriations for the fiscal year 1980, to make certain technical changes, to strengthen the regulatory and enforcement mechanisms, and for other purposes (Rept. No. 96-578). Referred to the House Calendar.

Mr. ZEFERETTI: Committee on Rules. House Resolution 474. Resolution providing for the consideration of H.R. 2063. A bill to amend the Public Works and Economic Development Act of 1965 to extend the authorizations for 3 additional years (Rept. No. 96–579). Referred to the House Calendar.

Mr. BROOKS: Committee on Government Operations. Report entitled "Failure To Provide Effective Audits of Federal Grants" (Rept. No. 96–580). Referred to the Committee of the Whole House on the State of the Union.

Mr. ANNUNZIO: Committee on House Administration. H.R. 5651. A bill to establish by law the position of Chief of the Capitol Police, and for other purposes (Rept. No. 96–581). Referred to the Committee of the Whole House on the State of the Union.

[*Omitted from the Record of October 26, 1979*]

SUBSEQUENT ACTION ON A BILL SEQUENTIALLY REFERRED UNDER TIME LIMITATIONS

Under clause 5 of rule X the following action was taken by the Speaker:

The Committee on Banking, Finance and Urban Affairs discharged from consideration of the bill (H.R. 3905) to authorize the Secretary of Agriculture to guarantee loans for the construction and operation of alcohol fuel plants, to provide for the sale of agricultural commodities for the operation of such plants, to amend the Agricultural Act of 1949 with respect to the set-aside programs for feed grains, and for other purposes, and committed to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CONYERS:

H.R. 5770. A bill to authorize emergency loan guarantees to the Chrysler Corp.; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ALEXANDER:

H.R. 5771. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income amounts received from certain sales of land to the United States, any State, or certain tax-exempt organizations, if the primary use of such land after the sale is for purposes of fish and wildlife conservation or preservation as a natural area; to the Committee on Ways and Means.

By Mr. CLEVELAND:

H.R. 5772. A bill to amend section 421 of the Elementary and Secondary Education Act of 1965 to permit the use of funds for the purchase of band instruments; to the Committee on Education and Labor.

By Mr. COTTER (for himself and Mr. Schulze):

H.R. 5773. A bill to amend the Tariff Act of 1930 and the Trade Act of 1974 to provide more equitable standards for determining the foreign market value of, and market disruption attributable to, goods manufactured in non-market-economy countries; to the Committee on Ways and Means.

By Mr. DOWNEY:

H.R. 5774. A bill to restore the deductibility of expenses for attending certain foreign conventions; to the Committee on Ways and Means.

By Mr. EDWARDS of Oklahoma:

H.R. 5775. A bill to provide for the establishment of a nuclear safety board as an independent establishment of the United States with authority to monitor nuclear incidents and to make recommendations regarding nuclear safety; jointly, to the Committees on Interior and Insular Affairs and Interstate and Foreign Commerce.

By Mr. GLICKMAN:

H.R. 5776. A bill to provide for a special prosecutor for the audit, review, investigation, and prosecution of violations by major oil companies of any provision of the Emergency Petroleum Allocation Act of 1973, of all other Federal laws governing and relating to energy pricing and the purchases from foreign sources of crude oil and refined petroleum products and sales thereof, and of the Federal Trade Commission Act as amended, the Sherman Anti-trust Act and the Clayton Anti-trust Act or any regulations promulgated under those authorities; jointly, to the Committees on Interstate and Foreign Commerce and the Judiciary.

By Mr. HEFTEL:

H.R. 5777. A bill to amend the Comprehensive Employment and Training Act to establish a solar energy youth employment and training program, and for other purposes; to the Committee on Education and Labor.

H.R. 5778. A bill to require the use of solar energy systems to provide a certain percentage of the energy used in new Federal buildings and federally leased building space for heating water and for heating and cooling; to the Committee on Public Works and Transportation.

By Mr. HOLLAND (for himself and Mr. Martin):

H.R. 5779. A bill to amend the Internal Revenue Code of 1954 to provide for increased savings and investment by individuals through a tax-deferred rollover account; to the Committee on Ways and Means.

By Mr. HOLLENBECK:

H.R. 5780. A bill to direct the Secretary of Health, Education, and Welfare to establish a program to alert women who received DES while pregnant of the health hazards of such drug to them and their daughters and to reimburse such women and to their daughters for one-half the diagnosis and treatment costs resulting from receiving such drug; to the Committee on Interstate and Foreign Commerce.

By Mr. LEVITAS (for himself and Mr. Johnson of California):

H.R. 5781. A bill to designate the building known as the Department of Labor Building in Washington, D.C. as the "Frances Perkins Department of Labor Building"; to the Committee on Public Works and Transportation.

By Mr. McCORMACK:

H.R. 5782. A bill to establish the Cougar Lakes National Recreation Area in the State of Washington, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MILLER of California:

H.R. 5783. A bill to amend the Federal reclamation laws, as amended and supplemented, to support the family farm in America, to reduce excessive subsidies, to provide for more efficient water management, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MURPHY of New York:

H.R. 5784. A bill to extend the provisions of title XII of the Merchant Marine Act, 1936, relating to war risk insurance; to the Committee on Merchant Marine and Fisheries.

By Mr. PERKINS:

H.R. 5785. A bill to amend the Black Lung Benefits Act to provide that certain benefits paid to miners who originally filed claims under part B of title IV of such act shall not be considered workmen's compensation benefits for purposes of the Social Security Act; to the Committee on Education and Labor.

By Mr. SOLOMON (for himself, Mr. Lee, Mr. McEwen, Mr. Mitchell of New York, Mr. Horton, Mr. Gilman, Mr. Carney, Mr. Wydler, Mr. Lent, Mr. Kemp, and Mr. Fish):

H.R. 5786. A bill to amend the Internal Revenue Code of 1954 to provide tax relief to residential users of refined petroleum products; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ROYBAL:

H.R. 5787. A bill for the relief of Catalina Ensico Fimbres; to the Committee on the Judiciary.

By Mr. SAWYER:

H.R. 5788. A bill for the relief of Jun Ae Hee; to the Committee on the Judiciary.

DELETION OF SPONSORS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 5040: Mr. Daschle.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 605: Mr. Minish.

H.R. 2557: Mr. Lungren.

H.R. 2558: Mr. Lungren.

H.R. 3022: Mr. McDonald.

H.R. 3974: Mr. Coughlin.

H.R. 3981: Mr. Kemp.

H.R. 4310: Mr. Vander Jagt, Mr. McKinney, and Mr. Wolff.

H.R. 4419: Mr. D'Amours.

H.R. 4460: Mr. Rudd.

H.R. 5062: Mr. Akaka, Mr. Bedell, Mr. Beilenson, Mr. Bingham, Mr. John L. Burton, Mr. Dellums, Mr. Downey, Mr. Fazio Mr. Frenzel, Mr. Kastenmeier, Mr. Matsui Mr. Moffett, Mr. Rosenthal, Mr. Stark, Mr Waxman, and Mr. Weiss.

H.R. 5327: Mr. Conable, Mr. Sharp, Mr Hagedorn, Mr. Schulze, Mr. Bennett, Mr. Goldwater, Mr. Bedell, Mr. Lee, Mr. Atkinson, Mr. Burgener, Mr. Gephardt, Mr. Corcoran, Mr. Petri, Mr. Van Deerlin, Mr. Lederer, Mr. Campbell, Mr. Jeffries, Mr. Mathis, Mr. Edgar, Mr. Bafalis, Mr. Gingrich, and Mr. McKinney.

H.R. 5504: Mr. Oberstar, Mr. Bingham, Mr. Pepper, Mr. Gibbons, Mr. Miller of California, Mr. Murphy of Pennsylvania, Mr. Scheuer, and Mr. Edgar.

H.R. 5635: Mr. Whitehurst, Mr. Lagomarsino, Mr. McKay, Mr. Goldwater, Mr. Derrick, Mr. Andrews of North Dakota, Mr. Grassley, Mr. O'Brien, Mr. Hubbard, Mr. McClory, and Mr. Mathis.

H.J. Res. 374: Mr. Cavanaugh, Mr. Simon, Ms. Oakar, Mr. Sebelius, Mr. Barnes, and Mr. Horton.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

214. By the SPEAKER: Petition of the House of Representatives of the Republic of Cyprus, relative to the independence, sovereignty, and territorial integrity of Cyprus; to the Committee on Foreign Affairs

215. Also, petition of the Town Board, Town of Sweden, Brockport, N.Y., relative to general revenue sharing; to the Committee on Government Operations.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2063

By Mr. DODD:

—Page 44, after line 19, insert the following:

Section 903 of such Act of 1965 is amended by adding at the end thereof the following new subsection:

"(e)(1) During fiscal years 1981, 1982, 1983, 1984, and 1985 the Secretary, as an experimental program, shall, subject to such amounts as are provided in appropriation Acts, make weekly assistance payments computed under paragraph (2) of this subsection to any employee whose employment under a major defense contract the Secretary finds is terminated as a result of cancellation of such contract or a reduction of $10,000,000 or more in the value of such contract. Such weekly assistance payments shall be made during a period which begins on the date of termination of such employment and which is equal to the employee's seniority or the time such employee was, on the date of such termination, continuously employed by the person whose major defense contract was cancelled or reduced in value, but such period shall not exceed two years.

"(2)(A) Subject to the provisions of subparagraph (B) of this paragraph, the amount of each such weekly assistance payment shall be equal to an amount determined by adding—

"(i) 90 percent of the amount, not to exceed $20,000, of the annual gross income received by the employee through his employment under the major defense contract on the day before the date of termination of such employment; to

"(ii) 50 percent of any amount, in excess of $20,000 but not to exceed $25,000, of such annual gross income;

and dividing such sum by 52.

"(B) In computing the amount of each such weekly assistance payment, the Secretary shall deduct from the amount determined under subparagraph (A) the total amount of any unemployment compensation payment, earned income, or public assistance (other than assistance received under this subsection) which the Secretary determines that such individual is receiving.

"(3) During any period of time in which weekly assistance payments are being made to any employee under this subsection, the Secretary, in addition, shall, subject to such amounts as are provided in appropriation Acts, take such action, including the payment of premiums or other fees, as may be necessary to ensure that any health insurance coverage which such employee has through his employment under the major defense contract on the day before the date of termination of such employment is maintained at the same levels and on the same terms and conditions.

"(4)(A) Any individual eligible to receive assistance under this subsection shall submit to the Secretary an application in such form and containing such information as the Secretary may, by regulation, require.

"(B) Each individual receiving assistance under this subsection shall promptly notify the Secretary of any change in the sources or amounts of any income or assistance which such individual is receiving. Failure to comply with the provisions of this subparagraph shall result in immediate loss of eligibility for assistance under this subsection.

"(C) Each individual receiving assistance under this subsection must be available for employment and have not refused suitable employment.

"(5) For the purposes of this subsection, the Secretary shall issue regulations for determining the amount of annual gross income received by an employee through his employment under a major defense contract on the day before the date of termination of such employment.

"(6) For the purposes of this subsection, the term—

"(A) 'defense agency' means the Department of Defense (including the military departments), the Department of Energy, and the National Aeronautics and Space Administration; and

"(B) 'major defense contract' means—

"(i) any agreement or other arrangement, involving not less than $10,000,000 made before, on, or after the effective date of this section—

"(I) by a defense agency with any person (including any public or private institution or organization) for the purposes of furnishing a defense material or defense service to such defense agency; or

"(II) by any foreign country or person acting on behalf of a foreign country with any person for the purpose of furnishing to such country a defense material or defense service subject to control under the Arms Export Control Act or any other law of the United States pertaining to export of a defense material; and

"(ii) any subcontract, involving not less than $10,000,000, made before, on, or after the effective date of this section in connection with an agreement or other arrangement described in subparagraph (A) of this paragraph.".

Redesignate the subsequent subsection accordingly.

—Page 44, after line 19, insert the following:

(d) Section 903 of such Act of 1965 is amended by adding at the end thereof the following new subsection:

"(e)(1) During fiscal years 1981, 1982, 1983, 1984, and 1985, the Secretary, as an experimental program, is authorized to provide assistance to any employee whose employment under a major defense contract the Secretary finds is terminated as a result of cancellation of such contract or a reduction of $10,000,000 or more of such contract. Such assistance may only be provided for one or more of the following purposes: rent supplements, mortgage payment assistance, training, or relocation. Such assistance may be provided for a period which begins on the date of termination of such employment and which is equal to the time such employee was, on the date of such termination, continuously employed by the person whose major defense contract was canceled or reduced in value, but such period shall not exceed two years.

"(2) The amount of assistance which the Secretary may provide any individual under this subsection may not exceed $6,700 per year.

"(3) For purposes of this subsection, a major defense contract includes any subcontract, involving not less than $10,000,000, under a major defense contract.".

"(6) For the purposes of this subsection, the term—

"(A) 'defense agency' means the Department of Defense (including the military departments), the Department of Energy, and the National Aeronautics and Space Administration; and

"(B) 'Major defense contract' means—

"(i) any agreement or other arrangement, involving not less than $10,000,000, made before, on, or after the effective date of this section—

"(I) by a defense agency with any person (including any public or private institution or organization) for the purposes of furnishing a defense material or defense service to such defense agency; or

"(II) by any foreign country or person acting on behalf of a foreign country with any person for the purpose of furnishing to such country a defense material or defense service subject to control under the Arms Exoort Control Act or any other law of the United States pertaining to export of a defense material; and

"(ii) any subcontract, involving not less than $10,000,000, made before, on, or after the effective date of this section in connection with an agreement or other arrangement described in subparagraph (A) of this paragraph.".

Redesignate the subsequent subsection accordingly.

By Mr. McKINNEY:

—Page 45, after line 4, insert the following:

(e) Title IX of the Public Works and Economic Development Act of 1965 is amended by redesignating sections 904 and 905 as sections 905 and 906, respectively, and by inserting after section 903 the following new section:

"DEFENSE-RELATED ECONOMIC ADJUSTMENT ASSISTANCE

"SEC. 904. (a)(1) The President shall establish procedures to assure that the Secretary is notified of the anticipated closure or realinement of any military installation with respect to which a public announcement is made under section 2687 of title 10, United States Code, or of the anticipated termination, cancellation or conclusion of any major defense contract. Any such notification shall—

"(A) in the case of a military installation, be transmitted to the Secretary on the same day on which a public announcement is made with respect to such military installation under section 2687 of title 10, United States Code;

"(B) in the case of a major defense contract, be transmitted to the Secretary not less than one year before that date of the anticipated termination, cancellation or conclusion of such major defense contract, except that such notice shall be transmitted not less than ninety days before such date in any case in which shortened notice—

"(i) is required for reasons of national security or a military emergency; or

"(ii) is required due to the termination or cancellation of such major defense contract by an action of a foreign nation;

"(C) include a recommendation indicating whether the economic consequences of such anticipated action should qualify the area involved to receive a defense-related grant under subsection (c) of this section; and

"(D) in the case of a redevelopment area designated under section 401 of this title, include a recommendation whether the economic consequences of such anticipated action should qualify the area for priority assistance under subsection (d) of this section.

(2) This subsection shall not apply to the termination or cancellation of a major defense contract due to an Act of Congress or to a breach of such contract.

"(b) The Secretary, upon the adoption of any recommendation made under subsection (a)(1)(C) or (a)(1)(D) of this section shall promptly notify all public officials responsible for economic development planning in the area involved of such recommendation and of all types of assistance available under this Act, including defense-related planning grants available under this section. The Secretary shall also make available to the general public information regarding such recommendation and assistance.

"(c)(1) With respect to areas in which a public notice has been given by the Secretary under subsection (b) of this section, the Secretary, upon receipt of a request from that eligible recipient in such area whom the Secretary deems, in his discretion, most qualified, shall promptly, but not later than the thirtieth day after the date the Secretary receives the first such request make a defense-related grant to such recipient in accordance with the provisions of paragraph (2) of this subsection except that with respect to any such area, not more than one such grant shall be made as a result of any such public notice."

(2)(A) Each such grant shall be made only for the purpose of assisting the eligible recipient to plan for adjustment to the economic problems resulting from the closure or realinement of a military installation or the termination, cancellation or the conclusion of a major defense contract. The Secretary, as a condition of such grant, shall establish a deadline for early submission of an economic adjustment plan designed to qualify the area involved under section 903(a)(1) of this title. Such plan may include the preservation of jobs in an affected establishment, including the conversion of such establishment to other uses.

(B) Each such grant shall be made in an amount sufficient to pay costs related to the defense-related economic adjustment planning of such eligible recipient except that no such grant may exceed $100,000.

"(d) With respect to any redevelopment area which is recommended under subsection (a)(1)(D) of this section for priority assistance, the Secretary

(1) shall establish procedures for the prompt consideration of applications from such redevelopment area for assistance under this title;

(2) shall consider applications for such assistance from an affected establishment in such redevelopment area before any other application from such redevelopment area, except that this paragraph shall only apply with respect to applications from such an affected establishment if the Secretary determines that the assistance requested can reasonably be expected to preserve or create jobs for workers affected by the anticipated action specified under subsection (a)(1)(B) of this section; and

(3) except as provided in paragraph (2) of this subsection, shall consider applications for such assistance from any business in such redevelopment area, other than an affected establishment, before any other application from such redevelopment area if the Secretary determines that the assistance requested can reasonably be expected to preserve or create jobs for workers affected by the anticipated action specified under subsection (a)(1)(B) of this section.

"(e) With respect to any area which receives a grant under subsection (c) of this section and subsequently qualifies under section 903(a)(1) of this section for assistance under this title the Secretary may consider for approval applications from any business in such area for the assistance authorized under title II of this Act if the Secretary determines that the assistance requested can reasonably be expected to preserve or create jobs for workers affected by the anticipated action specified under subsection (a)(1)(B) of this section.

"(f) For the purposes of this section the term 'major defense contract' means a contract of not less than $10,000,000.

H.R. 5192

By Mr. MAGUIRE:

—Page 95, line 13, after D, insert the following:

"(E) For students who have been unable to obtain an insured loan through the lender referral process specified in (B), the agency in a State may undertake to make limited direct loans of last resort, so long as the total amount of such direct loans in any fiscal year does not exceed 20 per centum of the total amount of loans insured by such an agency in a State in the immediately proceeding fiscal year, or $2,000,000, whichever is less.

"(F) Any agency, in a State, which provides a minimum of $500,000 of loans of last resort in accordance with (D), or which provides in accordance with (D) a volume of loans of last resort equal to a minimum of 5 per centum of the total amount of loans insured by such agency in the immediately proceeding fiscal year, May, when it at any time holds funds owing to the Commissioner under section 428(c)(2)(D) or 428A(b)(5) because of payments made by borrowers on defaulted loans reinsured by the Commissioner, before paying such funds to the Commissioner, deduct from such payment an amount equal to all or part of the funds that agency is eligible to receive (to the extent such funds are appropriated)—

"(1) for payment of reserve fund advances under section 422(c);

"(2) for payment of administrative costs under section 428(f), to extent applicable; or

"(3) for payment of Federal reinsurance obligations under section 428(c).

Line 14: Change "(E)" to "(G)".

SENATE—*Thursday, November 1, 1979*

(Legislative day of Monday, October 15, 1979)

The Senate met at 11:30 a.m., on the expiration of the recess, and was called to order by Hon. Robert C. Byrd, a Senator from the State of West Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Dear Lord and Father of us all, we pause to thank Thee for the good and gracious influence of Mamie Doud Eisenhower. We thank Thee for the faith by which she lived, for the home she made, and the quiet steadfast service she rendered. Surround those who mourn with the comfort of Thy presence. As coming generations cherish her memory, may something of her gentleness, her strength, her patriotism and her spiritual power encourage better living and more sacrificial service.

In this perilous and difficult time, wilt Thou support and strengthen all those women whose husbands are in the public service?

We pray in His name who came that we might have life, and have it more abundantly. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

THE PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Magnuson).

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., November 1, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Robert Morgan, a Senator from the State of North Carolina, to perform the duties of the Chair.

Warren G. Magnuson,
President pro tempore.

Mr. MORGAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader, the Senator from West Virginia, is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

APPOINTMENT OF SENATOR MORGAN AS ACTING PRESIDENT PRO TEMPORE

Mr. ROBERT C. BYRD. Mr. President, the President pro tempore has appointed as Acting President pro tempore today, a very able and distinguished and illustrious Senator from a great State, the State of North Carolina, whose motto is "To be rather than to seem."

Mr. Morgan does his usually fine job, and he presides over the Senate with a degree of efficiency and dignity and skill that is so rare as a day in June.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that 2 minutes of the leaders' time on each side be restored.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I yield my time to the Senator from Alaska.

Mr. STEVENS. I am grateful to my good friend, the distinguished majority leader.

SENATOR BAKER'S ANNOUNCEMENT OF HIS CANDIDACY FOR THE PRESIDENCY

Mr. STEVENS. Mr. President, by now I am sure most people know that our distinguished minority leader, Howard Baker, has just announced his bid for the Presidency.

Senator Baker joins a growing list of qualified Republican contenders and I wish him well in his quest to lead this Nation into a new era of prosperity and hope.

The Senator from Tennessee is an outstanding politician who has proven his expertise and leadership capabilities by the way he has successfully joined together such a varied, and individually minded group of Senators as we have on our side of the aisle in the 96th Congress

I wish to state for the RECORD that were I free to do so, I would join Senator BAKER and support his candidacy actively. In the position I hold as assistant minority leader, and in his absence as the acting minority leader, I have determined that it would be in the best interests of both the Republican side of the Senate and of Senator BAKER to conduct myself as the acting minority leader, to the best of my ability.

I shall not become part of Senator BAKER's campaign organization; further, I shall remain independent of any Republican candidate who seeks the nomination for the Presidency so long as Senator BAKER continues his quest for the Presidential nomination during this Congress.

I wish him luck in the pursuit of this great challenge. In my opinion, Senator BAKER would make an excellent President of the United States.

MAMIE EISENHOWER, 1896–1979

Mr. STEVENS. Mr. President, this morning when I awoke I heard the sad news of the death of a great First Lady, Mamie Eisenhower.

Though Mrs. Eisenhower's later life was inhibited by her poor health, she continued to attract national attention by the power of her gentle personality. She was not one to seek the limelight, herself, but rather she chose to stand behind her husband and support him throughout his illustrious career. We have all heard the phrase, "Behind every great man, there is a woman." Mamie Eisenhower was certainly a loving, gentle force in her husband's life and there is no question that her presence at his side carried him through a sometimes turbulent administration.

Our Nation will mourn this wonderful woman, but we will also take solace in the fact that we were able to share in a good part of her life.

NORDY HOFFMANN AND NOTRE DAME FOOTBALL

Mr. STEVENS. Mr. President, this morning's Washington Star contains an article by Maury Siegel regarding our good friend and Sergeant at Arms here in the Senate, F. Nordy Hoffmann.

Nordy was recently inducted into the NCAA College Football Hall of Fame and was also recognized during halftime ceremonies at the Notre Dame-USC game 2 weeks ago. He has made a great contribution to Notre Dame football, both as a player and now as a distinguished alumnus.

I ask unanimous consent that today's Star article be printed in the RECORD at this point so that all may read about the experiences he had as a college football player under the tutelage of the renowned Knute Rockne.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AN IRISH PILGRIM KNOWS WAY TO MECCA

(By Morris Siegel)

Mecca cannot be found on road maps issued by the American Automobile Association. Domestic airlines don't show it either. Same goes for Trailways and Greyhound.

Mecca is no myth. There is a Mecca, USA, for some. The best place for information on Mecca is in an office of the U.S. Senate, the office of the Senate Sergeant at Arms, Nordy Hoffmann.

Nordy Hoffmann visited Mecca recently. He has been there 13 times in the last 25 years. Nordy's Mecca is a small town in Indiana. They used to make Studebaker automobiles there, but that's not the reason for Hoffmann's biennial pilgrimage to Mecca, which is listed on road maps and airline routes as South Bend, home of Notre Dame.

Nordy is a Notre Damer—true-blue, unreconstructed Notre Dame—who goes to Notre Dame every other year for a refresher course in Knute Rockne, his hero when Nordy slugged it out as a Notre Dame lineman and who remains his hero-idol today, 49 years after Nordy played for the Rock.

Nordy played on Rock's last Notre Dame team, 1930. The following March the best known coach in the history of football, the most influential, Knute Kenneth Rockne, a legend in his own time and still a legend today, was wiped out in a Kansas air crash.

None of Rock's old boys helps to keep the legend of Rock alive more than Nordy Hoffmann. Every other year, when the Irish renew their fierce rivalry with Southern Cal at South Bend, the gang gathers at Mecca, USA, for another moment with the memory of Rock.

There's Frank Carideo, Marchy Schwartz, Marty Brill, Jack Elder, Bucky O'Connor, Hugh Devore, Joe Sheekets, Nordy Hoffmann and others who are regulars at these Rock reunions. Time is slowly depleting the ranks of the gang who played in '29 and '30, Rock's last two clubs, both undefeated and back-to-back national champs.

Fifty-seven have died, 36 are still around. Shepherded by Hoffmann, most answer roll call and attend a special Mass for Rock which is said the morning of the Southern Cal game at South Bend.

Two Saturday's ago, Mass was conducted on Rock's grave, a simple stone. It was led by Father Reddy, pastor of St. Bartholomew's, which is Nordy's Washington parish. The priest is on a three-month sabbatical at Notre Dame and Nordy Hoffmann helped arrange for Father Reddy's service. Nordy is excellent when it comes to making arrangements, as every member of the U.S. Senate knows.

Vince Lombardi probably came closer than anybody to being "another Rockne." Their styles were different—Rock was not the screamer that Lombardi was—Lombardi was more of a disciplinarian, but they shared the same principle. Both were more interested in the man than his football talents.

"Rock made leaders out of all of us, he made better people out of us," Hoffmann says. "You can't look at anything at Notre Dame without identifying to some extent to Rockne."

To some extent this is true of Green Bay, Wis. They named the stadium after Curly Lambeau and only a street near Lambeau Field after Lombardi, but Lombardi is almost synonymous with Green Bay.

"Notre Dame tradition stems from Rockne," says Nordy, who helps keep the flame alive. "There is a monument to Rock's memory there, but the greatest monument is his legacy. He motivated men and at least in my case, it has lasted 50 years."

He was never "coach" Rockne to his players, but Mr. Rockne—just as Lombardi was never Vince, except out of earshot, but always coach—for Nordy, who was elected to the College Football Hall of Fame two years even after he made the squad as a walk-on. He never played high school football in Seattle, his home town, only track. This pleased Rock. "You say you never played football before, you say?" Rock said at their first meeting. "That's good. It means that nobody could have taught you wrong."

There are countless stories of Rockne's pre-game talks, his entreatments to win for Notre Dame. Nordy heard many, but only one made a lasting impression on him. It was before the Southern Cal game in Los Angeles in 1930, which would turn out to be Rock's last.

The Irish were crippled and they were underdogs. All week practices were expected to be grueling and long, but they weren't.

"Right before we took the field, Rockne, in that staccato voice, said quietly to us, 'I can't ask you to win for Notre Dame again, but I must ask you to conduct yourselves like Notre Damers. This means win.' "

They did.

RECOGNITION OF SENATOR LEAHY

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Vermont (Mr. LEAHY) is recognized for not to exceed 15 minutes.

STRATEGIC ARMS LIMITATION TREATY (SALT II)

Mr. LEAHY. Mr. President, I wish to address a matter of the utmost gravity this morning—a matter that I have spent a great deal of time studying over the past 2 years—the strategic arms limitation treaty—SALT II—that is now before the Senate. In 1978 I joined with a number of my colleagues to form a SALT study group led by Senator CRANSTON. The negotiations, the treaty, and the related issues affecting our country's security have never been far from my mind since then. In fact, our group's meetings and discussions which have taken place on a regular basis have helped me immeasurably. They have also served to underscore the critical importance and true weight that this subject clearly merits.

I intend to support ratification of the treaty and to make every possible contribution toward that end. I am convinced that SALT II represents a very real chance to enhance our national security and to make significant progress in the limitation of nuclear weapons. It is the responsibility of every American citizen—as well as every Senator—to see that we do not squander this opportunity.

This treaty is of necessity extremely complex. Its purpose, however, and its primary accomplishment are both quite simple. The treaty reduces the number of horrible, destructive weapons that are aimed at our country, and keeps the SALT negotiating process alive. In short, this treaty helps to make our world more stable and enables us to look with greater confidence toward the world that we will leave to our children and grandchildren.

Mr. President, the greatest single problem that the United States and the U.S. Senate have encountered concerning the SALT II treaty has been—and continues to be—an inability to place the treaty and the entire debate into the perspective that they warrant. The awesome power of these weapons and the unimaginable suffering that they are capable of unleashing demand that we cease thinking in terms of World War II—the old rules no longer apply. We have reached that point in scientific and military development when nuclear arms control is the only rational path left open to us.

The very unreasonableness of man possessing armaments capable of destroying his civilization and possibly his planet clouds our vision—and often our judgment. Our inability—perhaps reluctance—to comprehend just how much power we possess—just how high the stakes actually are—has become a major obstacle in our search for an answer.

The destruction of Hiroshima and Nagasaki provides the only available index to help us regain our sense of proportion. Hiroshima was destroyed by a primitive atomic weapon with an estimated power equivalent of approximately 12,500 tons of TNT. I do not wish to belabor the use of this example but that weapon represents only a tiny fraction of the nuclear armament deployed today. The arsenals of the United States and the Soviet Union include weapons of this size, but also weapons hundreds of times more powerful than that used at Hiroshima. The simultaneous use of even a relatively small fraction of the American and Soviet arsenals could render this planet uninhabitable if not uninhabited.

The human race must find a solution to this problem. The United States and the Soviet Union cannot continue to develop and deploy an increasing number of even more destructive weapons. Long ago, both nations passed that threshold where meaningful strategic superiority was possible. As our arsenals increase, our security declines to the extent that at some point I am convinced the possibility of a nuclear exchange evolves into a probability. At that stage, and I think that we are swiftly approaching it, mathematical laws take control. The Senate's final decision on SALT II will mark the direction that we choose the path of reason with people exerting control over arms or the irrational dangerous path of an uncontrollable nuclear arms race.

I have asked myself over and over whether rejecting the SALT II treaty could possibly help the United States as its vocal opponents claim. The answer to this question again and again was that defeat of the treaty could only hurt our country. Rejection of SALT II will not make us more secure but less secure. Without the treaty, those Soviet weapons that SALT limits would not be limited at all. Without the treaty we Americans would be forced to spend billions more on nuclear arms to the detriment of our conventional forces and would have less security for our efforts. In spite of these compelling reasons to support SALT II there is an even greater one; it is by far the most vital. If this treaty is rejected by the Senate, there is a very real chance that the SALT process will be destroyed temporarily even permanently. Should this occur we will fail in our duty to pass along a more stable more secure world to our children.

The rejection of this treaty would injure our national interest both in the broad context of nuclear arms control and within specific categories dealing with individual weapons. I want to address a number of examples that have been raised in this latter context.

We have heard much talk about the so-called Backfire bomber and the fact that it is not included in the treaty text. This is often used as a principal argument against the treaty. In truth, the American negotiating position sought to exclude such medium-ranged aircraft from the limits. We did not want our FB–111 bombers that are based in Europe to be counted under the SALT II ceilings. While there is good reason to question whether the Backfire can reach the United States without refueling, none question the ability of the FB–111 to strike the Soviet Union with nuclear weapons. The limitations on the production rate, refueling capability, and basing of the Backfire are an integral part of the SALT II agreement. Without the treaty, these limitations would not exist.

Let me cite another example of the kind of criticism that does not serve our national interest. This is the charge that SALT II leans in favor of the Soviets because it enables them to retain some 308 heavy missiles. Aside from the fact that our military leaders never chose to develop such missiles opting for smaller, more accurate ones, without SALT II, the Soviets would not be prevented from building additional heavy missiles. They could also freely increase the number of warheads that these missiles could carry from 10 to possibly 30. This treaty did not give the Soviets these missiles, it stops them from building more, and stops them from increasing their capability.

Recently, the presence of Soviet troops in Cuba has been raised as a reason to reject SALT II. While we should not take the Soviet/Cuban relationship lightly, this matter of a few thousand troops has become far more serious politically than as an issue of security. It is Soviet missiles and nuclear armed submarines that pose the only real threat to the United States, not infantry troops in Cuba. We must address the real threat. We must consider America's interests first. We must not let the Soviet presence in Cuba deter us from ratifying the SALT treaty which protects our country's security. While we cannot change the fact that Cuba is a Soviet satellite, we can insure that the Soviet military presence is not increased to the extent that it can threaten us. This we should do—with or without SALT II.

Our ability to verify Soviet compliance with the SALT treaty is another major issue. I disagree with those who claim that the treaty is not verifiable. SALT II is adequately verifiable, and no Soviet violation affecting our security could remain undetected. I am convinced of this through my work on the Senate Intelligence Committee.

I have confidence in our intelligence techniques and equipment—our national technical means. This verification capability is under U.S. control and does not rely on trust. Interference with our verification will itself be a treaty violation. Since a number of provisions are included in the SALT II agreement that help make our verification more effective I am satisfied that we can accurately monitor Soviet compliance.

Some argue that the SALT II treaty will enable the Soviet Union to gain nuclear superiority over the United States. This is simply not true. The Soviets are roughly equal to the United States in strategic weapons today and the treaty will help preserve this balance by slowing the arms race as well as new Soviet weapon programs.

SALT II removes the imbalance in strategic delivery vehicles and establishes equal ceilings for land- and sea-based launchers and heavy bombers. It sets common subceilings on launchers for missiles carrying MIRV's. Establishment of such equality in numbers will require the Soviet Union to dismantle a considerable number of strategic systems. In addition SALT II provides for reductions below the initial overall ceiling which will require a further reduction in the Soviet strategic force.

The Soviet Union cannot expect to achieve any significant superiority over the United States so long as we are determined to deny them this. The Soviets know well from the history of the strategic arms race that the United States will take whatever actions are necessary to preclude any Soviet strategic advantage.

I also think it is vital for those who believe that our land-based forces are vulnerable to ask whether SALT II prevents us from taking any necessary action to meet this perceived threat. A wide range of weapon programs that are underway or planned can be deployed under the terms of the treaty. These include the proposed MX missile, cruise missiles, a replacement bomber for the B–52, and additional Trident submarines. While I personally question the need for some of these weapons, I do support their retention as options that the United States may wish to use in the future.

Mr. President a treaty is of necessity the result of compromise, and mutual concession. I believe that the SALT II treaty must be considered in this manner. As the majority leader has noted, we in the Senate could have written a treaty more favorable to the United States. I am sure that the Soviets could have written a treaty more favorable to themselves as well.

The SALT II treaty is the result of negotiation and compromise, a treaty that both sides can live with. A treaty that serves the mutual interests of the signatories is the only treaty that has a chance to succeed.

In closing I want to address a final problem of the SALT debate. This is the fact that many of the arguments against SALT II are not really about SALT at all. They are issues dealing with our overall defense policy and the limitations that other problems such as energy have placed on our country's ability to use its power in today's world. SALT has provided a forum for this discussion, and thus it will become very difficult, if not impossible to keep these issues distinct.

SALT, taken by itself and on its own merits, is clearly in our national interest. Other questions, including the draft, the future of the NATO alliance and increased defense spending, should not cloud the debate on nuclear arms control. We must not lose sight of the treaty itself during this debate. I welcome a debate on the draft. I welcome a debate on NATO, on the future of the Navy, and our overall defense posture. But we must remember what this debate is really supposed to be about—an attempt to limit the nuclear arms race—human survival.

Arms control is an equal, compatible, component of our national security, and must be accorded the seriousness that it merits. There can never be true security without nuclear arms limitation, and today, this is SALT II.

I thank the Chair.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. LEAHY. Of course.

Mr. ROBERT C. BYRD. Mr. President, I have listened to the Senator state his position in support of SALT II. He was kind enough to supply me with an advance copy of the prepared speech, which I looked over last evening, and I am very much impressed by its cogency, its persuasiveness, and its thoroughness.

The Senator has characteristically given a great deal of thought to the treaty, a great deal of study to the treaty, to the hearings and, as a member of the Select Committee on Intelligence, to the hearings that were conducted in that committee, and it is obvious from his statement that he has very meticulously gone into all of the aspects of the treaty.

He is to be commended for having made the decision, having spoken out on the decision, and having made it after a thorough weighing of the pros and the cons.

He recognizes, as we can see from his speech, that it is not the perfect treaty. I would like to have seen a better treaty as he would have liked to have seen a better treaty, but this is the product of 6½ years of negotiations by negotiators under two Republican administrations and a Democratic administration.

So we have this problem. It is not what we would like to have, not what I would have drafted if I could sit down and unilaterally draft a treaty, not what the Senator from Vermont would draft if he could sit down—and he can; he can sit down and unilaterally draft a better treaty. But it takes two to negotiate. And so it is not the best treaty, by any means, but it is all we have, and we have got to make a decision up or down on this treaty.

To think about sending it back for renegotiation, which could last for years, could end with no treaty at all, or could end with a treaty less favorable to the United States than this one, is more than I can comprehend. I just do not believe that the Senate would feel anything could be accomplished down that road. If we reopen it, the Soviets are going to want to renegotiate points that they have already made concessions on—and they have made concessions. They say they have made concessions and we have made some; they think they have made more than we have, and the proponents of the treaty who testified bear that out.

I say to Senators who have to run for reelection this year, it is a little tougher for Senators like the Senator from Vermont, who have races this year, than it is for Senators like myself; so I commend the Senator for his position, for his courageous action, for his study of the subject, and for his eloquent presentation of his opinion.

Mr. LEAHY. Mr. President, the majority leader has been overly kind in saying that I show courage in supporting this treaty, in that I am up for election next year and he is not.

I think the country owes an enormous debt to the majority leaders of this body for the strong, thorough, complete, and compelling statement that he has made on SALT just within the past few days.

The majority leader's statement showed that there was only one consideration in his mind, and that was what was in the best interests of the United States of America. He did not consider any of the political pluses or minuses, whatever the fallout might be, or anything else.

The majority leader, as a representative of the position he holds, as a leader for the most significant legislative body in the world, rose, as he has on so many occasions, to the full stature of that position, and put the U.S. interests first.

Mr. President, I have notified the President of the United States that during the debate on SALT my time will be totally in the control of the distinguished majority leader, and I intend to set aside any other duties I might have to take part fully in this debate, to work with the majority leader as he leads the Senate in this crucial matter.

Mr. President, as I have said time and time again, both in this body and in my own State, the State I love so very much, my wife and I have three young children, and they will live the majority of their lives in the next century. The decision that we make here may well even determine whether there will be a next century.

I consider it a distinct and significant honor to be able to join with the distinguished majority leader in this matter.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Vermont for his very kind, charitable, and overly gracious statement.

(The following proceedings occurred during Mr. LEAHY's remarks:)

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. LEAHY. Mr. President, I ask unanimous consent for 2 more minutes.

Mr. ROBERT C. BYRD. Will the Senator withhold that request?

Mr. LEAHY. I simply want to respond to what the majority leader said.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may have control of Mr. HUDDLESTON's time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that I may yield 3 minutes of that time to the Senator from Vermont (Mr. LEAHY).

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that the RECORD show my response without any interruption.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(Conclusion of earlier proceedings.)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may yield the remainder of my time now to the Senator from Massachusetts (Mr. TSONGAS).

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

PROSPECTS FOR PEACE IN SOUTHERN AFRICA

Mr. TSONGAS. Mr. President, last weekend I attended a conference in Virginia sponsored by the African American Institute. The conference is held each year in either Africa or the United States. Its purpose is to bring together leaders from Africa and the United States so that they can discuss matters of mutual importance. It was a very productive weekend, Mr. President, and I would like to share with my colleagues some of my impressions of what we accomplished and what I learned.

Although a major focus of the conference was American trade with black Africa, I think that our discussion of the situation in southern Africa will be of great interest to my distinguished colleagues.

Mr. President, I left that conference very concerned about the future of southern Africa. Things are not going well in that part of the world.

In Rhodesia, a brutal and destructive war rages without pause. The hopes for peace in that devastated land rest in London where the British have convened an all-parties conference to decide on a constitution and transition arrangements for a new Zimbabwe. The outlook, however, is not good.

Prime Minister Thatcher seems to have one outcome in mind—an early lifting of sanctions. She is in a great hurry to rid Britain of the Rhodesian albatross, and there are disturbing indications that she may sacrifice peace to do it. In a letter to my friend from North Carolina, she promised to lift sanctions as soon as possible. Reports from London indicate that as soon as a British governor assumes control of Rhodesia, Britain will lift sanctions, whether or not the settlement includes all parties, whether or not there is a cease-fire.

What this means, Mr. President, is that Mrs. Thatcher, in her haste, may be willing to strike a deal with the Muzorewa government and exclude the guerrillas from the settlement. The BBC Television Network in London has sounded that warning, and I ask unanimous consent that an excerpt from the transcript of this broadcast prepared by the Foreign Broadcast Information Service be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. TSONGAS. The terms London has set down for the transition arrangements are hardly balanced. In 2 short months of British transitionary rule, Rhodesia must prepare for elections, implement a cease fire, and conduct the balloting. No registration of voters will be permitted. The Rhodesian Civil Service will remain intact. Security for the election and the election campaign will be provided exclusively by the Rhodesian police and army. The members of Patriotic Front are being asked to place their faith in the fairness and impartiality of an army with which they have fought a bitter war for many years.

Mr. President, it does not take a professional diplomat to see the bias in those arrangements. I believe the British should be firm in these negotiations, but in order for these talks to succeed, Mrs. Thatcher and Lord Carrington must use an evenhanded, impartial approach.

Mr. President, the British approach to these negotiations invites tragedy. Both the Muzorewa Government and the guerrillas are ready to contest the issue at the polls and not on the battlefield. All parties are weary of this deadly war. There is a real potential for a peaceful resolution of the conflict. But, if Mrs. Thatcher is determined to wrap things up by November 15 at all costs, she may well be staging the tragedy herself.

Mr. President, the news is no better from South Africa. Today's Washington Post carried a report that South African troops landed in two Angolan cities more than 100 miles from the border with Namibia. The South Africans are said to have destroyed rail lines and bridges. I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

S. African Raids Killing Civilians, Angolans Charge

By Caryle Murphy

Johannesburg, October 31.—For the second time in less than five weeks, the Angolan government has accused South African forces of attacking targets not directly associated with anti-South African guerrillas stationed in Angola.

Both the Angolan ambassador in Belgium and the state-run Angolan radio charged today that airborne South African commandos killed 20 people, including 18 civilians, when they blew up transport facilities during raids Sunday on three major Angolan towns. On Sept. 26, the Angolans said South African Mirage jet fighters bombed housing and industrial quarters in two towns, killing more than 50 people.

South African officials, as is customary, would not explicitly deny nor confirm the latest reports. Since Angolan authorities do not allow journalists to visit areas allegedly attacked, the charges usually are impossible to verify.

The latest charge follows a claim Oct. 23 by the president of another neighboring state, Kenneth Kaunda of Zambia, that 400 South African troops had invaded his country. He did not state what they did there. Both Angola and Zambia offer sanctuary to guerrillas of the black nationalist Southwest African People's Organization (SWAPO), which is fighting South African troops in the territory of Namibia (Southwest Africa).

The Angolan claims come at the same time that Zimbabwe-Rhodesian government troops have stepped up their attacks on civilian and economic targets in Zambia and Mozambique in their fight against guerrillas attempting to topple the government in Salisbury.

South Africa and Zimbabwe-Rhodesia have cooperated closely on military matters, especially since Pieter W. Botha became prime minister in South Africa last year.

The most spectacular example of this escalated campaign on non-guerrilla targets by the Zimbabwe-Rhodesian forces was the destruction in mid-October of two bridges linking Zambia to Tanzania. They were conduits for about 30 percent of Zambia's trade.

In Mozambique, the Defense Ministry disclosed the destruction of three railway bridges earlier this month. Civilian and local government officials have told recent visitors in Mozambique of other attacks on such civilian targets as shops, dams and road bridges by the Salisbury forces.

These attacks are intended to disrupt the local economy and dampen the support of the civilian population for the guerrilla groups, according to most analysts. But some observers note that the railways may have been targets in both countries to halt arms shipments to the guerrillas.

This could also explain the alleged attacks against Angola railway and highway facilities. A communique from the Politburo of Angola's Marxist ruling party stated that 150 South African commandos, transported in 11 helicopters, destroyed a railway tunnel and mined railway lines near the towns of Lubango, the capital of Angola's southern district, and the ports of Mocamedes and Porto-Alexandre Sunday.

The communique, read on Angolan radio and monitored here by the government-run radio, also reported that four highway bridges on the road between Lubango and Mocamedes were blown up. The targets are more than 100 miles inside Angola.

Arms shipments for SWAPO, which is backed by the Soviet Union, are thought to enter Angola through these ports. They would then be shipped to Lubango on the way to the guerrilla bases in southern Angola.

The Angolans did not specify how the 18 civilians and two Angolan soldiers died.

A spokesman in Pretoria said South Africa was not seeking confrontation with neighboring states.

"We are merely in the north of Southwest Africa to protect the local population against atrocities by SWAPO terrorists, and it was also stated previously that we maintain the right to follow these terrorists to their hiding places no matter where they are," he said.

Commenting on the Angolan accusations, Foreign Minister Pik Botha said. "It is a smokescreen they are using for tactical reasons. The basic cause of the conflict is the attacks the terrorists are launching on Southwest Africa.

"Basically, Angola is harboring terrorists who use Angola as a springboard for terrorist attacks against Southwest Africa," Botha said.

In the past week, SWAPO guerrillas abducted a group of children from their school in northern Namibia, according to the South African military. Yesterday, it was reported that a local black official and his bodyguard were killed by the guerrillas.

A United Nations plan for a cease-fire and a peaceful transition to independence in Namibia is bogged down in discussions about its implementation.

Mr. TSONGAS. This raid follows close on the heels of South Africa's discouraging response to the U.N. proposals for a peaceful transition to independence in Namibia. Before he died, Angola's President Neto had agreed to establish a demilitarized zone on either side of the Namibia/Angola border in order to allay South African fears. A contact group of five Western nations took the new proposals to South Africa over the summer. South Africa's response to this new initiative was a long list of detailed, some say frivolous, questions, thus stalling negotiations for months more. Meanwhile, South Africa continues to construct the foundation for a unilateral internal settlement in Namibia and the rejection of the U.N. plan. As in Rhodesia, the hopes for peace in Namibia are dim.

The underlying issue in all these distressing developments is power. A white minority controls it and a black majority seeks to share it.

South Africa, the bastion of white supremacy, symbolizes the minority resistance to black political rights in the region. It is South Africa which is systematically depriving its black citizens of their South African nationality in the name of a "separate development." It is South Africa which has forcefully removed thousands of blacks to the economic oblivion of the black "homelands." It is South Africa which coldly regulates the supply of black labor through the pervasive structure of the pass laws. It is South Africa which fuels the fires of racial hatred. This oppressive regime, based on systematic discrimination and racial domination, creates an unstable, insecure environment in which radical movements thrive.

South Africa, the self-proclaimed guardian of Christian civilization and free enterprise, is in fact a blessing for the Soviets and their Communist ideology. The excesses of the apartheid state keeps Soviet hopes alive in Southern Africa.

I would note that one of the participants at the conference said that if he were a theoretician in the Kremlin, the one thing he would want to do would be to keep the South African Government the way it is now. I have made that point before on the Senate floor and, hopefully, at some point it will have some impact.

It is time that the United States recognizes the threat to our security posed by the racial policies of the South African Government. It is in our interest to apply pressure on South Africa to change. If South Africa continues to deny political rights to blacks, that country will drag the region into a racial war of unimaginable proportions. Our contribution may not be decisive, but we cannot stand idly by.

I have urged colleges and universities across the country to coordinate a program of divestiture of stocks in companies doing business in South Africa. I believe that a national program of university divestiture phased over a 5-year period will convey a potent message to Pretoria. That message will be that Americans in growing numbers condemn apartheid, for moral and pragmatic reasons.

Phased divestiture is a moderate approach, Mr. President. It gives South Africa time to change and it inflicts no economic harm on Americans or South Africans.

Today, Mr. President, moderate pressure may be effective. The situation in South Africa has not yet passed beyond compromise into a descending spiral of violence. But time is short. Soon, Mr. President, moderate measures will fall on deaf ears in South Africa. Then, only severe and costly measures will safeguard our interests. Now is the time to act to promote peace in South Africa.

Exhibit 1

Zimbabwe Rhodesia Talks Resume With New Momentum

[Text] The Rhodesian constitutional conference resumed in London today and immediately picked up a new momentum. There were three meetings during the day, the first time this has happened. Bishop Muzorewa asked for further details of Lord Carrington's plan to run Zimbabwe Rhodesia with a British governor until British-supervised elections can be held. From Lancaster House a report by our southern African correspondent John Humphrys:

[Humphrys] The response by the Muzorewa delegation to Britain's transitional proposals was remarkably restrained, adding to the growing conviction here that the bishop may be close to agreeing that his government will stand down to be replaced by a governor from Britain who will control the country during the period leading up to new elections and independence. It is now clear that as soon as the governor goes out to Salisbury, Britain will regard Rhodesia as having returned to legality, and that there does not have to be a ceasefire for that to happen. If the Patriotic Front refuse to go along with the British plans, sanctions will be lifted anyway. It is conceivable the British governor could find himself in Rhodesia in the middle of a war with the Rhodesia security forces answerable to him. That is a rather horrifying prospect from most points of view and Lord Carrington is adamant, it is not what he wants—he wants all parties involved in a settlement. But it is being emphasized here that no one party can exercise a veto over Rhodesia's return to legality by continuing the war. So what the Foreign Office calls the second-class solution is at least a possibility.

Mr. TSONGAS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Bradley). Will the Senator withhold that request?

Mr. TSONGAS. Yes.

The PRESIDING OFFICER (Mr. Moynihan). The Senator from New Jersey.

RECENT EVENTS IN AFGHANISTAN

Mr. BRADLEY. Mr. President, recent events in Afghanistan, including first, the replacement, and then, the disappearance, of former President Noor Mohammad Taraki, demonstrate the inherent instability of the Marxist regime which is maintained in power by Soviet military support. Nevertheless the regime's bloody repression of the popular forces which have risen to oppose it continues.

As one who has some knowledge of Afghanistan, I am greatly saddened that the political, religious, and tribal disputes of Afghan people are being settled not by peaceful discourse but by civil war. While all such civil wars see acts of violence committed by both sides, the present Afghan regime has in this struggle distinguished itself by the indiscriminate brutality it has used in its attempts to repress the fiercely independent Afghan people.

Recognizing that the tide is turning against them, certain elements of the regime now are trying to placate the populace with cosmetic changes, such as the dismissal of four unpopular provincial governors, but this has not changed the essentially brutal face of the regime and has not quelled popular opposition to it.

We must also be aware that these internal disputes among the Afghan are not being left to the Afghans to solve. The Soviet Union, instead, has chosen to take a major role in the civil war. More than 4,000 Soviet military, technical, and security personnel have arrived to support the Marxist government, and they exert great influence down to very low levels in the Afghan Army, bureaucracy, and police. There is widespread speculation that these so-called advisers have gone beyond advice and are actively engaged in prosecuting the brutal campaign of repression against the Afghan people.

In addition, the Soviets have poured large and increasing quantities of arms into this already bloody conflict. These are believed to include highly sophisticated and indiscriminate weapons, such as supersonic fighter-bombers, napalm bombs, and ultra-modern attack helicopters. In the light of the limited ability of the Afghan Army to absorb and operate these weapons, the Soviets may be expanding their direct involvement in this Afghan dispute.

Their commitment of men and material has earned the Soviets nothing but the hatred of the proud Afghan people. The military situation of the Marxist regime grows more precarious each day. The Islamic Front rebels control most of the countryside, and accost those Soviet and government columns which venture out on the roads. Several towns are in rebel hands, and citizens in the major cities have risen in revolt—only to be struck down by Soviet-supplied firepower. The Afghan Army, reeling from the blows inflicted by the rebels, is tiring of repressing their Afghan brethren. Whole units have deserted to fight for the rebel cause. It is reported that part of the garrison in Kabul revolted, and tried to expel the Marxist government from the capital. The Soviets, whose arms and personnel are essential in keeping the current regime in power, must soon choose whether to assume the full burden of imposing this hated regime on the Afghan people.

Mr. President, the growing commitment of Soviet personnel and weapons to the Afghan civil war shows a Soviet willingness to intervene in local conflicts without regard for the interests of the nations on whose behalf the Soviets are supposedly acting. Further, this intervention may threaten stability in that area of the world. Iran and Pakistan already are alarmed by the convulsions of their Afghan neighbor. The creation of a flashpoint adjacent to Iran, Pakistan, the Peoples Republic of China, and the U.S.S.R. could have serious repercussions throughout South Asia.

Mr. President, we must let the Soviets know that we do not take such adventurism lightly. Their provacative behavior calls into question their intentions. By imposing this alien regime they deny the Afghan people the right to determine their own political future. By their complicity in the brutal use of force in this repressive effort, they demonstrate disregard for basic human rights and human dignity. By seeking to dominate this strategic country, they threaten to destabilize the entire region

It is clear that greater Soviet intervention would be disasterous for the Afghans and unproductive for the Soviets. Further intervention would only prolong and intensify the violence and the Soviets would be committing their personnel, wealth and material to an unpromising enterprise. All peoples who wish to see peace and stability restored to a country torn asunder must appeal to the Soviets to restrain their actions, and our Government must continue to denounce any continuing Soviet transgressions against the Afghan people.

RECOGNITION OF SENATOR MOYNIHAN

The PRESIDING OFFICER (Mr. Bradley). Under the previous order, the Senator from New York (Mr. Moynihan) is recognized for not to exceed 15 minutes.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SALT II TREATY

Mr. MOYNIHAN. Mr. President, I rise on this occasion to continue the discussion for purposes of the Record which began yesterday between our distinguished majority leader and the Senator from New York concerning the implications that arise from the letter of last Friday, October 26, from the President to the majority leader.

The Chair will recall that on that occasion the President, responding to the majority leader said:

> I agree with you that "a strong defense and a willingness to negotiate meaningful arms reductions are complimentary components of a sound national security policy."

But then the President went on to state that he was determined to deploy both the MX missile and the cruise missile, which are limited by the protocol to SALT II. He said:

> Both are needed for our defense, and I cannot envisage any circumstances under which there would be any de facto extension of the Protocol which could interfere with our firm intention to deploy these systems.

Mr. President, the point I sought to make to the majority leader, and on which he was so gracious in hearing me out, but which I may not have made with sufficient clarity, is that the President, by his letter or, more accurately, by such a policy, would effectively preclude the SALT III negotiations from bringing about any real reductions. In other words, while the President agreed with the majority leader's statement that a strong defense and a willingness to negotiate meaningful arms reductions are complimentary components of a sound national security policy, his policies will, in fact, preclude such a dual achievement.

I would even take note of the majority

leader's wording. He said "a strong defense and a willingness to negotiate meaningful arms reduction." I want it understood that I do not think a willingness to negotiate is a goal for SALT III. I think SALT III should bring about reductions.

The point I wish to make here has not yet been raised in this debate. An event took place on Friday, the day of the President's letter. Attached to the SALT II treaty is a "joint statement of principles and basic guidelines for subsequent negotiations on the limitation of strategic arms." It has two fundamental provisions. One, it says that there must be "significant and substantial reductions in the numbers of strategic defensive arms." But it also says that there must be a "resolution of the issues included in the protocol to the treaty." The protocol relates to mobile ICBM's and sea- and ground-launched cruise missiles.

Mr. President, if I understand the Soviets in this matter, and I cannot claim to do more than others, but I can try, they have succeeded in this manner in linking our deployment of these two weapons systems—one of which, as I shall point out, is a NATO weapons system—to reductions, such that if we insist on deployment, they will say that there has been no "resolution of the issues included in the protocol." They will say, there having been no compliance in that regard, it follows that there can be no compliance in the other regard, the first regard, which is to say, reductions.

They will say we agreed that there would be reductions and, also, that there would be a "resolution of the issues included in the protocol." The so-called issues included in the protocol are the MX and the cruise missiles, as I have said. Why we did this I do not know. But we did.

The MX figures in this, not because it is a counterforce weapon, which it is, but because it is a mobile ICBM. It is an "issue" in the protocol.

I suppose I know what the President is planning, and I have to think he supposes that the Russians do not know, but let me say to you that they do know. He is planning to insist on deployment until the time comes that, with great reluctance and in return for reductions, he cancels deployment. I do not think that will work. It will not work because the Russians will conclude that they do not have to trade for the MX. At least it is unlikely that they ever will, for the MX is too exotic a phenomenon to survive 10 years of negotiation in Congress.

But, much more importantly, the Russians do not want reductions. And we have to make them want reductions and we are not doing it; we are not making them want reductions.

They will say of the cruise missile that we must not deploy it in Western Europe or else there will be no arms reductions. If we do deploy it, they will say, "Well, that's an increase; it's a strategic weapon to us and we will either require no reductions or maybe even use that as grounds for an increase in our numbers."

What the Soviets have done in this protocol and joint statement, taken together, is to achieve what, up until now, they have never achieved; the Soviets have gotten us to agree to link the NATO defenses with the strategic relationships of the United States and the Soviet Union themselves. The protocol and the joint statement, allow the Soviets to introduce the European forces into the SALT negotiations. The Soviets will have us in a position of choosing between SALT and NATO, so to speak.

I should like to repeat that for the RECORD: The combination of the protocol and the joint statement allows the Soviets to introduce the question of European forces into the SALT negotiations, which they have never been able to do in this way. As a consequence, if we really want reductions in strategic nuclear weapons, we are going to have to reach agreement to do it in this treaty. It will not happen in the next. One can see that the Soviets will do either one of two things: They will say, "Abandon NATO, do not modernize, in return for which we shall give you some reductions." Or, if we do go ahead with plans that our NATO allies have every reason to desire and expect, they will say that there will be no reductions. Either way, we have lost a very considerable amount.

And it will not happen. We will no more get these reductions or, if we get them, it will be at the price of NATO. After all, we are looking today at a treaty which embodies the conditions the Senate endorsed 7 years ago. Seven years ago, the Senate solemnly resolved that the next treaty should be a strategic arms reduction treaty—SART, said an amendment proposed by the senior Senator from California, Mr. CRANSTON, and adopted 7 years ago. Today, there are no arms reductions of any consequence in the SALT II treaty; none.

Some people will say that the Soviets are taking down a few old launchers which they would long since have scrapped if they had not expected to trade them.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. ROBERT C. BYRD. Would not any one of those old outmoded missiles destroy the city of Washington, D.C.—any one of them?

Mr. MOYNIHAN. Yes.

Mr. ROBERT C. BYRD. I appreciate the Senator's continuing to develop the thesis which he so eloquently and ably elocuted on yesterday. There is one thing I cannot understand: Is he advocating that we not indeed proceed with the MX; that we not indeed proceed with land-launched and sea-launched cruise missiles with ranges beyond 600 kilometers; that we not proceed in such a way that by the time the protocol is terminated, we will not have delayed the ultimate deployment if, indeed, the ultimate deployment of these systems is in the best interests of this country? Is he advocating that we not proceed along this line?

Mr. MOYNIHAN. The Senator from New York is momentarily confused. I have made explicit in previous exchanges with the majority leader that I do so advocate. He will have great difficulty depicting me as someone who does not.

Mr. ROBERT C. BYRD. I have no intention of depicting the Senator in that way. I was honestly confused as to the thrust of what the Senator had been saying. I am reassured.

Mr. MOYNIHAN. Let me say that I had some experience in this matter at some cost during the 1976 election year in New York State. There were five persons running in the Democratic primary. I was one. Each time we would have a debate, four of those persons—or one of them, at least—would propose some large, social program and propose to pay for it by a 25-percent cut in the defense budget. I would find myself saying, "That is a good program, I don't doubt, but I don't think we can do it that way, because the next President, no matter who he is, is going to increase the defense budget."

Then one of my respected adversaries would say, "Aren't you for Jimmy Carter?"

I would say, "Yes, I am."

Then he would say, "Jimmy Carter is going to cut the defense budget by 9 percent a year."

And I would be left in the lame position of saying, "No, he is not, that is just what he is saying."

All I am trying to say is, can we live with reality?

Mr. ROBERT C. BYRD. If the Senator will yield at that point, I followed that contest with great interest from afar. The Senator did not know it, but I was rooting for him.

Mr. MOYNIHAN. That is good of him to say. But I wanted to say that I have been on record a long time on this, at a time when the President was not.

I say to the majority leader that if we want reductions as well as improvement in our defense position, in my judgment, we have to build them into this treaty, because the Russians want this treaty and will do a lot to get it. At least, they will do as much as committing themselves in the treaty to what they nominally commit themselves to in the joint statement of principles for the next treaty.

But by linking the protocol of SALT II to the negotiation of SALT III, they have set the conditions, established the conditions, and got our agreement to them, by which they can maintain that the agreed principles have not been met by us and, therefore, need not be met by them.

In 1972, we wished for reductions in SALT II. We did not get them. We wished for no counterforce weapons. We got them.

The PRESIDING OFFICER. The time of the Senator from New York has expired.

Mr. ROBERT C. BYRD. Mr. President, who is recognized under the next order?

The PRESIDING OFFICER. The Senator from Minnesota (Mr. DURENBERGER).

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the orders be altered so as to allow Mr. CHAFEE to proceed next with his order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Now, would Mr. CHAFEE just yield a minute or two to the distinguished Senator from New

York so that he might complete his statement?

Mr. MOYNIHAN. That is most generous, if the Senator agrees. I will not need but a minute just to say that I had finished my statement and I wondered if the majority leader wanted to make a comment.

Mr. ROBERT C. BYRD. Only to say the distinguished Senator from New York brings a great deal of experience in dealing with the Soviets in other fora, and brings it to bear upon this very important debate that has already started and will continue for quite some time.

I do not think we really differ except in a few minor ways and I do not wish to pursue this any further at the moment.

I think it should be clear that the mobile deployment of the MX is necessary because of the growing vulnerability of the U.S. ICBM forces.

I do not find any problem with the President's response to my letter. I agree that the Soviets are going to argue this and that and something else.

We can expect them to be hardnosed and difficult to deal with. But it does not necessarily mean that we will accede to their point of view.

I would just wish the distinguished Senator from New York (Mr. Moynihan) were one of the negotiators of SALT III because I would feel far more secure and rest better if he were, because he is able, he is knowledgeable, and I want to compliment him for this ability and for his stick-to-itiveness, his tenacity, and all the many admirable qualities he brings to the Senate in such great measure.

But, of course, they are going to maintain this or that. I do not quite see the scenario as necessarily being that which the distinguished Senator laid out. I realize it is one of the scenarios. I do not quite agree that there are no arms reductions in this treaty.

I will save that for another day. We see it a little differently, I guess.

It is not the best treaty, by any means, or all of what we would like to have had. Maybe we could have had a better treaty. I feel that maybe we could have. But that is just an opinion. I cannot prove it. All I have to go by is the treaty we have before us. While it may be a modest one, I think it is a plus and a positive.

I hope the distinguished Senator from New York and I will, in the end, as he continues to focus attention upon the treaty and upon the resolution of ratification, that we may be able to find, working together, the kind of approach that will protect our interests and those of our allies as we look down the road to SALT III.

I know the distinguished Senator from New York has very considerable talents in that area and I trust that the Senate will be able to tap them.

I look forward to working with him in attempting, in the long run, to do the best we can with what we have got.

As the old mountaineer said when he sat down to his humble table, "Dear Lord, we thank you for what we have got."

So we have got what we have got. I hope we can work with it and improve it in some way and, in the end, that the Senate will approve it.

Mr. MOYNIHAN. I will quickly state, Mr. President, that I am not thankful for what we have got. A world with 5,500 warheads on the Soviet side and about 9,000 on our side, going up to 12,000 in 5 years. That is not something to be thankful for. What we have got to recognize is that it is very hard through this process to achieve reductions in nuclear warheads. We have failed twice, now, though we are on record as favoring them.

They used to say in New York politics, once is an accident, twice is enemy action.

We failed twice. We must try to insure that the third time we succeed.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. ROBERT C. BYRD. I would not leave the Record to imply that I am thankful that the other side has achieved a superiority in some aspects of the strategic central systems. Do not let the Record show that.

Mr. MOYNIHAN. The Record should not show that.

Mr. ROBERT C. BYRD. I am not thankful for that, either. But that is not the fault of this treaty.

I could unilaterally draw up a better treaty. I am sure the distinguished Senator from New York could unilaterally draft a better one than I. But it takes two to negotiate.

As to the details of the treaty, we will argue those on another day.

I am not at all happy about some things in the treaty. But at least we have to take what we have got and deal with that. That is what I am saying.

Mr. MOYNIHAN. I thank the Senator.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. MOYNIHAN. I thank the Senator from Rhode Island.

RECOGNITION OF SENATOR CHAFEE

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for not to exceed 15 minutes.

Mr. CHAFEE. I thank the Chair and I thank the majority leader.

ANNOUNCEMENT OF SENATOR BAKER'S CANDIDACY FOR THE REPUBLICAN NOMINATION FOR PRESIDENT

Mr. CHAFEE. Today, Mr. President, is a very significant day for our country. Just this morning, less than an hour ago, our very distinguished colleague, the senior Senator from Tennessee (Mr. Baker), announced his candidacy for the Republican nomination for President.

I might say, speaking on my own behalf and I know on behalf of many of my colleagues, that we are delighted he has undertaken this task. It is a task that is a difficult one. It requires constancy. It requires confidence. It requires persistence and it requires courage. Our colleague from Tennessee (Mr. Baker) has all those characteristics.

Mr. President, this is a crucial period for our Nation. It is a time that is crying out for leadership.

While throughout the Nation we do have an abundance of talent and resources, ingenuity and expertise, compassion and resilience, I think those characteristics are blended in a unique way in our colleague (Mr. Baker).

As he said in his announcement this morning, "America needs a new generation of confidence." Howard Baker, with the skills he possesses, and the experience and his ability to appeal to a broad cross-section of people, is really unique. He was the first Republican candidate since Reconstruction, elected to the U.S. Senate from the State of Tennessee; that was in 1966, when he carried that State very handsomely as a Republican. He was reelected in 1972 and in 1978 by very substantial margins.

He comes from a background that I think is unique, and as a political child his associations are unique as well.

His father and his mother both served in the U.S. Congress. His father-in-law, of course, was the renowned Senator from Illinois, Senator Dirksen, as well as the minority leader in the Senate for many years following his distinguished career in the House of Representatives.

Joy Baker, the daughter of Senator Everett McKinley Dirksen, married Howard, and they have two splendid children. They are the ideal type of people we would like to see leading our Nation.

Of course, we know him best in the Senate, where he has forged into a cohesive unit Republicans of diverse backgrounds and ideologies, extending from the conservatives to the liberals.

Elected as leader of his Republican colleagues in 1977 by one vote, he was unanimously elected our leader in 1979. He has brought us together in a way that we all applaud, and we feel grateful for having had the benefit of his talents here.

Mr. President, it has been my privilege to have worked with him closely over the past 2½ years. I would like to set forth some of the characteristics that, to me, are the great strengths of Howard Baker.

First of all, he is a man of consummate wisdom. He seems to have the capacity to look at a problem, analyze it, and come to a very wise decision at the end. One might call it good judgment.

Second, he is a broad-gaged person. I am very nervous about people who do not seem to have any interest other than the task at hand. But Howard Baker is broad gaged. He has his photography, and I suppose he is the best photographer among the Members of Congress. He has had private shows demonstrating his excellent photographic work. It is a consuming interest for him.

He takes an interest in sports. He was a pilot in World War II and occasionally flies a plane. Of course, his family is of great interest to him as well.

As we move into the 1980's, I think this Nation will be looking for the finest possible leadership we can get. We are fortunate that our political systems are uniquely capable of calling forth great leaders at particular times when we need them most. Howard Baker has the characteristics and abilities to be such a leader.

So it is with considerable pride that I join a number of my colleagues in the Senate who applaud and support the candidacy of HOWARD BAKER for the Presidency of the United States.

We would be delighted to have the Presiding Officer of the Senate at this moment join us, and perhaps secretly he will; but if he does not join us, we seek others. No one is excluded from this bandwagon.

So join up: Republicans and Democrats and Independents all across this Nation, come forward and join HOWARD BAKER in the great cause he has undertaken here, starting today.

In my opinion, he is the right man for the 1980's, the right man for America, and the right man for the Presidency starting in 1980.

Mr. President, I am delighted at this time to yield to the senior Senator from Illinois.

Mr. PERCY. I thank my distinguished colleague. I have enjoyed his eloquent words. I certainly share in the sentiments of the joyousness of this occasion today. It is a great tribute to the U.S. Senate and to the electoral process when we have one of our own Members declaring himself for the highest office in the land.

Mr. President, I join in the tributes today to the distinguished minority leader as he begins his campaign for the Republican nomination for the President of the United States.

Senator BAKER is not a son of Illinois; he is a son of Tennessee. But he is a son-in-law of Illinois. Every Illinoisan takes pride in the service of Senator Dirksen, Senator BAKER's father-in-law. We number among our closest friends HOWARD and Joy BAKER, and Joy is a native of Illinois.

As a classmate, I have had the privilege of serving with Senator BAKER since we both began service in the Senate in January 1967. Throughout that period, we have worked closely together. As a trusted and valued colleague, and most recently as minority leader, HOWARD BAKER has displayed the highest standards of integrity and fairness. We are all deeply indebted to him for his unselfish service to the Senate and the Nation.

I have made no personal endorsement of a candidate for the Republican Presidential nomination, but I am pleased that the contest for the nomination will be spirited. The number of individuals seeking the nomination, including two distinguished Congressmen from Illinois, reflects the vigor and diversity of the Republican Party. The State primaries and caucuses will provide a forum for a wide-ranging debate on the crucial domestic and foreign issues we will face as a Nation in the next decade and beyond. HOWARD BAKER will make a major contribution to that debate, just as he has made a major contribution to it in his announcement today—appropriately, in the Senate Caucus Room of the Russell Office Building. In that room, he distinguished himself by his brilliance and by the way in which he conducted a duty imposed upon him by the Senate, a duty he did not enjoy carrying out, any more than any of us enjoy carrying out duties assigned to us that involve the lives of other people. He carried out that duty with great distinction, and I pay tribute to him in that regard as well as the many other capacities in which he has served the U.S. Senate, the United States of America, and its people so ably and so well during his public life.

Mr. President, I yield to the distinguished Senator from Vermont (Mr. STAFFORD).

Mr. STAFFORD. Mr. President, I am obviously delighted that our outstanding friend and colleague, Senator HOWARD BAKER, formally announced his candidacy today to become the Republican nominee for President. This was good news to me—because I endorsed his candidacy several weeks ago—and it is good news for the American people.

As minority leader, Senator BAKER has shown a remarkable talent for bringing diverse views together—a talent badly needed today in the White House.

As a Senator, HOWARD BAKER has demonstrated great ability to recognize and deal with the main issue facing America today on a priority basis—an ability clearly lacking in the White House today.

HOWARD BAKER knows Washington and he knows Government—and he knows both of them well enough to provide the leadership that will keep them out of the lives of Americans when they are not needed. And that is something most of our citizens are clamoring for in the White House today.

The American people can have confidence in HOWARD BAKER because he knows the power as well as the shortcomings of Government action—and he knows when to use that power and when to let the people do their own thing.

This Republican decided last May 24 to support Senator BAKER for the Presidency in 1980 and formally announced that support on September 13. As I stated at that time:

> My support of Senate Republican leader HOWARD BAKER is based on the fact that he is the most viable Republican candidate who is demonstrating on a day to day basis that he can provide leadership on major issues now besetting this nation.

I believe this even more so today after hearing other candidates express their views in recent weeks. Senator BAKER can make Congress and the White House work in unison for the people, rather than having them drift in opposite directions while the people suffer. Senator BAKER offers experience, confidence, and trust.

I congratulate him on his announcement today, and I urge all Americans to consider his candidacy.

Mr. CHAFEE. Mr. President, I yield the remainder of my time to the Senator from Maine (Mr. COHEN).

Mr. COHEN. I thank the Senator for yielding.

I want to join with my colleagues in commending HOWARD BAKER for announcing his candidacy for the Presidency today. I think it is clear that the American people are discovering that they made a mistake in 1976, and they are looking for leadership in 1980.

They are not looking for someone to simply stir their emotions but for someone to lead them into the future as we rocket our way through time. They do not want, if I can paraphrase Walter Lippmann, a President who will tell them only what they want to hear, but one who will tell them what they have to know. They do not just want a good judge of popular opinion but a good judge of the public interest.

If there is one thing we have learned from the tragic lack of leadership in the past 3 years, it is that in this Nation, where the interests are diverse and complex, the country needs a President who can moderate differences and reconcile opposing interests.

HOWARD BAKER believes that America's strength and greatness are found in an opportunity society, not a guarantee society; in a work-oriented country, not a welfare state; and that incentive and self-initiative should be encouraged and rewarded instead of inviting bureaucratic intervention into our individual lives and personal freedoms.

I think in HOWARD BAKER we have a candidate and a man who is tough but fair, who is hardnosed but not inflexibly dogmatic or demagogic; a man who is strong but is yet able to minimize division, who can lead without polarizing people, who can build a consensus in a country that is rich in its diversity of interests and often fragmented in opinion; a man who is resolute and eloquent in the conviction that the American people should remain free, strong, and compassionate.

Mr. President, this weekend Maine is going to be holding a mock convention. It is my hope that HOWARD BAKER will not only run strong but run first, and that, as Maine goes so will go the Nation.

I yield the remainder of my time to the Senator from Oregon.

Mr. PACKWOOD. Mr. President, whether or not HOWARD BAKER will win the Republican nomination will be in the hands of the voters throughout this country. The one thing that distinguishes him from any other candidate seeking the Republican nomination is that he has an entire lifetime of leadership. His mother and father served in the Congress; he is married to the daughter of Everett Dirksen, and he has been elected to leadership; born to it, married to it, elected to it.

Those of us in this body see our colleagues very closely. We are, perhaps, inclined on occasion to unfortunately magnify their faults and, perhaps, on occasion to overly praise them because we know them well. But there is no greater tribute that anyone will receive in this country than the accolade of being elected to leadership by his peers because indeed we do have to work with candidates who are seeking the nomination for the Presidency every day in the case of a fellow Senator or certainly frequently throughout the year in the case of Governors or former members of the Cabinet, and most of us have concluded that in this body HOWARD BAKER is a leader.

I am not going at this stage to ponder whether or not what this country clamors for is leadership. I think it does. There are others, some in the news media, who say that is a false issue, but no one can deny in this Chamber that HOWARD BAKER is a leader; that among those who would judge him most critically and most carefully we have said "This is a leader."

I support him. I hope the people of my State will support him. I hope the people of this Nation will support him. But those of us in this body who endorse him, whether or not he is eventually selected as the Republican nominee, can at least very proudly say, "We have endorsed and put before you a man whose leadership qualities are known and proven and they will not have to be tested and tried in the future. They have been tested and tried here, and HOWARD BAKER has been found to possess those qualities."

RECOGNITION OF SENATOR LUGAR

The PRESIDING OFFICER. Under a previous order, the Senator from Indiana is recognized for not to exceed 15 minutes.

Mr. LUGAR. Mr. President, this is an important day for the country. HOWARD BAKER has declared that he is a candidate for the Presidency of the United States, and he has done it in the midst of those who wish him well as colleagues on the floor of the U.S. Senate, obviously the members of his family and friends, the national press, and of many who have come from throughout America to be a part of this signal occasion.

In his opening remarks today HOWARD BAKER pointed out that this country, unfortunately, has very little margin for error; very little margin for error in the sense of our military preparedness and our foreign policy; and very little margin for error certainly in the energy policies of this country; very little margin for error in the fact that the standard of living for the people in this country has always been an important part of our political dialog and our economic progress, and the lack of productivity in this country has put a severe crimp in those prospects.

In short, HOWARD BAKER has pointed out that we need substantial changes in the military posture of this country and in the way we are perceived by friend and foe alike; that we need substantial changes that will lead us toward greater productivity of energy resources, and some hope for a full employment policy based upon the economic strength which energy independence alone can give us.

He said, finally, that we need a sense of productivity individually and collectively in this country that alone can bring an end to inflation. This is a tall order, but that is the reason why HOWARD BAKER is seeking the Presidency, and because he believes, and I support his belief, that he alone among those who are viable candidates for the Presidency, who have a reasonable chance to attain our Nation's highest office, is experienced in the levers of Government, in the abilities of bringing disparate persons of authority and influence in this country together, in making a broad appeal for a consensus in the American public, and for policies of both sacrifice and joy that will be required.

HOWARD BAKER has demonstrated those abilities amply in his leadership on this side of the aisle and in his broader responsibility to all the people of the United States, as he has worked for responsible solutions, as he has worked for responsible and orderly procedures in this body.

He has been an effective leader in the very best sense of the word. He has been an articulate leader, literally front and center every day of his political life for many, many years.

His activities are well known. His openness is admired. I point out that one of the highlights of his announcement today came during the press conference, the probing by the national press behind the words of his prepared text.

HOWARD BAKER was asked various questions about the conduct of his campaign, specifically one question as to whether a particularly difficult issue would be raised with reference to another candidate, and other questions with regard to specific policies. To paraphrase the final question at the press conference, a gentleman of the press asked, "How can you, Senator BAKER, offer assurances to the American housewife that you are working in her best interests when you have voted for foreign aid, when you have supported welfare reform?"

Senator BAKER pointed out that at the bottom line of his judgment in political issues is a sense of compassion—and I would add to that a sense of decency—as to what is appropriate in terms of his own activity and conduct, and what is compassionate in terms of his relationship to fellow human beings whom he has served and worked with and loved and admired throughout the years.

In short, HOWARD BAKER answered that he believes in free enterprise from the top of his head to the tips of his toes, but he likewise believes that the free enterprise and market systems must have, as a very important component enveloping all our decisions, a sense of compassion for fellow human beings; that this is at the heart of politics, and it certainly has been at the heart of his record and of the office that he seeks now.

I have had great admiration for Senator HOWARD BAKER. For that reason, I have agreed to serve as chairman of his national campaign and to work with him, in not only the organizational aspect of a campaign—which is almost mindboggling, as one takes a look at the enormity of this Nation—but equally it is to think with HOWARD and grow with HOWARD, as we all shall as his colleagues, in thinking about how we will make a difference in the strength of our country, militarily, economically, and maybe even more importantly in the confidence that we have in ourselves as those who have been elected to take a part in the political role, and the confidence that we all have in the future of the United States of America.

For these reasons, and many more, this is a very special day in my life. It is a very special day, I believe, in the lives of all who are friends and colleagues of HOWARD BAKER. We are grateful that we have this time to share some of these thoughts on the Senate floor this morning.

I yield now to my colleague, the distinguished Senator from Wyoming, Senator SIMPSON.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. I thank the Chair. I thank also Senators CHAFEE, LUGAR, PERCY, and the other Senators who have spoken concerning the recently announced candidacy of HOWARD BAKER for the Presidency of the United States. I wanted to make some very brief remarks, though I have not committed myself in this Presidential race. I will be doing that in the year 1980, and early on in that year. I simply wish to state that his father-in-law and my father served here in the U.S. Senate and were fast friends, as were Louella Dirksen and my mother. The Dirksen family were held high on the list of esteemed friends of all members of my family.

I am a freshman Senator. Senator BAKER has treated me with great kindness and great courtesy in my first year here, and especially the first months of my first year here. I respect his counsel and his advice during those early days. I do not always agree with his views, but the very essence of the man, that I would share with you, the very essence to me of this person, is just simply fairness. He is exceedingly fair. He is an able person; he has fine judgment. I think he has been a very fine leader of the Republican minority in the Senate, and he can, indeed, make an intelligent response to the most searching of questions, just as he did this morning with great ability.

So I watch with great interest as he embarks upon his campaign. I will be observing him. We will be testing him; Americans will be testing him and questioning him. All of that, you may be assured, he will answer directly. As he said moments ago, "I will not deal in promises. I do not ask you to trust me; I ask you to judge me."

I shall be doing that. America will be doing that. I simply want to commend him for presenting himself, a man of rare ability and intellect, and thrusting himself into this awesome task of attaining the Presidency.

I thank the Chair.

Mr. LUGAR. I am happy to yield to the Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I thank the Senator from Indiana. I rise to share with my fellow Senators and the people of this country my feelings today about HOWARD BAKER's decision to present himself to the American people as a candidate for the highest office in this land.

I first met Senator BAKER while I was shaving in his office. One might think that from that point on our relationship would have deteriorated, that as a candidate for this high office from the State of Minnesota, he would have discouraged my efforts to represent the people of my State in the high traditions of representation with which the people of that State have been represented in the past.

He did not. He excused me for my naivete and my lack of respect for the traditions of the Senate, and sat down to encourage my quest for public office. He made me believe in a very short period of time that politics was what politicians make of it. He encouraged me to believe that a Republican in a Democratic Congress could be effective. He encouraged me to believe that a freshman in a group of Senators more senior could be effective. He encouraged me to believe that the essential characteristic of a public servant is to remain a servant of the public.

Since I was elected to this body, I have had the opportunity to watch Senator BAKER and to see whether or not the words that he purveyed to me 8 months previous to my election were merely an effort to encourage an unknown Republican candidate to step into an impossible task, or whether he truly believed what he said. I have watched and I have observed, and today I feel very excited about the possibilities of HOWARD BAKER's being President of the United States.

Because of my position as a Senator from my State, a State in which the Republican Party's rebirth is fairly recent, I have hesitated to endorse any one of a number of candidates for President from our party. I have hesitated principally because the success that we enjoyed in the State of Minnesota in 1978—one Republican Governor and two Republican Senators—I felt was due to the fact that many candidates presented themselves, both delegates of our party and other people of our States, for their endorsement.

For that reason, I have welcomed and I have enjoyed the fact that men from all walks of life, from all parts of this country, have indicated their willingness to be endorsed by the Republican Party for President of the United States. I will continue to encourage that kind of participation. I will continue to encourage other persons, particularly women, to join in the race, and I will withhold any specific endorsement of any candidate until nearer the election.

But I stand here today, Mr. President, to endorse a man who I believe is an excellent candidate for this office because, as he told me many months ago, the essential characteristic of a public servant is to remain a servant of the public.

I thank you, Mr. President. I thank the Senator from Indiana for yielding.

Mr. LUGAR. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Minnesota desire further time?

Mr. DURENBERGER. Yes, Mr. President, if I might have approximately 8 minutes.

The PRESIDING OFFICER. The Senator from Minnesota may use his own order or the Senator from Indiana may yield what remains from his 15 minutes.

Mr. LUGAR. Mr. President, I would like to yield first to the Senator from Maryland.

Mr. MATHIAS. Mr. President, I am grateful to the Senator from Indiana for yielding a few minutes to me. We have all witnessed a historic and interesting event this morning, the announcement by the Senator from Tennessee, the minority leader in the U.S. Senate, of his candidacy for the office of President.

In his announcement, he specifically invited the country to judge his performance as a Member of the Senate. I think that is a challenge that we should take up. I believe the evaluation of HOWARD BAKER's leadership in the Senate can only result in an enhancement of his reputation as a competent and able public servant.

It was my privilege to propose his name in the Republican Conference as leader, so I feel a special pride in his accomplishments as the Republican leader of the Senate.

It is not an easy job. As anyone can see who looks at the Senate Chamber, there are fewer chairs on this side of the aisle than there are on the other side of the aisle. The Republican leader of the Senate must necessarily work with the majority leader, and in working with the majority leader, a minority leader can very easily be whipped, his views can be subordinated, the position of his party can be undermined, simply by the operation of the numbers, by the mathematics of the situation.

Senator BAKER has held his own for himself as leader and for the other Members of the minority. He has operated in a way which has been cooperative with the majority leader, Senator BYRD, but he has always operated independently on behalf of the minority.

In other words, he has been able to keep his identity. I believe Senator BAKER has maintained his identity, his individual character, as a distinguished Member of the Senate in his own right, and that these are characteristics and qualities which are important as one contemplates their choice for President of the United States of America. I thank the Senator for yielding.

Mr. BOSCHWITZ. Mr. President, early last summer, I announced my support for our Senate minority leader, HOWARD BAKER, for the office of the President of the United States. Today, I am pleased that HOWARD BAKER has made his candidacy official.

Although the Republicans have a number of attractive candidates in the running, HOWARD BAKER is unique in the field. By virtue of his background, his experience and his talents, I believe that HOWARD BAKER is the one candidate—in either party—who will be able to attract a broad spectrum of voters—Republicans, Independents as well as Democrats—by offering a positive blend of substantive legislative and leadership ability.

In the Senate, HOWARD BAKER's leadership qualities have proven crucial to the success of the Republican Party. For example, the Economic Policy Statement, which all 41 Republican Senators endorsed, is a significant accomplishment for the party. This uncanny ability to bring together diverse groups, to forge a consensus, has not only been important to the Republican Party, but to the Senate as a whole.

It is this quality of being a conciliator, a tough negotiator, and most importantly a leader, that will be so important in the next Presidency. We need a President with the proven abilities to work with the diverse factions in Congress, business, labor, agriculture, as well as other groups and to find workable solutions.

HOWARD BAKER has also had the courage to stake out his leadership on the major and controversial issues facing the Senate. His crucial role today in the SALT II debate is a sign that he is not afraid to speak out on the important issues, even when they are sensitive. He has proven ready to take conscientious, thoughtful positions in the face of potentially adverse political implications.

I would also add that his sense of self-assurance and confidence in his own abilities is a quality of HOWARD BAKER's that I truly admire, and one that will prepare him to respond quickly and confidently to the challenges of the Presidency.

As a freshman Member of the U.S. Senate, I must say that one of the true privileges and rewards of serving in the Senate has been the opportunity to work with and learn from HOWARD BAKER. He is a man of vision, a man of wisdom, and a man of compassion. He is a man with the ability to lead our Nation into the new decade with the challenges that confront us.

Mr. STEVENS. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by Senator HATFIELD relating to Senator BAKER's announcement today.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HATFIELD

Today is an exciting day for all of us who count Howard Baker a close and trusted friend. As he sets his course in pursuit of higher office it is appropriate that we who have benefited most from his gifts of leadership rise to commend him for his past service and affirm him in his future opportunities.

Even thought it is early in the Presidential selection process and many of us have not yet determined who we will endorse it is altogether fitting that we join together today to assert the rightness of the process and encourage one of our own who has given unstintingly to our mutual efforts. I say without hesitation that Howard Baker is among the finest of leaders who has immense capacity for whatever job he might be called. He is a proven conciliator who has helped us to avoid factionalism and healed us of our collective and individual wounds. Personally he has often been a great encouragement to me.

RECOGNITION OF SENATOR DURENBERGER

The PRESIDING OFFICER. Under the previous order, the Senator from Minnesota is recognized for not to exceed 15 minutes.

S. 1968—HEALTH INCENTIVES REFORM ACT OF 1979

Mr. DURENBERGER. Mr. President, this week the Senate Committee on Finance is returning to its consideration of catastrophic health insurance plans. It is critical that the discussion of catastrophic health care be expanded to include the concept of competition.

For that reason, I am introducing today a version of a bill I originally introduced July 11. This bill, the Health Incentives Reform Act (HIRA) of 1979, is designed to foster competition in health care by introducing economic incentives and consumer choice.

Since the bill was first announced in July, HIRA has received support from many quarters and has been carefully reviewed and examined by the business community, health providers, insurers, labor, and consumers. The comments from these diverse groups have been numerous and helpful. Their best ideas have been incorporated in the version I am introducing today.

These changes reflect an emphasis on employer-based group health insurance and make the competitive provisions more compatible with the needs of businesses and their employees. These employer-based competitive provisions are particularly relevant in the context of any discussion on employer-based catastrophic health insurance.

The catastrophic discussion in the Finance Committee to date has focused on employers providing their employees with a catastrophic plan and paying a percentage of the premium cost. This approach stifles competition and runs the serious risk of skewing care to the high-cost, high-technology end of the medical care spectrum. It perpetuates the one-employer/one-health plan attitude that has contributed to our health care cost problem.

When an employer selects an insurance carrier to offer health coverage, whether it is catastrophic in nature or more comprehensive, the plan selected must satisfy each and every employee and meet his or her particular needs. It must permit employees to use any physician and any hospital they choose. These health plans could institute cost and utilization controls only to the extent that most physicians in the community accepted them.

It is important to remember here what competition means. It means that efficient providers of care—physicians, hospitals, and others—are rewarded with additional business. To do so means that we must devise a system which permits these efficient providers to isolate their experience from that of the rest of the provider community. Since one-plan offerings must permit the use of any health provider in the community. cost-effective providers get mixed in with ineffective providers. Limited provider organizations would not be viable because they would not meet the needs of all employees.

A multiple-choice offering is essential if we are to create an environment in which competitive plans with a limited number of providers can begin to develop. Without multiple choice, true competition in employer group markets cannot exist.

As an example, think of a catastrophic plan which required that all physicians participating in the plan must agree to accept certain utilization controls on hospital use. Because of those controls, not all physicians in the community would be expected to participate. For those who did participate, the controls should result in more efficient use of the hospital and a relatively lower premium. The lower premium should make the plan successful in drawing consumers away from less efficient insurance plans, but only if the plan has access to the individual through multiple choice.

In addition to multiple choice, the other ingredient essential to establishing an environment in which competition can flourish is that the amount an employer contributes on behalf of an employee to a health plan must be the same regardless of which plan an employee chooses. Only if we let employees realize the complete cost difference among options will we encourage them to make rational economic decisions. Competition is distorted if the employer subsidy varies.

If the Finance Committee moves toward the requirement that business pay some percentage of a catastrophic premium, the equal contribution principle will be compromised. For example, let us assume that we enact a provision stating the business must pay 75 percent of the premium for a catastrophic plan. In a multiple-choice setting, one plan might cost $100 and another $60. The company would contribute $75 to the first plan and $45 to the second. The more expensive plan would, in effect, be receiving a $30 subsidy from the employer and would benefit from an unfair market advantage. The employer contribution must be the same if we are to expect consumer choice and competition to be effective.

I am convinced that true competition can be injected into the health care sector and that this effort deserves our utmost encouragement and support. In the consideration of catastrophic health insurance or any other major piece of health legislation, these competitive considerations should be made. We must begin to right the imbalanced incentives that exist in our health care system.

NICARAGUA

Mr. DURENBERGER. Mr. President, I wish to bring to the attention of my colleagues a recent article by Drs. Roy Prosterman and Jeff Riedinger concerning policy options open to the United States in Nicaragua. This article appeared in the Wall Street Journal on October 2, 1979, and I believe that it is worthwhile in two respects.

First, the authors make what I believe to be a compelling case for U.S. assistance to the new government in Managua. As Drs. Proseterman and Riedinger point out, the new government has, despite predictions to the contrary, proved surprisingly moderate in its policies both toward the Nicaraguan people and toward the United States. Yet this government faces serious economic challenges in the wake of a long and devastating civil war, and it requires shoring up if it is not to become the Nicaraguan counterpart to the Kerensky regime in post-Czarist Russia. It is in the interest of the United States to insure that moderate, thoughtful and nondoctrinaire nationalists remain in control of events in Nicaragua. Foreign aid to this end would cost relatively little, and the benefits would be extremely high.

Second, I believe that the article suggests a number of larger issues about U.S. foreign aid in general. In light of our recent deliberations on the Foreign Assistance Appropriations Act, it is perhaps worthwhile to touch upon these issues at this time. Basically, I am concerned that far too many Americans think of foreign aid as only a naive giveaway inspired by equal measures of innocence and guilt. A hard look at the facts indicates that nothing could be farther from the truth.

The United States currently funds foreign aid, and should continue to do so, for three very basic reasons. First, in extreme cases of emergency, we provide humanitarian relief to those people who are faced with imminent starvation, poverty, or disaster. We do so in the spirit of generosity which befits a major economic power and a leading democracy.

Second, we provide assistance in order to foster political and economic conditions which are favorable to the United States. Such assistance can take the form of military aid, development funding, low-interest long-term loans, and so forth. The basic aim of such programs is to insure that the recipient nations attain or remain in a state of political stability. While such aid does not—and should not—buy us friendship, it does serve to promote a climate in which beneficial ties can be fostered between the United States and other nations.

Third, we provide multilateral assistance to a number of organizations which seek to overcome problems shared by all of mankind. In today's increasingly interdependent world, it is no longer merely a poetic platitude to say that "no man is an island." Instead, it is a hard truth. When the environment is degraded in one country or region, all adjacent countries or regions suffer. When food stocks or ocean resources are depleted, all nations suffer. When communicable disease is unchecked in one country, all other countries are threatened.

In short, we must look upon foreign aid in a hardheaded fashion, recognizing that it serves the national interest of the United States to fund our numerous foreign assistance programs, even if we occasionally have differences of philosophy with the governments of the recipient nations.

In this same spirit of hardheadedness, we must question the wisdom of aid programs which come too late and offer too little. Too often, we have reacted after the fact with "pocket-book diplomacy" to events which are already beyond our control. Too seldom have we identified emerging problems and taken the necessary action—whether through foreign aid or through other means—to resolve them.

In this regard, I believe that the article which I offer for submission is instructive. It provides a specific illustration, in one country, of the benefits which can be obtained from a realistic, farseeing, and hardheaded commitment to foreign aid. I therefore ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SHORE UP NICARAGUA'S MODERATES

(By Roy Prosterman and Jeff Riedinger)

The new Nicaraguan government to date has proved a surprise: far more rational, moderate and democratic than almost anyone could have hoped in mid-July. There have been no officially sanctioned executions and few reprisals, a free press is functioning side-by-side with Sandinista organs and the broadly representative junta leads the government not only in name but to a considerable extent in practice.

Nationalizations have been limited to Somoza-controlled enterprises, except for domestically owned banks, where reasonable compensation arrangements have been made and a huge burden of debts of doubtful collectibility has been assumed. The land redistribution has started as a flexible one, with a mix of individual holdings, small coops and larger units to be tailored to crop and region, and the business community has been reassured.

Indeed, the refrain "Sandinismo si, comunismo no" has begun to be heard, typified by a recent incident in Moninbo, where the villagers rejected Cuban help in reconstruction that did not include the rebuilding of their church.

Still, the situation is precarious. Perhaps 20% of the Sandinista movement that overthrew the Somoza dictatorship are dedicated Marxists. In Managua, the capital, street vendors sell the last of the goods stolen during the upheaval of the revolution. Within weeks, unless sufficient aid is received from the outside, the last inventories will be gone, and Nicaragua will run out of all imported commodities—everything from toothpaste to gasoline to raw materials for industry and agriculture.

The economy, already ravaged by war and systematically pillaged by Somoza, will suffer the most catastrophic collapse experienced by any Latin American economy in this century. Almost certainly, in the wake of an economic collapse, the extreme radical minority within the Sandinista army will come to the fore. Heretofore constructive village committees might become a vehicle for political mischief. Instead of a new model of pluralistic and democratic governance in Central America, Nicaragua will experience a new Castroism. Instead of the Mensheviks, the Bolsheviks.

A SMALL MIRACLE

That there is still the opportunity for U.S. support of a moderate result in Nicaragua is, in itself, a small miracle. A history of aiding the Somoza plutocracy for 41 of its 43 years, with the military hardware we had previously supplied being used to kill 20,000 to 40,000 Nicaraguans in the past year, hardly sets the stage for a U.S. role in shaping the post-Somoza outcome.

Yet, surprisingly, as we can attest from our recent travels, there is great friendliness to Americans in the country, and a widespread willingness to structure a new, amicable relationship based upon their genuine nonalignment.

But the economic situation is desperate. Unemployment is running 30% to 40%, and will spread total paralysis of the economy unless closed businesses can obtain the resources needed to make repairs and replenish inventories. Only 30% of the acreage of the chief foreign-exchange earner, cotton, could be planted because of the widespread fighting, and much of that may be lost unless sufficient pesticide can be imported during the next two months.

Before they left, the Somozas followed a virtual "scorched earth" policy. Besides sacking opponents' businesses, they borrowed heavily from outside using the convenient apparatus of a government that was synonymous with the family financial empire, looted the treasury and left behind a staggering short-term foreign debt. They depleted the cattle herds on their vast estates—probably one-third of the agricultural land in the country, they are now being redistributed to the *campesinos*—selling off so many head that Nicaragua's entire beef export quota to the U.S. was essentially filled by May.

During the waning hours of his rule, Somoza's cohorts stripped the warehouses in Corinto, the major port, fleeing with their loot to Honduras in scores of small boats, in a modern-day parody of Dunkirk. What the Somozas leave behind is a bankrupted society, its infant-mortality rate higher than that of India.

But one great "plus" of the situation is that Nicaragua is small—only 2.5 million people, living in a country the size of Oregon—and that the amount of aid required is correspondingly modest. Many have already responded. Holland, which has no geopolitical interests at stake, has just made an initial contribution of $11.7 million; Panama, which does, has mobilized a $20 million loan through its banking system and business community—the proportionate U.S. contribution, considering our vastly larger GNP, would be $16 billion, but this is many times more than what is needed.

What *is* needed, according to the best outside estimates, is some $1.3 billion over the next three years, divided about evenly between new aid and the rescheduling of old debt. The leadership must lie with us, and involves a sequence of four steps over the next year:

Step 1: Provide $100 million to $150 million, most of it in the next 90 days, in U.S. commodities to restore the basic functioning of the Nicaraguan economy and make crucial repairs. This, beyond the $15 million which we have already committed in emergency and reprogrammed aid, would be the U.S. share of an overall international package of $250 million to $350 million needed for this purpose. It cannot be emphasized too strongly that time is crucial here, and that these resources must begin to flow by late October if economic, and political, catastrophe is to be averted.

Step. 2: Provide, via our commercial banking system, $50 million to $100 million in medium-term loans to the Nicaraguan private sector, also within the next 90 days, to restore basic business activity. This should be facilitated with convertibility and political-risk insurance written by the Overseas Private Investment Corporation, a government agency that regularly offers such guarantees.

Step 3: Renegotiate the heavy short term debt, as part of a process of international consultations involving both public-sector and private-sector indebtedness, rescheduling payment over the next several years. Most of this is owed to commercial banks, with about 40 percent of the $300 million in private-sector debt owed to U.S. banks. Close to $100 million of the amount due to U.S. banks is due in 1979. Short-term public-sector debt to the banks is as large or larger.

Step 4: Put together an international aid program that—in the hands of a government which is clearly committed to basic human needs—will correct the ravages of two generations of economic fiefdom. The U.S. share, if around 40 percent to 50 percent of the total, would come to roughly $75 million to $100 million in each of the next three years, and might continue at or near that level until the mid-1980s. Between $25 million and $35 million annually of this development assistance would fulfill AID's strong new commitment to support of land-reform programs, finally recognized as the key to agricultural development in settings such as Nicaragua. Providing support for credit, land-improvement and ancillary facilities under the flexible land redistribution which is projected would not only permit the new owners to sharply raise productivity—as did our support in postwar Japan and Taiwan—but would give the Nicaraguan peasantry a political and economic stake in the functioning of a vigorous private sector.

TOTAL U.S. COST

The total cost to the U.S. for these four steps would be less than the $750 million which we currently spend in one year for development-aid and commodity imports for Egypt. Paradoxically, if we do not act, adequately and in time, there will be a Vietnam-style flow of hundreds of thousands of refugees that will almost certainly end up costing us much more than a direct aid program would—this apart from the vast indirect costs of such a failure.

But, with an effective U.S. response, there is, in the words of one foreign businessman who has long lived in Nicaragua, "not just a long shot, but an excellent chance, that a moderate, democratic solution will last." Such U.S. flexibility in adapting to and supporting this moderate alternative would, moreover, do much to pave the way for similar outcomes in such presently chaotic Central American societies as El Salvador and Guatemale, and beyond.

It is probably the best investment opportunity this country has been given since the Truman Doctrine and the Marshall Plan.

PEACETIME DRAFT

Mr. DURENBERGER. Mr. President, recently, there has been considerable attention paid to the idea of reviving a peacetime military draft. Proponents of such a measure have pointed to very real and very pressing manpower shortages in our active forces and more dramatically among our reserves. Given such problems, conscription has been seized upon as an expedient solution.

I have not been convinced, however, that the draft is the only solution, or even the best solution, to such problems. Instead, I have felt that many of the manpower shortages we face derive from the fact that military life, as presently regulated by the military services, is unnecessarily stultifying. I am struck, for instance, by the low retention rate among soldiers whose first term of service has expired. I have, therefore, often speculated that our manpower shortages derive from poor leadership rather than from a lack of willingness to serve.

Recently, a young soldier, Pvt. Philip W. Hewett, wrote an extremely thoughtful and articulate article for the October edition of Armed Forces Journal International. I commend this article to the attention of my colleagues, for it pulls no punches and it is written by somebody who has the insights gained from enlisted service.

This article demonstrates to me that the patriotic and idealistic values of our young people are firmly in place and that they constitute a vital national resource which we should seek to promote rather than retard. There is a great ethic of volunteerism among our young, as exemplified by Private Hewett's article, and I believe that we can tap this ethic by stressing and promoting the service rather than the mercenary or military aspects of voluntary military service.

Private Hewett decries the Army not because his experiences were difficult, but rather because they were too easy. His experience indicates that the Army failed to recognize, promote, and capitalize upon his eagerness to serve his country. Initiative went unrewarded, volunteerism was overlooked, responsibility was denigrated, and the dignity which comes from service was denied to this young man and to his peers. The very organizations which are supposed to represent and to foster duty, dignity, pride, and responsibility instead worked only to lower the morale of Private Hewett and his fellow soldiers. To reinstitute the draft under these circumstances would therefore only exacerbate the problem of low morale and insufficient commitment to service.

I believe, therefore, that we must seek

to make military service worthwhile and to see whether or not our manpower problems do not accordingly disappear before we resort to peacetime conscription. This will entail an analysis of the current structure and leadership patterns within the military services, and it will call for a reorientation away from managerial and toward explicitly "gladiatorial" ethics among our officer corps. But difficult as such a reorientation may be, I believe that it will be far easier than living with the social costs of conscription into an Army which fosters mere adequacy rather than excellence.

With these thoughts in mind, I urge my colleagues to read Private Hewett's article, and I therefore ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Basic Training: Basically a Waste?

(By Private P. W. Hewett)

I am writing to complain about the basic training program I suffered through. It was a travesty of education, physical conditioning, discipline and moral preparation for service in the United States Army.

I am a cannon crewman, 13 Bravo. I looked forward to my basic training and advanced individual training as an opportunity to explore my mental and physical limitations, and to demonstrate my determination, capability and potential. I anticipated a structure which would build my endurance to new levels. I was disappointed; I feel that not only myself but the others I trained with were needlessly denied an experience we could have been proud to remember.

A soldier should be inured to battlefield conditions. There is no reason why a trainee should not spend five of every seven days in the field. He should learn the basic skills during the basic training phase: battlefield survival, weapons familiarization and competency, first aid practice, enforced marching with full gear, rigorous physical training twice daily, field communications, bayonet drill, hand-to-hand combat, logistical problems and personal hygiene. A week of survival training should be practiced. All should be conducted under simulated battlefield conditions daily. He should be called upon to demonstrate the much vaunted American ingenuity in solving field problems—both tactical and/or personal.

His training should be "hands on." He should practice regularly with the M–16, the grenade, the M–72 LAW, and all other common equipment—especially communication equipment. He should be proficient with a geographical map. Aside from training under combat conditions, the trainee should be subjected to two one-hour physical training sessions daily. His schedule should keep him in a state of constant practice or training unless eating, sleeping, or on a scheduled off-duty period.

The trainee should have the benefit of the finest instruction the Army can provide. Properly indoctrinated into the service and given exemplary organizational leadership, the respect for leadership and performance of the future soldier cannot help but improve.

Our basic training prepared us for nothing. We were cheated of good physical conditioning. We received long, repetitious classes—without the opportunity to practice—on the military and its equipment. We lacked the training materials. We had long lines wasting hours for one or two turns on an M–60 or M–72. There were rare field exercises. Not one battalion received a tactical field exercise! We had frequent changes in our platoon and battalion chain of command, and were denied trained supervision and guidance because our drill sergeants were required to take time for clerical or guard duty. Hours of time, energy, and resource were spent preparing for transportation and setting up in the field. We knew what we weren't getting in basics, and advanced individual training (AIT) was the same. We were given the impression that the Army couldn't care less about the quality of our training or constructive pride.

Our training was restricted to the pace of the slowest individual. Why give us evaluation tests to reveal our potential if not to use the results? Classes should have been structured to place the more advanced or capable people into an accelerated program, thus establishing learning levels.

We ended our basic training and AIT frustrated janitors. It is a pity to admit that the best training we received concerned clean up details. The rest was a ragged jumble of events that tended to confuse more often than teach. Cheating on scores by being given numerous opportunities to "pass" tests tended to teach that one had to accomplish only the minimum to get by. And discipline? So much power has been taken away from the drill sergeant that, coupled with retributive peer pressure for reporting infractions, discipline has become nigh impossible to enforce. The effect is that a few can undermine the morale and determination of an entire unit, the problem has continued over into permanent duty. "Getting over" or escaping duty has become a pursuit reflected in living, working, and maintenance conditions. That costs money.

The Army has the potential and facilities to be an experience of great merit to all who join. But it means training—a transition from the streets to responsible manhood. Many who could benefit from a service record avoid the military due to its reputation for rowdy behavior and inferior "hyped" opportunity. The Army should advertise, especially to high school and college graduates, that work experience can be obtained with time to grow, time to develop a track record an employer will look at. It should explain that an employer looks at amicability and learning capability as well as the type of skill.

Without the draft, which is unnecessary if the service cleans up its act, the Army needs the quality in training and in organization—and the pride in service—that would begin with restructuring the training program into something stimulating and challenging. The Army must seriously attack the problems of whom it is attracting and what impression of their time in service they pass on to others. The first impression is formed by basics. They should be a foundation to build on; not a holiday or an exercise in Teutonic brain-reduction, but a worthwhile experience, creating a soldier proud of his new-found talent and achievement in graduation.

Mr. DURENBERGER. Mr. President, I am glad to yield back the remainder of my time.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 5 minutes each.

HOWELL HEFLIN—A FINE GUARDIAN OF THE SENATE'S ETHICS

Mr. STEWART. Mr. President, earlier this week my distinguished colleague was selected to be the new chairman of the Senate Ethics Committee. I would like to strongly applaud this selection. The Senate and the United States could have no finer guardian of its ethics than Howell Heflin. In addition, I am told that no other first year Senator has been named chairman of a committee in 70 years. Thus, the honor is even greater.

The chairmanship of the Ethics Committee is a difficult and demanding position, requiring a person of rare talents and abilities. Senator Heflin is indeed such a man. Though he has only been in the Senate a short time, he has already established himself as a true leader, a man of integrity, a man of wisdom, a man of independence and a man of vision. One day, when history looks back at the great Senators of this time, I believe that Howell Heflin will be high on the list.

As my colleague and I are both in our first year in this body, I would like to briefly mention his background in our great State of Alabama. Senator Heflin has had a long and singularly distinguished career in the legal profession. From a start as an attorney in his hometown of Tuscumbia, he established a statewide reputation as an outstanding legal scholar. This led to his election as President of the Alabama Trial Lawyers Association in 1964. After seeing the outstanding job he did in that position, Senator Heflin was elected president of the Alabama State Bar Association in 1965. The State turned to Howell Heflin again when we needed a chairman for its newly created Alabama Ethics Commission. His service in this position was distinguished and set a standard that few could equal.

As the next step in this great career, Howell Heflin was overwhelmingly elected Chief Justice of the Alabama Supreme Court. In his 6 years as chief justice, he earned a nationwide reputation as an outstanding jurist.

From this background, Howell Heflin has developed the abilities that make him uniquely qualified to be chairman of the Ethics Committee. Any lawyer who went before Judge Heflin would agree that he was very tough but very fair. He played no favorites and was not afraid to make the difficult but courageous decisions. In doing so, Howell Heflin truly established himself as one of those few people who are truly above reproach, a living definition of the word "integrity."

When the Senate named Senator Heflin to be chairman of the Ethics Committee, it chose well. As chairman, he will set the standard by which future chairmen will be judged. In closing, Mr. President, I would like to say that it is indeed an honor and a privilege to serve with Howell Heflin. Both Alabama and the Nation are better because of his membership in this body.

POISONS IN THE ENVIRONMENT

Mr. STAFFORD. Mr. President, as many Members know from experiences in their own States, the problem of poisons in the environment is worsening. S. 1480, which the Subcommittees on Environmental Pollution and Resource Protection are now marking up, would attempt to address this problem by holding those who release poisons into the environment strictly liable for the harms they cause. We have all accepted the ubiquitous presence of these substances to the point that many fail to recall that they are a phenomenon of only this generation. Yet in that short period of time, we have managed to contaminate huge segments of the environment and our population.

I would like to have printed in the Record a recent series of articles on this subject which appeared in the Philadelphia Inquirer. There is one point I would like to make which is easy to overlook. Early in the article the following statement appears:

> They are poisoning our water, leaking into our land and sometimes even making their way into our streets and gardens and basement.
>
> And nowhere is it worse than here. This—Pennsylvania and New Jersey—is the epicenter. The chemical time bomb ticks louder here.

What is interesting about this statement is that it reflects a view of the problem that is all too common. Citizens, local governments, and even their Senators look at their own problems and think they are almost alone in the pain they are suffering. For some reason, they are blinded to the fact that this is not a local problem or even a regional one. It is national in scope.

I am relatively confident that if we were to ask the residents of Michigan where the bomb ticks loudest, they would say there because virtually the entire population carries body burdens of polybrominated biphenyls. In California, it would be there because one-third to one-half of the wells of the San Joaquin Valley are contaminated by the pesticide DBCP, banned only yesterday by the Environmental Protection Agency. In Virginia, they would say there because the James River has been poisoned by Kepone and may never recover. In Maryland, where that Kepone threatens the lower Chesapeake Bay, those residents would hear the bomb ticking loudly.

I could go on and on, reciting a litany of names and places, a bewildering array of alphabetical poisons, but I think the point is made: The ticking is loud everywhere.

With that exception, the series of articles is interesting and I commend them to the attention of all Senators.

I ask unanimous consent to have the article printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Philadelphia Inquirer, Sept. 23, 1979]

POISON AT OUR DOORSTEPS—HOW CHEMICAL DUMPING CAN NO LONGER BE IGNORED

(By Rod Nordland and Josh Friedman)

In Vineland, N.J., arsenic has seeped into the groundwater. The Vineland Chemical Co. says it has no place to dispose of most of the toxic arsenic wastes that it produces in manufacturing other chemicals.

In Rahns, a village in Montgomery County, the residents must drink bottled water. Every well in town has been closed because of the presence of trichloroethylene (TCE), a chemical that causes cancer.

In Chester, frightened firefighters three weeks ago surrounded a pile of smoldering drugs of chemicals abandoned in a field under the Commodore Barry Bridge. Seventeen months earlier, the same dump had spontaneously ignited, throwing out balls of flame and incapacitating 45 firemen who inhaled the chemical fumes.

In the Richmond section of Philadelphia, oil contaminated by PCBs (polychlorinated biphenyls) leaked from an abandoned warehouse this summer and dribbled down a busy commercial street. A child was exposed to it and hospitalized. PCBs are among the most lethal chemicals on earth. One ounce can poison 8 million gallons of water.

In three southern New Jersey counties—Camden, Gloucester and Burlington—the drinking water supplies are threatened by toxic substances. The Delaware River Basin Commission recently warned that the poisons are leaking "from present and closed landfills and waste disposal sites."

The danger is all around us. And it is growing.

It has been ignored for three decades. But it can be ignored no longer, because now it is killing some of us and sickening others—while enriching yet others. Chemical wastes, some of which can kill on contact, are being generated by the millions of tons per year by American industry. And no one knows what to do with them or where to put them.

They are poisoning our water, leaking into our land and sometimes even making their way into our streets and gardens and basements.

And nowhere is it worse than here. This—Pennsylvania and New Jersey—is the epicenter. The chemical time bomb ticks loudest here.

Pennsylvania industry each year generates 10 times the amount of hazardous waste the state can safely dispose of. What's worse, because New Jersey—which is already saturated with lethal chemical dumps—has passed tough new laws, Pennsylvania now gets most of that state's wastes, too—a toxic cargo illicitly trucked in day and night at a rate of 15,000 truckloads per year. This in a state that has not a single legal site for the disposal of the most toxic of chemical wastes.

Pennsylvania is at the heart of the problem, but the body extends across America. A six-month Inquirer investigation entailing hundreds of interviews and the reviews of thousands of pages of documents has found that:

There are not enough safe, secure disposal sites in America to contain even a small fraction of the poisonous wastes that are a byproduct of the synthetic chemical industry that has blossomed since World War II. In the entire United States, there are only 12 secure landfills—that is, sites that can hold highly toxic wastes without leakage. And not one is in Pennsylvania, the country's third-largest producer of toxic wastes, or in New Jersey, the country's most industrialized state.

Because of this, industries commonly allow these wastes to pile up for years on or near their plant sites—often in drums or tanks that corrode and leak into nearby neighborhoods and water systems.

Corporations, including some of the largest and most prestigious in the country, commonly hire outside truckers to dispose of their toxic wastes. They look for the lowest price, and most of the time they ask no questions of the haulers they hire. They do this rather than pay more to have the wastes safely detoxified or shipped to secure landfills far away.

Most states, like Pennsylvania, require no permit for hazardous waste haulers to operate. Anyone who owns or rents a dilapidated truck can go into the business. Many do.

Consequently, the chemical wastes go wherever these free-lance haulers put them. And where they put them is into streams, fields, woods, vacant lots, unsafe landfills, abandoned mine shafts, city warehouses, suburban lagoons and storm drains. From there, the chemicals commonly seep into groundwater, reservoirs, wells, basements, lawns, parks and playgrounds.

The chemicals so disposed include substances that can explode spontaneously, that can emit toxic fumes and that, even in small concentrations, can cause cancer, paralysis, convulsions, heart attacks, brain damage, miscarriages and birth defects.

Despite the growing threat to health and life posed by massive, indiscriminate dumping of these poisons, government at every level has failed to act. Even though chemical wastes are produced and disposed of in this country in far greater quantities than nuclear wastes, they are, unlike nuclear wastes, hardly regulated at all.

Most often, government looks the other way. A New Jersey official charged with tracking down and prosecuting illegal dumpers runs the only operation of his kind in the country. There is no one he can compare notes with, from California to New York. And a Pennsylvania official charged with enforcing environmental law said chaos would ensue if every producer tried to dispose of his hazardous waste safely and legally, because there would not be enough safe and legal places to handle the volume.

The federal government is even less vigorous. Those few federal employes who have tried to act have most often been squelched by their superiors. One key federal official was sacked after he tried to draft tough regulations controlling hazardous waste disposal.

And the Carter Administration repeatedly has blocked efforts to tackle the problem. It has delayed implementing new laws to control chemical dumping, has tried to downplay the seriousness of the problem and has even discouraged its regulatory officials from seeking out hazardous dump sites or warning the public of them.

Where governments have acted their efforts have often had unintended effects. Witness New Jersey, one of a handful of states making an effort to attack the problem. New Jersey now requires plants producing toxic wastes to file reports identifying who hauls those wastes away. It then requires haulers and disposal facilities to file separate reports on where the wastes are taken (the only states with such a system are Maryland, Texas, California, Kansas, Oklahoma, Minnesota and Illinois).

The Inquirer examined hundreds of these reports. They showed that two-thirds—nearly a billion pounds a year—of the chemical wastes transported from New Jersey's industrial plants now go to Pennsylvania, where regulation and enforcement are particularly lax. That is alarming enough.

What is more alarming is what happens to those wastes once they get to Pennsylvnia. Tracing the destinations listed in the New Jersey reports, The Inquirier found numerous cases in which hazardous wastes never arrived at the sites they were supposedly bound for.

One example: New Jersey state records show that last year 128,000 pounds of hazardous waste left the state bound for a small disposal facility in Landsdale, Pa., called Reclamation Resources Inc. The operator of the Landsdale facility says most of the waste never got to him.

There are other listings in the state records that are even more creative: They show New Jersey wastes bound for Pennsylvania sites that don't even exist. And there are listings of wastes taken to Pennsylvania sites that are not licensed or permitted by the state to receive such materials. These cases, in fact, are so frequent as to be routine practice.

These illicit imports from New Jersey only add to the problem in a state already awash in its own hazardous chemical residue.

Pennsylvania industry produces an estimated 8.75 million wet tons a year of hazardous chemical wastes. The state has the capacity to safely dispose of about one-tenth of that amount, according to a recent study by Congress' General Accounting Office.

There is also reason to believe that hazardous waste from Ohio, New York and other nearby states is being dumped in Pennsylvania, much of it in the abandoned coal mines that thread the state's anthracite region.

Pennsylvania has no system for keeping track of all that waste. Nor has anyone at a policy level of government shown any serious interest in keeping track. In fact, while waste dumping has been increasing in recent years, the budget of the Department of Environmental Resources (DER)—the state agency that regulates dumping—has dropped from 2 percent of the total state budget to 1.4 percent.

"I don't think anyone in the Commonwealth can tell you where the waste is going," said Jim Snyder, head of enforcement and operations for the DER's Bureau of Solid Waste.

But all that hazardous waste that disappears so mysteriously from view has a way of reappearing later—often in dramatic fashion. Some examples:

Three weeks ago, a stash of highly active chemicals that had been dumped in a field beneath Chester's Commodore Barry Bridge started to smolder, giving off heat and toxic fumes and threatening to explode. Firefighters cordoned off the area and prepared to evacuate nearby homes if necessary.

That same site has been well known in the neighborhood since February 1978, when it spontaneously ignited, sending roaring balls of flame high into the air and temporarily incapacitating 45 firefighters who inhaled the chemical fumes.

Authorities do not know how to clean up the site, partly because of the difficulty in even identifying all the chemicals involved. They do know that the site is owned by a man named Melvin Wade and that for two years Wade permitted a firm called ABM Disposal Co. to dump drums of chemical wastes there.

ABM and its president, Franklin Tyson, have a history of state convictions for illegal dumping that stretches back 15 years. Despite that, the list of companies that hired ABM in recent years to get rid of its hazardous chemicals reads like an honor roll of American industry: General Electric, Texaco, Scott Paper, Sun Co., Exxon, DuPont, Boeing-Vertol, SmithKline and a great many others.

A federal civil suit has been filed against Wade and ABM, but no one has called to account the industrial giants who produced those wastes that, to this day, still smolder and bubble under the Commodore Barry Bridge.

The giant Kin-Buc Landfill near Edison, N.J., has been shut down since 1976, but it is still leaking PCBs and other extremely dangerous poisons into the Raritan River. It is a great deal larger than the Wade site, and investigators have found evidence that its wastes came from Allied Chemical, American Cyanamid, Ashland Chemical, DuPont, Exxon, Gulf, Monsanto, Union Carbide, Uniroyal, NL Industrics and others.

Like the Wade site, Kin-Buc will be extremely costly to clean up, partly because no one knows the nature of all the chemicals present. Also like the Wade site, it periodically gives birth to explosions and bursts of flames.

And, again like the Wade site, no one has tried to hold the industrial producers of the wastes responsible in any way.

On July 29 authorities discovered chemical wastes leaking into the Susquehanna River from an old coal mine tunnel near Pittston, Pa., at a rate of 1,000 gallons a day. At Danville, 60 miles downriver, special booms were strung around a water intake to protect the town's drinking water, and fishermen were warned not to eat anything they caught.

Clean-up crews wore protective clothing and respirators and worked in 15-minute shifts as they tried to sop up the material below the mouth of the tunnel. Even now, the flow of chemicals from the mine has not been stopped, and the state may have to build a costly waste treatment facility at the mouth of the tunnel to detoxify the illegally dumped waste.

According to DER, the chemicals included cyanide compounds, acids and various cancer-causing substances. The agency said hundreds of thousands of gallons of such stuff may have been dumped into the mine from a borehole at a Pittston garage.

Court documents filed late last month included allegations that at least some of the wastes came from the Hudson Oil Refining Co., which has plants in New York and New Jersey.

Employes of Lackawanna Refuse Removal Inc. have testified that more than 100,000 drums of hazardous wastes, each containing 55 gallons, were buried at an abandoned strip mine at Old Forge, near Scranton, from last September until March of this year, when the site was closed for operating without dumping permits.

Most of the dumping was done surreptitiously at night, according to testimony before the State Environmental Hearing Board, and the chemicals involved include phenols, toluene, chromium, cadmium, cyanide, arsenic, tetrachloroethylene and mercury. All are toxic; many are cancer- and disease-inducing; some are "bio-accumulative," meaning that small amounts can accumulate in a person's body over time, building up gradually until they reach toxic doses.

A hearing examiner said it "would be suicidal to allow Lackawanna to continue operating this landfill."

In another coal region town, McAdoo, Pa., authorities recently found an abandoned mine where they estimated that thousands of drums were illegally dumped. According to records kept by the state of New Jersey for tracking the movement of hazardous wastes, 9,900 pounds of the dangerous herbicide 2,4,5-T—better known as Agent Orange—were dumped there last year.

On a waterfront in Elizabeth, N.J., authorities have cordoned off a warehouse complex that one official called a "chemical time bomb." Another described it as "the Three Mile Island of hazardous waste sites."

There are 70,000 drums there, many of them corroded and leaking explosives, combustibles and chemicals of all descriptions. Officials fear that the entire mess may explode, and they cannot decide how to clean it up until they figure out what is in each of those drums.

Worse cases even than these have come to light. In Toone, Tenn., congressional investigators discovered last year, 300,000 drums of pesticides were buried, polluting underground drinking water and resulting in a wave of sickness and birth defects in the area.

And near Louisville, Ky., in a case that has become known as the "Valley of the Drums," 100,000 drums of toxic chemicals were dumped into and alongside a river, where they rusted, corroded and split open, poisoning the river and the underground drinking water.

Environmental Protection Agency (EPA) studies estimate that 46 million wet metric tons of hazardous waste are produced in the United States annually, but that only 10 to 20 percent of that waste is disposed of legally.

EPA estimates range from 20,000 to 50,000 for the number of toxic waste disposal sites in the country—most of them illegal—that pose potential health or environmental problems. And estimates of the total cost of cleaning up all those sites run from $22.1 billion (according to the EPA) to $44 billion (according to the Fred C. Hart Associates consulting firm.)

EPA has identified and documented more than 150 sites around the country that pose an "imminent hazard" to public health and the environment, but congressional critics have argued that there are far more than that. The agency itself estimates that there are 1,200 to 2,000 other imminently dangerous sites that it has yet to locate.

And EPA has begun legal action in only four of the 150 imminent hazard cases it has found.

No one doubts that there are far more sites, some abandoned and long-forgotten, others filled to overflowing, waiting to be discovered.

At Love Canal, near Niagara Falls, N.Y., wastes buried by the Hooker Chemical Co., some as long as 20 years ago, began in recent years to leak into basements of homes built on reclaimed land. The homeowners hadn't known that the land had contained some of the most toxic chemicals created by man.

In the middle and late 1960s families living near the site began experiencing miscarriages, birth defects, cancer and nervous system disorders such as epilepsy and acute depression.

President Carter declared Love Canal a federal disaster area in August 1978, after the discovery of the leaking chemical wastes forced the evacuation of 255 homes.

U.S. Rep. James J. Florio (D., N.J.), who sits on a House subcommittee that has been investigating hazardous waste dumping, calls the problem "the sleeping giant of the environmental field." The actions of companies like Hooker Chemical that have indiscriminately dumped—or allowed others to dump—their hazardous wastes were characterized by Florio as "the ultimate obscenity in terms of disregard of the environment and disregard of public safety."

Each year, according to EPA estimates, the quanity of hazardous waste generated by industry increases 3 percent, while the safe disposal space available continues to shrink. In the Philadelphia area, many major corporations have reported confidentially that they are running out of storage space; others say there are simply no existing legal, practical means for them to dispose of wastes that are highly toxic and almost impossible to treat.

The nation now has only 12 secure landfills—that is, landfills that can safely hold highly toxic wastes without leakage—and only one of them is in the heavily industrialized Northeast. And there is only a handful of companies nationwide that currently are equipped to treat or destroy such wastes.

Three landfills in the Philadelphia area are authorized by the state to take some forms of hazardous wastes. All say they turn away the vast majority of their potential customers because the material is too toxic.

"It's going somewhere, but where the hell is it going?" said Bob Allen, of EPA's regional office.

For the industry that produces toxic wastes, the choice is this: Pay large sums to transport millions of gallons of toxics halfway across the country for safe disposal, pay for costly treatment to detoxify the wastes or take the cheap way out and pay a local midnight dumper.

There is no shortage of midnight dumpers. New Jersey alone estimates that it has 4,200 licensed hazardous waste haulers—many of whom officials suspect are engaged in illegal dumping—and that there are at least 500 unlicensed haulers in the state.

Most illegal dumpers go about their business without much interference from authorities. In the past three years, only 12 persons have been criminally prosecuted in New Jersey, with half of them, including some top company officials, convicted so far. Even at that, New Jersey is far ahead of any other state; in Pennsylvania only four persons have been prosecuted and convicted, all of them employes or small operators who received relatively light sentences.

On a nationwide scale, the EPA estimates that the so-called midnight dumpers are disposing of more than 10 million of the 46 million wet metric tons of hazardous wastes generated per year.

"There just are no incentives for the legal disposal industry, because it's so easy to dump it illegally," said Edwin H. Stier, New Jersey's deputy attorney general and director of the State Division of Criminal Justice, who presides over a high-level task force that is investigating and bringing grand jury indictments against illegal dumpers. Stier's operation is the only one of its kind that exists on a state level.

"There just aren't that many legitimates," said a top law enforcement official familiar with hazardous waste. "Close down all the illegitimates, you'll close down the whole industry."

And, although New Jersey has achieved some success in apprehending illegal dumpers and the state's Department of Environmental Protection (DEP) has moved vigorously to close down many sites where waste dumping was polluting surrounding water and land, there has been a sort of "Catch-22" to that success. "As you crack down more and more, the prices (of legal disposal) go up and the temptation (to dump chemical wastes illegally) gets enormous" Stier said.

There is, too, a frequent temptation for regulatory officials to throw up their hands in frustration.

"We're finding new (illegal dump) sites almost every week," said George Buchanski, a spokesman for EPA's regional office in Philadelphia.

"If somebody's bringing it in at night and burying it," said Bob Allen, the office's solid and hazardous waste director, "there's almost nothing we can do."

"If everybody started looking for legal places to be dumping, it would be overwhelming," said Wayne Lynn, Pennsylvania DER's regional hazardous waste coordinator for southeastern Pennsylvania.

"We're talking about thousands and thousands of disposal sites, some of which the state has never regulated," said Donald Lazarchik, Lynn's boss as head of Pennsylvania's solid waste bureau. "We have never had the staff or resources to regulate them. We have got a gargantuan task to do. It's mind boggling."

In Burlington County, N.J., local officials have discovered five secret toxic waste dumps in the Pine Barrens. And one health official said he thinks nearly every santitary landfill in the county has been accepting hazardous waste illegally. But officials are powerless to stop the practice.

In Montgomery County, the cancer-causing chemical trichloroethylene (TCE) has polluted a reservoir in Upper Merion Township, probably as a result of illegal dumping. But no one has been able to determine where it came from or what can be done to stop its seepage into the drinking water.

Every well in Rahns, a town of 500 in Montgomery County, has been closed because of TCE contamination, and residents must use trucked-in spring water for drinking, bathing, and even in some cases for washing clothes, while they await the installation of a municipal water system. Authorities have taken no action against the nearby Techalloy Corp. plant, which they said was the source of the toxic degreasing agent.

As recently as last Wednesday, DER announced that TCE had contaminated three wells operated by the Audubon Water Co. and the Valley Forge Corporate Center in Montgomery County.

In Chester, authorities say it may take $2 million to $3 million to clean up Melvin Wade's field of chemical drums under the Commodore Barry Bridge. No one knows where the money will come from.

In Vineland, N.J., state officials have obtained a court order forcing Vineland Chemical Corp. to clean up huge piles of arsenic salts that have been seeping through the sandy soil into drinking water supplies. But the piles continue to grow.

Illegal hazardous waste dumping has ruined—possibly for all time—fishing in parts of the James River in Virginia and Bayou Meto in Arkansas, farmland in North Carolina, groundwater near the Tobyhanna Army Depot in northeast Pennsylvania, and drinking water in a large portion of Ocean County, N.J., on Long Island, in Lathrop, Calif., and in parts of Connecticut.

People have been sickened, apparently as a result of toxic wastes dumped near their homes, in Toone, Tenn., in Beaufort, Texas, and at Niagara Falls, N.Y.

A recent study by the Delaware River Basin Commission found that toxic substances "from present and closed landfills and waste disposal sites, and from recharge waters from the Delaware Estuary" pose a threat of "particular urgency" to the drinking-water supply in the Potomac-Raritan-Magothy aquifer.

That underground body of water is the main source of drinking water for Camden, Gloucester and Darlington counties in South Jersey.

Barbara Blum, EPA's deputy administrator in charge of enforcement, calls hazardous waste dumping "one of the most serious problems the nation has ever faced."

"People are frightened. Some are outraged. Others may be entirely unsuspecting. Many are asking if their homes sit astride a dump, long ago covered up and abandoned. They want to know if their drinking water is contaminated, if the lives of their children are in danger."

[From the Philadelphia Inquirer, Sept. 24, 1979]

SOME USE ALL WORLD AS A DUMP

(By Rod Nordland and Josh Friedman)

On the night of Sept. 1, 1978, Edward Cherkowski parked his truck, with its load of drums marked with skulls and crossbones, at the Skyline Diner near Wilkes-Barre, Pa., and placed a telephone call to his boss, Peter Iacavazzi.

As he had on many similar nights, Cherkowski was hauling a load of hazardous liquid and gaseous waste. And, as usual, he would not know what his destination would be until he placed the call.

Iacavazzi, president of Lackawanna Refuse Removal Inc., told him to dump the load at his Old Forge Landfill in the nearby town of Old Forge. Cherkowski followed his standard instructions, turning the truck's lights off as he pulled off the highway into the landfill.

When he backed the truck to a freshly bull-dozed hole, there was a line of other trucks waiting behind him, also with their lights out. His truck's hydraulic machinery wheezed and the body tilted to dump the drums.

"This drum broke loose in the trailer and the drum split open," Cherkowski recalled later. "Out of that drum came a white fog. It would take your breath away. I was afraid to get out of the truck, because it creeped right towards the front of the tractor . . .

"This cloud just enveloped the whole truck. I had never seen nothing like this . . . It looked like death to me."

Cherkowski sat in his truck for an hour, watching the cloud drift off the landfill toward the town of Old Forge. Townfolk suffered odor and skin irritation so bad that at least a dozen left their homes.

Cherkowski is now a witness in state proceedings against Iacavazzi, whose Old Forge Landfill has been shut down by the state's Department of Environmental Resources (DER). He is also a sick man, suffering from constant headaches and shortness of breath. He has a constant pain that feels like "my kidneys or whatever it is on my sides are like on fire, like if you take a knife or a fork and scraped me internally."

On another occasion, Cherkowski was working on a bulldozer at Old Forge when he struck and split open a drum, spilling liquid contents on several workers and spreading invisible fumes. "I passed out on the dozer, and I couldn't catch my breath, and I thought my heart stopped, and thank God the bulldozer was automatic."

The bulldozer drove him out of the fumes, and co-workers revived him with oxygen. When he came to, he saw one of the co-workers who had been splashed. "His lips were purple, his skin had a purplish complexion and he was walking around in a daze," Cherkowski recalled.

Authorities much later discovered that an estimated 100,000 drums of hazardous wastes had been buried at the Old Forge landfill between September 1978 and March of this year. Among the contents were phenols, toluene, chromium, cadmium, cyanide, arsenic, tetrachloroethylene and mercury. All were toxic; many were cancer- and disease-inducing; some were "bio-accumulative," meaning that extremely small amounts could accumulate in the body and not be flushed out, building up until they reached toxic doses.

"It would be suicidal to allow Lackawanna to continue operating this landfill," a DER hearing examiner said.

A MAJOR DUMP

Lackawanna's Old Forge landfill is one of numerous toxic waste dumps that have been discovered recently throughout the country. It is larger even than the Hooker Chemical Co.'s Love Canal disposal site, where an estimated 80,000 drums were buried over a period of roughly 10 years. Lackawanna's 100,000 drums were dumped in six months. And authorities believe they have found larger sites.

In another coal region town, McAdoo, authorities recently discovered an abandoned mine that had been used for improper waste disposal. According to manifest records on file in New Jersey, 9,900 pounds of the dangerous pesticide 2,4,5-T—more commonly known as "Agent Orange"—were dumped there last year.

Illegal dumps like Old Forge are one of many strategems employed by the "midnight dumpers," unscrupulous waste haulers who, according to estimates by the federal Environmental Protection Agency (EPA), dispose of more than 10 million wet metric tons of hazardous wastes each year.

In this area, as well as nationally, there have been documented cases of midnight dumpers who have illegally dumped hazardous waste:

in sanitary landfills, which are supposed to accept only "safe" wastes such as trash and garbage;

on state and privately owned forest land; alongside public roads;

directly into public sewer systems, reservoirs, streams and groundwater wells.

New Jersey authorities, with the help of an informant, apprehended one hauler who would take his loaded tank truck out whenever it rained, leaving the valves open to unload the truck as he drove it down the highway.

The ABM Disposal Co. was convicted of dumping cyanide wastes down a groundwater well in King of Prussia. The same company is accused of dumping thousands of drums of hazardous wastes in a field under the Commodore Barry Bridge in Chester and near the Southwest Philadelphia water treatment plan. ABM president Franklin Tyson is awaiting trial on criminal charges in Montgomery County Court for the dumping at King of Prussia. He is also awaiting trial in Philadelphia for allegedly bribing city employes to help him dump chemicals illegally on city property.

VOLATILE PILE

In New Jersey, the Kelley and Rich Demolition and Salvage Co. accumulated nearly 3,000 leaking drums of acids and other chemicals, including various forms of chlorine, in unkempt piles on a pier in Jersey City. Some of the substances were so flammable that they would ignite at room temperature. Others were highly explosive.

"If that thing had gone up," said New Jersey Deputy Attorney General Edwin Stier, "we'd have had a cloud of chlorine gas over Manhattan; hundreds could have been killed."

That particular site has been brought under control, but in nearby Elizabeth, N.J., also on the waterfront, authorities have cordoned off a facility that one official called a "chemical time bomb" and another described as "the Three Mile Island of hazardous waste sites."

There are 70,000 drums abandoned there, many of them corroded and leaking explosives, flammables and chemicals of all descriptions. Some investigators have already been overcome by fumes, and officials can't begin to figure out how to clean it up until they find a way to safely examine the contents of the drums. New Jersey officials say frankly that they fear it may yet explode and that they cannot bring it under control until later this autumn, if then.

Some of the material, said Chemical Control's former president, William J. Carracino, who is awaiting sentencing for illegal dumping, was so difficult to handle that drums would explode on his trucks while being hauled there.

Among the wastes on his site, he said in an interview, is the dreaded substance dioxin, which toxicologists call "the most dangerous chemical ever created."

Three ounces of pure dioxin in the water supply of New York City could kill the entire population. Carracino said that there are one thousand 55-gallon drums of dioxin-contaminated waste at his Elizabeth plant. He said he hauled them there for $4 a barrel as a favor to a friend, William Moscatello, who runs S&W Waste Inc. in Kearney, N.J.

Moscatello heatedly denied ever handing over any dioxin-contaminated waste to Carracino or Chemical Control in Elizabeth. "We did very little business with him—resins, toluenes, stuff like that that he could burn. We stopped when we realized he wasn't burning it."

"His place is a black eye for the state," Moscatello said, "and a black eye for the industry. And the state officials are at their wits' end trying to figure out what to do about it. Carracino, he's probably the only guy who could identify what's in there, but he won't do it."

Meanwhile, the plant and its volatile contents sit only a short distance from a residential neighborhood.

The illegal dumping of toxic chemicals is as prevalent as it is for three simple reasons:

Illegal haulers make enormous profits, and industries save enormous sums by paying these haulers far less than they would have to pay for proper disposal.

There is a severe shortage of secure dumps and treatment facilities that can safely detoxify wastes, although the technology for proper treatment in most cases does exist.

Enforcement on a large scale is virtually impossible, because of a lack of manpower and because of the sheer difficulty of building criminal cases in a field both highly secretive and highly technical.

Despite the large amounts of money that midnight dumpers can earn, their firms declare bankruptcy with a regularity that authorities find frustrating. Often, they leave behind a dump filled with dangerous toxic waste that will cost the public millions to clean up, and with no chance of recovering the loss from the bankrupt firm.

While the firms may go bankrupt, frequently the principals siphon off the assets into their personal bank accounts.

After ABM Disposal was first convicted of illegal dumping—the corporation was convicted, not its officers—the firm's principal, Ellis M. "Sparky" Barnhouse, declared bankruptcy and subsequently retired to Florida, where he lives comfortably in a condominium.

Bucks County's Manfred DeRewal, convicted of some of this area's most blatant illegal dumping, is living the good life in Florida while awaiting trial on additional charges here. He too has left a chain of bankrupt corporations behind him.

DeRewal was repeatedly apprehended dumping even while he was awaiting trial on previous dumping charges. His basic method was to back a tank truck up to the Delaware River or the Neshaminy Creek and empty the contents—even when they were poisonous acids that reacted violently when mixed with water.

The Chemical Control Corp. of Elizabeth is also in bankruptcy, even though its current proprietors were paid millions to treat and dispose of drums of toxic wastes and did nothing more than place them in huge piles. New Jersey itself even contracted with Chemical Control to dispose of drums of toxic wastes discovered at another illegal dump site. That disposal never took place, either.

ENORMOUS PROFITS

The profits to be made from dumping are enormous. Pharmaceutical companies typically pay as much as $125 for the disposal of a single drum filled with bottles of laboratory chemicals.

Proper disposal would call for unpacking and separating the contents of the bottles—which could break and mix with dangerous results if indiscriminately dumped—and treating the various wastes as needed. The job requires a firm with sophisticated analytical chemical apparatus, and experts who know the materials.

More often, waste haulers are former garbage men, trash haulers, cesspool cleaners and even—in the cases of one major South Jersey firm and two Pennsylvania firms—pig farmers. In Pennsylvania, waste haulers do not even have to be licensed. If they find a willing landfill, their cost to dump waste-filled drums would be a few dollars apiece. Beside a road somewhere would be free.

MILLIONS TO BE MADE

"There are millions to be made in this business," said Carracino, former president of Chemical Control. "The overhead is nothing. You find a place—don't buy it, don't buy anything, just rent it—and dump. When they catch up to you, just declare bankruptcy and get out."

Carracino has been convicted of illegal dumping at Elizabeth, N.J., but claims he was framed by state officials and by other, illegal dumpers. He is free while his case is on appeal.

Investigators in several states have reported evidence of involvement by organized crime in the dumping business. Trash collection traditionally has been dominated by the mob in some areas, and high-ranking officials in New Jersey say they have uncovered evidence that major chemical companies have employed firms with ties to organized crime to help them get rid of their difficult wastes.

Published accounts, quoting officials in New Jersey, have linked Iacavazzi with the Gambino mob family in North Jersey and New York.

Following Iacavazzi's conviction in Scranton on illegal-dumping charges, the homes of two witnesses against him were firebombed.

Ron Buchanan, head of the New Jersey DEP hazardous waste division, said that he and other officials investigating hazardous wastes have received threats against their lives, and some of them have been given State Police protection for their homes.

GENTLE PERSUASION

H. Leroy Beaver, the proprietor of Reclamation Resources Inc., testified as a state's witnesses against ABM Disposal. According to prosecutors, on the day after the trial motorcycle gang members who had worked for ABM drove up and down in front of his house.

Melvin Wade, who was paid by ABM to accept drums of waste on his property underneath the Commodore Barry Bridge in Chester, claimed in an interview that the firm's drivers frequently were members of motorcycle gangs, who would threaten him when he began complaining about the prices ABM was paying him. Wade said he suspected ABM was making huge profits on its illegal disposal of the drums, and he felt entitled to a larger share.

Assistant U.S. Attorney General James M. Moorman testified before the U.S. Senate Judiciary Committee in April that several disposal firms nationwide had been linked with organized crime.

"This stuff that is dumped gets in the groundwater, and it's our belief that it is a heinous crime," said DEP's Ron Buchanan. "These people should be dealt with as criminals, and these companies should be treated as no less than other criminals."

The midnight dumpers' numbers are enormous, by all indications. New Jersey has an estimated 4,200 licensed hazardous-waste haulers—many of whom officials suspect of being engaged in illegal dumping. And officials estimate that there are at least 500 unlicensed, illegal haulers.

In the last three years, only 12 persons and half a dozen corporations have been criminally prosecuted—six of the individuals have been convicted—by New Jersey authorities. Even at that, they are ahead of any other state. In Pensylvania, four persons have been prosecuted and convicted.

Authorities are only beginning to locate all the dumping sites.

On high-resolution aerial photographs of Woodland Township, Burlington County, the break in the thick cover of New Jersey's virgin Pine Barrens forest is obvious: two roughly circular areas where nothing grows, one about 10 acres, the other about 15.

These are recently discovered toxic-waste disposal sites, on private land where the dumpers apparently unloaded drums and tanker truck loads without permission. Beneath it is the important Cohansey Aquifer, part of one of the largest and most important unspoiled underground, fresh-water reservoirs in the East. Officials fear the bubbling, oily toxic chemicals dumped there may have seeped through the sandy soil and contaminated the aquifer. They are awaiting test results.

So far they have tentatively identified methyl ethylkepone, a dangerous pesticide waste, toluene, a carcinogen, and a variety of acids and oils. "What's frightening," said Burlington County Health Department official John Faro, "is, how many more are out there?"

But that is only the beginning of the problem in Burlington County, which has more legal landfills than any other county in the region. Faro's job is to inspect the 22 landfills—10 of them privately owned, and 12 municipal. He said he suspects most of them secretly and illegally accept toxic wastes. "I'd like to see all but two of them closed down because I suspect they're contaminating groundwater with leachate.

"But what can we do? We can't go out there and take a sample of every bit of sludge out there in every truck," he said. "I just feel like throwing my hands up and saying, 'I'm just one person, what can I do?' The difference between a dump and a (sanitary) landfill today is a little bit of dirt on the top."

In one recent case, police switchboards in Falls Township and Morrisville, Bucks County, lit up with complaints from residents about a heavy, acrid odor. Police literally followed their noses and tracked the path of a tank truck carrying the waste across the Delaware River and into Burlington County.

Soon, Bordentown police began getting complaints. They were able, from the location of the complainants, to track the truck to the SCA Services Inc. landfill in Bordentown, where authorities caught the truck illegally unloading liquid chemical waste at night into what is supposed to be a sanitary landfill.

"If all toxics smelled that bad, we'd have no problem," said one investigator. "Unfortunately, most of them have no smell at all."

The midnight dumpers frequently find it profitable to fill up a truck and just leave it somewhere. New Jersey authorities found one tank truck partially buried under the General Pulaski Skyway.

In East Cain Township, Chester County, a midnight dumper left thousands of gallons of waste sitting on the ground in open five-gallon pails.

In Newark, Carracino and several confederates were convicted of, among other things, mixing toxic chemicals with ordinary household trash and taking the resulting brew to sanitary landfills.

One of the more brazen toxic-chemical dumping schemes allegedly was run by a firm called Iron Oxide, an Elizabeth, N.J., company that manufactures filtration devices for industrial air-conditioning systems.

Iron Oxide set itself up as a facility that treated acid wastes, and chemical companies all over the East began sending their waste to it, according to a subsequent indictment of the firm's principals and an examination of state records. Unlike many similar firms, Iron Oxide did not begin to accumulate huge stockpiles of waste, and officials began to wonder how they were so successful in treating such quantities of acids that were so difficult to neutralize.

After a surveillance, New Jersey authorities conducted a raid with the help of Coast Guard frogmen, helicopters and police, who broke down the doors of Iron Oxide's warehouse.

The raiders, according to state officials, found that the company's treatment process consisted of dumping the material directly into a drain in the building. The frogmen took samples at an effluent pipe and found that it was entering the Arthur Kill—an adjoining river—untreated.

GREAT TEMPTATION

Many of the companies and individuals apprehended by authorities apparently find the profits so tempting, and the likelihood of strict enforcement so slight, that they dump again and again.

ABM Disposal, for instance, has been linked to illegal dumping not only in the case of the Wade dump and the Southwest Philadelphia site, but one of its drivers was convicted of parking his tank truck on a Chester residential street, and pumping the contents—cyanide waste—out on the pavement while he sat nearby eating lunch.

Authorities have also found a site in the back of the Eddystone Industrial Park where 12 to 15 leaky trucks filled with hazardous wastes are parked, and several hundred drums of various toxics had been dumped on the ground.

Near Pottstown, ABM rented a piece of ground as a transfer point and instead used it as a makeshift chemical dump, according to authorities. As a result, the property owner is responsible for cleaning up the ruined land.

An enterprising individual named Robert Burns hit on one of the most innovative of illegal dumping schemes. He was paid $75,000 to dispose of 33,000 gallons of PCB-contaminated oil from the Ward Transformer Co. in Raleigh, N.C. Then he got a contract from the Carolina to oil the dirt shoulders of secondary roads in 15 North Carolina counties. Roads are oiled to keep the dust down. He was convicted of deliberately using the PCB-contaminated oil on the roads.

Burns has also been implicated in PCB dumping in New York and in Youngsville, Pa.

BOLD OFFER

His response to the notoriety of his case was to claim that PCBs are safe. "I would be willing to go before television cameras or whatever and stand in a barrel of it," he said.

If the PCBs were in concentrations of parts per billion, scientists say, he would get skin lesions, blisters, boils and severe itching. If it were in concentrations of parts per million, he would probably get cancer or liver disease within a year. If it were 100 percent pure, he would live for another five minutes or so.

Burns has yet to make good on his offer.

To authorities groping for a means of combatting illegal dumpers, one of the most troubling aspects of their operations is how difficult they have been to catch. Most of the cases that have been made either involved damage so blatant that it was brought forcefully to the attention of authorities, or were based on lucky breaks or the inside tips of informants.

One EPA official told the story of a team of researchers who were touring the country, taking random samples of wastes going into sanitary landfills as part of a general survey. While they were opening up the dorsal manhole of one truck in line at a sanitary landfill in the Bay Area of California, they noticed that a truck further back was starting to pull out of the waiting line.

The driver was wearing a protective suit and a self-contained breathing apparatus, and as the researchers ran toward his fleeing truck, they were overcome by the powerful fumes. They managed to get a license number and alerted landfills throughout California. The truck was turned away from two sites in Southern California before it successfully dumped its load at a third landfill, despite the overpowering stench of its noxious fumes. California officials were eventually able to track down and prosecute the offender.

"The frightening thing about that case," said an EPA official, "is that it was pure happenstance. There just happened to be someone there when that truck was coming in. That sort of thing probably goes on every day, all over the country, and no one catches it."

A New Jersey "Friend" of the Earth Shows His Regard

These pictures, taken surreptitiously by New Jersey investigators, illustrate the waste-disposal techniques at the Chemical Control Corp. in Elizabeth, N.J., which was built by William J. Carracino because, he said, "I really care about the environment."

Carracino was paid by firms to haul away their wastes, mostly in 55-gallon drums, which are now stacked by the thousands at the plant, and incinerate them. His small incinerator could not possibly handle the load, and usually he just stockpiled the surplus. But in this case, with investigators watching, he tried to get rid of some of it by emptying the drums into the tanker on Feb. 14, 1977.

The tanker went to Delancey Street, a residential street in Newark, N.J., and unloaded its contents on a clearing at the end of the street that had been bulldozed by Carracino—who did not even own the property.

Investigators did not get pictures of the tanker unloading, however, because, as the 5,000 gallons of toxic chemicals were being squirted into the dirt, the fumes overcame the photographer, and his partner had to take him to the hospital.

A fresh surveillance team arrived a few hours later, early in the morning of Feb. 15, in time to photograph Carracino's confederates dumping a load of household trash and garbage on top of the toxic chemicals, mixing it up with a front-end loader and loading the mixture into a truck. The disguised mixture then was taken to a sanitary landfill.

Armed with these pictures, authorities succeeded in winning convictions of Carracino and three others. Carracino, who was sentenced to two to three years in jail but is free pending appeal, angrily claimed in an interview that he was framed.

"I was 90 percent straight and 10 percent crooked," he said in an interview. "I just had to get rid of the waste water. There are guys that were 100 percent crooked. Why didn't they go to jail?"

[From the Philadelphia Inquirer, Tuesday, Sept. 25, 1979]

How Major Corporations Are Dumping Illegally

(By Rod Nordland and Josh Friedman)

Last year the giant chemical firm, American Cyanamid Co., handed over at least 173,900 pounds of toxic and flammable pharmaceutical wastes produced in its Bound Brook, N.J., plant to a South Jersey waste hauler, Marvin Jonas Inc.

Marvin Jonas' ragged-looking trucks, painted with a distinctive whale on the side, trundled the material south to the small town of Sewell, N.J.

There, it was transferred into other trucks and hauled across the Delaware River to the GROWS Sanitary Landfill in Morrisville, Bucks County, and dumped.

That was against the law, according to Pennsylvania Department of Environmental Resourcres (DER) officials and records.

And, according to New Jersey environmental officials, the party ultimately responsible for the illegal disposal is the one which generated the waste, the American Cyanamid Co.

Did American Cyanamid know that Jonas was hauling its waste to GROWS?

"The answer is yes," said Neil Kaye, manager of regulatory affairs for Cyanamid, a company with annual sales of almost $3 billion. "Most of the times when we send the stuff out we know pretty much where it's going to go. We monitor the shipments from time to time, bird-dogging the hauler to see where he goes."

But GROWS was not legally authorized to receive that waste.

"I believe the State of Pennsylvania lets them stay in business," Kaye said.

Eventually Kaye refused to be questioned any further. "I'm just going to divorce from this situation here," he said, deferring to another Cyanimid official, Edward W. Cantrall, head of environmental services.

Cantrall said he could not understand why there was a problem with hazardous waste going to GROWS.

"They were incinerating it there, weren't they?"

No, GROWS has no incinerator.

"Well, after all, it's an (EPA) approved landfill," Cantrall said.

But EPA has approved no landfills in Pennsylvania or New Jersey for hazardous waste.

"It's not an EPA-approved landfill?" Cantrall said incredulously. "Well, then, that stuff has got to go back to Jonas and the people who operate the landfill."

Wasn't American Cyanamid, as the generator of the waste, responsible for making sure that its waste was legally and properly disposed of?

"No," Cantrall said. "The authority regulating the landfill and the people operating it. That's where responsibility ultimately has to rest."

Not so, say New Jersey state officials. "The onus is on the generator," said Ron Buchanan, chief of hazardous waste for New Jersey's Department of Environmental Protection (DEP). "It is his legal responsibility to make sure his waste is legally disposed of," Buchanan said.

Judging from the records kept by New Jersey's Solid Waste Administration, many of the country's largest corporations either do not see it as their responsibility, or they fail to take that responsibility seriously.

With the aid of a computerized study of a portion of the 70,000 manifests the state has on file that track hazardous waste generated in New Jersey or passing through the state, The Inquirer was able to identify four major corporations that contributed nearly 600,000 pounds of hazardous waste that the GROWS landfill was not permitted to accept, but did.

They were, in addition to American Cyanamid, Hartz Mountain Corp., of Bloomfield, N.J.; Rohm & Haas Co. in Philadelphia, and Stauffer Chemical Corp., of Edison, N.J. All but Hartz Mountain, whose officials did not respond to inquiries, said they were led to believe, by either the hauler or GROWS itself, that their waste was being properly disposed of.

The hauler in each case, Marvin Jonas Inc., contends that it was legally hauling material to GROWS, which had given it permission to do so, and that the documents that detailed those shipments were incorrectly filled out by the generators, and that the wastes were not as hazardous as it appeared from DEP records. And GROWS says that it was legally entitled to accept those 600,000 pounds of waste, and the only thing wrong with the shipments was that the documents accompanying them were incorrectly filled out by the generator.

But the DER regional coordinator for hazardous waste, Wayne Lynn, said that even if those documents were incorrectly filled out, GROWS still was not legally permitted to accept from those four corporations any of the categories of materials turned up in The Inquirer's search of New Jersey records.

A TINY PORTION

Six hundred thousand pounds of waste is only a tiny portion of the hazardous materials that industry generates each year. Billions of pounds of those wastes are dumped illegally each year. But although some effort has been made recently to prosecute the more blatant illegal haulers, little attention has been focused on the legitimate corporations that hire them with impunity.

The Inquirer's search of the New Jersey manifests showed that the situation uncovered regarding those four corporations, the Jonas hauling company and the GROWS landfill was part of a pattern of shipments to Pennsylvania landfills and disposal facilities.

In one case, New Jersey's Public Service Electric and Gas hire a hauler who said he took flammable oil wastes to an address in Pennsylvania that was found not to exist. In another case, American Cyanamid, Tenneco Chemicals, National Can Co. in Danbury, Conn., and the Outerbridge Terminal in Perth Amboy, N.J., routinely sent shipments to a municipal sanitary landfill in Penn Argyl, Pa., near Easton, that has no permit to accept industrial waste, hazardous or otherwise.

In another case, Rohm & Haas, American Cyanamid and Rexham Corp. said they sent shipments of toxic wastes to a waste disposal facility that never received the shipments; furthermore, the manifest accompanying the shipment was obviously filled out falsely. And Magic Marker in Cherry Hill sent shipments of ink residues to the Knickerbocker landfill in Chester County, even though the landfill had no approval to receive such shipments.

NO PROSECUTIONS

To date there has not been a single prosecution—civil or criminal—of a legitimate chemical company for illegal disposal of its wastes by an intermediary. The federal government has the authority to file such suits under a variety of statutes. State and local governments have the authority under common law and public safety and nuisance statutes.

Yet wherever authorities have scratched the dirt from an illegal dump, they have found the tracks of some of the nation's largest and best-known industries.

Wayne Lynn of DER said he obtained—from bankruptcy records of ABM Disposal Co.—frequently convicted of illegal dumping—a list of 51 Philadelphia-area industries that had hired ABM to haul away their liquid wastes. Among them were General Electric's switch gear division in Collingdale; American Bag and Paper in Philadelphia; Exxon Corp. in Philadelphia; H.K. Porter Company, Inc., in Prospect Park; Conrail in Philadelphia; Reading Industries in Reading; Scott Paper in Eddystone; Owens-Illinois in Glassboro, N.J.; Boeing-Vertol in Ridley Township; Bechtel Power in Pottstown; DuPont in Newark, Del.; Sherwin Williams in Gibbsboro, N.J., and Texaco in Westville, N.J.

EPA investigators have discovered in the course of their lawsuit against operators of the now-closed Kin-Buc Landfill in Edison Township, N.J., that toxic wastes came from Allied Chemical, American Cyanamid, Ashland Chemical, Celanese, Bart Industries, Drew Chemical, Diamond Shamrock, DuPont, Exxon, FMC, GAF, Gulf Hatco, Inmont, Koppers, Monsanto, NL Industries, Olin, Pennwalt, Reichhold, Stauffer Chemical, Tenneco, Union Carbide, Uniroyal and Witco. No action has yet been taken against any generators to help recover the huge cost of controlling the hazards at the landfill.

When Pennsylvania authorities convicted ABM Disposal Co. of dumping cyanide into a groundwater well, they established in court that industry widely recognized that the lowest cost of legal disposal of that cyanide waste would have been 18 to 21 cents a gallon. Smith Kline Corp., the giant pharmaceutical firm whose Upper Merion facility was the source of the waste, paid ABM 6.6 cents a gallon, and has never been penalized.

Even government agents and quasi-public corporations supported by tax dollars have been implicated in illegal dumping. On June 28, DER served orders on Conrail, SEPTA and Amtrak to clean up spills of polychlorinated biphenyls (PCBs) at the Paoli and Wayne Junction trainyards. Officials said they had found that "negligent or intentional handling of PCBs has resulted in spilling, dumping or spreading . . . onto the surface of the ground" in the course of servicing train transformers.

At the Paoli yard, concentrations were found in the ground and in a cesspool in the 4.5-to-4.7-parts-per-million range, thousands of times more than safe drinking-water levels, at a concentration at which PCBs are believed to be carcinogenic (cancer-causing). At Wayne Junction, the chemical was found in concentrations of 170 parts per million—more than three times the level at which mere physical contact becomes dangerous.

David Kelly, a driver for ABM, parked his tank truck on a Chester City street, in a residential neighborhood one spring night in 1977, opened the valves and went across the street to eat his lunch while he watched 8,000 gallons of Boeing Vertol-originated cyanide plating waste pour into the street, and from there into Ridley Creek. Cyanide in concentrations of parts per billion is toxic in drinking water. That waste had cyanide in concentrations of two parts per hundred.

Kelly got four years' probation. ABM was fined $2,500 and continued in business. Nothing was done to Boeing-Vertol, which paid ABM 6 cents a gallon to take away waste that would cost 30 cents a gallon to properly treat and dispose of, according to court testimony.

When New Jersey authorities discovered that Iron Oxide, an Elizabeth, N.J., firm that manufactured air-conditioner components, had set itself up as a hazardous waste treatment facility without a license or state approval, they raided it and found that the "treatment" consisted of dumping chemicals into a pipe that led directly into the Arthur Kill outside.

A search of New Jersey manifests shows that the following firms sent wastes to Iron Oxide, even though the facility was on no state or federal list of approved treatment facilities:

Superior Tube, in Collegeville; Carpenter Technology, in Reading; Rohm & Haas' Bristol plant; Forbes Steel, in Wilmington; Teledyne McKay, in New York; United States Steel's New Haven, Conn., plant; Grumman Aerospace Corp., in Oyster Point, N.Y.; Chicago Bridge and Iron Co., in New Castle Del.; Corco Chemical, in Fairless Hills; H. K. Porter Co., in Prospect Park; Dana Corp., in Reading; and I.C.I. (Americas) Inc., in Bayonne, N.J.

Signed manifests on file in New Jersey indicate that officials of each of these firms knew where their wastes were going.

Said an enforcement official in the New Jersey DEP: "I find it hard to believe they didn't know their stuff was being dumped illegally."

However, one official who worked on a confidential hazardous-waste survey for the Delaware River Basin Commission said that when staffers interviewed corporate executives throughout the area, "a lot of the people we spoke to didn't know where the stuff was going. They just knew who the hauler was and didn't care about the rest. You could just see the ligthbulb go on when you spoke to them about the hazardous qualities of the stuff. In some cases, they were fairly high-up executives. In some cases, they were just plant foremen."

Not only are major corporations hiring illegal dumpers as an inexpensive solution to their hazardous waste disposal problem, but there are indications that legitimate landfills are accepting enough of the wastes to render meaningless the appelation "sanitary landfill." State and federal officials so far have been unable to do much about it.

On top of that, according to the basin commission survey, major firms throughout the area dump huge quantities of toxins on their own property, causing extreme disposal and environmental problems.

A PAPER PROMISE

On paper, at least, none of this should be happening. Pennsylvania DER attorney Keith Wilkes said that nearly all major waste producers require their haulers to sign a contract guaranteeing that the material will be properly disposed of. But this is widely regarded as a sham to protect the producers, he said.

U.S. Rep. James Florio (D., N.J.), who sits on a House committee investigating hazardous wastes, called the situation "a blemish on the business community by producers who now seek to absolve themselves by invoking the sanctity of contracts entered into by them for disposal of wastes with fly-by-night operators hired to cart away the materials that now threaten the public well-being. The companies, like Pontius Pilate, seek to wash their hands of their offense."

When Burlington County, N.J., officials discovered two abandoned, secret chemical dumps in the Pine Barrens earlier this year, they found evidence that the material may have come from Rohm & Haas, the Philadelphia-based pharmaceutical firm, and from 3M Corp.'s Bristol plant. Both companies readily dispatched officials to cooperate with New Jersey authorities.

"Very frankly," said Rohm & Haas' director of government and regulatory affairs, Gordon West, "I think a chemical company has some responsibility here too (in how its wastes are disposed of)." Industry in the past, he said, has "sort of turned its face the other way."

Cynamid's Cantrall admitted that until recent months the corporation allowed its 52 U.S. plants and 40-plus overseas facilities to decide individually, with no corporate direction.

"We didn't look at it as an integrated effort by the company," he said. "Every plant had its own responsibility or they gave it to third parties. Practices varied substantially. Some just dumped it. Others dug pits and put clay down. Even by today's standards, some were doing pretty well. But no one anticipated the kind of situation that occurred with Love Canal. No one anticipated the type of situation we have at Chemical Control in Elizabeth."

"NOT DOING THE JOB

Cantrall estimated that 1,000 drums of Cyanamid's hazardous wastes are among the 70,000 drums at Chemical Control. But he said the company had believed the material it sent there was being burned or properly treated. "The people (in Elizabeth) were taking our money and not doing the job."

American Cyanamid is, judging from records of the New Jersey manifest system, one of the largest clients of Marvin Jonas Inc., the South Jersey waste hauling firm. Jonas is a one-time pig farmer whose firm has a spotty record of compliance with state requirements and is, according to sources, currently under investigation by authorities in Pennsylvania and New Jersey.

In 1978, according to New Jersey manifest records searched by The Inquirer, Cyanamid sent, through Jonas to the GROWS landfill, 173,900 pounds of pharmaceutical wastes, 43,700 pounds of mixed and flammable solvents and 19,000 pounds of material identified only as "mixed chemicals."

Jonas' general manager, Frank Pertnoy, agreed with American Cyanamid's assertion that the waste hauler had agreed to get approval from GROWS to dump that waste, and said that approval was granted by the landfill. Rhett Ragsdale, general manager of the Bucks County landfill, admitted that GROWS granted approval.

But Pennsylvania DER's Lynn, who is in charge of approving all hazardous wastes that go into GROWS, said the state never granted approval for that material from Cyanamid.

Chapter 25 of the Pennsylvania Code, section 75.26, prohibits the dumping of industrial wastes in a landfill unless the material has been approved by DER; only what is described in the landfill's original permit, or specifically approved by the state, can be dumped.

In addition, Lynn said, material that is flammable never can be dumped in a sanitary landfill because of the extreme danger of fires and explosion.

American Cyanamid and Jonas officials contended that the flammable designation that accompanied dozens of shipments of Cyanamid waste through Jonas to GROWS was the result of mistaken interpretation of guidelines on what should be considered flammable.

Because State Department of Transportation guidelines have a different, broader definition of flammability than the New Jersey DEP, the material was listed as flammable when it should not have been, Cantrall said.

TAKING OUT THE GARBAGE

Cantrall conceded that both agencies define flammability as having a flash point of less than 140 degrees Fahrenheit (flash point is the temperature at which a material subjected to a spark will spontaneously ignite). But he said another component in the waste required it to be labeled flammable when it really wasn't.

Cantrall said it would be impossible to say what the wastes consisted of. "In process waste streams, no one keeps that kind of record," he said. "It's like the guy taking out the household garbage. If you ask him what's in the bag, he won't know. He just knows he has a bag of garbage."

Knowledgeable industry observers say that most major chemical companies keep scrupulous records of the contents of their "waste streams"—the flow of wastes associated with a particular manufacturing process. And Pennsylvania DER said it would never approve a new waste stream for GROWS unless it had a detailed analysis.

Jonas' Pertnoy conceded that the material was mislabeled. "I should have sent it (the manifest that accompanied shipment) back to them and told them to do it over again." he said.

"The generators are so scared that they're trying to cover up everything, and they're going too far," Pertnoy said. "That's what they're doing, they're doing it to cover their ass. I argue with my customers all day long because they're putting me under the gun."

But the material, all several dozen shipments of it, was tested and was not flammable, he insisted. "It wouldn't burn if you put a match to it," he said.

GROWS officials also contended that the Cyanamid shipments were not flammable. The record-keeping that accompanied the shipments was simply in error, according to GROWS' Ragsdale.

"Maybe as they (the manifests) were made out they should not have been signed (by officials receiving the wastes at GROWS)," Ragsdale said. "I think many errors were made in the filling out of New Jersey manifests. Many people here have been signing things they should not have signed. It (the manifest) says solvents, and hey, we don't take solvents. It says flammable, we don't take flammable."

BLANKET APPROVAL

But even if the materials were not flammable, they still were not permitted to be dumped at GROWS, according to DER officials. Ragsdale disputed that, claiming that he has blanket approval for dumping wastes in solid form and is only required to get specific approval for wastes in liquid form. Lynn, the official in charge of granting approvals for industrial wastes at GROWS, denied that he had ever granted a blanket approval.

Some of the Cyanamid manifests described the shipments as liquid, or liquid-solid. But these too were in error, Ragsdale said.

"You have to realize that we do not have a manifest system in Pennsylvania, a set rule on hazardous waste in Pennsylvania, and we have attempted to develop these things ourselves—we're all learning," Ragsdale said.

In addition, he said, 1978 was the first full year that the New Jersey manifests were in operation, and they took some getting used to.

GROWS continued to accept shipments labeled flammable or corrosive from Marvin Jonas well into 1979. On May 7, the New Jersey manifest records show, GROWS took a shipment of 6,000 gallons of liquid, toxic and corrosive alkaline solution from Jonas.

American Cyanamid sent shipments via Jonas on April 21, April 30, May 7 and May 21, each of which was manifested as containing flammable wastes—a total of 95,000 pounds of pharmaceutical waste in those four shipments.

The New Jersey manifest records also show that Hartz Mountain Corp. sent, via Jonas, 109,900 pounds of pesticide wastes in solid form to GROWS. Hartz officials did not respond to inquiries about the dumping. DER's Lynn said he was particularly alarmed by that waste because pesticides generally are dangerous if they leach into the environment. No Hartz Mountain waste was approved for GROWS.

Lynn checked DER records to see if GROWS had approval to dump 97,500 pounds of corrosive still bottoms (a type of organic pharmaceutical wastes) listed on the manifests from Stauffer Chemical Co. in Edison, N.J. He discovered that no such approval had been granted and he noticed then for the first time that GROWS had accepted 30,000 gallons of Stauffer Chemical arsenic wastes, again without approval.

HOLDING IT IN

Corrosive wastes are of concern not only because they were not specifically approved, but because they pose a potential threat to the integrity of the landfill. GROWS sits beside the Delaware River in Falls Township, next to U.S. Steel's Fairless Works, and has a liner underneath it to prevent contaminants from leaking into the river. The liner collects leachate filtering down and directs it to a treatment plant for cleaning before discharge into the river.

If a corrosive were to eat through the liner, the leachate could escape directly into the groundwater or the river.

Ragsdale contended that GROWS runs exhaustive tests on all wastes it accepts to assure they will not threaten its liner or befoul its treatment plant, and based on these tests rejects up to 80 percent of its potential customers.

Stauffer Chemical's community relations manager, Allan Noe, said a check of the company's records showed that the still bottoms sent to GROWS had been mislabeled as corrosive. "It is not a corrosive waste," he said. "We had to pick the closest category. Subsequent tests showed that it was not corrosive."

If that was the case, the evidence is buried somewhere in GROWS' 100-foot-high mound.

Rohm & Haas was another corporation that New Jersey manifests say gave material to Jonas to be dumped in GROWS without state approval. Records show that Rohm & Haas sent 6,400 pounds of pesticide wastes, 28,700 pounds of still bottoms, 5,900 pounds of mixed solvents, 700 pounds of carcinogenic phenol wastes and 300 pounds of chlorinated residues (which frequently are highly hazardous and include such substances as the dreaded dioxin).

Jonas' Pertnoy said Rohm & Haas obtained permission from GROWS directly to dump those substances, then hired Jonas to haul the wastes. GROWS officials said they did indeed grant those approvals. But DER records show that the state granted no approvals.

"Based on our knowledge of what GROWS' permit is and from the list of materials he is permitted to receive," said Rohm & Haas' West, "there hasn't been any question in our mind that he was permitted to take this."

ITS OWN TESTS

But, West said, the pharmaceutical company went a step further by conducting its own tests to be certain that the materials it sent would not damage the landfill's liner or treatment facility or pollute the river.

DER's Lynn said he was dismayed to learn of the New Jersey-manifested wastes going into GROWS landfill, but not particularly surprised. GROWS is only one of the many landfills he regulates in the Philadelphia region and, he said, "the only way we can be sure of controlling it would be to open up every truckload and take samples."

Bucks County officials regularly monitor the water downstream from GROWS' discharge, but do not test the water for such serious pollutants as organic chemicals—many of which are toxic or carcinogenic. Such tests, said Everett Hogg, Bucks County Health Department supervisor, "are not run because they're not included in the parameters of the permit GROWS got from DER."

In other words, officials do not test GROWS' discharge for pollutants not allowed in the landfill, because they are not allowed in the landfill.

Meanwhile, downstream at the Torresdale water intakes for the City of Philadelphia, a sophisticated city water department laboratory tests regularly for organic chemical pollutants. "We notice a lot of background organics," said Patrick Cairo, head of research and development for the water department. "But we don't know if they're at problem levels because we're waiting for EPA's limits to be issued. Our dilemma is we don't know what levels are harmful at this point."

Generators of hazardous wastes have several alternative methods to handle their wastes. They can be chemically treated, neutralized or burned in high-temperature incinerators. While the technology exists to use such specialized methods, they are very expensive, and sometimes impossible, to use on most hazardous substances.

Wastes also can be taken by a waste hauler to be dumped in a secure landfill—one that officials believe will never leak. But most of the 12 secure dump sites are from several hundred to 2,000 miles from the Philadelphia area. And if all the generators in the country were to dump their wastes legally beginning tomorrow, there would be such a volume that "the dumps would all be shut down inside a week," an EPA official said.

Companies also can store or dispose of their wastes on-site, at their own plants or on property they own.

Estimates are that from 65 to 80 percent of all wastes are disposed of in that manner, on-site. The problems that result are often as great as those that result from outright illegal disposal by "midnight dumpers" or unscrupulous disposal facilities in the corporate employ.

EPA estimates that 90 percent of the waste disposed of on-site is handled improperly—in lagoons, ponds and landfills that leak, or in incinerators that do not properly burn off the toxic ingredients.

Love Canal, near Niagara Falls in New York, where residents were sickened by toxins seeping through the ground, originally was an on-site dump for Hooker Chemical Corp.

LOCAL RASHES

On-site storage and disposal problems have surfaced repeatedly in the Philadelphia area. The Techalloy Corp. in Rahns, Montgomery County, apparently was dumping a cancer-causing chemical into its backyard, from where the runoff contaminated neighboring yards and most drinking-water wells in town.

At the request of The Inquirer, a computer search was performed of records recently compiled by the Delaware River Basin Commission—based on a confidential commission survey of 335 of the largest firms in the basin area (Delaware, eastern Pennsylvania, western New Jersey and a small portion of New York), seeking information on their hazardous waste problems. The computer searched out all companies whose wastes included carcinogens (cancer-causing chemicals), pathologic wastes (wastes from live animals, diseased tissues and viral or bacterial cultures), acutely toxic wastes (generally fatal on contact or inhalation), explosive wastes and wastes containing any of the disease-inducing substances benzene. PCBs or phenols. Twenty-six of the companies in those categories in the basin area reported serious problems in handling their wastes—according to their own accounts covering the year 1978, made at a time when officials thought they would remain confidential. In all, there were 100 reported cases of hazardous waste disposal problems of some sort.

Some examples:

General Electric Co. reported that it had been handling asbestos dust—which can cause lung cancer—in broken bags at its Erie Avenue plant in Philadelphia.

The Vineland, N.J., Chemical Co. reported that it could not find any place to put its highly toxic arsenic salt residues except in piles on the sandy soil at its plant, from where it has contaminated the underground drinking water supply.

Aetna Electroplating Co. of Philadelphia said it had its acutely toxic cyanide zinc plating sludge stored in rusting drums.

Hercules Inc. in Burlington, N.J., reported that it had more than a million pounds of rosin oil waste that "must be kept heated to 150 to 160 degrees centigrade."

Sun Petroleum Products Co. in Marcus Hook reported that residual heat in 354 million pounds of spent clay posed the "possibility of spontaneous combustion."

Whitmoyer Laboratories Inc. in Myerstown, Pa., reported that it had more than one million pounds of arsenic wastes stored in drums and, it said, the "drums deteriorate from being stored outdoors."

United States Steel Corp. in Falls Township reported that 83 million pounds of iron-bearing sludges posed "possible water quality problems due to leachate."

Western Electric at its Allentown plant reported that it had 10,000 pounds of "miscellaneous exotics" for which it could not find drums in which it would be safe to transport the material.

General Motors Assembly Division in Wilmington reported that it had ruptured drums and spillage problems with 350,000 pounds of solvent wastes.

DuPont's Chambers Works in Deepwater, N.J., had 1.5 million pounds of material it described as "suspect carcinogens liquid" for which "cautious handling (is) required" because the material freezes, or hardens, at room temperature, which could make its eventual disposal difficult or impossible.

The Hurst Performance Inc. plant in Warminster had 300,000 pounds of chemical plating sludge which, it reported "is difficult to control."

Allied Chemical in Claymount, Del., said it had a 36-million-pound pile of acutely toxic, difficult-to-handle alum residue sitting at its plant; in two years, it would run out of storage space, the company reported, and "there is no acceptable landfill available" for such waste.

Allied officials say they are hoping that the Delaware Solid Waste Authority will develop a suitable landfill for those wastes. If not, said David Murphy, manager of environmental affairs, "we'll have to evaluate the economics of hauling it elsewhere," or else in the next two years develop the technology for treating or disposing of the waste.

(The Sunday before last, Allied's Claymont plant developed another problem. There was an explosion in a storage tank holding sulfuric acid and oil wastes, and 175 tons of the mixture poured out into a containment lagoon. The explosion was felt as far as Marcus Hook, several miles away. There were no injuries and damage was confined to the plant itself.)

Armak Industrial Chemical Division on State Road and Cottman Avenue reported that it had problems finding any disposal facilities for its spent reagents, and private disposal was too costly, so it had been storing material in 30-gallon plastic drums. The material is difficult to classify because it has so many components, the company said, adding that it includes acid, alkaline, solvents, trace organic and inorganic contamination, iodine, combustibles, carcinogens, mutagens or teratogens, acute toxics and substances corrosive to steel.

Kawecki Berylco Industries in Douglass Township, Montgomery County, reported that it was producing 1,700 tons a year of a low-level radioactive sludge that it had been storing above ground in concrete and cinder-block vaults. The company said it "will ultimately run out of space and need off-plant site" but "low-level radioactivity prevents disposal via ordinary techniques."

The basin commission's survey covered most of the major firms in the Philadelphia area, as well as in the rest of the Delaware River basin. While most companies cooperated, a number of large concerns ignored the commission's request for information. They included Betz Laboratories, a pharmaceutical manufacturer in Trevose: Metal Bank of America, in Philadelphia; NL Industries in Philadelphia; RCA in Camden; and TRW of Philadelphia.

One of the companies with the most serious problems, according to what was reported in the survey, was Vineland Chemical Corp. in Vineland, N.J., a manufacturer of organic, arsenic-bearing herbicide. Vineland officials complain bitterly that state DEP regulations have made it impossible for them to dispose safely of arsenic-contaminated salts, 3 million pounds of which it reported in storage at its own site last year, with predictions of 3 million more pounds annually.

Vineland for a time was having its arsenic salt wastes trucked to the Strabatrol Landfill near Shippinsburg, in Cumberland County, Pa. DER stopped the practice when state officials found that the arsenic was leaching out of the landfill into the water, where it was found in concentrations of 1,000 to 3,000 parts per million.

"That's enough to be of concern to us," an environmental official said sardonically. It should be; that is 2,000 to 6,000 times the maximum level established by EPA's primary drinking-water quality standards.

More recently, Pennsylvania officials have given approval to a Stabatrol plan to encase Vineland Chemical's arsenic waste in cement before burying it. But New Jersey officials say that plan has not been proceeding quickly enough to solve the storage problem.

BLAMING THE STATE

Vineland Chemical's Norman E. Krapf, vice president for production, said the company was having waste problems because there are no more chemical dumps in the state (New Jersey closed its last chemical dump—Kin-Buc—in 1976). "We have been hounding them to find somebody adequate to take our stuff," he said. "We've been waiting three or four years for New Jersey to help the chemical industry. All we get from DER is harassment.

"They say don't store it on sandy soil because it will seep in. Put it under cover. Then they don't help us find some place . . . the larger companies than ours have been storing it, but a company like ours doesn't have the room anymore."

Storage of the salts consisted of huge piles on sandy soil. From there the arsenic seeped down and contaminated the groundwater, ruining several wells in the vicinity. Vineland Chemical initiated a program to pump the groundwater up, clean out the arsenic and pump it back down. As a result, the concentration "was going down from 200 ppm (parts per million) arsenic to 3 ppm, but the state objected because the 3 ppm still wasn't within their limits," Krapf said. "Isn't that ridiculous?"

No, say state officials. EPA's drinking-water quality standards set a maximum permissible level of arsenic at 0.05 ppm, so Vineland's contaminated groundwater is still far too high.

Krapf said the company have been making progress in finding a process to clean up the contaminated groundwater. In the meantime, its salt piles continue to grow.

According to the basin commission survey, the company also is troubled with empty drums that had contained arsenic trioxide, a substance so acutely toxic that even traces in the drums make safe disposal impossible locally. At the time of the 1978 survey, the company had 150,000 of the drums on hand and expected that quantity to increase by 30 percent in the five years.

The solution has been to truck the drums eight miles to a warehouse, where they are stored until they can be hauled to a distant disposal site.

In its report to the basin commission, the company said: "Interim storage does solve disposal problem but results in double handling, labor and rental costs.

"Disposal cost: $1,000 per load times four load per week times 50 weeks per year is $200,000; interim storage adds $50,000 annually."

So far, officials have found no on-site hazardous waste dumps in the Philadelphia area that pose health threats on the scale of the Love Canal disaster, which involved dumps that originally had been on-site facilities until Hooker Chemical Co. sold them. Houses were built on the reclaimed land and chemical poisons seeped through people's yards and into their homes. A wave of illnesses, miscarriages and birth defects ensued.

But EPA officials do not consider it part of their enforcement program to enter company property and look for a hazardous dump. Even New Jersey's DEP, which enjoys a good reputation for hazardous waste enforcement, recently was sued by an environmental group, which said the department was lax in policing on-site dumps. DEP officials say they do not have the manpower required.

Bob Allen, who heads EPA's Philadelphia region solid and hazardous waste division, said he has no reason to believe there might be a Love Canal buried on company property in the area. He was asked why.

"We have asked the states the question, 'Do you have a Love Canal-type situation?' and the states have told us they did not have that within their borders," he said.

But the fact remains that most state governments—especially Pennsylvania's—are too ill-informed to know whether such sites are within their borders. New York State did not know about Love Canal either, until after the damage had begun.

"What Hooker did at Love Canal," said EPA's Hugh Kauffman, "putting these wastes there, knowing about the potential for poisoning people, and then finding people were being poisoned and not doing anything about it, was just like taking a gun and pointing it at the heads of those people. It's just as bad.

"Until the government is willing to treat corporate executives and corporations like they would people who put guns to people's heads, nothing is going to be done about the problem."

The problem was put in perhaps the best perspective by Melvin Wade, who is accused of allowing ABM Disposal Co. to haul toxic wastes to his property under the Commodore Barry Bridge in Chester for $1.50 a drum. He conceded in an interview that he was selling the emptied and reclaimed drums to United Container, which has a facility a couple blocks away, for a $6 a drum.

"Most of that stuff came from DuPont . . . from Exxon—the big companies, that's where that stuff came from," Wade said.

"They shut me down, but those guys are still running. One of those lawyers for the government told me. 'Wade, you got your hands around one of those big guys' throats.' I'm just the fall guy. That's why they want to send me to jail. They never go to jail."

REGINALD JONES: A BUSINESSMAN'S BUSINESSMAN

Mr. PERCY. Mr. President, it was with great pleasure that I read in the September 16 New York Times Magazine the article about the chairman and chief executive officer of General Electric—my valued friend, Reginald Jones.

The Times piece presented a valuable evaluation of Mr. Jones and his role in Government decisionmaking. It is a position to which Mr. Jones has risen because of his philosophy that business can influence Government when it chooses to work with it and not simply oppose it. This was my experience when I was in industry years ago; it has been my experience since I came to the Senate.

I commend this entire article to my colleagues, but I would like to highlight one paragraph which touches on matters which go to the very heart of today's economy. At a recent university lecture, Mr. Jones is quoted as saying:

> Over the past 15 years, expenditures for research and development in the United States have not kept pace. In proportion to the gross national product, R&D spending has declined 25 percent since 1964. During this same period, many other industrialized nations, including Japan and West Germany, have been increasing the share spent on research and development. The U.S. Patent Office reports that foreigners now receive 37 percent of all United States patents, compared with only 20 percent in 1960.

Reginald Jones went on to say that—

> Our tax structure has been sharply tilted against savings, investment and innovation. An acceptable level of R&D and successful innovation in the United States can be achieved only in an environment conducive to business investment generally. Top priority should be given to Government policies aimed at improving the climate for business investment.

In these brief sentences, Mr. Jones has summarized the challenge that lies before Congress. The 1978 Revenue Act was a departure from previous tax bills in that it recognized the importance of investment. We cut capital gains taxation and the corporate tax rate to spur investment. We can and will do more. All 41 Republicans have joined in introducing a tax cut bill that will spur saving, R. & D. spending by private industry and change the method of depreciating assets. It incorporates my "Small Savers Act," an essential incentive for investment today.

Reginald Jones exemplifies the best in American private enterprise and it is important that he is taking this important message about investment to our universities. I commend it to my colleagues, too, and ask unanimous consent that the Times article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AMERICA'S MOST INFLUENTIAL JONES

(By Isadore Barmash)

The absurdly long, black limousine entered the gates and wheeled smoothly along the winding driveway to the entrance to the White House. Usually, a Presidential aide would greet the limousine's occupant. But the tall-sober-faced figure that emerged from the car was stirred to see a slight, sandy-haired man with a wide, toothy grin waiting to shake hands. The car's occupant wasn't the Prime Minister of Britain or Vice Premier of China. It was Reginald H. Jones, the chairman and chief executive of the General Electric Company.

Jones's reception sounds a note of harmony amid the discordant tones occasionally played by President Jimmy Carter—beseiged by inflation and other symptoms of a difficult economy—and the heads of corporate America. Insiders at the White House say that Reginald Jones has made frequent visits in recent months, that he is cool, convincing, quietly forceful and self-assured by having obviously done his homework. Stuart Eizenstat, President Carter's domestic affairs adviser, says of Jones: "I think he is one of the wisest, most intelligent, most informed people on public policy issues that I have ever met. He's always armed with the data, and he's extremely articulate in making his presentation. He stands very high in the White House. The President has tremendous respect for him. Anytime he calls, the door is open."

Jones is reported to have been offered two Cabinet posts by Jimmy Carter—director of the Office of Management and Budget and chairman of the Federal Reserve Board—and was approached again during the recent Cabinet shake-up. Jones won't discuss these offers, but sources close to him say that he felt he had an obligation to decline so that he could complete unfinished work at General Electric. Carter is not alone in his enthusiasm. Last spring in a survey conducted by U.S. News & World Report, 1,439 American leaders called Jones the country's most influential businessman.

His succession to that role coincides, in part, with an evolution in American business itself. The change that has occurred could be good for the country as well as for General Electric and big business—but, on that point, the returns, as they say, are not in. Jones represents a new breed—the antithesis of the businessman who decided years ago that, if he couldn't own the man in the White House or the people on Capitol Hill, "big Government" was to be loudly and publicly and constantly damned. A pragmatist instead, Jones is one of those who may oppose Government overregulation, for example, but who also believe in communication, and that, through intelligent, frank dialogue, they can get a hearing and can learn to live with the compromises they must make.

A chain smoker, Jones speaks easily between puffs. "Today's chief executive," he said in an interview, "is in contrast to what used to be called the Neanderthal types. He's considerably more responsive to the concerns of the special-interest groups, recognizing that in our system the causes advanced by these groups do gain considerable public support and are of great moment to Congress. Congress has certainly demonstrated that it is an overly responsive body. So the chief executive must recognize that he is going to be faced with legislation that will move from the area of voluntarism to that of requirements. Only on one occasion did we see that legislation reversed. We learned that the automobile designed in Washington didn't sell very well. These demands are going to be placed on the corporation, and the chief executive has to determine which he feels are truly legitimate and which are not reasonable. The corporate chief executive is always faced with the problem of making this kind of trade-off."

For General Electric, at least, that problem, or the general problems of competing in the marketplace, have clearly not been insurmountable. From the time Thomas A. Edison founded it 101 years ago to develop the light bulb General Electric has grown to the point where it spends more than a $1 billion a year and has a staff of 1,500 Ph.D.'s. for research and development. It is the world's largest manufacturer of electrical equipment and is among the leaders in electronics, nuclear power, consumer goods and aerospace. Between 1968 and 1978, its sales more than doubled to $19.6 billion, and its net income tripled to $1.23 billion. General Electric now has 401,000 employees and 552,000 stockholders.

Individual corporate growth notwithstanding, American business has come under much more stringent Government scrutiny since Carter, elected on a populism platform, entered the White House. Because of the resulting controversies, Jones believes that "it is in the interest of the private sector, the shareowners, customers and employees of that sector that business should explain its side of the issues. We wouldn't be doing our job for the shareowners, the suppliers and the customers if we were not out there making ourselves heard."

In one recent university lecture, he made himself heard in his own measured way: "Over the past 15 years, expenditures for research and development in the United States have not kept pace. In proportion to the gross national product, R.&D. spending has declined 25 percent since 1964. During this same period, many other industrialized nations, including Japan and West Germany, have been increasing the share spent on research and development. The U.S. Patent Office reports that foreigners now receive 37 percent of all United States patents, compared with only 20 percent in 1960."

Why the lag?

"A counterculture essentially opposed to the industrial society rose first to public attention, and then to positions of power. Under the Keynesian economics of the past few decades, our tax structure has been sharply tilted against savings, investment and innovation. An acceptable level of R. & D. and successful innovation in the United States can be achieved only in an environment conducive to business investment generally. Top priority should be given to Government policies aimed at improving the climate for business investment."

That was Jones in action—spare, diplomatic, motivated, verbally sinewy, factual, not shrill.

With a collar that sometimes seems just a bit loose, and a lean, somber face, the 62-year-old Jones looks somewhat like an industrious church deacon. He begins his day at 7:15 A.M. in his large, airy office at the company headquarters in Fairfield, Conn., and is pacing the floor by 7:30 as he deploys his large staff. Jones instills in his people a need to gather information, and his own flair for acquiring knowledge, for grasping issues quickly, manifests itself especially in his work in strategic planning; it was, in fact, his technique in planning, in preparing for change without knowing what the change would be or when it would come, which first brought him to national attention among businessmen. Jones's approach has been to set about methodically to pinpoint in exhaustive detail the various possibilities that may lie ahead for each segment of his business and to prepare contingencies. The importance is obvious when one considers the size and scope of those American companies that have gone down the drain in recent years because they couldn't adjust to change—W. T. Grant, Franklin National Bank, REA Express, Robert Hall, not to mention Penn Central, which almost went except for being bailed out by the Government, or Chrysler, which could, without such help.

Jones also introduced so called "sector" management to G.E. Six men—each acting as chief executive officer in his own billion-dollar product area (and those areas were split into a total of about 50 corporate entities)—reported to a three-man executive office. Jones declared that his successor would be chosen from a pool of about a dozen vice presidents from these sectors by 1981.

Jones thus freed himself to a marked degree to concentrate on the external affairs of the company.

Perhaps what has brought Jones the greatest attention was his role in G.E.'s merger with Utah International Corporation, a $2.2 billion acquisition which was then the largest in American history.

"He brought five or six of us on the board together in advance of the regular director's meeting for about 45 minutes," said Ralph Lazarus, a long-time G.E. director and chairman of the Federated Department Stores chain. "He had all the facts on Utah International so well developed that no one could dispute them." That was only the first leg in the campaign to bring the giant Utah company into the fold, but so thorough were the research and the subsequent field investigations that the biggest American merger was pulled off without a hitch, and, surprisingly, without much more than a murmur of Government protest.

Some close to him think that Jones's ability to see both sides of a public issue comes from his humble beginnings and later embarrassment over his riches. His father, after emigrating from England, was an odd-jobs man and electrician in New Jersey. Jones's present residence, in Greenwich, Conn., is a relatively modest colonial house, despite his $750,000 annual salary. He and his wife, Grace, often spend nights at home but he admits to friends, "We wish people would call us, people are afraid to ask us out." They seem reluctant to interrupt the personal life of one of America's most important businessmen.

A graduate of the Wharton School of the University of Pennsylvania, Jones joined G.E.'s business-training course in 1939 and for the next eight years was a traveling auditor; he picked up a widely varied knowledge of the company in that role. Quick, determined, decisive, he demonstrated that he could get into and out of problems quickly. Not long after eventually becoming group executive of G.E.'s construction industries in 1967, he was named vice president for finance. "I wanted to refuse the job," he recalled, "because I enjoyed operations more. But I found that I enjoyed finance so much that for a time I refused the next promotion."

A former G. E. vice chairman who retired in 1972, William H. Dennler, observes, "Reg made suggestions that were far beyond what you expect from a financial man. Although he might be talking with others about spending money, he'd chime right in on marketing or on technical matters. In time, he got to be considered a good backup man on anything . . . but he was the best financial man I ever met."

It was in 1970 while Jones was financial vice president that he had his greatest crisis. That year, the company decided that it had to stem the heavy losses of its computer business. Some years earlier, Jones had been one of those who had recommended that G.E. get into computers in spite of the industry domination of the International Business Machines Corporation. G.E. set up a task force and asked its financial vice president to be on it. Jones and the others studied the loss of several hundred million dollars over the years, and it soon became obvious that, not only was there severe competition, but I.B.M. was tightening its already tremendous grip on the computer industry.

"It was a time of terrible decision for me," Jones says. "I had been instrumental in G.E.'s getting into the field, and now I was convinced there was only one way to cut our losses—that is, simply get out. It also dawned on me that I was probably the key member of the task force because of my financial responsibility. Was that why I was put on the task force? I didn't know. But I knew that G.E. traditionally never gives up on anything."

It seemed apparent that many more millions, perhaps as much as $500 million, would be needed just to keep the division afloat. So Jones went ahead and proposed to the task force that computers be dumped, and the task force approved the recommendation; the board of directors also approved it, and added a touch of irony: it put Jones in charge of the job.

He did manage to sell the controlling interest in the division to Honeywell, Inc., a more successful computer maker. But G.E. didn't escape the barbs of critics who wondered why a company that had successfully ventured into aerospace, nuclear energy and pollution-control systems couldn't hack it in computers. It was, for General Electric and for Jones, a humiliating experience, not unlike that of Xerox Corporation, which had to give up on its computer business after losses of almost $1 billion.

Still, as often happens in large corporations, one step backward leads to two forward. Jones did get the albatross off G.E.'s neck and it did recoup $240 million of the losses in the sale to Honeywell. Former vice chairman Bill Dennler adds, "Jones's sale of the computer business was masterful. He helped G.E. and he even helped Honeywell. He understood the tax consequences of the deal, and that gave him the edge."

In 1972, the company's directors, singling him out for, among other things, his work in the G.E.-Honeywell transaction, put him into the chief executive's chair.

As the top man, Jones differed from his predecessors and also from earlier chief executives in most other companies. Ralph J. Cordiner in the 1950's and Fred Borch in the 1960's, Jones's immediate predecessors, were sales oriented. The late Cordiner, a hard-hitting, precise type, who ran G.E. when some 16 of its executives were indicted and three went to jail on charges of price fixing, started as a college student selling flatirons for G.E. His tenure is recalled by old-time G.E. men as austere, and his disavowal of the price-fixers not entirely credible (if he didn't know, he should have, is a common expression). Borch was also a tough sort, but he leavened his hardness with a sense of humor, more or less settling on that approach as three problem ventures seemed to defy solution. They were computers, nuclear power and commercial jet engines.

Jones's varied experience—which include running the air-conditioning, supply, and construction divisions as well as finance—cried out for maximum usage. But, more important, it was clearly the cerebral way he undertook these jobs that seemed to impress the board, and continues to do so.

That includes his dramatic acquisition of Cox Broadcasting Company for about $460 million. To obtain Government approval of the still-pending deal, Cox and G.E. are divesting themselves of television and radio stations in areas where there are overlapping outlets. G.E. has been in the broadcasting business since 1922 when it went on the air with, "This is station WGY" (whose call letters stood for wireless, General Electric and Schenectady). Since then, the company has added three telvision stations, seven A.M. and F.M. outlets and 12 cablevision systems.

Unlike many heads of big companies, Jones appears to have made few enemies and many friends, perhaps because he is so matter of fact and unpretentious. It may also be because he is so unabashedly—some might call it embarrassingly—but nonetheless sincerely a company man. Some years ago, when he was head of G.E.'s wholesale distribution, the company honored one of its top salesmen. Jones, the host, burst into a torrent of applause when the fellow came up to receive his award. Because of Jones's tribute, a colleague jokingly asked him afterward, "Who is that guy, your brother-in-law?" Jones blinked, swallowed and said, "No, he's just G.E."

Among most people, Jones also generates a sense of identification, the feeling that there-but-for-the breaks-go-I. His skills are extraordinary, but they are quiet, subtle, and on the surface he appears to be an ordinary guy who was elevated high by circumstances but had the capacity to handle them. This perception is enhanced for those who have observed how he handles the tough matter of firing people. Jones will telephone a person who must be dismissed and invite him to breakfast or lunch. The discussion begins with how the man approaches his job, and Jones gives him his reaction. The talk comes around to the man's future, and it winds up with his virtually making up his own mind. At no point has Jones told him he's through.

The famous "Gutoff incident" may be an exception. Inside the company, the incident is rarely mentioned. Reuben Gutoff, who left G.E. to become the president of Standard Brands Inc. and is now its consultant, was considered a brilliant, eager, young protege of Jones. Appointed to head the company's strategic planning department, Gutoff pushed the G.E. hierarchy but found the layers of command so hardened in a century of development that they wouldn't give. Reluctantly, after facing an increasing number of complaints, Jones fired Gutoff. A G.E. director says of the incident, "No one's very happy about it. Gutoff got Jones's backing against the advice of those around him until he found that Gutoff couldn't deliver without upsetting a lot of people. He was too abrasive and too persistent. All of us at the top of the business heap have to know when to give in and when not. You can't be impatient in stimulating people to move. Gutoff is brilliant but that was the problem."

Did Jones quietly cut off Gutoff's head after giving him too tough a job before he was equipped to handle it? Did the plodders and water-treaders get to Gutoff? Did Gutoff have it coming to him? Neither Jones nor Gutoff will discuss it. But if the incident reveals a slight crack in the new corporate image of sensitivity and moderation, there are a few others. Last winter, G.E. withdrew its sponsorship of a Barbara Walters television-news special because the show involved an interview with Jane Fonda. In it, Miss Fonda talked about her new Columbia Pictures release, "The China Syndrome," the fictional story about an impending nuclear-plant disaster and attempts to cover it up. G.E. explained that it was "inappropriate" for a company that supplied nuclear-power equipment to sponsor a program that contains "material that could cause undue public concern about nuclear power." But the company conceded that the issue was one of "significant public controversy." Furthermore, as others pointed out, such an action can affect the independent quality of news judgment. Yet G.E. pulled out anyway. The special was aired without G.E.'s sponsorship. Since then, the problems at the Three Mile Island nuclear plant near Harrisburg, Pa., and the shutdown of other nuclear facilities, tend to refute G.E.'s statement that the public should not be unduly concerned about the safety considerations of nuclear power.

In 1976, G.E. was sued by the New York State Department of Environmental Conservation over its discharge of polychlorinated biphenyls (PCB's—used in the manufacture of capacitors) into the Hudson River. At first, G.E. agreed to provide $4 million for cleanup and research to develop a substitute for PCB's and, later, to stop using them.

Jones declines to comment on either the Jane Fonda incident or the PCB controversy.

Can the general public, then, really trust the new breed of smooth and rational businessman like Jones?

Dr. Eugene Jennings, management professor in the Graduate School of Business Administration at Michigan State University, for one, believes that, in general, American business has become more responsible. "Big business," he says, "embattled, bewildered and often defensive in the face of a quantum increase in constraints and uncertainties during the first half of this decade, now evidences a more realistic view of what is required to survive, let alone prosper, in a radically different world." And Jones, in particular, makes one believe in him, and in his ability to perceive complicated social issues that go beyond the special interests of his own company. "Real strategic planning" he says, "involves a careful, analytical examination of all the major factors that enter into the business process—and the external factors are probably of greater importance than the traditional internal factors. Social obstacles, political constraints and competitive counterpressures must be imaginatively constructed. Alternative plans must be prepared to match the contingencies. And hard choices must be made."

But it really is too soon to say for certain whether this new breed will be good for the country or just good for business. Malcolm X once said he would far rather deal with a loud, haranguing political opponent than a quiet intelligent one because the quiet intelligent one was more likely to win out in the end. It is possible that the current businessman's low-profile, exploration-of-the-issues approach may mean only that he's willing to explore subjects like ever-increasing Government regulation, which Jones and others feel can harm both G.E. and the public. It is possible, too, that they will continue to be unwilling to air more controversial issues like the safety of nuclear power, which could conceivably be resolved in a way that would be harmful to their own companies' immediate self-interest.

But the interesting thing about rationality is that one tends to get hooked on it. Intelligence is intelligence. Once the human mind is really put to work, it's often hard to get it to stop. If Big Business has graduated from the haranguing school to the intelligence school, then there is good reason to be hopeful that it will explore issues beyond narrow limits to a realm where they will be resolved, in the long run, to the general benefit of everyone.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

DEPOSITORY INSTITUTIONS DEREGULATION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the pending business, H.R. 4986, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4986) to amend the Federal Reserve Act to authorize the automatic transfer of funds, to authorize negotiable order-of-withdrawal accounts at depository institutions, to authorize federally chartered savings and loan associations to establish remote service units, and to authorize federally insured credit unions to maintain share draft accounts, and for other purposes.

The Senate resumed consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, the program, as stated on yesterday for today, outlined the scheduled following morning business, as beginning with the resumption of the debate on the banking bill—for want of a better term, I shall use that; then going to the Department of Transportation appropriations bill. The managers of the Department of Transportation appropriations bill want that bill disposed of today, so, at the moment, the leadership is attempting to determine whether or not it would be satisfactory all the way around to switch the order and have the DOT appropriations bill taken up first.

That bill is under a time agreement. So, for the moment, Mr. President, I shall shortly suggest the absence of a quorum. I understand that it is agreeable on the part of the managers of the banking bill, and Mr. MORGAN, who is very much involved in connection with the debate and offering of amendments, is agreeable to letting the DOT appropriations bill go ahead. We are trying to determine whether or not this is agreeable all the way around. We should know within a very few moments.

So, for the time being, Mr. President, I suggest the absence of a quorum to allow us to attempt further surveillance of the situation before launching the attack on the DOT appropriations bill.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF TRANSPORTATION APPROPRIATIONS, 1980

Mr. ROBERT C. BYRD. Mr. President, the managers of the transportation appropriation bill are very desirous of proceeding with that bill today and completing action on it. The chairman of the subcommittee (Mr. BAYH) is here. I want to accommodate him, if at all possible.

The managers of the housing bill, having had their bill taken down several times already, and becoming quite accustomed to it being up and down and up and down, are willing to go the extra mile and have it set aside again. But we cannot continue to just waste time.

Mr. President, I ask unanimous consent that the order be reversed and that the appropriation bill be brought up now.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4440) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1980, and for other purposes.

The Senate proceeded to consider the bills which had been reported from the Committee on Appropriations with amendments.

The PRESIDING OFFICER. Debate on this bill is limited to 2 hours, to be equally divided and controlled between the Senator from Indiana (Mr. BAYH) and the Senator from Idaho (Mr. MCCLURE), with 30 minutes on any amendment, and with 20 minutes on any debatable motion, appeal, or point of order.

Mr. BAYH addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Mr. President, let me very quickly summarize the measure that is before us for the consideration of our colleagues.

Mr. President, the Transportation

Subcommittee held extensive hearings over a period of several months on the fiscal 1980 budget of the Department of Transportation and the related agencies which fall under the subcommittee's jurisdiction. I want to express my appreciation to the members of the subcommittee for their active participation throughout the hearings and markup of this bill.

We have an outstanding committee. They are all hard workers. I appreciate the effort they have made to get this where we are right now.

I especially want to thank the ranking Republican member of the subcommittee (Mr. McClure)—my friend from Idaho—for his very diligent and careful attention on this bill. He made several improvements in the bill and report during our subcommittee markup session. I also want to thank the staff, Jim English, Tim Leeth, Craig Potter, and Nancy Lee, for the many hours of hard work they put forth in preparing the necessary materials for use in the hearings and markups.

Mr. President, I would like to point out that I am looking forward to the opportunity of working with our new Secretary of Transportation. I had an exceptionally good working relationship with his predecessor, Brock Adams, who had been a previous colleague in the Congress. We did not always agree on everything, but we worked out almost all problems to the very best of our ability in a spirit of amicable cooperation.

I had the opportunity to know the new Secretary, Mr. Neil Goldschmidt, shortly after he had been elected to the city council in Portland. I have had a chance to visit with him since he arrived in Washington.

I am looking forward to having the chance to develop the same kind of relationship with Secretary Goldschmidt that I did with Secretary Adams.

Mr. President, this is a good bill. We have carefully reviewed the program needs of each of the agencies and have increased some programs where we felt there were pressing national problems. We have cut back on other programs where we felt that adequate programs could be carried out with less funding. There are frankly some programs for which, in other years, under other circumstances, we would have recommended more funding. But, we have attempted to keep this bill near the President's budget and consistent with the second concurrent budget resolution of the Senate. We have succeeded in doing that. I want to thank my colleagues on the committee for helping us accomplish this goal. I want to point out that the chairman of the Appropriations Committee (Mr. Magnuson) was most helpful in our full committee markup in holding this bill to the level recommended by the subcommittee. Senator Magnuson is one of the most knowledgeable members of the Senate in transportation issues and I greatly appreciated his counsel on the bill.

I also wish to point out that the Budget Committee, under the leadership of Senators Muskie and Bellmon, was also helpful to our efforts by recognizing the changing transportation needs in their own markup of the second budget resolution. They made the necessary increases above what the first resolution had allowed, and we have used that increase to address the critical needs of rail and public transportation.

Mr. President, the subcommittee considered budget estimates totaling $9.99 billion in new budget authority and $9.29 billion in liquidating cash. The committee's recommendations total $9.65 billion in new budget authority and $9.17 billion in liquidating cash. That puts us $332 million below the budget in new budget authority and $115 million under the President's request for liquidating cash.

Mr. President, the committee report which accompanies the bill contains a summary of major recommendations on pages one through six so I will not repeat them at this time.

First. The appropriation of $1,042,585,000 for the operating expenses of the Coast Guard;

Second. The appropriation of $2,086,770,000 for the operations of the FAA plus an additional $5,000,000 by transfer;

Third. General provisions providing for obligations of not to exceed $640,000,000 for grants-in-aid for airports;

Fourth. The appropriation of $293,000,000 for the facilities and equipment activity of the FAA;

Fifth. General provisions providing for aircraft loan guarantees during fiscal year 1980 of $800,000,000;

Sixth. A general provision providing for obligations of not to exceed $8,500,000,000 for Federal-aid highways;

Seventh. An appropriation of $35,000,000 over the budget for safer off system roads;

Eighth. General provisions providing for obligations of not to exceed $175,000,000 for highway-related safety grants and State and community highway safety grants;

Ninth. An appropriation of $20,000,000 providing a separate enforcement program for the 55-mile-per-hour national speed limit;

Tenth. The appropriation of $899,700,000 for Amtrak;

Eleventh. The appropriation of $381,000,000 for the Northeast corridor improvement project;

Twelfth. The appropriation of $550,000,000 for the purchase of securities of the Consolidated Rail Corporation;

Thirteenth. The appropriation of $150,000,000 for rail rehabilitation and improvement financing funds;

Fourteenth. The appropriation of $1,350,000,000 for the urban discretionary grant program of the Urban Mass Transportation Administration; and

Fifteenth. Approval of $11,493,000 by transfer to establish the Office of the Inspector General within the DOT.

OFFICE OF THE SECRETARY OF TRANSPORTATION

For the Office of the Secretary of Transportation, we recommend $34,768,000 and 712 positions, the same as the House allowance. Also, we have included $9,075,000 in the bill for the transportation planning, research, and development programs conducted by the Office of the Secretary.

COAST GUARD

For the Coast Guard, the bill contains appropriations totaling $1,633,176,782. Of this amount, $1,042,585,000 is for operating expenses of the Coast Guard. We have included additional personnel above the budgeted level for the following programs: Search and rescue readiness—139 billets; vessel maintenance—190 billets; personnel to carry out title II of the Outer Continental Shelf Lands Act Amendments of 1978—60 billets; afloat training safety—74 additional billets; and personnel to reduce backlog of vessel plan reviews—8 positions.

For the acquisition, construction, and improvements activities of the Coast Guard, we recommend an appropriation of $290,161,000. This amount is slightly over the budget for items which the committee feels are critically important. The increases include $750,000 for improvements to the cutter *Eagle*. The tragedy involving the cutter *Cuyahoga* caused the Coast Guard to inspect their other vessels and they found safety deficiencies in the *Eagle*. This increase will correct those deficiencies. Also included are $350,000 for New York's vessel traffic service; $1,000,000 for minor construction projects; $2,000,000 to complete the procurement of seven aids-to-navigation boats, and $1,800,000 to improve the reliability of aids to navigation in the Delaware Bay and River. We have included the full $6,645,000 requested for an MRS aircraft simulator, provided that the Coast Guard follow procurement policy guidelines in OMB circular A-76.

For alteration of bridges, retired pay, reserve training, research, and the Offshore Oil Pollution Compensation Fund, we have recommended the full budget requests. Also, we have provided $10 million additional funding for the oil pollution fund to enable the Coast Guard to meet its cleanup responsibilities in the navigable waters of the U.S. adjoining shorelines.

FEDERAL HIGHWAY ADMINISTRATION

For the Federal Highway Administration, we recommend appropriations for various programs totaling $129,950,000. Included in this amount is $35,000,000 for the safer off-system roads program. We have included a limitation on Federal-aid highways of $8.5 billion for fiscal 1980. This is the same as the budget request and $500 million below the House level. We have been assured by the FHWA that this level will be adequate to fully fund the programs that are included in this account.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

For the NHTSA, we have included $86,170,000 in the bill for operations and research. This amount will enable the agency to continue its very important work relative to making our Nation's automobiles as safe and fuel efficient as possible. We have included an additional $1.5 million to accelerate the biomechanics program in order to enable NHTSA to develop injury criteria and advanced child and adult dummies. This should insure that automatic restraint systems will perform well in a variety of situations in time for the standard's implementation.

FEDERAL AVIATION ADMINISTRATION

For the programs of the Federal Aviation Administration, the bill includes appropriations totaling $2,517,520,000. Of this amount, $2,091,770,000 will fund the FAA's operations activities. The committee recommends 54,558 positions, including 24,329 air traffic control personnel for centers and towers, including 129 additional positions for reducing the amount of overtime required of ATC personnel at air route traffic control centers and towers; 5,060 personnel for flight service stations, and 13,720 positions for systems maintenance.

For facilities and equipment, the bill includes $293 million for such necessary work at air traffic control centers, airport control facilities, flight service stations, and air navigation facilities.

For airport grants-in-aid, we have provided for obligations of not to exceed $640 million, of which $30 million is for discretionary grants. Finally, we have placed a limit on the aircraft loan guarantee program authorized by Public Law 95–504, of $800 million for fiscal 1980. Of this amount, $150 million shall be made available for commuter airlines, with the balance to be made available for other qualifying carriers.

We have included the full $175 million requested obligation ceiling for State and community highway safety grants. This amount will enable the States to continue their efforts in promoting highway safety through grants-in-aid.

FEDERAL RAILROAD ADMINISTRATION

For the programs of the FRA, the bill includes appropriations totaling $1,621,671,000. Within this amount, $28,000,000 is for the railroad safety program. This is an increase of $2,060,000, over the budget and includes 10 additional field inspection personnel. For Amtrak, we recommend $899.7 million. This is the full authorization level for operations, capital, 403(b) service and labor protection.

For the Northeast Corridor improvement program, we have included $381 million, which is $100 million below the budget. We feel this amount plus carryover funds will enable FRA to carry out its full fiscal 1980 program. We are concerned with the inadequacies of this program to date and are hopeful that the problems cited in a GAO report to the committee have been addressed and resolved.

For rail service assistance, we have included $92,198,000 in the bill. Of this amount, $75.000.000 is for assistance grants to the States under the Local Rail Service Assistance Act of 1978. For rail R. &. D. we recommend $56,750,000.

For rail rehabilitation and improvement grants, we have included $150 million in the bill. Of that amount, $50 million is provided to implement the provisions of Public Law 95–620, which will be made available for the rehabilitation of railroads to haul coal. These funds, plus $103,000,000 in carryovers from previous years' appropriations will provide adequate resources to meet the demands of this program.

URBAN MASS TRANSPORTATION ADMINISTRATION

For the programs of the Urban Mass Transportation Administration, the bill includes appropriations totaling $2,118,335,000. Additionally, we have provided for $775,000,000 in contract authority funds which will also be available during fiscal 1980 for urban formula grants. Of the amount provided, $1,350,000,000 is for UMTA's discretionary capital grant program. That is an increase of $60,000,000 over the budget. We have asked UMTA to provide a report to the committee by December 31, 1979, estimating the costs by year, for fiscal years 1981 to 1990, of replacing overage rail rolling stock; of rehabilitating and modernizing existing rail systems to a level consistent with current standards of safety, reliability, and esthetics for new rail systems; of replacing buses so as to achieve an average national fleet of 7.5 years, with no buses more than 15 years old, and of rehabilitating or constructing appropriate modern support facilities to assure adequate maintenance of those buses. The report will compare these figures with existing authorizations in order to determine what additional resources will be necessary to achieve the goal of a modernized and fully functional national public transportation system. The committee does not feel that it is sufficient in light of the restricted availability of petroleum now and in the future, to merely maintain the status quo.

For UMTA's research and development, we have provided $71,600,000. Of this amount, $5,500,000 is to be used to initiate a program that will address the inability of the Nation's transit systems to operate at peak efficiency during winter months. Each winter, roughly one-third of the Nation suffers from interruptions, limited and cancelled operations of such systems due to the adverse effects of ice and snow on transit vehicles and guideways. We are hopeful that this program will bring new technology and techniques to bear on these problems and that substantial improvements can be made to such transit systems in a cost-effective manner. We urge UMTA to initiate this program as quickly as possible so that work can begin this winter season.

For urban formula grants, we have provided the full budget request for tiers I and II and a total of $90 million for tier III grants, which is $15 million above the budget.

For rural and small urban grants, the bill provides $85 million, which is $10 million above the budget.

Finally, for interstate transfer grants, we have provided a direct appropriation of $700 million while rescinding the remaining contract authority for this program. This amount is the same as the budgeted level and will fully meet the needs of those cities which qualify for such funds.

For the Research and Special Programs Directorate, we have provided $27,296,000, including $1,400,000 to continue the work of the Automotive Transportation Center at Purdue University.

For the new Office of the Inspector General, we have provided the full amount requested—$11,493,000 in transfer funds, plus an additional $700,000 and 35 positions.

RELATED AGENCIES

For the National Transportation Safety Board the Civil Aeronautics Board, the Panama Canal Commission, and the Washington Metropolitan Area Transit Authority, we have provided the full budget requests.

For the Interstate Commerce Commission, we have appropriated $78,599,000 for salaries and expenses, as well as $100 million for directed rail service payments to railroads which ICC directs to continue essential rail service over railroads that have ceased operations. These funds are necessary for continued operations of service over the Rock Island Railroad and possibly the Milwaukee.

For the U.S. Railway Association, we have provided the full request for administrative expenses, plus the full $550 million requested for purchase of ConRail securities.

Finally, we have included $1,500,000 for the National Alcohol Fuels Commission and $66,157 for the National Transportation Policy Study Commission.

Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill as thus amended be regarded, for the purpose of amendment, as original text, provided that no point of order shall be considered to have been waived if the request is agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments were agreed to en bloc are as follows:

On page 3, line 11, beginning with "Provided" strike through and including line 13.

On page 3, line 19, strike "$286,011,000" and insert "$290,161,000";

On page 3, line 22, strike "$6,900,000" and insert "$14,900,000";

On page 5, beginning with line 8, insert the following:

POLLUTION FUND

For carrying out the provisions of subsections (c), (d), (i), and (l) of section 311 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1321, $10,000,000 to remain available until expended.

On page 5, line 22, strike "$2,085,520,000" and insert "$2,086,770,000";

On page 7, line 14, strike "$290,800,000" and insert "$293,000,000";

On page 10, line 9, beginning with "for" strike through and including the semicolon in line 11;

On page 10, line 19, strike "$130,000,000" and insert "$70,000,000";

On page 11, line 5, strike "$30,000,000" and insert "$15,000,000";

On page 11, line 11, strike "$188,200,000" and insert "$189,000,000";

On page 13, line 22, beginning with "necessary" strike through and including the word "for" in line 24;

On page 14, line 1, after "148," insert "$25,800,000,";

On page 14, line 7, strike "$2,000,000" and insert "$9,650,000";

On page 14, line 8, strike "1981" and insert "1982";

On page 15, beginning with line 1, insert the following:

ALASKA HIGHWAY

For necessary expenses to carry out the provisions of section 218 of title 23, United States Code, $5,000,000, to remain available until expended.

On page 15, line 11, strike "$80,286,000" and insert "$86,170,000";

On page 15, line 12, strike "$25,174,000" and insert "$26,652,000";

On page 15, line 14, strike "$34,617,000" and insert "$39,161,000";

On page 15, line 15, strike "$8,883,000" and insert "$9,396,000";

On page 16, line 11, strike "$54,750,000" and insert "$56,750,000";

On page 17, line 4, strike "$481,000,000" and insert "$381,000,000";

On page 17, line 15, strike "$812,300,000" and insert "$899,700,000";

On page 17, line 16, strike "$574,300,000" and insert "$630,900,000";

On page 17, line 22, strike "$20,000,000" and insert "$23,800,000";

On page 18, line 1, beginning with "$176,000,000" strike through and including the word "pursuant" in line 3, and insert in lieu thereof "$233,000,000 shall be available for capital improvements, and for labor protection costs pursuant";

On page 18, line 5, after the comma, insert "of which not to exceed $12,000,000 shall be used for capital improvements in connection with the Indianapolis-Chicago service,";

On page 19, line 12, strike "$2,000,000" and insert "$6,500,000";

On page 19, line 22, after "amended" insert "and section 803 of Public Law 95–620";

On page 19, line 24, strike "$100,000,000" and insert "$150,000,000";

On page 20, line 6, strike "$600,000,000" and insert "$700,000,000";

On page 20, line 12, strike "$600,000,000" and insert "$700,000,000";

On page 20, line 22, strike "$19,260,000" and insert "$19,760,000";

On page 21, line 6, strike "$63,500,000" and insert "$71,600,000";

On page 21, line 7, strike "$61,000,000" and insert "$69,100,000";

On page 21, line 22, after "1973" insert a colon and the following:

Provided further, That grants awarded for contracts for the acquisition of rolling stock, including buses, which will result in the expenditure of Federal financial assistance, shall only be awarded based on consideration of performance, standardization, life-cycle costs, and other factors the Secretary may deem relevant, in addition to the consideration of initial capital costs. Where necessary, the Secretary shall assist grantees in making such evaluations.

On page 22, line 15, strike "$650,000,000" and insert "$600,000,000";

On page 22, line 16, after "expended" insert a colon and the following:

Provided further, That grants awarded for contracts for the acquisition of rolling stock, included buses, which will result in the expenditure of Federal financial assistance, shall only be awarded based on consideration of performance, standardization, life-cycle costs, and other factors the Secretary may deem relevant, in addition to the consideration of initial capital costs. Where necessary, the Secretary shall assist grantees in making such evaluations.

On page 23, beginning with line 15, strike through and including line 21;

On page 24, line 1, strike "and for fiscal year 1981, $425,000,000, to remain available until expended;";

On page 25, line 11, strike "$24,396,000" and insert "$27,296,000";

On page 25, line 12, strike "$9,590,000" and insert "$12,490,000";

On page 25, beginning with line 18, insert the following:

OFFICE OF THE INSPECTOR GENERAL

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of the Inspector General, $700,000 together with $11,493,000 to be derived by transfer from "Salaries and Expenses", Office of the Secretary, $3,868,000, "Operations", Federal Aviation Administration, $3,225,000, "Operations and Research", National Highway Traffic Safety Administration, $630,000, of which $430,000 shall be derived from the Highway Trust Fund, "Rail Service Assistance", Federal Railroad Administration, $1,619,000, "Administrative Expenses", Urban Mass Transportation Administration, $2,086,000, and "Research and Special Programs", Research and Special Programs Administration, $65,000, together with $6,960,000 derived from funds available under 23 U.S.C. 104(a) for payment of obligations.

On page 26, line 20, strike "$16,730,000" and insert "$16,835,000";

On page 27, line 16, strike "$76,099,000" and insert "$78,599,000, of which $1,200,000 shall be available for necessary expenses of the Office of Rail Public Counsel";

On page 27, line 25, strike "$36,000,000" and insert "$100,000,000";

On page 28, line 5; beginning with the colon, strike through and including "11125" in line 8;

On page 28, beginning with line 10, strike through and including page 29, line 24, and insert in lieu thereof the following:

OPERATING EXPENSES

For operating expenses necessary for the Panama Canal Commission, including hire of passenger motor vehicles and aircraft; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); official reception and representation expense; operation of guide services; residence for the Administrator, contingencies of the Administrator, and to employ services as authorized by law (5 U.S.C. 3109); maintaining and altering facilities of other United States Government agencies in the Republic of Panama and facilities of the Government of the Republic of Panama for Panama Canal Commission use; and for payment of liabilities of the Panama Canal Company and Canal Zone Government that were pending on September 30, 1979, or that may accrue thereafter, including accounts payable for capital projects, $431,008,000. There may be credited to this appropriation, funds received from the Panama Canal Commission's capital outlay account for expenses incurred for supplies and services provided for capital projects and for payment to other United States Government agencies funds received from officers and employees of the Commission, and/or commercial insurors of Commission employees, for expenditures made for services provided to Commission employees and their dependents by such other agencies.

CAPITAL OUTLAY

For acquisition, construction, and replacement of improvements, facilities, structures, and equipment required by the Panama Canal Commission, including the purchase of not to exceed forty-eight passenger motor vehicles of which twenty-eight are for replacement only; to employ services authorized by law (5 U.S.C. 3109) for payment of liabilities of the Panama Canal Company and Canal Zone Government that were pending on September 30, 1979 or that may accrue thereafter; to improve facilities of other United States Government agencies in the Republic of Panama and facilities of the Government of the Republic of Panama for Panama Canal Commission use, $40,419,000, to remain available until expended.

PANAMA CANAL EMERGENCY FUND

For expenses necessary to defray emergency expenditures and to insure continuous, efficient and safe operation of the Panama Canal, where funds appropriated for the operation and maintenance of the Canal prove insufficient for such purposes, $40,000,000 to remain available until expended.

On page 32, line 7, strike "$100,000,000" and insert "$150,000,000";

On page 32, line 19, beginning with the colon, strike through and including "1979" in line 4 on page 33";

On page 33, line 10, beginning with the comma, strike through and including the quotation marks after "Projects" in line 12;

On page 33, beginning with line 16, insert the following:

NATIONAL ALCOHOL FUELS COMMISSION

SALARIES AND EXPENSES

For necessary administrative expenses of the National Alcohol Fuels Commission, $1,500,000, to remain available until expended.

NATIONAL TRANSPORTATION POLICY STUDY COMMISSION

SALARIES AND EXPENSES

For necessary expenses to enable the National Transportation Policy Study Commission to carry out its functions under section 154 of the Federal-Aid Highway Act of 1976, $66,157, to remain available until expended.

On page 34, line 13, strike "$620,000,000" and insert "$640,000,000";

On page 34, line 15, after "(b)" insert a comma and "of which $30,000,000 shall be added to the discretionary fund available for distribution pursuant to 49 U.S.C. 1715 (a)(3)(B) and (a)(3)(C)";

On page 38, line 1, strike "$9,000,000" and insert "$8,500,000";

On page 38, line 11, after "1979" insert a colon and the following:

Provided further, That notwithstanding any other provisions of law, the Secretary of Transportation shall, not later than sixty days after date of enactment of this Act, designate as a route on the National System of Interstate and Defense Highways six miles extending I–164 southward to South Lane Drive to tie into U.S. 41 South: *Provided further*, For necessary expenses of the functional replacement of publicly-owned facilities located within the proposed right-of-way of Interstate Route 170 in Baltimore, Maryland, $2,000,000, out of the Highway Trust Fund, to remain available until expended: *Provided*, That the Secretary of Transportation is authorized and directed to proceed with the obligation of the necessary funds without regard to the provisions of the National Environmental Policy Act of 1969, as amended: *Provided further*, That actual construction of a highway on the right-of-way with respect to which said funds are expended shall be commenced within a period not exceeding ten years following the date of enactment of this Act.

On page 40, line 9, strike "$500,000,000" and insert "$800,000,000";

On page 40, line 9, after "amount" insert a colon and the following:

Provided, however, That the funds in this Act shall be available for the guarantee of loans for the refinancing of aircraft purchased after January 20, 1979, if an application for an aircraft purchase loan guarantee covering such aircraft was filed prior to that date but after October 24, 1978.

UP AMENDMENT NO. 706

(Purpose: Technical Amendment)

Mr. BAYH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH) proposes an unprinted amendment numbered 706.

Mr. BAYH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 10, line 8, after "section 131" strike "(j)".

Mr. BAYH. Mr. President, this is a technical change in the committee bill which strikes a portion of the bill language.

According to the Federal Highway Administration, this provision, as reported, limits the use of funds for the highway beautification program in a way not intended by the committee. This amendment will correct that problem.

Mr. McCLURE. Mr. President, I concur in the adoption of the amendment, and I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 707

(Purpose: To insure that Federal funds for terminal development at airports are used only for projects that are directly related to the movement of passengers and baggage)

Mr. BAYH. Mr. President, I have another amendment, which I offer on behalf of the distinguished Senator from Nevada (Mr. CANNON) and myself.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH), for Mr. CANNON and himself, proposes an unprinted amendment numbered 707.

Mr. BAYH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 41 at line 11 immediately after section 318 insert the following new section:

SEC. 319. None of the funds in this Act shall be available for the project costs of terminal development under the Airport and Airway Development Act of 1970 unless such project cost is directly related to the movement of passengers and baggage in air commerce within the boundaries of an airport.

Mr. BAYH. Mr. President, as I said a moment ago, this amendment is offered on behalf of the distinguished Senator from Nevada (Mr. CANNON) and myself.

This amendment states that airport development grants should not be used to purchase works of art for airport terminals. The Commerce Committee did not intend these funds to be used in this fashion. For that reason, the amendment seems to be appropriate to the Senator from Indiana.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement by Senator CANNON. As the chairman of the Commerce Committee, he is familiar with the legislative intent of his committee and Congress when that bill was passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR CANNON

In the past year, the FAA has taken a clearly irresponsible attitude in awarding ADAP grants by agreeing to participate in the funding of a statue for the new Atlanta airport terminal.

I am certainly not against artwork for airports when the local community wishes to fund a statue, but the ADAP funds are provided for the purpose of improving the safety and capacity of the airport system. Last year, the FAA testified that over $600 million in high-priority, safety-related ADAP projects were to go unfunded. Yet they find enough money for airport statues. This Administration has taken creative interpretation to new heights in agreeing to such a grant under the ADAP law, and the following amendment will clarify the fact that terminal development project costs must be directly related to the movement of passengers and baggage. In other words, no funding of airport statues or artwork from the Trust Fund while safety related projects go unfunded.

Mr. McCLURE. Mr. President, I concur in the adoption of the amendment, and yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MAGNUSON. Mr. President, the committee has appropriated $86 million for the section 18 program. This program was created during the last Congress to meet the transporation needs of small urban and rural communities.

The committee has increased the administration's budget request for this program by $10 million in order to provide funding for intercity bus terminals and operating subsidies for intercity bus service routes. This committee has long recognized the vital role of the intercity bus industry to the rural transporation network. The intercity bus provides service to over 15,000 U.S. communities, 14,000 of which have no other form of public transportation.

Mr. BAYH. Senator, I have been assured from DOT that intercity bus operations are eligible for section 18 funds. Given this country's energy problems and the fact that over 1,700 communities have lost scheduled bus service over the last 10 years, I want to make it clear that it is our intent that intercity bus operators are in fact eligible for section 18 funds.

Mr. MAGNUSON. The committee appropriated these additional funds with the understanding from DOT that private intercity bus operators are clearly eligible for section 18 funds and that programs involving intercity bus operations can be adequately taken care of in the section 18 program. If the record next year indicates that these funds are not adequate to meet the needs of rural and small communities to maintain and improve rural bus service, the committee will consider the separate funding of section 22.

The committee has also appropriated additional funds to the section 3 discretionary grant program. These funds are to be used for the development of intermodal terminal projects involving intercity bus operators. As with the section 18 program, the committee has been assured by the Department of Transportation that these terminal projects involving intercity bus operators can be taken care of through the section 3 program. If this does not prove to be the case, the committee will consider separate funding of section 21.

On another matter, although it does not affect the timely introduction of automatic restraint systems in the passenger car fleet, I understand that the bill does contain language which seeks to assure the public of the safety reliability of these life-saving systems.

Mr. BAYH. Yes. Although the provisions of the bill do not affect the standard, nor do they interfere with the manufacturers' plans to produce cars with automatic restraints, it does provide for further efforts to improve safety on the highways. We were concerned that this life-saving standard not be delayed, and that the standard be implemented expeditiously as the Department of Transportation directed in 1977. To that end, and to provide further assurance to the public of the suitability of automatic restraint systems, the committee has recommended an increase in the Department's appropriation of $1.5 million so that any issues concerning the performance of these systems can be laid to rest in short order.

Mr. MAGNUSON. Our interest is to assure timely implementation of the standard by the motor vehicle industry and its suppliers, in accordance with the Senate vote in 1977 where we endorsed the standard by a 2-to-1 margin. Indeed the Department is encouraged to expend funds and engage in activities on related research and development projects including review of manufacturers' preparations for mass production, monitoring the performance of passive restraint equipped vehicles already in production or on the road, continued testing of restraint systems, public information and educational activities, accident investigation and analysis, research into biomechanics of trauma, and consumer acceptance studies.

Mr. BAYH. I think that we agree that it is important to do something about the more than 50,000 people who continue to be killed, and the hundreds of thousands who are seriously injured on our highways each year. And since all of the many programs of the NHTSA, the National Safety Council, and others have not raised belt usage above its current 14 percent, the need for improved occupant crash protection is clear.

Mr. MAGNUSON. Since automobile crashes currently cost our society nearly $50 billion per year, the sooner we get automatic restraints into cars, the sooner we can reduce this inflation-feeding loss. If all cars on the road had automatic crash protection, we could reduce that amount by at least $5 billion and the public could see insurance reductions of $30 to $50 per year.

Mr. BAYH. Yet the cost of automatic restraints need not be excessive. Last fall, Mr. E. M. Estes, president of General Motors, estimated that automatic restraints would add an average of less than $115 to the cost of a new car. When you see how much people are willing to pay for other comfort and convenience options, like tilt steering wheels or automatic door locks, I would expect automatic restraints to be very popular.

Mr. McCLURE. Mr. President, the colloquy has to do with money that has been appropriated for research and development on automatic crash restraints in automobiles, and I think it is clear both from the committee action and the report of the committee and the colloquy between Senator MAGNUSON and Senator BAYH that we are now providing money for research and development, but we are not at this time doing any more than providing research and development funds pursuant to existing statute which will allow us to go forward with research and development. We are not in any way by this action taking any more or less action than that which is already authorized by statute and it does not commit us to any course of action after the R. & D. is done except that which is already provided for in existing statutes.

Mr. MAGNUSON. Mr. President, the funds in the bill for redeemable preference share financing and loan guarantee financing under title V of the Railroad Revitalization and Regulatory Act of 1976 will be essential to the rehabilitation and improvement of marginal railroads such as the Milwaukee and the Rock Island.

We want to be sure that Federal assistance under title V is limited to rehabilitation and improvement of existing rail facilities and can only be used for limited new construction as part of a rehabilitation and improvement project, and that it will not be used for projects not directly related to rehabilitation and improvement of the existing railroad system.

Mr. BAYH. I fully agree with the chairman.

Mr. KENNEDY. A point of clarification. The report of the Senate Appropriations Committee which accompanies this bill urges that the Interstate Commerce Commission not effect any "permanent" changes in Federal regulatory policies while the entire issue of motor carrier regulatory reform is under active consideration by the Congress. It is my understanding that Senator CANNON, chairman of the Senate Commerce Committee, and Congressman JOHNSON, chairman of the House Public Works Committee, have announced their intention to mark up legislation in their respective committees which will address these issues during the early months of next year, and that they will have a bill to the President by June 1, 1980.

Am I correct in interpreting this language to mean that the committee intends for the ICC to assist the Congress by continuing to consider and to develop administrative records on the range of regulatory issues currently affecting motor carriage? The Commission should delay, however, final implementation of any decisions which would preclude effective congressional consideration of the policies underlying those decisions?

Am I also correct in my understanding that, should such legislation fail to be enacted, the committee would, at that time, expect the ICC to implement its regulatory policies consistent with the mandate of the 1935 Interstate Commerce Act?

Mr. BAYH. The Senator is correct. I would hope, however, that the Commission would not make effective any changes in motor carrier regulation until such time as the appropriate authorizing committees of the House and Senate have had a chance to report legislation. If legislation is not reported, or if such legislation fails to be enacted, the Commission would then—of necessity—proceed under the mandate of the original statute.

Mr. EAGLETON. I congratulate the distinguished chairman of our subcommittee for his superb leadership in bringing to the floor a bill which is responsive to our transportation needs, while holding the line on new spending. I would also like to make note of the excellent work done by the subcommittee staff director, Jim English, and his able assistant, Tim Leeth.

I would want to raise with the floor manager a matter which came to my attention only after the markup of the bill. That is, a Coast Guard proposal to operate a hovercraft along the reaches of the Mississippi River between St. Louis and Cairo, Ill., to help prevent ice from clogging the river channels. This would be an experimental program, but if successful, could yield important benefits. First, the hovercraft could prevent formation of ice gorges which result in annual flooding of low-lying bank areas. Second, if successful, the operation of the hovercraft would extend the river navigation season, permitting uninterrupted transportation of energy products through the winter season, and also allow more of our abundant grain harvest to move by barge to export facilities.

The overall cost of this program would be an estimated $400,000 in fiscal year 1980 from the Coast Guard R.D.T. & E. account.

Given our budget situation, I will not propose any additional funding for this purpose. But, I would ask the floor manager whether he would consider joining me in a letter to the Coast Guard requesting that it find the necessary funds within its overall budget to go forward with this experimental program?

Mr. BAYH. The staff has been briefed on this program, and it is one that I think would pay handsome dividends, if successful. So, I would be very pleased to join with the Senator from Missouri in a letter urging the Coast Guard to proceed with the project using such funds as are available to it under this bill. I would go a step further to suggest the possibility of earmarked funding for the project in any supplemental appropriations request the Coast Guard should make. I can assure the Senator that this would have my support.

Mr. EAGLETON. I thank the distinguished chairman and, again, want to express my admiration for his skilled leadership in bringing this responsible bill to the floor.

Mr. HEINZ. Mr. President, the National Rail Passenger Corporation, Amtrak, will receive millions of tax dollars pursuant to this and future appropriations bills. This substantial Government assistance will be used both for operating expenses and capital improvements, including the purchase of rolling stock and power train equipment.

It is sound public policy to make this investment in a strong national rail passenger system. Such a system is an important element in our national transportation network, providing Americans with a fuel efficient, convenient mode of transportation.

It is also sound public policy, and this is the particular point that I wish to emphasize, to expend the tax dollars of American citizens, in the present case, the Federal assistance provided to Amtrak, on goods made here in the United States, rather than overseas. In fact, the Library of Congress has estimated that for every $1,000 spent to procure domestic rather than foreign goods, $552 in additional Federal, State, and local tax revenues are generated. Additionally, procuring goods domestically eliminates the loss of jobs attendant to foreign purchases and, thus, saves additional Government expenditures on the Federal, State, and local levels.

This sound public policy has been accepted by Congress through its adoption of the "Buy American" provisions of the statutes governing Amtrak procurement. It is important that we clarify clearly and unequivocally the intent of Congress that these "Buy American" provisions be strictly enforced.

The public policy considerations underlying these "Buy American" provisions are as valid today, if not more so, than when these provisions were adopted. It is important that we reemphasize the congressional support for the integrity of the "Buy American" provisions because the Amtrak Reorganization Act of 1979 added to the Secretary of Transportation's exemption authority, providing that the Secretary may exempt a particular purchase from these provisions, if the purchase cannot be made within a "reasonable time." While we should not allow the national rail passenger system to be undermined by the inability of Amtrak to purchase needed equipment in the United States within a reasonable time, it is important that this new authority not be allowed to undermine the "Buy American" provisions. The provision must be construed by the Secretary of Transportation with a view to the intent of Congress that only exceptional circumstances will justify expending American tax dollars on foreign goods. When this new exemption authority was added to the Amtrak legislation in the House, Congressman MADIGAN, the author of the amendment, noted that Amtrak, if it placed an order for equipment tomorrow, would not be able to receive the equipment for 2 years. That standard, whether Amtrak can domestically purchase needed equipment within 2 years, is a most appropriate standard for what is a "reasonable time" in terms of the expanded authority recently adopted by Congress. It reflects a balance between the sound public policy underlying the "Buy American" provisions and the essentiality of a sound national rail transportation system.

My distinguished colleague from Indiana, who as the chairman of the Subcommittee on Transportation of the Appropriations Committee, the floor manager of this bill, has taken an active interest in the "Buy American" provision of this and other statutes. I seek his concurrence in this expression of the continued congressional support for the integrity and importance of the "Buy American" provisions.

Mr. BAYH. It is without question the intent of the Appropriations Committee that the integrity and breadth of the "Buy American" provisions applicable to Amtrak be respected. The committee strongly believes that U.S. tax revenues should be returned to the U.S. economy by procuring goods domestically.

Exceptional circumstances can justify exemptions from the "Buy American" provisions applicable to Amtrak if the national interest, specifically, the needs of the national rail transportation system, can only be met through an exemption. However, such exemptions must be narrowly construed, including the expanded exemption authority recently adopted by Congress.

The purpose of this new authority, allowing Amtrak to purchase foreign products if they cannot purchase them domestically within a "reasonable time," will be served, while at the same time respecting the public policy considerations behind the "Buy American" provisions, if the standard for the determination of what is a "reasonable time" is whether the product can be purchased domestically within 2 years.

Mr. McCLURE. Mr. President, the colloquy deals with the "Buy American" provisions and the application of the Madigan amendment in which it says, in effect, that 2 years is an unreasonable period of time and, therefore, the "Buy American" provision would be waived.

The Heinz colloquy is intended to say that anything less than 2 years is a reasonable period of time and, therefore, does not waive the "Buy American" provisions.

Mr. President, I think it ought to be understood that the 2-year provision in the Madigan amendment and the effect of the Heinz-Bayh colloquy on that subject does not bind us in a straitjacket so that anything that is more than 2 years is automatically unreasonable and anything less than 2 years is automatically reasonable. There ought to be some flexibility in the application of that term, and I understand the colloquy between the distinguished chairman of the subcommittee and the Senator from Pennsylvania is taken in the light of trying to provide some flexibility in the application of the Madigan amendment, and it should be so viewed.

Mr. HEINZ. It is my understanding that of the $290,161,000 the committee recommends for the acquisition, construction, and improvement function of the U.S. Coast Guard, $1.8 million is intended for use in improving the aids to navigation on the Delaware Bay and River. Furthermore, I understand that the Coast Guard may use these funds to construct additional ice-resistant structures, acquire additional ice buoys, and to upgrade and repair range lights and lighthouses. Is my understanding correct?

Mr. BAYH. Yes. As page 10 of the committee report indicates, the committee has included an additional $1.8 million which it intends that the Coast Guard use to improve the reliability of the aids to navigation in the Delaware Bay and River. As the report states:

> These improvements might include, but would not be limited to, construction of additional ice-resistant structures, additional ice buoys, and up-grading and repair of range lights and lighthouses.

Mr. HEINZ. I thank the Senator. I appreciate the committee's efforts to insure that the Coast Guard has the funds to make the needed improvements in the aids to navigation system on the Delaware Bay and River. During the past two winters, damage to the aids to navigation system caused by ice conditions has hampered, and during certain periods halted, shipping on the Delaware Bay and River. The serious nature of this situation was demonstrated last winter when shipments of precious oil cargos were interrupted by dangerous navigation conditions.

After a tour of the port in February, I met with representatives from the port community and the Coast Guard to discuss improvements in the aids to navigation system. Based on the changes suggested at that meeting, I believe that the committee's action will enable the Coast Guard to make the improvements needed to prevent unnecessary disruptions due to damage to the aids to navigation system in the future.

Mr. CULVER. Mr. President, I would like to ask the distinguished chairman of the subcommittee (Mr. BAYH) a question concerning the urban initiatives program in the fiscal year 1980 transportation appropriations bill.

The administration budget contained $200 million for joint development projects. This money, however, would have been taken from the capital assistance program, so the Appropriations Committees of both Houses have reduced the funding for the joint development programs to $80 million.

I am concerned that this reduction in funding may adversely impact the proposed development project planned for Cedar Rapids, Iowa. This is an outstanding facility that is part of that city's overall downtown renewal. It combines an intermodal (bus and taxi) terminal with private development of retail and office space, and a 200-unit apartment complex for elderly and handicapped citizens. This measure will reduce private automobile ridership in the central city area, conserve energy, provide badly needed residences for senior citizens and the handicapped, and spur an estimated $30 to $40 million in private investment over the next 10 to 15 years. The intermodal complex has the enthusiastic support of the citizens and officials of Cedar Rapids, and will greatly enhance its downtown environment.

The total cost of the project is $35 million. Private developers have already committed $25 million, and Cedar Rapids and the State of Iowa have committed another $2.1 million. The city has applied to the Urban Mass Transportation Administration (UMTA) for $7.7 million for construction of the transportation terminal. I cannot emphasize too strongly the fact that the Cedar Rapids facility will only become a reality if UMTA grants this money.

With only $80 million available nationwide, I am concerned that the Cedar Rapids project might not receive the money necessary to proceed. This would be a severe loss to that city and, I believe, the administration's urban initiatives program. I understand that the Cedar Rapids proposal is one of the few in the entire Kansas City regional UMTA office that is complete and ready to move forward.

Therefore, I would like to ask the Senator from Indiana, if he has had the opportunity to familiarize himself with this project, and whether he believes the Cedar Rapids proposal is one which should be given high priority and careful consideration by UMTA when awarding UMTA grants this year?

Mr. BAYH. I would say to the Senator from Iowa that the Cedar Rapids project appears to be precisely the kind of proposal we are attempting to encourage. The Senator and Cedar Rapids officials are to be commended for your foresight and dedication to renewal of the central downtown area and the needs of the people of Cedar Rapids, particularly the elderly and handicapped. The intermodal nature of this project makes it particularly timely in view of the need for energy conservation and the need to integrate our transportation system.

The committee has recommended $80 million for such projects in fiscal 1980 and anticipates that that will be adequate to fully fund the fiscal 1980 requirements of these projects.

Mr. CULVER. I also inform the Senator from Indiana that I have been in contact with Cedar Rapids officials, who have indicated that an UMTA award of $4–5 million would enable construction to begin. Therefore, the entire UMTA grant would not have to be awarded in fiscal year 1980.

I again thank the Senator from Indiana for his understanding and leadership. I know that his remarks will be carefully taken into account by UMTA officials as consideration is given to the Cedar Rapids proposal.

Mr. PERCY. I note that there is $650 million in the aircraft loan guarantee program which is not specifically set aside for commuter carriers and has no congressional priorities set within it. In view of the fact that the FAA has taken it upon itself to set priorities which establish service to small communities as the only criterion for apportioning these guarantees, I ask the Senator if it is the subcommittee's intent that this non-set aside portion be so allocated?

Mr. BAYH. No, this was not our intention. The subcommittee feels that there is another class of eligible carrier which is deserving of equal treatment within the non-set-aside portion; namely, those new carriers which provide regional feeder service through one or more satellite or secondary airports in major urban areas. Congress, after all, expressed its intention of encouraging such service, especially by new carriers, in the Airline Deregulation Act, and the FAA should not be drafting its regulations to thwart the will of Congress.

Mr. PERCY. My concern is particularly with the situation at Chicago Midway Airport. As the Senator knows, Congress, several administrations, and the Civil Aeronautics Board have spent years trying to get Midway revitalized in order to relieve the enormous congestion at O'Hare International Airport. We now have a regional feeder airline providing service to Midway Airport, but it almost certainly will be unable to maintain that service without access to loan guarantees. Do I understand the Senator to say that carriers such as this would be given an equal priority within the $650 million non-set-aside portion?

Mr. BAYH. There is no intent to change the original purpose of the loan guarantee program, but it is the sense of the committee that, apart from the specific set-aside of loan guarantees for the use of commuter air carriers, those air carriers certificated for "regional feeder service" by the CAB, which provide service through secondary or satellite airports at one or more major urban areas, shall be accorded equal priority with other eligible air carriers.

Mr. JEPSEN. I have some questions regarding the grants-in-aid section.

Am I correct in understanding that this appropriation bill directs that certain airports in the Nation be given priority funding consideration in the distribution of increased Airport and Airway Development Act discretionary funds?

Mr. BAYH. In the House version of the transportation appropriations bill, 10 airports are listed to receive priority treatment under the Airport and Airway Development Act. Our subcommittee increased the number of airports to 17.

Mr. JEPSEN. Let me clarify my reason for asking about these grants. In my home State of Iowa, the Cedar Rapids Airport is planning a 2-year project which includes a new terminal building and terminal apron area. The project is needed to accommodate an expected doubling of the airport's air traffic by 1990. In fact, a recent study by an independent consulting firm concluded that the present terminal would have to be four times its present size in order to handle the projected air traffic in 1990.

Another important point is that the Cedar Rapids City Council has recognized the need and importance of the new terminal and is prepared to issue $15 million in general obligation bonds to finance the construction of the new building. Besides that, the Cedar Rapids Airport Commission is prepared to finance the construction of 20 percent of the terminal apron, at a cost of $6.1 million. If my information is correct, the commission has already filed a preapplication with the Federal Aviation Administration for ADAP discretionary funding for $4.9 million of the construction costs of their terminal apron over the next 2 years.

Therefore, my question is this—considering the great need for a new terminal and terminal apron area at the Cedar Rapids Airport, would it be the Senator's opinion that this is the type of project which could be considered to receive discretionary funding under the grants-in-aid section of the bill?

Mr. BAYH. I would hope that the needs of the Cedar Rapids Airport are of the sort which would qualify Cedar Rapids for priority treatment for discretionary funding. Certainly the pledge of substantial local funding from the Cedar Rapids City Council is significant as is the expected increase in air traffic.

Though the airports receiving priority consideration have already been named for this year, I will be glad to do what I can to help the Senator in presenting the Cedar Rapids Airport case to the FAA, and, if that fails, I will be ready to assist during the consideration of this issue in next year's Transportation Appropriations bill.

Mr. JEPSEN. Since I am not as familiar with this area as is the Senator from Indiana. Could he tell me how much discretionary funding is available though the FAA?

Mr. BAYH. FAA indicates that in fiscal year 1980 there will be approximately $238 million for that purpose and another $17 million carryover from fiscal year 1979.

Mr. JEPSEN. We all know how important air transport efficiency is to the economy of every State, and particularly to rural States like Iowa where there is no large metropolitan area. Federal funding for the Cedar Rapids Airport would be a wise investment; the money would certainly be put to good use. I know for a fact that the half million people in and around the Cedar Rapids area would be most appreciative, and would benefit greatly from the funding.

I thank the Senator for answering my questions.

Mr. BAYH. Mr. President, I yield to the distinguished Senator from Idaho.

Mr. McCLURE. Mr. President, as ranking minority member of the Transportation Subcommittee, I would like to associate myself with the remarks of the chairman, Senator BAYH. First of all let me express my appreciation and thanks to the distinguished Senator from Indiana for his efforts on behalf of this bill. This period of budgetary restraint has not been easy for any of us and I do not expect it will get any easier very soon. Nevertheless, it has been a real pleasure to work with Senator BAYH and his very able staff.

This is the first time through for me as ranking member of this subcommittee and in many ways, participation in the fiscal activities of this subcommittee have been a learning experience for me and my staff. We have had to learn quickly, but I feel that we have indeed learned a great deal. At the outset, I think we all ought to be constantly mindful that in the next several years in this country we are going to see some astounding changes if we are to cope successfully with the world in which we live. In this connection the ingenuity and resourcefulness that we display in dealing as a nation with our transportation problems will, I predict, be a bellwether of our abilities to cope with other difficulties with which we will be faced. The challenge is great, but the rewards make it well worth making every effort to see that we succeed. I do not mean to digress, but I think it is important to reflect a moment occasionally on the role that these mundane fiscal efforts play in our overall preparedness to deal with future conditions. In a very real sense these nuts and bolts activities, if you will, represent the core of our ability to respond to larger national needs.

Under the circumstances that we have had to deal with in connection with this bill, I must agree with Senator BAYH's observations that this is a good bill. I am particularly impressed with this subcommittee's ability to be responsive to the needs and requests of not only the members of the subcommittee, but of the membership of this body as a whole. It is certainly a credit to the chairman that he has been so responsive to the requests and needs of the many Senators whose interests are represented in one way or another in this bill.

As he has indicated, the bill totals some $9.99 billion in new budget authority with approximately $9.29 billion for liquidation of prior contract authorizations. In the face of some $715.6 million worth of budget amendments not considered by the House, we come to the floor today with total budget authority that is only $237.4 million over the House. It is significant to note that we were able to stay under the President's budget estimate by some $332 million. In addition, the bill as a whole is only $295 million over appropriations for 1979 which represents an increase of 3.1 percent over budget authority for fiscal year 1979.

I do not want to comment on every agency and program in this bill since Senator BAYH has already thoroughly summarized the contents, but there are a few observations I would like to make with respect to some areas that I judge to be particularly important:

First of all, with respect to the Coast Guard, I am pleased to see we are moving to implement expanded Coast Guard responsibilities under the Outer Continental Shelf Lands Act Amendments of 1978. For that purpose, we have included $2.3 million and 60 additional billets in this bill, even though no budget request was submitted on this item.

Under the FAA, the major program increase is a $60 million increase from fiscal year 1979 for airport grants-in-aid. That brings total funding for this account in fiscal year 1980 to a level of $640 million. This money, in addition to the $800 million level provided for the aircraft loan guarantee program will be invaluable in the development of airports nationwide.

I would also call your attention to language in the committee report dealing with apparent shortcomings in U.S. aviation safety. In that connection, several Members have expressed concern about whether the FAA's certification of new aircraft and it's supervision of aircraft manufacturers and operators is adequate to produce the highest level of safety for the traveling public. As the report accompanying this bill indicates, the committee intends that the Secretary of Transportation appoint a panel of experts to investigate the FAA's effectiveness in improving aviation safety. The DC–10 crash in Chicago last May, if nothing else, underscores the need to take a look at efforts in the area of aircraft certification. In view of the FAA's recent record, I want to emphasize the committee's desire that this panel be appointed promptly and that it complete its work with dispatch.

Another situation that many of us have been concerned about, is of course the Milwaukee Railroad. In that connection, I am pleased to note that the Senate on Tuesday of this week took action on S. 1905 which is the Senate's version of legislation to provide for a restructuring of the Milwaukee. I applaud Senators CANNON, LONG, and PACKWOOD for their quick action on this legislation and I am certainly hopeful that it will be responsive to the needs that exist in those areas of the country affected by the looming embargo of certain portions of the Milwaukee.

With respect to the activities of the Transportation Subcommittee, we have provided $100 million which is potentially available in the event that directed service should occur. In addition, the committee saw fit to include report language which provides assurances that in the event that directed rail service becomes necessary over the Milwaukee Railroad, the employees of the Milwaukee would be utilized to the maximum extent possible by other carriers who would implement any directed service order that might arise. I am sure that we have not yet heard the end of the Milwaukee situation, but I am pleased to note the cooperative spirit that exists on the part of everyone that is involved in this situation. I am sure that this subcommittee along with all others that are actively involved in solving this problem will do their utmost to see that this situation is resolved in the best interests of everyone concerned.

With respect to Amtrak I think it is significant to note that for the first time in Amtrak's history we have this year provided multiyear funding for both capital and section 403(b) service funds. For the future, it is clear that we must take steps in the direction of providing multiyear funding. In addition, I am convinced that we must eliminate the practice of using capital fund allocations to reduce the Federal loan balance. In that connection, the committee has seen fit to attach report language addressing this issue, and I expect to see a satisfactory resolution of this problem before final action on the fiscal year 1981 appropriations bill.

Mr. President, these are just a few of the items in this bill which I wish to call to the attention of my distinguished colleagues. Certainly this is a bill which impacts on all of us in one way or another and I believe on the whole it represents a balanced responsible approach to the transportation needs in this country.

Mr. President, I reserve the remainder of my time.

Mr. BAYH. Mr. President, I want to reiterate what I said earlier, that as chairman of the subcommittee I consider it a privilege not only to serve in that capacity but to work and have the kind of cooperative relationship that it has been my good fortune to have with the distiguished Senator from Idaho; and to also say again that without the assistance of people like Jim English, and Craig Potter we would not be where we are today.

Mr. BELLMON. I understand that the managers of the bill are as concerned as am I about the treatment of Amtrak capital grant funds in this bill. Allowing Amtrak to use these funds to retire debt understates the actual Federal subsidy to Amtrak for operating costs, inappropriately increases Federal outlays in fiscal 1980, and is bad budgetary practice. The Budget Committee and the administration have opposed this practice; and I am pleased that the committee has gone on record agreeing that this treatment of Amtrak capital grants should not be continued in the future.

Do I read your report correctly, when I understand it to say that we are not going to continue this practice in next year's appropriation bill?

Mr. McCLURE. I am the author of the report language; and the Senator from Oklahoma is correct. It is the intent of the report language that everyone understand now that we do not intend to continue this practice in the future. If Amtrak needs funds for operating costs, or for capital acquisition, then we should deal with requests for those purposes. We should not be appropriating money for one purpose, knowing full well that those funds will be used for another purpose entirely.

Mr. BAYH. I agree with Senator McCLURE. The problem we faced this year was a function of the authorizing legislation, which only recently passed both Houses of Congress and was signed into law. We did not want to legislate on an appropriations bill; so we chose to appropriate these funds in accordance with the authorization; but we do not intend to continue this practice in the future. The authorizing committee has a full year in which to deal with this problem; and I am confident that, by the time we report a transportation appropriations bill next year we will have resolved the issues of Amtrak capital grants and debt service treatment to all our satisfaction.

I understand our distinguished colleague from Connecticut has an amendment or two he would like to present to us at this time.

The PRESIDING OFFICER. The Senator from Connecticut.

UP AMENDMENT NO. 708

(Purpose: To prohibit the use of funds relating to certain rail-highway crossing demonstration projects)

Mr. WEICKER. Mr. President, I send an amendment to the desk and ask that it be read.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) proposes an unprinted amendment numbered 708.

Mr. WEICKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 41, insert the following between lines 11 and 12:

SEC. 319. None of the funds provided in this Act may be used for planning or construction of rail-highway crossings under section 322 (a) of title 23, United States Code, or under section 701(a)(5) or section 703(1)(A) of the Railroad Revitalization and Regulatory Reform Act of 1976 at the—

(1) School Street crossing in Groton, Connecticut; and

(2) Broadway Extension crossing in Stonington, Connecticut.

Mr. WEICKER. Mr. President, this amendment is very simple. It exempts two rail crossings in Connecticut from the requirement to eliminate at-grade crossings along the Northeast corridor.

Both crossings are located in the area of Connecticut known as Mystic, and Mystic is probably the single most historic area of the State and without question it is the largest tourist attraction. Construction of an overpass at these crossings which is the only way that grade separation can occur due to the high water table in this area would have a significant negative impact on this area from both a historic and tourist standpoint. At School Street the construction of an overpass would require that a historic, 100-year-old building be demolished, and at Broadway Extension an overpass would create a large and unsightly obstruction to the scenic waterview on which tourist trade in the area is so dependent. Local residents, businesses, civic organizations, and the local governments in these areas have supported retention of these at-grade crossings. I have received literally hundreds of letters which support retention of the crossings.

Mr. President, I wholeheartedly support the Northeast corridor project and continue to recognize the need to eliminate at-grade crossings to achieve trip time goals and greater safety. However, I feel that no rule should be so rigid that it does not allow exceptions if the facts and circumstances so warrant such treatment. A good case has been made by the citizens of Mystic to retain, with the addition of lights and gates, the two at-grade crossings. I urge the adoption of this amendment.

Mr. BAYH. Mr. President, I have no objection. I am willing to accept the amendment. We gave some attention to this in the committee, did not make a final determination, and the Senator from Connecticut has made a very persuasive case, and I urge my colleagues to accept the amendment.

Mr. McCLURE. Mr. President, let me just say for myself as minority floor manager of the bill that I recognize the problem which is being raised by the Senator from Connecticut. It often occurs that a national program does not yield itself to local conditions. I concur in the amendment, and I have no objection to its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Connecticut.

The amendment was agreed to.

Mr. WEICKER. I thank my distinguished colleagues for their concurrence in the amendment and for their support on many matters dealing with transportation over the months.

Now, Mr. President, while I await the arrival of the distinguished Senator from Florida who, I understand, is going to propose another amendment, in which I plan to join him, I have a brief statement to make, which is of considerable importance.

The PRESIDING OFFICER. Who yields time?

Mr. WEICKER. Will the Senator from Idaho yield me about 6 minutes?

Mr. McCLURE. Mr. President, I yield 6 minutes to the Senator from Connecticut.

Mr. WEICKER. Mr. President, I raise this because of its pertinence to the Coast Guard, which does come under the purview of the Department of Transportation.

THE MEXICAN OIL SPILL

On June 3, 1979, the Ixtoc I oil drilling platform on Campeche Bay suffered a severe blowout. One and a quarter million gallons of crude oil a day gushed forth into the Gulf of Mexico to be swept north along the coast of the Gulf of Mexico to the Texas coast. Mr. President, though the rate has recently diminished, this means that over 1 million gallons of oil a day for the past 150 days have leaked into the Gulf of Mexico.

Two weeks ago, 4½ months after the blowout, a so-called sombrero cap was successfully positioned over the spill hole in the ocean floor. Pemex, the Mexican Government controlled oil monopoly, has now assured the world that Ixtoc I no longer represents a problem.

Mr. President, I rise to alert my colleagues to the truth of this matter: Ixtoc I is not—underlined—not capped. Oil is still gushing forth from the spill site in significant amounts.

Last week, I sent a member of my staff on a factfinding trip to update the Campeche Bay spill.

I frankly was shocked to learn that his aerial inspection revealed a reduced but still significant flow of oil into the gulf. In other words, public information to the contrary, Ixtoc I is still out of control.

The Mexican Government would have us believe the problem has been solved. Even officials in Washington are acting under the misimpression that Ixtoc I is history.

Mr. President, the United States is misinformed on this critical issue. Oil is spilling even today in substantial amounts. And yet I have doubts that further action is contemplated by Mexico to stem the flow.

Unless new efforts are made by Mexico to cap the well, oil will spill for an indefinite time.

And, those new efforts are not forthcoming and would not be until the administration and Congress join to recognize the continuing crisis and insist on a permanent solution.

I am sure there are those who would say "so what." Apparently, the Texas beaches are fairly clean now, and the spill may no longer present an immediate danger to American beaches and the coastline.

However, no one really knows what the long-term impact of this spill has been or will be upon the ecosystem. It has been estimated that 3 million gallons of oil actually came ashore on the Texas beaches and some experts feel that most has since sunk and is lying on the bottom just off the beaches. However, it is generally agreed among experts that sublethal toxicity due to the soluble aromatic fraction within hydrocarbons can be a serious problem to marine organisms. Additionally, if the spill continues into the winter the currents will again bring the oil back to Texas' beaches.

Mr. President, it hardly needs to be argued that the oceans are a critical element of the global biosphere. Oceans cover 70 percent of the world's surface area. We have begun to recognize, appreciate, and understand the nature and full potential of the oceans—its food and mineral resources, its importance for energy development and in commerce, its role in climatic and environmental change, and so forth. However, this nature and this potential are only scarcely researched and dimly understood.

In light of our uncertainty of the long-term impact of environmental disasters like Campeche Bay, it is imperative that we develop a more effective policy for dealing with the potential for similar disasters. Most important is a sound policy for exploration and development of ocean resources which minimizes environmental damage.

These are not idle or theoretical concerns. The Campeche Bay spill is very real, and while the Texas beaches may now be clean, the oil particles sunk on the floor of the gulf may pose a future threat. Recent scientific evidence indicates that through photo and microbial oxidation, high toxic substances are produced in weathered oil. What is next? The next potential disaster area is any frontier petroleum province beneath marine waters—the most imminent is clearly the Georges Bank off the east coast where exploratory oil drilling leases are now pending.

Georges Bank is the richest fishery in the world. It also lies off the most populated coastline in the United States.

What could happen with the Georges Bank? What would be the potential short- and long-term damage of a major blow-out like Ixtoc I? No one can say.

Well, I say that until we have a better idea of what the consequences could be and how to deal with them, it would be foolish to proceed with leasing in Georges Bank.

My colleagues know my long-held position in favor of energy development on the Outer Continental Shelf.

Mr. President, the events of Campeche Bay have caused me to modify my position.

I am now opposed to approval of any leasing on the Georges Bank until a careful reevaluation of environmental impacts is completed.

Congress must not allow further drilling without adequate assurance that the risks of oil spills have been minimized and that we know how to respond effectively when spills do occur.

Campeche Bay has raised many questions that need answers:

Concerning damage assessment, which I understand is being coordinated by NOAA and should receive our every encouragement;

Concerning international coordination on matters of cleanup and containment of spills in international waters;

Concerning our national ability to respond rapidly and effectively to spills;

Concerning some form of liability and compensation for those whose livelihood is affected by these spills.

One of these questions leads me to the reason I bring this issue up today. The U.S. Coast Guard has the responsibility to respond to oil spills and it has performed well at the Campeche site and has used equipment heretofore untested. I am concerned, however, that the experience of Campeche will not be enough to prepare the Coast Guard and the rest of the Federal Government to tackle future open ocean spills.

The Coast Guard must have the best equipment, people, planning, training and funding to take care of any problem anywhere within U.S. waters and in open seas—or to offer assistance to those in adjacent foreign waters such as Campeche Bay.

The Coast Guard has anticipated the need for setting up a strong plan for addressing oil spills and in 1978 has sent to the Secretary of Transportation "A Plan for Implementing Presidential Initiatives Concerning Oil Pollution Response."

The plan covers such things as response techniques and systems, siting criteria, massive spill considerations and required equipment and personnel. This plan addresses many of the provisions I believe are necessary to increase the Coast Guard's ability to meet future oil spills.

I am concerned about progress in implementing the plan since 1978. It is imperative that the Coast Guard be given full support to increase its capabilities in light of the Mexican disaster. I request, therefore, that we add report language to this bill that will inform Congress as to the progress on implementation of the recommendations of the plan, and any new information (based especially upon the Campeche experience) concerning the needs of the Coast Guard to respond to future oil spills.

The language would read as follows:

> Within 90 days the Department of Transportation shall report to Congress the progress on implementation of the recommendations contained in "A Plan for Implementing Presidential Initiatives Concerning Oil Pollution Response," and any new information concerning the needs of the Coast Guard to respond to future oil spills.

I am also concerned that the Coast Guard has enough money for fiscal year

1980 in its pollution fund to adequately tackle all demands for this coming year. A few days ago the President submitted a budget amendment of $11.3 million for the pollution fund. I am told that this extra funding will not be required until sometime next spring. Therefore, I will not seek any more money for the pollution fund today. I fully expect additional funding will be provided in a supplemental appropriations bill for fiscal year 1980.

Mr. President, this is the first of a series of actions I will take to insure that this Nation has adequate safeguards in place to address future oil spills and other potential pollutions of the oceans.

Now, Mr. President, having made the statement on continuation of the oil spill, I also want to make it clear, as an advocate of offshore drilling, that I think this casts a completely different light on the proposed drilling of Georges Bank area and the Baltimore Canyon. Georges Bank is the richest fishing ground in this country. Indeed, we do not know the result of what is now occurring in the Gulf of Mexico, which could have very well wiped out an entire area insofar as ocean life is concerned.

I want to make certain, whatever goes on off Georges Bank and Baltimore Canyon, that we have assurances that we can, No. 1, conduct ourselves in a safe manner but, No. 2, that should such an emergency arise, we can handle it.

In the meantime, I use this occasion to alert my colleagues, the President, and the Nation, that regardless of the reticence of the State Department to discuss what it is they are doing and regardless of the reticence of Mexico to discuss what they are doing, this disaster continues, diminished only in amount.

I have requested, I might add, that immediate hearings be held on the matter, which I think are presently being instructed both by Chairman Jackson and Senator Ford; and, aside from those hearings, that this Government take immediate action to ascertain what the facts are.

Mr. President, before I conclude, I would hope that there would be report language—if I could address my comments to the distinguished Senator from Idaho who, I gather, is here representing the chairman—there should be report language as follows: that within 90 days the Department of Transportation shall report to Congress the progress on the implementation of the recommendation contained in "A Plan For Implementing Presidential Initiatives Concerning Oil Pollution Response," and any new information concerning the need in the Coast Guard to respond to future oil spills.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. WEICKER. I yield to the junior Senator from Idaho.

Mr. McCLURE. May I start by saying to the Senator from Connecticut that we will be happy to work with him, both in the subcommittee and through the conference, to assure that that information is made available in a timely basis, recognizing fully both the concerns he expresses and the difficulty represented by the delicate situation with which we are confronted in negotiating with a sovereign nation that has a very sensitive regard for its sovereignty. But we will be happy to work with him, both here, in the subcommittee, and in the conference, to see that this information is available, to the extent we can.

Mr. WEICKER. I thank my distinguished colleague from Idaho. I only wish that the nation of Mexico would have as much sensitivity for the Gulf of Mexico as it has for its sovereignty.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

UP AMENDMENT NO. 709

(Purpose: To provide funds for capital improvements for Amtrak)

Mr. STONE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Florida (Mr. Stone), for himself and Mr. Weicker, proposes an unprinted amendment numbered 709.

On page 18, line 9, insert the following after "Corridor,": "and 148,100,000 for capital improvements which shall not be available for expenditure until fiscal year 1982, pursuant to section 601(b)(1)(B) of the Rail Passenger Service Act,".

Mr. STONE. Mr. President, I ask unanimous consent that the name of the distinguished Senator from Pennsylvania (Mr. Heinz) be added as a cosponsor, together with myself and the distinguished Senator from Connecticut (Mr. Weicker).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STONE. I thank the Chair.

Mr. President, it became very clear during the debate on the Amtrak authorization bill earlier this year, that one of the most serious problems facing Amtrak management is the age and unreliability of its present fleet of cars. Over 1,100 cars or 56 percent of Amtrak's total fleet is more than 25 years old. I cannot imagine any transportation company trying to run a business with that kind of equipment.

Today, the distinguished Senator from Connecticut (Mr. Weicker) and I are offering an amendment that is designed to give Amtrak the ability to begin to improve its equipment needs. The Senate recently enacted a multiyear authorization for Amtrak which included a provision that allows an advance appropriation for capital improvements. Under this provision, funds cannot be obligated until the fiscal year for which it is appropriated. The amendment we offer today simply appropriates in advance that portion of the capital improvement authorization for fiscal year 1982 that Amtrak intends to put into new rolling stock.

While none of the advanced appropriation could actually be obligated until fiscal year 1982, the net effect of this amendment will be to give Amtrak authority to begin the long process of procuring new equipment by signing contracts with manufacturers. It is my understanding that there is nothing in my amendment which would violate any provision of the budget act or the budget resolution.

Mr. President, manufacturing rail passenger cars has not been a popular business in this country. There will be only one producer of rail passenger cars in the United States if the Pullman Corp. carries out its announced intention to abandon production of passenger cars. According to Amtrak, the one remaining passenger car producer, the Budd Co., can begin to turn out rail passenger cars 18 months from the day they receive the order from Amtrak. Unfortunately, rail passenger cars cannot be bought off the shelf.

The current Amtrak equipment deficiency will not be overcome for almost 2 years from the time that Amtrak can enter into a contractual agreement for the purchase of new rail passenger car equipment. This amendment will give Amtrak the necessary authorization to begin the process of procuring new passenger equipment that will start to become available at the same time that the fiscal year 1982 appropriation can be obligated. Without this amendment, Amtrak will not be able to begin placing orders for new passenger cars at least until the 1981 appropriation becomes available.

While the time element is important, it is not the only factor in our offering this amendment. Giving Amtrak an advance appropriation to purchase new rolling stock will deflect the inflationary impact that Amtrak would otherwise experience by not being able to contract for new equipment until 1981 or 1982.

By being able to buy equipment for 1982 with 1980 dollars, Amtrak will experience significant savings, particularly if the inflation rate continues in the 10–13 percent range. In addition, by providing Amtrak with authority to contract now, the corporation may experience a more stable operating subsidy requirement in future years which would be directly attributable to the reduced cost of maintenance due to the replacement of old equipment with new rolling stock.

A large portion of Amtrak's operating budget goes toward maintenance of equipment. In 1978 Amtrak reported that the cost of maintaining its equipment was greater than the cost of providing transportation ($240 million for maintenance against $236 million for train operations). Maintenance costs amounted to 27 percent of Amtrak's total operating budget for that year. By comparison, U.S. domestic trunk airlines' "maintenance" cost $1.8 billion and "flying operations" cost $4.8 billion, in 1978.

The quality of service to passengers will largely determine ridership and revenue growth as well as improvement in the revenue/cost ratio. Amtrak currently has 100 fewer cars than it did last year at this time and its current rate of attrition is running about 3 cars per week, or 150 cars in the year ahead. Mr. President, this amendment is an essential step toward eliminating Amtrak's problem of deteriorating equipment and high maintenance costs. Approval of the amendment is within our budget limitations and would be consistent with what Congress has already approved and the

President has signed into law. I hope the committee will accept this amendment.

Mr. BAYH and Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. BAYH. I yield.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. I thank the distinguished Senator from Indiana for yielding.

Mr. President, I am pleased to join with my distinguished colleague, Mr. STONE, in offering this amendment which will provide an advanced capital appropriation for Amtrak totaling $148.1 million.

Earlier this year, Mr. President, Congress passed and the President signed into law Public Law 96–73, the Amtrak Reorganization Act of 1979. This legislation established for the first time a multiyear capital authorization for Amtrak. This provision was adopted in the hopes that Amtrak could better plan for future rail service requirements by knowing that this money is specifically designated for capital needs.

The amendment I am offering today, in conjunction with the distinguished Senator from Florida, attempts to take full advantage of the provision contained in Public Law 96–73, by appropriating now $148.1 million authorized for fiscal year 1982. These funds will not be available for expenditure until fiscal year 1982 but will allow Amtrak to contract now for 200 low level cars, 39 locomotives, and a limited number of self-propelled cars. This approach will insure price/volume reductions and avoid the inflationary impact of waiting another year to negotiate contracts. Most importantly, by using the 1982 authorization figures, this amendment does not violate any provisions of the Budget Act.

Mr. President, this amendment will enable Amtrak to purchase the new equipment that it desperately needs. People are now turning to Amtrak in increasing numbers as a result of the gasoline shortages. As the people of our Nation get out of their cars, which they will have to do, they must have an alternative method of transportation. Amtrak provides an energy efficient alternative, and we must make sure that Amtrak has the equipment it will need to accommodate its increased ridership.

I would merely leave the thought with my colleagues that at a time when we are being eased out of our automobiles due to the lack of supply or the price of gasoline, the time has come now to develop alternate sources of transportation in this country, foremost among which should be rail transportation.

In that regard, I think that decent intercity rail service should be available all over this Nation, regardless of population.

I do not only speak for Connecticut, the Northeast Corridor, and Florida, but I am saying yes, Montana, and other places which are sparsely populated. I would hope this would be the first step toward the capital improvements necessary to enable Amtrak to break even, so that we do not pinch pennies to the point where they cannot break even and then when they come before us the following year we point the finger and say, "I told you the idea will not work."

It will not work, unless we accept this amendment of the distinguished Senator from Florida, which is a tremendous first step. I think the significance should be pointed out. In the past we have merely provided operating subsidies, to keep the old nose above water. We not only need the nose above water at this stage of the game, but we need the whole bod in that position, if indeed we are going to be able to move. I hope the amendment will be accepted.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Mr. President, I would like to say to our distinguished colleagues from Florida and Connecticut, I appreciate the events which have brought about this amendment. I know of the long time interests of the Senator from Florida in mass transit. And also, I know of the good work done by the Senator from Connecticut in his work on the Committee on Appropriations. I think we will have to accept the amendment. We will have to spend a lot of money in the future on better mass transit.

One of the real problems we have right now is that, if we are not very careful, we will not have any American companies in the transit business. I am getting a little tired spending American taxpayer dollars and putting Italian transit workers to work, with all due respect to our Italian friends. They would not let any of our companies sell transit cars in their country. We have prohibition on that, which I do not want to get involved in today.

One of the things we can do to insure a sounder transit industry from the standpoint of production, and the production of the transportation components, is to make it possible for them to have longer term contracts. The Senator from Florida and the Senator from Connecticut are accomplishing this. This, of course, will be in the fiscal year 1982 budget. I appreciate the manner in which he has brought this to the attention of the Senate. I hope we can concur in his amendment.

Mr. McCLURE. Will the Senator yield?

Mr. STONE. I yield.

Mr. McCLURE. I concur with the remarks made by the distinguished chairman of the subcommittee and remark, as well, that we are not just talking about the capital needs of Amtrak but have also taken appropriate note of the concept of multiyear funding. We have also taken note of Amtrak's practice of using capital grant allocations to make prepayments and thereby lower their indebtedness, and we intend to put a stop to that practice.

We are also serving notice this year that we expect that they will make appropriate provisions for debt retirement, which was not done in the budget request this year. We cannot continue to go along without any program for debt retirement. I think it is fair to say that the subcommittee is dead serious about that question, too. We hope in Amtrak's budget presentations next year they will reflect both of those actions.

That is being more than offset by this action, by allowing them to program farther ahead on their capital acquisitions, and will go a long way in strengthening the ability of American producers to compete for that portion of the market. I am pleased to support the amendment on that basis.

Mr. STONE. I thank the distinguished Senator from Idaho and the distinguished Senator from Indiana, the manager and ranking manager of the bill. I really appreciate it.

The PRESIDING OFFICER (Mr. STEWART). Who yields time?

Mr. BAYH. We yield back the remainder of our time.

Mr. STONE. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 710

(Purpose: To revise the amount appropriated for local rail service)

Mr. McGOVERN. Mr. President, on behalf of myself and the Senator from Iowa (Mr. CULVER) I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. McGOVERN), for himself and Mr. CULVER, proposes an unprinted amendment numbered 710:

On page 16, line 22 strike "$82,798,000" and substitute "$107,798,000."

Mr. McGOVERN. Mr. President, I commend the distinguished chairman and the members of the Senate Appropriations Subcommittee on Transportation, for their efforts to provide emergency funds for both the Milwaukee and Rock Island Railroads in the appropriations bill we are considering today.

The Rock Island Railroad is already under a directed service order from the Interstate Commerce Commission, while the Milwaukee has today embargoed over half of its 9,800-mile system, one of the biggest proposed abandonments in the history of railroading. The bankruptcy of both of these carriers represent a virtual collapse of our Midwest rail system. If we cannot take appropriate action to provide for an equitable restructuring of both of these railroads within the next several months, the economy of the Midwest will be in serious jeopardy. I applaud the action taken by the Appropriations Committee to provide emergency funds to sustain rail operations on these two carriers.

The Appropriations Committee has shown the foresight to increase the preference share financing program which will help rehabilitate coal-hauling main lines. This particular provision will provide critical assistance to the Milwaukee's main line through South Dakota.

In the agriculture regions served by both of these railroads, many essential branchlines are critical to local and regional economies. The local rail service assistance program, administered by the Department of Transportation, has already provided desperately needed assistance to preserve some of these branchlines which otherwise would have been abandoned. Yet, this program which has been consistently authorized at $100 million annually, has received appropriations far less than the authorization level.

The amendment Senator CULVER and I are offering today would raise the appropriations for this program from $75 million to $100 million, so that the appropriation corresponds with the authorization.

Mr. President, the State of South Dakota alone is facing the unprecedented abandonment of almost 1,000 miles of branchline trackage. I realize that it may not be possible to preserve all of this trackage, but the South Dakota allocation under this program is nowhere near the amount to save even half of it. Last year South Dakota received little more than $2 million under this program, even though we were among the highest recipients in the country. My colleague from Iowa, Senator CULVER, faces massive abandonments in his State from two bankrupt carriers. More than a dozen States face similar dilemmas.

The economy of the State of South Dakota, like many other States served by both the Milwaukee and Rock Island, is largely dependent upon the efficient movement of agricultural commodities. Our economy cannot withstand the sudden abandonment of nearly a thousand miles of branchline service. The increased cost of trucking farm products from farm to market alone, would devastate thousands of farmers in my State.

Mr. President, I realize the budgetary constraints we face on the Department of Transportation appropriations bill, and I am cognizant of the fact that major increases in this appropriation could place it over the budget resolution. We are facing, however, an unparalleled transportation crisis, particularly in the Midwest and northern tier States. I believe it is critical that we take some action here today to try to prevent the economic disruptions faced by numerous communities if these lines are abandoned.

I urge the committee to accept this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. McGOVERN. Mr. President, I yield to my colleague, Senator CULVER, the cosponsor of this amendment.

Mr. CULVER. Mr. President, I want to express my appreciation to the distinguished Senator from South Dakota, with whom I join in cosponsoring this amendment to increase the appropriation for local rail assistance from $75 million to $100 million in fiscal 1980. These additional funds are clearly needed to accelerate the rehabilitation of track that is so critical to our freight transportation system.

As the distinguished Senator from South Dakota has particularly noted, we have a current crisis with regard to the Rock Island Railroad situation that has been under directed service orders since September 26, and the Milwaukee which, as of this morning, has discontinued service on some two-thirds of its operations throughout the country.

Both of these railroads, of course, impact with almost incalculable consequence in terms of the economy, not only of our State and the entire Midwest, moving grain, but they are critical to our total economic health as a society—our balance of payments, our foreign markets, as well as the immediate situation that is posed, getting necessary services in that will prepare the land for next year's crop.

During the last decade, rail services and facilities in Iowa and throughout the Midwest have deteriorated dramatically. Over 570 miles of track in Iowa alone have been abandoned during the last 5 years, and another 270 miles considered for abandonment. This year, of course, has been an absolutely devastating one for Midwestern rail users. As I have indicated, the Milwaukee Railroad—Iowa's third largest railroad—asked a Federal court for permission to suspend service along almost 1,400 miles of track in our State beginning today. Despite the opposition of the Interstate Commerce Commission and pending congressional action to keep the Milwaukee alive, that order is still in effect and most Milwaukee service stopped this morning.

This action will likely put the Milwaukee in the same position as the Rock Island Railroad—Iowa's second largest carrier—which has been under a directed service order since September 26. The bankruptcies of these two carriers—and the meat-axe attempts to dismantle both systems—have exacerbated the difficulty of farmers and grain elevators to move near-record crops to market in a timely and efficient fashion, and have had a devastating impact upon the thousands of Iowans who rely on them. In addition, other manufacturing and retail segments of our economy are adversely affected by our railroad crisis.

The economic situation facing the Milwaukee, Rock Island, and other Midwestern carriers has been partially caused by the lack of available funds to maintain deteriorating track. The "go slow" orders, delays, and disruptions resulting from deferred maintenance create a "vicious circle" of poor rail service, greater operating losses, less revenues, inability to meet payrolls, and in turn, even poorer rail service. The losers in this ever-descending and irreversible roller coaster of inadequate rail service are the railroads and, ultimately, all who use them. Rehabilitation aid must be made available to lines that—once able to repair their track—are still capable of providing efficient service to communities.

Last year, I cosponsored the Local Rail Services Assistance Act of 1978, and recommended a change in that bill to make branch lines eligible for Federal assistance before they are formally considered for abandonment and, therefore, functionally useless. In testimony before the Senate Commerce Committee, I suggested that lines that had deteriorated to the point of abandonment were not good candidates for rehabilitation. The medicine was sound, but the patient had already died. I told committee members that the success of Iowa's branchline assistance was evidence of the soundness of basing eligibility for Federal rehabilitation aid upon the potential performance of the line. During 3 years the Iowa program has been in existence, the percentage of grain shipped over 700 miles of rehabilitated track increased by 29 percent and shippers have saved $3 million annually.

The committee accepted my recommendation and, under the revised eligibility formula, an additional 70,000 miles of track that can meet certain cost-benefit criteria are eligible for rehabilitation funds—including 1,200 miles in Iowa.

In light of the immediate crisis in the Midwestern rail system and the need to accelerate the rehabilitation of light density track, an increase of $25 million in the branchline assistance program is warranted. As my colleague from South Dakota noted, even this sum is minor compared to continued unmet needs, but it is a step in the right direction. Among the most effective long-term steps that Congress can take to alleviate the Midwestern rail crisis is to provide capital assistance to lines that, although currently ailing, can provide efficient and profitable service if given an initial timely infusion of funds.

This modest additional investment will pay great dividends later. It will help minimize the potentially devastating impact of abandonments on small and rural communities, and help railroads generate private capital instead of continually seeking emergency loans from the Federal Railroad Administration and legislation from Congress. It will also help avoid future massive service disruptions from bankrupt carriers like the Milwaukee and the Rock Island. Finally, it makes more sense to use public funds to rebuild the railroads so they can provide efficient service on their own than to appropriate funds for directed service when the lines collapse. As the saying goes, "You can pay me now or you can pay me later."

I wish to compliment the Senator from South Dakota for his longstanding involvement in this issue, and I urge my colleagues to support our amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. Mr. President, I yield myself such time as I might need and I shall be brief.

I compliment my colleagues from South Dakota and Iowa. I am very familiar with the kind of transportation problems they have as far as the light density line abandonment is concerned and the fact that this can really create a situation where we shall nearly have some ghost towns or areas that are not served at critical times of the year, when it is absolutely indispensable to have service to get the grain out. We have a lesser problem, but some of that problem, also, in other parts of the Midwest.

As I am sure both Senators appreciate, we are really bumping at the ceiling, on our budget here. In fact, the way the Senator from Maine is going to describe what we have done, we have gone over it. I imagine we have no alternative, but if we were to accept this whole $25 million, we would go over the budget by our definition. I wonder if my colleagues could be less ambitious—perhaps place it at the $10 million level. I know they would like to have the full amount, but we would like to be able to accommodate them and still stay within our budgetary restraints.

Mr. McGOVERN. Mr. President, if the Senator will yield, as I indicated earlier, I think all of us are aware of the budget restraints that we are operating under. A good case could probably be made that, notwithstanding that concern, if we do not do something to prevent the collapse of our rail service in the agricultural States, it is going to cost the economy of this country and the Treasury of the United States vastly more in lost revenues than the modest cost of this amendment that is now pending. Nevertheless, I know that all of us have to face the budgetary realities that confront us if that process is going to function.

The Senator from Maine (Mr. MUSKIE) has fought valiantly to make the process work, and I am sympathetic with his efforts to make it work. So if it is agreeable to Senator CULVER and the chairman that we could reduce this figure to $10 million, while I do not think it is enough, it would be of some significant help. Subject to the approval of my cosponsor, (Mr. CULVER), I would agree to modify the amendment.

Mr. CULVER. Will the Senator yield?

Mr. McGOVERN. Yes; I yield.

Mr. CULVER. Mr. President, I commend the Senator from Indiana, as well as the ranking minority member, the distinguished Senator from Idaho, for their understanding of the current railroad crisis that we face in the Midwest and for their willingness to give consideration to providing this additional $10 million for this program.

I think, as the Senator from South Dakota has indicated, we cannot help but be sensitive to the budgetary restraints on transportation funds that the chairman has indicated we all must confront, and I appreciate his willingness to increase the current appropriation while not exceeding the budgetary levels.

The additional $10 million, Mr. President, for branch line and I think, will still enable States to accelerate these important rehabilitation programs and projects. As I have said elsewhere, I think we must undertake a comprehensive effort to revitalize our total national freight railroad system, and we cannot do that, of course, on the bill before us today.

I look forward to continuing to work with the Senator from South Dakota, the Senator from Indiana, and the Senator from Idaho, all of whom, of course, are keenly aware of the need for doing this, making this effort, which, of course, is so vital to the economy of the entire country.

I thank the chairman and the ranking minority member very much.

The PRESIDING OFFICER. The amendment is so modified.

Mr. BAYH. Mr. President, I appreciate what the Senator from Iowa has said. I want to thank both Senators again for focusing in on a very critical problem. We have a very real problem out there if we are going to get grain out of there to feed our country and maintain our balance of payments. Some of it goes overseas. The Senator from South Dakota is right, we are going to lose more revenue than it would cost to do the job.

I appreciate their concern for fiscal restraints and I urge my colleagues to accept the modified version of the amendment for $10 million.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. McGOVERN. Yes, I yield back my time. I thank the Senator from Idaho for his understanding of what we are trying to accomplish.

Mr. McCLURE. I thank the Senator for those comments.

Mr. President, I do appreciate the difficult situation they have. I want to state at the outset that this $10 million, the revised figure, is put in the fund to be available to meet those expenses pursuant to a statute. This in no way directs that it be used for any particular purpose, but makes it available.

I point out that the court today has refused the ICC appeal that the embargo be delayed for 5 days pending the opportunity for Congress to act on the authorizing legislation that we acted on earlier this year and resolve that. So, as of today, the court has taken the position that the embargo must be ordered; there will be no stay on it. That presents us with a very difficult dilemma as we try to sort out all the conflicting options that are available to the parties. What will actually happen, no one can predict at this time.

This additional money simply makes it possible to deal with that problem in another way.

I cannot answer the question, when it is asked of me, regarding what other railroads have bid to purchase any portion of Milwaukee routes.

I cannot, in good faith, say to the Senator from South Dakota or the Senator from Iowa that any of these low density branch lines will be abandoned or taken over by other railroads if they are permitted to purchase under the current proceedings both before the court and the ICC.

It may be there is not any problem. But it may also be that there is a very severe problem. So I want to go at least this distance in trying to make money available to deal with that problem in the short term, in trying to sort out the alternatives.

I am happy to concur in the amendment, as revised.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. BAYH. I yield back the remainder of my time.

Mr. McGOVERN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota, as modified.

The amendment (UP No. 710), as modified, was agreed to.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Indiana yield for a question?

Mr. BAYH. I am glad to yield to the Senator.

Mr. HARRY F. BYRD, JR. Mr. President, I ask the Senator from Indiana, I note the bill carries an appropriation of $511.5 million for the Panama Canal Commission.

As I understand it, the Commission expects to receive in tolls a total of $463 million, which will then go into the Federal Treasury, that $463 million; is that correct?

Mr. BAYH. That is correct. The toll figure, whatever it might be. The Senator is correct.

Mr. HARRY F. BYRD, JR. My second question is, there is a difference between the amount that will go into the Treasury from tolls, a difference of $48 million between the amount that will go in from tolls and the $511.5 million, which would be appropriated by this bill.

My question is, since the American people have repeatedly been told that it would not cost the taxpayers any money, the turning over of the Panama Canal to Panama, that should not the appropriate figure for the appropriation be $463 million rather than the $511.5 million?

Mr. BAYH. Well, the Senator from Virginia raises a very good point.

I would like to call his attention to section 1302(a) of the authorizing legislation, and section 1303(a) of the authorizing legislation, which provides for an emergency fund to be established to meet any emergency that might occur, a lock cave-in, or something like that. That was a total of $40 million. The remainder goes to certain obligations which had previously been incurred by the company, to try to get the books straight.

That is why there is a difference between the amount of tolls and the amount of appropriation contained in this bill.

Mr. HARRY F. BYRD, JR. Would the distinguished floor manager of the bill be inclined to accept an amendment which would state that of the $511 million appropriated by the preceding three paragraphs, not to exceed $463 million shall be available to be obligated or expended, unless or until the Panama Canal Commission has certified to the Treasury the full amount appropriated is covered into the Treasury by revenues of the Panama Canal Commission?

Mr. BAYH. I say to my friend from Virginia, we have received a letter of certification from the Comptroller General, as required under the authorizing legislation.

Would the Senator like to put that in the RECORD at this time?

Mr. HARRY F. BYRD, JR. It is perfectly satisfactory to me.

Mr. BAYH. I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPTROLLER GENERAL OF THE
UNITED STATES,
Washington, D.C.

TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES

The Panama Canal Act of 1979 requires the Comptroller General to certify the estimated revenues to be deposited in the Panama Canal Commission's fund as estimated by the Secretary of Defense at the time the budget request for such fiscal year is submitted to the Congress. Section 1302 (c) (2) of the Act provides that:

"No funds may be appropriated to or for the use of the Commission for any fiscal year in excess of (A) the amount of *revenues deposited in the Panama Canal Commission Fund during such fiscal year, as such amount is estimated by the Secretary of Defense and certified by the Comptroller General of the United States at the time the budget request for the Commission* for such fiscal year *is submitted to the Congress* . . ." (emphasis supplied)

The Act does not provide any criteria for GAO to use in certifying the revenues estimated by the Secretary of Defense and to be deposited in the Panama Canal Fund in the Treasury. Our review of the fiscal year 1980 estimates consisted of testing the computations, reviewing the method of compiling the estimates and forecasts, and such other procedures as we considered practicable in the circumstances.

The revenue estimated by the Secretary for fiscal year 1980 from all sources shown in Exhibit I to be deposited in the Panama Canal Commission Fund total $463.9 million. This includes $71.2 million Panama Canal Company funds remaining unexpended at September 30, 1979, and required to be deposited in the Fund and will be available to the Commission. This amount is the remaining funds from past revenues net of expenses of operations of the Panama Canal Company.

Our review of the toll revenue estimate indicated that the Panama Canal Commission used primarily aggregative economic forecasting techniques combined with statistical analysis and economic judgment in developing the forecast of Canal traffic and toll revenues for fiscal year 1980. Disaggregative techniques were used for commodities, such as grain and oil, for which economic changes are expected. Broad boundaries within which the basic elements of Panama Canal traffic could be expected to develop were established by analyzing data on toll revenues and net tons through the Canal from 1948 through 1978.

The economic judgment used by the Commission was based on knowledge of Panama Canal traffic and research of economic and trade literature. Views of present and future patterns of Canal traffic were also obtained from interviews with approximately 100 organizations in Asia, Europe, and North America. However, since the forecast of toll revenues for a given year are based on assumptions and estimates whose reliability depends on future events outside the control of the Commission, such as a major economic recession and alternative methods of transportation or transcontinental pipelines, there could be a significant variance from actual results.

Non-toll revenue estimates i.e. supporting activities and general and administrative services, were developed by the Panama Canal Commission beginning with the latest estimates of such revenues for fiscal year 1979 and adjusting these amounts with revenue variations expected during fiscal year 1980. Some reasons for these variations are anticipated changes in the level of income producing services and in their billing rates. Provisions were also made for new revenue-producing services that will be provided and for services that will be discontinued due to Treaty implementation. During prior years, non-toll revenue estimates have had less variation from actual results than have toll revenues and are less likely to be subject to variations resulting from uncertain factors. To test the reliability of estimates for prior years, we compared the estimated and actual revenues for fiscal years 1979, 1978, and 1977.

In our opinion, subject to the uncertainties in financial forecasting or unanticipated events and circumstances that may occur, particularly with respect to Canal traffic and toll revenues, the revenues projected by the Commission for fiscal year 1980 appear to be reasonable.

ELMER B. STAATS,
Comptroller General,
of the United States.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C.

Hon. ELMER B. STAATS,
Comptroller General of the United States,
Washington, D.C.

DEAR MR. STAATS: Section 1302(c)(2) of the Panama Canal Act of 1979 (P.L. 96–70) requires that the Secretary of Defense estimate and the Comptroller General certify the revenues to be deposited in the Panama Canal Commission Fund before funds may be appropriated for any fiscal year. In accordance with provisions of that Act, I am transmitting to you for certification the Defense Department's estimates of 1980 Panama Canal Commission revenues.

Sincerely,

JAMES T. MCINTYRE, Jr.,
Director.

DEPARTMENT OF THE ARMY,
Washington, D.C.

Hon. JAMES T. MCINTYRE, Jr.,
Director, Office of Management and Budget,
Washington, D.C.

DEAR MR. MCINTYRE: Section 1302(c)(2) of the Panama Canal Act of 1979 (PL 96–70) provides that:

"No funds may be appropriated to or for the use of the Commission for any fiscal year in excess of (A) the amount of revenue deposited in the Panama Canal Commission Fund during such fiscal year, as such amount is estimated by the Secretary of Defense and certified by the Comptroller General of the United States at the time the budget request for the Commission for such fiscal year is submitted to the Congress, plus (8) the amount of revenues deposited in such Fund prior to such fiscal year and remaining unexpended at the beginning of such fiscal year. Not later than thirty days after the end of such fiscal year, the Secretary of the Treasury shall report to the Congress the actual amount of revenues deposited in the Panama Canal Commission Fund during such fiscal year."

In conformance with section 1302(c)(2) of said Act, I estimate that the revenues to be deposited by the Panama Canal Commission into the Panama Canal Commission Fund during fiscal year 1980 will amount to $391,214,000. I further estimate that, in addition to these operating revenue receipts, the Panama Canal Commission will deposit into the Panama Canal Commission Fund in fiscal year 1980 certain other funds amounting to $72,673,000, comprised of (a) $71,216,000 of Panama Canal Company funds remaining unexpended at close of business September 30, 1979, (b) $400,000 of miscellaneous receipts pertaining to the sale of remaining retail inventories and the disposal of certain plant assets, and (c) $1,057,000 from the collection of Panama Canal Company accounts receivable from the Government of Panama.

My estimate of the funds to be deposited into the Panama Canal Commission Fund during fiscal year 1980 is based on the Budget Amendment for the fiscal year 1980 programs of the Panama Canal Commission, adjusted to reflect: (1) the implementation effective October 1, 1979 of a 29.3 percent increase in the rates of tolls for the Panama Canal rather than the 31.0 percent increase projected in the Budget Amendment; (2) a preliminary accounting for Panama Canal Company cash balances actually on hand on September 30, 1979; and (3) certain other refinements in fiscal year 1980.

Sincerely,

MICHAEL BLUMENFELD,
Assistant Secretary of the Army.

ESTIMATED DEPOSITS INTO THE U.S. TREASURY, FISCAL YEAR 1980

[Dollars in thousands]

	Budget amendment	Changed interest cost	Proposed for later transmittal	Current estimate
Toll rate assumption (percent)	31			29.3
Panama Canal Commission fund deposits:				
Revenues for 1980, including capital surcharge	$395,234	[1] −$6,008	[2] +$1,988	$391,214
Proceeds from sale o' retail inventory	300			300
Proceeds from sale of plant assets	100			100
Collections of Panama Canal Company accounts receivable	[3] 1,057			1,057
Subtotal	396,691	−6,008	1,988	392,671
Deposit of Panama Canal Company cash	71,216			71,216
Total deposits, Panama Canal Commission fund	467,907	−6,008	1,988	[4] 463,887
General Fund of the Treasury—Miscellaneous receipts: Collection of Canal Zone Government accounts receivable	[3] 6,133			6,133
Total deposits	474,040	−6,088	1,988	470,020

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[1] Changed interest cost is due to the adoption of the average coupon rate (7.096 percent) versus an average yield rate (10.25 percent) as included in the budget amendment:

Budget amendment (10.25 percent)	$20,854
Current estimate (7.096 percent)	14,846
Change	6,008

[2] Increase in cost is due to changed assumption on Federal pay raises. Budget amendment was based on a 5.5 percent cap on pay raises whereas the current estimates provides for a 7 percent pay raise.

[3] The collection of accounts receivables includes the following estimated amounts from the Government of Panama covering past debts:

Panama Canal Company receivables from Panama	$1,057
Canal Zone Government receivables from Panama	1,832
Total	2,889

[4] The Panama Canal Company's borrowing authority of $40,000,000 is also being released. An emergency fund of $40,000,000 is authorized in lieu of the borrowing authority.

Mr. HARRY F. BYRD, JR. Would the Senator indicate the amount?

Mr. BAYH. The amount, it says:

> The revenue estimated by the Secretary for fiscal year 1980 from all sources shown in exhibit I to be deposited in the Panama Canal Commission Fund total $463.9 million. This includes $71.2 million, et cetera.

That is what was supposed to be from tolls.

Mr. HARRY F. BYRD, JR. That is right.

Mr. BAYH. According to the law.

The other two items were added to get to the total figure.

Mr. HARRY F. BYRD, JR. The point I am suggesting, I realize the $48 million in a bill of this magnitude is not gigantic, not perhaps a gigantic sum, but it seems to me there is a matter of principle involved here.

The taxpayers have been repeatedly told there would be no cost to the taxpayers. But this appropriated right here, in this one instance, provides for a $48 million cost to the taxpayers over and above the amount received from the tolls.

It occurs to me that the managers of the bill might want to consider modifying the amount in the bill, or at least circumscribing the amount in the bill.

Mr. BAYH. I frankly do not feel we can modify the amount in the bill, unless we are willing to violate the provisions of the law, which provides for this emergency fund to be set up, and provides for those specific bills which had already been incurred by the Panama Canal Company to be paid out of general fund revenues.

This will not be recurring expense every year, once we get by this first implementing year. Then the tolls should take care of the appropriation.

Mr. HARRY F. BYRD, JR. Will the Senator yield for another question?

Mr. BAYH. I am glad to.

Mr. HARRY F. BYRD, JR. Is there anything in the law that mandates the Senate to appropriate this $48 million; an authorization, perhaps, but nothing that mandates either the committee or the Senate to appropriate this $48 million, that I know of?

Mr. BAYH. Let me suggest to my friend from Virginia that he is accurate. It does not mandate it. It is not possible to mandate it.

Mr. HARRY F. BYRD, JR. That is what I thought.

Mr. BAYH. The President has sent up a budget request and, of course, this money is not going to be spent unless it is needed.

The feeling was, as I recall, and I was not intimate at all with the authorizing legislation, the budget request from the President stated that it was better to have money in the bank in case one of the locks caved in, or had problems with the canal, or something, so they could immediately take remedial action, so the amount spent might be less than if they had to come down and go through the appropriation process.

Mr. HARRY F. BYRD, JR. May I ask this question: At what point are the tolls transmitted to the General Treasury; is it at the end of the year, or is it done each day, or is it done by the month?

Mr. BAYH. Frankly, I must confess to my colleague from Virginia, I do not know.

Mr. HARRY F. BYRD, JR. My impression is, and I must say I cannot say it categorically, but my impression is that it is done at the end of a particular year.

If that is the case, there would be adequate funds, certainly, in anticipated tolls, $463 million, to take care of any emergency until such time as the Congress could act as it felt it should.

Mr. BAYH. How does the Senator from Virginia get around the lack of authority to do that kind of thing?

Mr. HARRY F. BYRD, JR. What lack of authority?

Mr. BAYH. The tolls are supposed to come directly into the Treasury and not supposed to be used for emergency repairs, and this kind of thing.

Under the law, there was an emergency fund set up to take care of that.

I am in a position as chairman of this subcommittee, wondering what I am doing appropriating money for the Panama Canal, anyhow. Running buses, trains, and airports, that is one thing. But, of course, this is traditional.

At the same time, I am committed to follow the law, and the law says to set up this fund. That is why it is in there.

Now it has been brought to our attention, we could watch it. We do not have much recourse.

Mr. HARRY F. BYRD, JR. I do not see that the law mandates setting up the fund. The law authorizes the appropriation, if the Senate desires to appropriate it. Is that not correct?

Mr. BAYH. The Senator is correct. He can offer an amendment to strike that out. He is certainly within his right to do so. I hope he will not. We could consider this with the House. They had not received the budget request at the time they considered the act.

The President did send up a budget request that was consistent with the authorized amount.

I also point out that prior to the passage of this bill, the authorizing bill, the Panama Canal Company had the authority to go out and borrow money to do this. They gave it up in the process of the new canal relationship.

So it seems to me and it seems to the President, and I hope it seems to the Senate, that it is only prudent to have some sort of emergency fund consistent with that which was authorized.

Mr. HARRY F. BYRD, JR. I point out that this is a drain on the taxpayers to the extent of $48 million. If the Senate wants to do that, the Senate has a right to do it.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I yield.

Mr. McCLURE. I thank the Senator for raising the issue, because my understanding of the budget request and the amount we had authorized was that it was anticipated that the revenues would fully offset this full amount and that, as a matter of fact, there would be no appropriation of funds in excess of the amount of revenues that were received.

It might be useful to include in the RECORD a letter written to the chairman of the Subcommittee on Transportation of the Committee on Appropriations in the other body, Representative ROBERT DUNCAN, signed by Representative MURPHY, chairman of the Merchant Marine and Fisheries Committee in the other body. That letter is dated October 30, 1979.

In that letter, Representative MURPHY makes the flat assertion that the $511 million figure is nearly $48 million in excess of the amount that has been certified by the Comptroller General.

It is the contention of Representative MURPHY that section 1302(c)(2) of the Panama Canal Act of 1979 and section 4 of H.R. 5629, as passed by the House, provides that no funds may be appropriated to or for the use of the Panama Canal Commission for any fiscal year in excess of the amount of revenues deposited in the Panama Canal Commission Fund during such fiscal year as estimated by the Secretary of the Defense and certified by the Comptroller General.

I will complete that sentence by saying, plus the amount of other revenues deposited in the fund in prior years and remaining unexpended at the end of the fiscal year.

Mr. HARRY F. BYRD, JR. I understand that the Senator is saying that the Panama Canal Act states that no funds may be appropriated to or for the use of the Commission for any fiscal year in excess of the revenues deposited in the Panama Canal Commission Fund during such fiscal year, as such amount is estimated to be received from the tolls, and so forth.

Mr. McCLURE. The Senator is correct. That is what Representative MURPHY is suggesting in his letter.

It was my understanding, when we were talking about the $511 million, that it was anticipated the revenues would completely offset expenditures, therefore, the taxpayers would not have to pay anything that was not contemplated in the original act.

Prior to this, I was unaware of the lower figure of $463.9 million as certified by the Comptroller. I think there may be a question as to whether or not this amount can be appropriated legally, under the Panama Canal Act.

Mr. HARRY F. BYRD, JR. I have here a statement from the Financial Planning Division of the Panama Canal Commission which says that the net appropriation to be sought is $463,509,000.

Mr. President, I ask unanimous consent to have printed in the RECORD the balance sheet and other statements from the Panama Canal Commission, Financial Planning Division, dated October 17, 1979, and revised October 26, 1979.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Cash deposits and appropriations

[Fiscal year 1980]

CASH DEPOSITS, CURRENT ESTIMATES

Panama Canal Company cash	$71,216
Current year deposits revenues:	
Operating revenue	384,183
Capital surcharge	7,031
Other revenue deposits:	
Sale of retail inventories	300
Sale of capital assets	100
Collections of receivables from Panama	1,057
Current year deposits	392,671
Total deposits	463,887

APPROPRIATIONS, PENDING

Operations	354,512
Prior year obligations	76,496
Total operations	431,008
Capital new obligations, 1980	25,244
Prior year obligations	13,175
Amounts to be obligated in subsequent years to complete ongoing projects	2,000
Total capital	40,419
Emergency fund	40,000
Total appropriation	511,427
Less: Emergency fund	[1]−40,000
Amounts included in appropriation to liquidate Canal Zone Government obligations	[2]−5,328
Amounts included in appropriation to complete Canal Zone Government projects for potential transfer to DOD	[3]−590
Amounts included in appropriation for obligation in subsequent years to complete Commission capital projects	[4]−2,000
Net appropriation	463,509
Surplus (deficit) of projected deposits over Appropriation	378

NOTE: The Panama Canal Act of 1979 requires the following:

"Sec. 1302(c)(2) No Funds may be appropriated to or for the use of the Commission for any fiscal year in excess of (A) the amount of revenues deposited in the Panama Canal Commission Fund during such fiscal year, as such amount is estimated by the Secretary of Defense and certified by the Comptroller General of the United States at the time the budget request for the Commission for such fiscal year is submitted to the Congress, plus (B) the amount of revenues deposited in such Fund prior to such fiscal year and remaining unexpended at the beginning of such fiscal year. Not later than thirty days after the end of such fiscal year, the Secretary of the Treasury shall report to the Congress the actual amount of revenues deposited in the Panama Canal Commission Fund during such fiscal year."

We believe that certain funds appropriated to the Commission should not be included in the formula of deposits and appropriations. These funds are identified as follows (all numbers refer to footnotes on the schedule of Cash Deposits and Appropriations):

[1] The $40,000 emergency fund is excluded from the appropriation/deposit formula since the 1980 budget does not provide for any expenditures from this fund, thus there are no costs attributable to this appropriation to include in the revenue recoveries of the Commission. When expenditures are made from this fund, such expenditures will enter into costs to be recovered in revenues of the year of expenditures and subsequent years through tolls rate adjustments as necessary.

[2] The operating appropriation request includes $5,328 thousand for liquidation of prior year obligations of the Canal Zone Government. This appropriation amount is requested in accordance with Section 1301 of the Panama Canal Act of 1979 requiring a turn in of all Government cash, which was $12,154 thousand in the preliminary closing of accounts. In accordance with that action, these funds are returned to the General Fund of the Treasury and not the Panama Canal Commission Fund. The obligations covered there represent items which have either entered into the costs of the Canal Zone Government in 1979, or are for items to be transferred to Department of Defense operated schools and hospitals. In either case, such costs are not for the Panama Canal Commission but for the Canal Zone Government or Department of Defense. The costs of the Canal Zone Government are repayable through revenues for services provided by that agency, subsequently deposited into the General Fund of the Treasury, and by reimbursement for the net remaining cost of the Canal Zone Government by the Panama Canal Company/Commission.

[3] The Commission 1980 capital appropriation includes $590 thousand to complete capital projects of the Canal Zone Government. The cost to cover these items was included in the Canal Zone Government cost mentioned above, i.e., for deposit in the General Fund of the Treasury. These projects are principally in schools and hospitals which are to be transferred to the Department of Defense. The appropriation request is authorized by Section 1301 and these amounts are really for the benefit of other Government agencies.

[4] The Commission 1980 capital appropriation is structured upon full funding of all capital projects and includes $2,000 thousand to complete projects underway at the year-end 1980. This portion of the appropriation will be recovered through tolls revenues in the fiscal period when actually obligated rather than when requested, and should not be considered in computing gross appropriations for 1980.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. Mr. President, is the Senator from Virginia through? Is he going to pursue this further?

Mr. HARRY F. BYRD, JR. I would like to pursue it further.

I invite the attention of the distinguished Senator from Indiana to section 1302(c)(2) of the Panama Canal Act of 1979, which has just been read into the RECORD by the distinguished Senator from Idaho.

That being the case, is it appropriate to appropriate this $48 million over and above the amount of revenues estimated to be received from the canal tolls?

Mr. BAYH. I cannot say it more definitively than I have said it, that when one looks at the following and the preceding section of the bill, one will find the language authorizing us to do the very thing the Senator from Virginia questions. It does not mandate it, but it certainly gives us legal authority.

I point out that the chairman of the Senate Armed Services Committee differs with Mr. MURPHY as to the interpretation of this particular matter, as Mr. MURPHY's opinion was read just a few moments ago.

I point out that what we are talking about here, with respect to what appears to be conflicting authorizations, is that we are really establishing a fund for $40 million which will be utilized to meet emergencies. Then moneys to meet emergencies in 1 year will be prorated into the toll base the following year, and those moneys then will be recaptured by the toll-collecting mechanism.

Mr. HARRY F. BYRD, JR. Would the able Senator be willing to write that into an amendment along that line, that if any of this $48 million is spent, the Federal Treasury shall be reimbursed by subsequent tolls?

Mr. BAYH. I can do that, in good conscience, so far as the $40 million is concerned.

In fact, I would read the footnote explaining this appropriation.

> The $40 million emergency fund is excluded from the appropriation deposit formula, since the 1980 budget does not provide for any expenditures from this fund. Thus, there are no costs attributable to this appropriation to include in the revenue recoveries of the Commission.

Here is the important part:

> When expenditures are made from this fund, such expenditures will enter into costs to be recovered in revenues of the year of expenditure and subsequent years through toll rate adjustments as necessary.

Why do we not just take that specific language and include it in the appropriate place in the bill? I think that would accomplish what the Senator from Virginia is trying to accomplish.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I yield.

Mr. McCLURE. Mr. President, I refer to page 51 of the committee report, at the bottom of the page. It says this at the end of the Panama Canal Commission appropriation portion:

> These funds, as well as other expenses related to the treaty and operation of the canal, are to be drawn from the revenues derived from toll charges of ships transiting to waterway, as required by Public Law 96-70.

It might be helpful if, in addition to the language suggested by the Senator from Virginia and the Senator from Indiana, we indicate very clearly that if there is a dispute as to what the law is, or what the law means—and apparently there is some disagreement as to what the law means—the appropriations that are being offered here are pursuant to that law.

I do not think it is our intention to fight the battle of Panama all over again in this particular bill. As the Senator knows, I was opposed to the Panama Canal Treaty, and I still think it was an unwise action, but it is not my purpose to raise that issue again and try to recover something here that was not contemplated by that legislation.

On the other hand, I want to make it very clear that it was the intention of the subcommittee that the appropriation be pursuant to the restraints of the statute as passed, and it is my understanding that was the case.

If Mr. MURPHY is correct in his interpretation of the law, then the appropriation ought to automatically be so limited by a statement saying that what we are doing is pursuant to that law, and I have no objection to the additional language as suggested by the Senator from Indiana that if there be any expenditures from that sum that they be recaptured, as has been suggested.

Mr. BAYH. May I suggest, Mr. President, that I would be glad to offer an amendment or join the Senator from Virginia in offering it as the comanager, and all of us can join here, that on page 31, line 21, where this item is mentioned, that we have language which reads as follows:

> When expenditures are made from this fund, such expenditures will enter into costs to be recovered in revenues of the year of expenditure and subsequent years through toll rate adjustments as necessary.

Mr. HARRY F. BYRD, JR. Mr. President, may I ask this question: That does not specify that such an amount come back to the Treasury or does it so specify?

Mr. BAYH. It does, yes.

Mr. HARRY F. BYRD, JR. That would be satisfactory.

Mr. McCLURE. I think it should be noted either on the face of the amendment or in explanation, that what we have appropriated is intended to be pursuant to the authorizing legislation, and if there is such a limitation as argued by Congressman Murphy, and if his view should be sustained, the appropriation is automatically so limited.

Mr. HARRY F. BYRD, JR. I think the suggestion offered by the two floor managers of the bill is satisfactory.

UP AMENDMENT NO. 711

Mr. BAYH. Mr. President, I send such an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Indiana (Mr. Bayh) proposes an unprinted amendment numbered 711.

The amendment is as follows:

> On page 31, line 21, insert the following: *Provided*, That when expenditures are made from this fund, such expenditures will enter into costs to be recovered in revenues of the year of expenditure and subsequent years through toll rate adjustments as necessary.

Mr. BAYH. Mr. President, I ask that the amendment be considered.

The PRESIDING OFFICER. Do all Senators yield back their time?

Mr. BAYH. I yield back my time.

The PRESIDING OFFICER. Does the Senator from Idaho yield back his time?

Mr. McCLURE. Yes, I would be happy to yield it back.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana.

The amendment was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time? The Chair recognizes the Senator from Montana.

UP AMENDMENT NO. 712

(Purpose: To prevent the non-beneficial transfer of the FAA general aviation district offices for the State of Montana)

Mr. MELCHER Mr. President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Montana (Mr. Melcher) proposes an unprinted amendment numbered 712.

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 6, following "second career training program." on line 12, insert, ": *Provided further*, That none of these funds shall be available for payment of expenses incurred by transfer of personnel or movement of operations caused by the relocation of the general aviation district offices for the State of Montana."

Mr. MELCHER. Mr. President, this is an amendment that simply says we are not going to use any of the funds in this bill to pay for a transfer of the personnel or movement of operations for the relocation of a general aviation district office for the State of Montana for the FAA. They are located in the best spots and serve general aviation, and to move it would be very harmful and very costly for general aviation, and would be very disruptive.

Mr. President, I ask unanimous consent that Senator Baucus be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I have a technical amendment to my amendment that I would like to offer. I ask unanimous consent to correct a technical error in my amendment. It would change the word "office" to "offices," plural.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment will be so modified.

Mr. MELCHER. I hope the amendment is acceptable to the managers of the bill.

Mr. BAYH. Mr. President, the Senator from Indiana has no objection to that amendment and asks that the Senate join in support of it.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. MELCHER. I yield back my time.

Mr. BAYH. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

The amendment, as modified, was agreed to.

The PRESIDING OFFICER. The Senator from Pennsylvania. Who yields time?

Mr. BAYH. I yield whatever time the Senator from Pennsylvania requires.

Mr. HEINZ. I will be brief.

Mr. President, earlier this afternoon Senator Bayh and I entered into a colloquy on the subject of "Buy America" and what constituted an appropriate kind of standard for a reasonable time.

Subsequent to that the minority manager of the bill, Senator McClure, entered into the Record remarks aimed at insuring that the 24-month standard would not be a totally inflexible standard.

If that was solely his purpose, to insure we in no way misled anybody by making them think that there would be no circumstances whatsoever under which the 24-month standard could be waived, I would concur in his judgment. But I wanted to ask him if he could recapitulate briefly for me, since I was absent at the time—and I apologize to the manager for the inconvenience—the essence of what he said.

Mr. McCLURE. I would certainly be very happy to, and I appreciate the desire of the Senator from Pennsylvania to make certain that what was said does not detract from what he had added by the colloquy. It was not my intention to detract from what he said but to clarify. The Madigan amendment had, in effect, said that 2 years are an unreasonable delay. As I understand it, what the Senator from Pennsylvania is by colloquy seeking to say is that therefore, if it is one day short of 24 months it is not unreasonable delay.

What I was trying to inject into that colloquy was that the 24 months is not an arbitrary fixed standard, and we are not attempting by colloquy to make it such. There might be unreasonable delay in some instance that was less than 24 months, and there might be some other period of time in excess of 24 months which might not be unreasonable delay. It was in that context that I added my comments to the record.

Mr. HEINZ. As I understand the Senator from Idaho, he does feel in most, shall we say, or in the vast majority of cases it is, in fact, a reasonable standard. But the Senator was concerned about extraordinary situations where the 24 months by any reasonable man test would not seem appropriate.

Mr. McCLURE. The colloquy is an attempt to add a definition of what is a reasonable time, and I do not think we can say that 24 months is either reasonable or unreasonable without looking at the circumstances surrounding each individual event. If the circumstances indicate it is going to take that long or longer than under normal circumstances, then obviously 24 months would not be an unreasonable time.

If, on the other hand, the circumstances indicate you ought to be able to get it done in 8 or 9 months, then 18 months would be unreasonable.

Mr. HEINZ. I think that that is a very helpful amplification, and I want to illustrate it with a practical example. It is possible for a foreign supplier to tell the people or arrange with the people who are soliciting bids on equipment to arrange for there to be a requirement in the bid that there be certain custom furnishings, equipment, what-have-you, that are quite standard for the foreign company but very nonstandard for the industry, particularly for the domestic industry, not being essential to the functioning of the equipment, and that are not readily obtainable by the domestic supplier.

It seems to me that if the domestic supplier was being effectively foreclosed from a successful bid because of an unreasonable demand made by the purchasing party, the reasonable-man test would be violated. We should not counterance a standard which when applied to the purchase of a particular equipment would clearly rig the bidding process in favor of one particular foreign supplier and to the detriment of American suppliers.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. HEINZ. Yes.

Mr. McCLURE. I wish to associate myself very clearly with the remarks that the Senator from Pennsylvania has made. I think everyone of us has seen attempts by various procuring officers, at one time or another, to rig the outcome of a solicitation for bids with criteria that are established for purchase of the equipment.

I could refer to a number of such instances in my own experience. I remember an instance when I was serving in the Idaho State Legislature where the Idaho State police called for bids for some automobiles for the highway patrol, and the specifications that were called for could be met only by Chrysler New Yorker automobiles. It just happened that a brother-in-law sold Chryslers. We had to change the specifications, because the specifications obviously dictated the outcome of the bidding procedure.

That obviously can also occur in some of these other fields when the call for bids may be rigged by the statement of specifications to the disadvantage of any given supplier, or to favor any given supplier. But let us attack that question on the reasonableness of specifications, not just on the reasonableness of time to meet an unreasonable specification, and I think it can be attacked on that basis.

Mr. HEINZ. May I ask my friend from Idaho further, as I understand his statement in its totality, if he agrees that if an American supplier is making a diligent effort, and is doing everything that he or I would really expect to see them do to produce something in a given amount of time, as short a time as possible, the supplier would, in effect, be acting within, as he defines the term, a "reasonable time?"

Mr. McCLURE. Well, not necessarily, I would say to the Senator.

Mr. HEINZ. All right.

Mr. McCLURE. Because it would be possible that an American manufacturer does not manufacture what is reasonably needed, but would like to tool up to go into the business of doing it, to meet the specification, and it would take him too long to get that done. That might, under some circumstances, be an unreasonable delay; but, again, the question of what is the specification and what is the time must be a reasonable standard.

It is my intention, and I want the record to reflect it, that whenever possible we mean the "Buy American" provision to apply, and we would expect procurement officers to have a sensitive regard to that when establishing specifications to be met and when determining whether or not an American manufacturer can comply within a reasonable period of time.

For instance, it might come down that a foreign supplier could deliver equipment in 22 months and an American supplier might take some 25 months. That differential of 3 months does not seem to me to be such an unreasonable delay as to justify a waiver of the "Buy American" provision, but I do not know that we can say precisely what period of time might or might not be an unreasonable delay.

Mr. HEINZ. I thank the Senator for clarifying his remarks. I think it is most helpful.

Indeed, I do not wish to put any word in the Senator's mouth, but what I hear him saying is that he does not have a problem, per se, with providing a rough rule of thumb for those who administer the "Buy American" provisions. The rough rule of thumb is 24 months, so long as that rule of thumb is subject to the reasonableness test that we have discussed at considerable length.

Mr. McCLURE. I would say to the Senator that that is a flexible standard, and in certain specific instances it could vary one way or the other from that, depending upon the circumstances surrounding a particular procurement item.

Mr. HEINZ. And, as I understand the Senator further, it is his strong intention that we have a strong "Buy American" provision?

Mr. McCLURE. Of course. Of course.

Mr. HEINZ. I thank the Senator.

Mr. McCLURE. I thank the Senator from Pennsylvania.

Mr. MUSKIE. Mr. President, the bill pending before us appropriates funds for virtually all Federal transportation programs.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. I yield such time as the Senator may need.

Mr. MUSKIE. I thank my good friend. I will just take a moment to comment on the budgetary implications of the bill.

Before I do so, I want to say that Senator BAYH was faced with budget amendments from the administration of over $700 million. He was able to respond to these while staying within the budget authority assumptions of the Senate-passed second budget resolution, and I compliment him for it.

The DOT appropriation bill, as reported, provides for $9.7 billion in new budget authority and $6.3 billion in associated fiscal year 1980 outlays. I am pleased to say that the budget authority level is just consistent with the Senate-passed second budget resolution, which is also the tentative conference agreement. However, the outlays associated with the bill, when taken together with action already completed including outlays from prior years, are above the levels of the budget resolution by $0.2 billion.

Finally, Mr. President, I am pleased to note that the reported bill includes responsible obligation ceilings for the highway and airport development programs funded through trust funds. These are valuable programs and it is important that they be adequately funded to satisfy our transportation needs. But it is also important that the Congress apply some practical limitations on program growth in any one year. If it did not, then there would be little protection against an unexpected temporary upsurge in new program commitments that could threaten the budget resolution outlay and deficit targets.

I wish to thank the distinguished chairman of the subcommittee (Mr. BAYH) for his support of the budget process, and to commend him and the other members of the Appropriations Committee for reporting a bill containing a budget authority level that is basically consistent with the Senate-passed second budget resolution.

Unfortunately, I remain concerned about the Appropriations Committee's ability to live within its total allocation, and the outlays associated with this bill will make the task that much harder. The outlay overage in this bill may be resolved by the Appropriations Committee's own allocation of the funding contained in the second budget resolution, but there is no guarantee of that. To express my concern, and with all due respect to the sincere efforts of the floor managers, I regret that I must vote against the bill.

Mr. President, I ask unanimous consent that a table outlining the outlay overage in this bill be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FUNCTION 400

Almost all of the funding in this bill falls within Function 400, Transportation. The following table summarizes the relationship of this bill to the Function 400 totals and demonstrates that the budget authority in this bill can be accommodated, but that there is a moderate excess in outlays of $0.2 billion.

[Dollars in bilions]

	Budget Authority	Outlays
Other action completed or underway	12.2	12.5
DOT Appropriation Bill	9.6	6.3
Future action anticipated[a]	—0.25	——
Total	19.55	18.8
Senate-passed Second Budget Resolution	19.5	18.6

[a] Future action anticipated reflects the reconciliation instruction to the Public Works Committee. There are no currently anticipated supplementals in this function.

Mr. MUSKIE. Mr. President, just yesterday the Budget Committee conferees reached agreement on the second budget resolution after a long conference. As a result of this agreement, the funding allocation to the Committee on Appropriations pursuant to section 302(a) of the Budget Act will be increased. Therefore, the conference report will contain a higher Appropriations Committee ceiling into which all appropriations bills for fiscal year 1980 must fit. Even so, I am sorry to say that, based on Senate action to date and expected later requirements, Budget Committee estimates suggest that when all action is completed the fiscal year 1980 spending ceilings for the Appropriations Committee could be breached by $1.2 billion in budget authority and by $2.0 billion in outlays.

This estimate continues to assume that reconciliation instructions to other committees will be followed. If not, the overage will be higher.

Mr. President, this causes me grave concern. It means that the allowance for supplemental funding will be extremely tight and that many meritorious programs could be squeezed out simply because their funding is not included in a regular appropriation bill.

Mr. President, from my point of view, this is a serious matter. We have been struggling without sufficient success all year to stay within the constraints of the budget resolutions adopted by the Senate and by the Congress. We have not succeeded. The bill before us will make it more difficult on the outlay side, notwithstanding the very effective efforts on the part of the floor managers to hold down the amount of budget authority appropriated.

So I find it necessary, often in seeming opposition to good friends and Senators I respect, to remind Senators that we are getting to the end of the appropriations process. And all the signs indicate that when we reach the end of that line, we will be over the budget resolution, potentially by billions of dollars that we ought to be making an effort to save.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Mr. President, I appreciate the remarks of our distinguished colleague and my friend, the chairman of the Budget Committee. He recognizes, I am sure, that the appropriating committee is sort of between the rock and the hard place on the one outlay area he addressed because of a different interpretation that exists between his committee and the authorizing committee. I hope, if he has not, he will look at page 37 of the committee report where we have called this very fact to the attention of the Senate and urged that next year the practice recommended by the Senator from Maine be followed. In the meantime, we felt that the responsible thing to do was to go ahead because if we did not, we would be $10 million short on Amtrak's services.

Mr. MUSKIE. I understand what the distinguished floor manager is saying, Mr. President. I understand that problem. I appreciate the fact that it is his intention next year to change the practice, and that will be sound. That problem can be worked out. I am not inclined to press that solution at this time. I simply have put this before the Senate to call attention to the overall problem which the Appropriations Committee and the Senate faces. In the reconciliation instructions passed by the Senate in the second budget resolution, the Appropriations Committee assumed the responsibility of initiating rescission bills if at the end of the appropriating process it has breached the funding ceilings provided there. It would be much more comfortable if, when we get to the end of the appropriations process, we were under those ceilings. I dislike the prospect that we will be facing that crunch.

It is for that reason that I have chosen this bill—not because I am particularly unhappy with Senator BAYH—because it gives me an occasion to once again express that warning. I think the distinguished floor manager of the bill understands my point.

Mr. BAYH. I do indeed understand. As I recall the Senator's first remarks, he was very gracious and said he was happy with Senator BAYH. I just wanted to put into the RECORD the particular problem we have and to state that we are trying our best to cooperate with the Senator from Maine and make us all more aware of these problems.

Mr. MUSKIE. I thank the distinguished Senator from Indiana, who has been my friend for many years.

The PRESIDING OFFICER. Who yields time?

UP AMENDMENT NO. 713

Mr. BAUCUS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. BAUCUS) proposes an unprinted amendment numbered 713.

Mr. BAUCUS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows.

On page 28, line 8, insert at the end of the provision entitled Payments for Directed Rail Service, the following:

"*Provided, further*, That not withstanding any other provision of law, none of the funds herein appropriated shall be used for directed rail service over properties of the Chicago, Milwaukee, St. Paul and Pacific Railroad unless such service is provided in whole by the Chicago, Milwaukee, St. Paul and Pacific Railroad at the level of service that existed on October 10, 1979 without regard to limitations concerning directed rail service by a carrier over its own lines and without regard to the requirement for the payment of profits with respect to such railroad."

Mr. BAUCUS. Mr. President, this amendment will continue operation of the Milwaukee Railroad while reorganization proceedings continue.

Mr. President, a Federal judge in Chicago has ordered discontinuance of service on a large part of the Milwaukee system effective November 1. Last night, 6,000 Milwaukee Railroad employees in Washington, Idaho, Montana, South Dakota, Minnesota, and Iowa lost their jobs.

Perishable goods have been left to rot on sidings, and railway stations are being stripped. Service has been terminated on some 6,000 miles of line. This is the largest railroad abandonment in U.S. history.

Unless service is reinstated promptly, there is no hope for any successful reorganization of the affected lines.

My amendment will continue operation of the railroad, while reorganization proceedings continue.

I regret that this issue must be addressed in an appropriations measure. In House Joint Resolution 412, the continuing appropriations resolution, Congress provided loans to keep the Milwaukee operating through November 30, and to give us time to enact more comprehensive legislation.

Regrettably, the Federal Railroad Administration has denied the directive of Congress and refused to make these loans available.

The amendment I offer provides a limited period of time for the Insterstate Commerce Commission to complete its consideration of abandonment petitions and reorganization plans.

It requires the Milwaukee Railroad itself to operate under the directed service statute. This will be done without the customary profit margin allowed directed service carriers.

Under the directed service program, the Federal Government compensates carriers for their operating losses. Thus, there is no question of any erosion of the railroad estate.

If service is maintained at the level in effect on October 9, 1979, as my amendment requires, the cost to the Federal Government will be about the same as if the ICC were to direct service by other carriers.

Mr. President, both the House and Senate have passed legislation, S. 1905, to provide for orderly restructuring of the Milwaukee Railroad. Unfortunately, committee staffs have not been able to reach a compromise that would allow final action on this important legislation.

The House and Senate are in agreement on the most essential elements of the legislation. I am distressed that the parties have allowed a minor disagreement to result in the loss of 6,000 jobs. In any case, I remain hopeful that S. 1905 will be enacted.

In the interim, the amendment I offer is essential for continued Milwaukee Road service.

Mr. President, as I said, this is a very simple amendment which has been cleared by the chairman of the subcommittee and the ranking member. Essentially, it provides a safety net so that the railroad will continue to be operated during the interim period that we are trying to reach an agreement on a bill we passed here in the Senate a few days ago, and a similar bill passing the House, providing an interim solution for the Milwaukee Railroad.

That conference is now meeting and we hope they reach an agreement shortly. In the unfortunate and unlikely event they do not reach an agreement, the purpose of this limitation on the appropriations bill is very simply to assure that the directed service funds that would otherwise be spent by other carriers in this case would be spent by the Milwaukee Railroad and over the entire system.

Mr. President, this amendment also has the benefit of saving money because ordinarily the directed service cost is providing service for the railroad plus 6-percent profit. This amendment would eliminate the 6-percent profit.

I thank the chairman for his help on this amendment, and I also extend my thanks to the ranking minority member.

Mr. BAYH. Mr. President, I hope the Senate will go along with the distinguished Senator from Montana. We are concerned about the Milwaukee Railroad problem. We want it to maintain service. In the process, first we feel we have a responsibility for the people who are working there, and I think the Senator from Montana addresses this problem in a way that could well expedite the negotiation process which is going on. In fact, we hope that will be the course of action. In the meantime, I hope my colleagues will accept the amendment.

Mr. McCLURE. Mr. President, I am prepared to accept the amendment and go to conference with the House with this language. The situation is changing so rapidly and subject to so many cross currents that I think it is wise for us to maintain our options while those negotiations are going forward. I do not know that anyone can tell us what is going to occur in the corridor with the ICC or in the other legislation which is going forward, nor what the situation will be when we get to the conference. But I am pleased to accept the amendment at this time to help maintain the status quo for the railroad, for the communities which it serves, but mostly for the men and women who work for the Milwaukee. I think if we can assist in doing that while the matter is being resolved we ought to do that. I am pleased to at least get this to the conference with the other body.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

Mr. BAYH. I yield back the remainder of my time, Mr. President.

Mr. BAUCUS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. Is there further amendment?

Mr. BAYH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAYH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I am prepared to yield back the remainder of my time. Again, I want to thank everyone for helping us expedite this matter and move it through the Chamber. The Senator from Maine reminded us of our budget responsibilities.

I think we probably should ask for the yeas and nays at this time.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PACKWOOD. Mr. President, there is reference in the Senate Appropriations Committee report for the Department of Transportation to a select "panel of experts to investigate the FAA's effectiveness in improving U.S. aviation safety."

This language, I understand, has been the focus of a good deal of attention in the past few days primarily because the Department of Transportation has not moved quickly enough to insure the appointment of a "blue ribbon panel" to review aircraft certification promised as a top priority.

I would hope that DOT would move expeditiously to insure the installation of this independent panel of experts so that quick results can be obtained. If changes are recommended in the membership of the Type Certification Board, these changes are best accomplished promptly so that there will be no clouds of doubt hanging over the new generation aircraft now moving toward production.

Mr. BOSCHWITZ. Mr. President, I would like to call to the attention of my colleagues a bridge project in my home State of Minnesota. The bridge project is the Plymouth Avenue Bridge which crosses the Mississippi River and serves the northern half of the city of Minneapolis. The bridge just recently celebrated its 63d birthday and its condition is, at best, decrepit. In fact, the Minnesota Department of Transportation just recently finished an evaluation of the condition of all of its major bridges. The study rated each bridge on a scale of 1–100 with 50 representing a poor rating. The State placed a bridge rating below 50 in a category of immediate repair or replacement. The Plymouth Avenue Bridge was rated at 23.

The bridge received a low rating because: First, the bridge is only two lanes and simply cannot handle the heavy rush hour traffic that accumulates on this bridge; second, the weight restrictions are set at such low levels that potential industrial traffic is not able to use the bridge; third, studies have shown that due to continuing deterioration the bridge will be forced to close in 4 years.

Mr. President, due to these inherent inadequacies and poor conditions of the Plymouth Avenue Bridge, the Minnesota Department of Transportation has recommended that an entirely new four-lane bridge be built to replace the present two-lane structure. The cost of the new bridge has been estimated at $10.1 million, which qualifies the project for Federal discretionary bridge funds by the Federal Highway Administration.

It would be my hope, Mr. President, that the report accompanying this bill would include language which would consider the Plymouth Avenue Bridge in Minneapolis as a prime candidate for Federal discretionary bridge funds beginning in fiscal year 1980.

Thank you.

GREAT RIVER ROAD FUNDING

Mr. CULVER. Mr. President, I am extremely pleased that the fiscal year 1980 Transportation Appropriations bill contains $39.5 million for continued development of the Great River Road.

Since 1973, when I introduced the legislation authorizing the Great River Road, I have worked to help conserve the special environment and esthetic values of the Mississippi River by making the road along its banks a scenic corridor, free of unsightly development and with areas for people to enjoy its scenic beauty and recreational opportunities.

Under the Great River Road program, the 10 States which border the Mississippi have used funds to acquire historic and scenic easements, build bike paths, and viewing areas, and reconstruct road segments.

Iowa has been a leader in implementing the Great River Road program. The State has 154 miles of highway eligible for Federal Great River Road funds, including an 86–mile north section from Lansing to Dubuque, and a 68–mile south section from Muscatine to Fort Madison. The Iowa Department of Transportation and the Mississippi River Parkway Commission are using part of last year's $3.9 million apportionment to upgrade a 6.5-mile stretch of gravel road in Clayton County near Guttenberg, and a 15-mile segment in Louisa County. Both sides will include scenic overlooks and bike paths, so that travelers can pull off the road and explore the river valley at their leisure.

Under the Great River Road program, Iowa and the other States have, at long last, begun to work to acquire important sites along the Mississippi and reconstruct roadways. The $39.5 million in this bill assures the continuation of this program. The Mississippi River Valley, with its rich historic and cultural values, will remain a priceless natural heritage that will be available for generations of Americans to come.

Mr. MAGNUSON. Mr. President, the Senate Appropriations Committee accepted the recommendation of the Transportation Subcommittee that $400,000 be added to the NHTSA budget to undertake initial studies and crash tests "to define the primary characteristics of the crash environment within truck cabs." This action was taken in recognition of the fact that more than 1,000 occupants of heavy trucks were killed in 1978, and that there are no standards in effect for improving the crashworthiness of these vehicles.

I concur fully with the importance of this wigwam action. I want to emphasize, however, that this research by NHTSA on heavy truck crashworthiness should be conducted in close cooperation with the extensive truck research program now underway in the Federal Highway Administration including the Bureau of Motor Carrier Safety.

Every reasonable effort must be made to reduce the involvement of heavy trucks in crashes and to reduce the injuries and fatalities in those crashes. These efforts must be based on a full understanding of all the causative and the contributing factors of these crashes so that corrective and remedial efforts are based on solid evidence with respect to the roles of the highway, the driver, and the vehicle.

It is for these reasons that I want the record to show that it is the intent of the

Senate in acting on this appropriation that the truck research conducted by NHTSA utilize the results of research being conducted by other agencies within the Department of Transportation.

Mr. ROBERT C. BYRD. Mr. President, as the Senate completes consideration of H.R. 4440, a bill making appropriations for fiscal year 1980 for the Department of Transportation and related agencies, I take this opportunity to comment briefly on the contents of this bill and to thank the distinguished chairman of the Subcommittee on Transportation Appropriations, Mr. BAYH, and its ranking minority member, Mr. McCLURE.

As chairman of the subcommittee, Senator BAYH has given careful attention to budget requests and program needs. I know that he has been ably assisted by Senator McCLURE. The members of this subcommittee, as well as the members of the full Committee on Appropriations, have weighed each item in terms of its merits and needs. As the report clearly indicates, each item was reviewed and studied meticulously. The result is a balanced approach between the economic realities of increased energy costs and the changing requirements of various transportation modes. This bill is below the budget estimates for fiscal year 1980, but its recommendations realistically address the requirements of the programs involved.

Under title I, Department of Transportation, the bill includes funds for the Federal-aid highway program, urban mass transit programs, and highway safety. It contains such major items as $35 million for safer off-system roads, $150 million for rail rehabilitation and improvement, $899.7 million for Amtrak, and others.

One important purpose of the recommended funds in this appropriations bill is to meet the mass transportation needs of this Nation. In the area of urban mass transportation, the bill recommends a total of $2.1 billion. This includes funding for such programs as administrative expenses, urban discretionary grants, and rural and small urban grants.

Mr. President, public transportation represents an alternative to the driving public which gives them an opportunity to restrict their individual gas consumption. The private automobile is one of the greatest consumers of fuel in our society. Every time a commuter can choose mass transit over his car, a fuel savings is a potential result, and mass transit is one of the simplest, least disruptive ways for us to approach energy conservation.

The transportation needs of rural America are somewhat different than—yet just as important as—the transportation needs of our urban centers. Representing a rural State, I am particularly aware of the transportation needs of West Virginia. Many residents in rural areas are isolated and face difficulties in getting to their jobs, or gaining access to social services and health care centers, recreation and shopping centers. The mobility problem in rural America is aggravated by the fact of long travel distances and, consequently, high travel costs. My constituents in West Virginia have often told me that rural transportation difficulties work a special hardship on the poor, the elderly, the young, and the handicapped. In addition, these problems discourage the economic development of rural areas and small and midsized cities.

It is important that we address the transportation problems of rural America, and H.R. 4440 seeks to do this.

Title II of the bill provides funding for eight related agencies, ranging from the National Transportation Safety Board to the Panama Canal Commission. As the recommendations reflect, the committee's review of each agency was balanced and thorough.

Mr. President, this bill is a good one, and I again commend the distinguished chairman of the Subcommittee on Transportation Appropriations, Mr. BAYH, the ranking minority member, Mr. McCLURE, and the members of both the subcommittee and the full committee, for their work.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. BAYH. I yield back my time.

Mr. GARN. I yield back my time, Mr. President.

The PRESIDING OFFICER. All time has been yielded back.

The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON) is absent on official business.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON) would vote "yea."

Mr. STEVENS. I announce that the Senator from California (Mr. HAYAKAWA) is absent on official business.

I further announce that the Senator from Oregon (Mr. HATFIELD) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The PRESIDING OFFICER (Mr. SARBANES). Is there any Member of the Senate who has not voted and desires to vote?

The result was announced—yeas 71, nays 26, as follows:

[Rollcall Vote No. 382 Leg.]

YEAS—71

Baker
Baucus
Bayh
Bentsen
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Chafee
Church
Cochran
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Ford
Glenn
Gravel
Heinz
Hollings
Huddleston
Inouye
Jackson
Javits
Jepsen
Johnston
Kennedy
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Nelson
Packwood
Pell
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schmitt
Schweiker
Stafford
Stevens
Stevenson
Stewart
Stone
Talmadge
Tower
Tsongas
Warner
Weicker
Williams
Young
Zorinsky

NAYS—26

Armstrong
Bellmon
Biden
Byrd, Harry F., Jr.
Chiles
Cohen
Exon
Garn
Goldwater
Hart
Hatch
Heflin
Helms
Humphrey
Kassebaum
Laxalt
Muskie
Nunn
Percy
Pressler
Proxmire
Roth
Simpson
Stennis
Thurmond
Wallop

NOT VOTING—3

Cannon
Hatfield
Hayakawa

So the bill (H.R. 4440), as amended, was passed.

Mr. BAYH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAYH. Mr. President, I move that the Senate insist upon its amendments, and request a conference with the House of Representatives, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. BAYH, Mr. MAGNUSON, Mr. STENNIS, Mr. ROBERT C. BYRD, Mr. EAGLETON, Mr. DURKIN, Mr. McCLURE, Mr. MATHIAS, Mr. WEICKER, and Mr. YOUNG conferees on the part of the Senate.

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia, the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I wish to congratulate and thank Mr. BAYH and Mr. McCLURE for their effective handling of the DOT appropriation bill, and for their expeditious leadership in disposing of this bill today.

ANADROMOUS FISH CONSERVATION ACT

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 838.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 838) entitled "An Act to amend the Anadromous Fish Conservation Act in order to extend the authorization for appropriations to carry out the purposes of the Act, and to initiate an emergency investigation on the striped bass in Atlantic coastal waters", do pass with following amendments:

Strike out all after the enacting clause, and insert: That section 4(a) of the Anadromous Fish Conservation Act (16 U.S.C. 757d(a)) is amended by striking out the first two sentences and inserting in lieu thereof the following: "There are authorized to be appropriated to carry out the purposes of this Act not to exceed the following sums:

"(1) $11,000,000 for fiscal year 1980.

"(2) $13,000,000 for fiscal year 1981.

"(3) $15,000,000 for fiscal year 1982.".

Sec. 2. Subsection (c) of the first section of the Anadromous Fish Conservation Act (16 U.S.C. 757a(c)) is amended by striking out the second sentence thereof.

Sec. 3. Section 2 of the Anadromous Fish Conservation Act (16 U.S.C. 757b) is amended by striking out the last sentence and inserting in lieu thereof the following: "Title to lands or interests therein acquired by the Secretary pursuant to this Act shall be transferred to the State in which such lands are located or, in any case in which another non-Federal party has an agreement with the Secretary under subsection (a) of the first section of this Act, to such party.".

Sec. 4. The Anadromous Fish Conservation Act is amended by redesignating section 7 as section 8 and by inserting after section 6 the following new section:

"Sec. 7. (a) The Secretary shall cooperate with States and other non-Federal interests in conducting studies of—

"(1) the size and distribution of the population of striped bass (Morone saxatilis) throughout its range, and

"(2) the factors responsible for the decline in the numbers of striped bass which are available to the public for recreational and commercial use.

Such studies shall include a determination of the amount and geographical location of annual spawning, analyses of the extent and causes of mortality at successive stages in the life cycle of the striped bass, determination of the effects of pollutants on eggs and larval stages of striped bass, and a study of the economic importance of recreational and commercial striped bass fisheries.

"(b) The Secretary shall make annual reports to the Congress concerning the progress and findings of the studies conducted pursuant to subsection (a) of this section. Such reports shall, where appropriate, contain recommendations of actions which could be taken to improve the population of striped bass.

"(c) For purposes of conducting the studies required by this section, the Secretary may enter into agreements with States and other non-Federal interests in accordance with the provisions of the first section of this Act or he may carry out such studies directly, as he deems appropriate: *Provided*, That any agreement entered into pursuant to this subsection shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

"(d) There are authorized to be appropriated for the purposes of carrying out the studies described in subsection (a) of this section not to exceed $1,000,000 for the fiscal year ending September 30, 1980, not to exceed $1,750,000 for the fiscal year ending September 30, 1981, and not to exceed $2,000,000 for the fiscal year ending September 30, 1982. Funds authorized to be appropriated by this subsection are in addition to any funds authorized by section 4 which may be used for projects involving or affecting striped bass.".

Amend the title so as to read: "An Act to authorize appropriations for fiscal years 1980, 1981, and 1982 to carry out cooperative programs with the States for the conservation of anadromous fish, and for other purposes.".

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Rhode Island (Mr. Chafee).

Mr. CHAFEE. Mr. President. I wish to thank the distinguished majority leader.

UP AMENDMENT NO. 714

I move that the Senate concur in the House amendments to S. 838, with the following amendment which I send to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. Chafee) proposes an unprinted amendment numbered 714.

Mr. CHAFEE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

That subsection (c) of the first section of the Anadromous Fish Conservation Act (16 U.S.C. 757a(c)) is amended by striking out the second sentence thereof.

Sec. 2. Section 2 of the Anadromous Fish Conservation Act (16 U.S.C. 757b) is amended by striking out "United States" in the last sentence and inserting in lieu thereof "cooperating States or other non-Federal interests".

Sec. 3. (a) Subsection (a) of section 4 of the Anadromous Fish Conservation Act (16 U.S.C. 757d(a)) is amended by striking out the first two sentences and inserting in lieu thereof the following: "There are authorized to be appropriated to carry out the purposes of this Act not to exceed the following sums:

"(1) $11,000,000 for fiscal year 1980.

"(2) $13,000,000 for fiscal year 1981.

"(3) $15,000,000 for fiscal year 1982.".

(b) Subsection (b) of such section 4 is amended by striking out "$1,000,000" and inserting in lieu thereof "$1,250,000".

Sec. 4. The Anadromous Fish Conservation Act is amended by redesignating section 7 as section 8 and by inserting after section 6 the following new section:

"Sec. 7. (a) The Secretary shall cooperate with States and other non-Federal interests in conducting studies of—

"(1) the size and distribution of the population of striped bass (Morone saxatilis), including, but not limited to, studies to determine the amount and geographical location of annual spawning; and

"(2) the factors responsible for the decline in the number of striped bass that are available to the public for recreational and commercial use, including, but not limited to—

"(A) analyses of the extent and causes of mortality at successive stages in the life cycle of striped bass,

"(B) a determination of the effects of pollution on the viability and condition of eggs and larval fish, and

"(C) a survey of the economic importance of recreational and commercial striped bass fisheries.

"(b) The Secretary shall make annual reports to the Congress concerning the progress and findings of the studies conducted pursuant to subsection (a) of this section. Such reports shall, where appropriate, contain recommendations of actions which could be taken to improve the population of striped bass.

"(c) For purposes of conducting the studies required by this section, the Secretary may enter into agreements with States and other non-Federal interests in accordance with the provisions of the first section of this Act or he may carry out such studies directly, as he deems appropriate: *Provided*, That any agreement entered into pursuant to this subsection shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

"(d) There are authorized to be appropriated for the purposes of carrying out the studies described in subsection (a) of this section not to exceed $1,000,000 for the fiscal year ending September 30, 1980, not to exceed $1,750,000 for the fiscal year ending September 30, 1981, and not to exceed $2,000,000 for the fiscal year ending September 30, 1982. Funds authorized to be appropriated by this subsection are in addition to any funds authorized by section 4 which may be used for projects involving or affecting striped bass. If the Secretary considers that the studies described in subsection (a) should be continued after September 30, 1982, the Secretary shall inform the Congress in writing before February 15, 1981, of the reasons why and for how long such continuation is believed to be warranted.".

Sec. 5. Section 201(e) (2) (D) (i) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1821(e) (2) (D) (i)) is amended by striking out "harvested" and inserting in lieu thereof "unharvested".

Sec. 6. There are authorized to be appropriated to the Department of the Interior such sums as may be necessary, but not to exceed $800,000, for purposes of preparing a plan for a fishery research laboratory on lands owned by the University of Washington on Big Beef Creek, Washington. For purposes of preparing such a plan, there shall be available to the Department of the Interior any sums previously appropriated for the National Fishery Research Center in the State of Washington and available for expenditure on the date of the enactment of this Act, and such sums shall be treated as having been authorized for appropriation under the preceding sentence. The Secretary of the Interior shall complete and submit such plan as soon as practicable to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Environment and Public Works of the Senate and such plan shall include, but not be limited to, information regarding site adequacy, laboratory conceptual design, recommended agreements that should be entered into regarding Federal agency use of such laboratory as a condition for Federal sharing in its costs, and estimates of the costs involved.

Sec. 7. The aquarium to be built by the City of Baltimore, Maryland, on the site on Pratt Street, Pier 3, of the Baltimore Inner Harbor, shall, on and after the date of the completion of its construction, be known and designated as the "National Aquarium in Baltimore". Any reference in any law, map, regulation, document, record, or other paper of the United States to that aquarium shall be held to be a reference to the National Aquarium in Baltimore.

Mr. CHAFEE. Mr. President, the authorization for appropriation for the Anadromous Fish Conservation Act expired June 30, 1979. Without extension of the authorization the Secretaries of the Interior and Commerce will be unable to carry out their responsibilities under the act.

On May 15 of this year the Senate Committee on Environment and Public Works reported to the Senate for consideration S. 838. The legislation was then unanimously approved by the Senate on June 18, 1979. Subsequent to the Senate action the House Merchant Marine and Fisheries Committee considered similar amending legislation which was reported in the House on June 25, 1979. The House on that date modified the Senate version of S. 838 and sent the bill back to the Senate.

Today I am introducing amendments to the House-passed version of this bill. These amendments are the result of a cooperative effort by the members of the House and Senate committees to rectify the differences in the House and Senate versions of S. 833 and to clarify the intent of both Houses of Congress with regard to certain provisions in the final bill. The committee believes that this joint effort has been successful and that passage of the amendments proposed by me today will avoid the necessity for a conference on S. 838.

Before going further Mr. President, I would like to compliment Chairman JOHN BREAUX and members of the majority and minority staffs of the Subcommittee on Fisheries and Wildlife of the Merchant Marine and Fisheries Committee for their cooperation and hard work on this legislation. They have been most helpful in finalizing the congressional effort on this legislation and deserve credit for their work in this regard. I look forward along with the staff of the Resource Protection Subcommittee to working with this group on fisheries and wildlife matters in the future.

In addition to expressing appreciation for the cooperation on this legislation from our colleagues in the House, I am also grateful for the interest and support of a large number of my Senate colleagues who have supported this bill and particularly the striped bass study provision contained therein. In the Senate there were 17 cosponsors of this legislation, all of whom I would like to personally thank for their efforts with regard to this legislation. I would here particularly note that this bill has been the product of work by two committees of the Senate, the Senate Committee on Environment and Public Works on which I serve and the Senate Committee on Commerce, Science, and Transportation. The staff and interested members of that committee have been most helpful and instructive in completing this bill and I would like to thank them for their efforts.

Mr. President, I would now like to explain the basic provisions of the amended reauthorization bill and give a brief description of the act itself.

The Anadromous Fish Conservation Act of 1965 authorizes the Secretaries of the Interior and Commerce to enter into cost-sharing agreements with the States and other non-Federal interests for the conservation, development, and enhancement of the severely depleted anadromous fishery resources of the Nation. At the Federal level, the program is jointly administered by the Director of the Fish and Wildlife Service and the Assistant Administrator for Fisheries. Federal funds up to 50 percent may be used to finance project costs. State fishery agencies, colleges, universities, private companies, and other non-Federal interests in 31 States bordering the ocean, Great Lakes, and Lake Champlain may participate under the act. All projects must be coordinated with the State fishery agency concerned. The law also provides that the Federal share of the project cost money will be increased to a maximum 66⅔ percent when two or more States, having a common interest in a program, jointly enter into a cooperative agreement with the Secretaries.

Mr. President, the compromise amendments in the legislation being introduced today have the net effect of changing the present law in the following five ways: First, they would extend the authorization for appropriation for 3 years with the authorized level being $11 million for fiscal year 1980, $13 million for fiscal year 1981, and $15 million for fiscal year 1982. The bill also amends present law to remove language which places the burden for costs of operation and maintenance of facilities constructed under multistate projects entirely on the States. It also removes the requirement that all title of lands acquired under the act must rest in the Federal Government rather than with the State involved.

Further, the bill amends the provision of present law that limits to $1 million the amount of funding a State can receive under section 4(b) in any one year to provide that a State may not receive in any one year in excess of $1.25 million. This change makes funding arrangements under the act capable of responding to the actual situations that arise in the construction of major fish management facilities.

Finally, the bill initiates an emergency research and monitoring program concerning the drastic decline experienced recently in populations of striped bass particularly in those areas of the country where such declines are found. This last described section of the bill is of particular interest to me being from Rhode Island, a State where the recreational and commercial value of striped bass is well understood. The Senate hearings on this provision showed clearly that the condition of the bass population in the region that includes Rhode Island is quite bad and should be given immediate attention.

At the time the Senate Committee on Environment and Public Works held its hearings on this reauthorization bill, I quite by accident was reading a most informative and interesting book by John N. Cole called "Striper." The historical information in this book concerning the striped bass, one of the most important anadromous fish on the east coast, is quite astounding, but a look at the fish's present status and the prediction of its future chance of survival is disheartening to say the least.

The committee is cognizant of the fact that the striped bass is of importance, both recreationally and commercially, in a number of regions of the country. It is also noted by the committee that, while across the country some of the populations of stripers are in a stable or improving condition, populations in certain areas now show a dramatic and unexplainable decline. Many within the scientific community, who are familiar with population trends of striped bass, are concerned that the extremely low ebb in the fortunes of the striped bass is the result of more than the expected ups and downs of this stock of stripers. Many of these scientists postulate that the length and severity of the decline of the striped bass population in this instance is due primarily, or is certainly aggravated, to pollution, exploitation, or destruction of necessary spawning habitat. They have warned the committee that with respect to the striped bass populations in these waters an all-out effort ought to be made immediately to understand what is happening before an even worse turn of events with the bass occurs.

With this in mind the committee, while not wishing to minimize the importance of research to improve the conditions of striped bass populations throughout the country, would like to stress the urgency of the need to address the problems the bass faces in those areas showing the most dramatic decline.

The committee, being concerned about the future of the striped bass, has directed with this legislation that the Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) act with all deliberate haste in carrying out the proposed study. The committee in advancing this study does not suggest that nothing is presently being done. Research conducted by the Federal agencies, States, and universities, although lacking integration, has been substantial.

It is intended that the FWS and NMFS act as coordinators of this study and that an overall plan of action be developed prior to initiation of the study by a committee composed of representatives from the administering agencies, other Federal agencies, the State, other non-Federal interests, and the Citizens Advisory Panel which is described below.

The committee realizes that the same people who hold the striped bass so highly in esteem are the best hope for the continued viability of this resource and should be involved in the study conducted by section 5 of this legislation. The committee also understands that the needs and expectations of the various user groups can be defined best by the users themselves. Further, the success of this investigation will ultimately be measured against the satisfaction of the fishermen, businessmen, and consumers who pursue, profit from, and enjoy the striped bass.

Accordingly, the striped bass study provisions in recognition of the intense interest in the striper's well-being expressed by these users, directs the codirectors of the study to seek input from these groups in their administration of this investigation by utilizing the existing citizens advisory group. It is of the utmost importance that the panel created should contain a representative balance of both recreational and commercial fishing interests.

The committee is aware that the existing Federal-State striped bass program within NMFS already has an advisory body and it is the intention of the committee that the coordinators of the striped bass program will, as appropriate, draw from the personnel and experience of this existing group. It may be necessary to expand this advisory panel to include adequate representation for commercial and recreational fishing interests in order to properly address the striped bass study.

It should be noted that the study is separated into two major divisions: First, investigation of the status of population of striped bass; and second, studies of other factors responsible for the decline in numbers of striped bass.

It is the intent of the committee that the investigations which are to be carried out pursuant to section 5 of S. 838 take advantage of and capitalize on the existing capabilities of the involved State and Federal agencies.

For this reason it is requested that the coordinators of the striped bass study use as a guide in—dividing responsibility for the carrying out of such study—the division of such responsibility outlined in the Senate report. It might be noted that while the Senate report does not speak directly to the issue of open ocean contaminant research, both the House and Senate Committees agree that the NMFS expertise in this area should be recognized and that those portions of the study dealing with this subject should be managed by them.

It should also be understood that this division of responsibility between various levels of government and the State agencies is not to be viewed as a criticism of the management capabilities of those involved in the study. It is, however, a recognition of the differing agency capabilities and the difficulties of working with a fish species in the coastal zone, particularly a migratory species that does not recognize either State or Federal jurisdictional lines, and in addition, spends important portions of its life cycle in both salt and fresh water. In working with the NMFS and FWS prior to passage of S. 838, we found the agencies to be aware of the overlaps in capabilities that existed and the potential that these overlaps had to cause confusion and delay in the initiation and completion of this badly needed study. They therefore worked with the committee to design the responsibility guidelines in the Senate report and agree that they will be of help in increasing the efficient and expeditious completion of the study.

The committee is interested in maintaining maximum cooperation and participation by the States in carrying out the proposed study. It is also deemed to be most important that existing capabilities of the States be utilized by the coordinators wherever possible. Evidence indicates that the States have particularly good capabilities and should therefore be heavily involved in gathering the information needed to complete the size and distribution analysis contemplated in section 7(a)(1) of the bill. The committee also realizes the interstate nature of this particular portion of the study and would maintain that wherever possible a 66⅔ Federal matching share should be available to those States which participate in it.

The committee also understands that the State may not have the best capabilities to accomplish the studies needed in section 7(a)(2). The committee has therefore included a provision that will allow the coordinators to contract directly with those parties which can best obtain the information desired in this portion of the study. The use of this contract authority should, in those cases where State capabilities are lacking, enable the coordinators to obtain the necessary information from the most reliable source even if such source is a Federal agency, university, or private entity.

Finally, Mr. President, there are three additional provisions in the amendment offered today relating to other programs which I would like to briefly explain.

First, section 5 of the amendment would make a technical change to section 201(e)(2)(d)(1) of the Fishery Conservation and Management Act of 1976. The word "harvested," which is incorrectly used in this subsection, is corrected to read "unharvested."

Second, section 6 of the amendment would make it clear that funds previously appropriated for purposes of preparing a plan and design for the National Fishery Research Center in the State of Washington would, in lieu thereof, be authorized to be used for preparing a plan and design for a fishery research laboratory on lands owned by the University of Washington. The amendment authorizes up to $800,000 to be used for preparing such a plan and the $600,000 previously included in the 1980 appropriation bill, H.R. 4930, for this purpose is considered to be a part of this authorization.

Third, section 7 would provide that the aquarium to be built in the city of Baltimore on Pratt Street shall be known after its completion as the "National Aquarium in Baltimore" and any reference to that aquarium in the future shall be held to be a reference to such National Aquarium.

Mr. President, I strongly support the Senate amendment and I urge its adoption.

Mr. MATHIAS. Mr. President, will the Senator yield?

Mr. CHAFEE. I would be glad to yield.

Mr. MATHIAS. Mr. President, I am delighted that the committee is including an amendment to section 7 of the Anadromous Fish Act of 1979 which would designate the aquarium now under construction in the city of Baltimore as the National Aquarium in Baltimore. In particular, I wish to thank my colleague, Senator CHAFEE, for taking this initiative on my behalf.

The designation of "National Aquarium in Baltimore" is a very special title. It should only be bestowed on an aquarium of the highest caliber. I am convinced that the new aquarium planned for Baltimore deserves to receive this high recognition. I believe that anyone who takes the time to examine the design and plans for this new facility will agree that it would be a national aquarium of which we could all be proud.

Baltimore is inviting the Federal Government to become associated with one of the finest aquariums in the world. And wonder of wonder, miracle of miracles, the Federal Government is not being asked to contribute even a dime to the project. Upon completion in late 1980, this $20 million aquarium will be the largest in terms of volume, specimen collection and gallonage, and by far the most advanced, in the Nation. Its collection of 8,000 display specimens will be worldwide in scope and its display volume of 940,000 gallons will be twice as large as the average.

Every consideration has been given to energy efficiency in the design of the facility. It will make use of the most advanced technology in water treatment and conservation and exhibit design and will be accessible to the handicapped. Its education and research facilities will be of the highest quality.

The most unusual aspect of the Baltimore aquarium's award-winning design its fascinating walk-through ecological exhibits, including a cove on the Maine seacoast where children will be allowed to handle living specimens; an Amazonian rain forest complete with plants, trees, river life, insects, birds and mammals, and two enormous ring tanks of 335,000 and 200,000 gallons respectively which will surround the visitor with colorful life of a Caribbean coral reef on one level and the large denizens of the open ocean such as sharks, rays, and amberjacks on the next. No other American aquarium can boast such exhibits.

The present aquarium in Washington, now housed in the basement of the Commerce Department, is little more than a series of relatively small, traditional tanks. In fact, because of its longstanding dissatisfaction with the Washington facility and the obvious merits of the Baltimore facility in comparison, the National Humane Society has publicly endorsed the designation of the Baltimore institution as our national aquarium. It also has the support of the Department of the Interior and the American Association of Zoological Parks and Aquariums has recognized the high standard of this facility. The modern aquarium now under construction in Baltimore will provide far greater capability for holding, caring for, and for breeding fishes, marine mammals and other aquatic species. It will have an educational dimension totally lacking in older aquariums.

Beyond the many appealing attributes of the Baltimore facility itself which make it worthy to be a national aquarium, the advantages of the Baltimore location cannot be exaggerated. Baltimore Inner Harbor is a most appropriate location for a national aquarium. Not only does it lie in the heart of one of our Nation's greatest ports, but the city is strongly scientifically oriented, with one of the largest concentrations of scientists in the country.

It is adjacent to the Chesapeake Bay, the largest and richest marine estuarine system in the United States. The bay has been used to demonstrate the various concepts associated with estuarine systems in general.

A national aquarium in this region could aid immeasurably in educating the public about the functioning of this bay system. By extension, this facility could also inform citizens about similar ecological systems throughout the world. Recent events underscore the importance of knowing as much about this area as is humanly and scientifically possible. The threat to richly productive areas along the Gulf coast posed by oil from IXTOC I and the extinction of life in the lower San Francisco Bay caused by a faulty sewage treatment plant are just two examples.

Community and government agencies in both Baltimore and Washington have long recognized the interconnections between the economies of Baltimore and Washington. Recently the Baltimore and Washington Common Market was formed, with a starting budget of approximately $600,000 from corporations in both cities and from the State of Maryland, in order to promote this common area both nationally and internationally. Along with being economically integrated, there is no reason why Baltimore and Washington cannot become more scientifically and touristically integrated. Obviously a designation of this sort would go a long way in making it so.

I believe that Baltimore possesses many attributes that argue for making the Baltimore Aquarium our national aquarium. Among them are the array of tourist attractions in the inner harbor, the easy rail link between the National Visitors Center and Baltimore's Penn Station in the central business district, and the excellent highway access.

Mr. President, this year Baltimore is celebrating its 250th birthday. The designation of Baltimore's aquarium as the "National Aquarium in Baltimore" would be a fitting birthday present for a very great city. I urge my colleagues to vote for this amendment.

Mr. TSONGAS. Why has the Baltimore Aquarium been nominated to be designated the National Aquarium in Baltimore?

Mr. MATHIAS. Baltimore Aquarium, when completed, will be the newest aquarium in the United States and its proximity to Washington, D.C. is a major consideration.

Mr. TSONGAS. Would the designation of the Baltimore Aquarium as the National Aquarium in Baltimore preclude consideration of any other institution as being designated as a National Aquarium, for instance, in New York, San Francisco, Chicago, or Boston?

Mr. MATHIAS. The designation as a National Aquarium need not be exclusively reserved to the Baltimore Aquarium, but could also be granted to other institutions of similar stature and function upon nomination and consideration by Congress.

Mr. TSONGAS. Does the designation as a National Aquarium give the Baltimore Aquarium priority for the display of aquatic animal gifts to the United States from foreign goverments?

Mr. MATHIAS. Not necessarily. A gift of an aquatic animal from a foreign government should be housed in the public facility best suited to accommodate and display the animal(s).

Mr. TSONGAS. In the event that this as yet uncompleted facility (the Baltimore Aquarium) should experience an operating deficit, will its designation as a National Aquarium make it any more eligible for Federal funds in the way of support than any other not for profit zoological institution?

Mr. MATHIAS. No. The designation carries with it no operational support funds nor any positive prejudice for future support of operational deficits by any Federal agency.

Mr. TSONGAS. In the event that there is a significant exhibit potential such as the acquisition of an animal as rare as a coelocanth—the equivalent of a panda bear in the aquatic realm—would this make the Baltimore Aquarium eligible for federal funding for capital improvements or additions over any other not-for-profit zoological institution?

Mr. MATHIAS. No. The designation carries with it no implied support of capital improvements by any Federal agency.

Mr. TSONGAS. Will this designation preclude any other not-for-profit aquarium from receiving Federal funds for capital or operational support?

Mr. MATHIAS. No. This designation does not give the Baltimore Aquarium any priority to available Federal funds for any activity in which it partakes.

Mr. TSONGAS. What Federal agency has overview responsibility on behalf of Congress to insure that a National Aquarium is being operated consistent with national interests and concerns relative to its animal husbandry practices and exhibit presentation and content?

Mr. MATHIAS. The Department of the Interior will have overview responsibilities to insure that a National Aquarium is operated consistent with national interests as listed.

Mr. TSONGAS. Should a deficiency in operational standards, exhibit, presentation or content be identified by the overview agency, who is responsible to correct such deficiences in performance?

Mr. MATHIAS. The Administrator of the National Aquarium is responsible to correct such deficiencies via available operating funds or funds provided by the sponsoring body; that is, city, State or private organizations. No Federal funds will be available for such corrections or changes.

Mr. TSONGAS. Will a National Aquarium be allowed to charge a user fee to citizens of the United States?

Mr. MATHIAS. A National Aquarium will not receive any support from Federal tax dollars, therefore it would be expected to raise its own operational funds from whatever resources were available including but not limited to an admission fee subject to approval by the overview authority.

Mr. CHAFEE. Mr. President, I move that the Senate concur in the House amendments with an amendment.

The motion was agreed to.

Mr. CHAFEE. I thank the distinguished majority leader.

DEPOSITORY INSTITUTIONS DEREGULATION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the pending business, H.R. 4986, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4986) to amend the Federal Reserve Act to authorize the automatic transfer of funds, to authorize negotiable order-of-withdrawal accounts at depository institutions, to authorize federally chartered savings and loan associations to establish remote service units, and to authorize federally insured credit unions to maintain share draft accounts, and for other purposes.

The Senate resumed consideration of the bill.

Mr. MORGAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MIGRATION AND REFUGEE ASSISTANCE—S. 1668

Mr. ARMSTRONG. Mr. President, I am going to be unavoidably away from the Senate tomorrow and it is my understanding that the Senate will consider the bill, S. 1668. I would like to make an observation or two about that, because it is a matter that is near and dear to my heart.

I very much regret that it is impossible for me to be present when that measure is taken under consideration by the Senate. As a matter of fact, I had considered postponing a long contemplated trip and speaking engagement out of the city in order to be present, but I decided not to adjust my travel plans since I think the measure being taken up, which is the migration and refugee assistance appropriation, is not controversial. The only reason I wanted to be here is to add my word of support in favor of it.

The bill will authorize appropriations for fiscal year 1980 and 1981 to raise the total figures authorized for migration and refugee assistance to $456 million for fiscal year 1980 and $457.8 million in 1981.

What we are really talking about is a special increase in order to accommodate the needs of the refugees in Southeast Asia. I just want my statement to be a part of the record, together with those of many, I am sure, who will speak when the bill is before the Senate, who will complement and commend our colleagues, Senators DANFORTH, SASSER, and BAUCUS, for their leadership in going over to see firsthand the tragedy that is taking place in Southeast Asia and the starvation of the Cambodian people.

I think it is not only proper but becoming for the Senate to express its concern about this, and certainly to appropriate additional funds to help in any way we can.

Over and above that, Mr. President, beyond simply appropriating money to help feed these people, I am very sensitive to the fact that the real problem is a political one; that the government in Phnom Penh has refused, thus far, to permit the relief column of trucks to enter the country to bring the food to the people.

I was one of those who approached our colleagues when they came back from Cambodia to ask, "Well, why don't we just airdrop food to these starving people?" Out in my part of the country, when we have snowstorms, that is exactly what we do. We fly food to stranded people and animals, and just push it out the door on a parachute and feed them in that way.

And the appalling, shocking response is simply that the people we are concerned about are so weakened by hunger that they could not even marshal the energy to walk a mile or two to where an airdrop might deposit food.

I am persuaded, after talking to our colleagues, and also after talking with representatives of the President and private organizations who are concerned about this problem, that it will be impossible, as a practical matter, to save the lives of hundreds of thousands of people who are now starving to death in Cambodia unless we send not only food, but the people who will deliver it to them and help them to regain their strength and health.

Mr. President, what is shaping up in Southeast Asia is a tragedy which is almost without precedent in the entire history of the human race. It is so shocking that it is almost impossible for the civilized mind to comprehend it. But the government in Phnom Penh is literally prohibiting the United States and other nations, including the private voluntary agencies which have come forward to offer their help and assistance, from coming into the country to feed their own starving people.

I do not profess to be well-informed about the political ins and outs of this, or what all the issues are that have prompted them to take such an intransigent and unbecoming position. But in my family we are praying that America will prevail and that the hearts of these people will soften, or, in the alternative, that the government in Phnom Penh will be replaced so as to permit the relief which is so urgently needed in that country to enter and people fed and lives saved.

I cannot underline too strongly my belief that money alone is not enough, but at least in the resolution, which I understand will come up in the next day or so, S. 1668, the Senate will be doing what it can in the short run, which is to appropriate the funds, so that if and when the door for relief is open we will have done our part and the funds will be available.

Mr. President, again I appreciate this opportunity to express myself. I am only sorry that I will not be here when the bill is under debate. I am confident it will pass by a unanimous vote so my presence will not be necessary.

DEPOSITORY INSTITUTIONS DEREGULATION ACT

The Senate continued with the considered of H.R. 4986.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

UP AMENDMENT NO. 715

(Purpose: Relating to foreign control of United States financial institutions)

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 715.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert a new section as follows: The Congress finds that the takeover in whole or in part of United States financial institutions by foreign interests may constitute a threat to the health of the economy of the United States.

SEC. 2. As used in this title—

(1) "United States financial institution" means any bank, mutual savings bank, or savings and loan association organized under the laws of any State or of the United States;

(2) "foreign person" means any foreign organization or any individual resident in a foreign country or any organization or individual owned or controlled by such an organization or individual;

(3) "United States person" means any organization existing under the laws of the United States or of any State or any United States citizen; and

(4) "takeover" means any acquisition of the stock or assets of any financial institution if, after such acquisition, the amount of stock or assets held is 5 percent or more of the institution's stock or assets.

SEC. 3. (a) The Board of Governors of the Federal Reserve System, in consultation with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board, shall prepare a report which shall—

(1) analyze in detail the impact on the United States economy and United States banking system of the takeover of United States financial institutions by foreign persons;

(2) specify what changes to existing statutes and regulations should be made and what new legislation should be enacted in the event that the Congress determines that it is appropriate to—

(A) prevent hostile takeovers of United States financial institutions by foreign persons;

(B) prevent takeovers of United States financial institutions by foreign persons where such takeovers will have an anticompetitive effect;

(C) prevent more than 10 percent, measured by total aggregate deposits and loans, of all United States financial institutions from being owned or controlled, either directly or indirectly, by foreign persons;

(D) prevent the takeover of any United States financial institution by any foreign person where such person is organized under the laws of or the resident of, or owned by or controlled by any foreign person organized under the laws of or the resident of, a foreign country which does not grant the same takeover privilege to United States persons; and

(E) permit Federal bank and savings institutions regulatory authorities to have such supervisory and investigatory powers over foreign persons which own or control a United States financial institution (i) as are equivalent to the powers that agencies have over United States persons which own or control United States financial institutions, and (ii) as are necessary to ensure safe and sound practices by United States financial institutions owned or controlled by a foreign person.

(b) The report required by this section shall be submitted to the Congress not later than 6 months after the date of enactment of this resolution.

SEC. 4. In order to permit the Congress to receive, consider, and act upon the report required by section 3, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board may not approve any application relating to the takeover of any United States financial institution by a foreign person unless (1) such takeover is necessary to prevent the bankruptcy or insolvency of the United States financial institution, or (2) the application has been filed on or before June 1, 1979.

Mr. HEINZ. Mr. President, this amendment is designed to place a moratorium on the Federal Reserve allowing the purchase of any U.S. banks by foreign owners for a period not to exceed 6 months.

Indeed, this amendment is being offered at this time because of a number of developments in the international banking community. It is an amendment on which our committee has held 2 days of hearings. We have had a number of very knowledgeable witnesses before our committee answering a variety of questions.

One conclusion that this Senator came to as a result of considerable research and our hearings is that until the Federal Reserve Board announcement of July of this year, foreign banks, branches, and agencies could operate in the United States without maintaining any reserves whatsoever with the Federal Reserve and thereby undercut U.S. competition.

It is also established on the record that U.S. banks cannot retain nonbanking enterprises. Foreign banks are allowed much leeway to retain and expand their nonbanking interests abroad.

Foreign banks can buy minority interests in banks in more than one State. There seems to be a greater permissiveness on the part of the Fed and the Comptroller of the Currency toward allowing foreign banks to acquire minority interests in U.S. banks. For example, if Midland Bank's offer for Walter E. Heller International is approved, they will have a banking presence in all three of our Nation's largest money centers. Midland already owns 16 percent of Standard Chartered—which acquired Union Bancorp of Los Angeles—and 20 percent of European American Bank in New York—the old Franklin National Bank. The Heller transaction involves the $2 billion National Bank & Trust in Chicago.

Close connection and support from foreign governments for foreign banks raises serious questions concerning the degree to which we can have confidence that such banks would carry out monetary or investment policies supportive of U.S. interests when those interests happen to conflict with those of the owner's home country.

Most major developed nations would prohibit U.S. acquisition of comparable large banks in their country. This statement was recently confirmed by one of our U.S. bank regulatory agencies. For example, it would be impossible for a major U.S. bank to acquire a comparable "clearinghouse" size bank abroad.

Also, Mr. President, foreign banks can offer lower interest rates because foreign banks charge their customers based on the cost of funds—primarily Eurodollars—plus a spread and can draw on funds from the parent bank which is not required to keep a reserve.

Finally, artificial constraints on U.S. banks such as the Bank Holding Company Act and the McFadden Act make their growth and earnings potential lower, and therefore the domestic banks become susceptible to foreign bank takeovers.

I do not think I have to remind this body of the tremendous activity of foreign acquisition of American banks. From 1972 to the end of 1978 the number of foreign banks operating in the United States increased from 66 to 189, nearly threefold. Virtually every leading U.S. investment banking firm today has compiled an analysis of U.S. banks that might be an acquisition target for their foreign clients.

We are at the threshold of having to make some big decisions on this matter; because foreign banks now make more than 15 percent of all big U.S. business loans. In California and New York, where foreign banks have the highest concentration, that proportion approaches 30 percent. Today foreign bank assets represent, as far as we can tell, about 9 to 10 percent of total bank assets in the United States. That number is misleading and on the low side when you consider the domination of the largest financial centers in our country and the disproportionate power, therefore, that that entails.

Mr. President, the distinguished chairman of the committee (Mr. PROXMIRE) has introduced similar legislation calling for a 2-year moratorium on this kind of invasion of our shores by foreign banking interests, an invasion that, as I mentioned, cannot be reciprocated in any way, shape, or form through similar acquisitions by U.S. banks. This yields to the foreign banks involved unjust competitive advantages.

Let me just say that my purpose, and I think the purpose of the Senator from Wisconsin in introducing these bills as we have done, is to get the Federal bank regulators to do something that they are perfectly capable of doing. That is to think and then to act. Unfortunately, notwithstanding a few bright glimmers from time to time from the Fed, most of the problems, most of the issues, that I have set forth here, and which I have set forth at greater length on several previous occasions, both here in this Chamber and in other places, remain problems which have not been dealt with by any of our bank regulatory agencies.

It is not this Senator's intention to try and interfere with competitive, equal free market forces, but I want market forces at work that are equal in the sense that we do not tilt in favor of the foreigner over the American.

Unfortunately, Mr. President, that is simply not now the case. It is high time that the Federal Reserve and everybody else concerned with the stability of our banking system came to grips with what I predict will be still a further swelling of the vast power of foreign interests in this country. I hope the committee will agree to accept the amendment.

Mr. President, I ask unanimous consent that an article I authored, entitled "Foreign Take-Over of U.S. Banking—a Real Danger?" appearing in the Journal of the Institute for Socioeconomic Studies, Autumn 1979, and also an article authored by me entitled "The Threat of Foreign Banking," appearing in the New York Times of Sunday, July 22, 1979, be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

FOREIGN TAKEOVER OF U.S. BANKING—A REAL DANGER?

(By H. JOHN HEINZ, III)

Like it or not, the world has changed in the last dozen years. "Interdependence," once a virtually exclusive concept of internationalists, has become a pressing fact of daily life for every one of us. It has not been an easy change. We Americans had become accustomed to being accorded the deference due our pre-eminence: we were used to having our way because it was our way. The unselfish underpinnings of our postwar economic policy made it difficult for many to understand when the nations we helped recover and rebuild began to challenge—and even outstrip—us in the competition for world markets and economic advantage. The emergence of immensely rich and powerful Middle Eastern oil princes and principalities was even harder for many to bear. But facts are facts, and we must deal with the world as it is. We must be alert in our planning and realistic in our policies.

Banking is one of the areas in which our programs and policies require reexamination in light of current economic realities. It is far from being the only such area, but it is important because banks play such a pivotal role in our economic system.

One of the most significant developments of the last few years has been the increasing foreign penetration of the U.S. banking market. The field is vulnerable. Banking regulations prohibit domestic banks from opening branches across state lines. Anti-trust laws bar many large non-banking companies from entering the banking field. However, foreign banks and companies are untouched by such regulations and thus find themselves with an enormous competitive advantage. Even though our laws restrict the foreign ownership of other businesses affecting the public interest, such as radio and television stations, airlines, maritime companies, and certain defense contractors, there are no comparable limits regarding banking.

In fact, the Bank Holding Company Act of 1970 actually *encourages* foreign ownership by largely exempting foreign companies which control American banks from the provisions which would otherwise limit their ownership of foreign-based non-banking or industrial firms.

Until recently this situation went largely unnoticed. Now it is the source of some uneasiness for those who are interested in the security and integrity of our financial institutions. Ever increasing numbers of foreign takeovers could have profound implications not only for our banking system, but for our entire economy. If the foreign banks can acquire leading positions in both their home markets and in ours, they will have a significant advantage in many areas of international finance. Meantime, our major trading partners, such nations as Canada, the U.K., France, Germany, Japan and Italy, are in no sense prepared to allow a major U.S bank to acquire a comparable "clearing house" size bank in their own countries.

Since 1972, when the Federal Reserve first started collecting data on foreign ownership, foreign bank assets in the U.S. have more than quadrupled, from $16 billion to more than $74 billion. These figures are imprecise, and the actual amount could be considerably higher. The pattern of expansion and growth behind these figures is striking. In 1972, there were 66 foreign banks operating in the U.S.; by the end of 1978 there were 189—a growth of almost threefold in six years. Over this same period, our post-war pre-eminent position in world banking declined dramatically. In 1972, for example, seven of the top ten largest banks in the world were American banks. Today, the situation is reversed and foreign banks comprise seven of the world's ten largest.[1] Over the past five years, large U.S. banks have grown at a much slower rate than their foreign competitors. In dollar denominated amounts, U.S. banks grew 77 percent compared with 154 percent for their European counterparts and 151 percent for Japanese banks.

Equally striking is the shift in the manner of foreign bank entry into the U.S. market. Until quite recently, foreign banks established a presence in this country by opening new offices or new affiliates in major banking centers such as Boston, New York, Chicago, Atlanta, Dallas, San Francisco and Los Angeles. Even these comparatively gradual entry techniques expanded foreign bank operations in the U.S. to a sufficiently high level that the Senate Banking Committee proposed and Congress enacted the International Banking Act of 1978. This legislation intended to provide, for the first time, a degree of Federal regulation of foreign banks operating in this country and to help our domestic banks on a more even footing with foreign-controlled U.S. banking operations.

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[1] In 1970, the ten largest world banks were: Bank of America (with $25.6 billion assets), Citicorp (with $23.1 billion assets), Chase Manhattan (with $22.2 billion assets), Barclays (with $15.1 billion assets), Manufacturers Hanover (with $12 billion assets), J. P. Morgan (with $11.4 billion assets), National Westminster (with $10.6 billion assets), Western Bancorp (with $10.6 billion assets), Banca Nazionale del Lavoro (with $10.2 billion assets), Chemical Bank of N.Y. (with $9.7 billion assets). In 1978, the ten largest world banks were: Bank of America (with $94.9 billion), Caisse Nationale de Crédit Agricole ($86.1 billion) Citicorp ($87.1 billion), Deutsche Bank ($80.2 billion), Banque Nationale de Paris ($78.2 billion), Crédit Lyonnais ($74 billion), Société Générale ($66.8 billion), Dai-Ichi Kangyo Bank ($73.3 billion), Dresdner Bank ($60.9 billion), Chase Manhattan ($61.1 billion).

Within the last two years, however, it has become clear that the pattern of foreign penetration of the U.S. banking market has changed dramatically. Foreign banks and interests have begun to enter the market by acquiring ownership or interests in established American banks. For example, the Hong Kong and Shanghai Banking Corporation is planning to acquire major ownership of Marine Midland Bank, with total assets of $12 billion. Marine holds a commanding position in upstate New York. It is either the largest or second-largest bank in Buffalo (where it holds 63 percent of the commercial bank deposits), Elmira, Utica, Binghamton, Syracuse, Poughkeepsie and Rochester. It is clearly the "lead bank," the pacesetter in this area, where its lending policies must clearly effect the economic development and wellbeing of the entire region. Standard Chartered Bank, Ltd., of London has already acquired Union Bank of California with total assets of $4.7 billion. Another British bank, National Westminster, has purchased the National Bank of North America with assets of $3.8 billion. Algemene Bank of Nederland, N.V., the second-largest Dutch bank, has proposed an acquisition of LaSalle National Bank of Chicago with total assets of $1.6 billion.

In addition to such outright purchases, foreign banks and interests are acquiring substantial stockholders positions. To wit, Argentinian interests are widely rumored to be interested in Riggs National Bank, the largest bank in Washington, D.C. Interests in Switzerland and Luxembourg have acquired 20 percent ownership of the parent company of the Long Island Trust Company, with total assets of $1 billion. It is reported that Deutsche Bank, the largest bank in West Germany, which already owns 20 percent of the stock in the European American Bank & Trust Company in New York (with total assets of almost $4.8 billion), is planning to acquire another large American bank.

The British Midland Bank Ltd. has made an offer for Walter E. Heller International. If the acquisition is approved, Midland will have a banking presence in all three of our nation's largest money centers, since it already owns 16 percent of Standard Chartered (which acquired Union Bank of Los Angeles) and 20 percent of European American Bank in New York (the old Franklin National Bank). With Walter E. Heller's $2 billion National Bank and Trust in Chicago, Midland will become a truly nationwide bank, something our banking laws were supposedly designed to prevent. This will happen, I might add, at great cost to the growth and earnings potential of domestic U.S. banks.

If all the currently proposed acquisitions are approved by the Federal Reserve Board, foreign-owned bank assets will soar to more than $95 billion—almost ten percent of the total bank assets in the United States. And this wave of acquisition and penetration is far from cresting. Direct and indirect tender of interest are increasing. Virtually every leading U.S. investment banking firm has prepared analyses of major American banks that would be attractive acquisitions for their foreign clients.

This situation, of course, has not arisen overnight. In addition to the competitive advantage for foreign banks and interests which has been inadvertently created by our domestic laws and regulations, a number of other forces and factors have recently converged. The weakened position of the dollar over the last few years and the depressed level of bank stocks—both have been chronically low since 1973—have enabled foreigners to acquire American banks at bargain prices. Foreign banks have also begun to appreciate the advantages that owning or controlling an American bank can have in capturing the banking business of multinational customers.

Another reason for the sudden surge in foreign bank takeovers is that several sizeable American banks have recently become available for acquisition because of the divestiture requirement of the 1970 Bank Holding Company Act. (The Act required one-bank holding companies to divorce their banking and non-banking businesses by the end of 1978.) This legislation, in combination with other laws, makes it virtually impossible to divest a large bank to anyone except to a foreign purchaser, because as I have noted, any domestic bank or business concern which is large enough to acquire a bank is almost certain to be barred from doing so under the antitrust laws or under the prohibitions against inter-state banking in the McFadden Act or the Bank Holding Company Act.

Not only is the trend toward unregulated foreign takeover accelerating, there is considerable danger that unless it is checked it will become irreversible. There already seems to be some kind of a snowball effect, as other foreign banks conclude that they need acquisitions of their own in order to be competitive. Thus, each piecemeal approval for a foreign takeover becomes another precedent which will make it increasingly difficult to deny additional acquisitions. To do so would risk serious international repercussions based on allegations of official discrimination against a particular purchaser or country. Moreover, such charges could then be used to justify retaliation against American banking and business abroad.

The problem with foreign takeovers of major American banks does not stem simply from the fact that foreigners are involved. Nor is pointing to the problems inherent in these incursions a chauvinistic exercise raising a foreign bogey. There are, in my judgment, very serious and basic questions concerning the degree to which we could have confidence that such foreign-owned or controlled banks would carry out monetary or investment policies supportive of American interests when those interests were in conflict with those of the owners' countries. Foreign exchange operations and the willingness to make loans to other large domestic banks are two such areas where conflicts of interest might arise. Willingness to make loans to American firms which compete with a parent country's state-owned enterprise is another potential problem area. Serious instances of conflicts arising from such situations may not be too remote a difficulty; foreign banks now make more than 15 percent of all the large business loans in this country. In California and New York, which have the highest concentration of foreign banks, they actually account for almost 30 percent of all big business loans.

Another new area of concern, and one in which our bank regulatory agency policy is as yet unclear, is raised by the phenomenon of foreign individuals or groups of individuals who are now capable of buying big American banks. Until recently, foreign acquisitions have been made for the most part by banking institutions, especially large ones. Acquisitions by individuals, on the other hand, have been of a very modest scale. But now, with the tens of billions of dollars in surpluses being accumulated by OPEC states, the prospect of private citizens of those countries buying our major banks has become very real. In 1978, for example, the SEC charged four Arab businessmen with violations of securities laws for secretly attempting to acquire control of the $2.2 billion Financial General Bankshares, a Washington, D.C.-area bank holding company.[2] It seems likely that the prospect of both direct and indirect financial and political influence will convince more wealthy Arabs that American banks are promising investments.

Still another set of serious problems to be considered is raised by the unique anti-competitive effects of foreign takeovers. A foreign bank can be a suostantial competitor of its U.S. target bank even though the foreign bank has no offices in the U.S., or even if its offices here appear insignificant when measured by local deposits and assets. Because the major American banks are increasingly dependent on the banking business of foreign and multinational customers, the present ability of foreign bank holding companies to retain and establish affiliations with a broad variety of non-banking businesses is certain to have a profound effect on banking competition in the United States if such foreign organizations are permitted to acquire major U.S. banks. In fact, those major U.S. banks which are not affiliated through a foreign parent company with important non-banking enterprises will be at a serious competitive disadvantage, and this will inevitably encourage increases in the numbers of banks which become targets of foreign acquisition efforts.

Foreign takeovers further pose at least two types of danger to U.S. banks. First, our banks have generally been spared the disruptions caused by hostile takeovers. The same factors which impede the divestiture of a major U.S. bank to a domestic company also make it difficult for any domestic group to carry out hostile bank takeovers. But foreign organizations are not similarly restricted. In fact, existing bank regulatory procedures not only were designed without any thought of hostile takeovers; they actually create a situation in which bank takeover battles become unusually protracted, extending over a year. Such extended takeover contests are likely to damage the target bank by diverting resources, endangering existing banking relationships, disrupting management, and undermining essential confidence in the institution. Even where a takeover is friendly and the initial foreign control is competent and honest, U.S. authorities will have only a minimal degree of ability to regulate changes in the ownership or control of the foreign parent to guard against intentional or unintentional mismanagement of the U.S. bank

In addition to the myriad problems that continued foreign takeovers of leading U.S. banks will present for the banking sector of our economy, it should be noted that such takeovers also present at least two unprecedented problems for American non-banking firms. First, while existing law strictly separates U.S. banks from most non-banking businesses, it allows foreign banking organizations broad leeway to retain and expand their non-banking interests (limiting only the extent to which their non-banking affiliates may do business in the U.S.). Consequently, U.S. banks with foreign owners will have an incentive to favor certain foreign non-bank customers at the expense of U.S. customers.

For instance, a foreign company owning both a U.S. bank and a foreign electronics firm could require the American bank to grant credit imprudently to the foreign electronics firm and deny urgently needed credit to American competitors in the field. The Hong Kong-Shanghai group owns 25 percent or more interest in about 321 companies covering about 65 industrial sectors in over 40 countries. How can we possibly regulate such a powerhouse? We have no information on companies of which it owns 25 percent or less; nor do we know of its related interests. How, then, can we insure against conflicts of interest in the conduct of its affairs? This is comparable to one of our major multinational conglomerates trying to acquire a major U.S. bank. The concept of "National Treatment" (i.e., treating foreign banks in the same manner we treat U.S. banks) simply does not fit. Second, investment in U.S. securities is entrusted increasingly to bank trust departments managing pension funds. American concerns are potentially vulnerable vis-a-vis both foreign and domestic competitors, depending upon the policies of a major bank trust department. The likelihood that such harm could befall U.S. concerns is increased when trust departments are controlled by foreign interests affiliated with foreign business interests or with a foreign government. Congress has been aware of many of these problems. In fact, the International Banking Act of 1978 was intended to supervise foreign-controlled banks as thoroughly as domestic banks. Inevitably, however, the very fact of foreign control has made fully effective supervision virtually impossible. Foreign secrecy laws and practices, the widely differing sets and standards of financial and accounting principles, and the varying character of foreign business and governmental relationships can make it difficult—or even impossible—for our regulatory agencies to obtain all of the information needed from a foreign owner of a U.S. bank. And unlike domestic companies whose records and officers can be reached by U.S. legal or investigative process, foreign companies can submit information which U.S. regulatory agencies are not capable of verifying. This creates an obvious risk that domestic decisions will be made on the basis of inaccurate or inadequate information. To begin to grasp the extent to which a foreign bank acquisition may eliminate competition and concentrate the control of the banking business in a relatively few hands, it will be necessary to develop new antitrust analyses and standards, focusing on specialized product markets such as long-term loans, project financing, and international services.

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[2] These same individuals resubmitted a higher bid in 1979; apparently identity concealment was not enough to disqualify them from future ownership.

It is obvious that the potentially serious problems associated with foreign takeovers of U.S. banks require a detailed reexamination of our laws and policies. There is, however, a very real danger that in the absence of a Congressional mandate the Federal regulatory agencies concerned would undertake such a study in piecemeal fashion, or only after the situation had reached a critical stage, if at all. Therefore, on June 26, 1979, I introduced a Joint Resolution calling upon the Federal agencies that regulate banks and savings institutions—the Federal Reserve Board in consultation with the Comptroller of the Currency, the Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board—to prepare a study analyzing the impact of the takeover of domestic banks and savings institutions by foreign banking and non-banking interests. This study should also outline the legislative and regulatory changes necessary to: (1) delegate to these agencies the powers necessary to prevent hostile takeovers of U.S. banks and savings institutions by foreign persons; (2) bar takeovers of U.S. banks and savings institutions by foreign persons if the takeover will have an anticompetitive effect on financial markets; (3) prohibit an excessive concentration of foreign ownership of U.S. banking interests; (4) deny foreign interests an opportunity to acquire U.S. banks and savings institutions when reciprocal opportunities are not open to U.S. interests in the home country of the would-be acquisitors; and, finally, (5) permit U.S. bank regulatory authorities to gain adequate supervisory and investigative powers over foreign owners of U.S. banks and savings institutions.

This study is to be presented to Congress for review by the House and Senate Banking Committees within six months of the enactment of the Joint Resolution. During the period of the study, the Joint Resolution establishes a moratorium on the takeover of U.S. financial institutions by foreign persons, unless such takeovers are necessary to prevent the bankruptcy or insolvency of the U.S. institution or unless applications for such takeovers have been submitted to the regulatory agencies on or before June 1, 1979.

The purpose of this Joint Resolution is to begin a fundamental reexamination of the role which foreign ownership and control ought to play in the United States banking system of the 1980's and beyond. I believe that in order to protect the public and assure the soundness of each bank our bank regulatory agencies must supervise foreign-controlled banks operating in this country as thoroughly as they supervise domestic banks. The study I have proposed should help the bank regulatory agencies think through both the short and the long term ramifications of foreign takeovers of American banks, and provide Congress and the American people with the sort of analysis necessary to make intelligent decisions on this vital issue.

[From the New York Times, July 22, 1979]

THE THREAT OF FOREIGN BANKING

(By H. JOHN HEINZ III)

Banks wield enormous economic influence in our country. Their leveraging position and their allocation of credit play a pivotal role in our economic system. Yet the fact that foreign-owned banks have become a major new force in the New York banking system, indeed in all the major money centers of our nation, have elicited little attention or concern from Federal bank regulatory agencies.

The president of the Federal Reserve Bank of New York, Paul Volcker, said recently that the question about limits to the degree or manner of penetration of domestic markets by foreign banks "is nowhere addressed specifically in the International Banking Act or other Federal legislation." This serious omission should be of concern. I fear that the recent wave of foreign acquisitions of American banks may have profound implications for the American banking system. In fact, if present trends continue or accelerate we will lose a significant amount of control of our entire economic system.

Since 1972, when the Federal Reserve first started keeping track of the figures on foreign ownership, foreign bank assets in the United States have more than quadrupled, going from $18 billion to more than $100 billion, and if all of the currently proposed acquisitions are approved by the Fed, foreign-owned bank assets will increase by an additional 20 percent. This represents approximately 9 to 10 percent of the total bank assets in the United States. The problem is even more pointed because we are not really sure of the statistics. Even the Federal Reserve concedes that their figures are preliminary and possibly incomplete.

Foreign banks now make more than 15 percent of all big United States business loans. In California and New York, where foreign banks have the highest concentration, that proportion approaches 30 percent.

Foreign involvement in the United States banking market has been increasing steadily and substantially over the last six years. The number of foreign banks operating in the United States in 1972 was 66. By the end of 1978 this number had grown to 189, a nearly threefold growth in six years.

Until quite recently, the foreign banking presence in the United States came mainly as a result of the establishment of new offices or affiliates. Within the last two years, however, it has become clear that the pattern of foreign penetration of the American banking market has changed dramatically. Foreign interests have suddenly begun to achieve substantial positions in the market by means of acquisitions of large United States banks. It should be noted that laws governing United States banks abroad are stringent and would prevent what is happening in this country. For example, it would be impossible for a major United States bank to acquire a comparable "clearing house" size bank abroad.

Takeovers and attempted takeovers by foreign banks have been numerous in the last year—the Hongkong-Shanghai's bid for Marine Midland with $14 billion in assets, Standard Charter's acquisition of Union Bank of California's $4.7 billion in assets, National Westminster's purchase of the National Bank of North America with assets of $3.8 billion, Algemene Bank Nederland's purchase of the $1 billion La Salle National Bank of Chicago, which was approved by the Fed on July 13, and Midland Bank Ltd.'s offer for Watler E. Heller International, which owns the $2 billion National Bank and Trust in Chicago. In addition, it has been widely reported that there are a number of other foreign interests exploring, either directly or through investment bankers, possible acquisitions of large United States banks. Virtually every leading American investment banking firm has compiled an analysis of major American banks that might be acquisition targets for their foreign clients.

Foreign control of a substantial proportion of the domestic banking system would inevitably raise questions concerning the degree that such banks would carry out monetary investment policies supportive of United States interests, especially when those interests happen to conflict with those of the owners' home country. Foreign-exchange operations and willingness to make loans to other large domestic banks are two areas where conflict of interests might arise. Willingness to make loans to large United States companies in competition with the home countries' state-owned business enterprises is another potential problem.

I am concerned that we have not fully considered the implications of a substantial proportion of our banking system falling under foreign control. I am concerned that our bank regulatory agencies have not fully worked out the criteria to judge what are acceptable foreign buyers. And with petrodollars piling up, foreign individual buyers may become a major new force. These buyers are essentially beyond our jurisdiction and beyond our control. It is likely that the prospect of both direct and indirect financial and political influence will convince wealthy Arab businessmen that United States banks are indeed a good investment.

Acquisitions by foreign banking institutions present problems no less serious. At hearings on foreign takeovers on July 16, I asked Henry C. Wallich of the Federal Reserve whether our bank regulators had the authority to examine the books of a foreign bank. He replied that they did not. All they could ask for would be specific information as proof of the affiliates financial soundness. He went on to say that, theoretically at least, Federal regulators could demand an examination as the condition of approval. But when questioned further, he could not cite even one instance when this, in fact, had been demanded. Muriel Siebert, New York State's banking superintendent, has complained that her evaluatory task was made much more difficult by the fact that the Hongkong and Shanghai Bank could not even produce balance sheets based on the same accounting principles used in the United States.

I am concerned that foreign takeovers of United States banks may have a perverse "snowball" effect. With each additional acquisition by a foreign bank, other foreign banks may come to believe that they too must make a comparable acquisition in the United States in order to keep pace with their competitors. Similarly, United States banks may become irresistably attracted to the advantages of foreign bank holding companies, which, unlike our domestic ones, are able to establish and retain affiliations with a broad variety of nonbanking businesses.

Finally, I am concerned that the current wave of foreign takeovers of American banks may place United States banks—and in the long run perhaps even American business—at a significant disadvantage. United States banks already have fallen behind the growth rates of the largest foreign banks. If foreign banks alone can acquire leading positions in both their home markets and in the United States, they will have significant advantages in many areas of international finance.

Mr. PROXMIRE. Mr. President, as the Senator has said, he knows I have supported this legislation. I have introduced similar legislation. What this legislation would do, as I understand it, is require a 6-month study and a 6-month moratorium on foreign acquisition of banks. As the Senator knows, there has been some increase in foreign acquisitions. To some extent, that may be a good thing, if it provides an opportunity for foreign capital to move in here as we have moved into other countries. There is a disadvantage, because there is no reciprocity. We cannot acquire banks in any other country that I know of. We can start our own branches in some other countries, but we cannot acquire banks. That puts us at a considerable disadvantage.

Because of this, as particularly constituted in New York, the banking commissioner in New York has told me of her very deep concern. I am sure the Senator from Pennsylvania is aware of that, too.

I think that this is a proposal that I should be happy to support. I do not know how other Members of the Senate may feel. I hope we can take this to conference and discuss it with the House. I assure the Senator that I shall support the amendment in conference. But. I shall wait to hear what other Members of the Senate would feel on it.

Mr. HEINZ. I thank the Senator.

Mr. TOWER. If the Senator will yield, I think it would be a good thing to take this amendment to conference so that we focus the attention of the House of Representatives on the issue. So far as I know, they have not been nearly as attentive to this matter as we have in our own committee.

I would, of course, assume that we would press for the Senate position. But even should we lose it in conference, if we encourage the House to take a little action, we might have made some headway on the problem.

Mr. HEINZ. I appreciate what the Senator has said. I am very grateful to both my good friend from Wisconsin and my good friend from Texas.

Mr. President, I am prepared to yield back all my time.

Mr. PROXMIRE. Mr. President, I yield back my time.

The PRESIDING OFFICER (Mr. JOHNSTON). There is no time control.

The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MOBILE HOME LOANS

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I yield to the Senator from Utah.

Mr. GARN. Mr. President, I address this to the distinguished chairman of the Banking Committee and the manager of the bill.

It has come to my attention that there is a question regarding the applicability of section 305 in the case of mobile home loans. As the Chairman knows, some States treat mobile homes as personal property and others as real estate. This Senator believes it is the committee's intent that mobile home loans, whether the lot is included or not, should be included in the definition provided by subparagraph A of section 305.

Is this the Chairman's opinion?

Mr. PROXMIRE. I say to my good friend from Utah, the phrase "residential real property" within the meaning of section 305 is intended to include mobile homes that are used as a primary residence. It is not intended to include recreational vehicles which, in reality, are personal property.

Mr. GARN. I thank the chairman.

Mr. President, I thank the Senator from California for yielding.

Mr. CRANSTON. Mr. President, did the Senator from Florida want me to yield to him?

Mr. STONE. No, Mr. President, I just wonder whether the Senator from California, after he presents his amendment, would remain on the floor, because an amendment which I shall offer is very similar to one which the Senator from California and the distinguished Senator from Texas (Mr. TOWER) offered last year.

Mr. CRANSTON. Yes, I shall.

AMENDMENT NO. 560

(Purpose: To authorize the Government National Mortgage Association to purchase under its interim mortgage purchase authority low-yield mortgages presently held in portfolio by savings banks, savings and loan associations, and other mortgage lenders)

Mr. CRANSTON. Mr. President, I call up amendment No. 560 and ask that for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) for himself, Mr. JAVITS, and Mr. WILLIAMS, proposes an amendment numbered 560.

On page 32, between lines 20 and 21, insert the following:

SEC. . Section 313(a) of the National Housing Act is amended by adding at the end thereof the following:

"(4) In carrying out the authority conferred by this section, the Secretary may require the Association to utilize a part of the authority to purchase mortgages conferred by this section for the purchase of mortgages executed prior to December 31, 1978, and involving interest rates not in excess of 7½ per centum per annum. The Secretary shall require that the proceeds from any sale of mortgages pursuant to this paragraph will be used by the seller to make mortgages which—

"(A) are executed to finance the acquisition of—

"(i) more than four-family residences (including cooperatives and condominiums and the individual housing units therein) which are insured under the National Housing Act or chapter 37 of title 38, United States Code, or

"(ii) one- to four-family residences which will be the principal residences of the mortgagors and which are insured (a) under the National Housing Act or guaranteed under chapter 37 of title 38, United States Code, or (b) by qualified private insurers as determined by the Association or the outstanding principal balances of which do not exceed 80 per centum of the value of the property securing the mortgage;

"(B) involve original principal obligations in amounts not to exceed the limitations set forth in section 5(c)(1)(B) of the Home Owners' Loan Act of 1933;

"(C) involve an interest rate not in excess of that set by the Secretary applicable to mortgages insured under section 203(b) of this Act, and no discount points or other charges may be imposed in connection with mortgage transactions under this paragraph; and

"(D) are secured by residences located only in the seller's State of domicile to the maximum extent feasible.

The eligibility of participants in the program under this paragraph shall be determined by the Federal Home Loan Bank Board and the Federal Deposit Insurance Corporation in consultation with the Secretary of the Department of Housing and Urban Development, taking into account conditions in mortgage lending institutions pursuant to rules and regulations prescribed by the Federal Home Loan Bank Board and the Federal Deposit Insurance Corporation. In no event shall the total amount set aside by the Secretary for purchases and commitments pursuant to this subparagraph exceed $1.-

500,000,000 per year in any fiscal year. The Association may, after consultation with the Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board, offer and sell to any participating lender mortgages in an equivalent amount and at an equivalent yield to those mortgages sold by a participating lender and such participating lender is directed to purchase such mortgages. The authority conferred under this subparagraph shall expire three years after enactment of this paragraph.".

Mr. CRANSTON. Mr. President, this amendment is cosponsored by Senators JAVITS and WILLIAMS. I ask unanimous consent that Senator STEWART be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, this amendment to section 313 of the National Housing Act (section 313 is referred to as the Brooke-Cranston tandem program), provides that in the event that the Brooke-Cranston tandem program is reactivated, a portion of those funds may be used by the Government National Mortgage Association to purchase existing low-yielding mortgages from lenders who now hold these mortgages in their portfolios. In turn, sellers of these low-yielding mortgages would relend the funds to moderate-income homebuyers meeting the following requirements:

The interest rate on the new loans cannot exceed the FHA rate (presently 11.5 percent);

The maximum mortgage amount cannot exceed the maximum amounts applicable to Federal savings and loan associations. This limit now stands at $60,000;

The loans must be FHA insured or VA guaranteed, or in the case of conventional loans, they must be insured by a qualified private mortgage insurer;

The loan must be secured by property located in the State of the lender to the maximum extent feasible; and

No points can be charged on these mortgages.

Mr. President, this amendment is necessary because, in an environment of decontrolled deposit interest rates as mandated by H.R. 4986, some thrift institutions may be severely handicapped in their ability to pay increased deposit costs as a result of large portfolios of below-market rate mortgage loans.

Second, the dramatic increases in interest rates of recent weeks, coupled with the disintermediation currently being experienced by many thrifts, have resulted in a growing shortage of housing credit for moderate-income families seeking to buy a house. Many observers now predict that the housing industry will be plunging into a deep recession in the near future because of the combination of high-interest rates and thrift-institution outflows. In this event, it is likely that a countercyclical stimulus such as the Brooke-Cranston tandem program will have to be activated.

Mr. President, my amendment seeks to address both of the above concerns. It will help alleviate the earnings squeeze facing thrift institutions by enabling them to recycle frozen funds that are currently invested in old, below-market loans into new mortgages carrying yields more in line with today's higher interest rates. This, in turn, would enable them to pay higher interest rates for savings and make an increased volume of new mortgages in areas where no mortgage funds would be available.

Mr. President, finally, I emphasize that approval of my amendment will not in any way mandate the expenditure of funds at this time. Before the program could be implemented, two events would have to occur. First, the Secretary of HUD would have to determine that the original GNMA Brooke-Cranston program should be implemented; and, second, Congress would, through an appropriation action, have to release the funds currently held by GNMA as recaptured loan repayments—$10 billion—or authorize a new appropriation. Even then, the HUD Secretary would have the discretion in determining what portion of the tandem funds should be used for the program created by this amendment.

This amendment is of a limited nature, to be used on a highly selected basis by HUD in consultation with the FDIC and the FHLBB in case of emergencies, while we look at the need for other mechanisms to be put in place.

Mr. President, I ask unanimous consent that an article relating to this matter, from the Washington Post of September 28, 1979, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

S&Ls EXPERIENCE WORST AUGUST EVER

The nation's thrift institutions experienced their worst August in five years last month as investors continued to buy into red-hot money market funds, federal officials said yesterday.

Net new savings receipts at federally-insured savings and loan associations totaled $700 million last month, about one-half of the July inflow, according to statistics supplied by the Federal Home Loan Bank Board.

"The savings flow was down in August because of competition from the high yields available from short-term marketable securities and from money market funds," said Jay Janis, the new board chairman.

The $700 million in net new receipts was 65 percent smaller than in August, 1978, "and the poorest August savings experience for associations since the $1.2 billion savings outflow experienced in 1974," the bank board said.

Mr. CRANSTON. At this point, if he wishes, I should be delighted to yield to my colleague and cosponsor of this amendment, the Senator from New York.

Mr. JAVITS. Mr. President, I support the amendment offered by the chairman of the Financial Institutions Subcommittee, Senator CRANSTON. I support his amendment because I recognize that the thrust of H.R. 4986 is to change the rules of the game by which financial institutions compensate their depositors by offering them higher returns on their savings. But in seeking to increase the return to the small saver, we must not be unmindful of the borrower who has gone before.

One need only examine the facts in my own State of New York. The usury ceiling now stands at 10 percent. In contrast the latest figures for money market certificates of deposits will require institutions to pay depositors 12.65 percent for 6 months. To lend money at 10 percent for up to 30 years while borrowing it for only 6 months at 12.65 is, I submit, a prescription for disaster.

But in serving their communities that is exactly what institutions have been, and continue to do. The mortgage portfolios of thrift institutions in my State, as well as others, are heavy with loans made in other times and at rates remembered with nostalgia: 5, 6, 7 percent.

Savings institutions are already laboring under the lower yields being earned on their mortgage portfolios as they seek to pay the rates even now being paid savers. These banks are locked into old mortgage rates and their portfolios (1 out of 5 is lent out at 7½ percent) have not kept up with increasing costs of higher savings interest rates. Consequently, earnings margins have already been considerably narrowed. For example, in 1978, savings banks in New York City had earnings on deposits of 8.28 percent. At that time the average cost of funds was 6.18 percent. In the first 6 months of 1979, the earnings on deposits increased to 8.72 percent, but the cost of funds has also increased and by a greater amount—to 6.72 percent.

The viability of thrift institutions and the flow of funds to the home mortgage market have already been under strong pressure, and as the effect of the Fed's tight monetary policy takes hold, the situation is likely to be exacerbated.

Senator CRANSTON's amendment is responsive to these conditions. It will enable the thrift institutions to continue to pay the rates necessary to attract savings while at the same time it will permit them to recycle frozen mortgage funds into new loans at a time when mortgage credit is scarce.

I urge my colleagues to support this amendment.

Mr. President, I approach this matter in a banking sense, because I think that is the real issue. I recognize the deep feelings that are had about it on both sides.

It seems to me that we are facing a condition, not a theory. That condition, Mr. President, is that the banks are in a very grave squeeze and the more patriotic they have been in affording mortgage loans at reasonable interest rates, the deeper the squeeze. Their problem is the problem of whether they can really be viable under these conditions as, by a sudden change in policy, interest rates have really run away.

Mr. President, the change in policy is so sudden, in my judgment, as to be equivalent to force majeur. In other words, it is an act of Government which has jeopardized seriously institutions which are traditional mortgagees in a way which was really completely beyond their control. I think you could be as provident as the Lord himself without anticipating that interest rates were suddenly going to jump to 15 percent and that the disintermediation, which is now such a big issue, could have hit us all so suddenly.

The fact is now that these mortgages which we are talking about have been made for very long periods of time at rates which, in round figures, are not more than 60 percent of the present interest rates and, in many cases, half of present interest rates at which mortgages are made.

I noticed, very interestingly, Mr. President, even the U.S. Government is realizing that because it is pulling out the E bonds and now issuing double E bonds and paying 50 percent more premium.

We will now buy a $100 bond for $50, not $75 as we did before.

So, Mr. President, the suddenness of this move, in my judgment, has been a very real one and has definitely caused this problem.

I believe Senator CRANSTON's amendment, with me, has made thoughtful and prudent provision against the use of this facility to excess, against it being a windfall, in turn, which, after all, has to be very carefully safeguarded. Its provision for use in connection with a tandem program seems to me to be fully protected, to see it does not get away from us. Nor does it represent a big fiscal problem because there are very ample both presently authorized funds in the original program, that is, the original tandem program, $17 billion.

Finally, the provision that the very same banks have to repurchase what they have sold if it turns out to be on GNMA's hands as soon as they are able to do it financially, it seems to me gives very strong protection to the U.S. credit. Any idea they will get out of hand, of course, is limited by the $1.5 billion figure which may be devoted for the purpose.

Mr. President, it is the old subject, really. This has some of the feeling of the Scotchman and his horse. He fed him, finally, so little that the horse died in order to save feed. This is that kind of situation.

We do not want a big financial crisis in this country. Let us remember that the crisis of 1929-32 which is so much written about today, was a crisis of closing banks. That is when things really hit. When the banks were closed.

I think it would be a very bad idea because we cannot make provident arrangements in this matter to jeopardize our banks.

The other thing which I think is very important is that without much question a very large amount of Americans' income is being allocated to the payment of their debts and, therefore, to cause a rash of foreclosures—and that is what this will force. I know Senator CRANSTON agrees with me, but I hope the Banking Committee will consider that seriously.

What is the alternative of a bank which has a 7½ percent, a 7¾ percent mortgage? It is going to take advantage of the earliest opportunity to foreclose and get its money back so it can lend it out at much higher rates of interest, even if for another mortgage.

Mr. President, I could hardly think of anything more destabilizing than that in terms of our economy, which is carrying enough tensions already.

If, on the other hand, the converse side of the coin, if the bank is to sit with these mortgages, it simply cannot operate. It is not viable, in many cases.

When that begins to happen, as I say, we touch off a syndrome which will lead America into a depression, not a recession.

I end, Mr. President, by saying this. I think the managers on the part of the Banking Committee themselves are well able to judge this.

The housing situation and the high prices at which houses have changed hands and on which mortgage money has been lent is one of our most sensitive points. If we do not give it a chance, give it some cushion to phase out, I think there is a very good chance we can make that recession a depression.

Mr. President, this would be most unfortunate for our country and its people.

For all those reasons, Mr. President, I join with Senator CRANSTON in this amendment and hope very much it may be favorably considered by the Senate.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, there are not two Senators for whom I have greater respect than the Senator from New York and the Senator from California. They are outstanding Senators, very thoughtful, and they are certainly expert in this particular area.

But I must rise in opposition to the amendment by the Senator from California because I believe it would be an unnecessary and a very costly Federal subsidy of $1.4 billion or more, which would go virtually entirely to private financial institutions.

In my judgment and the judgment of the best advice I can get from the staff, and others, it would not assist the mortgage market.

While it is true that the savings and loan and savings bank industries are currently facing an earnings squeeze, the Senator from New York and the Senator from California are right about that; there is nothing new about that, this is merely part of a longstanding cyclical pattern for these industries. Indeed, last year these industries achieved record high earnings. And while earnings are down this year, the indications are that these industries are faring better in this new episode of tight money than they did in previous tight money episodes. They are not doing worse, but better, and they survived before. Given the cyclical trend of the industry, earnings could easily hit record high levels again within a year or two.

In addition, I am confident that other provisions in the pending bill, such as the mortgage usury override and new asset powers will substantially increase the capacity of thrift institutions to compete effectively.

Furthermore, yesterday, as we may recall, we drastically modified the reduction in the $10,000 certificate to $1,000, making it only possible to do that when we had the unanimous agreement of all the regulators, including the Home Loan Bank Board.

I think every realistic assessment indicates that is not going to be done until it is clear the savings institutions are not in the bind which inspired this amendment.

At the same time, Mr. President, I think the Senator from California and the Senator from New York have raised a point that does require study. I do not think we have anything like the answers on it. They may be right.

As one Senator, I would certainly be interested in having this matter studied, so we could act on it promptly, not studied forever, but so we could take action within a reasonable period of time.

So I would hope we would not accept the amendment and would try, meanwhile, to conduct a constructive study of the problems.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I appreciate the remarks of the distinguished chairman of the committee. I understand his feeling that there should be more study of this matter.

I believe the fact we have offered this amendment has provoked a great deal of considerations already. The various regulatory agencies are now focusing attention on this issue. I understand they are having meetings to consider what would be a practical approach and what would be the impact of this particular amendment at this time.

Because of the recognition that more facts might well bolster our case and make it more likely that we would prevail, and in recognition of the legitimate desire of Senators to know more about all this before we act, those of us who introduced this amendment have discussed the matter and have agreed on a substitute for the amendment.

Mr. President, we have a substitute for amendment 560 that will call for the President to convene an interagency task force to provide recommendations to the Congress, within 90 days on the problems that may arise as a result of financial institutions holding a large amount of low yielding mortgages in their portfolios, when the market is acting as it is, and when interest rates are very high.

As chairman of the Subcommittee on Financial Institutions of the Banking Committee, I feel that our amendment has caused the regulators to focus on this problem where they were not before and I am satisfied that the agencies involved will be able to supply to the Congress the information needed in this area.

UP AMENDMENT NO. 716 (SUBSTITUTE FOR AMENDMENT NO. 560)

(Purpose: To require a report on low-yield mortgage portfolios in the Senate of the United States)

Mr. CRANSTON. Mr. President, I send to the desk a substitute amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 716 as a substitute for amendment numbered 560.

Mr. CRANSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . The President shall convene an interagency task force consisting of the Secretary of the Treasury, the Secretary of Housing and Urban Development, the Federal Home Loan Bank Board, the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, the Comptroller of the Currency and the National Credit Union Administration Board. The task force shall conduct a study to determine the difficulties faced by depository institutions which have sizable portfolios of low-yield mortgages. In carrying out such study, the task force shall solicit the views of, and invite participation by, consumer and public interest groups, business, labor, and State regulators of depository institutions. Not later than three months after the date of enactment of this Act, the task force shall transmit to the President and the Congress its findings and recommendations for such action as it deems appropriate.

Mr. JAVITS. Mr. President, I agree with the Senator from California. I wish we could do it now. My opinion is that we should do it now, because I see a lot of writing on the wall. However, knowing the way things work around here, I am satisfied that this will get us underway.

Knowing both Senators who are managing this bill as I do, notwithstanding the 90 days, I know that if we get into a real crunch, we can come back sooner if we can make a case. I know that they do not have to assure me of that. For that reason, I am with the Senator in this matter.

Mr. CRANSTON. I thank the Senator.

Mr. PROXMIRE. Mr. President, I appreciate very much the words of the Senator from New York.

I think the Senator from California has offered a very reasonable amendment, and I am happy to accept it. I thank him very much for his cooperation and accommodation.

Mr. CRANSTON. I thank the Senator.

Mr. WILLIAMS. Mr. President, I am pleased to join with Senator CRANSTON in offering an amendment to H.R. 4986, the Depository Institutions Deregulation Act, to modify the existing Brooke-Cranston tandem program to permit a portion of the funds used by the Government National Mortgage Association to purchase existing low yielding mortgages from lenders who now hold these loans in their portfolios.

Mr. President, there is little doubt that this legislation will result in dramatic changes in the ways certain depository institutions conduct their business. As I have indicated before, the greatest change will result from the fact that savings and loans and savings banks will be required eventually to pay a market rate of interest to purchase their raw product—money. We have already seen, with the advent of this money market certificate and the incerased ceilings under regulation Q, that many thrift institutions are not able to move toward a market rate environment too quickly. The committee realizes the fragile nature of many of these institutions, particularly those in the Northeast, and therefore, has required a gradual phase out of interest rate controls. It has also built into the phaseout a number of safeguards.

Mr. President, it is already clear that many of our savings banks, in particular, are in fragile health. Last week the Wall Street Journal carried a story demonstrating the level of concern among the bank regulatory agencies about the possibility at least that many savings banks may experience negative earnings due to the recent actions by the Federal Reserve Board which have pushed interest rates to record levels in the Nation's money market. This article indicates the problem is serious enough to warrant contingency plans by the Federal bank regulators to handle any savings bank failures in an orderly way. As a result of soaring interest rates, Saul Klaman, president of the National Association of Mutual Savings Banks, is quoted as saying, "the near term outlook for thrift institutions and deposit flows has clearly worsened." The mere fact that these contingency plans are being made serves as a vivid reminder that the combination of high interest rates and congressional mandated change will cause especially difficult times for savings banks.

The purpose of this amendment is to mitigate these consequences and to remove at least some of the difficulties which many thrift institutions may have in competing for deposits because their portfolios contain many mortgage loans at rates that are well below the market rate. The low-yielding loans obviously impede the ability of many thrifts to pay market rates to depositors without worsening their safety and financial soundness.

As my colleague and cosponsor has already explained, this amendment will help to alleviate the earning squeeze facing thrift institutions by using the facilities of the Government National Mortgage Association to purchase the old, below market, loans and provide the thrift institutions with additional capital to invest in new mortgages which carry yields that are more in line with today's higher interest rate environment.

The result is that we will not only be cushioning the effect of high market interest rates on thrift institutions, but at the same time we will deal with a growing shortage of housing credit for moderate-income families by recycling money available for mortgage credit.

Mr. President, this proposal is intended to provide emergency assistance to assure the continued strength of our traditional sources of mortgage finance without impairing the basic purposes and objectives of the Brooke-Cranston program. That purpose, of course, is to provide a countercyclical spur to the housing market to assure that the market remains active in times of economic stress.

Under this amendment, when the Brooke-Cranston program is triggered by the required findings of the Secretary of HUD, a portion of the appropriations released to fund purchases under the program would be allocated to the purchase of mortgages issued before January 1, 1979, which carry an interest rate of less than 7½ percent. With the proceeds received from the sale of these old, low-yielding mortgages, the lending institutions would be required to quickly write new mortgages at a rate not to exceed the FHA rate. This would assure that the funds used to purchase the old mortgages—which endanger the strength of the thrift industry—are virtually immediately put into the mortgage flow at a rate beneficial to the home buyer.

Mr. President, I applaud my colleague. He was instrumental in creating the existing Brooke-Cranston program and he has had the vision to adapt it to perform an additional essential function. I am pleased to support him in sponsoring this amendment and urge my colleagues to approve it as part of H.R. 4986.

Mr. TSONGAS. Mr. President, will the Senator yield?

Mr. CRANSTON. I yield.

Mr. TSONGAS. Mr. President, I had intended to file an amendment similar to this, and I will be pleased to be listed as a cosponsor, if the Senator from California will agree.

The PRESIDING OFFICER. The Senator is already listed as a cosponsor.

Mr. CRANSTON. Yes.

I thank the Senator.

The PRESIDING OFFICER. Without objection, the substitute amendment is agreed to, and, without objection, the amendment as amended is agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 717

Mr. CRANSTON. Mr. President, I send a technical amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 717.

Mr. CRANSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 32, line 14, after word "by", insert "or other obligation of.".

Mr. CRANSTON. Mr. President, this is a technical amendment to make clear that a mortgage backed bond or a certificate of deposit or any obligation of a depository institution, is exempt from the usury law. A depository institution does not need protection from the usury law. It should be permitted to pay to the public any interest rate it wants for use of their funds.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

UP AMENDMENT NO. 718

(Purpose: To authorize savings and loan associations to issue mutual capital certificates)

Mr. STONE. Mr. President, I call up an amendment at the desk, for myself and the Senator from North Carolina (Mr. MORGAN).

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Florida (Mr. STONE), for himself and Mr. MORGAN, proposes an unprinted amendment numbered 718.

Mr. STONE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 32, between lines 20 and 21, insert the following:

SEC. 306. (a) Section 5 (b) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464 (b)) is amended by adding at the end thereof the following:

"(4) In accordance with rules and regulations issued by the Board, mutual capital certificates may be issued and sold directly to subscribers or through underwriters, and such certificates shall constitute part of the general reserve and net worth of the issuing association. The Board, in its rules and regulations relating to the issuance and sale of mutual capital certificates, shall provide that such certificates—

"(A) shall be subordinate to all savings accounts, savings certificates, and debt obligations;

"(B) shall constitute a claim in liquidation on the general reserves, surplus, and undivided profits of the association remaining after the payment in full of all savings accounts, savings certificates, and debt obligations;

"(C) shall be entitled to the payment of interest prior to the allocation of income to reserve and net worth accounts; and

"(D) may have a fixed or variable rate of interest. The Board shall provide in its rules and regulations for charging losses to the mutual capital certificate, reserves, and other net worth accounts.".

(b) Section 403 (b) of the National Housing Act (12 U.S.C. 1726 (b)), is amended by adding at the end thereof the following: "Mutual capital certificates, subordinate to the rights of holders of savings accounts, savings certificates, and the Corporation, shall be deemed to be reserves for the purposes of this subsection in accordance with rules and regulations prescribed by the Corporation. The Corporation shall provide in its rules and regulations for charging losses to the mutual capital certificate, reserves and other net worth accounts. In the event an insured institution fails to maintain the reserves required by this title, no payment of interest on such certificates shall be made except with the approval of the Corporation.".

Mr. STONE. Mr. President, this amendment would permit Federal savings and loan associations to issue mutual capital certificates. The certificates would pay a dividend commensurate with the risk involved since capital investment holders would not come before insured savers. The important thing is that the proceeds of the certificates would constitute part of the reserve and net worth of an association. This could substantially improve the capital adequacy problems that many savings and loans are experiencing.

Authorization for the issuance of mutual capital certificates would be subject to regulation by the Federal Home Loan Bank Board. The Chairman of the Federal Home Loan Bank Board, Mr. Janis, is in support of this amendment. The certificates would pay interest at a fixed or a variable rate. No interest would be paid with Federal Savings and Loan Insurance Corp. (FSLIC) approval during any period of Federal insurance reserve/net worth noncompliance periods, but interest would be paid before allotting the income to reserve and net worth. The certificates would be subordinate to the payment in full of: first, all savings accounts; second, savings certificates, and third, debt obligations. After that, however, they would constitute a claim in any liquidation on the remaining general reserve, surplus and undivided profits.

The mutual capital certificate is a vital new tool, urgently needed, by those savings and loan associations in the mutual form of ownership. By their very nature, they cannot raise funds to restore their capital position through stock offerings to the public. With the pressures created by market-indexed money market certificates and higher savings rate ceilings adopted in July, combined with investment portfolios filled with uneconomic fixed-rate, long-term loans made many years ago, these institutions are in a severe earnings squeeze. More than one-fourth of their loans are 10 years old or older—returning less than 7 percent.

Almost one-fourth of their savings are now money market certificates which in this latest week returns a rate of 12.651 percent. The Chairman of the Federal Home Loan Bank Board has predicted that, following the Federal Reserve's moves October 6 to "save the dollar," the current severe earnings' situation in the thrift industry will deteriorate by another 30 percent. The impact of this development will be felt most noticeably in the northeast region of the Nation where savings institutions are almost exclusively in the mutual form of ownership.

The mutual capital certificates authority contained in this amendment is one way to combat this severe capital problem facing institutions serving millions of savers and borrowers.

Mr. President, I ask unanimous consent that the name of the distinguished Senator from California (Mr. CRANSTON) be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STONE. Mr. President, the thrust of this amendment is quite similar to one offered last year by the distinguished ranking minority member of the committee, the Senator from Texas (Mr. TOWER), and the distinguished Senator from California (Mr. CRANSTON).

I reserve the remainder of my time.

Mr. TSONGAS. Mr. President, in behalf of the chairman of the full committee, I make the following remarks:

We should do all we can to increase the capitalization of all our financial institutions to buttress them in current economic circumstances.

This amendment provides that S and L's may offer mutual capital certificates. These certificates would be a part of the capital structure of the mutual institution and would be available to absorb losses under regulations of the Federal Home Loan Bank Board.

The amendment leaves untouched the prohibition on Federal S. & L.'s issuing capital stock and retains the mutuality of Federal S. & L.'s.

I commend the Senator for offering this amendment, and I hope the Senate will support the amendment.

Mr. STONE. I thank the distinguished Senator from Massachusetts.

Mr. TOWER. Mr. President, I think that such a thorough exposition of the amendment has been given that there is little I can add that would enlighten anybody.

As has been noted, I am a former sponsor of this legislation. I think it is constructive and well taken on the behalf of the minority. We are perfectly prepared to accept it.

Mr. STONE. I thank the distinguished leader.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TSONGAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 719

(Purpose: To specify the authority of the Federal mutual savings banks)

Mr. TSONGAS. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. TSONGAS), for himself, Mr. HEINZ, and Mr. DURKIN, proposes an unprinted amendment numbered 719.

Mr. TSONGAS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 32, between lines 20 and 21, insert the following:

SEC. . (a)(1) Section 5(a) of the Home Owners' Loan Act of 1933 is amended by adding at the end thereof the following: "A Federal mutual savings bank may make loans and investments without regard to any other limitation under Federal or State law, except that—

"(A) not more than 20 per centum of the

assets of such a bank may be so loaned or invested; and

"(B) 65 percent of such loans and investments must be made within the State where the bank is located or within 50 miles of such State.".

(2) Notwithstanding the amendment made by subsection (a), the Federal Home Loan Bank Board shall limit the percentage of assets which a Federal mutual savings bank may loan or invest pursuant to the provisions of such amendment to 5 per centum during the first two years following the date of enactment of this Act, to 10 per centum for the next succeeding two years, to 15 per centum for the next succeeding two years, and to 20 per centum upon the expiration of eight years after such date of enactment, except that the Board may lengthen or shorten any such two-year period where necessary or appropriate in the event of a more rapid phaseout of interest rate controls or to avoid economic dislocation.

(b)(1) Section 5(a) of the Home Owner's Loan Act of 1933 is amended by adding at the end thereof the following: "A Federal mutual savings bank may accept demand deposits from any sources.".

(2) Notwithstanding the amendment made by subsection (a) of this section, the Federal Home Loan Bank Board shall (A) provide by regulation for a smooth and orderly transition with respect to the implementation of demand account authority; (B) provide for a phase-in of such demand accounts if, in the judgment of the Federal Home Loan Bank Board, after consultation with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the National Credit Union Administration Board, such a phase-in is necessary in order to assure the stability and soundness of all depository institutions, provided that by January 1, 1990, or at such earlier time when in the judgment of the Federal Home Loan Bank Board Federal interest rate limitations have been effectively eliminated, such phase-in must be completed; and (C) delay the implementation of such demand account authority, but not later than January 1, 1990 or such earlier time when in the judgment of the Federal Home Loan Bank Board Federal interest rate limitations have been effectively eliminated, if the Federal Home Loan Bank, after consultation with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the National Credit Union Administration Board, determines that the granting of such authority would result in a serious impairment of the financial soundness and stability of depository institutions in general. In such event the Board shall report to the Congress on the reasons for such delay within 30 days of its determination.

(c) This section takes effect upon the enactment of section 107 of this Act.

Mr. TSONGAS. Mr. President, this amendment expands the power of Federal savings banks by permitting them to accept deposits from any source and to use up to 20 percent of their assets for any type of investment subject to approval of the Federal Home Loan Bank Board. This is a modification of an earlier amendment printed in the Record. Senator Heinz is joining me as a cosponsor.

As the distinguished chairman knows, I strongly support the action taken by our committee to phase out regulation Q. Consumers are demanding a better return on their savings accounts and until financial institutions can meet that demand, money will be taken from banks and put into unregulated higher yield market instruments.

I am concerned, however, that in phasing out regulation of interest rates and ending the differential, we are placing thrift institutions in an untenable position. We are deregulating the rates they pay, but forcing their lending to remain specialized. We are saying to them: Pay flexible market rates of interest to your depositors, but invest only in long-term fixed-rate mortgages. It is questionable whether the savings bank industry can remain competitive under such restrictions.

In Massachusetts, earnings of savings banks are down due to the sluggish economy and slow turnover of low-yield mortgages. The savings industry in my State now invests 75 percent of its assets in mortgages. These banks already have the consumer lending powers in H.R. 4986—they need to broaden their deposits and investments beyond those permitted in this bill to remain competitive.

This amendment does not make thrifts into commercial banks. There is a 20-percent cap on the new investment they can make. Further, to make sure that this new lending benefits local development efforts, there is a requirement that 65 percent of the investments be made within the State or within 50 miles of the State for banks which are on or near a border. This is of particular relevance to those of us in the Northeast who have seen banks invest elsewhere. The amendment assures that there will not be an overnight transition to investments which the banks does not have the expertise to handle. The asset powers are phased in over an 8-year period, which the regulators may speed up or slow down, depending on the schedule by which regulation Q is phased out. The amendment will become law only if the regulation Q phaseout is enacted.

Our amendment does not jeopardize housing finance, but in fact makes it more feasible for savings banks to continue their important role in housing. The deregulation of interest rates may adversely affect the earnings of savings banks, leaving them with less to lend for mortgages or other housing-related activity. Some may opt to end their specialized housing function altogether and become full-fledged commercial banks. The expansion of asset powers will enhance their ability to attract funds which can then be used for mortgages. It is certainly my intention in offering this that these institutions maintain a predominant housing focus which utilizes their expertise in this area.

Mr. President, it is imperative that we deal with these issues now in terms of comprehensive reform of the banking industry. To delay this aspect would be to turn our backs on the continued viability of savings banks.

● Mr. HEINZ. Mr. President, I support this amendment, which would enable mutual savings banks to compete effectively in the new financial environment which would be created by the enactment of H.R. 4986.

Mutual savings banks have stated their willingness to accept the elimination of the interest rate ceiling on deposits. What they seek in return is that they be given the necessary powers to compete for funds in such an unregulated environment.

During the past 6 months, short-term interest rates have shot up by nearly 300 basis points, and there has been a concomitant massive net withdrawal of funds from mutual savings banks amounting to around $4.2 billion prior to the crediting of interest. Such figures lead beyond doubt to the conclusion that mutual savings banks, which are heavily involved in long-term, low-interest mortgage loans, would have great difficulty in remaining viable under deregulation of interest rates unless they are given the tools with which to compete for funds under the newly mandated conditions. In short, it appears that many such institutions will be unable to compete for savings during periods of rapidly rising interest rates such as we are now experiencing, unless they are granted the short-term investment flexibility that would enable them to earn a sufficient return to cover these higher interest rates.

We must simply face the reality that once interest rate controls have been eliminated, competition for deposits will intensify. Under these circumstances, savings banks would be greatly handicapped in their capability to compete for such deposits, especially consumer deposits. In this respect, it must be noted that depository institutions are increasingly attempting to develop their deposit base by attracting corporate customers who process their payrolls through that institution. If savings banks are not allowed to process such employee payroll accounts, they would be at a significant competitive disadvantage.

A recent edition of the Wall Street Journal contained an article which describes the impact that current economic conditions are having upon many savings banks. I ask that the article be printed following my remarks in the Record.

Mr. President, Mr. Stephen Hansen, president of the Dollar Savings Bank located in Pittsburgh, Pa., has recently authored an essay which is honest, perceptive, and farsighted in its analysis of how the position of savings banks would be affected by the changes we are debating now, as well as changes in our economy that are also occurring at the present moment.

In his article, Mr. Hansen writes that the following changes are occurring: First, interest rate instability is probably becoming normal; second, sooner or later, interest rate ceilings are doomed because they are ineffective, as well as unfair to savers; third, an end to interest rate ceilings means an end to the differential as well; indeed, even now Hansen argues, the differential has for all practical purposes disappeared for interest-sensitive savers; fourth, the rapid evolution of electronic funds transfer systems means that they will inevitably become the primary payment mechanism for financial institutions, thereby altering the banking system in dramatic ways; and institutions which can serve both sides of EFTS transactions—which will be predominantly transactions between households and business firms—

with a complete range of products, will have a real competitive advantage.

Mr. President, I ask that the full text of Mr. Hansen's remarks be printed in the Record at the conclusion of my remarks. Although I do not necessarily agree with every point made by Mr. Hansen, I do endorse the thrust of his remarks, which is that if we are going to ask savings banks to function in the new environment which would be created by this legislation, we must give them the powers that they need to compete in that new situation.

Let me stress, Mr. President, that the great bulk of savings banks do not ask for, nor do they expect, protection under the new system of financial institution competition which would result if H.R. 4986 were enacted. As Mr. Hansen states: "Competitive equality means competitive equality." Thus, savings banks are asking for no more and no less than to be given the powers they need to compete with other financial institutions.

Furthermore, Mr. Hansen—and I am certain that most of his colleagues would agree with his views—has taken a responsible position concerning new savings bank powers. Mr. Hansen states that "it might be prudent to introduce new powers * * * over a short period to let banks and markets adjust to the new rules in an orderly manner." That is precisely what this amendment does—it provides that the Federal Home Loan Bank Board shall assure a "smooth and orderly" transition, and allows the FHLBB to delay or phase in such new powers under extraordinary economic circumstances and asset powers would be phased in over an 8-year period.

Mr. President, this is a balanced and reasonable approach. The amendment seeks to address a simple question of equity. Is it fair to force institutions which have generally been devoting, and which have been officially encouraged to devote, the bulk of their resources to long-term fixed-rate low-interest investments, to compete—without sufficient new powers—with institutions which have had no such restrictions? I urge that we take this opportunity to remedy this inequity now by passage of this amendment.

I ask that a newspaper article on this subject also be printed in the Record.

The material submitted for printing in the Record is as follows:

Mutual Savings Banks and the Future

Mutual savings banks are at a significant point in their long history. The changes occurring in the legal framework and technology of banking, the housing market, and the financial markets themselves will determine the degree of competitiveness savings banks can maintain during the 1980's. These changes have been only partially recognized, and their diagnosis has been faulty.

As a result, it is now likely that mutual savings banks will enter the 1980's with operating policies and legal powers well-designed for the 1960's and 1970's, but not for the coming competitive situation. Savings banks need, and should be granted, full commercial bank powers. The added competition in banking will obviously help consumers, particularly savers, as well as savings banks.

Current discussion of banking competition suffers from a series of widespread misconceptions and myths about banking and financial markets. These have sometimes been fostered by commercial banks which find political advantage in discussing a simplified mythology rather than complex reality. And sometimes the misconceptions have been fostered by those savings banks that prefer to sail in protected waters rather than braving the healthy winds of free competition. But these myths harm savers and savings banks together.

Let us examine some of the changes ahead. First, interest rate instability is probably becoming normal. As recently as 1977, it was possible for economists to argue that the periods of very tight money and very high interest rates experienced in 1966, 1969, and 1973 were unusual aberrations. Financial markets may once have been primarily local or national. But today they are subject to forces international in origin and scope. (Clearly, the recent dramatic actions by the Federal Reserve have been aimed at international defense of the dollar, not just domestic inflation.) As a result of monetary policies aimed at national employment, national inflation, international exchange rates, and international payments will dominate the so-called local markets in which savings banks function.

Therefore, every savings bank must be ready to cope with widely and rapidly fluctuating interest rates. To do so, savings banks need the flexibility provided by commercial bank asset and liability powers. With those powers, savings banks can pay a market return to their customers.

Second, sooner or later interest rate ceilings are doomed because they are ineffective as well as unfair to savers. The ceilings are ineffective in maintaining deposit flows; witness the growth of money market funds. They are ineffective in assuring a stable cost of funds; witness the growth and rate history of money market CD's.

Third, an end to ceilings means an end to the differential. Indeed, it has been substantially eroded already. NOW accounts, Keough accounts, large CD's, and money market certificates today carry no differential. Money market certificates now represent 15 to 20 percent of total deposits for many institutions. This means that there is no more differential for interest-sensitive customers (the only ones for whom the differential represents an advantage).

Many savings bankers undoubtedly will wish to keep what remains of the differential, but it is clearly a mistake to believe that such strategy can succeed in the long-run.

Even the short-term strategy of attempting to preserve whatever is still meaningful in Regulation Q has one serious drawback: it requires continuing the argument that savings institutions deserve the differential because of their dedication to home mortgage lending. This argument is incorrect. Mutual savings banks, as distinct from savings and loans, were *not* established as mortgage lending institutions. And it is simply not in our long-term interests to have the public or government believe that we are in business primarily to subsidize mortgage loans at the expense of savers. Use of this argument hinders our efforts to gain broader lending powers.

There is, in any case, little evidence to prove that ceilings and the differential increase the total funds supplied to residential construction. The funds supplied by thrifts may increase as a consequence of Regulation Q, but any increase in such funds that reduce mortgage rates below those on competing investments merely reduce the amount of mortgage credit supplied by life insurance companies and pension funds.

In a Regulation Q-free financial environment market rates on mortgages will attract whatever funds are needed for residential construction from the many types of existing financial institutions, including savings banks. Additionally, recent innovations in the mortgage market, such as the use of tax exempt bonds by municipalities to raise mortgage credit, make less necessary the continuation of savings banks as specialized mortgage lenders.

Another long term fact of life which must be dealt with is the accelerating evolution of EFTS. It is impossible to predict when the real advantages in cost and customer convenience of EFTS will make it the dominant payment mechanism, but it is inevitable. It is equally impossible to foresee how EFTS will alter the payments system and banking structure, but the alteration is certain to be dramatic. We shall see greater use of direct deposit, preauthorized payments, pay-by-phone, point of sale systems, and corporate transfers. Even within the purely retail-oriented banking environment, the great majority of payments in such systems involve transfers between households and business firms, and the institution able to serve both parties to such transactions with a complete range of asset and liability products will have the competitive edge. If mutual savings banks are to be vigorous competitors, they are going to have to be on both sides of the payments business. In this regard, NOW accounts may suffice as a foundation to build upon, but a complete "payment" capability, as well as more flexible asset powers, will have to be achieved eventually.

Most of the recent discussion of these issues has assumed that if mutual savings banks were able to offer some form of payment services (i.e., NOW accounts), had available more flexible mortgage instruments (particularly VRM's), and somewhat expanded asset authority (installment loan powers), then a workable competitive banking structure would result. Mutual savings banks have referred to themselves as household financial institutions, stressing their ability to provide a broad range of financial services to consumers. The implication was that we can neatly divide financial markets into consumer and business sectors. Unfortunately, this division is no longer reasonable as it was before EFTS. Nor does this analysis take into account the earnings and asset requirements for interest flexibility. Household payment services and consumer loans are not enough. Because of EFTS and the need for more flexible asset powers, we must service business accounts as well. It is obvious that savings banks cannot hope to attract corporate deposit accounts unless they are also able to offer loans to corporate customers. This is especially true for small businesses. The public—both consumers and businesses—deserves the full range of services and competitive returns that a free market would provide them.

Competitive equality means competitive equality. Mutual banks must be prepared to compete without advantages in such areas as taxation and reserves. But these are not real issues. Mutual savings banks already pay effective tax rates comparable to commerical banks. Mutual savings banks do not meet the theoretical reserve requirements imposed on Federal Reserve member banks, but then, neither do most commercial banks. If we have the powers of a commercial bank, we should, and we can, meet the reserve requirements that would be imposed on a commercial bank of similar deposit structure.

Some may be concerned about the nature of the resulting "mutual banks". Will they be able to meet the capital requirements of a competitive market? Such institutions would of course be able to issue debt capital—an option now available to most mutual savings banks. The earnings potential from their expanded business opportunities should allow an increase in surplus accounts through earnings retention. Some may see conversion to stock form as a potential outcome if a mutual bank outgrows its capital. I would not rule that out as a possibility or an option, though I doubt it would often be the result. Rather, I see the build-up surplus of the mutual savings bank industry being used as a community resource, to provide a more competitive banking structure for the community that has supported the institution over the years and contributed to its surplus.

It is important to be realistic about these proposed changes. Savings banks will not ignore their experience and advantages as specialists in mortgages and consumer deposits. They will adopt gradually to new powers as needs to serve the public arise. (It might be prudent to introduce new powers and phase out interest rate controls over a short period to let banks and markets adjust to the new rules in an orderly manner.) But the primary emphasis should not be on financial institutions, but on the consumer of financial services. It is clear that the consumer of banking services, like the consumer of any product, benefits from a freely competitive market. Artificial restrictions on the full play of competitive forces can only result in gains to some at the expense of others. The public is best served by a mutual savings bank industry allowed to provide all the services demanded by the economy. Mutual savings banks, given full powers, need no special protections.

It is not my purpose here to address the technical legislative or regulatory changes needed to implement this approach. Once the goal of eliminating interest rate ceilings and granting full commercial powers is accepted, there are many sound ways to handle the process. The principle of moving toward full free competitive markets for depository institutions is the key.

Slumps Usually Help Savings Institutions—But Not This Time

(By Richard F. Janssen)

To the nation's thrift institutions, a recession usually looks a lot like the cavalry galloping to the rescue.

As consumers stop anticipating more inflation and as job security becomes more tenuous, savings looks smarter than spending. As market interest rates shrivel, passbook accounts—the instrument that the thrift institutions like best for financing their mortgage-lending activities because it costs them less than other money—again become attractive to savers.

That scene may yet be acted out, industry sources hope. But so far, the current slowdown is doing nothing to help the besieged mutual savings banks and savings and loan associations. The two main reasons:

Inflation remains high. Running at an annual rate of about 13 percent so far in 1979, it has outpaced passbook rates (a maximum of 5.5 percent) by so much for so long that savers are increasingly turning to alternatives bearing higher yields—yields that are rising even higher following the Federal Reserve Board's latest actions tightening the reins on credit. Many people are hit so hard by inflation that they find themselves unable to save at all.

Washington, discovering "the small saver," has put through one increase in passbook-rate ceilings and is intent on putting through more of them. That sounds as though it would help the thrift institutions by attracting more savings, but there are two catches. First, the rate ceilings shaping up won't be nearly high enough to protect the small saver from inflation, hence won't attract many new depositors. Second, these new ceilings will be paid to old depositors, too, of course, and will be high enough to strain the many thrift institutions that are stuck with older, low-yield mortgages.

THE "GREATEST UNEASINESS"

Such mortgages are especially prevalent among thrifts in the Northeast, and these institutions are feeling the "greatest uneasiness" these days, says Anita Miller, a member of the Federal Home Loan Bank Board. She notes that they are also burdened with low usury ceilings on new mortgages, branching restrictions and their region's low economic growth.

William Popejoy, president of First Charter Financial Corp., a big California S&L holding company, worries that unless there is an early decline in interest rates paid by other competitors for the saver's dollar, such as money-market funds, there will be "collapse and bankruptcies" among Northeast thrifts, with unpredictable ripple effects elsewhere.

Some commercial bankers have suggested removal of all passbook-rate ceilings so that banks could better compete for the saver's dollar with other suitors. So has President Carter. That might be fine for commercial banks, whose business-lending rates are mostly pegged to fluctuations in the primate rate, but the thrifts don't have that much flexibility.

CHOICE OF EVILS

If ceilings were removed and the thrifts paid depositors drastically higher interest rates, their costs would immediately skyrocket. If they didn't pay such rates, they would lose deposits to banks that were paying them.

Most close observers therefore believe that the government won't remove the rate ceilings. It is more likely, they reason, that the ceilings will be raised gradually, bringing chronically higher home-mortgage costs and constricted housing starts without placating individual savers. "We are in a real predicament, with no easy answer to our problems," says Donald C. Sims, president of Union County Savings Bank in New Jersey.

The growing gap between the inflation rate and the passbook rate could further erode grass-roots faith in savings, observers say. It could even produce "a crisis of confidence in our banking system," says Jonathan E. Gray, a securities analyst with Sanford C. Bernstein & Co.

Savers' increasing ire is evident. Some are lobbying. Some are making angry phone calls to newspapers. It isn't only that "anyone who saves money is being penalized," says an anonymous caller to The Wall Street Journal newsroom; it's also that savings banks, by losing deposits, "could become illiquid to the point where some of them might fold."

HAVES AND HAVE-NOTS

Some analysts worry that class-consciousness is being stirred by the contrast between low rates on passbook accounts, for which the banks and S&Ls typically don't set any minimum balances, and the 11% or more they're allowed to pay those who have $10,000 to set aside for at least six months in certificates. "People realize," says an aide at a West Coast thrift institution, "that they're being divided clearly into a nation of haves and have-nots."

Federal agencies approved an increase of one-quarter of a percentage point in passbook rates effective last July 1. S&Ls and savings banks now can pay 5½% and commercial banks can pay 5¼%. The increase was far from enough to stop savings from being "grievously eroded by inflation," a Treasury aide concedes, but he cites "the safety and soundness of our financial system" as the obstacle to doing more.

This fairness-vs.-failures dilemma makes things difficult for President Carter's aides. In following up the President's seemingly bold call last May to eliminate the "increasingly unfair" ceilings, these aides and the Federal Reserve Board have generally given support to a Senate bill that wouldn't require any change until 1982. After that, the ceilings would be nudged up by only one-quarter of a point each Jan. 1 and July 1 and wouldn't disappear entirely until 1990.

Increasingly, the bigger commercial banks are chafing at the lowest-common-denominator approach of the regulators, an approach that requires them to hold their interest rates down to what the weakest links can afford to pay. The U.S. financial system is "still an industry dominated by 'mom and pop' stores," says A. W. Clausen, president of huge Bank of America; he complains that federal rules aimed at preserving thousands of small thrift institutions are preventing "true economies of scale."

The situation poses some awkward problems for the big banks. Their top officers are crusading for elimination of the Fed's Regulation Q passbook ceilings, which apply directly to the commercial banks, that belong to the Fed and indirectly to all other U.S. banks and thrifts. At the same time, "our retail marketing side is trying to convince the public to keep their savings coming," says Kay Williams, marketing vice preisdent of the Bank of America division covering domestic retail banking. The marketing effort isn't having much success, though; the bank reported that its domestic consumer savings deposits at midyear had dropped nearly 5% from a year before, to $8.7 billion.

ABRASIVE ASPECTS

The big banks' double-edged campaigns are taking on some unusually abrasive aspects. To enlist public support for abolishing ceilings, Citibank has put up lobby posters blaming Regulation Q for preventing banks from keeping customers abreast of inflation. Because Citibank uses the slogan "The Citi Never Sleeps" (to promote its 24-hour electronic-teller machines), the customarily staid Manufacturers Hanover Trust Co. couldn't resist taking out full-page newspaper ads crowing, "We Caught the Citi Napping." The message: While Manufacturers Hanover has made full use of the two increases in the past six years in passbook ceilings, "Citibank still pays only 4½% interest" on passbooks.

That's true, a Citibank spokesman says, but he adds that the passbook is merely "there if people want it" and that "we haven't been pushing the product." Instead, Citibank has been promoting other savings accounts that pay the 5¼% limit and are related to use of the bank's plastic cards for electronic deposits and withdrawals.

Such public skirmishing among the giant banks only adds to the anxiety of thrift executives. Without the constraint of Regulation Q ceilings, the commercial banks could wage "bitter, sustained rate wars" against the thrifts, warns Louis H. Nevins, an official of the National Association of Mutual Savings Banks.

That, thrift-industry pessimists say, could bring near-extinction of the specialized consumer-savings, mortgage-lending institutions.

TURNING TO ALTERNATIVES

Meanwhile, many S&Ls are becoming more like big banks. Less able to rely on the rank-and-file savers, they are turning more to large-scale sources of capital. As of August, S&Ls' regular savings accounts had dwindled to about $128 billion from almost $142 billion a year before; the funds they raised by selling certificates of deposit of $100,000 and more, which are exempt from interest ceilings, had grown to almost $21 billion from below $13 million; S&L deposits in the form of six-month $10,000 certificates, whose rates are linked to those on Treasury bills, zoomed to $94 billion by the end of August from $15 billion a year earlier.

The Federal Home Loan Bank Board has proposed letting S&Ls reach out even farther afield by tapping the Eurodollar pool of some 700 billion U.S. dollars on deposit outside the U.S. Large-scale borrowings from abroad are usually possible at interest costs a little lower than at home, and the pool is brimming with surplus funds of the oil cartel.

But the interest rates that the thrifts have to pay on all the larger-scale borrowings are more than double what they pay on passbooks, so they are struggling to keep the cheap money coming in. They are seeking, for one thing, to focus public attention more on the underlying problem of inflation.

To talk of raising passbook rates is "spitting in the wind," scoffs Robert Chill, spokesman for the California Savings and Loan League. Because of inflation, he says, most people with earnings up around $20,000 a year "barely can meet their bills, much less save any money."

TAX INCENTIVE SOUGHT

The consumer pollster Albert E. Sindlinger agrees. "More than two-thirds of all U.S. households aren't in a position to add to their savings," he reports. And even if they were, he asks, "what sense would it make to save and get only 5.5% interest when the inflation rate is more than twice that?"

The thrifts are also pressing Congress to enact some sort of tax incentive for savings, such as an exemption of a portion of savings-account interest from the federal income tax. As things now stand, analysts note, the tax typically trims a 5.5% interest rate to below 4%, so that when inflation is running at 13%, the small saver's account loses purchasing power at an annual pace of about 9%.

"I don't know anyone out there who can pay the kind of rate it would take to justify savings in this kind of inflation," says Mr. Sims of Union County Savings Bank.

The stock-brokerage houses and other sponsors of money-market funds are coming close, however—too close for the comfort of the traditional thrift institutions. These funds put money into Treasury bills and other high-yield, short-term instruments and pass along most of the interest to the investors. They usually pay about twice the passbook rate, and sometimes on amounts as low as $1,000.

The growth of such alternatives is raising doubt that individuals will come flocking back with passbook money even if inflation cools. Still, the conventional savings account isn't disappearing. Large and small savings institutions alike report that new accounts keep coming along. Customers apparently open them for convenience, to help establish a good credit rating, and out of habit. But people keep smaller amounts in their savings accounts these days while putting any larger sums they have into higher-yield varieties.

Some economists say that the U.S. faces a broader problem of inadequate savings in any form. After averaging 3.7% of after-tax income in the 1950s and 1960s, personal savings outside of pension funds dropped to less than 1% in 1977 and 1978, Morgan Guaranty Trust Co. says. The bank contends that only if savers get a real, or after-inflation, return, will there be enough savings for the nation "to extricate itself from the morass of high inflation."

Once they get such a return, the argument goes, they will start saving more and spending less, thus damping inflation's fires.●

Mr. PROXMIRE. Mr. President, I am happy to rise in support of the amendment offered by the distinguished Senator from Massachusetts. This amendment would permit Federal mutual savings banks to invest 20 percent of their assets in commercial loans. It is a departure, but I think that departure in this case is merited for a number of reasons. The fact is that mutual savings banks are all located in the Northeast section of the country. It is a mature section. It is different in many respects from other sections of the country in which homebuilding is not as voluminous or as profitable, as in the sunbelt.

It is not an expanding section, and it is very, very hard for an institution to concentrate exclusively in homebuilding or almost exclusively in it.

Envision a mutual savings bank on the island of Manhattan, for instance. It would be very difficult for them to operate without being able to make some commercial loans and, of course, the amendment by the Senator from Massachusetts would permit that.

Furthermore, there are safeguards here. It does provide a 20-percent cap. It does provide an 8-year phase in. It is not going to happen tomorrow, they are going to gradually move into this, and it will enable these institutions to serve the home mortgage industry.

After all, you might say keep them exclusively in the home mortgage area, and good luck. The fact is they will just be out of business and the people who want mortgages will not have an institution of this kind to go to because of their location.

So I think it is a practical application to a situation which is not national but which is pretty much confined to one section of the country, and I congratulate the Senator from Massachusetts for being sensitive to this particular situation and, I think, providing a reasonable and moderate way to approach it.

I am happy to support the amendment.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. MORGAN. Mr. President, will the Senator from Massachusetts yield for a question, please?

Mr. TSONGAS. I yield.

Mr. MORGAN. As I understand it, the Senator's amendment would only apply to federally chartered mutual savings banks.

Mr. TSONGAS. That is right.

Mr. MORGAN. As I understand it, there are no federally chartered mutual savings banks.

Mr. TSONGAS. That is correct.

Mr. MORGAN. And the purpose of the Senator's amendment then is to apply a little pressure to the States in order to increase the percentage requirement of the States?

Mr. TSONGAS. That is right.

UP AMENDMENT NO. 720

Mr. MORGAN. Mr. President, I send an amendment to the amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN) proposes an unprinted amendment numbered 720.

Mr. MORGAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 25, line 8, strike "10 per centum," and insert in lieu thereof, "20 per centum."

The PRESIDING OFFICER. This amendment is not directed at the underlying amendment and, therefore, is not in order.

Mr. MORGAN. I will redraft it. I drafted it hurriedly, but in the meantime let me speak to it.

Mr. President, the Senator from Massachusetts has made the argument that I have been trying to make on this floor for about 2 weeks now, and that is, that when you begin to get the thrift institutions into situations where they have to compete for money with flexible interest rates but are still basically limited in the loans that they can make to long-term fixed mortgages, then we are putting the thrift institutions into an untenable position in which they cannot survive.

You remember that I have argued all this week that the thrift institutions have engaged in fixed long-term mortgages at relatively low-interest rates, some of them as low as 4½ percent. The Senator from Arkansas (Mr. BUMPERS) said he had a mortgage at 5½ percent; I have one at 6 percent, and many mortgages, most of them, I suspect, are at less than 8 percent.

So what the Senator says is true. Apparently the Senate is going to pass this bill which, I think, is going to make it even more difficult for thrift institutions to survive unless they are allowed to invest their assets in different portfolios in which they can charge higher rates of interest.

I have argued all along, Mr. President, that I hope the savings and loans and thrift institutions could remain home loan institutions, but I would rather that they be involved or be allowed to engage in some more consumer loans, as reluctant as I am to agree to it, than to be caught in a position where they are simply going to have to become insolvent or have to be merged with larger institutions or larger banks.

I think that is the argument the Senator from Massachusetts is making when he says mutual savings banks cannot afford to compete in the flexible rate market for money when they are bound by fixed rate long-term mortgages.

So I think what we should do is, if we are going to increase the percentage that the federally chartered mutual savings banks can engage in, from 10 percent to 20 percent, then we ought to give the same authority to the 2,000-or-so federally chartered savings and loan institutions in order that they may be able to gear up to handle consumer loans, too. I am not sure that savings and loan institutions can even gear up to handle consumer loans, if they are not entitled to more than 10 percent.

So what my amendment will do is simply amend the amendment of the Senator from Massachusetts to give that same investment authority to all savings and loan institutions; that is, that they can invest up to 20 percent of their assets in consumer financing and the other kinds of investments specified in the bill.

Let me repeat here again that I wish it were not necessary, but since, apparently, the bill is going to pass, and regulation Q is going to be phased out, competition for money is going to be greater, and the savings and loan institutions are going to have to compete; they are going to have to pay more interest in order to compete, and therefore they are simply going to have to engage in greater investment portfolios.

UP AMENDMENT NO. 721

Mr. President, I send to the desk an amendment to accomplish that purpose.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from North Carolina (Mr. MORGAN) proposes an unprinted amendment numbered 721 to the amendment numbered 719 of the Senator from Massachusetts (Mr. TSONGAS).
>
> Insert the following at the conclusion of unprinted amendment number 719:
>
> Section 301(E) of the bill is amended by striking the number "10" on page 25, line 8, and inserting in lieu thereof "20."

Mr. MORGAN. Mr. President, this would simply put all of the thrift institutions into the same situation.

I believe the chairman has agreed to accept the amendment of the Senator from Massachusetts, and I do not see any reason why we should not treat them all alike.

Mr. PROXMIRE. If the Senator will yield, I have serious problems with this, because as I tried to explain in my support for the amendment by the Senator from Massachusetts, I think that the mutual savings banks in the Northern part of our country have a peculiar and especially difficult problem. As I understand it, the estimates are that it would take a number of years for the savings and loan institutions to get to the 10-percent level in the bill. And this would give us time to study this carefully.

If we are going to go as far as 10 percent, it seems to me we ought to go as carefully and with as much information and as much experience as we can.

I think the Senator has made a very strong point. I would be willing to accept the amendment, with the understanding that we would discuss it in conference, discuss it with the regulators and others, and see if we could sustain the amendment.

But, frankly, I do have that concern that it goes a little too far too suddenly. And while I support the Senator from Massachusetts, because I do think he does have an unusual situation, I do not have the——

The PRESIDING OFFICER. If the Senator will withhold, the amendment of the Senator from North Carolina is not in order because it attempts to amend a section of the bill which is not addressed in the amendment of the Senator from Massachusetts.

Mr. MORGAN. Mr. President, we are having a little trouble getting it drafted. As soon as I get the floor, I will suggest the absence of a quorum and I will get it in order.

The PRESIDING OFFICER. It may be in order by unanimous consent.

Mr. MORGAN. I want to make sure, myself. So let me suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. NUNN). Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the Morgan amendment to the Tsongas amendment be considered to be in order, despite the fact that a point of order may lie against it.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MORGAN. Mr. President, I believe I have stated my position, which is that the same rule should apply to all federally chartered thrift institutions, whether mutual savings banks or savings and loan institutions.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Caroline to the amendment of the Senator from Massachusetts.

Mr. TOWER. Mr. President, I am not violently enthusiastic about this amendment, but I think under the circumstances, in that it is my understanding that this takes care of Tsongas, I am willing that we go ahead and accept it and take it to conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

Mr. MORGAN. Mr. President, I believe the chairman supports it as well.

Mr. PROXMIRE. Yes. Mr. President, I want to make it clear that I support the Morgan amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 721) was agreed to.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment (No. 719) of the Senator from Massachusetts (Mr. TSONGAS), as amended. Is there further debate?

Mr. MORGAN. Mr. President, this is a rather unique procedure, to amend an amendment and then speak against both amendments, but I do want to put my position on record.

Mr. TSONGAS. Mr. President, will the Senator yield?

Mr. MORGAN. I yield.

Mr. TSONGAS. Merely to state that I did not object to the point of order raised by the Senator from Wisconsin. I hope the Senator will keep that in mind as he continues his remarks.

Mr. MORGAN. I understand that. I have not forgotten. I just wanted to clarify my position, in just a few moments.

All I want to do is to rise and state my opposition to the amendment because I think it is a bad precedent. The amendment would now, of course, apply to all thrift institutions, and would allow all federally-chartered thrift institutions to invest up to 20 percent of their savings or assets into consumer loans.

The distinguished Senator from Massachusetts (Mr. TSONGAS) was not here last year when the debate on S. 3499 took place and he had no part on it. The Congress enacted a provision which allowed for conversion of State-chartered mutual savings bank to federally-chartered. In that bill the savings banks were allowed, as I recall, to invest up to 10 percent in nonhousing loans.

The question came up then as to whether or not we would be back in another year saying 20 percent.

Let me quote from the transcript of the debate.

> Mr. BROOKE. First of all, I would like to know whether Federal mutual savings banks will be required by their chartering agency, the Federal Home Loan Bank Board, to maintain an investment orientation toward housing? . . .
>
> Mr. PROXMIRE. . . . With respect to the investment orientation of Federal mutual savings banks, title II (sic) itself provides a very clear intention that Federal savings banks must be oriented toward home finance. In the first place the amendment that is made by title II (sic) to section 5(a) of the Home Owners' Loan Act makes clear that savings bank charters would be made available "in order to provide local mutual thrift institutions in which people may invest their funds and in order to provide for the financing of homes". Moreover, title II (sic), while permitting converting savings banks to retain their nonmortgage investment powers and services, places a substantial limitation on Federal mutual savings banks inasmuch as nonmortgage investments must generally be limited to what they were as a percentage of total assets at the time of conversion.

In short, while we were willing last year to grandfather certain nonmortgage investment powers for mutual savings banks which were already held by States seeking a Federal charter, I do not think we were talking about increasing them.

That is one point.

But a very pertinent point is the same one discussed back years ago when the McFadden Act, which has to do with branch banking of national banks, was passed. The Senator will recall there was a great debate on whether or not nationally-chartered banks in a State could engage in branch banking when the State-chartered banks could not do it. An amendment was offered in that connection. It was held that to put a State in that position would constitute unwarranted pressure by the Congress on State legislatures. Let me quote one or two sentences from the debate.

> The real purpose of the Hull amendments, is to bring pressure to bear upon the leading bankers in states which now prohibit branch banking by depriving them of the motive to seek a change in the state laws favorable to branch banking. It is to coerce them to remain silent . . . this is an unprecedented policy for the federal government to pursue and constitutes an unwarranted interference with the rights of citizens of

these states in their relationship to the state legislatures.

That is really one of the basic reasons why I felt this amendment was unwarranted. But it is going to conference and the problems of the Senator from Massachusetts and my concerns about the fairness of treating savings banks differently from other thrifts can be considered then.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Massachusetts, as amended.

The amendment, as amended, was agreed to.

Mr. TSONGAS. I move to reconsider the vote by which the amendment, as amended, was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 722

Mr. MORGAN. Mr. President, I send an unprinted amendment to the desk on behalf of the Senator from California (Mr. CRANSTON) and myself and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. TSONGAS). The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from North Carolina (Mr. MORGAN), for himself and Mr. CRANSTON, proposes an unprinted amendment numbered 722.

Mr. MORGAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At page 32, line 20 by adding a new section as follows:
>
> "SEC. 304. The third sentence of section 403(b) of the National Housing Act (12 U.S.C. 1726(b)), as amended, is amended by striking '5 per centum' and substituting therefor 'an amount no greater than 6 nor less than 3 per centum as determined by the Federal Home Loan Bank Board'".

Mr. MORGAN. Mr. President, the purpose of this amendment is to grant to the Federal Home Loan Bank Board the administrative flexibility that the Federal Reserve and other Government agencies regulating financial institutions have in setting reserve requirements. This amendment would permit the Federal Home Loan Bank Board to set the reserves, that is, the Federal insurance reserve requirements, at no more than 6 percent and not less than 3 percent.

At the present time, the law requires for the Home Loan Bank Board institutions, S. & L.'s, a mandatory 5-percent reserve. There is absolutely no flexibility in the 5-percent figure. To my knowledge it is the only law governing financial institutions that sets a rigid statutory requirement. All of the banking laws authorize reserves in a range of from 2 to 10 percent or 7 to 20 percent.

The chairman of the Home Loan Bank Board, Jay Janis, in testimony before the House Banking Committee, said that he supports the amendment and thinks that it is a good idea. I might also add that this amendment is supported by the U.S. League of Savings Associations, State leagues in all of the New England States, plus States like Florida, Texas, Kansas, and Arkansas, just to name a few.

The amendment is particularly needed at this time because of the high cost of money, the low income to these institutions, and the need for these institutions to continue to accept savings.

Originally, the amendment was to simply lower the reserve requirements from 5 percent to 4 percent. However, this provision would maintain the statutory rigidity, which is not proper. My amendment, instead of lowering it from 5 to 4 would simply set a range of from 3 to 6, and it would be left up to the Home Loan Bank Board, the governmental agency that has responsibility for the supervision of savings and loans and thrift institutions.

A number of the members of the Senate Banking Committee have told me of their support for this amendment. We have for the record some supporting material concerning the need for the amendment and its desirability.

I hope the chairman will accept it.

I would like to read the letter from Chairman Janis addressed to Senator CRANSTON.

> DEAR SENATOR CRANSTON: I am writing in regard to a possible amendment to H.R. 4986, the Depository Institutions Deregulation Act, that would authorize the Bank Board to determine the level of Federal Insurance Reserve (FIR) within a range of 3% to 6% of all insured accounts. Currently, this requirement is set by statute at 5%.
>
> This proposal has been under consideration for some time. Indeed, a provision of H.R. 5280, recently reported out of the House Financial Institution Subcommittee, would reduce the present statutory FIR requirement to 4 percent from 5 percent. The Bank Board suggested that this was probably not a long-term solution to capital adequacy problems of S. & L.'s and that we saw a need for greater flexibility, in part as a result of efforts to move toward asset-based reserve requirements. However, even though the number of individual associations that would be helped by reducing the FIR requirement may not be overwhelming, we still believe it to be useful for those associations it would benefit.
>
> The Bank Board believes the proposed amendment would provide the necessary flexibility we seek as we move in this direction, and thus we would offer our support for the amendment.
>
> Sincerely,
>
> JAY JANIS.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. MORGAN. Yes.

Mr. PROXMIRE. I am willing to support the amendment. I do think, however, that this does raise a very, very serious problem. Obviously, if the capital of a savings and loan is reduced, it is less able to withstand recession, withstand adverse circumstances, and we have a problem with the safety and soundness of these institutions. I am sure that the chairman of the Home Loan Bank Board had that in mind and was considering it and was still able to find that he could support the amendment of the Senator from North Carolina, so he was still able to take it. I hope this flexibility will solve the problem, but I also hope the Senator from North Carolina will work with the committee—I am sure he will—to find other ways of helping savings and loans and not reduce their capital below what it has been in the past.

Certainly, we have a great interest in seeing that we do not begin to have failures of these very important institutions.

Mr. MORGAN. Mr. President, I do share the same concerns as my chairman, even though we have differed substantially for the last few days. I think we share most of the concerns for S. & L.'s conversions, and so forth. I do think we should monitor it very closely.

I have complete confidence in the Home Loan Bank Board. But if they should, by chance—if they do reduce it, I am sure we in the committee will be looking at it immediately. I do think it is important at the present time, in light of the effects that some of the provisions of this bill may have.

I might mention that all of the State laws allow some flexibility. That is our research and I am sure I am right. Also, this law has not been changed since 1934.

I thank my chairman for accepting and agreeing to the amendment and I assure my chairman that I shall work with him and that I agree that we should monitor it closely.

I might add, Mr. President, that I understand the distinguished Senator from Utah (Mr. GARN) and the distinguished Senator from Texas (Mr. TOWER) both of whom are on the Appropriations Committee, would join in accepting this amendment.

The PRESIDING OFFICER. If there is no further discussion, the question is on agreeing to the amendment by the Senator from North Carolina.

The amendment was agreed to.

Mr. MORGAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 543

(Purpose: To permit States to determine whether to permit NOW accounts)

Mr. MORGAN. Mr. President, I believe that brings us down to the printed amendments that I had talked about and promised that I would call up. Mr. President, I call up printed amendment 543 at this time and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from North Carolina (Mr. MORGAN) proposes an amendment numbered 543.

Mr. MORGAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 12, line 25, through page 13, line 1, strike out "which is located in California".

On page 13, line 4, strike out "California" and insert in lieu thereof "the same State".

On page 13, between lines 5 and 6, insert the following:

(c) Section 19(i) of the Federal Reserve Act is amended by adding at the end thereof the following: "Notwithstanding the foregoing, a national bank may permit withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties only during periods when State-chartered banks located in the same State are authorized to permit such withdrawals.".

Mr. MORGAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, when this bill was considered by the Banking Committee, during the markup the distinguished Senator from California recognized, I think, a very valid point, one that recognizes a principle that I believe very strongly in. That is the role that the various States ought to play in this matter.

Mr. President, the role of the States in banking matters has been debated since the earliest days of the Republic. I am certainly not going to recite all of the relevant history. But the question in George Washington's day, when he was President, was whether there should be a role in the Federal Government for financial affairs and banking, the question of the establishment of a U.S. bank. I might mention that at that time Thomas Jefferson wrote a very thorough analysis of the constitutionality of a Federal national bank. In any event a national bank was established. To retrace the history briefly, the bank was in business for a number of years, and then it went out of existence and a bill came back again establishing another one, and President Jackson vetoed it.

To get down to more current history, our present national banking system began in the 1850's or 1860's, as I recall. But now, historically, until 1927, from the time that the first bank was created in 1864 until 1927, national banks were not permitted to engage in branch banking at all.

After that, through a series of legislative acts, national banks have been allowed to engage in branch banking, provided the laws of the State in which they operate permit State-chartered institutions to engage in branch banking. Mr. President, that system has worked extremely well and it is working today and it is a principle that I think ought to be preserved.

Early in the discussion of the amendment of the Senator from Massachusetts, I quoted from a debate that took place on the floor of the Senate many years ago, in which a Senator stated that it would not be fair to permit federally chartered banks to have powers over and beyond those of the States in order to coerce changes or to permit the nationally or federally chartered institutions to have an unfair competitive advantage.

The word the courts used was competitive equality, or competitive equivalence.

So what Senator CRANSTON did was this. He said in his amendment that the provisions of NOW accounts, the new powers added by this bill, should not apply to California unless the State-chartered savings and loan associations located in California are permitted to do it.

In other words, he applied the laws, the provisions of this bill, to the State of California only if the State of California permits the State-chartered institutions to do it.

My amendment would extend that nationwide. It would simply say that thrift institutions, savings and loans, in North Carolina or in any other State, would not be allowed to exercise these new changes or powers unless the State legislature decides that State-chartered institutions can do it.

The testimony before the Banking Committee, as I recall, was unanimous from the institutional representatives in New England that they would not want NOW accounts without regulation Q.

But this bill phases out regulation Q.

What I am saying is that every State should be given the right to consider the question in the overall context. I do not believe the federally chartered savings and loans in a State ought to be able to offer these services unless the State itself has considered them.

I think if it is fair for California, and I think it is fair for California, then it ought to be fair for the other 49 States.

If a State wants NOW accounts, all they have to do is to create legislation on behalf of them, and if the State does not want NOW accounts, they do not have to have them.

Just as the States do now regarding branch banking. There are some States that do not have branch banking. In those cases, neither State nor Federal can have them.

I think competitive parity—I believe they are the words actually used—is important if we are to maintain the viability and soundness of the systems.

We had some difficulty a few years ago when we had a Comptroller of the Currency who attempted to get around the branch banking prohibitions in some States by just chartering a Federal bank, and a number of them almost got in trouble, and almost provided a lot of trouble for the State institutions.

So I think this is a sound provision that Senator CRANSTON has put into the bill. All I am asking is that the same discretion be allowed for all of the States.

Mr. President, the Senator from California (Mr. HAYAKAWA) was here yesterday. He is absent necessarily from the Senate today attending the funeral of the President of the Republic of Korea. He asked me yesterday if I would have printed in the RECORD his statement. So I ask unanimous consent that the statement of the Senator from California (Mr. HAYAKAWA) be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR HAYAKAWA

I rise in support of the amendment offered by my distinguished colleague from North Carolina, Mr. Morgan. This amendment seeks to permit states to authorize negotiable order-of-withdrawal accounts (NOW) accounts at depository institutions. During consideration of the Depository Institutions Deregulation Act in the Committee on Banking, Housing, and Urban Affairs, the bill was amended to permit various banking institutions to offer interest-bearing transactions accounts nationwide, with the exception of California Savings and Loan Associations.

Initial support of this amendment stemmed from financial institutions in California who claimed the costs associated with these types of accounts could more than offset the interest earned on the account, thus yielding no real benefit to the consumer. However, since this legislation was first reported to the Senate for consideration, support for interest-bearing transaction accounts offered by Savings and Loans in California has been overwhelming.

New York and the New England states have had the authority to offer NOW accounts since 1972. There has been mixed reaction as to the effectiveness of these accounts to draw new funds to Savings and Loans for mortgages, as well as whether or not NOW accounts provide a means for consumers to keep pace with inflation. Although many questions remain to be answered concerning these accounts, I fail to see the logic for prohibiting one state from offering this service, particularly a state which perhaps has the largest and certainly the most innovative banking system in the country. If citizens in 49 of our states are to be allowed to participate in this banking service, why shouldn't Californians be accorded the same privileges?

I have consistently argued since becoming a Senator that our individual states should be granted more authority to regulate various laws established by our government. The decision of whether to allow certain financial institutions to offer these accounts is a matter which I feel could be more appropriately determined by each individual state legislature.

Mr. PROXMIRE. Mr. President, I oppose this amendment. This amendment would knock out the authority of the federally chartered institutions, knock out their power to offer NOW accounts.

The bill without the amendment leaves to the State the power to offer NOW accounts. This is in keeping with the dual banking system. But the Morgan amendment would give the States a veto power over whether Federal institutions should or should not be able to offer checking accounts. Not only is this contrary to the dual banking system, but it has the potential for fragmenting our national banking system State by State. NOW accounts have been very popular among consumers in New England and New York where they have been available for some time. In New England, as of March 1979, 80 percent of the depository institutions that could offer NOW accounts were offering them.

We find they have support not only among consumers, among the banking institutions themselves and among the regulators.

NOW accounts have broad support throughout the country. NOW accounts have broad support among both Federal regulatory agencies and among consumer groups. The Committee has received favorable testimony on NOW accounts from the Federal Reserve, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the National Credit Union Administration, the National Association of Mutual Savings Banks, the National Savings and Loan League, the United States League of Savings Associations, the AFL–CIO, Consumers Union, HUD, and many others.

NOW accounts would present consumers with another option. No consumer would be required to give up conventional checking accounts in favor of NOW accounts. Some consumers may prefer to keep their conventional checking accounts if they maintain a low balance and write a large number of checks.

Of course, simply, the difficulty is that if we have a checking account, we may find it very convenient and useful to have $1,000 or $2,000 in it without being a very well-to-do person.

There is no interest on that. Of course, over the period of a year, with interest rates at the level of 12 to 13 percent, we lose well over $100, even on the $1,000 we keep in there.

NOW accounts would rationalize a bewildering array of interest-bearing transactions accounts and near-transactions accounts—telephone transfer accounts, ATS, bill payer accounts, money market mutual fund checks, and so forth. Why do they exist? These exist because consumers have pressed for ways to circumvent the prohibition against interest payment on demand deposits. In this inflationary environment consumers will continue to press for interest on their transactions accounts. Implicit interest or explicit interest on contorted mechanisms linked to transactions accounts are basically inefficient and more costly than NOW accounts.

Explicit interest on NOW accounts will allow consumers to choose how to spend the additional income. NOW's will eliminate the need to transfer funds from one type of account to another before the funds can be used for transactions.

With regard to the effect of NOW's on small financial institutions, the committee received testimony that NOW's are very popular with institutions of all sizes where they are being offered.

Secretary Blumenthal testified that NOW's in New England have "not resulted in a serious financial burden on the offering institutions."

So, what is the problem?

We tried them. We could not have a better laboratory. We had a trial lasting for years. They have been a great success. They provide much greater justice for people with checking accounts, a very large proportion of Americans.

It would seem to me it is time for us to act.

Considerations of profitability during a transitional period should not be confused with the more fundamental considerations of safety and soundness. No problem banks have been caused by NOW accounts. Thrift institutions may, in fact, benefit greatly because NOW's tend to be less interest sensitive and, therefore, more stable.

Mr. President, there was a vote on this in the House on NOW accounts. It was overwhelming. It was not close. It was not 2 to 1, 3 to 1, 5 to 1. It was 10 to 1, from all parts of the country, including one State where there is considerable opposition, I understand, in the Senate, and some concern in California.

California is the biggest delegation in the House. All but one voted in favor of the NOW account, and on a national basis, not inhibited by giving the States the veto power.

So I hope, Mr. President, this amendment would not be accepted by the Senate. I would oppose it.

Mr. MORGAN. Mr. President, would the Senator from Wisconsin yield for a question?

Mr. PROXMIRE. Yes.

Mr. MORGAN. It is my recollection that in the markup of the committee, the Senator from Wisconsin agreed to accept the amendment of the Senator from California which allowed the State of California to have this prerogative. If that is true, why is it not just as fair for the other States to have it as it is for California?

Mr. PROXMIRE. The Senator raises a very good question. Frankly, we did that as an accommodation to the distinguished Senator from California.

As I say, the California congressional delegation overwhelmingly supported the NOW accounts. I think that is a contradition, and I think it makes the bill inconsistent. I cannot defend that action.

Nevertheless, I think it is clear that the time has arrived for NOW accounts. We have had experience with them and they have worked. There is overwhelming national support for it. Every regulatory agency supports it. I think that, under the circumstances, we can move ahead with it.

I have no answer, except that we accommodated a cherished and esteemed colleague in committee who asked us to do it. We did what he requested.

Mr. MORGAN. All I am asking the Senator now is to accommodate the rest of us.

[Laughter.]

Mr. PROXMIRE. We do that with a vote. If the rest of them want to be accommodated, all they have to do is to vote for the Morgan amendment.

Mr. MORGAN. I do not think that is the question. The question is, if you are going to permit one State to have this authority, we should allow that same authority for all of them.

As to debates with respect to NOW accounts, the Senator from Wisconsin and I have been debating this not for just weeks. We have been debating this since I have been in the Senate, since 1975.

I have to yield to the majority of the Senate with regard to NOW accounts, but all I am asking for now is the word we have been using in the SALT talks—parity.

Mr. PROXMIRE. If the Senator feels that his main argument is that the California group is out in front on this, if he wants to offer an amendment knocking out California, I will support it.

Mr. MORGAN. I think the Senator from California displayed eminently good judgment by respecting the rights of the people in his State. That is the prerogative that was granted to the States in the McFadden Act, in the national bank bill. I think it would help protect the soundness of the financial institutions.

I assume that this question is going to be debated with the California people. All I am asking is that all States be treated alike; that if one State is going to be permitted to do it, all States should be permitted to do it.

Let me read what one of the California Representatives had to say about the same matter. He said:

> Mr. Speaker, we will soon have before us a vote on H.R. 4986, the Consumer Checking Account Equity Act of 1979. I have a reservation about the implementation of the NOW account provision in this bill. Many of us feel that the NOW account provisions should not be implemented until each State legislature has an opportunity to decide whether such accounts shall be allowed by State law. State governments in other words should have the opportunity to legislate on whether in that State NOW accounts should be permitted.

Then we have both U.S. Senators from California taking the same position.

Mr. PROXMIRE. The Senator from North Carolina, during the course of debate, often has quoted the chairman of the Home Loan Bank Board, as I have. Let me read two short paragraphs from his letter, which is dated today, November 1:

> I am writing to express the Bank Board's firm support of nationwide NOW accounts for Federal thrift institutions. I am aware that there has been considerable discussion of this provision of H.R. 4986 during the current Senate debate on this bill. We understand that there may be efforts to strike or modify this provision by making it contingent upon NOW account authorization for State S&Ls by individual State legislatures.
>
> In our judgment, not only would such a requirement strike at the heart of the dual banking system, but it would also be terribly damaging to the future of the thrift industry itself. As federal overseer of the savings and loan industry, charged by Congress with responsibility for its safety and soundness, we believe strongly that authorization of nationwide NOW accounts is in the best interest of consumers, savings and loan associations and housing finance.

As the Senator has indicated in the course of the debate, Mr. Janis is Chairman of the Federal Home Loan Bank Board, and he speaks for the agency that has that responsibility. I do not know how we could have a more emphatic letter affirming what the committee has put into the bill and what the

Senator from North Carolina would strike.

Mr. FORD. Mr. President, will the Senator yield for a question?

Mr. PROXMIRE. I yield.

Mr. FORD. The Senator from Wisconsin has been quoting Mr. Janis, and we all have been quoting him around here. We will even put in the RECORD editorials from the Washington Post when they fit our view.

It seems to me that we should listen to those who operate the institutions back home as to what they think is best. I do not find my people at home saying, "We can hardly wait for you to give us NOW accounts."

How many institutions that actually meet the public and have to deal with this every day have written to the Senator from Wisconsin and have said, "Please give us NOW accounts"?

Mr. PROXMIRE. The trade associations which represent them, and I think they are the best spokesmen for them, much better than anybody who had been elected to the Senate, favor this. They tell us that they want it. They say that this is part of their agenda, and they make up their agenda based upon what their institutions want. They do not make up the agenda out of their heads. If they do not rely on what the institutions want, they do not stay in office very long.

Mr. FORD. I have looked at some of the testimony. IBAA gave some testimony to the committee, and this association is concerned about the imposition of NOW accounts. Officials of IBAA say that the experience they have had in New England demonstrates that banks cannot pay 5 percent interest and offer free checking on NOW accounts. With an average balance under $3,000, they could not make a profit.

It seems to me that we talk about taking care of the little folks, those with small accounts, and they are the ones who, as usual, will get it stuck to them; and those who have a reasonably large bank account are going to make some money. It does not seem fair to me.

Mr. PROXMIRE. What we are doing here is simply eliminating a prohibition which we have now, a Federal prohibition, against NOW accounts. We are knocking that out. If the State wants to prevent State institutions from offering NOW accounts, it is free to do so.

Mr. FORD. Why do we not turn it around and allow the States to do it?

Mr. PROXMIRE. They can do it.

Mr. FORD. What the Senator is saying in this legislation is that the States would have to prohibit it.

Mr. PROXMIRE. No; they do not have to have NOW accounts. We just knock out the prohibition against NOW accounts. No institution has to offer them.

Furthermore, the American Bankers Association, which represents 14,000 banks, has supported this position and favors NOW accounts.

Mr. FORD. The State convention in Kentucky voted emphatically against them. The Senator from Wisconsin may have something there from Kentucky, but I attended the convention, and I have a copy of their resolution. I understand what they said very clearly.

Mr. PROXMIRE. I have here a statement by the U.S. League, which represents more savings and loan institutions than any other. They say that the U.S. League supports such legislation.

Mr. MORGAN. I think the Senator is talking about savings and loan institutions, and I am talking about banks.

Mr. PROXMIRE. It is hard to find any representative group that speaks for any group of financial institutions that opposes the legislation.

I am sure the Senator from Kentucky knows far more than the rest of us do about how his people feel in Kentucky, and I am sure he will vote that way.

Mr. FORD. I hope so.

Mr. PROXMIRE. As manager of the bill, I have to listen to the voice of national institutions that represent all the States, and they take their position based on what their constituent institutions want, and that is what they say they want.

Mr. FORD. I ask the Senator this question: If the Senate accepts the Senator's position or the committee's position, what does that do to banks?

Mr. PROXMIRE. It means that the banks, if they wish to do so, can offer the negotiable order of withdrawal, or NOW accounts, so that, in effect, they can pay interest on a checking account.

Mr. FORD. If they want to.

Mr. PROXMIRE. If they want to.

Mr. FORD. Right now, it is prohibited.

Mr. PROXMIRE. That is right. We are taking that prohibition off.

Mr. FORD. So it means that everybody is going to be in the business, whether they want to or not.

Mr. PROXMIRE. Only if they want to be.

Mr. FORD. Competition is one thing.

Mr. PROXMIRE. What is the matter with competition?

Mr. FORD. Let me make a point here. I believe this is testimony before the Senator's committee, and I quote from the IBAA. The Senator is talking about the associations.

Mr. PROXMIRE. I am talking about the American Bankers Association.

Mr. FORD. The IBAA testified.

Mr. PROXMIRE. They certainly did. It is a fine organization.

Mr. FORD. I quote from their testimony:

> The experience with New England banks demonstrates that they cannot pay 5 percent interest and offer free checking on NOW accounts, with an average balance under $3,000.

Mr. PROXMIRE. That is up to the banks. In New England, we have overwhelming support for it.

Mr. FORD. Oh, on. They are charging, and the charges are going up on small bank accounts. So the small consumer, who the Senator is trying to protect, finds that his cost of banking is going up. His cost of writing a check is going up. And the fellow who has a $3,000 bank account, the Senator lets him go free.

Mr. PROXMIRE. The consumer always has a choice. He does not have to take a NOW account.

Mr. FORD. The Senator is forcing the consumer to put it in a can in the back yard, because he cannot afford to pay for the checking account.

Mr. PROXMIRE. No institution I have heard of is exclusive. He can, if he wishes to do so, in any institution, put his money, as he has in the past, in a noninterest bearing demand checking account, or he can put it in a NOW account.

Mr. FORD. It should be uniform, or it will create additional charges and more costs for the bank to keep all the separate checking accounts.

Mr. PROXMIRE. It is entirely up to the institution. They are free to do what they wish to do.

Mr. FORD. I understand that, and that is a good argument against me, but it is adding to the cost of doing business.

Mr. PROXMIRE. We are not adding to the cost of doing business.

Mr. FORD. Yes, you are because if you have one account that does and one account that does not you have to at least have two separate entries, and if that does not add to your costs I do not know how to carry on a business.

Mr. PROXMIRE. They are offering a new service which they are free to accept or not accept.

Mr. FORD. If some are accepted and some are not, you are charged with additional overhead, so who pays the additional overhead? You can smile at me, but it is the truth.

Mr. PROXMIRE. If the logic of the Senator's argument was correct, a bank would not offer NOW accounts. They would be able to compete far more effectively because they would be in a situation where they were more efficient than the other institutions. They are not forced to do it. They only do it if they wish to do so.

Mr. FORD. When people think they are going to get interest on their account they are going to go into the bank and say, "I want my interest. I would like to have it in one of those accounts." But when they find out there are bank charges as a result that exceed their interest then they are not going to like it very much.

Mr. PROXMIRE. That is easy. All they have to do is to take money out of the NOW accounts and put it in a demand account.

Mr. FORD. But it is not going to eliminate it.

Mr. PROXMIRE. Oh, no.

Mr. FORD. They may receive a little interest, but the charge is going to be higher, my friend, as the result of the additional expense, the additional charges being placed on the institution.

Mr. PROXMIRE. No. I say to the Senator from Kentucky that he would be free, as a depositor, to make up his mind. He could put his money into a NOW account and pay whatever charges there are or take whatever burden that that might entail, and he would be free to do it. If that was more profitable to him he could do it or put it into a checking account or if he were running an institution he could offer or not offer NOW accounts.

At the present time we prohibit that. We have a law that says it is a crime to pay interest on a demand account or any kind of a checking account, and we are eliminating that Government regulation, that restriction, and providing a greater freedom for the consumer and for the institution.

Mr. FORD. Let me ask if this is correct, Senator. Did the testimony before the Senator's committee indicate that we have 35 million Americans who have checking accounts below $200?

Mr. PROXMIRE. I do not remember that. The Senator may be correct; I am sure, if he has it there, it may well be. It does not sound unreasonable.

Mr. FORD. It is correct. It does not sound unreasonable?

Mr. PROXMIRE. It is possible.

Mr. FORD. How are you going to help those 35 million people who have accounts of less than $200?

Mr. PROXMIRE. How do you hurt them? There are millions of other Americans who are in a position to benefit from that, and they would be able to benefit without anything being taken out of the pockets of the smaller accounts.

Mr. FORD. How would it benefit the fellow with the $200 account? You are going to eliminate it.

Mr. PROXMIRE. Oh, no, we are not going to eliminate it. I cannot imagine that a bank would eliminate their demand accounts. They have them in New England and they have them here.

Mr. FORD. Going back to the testimony in New England saying that they cannot pay 5 percent interest and give free checking, in essence you give interest here and take away there, the fellow with the small checking account loses.

Mr. PROXMIRE. I may say to the Senator that in all of our testimony we do not have one line of opposition to this from consumer groups. No consumer has said, "I am being hurt by this," none. We had lots of testimony from consumer groups. We invited them in. We urged them in, and they were free to come. We have no indication with consumers who have lived with this NOW for 4 or 5 years who are opposed to it. You talk to Senator Tsongas or Senator Kennedy or Senator Durkin, any of the Senators, Senator Ribicoff or Senator Weicker, any of the Senators from New England, and what is their position? Their position, having talked to their constituents who have lived with NOW accounts, is they like them.

Mr. MORGAN. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. MORGAN. I will tell you what the position of the people from New England is, and I think the Senator was there at the same time. My recollection is that the testimony of every single banker and every single savings and loan or thrift institution officer from New England was that "We like NOW accounts so long as we have regulation Q. We cannot survive without regulation Q." That is my recollection of every single thrift official who testified before our committee.

Mr. PROXMIRE. Well, that is not quite correct. There is no institution that is more typical of New England than mutual savings, and I have a letter from Saul Klaman of the National Association of Mutual Savings Banks who says that with the amendment Senator Tsongas introduced they support this. We have now put that into the bill. They say with that they support every part of the bill, including the NOW accounts part of the bill.

Mr. MORGAN. That is exactly what I have been trying to tell the Senator here. They are saying "We can support it, but we cannot survive with it unless you give us more consumer loans."

Mr. PROXMIRE. That is what the bill provides.

Mr. MORGAN. I know, but the Senator has indicated that probably that provision is not going to survive the conference. In other words, show me one, show me just one, institution, one thrift institution, in New England where they have had this experience, and will say, "We want NOW accounts as the bill now is," with the exception of the amendment we have added.

Mr. PROXMIRE. They have them now. They did not have to have them. They have them. They like them. They keep them. But there is no indication they want to get rid of them.

Mr. MORGAN. Mr. President, the Senator from Wisconsin keeps saying if they do not want them, they do not have to have them. But I think the Senator from Wisconsin was present when the Senator from California offered his amendment saying that is does not apply to California unless the State legislature authorizes it, and he said at that time that the savings and loans did not want them, and they did not want the authority because they realized if one offered it they all had to offer it.

Mr. President, I have been dealing with the U.S. Savings and Loan League since I have been in Washington, and I have traveled all over the country, and I have never had one of them say to me that they support NOW accounts, and the Independent Bankers Association is emphatic in their opposition. It is true that the ABA, made up of your larger banks in the country, favors it. But I have no doubt that the largest banks in the country can absorb all of these services and they can also absorb these savings and loans. My concern is that it is going to hit hardest at the smaller community-based institutions.

Now, Mr. President, we have argued the merits of NOW accounts for days.

But I think we are down to the point now where we must decide, Are we going to treat every State in the Union alike?

The chairman of the Banking Committee agreed in committee that the provisions of this bill would not apply to the State of California unless the State legislature authorized them for State chartered institutions. All I am asking is that we have parity, that all of the States have the same prerogatives and the same authority that the chairman agreed for the State of California to have.

That would not be at all unusual, because that basic situation has applied historically since the 1920's to the National and State banking system, and a dual banking system has grown, the State banks and the Federal banks have grown along together, and made great financial institutions.

So all this amendment does is give to every other State in the Union the same right that the chairman and the committee gave to the State of California—that is, the provisions of the bill on NOW accounts would not apply unless the State legislatures authorized them for State chartered institutions. It is just as simple as that.

I believe, Mr. President, what is fair for one is fair for the others, and if it is fair for the State of California to have it, let us give all the other States the right to decide for themselves.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Does any other Senator seek recognition on the amendment? If not, the question is on agreeing to the amendment (No. 543) offered by the Senator from North Carolina. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Ohio (Mr. Glenn), the Senator from Alaska (Mr. Gravel), the Senator from Massachusetts (Mr. Kennedy), and the Senator from Vermont (Mr. Leahy) are necessarily absent.

I further announce that the Senator from Nevada (Mr. Cannon) is absent on official business.

I further announce that, if present and voting, the Senator from Vermont (Mr. Leahy) would vote "nay."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Oklahoma (Mr. Bellmon), the Senator from Pennsylvania (Mr. Heinz), and the Senator from South Dakota (Mr. Pressler) are necessarily absent.

I also announce that the Senator from California (Mr. Hayakawa) is absent on official business.

I further announce that the Senator from Oregon (Mr. Hatfield) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) would vote "yea."

The PRESIDING OFFICER (Mr. Baucus). Are there any other Senators who wish to vote on this amendment?

The result was announced—yeas 37, nays 51, as follows:

[Rollcall Vote No. 383 Leg.]

YEAS—37

Armstrong
Baucus
Bentsen
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Chiles
Danforth
DeConcini
Domenici
Exon
Ford
Goldwater
Heflin
Helms
Hollings
Huddleston
Jepsen
Johnston
Laxalt
McClure
Melcher
Morgan
Nunn
Randolph
Schmitt
Simpson
Stennis
Stevens
Stewart
Stone
Talmadge
Thurmond
Wallop
Warner
Weicker
Young
Zorinsky

NAYS—51

Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Chafee
Church
Cochran
Cohen
Cranston
Culver
Dole
Durenberger
Durkin
Eagleton
Garn
Hart
Hatch
Humphrey
Inouye
Jackson
Javits
Kassebaum
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Metzenbaum
Moynihan
Muskie
Nelson
Packwood
Pell
Percy
Proxmire
Pryor
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schweiker
Stafford
Stevenson
Tower
Tsongas
Williams

NOT VOTING—12

Baker
Bayh
Bellmon
Cannon
Glenn
Gravel
Hatfield
Hayakawa
Heinz
Kennedy
Leahy
Pressler

So Mr. Morgan's amendment (No. 543) was rejected.

Mr. BUMPERS. Mr. President, I yield to my distinguished colleague from Arkansas (Mr. Pryor) at this point.

Mr. PRYOR. Mr. President, I appreciate my colleague's yielding to me. Senator Bumpers and I were prepared to propose an amendment to the bill at this time. However, after discussion of the amendment with the manager of the bill, the distinguished chairman of the Committee on Banking, Housing, and Urban Affairs (Mr. Proxmire), Senator Bumpers and I have decided against calling up our amendment. Instead, we shall introduce the text of the amendment as a bill within the next few days. It is my understanding that Senator Proxmire has offered to hold hearings on our bill this year.

Mr. President, all Senators may not be aware of a statute that exists today which gives national banks an unfair advantage over many State banks and other financial institutions.

Section 85 of title 12 of the United States Code provides that a national bank may charge 1 percent above the Federal discount rate, notwithstanding any State laws setting an interest-rate ceiling. Such an advantage obviously discriminates in the strongest possible way against State banks or savings and loans in those States where the usury-rate ceiling is below the discount rate.

The bill my colleague (Mr. Bumpers) and I shall introduce would merely allow State chartered, federally insured banks, federally insured savings and loans, small business investment companies, and Federal credit unions to charge the same interest rate as national banks.

When the 1-percent-above-discount-rate law was adopted in 1933, it served the laudable purpose of strengthening the fledgling national banking system.

That system has survived and prospered. Now we must be concerned with the survival of the other half of our dual banking system—State banks.

The current statute discriminates against State banks in two ways:

First, national banks are able to realize greater yields on their loans, which strengthens their overall financial posture vis-a-vis the State banks; and

Second, State banks are losing deposits to the national banks since they cannot offer the same lending services. This "competitive disintermediation" is a genuine threat to the survival of many State banks.

Consider the situation in my State of Arkansas. We have, as the Senators well know by now, a strict 10-percent interest rate ceiling on all types of loans. A customer seeking a loan to buy a car is unlikely to find the funds at a State bank since State banks can charge no more than 10 percent interest, which is not enough to cover the cost of funds plus service costs. This customer, is forced to turn to a national bank which can presently charge 13 percent. That customer is also likely to deposit his money in that bank.

In the golden days of low interest rates, this problem never came up. But as the discount rate has risen to 12 percent in our present, tight-money economy, many States find themselves in a similar predicament. Once-reasonable usury limits of, say, 12 percent, now threaten to strangle the local economy. Under 12 U.S.C. 85, national banks in these States can charge 13 percent on their loans, which is extremely important, since the cost of deposits is rising. State banks have the same expenses as national banks but can charge no more than the State's interest rate ceiling.

This is, strictly speaking, not a "usury" issue but a matter of "competitive equality." Before the discount rate went this high, all banks could compete equally at a lower interest rate level. But when the discount rate is higher than the usury limit, the State banks and savings and loans are placed in an impossible grossly unfair position.

The bill we shall propose, Mr. President, will provide a simple and equitable remedy to a complex and unjust situation.

Mr. President, at this time I yield to my distinguished colleague (Mr. Bumpers).

Mr. BUMPERS. Mr. President, I doubt that there are very many Senators—maybe there are none—in this body who know that, in 1933, there was an amendment adopted to the National Banking Act which says that Federal banks may charge 1 percent more than the Federal discount rate. Until the year 1979, that amendment never made any difference. Even during the great financial crisis of 1974, the highest Federal rate was 8 percent. Now the Federal rate is 12 percent, and as a result of that little-known amendment, the Federal banks in my State are allowed to charge 13 percent, 1 percent above the Federal rate.

On the other hand, as most of the people in this body know, Arkansas State banks are hopelessly locked in by an 1874 constitution to a 10-percent usury rate, which means that in my State, the Federal banks are now charging 13 percent interest and the State banks are limited to 10 percent.

One of three or four things is going to have to happen so the Arkansas State banks can charge something in excess of 10 percent. We have adopted a bill, H.R. 2515, which would apply only to Arkansas and which is over in the House. Either that bill, the Cochran amendment passed by the Senate yesterday is going to have to be accepted, or we are going to have to adopt a bill similar to the one Senator Pryor has just referred to. If we do not, Arkansas, as well as several other States will have a monolithic banking system.

I suggest to some Senators who are listening that they contact their banking associations back in their States and find out how, if at all, this is going to affect them. It is my understanding that there are 18 States in the United States that will be affected by a bill which would give State-chartered financial institutions the right to charge interest of 1 percent above the Federal discount rate, or 13 percent.

It is absolutely imperative that my State get some relief. In Arkansas, if we do not get H.R. 2515 passed, or if we do not get this bill, H.R. 4986 passed with the Cochran amendment, and the people in my State refuse to adopt a constitutional amendment raising the usury limit next fall, we are back to square one. The Federal banks are still going to be charging 13 percent, if the Federal rate stays the same, and the State banks 10 percent. We have 210 State banks in my State, and every one of them is going to be applying for a Federal charter if something is not done.

I personally think the dual system is a good thing, but we in Arkansas cannot keep it unless we get some relief on this thing.

Mr. PROXMIRE. Mr. President, the Arkansas Senators, I think, have made an excellent point. However, I think they realize that there is no way we can vote on what they propose tonight without a very extensive debate. There is a sharp division and difference of opinion in the Senate. The Senator from Nebraska has made the point very well that we should be very chary about overriding State usury laws.

What this would do would be to provide a national usury limit for everybody. We override all State laws as far as State banks are concerned—not just national banks. This may have merit, and I think it does have a lot of merit. It is very practical. What I would like to propose to the Senators is that we hold prompt hearings on their bill—rather than have it as an amendment to this bill—before our committee this year so that it may be thoroughly considered by the Committee on Banking, Housing, and Urban Affairs as soon as possible.

Would that be satisfactory?

Mr. BUMPERS. Mr. President, that is satisfactory. We shall try to get this bill introduced as quickly as possible.

I want to say in conclusion that the distinguished floor manager has been extremely hospitable, cordial, and accommodating during the consideration of this banking bill and H.R. 2515. He has recognized the very unique problem we have in our State, with the Federal rate up to 12 percent.

I understand the problem other Senators have in their respective States with overriding State law. I do not think it is particularly healthy, to be overriding State law. The Senator from North Carolina performed yeoman service here making that point time and time again and I agree with most of what he says. However, these are very unique, difficult, and unprecedented times in the money markets of this country.

We want to express our gratitude openly on the floor to the floor manager for offering to hold hearings on this proposed bill as quickly as he can, and for all the accommodations he has made for both on H.R. 2515, and the Cochran amendment.

My State is in an economic stalemate. No houses are being built in my State except those subsidized by government bonds.

For example, the front page of the Arkansas Gazette has a story saying the Falcon Jet Corp., which has about 1,000 employees at a plant in Little Rock, Ark., needs another 150 skilled employees. Those skilled employees have to be recruited from out of State. However, Falcon cannot recruit them because there is no place for them to live in Little Rock and no houses are being built there.

This is one example I am using to dramatize and focus on my problems, but I know many other Senators have the same problem in their States.

Again I thank the floor manager.

Mr. PRYOR. Will the Senator yield?

Mr. BUMPERS. I yield.

Mr. PRYOR. Mr. President, I, too, would like to add my vote of thanks to the distinguished chairman, the Senator from Wisconsin who has been very courteous to us.

We have, as the Senator understands, extreme economic problems in the State of Arkansas with a constitutionally imposed 10-percent usury limit.

I checked with our Savings and Loan League executive director this afternoon. He informed me that in the last 2 months, to the best of his knowledge, the savings and loan institutions in Arkansas have made fewer than 25 residential mortgage loans to the citizens of our State.

We deeply appreciate the opportunity Senator PROXMIRE has graciously extended to us to come before his committee and to hold hearings on the pros and cons of our legislation. I hope we can focus attention on this problem, and allow those adversely affected by the present law to express their concerns through the proper channels.

Again, we thank the chairman for the courtesies which he has extended to us. We will introduce the bill as soon as possible.

Mr. BUMPERS. Mr. President, I ask unanimous consent that a chart of interest rate ceilings on residential mortgages in 24 States that would be affected by this bill, and an article which appeared in the Arkansas Gazette on October 11, 1979, entitled "Arkansas, 23 Other States, Face Housing Funds Drouth," be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Interest rate ceilings

Residential Mortgages

	(In percent)
Fixed:	
Arizona	12.0
Arkansas	10.0
Hawaii	12.0
Kansas	11.0
Louisiana	12.0
Nebraska	11.0
Nevada	12.0
New Jersey	10.5
New Mexico	10.0
North Dakota	12.0
Oregon	12.0
Washington (State)	12.0
Washington, D.C	11.0
Wisconsin	12.0
Floating:	
Georgia	10.5
Illinois	11.0
Iowa	11.0
Minnesota	11.5
Mississippi	12.0
Missouri	11.6
New York	10.0
Pennsylvania	11.6
Texas	11.0
Vermont	10.75

Source: United States League of Savings Associations.

ARKANSAS, 23 OTHER STATES, FACE HOUSING FUNDS DROUTH

WASHINGTON.—Prospective homebuyers will be virtually shut out of mortgage funds in nearly half the states, including Arkansas, beginning in January, savings bank officials said Wednesday.

Twenty-four states will be hit hardest because they have laws limiting mortgage rates to about 12 percent or less, making it unprofitable for banks there to lend mortgage money because they must pay even higher interest rates to borrow.

Thomas Parliament, an economist at the United States League of Savings Associations, pinpointed Arkansas, Washington, Georgia, Illinois, Iowa, Kansas, Missouri, Nebraska, New Jersey, New York and Texas as very mortgage-dry "come the first part of next year."

And in those states without usury ceilings, he said, homebuyers may face mortgages carrying interest rates of 12.5 percent or higher.

MAY HIT 20 PERCENT

Steep rates will be particularly evident in California and Florida, he said.

Parliament's predictions were echoed by officials of the National Association of Mutual Savings Banks.

Down payments of 5 percent and 10 percent will become virtually extinct, Parliament said. "Twenty percent down payments will have to become the rule," he added.

The dramatic mortgage crunch is the result of new tight-money policies adopted last week end by the Federal Reserve Board in an effort to beat back soaring inflation and limit excessive credit.

The Board increased the discount rate it charges member banks from 11 per cent to 12 per cent and it dramatically altered the way it controls the availability of money and credit.

Many banks immediately increased the interest they charge their best customers from 13.5 per cent to 14.5 per cent, and many economists predict it will reach 15 per cent shortly.

Thrift institutions that can increase their mortgage rates to keep up with the higher cost of money "may weather the coming months," Parliament said.

"SHUT OFF"

But banks in Arkansas, for example, can't charge more than 10 per cent interest on mortgages. At the same time, some pay customers more than 10 per cent interest to deposit their savings in money-market certificates.

"They already are shut off from making mortgages," Parliament said.

He and other economists interviewed Wednesday believe the worst mortgage crunch will be felt in February and March. But already, they note, banks have become very stingy in making loans.

"Many states will have to do something quickly about their usury ceilings," William Wallis, president of the First Federal Savings and Loan Association of Martin County, Fla., near Palm Beach, said.

However, state legislatures do not convene until next year, Parliament said. "It will be four months to six months at the earliest, before usury ceilings could be raised," he added.

Congress is considering legislation giving the federal government powers to override state usury limits. However, that bill is part of a larger package of bank reforms, and its fate remains uncertain.

FIXED LIMITS

States with usury limits that are absolutely fixed are:

Arizona, 12 per cent; Arkansas, 10 per cent; Connecticut, 12 per cent; Hawaii, 12 per cent; Kansas, 11 per cent; Louisiana, 12 per cent; Mississippi, 12 per cent; Nebraska, 12.5 per cent; New Jersey, 10.5 per cent; New Mexico, 10 per cent; North Dakota, 12 per cent; Oregon, 12 per cent; South Dakota, 12 per cent; Washington, 12 per cent; Wisconsin, 12 per cent. The District of Columbia also has a fixed rate but it is 15 per cent and so presents no problem at this time.

States with floating usury ceilings are:

Georgia, Illinois, Iowa, Minnesota, Missouri, New York, Pennsylvania, Texas, and Vermont. These all are currently at 12 per cent or less.

Floating usury ceilings can be adjusted to the rise in other interest rates but the process is very slow.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I want to take a minute or two to make an observation. That observation is few things that have happened to me in my short tenure here in the Senate.

When I served as Governor, and some in this body have, we understand the imposition of Federal regulations, Federal programs, the carrot and stick proposal that always seems to come out of Congress.

When I came to the Senate, all but one State, I believe, had the helmet law for motorcyclists. I went through that traumatic experience of hearing people who opposed wearing helmets while riding a motorcycle, but Big Brother said that if we did not pass the law, we would lose 10 percent of our highway money.

So, trying to be a good citizen of Kentucky, we passed the law, and we found it did save some lives and we were right fortunate having the law. I was right pleased with it.

But when I got to the U.S. Senate, California did not want the helmet law. All the rest of us had to have it in place, and we lost, because one State did not want it, the rest of the States did away with it anyhow, and the death rates are going up.

Tonight we exempt California. We exempt California and then we impose it on all the other States.

So I guess I have learned something else, that maybe the States do not have enough delegate votes or enough votes in the House or the strength in the Senate Chamber to do things, and endear themselves to the chairman of the committee is another thing.

So I think as I travel the path here, I want to watch California and see what they do so I might be able to do those things for my State that would be good for it.

I think maybe I will try to watch what is done to endear themselves to the chairman of the committee so I might be able on occasion to get my State exempt.

Then I listened to my distinguished colleagues about trying to help their State of Arkansas and how, if we are not careful, we will put the little banks out of business. That is an interesting position for States' righters to take and take another direction other times.

So, Mr. President, I just want to say that I admire the ability of California to do the things. I think they probably exceeded the ability of Texas to get some of these things excluded and to take care of their States and prevent the Federal Government from saying to them that they have to do certain things that the other States do.

Mr. President, I want that in the RECORD. I want that to be known, that we gave it to California, that 49 others have to take it, whether they like it or not.

Mr. MORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

AMENDMENT NO. 544

(Purpose: To remove title II of the bill authorizing the Federal Reserve to require reserves of nonmember depository institutions)

Mr. MORGAN. Mr. President, I call up amendment No. 544.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from North Carolina (Mr. MORGAN) proposes an amendment numbered 544.

Mr. MORGAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> Beginning on page 21, line 21, strike all which follows through page 24, line 20.

Mr. MORGAN. Mr. President, I have tried to be as brief as I can. If my colleagues will give me their attention, I will try to make it brief.

This amendment addresses a very important policy decision, and I think it will behoove everyone to at least give it their consideration.

There has been controversy over a long period of time as to whether banks which are not members of Federal Reserve should be subject to the Federal Reserve's authority to require reserves. That is, those State banks that do not choose to be members of the Federal Reserve System have not been and are not now required to maintain reserves with the Federal Reserve System.

The same thing is true, of course, for thrift institutions.

Dr. Burns, when he was chairman of the Federal Reserve Board, supported legislation requiring all financial institutions to be subject to the Federal Reserve requirements. Mr. Miller supported it, and now Mr. Volcker has proposed it again.

I am not sure but what they are not right. I may very well vote with them next week when the markup comes in the Banking Committee. I understand that the chairman is going to have the markup next week.

So what I am saying is that it is a major policy decision that ought to be decided as a policy decision and not by the way of a one simple provision in this bill.

What does this bill do? It has one provision which says that all thrift institutions will be required to submit to Federal Reserve reserve requirements if they exercise the powers of the NOW accounts given in this bill.

So I am saying, let us not decide this major policy decision about member or nonmember institutions being required to keep up reserves. Let us wait and let the entire Banking Committtee work its will first. That is the proper procedure.

We have been citing all day who is with us and who is not with us. I have a letter from Governor Bowen, the chairman of the National Governors' Association, which supports my amendment and opposes the provision which involves the nonmember banks. The Conference of State Bank Supervisors supports my amendment.

I might mention that Mr. Volcker, who feels very strongly that all nonmember banks should be subject to the Federal Reserve, supports the Committee's position, but let me read what he has to say about my amendment. He says:

> I have a certain degree of sympathy for the argument made by Senator Morgan that this reserve issue be settled in the context of legislation which addresses all aspects of the Federal membership problem. The Federal Reserve, under three chairmen, has been seeking such legislation, and we will continue to seek it.

So, while he wants a little relief in this bill, he concedes that my argument has merit. I believe we should make the policy decision in the overall bill itself and not on this particular bill.

Mr. President, the amendment I offer is stated as succinctly as I know how, and it is a major issue we have to decide.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, I oppose the amendment to delete title II.

The legislation authorizes the Federal Reserve Board to set reserve requirements on NOW accounts, share draft accounts and savings deposits from which automatic transfers (ATS) can be made. The reserves would be uniform and universal, applying to all depository institutions: member and nonmember banks, savings and loan associations, mutual savings banks, and credit unions. The Fed is given the broad authority to set the reserve ratio between 3 and 22 percent. In principle, the reserve requirement should be the same as that applied to demand deposits.

I think we all recognize that the strongest tool we have—in fact, the only game in town right now—in fighting inflation is monetary policy, control over our credit system. We live in a credit economy. There are many objections to what the Fed has done with respect to fighting inflation, but I do not think there is anybody who does not agree that we should make that authority and that power as effective as we can.

If we create NOW accounts without providing for reserves, it means that the Fed will be disarmed to a considerable extent in being able to fight inflation.

The Federal Reserve has just announced, October 6, that it would use the availability of reserves as the day-to-day operating variable for open-market operations, rather than the Federal funds rate. Once NOW accounts and share drafts are established there may be shifts from demand deposits and savings deposits into the new accounts. The Fed's ability to control reserves would be reduced if there were no reserves on these new accounts and large shifts of funds occurred.

NOW accounts, share drafts and ATS would be available on a broad, nationwide basis for the first time. The quantity of such accounts is now small and therefore the imposition of reserve requirements would not cause widespread problems. That is why this is the time to put them in. It is going to be far more difficult later on.

Once NOW accounts are available nationwide they could grow quickly and it would be much more difficult and would cause more serious problems to impose reserves at a later date.

Reserve requirements are part of doing business. They should be imposed from the outset so that all competitive costs will be applied to all depository institutions on an equal basis.

The committee has been considering the Fed membership issue and universal reserve requirements for some time. This issue may not be resolved this year. I hope it will be. We are going to push our bill, but we cannot tell. It would be too big a risk to allow nationwide NOW accounts without reserve requirements.

NOW accounts and share drafts are essentially a new class of deposits and a small part of total deposits and should be considered separately. When and if Congress acts on the membership issue, there will be no conflict with this legislation.

The Fed is responsible for monetary policy, which is the main purpose of the reserves. It would be risky now to approve NOW accounts without giving the Fed the authority to set reserves, especially during this period of rapid inflation. We should not create new checking account authority without giving the Federal Reserve adequate authority to control the money supply.

Mr. President, I hope the Senate will not disarm the one agency which has been doing the toughest job in fighting inflation. It is an unpopular job, but a necessary job. They have to have these reserves as part of their weapons.

Mr. President, I have a letter from the Chairman of the Federal Reserve Board, Mr. Volcker, who says, "This Board strongly opposes such an amendment," referring to the amendment offered by the distinguished Senator from North Carolina.

I think we should listen on this issue to the best authority we have, the Federal Reserve Board, and the new Chairman, whose nomination recently was confirmed by the Senate unanimously, with overwhelming and enthusiastic support.

Mr. MORGAN. Mr. President, will the Senator yield for a question?

Mr. PROXMIRE. I yield.

Mr. MORGAN. I understand that we are going to have a markup on the Federal Reserve bill next week.

Mr. PROXMIRE. It has not been announced, but that is our plan, to mark up the Federal Reserve membership bill next week.

Mr. MORGAN. Since this is a major policy decision—perhaps this is a statement rather than a question—since we never before have required nonmember banks to be subject to reserve requirements of the Federal Reserve, and since we are going to mark it up next week, and the Governors are opposed to it and the State regulators are opposed to it, it would be well if we adopted my amendment, struck the provision, and considered it in context with the overall problem next week.

Mr. PROXMIRE. In the first place, the principal answer to the Senator is that I wish there were a guarantee that the membership bill was going to go through. As the Senator knows, it is late in the session. It is a highly controversial subject. There are differences in the committee, and there will be on the floor, on that membership bill. There is a good chance that it will not pass this week, and it may not pass even next year.

The Fed is going to push it hard, but we are taking that risk. For us to prevent the Federal Reserve from getting what they tell us is essential for them to be able to conduct effective monetary policy is assuming a responsibility, depriving them of the authority to fight inflation as effectively as they can.

I point out that in 1975, the Senate passed the Financial Institutions Act by a vote of 10 to 1. That act did apply reserve requirements for nonmember banks.

Mr. MORGAN. It may be that I will vote for it. However, as the chairman knows, this matter has been pending before our committee for 2 or 3 years, as I recall, and we have not seen fit to have a markup. So I do not see the urgency of bringing in one small segment to face head on the policy decision.

If the Senate, after debating it, decides that it is a bad policy, then it seems to me that it would not be fair to bring in the S. & L.'s unless everybody is brought in.

Mr. PROXMIRE. The membership bill is a broad bill, too, and extremely controversial. I hope it will pass this year. The House is anxious to pass it this year. Representative Reuss has pleaded for its passage.

As the Senator knows, there are strong differences of opinion on it, and there is good reason to expect that it may not pass, in which case we may go months without the Federal Reserve, our principal inflation-fighting mechanism, having the power to conduct monetary policy in their anti-inflation fight.

Mr. MORGAN. I point out that it has been well argued, but the House struck this provision from the House bill, as I understand it, because it was considered in a broader bill.

I think this has been well argued, Mr. President, and I am ready for a vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Ohio (Mr. Glenn), the Senator from Alaska (Mr. Gravel), the Senator from Vermont (Mr. Leahy), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Mississippi (Mr. Stennis), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that the Senator from Nevada (Mr. Cannon) is absent on official business.

I further announce that, if present and voting, the Senator from Vermont (Mr. Leahy) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Oklahoma (Mr. Bellmon), the Senator from Arizona (Mr. Goldwater), the Senator from Pennsylvania (Mr. Heinz), and the Senator from South Dakota (Mr. Pressler) are necessarily absent.

I also announce that the Senator from California (Mr. Hayakawa) is absent on official business.

I further announce that the Senator from Oregon (Mr. Hatfield) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) would vote "yea."

The result was announced—yeas 66, nays 18, as follows:

[Rollcall Vote No. 384 Leg.]

YEAS—66

Armstrong
Baucus
Biden
Boren
Boschwitz
Bumpers
Burdick
Byrd, Harry F., Jr.
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Hart
Hatch
Heflin
Helms
Hollings
Huddleston
Humphrey
Inouye
Jepsen
Johnston
Kassebaum
Laxalt
Levin
Lugar
Magnuson
McClure
McGovern
Melcher
Metzenbaum
Morgan
Nunn
Packwood
Pell
Percy
Pryor
Roth
Sasser
Schmitt
Schweiker
Simpson
Stevens
Stewart
Stone
Thurmond
Tower
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—18

Bentsen
Bradley
Byrd, Robert C.
Jackson
Javits
Mathias
Matsunaga
Moynihan
Muskie
Nelson
Proxmire
Randolph
Ribicoff
Riegle
Sarbanes
Stafford
Stevenson
Tsongas

NOT VOTING—16

Baker
Bayh
Bellmon
Cannon
Glenn
Goldwater
Gravel
Hatfield
Hayakawa
Heinz
Kennedy
Leahy
Long
Pressler
Stennis
Talmadge

So Mr. Morgan's amendment (No. 544) was agreed to.

(Later the following occurred:)

Mr. MATSUNAGA. Mr. President, on Vote No. 384, I am recorded as having voted "yes." I ask unanimous consent that my vote be recorded as "no." The change in vote will not in any way affect the final result.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask that the request of the distinguished Senator be placed in the Record immediately following the vote on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing rollcall vote has been changed to reflect the above order.)

Mr. MORGAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TSONGAS. Mr. President, earlier in the day, a few minutes ago, there was a colloquy between the distinguished Senator from Utah and the distinguished Senator from Wisconsin regarding the applicability of the mortgage usury override in section 305 of the bill to mobile home loans. The belief was expressed that mobile home loans were covered under this provision. I wish to take issue with this interpretation since it was my undersanding that they were not included.

Many mobile home loans are made essentially as consumer loans with very high interest rates and with short terms of 5 to 12 years. State usury laws on mobile home loans are separate and distinct from usury laws on residential mortgages. There is a very serious question whether the Congress should abrogate laws dealing with what are often essentially consumer loans with rates as high as 18 percent. In my opinion section 305 of the bill does not cover mobile home loans—nor should it.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. MAGNUSON. Mr. President, let the Record show that I cast my vote "yea."

The PRESIDING OFFICER. Without objection, the Senator's vote will be so recorded.

The bill is open to further amendment. Are there further amendments?

UP AMENDMENT NO. 723

(Purpose: To include cooperative housing corporations in the exemption from State usury)

Mr. JAVITS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes an unprinted amendment numbered 723. On page 31——

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 31, line 23 after "property" insert "or by a first lien on stock in a residential cooperative housing corporation where the loan, mortgage or advance is used to finance the acquisition of such stock".

On page 32, line 5 after the first comma insert "the requirement contained in Section 527(b)(1) that the loan be secured by residential real property shall not apply to a loan secured by stock in a residential cooperative housing corporation,".

Mr. JAVITS. Mr. President, this amendment—Mr. President, may we have order?

The PRESIDING OFFICER. The Senate is not in order. The Senator will please suspend until order is restored.

The Senator from New York.

Mr. JAVITS. Mr. President, this amendment is presented on behalf of Senator MOYNIHAN and myself. It seeks to bring mortgages on cooperative apartments under the same preemption provisions which we have given other mortgages. It seems to me it must have been just an oversight to omit them.

In the cities, this is a major proposition.

I understand that the manager of the bill has a matter of legislative intent, which is entirely satisfactory to me.

Mr. PROXMIRE. Mr. President, it is my understanding that the Senator's amendment is intended to cover loans for individual units in a cooperative which are made under similar terms and conditions as residential real estate loans.

In principle I believe that this is an excellent idea. However, these loans are generally treated in a different manner than residential real estate loans under State law and we have not had the opportunity to investigate the provisions of these laws or how the particular language offered would relate to them. Nevertheless, I would be happy to accept the amendment with the understanding that some adjustments in the language may be necessary in conference.

The Senator from New York has done a great service in providing for this amendment. It was an oversight.

Mr. JAVITS. I thank my colleague. The statement made is entirely satisfactory.

Mr. MOYNIHAN. Will the Senator yield?

Mr. JAVITS. I yield.

Mr. MOYNIHAN. Mr. President, may I express my appreciation to the chairman of the Banking Committee as well.

Mr. PROXMIRE. I thank the Senator.

The PRESIDING OFFICER (Mr. FORD). The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 724

(Purpose: To clarify the intent of UP amendment No. 702 so that it applies only to title VI of this act)

Mr. EXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. EXON) proposes an unprinted amendment numbered 724.

Mr. EXON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

With respect to unprinted amendment 702 adopted on October 31, 1979, delete the word "Act" the second time it appears and insert in lieu thereof the words "Title VI and Title VII of this Act".

Mr. EXON. Mr. President, this is an amendment to clarify an amendment that was agreed to yesterday, and which I offered.

The PRESIDING OFFICER. The Chair will state to the Senator from Nebraska that unanimous consent is required in order for his amendment to be considered.

Is there objection? Without objection, the Senator may proceed.

Mr. EXON. The amendment that was adopted yesterday by agreement of all parties needs clarification with the simple amendment that I have worked out here with the managers of the bill. All that we are trying to do is to clarify the amendment that I offered yesterday, which amendment was unanimously accepted. It does not apply to mortgage loans.

I understand the managers of the bill agree to this. I ask for its acceptance.

Mr. PROXMIRE. Mr. President, I am happy to accept the amendment. It clarifies the intention of the Senator from Nebraska and the understanding of the managers of yesterday. It is a good amendment, and I accept it.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

UP AMENDMENT NO. 725

(Purpose: To provide greater flexibility to States to enact new laws placing limitations on discount points in residential mortgage loans)

Mr. PROXMIRE. Mr. President, I send a technical amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 725.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 32, line 20, after "advance" insert ", except that at any time after the date of enactment of this Act any State may adopt a provision of law placing limitations on discount points or such other charges on any such loan, mortgage, or advance".

Mr. PROXMIRE. Mr. President, this amendment would provide authority to States, without time limitation, to enact new laws placing limitations on discount points and other charges in connection with a residential mortgage loan. Section 305 of the bill would override State laws limiting the rate or amount of interest, discount points, or other charges assessed in connection with a residential mortgage loan. However, a State could make this override inapplicable by adopting a provision of law, within 2 years after the date of enactment of this act, limiting the rate or amount of interest, discount points, or other charges on such loans.

I support this mortgage usuary override in the bill because I believe the facts clearly demonstrate that State laws which limit the rate of interest that can be charged on mortgage loans, although well intended, have often had the unfortunate effect of shutting off or disrupting the flow of credit. The case for overriding State laws limiting discount points or other charges which are included in the annual percentage rate is less strong, since there has been no demonstration of disruptive effects of such limitations, and since there are potential consumer abuses in the manner in which discount points or such other charges may be imposed.

On the other hand, a number of States have enacted laws limiting discount points in the context of a usury restriction on interest, so that overriding State limitations on interest without at the same time overriding limitations on discount points could have confusing and unintended effects. Thus it makes sense to wipe the slate clean. However, States should have flexibility to enact new laws placing limitations on discount points or such other charges, without any time limitation. My amendment would provide this flexibility.

The PRESIDING OFFICER. The

question is on agreeing to the amendment.

The amendment was agreed to.

Mr. WILLIAMS. Mr. President, I am pleased to support H.R. 4986, the Depository Institutions Deregulation Act of 1979. It will go a long way toward assuring that the United States will have a sound and competitive financial system in the future. It is the product of better than a decade of serious study by the Congress, several administration's, numerous individuals—among them our colleagues Senators Thomas McIntyre and Edward Brooke—and persistent efforts by the Senate Banking Committee during this decade. To the chairman of the full committee, Senator WILLIAM PROXMIRE and the ranking minority member Senator JAKE GARN, and the chairman of the Subcommittee on Financial Institutions, Senator ALAN CRANSTON, I want to say that your continuing efforts have resulted in legislation which deserves the support of the U.S. Senate and the American people because it promises measured and necessary change in our financial system, which has largely outgrown the public policies and statutory frameworks developed in the past during far different times.

Mr. President, the Depository Institutions Deregulation Act will make far-reaching changes in our financial system, over the course of the next decade. Some of the changes will be visible almost immediately. The extension of NOW accounts nationwide along with other interest bearing transactions accounts, for example, will provide consumers with convenient new services, such as those available in New England since 1972. For commercial banks, the elimination by statute of the prohibition on the payment of interest on checking accounts will permit them to offer a simple and less expensive alternative to those accounts approved by the regulatory authorities—the linked account. For savings and loans, the ability to offer checking accounts will substantially enhance their competitive position and help to attract and retain deposits.

Likewise, the bill would expand the powers of savings and loans to include consumer loans and investments in commercial paper and trust services. Savings and loans would also be able to make real estate loans on the same basis as national banks.

Other effects of other provisions in the bill will take several years to become effective. For example, the major change in the bill is the gradual removal of deposit interest rate controls during the next decade to allow depository institutions to adjust their asset and liability portfolios without serious disruption and, at the same time, end the economic discrimination which these controls inflict on small savers by artifically limiting their return.

Mr. President, many of the changes being made in this bill are dictated by the powerful forces that are at work in the financial services industry and in our economy. New technology, aggressive competition from depository and nondepository institutions, and increasingly rate sensitive consumers are requiring fundamental changes in our financial system. The mainstay of our financial system inherited from the 1930's—banks and thrifts institutions—have been severely strained by regulatory policies and statutes that are the products of a different era. New financial institutions are emerging, expanding, and in some cases, prospering because of outdated regulations. Credit unions, insurance companies, and exotic municipal bonds and money market funds enjoy ever-increasing popularity. But because the regulatory and statutory treatment of particular activities and institutions have not been derived from logic or rational planning, the efficiency of our overall financial system is impaired.

To date, comprehensive restructuring of the Nation's financial system has been frustrated. The substantial efforts made in recent years to expand competition, improve consumer services and stabilize the flow of housing funds have been stymied by the vociferous and well-organized opposition of one or more elements of the financial services industry. Whatever the legislative logjams encountered in the past, the painful lesson of inflation makes congressional action this year necessary, even urgent.

The sustained high interest rates we have been experiencing undermine the solvency and liquidity of depository institutions. As the administration's task force on deposit interest rate ceilings and housing credit concluded, interest rate ceilings have had only moderate success in sustaining the flow of funds into mortgage loans. At the same time, the small saver has been penalized severely. The efficiency of our entire financial system has suffered as a result.

Mr. President, it has been apparent for some years that our financial system must move in the direction of less regulation and more competition. While many of us in the Congress have recognized this, it took until this year, with raging inflation and the distortion it has produced among financial concerns, to convince many in the affected industries that our financial system is antiquated, increasingly unresponsive to the realities of current and future economic conditions, and that competitors, not subject to the same restrictions, were prospering at their expense. This year irate and well-organized consumers, backed by the administration, have stated an impressive case for deregulation of financial intermediaries.

With this coalition, it appears that we now stand at the threshold of major legislation that will eliminate unnecessary and outdated regulations that prevent depository institutions from competing effectively and operating efficiently; that will allow depository institutions to offer new services to the public and permit depositors to earn a rate of return that more clearly reflects prevailing market conditions; and that provides a more stable flow of funds to sectors of the economy that rely on depository institutions to meet their credit needs.

While I have supported financial reform each time it has been before the committee and the Senate, I have done so with some trepidation. That trepidation arises out of a concern a less regulated marketplace poses problems with the adequate flow of mortgage credit. While it is obvious that the system of deposit interest rate controls did not originate from a concern with housing finance, since 1966 and the passage of the Interest Rate Adjustment Act, the principal effect of controlling interest rate ceilings and the differential has been to compensate principal mortgage lenders—thrift institutions—for their lack of broad service and product powers to offer depositors. But even interest rate controls have not protected thrift institutions and housing credit, although they have had some beneficial effect in mitigating the severity of generally adverse economic conditions.

These rate ceilings, along with the differential, were supposed to assist thrifts to continue attracting the funds necessary to support the housing market. They were supposed to prevent excessive and destructive competition for deposits between commercial banks and thrift institutions. But the experience is clearly overwhelming that rate ceilings and the differential have not prevented a flow of savings to money market mutual funds and have proved to be an administrative nightmare because the rates available to small savers have been limited while rate controls have not been applied with equal force to large depositors.

Notwithstanding the attempt by the regulators to administer rate controls intelligently, the experience of 1973 to 1974 and 1978 to 1979 indicates that the ceilings breed disintermediation and that deposit interest rates that are responsive to market interest rates maintain the flow of funds to depository institutions. On the other hand, interest rate controls have not assured an adequate flow of relatively low-cost funds to housing.

As a result during each of these periods of disintermediation, new housing construction has fallen off markedly as a result of a loss of funds at thrift institutions, higher interest rates on residential mortgages, and higher interest costs resulting from inflation.

Mr. President, I indicated earlier that I had some reservations about the bill. My reservations are not directed at those parts of the bill which will expand competition, improve consumer services and strengthen the ability of financial institutions to adjust to changing economic conditions. I support these with confidence and have little doubt that they will be achieved by this legislation.

However, as was the case in 1975 in the Financial Institutions Act of that year, I am concerned that this bill may not result in any significant improvements in the flow of funds for mortgage credit. As chairman of the Housing Subcommittee, I believe that it is vital that any legislation dealing with our financial system should not jeopardize the basic soundness of the thrift industry or jeopardize it as an important supplier of mortgage funds. We must strengthen our depository institutions which this bill will do.

It is difficult to gage the net impact

of this bill on housing because of all the changes the bill would make in the current regulatory and competitive framework. It is impossible to predict precisely what effect this bill will have on housing credit. For example, broadening the powers of S. & L.'s to invest in assets other than residential mortgage loans, may adversely affect the current supply of mortgage credit. On the other hand, to the extent the bill enhances the ability of savings and loans to withstand the rigors of higher interest rates, it will permit them to attract deposits and remain in the mortgage market. And the increased deposit powers will enable them to attract additional funds. Hopefully, they will have a larger volume of lendable funds at their disposal so that they will be able to continue to provide money to the housing sector.

Mr. President, without interest rate ceilings and without the quarter-point differential which distinguish commercial banks from mortgage oriented thrift institutions, it is entirely possible that mortgage credit may suffer. It may suffer because the financial structure of savings and loans, the Nation's principal supplier of home mortgage loans will be paying much more for their raw product—money—and may be less willing to lock themselves into portfolios of long-term mortgages which carry fixed rates of interest or, judging from the reaction to the Fed's announcement 2 weeks ago, we may just reach the point where interest rates are so high that consumers just cannot afford to borrow the money in order to own a home.

Mr. President, there is nothing in the bill that comforts those of us concerned about the housing sector by creating new soruces of mortgage funds or stimulating the investment of substantial funds by other intermediaries into the housing sector. In 1975, for example, the financial institutions reform bill contained a mortgage tax credit provision designed to induce other lenders, including commercial banks, life insurance companies, and mutual savings banks to invest a greater percentage of their assets in home mortgage loans. But the bill before us today has one drawback. It is incomplete in this regard.

Mr. President, the Congress and the housing industry have searched diligently in the past two decades to find alternative ways to make mortgage credit less sensitive to changes in the deposit flows to savings institutions. Thus, the Federal Government's efforts to support the housing market is exemplified by federally related housing agencies, such as the Government National Mortgage Association (GNMA), the Federal National Mortgage Association (FNMA), the Farmers Home Administration, the Federal Home Loan Mortgage Corporation, the Veterans' Administration and others.

Despite these efforts, much more can be done. As chairman of the Subcommittee on Housing and Urban Affairs, it is my intent to explore new possibilities so that we can have a robust financial system as well as a healthy housing finance industry. In the future, along with the traditional mortgage lenders, new ideas, new participants, and new funds will be tapped to augment the flow of funds into housing.

For example, insurance companies and pension funds preside over huge resources that could be channeled into the housing sector almost immediately. Trust funds and pension funds are already reacting positively to Ginnie Mae pass-through securities. And the development of privately issued mortgage-backed securities hold still further promise for linking the mortgage and capital markets to expand the total supply of housing funds. New forms of marketable instruments must be designed to attract individual as well as institutional investors.

The genius and distribution network of Wall Street should be harnessed to raise additional private funds for housing purposes through the traditional capital markets.

But the need for mortgage funds will still not be met by either conventional lenders or Federal programs. Other sources of finance must be found.

Mr. President, as a result of the recent credit tightening by the Federal Reserve Board, we are almost assured of a severe drop in the Nation's housing activity next year and of serious problems for mortgage lending groups. In the Northeast, where housing activity has been sluggish for a while, continuing disintermediation may all but knock mortgage lenders out of the market in the future. For certain, we face further mortgage rate rises and credit availability problems.

Mr. President, these are hard and difficult times requiring innovative and creative solutions. In the months ahead, I will be looking to my colleagues and to organizations and agencies of Government for ways to cushion the shock the housing industry will experience for the foreseeable future. The bill before us is a reminder that the search for a national housing policy that affords adequate shelter to our people is a never-ending one.

Mr. President, with these thoughts I share with my colleagues, I am pleased to support H.R. 4986, the Depository Institutions Deregulation Act and I urge its prompt passage.

Mr. CRANSTON. Mr. President, while we are discussing the appropriations bill for the Department of Transportation and related agencies for fiscal year 1980, it is timely to bring up my great concern about air service in California. As you know, section 419 of the Airline Deregulation Act of 1978 mandates the Civil Aeronautics Board to make essential air service determinations for small communities. This bill provides $7 million to help small communities maintain a satisfactory level of air service as determined by the CAB.

The CAB has established essential air service guidelines for qualified small communities across the country at 160 seats in total daily arrivals and departures to and from designated hubs.

Some California communities, especially in the San Joaquin Valley, need far more service than 160 seats daily—a need which the carriers have not met. Kern County, the No. 1 oil producing and No. 2 agricultural county in my State, has gone through and is still experiencing a very difficult transition from major air carrier service to small commuter air carrier service. At one point under deregulation, Bakersfield, the county seat for Kern County, had no air service to San Francisco at all. We are speaking of a community with over a third of a million people. Prior to deregulation, the people of Kern County were accustomed to abundant and reliable service. They have every right to expect at least reliable and adequate service now. The 160 seat determination applied to Bakersfield demonstrates that the Board has not recognized the critical problems and needs in that area of California.

Bakersfield is only one example. The Board is currently assessing the essential air service needs of Stockton, Modesto, and Chico. The Board must do a much better job in facilitating the smoothest transition possible from major carrier service to adequate replacement service, and in evaluating California communities in terms of their individual needs, taking into account economic and geographic features.

As long as the Board remains so insensitive and unresponsive to the problems in California, I regret that I must have serious doubts about its ability to handle airline deregulation.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Florida (Mr. CHILES), the Senator from Ohio (Mr. GLENN), the Senator from Alaska (Mr. GRAVEL), the Senator from Vermont (Mr. LEAHY), the the Senator from Louisiana (Mr. LONG), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Nevada (Mr. CANNON) is absent on official business.

I further announce that, if present and

voting, the Senator from Vermont (Mr. Leahy) and the Senator from Louisiana (Mr. Long) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Oklahoma (Mr. Bellmon), the Senator from Arizona (Mr. Goldwater), the Senator from Pennsylvania (Mr. Heinz), and the Senator from South Dakota (Mr. Pressler) are necessarily absent.

I also announce that the Senator from California (Mr. Hayakawa) is absent on official business.

I further announce that the Senator from Oregon (Mr. Hatfield) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) and the Senator from Pennsylvania (Mr. Heinz) would each vote "yea."

The PRESIDING OFFICER (Mr. Pryor). Are there other Senators in the Chamber desiring to vote?

The result was announced—yeas 76, nays 9, as follows:

[Rollcall Vote No. 385 Leg.]

YEAS—76

Baucus
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chafee
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Hart
Hatch
Heflin
Helms
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Levin
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Packwood
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stevenson
Stewart
Stone
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—9

Armstrong
Hollings
Huddleston
Laxalt
McClure
Morgan
Nunn
Stennis
Thurmond

NOT VOTING—15

Baker
Bayh
Bellmon
Cannon
Chiles
Glenn
Goldwater
Gravel
Hatfield
Hayakawa
Heinz
Leahy
Long
Pressler
Talmadge

So the bill (H.R. 4986), as amended, was passed.

ANNOUNCEMENT OF POSITION ON VOTE

Mr. LONG. Mr. President, I regret that I was necessarily absent from the last vote. If present, I would have voted "aye."

Mr. MORGAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MORGAN. Mr. President, if I could have just a moment, I want to express my appreciation to the chairman and to my colleagues and the majority leader for being so patient and tolerant with us for the last 2 weeks as we discussed this very complex bill.

I did not begin the debate with any illusions that I would be successful. But I did want to discuss it fully and completely on account of what I considered its consequences.

I think it has been discussed and the Senate has worked its will. I accept that.

I do want to express my appreciation, Mr. President, to my staff assistant, Everett Engstrom, who has done an outstanding job on this very complicated and complex piece of legislation.

He has been of great assistance to me. He has helped me understand provisions that were difficult for me to understand.

I wanted that to be on the record.

Mr. PROXMIRE. Mr. President, I congratulate the Senator from North Carolina. I have been handling bills now for the last 4 or 5 years, since I have been chairman of the Banking Committee. I cannot recall any occasion on which one Senator has been as outstanding as the Senator from North Carolina has been on this bill.

Consistently, he has focused on the most important elements of the bill, debated them with great intelligence and perception.

I disagreed with him on many of his proposals on this bill, but I think he greatly enlightened the Senate, and made it a very much better piece of legislation because of his understanding and contribution.

I congratulate him on making what I think is one of the finest contributions I have seen since I have been in the Senate on legislation of this kind, a Senator simply speaking from the floor and offering amendments.

Mr. MORGAN. I thank my distinguished colleague very much.

Mr. ROBERT C. BYRD. Mr. President, I want to express appreciation to Mr. Proxmire, to Mr. Garn, to Mr. Morgan, and to all Senators, for the fine way in which the management of the bill just passed has been conducted.

I especially want to thank Mr. Proxmire and Mr. Garn because from time to time we were able to set the bill aside, in cooperation and understanding, and take up other matters. They were always most considerate in that regard.

I commend them for the good work that has been done.

Mr. PROXMIRE. Will the Senator yield for 1 minute?

Mr. ROBERT C. BYRD. Yes.

Mr. PROXMIRE. Mr. President, I would like to state that Mr. Garn and Mr. Tower both comanaged the bill on the Republican side. They both did, I think, an outstanding job. They were extremely cooperative and made it a much stronger bill because of their support and their understanding.

Mr. ROBERT C. BYRD. Mr. President, I wish to include Mr. Tower, also.

I commend Mr. Morgan for the fine way in which he conducted his efforts in regard to the various amendments he called up. He was most cooperative with respect to time. He was opposed in many ways to the bill, but he sought to deal with it and correct it as he could, and he made excellent presentations of amendments. I believe he was successful in some instances. He is to be commended.

Mr. STEVENS. Will the Senator yield for a moment?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. I thank the Senator from Wisconsin for his kind remarks concerning Mr. Garn and Mr. Tower.

Mr. Tower asked me to commend Dan Wall of our committee staff, the Committee on Financial Institutions, for his continued efforts on this bill, also.

I thank the Senator.

ORDER FOR CONSIDERATION OF S. 932 ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday after the completion of routine morning business, the Senate proceed to the consideration of S. 932, and that when the Senate does proceed to the consideration of the message from the House of Representatives on S. 932, the amendment in the nature of a substitute reported by the Committee on Energy and Natural Resources as a substitute for the House substitute for the Senate bill be considered, as agreed to, as original text for the purpose of further amendment, and that the amendment in the nature of a substitute reported by the Committee on Banking, Housing, and Urban Affairs for the House substitute for the Senate bill be considered as a substitute for the amendment in the nature of a substitute from the Committee on Energy and Natural Resources.

Provided further that the Senator from Wisconsin (Mr. Proxmire) be recognized to call up as the first floor amendment title I of the Banking Committee substitute as reported (as an amendment to title I of the Energy Committee substitute) and that this amendment be voted on before any other amendments or motions relative to the bill can be made.

Ordered further, that if the Proxmire amendment is adopted, it will be treated as original text for purposes of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank all Senators.

Mr. President, I wish to express appreciation to Mr. Proxmire, Mr. Jackson, Mr. McClure, Mr. Domenici, the minority leader, the acting minority leader, and Messrs. Weicker, Wallop, Heinz, Hart, and Tsongas, for their cooperation in securing the time agreement.

I also want to thank Mary Jane Checchi, the very able chief counsel and staff director of the Democratic Policy Committee, and Mr. Bill Hildenbrand, for their fine cooperation in the work that all have done in securing the unanimous-consent order.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of

Calendar orders numbered 413, 414, 415, 416, and 417.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, if the distinguished acting Republican leader has no objection, I ask unanimous consent that the various measures be considered and adopted en bloc. I see no amendment pending to any of them, and that the motion to reconsider en bloc be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, reserving the right to object, I have no objection, but I would like to ask unanimous consent that as these matters appear in the Record, that statements of Senators who have requested to have their statements presented at the time the bill is considered be printed prior to the passage of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRESSIONAL AWARD ACT

The bill (H.R. 2196) to establish a Congressional Award Board to administer a congressional award program designed to encourage initiative and achievement among youths, was considered, ordered to a third reading, read the third time, and passed.

FRANCES PERKINS DEPARTMENT OF LABOR BUILDING

The bill (S. 1655) to designate the building known as the Department of Labor Building in Washington, D.C., as the "Frances Perkins Department of Labor Building," was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1655

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building at 200 Constitution Avenue, Northwest, in Washington, District of Columbia (commonly known as the Department of Labor Building) shall hereafter be known and designated as the "Frances Perkins Department of Labor Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be held to be a reference to the "Frances Perkins Department of Labor Building".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96-388), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

Excerpt

In February 1933, President-elect Franklin Delano Roosevelt asked Frances Perkins to become Secretary of Labor. She was chairman of the New York State Industrial Board when Roosevelt became Governor of New York in 1928 and he appointed her commissioner of the New York State Industrial Commission.

The Nation was paralyzed in the grip of the Great Depression, industrial output was severely curtailed, and the country's workforce hobbled under the weight of unemployment, poverty and hunger. The post Frances Perkins was asked to fill would be one of the most critical in the Government's mobilization to pull the country from its economic quagmire.

Madam Perkins (as she was always called) was apprehensive at first. She said later that she contemplated the magnitude of the responsiblities the President was asking her to accept and the resistance she might receive as the first woman cabinet member. Then, typically, she accepted the offer.

Once in office, she moved with stunning speed to secure reforms that would ease the immediate suffering of the labor force and lay the groundwork for a more secure and prosperous workforce in the future. Social Security insurance, unemployment compensation, minimum wage legislation, and child labor regulations were among her accomplishments.

W. Willard Wirtz, Secretary of Labor under Presidents John F. Kennedy and Lyndon B. Johnson, learning of her death in 1965, said:

"Every man and woman in America who works at a living wage, under safe conditions, for reasonable hours, or who is protected by unemployment insurance or social security is her debtor."

Madame Perkins occupied the office of Secretary of Labor from 1933 to 1945. From 1945 to 1953, she served as a Civil Service Commissioner. During her public service career, she authored several books: "Women as Employers," "A Social Experiment Under the Workmen's Compensation Jurisdiction," "People at Work" and "The Roosevelt I Knew."

Designating the Department of Labor Building as the "Frances Perkins Department of Labor Building" is one small way to demonstrate the country's gratitude to her and to remind those who continue her work to follow the example of compassion and achievement that she set.

HENRY D. PARKINSON FEDERAL BUILDING

The bill (S. 1491) to designate the building known as the Federal Building, at 211 Main Street, in Scott City, Kans., as the "Henry D. Parkinson Federal Building," was considered.

● Mr. DOLE. Mr. President, the Senator from Kansas is extremely pleased at the prompt consideration the Senate Environment and Public Works Committee has given this legislation to designate the Federal Building in Scott City, Kans., as the "Henry D. Parkinson Federal Building." I urge the House to act with the same haste so that this fitting tribute may be signed by the President before the end of the year.

Renaming this local Federal building in honor of Mr. Parkinson is particularly appropriate, because he contributed so much time and effort in bringing this building to Scott City.

This proposal has the enthusiastic support of all Scott City residents. The mayor of Scott City, the Honorable E. S. Gene Henderson, and over 15 leading civic organizations have endorsed resolutions to name the building for Mr. Parkinson. Mr. Parkinson's influence in the development of this community is deeply appreciated. He worked unselfishly in local, State, and national affairs, and truly loved this country and the principles under which it was founded.

Born at Wellsville, Utah, on September 5, 1907, his active career in agriculture, banking, and politics spanned over four decades. At his death in Wichita, Kans., on June 25, 1977, he had lived a full and productive life.

Mr. Parkinson, who had been a resident of Scott City since 1925, was owner of the Burnett-Parkinson feedlot at his farm near Scott City. He was founder, president, and chairman of the board of directors of the Security State Bank of Scott City. He was a member of the Garden National Bank Board of Directors in Wichita, Kans., the Kansas Bankers Association, and the Kansas and National Livestock Associations. Mr. Parkinson was a past member of the Anthem Masonic Lodge 284, KCCH degree, Scott County Shrine Club, the Wichita Consistory, and ISIS Temple of Salina, Kans.

In addition to his interests in agriculture, banking, and civic affairs, Mr. Parkinson was active in politics. His race for Congress in 1948 and his primary campaign for the office of Governor in 1952 were the highlights of his interest in public life.

Henry Parkinson's voice was heard and respected in the highest councils of fraternal, business, agricultural, and political affairs and his advice was sought by many.

Honoring Mr. Parkinson in this manner will do much to encourage others to pursue the principles of community commitment, sound conservation of our agriculture resources, and responsible business practices he represented. I join with the overwhelming majority of the citizens of Scott City in stating that there can be no more deserving recognition than to give this building his name.

The junior Senator from Kansas and I urge the Senate to approve this legislation today. Henry D. Parkinson meets all of the criteria for such an honor. This legislation has the support of the entire Kansas congressional delegation. Most importantly, naming the Federal building for him will recognize his many contributions to Scott City and the State of Kansas.●

● Mrs. KASSEBAUM. Mr. President, we consider today the passage of legislation to designate the Federal building in Scott City, Kans., as the Henry D. Parkinson Federal Building. I am pleased to have cosponsored this legislation with my senior colleague, Senator Dole.

Renaming the Federal building in honor of Henry Parkinson is a congressional action which enjoys the wholehearted support of the nearly 4,900 residents of Scott City.

In introducing this legislation Senator Dole outlined the distinguished career of Henry Parkinson in Scott City. As a businessman, civil leader, politician, and local philanthropist, Mr. Parkinson earned the admiration and devotion of his neighbors. He typified the best qualities of the Kansas, indeed, the national character. Unfailingly, Henry Parkinson was a man unselfishly devoted to his community and neighbors. Since his death in 1977, at the age of 70, Henry Parkinson continues to be remembered as a man of generous concern for his city, State, and Nation.

The Environment and Public Works Committee moved quickly to report this bill to the Senate. Such prompt action on this bill underlines the propriety of the honor Henry D. Parkinson deserves. I urge my colleagues to act with due dispatch and favorable consideration of this bill.●

● Mr. BUMPERS. Mr. President, I rise to support S. 1491, a bill introduced by Senators DOLE and KASSEBAUM to name the Federal building in Scott City, Kans., after the late Henry D. Parkinson.

I met Mr. Parkinson only once, when he and his wife stopped by my office during the inauguration of President Carter in January 1977. Since that time, however, I believe I have come to know Mr. Parkinson well through conversations with members of his family and by reading a biography prepared by his personal friends who were particularly interested in naming the Federal building in his hometown after this man. Let me conclude my remarks by briefly citing the final paragraph of this biography:

> Mr. Parkinson's whole adult life was dedicated first to his family, second to conservation and development of renewable resources in the area of agriculture, to responsible economic growth in the business community, to sustained personal involvement in civic affairs, and to efficient government programs and administration. He was a courageous, sensitive man well known not only to the community in which he lived, but to the state he came to love. He was a vital and vibrant person, who believed in his community and his Nation and who carried out a most traditional and basic, yet rarely practiced teaching of Jesus Christ: He was the keeper of his brothers. Throughout his life he gave of his talents to improve the lot of others—the living and the yet-to-be-born generations who may hardly know that they are able to grow enough food on this small planet because visionaries like Henry D. Parkinson taught their fathers how.●

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1491

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building at 211 Main Street, in Scott Cty, Kansas (commonly known as the Federal Building) shall hereafter be known and designated as the "Henry D. Parkinson Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be held to be a reference to the Henry D. Parkinson Federal Building.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–389), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

COMMITTEE STATEMENT

Henry D. Parkinson was born at Wellsville, Utah, on September 5, 1907, and led an active career in agriculture, banking and politics. He died in Wichita, Kans., on June 25, 1977, after a full and productive life.

Mr. Parkinson, who had been a resident of Scott City since 1925, was owner of the Burnett-Parkinson feedlot at his farm near Scott City. He was founder, president and chairman of the board of directors of the Security State Bank of Scott City. He was a member of the Garden National Bank Board of Directors in Wichita, Kans., the Kansas Bankers Association, and the Kansas and National Livestock Associations. Mr. Parkinson was a past member of the Anthem Masonic Lodge 284, KCCH degree, Scott County Shrine Club, the Wichita Consistory, and Isis Temple of Salina, Kans.

In addition to his interests in agriculture, banking, and civic affairs, Mr. Parkinson was active in politics. His race for Congress in 1948 and his primary campaign for the office of Governor in 1952 were the highlights of his interest in public life.

Henry Parkinson's voice was heard and respected in the highest councils of fraternal, business, agricultural, and political affairs and his advice was sought by many.

Honoring Mr. Parkinson, as proposed by the mayor and citizens of Scott City and both of the distinguished Senators from Kansas, will do much to encourage others to pursue principles for which he stood: community commitment, sound conservation of our agriculture resources, and responsible business practices. Renaming this Federal building in honor of Mr. Parkinson is particularly appropriate, because he contributed much time and effort in bringing this building to Scott City.

KENNETH B. KEATING BUILDING

The bill (S. 1535) to name a certain Federal building in Rochester, N.Y., the "Kenneth B. Keating Building," was considered.

● Mr. JAVITS. Mr. President, I am pleased today that the Senate is acting on legislation introduced by my colleague, Senator MOYNIHAN, and myself, to name the Federal building in Rochester, N.Y., after former Senator Kenneth B. Keating. Companion legislation has been introduced in the House by Congressmen SAMUEL S. STRATTON, JOHN W. WYDLER, BARBER CONABLE, JR., and FRANK HORTON, and I am advised that the House bill will be considered shortly by the House of Representatives.

Mr. President, Kenneth Keating has been one of this Nation's ablest and most distinguished public servants in the last quarter century. It is most fitting that Congress enact this legislation honoring the late Kenneth Keating in the city that was his home.

Honored military leader, resourceful legislator in both Houses of Congress, distinguished jurist and talented ambassador are the distinctions and estimable accomplishments of Ken Keating. Few people have served this Nation in more ways or with greater distinction. Having worked alongside him in both the House and the Senate, I knew him as a close personal friend and an esteemed colleague. His work is a remarkable record of public service.

Entering the Army as an enlisted man in World War I, he served his country also in World War II and had risen to the rank of brigadier general by the time the war had ended. He spent six terms in the House, representing western New York and the Rochester area, before his election to the Senate in 1958. He was one of the great spokesmen for the 1964 Civil Rights Act. When he was defeated in his bid for a second Senate term, instead of settling back in the well-earned glow of a distinguished congressional career, Ken Keating continued tirelessly to devote his life to the public good.

He ran for and was elected to an associate judgeship on the New York Court of Appeals, the State's highest tribunal and one of this land's most respected State courts. Returning to the national service in 1969, he was named Ambassador to India and represented the United States during the tension-filled Indo-Pakistani conflict over Bangladesh. As a capstone to his career, he became envoy to Israel, helping to steer our course during the 1973 Yom Kippur War. His service to Israel for the United States was a source of security and reassurance to Israel's people.

Mr. President, the Federal building in Rochester should be named for Kenneth Keating. He was one of western New York's most revered citizens. A distinguished Rochester attorney in the years prior to World War II, he could not walk through the city's downtown without being greeted by everyone. His lively spirit and outgoing character, his sound judgment and heartfelt concern made him a friend of all who had contact with him. And it was from Rochester that he was sent to Congress and from which his national career began.

In recognition of his unparalleled service to his State and country, and his undiminished vigor in working in the people's behalf, we memorialize Kenneth B. Keating by naming the Federal building in Rochester the Kenneth B. Keating Federal Building.●

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal office building located at 100 State Street, Rochester, New York, shall hereinafter be known as, and is hereby designated as, the "Kenneth B. Keating Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such a building shall be considered to be a reference to the Kenneth B. Keating Building.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–390), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

COMMITTEE STATEMENT

Honored military leader, resourceful legislator in both Houses of Congress, distinguished jurist and talented ambassador, Kenneth B. Keating served with great distinction in all of these fields. His is a remarkable record of public service.

He entered the Army as an enlisted man in World War I, again served his country in World War II, and rose to the rank of brigadier general by the end of the war. He was elected to six terms in the House representing western New York and the Rochester area, before his election to the Senate in 1958. He was one of the great spokesmen for the 1964 Civil Rights Act. When he was defeated in his bid for a second Senate term, instead of settling back in the well-earned glow of a distinguished congressional career, Ken Keating continued to devote his life to the public good.

He was elected to an associate judgeship on the New York Court of Appeals, the State's highest tribunal. Returning to national service in 1969, he was named Ambassador to India and represented the United States during the tension-filled Indo-Pakistani conflict over Bangladesh. As a capstone to his career, he became envoy to Israel, helping to steer our course during the Yom Kippur war.

Naming this Federal building after Kenneth Keating would be an appropriate tribute to a great statesman.

J. CALEB BOGGS BUILDING

The bill (S. 1686) to designate the building known as the Federal Building in Wilmington, Del., as the "J. Caleb Boggs Building," was considered.

● Mr. ROTH. Mr. President, it is with the greatest pleasure I rise in support of this bill I have introduced to designate a Federal office building in Wilmington, Del., as the J. Caleb Boggs Building, in honor of a public servant of the highest renown and without peer in his dedication to public service.

As a long time friend and admirer of the Honorable James Caleb Boggs, distinguished Senator and Member of Congress from Delaware, I am honored to speak of his distinguished public service which has covered more than four decades as well as every level and every branch of Government.

If ever there can be said to have been a man worthy of the honor here involved, it would have to be Senator Boggs whose political performance rendered him outstanding in every conceivable respect.

Born on a farm in Kent County, Del., in 1909, and initially educated in the Delaware public school system, he did his undergraduate work at the University of Delaware and obtained his law degree at Georgetown in Washington, D.C. Entering the law profession in his native State, he attracted wide attention through his considerable abilities and soon was appointed judge of the family court of New Castle County.

In the meantime, Judge Boggs had enlisted in the Delaware National Guard as a private, and later, obtained a commission with which he entered World War II. Assigned to the European theater, he engaged in five campaigns, acquiring through frequent displays of courage and military capacity, the Legion of Merit, the Bronze Star with cluster and the Croix de Guerre with Palm. Upon his discharge from the service at the close of hostilities, he obtained the Republican nomination for an at large seat in the 80th Congress, and was handsomely elected. In the famous battles between President Truman and the 80th Congress, Representative Boggs declared for economy in Government and fought the President tooth and nail, through the election of 1948.

Although Truman was the winner in that contest, at the national level, Representative Boggs carried his district once again with a magnificent majority. He was once more reelected in 1950, and in 1952 won the Governorship in the same year that Dwight D. Eisenhower was elected President.

As Governor, J. Caleb Boggs revealed an executive ability unmatched throughout the country, in my humble opinion. Careful with State finances, yet imbued at all times with a full recognition of the needs of the people he expended what funds needed expending, without extravagance and to the overwhelming satisfaction of the voters. When he stood for reelection in 1956 he was returned to office with a sizable majority. In 1957, he was elected chairman of the National Governors' Conference, and in 1960, served with distinction as president of the Council of State Governments.

At the close of his second term in the statehouse, Governor Boggs was offered and accepted the 1960 Republican nomination for U.S. Senator. He was once again elected, and when he sought a second Senate term in 1966, he was once again successful. In the Senate, he served with high capacity and wide recognition as a member of the Committees on Appropriations, Public Works, and Post Office and Civil Service.

The record established by this remarkable son of Delaware was one of outstanding performance, worthy of the greatest praise. On all problems brought to his attention he performed in the manner of the finest kind of legislator, responding with alacrity and always with that same resourcefulness which never seemed to fail him.

In his 12 years in the Senate and in his many years in public life in general, J. Caleb Boggs revealed himself as one man in a million, a true and earnest friend of the people. Throughout his career, he was helped by his lovely wife, who is known for her charm and graciousness. I know of no Delaware couple in public life more widely respected and admired.

It is highly appropriate that he be honored as this measure seeks to honor him today, and for that reason, I am pleased to stand to urge swift passage of S. 1686, a bill to name a Federal building after the Honorable J. Caleb Boggs, former U.S. Senator from Delaware.●

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1686

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building at 844 King Street, Wilmington, Delaware (commonly known as the Federal Building) shall hereafter be known and designated as the "J. Caleb Boggs Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be held to be a reference to the "J. Caleb Boggs Building".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–391), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

COMMITTEE STATEMENT

For 12 years, J. Caleb Boggs served as a distinguished Member of the U.S. Senate and as a member of the Senate's Committee on Public Works. During this membership on the Committee on Public Works, Senator Boggs worked actively and successfully for the construction of a new Federal office building in downtown Wilmington, Del. It is, therefore, appropriate that this building be named in honor of this distinguished public servant.

"Cale" Boggs was born May 15, 1909, on a farm in Cheswold, Del., one of four sons of Edgar and Lettie Boggs. Mr. Boggs began his long career of public service soon after he graduated from the University of Delaware in 1931. Mr. Boggs and his wife, the former Elizabeth Muir, moved to Washington so he could attend the Georgetown University Law School, from which he graduated in 1937. During his studies in Washington, Mr. Boggs served on the staff of the Senate Committee on Contingent Expenses and in the office of Senator John G. Townsend of Delaware.

After receiving his law degree, Mr. Boggs returned to Delaware, where he passed the bar in 1938. He practiced law in Dover and Wilmington until 1941. Mr. Boggs, who had joined the Delaware National Guard as a private in 1926, was called to active military service in February 1941. During World War II, he served in five European campaigns, including the invasion of Normandy and the battle of the Ardennes. He won a variety of medals, including the Legion of Merit, Bronze Star with Cluster, and the Croix de Guerre. He retired from active duty early in 1946, with rank of colonel.

Upon his return to Delaware, Mr. Boggs was appointed as deputy judge of the Family Court of New Castle County. He won Delaware's at-large seat in the U.S. House of Representatives in November 1946, initiating a distinguished career of 26 years holding statewide office. He was reelected to the House in 1948 and 1950. Representative Boggs served on the House Judiciary Committee and the Committee on Expenditures in the Executive Departments, the committee which developed legislation to establish the Department of Defense and the Central Intelligence Agency.

In 1952, Representative Boggs ran for Governor of Delaware. He won, and was reelected in 1956. The Boggs administration was particularly interested in matters involving health, education, and parks and recreation.

He initiated the Nation's first statewide polio innoculation program, strengthened the State's education system, at the elementary, secondary, and college levels, and helped to initiate the Delaware River Basin Authority. He led the State of Delaware when the State's schools were desegregated without violence. During his term as Governor, he served as chairman of the National Governors Conference in 1959 and as president of the Council of State Governments in 1960.

In 1960, Governor Boggs won election to the U.S. Senate, and was reelected in 1966. Election to the Senate made him one of a handful of individuals who have served in both bodies of the Congress, as well as holding the office of Governor.

During Senator Boggs' service on the Committee on Public Works he was the ranking Republican on the Air and Water Pollution Subcommittee, working as a strong advocate for the control of air, water, and solid waste pollution. He also had a strong interest in the interstate highway program.

While in the Senate, he also served on the Post Office and Civil Service Committee and the Committee on Agriculture, which he later dropped in order to become a member of the Appropriations Committee. He also served as a member of the Joint Committee on Organization of the Congress.

Senator Boggs failed to win reelection to the Senate in 1972. He returned to Delaware to join the Wilmington law firm of Bayard, Brill, & Handelman as of counsel. Since his retirement from the Senate, Senator Boggs has been a president of the Former Members of Congress, a director of the Delaware Safety Council, the Artisans Savings Banks, RLC Corp., the Delaware Opportunities Industrialization Center, the Greater Wilmington Development Council, and the Delaware Chapter of the Arthritis Foundation. He serves as a trustee of the Wilmington Medical Center and Freedoms Foundation, and as president of the Delaware 4-H Foundation.

PASSENGER SHIP INDUSTRY REVITALIZATION

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1281.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1281) entitled "An Act to revitalize the pleasure cruise industry by clarifying and waiving certain restrictions in the Merchant Marine Act, 1936, and the Merchant Marine Act, 1920, to permit the entry of the vessels steamship United States, steamship Oceanic Independence, and steamship Santa Rosa into the trade", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. Notwithstanding the provisions of section 506 of the Merchant Marine Act, 1936 (46 U.S.C. 1156), section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883), and any other provision of law, the Secretary of the department in which the United States Coast Guard is operating shall cause the vessel Oceanic Independence (official Coast Guard numbered 261147) and the vessel steamship Santa Rosa (official Coast Guard numbered 276598) to be documented as vessels of the United States entitled to engage in the coastwise trade, so long as—

(1) in the case of the Oceanic Independence—

(A) the vessel is in compliance with all other requirements for vessels engaging in the coastwise trade.

(B) any rebuilding of the vessel or repair work constituting a rebuilding, accomplished after enactment of this Act, shall be effected within the United States, its territories (not including trust territories), or its possessions, except that the vessel shall not lose its coastwise privileges by reason of having work necessary to install bow thrusters in the vessel and to equip it with a marine sewer sanitation system performed outside the United States, its territories (not including the trust territories) or its possessions before the vessel engages in the coastwise trade following enactment of this Act,

(C) the vessel is owned by a citizen or citizens of the United States as defined in the applicable laws prescribing the qualifications for vessels to engage in the coastwise trade, and

(D) for hire carriage in such trade is limited to passengers, their accompanying baggage, and one thousand measurement tons of cargo, of forty cubic feet each, per annum in any coastwise trade: *Provided*, That for hire carriage of cargo in excess of the aforesaid one thousand tons shall be unlawful.

(2) in the case of the steamship Santa Rosa—

(A) prior to such documentation the owner of the steamship Santa Rosa repays to the Secretary of Commerce, upon such terms and conditions as the Secretary may prescribe, an amount which bears the same proportion to the total construction differential subsidy paid for such vessel as the remaining economic life of the vessel computed from the date of documentation bears to the total economic life of the vessel, and

(B) for hire carriage in such trade is limited to passengers, their accompanying baggage, and one thousand measurement tons of cargo, of forty cubic feet each, per annum in any coastwise trade: *Provided*, That for hire carriage of cargo in excess of the aforesaid one thousand tons shall be unlawful.

SEC. 2. Section 2 of Public Law 92-296 (86 Stat. 140), as amended by Public Law 94-536 (90 Stat. 2497), is further amended by inserting after the words "American flag" the following: "in the coastwise and/or foreign commerce of the United States and/or between foreign ports notwithstanding the provision of section 506 of the Merchant Marine Act, 1936: *Provided*, That for hire carriage in coastwise commerce of the United States is limited to passengers, their accompanying baggage, and one thousand measurement tons of cargo, of forty cubic feet each, per annum in any single coastwise trade: *Provided further*, That for hire carriage of cargo in excess of the aforesaid one thousand tons shall be unlawful,".

SEC. 3. Notwithstanding the provisions of section 506 of the Merchant Marine Act, 1936 (46 U.S.C. 1156), and any other provision of law or of prior contract with the United States, the steamship Mariposa and the steamship Monterey, may, subject to the approval of the Secretary of Commerce, be allowed to remain under the American flag and operate totally in both the coastwise and foreign commerce of the United States and/or between foreign ports: *Provided*, That for hire carriage in the domestic commerce of the United States is limited to passengers, their accompanying baggage, and one thousand measurement tons of cargo, of forty cubic feet each, per annum in any single coastwise trade: *Provided further*, That for hire carriage of cargo in excess of the aforesaid one thousand tons shall be unlawful. In the event the operator should elect to transfer either or both vessels to foreign flag operation, nothing in this Act shall be construed as permitting these vessels in such circumstances to have any rights or ability whatsoever to operate in the United States coastwise trades.

Amend the title so as to read: "An Act to revitalize the pleasure cruise industry by clarifying and waiving certain restrictions in the Merchant Marine Act, 1936, and the Merchant Marine Act, 1920, to permit the entry of the steamship vessel United States, steamship vessel Oceanic Independence, steamship vessel Santa Rosa, and the steamship vessels Mariposa and Monterey into the trade."

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate agree to the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT OF AGRICULTURAL ADJUSTMENT ACT OF 1938

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House on H.R. 998.

The PRESIDING OFFICER laid before the Senate H.R. 998, an act to amend the Agricultural Adjustment Act of 1938, as amended, to exempt State prison farms from paying of marketing quota penalties, which was read twice by its title.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the bill.

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

S. 312 INDEFINITELY POSTPONED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 312, the companion measure, Calendar No. 398, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOHN W. WOOD, JR., BUILDING

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1728.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1728) entitled "An Act to designate the United States Federal Courthouse Building located at 655 East Durango, San Antonio, Texas, as the 'John H. Wood, Jr., Federal Courthouse' ", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That the Federal Building located at 727 East Durango, San Antonio, Texas, shall hereinafter be called and designated as the "John H. Wood, Jr., Building". Any reference in law, map, regulation, document, record, or other paper of United States to such building shall be held to be a reference to the John H. Wood, Jr., Building.

Amend the title so as to read: "An Act to designate the Federal Building located at 727 East Durango, San Antonio, Texas, as the 'John H. Wood, Jr., Building'.".

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate disagree to the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

AUTHORITY FOR COMMITTEE ON THE BUDGET TO FILE A CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Budget have until 9 p.m. this evening to file a conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

REQUEST FOR AUTHORITY FOR COMMITTEE TO MEET

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations may be permitted to meet during the session of the Senate tomorrow, to continue its markup of the SALT II treaty.

Mr. STEVENS. I am compelled to object. I do object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. The Senator objects under duress.

MIGRATION AND REFUGEE ASSISTANCE

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay down the business under the order.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 1668, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1668) to authorize additional appropriations for the Department of State for migration and refugee assistance for fiscal years 1980 and 1981.

The Senate proceeded to consider the bill, which had been reported from the Committee on Foreign Relations with amendments as follows:

On page 2, beginning with line 1, strike through and including line 2;

On page 3, line 3, strike "Section" and insert "That section";

On page 2, beginning with line 11, insert the following:

SEC. 2. Section 610(a) of the Foreign Assistance Act of 1961 is amended by striking the period at the end thereof and inserting the following: "except that for the purpose of providing food, medicine, and other humanitarian assistance to the people of Cambodia up to $30,000,000 may be transferred to, and consolidated with, the funds made available for section 491.".

So as to make the bill read:

S. 1668

Be it enacted in the Senate and House of Representatives of the United States of America in Congress assembled, That section 102(a)(4) of H.R. 3363 and section 101(a)(4) of the Senate amendment thereto (Foreign Relations Authorization Act, Fiscal Years 1980 and 1981) are amended for fiscal year 1980 by striking out "$243,951,000" and inserting in lieu thereof "$456,241,000" and for fiscal year 1981 by striking out "$254,188,000" and inserting in lieu thereof "$457,798,000".

SEC. 2. Section 610(a) of the Foreign Assistance Act of 1961 is amended by striking the period at the end thereof and inserting the following: "except that for the purpose of providing food, medicine, and other humanitarian assistance to the people of Cambodia up to $30,000,000 may be transferred to, and consolidated with, the funds made available for section 491.".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that no time be charged against this bill today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the orders for the recognition of Senators on tomorrow, the Senate resume consideration of the refugee assistance bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, not to extend beyond 15 minutes, and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Senator from Wisconsin for his patience, and I yield the floor.

CHRYSLER CORP. LOAN

Mr. PROXMIRE. Mr. President, earlier today, I issued a press release announcing that the Senate Committee on Banking, Housing, and Urban Affairs would begin hearings on the Chrysler legislation on November 19; that is 2 weeks from Monday. Since then, I have had conversations with the distinguished Senator from Michigan (Mr. RIEGLE), who is anxious that we start hearings earlier.

Although I am awaiting detailed information from the Treasury—and it is detailed, because this is an enormous guarantee we are providing for the Chrysler Corp.; $1.5 billion at least has been requested—and I think we should have the information before the hearing, I have agreed to set the date of the hearing as November 14, 2 weeks from today.

I am going to urge the Treasury to try to get their information to us before that date, so that we will have it before the hearings begin.

I assure the Senate that the committee will sit in session to hold hearings on the Chrysler situation until we finish it. We hope to be able to do it within 1 week, and then we will mark up the measure promptly after that and bring it to the floor as quickly as possible.

I am very much opposed to this legislation, but I recognize the facts of life. I think there is a juggernaut behind it, and I anticipate that it will be before the Senate shortly.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. ROBERT C. BYRD. I express appreciation on the part of the leadership to the Senator for agreeing to conduct hearings on the 14th rather than waiting until the 19th. Senator RIEGLE, I am sure, is pleased at the decision by the distinguished chairman of the committee.

I add my personal expression of gratitude. If the Senator can use my help, I will be glad to offer my assistance. I do not think he will need my help.

Mr. PROXMIRE. I may need the majority leader's help, and I will call on him if we think it is necessary.

FROM CONSTITUTIONAL RIGHTS TO HUMAN RIGHTS

Mr. PROXMIRE. Mr. President, Louis Henkin, a Hamilton Fish professor of international law at Columbia University, published an article in the summer 1978, issue of the Harvard Civil Rights-Civil Liberties Law Review. Professor Henkin's essay contains many interesting arguments, some of which I will mention in the next few days. Today, however, I would like to talk about a concept most succinctly described by the title of his article, "Constitutional Rights and Human Rights."

Professor Henkin's analysis of the relationship between the rights enumerated in our Constitution and the rights laid out in international human rights conventions, reveals a true understanding of the issues. He convincingly explains that constitutional and human rights are closely related and have too often been separated into areas of solely domestic or international concern.

Historically, the United States has taken a leading role in defining the rights of individuals, whether as American citizens or as members of the world community. Our faith in the individual crosses national boundaries, as Professor Henkin explains in the following passage,

> Americans were prominent among the architects and builders of international human rights, and American Constitutionalism was a major inspiration and model for their creation.

Unfortunately, Mr. President, the United States has faltered in its efforts to defend human rights. We have failed to protect the most fundamental right—the right to live. We have failed to ratify the Genocide Convention.

In 1970, before the Senate Committee on Foreign Relations, I testified in defense of the Genocide Convention. I explained my belief that our own Declaration of Independence, our own Constitution, represented America's commitment to human rights.

I ask again, let us fulfill our commitment. I urge my colleagues to swiftly ratify the Genocide Treaty.

MAMIE DOUD EISENHOWER

Mr. MOYNIHAN. Mr. President, the world mourns today, and the Senate is saddened by, the death of Mamie Doud Eisenhower at age 82 in Walter Reed Army Hospital in the early hours of this morning.

At the same moment we extend our consolation to her son, Maj. John Eisenhower, and his beautiful wife, to her grandchildren Dwight David, Susan, Barbara, and to Mary Jean, and to tell them all that their mother and grandmother and her husband of more than half a century, of 53 years of marriage, are a memory and a legacy beyond value to our people and to this Republic.

ACQUISITION OF EISENHOWER COLLEGE BY THE ROCHESTER INSTITUTE OF TECHNOLOGY

Mr. MOYNIHAN. Mr. President, I think, I believe it to be the case, that President Eisenhower before he died took special satisfaction in two institutions which have been named for him, the first, the Eisenhower Library in Abilene, Kans., and second, and, perhaps, equally, the Eisenhower College which had been founded in Seneca Falls on the west shore of Cayuga Lake in New York, named for him and founded for him as a reflection of the affection and unparalleled esteem in which he was held by the people of our State and of this Nation.

Most recently, Eisenhower College has

merged with the Rochester Institute of Technology and will now become a special campus of that old and honored institution and will continue as the college founded in his memory and in emulation of what he has stood for in the American Republic and in the world of free nations.

The Congress of the United States salutes the Rochester Institute of Technology (RIT) of New York on its recent acquisition of Eisenhower College, the national memorial of our 34th President, Dwight David Eisenhower.

RIT's pioneering spirit over 150 years of commitment to quality career education has led the institute to a position of leadership in technical and processional education.

The acquisition of Eisenhower College as the 10th college of RIT will add a new dimension to the institute's career programs. In turn, Eisenhower College will be enhanced through its relationship with an institution characterized by sound fiscal management and continuing enrollment growth. By incorporating Eisenhower's programs into RIT's career programs, the institute plans to preserve those elements which appropriately complement RIT's mission in technology.

RIT plans to increase Eisenhower's enrollment from its current level of 550 full time students to 800 students by 1981.

Eisenhower College, with its world studies focus, will continue as a significant national educational resource and an important living memorial to General Eisenhower. In recent years, Eisenhower College has become recognized for its innovative undergraduate programs in international education built around its unique world studies program. In anticipating future difficulties in its financial situation caused by inflation and a declining enrollment pool in the eighties, Eisenhower College looked favorably upon the opportunity to join RIT. The 286-acre Eisenhower campus located in Seneca Falls on the west shore of Cayuga Lake in the heart of the Finger Lakes region of upstate New York, is an important educational resource that this Nation must maintain.

Susan Eisenhower, granddaughter of the late President and a member of the Eisenhower College board, said, "This is a great opportunity for Eisenhower College to join an outstanding university with 150 years of career development programs. I am sure my grandfather would welcome this action."

RIT officials and faculty are excited with the potential for complementing its historic technological emphasis with Eisenhower's liberal arts-oriented world studies curricula.

In an era of rapidly changing technology, this country can be proud of RIT as it celebrates 150 years of commitment to quality career education.

MILWAUKEE RAILROAD RESTRUCTURING ACT

Mr. MELCHER. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1905.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 1905) to provide for the orderly restructuring of the Milwaukee Railroad and for other purposes.

(The amendments of the House are printed in the Record of October 30, 1979, beginning at page H9933.)

Mr. MELCHER. Mr. President, I move that the Senate disagree to the amendments of the House on S. 1905 and ask for a conference with the House on the disagreeing votes of the two houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. Tsongas) appointed Mr. Magnuson, Mr. Long, and Mr. Packwood conferees on the part of the Senate.

STUART M. STATLER

Mr. PERCY. Mr. President, I was enormously pleased that on July 26, 1979 the Senate confirmed the nomination of Stuart M. Statler to be a Commissioner of the Consumer Product Safety Commission. Stuart Statler had been a trusted adviser and valuable counselor of mine since March 1971, and had served for the last 6 years as the chief counsel to the minority of the Senate Permanent Subcommittee on Investigations, of which I am the ranking minority member. I can honestly say that I can think of no one who is more deserving of advancement in public life, and about whom the Senate could be more confident that the President has selected the right person for the right job.

I ask unanimous consent to have printed at this point in the Record the full text of a resolution unanimously approved by the members of the subcommittee expressing their deep appreciation and esteem for Stuart Statler for his years of service to the U.S. Senate and to his country.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

"Resolution

"Whereas Stuart M. Statler honorably, loyally and faithfully served from 1973 through 1979 as Chief Counsel to the Minority of the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs of the United States Senate; and

"Whereas Stuart H. Statler in that capacity untiringly and effectively served the Subcommittee in an outstanding manner, demonstrating the highest qualities of responsible staff leadership, creative initiative, and exemplary dedication; and

"Whereas Stuart M. Statler honorably, loyous and extraordinary contributions to the Permanent Subcommittee on Investigations, specifically its Ranking Minority Member, Chairman, Vice Chairman, and its members, as well as to the Senate of the United States; and

"Whereas by virtue of his expertise, skill, and knowledge, Stuart M. Statler advanced and improved the legislative oversight process and rendered unique and able assistance in the development and enactment of legislation, which resulted from Senate investigations he directed and which enhanced the economy and efficiency of government and the overall performance of the Executive Branch; and

"Whereas Stuart M. Statler was appointed by The Honorable Jimmy Carter, President of the United States, to serve as a Commissioner of the United States Consumer Product Safety Commission, and took office on August 13, 1979;

"Now, Therefore, Be It Resolved, That the Permanent Subcommittee on Investigations and the Members thereof express and record their deep affection and esteem for his many exceptional contributions and for his dedication, loyalty and service to this Subcommittee, to the Committee on Governmental Affairs, to the Senate of the United States and to the American People."

PERCY-GLENN NUCLEAR WASTE BILL GAINS NEW COSPONSORS

Mr. PERCY. Mr. President, on March 28 of this year, the senior Senator from Ohio (Mr. Glenn) and I introduced S. 742, the Nuclear Waste Management Reorganization Act of 1979. The complex question of how America should go about creating a plan for the safe disposal of radioactive waste is one of the most important issues we face today, and we believe that S. 742 proposes an equitable solution.

Everyone in this country—regardless of his or her own feelings about the need for nuclear power—has a stake in seeing that a sound plan is created for the waste that presently exists. The more than 500,000 tons of high-level radioactive waste and spent nuclear fuel that have already been created will not go away on their own.

But beyond this, Americans have a clear right to participate in the creation of a comprehensive waste disposal plan. If nuclear waste is disposed of permanently within the borders of this country, it will of course have to be placed in at least one of our 50 States. And there is simply no way the Federal Government—the Department of Energy, the White House, or the Congress—can be adequately sensitive to the concerns and needs of State and local governments, and of average citizens who are directly affected by a waste disposal facility.

I am pleased to announce today that, since March 28, three additional cosponsors have been added to S. 742, a bill which both Senator Glenn and I feel is a comprehensive and responsible plan to involve several Federal agencies, State and local governments, and the American people together in the creation of a nuclear waste disposal plan for our country.

The junior Senator from Maine (Mr. Cohen) became a cosponsor of the Nuclear Waste Management Reorganization Act on June 5, followed by the senior Senator from Rhode Island (Mr. Pell) on July 30, and the senior Senator from Connecticut (Mr. Ribicoff) on Monday, October 22. I thank these distinguished gentlemen for their support and assistance with this legislation.

Mr. President, the Governmental Affairs Subcommittee on Energy, Nuclear Proliferation, and Federal Services has so far held 2 days of hearings on S. 742—July 5 in Chicago, and October 19 here in Washington. We have had numerous panels of state and local officials, nuclear industry and public interest spokesmen, and Government representatives provide valuable assessments of the strengths and weaknesses of our legislation.

We now hope to mark up S. 742 shortly—perhaps by Thanksgiving—so that it can be judged by the Governmental Affairs Committee, and hopefully, the entire Senate in the near future. The addition of these three cosponsors to S. 742 reflects a growing awareness that nuclear waste is a major national problem.

MAMIE

Mr. DOLE. Mr. President, her friends, and that included everyone who ever met her, called her Mamie. She supported one of America's authentic heroes, through a world war, and two distinguished terms in the Oval Office. She embodied American womanhood at its finest.

With Mamie, family came before politics. But let no one doubt her commitment to public service. She gave liberally of herself as Dwight Eisenhower's life partner, and she brought to the White House a charm that was both quiet and irresistable.

She was 20 years old when she married a young lieutenant named Ike Eisenhower in 1916. In the years to come, the couple would know both tragedy and triumph. They lost their first child in 1921 and would experience the pain of separation for much of the general's overseas military career. But their love never wavered. Neither did their determination to serve the country they loved.

In 1952, he wrote that "Mamie and I are both determined to give our best to the task that lies before us. It is not easy; we simply never allow ourselves to think of the serene, peaceful life that could be ours if I had not allowed friends and others to persuade me as to my public duty."

Mamie and Ike kept that pledge all their lives. The White House under Mrs. Eisenhower was like the woman herself—gracious, warm, beckoning as a genuine homestead. She infused it with her verve and style. No one ever left one of Mamie's parties feeling anything less than an old friend—or a new admirer.

After 1961, the Nation's attentions were focused on another First Lady, but Mamie was content to retire at last to the relative serenity of Gettysburg. There, she and Ike passed 8 peaceful years until the general's health began to fail.

"I've always loved my wife," he said at the last. "I've always loved my children. I've always loved my grandchildren. And I've always loved my country."

The same virtues applied to Mamie. In a few days, we will take her back to Kansas, to lie beneath the prayer that Ike spoke at his first inauguration in 1953. And the place of meditation will be consecreated anew—to a woman who matched her husband's heroism with courage, his leadership with grace and elegance.

We will remember her. And, if we are wise, we will keep her example close to our heart, where it can never die.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVAL

A message from the President of the United States reported that on October 31, 1979, he had approved and signed the following act:

S. 436. An act to amend section 15(d) of the Tennessee Valley Authority Act of 1933 to increase the amount of debt which may be incurred by the Tennessee Valley Authority.

MESSAGE FROM THE HOUSE

ENROLLED JOINT RESOLUTION SIGNED

At 12:27 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 3. Joint resolution designating November 4, 1979, as "Will Rogers Day."

The enrolled joint resolution was subsequently signed by the President pro tempore (Mr. MAGNUSON).

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5505. An act to simplify certain provisions of the Internal Revenue Code of 1954, and for other purposes.

The message further announced that the House has passed the following bill, with amendments in which it requests the concurrence of the Senate:

S. 1281. An act to revitalize the pleasure cruise industry by clarifying and waiving certain restrictions in the Merchant Marine Act, 1936, and the Merchant Marine Act, 1920, to permit the entry of the vessels steamship United States, steamship Oceanic Independence, and steamship Santa Rosa into the trade.

The message also announced that the House agrees to the amendments of the Senate to H.R. 2282, an act to amend title 38, United States Code, to provide a cost-of-living increase in the rates of disability compensation for disabled veterans and in the rates of dependency and indemnity compensation for survivors of disabled veterans, with amendments in which it requests the concurrence of the Senate.

HOUSE BILL REFERRED

The following bill was read twice by title and referred as indicated:

H.R. 5505. An act to simplify certain provisions of the Internal Revenue Code of 1954, and for other purposes; to the Committee on Finance.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2406. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Lack of Control and Feedback Hinders Army Manpower Management Improvements," October 31, 1979; to the Committee on Armed Services.

EC-2407. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "New York City's Fiscal Problems: A Long Road Still Lies Ahead," October 31, 1979; to the Committee on Banking, Housing, and Urban Affairs.

EC-2408. A communication from the Secretary of the Treasury, transmitting, a draft of proposed legislation entitled the "Chrysler Corporation Loan Guarantee Act of 1979"; to the Committee on Banking, Housing, and Urban Affairs.

EC-2409. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The U.S. Mining and Mineral-Processing Industry: An Analysis of Trends and Implications," October 31, 1979; to the Committee on Energy and Natural Resources.

EC-2410. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus for alterations at the U.S. Postal Service Building, 115 East Sixth Avenue, Gary, Indiana, in the amount of $2,459,300; to the Committee on Environment and Public Works.

EC-2411. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes the construction of the East St. Louis, Illinois, U.S. Courthouse and Parking Facility; to the Committee on Environment and Public Works.

EC-2412. A communication from the Records Officer, United States Postal Service, transmitting, pursuant to law, proposed for three systems of records; to the Committee on Governmental Affairs.

EC-2413. A communication from the Deputy Assistant Secretary of Defense, transmitting, pursuant to law, a report of a new system of records; to the Committee on Governmental Affairs.

EC-2414. A communication from the Deputy Assistant Secretary for Indian Affairs, Department of the Interior, transmitting, pursuant to law, a proposed plan for the use and disposition of the judgment funds awarded to the Kickapoo Tribe of Kansas and the Kickapoo Tribe of Oklahoma, in Indian Claims Commission Dockets Nos. 315 and 338; to the Select Committee on Indian Affairs.

EC-2415. A communication from the Chairman, Board of Directors, Future Farmers of America, transmitting, pursuant to law, a report of audit for the two month interim period ending August 31, 1979; to the Committee on the Judiciary.

EC-2416. A communication from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting, pursuant to law, Interim Final Regulations for Part 185—Emergency School Aid Act; to the Committee on Labor and Human Resources.

EC-2417. A communication from the Principal Deputy Under Secretary of Defense, transmitting, pursuant to law, a report of DOD Procurement from Small and Other Business Firms for October 1978–May 1979; to the Select Committee on Small Business.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-486. A resolution adopted by the Senate of the State of Massachusetts; to the Committee on Veterans' Affairs:

"Resolution

"*Whereas*, the National Policy of the United States concerning Veterans of the United States has been to grant assistance to them to resolve the ordinary and extraordinary problems which have arisen in their individual lives because of their military service to their country; and

"*Whereas*, a Veterans Administration study has recently been released which documents and accentuates the continuing adjustment problems and ,the inadequacies of the G.I. benefits thus far granted to the Vietnam veteran to resolve said problems; and

"*Whereas*, new life and strength has appeared in the halls of Congress in recognition of the Vietnam veteran needs, in the fields of employment by the Education and Training Subcommittee of the House Veterans Affairs Committee, in the fields of physical needs with a focusing on diseases contracted by said veterans while in Vietnam, such as those casually related to agent orange, a defoliant used in Vietnam, and also in the fields of psychological needs because of the special problems these veterans were exposed to both in Vietnam and upon their return to the country for which they fought; therefore be it

"*Resolved*, that the Massachusetts Senate respectfully urges the Congress of the United States to support the recommendations of its own subcommittees on veterans affairs to hasten the assistance so sorely needed by the Vietnam veteran in the problems which were visited upon them who were willing to serve and did serve their country in time of war; and be it further

"*Resolved*, that Congress demand more constructive and diligent and forceful action on the part of the Veterans Administration in the implementation of legislation already made law, and in the encouragement of pending and future legislation on assistance to the Vietnam veteran; and be it further

"*Resolved*, That an engrossed copy of these resolutions be transmitted to the House Veterans Affairs Committee of the United States Congress, and that copies thereof be sent by the Clerk of the Senate to the presiding officer of each branch of the Congress of the United States, each member thereof from the Commonwealth, and to the administrator of the Veterans Administration."

POM-487. A petition from forty citizens of the State of Indiana, praying for the rejection of the ratification of the SALT II Disarmament Treaty; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STENNIS, from the Committee on Appropriations, with amendments:

H.R. 5359. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes (Rept. No. 96–393).

By Mr. LONG, from the Committee on Finance, with an amendment and an amendment to the title:

H.R. 3919. An act to impose a windfall profit tax on domestic crude oil (together with additional and supplemental views) (Rept. 96–394).

By Mr. MELCHER, from the Select Committee on Indian Affairs, without amendment:

S. 1682. A bill to amend the Act of August 9, 1955 (69 Stat. 539) (25 U.S.C. 415), as amended, to authorize a ninety-nine-year lease for the Moses Allotment Numbered 10, Chelan County, Washington (Rept. No. 96–395).

H.J. Res. 199. A joint resolution to amend the Act of October 21, 1978 (92 Stat. 1675; Public Law 95–498) (Rept. No. 96–396).

By Mr. MELCHER, from the Select Committee on Indian Affairs, with amendments:

S. 668. A bill to permit the Cow Creek Band of the Umpqua Tribe of Indians to file with the United States Court of Claims any claim such band could have filed with the Indian Claims Commission under the Act of August 13, 1946 (60 Stat. 1039) (Rept. No. 96–397).

S. 916. A bill to amend the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) to provide education programs for Native Hawaiians, and for other purposes (Rept. No. 96–398).

SECOND CONGRESSIONAL BUDGET RESOLUTION—CONFERENCE REPORT

Mr. MUSKIE, from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendment of the House to the resolution (S. Con. Res. 36) revising the congressional budget for the United States Government for the fiscal years 1980, 1981, and 1982 (Rept. No. 96–399).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HELMS:

S. 1963. A bill relating to purchase and sales of gold by the United States; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HEINZ:

S. 1964. A bill to amend the Internal Revenue Code of 1954 to provide for increased savings and investment through a tax-free rollover account; to the Committee on Finance.

By Mr. RIEGLE (by request):

S. 1965. A bill entitled the "Chrysler Corporation Loan Guarantee Act of 1979"; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HEINZ (for himself and Mr. Roth):

S. 1966. A bill to amend the Tariff Act of 1930 and the Trade Act of 1974 to provide more equitable standards for determining the foreign market value of, and market disruption attributable to, goods manufactured in non-market economy countries; to the Committee on Finance.

By Mr. NELSON:

S. 1967. A bill to amend the Internal Revenue Code of 1954 to allow a corporation which deals in securities to establish a reserve for the net gain from certain market making activities; to the Committee on Finance.

By Mr. DURENBERGER (for himself, Mr. Boren, and Mr. Heinz):

S. 1968. A bill to amend the Internal Revenue Code of 1954 to encourage competition in the health care industry, to encourage the provision of catastrophic health insurance by employers, and for other purposes; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HELMS:

S. 1963. A bill relating to purchases and sales of gold by the United States; to the Committee on Banking, Housing, and Urban Affairs.

UNRESTRICTED GOLD SALES: BAD FOR THE NATION

Mr. HELMS. Mr. President, the present policy of the Treasury Department is to sell tons of this Nation's only monetary reserve—our gold. The method is by irregular sales that are aimed at destabilizing the gold markets.

The net result is that the OPEC nation's have America's gold—and the U.S. dollar, the U.S. balance of payments, and the U.S. economy are no better off.

For several years, Congress has been debating a bill to sell off some of our silver stockpiles. It is ironic that so much deliberation is devoted to silver sales while no congressional action is required for indiscriminate sales of billions of dollars of our Nation's gold reserves. Needless to say, those gold reserves have a far greater strategic and economic importance than a few million ounces of silver—however important that silver may be.

Because Congress should have a say in this issue, and because the present policy is clearly without merit, I am offering legislation to require congressional approval before gold sales may be conducted. The one exception to this rule would apply only if the President acts to establish a firm relationship between the dollar and gold. The present economic situation may very well require such action by an American President in the forseeable future.

Presidential power concerning gold is only one of many extensions of Presidential power growing out of the depression days of the 1930's. This was a period of a great deal of emergency legislation which has since been repealed.

Last weekend, the Treasury Department announced that instead of selling 750,000 ounces per month, as had been routine, henceforth the sales would vary both in amount and timing.

The intent of the sales clearly is to disrupt the gold market. This unwise action is being taken in lieu of more substantive efforts to support the dollar.

The dollar, internationally, is in sad shape because its utility as a reliable currency is declining. Individuals and businesses with dollar-denominated assets are suffering real value loss every day because of inflation. Naturally, alternatives are sought. Because of the problems with even the so-called hard currencies, much money is going out of dollars and into gold.

The process, as economists describe it, works this way: With fewer dollars in demand—because people do not want an unreliable store of value—a bloated supply of dollars will be concentrated in the remaining economy using those dollars. The effect is equivalent to a substantial increase in the money supply, thus leading to higher prices—and more inflation.

Mr. President, to state the case in a

slightly different way, if the demand for something falls, it automatically follows that there will be a surplus in that commodity, and a decline in its price. If people stop buying cranberries one year and the regular cranberry crop comes in, what happens to the price of cranberries? It drops.

So, what happens if the demand for dollars falls? Even if there is some effort on the part of the monetary authorities to tighten money, the price of those dollars in international markets is going to fall, and people will seek alternatives. One alternative is gold.

And how does the Treasury Department propose to cope with that? Well, at present, when Treasury sees people moving toward gold, instead of acting in such a way as to reverse the decline in the demand for dollars, Treasury attempts to reduce the demand for gold. And this, Mr. President, is an act of folly. Using the cranberry analogy, the Treasury Department does not try to prove that cranberries do not cause cancer. Treasury takes the position that everything causes cancer in the misguided hope that everyone will decide that they might as well stick with cranberries.

What nonsense. Now I know that the Treasury Department is trying to explain that they are doing this "to stop speculation." But it is still nonsense.

"Speculators"—what a horrible word. It boggles the bureaucratic mind that individuals would go into the marketplace for the purpose of making money.

Mr. President, can the bureaucrats not understand that destabilizing a marketplace results in more business for traders—for the speculators?

It is probably fair to say that careers are made by men and women who trade in Treasury bill futures—who speculate what the Federal Reserve System is going to do next. Let us ask how much of a chance for profit would there be if the Fed did not change its mind every couple weeks?

And similarly, how much chance for profit would there be if the Treasury would act to stabilize the price of gold instead of destabilizing it?

Mr. President, the most important policy decision for the short term is to restore strength in the dollar. And I am convinced that the Treasury gold sale policy is a smokescreen. Treasury gold sales focus attention away from the real problem.

I believe that the gold sales, by squandering our Nation's only monetary reserve, are hurting our Nation and not helping the dollar.

That is why I today propose a bill to impose severe restrictions on the ability of the Treasury Department to dump gold.

There already is a provision in the law which prohibits the U.S. Director to the International Monetary Fund from voting in favor of more IMF gold sales without specific congressional approval. In other words, when the current IMF gold sales end in May of 1980, Congress must specifically give its approval to the U.S. vote in favor of added sales.

I think that similar congressional action should be required if the United States is to sell its gold.

Mr. President, I send my bill to the desk and ask for its appropriate referral. And I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1963

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 10 of the Gold Reserve Act of 1934 is amended by adding at the end thereof the following:

"(e) The authority to purchase or sell gold under this or any other Act may not be exercised unless Congress by law authorizes such action, except that this subsection does not preclude the exercise of such authority to establish or maintain a permanent relationship between the United States dollar and a specified quantity of gold.".

By Mr. HEINZ:

S. 1964. A bill to amend the Internal Revenue Code of 1954 to provide for increased savings and investment through a tax-free rollover account; to the Committee on Finance.

SAVINGS AND INVESTMENT ACT OF 1979

● Mr. HEINZ. Mr. President, today I am introducing the Individual Savings and Investment Act of 1979, a bill designed to encourage Americans at all income levels to increase their personal saving and investment. This legislation would permit a tax deferred "rollover" for reinvested interest, dividends, and capital gains maintained by an individual in a special account established in a bank, savings and loan association, or similar institution. When withdrawn from the account for consumption, the accumulated funds would be taxed in full at the individual's normal tax rate.

Many in Congress are concerned that the rate of personal saving in the United States is not sufficient to help provide the capital our economy needs to maintain the strong economic growth, the expansion of job opportunities, and the higher standard of living that can only come from increased investment in this Nation's productive capacity. As a measure of this concern, over 200 bills have been introduced in this Congress to encourage savings but not one of these measures contains the comprehensive approach suited to a wide range of individual needs provided by our bill.

We tax saving as if it were sin under current law. The consumer is taxed but once on his income when it is earned. But, the thrifty saver who puts his savings into a passbook account or stocks is taxed twice. He is taxed on his wages and again on the interest, dividends, or capital gains generated by his savings.

In addition to the bias in our tax laws which double taxes earnings generated by savings, inflation works against the saver. The consumer prices index currently stands at an annual rate of over 13 percent. For the small saver, who relies primarily on passbook accounts with rates from 5.5 percent on regular passbook savings to 8 percent on deposits held for 8 years, adjusting the rate of return for inflation gives a negative rate of return on even the highest yielding accounts. This is a real financial loss for the saver. And, since interest income is subject to the personal income tax at rates ranging from 14 percent to 70 percent, the saver's real loss is increased. The real rate of return on savings, for the small saver relying on passbook accounts, turned negative in 1973 when inflation really hit the economy and has remained so ever since.

Individuals investing in productive corporate equities have been discriminated against by inflation, too. National Bureau for Economic Research economists Martin Feldstein and Joel Slemrod conducted a study that showed that, in 1973, while investors paid taxes on approximately $4.6 billion in capital gains, when the gains were adjusted for inflation, the investors suffered a real capital loss of nearly $1 billion.

High rates of inflation and tax laws biased against saving have combined to discourage personal saving in traditional forms. Middle-class investors have turned to tax shelters and to investment in tangible assets such as real estate, antiques, and art, all of which can be used but which do not create jobs for other Americans or stimulate the economy directly.

A Solomon Brothers study of rates of return on various assets showed why. The compound rate of return on the "Standard and Poor's" composite stock index for 1968 through 1978 was a mere 2.8 percent while the compound rate of return on tangible assets like housing was 9.2 percent for the same period. Other tangible assets like "Old Masters" with a return of 13.0 percent and Chinese ceramics with a return of 19.2 percent were an even better investment.

Since we may choose whether we will save or not and choose the form of our savings, it should come as no surprise that the rate of personal saving in the United States is so low. As a percent of personal income, the rate of personal saving has averaged between 6 and 6½ percent over the past three decades. But the rate of personal saving has moved down over the past 3 years, dropping to a low of 4.7 percent in the final quarter of 1978. During the first two quarters of 1979, the personal savings rate has averaged 5.2 percent, but preliminary figures for the third quarter indicate an even lower rate.

The rate of personal savings in the United States is lower than the rates of our major trading partners and the U.S. rate has been falling while the rates in other countries have been on the rise. In Japan, for example, the rate of personal saving increased from 18.5 percent in 1967 to 21.5 percent in 1977. Savings rates in Canada rose from 6.2 percent to 9.8 percent, in Germany from 11.3 percent to 14.0 percent, in Great Britain from 8.5 percent to 13.9 percent, and in France from 15.9 percent to 16.1 percent over that time period.

Saving is not just for the affluent. The Statistics of Income published by the Internal Revenue Service show the largest source of income from the traditional forms of personal saving is interest income. In 1977, there were approximately 4½ times as many tax returns reporting interest income as there were reporting dividends and approximately seven times as many as reporting capital gains. Nearly 86 percent of the dollar amount of interest income is reported by taxpayers with adjusted gross income (AGI's) of less than $50,000. Approximately 52 percent of the dividends reported were claimed by taxpayers with AGI's under $50,000 while nearly 58 percent of the nominal amount of net capital gains were reported by those with AGI's of less than $50,000.

In addition, savings and loan associations reported in 1976 that more than 60 percent of the typical associations' savings dollar came from households with incomes of less than $15,000 per year even though families in these income groups received less than 40 percent of total household income.

The New York Stock Exchange, in its 1975 shareownership survey, reported that the median annual household income of the Nation's individual shareowners was $19,000. The top income group of shareowners surveyed, those with incomes in excess of $25,000, represented about 28 percent of total shareowners, while those with household incomes of $15,000 to $24,999 made up about 38 percent of individual shareowners.

The Individual Savings and Investment Act of 1979 would encourage the desire and the need of citizens in all income brackets to save and to invest in three primary ways. First, the tax-deferred rollover for interest, dividends, and capital gains invested and reinvested in stocks, bonds, and interest bearing accounts would be tax-neutral across a broad range of traditional forms of savings. It is these types of savings that most directly and immediately provide funds to the financial and business communities for the widest array of productive capital investment. This tax-neutrality means that the individual may choose among the various forms of savings and investment without tax consequences, thus permitting needed flexibility in response to individual needs and goals.

Second, our proposal is a less complex approach for the individual than many proposals designed as incentives to new savings. Once the individual establishes his rollover account, he may elect to give the trustee of the account investment discretion or retain the right for himself. Accounting for the assets in the rollover account would be handled by the trustee. And, of course, tax consequences would be realized in full at the taxpayers' normal tax rate when the funds are withdrawn from savings.

Third, the initial revenue loss would not be great under this proposal. While the static revenue loss would build in later years, the "feedback" effects from the higher rate of economic growth forthcoming from the increased rate of saving and investment should act to offset this factor.

Mr. President, the Individual Savings and Investment Act of 1979 would reduce the antisavings bias in our tax laws and reduce the impact of inflation on savings. It would increase the reward for savings in an equitable manner for individuals in all income brackets. I believe it would call forth a higher rate of saving in this country and give us the opportunity to expand our productive capacity, to dampen inflation, to create greater job opportunities, and to raise the standard of living of all Americans.

I ask unanimous consent to have printed in the RECORD a detailed explanation and the text of the Individual Savings and Investment Act of 1979.

There being no objection, the bill and explanation were ordered to be printed in the RECORD, as follows:

S. 1964

Be it enacted by the Senate and House of Representatives in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Savings and Investment Act of 1979".

(b) TABLE OF CONTENTS.—

SEC. 1. Short title; table of contents; amendment of 1954 Code.

SEC. 2. Tax-Free Rollover Account.

SEC. 3. Effective Date.

(c) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amednment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 2. TAX-FREE ROLLOVER ACCOUNT.

Subsection F of Chapter 1 of Subtitle A of the Internal Revenue Code of 1954 is amended by adding at the end thereof Part VIII to read as follows:

"PART VIII—ESTABLISHMENT OF TAX-FREE ROLLOVER ACCOUNTS

Sec. 529. Tax-free rollover account.

Sec. 530. Filing of information returns.

"SEC. 529. TAX-FREE ROLLOVER ACCOUNT.

"(a) TAX-FREE ROLLOVER ACCOUNT.—For purposes of this section, the term "rollover account" means a trust created or organized in the United States for the exclusive benefit of an individual or his beneficiaries, but only if, the written governing instrument creating the trust meets the following requirements:

"(1) No contribution will be accepted unless it is made by the individual and is in cash, or consists of stock or securities of a domestic corporation.

"(2) The trustee is a bank or such other person who demonstrates to the satisfaction of the Secretary that the manner in which such other person will administer the trust will be consistent with the requirements of this section.

"(3) The trust funds will be invested in stock or securities of a domestic corporation or held in interest bearing deposits in a bank.

"(4) The assets of the trust will not be commingled with other property.

"(5) The interest of the individual in the balance of his rollover account is nonforfeitable, and all or any portion of stocks, securities or money in such account will be paid or distributed—

"(A) to the individual within 10 days after demand, or

"(B) in the case a payment or distribution is to be made to a beneficiary, in accordance with subsection (d).

"(6) The trust will adopt a taxable year which is the same as the taxable year of the individual.

"(7) The individual is permitted to elect, no more often than each taxable year, for the rollover account to be either—

"(A) a discretionary account in which case the investment and reinvestment of the trust funds will be determined by the trustee, or

"(B) a self-directed fund in which case the investment and reinvestment of the trust funds will be determined by the individual.

"(b) TAX TREATMENT OF ROLLOVER ACCOUNTS.—A rollover account is exempt from tax under this subtitle.

"(c) TAX TTEATMENT OF PAYMENT OR DISTRIBUTION.—Any amount paid or distributed from the capital gain fund or the ordinary income fund of a rollover account shall be included in the gross income of the recipient for the taxable year in which such payment or distribution is received.

"(d) PAYMENT OR DISTRIBUTION TO BENEFICIARY.—If the individual dies prior to the time the balance in the rollover account has been paid or distributed in accordance with subsection (a)(5)(A), the balance shall be paid or distributed to his designated beneficiary or beneficiaries, or, if no beneficiary has been designated, to his estate.

"(e) ESTABLISHMENT OF SEPARATE FUNDS.—The trustee of a rollover account shall establish on its books, without the segregation of assets, a capital fund, a capital gain fund, and an ordinary income fund.

"(1) CAPITAL FUND.—The capital fund shall consist of the amount of cash contributed to the rollover account, the basis in the hands of the individual of property contributed to the rollover account, and the amount of any gain realized upon the disposition of property in a transaction in which gain or loss is not recognized under this subtitle.

"(2) CAPITAL GAIN FUND.—The capital gain fund shall consist of net capital gain as defined in section 1222(11).

"(3) ORDINARY INCOME FUND.—The ordinary income fund shall consist of the sum of—

"(A) interest and dividends received, plus

"(B) net short-term capital gain as defined in section 1222(5).

"(f) PAYMENT OR DISTRIBUTION TREATED AS MADE FROM SEPARATE FUND.—Any payment or distribution from a rollover account shall be treated as made—

"(1) first, from the ordinary income fund,

"(2) second, from the capital gain fund, and

"(3) third, from the capital fund.

Except as provided in subsection (h)(4), no payment or distribution shall be treated as made from a fund until the balance of any fund which precedes it in order of priority has been paid or distributed.

"(g) CHARACTER OF AMOUNTS IN HANDS OF RECIPIENT.—Any amount paid or distributed from a rollover account shall, for the purposes of this subtitle, have the same character in the hands of the recipients as the amounts included in the fund from which it is treated as having been distributed.

"(h) SPECIAL RULES RELATED TO ACCOUNT BALANCES, AND LOSSES.—

"(1) DETERMINATION AS OF END OF TAXABLE YEAR.—The balance of a fund established in accordance with subsection (e) shall be determined as of the end of each taxable year, taking into account the total of all amounts included in the fund in all taxable years and the total of all amounts paid or distributed from the fund prior to the beginning of the taxable year.

"(2) BASIS OF PROPERTY.—The basis of property contributed by an individual to a rollover account shall, in the hands of the trustee, be the same as the basis in the hands of the individual, and the basis of property distributed from a rollover account shall, in the hands of the distributee, be the same as the basis in the hands of the trustee.

"(3) VALUATION OF DISTRIBUTIONS IN KIND.—If property is distributed from a rollover account, for the purposes of this section the amount of the distribution shall be the basis of the property distributed.

"(4) LOSSES REALIZED BY INDIVIDUAL OUTSIDE THE ROLLOVER ACCOUNT.—If for any taxable year, the individual has a net capital loss within the meaning of section 1222(10) (determined without regard to paragraph (5)), the lesser of—

"(A) the net capital loss, or

"(B) the amount in the capital gain fund, shall be treated as having been distributed in the taxable year to the individual from the capital gain fund. Any amount treated as distributed by application of the preceding sentence shall be added to the capital fund.

"(5) LOSS UPON TERMINATION OF ACCOUNT.—If upon payment or distribution of the balance of a rollover account in any taxable year, the total of all contributions to the account exceeds—

"(A) The balance paid or distributed in such taxable year, plus

"(B) The total of all amounts previously paid or distributed from the account, such excess shall be a capital loss of the recipient for such taxable year.

"(1) OTHER SPECIAL RULES, LIMITATIONS, AND DEFINITIONS.—

"(1) EFFECT OF TRANSFER OR PLEDGE OF ACCOUNT AS SECURITY.—If, during any taxable year, the individual transfers or uses as security for a loan, the account or any portion thereof, the portion so transferred or used shall be treated as having been paid or distributed to the individual.

"(2) TRANSFER OF ACCOUNT INCIDENT TO DIVORCE.—The transfer of an individual's interest in a rollover account to his former spouse under a divorce decree or under a written instrument incident to such divorce is not to be considered a payment or distribution or a taxable transfer made by the individual notwithstanding any other provision of this subtitle, and such interest at the time of the transfer is to be treated as a rollover account of such spouse, and not of the individual. Thereafter the rollover account, for purposes of this subtitle is to be treated as maintained for the benefit of such spouse.

"(3) ONLY ONE ACCOUNT MAY BE MAINTAINED.—

"(A) No rollover account for an individual may be established until after the close of the taxable year in which the balance of any previously established rollover account is paid or distributed, and

"(B) No contributions to a rollover account may be made after the balance of such account has been paid or distributed and another rollover account for such individual has been established.

"(4) DEFINITIONS.—For the purposes of this section, the term "bank" has the same meaning as in section 581.

"SEC. 530. FILING OF INFORMATION RETURNS.—The trustee of a rollover account shall keep such records, render under oath such statements, comply with such rules and regulations as the Secretary may from time to time prescribe, and file an annual return, stating specifically the items of gross income, receipts, disbursements, and such other information for the purposes of carrying out the Internal Revenue laws as the Secretary may by forms or regulations prescribe.

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply to a trust created or organized after September 1, 1979.

EXPLANATION OF TAX-FREE ROLLOVER ACCOUNT

I. GENERAL EXPLANATION

An individual would be permitted to establish a special trust account, with a bank or similar institution, to which he could contribute cash for investment by the trustee and to which he could contribute any stock or securities of a domestic corporation. The amount of cash contributed to the rollover account plus all income realized in the account would be invested and reinvested in stocks, bonds or interest-bearing deposits. At the election of the individual, either the trustee would be given investment discretion, or the individual could retain the right to direct the trustee in the investment and reinvestment of funds in the rollover account.

The individual would not be allowed a tax deduction for contributions to the account. However, all capital gains, dividends and interest realized in the account would be nontaxable until withdrawn from the rollover account. When withdrawn from the rollover account, all previously accumulated capital gains, interest and dividends would be taxed to the individual in the same manner as if he had realized that income directly, in the year of the withdrawal.

II. MORE DETAILED EXPLANATION

A. General Nature of Rollover Account.

The rollover account could be established with a bank or a savings and loan association. With the approval of the Treasury, other institutions, perhaps brokerage houses, could qualify. Although in the form of a trust, the rollover account would operate more as a custodial investment account. The trustee could either be given investment discretion in which case the trustee would not only hold the funds in the account on behalf of the individual but would also determine their investment and reinvestment; or the individual could retain the right to direct investment in which case the trust would merely hold the funds in the account on the individual's behalf and execute investment and reinvestment orders in accordance with the individual's instructions. In both cases, the rollover account would be a separate trust account.

B. Eligible Investments For a Rollover Account.

The funds in a rollover account could only be invested in stock or securities of a domestic corporation or in interest-bearing deposits. This limitation avoids the complexities and other problems associated with direct investment, such as in real estate for example.[1] At the same time, the limitation permits the individual nearly a full range of choice among the traditional forms of savings.[2]

C. Traditional Principles Underlying Rollover Account.

With respect to capital gains, the effect of the rollover account is as if one stock were permitted to be exchanged tax-free for another or were permitted to be sold for cash without the recognition of gain, provided the proceeds were within some time period reinvested in another stock. The rollover account achieves the same result except that it permits a change from a stock to a bond and also permits the additional flexibility of holding the proceeds in an interest-bearing account. With respect to dividends, the rollover account achieves a result similar to "dividend reinvestment" proposals which have been made in the past,[3] except that the rollover account provides additional flexibility because the dividends can be invested in stock or securities of a corporation other than the one from which the dividend was received, and the dividend may be deposited in an interest-bearing account.

D. Only One Rollover Account May Be Maintained.

An individual can maintain only one rollover account at a time. He can, however, terminate one rollover account by withdrawing all the funds, and then the next succeeding taxable year establish another account. A husband and wife could each establish a rollover account, whether or not they file a joint return.

E. Tax-Exempt Nature of Rollover Account Trust.

The trust will be exempt from tax and will not be required to file an income tax return; instead it will be required to file annual information returns.

F. Taxation of Individual; and Identification of Source of Withdrawals.

The individual would not be taxed on income accumulated in the rollover account, but will be taxed in the taxable year in which he withdraws that accumulated income from the trust.

It is critical to identify the source of any amount withdrawn from a rollover account because the amount will have the same character in the hands of the individual as it had in the account, i.e., either capital, capital gain or ordinary income consisting of interest and/or dividends. This identification of withdrawals is accomplished in the simplest manner possible: The trustee is required to maintain on its books, but not to segregate assets, three separate funds; a capital fund which represents the total of all amounts contributed to the account; a capital gain account which represents all net long-term capital gain realized by the trust; and an ordinary income fund which represents interest and dividends received by the trust plus net short-term capital gain realized by the trust.

Any withdrawal will be treated as first having come out of the ordinary income fund, next out of the capital gain fund, and finally out of the capital fund.

Example

Individual A established a rollover account in 1980 to which he contributed $10,000 in each of the years 1980, 1981, and 1982. Through investment and reinvestment by the trustee the account had by the end of 1982 received $3,000 in dividends and had realized net long-term capital gains of $5,000. At the end of 1982, the balance in the account and the balance in each of the three separate funds is as follows:

Account balance, $38,000.
Capital fund balance, $30,000.
Capital gain fund balance, $5,000.
Ordinary income fund balance, $3,000.

In July of 1982, Individual A withdrew $5,000 from the account. The withdrawal is treated as consisting of $3,000 of dividends and $2,000 of capital gain. When Individual A files his tax return for 1982, he will include in income $3,000 of dividends and $3,000 of long-term capital gain.

The rule for ordering the priority of withdrawals from a rollover account is significant. Once having made a contribution to a rollover account, and having accumulated income from that investment, there is a substantial incentive for the individual to leave both originally contributed principal amount and the accumulated income in the rollover account, and, thus, in the savings system. Because withdrawals are first deemed to come out of the ordinary income fund, the individual cannot, without paying tax, merely leave the accumulated untaxed income in the rollover account and withdraw the originally contributed principal for consumption purposes.

G. Deemed Withdrawal From Rollover Account.

Under certain circumstances, an individual will be treated as having made a withdrawal from the rollover account even though no amount has actually been distributed from the account. If an individual transfers a portion of his interest in a rollover account, or pledges any portion as security for a loan, that portion of the account will be treated as having been distributed. However, if an individual's interest is transferred to his spouse pursuant to a divorce decree, no transfer will be deemed to have occurred.

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[1] Direct investments would introduce the necessity of dealing with depreciation, investment tax credits and the like. Also, in the case of some direct investments which produce tax losses in the early years, the rollover account would be disadvantageous.

[2] Residential real estate, most particularly a personal residence, is one form of "savings" excluded from the rollover account. However, since a personal residence does not produce taxable income, as distinguished from imputed economic income, the rollover account concept is by definition inapplicable.

[3] The "dividend reinvestment" proposals generally operate as follows: If a corporation declares a dividend, shareholder A could elect to receive the dividend and pay tax on it, but shareholder B could elect to defer receipt of the dividend, i.e., "reinvest" the dividend in which case shareholder B would not have to pay tax until later.

The most significant "deemed withdrawal" from a roll-over account arises when an individual has for the taxable year a net long-term capital loss from transactions outside the rollover account. In that event, the individual will be treated as having in the same taxable year withdrawn a corresponding amount from the capital gain fund (to the extent thereof). For example, if for the year 1980, the individual had a net long-term capital loss of $1,000 from transactions outside the rollover account, and, if at the end of 1980, the balance of the capital gain fund in the rollover account was $1,000, the individual would be treated as having withdrawn $1,000 of long-term capital gain which would exactly offset the $1,000 long-term capital loss.

H. Distribution of Balance in Rollover Account to A Beneficiary.

If the individual neither makes nor is treated as having made, a withdrawal from the rollover account, no amount of income accumulated in the rollover account will be taxed to him, but, at his death the rollover account will terminate and the entire balance in the account will automatically be distributed to his designated beneficiary or, in the absence of a designated beneficiary, to his estate. The beneficiary or estate will be taxed on the accumulated income received.

I. Loss Upon Termination of Account.

Although losses realized by the trustee on investment and reinvestment will not be recognized currently, upon termination of the rollover account a loss may be realized and treated as a capital loss of the year in which the account is terminated.[4] Such loss would be the amount, if any, by which the total of all amounts contributed to the rollover account exceeds the total of (i) the amount distributed upon termination of the account plus (ii) all amounts previously withdrawn from the account.●

By Mr. RIEGLE (by request):

S. 1965. A bill entitled the "Chrysler Corporation Loan Guarantee Act of 1979;" to the Committee on Banking, Housing, and Urban Affairs.

● Mr. RIEGLE. Mr. President, by request, I introduce and send to the desk the Chrsyler Corporation Loan Guarantee Act of 1979.

I ask unanimous consent that the text of the bill, together with a section-by-section analysis, be printed in the Record.

There being no objection, the bill and analysis were ordered to be printed in the Record, as follows:

S. 1965

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Sec.
101. Title; definitions.
102. Authority for loan guarantees—Findings for commitments.
103. Finding; effect of determinations; guarantee fee.
    (a) Necessary findings for issuance.
    (b) Effect of determination.
    (c) Guarantee fee.
104. Requirements applicable to loan guarantees.
    (a) Maturity of guaranteed loans.
    (b) Terms and conditions.
105. Powers and duties.
    (a) Secretary—inspection of documents.
    (b) General Accounting Office; audit; report to Congress.
106. Maximum obligation.
107. Protection of United States' interest.
    (a) Secretary's enforcement authority.
    (b) Recovery rights; subrogation.
    (c) Other remedies.
    (d) Institution of Federal proceeding.
    (e) No guarantees of tax-exempt loans.
    (f) Federal priority waiver.
    (g) Severability.
108. Reports to Congress.
109. Authorization of appropriations.

TITLE: DEFINITIONS

Sec. 101. (a) This Act may be cited as the "Chrysler Corporation Loan Guarantee Act of 1979."

(b) For purposes of this Act, the following terms shall have the following meanings—

(i) Borrower—Chrysler Corporation, or any of its subsidiaries or affiliates, or any other entity the Secretary may designate from time to time which borrows funds for the benefit or use of the Corporation.

(ii) Corporation—Chrysler Corporation and its subsidiaries and affiliates.

(iii) Financing Plan—the financing plan required pursuant to Section 102(c); in each case, as revised in accordance with Section 103(a)(iv).

(iv) Fiscal year—the fiscal year of the Corporation.

(v) Operating Plan—the plan required pursuant to Section 102(b), as revised in accordance with Section 103(a)(iv).

(vi) Persons with an existing economic stake in the health of the Corporation—banks, financial institutions, and other creditors, suppliers, dealers, stockholders, labor unions, employees, management, state, local and other governments, and others directly deriving benefit from the production, distribution and sale of products of the Corporation.

(vii) Secretary—the Secretary of the Treasury.

Sec. 102. Authority for Loan Guarantees—Findings for Commitments. Subject to the provisions of this Act, the Secretary, on such terms as he deems appropriate, may make commitments to guarantee loans to a Borrower only if, at the time the commitment is issued, the Secretary determines that:

(a) the commitment is needed to enable the Corporation to continue to furnish goods or services and failure to meet this need would adversely and seriously affect the economy, or employment in the United States or any region thereof or competition in the automobile industry in the United States.

(b) the Corporation has submitted to the Secretary a satisfactory Operating Plan (including budget and cash flow projections) for the 1980 fiscal year and the next succeeding three fiscal years demonstrating the ability of the Corporation to continue operations as a going concern in the automobile business and after December 31, 1983 to continue such operations without additional guarantees or other Federal financing; and the Secretary has received such assurances as to the feasibility of the Operating Plan as he may require;

(c) the Corporation has submitted to the Secretary a satisfactory Financing Plan to meet the financing needs of the Corporation as reflected in the Operating Plan for the period covered by such plan, which includes an aggregate amount of nonfederally guaranteed assistance of at least $1.5 billion.

(i) from financial commitments or concessions from persons with an existing economic stake in the health of the Corporation in excess of their outstanding commitments or concessions as of October 17, 1979, provided that, to the extent practicable, at any point the amounts of commitments or concessions obtained under this subsection which have been used and not repaid as a proportion of total commitments and concessions obtained under this subsection, shall not be less than the proportion of principal amount of guarantees issued and outstanding under this Act to the total principal amount of guarantees committed by the Secretary;

(ii) from capital to be obtained through merger, sale of securities, or otherwise after October 17, 1979; and

(iii) from cash to be obtained from the disposition of assets of the Corporation after October 17, 1979;

(d) to the extent practicable, commitments consistent with the stakes of persons with an existing economic stake in the health of the Corporation have been made; and

(e) the Secretary has received adequate assurances as to the availability of all financing contemplated by the Financing Plan and as to its adequacy (taking into account the amount of guarantees to be issued) to meet all the Corporation's projected financing needs during the period covered by the Financing Plan.

FINDINGS: EFFECT OF DETERMINATION: GUARANTEE FEE

Sec. 103. (a) Guarantees may be issued only pursuant to commitments. The terms of any commitment shall provide that a guarantee may be issued under this title only if at the time the guarantee is issued, the Secretary determines that:

(i) credit is not otherwise available to the Corporation under reasonable terms or conditions sufficient to meet its financing needs as reflected in the Operating Plan;

(ii) there is a reasonable prospect of repayment of the loan to be guaranteed in accordance with its terms;

(iii) the loan to be guaranteed bears interest at a rate determined by the Secretary to be reasonable which shall not be less than the current average yield on outstanding obligations of the United States with remaining periods to maturity comparable to the average maturity of such loan;

(iv) the Operating Plan and the Financing Plan of the Corporation continue to meet the relevant standards set forth in Section 102 or appropriate revisions to such plans (including extensions of such plans to cover the then current four year period) have been submitted to the Secretary to meet such standards; the Corporation is in compliance with such plans; and the Secretary has received such assurances as to the feasibility of such plans and the Corporation's compliance therewith as he may require;

(v) the Corporation has agreed for as long as guarantees issued under this title are outstanding (A) to have prepared and submitted on or before the 30th day preceding each Fiscal Year beginning after December 31, 1980, a revised Operating Plan and Financial Plan covering the four year period commencing with such Fiscal Year which meets the relevant standards of Section 102 and (B) to prepare and deliver to the Secretary within 120 days of the end of each Fiscal Year, an analysis reconciling its actual performance for that Fiscal Year with the Operating Plan and the Financial Plan for that Fiscal Year; and

(vi) the Borrower is in compliance with the terms and conditions of the commitment to issue the guarantees required by the Secretary pursuant to Section 104(b) except to the extent that such terms and conditions are modified, amended or waived by the Secretary.

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[4] If the account terminated the first year, the loss would be a short-term capital loss. Any loss resulting from a termination after the first year would be a long-term capital loss.

Effect of Determinations

(b) Any determination by the Secretary that the conditions set forth in Sections 102, 103(a), 104(b), or 107(f) have been met shall be conclusive, such determination to be evidenced by the making of the guarantee for which such determination is required. The validity of any guarantee made by the Secretary shall be incontestable in the hands of a holder, except for fraud or material misrepresentation on the part of such holder. The Secretary is authorized to determine the form in which any guarantee made under this Act shall be issued.

Guarantee Fee

(c) The Secretary shall prescribe and collect no less frequently than annually a guarantee fee in connection with each guarantee under this Act. Such fee shall be at least ½ of 1 percent per annum on the outstanding principal amount of loans guaranteed pursuant to this Act computed daily. In addition, the Secretary shall be authorized to negotiate any terms he deems appropriate to compensate adequately the United States for the risk it assumes in issuing guarantees under this Act. All amounts collected by the Secretary pursuant to this subsection shall be deposited in miscellaneous receipts of the Department of the Treasury.

REQUIREMENTS APPLICABLE TO LOAN GUARANTEES—MATURITY OF GUARANTEED LOANS

SEC. 104. (a) Loans guaranteed under this Act shall be payable in full not later than December 31, 1990, and the terms of such loans shall provide that they cannot be amended, or any provision waived, without the Secretary's consent.

Terms and Conditions

(b)(i) Any commitment to issue guarantees entered pursuant to this Act shall contain all the affirmative and negative covenants and other protective provisions that the Secretary determines are appropriate. The Secretary shall require security for the loans to be guaranteed under this Act, subordination of existing loans to the Corporation to the loans to be guaranteed, and prohibition of the payment of dividends on any common or preferred stock issued by the Corporation, unless he determines waiver of any such requirement is necessary to facilitate the ability of the Corporation or any Borrower to obtain financing, and he determines that, despite the waiver, there is a reasonable prospect of repayment of the loans guaranteed under this Act.

(ii) If the Secretary determines that the inability of the Corporation to obtain credit without a guarantee under this Act is the result of a failure on the part of management to exercise reasonable business prudence in the conduct of the affairs of the Corporation, the Secretary shall require before issuing any guarantee to the Corporation that the Corporation make such management changes as the Secretary deems necessary to give the Corporation a sound managerial base.

POWERS AND DUTIES—SECRETARY: INSPECTION OF DOCUMENTS

SEC. 105. (a) The Secretary is authorized to inspect and copy all accounts, books, records, and transactions of the Corporation and any other Borrower for which an application for a guarantee to be issued under this Act has been made.

General Accounting Office: Audit: Report to Secretary and Congress

(b) The General Accounting Office is authorized to make a detailed audit of all accounts, books, records, and transactions of any Borrower with respect to which an application for a guarantee under this Act has been made. The General Accounting Office shall report the results of such audit to the Secretary and to the Congress.

MAXIMUM OBLIGATION

SEC. 106. The outstanding principal amount of loans guaranteed by the Secretary shall not exceed at any one time $1,500,000,000.

PROTECTION OF GOVERNMENT'S INTEREST—SECRETARY, ENFORCEMENT AUTHORITY

SEC. 107. (a) The Secretary shall take such action as may be appropriate to enforce any right accruing to the United States or any officer or agency therefor as a result of the issuance of guarantees under this Act.

Recovery Rights: Subrogation

(b) The Secretary shall be entitled to recover from the Borrower, or any other person liable therefor, the amount of any payments made pursuant to any guarantee entered into under this Act; and upon making any such payment, the Secretary shall be subrogated to all the rights of the recipient thereof.

Other Remedies

(c) The remedies provided in this Act shall be cumulative and not in limitation of or substitutions for any other remedies available to the Secretary or the United States.

Institution of Federal Proceedings

(d) The Secretary may bring action in any United States district court or any other appropriate court to enforce compliance with the provisions of the Act or any agreement related thereto and such court shall have jurisdiction to enforce such compliance and enter such orders as may be appropriate.

No Guarantees of Tax-Exempt Loans

(e) A loan shall not be guaranteed if the income from such loan is excluded from gross income for purposes of Chapter 1 of the Internal Revenue Code of 1954, as amended, or if the guarantee provides significant collateral or security to other obligations, the income from which is so excluded.

Federal Priority Waiver

(f) The Secretary is authorized to waive, wholly or partially, the priority of the United States established under section 3466 of the revised statutes (31 USC 191) with respect to any debt owed to the United States by the Corporation or any Borrower with respect to any guarantees issues under this Act, to the extent he deems such waiver is necessary to facilitate the ability of the Corporation or any Borrower to obtain financing as reflected in the Financing Plan, provided that he determines that, despite such waiver, there is a reasonable prospect of repayment of the loans guaranteed under this Act. A waiver under this subsection may not by its terms subordinate the claims of the United States under this Act to those of any other creditor of the Corporation or any Borrower.

Severability

(g) If any provision of this Act is held to be invalid, or the application of such provision to any person or circumstance, is held to be invalid by a court of competent jurisdiction, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

REPORTS TO CONGRESS: RECOMMENDATIONS

SEC. 108. The Secretary shall submit to the Congress annually a full report of his activities under this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 109. (a) There are authorized to be appropriated beginning October 1, 1979, and to remain available without fiscal year limitation, such sums as may be necessary to carry out this Act.

(b) Any other provision of this Act to the contrary notwithstanding, the authority of the Secretary to make any guarantee under this Act shall be limited to the extent such amounts are provided in advance in appropriations Acts.

[Section-by-Section Analysis]

CHRYSLER CORPORATION LOAN GUARANTEE ACT OF 1979

The Bill authorizes the Treasury Secretary to provide financial assistance in the form of loan guarantees of up to $1,500,000,000 to Chrysler Corporation.

The Bill has 9 sections:

101. Title; Definitions.

102. Authority for Loan Guarantee—Findings for Commitments.

103. Findings; Effect of Determinations; Guarantee Fee.

104. Requirements Applicable to Loan Guarantee.

105. Powers and Duties.

106. Maximum Obligation.

107. Protection of the United States' Interest.

108. Reports to Congress.

109. Authorization of Appropriations.

Section 101. Definitions. This section sets forth the definitions of various terms used in the Act.

The definition of "Corporation" makes it clear that the various conditions set forth in the Act are to be applied to Chrysler Corporation and to its subsidiaries and affiliates, considered as a single enterprise. The definition of "Borrower" indicates that a loan to a separate entity, not included within the definition of Corporation, may be guaranteed if such separate entity is borrowing funds for the benefit or use of the Corporation.

The definition of "persons with an existing economic stake in the health of the Corporation" is intended to include all those who would be most directly affected by a failure of the Corporation, including but not limited to banks, financial institutions, and other creditors, suppliers, dealers, shareholders, labor unions, employees, State, local and foreign governments.

Section 102. Authority for Loan Guarantee—Findings for Commitments. This section grants the Secretary the authority to commit to guarantee principal and/or interest on loans, subject to specified determinations. Among the determinations the Secretary must make before giving a commitment are that (a) such commitment is necessary to enable the Corporation to continue to operate and the failure to meet such need would adversely affect the economy or employment in the United States or any region or competition in the automobile industry; (b) the Corporation has submitted a satisfactory operating plan for its 1980 fiscal year and the next three fiscal years, demonstrating its ability to continue as a going concern in the automobile business, both during the period prior to December 31, 1983 and thereafter, without additional Federal assistance under the Act; and (c) the Corporation has submitted a satisfactory financing plan covering the financing needs reflected in its operating plan, which plan must include funding from non-Federal sources at least equal to $1,500,000,000 that is not guaranteed by the United States from (i) commitments or concessions from persons with an existing economic stake in the financial health of the Corporation in addition to their commitments and concessions as of October 17, 1979, (ii) capital to be obtained from merger, sale of securities or otherwise after October 17, 1979, and (iii) disposition of assets entered after October 17, 1979. Section 102(e) requires the Secretary to receive adequate assurances as to the feasibility of the financial plan. Section 102 (c)(1) contains the further restriction that the outstanding amount of guarantees may not be proportionately greater than the non-Federal funding obtained and not repaid.

The Secretary shall have wide discretion to determine those items and amounts that may be excluded in satisfying the non-Federal aid requirement, except that, to the extent practicable, the commitments should be commensurate with the financial stake in the corporation. In determining whether the goal of $1,500,000,000 has been reached, commitments and concessions existing on October 17, 1979 and included in the revised Chrysler submission of that date to the Treasury even if subject to conditions that were not then met—such as the full amount of Chrysler's then outstanding domestic bank lines of $567 million and credit line with Japanese banks of $400 million and the loan from Blue Cross-Blue Shield of Michigan of $50 million—do not count. A similar test would be used for the proceeds on asset dispositions: the proceeds from transactions prior to October 17 would be excluded even if proceeds were not received as of that date and even if the transaction were conditional; for example, the $1,500,000,000 would not include the proceeds from the sale of Chrysler Realty.

Section 103. Issuance of Guarantees. Subsection (a) specifies the conditions to be satisfied before the Secretary may issue a guarantee under the Act. It indicates that each commitment which has been issued must require that the conditions specified in subsection (a) must be met each time a guarantee is issued under that commitment. These conditions are that:

(i) credit is not otherwise available on reasonable terms in amounts required by the financing plan;

(ii) there is a reasonable prospect of repayment;

(iii) the interest rate is reasonable, but may not be less than the current average yield on Treasury securities of a similar maturity;

(iv) the operating plan and the financing plan continue to meet the applicable standards of Section 102 or has been revised as appropriate; the Corporation is in compliance with such plans; and the Secretary has received assurances as to the feasibility of such plans and the Corporation's compliance therewith;

(v) the Corporation has agreed to deliver rolling four-year operating and financing plans to the Secretary and an annual analysis of deviations in performance from the targets set forth in the plans; and

(vi) the Borrower is in compliance with the terms of the commitment to guarantee required under Section 104(b), unless compliance is waived by the Secretary.

All guarantees must be issued pursuant to commitments to assure that the condition of both Sections 102 and 103 have been met.

Subsection (b) provides that the determinations of the Secretary under any provision of the Act shall be conclusive, that the validity of guarantees shall be incontestable, and that the Secretary may determine the form of the guarantees.

Subsection (c) requires a guarantee fee of at least ½ percent per annum on the outstanding guaranteed loans and authorizes the Secretary to negotiate appropriate additional terms to compensate for the risk assumed, which compensation need not necessarily be in the form of a cash payment. All of these amounts are to be treated as miscellaneous receipts of the Treasury.

Section 104. Requirements Applicable to Loan Guarantees. Subsection (a) provides that all guaranteed loans shall be payable not later than December 31, 1990, and that the terms of the loans cannot be amended or waived without the Secretary's consent.

Subsection (b)(i) requires that any commitment to guarantee contain appropriate covenants and protective provisions and that the Secretary require security, subordination of existing creditors, and prohibition of dividends unless he determines that a waiver is necessary to facilitate the ability of the Corporation to meet its financing needs and that, despite the waiver, there is a reasonable prospect of repayment of the guaranteed loans. Subsection (b)(ii) authorizes the Secretary to require a change in management if he determines that failure of management to exercise reasonable business prudence has inhibited its ability to obtain financing.

Section 105. Powers and Duties; Audit. Subsection (a) authorizes the Secretary to inspect and copy accounts, books, records and transactions of the Corporation and any Borrower who apply for a guarantee.

Subsection (b) authorizes the General Accounting Office to make a detailed audit of any Borrower who applies for a guarantee.

Section 106. Maximum Obligation. This section limits the outstanding principal amount of loans guaranteed to $1,500,000,000. Interest is not included in determining this ceiling.

Section 107. Remedies; Miscellaneous Provisions. Subsection (a) authorizes the Secretary to take appropriate action to enforce any right under any guarantee.

Subsection (b) authorizes the Secretary to recover from any Borrower the amount of any payment made under a guarantee.

Subsection (c) provides that the Secretary shall have all other available remedies.

Subsection (d) provides that the Secretary may bring action in any United States district court or other appropriate court to enforce agreements relating to the commitments of the Secretary and grants such courts jurisdiction.

Subsection (e) prohibits the Secretary from guaranteeing directly or indirectly any tax exempt securities.

Subsection (f) authorizes the Secretary to waive the priority of the United States granted by section 3466 of the Revised Statutes (31 U.S.C. § 191) to the extent necessary to facilitate other financing contemplated by the financing plan, provided that the Secretary determines that despite the waiver, there is a reasonable prospect of repayment of the guaranteed loans. Such a waiver may not subordinate the claims of the United States to any other creditor.

Subsection (g) provides for the severability of any invalid provision or application of the Act so that the remainder of the Act and its application shall not be affected.

Section 108. Reports. This section directs the Secretary to report to Congress annually on his activities under the Act.

Section 109. Appropriations. Subsection (a) authorizes the appropriation and availability without fiscal year limitation, beginning October 1, 1979, of such sums as may be necessary and to pay principal and interest on the loans guaranteed. The appropriation will remain available for one year after final maturity.

Subsection (b) limits the authority of the Secretary to make guarantees to the extent of amounts provided in advance in appropriations acts.●

By Mr. HEINZ (for himself and Mr. ROTH):

S. 1966. A bill to amend the Tariff Act of 1930 and the Trade Act of 1974 to provide more equitable standards for determining the foreign market value of, and market disruption attributable to, goods manufactured in nonmarket economy countries; to the Committee on Finance.

CONTROLLING MARKET DISRUPTION BY NONMARKET ECONOMIES

● Mr. HEINZ. Mr. President, one of the major issues left over from the multilateral trade negotiations and the accompanying legislation passed by the Congress last July is the question of how to deal with dumping and market disruption caused by nonmarket economies. This problem was put aside during the Finance Committee's deliberations on the Trade Agreements Act of 1979 because of its complexity and controversial nature. Today I am introducing legislation intended to reopen the debate on the nonmarket economy problem and ultimately to resolve it in a way that is equitable for all parties. An identical bill is being introduced today on the House side by Congressmen SCHULZE and COTTER.

To the extent the nonmarket economy problem is discussed by people outside the community of trade professionals, it is perceived primarily in the context of a handful of relatively obscure cases, the most famous—or infamous—of which is the Polish golf car case, in which the Poles, who have no golf courses, were found to be dumping golf carts in the United States. Unfortunately the potential for serious market disruption from nonmarket countries is rapidly growing as our economic relations with such nations become more sophisticated. The signing of a trade agreement with the People's Republic of China and the President's decision to waive the Jackson-Vanik amendment and grant most-favored-nation status to the PRC add a particularly serious note of concern to the possibility of market disruption from nonmarket economies. Growing trade with various Eastern European nations, in part due to the recent extensions of MFN status to Romania and Hungary, also adds to domestic concern about this problem.

Conceptually, finding a way to deal with market disruption by nonmarket economies is complicated by theoretical and practical differences between free market and nonmarket economic structures. For example, dumping, a peculiarly free market concept, is based on a comparison between a product's price in its country of origin and its price in the United States, or alternatively, between its cost of production in the country of origin and its U.S. price. In either case, if the latter is less than the former, dumping is usually found to have occurred, and compensatory duties are assessed, assuming domestic producers are found to have been injured.

Within such a framework a determination of dumping depends upon the administering authority's ability to accurately make the necessary price comparisons, including the appropriate adjustments if the articles sold in the two markets are not identical. In other words, the administering authority must be able to accurately obtain the price in the home country or the cost of production, and such prices should reflect true economic costs.

In a nonmarket economy, however, such comparisons cannot be made with any confidence. Prices within such a country do not necessarily reflect the interaction of supply and demand in any realistic sense, and costs of production are equally difficult to measure because of the unreliability of product input costs and the difficulty of separating Government subsidies from true economic costs. In a centrally planned economy such distinctions are simply not made in the same way they are made in capitalist economies. Moreover, price inconsistencies are particularly likely to occur in the export sector, because of the nonmarket economy's interest in promoting exports as a source of foreign exchange to aid in internal industrial development or other governmental policies. As a result, it is often fair to say that the export sector of these economies is more advanced and relatively more heavily supported by the Government than other sectors.

The Treasury Department, until the end of this year the administering authority for the Antidumping Act of 1921, has attempted to cope with these problems through the use of the comparable economy concept. In this approach, another free country at a comparable stage of economic development with the nonmarket country is selected and the price of a like article in that economy (or the constructed value of the article—what it would cost to produce it) used to make the comparison.

This concept, however, is flawed in several important respects, notably in its assumptions that a simple and accurate basis exists for determining when economies are at comparable stages of development and that comparable overall levels of development (assuming such can be determined) mean comparable levels within a particular industry. For example, when a country has targeted a particular industry for rapid development in order to stimulate its export sector—not an unusual occurrence, as I mentioned earlier—the level of development in that industry is likely to be greater than the economy as a whole, thus making industry-specific comparisons based on aggregate analyses highly misleading.

Because of these problems, the legislation I am introducing today is based on a different comparison—with the lowest average price free market producer, including a U.S. producer if there is no other. In this approach, rather than attempting an aggregate comparison of entire economies, only the lowest price (and therefore presumably the most efficient) free market producer is used. This is both an easier quantity to determine and a more relevant comparison to make since it can take into account the extent to which a particular sector in a nonmarket economy differs from the aggregate. This is also a far more direct comparison than attempting to find a comparable economy and then trying to calculate what it would cost to produce the article in that economy, even though no producers exist there.

Since I am proposing this legislation to begin a public debate on the entire issue, I do not want to suggest my approach is flawless. It also rests on some assumptions which will be the subject of debate, particularly its suggestion that no nonmarket economy is more efficient than the most efficient free market producer. (Since dumping would be defined as sales below the price of the lowest average price free market producer, by implication a nonmarket economy producer is presumed not to be able to produce at a lower real economic cost than the most efficient free market producer). I do not intend to defend the validity of this assumption today, but I would submit that it is clearly a less untenable assumption than those contained in present Treasury Department regulations.

Because of the difficulties inherent in determining dumping from nonmarket economies, it is important that domestic industries have other means for dealing with sudden surges of imports from these countries, who often are not GATT members and therefore not subject to GATT discipline.

Historically, an alternate means of obtaining relief has existed in section 406 of the Trade Reform Act of 1974, which creates a special procedure for handling market disruption by nonmarket economies. This section has not been particularly effective in the past for a number of reasons, including the lack of clear guidance as to what constitutes market disruption and the excessive latitude given the President to overrule International Trade Commission recommendations in these cases.

The bill I am introducing today clarifies the concept of market disruption by defining it in two ways: that based solely on the quantity of imports that lead to injury, and that caused by "artificial pricing," meaning sales below the price of the lowest free market producer. In the latter situation, the domestic industry, therefore, would continue to have the option of filing either a dumping petition or a section 406 petition, since the pricing definitions in both are parallel.

More than any other factor, it is the President's authority to veto the ITC recommendation in section 406 cases that has dissuaded domestic industries from seeking relief. The present administration, consistent with its overall trade policy of providing as little support as possible to import-impacted U.S. industries, has been unsympathetic to ITC recommendations in section 406 cases. It is my view that the International Trade Commission, having a quasijudicial function in determining injury, is well qualified to make recommendations in these cases based on its objective analysis of the facts, and only in extraordinary cases should the more immediate political objectives of the administration be permitted to overrule ITC judgments. Accordingly, my bill tightens existing law by permitting the President to overrule the ITC recommendation only with the approval of both Houses of Congress.

That portion of the bill which amends section 406 also makes a number of other changes designed to conform procedures and definitions in this section to those used in the new countervailing duty and antidumping laws enacted as part of the Trade Agreements Act of 1979. For example, the definition of "like" article has been changed to conform to the new standard that will go into effect January 1, 1980.

This bill also attempts to deal with one of the thorniest philosophical questions inherent in the entire issue: What is a nonmarket economy? Present law defines the term narrowly, applying it only to countries "dominated or controlled by communism." As the international economy grows in sophistication and complexity, the number of mixed national economies grows as well, and this definition putting everything in the context of communism becomes simplistic.

As an alternative, my new legislation attempts to approach the problem from the standpoint of economic theory by defining the term as, "*** any country whose economy is State-controlled to an extent that sales or offers of sales of merchandise in that country or to countries other than the United States do not reflect the fair value of the merchandise, including any country dominated or controlled by communism." With this definition the administering authority no longer has to make a political judgment about the country's government but rather an economic judgment about its market system. That could be more difficult, but it is also more faithful to the principle we are trying to establish with this legislation.

As I indicated when I began my remarks today, I am introducing this legislation in an effort to begin some debate in Congress and in the trade community in general on how our Government can best deal with this difficult problem in a way which is fair both to foreign governments and to our own industries. It may well be that some changes in the bill will be appropriate, and I want to indicate my willingness to consider any proposals that are put forward. At the same time I believe it is important that Congress act on this issue during the 96th Congress, and I intend to press the Finance Committee for hearings and markup on this legislation.

Mr. President, I ask that a text of the bill and a summary of its provisions be included at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1966

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Determination of Foreign Market Value of Merchandise Manufactured in Non-Market Economy Countries.

Subsection (c) of section 773 of the Tariff Act of 1930 (19 U.S.C. 1677b) is amended—

(1) by striking out "State-Controlled" in the caption and inserting in lieu thereof "Non-market",

(2) by striking out "State-controlled" and inserting in lieu thereof "a non-market economy",

(3) by striking out "as reflected by either" and inserting in lieu thereof "of the producer or producers located in a free-market economy country, including, but not limited to, the United States, and most nearly comparable in size, sophistication, and technology to the non-market economy producer or producers (hereinafter referred to as the 'most comparable free-market producer or producers') as reflected by either",

(4) by striking out "of a non-State-controlled-economy country or countries is sold"

in paragraph (1) and inserting in lieu thereof "is sold by the most comparable free-market producer or producers", and

(5) by striking out "country or countries" in sub-paragraph (A) and inserting in lieu thereof "producer or producers",

(6) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) the constructed value, as determined under subsection (e), of such or similar merchandise produced by the most comparable free-market producer or producers.".

SEC. 2. MARKET DISRUPTION BY PRODUCTS OF NON-MARKET ECONOMY COUNTRIES.

(a) CAUSATION.—Paragraph (1) of section 406(a) of the Trade Act of 1974 (19 U.S.C. 2436(a)) is amended by striking out "Communist country, whether market disruption exists" and inserting in lieu thereof "non-market economy country or countries, whether market disruption, caused by increased imports or artificial pricing, or both, exists".

(b) RELIEF MADE AVAILABLE.—Subsection (b) of section 406 of such Act (19 U.S.C. 2436) is amended—

(1) by striking out "and" at the end of paragraph (1),

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a comma, and

(3) by adding at the end thereof the following new paragraphs:

"(3) in a case in which the Commission recommends relief for market disruption caused by artificial pricing, if the President reports under section 203(b) that he will take action which differs from the action recommended by the Commission or that he will not provide import relief, and the Congress does not (within the 90-day period following the date on which the President transmits his report to the Congress) adopt a concurrent resolution, a majority of the Members of each House voting in the affirmative, approving the action proposed by the President, the President shall (within 30 days after the 61st day of such 90-day period) proclaim the increase in, or imposition of, any duty or other import restriction on the article which was recommended by the Commission, and

"(4) relief for market disruption caused by artificial pricing—

"(A) shall not be subject to subsection (d), (h), or (j) of section 203,

"(B) may be granted or extended for more than five years if a danger of such disruption is likely to continue over a longer period, and

"(C) shall not operate to prevent the initiation of an investigation according to the procedures in section 201(a)(1) when it is alleged that changes in circumstances have occurred after the conclusion of the investigation upon the basis of which relief was granted, and such investigation shall be treated as an original investigation under subsection (a)(1).".

(c) Presidential Action With Respect to Apparent Market Disruption by Products of Non-market Economy Countries.—

(1) Subsection (c) of section 406 of such Act (19 U.S.C. 2436) is amended by striking out "Communist country, that market disruption exists" and inserting in lieu thereof the following: "non-market economy country, that market disruption, caused by increased imports or artificial pricing, or both, exists".

(2) Paragraph (2) of section 406(d) of such Act (19 U.S.C. 2436) is amended by striking out "market disruption exists" and inserting in lieu thereof "market disruption, whether caused by increased imports or artificial pricing, or both, exists".

(d) Definitions; Special Rules.—Subsection (e) of section 406 of such Act (19 U.S.C. 2436) is amended to read as follows:

"(e) For purposes of this section—

"(1) The term 'non-market economy country' means any country whose economy is State-controlled to an extent that sales or offers of sales of merchandise in that country or to countries other than the United States do not reflect the fair value of the merchandise, including any country dominated or controlled by Communism.

"(2) Market disruption caused by increased imports exists within a domestic industry whenever direct or indirect imports of an article like an article produced by such domestic industry are increasing, either absolutely or relatively, so as to be, either alone or in combination with imports from other non-market economy countries, a cause of material injury, or threat thereof, to such domestic industry or a cause of material retardation of the establishment of a domestic industry.

"(3) Market disruption caused by artificial pricing exists within a domestic industry whenever an article, like an article produced by such domestic industry, is imported directly or indirectly from a non-market economy country or countries at a price below the lowest free-market price of like articles, so as to be, either alone or in combination with imports from other non-market economy countries, a cause of material injury, or threat thereof, to such domestic industry or a cause of material retardation of the establishment of a domestic industry.

"(4) The lowest free-market price of like articles is the lowest average price, adjusted for differences in quantity, level of trade, duties or other factors required to ensure comparability, charged for like articles in this country by

"(A) any producer from an appropriate free market economy, including the United States, if the producer supplies more than 5 percent of the apparent United States consumption of like articles, or

"(B) by the aggregate of all producers from any appropriate free market country, including the United States, that supplies more than 5 percent of the apparent United States consumption of like articles.

"(5) The term 'like article' means an article which is like, or in the absence of like, most similar in characteristics and uses with the article subject to an investigation under this section.

"(6) A country is an appropriate free-market country with respect to an article alleged to be disruptive if—

"(A) the country is not a non-market economy country within the meaning of this section,

"(B) no preliminary or final determination has been made under title VII (or, if applicable, section 303) of the Tariff Act of 1930 that a subsidy, bounty, or grant is being provided with respect to like articles from that country, and

"(C) no preliminary or final determination has been made under subtitle B of title VII of the Tariff Act of 1930 that like articles from that country are being, or are likely to be, sold in the United States at less than fair value.

"(7) The term 'domestic industry' means an industry producing an article in whole or in part in the United States, including any territory or possession of the United States.".

SECTION-BY-SECTION ANALYSIS

This bill amends the Tariff Act of 1930 and the Trade Act of 1974 to provide a more coherent and easily administered body of trade law concerning imports from countries that do not have free-market economies.

SECTION 1

Section 1 of the bill amends subsection (c) of section 773 of the Tariff Act of 1930, as amended, which specifies the methods for determining foreign market value when non-market economies are accused of dumping.

The term "non-market economy country" would replace the term "State-controlled economy." This change would bring subsection 773(c) into line with the bill's amendment to section 406 of the Trade Act of 1974; section 406 is amended by replacing "Communist country" with "non-market economy country." Both subsection 773(c) and section 406 are concerned with the same countries and the same problem of non-market pricing; using the same terminology clarifies their interrelationship.

Section 1 would also amend section 773 (c) to make it clear that the foreign market value of goods from non-market economy countries should be determined by examining the prices or costs of the most comparable free-market producer or producers, i.e., the producers that are located in a free-market economy country, including but not limited to the United States, and that are most nearly comparable to the non-market economy producer in size, sophistication, and technology. Although it was the Treasury Department's practice at the time subsection 773(c) was first enacted to compute the foreign market value of non-market imports by looking to prices or costs in third countries with comparable producers, that policy has since been changed in favor of seeking out the most comparable country. This change has not been a success. Trying to measure the "comparability" of market and non-market countries is virtually impossible; in practice, the new policy confers undue discretion upon administrators and contributes to great uncertainty about what our trade laws require. This amendment would correct the problem.

SECTION 2

Section 2 of the bill amends section 406 of the Trade Act of 1974. At present, section 406 authorizes the International Trade Commission ("the Commission") to recommend relief whenever it determines that products of a Communist country are causing market disruption with respect to an article produced by a domestic industry. As now written, section 406 recognizes only one form of market disruption—a rapid surge in imports constituting a significant cause of material injury, or threat thereof, to a domestic industry. Because there is nothing unfair about importers increasing their market share in open competition, section 406 as now written offers only temporary relief to U.S. industries, and even that relief is subject to modification by the President. It is true that non-market economies are especially prone to volume surges and other erratic supply patterns, but they also pose a special danger of unfair pricing, because non-market enterprises need not operate at a profit if they serve other goals, such as bringing in hard Western currency. The proposed amendment would broaden the definition of market disruption to include artificial pricing.

Subsection 2(a). This subsection would strike out the term "Communist country" and replace it with the term "non-market economy country." Because the primary focus of this bill is on a country's economic structure and not its politics, using an economic rather than a political term seems appropriate.

This subsection also recognizes the danger that non-market countries will engage in below-cost pricing by permitting the Commission to find market disruption caused by increased imports or artificial pricing or both.

Subsection 2(b). This subsection establishes a special procedure for modifying the relief recommended by the Commission. If the Commission recommends relief for market disruption caused by artificial pricing, the President may report that he intends to take action differing from the recommendation. His modification may be put into effect if within 90 days Congress adopts a concurrent resolution approving it. Thus a domestic industry that has proven its case to the Commission may be denied relief by Congress and the President. This is because relief under section 406 will sometimes implicate large issues of foreign policy, and supervision by elected officials serves as a safety valve for the exceptional case in which overriding national interest justifies disregarding a proven injury to U.S. industry.

Nonetheless, artificial pricing is an unfair international trade practice, akin to dumping or subsidizing exports. Neither dumping nor subsidy (countervailing duty) cases are subject to a Presidential override. Non-market countries should not escape the consequences of engaging in unfair artificial pricing unless the President and Congress agree that an exception is necessary. By placing the burden of persuasion on the President, the bill ensures that exceptions will be recommended by the Executive only in a small number of genuinely important cases.

This subsection also proposes other procedural changes in section 406; the changes are necessitated by the nature of the artificial-pricing problem. For example, the relief rewarded by the Commission would not be subject to subsections (d), (h) or (j) of section 203 of the Trade Act of 1974.

Subsection 203(d) is inapplicable because it prohibits increasing the rate of duty to (or imposing) a rate which is more than 50% ad valorem above the rate (if any) existing at the time of the proclamation. But if the Commission is to have the power to impose duties sufficient to eliminate artificial pricing, it must have the power to impose substantial specific duties on products that ordinarily have no ad valorem duty or no duty at all. Because nonmarket economies control the price of their goods, the declared value is subject to manipulation, so that any relief awarded by the Commission could easily be defeated if an *ad valorem* limitation applied. And, of course, it would be entirely appropriate to impose duties on artificially priced goods even though the goods ordinarily enter duty-free.

Subsection 203(h) provides that relief shall terminate 5 years after the day it takes effect and recommends that relief be reduced gradually over this period. While this may be a valid rule of thumb when imports have increased substantially but no unfair practice has been shown, artificial pricing is an intentional breach of the rules of international trade. If the danger of further violations continues, so should the relief. Therefore, the new bill states that relief for artificial pricing may be granted or extended for more than 5 years, but only if the danger of such disruption is likely to continue for more than five years.

Subsection 203(j) is equally inapplicable. It provides that no investigation shall be made with respect to an article which has received relief under section 201 (or section 406) unless two years have elapsed since the last day on which import relief was provided with respect to such articles. Again, requiring a domestic industry to wait two years before renewing its claim for relief seems sensible with respect to a provision offering only temporary refuge from surging imports, but the requirement is out of place in a provision dealing with an unfair practice like artificial pricing. The bill provides instead that the granting of relief for market disruption caused by artificial pricing shall not operate to prevent the initiation of an investigation based on allegations that circumstances have changed since the end of the investigation leading to relief. Without a provision of this nature, non-market countries could continue to maintain an artificial advantage by dropping their prices even further once duties have been imposed under section 406. The provision is also necessary to permit a showing that inflation, or some other recent development, requires adjustment in the relief granted by the Commission.

Subsection 2(c). At present, section 406(c) permits the President to request a Commission investigation and to take emergency action with respect to market disruption caused by increased imports. The bill would permit him to do the same with respect to market disruption caused by artificial pricing.

Similarly, 406(d) now permits the President to initiate international consultations if he determines that there are reasonable grounds to believe that a country's increased imports are causing market disruption. This subsection would permit him to take the same action with respect to disruption caused by artificial pricing.

Subsection 2(d). The definitions contained in this section are the heart of the bill.

At present, section 406 applies only to countries "dominated or controlled by Communism." While this definition has the virtue of indisputably identifying the most obvious non-market economies, it does not deal with the economic nature of the problem. Accordingly, the bill supplements this definition by adding an economic concept drawn from the antidumping laws, specifically section 773(c) of the Tariff Act of 1930. A non-market economy country is defined as a country whose economy is controlled to an extent that sales or offers of sales of merchandise in that country or to countries (including any country dominated or controlled by Communism) other than the United States do not reflect the true market value of the merchandise.

The subsection also makes several improvements in the existing definition of market disruption caused by increased imports. Under the proposed amendment, such disruption would be held to exist within a domestic industry whenever direct or indirect imports of articles, like an article produced by such domestic industry, are increasing, either absolutely or relatively, so as to be either alone or in combination with imports from other non-market economy countries, a cause of material injury, or threat thereof, to such domestic industry or a cause of material retardation of the establishment of a domestic industry. This definition takes into account the possibility that an increased volume of indirect imports from non-market countries will cause injury. The current test for comparable articles has been streamlined by dropping the phrase "or directly competitive with" in favor of defining "like article" in a manner parallel to the definition used in antidumping and countervailing duty cases (section 771(10) of the Tariff Act of 1930). A like article is defined as an article which is like, or in the absence of like, most similar in characteristics and uses with an article subject to an investigation under this section.

The bill deletes the requirement in section 406 that imports be increasing "rapidly." This resolves a discrepancy between section 406 and the other provision for relief against increasing imports, section 201 of the Trade Act of 1974. The amendment also provides for cumulation of all non-market economy imports in determining the cause and extent of injury. This is because many non-market countries are part of a single, close knit economic community, so that coordinated export policies are a likelihood. The bill would also delete the requirements that nonmarket imports be a "significant" cause of material injury; it adopts instead the standard of the antidumping and countervailing duty laws, which require that the challenged imports be a cause of material injury. See Tariff Act of 1930, §§ 701 and 731. The bill also borrows from these laws the rule that relief may be awarded when the challenged imports are a cause of material retardation of the establishment of a domestic industry.

As has been explained, the bill adds a provision to section 406 permitting relief for market disruption caused by artificial pricing. It is similar in many details to the definition of disruption by increased volume discussed above. Because artificial pricing is so similar to other unfair trade practices, such as dumping and export subsidies, it is especially important to make the rules and remedies parallel in all three areas. Market disruption by artificial pricing is held to exist within domestic industry whenever an article, like an article produced by such domestic industry, is imported directly or indirectly from a non-market economy country or countries at a price below the lowest free-market price of like articles, so as to be, either alone or in combination with imports from other non-market economy countries, the cause of material injury, or threat thereof, to such domestic industry or a cause of material retardation of the establishment of a domestic industry.

The key to the new provision is the rule that non-market imports should not be priced below the "lowest free-market price of like articles." This price is defined as the lowest average price, adjusted for differences in quantity, level of trade, duties or other factors required to insure comparability charged for like articles in this country by either: (a) a producer from an appropriate free market country, including the United States, if that producer provides more than 5% of the apparent United States consumption of like articles; or (b) the aggregate of all producers from any appropriate free-market country, including the United States, that supplies more than 5% of the apparent United States consumption of like articles.

In essence, this definition permits non-market producers to charge the lowest price offered by any significant individual supplier or by all suppliers from any country responsible for a significant portion of domestic consumption. The five-percent requirement is designed to exclude anomalous producers or countries, whose prices may be affected by unusual circumstances (including ownership by a non-market enterprise). Ordinarily, the Commission can be expected to use the prices charged by an aggregate of producers from a single country in preference to the prices of a single producer. Using an aggregate price forestalls serious confidentiality problems and is generally more appropriate; the output of an entire non-market country should ordinarily be compared to the output of another entire country and not to that of a single firm. Nonetheless, the bill gives the Commission discretion to administer the new provision in a flexible manner consistent with the bill's intent. For example, the Commission may adjust prices to reflect differences in quantity, level of trade, duties, and other factors necessary to assure comparability. It may determine the prices of importers from a particular country by conducting a sample. Generally, the principles established in the countervailing duty and antidumping laws will assist the Commission in administering the new law.

In order to avoid the choice of an inappropriate country for purposes of comparison, the bill forbids comparisons to goods from other non-market economy countries or to articles that are subject to countervailing duty or antidumping determinations.

Finally, the bill defines domestic industry as any industry producing an article in whole or in part in the United States, including any territory or possession of the United States. Watch producers in the Virgin Islands and Guam have already been hard-hit by the importation of watch subassemblies from the Soviet Union at extremely low prices. If the Soviet Union is granted MFN status and if it begins to import watches directly at artificial prices, a major portion of the insular possessions' economy could be wiped out. This provision would make it clear that section 406, as amended, protects the workers and industries of American possessions as vigilantly as it protects labor and business elsewhere in the United States.●

By Mr. NELSON:

S. 1967. A bill to amend the Internal Revenue Code of 1954 to allow a corporation which deals in securities to establish a reserve for the net gain from certain market making activities; to the Committee on Finance.

CAPITAL FORMATION INCENTIVE ACT OF 1979

● Mr. NELSON. Mr. President, I am introducing today a bill to strengthen the foundations of small business capital formation. This measure would allow securities brokers to create a limited reserve from profits which they have made in supporting the trading of stocks of small and unknown companies. I ask that the bill be appropriately referred and that the text be printed in the RECORD following my remarks.

NEED FOR THE LEGISLATION

Over the last year and a half, the Senate Small Business Committee has held a series of hearings on the various aspects of capital formation.

Two of the committee's hearings, in the summer of 1978 and May of 1979, focused on the possibilities of small enterprises raising capital in public securities markets.

We discovered a serious capital formation problem among small and independent enterprises. The situation was summarized by Business Week magazine which concluded in October 1977, that:

> For some years now the public capital market has been closed to all but the largest firms . . . the 1,000 biggest corporations.

The largest 1,000 would amount to about half of the U.S. corporations listed on the New York Stock Exchange. It would constitute less than one-tenth of the total of publicly held securities which are listed on all public exchanges and the over-the-counter NASDAQ system.

A substantial number of statistics can be cited to support Business Week's conclusions.

In 5 years, 1974 through 1978, only 82 small companies—defined as having a net worth of less than $5 million—were able to raise capital in the public securities market. That is an average of 16½ per year, compared to 698 in the single year 1969, just 10 years ago.

During the same 5 years, these small companies raised an average of just over $100 million per year in public equity capital compared to about $1½ billion for similar companies in 1969.

UNDERLYING CAUSES OF THE CAPITAL GAP

There are a multiplicity of reasons for this lack of equity investment, or gap in capital formation.

They have been compiled and explored in an excellent report prepared by the National Association of Securities Dealers and discussed at the committee's capital formation hearing on May 22, 1979:

> The withdrawal of the individual investor from the stock market. During the 1970's the number of citizens holding stocks has declined from 31 million to 25 million. This is particularly hard on new and small business, since individual investors are more inclined to take risks with their own money than institutional investors are with other people's money;
>
> Institutional investors have come to dominate the stock market. They owned 26 percent of common stocks in 1960 and will own half by 1985. Institutions have shown very little interest in investing in smaller firms. The multi-billion dollar scale of their operations is a factor. Because there are legal and regulatory restraints about investing money placed in their trust, many fund managers will not invest in any stocks but the bluest "blue chips". They believe the stock of the new and small companies is by definition riskier than the established giants;
>
> Inflation and other adverse economic trends have made everyone less willing to take investment risks;
>
> Tax laws of the past decade discouraged equity investment in general, and investment in small business in particular;
>
> The number of independent security brokers and dealers who provide entry into the market for small business has declined by 37 percent since 1970.

BROKER-DEALERS AS MARKET GATEWAY FOR INDEPENDENT ENTERPRISE

The function performed by a securities dealer, or "investment banker," is mysterious to many people, and I will offer a brief explanation.

There is an adage in the brokerage community that stocks are sold and not bought. This is particularly true with new issues which are, by definition, almost unknown to the majority of the public.

Salesmen within a firm must follow the development of the company so that they can recommend the stock to their customers when appropriate. The firm for which they work must be willing to risk its capital as well as its reputation in analyzing the company and offering its stock to the public.

After "going public", the sponsoring investment banker must support the "after-market" by purchasing those shares which others are unwilling to buy in daily trading.

This commitment was described in the testimony before our committee of J. Stephen Putnam, president of F. L. Putnam & Co., of Boston, as follows:

> Effectively when I underwrite a security and bring it public, if I do not have ready a group of broker-dealers that want to make a secondary market in that stock, what it means is that I will bring it, sell it mainly to my own customers * * *. Then anytime a customer wants to sell that security, I may be in a position of being the only market maker to buy that security back.
>
> That is really an untenable situation, if you wish to bring (out) a good number of these smaller issues.

For these reasons, the broker-dealer who is willing to be a marketmaker is a vital link in the chain of capital formation.

One of the major conclusions emerging from our in-depth study of capital formation is that the Nation must buttress the network of financial intermediaries such as independent broker-dealers.

They are the infrastructure on which small business capital formation is built.

In the first instance they are the gateway through which new, small, promising businesses reach the market where they can obtain investment capital. But their job is not done at that point. They must live with the company for years afterward by assuring that investors can sell and buy the stock in conventional trading.

Certainly the profit motive is predominant in doing this. However, there are other key elements involved. A local broker who has watched an entrepreneur succeed in his community—has witnessed his diligence, service to the community, and financial responsibility—will be more willing to take a chance on helping such a firm raise money.

When a firm approaches a nationwide or multinational securities firm in one of the financial capitals, for instance, chances are that the huge broker will simply not be interested. The reasons are apparent: There is not enough stock to sell through his customers to generate large commission income; and if research time is to be committed, greater return might be made by applying it to larger existing companies. But another definite factor is that the faraway broker just does not know the company and individuals involved.

We already face a situation where the number of marketmakers has fallen 37 percent during this decade (to 468), which means an average of less than 10 per State. Nine states do not have any securities firms which make markets in a small or unknown/unlisted security. There are many other States where the is only one market maker.

ROLE OF "MARKET MAKERS"

Let us examine in more detail the "market dealer" role which is the basis of this bill. Suppose an investor had bought 1,000 shares of the stock of a local bank. He has done so to invest wisely. However, he is also conscious he has helped a local institution raise capital for the use of local individuals and business. The entire community will be better served. Now suppose that after some length of time, the investor wishes to sell this 1,000 shares. The stock is quoted at about 17½. This means that the sponsoring broker-dealer who is making a market in the stock will have to commit $17,500 to buy that stock if nobody else wishes to do so.

If, for instance, later in that day a major news break occurs and statistics are to be announced on the inflation rate, or the balance of payments, or the budget, or oil prices, this news can send the market up or down. The extent of that movement is a measure of the risk independent brokers take in making a market in the stock of local companies.

The greatest risk lies in an imponderable economy. No matter how good the stock may be nor how great its potential nor how hard the local broker tries to sell that stock practically nobody will be willing to buy it when the Nation is plunging into a recession.

Under these circumstances, there will be many transactions which will absorb the capital of the brokerage firm and there will be fewer profitable ones to offset these commitments of capital.

THEORY OF THIS BILL

This bill would address the problem of broker-dealer risk by allowing a deferment of a limited amount of taxes on profits in a good year. The income deferred in this way would then be available in poor years to keep the broker in business. The theory of this legislation is that these vital intermediaries are working within an economic cycle that is beyond their control.

They are entrepreneurs, and they have made this commitment to free enterprise. However, in recent years there has been unparalleled turbulence in our domestic economy and in the world economy. We have seen the consequences of this in the decline in independent broker-dealer population, which has also fallen 37 percent since 1970.

In the past 6 years the decline of the small independent broker has been so severe that the income share of the 10 largest securities firms jumped from about one-third to almost one-half of all industry revenues. The smaller brokers, who are willing to provide advice, services and support to new companies, are themselves in great jeopardy. And with conditions as they are, we are likely to see continuing attrition if we do not do something about it.

This bill is a moderate, sensible remedy. It would provide a small cushion for the broker-dealer by allowing him to defer the tax up to $1 million in profits he has made in the market-making function in stocks of smaller unlisted securities. He would have the use of this money tax free for a limited amount of time, 10 years. After that the tax would have to be paid.

Only money which had been made in actual market making in small business securities would be eligible for generating such a reserve.

Thus, a broker of any size could gain the advantage of this reserve, but it would have to trade the stocks of primarily small, new, unlisted securities in order to earn the profits that would be set aside in this manner.

There are other limitations of a technical nature which are designed to make the bill sound and administerable.

The term "market maker" is precisely defined in the existing reports of the Securities and Exchange Commission. Market-making profits are required to be reported under present law, so there is no difficulty in identifying them.

SUMMARY

If we are serious about keeping the free enterprise system a prosperous one and therefore keeping the opportunity open for new and independent enterprises to be created and to grow, we must strengthen the financial experts that serve them.

We are facing a fundamental threat to the structure of our free enterprise system. If we are not willing to help the firm that risks its capital to support small business, we are in danger of losing the whole framework by which new and small enterprises can raise public capital. If this kind of risk-taking business fades out of the picture, chances are that small and independent entrepreneurs will also die out.

We urge that this legislation be considered carefully at hearings by the committees which have jurisdiction, so that each of the premises and each of the facets of the proposed legislation can be probed in depth and detail. The bill should also receive a searching critique by Government agencies and by knowledgeable persons in the private sector.

In my judgment, it will be able to pass those tests, and we ought to be able to get action with all deliberate speed in enacting this proposal.

I ask unanimous consent that the bill be included in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1967

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Capital Formation Incentive Act of 1979".

Sec. 2. (a) Part VIII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to special deductions for corporations) is amended by adding at the end thereof the following new section:

"Sec. 251. Market Making Reserve.

"(a) Allowance of Deduction.—In the case of a corporation which is engaged in market making activities during the taxable year, there shall be allowed as a deduction for such taxable year an amount equal to the amount of additions to a reserve for gains from such market making activities during such taxable year.

"(b) Limitations.—

"(1) Average position.—No deduction shall be allowed under subsection (a) if the amount of the additions to the reserve for the taxable year exceeds 30 percent of the fair market value of average positions carried for market making activities by the taxpayer during the taxable year.

"(2) $1,000,000 reserve.—No deduction shall be allowed under subsection (a) for any taxable year for any addition to the reserve, if, as of the close of the taxable year (after adjustment under subsection (c)), the reserve exceeds $1,000,000.

"(3) Taxable income.—The amount of the deduction allowed under subsection (a) shall not exceed the taxable income of the taxpayer for the taxable year (determined without regard to this section)

"(c) Adjustment to Reserve.—

"(1) Required withdrawals from reserve.—At the close of each taxable year, the taxpayer shall withdraw from the reserve an amount equal to the excess of—

"(A) the amount of the additions to the reserve for which a deduction was allowed for the 10th taxable year preceding such taxable year, over

"(B) any withdrawal from the reserve during any preceding taxable year under paragraph (2) which was treated as a withdrawal of any additions made to the reserve during such 10th preceding taxable year.

"(2) Additional withdrawals.—At the close of the taxable year, the taxpayer may withdraw from the reserve any amount in excess of the amount described in paragraph (1). Any such withdrawal shall be treated as a withdrawal of additions to the reserve in the order in which such additions were made to the reserve, beginning with the earliest such addition.

"(d) Definitions and Special Rules.—For purposes of this section—

"(1) Market making activities.—The term 'market making activities' means the purchase and sale of over-the-counter equity securities by a dealer in securities, or any specialist permitted to act as a dealer, who holds himself out (by entering quotations in an inter-dealer communications system or otherwise) as being willing to buy and sell over-the-counter equity securities for his own account on a regular or continuous basis.

"(2) Gain from market making activities.—The term 'gain from market making activities' means the net gain realized from the sale or exchange of over-the-counter equity securities—

"(A) of corporations which, on the last day of the taxable year of the taxpayer preceding the taxable year of the sale or exchange, had $25,000,000 or less of equity securities in such corporation outstanding, and

"(B) which are held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business.

"(3) Over-the-counter equity securities.—The term 'over-the-counter equity securities' means any equity security not traded on a registered security exchange.

"(4) Average positions for market making activities.—The term 'average position for market making activities' means the average monthly inventory positions for over-the-counter equity securities of the taxpayer for the taxable year.

"(5) Controlled group of corporations.—For purposes of applying the limitations under subsection (b), all members of the same controlled group of corporations shall be treated as one corporation. In any such case, the deduction allowable by subsection (a) for each such member shall be its proportionate share of net gain from market making activities taken into account in determining the amount of the deduction. For purposes of this paragraph, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1).

"(6) Corporate acquisitions.—In the case of the acquisition described in section 381 (a) (1) or (2) of assets of a corporation by another corporation, the acquiring corporation shall not succeed to any reserve established under this section.".

(b) Section 81 of such Code (relating to certain increases in suspense accounts) is amended—

(1) by striking out "There" and inserting "(a) There"; and

(2) by adding at the end thereof the following new subsection:

"(b) Withdrawals From Market Making Reserves.—There shall be included in gross income for the taxable year the amount of any withdrawal from any market making reserve under section 251(c).".

(c)(1) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by inserting at the end thereof the following new item:

"Sec. 251. Market making reserve.".

(2) (A) The heading for section 81 of such Code is amended by inserting "OR REDUCTIONS IN MARKET MAKING RESERVES" after "ACCOUNTS".

(B) The item relating to section 81 in the table of sections for part II of subchapter B of chapter 1 of such Code is amended by inserting "or reduction in market making reserves" after "accounts".

Sec. 3. The amendments made by section 2 of this Act shall apply to taxable years beginning after December 31, 1979.●

By Mr. DURENBERGER (for himself, Mr. Boren, and Mr. Heinz):

S. 1968. A bill to amend the Internal Revenue Code of 1954 to encourage competition in the health care industry, to encourage the provision of catastrophic health insurance by employers, and for other purposes; to the Committee on Finance.

(The remarks of Mr. Durenberger when he introduced the bill appear earlier in today's procedings.)

ADDITIONAL COSPONSORS

S. 219

At the request of Mr. Packwood, the Senator from Colorado (Mr. Armstrong) was added as a cosponsor of S. 219, a bill to amend the Internal Revenue Code of 1954 to allow the charitable deduction to taxpayers whether or not they itemize their personal deductions.

S. 1693

At the request of Mr. Melcher, the Senator from Indiana (Mr. Lugar) was added as a cosponsor of S. 1693, a bill to amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so.

S. 1942

At the request of Mr. McGovern, the Senator from Montana (Mr. Baucus) was added as a cosponsor of S. 1942, a bill to provide for a resource conversion and development program in the U.S. Department of Agriculture.

AMENDMENT NO. 523

At the request of Mr. McClure, the Senator from Kansas (Mrs. Kassebaum) was added as a cosponsor of amendment No. 523 intended to be proposed to S. 1020, a bill to authorize appropriations for the Federal Trade Commission.

AMENDMENTS SUBMITTED FOR PRINTING

EXTENSION OF THE DEFENSE PRODUCTION ACT—S. 932

AMENDMENT NO. 564

(Ordered to be printed and to lie on the table.)

Mr. RIBICOFF (for himself, Mr. Muskie, Mr. Durenberger, Mr. Glenn, Mr. Hart, Mr. Javits, Mr. Moynihan, and Mr. Tsongas) submitted an amendment intended to be proposed by them, jointly, to S. 932, a bill to extend the Defense Production Act of 1950, as amended, and for other purposes.

• Mr. RIBICOFF. Mr. President, last July the Committee on Governmental Affairs held a symposium to examine the effects of synthetic fuels production programs on the accumulation of carbon dioxide in the atmosphere. The panel of scientists and Senators concluded:

> . . . the possible long-term impacts of CO_2 accumulations in the atmosphere are important enough to require continuous high-level attention of scientists and energy policy makers both in the United States and abroad . . . Questions still exist on many aspects of the CO_2 problem . . . While these uncertainties remain we cannot predict the precise consequences of uncontrolled fossil fuel use.

Recognizing the need for further examination of the carbon dioxide problem as recommended by the symposium panel, I wish to offer this amendment to authorize such a study.

This amendment authorizes the Secretary and the National Academy of Sciences in conjunction with other nongovernmental and intergovernmental bodies to develop a worldwide assessment of the impact of fossil fuel combustion, including a specific assessment of the impact of synthetic fuel programs on the accumulation of carbon dioxide in the atmosphere. This program would conclude within 2 years with long-term recommendations and a report to the Secretary, the President, and Congress.

Mr. President, the National Academy of Sciences is very interested in pursuing this work. I have recently communicated with the president of the Academy, Dr. Philip Handler, regarding the proposed study, and ask unanimous consent that the exchange of letters be reprinted in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

October 30, 1979.

Dr. Philip Handler,
President, National Academy of Sciences,
Washington, D.C.

Dear Phil: Our discussions last July regarding the problem of Carbon Dioxide accumulation in the atmosphere were most helpful in arranging the Governmental Affairs Committee Symposium: "Carbon Dioxide Accumulations in the Atmosphere, Synthetic Fuels and Energy Policy." I proposed this symposium to take a closer look at the problems we discussed and to produce a report on the deliberations of the experts.

The recommendations of the experts outlined in the report stressed the need for continued monitoring and examination of the impacts of synthetic fuel production on Carbon Dioxide accumulation and climate. There was a consensus that the impact of Carbon Dioxide accumulation must be addressed on an international as well as national level.

As a result of these recommendations, I am proposing legislation which would authorize further study of the Carbon Dioxide problem associated with synthetic fuel production. It would be of great value if the National Academy of Sciences were to direct this effort.

The National Academy would be authorized to:

1. conduct a comprehensive assessment of the accumulation of Carbon Dioxide in the atmosphere by synthetic fuel projects,

2. assess the effects of Carbon Dioxide accumulation on climate,

3. work with other nongovernmental and intergovernmental bodies to develop a worldwide assessment of the problem, and

4. conclude within two years with a report and recommendations for a long-term program to the President, the Secretary and to the Congress.

The specific details of the proposal are enclosed. I believe that the program to investigate this problem is an important complement to any national effort to produce synthetic fuels. I hope that the Academy will be able to participate.

I appreciate your past advice, and hope we can continue to work together on this important issue. I look forward to hearing from you on this proposal.

Sincerely,

Abe Ribicoff.

National Academy of Sciences,
Washington, D.C., November 1, 1979.

Hon. Abraham A. Ribicoff,
U.S. Senate,
Washington, D.C.

Dear Senator Ribicoff: I was most pleased to have your letter of October 30, and to know that we in the Academy were of some assistance to your Committee in its deliberation on the problems associated with future accumulation of carbon dioxide in the atmosphere. Academy groups that have looked at this problem have emphasized the need for a continuous program of monitoring and examination of these accumulations and of the impact which future energy policies may have on such accumulation.

As you may be aware, a five-year plan for the study of climate has been mandated under the National Climate Act of 1978 which relates to the matter outlined in your proposed amendment. The language of your proposed amendment clearly indicates the importance given by the Congress to the need for addressing the problems associated with future accumulation of carbon dioxide and would strengthen the ability of the Academy to provide independent and timely advice on these matters to both the Congress and concerned Federal agencies. It also would allow us to undertake certain study considerations that require more emphasis than is contemplated by the present national plan.

Upon enactment of such a legislative mandate, the Academy, of course, will be pleased to work with the government in assuring that such an assessment gets under way promptly and that necessary steps are taken to enlist appropriate international participation at both governmental and nongovernmental levels.

The proposed draft language accompanying your letter is consistent with the format used in other instances where the Congress wished to enlist the service of the National Academy of Sciences under the authorization of its initial Congressional Charter.

Please let me know if we can be of further assistance to you in this effort.

Sincerely yours,

Philip Handler,
President.

Mr. RIBICOFF. Mr. President, the Office of Science and Technology Policy in the White House recently asked the National Academy of Sciences to do a preliminary synthesis of the state of scientific knowledge on various aspects of the carbon dioxide problem. This report, which is now done, confirms that the problem is a long-term one with serious ramifications. It is supportive of the kind of work that I am proposing in this amendment.

I ask unanimous consent that the summary and conclusions of this report be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Summary and Conclusions

We have examined the principal attempts to simulate the effects of increased atmospheric CO_2 on climate. In doing so, we have limited our considerations to the direct climatic effects of steadily rising atmospheric concentrations of CO_2 and have assumed a rate of CO_2 increase that would lead to a doubling of airborne concentrations by some time in the first half of the twenty-first century. As indicated in the first section of this report, such a rate is consistent with observations of CO_2 increases in the recent past and with projections of its future sources and sinks. However, we have not examined anew the many uncertainties in these projections, such as their implicit assumptions with regard to the workings of the world economy and the role of the biosphere in the carbon cycle. These impose an uncertainty beyond that arising from our necessarily imperfect knowledge of the manifold and complex climatic system of the earth.

When it is assumed that the CO_2 content of the atmosphere is doubled and statistical thermal equilibrium is achieved, the more realistic of the modeling efforts predict a global surface warming of between 2° C. and 3.5° C., with greater increases at high latitudes. This range reflects both uncertainties in physical understanding and inaccuracies arising from the need to reduce the mathematical problem to one that can be handled by even the fastest available electronic computers. It is significant, however, that none of the model calculations predicts negligible warming.

The primary effect of an increase of CO_2 is to cause more absorption of thermal radiation from the earth's surface and thus to increase the air temperature in the troposphere. A strong positive feedback mechanism is the accompanying increase of moisture, which is an even more powerful absorber of terrestrial radiation. We have examined with care all known negative feedback mechanisms, such as increase in low or middle cloud amount, and have concluded that the oversimplifications and inaccuracies in the models are not likely to have vitiated the principal conclusion that there will be appreciable warming.

The known negative feedback mechanisms can reduce the warming, but they do not appear to be so strong as the positive moisture feedback. We estimate the most probable global warming for a doubling of CO_2 to be near 3° C with a probable error of ±1.5° C. Our estimate is based primarily on our review of a series of calculations with three-dimensional models of the global atmospheric circulation which is summarized in Chapter 4. We have also reviewed simpler models which appear to contain the main physical factors. These give qualitatively similar results.

One of the major uncertainties has to do with the transfer of the increased heat into the oceans. It is well known that the oceans are a thermal regulator, warming the air in winter and cooling it in summer. The standard assumption has been that, while heat is transferred rapidly into a relatively thin, well-mixed surface layer of the ocean (averaging about 70 m in depth), the transfer into the deeper waters is so slow that the atmospheric temperature reaches effective equilibrium with the mixed layer in a decade or so.

It seems to us quite possible that the capacity of the deeper oceans to absorb heat has been seriously underestimated, especially that of the intermediate waters of the subtropical gyres lying below the mixed layer and above the main thermocline. If this is so, warming will proceed at a slower rate until these intermediate waters are brought to a temperature at which they can no longer absorb heat.

Our estimates of the rates of vertical exchange of mass between the mixed and intermediate layers and the volumes of water involved give a delay of the order of decades in the time at which thermal equilibrium will be reached. This delay implies that the actual warming at any given time will be appreciably less than that calculated on the assumption that thermal equilibrium is reached quickly. One consequence may be that perceptible temperature changes may not become apparent nearly so soon as has been anticipated. We may not be given a warning until the CO_2 loading is such that an appreciable climate change is inevitable. The equilibrium warming will eventually occur; it will merely have been postponed.

The warming will be accompanied by shifts in the geographical distributions of the various climatic elements such as temperature, rainfall, evaporation, and soil moisture. The evidence is that the variations in these anomalies with latitude, longitude, and season will be at least as great as the globally averaged changes themselves, and it would be misleading to predict regional climatic changes on the basis of global or zonal averages alone.

Unfortunately, only gross globally and zonally averaged features of the present climate can now be reasonably well simulated. At present, we cannot simulate accurately the details of regional climate and thus cannot predict the locations and intensities of regional climate changes with confidence. This situation may be expected to improve gradually as greater scientific understanding is acquired and faster computers are built.

To summarize, we have tried but have been unable to find any overlooked or underestimated physical effects that could reduce the currently estimated global warmings due to a doubling of atmospheric CO_2 to negligible proportions or reverse them altogether. However, we believe it quite possible that the capacity of the intermediate waters of the oceans to absorb heat could delay the estimated warming by several decades. It appears that the warming will eventually occur, and the associated regional climatic changes so important to the assessment of socioeconomic consequences may well be significant, but unfortunately the latter cannot yet be adequately projected.

Mr. RIBICOFF. Mr. President, I am pleased to announce that Senators MUSKIE, DURENBERGER, GLENN, HART, JAVITS, MOYNIHAN and TSONGAS are joining me as cosponsors of this amendment. I ask unanimous consent that the text of the amendment be reprinted in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 564

At the appropriate place insert the following:

SEC. . (a) The Secretary of Energy shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive assessment and investigation of the impact of projected levels of fossil fuel combustion on the accumulation of carbon dioxide in the atmosphere as a basis for a specific assessment of such impact by the projects and technologies which are proposed in this Act. The study shall also assess the effects of various possible levels of atmospheric carbon dioxide accumulation on climate and the economic, physical, and social impacts of such climate changes. In conducting this study, the Academy is encouraged to work with other nongovernmental and intergovernmental bodies so as to develop an interim worldwide assessment of this problem, and to arrange for original research on any aspect of the problem as the Academy deems necessary.

(b) The study shall also recommend—

(1) how a long-term program of domestic and international research, monitoring, modeling and assessment of the causes and effects of atmospheric carbon dioxide accumulation should be structured;

(2) how the United States can best play a role in the development of such a long-term international program;

(3) what domestic resources should be made available to the study of such accumulation;

(4) how the ongoing United States government carbon dioxide assessment program should be restructured and strengthened so as to provide information and recommendations of the highest possible value to governmental policymakers; and

(5) how often reports should be made to the President, the Secretary and the Congress, in conjunction with any long-term assessment program that the Academy may recommend.

(c) A report and recommendations with regard to the study required under this section shall be submitted to the President, the Secretary, and the Congress not later than two years after the date on which an agreement is reached by the Secretary with the Academy. The Secretary shall report to the Congress within six months after the date of enactment of this Act regarding the status of the negotiations to implement the study required under this section. The report shall not be subject to any prior clearance or review, nor shall any such prior clearance or conditions be imposed on the Academy as part of the arrangements made by the Secretary with the Academy under this section.

(d) The Secretary of Energy, the Secretary of Commerce, the Administrator of the Environmental Protection Agency and the Director of the National Science Foundation shall furnish to the Academy at its request any information which the Academy determines necessary for the purpose of conducting the study authorized by paragraph (1) of this subsection. For the purpose of furnishing such information the Secretary may require, pursuant to authority established under this Act (A) to obtain information from any person, and (B) to require such person to conduct such test, keep such records, and make such reports respecting research or other activities conducted by such person as may be reasonably necessary to carry out this section.

(e) Of the funds authorized to be appropriated to the Secretary of Energy under this Act, such amounts as are required shall be available to carry out the study authorized by paragraph (1) of this subsection. The determination as to the expenses which will be required to conduct this study shall be made by the National Academy of Sciences but shall not exceed $2 million.●

MIGRATION AND REFUGEE ASSISTANCE—S. 1668

AMENDMENT NO. 565

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to S. 1668, a bill to authorize additional appropriations for the Department of State for migration and refugee assistance for fiscal years 1980 and 1981.

HOME ENERGY ASSISTANCE ACT—S. 1724

AMENDMENT NO. 566

(Ordered to be printed and to lie on the table.)

Mr. SCHWEIKER submitted an amendment intended to be proposed by him to S. 1724, a bill to authorize the Secretary of Health, Education, and Welfare to make grants to States in order to provide assistance to households which cannot meet the high cost of fuel, and for other purposes.

NOTICE OF HEARINGS

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

● Mr. STEWART. Mr. President, I wish to announce that the Subcommittee on Agricultural Research and General Legislation of the Senate Agriculture Committee will hold joint hearings with the Senate Commerce Committee on S. 1408 and S. 1650 which provide for the development of aquaculture.

The hearing will be held on Wednesday, November 14, beginning at 10 a.m. in room 324 Russell. The committee will hear from invited witnesses only, but written statements submitted for the record are welcome.

Anyone wishing further information should contact Dale Stansbury of the Agriculture Committee staff at 224-2035.●

ADDITIONAL STATEMENTS

ENERGY SECURITY CORPORATION—COSTLY BOONDOGGLE THAT MUST BE DEFEATED

● Mr. ARMSTRONG. Mr. President, whoever coined the phrase "politics makes strange bedfellows" must have had them in mind.

The young lobbyist from the Sierra Club, in striped tie and plaid sportcoat, the immaculately groomed lawyer from the American Petroleum Institute, dark pinstripe suit crisply pressed, black wingtips neatly shined.

Walking arm-in-arm into Senators' offices.

What could have brought this political odd couple together?

In a few days the Senate will vote on President Carter's plan to create an $88 billion Energy Security Corporation to undertake a crash program of synthetic fuel development. The outcome is very much in doubt. But the President's proposal has succeeded in unifying the country in a way he never intended.

There are those who will say that any bill that has incurred the wrath of the National Wildlife Federation, the major oil companies, the Sierra Club, the Chamber of Commerce, the Conservation Foundation, the Independent Petroleum Association, the League of Women Voters, the National Federation of Independent Business, and various Western Governors cannot be all bad.

But there are others who say that any bill that has aroused so much intense opposition from so many knowledgeable people of such diverse backgrounds has got to be a remarkably bad piece of legislation.

The Energy Security Corporation is a classic illustration of what can go wrong when a major bill is drafted to meet the political needs rather than the economic needs of the country.

It has been reported the idea for the Energy Security Corporation originated not with the President's energy experts at the Department of Energy, or with the President's economic experts on the Council of Economic Advisers. Rather, it popped up at a brainstorming session between a White House aide and a Washington lawyer over a long lunch at a posh French restaurant.

Politically, the idea was dynamite, or so it seemed at the time. We have an energy crisis. We need forceful and vigorous leadership to get out of it. What could be more forceful and vigorous than a crash program of synthetic fuel development?

But as details of the President's program got out, and the synfuels experts, who should have been consulted in the first place, got a chance to examine them, attitudes about the Energy Security Corporation began to change.

The Banking Committee and a special task force of the Budget Committee both held extensive hearings on the Energy Security Corporation. The witnesses who testified—from Government, from private industry, from the academic community—were remarkable in the unanimity of their assessment of it. They said, in the circumspect way of witnesses testifying before a congressional committee, that the Energy Security Corporation is a bad idea.

To begin with, there is the economic objection. The Energy Security Corporation will spend $88 billion to produce 2½ million barrels per day of syncrude by 1990, and scarcely a drop before then. The per barrel cost of that first 2½ million barrels is staggering. Can we liberate Americans from the high price of OPEC oil by forcing them to pay twice as much for Government-generated syncrude that will not be available for at least another 10 years?

Then there is the Polyanna syndrome. The figures the President picked for the projected costs and output are just wild guesses about the unknown. Many experts think the Energy Security Corporation will cost twice the $88 billion the President projects, and that he will be lucky to obtain half the 2½ million barrels per day output he is expecting. The truth is, no one really knows how much synfuel development will cost.

Then there is the all-the-eggs-in-one-basket gamble. Under the President's plan, the Energy Security Corporation will select a few of the hundreds of synthetic fuel technologies that are available, and throw all the $88 billion into them. This could lead to expensive "white elephants" that do not work. Worse, we could find ourselves in 1990 with no more synfuel than we started with.

Then there are the environmental objections. Making oil from oil shale requires enormous quantities of water, which in the arid West is as precious as oil. Liquefaction of coal leaves large quantities of chemical waste. The environmental effects of synfuel development need to be very carefully monitored in order to prevent irreparable damage. But the Energy Security Corporation will be empowered to run roughshod over State laws and Federal environmental regulations.

But the chief argument against the Energy Security Corporation is that there is no need for it. We already know what needs to be done to reduce our dependence on foreign oil.

Each of the experts who testified before the Energy Committee, the Banking Committee and the Budget Task Force in the last several months was asked, in effect, "what will it take to get synthetic fuel production moving?"

Interestingly, almost none has suggested creation of a huge new Government bureaucracy such as the Energy Security Corporation. Instead, they have recommended measures to cut redtape and provide incentives for the private sector. They said decontrolling the price of oil and natural gas; tax credits for synfuel production; accelerated depreciation for synfuel plants, and a streamlined process for issuing permits would produce much more oil, much faster, at far less expense to taxpayers and the consuming public.

No Senator I know is opposed to the orderly development of synthetic fuels as a part of our long-term effort to make this country energy self-sufficient. There is a growing realization, however, that creating still another Government agency to spend $88 billion is simply going too far.●

MUSCATINE, IOWA, LOOKS TO THE FUTURE

● Mr. CULVER. Mr. President, for anyone who wants to keep a measure of control over the future, forecasting and long-range planning are essential. That is why in recent years, managers of institutions ranging from corporations to hospitals to universities have all begun to devote more time and energy to these activities. In 1972, I urged the citizens of our State to become more involved in this process. Unless we were to be fully at the mercy of events and the planning of others, it was essential to determine what kind of State we wanted in the year 2000 and to lay the groundwork to achieve it.

Since then over 50,000 Iowans have met in a continuing process called Iowa 2000 to do just that. How Iowans should be dividing their time among work, leisure, and volunteerism, and how best to conserve and make use of our productive resources of land, water, and energy were among the subjects they addressed. Iowa 2000 recently entered a new phase of activity when the University of Iowa received a $25,000 grant from the Environmental Protection Agency. As the author of the EPA program which administered the grants, I was delighted that our State was one of the first to be awarded one. The money will be used to bring together technical experts and Iowa 2000 participants to look at long-range answers to one of our State's pressing problems: safe disposal of chemical and other toxic wastes.

In addition to this statewide effort, officials and residents of a number of Iowa cities are pursuing local "futures" efforts in an attempt to assess and improve the quality of life for their citizens in the years ahead. One of the most active and best organized of these programs is being conducted by the people of Muscatine, Iowa. I had the pleasure of speaking to them earlier this year and was very impressed by the numbers of residents involved and their obvious enthusiasm for the project.

Five Muscatine citizen task forces are now exploring job opportunities: health, education, and safety; recreation, entertainment, and fine arts; the future of government; and the physical environments and demographics. I look forward to reading their final reports when they are available in December. Some idea of their contents was provided by a recent article in the Quad City Times which previews the options and future developments on which the task forces will report. I ask that the following article be printed in the Record.

The article follows:

Looking 2000

(By Ann Grauvogl)

Muscatine, Iowa.—Picture this old river town in the year 2000.

The outer belt highway speeds travelers around the bulk of development while an inner belt provides a direct route through the city.

Green belts circle and crisscross the town, allowing its 25,000 residents to safety ride bicycles to work, school or to the new Center for Recreation and the Performing Arts, with its auditorium that seats 1,000, a food center and gymnasium.

Picture Muscatine in the year 2000 . . .

More than 70 residents accepted the challenge, and for six months they have worked in small groups to plan the city they would like to see in 20 years. Their finished reports will be presented to the city council in December.

The seeds of the community goals project, which organizers claim is a first for Iowa, were grown in a May 1978 memo from City Planning Administrator Kevin Whittaker.

"Community goals policy statements are important in starting and continuing a cohesive community planning process," he wrote. "The general policies of the community should be articulated to establish a general framework over a period of time for continually changing city council members and members of all appointed boards and commissions."

"We're talking about dreams," Gail Sayles, a member of the planning group said. "We were asked to dream up the things we would like to see and let the powers that be decide if they're affordable or not."

Look again—those 70 visionaries are planning a beautiful new Muscatine.

Small parks dot the city, and aged housing has been renovated for additional years of service. Fnishing touches are being put on a new park running more than the length of the downtown with a stunning view of the river.

Upstream stands the transportation center that provides rail commuter service to the Quad-Cities. In the south end industrial area, there is mini-bus service to the rest of the city and emergency helicopter service to Iowa City.

The county has hired a professional administrator, and city and county officials have initiated new efforts to avoid duplication of services. In fact, many residents anticipate the two governments will merge to more efficiently provide needed services at the least cost to taxpayers.

The city's population has aged considerably in the last 20 years—now almost 20 percent are older than 65. But officials have pushed for funds to build a number of small garden apartments to accommodate the elderly, and a new range of volunteer and professional services are finally becoming reality.

The elderly also are invited with increasing frequency to help in the schools—as guest speakers and aides. In fact, the schools have become more open to everyone—functioning as community centers and providing daytime adult education and new alternatives for school drop-outs.

The vision is an ideal, but task force members have tried to determine the best alternatives for their city.

"When we started it was very difficult for everyone to comprehend, to think in terms of the future," Shirley Drake, a task force leader, said.

"I think we kept trying to tell ourselves nothing we came up with was pie-in-the-sky," Anita DeKock, a group leader, added. "In 21 years, if you're willing to make sacrifices, anything can be accomplished."

The five task forces have explored the future of government; job opportunities; health, education and safety; recreation, entertainment and fine arts, and the physical environment and demographics.

Their reports include a range of ideas, some new for Muscatine and some long talked about.

Staggered four-year city council terms, fewer elected county officials, a rescue unit with paramedics and decentralization of social services are suggested.

Also included are new emphasis on global awareness, a bilingual school staff, a botanical arts garden and a planetarium.

"That represents an awful lot of work," Jack Smith, leader of the task force on government, said. His committee spent 54 hours in 18 meetings completing research for its report.

"More than coming up with solutions, we discovered many problems we weren't aware existed," Mrs. DeKock said. She added she has "a feeling the process of going through this was almost more important or as significant as the goals we came up with."

But task force leaders vehemently hope their reports will not become contributions to history that sit unused on the shelf.

"I hope we collectively have something to do with positive change in this community," Smith said.

If 100 to 150 people would get involved every two years in planning for and thinking of the future, the goals committee could become an influential force for change, Mrs. DeKock said.

Besides, the leaders agreed, there is more work to be done.

"We're not finished," Robert Fiedler task force member, said. "We're just beginning." ●

THE BACKFIRE BOMBER

● Mr. GOLDWATER. Mr. President, throughout hearings before the Foreign Relations Committee and the Armed Services Committee and even occasionally in the Select Committee on Intelligence, there has been discussion of the failure of the SALT II treaty to include the Backfire bomber. The President was told in a letter that the Russians would never use this as a strategic bomber, but only as a tactical one. Now it takes quite a bit of stupidity to buy that statement. When a country goes to war, they will use every weapon they have, short of nuclear ones, and particularly long-range weapons such as the Backfire.

We have been repeatedly told by the Defense Department and by the Joint Chiefs of Staff, and we hear from the President occasionally that our strategic fleet consisting of very, very old B–52's can handle the situation and the Russians really have no strategic force. The Backfire bomber—and they are building 30 of them a year—not only can reach the United States in its present configuration, but there is no way in the world for us to monitor whether or not they put in additional fuel tanks to extend the range.

Rather than just take my word for this, I have a most interesting paper prepared by Dr. Donald G. Brennan, director of National Security Studies of the Hudson Institute on the two bombers. It is not a long one, but I think it will give my colleagues something to think about. I do not think there is any way we should enter into the SALT II treaty without a firm understanding that the Backfire is to be counted as a strategic weapon. I ask that this paper be printed in the Record.

The paper follows:

Asymmetry in Coverage

The extra ICBM payload (in the 308 "heavies") and the extra number of ICBM's (344) allowed the Soviets result from explicit provisions of SALT II. A different major difficulty of SALT II resides in the fact that a Soviet weapon system that appears to be of major potential strategic significance, namely the "Backfire" (TU–22M) bomber, is excluded altogether from the SALT II Treaty ceilings, while American bombers that apparently are closely comparable in capabilities—specifically our B–52s—must be counted. As in the case of the "heavy" ICBMs, there is no offsetting capability that we are allowed but the Soviets are not.

Western estimates of Backfire capabilities are imprecise. It is estimated in Jane's that, with a 10-ton bomb load, Backfire has a maximum unrefueled combat radius (for a two-way mission) of 3,100 nautical miles (nm).[1] I understand that a somewhat lower estimate of 2,900 nm is widely accepted in the Government for a 10-ton bomb load, which would correspond to 5,400 nm or 10,000 Km one-way range. For a 5-ton bomb load, for comparison with readily available B–52 data, these latter values should increase at least 6 percent, to 3,074 nm radius or 10,600 Km one-way range. (Compare this with the SALT range criterion for ICBMs of 5,500 Km.) The corresponding unrefueled combat radius for a B–52D with a 5-ton bomb load is 3,012 nm,[2] less than these widely accepted Backfire estimates, still less than the Jane's estimate.

While lower estimates of Backfire capabilities can undoubtedly be found, these comparisons show that it would be impossible to have confidence that Backfire performance is significantly less than the B–52D, of which we have about 80 in current active inventory, all of which must be counted under SALT II ceilings. Of all the B–52s produced, only the G and H models, about ⅓ of the total, have an unrefueled range capability somewhat in excess of the Jane's Backfire estimate. Backfire has a supersonic capability not matched by any of the B–52s.

By the projected expiration date of SALT II, the Soviets could have 30% or more of their total strategic payload in Backfire (which is a very substantial increment). They have said that they do not intend to use Backfire in a strategic nuclear role against the American homeland, but, as an ACDA statement accurately put it, ". . . there are no assurances that will ensure that Backfires would not be used against the continental United States in time of war."[3] It is as if the United States were to refuse to include all of the Poseidon launchers under the SNDV ceilings because some are assigned to SACEUR for theater targets. Note that the omission of Backfire from the aggregate counts means that the often-repeated assertion of "equal aggregate ceilings" under SALT II is untrue even as concerns simple numbers of strategic delivery vehicles. ●

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[1] Jane's *All the World's Aircraft, 1977/78*, p. 463; ditto, *1978/79*, p. 202.

[2] U.S.A.F. publication *Standard Aircraft Characteristics*.

[3] Quoted in *SALT II: An Interim Assessment*, Report of the Panel on the Strategic Arms Limitation Talks and the Comprehensive Test Ban Treaty of the Committee on Armed Services, U.S. House of Representatives, December 23, 1978 (H.A.S.C. No. 95–95), p. 11.

EQUITY FOR UNITED STATES/CANADIAN WHEAT PRODUCERS

● Mr. McGOVERN. Mr. President, there are few in this Chamber with an interest in American agriculture who are not aware of my sustained efforts now ranging over a year and a half to stimulate international cooperative pricing negotiations among the major wheat exporters: the United States and Canada, who account for two-thirds of all wheat which moves internationally, as well as Argentina and Australia, the other major wheat exporters.

Though this administration continues to be unwilling to enter into any formal negotiations with our Canadian neighbors, steps in a positive direction have been taken by Secretary Bergland and his counterparts in Canada in terms of the exchange of production and marketing information. Though I applaud these initiatives, they still fall far short of informal meetings I have had on a continuing basis with leaders in Canada's Parliament. In these efforts I am indebted to the support I have had from Senators BELLMON and MELCHER and more recently from my good friend from Nebraska, Senator ZORINSKY, who attended an interparliamentary meeting in Canada during the August recess and found the climate in Canada to be much the same as I have experienced earlier.

In support of the position I have advanced I want to call the attention of the Senate to a recent statement presented by Mr. Robert G. Lewis, chief agricultural economist at the National Farmers Union at an international grain pricing seminar at Cypress Hall Community College in Swift Current, Saskatchewan, on October 18, 1979.

Those with a historical interest in the development of American agriculture will find Bob Lewis' statement immensely informative. Those with an interest in current world prices will find it difficult to disagree with his statements.

In both our countries, the maintenance of domestic producer prices and incomes are matters of strictly national policy. No country can object to our governments' acting to raise their farmers' incomes closer to equality with others in our societies—particularly inasmuch as all the importers, without exception, support their farmers with higher prices than we.

Nor can any legitimate attack be made against our action to maintain reserves so as to assure our reliable supply of our customers, nor to fulfill our obligations to provide food aid for relief of hunger and promotion of economic development.

Mr. President, to maintain this important issue and in furtherance of its objectives, I ask that the Lewis article entitled "Perverse Political Pricing of Grain in World Trade" be printed in the RECORD.

The article follows:

PERVERSE POLITICAL PRICING OF GRAIN IN WORLD TRADE

This is an age of controversy and change in the food economies and in the national food and agricultural policies of both Canada and the United States. The issues in each of our countries are related to developments in the other, and both are affected massively by fundamental changes in the world.

The issues that have moved to the front of public discussion include fundamental re-examination of marketing structures, the relationship of national farm economies to the international economy and to world trade, the mix of international cooperation and competition in the pricing and marketing of agricultural commodities, the problem of equity for farm people, and the degree to which the world's foremost resource capable of producing food for export, which is shared between the United States and Canada in North America, should be committed for the special advantage of consumers in those countries.

Indeed, that last point is the central policy issue for our countries in respect to food and agriculture, or at least it seems to be so in the United States. For it raises the politically difficult question as to whether the interest of our public as consumers is the only, or even the most important, stake that the people of our country have in food and agriculture. Can it be that there are other considerations that outweigh the politically appealing goal of "cheap food" in what our public policy should be in respect to food and agriculture? I shall attempt to argue that there are.

GRAIN IS BASIC IN FOOD SUPPLY

In my discussion of these issues, I will focus primarily on cereal grains. The cereal grains—wheat, corn, barley, grain sorghum, oats, and rye—constitute the foundation of the world food economy. Either directly as cereal food or indirectly in the form of meat, milk, poultry, and eggs, cereal grains provide about 70 percent of the entire world's human food supply. The high-protein oilseeds, including soybeans, sunflower, rapeseed and others, have characteristics very similar to the cereal grains, both in use and in production, and could well be included with them as part of the basic food supply, but their relative importance is more recent and information about them is less well known. The cereal grains are so predominent in the overall food and agricultural economies that grain can be treated as a reasonable satisfactory but simple proxy for "food" in discussions of the economics and problems of food.

There is a great deal of attention being given these days to the question of cooperation between the United States and Canada, as the world's major exporters of grain, in respect to the pricing and trade in grains in the world market, and of those countries with the rest of the world community through an international wheat or grains agreement. That is the main subject about which I intend to talk in this opening statement today.

But before I get into a discussion of those specific topics, I think it is necessary to define clearly my fundamental view of the structure and nature of the world food economy. I think my view is a reasonably accurate one, but many of those who talk about the subject do not share it, and many of those who do share my fundamental perception of what the reality is about the structure and nature of the world food economy usually neglect to describe it understandably when they talk about it to the general public. The result is that public understanding of the issues is handicapped by lack of knowledge of the basic facts in the situation.

First of all, sound judgment and good choices in food and agricultural issues require a basic understanding of the way by which prices of agricultural commodities are determined.

GRAIN PRICING SYSTEM MISUNDERSTOOD

Most of the editorial writers and politicians and altogether too many of the agricultural economics professors and others who talk about food and agriculture policy questions seem to assume that the "world market price" of agricultural commodities reflects, at least roughly, the working of the theoretical ideal of a competitive market—which would establish the market price at the cost of production of the marginal producer. According to that theory, the price of wheat would tend to be fixed at the price which would enable the producer whose production costs are the highest of all producers who are able to find buyers willing to pay enough for wheat to make them able and willing to continue in production. According to this theory, any producer whose production costs are higher than that would not be able to find a buyer willing to pay that much for wheat, so that he would be forced or persuaded to drop out and stop producing. On the other hand, all of the producers who can prouce wheat at lower cost have no need to sell for any less, and they would enjoy various levels of profit on their wheat equal to the amount that could be obtained by the marginal producer minus their own actual production cost.

This theory of how prices are determined in a competitive market is the most elementary economics. However, for several fundamental reasons, the way that the price of wheat and of most other agricultural commodities is determined, does not at all fit that theory. In fact, the actual "world market price" of wheat is almost precisely the direct reverse of what the classical theory of marginal pricing suggests it ought to be.

To be completely blunt about what I'm driving at, most of the "experts" who talk to the public about the price of wheat at least insinuate, and perhaps many actually believe, that the price that is made in the world market conforms to this classical theory of competitive pricing, and therefore is "right" and ought to be the target of public policy excepting insofar as the political process is soft on farmers and awards them an additional "subsidy". But they are very close to exactly wrong in what they insinuate or suppose.

AGRICULTURE DIFFERS FROM "CAPITALISTIC" BUSINESS

Before going on to describe my view of how prices of grain are really made in the world economy, and my judgment of the merit of those prices thus made, let us review the fundamental reasons why the pricing of agricultural commodities does not fit the theory of competitive price determination, why it could not have been made to fit it, and why to some extent it still cannot be made to fit it, and why it will not be made to fit it for a very long time to come, if ever.

1. Agricultural enterprises are not "capitalistic" in origin. A truly "capitalistic" enterprise gets started because some entrepreneur sizes up the situation and decides that he might be able to make a profit by investing his money and starting a business. His judgment is based on his analysis of his own capabilities, the competition, and the potential or actual demand in the market.

But almost none of the farm enterprises in this world were started by capitalists. Farms were started by subsistence settlers, who farmed to eat, long before capitalism had evolved.

It is helpful for understanding the origin and basic nature of the agricultural economy to consider the economy of the subsistence hunters who occupied the Americas before the voyages of Columbus.

For centuries, our forests and plains had been occupied primarily by subsistence hunters. When the European explorers appeared, the Indians and Eskimos discovered that they could trade their surplus furs, which otherwise had no value to them, for attractive trinkets and other desirable objects. But then the new lands were settled by subsistance farmers. They farmed to eat, not to sell, just as the Indians had hunted to eat, not to sell. Neither the hunters nor the subsistence farmers had gone into the business of hunting or subsistence farming as capitalistic entrepreneurs, with a rational expectation that a market existed which would pay them for their cost of production plus a profit.

The fundamental significance of this non-capitalistic origin of farming is that the "supply" that eventually arose after the subsistence farmers achieved the ability to produce a surplus beyond their own needs had no rational relationship to "demand". This is a marked contrast from what occurs when the supply is governed by the calculations of capitalistic entrepreneurs bent on recovering their costs of producing and making a profit on their investment. Many of the settlers who came to the new world had practically no choice but to farm to eat, or to starve. The land was there for the taking. The settlement of the new world by subsistence farmers resulted in an enormous over-expansion of the world economy's agricultural production capability, leading eventually to worldwide chronic agricultural surpluses during most of the time throughout this century.

2. Resources in agriculture are far less "mobile" than in most industries. This is particularly true of farm labor and farm management. There was very little that most farmers could do except to go on farming as long as they could survive, even if the prices they received allowed them little or nothing as a return on their labor, investment, management, and risk. In contrast, the businessman who opens a corner grocery store, then finds he can't make ends meet, usually can sell the store building to someone who wants to try starting a shoe store or a restaurant, and go on to work at some other occupation.

3. The volume of production in agriculture cannot be controlled readily by the producer to conform to the volume he can expect to sell at a satisfactory price. Weather and other factors that affect yields are uncontrollable and unpredictable. Most other producers have far greater opportunities to regulate the volume of goods they produce to conform to the volume they can expect to sell at a satisfactory price.

4. Farmers must commit the resources used for producing their crops many months, sometimes even years, before the crop is ready to harvest and sell, usually long before they are able to make a reasonable judgment about the volume that the market will absorb.

5. The security of nation-states is dependent upon the supply of food available to them, so that governments almost invariably try to promote farm production at levels in excess of what markets will absorb at prices that farmers would consider reasonable.

It is in response to these fundamental facts about agriculture that the food economies of nations and of the international community have evolved in the form diametrically opposed to the theoretical ideal of a "competitive market" system of pricing.

GRAIN PRICE-MAKING DOMINATED BY GOVERNMENTS

Let's review briefly the structure of the present world grain economy:

In 1978, 78 percent of the world's total consumption of grain occurred in countries having strictly-protected national markets. Farmers in those countries received prices for their grain ranging up to ten times as high as those received by farmers in the United States for wheat, and up to four and a half times as high for corn. Domestic producers in those countries received those prices, in all cases higher than the prices received by farmers in the United States or Canada, for all that they could produce. The domestic producers in those countries accounted for about two-thirds of total world production in 1978, all at prices substantially higher than those prevailing in the "world market".

Only about one-third of the world total of wheat and feed grains is produced by farmers who receive prices at or close to world market prices. These are the farmers of the United States, Canada, Australia, Argentina, South Africa, Thailand, and Brazil. (Remember now that all the other farmers in the world, producing about two-thirds of the total production, receive prices substantially higher, for all that they can produce, to be sold in their protected national markets. A very small part of this production, when it is in excess of internal requirements, is exported with the aid of subsidies from their government.)

The producers in the exporting countries must compete for sales in the residual part of the world market. In most years, when world crops are adequate, almost the entire world "surplus" is concentrated in the exporting countries, greatly exaggerating the price-depressing effect upon the world market price. The price that producers in the exporting countries receive is, in effect, a "clearance sale" price bearing no relationship—except by rare accident—neither to their own cost of production, to the cost of production of "the marginal producer", nor to the price that consumers would pay for the available supply in a truly competitive world market. It is a "political" price that has no economic validity.

In contrast, when a world shortage exists, prices in world trade skyrocket steeply. But this has happened only rarely throughout this century.

GOVERNMENTS "SUBSIDIZE" FARMERS

But even this is not the end of the counts against the "world market price" as measurement of what the price of grain ought to be. In the United States, the government has recognized that the "world market price" is not adequate compensation for grain producers, and we have provisions whereby the government pays cash supplements to grain producers who comply with government programs. I understand that both Canada and Australia have adopted programs under which farmers receive supplemental returns in most years in addition to the "world market price" for that portion of their production which is consumed domestically. It is my understanding that the present government policy in Argentina does not provide for any form of supplementary compensation to Argentine farmers.

If that is true, only the farmers of Argentina in all the world, producing only 2 percent of the world's total production of grain in 1978, actually received no more than the "world market price" for their grain.

Thus I say that the "world market price" for grain is approximately the opposite of the price that would be established by a truly competitive market. It is a price that is set at approximately the cost of the lowest-cost producer instead of at the cost of production of the highest-cost producer.

In addition to the supplemental payments of one kind or another that the United States and some other exporting countries pay to their farmers, the "world market price" of grain is profoundly affected by the U.S. price support system. The U.S. "price support loan" that is offered to farmers to store their grain sets a floor under the world market price. The loan rate is the lowest return below which American farmers don't have to sell their grain. They can store it until there's a shortage—or until there's widespread fear of shortage, as is the case right now, and prices in the market rise above the loan rate floor.

All of the grain and soybeans that compete with commodities exported from the United States is sold directly (or priced as in the case of the European Community) by agencies of national governments. All of the net grain exporters' selling agencies seek to maximize the return to their farmers, so that their interests, and their influence upon prices, is similar to that of one farmer's upon another's. Thus all grain sold in world trade is priced in relation to the U.S. price support loan rate or to the prevailing market price in the U.S. if supplies are short and demand is strong.

For several decades following the recovery measures for agriculture initiated during the depression of the 1930's the United States "supported" prices at substantially higher levels, in real terms, than it does today. Over the past ten years the policy has been changed. Price support loan rates for grains have been reduced to the lowest levels since governmental farm programs were initiated. The "world market" has sagged along with the floors maintained by the U.S. loan program.

LONG-TERM SHORTAGE CONDITION FORESEEN

This existing grain pricing system is so obviously unjust to farmers in the grain exporting countries, including the United States and Canada, that I will not belabor that point. Farmers in both of our countries have voiced their justified protests throughout most of this century.

But if the farmers' appeals for equity have not moved the conscience of their national publics to yield them adequate redress in the past, there is now a stronger claim that needs to be voiced, and that must be heeded. It must be heard and heeded now not for the farmers' sake alone, not even primarily for the farmers' sake, but in the interest of the public as the whole in the preservation of world order and the survival of our civilization.

I have described how the pre-capitalistic origin of the world's farming enterprises accounts for the enormous over-expansion by the start of this century of agricultural production capability in relation to market demand. An enormous stock of farming capital has been accumulated on the subsistence farms of this world, and particularly on our North American continent, from the sweat and tears and blood of man, woman, child, horse, and ox. This over-expanded agricultural productive capacity achieved the unprecedented feat of chronic grain surpluses enduring throughout a full century, relieved only by the abnormal disruptions and extraordinary demands of the two world wars until this present decade.

But now I believe that a profoundly significant turn has been reached. World demand for food appears to have caught up at last with the world's farmers' capability to produce. The century-long era of food surpluses, I believe, has come to its end.

It is instructive to set aside both the complacency of the non-farm public and the despair of surplus-ridden farmers to examine the particulars of what is happening in the terms of world demand for food, and of world food production during the decade of the 1970's now coming to its end.

The Soviet Union's highly-publicized grain crop failure in 1972 gave to the world its first clear notice, I believe, of the monumental change in the world food situation that is upon us. In the years since 1972, world consumption of grain has increased by almost the identical amount of the increase in grain production. That coincidence has lulled many to complacency, back to the habit of supposing that grain surpluses are and will be forever the normal state of affairs.

But the fact that the long-term trend of rising world consumption of grain has overtaken the long-term trend of rising yields has been masked from general perception by fortuitous circumstances:

On the supply side, by the return to production of a huge acreage of "set-aside" American cropland. Planted cropland in the United States in 1979 was more than 40 million acres greater than in 1972. At the average yield of corn in the U.S. this year, that much cropland would produce over 100 million tons of grain—more grain than the total output of any country on earth except the United States, the Soviet Union, China, and India.

Also benefitting supplies has been unusually favorable weather and good grain yields since 1975.

On the demand side, by the retarding effect upon consumption of the worldwide economic recession throughout most of the 1970's.

But the reality cannot be ignored much longer. If world weather and grain yields follow the normal patterns, acute food shortage is almost certain to occur by the mid-1980's. Prompt policy changes are needed urgently to alleviate the dangers.

"RESERVE" MARGIN VERY NARROW

Extreme danger may be as close as next year. Present world "reserves" of grain (projected in 1980) amount to only 2½ per cent of a year's use above the less-than-adequate "pipeline" stocks that existed at the worst of the food crisis in the 1970's. The comparable reserve on hand at the beginning of the 1970's was more than three times as high. A short world crop in 1980 comparable to those of 1972 or 1974 or 1975 would lead to steeply higher grain prices (by 100 per cent or more) in domestic and international trade, accompanied by acute distress and probable famine in poor countries that experience crop failures. The food crisis of the 1970's contributed seriously to the economic and political dislocations whose consequences still traumatize the world; a comparable shortfall in production next year would have worse effects.

America's own food supply is not at immediate risk. The U.S. originates 55 percent of total grain and 80 percent of total soybean exports, and ample and even surplus supplies can be assured for domestic use by resticting exports.

But such reliance upon restriction of exports in the face of steep food price increases and famine elsewhere in the world would expose the United States to incalculable economic, political, and military risks.

Improved technology in developing countries, together with the creation of "new farms" for intensive grain production on land now used in various parts of the world for pastures or woodlands or wasteland, could supplement continuing yield increases on existing farms so as to insure continuing increases in total world grain production. But the anomalous world grain pricing system works powerfully against such measures. Prices in world trade are too low to compensate existing farms adequately, much less to attract the additional investments, labor, management, and risktaking that this would require. Almost all of the potential additions to the world's grain producing capacity would be more costly and more risky to develop than the cost of buying existing farms at their current market value in the grain exporting countries. Prices substantially higher than those now prevailing in world trade would be required to provide sufficient incentives for the needed expansion of the world's grain producing capacity.

The dominant position of the United States as "price leader" in world trade in grains, as the source of more than half of the world's exportable supply, imposes a clear obligation upon my country to exercise world leadership in a race against time to insure that there will be enough to eat for hungry mankind to maintain world order. Canada has a comparable obligation to join as a partner in that endeavor, as she has in the past, particularly in feeding the allied forces during World War II and the years that followed its end.

The prime necessity is to raise the price of grain in world trade, and thereby in our own domestic economy, as quickly as possible toward a goal conforming more realistically to the true economic cost of production.

The uneconomic, politically-determined low prices that are being projected by present United States policy into the world market are a severe disincentive to farmers in other exporting countries to increase production, and to farmers and their governments too in the developing countries.

The United States and Canada must lead the world as well to provide and manage ample world reserves of grain so as to assure reasonable security of supply during years of poor crops to all domestic and foreign commercial buyers, plus a special reserve for emergency requirements of poor countries. This can be accomplished by modestly extending and adapting present domestic farm program operations and measures of international cooperation.

There is no need for justification for our countries to be subjected to the moral onus and political burdens of the characterization "cartel" for exercising leadership in this way.

In both our countries, the maintenance of domestic producer prices and incomes are matters of strictly national policy. No country can object to our governments' acting to raise their farmers' incomes closer to equality with others in our societies—particularly inasmuch as all the importers, without exception, support their farmers with higher prices than we.

Nor can any legitimate attack be made against our action to maintain reserves so as to assure our reliable supply of our customers, nor to fulfill our obligations to provide food aid for relief of hunger and promotion of economic development.

The desired price objective can be achieved satisfactorily by simply allocating to the respective exporting countries their respective "shares" of the international obligation to accumulate and hold reserves and to distribute food aid, having established the global quantities to be so designated and insulated from commercial trade each year at such levels as will allow the remaining supply to trade at the desired approximate price.

By this approach, sellers would compete freely for sales, and differentials in prices to reflect differences in quality, location, and other conditions would be established by market forces in a completely normal manner, without further interference by governments. The prices that would result by this procedure would fluctuate within a relatively narrow range, which could be controlled with a sufficient degree of rough precision to satisfy the needs of both farmers and consumers for relative stability. All of the technical difficulties and administrative inefficiencies that accompany efforts to regulate prices directly and precisely would be avoided.

The primary mechanism for accomplishing the international cooperation suggested above should be informal consultations between exporting country governments. Such consultations are and have been for several decades a regular and routine affair. No special organization is needed.

Our long-standing efforts to achieve broader and more formal international agreements concerning trade in grains, food reserves, and food aid, should of course be continued. But the policy of the United States, and I suggest also the policy of Canada, in respect to the pricing of grain in our domestic market and for export need not and should not be made dependent upon any international agreement.●

THE HEAVY ICBM ISSUE AND SALT II

● Mr. HUMPHREY. Mr. President, I would like to commend my colleague, Senator GARN, for his excellent statement in the RECORD on October 29 regarding heavy missiles and SALT. Senator GARN has shown how the new U.S. MX ICBM has already been constrained by SALT II, while the Soviet superheavy SS–18 is unconstrained and the Soviets are granted a monopoly on heavy missiles.

The Carter administration claims that U.S. military leaders have never wanted heavy and very heavy ICBM's. In fact, however, as Senator GARN pointed out, the U.S. Air Force actually did deploy in the early 1960's a total of about 250 Titan I and II heavy ICBM's. Yet a civilian, Defense Secretary McNamara, cut these plans back to 54. Moreover, it should be reemphasized that in 1973 the USAF originally designed the MX ICBM to be a very heavy throw-weight missile carrying 14 warheads. It is interesting that Soviet news media still point out continuously that the U.S. MX was designed to carry 14 warheads. The designed throw weight and RV number—10—for the MX has now in fact been scaled down to fit into the SALT II "definition" of a "light" ICBM—the launch weight and throw weight of the Soviet SS–19.

Most significantly, Mr. President, in 1970 Dr. Henry Kissinger wrote a national security decision memorandum directive to the U.S. SALT delegation on our negotiating objectives in SALT I. Kissinger ordered that the United States should insist upon having the right in SALT I to deploy 250 very heavy ICBM's, which was the same number of SS–9's that the Soviets had deployed at that time. The United States wanted the Soviets to agree not to go above 250 SS–9's themselves, and for them to agree to allow the United States the same number of very heavy ICBM's—250. The Soviets refused to agree to this U.S. objective in 1970, and the United States has retreated from insisting on equality in heavy and very heavy ICBM's ever since then. Moreover, the Soviets have adamantly rebuffed all constraints on their own heavy and very heavy ICBM's.

Mr. President, these facts contradict the administration's claims that the United States has never had any plans or military need for heavy and very heavy ICBM's. In fact, we have had such plans and such military needs. We have, nevertheless, abandoned our plans, and have supinely conceded a heavy ICBM monopoly to the Soviets. This fact has profound geopolitical significance.●

EDITOR OF "JAY PAPERS" BELIEVES JOHN JAY REGARDED TREATY TERMINATION AS A SHARED POWER REQUIRING MUTUAL LEGISLATIVE AND EXECUTIVE ACTION

● Mr. GOLDWATER. Mr. President, I am pleased to present to the Senate today a communication I have received from the Nation's leading authority on John Jay attesting to the fact that Jay believed treaty termination is a shared power.

Richard B. Morris, who is Gouverneur Morris professor of history emeritus at Columbia University, and in that capacity is editor of the "Papers of John Jay," has written to tell me of his conclusion that Jay regarded treaty termination as a power belonging jointly to the executive and legislative branches. Also, Professor Morris writes that he believes this was the understanding among American leaders generally who were contemporary to the framing or ratification of the Constitution.

In a subsequent letter to me, dated June 29, 1979, Professor Morris adds his personal belief that "the issue of treaty termination [is] an act which in my opinion clearly requires Senate advice and consent to be constitutionally valid."

Mr. President, as we all know, John Jay is the Founding Father most qualified to address the subject of foreign affairs under the Constitution. He wrote five of the Federalist Papers and became the first Chief Justice of the Supreme Court, after serving as the Chief Foreign Affairs representative of the Nation under the Continental Congress. Jay, of course, had been Secretary for Foreign Affairs to the old Congress.

Jay's words at the time give us an important insight into the meaning of the Constitution, and I ask that Professor Morris' commentary revealing Jay's belief regarding treaty termination shall be printed in the RECORD.

The letter follows:

COLUMBIA UNIVERSITY
IN THE CITY OF NEW YORK,
New York, N.Y., June 4, 1979.

"DEAR SENATOR GOLDWATER:

"In answer to your query, may I say that I have reached an opinion regarding the intent of the Framers in vesting the power of treaty termination, and that it is basically in accordance with your prepared statement, "Termination Is a Shared Power."

"It just so happens that I have before me a copy of the original draft of 'Federalist' Letter No. 64 in Jay's own handwriting, with some variances from the published text. Throughout Jay is talking about treaty-making as a shared function, and it is a fair inference from his text that he would have regarded treaty termination in the same light. The text of the draft from which you quote the published version on p. 119 of your article reads:

"They who make Laws may without Doubt repeal them and it is equally true that they who make Treaties may alter, or annul them; but we are not to forget that Treaties are made not by one of the contracting Parties but by both, and consequently that, as the Consent of both was essential to making them at first, so must it ever afterwards be [necessary] to alter or cancel them . . . With Respect to the Responsibility of the President and Senate, it is difficult to conceive how it could be increased."

"The fact that John Adams turned to Congress in 1798 to terminate the treaties of alliance with France attests to the sense of both the Executive and the Legislative branches of how the treaty provision in the Constitution was interpreted by contemporaries, many of whom were active either in the framing or the ratification of the Constitution.

RICHARD B. MORRIS,
Gouverneur Morris,
Professor of History Emeritus."●

SPECTER OF THE GREAT DEPRESSION SERVES AS REMINDER OF NEED FOR NEW ECONOMIC POLICY

● Mr. HEINZ. Mr. President, as you know, on Monday a number of my distinguished colleagues in the Senate joined in a special order to observe the 50th anniversary of the stock market crash of 1929. I was in Philadelphia on Monday conducting hearings in connection with my activities on the Aging Committee and was thus unable to participate.

I would, however, like to make some remarks as we reflect upon the events leading up to the Great Depression, which caused untold misery for millions of workers and investors, resulting in fundamental changes in our political and economic systems and sending shock waves throughout the industrialized world.

Few observers today are predicting economic collapse of the magnitude which the Nation experienced 50 years ago. Yet the economic outlook for the United States, still the wealthiest and most productive Nation on Earth, is not encouraging.

By virtually all accounts we are already in the midst of a recession—a recession accompanied by double-digit inflation. Overseas the value of the dollar continues to decline, as does the competitiveness of our industry. At home a combination of factors—uncontrolled inflation, Government tax and spending policies which fuel the fires of inflation and discourage sorely needed saving and investment in plant modernization and expansion, and overly burdensome Government regulations—has, not surprisingly, resulted in an American economy which exhibits distressingly low rates of productivity growth and the lowest rate of saving of any major industralized country.

Mr. President, neither I nor any of my colleagues pretends to have all the answers to the difficult economic problems with which we now find ourselves confronted. Yet there is emerging, at least on the Republican side of the aisle, a consensus that economic revitalization is dependent upon strong national policies that will encourage rather then penalize personal savings, curb excessive Government spending and regulatory policies, promote business investment, and in general restore the productivity of our economy. The 41 Republican Members of the Senate have thus joined in endorsing a comprehensive policy statement which suggests several measures necessary for the desperately needed revitalization of our economy. I would like to share this statement with the full Senate, and ask that there be printed in the RECORD the Republican economic policy statement.

The statement follows:

REPUBLICAN ECONOMIC POLICY STATEMENT

INTRODUCTION

Today, a lack of confidence in the ability of the present Administration to develop consistent and reliable economic policies has bred a climate of uncertainty about the health of the U.S. economy and even about the position of the U.S. in the world.

Controlling inflation, cutting taxes, and increasing our national productivity are the main economic concerns of the American people. Senate Republicans are prepared to furnish fresh, optimistic, and decisive leadership to accomplish these objectives.

Our program for balancing the federal budget, reducing personal and business taxes to increase incentives for investment and improved productivity, curtailing regulatory excesses, and other measures to increase investment and job opportunities is in sharp contrast to current economic policies.

In recent months, economic uncertainty has yielded to genuine concern about the danger of a severe recession because:

(1) Inflation has reaccelerated to double-digit levels in this year,

(2) Unemployment has remained very high, and

(3) There is an almost total absence of a coherent national economic strategy and energy policy.

Inflation is eroding the value of savings and wiping out recent increases in personal incomes, while simultaneously increasing the tax burden by forcing Americans into higher tax brackets. Unemployment has persisted in the range of 6 percent for the last year and shows no signs of improvement any time soon. Indeed, it is now expected to worsen considerably. And youth unemployment continues at intolerable levels, particularly in the older cities.

Compounding the problems of worsening inflation and unemployment are the continuing weakness of the U.S. dollar; very high interest rates; the sharp fall-off of R & D investment; and the virtual stagnation of U.S. productivity growth—the key to jobs, rising standards of living and stable prices.

The economic danger before us is very real, therefore, but the Administration seems to lack either the ability or the will—or both—to deal with it. Instead of formulating the needed economic initiatives—to restrain inflation by increased productivity and enterprise; reduce unemployment; reduce the trade and payments deficits; increase the real GNP by bringing the national books into balance; and restore domestic and world confidence in the dollar—the Administration has seemingly chosen a policy of papering over the basic economic illness by market manipulation of the dollar, wage and price exhortation and surrendering on energy policy.

The Administration continues to rely principally upon an almost unintelligible, already unsuccessful program of half-mandatory/half-voluntary wage and price controls and a series of energy programs by which, even if approved, little will be gained in energy sufficiency. The economic history of the world proves the folly of continuance of wage and price controls which distort the economy and incur ultimately greater inflationary pressures. The imposition of wage, price or credit controls cannot be justified except in a time of true national emergency.

Clearly the loss of confidence in the leadership of the U.S. has its roots in a fundamental skepticism about the effectiveness of U.S. leadership.

Senate Republicans believe action is needed now, to avert what could be a major domestic and world economic disaster early in the course of the next decade. There is a need to put before Congress and the people an action program which would be directed to: securing the living standards of the people; reducing unemployment by providing permanent private sector jobs, particularly among minorities and youth; restoring confidence in the U.S. dollar; stimulating capital formation and U.S. productivity as the only enduring approach to stable prices and full employment; reducing the burden of unadjusted federal tax brackets on individuals and corporations; balancing the federal budget; and reducing our dependence on foreign energy sources.

Accordingly, Senate Republicans put forward this "Economic Program for the Decade"—an action program to begin to make right what is so wrong with the U.S. economy.

BUDGET AND TAXES

1. It is vitally important that the tax system not operate to reduce the real stand-

ard of living of the American people. Therefore, we support substantial phased across-the-board reductions in federal income taxes to encourage incentives for economic growth and job opportunities without inflation and to limit the growth rate of federal spending.

2. Our objective must be to bring the federal budget into balance and to curb future deficits.

3. There should be a mandatory limit on federal spending. A policy of no "real" growth in federal spending through FY 1982 is desirable. The spending limit needs to be sufficiently flexible to allow for national economic and other emergencies.

4. The excessive burden of the national debt must be reduced. Budgets must provide surpluses for this purpose. Receipts from the sale of certain federal assets such as oil leases and surplus federal properties could help accomplish this goal.

5. A thorough review of all federal entitlement programs is necessary to help reduce the rapid growth of federal spending.

6. It is of the utmost urgency that the Social Security system be reviewed and revised so as to ensure the continuation of our financial commitment to our older citizens, the solvency of the trust fund, and to be fair to our younger workers, with particular regard for eliminating fraud and abuse in the disability program and providing relief from escalating payroll taxes.

7. Federal accounting procedures must be changed. The hidden spending of "off-budget" agencies through loans and credits should be highlighted in the Congressional budget.

8. There should be a thorough review of federal budgetary and accounting procedures, with consideration given to applying the accounting procedures of the private sector to the operation of the federal government, to obtain a more accurate picture of the federal budget in terms of capital assets as well as outlays. In this connection, a Task Force on the Federal Budget should be formed to review and make recommendations to Congress and the people on federal budgetary concepts, procedures and standards.

9. To further reduce federal indebtedness, the U.S. should be more vigorous in the collection of its debts, domestic and foreign.

CAPITAL FORMATION AND PRODUCTIVITY

1. Personal savings and investment should be encouraged by incentives, rather than penalized through taxation. There should be universal eligibility for Individual Retirement Accounts of up to $1,500/year. By saving for their own future, Americans would be investing in a stronger, healthier economy.

2. As an incentive for greater savings and investment, a savings interest exclusion should be provided and the present dividend exclusion from federal personal income taxes should be expanded.

3. Government at all levels should revise regulatory systems which presently divert investment capital away from productivity and job creation and divert business enterprise into non-productive purposes.

4. Improved levels of productivity in the private sector are paramount if the United States economy is to make progress in winning the inflation battle. Business incentives toward increased capital formation and investment must be encouraged through business tax reductions, tax credits, and accelerated depreciation allowances. Realistic tax incentives spur investment. Depreciation allowances for plants and equipment, including equipment to meet environmental regulations, should be accelerated and adjusted for inflation, in order to permit depreciation allowances to approximate more closely the true replacement costs rather than historical costs of capital equipment.

5. To increase productivity, the United States must recover its former place as the world's leader in industrial research and development. Tax credits for new R & D expenditures would provide a significant incentive for improved research and development spending. The United States must increase properly conceived federal expenditures for accelerated research and development in order to replenish the nation's reservoir of technology and energy alternatives.

6. Sunset legislation for all federal regulatory agencies should guarantee the periodic review and, if necessary, adjustment of their scope and purpose.

7. The Congress should exercise effective but practicable control over proposed federal regulations to ensure that they carry out the intent of Congress. On the federal level, every proposed regulation should be subject to cost-benefit analysis to ensure that potential benefits are not outweighed by its economic impact.

EMPLOYMENT AND UNEMPLOYMENT

1. Full encouragement should be given to the highest priority need for work-study programs in high schools and colleges to attack the basic problems related to the high levels of unemployment among several groups, i.e., those lacking the training, education, and the desire to achieve the needed skills for productive employment.

2. Targeted tax credits for hiring the structurally unemployed—similar to the Targeted Jobs Tax Credit enacted last year—provide an important incentive to employers to hire the economically disadvantaged. Full use should be made of these and similar tax credit incentives to reduce unemployment among those segments of the labor force—youth—with disproportionately high unemployment.

3. Cash bonuses for employers should cover part of the costs of bringing jobless Americans into the productive economy. In this regard, CETA's voucher demonstration project, helping the private sector hire trainees most in need of jobs, should receive a greater percentage of CETA funds.

4. Labor and management should cooperate to strengthen and expand training and apprenticeship programs in the skilled crafts, especially in small businesses, and measures to improve productivity with appropriate participation by each in the avails of such improvements.

5. Labor-management councils, bringing employers and employees together to improve working life conditions, should be encouraged.

6. The Private Sector Intitiative Program (Title VII of CETA) should be expanded, so that persons trained in this program can have better opportunities or career development.

7. The charter of the U.S. Employment Service should be revised to foster better coordination with other federal activities, especially those conducted under CETA.

8. Part-time and flexi-time work schedules deserve greater use to accommodate workers and their families with special economic and domestic situations.

9. A youth differential in the Minimum Wage, with appropriate safeguards against displacement and only for a limited period of time, could have a significant impact on youth employment.

10. Regulation and paperwork requirements must be simplified for all business and construction activities in order to increase employment opportunities through reduced overhead costs.

INTERNATIONAL TRADE AND MONETARY POLICY

1. The Federal Government, with active participation by leadership from the private sector, should develop and implement a comprehensive national export policy to promote aggressvely the export of U.S. goods and services and to defend U.S. trade interests.

2. Export licensing procedures should be simplified, streamlined, and better defined. There should be a firm commitment to control the export of advanced technology to nonmarket nations in accordance with the provisions of the Export Administration Act. We remain committed to the principles of free emigration before Most Favored Nation Status can be extended.

3. A broad effort should be launched to assist smaller businesses to participate in exporting, beginning with reform of the Webb-Pomerene Act.

4. We advocate elimination of export subsidies through international negotiations, acknowledging the impediments to this process. Until such subsidies are eliminated, we should take appropriate steps to support American industry in world markets through organizations such as the Export-Import Bank and the Commodity Credit Corporation.

5. Improved trade relations within the Americas are urgent and necessary for our mutual well-being. Therefore, the United States must begin to emphasize the importance of hemispheric trade. To that end, we urge the creation of a Western Hemispheric Economic Commission to study ways and means of joining together with our neighbors to ease and facilitate such trade to our mutual benefit.

6. The U.S. must work actively with Japan and other surplus countries to check continued undisciplined trade surpluses and also to remove nontariff barriers to trade. Failure to resolve this problem may cause political pressure for protective measures to become irresistible.

7. The DISC tax incentive for U.S. businesses should be retained, and other tax incentives for exports should be provided, as long as our overseas competitors maintain similar export subsidies. Special provision for U.S. citizens working abroad is essential to maintain our competitive position.

8. The Federal Government should systematically monitor imports to anticipate future trade problems before they cause the shutdown of American plants and the loss of jobs. To this end, we recommend trade adjustment assistance to provide more timely and equitable relief to labor and industry.

9. U.S. monetary policy must be based on a firm commitment to a strong and stable dollar. This means money supply growth based upon the real growth in the economy. A strong dollar requires improvement in our economic fundamentals: a lower inflation rate, an improved trade balance, and a significant reduction in oil imports through domestic production, conservation and effective measures to deal with the OPEC Trust.

10. In protecting the dollar from sudden or severe fluctuations on foreign exchange markets, we should support vigorous intervention in the operations of the foreign exchange markets. High interest rates are a direct result of inflation with its excess money supply growth. A strong dollar will mean lower interest rates and less inflation. To this same end, the desirability of gold sales by the Treasury and the policy of "demonetization" of gold should be reevaluated.

11. The International Monetary Fund should exercise more effective surveillance of surplus economies and should work more closely with commercial banks.

12. The transactions of U.S. banks in the Eurocurrency markets should be more closely evaluated.

13. The U.S. should resume its leadership role in the international monetary system. We should convene world financial leaders

to develop a long-term plan for the evolution of the present monetary order into a true multi-currency reserve system characterized by stability in exchange rates and minimal world inflation.●

DALE EMERSON SAFFELS

● Mr. DOLE. Mr. President, late last night the Senate confirmed Mr. Dale Emerson Saffels for the U.S. district judgeship for the State of Kansas. I would like to take this opportunity today to say a few words about my friend.

I have known and worked with Dale for many years, and have the deepest respect and admiration for his character and abilities. He has served in a wide range of public positions with distinction, and has one of the broadest backgrounds of any judge to be confirmed by the Senate. I wholeheartedly supported his confirmation.

Dale has the legal background and administrative experience to make him an excellent addition to our judiciary. Since his admission to the bar in 1949, he has practiced in many areas of the law in many of the courts of Kansas. He has been admitted to practice before the Supreme Court of Kansas, all inferior State courts, all Kansas administrative bodies, the U.S. District Court for the District of Kansas, the 10th Circuit Court of Appeals and the Supreme Court of the United States.

Dale is eminently qualified to preside over a busy judicial docket. He has heard hundreds of hearings before the Kansas Corporation Commission, where he was chairman from 1968 to 1975. This is especially significant because the corporation commission is an extremely powerful body in Kansas, regulating the public utilities, railroads, motor carrier buses, securities, natural gas and oil of the State. While there, he proved successful in expediting the consideration of matters on its busy schedule.

I have also grown to know Dale through his involvement in the political affairs of Kansas. Two highlights illustrate the respect he has earned through his work. While serving in the Kansas House of Representatives, he was elected leader of the minority party. In 1962, he was nominated by the Democratic Party to run for the Kansas Governorship.

Dale has been a citizen in every sense of the word. His civic, legal, charitable, religious, educational and social activities are too numerous to mention. Suffice it to say, he has played many roles well, from the various bar associations to the Chamber of Commerce, from the board of his law school to deep involvement in the Lutheran Church.

It is of particular importance to Kansans that he has done all of this in Kansas. He was born in Kansas. He went to high school and college in Kansas. He attended law school at Washburn University, my own alma mater, in Kansas. He practices law in Kansas. His political and governmental activities have had a great impact on Kansans. If any man is sensitive to the needs and desires of Kansans, that man is Dale Saffels. I am confident that he will express this sensitivity in his role as district judge.●

STATEMENT OF GENERAL ROWNEY ON SALT II

● Mr. GARN. Mr. President, the attached memorandum has been released by General Rowney, to outline the reasons for his retirement. It deserves the attention of my colleagues, and of all Americans. I request that it be printed in the RECORD at the conclusion of my remarks.

No individual free to speak about SALT II has a better understanding of the negotiations and the implications of the SALT II treaty for American national security than General Rowney. He concludes that the SALT II treaty "does not meet minimally acceptable standards." This basic conclusion has been endorsed by almost 2,000 retired general officers of the United States.

There has rarely been a national security issue on which there has been this unanimity of opinion. Much of General Rowney's criticism has been acknowledged by Carter administration spokesmen at various times during the hearings on SALT II. General Rowney effectively counters the argument that we will be better off with the treaty than without it—that we will not match the Soviet buildup if we reject SALT II.

I do not accept the council of weakness. As General Rowney declares—

> Agreeing to a bad agreement is worse than no agreement; a poor SALT II will make it impossible to negotiate a good SALT III.

The statement follows:

STATEMENT BY GENERAL ROWNEY

Memorandum for the Chairman, Joint Chiefs of Staff.

Subject Request for Relief from Assignment as JCSREPSALT.

1. For more than six years, I have supported the goals of the Joint Chiefs of Staff aimed at achieving significant reductions in strategic arms while maintaining our security. An agreement which reduces the USSR to lower level equal to those of the US, in numbers as well as capability, is in both nations' interest.

2. The JCS have expressed their views and concerns in numerous classified memoranda, for example, on 12 October 1978 and 16 March 1979. My own are recorded in classified memoranda of 6 January 1978, 5 January 1979, and 27 March 1979, and elsewhere.

3. The JCS have maintained that a SALT Treaty would be in our national interest if it were equitable and verifiable, if it contributed to deterrence and stability, and if it strengthened European security and contributed to Allied coherence.

4. The emerging Treaty, in my view, meets none of these criteria.

a. The Treaty is not equitable. To cite only three examples:

It grants the USSR a unilateral right to more than 300 launchers for heavy ICBMs. We did not insist on a similar right, nor is the US compensated for this large asymmetry. These 300 Soviet heavy missiles alone possess more destructive power than all of our ICBMs and SLBMs combined.

It will fail to include over 350 Soviet Backfire bombers with intercontinental capability while including all of our heavy bombers. These Backfire bombers will add one-third to the total destructive power of Soviet strategic forces, a potential which, even excluding the Backfire, greatly exceeds that of the US. The so-called assurances on Backfire are militarily worthless.

It fails to provide for equal levels of strategic force capability. Under the Treaty's provisions, the USSR will stay ahead of the US in strategic systems. Even limiting the number of warheads per missile will provide the USSR significant numerical advantages. The definition of a new type of ICBM is so loosely drawn that during the life of the Treaty it will not effectively preclude the USSR from developing and deploying more than one new type of ICBM. The large unconstrained qualitative potential of the USSR can be rapidly exploited once the Treaty expires.

b. The Treaty is not adequately verifiable. The Soviet Union, a closed society, poses great verification problems for the U.S. The USSR has consistently refused to agree to provisions necessary to assure adequate verification of mobile ICBMs, MIRVed ICBMs and SLBMs, new types of ICBMs, heavy bombers, and cruise missiles. The USSR, unlike the US, has been encrypting telemetry of its ICBM tests. Further, using verification as a pretext, the Soviets have obtained US agreement to provisions that could restrict not only strategic but our non-strategic systems—e.g., conventionally-armed cruise missiles and unarmed pilotless vehicles.

c. The Treaty undermines deterrence. It permits the USSR a three-to-one numerical and five-to-one throw-weight asymmetry in ICBM warheads—the most powerful and destabilizing of all strategic systems. Rapid improvement in Soviet ICBM forces is causing our ICBMs to become increasingly vulnerable, further undermining deterrence.

d. The Treaty does not contribute to stability. Because the Treaty does not blunt the momentum of the massive Soviet buildup, the US will for the first time not be able to maintain nuclear equivalence. This, and forcing Soviet concentration into unconstrained and unverifiable qualitative improvements, will undermine stability. Our strategic inferiority will inhabit favorable solutions to crisis situations, adding to that instability. There will be a growing realization at home and abroad that the USSR has a decisive advantage, allowing it to move against nations friendly to the US with greater certainty that the US will not respond.

e. The Treaty could weaken NATO. The Protocol constrains, for the most part, US systems; precedents established by the Protocol constraining US systems are likely to be carried forward. These dangers, magnified by the ambiguity in the Treaty's provision on non-circumvention, could preclude the transfer of technology and weapons to our Allies and thus weaken NATO.

5. The crucial problem facing the US is the large and continuing buildup of Soviet strategic forces. This momentum has concontinued unabated while SALT was being negotiated and there is no evidence it will slacken. The false expectation that SALT would result in constraining Soviet momentum explains in part the cancellation of the B–1 and delays in US programs such as cruise missiles and M–X. Even if SALT did not inhibit any of our programs, the greater momentum of the USSR will cause us to fall—and stay—behind the USSR strategically. By any objective measure the US will become strategically inferior to the USSR in the early 1980s. Thus, the Treaty would sanction and codify US strategic inferiority.

6. My review of the emerging Treaty indicates pluses and minuses. Failure to meet the important criteria of the JCS heavily tilts the balance against the US. Thus this Treaty will harm rather than enhance our

security. Agreeing to a bad agreement is worse than no agreement; a poor SALT II will make it impossible to negotiate a good SALT III. Therefore, after careful and detailed analysis, it is my considered and professional military judgment that this Treaty is not in the best interest of the United States.

7. Six years at the negotiating table convinces me that a Treaty meeting the JCS criteria of acceptability was—and still is—attainable. Like the JSC I strongly favor arms control but, unfortunately, agreement in principle has been reached on a Treaty that does not meet minimally acceptable standards. I therefore have concluded—reluctantly and with profound disappointment—that I cannot support this SALT Treaty.

8. Accordingly, I must ask to be relieved of my duties and request retirement from the US Army effective 31 July 1979.●

BANGOR, MAINE, DAILY NEWS SUPPORTS ACU SUIT AGAINST SALT-SELLERS

● Mr. HUMPHREY. Mr. President, it seems that the administration is sparing no effort, and certainly no expense, to cause this body to ratify the SALT II treaty with the Soviet Union.

Getting this treaty approved is apparently becoming as important to the President as was his rush to give away our canal in Panama. He has hosted receptions boosting SALT II for handpicked delegations of opinionmakers from several States this year at the White House. Within the State Department, a so-called "SALT working group" has been created, ostensibly to provide information about SALT II to the public, but which has actually used its time and the taxpayers' resources to go forth across the Nation in praise of SALT II. In fact, as our colleague, Senator Goldwater, recently revealed, the State Department, the White House, and the Arms Control and Disarmament Agency, among others, have so far spent hundreds of thousands of dollars in public funds to advance this treaty. The luxury of taxpayer largesse does not, of course, extend to opponents of SALT II.

Recently, the American Conservative Union, a nonprofit public interest and educational organization, filed suit in U.S. district court seeking to put an end to this kind of hucksterism. I am one of 15 Members of Congress from both Houses who have joined ACU in this suit.

In my neighboring State of Maine, the Bangor Daily News, Maine's largest daily newspaper, has examined the ACU suit in the context of "the trend toward too much Government hype at taxpayer's expense." Mr. President, this editorial from the October 2, 1979 edition of the News contains some important food for thought, and I therefore wish to commend it to the attention of my colleagues at this time and request that it be printed in the Record.

The editorial follows:

Selling of SALT

The American Conservative Union announced today that it, along with nine ACU members of Congress, filed suit against the Carter administration for using over $1.2 million of taxpayer money to lobby for the SALT II treaty.

A legal action of this kind is long overdue.

Although it is doubtful that the ACU would be bringing suit against the Carter administration if it were using public money to promote a tax limitation amendment, or some other cause more palatable to the ACU than SALT, there ought to be some lines drawn when it comes to government promoting itself.

In our brand of democracy with its coequal legislative, judicial and executive branches, the executive branch must at times "sell" its legislation or policy to the American people in order to win congressional approval.

But there is selling, and then there is selling.

There was a day when presidents got their way with Congress by virtue of their oratorical rapport with the people or their bargaining prowess with congressmen. Governmental programs and policies were simply outlined, passed along to the media for dissemination and eventual acceptance or rejection by the voters.

This is less and less the case.

The American advertising system is constantly filled with government-sponsored pitches, not just public service announcements of available programs, but outright high-pressure merchandising of taxfunded programs, as though both the program and the costs of promotion were being underwritten by profits instead of public funds.

The ACU is claiming that the Carter administration's outlay of $1.2 millon to sell SALT runs counter to the U.S. Constitution, which the ACU claims prohibits certain illegal uses of public funds to lobby Congress.

Although a recent visitor to Bangor from the U.S. State Department, Bob Barry, smilingly denied to the NEWS that his trip here was anything more than "informational," he was clearly pitching for SALT II.

It will take a judge and a platoon of constitutional scholars to assess the merit of the ACU's allegations, but the trend toward too much government hype at taxpayer's expense is as conspicuous as a goat at a lawn party.

The ACU case may at least help to inhibit this unhealthy situation.●

DR. ALEXANDER RECEIVES SEA GRANT AWARD

Mr. PELL. Mr. President, each year the Sea Grant Association, a national organization dedicated to development, wise use, and conservation of our Nation's marine and coastal resources, presents an award, the National Sea Grant Award, to an individual selected for outstanding contributions to the development, use, and conservation of our Nation's marine and coastal resources.

Last week, at its annual meeting in Orlando, Fla., the Sea Grant Association presented the 1979 Sea Grant Award to Dr. Lewis M. Alexander, professor of geography and marine affairs at the University of Rhode Island

The award was presented in recognition of Dr. Alexander's outstanding work as an internationally respected advisor on development of the law of the sea and in marine affairs education.

I congratulate the Sea Grant Association on its selection of Dr. Alexander for the Sea Grant Award. As one who has been deeply involved for more than a decade in the difficult but extremely important task of reaching international agreement to provide a comprehensive and orderly legal regime for man's vastly increased activities in the oceans, I know personally how valuable Dr. Alexander's work in this field has been.

The Law of the Sea Institute, which was established at the University of Rhode Island under Dr. Alexander's leadership, became a national and international focal point for discussion and development of law of the sea issues. Attendance at the institute's annual conference at URI became a virtual necessity for government, industry, and academic officials involved in law of the sea questions.

Dr. Alexander also has been the major force behind the development of the university's marine affairs program, a marine management program whose graduates are now found in responsible policy positions throughout the country.

The selection of Dr. Alexander for Sea Grant Association award is a matter of special pride to the people of the State of Rhode Island, because it marks the third time that the award has been presented to a Rhode Islander. Dr. John A. Knauss, provost for marine affairs at URI was an early recipient of the award, and I was honored and pleased to be the recipient in 1975.

Mr. President, I ask that the following news release on Dr. Alexander's achievements and contributions be printed in the Record.

The news release follows:

URI Geographer Receives National Sea Grant Award

A University of Rhode Island professor known internationally as an advisor to Law of the Sea negotiators and as the force behind URI's marine affairs program has been selected to receive the 1979 National Sea Grant award.

Dr. Lewis M. Alexander, URI professor of geography and marine affairs, accepted the award at the Sea Grant Association meeting Thursday, October 25, in Orlando, Florida.

The Association is an organization of marine universities, agencies, and industries designed to further the development, use, and conservation of the Nation's marine and coastal resources. Past Rhode Island recipients have included Senator Claiborne Pell, one of the founders of the Sea Grant program, and Dr. John A. Knauss, URI provost for marine affairs.

Dr. Alexander was nominated for the award because of his development of the URI marine affairs program and his work with Law of the Sea issues. Throughout his career the geographer's dominant philosophy towards the oceans has been not a romanticization, but rather "a practical view of what man can obtain from the seas."

The professor's recognition comes in the 10th year of operation for the URI marine affairs program. This course of study provides an introduction into various marine disciplines such as oceanography, marine resource management, and marine environmental law in order to prepare people for handling policy problems from local to international levels.

Dr. Alexander's role as a major architect of the program came about after his 1967–68 involvement with the Stratton Commission, which focused U.S. attention on the need to expand its ocean activities. At that time, he recognized that there would be a demand for trained individuals to be a link between policy makers and field experts such as oceanographers, ocean engineers, and marine resource economists.

This recognition led to URI's creation of the marine affairs program, one of three such marine management programs in the U.S., which specializes in international marine policy, coastal zone management, fisheries administration, marine environmental law, and marine transportation and ports. Its 200 graduates include individuals working for state and federal agencies, in marine industries, and for U.S. Congressmen. Foreign students have included fisheries officials from Sierra Leone, Nigeria, and South Yemen and oceanographers from Indonesia, Chile, and France.

Since the marine affairs program began in 1970, it has expanded from a one-year course for working professionals to include undergraduate and graduate degree programs. To meet a growing demand, Dr. Alexander hopes to add a doctoral program and to increase the program's emphasis on international marine policy.

Dr. Alexander has been an active researcher in the field of marine policy since 1953, and his work with the Law of the Sea was a natural outgrowth of that interest. In 1966 he helped create the Law of the Sea Institute at URI, which served as a center for the discussion of issues related to arriving at an international treaty for use of the seas. He still serves on the board of the Institute, which moved to Hawaii in 1977.

Dr. Alexander has also served as an advisor to the U.S. delegation to the Law of the Sea conferences. Currently he has been active in organizing discussions on the development of regional arrangements among nations to handle common problems, a concept which has surfaced at the conferences.

"Although the Law of the Sea negotiating text does suggest establishing regional arrangements to handle marine pollution, fisheries management, and transportation, it does not give any guidelines for achieving workable programs. I see this area as a major focus for international marine policy research in coming years. I am trying to stir up interest at URI for creation of a center which would serve as the international focus for regional arrangement discussions and research," Dr. Alexander explained.

The professor is not, however, concerned solely with international problems. In the next year he plans to bring together marine affairs graduates for a "meeting of the minds," which he hopes will stimulate thinking on the future directions of marine resource development in the U.S.

In carrying out his many activities, Dr. Alexander logs over 50,000 miles a year. Students remain a major concern, though, and he carries a class schedule as well as his duties as chairman of one of URI's fastest growing departments.

A native of New Jersey, Dr. Alexander earned degrees from Middlebury College and Clark University. He taught at Hunter and Harpur Colleges before joining the URI faculty in 1960. He and his wife Jackie reside in Peace Dale, Rhode Island.●

DENIS HAYES

● Mr. PERCY. Mr. President, I am delighted that Denis Hayes, one of the preeminent leaders in the country in the move toward conservation and solar energy has been appointed Director of the Solar Energy Research Institute (SERI). I commend this decision by the Department of Energy and look forward with pleasure to the impact Mr. Hayes will undoubtedly have on that organization.

It has been my privilege, over the years, to work with Denis Hayes on numerous occasions. As early allies in the effort to gain recognition for the importance of conservation and solar in the Nation's energy budget, we have seen those twin ideas overcome initial skepticism and move on to the increasingly significant position they now enjoy in energy strategies.

Our first contact, through the Illinois energy office, was followed by continued exchanges as Denis Hayes introduced ever wider audiences to solar through his work at the prestigious Worldwatch Institute, by the successful Sun Day movement, and more recently in his role as chairman of the solar lobby. His message has always been a carefully researched, thoughtfully stated one, and its validity has become apparent with time.

As Director of SERI, the greatest immediate challenge will be shaping that new organization into a laboratory with an international reputation for excellence in solar energy research leading to commercialization of solar technologies. That role will be a difficult one—no laboratory has been established with a mandate so clearly taking it beyond the immediate products of basic research and into the realm of the market.

My commendation to DOE is based on their recognition that such an institution demands a director familiar with more than just the research side of his discipline. The SERI director must understand the complex political and market forces of solar development before he can lead his organization into a prominent role in solar development. Denis Hayes is superbly equipped with these skills.

I would like to mention, Mr. President, that the Senate Governmental Affairs Committee will soon be holding oversight hearings in the area of conservation and solar programs within the Department of Energy. It is my hope that organizational questions impeding the most effective development of solar strategies within the organization can be brought up and resolved. As this effort on the committee's part progresses, I will keep the Senate informed of our findings.●

ORDER FOR RECESS UNTIL 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I really wanted to come in earlier, so that the Senate could get out earlier, but I cannot do so, because I want the Foreign Relations Committee to meet until 12:30.

TIME ALLOTTED TO THE LEADERS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time of the two leaders be limited to 5 minutes each on tomorrow.

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, is is so ordered.

ORDER FOR RECOGNITION OF CERTAIN SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, Mr. DOLE be recognized for not to exceed 15 minutes, that he be followed by Mr. PROXMIRE for not to exceed 15 minutes, that he be followed by Mr. NUNN for not to exceed 15 minutes, and that he be followed by Mr. ROBERT C. BYRD for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10:30 A.M. TOMORROW

Mr. MOYNIHAN. Mr. President—and I believe there is no other Senator who wishes to speak—I ask unanimous consent that the Senate, under the order, stand in recess until 10:30 tomorrow morning.

There being no objection, the Senate, at 7:43 p.m. recessed until Friday, November 2, 1979, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate November 1, 1979:

THE JUDICIARY

Edward Dean Price, of California, to be U.S. district judge for the eastern district of California, vice a new position created by Public Law 95-486, approved October 20, 1978.

Horace T. Ward, of Georgia, to be U.S. district judge for the northern district of Georgia, vice a new position created by Public Law 95-486, approved October 20, 1978.

David K. Winder, of Utah, to be U.S. district judge for the district of Utah, vice a new position created by Public Law 95-486, approved October 20, 1978.

DEPARTMENT OF COMMERCE

Sidney A. Diamond, of Arizona, to be Commissioner of Patents and Trademarks, vice Donald W. Banner, resigned.

EXTENSIONS OF REMARKS

KILLING THE WORKERS WITH KINDNESS

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. ROUSSELOT. Mr. Speaker, as we consider a costly new energy program and a costly welfare expansion proposal this week, I think it is important that the big spenders in Congress be reminded that they are killing the workingman with kindness. By forcing the so-called helping hand of Government into every facet of business and private life, they are causing a decline in the standard of living for working Americans and their families.

With big government comes big spending, high inflation, and heavier taxes. The result is that while the worker has a higher wage on paper, he has less purchasing power in the marketplace. His added dollars are being eaten away by the actions of Government. In fact, the average American cannot get ahead anymore. The American dream is slipping from his grasp.

Recently, an article in the Monthly Tax Features newsletter of the Tax Foundation, Inc., graphically demonstrated the impact of taxes and inflation on the workingman. It points out, among other things, that while the median income of a U.S. family of four has increased by 66 percent in the last 7 years, the after-tax purchasing power of that same family has declined by 8 percent. This is unacceptable.

It is my hope that my colleagues will seriously consider the consequences of adding more Government programs and increasing Government spending. Is it not time to give the workingman a break?

Mr. Speaker, I would like to share this article with my colleagues:

EARNERS' APPARENT INCOME GAINS CANCELLED BY TAXES AND INFLATION

Americans now find themselves in the paradoxical position of being both richer and poorer than they were at the beginning of this decade. The median income of the prototypical U.S. family (one earner, employed full-time, year-round, with a non-working spouse and two children) has increased by nearly 66 percent in the last seven years. At the same time, its after-tax purchasing power has declined by more than 8 percent since 1972, according to Tax Foundation economists.

From 1972 to 1979, the median family's money income climbed from $11,152 to an estimated $18,467. After direct Federal taxes, both income and social security, and inflation take their bite, however, the family's purchasing power, measured in 1969 dollars, has dropped $700—from $8,500 to $7,800—leaving the family richer on paper but poorer at the supermarket.

During this period, Federal individual income taxes jumped 82 percent from $985 to $1,789, while social security taxes soared 142 percent, from $468 in 1972 to $1,132, in 1979. Total direct Federal taxes have more than doubled in seven years. While after-tax incomes were rising 60 percent, prices went up 75 percent. The result is an 8 percent decline in actual purchasing power.

For the ten-year period from 1969 to 1979, the rise in before-tax median family income barely managed to keep pace with the 99 percent climb in prices. Mounting taxes, however, caused an actual drop of 2 percent ($147 in 1969 dollars).

This "richer-is-poorer" situation does not even take into account the added burden of state and local individual income taxes. Such levies very widely, but on the whole, they have grown more rapidly than Federal income taxes and have a significant impact on family budgets. Total state and local individual income taxes are four times as high in 1979 as they were a decade ago and have increased relative to the Federal income tax burden. In 1969, states and localities took about 10.5 percent of what the Federal government claimed. By 1979, they were taking 16.3 percent. Given the assault of taxes and inflation on the typical worker's paycheck, it is possible to be richer and poorer at the same time.

The table on page 1 shows the effect of direct Federal taxes and inflation on median income since 1969.

MEDIAN INCOMES, BEFORE AND AFTER FEDERAL TAXES AND INFLATION

		Direct Federal taxes			After-tax income	
Year	Median income[1]	Income tax[2]	Social security	Total	Current dollars	1969 dollars[3]
1969	$9,277	$956	$374	$1,330	$7,947	$7,947
1970	9,750	964	374	1,338	8,412	7,943
1971	10,314	937	406	1,343	8,971	8,119
1972	11,152	985	468	1,453	9,699	8,500
1973	11,895	1,100	632	1,732	10,163	8,385
1974	13,004	1,271	761	2,032	10,972	8,158
1975	14,156	1,179	825	2,004	12,152	8,278
1976	15,016	1,408	878	2,286	12,730	8,197
1977	15,949	1,472	933	2,405	13,544	8,194
1978[4]	17,223	1,733	1,042	2,775	14,448	8,117
1979[4]	18,467	1,789	1,132	2,921	15.546	7,800

[1] Median for all families with 1 earner employed full time year-around as reported by U.S. Department of Commerce, Bureau of the Census, for 1969 to 1977; 1978 and 1979 estimated by Tax Foundation.

[2] Married couple filing joint returns, 2 children.

[3] Adjusted by the consumer price index of the Bureau of Labor Statistics.

[4] Income data for 1978 and 1979 are estimated. ●

A TRIBUTE TO A LIVING SAINT—MOTHER TERESA

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. KEMP. Mr. Speaker, I would like to take this opportunity to pay tribute to an emiment and truly saintly human being, Mother Teresa. On October 17, 1979, the five-member Norwegian Nobel Committee selected, from among 56 individuals and organizations nominated, Mother Teresa for the $190,000 Nobel Peace Prize.

Mother Teresa was born in Skopje, which is now part of Yugoslavia. When she reached the age of 12 she knew that she had received God's calling. At age 17, she left for India with an Irish order of nuns, the Sisters of Loretto. For the next 20 years, Mother Teresa faithfully taught at a high school in Calcutta, but she knew her calling must reach beyond this. She fought for, and received, permission from the Vatican to leave the convent and set off into the city and helped the poor. The year was 1948 when Mother Teresa, alone, began to walk the streets of Calcutta aiding those near death.

Her order, the Missionaries of Charity, grew rapidly. Many people found that the mission offered them the only comfort they would ever know: Food, clean sheets, clothing, and a place to die.

In all of her endeavors, Mother Teresa thinks only of the poor and helpless. The Nuns of the Order, who rise every morning at 4:30 and do not finish work until 9:00 p.m., perform many duties. They teach children, aid lepers and other sick, and provide medical care in a number of areas around the city. Mother Teresa has been quoted as saying:

> For me each one is an individual. I can give my whole heart to that person for that moment in an exchange of love. It is not social work. We must love each other. It involves emotional involvement, making people feel they are wanted.

Before entering the order, the sisters must take three special vows, the final vow being—the giving of the heart. While the average person might find horror and disgust in the work that Mother Teresa and her order perform in the city of Calcutta, she sees their work as that which would be done by Christ himself.

Mr. Speaker, we can do nothing but honor and admire the great courage and truly undaunting spirit of an exceptional and outstanding human being, Mother Teresa. It is fitting that we pay tribute to her as she receives the 1979 Nobel Peace Prize.●

AID TO CAMBODIA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. McDONALD. Mr. President, the present leaders of the U.S.S.R. and Viet-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

nam are responsible for the genocide in Indochina, as well as for breaking the 1954 agreement on Indochina, the 1973 agreement on peace in Vietnam and the Charter of the United Nations. Massive Soviet shipments of arms, beginning in 1965, were the basis of the invasion of the North Vietnamese Communist troops into South Vietnam, Cambodia and Laos. The noncommunist South Vietnamese, Cambodian and Laotian, as well as American, troops have never invaded North Vietnam. The 1954 agreement on Indochina and the 1973 agreement on peace in Vietnam, signed also by the representatives of the U.S.S.R. and North Vietnam, explicitly stipulated independence of South Vietnam, Cambodia, and Laos, as well as peace in Indochina.

At present, Vietnamese Communist troops still occupy and terrorize South Vietnam, Cambodia and Laos—after many millions of innocent people have been killed, mutilated or starved to death in Indochina as a result of the Communist aggression.

The U.S. administration should ask the United Nations to oblige the Soviet Union to stop arming the aggressive Vietnamese military forces and to pay the main expenses for liquidation of hunger in Cambodia. Although the American people sympathize with the victims of the Communist Vietnamese and Khmer Rouge terror in Cambodia, the U.S. taxpayers should not be financially responsible for the hideous crimes of the communist imperialism.

The Communist aggression in Indochina should be stopped and the Vietnamese troops should be withdrawn from Cambodia and Laos.

If the U.N. does not accept these suggestions and continues to give aid to the aggressive Government of Vietnam, it is just one more reason why the United States should leave the United Nations organization.

These are just some of the reasons why I voted against the Supplemental Refugee Assistance bill, H.R. 4955, which was before the House recently.●

MAMIE EISENHOWER—A GOOD FRIEND

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. GILMAN. Mr. Speaker, a gracious lady has passed from our midst during the night. Mamie Eisenhower, America's First Lady during the two terms her late husband served in the White House is now gone, but will not soon be forgotten.

She was kind, gentle, and imaginative * * * a perfect complement to her husband Dwight D. Eisenhower, one of our Nation's greatest heroes.

Mamie Eisenhower would have made her mark on America even if in 1916 she did not marry a young 2d lieutenant who had gained quite a reputation as a football player on the gridiron at West Point. Mrs. Eisenhower made friends everywhere she went. And as the bride of a young Army officer, his assignments took them throughout the United States and Asia.

The public's first exposure to Mrs. Eisenhower came during the Presidential campaign in 1952. Mamie's sincerity, wholesomeness, and kind manner were qualities that certainly aided her husband's bid to become the Chief Executive. She gained a reputation for delighting audiences throughout America.

This past August I had the pleasure to view a television special on Mamie in which she showed her great sense of humor and her deep love for her departed husband.

"I love to laugh," she said in that interview. "I'm 19 in mind, but unfortunately I'm 83 in my body."

She was also asked how she remembed Ike. She responded by saying she recalled and greatly missed his "honesty, his integrity, and his admiration for mankind."

When asked how she hoped she will be remembered, our First Lady responded: "I hope Americans will think of me as a good friend."

I vividly recall the first time I had the honor to meet Mrs. Eisenhower, at a West Point dedication several years ago when she so warmly talked about her grandson David with my son David. Then, a few years later, we met again at my son Jonathan's graduation from Eisenhower College in Seneca Falls, N.Y., an institution she helped to nurture. Mamie Eisenhower has made a mark on American history that few First Ladies will duplicate.

We have lost a "Good Friend."●

NEED FOR CHANGE IN PRESENT PATENT POLICIES

HON. ALLEN E. ERTEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. ERTEL. Mr. Speaker, 1979 has been a year when the problems of declining productivity and diminishing innovation have become so acute that they can no longer be ignored. These problems threaten our way of life, the economic preeminence of the United States, and the very standard of living which has been the measure by which all other societies are judged.

Yesterday the President presented his recommendations to improve innovation and productivity in the Nation. I was pleased to see that the President recognizes the need for action over a broad front. While I was disappointed that the proposals do not address the need for tax measures to encourage innovation, nor do they come to grips with the problems associated with Federal regulations, a number of important other issues were addressed, especially the need for change in our present patent policies.

The President has strongly emphasized the need for a uniform Federal patent policy which provides incentives for the private sector to commercialize inventions developed under Federal contract. I agree with this position and have introduced legislation, H.R. 5715, the Uniform Federal Research and Development Utilization Act of 1979, which accomplishes these goals.

Currently, Federal patents are controlled by approximately 20 statutes applying to different agencies and programs, and by President patent policies in all situations not covered by statute. Under this "system" an inventor's rights may differ not only from agency to agency, but from department to department within an agency. This confused situation is in itself a disincentive to firms which may be interested in commercializing a federally held patent.

In addition to creating a uniform Federal patent policy, H.R. 5715 achieves several other important objectives identified by the President including:

Making the benefits of Federal R. & D. programs widely available to the pubilc in the shortest practicable time;

Promoting commercial utilization of inventions in order to maximize our productivity and innovation;

Encouraging the participation of the most qualified firms or institutions in Federal R. & D. programs; and

Fostering competition and preventing undue market concentration

It is commonly recognized that in the process of bringing a product to the market research accounts for roughly 10 percent of the cost while development makes up 90 percent of the cost The Federal effort stops at the research end of the process. Without some form of exclusive rights, a private firm is often reluctant to invest the resources needed to commercialize the invention. Why spend the money only to have your competitor pick up the process just before you hit the market? Your competitor will be able to underprice you since he does not have to recover the development costs.

Studies have indicated that commercial utilization of patented inventions is achieved at a much higher rate when, under certain circumstances, the contractor is permitted to retain exclusive rights to the invention. For example, a NASA study has shown that contractors have achieved commercial utilization of patented inventions at a rate approximately 20 times greater than that achieved by the agency itself.

H.R. 5715 provides that the Government will retain title to federally developed patents except where it is deemed more beneficial to permit the contractor to retain exclusive rights. In cases where exclusive rights are granted to the contractor, the Government reserves a free license to use the invention and the rights to insure that the contractor is, in fact, working toward commercialization.

Concerns have been raised that by permitting an exclusive license, we are allowing a private firm to profit on a patent which belongs to the American people. It is clear that the taxpayers of this Nation funded the research which results in a patent; however, unless that patented invention is brought to the marketplace, the American people derive very little benefit from the research they paid for. H.R. 5715 resolves this dilemma by requiring that contractors who are given exclusive rights provide payments to the Government through the sharing of royalties and/or revenues in return for the original Federal investment. I believe that this provision will compensate the Government and prevent the contractor from achieving "windfall profits" at the expense of the taxpayers while still encouraging commercialization of the invention.

As chairman of the Task Force of Federal Patent Policy of the Subcommittee on Science, Research and Technology, I intend to move forward with legislation in this area. I believe that H.R. 5715 best addresses the need to create a uniform Federal patent policy which will bring the fruit of federally funded R. & D. to the marketplace. It also greatly reduces the burden on the Federal Government for administering Federal patent policy.

This legislation represents an important part of those changes which are necessary to encourage greater innovation and productivity in this country. I am looking forward to working with my colleagues in the Congress and with the administration in this important endeavor.●

POST-DISPATCH ON U.S.-PLO DIALOG

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. FINDLEY. Mr. Speaker, I would like to call to the attention of my colleagues the following St. Louis Post-Dispatch editorial of October 10, 1979. This distinguished and well-respected newspaper points out the distinction between formal recognition and informal talks, the latter being necessary to break the Palestinian logjam in the Middle East. Increasing numbers of U.S. opinion leaders and the American public in general are coming to accept this view. Informal talks with the PLO—by which I do not mean recognition or negotiation—are necessary to move the Middle East closer to peace.

The article follows:

RIGID ON THE PLO

President Carter gave short shrift to a questioner at his press conference who asked if it is time for the United States to reconsider its policy toward the Palestine Liberation Organization. This was an opportunity for Mr. Carter to make the useful distinction between diplomatic recognition of the organization and informal contacts with it of the sort that have been the stuff of diplomacy throughout history.

Instead, Mr. Carter simply restated the policy laid down in 1975 by then Secretary of State Kissinger. The U.S. will neither formally recognize nor negotiate with the PLO until the latter recognizes Israel's right to exist and accepts United Nations Resolution 242, he said. That is a proper policy with regard to formal relations with the PLO but it is an increasingly unproductive one for breaking the Palestinian logjam in the Middle East. Indeed, even Israeli Foreign Minister Dayan has met with PLO supporters. If Mr. Dayan realizes that some communication, even indirectly, with the PLO is valuable for peace efforts, surely the administration cannot be so timid as to refuse to consider anything but absolute rigidity.

We suspect that Mr. Carter's words were aimed as much at Miami as at Tel Aviv, for Florida's large Jewish population is being heavily counted upon by the White House to help the president in the straw votes there Saturday. If so, 1980 election politics already have made themselves felt in the country's Middle East policies. That eventuality probably was inevitable but it still is regrettable, for the effectiveness of the U.S. as an impartial partner in the peace process cannot be enhanced by it.●

LIBERALS MISFIRE ON GUN CONTROL

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. McDONALD. Mr. Speaker, the city of Atlanta has now become the murder capital of the United States when measured on a per capita basis. Because of this horrible statistic and fact, many of the local media pundits are calling for gun control or even gun confiscation as the solution. Of course minimal thought effort exposes the folly of such schemes; it would be like suggesting the confiscation of pencils as a means of halting the misspelling of words.

One writer in the Atlanta Constitution, Lewis Grizzard, wrote on October 29, 1979 the unbelievable stupidity of:

> I think enough people finally realize if guns are outlawed and only outlaws have guns, that is at least a start in the right direction.

It is truly amazing when a functional anencephalic becomes a regular writer for a major metropolitan newspaper.

In his criticism of bullet-brained people, he exposed again the sad medical state of those with no reasoning capacity at all, that is, those born or functioning at the level of the primitive brain stem of a frog or tadpole.

Regardless of the above, it was indeed a pleasant surprise to read an excellent analysis of the gun control controversy in the Sunday edition of the Atlanta Journal/Constitution—October 28, 1979. This analysis originally appeared in Harper's magazine, and I thoroughly recommend it to my colleagues.

The article follows:

LIBERALS MISFIRE ON GUN CONTROL

(By Don B. Kates, Jr.)

Despite almost 100 years of often bitter debate, federal policy and that of 44 states continues to allow handguns to any sane adult who is without felony convictions. Over the past 20 years, as some of our most progressive citizens have embraced the notion that handgun confiscation would reduce violent crime, the idea of closely restricting handgun possession to police and those with police permits has been stereotyped as "liberal." Yet when the notion of sharply restricting pistol ownership first gained popularity, in the late 19th century, it was under distinctly conservative auspices.

In 1902, South Carolina banned all pistol purchases, the first and only state ever to do so. (This was nine years before New York began requiring what was then an easily acquired police permit.) Tennessee had already enacted the first ban on "Saturday Night Specials," disarming blacks and the laboring poor while leaving weapons for the Ku Klux Klan and company goons. In 1906, Mississippi enacted the first mandatory registration law for all firearms. In short order, permit requirements were enacted in North Carolina, Missouri, Michigan, and Hawaii. In 1922, a national campaign of conservative business interests for handgun confiscation was endorsed by the (then) archconservative American Bar Association.

Liberals at that time were not necessarily opposed in principle to a ban on handguns, but they considered such a move irrelevant and distracting from a more important issue—the prohibition of alcohol. To Jane Addams, William Jennings Bryan, and Eleanor Roosevelt (herself a pistol carrier), liquor was the cause of violent crime. (Before dismissing this out of hand, remember that homicide studies uniformly find liquor a more prevalent factor than handguns in killings.)

Besides, liberals were not likely to support the argument advanced by conservatives for gun confiscation: that certain racial and immigrant groups were so congenitally criminal (and/or politically dangerous) that they could not be trusted with arms. But when liberalism finally embraced handgun confiscation, it was by applying this conservative viewpoint to the entire populace. Now it is all Americans (not just Italians, Jews, or blacks) who must be considered so innately violent and unstable that they cannot be trusted with arms. For, we are told, it is not robbers or burglars who commit most murders, but average citizens killing relatives or friends.

It is certainly true that only a little more than 30 percent of murders are committed by robbers, rapists, or burglars, while 45 percent are committed among relatives or between lovers. (The rest are a miscellany of contract killings, drug wars, and "circumstances unknown.") But it is highly misleading to conclude from this that the murderer is, in any sense, an average gun owner. For the most part, murderers are disturbed, aberrant individuals with long records of criminal violence that often include several felony convictions. In terms of endangering his fellow citizens, the irresponsible drinker is far more representative of all drinkers than is the irresponsible handgunner of all handgunners.

It is not my intention here to defend the character of the average American handgun owner against, say, that of the average Swiss whose government not only allows, but requires, him to keep a machine gun at home. Rather it is to show how unrealistic it is to think that we could radically decrease homicide by radically reducing the number of civilian firearms.

Study after study has shown that even if the average gun owner complied with a ban, the one handgun owner out of 3,000 who murders (much less the one in 500 who steals) is not going to give up his guns. Nor would taking guns away from the murderer make much difference in murder rates, since a sociopath with a long history of murderous assault is not too squeamish to kill with a butcher knife, ice pick, razor, or bottle. As for the extraordinary murderers—assassins, terrorists, hit men—proponents of gun bans themselves concede that the law cannot disarm such people any more than it can disarm professional robbers.

The repeated appearance of these facts in studies of violent crime has eroded liberal and intellectual support for banning handguns. There is a growing consensus among even the most liberal students of criminal law and criminology that handgun confiscation is just another plausible theory that doesn't work when tried. An article written in 1968 by Mark K. Benenson, longtime American chairman of Amnesty International, concludes that the arguments for gun bans are based upon selective misleading statistics, simple-minded non sequiturs, and basic misconceptions about the nature of murder as well as of other violent crimes.

A 1971 study at England's Cambridge University confounds one of the most widely believed non sequiturs: "Banning handguns must work, because England does and look at its crime rate" (It is difficult to see how those who believe this can resist the equally simple-minded pro-gun argument that gun possession deters crime: "Everybody ought to have a machine gun in his house because the Swiss and the Israelis do, and look how low their crime rates are!")

The Cambridge report concludes that social and cultural factors (not gun control) account for Britain's low violence rates. It points out that "the use of firearms in crime was very much less" before 1920 when Britain had "no controls of any sort." Corroborating this is the comment of a former head of Scotland Yard that in the mid-1950s there were enough illegal handguns to supply any British criminal who wanted one. But, he continued, the social milieu was such that if a criminal killed anyone, particularly a policeman, his own confederates would turn him in. When this violence-dampening social milieu began to dissipate between 1960 and 1975, the British homicide rate doubled (as did the American rate), while British robbery rates accelerated even faster than those in America.

As the report notes, the vaunted handgun ban proved completely ineffective against rising violence in Britain, although the government frantically intensified enforcement and extended controls to long guns as well. Thus, the Cambridge study—the only in-depth study ever done of English gun laws—recommends "abolishing or substantially reducing controls" because their administration involves an immense, unproductive expense and diverts police resources from programs that might reduce violent crime.

The latest American study of gun controls was conducted with federal funding at the University of Wisconsin. Advanced computerized techniques allowed a comprehensive analysis of the effect of every form of state handgun restriction, including complete prohibition on violence in America. Published in 1975, it concludes that "gun-control laws have no individual or collective effect in reducing the rate of violent crime."

Many previous studies reaching the same conclusion had been discounted by proponents of a federal ban, who argued that existing state bans cannot be effective because handguns are illegally imported from free-sale states. The Wisconsin study compared rates of handgun ownership with rates of violence in various localities, but it could find no correlation. If areas where handgun ownership rates are high have no higher per capita rates of homicide and other violence than areas where such rates are low, the utility of laws designed to lower the rates of handgun ownership seems dubious.

Far from refuting the Wisconsin study, the sheer unenforceability of handgun bans is the main reason why most experts regard them as not worth thinking about. Even in Britain, a country that, before handguns were banned, had less than 1 percent of the per capita handgun ownership we have, the Cambridge study reports that "fifty years of strict controls has left a vast pool of illegal weapons."

It should be emphasized that liberal defectors from gun confiscation are no more urging people to arm themselves than are those who oppose banning pot or liquor necessarily urging people to indulge in them. They are only saying that national handgun confiscation would bring the federal government into a confrontation with millions of responsible citizens in order to enforce a program that would have no effect upon violence, except the negative one of diverting resources that otherwise might be utilized to some effective purpose. While many criminologists have doubts about the wisdom of citizens trying to defend themselves with handguns, the lack of evidence to justify confiscation requires that this remain a matter of individual choice rather than government fiat.

Nor can advocates of gun bans duck the evidence adverse to their position by posing such question as: Why should people have handguns; what good do they do; why shouldn't we ban them? In a free country, the the burden is not upon the people to show why they should have freedom of choice. It is upon those who wish to restrict that freedom to show good reason for doing so. And when the freedom is as deeply valued by as many as is handgun ownership, the evidence for infringing upon it must be very strong indeed.

If the likely benefit of handgun confiscation has been greatly exaggerated, the financial and constitutional costs have been largely ignored. Consider the various costs of any attempt to enforce confiscation upon a citizenry that believes (whether rightly or not) that they urgently need handguns for self-defense and that the right to keep them is constitutionally guaranteed.

Most confiscationists have never gotten beyond the idea that banning handguns will make them magically disappear somehow. Because they loathe the handguns and consider them useless the prohibitionists assume that those who disagree will readily turn in their guns once a national confiscation law is passed. But the leaders of the national handgun prohibition movement have become more realistic. They recognize that defiance will, if anything, exceed the defiance of Prohibition and marijuana laws. After all, not even those who viewed drinking or pot smoking as a blow against tyranny thought, as many gun owners do, that violating the law is necessary to the protection of themselves and their families. Moreover, fear of detection is a lot more likely to keep citizens from constant purchases of liquor or pot than from a single purchase of a handgun, which, properly maintained, will last years.

To counter the expected defiance, the leaders of the national confiscation drive propose that handgun ownership be punished by a nonsuspendable mandatory year in prison. The mandatory feature is necessary, for otherwise prosecutors would not prosecute, and judges would not sentence, gun ownership with sufficient severity. The judge of a special Chicago court trying only gun violations recently explained why he generally levied only small fines: The overwhelming majority of the "criminals" who come before him are respectable, decent citizens who illegally carry guns because the police can't protect them and they have no other way of protecting themselves. He does not even impose probation because this would prevent the defendants, whose guns have been confiscated, from buying new ones, which, the judge believes, they need to live and work where they do.

These views are shared by judges and prosecutors nationwide; studies find that gun-carrying charges are among the most sympathetically dealt with of all felonies. To understand why, consider a typical case that would have come before this Chicago court if the district attorney had not dropped charges. An intruder raped a woman and threw her out of a fifteenth-floor window. Police arrived too late to arrest him, so they got her roommate for carrying the gun with which she scared him off when he attacked her.

Maybe it is not a good idea for this woman to keep a handgun for self-defense. But do we really want to send her to federal prison for doing so? And is a mandatory year in prison reasonable or just for an ordinary citizen who has done nothing more hurtful than keeping a gun to defend herself—when the minimum mandatory sentence for murder is only seven years and most murderers serve little more?

Moreover, the kind of nationwide resistance movement that a federal handgun ban would provoke could not be broken by imprisoning a few impecunious black women in Chicago. Only by severely punishing a large number of respectable citizens of every race and social class would resisters eventually be made to fear the law more than the prospect of living without handguns in a violent society. At a very conservative estimate, at least half of our present handgun owners would be expected to defy a federal ban.

To imprison just 1 percent of these 25 million people would require several times as many cells as the entire federal prison system now has. The combined federal, state, and local jail systems could barely manage. Of course, so massive an enforcement campaign would also require doubling expenditure for police, prosecutors, courts, and all the other sectors of criminal justice administration.

The argument against a federal handgun ban is much like the argument against marijuana bans. It is by no means clear that marijuana is the harmless substance that its proponents claim. But it would take evidence far stronger than we now have to justify the enormous financial, human, institutional, and constitutional costs of continuing to ferret out, try, and imprison even a small percentage of the otherwise law-abiding citizens who insist on having pot. Sophisticated analysis of the criminalization decision takes into account not only the harms alleged to result from public possession of things like pot or guns, but the capacity of the criminal law to reduce those harms and the costs of trying to do so.●

BOTTLE BILLS ARE NOT THE WAY

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. HUGHES. Mr. Speaker, I would like to take this opportunity to call to your attention an insightful article, entitle "Bottle Bills Are Not the Way." Its author, Fred G. Armstrong, chairman of the Arctic Environment Council, has examined the mandatory returnable beverage-container controversy and has discovered that the so-called bottle bill is not the best solution to our litter problem. It is interesting to note that, according to Mr. Armstrong, the Department of Energy has greatly overestimated the energy savings which would result if all beverage containers were made returnable. Perhaps a more effective solution would be to establish regional resource conversion centers which would be capable of resource recovery and recycling. If we burn a substantial portion of the material which we recover, we will be able to begin some serious conservation and even make additional energy available to our Nation.

The article follows:

BOTTLE BILLS ARE NOT THE WAY

(By Fred G. Armstrong)

Bottle bills are in trouble these days—and rightly so. They do not solve the litter problem and they do not provide for efficient use of energy.

Recently Governor Edward King vetoed the controversial mandatory beverage-container return bill, making Massachusetts the 30th state in which the so-called bottle bill has been rejected. Only seven states have enacted such legislation, and in at least one of these, Maine (where the cost of a six-pack rose 22 percent within seven months after the enactment of its bottle bill), petitions are circulating for its repeal.

If bottle bill rejection is becoming a national trend, then answers as to why must be sought. Is it entirely due to the self-interest lobbying of the container manufacturers? Are proponents of the bill being wrong-headed or indifferent in their drive to clean up America?

The answers are coming gradually but certainly to this complex problem and are increasingly shifting from litter reduction to energy conservation as a basic issue.

Everyone agrees that our littered urban and rural roadways are a national disgrace, but beverage containers constitute at most only 20 percent of rural highway debris and five percent of city street litter. Thus, if all containers were traded in for their two- to ten-cent deposits, 95 percent of city litter would remain intact. And only in states that have addressed the total litter problem has there been a substantial reduction.

Oregon led off with the first bottle bill in 1972 and litter went down 10.6 percent in the first year. But it was down only three percent after five years, according to the Institute for Applied Research.

Meanwhile, in the neighboring state of Washington, which has comprehensive litter-abatement laws (and no bottle bill), litter was reduced 66 percent in some areas, as disclosed by the state's Department of Ecology. The figure was 47 percent in urban centers, according to the 1977 finding, and the cost to taxpayers and consumers was minimal.

The comprehensive legislation referred to typically comprises an intensive and continuing public education program coupled with frequent and efficient litter collection, delivered to regional resource-conversion centers. These centers—some innovative and experimental, needing a shakedown period—can produce electricity by burning a substantial portion of the recovered material as well as produce methane gas. Ferrous and nonferrous metals are separated and sold for recycling, glass can be separated by color and recycled as glass or as an ingredient in blacktop paving After all useful resources have been extracted, the remainder becomes clean landfill.

Such resource centers are additionally attractive because they can be built and operated at a profit by the private sector, thus sparing the taxpayer a substantial capital outlay. These centers now are operating successfully in a number of locations throughout the country, financed both privately and by public bond issuance. *It may be important to note, however, that their operators maintain that, without the inclusion of nonreturnable beverage containers in the refuse to be recycled, the operation would not be profitable and would not attract private capital.*

Some of the confusion about the role of energy in the bottle bill discussion undoubtedly stems from a US Department of Energy study which stated that, if we did away with cans and went to returnable bottles, 80 million barrels of "oil-equivalent energy" would be saved. There was no clarification of this odd phrase and for many proponents of bottle bills and some very respectable publications, it quickly became 80 million barrels of oil to be gained.

The independent Battelle Columbus Laboratories picked up on the gaps in the federal study and reported that cans do require a small amount of additional energy but the added energy is from coal, not petroleum. In fact, the study found bottle bills encourage the use of refillable bottle systems which consume one-third more petroleum than can systems.

Energy conservation enters the scene in other, and some unexpected, ways. It requires four to seven times more heated water to process a returned bottle than to make a can—and water itself is becoming a scarce resource in some bottling-plant areas, especially in the West. In one study the Pacific Coca-Cola Bottling Company found that in 1978 it used about 94 gallons of gasoline to deliver 1,000 cases of soft drinks in Oregon, a mandatory deposit law state, while next door in Washington, which does not have the restrictive bottle-return legislation, the same distributors needed only about half that much gasoline—about 47 gallons—to deliver the same amount.

Thus, bottle-return laws appear clearly to lead to increased consumption of a nonrenewable resource: petroleum.

Governor King, in his veto message, estimated a loss of 900 existing jobs in the state were the bill to become law. Reliable job gain or loss figures are hard to come by; a U.S. Department of Commerce study places job losses at 82,000 were the bottle-return law to become national. The Environmental Protection Agency places the figure at 43,000.

Jobs would be created, but the certainty is that skilled, highly paid workers, many women, would lose jobs, while those hired, such as bottle handlers, would be low paid and unskilled. As one union leader put it, "The family breadwinner gets fired so his unskilled son can have a job."

For all these and other reasons, the President's Cabinet-level Resource Conservation Committee (headed by EPA's Barbara Blum) has failed to recommend in favor of a national bottle bill. It may well be that Governor King has made a wise decision for the citizens of his state. Even better, the way is now open for more effective legislation to abate litter in Massachusetts. ●

ACID RAIN BILL

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. VENTO. Mr. Speaker, when the subject of pollution is discussed, the issue usually centers around visible signs; skies overcast with soot, dirty lakes and rivers, oil spills and scarred lands. However, the pollution that may have the severest and longest impacts are those which are not visible. Like many human diseases, the full impact of an invisible pollutant is not realized until it is too late. We are now faced with this threat from acid rain, a pollutant which threatens the environment, wildlife, the economy, and human welfare.

Acid rain results when sulfur dioxide and nitrogen oxides, primarily from electric powerplants, smelters, and automobiles, are chemically changed into acids in the atmosphere and are brought to earth in rain or snow.

Acid rain represents a significant threat to all of North America. As EPA Assistant Administrator for Research and Development, Stephen Gage, noted, "Acid rain may be one of the most significant environmental problems of the coming decade, not only in the United States, but throughout much of the industrialized world." The significance of the acid rain problem was further underlined by President Carter's inclusion of that issue in his August 2 environmental message.

Acid rain poses a serious threat to many aspects of life. While research in this area is relatively new, everyone agrees that acid rain can have serious ecological and economic consequences. The Council on Environmental Quality lists as possible effects decreased fresh water fish production, decreased farm and forest yields, depletion of nutrients from soils and aquatic systems, disruption of the natural acid or alkaline quality in soils, inactivation of important microorganisms and corrosion of materials.

Examples of the devastating impacts of acid rain already exist. Lakes in the Adirondack Mountains which had an abundance of fish are now devoid of fish life. In the Scandinavian countries which have been most affected by acid rains, massive fish kills have occurred in many lakes in Sweden and Norway and the acidity of Scandinavian rivers has increased by up to 24 percent.

Acid rain is a national and international problem. Acid rains have been observed throughout Northern Europe and in States such as Maryland, Ohio, Missouri, Michigan, Texas, California, Washington, and Minnesota.

Eliminating the source of acid rain is a difficult task. As I mentioned earlier, many activities contribute to increasing the sulfur dioxide and nitrogen oxide levels in the atmosphere. In addition, sulfur has a residence time in the atmosphere, of 2 to 4 days and can be transported more than 620 miles before being deposited on the Earth's surface.

Faced with the potential damages from acid rain and the lack of adequate research in eliminating the source of pollutants and remedying existing problems, it is urgent that we move swiftly on this issue. Today, Congressman LAFALCE and I are introducing legislation to establish a comprehensive approach to deal with the acid rain problem. This measure would establish an interagency task force to study all aspects of acid precipitation and to recommend solutions to this problem. This task force will work closely with international, State, academic, and private organizations in seeking a solution to this question.

Mr. Speaker, the acid rain problem grows with each passing day and it is imperative that Congress act on this issue. Hopefully, my colleagues will cosponsor and support this measure. At this time, I would like to bring to my colleagues' attention the article by James Gannon, "Acid Rain Fallout: Pollution and Politics." This article details the growing acid rain problem.

ACID RAIN FALLOUT: POLLUTION AND POLITICS

(By James Gannon)

The birds are back in Hyde Park. That's the good news from London in recent years, and its implications go far beyond a mere ornithological happening. The birds are a sign of London's triumph over its deadly smog, smog that killed 4,000 people in a terrifying four-day inversion twenty-five years ago. Air that can support birds can also support people—and it can help to sweep away the dark memories of the world's worst air pollution disaster.

From Scandinavia the news is bad. Acid rain and snow, a form of pollution unknown twenty-five years ago, have caused massive fish kills in the past two decades. Ironically, England is a major contributor to the Scandinavian pollution. The birds live in Hyde

Park while the fish die across the North Sea in southern Norway and Sweden.

At first glance the trade-off may seem favorable to some observers—even when you count the fish kills in Canada and the United States from North American sources of pollution. No massive toll of human beings of the magnitude that London experienced in 1952 can be remotely linked to acid rain. Not even one human death.

But to a leading American authority on acid rain, Gene E. Likens of Cornell University, the fish kills are a "disaster." Likens, an ecologist, is alarmed by what he perceives to be a threat to the natural life systems.

"One has to be very seriously concerned about this kind of environmental insult on the natural systems," he warned. "There is a limit to the stress they can withstand. The forests and the lands are life-support systems. Without those life-support systems to cleanse the air and the water, to provide food for us to eat, our health is just as much in jeopardy as if something is affecting us directly."

These are some of the signs of stress that concern Likens:

Acid rain has wiped out commercial salmon fishing in much of southern Norway and Sweden and has destroyed sport fishing in parts of Scandinavia, eastern Canada, and the northeastern United States.

Acidic lakes and streams do not simply kill fish; they eliminate other forms of aquatic life—including microscopic forms—and affect larger animals that feed on fish.

In waters where the fish are not all gone the acidity contributes to higher levels of mercury contamination in the most desirable game fish, and the contamination can be passed on to humans.

Acid rain may leach nutrients from soils and impede the growth of vegetation, including plants for food and timber; it has done so, at least, in laboratory experiments.

Acids do occur naturally in the atmosphere and have always fallen to earth in precipitation. But nature's marvelous system of checks and balances has neutralized them—until recently. Now the excessive loading of man-made acids on vulnerable land surfaces tips the balance against nature. These acids usually originate in the burning of fossil fuel for electricity and other uses and in smelting of ores for industry.

But they don't start out as acids. Sulfur and nitrogen oxides emitted from the stacks are oxidized into the dehydrate of sulfuric and nitric acids. Water in the atmosphere does the rest. Measurements by Likens at the Hubbard Brook Experimental Forest in the White Mountains of New Hampshire confirm the acid components of rainfall to be as much as 65 percent sulfuric and 25 to 30 percent nitric. Other monitoring stations have detected these acids in slightly lesser amounts. Both are highly corrosive acids. They can destroy plant and animal cells—destroy life—on contact.

The rainfall is still almost all water. The acids occur only in minute amounts, never in strengths greater than the acids in the human stomach, but often—and here's the danger—in strengths greater than the acids in nature.

Acid rain can fall anywhere downwind of urban or industrial pollution. In cities it is simply one more element undermining air quality. It contributes to the corrosion of buildings and monuments and has subtle, long-term effects on human health.

But acid rain is more remarkable for transferring what has been an urban problem to the countryside. You do not expect to find the effects of air pollution in the Canadian wilderness or among the stately mountains of New England and northern New York—but you find them there now.

The pollutants come from near and far, and they travel in all directions without respect for international boundaries. A report prepared for the Canadian-American International Joint Commission shows that Lake Superior receives significant acid fallout from points as distant and scattered as St. Louis, Cincinnati, Pittsburgh, and Sudbury, Ontario.

The American cities are all more than five hundred miles away from Lake Superior. If conditions are favorable, the pollutants can go that far in a day. They've been known to stay airborne for weeks, although Swedish scientists estimate that the average time aloft is two to four days. There's time, in any case, for pollution orginating in North America to travel across thousands of miles of ocean to Sweden and Norway. It is not uncommon for acid rain that falls in Scandinavia to be "made in the U.S.A."

That's a bit startling, but it is consistent with known global transport of atomic and volcanic clouds. Tall industrial smokestacks built in the past quarter century to help clean up cities like London may account, in large measure, for long-range pollution.

The danger is growing. Acid rain is so widespread today that the average rainfall in the eastern half of the United States and southeastern Canada—regions of heavy industrialization—is about twenty-five times more acidic than it would be if the rain contained acids from natural sources only. As recently as ten years ago, that sort of acid intensity could be found only in the northeastern states and around the nickel mining center of Sudbury, Ontario. But today there are more than 200 tall stacks in the United States alone, rising 400 to 1,200 feet above power plants and smelters and spewing the sulfur and nitrogen compounds into the atmosphere. The acid rain problem could become even more acute with construction of many more coal-generating facilities.

The Administration's national energy plan, given to Congress in the fall of 1977, calls for an 80 percent increase in the use of coal for electrical generation. Under a 1977 clean air law, the best available technology will be required for new plants. Right now that means "scrubbers," devices that can trap 90 percent or more of the sulphur dioxide from a plant's flue gas. But a huge environmental battle has been brewing about the pollution controls needed to check the emissions from all these new plants. Meanwhile, there are no significant standards for nitrogen oxides—a huge part of the acid rain problem—and little research on technology to control that pollutant.

The danger from acid rain is greatest in lakes situated in hard-rock areas where the rocks and soils are low in neutralizing chemicals, such as the calcium carbonate in limestone. All soils have these "buffering" chemicals to a greater or lesser degree, but many underlying rock formations do not. Rocks made of granite or lava, for example, simply do not react with acid. So acid rain can gradually, almost imperceptibly, disrupt the surface ecosystem.

The entire Canadian Shield, made of Precambrian rock formed six hundred million to four billion years ago, is vulnerable. It stretches from the Arctic Circle across most of Greenland and the eastern half of Canada into the United States below the Great Lakes. Combined with other pockets of hard-rock formations, it adds up to more than a million square miles of acid-sensitive land surface in North America.

Lakes in hard-rock areas, said Likens, are the "clearest and most dramatic example" of acid rain's effects. An acid lake is a death trap for fish. For the newly spawned, should they survive the spawning, it is almost instant death. For older fish, more resistant to the toxic effects of acid, it is a slow and tortured death. However it comes, death is inevitable, for fish and for other forms of life, as the acid level slowly rises.

Richard J. Beamish, a scientist for Environment Canada, has probably spent as much time as anyone in North America studying what acid does to fish. For many years Beamish used the acidic lakes around Sudbury, site of the world's richest nickel deposit and world's largest single point source of sulfur pollution, as his "laboratory."

Beamish and his colleagues found that adult fish became emaciated, stunted, and deformed under acid stress. Far more destructive for the fish populations, however, was the failure of female reproduction. "Eggs were developed," Beamish discovered, "but they were never passed from the ovary and fertilized." It made the premature deaths of adult fish a moot point, he theorized, because without the recruitment of new fish into the population, the species is inexorably reduced to zero.

That happened to one species after another in lakes that Beamish studied. Some prime game fish, small mouth bass and walleye, were the first to be eliminated. Northern pike and lake trout were next. Even the most acid-tolerant fish, such as lake herring, perch, and rock bass, eventually succumbed to the lethal acid.

Beamish estimated—"conservatively"—that two hundred to four hundred lakes within a fifty-mile radius of the Sudbury smelters have few or no fish remaining. Since the construction of the world's tallest smokestack at Sudbury, acid pollution has reached out to Ontario's popular resort areas of Muskoka and Haliburton where the lakes are on the edge of disaster. Pollution made in the United States will undoubtedly share blame for the disaster.

In Scandanavia the problem is even more severe. Lars N. Overrein, director of a comprehensive Norwegian study of acid rain, reported, that the "majority of inland waters . . . have completely lost their fish populations," That runs to "thousands of localities."

In New York's Adirondack Mountains the fish are gone from about a hundred lakes and streams at higher elevations, and ecologists fear the loss of "buffering capacity," and ultimately the loss of fish, in the lower valleys.

The spring snow melt, when acid levels can rise precipitously from winter snow accumulations, is the most dangerous time for fish. A late winter thaw in 1975 killed trout by the thousands along the Tovdal River in southern Norway.

Fish are not the only casualties. Around Sudbury the acid lakes look pure because they are so clear. But that's an illusion. They are clear because, for all practical purposes, they are dead. The organic life has been virtually erased: fish, amphibians, invertebrates—all gone. Plankton, gone. Algae, bacteria, severely reduced or chemically altered. The entire aquatic ecosystem snuffed out—perhaps irrevocably. Beamish said at least one hundred lakes near Sudbury fit this description, and he doubts that they can be restored. When the chain of life is broken like this, the higher animals are also affected. Fish-eating birds and vertebrates have left the lakes.

Parts of the barren landscape around Sudbury will resemble what the earth will be like when life is gone entirely. The vegetation has been destroyed by the direct fallout of sulfur dioxide. But twenty-five miles away the land looks normal—at least to the untrained eye.

It's difficult to tell what happens to forests and agriculture from acid rain. So many hazards—fungus, insects, bacteria, drought, and other man-made pollutants—can afflict a plant in the natural environment that sulfur dioxide and acid rain are merely additions to a long list. But scientists have clearly shown in laboratory experiments that simulated acid rain, with other negative influences factored out, is destructive to vegetation.

Acid rain has a capacity to "leach out" nutrients that can affect the environment in different ways. Falling directly on plants, it causes leaf lesions, reducing the area for photosynthesis and limiting growth. In the soil it impedes root development.

Swedish scientists predict that acid rain will leach calcium from their nutrient-poor woodland soil, leading to a reduction of forest growth of 10 to 15 percent by the year 2000. If true, that will be a serious economic loss. (The Canadian and American pulp and logging industries, notorious denuders of the landscape, should take note.)

The leaching property of acid rain also draws out heavy metals from the earth and atmosphere. Metals such as aluminum, mercury, lead cadmium, tin, beryllium, and nickel are drawn into the freshwater systems and held in solution by the acid.

One result is another mechanism of fish mortality, this one discovered by Carl L. Schofield, a Cornell biologist, from observations in the Adirondacks. In this case, aluminum combined with nitric acid is the deadly weapon. "We found," said Schofield, "that the aluminum in this situation is very toxic to fish. You get a much higher toxicity for a given level of [acid] than you would otherwise."

Mercury is one of the better known threats to human health. The human race has had quite enough experience with it to hold it in respectful fear. It kills or maims in any form. As methyl mercury, one of its organic forms, it accumulates in fish—a major source of protein for humans.

The worst outbreak of mercury poisoning from fish occurred in the 1950s in Minamata, Japan. More than one hundred people died, and several hundred others suffered symptoms ranging from mild tingling of the skin to reduced motor coordination, retardation, and impaired sight and hearing—effects that are permanent because mercury causes irreversible damage to the cells of the central nervous system.

That tragedy came from the industrial discharge of mercury waste into Minamata Bay, where it contaminated fish and shellfish eaten by local people. Industrial dumping of mercury into Ontario's English/Wabigoon River system and other freshwaters of North America has brought fear and consternation closer to home, especially among native populations who make a steady diet of fish.

The "acid connection" to the mercury contamination of fish is more subtle. It occurs in the same waters vulnerable to human-generated acid pollution: softwater lakes situated on hard rock strata.

Mercury enters the water in a metallic inorganic state, then falls to the bottom sediment where it is converted by microorganisms to an organic form, methyl mercury. Methyl mercury passes easily into the food chain and, because it does not pass easily out, accumulates in fish regularly eaten by humans.

A Swedish scientist, Arne Jernelov, has established a clear correlation between the acid levels of lakes and mercury levels of fish—that is, the more acid added to a lake's water, the more mercury in its fish, up to the point where the acid kills the fish outright.

More than 600,000 U.S. citizens go fishing in Ontario each year. Increasingly, they are fishing in troubled waters. They can find out for themselves by writing to Ontario's Ministry of the Environment (the tourist industry won't tell them) for the "Guide to Eating Ontario Sport Fish." Excluding the Great Lakes, 336 lakes and rivers (70 percent of 479 cited) have at least some contaminated fish at levels officially considered unsafe for prolonged human consumption. The highest levels were found in the predator game fish, walleye and northern pike.

But sport fishermen have no cause for alarm, according to John M. Wood, director of the University of Minnesota's Freshwater Biological Institute. "They don't get sufficient exposure to mercury-contaminated fish to really seriously be threatened. You have to have a diet of fish for a significant period of time to be affected."

Like the diet of the Canadian Indians, for example. They eat fish almost daily in the summer, and they have cause for alarm. In a recent survey by Health and Welfare Canada, 42 percent of 764 Indians tested in Quebec, Ontario, and the Northwest Territories had abnormally elevated blood or hair mercury levels.

It's the Indians trying to live close to nature who are most immediately threatened by acid rain. The threat is magnified at the tiny Ojibway Village on Lac La Croix by the prospect of an 800-megawatt power plant close to home.

Chief Steve Jourdain wants to keep the ways of his ancestors, but he doesn't mind enjoying the benefits of modern industry. When he clears his beaver traps in winter, he makes the rounds by "ski-doo" (skimobile). Two years ago, he said, his band of two hundred "kicked out" welfare because it "goes against our belief that welfare is a damaging thing."

Now they are trying to live off the wilderness, fishing, hunting, and trapping. Their only outside source of income comes from guiding U.S. fishermen in the summer, and they pick up a few extra dollars from the declining number of pelts they gather in winter. The thought of acid rain has them virtually paralyzed with fear.

Lac La Croix, a softwater lake on the hard-rock Canadian Shield, rests directly on the Canadian-American border. It's adjacent to two wilderness preserves: the Boundary Waters Canoe Area, an official "national wilderness area" in Minnesota, and the Quietico Provincial Park, a "primitive wilderness" in Ontario.

The Indians live on the Canadian side, and their own provincial government is about to execute the final blow to their tenuous wilderness existence. Ontario Hydro, a crown corporation, plans to build a large coal-fired power plant near Atikokan, only fifty miles from the village. That's why they're afraid; visions of Sudbury keep coming to mind. [To be wholly accurate, Atikokan would not come close to Sudbury in emissions.]

"The economic base of our reservation is the surrounding environment. If that's destroyed, our whole economic base is destroyed," says Chief Jourdain.

He could as easily fear for the present. Things are bad enough without the power plant, just from the effects of a small nearby smelter combined with long-range pollution. A simple test [not scientifically valid] has indicated that already the acid level of the lake is critical for fish survival, and one fish analyzed for mercury was contaminated.

It is hard to see how the new power plant can do other than make it worse. The utility has said it will use low-sulfur coal and claims it will not need expensive scrubbers for sulfur removal. In contrast to the United States, scrubbers are not in use in Canada, but pressure for them may increase with an acceleration in Canadian development. Environmentalists, fearing for the entire surrounding wilderness, have turned the issue into an international controversy that has reached diplomatic levels.

The Atikokan dispute illustrates as well as any one incident can the seeming inflexibility of acid rain politics. Scientists are concerned about the plant's effects but in the absence of a four-star disaster like the London inversion, the kind that inspires mass demand for reform, industries and governments are likely to remain unmoved. It seems Indians cannot even match the political clout of the Tennessee snail darter.

Whether industry and government are one and the same, as with Ontario Hydro, or separate seems irrelevant. Government agencies, said Frank D'Itri of Michigan State University, who headed a mercury study for the National Academy of Sciences, are "usually useless in solving pollution problems." They act occasionally after the fact to compensate victims, but almost never for prevention.

Yet government agencies spend the taxpayers' money as if their existence depended on it—and perhaps it does. The money, said D'Itri, goes into research for what he calls "technological countermeasures." Precisely that phenomenon today threatens to turn acid rain research into a government-funded growth industry. Projects for liming acid lakes (giant Alka Seltzers) and for developing acid-resistant fish are being undertaken in lieu of any meaningful solution.

Because the use of fossil fuel is the source of the acid rain problem, the obvious solution is to stop using fossil fuels. As utopian as it may sound to those if us accustomed to seeing the world through industrial smoke, that solution is not only plausible; it is inevitable. Fossil fuel reserves will be exhausted, according to current estimates, in about 200 years.

While we bend to the task of finding alternative sources of energy, it matters how we use the remaining fossil fuels—the speed and magnitude of consumption, for example, and whether we extract the sulfur or trap the nitrogen. And it matters how fast we find safe alternatives. Because we have no choice about finding alternatives, why not act sooner rather than later, save what's left of the wilderness, and safeguard our health?●

THE WILLIE MAYS CASE

HON. LIONEL VAN DEERLIN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. VAN DEERLIN. Mr. Speaker, Shirley Povich has been around a while. He has seen athletes and baseball commissioners come and go. When he writes about sports and its relationship to the seamy side of American life, he deserves to be listened to.

In the following column, Shirley talks plainly about Bowie Kuhn's recent brush with the gambling world. He thinks Bowie, and baseball, came out on top. So do I.

The column follows:

Finally, Kuhn on Money

Mays Action Praiseworthy

It has been in fashion during most of his years as baseball commissioner to take a swipe at Bowie Kuhn's almost every act or utterance. Like a reflex action. Kuhn could do no right. His lingering image was that of a man who sold out to television, who had decreed that teeth must chatter during the World Series he scheduled on blustery October nights fit only for fishing through the ice.

But this time Kuhn has done something exactly right. He has told Willie Mays and the Atlantic City gambling casino operators to stow it; that they can't have it both ways; that they can't have Mays under contract as a shill for their gambling joint while he is still under contract to the New York Mets as a coach, and entitled to wear the Met uniform. Mays must take one or the other.

Instantly, Kuhn caught it for this one, too. He was lambasted by fast-draw journalists and talk-show idiots who saw it, inconceivably, as "Willie Mays Barred From Baseball." How could Kuhn do this to one of the great Hall of Fame heroes, who was trying to make a decent $150,000-a-year living for himself by moonlighting on the boardwalk? And wasn't gambling legal in New Jersey? And didn't some club owners own race horses, making them gambling associates?

But Kuhn said it brightly, and positively: "It would not be in the best interests of baseball." He wasn't barring Mays from anything, from baseball or gambling. It was Mays' choice. If he chose gambling, and later he did, they wouldn't remove his bust from the Hall of Fame. He would be welcomed in baseball, at every proud gathering of the game's legends, except in uniform while he was in the hire of professional gamblers.

Sixty years ago, baseball was conditioned to shudder at any connection with professional gamblers. Harking back to Arnold Rothstein and his group of crooks who bribed the White Sox, to throw a World Series the dread of a scandal has continued. Without public confidence, the owners know their game is shot. They knew this in 1920 when they paid Kenesaw Mountain Landis, their first commissioner who had been a $12,000-a-year federal judge, a $50,000 salary to protect their game's integrity and give it a symbol worth the public trust.

The bewildered Mays showed class when he accepted Kuhn's ruling because, "I didn't aim to hurt the game," but he said he didn't understand it. "I'm not into gambling; the company is," he said. "I want to go to Atlantic City because there is a depressed area and a lot of blacks in the city."

So that's it. The casino operators are hiring Mays to go into the depressed areas and uplift the neighborhood. They didn't hire him to shake hands with big-shot high-rollers and by his magnetic presence steer them to throwing the dice in the new big joint his employers will open next month. Nothing like that.

Mays also said, "I guess Kuhn considers casino gambling apart from race-track gambling." Little doubt about that. Ten years back, Kuhn ordered Charley Finley and the then-owners of the Atlanta Braves to sell their casino gambling stock forthwith. They did, without a whimper, recognizing the validity of Kuhn's position.

Kuhn makes a distinction between owning race horses and owning gambling houses, indicating that horse ownership is a more honorable business. That's probably true. A great many esteemed people seem to be involved in it. Thirty-one states allow it. Only two, Nevada and New Jersey, think casino gambling is nice.

And even Nevada was revolted by some of the things that went on in its casinos in 1977. The state ordered three officials of one outfit to leave because of their alleged connections with organized crime. The casino operators in Atlantic City couldn't wait. They drew a fine of $39,000 for violating counting procedures in the first five days of operations. The state's attorney general also opposed a permanent operating license, citing extensive dealings with more than a dozen "unsuitable persons," including several with links to organized crime.

An Associated Press dispatch in 1977 reported that the Nevada Gaming Commission ordered three officials of the Bally Corp., to leave the company because of alleged connections with organized crime. The name, Bally Corp., has a familiar ring. Same outfit that has just hired Willie Mays.

George Washington took a firm view of gambling. The father of his country, in a letter to his nephew, Bushrod Washington, once wrote, "Gaming is the child of avarice, the brother of iniquity and the father of mischief." Whether or not Bowie Kuhn was familiar with this admonition, he seems to approve—of the warning, not of gambling. For baseball it could be a bad mix.●

THE SEPARATION OF CHURCH AND STATE IN THE UNITED STATES: A CAUSE FOR THANKSGIVING

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. McCLOSKEY. Mr. Speaker, we have special cause for Thanksgiving this year in the wake of the recent visit of Pope John Paul II. We give thanks for having seen a great leader in action at a time when we long for a return of inspiring leadership in America.

But an even greater cause for Thanksgiving lies in the quiet reflection that our unique American constitutional heritage allows us to view the Pope in perspective as only one leader of one religion; that no longer can a single religion command that its beliefs be accepted by others upon pain of death at the stake or upon the rack.

We are reminded that our first Thanksgiving was celebrated in 1621, to mark the survival and good fortune of new arrivals to a rocky and forbidding land. At the same time, and for 2 centuries thereafter, Pope John Paul II's predecessors in Rome were presiding over the inquisition, torture and execution of thousands of Catholics who had allegedly violated church law.

Our own continent, less than three centuries ago, saw the long arm of the Spanish inquisition raised over the Pueblo Indians of New Mexico. Next year, 1980, will mark the 300th anniversary of the ensuing revolt of the Pueblos and the slaughter of Catholic priests throughout New Mexico.

On our eastern seaboard, unlike New Mexico under the rule of Spain, we were privileged to embrace, first in our original colonies and later in our United States, refugees from religious persecution in distant lands, Huguenots, Puritans, Calvinists, Quakers; people who wished to pursue their own religious beliefs in their own ways.

In our colonial days we saw executions for witchcraft and banishment for differences in religious beliefs. As a result, we adopted, in the very first addition to our Constitution, article I of our Bill of Rights, with its clear declaration of principle:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.

Despite this fundamental guarantee, we have seen ourselves moved on occasion to persecution for religious differences. The hounding of the Mormons in the late 1800s and anti-Semitic activity in the first half of this century are cases that come readily to mind. Even today, the actions of the Hari Krishnas, the Pallatine Fathers, and the Church of Scientology have created occasional widespread public expression against certain forms of religious activity.

We have been blessed with a Constitution recognizing that while we are free to practice any religion we wish, our legal rights are decided by law, not by religious views.

We are indeed a Nation under God, but it is the right of each of us to decide which God; Christian, Buddhist, Islamic or the God espoused by Father Moon.

Warring on God is not a capital offense as it is in the Ayatollah Khomeini's Iran. Each of us is free to have our own God and our own interpretation of those principles of faith which we wish to guide our lives and pursuit of happiness.

We have chosen to separate our laws and our religious beliefs. As Christ urged, we render unto Caesar what is Caesar's, and no more. We accept decisions of the Supreme Court as to the law; we accept the right of religious faiths to exercise their freedoms of religious activities in the areas beyond reach of law and not in conflict with the law.

The Pope's visit—by a European leader of different religious and political heritage, privileged to have survived on the borders of a nation whose government discourages religious freedom—could not help but refocus our thinking on the benefits of our own separation between church and state.

The Pope saw no problem in urging that our laws be changed to reflect the moral precepts of his church. On abortion, in particular, he was specific. In his address to the Catholic bishops he affirmed the bishops' argument:

> To destroy these innocent unborn children is an unspeakable crime—their right to life must be recognized and fully protected by law.

As to church law, we agree. But as to civil law, we think the Pope was uncharacteristically unaware of our history when he said "must."

No religious view "must" be written into law. In fact, whenever religious views disagree, it is an accepted restraint in our system of delegated governmental powers that one religion's view not be written into law at the expense of others.

In the Pope's world, it is understandable that he would desire all people to adopt Catholic precepts. In our world it is guaranteed to all people that they cannot be forced to adopt anyone's religious precepts, Catholic or otherwise.

This, indeed, may mark the real beauty of the American constitutional system. On the one hand the Pope was free to hope and urge that Catholic principles be written into U.S. law. On the other hand, we as a people are reluctant to write any church's views into law. Catholics oppose abortion yet our Supreme Court has unanimously ruled that a woman has a right to an abortion. Pope John Paul II condemned contraception, divorce and premarital sex. Yet all of these are legal, within limits, in many States under civil law.

Justifiable termination of either pregnancy or life is determined by law, not by a religious belief. Abortion is not a crime, any more than is killing in self-defense against forcible rape. If Catholic leaders elect to designate abortion as a sin under their church rules, this is their right. But for Catholics or Catholic legislators to require those of other faiths to be legally bound to similar definitions of sin could deny freedom of their religions. Those of the Jewish faith and many Protestant faiths believe a woman has the moral right to terminate a pregnancy. The Congress of the United States has recently voted to use Federal funds to pay for abortions after rape or incest and when the mother's life is endangered.

Is it not best that we maintain the separation of church and state which has served us so well for nearly 200 years?

Thank you, Pope John Paul II, for so gently reminding us of the benefits of a legal system which allows each religion to follow its own dictates, and yet allows no religion to impose its views on others.

Dissent from papal decrees is not welcomed in your church; dissent is welcomed and is, indeed, an essential part of our system of freedom under law.

Your system accepts the infallibility of the viewpoint ordained by your leader. Our system is precisely opposite; we distrust any one individual's concept which might limit our freedoms.

You have authority over your members that we do not grant to our elected leaders. We have learned, at great cost, not to delegate the same power to those in civil authority which your church accepts as its due.

We respect your views on abortion and contraception but our laws are otherwise, and we hope you can understand the difference as we respect your right to pursue your own customs.

We have studied and understand the derivation, from St. Thomas Aquinas and Saint Augustine, of your view that women should not be accorded equal rights in your church, but we hope you will understand our pride in our own 1964 Civil Rights Act which guarantees women equal rights in their legal relationships.

Again, we thank and honor you for your leadership of a great religion. Peace be with you in your search for additional converts to that religion. We respect your church's progress since the Inquisition, as we revere our own fortunate progress away from religious persecution since our first Thanksgiving.

We will celebrate our Thanksgiving holiday this year with a special blessing for your reminder to us of the unique and priceless heritage we enjoy of freedom of religion—and freedom from religion if we so choose.●

GUARANTEED INCOME JUST DOESN'T WORK

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. DANIEL B. CRANE. Mr. Speaker, with H.R. 4904 being discussed by this body I want to bring to the attention of my colleagues the following article by Mr. William Raspberry. This article, published in the Danville Commercial News on November 22, 1978, points out that in spite of the fact that there are a number of good reasons for the concept of guaranteed income, it simply does not work. Mr. Raspberry gives some excellent reasons why it fails. I came across this article shortly after I was elected to Congress and feel that now is an excellent time to reread it. I would like to submit Mr. Raspberry's article for the RECORD at this time so my colleagues may also have an opportunity to review it:

GUARANTEED INCOME JUST DOESN'T WORK

(By William Raspberry)

There are a number of good things about the concept of guaranteed minimum income. It is, to begin with, considerably simpler (and presumably less costly) to administer a guaranteed income program than to run the present welfare system.

It also provides a theoretical mechanism for raising the working poor both out of poverty and off the relief rolls.

And, finally, it has the support of conservatives as well as liberals, rendering it a realistic legislative possibility.

There is also one bad thing about the concept: It doesn't work.

That, at least, is one conclusion to draw from a long-term, comprehensive experiment conducted by the Department of Health, Education and Welfare.

The experiment, involving 4,800 low-income families in Seattle and Denver, found that when people were given guaranteed income families in Seattle and Denver, found portion of what they could earn by working, they simply worked less.

Male heads of household who received the guarantee worked 15 percent fewer hours than the control group; female heads of households worked 11 percent less; wives reduced their working hours by 22 percent. The number of hours worked by teen-agers fell even more sharply.

The reductions in the hours worked were greater for blacks than for whites, and greater still for Hispanics. And in addition, marriages fell apart at a 60 percent higher rate than for families on traditional welfare programs.

The experiment, it would appear, failed. Robert G. Spiegelman, who conducted it, admits he doesn't know why.

I don't either, but I suspect the answer lies along three lines.

The first line assumes that poor people, like the rest of us, rarely are willing to work harder than is absolutely necessary, particularly at unpleasant or otherwise unsatisfying jobs.

A full-time government clerk might moonlight as a taxi driver in order to meet his necessary expenses. But if he got a promotion on his regular job, he might decide to hack fewer hours and maybe even give up his taxicab altogether.

He would lose money in the process—the money he would have earned had he continued hacking—but we would not consider his government promotion a negative, a disincentive to work.

If we think of the guaranteed income as the regular "job," then we shouldn't be surprised when those who receive the guarantee work shorter hours on their supplemental jobs. The higher the guarantee, the less the need to supplement it.

A second line of reasoning suggests confusion over what the experimenters would define as success.

In that regard, the experiment could be deemed a flat failure only if the objective was to maximize the number of hours worked. But if that was what was sought, it could have been accomplished by the simple expedient of denying income supplements of any sort. Given the choice of raking leaves for 100 hours a week or starving, who wouldn't rake leaves? On the other hand, who would continue 100 hours of leaf-raking if he could meet his needs with only 50 hours' output?

The third line assumes that people work not only to feed, clothe and house themselves, but also to "get ahead."

Some of us can, on the basis of our experience, assume a direct link between hard work and getting ahead. Others cannot.

The findings suggest that blacks see hard work as less rewarding for them than for whites, and that Hispanics see their exertions as less rewarding still.

The findings are, nonetheless, disturbing, particularly for those of us who believe in the importance of giving people the chance to work their way up.

The question now is how to convince people that the opportunity in fact exists. Guaranteed income, apparently, is not enough to do it.●

WELFARE REFORM

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. EDGAR. Mr. Speaker, the Northeast-Midwest Congressional Coalition has actively supported the passage of H.R. 4904. Our concern is for welfare reform and we believe that this bill will help us move in that direction. I share with my colleagues a letter of endorsement and a brief example of how this bill can make a positive step forward to reform the overall welfare system:

OCTOBER 29, 1979.

DEAR COALITION MEMBER: The Ways and Means Committee's welfare reform bill is expected to come before the House of Representatives for consideration on Thursday, November 1. The enclosed "fact sheet" on H.R. 4904 describes the principal national and regional effects of the legislation and provides more detailed data on your state.

While not the comprehensive reform that many had hoped for, or that the Carter Administration had proposed in the 95th Congress, H.R. 4904, "The Social Welfare Reform Amendments of 1979," contains the fundamental elements required to address the basic problems of the present cash assistance program, at a price tag Congress can afford—$3.0 billion. As with many moderate pieces of legislation conceived in the spirit of compromise, H.R. 4904 neither offends nor excites; it does, however, offer a number of provisions of vital importance to our region.

Of primary significance to the region is the fiscal relief this bill offers to states and localities, an estimated $732 million in FY 1982. This is accomplished through an increase in the federal matching rate for the Aid to Families with Dependent Children (AFDC) program, starting in January, 1981 and a larger increase in the federal matching rate for the AFDC program for families with unemployed family heads, starting in October, 1981.

A second provision holds states "harmless" against an increase in expenditures over 95 percent of 1979 costs, guaranteeing each state at least 5 percent relief. Secondly, the bill will simplify and streamline the current administrative system, standardizing certain deductions and tightening eligibility procedures, thereby reducing the chances for fraud and error. Given their above-average error rates, the States in our region stand to realize substantial gains through measures designed to lower error rates.

Finally, by mandating a national minimum benefit level of 65 percent of the official poverty line, the bill establishes a greater degree of parity among states, reducing the incentive for recipients to move from low-benefit states to higher-benefit states. The states of the Northeast and Midwest tend to have higher than average benefit levels and, hence, stand to gain substantially from this long run effect.

None of the other legislative proposals given serious consideration offers the same measures of fiscal relief, and one proposal would actually reduce rather than increase the federal matching contribution over time. In addition, no other alternative would put a floor under cash assistance benefit levels or reduce the incentive to migrate from low-benefit states to high-benefit states.

In light of the important benefits this bill offers to both the states and the needy of our region, we urge your support for H.R. 4904 as reported by the Ways and Means Committee.

Cordially,

ROBERT W. EDGAR,
Chairman.
SILVIO CONTE,
Cochairman.
JAMES L. OBERSTAR,
Cochairman.
FRANK HORTON,
Cochairman.
ELIZABETH HOLTZMAN,
Chair, Welfare Reform Task Force.

A WELFARE REFORM FACT SHEET

H.R. 4904, the Ways and Means Committee's "Social Welfare Reform Amendments of 1979," is scheduled for consideration on the House floor this Thursday, November 1. The bill addresses the basic problems of the current cash assistance program in "incremental fashion," retaining the programmatic structure of the persent welfare system while making administrative improvements designed to reduce fraud and error rates, and offering guaranteed fiscal relief to the states. The fiscal 1981 implementation of administrative changes in the bill would result in a net cost savings of $180 million. The total cost of implementation will be $2.7 billion in fiscal 1982.

Under a modified closed rule, the welfare reform bill will be the subject of two hours of debate, with one motion to recommit the bill to committee with instructions. Rep. James M. Jeffords (R.-Vt.) will offer the only committee amendment, which would allow states the option of substituting cash for food stamp coupons for elderly persons not receiving Supplemental Security Income (SSI).

An employment/jobs component of welfare reform (H.R. 4425) is the subject of separate consideration in hearings held by the House Education and Labor Committee last week, and scheduled before the Senate Labor and Human Resources Committee for late November.

Several key provisions of H.R. 4904 will particularly benefit Northeastern and Midwestern states:

A national minimum benefit standard of 65 percent of the official poverty line ($4,764) provides for greater equity among states, reducing the incentive for recipients to move from low-benefit states to high-benefit states. No Northeastern or Midwestern states currently pay less than this standard.

An increase in the federal matching rate for AFDC payments in the amount of 10 percent of each state's current percentage would begin in January 1981 and would result in more significant percentage decreases in the Northeast-Midwest region than in other regions. This would happen because, under the current formula, Northeastern and Midwestern states generally pay higher percentages of their AFDC costs than states in the South and West. An additional increase in the federal matching rate for the program which assists two-percent families with the head of household unemployment (AFDC–UP) in the amount of 20 percent of each state's current percentage would begin in fiscal 1982 and also would be especially helpful to the Northeast and Midwest.

A "hold-harmless" provision insures that states will not be held responsible for increased costs over 95 percent for their fiscal 1979 costs, as a result of rising numbers of caseloads caused by enactment of this bill. No Northeastern or Midwestern state would initially be affected by this provision. but it provides important "fiscal insurance" to the region in later years.

Standardization of deductions, coordination of income and assets criteria with the food stamp program, and use of a retrospective accounting system will simplify the administration of welfare and lead to lower error rates, thus cutting the cost of providing help to those in need. $150 million will be allocated to the states in block grants to implement these cost-saving changes. On average, error rates in Northeastern and Midwestern states far exceed the 4 percent national average goal.

$200 million will be used to establish an Emergency Assistance program in all states, eliminating the state matching requirement and relieving the financially pressed Northeast-Midwest states which have established generous emergency aid programs.

By mandating an AFDC–UP assistance program for two-parent families, the bill provides the financial incentive for families to stay intact, and allows some states to shift recipients to federally subsidized assistance.

An expanded Earned Income Tax Credit (EITC) offers tax incentives to encourage those earning poverty-line and lower-living-standard wages to continue working and avoid seeking public relief.

For Example: H.R. 4904 contains a number of provisions which would be particularly beneficial to Pennsylvania:

Through an increase in the federal matching rate, each state's share of AFDC and UP costs would decrease by 10% of their current percentage in January 1, 1981. Pennsylvania would receive $24.3 million in fiscal relief to offset this portion of its welfare burden. In FY 82, the matching rate for the Unemployed Parents program in each state would be increased by 30 percent, thus further reducing each state's welfare cost. Pennsylvania would receive a total of $29.7 million in fiscal relief in FY 82.

Streamlining and simplifying the current administrative system would greatly reduce the chance of fraud and errors, thus cutting the cost of providing benefits to those in need. The first year of implementation of these changes (FY 80) would result in a net savings of $180 million. Since Pennsylvania's current error rate of 16.7 percent exceeds the targeted 4 percent allowable error level, these administrative improvements would be of particular help in reducing the state's welfare costs.

Start-up money in the form of block grants would be provided to states in order to assist them with the costs of implementing the new changes stipulated in the bill, such as: training caseworkers, informing welfare recipients of changes, etc. $150 million would be provided in FY 81. Of this amount, Pennsylvania would receive $10.8 million.

The changes incorporated in this welfare reform bill will go a long way in creating a more simplified and equitable welfare system for those who truly are in need of assistance. It will also provide much needed fiscal relief to those states which are paying a large share of total welfare costs, primarily those in the Northeast-Midwest region.●

STEPS TOWARD GREATER CONSUMER PROTECTION

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. STARK. Mr. Speaker, I would like to call to the attention of my colleagues this editorial which appeared in the Oakland Tribune regarding the FTC ruling which allows doctors to advertise. The ruling enables consumers greater choice in their medical services and expenses. As medical expenses claim a much greater part of each of our incomes, the FTC ruling is a necessary and welcome step toward consumer protection.

The editorial follows:

A STEP TOWARD CONSUMER RIGHTS

The Federal Trade Commission ruling allowing doctors to advertise is an important step toward giving consumers a stronger voice in determining the type of medical care they receive.

Because of traditional American Medical Association regulations, there has been only one type of medical care generally available in this country—care based on the philosophy that medical care is so important that cost should be no object to the patient.

This philosophy holds true in many cases. If a child needs immediate surgery to save a hand damaged in an auto accident, it's doubtful that the parents are going to quibble over the surgeon's fee or scan the ads to see who offers the best deal.

However, a child's summer camp physical is another matter. We suspect there is a sizeable portion of the population who, assuming the physician meets some minimum standard of competence, would choose the least expensive summer camp physical available. The decision to allow advertising recognizes that this group exists, and that it has a right to the type of medical services it prefers.

The usual argument against advertising, of course, is that quacks will use it to lure customers with promises of non-existent cures. We think this argument has been exaggerated. No doubt there will be some abuses, just as there are abuses in every other profession. However, it is no more logical to say that all doctors who advertise are incompetent than it is to say that all doctors who do not advertise are competent. There are laws on the books already to cope with fraudulent advertising as well as with medical malpractice.

A California law, passed two months ago with the blessing of the California Medical Association, wiped out a longstanding legal ban on advertising by physicians in this state. We have not heard of any abuses since it became effective.

By supporting the law, the California Medical Association showed empathy for patients as well as doctors. We would suggest that the AMA follow the lead of the California Medical Association in adopting a more tolerant attitude toward consumer concerns, rather than try to fight the FTC ruling.

There is a need for regulation of doctors. We would prefer self-regulation rather than creation of more state and federal bureaucracies. However, when a profession's own regulations work against the interest of sizable segments of the population, government can be expected to step in.

The decision to overturn the AMA's ban on advertising is a significant step toward public regulation of a profession that has been largely self-regulated. The FTC ruling introduces the patient's right to choice into the regulations. The medical profession is on notice that it should be sensitive to that right.●

RUTH ELLSWORTH

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. IRELAND. Mr. Speaker, on September 28, Mrs. Ruth Ellsworth received the Parent Award from the Florida Association for Children with Learning Disabilities.

This is an award that is well deserved.

In the fifties, Ruth Ellsworth was told that her daughter, Lisa, had dyslexia, a disability few professionals knew anything about at that time.

Since there were no services for students that were disabled in the local school system, she began to contact other parents of children with learning disabilities. Through her efforts they formed the Polk County Association for Children with Learning Disabilities. During the first 2 years, she was president and instrumental in putting together the organization. Then she was vice president for an additional 2 years.

During that time, she spent many hours familiarizing many groups with the problems these children must face. She spoke to teacher groups, service clubs and parents. She spent endless hours with school officials to get them to utilize the information available from outside the system to help these children.

Recognizing the need to organize statewide in order to increase their influence to encourage increased services, she began contacting the local chapters of the Association for Children with Learning Disabilities statewide. Through her efforts a State meeting was held in Winter Haven, Fla., and a State organization was set up. Ruth served as the first chairperson of the State organization. Then, along with Ruth Rowan, she served as cochairperson of the first State conference in Orlando.

Since that time, Ruth and her husband David have served in many capacities in the State and local organizations. They were instrumental in the organization of the Learning Resources Center of Polk County, Inc.

Ruth Ellsworth has made a fine contribution to the Florida Association for Children with Learning Disabilities, but she has more importantly made a great contribution toward helping those children with learning disabilities obtain the education they need.

Ruth Ellsworth is worthy of this award.●

A LIFE OF LOVE AND SACRIFICE FOR A DYING FRIEND

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. VENTO. Mr. Speaker, I want to share with my colleagues Richard Cohen's column, Washington Post, October 30, 1979, about a young Minnesota man who put his life on hold for 3 years so he could help his friend die in peace and dignity. This is a story about one person's unselfishness and courage in dealing with a very difficult situation. I hope you will find it as uplifting and inspiring as I did.

The article follows:

A LIFE OF LOVE AND SACRIFICE FOR A DYING FRIEND

(By Richard Cohen)

In the obituary, it said nothing of Chris Welna. It said Ellen Steif was 23 and that she had died of cancer, but there was no mention of Welna. He had lived with her and nursed her and slept next to her. He listened to her breathing and got up every two hours to give her the injection and was with her when she slipped into her final coma. She was weak and could fight no more and in between injections, she died. She weighed 50 pounds, half of that heart, all of that a gift from Welna.

It was morning. Welna went to the phone and called the Episcopal priest they had met in the hospital and then he called his parents and a friend. Welna, who is Catholic, washed the body in the Jewish custom and on Sunday they had a memorial service. An Episcopal priest presided and a friend said Kaddish, which is the Jewish prayer for the dead, and Welna read a poem. Then he got on a plane and flew off to catch up with the rest of his life.

They had met, Chris and Ellen, when they were in college—Carleton College in Minnesota. She was the freshman and he was the sophomore. Soon she got cancer of the liver. This was 4½ years ago. Three years ago, they planned her funeral and soon after that Chris Welna put his life on a shelf.

From the picture, it looks like Ellen had dark hair. Actually it was red—the color of an Irish setter, someone said. She was pretty and she was smart and she knew all along she was going to die. She could die in a hospital or she could die in a hospice or she could die at home with Chris. She chose the latter. All she needed was someone to care for her. Chris Welna did that.

He followed Ellen back to Washington, her home town, and stayed with her and her mother. They took turns caring for her. Chris dropped out of school and then when Ellen regained strength, they went back to Carleton together, but it was no good. Ellen took chemotherapy in Minneapolis and her weight went down to about 77 pounds. She returned home and had her sixth operation on New Years Eve, 1977. For hours, she bled and the doctors said she would die, but she did not. She stayed in the hospital three months and for three months Chris stayed with her. Sometimes he would sleep in her room.

He dropped out of school again. He had won a Wilson Fellowship to study human rights in Brazil, but he postponed that. He said no to New York University Law School and the offer of a scholarship. He stayed with Ellen and made his plans. In June, he took her to Brazil. He found a room there and a nurse and made arrangements for her drugs. In September they were forced to return. She came back on a stretcher.

He got an apartment near Dupont Circle. He took part-time jobs nearby so he could go home every two hours to give her the shots she craved—Dilaudid to kill the pain. Even in her comas, Ellen craved the drug. Even in her comas, the pain persisted, and when she fell into comas, Chris would not leave her. He would not go out of the apartment and even during other times he would never go far or for long.

A year later, Chris Welna was accepted once again to law school and once again he put it off for Ellen. Eventually, they moved to a larger apartment and his brother came to live with them. He helped and friends helped and Ellen's mother and grandmother helped, too. Ellen continued to lose weight. She moved in and out of comas and when she was in one, Chris would not leave her. After a while, she could do no more than lie in bed. But last month, on Chris's birthday, she arranged a surprise party for him. She made the calls herself and that night she mustered all her strength and she stood. It was the last time.

Chris Welna says what he did was not exceptional. The sad fact is that it is. He says this should be about Ellen and not about him. It is about both of them. He says he did what he did incrementally, because they had once been lovers and always close friends and because, as he put it, "She really needed a friend." The cancer, after all, was not her fault. It was an awful thing her body was doing. They talked about it that way: There was Ellen and there was Chris and there was her damned body. It was dying on her.

Last Tuesday, Chris awoke at 6 to give Ellen her shot. She was in a coma. He went back to sleep. He awoke at 8. She was not breathing. She was still warm. She had just died. It was all over and he went to make his phone calls.

Now, Chris Welna is back in Minnesota. He is visiting his parents and thinking of his life at 27 and he has, he says, no regrets. He will go soon to Carleton College to tell Ellen's friends what has happened and then, if the snows hold off, he will go to the north woods. He and Ellen spent a week there—a wonderful week, an idyllic week for her. There, Ellen Steif's best friend will honor her last request. Chris Welna will bury her ashes.●

DICK V. McDONALD

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. MINETA. Mr. Speaker, it gives me great pleasure to rise today in honor of Mr. Dick V. McDonald, an active and involved member of our community.

On Thursday, November 8, 1979, Mr. McDonald will be honored at the 1979 testimonial dinner dance sponsored by the National Jewish Hospital and Research Center and the National Asthma Center for his many years of outstanding contributions to these organizations.

Dick is being recognized for his distinguished service to the Santa Clara Valley and the State of California, for his humanitarian efforts in our community of San Jose, and for his dedication and concern which have enabled National Jewish Hospital/National Asthma Center to provide lifesaving care to those who suffer from asthma, tuberculosis, emphysema and allied chronic illnesses, regardless of their faith, age or ability to pay.

Additionally, Dick has been active in the Rotary Club, San Jose Chamber of Commerce, Sainte Claire Club, California Cattleman's Association and the National Cattleman's Association.

He serves on the Board of Trustees for the Sheet Metal and Air Conditioning Contractors National Association, Santa Clara Valley Contractors Association, O'Conner Hospital, Sight Conservation Research Center, County of Santa Clara Mechanical Code Board of Appeal, and is a member of the steering committee for the building of the new Spartan Stadium.

Mr. Speaker, I ask you and my colleagues in the U.S. House of Representatives to join me in congratulating Dick for his outstanding contributions to our community and in wishing him the best of luck in all of his future endeavors.●

A BILL TO CREATE AN ENERGY COMPANY OF AMERICA

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. MINISH. Mr. Speaker, the latest oil company profits once again underscore the need for a strong public entity to inject competition to the oil marketplace. The billions of dollars in earnings that continue to be reaped at the expense of the American consumer make a mockery of the industry's pleas for less regulation to spur exploration and development.

What is desperately needed is a company that puts the public interest before profits. Obviously, no private company is willing to meet this responsibility.

However, an alternative does exist. It is found in H.R. 3885, a bill cosponsored by Senator ADLAI STEVENSON and myself to create an Energy Company of America. The company envisioned in this legislation would be modeled after the Tennessee Valley Authority. It would be mandated to seek out the cheapest sources of the oil we must import. Unfortunately, the private companies do not do this because of long-term contracts and the knowledge that higher OPEC prices not only can be passed on to the consumer, but also increase the value of their non-OPEC oil reserves.

The Energy Company of America also would be authorized to invest capital and technological skill into developing nations. In return, we would require energy supply contracts at reasonable prices.

Our own domestic energy resources must also be developed. The Energy Company proposed in H.R. 3885 would be in charge of developing and producing the vast amount of gas, oil, coal, and uranium known to exist on Federal land. It is imperative that this vital link in our energy future lie in the hands of an entity that will be concerned, first and foremost, with the needs of all Americans, and not just a select group of stockholders.

Mr. Speaker, our energy future is too important to leave in the hands of the private companies. Their historical sources of supply make it impossible for the industry to consider the public interest first. The Energy Company of America would be committed to developing American energy for the American people.

The example set by Petro-Canada, the Canadian Government's venture into the oil industry, is most encouraging. That company, in its 5 years of existence, has already amassed more than $3 billion in assets. The United States should follow this lead immediately. In addition to enacting a vigorous windfall profit tax as soon as possible, Mr. Speaker, we should also form an Energy Company of America. It will be in the best interest of the citizens of the United States.●

PRESIDENT CARTER'S CONDOLENCE TO TOLSTOY FOUNDATION

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. RODINO. Mr. Speaker, earlier this month, I informed my colleagues of the passing of Alexandra Tolstoy, at the age of 95. The last of the thirteen children of the world-renowned author and philosopher, Ms. Tolstoy died in Valley Cottage, N.Y. at the site of the Tolstoy Foundation which she founded to assist refugees from all corners of the world.

I believe it is only fitting that I also bring to my colleagues' attention the message of condolence extended by President Carter to the foundation, paying tribute to this great humanitarian woman.

The message follows:

THE WHITE HOUSE,
Washington, October 5, 1979.

Mr. TEYMURAZ K. BAGRATION,
Executive Director, Tolstoy Foundation, Inc., New York, N.Y.

To TEYMURAZ BAGRATION: Rosalynn and I were saddened to learn of the death of Alexandra Tosltoy. With her passing we have lost one of the last human ties with a great age of Russian culture.

All of us can take solace from the legacy she has left behind. I am mindful not only of her efforts in preserving her father's literary heritage, but also of the enduring monument to her humanitarian work, embodied in the Tolstoy Foundation which she founded some forty years ago.

Alexandra Tolstoy will always be remembered by the thousands who benefited from her assistance when they entered a new life in this country as free men and women.

Sincerely,

JIMMY CARTER.●

FEDERAL AID FOR THE CHRYSLER CORPORATION

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. CONYERS. Mr. Speaker, today I am introducing legislation H.R. 5770, to provide $1.2 billion in Federal loan guarantees to the Chrysler Corp. This legislation builds upon the Blanchard bill being worked on in the Banking Committee and is a bridge to the Riegle bill in the Senate. It provides for phasing-in loan guarantees in two increments, conditioned on evaluation at each stage of Chrysler's performance and its readiness to meet a set of conditions that safeguard the public interest in maintaining jobs, keeping factories open, and converting to more fuel-efficient autos and mass-transit vehicles.

In return for Federal assistance, Chrysler would be required to broaden further its Board of Directors to include representatives of labor, the consumer public, and Government, and create an employee stock ownership plan so as to expand participation in its decisionmaking processes for those sectors that have the greatest stake in its recovery. Chrysler also would have to present a development plan that specifies the future direction of investment decisions; any plans to close down facilities and the justification for such action; and the steps necessary to convert some of its facilities to the production of mass-transit vehicles, including plans for retooling plants and retraining workers.

This legislation seeks to provide a framework of cooperation—and accountability—among business, labor, and Government, that is indispensable both in aiding Chrysler's recovery and also moving us in the direction of implementing a national economic plan for full employment and industrial revitalization, as mandated by the Full Employment and Balanced Growth Act of 1978.

A Chrysler collapse unavoidably raises very real and deeply disturbing questions about the future prospects of the entire American economy, which is now moving into a recession without the policies and mechanisms requisite to full employment and balanced growth. We have to ask ourselves, is the Chrysler case unique, the result simply of bad management, consumer disapproval, Federal regulations, or a combination of all three? Or is it a bellwether, only the most recent dramatic case in what will be a long line of corporate failures in the years ahead?

The Chrysler crisis raises most of the important questions before the Congress this year. If it collapses, would its employees find new jobs within a reasonable period, or be laid off indefinitely, with all the human and social costs this entails? What will happen in industrial centers like Detroit or Pittsburgh, and in hundreds of smaller cities and towns where Chrysler operates, if it shuts down plants or else substantially scales down its operation? What will happen to the billions in pension funds, without which retired Chrysler workers could not survive?

With Chrysler we are not just facing the financial plight of a single, albeit enormous, industrial company. Chrysler's fate is inextricably tied to a much larger, longer term transformation of the international and domestic industrial economy, that has jeopardized the jobs of millions of workers, and has altered the economic fabric of hundreds of communities in every region of the Nation.

I am persuaded that until we begin in a serious way to plan ahead for changes in employment and production in the Nation, and to avert the economic dislocations that inevitably arise, we have no choice but to support Federal aid for Chrysler.

The bill follows:

H.R. 5770

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Chrysler Industrial Loan Guarantee Act".

AUTHORITY

SEC. 2. The Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary"), on such terms and conditions as he deems appropriate, is hereby authorized to guarantee, or make commitments to guarantee, lenders against loss of principal or interest on loans that meet the requirements of this Act.

LIMITATIONS AND CONDITIONS

SEC. 3. (a) A guarantee of a loan may be made under this Act only if—

(1) the Secretary finds that—

(A) the loan is needed to enable the Chrysler Corporation (hereinafter in this Act referred to as the "enterprise") to continue to furnish goods or services and failure to meet this need would adversely and seriously affect the economy of or employment in the Nation or any region thereof;

(B) credit is not otherwise available to the enterprise under reasonable terms or conditions; and

(C) the prospective earning power of the enterprise, together with the character and value of the security pledged, furnish reasonable assurance that the enterprise will be able to repay the loan within the time fixed, and afford reasonable protection to the United States;

(2) the lender certifies that the lender would not make the loan without such guarantee; and

(3) before any such guarantee is made—

(A) the board of directors of the enterprise seeking such guarantee is expanded to include six new members who shall represent the views of labor, consumer, and environmental groups;

(B) the enterprise transmits to the Congress and the Secretary a development plan which—

(i) provides for the training of employees in the skills which the enterprise determines will be required by changes in technology, markets, and production;

(ii) specifies the future location of factories and other facilities taking into account future investment, production, and employment;

(iii) specifies any plan to close any factory or other facility and the reasons for such action;

(iv) provides for the retooling of production facilities in order to accommodate anticipated changes in technology and production; and

(v) specifies all Federal regulations which the enterprise believes should be temporarily waived or partially modified with respect to such enterprise in order to improve the financial condition of the enterprise; and

(C) the enterprise shall establish an employee stock ownership plan pursuant to section 4.

(b) Loans guaranteed under this Act shall be payable in not more than 5 years.

(c) (1) Loans guaranteed under this Act shall bear interest payable to the lender at rates determined by the Secretary taking into account the reduction in risk afforded by the loan guarantee and rates charged by lenders on otherwise comparable loans.

(2) The Secretary shall prescribe and collect a guarantee fee in connection with each loan guaranteed under this Act. Such fee shall reflect the Government's administrative expense in making the guarantee and the risk assumed by the Government and shall not be less than an amount which, when added to the amount of interest payable to the lender of such loan, produces a total charge appropriate for loan agreements of comparable risk and maturity if supplied by the normal capital markets.

EMPLOYEE STOCK OWNERSHIP PLAN

SEC. 4. (a) In order to be eligible for loan guarantees under this Act, the enterprise (hereinafter in this section referred to as the "employer") shall establish in writing an employee stock ownership plan—

(1) which satisfies the requirements of section 4975(e)(7) of the Internal Revenue Code of 1954, and which acquires qualifying employer securities (as described in paragraph (3)) using all or a portion of the proceeds of a guaranteed loan provided for in this Act;

(2) which is administered by a committee consisting of—

(A) 2 representatives of the employer;

(B) 2 representatives of employees who are participants in this plan;

(C) 1 representative of the trustee of the plan; and

(D) 2 representatives designated by the Secretary of the Treasury;

(3) which, except as provided in subsection (b), will acquire only qualifying employer securities which—

(A) meet the requirements of section 409 A(1)(3) of such Code; and

(B) are convertible to common stock (which meets the requirements of section 409A(L)(1) of such Code at its fair market value as of October 17, 1979 at the direction of the committee;

(4) under which qualifying employer securities having an aggregate value of not less than an amount equal to 25 per centum of the amount of the loan guarantee provided for in this Act, will be purchased with the proceeds of a loan described in this Act and in section 4975(d)(3) of such Code;

(5) under which the employer agrees to make annual contributions sufficient to permit the plan to amortize such loan;

(6) which provides that each participant will have a 100 per centum nonforfeitable interest in all amounts allocated to such account under the plan; and

(7) which provides for the allocation for each plan year of all qualifying employer securities acquired pursuant to paragraph by it, or with regard to qualifying employer securities acquired pursuant to paragraph (4), to be released from the appropriate suspense account and allocated, to the accounts of all participants who are entitled to share in such allocation in substantially equal amounts.

(b) Notwithstanding the provisions of paragraph (3), the plan may also purchase or otherwise acquire qualifying employer securities which are described in section 4975(e)(8) of such Code.

SECURITY FOR LOAN GUARANTEES

SEC. 5. In negotiating a loan guarantee under this Act, the Secretary shall make every effort to arrange that the payment of the principal of and interest on any plan guaranteed shall be secured by sufficient property of the enterprise to fully collateralize the amount of the loan guarantee.

REQUIREMENTS APPLICABLE TO LOAN GUARANTEES

SEC. 6. (a)(1) A guarantee agreement made under this Act with respect to the enterprise shall require that while there is any principal or interest remaining unpaid on a guaranteed loan to the enterprise, the enterprise may not—

(A) declare a dividend on its common stock; or

(B) make any payment on its other indebtedness to a lender whose loan has been guaranteed under this Act.

(2) The Secretary may waive either or both of the requirements set forth in paragraph (1), as specified in the guarantee agreement covering a loan to the enterprise, if it determines that such waiver is not inconsistent with the reasonable protection of the interests of the United States under the guarantee.

(b) The Secretary shall require before guaranteeing any loan to the enterprise that the enterprise make such management changes as the Secretary deems necessary to give the enterprise a sound managerial base.

(c) A guarantee of a loan to the enterprise shall not be made under this Act unless—

(1) the Secretary has received an audited financial statement of the enterprise; and

(2) the enterprise permits the Secretary to have the same access to its books and other documents as the Secretary would have under section 7 in the event the loan is guaranteed.

(d) No payment shall be made or become due under a guarantee entered into under this Act unless the lender has exhausted any remedies which it may have under the guarantee agreement.

(e)(1) Prior to making any guarantee under this Act, the Secretary shall satisfy himself that the underlying loan agreement on which the guarantee is sought contains all the affirmative and negative covenants and other protective provisions which are usual and customary in loan agreements of a similar kind, including previous loan agreements between the lender and the borrower, and that it cannot be amended, or any provisions waived, without the Secretary's prior consent.

(2) On each occasion when the enterprise seeks an advance under the loan agreement, the guarantee authorized by this Act shall be in force as to the funds advanced only if—

(A) the lender gives the Secretary at least ten days' notice in writing of its intent to provide the enterprise with funds pursuant to the loan agreement;

(B) the lender certifies to the Secretary before an advance is made that, as of the date of the notice provided for in subparagraph (A), the enterprise is not in default under the loan agreement, except that if a default has occurred the lender shall report the facts and circumstances relating thereto to the Secretary and the Secretary may expressly and in writing waive such default in any case where it determines that such waiver is not inconsistent with the reasonable protection of the interests of the United States under the guarantee; and

(C) the enterprise provides the Secretary with a plan setting forth the expenditures for which the advance will be used and the period during which the expenditures will be made, and, upon the expiration of such periods, reports to the Secretary any instances in which amounts advanced have not been expended in accordance with the plan.

(f)(1) A guarantee agreement made under this Act shall contain a requirement that as between the Secretary and the lender, the Secretary shall have a priority with respect to, and to the extent of, the lender's interest in any collateral securing the loan and any earlier outstanding loans. The Secretary shall take all steps necessary to assure such priority against all other persons.

(2) For purposes of paragraph (1), the term "collateral" means all assets pledged under loan agreements and, if appropriate in the opinion of the Secretary, all sums of the borrower on deposit with the lender and subject to offset under title 11 of the United States Code.

INSPECTION OF DOCUMENTS; AUTHORITY TO DISAPPROVE CERTAIN TRANSACTIONS

Sec. 7. (a)(1) The Secretary is authorized to inspect and copy all accounts, books, records, memoranda, correspondence, and other documents of the enterprise which has received financial assistance under this Act concerning any matter which may bear upon—

(A) the ability of the enterprise to repay the loan within the time fixed therefor;

(B) the interests of the United States in the property of the enterprise; and

(C) the assurance that there is reasonable protection to the United States.

(2) The Secretary is authorized to disapprove any transaction of the enterprise involving the disposition of its assets which may affect the repayment of a loan that has been guaranteed pursuant to the provisions of this Act.

(b) The General Accounting Office shall make a detailed audit of all accounts, books, records, and transactions of the enterprise with respect to which an application for a loan guarantee is made under this Act. The General Accounting Office shall report the results of such audit to the Secretary and to the Congress.

AMOUNT OF LOAN GUARANTEES

Sec. 8. (a) The Secretary may initially guarantee loans with respect to the enterprise in an amount of not more than $600,000,000.

(b) Except as provided in subsection (c), with respect to such enterprise which receives an initial loan guarantee from the Secretary under subsection (a), the Secretary may additionally guarantee loans in an amount not to exceed $600,000,000 if such guarantee complies with the provisions of this Act and the Secretary determines that the implementation of the development plan submitted by the enterprise under section 3(a)(3)(B) of this Act will assure the future financial viability of the enterprise.

(c)(1) No loan guarantee may be made under subsection (b) unless the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate have been notified in writing by the Secretary of such proposed loan guarantee, 30 days of continuous session of the Congress have expired following the date on which such notice was transmitted to such committees, and the Congress has not adopted, within such 30-day period, a concurrent resolution disapproving such proposed loan guarantee.

(2) For purposes of paragraph (1), the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of such 30-day period.

(d) The maximum obligations of the Secretary under all outstanding loans guaranteed by him shall not exceed $1,200,000,000.

EMERGENCY LOAN GUARANTEE FUND

Sec. 9. (a) There is hereby established in the Treasury an emergency loan guarantee fund to be administered by the Secretary. The fund shall be used for the payment of the expenses of the Secretary and for the purpose of fulfilling the Secretary's obligations under this Act. Moneys in the fund not needed for current operations may be invested in direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States or any agency thereof.

(b) The Secretary shall prescribe and collect a guarantee fee in connection with each loan guaranteed by it under this Act. Sums realized from such fees shall be deposited in the emergency loan guarantee fund.

FEDERAL RESERVE BANKS AS FISCAL AGENTS

Sec. 10. Any Federal Reserve bank which is requested to do so shall act as fiscal agent for the Secretary. Each such fiscal agent shall be reimbursed by the Secretary for all expenses and losses incurred by it in acting as agent on behalf of the Secretary.

PROTECTION OF GOVERNMENT'S INTEREST

Sec. 11. (a) The Attorney General shall take such action as may be appropriate to enforce any right accruing to the United States or any officer or agency thereof as a result of the issuance of guarantees under this Act. Any sums recovered pursuant to this section shall be paid into the emergency loan guarantee fund established under section 9.

(b) The Secretary shall be entitled to recover from the enterprise, or any other person liable therefor, the amount of any payments made pursuant to any guarantee agreement entered into under this Act, and upon making any such payment, the Secretary shall be subrogated to all the rights of the recipient thereof.

REPORTS

Sec. 12. The Secretary shall annually submit to the Congress a full report of his operations under this Act. Each such report shall include a full report of the Secretary's operations together with his recommendations with respect to the need to continue the guarantee program beyond the termination date specified in section 13. If the Secretary recommends that the program should be continued beyond such termination date, he shall state his recommendations with respect to the appropriate board, agency, or corporation which should administer the program.

TERMINATION

Sec. 13. The authority of the Secretary to enter into any guarantee or to make any commitment to guarantee under this Act terminates two years after the date of the enactment of this Act. Such termination does not affect the carrying out of any contract, guarantee, commitment, or other obligation entered into pursuant to this Act prior to that date, or the taking of any action necessary to preserve or protect the interest of the United States in any amount advanced or paid out in carrying on operations under this Act.●

ALLEGATIONS OF BEEF PRICE MANIPULATION

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. ROSENTHAL. Mr. Speaker, on August 27, 1979, as chairman of the Commerce, Consumer, and Monetary Affairs Subcommittee, I asked six Federal agencies to begin immediate investigations into allegations that beef price manipulation during August raised food prices for consumers already struggling with inflation. I would like to bring to my colleagues' attention an article on this topic from the Wall Street Journal, November 1, 1979.

The text of the article follows:

Iowa Beef Aides Traded for Themselves While Helping Set Price, Deposition Says

(By Jonathan Kwitny)

Officials of Iowa Beef Processors Inc., by far the largest meat company in the world, have traded cattle futures for their personal accounts while they were involved in setting prices paid and charged by the big packer, according to the sworn deposition of a former vice president for Iowa Beef.

Iowa Beef and other packinghouses have policies forbidding such trading by their executives, who could influence the markets for live cattle and carcasses, thus helping along an investment in futures. Any manipulation also would affect the price of meat at the butcher counter.

Two persons named in the deposition as having done futures trading, both of whom have left their jobs since the deposition was given, agreed the allegations were true. Both had worked at Iowa Beef. One also had worked at Spencer Foods Inc., another major packer. Five others named in the deposition declined to comment.

The deposition, unavailable until recently, was given in 1977 by Alan Booge, former vice president for carcass sales at Iowa Beef, as part of a suit originally filed in federal court in Des Moines, Ia., against Iowa Beef, Spencer and two other packers by a group of cattle raisers. The suit accuses the packers of manipulating beef prices, and currently is being litigated in a Dallas, Tex., federal court.

For an executive of a major packing company to trade in cattle futures would seem to be a conflict of interest, since in seeking out the best deal for his company it might be necessary for him to influence the market to the disadvantage of his own futures position.

DAILY PUBLICATION'S QUOTES

Most meat sold in the U.S. is based on a price quoted daily by a privately run publication called the National Provisioner, known in the trade as the "Yellow Sheet." Prices listed on the "Yellow Sheet" are determined by reports from salesmen at major packinghouses, such as Iowa Beef, and the brokers with whom they deal. The price of live cattle also is influenced by the Yellow Sheet quotations.

Mr. Booge said in his deposition that more than 95 percent of Iowa Beef's sales are based on the price quoted in the Yellow Sheet. Only a tiny percentage are negotiated, he said, and these are reported to the Yellow Sheet to help determine the sheet's quotation price.

Mr. Bogge testified that he and his staff sometimes would call the Yellow Sheet to complain about quotations, but said he didn't know whether quotations had been changed at Iowa Beef's request. He testified that he and his staff sometimes delayed reporting certain trades until later in the day, just before the Yellow Sheet was about to determine the price it would announce at midday and at the closing. He testified that sometimes he would withhold certain trades from the Yellow Sheet as "private."

But Mr. Booge flatly denied that he ever had made or reported a trade with the idea of furthering his private interests in cattle futures.

Shortly before Mr. Booge gave the deposition, his resignation from Iowa Beef had been demanded and received on the ground that he had violated company policy by having a personal futures account.

OTHERS NAMED

Of those named by Mr. Booge in the deposition as having done the same thing, probably the most significant are Bernie Knight, who, until last month, was vice president for central sales and pricing at Iowa Beef, and Russell A. Walker, currently senior vice president for cattle procurement at the company. Both men declined to comment to a reporter inquiring about the allegations this week.

Mr. Knight, one of the best-known and most influential men in the meat industry over the past decade, walked out of Iowa Beef without prior notice Sept. 1, a day after New York Congressman Benjamin Rosenthal charged that supermarket customers had been gouged over the summer by manipulated meat prices. Mr. Rosenthal singled out Iowa Beef and Spencer as prospective targets for an investigation into manipulation of the Yellow Sheet.

Since then, Mr. Rosenthal's House Consumer Affairs Subcommittee has joined a growing list of Congressional committees and administrative agencies that have been investigating alleged meat price manipulations for several years, with little result.

According to Charles Harness, a spokesman for Iowa Beef, Mr. Knight announced the morning after Mr. Rosenthal's statement that he wanted to quit "to seek other opportunities in the meat business," left Iowa Beef the same day and never returned.

A reporter asked Mr. Harness at the time if there was "any indication that he (Mr. Knight) was into futures trading," and Mr. Harness replied there wasn't "as far as the corporation knows." Mr. Harness said this week that he hadn't seen a copy of the two-year-old Booge deposition, which was attended by—and sealed at the request of—Iowa Beef's lawyers.

In 1976, Mr. Booge, Mr. Knight and several other Iowa Beef executives were questioned individually by a Wall Street Journal reporter at corporate headquarters about rumors that they were trading on the futures market. They flatly denied that they were doing so.

ACKNOWLEDGED IN DEPOSITION

Mr. Booge acknowledged in his deposition that he had been doing so, and even named the brokerage houses where the others he cited allegedly traded. He said Mr. Knight sometimes asked his advice on whether to buy or sell futures on a particular day.

Mr. Booge also described in his deposition a system through which top Iowa Beef executives keep a daily check on cattle availability and demand throughout the country, using open phone lines, or "hot lines," to each plant. He also said that Iowa Beef's cattle buyers around the country gave Mr. Walker up-to-the-minute reports on conditions via two-way radio every business day. Mr. Booge said he could obtain this information through Mr. Walker.

Mr. Booge testified that he didn't know of any trades Mr. Walker made after Iowa Beef issued a written directive to its executives late in 1976 stating the company policy against such trades.

After leaving Iowa Beef, Mr. Booge set up two brokerage firms, one in Iowa and one in Nebraska, that trade cattle and other commodities futures. He declined this week to confirm or deny reports in the industry that his firms handle private futures trading for meatpacking executives.

Mr. Knight has gone to work as sales manager for Siouxland Beef Co., in Sioux City, a much smaller concern, although he is said to have other business interests.

Congressional investigators are known to have been in the Midwest recently, checking state incorporation records to look for possible pseudonyms or partnership names that meatpacking executives may be using to trade for their own accounts.

OTHERS MENTIONED

Among other persons Mr. Booge named in his deposition was a secretary at Iowa Beef, who, he said, obtained current price quotations by phone from the Yellow Sheet during the day, and also handled futures trades for an executive. The secretary declined to comment and referred a reporter to a company lawyer who didn't return two telephone calls.

The executive named in connection with the secretary was James Kuecker, who left Iowa Beef six years ago to become executive vice president of Spencer Foods; he left Spencer a year and a half ago to become manager of Custom Beef in Hartley, Iowa.

Reached by telephone, Mr. Kuecker freely acknowledged that he had been trading cattle futures on his own the whole time. He said he didn't see anything wrong with it. He declined to give details of his trading on the ground that "It's my personal business."

Charles E. Jones, another Iowa Beef sales employee named by Mr. Booge, also confirmed the accuracy of the allegations about him. "There was never any reason" to avoid doing so, he said, because he didn't consider himself "an official" at Iowa Beef. "I had my group of customers and that was all I did," he said. Mr. Jones left Iowa Beef shortly after Mr. Booge did to go to work for Mr. Booge's brokerage business.

G. L. Pearson, chairman and chief executive officer of Spencer, said he had a strict policy of firing anyone who traded in futures, because, "You can't run a business that way." Then Mr. Pearson, who has been chief executive of Spencer since 1968, said that until about five years ago he had been doing such trading himself.

Asked why he stopped and changed the company's policy, he replied, "That's a tough one," and said his decision probably came after he heard about the trading at Iowa Beef.●

SCHOOL LUNCH PROGRAM MERITS SUPPORT

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. VENTO. Mr. Speaker, my constituent, Candace Witter who is president of the Minnesota School Food Service Association, visited with me recently about the possibility that child feeding programs could be cut because of a provision in the Senate version of the second budget resolution calling for a $100 million reduction; this despite the fact that both the Senate and House have approved appropriation increases of $347 million for fiscal year 1980.

I certainly oppose the Senate proposal for a cut in this vital nutritional program that serves the youth of our country.

I submit, as part of the RECORD, an analysis by Mrs. Witter of the negative effects these proposed cuts would have on existing programs, and a resolution passed by independent school district No. 621 in Minnesota opposed to cuts in the school lunch reimbursement for paid lunches.

The analysis follows:

OCTOBER 10, 1979.

Memo to: School Board Members and Dr. S. C. Witter

From: Candace Witter

Subject: School Lunch Funding

Child feeding programs are in jeopardy of having their budget cut back a half-billion dollars next month. It looks as if this proposal has a very good chance of succeeding unless somehow the Administration can be informed about the disastrous effects these cuts would have on the existing programs.

As president of the Minnesota School Food Service Association, I will participate in a Washington Fly-In to present the facts to our senators and representatives and to ask them to continue the present funding for child nutrition. We are not asking for any big increase in funding—we simply want to maintain the present level of federal support for child nutrition!

The National School Lunch Program has long been a nutritional program for all students with a provision of variable rates of reimbursement based on a family's need for a lunch at school. These variable rates of reimbursement make it possible for the majority of students to afford a lunch at school. Since food service program costs are dependent upon volume to keep them at a minimum, the participation by a majority of students also makes possible meeting the nutritional needs of those students whose families are eligible for a free or reduced priced meal.

I am requesting the Mounds View School Board to show their opposition to the proposed federal cuts by passing the resolution that has been prepared so that I may take it to Washington and have it entered into the Congressional Record.

I do appreciate your support in the past and would like you to give your consideration to this present resolution.

Thank you.

RESOLUTION BY INDEPENDENT SCHOOL DISTRICT 621 SCHOOL BOARD IN OPPOSITION TO CUTS IN SCHOOL LUNCH REIMBURSEMENT FOR PAID LUNCHES

Whereas The President has recommended that Congress reduce the federal reimbursement level for lunches served to paying children under Section 4 of the National School Lunch Act and;

Whereas Such a cut would make it necessary for most local school districts to make an additional charge of 10¢ per pupil (above inflationary cost of 5–10¢ already budgeted for the 1979–80 school year) and;

Whereas Surveys show that any increase will result in significant decreases in the number of children participating in the school lunch program and;

Whereas All children are requested to attend school and need a nutritionally adequate school lunch to function effectively and;

Whereas A decrease in participation would also adversely affect long-term health; the fact that per unit cost will increase because of less volume; lessening of some community programs; the loss of employment in the community and;

Whereas The General Accounting Office has no conclusive evidence to support the proposed cuts in the school lunch program; and be it

Resolved That the School Board of Mounds View School District No. 621, Minnesota, hereby opposes all proposals to reduce the federal school lunch reimbursement for the middle-income paying child; and be it further

Resolved That the Congress of the United States ensures the continuation of all funding under the National School Lunch Act of 1946 by resisting any future cuts. ●

ECONOMIC SUCCESS

HON. THOMAS L. ASHLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. ASHLEY. Mr. Speaker, increase in productivity within American industry has declined dramatically during the past 10 years. This slowdown is of great economic significance and must be reversed if our country is to remain competitive in world markets, and if rampant inflation is to be controlled. We are being outproduced by Great Britain, Canada, Switzerland, Sweden, West Germany, France, The Netherlands, Denmark, Belgium, and Japan.

In 1978, Japan's productivity increase was in excess of 8 percent while the U.S. rate was approximately 2 percent. In view of this alarming trend, I am especially pleased to commend to my colleagues' attention two articles depicting the remarkable increase in productivity achieved by the Dana Corporation of Toledo, Ohio. One of these articles is from the October 19, 1979 New York Times, and the other is from the November 5, 1979 Fortune magazine.

Both articles should be studied and shared with business leaders in your own congressional districts, because Dana's phenomenal success over the past decade can be emulated, through the same kind of dynamic management enjoyed by Dana. These articles outline the innovative, enlightened leadership given Dana by Rene McPherson and Gerry Mitchell since 1971—leadership which has resulted in a 300 percent increase in productivity during that period. I am proud of the record compiled by Dana, its workers, and Rene and Gerry. They have set an example for American industry to follow.

The two articles follow:

DANA: FEW RULES, MANY SALES

(By Thomas C. Hayes)

TOLEDO, OHIO, October 17.—When RENE C. MCPHERSON became president of the Dana Corporation 11 years ago, one of his first acts was to toss out the company's 22½-inch-thick book of policies and procedures. He has been writing his own book on management ever since.

Scrapping the rulebook was Mr. McPherson's first move in a long and uneven but notably fruitful campaign to transform Dana into a more nimble organization that could weave its way out of its traditional dependence on the automobile industry.

Today there is no denying Dana's success. The company has moved effectively to broaden its product line of axles, engine parts and other auto components and to reach into new markets in an effort to escape the cyclical downturns that have plagued Detroit and its suppliers.

Dana's earnings have increased for eight consecutive years, and during this period its sales have quadrupled to $2.7 billion. Most analysts who follow Dana rate its stock a "buy" for the long term.

ROLE OF THE EMPLOYEES

The reason behind Dana's enviable growth record in a maturing industry, its top executives maintain, is a management credo that employees know more about their work than their superiors do and, if given the chance, will devise and volunteer ways to improve work procedures, cut costs and thereby sharpen Dana's competitive edge.

This appears to be happening. Dana's productivity has nearly tripled since 1971, to more than $72,000 of sales per employee last year, while the nation's productivity growth was slowing to barely 1 percent a year. Moreover, Mr. McPherson says proudly, more than 80 percent of Dana's employees now own stock in the company.

"If you have opportunities for growth and freedom in your job so that you can contribute," he declares, "and you are not contaminated by the idea that you have to go to Harvard or M.I.T. or serve in the Army or in the Navy to be a worthwhile person in a business, then there's just no limit to what you can accomplish."

Critics might reply that it is relatively easy for Mr. McPherson, whose own credentials are impressive, to expound the theme of getting ahead strictly on merit. The 54-year-old chairman is himself a graduate of the Harvard Graduate School of Business Administration, and he was a bomber pilot during World War II. And next fall he will succeed Arjay Miller, a former president of one of his largest customers (the Ford Motor Company) as dean of the prestigious Stanford University Graduate School of Business in Palo Alto, Calif.

NEXT, A "BLUE-COLLAR" MAN

But the evidence of Mr. McPherson's conviction is apparent in the transition at Dana. When Mr. McPherson gives up the chairman's job, he will be succeeded by Gerald B. Mitchell, currently Dana's president and for many years Mr. McPherson's strong right arm. Mr. Mitchell began his business education at age 16 as a blue-collar worker at a parts-finishing machine.

Mr. Mitchell, a burly, blunt Canadian of 52 who waves a long cigar as he talks with ease and self-assurance, scoffed at the notion that growing multinational companies such as Dana need to exercise greater control over their workers through formal procedures.

"Big books of formal procedures are simply there to give protection to the managers," he said. "If something goes wrong, either they say somebody didn't follow the rules or they make up another rule to be sure it won't happen again. I saw it all the time," he said of his years working up the ladder. "All we ever got were Dana's procedures shoved in our face."

In 1962, in a list-ditch effort to save Dana's faltering Hayes-Dana division in Canada, Mr. McPherson was sent as division manager. He won a go-ahead from the desperate home office to try some different, informal techniques.

A TRIUMPH FOR THE TEAM

The change was dramatic. Six successive years of losses ended the first year he was there. In Dana's recently completed fiscal year, the division contributed more than $220 million in sales, compared with only $10 million in 1962. The turnaround was a triumph for the McPherson-Mitchell team.

Mr. McPherson and Mr. Mitchell preach autonomy for managers as well as for workers. When the two executives moved up to become chairman and president in 1973, their determination to unshackle Dana's 27 divisions and 70 far-flung plants from home-office control became more vivid, especially to people at Dana headquarters. The corporate staff was slashed from more than 400 to approximately 150.

Earlier an elaborate, computer-based management information system had been junked. "It was called SEMA—for Sales, Engineering, Manufacturing and Accounting," recalls Stanley W. Gustafson, executive vice president for corporate affairs and Dana's chief financial officer. "But we turned it around and called it 'a mess.' Everyone had reports filled with numbers, but we didn't make good use of them."

Today a series of charts on sales, profits and inventory trends, stock market developments, economic forecasts and other data sought regularly by corporate executives is accessible through a $30,000 television system desgined by Dana engineers.

The company rarely hires a person for a job above a beginning level, and it believes in promoting from within. This policy reflects Dana's "store manager" concept of managers. The idea is that managers can maintain an intuitive feel for their operations by being familiar with all the jobs in the shop.

Dana's promote-from-within policy led to the development 10 years ago of "Dana University," an in-house school that today is taught principally by former Dana executives and division managers. The students are all Dana employees, sent by division managers from around the country.

They study management principles, accounting, cost analysis and other skills that the school's "board of regents," composed of nine Dana division managers, believe are in greatest need among their employees. No workers are required to attend the school, which is housed in a new building at the corporation's campus-like, colonial-style headquarters outside Toledo, but places there are eagerly sought.

For his part, Mr. McPherson has mixed feelings. He considers Dana U. a great success for people interested in management careers, but he emphasizes that it must attract more machine workers and other blue-collar employees, who have been notably absent.

"They've been taught that they are the cast-offs of the educational system," he said.

UNLEASING PRODUCTIVITY

Gerald B. Mitchell, 52, the cigar-wielding, onetime production worker who has just been chosen as the next chief executive of Dana Corp. (sales: $2.8 billion), has little patience with academics who agonize endlessly over how to boost productivity. "There's nothing magic about the goddamn thing," asserts Mitchell, who obviously knows what he's talking about. In just seven years, the Toledo-based manufacturer of automotive parts and industrial products has doubled productivity—reckoned as sales per employee, in constant dollars—and earnings per share have grown at an annual rate of 15 percent.

Mitchell, now the operating chief, was picked for the top job after Dana's present c.e.o., Rene C. McPherson, was appointed dean of the Stanford Business School. Mitchell attributes his company's impressive performance to the informal, people-oriented management style that McPherson developed and that both men have inculcated with a religious fervor. To bring middle-level managers into close contact with top officials, McPherson and Mitchell have slashed the corporate staff. Managers are constantly urged to bring ideas or problems directly to top executives—whose doors are open—rather than to write memos. With fewer memos to read, top executives have more time to listen.●

THE REAL CAPTIVES OF HOSPITAL COST CONTAINMENT

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. BROYHILL. Mr. Speaker, it has been said many times throughout the years. It has been said in many different ways.

The theory behind our American Government is that it only does for our citizens what they cannot do for themselves. How many times have we heard it lamented in this body that Government simply cannot be all, that it cannot do all, for all?

In this light, I find it extremely commendable that in late 1977 the hospital industry banded together, voluntarily, to form a network of organizations working together to hold down rising healthcare costs. This strategy, known as the voluntary effort, has proven successful.

Yet, some are now proposing that we pass legislation which would, in effect, disenfranchise the voluntary effort. Some misguided Members of this body are proposing that we reward the successful and earnest efforts of the hospital industry by thrusting on it an elaborate and complex plan for the containment of hospital costs.

I would submit to you that what we would be containing here are not costs, but rather the thousands of hospital industry employees who have worked so diligently and responsibly without Government mandate to hold down healthcare costs.

Specifics of the proposal aside, does it make sense to implement a Government program, replete with exceptions, loopholes, regulations, paperwork and bureaucratic control, tax dollars, when a voluntary system is already functioning successfully?

I believe that the following column by James J. Kilpatrick sets the issue in the proper perspective and I would commend this article to my colleagues' attention.

The article follows:

THE REAL CAPTIVES OF HOSPITAL COST CONTAINMENT

(By James J. Kilpatrick)

WASHINGTON.—One of the great philosophical conflicts of our time, affecting countless areas of public life, is the conflict between the voluntary and the compulsory. For a classic example, consider the pending bills on hospital cost containment.

The Rangel-Waxman bill in the House and the Nelson bill in the Senate address the same problem and propose more or less the same solution. The problem—and it is undeniably a serious one for many American families—has to do with the rising cost of hospital care. The solution advanced by Democratic liberals is to impose limits upon hospitals' revenues and expenses.

To be sure, the legislative proposals make a gesture toward voluntarism, but it is only a gesture. The nation's hospitals would be subject to what is grandly described as a "national voluntary percentage limit" upon their expenses. Ten Rube Goldbergs, working night and day, could not have produced a more complex, more mystifying, formula than the authors of this legislation have devised.

The Nelson bill, by way of example, requires the separate computation of several arcane factors. One involves the average percentage increase in the hourly wages of hospital employees across the entire country "as determined or estimated by the secretary from time to time." A second factor is reckoned from the increase in the cost of various goods and services "as determined or estimated by the secretary from time to time." It is a rubbery kind of limit, it appears, that depends for its imposition and enforcement upon the "estimates" of the secretary of Health and Human Resources.

Nevertheless, the general idea is that such limits would first be fixed nationally, then state by state, then hospital by hospital. The institutions would find themselves bound hand and foot at every step along the way. Under the House bill, each individual hospital would have to adjust its procedures "to the satisfaction of the secretary," or "as the secretary shall provide." Each hospital would have its own mandatory percentage limit for its own accounting periods. In the end, hospitals that failed to meet the secretary's demands would suffer a civil penalty of 150 percent of the excess income.

Translated from the gobbledygook, what appears to be proposed is a maximum increase, nationwide, of 11.6 percent in hospital costs for 1979 as opposed to the same costs in 1978. Two observations are in order: First, the formulas are so complex and contain so many exceptions, adjustments and individual calculations, that no hospital administrator can know with certainty where he stands. And second, the cost of the paperwork involved in this lunacy—taken in conjunction with other bureaucratic requirements for new accounting procedures—will impose one more heavy expense upon the hospital and eventually upon the patients.

These elaborate, tedious, nitpicking procedures are wrong not only in practice but in principle alone. By their own voluntary efforts, American hospitals already have made excellent headway in holding down their costs. With lively imagination and able administration, hundreds of institutions are demonstrating new kinds of efficiency. If Congress were committed to voluntarism as a way of life, Congress would leave the hospitals alone and look to the government's own extravagance and waste instead.

But voluntarism has a tough time of it these days. Over the past 25 years, the trend of government has been constantly toward compulsion. Fountains of regulations still run at full volume. Granted, American industry has brought some of this flood on its own head by fostering shoddy products, slippery warranties, dangerous workplaces and the like. Ironically, hospitals have the cleanest record in this regard, but they bear the heaviest burden of regulation.

If the cost containment bill passes, the White House says the cut will save the American people $56 billion "in the next few years." That is the kind of misty calculation we get from the White House under Mr. Carter, compounded of impressive figures resting upon unsupportable evidence. Significant savings could be achieved only by significant reductions in hospital services.●

W. L. KINDLE: AUSTIN MAN SCORES BIG

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. PICKLE. Mr. Speaker, some people feel that Federal Government programs are as popular as cockroaches in the kitchen.

But the Government is big, and like anything big, there are good and bad programs. I have found that the good programs are good mainly because of the people who run the program.

This is certainly true for the Service Corps of Retired Executives, or SCORE, as it is managed in Austin, Tex.

The Austin district representative is tops, and he makes the program.

Recently this man, W. L. "Pup" Kindle, was honored on his 79th birthday in a magazine published by Exxon. "Pup" worked for Exxon for 33 years until retirement in 1965.

He has not stopped since. Three times he has been named the SCORE "Man of the Year"—in 1965, 1967, and 1973. One year he was not "Man of the Year"; instead he was given a Presidential SCORE citation and a Presidential citation for volunteer services.

Mr. Speaker, I insert the article "No End of the Trail in Sight" in the RECORD. The article will tell the full story of "Pup's" activities.

The article follows:

NO END OF THE TRAIL IN SIGHT

(EDITOR'S NOTE: Some people (and companies) meet life's challenges more completely than others. They never stop contributing. Such a person is W. L. "Pup" Kindle, who retired from the old Humble Oil & Refining Company in 1965, after more than 33 years' service. A young 79 today, he remains one of the most remarkable individuals the writer has ever known.

(Pup has never allowed himself to be trapped in the web pictured by James Barrie, who said: "The life of every man is a diary in which he means to write one story, and writes another; and his humblest hour is when he compares the volume as it is with what he hoped to make it."

(In short, Pup is what a good businessman is all about. The value he offers is permanent, as well as temporal.)

Loss of purpose—real or imagined—does not afflict W. L. "Pup" Kindle, even though he has just passed his 79th birthday. He is not looking for a rocking chair or the end of the trail. Although knocked to his knees by a nearfatal heart attack during the prime of his company career, he has more energy and a more positive outlook on life than a multitude of far younger people.

When Pup retired from the old Humble Oil & Refining Company in 1965, after more than 33 years' service, he dedicated himself to helping others in every way he could. He is still making good.

Pup found his niche with the National Council of the Service Corps of Retired Executives (SCORE), for which he was appointed a regional representative—representing chapters in Texas, Oklahoma, Louisiana, Arkansas, and New Mexico. SCORE, founded in 1964, provides free management counseling and other consulting services to small businessmen and women throughout the country.

SCORE OBJECTIVES

SCORE's relations with the people served are completely confidential and person-to-person. SCORE volunteers work in their home communities or nearby. They provide their services without charge, but are reimbursed for out-of-pocket expenses.

Not all of the businesses helped by SCORE are small. One did $3 million worth of business a year. Another was sold for $9 million. But most companies helped are run by people who cannot afford a business consultant. SCORE does not conflict with the efforts of consultants who are small businessmen themselves.

Pup personally recruited many of SCORE's lawyers, engineers, bankers, accountants, economists, plant managers, production analysts, and other professionals who help carry out SCORE's advisory mission.

"Studies have shown us that 90 percent of the businesses which fail did so because of poor management, not insufficient capital," Pup explained. Having held a variety of positions in sales training, sales management, sales supervision, and selling itself with Humble, Pup was well-qualified to begin serving SCORE.

He has been named Regional SCORE "Man of the Year" on three separate occasions: in 1965, 1967, and 1973. In 1971, he received a Presidential SCORE Citation and a Presidential Citation for Volunteer Services.

A delegate to the White House Conference on Aging in November, 1971, Pup was appointed to the Texas Governor's nine-member Committee on Aging for a five-year term. He is now serving his second five-year term in this capacity.

Pup is frequently invited to speak about aging concerns. Through his leadership, the Austin, Tex. First Southern Presbyterian church, of which he is a member, conducts Senior Tuesdays and provides meals and entertainment for about 100 aging neighborhood residents.

Hardly slowing down to catch his breath, Pup participates as a member of the Arabia Shrine Temple, Downtown Austin Lion's Club, Better Business Bureau's Consumer Arbitration Council, and the Advisory Committee for Station KTVV-TV.

THE NAME STUCK

Colorful Pup Kindle played semi-professional baseball and later served as an umpire in the old East Texas Baseball League during the '20s. In the process, he acquired the nickname "Bulldog."

Invited to umpire a game for the West Texas League one day, he introduced himself as "Bulldog Kindle of East Texas." His answer was: "You might have been a bulldog in East Texas, but you're just a pup out here." He's been known as Pup ever since.

During the '30s, Pup scouted for several major league baseball clubs, before entering banking for 10 years, and prior to joining the oil business. He still carries an ID card as a "commission scout" for the St. Louis Cardinals.

Pup's career with the company, which began as a tank truck driver, has equipped him well for his SCORE consulting duties. He served as a truck salesman, salaried bulk agent, city salesman, zone salesman, district salesman, specialty salesman, industrial products salesman, local manager, district manager, and finally, as sales training coordinator before his retirement.

He was drafted into the Army at age 42 and had served for three months at Camp Lee, Va., when he was released to civilian life as "too old."

Looking at his prolific activities today, this long-ago decision seems a bit strange. "My wife, Jean, deserves a lot of the credit for my youthful approach to life," Pup admits without hesitation.

THE BOTTOM LINE

So what's the bottom line? In his open way, Pup comes right to the point: "Conservative estimates indicate that by the year 2000, one out of every five people will be 60 or older. People are living longer. A great many of them aren't ready for the rocking chair when they retire. They have gained invaluable experience during their business careers which can be used effectively in helping others. Many of the problems this country faces can be at least partly solved through such efforts. It's an opportunity to keep American ingenuity and productivity at satisfactory levels. And as human beings, sincerely grateful for the opportunities the American free enterprise system provides, it's a challenge that more and more senior citizens are and should be accepting. SCORE is a fine organization, and I have thoroughly enjoyed participating in it. But there are many ways of helping to make life just a little better for our neighbors. If we look for them and act upon them, we can help pay the transportation costs for our own ride." ●

STUDENT LOAN FORGIVENESS IN EXCHANGE FOR ACTIVE OR SELECTED MILITARY SERVICE

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. PETRI. Mr. Speaker, I have, this week, introduced two amendments to H.R. 5192, the reauthorization of the Higher Education Act of 1965. They would permit a limited student loan forgiveness in exchange for Active or Selected Reserve military service. The amendments have the support of many of my distinguished colleagues, as well as the support of numerous independent military and education associations. These groups include the National Guard Association of the United States, the Reserve Officers Association, the Non Commissioned Officers Association, and the American Association of Community and Junior Colleges. Although the amendments were drafted just this week, I have already received many letters of encouragement. Mr. Speaker, for the benefit of my colleagues, I reproduce some of the letters at this point in my remarks, from a student in my district, from the Non Commissioned Officers Association, and from the Massachusetts National Guard Enlisted Association.

The letters follow:

NON COMMISSIONED OFFICERS ASSOCIATION OF THE UNITED STATES OF AMERICA,
Washington, D.C., October 31, 1979.

Hon. THOMAS PETRI,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. PETRI: The Non Commissioned Officers Association of the U.S.A. (NCOA) strongly supports your amendment to the "Higher Education Act," H.R. 5192, which will provide a limited program of forgiveness of student loans in exchange for honorable military service.

Although NCOA normally would not take a position on forgiveness of student loans, we believe that your amendment will provide such a significant incentive to military service that it must have our support.

Education opportunities provided by the G.I. Bill have been the motivating factor in 1 of every 4 enlistments according to a 1977 Defense Department study. However, this program was terminated by Congress and recruiting has suffered. Hopefully, your program will reinforce the value and necessity of providing education benefits to members of our armed forces.

With warm regards, I am,

Sincerely,

RICHARD W. JOHNSON, Jr.

OSHKOSH, WIS.,
October 25, 1979.

Mr. THOMAS E. PETRI,
Longworth House Office Building,
Washington, D.C.

DEAR MR. PETRI: I have recently read about about your speech to the Wisconsin Association of Student Financial Aid Administrators and feel that such a proposal would be a step in the right direction.

I like the idea of the forgiveness of federal student loans as an inducement for college graduates to sign up for service in the national guard or one of the military reserve branches.

If such a bill is passed by Congress, then maybe there won't be any more talk about bringing back the draft and we both know how many people are not in favor of that.

Cordially yours,

MARTIN HUEBNER, *Student.*

BRAINTREE, MASS.,
November 1, 1979.

Representative THOMAS E. PETRI,
Committee on Education and Labor, House of Representatives, Washington, D.C.

The Massachusetts National Guard Enlisted Association supports fully Representative Thomas E. Petri's amendment to H.R. 5192 and requests your support for the same. Reply requested.

RAYMOND D. ROGERS.●

IN SUPPORT OF COAL

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. RAHALL. Mr. Speaker, today I had the opportunity to co-host with Congressman JOHN MURTHA a rally attended by 700 coal miners and operators in support of our greatest natural resource—coal.

Mr. Speaker, today there are over 14,000 miners out of work and many of those in attendance at the rally from West Virginia, Pennsylvania, Kentucky, Ohio, and Virginia traveled hundreds of miles to send a message to the Congress that coal can and will play a dominant part in our energy picture, if only given a chance. Today the coal industry has an excess capacity of over 100 million tons. Yet we continue to import over 8 million barrels of oil per day. Over and over the administration calls for more reliance upon coal; however, those calls are for the future. Well, Mr. Speaker, I do not believe that the future is a decade away. I believe it is today. Both the administration and the President's Coal Commission claim that utility conversion to coal provides our most immediate solution to our dependence upon imported oil, yet, since 1973 only one utility has converted to coal and this resulted after 4 years of battle with Government agencies.

Yesterday, I offered an amendment to the measure to establish an Energy Mobilization Board which provides that any utility converting from oil or natural gas to coal or a coal-derived fuel would receive priority status upon application to the Board. I believe this will provide the impetus for utility conversion because coal conversion is not 5 or 10 years down the road, it is now.

Mr. Speaker, the amendment I offered and the rally held today do not answer all the questions which need to be answered; however, I believe it sends a signal to the American people that we in the Congress are serious about coal for it is indeed "America's Ace in the Hole." I want to commend the hundreds of miners, operators, Members of Congress and Government officials who took part in the rally and reaffirm my belief that coal can and will play a dominant part in our energy picture if we only give it that chance it deserves.●

HOUSE JOINT RESOLUTION 430

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. DAVIS of Michigan. Mr. Speaker, when the House passed House Joint Resolution 430, providing emergency appropriations to assist low-income households with their heating bills this winter, I voted in favor of the bill because of the urgency of this matter, and not because I support the legislation as it was written. Indeed, had this body been given the time to completely consider and implement a winter heating assistance program, House Joint Resolution 430 would have been inadequate.

First, the fact that almost one-third of the appropriations in this measure is targeted to all supplemental security income recipients—whether in Maine or Hawaii—seems specious at best.

But my major concern involves the objective of winter heating assistance in general. Such assistance must be targeted first to elderly households, and then to unemployed households and finally to those low-income households which are receiving assistance in other forms. However, House Joint Resolution 430 takes virtually the opposite approach by directing almost $800 million to the aid to families with dependent children (AFDC) program. This will constitute assistance to the most adept assistance beneficiaries in our economy. AFDC recipients know the system. They know where to go to get extra benefits they may be eligible for. But the chances are significantly better that elderly individuals know none of the above and indeed may not even know that any assistance exists for them. Thus, in a worst case scenario, if a Governor does not opt to take a State's AFDC allocation as a block grant, AFDC recipients would be given a supplemental payment this winter, and then go to the nearest community services agency to receive even more assistance from the crisis intervention program. Consequently, while AFDC recipients may "double-dip" this winter, many elderly and poor households may not dip at all.

Another fault with using AFDC as a conduit for assistance this winter is that other programs exist in operation which may provide assistance to more people. For example, in my State of Michigan, if the AFDC program is used, at least 89,000 households (approximately 200,000 individuals) will stand to lose. This is the number of households or individuals who receive food stamps (under essentially the same income eligibility criteria) but do not receive benefits under AFDC. And even the food stamp program has been indicated to reach only about 50 percent of those households living under the 125 percent of poverty level.

In my opinion, the key to any assistance program is its eligibility criteria. AFDC and food stamps programs both use the 125 percent of poverty income level. Indeed, almost all benefits programs for "poor" individuals and households use this figure. But this criterion cuts many needy households, especially elderly ones, out of any much needed aid. Some individuals receiving the maximum social security benefits are ineligible under the 125-percent level. Elderly households are particularly affected by this cutoff since such people are more vulnerable to the effects of cold weather and since they can do little about their heating needs or their employment situations.

The statistics relating to the rise of heating costs from this year over last year and about the percentage of overall living costs taken up by heating needs have been well discussed during the debate on House Joint Resolution 430. The Northeast-Midwest Congressional Coalition has prepared some excellent data in this regard. However, the specific need for targeting extra attention toward elderly citizens needs further elaboration.

I would recommend that elderly households living below 150 percent of the level of poverty be eligible for winter heating assistance. In Michigan, there are 70,000 elderly households living between 125 percent and 150 percent of the poverty level. Most of these households are one- and two-member families living in homes which used to house entire families—children as well as parents. While heating costs for a residence remain the same for that residence, the per individual cost is reduced with more members of a household to spread the costs over. Thus, a two-member household will have to pay the same fuel bills as a four-member family, but will have less money to pay the bills with. And since most elderly households are one- and two-member households, it stands to reason that elderly citizens are more adversely affected by the 125-percent cutoff. In fact, even a 150-percent criterion may be low. For instance, in Michigan, the average heating bill is expected to reach $1,130 this winter. This does not even account for the extreme variations in my State (my portions of district right now have 10 inches of snow) which stretches almost 400 miles between its northern and southern limits. A family of two would be allowed to receive benefits if its income was less than $5,625, under the 125-percent cutoff. This means that after taking into account the average heating bill of $1,130, the family's income would be less than the national poverty level. The two individuals would be left with $4,490 or $373 a month—$187 apiece—with which to feed, clothe, medicate, and transport themselves. Again, elderly individuals, especially in a district as cold as mine, would be adversely affected by this fixed figure, since the colder it gets, the more clothing is necessary to meet heating needs. Also, my district is very rural, and it is not uncommon at all for citizens to travel 30 miles to the nearest grocery store or drug store.

Clearly, then, more flexibility is needed to provide a greater proportion of assistance to elderly individuals and households. In addition, it is essential that the poverty level takes into account such regional and subregional factors as climate, housing stock age and cost, the necessity of travel to meet basic needs and other local and regional considerations.

Thus, it becomes evident that individual States are in a better position to determine who should receive how much. The formula provided in House Joint Resolution 430 which gives attention to heating degree days, as determined by the National Oceanic and Atmospheric Administration (NOAA), is a step in this direction since States' individual heating requirements will be taken into account.

In my opinion, then, the bottom line in administering an assistance program such as the one being considered lies with the individual States. The decision to allow State Community Action programs run their portion of the winter heating assistance program is commendable. However, this appropriation is far too small, and a measure more resembling the Senate amendment to the Interior Appropriations bill is more appropriate.

Community services administration's Michigan CAP has proposed to drop the requirement that crisis intervention program applicants show a shutoff notice or an overdue payment notice in order to qualify for assistance. This revision should defray much of the criticism which has been levied against the program. In any analysis, however, the crisis intervention program, with its more equitable and open eligibility criteria and with its State by State administration, will be far more responsive to local and regional differences in heating requirements than will be the SSI and AFDC proposals as envisioned in House Joint Resolution 430.

This is not to say that when the House is given time more fully to consider an appropriate and effective winter heating assistance program it should give primary emphasis to the community services administration's program. In fact, I would prefer to see an apparatus which could provide assistance to anyone whose income is under 125 percent of the regional or State level of poverty, or under 150 percent of this level for elderly households. Although this essentially is what the CSA requires, I believe that the method of payment should be altered.

First, the amount of assistance provided should be determined by the amount that an individual or household must pay. Although it may be impracticable, I believe that a program similar to the Department of Housing and Urban Development's section 8 program should be considered during deliberations of a more permanent winter heating assistance program. Under such a program, a fraction of one's heating bill would be subsidized, and the rest would be paid by the individual.

Second, I mentioned above that Michigan's community action program has dropped the requirement of overdue payments for its applicants. In addition to this, any winter heating assistance program must not require the beneficiaries to pay their entire fuel bills before receiving any assistance. A recent DOE study pointed out that poverty-level individuals in the Midwest spent 81.9 percent of their monthly income on heating, utilities, and housing if they used gas; and 92.9 percent of their monthly incomes on these uses if oil was their energy source. Obviously, such individuals absolutely cannot pay such bills without prior assistance. Thus, it would be advisable to require that the consumer pay a certain portion of his or her bill and that a credit for the rest of the bill is arranged with the vendor. Preferably, the vendor would be compensated in advance, and the consumer would then receive needed fuel without either the vendor or the recipient having to go into debt.

Third, I am concerned about the nature of a cutoff. Presumably, if a theoretical eligibility criterion limits income to $4,000, one would become automatically ineligible if his or her income were $4,001. I have received letters from senior citizens in my district indicating that such a situation in fact has effected them. Most of these elderly citizens' incomes fall between 125 percent the level of poverty and 150 percent. However, the fact that benefits would be cut off if one were earning or receiving $1 dollar more than the cutoff, surely is inequitable. The obvious solution, therefore, is a phaseout of benefits for those individuals whose incomes are greater than the cutoff but still low enough to warrant assistance for winter heating bills.

Finally, as always is the case, the middle-income taxpayer seems to be neglected again. This is the member of that sector of our economy which is wealthy enough to pay taxes—accounting to proportionately the largest taxes-to-income ratio—and not poor enough to qualify for any income assistance. A number of legislators have recommended that some form of assistance is provided to this taxpaying economic sector. I wholeheartedly support such proposals.

In conclusion, I have attempted to demonstrate that House Joint Resolution 430 is an expedient but it should not be considered as a basis for a long-term winter heating assistance program. I have offered some recommendations which should be considered by the House in its future deliberations concerning such a program. But above all, it is essential that these two considerations are kept separate. That is, we must act now to implement an emergency appropriation for heating assistance this winter. In this regard, we must avoid entering into a procedural or jurisdictional jungle with the Senate over the two versions of heating assistance appropriations. Time is of the essence, and the two Houses of Congress have to cooperate in providing money for this winter.

However, as soon as this winter's appropriations are completed, we must begin our deliberations on a more equitable and responsive program.●

ANALYZING THE SANDINISTA REVOLUTION IN NICARAGUA

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. DODD. Mr. Speaker, because of the importance of recent events in Nicaragua and the American media's perception of those events, I would like to submit for publication in the Record Max Holland's "Nicaragua: A Despot Falls, The Press Stumbles," as printed by the Columbia Journalism Review. I am sure that my colleagues will find this article enlightening and useful in analyzing the Sandinista revolution in Nicaragua.

The article follows:

Nicaragua: A Despot Falls, the Press Stumbles

(By Max Holland)

How well does the American press report a popular revolution that challenges United States policy? In Iran, badly. In Nicaragua, better—although still too much the way the falling leader and the State Department see it.

Compared with coverage of the shah, whose image as a merely willful modernizer endured until the last days of his regime (and persists in some quarters still), Nicaragua's President Anastasio Somoza Debayle had a bad press. A year ago, for example, with both men still in power, the first issue of the new Life found the shah to be "autocratic," while Somoza was offered to the readers—flat out—as a "dictator."

The press as a whole lent little credence to Somoza's portrayal of himself as a legitimate and progressive leader. References to his "support of labor unions, minimum wage scales, agrarian reform, social security, a national medical scheme, compulsory education, and so on" were to be found mainly in guest columns, ostensibly written by Somoza himself, in The Christian Science Monitor (October 19, 1978) and The New York Times (March 6, 1978). With the revolution under way, moving accounts of its human costs were filed by Guy Gugliotta of The Miami Herald, Leonard Greenwood of the Los Angeles Times, Karen DeYoung of The Washington Post, and Bernard Diederich of Time.

But the press failed where it was most important to succeed: in reporting the politics of the revolution and the diverse but compatible motivations of the opposition coalition. To be sure, the anti-Somoza forces within Nicaragua's business community—organized into the Broad Opposition Front—found themselves adequately represented in the American press. These were people, however, whose motives were readily accessible to Americans raised to value a free market. As Alan Riding pointed out in the July 30, 1978, New York Times Magazine, the business community—a traditional ally of the Somozas—began to desert because "they were unaccustomed to and angered by what they considered 'unfair competition' from the Somoza group during the profitable reconstruction boom [after the catastrophic 1972 earthquake]."

The Sandinistas themselves did not fare so well in the American press. Somoza, of course, maintained that the leaders of the Sandinist National Liberation Front, (FSLN) were simply Marxists controlled by Cuba, and that Nicaraguan businessmen who supported them, as well as the several Latin American nations which did likewise, were essentially dupes. Little was known about the armed rebels until the nationwide uprising of September 1978, but in the absence of better information the press simply cast the opposition in the role that Somoza had written for it:

"The guerrillas are trying to overthrow Somoza and install a Marxist government in Nicaragua." (Combined news services. The Washington Post, August 25, 1978)

"The guerrillas advocate a Marxist society." (The Associated Press, August 31, 1978)

". . . a Marxist government boasting close ties with Cuba . . . would be a rallying point for other Communist groups planning takeovers in neighboring countries." (U.S. News & World Report, September 11, 1978)

The September mutiny—when popular insurrections and a general strike followed the seizure of the National Palace by Commander Zero and a platoon of guerrillas—forced most news outlets to take a closer look at what was happening in the country. It became increasingly apparent that the Sandinistas were not a monolithic band of conspirators, and that a popular movement that cut across class and ideology was behind the effort to put an end to the Somoza dynasty. "President Somoza charges Cuba is behind the current unrest," the AP reported on September 14, "but the Marxist-oriented guerrillas recently have been attracting youths of various political and social colorations." The "militant Marxist" (The Washington Star) or merely "Marxist" appellation used before the uprising gradually gave way to "Marxist-led" (Los Angeles Times), until by the spring most outlets simply identified Somoza's armed opponents as "Sandinistas" or "guerrillas."

Dropping the pejorative buzzwords was not much of an improvement, however, for there were other ways to cast aspersions on a movement whose national character the press still failed to appreciate. The way Newsweek turned the knife was typical: "To prepare for a new order in Nicaragua," the magazine wrote in "Marx and Nicaragua," a July 23 report, "the Sandinistas issued a 21-page program of reforms that seemed reassuringly moderate—on paper. There was some question about how much that paper was worth." The insinuation was clear: whatever the apparent acts, guerrilla leaders could not be trusted to deny what North Americans were accusing them of. This school of thought might be called the expanded-dupe version, since now—in addition to Nicaraguan businessmen and Venezuela and Costa Rica—the dupes included the great mass of the Nicaraguan people.

The Sandinistas had tried to explain themselves and their movement to the American press during the final ten months of struggle, and not a few interviews were published with Sandinista spokesmen and military figures. Understand our history, they repeatedly admonished. and you will understand what we believe in and why we have taken up arms.

The American press did convey some of this history, largely by recounting the fact that the United States had installed Anastasio Somoza Garcia as the first commander of the National Guard (in 1933), the number of years the Somoza dynasty had been in power (forty-two), and something about the fact that the U.S. had trained and equipped the Guard for decades (resulting in the highest per capita military assistance for training to any country in Latin America).

But Americans learned little of how Nicaraguans experienced this history, of what it meant to them, and therefore could understand little of why they were willing to pay such a terrible price in human lives to overcome it. American reporting failed to convey the movement's deep roots in the frustration and suffering of the Nicaraguan people.

The way the press reported the American mediation effort during Somoza's last months was symptomatic of this failure. Jeremiah O'Leary stated the theme in The Washington Star on July 1, implicitly condemning the Sandinistas as sectarian and describing the U.S. effort as "aimed at establishing a link among the other groups so there can be some hope that a moderate and broad-based interim government can replace Somoza." Ultimately, of course, both the American government and most of the press came to realize that the moderates had no popular support—precisely because they represented no break with the Nicaraguan past and hoped that the United States would intervene to rid them of Somoza, while salvaging something of Somocismo. The Sandinistas, in contrast, railed against U.S. intervention, since it was U.S. help that had played a crucial role in bringing about the hated dynasty in the first place.

Having a poor understanding of the dynamics of the Nicaraguan revolution, the American press was easy prey for talk of conspiracy and external inspiration. If generals always refight the last war, journalists frequently view the future through the past, and the notion that Nicaragua could become a "second Cuba" took hold—encouraged, no doubt, by the State Department and the White House. The Miami Herald and The New York Times were two papers which resisted the fatal simplicity of the analogy, and on July 8 Alan Riding, the Times' Central American correspondent, even warned about the self-fulfilling potential of the comparison: "If Washington fears a 'second Cuba,'" he wrote, "many Latin Americans believe that Washington helped create the 'first' Cuba by alienating the young Castro regime."

History does repeat itself—but never exactly. A case can be made, moreover, that to understand an event on its own terms it is the differences and not the similarities that matter. But the American press as a whole did not understand enough about Nicaragua and its history to come to terms with the uniqueness of the revolution, and it had little but cues from the State Department and its own memory of Caribbean revolutions to guide it.

Thus, far into events, we find Time solemnly informing its readers in this year's July 30 issue that "To Time Correspondent Bernard Diederich, who was in Havana 20 years ago when Fidel Castro's bearded guerrillas marched into that city, there were striking parallels. . . . The FSLN's slogan, Free the Fatherland or Die, was the battle cry of Nicaragua's legendary rebel leader of the 1930s, Augusto Sandino. It had inspired the Castroite catch phrase, Fatherland or Death."

In the rush to analogy, however, Time forgot Patrick Henry's little phrase, give me liberty or give me death, as well as the revolutionary injunction that used to adorn all New Hampshire license plates: live free or die. Conceivably these sentiments, too, inspired the Nicaraguan revolution.●

CONSERVATION: OUR BEST ALLY

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. DOWNEY. Mr. Speaker, although Congress is now moving rapidly toward the passage of several components of President Carter's energy program, one vital element continues to be slighted—energy conservation. Conservation is our best, cheapest, and quickest source of oil supply. Yet, in spite of all public pronouncements to the contrary, we continue to consume and import oil far beyond our means to pay for it.

A column by Anthony Lewis which appeared in today's New York Times analyzes the role conservation can play in solving our current energy problems as well as the dangers we will face if we do not start to conserve immediately. It is an excellent article and I strongly commend it to my colleagues' attention.

The text follows:

THE ENERGY DISASTER: III

(By Anthony Lewis)

BOSTON, October 31.—Anyone who thinks this country is serious on the subject of energy should consider three recent Washington events:

The Commerce Department reported that the United States spent $5.8 billion on oil imports in September, the highest monthly figure in history.

The Senate voted overwhelmingly for legislation that would let Congress block any attempt by the President to put fees on oil imports or limit their volume.

The House, reversing an earlier decision, voted to continue price ceilings on gasoline.

Those three events tell us—and tell the world—that in the critical period immediately ahead America will take no effective action to deal with its central energy problem. That is its dependence on increasingly costly foreign oil, a dependence that poses high political as well as economic danger.

In the long run the United States can hope to reduce its dependence on oil imports by coming up with alternative domestic sources of supply. It is likely to be a very long run—10 years, say, before significant quantities of synthetic fuel can be produced. That is not a reason for giving up the attempt; to the contrary, it means that diverse and determined efforts should be started. But they cannot get us past the crunch of the 1980's.

The only way to make ourselves less susceptible to dislocation by changes in the price or availability of foregin oil is to reduce our demand. The immediate ways to do that are no secret: let American gasoline prices rise toward the European level, which is about twice ours; put a heavy new tax on gasoline; ration it; put levies on oil imports.

But those are precisely the ways that Congress is not prepared to accept. Even its reluctant agreement to a standby rationing plan is conditioned on a supply crisis so severe that the country would in any event be on something like a wartime footing. As for raising the price at the gasoline pump, by either increasing the tax or removing controls, that is evidently unthinkable.

President Carter is hardly any more willing to grasp these nettles. Although he did bravely do away with crude oil price controls, he has resisted an end to retail gasoline ceilings and the accompanying system of allocations that assures inequalities at any time of supply difficulty. Some senators think he privately welcomed, as a convenient escape mechanism, their vote restricting his authority to put fees on oil imports.

In shying away from the tough decisions, Congress and the President no doubt reflect public opinion. Americans resent the fact of their dependence on oil producers abroad; they do not like the idea that a political upset on the Persian Gulf may force them onto gas lines. To end that unhappy situation they are prepared to accept any burden except inconvenience.

And so there will be gas lines again: That is the general view of energy specialists in Government and out. As early as next winter trouble in one of the producing countries, or a spread through OPEC of moves to limit production, may cut supply to the point of dislocation.

The curious thing is that measures to reduce our demand for oil, though they would cause some inconvenience and require some readjustments, would so plainly benefit our own economic and political well being. A big new tax on gasoline, for example, to the extent that it reduced consumption, would mean lower purchases from OPEC. Money would stay here instead of going abroad. The tax receipts could be used for domestic investment as well as programs to cushion the social impact of higher gasoline prices.

The same thing is true of longer-run measures to conserve energy: more efficient factories, insulated houses and the like. That kind of conservation, to, is likely to benefit the American standard of living.

The old theory was that the more energy a society used, the more efficient it was. I think the relationship has turned around. The more energy we consume, the more it will detract from our real living standard. We have a choice between higher utility bills and more efficient houses—between investing dollars at home and sending them abroad.

The trouble is that, when it comes to the longer-run measures, conservation is a cottage industry. And it is still in a primitive state. A leading scientist in the Boston area remarked the other day that he had been trying for two years to get convincing advice on how to make his house energy-efficient, and he was still not sure.

There are signs of hope in the longer term. Congress has stripped down the more inflated elements in President Carter's synthetic fuel program and adopted some realistic approaches. Conservation, treated as a stepchild in Carter's July energy speech, is now getting more emphasis from both Congress and the President.

But how we get past the next few years is still a mystery. Is any political leader ready to tell Americans that immediate national steps to use less foreign oil are the only paths to safety? ●

CONGRESSMAN FROST DENOUNCES PROPOSED KU KLUX KLAN MARCH IN THE CITY OF DALLAS

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. FROST. Mr. Speaker, the scheduled march of the Ku Klux Klan in downtown Dallas on Saturday is offensive to me personally and to the vast majority of my constituents.

The Klan's history of hatred and violence are not only un-American but also contrary to the climate of racial understanding that has been developing in Dallas in recent years.

Under our constitutional system of government, all groups, even those on the outer fringe of society like the Ku Klux Klan, are granted freedom of speech. However, that does not mean that the Klan has the right to intimidate others or to deny anyone the rights it enjoys.

I am confident that the people of Dallas will conduct themselves with restraint Saturday, and that when the day is over, the Klan will have succeeded only in embarrassing itself and not our great city.●

SENATE—*Friday, November 2, 1979*

(Legislative day of Monday, October 15, 1979)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

God of our fathers and our God, we thank Thee for all that is great and good in America. Thou knowest our defects and our needs before we call upon Thee. But our earnest supplication is that we may correct what is wrong and accentuate what is right. Come to us, abide with us in this place, strengthening us in our labors, sharpening our insights, and reinforcing our judgments. Give us grace to do justly, to love mercy, and to walk humbly with Thee. May goodness and mercy follow us that wherever we may dwell, that place may be Thy house forever. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., November 2, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ERNEST F. HOLLINGS, a Senator from the State of South Carolina, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. HOLLINGS thereupon assumed the chair as Acting President pro tempore.

THE JOURNAL

Mr. STEVENS. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader, the Senator from West Virginia, is recognized.

A GREAT LADY PASSES QUIETLY INTO OUR HISTORY

Mr. ROBERT C. BYRD. Mr. President, early yesterday morning, Mamie Doud Eisenhower died at the age of 82.

Once, it is reported, when Mrs. Eisenhower was asked how she most wanted to be remembered, she replied merrily, "Just a good friend." Perhaps that comes closest to the mark of how she is perceived by the American people, for her memory evokes primarily feelings of warmth and admiration for the dignity and modest demeanor that she brought to her role as the wife of a military leader and President of the United States.

Mrs. Eisenhower was born in the closing years of the 19th century in Boone, Iowa. Her lifetime spanned some of the most tumultuous years in modern history. Though she lived in a era of crashing empires and clashing armies; of horse-drawn carriages yielding passage to automobiles and spaceships; of changing roles and clamoring competition among individuals, groups, and nations; Mamie Eisenhower never seemed to lose sight of the steadying principles to which her life was committed.

She once confided that, from the time she first met Dwight Eisenhower, she knew he was destined for greatness. His subsequent career confirmed her intuitions, and Mamie Eisenhower seemed ever content to help her husband fulfill the destiny that she knew lay in his path.

During her years as First Lady, Mrs. Eisenhower embodied happily the classic role of a good wife, mother, and grandmother. She is recalled, most often, at President Eisenhower's side, lending her charm, grace, love, and quiet strength to her husband and to the country he served.

Mrs. Eisenhower has passed from our midst, but to all who knew her, publicly and privately, she has left a feeling of fondness and respect that will never be lost by this generation, and which will never be forgotten in American history.

Mr. President, I presently have no requests for any time. I ask unanimous consent, Mr. President, that I may reserve my time, momentarily.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Alaska is recognized.

THE AMERICAN STANDARD OF LIVING

Mr. STEVENS. Mr. President, on Monday, during the colloquy that was led by the Senator from Illinois, I placed in the RECORD an article concerning a statement that was made by Mr. Volcker. I would like to refer to that article again, mainly because of a feeling I have had as I thought about that article, in which Mr. Volcker said that we should, as Americans, dedicate ourselves to reducing our standard of living in order to meet the problem of high interest rates.

The more I thought about that, the more I came to the conclusion that that is a sort of "let them eat cake" type of statement. That thoroughly amazes me, that such a statement would come from one of the financial leaders of this country. I cannot imagine that any one appointed to that position by any President that I have known or have had the privilege of working with, from the days of Harry Truman, through President Eisenhower, President Kennedy, President Johnson, President Nixon, President Ford, making a statement such as that would go unchallenged by the administration.

I raise the matter again this morning because the impact of that article, to me, is that those who are less fortunate in this country, those who are not the heads of corporations or people of substantial wealth who would be the prime borrowers from our banking system—I am talking about, when I say "the less fortunate," the new young couples who are seeking loans for new homes, or the small companies that are seeking loans for the expansion of their businesses—normally, they pay a little bit more than those prime borrowers. To have a situation where one of the financial leaders of this country tells them that they must cut down their expectations in order to meet

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

the problems of high interest leads me to believe that we ought to thoroughly reanalyze the powers that have been given to that individual. I have had some personal conversations with members of the Joint Economic Committee along that line.

Specifically, also, I have inquired as to the extent to which foreign capital is coming into this country—and by that, I emphasize, I mean OPEC capital coming into this country—with a demand for higher interest payments than we have been paying in the past to those domestic sources of capital that are available to expand our money in circulation.

That was mentioned yesterday, to a certain extent. But if we are in a situation of sending out of this country $50 billion to $60 billion for oil produced by the OPEC countries, and their surpluses are coming back into this country to enter our money market at rates in excess of that which our people can afford to pay, then I think we have got ourselves into a worse cycle than anyone imagines. I am quite hopeful that the members of the Banking Committee, and particularly the members of the Joint Economic Committee, will dig deeply into the sources of these funds that are receiving these extremely high interest rates. It is to me, again, one of the more difficult things to comprehend.

Mr. President, just to make sure that the Record shows what I am talking about, on October 29, I requested that the article of Federal Reserve Chairman Paul Volcker be printed in the Record. In that article, he stated that in order to trim inflation the U.S. standard of living must be reduced.

As I say, I have seen nothing to indicate that the administration has reacted as it should have reacted to that comment. Senator Bentsen reacted, I think, in a way that was proper. He said—this appears on page 29886 of the Record from the statement I put in the Record. Senator Bentsen stated, "I interpreted that"—and he referred to Mr. Volcker's comment—"to mean that we will have lengthened unemployment lines, that we will have some loss of output in our economy, in order to correct the inflationary trend."

To me, it means a great deal more than that. It means that for my children, who are just reaching the age of starting their own families, as they buy a home and sign up for payment of mortgages for 30 years, those mortgage rates are going to be in excess of 15 percent. When we started our family, we had a home and our interest rates were about 5 percent, and we thought they were high at the time.

But if you expand over a 30-year period the payment of any interest in excess of 10 percent for the young families in this country, it just means to me one thing: There are going to be fewer and fewer new homes built.

As we worry about the problems of Chrysler, as we worry about the problems of the inflation generally, in terms of how they affect us now, I think people like Mr. Volcker ought to be worried about the problems of high interest rates and how they are going to affect our children's children 30 years from now when their children are trying to keep this American economy going.

It appalls me to believe that the Federal Reserve Chairman could be quoted, as the Wall Street Journal stated, that in order to trim inflation, to meet the problems of high interest, the U.S. standard of living had to be reduced.

I think in that statement alone there are, again, seeds of revolution, and it is time people really thought about what they are doing when they force on future generations the burdens and the mistakes of this generation.

Mr. President, I do not have any requests for time on this side.

RECOGNITION OF SENATOR DOLE

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Kansas is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Will the Senator yield for a unanimous-consent request?

Mr. DOLE. I yield.

MIGRATION AND REFUGEE ASSISTANCE—S. 1668

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after third reading of S. 1668, and the time having been yielded back thereon—I presume it will be today—the Senate proceed immediately to the consideration of H.R. 4955, Calendar Order No. 397, that the text of S. 1668 as amended by the Senate be substituted therefor, and without further motion or debate, third reading of H.R. 4955 ensue immediately, and S. 1668 be indefinitely postponed.

This request is necessary because there is a House bill on the calendar and once the Senate completes its action on the Senate bill on which there is a time agreement, there is no time agreement on the House bill.

Mr. STEVENS. Mr. President, there is no objection from the minority.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator for yielding, and I yield such time from my own order as necessary to make up for the time yielded to me.

S. 1969—RULEMAKING IMPROVEMENTS ACT

Mr. DOLE. Mr. President, I am introducing a bill, for myself, and Senator Hatch, Senator Heinz, Senator Laxalt, Senator Simpson, Senator Stevens, and Senator Thurmond. Through this bill, the Rulemaking Improvements Act, we propose improvements in the procedure by which Federal administrative agencies promulgate regulations. Regulatory reform has long been the subject of public concern and debate. I believe I speak for many of my colleagues in noting that our constituents have repeatedly made the depth of their concern known to us both in our mail and most recently during the August recess.

Several regulatory reform proposals have been subjected to close scrutiny in this body. Under the leadership of the distinguished Senator from Iowa (Mr. Culver) the Subcommittee on Administrative Practice and Procedure of the Judiciary Committee, of which I am a member, has held extensive hearings on a range of regulatory reform legislation and will soon be marking up those bills. The Governmental Affairs Committee, chaired by the distinguished Senator from Connecticut (Mr. Ribicoff) has also been working on the regulatory reform legislation that is within its jurisdiction.

The Senator from Kansas recognizes, and I know the Members of the Senate also recognize, that the men and women who administer our laws in Federal agencies are dedicated and hard-working public servants. Certainly this bill in no way impugns the efforts of those individuals. Yet they must work within a regulatory structure we establish. And it is this regulatory structure which is failing the citizens of this country. It is our responsibility to act without delay.

THE INFLATIONARY IMPACT OF FEDERAL REGULATION

At the outset we must recognize that what we have called regulatory reform encompasses not one, but many distinct problems of Federal regulation. And, like so many of the issues which confront us, the problems of Government regulation are related to other national problems. I believe that the problem of Government regulation significantly contributes to another major problem of our day—that of runaway inflation.

Regulations attempting to prescribe our behavior in an incredible range of areas pour out of Washington at a rapidly increasing rate. Yet one finds that the growing body of Federal regulations has been accompanied by a corresponding ignorance of the complete range of effects produced by such regulation. This ignorance has often resulted in unexpected costs and other adverse effects which threaten to undermine the salutary goals of appropriate regulation.

Billions of dollars of private spending are required to comply with literally thousands of detailed regulations. The 1978 Federal Register, through which these regulations are published, contained a total of about 61,000 pages, publishing about 7,000 new rules, and about 32,000 other Government documents.

Just in this decade we in the Congress created seven new regulatory agencies, including EPA and OSHA, and enacted 29 new major regulatory statutes. According to a study by the Joint Economic Committee, direct Federal regulatory agency expenditures rose from $2.2 billion in 1974 to $4.8 billion in 1979, a 115-percent increase in agency operating expense alone. Yet the costs of complying with Federal regulations are never reflected in an agency budget. Compliance with Government regulations imposes a sizable tax on business, yet this tax never benefits the Treasury of the United States.

Through regulation by administrative agency, we at least think we can see who will benefit by regulation and are moved by this vision to take action. Yet the burdens of regulation are so deceptively imposed that we have remained almost blithely unaware that the benefits of government regulation are achieved only at a price. The price may be an actual dollar cost, such as increased consumer prices, or it may be a social cost, such as the dampening of individual initiative.

A study done by the Tax Foundation concluded that the cost to the consumer of complying with Federal regulations in 1976 was $62.9 billion. That amounted to more than $300 for every man, woman, and child living in the United States, and 20 times the $3.1 billion spent to operate the agencies that year. For 1979, it is estimated that $102.7 billion will be the cost to the consumer of complying with Federal regulations, or about $400 per person. A study conducted by the center for study of American business indicates that the cost of filling out Federal paperwork alone comes to about $25 to $32 billion annually.

In short, Federal regulation aggravates our already extreme rate of inflation by imposing costs on the private sector which raise prices without a corresponding rise in productivity. Indeed, as Dr. James Miller of the American Enterprise Institute has noted:

> Regulation often has a greater effect upon consumer welfare [than other inflationary factors] because it operates directly upon the real supply of goods and services.

Of course, while noting these extreme costs, we must also recognize that the benefits of appropriate regulation will not be achieved without cost. But at the same time the Federal Government must not embark on a program of regulation unconcerned by costs. Sadly, our present rulemaking structure is such that, in the words of Dr. William Lilley and Dr. James Miller writing in the public interest:

> A regulation is often promulgated whereby the final incremental improvement to achieve a stated objective yields small benefits relative to costs or great costs relative to benefits.

THE CAUSE OF THE PROBLEM: BROAD DELEGATIONS OF LEGISLATIVE AUTHORITY

In the recent past, we in the Congress have worked to give all Americans a clean environment, safe consumer products, a safe working place, protection from deceptive merchandising, and many other protections which in previous years were the responsibility of either the private sector or government at the local level—in the cities, counties, and States. We have pursued these goals by identifying a particular problem in legislation, stating in often general and ambiguous statutory terms the policy of Congress toward that problem, and then creating a Federal agency and authorizing it, again often in the broadest terms, to regulate the area in question.

By creating agencies with such broad authority, we have passed on to these agencies the authority to make, in the form of administrative regulations, the kind of policy judgments which properly we should make. We have delegated authority to the agencies to achieve multiple, and often inconsistent, objectives. We want agencies to reduce certain risks to health, safety, or environmental quality while avoiding, or at least minimizing, the adverse impact on the subjects of agency regulations, whether industry, consumers, or the Nation at large.

As a result of this delegation of authority, agencies must now make a range of conflicting, yet extremely significant, value choices about various aspects of our national life without meaningful guidance from the elected representatives of the people. Judge David Bazelon, a senior judge of the District of Columbia Circuit Court of Appeals, a court which deals with much of the litigation involving Federal agencies, has decried this failure of the legislative branch to give more direction to agency decisionmaking. In January of 1977, Judge Bazelon wrote:

> Traditionally, in democratic societies, it is elected legislatures that make the hard value choices . . . increasingly, however, our legislatures have been delegating their value choices to administrative agencies—institutions which cannot resolve value conflicts through the relatively simple expedient of a show of hands.

Similarly, the Administrative Conference of the United States, in a report published in March of this year, observed—

> The agency problem of structuring discretion to accommodate multiple considerations in decisionmaking has not received sufficient congressional attention.

At this point in our history, I do not suggest that we can remove rulemaking authority from our Federal agencies. It would be impossible for Congress to make all the detailed decisions agencies must make on a regular basis. Consequently, the legislation I propose today takes no steps toward undermining an appropriate role for the administrative energy in our governmental structure. Rather, this bill is founded on my belief that we in Congress must fulfill our responsibility to shape the discretion of Federal agencies and provide the legal guides to channel agency actions along the sound policy course we set. Such action by the Congress would be welcomed not only for our frustrated citizens, but also by the agencies themselves, which, in an immediate and practical way, suffer from the absence of clear congressional guidance in their daily work.

A BASIC REFORM: AN ADAPTATION OF COST-BENEFIT ANALYSIS

The Senator from Kansas believes that cost-benefit analysis is one technique we must adapt for administrative rulemaking in order to require an agency to evaluate the complete range of effects of a proposed rule. By shaping agency decisionmaking through a requirement that rulemaking include some sort of cost-benefit analysis, Congress can reestablish its dominant role as overall policymaker for our regulatory system. Hence, the bill that I am introducing today would require agencies to perform a kind of cost-benefit analysis of each proposed rule.

Cost-benefit analysis, in its traditional form as an accounting technique, saw its first widespread use in the late 19th and early 20th centuries, when it was adopted by American municipalities to evaluate proposals for urban sewage systems. Over the course of the years, it has been employed for a variety of public and private uses. In 1936, Congress approved cost-benefit analysis for water resource development projects, incorporating a requirement in the Flood Control Act of 1936 that acceptable projects demonstrate that "the benefits to whomsoever they may accrue are in excess of the estimated costs." At present, the name "cost-benefit analysis" no longer describes merely an accounting technique, with the implication of a solely mathematical procedure. Rather, as the report of the Administrative Conference points out, cost-benefit analysis now refers to "any analytical method which organizes available information on alternative courses of action, and thereby displays possible tradeoff opportunities to the decisionmaker."

Those concerned with the improvement of the regulatory process have increasingly focused on some sort of cost-benefit analysis as a sensible avenue of reform. Even in areas where the dollar cost of regulation does not reflect the spectrum of actual costs, such as in environmental and health regulation, expert opinion, including, for example, the National Academy of Sciences, has advocated the use of some form of cost-benefit analysis.

Quite simply, the principle of cost-benefit analysis reflects commonsense. However, encouraging agencies to perform such an analysis is not enough. Many observers have pointed out how effectively agencies have avoided performing such analyses. Last month, a report of the Office of Management and Budget, evaluating the performance of "regulatory analyses" by certain agencies under Executive Order 12044, observed—

> Agencies try to avoid the requirement of a regulatory analysis, afraid that if they do an analysis, it will be the subject of public "sniping" or peer criticism. . . .

Agencies have also avoided performing such analyses on more legitimate grounds. For example, the Clean Air Act of 1970 specifically instructs the Environmental Protection Agency to establish air quality standards based on considerations of public health. This requirement has been interpreted within the EPA to mean that other considerations, like economic factors, cannot be considered.

Thus what is needed is a basic statutory provision requiring cost-benefit analysis. Consequently, this bill proposes amendments to our basic charter of administrative procedure, the Administrative Procedure Act.

The bill the Senator from Kansas introduces today requires a cost-benefit analysis which has been shaped by several obvious conclusions about what must be the reasonable policy for Federal regulation. First, it is undeniable that a rational regulation must have an ultimately beneficial impact. To plot a course for this goal, an agency, just like any private enterprise, must evaluate and compare the anticipated benefits, costs and other adverse effects of a proposed rule.

Yet Federal regulation presently has such a broad sweep through our lives that the impact of a regulation can take many shapes, ranging from a new expense imposed on a business, to protecting the natural beauty of a particular region. Thus, what is considered to be a benefit or a cost often cannot be described in numbers. As a result, any analysis of the anticipated benefits, costs, and adverse effects of a proposed rule cannot procede solely on a mathematical basis, but must involve the exercise of reasonable judgment by agency officials.

Second, it is critical that the public participate in any cost-benefit analysis. Obviously, the people who will be affected by a rule often have the best appreciation of its impact. Efficient and fair regulation requires that these people be heard and that an agency be able to take advantage of their expertise.

Finally, this bill is based on the conclusion that judicial review plays a vital role in the rulemaking process, acting as a reasonable check on the necessary discretion of agency officials. Any cost-benefit analysis must, therefore, be subject to judicial scrutiny to insure an agency acts fairly and does not unreasonably ignore public comment on a proposed rule.

This bill establishes a new standard for the promulgation of Federal regulations. Under the provisions of this bill, a new regulation could become effective only when any agency reasonably concludes that the benefits of a proposed rule would outweigh its costs and other adverse effects, and when the agency is convinced that the proposed rule is the most cost-effective means to achieve the identified benefits.

To provide an agency with sufficient data to reach such a conclusion, the present rulemaking procedure is modified to require agencies to identify the anticipated benefits, costs and other adverse effects of a proposed rule at the outset of the rulemaking process, when the notice of proposed rulemaking is published. The interested members of the public are then given an opportunity to participate in the rulemaking by presenting evidence of other benefits, costs, and adverse effects not identified by the agency.

It is only after all this information is before the agency that it must make its ultimate determination that the benefits of the rule outweigh its costs, and that, in light of the alternative means to achieve the identified benefits, the rule is the most cost-effective route to those benefits. The agency is required to explain this determination when it publishes the final rule. Both the initial analysis in the notice of proposed rulemaking and the final analysis are made part of the rulemaking record and, therefore, directly subject to judicial review.

The specific provisions of this bill are obviously more detailed and I leave a detailed explanation of them to the bill's section-by-section analysis, which I will ask to have printed in the RECORD together with the bill.

Mr. President, I am pleased to report that several well-recognized experts in the area of Government regulation, especially on the subject of cost-benefit analysis, have reviewed this bill and have expressed their support. For the information of the Senate I have attached two letters of support, from Dr. James Miller and Dr. Murray Weidenbaum, to the section-by-section analysis, and I ask unanimous consent that these letters be printed in the RECORD together with the bill and a section-by-section analysis.

The experience of both of these men has uniquely equipped them to deal with the practical and theoretical ramifications of cost-benefit analysis. Dr. Miller was assistant director for Government operations and research of the Council on Wage and Price Stability in the Ford administration and presently is codirector of the center for the study of government regulation of the American Enterprise Institute. Dr. Weidenbaum is the director of the center for the study of American business at Washington University and is presently a resident scholar at the American Enterprise Institute.

In closing, the Senator from Kansas must reiterate that this bill offers solid improvements over other proposals for some form of regulatory analysis. First, under this bill agencies could promulgate only ultimately beneficial rules. Second, agencies would be required to evaluate alternative means of achieving their goals and could promulgate only cost-effective rules. Third, this bill requires a more specific articulation of benefits and costs than any other proposal, including a description of who receives the benefits and who bears the burdens of a rule. Finally, the bill affords judicial review of the agency's regulatory analysis.

I urge my colleagues in the Senate to support this measure as a long overdue process.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 1969

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; FINDINGS AND PURPOSES

SECTION 1. (a) This Act may be cited as the "Rulemaking Improvements Act".

(b) The Congress finds that the growing body of Federal regulations has been accompanied by a corresponding ignorance of the complete range of effects produced by such regulation, and that this ignorance has often resulted in unexpected costs and other adverse effects which threaten to undermine the salutary goals to be achieved by appropriate regulation. In making this finding, the Congress has determined that—

(1) the goal of rational Federal regulation must be the promulgation of rules which have an ultimately beneficial effect;

(2) the present rule making procedures do not sufficiently provide for the detailed analysis by Federal agencies of the anticipated benefits, costs, and other adverse effects of a proposed rule which is a prerequisite to reasoned rule making;

(3) many of the anticipated benefits, costs, and other adverse effects of a proposed rule to be considered in any such analysis cannot be described numerically and the significance of individual benefits, costs, and other adverse effects may vary over time as a result of changing circumstances and the changing policy views of the public, the Congress, and the courts;

(4) consequently, any complete evaluation of the anticipated benefits, costs, and other adverse effects of a proposed rule must not be conducted primarily on a mathematical basis, but must allow for the exercise of properly delegated, reasonable discretion by agency officials in weighing competing values;

(5) judicial review of the agency analysis of the anticipated benefits, costs, and other adverse effects of a proposed rule through the incorporation of such analysis in the rule making record is necessary to provide a completely effective mechanism to ensure that agency officials do not exceed their proper discretion in rule making; and

(6) the current statutory exceptions to rule making procedures have permitted agency officials to give internal agency interpretations of statutes or rules or general agency policy statements the status of rules which have the force and effect of law, even though such interpretations and policy statements are issued without public participation and enforced without the fair notice which is considered fundamental in our legal system.

DEFINITIONS

SEC. 2. (a) Section 551 (4) of title 5, United States Code, is amended to read as follows:

"(4) 'rule' means the whole or part of a statement by an agency or by an official of an agency, other than an order issued pursuant to an adjudication under section 554 of this title, which is—

"(A) designed to implement, interpret, or prescribe law or policy, or to describe the organization, procedure, or practice requirements of an agency; or

"(B) applied by the agency in a manner which will have the effect of implementing, interpreting, or prescribing law or policy, or of describing the organization, procedure, or practice requirements of an agency;".

(b) Section 551 of such title is amended by adding at the end thereof the following new paragraph;

"(15) 'emergency rule' means a rule which becomes temporarily effective prior to the expiration of the time period specified for notice of proposed rule making and public participation under section 553 of this chapter or any other provision of law, and which is published by an agency in the Federal Register with an explanatory finding that a delay in the effective date of the rule would—

"(A) seriously injure an important public interest;

"(B) seriously damage a person or class of persons without serving any important public interest; or

"(C) substantially frustrate legislative policy and intent.".

IMPROVEMENTS IN RULEMAKING PROCEDURES

"SEC. 3. (a) Section 553(a)(2) of title 5, United States Code, is amended by inserting "exclusively" immediately after "relating".

(b) Subsections (b), (c), and (d) of section 553 of such title are amended to read as follows:

"(b)(1) General notice of proposed rule

making shall be published in the Federal Register, unless each person subject thereto is named and personally served with notice. Such publication or service shall be made not less than 60 days before the effective date of the rule. Such notice shall be a part of the rule making record and shall include—

"(A) a statement of the time, place, and nature of the rule making proceedings;

"(B) a specific statement of the legal authority under which the rule is proposed;

"(C) the proposed terms of the rule;

"(D) a clear and precise description of each reasonably significant benefit likely to be achieved by the proposed rule and an explanation of how each such benefit will be achieved by the proposed rule, including—

"(i) a statement identifying the persons or the classes of persons who will benefit from the proposed rule;

"(ii) a description of the nature of the benefit; and

"(iii) a description of each condition that must exist before a benefit is achieved, whether or not the achievement of the condition is within the control of the agency, and how each such condition will be attained;

"(E) a clear and specific description of the reasonably significant direct and indirect costs and adverse effects likely to be incurred by the public and private sectors as a result of the proposed rule, including, but not limited to, a description of such costs as those costs to be incurred by consumers, wage earners, businesses (including small business concerns as defined in section 3 of the Small Business Act), markets, particular geographic regions of the country, and Federal, State, and local governments, and a description of such adverse effects of the proposed rule as the adverse effects on productivity, competition, the balance of international trade, supplies of important manufactured products or services, employment, paperwork required of the public and private sectors, the environment, and the quantity of energy resource supply and demand.

"(F) a clear and precise explanation of how each cost or adverse effect specified under subparagraph (E) will result from the proposed rule, including, but not limited to—

"(i) a statement identifying the persons or the classes of persons who will incur costs due to the proposed rule or be adversely affected by the proposed rule; and

"(ii) a description of each condition that must exist before each cost or adverse effect is produced, whether or not the achievement of the condition is within the control of the agency, and how each such condition will be attained; and

"(G) a clear and precise explanation of how, in the reasonable judgment of the agency, the benefits of the proposed rule identified pursuant to subparagraph (D) will outweigh the costs and other adverse effects identified pursuant to subparagraphs (E) and (F), including a description of all reasonable alternative public or private means for achieving the identified benefits and an explanation of why such benefits cannot be achieved by public or private means other than the promulgation of the proposed rule.

"(2) This subsection does not apply when the agency for good cause finds that—

"(A) notice and public comment on the proposed rule are unnecessary due to the routine nature of the matter or the insignificant impact of the rule; or

"(B) it is necessary to promulgate an emergency rule. An agency which promulgates an emergency rule shall publish such rule in the Federal Register wth a statement of its findings under subparagraph (B) and a description of the reasons of the agency for such finding. Such emergency rule shall be effective for no longer than 60 days.

"(3) The analysis of the anticipated benefits, costs, and other adverse effects required under this subsection shall not be performed by any person under contract with the agency.

"(c)(1) After notice of proposed rule making required by subsection (b) of this section, the agency shall give interested persons not less than 30 days to participate in the rule making through the submission of written data, views, arguments, and statements which (A) explain any benefits, costs, or adverse effects of the rule which supplement, contradict, or are in addition to the benefits, costs, or adverse effects identified by the agency pursuant to subsection (b) of this section or (B) describe means of achieving the benefits of the proposed rule in a manner which more effectively minimizes the costs and adverse effects which will result from the proposed rule. As part of this participation in the rule making afforded to interested persons, the agency shall give such interested persons the opportunity for the oral presentation of evidence and the cross-examination of experts or other persons whose opinions constituted a significant part of the agency analysis required under subsection (b), unless the agency finds that no substantial issue of fact or law exists.

"(2) Notwithstanding any other provision of law, a rule may be published as a final rule and may become effective only if the agency reasonably determines that all the relevant matter before the agency as a result of the rule making substantially indicates that—

"(A) the reasonably significant benefits of the rule outweigh the reasonably significant costs and other adverse effects of the rule; and

"(B) the proposed rule will achieve such benefits at the lowest cost and with the fewest adverse effects in light of the alternative means of achieving those benefits identified in the rule making.

"(3) An agency shall publish a final rule in the Federal Register with a clear and specific explanation of its conclusion that the rule complies with the provisions of paragraph (2), including, but not limited to, a description and comparison of the anticipated benefits, costs, and adverse effects of the proposed rule considered by the agency to be reasonably significant. Such explanation shall be included as a portion of the rule making record for the rule.

"(d) Unless a longer period of time is required by law or is provided in the rule, a final rule, other than a rule which grants or recognizes an exemption to or relieves a restriction from a rule, may become effective 30 days after the date of its publication in the Federal Register.".

Rulemaking Improvements Act
Section-by-Section Analysis

FINDINGS AND PURPOSES

Section 1. The Rulemaking Improvements Act addresses the failure of the present law governing administrative rulemaking to establish procedures by which reasonably cost-effective regulations are promulgated with the maximum public participation. Section 1 of the Act states the finding of Congress that the pervasiveness of Federal regulation has combined with the generality of the provisions for agency rulemaking under curcurrent law to produce well-intended regulations whih create unexpected costs and other detrimental effects out of proportion to the benefits sought.

Several conclusions which underlie this finding are then reiterated. These conclusions are (1) that a rational regulation must have an ultimately beneficial impact, (2) that achieving this goal requires an agency to evaluate the anticipated benefits, costs, and other adverse effects of a proposed rule, (3) that what is considered to be a benefit or a cost often cannot be described in numbers and, indeed, what effects are considered to be a benefit or a cost often changes, (4) that, as a result, any analysis of the anticipated benefits, costs, and adverse effects of a proposed rule cannot proceed solely on a mathematical basis, but must involve the exercise of reasonable judgment by agency officials, (5) that judicial review of this analysis by incorporating the analysis in the rulemaking record is a necessary check on the judgment of agency officials, and (6) that the exceptions to rulemaking under current law allow agencies to establish law in secret and apply it without fair notice.

DEFINITIONS

Section 2. The current definition of "rule" in 5 U.S.C. § 551 subjects only those agency statements "designed" to "implement, interpret, or prescribe law or policy," to rulemaking procedures. In recent years, the number of various kinds of agency statements which actually "implement, interpret, or prescribe law or policy" and dispose of important rights or benefits, but yet are not promulgated pursuant to public rulemaking has dramatically increased. Such "secret" agency regulations take many forms, including unpublished general counsel opinions, operations manuals, and "private" agency rulings. For example, since 1970 the Office of the General Counsel of the Environmental Protection Agency has issued opinions interpreting statutes administered by it. These opinions are the basis for a manual of "Criteria and Policy Notices" which, distributed to Regional Administrators, Division Directors, and other EPA functionaries, controls the day-to-day application of these statutes. Yet these opinions and the EPA manual are not published and are promulgated without prior public comment.

Section 2 remedies this abuse in part by including in the definition of rule not only statements designed to have the effect of law, but also those statements applied with such an effect. Lack of design to "implement, interpret, or prescribe law or policy" therefore can no longer provide an excuse from normal rule making procedures. Other sections, described below, also are directed towards this problem.

Subsection (b) of section 2 adds the definition of an emergency rule to the present list of definitions in the Administrative procedure Act. Such emergency rule can become effective for a short period of time without compliance with the rule making procedures of the APA. An emergency rule may be promulgated in this manner only in the extraordinary circumstance where an agency finds that delay in the effective date of the rule would seriously injure an important public interest, seriously damage a person or class of persons without serving any important public interest, or substantially frustrate legislative policy and intent. The mechanism of the emergency rule is clearly an exception to what Congress is establishing in this Act as the minimally acceptable procedure for the promulgation of administrative rules. As such, it is anticipated that the provision for emergency rules will be rarely used, and then only in the extreme cases set out in the definition.

IMPROVEMENTS IN RULEMAKING PROCEDURES

Section 3. Subsection (a) of this section also deals with the "secret" law problem discussed above by amending the rule exception of 5 U.S.C. §553(a)(2) to apply to a matter which exclusively relates to internal agency management or personnel, or exclusively to public property, loans, grants, benefits, or contracts. By requiring a matter to relate exclusively to the enumerated subjects, an agency statement which arguably deals with these subjects, but also has the broader effect of implementing law as described in the definition of "rule" will not be exempted from the normal making procedures under 5 U.S.C. § 553(a)(2).

Subsection (b) of section 3 significantly expands the notice of proposed rule making which must be published before a rule becomes effective. This expanded notice is the first step in the new rule making procedure established by the Act by which an agency must clearly state in advance of the effective date of the rule the terms of a proposed rule, the benefits to be achieved by the rule, the costs and other adverse effects of the rule, and its conclusion that the benefits of the rule would outweigh its costs.

Not every benefit and cost which could conceivably result from the proposed rule must be described in the notice of proposed rule making. Only those benefits, costs, and other adverse effects which the agency sees as "reasonably significant" in terms of their magnitude and their likelihood of occurrence must be included.

This section leaves the concept of a "benefit" open for the purposes of rule making to include a broad range of effects which at any particular point in time might be considered beneficial. Thus a "benefit" might be an effect popularly viewed as beneficial, such as comparatively clean air, or it might be a public policy goal statutorily defined as beneficial, such as the health of workers in a particular industry. In describing a benefit, the agency must identify the persons or groups who will benefit from the proposed rule, describe the nature of the benefit, and describe each condition that must be obtained before the benefit is achieved and how each condition will be obtained.

The persons who will benefit from a proposed rule must be identified to ensure that the benefit is reasonably significant. A benefit that redounds only to a few people is less likely to be characterized as reasonably significant than one which benefits a whole community. In addition, identifying the beneficiaries of a proposed rule for comparison with those who bear the cost burden of it will aid in the evaluation of the cost-effectiveness of the proposed rule.

Similarly, the Act requires a description of each condition needed to achieve each benefit so that only reasonably significant benefits are identified and used as a justification for a proposed rule. A benefit which is based on several conditions which themselves are unlikely to occur could not be seen as reasonably significant under this section or justifying extreme regulatory costs. On the other hand, a benefit with few conditions, or with conditions likely to occur is more reasonably significant.

Outside of these requirements, the statute does not require the description of a benefit to take any particular form. Some benefits are liable to quantification; many are not. Consequently, the description of a benefit may be done in numbers or in words, or both.

This section requires the costs and other adverse effects of the proposed rule to be described in the same manner as the benefits and those who would bear the costs of a rule or suffer an adverse effect as a result of a rule to be identified in the same manner as its beneficiaries. Examples of the types of costs and adverse effects which should be identified are also given in the statute.

The final required element of the notice of proposed rule making is an agency explanation of how the benefits of the proposed rule will outweigh its costs and other adverse effects, including an explanation of why the benefits cannot be achieved by public or private means other than through the proposed rule. This provision essentially requires an agency to explain its conclusion that a proposed rule could be promulgated under the standards of this Act; that is, the agency must represent that, based on its study and analysis, the benefits of the proposed rule would outweigh its costs and other adverse effects, and that the proposed rule is the most cost-effective means to achieve the identified benefits.

The word "outweigh" was specifically chosen to describe the acceptable relationship between the benefits and costs of proposed rule. Since the Act recognizes that many benefits, costs, and adverse effects cannot be described numerically, it follows that "outweigh" is not intended to refer to a numerical ratio. Rather, "outweigh" reflects the view that agency officials must exercise reasonable judgment in evaluating the impact of the benefits, costs, and adverse effects which will be produced by a proposed rule. A rule may only be proposed and subjected to public comment if the appropriate agency officials reasonably conclude that the beneficial effects which can actually be achieved by the rule will not be reduced to insignificance by the costs and adverse effects also produced by the rule when viewed from a broad perspective which includes both the relative impact of the rule on those benefited and on those burdened.

"Reasonable judgment" has been used to describe the ultimate conclusions of the agency regarding the anticipated operation of a proposed rule to reinforce the point that this analysis is not expected to be a mechanically mathematical process. The judgment exercised by the agency officials in their analysis is to be reviewed according to a variation of the familiar "reasonable man" standard. For this reason, the Act requires, both in the publication of a proposed rule and in the promulgation of a final rule, an agency to clearly identify the benefits, costs, and adverse effects it finds to be reasonably significant and to explain its conclusion that the benefits outweigh the costs and other adverse effects.

This Act retains the exemption from rulemaking procedures presently in 5 U.S.C. § 553(b) for insignificant rules. This exception recognizes that there are rules whose impact is so insignificant that regulatory analysis of them would itself create costs which would outweigh any benefits of such rules. The new emergency rule is also included in this exemption from the rulemaking procedures. An emergency rule can be effective for no longer than sixty days.

Title 5 U.S.C. § 553(b) is, however, modified to delete the exemption from rule making for "interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice." This exemption has been the regular vehicle for the "secret law" abuse described above. Under the guise of this exemption agency officials have created and applied "interpretations" or "policy statements" which dispose of significant rights without prior notice or public comment. Statements with such an effect are examples of the kind of agency regulatory activity which Congress clearly intended to subject to the original rule making provisions of the A.P.A. Deleting this exemption will help to remedy this abuse, while the rule making exemption of 5 U.S.C. § 553(a)(2) remains available for the rules governing a genuinely internal agency matter.

The new version of 5 U.S.C. § 553(b) set out in Section 3(b) of the Act includes the added restriction that the analysis of the benefits, costs, and other adverse effects of a proposed rule required by this subsection may not be performed by any person "under contract with" the agency. It should be noted that this provision will not prevent an agency from hiring outside experts and consultants to assist in the analysis. The provision will prevent an agency from giving the whole task of regulatory analysis to an outside organization. Agencies are presently capable of performing the analysis required by the Act without dramatic increases in their budgets. In the past, however, agencies have contracted out these sorts of analytical tasks to private firms specializing in such work. One common result of this practice has been that these analysis merely justify some predetermined agency action without the critical scrutiny required by this Act. Furthermore, a regulatory analysis done on a private contract basis often is more costly than if performed by agency personnel.

By prohibiting this practice and requiring agency personnel to perform the analysis, this provision underscores the requirement that this analysis be a part of the decision-making process which leads up to a proposed rule. Also, the provision limits the unnecessary government expense involved in paying private firms for this analysis.

Title 5 U.S.C. § 553(c) is amended to provide a public comment period of not less than thirty days. This subsection specifically enumerates various forms public comment might take, including explanations of benefits, costs, or adverse effects "in addition to, supplementing, or contradicting" those described in the agency analysis, or descriptions of other means of achieving the identified benefits in a more efficient manner. Such comment allows those who would be affected by a proposed rule and those who are intimately familiar with the subject of the proposed rule to educate an agency concerning the expected operation of the rule and to point out errors in the analysis of the agency.

Under the new version of this subsection the agency must also give interested persons the opportunity for the oral presentation of evidence and the opportunity to cross-examine agency experts, unless no substantial issue of fact or law exists. This provision allows minimal "adjudicatory" procedures in the context of informal rule making to allow realistic public participation in which the assumptions and views of agency experts and decision-makers are thoroughly explored and to allow full development of a rule making record which may be subject to effective judicial review.

Under paragraph (2) of the new subsection (c), the agency then must evaluate all the information before it and may promulgate a final rule only if it concludes that all the reasonably significant benefits of the rule will outweigh all the reasonably significant costs and effects of it, and if all the relevant matters before the agency substantially indicates that the proposed rule will achieve the identified benefits at the lowest cost and with the fewest adverse effects in light of the alternative means identified in the rule making. "Outweigh" is used here with the same meaning as explained above. The agency must publish an explanation of this conclusion when it promulgates the final rule. This explanation must include the agency's rationale for its selection of certain benefits, costs, and adverse effects from all the data before it as the reasonably significant benefits, costs, and adverse effects weighed in its analysis. In this way, the agency's response to the comments of the public will be clearly set out and open to scrutiny.

This agency explanation and the original notice of proposed rule making are made part of the rule making record. As a result, the regulatory analysis of the agency is subjected to judicial review. No change is made in the standard of review, ensuring that the courts will maintain their present posture and not become regulators themselves by undue involvement in the rule making process.

The new version of subsection (d) eliminates from 5 U.S.C. § 553(d) the exemption for "interpretative rules and statements of policy" from the requirement of advance publication. Once again, deletion of this exemption is directed towards correcting the "secret law" abuse discussed above. This subsection preserves the current law that a final rule may become effective thirty days after its publication in the Federal Register.

AMERICAN ENTERPRISE INSTITUTE
FOR PUBLIC POLICY RESEARCH,
Washington, D.C., October 2, 1979.
Hon. ROBERT J. DOLE,
Dirksen Senate Office Building, U.S. Senate, Washington, D.C.

DEAR SENATOR DOLE: This is in response to your letter of September 19, 1979, requesting my evaluation of your proposed bill, "Rulemaking Improvements Act". (It should be noted for the record that these views are my own and do not necessarily represent those of the American Enterprise Institute.)

The salient features of your proposal would appear to be as follows: (a) in order to promulgate a new regulation, an agency would have to make a reasonable determination and demonstrate that the expected benefits of the proposal exceeded the expected costs, (b) the agency would have to show that the regulation was cost-effective (that is, the benefits would be secured at lowest cost), and (c) these requirements would be subject to judicial review.

In my judgment, the approach to regulatory reform incorporated in your proposed bill is right on the mark. Based on my experience as Assistant Director (for Government Operations and Research) of the Council on Wage and Price Stability, and my further studies of regulatory phenomena here at AEI, I have become convinced that the three reform elements described in the previous paragraph are essential to achieving a substantial improvement in the performance of regulatory agencies—especially those dealing with health, safety, and the environment. This is not to say, of course, that estimating benefits and costs and appraising alternatives would be an easy matter; clearly, in many cases agencies would have to exercise a degree of "judgment" in making their ultimate determinations, and your bill provides for this. But I can think of no better overall approach to improving agency decisionmaking than to require the agencies to be guided by the benefit-and-cost impacts of their regulatory actions. Moreover, I think it particularly important that your bill provides for judicial review. From experience, it would seem that such a requirement is the most efficient way of assuring that agencies comply with the straightforward intent of Congress.

Finally, I am glad to see that your bill incorporates a requirement that agencies determine as well the *distributional* effects of proposed regulation—both those who would benefit and those who would bear the costs. My experience at the Council on Wage and Price Stability was that on the whole agencies resist this kind of determination, yet when accomplished it constitutes one of the more important considerations in determining the final outcome. [On some of these issues, you may find of relevance the first enclosure, my article entitled, "Lessons of the Economic Impact Statement Program," *Regulation: AEI Journal on Government and Society* (July/August 1977), pp. 14–21.]

Let me now mention three other points which you may wish to consider. First, as you know, the Supreme Court has under review the Fifth Circuit's decision in the "benzene case" (*American Petroleum Institute* vs. *The Occupational Safety & Health Administration*). If the circuit court's decision is upheld, in my judgment the Occupational Safety & Health Administration (OSHA) would have to be reasonably cost-effective in its decisionmaking, and moreover the standard implied by *API* might well permeate the other regulatory agencies. But if the decision is overturned, the performance of OSHA, and perhaps that of many other regulatory agencies, would deteriorate still further. Thus, your proposal might well be viewed as a device for assuring that Congressional intent (to the degree it is consistent with the circuit court's decision rather than the formal position adopted by OSHA) will in fact be implemented.

Second, as drafted, the proposed bill applies only to new rules and regulations. You might wish to consider adding a provision that "sunsets" existing rules and regulations over a period of years (specifying, perhaps, a timetable for this to take place). This would mean, of course, that existing rules would have to pass through the new standard incorporated in the bill. [On this point, you may find of relevance the second enclosure, my article entitled, "Regulation and the Prospects for Reform," in Charles F. Phillips, Jr. (ed.), *Regulation, Competition and Deregulation—An Economic Grab Bag* (Lexington: Washington and Lee University, 1979), pp. 171–192, esp. p. 191.]

Finally, you might wish to consider a clarification concerning the standards for judicial review. As the bill is written, it would appear that an aggrieved party could bring suit only on the basis that the agency's determination with respect to benefits and costs had been "arbitrary and capricious". To have the desired effect on agency decisionmaking, it might be desirable to provide a stricter test—for example, giving aggrieved parties an opportunity to show that the agency's decision was unreasonable on the merits. (I realize, of course, that you may wish to avoid *de novo* review and that the need for any clarification along these lines may be related to Congressional action on Senator Bumpers' amendment modifying standards for judicial review.)

Sincerely yours,
JAMES C. MILLER III,
Co-Director, Center for the Study of Government Regulation.

AMERICAN ENTERPRISE INSTITUTE
FOR PUBLIC POLICY RESEARCH,
Washington, D.C., September 24, 1979.
Hon. ROBERT DOLE,
U.S. Senate, Committee on the Judiciary, Washington, D.C.

DEAR SENATOR DOLE: This is in response to your letter of September 20. Your regulatory reform proposal impresses me as a very helpful addition to the toolkit of regulatory reform. It is a very considerable improvement over earlier proposals.

The incorporation of benefit-cost analysis would be a major step forward.

Thank you for the opportunity of seeing your draft bill. Best wishes on your efforts to promote it.

Sincerely,
MURRAY L. WEIDENBAUM,
Resident Scholar.

Mr. STEVENS. Mr. President, I rise to support the bill of the distinguished Senator from Kansas. Because of the proliferation of costly Federal agency regulations, business growth and productivity has been significantly retarded. The often unnecessary burdens, particularly upon small businesses, of stringent manufacturing, research, labor, and environmental requirements have decimated the efficiency of the private sector. Unfortunately, however, the problem of overregulation has only been recently appreciated. In the last few months, a number of proposals have been circulating containing a variety of solutions for this costly problem. I believe Senator DOLE's bill is one of the best.

Many of the other bills, while containing good points, are so extensive in their suggested changes of regulatory analysis, the practice of administrative law, and the position of administrative law judges that enactment in the near future is improbable. Senator DOLE's bill, the Rulemaking Improvements Act, on the other hand, simply requires the agency to conduct and publish an economic analysis of all proposed rules, provide a forum for discussion, insure that the most beneficial rule be enacted, if any, and authorize judicial review of the agency's decision.

In contrast to the many other proposals floating around, the Dole bill does not require that a given rule's impact on the economy be a certain numerical figure before the agency must conduct an economic analysis of the rule. Many of these proposals set $100 million as the threshold figure before an agency is required to conduct an economic analysis. In Alaska, Federal agency rules, however, often do not have an impact of $100 million. Yet, many of the rules issued in the last few years have had enormously adverse effects upon many of our local communities.

For example, the Postal Service recently proposed discount postage rates for standardized packages which could be processed through their machines. Nonstandardized packages, however, would be subject to a surcharge. The effects of such a surcharge for many Alaskans would be horrendous. Many places in Alaska can only be reached by airplane, and, hence, much of the food consumed by Alaskans in these local communities must be flown in.

The most economical way for the food to reach these communities is via the Postal Service. Yet, the food is stored in large, nonstandardized sacks which would be subject to the surcharge. Many of the residents of these communities live at subsistence levels. Consequently, any increase in postage rates for them would be disastrous. So, you see, the impact of such a rule would not reach $100 million. However, the impact on people's lives would be great. That is why this bill's approach to analyzing all rules irrespective of cost is preferable.

The Dole bill also authorizes the economic analysis to be part of the official rulemaking record for judicial review. It is naive to assume that an agency will be as complete and as accurate in its analysis if no one can seriously question their work. Besides, present judicial review of agency rules often discuss economic issues if the rule has any significant economic impact. Hence, specifically providing for judicial review will do nothing more than put the agencies on notice that they had better do a reasonable job in their analyses.

Finally, Senator DOLE's proposal prohibits the agencies from contracting out these analyses to the private sector. Abuses in Federal/private consulting arrangements have been rampant. In fact, the Civil Service and General Services Subcommittee of the Governmental Affairs Committee of which I am ranking minority member began hearings 3 weeks ago on Federal/private consulting practices. Many of the instances we heard showed that Government employees could have done what was contracted out to the private sector to do; the result being wasted Government resources.

There are many other provisions of the Senator's bill that are similarly laudable, and I appreciate this opportunity to cosponsor such a thoughtful piece of legislation.

RECOGNITION OF SENATOR PROXMIRE

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin is recognized for 15 minutes.

ECONOMIC FORECASTING A PRECARIOUS SCIENCE: WHY ACTIONS SHOULD BE BASED ON FACTS

Mr. PROXMIRE. Mr. President, in the 22 years I have been in the Senate, I do not know whether I have given a historic speech or not. But if I ever give a historic speech, it is the one I am going to give right now. I am very honored that the Presiding Officer is the distinguished Senator from South Carolina (Mr. HOLLINGS), who is one of the ablest Members of the Senate. I challenge him to listen to what I have to say because I think he may find it interesting. He is a member of the Appropriations Committee and the Budget Committee and he is as concerned as I am about Government spending, about inflation, and what we can do about it.

Mr. President, for months and months, indeed years, economists have ended up with egg on their face because they insist on making policy on the basis of predictions and forecasts which do not happen.

They have been wrong about a recession. In the future we may have one but this year we have not had one, and as of now we are not in one.

They have been extremely wide of the mark in predicting price rises and inflation. It has been grossly underestimated.

Their predictions on unemployment have been dead wrong. Instead of rising dramatically, the rate has been stable.

Just this morning, the BLS told us unemployment was 6 percent in October, which is about the same level it has been at for the last year.

Forecasts of industrial production, GNP, and other indicators have missed by far more than any statistical margin of error. After months of the most pessimistic estimates, new factory orders rose by a whopping 3.9 percent in September.

When the composite index of leading indicators was announced this week, the economists were amazed, chagrined, and embarrassed once again. Instead of going down, in line with the forecasted recession most of them say we are in, it went up. And while the August to September inventory figure was not available when the leading indicators were announced Tuesday, we know now that manufacturers' inventories rose eight-tenths of 1 percent in September, the smallest rise this year.

This should tell us something and it should tell them something.

It should tell us not to base policy on forecasts and predictions.

It should tell them to wait for the facts; to base policy on what happens and not on their computer runs; that economics is an art not a mechanistic science; and that there are unpredictable and impetuous forces at work over which they have little or no control nor which they can forecast accurately.

CONGRESS SHOULD LEARN FROM THIS

If the economists are unwilling or unable to learn from the mass of wrong predictions and forecasts, those of us in Congress should learn from it. In my view we should take two specific actions.

PROPOSAL FOR BUDGET AND FISCAL POLICY

The first has to do with the budget and fiscal policy.

Instead of basing our budget levels on forecasts—routinely wrong—made 10 months before the fiscal year begins and 22 months before it is over, we should propose and pass a budget which would automatically adjust to whatever economic circumstances come about.

What the President and Congress should do is to propose and pass a budget which would be in balance if the economy grew at its historic rate—somewhere between 3 and 4 percent.

No matter how good or how bad the forecasts were, the budget would automatically adjust to conditions as they actually happened. If the economy grew at 6 percent instead of 3 percent, a surplus of about $50 billion would automatically happen because receipts would grow and some expenditures would drop.

If, on the other hand, there were a recession and there was no growth or zero growth, such a budget would produce a deficit of about $50 billion at present levels, which would be the right economic policy in those circumstances. The deficit would come about as receipts declined and expenditures for unemployment, social security, welfare, and other stabilizers increased.

If such a policy had been in effect, we would have had 12 budget surpluses in the last 17 years instead of 16 of 17 deficits and only 1 small surplus. The latter has been one of the major causes—not the only cause—but a major cause of our present outrageous level of double digit inflation. This Proxmire proposal would have given us the surpluses we should have had in the sixties and seventies and the deficits to pull us out of the depression in the thirties.

Instead of depending on the computer runs of the Office of Management and Budget, the Congressional Budget Office, or the steadily growing private economic computer operatives to forecast policies in January 1980 for fiscal year 1981 beginning the following October and continuing through September of 1982, we would have a budget which would be in balance, in surplus, or in deficit according to what actually happened to the economy.

If we in Congress want to bring budget policy into some rational state, this is the direction we should move.

MONETARY POLICY

Mr. President, that is not enough. We should also institute, through congressional oversight of monetary policy and the Federal Reserve Board a similar more steady and sustained monetary expansion.

Under article I, section 8 of the Constitution. "The Congress shall have power to coin money, (and) regulate the value thereof."

That power has been delegated to the Federal Reserve Board which is a creature of the Congress and independent of the executive branch.

That is a congressional power. It is not an executive power. It is a congressional power. The independence by the Federal Reserve Board is not of the Congress. It is an independence of the executive.

It is therefore the duty and responsibility of Congress to determine general monetary policies while leaving the day to day administration of it to the Federal Reserve.

As the population and the economy grows, which the latter has done at a 3- to 4-percent rate over our history, the money supply must also grow if merely to keep enough cash and credit in circulation to fund business and economic activity.

But instead of a roller coaster monetary policy, with periods of excessive expansion and excessive tightening, we should have a policy of generally sustained growth at a more steady level.

That is precisely the policy the Federal Reserve announced October 6, a policy which many people felt was too painful. But it is the right policy. It is antinflationary. At the present time, it would be a stimulative policy in the event we moved into a recession.

If the money supply grew at a sustained general rate of say 4 percent, for example, and that rate was kept relatively steady, it would supply credit during periods of recession, and hence be a stimulus to the economy, and it would have a restraining effect when the economy was growing at a high rate and when inflation was excessive. There is no magic as such in the specific number, except that it should sustain the economy at its approximate historic growth rate and be at a level which would take account of institutional leakages which occur.

BOTH FISCAL AND MONETARY POLICIES NEEDED

To make such a system work we need both a more automatic fiscal and more automatic monetary policy. They should move together like animals in Noah's Ark.

We cannot, as we have been doing, run huge budget deficits in a period of double digit inflation and expect monetary policy, even of the tightest kind, to rescue us from our follies.

We need a complementary set of policies which run in tandem. If at the moment we had a surplus in the Federal budget—as we should have—monetary policy could be eased tremendously, the inflation rate would be considerably lower, and interest rates would fall.

If the proposals I am making were in effect, we would in fact have a budget much more restrained than it now is and interest rates much lower than they now are.

CONCLUSION

Policy can no longer be made on the basis of forecasts, computer runs, and year-ahead projections. Turning to tea leaves, soothsayers, or examining entrails would bring equal or better results.

We must put in place policies which will bring greater stability and greater sense to both fiscal and monetary policies so that they are more or less automatically expansionary in periods of downturn and recession, and restraining in periods of excessive exuberance and runaway inflation.

Mr. President, there has only been one outstanding economist we have had in the Senate in the history of this body. That was Paul Douglas, who was a great economist, president of the American Economic Association. He wrote the definitive work on the theory of wages, and this is a policy he believed we should not follow, to determine what policies we follow based on projections made. We cannot tell what will happen in the future. We should base them on the events as they occur.

That is exactly what the proposal I make this morning would do.

I commend such policies to both the administration and the Congress.

It is time we acted to bring ourselves out of the present fiscal and monetary mess occasioned by excessive dependence on the painfully wrong, indeed endemically wrong, forecasts of the experts.

Mr. President, I ask unanimous consent to have printed in the RECORD composite indexes of leading, coincident, and lagging indicators: September 1979.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPOSITE INDEXES OF LEADING, COINCIDENT, AND LAGGING INDICATORS: SEPTEMBER 1979

The composite index of leading indicators increased 0.8 percent in September to a level of 141.3 (1967=100), according to preliminary data released today by the Bureau of Economic Analysis, U.S. Department of Commerce. On the basis of more complete data, the August index level was revised to 140.2, which is 0.1 percent above the revised July level of 140.1. Change in total liquid assets was the major contributor to the August revision.

Six of ten indicators available for September contributed to the increase in the index: layoff rate, change in total liquid assets, contracts and orders for plant and equipment in 1972 dollars, stock prices, new orders in 1972 dollars, and building permits. Layoff rate contributed the greatest increase.

Four of ten declined: average workweek, vendor performance, change in sensitive prices (the weighted 4-month moving average of the monthly changes had a negative effect on the index even though sensitive prices increased at an increasing rate in September), and money supply in 1972 dollars. Vendor performance—percent of companies receiving slower deliveries—contributed the greatest decline.

The composite index of coincident indicators, which is a monthly approximation of aggregate economic activity, decreased 0.1 percent in September to a level of 144.5 (1967=100). On the basis of more complete data, the August index level was revised to 144.6, which is 0.4 percent below the revised July level of 145.2.

The composite index of lagging indicators increased 3.5 percent in September to a level of 173.0 (1967=100). On the basis of more complete data, the August index level was revised to 167.1, which is 1.0 percent above the revised July level of 165.4.

The leading index is designed to predict monthly movements in aggregate economic activity, which is approximated by the coincident index. The lagging index is expected to move, after a time lag, in the same direction as the coincident index and thus to confirm the movements in the coincident index. These concepts are more fully explained in the Handbook of Cyclical Indicators, a supplement to Business Conditions Digest (BCD), available from the Superintendent of Documents at the price of $4.00.

More data on the composite indexes as well as other important measures of economic activity, appear in *BCD*. It is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Annual subscription: $40.00.

Indicator	Basic data						Net contribution to Index [1]		Direction of change August to September
	April	May	June	July	August	September	July to August	August to September	
verage workweek, production workers, manufacturing (hours)	[2] 39.1	40.2	40.1	40.2	[1] 40.1	[3] 40.0	−0.09	0.10	−
Layoff rate, manufacturing (percent) [4]	[2] 1.1	1.0	[2] 1.1	[2] 1.2	[2] 1.5	[3] 1.2	−0.33	0.36	+
New orders, manufacturing, consumer goods and materials (billions of 1972 dollars)	37.16	37.42	36.80	35.80	[2] 35.72	[3] 36.36	−0.01	0.11	+
Vendor performance, companies reporting slower deiveries (percent)	76	76	70	60	55	51	−0.19	−0.17	−
Net business formation (index: 1967=100)	[2] 130.4	[2] 130.1	[2] 131.0	[5] 132.6	NA	NA	NA	NA	
Contracts and orders, plant and equipment (billions of 1972 dollars	[2] 14.79	[2] 13.04	[2] 14.52	[2] 13.31	[2] 13.70	[3] 14.40	0.07	0.14	+
Building permits (index: 1967=100)	122.5	130.7	132.4	123.4	133.6	143.4	0.25	0.25	+
Change in inventories on hand and on order (annual rate, billions of 1972 dollars) [6]	20.02	[2] 16.96	[2] 15.40	[2] 15.38	[3] 13.70	NA	−0.12	NA	
Change in sensitive prices (percent) [6]	2.24	[2] 1.87	[2] 1.79	1.97	[2] 1.97	1.78	0	−0.10	−
Stock prices, 500 common stocks (index: 1941–43=10)	102.07	99.73	101.73	102.71	107.36	[2] 108.60	0.30	0.08	+
Change in total liquid assets (percent) [6]	[2] .76	[2] .76	[2] .81	[2] .88	[2] 0.92	[3] 0.95	0.15	0.12	+
Money supply (M2) (billions of 1972 dollars)	526.2	522.8	523.9	524.4	523.7	[3] 523.4	−0.06	−0.03	−
Percent change in the index [7]							0.07	0.78	

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[1] Net contribution of each individual component is that component's share in the composite movement of the group.

[2] Revised.

[3] Preliminary.

[4] Series is inverted in calculating the composite index of leading indicators: a decrease in the layoff rate is considered an increase in the series.

[5] Estimated.

[6] Smoothed by a weighted 4-mo moving average (with weights 1, 2, 2, 1) placed at the terminal month of the span.

[7] The percent change in the index equals the sum of the net contributions of the individual components plus the trend adjustment factor of 0.099 (except for occasional rounding differences).

NA—not available.

COMPOSITE INDEX OF LEADING INDICATORS (1967=100)

	January	February	March	April	May	June	July	August	September	October	November	December
Monthly:												
1972	118.9	120.3	122.1	122.7	122.9	123.2	124.1	125.8	127.8	129.2	130.1	131.6
1973	132.3	133.4	133.2	132.4	132.4	132.6	132.1	130.9	130.6	130.8	131.1	129.8
1974	130.1	130.4	130.1	127.7	127.0	124.9	123.2	120.5	116.9	114.2	111.3	109.2
1975	106.9	106.4	107.1	109.4	111.9	115.5	118.3	119.2	119.9	120.5	121.2	121.7
1976	124.5	125.7	126.4	126.3	128.0	129.7	130.2	129.9	130.1	129.9	131.8	132.5
1977	131.9	133.0	135.6	136.0	135.8	135.5	135.0	136.9	138.0	139.1	139.4	140.2
1978	139.1	140.3	140.3	141.5	141.8	142.5	141.2	142.0	142.9	[1] 143.6	[1] 142.8	[1] 143.1
1979	[1] 142.5	142.7	[1] 143.2	[1] 139.8	[1] 140.1	[2] 140.5	[1] 140.1	[1] 140.2	[2] 141.3			
Percent change:												
1972	1.2	1.2	1.5	0.5	0.2	0.2	0.7	1.4	1.6	1.1	0.7	1.2
1973	.5	.8	−.1	−.6	0	.2	−.4	−.9	−.2	.2	.2	−1.0
1974	.2	−.2	−.2	−1.8	−.5	−1.7	−1.4	−2.2	−3.0	−2.3	−2.5	−1.9
1975	−2.1	−.5	.7	2.1	2.3	3.2	2.4	.8	.6	.5	.6	.4
1976	2.3	1.0	.6	−.1	1.3	1.3	.4	−.2	.2	−.2	1.5	.5
1977	−.5	.8	2.0	.3	−.1	−.2	−.4	1.4	.8	.8	.2	.6
1978	−.8	.9	0	.9	.2	.5	−.9	.6	.6	[1] .5	[1] .6	[1] .2
1979	[1] .4	.1	[1] .4	[1] 2.4	[1] .3	[1] .3	[1] .3	[1] .1	[2] .8			

Footnotes at end of tables.

COMPOSITE INDEX OF LEADING INDICATORS (1967=100)—Continued

	Quarterly				Percent change			
	I	II	III	IV	I	II	III	IV
1972	120.4	122.9	125.9	130.3	3.5	2.1	2.4	3.5
1973	133.0	132.5	131.2	130.6	2.1	−.4	−1.0	−.5
1974	130.2	126.5	120.2	111.6	−.3	−2.8	−5.0	−7.2
1975	106.8	112.3	119.1	121.1	−4.3	5.1	6.1	1.7
1976	125.5	128.0	130.1	131.4	3.6	2.0	1.6	1.0
1977	133.5	135.8	136.6	139.6	1.6	1.7	.6	2.2
1978	139.9	141.9	142.0	[1] 143.2	.2	1.4	.1	[1] .8
1979	142.8	[1] 140.1	140.5		[1] −.3	[1] −1.9	.3	

[1] Revised. [2] Preliminary.

COMPOSITE INDEX OF COINCIDENT INDICATORS[1] (1967=100)

	January	February	March	April	May	June	July	August	September	October	November	December
Monthly:												
1972	113.8	114.2	115.4	116.4	116.9	116.6	117.5	119.0	119.4	121.3	122.6	123.9
1973	124.8	126.1	126.7	126.6	126.9	127.2	127.7	127.2	127.9	128.9	129.7	129.0
1974	127.7	127.0	126.9	126.6	127.0	127.1	126.9	126.1	125.4	124.2	121.2	117.7
1975	115.4	113.7	112.3	112.6	113.4	114.2	115.1	116.7	117.5	117.9	118.4	118.9
1976	120.3	121.6	122.4	123.3	123.4	123.6	124.0	124.3	124.3	124.1	125.6	127.1
1977	126.3	127.6	129.7	130.0	130.6	131.3	131.7	131.9	132.6	133.8	134.7	135.7
1978	134.0	135.0	136.9	139.3	139.5	140.1	140.5	141.4	141.4	[2] 143.0	[2] 144.3	145.5
1979	144.8	144.9	[2] 146.6	[2] 144.1	[2] 145.6	145.0	[2] 145.2	[2] 144.6	[3] 144.5			
Percent change:												
1972	1.6	0.4	1.1	0.9	0.4	−0.3	0.8	1.3	0.3	1.6	1.1	1.1
1973	.7	1.0	.5	−.1	.2	.2	.4	−.4	.6	.8	.6	−.5
1974	−1.0	−.5	−.1	−.2	.3	.1	−.2	−.6	−.6	−1.0	−2.4	−2.9
1975	−2.0	−1.5	−1.2	.3	.7	.7	.8	1.4	.7	.3	.4	.4
1976	1.2	1.1	.7	.7	.1	.2	.3	.2	0	−.2	1.2	1.2
1977	−.6	1.0	1.6	.2	.5	.5	.3	.2	.5	.9	.7	.7
1978	−1.3	.7	1.4	1.8	.1	.4	.3	.6	0	[2] 1.1	.9	.8
1979	−.5	.1	[2] 1.2	[2] −1.7	1.0	[2] −.4	[2] .1	[2] −.4	[3] −.1			

	Quarterly				Percent change quarterly			
	I	II	III	IV	I	II	III	IV
1972	114.5	116.6	118.6	122.6	3.2	1.8	1.7	3.4
1973	125.9	126.9	127.6	129.2	2.7	.8	.6	1.3
1974	127.2	126.9	126.1	121.0	−1.5	−.2	−.6	−4.0
1975	113.8	113.4	116.4	118.4	−6.0	−.4	2.6	1.7
1976	121.4	123.4	124.2	125.6	2.5	1.6	.6	1.1
1977	127.9	130.6	132.1	134.7	1.8	2.1	1.1	2.0
1978	135.3	139.6	141.1	144.3	.4	3.2	1.1	2.3
1979	[2] 145.4	[2] 144.9	[3] 144.8		.8	−.3	[3] −.1	

[1] Includes Employees on nonagricultural payrolls; Industrial production index; personal income less transfer payments in 1972 dollars; manufacturing and trade sales in 1972 dollars.

[2] Revised.

[3] Preliminary.

COMPOSITE INDEX OF LAGGING INDICATORS[1] (1967=100)

	January	February	March	April	May	June	July	August	September	October	November	December
Monthly:												
1972	105.4	104.6	104.9	105.6	106.3	106.9	106.9	107.2	108.1	108.9	109.5	110.2
1973	112.5	114.2	115.9	118.2	119.5	121.7	124.4	127.4	129.6	129.6	130.0	131.5
1974	132.9	131.8	131.5	135.5	139.4	140.4	142.2	142.6	143.2	143.1	141.9	141.9
1975	140.6	135.9	132.4	129.0	126.9	122.4	122.7	122.4	122.1	122.7	120.6	120.1
1976	119.5	119.0	118.7	118.7	119.2	120.1	120.4	120.0	121.1	120.7	120.2	119.9
1977	120.2	121.0	121.7	122.3	123.1	125.0	125.2	126.5	127.8	129.4	131.1	131.7
1978	134.1	135.9	137.2	137.8	140.0	142.9	143.5	144.5	146.4	148.1	152.7	155.2
1979	157.5	158.5	158.5	161.9	162.5	164.0	[2] 165.4	[2] 167.1	[3] 173.0			
Percent change:												
1972	−1.1	−0.8	0.3	0.7	0.7	0.6	0	0.3	0.8	0.7	0.6	0.6
1973	2.1	1.5	1.5	2.0	1.1	1.8	2.2	2.4	1.7	0	.3	1.2
1974	1.1	−.8	−.2	3.0	2.9	.7	1.3	.3	.4	−.1	−.8	0
1975	−.9	−3.3	−2.6	−2.6	−1.6	−3.5	.2	−.2	−.2	.5	−1.7	−.4
1976	−.5	−.4	−.3	0	.2	.8	.2	−.3	.9	−.3	−.4	−.2
1977	.3	.7	.6	.5	.7	1.5	.2	1.0	1.0	1.3	1.3	.5
1978	1.8	1.3	1.0	.4	1.6	1.4	1.1	.7	1.3	1.2	3.1	1.6
1979	1.5	.6	0	2.1	.4	.9	.9	[2] 1.0	[3] 3.5			

	Quarterly				Percent change			
	I	II	III	IV	I	II	III	IV
1972	105.0	106.3	107.4	109.5	−1.7	1.2	1.0	2.0
1973	114.2	119.8	127.1	130.4	4.3	4.9	6.1	2.6
1974	132.1	138.4	142.7	142.3	1.3	4.8	3.1	−.3
1975	136.3	126.1	122.4	121.1	−4.2	−7.5	−2.9	−1.1
1976	119.1	119.3	120.5	120.3	−1.7	.2	1.0	−.2
1977	121.0	123.5	126.5	130.7	.6	2.1	2.4	3.3
1978	135.7	139.9	144.8	152.0	3.8	3.1	3.5	5.0
1979	158.2	162.8	[3] 168.5		4.1	2.9	[3] 3.5	

[1] Includes average duration of unemployment; labor cost per unit of output, manufacturing; manufacturing and trade inventories in 1972 dollars; commercial and industrial loans outstanding.

[2] Revised.

[3] Preliminary

THE CONSTITUTION AND THE GENOCIDE CONVENTION ARE CONSISTENT

Mr. PROXMIRE. Mr. President, I would like to once again comment on an article entitled "Constitutional Rights and Human Rights" by Prof. Louis Henkin.

In examining American policy on international human rights law, Professor Henkin criticizes our Nation's inconsistency. He points out that arguments against ratification of certain human rights agreements, including the Genocide Convention, have been proven without substance and should be abandoned.

Two such arguments are based on faulty constitutional grounds—first, that human rights treaties deal with matters reserved to the States, and, second, that these treaties infringe on the authority of the Constitution. Professor Henkin is one of many constitutional experts who refute these arguments.

Since World War II, human rights have been handled on an international level, through treaties and agreements, without contradicting States rights. *Missouri* v. *Holland* (252 U.S. 416) is only one court decision which shows that treaties do not violate States rights.

Nor could human rights treaties be used to subjugate the Constitution to international law. As in *Reid* v. *Covert* (354 U.S. 1), many judicial decisions have proven that the Constitution simply cannot be overridden by international treaties.

Those who oppose the Genocide Convention on constitutional grounds, base their arguments on rhetoric, not reality. Professor Henkin points out the fact that former Senator Bricker, for years a leading opponent of the Genocide Treaty, implied through his own actions that the Constitution does not forbid human rights treaties. The following passage from Professor Henkin's article reveals the ironic truth:

> That Senator Bricker sought for years, unsuccessfully, to amend the Constitution to limit the treaty power, principally to prevent United States adherence to human rights conventions, is evidence that in his view and that of his supporters, the Constitution would not prevent such adherence if not amended.

It is time we face reality. It is time we remove the obstacles blocking America's crusade for human rights. It is time we ratify the Genocide Convention.

RECOGNITION OF SENATOR NUNN

The PRESIDING OFFICER (Mr. Exon). Under the previous order, the Senator from Georgia (Mr. Nunn) is recognized for not to exceed 15 minutes.

Mr. NUNN. Mr. President, I ask unanimous consent that the time allotted the majority leader, which I believe is 15 minutes, be assigned to me.

Mr. PROXMIRE. Mr. President, I yield whatever time I may have remaining to the Senator from Georgia.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. I thank the Senator from Wisconsin.

Mr. President, I yield to the Senator from Kansas whatever time she desires.

Mrs. KASSEBAUM. I appreciate the Senator from Georgia yielding me a few minutes.

STARVING CHILDREN IN CAMBODIA

Mrs. KASSEBAUM. Mr. President, I am joining this morning with elected women around the world in making a concerted effort to address the problem of children starving in Cambodia.

I think we would all agree that the children have had no part in the terrible struggles that have caused the situation that has developed in Cambodia.

We are hoping through concerted efforts that the doors can be opened to at least give assistance to the children.

I think it is interesting to note that in 1921, as starvation was rampant in the Soviet Union, finally concerted pressures around the world allowed the doors to be opened in assistance to children, and that 1 million children were saved at that time.

The Soviet Union has since acknowledged their appreciation that that effort had been made. I think it is time now the Soviet Union recognizes, as well as the Government of Vietnam, that they must open their doors and allow assistance to be given to the children who are dying of starvation in Cambodia.

Isadora Duncan said, "So long as little children are allowed to suffer, there is no true love in this world."

Mr. NUNN. Mr. President, I commend the Senator from Kansas for that excellent statement, and I associate myself with her remarks.

That is a message all of us need to hear and the whole world needs to hear, and I hope the Soviet Union will pay some heed to the plea that has been made.

I also hope the Soviet Union will consider the many requests coming from many parts of the world to join in an effort to help take care of the starving people in South Asia.

This is one of the tragedies that has occurred in the last hundred years, and I think it is up to all of us to do everything we can to raise our voices in order to alert the world that, while we are watching on television a holocaust which took place in the 1940's, another holocaust is taking place before our eyes.

So I commend my colleague from Kansas.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. NUNN. I yield.

Mr. ROBERT C. BYRD. Mr. President, I, too, associate myself with the remarks made by the able Senator from Kansas. I join the distinguished Senator from Georgia in expressing the hope that there will be those who will listen: the Phnom Penh authorities, the Vietnamese authorities, and the Soviets, who I hope will bring to bear whatever good offices they can bring to bear, in an effort to influence the Phnom Penh authorities to open up their hearts to the suffering and have some compassion for innocent people—men, women, and children.

We all want to see people live. We want to help people to live.

This is a tragic thing; barbaric; something that is unbelievable. It is inconceivable that any government that purports to be a civilized government would act so heartlessly to reject the mere offer of food for saving dying men, women, and children.

I congratulate the Senator from Kansas.

ORDER FOR RECESS UNTIL 12:30 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I have had difficulty securing consent for the Foreign Relations Committee to meet while the Senate is in session. I am told by the Foreign Relations Committee chairman that it is important that Mr. Javits, who is the ranking minority member on that committee, remain in the committee during the markup today, since the committee can only meet until 12:30 today under the rules.

That being the case, it would be difficult for a manager to be procured for the refugee assistance bill, because the manager, I believe, must be out of that committee, and the ranking minority manager also would be from that committee.

Therefore, I ask unanimous consent that when Mr. Nunn completes his statement under the order, the Senate stand in recess until 12:30 p.m. today, and at that time the Senate then proceed to the refugee assistance bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that my 5 minutes under the standing order of the leader be transferred to the control of Mr. Nunn.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, if any time has been yielded back thus far by any Senator who has an order, I ask unanimous consent that that time be transferred to the control of Mr. Nunn, if he should require it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Senator for yielding.

SALT AND NATIONAL SECURITY: WHERE DO WE GO FROM HERE?

Mr. NUNN. Mr. President, as I stated on July 25, I cannot in good conscience support ratification of the SALT II treaty in the absence of a firm, public commitment by the administration to request and fight for substantial annual real increases in defense spending on the order of 5 percent or more in budget authority over the coming years. In my judgment, such increases are essential if we are to begin to halt the adverse trends in the East-West military balance and if the SALT II debate is to be something more than one more milestone marking the emergence of Soviet military superiority.

I am convinced that the fundamental issue for our Nation and for the Senate is not the treaty alone, but rather the degree to which we as a nation are prepared to recognize and arrest the continuing slippage that has taken place in the American military posture during the past 15 years. American military power has failed to keep pace with an unparalleled Soviet military buildup and an increasingly aggressive Soviet intervention policy.

Since 1970, the Soviet Union has invested a total of $104 billion more than the United States in military equipment and facilities, and $40 billion more in research and development. Soviet foreign policy, invigorated by this relentless military buildup and uncertain American response to it, is seeking to gain a stranglehold over the economic foundations of Western prosperity and military power. This is the common denominator of Soviet activities in Angola, Ethiopia, South Yemen, Afghanistan, elsewhere in Africa, the Middle East, and South Asia.

The SALT process has not caused the erosion in America's military position, but neither has it prevented that erosion, nor will its ratification solve it. A sedative does not cure the disease, but it can dull the pain to the point that the patient does not seek immediate treatment. The cure lies not in the treaty, but in ourselves: We simply have not competed effectively with the Soviet military buildup that has continued steadily since the mid-1960's. The issue now is whether we are prepared to do so.

In the strategic nuclear area that SALT deals with directly, it is evident that we will need larger expenditures to maintain essential equivalence. These larger expenditures must not occur at the expense of general purpose forces and readiness.

Yet, this is exactly what was occurring as of July 1979. The executive branch was "robbing Peter to pay Paul," within the budget process while the Congress, led by the House Defense Appropriations Subcommittee, was cutting back on readiness. Unless we have a definite commitment and pronounced leadership for larger and more effective military budgets, this Nation will be indulging in a national security charade. As one Senator, I cannot prevent this charade; but if these conditions continue, I will not become part of it by voting for SALT II.

This is why I asked for a dedicated additional defense effort and why I requested to see the evidence of the Presidential commitment in the form of the 1981 budget and the new 5-year defense plan prior to a vote on SALT II.

The military problems we face have been 15 years in the making and cannot be resolved overnight. I do not pretend to be the Secretary of Defense, nor will I attempt to play that role. I am aware that the U.S. Constitution, the two-year term of Congress, and the 4-year Presidential term prevent legally binding multiyear defense spending commitments. But the word must go out to our allies and adversaries alike—the slumber is over—America has awakened. That is the real significance and importance of the defense budget plans and figures that will be submitted next month, and in January, and in the years ahead.

National security goals, budgets, and efficiency—these should be the three focal points underlying the debate over our future national security. They are all interrelated.

A totalitarian government would never admit its military weaknesses in public. In a democratic society, however, if we are going to engage in a meaningful debate on national security goals, missions and budgets, we must candidly recognize the weakness in our current posture and the adverse trends.

First. We have lost strategic nuclear superiority. We are now in a tenuous position that I would characterize as clinging parity.

Second. The Soviets have achieved an advantage in long-range theater nuclear forces in Europe. NATO's theater nuclear weapons are too limited in range and too vulnerable to preemption. NATO's general purpose forces are not trained for sustained combat in a nuclear or chemical environment.

Third. NATO has a questionable capacity to sustain a conventional defense of Europe because of continuing severe shortages in available stocks of ammunition and war reserve equipment, a lack of sufficient strategic sea and air lift resources, and the absence of a reliable manpower mobilization base. To put it simply, the United States no longer has strategic nuclear superiority, but this fundamental change is not reflected in NATO's theater nuclear and conventional force posture.

Fourth. Because of the shortages in strategic lift, the U.S. capability to rapidly deploy sizable forces to the Indian Ocean, the Middle East or elsewhere is questionable at best.

Fifth. The chronic shortages in funding for training, operations and maintenance that have plagued all the services during the past decade have reduced the readiness of much of our force structure. While there is no political lobby for readiness, there is no military substitute for it.

Sixth. Our dwindling Navy is spread too thin today. With the Western World growing more dependent on foreign sources of oil, the U.S. Navy is being given more missions and more responsibility with fewer ships being built every year. We cannot continue to expand naval requirements while reducing naval capabilities.

It is apparent to all objective observers that we have problems. I am not suggesting that there is a cause for panic or for scare tactics. I am not suggesting sudden massive increases in defense spending. The budget must, however, demonstrate a solid commitment to modest but steady increases in defense spending for the foreseeable future. It must show a commitment to getting more military muscle out of the defense budget, as well as a determination to develop more realistic national security goals for the 1980's and beyond.

Most of all, the American people must be told the facts. While continuing to seek ways to achieve meaningful arms control, the United States must demonstrate that it is totally committed to provide for its national security. We have gone for too long a time without that demonstration. Without it, we cannot maintain an adequate defense posture with or without SALT II.

It is obvious that the United States cannot, without spending more on defense than we have during the past decade:

First. Assure essential equivalence at the strategic nuclear level;

Second. Redress the theater nuclear imbalance in Europe;

Third. Contribute to the creation of a truly formidable NATO conventional deterrent;

Fourth. Expand the capabilities of our Navy; and

Fifth. Establish a flexible, mobile combat force.

Whether the increase in the U.S. defense budget over the next 5 years is 3 percent, 5 percent, 7 percent, or even 10 percent, the United States cannot do it alone. These challenges must be met in concert with our allies in the free world.

Thirty-five years after World War II, America is at a crossroads as to our national security goals. We came out of that war with overwhelming military and economic strength and were largely self-sufficient. Much of the rest of the world was in ruins. Our allies needed us more than we needed them, and our adversaries feared and respected us. The world is now a different place.

Russia has built a massive military machine; Western Europe and Japan are economic superpowers; the United States has lost its nuclear dominance and has become economically dependent on overseas sources for oil and many key raw materials.

The time has come to recognize that this fundamental shift has altered our traditional military requirements and has imposed upon the Atlantic Alliance and our Pacific allies the need for greater investment in defense and greater military specialization and cooperation.

NATO was created as an instrument to protect Western Europe from a direct military attack by the Soviet Union, yet the security of Western Europe today is just as sensitive to events in the Middle East and in the Indian Ocean as it is to the events along the German border. The same can be said of Japanese dependence on these areas.

The United States possesses inherent advantages in strategic and theater nuclear arms, in naval power, and the ability to project military force in areas distant from Europe.

Our NATO Allies, for political as well as military reasons, are not in a position to unilaterally guarantee their own securities against nuclear threats, or threats to their economic lifeline outside of Europe. We must remain the leading partner in these areas, but our partners must help.

Our NATO partners enjoy a natural advantage in conventional ground and tactical air forces confined to the European theater. The United States alone has never been in a position to guarantee the conventional defense of Western Europe. NATO has never felt the necessity of providing essential equivalence in the conventional arena because of America's nuclear guarantee. Because of shifts in the strategic balance, this complacency must end. Soviet essential equivalence in the nuclear balance must be met by NATO essential equivalence in the conventional balance. America must play a role as a contributing partner, but our European allies must assume the role of leading partners in achieving essential equivalence in the conventional arena.

While we should continue to carry out our share of the NATO long-term defense plan, the United States must for the foreseeable future devote an increasing proportion of our defense effort to upgrading and expanding our Navy and Air Force for contingencies outside Europe.

The sea lanes in the Indian Ocean are as vital to Europe as are the highways and railroads in central Europe. Only with America as the leading partner can we defend the former. Only with the Europeans as leading partners can we defend the latter.

Japan too must be prepared to assume a substantially larger responsibility for her own defense against immediate threats to her own territory. The United States should not seek to substitute improved Japanese military power for U.S. military presence in Asia. Improvements in Japan's self-defense efforts, however, may permit U.S. forces to shift more of our attention to other priority missions such as defense of U.S. and Japanese sea lines of communication at extended distances from Japan, particularly in the Indian Ocean.

The United States has of necessity been the leader of the free world in military matters since World War II. We must continue to lead, but in the context of a maturing partnership cognizant of the fundamental changes that have occurred in the last decade.

Our challenge is to consider these fundamental changes and to develop national security goals which are clearly understood by the American people. We can no longer rely primarily on nuclear dominance and slowly mobilized industrial capacity to deter war. We must take a fresh look at our national security goals in close consultation with our allies.

I have never subscribed to the notion that military problems can be solved by simply throwing money at them. We must tighten our belt so that any additional funds can buy hard military muscle. There are several areas that merit our attention:

First. Our gift for technological innovation has enabled us to produce the most sophisticated systems in the world. Our present challenge is to also use our know-how and technology to build durable weapon systems that can be maintained in the field and afforded in sufficient numbers to carry out our defense missions. The world's most sophisticated fighter plane cannot defeat Soviet airpower if it is constantly in the shops for repairs. Nor can the world's greatest tank prevail if outnumbered 5 to 1.

Second. We must limit and reduce the proportion of the budget used for manpower—even if it requires our political leaders to make uncomfortable choices.

The Volunteer Force was based on the theory that all the taxpayers should bear the additional cost of manpower directly, rather than impose an implicit tax on those drafted. Like most Washington theories, this one has been only 50 percent implemented. The additional manpower cost has not been borne by increased general taxes or reduced social spending, but instead comes directly from the other parts of the defense budget.

In 1964, manpower costs accounted for 48 percent of the defense budget. If the manpower proportion had remained constant at the 48-percent level between 1970 and 1978, we would have had an additional $100 billion in today's dollars to spend on military investment and readiness rather than manpower. Additional defense funds which are made available should not be gobbled up just to keep bailing wire and bandaids on a policy that has lost its logical credibility but not its political support.

Third. We must also reassess the current practice of stretching our readiness dollars over the entire force structure. We must carefully examine the feasibility of staggering levels of readiness for U.S. units in conjunction with their planned deployment schedules.

Fourth. We must be no less innovative in exploiting our advantage in land-based tactical airpower. It is a paradox that we continue routinely to maintain our sea-based tactical airpower on station in areas where we have at hand a comparatively large force of land-based tactical air forces; yet, only occasionally do we deploy carriers in the Indian Ocean, a place we have no land-based aviation.

Thus far, I have outlined three fundamental factors needed to redress our military posture—a determination of national security goals, increased defense spending, and a stricter setting of military priorities to get more out of the defense dollar. I recognize that progress in strategy, budgets and efficiency is highly interdependent and difficult, but we must get the improvement process moving—and moving now.

As a first step, the administration has agreed to submit to the Senate a comprehensive outline of the 1981 budget and 5-year defense plan with budget figures in November prior to the debate on SALT II. The substance of these documents, however, remains unknown. As a bare minimum, I would expect this November plan to include:

First. A clear unambiguous commitment together with a public explanation of the need to make real increases each year in defense purchasing power for as long as the Soviets continue their substantial military buildup.

Second. A clear and unambiguous commitment to request and fully support defense budgets for fiscal year 1981 through fiscal year 1985 which allow real growth in defense budget authority on the order of 5 percent annually or more.

Third. An explicit identification of the inflation estimates contained in each year of the 5-year budget.

Fourth. A commitment to a new process of requesting annual supplemental budgets to make up for unpredicted increases in inflation or reductions made by Congress in inefficient programs.

Fifth. A firm commitment to a process of getting more military strength from the defense dollar by setting a limit on the proportion of manpower costs in the defense budget.

In the final analysis, my primary criteria for judging the adequacy of the defense budget for the next 5 years will be the extent to which it effectively addresses the deficiencies which I have outlined.

Adjusting the fundamental factors behind our military posture—national security goals, budgets, and efficiency—will take time. But we must begin.

Above all, I will be looking for leadership. The President must lead. The President of the United States is the leader of the American people and the free world. He must alert the Nation and our allies to what has transpired in the global military arena for the past 15 years. He must employ the enormous educational power of his office to inform the American people, and those who look to the United States for leadership, of the adverse trends in the defense posture of the Western World, and stimulate the development of the new mature partnerships that are needed.

He must explain the nature of the challenge—the fact that the Soviet Union is spending 11 to 15 percent of their GNP on defense—the fact that the United States is now spending less of our GNP and less percentage of our national budget on defense than at anytime since before the Korean war.

He must make it clear that the United States can pursue arms control and at the same time compete effectively to protect our security.

He must formulate the necessary remedies, explain their need to the American people, the Congress, and our allies, and fight for their enactment.

We have reached a point in the history of America and the free world where steady, unwavering and unequivocal Presidential leadership on defense issues is the prerequisite to preparedness, to deterrence, and to meaningful arms control agreements.

Mr. President, I thank the Senator from West Virginia for yielding to me.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. NUNN. Yes, I will be glad to yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I sat here listening to the speech of the distinguished Senator from Georgia, and I want to compliment him. It is the kind of speech we should be hearing here almost every day.

Our country has never been in as bad condition militarily in my lifetime, and I have been associated actively with the military 37 years of my life, and 13 years since my retirement.

Our personnel in the Reserve are one-half of what they should be; in the

National Guard the personnel are one-half of what they should be.

As the Senator mentioned, we are outnumbered in tanks 5 to 1. We do not even have a workable main battletank. We have been working on it since World War II.

We are outnumbered in tactical aircraft 2 to 1. Our Navy was in better shape before Pearl Harbor than it is today.

I get sort of, not amused but, a frightened feeling when people advocate that the President might consider sending forces to protect our oil sources in Arabia. Mr. President, we do not have enough forces to send anyplace. I would have a hard time—and I hate to say this—thinking of a country we might have a chance of whipping on the ground.

Our airpower is a different thing. We still retain qualitative superiority in the air even though we are outnumbered.

They talk about the lack of Soviet strategic air forces. They have as many strategic bombers as we have. They have a Backfire bomber that can deliver bombs on the soil of the United States, land in Cuba, and return.

So, Mr. President, with all this talk of SALT coming up, I think the important thing is not SALT because, unfortunately, SALT does not disarm either side in nuclear power, and both sides have more nuclear power today than either side needs.

I would like to see a treaty that says, "Let us start disarming," not unilaterally but multilaterally to the end that we can eventually do away with nuclear forces and depend, if we have to depend, on a system for wars on conventional arms.

Again I admire the Senator for the position he has taken. It is my pleasure to serve on the Committee on Armed Services with him. We respect him for his knowledge, we respect him for his courage in speaking out.

I again thank the Senator for the message he has given the American people. I can only say there is a hopeful sign. Polls I have seen in the last few days show that the American people are becoming aware of the pitiful plight of our military and want us to do something about it.

In closing, I say to my friend from Georgia, who serves with me, that we can do a big job in the Committee on Armed Services by cutting down on the waste that the Senator and I know occurs in the Pentagon.

Why, for example, should we have three Air Training Commands? We only need one.

Why should we be training Navy helicopter pilots by the Navy while the Army and the Air Force train under the Army?

Why do we have four Tactical Air Forces? Why do we have now three Materiel Airlift Commands when the design is to have one?

I think it is time our Committees on Armed Services in both Houses take the Pentagon to task, rake them over the coals, and tell them instead of them telling us what we think they should have and how much of it they should have.

Again to you, sir, my thanks for a very, very fine job.

Mr. NUNN. I thank my colleague from Arizona for those words, which mean a great deal coming from him. I do not know anyone who has been as stalwart about national security consistently as the Senator from Arizona. He is one of the strongest voices for national security in this country, and has been for many years.

So I thank him for his assessment and his kind words.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. NUNN. I yield to the Senator from California.

Mr. CRANSTON. I, too, want to express my admiration for the very thoughtful statement made by the Senator from Georgia, who has been so diligent and dedicated in learning about, understanding and setting forth for the benefit of others the condition as he sees it of our military preparedness and nonpreparedness.

I believe, with the Senator, that it is very important that we insure that we have the strength we need to deal with reality in a dangerous world. I am prepared to work with him to that end.

I trust, also, that we will be able to mesh a sound policy of power with a sound policy of peace and move toward the sort of a SALT structure that I gather the Senator from Arizona had in mind as he expressed the wish that SALT would lead to real cuts in nuclear armament. If that can be done, we will be far more secure if it is done on a mutual basis with the Soviet Union.

I also feel that it is very necessary to do our utmost to insure that money invested in military matters is not wasted. There is plainly a significant amount of expenditure, as the Senator from Arizona stated, that is unnecessary. If we can rid ourselves of that, it will be far easier to have the funds available for the sort of preparedness that the Senator from Georgia outlines.

It is also important for another reason. We are plagued with deficits; we are plagued with inflation. We are going to have difficulty in securing the funds that some believe are needed for our national defense, because of the problems of an unbalanced budget and perhaps a larger deficit next year than this year.

If we could find ways to eliminate the spending that is not necessary, it would be a simple task to provide the funding that is necessary.

I had one question that I wanted to ask the Senator: In referring to the diminishing funds available for manpower since 1964, he used the figure of $100 billion that would have been available.

Is that a cumulative figure from 1964 to now?

Mr. NUNN. That is a little bit tricky. I am not suggesting that we can go back to the 1964 percentage for manpower. What I am saying is, if he had kept the proportion allocated to manpower in the budget in the year 1964, and if we applied that figure, that proportion, which was about 48 percent, to the defense budgets that have been submitted since 1970, from 1970 to 1978, through those 8 years, cumulatively, we would have had $100 billion more. I am not counting the years from 1964 to 1970. I am applying it to the decade of the 1970's. The reason for that kind of comparison is because we have had a spending gap with the Soviet Union of $104 billion.

I think it is interesting to note what could have happened. I am not saying we could go back to the 1964 manpower situation. I think that would be totally impossible. What I see coming right now, as we stand here talking, there are people in the Pentagon who are scratching out ways to maintain the Voluntary Force levels by pouring out more money in the front end.

Not only that, it is taking money out of the defense structure because it is coming out of the total budget. It is also having a regressive effect on career benefits for the people staying in for 20 or 30 years. What we are getting is the worst of both of those worlds. We are getting higher attrition at the front end. We are having a tremendous turnover. We are having more and more training costs. We are seeing deterioration in the quality of the forces. We are seeing tremendous pressures on recruiters for numbers and yet seeing more and more of our defense dollars not only going for manpower, but going to the very early stages when people were in the service, instead of spreading it over a career force.

It is not only the reduction in benefits in the career force that is perceived that is causing the problem, it is the fact, particularly in the enlisted ranks, that so much of the progress young enlisted persons can make in their military careers comes in their first 4 years. After that, there is not a lot to look forward to in terms of promotions or in terms of increased pay, because we have front-loaded the personnel system.

So what I am saying to the Senator from California is that the President has got to come to grips with this problem, the Congress has got to come to grips with it, and the American people have.

We have to say that we are not going to spend but so much of our defense budget on manpower. If we get over that, and the Volunteer Force will not work, then we are going to have to start looking for alternatives.

I suggest to the Senator from California that the budget that may be coming up here within 10 days may contain an inordinate amount of money simply to keep the manpower we have got today in the services. I think that that is something we cannot continue to do.

If they come up with a budget that is going to be front loaded with more bonuses, more first-term pay, and that kind of thing, then we are going to have to ask the question, "How far are we willing to go to keep the Volunteer Force going?"

I think the recruiting problems that are being experienced now and the recruiting scandals we have read about in the papers, are only the tip of the iceberg of what is coming in the future. We are having the young sergeants who are out there, and some of the top people in the military, who are having tremendous pressure put on them to meet quotas.

The Secretary of Defense, in his posture statement this year—it was not picked up much in the press—basically said, very frankly, if you read it very carefully, that we are going into an era of more money going into recruiting with less quality coming out.

We simply have to come to grips with that. I do not know the answers. But I do know that the answer is not in the direction we are going today.

Mr. CRANSTON. I thank the Senator very much for a very lucid explanation. I look forward to working with him to find those answers, as well as on the defense budget and the matter of arms control, which should be a policy that accompanies a policy of power based upon adequate defense. I thank the Senator from Georgia.

Mr. NUNN. I thank the Senator from California. I certainly share his goals and look forward to working with him. I thank him for his kind remarks.

Mr. President, I do not know how much time I have remaining, but I would be glad to yield back the remainder of my time.

RECESS UNTIL 12:30 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 12:30 p.m.

Thereupon, at 11:46 p.m., the Senate took a recess until 12:30 p.m., whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. BAUCUS).

MIGRATION AND REFUGEE ASSISTANCE

The PRESIDING OFFICER. Under the previous order the Senate will now resume consideration of the pending business, S. 1668, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 1668) to authorize additional appropriations for the Department of State for migration and refugee assistance for fiscal years 1980 and 1981.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally against both sides on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McGOVERN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, it is my understanding that the measure now before the Senate is Senate bill 1668.

The PRESIDING OFFICER. The Senator is correct.

Mr. McGOVERN. Mr. President, the purpose of this bill is to authorize additional appropriations for fiscal years 1980 and 1981 in the amounts of $207,290 million and $203,610 million respectively for the Department of State to finance the migration and refugee assistance program. These amounts will raise the total figures authorized for migration and refugee assistance to $456,241 million for fiscal year 1980 and $457,798 million for fiscal year 1981.

Although the United States provides assistance for refugees throughout the world, the additional funds authorized by this bill are necessary chiefly because of the dramatic upsurge in refugees in Southeast Asia. Hundreds of thousands of Vietnamese have fled Vietnam. War and government repression in Laos and Kampuchea have created a refugee population of about 200,000 people in Thailand, whose plight is sometimes obscured because of the less dramatic nature of their flight. Another quarter of a million estimated people have fled to the People's Republic of China since early 1978.

With 60,000 refugees a month arriving in the Southeast Asian countries early this summer, these countries began turning away new arrivals and threatening to expel others unless the international community demonstrated a willingness to accept more refugees for permanent resettlement.

I think Senators can appreciate the dilemma these small, in some cases impoverished, countries were faced with in trying to absorb a flood of needy people from outside their own borders.

President Carter's announcement at the Tokyo summit that the United States would raise its monthly quota from 7,000 to 14,000 provided the impetus that was needed to deal with this tragic situation. Other countries strongly criticized Vietnam's harsh actions, and Vietnam's increasing isolation and growing economic problems led it to reassess its position and policies. Hanoi curtailed—at least for a time—the mass expulsion of its own citizens. The refugee flow dropped to about 10,000 persons in August. Unfortunately, we cannot count on such restraint continuing into the future. In addition, a Vietnamese military offensive has been launched against the guerrilla forces under Pol Pot in Cambodia. The effect of renewed war and famine in Cambodia could be to stimulate a large new influx of refugees into Thailand. We must be prepared for such an eventuality even as we try to do what we can to prevent it.

This bill authorizes $84 million of additional funds to support the Southeast Asian program of the U.N. High Commissioner for Refugees, and it authorizes $105 million more to pay the costs associated with the doubling of the U.S. refugee quota.

What are the essential elements of an appropriate U.S. policy in this tragic situation? First, the United States must update its laws dealing with all refugee matters, and not just those from Southeast Asia. S. 643, the Refugee Act of 1979, which has passed the Senate by a vote of 85 to 0, does this by creating more realistic and regular procedures for dealing with refugee matters.

Second, the United States must continue to press other countries to respond more generously to the needs of the Southeast Asian refugees. Our efforts along these lines have already had beneficial results, for other countries pledged at the Geneva Conference in July to increase the number of refugees they would accept for resettlement from about 36,000 during the previous 12 months to nearly 124,000 during the following year.

The Southeast Asian countries must not turn away those who have risked so much for freedom, but must continue to provide a place of first asylum, and yet they cannot be expected to accept unlimited numbers of refugees unless they have confidence that other nations will in time provide places of resettlement. Refugee processing centers are urgently needed in Southeast Asia, and renewed efforts to establish those centers are essential.

An internationally supervised program providing food and medicine to the people of Cambodia is also essential. If this is not done—and, Mr. President, these figures seem almost beyond comprehension—some authorities estimate that 2 million to 3 million Cambodians could die. This would be a holocaust on a scale that I think almost boggles the mind. It would exceed those killed in some of the major wars in the history of mankind, and it would produce a new flood of refugees that would move into Thailand and other countries.

Mr. President, when the Committee on Foreign Relations was considering this problem, I offered an amendment to the bill, which was unanimously adopted by the Committee on Foreign Relations. It gives the President the authority to spend up to $30 million of funds that have already been appropriated in the foreign aid program. In other words, without adding to the overall size of the foreign assistance program, this amendment, which I sponsored in the committee, would give the President the right to transfer within existing funds up to $30 million of foreign aid funds that could be utilized to meet this tragic situation in Cambodia.

It gives the President the flexibility to respond quickly to an emergency situation. Such action, of course, carries no implication of U.S. recognition of the Vietnamese-imposed government in Cambodia.

I think we have to remember at all times that the American response to this tragic problem of massive starvation in Cambodia is not a political response. It is not an endorsement or a condemnation or a moral judgment on the government, such as it may be, that is in power in Cambodia, but simply a response of human beings to the suffering of other human beings, many of whom are innocent infants who are faced with certain death if outside countries do not respond quickly to this tragic problem.

The need for other countries to do more should not be used as a reason for the United States to do less. I think President Carter is to be commended for his decision to increase the number of refugees that we would accept.

This will not be easy. Obviously, it will produce some anxiety among some of our own people, at a time when jobs are in short supply, that we undergo an influx of additional people who will need employment.

On the other hand, we should not exaggerate the difficulties. Over three-fourths of the Indochinese refugees who have already come are already basically self-supporting within a year of their arrival, and a large percent of them are working at jobs that are unattractive to many Americans.

We must, of course, make sure that helping the refugees does not hurt American citizens who are concerned about unemployment and inflation. Sound and imaginative Government policies dealing with energy and the economy are needed so that all can benefit from the great opportunities available in the United States.

Finally, Mr. President, no effort to deal with the Southeast Asian refugees will be successful unless there is a diplomatic solution to the conflicts in that area.

I would like to add that I believe the Senate has an excellent record of responding to these tragic situations. We have demonstrated our concern time and time again, and once more we have the opportunity through this legislation to put that concern into concrete terms.

As far back as October 12, 1978, I was joined by 79 other Senators in a letter that I drafted to Secretary Vance urging him to consider a U.S. initiative to place the Cambodian crisis on the agenda of the U.N. Security Council for appropriate action.

This was at the time when, according to all reports, tens of thousands, if not hundreds of thousands, of people were being killed in Cambodia by their own Government.

We wrote as follows:

> An initiative of this kind would still be useful as a demonstration of our view that Cambodia has become a uniquely horrible situation warranting a uniquely vigorous response from the world community.

On June 19 of this year the Senate passed by a vote of 98 to 0 an amendment of mine stating that it was the sense of the Senate that the President should call on the Secretary General of the United Nations to convene an emergency session of the General Assembly to deal with the refugee crisis. A large bipartisan group of Senators was prepared to join with Senator DOLE and me, the sponsors of that amendment, in calling up our resolution that would have directed our ambassador to the United Nations to place the question of Cambodian food and medical relief before the General Assembly, and to devise an emergency program to deal with the crisis.

Mr. President, I also want to commend Senator SASSER, Senator DANFORTH, and the distinguished Presiding Officer of the Senate at the present moment, Senator BAUCUS of Montana, on their excellent report following their recent trip to Cambodia and Thailand. I know that was a teremendously exhausting trip they undertook in the middle of a busy congressional session, but it is a measure of their commitment to do something about this deeply human problem that Senator DANFORTH, Senator SASSER, and Senator BAUCUS undertook this very worthwhile effort.

I wholeheartedly support their recommendations, and I urge all of my colleagues to work for the full implementation of the recommendations made by our colleagues who have visited this tragic part of the world.

UP AMENDMENT NO. 726

(Purpose: Technical amendment to S. 1668)

Mr. McGOVERN. Mr. President, there is a minor technical amendment I would like to ask the Senate to dispose of. I send it to the desk at this point and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair informs the Senator that until committee amendments are agreed to floor amendments are not in order.

Mr. McGOVERN. Mr. President, in view of the technical nature of this amendment, which is really just a language change, I ask unanimous consent that the amendment be considered at this time.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

> The Senator from South Dakota (Mr. McGOVERN) proposes an unprinted amendment numbered 726:
>
> On page 2, beginning on line 3, strike out "H.R. 3363" and all that follows through "are" on line 5, and insert in lieu thereof, "the Department of State Authorization Act, Fiscal Years 1980 and 1981 is".

Mr. McGOVERN. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota.

The amendment was agreed to.

Mr. HELMS. I move to reconsider the vote by which the amendment was agreed to.

Mr. McGOVERN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, the human tragedy of the Vietnamese-controlled Government of Cambodia refusing to permit donations of food to save innocent civilians now starving by the thousands every week is a horror which should anger and appall the civilized world.

Several possible explanations come to mind concerning this callous behavior of the Communist leaders of Vietnam:

First, it is well-known that the Cambodians and the Vietnamese have been ethnic rivals in Southeast Asia for centuries. It may well be that the Communist overlords now dominating Phnom Penh have opted for genocide as a sort of grisly final solution to the ancient feud.

Second, it is possible that the Vietnamese are sacrificing the lives of starving millions of Cambodians in an exercise of diplomatic blackmail to gain recognition, or to extract other concessions from the United States.

Third, the Vietnamese may be assuming that mass starvation of the Cambodian people will help in the mopping up of the remnants of the forces of the deposed Cambodian Government, now fighting a desultory guerrilla war from the jungles in remote parts of Cambodia.

In any event, Mr. President, this tragedy should serve to expose some phony self-styled "humanitarians" in our own country.

For years the word genocide has been bandied about by the opponents of the Vietnam war to characterize the American effort in Southeast Asia.

Now, however, a true genocide is taking place—on a colossal scale. First, the Communist Government of Cambodia began a butchery of the educated classes that wiped out more than a million Cambodians. Today Cambodia has shrunk from a nation of more than 7 million residents to something less than 3 million people.

Thirty years ago, the Jews were murdered in Europe, while the world stood by and did nothing. Are we now willing to stand on diplomatic niceties while the second genocide in our lifetime unfolds?

I urge President Carter to instruct Ambassador McHenry to submit a motion before the U.N. General Assembly urging the Government of Vietnam to use its dominant influence on the authorities in Phnom Penh to permit the immediate establishment of a truck bridge to carry the vast supplies of rice and medicine now located near the border in Thailand to the starving and disease-ridden populace of Cambodia. If the United Nations is to retain any moral credibility whatsoever, such a resolution should pass overwhelmingly. Any nations daring to oppose this humanitarian measure surely will carry an eternal badge of shame.

At the same time, I would urge President Carter to demand publicly that both the Soviet Union and China use their influence to persuade Vietnam to act in accord with civilized standards. The Soviet Union provides Vietnam with essential goods and services, and retains, therefore, compelling influence over the decisions of the Vietnamese Government. One word from Chairman Brezhnev to the government in Hanoi would produce an immediate change of policy on this issue. Soviet failure to act implicates the Soviet Union in this crime of genocide.

Legal niceties are irrelevant when dealing with those perpetrating this monstrous genocide. President Carter should make it clear to the Vietnamese, whose quarter of a million troops are occupying most of Cambodia, that any interference with the delivery of food and medicine will be dealt with sternly.

The world should be reminded that the Soviet Union is providing food for the Vietnamese soldiers in Cambodia and for a small percentage of the urban population. But the needs of the masses of humanity in Cambodia are now going unmet. Every day that we delay in providing relief supplies means the death of additional thousands of people. Time is of the essence.

Let it not be said, when the final chapter is written about that Cambodian tragedy, that the last remnants of the Cambodian people died because the United States lacked the will to step forward while a nation of people perished.

I shall go into this somewhat more in detail when my amendment is called up.

UP AMENDMENT NO. 727

(Purpose: To extend the Indochina Refugee Assistance Program for two additional years)

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair informs the Senator that until the committee amendments have been disposed of, a floor amendment will not be in order.

Mr. CRANSTON. I ask unanimous consent to proceed with this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON), for himself and Mr. HAYAKAWA, proposes an unprinted amendment numbered 727.

Mr. CRANSTON. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, insert the following new section:

SEC. 3. (a) Section 2(b) of the Indochina Migration and Refugee Assistance Act of 1975, as amended, is further amended to read as follows:

"None of the funds authorized to be appropriated by subsection (a) may be available for obligation after September 30, 1981."

(b) The amendment made by this section shall take effect on October 1, 1979.

Mr. CRANSTON. Joining me as a cosponsor of the amendment is my colleague from California (Mr. HAYAKAWA), who is away from the Senate in attendance at the funeral of President Park of Korea.

I ask unanimous consent that my colleague's written statement in support of our amendment be printed in the RECORD following my own.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. I also ask unanimous consent that a letter written separately to me and to Senator HAYAKAWA by Representatives BIZZ JOHNSON and BOB WILSON expressing support of the California delegation for our amendment be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C., *November 1, 1979.*
Senator ALAN CRANSTON,
Room 229 Russell SOB

DEAR ALAN: The Indochinese refugee problem is of great concern to our delegation as it is to you. Your efforts to extend the Indochinese Migration and Refugee Assistance Act of 1975 through the Cambodian Relief bill, S. 1668 has our support in light of the current impasse in the House on passing the Refugee Policy legislation and the approaching termination of Federal funds for the existing IRAP program on November 20.

We understand, of course, that the Cranston-Hayakawa Amendment, which would provide for an additional two years of full Federal funding for all Indochinese Refugees, is intended to bridge the gap until the refugee policy bill can be enacted and assure continued funding for the current IRAP program until then.

As you know, California now has over 100,000 refugees. This number is increasing monthly due to secondary migration and the settlement into California of substantial numbers of new refugees under President Carter's new monthly quota of 14,000 refugees.

Without Federal funding to continue this program, millions of dollars in costs will shift to California taxpayers. The consequences of such a shift may seriously impair the willingness of Californians to resettle such large numbers of refugees.

When this matter reaches the House, we will give you every assistance we can to get your amendment through conference.

With best regards.

Sincerely,

HAROLD T. JOHNSON,
BOB WILSON,
Members of Congress.

Mr. CRANSTON. I wish to say at the outset that the legislative agenda for today incorrectly describes my amendment as providing a 5 year extension of the Indochina refugee assistance program. It is only for 2 years.

Our amendment extends until September 30, 1981 the authority provided in the Indochina Migration and Refugee Assistance Act of 1975 to reimburse State and local public agencies in full for cash and medical assistance furnished to refugees from Vietnam, Laos, and Cambodia.

The present authorization for the Indochina refugee assistance program expired on October 1 this year. The IRAP program currently is being continued under the authority of House Joint Resolution 412.

The Senate on September 6 approved Senate 643, the Refugee Act of 1979, which established a new refugee assistance program to replace the Indochina refugee assistance program and other similar refugee assistance programs. The Refugee Act of 1979, however, has yet to be considered by the House of Representatives. In the meantime, the authority for IRAP has expired and States and local public agencies are in considerable doubt as to whether the non-Federal share of cash and medical assistance provided to refugees will continue to be reimbursed.

Approval and enactment of the Cranston-Hayakawa amendment will not displace the new refugee assistance program provided in S. 643 should that bill be enacted. S. 643, by its terms, will have the effect of folding the IRAP program into the new refugee assistance program. Thus, the net effect and the purpose of the Cranston-Hayakawa amendment is to assure certainty in funding for the current IRAP program until Congress resolves the issues involved in the Refugee Act of 1979.

The cost of the Cranston-Hayakawa amendment is less than the cost of the new refugee program authorized in S. 643.

The costs of our amendment will be $320.8 million in the current fiscal year and $441.9 million in fiscal year 1981.

Budget authority for refugee assistance already has been approved by the Senate in S. 643. Since the amendment I am offering would be superseded by S. 643, if that bill is enacted, the amendment has no effect on the current congressional budget.

Mr. President, the need for strengthened refugee assistance programs has been studied carefully by the the Human Resources Committee and Health Committee of the California Assembly. I ask unanimous consent that the recommendings and findings of these two California legislative committees be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CRANSTON. I urge the Senate to adopt the amendment. I am glad to have the sense that the distinguished Senators handling the measure are prepared to accept it.

EXHIBIT 1

INDOCHINESE REFUGEE RESETTLEMENT PROGRAM IN CALIFORNIA: JOINT COMMITTEE RECOMMENDATIONS

FEDERAL RESPONSIBILITIES

1. That a federal interagency task force be formed and made responsible for all activities related to refugee resettlement, for monitoring and evaluating the effectiveness of voluntary resettlement agencies, for coordinating all federal resettlement programs, and for collecting and disseminating to appropriate local authorities current and projected demographic data on the refugees.

2. That the United States Public Service be made responsible for conducting health screenings and immunizations of all Indochinese refugees immediately upon their arrival in the United States and for immediately forwarding notification of findings on the health status of each refugee—along with the name, address and phone number of the refugee's sponsor and voluntary resettlement agency—to the county health department at the refugee's destination.

3. That voluntary resettlement agencies be reimbursed at a realistic per capita rate and that they be held responsible for true resettlement of the refugees whom they bring into the country. That, through refugee sponsors, clothing, food, permanent housing, health care referral and beginning English language instruction be immediately provided and that the voluntary agencies be responsible for notifying the Immigration and Naturalization Service whenever, within the first year or resettlement, a refugee in their charge moves to a new location.

4. That refugees entering the country under family reunification be provided an intermediate sponsor to assist them, unless a refugee's family has the resources to support the incoming person.

5. That special project funds be provided to public health departments of counties in which there are concentrations of 200 or more Indochinese refugees, for medical follow-up including treating and monitoring identified health problems, particularly active tuberculosis, venereal disease, intestinal parasites, malnutrition-related illness, skin disease and mental health problems. Funds should be sufficient to provide for bilingual staff, ancilliary testing services, public health outreach, transportation, and preparation and distribution of public

health education and information materials in appropriate languages.

6. That the refugee program be continued at 100 percent federal participation for more than one year.

Or that the federal government should establish and administer a cash and medical assistance program for refugees, with uniform eligibility standards and payment levels.

7. That the assistance program for refugees have:

(a) A continuous appropriation for aid payments and medical assistance, social services, English as a second language (ESL), vocational training, and employment services,

(b) Or at least a continuous appropriation for aid payments and medical assistance and a line item for the other services.

8. That the refugee program provide funding for English as a second language (ESL) for every non-English-speaking, adult refugee.

STATEMENT OF SENATOR HAYAKAWA

I am again pleased to join with my distinguished colleague, Senator Cranston, in introducing this amendment to the Migration and Refugee Assistance bill, S. 1668. This is the Senate version of H.R. 4955 passed by the House.

The Indochina Migration and Refugee Assistance Act of 1975 authorized full federal reimbursement to state and local agencies for cash and medical assistance to refugees from Vietnam, Laos, and Cambodia. That authorization expired September 30, 1979. Subsequently, Senator Cranston and I introduced an amendment to S. 643, the Refugee Act of 1979, extending this full federal support for one year. It was approved by the Senate. Unfortunately, however, the House of Representatives has yet to act on this legislation.

Although the present program is being continued under the authority of H.J. Res. 412, the state and local public agencies are concerned about federal reimbursement of funds expended since October 1.

I appreciate the past support of my colleagues in providing full federal reimbursement to the state and local governments for the costs incurred in aiding the refugees in their resettlement. It is now imperative that Congress acts promptly and in an expedient manner to assure these public agencies of continued full federal reimbursement.

Let me add that this amendment will have no effect on the current Congressional Budget.

Mr. McGOVERN. Mr. President, the Senator from California is correct. The amendment does make sense. I know the special problems in his State, where some 31 percent of all the refugees who have come into the United States have settled. So, even in a very large State like California, this obviously places a very heavy burden. As I understand, what the Senator is trying to do is reassure State and local agencies that they will be supported in their efforts.

Mr. CRANSTON. That is correct.

Mr. McGOVERN. And reimbursed for providing cash and medical assistance for these refugees under the circumstances. I would have no problem accepting the amendment.

Mr. CRANSTON. I thank the Senator.

Mr. HELMS. Mr. President, I am informed that a Senator on this side of the aisle has some question about this amendment. He is on his way to the floor. I wonder if the distinguished manager of the bill would object that we have a quorum call briefly, until he arrives.

Mr. McGOVERN. Either that, or if other Senators have amendments they are ready to offer, we could lay this amendment aside.

Mr. HELMS. I know that the Senator from California wants to catch a plane. I do not want to delay him.

Mr. CRANSTON. Could we take up something else, with the understanding that when the Senator arrives it could belaid aside and my amendment taken up again?

Mr. HELMS. I have an amendment, and the Senator from Missouri has an amendment.

Mr. CRANSTON. I ask unanimous consent that we take up another amendment and start immediately with that, with the understanding that when the Senator with the question returns that amendment will be laid aside and action on my amendment completed. Maybe he is now on the floor. Senator THURMOND?

Mr. THURMOND. Mr. President, I have just been informed that the amendment being offered by the distinguished Senator from California would add another 5-year authorization for reimbursement of the States for State-rendered reimbursible service.

Mr. CRANSTON. It is not 5 years. Two years. That is an error in the RECORD.

Mr. THURMOND. I think the distinguished Senator from California and I agreed on 2 years.

Mr. CRANSTON. It is 2 years.

Mr. THURMOND. It is 2 years? Then I have no objection to that.

Mr. CRANSTON. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California (Mr. CRANSTON).

The amendment (UP No. 727) was agreed to.

Mr. HELMS. I move to reconsider the vote by which the amendment was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. President, I thank the Senators very much for their cooperation.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

Mr. McGOVERN. Mr. President, I move the adoption of the committee amendments, en bloc.

The committee amendments, en bloc, were agreed to.

The PRESIDING OFFICER. The Senator from Missouri.

AMENDMENT NO. 561

(Purpose: To authorize the President to furnish assistance to alleviate the human suffering in Cambodia caused by famine)

Mr. DANFORTH. Mr. President, I call up amendment No. 561.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH), for himself, Mr. SASSER, Mr. BAUCUS, and Mr. MELCHER, proposes an amendment numbered 561.

Mr. DANFORTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the bottom of page 2, add the following:

SEC. 3. Chapter 9 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following:

"SEC. 495H. CAMBODIAN DISASTER RELIEF ASSISTANCE.—(a) The Congress, recognizing that prompt United States assistance is necessary to alleviate human suffering arising from famine, disease, and war in Cambodia, authorizes the President to furnish humanitarian assistance, on such terms and conditions as he may determine, for the people of Cambodia. Such assistance may include food, medicine and medical care, clothing, housing and other forms of shelter, and transportation for emergency supplies and personnel. In addition to amounts otherwise available for such purposes, there is authorized to be appropriated for the fiscal year 1980 for the purposes of this section $30,000,000, which amount is authorized to remain available until expended.

"(b) Assistance under this section shall be provided in accordance with the policies and general authority contained in section 491.

"(c) Obligations incurred prior to the date of enactment of this section against other appropriations or accounts for the purpose of providing humanitarian assistance to the people of Cambodia may be charged to the appropriations authorized under this section.

"(d) Nothing in this section shall be interpreted as endorsing the Vietnamese invasion of Cambodia or as recognizing any group claiming to be the Government of Cambodia.".

Mr. DANFORTH. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DANFORTH. Mr. President, this amendment was originally brought to the attention of the Senate several days ago, sponsored originally by the distinguished present Presiding Officer, the Senator from Montana (Mr. BAUCUS), the Senator from Tennessee (Mr. SASSER), and myself, without any solicitation whatever of cosponsors. Senators MELCHER, COHEN, BOSCHWITZ, DURENBERGER, DOMENICI, HELMS, and SIMPSON have asked to be cosponsors, and I ask unanimous consent that their names be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, this amendment would authorize an additional $30 million for relief for the people of Cambodia. The funds so authorized could be used for the relief of the people of Cambodia wherever they may be found in distress, whether within the country of Cambodia itself, Thailand, or anywhere else. The money could be used for the relief of famine and disease, which is now being suffered by the people of that unfortunate part of the world. As the Presiding Officer well knows, three of us went to Thailand and then visited the refugee areas on the border of Thailand, and visited Phnom Penh, the week before last.

We witnessed firsthand the tragedy of what was happening to the Cambodian people. What is involved here is the survival of an entire race of people. The Cambodians numbered about 7 to 8 million just a few years ago, and now their numbers have been diminished to about 4 million, and thousands of additional people are dying every day. We visited the areas on the border of Thailand and we saw tens of thousands of people simply lying on the grounds suffering from starvation, suffering from malaria, unable to move, literally dying before our eyes.

That is the situation which we witnessed.

Mr. President, on next Monday a pledge conference is being held at the United Nations to which all countries, I believe, have been invited to send representatives. The three of us who went to Thailand and Cambodia 2 weeks ago, together with Secretary Vance and others, will be attending that pledge conference at the United Nations on Monday.

President Carter has stated that it is the intention of the administration to pledge $69 million for the relief of the people of Cambodia. To date, some $39 million has been authorized, and this $30 million would increase that amount to the $69 million which has been promised by President Carter. That is what this amendment is all about.

The authority in just slightly different form has been passed by the House of Representatives, where it was known as the Zablocki amendment. Now we would do the same in the Senate.

Mr. President, what is involved, of course, is the survival of a nation, of a race of people. What is involved is the alleviation of human suffering in its most acute form. But there is something else which is also at stake here, and that is our perception of the United States, what we stand for, and what kind of country we are.

The three of us who made the trip to Thailand and Cambodia are all members of the same generation. Our earliest memories are of the time of the Second World War, and immediately thereafter.

At that time, the United States was united in a common purpose: We were united in a consensus. We shared a common set of values, humane values—values concerning the worth of individual people wherever they happened to live in the world. What was at issue in the early 1940's was two competing value systems: One which treated individuals as things, to be used, to be abused, to be disposed of; and another value system represented at that time by the United States and the Western World in general, which recognized the humane values, which recognized the worth and dignity of the individual person.

That is exactly what is at stake here. There is a word which has been used to describe the national spirit. The word is malaise.

The question has been raised whether or not the American people really believe in anything, whether we really stand for anything, whether our sole concern is simply looking into ourselves internally, caring about ourselves, carrying about our own prosperity, caring about our own standard of living.

I do not believe that the people of this country have lost their idealism. I do not believe that the people of America have stopped standing for the same values that we believed in when the three of us who made this trip were growing up.

Now we have an opportunity in this amendment to state quite clearly, tangibly, what America stands for, to make a sacrifice. It is not much of a sacrifice when you consider the total amount of the Federal budget. But it is to make a very real financial commitment to the salvation of people who are suffering so desperately.

They are people who really do not have very much in common with us. They are located on the other side of the world. If we were to punch a hole from Washington, D.C. through the globe it would come out in Cambodia.

They are people who speak a different language, who have different customs, who practice a religion which is not very widely practiced in the United States. They have been fought over, scrapped over, for years by two competing Communist regimes. They are far different from anybody we see on the streets of Washington or in our own States, in our own constituencies. Yet they are human beings, and they have that basic dignity that everyone has, just by virtue of the fact that he is the creation of God.

Now we come to the question of what kind of value should be attributed to these people. Are they simply tools to be manipulated around by some totalitarian regime, to be granted food or denied food for a political purpose, to be granted medical attention or denied medical attention for some political purpose? Or are they deserving of food and deserving of medical attention just because they are men, women, and children?

That is what this amendment is all about.

At a time when we quest for a national purpose, when we quest for our own sense of idealism again, that idealism is embodied in the opportunity, the privilege, that our country has been given to come to the aid of the people of Cambodia.

That is why, Mr. President, it is a privilege for me to offer this amendment at this time.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I can hardly match the eloquence of the distinguished Senator from Missouri, but I wish to commend him and add my support to his amendment.

Mr. President, I also commend the distinguished chairman of the Foreign Relations Committee and the distinguished ranking member as well for taking action on this very crucial legislation (S. 1668).

S. 1668, which authorizes an additional $410 million in appropriations under the Migration and Refugee Assistance Act for fiscal year 1980 and 1981, provides the additional financial assistance that the United States has pledged to help refugees of Southeast Asia who are fleeing oppression, and who are making such a valiant effort to avoid the starvation and war that have surrounded them in the last decade.

As I have said many times before, America should be proud of its willingness to offer a helping hand to the less fortunate of the world. Our whole tradition has been helping others around the world. We are a great nation of refugees—indeed, no other nation in the world has refugees as such a basic part of its population.

I would also like to commend the Senators from South Dakota for his contribution to this legislation on behalf of the starving people of Cambodia. Once again, Senators McGOVERN and DANFORTH both displaying their sincere commitment to the humanitarian relief efforts for the people of Southeast Asia.

Unless massive relief efforts are mounted and undertaken today in Cambodia, the international community is going to see a furtherance of famine and disease which will threaten the existence of the remaining Khmer men, women, and children. These people are wandering desperately from town to town in search of food and shelter. Thousands are reported to be languishing on the Thai border, waiting for help from the outside world as the major Communist regimes in the world fight for preeminence in the area. The very existence of these people is at stake. Reports that we have heard time and time again on the Senate floor talk about the millions who have died and the millions who are continuing to die.

I have a special interest in legislation of this kind and a special sympathy for people suffering from such attrocities, because I also was a refugee, as were my family and my wife's family as well. In fact, all the families of my colleagues in the Senate are refugees, if not in this generation, in generations that preceded them. It is with sincere conviction and great pleasure that I rise in support of the bill as a whole and Senator DANFORTH's amendment on behalf of the Cambodians.

I also want to take a moment to praise a specific relief effort that is taking place in Minnesota. The American Refugee Committee, which is a Minnesota-based rescue operation, has already sent doctors, nurses, and medical technicians to the Cambodian border to help the people, to save what lives can be saved. In early November, the American Refugee Committee is planning to send an additional 50 or more doctors and nurses to that area, entirely on a voluntary basis and entirely supported by voluntary contributions. I think that praise on the Senate floor on their behalf is certainly most deserved.

Mr. SASSER. Mr. President.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. SASSER. I yield to the Senator from New York.

Mr. JAVITS. I had in mind speaking on this matter, but I should like to do it when our heroes—to wit, Senators DANFORTH, BAUCUS, and SASSER—have completed. If the Senator will please go ahead, I shall speak in support.

Mr. SASSER. I thank the Senator from New York, Mr. President. I shall be brief.

I rise this afternoon in support of the amendment offered by Senators DANFORTH, BAUCUS, and myself. I associate myself with remarks made by my distinguished and able friend from Missouri, JOHN DANFORTH. He spoke of a revitalization of the American people—a reunification of effort—and an agreement on a common consensus for helping the deprived, desperate, and miserable people of Cambodia.

I say to my able colleague from Missouri that I, too, sense this mood sweeping across our country. In my native State of Tennessee, I am receiving communications from many individuals from all walks of life, from church groups of all denominations, wanting to know how they may be of assistance. With a united voice they are deploring the conditions that they see, night after night on television. The misfortune that has come to the desperate peoples of Cambodia has been met with an outpouring of concern and positive action from the people of Tennessee.

We have described what we found on the border of Cambodia and Thailand. We saw there the grim reality of a human misery unparalleled in the last 20 years; human misery that may well have been unparalleled in this century.

I saw children in the final stages of malnutrition, irreversible malnutrition. I looked into the eyes of mothers who were carrying tiny babies, mothers unable to give the babies the nourishment that they needed, because the mothers themselves were suffering from extreme malnutrition. I saw evidence of disease wracking a whole race of people. Mr. President, this is what I, myself, and my able colleague from Missouri and my distinguished friend from Montana saw with our own eyes.

I think the Senator from Missouri is eminently correct when he says that this country is rising to its finest calling when its heart goes out and it sends help to a people halfway around the globe, to a people with whom we do not share a common religion; a people, indeed, with whom we probably do not share a common political philosophy; but people who are human beings and are deserving of the basic necessities of life such as food and shelter.

Mr. President, I think that is really what this country is all about. Over 200 years ago, Thomas Jefferson said, "America is the last hope of mankind." That is just as true today as it was 200 years ago. I am proud of the conduct of my distinguished colleagues, JOHN DANFORTH and MAX BAUCUS. They hold witness that Jefferson's statement is still true.

The reaction of our colleagues in the Senate, who have pressed us and questioned us closely about what we saw and inquired of us what they may do to help, and the outpouring of the American people in sympathy for these desperate, miserable people in Cambodia, I think, are evidence also that America still is the last best hope of mankind.

So, Mr. President, I am honored to rise in support of the Danforth amendment. I think it is right and proper. I think that what the Senator from Missouri seeks to do is in the finest tradition of this country and, certainly, in the finest tradition of the U.S. Senate.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, Senator DANFORTH and Senator SASSER have very eloquently and adequately described the conditions of Cambodia and Southeast Asia as we saw it. In addition, even more graphically, in the last several weeks, on the evening television news and in newspaper accounts, we have received an even more distressing and despairing sense and flavor of the tragedy of Southeast Asia.

Senator DANFORTH mentioned that the population of the Khmer people in Cambodia was estimated at about 8 million people a few years ago. Now it is down to about 4 million people—4 milion people have died of starvation and disease, many were killed, exterminated, many have fled the country. I, frankly, am very proud at the response that descriptions of the tragedy in Cambodia have received in America.

Senator SASSER mentioned his perception of a sense of humanity moving across the country. I found it in Montana; I know Senator DANFORTH has in Missouri, as have other Members of the Senate in their home States.

We are all receiving telephone calls, letters, from people who want to help, who are very frustrated in not knowing precisely how to help, but, nevertheless, feel the need and the urge to do something.

In addition, many other people all over the world want to help. They, too, are a bit frustrated, but, nevertheless, the feeling and the need is there.

The difficulty, however, is really twofold. In the first place, we do have some medical supplies, some food, some aid, being sent to that part of the world. Regrettably and unfortunately, and almost incomprehensibly, the authorities in control in Phnom Penh are not opening up the borders. They are not letting in all the food, aid, and help, in terms of personnel and supplies that are desperately necessary to prevent as many as 2 million Khmer people from starving to death, and as Senator DANFORTH said, literally to prevent the extinction of a race.

So it is absolutely imperative that we continue to build upon this sense of humanity, this religious and moral basis of American society, to make sure that what we have begun will result in actual fruition, so that, as a matter of fact, the people will receive as much aid as is absolutely humanly possible and necessary.

So our efforts have only begun. Yes, we talked about the need. Yes, we have helped dramatize and focus the need upon Cambodia. But here in the Senate and in the other body, and in all forums, not only in this country but in the world, we as a human people, not only as Americans and in the spirit of Thomas Jefferson but as human beings and members of human society, have this higher calling to do what is absolutely necessary to help those fellow human beings who desperately need our help.

Mr. President, I want to urge all of us to continue our efforts. In doing so, again I give my highest praise to my two very good friends and colleagues, Senator DANFORTH and Senator SASSER.

Once again I state my admiration for the initial efforts of Senator DANFORTH. He is really the conscience of the Senate, the originator, one of the first voices to get this movement going. Were it not for his efforts, I am sure that many more people in that part of the world would be suffering even more than they are today.

Mr. President, once more I hope this is really only the second or third step out of many we are taking to help make sure the people get the food they need, because this will be one of America's finest hours if we do continue to proceed.

Equally important, it will mean, I hope, that the 1980's are a decade of greater American and human sensitivity to the world's problems.

We have seen tragedy and, in some senses, have become callous. We see tragedies so often on the evening news, that the tendency in human nature is to become rather insensitive to the tragedies, such as Bangladesh and Biafra.

This current tragedy in Cambodia is testing our values as Americans and human beings. We must rise above obstacles and frustrations as well as protect our sensitivity to human suffering, as we work to provide the aid that is so necessary to the people of Cambodia.

Mr. President, I am sure the amendment will pass very quickly. Again I say, that is just the initial effort we must undertake.

Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, this amendment is eminently satisfactory to me. I commend the authors of the amendment for their enterprise. I find it to be more adapted to the situation than the House amendment, both of which address the question of a supplemental authorization of $30 million to the Cambodian people, in addition to the $39 million in reprogramed funds which President Carter has pledged.

As a conferee, which I expect to be, I will certainly hope that we get this kind of money, instead of money with strings attached which may be hard to administer.

Mr. President, while I have the floor, I would say that this is a situation equivalent to genocide. Genocide can be by inaction as well as by action. We can let people starve to death after cutting them off from everything they have or can get to keep them alive. This involves large numbers of people, Mr. President, as has been very carefully explained.

When I said a minute ago that these three Senators are our heroes, I would like to explain what I mean.

The Senate is a great time-honored institution. It has had many great days and many great people. We often look around the Chamber and wonder whether there are any more Websters, Clays, Calhouns, Tafts, Borahs, and many other great figures who have served in this Chamber, including Presidents like Kennedy and Johnson.

Mr. President, the prestige, the solicitude, the courage of this Chamber is always extremely valued to people like myself who have served a long time. I believe I speak the conscience of the Senate in thanking these three young Senators for having initiated this move and going out there, for taking the risks which were run, but, beyond everything else, for comporting themselves with such dignity and with such ability as to shed great credit on the Senate of the United States.

I hope they will continue in this matter, and that others will in this pattern. It is very auspicious.

May I say one other thing, as a member of the Foreign Relations Committee, Mr. President, about what appalls me in this situation.

This is endless, Mr. President. There are 4 billion people in the world. We could have hundreds of millions who are refugees if these policies of driving people out of a country for political purposes continues.

I deeply believe, Mr. President, that both we and the Soviet Union, as the great superpowers on Earth, have to take this into account. And I believe the Soviet Union is not pulling its weight in the boat.

Mr. President, it is a pretty open secret that the Soviet Union is backing the Vietnamese and that the Vietnamese have loosed this trend of refugees not only upon us, but upon Southeast Asia and upon Thailand.

We have appealed, in my judgment, time and again to the Soviet Union to join with us in the same responsible behavior which is being shown on this floor this afternoon.

It is a fact that the Vietnamese backed Heng Samrin regime in Cambodia has claimed the Soviet Union has already provided 200,000 tons of food.

But, Mr. President, our inquiries—and I am speaking of me, and perhaps my colleagues have also made inquiries at the State Department—indicate that just 10,000 tons have been shipped into the country. Two Soviet ships are now docked in a Cambodian port. At the moment, that 10,000 tons, if it is feeding anybody at all, very likely would be feeding the troops which are driving people out of the country and putting the country into the condition in which it is. The Soviet Union has also been flying unspecified amounts of food into Cambodia but those supplies are almost solely for the use of the Vietnamese troops.

Western countries have so far put up $101,140,000 for relief programs in Cambodia and along the Thai border. As far as we know, the Soviet Union has pledged nothing. Also, the Soviet Union has never contributed to the United Nations High Commissioner for Refugees. Japan, to which I give the greatest credit, increased its contribution to the UNHCR Indochina refugee program from 25 to 50 percent, thereby reducing what we are asked to contribute.

Here we have pledged in this Chamber alone, over a 2 year period, over $300 million in U.S. contributions to the United Nations High Commissioner for Refugees.

Obviously, the Soviet Union has great influence, to say the least, over Vietnam and this Heng Samrin regime I urge the Soviet leaders to think a while. It is not unusual that someone who loosed the flood is, in turn, inundated by it. That is not unusual in world history.

I think this is a very, very potent element in what we are discussing, and we had better look to it: Our Government and what we say to the Soviet Union as to the responsibility of its conduct in this matter.

For myself, I would welcome any disclosures that I am wrong, any disclosures of what they are doing in order to help in this situation.

However, being a super power—and I think the Soviet Union is very proud of being a super power—is not a free ride. It also calls for responsibility in the world in which you are a super power.

I can only express the hope, as a U.S. Senator, that the Soviet Union will show at least the same sense of responsibility, the same humanity, and devote the same kind of resources to dealing with this problem that we are showing here this afternoon.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. STEVENS. Mr. President, I want to take a moment to commend Senators DANFORTH, BAUCUS, and SASSER, on behalf of the minority leadership, for bringing this issue so clearly to the attention of the Nation and the world.

On Tuesday of this week, during our Republican policy luncheon, Senator DANFORTH gave a startling account of the situation in Cambodia. It was indeed a dramatic moment for all of us to be made so personally aware of the degree of the problems of starvation and malnutrition among the people of Cambodia.

The mission of these Senators in going to the Far East to witness the situation firsthand is something for which all of us in the Senate should be grateful. I commend the Senators for their sensitivity, for their compassion, and for the personal time and effort they expended in order to bring us this personal report.

I intend to support the Danforth amendment, and I urge all Members of the Senate to do so.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. ROBERT C. BYRD. Mr. President, I wonder whether we can get an agreement to the effect that final passage will occur not later than 3:30 p.m. today, and we could set votes back to back.

Mr. STEVENS. There is no objection. We hope we can do better than that, as the managers of the bill indicate. But we certainly can enter into an agreement to vote on final passage not later than 3:30 p.m.

Mr. JAVITS. We have notice of one amendment on the other side of the aisle, and I suggest that we protect any Member who has an amendment, so that he will not be trapped.

Mr. ROBERT C. BYRD. We will try to get in touch with Senators on our side who have amendments and ask them to come to the floor.

I ask unanimous consent that, with paragraph 3 of rule XII being waived, the final vote occur no later than 3:30 p.m. today.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. TSONGAS addressed the Chair.

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. ROBERT C. BYRD. Mr. President, could we reach an agreement whereby there will be votes back to back?

Mr. DANFORTH. Mr. President, that is perfectly satisfactory with me. I think we would be ready to proceed, at least so far as this amendment is concerned, in the very near future. Before we have a vote on this amendment, I would like to proceed for about 2 minutes, and the Senator from Massachusetts would like to be heard on it. I think that having back-to-back votes makes eminently good sense.

Mr. PELL. Does the Senator wish a rollcall vote on his amendment?

Mr. DANFORTH. Yes. The yeas and nays have been ordered on this amendment.

Mr. PELL. Mr. President, how much time remains on this amendment?

The PRESIDING OFFICER. All time on the amendment has expired. Time remains on the bill.

Mr. JAVITS. Mr. President, I yield 10 minutes on the bill to Senators who wish to speak.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. TSONGAS. I thank the Senator for the time.

First, I would like to acknowledge the efforts of Senators DANFORTH, SASSER, and BAUCUS in representing the Senate in this very important issue. I say to you that I am proud of you and proud of the honor you have brought to the Senate.

I would feel free, however, in suggesting to you that while you have done a great deal for these people, this trip has done something for you as well. I think you are forever changed by the experience and are better for it, and that is to your credit.

I also say to the Senator from New York that when he looks around and wonders whether any Websters are left, I would be happy if there were a lot more Javitses around, and I would feel a lot better about this body.

OXFAM CAMBODIA RELIEF EFFORTS

Mr. President, I join my colleagues who have expressed their deep concern for the plight of the Cambodian people. I support Senator HELMS' amendment and I would like to add one more name to the list of organizations he mentioned.

Oxfam, an international self-help development agency, with headquarters in Boston, has been at the forefront of the emergency relief effort. Oxfam was the first private organization to negotiate successfully with the Heng Samrin government for permission to send in emergency food aid. This past August, the agency flew 40 tons of food and medical supplies directly into Phnom Penh. Oxfam has been the only agency given a guarantee by the Heng Samrin Government that its aid will not go to military personnel. The organization has also been permitted to monitor the distribution of its contributions.

In addition, Oxfam now has organized an international consortium of some 37 nongovernmental agencies to provide a massive aid program of $50 million over the next 3 to 6 months. More importantly, they have received permission to distribute these supplies within Cambodia, directly to the starving masses.

I believe that Oxfam's efforts are an excellent illustration of how a private group, unencumbered by political constraints, can act quickly and efficiently in an emergency situation.

There is no doubt that its actions have already saved the lives of thousands of people. But there is much more to do. Many more people need to be saved. Oxfam, and all the other agencies mentioned by Senator Helms need the funds from this legislation to carry on their activities. I am certain that Oxfam would be sorely missed if the organization were mistakenly excluded from this program.

Mr. President, I ask unanimous consent that Oxfam be added to the list of private organizations that should be used to facilitate our emergency relief program in Cambodia.

I also urge my colleagues to read an excellent article in the October 31 edition of the Christian Science Monitor entitled, "Cambodia: 'Possible extinction by Christmas'," which describes Oxfam's tenacious efforts to provide emergency assistance. Mr. President, I ask unanimous consent that the full text of this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Christian Science Monitor, Oct. 3, 1979]

CAMBODIA: "POSSIBLE EXTINCTION BY CHRISTMAS"

(By Stephen Webbe)

The book on the conference room windowsill was entitled "The Family Man." Inspirational anywhere else no doubt, here it was bitterly ironic; disaster specialist Jim Howard was telling of the tragedy of Cambodia, a once-bountiful and smiling land that may not, for all the compassion of an outraged world, be prevented from going gently into that good night.

An 18-year veteran of Oxfam, a self-help development agency, Mr. Howard was relating his impressions of the ravaged country at the John F. Kennedy School of Government here. Mr. Howard, a Quaker who lives with his wife and four children in Oxford, England, had flown in for an urgent conference on Cambodia's plight with his counterparts at Oxfam-America's national headquarters in Boston. He is one of only a handful of Westerners to have traveled in Cambodia recently.

Last August Mr. Howard flew into Phnom Penh with 40 tons of Oxfam food and medical supplies and stayed on to hammer out a relief plan with the Vietnamese-backed Heng Samrin regime. He later drove from Phnom Penh to Ho Chi Minh City, inspecting rural areas of Cambodia en route. "I was allowed to go wherever I wanted," he says.

Mr. Howard returned to Cambodia in September with Oxfam's second food consignment, leaving after the third one arrived to help prepare a relief barge in Singapore. The barge, laden with 1,500 tons of food that included rice and flour, was towed by tug to Kompong Som, where it docked on October 13. Two other barges were due to sail before the end of October.

"The humanitarian needs are so great in Cambodia, that the time has gone for any more debate," Mr. Howard declares. "Unless we act now, then I think we may see the possible extinction of the country before Christmas." He insists that if there is any disturbance of "marginal supplies" presently reaching the country from Vietnam and the Soviet bloc "then I'm quite sure the Cambodian population will die of hunger and melt into the ground."

Mr. Howard, a civil engineer who saw his share or horrors in the Second World War, estimates that about one half of Cambodia's 7½ to 8 million people were slaughtered by the Pol Pot forces before their tormentors were driven into Thai border country earlier this year by an invading Vietnamese army. "I have never seen atrocities of the caliber that I've seen under the Pol Pot regime," he exclaims. "If they've destroyed 30 percent of the population there, in American terms that would be the destruction of 40 to 50 million people."

The situation is quite "as bad, if not worse than anything I have seen in 20 years of experience with disasters in countries like Bangladesh, India, and Biafra," he declares.

Oxfam, which heads a consortium of European, American, and Australian voluntary agencies in Phnom Penh claims not to have encountered the political and administrative obstacles that have bedeviled the aid efforts of others in Cambodia—in particular those of UNICEF and the International Committee of the Red Cross.

The agency, which began life as The Oxford Committee for Famine Relief in Oxford, England 37 years ago, recently achieved what Mr. Howard called "a breakthrough agreement"—to provide the Phnom Penh government with $50 million in relief aid. "It's a momentous agreement," he says, "because the Cambodian government has now agreed to large-scale relief throughout the country." The Cambodian ministries, he notes, "are calling the shots here and not the Vietnamese." He adds that the Phnom Penh government has given Oxfam unhindered access to the country and he expects continuing cooperation from officials.

Under the aid program, Cambodia can hope for 70,000 tons of rice and maize (corn) for immediate consumption; 600 tons of rice, sugar, oil, and milk powder for hospitals and orphanages; 50 diesel trucks and four Land Rovers; and 19,000 tons of grain and vegetable seed for an immediate planting program. In addition Oxfam will provide irrigation pumps, fish nets, pesticides, soap, blankets, mosquito nets, and hand hoes.

The aid program has two aims, says Mr. Howard. "The first pressing need is to feed the people. The second is to restore their capacity to produce food and become self-sufficient again."

Mr. Howard explains that Oxfam is currently fund-raising for the aid package which, he says, will make the difference "between life and death" for Cambodia. He says he hopes the American people will respond with generous financial support.

Cambodia, he says, has undergone one of history's "most horrific experiences." "I have seen the prisons and the mass graves and the torture facilities."

Pol Pot's forces, he notes, massacred the bulk of the nation's intelligentsia and professional classes. "It is so staggering because here was an attempt to build a pure, wholesome society based on the simple life in the countryside and away with all the Western capitalistic trash of motorcars and equipment. And the end result is a society that's possibly on the point of extinction."

Mr. Howard says that Pol Pot forces killed 31 of 35 engineers in Phnom Penh's water treatment plant. "Now where do you get those sort of men from? They take 10 or 12 years to train. If you've destroyed them, you've done something worse than pull down a few buildings. You've destroyed the ability for human society to survive."

The railway in Phnom Penh, he says, has only four locomotives left and something less than five percent of its staff. Says Mr. Howard: "We see a society at the very end of its human tether."

Oxfam-America officials assert that the Pol Pot regime "systematically destroyed all symbols of Western capitalism and technology in a purge of unbelievable severity and bestiality." The money economy was destroyed and schools, hospitals, factories, machinery and motor vehicles were wrecked countrywide, they maintain. Farm equipment and fishing gear fared no better, it seems: hoes, irrigation pumps, and warehouses were destroyed, along with fishing boats, their nets and the tools for making them. And lepers, the officials claim, were exterminated along with cats and dogs.

Mr. Howard confirms the devastation. "There has been massive destruction of all the wherewithal of human society," he says. "Not only the destruction of the human beings, but everything that moved or worked in terms of vehicles, equipment, laboratories, paper, pens, pencils—everything has been smashed in this society."

Oxfam-America says there is now a major health problem in Cambodia, which is compounded by lack of professional staff of all kinds and the near total absence of medical equipment, drugs, and supplies.

"We've seen high schools and buildings with thousands and thousands of people dying with tuberculosis. Mr. Howard recalls, "There's no food for them; there's no doctors. There are only 50 doctors in Cambodia today."

Mr. Howard says that his first visit to Phnom Penh indicated that "all the access we wanted" was available for mounting a relief program. In discussions with the Cambodian ministries of health and foreign affairs, he established priorities and the means of operation "There are now no more barriers to substantial aid going in from the people of goodwill," he says.

"Clearly Oxfam is not able to do this alone," he adds, explaining that when in the Cambodian capital he agreed with the representatives of UNICEF and the Red Cross that all three would jointly mount as substantial a program as they could, with food and transport as the first priorities.

"There's an impression on the international scene that the Phnom Penh government has been difficult and restrictive in its approach to aid," Mr. Howard remarks. "But I think the restrictions are logical if you've seen the conditions of Phnom Penh and the government's problems there, the lack of transport and personnel."

He believes UNICEF and the Red Cross have created problems for themselves by proposing to install "very large staff structures" in Phnom Penh. This, he says, has "frightened the government there that they would be pretty near outweighed number-wise." The Heng Samrin government has permitted Oxfam to station seven of its officials in Phnom Penh. "We have demanded and got permission to monitor all the supplies going in through the consortium," says Mr. Howard. "We have insisted that our food will not be used by the military and they have given us their solemn promises that this will be the case. If it's not the case, then we will withdraw our supplies instantly."

Mr. Howard is not given to underestimating the cost of Oxfam's Cambodian relief operation. The DC–8s they use cost $100,000 each to charter, he says and the barges cost half a million dollars to hire. "Oxfam has to raise money," he shrugs. "We have no great residue of cash in our banks. So it's really for people to support this effort.

There's a need for American support, both private and public, he asserts. "There is a major card to be played by the United States, a card of friendship, that would be way, way above any monetary value," he goes on. "I don't think the U.S. can really sit on the sidelines and see a nation that it's been concerned with go under for the lack of . . . what? The cost of a [Boeing] 747?"

The reason Oxfam uses ocean-going barges, Mr. Howard explains, is because the dock installations at Kompong Som have been destroyed and such vessels are very easily unloaded by manual labor. "You need no cranes," he says. "The cargo is above the deck." He implies that for an untrained dock labor force, suffering from malnutrition, deep-draught freighters would be a little too much to handle.

Quite apart from relieving immediate hunger, Mr. Howard emphasizes the urgent need to restore the bounty of the land. "We desperately need seeds in the ground," he says. "We have to help them to come back quickly into growing food. We've just missed the monsoon period, the main rice-growing period which is now, so it's clear we will not get another major harvest before December 1980–January 1981. The 1979–80 crop has been missed."

Mr. Howard says that he believes that less than 10–15 percent of Cambodia's rich agricultural land has been planted. "In my travels across Cambodia I've looked across thousands and thousands of hectares of rice land that has not been planted. It's under weed. There's clearly a tremendous shortfall coming towards us in January."

But the predicament is not entirely bleak, he feels. "There is enormous possibilities of vegetables—maize and other crops—being planted now and helping through the coming months."

Where cash for Cambodia is concerned, Oxfam-America believes seeing is believing. Says executive director Joseph Short, "The US government has only at this point committed seven million dollars, but has not made clear how it will spend it." Of the $110 million UNICEF and the Red Cross propose to spend on aid for Cambodia, he stresses that they "do not actually have the money. It's a hope at this stage."

Adds Mr. Howard: "I'm quite sure that UNICEF and the Red Cross have a major role to play in Cambodia. There's no question. But at this stage they've had very serious operating problems and I think they keep producing these figures in the hopes that they may tempt the government in Cambodia to respond and allow them to operate. We hope that will happen. But it's a matter of operational facts that we're interested in. Ours is the only ship in Cambodia.

Mr. Short hopes the money Oxfam is asking for now will have a "catalytic" effect on the general cash appeal for Cambodia. "We think in four months the money is going to be flowing in on a grand scale," he says. "The timely contributions now by individuals are going to have a tremendous multiplier effect." And Mr. Howard emphasizes: "I think people mustn't hold back and say we'll leave this to the government. Governments have done nothing for Cambodia since January."

He notes that the Phnom Penh government has "asked us not to help Pol Pot and we have agreed not to." Mr. Howard stresses that the former Cambodian ruler "can't be allowed to survive and go on battling away because this country will never come to peace. Cambodia needs peace above everything now."

He says that the great fear of the Phnom Penh government is a Vietnamese withdrawal under pressure "from China or elsewhere" that woulld bring Pol Pot sweeping back into power. "We see no survival under Pol Pot," he says gravely.

"After all, we've been and looked inside the gas chambers, if you like, and if we ignore this, then it's on our own heads."

Mr. TSONGAS. Mr. President, there is concern as to the process that is being engaged in here. In addition to the enormous need for massive amounts of food aid, we must recognize the desperate need for volunteers to help distribute the aid which is flowing into Southeast Asia for the relief of starving Cambodians.

In conversations with relief agencies directly involved in this humanitarian effort, I have learned that there is a severe lack of both medical and nonmedical personnel to assist in this effort. In many of the makeshift settlements on the Thai border, food lays untouched because there are not enough volunteers to distribute it to the weak and the sick refugees.

At the same time, I have learned that there are many, many people in the United States who wish to volunteer for this relief effort. In fact, one agency has informed me that they receive approximately 125 calls per week from both medically trained individuals and even those with no specialized training who are willing to take time out of their lives to work in the camps in Thailand. Although some international agencies like the American Refugee Committee in Minneapolis have organized efforts to send personnel to these settlements, there is still a tremendous need for many more people.

We must do something to bridge the gap that exists here. We must establish a program to train and transport volunteers to help in this noble effort.

I hope that immediate action can be taken to rectify this dire situation; thousands will die if we fail to act quickly.

Mr. President, it is my understanding that there are literally hundreds of volunteers around the country who are prepared to go into Cambodia and into Thailand to help in this situation. However, the problem is not so much the obvious need for foodstuffs and medical supplies but also the coordinating of volunteer efforts and the willingness to volunteer with respect to the needs there.

I hope the committee will give some thought as to how we can proceed to coordinate these efforts. It is all well and good to have hundreds of Americans who want to go over there and who are technically qualified. However, given the absence of a mechanism to coordinate that outpouring of interest, I suspect that many people will die before that organizational hurdle is overcome.

I am not going to offer an amendment, but I ask the committee to give this matter their consideration, and perhaps we can work together to arrive at a solution.

Mr. PELL. In response to the Senator's inquiry, the Committee on Foreign Relations is going to hold a hearing on Tuesday afternoon in connection with this subject, in an effort to figure out what can be done.

However, if a government is determined to kill its own people or to let them die, the question is how to get people in and how to get goods in.

Mr. TSONGAS. I am sensitive to those problems, and I look forward to the Tuesday session. Perhaps I can participate with a statement at that time.

The final point I make, Mr. President, is that I went to a conference last weekend sponsored by the African-American Institute. One of the black Africans from South Africa said to me, "How is it possible for the United States to be so concerned with Cambodia and not be concerned with the millions of refugees in South Africa?"

This is not the time to go into that in detail. I just want to raise that question and hope that our compassion will spread to the African Continent as well.

I thank the Senator from New York for this time.

● Mr. DOMENICI. Mr. President, as I said in my statement of September 28, 1979, we in Congress must support the prayers and efforts of many Americans whose hope is to give the Cambodians a ray of physical relief and a chance to live.

As we debate this issue today, I am quite pleased that the basic facts are now well known. When John D. Robb, Jr., president of the Albuquerque-based Christians for Cambodia, first contacted me in Gallup, N. Mex., he was very concerned that, like the holocaust, the facts might not be widely known until it became too late.

The land we know as Cambodia is now called Kampuchea, and its native people, the Khmers are in danger of extinction. While the historic, military, and political causes of the catastrophe are many, it is our responsibility to act. We should leave the blaming and the judging to the higher will and use the time we have to deliver the needed food and medical supplies.

The obstacles to our assistance are many and they are a true test of our will to help. The societal and physical infrastructure is in shambles. The simple delivery of aid is vastly complicated by a badly damaged road system with few needed bridges. The cars and trucks lack parts and fuel. The effort to destroy any semblance or hint of modern influences have been sadly successful.

A rich tradition of agriculture in Kampuchea is a major irony, as one of the world's former large exporters of rice now awaits this precious commodity for its very life. Cambodia was once also known for its colorful and lively markets where fresh fruit and fish were abundantly available. The marketplace has also been destroyed leaving virtually no trace of its former vitality. One United Nations official has estimated that the minimum 300,000 tons of food, medicine, and other basic supplies would require 8,000 flights in the next 6 months.

The downward spiral of agricultural failures is due largely to the fierce military forces of Pol Pot's Khmer Rouge and Heng Samrin's Vietnamese-backed regime. Day-to-day survival prevents planting or harvesting of scarce crops whose scarcity increases with every cycle of negligence.

Mr. President, our nonpartisan approach to aid must also reach the international arena where China is a backer of Pol Pot and the Soviet Union supports Heng Samrin. In my recent letter to the President of the United States, I have requested that our State Department or the President himself step up our efforts to secure Chinese and Russian cooperation in this international effort to save Kampuchea from famine.

While we have reason to fear that aid will be diverted from the Cambodians to the Vietnamese Army, and the Russians fear that aid will reach Pol Pot, our national concern must transcend these fears and we must do all in our power to see that aid reaches the bulk of starving Cambodians. And, Mr. President, we must strive to reach the children of Kampuchea or the "International Year of the Child" will become known as the year the children of Kampuchea died of starvation.

In closing, Mr. President, I applaud the valiant efforts of relief organizations like the International Committee of the Red Cross, UNICEF, Oxfam-America, and American Friends Service Committee. These responsive groups are excellent channels for the efforts of new groups like Christians for Cambodia of Albuquerque, N. Mex., and other Americans who can place international compassion above their own immediate concerns.

I am very proud of New Mexico's Christians for Cambodia as they reflect the true American love of life and the readiness to back this love with meaningful assistance. On Sunday, November 11, 1979, Christians for Cambodia will hold two rallies. One will be in Albuquerque and the other will be at the United Nations in New York.

May we follow the example, Mr. President of the Christians for Cambodia. They are demonstrating a fundamental law of physics that is also a fundamental law of cooperation—namely, that forces acting in direct opposition to each other are mutually annihilative. Forces acting in parallel and in the same direction are effective in their sum total and forces acting in opposition are decreased in proportion to the angle of divergence. May we act in parallel and in the same direction to preserve an entire culture from extinction.

Therefore, Mr. President, I wholeheartedly join as a cosponsor of Senate amendment No. 561, offered by Senator Danforth for himself and others. This amendment to S. 1668, the migration and refugee assistance authorization bill for fiscal year 1980, will authorize $30 million in new funds for Cambodian disaster relief.●

Mr. DANFORTH. Mr. President, will the Senator from New York yield me 2 minutes on the bill so that I may speak with reference to amendment No. 561?

Mr. JAVITS. I yield.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the name of the Senator from South Carolina (Mr. Thurmond) be added as a cosponsor of amendment 561.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, just one further point on this amendment. It is a little embarrassing to me to hear it called the Danforth amendment, as it was called at least once this afternoon.

What was most heartening about the trip we took and everything that has gone on since has been the spirit, the teamwork, and the absolute unanimity of approach chemistry, if you will, that has existed among the three Senators who went on the trip, Senator Sasser, Senator Baucus, and myself.

So often in the Senate individuals seem to proceed in different directions at great speed. The three of us have been operating in absolute tandem. The whole reason this is called the Danforth amendment is for some reason it fell to be my lot to be the one who actually sent it to the desk, but it is the three of us who are operating as we have throughout in absolute tandem, and it has been a great experience for me to participate with these two fine Senators in what we have been trying to do.

Mr. President, I ask unanimous consent that Senator Exon be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. Is the understanding of the Senator from North Carolina correct that we will have a rollcall vote on the pending amendment back to back with the final passage vote in event the yeas and nays are ordered on final passage?

The PRESIDING OFFICER. The Chair will state to the Senator there is no such agreement to that effect at this time.

Time on the amendment has expired. Time is now being used from the bill itself.

Mr. PELL. There is an informal understanding to that effect.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I yield such time as may be necessary to the Senator from Nebraska on the bill.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I thank the leader of the bill, and I thank my friend from Missouri for agreeing to add me as a cosponsor.

I am going to be brief, but I have a question or two after some comments.

Mr. President, I shall ask that following my remarks there be printed in the Record a copy of a story by Mr. Henry S. Bradsher of the Washington Star of today, headlined "Viets Exercising 'Manifest Destiny' in Cambodian Tragedy, Exiles Say," and the first part of his story says:

> An estimated half of Cambodia's 7 or 8 million people have now died. The Vietnamese, who have always had a strong racial contempt for their neighbors, want to be rid of even more of them so their fertile land can be colonized with settlers sent by Hanoi, Cambodian exiles and Western aid specialists on Indochina say.

Mr. President, I ask unanimous consent that that article be printed in its entirety in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EXON. Mr. President, I rise once again to thank my three distinguished colleagues, as I did yesterday, for their trip, and I am very pleased that I am a cosponsor of this amendment.

We have been hearing today about genocide. I am wondering what we can do other than pass this bill. I wonder if we have done all that we can through the United Nations.

It seems to me that, if anything like is true what has been heard in the Chamber and what is contained in the article that we have just agreed unanimously to print in the Record, it would seem to me that this is a case for the United Nations to hold some kind of an emergency meeting to see if they cannot bring some pressure to bear through that international organization.

I ask the managers of the bill if they know what, if any, activities are planned by the United Nations or some of their good offices in this area at the present time.

Mr. DANFORTH. Mr. President, responding to the Senator from Nebraska, on Monday there will be a pledge conference held at the United Nations at which I think all of the countries have been invited to attend to pledge contributions to the world relief efforts to be adopted for the people of Cambodia.

Also, last Monday Senator Sasser and I went to the United Nations to meet with the Secretary General, Mr. Waldheim, and he stated his strong support for our efforts and particularly stated his support for the so-called land bridge to deliver needed food and medical supplies to the people of Cambodia.

I think the Senator from Nebraska has made a very excellent suggestion. However, not enough has been done. Not enough has been done in the United Nations. Not enough has been done around the world to call attention to the great disaster, to the tragedy that is taking place.

Any resolution in the United Nations, any address made in the United Nations would be a step in the right direction.

World opinion must be focused on this issue. There is absolutely no reason for this situation to continue to exist.

According to the world food program, which is a United Nations organization, within three days of being given notice trucks can start traveling along Highways 5 and 6 from Thailand into Cambodia delivering the needed food.

Therefore, the question has been put very squarely to the officials in Phnom Penh and Hanoi. They can say yes or no. So far they have said no. If they say yes, the people can be saved.

I think that the most important thing we can do is to continue to rivet the attention of the world on the situation in Cambodia, and the most obvious place to do that is the United Nations.

Mr. EXON. I thank my friend from Missouri, and I wish to follow up and see if I can understand the situation. We can pass this bill today. We can have a meeting on Monday by various States that wish to participate in providing relief. We can talk to the Secretary General of the United Nations about how to get trucks moving on Highways 5 and 6 in Cambodia.

I have not seen any indication yet, though, that the Secretary General of the United Nations has demanded an emergency meeting of some kind by that body to bring whatever pressure to bear is necessary on the people who are preventing food from America and around the world to go in and help those starving millions.

Is there anything we can do in the Senate now to maybe encourage, at least with some proper language, a meeting to do something about the problem other than just getting together and providing some money or some food for relief?

All of those things, as well intentioned as they are, are not going to accomplish anything until somehow someone has the guts to stand up and tell the rulers in that part of the world that we are not going to stand by and let half of the people of Cambodia starve if in fact half of them are not gone already.

Should we be a little tougher in our approach? That is my question.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. DANFORTH. I yield.

Mr. JAVITS. I do not know if Senator EXON was in the Chamber when I just spoke about the responsibility of the Soviet Union.

Mr. EXON. I heard the Senator's remarks. They were very well taken.

Mr. JAVITS. I thank the Senator, and that is it. In short, we can make that crystal clear here that our Government—Secretary Vance, it is my understanding, is going to be at the U.N. pledge conference on Monday himself—has to point the finger at where the responsibility is and has to make it clear to the Soviet Union and to its friends and allies:

> If you are going to be a super power in this world, it is not a free ride. You have a responsibility, too. And the world has to call you to account for that responsibility.

And the responsibility should be fixed where it lies.

I do not think that represents dragging politics into humanitarianism. I think that it is very important to be sure we do everything we can to see that this tide of refugees is not so great as to engulf us all. And it could very well happen if this practice continues of driving masses of people out of a country because you are worried about their political reliability.

Mr. EXON. I thank the manager, and I yield the floor.

EXHIBIT 1

VIETS EXERCISING "MANIFEST DESTINY" IN CAMBODIAN TRAGEDY, EXILES SAY

(By Henry S. Bradsher)

An estimated half of Cambodia's 7 or 8 million people have now died. The Vietnamese, who have always had a strong racial contempt for their neighbors, want to be rid of even more of them so their fertile land can be colonized with settlers sent by Hanoi, Cambodian exiles and Western aid specialists on Indochina say.

They are both horrified and saddened by what seems to be the reason that authorities in Phnom Penh were slow to allow supervised distribution of relief supplies and are still refusing to open up enough routes to bring in sufficient food.

The Vietnamese who control Cambodia through a puppet regime, according to this explanation, are quite content to watch the starvation of those who have survived the Pol Pot regime. The Vietnamese army is now fighting to destroy the remnant guerrilla bands of Pol Pot.

The Vietnamese "want Cambodian territory, so they want the people to die or to flee to Thailand, so their land will be free for them to take over," according to In Tam.

In Tam is the secretary-general of the Confederation of Nationalist Khmers (Cambodians) that was established five weeks ago to unite anti-Communist opposition to both Pol Pot and Heng Samrin, the Vietnamese front man in Phnom Penh. The confederation is headed by Cambodia's long-time leader, Prince Norodom Sihanouk, who is now living in Peking.

Despite the hatred for those who butchered their country from the Khmer Rouge victory in April 1975 until the Vietnamese takeover last January, the confederation agrees with Pol Pot on what the Vietnamese are doing.

Pol Pot's foreign minister, Ieng Sary, told the United Nations on October 9 that "the Vietnamese aggressors have attempted to exterminate the Kampuchean (Cambodian) nation and people through starvation and massacre in order to turn Kampuchea into a part of Vietnam."

He said that since January, Vietnamese troops have killed half a million Cambodians and their actions have caused the death by starvation of a half million more. Other estimates of deaths so far this year run lower, but both Heng Samrin and western relief workers say between two and three million Cambodians are now in danger of starving to death.

A U.S. expert on Cambodia said there is a widespread perception among Indochina specialists that the Vietnamese feel a sense of "manifest destiny" about Cambodia.

Just as Americans filled up the continent from the Atlantic to the Pacific, pushing aside or killing Indians, so the Vietnamese have a determination to take over what remains of the once-great Khmer empire.

In the 12th century, when they built the magnificent temples at Angkor Wat, the Khmers dominated the area now known as Indochina and Thailand. But within two centuries they were under strong attack by Thais and Annamites, the people from what is now central Vietnam. By the mid-18th century Cambodia had been reduced to a small, weak state maintained by the Thais and Annamites as a buffer between them.

Saigon, which had originally been a Khmer settlement, and the rich Mekong River delta west of it were taken away from Cambodia and colonized by Vietnamese. This encroachment was proceeding up the Mekong toward Phnom Penh when the French arrived in the mid-19th century to establish colonial control. They froze the situation.

Now, with outside influence removed, the Vietnamese are continuing a historic movement to absorb Cambodia, according to western specialists. "That's why the present situation is very worrying," In Tam said.

The Vietnamese watched Pol Pot try to remake Cambodia by killing all former opponents and their families, forcing people out of the cities to their deaths from disease or hunger in the countryside, and other brutalities. Then, after border clashes, Hanoi's army invaded Cambodia last Dec. 25 and installed Heng Samrin in Phnom Penh on Jan. 8 while pursuing Pol Pot's forces into the jungles.

The "final solution" of Vietnam's centuries-long drive to take over ancient Khmer lands seemed to be at hand.

According to Ieng Sary, 250,000 Vietnamese settlers have already moved into areas emptied of Cambodians. Others report that families have joined some Vietnamese soldiers for apparently permanent residence.

In Tam is now in Washington with vague hopes of American support for stopping the Vietnamese. He also plans to go to New York to try to talk to United Nations' officials. He wants pressure on Phnom Penh to let in more food and he wants an international conference to decide his country's future.

In the opinion of specialists on Cambodia, In Tam is probably second only to Sihanouk as a natural leader of the Cambodian people today.

A general who held high offices in the American-backed Lon Nol regime, which ousted Sihanouk in 1970, and who lost a 1972 presidential election to Lon Nol that many observers thought was stolen, he was the only major leader of the Lon Nol years who kept the common touch and understood the downtrodden peasants.

In Tam made up with Sihanouk recently. Financed by the 10,000-strong Cambodian exile community in the United States, he flew from his exile home in Utah to a meeting of 38 leaders with Sihanouk in North Korea, where the prince was then staying. They formed the confederation.

Sihanouk plans to visit Western Europe later this month and come to the United States in January seeking support for a non-Communist solution to Cambodia's travail. Then he says he is prepared to plunge into the jungles of Cambodia to lead a guerrilla war against the Vietnamese.

Sihanouk recently began writing a series of five letters to the government of Vietnam calling on them to negotiate the establishment of his country's independence. So far he has received no answer. If the Vietnamese continue to ignore him, he said, then he will fight.

Several Senators addressed the Chair.

The PRESIDENT pro tempore. The Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the Senator from Iowa (Mr. JEPSEN) and the Senator from Arkansas (Mr. PRYOR) be added as cosponsors of the amendment.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PELL and Mr. BOSCHWITZ addressed the Chair.

The PRESIDENT pro tempore. The Senator from Rhode Island is recognized.

Mr. PELL. Mr. President, I wish to be added as a cosponsor to the amendment.

We are going to hold hearings in the Foreign Relations Committee on Tuesday on this question, and we hope that at least one of these Senators who were there will come with us. I spoke to the Senator from Tennessee and we gained a lot from his knowledge.

What is the route we should follow if the Government persists in its determination, its apparent determination, that it would rather kill people about whom it is not sure than have them survive? Does the Senator believe we should go in with force? What does the Senator think about the idea of a massive airlift, which is one thought I have been trying to circulate?

Mr. DANFORTH. Mr. President, first I am delighted to ask unanimous consent that the Senator from Rhode Island be added as a cosponsor.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DANFORTH. I think the answer to that question is that the people with whom we have spoken, logistics experts on the delivery of large amounts of food and medical supplies, agree there really is only one practical way of doing it, and that is by truck, because of the tonnage involved and because of the need to practically put the food in the mouths of these people who are so sick they cannot even travel a few hundred yards.

If food were dropped by air perhaps some of it would reach people in need, but most of it probably would be taken by the army, the Vietnamese.

So I think really the attention should be focused to the maximum extent possible on the truck route, which is by far the most advisable practical route.

Mr. KENNEDY. Mr. President, I simply want to express my strong support for the amendment offered jointly by Senator Baucus, Senator Sasser, and Senator Danforth, to authorize $30 million for Cambodian relief. I commend them for their leadership in focusing the attention of the American people on the massive human tragedy now unfolding in Cambodia, and for offering this tangible hand of support to a desperate people.

On Wednesday, I chaired a Judiciary Committee hearing to receive a report from them on their trip to Southeast Asia, and, Mr. President, it was powerful testimony on what more must be done if the world is to avoid mass starvation, threatening the lives of millions of people. As the Senators stated so eloquently—the very survival of the Khmer people and nation is at stake.

Their testimony, and that of other recent visitors to the area—including Joan Baez and voluntary agency representatives—paint a picture of the genuine horror that is the daily existence for millions of Cambodians today. The awesome scale of the present suffering alone should be cause enough for America's concern. Our basic decency and humanitarian instincts as a nation are being tested—as well as that of the entire international community. We simply cannot stand mute in the face of calamity of such unspeakable proportions—a tragedy of death and misery greater than any the world has known since the days of the holocaust.

What we are doing this afternoon is to respond to this tragedy the best we can —by offering America's helping hand in support of the international relief efforts now underway in Cambodia. We are authorizing additional funds to meet the escalating appeals for food, medicines, and other relief supplies.

My only concern, Mr. President, is that even as we act today to provide an additional $30 million for Cambodian relief, we must recognize that this will barely reflect our traditional one-third contribution to humanitarian relief efforts. As a brief table I will insert in the Record shows, by Monday—after the pledging conference on Cambodian aid called by Secretary General Waldheim in New York—the total outstanding appeals for Cambodia will reach some $177 million. One-third of that figure would be $59 million—and to date the United States is moving to contribute $69 million—barely over one-third for the first 6 months.

However, after 6 months, it is now clear another $180 million will be required. So we must be mindful that within a very short period of time the United States must consider offering additional support—either through the use of the reprograming amendment offered by Senator McGovern, that is contained in the bill—or through additional authorizations and appropriations.

But this amendment is an important step, and I strongly support its adoption by the Senate.

Mr. President, I ask that the table I referred to—as well as the prepared statements of two voluntary agency witnesses before the Judiciary Committee yesterday—be printed at this point in the Record.

The material follows:

GENERAL REVIEW OF AID PROGRAMS TO CAMBODIA

[Summary of approximate estimates]

Current international appeals	Anticipated appeals	U.S. actions to date
1. $112 million UNICEF/Red Cross for 6 mo inside Cambodia	$120 million for 6 mo (maybe more).	$39 million from existing authorities.
2. 60 million UNHCR for next 6 mo in Thailand for Cambodian refugees.	$60 million	$30 million from fiscal year 1980 foreign aid appropriation.
3. $5 million voluntary agency appeals from around the world		
$177 million for 6 mo (⅓ of $177 million would be $59 million).	$180 million (for next 6 mo) (⅓ of $180 million would be $60 million).	$69 million to date (EMK amendment will add at least $30 million to the above funds)

STATEMENT OF REV. ROBERT L. CHARLEBOIS

I am the Rev. Robert L. Charlebois and I serve as Special Assistant to the Executive Director of Catholic Relief Services of the United States Catholic Conference. Catholic Relief Services is the official overseas private voluntary agency of the American Catholic Church.

I would like to give you a historical perspective as well as my observations, having recently returned from the border area several weeks ago. In 1969, while I served as Program Director of Catholic Relief Services in Vietnam, I made my first preliminary investigation of the needs to improve the quality of life in Cambodia. We were received with the strong support of the Sihanouk Government, the local Catholic Church and concerned Buddhist communities. Catholic Relief Services retained its presence in Cambodia assisting the social economic development and after the generation of refugees in 1970, began to focus its programs, projects and services based upon refugee needs. We were the first voluntary agency operating within this context and remained fully operational until the fall of Cambodia in 1975. It is worthy of mention to this distinguished group that Catholic Relief Services expended a total of $13,945,820.79 from November, 1972 to April, 1975. It is perhaps the largest single relief operation by a private voluntary agency for a given number of recipients in one country.

With the private unofficial initiatives by Catholic Relief Services with the newly formed Pol Pot Government meeting without success, CRS designed its strategy for full operations to assist refugees from Cambodia, Vietnam and Laos in Thailand. Again, through private and unofficial initiatives, CRS began the very first feeding of Cambodian refugees along the Cambodia/Thailand border on July 4, 1979. The CRS Mercy Convoys have reached in excess of 600,000 Cambodians living within Kampuchea and have made the difference between life and death for thousands of them. This is a matter of record. This is a matter of fact. The CRS Mercy Convoys are moving out of Bangkok every other day for the border areas. They have been funded through both private funds of Catholic Relief Services as well as grants from AID, EEC and UNHCR.

With the recent increased military activity forcing greater numbers of Cambodians to stay on Thai soil, CRS has had to duplicate the feeding programs which is administered within Cambodia before its fall. The present situation coupled with the weakness and disease of the people and the overall desperate urgency of their physical status, impels us to design and implement food programs joined with medical and nutritional services. Our present goal within the next three weeks is to prepare sufficient food to feed 350,000 of the weakest of the Cambodian refugees. This refugee area will also receive the benefit of the CRS medical personnel and necessary medications.

CRS is fortunate to be able to respond to these crises of tragedy. Permit me to quote directly and unedited, from a telex I received from Mr. Joseph Curtin, the CRS Program Director in Thailand. This telex was received just one and a half days ago.

"FYI CRS opened soup kitchen at the Cambodian border in Klong Kaithuen feeding over four thousand refugees a day until shelling began. That military then transferred 49 thousand refugees to a newly created camp 60 KMS inland and CRS set up tents and reopened soup kitchen to serve 6,000 patients in hospital tents. Conditions are very primitive and many have died due to disease, hunger and exposure to sun and rain. Many Nuns have come to volunteer their services to help feed patients. We now have one hundred orphans in tents which we care for. Former Cambodian nutrition staff members have escaped and are now in the camp working for me. Regards, Curtin"

Catholic Relief Services would be the very first to commend the Royal Government of Thailand for their cooperation, interest and permission to freely operate within a very delicate, dangerous and sensitive portion of their country. The problematic areas should be obvious inasmuch as they represent intelligence clearance, Thai military security clearance and logistical support, as well as a continuous shift in the Royal Thai Supreme Command regarding the location and status of the Cambodian refugees. Regarding these problematic areas, special acknowledgment must be given to Ambassador Morton I. Abramowitz whose continual support and active interest has been a source of inspiration to our spiritually motivated staff.

During the entire period when CRS has been actively touching the lives of over a half million Cambodian refugees on the border, we have both privately and unofficially and publicly and officially endeavored to respond to the needs of the refugees within Kampuchea. These initiatives have been by way of actively supporting the international agencies' endeavors as well as joining a consortium of agencies who have approval to render aid. Some of these offers have been accepted, others have been rejected and still others are pending. It would be premature at this time to go beyond reality with "guesstimates." For the record, I wish to state emphatically that CRS is more than willing and more than ready to render any assistance, furnish any commodities within its professional competence and material resources.

There are a multiplicity of other problematic areas that may well need to be addressed. I will be happy to respond to any questions for which my professional experience and Cambodian background can provide answers.

Thank you.

Statement by Edward F. Snyder on Behalf of the American Friends Service Committee and the Friends Committee on National Legislation

I appreciate your invitation to make a few comments about the desperate situation in Cambodia, now officially called Kampuchea.

I was the chairperson of a five-person delegation for the American Friends Service Committee which visited Kampuchea September 17 and 18. Previously I had visited and traveled extensively in Cambodia in the years 1967–1969 when I was Quaker International Affairs Representative in Southeast Asia, based in Singapore. I also visited the country to explore relief needs and the general situation in 1970, just after the Lon Nol government ousted Sihanouk and United States troops crossed the Vietnamese border into Cambodia.

While in Kampuchea last month we visited a hospital in Kampong Speu thirty miles west of Phnom Penh, an orphanage, and a former high school used as a prison and execution center in Phnom Penh. We met with the Deputy Minister of Public Health and her deputies, had extensive talks with the representatives of UNICEF and the International Committee of the Red Cross (ICRC), then in the midst of negotiations with Heng Samrin government officials, and drove one hundred miles through eastern Kampuchea to the Vietnamese border on Highway 1. Less than a week later I visited Khmer refugee camps at Aranyapratet and Kamput in Thailand on the western Kampuchean border.

In Kampuchea everyone is hungry. Most people are malnourished. Many people have died from starvation and disease. The number of children in the vulnerable age range of birth to five years is far below normal.

In the hospital we visited in Kampong Speu there were 485 patients, 200 beds, 13 nurses, and no doctors. A shelter full of children with worried eyes and thin bodies, too weak to cry, sat watching us as we stood silently trying to absorb the sights, sounds, and smells of that awful place. They were the fortunate ones. They at least were getting some food. Others are still in the countryside. The civilians under the control of the Pol Pot forces in western Kampuchea are in much worse shape, according to all reports.

This is no ordinary famine caused by crop failure or war. It is that, but much more. It culminates a decade of disaster for the Khmer people which included five years of civil war during which there were three years of intense United States air bombardment, followed by a four-year nightmare under Pol Pot and other leaders whose theories of governance returned Kampuchea to a primitive agrarian society built on intimidation and death. An estimated one-third of the population have died or been killed in the past four years.

In the areas now controlled by the Vietnam-backed Heng Samrin government in Phnom Penh, the major part of the country, officials confront incredible problems. Simultaneously a massive food distribution system must be organized; transportation, communication, and public utilities must be restored; hospitals, orphanages, and schools must be started; food production must be more than trebled in a year; and small industries commenced. A finance and currency system must be created to replace rice—the current medium of exchange. Yet this Herculean task, which would be difficult for even the most experienced planners and administrators, has fallen to a tiny group of educated and trained Khmer survivors, still traumatized by their experience, who are willing to work with their ancient foes, the Vietnamese, to rebuild their country.

During our two-day stay in Kampuchea, we had intense conversations with people and ample opportunity for personal observations. In story after story the following picture emerged. The Pol Pot government carried to a shocking extreme policies of return to agrarian society, nationalism, anti-intellectualism, anti-urbanism, and anti-foreignism. Policies were implemented by violence, often by teenagers placed in authority by Pol Pot since they were least likely to have been corrupted by alien influences. Cities were emptied; banks, cinemas, and libraries were smashed. The educational and health systems were dismantled. People were forced to work long hours in the fields at subsistence food levels or less. Thousands died of starvation, disease, or execution. Students and diplomats returning from abroad to help rebuild their country were special targets for torture and death, as were teachers, technicians, and those who spoke a foreign language. Now the continuing war between the Heng Samrin and Pol Pot forces is creating new misery and refugees.

No one who is exposed personally to human misery on this scale can remain unaffected by it. I feel a great kinship with the other witnesses appearing before you today urging faster, more urgent action.

I feel that all channels for speeding delivery should be explored. The "land bridge" idea is one. After being there, I thought an airlift of food in cargo planes flown to provincial airports would be feasible. Airdrops into militarily contested areas might be the only way to get food to some of those in most desperate need. The Kompong Som route is already open and can rapidly be strengthened into a sturdy land bridge into the interior from this southern port.

This is a time of general frustration for all those involved in what is an intractable problem, in which many more people will die. In this situation the tendency to search for scapegoats is probably inevitable. My own feeling is that no nation has done enough. But energies would be better expended in moving ahead constructively rather than trying to assess blame.

Among the most frustrated people are those in the Ministry of Public Health in Phnom Penh. Our meeting with them began at seven in the morning with the Deputy Minister Chey Kanya and four of her associates. They outlined their many needs, with multivitamins and antibiotics heading the list. One of the doctors present had spent four years working as a peasant under Pol Pot. He was resuming his medical profession again and had been named to head the medical school. His frustration was: no students, no books, no equipment. He pleaded quietly for up to date books, since the medical library had been destroyed by Pol Pot forces.

Our delegation returned just in time to report to the Board of the American Friends Service Committee meeting in New York City. On September 30 it authorized $200,000 in immediate relief, half for multivitamins and antibiotics, half for rice. At this moment, I am happy to say, 400 tons of rice from the American Friends Service Committee is on its way to Kompong Som from Singapore, part of the cargo on a barge chartered by Oxfam.

Perhaps the most useful contribution I might make to this hearing is to try to suggest some of the factors in the current situation which appear to me to create frustrations and roadblocks.

1. Don't underestimate the purely physical problems of organizing a food distribution system in Kampuchea. Four years as a primitive agrarian society has left the physical infrastructure in a shambles. Food, trucks, and drivers are clearly needed. But also a whole support system of gasoline, diesel oil, spare parts, mechanics, unloading facilities, fork lifts, etc. must be provided. Transport equipment is now being shipped in with food and medicines.

2. Don't underestimate the human limitations of the Kampuchea people on whom much of the burden of administering and distributing the food will rest. Only a few trained people survive. It is hard for us to comprehend the catastrophe through which these people have passed. Nearly everyone we talked to in Kampuchea had lost at least one and sometimes all of their immediate families to death through starvation, disease, or murder by the authorities. This was especially true of the educated and skilled people. The survivors are clearly traumatized by this experience.

In this chaotic situation it should not surprise us if the decision-making process is slow or confused. Those of us who live and work in Washington know that even here not every decision is made either promptly or efficiently or correctly. Let's hope for perfection in Phnom Penh and Washington, but let's be realistic in our expectations of what is possible.

3. In Phnom Penh and Hanoi, as in all other capitals, there are differences of opinion among various government officials. This complicates decisionmaking. In each capital, some are primarily concerned with the humanitarian needs of the people. Others give first priority to military security and political factors. The two approaches are often divergent.

Moreover, historically Khmers and Vietnamese share a mutual suspicion and hostility. And it must certainly be true that Hanoi and Phnom Penh often have different priorities and perceptions which slow decision-making and prevent faster action on food relief.

One must also remember that the Khmer doctors, nurses, administrators, teachers, and technicians who have now surfaced to help feed people, start schools, run hospitals and orphanages are in a vulnerable position. They are cooperating with the Vietnamese, and in another turn of the wheel of misfortune in Kampuchea they could find themsleves viewed as traitors either by a resurgent Pol Pot force backed by China, or a revived Lon-Nol-type military government backed by Western powers.

4. Don't expect the Heng Samrin government or the Vietnamese to credit the United States with good intentions. Not all the scars from the war have healed. The memory of United States bombing and napalm is still fresh. We had occasion to be reminded of this when, as part of our trip, we visited the former Quaker rehabilitation center, now located in Qui Nhon, Vietnam. People are still being admitted regularly to have artificial limbs made because they have lost a foot or a leg to an exploding mine when working in the field. The morning we visited the Quang Nghia hospital, three persons had been admitted, wounded by an exploding mine.

The mistrust of United States intentions and proposals is wide and deep. This is one reason why Phnom Penh is not likely to accept proposals involving large numbers of foreign technicians or a Western-run food distribution system in their country. A proposal for a "land bridge" if it included hundreds of foreigners traveling about the country would pose serious security questions for a government still fighting a war. Would these outsiders be secret intelligence agents for the C.I.A. or Thailand or China? To think that these questions will not be asked is to seriously underestimate the fear and suspicion present in Indochina. In this climate, it is quite unrealistic to expect the Heng Sanrim government to make an immediate favorable response to a general proposal for a "land bridge", for it would vitally affect its still precarious internal security. The United States also does not move very rapidly on issues involving its vital national security interests—witness the extended consideration of the SALT II Treaty.

5. All relief efforts will be complicated so long as the civil war continues. In the brutal nature of war it is nearly inevitable that each side will seek to deny food and arms to the military forces and civilian supporters of the other side. And this war is no exception. But it is also important to distinguish between rhetoric and policy. The Heng Samrin government has firmly opposed any aid to the Pol Pot area, but it has not turned back aid which has been sent to it even though some donors were also sending aid to civilians in the Pol Pot areas.

6. Each claimant in the civil war will also attempt to prevent the other from being recognized as the legitimate representative of the Kampuchean people. Those who would aid the Peoples' Republic of Kampuchea in Phnom Penh would therefore be well advised to send aid to "all the needy people in Kampuchea" rather than aid to "both sides," which formula implicitly legitimates the Pol Pot claim. It is regrettable but true that failure to observe such niceties of communication may itself convey more or less than the speaker intends and thus impede relief efforts.

Whatever may be said for the decision to continue recognizing Pol Pot's group at the United Nations, it is clear it has hampered international relief efforts. Major United Nations organizations like the World Food Program, Food and Agriculture Organization, World Health Organization, and the UN Development Program must deal with Pol Pot representatives in New York, but those under their control can only be found with difficulty in the jungles of western Kampuchea. Fortunately, UNICEF is not confined to dealing with governments recognized by the United Nations. It can deal with emergency situations involving children anywhere. Thus UNICEF can and has entered Phnom Penh and is now carrying the burden of the relief and reconstruction effort for the whole United Nations system. Decisions on relief efforts might have been reached considerably faster if the various United Nations agencies had been able to talk through a Heng Samrin Kampuchean mission at the United Nations in New York rather than through one UNICEF representative in a hotel room in Phnom Penh.

7. Efforts must be made to develop a viable political solution in Kampuchea even as the food crisis continues. The government in Phnom Penh should represent a broad spectrum of Khmer life and not be tied too closely to an outside power. This would help meet the security needs of Vietnam and Thailand. But it would be quite unrealistic to expect that Vietnamese troops will be withdrawn if there is a real possibility that Pol Pot or another Chinese-supported faction could return to power in Phnom Penh. This is especially true so long as tensions remain high between China and Vietnam in the region.

If the United States could develop a more neutral stance on conflicts in the region between China/Pol Pot and U.S.S.R./Vietnam, it might be able to play a more active role in food distribution and in the search for an acceptable political solution in Kampuchea. This could be done in part by moving toward normalization and restoration of trade relations with Vietnam.

The achievement of a solution which would enable Kampuchea to live in peace after this turbulent decade will require a high order of diplomatic statesmanship and forbearance and patience on the part of all the Kampucheans involved as well as the United States, China, Vietnam, Thailand, and the Soviet Union. The big powers in the region and Kampuchea's neighbors can do no less than to give a much higher priority to the welfare of the Kampuchean people and thus help restore peace to that suffering nation and people.

We appreciate the fact that you have called this hearing, Senator Kennedy. It helps to build a sense of urgency and a factual base for more rapid action to meet the crisis in Kampuchea.

We are glad that President Carter has requested $69 million for emergency relief for Kampuchea, and we hope the Congress will respond quickly and affirmatively.

We hope that the Heng Samrin government will review the idea of some sort of land bridge from Thailand which parallels the distribution now under way out of Kompong Som harbor, that is, a distribution system operated by Phnom Penh authorities monitored by UNICEF or other international observers. We also hope the idea of some sort of airlift to provincial areas or emergency airdrops in contested areas will also be considered, at least until the regular shipments by sea have reached their scheduled size. But it seems advisable for proposals such as these to be refined further by UNICEF and ICRC representatives to meet anticipated objections, and then proposed to the Phnom Penh authorities.

In conclusion, we want to stress our belief that UNICEF and ICRC have a sound, well-conceived program under way, as do a number of private voluntary agencies. Food and medicine are now arriving regularly and these programs should be encouraged to expand rapidly.

UNICEF hopes to be delivering at the rate of 10,000 tons a months by early November, 20,000 tons a month by early December, and 30,000 tons a month by late December, and continuing then at this monthly level. Early shipments should be directed to those areas of greatest need. Since the 1980 rice crop will not be harvested until November and December of next year, it will clearly be necessary to continue the UNICEF/ICRC program beyond its six-month period, at least until the end of 1980.

It is especially important that food shipments be supplemented with material like rice seed, farming tools, fishnets, and fertilizers so that Kampuchea can again become self-sufficient in food production.

And it is obvious that a generally acceptable political solution must be given high priority. The Khmer people cannot survive another decade like the one just passed.

Mr. KENNEDY. In addition, Mr. President, I would like to submit for the RECORD a copy of a paper prepared by the Department of State outlining various contingency plans for relief operations in Cambodia. This preliminary planning paper underscores the scope of food and medical needs, and the hurdles the international community faces in getting into Cambodia.

The material follows:

AIRLIFT OF COMMODITIES INTO KAMPUCHEA

Given the numerous questions regarding the possibility of helping the International Agencies to get more food into Kampuchea at a more rapid rate by using air transport, the following very preliminary data is provided.

This presentation assumes the cooperation of the authorities within Kampuchea and the governments in the area. It also assumes international insurance underwriters will not invoke war risk clauses on aircraft insurance rates. Assuming maximum cooperation from all parties a commercial effort could probably be launched in 3-5 days.

In a similar exercise in 1975 before the fall of the Lon Nol Government, but under combat conditions, 1,500 tons per day of commodities were delivered by air to a number of enclaves in the country. That airlift required the services of a total of 10 DC–8 cargo aircraft plus 30 C–130 type aircraft. Each aircraft flew an average of two sorties a day at a cost of approximately 1.5 million dollars a month excluding cost of cargo.

At present, the International Committee at the Red Cross and NICEF estimate that 30,000 tons of food need to get delivered in Kampuchea per month. Unless a land route is opened, the agencies estimate that this rate cannot be reached until the end of the year. At present, the rate estimated for November is not likely to reach more than 15,000 tons.

PHNOM PENH OPTION

If 15,000 tons are to be delivered by air to Phnom Penh each month assuming daylight operations only, this would require 6 DC–8 type aircraft or 3 747 type cargo aircraft. The airlift to Phnom Penh alone will cost an estimated $190,000 per day. It is not presently feasible to estimate local distribution costs by truck or helicopter from Phnom Penh. However, 50 ten ton trucks would be required, and these are on order by UNICEF/ICRC.

THREE AIRPORT OPTIONS

If it were possible to use three airports, the jet strips at Phnom Penh and Siem Reap plus the shorter strip at Battanbang, for example, the latter would require Hercules sorties a day for Hercules aircraft, at a cost of $50,000 per day and approximately $190,000 for the 747 sorties to Phnom Penh and Siem Reap. These are exclusive of commodities cost.

If 200 tons each at Phnom Penh and Siem Reap plus 100 tons at Battambang were air delivered, this would require a minimum of 50 ten-ton trucks distributed at these three locations for on the ground distribution.

Assuming the trucks could make one 50-mile trip per day carrying ten tons, a number of cargo-carrying helicopters each carrying a maximum of three tons would be required at a cost of $2,000-$3,000 per flying hour to deliver to inaccessible areas. A helicopter effort would probably require military deployment, as there are no commercially available heavy lift helicopter in the region.

AIR DROP OPTION

Air dropping of commodities could only be done by Hercules type aircraft which would be limited to 2–5 tons per sorties depending upon the altitude flown and would cost thousands of dollars per ton delivered. Initial costs to prepare for air drops exclusive of flying time and commodity costs are estimated at $6 million for special equipment.

COMMENT

The International Agencies are attempting to increase their airlift capability. Their ability to do so will depend on the attitude of the authorities in Phnom Penh. The foregoing information does not relate to their present plans which envisage (1) building up the air capability to a smaller degree—perhaps up to 6,000 tons a month (2) attempting to maximize the amount which can be carried away from the seaport by using more trucks, and (3) attempting to utilize the Mekong River and build up trucking capability at the river port in Phnom Penh.

Air-landing food within Kampuchea will, in the short-run, encounter the same constraint of landing food at the seaport or riverport—insufficient trucks in place as yet to distribute food from the point of arrival.

Mr. DOLE. Mr. President, as early as 1977, I have initiated and endorsed repeated efforts in response to the plight of the Cambodian people, beginning with my calling attention to the human rights violations that became apparent at that time. In more recent years, my efforts have included the sponsorship of measures to increase U.S. assistance to Cambodian refugees. At the beginning of last month I cosponsored an amendment with my distinguished colleague from Massachusetts (Senator KENNEDY), calling for generous U.S. support of international relief efforts for Cambodia. It is therefore in keeping with my continuing concern and interest in the tragedy that has developed over the years that I am supporting S. 1668.

This legislation, by authorizing additional funds for our refugee program, will help meet the continuing demand for vitamins, antibiotics, and vehicles to transport patients. In a firsthand account of their recent trip to Southwest Asia, Senators DANFORTH, SASSER, and BAUCUS testified on October 21 in front of the Judiciary Committee. They were given assurance by UNICEF and the International Red Cross that trucks could start rolling from 3 to 5 days after notice of authorization to do so is received.

To the U.S. Government and other nations remains the task to provide food and money. With the world community lies the responsibility to apply all the pressure that is needed on the governments of Hanoi and Phnom Penh, so that the green light is indeed given, and trucks are allowed to cross over from the Thai border into Cambodia. All testimonies heard concurred that the only effective way to distribute medicine, food, and other supplies was by road. Airlift would simply not respond to the particular needs and requirements of the survivors.

Our positive response to the tragic situation in Cambodia need not and should not be taken as recognition of either the Pol Pot or the Heng Samrin regime. These are separate issues that should be treated independently. Our only concern at this time must be directed toward the innocent victims who find themselves caught in the middle of a conflict, without a clear understanding of its roots. Their suffering must cease.

My support of Senator DANFORTH's amendments is consistent with this view.

How many are dying on a given day? A U.S. embassy official's reply to this question was: "We have stopped counting." A 5-year-old girl who dies upon arrival in a refugee camp becomes a mere statistic. To her mother who watched the efforts of a medical team trying to revive her, political considerations have lost all relevance. As pain, hunger, and death transcend politics, so must our concern for the hungry and the sick. Our humanitarian efforts must be directed in helping those who have managed to survive and can only continue to do so with our assistance.

Phnom Penh's official food request consisted of 108,000 tons of rice and wheat, 15,000 tons of sugar, and 8,500 tons of vegetable oil. On October 16, the first substantial food shipment arrived in Kompong Son to be dispatched 150 miles away to Phnom Penh: A mere 1,500 tons to feed the thousands of people in refugee camps, whose emaciated bodies have become a haunting reminder of the magnitude of the tragedy.

Having indicated my full support of this legislation on humanitarian grounds, I should like to call the attention of my colleagues on one item of the appropriations requested by the State Department. The sums of $1.29 million for fiscal year 1980 and $1.38 million for fiscal year 1981 are included for 49 new positions in the State Department, to meet the expanded refugee programs. There seems to a degree of controversy regarding the number of positions to be filled.

The report submitted by the Senate Committee on Foreign Relations indicates that 49 new positions are to be filled. The State Departments budget office indicated that only 25 new positions were to be added to the 24 already in existence. The first question that I should like to address is: Are we talking in terms of 25 or 49 new positions?

In either case, the intent of this legislation is to revive the sick and the dying through food and medicine, not to bury them under additional bureaucracy and redtape that are the unavoidable consequences of increased staff. Are that many additional people truly necessary?

Finally, should we allocate increased amounts for fiscal year 1981, prior to a full assessment of refugee programs in fiscal year 1980? I welcome other viewpoints on this matter.

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Missouri. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from California (Mr. CRANSTON), the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Vermont (Mr. LEAHY), the Senator from South Dakota (Mr. McGOVERN), the Senator from Wisconsin (Mr. NELSON), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Illinois (Mr. STEVENSON), the Senator from Alabama (Mr. STEWART), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Nevada (Mr. CANNON) is absent on official business.

I further announce that, if present and voting, the Senator from Vermont (Mr. LEAHY) and the Senator from Connecticut (Mr. RIBICOFF) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Maryland (Mr. MATHIAS), the Senator from South Dakota (Mr. PRESSLER), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I also announce that the Senator from California (Mr. HAYAKAWA) is absent on official business.

The PRESIDING OFFICER (Mr. HEFLIN). Are there any Senators in the Chamber who have not voted?

The result was announced—yeas 76, nays 0, as follows:

[Rollcall Vote No. 386 Leg.]

YEAS—76

Baucus
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Chiles
Church
Cochran
Cohen
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Garn
Glenn
Goldwater
Hart
Hatch
Hatfield
Heflin
Helms
Hollings
Humphrey
Jackson
Javits
Jepsen
Kassebaum
Kennedy
Laxalt
Levin
Long
Lugar
Magnuson
Matsunaga
McClure
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nunn
Packwood
Pell
Percy
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stone
Thurmond
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—0

NOT VOTING—24

Armstrong
Baker
Bayh
Bellmon
Cannon
Chafee
Cranston
Ford
Gravel
Hayakawa
Heinz
Huddleston
Inouye
Johnston
Leahy
Mathias
McGovern
Nelson
Pressler
Ribicoff
Stevenson
Stewart
Talmadge
Tower

So Mr. DANFORTH's amendment (No. 561) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The PRESIDING OFFICER. Without objection, the motion to lay on the table is agreed to.

Mr. JAVITS. Mr. President, we are waiting for other amendments, if there are any.

The PRESIDING OFFICER. Are there further amendments?

AMENDMENT NO. 565, AS MODIFIED

Mr. HELMS. Mr. President, I call up my amendment at the desk, as modified.

The PRESIDING OFFICER. The amendment will be stated.

The legislation clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 565, as modified:

On page 2, add a new section 3 to read as follows:

SEC. 3. All funds authorized under this or any other Act to provide humanitarian assistance to the people of Cambodia shall, to the maximum extent practicable, be provided through international agencies and private voluntary organizations, among others, such as the World Relief Committee, World Medical Missions, Inc., Cama Services, World Vision, Food for the Hungry, Thailand Baptist Mission, and Catholic Relief Services, OXFAM and International Rescue Committee.

Mr. HELMS. Mr. President, I ask unanimous consent that the distinguished Senator from South Carolina (Mr. THURMOND) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is this the amendment of the Senator on which there is a 45-minute limitation?

Mr. HELMS. I will say to the Chair that is correct, but I do not intend to use nearly that much time.

Mr. President, could we have order in the Chamber?

The PRESIDING OFFICER. The Senate will be in order.

Mr. HELMS. Mr. President, it would be almost gilding the lily to offer a lengthy discourse on the subject at hand. So many eloquent statements have been made by able Senators, including the three distinguished Senators who made a trip to Cambodia and Vietnam.

Incidentally, Mr. President, I want to express my personal appreciation to Senator SASSER, Senator DANFORTH, and Senator BAUCUS for making the trip and coming back and giving us a firsthand report.

It is unnecessary to say that all of us have empathy with the situation which now exists in Cambodia. For my part, I think of a 5-year-old girl in Raleigh, N.C., named Jennifer, and I think every day, save for the grace of God, the picture that I saw in the paper the other day would be our children.

I think all of us have the same motivation. It is a great thing for this Senator from North Carolina to observe the unanimity on this question.

I want to pay my respect to the distinguished Senator from New York (Mr. JAVITS) for putting his finger on the problem, as he so often does.

Senator JAVITS emphasized earlier this afternoon that there must be a broad understanding around the world as to the role that the Soviet Union is playing in this matter.

Mr. President, the human tragedy of Cambodia has struck us with shocked disbelief. It is incomprehensible that, in this day and age, the global community is confronted with the possibility of the near, or total, elimination of a race of people.

It is incomprehensible because the world community has both the will and the means necessary to prevent this horrible tragedy from being carried to its unthinkable and abhorrent conclusion. An estimated 2.5 million people are now suffering human deprivation on an unparalleled scale. The humanitarian will is there to alleviate this suffering. However, will this outpouring of concern and compassion be thwarted by the most brutal of considerations—who will exercise political control over the future Cambodia?

Mr. President, the people of Cambodia will not die because the world community is unwilling to respond to their plight. The people of Cambodia will die because of a deliberate decision that they are expendable for the sake of political considerations.

They will die if the world community decides it is helpless to affect this decision. Yet, Mr. President, if we fail in our efforts to influence a decision in favor of hundreds of thousands of innocent people, may God help us. We will find ourselves sitting once again on the sidelines while the holocaust of Nazi Germany is reenacted under different circumstances in a different area of the world.

In the U.S. Senate, we have represented a wide spectrum of opinion regarding the nature of our relationships with the parties to this tragedy—the Soviet Union, Vietnam, and the People's Republic of China. Yet, can we in all honesty say that any one of these three countries is acting as responsible, concerned members of the world community? Has any one of these three nations given any indication that the value of one single human being in Cambodia far outweighs whatever political benefits they perceive they would gain from whomever controls that country? The answer is apparent. I think it is incumbent upon our Government to exhaust all avenues, both public and private, in pressing the case for the Khmer of Cambodia. Whatever our perceived policy considerations when it comes to our relationships with the Soviet Union, Vietnam, and the People's Republic of China, nothing can outweigh the human dimensions of Cambodia. Nothing is worth sitting by helplessly awaiting the inevitable human execution to run its course.

Mr. President, during the next 2 months, Americans will celebrate two holiday seasons, that of Thanksgiving and Christmas. I am sure I speak for millions of my fellow countrymen when I say we approach these seasons with a sense of despair and sorrow. We have been exposed to the plight of the Cambodians though the print media and television. Our distinguished colleagues (Mr. SASSER, Mr. BAUCUS, and Mr. DANFORTH) have written a most moving report on their trip to Thailand and Cambodia.

The pictures of starving and diseased children who have miraculously made it to Thailand, only to die before their ravaged bodies can receive strengthening nourishment and life-saving medication must sear our collective consciences. These scenes, repeated day after day, surely must haunt us all. We thank the good Lord above that these are not our children. But, what if by an accident of birth or circumstance they were our children? The agony, sorrow, and helplessness which this question provokes is too awesome to comprehend. But it is a question we must ask ourselves. What if they were our children?

Place yourself in the position of hundreds of thousands of Khmer. What future would there be for your family—your children? If we turn our backs on these innocent people because we fear we are incapable of influencing the outcome of this tragedy, then we turn our backs on our own families and our own children. And if helplessness turns to insensitivity, all mankind will be the loser. For if it becomes easy to accept the death of the Khmer, eventually it must become easier to accept these circumstances as being the inevitable history of mankind.

However, as we await the outcome of international efforts to reach an agreement with the Vietnam-backed regime in Phnom Penh to establish a well organized and effective relief operation in Cambodia itself, much remains to be done in maximizing the effectiveness of assistance to refugees in Thailand. I am concerned that, despite all the Government of Thailand has done to ease the plight of Khmer refugees, we can do much more to assist them in this humanitarian effort. And the problems of coping with the refugee problem in Thailand is increasing as news reports now indicate that literally thousands of new refugees are streaming across the border from Cambodia.

There are many private voluntary organizations, including religious organizations, which have had decades-long service to the people of Indochina. They could do more than they are already doing in addressing the needs of these refugees if they had the resources to do so. I am very close to many of these organizations. I would cite one example: World Medical Missions, Inc., from my own State of North Carolina. There is a serious shortage of medical personnel to attend to the overwhelming needs of thousands of refugees pouring into Thailand.

World Medical Missions, in conjunction with the World Relief Committee, just this week will be sending 10 doctors to Thailand to help in the refugee camps. One may correctly ask what is unique about World Medical Missions sending doctors to Thailand? What is unique is the fact that 9 of the 10 doctors are former medical missionaries who have had significant experience in Indochina. Therefore, they will be able to begin immediately tending to the medical needs of refugees without worries as to their capability in making the necessary cultural adaptation. If adequate assistance were available to pay transportation costs and maintenance allowances in Thailand, some 75 missionary doctors with similar experience would be available to assist in meeting this great human need.

The list is endless. There is Cama Services in Thailand where Gary Johnston, a young American born in Thailand, is delivering badly needed medicine and protein supplements to the Khlong Kai Thuan refugee camp. The medicine and food were sent from California, and Gary hauled these vitally needed supplies to the camp in a small pickup. Without his efforts and the support of Cama Services, malnutrition and disease would have claimed an even higher human toll.

The story is the same for virtually every private voluntary organization in Thailand—organizations such as World Vision, Food for the Hungry, the Thailand Baptist Mission, and Catholic Relief Services, to name but a few. They are all doing a very effective job with very limited resources. With more resources, they could place more people to help in the camps. With more people, we can assist more refugees. And by reaching more refugees, then the all too common death of a refugee who is too weak to crawl the last hundred yards to obtain food will become an uncommon occurrence.

Mr. President, that is why I am offering an amendment today to H.R. 4955. My amendment would provide that to the maximum extent practicable, the additional $30 million in new authorizations for relief activities in Cambodia would be channeled through the private voluntary agencies. These organizations have an historic track record of providing assistance on a more cost-effective basis than government-to-government programs. These organizations need only adequate resources to get the job done. Their people are dedicated and experienced in handling situations such as this, and there is a wealth of talent available which has a cultural understanding of this area of the world—an understanding which is critical to the success of our activities. Therefore, I would hope that the managers of H.R. 4955 could accept my amendment.

Mr. President, in conclusion, I would reiterate some of the concerns I have expressed today. Throughout history, there have been numerous examples of man's inhumanity to man which have shocked human sensibilities. But, I am sure my colleagues would agree with me that the situation in Cambodia is of such a tragic magnitude that it leaves us stunned. I think all of us, no matter how large or how small our contributions may be, must do all that is humanly possible to ease the plight of these unfortunate people. I know we have the backing of the American people in this endeavor, and with God's help and our own perseverance, we can make a difference for these people.

Mr. President, to summarize, I have been on the telephone almost constantly for the last week with various citizens in this country and abroad. Last evening I spoke at some length with Billy Graham, of my State. Billy and I grew up about 21 miles apart, he in Charlotte, N.C., and I in the little town of Monroe. Billy and his associates are doing great work in trying to assure as much aid as possible, on a private basis, to these tragically unfortunate people in Cambodia.

Billy Graham's son, Franklin Graham, is doing a remarkable job in, for example, lining up former medical missionaries. I think he has some 30 on his list now who are willing to go to Cambodia and attend to the miseries of the people there, which gets us to the point of this amendment, Mr. President.

The purpose of this amendment is to make certain that there is no administrative delay in the utilization of every worthwhile private group that is willing to become involved in solving this tragic dilemma. The amendment is clear and I believe it is going to be accepted by the distinguished managers of the bill.

As for these private groups I have mentioned, such as the Cama Services in Thailand, where Gary Johnston, a young American born in Thailand, is delivering badly needed medicine and protein supplements to the Khlong Kai Thuan refugee camp, without the efforts and the support of Cama Services, malnutrition and disease would have claimed an even higher human toll.

Senator DANFORTH has described vividly how some of these people we seek to help are so weak that they cannot move their bodies 100 yards to available food and medical treatment. These private organizations are willing to send people in who are willing to do the so-called dirty work, to get involved on the most intimate level. I, for one, am grateful to them for taking the lead.

This is a time when Government and private initiatives can work together and, hopefully, the little girls and the boys and all others who are victims of this incredible tyranny can receive assistance.

Mr. President, I reserve the remainder of my time.

Mr. PELL. Mr. President, I congratulate the Senator from North Carolina on his amendment. I think it is an excellent one. I speak, perhaps, subjectively because, for some period of time, I was in charge of a voluntary agency program when we were looking after Hungarian refugees who were escaping from the ravages of the Hungarian revolution in 1956.

The advantage of using these voluntary organizations is twofold: One, they charge the U.S. Government less. They have a lower standard of living and fringe benefits, and the taxpayer gets more for his dollar, I think, when they do it.

Second, and, I think, even more importantly, by using the voluntary agencies, we build up a constituency for that kind of agency in the United States that we would otherwise not have; for example, the Catholic relief agencies would have a constituency that the Government would not have. The more help that can be funneled through these private agencies, the better, in my view.

Mr. JAVITS. If the Senator will yield, Mr. President, I just want to say that the amendment is acceptable to me. I join Senator PELL in considering it an excellent amendment.

I point out that Senator HELMS has graciously consented to write into the amendment, in specifying various voluntary agencies which are acting in this field, the words "among others," so that those who may have been unintentionally omitted, who are very active, will not feel put out. I hope that they will make themselves known to us.

Mr. PELL. I thank the Senator. I share that thought, although I am glad to see that my alma mater, the International Rescue Committee, which the Senator from New York directed with me, is also included.

Mr. JAVITS. Also the Oxfam, which is a British enterprise, is included.

Mr. HATCH. Will the Senator yield to me?

Mr. JAVITS. I yield 3 minutes on the bill to the Senator.

Mr. HATCH. Mr. President, I also agree with the distinguished Senator from North Carolina, as well as with my colleagues from New York and Rhode Island. There is no question something has to be done about these problems. I think this is an intelligent and appropriate way to solve them.

I just add one other thing. As I sat in the hearings before the Judiciary Committee this last week, I was astounded to see the depths of degradation that those who would be punitive against these poor Cambodian people and others who are suffering have gone to keep them in the bad state that they are in. I think the weight of world opinion must be brought against them. Much has been said about that. I endorse all that has been said.

I certainly, again, compliment our three Senators who have taken the time to take an arduous journey and to bring these facts to light more than they have been brought to light, Senators SASSER, DANFORTH, and BAUCUS.

One other thing I would add. That is that, as we heard these hearings, we had credible witness from Senator SASSER, who said he believes it to be true, and Joan Baez, who was there, that there is much evidence, and there are many people who would testify to it, from these troubled areas that nerve gas and poison gas have been used on these people as though they were guinea pigs.

I condemn that. I think the weight of world opinion ought to go against that. I think it deserves to be publicized and brought out. I hope that our media will bring this to the attention of the world.

Mr. HATCH. I thank my colleague from North Carolina. I certainly thank my colleague from Ohio for allowing me to have this time.

Mr. JAVITS. Mr. President, I yield to the Senator from Ohio such time as he may desire.

Mr. GLENN. Mr. President, I thank the distinguished Senator from New York.

As chairman of the Subcommittee on East Asian and Pacific Affairs, I am glad to join in urging the Senate to pass S. 1668, and its amendments, which authorize additional funds for refugee assistance in fiscal years 1980 and 1981. The bill also authorizes the President to use up to $30,000,000 in funds already authorized for foreign aid in support of an internationally supervised program to provide food and medical assistance to the people of Cambodia.

Just a few weeks ago, my subcommittee held hearings in which we had Ambassador Dick Clark, who has been working on the refugee problem, and Assistant Secretary for the Far East for Far Eastern Affairs, Dick Holbrooke, with us to discuss this whole refugee situation and its underlying causes, and several key points emerged. The first was that war and famine now endanger the lives of 2 to 3 million Cambodians. Unless the international community acts quickly, the Cambodians—already decimated by the massacres of the Pol Pot regime—may virtually cease to exist as a people. Nothing comparable to such a development has occurred since the holocaust days in Europe in World War II.

Let there be no mistake, the suffering is no less intense for a person in Cambodia than it was for those involved in the holocaust in Europe in World War II.

A program to assist the Cambodian people implies no recognition of the regime imposed upon the country by Vietnam. It is a purely humanitarian measure. If successful, it will not only save Cambodian lives, but reduce the number of Cambodian refugees who will flee into Thailand.

Second, the ability of the world to deal with the Indochinese refugee crisis depends upon the cooperation of many nations. The ability of the United States to persuade other countries to accept larger numbers of refugees for resettlement is dependent on our willingness to increase our own efforts, as authorized by this bill. I want to emphasize how much progress has been made in getting other countries to increase their financial contributions and their provision of new homes for the refugees. Japan has agreed to fund 50 percent of the cost of the Southeast Asian program of the United Nations High Commissioner for Refugees. At the Geneva Conference on Refugees held in July of this year, other countries pledged to increase their refugee resettlement quotas from an annual rate of about 36,000 to nearly 124,000. The funds provided in S. 1668 represent the U.S. contribution to this worldwide response to the human tragedy we are witnessing in Southeast Asia.

We should be aware that despite the difficulties refugees face in adjusting to a new life in a new land, over three-fourths of the Indochinese refugees have become basically self-supporting within 2 years of their arrival. This is a welcome development. But it should not lead to complacency on our part. We must continue to monitor the impact of the refugees on the job and housing markets. We must continually devise imaginative programs, so that these new immigrants will contribute to our economic strength rather than threaten the economic security of American citizens. We have met such challenges many times in our history, and we can do so again.

Mr. President, there is one other area I would like to cover. I would like to add my voice to that of the senior Senator from New York (Mr. Javits) who has expressed very well today my view that there is another nation that must be called to account for its role in the troubles afflicting Southeast Asia, and that is the Soviet Union.

Their activities in support of Vietnam's efforts in Cambodia are really at the heart of this problem.

Some of us have visited the Soviet Union and find that the first place they want us to go is Leningrad, where they can show us the tomb where there are some 300,000 to 400,000 people buried from World War II days. They point to that 900 day siege of Leningrad as typical of what happened to some 20 million Russians killed during World War II. They tie all their activities to this as a defense, saying that will never happen to them again.

Yet I would say that if the Soviets were to cut off their military aid and economic aid to Vietnam, that the situation that is ongoing in Vietnam and Cambodia—the plight of 2 or 3 million people who face starvation there—could be solved within a very few weeks. That could be if the Soviets just did not give their support, both military and economic, to Vietnam and direct that whole effort.

Since world opinion is focused on the Vietnamese, I say that at the same time, every time we say Vietnamese we should say the Soviet-Vietnamese effort in Cambodia, because it is that joint effort that may well result in some 2 or 3 million people starving.

I am not a Red baiter, but I believe in calling facts facts. We know Vietnam is only sustained in its incursion into Cambodia by having its economy and its military machine propped up by direct Soviet help, massive intervention and massive help. And that is the only reason Vietnam is able to sustain that operation in Cambodia. I say that we must lay this at the doorstep of the Soviet Union.

I call on the United Nations and any of the international organizations dealing with this problem to address their questions not only to the Vietnamese, but address their questions to the Soviet Union, because without the direct help of the Soviet Union, without the direct approval of the Soviet Union, we would not see today some 2 or 3 million people facing starvation in that area of the world.

I think we need to bring attention to that, and to keep attention focused on the underlying support, where the problem is really stemming from. And it is stemming from the Soviet Union.

I thank the Senator for yielding his time.

MILWAUKEE RAILROAD RESTRUCTURING ACT—CONFERENCE REPORT

Mr. MAGNUSON. Mr. President, I submit a report of the committee of conference on S. 1905 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. Heflin). The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1905) to provide for the orderly restructuring of the Milwaukee Railroad, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record of November 2, 1979.)

Mr. MAGNUSON. Mr. President, I thank the Senator from Oregon for his help in this matter, and all those involved in the desperate effort to save the Milwaukee Railroad.

I would not butt in on this fine debate here, but time is of the essence. A Federal judge ordered the railroad embargoed the night before last, I believe. We want to get this to the White House where it will be signed and, hopefully, we will be able to ask the Federal judge to take judicial notice of the fact that we are passing this bill, and he could revoke his embargo order. But that remains to be seen.

I yield to the Senator from Oregon who did such yeoman work in the conference on this matter.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, what we are up against, in essence, is the bankruptcy court. We want to keep the Milwaukee Railroad running—crops are on the ground in Iowa—and not have the railroad quit running through Montana, the Dakotas, and people laid off.

I do not know what the ultimate result of the bankruptcy and the reorganization will be, but we face an immediate situation and every day we delay is 1 day closer to disaster for many of the areas served.

This bill does two simple things. There are others, but it does two simple things. One, in order to institute a labor settlement, there is a $75 million provision in this for the labor settlement, but that is given a preferred status as a claim of the administration on the assets of the railroad. The bankruptcy judge and the creditors agreed. So that is up-front money that will be paid back. We need not worry about that out of the bankruptcy and liquidation proceedings.

In addition, there is a $10 million grant to get the railroad going now, and, we might as well face it, it is a grant.

If we tried to make that a preferred claim, the bankruptcy court would not have accepted it. It would have wasted the assets and whatever time we had to take to do this.

The railroad must run tonight, tomorrow, the next day, if we can make it do so. This bill will do that. There is no guarantee it will be running 8 months from now. There are other provisions for the ICC to look at the service. There is time in it for the bankruptcy judge to decide about liquidation.

But, at the moment, this will keep it running now in what is genuinely a critical period.

Mr. MAGNUSON. Mr. President, we are very hopeful this will all be worked out.

The only argument in the conference with the House was the question of the labor provisions which were resolved.

Mr. MELCHER. Will the Senator yield?

Mr. MAGNUSON. Yes.

Mr. MELCHER. Mr. President, I want to thank the chairman, the ranking member of the Appropriations Committee, the ranking member of the Commerce Committee, for the prompt action on this conference.

Indeed, time is of the essence. The circumstances have been described by the two Senators. They are absolutely accurate.

The railroad is shut down, is leaving the products on the line waiting to be moved.

We notified the White House that the House acted, that the Senate would be acting within minutes.

I asked the President to take a positive stance in support of the bill, and I hope that when that message is relayed to Judge McMillen in Chicago, he will take judicial notice of that fact and will remove his embargo this afternoon, so that the railroad can again operate.

Mr. BAUCUS. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. BAUCUS. Mr. President, as has been stated, we are in an emergency. We hope that this legislation will be wrapped up and signed by the President momentarily, allowing the Milwaukee to resume its operations.

I would like to commend Senators Magnuson, Cannon, Packwood, and Long for their efforts in enacting this legislation in time to avoid a serious crisis. I especially appreciate the efforts of the Senate and House Commerce Committee staff, who have "gone that extra mile" to bring this legislation to the floor as quickly as possible.

Mr. President, I would like to ask a few questions of the Senator from Washington, who so ably led the Senate conferees. Nowhere in section 6 or in the statement of managers is the term "implementation of the plan" defined. We need to determine what this term means. I do not want to see an employee-shipper acquisition plan survive the Interstate Commerce Commission and bankruptcy court review process, obtain adequate public and private financing, but then fail due to the fact that the last "i" has not been dotted and the last "t" not crossed on, for instance, rehabilitation loan financing documents which the Federal Railroad Administration has not completely processed by the deadline. In other words, the fact that necessary financial commitments have been made, but not all of the funds have been disbursed by April 1, 1980, should not render the plan's implementation a nullity.

Mr. MAGNUSON. The Senator's interpretation of the meaning of "implementation of the plan" is correct.

Mr. BAUCUS. Furthermore, does subsection 6(a)(3) contemplate that employee protection claims could be used as one of the financial components for implementing an employee or shipper-employee ownership plan? Would an exchange of assets for relinquishing labor protection claims be a suitable form of financing? Could employees' labor protection claims be transferred to the new employee or employee-shipper owned railroad, the new railroad assuming the labor protection obligation of the present Milwaukee Railroad estate, and the transfer of labor protection obligations thus meet the criteria established in section 6?

Mr. MAGNUSON. The Senator is correct. The conference report contemplates that the employees' labor protection claims could be treated in the manner you describe.

Mr. BAUCUS. Finally, section 6 of the conference report makes three references to the phrase "fair and equitable to the estate of the Milwaukee Railroad." It is my understanding that the intent of the conferees is to use the term "estate" in the same manner as that term is used in section 205 of title 11, United States Code. In other words, the same standard of fairness and equity to the estate of a railroad in reorganization under the Bankruptcy Act shall apply to the determination of feasibility to be made by the Interstate Commerce Commission with respect to an employee or employee-shipper ownership plan that has been submitted to the Commission pursuant to section 6. Does my understanding correctly state the intent of the conference report?

Mr. MAGNUSON. The Senator from Montana has stated accurately the intent of the conferees.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

MIGRATION AND REFUGEE ASSISTANCE

The Senate continued with the consideration of S. 1668.

Mr. HELMS. Mr. President, I am prepared to yield back the remainder of my time, if the distinguished manager of the bill is willing to do so.

Mr. PELL. I yield back the remainder of my time, if the Senator from New York has nothing further.

Mr. JAVITS. I have nothing further.

Mr. HELMS. Mr. President, I thank both managers of the bill for their cooperation, and I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from North Carolina.

The amendment was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, I ask unanimous consent that the name of the distinguished Senator from Utah (Mr. Hatch) be added as a cosponsor of the amendment just adopted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. I, too, would like to be a cosponsor.

Mr. HELMS. Mr. President, I ask unanimous consent that the name of the distinguished Senator from Rhode Island (Mr. Pell) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, we have been given notice of another amendment; and in order to give the attachés an opportunity to inform Senators, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON and Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

UP AMENDMENT NO. 728

(Purpose: To require the President to report to the Congress the estimated total cost of United States domestic and foreign refugee assistance programs for fiscal years 1980 and 1981)

Mr. HUDDLESTON. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. Huddleston) proposes unprinted amendment numbered 728:

At the end of the bill insert the following new section:

Sec. . Within 60 days after the date of the enactment of this Act, the President shall report to the Senate and the House of Representatives—

(1) the estimated total costs to the United States, during fiscal year 1980 and fiscal year 1981, of domestic and foreign assistance to refugees under all programs of the United States Government, and

(2) the estimated total costs to State and local governments during such fiscal years for assistance to refugees which is attributable to such programs.

Mr. HUDDLESTON. Mr. President, I submit this amendent for the purpose of permitting us to ascertain the total cost to the American taxpayer of all of our refugee programs.

I was struck by the remarks of the distinguished Senator from Ohio (Mr. Glenn) when he indicated that it is necessary for us to continue to monitor our efforts in this area so that we know what impact it may have on this country so that we will know whether or not we are doing the right thing as far as the refugees are concerned and as far as the citizens of the United States are concerned.

One of the difficulties that I have

noted in attempting to analyze the efforts of the United States has been that it is not always easy to determine what our total expenditures in this field happen to be.

The purpose of this amendment is just simply to give to Congress on a periodic basis the actual cost of our refugee assistance both within the United States and anywhere else in the world that they might occur.

Mr. President, within the last 2 years there have been substantial increases in the domestic and foreign refugee assistance programs which are funded by the United States. Because this assistance is spread among many different programs, it is extremely difficult to ascertain the total cost of these efforts. During the debate on the refugee reform bill, S. 643, I determined, after a great deal of time and effort, that the total cost would probably be over $1 billion in fiscal year 1980.

My amendment to S. 1668 would provide a clear picture of exactly how much the American people are providing in the form of their tax dollars, to assist the refugees of the world. It would require the President to report to Congress within 60 days on the total cost of our foreign and domestic refugee assistance programs in fiscal years 1980 and 1981. It would also require a good-faith estimate of the costs which must be borne by State and local governments. This amendment would prevent the true costs from being hidden among a variety of different programs, some of which are not categorized as refugee programs. For example, approximately $160 million of the food stamp program goes to refugees.

In October of this year the Roper Organization officially released a poll which showed that 72 percent of the American people believe that we should admit less than 7,000 refugees per month. The primary reasons for this opinion were that we should help our own needy first and that refugees are too much of a burden because of the expense of resettling them. I am certain that if more people knew the actual cost of refugee assistance, the result of this poll would have been more one sided.

Mr. President, in order for a democratic government to operate effectively the citizens and elected officials must be adequately informed on the issues. My amendment will assure that there is adequate information about a cost to the American taxpayer which is growing by astronomical proportions.

I do not advocate that we stop our refugee assistance efforts. However, I do believe that we must not continue to ask the American public to carry a disproportionate share of the burden for the world's 14 million refugees.

I believe that the columnist William Raspberry accurately reflected the belief of most Americans when he stated:

> I am proud of America for opening its doors—and is hearts—to the "boat people." But I do wish that we could save some of our sympathy—and our cash—for our own "wretched refuse" who, no less than Hungarians or Cubans or Vietnamese, want a chance at the good life the country has to offer.

I believe the managers of the bill have had an opportunity to look at this amendment and they are in agreement with it.

I yield to the distinguished manager of the bill, the Senator from Rhode Island.

Mr. PELL. Mr. President, the Senator from Kentucky is correct.

Speaking for the majority side, I had a chance to look at the amendment and think it is an excellent one and am glad to accept it.

Mr. JAVITS. Mr. President, I, too, feel that the amendment is a fine one. We should know what the tab is. But I am a little worried about one thing. We never know what the other body may feel about it or what are the practicalities of getting this information within any kind of a reasonable time limit.

I know the Senator does not want to hold up this bill. It is really the kind of bill we should not hold up.

So with that caveat, we will do whatever the situation permits, but I do not wish to mislead the Senator about that.

Mr. HUDDLESTON. I certainly recognize that condition and would not in any way wish to delay the assistance that we are providing for here. I understand what the process will be from here on out.

Mr. JAVITS. I thank the Senator.

The PRESIDING OFFICER. Do Senators yield back their time on this amendment?

Mr. JAVITS. I yield back my time.

Mr. PELL. Yes.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky.

(Putting the question.)

The ayes appear to have it. The ayes have it.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I am going to call for a quorum for only 2 minutes to allow the attachés to notify Senators that we are about to vote.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, I would like to join in commending our colleagues, the Senator from Tennessee (Mr. SASSER), the Senator from Montana (Mr. BAUCUS), and the Senator from Missouri (Mr. DANFORTH), for making the trip to Cambodia in the midst of a busy Senate schedule and for their fine and illuminating report on the truly horrific conditions in that poor country. Their compassion for the people of Cambodia and their leadership in seeking ways to help prevent hundreds of thousands of deaths is a credit to this body and to the country.

Mr. President, in the last 4 years Cambodia has suffered a death toll exceeding that of any country since the 14th century. In 1975, the population of Cambodia was 8 million. Today it is approximately 4 million. This is a rate of loss more than twice that of the most afflicted country in the Second World War and comparable only to the holocaust that engulfed the Jewish population of Europe.

Mr. President, the surviving population of Cambodia is threatened by famine and the unchecked spread of disease. Our Landsat satellites indicate that no more than one-tenth of the land normally under cultivation is currently being farmed. Without a massive and immediate relief program, between 2.25 and 3.5 million people will die in the next few months.

Mr. President, unless food and medicine reach the people of Cambodia, the inconceivable horror—the virtual depopulation of an entire nation—could become a reality.

The amendment offered by Senators DANFORTH, BAUCUS, and SASSER will complete the U.S. pledge of $69,000,000 to the international relief effort to the people of Cambodia. We, and other Western countries, have responded generously to the needs of the Cambodian people.

The responsibility now shifts to the Phnom Penh authorities and the Vietnamese occupation army who must do their part in facilitating the delivery of the food to the people of Cambodia. While some food is entering Cambodia through the Port of Kompong Som and by air to Phnom Penh, these channels will not be able to handle the requisite 1,000 tons of food a day until December at the earliest. It is, therefore, essential that the Phnom Penh authorities and the Vietnamese reverse their announced position and accept the land bridge from Thailand, along Routes 5 and 6 to Phnom Penh. There can be no excuses for a regime which would willfully tolerate the starvation of its own people.

Mr. President, this amendment is attached to a bill authorizing an additional appropriation for fiscal years 1980 and 1981 of $207,290,000 and $203,610,000, respectively, for Indochina refugees.

These additional sums are required because of the great surge of refugees from Vietnam, Cambodia, and Laos over the past 8 months. Vietnam has expelled hundreds of thousands of citizens of Chinese ethnic origin, and has made life so difficult for its own citizens that many prefer the hazards of an open sea and uncertain welcome abroad to the deprivation, fear, and oppression at home.

From Laos there is the exodus of the Hmong tribesmen, our loyal allies in the war there, and of many lowland Lao. With the focus on the boat people, and now the catastrophe in Cambodia, we also cannot forget that 10 percent of the people of Laos are now exiles from their own land.

The number of refugees in Southeast Asia is, of course, now being swollen by the exodus of starving Cambodians to Thailand.

In confronting the refugee exodus the United States must do several things:

First. We must be prepared to offer a home to the homeless. We are, after all, a nation of immigrants. Newcomers have been a great national asset, and the Indochinese who have come to this country since 1975 have been no exception. While the rest of the world must share the burden of resettlement, I applaud

President Carter's doubling of our monthly Indochina refugee quota from 7,000 to 14,000.

Second. The world must make sure that the refugees fleeing their homelands find a place of asylum with minimum standards of sustenance, shelter, and medical care. The activities of the UNHCR in this regard deserve our support.

Third. Measures must be taken to insure that time spent in the refugee camps is productive, not a time of despair. Many refugees will wait up to 4 years before finding a permanent home. The camps should be used for language, vocational, and cross-cultural training essential for adaptation to a new home.

This bill seeks to accomplish these objectives. While it does not get to the root of the problem—repression, war, and deprivation in Indochina—it does help alleviate the attendant human suffering.

CAMBODIA

Mr. ROBERT C. BYRD. Mr. President, this bill represents a significant response by the American people to one of the most pressing international problems of our time—the plight of the world's refugees. The migration and refugee assistance authorization doubles our country's refugee relief program for the next 2 years.

The Senate has demonstrated a special awareness and concern for the refugees' current problems. Recently, I appointed Senator SASSER and Senator BAUCUS, who along with Senator DANFORTH composed a bipartisan Senate mission to view firsthand the conditions of the Cambodian refugees. The report these three Senators made on their return was a sobering one: nothing less than the fate of the Cambodian people and their civilization is at stake.

But as the three Senators point out, despite the appalling need for relief among the Cambodian people, the Phnom Penh authorities have refused to let large shipments of aid into the country. Among other reasons, these authorities fear that the aid will reach stranded bands of Pol Pot guerrillas still operating in the country.

At the request of Senators SASSER, BAUCUS, and DANFORTH, I met with the Soviet Ambassador to the United States Anatoly Dobrynin, and asked him to deliver to his Government our appeal that the Soviet Government do what it can to convince the Phnom Penh authorities to relax their grip on the lifeline of the Cambodian people. The Soviet Ambassador said he would convey this message to his Government.

The United States had made it clear that we do not seek to intervene in the military or political situation in Cambodia. Our gesture is not a military or political one. Our interest is solely a humanitarian one.

The means by which the aid will reach the Cambodian refugees is not clear. Some feel that, as with the Vietnamese "boat people," the constant focus of world attention on the problems of the refugees will bring relief. Others note that the availability of relief materials at the borders of Cambodia eventually will pierce the political wall that surrounds that country.

But whatever happens, we all must try to contribute to a solution, and the legislation we are dealing with today is a proper step.

I want to thank Senators McGOVERN and PELL for managing it on the floor and the Senator from New York, Mr. JAVITS, the minority floor manager.

And special commendation goes to Senators BAUCUS, DANFORTH, and SASSER. They carried directly to Southeast Asia the concerns of the American people, and this Senate.

Mr. LEVIN. Mr. President, I rise in support of S. 1668, the migration and refugee assistance authorization, and urge my colleagues in the Senate to join me in voting for a speedy final passage of this most needed humanitarian legislation.

As my colleagues know, this measure provides additional assistance to refugees and international aid organizations made necessary because of the current emergency conditions in Southeast Asia.

Especially noteworthy are the amendments being considered to this bill which would authorize at least $30 million in contributions by the United States to the international relief effort providing critical food and medical supplies to the people of Cambodia.

These funds represent the "second phase" of the $69 million President Carter recently pledged for the United States to this international mercy mission.

In addition, I understand that an amendment will be forthcoming to extend from 2 to 3 years Federal reimbursement to State governments for assisting in the resettlement of Indochinese refugees.

Mr. President, between 1961 and 1973, the United States dropped 6,162,000 tons of bombs on North and South Vietnam. Between 1969 and 1973, we dropped a total of 180,356 tons of explosives on Cambodia, which before the fighting was carried to that nation, was a quiet and beautiful country whose people lived in peace and harmony among themselves and with their neighbors.

Today, sadly, Cambodia is a tragic example of what misguided military and ideological policies, both on the democratic and totalitarian ends of the political spectrum, can wreak on any nation.

No nation which took part, either directly or indirectly, in the struggles in Indochina during the last decade, can be held completely blameless for the destruction and desolation of Cambodia. That is a fact which must be recognized.

And it is in recognition of that fact that the United States must totally mobilize its considerable humanitarian resources to help the starving millions of Cambodia.

The same nation that could rain death down on Cambodians between 1969 and 1973 must assume its rightful leadership role in extending international assistance to their suffering people.

Mr. President, I want to add my voice to those of my colleagues who have been urging that our Government do all that it can to prevent more Cambodians from dying from the appalling famine which grips that country.

As we did in 1975 when we flew an emergency airlift of 400 tons of food each day into Phnom Penh, the United States must now fly an emergency airlift to alleviate the mass suffering and death.

We should, of course, work through the international organizations coordinating this relief effort to Cambodia, and we should use all diplomatic means at our disposal to urge the factions taking part in the civil war there to permit adequate distribution of the needed food and medical supplies.

But in addition I have urged the President to order an airlift to Cambodia and to take action to overcome the logistical and geographic problems with effectively implementing such a plan.

We move ahead with that option while we do all we can to establish a truck route through the countryside to distribute the food and medical aid, a preferable option if and when it becomes available.

I also urged the President to begin such an airlift and to make high-level diplomatic contacts to the Soviet Union and the People's Republic of China to urge them to encourage the factions they are supporting in the Cambodian civil war to accept equitable distribution of the food aid.

I ask unanimous consent to have my letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., October 25, 1979.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As the horrors of famine and civil war in Cambodia become more grave with each passing day, your action to make available $69 million from the United States for the international relief effort is especially welcome. Since no nation which took part, either directly or indirectly, in the conflict in Southeast Asia is blameless for the suffering in Cambodia, it is appropriate that the United States recognize its responsibilities now to do what it can to aid that stricken country.

In that regard, I would like to take this opportunity to urge you to order the Air Force to immediately undertake the planning and implementation of an emergency airlift of food and medical supplies for the people of Cambodia and the refugees from that nation in Thailand. As a member of the Committee on Armed Services, I have been discussing the requirements for such an airlift with the Air Force. I have been informed that an operation to deliver to that region the 1,000 tons of food a day estimated as necessary by UNICEF is within the capabilities of our Military Airlift Command, and that, depending on cargo availabilities, we could reach that delivery rate within 72–96 hours after the "go-ahead" is given. I recognize that such an airlift would be costly and could, under certain conditions, strain our airlift resources as they attempt to accomplish this operation along with their regular military missions. Yet the magnitude of the suffering in Cambodia argues that these burdens should be borne to help relieve conditions in that country. The least we can do, as the nation which rained 180,356 tons of bombs on Cambodia between 1969–1973, is to assist in the delivery of the 150,000 tons of food, a lesser figure, which UNICEF estimates is needed within the next six months.

I also realize that it is not sufficient simply to deliver these supplies, but that they must be distributed fairly to those in need. Thus, I also request that you begin high-level diplomatic contacts with both the Soviet Union and the Peoples Republic of China to encourage them to urge those parties engaged in the Cambodian civil war to permit proper distribution of the airlifted goods.

The ravages of famine know no political boundaries in Cambodia, and the terrible suffering exists among all the people of that starving nation. The more fortunate nations of the world must mobilize their humanitarian resources to lessen this hardship, and the United States should assume a leadership role in these efforts. We can begin to do so by following the steps I have suggested in this letter.

Thank you for consideration of these suggestions.

Sincerely,

Carl Levin.

Mr. LEVIN. Mr. President, the State Department indicates that the People's Republic of China has appeared receptive to our entreaties, but that the Soviet Union has been less so. I hope that the U.S.S.R. will change its position in the near future as world opinion becomes aroused and enraged at the suffering.

In the meantime, we should quickly pass S. 1668 to speed needed aid on its way.

THE POLITICS OF STARVATION

● Mr. BIDEN. Mr. President, I have voted to support, as have all my colleagues, S. 1668 which authorizes additional funds to be channeled to Cambodia. I have voted to support, as have all my colleagues, all additional monies that would provide relief for the people of Cambodia. However, Mr. President, let it be stated for the record that no amount of money of itself is sufficient to prevent the proud and gentle people of Cambodia from dying of starvation, malnutrition and illness unless there is a means found to deliver the assistance which they so desperately need.

And it is no secret, Mr. President, that the present government in Cambodia has refused the plea of three eminent and courageous Senators that a land bridge be established to enable adequate food and medical supplies to reach the Cambodian people. I understand that adequate assistance means 1000 tons a day. The only effective delivery and distribution system is the maximum use of all channels, land, sea, air and river. Regrettably, this cannot be established without permission of the government in Phnom Penh.

The problem, therefore, Mr. President, is not at this moment a matter of money. It is a matter of setting up these delivery systems to Cambodia, and distribution networks within Cambodia. And that, tragically enough, is a matter of politics.

As all of us know, the government that is operational in Phnom Penh is a puppet government of Hanoi. It is a government that is not recognized by the United States. It is a government that UN members refused to seat at the United Nations. It is a government that exists at the bidding of the Vietnamese.

The axis that goes from Phnom Penh to Hanoi does not stop there. Moscow has been asked through unofficial as well as official U.S. channels to use its influence with Hanoi to permit the establishment of an expanded delivery system into Cambodia sufficient to save its people from extinction. Precisely what has transpired is not clear. But an agreement has not yet been reached. The Cambodian people lay victim to the decisions of Hanoi. The politics of starvation is a tragic one.

It has been suggested that a multinational air drop be utilized—that a mass parachute drop be initiated which will blanket Cambodia with packages of food and medical supplies. It is a dramatic gesture. It is not a very efficient one. It does not allow representatives of international agencies such as UNICEF and the International Red Cross as well as the private voluntary organization, to distribute supplies in the most effective way. But if it be the only means to stave off mass starvation of 4 million people, then it must be done.

But there is one last effort being made to prevent the tragedy of the Cambodian people. On Monday Secretary Vance will be attending a special Pledging Conference of the United Nations in New York. The ostensible purpose of this Conference is for each nation to formally pledge funds to UNICEF and the International Committee of the Red Cross to be used for Cambodian relief. The world community will commit itself on Monday to the material necessities to avert this impending disaster. Let us hope that the Governments of Vietnam and Cambodia will allow the Cambodian people to be saved.●

Mr. JAVITS. Mr. President, we have inquired on both sides and we know of no further amendments. We are ready for third reading, and we yield back our time.

Mr. PELL. We yield back our time.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

MIGRATION AND REFUGEE ASSISTANCE

The PRESIDING OFFICER. Under the previous order, the third reading of S. 1668 having occurred, the Senate will proceed to the consideration of H.R. 4955, which the clerk will state by title.

The assistant legislative clerk read as follows:

Calendar 397, H.R. 4955, an act to authorize additional appropriations for migration and refugee assistance for the fiscal years 1980 and 1981 and to authorize humanitarian assistance for the victims of the famine in Cambodia.

The Senate proceeded to consider the bill (H.R. 4955).

The PRESIDING OFFICER. Under the previous order, the text of S. 1668, as amended, will be substituted for the text of the House bill.

The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill, as amended, pass?

(Putting the question).

The bill (H.R. 4955), as amended, was passed.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, S. 1668 is indefinitely postponed.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

(During the call of the roll Mr. Levin assumed the chair.)

Mr. STEVENS. Mr. President, let me thank Senator Javits, as ranking member of the Foreign Relations Committee, for his handling of this important legislation. The distinguished Senator from New York was instrumental in our achieving a time agreement on this legislation and as a result some of us from the West will now be able to make our flights home.

Senators Danforth and Helms were also very accommodating in working out the time agreement and I thank them as well.

The Senator from New York was careful to assure that all Members were protected in offering amendments to this bill and his courtesy in this regard is most appreciated.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I would like to take this opportunity to add my own observations to those of my fellow Senators who have spoken of the extraordinary service done the Senate, the Nation, and the cause of humanity by our colleagues Senator Sasser, Senator Danforth, and Senator Baucus.

It has been a matter of signal pride, I think, to all of us, to see the dignity, the firmness, and the forthrightness with which these three American Senators looked into the face of totalitarianism and did not blanch nor conceal their horror and yet, at the same time, maintained their equanimity.

It is a wonder that this far into the 20th century we are still capable of surprise at the behavior of totalitarian regimes toward their own people, and still somehow resist the thought that this is systemic, and takes place regardless of the peoples involved, their location or their circumstances. But it does.

The refugee is singularly a phenomenon—an institution, almost—of the 20th century. Invariably, it is associated with totalitarian regimes: First, the Fascist regimes of Germany and Italy, and then the rising currency of the Communist regimes that have succeeded them and have already established themselves in Central Europe, then China and Indochina. Wherever that system of government goes, the refugee appears.

There is nothing more eloquent in the world in this day as a symbol of it than the Berlin Wall that stands. The totalitarian nations have had the most extraordinary experience: They can win adherents in the democracies, but never among their own people.

The totalitarian passion that Jean Francois Pavel has spoken of continues to absorb and fascinate the youth and the intellectuals of the free world, while the totalitarian realities all about them see people risking their lives, in fact giving up their lives, just to escape that reality.

It has, in any event, been a service to us all of the three American Senators, that they went to that part of the world and they said to that regime, "You have only to open your borders and your people will be fed," and they have said, "No."

The New York Times had a dispatch from Bangkok today by Henry Kahn which made very clear the judgment of the Vietnamese in charge of Cambodia, that inasmuch as any aid to the persons starving in that country would likely go, as well, to the people of adherence to Pol Pot, they desired no aid. It is an astonishing cruelty. But only the most recent, only the most vivid at this moment, not in this century, alas, but at this moment, this reality has been brought forth with incomparable dignity, equanimity, and firmness by three American Senators, of whom we are justly proud.

I thank the Chair.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, has there been any morning business today? I ask unanimous consent that there now be a period for the transaction of routine morning business of not to exceed 10 minutes, with Senators permitted to speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE JUDGE IN THE SMITH BAGLEY TRIAL

Mr. HATCH. Mr. President, as I viewed the Washington Post article entitled "U.S. Prosecutors Criticize Judge for Handling of Smith Bagley Trial," I became very concerned that, if these allegations are true, the appropriate authorities, especially the Justice Department, must fully investigate these most serious allegations. The letter from these two prosecutors is absolutely astounding. No prosecutors would make these criticisms without great consideration and serious reflection.

Coming on the heels of our passage in the Senate of the judicial tenure bill, serious and adequate attention must be given these charges and any rebuttal thereof.

Therefore, having made the effort to obtain a copy of the letter, I ask unanimous consent that both the provocative Post article and the letter dated October 5, 1979, be printed in the RECORD at this point.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

U.S. PROSECUTORS CRITICIZE JUDGE FOR HANDLING OF SMITH BAGLEY TRIAL

(By Merrill Brown)

Federal prosecutors have accused U.S. District Court Judge Robert Merhige of "outrageous" legal behavior in his handling of the Smith Bagley trial and said the jurist was all too friendly with the defendants.

The charges, leveled by Attorney H. M. Michaux Jr. and Assistant U.S. Attorney Patricia W. Lemley, of Greensboro, N.C., were contained in a letter requested by their superior, Deputy Assistant Attorney General John C. Keeney. A copy of the letter was obtained by The Washington Post.

Bagley, the socialite heir to the R. J. Reynolds fortune, and four others, involved in the bankruptcy of The Washington Group, Inc., a company Bagley once headed, were acquitted of conspiracy and stock manipulation charges by a jury in August. Merhige presided over that trial and was sharply critical of the government's presentation of the case.

Merhige also has been assigned to a variety of civil cases relating to Bagley and the others, stemming from the corporate bankruptcy.

Bagley's lawyers also have asked that a civil case filed by the Securities and Exchange Commission be transferred from federal court in Richmond to a North Carolina location, where Merhige is assigned.

"The antigovernment bias was manifested by Judge Merhige in virtually every phase of the trial," the U.S. attorneys said. "This bias was most clearly reflected in the court's intemperate comments and outrageous jury instructions."

Although the indictment was handed down by a federal grand jury sitting in Winston-Salem, at the request of the defendants the trial was moved to Richmond, Va., where it was heard by Merhige.

According to the letter, after Merhige was assigned to hear the case in North Carolina, the defendants filed motions for a non-jury trial and for the change of venue to Richmond.

"While the significance of these motions may simply lie in defense counsel's skilled advocacy when viewed in light of later events, they suggest that the defense team recognized an all too friendly forum at the outset," they said.

The two U.S. attorneys said that "in overview, the Bagley trial takes on the quality of a 'set up.' "

Individual incidents, which at the time had the appearance of mere intemperance, laid the foundation for jury instructions which had the effect of a direction to the jury to acquit.

"Only at the time of jury instructions did certain of the judge's exclusionary rulings, unsolicited witness cross-examinations and verbal explosions make sense."

The letter dated Oct. 5, was written by Lemley at the request of Keeney and signed by both Lemley and Michaux.

Keeney said last night that he asked for the prosecutors' comments to determine if there were mistakes in the prosecution of the case that could be corrected in the future.

"We do that in cases where the result is different than we expected it to be," Keeney said.

He said the department had no plans to follow up on the letter, although he noted the prosecutors "probably would have used less colorful language if they knew it would be made public."

Attempts to reach Merhige through his secretary were unsuccessful. The secretary said Merhige said he could not talk about the Bagley case.

Lemley, contacted last night, would not comment on the letter. "The words speak for themselves," Lemley said. Michaux could not be reached.

The two charged in their letter that through a series of comments during the trying of the case, Merhige undermined the government's case.

For example, the U.S. attorneys said that Merhige ridiculed a government witness, Wesley Bailey, who purchased Washington Group stock on a "buy-back guarantee."

"The timing of the purchases and the favorableness of the terms underscored the manipulation as charged in the indictment," they wrote.

"Nevertheless, the entire weight of Bailey's testimony was sledge-hammered by judge Merhige off-the-cuff remark. The judge's comments thus had the effect of making the prosecution team appear inept, overbearing and/or erroneous in the jury's eyes."

The letter said Merhige sustained the defense team's objections to the government's introduction of charts in the case, a decision that "again belied his impartiality."

Further, the two attorneys said Merhige "displayed a more than merely solicitous attitude toward the jury." They noted in the letter that Merhige "personally served the panel with coffee and donuts on a daily basis and arranged on at least one occasion for them to lunch at his private club."

In addition, the letter said that the judge's instructions to the jury "were tantamount to a directed verdict.

"Only a thorough reading of these instructions fully reveals the not-guilty bias through their juxtaposition of phrases, concepts and gratuitous comments," they wrote. "The government was never given a chance to present its view of the case and at no time during the trial was the indictment read to the jury."

The prosecutors said that the heart of their case was the allegation that employes of the Washington Group were encouraged to buy stock to inflate its market price.

"The judge took every element of proof such as the encouragement to buy stock and the making and guaranteeing loans for stock purchases, and stated these acts were not unlawful," they wrote.

They also said that the jury could not find the defendants guilty of mail and wire fraud charges, without proving guilt on a manipulation charge. "This ruling is clearly wrong," they wrote.

The letter charged that several of Merhige's instructions to the jury "fail to bear the remotest resemblance to the law."

Merhige is a well-known and controversial figure in the Richmond area for his decision ordering the racial integration in the city's school system.

In addition, Merhige was the presiding judge in the government's case against Allied Chemical Co. and others for their roles in the Kepone contamination of the James River. Merhige fined Allied $8 million, the largest such fine for a pollution case at the time.

U.S. ATTORNEY,
Greensboro, N.C., October 5, 1979.

Mr. JOHN C. KEENEY,
Deputy Assistant Attorney General, Criminal Division, Department of Justice, Washington, D.C.

DEAR MR. KEENEY: This letter is written in confirmation of our recent telephone conversation.

As Mr. Michaux and I related to you, notwithstanding minor factors[1] which may have contributed to the not guilty verdict in the *Bagley* case, the conduct of the trial judge ultimately ensured its outcome. The antigovernment bias was manifested by Judge Merhige in virtually every phase of the trial. This bias was most clearly reflected in the court's intemperate comments and outrageous jury instructions. At times, the courtroom took on a circus-like atmosphere. Additionally, the prosecution team was not sufficiently staffed. This problem was exacerbated by a maniacal trial schedule. Two lawyers and an F.B.I. agent, who was not the case agent, were out-manned by twelve in-court attorneys, supported by unlimited funds, miscellaneous "gophers" and a sub-

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Footnotes at end of article.

stantial number of affiliated attorney advisers. We make no apology for the substantive merits of the prosecution or the pre-indictment review process.

In overview, the *Bagley* trial takes on the quality of a "set up." Individual incidents which at the time had the appearance of mere intemperance laid the foundation for jury instructions which had the effect of a direction to the jury to acquit. Only at the time of jury instructions did certain of the judge's exclusionary rulings, unsolicited witness cross-examinations and verbal explosions make sense. An appreciation of the futility of the prosecution once it reached Judge Merhige's hands can only be achieved by gaining an awareness of certain pre-trial matters, and most particularly the court's rulings on motions to dismiss the indictment.

The defendants had argued in a motion to dismiss the indictment that the stock manipulation, Count Two of the indictment, was fatally deficient in that it failed to make specific allegations of "matched orders," "wash sales," fictional quotations and so on, as set forth in Section 9 of the Securities Exchange Act of 1934. It was also argued that stock purchases alleged in the indictment were "real" and hence legal purchases; further, that the government must plead an allegation of a specific intent to defraud.

The government essentially responded to these charges by citing the comprehensive language of Section 10b and Rule 10b–5. We averred that the defendants were improperly attempting to engraft the specific language of Section 9 onto the broad provisions of Section 10 and Rule 10b–5, a proposition which has been rejected by every appellate court which has considered it. We argued that the purchases were made for the express purpose of artificially inflating the price of Washington Group stock, "real" or no.

As to the misapplication charge, brought both substantively and as a goal of the Count One conspiracy, the defendants essentially argued that stock loans could not have been made with the intent to injure or defraud the Northwestern Bank as Smith Bagley's guarantee precluded any potential loss to the Bank. We declined to respond to this evidentiary argument and relied primarily upon *United States* v. *Caldwell*, 544 F. 2d 691 (4th Cir. 1976) which held that although the fruition of a misapplication may be consonant with a bank's financial interests, where bank funds were used to accomplish an illegal purpose, a misapplication would stand. The *Caldwell* case applied directly to *Bagley, et al*, since the indictment charged loans made for the illegal purpose of accomplishing the manipulative and deceptive device by funding the stock purchases themselves. Northwestern Bank was the "key to the piggyback."

Judge Merhige denied the defendants' motions to dismiss in a one-sentence memorandum order.

Another interesting feature of the pre-trial motions was the defendants' motions for jury waiver and change of venue. The indictment in the *Bagley* case was filed in the Middle District of North Carolina. Pre-trial motions, including a motion to dismiss the indictment on pre-trial publicity grounds, were filed before Judge Gordon, Chief Judge, Middle District of North Carolina.

It was only following Judge Gordon's notice to all parties that Judge Merhige was going to hear the case that the defendants filed motions for a non-jury trial and for a change of venue on the same publicity grounds.[2] While the significance of these motions may simply lie in defense counsel's skilled advocacy, when viewed in light of later events, they suggest that the defense team recognized an all too friendly forum at the outset.

Acting in reliance upon the proposition that the judge's rulings constituted the law of the case, we proved our 10b–5 stock manipulation, conspiracy and misapplication case. Over 60 percent of the market demand for Washington Group stock was accounted for by Northwestern Bank loans and the defendants' own purchases. Each defendant was proved to either have made or guaranteed a Washington Group stock loan or have direct knowledge that Northwestern Bank, as guaranteed by a defendant, was the source of the demand for Washington Group stock.

When Washington Group middle level employee purchasing power was not available to account for Washington Group stock demand, the defendants Bagley and Gilley secured other purchases by means of no loss guarantees or guarantees of profit. The timing of controlled purchases and sales were shown to correspond to the inventory of Washington Group stock. The quintessence of the fraud was the utilization of employee profit sharing and stock purchase plan monies to continue the on-going market support activities.

No responsible Washington Group employee was informed of the defendants Bagley and Gilley's decision to sell the entire blue chip stock portfolio of the profit sharing plan and to use the proceeds from this sale to purchase Washington Group stock, thus relieving Bagley and Gilley of certain loan guarantees in the process.

During the trial itself the government was subjected to numerous on- and off-the-record diatribes by Judge Merhige. For example, when we proved that defendant Smith Bagley's R. J. Reynolds money was held in trust out of his direct control and thus, this man of means, so-called by the defense, could not make good on his Washington Group stock loan guarantees, Merhige was provoked to state out of the jury's presence that the government was on a witch hunt and prosecution of the case shocked him. The judge's views that the government had failed after a week of trial to produce a "scintilla" of evidence as to a conspiracy were repeatedly articulated to the jury.

As witnesses testified that they would not have purchased Washington Group stock in the amount and in the manner they had, which was through large loans equal to or greater than their annual salaries, the judge would interrupt direct examination with such questions as "But you bought the stock hoping to make a profit, didn't you?" or "But you knew you were taking a risk, didn't you?" On more than one occasion, Judge Merhige ridiculed the witness or *sua sponte* commented to the jury that he failed to see the relevance of a certain witness' testimony.[3]

One of such comments was unfortunately directed to Wesley Bailey, a friend and an attorney of the defendant James R. Gilley, who on a buyback guarantee made by the defendants Gilley and Bagley bought 5,000 shares of Washington Group stock, sold these into the profit sharing plan two months later, and a month later bought 7,000 more shares under a similar arrangement when the company was in registration in connection with a proposed merger.

In one sense the crux of the case rested with Bailey, as he rebutted any possible assertions that the defendants Bagley and Gilley were simply attempting to assist fellow employees to get in on the ground floor of Washington Group. The timing of the purchases and the favorableness of the terms underscored the manipulation as charged in the indictment. Nevertheless, the entire weight of Bailey's testimony was sledgehammered by Judge Merhige's off-the-cuff remark. The judge's comments thus had the effect of making the prosecution team appear inept, overbearing and/or erroneous in the jury's eyes.

A further means by which the judge shaped the outcome of this case can be found in his ruling regarding Special Agent Zachary Lowe, the supervising case agent. Special Agent Lowe's knowledge of the case and the documents which constituted our proof was instrumental. A week prior to trial pressing problems developed in Special Agent Lowe's personal life. As a result, we requested the court to allow Special Agent Lowe to join us on the third or fourth day of trial. On the grounds that Lowe was a scheduled government witness, the court denied our request. When we then advised the court that we would in no event call Special Agent Lowe to testify, Judge Merhige asked the defense team if they had any objection to allowing the Agent's presence, whereupon counsel for defendant Bagley responded that while they had no present intention to do so, they might call Special Agent Lowe as a defense witness.

Judge Merhige immediately ruled that we could have only one case agent present at trial who was to remain with both prosecution attorneys during all proceedings, unlike the defense attorney second string who came and left the courtroom at will. Special Agent Lowe was barred from the courtroom for the length of the trial. This ruling crippled the prosecution from the outset. In-court and in-chambers arguments failed to loosen Judge Merhige from this ruling.

The judge's ruling regarding the government's introduction of charts, a crucial aspect of our case, again belied his impartiality. Objections to the charts were sustained on two primary grounds. The first chart listed Northwestern Bank stock loans by borrower, amount, date, loan officer (nearly always defendant Chapple), amount of stock purchased and the name of the registered representative (nearly always defendant Thomas). The judge ruled that the repetitious references to the defendants Chapple and Thomas were prejudicial, even though this information came straight from government exhibits already received into evidence.

The second ruling centered around percentage comparisons of defendant-related stock purchases to total Washington Group stock purchases. On a *voir dire* and in argument we presented evidence that the information on these charts came from the trading records of all brokerage firms who acted as market makers or as principals in Washington Group stock. On the grounds that somewhere, at some time or place, some broker may have effected a transaction in Washington Group stock, the judge precluded the use of these charts.

The government was prevented from showing the unfortunate history of the Washington Group stock loans, which evidenced a pattern of renegotiations and personal bankruptcies. Judge Merhige's ruling on this entire area of testimony severely hampered all proof of loss with respect to the Northwestern Bank and thus the defendants' intent to injure or defraud the bank. Revealingly, during the arguments regarding the defendants' motion for judgment of acquittal at the close of the government's case, the judge castigated the government for failing to show any loss by Northwestern Bank. We referred the judge to his own prior rulings.

The judge also prevented any meaningful summary testimony from reaching the jury. For example, an investment banker who as a result of an analysis he had accomplished during the indictment period concluded that the value of Washington Group stock, then being traded at a market price of $19.00 per share, was worth only $7.00. Needless to say, this was a most crucial piece of evidence. Judge Merhige allowed this witness to testify as to his qualifications and conclusion but specifically disallowed our attempt to bring the bases for his conclusion to the jury's attention. He further undercut the probative force of this evidence by giving the standard instruction that the weight to be accorded opinion testimony was affected by the grounds for the given conclusion.

Footnotes at end of article.

The close of the government's case saw the dismissal of the substantive misapplication charges and two mail fraud counts. The mail fraud counts, which were the subject of a blanket, pro-forma motion for judgment of acquittal and which occasioned no argument by either defense or government counsel, were dismissed on the grounds that the mailings were not in furtherance of the fraudulent scheme.[4] These letters concerned arrangements for the sale of blue chip stock in the profit sharing plan, the funds from which were then used to purchase Washington Group stock. The judge's ruling is puzzling and diluted the impact of one of the most outrageous aspects of the charged fraud. The judge predicated his misapplication dismissal upon *United States* v. *Arthur*, 544 F.2d 730 (4th Cir. 1976), stating this case overruled *Caldwell, supra*, in that Section 656 required an attempt to inflict pecuniary injury. The $1 million plus in loans exposed Northwestern Bank to severe pecuniary losses but in any event, if Judge Merhige had desired to rely on *Arthur* rather than *Caldwell* the vehicle should have been clearly appealable granting of the defendants' pre-trial motion to dismiss.[5]

Throughout the course of the trial the judge displayed a more than merely solicitous attitude toward the jury. He personally served the panel with coffee and donuts on a daily basis and arranged on at least one occasion for them to lunch at his private club. The foreman of the jury was quoted in local tableaux as stating the jury had not wanted to let the judge down by its verdict. Judge Merhige is a man of great personal charisma and charm. In this context, the jury stood on the edge of its seat listening to the "law," when given in the instructions. I concluded from my observation of the nodding heads in the jury box that at the close of all arguments at least the defendants Bagley and Gilley had been convicted, if not all five of the defendants; when the jury instructions were given, these same heads were shaking in near disbelief.

It is also worth noting that the final jury argument was given at 10:30 p.m. and jury instructions did not begin until 1:30 p.m. the next day. Even when the not guilty verdict was returned, the jury was somber and reflective, a most unusual feature for a not guilty jury. A juryman was quoted in the newspapers as affirmatively responding to a reporter's question as to whether the case should have been brought by the government.

The judge's instructions were tantamount to a directed verdict. Only a thorough reading of these instructions fully reveals the not guilty bias through their juxtaposition of phrases, concepts and gratuitous comments.[6] The government was never given a chance to present its view of the case as at no time during the trial was the indictment read to the jury.

Count Two, the manipulation charge was read to the jury by the judge only after it had deliberated some seven and one half hours on the case, and upon its complaint that it could not have the charge. The judge accordingly made good his subsequent offer to read both Count Two and the relevant instructions. The jury returned its not guilty verdict in open court 35 minutes later. The jury had previously requested reinstruction on the conspiracy charge an hour and ten minutes after initially retiring.

Another overall feature regarding these instructions is that the government was notified of the substance of the charge only an hour before final argument. We had filed standard instructions two weeks before trial at the judge's request; he had asked the defense at the same time to file any instructions they desired with the court, but if these instructions revealed a defense theory or strategy they need not be disclosed to the government until the defense case commenced.

The charge as given by the judge adopted the request for instructions submitted by defendant Bagley in every material respect; the proposed charge in turn adopted the exact arguments litigated in the initial hearings on the motion to dismiss and disclosed absolutely no new defense theories or views of the case. As you are aware, the defendants introduced no evidence at trial. We had not been notified of the fact that any defense instructions had been filed, much less their substance, although these instructions had indeed been filed prior to trial.

A strenuous objection made in open court not only as advocates but explicitly as officers of the court were of no avail. When the judge asked if there were any objections to the charge after it had been given, I responded an emphatic, "Yes," to which the judge revealingly riposted that the government was not entitled to take exceptions to a jury charge.

In the charge on the conspiracy count, Judge Merhige advised the jury that if the goal of the conspiracy were only to manipulate the market price of Washington Group stock, as opposed to misapplying bank funds, or vice versa, they must find the defendants not guilty. The misapplication counts had been dismissed, which fact the judge noted five times in this conspiracy charge, and while the judge read Section 656, at no time did he describe the elements of a misapplication offense. He also rendered conviction virtually impossible on the conspiracy count by limiting the misapplication objective in the conspiracy to the two loans charged in the substantive counts, which he had dismissed.

The 10b-5 manipulation charge constitutes a miscarriage of justice. Contrary to his earlier rulings on the motion to dismiss, Judge Merhige informed the jury that the government must establish a specific intent to defraud in order to prove its case. A manipulation was defined by the previously rejected "matched order" and "wash sales" language inapplicable to a 10b-5 case. The judge iterated that profit was usually the aim of a stock investment and a shareholder was part owner in the profits and risks of the company, thus harkening back to his own cross examinations; it was against these witness investors the government was required to prove a specific intent to cheat.

The judge took every element of proof, such as the encouragement to buy stock and the making and guaranteeing of loans for stock purchases, and stated these acts were not unlawful. Incredibly, he stated that it was not unlawful to compel, intimidate or pressure employees to buy stock for the purpose of supporting the price of the stock or to engage in buying for the purpose of raising the price of the stock. This was the heart of the case.

The judge erroneously added that even if purchases of stock were undertaken to support the market price, the jury was nevertheless precluded from finding that such purchases were made with manipulative intent if the purchaser also had additional reasons for making the purchase, e.g., an expectation that the price would rise. If the price rose for any other reason in the manipulative conduct, the jury was charged to enter a not guilty verdict.

Once Count Two was effectively emasculated, the entire case, practically speaking, was lost. Count Two impacted on each other Count. Of course, contrary to his earlier expressions articulated in open court, the judge ensured this damaging effect by charging that the jury could not reach the mail and wire fraud counts unless they specifically found guilt on the manipulation count. This ruling is clearly wrong. The judge also advised the jury the mailings and telephone conversations must constitute an "integral" part of the scheme to defraud, an "essential step," and not "routine, intrinsically innocent" communications incumbent to a regular business enterprise. To add insult to injury, the jury was charged that the defendants had to evidence a specific intent to accomplish the mailings and telephone calls themselves, a proposition rejected by the Supreme Court twenty-five years ago. *Pereira* v. *United States*, 347 U.S. 1 (1954). Finally, the judge stated that the jury could not convict the defendants for their mere failure to disclose information but that an affirmative false statement was necessary. These instructions fail to bear the remotest resemblance to the law.

In conclusion, it is hoped these rather cursory thoughts may assist you in analyzing the *Bagley* trial. If we may be of any further assistance, please do not hesitate to call.

Respectfully,

H. M. MICHAUX, JR.,
United States Attorney.
PATRICIA W. LEMLEY,
Assistant United States Attorney.

FOOTNOTES

[1] I refer here, for example, to our decision to oppose the defendant's Jury Waiver Motion, a potential but probably futile failure to make a Motion for Mistrial following the jury instructions, our decision to allow open file discovery, and so on. These factors largely include the type of "why didn't I think of that before" post-mortem mentality that any attorney experiences following an adverse decision.

[2] The jury did not conduct its deliberations unmindful that some cases proceed by jury waiver; they were specifically, and we would submit prejudicially, informed of this fact as part of the instructions.

[3] This pattern of conduct was particularly aggravated regarding testimony of witnesses who had been highlighted in a pre-trial memorandum submitted by the government at the judge's invitation.

[4] This issue had been specifically litigated in pre-trial motion hearings.

[5] In passing, this ruling flies in the face of *United States* v. *Duncan*, 598 F.2d 839 (4th Cir.), *cert. denied*, —— U.S. —— (1979), and was explicitly rejected on August 3, 1979, in *United States* v. *Arthur*, (*Arthur II*), —— F.2d ——, No. 78-1598 (4th Cir.).

[6] For example, twice the judge told the jury that civil remedies were available to any investors. He stated that ignorance of the law could be considered on the issue of specific intent. "Wilfully" was defined as a *specific* intent to do what the law forbids. Where control of stock trading was discussed in the instructions, the judge misdescribed the "float" as constituting the entire number of issued shares.

RICHARD ARRINGTON ELECTED MAYOR OF BIRMINGHAM, ALA.

Mr. HEFLIN. Mr. President, Tuesday, October 30, 1979, marked the beginning of a new era in the history of Birmingham, Ala., for it was on that day that Birmingham elected its first black mayor.

Dr. Richard Arrington, Jr., a 44-year-old native of Sumter County, Ala., and a Birmingham city councilman for 8 years, won the mayor's race with 51 percent of the votes in a runoff with Frank Parsons, a white attorney-businessman. In a city where 44.6 percent of the voting population is black, Dr. Arrington is believed to have received approximately 15 percent of the white vote. I think that this is indicative of both Dr.

Arrington's standing in the community and the fact that attitudes have changed in Birmingham, as elsewhere around my home State.

During the primary election on October 9, 1979, Dr. Arrington led a six-man race with slightly more than 44 percent of the votes cast.

Although the voting in last Tuesday's election was primarily along racial lines, it is clear that without 10 to 15 percent of support from white voters, Dr. Arrington could not have become mayor.

Mr. President, it is ironic that the son of two sharecroppers would become mayor of the largest city in Alabama. It is undisputed that 16 years ago Birmingham was painted as one of the most racist cities in the world—dogs attacking black children, police and firemen using high-pressured water hoses to restrain black demonstrators, a church bombing that killed four black girls, and the multiple jailings of the late civil rights leader, Dr. Martin Luther King, Jr. I hope and believe that Dr. Arrington's election will mark the continuation of a period of harmony between whites and blacks in Birmingham, as each group comes to appreciate the hopes and aspirations of the other. The black community and the white community must continue to meld into the Birmingham community if we are to continue to progress.

Mayor-elect Arrington moved to a suburb of Birmingham—Fairfield, Ala.—at the age of 5 years. He received his elementary and secondary education there.

Dr. Arrington's training in higher education is in the fields of biology and biochemistry. He received an A.B. degree from Miles College in Birmingham, a master's degree from the University of Detroit, and a Ph. D. from the University of Oklahoma. He received additional training at New Mexico Highlands University, State University of Iowa, and Harvard University.

Dr. Arrington has served as professor of biology at Miles College and the University of Alabama in Birmingham. He also served for 4 years as academic dean at Miles College in June 1970. He assumed his present position as executive director of the Alabama Center for Higher Education, an organization of the eight black senior colleges in Alabama, in June 1970.

In November 1971 and 1975, he was elected to 4-year terms on the Birmingham City Council. Dr. Arrington serves on the board of directors of a large number of community service organizations, including the executive board of the Boy Scouts of America, the Salvation Army, the National Goodwill Industry, the Birmingham Urban League, and Positive Maturing (Aging).

Mr. President, as the city of Birmingham faces the rising Sun of a new day, I pledge my cooperation to Mayor-elect Arrington and to the city of Birmingham in making Birmingham a truly model city for all Americans.

Mr. President, I ask unanimous consent that two news articles—one which appeared in the Washington Post on October 31, 1979, entitled "First Black Mayor Narrowly Elected in Birmingham," and the other, which appeared in the New York Times on November 1, 1979, entitled "Birmingham Victor Elated and Determined," be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 31, 1979]

FIRST BLACK MAYOR NARROWLY ELECTED IN BIRMINGHAM

(By Bill Curry)

BIRMINGHAM.—The city of Bull Connor and his dogs, of Martin Luther King Jr. locked up in jail and of a church bombing that killed four black girls—elected a black mayor yesterday.

Richard Arrington, 44-year-old son of a sharecropper, became the Alabama city's first black mayor with 51 percent of the vote in a runoff with a white attorney-businessman, Frank Parsons.

With all 75 polling places reporting, Arrington had 44,798 votes to 42,814 for Parsons.

The triumph of Arrington, following eight years on the city council, is a high point in the evolution of racial accommodation that has followed the violent civil rights struggles that in the 1960s made Birmingham a symbol of racial strife.

Strangely, it was a racial incident last June that forced Arrington into the mayoral campaign. The incident was the erroneous and fatal shooting of an unarmed 20-year-old black woman by a white city policeman.

The 38-year-old Parsons campaigned on a strong law-and-order stance and a pledge to keep the police department under the control of policemen.

In the closing days of the campaign, Parsons supporters ran newspaper ads portraying Atlanta as crime-ridden as a result of electing a black mayor, Maynard Jackson.

But while blacks apparently went to the polls yesterday in greater proportion than did whites, early indications were that Arrington, who was endorsed by both of the city's daily newspapers, received perhaps 20 percent of his support from white voters.

Such support was crucial for Arrington because whites make up more than half of the city's 129,000 registered voters.

"This is a historic occasion for our city," Arrington said last night, "because the majority of voters have tapped one of the sons of color of our city. The decision says more about our city than all the public relations we can do and all the things we can say.

"The voters rejected a campaign based on fear and rejected a campaign based on sneers."

It was only 10 years ago that the Birmingham city council got its first black member. Asked before the election if Birmingham was ready for a black mayor, Arrington said, "I think it is. The transition it represents creates uneasiness—I understand that."

It was widely accepted in Birmingham, and acknowledged by Arrington, that a major task facing the city's new mayor would be to heal the racial wounds left by the shooting of Benita Carter last June.

Neither conservative whites nor change-mined blacks were satisfied with the city's handling of the shooting. Mayor David Vann, whom Arrington helped elect four years ago by bringing together a coalition of blacks and liberal whites, refused to fire the policeman involved but he did set up a citizens' committee to review the incident.

Arrington also will face many of the same problems mayors do in declining northern cities: deteriorated housing, a downtown that has largely been passed over by the so-called Sun Belt prosperity of the 1970s.

Arrington has worked on economic development and finance issues on the city council, and generally receives high marks.

But whatever the problems Birmingham faces in the 1980s, there is not the widespread, racially motivated violence of the 1960s. This is largely because of almost two decades of efforts by business and community leaders to help bring blacks into the mainstream of city life—a change stunningly illustrated by Arrington's election.

First came a change in the city charter, then blacks on the city council, and then the 1975 mayoral race. A coalition of blacks and liberal whites was formed, largely through Arrington's work, and became a dominant force in city politics. It elected Vann, who named a black city attorney, and many saw the coalition as a base for politicians in years to come.

At the same time, the University of Alabama at Birmingham, with its medical schools and research institutes, boomed. The school is, by all accounts, the growth industry that has come to overshadow steel. In 18 years, it has gone from 2,500 to 8,500 employes, and its budget from $10 million to $220 million.

With blacks making up roughly 20 percent of its student body, it has brought them into the classroom with little or no racial problems.

Now that will be Arrington's task in the city at large. "I am a bridge between the races," he says, citing his work on numerous biracial committees. But it will be difficult to please blacks on police conduct while maintaining police support.

Frank Parson, who edged out Vann in an initial mayoral race on Oct. 9 to win a spot in the nonpartisan runoff, said last night, while not yet conceding defeat: "Now we have to unify the city and move forward."

[From the New York Times, Nov. 1, 1979]

BIRMINGHAM VICTOR ELATED AND DETERMINED

(By Howell Raines)

BIRMINGHAM, ALA., October 31.—Since last night, Richard Arrington has spoken twice with President Carter, and Senator Edward M. Kennedy has called four times trying to get through. The Senator's nephew, Robert F. Kennedy Jr., dropped by for a chat yesterday, and Gov. Fob James of Alabama called up this morning to say there's no feeling quite like winning an election.

Mr. Arrington, who took the Governor's call as network camera crews and out-of-town reporters crowded around, agreed happily. For he had just stepped into the heady whirl of national politics—and for that matter, into history—as the first black Mayor of a place that only 16 years ago was regarded by civil rights leaders as the most segregated big city in America.

FINDS PROGRESS IN VOTE

But beyond the congratulatory calls lies a reality of which Mr. Arrington, a 45-year-old educator with a classic up-from-poverty biography, seemed well aware today. He inherits the leadership of a city that has just experienced the most overtly racial political campaign in Alabama since George C. Wallace won the governorship in 1970 by warning that blacks were trying to take over the state with a "bloc vote."

Mr. Arrington hailed his victory in yesterday's runoff election as proof that Birmingham had made "significant progress," but he conceded that the voting was sharply divided along racial lines. That polarization and the tone of the campaign made it clear that he would lead a city with more complex, but by no means more easily solved, racial problems than it faced in the 1960's.

"I'm going to work very hard as Mayor of this city to decrease racial tension," he said. "I think I know something, a little bit, about how to do that. You have to recognize that we're going through a very conservative trend in this country, and that automatically produces some tension."

Such tension, he admitted, led him to cancel a plan to quit politics altogether after two terms on the City Council. Instead, he decided to run for Mayor against a field that originally included a liberal, white incumbent who was his friend and political ally. This happened after a white policeman killed an unarmed black woman last summer by shooting her three times in the back. As a result, he said, "People were coming to me saying, 'We have invested in you. You are the black political leader in this town and we want you to pay off on the investment.' "

CAUTIOUS CAMPAIGN

Mr. Arrington did that by waging a cautious campaign designed not to draw the attention of conservative whites. In the runoff he defeated Frank Parsons, 38, a white lawyer and travel agency owner who warned that election of a black Mayor would lead to increased crime. The vote was 44,798, or 51.1 percent, to 42,814, or 48.9 percent. According to an analysis by The Birmingham Post-Herald, 90 percent of the whites voted for Mr. Parsons and virtually all the blacks voted for Mr. Arrington.

The flight of whites from the city and a controversy-plagued Police Department that is 90 percent white in a half-black city are two of the problems facing Mr. Arrington. He said that only a dozen of the 700 police officers were responsible for the complaints of police brutality that arise regularly from black neighborhoods.

As for white flight, he said he planned housing subsidies for middle-income families.

Richard Ernest Arrington Jr. was born on Oct. 19, 1934, in Sumter County, Ala., of sharecropping parents who later moved here to find work in the steel mills. As a dean at predominantly black Miles College, he played a behind-the-scenes role in the widespread 1963 civil rights protests in this city, writing speeches and public statements for black community leaders. He later earned a doctorate in invertebrate zoology at the University of Oklahoma.

THE TRADE AGREEMENT BETWEEN THE UNITED STATES AND THE PEOPLE'S REPUBLIC OF CHINA

Mr. CRANSTON. Mr. President, earlier this week, the President sent to Congress for approval a detailed trade agreement between the United States and the PRC. The submission of this treaty represents a very important step in the ongoing process of normalizing our political and economic relations with the PRC. Once ratified by Congress, this agreement will provide a sound framework for the rapid expansion of our trade with China.

The benefits of this trade promise to be very significant. If the aims of the proposed agreement are fully realized, we may see the volume of trade between the United States and the PRC grow to nearly $21 billion over the next 5 years, as compared with a total of less than $1.2 billion last year. This potential expansion of trade also promises to aid the serious U.S. balance of trade problem by providing, according to Department of Commerce estimates, a $9 billion surplus in the U.S. balance of trade with the PRC during the first half of the next decade.

The administration has submitted the trade agreement to Congress together with a Presidential waiver of restrictions in section 402 of the 1974 Trade Act which would prohibit extension of credits and investment guarantees to the PRC. The terms of this Presidential waiver are fully consistent with the provisions of the so-called Jackson-Vanik amendment, which places curbs on trade with Communist countries denying emigration rights to their citizens.

I support the President's determination that the PRC should now be made eligible for trade credits and investment guarantees. I am confident that the Congress will review the terms of the trade agreement in a timely fashion and will support its adoption.

I think it appropriate that the administration has decided to proceed with extension of most-favored-nation status to the PRC at this time even though a similar step cannot now be taken with respect to the Soviet Union. But I am concerned about the importance of maintaining equity in U.S. policy toward the U.S.S.R. and the PRC. I had hoped—very much—that most-favored-nation states could be worked out for both countries at the same time.

The United States cannot delay indefinitely a recognition of the progress the Soviet Government has been making in liberalizing its emigration policies. At some point, continued U.S. delay in addressing the question of MFN for the Soviet Union is going to be counterproductive to the very purposes the Congress has sought to achieve in linking trade benefits with emigration policy. As one who is deeply committed to the cause of those in the Soviet Union who seek a new homeland and as one who has worked continuously to aid the victims of restrictions in Soviet emigration practices, I believe we must acknowledge the progress made by the Soviet Union in easing emigration restrictions.

I recognize that the current debate over SALT and the future course of American defense efforts does not afford an opportunity for immediate consideration of MFN for the Soviet Union. And I concur with the decision to proceed with the extension of trade benefits to the PRC so as to continue improving our relations with that nation. But I remain convinced of the necessity for early consideration of similar treatment for the U.S.S.R., once the debate over SALT II has concluded. And I hope Soviet actions now and for the future will warrant the granting of such mutual trade benefits.

Mr. President, it is important to state clearly just what we are doing and what we are not doing when we consider extension of most-favored-nation treatment to a Communist country.

First of all, we are not, by any stretch of the imagination, "rewarding" a country for its domestic policies. Nor are we approving of its system of government. We are simply facilitating a growth of trade and economic intercourse in pursuit of our own political and economic interests. This is why the United States has extended such treatment to virtually every country in the world, except for the most backward of totalitarian dictatorships, such as Albania and North Korea.

Second, in extending MFN, we are not offering benefits which are at all unusual. The term "most-favored-nation" is very misleading. "Nondiscriminatory trade treatment" is more exact. MFN treatment simply makes a nation eligible for those basic tariff reductions which we routinely make available to all our trading partners. Again, the expansion of trade facilitated by such action is to the direct benefit of American workers and American consumers.

Finally, and most importantly, extension of certain trade benefits to countries like the PRC and the U.S.S.R. would not mean that the U.S. Government has in any way reduced its commitment to help those seeking to escape political repression in such nations. Indeed, in the case of the Soviet Union where we have monitored the struggle of Soviet Jewry so closely, it is in the hope of improving the plight of such victims that we consider taking this step. The United States promises to have greater leverage to encourage continued improvement of emigration policies once MFN and trade credits have been granted than we would have in their continued absence. Armed with the existing authority of annual review, and if necessary, of withholding extension of the President's authority to waive trade restrictions, Congress would remain in a position to make known its concerns regarding emigration practices in Communist countries.

On the other hand, were Congress to fail to consider extension of trade credits to the Soviet Union and thus, to ignore the gradual improvement which we have seen in Soviet emigration policy, the first to suffer might well be those whom we seek to help—the Jews and other minorities and dissidents who wish to leave the U.S.S.R.

Mr. President, I welcome the new trade agreement with the PRC. I will be working to gain congressional approval for this agreement and to insure that adequate trade credits and investment guarantees are available to realize its aims. I will also continue to monitor the emigration situation in the Soviet Union very closely in the hope that the Soviet Union may be eligible for similar consideration in the near future.

SALT II: THE NONPROLIFERATION FACTOR

Mr. CRANSTON. Mr. President, yesterday, the distinguished majority leader, Senator BYRD, and the distinguished Senator from New York, Mr. MOYNIHAN, engaged in a brief colloquy on the problem of proliferation of nuclear weapons. I commend each of these eminent Senators for the timeliness and perception of their remarks. I would like to offer my concurrence to their views and to add some observations of my own concerning the ramifications of a failure by this body to ratify the SALT II treaty upon the effort to prevent nuclear proliferation.

By undermining the foundation of all nonproliferation efforts, rejection of SALT II would harm U.S. national security interests in ways which extend far beyond the immediate scope of bilateral relations between the United States and the Soviet Union.

The SALT process and the development of a nonproliferation regime have been linked from the outset. Signature of the Nuclear Nonproliferation Treaty (NPT) by the United States and the Soviet Union on July 1, 1968, was a precondition for progress on SALT. Indeed, the NPT signing ceremony was marked by the announcement of the beginning of the SALT discussions.

With promotion of the NPT, the superpowers accepted a balance of mutual responsibilities and obligations. Nonnuclear-weapons-states consented to maintain their supposedly inferior status under the NPT only when provided with the superpowers' pledge to seek reduction of their own nuclear stockpiles. This was spelled out explicitly in the articles of the NPT and provided the basis for development of a nonproliferation regime which involved both technical and political barriers to the further spread of nuclear weapons capability. Nonnuclear-weapons-states will continue to accept such a status only if the United States and the Soviet Union continue to make progress on SALT.

Since ratification of the NPT and initiation of the SALT process by the superpowers in 1968, there has been significant progress. The momentum of the nuclear arms competition between the United States and the U.S.S.R. has been slowed. Cooperation between the two nations in adopting certain confidence building measures has increased. And while 109 nations have formally assented to the compromise represented by the NPT, so far only one nation—India—has been willing to incur the heavy political costs of circumventing the nonproliferation regime.

The immediate U.S. response in the instance of the Indian explosion lacked vigor. But subsequently the United States has succeeded in employing the political leverage provided by the NPT–SALT bargain to turn several nations away from the development of a nuclear weapons capability.

The administration has duly noted the relationship between SALT and nonproliferation efforts. On his return from the Vienna summit last June, President Carter stated that failure by the Senate to ratify SALT II would lead to "vastly increased dangers of nuclear proliferation among other nations of the world who do not presently have nuclear weapons."

Former SALT negotiator Ambassador Gerard Smith has declared that—

> The threat to American security from horizontal proliferation is substantially greater than that represented by the continuing improvements in Soviet forces.

And General Seignious, head of ACDA, recently stated before the Armed Services Committee:

> Ratification of SALT II would reinforce our efforts to maintain and enhance adherence to the Non-Proliferation Treaty and thus help prevent the spread of nuclear weapons. In these efforts we are joined by 109 other nations, including the Soviet Union. *Apart from the collapse of the SALT process itself, the most important casualty of SALT failure could be our vitally important effort to prevent the spread of nuclear weapons.*
>
> As a former strategist for the Joint Chiefs of Staff, I can tell you that *nuclear weapons proliferation would create a security nightmare of grave dimensions.* Terrorism and local conflicts could escalate to threaten the security of every American. Those nations that have forsworn nuclear weapons for themselves by adhering to the Non-Proliferation Treaty are cloesly watching the two superpowers to see whether we are indeed credible in our own commitment to reduce the level of nuclear weaponry. (Emphasis added) (Armed Services Committee, July 30, 1979)

If unchecked, proliferation could lead to the attainment of nuclear weapons capability by some 20 nations by 1990. In such a multiproliferated world, the nuclear firebreak would be too fragile to prevent the use of nuclear weapons in war. The task of crisis management and conflict containment would become virtually impossible.

The Carter administration has joined with Congress to take a number of steps to combat the proliferation dangers. Under the able, bipartisan leadership of the Senator from Ohio (Mr. GLENN), and the Senator from Illinois (Mr. PERCY), the Senate last year adopted comprehensive nuclear nonproliferation legislation by the overwhelming margin of 88 to 3. The 1979 Nonproliferation Act provided material incentives and technical constraints against the spread of nuclear weapons capability. But perhaps most importantly, it made very clear that the United States remains committed to using all of the political leverage available to combat proliferation.

The United States has sought consensus among fellow nuclear supplier nations to strengthen the NPT regime. Not only our key allies, but the Soviet Union as well, have joined in the adoption of new nuclear guidelines which place greater controls over dissemination of materials which may prove suitable for nuclear weapons production.

Another key U.S. nonproliferation initiative has been the convening of the international nuclear fuel cycle evaluation (INFCE), a 52-nation conference which is pursuing the development of more effective safeguards against the spread of nuclear weapons.

The PT regime must be strengthened, not abandoned. Technical barriers to proliferation have been reduced, and will remain low for some time. But this fact should not be used as an excuse for undermining nonproliferation efforts. With the recent reduction in technical constraints upon nuclear weapons spread, it is more important than ever that the United States maintain its political and moral legitimacy in the nonproliferation field. Continued progress on SALT—no matter how imperfect or incremental—is the key element in this effort.

The principal House sponsor of the Nonproliferation Act, JONATHAN BINGHAM, recently stated before the Senate Foreign Relations Committee that—

> The next two years will be a time of particular danger for our policy of inhibiting the spread of nuclear weapons.

This fact becomes apparent when one considers the imminent dangers of a regional nuclear arms race in Southern Asia and South America, or when one notes that the NPT itself is subject to review by all parties next summer. Other key U.S. objectives which require progress on SALT for success include satisfactory conclusion of INFCE, full implementation of the Nonproliferation Act and the accords among nuclear supplier nations, as well as progress toward a comprehensive test ban treaty.

Rejection by the Senate of SALT II simply because it does not go as far as most have hoped toward reducing nuclear arms stockpiles would be an immensely counterproductive gesture with ill effects sure to be felt far beyond the scope of United States-Soviet relations. Even if one considers only the essential goal of our nuclear nonproliferation policy, the abandonment of SALT II by the Senate would clearly lead as General Seignious recently noted, "not to more security" for the United States, but rather to "greater insecurity for all."

THE NEED TO IMPROVE NUCLEAR ENERGY REGULATION

Mr. CRANSTON. Mr. President, 6 months ago, acting in response to the accident at the Three Mile Island nuclear powerplant, President Carter appointed a distinguished group of citizens under the leadership of John Kemeny, president of Dartmouth College, to investigate the process by which the United States regulates the uses of nuclear energy for peaceful purposes. The report of this independent body was just released.

The Kemeny Commission report analyzes many of the problems in current nuclear regulatory practice and offers some specific and useful suggestions for improvement.

Timid though it may be, the Kemeny report is the strongest criticism to date from an official Government source of an industry and a technology which has serious problems.

I welcome this critique because I believe these problems, and other extremely serious problems, such as waste disposal, must be addressed before we proceed any further with nuclear development.

I continue to believe we need a complete moratorium on new plant licensing while this examination goes on. The Kemeny Commission regrettably stopped short of endorsing a licensing halt.

The suggestions it did make for periodic review of existing operating licenses and for remote siting require immediate implementation as a bare minimum. But, by themselves I doubt that they are enough to create public confidence in the nuclear regulatory process.

In the future, much more will have to be done to upgrade the NRC's regulatory capabilities.

Moreover, I believe that at least one of the Kemeny Commission's suggestions might prove counterproductive. That recommendation is that the Nuclear Regulatory Commission (NRC) be abolished as an independent regulatory agency, and be reconstituted within the executive branch under the control of a single administrator.

While the NRC's regulatory practices to date have been neither free of fault nor confidence inspiring, such a move would do little to improve nuclear regulation or justify increased public confidence that public health and safety will be adequately protected.

Furthermore, it would completely defeat the purposes of recent congressional efforts, beginning with the Energy Reorganization Act of 1974, to provide an independent regulatory authority to examine all nuclear application for domestic construction and exports.

The Kemeny Commission report correctly suggests we need changes in NRC personnel, changes in NRC procedures and in the attitudes of the regulators at the NRC. But it should not be used as an excuse for a simple shuffling of bureaucratic chairs, which might hurt rather than help the effort to deal with the problems of nuclear fission.

Less than 5 years ago Congress moved to establish the NRC as an independent agency where nuclear regulation could be achieved in an open, unbiased fashion, by majority judgment of the Commissioners.

The Congress acted from the belief that nuclear power is so complex, controversial, and involves so many risks that a diversity of views must be heard in the decisionmaking process.

Congress set up the NRC with an express effort to free the Agency from the political pressures which might compromise the Agency's regulatory mandate.

Any effort to reverse this decision—made with strong congressional support—would subvert the very important effort to improve nuclear safety.

In this regard, I believe it extremely important that the NRC retain an ability to assess independently the conformity of nuclear export license applications with U.S. nuclear proliferation policy.

I believe that any effort to reduce the authority of the NRC to apply legislatively mandated nuclear export standards would be a serious mistake.

I am pleased that the Kemeny commission refused to adopt suggestions to reduce the NRC's authority in this area.

Congress has consistently supported establishment of an independent regulatory authority for nuclear export licensing.

Just last March, the Congress reiterated its concern on this matter by overwhelmingly adopting the comprehensive Nuclear Nonproliferation Act (Public Law 95-242). This legislation, which I cosponsored, strengthened the NRC's authority over export licensing and provided detailed procedures designed to guarantee that U.S. nonproliferation concerns will be reflected in the licensing process.

Recently there have been signs that the administration's commitment to fulfilling the objectives of the Nonproliferation Act has waned. For example, a new study conducted for the National Security Council and other executive agencies by Henry Rowen and Albert Wohlstetter suggests that—

> By July of this year, at least, a State Department version of the (nonproliferation) policy was in full retreat. Our spokesmen were almost apologizing for having asserted our national views.

The Wohlstetter-Rowen report was particularly critical of the role of the Department of State and the Department of Energy in undermining the export standards which the NRC applies.

In the face of such in-house criticism of the performance of certain executive branch agencies in implementing U.S. nuclear nonproliferation policy, it seems more important than ever that the NRC retain an independent voice in nuclear export licensing.

Thus, I will oppose any attempt to undermine the NRC's role as an independent licensing body.

Mr. President, the Kemeny commission makes several constructive criticisms of the NRC. I will support any initiatives growing out of this study which serve the purpose of improving our ability to control and make safer the uses of nuclear energy.

But we must guard against the temptation to reorganize the bureaucracy every time a crisis finds our Government procedures wanting.

The NRC deserves a great deal of criticism for its inept response to the Three Mile Island accident and for the inadequate procedures it used to review the plant's license application. Those mistakes must not be repeated.

The goal of such criticism, however, should be to improve the Agency, not to destroy it.

I remain convinced that we require an independent, regulatory body, where all public concerns can be fully aired and will be fully considered, to make the very hard decisions ahead regarding licensing for nuclear activities at home and abroad.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Office laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVAL

A message from the President of the United States reported that on November 2, 1979, he had approved and signed the following act:

> S. 975. An act to authorize appropriations for fiscal year 1980 for intelligence and intelligence-related activities of the U.S. Government for the Intelligence Community staff, and for the Central Intelligence Agency retirement and disability system, to authorize supplemental appropriations for fiscal year 1979 for the intelligence and intelligence-related activities of the U.S. Government, and for other purposes.

MESSAGES FROM THE HOUSE

At 12:34 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendment of the Senate to H.R. 2515, an act to authorize on a temporary basis certain business and agricultural loans, notwithstanding interest limitations in State constitutions or statutes, and for other purposes.

The message also announced that the House agrees on the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to S. 640, an act to authorize appropriations for the fiscal year 1980 for certain maritime programs of the Department of Commerce, and for other purposes.

The message further announced that the House agrees to the amendments of the Senate to the amendments of the House to S. 838, an act to amend the Anadromous Fish Conservation Act in order to extend the authorization for appropriations to carry out the purposes of the act, and to initiate an emergency investigation on the striped bass in Atlantic coastal waters.

The message also announced that the House insists upon its amendments to S. 1905, an act to provide for the orderly restructuring of the Milwaukee Railroad, and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. FLORIO, Ms. MIKULSKI, Mr. BROYHILL, and Mr. MADIGAN were appointed as managers of the conference on the part of the House.

At 2:14 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1905) to provide for the orderly restructuring of the Milwaukee Railroad, and for other purposes.

The message also announced that the House disagrees to the amendments of the Senate to H.R. 4440, an act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1980, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. DUNCAN of Oregon, Mr. STEED, Mr. BENJAMIN, Mr. LEHMAN, Mr. SABO, Mr. STEWART Mr. BOLAND, Mr. WHITTEN, Mr. CONTE, Mr. EDWARDS of Alabama, Mr. MILLER of Ohio, and Mr. COUGHLIN were appointed as managers of the conference on the part of the House.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DOLE (for himself, Mr. Hatch, Mr. Heinz, Mr. Laxalt, Mr. Simpson, Mr. Stevens, and Mr. Thurmond):

S. 1969. A bill to amend the Administrative Procedure Act to require Federal agencies to analyze the benefits, costs, and other adverse effects of proposed rules, to provide for judicial review of any such analysis, to increase public participation in agency policy determinations and interpretations, and for other purposes; to the Committee on the Judiciary.

By Mr. WILLIAMS:

S. 1970. A bill to amend section 302(c) of the Labor-Management Relations Act of 1947; to the Committee on Labor and Human Resources.

S. 1971. A bill to amend the Internal Revenue Code of 1954 to exclude from the gross income of employees contributions by employers to certain insurance plans; to the Committee on Finance.

By Mr. SCHMITT:

S. 1972. A bill to authorize the Secretary of the Interior to reimburse certain purchasers of subleases from the Sangre de Cristo Development Corp.; to the Committee on Energy and Natural Resources.

By Mr. BIDEN (for himself, Mr. Javits, Mr. Hart, and Mr. Percy):

S. 1973. A bill to provide for uniformity and fairness in the punishment of Federal offenders, and for other purposes; to the Committee on the Judiciary.

By Mr. DURENBERGER:

S. 1974. A bill to amend the Internal Revenue Code to provide for inflation adjustments; to the Committee on Finance.

By Mr. PELL:

S. 1975. A bill to provide grants for the rehabilitation of the part of the Ten Mile River located in Providence, Pawtucket, and Warwick, R.I.; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DURENBERGER:

S. 1976. A bill to amend the Internal Revenue Code of 1954 to extend the one-time exclusion of gain from the sale of a principal residence to disabled individuals; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE (for himself, Mr. Hatch, Mr. Heinz, Mr. Laxalt, Mr. Simpson, Mr. Stevens, and Mr. Thurmond):

S. 1969. A bill to amend the Administrative Procedure Act to require Federal agencies to analyze the benefits, costs, and other adverse effects of proposed rules, to provide for judicial review of any such analysis, to increase public participation in agency policy determinations and interpretations, and for other purposes; to the Committee on the Judiciary.

(The remarks of Mr. Dole when he introduced the bill appear elsewhere in todays proceedings.)

By Mr. WILLIAMS:

S. 1970. A bill to amend section 302(c) of the Labor-Management Relations Act of 1947; to the Committee on Labor and Human Resources.

S. 1971. A bill to amend the Internal Revenue Code of 1954 to exclude from the gross income of employees contributions by employers to certain insurance plans; to the Committee on Finance.

JOINTLY ADMINISTERED GROUP AUTO INSURANCE PLANS

● Mr. WILLIAMS. Mr. President, today I am introducing legislation which would permit employers to offer group automobile insurance coverage to their employees as part of a negotiated fringe benefit package.

As we all know, group insurance rates provide substantial cost savings for participating purchasers. One of the most common methods of establishing a group plan is to have employers make contributions to a life or health insurance plan as part of their negotiated fringe benefit package.

Section 302 of the Taft-Hartley Act (29 U.S.C. 186) was designed to preserve the integrity of the labor-management relationship and the collective bargaining process by prohibiting payments by employers to employee representatives. Over the years, this broad prohibition has been modified through the enactment of a series of exceptions which authorize employer payments to certain employee benefit trust funds, including those providing life, health and accident insurance, so long as certain administrative safeguards are established.

This system has gained wide acceptance, and today most collective bargaining agreements provide for such plans. However, present law does not permit coverage of automobile and casualty insurance on such an employer-supported group basis.

The bills which I have introduced today would eliminate this exclusion by permitting employers and employees to make contributions to trust funds established to provide automobile insurance and casualty coverage for their employees and give workers tax relief for making such contributions.

This proposal would benefit employees in several ways. First, it would result in a drastic reduction in sales, administrative and claim handling expenses—about 15 percent of the total cost—which are presently factored into the cost of individual insurance policies.

Second, it would substantially reduce the cost to individual employees—in some cases as much as several hundred dollars a year. The establishment of a group plan generally guarantees coverage and permits the use of composite rating. This means that each eligible employee will be charged the same premium regardless of his age, driving record, place of residence, or whether or not he drives his car to and from work.

These savings associated with group insurance will be particularly valuable to younger workers, especially single workers under 25 years of age, for whom the cost of individual automobile insurance is very high.

Finally, my proposal amends the Internal Revenue Code to permit the exclusion of employer contributions to a plan from an employee's gross income. This measure is in conformity with the code's treatment of employer contributions to group life, health, accident, and prepaid legal service plans, and would assure broad acceptance of the group automobile insurance concept by employees.

I believe that the changes which my bill makes in amending section 302(c) of the Labor-Management Relations Act and the Internal Revenue Code would result in significant economic advantages for the working men and women of America. I welcome the support of labor and business leaders alike for these important amendments. I ask unanimous consent that the text of both bills be printed in the Record.

There being no objection, the bills were ordered to be printed in the Record, as follows:

S. 1970

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Section 302(c) of the Labor-Management Relations Act of 1947, (29 U.S.C. 186(c)) is amended by inserting immediately after clause 8 the following: "or (9) with respect to money or other thing of value paid by an employer to a pooled or individual trust fund established by such representative for the purpose of providing or defraying the costs of motor vehicle, homeowners multiple peril, fire, or other insurance benefits for employees, their families and dependents: *Provided*, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds.".

Sec. 2. The amendment made by section 1 shall become effective on the date of enactment of this Act.

S. 1971

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by redesignating section 124 as section 125 and by inserting after section 123 the following new section:

"Sec. 124. Employer Contributions to Plans Providing Property and Liability Insurance Coverage for Employees.

"Gross income of an employee does not include amounts contributed by an employer to or under any insurance plan which provides property and liability insurance coverage for his employees.".

(b) The table of sections for such part III is amended by striking out the item relating to section 124 and inserting in lieu thereof the following new items:

"Sec. 124. Employer contributions to plans providing property and liability insurance coverage for employees.

"Sec. 125. Cross references to other Acts.".

Sec. 2. The amendments made by the first section of this Act shall apply to taxable years ending after the date of the enactment of this Act.●

By Mr. SCHMITT:

S. 1972. A bill to authorize the Secretary of the Interior to reimburse certain purchasers of subleases from the Sangre de Cristo Development Corp.; to the Committee on Energy and Natural Resources.

● Mr. SCHMITT. Mr. President, today I am introducing a bill to authorize the

Secretary of the Interior to reimburse certain purchasers of subleases from the Sangre de Cristo Development Corp. in Tesuque Pueblo, N. Mex.

In April of 1970, the Governor of Tesuque Pueblo executed a lease with the Sangre de Cristo Development Corp. for the development of a residential subdivision on a 1,400-acre tract of Pueblo land. The master lease was for a 99-year term and proposed the subdivision of the tract into residential parcels for the sale of subleases. In May of 1970 the Bureau of Indian Affairs approved the lease.

Subsequently, a court suit was entered by those opposed to the development (*Davis* v. *Morton*, 335 F. Supp. 1258) charging that the Department of the Interior was required by the National Environmental Policy Act to prepare an environmental impact statement before approval of the lease. The Court of Appeals for the Tenth Circuit upheld the compliance with the National Environmental Policy Act.

The Department completed the required environmental impact statement in July of 1977. The Tesuque Pueblo Council rescinded its consent to the lease after consideration of all potential impacts on the Pueblo by the development, and the Department withdrew its approval of the lease based on information in the EIS in August 1977.

The Solicitor's Office of the Department of the Interior has advised that the United States is not liable in money damages to any of the parties. However, they also advise that it is unclear whether the disapproval of the master lease may have affected sublease purchasers who, under the law, may be considered bona fide purchasers. Under the law, when rights are vested and are then conveyed to bona fide purchasers for value, in good faith and without notice, any later attempt to cut off the rights of those persons usually fails.

The Department has informed my office that while they are not liable to damages suffered by the sublessees, the sublessees are standing on much firmer equitable grounds than others who suffered losses related to the Tesuque Pueblo lease. Due to this, and in the interest of avoiding future legal problems, the Department recommends legislation to provide reimbursement of the sublessees for their original investment. My staff and representatives of the Department have met and come to an agreement on the language contained in this bill. I am hopeful that this legislation will receive the committee and the Senate's speedy consideration.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1972

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Interior is authorized to reimburse persons who are determined by the Secretary to be bona fide purchasers of subleases from the Sangre de Cristo Development Corporation for subdivision lots on the Pueblo of Tesque Indian Reservation near Santa Fe, New Mexico. The Secretary is authorized to reimburse such persons for the amounts they have expended in the acquisition of a sublease or subleases and upon receipt of such compensation such persons must relinquish all claims or rights, if any, they may have arising from their sublease.

(b) Applications for reimbursement under this Act shall be in such form and contain such information as the Secretary of the Interior, by regulation, shall prescribe. No application for reimbursement shall be considered by the Secretary unless it is submitted on or before the date of expiration of the twenty-four month period following the date of enactment of this Act.

(c) The Secretary shall reimburse those applicants who are determined to be bona fide purchasers of subleases from the Sangre de Cristo Development Corporation, pursuant to its master lease with Tesque Pueblo initially approved May 24, 1970, by the Bureau of Indian Affairs and subsequently disapproved on August 24, 1977. As used in this Act, the term "bona fide purchasers" shall mean anyone who purchased a sublease in an arm's length transaction, for value and without notice.

(d) Within the 180-day period following the date of the enactment of this Act, the Secretary of the Interior shall take such action as may be necessary to inform purchasers of such subleases from the Sangre de Cristo Development Corporation of the fact that the Secretary of the Interior has authority to reimburse any such person determined by the Secretary to be a bona fide purchaser of such sublease for the amounts expended by such purchaser in the acquisition of such sublease. The Secretary shall further inform such purchasers that any application for reimbursement must be submitted on or before the date of expiration of the twenty-four month period following the date of the enactment of this Act.

SEC. 2. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.●

By Mr. BIDEN (for himself, Mr. JAVITS, Mr. HART, and Mr. PERCY):

S. 1973. A bill to provide for uniformity and fairness in the punishment of Federal offenders, and for other purposes; to the Committee on the Judiciary.

SENTENCING REFORM ACT OF 1979

Mr. BIDEN. Mr. President, Senators JAVITS, HART, and PERCY join me in introducing today the Sentencing Reform Act of 1979.

This legislation represents the latest effort by Congress to address the age-old dilemma of the appropriate punishment for crime. Those of us who join together in this bill adhere to a very simple philosophy of crime control: Punishment for crime must be swift and sure.

Already in this Congress we have taken a major step toward that goal by enacting the Speedy Trial Act Amendments of 1979. As chairman of the Subcommittee on Criminal Justice, I am pleased that the full Senate supports the goal of 100-day trials within the Federal system.

Now we must move on to the much more difficult and elusive goal of assuring that swift punishment is sure and certain. As any of us who have practiced in the criminal justice system know, uncertainty, unfairness, and irrationality characterize our system just as much as the chronic problem of delay.

At the heart of the problem is a deceit which has become institutionalized in the criminal justice system. Although most of the public believes that judges sentence criminals, the real authority to determine how long someone will stay in prison is the parole board's. There are two other actors in the criminal justice system who exercise great power—usually out of the public view—the prosecutor, either by the charge he chooses or the bargain he accepts; and prison officials who control work-release and furlough programs, have a much greater impact on who stays in jail, and how long, than most judges and possibly even the parole board.

There is a remarkable amount of unanimity among the sentencing reformers in the Congress. All of us want to achieve the same basic goal. We want to eliminate the kind of uncertainty and hypocrisy I have described and move toward what is known as a "just deserts" theory of sentencing—if an individual commits a particular kind of crime he will receive a very predictable punishment. We do differ on how to achieve that goal.

Therefore, there has been considerable variety among proposals for reform. In the last Congress, many years of research, analysis and debate culminated in Senate passage of S. 1437, the Criminal Code Reform Act of 1978. Many of us who voted for that legislation believed that its most significant reforms were the changes it made in sentencing procedures. For that reason, the chairman of the Judiciary Committee, Senator KENNEDY, the primary architect of that achievement, deserves primary credit for the recent advances in the sentencing reform debate in Congress.

The House Judiciary Committee also addressed the issue of sentencing reform in context of criminal code reform in the last Congress. During extensive hearings in the House, witnesses questioned some of the sentencing-reform provisions of the Senate-passed bill and recommended a number of changes. The House Criminal Justice Subcommittee introduced legislation, H.R. 13959, which responded to many of the criticisms of the sentencing provisions of S. 1437.

In this Congress, the distinguished chairman of the Senate Judiciary Committee has once again introduced comprehensive criminal code reform legislation, S. 1722 and S. 1723. S. 1722 contains most of the sentencing-reform provisions of S. 1437. The other bill, S. 1723, contains the sentencing-reform provisions proposed in this Congress by the House Subcommittee on Criminal Justice, chaired by Congressman ROBERT DRINAN.

The bill I am introducing today embodies many features of previous reform proposals. In addition, the Sentencing Reform Act of 1979 includes a number of provisions not in previous proposals which I believe are essential to fair and certain treatment of all offenders.

The Sentencing Reform Act of 1979 and the legislation introduced by Senator KENNEDY have many similar features. For example, each would impose parameters on judicial discretion by identifying Congress' purpose or philosophy of sentencing and by establishing a mechanism for promulgating sentencing guidelines and policies via a sentencing commission. They both authorize review of unjust sentences through parole, appeal or both. And each proposes a means of improving current irrational maximum sentences.

There are subtle but extremely important differences between the proposals. At the heart of the difference between these bills, is a basic presumption about the criminal justice system that the authors of the Sentencing Reform Act of 1979 hold—if there is a way for the system to sabotage a reform it will find a way to do so.

Speedy trial is an excellent case in point. Five years ago we established 100-day trials as a goal for the system to be phased in finally this past July. Much to our surprise, we learned at the very last minute that the courts and the Department of Justice had not made a serious effort to comply with the act and faced the prospect of thousands of dismissals. Much as might be expected, there was a strong tendency in the system to sabotage the goal by, in effect, redefining speedy trial through the exceptions to the requirement. Fortunately, Congress rejected that request and simply delayed our original goal for 1 year.

Those of us who join in this sentencing bill are determined not to be sabotaged in our efforts to achieve a "just-deserts" sentencing scheme in the Federal system. My approach to speedy trial was one of pragmatic purism. We take that same approach to sentencing reform in this bill. I would rather see an effective "just-deserts" scheme established eventually rather than see an ineffective system established immediately—just as I was willing to wait 1 year for 100-day trials rather than have 180-day trials immediately and permanently.

A case in point is the fundamental difference between this proposal and S. 1722 on the sensitive question of whether to abolish the Parole Commission immediately or to phase out the Commission and phase-in flat time sentencing. Both bills preserve the Parole Commission for sentences imposed before the enactment of this act as a matter of constitutionally imposed necessity. However, the proponents of S. 1722 would abolish the Parole Commission immediately while we would sunset the Commission in 3 years.

We join the overwhelming majority of sentencing reform experts who believe that if we abolish parole immediately we will just be fooling ourselves and the American people. If a "just-deserts" sentencing system is imposed too quickly without the possibility of parole, the system will find some way to sabotage the goal. Indeed, what will probably happen is that although judges and parole commissioners will be legislatively deprived of discretion—discretion will simply go underground. Prosecutors will "save" the system through plea bargains and undercharging, and prison officials will relieve increasing prison populations through furlough programs.

Those of us who join in this bill want the new sentencing policy to directly address the question of prosecutorial discretion and prison population. As imperfect as the Parole Commission is, we would prefer to preserve it and phase in a new comprehensive "just-deserts" policy rather than create the illusion of such a policy while discretion gives quietly on as usual.

In the same vein, our bill has advantages over other proposals because:

First, it has what we believe is a "purer" statement of the "just-deserts" philosophy;

Second, it goes beyond other proposals and addresses other factors which undermine the credibility of the sentencing system—the capitol punishment impasse, the setting free of violent and habitual offenders, and the fiction of artificially high maximum sentences;

Third, the Sentencing Commission it establishes is more likely to succeed because it is more representative of the criminal justice system which will implement the sentencing guidelines; and

Fourth, it develops a systematic appellate review of sentencing more likely to pass constitutional muster.

PHILOSOPHY OF SENTENCING

The bill's philosophy of sentencing is perhaps its most notable feature because it establishes a framework for addressing all sentencing concerns.

Under current law, a judge has nearly total discretion in sentencing. In fact, judges may impose a sentence for any reason they choose, or for no reason at all. It is not surprising, then, that judges who are given no direction as to the purposes of sentencing impose widely varying sentences for similar offenders who commit similar crimes. Disparity is inherent in a system which allows a judge who sentences for deterrence or rehabilitation to impose a term of probation, and another judge presented with identical facts to impose a lengthy prison term to achieve purposes such as "incapacitation."

A study conducted in the second circuit illustrates the widely varying sentences that too often occur. The judges were all given exactly the same 30 presentence reports and asked to impose sentences. The range of sentences was remarkable. In one case, the judges sentenced the same defendant to as little as 3 years in prison and as much as 20 years in prison plus a $65,000 fine (the second circuit sentencing study, August 1974). The study clearly indicates the need for a common approach to sentencing.

S. 1722 and S. 1723 take a first step toward establishing a congressional statement of purpose or philosophy of sentencing. They authorize a judge to sentence for deterrence, incapacitation, punishment and rehabilitation.

Unfortunately, such broad categories will not narrow the focus of the judges' consideration enough to substantially reduce sentence disparity. Because judges will be able to choose which purpose applies in a particular case, similar offenses will result in widely different sentences just as they do now.

S. 1722 also identifies factors for the Sentencing Commission to consider in implementing the purposes of sentencing. The factors include the defendant's education, vocational skills, previous employment record and community ties. Although some personal characteristics of the defendant may be relevant for determining appropriate probation conditions, I strongly disagree that a defendant's education, community ties, employment record, and the like, should determine whether he or she goes to prison. Those characteristics classify offenders by social status and background—exactly the sort of distinction sentencing reform is intended to prevent.

The Sentencing Reform Act of 1979 implements a single purpose of sentencing—the so-called "just desserts" theory. "Just desserts" means that a sentence is based upon the gravity of the offense, not the personal characteristics of the offender. This single purpose will result in greater fairness than the multiple philosophy approach because, first, a single clear purpose will necessarily produce greater uniformity in application and, second, defendants will be treated more equitably when personal characteristics relating to social status and background are not relevant sentencing considerations.

PUBLIC DISTRUST IN THE SENTENCING SYSTEM

As I have discussed the sensitive issues of sentencing with my constituents and other members of the public, I have discovered other sources of distrust of the sentencing system beyond the question of disparity among sentences:

First. Most members of the public are concerned about the impasse over capital punishment in the Congress and the thought that because the death penalty cannot be constitutionally imposed, capital offenders may be roaming the streets;

Second. They believe that discretionary sentencing means that violent offenders or habitual criminals can be set free under some form of rehabilitation theory; and

Third. They believe that the sentencing system, as reflected in the statute books, is meaningless, because it sets out maximum sentence lengths that have absolutely nothing to do with actual sentences.

Comprehensive sentencing reform must address the issue of capital punishment. Some 13 offenses in current title 18, United States Code, authorize imposition of the death penalty. However, because there are no constitutional procedures for imposing the death penalty for those offenses the sentencing judge is limited to imposing alternative authorized sentences, which generally means either life imprisonment or imprisonment for a specific number of years. Whatever sentence is imposed, the longest an offender will serve in prison prior to consideration for release on parole is 10 years (18 U.S.C. section 4205). To prevent early release of offenders who commit capital offenses, the Sentencing Reform Act of 1979 proposes a new sentencing alternative—life in prison without the possibility of parole. This sentence of life in prison for a serious offense will mean no less than life in prison.

This sentence should be acceptable to proponents of the death penalty. Mary C. Lawton, Deputy Assistant Attorney General in the Office of Legal Counsel, noted in her testimony before the Senate Judiciary Committee last year that proponents of the death penalty have identified the following justifications: Incapacitation of the defendant, the deterrent effect of the death penalty on others who may be disposed to the crime, and retribution or the expression of moral outrage of the community. Assuming that those justifications are valid, a sentence of life in prison without the possibility of parole would achieve each of them. In addition, it is a clearly constitutional solution to the capital punishment dilemma.

The Sentencing Reform Act of 1979 also states Congress view that two specific circumstances make an offense so serious that a prison term must always be imposed. The first is when serious bodily injury results from the defendant's participation in the offense. Victims as well as the general public are entitled to a guarantee that anyone who causes physical injury will serve time in prison. The second type of offense is one committed by a defendant who was previously convicted of a felony. Regardless of crime committed or penalty imposed for the first felony, a second felony is inherently more serious.

The bill mandates imposition of a prison term for such offenses and gives the Sentencing Commission and the sentencing judge the authority to determine the appropriate length of the term according to the specific circumstance of the offense. Thus, there is sufficient flexibility for the judge or the Sentencing Commission to determine that specific aggravating or mitigating circumstances warrant a very short or a very long prison term.

Mandatory prison terms will result in increased respect for the criminal justice system among law-abiding citizens, especially victims, who believe the present system is too soft on criminals. The certainty of a prison term may also serve as a deterrent for offenders who contemplate a second felony or an offense which may result in bodily injury, particularly offenders who now assume that they will receive a sentence more lenient than prison.

Current statutory maximum sentences are neither meaningful nor rational. Nearly all maximum prison terms are unrealistically high in light of sentences imposed and time actually served.

Unfortunately, a simple solution such as reducing all sentences by a uniform percentage is an overly-simplistic approach which will make sentences shorter but not more rational. We took this approach in the last Congress during markup of S. 1437 because it was the only practical way to amend that bill to reduce sentence length. There are better ways to achieve that goal.

Many current maximum sentences are inconsistent with the view that a sentence should be determined by the gravity of the offense. To implement that philosophy, each offense must be carefully reviewed to determine the appropriate sentence for the degree of harm or seriousness of the offense.

The Sentencing Reform Act of 1979 assigns the U.S. Sentencing Commission the responsibility for reviewing all current sentences and submitting to Congress a proposal for reducing all maximum terms consistent with the gravity of the offense. The Sentencing Commission will be the central clearinghouse for research and analysis of sentencing, as well as for issuing sentencing guidelines and policy statements. It is, therefore, a logical extension of its duties to require the Commission to recommend appropriate statutory maximum sentences.

COMPOSITION OF THE U.S. SENTENCING COMMISSION

The Sentencing Reform Act of 1979 parallels the other sentencing reform proposals by establishing a U.S. Sentencing Commission to promulgate sentencing guidelines and policy statements. It makes an important improvement in the other proposals, however, by requiring that the Commission members represent a variety of backgrounds and experience in the criminal justice system. Thus, it will produce guidelines and policy statements which are fair and effective from more than one point of view, more acceptable to all components of the system and therefore, more likely to succeed. Under the bill the Sentencing Commission will have nine members. The Attorney General or his designate and the chairman of the U.S. Parole Commission will serve as ex officio members. One member must be a Federal judge and one must be a Federal public defender. The remaining five members must represent a variety of backgrounds and have demonstrated participation and interest in the criminal justice process.

In comparison, other sentencing commission proposals do not guarantee such diversity of viewpoints. S. 1722 requires only that the Commission members include four Federal judges and three members "representing a variety of backgrounds and reflecting participation and interest in the criminal justice process." (Proposed 28 U.S.C. section 991(a)). S. 1723 similarly requires that the members of the Committee on Sentencing include four judges and three nonjudges who reflect a variety of backgrounds and participation and interest in the Federal criminal justice system.

APPEAL OF SENTENCE

All three of the sentencing reform proposals authorize defendants to appeal sentences. Thus, there is no question that defendant right to appeal is an essential element of sentencing reform. The bills differ, however, in restrictions on the type of sentence that the defendant can appeal.

S. 1722 authorizes the defendant to appeal sentences for felonies or class A misdemeanors which are above the range established for the offense in the sentencing guidelines. The defendant cannot appeal directly to the circuit court if his sentence is within or below the guidelines. As a result, defendants whose sentences are unjust because the guidelines were improperly applied or because mitigating circumstances require imposition of a sentence of less severity than a sentence already below the guidelines do not have the same right to appeal as defendants whose sentences exceed the guidelines. Defendants are also denied the right to seek review in the court of appeals if they are sentenced under the new penalties of order of restitution, order of criminal forfeiture, and order of notice to victims. These penalties can be unfairly imposed and result in great injustice. All defendants who receive unjust sentences should have the same right to review by the court of appeals.

Consequently, the Sentencing Reform Act of 1979 authorizes defendants to appeal any sentence. The only exception to the right is when the sentence is within the guidelines for a sentence which resulted from a plea agreement. This approach guarantees that every defendant who receives an unjust sentence will have the same opportunity for review by the court of appeals.

Our bill does not authorize Government appeal of sentence. There are strong, and I believe convincing, arguments against Government appeal. First, it is contrary to the constitutional prohibition against double jeopardy. The U.S. Court of Appeals for the Second Circuit recently addressed this issue when the Government for the first time appealed a sentence under the authority of the dangerous special offender statute (18 U.S.C. 3576). The court rejected the argument of the attorney for the Government that the defendant was not placed twice in jeopardy because the district court sentence is merely "tentative." The court concluded that:

> The plain command of the Fifth Amendment is that no "person (shall) be subject for the same offense to be twice put in jeopardy of life or limb." Although the phrase "life or limb" suggests only the most serious of penalties, it has long been established that it encompasses all penalties which may be imposed in criminal proceedings. (U.S. v. DiFrancesco — Fed. 2d — (8/6/79) at 4098) that § 3576 subjects a defendant "merely" to a longer term of imprisonment, not to the actual loss of his life, is a difference of degree not of principle for, the double jeopardy clause applies equally to all criminal penalties" (id. at 4100).

Government appeal of sentence is clearly contrary to interests protected by the constitutional prohibitions against double jeopardy. Those interests include preserving the integrity of final judgments, protecting the individual against government oppression, and protecting the individual against the embarrassment, expense and ordeal of repeated attempts by the government to use its power and resources (id. 4101).

The last interest, protection from embarrassment and hardship, suggests that government appeal should be rejected for reasons apart from the constitutional prohibitions—that it is wholly contrary to fundamental notions of fair play. Once the Government has brought together all of its investigative and prosecutorial resources to achieve its desired sentence, it should not be entitled to a second chance.

PAROLE

As I have said, the bill proposes a logical, workable compromise between the view that parole should be abolished immediately and the view that it should be retained.

S. 1722 abolishes parole completely when the new sentencing procedures begin. Proponents of S. 1722 argue that parole must be abolished because "vesting the power to review judicially imposed sentences in a parole board would seriously undermine the operation of the new sentencing guidelines, improperly intrude into the judiciary's realm, and perpetuate the preeminence of the discredited rehabilitative model."

As a strong proponent of abolishing parole, I find the rationale for abolition convincing and virtually irrefutable.

At one time, most criminal justice scholars advocated immediate total abolition. However, subsequent analysis of all of the possible practical effects of sentencing reform have led a substantial number of former advocates of immediate abolition to conclude that the Parole Commission should continue its release functions. A recent letter to the chairman of the House Judiciary Criminal Justice Subcommittee, Congressman DRINAN, summarizes the rationale offered by a number of individuals with extensive and distinguished backgrounds in the criminal justice field who favor retention of parole.

I ask unanimous consent that the letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AUGUST 28, 1979.

Hon. ROBERT F. DRINAN,
Chairman, Subcommittee on Criminal Justice, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: We note that the Subcommittee on Criminal Justice, in its current deliberations on the Federal Criminal code reform bill, has yet to resolve the status of parole release. The Subcommittee's most recent working draft dated August 24, 1979 poses two options. One is to eliminate parole release and have the judge's sentence determine actual time in confinement. The other is to retain parole release for the present: that is, to continue to have the U.S. Parole Commission issue guidelines on release of offenders from prison, and apply those guidelines in individual cases. As persons who have studied the sentencing process, we strongly support the second option.

The U.S. Parole Commission has taken the lead in this country in developing guidelines for prison term decisions. Its parole release guidelines prescribe specific ranges of confinement, based mainly on the gravity of the defendant's criminal conduct and the extent of his prior criminal history. Most major guideline systems for sentencing and parole throughout the Nation have been substantially influenced by the Commissioner's work. The Commission has also moved toward notifying offenders early of their expected dates of release from prison, thus alleviating much of the suspense and uncertainty that has characterized traditional parole.

Retention of parole release in the Federal sentencing system would not, therefore, involve the wide discretion and rehabilitative ideology that has historically been associated with parole. We ourselves have been critics of that discretion and ideology. Several of us have been active in developing or evaluating guideline systems; others of us have urged a rationale for sentencing that would look chiefly to the blameworthiness of the defendant's criminal conduct, rather than to rehabilitative considerations.

Retention of the U.S. Parole Commission's guideline-setting and releasing functions, for the present time, would have the following advantages.

First, the U.S. Parole Commission now has a working system of guidelines that, however we might debate some of the details, does represent a substantial step toward structuring discretion in decisions about duration of confinement. The proposed new standard-setting mechanism—of having the Judicial Conference write sentencing guidelines—is still untried, and the draft legislation provides few details on what the rationale of those guidelines should be or how they should be structured. Before eliminating the Parole Commission's guideline-issuing power for prison releases, we need to know how well this new mechanism works: whether the Judicial Conference will produce sentencing guidelines that are as specific and carefully structured as the Parole Commission's existing durational guidelines. Retention would allow your committee and the Congress to evaluate the Judicial Conference's performance in writing its initial standards for the unregulated sentencing decsions which judges now make, before authorizing it to take over from the Parole Commission the task of writing standards for duration of actual confinement. Immediate abolition of parole release would be a leap in the dark: we would be eliminating a functioning guidelines system before having any evidence of how well the new proposed mechanism performs.

Second, the Parole Commission now performs a vital time-scaling function. Judges have been accustomed to imposing lengthy sentences which participants in the process do not expect to be carried out, which could not be carried out given the limitations of prison space, and which would be disproportionately severe were they carried out. It has been a practical function of the parole board to set the actual duration of confinement at more manageable levels. Elimination of parole release would necessitate a sudden reduction in sentence duration, to compensate for the fact that offenders could no longer be released before the end of their terms. The impression of a shift to more lenient sentences would be created, even were there no change in actual time in confinement. Eliminating parole, therefore, would involve a formidable task of public education; the Judicial Conference, as the body that writes the sentencing guidelines, would have to convince judges, prosecutors and a skeptical public that the seeming reduction in sentencing time under its guidelines is not necessarily a real reduction. Is this something one reasonably can expect the Judicial Conference to do at the inception of its guideline-writing labors? It will be difficult enough—even without changing the reckoning of sentencing time—for the Judicial Conference to staff and organize its guideline efforts; to draft guidelines for the sentencing decisions which judges now make; and to develop the rapport with the Federal judiciary, prosecution and defense that will be necessary for acceptance of the standards. It would be unwise to load the Judicial Conference at the beginning with the still more ambitious task of changing the reckoning of sentencing time and of explaining that change. Retention of parole release for the present would avoid this sudden shift to seemingly lower sentences.

Third, the Parole Commission is a compact, specialized body that needs to control the discretion only of a few persons: chiefly, the hearing examiners who—as a full time task—apply the guidelines in individual cases. The Judicial Conference, by contrast, will not have authority to enforce its own guidelines: the guidelines will be applied by 550 Federal judges throughout the country, and compliance will be enforced through appeals to already heavily-burdened higher court judges in the eleven circuits. It is an open question how effective this new enforcement technique will be. As no regulatory mechanism has hitherto governed judges' existing sentencing choices, guidelines with even limited enforcement powers over such choices could well be an advance over no guidelines at all. But prison term decisions are different: these already are regulated by the Parole Commission; elimination of Parole Commission authority could mean a weaker mechanism for insuring compliance with guidelines in the determination of prison terms, and thus more rather than less disparity in this critical area. We think, therefore, it is vital for Congress to wait to see how well the Judicial Conference succeeds in getting judges to cooperate with its initial sentencing guidelines, before considering the elimination of parole and the transfer of power over actual duration of confinement from the Commission to the sentencing judge. An immediate transfer would allow no such opportunity for testing.

Retaining parole release in the Federal system would not mean indeterminacy of punishment in the traditional sense. There would, instead, be norms for both the sentencing and parole release stages. The Judicial Conference would supply guidelines at the sentencing stage, aimed at regulating the decisions that now are not regulated at all: judges' choices of whether to impose a custodial or non-custodial sentence, and their choice of the maximum penalty. The Parole Commission would continue, for the time being, to regulate duration of imprisonment through its parole release standards. This preserves a system of checks and balances: one will not be wholly dependent on a single guideline-writing body, especially an untried one. Sharing of guideline-writing authority between the Judicial Conference and the Parole Commission is not, in short, redundant. We believe the Parole Commission can supplement the proposed new devices for regulating sentences: that sentencing guidelines, parole guidelines, and meaningful appellate review of sentences are not competing concepts but can support each other in striving toward equity and justice in sentencing.

We therefore recommend adoption of the second option, set forth in the Subcommittee's August 24th draft at P. 123, lines 23–33. Prisoners should continue to be eligible for parole release consideration during the last half of the sentence imposed. The Parole Commission should continue to have the duty of writing guidelines for its release decisions. The legislation should call upon Congress to review the status of parole in five years to determine at that time whether further structural alterations are needed. This will allow the Judicial Conference to develop and issue guidelines for sentencing judges, and will allow Congress to evaluate the Conference's efforts. By then, there will also be available to Congress the results of now-ongoing studies of the effects of parole abolition in other jurisdictions, such as California and Indiana. In short, it will permit an informed judgment on the future of parole release in the Federal system. In the meantime, to ensure that the Parole Commission and the Judicial Conference adopt guidelines that are consistent, the legislation should require the two bodies to consult with one another.

Yours sincerely,
Andrew von Hirsch, Professor, Graduate School of Criminal Justice, Rutgers University.

Leslie T. Wilkins, Professor of Criminal Justice, School of Criminal Justice, State University of New York at Albany.
Michael Tonry, Associate Professor, University of Maryland Law School.
Peter B. Hoffman, Research Director, U.S. Parole Commission.
David Rothman, Professor of History, Columbia University.
Donald J. Newman, Dean and Professor, School of Criminal Justice, State University of New York at Albany.
Don M. Gottfredson, Dean and Professor, Graduate School of Criminal Justice, Rutgers University.
Sheldon L. Messinger, Professor of Law, University of California, Berkeley.
Marvin Wolfgang, Professor of Sociology and Law, University of Pennsylvania.
Charles Silberman, Author, New York City.
Caleb Foote, Professor of Law, University of California.
Rendell A. Davis, Executive Director, the Pennsylvania Prison Society.
Richard F. Sparks, Professor, School of Criminal Justice, Rutgers University.
Michael D. Maltz, Associate Professor, Department of Criminal Justice, Department of Systems Engineering, University of Illinois.
Kathleen Hanrahan, Research Associate, School of Criminal Justice, Research Center, Rutgers University.
David T. Stanley, Consultant, former senior fellow, Brookings Institution.

Mr. BIDEN. Mr. President, the Sentencing Reform Act of 1979 offers an alternative approach to parole which meets many of the concerns of both proponents of total abolition and proponents of retention. The bill continues the Parole Commission release function until 3 years after the effective date of the guidelines. Thus, for 3 years the Parole Commission can function as a safety valve while new sentencing procedures are implemented. If all of the new procedures are implemented swiftly and easily, the Parole Commission will have little to do during those years. In the alternative, if there is even a small percentage of the difficulties foreseen by the advocates of retaining parole, the Parole Commission will be extremely busy and perform a necessary function. If implementation problems continue beyond 3 years after the effective date of the guidelines and the Parole Commission is the only effective safety valve, the burden will be on the Sentencing Commission to ask Congress for an extension of the 3-year deadline and to provide convincing data supporting that extension. If the Sentencing Commission makes no such request, under my bill, the Parole Commission will be sunsetted.

ONGOING REFORM

All of the sentencing reform bills purport to be comprehensive. Yet, many factors that have tremendous impact on the criminal sentencing are not addressed. Plea bargaining is one such factor. Although the majority of sentences result from a plea, very little is known about the plea-bargaining process or the effect sentencing reform will have on that process. The Sentencing Reform Act of 1979 identifies plea bargaining as a significant issue for future reform by directing the Sentencing Commission to conduct a complete study of the plea-bargaining process.

The size of the prison population is another factor which has tremendous impact on the entire sentencing process. Prison overcrowding has been described as "the most serious problem facing prisons today" (Vonhirsch, "The Question of Parole" p. 39). In addition, some analysts of the sentencing reform provisions of S. 1437, the Criminal Code reform bill of the last Congress, concluded that the new procedures create a significant probability that people will serve longer in prison and that prison populations will consequently increase substantially.

Unquestionably, the size of the prison population is now a significant factor in the judge's sentencing decision and the parole board's release decision. The next between sentencing policy and prison population, combined with the likelihood of increases in prison population after the new sentencing provisions become effective, makes it essential that sentencing reform address the issue of prison population.

S. 1722 directs the Sentencing Commission, in formulating guidelines, to assure that the most appropriate penal, correctional and other facilities are utilized and to assume that available capacities and services are not exceeded (proposed 28 U.S.C. section 994(f)).

The Sentencing Reform Act of 1979 goes one step further. It directs the Sentencing Commission and the Bureau of Prisons to submit to Congress an annual analysis and recommendations concerning maximum utilization of resources to deal effectively with the Federal prison population. The report must be based upon consideration of a variety of alternatives, including modernization of existing facilities, inmate classification and periodic review of such classification for use in placing inmates in the least restrictive facility necessary to insure adequate security, and use of existing Federal facilities, such as those currently within military jurisdiction. This process of careful monitoring and planning is necessary to lessen the impact of the prison population on the sentencing decision. An additional benefit of this analysis and planning will be improved facilities and more careful placement of prisoners in appropriate facilities.

Within the next few months the Judiciary Committee will begin to markup comprehensive criminal code reform legislation. As chairman of the Subcommittee on Criminal Justice, I wholeheartedly support the recodification effort. I particularly urge my colleagues to consider recodification legislation as a vehicle for implementing the provisions and principles of the Sentencing Reform Act of 1979.

I ask unanimous consent that the Sentencing Reform Act of 1979 and a section-by-section analysis of the act be printed at this point in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 1973

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Sentencing Reform Act of 1979".

AMENDMENTS TO TITLE 18 OF THE UNITED STATES CODE

SEC. 2. (a) Chapter 227 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 3579. General provisions relating to criminal sentencing

"(a)(1) Except as otherwise specifically provided by law, a defendant who has been convicted of an offense shall be sentenced under this section and sections 3580 through 3583 of this title.

"(2) An individual found guilty of an offense may be sentenced—

"(A) to probation under section 3580 of this title, or to imprisonment under section 3583 of this title;

"(B) to a fine under section 3582 of this title; and

"(C) to make restitution under section 3581 of this title.

"(3) An organization found guilty of an offense may be sentenced to probation under section 3580 of this title, to make restitution under section 3581 of this title, and to pay a fine under section 3582 of this title.

"(b) A probation officer appointed by the court shall, pursuant to the provisions of Rule 32(c) of the Federal Rules of Criminal Procedure, make a presentence investigation of a defendant and shall report the results of such investigation to the court before the imposition of sentence. Such report shall include information on noninstitutional sanctions.

"(c)(1) The court, in determining the particular sentence to be imposed, shall consider—

"(A) the nature and circumstances of the offense;

"(B) the defendant's role in the offense, and the presence or absence of aggravating or mitigating circumstances relating to the defendant's role in the offense that are not reflected in the guidelines formulated by the Federal Sentencing Commission under section 3584 of this title;

"(C) the types of sentences, including noninstitutional sanctions as a condition of probation;

"(D) the sentence for the offense for which the defendant is convicted, as recommended in the guidelines issued by the Federal Sentencing Commission under section 3584 of this title and that is in effect on the date the defendant is sentenced;

"(E) any pertinent policy statements issued by the Federal Sentencing Commission under section 3584 of this title that are in effect on the date the defendant is sentenced; and

"(F) the need to have uniform sentencing throughout the United States among defendants who have been found guilty of the same offense.

"(2) The court, at the time of sentencing, shall state in open court and for the record the reasons for its imposition of the particular sentence including its finding regarding the applicable guideline, and—

"(A) if the sentence differs from the sentence for that offense set forth in the guidelines established by the Federal Sentencing Commission, the specific reason for the imposition of such sentence;

"(3) The court shall submit to the Federal Sentencing Commission in connection with each sentence imposed, not more than 10 days following the imposition of sentence, a written report of the sentence imposed, the offense for which it is imposed, the age, race, and sex of the offender, any statement made pursuant to paragraph (2), the presentence report, and such other information as the Commission, the court, or either party finds appropriate.

"(d)(1) A defendant may commence proceedings for an appeal of a final sentence under this subsection by filing a notice of appeal pursuant to Rule 3(a) of the Federal Rules of Appellate Procedure, unless the sentence was part of any plea agreement which—

"(A) was knowingly and voluntarily agreed to by the defendant in open court and on the record;

"(B) was accepted by the court; and

"(C) included a sentence recommended in the guidelines issued by the Federal Sentencing Commission under section 3584 of this title that is applicable to the offense which was the result of the plea agreement.

"(2) If the defendant appeals any other issue in the case by filing a notice of appeal, then such defendant may petition for joinder of the issue of sentence to such appeal.

"(3) The clerk of the district court shall certify to the court of appeals a transcript of any arraignments, the presentence report and any other documents that were submitted during the sentencing proceeding, the transcript of the sentence proceeding, the findings of the court pursuant to section 3579 (c)(2) of this title, and any additional portions of the record designated by either party or the court of appeals. The court shall permit and may require the Government to file an answer in the appeal.

"(4) Upon review, the court shall determine whether the sentence imposed is clearly unreasonable, considering the following factors:

"(A) The sentence set forth in the guidelines issued by the Federal Sentencing Commission under section 3584 of this title in effect on the date the defendant is sentenced.

"(B) Any pertinent policy statement issued by the Federal Sentencing Commission under section 3584 of this title in effect on the date the defendant is sentenced.

"(C) The disparity between the defendant's sentence and sentences imposed upon other persons convicted of the same offense.

"(D) Whether the provisions of sections 3579 through 3583 of this title have been followed.

"(E) The record or any other documents certified to the court of appeals pursuant to subparagraph (3).

"(5)(A) If the court of appeals determines that the sentence is not clearly unreasonable, the court shall affirm the sentence.

"(B) If the court of appeals determines that the sentence is clearly unreasonable, the court shall either impose a new sentence or remand the case for resentencing or further proceedings in accordance with the court's decision. In any case decided or remanded under this paragraph, the defendant shall not receive a more severe sentence than the sentence reviewed.

"(6) Except as otherwise provided in this subsection, the Federal Rules of Appellate Procedure apply to proceedings under this subsection.

"§ 358. Probation

"(a)(1) A defendant who has been convicted of an offense may be sentenced to a term of probation unless—

"(A) the offense is punishable by life in prison;

"(B) the offense is an offense for which probation is expressly precluded by law;

"(2) The term of probation for a felony, together with any extension thereof, shall not exceed 5 years. The term of probation for a misdemeanor, together with any extension thereof, shall not exceed 2 years.

"(3) In deciding whether to impose a term of probation the court shall consider the factors set forth in section 3579(c)(1) of this title. In imposing conditions of probation the court shall consider the factors set forth in section 3579(c)(1) and any other factors directly related to determining appropriate conditions.

"(b) As a condition of probation, the court may provide that the defendant:

"(1) work in specified community service;

"(2) participate in a program of a residential community treatment center for all or part of the period of probation;

"(3) undergo necessary medical or psychiatric treatment, including treatment for drug or alcohol dependency, if the defendant knowingly consents;

"(4) remain in the custody of the Bureau of Prisons for the lesser of 6 months or the term of imprisonment authorized for the offense during the first year of the term of probation; or

"(5) satisfy any other conditions the court deems appropriate.

"(c) The court may, for good cause shown, modify or reduce, after opportunity for a hearing as described in subsection (d)(7) of this section, the term or conditions of a sentence of probation.

"(d)(1) If the probationer violates a condition of probation before the end of the period of probation, the court may, after opportunity for a hearing under paragraph (7) of this subsection—

"(A) continue the sentence of probation, with or without extending the term or modifying the conditions; or

"(B) revoke the sentence of probation and impose any other sentence that was available at the time of initial sentencing.

"(2) In any case in which the sentence of probation is revoked, any fine paid shall be counted toward the maximum fine authorized by law.

"(3) If there is probable cause to believe that a probationer has violated a condition of probation at any time before the end of the period of probation, the court that imposed the sentence of probation, or, if jurisdiction over the probationer has been transferred to the court of another district, such other court, may issue a summons to the probationer or a warrant for the arrest of the probationer.

"(4) Any summons or warrant issued pursuant to paragraph (3) of this subsection shall provide the probationer with written notice of—

"(A) the conditions of probation alleged to have been violated; and

"(B) the probationer's rights under this chapter and any other provision of law.

"(5)(A) Whenever a probationer is summoned or taken into custody on the ground that there is probable cause to believe that the probationer has violated a condition of probation, the probationer shall be afforded within 48 hours, at or reasonably near the place of the alleged violation, a preliminary hearing before a judge, or before a United States magistrate who has been given authority under section 636(b) of title 28 to conduct such hearings, in order to determine whether there is probable cause to hold the probationer for a revocation hearing. The judge or United States magistrate shall maintain a record of the preliminary hearing.

"(B) If the judge or magistrate finds probable cause to exist, such judge or magistrate shall state for the record the evidence that supports the finding and hold the probationer for a revocation hearing before the appropriate judge or United States magistrate. The probationer may be released in accordance with Rule 46(c) of the Federal Rules of Criminal Procedure pending the revocation hearing.

"(C) If the judge or United States magistrate does not find probable cause, the proceedings shall be terminated and the judge or United States magistrate who issued the warrant shall be so notified.

"(D) A copy of the written report of the hearing shall be transmitted to the district of probation jurisdiction.

"(6) A revocation hearing shall be held before a judge or a United States magistrate at or reasonably near the place of the alleged probation violation or arrest within 30 days of such determination of probable cause.

"(7) A hearing held pursuant to this subsection unless knowingly waived by the probationer shall include—

"(A) reasonably notice to the probationer, including any conditions of probation alleged to have been violated, and the time, place, and purposes of the scheduled hearing;

"(B) opportunity for the probationer to be represented by an attorney retained by the probationer, or if he is financially unable to retain counsel, counsel shall be provided under section 3006A of title 18, United States Code, unless the probationer knowingly and intelligently waives such representation;

"(C) opportunity for the probationer to appear and testify, and present witnesses and relevant evidence on his own behalf; and

"(D) opportunity for the probationer to be apprised of the evidence against him and, if he so requests, to confront and cross-examine adverse witnesses.

"(8) A decision of a United States magistrate to revoke probation shall be subject to review upon appeal, including all issues of fact, to a judge of the district court. A decision to revoke probation by a judge of the district court or to affirm a magistrate's decision to revoke probation shall be subject to review upon appeal to the United States court of appeals.

"§ 3581. Restitution

"(a)(1) A defendant who has been convicted of an offense causing bodily injury or death, property damage, or other loss may be sentenced to make restitution to the victim of the offense, or any surviving dependents of such victim, in an amount and manner set by the court.

"(2) For the purposes of this section, the term 'victim' means any individual who, as a direct result of the offense for which the defendant is convicted, suffers bodily injury or death, or any individual who owns real or personal property which, as a direct result of such offense, is damaged.

"(b) In determining the amount of restitution for loss that is the result of death caused by the offense, the court may consider—

"(1) all appropriate and reasonable expenses necessarily incurred for funeral and burial expenses; and

"(2) loss of support to any surviving dependent of a victim, not otherwise paid as compensation for personal injury, for such period as the dependency would have existed but for the death of the victim.

"(c) In determining the amount of restitution for loss that is the result of personal injury caused by the offense, the court may consider—

"(1) all appropriate and reasonable expenses necessarily incurred for ambulance, hospital, surgical, nursing, dental, prosthetic, and other medical and related professional services and devices relating to physical or psychiatric care;

"(2) all appropriate and reasonable expenses necessarily incurred for physical and occupational therapy and rehabilitation; and

"(3) loss of past and anticipated future earnings.

"(d) In determining the amount of restitution for damage or loss to property, the court may consider the assessed value of such property damage or loss, not to exceed the actual value of the property.

"(e) Restitution shall be paid through the registry of the court in an amount and manner set by the court. The provisions of section 3582 for determining the amount of payment, the time of payment, and the method of payment apply to a sentence to make restitution as they apply to a sentence to pay a fine.

"(f) Restitution may be considered a condition of probation if warranted and shall take priority for purposes of enforcement over any fine imposed for the same offense.

"§ 3582. Fines

"(a) A defendant who has been convicted of an offense against the United States may be sentenced to pay a fine.

"(b) The court shall consider factors set forth in section 3579(c)(1) of this title in determining whether to impose a fine. In determining the amount of any fine to be imposed, the time for payment, and the method of payment the court shall consider the factors set forth in section 3579(c)(1) of this title and any other factors relating to the offense or the defendant's finances.

"(c) At the time a defendant is sentenced to pay a fine, the court may provide that the payment be made within a specified period of time or in specified installments. If no such provision is made a part of the sentence, payment is due immediately.

"(d) If a defendant is sentenced to pay a fine, the court may not impose an alternative sentence to be served in the event that the fine is not paid.

"(e) If a fine is imposed on an organization, it is the duty of any individual authorized to make disbursement of the assets of the organization to pay the fine from assets of the organization.

"(f) A defendant who has been sentenced to pay a fine, and who has paid part but not all of such fine, may petition the court for an extension of the time for payment, a modification of the method of payment, or a remission of all or part of the unpaid portion.

"(g) If, after the filing of a petition under subsection (f) of this section, the court finds that the circumstances that warranted the amount of the fine imposed or payment by the time or method specified no longer exist, or that it would otherwise be unjust to require payment of the fine in the amount imposed or by the time or method specified, the court may enter an order—

"(1) extending the time for payment;

"(2) modifying the method of payment; or

"(3) remitting all or part of the unpaid portion.

"§ 3583. Imprisonment

"A defendant who has been convicted of an offense may be sentenced to a term of imprisonment.

§ 3584. Federal Sentencing Commission

"(a)(1) There is established as an independent commission in the Judicial Branch of the Government, a Federal Sentencing Commission (hereinafter in this section referred to as the 'Commission'). The Commission shall be composed of the Chairman of the Parole Commission and the Attorney General (or the Attorney General's delegate) as ex officio members, and seven additional members appointed by the President, by and with the advice and consent of the Senate. One member of the Commission shall be appointed from a list of ten Federal judges provided to the President by the Judicial Conference of the United States. One member of the Commission shall be a Federal public defender. The remaining members of the Commission shall represent a variety of backgrounds and shall have demonstrated participation and interest in the criminal justice process.

"(2) The President may remove any member appointed to the Commission for neglect of duty, malfeasance in office or for other good cause shown.

"(3) The term of members appointed by the President under paragraph (1) of this subsection shall be 6 years, except that the President shall designate members initially appointed so that—

"(A) 2 are appointed for a 2-year term;

"(B) 2 are appointed for a 3-year term;

"(C) 1 is appointed for a 4-year term;

"(D) 1 is appointed for a 5-year term; and

"(E) 1 is appointed for a 6-year term.

"(4) No member appointed by the President under paragraph (1) of this subsection may serve for more than two 6-year terms. Any vacancy shall be filled for the remainder of the term with respect to which such vacancy arises.

"(5) Members of the Commission appointed by the President under paragraph (1) of this section shall receive no compensation for their membership but may receive actual and necessary travel and other expenses as provided under section 5703 of title 5, United States Code, for persons serving without pay. Ex officio members shall receive no additional compensation for their duties on the Commission.

"(b) The President shall designate one of the members of the Commission, other than ex officio members, as chair of the Commission. The chair of the Commission shall direct the use of sums made available to the Commission and the preparation of requests for appropriations for the Commission.

"(c)(1) The Commission, by affirmative vote of at least five members of the Commission, shall make and issue to all appropriate courts, to the United States Probation Service, the United States Parole Commission, and any other interested persons—

"(A) guidelines for use of a sentencing court in determining—

"(i) whether to impose a sentence of probation, a fine, restriction, or a term of imprisonment; and

"(ii) the appropriate amount of a fine or restitution, or the appropriate length of a term of probation or term of imprisonment;

"(B) general policy statements regarding the factors and circumstances considered by the Commission in formulating the guidelines, the application of the guidelines, or any other aspect of sentencing, including the appropriate use of the sanctions described in sections 3579 through 3583 of this title;

"(C) data and any other relevant information concerning patterns and practices in the sentencing of persons convicted of offenses; and

"(D) evaluation of the impact of the sentencing guidelines on prosecutorial discretion, plea bargaining, disparities in sentencing, and the use of incarceration.

"(2)(A) The Commission, in establishing guidelines under this subsection, shall consider—

"(i) the nature and circumstances of the offense;

"(ii) the defendant's role in the offense;

"(iii) any aggravating or mitigating circumstances relevant to the gravity of the offense and the defendant's role in the offense;

"(iv) the types of sentences available, including the noninstitutional sanctions;

"(v) the requirements of providing certainly and fairness in sentencing; and

"(vi) reducing disparity in sentences imposed for similar offenses;

"(vii) sentencing and release practices, guidelines issued by the United States Parole Commission and the length of prison terms actually served prior to the creation of the Commission.

"(B) If a sentence specified by the guidelines includes a term of imprisonment, then the guidelines may provide for an increase or decrease of up to 5 percent of the term of imprisonment.

"(C) The Commission, in issuing guidelines relating to a sentence of probation, may only consider the factors set forth in section 3584(c)(2)(A)of this title.

"(D) The guidelines shall include a term of prison whenever:

"(1) serious bodily injury resulted from the defendant's participation in the offense; or

"(2) the offense is a felony and the defendant was previously convicted of a federal, state or local felony, unless a substantial period of time has lapsed since the defendant's previous conviction.

"(3) The Commission, in conjunction with the United States Bureau of Prisons, the United States Parole Commission, and the United States Probation Service, shall establish noninstitutional sanctions, including those set forth in section 3580(b) of this title.

"(4) The Commission shall review and revise, in consideration of comments and data, the guidelines issued under this section. In performing its functions, the Commission shall conduct public hearings with the participation of the general public, and representatives of various aspects of the criminal justice system.

"(5) The Commission shall meet at least once each calendar quarter and shall revise the guidelines at least biannually.

"(6) Proceedings under this section shall be carried out in conformity with chapter 5 of title 5, United States Code, and records maintained by the Commission shall be subject to the provision of sections 552 and 552a of such title.

"(d) The Commission, by vote of a majority of the members, shall—

"(1) deny, revise, or ratify any request for regular, supplemental, or deficiency appropriations before any submission of such request to the Office of Management and Budget by the Chairman;

"(2) monitor the performance of probation officers with regard to sentencing recommendations, including application of Commission guidelines and policy statements;

"(3) issue instructions to probation officers concerning the application of Commission guidelines and policy statements;

"(4) establish a research and development program within the Commission for the purposes of—

"(A) serving as a clearinghouse and information center for the collection, preparation, and dissemination of information on Federal sentencing practices; and

"(B) assisting and serving in a consulting capacity to Federal courts, departments, and agencies in the development, maintenance, and coordination of sentencing practices;

"(5) collect data obtained from empirical studies, research, and the experience of public and private agencies concerning the sentencing process, including the sentences actually imposed and the relationship of such sentences to the factors set forth in section 3579 (c) (1) of this title;

"(6) devise and conduct, in various geographical locations, seminars and workshops providing continuing studies for persons engaged in the sentencing field;

"(7) devise and conduct periodic training programs of instruction in sentencing techniques for judicial and probation personnel and other persons connected with the sentencing process;

"(8) study the feasibility of developing guidelines for the disposition of juvenile delinquents; and

"(9) study the plea bargaining process.

"(e)(1) The Commission, by vote of a majority of the members, shall appoint and fix the salary and duties of the staff director of the Commission, who shall serve at the discretion of the Commission and who shall be compensated at a rate not to exceed the highest rate payable for grade 18 of the General Schedule of section 5332 of title 5, United States Code.

"(2) The staff director shall supervise the activities of persons employed by the Commission and perform such other duties as are assigned by the Commission.

"(3) The staff director shall, subject to the approval of the Commission, appoint such officers and employees as are necessary in the execution of the functions of the Commission. The officers and employees of the Commission shall be exempt from the provisions of part III of title 5, United States Code, except the following chapters: 81 (compensation for work injuries), 83 (retirement), 85 (unemployment compensation), 87 (life insurance), and 89 (health insurance).

"(f) The Commission, by vote of a majority of the members, may—

"(1) procure for the Commission temporary and intermittent services to the same extent as is authorized by section 3109 (b) of title 5, United States Code;

"(2) utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, local, and private agencies and instrumentalities, including the Administrative Office of the United States Courts and the Federal Judicial Center, with or without reimbursement;

"(3) without regard to section 3648 of the Revised Statutes of the United States (31 U.S.C. 529), enter into and perform such contracts, leases, cooperative agreements, and other transactions as may be necessary in the conduct of the functions of the Commission, with any public agency, or with any person;

"(4) accept voluntary and uncompensated services, notwithstanding section 3679 of the Revised Statutes of the United States (31 U.S.C. 655 (b));

"(5) request such information, data, and reports from any Federal agency or judicial officer as the Commission may from time to time require and as may be produced consistent with other law; and

"(6) perform such other functions as are required to permit Federal courts to meet their responsibilities under laws relating to sentencing and to permit others involved in the Federal criminal justice system to meet their related responsibilities.

'(g) (1) The Commission shall have such other powers and duties and shall perform such other functions as may be necessary to carry out the purposes of this section, and may delegate to any member or other appropriate person such powers as may be appropriate other than the power to establish general policy statements and guidelines.

"(2) Upon the request of the Commission, each Federal agency is authorized and directed to make available, to the greatest practicable extent, its services, equipment, personnel, facilities, and information to the Commission in the execution of the Commission's functions.

"(3) A majority of the membership serving shall constitute a quorum for the conduct of business.

"(4) Except as otherwise provided by law, the Commission shall maintain and make available for public inspection a record of the final vote of each member of any action taken by the Commission.

"(h) (1) The Commission shall report annually to the United States Judicial Conference, the Congress, and the President on the activities of the Commission. The Commission shall make recommendations to Congress concerning modifications of any law relating to sentencing, penal, and correctional matters that the Commission finds to be necessary to carry out an effective, humane, and rational sentencing policy.

"(2) The Commission, at or after the beginning of each regular session of Congress but not later than the first day of May in each year, shall report to the Congress the guidelines issued under section 3584(c) (1) (A) of this title. The guidelines shall take effect ninety days after the Commission reports them unless the effective date is extended or the guidelines are disapproved or modified by Act of Congress.

"(3) The Commission shall submit to Congress at least annually an analysis of the reports and studies required under this section and any recommendation for legislation that the Commission concludes is warranted by that analysis. Such reports shall not contain any personally identifiable information about any offender.

"(4) The Commission shall submit to Congress within three years of the issuance of guidelines under subsection 7(c) of this Act a proposal for reducing all statutory maximum prison terms consistent with the procedures and purposes of sentencing established by this Act.

"(5) The Commission and the Bureau of Prisons shall submit to Congress an analysis and recommendations concerning maximum utilization of resources to deal effectively with the federal prison population. Such report shall be based upon consideration of a variety of alternatives, including:

"(A) modernization of existing facilities;

"(B) inmate classification and periodic review of such classification for use in placing inmates in the least restrictive facility necessary to ensure adequate security;

"(C) use of existing federal facilities, such as those currently within military jurisdiction.

"§ 3585. Definitions

"For the purposes of sections 3579 through 3584 of this title, the term—

"(a) 'noninstitutional sanction' means a sentence which does not include the confinement of the defendant in—

"(1) a facility for mentally ill persons; or

"(2) a jail, prison, or other correctional facility, or detention facility;

"(b) 'offense' means an act or an omission to act which—

"(1) is prohibited or required by a Federal statute, the violation of which is punishable by a sentence of a fine, a term of imprisonment, restitution, or probation;

"(2) if qualified by the word 'State', 'local', or 'foreign', conduct for which a term of imprisonment or a fine is authorized by such State, local, or foreign law; and

"(3) constitutes the grounds for a seperate count within an indictment or information; and

"(c) 'organization' means a legal entity, other than a government, established or organized for any purpose, and includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, estate, society, union, club, church, and any other association of persons.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 3. (a) (1) Chapter 227 of title 18, United States Code, is amended by repealing sections 3575 and 3576.

(2) The table of sections for chapter 227 of title 18, United States Code, is amended—

(A) in the item relating to section 3575, by striking out "Increased sentence for dangerous special offenders" and inserting in lieu thereof "Repealed";

(B) in the item relating to section 3576, by striking out "Review of sentence" and inserting in lieu thereof "Repealed"; and

(C) by adding at the end the following new items:

"3579. General provisions relating to criminal sentencing.
"3580. Probation.
"3581. Restitution.
"3582. Fines.
"3583. Imprisonment.
"3584. Federal Sentencing Commission.
"3585. Definitions.".

(b) (1) Chapter 231 of title 18, United States Code, is amended by repealing sections 3651 and 3653.

(2) The table of sections for chapter 231 of title 18, United States Code, is amended—

(A) in the item relating to section 3651, by striking out "Suspension of sentence and probation" and inserting in lieu thereof "Repealed"; and

(B) in the item relating to section 3653, by striking out "Report of probation officer and arrest of probationer" and inserting in lieu thereof "Repealed".

GOOD TIME ALLOWANCES

SEC. 4. (a) Chapter 309 of title 18, United States Code, is amended by adding at the end the following:

"§ 4167. Vesting of good time allowance

"A determination of whether to grant a good time allowance under section 4161 of this title shall be made within two days after the end of each month. Such allowance vests at the time that it is received. An allowance vested may not later be withdrawn and an allowance that is not earned may not later be granted.".

(b) Chapter 309 of title 18, United States Code, is amended by repealing sections 4165 and 4166.

(c) The table of sections for chapter 309 of title 18, United States Code, is amended—

(1) in the item relating to section 4165, by striking out "Forfeiture for offense" and inserting in lieu thereof "Repealed";

(2) in the item relating to section 4166, by striking out "Restoration of forfeited commutation" and inserting in lieu thereof "Repealed"; and

(3) by adding at the end the following new item: "4167. Vesting of good time allowance.".

AMENDMENTS RELATING TO CAPITAL PUNISHMENT

SEC. 5. (a) Section 34 of title 18, United States Code, is amended by deleting "the death penalty" and inserting in lieu thereof "imprisonment for life without the possibility of parole".

(b) Section 351 of title 18, United States Code, is amended—

(1) by deleting "by death" in subsection (b) and inserting in lieu thereof "by imprisonment for life without the possibility of parole"; and

(2) by deleting "by death" in subsection (d) and inserting in lieu thereof "by imprisonment for life without the possibility of parole".

(c) Section 794 of title 18, United States Code, is amended—

(1) by deleting "by death" in subsection (a) and inserting in lieu thereof "by imprisonment for life without the possibility of parole"; and

(2) by deleting "by death" in subsection (b) and inserting in lieu thereof "by imprisonment for life without the possibility of parole".

(d) Section 844 of title 18, United States Code, is amended—

(1) by deleting "the death penalty" in subsection (d) and inserting in lieu thereof "imprisonment for life without the possibility of parole";

(2) by deleting "the death penalty" in subsection (f) and inserting in lieu thereof "imprisonment for life without the possibility of parole"; and

(3) by deleting "the death penalty" in subsection (i) and inserting in lieu thereof "imprisonment for life without the possibility of parole".

(e) section 1111 of title 18, United States Code, is amended by deleting "suffer death unless the jury qualifies its verdict by adding thereto 'without capital punishment', in which event he shall be sentenced to imprisonment" in subsection (b) and inserting in lieu thereof "be imprisoned for life without the possibility of parole or".

(f) Section 1716 of ttile 18, United States Code, is amended by deleting "the death penalty" and inserting in lieu thereof "imprisonment for life without the possibility of parole".

(g) Section 1751 of title 18, United States Code, is amended—

(1) by deleting "by death" in subsection (b) and inserting in lieu thereof "by imprisonment for life without the possibility of parole"; and

(2) by deleting "by death" in subsection (d) and inserting in lieu thereof "by imprisonment for life without the possibility of parole".

(h) Section 1992 of title 18, United States Code, is amended by deleting "the death penalty" and inserting in lieu thereof "imprisonment for life without the possibility of parole".

(i) Section 2031 of title 18, United States Code, is amended by deleting "death" and inserting in lieu thereof "imprisonment for life without the possibility of parole".

(j) Section 2113 of title 18, United States Code, is amended by deleting "death" in subsection (e) and inserting in lieu thereof "imprisonment for life without the possibility of parole".

(k) Section 2381 of title 18, United States Code, is amended by deleting "death" and inserting in lieu thereof "imprisonment for life without the possibility of parole".

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. There are authorized to be appropriated such sums as may be necessary for the fiscal year ending September 30, 1980, and the fiscal year ending September 30, 1981, to carry out sections 3579 through 3684 of title 18, United States Code, as added by section 2 of this Act.

EFFECTIVE DATE

SEC. 7. (a) Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect 60 days after the effective date of the guidelines issued by the Federal Sentencing Commission under subsection (c).

(b) Section 3584 of title 18, United States Code, as added by section 2 of this Act, shall take effect 60 days after the date of the enactment of this Act.

(c) The Federal Sentencing Commission established under section 3584 of title 18, United States Code, is added by section 2 of this Act, shall issue the initial guidelines for sentencing not later than six months after the date of the enactment of this Act.

(d)(1) The following provisions of law in effect on the day before the effective date provided in subsection (a) of this section shall remain in effect for 3 years after such effective date—

(A) chapter 311 of title 18, United States Code;

(B) section 4254 through 4255 of title 18, United States Code;

(C) sections 5041 and 5042 of title 18, United States Code; and

(D) sections 5017 through 5020 of title 18, United States Code.

(2) Notwithstanding the provisions of section 4202 of title 18, United States Code, as in effect on the day before the effective date of this Act, the term of office of a Commissioner who is in office on the effective date is extended to the end of the three year period after the effective date of this Act.

(3) The United States Parole Commission shall continue to be authorized to set a release date, for an individual who will be in its jurisdiction the day before the expiration of three years after the effective date of the guideline. A release date set pursuant to this paragraph shall be set early enough to permit consideration of an appeal of the release date, in accordance with Parole Commission procedures, before the expiration of three years following the effective date of this Act.

(4) Notwithstanding the other provisions of this subsection, all laws in effect on the day before the effective date of this Act pertaining to an individual who is—

(A) released pursuant to a provision listed in paragraph (1); and

(B) (i) subject to supervision on the day before the expiration of the three-year period following the effective date of this Act;

(ii) released on a date set pursuant to paragraph (3); including laws pertaining to terms and conditions of release, revocation of release, provision of counsel, and payment of transportation costs, shall remain in effect as to that individual until the expiration of his sentence.

(5) 180 days prior to the date established in subsection (d)(1), the United States Parole Commission, the Federal Sentencing Commission, and the General Accounting Office shall each report to Congress on the performance of the United States Parole Commission and any recommendations for legislation.

SECTION-BY-SECTION ANALYSIS

Section 1. This section identifies the short title of the Act as the "Sentencing Reform Act of 1979."

Section 2. This section adds seven new sections relating to sentencing to title 18 United States Code (proposed 18 U.S.C. § 3579–85).

Proposed 18 U.S.C. 3579, General Provisions relating to criminal sentencing:

(a) The provisions of this Act relating to sentences of fine, probation, restitution, and imprisonment apply to all federal offenses, except as otherwise specifically provided. A Sentence of fine or restitution may be imposed in addition or as an alternative to any other sentence. An organization may be sentenced to probation, restitution, or to pay a fine.

(b) A probation officer must make a presentence investigation and report the results to the Court. The report must include information on non-institutional sanctions to assist judges in imposing sentences other than prison whenever such sentences are appropriate.

(c)(1) A court must consider specific factors when imposing a sentence: Two of the factors are: (1) the nature and circumstances of the offense, and (2) the defendant's role in the offense and the presence or absence of aggravating or mitigating circumstances relating to the defendant's role in the offense that are not reflected in the guidelines formulated by the Federal Sentencing Commission under section 3584. Thus, the court must consider the gravity of the offense rather than the characteristics of the offender when deciding on an appropriate sentence. The Court must also consider the types of sentences available, including non-institutional sanctions as an appropriate condition of probation; the appropriate Sentencing Guidelines issued under section 3584; appropriate sentencing statement issued under section 3584 and the need for uniformity in sentencing.

(c)(2) At the time of sentencing the judge must state in open court and for the record the reason for imposing the particular sentence and the guideline applied in selecting the sentence. If the sentence differs from the sentence recommended in the guideline, the statement must include the specific reason for imposition of such sentence. The sentencing process by providing the defendant and the public with a rationale for every sentence. Within 10 days following the imposition of sentence, the Court must submit a written report on the sentence to the Federal Sentencing Commission to use in evaluating the sentencing process and monitoring implementation of the guidelines.

(d) A defendant may appeal a sentence by filing a notice of appeal under Rule 3(a) of the Federal Rules of Appellate Procedure unless the sentence was part of a plea agreement which was knowingly and voluntarily agreed to by the defendant in open court and on the record, was accepted by the court, and is the sentence recommended in the guidelines issued under section 3584 that are applicable to the offense which was the result of the plea agreement. The Court of Appeals determines whether the sentence is clearly unreasonable based upon the applicable sentencing guidelines and policy statements, the disparity between the defendant's sentence and sentences imposed upon other defendants convicted of the same offense, whether procedures of the Sentencing Reform Act have been followed, and any document certified by the clerk of the Court of Appeals. If the Court determines that the sentence is not clearly unreasonable the court may either impose a new sentence or remand the case for resentencing or for further proceedings. In any case, the defendant may not receive a more severe sentence than the sentence reviewed since the possibility of an increased sentence would have a serious chilling effect on defendant's exercise of their rights.

Proposed 18 U.S.C. 3580, Probation:

This section establishes procedures for imposition and revocation of a sentence of probation.

(a) As in current law, probation is precluded if the offense is punishable by life imprisonment or if it is an offense for which probation is expressly precluded by law. The maximum term of probation is five years for a felony and two years for a misdemeanor.

(b) The court may impose any conditions of probation it deems best, including work in specified community service, participation in a program of a residential community treatment center and if the defendant knowingly consents, necessary medical or psychiatric treatment including treatment for drug or alcohol dependence. A term of imprisonment of less than six months during the first year of probation may also be ordered.

(c) The court may reduce or modify terms or conditions of probation for good cause shown after opportunity for a hearing.

(d) If the probationer violates a condition of probation the court, after a hearing, may continue the sentence of probation with or without extending the term or modifying the conditions, or revoke the sentence of probation and impose any other sentence that was available at the time of the initial sentencing.

If there is probable cause to believe that a probationer violated a condition of probation at any time before the end of the period of probation the court may issue a summons to the probationer or a warrant for the arrest of the probationer. The summons or warrant must contain the conditions of probation alleged to have been violated, and the probationer's rights concerning the violation. Within 48 hours after the probationer is taken into custody, there must be a preliminary hearing at or reasonably near the place of the alleged violation. At the preliminary hearing a judge or United States magistrate determines whether there is probable cause to hold the probationer for a revocation hearing. There must be a record maintained of the preliminary hearing.

If there is a finding of probable cause, the judge or magistrate states for the record the evidence that supports the finding. The probationer may be released in accordance with Rules 46(c) of the Federal rules of Criminal Procedure pending the revocation hearing.

The bill establishes a number of procedural protections not afforded the probationer under current law. A revocation hearing must be held before a judge or United States magistrate at or reasonably near the place of the alleged probation violation or arrest within 30 days of the determination of probable cause. Unless knowingly waived by the probationer, a revocation hearing or preliminary hearing must include: (1) reasonable notice to the probationer including conditions of probation alleged to have been violated and the time, place and purposes of the scheduled hearing, (2) opportunity for the porbationer to be represented by an attorney retained by the probationer or, if he is financially unable to retain counsel, counsel will be provided, (3) opportunity for the probationer to appear and testify and present witnesses and relevant evidence on his own behalf and (4) opportunity for the probationer to be appraised of the evidence against him and, if he so requests, to confront and cross-examine adverse witnesses.

A decision of a United States magistrate to revoke probation is subject to review upon appeal including all issues of fact to a judge of the United States district court. A decision to revoke probation by a judge of the district court or to affirm a magistrate's decision to revoke probation is subject to review upon appeal to the United States Court of Appeals.

Proposed 18 U.S.C. 3581, Restitution:

(a) This section establishes restitution as a separate type of sentence thus increasing the likelihood that it will be imposed than under current law which authorizes restitution only as a condition of probation. Any defendant convicted of an offense causing bodily injury or death, property damage or other loss may be sentenced to make restitution, to the victim or to any surviving dependent of the victim, in an amount and manner set by the court.

(b) The court is directed to consider specific factors in determining the appropriate amount of restitution. The court's consideration is limited to factors directly related to the victim's loss. In determining the amount of restitution for loss resulting from a death the court may consider: (1) funeral and burial expenses and (2) uncompensated loss of support to any surviving dependent.

(c) In determining the amount of restitution for loss resulting from personal injury the court may consider: (1) appropriate and reasonable medical expenses, (2) therapy and rehabilitation expenses, and (3) loss of past and anticipated future earnings.

(d) In determining the amount of restitution for loss resulting from damage or loss to property, the court may consider the assessed value of the property.

Proposed 18 U.S.C. 3582 Fines:

The court after considering the factors set forth in proposed 18 U.S.C. 3579(c)(1) may impose a fine. The court may consider any factor directly related to determining the appropriate amount of fine and in setting the time and method for payment. This section establishes procedure for payment of fine, for changing the time or method of payment and for remitting all or part of the unpaid portion.

Proposed 18 U.S.C. 3583. Imprisonment:

This section authorizes imposition of a sentence of imprisonment.

Proposed 18 U.S.C. 3584. Federal Sentencing Commission:

(a)(1) This section establishes the Federal Sentencing Commission, an independent Commission in the judicial branch. The members of the Sentencing Commission will represent a variety of viewpoints and experiences in the criminal justice system. Members must include the chairman of the Parole Commission and the Attorney General who serve ex officio and 7 members appointed by the President by and with the advice and consent of the Senate: one must be chosen from a list of 10 federal judges provided by the Judicial Conference, one must be a federal public defender, and the remainder must represent a variety of backgrounds and have demonstrated participation and interest in the criminal justice process. The members are appointed for a maximum of two six-year terms. Members may only be removed by the President for neglect of duty, malfeasance in office or for other good cause shown. They receive no compensation but may receive actual and necessary expenses.

(b) The President appoints the Chairman of the Sentencing Commission.

(c)(1) By affirmative vote of five of its members the Sentencing Commission must promulgate guidelines for the use of a sentencing court in determining whether to impose a sentence of probation, fine, restitution, or imprisonment, and the appropriate amount of a fine or restitution or the appropriate length of a term of probation or imprisonment. The Commission must also promulgate policy statements regarding the factors and circumstances considered by the Commission in formulating the guidelines, the application of the guidelines, and any other aspect of sentencing, including the appropriate use of the sanctions. The Commission also serves as a clearinghouse for collection and dissemination of data and other relevant information concerning patterns and practices in the sentencing of persons convicted of offenses. In addition, the Commission must disseminate evaluations of the impact of sentencing guidelines on prosecutorial discretion, plea bargaining, disparities in sentences and the use of incarceration.

(c)(2) When promulgating the guidelines the Commission must consider factors relevant to the gravity of the offense including: the nature and circumstances of the offense, the defendant's role in the offense and any aggravating or mitigating circumstances relevant to the defendant's role in the offense. The court must also consider factors which promote fairness and reduce disparity, including: the types of sentences available including non-institutional sanctions; the requirements for providing certainty and fairness in sentencing; reducing disparity in sentences imposed for similar offenses; and the sentencing release practices, guidelines issued by the Parole Commission and the length of prison terms actually served prior to the creation of the Sentencing Commission.

Guidelines which include a term of imprisonment may provide for a maximum increase or decrease of 5 percent of the term. The Guideline must always provide for a term of imprisonment when serious bodily injury resulted from the defendant's participation in the offense or the conviction is for a second felony. These are not mandatory sentences in the usual sense, since the Sentencing Commission in its guidelines sets the appropriate term for each offense and the Judge may deviate from the guideline whenever there are aggravating or mitigating circumstances.

The Sentencing Commission, together with the United States Bureau of Prisons, the United States Parole Commission, and the United States Probation Service, must establish a system for effective utilization of non-institutional sanctions in appropriate cases. This provision is a recognition of the value of alternatives to incarceration in appropriate cases—to the community which receives services, to the prison system which is received of the responsibility for inappropriate prison placements and to the defendant who is spared the trauma of prison if it is not the proper penalty for the offense.

The Commission is required to meet at least once each year to review and revise the guidelines and it must hold public hearings with participation by the general public and representatives of various aspects of the criminal justice system to assist in performing its functions.

(d) By majority vote, the Commission must deny or approve appropriation requests, and monitor and instruct federal probation officers with regard to implementation of sentencing guidelines. The Commission is also required to assume a research and education function. Specifically, it is directed to study the plea bargaining process and the feasibility of developing guidelines for the disposition of juvenile delinquents. The results of the studies must be reported to Congress. Together, the Sentencing Commission and Congress can use the data to improve these two important elements of the Sentencing process.

(e) The Commission is authorized to employ a staff director to carry out its duties.

(f) To assist in carrying out its duties the Commission is authorized to utilize the services of other agencies including requesting data and reports which may be released consistent with any other law. The Commission may also perform any other duties necessary to assist federal courts and others in fulfilling their responsibilities relating to sentencing.

(g) The Commission must maintain a public record of all final votes.

(h) The Commission must annually report to Congress on the guidelines, studies, and any recommendations for legislation. The guidelines become effective 90 days after the Commission reports to Congress unless the effective date is extended or the guidelines are disapproved or modified by Act by Congress.

The Commission must also report to Congress within three years of the issuance of the guidelines its proposal for reducing all statutory prison terms. The three year interval allows Congress to consider reducing sentences when the Parole Commission ceases its release function. Without parole, sentences must be reduced to reflect current time served. The Sentencing Commission is encouraged to reduce sentences below current time served, provided reduction is consistent with the gravity of the offense.

In cooperation with the Bureau of Prisons the Commission must report to Congress its recommendations for an effective and efficient system for dealing with the federal prison population. The report must consider effective utilization of alternative facilities and provide a system for classifying inmates so they are placed in the least restrictive facility necessary to ensure adequate security. The study and recommendations will also provide a means of monitoring and adjusting to any changes in the size of the prison population which may result from changes in sentencing procedures.

Proposed 18 U.S.C. 3585, Definitions: The terms "non-institutional sanction", "offense", and "organization" are defined.

Section 3: Technical and Conforming Amendments: Title 18, United States Code is amended to implement the provisions of this Act and 18 U.S.C. 3575 and 3576, relating to Dangerous Special Offenders, are repealed.

Section 4: Good Time Allowance: Title 18, United States Code is amended to add section 4167, Vesting of Good Time Allowances.

Under this provision good time is awarded at the end of the month that it is earned. It may not later be withdrawn and good time may not be awarded later than two days after the end of the month in which the prisoner was eligible. Good time will continue to serve as a means of rewarding satisfactory institutional behavior. Vesting good time earned at the end of the month will bring order to the present system which authorizes prison officials to grant and withdraw good time at any time. Prisoners will have a greater incentive to earn good time which cannot be withdrawn at a later date for minor misconduct.

Section 5: Amendments Relating to Capital Punishment: The new sentence of life imprisonment without the possibility of parole is established. It is substituted for the death penalty in offenses in Title 18, United States Code, which authorize a death penalty that cannot be imposed due to Constitutional barriers. It is not a mandatory sentence. Once imposed, however, the prisoner can not be released on parole under any circumstances.

Section 6: Authorization of Appropriations—Appropriation of sums necessary to implement the provisions of the Act is authorized.

Section 7: Effective Date—The Sentencing Commission becomes effective 60 days after enactment of the Act. The Sentencing Commission must issue guidelines within six months of the enactment of the Act and the remaining provisions of the Act become effective 60 days after the effective date of the guidelines.

The sections in Title 18, United States Code, relating to the United States Parole Commisison remain in effect until three years after the effective date of the sentencing guidelines. Laws relating to release on parole remain in effect for persons under parole supervision until expiration of their sentence.

Mr. JAVITS. Mr. President, I am pleased to join my colleague from Delaware (Mr. BIDEN) in introducing the Sentencing Reform Act of 1979. This bill is a further refinement of S. 204, which I cosponsored last Congress.

During consideration of criminal omnibus code revision in the 95th Congress, a consensus emerged on the general principles for reform of the present system for sentencing Federal offenders. Remarkably, both conservatives and liberals in the House and Senate recognized that the current system was unworkable and despite differing views on the precise mechanisms for reform, there was general agreement on the nature of the changes that must be instituted.

Sentencing reform must meet the following criteria: First, we must devise a means for developing consistent standards to guide judicial discretion and help reduce sentencing disparities. Second, we must reduce the emphasis on incarceration as well as excessive sentence lengths. And, finally, we must recognize that the death penalty has not been an effective deterrent to crime and it should be repealed.

These principles of sentencing reform stand in direct contrast to the approach taken by the omnibus code itself. The code continues to divide the Congress, and the disagreement over differing approaches will no doubt continue into this session. It is my judgment that sentencing reform, on which there is general agreement, should be acted upon now, rather than sacrificed in the effort for an omnibus code revision. Therefore, I am cosponsoring the "Sentencing Reform Act of 1979." I would now like briefly to describe the reasons I support this legislation.

First. Rational and consistent sentencing standards.

Sentencing reform must eliminate standards which have been proven ineffective, and replace them with a coherent system for sentencing. There is no substantial evidence that we know how to rehabilitate an offender or how to determine when a person has been rehabilitated. Moreover, there is no evidence that incarceration has worked as a means of achieving deterrence.

In fact, it is clear that the current sentencing standards have led to a system whereby persons convicted of similar crimes committed under similar circumstances are sentenced quite differently. Some of these problems were identified in a recently released GAO report entitled "Reducing Judicial Sentencing and Prosecuting Disparities: A Systemwide Approach Needed." Some States were found to give criminal defendants prison terms, while others did not for identical offenses. Further, among those States imposing prison sentences, there were great discrepancies in the length of those sentences. While there may be valid reasons to explain some of these differences, these gross disparities must be sharply reduced if the system is to be perceived as just. Yet, last year's omnibus bill did little to provide a coherent sentencing rationale.

The Sentencing Reform Act adopts the "just desserts" theory of punishment. No sanction will be imposed greater than that that deserved by the last crime, or series of crimes for which the defendant is being sentenced. Only criteria which clearly relate to the seriousness of the offense and can be measured with some degree of objectivity are used—for example, the nature and degree of harm caused by the offense and the offender's own role in the offense. In other words, the punishment must be tailored to the crime and not to an arbitrary determination of how much rehabilitation the offender needs.

Further, the act will establish a Sentencing Commission which will study plea bargaining, disseminate data on sentencing practices, and promulgate advisory guidelines to assist judges in sentencing. Importantly, sentences will also be subject to appellate review, which should lead to greater consistency. Finally, the Parole Commission will be phased out over 3 years, permitting parole to continue while the new sentencing system is put in place.

Second. Reduced Emphasis on Incarceration.

Perhaps the harshest aspect of the current sentencing system is the indiscriminate and excessive use of incarceration as punishment for Federal offenders. Many experts agree that imprisonment has little, if any success in meeting its goals of promoting rehabilitation and facilitating an offender's successful reentry into society. On the contrary, it is well established that incarceration is physically and psychologically debilitating, retards progress towards rehabilitation, and reduces that chance of reentering society successfully.

The destructive effects of prisons have been recognized by a number of courts. In one landmark decision, Judge Frank Johnson declared the entire Alabama prison system unconstitutional, finding that these prisons necessarily and inevitably made people worse.

In light of these findings, experts now agree that incarceration should be used as a sanction only when there is no other adequate alternative to protect society from an offender's criminal behavior. Fines, restitution, community based treatment facilities, probation, day fines, community service work and study release, and a range of other alternatives are in most cases preferable to imprisonment as a sanction. The obligation to prove the necessity for restricting freedom should always rest with the State.

S. 1437, the Omnibus Criminal Code bill did not require or even encourage the use of sentencing alternatives. On the other hand, H.R. 13959, the House bill of last Congress, provided for a range of alternatives to incarceration. The Sentencing Reform Act is patterned after the House bill and provides for a range of alternatives such as community work service and restitution.

In addition, I would encourage the Senate to consider the recommendations of the National Commission to Reform the Criminal Laws (the Brown Commission) which recommended a presumption in the favor of a sentence of probation. If a judge does impose imprisonment, we should consider requiring him or her to state on the record why other alternatives were rejected.

Third. Excessive sentence lengths.

As mentioned above, incarceration is now a primary means of punishment. In the past four decades, the percentage of offenders sentenced to imprisonment has increased dramatically. At the same time, the actual time served has grown longer.

S. 1437, the omnibus bill, continues the trend of longer sentences of imprisonment. Senator KENNEDY stated during the floor consideration of S. 1437, that he believes that there will be more time served under this scheme.

Based on the deliberate action of the Senate to increase sentence lengths, and the general mood of the Congress, I believe any attempt to shorten sentence lengths at this time would be futile. Therefore, the Sentencing Reform Act does not address sentence lengths directly. I would hope, however, that the provisions for alternatives to incarceration and sentencing guidelines will bring a reduction in time served.

Fourth. Capital punishment.

There has always been great controversy over whether the death penalty actually provides an effective deterrent to murder. The omnibus code leaves the present Federal legislation on this issue untouched. Authoritative studies have shown no significant reduction in the murder rate when capital punishment is employed. That finding, together with the inhumane characteristics of capital punishment, persuade me that it is appropriate to eliminate that penalty now from the Federal criminal code.

Mr. PERCY. Mr. President, in recent years, much legislative attention has been devoted to the reform of the current sentencing system. Despite this attention, disparities in the sentencing of rich and poor, black and white, rural and urban defendants continue to plague our criminal justice system. These disparities undermine the essential notion of equal justice for all. As a result, the criminal justice system has come to be perceived as arbitrary, unjust, and, hence, deserving of little respect.

Many of us agree upon the objectives to be accomplished and the types of changes that need to be instituted in sentencing reform; however, we differ in what we envision as the precise mechanisms for these reforms. It is important that the Congress debate the issue fully, resolve the remaining differences, and adopt a meaningful proposal for sentencing reform. For that reason, I am pleased to join with Senator BIDEN, Senator HART, and Senator JAVITS in introducing the Sentencing Reform Act of 1979. It is my hope that this legislation will stimulate a final phase of Senate discussion of sentencing reform.

The Sentencing Reform Act of 1979 contains many similar provisions to those found in S. 1722, the criminal code reform legislation introduced earlier this year by Senators KENNEDY, THURMOND, DECONCINI, HATCH, and SIMPSON. S. 1722 is a measure hammered out of years of negotiations and compromise between liberal and conservative elements in the Senate. Its immediate predecessor, S. 1437, passed the Senate by a considerable margin during the last Congress. Much credit should go to Senator KENNEDY, Senator THURMOND, the late Senator John McClellan, and others who have put in endless hours to bring about this monumental reform package.

Both the Sentencing Reform Act of 1979 and S. 1722 limit judicial discretion in determining sentences. Both establish a sentencing commission to promulgate guidelines for Federal judges in imposing sentence. Both authorize, for the first time, sentence review through the appellate process for the criminal defendants. Underlying these reforms is the shared objective of implementing "just deserts" sentencing—sentencing based upon the gravity of the offense committed, not the personal characteristics of the defendant or the size of the caseload on any given day.

However, in my view, certain sentencing provisions in the Sentencing Reform Act of 1979 more completely remedy sentencing disparities and further protect basic rights and civil liberties than the comparable measure in S. 1722.

The Sentencing Reform Act of 1979 narrows the factors to be considered in sentencing a defendant. Punishment would be tailored to fit the crime, without regard to personal characteristics which may reflect a built-in cultural or racial bias.

The Sentencing Commission will be more representative of the criminal justice system. Members will include the Attorney General or his designee, the chairman of the U.S. Parole Commission—both will serve as ex officio members—one Federal judge, one Federal public defender, and five persons representing a variety of backgrounds in the criminal justice process. This diverse group, encompassing all perspectives within the criminal justice system, will lend their expertise in the promulgation of sentencing guidelines, and the analysis of future reforms.

As in the criminal code reform package, criminal defendants will be told why they are receiving their specific sentence, and will have the right to appeal these sentences. The sole exception will be sentences resulting from a plea agreement which fall within or below the guidelines. In appealing his sentence, a defendant must meet a "clearly unreasonable" standard of proof which will weed out frivolous claims.

On the other hand, the Sentencing Reform Act of 1979 does not authorize the Government to appeal the defendant's sentence. There will be times when all of us will view a particular sentence meted out by a judge as too lenient. Nevertheless, allowing the Government to appeal is, in my view, contrary to the interests of both the individual and society. It goes against the spirit, and perhaps the substance, of the protection found in the constitutional prohibition on double jeopardy. Furthermore, notions of fair play would be violated if the Government were able to avail itself of its considerable resources in appealing sentences.

Rather than immediate abolition of the Parole Commission, the Sentencing Reform Act of 1979 would sunset the Commission after 3 years. This cautious approach to reform should ease implementation efforts.

Finally, the Sentencing Reform Act of 1979 would replace the death penalty with a sentence of life in prison without possibility of parole.

I am not categorically opposed to the death penalty. In certain extreme instances, such as a person already serving a life sentence who wantonly murders a prison guard, the penalty of death may serve as a deterrent and may be a just punishment. But, beyond those unusual circumstances, I am not convinced that the death penalty serves as such an additional deterrent to crime that our society is justified in imposing this ultimate deprivation on a broad scale. I cannot believe that the death penalty will result in a more humane or more just Nation.

In the light of recent Supreme Court decisions, the entire Nation is reviewing the moral and social consequences of imposition of the death penalty. The proposal for a sentence of life in prison without possibility of parole will not end the constitutionally and morally complex debate of capital punishment. Yet, this is a clearly constitutional solution to the dilemma we now face.

In cosponsoring this legislation, I recognize the need for swift and certain punishment of repeat offenders and those who would commit crimes of violence. We simply cannot tolerate "revolving door justice" that puts violent men and women back on the street, and leads to a total lack of respect by the public for the criminal justice system. The Sentencing Reform Act would put a halt to this by imposing a mandatory prison term, the length of which would be based upon the specific circumstances of the offense, for previously convicted felons and those who cause serious bodily harm.

On the other hand, we must recognize that far too little rehabilitation has gone on in our prisons, which often serve as little more than warehouses where individuals can be shut off from society and forgotten about. This legislation imposes upon the proposed sentencing commission the task of exploring alternatives to incarceration. Sending wrongdoers to "schools for crime," as our prisons so often are, is certainly not the most humane or most efficient way to protect our society. I would hope that the commission would view this as one of its most important responsibilities.

The ultimate goal of sentencing reform is the development of a body of common sentencing principles that will result in similar sentences for those who commit the same crimes under similar circumstances. The Sentencing Reform Act of 1979, which has the strong support of the American Civil Liberties Union, would provide a solid foundation for this development. Sentencing laws which provide for fairness and certainty of punishment will do much to restore public confidence in our criminal justice sytem.

Mr. BENTSEN. Mr. President, the great American poet, John Greenleaf Whittier, wrote that justice should be "the hope of all who suffer; the dread of all who wrong." Today, too often, it is neither.

Our criminal law is in need of reform. The code is outmoded and cumbersome, and our sentencing practices cannot be justified by logic or fairness. Since 1975 I have sponsored, testified for, and strongly supported sentencing reform. I have introduced S. 1218 in the current Congress, and today, Senator BIDEN is introducing legislation that is similar in purpose and practice to my proposals. I believe his bill is an important step in the movement toward reform, and I commend it to my colleagues' attention. As chairman of the Senate Subcommittee on Criminal Justice, and as someone with extensive personal expertise, his is a distinguished voice for change.

Mr. President, I believe that we are seeing the emergence of a new realism in crime control. What is this new realism?

It is a recognition that laws without certainty of punishment are ineffective and laws without fairness of punishment are unjust.

It is an understanding of the need to identify, prosecute, and imprison those career criminals who time and time again commit violent crimes. Courts are clogged, prosecutors strapped, prisons jammed, and the criminals know it as they spin their way through the revolving doors. We can and we must shut those doors and enable the system to work as it was intended to work.

The new realism involves basic fairness and sound management; a promise to society that the guilty will be punished; and that the punishment will fit the crime, no more, no less.

The new realism involves an understanding that inhumane or inadequate prisons serve neither society nor the offender nor the ideals of this Nation.

The new realism rejects the standard cliches of the past, the reliance on rhetoric, inflated promises, and exaggerated claims.

The new realism encompasses people of diverse viewpoints engaged in a common pursuit of a safer and more just society.

Senator BIDEN's bill, the provisions of the Criminal Code bill drafted by the chairman of the full committee, Senator KENNEDY, and my proposals are complimentary efforts to improve sentencing laws in line with this new realism.

Current laws provide neither certainty nor fairness of punishment. The current system, indeterminate sentencing, might involve a sentencing statute that provides punishment of "no more than 20 years."

There might be a 20-year sentence, or none at all, or anything in between.

There might be early parole release after a third of the sentence, or no parole at all, or anything in between.

There will be numerous offenders who have committed the same crime, who have similar criminal records, who receive vastly different sentences.

There will be dangerous people who will not be punished at all.

There are so few guidelines that virtually any sentence is possible. This is a system without standards, without guidelines, without uniformity, and as one Federal judge has argued, it is so unstructed that it is virtually lawless in itself.

Judges are left adrift in a sea of discretion so turbulent and unpredictable that the criminal law becomes a game of chance.

Society is left adrift in a sea of uncertainty, unsure that the guilty will be punished, unsure that the punishment will fit the crime, unsure that the law will provide protection.

Sentencing reform is compelled from the point of view of society, the victim, the offender, and the American tradition of fair play.

We should establish a system of presumptive sentencing, where sentences are specified for the normal crime that does not involve aggravating or mitigating circumstances. When such circumstances are present, judges should retain discretion, within clear guidelines, with uniform standards, to adjust the punishment to fit the crime.

Violent criminals should be punished severely, and there should be gradations of punishment to insure that the sentence will vary according to the seriousness of the crime and the criminal history of the offender.

Standards should be established to determine what factors should justify a higher or lower sentence, and such standards should be uniformly applied.

Sentences should rise for repeat offenders, and be lower for first offenders.

Sentences should be subject to appellate review. Senator BIDEN's bill would limit appeals only to defendants; my proposal would allow the prosecution to appeal if the original sentence was not in accordance with the sentencing guidelines.

We must explore alternatives to prison for people who should not be there, there must be something between prison and amnesty for nondangerous offenders, we should explore the use of restitution, victim compensation, community service activity, and other means of noninstitutional punishment.

Mr. President, I want to commend my colleague from Delaware for the legislation he introduces today. I also want to commend the distinguished Senator from Massachusetts, Senator KENNEDY, for his effective and longstanding efforts to reform the Criminal Code, and the ranking Republican on the Judiciary Committee, Senator THURMOND, for his bipartisan leadership in the field.

We have an opportunity to work together in the coming months, to pool our ideas and to exercise creative bipartisan leadership on crime control. Senator BIDEN's proposal is one more important step in this direction.

We can help realize America's promise of justice, making the criminal law more credible and more deserving of credibility, make law enforcement more effective, and at the same time moving closer toward the great ideal: "Equal Justice, under law."

By Mr. DURENBERGER:

S. 1974. A bill to amend the Internal Revenue Code to provide for inflation adjustments; to the Committee on Finance.

TAX INDEXING

• Mr. DURENBERGER. Mr. President, today I am introducing a bill to take inflation out of the Internal Revenue Code for the individual income tax, capital gains tax, corporate income tax brackets, and depreciation.

It is clear that our present tax system must be corrected. The system that has evolved over the years places virtually all the burden of inflation on taxpayers, while Government reaps the benefits. In the current era of double-digit inflation, that burden is breaking the backs of many. We cannot sit back and do nothing. Taxpayers are falling farther and farther behind the cost of living and Government spending, funded in large part by the windfall inflation tax, continues virtually unabated.

The fact that Government is the major beneficiary of inflation was emphasized in an article Monday in the New York Times. The Times reported that revenue in relation to the gross national product will rise from 20.5 percent this fiscal year to 21.3 percent next year and 22 percent in 1982. The 1982 ratio will reach a record high, surpassing the peak set in World War II.

An example will point out Government's inflation windfall. Assuming a cost-of-living wage increase of 10 percent per year during the next 3 fiscal years, Government will reap a windfall profit of $13 billion in 1980, $26 billion in 1981, and a staggering $40 billion in 1982. This undeserved revenue, due directly to inflation, will be at the expense of individual taxpayers.

The massive transfer of purchasing power from consumers to the Government, in an attempt to balance the budget, is a true windfall profit. It is unconscionable that the same folks who have created double-digit inflation and caused the American public to suffer from the ravages of inflation by misguided fiscal and monetary policies are now reaping a windfall profit for such policies.

What are these misguided policies? In recent years, we have increased the demand for goods and services by increasing spending, allegedly cutting taxes, and creating money faster than ever. We have had the largest deficits in history. We assumed that supply would automatically rise to satisfy the demand. This policy has not worked. Output has not responded. Output has not responded because Government has restrained it with higher taxes and higher regulatory costs. Government has increased demand and throttled supply resulting in double-digit inflation.

Inflation pushes people into higher tax brackets. Our so-called tax cuts in recent years have not kept pace with inflation, especially if we include social security taxes. The marginal taxes taken out of each cost-of-living increase have reached amazing levels. Even middle income taxpayers now face tax rates of 40 percent to 50 percent on each additional dollar earned.

The high and rising marginal tax burdens have reduced the rate of return to labor. There has been no increase in real after-tax-spendable-earnings for the average worker since 1965. Extra effort is taxed at record rates. Workers have substituted leisure, early retirement, and nontaxable fringe benefits for added work and added pay. A graphic demonstration of the impact of inflation on wages and taxes was published in a monthly economic letter of Citibank:

> Take the example of a family of four that earned $15,000 in 1955 and suppose that its income has kept pace with inflation during the ensuing 21 years; that is, its gross income buys neither more nor less in 1976 than it did in 1955. If, for the moment, we ignore changes in the tax law so we can get a clear picture of the pure effects of inflation, the equivalent of a $15,000 income in 1955 is $32,900 in 1976, an increase of 120 percent. But taxes on those equivalent incomes rise from $1,540 to $6,600, a 330-percent increase. This happens because the family's marginal tax rate—the highest rate at which an extra dollar of its income is taxed—increased from 22 to 36 percent. The combination of inflation and tax progressivity lowered the family's real after-tax income by 11 percent even though real gross income was constant.

Capital gains are another area where the Tax Code levies a tax on illusory gains due to inflation. Capital gains have been eroded by inflation to such an extent that most reported gains are really losses when adjusted for inflation. In a study done for the National Bureau of Economic Reserach by Martin Feldstein and Joel Slemrod which analyzed 1973 tax returns, the authors found that individuals paid taxes on $4.5 billion in nominal capital gains made from the sale of stock. But after adjusting for the increases in the Consumer Price Index since the stock was purchased, the study found that the sellers actually had a real capital loss of nearly $1 billion.

The process by which phantom windfalls transform real capital losses into gain is also strikingly apparent in the purchase and sale of a personal residence. Assuming that we could lower inflation and keep it constant at a 6-percent rate for future years, a family that bought a home in 1977 for $40,000 and kept it for 20 years would have to receive $130,000 upon its sale in 1997 in order to receive back their initial investment. In that event, this family would owe a capital gain tax on $54,000 even though the real property value has not increased.

Even more dramatic is the assumption of an inflation rate of 12.2 percent. The $40,000 house in 1977 would have to be sold in 1997 for $400,000 in order to break even, and the family would face taxes on a capital gain of $216,000. While the family may defer its tax liability by buying another home, the potential tax liability remains.

Mr. President, another study by the National Bureau of Economic Research reported that the effect of inflation with the existing tax law was to raise the 1977 tax burden on corporate income by more than $32 billion. This is an amount equal to 69 percent of the real after-tax income of the nonfinancial corporate sector.

Mr. President, the above examples clearly show the need for legislation to adjust certain portions of the Internal Revenue Code for inflation.

The bill I am introducing has four provisions:

First. Individual rate tables, the personal exemption and the zero bracket amount are adjusted annually to reflect the percentage increase of the Consumer Price Index for the current year ending September 30, to that for the year ended September 30, 1978.

Second. Section 11 of the Internal Revenue Code provides a graduated corporate income tax for small businesses of: 17 percent on the first $25,000 of taxable income; 20 percent on the second $25,000; 30 percent on the third $25,000; 40 percent on the fourth $25,000; and 46 percent on the taxable income over $100,000.

This provision would adjust the corporate tax brackets for small businesses by the percentage by which the GNP deflator for the preceding calendar year exceeds the GNP deflator for calendar year 1978.

Third. For the purposes of determining gain or loss on the sale of capital assets such as stock, tangible personal property, and real estate, the basis of the property is adjusted by the percent increase in the Consumer Price Index from the date of purchase.

Fourth. For purposes of determining the allowance for depreciation, the annual deduction is adjusted for inflation or replacement cost of the asset, whichever is lower.

Mr. President, the continuing problem of inflation and prospects for future inflation requires the above adjustments to the Internal Revenue Code to protect the American people from inflation induced tax increases. Inflation has been defined as a hidden tax because it is a tax that can be imposed without specific legislation. It has been labeled as "truly taxation without representation" but I call it taxation with representation as long as we, the elected representatives of the people, allow it to continue. It is also a true windfall profits tax accruing to the Government at the expense of the taxpayer.

Some opponents have said indexing is a concession of defeat in our battle against inflation. That argument ignores the point and the purpose of indexing. This legislation will assure people that they will be required to pay taxes at no more than the statutory rate.

The bill will also take the Government's profit out of inflation. Indexing will not curb inflation. We must take immediate action toward that end. But, while we are working on a remedy, we cannot allow the patient to die of the disease. Indexing will give taxpayers the relief they need.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1974

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE II—ADJUSTMENTS TO INDIVIDUAL TAX RATES

Sec. 101. (a) General Rule.—Section of the Internal Revenue Code of 1954 (relating to tax imposed) is amended by adding at the end thereof the following new subsection:

"(f) Adjustments in Tax Tables So That Inflation Will Not Result in Tax Increases.—

"(1) In general, for the taxable years after 1979.—Not later than December 15 of each calendar year, beginning in 1978, the Secretary shall prescribe tables which shall apply in lieu of the tables contained in subsection (a), (b), (c), (d), or (e), as the case may be, with respect to taxable years beginning in any calendar year shall be prescribed—

"(A) by increasing—

"(i) the maximum dollar amount on which no tax is imposed under such table, and

"(ii) the minimum and maximum dollar amounts for each rate bracket for which a tax is imposed under such table,

by the cost-of-living adjustment for such calendar year,

"(B) by not changing the rate applicable to any rate bracket as adjusted under subparagraph (A)(ii), and

"(C) by adjusting the amounts setting forth the tax to the extent necessary to reflect the adjustments in the rate brackets.

If any increase determined under subparagraph (A) is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10 (or if such increase is a multiple of $5, such increase shall be increased to the nearest multiple of $10).

"(3) Cost-of-living adjustment.—For purposes of paragraph (1), the cost-of-living adjustment for any calendar year, is the percentage (if any) by which—

"(A) the CPI for the preceding calendar year, exceeds

"(B) the CPI for calendar year 1978.

"(4) CPI for any calendar year.—For purposes of paragraph (3), the CPI for any calendar year is the average of the Consumer Price Index for the months ending in the 12-month period ending on September 30 of such calendar year.

"(5) Consumer price index.—For purposes of paragraph (4), the term 'Consumer Price Index' means the Consumer Price Index for all-urban consumers published by the Department of Labor."

(b) Definition of Zero Bracket Amount.—Subsection (d) of section 63 of such Code (defining zero bracket amount) is amended to read as follows:

"(d) Zero Bracket Amount.—For purposes of this subtitle the term 'zero bracket amount' means—

"(1) in the case of an individual to whom subsection (a), (b), (c), or (d) of section 1 applies, the maximum amount of taxable income on which no tax is imposed by the applicable subsection of section 1, or

"(2) zero in any other case."

Sec. 102. Cost-of-Living Adjustments in Amount of Personal Exemptions.

(a) General Rule.—Section 151 of the Internal Revenue Code of 1954 (relating to allowance of deductions for personal exemptions) is amended by striking out "$1,000" each place it appears and inserting in lieu thereof "the exemption amount".

(b) Exemption Amount.—Section 151 of such Code is amended by adding at the end thereof the following new subsection:

"(f) Exemption Amount.—For purposes of this section, the term 'exemption amount' means, with respect to any taxable year, $1,000 increased by an amount equal to $1,000 multiplied by the cost-of-living adjustment (as defined in section 1 (f)(3)) for the calendar year in which the taxable year begins. If the amount determined under the preceding sentence is not a multiple of $10, such amount is a multiple of $5, such amount shall be increased to the nearest multiple of $10)."

Sec. 103. Adjustments in Withholding.

(a) In General.—Subsection (a) of section 3402 of the Internal Revenue Code of 1954 (relating to requirement of withholding) is amended by inserting after the third sentence the following new sentence: "The Secretary shall, not later than December 15 of each calendar year before 1983, prescribe tables which shall apply in lieu of the tables prescribed above to wages paid during the succeeding calendar year and which shall be based on the tables prescribed under section 1(f) which apply with respect to taxable years beginning in such succeeding calendar year."

(b) Percentage Method of Withholding.—Paragraph (1) of section 3402(b) of such Code (relating to the percentage method of withholding) is amended by adding at the end thereof the following new sentence: "The Secretary shall, not later than December 15 of each calendar year before 1983, prescribe a table which shall apply in lieu of the above table to wages paid during the succeeding calendar year and which shall be based on the exemption amount (as defined in section 151(f) which applies to taxable years beginning in the succeeding calendar year."

(c) Withholding Allowances Based on Itemized Deductions.—Paragraph (1) of section 3402(m) of such Code (relating to withholding allowances based on itemized deductions) is amended—

(1) by striking out "$1,000" and inserting in lieu thereof "the exemption amount (as determined under section 151(f) for the taxable years beginning in the calendar year)"; and

(2) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) an amount equal to the maximum amount of taxable income for taxable years beginning in the calendar year on which no tax is imposed by section 1(a) (or section 1

(b) in the case of an individual who is not married, within the meanng of secton 143, and who is not a surviving spouse, as defined in section 2(a))."

Sec. 104. Return Requirements.

(a) Clause (i) of section 6012(a)(1)(A) of the Internal Revenue Code of 1954 is amended by striking out "$3,300" and inserting in lieu thereof "the sums of the exemption amount and the zero bracket amount applicable to such an individual".

(b) Clause (ii) of section 6012(a)(1)(A) of such Code is amended by striking out "$4,400" and inserting in lieu thereof "the sums of the exemption amount plus the zero bracket amount applicable to such an individual".

(c) Clause (iii) of section 6012(a)(1)(A) of such Code is amended by striking out "$5,400" and inserting in lieu thereof "the sum of twice the exemption amount plus the zero bracket amount applicable to a joint return".

(d) Paragraph (1) of section 6012(a) of such Code is amended by striking out "$1,000" each place it appears and inserting in lieu thereof "the exemption amount".

(e) Paragraph (1) of section 6012(a) of such Code is amended by adding at the end thereof the following new subparagraph:

"(D) For purposes of this paragraph—

"(i) The term 'zero bracket amount' has the meaning given to such term by section 63(d).

"(ii) The term 'exemption amount' has the meaning given to such term by section 151 (f)."

(f) Subparagraph (A) of section 6013(b) (3) of such Code is amended—

(1) by striking out "$1,000" each place it appears and inserting in lieu thereof "the exemption amount",

(2) by striking out "$2,000" each place it appears and inserting in lieu thereof "twice the exemption amount", and

(3) by adding at the end thereof the following new sentence: "For purposes of this subparagraph, the term 'exemption ambunt' has the meaning given to such term by section 151(f)."

Sec. 105. Effective Dates.—

(a) The amendments made by sections 1, 2, and 4 of this Act shall apply to taxable years beginning after December 31, 1979.

(b) The amendments made by section 3 of this Act shall apply to remuneration paid after December 31, 1979.

TITLE II—ADJUSTMENTS TO CORPORATE TAX RATES

Sec. 21 (a) General Rule.—Section 11 of the Internal Revenue Code of 1954 (relating to tax imposed) is amended by adding at the end thereof the following new subsection:

"(e) Adjustments in Certain Dollar Amounts So That Inflation Will Not Result in Tax Increases.—

"(1) In general, for taxable years after 1978.—Not later than December 15 of each calendar year, beginning in 1979, the Secretary shall prescribe dollar amounts which shall apply in lieu of the dollar amounts contained in subsection (b) with respect to taxable years beginning in the succeeding calendar year.

"(2) Method of prescribing dollar amounts.—The dollar amounts which under paragraph (1) are to apply in lieu of the dollar amounts contained in subsection (b) with respect to taxable years beginning in any calendar year shall be prescribed—

"(A) by increasing the minimum and maximum dollar amounts for each rate bracket for which a tax is imposed under such table, by the gross national product deflator adjustment for such calendar year, and

"(B) by not changing the rate applicable to any rate bracket as adjusted under paragraph (A).

If any increase determined under subparagraph (A) is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10 (or if such increase is a multiple of $5, such increase shall be increased to the nearest multiple of $10).

"(3) Gross national product deflator adjustment.—For purposes of paragraph (1), the gross national product deflator adjustment for any calendar year is the percentage (if any) by which—

"(A) the GNP Deflator for the preceding calendar year, exceeds

"(B) the GNP Deflator for calendar year 1978.

"(4) GNP deflator for any calendar year.—For purposes of paragraph (3), the GNP Deflator for any calendar year is the average of the Gross National Product Implicit Price Deflator for the quarter ending in the 4-quarter period ending on September 30 of such calendar year.

"(5) Gross national produce implicit price deflator.—For purposes of paragraph (4), the term 'Implicit Price Gross National Product Deflator' means the Gross National Product Implicit Price Deflator published by the Department of Commerce."

Sec. 202. Effective Dates.

The amendments made by section 1 of this Act shall apply to taxable years beginning after December 31, 1979.

TITLE III—ADJUSTMENTS TO BASIS OF CAPITAL ASSETS

Sec. 301. (a) In General.—Part II of subchapter 0 of chapter 1 relating to basic rules of general application is amended by redesignating section 1024 as section 1025 and by inserting after section 1023 the following new section:

"Indexing of Certain Assets for Purposes of Determining Gain or Loss

"(a) General Rule.—If an indexed asset is sold or exchanged in a taxable transaction, for purposes of determining gain or loss on the transaction (but for no other purpose) the indexed basis of the asset shall be substituted for its adjusted basis.

"(b) Indexed Asset.—

"(1) In general.—For purposes of this section, the term 'indexed asset' means—

"(A) stock which is common stock or possesses most of the attributes of common stock,

"(B) tangible personal property, and

"(C) real property,

which has been held for more than 1 year and which is a capital asset of property used in the trade of business (as defined in section 1231(b)).

"(2) Certain property excluded.—

"(A) In general.—The term 'indexed asset' does not include stock in—

"(i) an electing small business corporation (within the meaning of section 1371(b)),

"(ii) a regulated investment company within the meaning of section 851(a)),

"(iii) a real estate investment trust (within the meaning of section 856(a)),

"(iv) a foreign corporation, and

"(v) a personal holding company (as defined in section 542).

"(B) Collapsible corporation.—In the case of a sale, exchange, or distribution to which section 341(a) (relating to collapsible corporations) applies, such transaction shall not be treated as a sale or exchange of an indexed asset to which subsection (a) applies.

"(c) Indexed Basis.—For purposes of this section—

"(1) Indexed basis.—The indexed basis for any asset is—

"(A) the adjusted basis of the asset, multiplied by

"(B) the applicable inflation ratio.

"(2) Applicable inflation ratio.—The applicable inflation ratio for any asset is the percentage arrived at by dividing—

"(A) the CPI for the calendar month in which the sale or exchange takes place, by

"(B) the CPI for the calendar month in which the holding period of the asset began.

The applicable inflation ratio shall not be taken into account unless it is greater than 1. The applicable inflation ratio for any asset shall be rounded to the nearest 1/10 of 1 percent.

"(3) CPI for calendar month.—The CPI for any calendar month is the Consumer Price Index for All Urban Consumers for such month. In the case of any month for which there is no Consumer Price Index for All Urban Consumers, the Secretary shall, by reguation, prescribe an index which is similar to such Index.

"(d) Taxable Transaction.—For purposes of this section, the term 'taxable transaction' means a sale or exchange in which gain or loss is recognized in whole or in part to the person disposing of the asset.

"(e) Special Rules.—For purposes of this section—

"(1) Treatment as separate asset.—In the case of any asset, the following shall be treated as a separate asset:

"(A) a substantial improvement to property,

"(B) in the case of a corporation, a substantial contribution to capital or a substantial reduction in capital,

"(C) in the case of a transaction in which gain or loss is recognized only in part, that portion of the asset to which the recognized gain or loss is property attributable, and

"(D) any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

"(2) Assets which are not indexed assets throughout holding period.—

"(A) In general.—The applicable inflation ratio shall be appropriately reduced for calendar months at any time during which the asset (or the predecessor asset) was not an indexed asset.

"(B) Certain short sales.—For purposes of applying subparagraph (A), an asset shall be treated as not an indexed asset for any short sale period during which the taxpayer or the taxpayer's spouse sells short property substantially identical to the asset. For purposes of the preceding sentence, the short sale period begins on the day after the substantially identical property is sold and ends on the closing date for the sale.

"(3) Section cannot increase ordinary loss under section 1231.—To the extent that (but for this paragraph) this section would create or increase the net ordinary loss to which the second sentence of section 1231(a) applies, such second sentence shall not apply. The taxpayer shall be treated as having a long-term capital loss in an amount equal to the amount of the net ordinary loss to which the preceding sentence applies.

"(f) Sales Between Related Persons.—

"(1) In general.—This section shall not apply to any sale or exchange between related persons.

"(2) Related persons defined.—For purposes of this section, the term 'related persons' means—

"(A) persons bearing a relationship set forth in section 267(b), and

"(B) persons treated as single employer under subsection (b) or (c) of section 414.

"(g) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

Sec. 302. (a) Clerical Amendment.—The table of sections for part II of subchapter O of chapter 1 is amended by striking out the item relating to section 1024 and inserting in lieu thereof the following:

"Sec. 1024. Indexing of certain assets for
purposes of determining gain
or loss.

"Sec. 1025. Cross references."

Sec. 303. (a) Effective Date.—The amendments made by this section shall apply to dispositions after December 31, 1979, in taxable years ending after such date.

TITLE IV—ALLOWANCE ONLY OF REPLACEMENT COST STRAIGHT LINE DEPRECIATION AND OTHER CONSISTENT METHODS OF DEPRECIATION

Sec. 401. (a) In General.—

(1) Use of certain methods and rates.—Subsection (b) of section 167 (relating to description) is amended to read as follows:

"(b) Use of Certain Methods and Rates.—The term 'reasonable allowance', as used in subsection (a), shall include (but shall not be limited to) an allowance computed in accordance with regulations prescribed by the Secretary, under any of the following methods:

"(1) the replacement cost straight line method, and

"(2) any other consistent method productive of an annual allowance which, when added to all allowances for the period commencing with the taxpayer's use of the property and including the taxable year, does not, during the first two-thirds of the useful life of the property, exceed a total of such allowances which would have been used had such allowances been computed under the method described in paragraph (1).

Nothing in this subsection shall be construed to limit or reduce an allowance otherwise allowable under subsection (a).".

(2) Limitations on use of certain methods and rates.—Subsection (c) of section 167 is amended by striking out ", (3), and (4)".

(3) Repeal of special rules.—Subsections (f), (i), (j), and (l) of section 167 are hereby repealed and subsections (g), (h), (k), (m), (n), (o), and (p) of such section are redesignated as subsections (f), (g), (h), (i), (j), (k), and (l), respectively.

(4) Replacement cost straight line method.—Subsection (e) of section 167 is amended to read as follows:

"(e) Replacement Cost Straight Line Method.—For purposes of this section, the term 'reasonable allowance' as used in subsection (a), when computed under the replacement cost straight line method for any period, means an allowance for such period equal to—

"(1) a percentage the numerator of which is the number of months in such period and the denominator of which is the number of months in the useful life of the property with respect to which the allowance is claimed, multiplied by—

"(2) the lowest of—

"(A) an amount equal to the basis of such property, adjusted in accordance with an index, under regulations prescribed by the Secretary which reflects any increase from the preceding period in the value of such property by reason of inflation.

"(B) the cost (determined at the end of such period) to the taxpayer of purchasing property identical to such property,

"(C) the cost (determined at the end of such period) to the taxpayer of reproducing such property, or

"(D) the cost (determined at the end of such period) to the taxpayer of purchasing property which performs functions equivalent to the functions provided by the property for which the allowance is claimed."

(5) Adjusted basis for determining gain.—Subsection (f) of section 167 (as redesignated by paragraph (3)) is amended to read as follows:

"(g) Adjusted Basis for Determining Gain.—Notwithstanding any other provision of this subtitle, under regulations prescribed by the Secretary for purposes of determining the gain on the sale for other disposition during the taxable year of property with respect to which the deduction under subsection (a) is allowable for such year, the adjusted basis on such property shall be equal to—

"(1) the amount so allowable with respect to such property for such year, multiplied by

"(2) the number of years of the useful life of such property with respect to the taxpayer for which such deduction was so allowable to the taxpayer.".

Sec. 402. (a) Technical Amendments.—

(1) Additional first-year depreciation allowance for small business.—

(A) Estates.—Paragraph 5 of section 179 (d) (relating to definitions and special rules) is amended by striking out "167(h)" and inserting in lieu thereof "167(g)".

(B) Adjustment to basis; when made.—Paragraph (9) of section 179(d) is hereby repealed.

(2) Amortization of real property construction period interest and taxes.—

(A) Residential real property.—Paragraph (4) of section 189(e) (relating to definitions) is amended by striking out "section 167(j) (2) (B)" and inserting in lieu thereof "paragraph (6)", and by striking out "section 167(k) (3) (C)" and inserting in lieu thereof "section 167(H) (3) (C)".

(B) Residential rental property defined.—Subsection (e) of section 189 (relating to amortization of real property construction period interest and taxes) is amended by adding at the end thereof the following new paragraph:

"(6) Residential rental property.—The term 'residential rental property' means, with respect to a taxable year, a building or structure if 80 percent or more of the gross rental income from such building or structure for such year is rental income from dwelling units (within the meaning of section 167(h) (3) (C)). For purposes of the preceding sentence if any portion of such building or structure is occupied by the taxpayer the gross rental income from such building or structure shall include the rental value of the portion so occupied."

(3) Effect on earnings and profits.—Paragraph (2) of section 312(k) (relating to effect of depreciation on earnings and profits) is amended to read as follows:

"(2) Exception.—If for any taxable year a method of depreciation was used by the taxpayer which the Secretary has determined results in a reasonable allowance under section 167(a), and which is not a method allowable solely by reason of the application of section 167(b) (2), then the adjustment to earnings and profits for depreciation for such year shall be determined under the method so used (in lieu of the replacement cost straight line method).".

(4) Carryover in certain corporate acquisitions.—Paragraph (6) of section 381 (c) (relating to items of the distributor or transferor corporation) is amended by striking out ", (j), and (k)" and inserting in lieu thereof "and (h)".

(5) Deduction for contributions of employer to an employee's trust of annuity plan and compensation under a deferred-payment plan.—

(A) In general.—Subparagraph (C) of section 404(a) (1) is amended by striking out "section 167(1) (3) (A) (iii)" and inserting in lieu thereof "subsection (h)".

(B) Definition of certain services.—Section 404 is amended by adding at the end thereof the following new subsection:

"(h) Certain Communications Services.—For purposes of this section, the services described in this subsection are telephone services, or other communications services if furnished or sold by the Communications Satellite Corporation for purposes authorized by the Communications Satellite Act of 1962 (47 U.S.C. 701), if the rates for the furnishing or sale of such services, as the case may be, have been established or approved by a State or political subdivision thereof, by any agency or instrumentality of the United States, or by a public service or public utility commission or other similar body of any State or political subdivision thereof.".

(6) Special rules for credits and deductions.—Subsection (e) of section 642 (relating to special rules for credits and deductions) is amended by striking out "167(h)" and inserting in lieu thereof "167(g)".

(7) Gain from dispositions of certain depreciation realty.—

(A) Applicable percentage for additional depreciation after December 31, 1975.—Clause (iii) of section 1250(a) (1) (8) (relating to applicable percentage) is amended by striking out "167(k)" and inserting in lieu thereof "167(h)".

(B) Applicable percentage for additional depreciation after December 31, 1969, and before January 1, 1976.—Subparagraph (B) of section 125o(a) (2) (relating to additional depreciation after December 31, 1969, and before January 1, 1976) is amended by striking out "167(j) (2(B)" and inserting in lieu thereof "189(e) (6)" and by striking out "167 (k)" and inserting in lieu thereof "167(h)".

(C) Additional depreciation attributable to rehabilitation expenditures.—Paragraph (4) of section 1250(b) (relating to additional depreciation defined) is amended by striking out "167(k)" each place it appears and inserting in lieu thereof "167(h)".

Sec. 403. (a) Effective Date.—The amendments and the repeals made by this section shall apply to taxable years beginning after the date of the enactment of this Act.●

By Mr. PELL:

S. 1975. A bill to provide grants for the rehabilitation of the part of the Ten Mile River located in Providence, Pawtucket, and Warwick, R.I., to the Committee on Banking, Housing, and Urban Affairs.

● Mr. PELL. Mr. President, one of our greatest urban treasures is the long neglected network of inland waterways which flow through our oldest cities.

For years, our urban rivers have suffered from accumulated pollution, trash, and debris. Flood control, navigational hazards, water quality, river bank erosion, and deteriorated docks and piers are just some of the major problems common to urban rivers. Many neglected historic sites and potential recreational areas abut inland waterways and are in need of assistance before their value is permanently degraded.

Existing Federal programs have been found to be inadequate to deal with the problems of interstate inland waterways. An example of the need for a new approach is the Ten Mile River, which flows through some of the oldest industrial cities in Massachusetts and Rhode Island. The river has been the subject of over 20 years of study by State and Federal agencies, and the Congress has been memorialized by both the Massachusetts and Rhode Island State assemblies to provide a comprehensive solution to the problem.

As a result of discussions with local legislators and my colleague in the House, Representative Fernand J. St Germain, a legislative remedy has been developed which has the potential of serving as a model for the rehabilitation of other inland waterway systems. I am today introducing legislation identical to what Congressman St Germain has already introduced in the House. I look forward to working with the Department of Housing and Urban Development and the committees to find a solution to a longstanding problem.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1975

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Urban Rivers Rehabilitation Act of 1979".

SEC. 2. (a) The Secretary of Housing and Urban Development may make grants to the State of Rhode Island, and to any political subdivision of such State, to rehabilitate the part of the Ten Mile River which is located in the standard metropolitan statistical area of Providence-Pawtucket-Warwick (as defined by the Office of Management and Budget) so that such part of the Ten Mile River may be used for recreational purposes.

(b) No grant may be made under this section unless the Secretary of Housing and Urban Development determines that—

(1) 15 percent of the estimated cost of such rehabilitation will be provided by either the State of Massachusetts or the State of Rhode Island; and

(2) 15 percent of the estimated cost of such rehabilitation occurring in a city or town will be provided by such city or town.

SEC. 3. There is authorized to be appropriated to the Secretary of Housing and Urban Development for the fiscal year ending on September 30, 1981, the sum of $1,000,000 to carry out this Act.●

By Mr. DURENBERGER:

S. 1976. A bill to amend the Internal Revenue Code of 1954 to extend the one-time exclusion of gain from the sale of a principal residence to disabled individuals; to the Committee on Finance.

● Mr. DURENBERGER. Mr. President, today I am introducing a bill to amend the Internal Revenue Code to provide that individuals with severe disabilities will be entitled to a one-time exclusion of the gain recognized on the sale of a personal residence.

This bill would alleviate the burden placed on many disabled persons who because of a severe impairment are no longer able to maintain their present residence and are thus forced to sell their homes. The hardship of having to realize the entire capital gains treatment on the sale of a personal residence at a time when a severe disability makes it difficult to make ends meet is disruptive to an already difficult lifestyle.

Mr. President, the Internal Revenue Code now provides that an individual who has attained age 55 may exclude from gross income, on a one-time elective basis, up to $100,000 of gain from the sale of a principal residence.

The bill I am introducing would modify this provision in the Code to allow an individual who is totally and permanently disabled to exclude any gain recognized from the sale of a personal residence up to $100,000 from his or her gross income whether or not such individual has attained the age of 55. The effect of this legislation would offer enormous relief to the thousands of disabled persons faced with unending financial uncertainty.

The sale of a home by a disabled person is in many cases an event arising out of desperation—the disability wreaks havoc with one's life making it impossible to be gainfully employed on a long-term basis.

Without income from a job, the maintenance of a house is a virtual impossibility. The home that was previously a haven has become an albatross. The only alternative the disabled individual and his or her family has is to sell their home and either purchase a smaller residence or move to a rental unit.

We have made strides in the recent past to serve the needs of the disabled community. Laws have been passed and implemented to assist the disabled individual's transition into the mainstream of society.

However, much more needs to be done. Although the disabled need and desire to be noticed first as indiviuals with rights and responsibilities like the rest of us, they also face specific and unique obstacles that must be addressed. Allowing disabled persons to realize the gain on the sale of a house without having to undertake an enormous and burdensome payment of taxes is an important step in meeting the needs of the disabled in our society.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1976

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 121 of the Internal Revenue Code of 1954 (relating to one-time exclusion of gain from sale of principal residence by an individual who has attained age 55) is amended—

(1) in paragraph (1) of subsection (a) by inserting "or the taxpayer has not attained the age of 55 before such date but is permanently and totally disabled (within the meaning of section 104(d)(4)) on such date of," after "exchange"; and

(2) in paragraph (1) of subsection (d) by inserting "or disability" after "age" each place it appears.

(b) (1) The heading for such section 121 is amended by inserting "OR IS DISABLED" after "age 55".

(2) The table of sections for Part III of subchapter B of chapter 1 of such Code is amended by inserting "or is disabled" after "age 55" in the item relating to section 121.

(3) Sections 1033(g)(3), 1034(k), 1038(e)(1)(A), 1250(d)(7)(B), and 6012(c) are each amended by inserting "or is disabled" after "age 55".

SEC. 2. The amendments made by the first section of this Act shall apply with respect to taxable years beginning after December 31, 1978.●

ADDITIONAL COSPONSORS

S. 43

At the request of Mr. HATCH, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 43, the National Ski Patrol System Recognition Act.

S. 1384

At the request of Mr. HATFIELD, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 1384, a bill to amend the Internal Revenue Code of 1954 to allow a credit against tax for contributions of certain crops by farmers to certain tax-exempt organizations.

S. 1775

At the request of Mr. TALMADGE, the Senator from Michigan (Mr. LEVIN) and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 1775, the Agricultural, Forestry, and Rural Energy Act.

S. 1953

At the request of Mr. YOUNG, the Senator from Nevada (Mr. LAXALT) was added as a cosponsor of S. 1953, a bill to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Louis L'Amour.

NOTICE OF HEARINGS

SUBCOMMITTEE ON NUTRITION

● Mr. McGOVERN. Mr. President, I wish to announce that the Agriculture Subcommittee on Nutrition has scheduled a hearing on the subject of nutrition training for health professionals. The hearing date has been set for Thursday, November 8, beginning at 9 a.m. in room 324, Russell Building. The subcommittee will hear from invited witnesses only, but written statements submitted for the record are welcome. Anyone wishing further information should contact the committee staff at 224-2035.●

SUBCOMMITTEE ON INTERNATIONAL FINANCE

● Mr. STEVENSON. Mr. President, the Subcommittee on International Finance of the Committee on Banking, Housing, and Urban Affairs will hold a series of hearings on trade and technology. The purpose of the hearings is to assess the implications for U.S. trade competitiveness of technological change and international technology transfers, as well as the effects of trade on U.S. technology. The hearings will examine U.S. trade and technological competitiveness in many contexts, including East-West trade, trade with newly industrialized countries, and selected economic sectors: agriculture, steel, electronics, and others.

Earlier this year the subcommittee released its report on U.S. export policy, based on 11 days of hearings on the subject in 1978. The report noted the increased international competition facing the United States in high technology fields where U.S. producers have long been dominant. American agricultural and industrial exports are both technology intensive. Our continued export competitiveness is clearly tied to our comparative advantage in technological innovation and the production of high technology goods.

But as the subcommittee report notes—

> We are losing our competitive position in high technology trade, and uncoordinated Federal Government policies make it difficult to remedy the situation.

The subcommittee intends to study thoroughly the interrelationships between trade and technology. Among the issues to be examined are:

First, the effect of U.S. exports on economic competitiveness, including effects on domestic capital formation and technology development;

Second, the effect on U.S. trade competitiveness of U.S. restrictions on technology transfer;

Third, the effect of U.S. transfer of technology on economic development abroad,

Fourth, the effect of foreign technology subsidies and trade barriers on U.S. competitiveness.

The first hearing in the series will be held on Monday, November 19 in Pittsburgh, Pa. The time and location of the hearing will be announced in the Record at a later date. Within the general scope of assessing U.S. trade and technology, the Pittsburgh hearing will focus on the steel industry. The Office of Technology Assessment has released a study which suggests portions of the steel industry may have strong export potential, if current U.S. technological leads are promptly and fully exploited.

Other studies suggest that the steel industry as a whole could dramatically increase its trade competitiveness by adopting new technologies, including some developed abroad. Testimony will also be received on Senate Concurrent Resolution 38, introduced by Senators Heinz, Randolph, Bayh, Glenn, Javits, Domenici, Metzenbaum, Schweiker, Lugar, Stewart, Thurmond, and Durenberger on September 20, which calls for consideration in the organization for economic cooperation and development (OECD) of a multilateral agreement to halt predatory Government-subsidized export credits for steel plants and equipment.

The second hearing will be held on Tuesday, November 27, beginning at 10 a.m. in room 5302 of the Dirksen Senate Office Building in Washington, D.C. The hearing will examine trade and technology in the East-West context. A study by the Office of Technology Assessment, entitled "Technology and East-West Trade" will be a focal point for the hearing. Testimony will also be heard on implementation of the recently enacted Export Administration Act of 1979, on policies of the Export-Import Bank, on the effects of barter and countertrade, and on various legislative proposals regarding East-West trade, including S. 339 and Senate Concurrent Resolution 47.

The third hearing in the series will be held Tuesday, January 15, beginning at 10 a.m. in room 5302 of the Dirksen Senate Office Building, Washington, D.C. The hearing will examine trade and technology in the electronics industry. A focal point for the hearing will be the report of the International Trade Commission on its section 332 study of international trade in integrated circuits.

Persons interested in submitting testimony or desiring additional information may contact Robert W. Russell, counsel to the International Finance Subcommittee, (202) 224-0819, or Paul Freedenberg, minority professional staff member, (202) 224-0891.●

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ARMS CONTROL, OCEANS, INTERNATIONAL OPERATIONS, AND ENVIRONMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Arms Control, Oceans, International Operations, and Environment Subcommittee of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, November 6, 1979, beginning at 2 p.m., to hold a hearing on the Cambodian refugees.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON GENERAL PROCUREMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on General Procurement of the Committee on Armed Services be authorized to meet during the session of the Senate today to hold a hearing on the foreign sale of U.S. Navy vessels.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

● Mr. HARRY F. BYRD, JR. Mr. President, the Subcommittee on Taxation and Debt Management of the Committee on Finance will include as part of the hearing on Wednesday, November 7, 1979, S. 1549, dealing with the excise tax on fishing tackle, and S. 873, dealing with residency requirements for deductions and exclusions for individuals living and working abroad, as well as the Technical Corrections Act of 1979.

The hearing will begin at 2:30 p.m. in room 2221 of the Dirksen Senate Office Building.

The subject matter of S. 1549 is included in H.R. 5505, which the House of Representatives passed on October 30, 1979. S. 1549 revises the schedule for payment of the 10-percent excise tax imposed upon the manufacturer's sale of fishing rods, reels, creels and artificial lures, baits and flies. The measure is sponsored by Senators Boren, Bellmon, Danforth, Durenberger, Nelson, and Percy. It has no revenue effect. It will benefit manufacturers of fishing equipment.

S. 873 is sponsored by Senators Ribicoff, Bentsen, Church, Hayakawa, Javits, and Tower. It would waive the residency requirements for deduction or exclusions of individuals living and working abroad where the individual was forced to return to the United States by circumstances beyond his control in the country in which he is working. The bill would primarily benefit Americans working in Iran who recently were forced to leave. Revenue estimates on this measure are not available at this time.

Witnesses who desire to make oral statements at the hearing should submit a written request to Michael Stern, stff director, Committee on Finance, room 2227 Dirksen Senate Office Building, Washington, D.C. 20510, by no later than the close of business on November 5, 1979.

Written testimony.—Written testimony submitted by witnesses not making oral statements should be typewritten, not more than 25 double-spaced pages in length, and mailed with 5 copies by November 14, 1979, to Michael Stern, staff director, Committee on Finance, room 2227 Dirksen Senate Office Building, Washington, D.C. 20510.●

ADDITIONAL STATEMENTS

THE COMBINED FEDERAL CAMPAIGN

● Mr. MELCHER. Mr. President, on behalf of myself and Senator Danforth, as co-vice chairmen of the Combined Federal Campaign effort in the Senate this year, we want to urge our colleagues to do all they can to make the CFC drive a success.

This fine campaign takes place every year at this time. It is the most people-oriented endeavor in which one can participate with the minimum of effort.

All one has to do is contribute money, and this can be made almost painless through the payroll deduction plan.

All of us are from different parts of our wonderful country. But for varying periods in our lives we live in Metropolitan Washington. We have a responsibility to this area and to its citizens, many of whom are very much in need of our help.

It is easy not to get involved. But life is not that simple, and often it is not fair.

There are many human beings in this affluent section of our Nation, which has one of the highest standards of living in the United States, who are desperately in need of our help. They are of all ages, creeds, colors, and backgrounds.

We truly are our brothers' and sisters' keepers. And we can exercise in great part our responsibilities to those less fortunate in our society by contributing of our time, talents, and fortunes to many, many organizations which do humanitarian, lifegiving, and life-inspiring work.

The greatest gift in life is to give of ourselves. A very small portion of your fortune will do much to help ease the burdens and pains of others who are troubled and heavily laden emotionally, physically, psychologically, and financially.

There are almost 200 organizations which are assisted by the Combined Federal Campaign. So our giving is made very easy for us.

We are appealing to our colleagues to assist us in this most worthwhile cause. The question is simply what can you do. First, you can participate yourself. Second, and perhaps even more important, you can encourage and urge your staff members to take part. Your giving will serve as an example to your staffers.

Over the years, the record of giving by Members and staffers of the two branches of Congress has been abysmal. In fact, it has been disgraceful.

Last year, for the first time, there was some minor achievement, when less than $20,000 was raised from almost 5,000 employees of the Senate. In the years before, the annual giving was only several hundreds of dollars.

A goal of $100,000 has been set this year for the Senate. This is a much more realistic figure. The Senate Staff Club has gotten behind the CFC program. Vice President WALTER F. MONDALE is chairman. We, JOHN MELCHER and JOHN DANFORTH, are honored to have been invited to be co-vice chairmen.

The campaign was supposed to be for the month of October. However, in order to give everyone a chance to participate it has been extended to November 15.

There is still time to make this campaign really move and to try to achieve its goal. This can only be done by massive participation.

Please call upon your staff to join the effort. If your office needs materials or pledge cards, have a call placed to Ray Nelson of the Rules Committee staff, who is Staff Club campaign chairman. His number is 224–0298. Bob Guenette, a loaned executive from the Consumer Products Safety Commission, assigned to work with CFC is also available at 488–2087. He is 1 of 32 doing this noble work this year. In addition, there are about 100 loaned executives from private industry who are assigned to work for the umbrella organization, the United Way.

Contributors have the option of designating their gifts to one or more agencies.

Time is now of the essence. If you or your staff want a speaker to talk to a staff meeting, or to have a movie about CFC shown, just make a phone call. There are CFC volunteers waiting to assist you and your office in any way possible in this noteworthy endeavor.

Let us not have just a handful of Senators' offices carry the load this year. Committee staffs and support services and offices are also urged and invited to take part.●

JUNIOR ACHIEVEMENT WEEK
(S.J. RES. 107)

● Mr. DURENBERGER. Mr. President, for 60 years the junior achievement organization has led the way in introducing America's youth to the free enterprise system. The program provides a unique experience for high school students throughout the Nation to learn firsthand the pragmatic skills necessary to survive in an increasingly complex and competitive business environment.

In Minnesota alone there are 110 junior achievement organizations, many of which are extremely profitable. An impressive example is the East Bloomington Trade Association, which paid the original 21 stockholders $40 for every $1 invested—a remarkable 3,999 percent return on investment. But junior achievement is an experience in real world economics, and the lessons learned from an unsuccessful enterprise are every bit as important as those drawn from a profitable one. The important thing is participation, and young men and women across the Nation are participating in record numbers.

The other great benefit of junior achievement is the opportunity it provides for retired businessmen to share their expertise with a new generation of America's industrial leaders. These men and women represent one of the Nation's greatest untapped resources, and the program provides a bridge through which their life experience can be transformed into a foundation for the Nation's future industrial growth.

We all benefit from the activities of junior achievement, and those of us in the Senate have a unique opportunity to honor the people whose efforts have made this program such a remarkable success. I have been privileged to join with my distinguished colleague from Connecticut, Senator RIBICOFF, in sponsoring a resolution to designate the third week of January as "National Junior Achievement Week." That resolution, Senate Resolution 66, would give those involved in junior achievement a small measure of the recognition they deserve, and I urge all of my colleagues to join in sponsoring this significant statement of legislative policy and appreciation.

Mr. President, I ask that an article from the Minneapolis Tribune detailing the success of junior achievement in Minnesota be printed in the RECORD.

The article follows:

JUNIOR ACHIEVERS LEARN AND EARN—A 3,900 PERCENT RETURN ON INVESTMENT

(By Dennis J. McGrath)

The company that probably had the greatest profitability in the Twin Cities dissolved two weeks ago after a year of operation. When the East Bloomington Trade Association closed its books, the 21 original stockholders received a 3,900 percent return on their investments.

It was a small, well-managed, diversified company, which earned most of its money by turning discarded Pillsbury cloth flour sacks into aprons.

But by the beginning of April the company knew it was time to wind down, because many of its officers and stockholders had to graduate from high school.

This was one of 111 Junior Achievement (JA) companies and partnerships in Minnesota that were recognized at an annual awards ceremony at the Radisson South Hotel Thursday night.

While it didn't win any awards, the East Bloomington firm was described by a JA official as "one of the most colorful companies in the state." Its adviser, a manager in Pillsbury Company's research and development department, said the student officers demonstrated a creativity beyond what he expects of his own employees.

However, in the competition for production company of the year, they lost out to a Mankato partnership that set a state sales record by manufacturing and selling more than $10,000 worth of automobile emergency kits stocked with a fire extinguisher, flares, starter cables and a flashlight.

Surveys Unlimited, a partnership of 15 students from Benilde-St. Margaret High School in St. Louis Park and Edina East High School, received top honors as the service company of the year for the $5,000 worth of market research and taste tests it conducted for local firms like Peavey Co. and Minnesota Mining and Manufacturing Co.

The East Bloomington group, one of eight finalists in the best-company race, was formed last October by 21 students at Kennedy High School in Bloomington, and had sales of more than $5,000, according to its president, Catherine Francis, a 17-year-old senior.

Its first project was a sinister-sounding plan to "offer protection" to homeowners and apartment dwellers. Actually it was "Halloween prank insurance," Francis explained.

"If a policyholder's house or apartment was egged or whatever by kids on Halloween, we promised to do the best job we could to clean it up," Francis said during an interview in the library of Kennedy High School. (She wanted to hold the interview in the company's headquarters, she explained, but a class was in session in the electronics laboratory.)

Protection cost only one dollar, and only one of the 103 policyholders filed a claim. Their success, as in any insurance offering, was due to avoiding those in the high risk category—"the most unpopular people on the block, those with teen-aged children and apartment landlords," she said.

With the profits from the insurance offering and the $1 each student paid for stock, the trade association launched its big money-maker. The group's advisers, employees of the Pillsbury Co., which sponsored the company, told the students that there were about 1,000 Pillsbury flour sacks gathering dust in the Pillsbury A Mill. Pillsbury switched to paper sacks about 10 years ago because it was cheaper, explained Scot Rutherford, one of the advisers.

A brainstorming session gave birth to the idea of making aprons out of the flour sacks. At first the students did the washing and sewing themselves, Francis said, but "the production was too slow and the quality wasn't satisfactory."

They solved that problem by contracting out to a senior ciitzens' center in Gilbert, Minn., and paying workers $1.00 for each apron they sewed, 25 cents more than they paid themselves for the work.

"That was a great thing for everyone," Francis said. "The senior citizens could do a better job than we could, they could produce more than we could and they benefited from the money they were making."

The company charged $6.95 an apron and had sales of $5,051. Pillsbury employees bought $1,550 worth, and the students sold the rest (at 10 to 15 percent commissions) door-to-door, to relatives and at trade fairs.

When the trade association liquidated its stock April 16 it paid $844 in taxes to JA, which left profits of $822 to distribute. Each student who had invested $1 received $40 back.

Besides making money, the Achievers, as they call themselves, learned about the business world—sometimes the hard way.

The East Bloomington company, for example, sent off 200 flour sacks to a dry cleaner to be cleaned. They got the sacks back sparkling clean all right, but the problem was that the Pillsbury logo was cleaned off too.

"We thought of suing, but after we calmed down we realized we were as much at fault as the cleaners," Francis said. "We didn't tell them to leave the logo on. The funny part was that the night we got the sacks back, a person from Pillsbury came to speak to us about the value of a trademark—on a night we had no trademark."

The company rebounded from that disaster by selling 100 aprons at $5 apiece to The Friends of the St. Paul Chamber Orchestra with the silk-screened motto: Kitchen Chamber Music.

The entrepreneurs received another lesson when they sold 12 aprons to a store in the Southdale Shopping Center for $5 an apron.

"The store marked them up to $9.99," Francis said. "I think they sold them all."●

RAILROAD CROSSING SAFETY

● Mr. CULVER. Mr. President, a recent article in the Cedar Rapids Gazette presented a chilling picture of the dangers posed by railroad highway grade crossings. Train engineers spoke of many "close calls" and near accidents at these sites and, in one recent tragic instance, of a fatal collision at a crossing point near Cedar Falls, Iowa.

As the article indicates, many incidents are caused by driver carelessness—an attempt to "beat the train" by driving across the track after the railroad flashings had been tripped. In many other instances, however, collisions between trains and cars have been caused—not by driver recklessness or negligence—but by the absence of modern, automatic safety features at crossing sites.

Since 1973, the Federal Government's railroad crossing safety program has been instrumental in reducing the frequency of death and injuries caused by collisions between motor vehicles and trains. This program provides the States with funds apportioned from the highway trust fund to make safety improvements—including replacing the old railroad "crossbuck" sign with modern flashing lights and swinging gates which more effectively warn motorists of approaching trains.

However, in the past this program has failed to provide optimal safety benefits because of the manner in which safety crossing funds were apportioned among the States. Funding was based upon a State's population area, and mail route mileage. Incredibly enough, however, the formula did not consider the number of crossing sites in a State.

As a result, smaller States with large numbers of crossing sites, with old and inadequate warning signs, received fewer safety funds than larger States with fewer rail crossing sites. The funding formula did not effectively target funds to States with those crossings that needed safety improvements.

The inequities in the old funding formula were significant. Iowa, for example, received an average of $2,700 for each of its 2,500 "on-system" railroad crossings. Other States, with far fewer crossings, averaged as much as $150,000 per crossing.

During consideration of the Surface Transportation Assistance Act by the Senate Committee on Environment and Public Works last year, I successfully offered an amendment to change the railroad-highway crossing safety funding formula to include the number of crossings a State had. This change put the scarce Federal dollars where the rail crossings—and the need for safety improvements—were. Congress gave final approval to my amendment, and the formula change is now law.

As a result of this change, Iowa's apportionment increased from $3.6 million in fiscal year 1978 to $5.3 million in fiscal year 1979. Iowa is using these additional funds to accelerate the replacement of inadequate warning signs with modern, automatic safety signals. The result will be fewer tragic incidences of death and injury on my State's highways and roads.

My change in the Federal railroad crossing safety formula is a graphic example of how Federal dollars can be more effectively allocated without overall increases in the Federal budget or deficit. By reallocating Federal funds more effectively, the railroad crossing safety program can now better accomplish what it was meant to do—to promote the safety and security of our citizens.

Mr. President, I ask that the article from the Cedar Rapids Gazette be printed in the RECORD.

The article follows:

CLOSE CALLS FRIGHTEN TRAINMEN

(By David Avery)

WATERLOO.—Train engineers say they are scared—of motorists.

"If the public only knew how it feels when you go home at night and your stomach feels like glass because you got so many close calls," said Milt Rehlander, a Chicago and North Western Railroad engineer from Oelwein.

Rehlander referred to the number of times his switch engine, which pulls an average 10 to 20 rail cars back and forth between Waterloo and Cedar Falls, comes close to smacking a vehicle at a grade crossing.

The problem of motorists trying to "beat the train" at crossings has led to at least three train-vehicle accidents in about a year in the Waterloo area, said Don Fredbeck, trainmaster for the C&NW in the area. One of the accidents proved fatal.

Police said when a traffic light stopped cars ahead of Diana Marie Kleve, Cedard Falls, Aug. 15 she found herself stalled on the tracks with a switch engine pulling about 20 cars bearing down on her. Police said she attempted to leave the car through the passenger door, but she was too late.

It took the train 143 feet to stop although it was only going about 5 mph and an investigation showed engineer Richard Lee Sanders did everything humanly possible to stop the train before it hit the car.

But the accident has not made believers out of those bent on "beating the train."

A reporter and photographer took a trip on a C&NW switch engine recently and saw the problem first hand. They witnessed as many as 10 motorists driving their vehicles, without stopping, over the grade crossings after the railroad flashers had been tripped.

In one instance they saw a young woman in a red sedan cross the tracks within 25 feet of the switch engine, apparently without noticing the oncoming train.

"We come a lot closer than that," said George Harvey Hill, conductor of the switch engine Rehlander operates.

Hill said school buses and police cars are sometimes the worst offenders.

State law says a school bus driver must stop at all grade crossings, look and listen and only proceed if the crossings can be made safely.

"I looked right down through the window" at the young passengers of one school bus that crossed close to his engine, Rehlander said.

Sometimes conductors and engineers take matters into their own hands. After some close calls, they jot down the license numbers of offending vehicles and fill out forms identifying the vehicles and where they crossed.

The forms are sent to the railroad company's superintendent and letters are sent to the daring drivers warning them to be more cautious.

C&NW Division Manager D. L. Carlisle said education is the only real answer to the "beat-the-train" game.

"The best thing to do is to educate the public. We think the time is right because the statewide problem is bad. It requires attention by all agencies that can do something about it," Carlisle said.●

IMPLICATIONS FOR SALT II OF BREZHNEV'S ARMS CONTROL PROPOSAL

● Mr. GARN. Mr. President, once again the editorial board of the Wall Street Journal has sliced through the murky thinking of U.S. elites with respect to negotiating arms control agreements with the Soviets. Today's Journal editorial, "Brezhnev's Gambit," lays bare the most recent example of insidious Soviet hypocrisy: the offer to marginally reduce its military manpower and hardware in Eastern Europe in return for an agreement by NATO to remain inferior in military power.

Any knowledgeable observer can see that this proposal is aimed at delaying or preventing a positive decision at the NATO ministerial meeting this December to upgrade the alliance's theater nuclear forces. As the Journal accurately notes, "Brezhnev's gambit is indicative of how the Soviets now use arms control negotiations as an offensive weapon to gain real military advantage."

The Soviets have nothing to lose by making this seemingly magnanimous proposal, and everything to gain. A reduction of even 20,000 Soviet troops from East Germany would still leave U.S. troops in the region outnumbered by 80,000. Moreover, the military implications of such a reduction are severely limited given the geographical proximity of the U.S.S.R. Moscow's efforts to upgrade their theater nuclear forces, particularly with the deployment of the SS-20 and the Backfire bomber, are well documented. These systems would be uneffected by the Soviet proposal.

The stark contrast between the theater nuclear capabilities of the Warsaw Pact in comparison with those of NATO are extremely disconcerting. The Soviets now hold a more than 4-to-1 advantage in both theater nuclear vehicles and warheads. And by 1985, the Soviets are expected to increase the number of nuclear warheads on these systems by about 50 percent, from about 2,150 to 3,250 warheads.

It is imperative that NATO approve and move expeditiously to implement the U.S. proposal to modernize its theater nuclear forces by deploying 464 ground-launched cruise missiles and 108 new Pershing-2 ballistic missiles in Western Europe in the early 1980's. Defense/Space Business Daily recently observed that "without the NATO force modernization program, the Soviets will have a warhead advantage that will have increased from about 4 to 1 to about 6 to 1, with a major advancement in the accuracy of the delivery of those warheads."

If we are to be successful in competing with the Soviets in the area of arms control, we need to recognize that Soviet arms control strategy is geared toward undermining Western security. Arms control is a worthy goal to the extent that it is equitable, verifiable, and promotive of international peace and stability.

Thus far, United States-Soviet arms control efforts have been none of these things. No better example exists of the failure of arms control than the SALT II treaty now under consideration by the Senate.

SALT II is an inequitable, unverifiable agreement masquerading as arms control. The Journal points out that the distinguished minority leader from Tennessee, Senator HOWARD BAKER, has, in the process of the Senate Foreign Relations Committee markup, "compiled a record of the treaty's one-sidedness." Furthermore, the Journal notes that "This is not an accident, but the inevitable result when the U.S. negotiates for arms control and the Soviets negotiate for military advantage."

Mr. President, when the SALT II treaty comes to the floor of the Senate, I hope my colleagues will seriously consider the points raised in this editorial and the grave implications of ratifying SALT II without attaching to it significant amendments.

Mr. President, I ask that the Wall Street Journal editorial, "Brezhnev's Gambit," and the Defense/Space Business Daily article, "Soviet Theater Nuclear Warheads to Increase by 50 percent by 1985," be printed in the RECORD.

The articles follow:

BREZHNEV'S GAMBIT

Early this month, Leonid Brezhnev politely offered to talk about reducing the number of missiles aimed at Western Europe if NATO agrees to abandon plans to modernize its nuclear arsenal. Brezhnev's gambit is indicative of how the Soviets now use arms-control negotiations as an offensive weapon to gain real military advantage.

Moscow is engaged in a vast nuclear build-up against allied forces in Western Europe. It has deployed about 120 SS–20 missiles, which are highly accurate long-range mobile missiles with three independently targeted warheads, and introduced the supersonic Backfire bomber. These weapon systems are not limited by SALT or any other agreement.

By contrast, NATO has almost no offsetting theater-nuclear weapons; only 18 farcical French land-based missiles, an estimated 40 submarine based Poseidons not well adapted to theater warfare, and 156 American F–111 fighter-bombers.

For more than a year, NATO countries have been stuck over what to do in response to the new Soviet SS–20s and Backfires. The U.S. has offered to base 464 ground-launched cruise missiles and 108 new Pershing-2 ballistic missiles in Western Europe in the early 1980s. NATO ministers are slated to make a decision in December on the U.S. proposal.

One thing complicating the decision is the prospect of more negotiations with the Soviets, despite the fact that in the lengthy Mutual and Balanced Force Reduction talks the two sides have been unable to agree even on the actual composition of present forces. At the NATO conference in Belgium in September, Henry Kissinger complained about the idea of delaying our decision to try to negotiate removal of the SS–20s. The former Secretary of State predicted. "If this is our position, all the Soviets have to do is to begin a negotiation to keep us from doing what they are already doing, negotiation or no negotiation."

This is precisely the gambit Mr. Brezhnev played in his Berlin speech. This decision to withdraw 20,000 of the 400,000 Soviet troops stationed in East Germany and to cut its tank force by 1,000 to 6,000 represents only a fractional reduction. It would leave the U.S. troops in the region outnumbered by 80,000, and pulling these Russian soldiers back to the border would still keep them in easy reach of West Germany. The offer to dismantle some older Soviet missiles, whose role is already being taken over by the SS–20 and Backfire, is only a token gesture.

Cracks in the alliance have already appeared over this issue and Mr. Brezhnev's proposition could thus prove to be a harmful wedge. Most observers recognize the phoniness of Mr. Brezhnev's offer, but this is how the Kremlin plays the arms-control game.

What is true of Mr. Brezhnev's gambit has unfortunately become true of arms control generally. In its hearings on SALT–II, the Senate Foreign Relations Committee has been voting down "killer amendments," that is, anything disagreeable to the Soviets. But in the process, Senator Howard Baker has compiled a record of the treaty's one-sidedness: its provision for 308 Soviet heavy missiles not allowed the U.S., its exclusion of the intercontinental-capable Backfire and so on. This is not an accident, but the inevitable result when the U.S. negotiates for arms control and the Soviets negotiate for military advantage.

Harvard Professor Richard Pipes has recently written on the Soviet objectives in SALT for the Committee on the Present Danger. He finds they want four things: To inhibit U.S. response to Soviet long-term strategic programs; to fix the number of U.S. systems and thus facilitate the task of rendering them harmless; to prevent an American technological achievement from suddenly neutralizing their build-up; and to create in the U.S. a political atmosphere obstructive to defense expenditures.

Arms control is well worth pursuing, but genuine arms control can't be achieved if the U.S. allows the Soviets to use the negotiations as an offensive weapon. The way to make the Soviets negotiate seriously is to break the present pattern. Proceeding with theater nuclear forces in Europe is one step toward that end. But an even clearer message would be the outright rejection of the strategic arms agreements.

SOVIET THEATER NUCLEAR WARHEADS TO INCREASE BY 50% BY 1985

The Soviet Union is expected to continue the reduction in numbers of long-range theater nuclear delivery vehicles opposite NATO over the next several years, but the total capability—the number of more accurate warheads, is projected to increase by about 50 percent by 1985.

It is this realization of a continued massive growth in the already threatening Soviet advantage in Europe that highlights the urgency with which the United States and certain NATO leaders view the implementation of the NATO theater nuclear modernization program.

Currently, the Soviet Union has deployed about 1000 long-range theater nuclear force delivery vehicles, down about 100 from the number deployed in 1970, but still more than a 4-to-1 advantage over the NATO nuclear vehicle force level.

Until 1974, the Soviet force was comprised of older systems—the SS–4 Sandal and SS–5 Skean missiles and the Tu–16 Badger and Tu–22 Blinder bombers.

This year, there are, in addition to 390 SS–4 missiles and 80 SS–5 missiles, about 120 SS–20 missiles and about 90 Backfire bombers, plus about 320 Badger and Blinder bombers opposite NATO. The newer SS–20 and Backfire systems now make up about 20 percent of the force.

The SS–4 has a range of 1900 km, the SS–5, 4100 km, as compared with 4400 km for the SS–20. However, the SS–20 has three warheads, while the S–4 and –5 have single warheads, and the SS–20 is 3 times as accurate as the SS–5 and 6 times as accurate as the SS–4.

The Soviet theater nuclear force systems opposite NATO carry about 2150 warheads at the present time, as compared with about 500 warheads for the NATO systems on slightly more than 200 vehicles. This is a Soviet advantage of more than 4-to-1 in both vehicles and warheads.

By 1985, U.S. intelligence estimates that the Soviets will have reduced their total delivery vehicles opposite NATO by about 300, to about 700 vehicles, with almost half of these the newer SS–20 and Backfire systems.

The NATO delivery systems, unless the theater nuclear force modernization plan is implemented, will have dropped slightly and still remain around 200.

Even though the Soviets may have reduced their force numbers by almost a third by 1985, by replacing the older systems with the more advanced ones, the number of warheads on those systems will have been increased by about 50 percent, from about 2,150 to about 3,250 warheads.

Without the NATO force modernization program, the Soviets will have a warhead advantage that will have increased from about 4 to 1 to about 6 to 1, with a major advancement in the accuracy of the delivery of those warheads.

The deployment of about 572 Pershing II and Tomahawk ground launched cruise missiles under the NATO modernization plan would even up the numerical balance between the Warsaw Pact and NATO delivery vehicle force levels and would reduce the Soviet warhead advantage to about 3 to 1.

However, the accuracy advantage would rest with the NATO forces, with the Army/Martin Marietta Pershing II having an accuracy 10–11 times the Soviet SS–20 and even 2–3 times more accurate than the General Dynamics Tomahawk GLCM.

The disadvantage is that the Pershing II is in the over 1000 km range, forcing its deployment in closer to the Warsaw Pact front, while the SS–20 has a 4400 km range that allows it to be deployed in central Russia and the GLCM has an over 2000 km range allowing it to be deployed much farther back, such as in Britain.

All of this is based on intelligence estimates that the Soviets will continue to reduce the number of long-range theater delivery systems through 1985 by as much as one-third. If the Soviets should elect to increase the number of SS–20 and Backfire systems beyond the level estimated, or decide to keep more of the older SS–4, –5, Blinder and Badger systems in service longer to offset the NATO theater modernization program, the improvement of the balance could move much slower.●

SECRETARY OF COMMERCE JUANITA M. KREPS

● Mr. STEVENSON. Mr. President, Dr. Juanita M. Kreps has served as Secretary of Commerce since January 1977. Today Dr. Kreps leaves the Department of Commerce to return to North Carolina to resume her academic career.

Dr. Kreps was a distinguished economist and adviser to business and Government before her appointment as Secretary of Commerce. She now has a distinguished record of public service.

The Department of Commerce encompasses a diverse array of agencies and responsibilities. Many of those responsibilities are critical to the health of our economy: Science, technology, telecommunications, the oceans and atmosphere, exports, productivity, industrial innovation, industrial policy, and economic development.

The country is slowly awakening to the issue of international economic competitiveness, an awakening which owes much to the efforts of Juanita Kreps. Under her leadership the Department of Commerce has been marked by initiatives and new experiments. Dr. Kreps was the principal mover in the important beginnings of a national export policy and an innovation policy.

Dr. Kreps has helped to open trade with China. She has administered and enforced the antiboycott law vigorously, and without damaging U.S. interests in the Middle East. She has led the way through two revisions of the Export Administration Act, all of which is service for which the Nation and the Congress is deeply grateful.

Mr. President, I congratulate Dr. Kreps on her record as Secretary of Commerce. I trust she will remain available to counsel the Congress as work continues on many of the initiatives she launched, and I wish her well.●

U.S. POPULATION

● Mr. PACKWOOD. Mr. President, I wish to report that, according to current U.S. Census Bureau approximations, the total population of the United States as of November 1, 1979 is 221,569,382. In spite of widely publicized reductions in our fertility levels, this represents an increase of 1,964,109 since November 1 of last year. It also represents an increase of 173,427, that is, in just the last month.

Over the year, therefore, we have added enough additional people to fill the combined cities of Houston, Tex., and Cleveland, Ohio. In just 1 short month, our population has grown enough to more than fill the city of Spokane, Wash.●

YOUTH AND THE WORKPLACE: RECOMMENDATIONS OF THE NATIONAL COMMISSION FOR EMPLOYMENT POLICY

● Mr. WILLIAMS. Mr. President, the National Commission for Employment Policy released yesterday a set of enlightened and comprehensive recommendations for helping the Nation's youth make the difficult transition from school to work.

Their report, entitled "Expanding Employment Opportunities for Disadvantaged Youth," was presented yesterday to President Carter, and I also had the opportunity to meet with members of the Commission and its chairman, Dr. Eli Ginzberg, to receive the report on behalf of the Committee on Labor and Human Resources.

Mr. President, I regard the Commission's report as one of special importance. It demonstrates the Commission's unusually clear perception of the nature and scope of the problem of unemployment among our youth. And the recommendations chart policy initiatives that are both properly aimed and financially practicable.

I was particularly struck by the uncanny similarity between the Commission's recommendations and the policy directions that were suggested in 2 days of hearings last week by the Committee on Labor and Human Resources on "Youth and the Workplace: The Coming Decade." This similarity strongly suggests that a large degree of consensus is emerging on new directions for youth education and employability development policies for the 1980's.

One of the most important tasks of our committee in the next few months will involve reauthorization of the Youth Employment and Demonstration Projects Act of 1977, now incorporated in title IV of the Comprehensive Employment and Training Act. The revision of these authorities, along with appropriate amendments to the Higher Education Act, the Elementary and Secondary Education Act, and the Vocational Education Act, will afford the committee and the Senate an exceptional opportunity to develop a rational and comprehensive strategy for helping the Nation's youth prepare for a satisfying and rewarding life of work.

Perhaps the most important among the Commission's general recommendations is their admonition that sustained high levels of employment are necessary in the Nation's economy as a whole if sufficient jobs and work-experience positions are to be available for youth. This recommendation underscores a sobering and difficult challenge to the Congress to take all necessary and feasible steps to ward off a recession of significant severity.

The Commission also places a central focus on providing good education and effective training for youth who are most in need, that is, youth who are members of a minority group or of poor families and who have either failed in school or have been failed by their schools.

Among the other most important general recommendations, as I interpret them, are:

State, local, and community leaders should bear a major share of the responsibility and collaborate more closely in planning and implementing the needed efforts.

Racial discrimination and cultural stereotyping, which are a major contributor to workplace difficulties of youth, must be eliminated.

Educational deficiencies of disadvantaged youth must be addressed as a concern of high priority.

Employment and training programs should focus on providing second-chance opportunities for youth who have fallen behind or dropped out.

And new emphasis is needed on moving youth who are ready to work into subsidized private and public jobs in the regular workforce.

Underlying these recommendations is the primary challenge posed by the Commission:

> The President and the Congress should identify the employability and employment problems of disadvantaged youth as a domestic issue of critical importance to the future well-being and security of the nation and pledge that the Federal Government and the Nation will devote the resources and efforts necessary to its amelioration.

To identify the problems, the Congress will have to disabuse ourselves of some mistaken notions about the nature and scope of youth unemployment, adjust our focus to the realities and long-term consequences of the problems, and act accordingly with new understanding and perception.

The resources that will be required will be substantial but not overwhelming. The key to our success will be our ability to bridge natural rivalries; to develop an unprecedented degree of collaboration among educators, State and local elected officials, working Americans, and employers; and to insure that Federal policies are coordinated across the whole spectrum of youth needs as they prepare for a life of work.

Mr. President, I ask that the executive summary and the recommendations of the National Commission for Employment Policy be printed in the RECORD for the information of my colleagues.

The material follows:

EXPANDING EMPLOYMENT OPPORTUNITIES FOR DISADVANTAGED YOUTH

I. EXECUTIVE SUMMARY

Goals

Given high and rising rates of unemployment, especially among minority youth, and the cumulative deficits which are often produced by growing up in a low-income or minority family and community, the Commission recommends that the nation make a new commitment to improving the employment prospects of disadvantaged youth. More specifically:

The President and the Congress should identify the employability and employment problems of disadvantaged youth as a domestic issue of critical importance to the future well-being and security of the nation and pledge that the federal government and the nation will devote the resources and efforts necessary to its amelioration.

While the federal government should take the lead role, state and local governments, business, labor, education, and community based organizations must undertake substantial responsibility for improving the employment prospects of disadvantaged youth. The local leaders of all of these organizations should make a new commitment to work together on ameliorating the problem, and local employers should be fully involved in helping to plan and implement these efforts.

Federal resources should be targeted on youth most in need. While there is no simple way to identify this group, those youth most at risk come from low-income families, are members of a minority group, or live in areas with high concentrations of low-income families.

The major objective of federal education, training, and employment programs for youth should be to improve the long-term employability of these youth; that is, their basic education, work habits, ability to absorb new skills on the job, and other competencies which will permit successful integration into the regular work force.

Elements of a youth policy

The Commission believes that any new set of policies should be based on the following set of principles:

Youth unemployment should be viewed principally as a structural problem and long-term solutions sought. Nevertheless, there is no question that sustained high levels of employment are an important precondition for substantially improving the labor market prospects of disadvantaged youth.

Remedying the educational deficiencies of disadvantaged youth must be high on the nation's agenda. Without basic literacy skills, youth are unable to take advantage of further education or training and will be permanently consigned to the bottom of the economic and social ladder.

Our nation should renew its commitment to eliminate racial discrimination and cultural stereotyping in the labor market. In particular, all of our institutions must be involved in creating a new environment of trust and confidence between those who come from different backgrounds so that access to good jobs and treatment on the job are based on performance alone.

Youth themselves must be more fully involved in improving their own employability and must make greater efforts to meet the performance standards set by our educational and employing institutions. To encourage disadvantaged youth to do so, these performance standards must be clearly articulated and greater rewards for success in meeting them provided at each stage of the employability development process.

Employment and training programs should be carefully targeted to provide second chance opportunities to those youth who for reasons of family background, poor schooling, or race, are likely to be permanently handicapped in the labor market. These programs should be restructured, where necessary, so as to have a cumulative impact on the long-term employability of participants.

There must be a new emphasis on moving those disadvantaged youth who are ready into unsubsidized private and public sector jobs. While sheltered experiences may be appropriate at various stages in their development, the ultimate goal should be to create opportunities for them in the regular labor market. The federal government should consider using a variety of expenditure, tax, and regulatory powers to achieve this objective.

Specific recommendations

The specific recommendations which the Commission believes would implement these principles follow:

To provide adequate job opportunities:

(1) In the event that the unemployment rate rises substantially, that is, to 7 percent or higher, and more particularly if it stays at such a high level for a sustained period, Congress should expand funding for priority national goals such as energy conservation. In so doing it should stipulate that private firms which obtain contracts to further these goals must hire a percentage of disadvantaged youth and adults who are designated by the Job Service or by CETA prime sponsors as being ready to work.

To improve basic educational competencies:

(2) The President and the Congress should support new funding for compensatory education in the secondary schools. These funds should be used to improve the basic skills of young people from disadvantaged backgrounds, through well-funded, intensive programs involving special tutorial efforts, extra after-school sessions, alternative schooling opportunities, compensatory education linked to occupational training, and in-service training for teachers.

The effectiveness of Title I of the Elementary and Secondary Education Act in the elementary schools must not be jeopardized by a reduction in funding at this level. What is needed is a comparable program at the junior and senior high levels (a) to sustain the positive effects achieved at the elementary level and (b) to provide a second chance for those not adequately served at the elementary level.

(3) To encourage a partnership with other local institutions, a portion of the new compensatory education funds recommended in (2) should be set aside for allocation on the basis of close consultation between the schools and CETA. This would be comparable to the 22 percent set-aside under the Youth Employment and Training Program which should continue to be allocated on the basis of such consultation. The new set-aside would encourage additional joint efforts on behalf of CETA-eligible youth and might lead to the development of more alternative schooling opportunities.

(4) The Secretary of Education should be provided with special funding to collect, integrate and disseminate information about exemplary programs, such as the adopt-a-school programs in Oakland, Baltimore, and Dallas. While schools must retain flexibility to deal with local conditions, what has been learned about effective ways of motivating and assisting disadvantaged youth to acquire the basic skills should be mobilized to promote wider sharing and adoption of the successful models.

To broaden opportunities for minority and female youth:

(5) The EEOC should encourage companies with overall low minority and/or female utilization to improve their utilization by hiring job-ready youth from inner-city schools or those trained through CETA programs.

(6) Education, vocational education, and CETA programs should be implemented in ways that will broaden the occupational opportunities of young women from disadvantaged backgrounds.

(7) Teenage mothers should be treated as a high priority group in both WIN and CETA and their child care and income needs should be fully met, with no diminution of support under AFDC when they participate in an education or training program.

To link performance to rewards:

(8) Schools and prime sponsors should be encouraged or required to establish local performance standards and disadvantaged youth who achieve the standards should be rewarded with entrance into a more generously stipended program or with a job opportunity. Those who fail to meet the standards should be given second chance opportunities, whenever possible.

(9) Prime sponsors should encourage the Private Industry Councils to obtain specifications from employers about the criteria they use in hiring young people, and, to the greatest extent possible, secure commitments from them that young people who meet their requirements will have a job opening when they leave school or a training program.

To improve employment and training programs:

(10) The Administration should request, and Congress should enact, a consolidated youth title under the Comprehensive Employment and Training Act, the principal goal of which should be to improve the employability of economically disadvantaged youth ages 16 through 21.

(11) The Department of Labor should encourage CETA prime sponsors to invest substantial funds in remedial programs for the most disadvantaged, even if this increases costs per individual and results in a smaller number being served.

(12) The Job Corps should be maintained as a separate program, and once current enrollment limits are reached, the program should be further expanded.

(13) The Congress should designate the eligible population under the new consolidated youth title as all youth from families in which income was at or below 70 percent of the Bureau of Labor Statistics lower living standard.

(14) Prime sponsors should be permitted to utilize up to 20 percent of their funds under the youth title to assist youth who do not meet the income requirement but nevertheless face substantial barriers to employment.

(15) The majority of the funds for the consolidated youth title should be distributed by formula to local prime sponsors. However, a sizeable portion should be set aside for supplemental grants to areas with high concentrations of low-income families and another portion should be reserved to the Secretary of Labor to reward superior performance or to fund innovative programs, particularly those of an interdepartmental nature.

(16) Congress should provide for forward funding, a five-year authorization and additional emphasis on staff development under the new youth title.

To move disadvantaged youth into regular jobs:

(17) Short-term, subsidized work experiences in the private sector should be permitted under CETA with safeguards to insure that employers do not misuse the program and that the youth are provided with a carefully structured and supervised learning experience or training opportunity.

(18) The President, with advice from the Office of Personnel Management, should consider making youth who have successfully completed a CETA program involving experience in a federal agency, eligible for conversion to entry level positions in the career service on a noncompetitive basis.

(19) The President should direct the Secretary of Defense to review the experience of Project 100,000 during the late 1960s which was successful in recruiting and providing special training for 246,000 young men who did not meet the regular qualifications.

(20) When the various pieces of legislation that authorize grants-in-aid are being considered for adoption or renewal, the Administration and the Congress should consider writing in provisions that would encourage or require that the grant recipients employ a specified percentage of disadvantaged youth who are referred to them as job ready by either the Job Service or the CETA prime sponsor.

(21) The President should direct the Office of Management and Budget, with the assistance of other appropriate agencies, to determine whether and how the procurement process might be modified so that there would be new incentives for employers to hire structurally unemployed adults and disadvantaged youth.

Finally, to insure long-term cumulative progress in improving the employment prospects of disadvantaged youth, the Commission recommends that:

(22) Congress should review annually the extent to which the gross discrepancies in the employment to population ratios and the unemployment rates for minority youth relative to white youth and adults are narrowed as a result of implementing the foregoing recommendations. In the absence of substantial and continuing progress in narrowing the gaps, the Administration and the Congress should seek to fashion revised and new programs which hold greater potential to ameliorate the present intolerable situation where our society has no regular job opportunities for many young people who come of working age.

II. RECOMMENDATIONS

A. A national commitment to disadvantaged youth

While unemployment rates for youth are very high, most youth make the transition from school to work without serious problems. In fact, among white youth, the proportion successfully entering the labor market over the past decade has increased. Among minority youth, on the other hand, there has been a marked decline in the proportion both seeking and finding work. The consequences of not attending to this situation are serious and include crime, alienation, and reduced social mobility as well as lower incomes and lost output.

Past efforts to deal with the labor market problems of disadvantaged youth have tended to stress the provision of jobs and have not fully come to grips with the cumulative deficits produced by growing up in a low-income or minority family and community. Enhancing the employment prospects of these youth can be achieved only if schools, community based organizations, training institutions, and the job market are more effectively involved in joint efforts to overcome the legacy of poverty and racial discrimination.

Given the seriousness of the problem and the nature of the deficits which must be overcome, the Commission believes that:

The President and the Congress should identify the employability and employment problems of disadvantaged youth as a domestic issue of critical importance to the future well-being and security of the nation and pledge that the federal government and the nation will devote the resources and efforts necessary to its amelioration.

While the federal government should take the lead role, state and local governments, business, labor, education, and community based organizations must undertake substantial responsibility for improving the employment prospects of disadvantaged youth. The local leaders of all of these organizations should make a new commitment to work together on ameliorating the problem, and local employers should be fully involved in helping to plan and implement these efforts.

Federal resources should be targeted on youth most in need. While there is no simple way to identify this group, those youth most at risk come from low-income families, are members of a minority group, or live in areas with high concentrations of low-income families.

The major objective of federal education, training, and employment programs for youth should be to improve the long-term employability of these youth, that is, their basic education, work habits, ability to absorb new skills on the job, and other competencies which will permit successful integration into the regular work force.

B. Elements of a youth policy

The reasons that disadvantaged youth have problems in the labor market are many and these reasons interact. Based on the Commission staff's analysis, the most important causes of their joblessness appear to be the inability of the economy to absorb all those who want to work combined with educational handicaps and discrimination which put disadvantaged, and especially minority, youth at the end of the hiring queue, regardless of the state of the economy. The lack of sufficient job opportunities for these youth, or of opportunities for upward mobility consistent with ther aspirations, has produced a situation in which many of our youth no longer strive for excellence in the classroom or the workplace. Employers, for their part, have turned to other sources of labor, leaving subsidized work experience programs in the public sector as the dominant source of employment for minority youth. While these programs provide income and job opportunities which would not otherwise exist, they appear to have few long-term benefits and a limited ability to integrate youth into the regular labor market.

Based on these findings, the Commission believes that any new set of policies should be based on the following set of principles:

Youth unemployment should be viewed principally as a structural problem and long-term solutions sought. Nevertheless, there is no question that sustained high levels of employment are an important precondition for substantially improving the labor market prospects of disadvantaged youth.

Remedying the educational deficiencies of disadvantaged youth must be high on the nation's agenda. Without basic literacy skills, youth are unable to take advantage of further education or training and will be permanently consigned to the bottom of the economic and social ladder.

Our nation should renew its commitment to eliminate racial discrimination and cultural stereotyping in the labor market. In particular, all of our institutions must be involved in creating a new environment of trust and confidence between those who come from different backgrounds so that access to good jobs and treatment on the job are based on performance alone.

Youth themselves must be more fully involved in improving their own employability and must make greater efforts to meet the performance standards set by our educational and employing institutions. To encourage disadvantaged youth to do so, these performance standards must be clearly articulated and greater rewards for success in meeting them provided at each stage of the employability development process.

Employment and training programs should be carefully targeted to provide second chance opportunities to those youth, who for reasons of family background, poor schooling, or race, are likely to be permanently handicapped in the labor market. These programs should be restructured, where necessary, so as to have a cumulative impact on the long-term employability of participants.

There must be a new emphasis on moving those disadvantaged youth who are ready into unsubsidized private and public sector jobs. While sheltered experiences may be appropriate at various stages in their development, the ultimate goal should be to create opportunities for them in the regular labor market. The federal government should consider using a variety of expenditure, tax, and regulatory powers to achieve this objective.

In the sections that follow, the Commission provides a number of more specific recommendations which it feels would further these objectives.

C. Adequate job opportunities

The Commission believes that the employment problems of disadvantaged youth will be severe no matter what the state of the economy and most of its recommendations are directed to needed structural changes for the longer-term. Nevertheless, it is concerned about the possible impact of a recession on the employment prospects of youth. The evidence is clear that youth employment, and especially minority youth employment, is even more sensitive to the business cycle than adult employment. Moreover, in periods of economic slack, other measures will simply reallocate existing opportunities and will be strongly resisted for this reason. Thus, the Commission recommends that:

(1) In the event that the unemployment rate rises substantially, that is to 7 percent or higher, and more particularly if it stays at such a high level for a sustained period, Congress should expand funding for priority national goals such as energy conservation. In so doing it should stipulate that private firms which obtain contracts to further these goals must hire a percentage of disadvantaged youth and adults who are designated by the Job Service or by CETA prime sponsors as being ready to work.

D. New directions for educational policies

Mastery of basic reading, writing, and computational skills is a prerequisite for other kinds of training, including on-the-job training, with the result that these skills are almost universally demanded by employers. High school dropouts, who are disproportionately black or Hispanic, face a significantly higher probability of becoming unemployed than do high school graduates. Even among those who graduate from high school, especially from inner city schools, the acquisition of basic skills is likely to be deficient. Any serious strategy for improving the labor market prospects of disadvantaged youth must put major emphasis on closing the basic skills gap. If this gap is not closed, the employment prospects of these youth will worsen as unskilled jobs in industry or agriculture continue to decline as a proportion of total job opportunities.

The federal government has made a strong commitment toward providing funds for low-income students who wish to go on to college or other post-secondary training. An equally strong commitment must be made to provide funds for remedial programs to serve low-income youth who are not college-bound but who lack the basic skills.

The schools have been, and should continue to be, the primary institution for providing these basic skills. However, it is critical that a partnership with employers and employment and training programs be forged so that disadvantaged youth will have more learning opportunities outside the regular classroom and greater motivation to acquire the basic skills. Accordingly, the Commission makes the following recommendations:

(2) The President and the Congress should support new funding for compensatory education in the secondary schools. These funds should be used to improve the basic skills of young people from disadvantaged backgrounds, through well-funded, intensive programs involving special tutorial efforts, extra after-school sessions, alternative schooling opportunities, compensatory education linked to occupational training, and in-service training for teachers. The effectiveness of Title I of the Elementary and Secondary Education Act in the elementary schools must not be jeopardized by a reduction in funding at this level. What is needed is a comparable program at the junior and senior high levels (a) to sustain the positive effects achieved at the elementary level and (b) to provide a second chance for those not adequately served at the elementary level.

(3) To encourage a partnership with other local institutions, a portion of the new compensatory education funds recommended in (2) should be set-aside for allocation on the basis of close consultation between the schools and CETA. This would be comparable to the 22 percent set-aside under the Youth Employment and Training Program which should continue to be allocated on the basis of such consultation. The new set-aside would encourage additional joint efforts on behalf of CETA-eligible youth and might lead to the development of more alternative schooling opportunities.

(4) The Secretary of Education should be provided with special funding to collect, integrate and disseminate information about exemplary programs, such as the adopt-a-school programs in Oakland, Baltimore, and Dallas. While schools must retain flexibility to deal with local conditions, what has been learned about effective ways of motivating and assisting disadvantaged youth to acquire the basic skills should be mobilized to promote wider sharing and adoption of the successful models.

E. Broadening opportunities for minority and female youth

The policy of the Equal Employment Opportunity Commission (EEOC) to identify patterns of systemic discrimination against minorities and women and to encourage employers to voluntarily pursue remedial actions that will bring them into compliance with Title VII of the Civil Rights Act of 1964 provides a significant opportunity to increase the number and proportion of minority and female youth who can be placed into regular jobs. The EEOC is in a position to identify by prime sponsor area those employers whose work forces are not representative of the local labor force.

Accordingly, the Commission recommends that:

(5) The EEOC should encourage companies with overall low minority and/or female utilization to improve their utilization by hiring job-ready youth from inner-city schools or those trained through CETA programs.

Improving the employability of disadvantaged young women, the vast majority of whom are going to have family support responsibilities at some point in their lives, requires opening up to them a wider range of occupational choices than those that most working women currently have. All youth-oriented labor market policies have a potential impact—for better or worse—on future patterns of occupational segregation which currently confine women, and especially minority women, to the lowest paid jobs.

Within the group of disadvantaged young women, teenage mothers have special needs. They not only need income support but also require money for child care services while completing their schooling or training in order to obtain the requisite skills which will enable them to earn an income equal to or above that available to them as welfare recipients.

It is with these needs in mind that the Commission recommends that:

(6) Education, vocational education, and CETA programs should be implemented in ways that will broaden the occupational opportunities of young women from disadvantaged backgrounds.

(7) Teenage mothers should be treated as a high priority group in both WIN and CETA and their child care and income needs should be fully met, with no diminution of support under AFDC when they participate in an education or training program.

F. Linking performance to rewards

Too often, both in our schools and our employment and training programs, performance standards have not established or maintained. The result is that graduation from high school or completion of a CETA program have had less value in helping young people obtain jobs than would be the case if employers had confidence in these credentials and were willing to commit jobs based on them. This lack of standards is one reason why disadvantaged youth themselves have had little incentive to succeed. They need to be convinced that if they take steps to improve their competencies these efforts will be appropriately rewarded in the labor market. Unless they are motivated to improve their own educational competencies or employability, the chances that such programs can be successful are slim. Therefore, the Commission recommends that:

(8) Schools and prime sponsors should be encouraged or required to establish local performance standards and disadvantaged youth who achieve the standards should be rewarded with entrance into a more generously stipended program or with a job opportunity. Those who fail to meet the standards should be given second chance opportunities, whenever possible.

(9) Prime sponsors should encourage the Private Industry Councils to obtain specifications from employers about the criteria they use in hiring young people, and, to the greatest extent possible, secure commitments from them that young people who meet their requirements will have a job opening when they leave school or a training program.

G. New directions for youth employment and training programs

The Youth Employment and Demonstration Projects Act of 1977 was designed to promote a reassessment and redirection of youth employment programs. Through a variety of new program initiatives and a large-scale research and demonstration effort, much has been learned about what works best for whom, and the relationships between schools, employment and training programs, and the private sector have been explored and fostered.

While the results of these efforts are not complete, the Commission believes enough information is available to recommend that:

(10) The Administration should request, and Congress should enact, a consolidated youth title under the Comprehensive Employment and Training Act, the principal goal of which should be to improve the employability of economically disadvantaged youth ages 16 through 21.

The Commission has been reluctant to support separate programs for separate groups under CETA. However, the severity of the employment problems for disadvantaged youth and the importance of establishing collaboration with the school ssytem in serving this age group convinces us that a separate title is needed at this time.

The Youth Title should provide for a new comprehensive program which would replace the Youth Employment and Training Program (YETP), the Youth Community Conservation and Improvement Program (YCCIP), and the Summer Youth Employment Program (SYEP). The present level of funding for these programs must be at least maintained if the desired results of consolidation are to be realized.

Because of severe deprivation, disadvantaged young people need access to a wide range of services including remedial education, skill training, work experience and knowledge of how to look for and get a job. For this reason, the Commission rejects prescribing approaches under the new youth title. However, for youth in need of comprehensive remediation, programs must be of sufficient quality and duration to make a contribution to the youth's employability. Therefore, the Commission recommends that:

(11) The Department of Labor should encourage CETA prime sponsors to invest substantial funds in remedial porgrams for the most disadvantaged, even if this increases costs per individual and results in a smaller number being served.

One of the most successful employment and training programs is the Job Corps, which provides comprehensive services in residential centers to the most seriously disadvantaged youth. Because of its demonstrated record of success in recent years, the Commission recommends that:

(12) The Job Corps should be maintained as a separate program, and once current enrollment limits are reached, the program should be further expanded.

Youth from economically disadvantaged backgrounds are more likely than other youth to be in need of employment and employability development assistance. It is especially important to reach this group—half of whom are nonwhite or Hispanic—at an early age. Accordingly, the Commission recommends that:

(13) The Congress should designate the eligible population under the new consolidated youth title as all youth from families in which income was at or below 70 percent of the Bureau of Labor Statistics lower living standard

This recommendation reconfirms the position taken by the Commission in its *Third Annual Report* that a single set of basic eligibility requirements be used throughout CETA and that youth programs be income-conditioned under the same definitions of income that prevail in other parts of CETA.

To this the Commission would add one variation. The Commission's Youth Task Force heard testimony at its field hearings that a strict income limit may unnecessarily penalize youth from families with incomes slightly above the limit, youth from working poor families and others who are greatly in need of help to succeed in the labor market. Therefore, the Commission recommends that:

(14) Prime sponsors should be permitted to utilize up to 20 percent of their funds under the youth title to assist youth who do not meet the income requirement but nevertheless face substantial barriers to employment

Whether the purposes of a youth title can be achieved and youth most in need served depends on the way in which funds are allocated. If there is poor articulation between the distribution of the population most in need and the distribution of available funds, the employment problems of disadvantaged youth will persist. Moreover, the Commission believes that intensive targeting on areas where there are concentrations of low-income families is needed. Finally, sufficient funds should be reserved to the Secretary of Labor to provide incentives for innovation, coordination and exemplary performance.

Accordingly, the Commission recommends that:

(15) The majority of the funds for the consolidated youth title should be distributed by formula to local prime sponsors. However, a sizable portion should be set-aside for supplemental grants to areas with high concentrations of low-income families and another portion should be reserved to the Secretary of Labor to reward superior performance or to fund innovative programs, particularly those of an interdepartmental nature.

Under the Youth Employment and Demonstration Projects Act, the Secretary of Labor was granted a significant amount of money for research and demonstration. In its *Third Annual Report*, the Commission noted that it recognized the value of such programs, but stated that once these programs have operated long enough to be assessed, the successful ones should be folded into general allocations to the prime sponsors. Now that this large scale effort has been undertaken, the Commission recommends that research and demonstration money under the youth title be reduced. There are, however, two projects the Commission would like the Secretary to pursue under recommendation (15) above. In collaboration with the Secretaries of Education, Commerce, Housing and Urban Development, Health and Human Services, and the Administrator of the Community Services Administration, the Secretary of Labor should support efforts aimed at utilizing funds from various agencies on joint programs and services to improve employability preparation for young people, and to enhance community economic development, particularly in the nation's cities and counties with the largest concentrations of disadvantaged youth. Efforts should be taken to disseminate the findings from the more successful efforts and to modify departmentally-funded programs to reflect the new findings. Second, while all prime sponsors should be expected to achieve their prescribed performance goals, the Secretary should establish an incentive program to reward prime sponsors who do an exceptionally good job at meeting their performance standards.

Crucial to the effective operation of youth employment programs is adequate planning and implementation time, a stable funding and program environment, and dedicated, experienced staff. To accomplish these objectives and promote more effective cooperation among local educational, training and employer communities, the Commission recommends that:

(16) Congress should provide for forward funding, a five-year authorization and additional emphasis on staff development under the new youth title. It should be noted that the major federal education programs already have these components.

H. Moving disadvantaged youth into regular jobs

Federal employment and training programs have failed in the past to adequately involve the private sector in the employability development process. The Youth Employment and Demonstration Projects Act contained several new experiments to encourage the private sector to participate more actively in training and employing young people with labor market handicaps, including up to 100 percent subsidy of their wages. In addition, the Private Industry Councils created under Title VII of CETA have been encouraged to undertake a number of activities to improve the employability of youth. Private Industry Councils, by virtue of their independence and the community standing and experience of their members, are in a unique position to contribute to improving the employability development of youth by insuring that it is related to the skills employers seek and by opening up opportunities for training and later employment in the private sector. Finally, the Targeted Jobs Tax Credit, passed as part of the Revenue Act of 1978, provides incentives for employers to hire disadvantaged youth between the ages of 18 and 24.

The Commission has earlier supported all of these initiatives for integrating youth more effectively into the private sector, and believes that such efforts should be carefully monitored and wherever possible expanded. In particular, the current prohibition against private sector work experience under CETA is depriving youth of opportunities to learn more readily transferable skills, to be exposed to a wider variety of work settings, and to acquire valuable contacts and references for future employment. In addition, such experiences could help to break down the resistance of many employers to hiring youth from disadvantaged minority communities. Accordingly, the Commission recommends that:

(17) Short-term, subsidized work experiences in the private sector should be permitted under CETA with safeguards to insure that employers do not misuse the program and that the youth are provided with a carefully structured and supervised learning experience or training opportunity.

While the above efforts to integrate youth into the regular job market are important, they by no means exhaust the leverage of the federal government since the latter accounts, directly or indirectly through its grants to other levels of government and to private contractors, for a substantial proportion of all employment.

With a civilian workforce of 2.8 million and a uniformed military force of 2.1 million, the federal government is the nation's largest employer. Since it believes that the federal government should take the lead in providing opportunities for disadvantaged youth, the Commission recommends that:

(18) The President, with advice from the Office of Personnel Management, should consider making youth who have successfully completed a CETA program involving experience in a federal agency, eligible for conversion to entry level positions in the career service on a noncompetitive basis.

(19) The President should direct the Secretary of Defense to review the experience of Project 100,000 during the late 1960's which was successful in recruiting and providing special training for 246,000 young men who did not meet the regular qualifications.

Federal grants-in-aid to state and local governments are now in the range of $80 billion per year. While a substantial portion of the grant-in-aid funds are used to provide services or benefits to individuals, such as grants for medicaid and income security payments, many of the grants sustain or generate employment. Some movement toward targeting a portion of the employment generated by grant funds has taken place in the recent past. Mandatory approaches were proposed in the Labor Intensive Public Works Act of 1978, and voluntary approaches in the National Public Works and Economic Development Act of 1979. Serious consideration is also being given to the possible use of administrative requirements and incentives to accomplish employment objectives.

The Commission believes these efforts should be extended and recommends that:

(20) When the various pieces of legislation that authorize grants-in-aid are being considered for adoption or renewal, the Administration and the Congress should consider writing in provisions that would encourage or require that the grant recipients employ a specified percentage of disadvantaged youth who are referred to them as job ready by either the Job Service or the CETA prime sponsor.

During fiscal year 1978 the government spent some $95.6 billion through contracts for supplies and equipment; research and development; and construction and other services. About 35 million workers are covered by federal contract compliance regulations under Executive Order 11246. Although the contract procurement mechanism has long been considered a potentially fruitful area for pursuing a targeted employment objective, relatively little is known about the range of employment that is generated through the procurement process. The Commission believes that, as a result of the establishment of a Federal Procurement Data Center under OMB's Office of Federal Procurement Policy, it is now possible to begin to collect data that will help to illuminate the question of whether procurement policy shoud be used to pursue targeted employment goals. Thus, the Commission recommends that:

(21) The President should direct the Office of Management and Budget, with the assistance of other appropriate agencies, to determine whether and how the procurement process might be modified so that there would be new incentives for employers to hire structurally unemployed adults and disadvantaged youth.

I. Monitoring progress

It will not be possible to eliminate the employment problems of disadvantaged youth quickly or cheaply, and the Commission believes that the nation will need to make a sustained commitment over many years if real progress is to occur. This progress must be monitored and changes in programs implemented as more knowledge becomes available. For these reasons, the Commission recommends that:

(22) Congress should review annually the extent to which the gross discrepancies in the employment to population ratios and the unemployment rates for minority youth relative to white youth and adults are narrowed as a result of implementing the foregoing recommendations. In the absence of substantial and continuing progress in narrowing the gaps, the Administration and the Congress should seek to fashion revised and new programs which hold greater potential to ameliorate the present intolerable situation where our society has no regular job opportunities for many young people who come of working age.●

TAXFLATION DOES NOT WAIT

● Mr. DOLE. Mr. President, Treasury Secretary Miller has said that, while he supports recent Federal Reserve efforts to improve control over money and credit availability, he feels the Fed may have acted too soon in implementing its new procedures. Mr. Miller fears that the Fed's new system of controlling reserves may not have as direct and immediate an impact as the Fed expects.

There is no question that the shift in the Fed's operations will require adjustments in financial markets and that bugs in the process will need to be worked out. The Fed will have to learn how best to employ the tools it has available to implement its revised policies. However, these are not arguments against the change: they merely point up the difficulty of achieving the goal of restraining money and credit. We can no longer doubt that such restraint is needed, in light of the inflation rate this year. This is a time when we must all pull together to put a lid on inflation, or we have little hope of success. The administration has said so itself.

That is why Mr. Miller's comments, however intended, are ill-timed and unfortunate. While Mr. Miller may have personal doubts about the effectiveness of the Fed's new approach, he must be aware that the approach cannot succeed without across-the-board support from all levels of Government and from the private sector. As chief economic spokesman for the President, the Secretary of the Treasury must choose his words carefully when discussing a major policy move such as that made by the Federal Reserve. Psychology does matter, and any hint that the administration is backing away from its anti-inflation resolve can only undermine its own efforts. The administration cannot afford to continue to work at cross purposes.

Mr. Miller to the contrary notwithstanding, it appears that the Fed's action cannot have come soon enough. Clearly the battle to control the money supply by regulating interest rates was a losing one. Had Mr. Miller, as Fed chairman, undertaken similar action at an earlier date, we might have avoided the credit crunch that now looms. Inflation could have eased sooner, and we would have avoided hitting taxpayers with such an enormous tax penalty this year.

The tax penalty, or taxflation, is the result of people moving into higher tax brackets as they try to keep pace with inflation. The higher the rate of inflation, the greater the tax penalty. Under the progressive income tax structure, the elasticity of taxes relative to income gains is about 1½ percent. That is, overall tax revenues increase by about $1.50 for every additional dollar in income. This means that an inflation rate of 13 percent, as we have this year, will cost all taxpayers about $19.5 billion if they just keep pace with inflation. This is part of the price we pay for not moving more swiftly and decisively to restrain inflation.

Until inflation is reined in, we cannot expect taxpayers to automatically pump more revenue into the Treasury. I have introduced the Tax Equalization Act, S. 12, which would eliminate the inflation tax penalty. The tax brackets, zero bracket amount, and personal exemption would be adjusted according to the rise in the Consumer Price Index. People would not move into higher tax brackets unless they experienced real income gains. Congress would also have less to gain by allowing inflation to continue.

Mr. President, the Tax Equalization Act has bipartisan support and deserves prompt attention by this Congress. The Secretary of the Treasury should also support S. 12, so long as he feels that haste in battling inflation is unwise. I again urge my colleagues' attention to this matter.●

TELEVISED SPORTS EVENTS

● Mr. SCHMITT. Mr. President, the Communications Subcommittee of the Senate Committee on Commerce, Science and Transportation held lengthy hearings earlier this session on S. 611 and S. 622, bills to amend the Communications Act of 1934. The subcommittee is now deliberating on those amendments.

One area under consideration is the appropriate role of cable television in our national telecommunications system. A particular issue that concerns broadcasters, cable television operators and sports organizations is the regulation of the distribution of sports events by cable television and pay television including pay cable, subscription television, and direct broadcast satellite.

It is particularly important that this issue be addressed soon because of the recent proposal by the Communications Satellite Corporation to offer pay television by direct broadcast satellite to a substantial percentage of American homes.

Don Kowet has written a provocative column in the latest issue of "TV Guide" that raises serious questions about the future availability on over-the-air broadcasting of popular sports events such as the Super Bowl and the World Series. I request that Mr. Kowet's column be in the Record at the conclusion of my remarks.

This column is also quite timely in view of the expiration of the National Football League's (NFL) commitment to refrain from blacking out sold-out games through the 1979 season in accordance with the spirit of Public Law 93–107.

Because of the importance of televised professional sports events to the public legislative language insuring the future availability to local television broadcasters of sold-out home games has been included in a revision of S. 622 that is being circulated by Senator Goldwater and myself. I will provide a copy of S. 622 to Pete Rozelle, the commissioner of the NFL and request his comments as well as an indication of the NFL's future plans for distributing NFL games.

The article is as follows:

With Pay-TV Moving in on Major Sports Events, Second-guessing the Quarterback May Get Expensive

(By Don Kowet)

It's kickoff time on Super Bowl Sunday, 1984. You start flicking the TV dial in search of the championship clash—say, the Steelers versus the Cowboys again.

ABC has celluloid football—a repeat doubleheader of "Semi-Tough" and "North Dallas Forty." CBS has college football—a squad of fired up Fighting Irish in ancient leather headgear determined to win one more for "the Gipper." NBC has pro football, Pittsburgh against Dallas all right; a grainy rerun of its 1979 Super Bowl broadcast.

The truth is, this time, for the first time, none of the commercial networks owns the broadcast rights to the Super Bowl. This 1984 Super Bowl is available only to the seven or so million Americans who subscribe to pay-TV.

Farfetched as it may seem, this scenario became possible on March 25, 1977, when the U.S. Court of Appeals overturned Federal Communications Commission rules that had prohibited pay-TV from showing not only first-run movies but first-rate sports events—any big-league championship, play-off or all-star game that had been broadcast on commercial TV during the previous five years.

Suddenly, ABC and CBS and NBC's virtual monopoly over the big-league sports telecasts had ended. Pay-TV was free to become a competitor. But first it had to become widespread, and wealthy.

At the time of that court decision, pay-TV had one million subscribers. And in less than two years, that number of subscribers had climbed to three million, with industry earnings topping $300 million in 1978. Cable analysts are projecting up to seven million pay-TV subscribers by 1981.

"The question isn't whether five years or so down the road you will be paying to see on TV sports that you used to see free, that's inevitable," says one network source. "The question is: which events—second-raters? The Super Bowl?—and when."

Cable systems throughout the country already offer subscribers (for the basic cable fee) a varied menu of sports. UA—Columbia's advertiser-supported cable package includes "games of the week" of the NBA, NHL and major-league baseball, plus events from Madison Square Garden. A half dozen or so actual or would-be "super-stations" (local TV outlets whose satellite signals may be captured by any cable system willing to pay a carrier fee) are following in the wage of yachtsman Ted Turner's WTBS (Atlanta), whose broadcasts of the Hawks and Flames games are currently being delivered to over five million households across the country. And this past September, the Getty Oil-owned Entertainment and Sports Programming Network (ESPN) began filibustering cable systems with a rich diet of sports.

However, the most ominous threat to the network hegemony over big-time sporting events comes not from these basic cable packages (which pay leagues or franchises only nominal rights fees or, in the case of the "superstations", no fees at all), but from pay-TV. Pay-TV, with its potential for pay-per-view, offers the major league the prospects of a brand-new bidder in the auction.

"We see our sports programming, now and in the future, as complementary to the networks, not in competition," says Michael Fuchs, senior vice president for special programming at HBO (the pay-TV titan, with over two million satellite-linked subscribers).

The public modesty of pay-cable moguls isn't surprising. They spent years swearing on a stack of signal converters that they would never—scout's honor, compete against commercial TV. Some of Fuch's executive counterparts at the three commercial networks don't believe him for a second.

HBO broadcasts boxing matches, gymnastics, track-and-field events, all of Wimbledon up to (but not including) the final day, and NFL highlights. Regional pay-TV packagers (as well as a few over-the-air subscription-TV stations) offer local pro teams. PRISM, the Philadelphia-based pay system, shows its 90,000 subscribers the home games of the 76ers, Phillies and Flyers. In the Southwest, Fanfare broadcasts (via satellite) games of the Rockets and Astros. Throughout the country, such regional pay packages are beginning to proliferate.

"I guess what we're really saying," says CBS sports vice president Carl Lindemann, "is that pay can have what the commercial networks don't want."

If, publicly, pay-TV sports programmers profess to be content with feeding off network table scraps, some privately admit that pay-TV, if it is ever to achieve more than mere survival, must reach out for events that are now the property of commercial television. That means pro football—the only major sport that televises all of its games (except those not sold out 72 hours in advance) over commercial TV.

"I think that if anything is going to break the barrier on pay-TV, it's going to be professional football," says NBC's executive producer for sports Don Ohlmeyer. "You are now looking at football, college and pro, that costs about $200 million in rights," he adds. "To break even, you probably have to sell $300 million in advertising. That's on football alone. One-third of the gross of an entire network two years ago. How much money is there in the network marketplace?"

Ohlmeyer envisions a scenario in which the networks get to keep three national NFL games—two on Sunday, one on Monday night. The rest of the NFL schedule is parceled out to pay-TV on a regional basis. "Let's say in New York you've got 30 per-cent cable-television penetration five years from now—that's about 2.4 million homes. Let's say a third of those, 800,000 are willing to pay $2 a game for a Giants game. Say the Giants are on national TV twice—that leaves 14 Giants games for pay-TV. Multiply 800,000 times $2 times 14. That's almost $23 million, just in New York—and there are 27 other NFL teams!"

The premise, of course, is that pay-TV operators—and their backers—will be willing to invest the sizable capital necessary to endow current pay-channel systems with pay-per-view capabilities. (That is, systems in which viewers pay only for the shows they watch. In most cases, pay and cable subscribers now pay a flat monthly fee, whether they watch the programs or not.) Potential investors are paying close attention to the results of Qube's pay-per-view experiment with Ohio State football in Columbus, Ohio. (ABC—fearful of testing the exclusivity of its NCAA college-football contract in the courts or in Congress—reached a settlement with Warner Cable, which had filed a suit against ABC alleging antitrust violations. As a result, Warner's Qube showed five Ohio State games in 1978 and will show five more in 1979.)

The NFL would have to find a way to bypass Congress's antiblackout provision (which expired as a law before the 1976 season, but which has been voluntarily maintained by the NFL these past three years). In fact, Chip Shootshan, counsel for Rep. Lionel Van Deerlin's House Subcommittee on Communications, does foresee "a gradual erosion of this televising sold-out home-games policy, to the point where home games, at least in major cities like New York and Los Angeles and San Diego, where there's lots of cable, could be carried on pay-TV locally."

Would the FCC stand idly by while the NFL sold part of its schedule to pay-TV? Despite the 1977 court decision, Sen. Ernest Hollings, chairman of the Senate Subcommittee on Communications, says he still thinks that "the FCC has the authority to prevent siphoning of sports if it were to occur."

The problem, says Bill Johnson, chief of the FCC's policy division, is determining when siphoning is occurring. "For example," he says, "a few years ago there was talk about the networks not doing the Army-Navy football game any more. Supposedly, the networks said we're not really interested, so we'll only pay you a little bit. So what if a pay guy comes along and says he wants that game? It's hard to tell whether the networks are just throwing off an event, or whether the pay people are buying it off."

If the FCC didn't take action, would the Congress? A deregulatory fever has been sweeping Capitol Hill. It was in part due to this climate in Congress that ABC felt compelled to compromise with Warner's Qube over the telecasting of Ohio State football games.

"The NFL, today, if it wanted to, could take all of its home games and put them on pay-TV," says Van Deerlin counsel Chip Shooshan. "And I have reason to believe thought is being given to this idea in the NFL right now, for the future—although I don't think they'll admit it. They could certainly take home games that were not sold out 72 hours in advance and put them on, without even violating the spirit of Pete Rozelle's agreement with Congress. As for the major events," he adds, "our feeling is that if the day comes when it looked likely that a Super Bowl or World Series would go over to pay-TV. Congress could, and would, intervene with legislation to prevent that from taking place."

Right now, of course, neither pro football nor baseball is contemplating such blasphemy. Baseball Commissioner Bowie Kuhn sums up not only his philosophy but Pete

Rozelle's too, when he declares: "I can foresee no circumstances where baseball's 'showcase' events, such as the World Series, league championships or All-Star game, would be marketed on a pay-cable or subscription-TV basis."

However, in the real world of broadcasting and the realm of big-league sports, both of which have, in two decades, metamorphosed from comparatively penny-ante pastimes to big businesses, unforeseen circumstances have a habit of what Howard Cosell calls "eventuating." Suppose the baseball and football leagues do decide that the only way to expand their box office is through the parceling out of league schedules among the commercial networks and pay-TV, as NBC's Don Ohlmeyer envisions. Suppose, for that matter, that Pete Rozelle uses the threat of moving the Super Bowl to pay-TV as a stick to beat the networks into meeting his contract demands? Thus provoked, what happens if Congress does enact prohibitive legislation either rescinding the NFL's antitrust immunity or forbidding an NFL shift to pay-TV?

"There certainly are legitimate constitutional questions that are raised any time Government attempts to arbitrarily make decisions in this area," admits Chip Shooshan. "A pro-football game, after all, is a privately owned property."

"And you tell me what constitutional right I have to sit in my living room, in New York, and force the New York Giants to give me their product over commercial TV?" asks NBC's Ohlmeyer.

"In business, as in wrestling," he adds, "a cardinal rule is that you don't take down your opponent till you have a good chance of pinning him. The next time Congress legislates against the NFL, Rozelle may decide that's the time to take Congress to the mat."

The arena for that match would be one far more hallowed than for any Super Bowl: the chamber of the U.S. Supreme Court.●

ELIMINATION OF INTOLERANCE AND DISCRIMINATION

● Mr. JAVITS. Mr. President, this year the United Nations Commission on Human Rights adopted the first three articles of an international declaration on the elimination of all forms of intolerance and of discrimination based on religion or belief. The task of drafting such a declaration has been before this Commission for over 30 years and I believe that its adoption is long overdue.

Dr. Isaac Lewin, a professor of history at Yeshiva University in New York, addressed the United Nations Commission on Human Rights on behalf of the Agudas Israel World Organization, one of the many nongovernmental organizations that have urged the Commission to fulfill its responsibility to the General Assembly and present that body with a draft declaration. I believe that this issue merits the attention of my fellow Senators, and I ask that Dr. Lewin's statement be printed in the Record.

The statement follows:

Statement by Dr. Isaac Lewin

When we think of the great deal of good which a declaration on the elimination of all forms of intolerance and of discrimination based on religion or belief could achieve just by its inherent moral power and ethical persuasion, we can hardly understand why until now such a a declaration has not yet been proclaimed.

No legal consequences could evolve from such a declaration for any nation. A declaration appeals only to the conscience of mankind.

Like many similar documents in history, a declaration on the elimination of religious intolerance would call on individuals and governments to refrain from certain acts which are inconsistent with the principle that all human beings are created equal. The world, after all, accepted this principle long ago. The Bible extended the principle of equality under law even to a country's strangers, and prohibited doing them wrong. In the 3rd Book of Moses (19:33, it was proclaimed: "If a stranger sojourn with thee in thy land, ye shall not do him wrong. The stranger that sojourns with you shall be unto you as the homeborn among you, and thou shalt love him as thyself."

These words of the Bible expressed the principle of tolerance in a wonderful way. As the great philosopher Hermann Cohen explained: "The alien was to be protected, not because he was a member of one's family, clan, religious community or people, but simply because he was a human being. In the alien, therefore, man discovered the idea of humanity."

What would be more justified for the United Nations than to make a declaration that everyone, citizen and stranger alike, has the right to live in accordance with his beliefs? Taking into consideration the not-so-happy experience with tolerance, or rather intolerance, of the past centuries—the declaration would spell out in a few paragraphs what is meant in our days by tolerance in the field of religion or belief. The world should know the feelings of the community of nations represented by the United Nations, that what cannot be tolerated today is intolerance.

It is a source of great concern that such a declaration encounters opposition. Why should any State disagree with the principle that discrimination between human beings on the ground of religion or belief is an offense to human dignity?

Twenty-three non-governmental organizations in consultative status with the Economic and Social Council urged again this year that the drafting of the Declaration not be further delayed. In their statement (document E/CN.4/NGO/228), they drew the attention of the Commission on Human Rights to the fact that "this matter has been under consideration of United Nations bodies for more than 25 years". They stated that "religious intolerance and discrimination have done, and continue to do, great harm to many people in the world."

The question now before us is: Will the Commission on Human Rights this year again disappoint and disillusion us by reporting to the Economic and Social Council that no draft of a declaration on the elimination of all forms of intolerance and of discrimination based on religion or belief has been prepared? Why should the clear and unequivocal mandate of the General Assembly not be fulfilled?

True, simple matters can become artificially complicated. If we would have to include in the declaration explanations of religious convictions, there would be an unavoidably deep conflict among various groups. Similarly, inclusion of explanations of "belief" might lead to unnecessary complications and even make the whole declaration impossible.

The religious revolution that just recently took place in an important country is a reminder that a solemn declaration on the elimination of religious intolerance is certainly most timely. The declaration would say that the conscience of the world is not asleep, and that the times of persecutions on grounds of religion or belief are over. Such a declaration would possibly even help to eliminate unnecessary misunderstandings and difficulties.

The working group has this year discussed the first three articles of the draft declaration. The adoption of the three articles by the Commission will certainly be a sign that the Commission is at least partly fulfilling the mandate of the General Assembly.

I urge you to adopt the three articles, as proposed by Canada in its draft resolution, and to keep this matter on the agenda for next year.

People suffering from religious intolerance all over the world are waiting impatiently for your action. The General Assembly of the United Nations, which several times adopted resolutions asking the Commission on Human Rights to finalize the drafting of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief, is waiting for your action; and history is waiting for your action too.

Let a ray of hope appear from this session of the Commission on Human Rights for our brothers and sisters who suffer from religious intolerance.●

RUSSO-FINNISH WINTER WAR

● Mr. PACKWOOD. Mr. President, November 30, 1979 marks the 40th anniversary of the date that the Russo-Finnish Winter War of 1939–1940 started. The war was begun by an unprovoked attack by the U.S.S.R. across the border of Finland. The courageous fighting of the outnumbered, poorly-equipped Finnish army is one of the most remarkable stories of this century. Against overwhelming odds, the Finnish troops fought courageously to retain their freedom and independence. All Americans can appreciate the efforts of this nation—the only free European nation bordering the Soviet Union today.

The two articles that I am submitting for the Record give two perspectives on this war—personal and historical. The author of these articles, Mr. John Virtanen, is currently serving as the honorary consul of Finland for Oregon. In 1976, in recognition of meritorious services, Dr. Urho Kekkonen, the President of Finland, presented Mr. Virtanen with the insignia of the "Knight, First Class of the Order of the White Rose of Finland." Mr. Virtanen's bravery, and the bravery of his countrymen, deserve our special recognition.

The articles follow:

Finland's "Day of Infamy" Forty Years Later!

It may come as a shock to many that Finland is today self-determined, free nation, ready to celebrate the country's 62nd Anniversary of the Independence, (December 6, 1917) and the 40th Anniversary of the start of the Winter War of 1939–1940.

A border assault on the Finnish Karelian Isthmus that had a profound influence on European affairs occurred on November 30, 1939, forty years ago, which students of warfare may remember but which is unknown by most people throughout the world today. This day marked the unprovoked attack by the U.S.S.R. on the young independent small democracy of Finland in their attempt to bolster its defence perimeter by forcibly grabbing additional territory and at the same time destroying the sovereignty of a relatively defenseless freedom-loving nation. This day began the three and a half months' long Finnish "Thermopylae" that resulted in the slaughter of hundreds of thousands of Russians as the stubbornly heroic Finns resisted with whatever guerrilla tactics they could devise in the most bitter winter fighting seldom experienced in warfare. It was later learned that the Russians did not expect Finnish resistance to a take-over of their nation. Nikita Khrushchev said in his memoirs, "All we had to do was raise our voice a little bit and the Finns would obey," then added that "over million Russians were killed in that campaign."

At dawn on this cold gray day a planned blitzkrieg to conquer Finland in a week began as over 600 Russian field guns opened a thundering barrage. At the border resort town of Terijoki the Finnish ski troops patrol squad blew up the border river railroad bridge and delayed a tank advance for ten hours before retreating. House-to-house fighting occurred in the border villages all along the eastern boundary of eight hundred miles. Finns fought even with knives and quickly set up snipers—"cuckoos" in the trees which took heavy toll of the invaders before running out of ammunition. The innovation of heavy tanks leading advancing infantry was a terrifying opponent to confront with nothing but conventional machine-guns and confiscated old Russian rifles.

On this day the Finnish High Command heatedly debated: Should there be an all-out stubborn stand against an enemy far superior in numbers and armament, or should there be a concentration only on holding the most effective possible defense point as close to the border as possible? Field Marshal Mannerheim's determination to stand firm at all points became decisive even though the scattered defense garrisons, almost in panic, with only out-dated field artillery, mines, rifles and hand grenades, faced monstrous tanks spewing deadly fire against them.

However, with expert use of make-shift weapons, the Finns by December 5 stopped 80 tanks and destroyed many more by mines. Unfortunately, too, Russian bombers and fighters which numbered 3,000 quickly neutralized the Finnish airforce of 162 antiquated biplanes and Fokkers.

The frontier zone was lost before their anti-tank weapon, the "Molotov Cocktail" was fortuitously devised—a crude kerosene, tar and gasoline in a regular fifths, which proved to become a frightening weapon in the minds of the Soviet tank crews, as the Finns ignited their bottles and threw them, aiming at air intakes or opened hatches.

Expecting that the Finnish proletariat would welcome the Red Army as its "liberators," Stalin did not bother with careful preparation for the invasion. Led to believe by his own intelligence he did not want to put first class soldiers as being sacrificed against a Finnish military composed of many barely-trained reservists? Assured of quick victory, Soviet troops, inadequately clothed for a long frigid campaign in the snow, to their detriment, were hastily dispatched into the frozen forests of the north.

Red propaganda effectively convinced their own troops that the "war-mongering bourgeois government" of Finland had deliberately "provoked the fight by shelling the border village of Mainila and intended invading Soviet territory" and that this "fascist" government would quickly fall because the "oppressed Finnish workers would immediately join the Red legions" in driving the hated White Finns out of the country.

This immediate Finnish resistance forced a massive Russian frontal attack to be launched on December 6 along all sectors of the Karelian Isthmus, but hordes of Red infantry, rushing forward, were mowed down in their tracks by the bullets of unseen sharp-shooting, white-gowned Finnish guerrillas hidden in the snow banks and among the snow-covered trees hemming in the narrow roads. And the foolish Red dream of "liberation" quickly came to an end!

Nevertheless, on November 30, there was definite reason for this early Soviet optimism. The Reds outnumbered the Finnish infantry three to one, in some areas at times: fifty to one, and were far superior in essential equipment. So short were the Finns of essential military items that many small groups did not even have radios. When telephone contact was cut by enemy artillery, battalions were unaware of each other's whereabouts. Even in ski popular Finland—and with skis so necessary now—a division near Lake Laatokka was short 10,700 pairs on December 6. The first haphazard gathering of reservists found many of them without proper uniforms and footwear. There was only two months' supply of small-arms munitions and available artillery shells for about three weeks at the beginning of the conflict. Rationing of shells was imperative at all times. Even ancient artillery of an impractical 1887 model was brought in to fill the gap.

The "Suomi" rapid firing submachinegun was the key Finnish weapon in their forest guerrilla engagements—but even these were in short supply, forcing an allotment of only 250 of them to each Finnish division. Against thousands of modern tanks and armored vehicles, the Finns had 28 obsolete Renault tanks and a few Vickers, only 13 of which were armed. Finnish planes, even including open cockpit types, tried to challenge Russian planes readied for the initial onslaught with countless reserves in the rear for other regions. Industrially, the Russians had better than a forty to one advantage in manpower. If necessary, the Russian labor and armed forces could crush its tiny stubborn neighbor by sheer mass of weaponry. But still, on November 30, this frightening disadvantage of theirs did not deter the Finns from bravely facing the enemy!

The only hope remaining for Finland was the intangible one of a totally unified populace, firm in the preservation of their hard won recent independence from Russia. On the same day Moscow announced the fake Kuusinen government of Finland, the Finns formed a national coalition cabinet with the able Social Democrat, Vaino Tanner, as Foreign Minister—indicating that the rightist groups were now solidly behind the liberals in their determination to save the Republic. Even the great majority of Finnish communists readily volunteered their services in the general defense—to the surprise of Stalin.

Perhaps this reaction was more an anti-Russian than an anti-communist feeling. The senseless repressions of Czarist Russia were still very fresh in many memories. Marshal Mannerheim's declaration to the Finnish Army that ". . . our centuries-old enemy has again invaded our country. . . . We are fighting for home, faith, and country . . ." was enough of a reminder to spur Finnish loyalty to fever pitch in the hearts of all, even in the waverers.

As far back as October 5 the Finns knew they were in imminent danger—having witnessed the rapacious takeover by the Reds of the Baltic States. The reserves had been mobilized, evacuation of the danger areas had started, and by November 30 the Finns fatalistically awaited the showdown, though still not fully expecting war over a land-question.

With 100,000 Lotta Svards, the women's auxiliary of the Civil Guard, all active civilian males in this small nation of four million augmented the minuscule field army and recruits. Immediately when attacked, without hesitation, the nation united to defend to the utmost their precious heritage and their right of self-determination as a democratic nation against the unconscionable aggressiveness of authoritarianism.

This November 30 confrontation thus heralded to the world to witness how one small but brave democratic nation faced the bullying of a tyrant dictatorship. And because of this determined resistance, almost foolishly reckless as a practical act, Finland, forty years later, still remains the only sovereign, freedom-enjoying European nation bordering the Soviet Union.

Within the span of 62 years of independence—forty years from the Winter War—the country has achieved everything it has set their goals or hoped for. But, pehaps one thing they could provide as a message for the Free World is to realize and remember as it flounders about fearfully the blustering and threats of Communist Russia that it takes a sisu, determination and firmness to stand for freedom of mankind.

SISU is a Finnish word which means that after giving everything a person has, he still could give and stand more.

REMEMBERING THE WINTER WAR—FINLAND'S PEARL HARBOR

(By John O. Virtanen)

As though it happened yesterday I remember the November 30 of forty years ago as Finland's "Day of Infamy," its "Pearl Harbor." Then, as Corporal John O. Virtanen, I stood watch at a border river post with my squad thinking only that immediately following breakfast I would be relieved of my duty there and could return to our camp less than a mile away when the opening salvo of the bitter Winter War of 1939 exploded right in front of me.

Presaging the thunderous barrage that defied one's imagination, the first shells fell only a few feet from the cabin where my squad had spent the previous few days and nights. It seemed that heaven had been suddenly rent apart and fallen over me—was my first impression.

By the time the armistice was signed three and a half months later, all of Europe had felt the impact of this "White Death," as the war was sometimes called, and world civilization faced the Nazi threat of World War II. Twenty-four thousand Finns were dead, over a million Russians had been killed, and Allied countries were about to face the ruination that war brings in its onslaught. However, the entire world had witnessed a miracle during this brief preliminary period of struggle—though severely bloodied, with many cities in ruins, a little nation had survived honorably, proud of its battle achievements and its negotiation—not of surrender—but of an armistice with its then colossal enemy.

France and England could not comprehend why Finland did not officially ask their help. Sweden felt relieved from being forced to allow military aid to cross their neutral land to Finland, as was the United States in readying itself to fight Hitler with the Russians as an ally.

That morning was gray, cold. The moon still shone in the sparkling sky of stars at 7 A.M. on that critical day of November 30, 1939.

According to Khrushchev, writing in his memoirs, but then a high Politburo member who knew what was to occur on this day: "The Russians expected the Finns to fall on their knees before the assault."

Two of the first eight shells that fell around the cabin were duds. They shook the land violently but did not explode and we feared they might be timed to go off at any moment.

The Russians had gathered their forces along this border area in total secrecy. Working mostly at night, Stalin's labor camp manpower had helped build wide roads leading to the border, amply wide enough to allow heavy armored trucks and tanks to have easy access to the border. The moment the opening salvo was fired, the infantry started following the heavy tank formations, but now in single file on narrow Finnish wilderness roads. They expected to be greeted as "liberators" of the Finnish proletariat from the heartless clutches of Capitalism and to participate in a victory parade in Helsinki within a week or at least ten days!

Only minutes after the first shells exploded all along the 800 mile border between Finland and Russia, Soviet bombers dropped their explosives on most of the cities of Finland. Giant cannons at distant Leningrad opened up barrages to clear the way for the Red forces to come pouring across the river border in the Terijoki vicinity to take the Finnish troops by surprise.

They were confident on their intelligence reports that the Finns would not dare fire back, that the Finnish High Command would panic and withdraw their troops from the military zones.

For the first three days and nights we fought without withdrawing hardly a kilometer or two. We had to fight with old, confiscated Russian-made rifles that the Finns had captured at the end of the Civil War in 1918. Fortunately, we possessed efficient Suomi machine guns, excellent automatic weapons perfectly suited for guerrilla warfare—though we never had enough of them. The antiquated Civil War rifles were clumsy and inaccurate, so much so that a soldier had to allow the enemy to approach within close range to be sure of making a kill.

Snow had already covered the ground, but only about half of the troops had been issued skis for easier maneuvering in the woods. Those who had been trained as sharpshooters used Finnish-made "pystykorva" rifles; their tactic was to hide themselves within the thick branched spruce trees to better spot the advancing enemy and, by being unseen, mowed them down in droves.

Soon afterwards when all the soldiers had been issued white gowns to wrap over their uniforms, the Finns became fearsome invisible foes who brought terror to the floundering Reds in the snow-covered forested trails. We wanted to draw the enemy into the woods, but they did not dare venture into the thick wilderness of trees that provided cover for invisible Finnish snipers.

But tanks continued to roll along the narrow roads like monstrous killer-dragons and we had no weapons to stop them at first. We invented satchel-charges—hand grenades reinforced with sticks of dynamite—which were thrown into the turrents of the tanks if they were open. Effective as a bull's eye hit was, still more tanks kept clattering over the border, seemingly in an endless stream.

We front line defenders had no sleep for the first three days. No one even had time to think of food. Young recruits became "men" in a hurry and, without any advice from the officers, each man knew instantly what he had to do: kill or be killed and lose home and country! For the first time in our lives, most of us sensed our ultimate duty to Finland, realized our responsibility to those whom we loved at home. We felt an overwhelming desire to win, to live in peace, or die honorably fighting on the battlefield.

Then, after a night's rest, we continued once again the grim defensive fight as the enemy advanced with more tanks, weaponry, and an endless stream of soldiers. We just kept killing the driven horde as fast as we could fire. The insensate slaughter never ceased.

One day a member of my squad, a simple farmhand who had never been trained to fire a rifle, was guarding a lake shore entrance to a village. He and his partner had entered a dugout sauna to prevent the frigid wind from further biting their exposed faces. Just after that a Russian tank rolled to the entrance and killed their buddy left on guard. The farmhand became so enraged that he dashed out of the sauna, forgetting his rifle, and threw a lit kerosene lantern at the tank. To his amazement, the grease on the tank caught on fire and was destroyed. Realizing the effectiveness of his act, he ran to tell me about the happening. We quickly got busy filling bottles with gasoline or kerosene and used them as bombs to set fire to the Russian tanks and burn the men who were driving them. This incendiary antitank weapon became known as the Molotov Cocktail—named as an antidote to the Russian Foreign Minister whom we blamed for starting the war.

By the time I was wounded on February 14, 1940, our company had become decimated to a mere handful of men, with no reserves in sight. We had been expecting a withdrawal to the bunkers of the Mannerheim Line—widely acclaimed as a sort of reinforced Finnish "Maginot Line." To our dismay we learned there never was such a "Line." The men lined up fighting at the front actually was this so-called defensive barricade while the "Mannerheim Line" was an invention of the Russians as an alibi for their devastating losses of manpower.

As the war continued, the winter weather became more severe than it had ever been within recent memory, often 55° below zero! This was a foe both sides faced—the killer Frost. Even the hardy Finns, accustomed to this, endured frozen feet, cheeks, and fingers, while thousands upon thousands of Russians froze to death in the snow.

The Russians heavily reinforced their troops during the first part of February. They put their elite soldiers on skis and were now fighting under a new commander. Tremendous shelling went on for days, turning the no-man's land into a barrier of upturned black soil, tearing apart the tree obstructions, hoping to kill anyone found in that area.

Still too clearly and horribly I remember those days of slaughter and the deafening thunder of cannon. As an ordnance officer I distributed ammunition to my group with the added warning not to fire unless one could clearly see the whites of enemy eyes! We were dreadfully short of ammunition. To add to our frustration, replacements in manpower and vital supplies were tediously slow in arriving—if they came at all. I never saw a single foreign volunteer.

It was on that fateful 14th day that I had to leave my relatively secure storage post to go to the front with our last load of ammunition that I had saved for my company. The Russians were firing explosive bullets which scared the hell out of me when they crackled behind me. But when I became a target for one of the tanks and got hit, too, the war ended for me.

I found the hospitals crowded. Every school was a makeshift hospital. Coming from the thinned-out front lines, it seemed that there were more volunteers serving in the hospital than in the front lines. Unluckily, I was assigned to an inexperienced foreign doctor who, perhaps needlessly, placed my shattered right hand in a stretching device and had holes drilled through my fingernails to keep my hand upright with a weight pulling down from the elbow. Needless to say, my five weeks in that trap were the most excruciatingly painful days of my life when all my fingernails were slowly pulled out of the flesh.

March 13, 1940, was a stunningly clear day when an armistice was signed and the fighting ceased. For all Finns this was indeed a sad day as we thought we had lost the war on the negotiating table. However, as it turned out, this attainment of an armistice was the best thing our country could have done under the circumstances.

Had it been otherwise—by that I mean: had the Finnish Foreign Minister, Vaino Tanner, asked officially for Allied military help, rather than relied on volunteers, they, the France and England at that time would have had to declare war against Russia and then, in consequence, been forced to fight side by side with the Nazis. Would the United States then, too, been forced to fight with the Nazis, is the question I do not want to ponder here. But I presume that the entire history of the world would have changed; and who knows what the political situation would be today?

ADM. ROBERT H. WERTHEIM

● Mr. SCHMITT. Mr. President, it is a pleasure for me to bring to the attention of my colleagues an honor that was bestowed on Rear Adm. Robert H. Wertheim, U.S. Navy, for his dedicated service to our country.

Rear Adm. Robert Wertheim, U.S. Navy, a native of Carlsbad, N. Mex., was awarded the Distinguished Service Medal on October 22, 1979, for exceptionally meritorious service to the Government of the United States.

Admiral Wertheim was born in Carlsbad, New Mex., to Joseph (now deceased) and Emma Vorenberg Wertheim on November 9, 1922. He attended public schools in Carlsbad and New Mexico Military Institute at Roswell, N. Mex., prior to entering the U.S. Naval Academy at Annapolis, Md., in June 1942. He was graduated and commissioned an ensign in June 1945. Through subsequent advancements he attained the rank of rear admiral, to rank from November 1972.

Admiral Wertheim is married to the former Barbara Selig of Los Angeles, Calif., and has two sons, Joseph H. and David A. Admiral and Mrs. Wertheim currently reside in the Virginia suburbs of Washington, D.C., but maintain their official residence in Carlsbad, N. Mex.

The citation accompanying the Distinguished Service Medal reads as follows:

> The President of the United States takes pleasure in presenting the Distinguished Service Medal to Rear Admiral Robert H. Wertheim, United States Navy for service as set forth in the following
>
> Citation: For exceptionally meritorious service to the Government of the United States in duties of great responsibility as Technical Director and Director, Strategic Systems Projects under the Chief of Naval Material from September 1971 to October 1979.
>
> Rear Admiral Wertheim's superb managerial ability and professionalism were consistently demonstrated over a sustained period of nearly eight years during which he directed the Trident I C–4 Development Program. Under his decisive leadership, the TRIDENT I C–4 Weapon System evolved from a conceptual stage to a fully proven, operational, and deployed strategic force. Simultaneously, Rear Admiral Wertheim directed the technical and logistical support necessary to assure the continued dependability, survivability, and credibility of the operational Polaris and Poseidon Fleets, as well as the support of the British Naval Ballistic Missile Program.
>
> By his distinguished record of performance, dynamic leadership ability, and tenacious dedication to duty, Rear Admiral Wertheim reflected great credit upon himself and upheld the highest tradition of the United States Naval Service.
>
> For the President,
>
> JAMES WOOLSEY,
> *Secretary of the Navy, Acting.*●

U.S. AMBASSADOR KARL RANKIN BELIEVES NEGOTIATORS OF TAIWAN DEFENSE TREATY NEVER ANTICIPATED ITS TERMINATION BY THE PRESIDENT WITHOUT LEGISLATIVE APPROVAL

● Mr. GOLDWATER. Mr. President, an extremely important statement has been given to me by Ambassador Karl Lott Rankin, who was U.S. Ambassador to the Republic of China during the period of negotiating and concluding the Mutual Defense Treaty with that nation. Ambassador Rankin, who was in Taipei, Taiwan, at the time and was active in the negotiations, has informed my office in a personal conversation that it was never anticipated by the negotiators that any

President would attempt to unilaterally terminate the treaty.

Ambassador Rankin said:

> To the best of my knowledge, it never dawned on the negotiators that the treaty would be terminated by the President acting alone.

Ambassador Rankin's comment was made in further explanation of a letter which he sent to me on this subject. In view of the important bearing of Ambassador Rankin's views on the issue of whether unilateral abrogation of the treaty by President Carter is illegal, I ask that the complete text of his letter be printed in the RECORD.

The letter follows:

JUNE 12, 1979.

DEAR SENATOR GOLDWATER: I have your letter of May 21, 1979, asking for information which might be instructive and critical to the outcome of the suit filed in the Federal District Court of the District of Columbia asking that the President's decision to terminate the Mutual Defense Treaty with the Republic of China be submitted to the legislative branch as a joint decision.

As you know, the actual negotiations which led to the Treaty were conducted in Washington, between the Department of State and the Chinese Minister of Foreign Affairs, George K. C. Yeh. I was in Taipei at the time, and was active in following developments in Washington, as well as relaying information and explanations to President Chiang, Acting Foreign Minister Shen, and other Chinese officials. However, I recall nothing which would add substance to the already effective legal brief accompanying your letter to me.

Over and above purely legal consideration, I do not see how a mutual defense treaty can be logically or morally terminated other than by mutual agreement between the parties, or by unilateral action if one party openly determines that relations have become so unfriendly that the question of mutual defense is obsolete. Except in the latter case, the question whether a mutual defense treaty is still needed evidently should be subject to mutual agreement.

Sincerely,

KARL L. RANKIN.●

GETTING TO KNOW THE ECONOMIC ENEMY

● Mr. HUMPHREY. Mr. President, Prof. Stanley Rothman of Smith College states in "Capitalism: Sources of Hostility," a recently published collection of papers edited by Ernest van den Haag, that, with respect to demagogic attacks on the free enterprise system, "Our only hope would seem to lie in heightened rationality," that is, in a better popular understanding of the free market and its less-desirable alternatives.

Unfortunately, Mr. President, as Aram Bakshian, Jr., states in his review of the book in the Wall Street Journal, of November 1:

> Hysteria rather than reason seems to be on the increase in our crisis-oriented culture where truth, fad and folly are all forced down the public throat, half-digested, by one of the most remarkable captalist creations of them all—modern mass communications.

One organization seeking to inject reason and logic into the national discussion of our critical problems, Mr. President, is the Heritage Foundation, whose director is Edwin Feulner, and under whose auspices the aforementioned book, "Capitalism: Sources of Hostility," was published. I commend Mr. Feulner and the Heritage Foundation for offering our Nation an intellectual alternative to the hysteria and misinformation which too often pervades our news media and request that it be printed in the RECORD.

The article follows:

GETTING TO KNOW THE ECONOMIC ENEMY

(By Aram Bakshian, Jr.)

Great suffering symposia! Of all the spectacles modern American life affords, few are more touching or absurd than one that is re-enacted hundreds of times each year in corporate headquarters and subsidized think-tanks around the country. Here squirming, perspiring audiences of middle-aged executives gather to have their consciousness, consciences and corporate coffers delved into by rented members of the dread intelligentsia.

Like unhappy, overweight society matrons on the analyst's couch, these troubled captains and lieutenants of industry moan the inevitable question, "why doesn't anyone love us?" The scholars usually reply with a "let me count the ways" medley of capitalist sins and socialist misconceptions, do a little fanning of the corporate paranoia (which, like many cases of paranoia, has more than a little basis in fact), try to end on a moderately upbeat note, and then pocket the sort of fees which only large corporations—or unhappy, overweight society matrons—can afford to pay.

All of which helps explain why most of the scholars leave these sessions pleased while the executives often go away more puzzled and troubled than before, numbly clutching arcane reading lists that will further cloud functional minds better suited to action than introspection.

Fortunately, there are occasional exceptions to the dreary symposium rule, and the result of one of them is "Capitalism: Sources of Hostility," a thoughtful collection of papers examining the current social animosity to many aspects of the free market published under the auspices of the Washington-based Heritage Foundation. With its merciful brevity and minimum of academese jargon, this slender, thought-provoking volume deserves the attention of all those interested in preserving economic freedom, not because it is an avid *apologia* for the system, but because it offers solid thinking and informed speculation on the minds, motives and emotions of those who would destroy or cripple it.

Each of the seven contributors to "Capitalism: Sources of Hostility" is a man of stature in his field. Editor Ernest van den Haag is Adjunct Professor of Law at the New York Law School, a practicing psychoanalyst and a prolific writer on a wide range of social issues. Peter Bauer, who provides an insightful essay on causes for anti-capitalist feeling in the less developed nations, is a Cambridge Fellow and Professor at the London School of Economics. Lewis Feuer, Professor of Humanities at the University of Virginia, concentrates on the outbreak of Marxist-revolutionary fever on American campuses during the sixties (a bit Freudian at times, but more convincing than not in his attempt to link student rebellion against "society" with suppressed personal animosities toward parents and inherited class background).

Dale Vree, Executive Editor of the New Oxford Review and a former student Marxist himself, rejoins with a look at his own more cerebral motivations as a "puritanical" revolutionary appalled by the vulgarity and frivolity of the West, who eventually discovered the same crass materialism behind the Iron Curtain, compounded by lack of individual freedom. Harvard sociologist Nathan Glazer and New York Times editorial board member Roger Starr contribute worthwhile short papers and Professor Stanley Rothman of Smith College provides an excellent synthesis of the whole, reminding the reader of what a fragile, fledgling institution the "free market" society really is:

"Once we recognize that we are concerned with liberal capitalism, in other words, a social system based upon private property which relies heavily upon market mechanisms and is closely associated with representative democracy, we must become aware of how short a time, and over how limited a portion of the globe, this system has been dominant or even ascendant. For most of recorded history, most human beings have lived in social and political systems which, while they may have recognized certain rights in property and were willing to allow for some free play of economic forces, considered it entirely right and proper for the major forms of economic activity to be closely controlled by the state or other public agencies. . . ."

Professor Rothman is right as far as he goes, but he could just as easily have reminded us that for most of recorded history most human beings have led a marginally subsistence life, plagued by famine, disease, ignorance and tyranny. What makes capitalism important is not that it is some sort of pre-ordained natural order. Quite the opposite; capitalism linked with the so-called Calvinist work ethic and the evolution of western democratic values, is a delicate, man-made institution which has made it possible for its practitioners to escape from or mitigate the material ills faced by most of the human race most of the time. It has also allowed for a freer play of ideas and inventiveness than any other system, as Soviet physicist and human rights champion Andrei Sakharov, quoted by Professor Feuer, makes clear:

"It is no accident (Sakharov writes from Russia) that for many years, in our country, new and promising scientific trends in biology and cybernetics could not develop normally, while on the surface out-and-out demagogy, ignorance, and charlatanism bloomed like gorgeous flowers. It is no accident that all the great scientific and technological discoveries of recent times—quantum mechanics, new elementary particles, uranium fission, antibiotics, and most of the new, highly effective drugs, transistors, electronic computers, the discovery of other components of the 'Green Revolution,' and the creation of new technologies in agriculture, industry, and construction—all of them happened outside our country."

Yet, as editor van den Haag points out, in the very immensity of the west's material triumph may lie the seeds of its destruction. Primal drives which earlier generations had to direct against nature for survival—staying alive and free of hunger through grueling hard work—now turn inward on ourselves and our society. By constantly generating rising expectations, the free market may also be abetting its own crisis (and its own critics), especially at a time when the traditional props of church, family and local community are rapidly eroding.

"Given the unlikelihood of a revival of traditional western religious sensibilities," Professor Rothman concludes, "our only hope would seem to lie in heightened rationality," i.e., in a better popular understanding of the free market, its alternatives, and some of the irrational prejudices underlying hostility to capitalism. Unfortunately, hysteria rather than reason seems to be on the increase in our crisis-oriented culture where truth, fad and folly are all forced down the public throat, half-digested, by one of the most remarkable capitalist creations of them all—modern mass communications.●

MIDDLE EAST PEACE TALKS

● Mr. PACKWOOD. Mr. President, today I am submitting for the RECORD an article by the distinguished scholar, Irving Kristol. This article, which appeared recently in the Washington Post, offers a realistic appraisal of the obstacles that are facing the negotiators in the discussions on the future of the West Bank.

Mr. Kristol clears up the picture on some of the political questions that the participants in the Middle East negotiators must address. Moreover, this essay convincingly states the case in regard to the economic realities that exist on the West Bank. Prime Minister Begin and President Sadat know the economic situation and the impact that this situation has on the issue of the creation of a state on the West Bank. Progress has been slow, but that is because the participants are keenly aware of the depth of the problems.

As Mr. Kristol points out, it is absurd for the United States to view the participants in these talks as "unreasonable" and to view U.S. proposals for a comprehensive settlement as reasonable. It is presumptive and arrogant for the United States to say it knows what is best for Israel's security and what is the best way to deal with the Palestinian refugee question.

I ask that the article be printed in the RECORD.

The article follows:

WHAT A PALESTINE SOLUTION WON'T SOLVE

Public discussion of our Middle East policy is being increasingly bedeviled by two common fallacies. The first is that a solution to the Palestinian refugees problem, in the form of a Palestinian state on the West Bank, is a precondition for any overall Israeli-Arab settlement. The second is that the achievement of such a settlement will result in a significant improvement in the terms of trade between the United States and OPEC, thereby ameliorating our energy crisis.

The establishment of a Palestinian state on the West Bank will not—because it cannot—solve the refugee problem. This is quite evident to Anwar Sadat, to Menachem Begin and to Yasser Arafat, and explains much about their respective foreign policies. It seems less evident to our State Department or to John Connally.

The West Bank is a relatively arid territory one-fourth the size of Massachusetts, with some 700,000 inhabitants, a high birth rate and a limited economic potential. Even now, some 50,000 West Bank Arabs—approximately one-third of the labor force—commute daily to Israel for their jobs. How on earth is this territory going to absorb close to 1 million new immigrants—a figure that assumes that most of the Palestinians now living in Jordan will stay there?

Even with the most generous foreign aid, economic development of this territory will be slow and incremental. Its inadequate water supply by itself guarantees that. Indeed, there exists no plan of economic development that can get much ahead of the growth of the present population, to say nothing of hundreds of thousands of new immigrants—and to say nothing, either, of the natural increase in the refugee population, which also has a high birth rate, in the years ahead.

Is it any wonder that, in the period 1948–1967, when Jordan occupied the West Bank, the idea of this area representing a solution to the refugee problem seems not to have occurred to anyone?

A Palestinian state on the West Bank could not help being irredentist, seeing its future in the repossession of Israeli territory. This explains why Arafat will not recognize the territorial integrity of Israel, why Begin resists the idea of a Palestinian state and why Sadat is trying to finesse the whole issue by focusing on "autonomy" rather than sovereignty. These are all rational men who define their interests in terms of Middle Eastern realities. The notion that they are simply "unreasonable," while Americans are uniquely in a position to design a reasonable and comprehensive settlement, is absurd.

If the notion that the West Bank offers a solution to the Palestinian refugee problem is absurd, the idea that the high price of OPEC oil can be reduced by any alleviation of Arab-Israeli tensions is preposterous.

OPEC is primarily an economic organism. Many important members of OPEC—e.g., Nigeria and Indonesia—are neither Arab nor Middle Eastern. And all members of OPEC have a much keener interest in higher oil prices than in the Israeli-Arab quarrel. How quickly we seem to have forgotten that one of the architects of OPEC was none other than the shah of Iran, who was no political enemy of either Israel or the United States.

Moreover, to the degree that politics does enter the picture, many of the key Arab and Islamic members of OPEC are at least as much anti-America and anti-West as they are anti-Israel. These include Libya, Algeria, Iraq and—today—Iran. Even Saudi Arabia was duly represented at the recent "Third World conference in Havana—a conference that paid relatively little attention to Israel and directed its hostility mainly toward the United States. When and if these nations are inclined to use their oil as an instrument of foreign policy, they will do so, Israel or no Israel.

The problems posed for American foreign policy by the Arab-Israeli conflict and the existence of OPEC are as complex as they are critical. This would hardly seem to be the moment to take flight from these problems by embracing "solutions" so illusory as to be more accurately labeled "panaceas."●

ONE HUNDRED AND FORTIETH ANNIVERSARY OF CENTRAL SYNAGOGUE OF NEW YORK

● Mr. JAVITS. Mr. President, I rise in celebration of the 140th anniversary of the Central Synagogue, the oldest Jewish Reform Congregation in the State of New York. The contributions of its dedicated membership throughout the years to the Nation's pursuit of peace and brotherhood stand as eloquent testimony of the faith and purpose of its founders.

Through its services, classes, schools, and its "Message of Israel" broadcast service, the synagogue has conveyed the reverence and heritage of Judaism not only to the New York community but to the reaches of the continent and beyond.

Its beginnings can be traced to the chartering of the Congregation Shaar Hashomayim in 1839, later to be incorporated into the Central Synagogue, founded in 1846. From their first meetings on Ludlow Street, in the Lower East Side of New York City, 18 men who had recently fled the ghettos of the Old World forged a new community dedicated to the nobility of their faith and to the love of charity and mercy.

In 1870, work began on the building that was later to be distinguished as a landmark of New York City. The cornerstone of the present Sanctuary of Central Synagogue was laid in 1870 by Dr. Isaac Wise, organizer of the Union of American Hebrew Congregations. The oldest synagogue building in continuous use in the city, this twin-spired structure has provided shelter and inspiration to the congregation in its pursuit of the welfare of the community.

Mr. President, the work of the synagogue's leaders exemplifies the kind of dedication and concern that is the hallmark of this institution. Dr. Adolph Huebsch, rabbi from 1865 to 1885, led his congregation in consecrating Judaism to the American scene. Rabbi Alexander Kohut carried on the ideals maintained by Rabbi Huebsch, and his monumental work, the Concordance, established his leadership in Judaic scholarship and devotion.

Rabbi David Davidson expanded the liturgy of the congregation and his prayer and hymn book became known throughout America's Jewish communities. Rabbi Jonah B. Wise, who exercised valuable influence over the overseas relief program of the Joint Distribution Committee in the 1930's, was national chairman of the United Jewish Appeal and founded the United Jewish Laymen's Committee which helped sponsor the "Message of Israel" radio programs. Rabbi David Seligson distinguished the synagogue by scholarship and many contributions to the Jewish community.

The work of the synagogue continues through its services, fine schools, and unfailing leadership. Blessed with rabbis of distinction and congregations of courage and compassion, the synagogue has touched the city and its Nation with the spirit of peace, charity, and love. All New Yorkers, all Americans, owe the Central Synagogue a profound debt of gratitude for its many accomplishments and for the community of brotherhood it has fostered in New York City.●

JUDGE JUAN BURCIAGA

● Mr. SCHMITT. Mr. President, it gives me great pleasure to announce that Juan Burciaga was confirmed on October 31, 1979 by the U.S. Senate for the position of U.S. District Judge for the State of New York.

There are two reasons why I am particularly delighted with this nomination.

First, Mr. Burciaga was recommended to Senator DOMENICI and myself by the New Mexico Federal Judicial Selection Commission. Established in September of 1977, this nine-member bipartisan commission advises us on qualified nominees to fill vacancies for the U.S. District Court, U.S. Attorney, and U.S. Marshal positions in our State. This selection process is designed both to create a merit system for these critical judicial and law-enforcement posts and allow continuation of the prerogative of such selection by the President. Twice, since 1977, this process has resulted in excellent appointments in my home State of New Mexico and the nomination of Juan Burciaga to the position of U.S. District Judge for the District of New Mexico continues this tradition.

Second, Juan's background and personal data are very impressive. I applaud the wisdom of our Selection Commission's recommendation, the President's acceptance of this recommendation, and the Senate confirmation on Wednesday.

Juan's education—University of Colorado, West Point graduate, University of New Mexico law graduate—and 16 years legal practice with its emphasis on general civil law and trial litigation qualifies him for this important position. To this post, he will also bring a history of personal involvement in his community and Bar Association activities. It is particularly noteworthy, given New Mexico's historic ties to the people of Mexico, that Juan has also given a good deal of his free time to the problems of legal representation for Mexican nationals present in our country without the necessary legal documents to live or work here.

Mr. President, Juan is a loving father of five, a fine attorney, an active participant in his community and professional affairs, and a compassionate human being. I am confident that he will reflect great credit upon our judicial branch of the Federal Government and the people of New Mexico.●

FULBRIGHT PROFESSOR OF LAW ARGUES PRESIDENT CARTER VIOLATED HUMAN RIGHTS AND SELF-DETERMINATION OF THE PEOPLE OF TAIWAN

● Mr. GOLDWATER. Mr. President, in their desperate attempt to find some justification for President Carter's attempted unilateral repeal of the Mutual Defense Treaty with Taiwan, the President's lawyers have claimed that he can do anything at all if it is connected with his act of recognizing another government. First and foremost, this claim has absolutely no relevance to the Taiwan treaty because Congress on the face of a public statute has specifically preserved the life of the defense treaty. In the Taiwan Relations Act, signed into law by President Carter on April 10 of this year, Congress not only continues the existence of the defense treaty and all other treaties with Taiwan, but provides that, for all purposes of the laws of the United States, Taiwan shall be considered to be an independent, sovereign nation.

Whatever merit the recognition argument might have under other circumstances, it is shot down by the impressive line of reasoning developed by Jordan J. Paust, Fulbright Professor of Law at the Institute for Human Rights and International Public Law of the University of Salzburg, Austria. Professor Paust has presented me with arguments, which under international law, prove convincingly that President Carter is in violation of the human rights and self-determination of the people of Taiwan by agreeing with the Peoples Republic of China that Taiwan belongs to China.

Professor Paust believes it can be argued not only that President Carter is in violation of international law, but also that the President has violated the U.S. Constitution by acting contrary to the obligations imposed on the United States under the U.N. Charter, which is itself part of the supreme law of the land.

Mr. President, Professor Paust's letter to me on the subject is self-explanatory and I ask that it be printed in the RECORD.

The letter follows:

MARCH 7, 1979.

DEAR SENATOR GOLDWATER: Thank you for your letter of February 26th. I am still waiting for a copy of your arguments concerning the powers of the President "to unilaterally deem the people of Taiwan . . . suddenly under the . . . sovereignty of the communist regime." However, I have thought of an additional line of argument that incorporates both the international law of self-determination argument and the constitutional restraints on Presidential power in the area of foreign affairs argument mentioned earlier in my letter of Dec. 26th.

It could be argued that under the United States Constitution the President of the United States is bound by international law (see my letter of Dec. 26th, annex, first part, quoting 18 Harv. I.L.J. 19, at 42–44 (1977)), citing cases). There should be no question about the propriety of this first point. Second, one can argue that the most significant indicia of relevant international law in this circumstance is the United Nations Charter (for some evidence of this point, see U.N. Charter, art 103 and the next point). The idea behind Article 103 is that the U.N. Charter is an unusual type of treaty—no ordinary treaty—and a primary, continuing sort of treaty. Third, no other international agreement, treaty or otherwise, that the President may enter into can be valid to the extent that it is inconsistent with the major purposes of the United Nations Charter (see U.N. Charter, art. 103—directly on point). Fourth, the U.N. Charter recognizes the right of peoples to self-determination (see U.N. Charter, art. 1, part 2, as supplemented by the unanimous U.N. Declaration on Principles of International Law Concerning Friendly Relations and Co-Operation adopted in 1970 (references to these will be in Chen, Suzuki, etc. as cited in my first letter); and the U.N. Charter recognizes the right of all persons to human rights (see U.N. Charter, arts. 1, para. 3, and 55, para. c, and 56; as supplemented by the above 1970 Declaration on Principles of International Law, i.e., state "duty"). These are also major purposes of the U.N. Charter (see id., art. 1). At this point, one can argue that the agreement with the P.R.C. is inconsistent with the major purposes of the Charter and is thus void to that extent. Further, the President has no power to enter into such an agreement under U.S. Constitutional law, since the U.N. Charter is itself part of the Supreme Law of the Land under the U.S. Constitution and Article 103 of the Charter, as argued above, forbids the type of agreement that the President has entered into at least to the extent that the agreement is inconsistent with the right of peoples to self-determination and or persons to fundamental human rights.

An additional aspect of the above argument might proceed thusly. Fifth, the U.N. Charter contains an obligation of the United States under Articles 55(c) and 56 to take joint and separate action toward the implementation of a universal respect for and observance of human rights and fundamental freedoms for all persons. Thus, such an obligation is binding on the President of the United States (because of points one and two above). For this reason, the President must take no action that would thwart the United States obligation to take joint and seprate action toward implementation of human rights and fundamental freedoms even though it is recognized that the President has discretion in choosing from among different approaches toward implementation of those rights. The President has discretion to take different measures of affirmative action, but the President cannot take any action that would thwart Articles 1, 55(c) and 56 of the U.N. Charter in such a way as to violate U.S. obligations under the Charter and thus international law and the Supreme Law of the Land.

Nothing in U.S. case law would seem to prevent U.S. courts from stopping the President from violating basic treaty obligations (see Paust, 18 Harv. I.L.J., supra, and 60 Cornell L. Rev. at 235–237; see also 53 Indiana L.J. at 668–670). There is a difference between prohibiting a violation of law by the Executive and dictating to the Executive which sort of affirmative, lawful and law-serving approach to foreign policy the Executive should follow. Even the most far-reaching language of the Curtiss-Wright Export case was conditioned by the Court's recognition that the President is bound by the U.S. Constitution—further, that case involved a factual circumstance of joint Congressional involvement).

For these reasons, it can be argued, the President of the United States cannot destroy the right of the people of Taiwan to self-determination (here I assume, from Chen, Suzuki, et al that such a people has such a right). Indeed, to be consistent with the U.S. foreign policy and interests in long-term developments, the President should affirmatively act in order to implement more fully a right of the people of Taiwan. Our country should stand, if for anything, for democratic principles that are mirrored in the U.N. Charter recognitions of self-determination, freely determined, for all peoples. In fact, Congressional legislation already points toward such an affirmative stance—see, e.g., 22 U.S.C. 2304.

JORDAN J. PAUST,
Fulbright Professor of Law.●

AUTHORITY TO RECEIVE MESSAGES DURING THE RECESS OF THE SENATE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to receive all messages, and that they may be appropriately referred, between the recess of the Senate today and the hour of convening of the Senate on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY TO SIGN DULY ENROLLED BILLS AND JOINT RESOLUTIONS DURING THE RECESS OF THE SENATE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Vice President of the United States, the President pro tempore of the Senate, or the Acting President pro tempore of the Senate be authorized to sign all duly enrolled bills and joint resolutions between the time of the recess of the Senate today and the convening hour on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, should the Vice President of the United States, the President pro tempore, or the Acting President, pro tempore not be available to sign duly enrolled bills and joint resolutions on tomorrow, I ask unanimous consent that I may be authorized to do that.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Louisiana.

Mr. STEVENS. Will the Senator yield for one moment?

Mr. LONG. I yield.

THANKSGIVING RECESS

Mr. STEVENS. Mr. President, would the Senator from West Virginia think about exploring a means by which we could make some plans for Thanksgiving? I have just been informed about the sizable number of planes which have been canceled for those of us who must travel long distances to the West. It appears to me that it is going to be most difficult for some of us to be able to get to where we want to spend Thanksgiving if we cannot contemplate leaving on Wednesday.

I wonder if the Senator might consider, and I am not asking for any commitment now, that we might have a Saturday session on the 17th and a commitment to really get our work done as efficiently as possible, with the possibility expressed that if we can do that we could terminate our business on Tuesday evening and leave to go home for Thanksgiving on Wednesday morning.

Mr. ROBERT C. BYRD. Yes; by having a Saturday session on the 17th, which we will probably have to have in any event, and if we can work toward agreements that will assure action on Saturday, so that the workday will be beneficial, and if we can assure progress on Monday and Tuesday, the 19th and 20th, I would be very agreeable to have the Thankgiving holiday begin at the close of business on Tuesday. But I want to be sure we can get some kind of agreement. Otherwise, if some Senators feel we are not going to be in on Wednesday, Thursday, and Friday of that week, we will not get anything done on Monday and Tuesday so they might take those days off, too. So if we can get agreements to be sure that we will be making progress, I will be happy to do that.

I believe the Senator is raising an important point and one that should be considered. I will be glad to try to work that out.

Mr. STEVENS. We will be very happy to work with the majority leader to achieve that. I think the decreasing availability for aircraft for us as we leave here has to be taken into consideration, and I believe Members on both sides will cooperate with the majority leader to bring about a very meaningful Saturday session, if we are sure we can leave on Tuesday evening.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. STEVENS. I thank the majority leader.

The PRESIDING OFFICER. The Senator from Louisiana.

WINDFALL PROFITS TAX

Mr. LONG. Mr. President, as the distinguished majority leader knows, I had indicated to him that I had hoped that we would have passed the so-called windfall profits tax already. That bill entails a great deal more than the House of Representatives sent us. It was the view of the Finance Committee that we should consider not only the tax, as the House considered the tax, but we should also consider the various credits to try to bring on additional conservation and alternative uses of energy, and, in addition to that, we ought to try to consider measures to help the low-income and middle-income people with the high energy bills they would have as a result of the rising cost of energy throughout the world.

We have finished our work. The staff work has been done. As of 1:02 p.m., 2 minutes after 1, today the committee report was available to all Members of the Senate. It is my understanding that the bill and the report are now available. If the leader wants to call up that bill as early as Wednesday afternoon, provided it does not interfere with other plans and other commitments which have been made, that bill could be laid before the Senate. As chairman of the Committee on Finance, I would be pleased to start discussing and explaining that bill and making our plans, if the majority leader wants to bring the bill up that soon.

I know he has been anxious to have this bill before us. He has discussed it with me several times. I just want to say to him here on the floor and for the RECORD that the bill is here and it is available. As far as the Senator from Louisiana is concerned I share the view of the Senator from West Virginia that we should act upon it as early as we can. I hope he will make his plans to schedule it just as soon as that can be done.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Louisiana. I will be happy to discuss this matter with him and with other Senators. There is presently scheduled for Monday the legislation that came out of the Energy Committee, the omnibus energy bill. Of course, along with that bill we will also be discussing the bill that came out of the Banking Committee. I assure the distinguished chairman of the Finance Committee that I have his suggestion in mind and I will be discussing it with him next week.

Mr. LONG. I thank the distinguished majority leader. I intend to cooperate with him to see that this bill is enacted just as soon as the Senate can give it the consideration to which it is entitled. Of course, I know we are not going to vote it through the first day we call it up. I know it will require a considerable amount of debate and a lot of votes. But I am pleased to report to the Senator that at least we are ready to go ahead with the bill. I wish it could have been here sooner but at least it is here now.

Mr. ROBERT C. BYRD. I thank the chairman and I thank him for the time and effort he has put into the hearings and to the markup of the bill, and reporting it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

CAMPECHE OIL SPILL

Mr. WEICKER. Mr. President, I would like to bring to the attention of my colleagues again today a matter which I raised yesterday afternoon and also describe some difficulty I am having in resolving what I think is a rather major problem both to this Nation and to the world as a whole in the sense of the oil spill in the Gulf of Mexico at the Bay of Campeche.

I have been trying to get a sense of the Senate resolution on this floor to be acted upon by the U.S. Senate prior to the leasing of 128 tracts in the Georges Bank area, which is to take place next Tuesday.

The reason that I felt that the sense of the Senate resolution was necessary was that with that resolution in hand the lease sale might at least be postponed until we have an evaluation of what damage has been done in the Gulf of Mexico by that oil spill.

I have to repeat again here today that regardless of the assurances of the Mexican Government, and the silence of our own Government, I can give firsthand knowledge to my colleagues, and that accumulated by a member of my staff who flew over the site last Thursday, that that spill continues, and that the oil is still flowing into the Gulf of Mexico.

I realize that we are all hungry for energy, and I do not want to offend anybody's feelings. I might add that I speak as one who has advocated drilling off the northeast coast. But we are moving into the richest fishing grounds possessed by this Nation. I think we at least ought to know what it is that has happened in the Gulf of Mexico before we subject our own fishing grounds directly to the type of threat posed by the Campeche oil spill.

Mr. President, on Tuesday, the Department of the Interior is scheduled to lease 128 tracts, comprising 728,728 acres of the prime fishing ground on Georges Bank. Here we have one of the greatest of all manmade disasters still continuing, with absolutely no concept as to what the consequences are. The way the law is written, we are supposed to have a national response team give us an evaluation but, the way the law is written, the national response team does not come into being or commence its report until the oil spill is over. This oil spill could go on for another 2 years and we neither have the information as to exactly what has happened in the sense of ecological and environmental damage, nor do we have an answer as to how spills can be prevented in the future.

I suggest that, for the leasing of these lands to go forth—and I have been an advocate of their leasing in the past—for that to go forward in the light of what is going on in the Gulf of Mexico makes absolutely no sense. It is the reason I requested that a sense of the Senate resolution be brought before this body in order to assist in blocking Tuesday's activities.

I am not an environmental nut. I repeat, I have advocated offshore drilling and off the northeastern part of the United States. We need that kind of energy. But I cannot tell, and I think my staff and I have specialized in this area—I cannot in any way explain to the distinguished Senator from Louisiana, who is on the floor, what it is or what has been affected in the sense of the fishing grounds of the southwestern or southern coast of the United States due to the spill. I do not care about the beaches in Texas. That does not bother me at all. That is a pain in the backside and we shall all live with it one way or another. What bothers me and what I think bothers the scientists in that area and the NOAA people in that area is what is going to happen to shrimp beds. That, they have no answer to.

What has happened as far as the food chain is concerned in that area of the ocean is, I repeat, what has not been written about: The oil spill continues. We are now talking about hundreds of miles of ocean—I cannot say laid waste, because I do not know and my Government does not know. But we are going to go pellmell into the leasing and drilling of our richest fishing grounds without getting the answer.

The sense of the Senate resolution which I drafted merely asked that we get an explanation of Campeche, its consequences, before the sale continues. It does not bear on the sale. I have not made it a broad resolution saying to find out what the general result of oil spills is, et cetera, et cetera. It is a very specific, narrow sense of the Senate resolution. It deserves to be passed. The sale deserves to be postponed or, indeed, now, are we so hungry for energy that we are willing to give up one of our prime sources of food?

Once destroyed, the delicate balance that exists in the oceans and especially on those fishing grounds, and it is the reason why they are the richest in the world—once destroyed, it will never come back in our lifetime.

Mr. LONG. Will the Senator yield?

Mr. WEICKER. I yield to the distinguished Senator from Louisiana.

Mr. LONG. Mr. President, I appreciate the Senator's concern, but let me say to the Senator that we in Louisiana have some of the richest marine breeding grounds in the world.

Mr. WEICKER. Absolutely.

Mr. LONG. I would not be surprised if most of the shrimp that are harvested in the Gulf of Mexico or even out in the Atlantic are bred in Louisiana or spawned there.

Mr. WEICKER. I agree.

Mr. LONG. I know I have been just out fishing from time to time and gone past school of shrimp larvae moving out to sea, and I have no doubt that there are enough larvae in those schools that if all of them grew to maturity, there would be enough shrimp so that we could almost walk across from Key West to Cuba on all the shrimp that would be there. Of course, that is thinned out by nature. The bonito and others gorge on all those larvae and fish a great deal larger than that consume those shrimp larvae by the tens of millions. Therefore, there are not nearly as many shrimp left for human consumption.

We also produce a great many oysters. Now, we have had the problem of oil spills in Louisiana in the very areas where the marine life is being spawned, both in the marshlands and also in areas like Barataria Bay, Atchafalaya Bay, you name it—the whole area.

Our experience is that, although we have some temporary damage when we suffer a spill, it has not caused us to have lasting damage. I think the same thing will be true with regard to the Mexican spill. It is a big bother in the short run but, in the long run, I gain the impression that that oil, over a period of time, breaks down in the general chemical composition of the ocean and, over a period of time, the marine life and all the rest are just as good as ever.

For example, in the Louisiana area, we have seen ads on television, and I think they are correct, that fishing is great. We still produce a tremendous amount of oysters and other marine life. As a matter of fact, I was dismayed to find the other day, when I tried to buy some very good crab meat that someone brought up from south Louisiana, that it seems I cannot buy it out of Louisiana because we have a contract to deliver all that up to Maryland, and they call it Maryland crab meat when they sell it in the expensive restaurants up here. Even though it is harvested and picked from the shell right there in Louisiana, it is hauled up to our friends in Maryland, and they advertise it as Maryland crab meat.

So much as I know the Senator is concerned about the matter and I can fully appreciate the feeling when you see that black oil oozing out on that beautiful blue water, over a period of time, it corrects itself.

Mr. WEICKER. Mr. President, the only way of responding is as follows: First, I think the general impression, in this country and throughout the world, is that the Mexicans capped that spill. That was the last word. That is the first point I am making. It is not capped. It is not capped.

Second, Mr. Robert Wicklund of my staff, who, I think, is generally highly respected in the area of ocean science, was the staff member that I sent down there. As he said, he ate some of the Senator's shrimp, or some of the shrimp from that area. This was off the Texas coast. And everybody agreed it tasted like diesel fuel. That is what the shrimp tasted like.

I am not going to stand here and say that the shrimp beds off of the Senator's State are permanently destroyed. I am not in a position to say that. But I do know this: new research indicates that oil, after a time, breaks down into some of the most poisonous toxins known to man. If that gets into the food chain, it eventually is going to end up as a matter for human consumption.

Again, I have to repeat my position in this matter. I have advocated offshore drilling. I understand our energy needs. It is also true that, for the past several years, I have tried to acquire some kind of expertise insofar as the oceans are concerned. I cannot give an answer as to what the results are going to be on what is happening out there.

But I know we have never had anything like it in the history of man, nothing like it in our lifetime.

Before we go pell mell into the other area, I will concede the great, rich fishing grounds off the Senator's State. I do not mean to take away from that. They are all that.

But now, they are going into the other area, the Georges Banks area. The actual figure is that the Georges Banks supplies 17 percent of the seafood to this country, without even ascertaining or evaluating what it is out in any other place.

Now we will go into the Georges Banks area. I think we are playing with fire on this.

Unfortunately, damage done is damage we are not going to be able to retrieve in our lifetimes, and, indeed, much of the results, I suppose, will not show up within our lifetimes.

Would I object if our country admitted it was not capped, had our scientists down there, had onsite investigations?

Mexico will not allow us to do that. And when the President of Mexico comes here, we are afraid to ask for reparations to clean up his mess. That is how sensitive it is. I think it has gone too far the other way.

I do not think anybody can accuse me of being overly concerned in an environmental sense when we have absolutely no impact statement whatsoever, but we will do the whole thing over again in this area of the Georges Banks.

The Senator and I will not argue. He has been out in front on the issue of energy. He is for decontrol, deregulation. We both are. We know we have to look offshore. We have to go deeper. There is no argument on those points.

But I think we should not say that we are just going to accept what is happening, without its evaluation.

I could be as confident as the Senator is that everything will get back to normal. I am not that confident. I think, along with the Senator, I share some knowledge of the oceans, and neither I nor the most brilliant scientific minds in the area can guarantee we have not possibly destroyed, even now, a large part of the fishing grounds in the Gulf of Mexico. I do not want to see the same thing happen off the New England coast.

Mr. LONG. I am sure the Senator knows the reason the ocean is saline is that there have been chlorines and hydrocarbons finding their way into that ocean for eons of time.

For example, it is theorized by some people who have been trying to find oil and gas out in the Atlantic that one reason they have had so little fortune in trying to find something out there is that perhaps over the millions of years in the history of this Earth that the petrochemicals that were formed beneath the Atlantic Ocean, because of cracks and faults in the Earth, might have worked their way out into the ocean over the millions of years of this Earth's history.

The chemical composition of the ocean itself contains just a huge amount of oil that has found its way, not by manmade activity, but just by nature, just cracks in the Earth's surface, into the surface, and some of it in the ocean and some on the land, which has found its way down to the ocean by means of being washed in.

So that as bad as the oil spill is, and it is the worst in the history of the world, I agree with the Senator, it is a matter of real concern, at the same time, I believe the overwhelming view of people who study these matters is that the ocean will absorb it, just as it has the other chemicals that have found their way into it.

Mr. WEICKER. Let me just give two examples. Even though I am not a scientist, this man at my right taught me a lot, having spent his life in the oceans. He is a great expert.

We have seen what happens to wild fowl when oil gets over it. It dies.

The ocean down there is no different from that up here, that something special will not happen there.

Let me give an example to prove my point. Because of the popularity of the Caribbean and the islands down there, we have Americans trooping down there, building houses on all these various islands. Many of these islands have coral reefs around them. Those reefs are dead today, within a matter of a few years. The reason why they are dead is that as the houses are built on these islands, the trees and the grass is removed and we get a silting action of just dirt—just dirt—washing into the sea.

That dirt washes in, covers over the coral, suffocates it, and it is gone. It is dead in a matter of years.

I think I am correct, roughly, in layman's terms, in what I have described here. It dies. It is gone. And that is the same as the ocean. That is exactly the same to the ocean as a forest fire is to land. We eliminate the habitat for the wildlife.

I cannot believe, when we take the amount of oil that is spilling in the Gulf of Mexico today, it is not suffocating everything that lives below it.

It is one thing to go ahead and contain it in a matter of days or weeks to a narrow area, but this has now spread hundreds and hundreds of miles and continues to do so.

If we do not do anything else, I think, at least, let me have the Government admit it is not capped, let me have the Government of Mexico admit it is not capped, and then proceed from there.

Mr. LONG. Will the Senator yield for a question at that point?

Mr. WEICKER. Yes.

Mr. LONG. All I know about this is what I read in the newspapers. But I believe I read that those who are trying to bring this thing under control have managed to put something over it, I think they call it a bonnet, or something.

Mr. WEICKER. A sombrero.

Mr. LONG. I guess that is what I had in mind.

What it amounts to is something like a very large funnel, so that the oil coming up from the bottom would find itself at a central point where, hopefully, it could be gathered.

Mr. WEICKER. Right.

Mr. LONG. I believe they stated that perhaps 90 percent, or something, approximately that amount, was being captured now and being saved from spilling in the ocean.

Does the Senator have some late information on that?

Mr. WEICKER. The answer is that the sombrero is in place. But it might be assumed they would then be able to pump it from the funnel into tankers.

That is not taking place. It is still going over the surface, and they estimate they are capturing 60 percent off the surface. But it is still there.

As I say, I would assume, when I first heard about this arrangement, that they would be able to take the funnel and start pumping it up. That is not the case. By their own admission, it is 60 percent, and none of the American team down there, the Coast Guard, knows or believes that is the case. But 60 percent of what is gushing out is still an enormous spill.

Mr. LONG. A huge amount, of course.

Mr. WEICKER. A last point, which my aide raises, the natural occurrences which I think the Senator quite correctly alluded to that took place in the Atlantic Ocean, took place over such a long period of time that nature can correct itself.

But what is being man-made here, just comes barreling in on the ecosystems. That is why the ocean cannot clean itself as it did over thousands and millions of years. That is the problem.

Believe me, I know that the Senator's concerns are the same as mine. Next to oil, I am sure fishing is one of the great industries of his State—I know it is.

What I hope to gain here on the floor today—and I will try to introduce my resolution on Monday—is to at least let us have the facts known and not have my Government bury them in the sense of offending a neighbor to the south.

The Mexicans kicked everybody out of there. We have no observers there. They said, "It's capped; everybody out."

I am sorry, I do not believe it. I do not believe them.

The overflight that took place last Thursday by Bob Wilken was at 1,000 feet. Gas is burning off and the oil is gushing out. I do not think that is a satisfactory situation, and certainly it is not a satisfactory prelude to barreling into Georges Bank to do the same thing.

I yield the floor.

Mr. LONG. Mr. President, if the Senator will yield for a moment, my impression is that those are American contractors down there trying to drill these offset wells, to try to bring this well under control. I believe that Red Adair, from Houston, Tex., who is famous for fighting these blowout wells, is the principal contractor. If that is the case, I should think that this Government should be able to get very good information about the matter, simply by asking the American contractors who are drilling those offset wells in an effort to relieve the pressure and to bring this well under control.

Mr. WEICKER. It is my understanding that one relief well definitely has been abandoned and that the other relief well is thought also to be abandoned; that the equipment was leased to the Mexicans, and it is under their operation, not under ours.

The Senator from Louisiana and I are operating from the information we were given a couple of weeks ago. That apparently, however, is not what is occurring on the site at this time.

Mr. LONG. I hope this Government will view the matter with the same gravity as the Senator from Connecticut does, because it is a matter of serious concern.

We do not want to offend the pride of other people, but the fact is that the Americans are far more knowledgeable when it comes to drilling in the ocean than are the Mexicans. The Americans have had a great deal more experience.

One good sign is that when this thing was out of control, the Mexicans did turn to the American experts, who happened to be the best in the world at trying to bring a blown-out well under control. I would be surprised if it were not the case that the experts who brings such a thing under control are on the scene now. Unfortunately, the way that disaster occurred down there was under circumstances that make it one of the most difficult to try to bring under control. I am sure the Senator has discussed with his advisers, and I believe he is familiar with some of the technical aspects of it.

With such a well blowout, after the casing has been set, to try to bring it under control, when you try to plug it up from the bottom, you have to get down to about 10,000 feet under the surface. It means it is like drilling a hole 2 miles deep, to try to intersect something beneath the sea at that distance. It is not easy.

I would think this Nation would use its best efforts to see that everything that could be done would be done to control that spill, because it is a matter of very serious environmental concern, as the Senator has indicated.

Mr. WEICKER. It is not going to do us much good to heat our homes and drive our automobiles if everybody is going to be starving to death. This is the tradeoff which is now taking place. There may be tradeoffs, but I do not think this is a tradeoff we should be making.

I hope my comments today will have some impact. If not, I will be back at the same old stand next week.

It is my understanding that lawsuits are proceeding on behalf of several New England States, to try to block those leases. I wish them all the success in the world. In any event, I hope my words will reach the ears of the judge and that he might investigate for himself.

(Mr. LONG assumed the chair.)

ORDER FOR RECESS TODAY UNTIL 10 A.M. MONDAY, NOVEMBER 5, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in recess until the hour of 10 o'clock on Monday morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, immediately after the two leaders have been recognized under the standing order on Monday, there be a period for the transaction of routine morning business not to exceed 15 minutes and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY LEGISLATION MONDAY

Mr. ROBERT C. BYRD. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROBERT C. BYRD. Has it not already been ordered that on Monday, following morning business, the Senate will proceed to the consideration of energy legislation?

The PRESIDING OFFICER. The Senator is correct.

COMMITTEE MEETING DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, November 6, beginning at 2 p.m., to hold a markup session on the SALT II treaty.

Mr. WEICKER. I respectfully object.

The PRESIDING OFFICER. The objection is heard.

Mr. ROBERT C. BYRD. I thank the Senator for yielding.

Mr. WEICKER. I thank the distinguished majority leader.

RECESS UNTIL 10 A.M., MONDAY, NOVEMBER 5, 1979

Mr. LEVIN Mr. President, I move, in accordance with the previous order, that the Senate stand in recess until 10 a.m. on Monday next.

The motion was agreed to; and at 3:55 p.m. the Senate recessed until Monday, November 5, 1979, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate November 2, 1979:

DEPARTMENT OF STATE

Angier Biddle Duke, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Morocco.

COUNCIL ON ENVIRONMENTAL QUALITY

Robert H. Harris, of Maryland, to be a member of the Council on Environmental Quality, vice Charles Hugh Warren, resigned.

HOUSE OF REPRESENTATIVES—*Friday, November 2, 1979*

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. BRADEMAS).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

NOVEMBER 1, 1979.

I hereby designate the Honorable JOHN BRADEMAS to act as Speaker pro tempore on Friday, November 2, 1979.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious Lord, giver of Your eternal word, speak to us in Your still, small voice that we may hear the words of life and redemption. May we be open to Your truth and power and not so involved in necessary activity that we do not hear the beauty of Your promises. Enable us to grow in faith and in trust one with another as we listen to the words of hope that You have given. May this moment of prayer be for us an opportunity to reflect on Your goodness to us and an occasion to give thanks for this new day in which we live and serve. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. SENSENBRENNER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 269, nays 10, answered "present" 3, not voting 151, as follows:

[Roll No. 627]

YEAS—269

Abdnor
Akaka
Albosta
Anderson, Calif.
Annunzio
Anthony
Archer
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Boland
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Clay
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
Deckard
Derrick
Devine
Donnelly
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Ind.
Fary
Fazio
Fenwick
Findley
Fish
Fithian
Flippo
Florio
Foley
Ford, Mich.
Frenzel
Frost
Fuqua
Gaydos
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Hawkins
Heckler
Hefner
Hightower
Hinson
Hollenbeck
Holt
Holtzman
Hopkins
Howard
Hubbard
Hughes
Hutto
Hyde
Ireland
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kindness
Kogovsek
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Levitas
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McCloskey
McCormack
McHugh
McKay
Maguire
Marks
Marlenee
Martin
Matsui
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Paul
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pursell
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Ritter
Roberts
Robinson
Rose
Rostenkowski
Roth
Royer
Rudd
Sabo
Satterfield
Sawyer
Scheuer
Schulze
Sebelius
Sensenbrenner
Sharp
Shuster
Simon
Skelton
Slack
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
Stangeland
Stanton
Stenholm
Stewart
Stockman
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Udall
Vento
Volkmer
Walgren
Watkins
Weaver
Weiss
White
Whitehurst
Whittaker
Whitten
Williams, Mont.
Wolpe
Wyatt
Wydler
Wylie
Yates
Young, Fla.
Zeferetti

NAYS—10

Coughlin
Derwinski
Dickinson
Goodling
Harkin
Hillis
Lloyd
Schroeder
Walker
Wilson, Bob

ANSWERED "PRESENT"—3

Forsythe
Miller, Calif.
Neal

NOT VOTING—151

Addabbo
Alexander
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Applegate
Ashbrook
Badham
Beard, Tenn.
Bedell
Biaggi
Bingham
Blanchard
Boggs
Bolling
Boner
Broomfield
Brown, Calif.
Burton, John
Carr
Cheney
Chisholm
Clausen
Cleveland
Clinger
Collins, Ill.
Conyers
Corman
Cotter
Crane, Philip
D'Amours
Daschle
Davis, S.C.
de la Garza
Dellums
Dicks
Diggs
Dingell
Dixon
Dodd
Dougherty
Edgar
Edwards, Okla.
Evans, Del.
Evans, Ga.
Fascell
Ferraro
Fisher
Flood
Ford, Tenn.
Fountain
Fowler
Garcia
Gephardt
Giaimo
Gradison
Harris
Harsha
Heftel
Holland
Horton
Huckaby
Ichord
Jacobs
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kelly
Kemp
Kostmayer
Kramer
Leach, La.
Lent
Lewis
Livingston
Loeffler
Long, La.
Lundine
McDade
McDonald
McEwen
McKinney
Madigan
Markey
Marriott
Mathis
Mattox
Mavroules
Mineta
Mitchell, Md.
Moffett
Mollohan
Moore
Murphy, Ill.
Nelson
Nichols
Ottinger
Pashayan
Patten
Patterson
Pepper
Pritchard
Quayle
Railsback
Rhodes

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Richmond
Rinaldo
Rodino
Roe
Rosenthal
Rousselot
Roybal
Runnels
Russo
Santini
Seiberling
Shannon
Shelby
Shumway
Smith, Iowa
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stokes
Stratton
Symms
Treen
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Wampler
Waxman
Whitley
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Yatron
Young, Alaska
Young, Mo.
Zablocki

☐ 0910

So the Journal was approved.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 998. An act to amend the Agricultural Adjustment Act of 1938, as amended, to exempt State prison farms from paying of marketing quota penalties; and

H.R. 2196. An act to establish a Congressional Award Board to administer a Congressional Award Program designed to encourage initiative and achievement among youths.

The message also announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title:

S. 1281. An act to revitalize the pleasure cruise industry by clarifying and waiving certain restrictions in the Merchant Marine Act, 1936, and the Merchant Marine Act, 1920, to permit the entry of the vessels SS *United States*, SS *Oceanic Independence*, and SS *Santa Rosa* into the trade.

The message also announced that the Senate agrees to the amendments of the House with an amendment to a bill of the Senate of the following title:

S. 838. An act to amend the Anadromous Fish Conservation Act in order to extend the authorization for appropriations to carry out the purposes of the act, and to initiate an emergency investigation on the striped bass in Atlantic coastal waters.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4440. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1980, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4440) entitled "An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1980, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BAYH, Mr. MAGNUSON, Mr. STENNIS, Mr. ROBERT C. BYRD, Mr. EAGLETON, Mr. DURKIN, Mr. MCCLURE, Mr. MATHIAS, Mr. WEICKER, and Mr. YOUNG to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1728) entitled "An act to designate U.S. Federal Courthouse Building located at 655 East Durango, San Antonio, Tex., as the "John H. Wood, Jr., Federal Courthouse."

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1905) entitled "An act to provide for the orderly restructuring of the Milwaukee Railroad, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MAGNUSON, Mr. LONG, and Mr. PACKWOOD to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1477. An act to provide for improvements in the structure and administration of the Federal courts, and for other purposes.

CONFERENCE REPORT ON SENATE CONCURRENT RESOLUTION 36, SECOND BUDGET RESOLUTION, FISCAL YEARS 1980, 1981, AND 1982

Mr. PANETTA submitted the following conference report and statement on the Senate concurrent resolution (S. Con. Res. 36) revising the congressional budget for the U.S. Government for the fiscal years 1980, 1981, and 1982:

CONFERENCE REPORT (H. REPT. NO. 96-582)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the concurrent resolution (S. Con. Res. 36) revising the congressional budget for the U.S. Government for the fiscal years 1980, 1981, and 1982, having met, after full and free conference, have been unable to agree. However, they have agreed upon all matters except for one—whether Congress should invoke the reconciliation provisions of the Budget Act for fiscal year 1980.

R. N. GIAIMO,
LUD ASHLEY,
LOUIS STOKES,
PAUL SIMON,
NORMAN Y. MINETA,
JAMES JONES,
STEPHEN SOLARZ,
TIMOTHY E. WIRTH,
LEON PANETTA,
BILL NELSON,
WILLIAM H. GRAY,
Managers on the Part of the House.

EDMUND S. MUSKIE,
WARREN G. MAGNUSON,
ERNEST F. HOLLINGS,
LAWTON CHILES,
JOE BIDEN,
J. BENNETT JOHNSTON,
HENRY BELLMON,
PETE DOMENICI,
BOB PACKWOOD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The members on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the Concurrent Resolution (S. Con. Res. 36) revising the Congressional budget for the United States Government for fiscal years 1980, 1981 and 1982 report that the conferees have been unable to agree. The conferees have agreed on all matters except one—whether Congress should invoke the reconciliation provisions of the Budget Act for 1980.

It is the intention of the conferees that the managers on the part of the Senate will offer a motion in the Senate to agree to a conference substitute which includes both the agreed upon budget figures and the reconciliation instructions originally passed by the Senate. Upon the adoption of that substitute in the Senate, the managers on the part of the House will offer a motion in the House to concur in the Senate amendment with an amendment to strike the reconciliation instructions.

The managers on the part of the House and the Senate submit the following joint statement in explanation of the action agreed upon by the managers. The substitute language which is to be offered as described above (and which should be considered the language of the concurrent resolution as recommended in the conference report for purposes of Section 302(a) of the Congressional Budget Act of 1974)—hereinafter in this statement referred to as the "conference substitute"—is as follows:

That the Congress hereby determines and declares, pursuant to Section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1979—

(1) the recommended level of Federal revenues is $517,800,000,000, and the amount by which the aggregate level of Federal revenues should be increased is $2,400,000,000;

(2) the appropriate level of total new budget authority is $638,000,000,000;

(3) the appropriate level of total budget outlays is $547,600,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $29,800,000,000; and

(5) the appropriate level of the public debt is $886,400,000,000, and the amount by which the temporary statutory limit on such debt should accordingly be increased is $7,400,000,000.

Sec. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 310 (a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1979, the appropriate level of new budget authority and the estimated budget outlays for each functional category are as follows:

(1) National Defense (050):
(A) New budget authority, $141,200,000,000;
(B) Outlays, $129,900,000,000.
(2) International Affairs (150):
(A) New budget authority, $13,100,000,000;
(B) Outlays, $8,400,000,000.
(3) General Science, Space, and Technology (250):
(A) New budget authority, $5,850,000,000;
(B) Outlays, $5,700,000,000.
(4) Energy (270):
(A) New budget authority, $39,500,000,000;
(B) Outlays, $7,250,000,000.
(5) Natural Resources and Environment (300):
(A) New budget authority, $12,600,000,000;
(B) Outlays, $11,900,000,000.
(6) Agriculture (350):
(A) New budget authority, $5,000,000,000;
(B) Outlays, $2,550,000,000.
(7) Commerce and Housing Credit (370):
(A) New budget authority, $6,800,000,000;
(B) Outlays, $2,850,000,000.
(8) Transportation (400):
(A) New budget authority, $19,500,000,000;
(B) Outlays, $18,600,000,000.
(9) Community and Regional Development (450):
(A) New budget authority, $8,900,000,000;
(B) Outlays, $8,350,000,000.
(10) Education, Training, Employment, and Social Services (500):
(A) New budget authority, $30,900,000,000;

(B) Outlays, $31,000,000,000.

(11) Health (550):

(A) New budget authority, $58,800,000,000;

(B) Outlays $54,450,000,000.

(12) Income Security (600):

(A) New budget authority, $218,500,000,000;

(B) Outlays, $190,000,000,000.

(13) Veterans Benefits and Services (700):

(A) New budget authority, $21,450,000,000;

(B) Outlays, $20,800,000,000.

(14) Administration of Justice (750):

(A) New budget authority, $4,200,000,000;

(B) Outlays, $4,400,000,000.

(15) General Government (800):

(A) New budget authority, $4,450,000,000;

(B) Outlays, $4,200,000,000.

(16) General Purpose Fiscal Assistance (850):

(A) New budget authority, $9,050,000,000;

(B) Outlays, $9,050,000,000.

(17) Interest (900):

(A) New budget authority, $58,100,000,000;

(B) Outlays, $58,100,000,000.

(18) Allowances (920):

(A) New budget authority, —$200,000,000;

(B) Outlays, —$200,000,000.

(19) Undistributed Offsetting Receipts (950):

(A) New budget authority, —$19,700,000,000;

(B) Outlays, —$19,700,000,000.

RECONCILIATION

Sec. 3. That the Congress hereby determines and declares pursuant to section 310 of the Congressional Budget Act of 1974 that in order to achieve a balanced budget in fiscal year 1981 and deficit reductions in fiscal year 1980, the following reconciliation instructions are appropriate:

(a) The allocation pursuant to section 302(a) of the Budget Act to the Committee on Appropriations for all legislation within its jurisdiction shall not exceed $390,200,000,000 in budget authority and $343,100,000,000 in outlays as assumed in this budget resolution. If some rescission of appropriations proves necessary to prevent any regular or supplemental appropriation for fiscal year 1980 exceeding the ceilings provided in this section, the Committee on Appropriations shall report legislation to rescind the necessary amount.

(b) Pursuant to section 310 of the Congressional Budget Act of 1974, the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Education and Labor, shall reduce spending for fiscal year 1980 in reported or enacted laws, bills, and resolutions by $100,000,000 in budget authority and $100,000,000 in outlays and are instructed to report promptly their recommendations for changes in new budget authority for fiscal year 1980, budget authority initially provided for prior fiscal years, and new spending authority which is to become effective during fiscal year 1980 contained in reported or enacted laws, bills, and resolutions within the jurisdictions of those committees sufficient to accomplish the reduction required by this section.

(c) Pursuant to subsection 310(a) of the Congressional Budget Act of 1974, the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation shall reduce spending for fiscal year 1980 in reported or enacted laws, bills, and resolutions by $250,000,000 in budget authority and are instructed to report promptly, in accordance with section 310 of such Act, recommendations for changes in new budget authority for fiscal year 1980, budget authority initially provided for prior fiscal years, and new spending authority which is to become effective during fiscal year 1980 contained in reported or enacted laws, bills, and resolutions within the jurisdictions of these committees sufficient to accomplish the reduction required by this section.

(d) Pursuant to section 310 of the Congressional Budget Act of 1974, the Senate Committee on Governmental Affairs and the House Committee on Post Office and Civil Service shall reduce spending for fiscal year 1980 in reported or enacted laws, bills, and resolutions by $100,000,000 in outlays and are instructed to report promptly recommendations for changes in new budget authority for fiscal year 1980, budget authority initially provided for prior fiscal years, and new spending authority which is to become effective during fiscal year 1980 contained in reported or enacted laws, bills, and resolutions within the legislative jurisdictions of those committees which would require reductions in spending or appropriations and which are sufficient to accomplish the reduction required by this section.

(e) Pursuant to subsection 310(a) of the Congressional Budget Act of 1974, the Committees on Armed Services shall reduce spending for fiscal year 1980 in reported or enacted laws, bills, and resolutions by $100,000,000 in budget authority and $100,000,000 in outlays and are instructed to report promptly in accordance with section 310 of such Act, their recommendations for changes in new budget authority for fiscal year 1980, budget authority initially provided for prior fiscal years, and new spending authority which is to become effective during fiscal year 1980 contained in reported or enacted laws, bills, and rseolutions within the jurisdictions of those committees sufficient to accomplish the reduction required by this section.

(f) Pursuant to section 310 of the Congressional Budget Act of 1974, the Senate Committee on Finance and the House Committee on Ways and Means shall reduce spending for fiscal year 1980 in reported or enacted laws, bills, and resolutions by $300,000,000 in budget authority and $1,400,000,000 in outlays and are instructed to report promptly recommendations for changes in new budget authority for fiscal year 1980, budget authority initially provided for prior fiscal years, and new spending authority which is to become effective during fiscal year 1980 contained in reported or enacted laws, bills, and resolutions within the jurisdictions of those committees sufficient to accomplish the reduction required by this section.

(g) Pursuant to subsection 310(a) of the Congressional Budget Act of 1974, the Committees on Veterans Affairs shall reduce spending for fiscal year 1980 in reported or enacted laws, bills, and resolutions by $100,000,000 in budget authority and $100,000,000 in outlays and are instructed to report promptly, in accordance with section 310 of such Act, recommendations for changes in new budget authority for fiscal year 1980, budget authority initially provided for prior fiscal years, and new spending authority which is to become effective during fiscal year 1980 contained in reported or enacted laws, bills, and resolutions within the jurisdictions of those committees sufficient to accomplish the reduction required by this section.

(h) Pursuant to sections 300 and 310 of the Congressional Budget Act of 1974, the authorizing committees specified herein shall report the recommendations required by this resolution within thirty days after Congress has adopted this resolution and congressional action on reconciliation legislation must be completed before the end of the first session of the 96th Congress.

BUDGET TOTALS FOR FISCAL YEARS 1981 AND 1982

Sec. 4(a). In order to achieve a balanced budget recommended by the Senate in fiscal years 1981 and 1982, the following budgetary levels are appropriate for fiscal years 1981 and 1982:

(1) the recommended level of Federal revenues is as follows:

Fiscal year 1981: $610,700,000,000.

Fiscal year 1982: $671,800,000,000;

and the amount by which the aggregate levels of Federal revenues should be increased or decreased is as follows:

Fiscal year 1981: $610,700,000,000.

Fiscal year 1982: —$34,800,000,000;

(2) the appropriate level of total new budget authority is as follows:

Fiscal year 1981: $664,900,000,000;

Fiscal year 1982: $747,600,000,000;

(3) the appropriate level of total budget outlays is as follows:

Fiscal year 1981: $600,500,000,000;

Fiscal year 1982: $653,000,000,000;

(4) the amount of the surplus in the budget which is appropriate in the light of economic conditions and all other relevant factors is as follows:

Fiscal year 1981: $9,700,000,000;

Fiscal year 1982: $18,800,000,000;

(5) the appropriate level of the public debt is as follows:

Fiscal year 1981: $911,200,000,000;

Fiscal year 1982: $939,100,000,000;

and the amount by which the temporary statutory limit on such debt should be accordingly increased is as follows:

Fiscal year 1981: $32,200,000,000;

Fiscal year 1982: $60,100,000,000.

(b) Based on allocations of the appropriate level of total new budget authority and of total budget outlays for fiscal years 1981 and 1982 as set forth above, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are respectively as follows:

(1) National Defense (505):

Fiscal year 1981:

(A) New budget authority, $159,800,000,000;

(B) Outlays, $146,400,000,000.

Fiscal year 1982:

(A) New budget authority, $180,500,000,000;

(B) Outlays, $163,300,000,000.

(2) International Affairs (150):

Fiscal year 1981:

(A) New budget authority, $14,100,000,000;

(B) Outlays, $8,700,000,000.

Fiscal year 1982:

(A) New budget authority, $14,900,000,000;

(B) Outlays, $8,800,000,000.

(3) General Science, Space, and Technology (250):

Fiscal year 1981:

(A) New budget authority, $5,900,000,000;

(B) Outlays, $5,800,000,000.

Fiscal year 1982:

(A) New budget authority, $5,600,000,000;

(B) Outlays, $5,700,000,000.

(4) Energy (270):

Fiscal year 1981:

(A) New budget authority, $4,700,000,000;

(B) Outlays, $7,800,000,000.

Fiscal year 1982:

(A) New budget authority, $24,200,000,000;

(B) Outlays, $9,700,000,000.

(5) Natural Resources and Environment (300):

Fiscal year 1981:

(A) New budget authority, $13,400,000,000;

(B) Outlays, $12,700,000,000.

Fiscal year 1982:

(A) New budget authority, $14,100,000,000;

(B) Outlays, $13,500,000,000.

(6) Agriculture (350):

Fiscal year 1981:

(A) New budget authority, $4,800,000,000;

(B) Outlays, $3,200,000,000.

Fiscal year 1982:

(A) New budget authority, $3,900,000,000;

(B) Outlays, $3,600,000,000.

(7) Commerce and Housing Credit (370):

Fiscal year 1981:

(A) New budget authority, $5,900,000,000;

(B) Outlays, $3,500,000,000.

Fiscal year 1982:

(A) New budget authority, $6,200,000,000;

(B) Outlays, $3,200,000,000.

(8) Transportation (400):

Fiscal year 1981:

(A) New budget authority, $21,600,000,000;

(B) Outlays, $19,700,000,000.

Fiscal year 1982:

(A) New budget authority, $20,400,000,000;

(B) Outlays, $20,700,000,000.

(9) Community and Regional Development (450):

Fiscal year 1981:

(A) New budget authority, $9,900,000,000;

(B) Outlays, $9,200,000,000.

Fiscal year 1982:

(A) New budget authority, $9,500,000,000;

(B) Outlays, $9,600,000,000.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 1981:

(A) New budget authority, $31,100,000,000;

(B) Outlays, $30,500,000,000.

Fiscal year 1982:

(A) New budget authority, $31,100,000,000;

(B) Outlays, $30,800,000,000.

(11) Health (550):

Fiscal year 1981:

(A) New budget authority, $70,500,000,000;

(B) Outlays, $62,000,000,000.

Fiscal year 1982:

(A) New budget authority, $82,200,000,000;

(B) Outlays, $69,400,000,000.

(12) Income Security (600):

Fiscal year 1981:

(A) New budget authority, $244,300,000,000;

(B) Outlays, $212,400,000,000.

Fiscal year 1982:

(A) New budget authority, $275,600,000,000;

(B) Outlays, $235,800,000,000.

(13) Veterans Benefits and Services (700):

Fiscal year 1981:

(A) New budget authority, $22,100,000,000;

(B) Outlays, $21,700,000,000.

Fiscal year 1982:

(A) New budget authority, $23,200,000,000;

(B) Outlays, $23,200,000,000.

(14) Administration of Justice (750):

Fiscal year 1981:

(A) New budget authority, $4,400,000,000;

(B) Outlays, $4,500,000,000.

Fiscal year 1982:

(A) New budget authority, $4,500,000,000;

(B) Outlays, $4,500,000,000.

(15) General Government (800):

Fiscal year 1981:

(A) New budget authority, $4,700,000,000;

(B) Outlays, $4,400,000,000.

Fiscal year 1982:

(A) New budget authority, $4,900,000,000;

(B) Outlays, $4,600,000,000.

(16) General Purpose Fiscal Assistance (850):

Fiscal year 1981:

(A) New budget authority, $8,200,000,000;

(B) Outlays, $8,600,000,000.

Fiscal year 1982:

(A) New budget authority, $8,200,000,000;

(B) Outlays, $8,200,000,000.

(17) Interest (900):

Fiscal year 1981:

(A) New budget authority, $60,900,000,000;

(B) Outlays, $60,900,000,000.

Fiscal year 1982:

(A) New budget authority, $62,300,000,000;

(B) Outlays, $62,300,000,000.

(18) Allowances (920):

Fiscal year 1981:

(A) New budget authority, $0;

(B) Outlays, $0.

Fiscal year 1982:

(A) New budget authority, $100,000,000;

(B) Outlays, $100,000,000.

(19) Undistributed Offsetting Receipts (950):

Fiscal year 1981:

(A) New budget authority, −$21,500,000,000;

(B) Outlays, −$21,500,000,000.

Fiscal year 1982:

(A) New budget authority, −$23,900,000,000;

(B) Outlays, −$23,900,000,000.

Sec. 5. The House projects the following budget aggregates for fiscal years 1981 and 1982, based on the policies assumed in sections (1) and (2) above:

(1) The level of Federal revenues is as follows:

Fiscal year 1981: $603,200,000,000;

Fiscal year 1982: $703,400,000,000.

(2) The level of total new budget authority is as follows:

Fiscal year 1981: $668,137,000,000;

Fiscal year 1982: $730,318,000,000.

(3) The level of total budget outlays is as follows:

Fiscal year 1981: $602,699,000,000;

Fiscal year 1982: $655,869,000,000.

(4) The amount of surplus in the budget is as follows:

Fiscal year 1981: $501,000,000;

Fiscal year 1982: $47,531,000,000.

(5) The level of the public debt is as follows:

Fiscal year 1981: $921,900,000,000.

Fiscal year 1982: $920,400,000,000.

General provisions

Sec. 6(a). In 1980, each standing committee of the House of Representatives having jurisdiction over entitlement programs shall include in its March 15 report to the Budget Committee of the House of Representatives specific recommendations as to what changes, if any, would be appropriate in the funding mechanisms of such programs to enable Congress to exercise more fiscal control over expenditures mandated by these entitlements.

Within a reasonable period of time after March 15, 1980, the Budget Committee of the House of Representatives shall submit to the House such recommendations as it considers appropriate based on such reports.

(b) The Congress reaffirms its commitment to find a way within the congressional budget process to relate accurately the outlays of off-budget Federal entities to the budget. The Congress recognizes that by law the outlays of off-budget Federal entities are not reflected in the budget totals, and that in fiscal year 1980, off-budget outlays (and, hence, the off-budget deficit) are estimated to be $16,000,000,000.

EXPLANATION OF CONFERENCE SUBSTITUTE

Economic assumptions

The fiscal policy contained in the conference substitute is designed in recognition of the overwhelming necessity to pursue reasonable fiscal restraint in view of the present high rate of inflation.

The economic assumptions underlying the revenue and spending levels contained in the conference substitute are as follows:

[Calendar years; dollar amounts in billions]

	1979	1980
Gross national product:		
Current dollars	2, 336	2, 571
Constant (1972) dollars	1, 410	1, 424
Incomes:		
Personal income	1, 906	2, 107
Wages and salaries	1, 221	1, 341
Corporate profits	224	239
Unemployment rate:		
Calendar year average	6. 2	7. 2
4th quarter	6. 9	7. 2
Consumer Price Index (percent change; year over year)	10. 6	9. 3
Interest rate, 3-mo Treasury bills (monthly average)	9. 1	8. 4

YEAR-END WASTEFUL SPENDING

The conferees are very concerned about wasteful government spending which may result from agency practices of obligating substantial amounts of funds during the last weeks and months of the fiscal year in order to avoid lapse of unneeded funds at year end. Although the seasonal nature of some programs may require that obligations be incurred at a greater rate toward the end of a fiscal year, there are undoubtedly many instances of hasty and ill-considered obligations simply because the annual appropriations would otherwise lapse.

Accordingly, the conferees urge continued careful scrutiny of appropriation requests by the Congress to assure that amounts made available for obligation are not excessive, and careful review by the Office of Management and Budget of requests for apportionment to reduce instances of wasteful end-of-year obligation of funds.

In particular, the conferees urge the appropriate committees to consider the need for language in fiscal year 1981 spending bills to control the obligation rates for Federal programs, or consider alternative legislative remedies for this problem. The conferees also urge the President to consider such limitations or remedies as part of his budget and legislative proposals for fiscal year 1981.

BUDGET AGGREGATES FOR FISCAL YEAR 1980

Revenues

The Senate Resolution provided revenues of $514.7 billion in fiscal year 1980, $603.6 billion in fiscal year 1981, and $658.4 billion in fiscal year 1982 and provided that legislation should increase revenues on a net basis by $2.0 billion and $9.7 billion respectively in fiscal years 1980 and 1981, and decrease revenues on a net basis by $38.7 billion in fiscal year 1982. The fiscal year 1982 Senate total assumed a general tax reduction of at least $55 billion.

The House amendment provided Federal revenues of $519.25 billion in fiscal year 1980, and projected revenues of $605.2 billion in fiscal year 1981 and $704.0 billion in fiscal year 1982 based on the revenues the House amendments provided in fiscal year 1980, and to achieve the 1980 level provided that legislation and administrative action should increase revenues on a net basis by $5.05 billion. Within these revenue levels the House assumed $2.8 billion for a new windfall profits tax and additional sums for cash management, foreign oil tax credits, mortgage subsidy bonds, and other revenue raising and losing changes.

The conference substitute provides revenues of $517.8 billion and to achieve that level provides that legislation should increase revenues on a net basis by $2.4 billion. This number represents not a policy position on tax legislation but a compromise on revenues; there is no intent to prejudge the outcome of the conference on the windfall profits tax.

Budget authority

The Senate Resolution provided budget authority of $636.6 billion in fiscal year 1980, $661.7 billion in fiscal year 1981, and $744.0 billion in fiscal year 1982. The House amendment provided budget authority of $631.807 billion in fiscal year 1980 and projected budget authority of $666.459 billion in fiscal year 1981 and $728.402 billion in fiscal year 1982 based on the budget authority the House amendment provided in fiscal year 1980.

The conference substitute provides budget authority of $638.0 billion in fiscal year 1980.

Outlays

The Senate Resolution provided outlays of $546.3 billion in fiscal year 1980, $596.8 billion in fiscal year 1981, and $649.1 billion in fiscal year 1982. The House amendment provided outlays of $548.175 billion in fiscal year 1980 and projected outlays of $603.477 billion in fiscal year 1981 and $655.098 billion in fiscal year 1982 based on the outlays the House amendment provided in fiscal year 1980.

The conference substitute provides outlays of $547.6 billion for fiscal year 1980.

Deficit

The Senate resolution provided for a deficit of $31.6 billion in fiscal year 1980 and surpluses of $6.8 billion in fiscal year 1981 and $9.3 billion in fiscal year 1982. The House amendment provided for a deficit of $28.925 billion in fiscal year 1980 and projected surpluses of $1.723 billion in fiscal year 1981 and $48.902 billion in fiscal year 1982 based on the deficit the House amendment provided for in fiscal year 1980.

The conference substitute provides for a deficit of $29.8 billion in fiscal year 1980.

Public debt

The Senate resolution provided for a public debt level of $890.7 billion in fiscal year 1980, $916.8 billion in fiscal year 1981, and $946.7 billion in fiscal year 1982. The House amendment provided for a public debt level of $885.825 billion in fiscal year 1980 and projected a public debt level of $916.175 billion in fiscal year 1981 and $907.7 billion in fiscal year 1982 based on the public debt level the House amendment provided for in fiscal year 1980.

The conference substitute provides for a public debt level of $886.4 billion in fiscal year 1980.

FUNCTIONAL CATEGORIES

050: National defense

The Senate resolution provided budget authority of $141.2 billion in fiscal year 1980, $159.8 billion in fiscal year 1981, and $180.4 billion in fiscal year 1982, and outlays of $130.6 billion in fiscal year 1980, $145.6 billion in fiscal year 1981, and $163.3 billion in fiscal year 1982. The House amendment provided budget authority of $138.156 billion in fiscal year 1980 and outlays of $128.587 billion in fiscal year 1980.

The conference substitute provides budget authority of $141.2 billion and outlays of $129.9 billion in fiscal year 1980.

150: International affairs

The Senate resolution provided budget authority of $13.1 billion in fiscal year 1980, $14.0 billion in fiscal year 1981, and $14.9 billion in fiscal year 1982 and outlays of $8.3 billion in fiscal year 1980, $8.7 billion in fiscal year 1981, and $8.7 billion in fiscal year 1982. The House amendment provided budget authority of $12.593 billion in fiscal year 1980 and outlays of $8.522 billion in fiscal year 1980.

The conference substitute provides budget authority of $13.1 billion and outlays of $8.4 billion in fiscal year 1980.

The funding levels agreed to are assumed to be not incompatible with providing for increased food assistance and disaster relief in response to the current emergency in Cambodia.

250: General science, space, and technology

The Senate resolution provided budget authority of $5.9 billion in fiscal year 1980, $5.9 billion in fiscal year 1981, and $5.6 billion in fiscal year 1982, and outlays of $5.7 billion in fiscal year 1980, $5.8 billion in fiscal year 1981, and $5.7 billion in fiscal year 1982. The House amendment provided budget authority of $5.833 billion in fiscal year 1980 and outlays of $5.662 billion in fiscal year 1980.

The conference substitute provides budget authority of $5.85 billion and outlays of $5.7 billion in fiscal year 1980.

270: Energy

The Senate resolution provided budget authority of $41.0 billion in fiscal year 1980, $4.7 billion in fiscal year 1981, and $24.2 billion in fiscal year 1982, and outlays of $7.0 billion in fiscal year 1980, $7.6 billion in fiscal year 1981, and $9.5 billion in fiscal year 1982. The House amendment provided budget authority of $36.266 billion in fiscal year 1980 and outlays of $8.801 billion in fiscal year 1980.

The conference substitute provides budget authority of $39.5 billion and outlays of $7.25 billion in fiscal year 1980.

This is an increase of $3.234 billion in budget authority and a decrease of $1.551 billion in outlays from the House resolution for energy programs. The outlay reduction is primarily due to the transfer of one program to another function.

The conference substitute can accommodate funding for such new energy initiatives as the Energy Security Corporation, conservation and solar programs, and the energy-related transportation initiatives proposed by the President. An allowance for energy-related low-income assistance initiatives is included in function 600. The House-passed resolution included this allowance in function 270. The transfer of the allowance for this program merely constitutes a technical adjustment among functional categories, and thus has no programmatic significance.

300: Natural resources and environment

The Senate resolution provided budget authority of $12.7 billion in fiscal year 1980, $13.4 billion in fiscal year 1981, and $14.1 billion in fiscal year 1982, and outlays of $11.9 billion in fiscal year 1980, $12.7 billion in fiscal year 1981, and $13.5 billion in fiscal year 1982. The House amendment provided budget authority of $12.525 billion in fiscal year 1980 and outlays of $11.926 billion in fiscal year 1980.

The conference substitute provides budget authority of $12.6 billion and outlays of $11.9 billion in fiscal year 1980.

350: Agriculture

The Senate resolution provided budget authority of $5.0 billion in fiscal year 1980, $4.8 billion in fiscal year 1981, and $3.9 billion in fiscal year 1982, and outlays of $2.6 billion in fiscal year 1980, $3.2 billion in fiscal year 1981, and $3.6 billion in fiscal year 1982. The House amendment provided budget authority of $4.983 billion in fiscal year 1980 and outlays of $2.542 billion in fiscal year 1980.

The conference substitute provides budget authority of $5.0 billion and outlays of $2.55 billion in fiscal year 1980.

370: Commerce and housing credit

The Senate resolution provided budget authority of $6.8 billion in fiscal year 1980, $5.9 billion in fiscal year 1981, and $6.2 billion in fiscal year 1982, and outlays of $3.0 billion in fiscal year 1980, $3.5 billion in fiscal year 1981, and $3.2 billion in fiscal year 1982. The House amendment provided budget authority of $6.778 billion in fiscal year 1980 and outlays of $2.828 billion in fiscal year 1980.

The conference substitute provides budget authority of $6.8 billion and outlays of $2.85 billion in fiscal year 1980.

400: Transportation

The Senate resolution provided budget authority of $19.5 billion in fiscal year 1980, $21.7 billion in fiscal year 1981, and $20.4 billion in fiscal year 1982, and outlays of $18.6 billion in fiscal year 1980, $19.8 billion in fiscal year 1981, and $20.8 billion in fiscal year 1982. The House amendment provided budget authority of $19.61 billion in fiscal year 1980 and outlays of $18.651 billion in fiscal year 1980.

The conference substitute provides budget authority of $19.5 billion and outlays of $18.6 billion in fiscal year 1980.

450: Community and regional development

The Senate resolution provided budget authority of $8.9 billion in fiscal year 1980, $9.9 billion in fiscal year 1981, and $9.5 billion in fiscal year 1982, and outlays of $8.4 billion in fiscal year 1980, $9.2 billion in fiscal year 1981, and $9.6 billion in fiscal year 1982. The House amendment provided budget authority of $8.991 billion in fiscal year 1980 and outlays of $8.289 billion in fiscal year 1980.

The conference substitute provides budget authority of $8.9 billion and outlays of $8.35 billion in fiscal year 1980.

The conferees again reiterate their strong support of legislation to rationalize the several Federal programs of disaster assistance and thus reduce demands upon the Federal Treasury.

500: Education, training, employment, and social services

The Senate resolution provided budget authority of $29.7 billion in fiscal year 1980, $30.4 billion in fiscal year 1981, and $30.3 billion in fiscal year 1982, and outlays of $30.5 billion in fiscal year 1980, $30.0 billion in fiscal year 1981, and $30.0 billion in fiscal year 1982. The House amendment provided budget authority of $31.391 billion in fiscal year 1980 and outlays of $31.371 billion in fiscal year 1980.

The conference substitute provides budget authority of $30.9 billion and outlays of $31.0 billion in fiscal year 1980.

The conferees are not in opposition to full funding of the Basic Educational Opportunity Grants (BEOGs) program pursuant to the appropriations process.

550: Health

The Senate resolution provided budget authority of $58.8 billion in fiscal year 1980, $70.5 billion in fiscal year 1981, and $82.1 billion in fiscal year 1982, and outlays of $54.2 billion in fiscal year 1980, $61.1 billion in fiscal year 1981, and $68.1 billion in fiscal year 1982. The House amendment provided budget authority of $58.767 billion in fiscal year 1980 and outlays of $54.715 billion in fiscal year 1980.

The conference substitute provides budget authority of $58.8 billion and outlays of $54.45 billion in fiscal year 1980.

600: Income security

The Senate resolution provided budget authority of $216.6 billion in fiscal year 1980, $242.2 billion in fiscal year 1981, and $273.4 billion in fiscal year 1982, and outlays of $188.7 billion in fiscal year 1980, $211.3 billion in fiscal year 1981, and $234.7 billion in fiscal year 1982. The House amendment provided budget authority of $217.658 billion in fiscal year 1980 and outlays of $188.795 billion in fiscal year 1980.

The conference substitute provides budget authority of $218.5 billion and outlays of $190.0 billion in fiscal year 1980

700: Veterans benefits and services

The Senate resolution provided budget authority of $21.2 billion in fiscal year 1980, $21.9 billion in fiscal year 1981, and $22.8 billion in fiscal year 1982, and outlays of $20.6 billion in fiscal year 1980, $21.4 billion in fiscal year 1981, and $22.7 billion in fiscal year 1982. The House amendment provided budget authority of $21.607 billion in fiscal year 1980 and outlays of $20.851 billion in fiscal year 1980.

The conference substitute provides budget authority of $21.45 billion and outlays of $20.8 billion in fiscal year 1980.

750: Administration of justice

The Senate resolution provided budget authority of $4.2 billion in fiscal year 1980, $4.4 billion in fiscal year 1981, and $4.5 billion in fiscal year 1982, and outlays of $4.4 billion in fiscal year 1980, $4.5 billion in fiscal year 1981, and $4.5 billion in fiscal year 1982. The House amendment provided budget authority of $4.269 billion in fiscal year 1980 and outlays of $4.468 billion in fiscal year 1980.

The conference substitute provides budget authority of $4.2 billion and outlays of $4.4 billion in fiscal year 1980.

800: General Government

The Senate resolution provided budget authority of $4.4 billion in fiscal year 1980, $4.7 billion in fiscal year 1981, and $4.9 billion in fiscal year 1982, and outlays of $4.2 billion in fiscal year 1980, $4.4 billion in fiscal year 1981, and $4.6 billion in fiscal year 1982. The House amendment provided budget authority of $4.484 billion in fiscal year 1980 and outlays of $4.301 billion in fiscal year 1980.

The conference susbtitute provides budget authority of $4.45 billion and outlays of $4.2 billion in fiscal year 1980.

850: General purpose fiscal assistance

The Senate resolution provided budget authority of $9.3 billion in fiscal year 1980, $8.2 billion in fiscal year 1981, and $8.2 billion in fiscal year 1982, and outlays of $9.3 billion in fiscal year 1980, $8.6 billion in fiscal year 1981, and $8.2 billion in fiscal year 1982. The House amendment provided budget authority of $9.076 billion in fiscal year 1980 and outlays of $9.075 billion in fiscal year 1980.

The conference substitute provides budget authority of $9.05 billion and outlays of $9.05 billion in fiscal year 1980.

900: Interest

The Senate resolution provided budget authority of $58.1 billion in fiscal year 1980, $60.9 billion in fiscal year 1981, and $62.3 billion in fiscal year 1982, and outlays of $58.1 billion in fiscal year 1980, $60.9 billion in fiscal year 1981, and $62.3 billion in fiscal year 1982. The House amendment provided budget authority of $58.038 billion in fiscal year 1980 and outlays of $58.038 billion in fiscal year 1980.

The conference substitute provides budget authority of $58.1 billion and outlays of $58.1 billion in fiscal year 1980.

920: Allowances

The Senate resolution provided budget authority of −$0.1 billion in fiscal year 1980, −$0.1 billion in fiscal year 1981, and $0.0 billion in fiscal year 1982, and outlays of −$0.1 billion in fiscal year 1980, −$0.1 billion in fiscal year 1981, and $0.0 billion in fiscal year 1982. The House amendment provided budget authority of $0.482 billion in fiscal year 1980 and outlays of $0.453 billion in fiscal year 1980.

The conference substitute provides budget authority of −$0.2 billion and outlays of −$0.2 billion in fiscal year 1980.

950: Undistributed offsetting receipts

The Senate resolution provided budget authority of −$19.7 billion in fiscal year 1980, −$21.5 billion in fiscal year 1981, and −$23.9 billion in fiscal year 1982, and outlays of −$19.7 billion in fiscal year 1980, −$21.5 billion in fiscal year 1981, and −$23.9 billion in fiscal year 1982. The House amendment provided budget authority of −$19.7 billion in fiscal year 1980 and outlays of −$19.7 billion in fiscal year 1980.

The conference substitute provides budget authority of −$19.7 billion and outlays of −$19.7 billion in fiscal year 1980.

RECONCILIATION INSTRUCTIONS

The Senate Resolution contained reconciliation instructions to seven Senate committees totaling $3.15 billion in budget authority and $3.6 billion in outlays. The Appropriations Committee also was required to keep all its bills within budget authority and outlay limits specified in the Resolution and to rescind previously enacted budget authority if any of its bills would breach those limits. The House Resolution contained no such instructions.

The conference substitute includes the reconciliation instructions contained in the Senate Resolution. However, it is the intention of the managers on the part of the House to offer a motion to concur in the conference substitute with an amendment to strike the reconcilation instructions.

The Senate position reflects its 90-to-6 vote to mandate that committees of both houses report and enact legislation to make these savings through the reconciliation process provided in the Budget Act. The Senate provision, incorporated in the conference substitute, represents a conviction that these savings—most of which have been assumed but not realized in Presidential and congressional budgets of this and previous years—will not be made except through this reconciliation process.

The House managers strongly support legislative savings, and commend various House committees for their efforts to achieve substantial savings and to stay within the spending bill targets of the First Budget Resolution during the first session of the 96th Congress. The House managers also strongly support the reconciliation process set forth in the Budget Act. The position of the House, however, is that in view of the actions of House committees, implementation of the reconciliation process as approved by the Senate to achieve legislative savings for fiscal year 1980 would not be appropriate or productive for the House.

The House will continue to regard the reconciliation process as a tool provided by the Budget Act that may be necessary to implement in future years to achieve needed spending restraints.

BUDGET AGGREGATES AND FUNCTIONAL CATEGORIES, FISCAL YEAR 1980

[In billions of dollars]

	House passed	Senate Passed	Conference substitute
Revenues	519.250	514.7	517.8
Budget authority	631.807	636.6	638.0
Outlays	548.175	546.3	547.6
Deficit	28.925	31.6	29.8
Debt subject to limit	885.825	890.7	886.4
050 National defense:			
Budget authority	138.156	141.2	141.2
Outlays	128.587	130.6	129.9
150 International affairs:			
Budget authority	12.593	13.1	13.1
Outlays	8.522	8.3	8.4
250 General science, space, and technology:			
Budget authority	5.833	5.9	5.85
Outlays	5.662	5.7	5.7
270 Energy:			
Budget authority	36.266	41.0	39.5
Outlays	8.801	7.0	7.25
300 Natural resources and environment:			
Budget authority	12.525	12.7	12.6
Outlays	11.926	11.9	11.9
350 Agriculture:			
Budget authority	4.983	5.0	5.0
Outlays	2.542	2.6	2.55
370 Commerce and housing credit:			
Budget authority	6.778	6.8	6.8
Outlays	2.828	3.0	2.85
400 Transportation:			
Budget authority	19.610	19.5	19.5
Outlays	18.651	18.6	18.6
450 Community and regional development:			
Budget authority	8.991	8.9	8.9
Outlays	8.289	8.4	8.35
500 Education, training, employment, and social services:			
Budget authority	31.391	29.7	30.9
Outlays	31.371	30.5	31.0
550 Health:			
Budget authority	58.767	58.8	58.8
Outlays	54.715	54.2	54.45
600 Income security:			
Budget authority	217.658	216.6	218.5
Outlays	188.795	188.7	190.0
700 Veterans benefits and services:			
Budget authority	21.607	21.2	21.45
Outlays	20.851	20.6	20.8
750 Administration of justice:			
Budget authority	4.269	4.2	4.2
Outlays	4.468	4.4	4.4
800 General government:			
Budget authority	4.484	4.4	4.45
Outlays	4.301	4.2	4.2
850 General purpose fiscal assistance:			
Budget authority	9.076	9.3	9.05
Outlays	9.075	9.3	9.05
900 Interest:			
Budget authority	58.038	58.1	58.1
Outlays	58.038	58.1	58.1
920 Allowances:			
Budget authority	.482	−.1	−.2
Outlays	.453	−.1	−.2
950 Undistributed offsetting receipts:			
Budget authority	−19.700	−19.7	−19.7
Outlays	−19.700	−19.7	−19.7

FUTURE FISCAL YEARS

The Senate resolution provided a multiyear budget containing aggregate and functional totals for fiscal years 1980, 1981, and 1982. The House resolution contained such totals for fiscal year 1980 and aggregate totals for fiscal years 1981 and 1982.

The Conference substitute includes two sets of fiscal year 1981 and 1982 aggregate totals, both of which provide for budget surpluses in 1981 and 1982.

Senate aggregate and functional totals

The conference substitute provides aggregate and functional Senate totals for fiscal years 1981 and 1982 as follows:

	Fiscal year 1981		Fiscal year 1982	
	Budget authority	Outlays	Budget authority	Outlays
050 National defense	159.8	146.4	180.5	163.3
150 International affairs	14.1	8.7	14.9	8.8
250 General science, space, and technology	5.9	5.8	5.6	5.7
270 Energy	4.7	7.8	24.2	9.7
300 Natural resources and environment	13.4	12.7	14.1	13.5
350 Agriculture	4.8	3.2	3.9	3.6
370 Commerce and housing credit	5.9	3.5	6.2	3.2
400 Transportation	21.6	19.7	20.4	20.7
450 Community and regional development	9.9	9.2	9.5	9.6
500 Education, training, employment, and social services	31.1	30.5	31.1	30.8
550 Health	70.5	62.0	82.2	69.4
600 Income security	244.3	212.4	275.6	235.8
700 Veterans benefits and services	22.1	21.7	23.2	23.2
750 Administration of justice	4.4	4.5	4.5	4.5
800 General government	4.7	4.4	4.9	4.6
850 General purpose fiscal assistance	8.2	8.6	8.2	8.2
900 Interest	60.9	60.9	62.3	62.3
920 Allowances			.1	.1
950 Undistributed offsetting receipts	−21.5	−21.5	−23.9	−23.9
Total	664.9	600.5	747.6	653.0
Revenues		610.2		671.8
Deficit (−) or surplus (+)		+9.7		+18.8
Public debt		911.2		939.1

Note: Details may not add to totals due to rounding.

House aggregates

For fiscal years 1981 and 1982 the House resolution provided aggregate totals which project current House policy into those fiscal years. The aggregates below reflect the conference agreement and make no change in policy or priorities for fiscal years 1981 and 1982.

These aggregate projections have been included to show that continued spending restraint and a healthy economy can result in balanced budgets at an early date.

The House conferees reaffirm their commitment to try to achieve a balanced budget in fiscal year 1981.

[In billions of dollars]

	Fiscal year—	
	1981	1982
Revenues	603.2	703.4
Budget authority	668.137	730.318
Outlays	602.699	655.869
Surplus	+.501	+47.531
Public debt level	921.9	920.4

The Senate conferees believe that the inclusion of functional as well as aggregate totals is necessary to comply with the multiyear budget mandate of the Public Debt Limit Act and will urge the Senate to observe these limits for fiscal years 1981 and 1982 in order to help assure that Congress achieves the balanced budget provided for in this Resolution for fiscal years 1981 and 1982 and the $55 billion tax cut provided within the balanced 1982 budget.

ALLOCATION OF BUDGET AUTHORITY AND OUTLAYS TO HOUSE AND SENATE COMMITTEES

Pursuant to section 302 of the Congressional Budget and Impoundment Control Act of 1974, the conference substitute makes the following estimated allocation of the appropriate levels of total new budget authority and total budget outlays among the committees of the respective Houses:

SENATE COMMITTEE ALLOCATIONS PURSUANT TO SEC. 302 OF THE CONGRESSIONAL BUDGET ACT

[In billions of dollars]

	Direct spending jurisdiction		Entitlements funded in annual appropriation acts	
	Budget authority	Outlays	Budget authority	Outlays
FISCAL YEAR 1980				
Appropriations Committee	390.2	343.1		
Agriculture, Nutrition, and Forestry Committee	.5	1.4	3.8	3.6
Armed Services Committee	−.5	−.5	11.7	11.7
Banking, Housing, and Urban Affairs Committee	2.4	−1.6		
Commerce, Science, and Transportation Committee	1.3	(1)	.2	.2
Energy and Natural Resources Committee	1.0	.9	.1	.1
Environment and Public Works Committee	23.7	2.1		
Finance Committee	245.5	239.9	38.3	38.1
Foreign Relations Committee	12.4	9.7		
Governmental Affairs Committee	30.9	21.8		
Judiciary Committee	.2	.2	(2)	(2)
Labor and Human Resources Committee	4.4	4.9	3.2	3.1
Rules and Administration Committee	.1	.1		
Veterans' Affairs Committee	1.1	.8	14.0	13.9
Select Committee on Indian Affairs	.3	.2		
Select Committee on Small Business	(3)			
Not allocated to committees	−75.3	−75.3		
Total, budget	638.0	547.6	71.3	70.7
Appropriations Committee	400.5	371.8		
Agriculture, Nutrition, and Forestry Committee	.6	2.2	3.3	3.2
Armed Services Committee	(4)	(5)	12.8	12.8
Banking, Housing, and Urban Affairs Committee	3.0	−1.1		
Commerce, Science, and Transportation Committee	1.4	(3)	.2	.2
Energy and Natural Resources Committee	1.1	1.0	.1	.1
Environment and Public Works Committee	9.4	1.8		
Finance Committee	277.2	265.2	39.5	40.3
Foreign Relations Committee	13.6	10.8		
Governmental Affairs Committee	33.5	24.1		
Judiciary Committee	.2	.2	.1	.1
Labor and Human Resources Committee	4.8	5.2	3.2	3.2
Rules and Administration Committee	(6)	(7)		
Veterans' Affairs Committee	1.1	.8	14.6	14.5
Select Committee on Indian Affairs	.3	.3		
Select Committee on Small Business	(3)			
Not allocated to committees	−81.8	−81.8		
Total, budget	664.9	600.5	73.7	74.2
FISCAL YEAR 1982				
Appropriations Committee	449.1	401.1		
Agriculture, Nutrition, and Forestry Committee	.7	2.4	3.6	3.5
Armed Services Committee	(4)	(5)	14.2	14.2
Banking, Housing, and Urban Affairs Committee	3.3	−1.3		
Commerce, Science, and Transportation Committee	1.5	(3)	.2	.2
Energy and Natural Resources Committee	1.1	1.1	.1	.1
Environment and Public Works Committee	8.6	1.6		
Finance Committee	315.2	292.2	42.3	43.1
Foreign Relations Committee	14.8	11.8		
Governmental Affairs Committee	36.5	26.9		
Judiciary Committee	.2	.2	.1	.1
Labor and Human Resources Committee	4.9	5.6	3.2	3.2
Rules and Administration Committee	(6)	(8)		
Veterans' Affairs Committee	1.1	.9	15.3	15.2
Select Committee on Indian Affairs	.3	.3		
Select Committee on Small Business	(3)			
Not allocated to committees	−89.8	−89.8		
Total, budget	747.6	653.0	79.0	79.5

[1] Minus $2,000,000.
[2] Less than $50,000,000.
[3] Less than $5,000,000.
[4] Less than $30,000,000.
[5] Less than $25,000,000.
[6] Less than $45,000,000.
[7] Less than $20,000,000.
[8] Less than $10,000,000.

Note: Details may not add to total due to rounding.

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SEC. 302(A) OF THE CONGRESSIONAL BUDGET ACT

[In thousands of dollars]

House committee and function	Fiscal year 1980	
	Budget authority	Outlays
Appropriations Committee:		
050 National defense	$141,748,228	$130,448,274
150 International affairs	10,963,403	9,777,995
250 General science, space, and technology	5,845,901	5,695,966
270 Energy	25,976,995	6,926,995
300 Natural resources and environment	14,267,769	13,644,534
350 Agriculture	4,963,547	1,614,144
370 Commerce and housing credit	5,291,586	4,219,014
400 Transportation	10,347,340	19,147,130
450 Community and regional development	8,925,813	8,450,155
500 Education, training, employment, and social services	30,141,174	30,898,339
550 Health	31,182,046	30,797,195
600 Income security	60,465,407	41,649,581
700 Veterans benefits and services	20,902,391	20,743,184
750 Administration of justice	4,200,271	4,405,237
800 General government	7,277,665	7,023,987
850 General purpose fiscal assistance	7,873,219	7,862,655
900 Interest	0	449
920 Allowances	−200,000	−200,000
Committee total	390,172,755	343,104,834
House Agriculture Committee:		
300 Natural resources and environment	243,494	222,695
350 Agriculture	99,122	998,525
450 Community and regional development	12,220	−8,148
850 General purpose fiscal assistance	283,458	283,458
900 Interest	−13,000	−13,000
Committee total	625,294	1,483,530
House Armed Services Committee:		
050 National defense	−114,027	−114,073
(New entitlement authority)	(41,000)	
400 Transportation	30	30
700 Veterans benefits and services	12	12
800 General government	0	0
Committee total	−113,985	−114,031
House Banking, Finance and Urban Affairs Committee:		
050 National defense	0	0
150 International affairs	691,500	−221,521
370 Commerce and housing credit	1,573,351	−1,291,374
450 Community and regional development	34,842	41,883
500 Education, training, employment, and social services	134	85,762
550 Health	0	−187
600 Income security	39,700	0
700 Veterans benefits and services	0	−20,081
800 General government	3,237	2,804
900 Interest	7,828	7,828
Committee total	2,350,592	−1,394,886
House District of Columbia Committee:		
750 Administration of justice	8,640	8,640
850 General purpose fiscal assistance	0	0
Committee total	8,640	8,640

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SEC. 302(A) OF THE CONGRESSIONAL BUDGET ACT—Continued

[In thousands of dollars]

House committee and function	Fiscal year 1980	
	Budget authority	Outlays
House Education and Labor Committee:		
500 Education, training, employment, and social services	28, 461	25, 748
(New entitlement authority)	(−72, 000)	
600 Income security	5, 720	5, 758
(New entitlement authority)	(−115, 000)	
Committee total	34, 181	31, 506
House Foreign Affairs Committee:		
150 International affairs	12, 132, 506	9, 530, 935
370 Commerce and housing credit	5, 179	4, 995
600 Income security	247, 445	127, 927
Committee total	12, 385, 130	9, 663, 857
House Government Operations Committee:		
800 General government	1, 337	1, 295
850 General purpose fiscal assistance	6, 854, 924	6, 862, 578
Committee total	6, 856, 261	6, 863, 873
House Administration Committee:		
250 General science, space, and technology	76	74
500 Education, training, employment, and social services	5, 660	5, 728
800 General government	45, 750	50, 750
Committee total	51, 486	56, 552
House Interior and Insular Affairs Committee:		
270 Energy	12, 516	12, 516
300 Natural resources and environment	60, 502	35, 789
450 Community and regional development	268, 268	207, 357
800 General government	91, 204	90, 578
850 General purpose fiscal assistance	602, 748	605, 158
900 Interest	2, 100	2, 100
Committee total	1, 037, 338	953, 498
House Interstate and Foreign Commerce Committee:		
300 Natural resources and environment	0	80
370 Commerce and housing credit	24, 751	23, 005
400 Transportation	454	443
550 Health	4, 620	4, 779
(New entitlement authority)	(−326, 000)	
600 Income security	4, 334, 871	4, 810, 322
850 General purpose fiscal assistance	5, 387	5, 287
Committee total	4, 370, 083	4, 843, 916
House Judiciary Committee:		
300 Natural resources and environment	178	178
370 Commerce and housing credit	15, 587	14, 876
600 Income security	7, 373	2, 330
750 Administration of justice	0	−4, 966
800 General government	152, 019	152, 019
Committee total	175, 157	164, 437
House Merchant Marine and Fisheries Committee:		
300 Natural resources and environment	190, 122	157, 435
370 Commerce and housing credit	23, 000	13, 283
400 Transportation	308, 065	−52, 500
850 General purpose fiscal assistance	3, 700	4, 300
Committee total	524, 887	122, 518
House Post Office and Civil Service Committee:		
050 National defense		
(New entitlement authority)	(−70, 000)	
300 Natural resources and environment	0	330
370 Commerce and housing credit	7, 590	7, 245
550 Health	0	−123, 802
600 Income security	23, 160, 700	14, 071, 971
(New entitlement authority)	(−97, 000)	
800 General government	7, 760, 000	7, 760, 000
(New entitlement authority)	(72, 000)	
920 Allowances		
(New entitlement authority)		
Committee total	30, 928, 290	21, 709, 744
House Public Works and Transportation Committee:		
220 Energy	$15, 000, 000	$1, 800, 000
300 Natural resources and environment	36, 579	37, 603
400 Transportation	9, 336, 000	−3, 214
450 Community and regional development	48, 758	49, 654
Committee total	24, 421, 337	1, 884, 043
House Science and Technology Committee:		
250 General science, space, and technology	5, 719	5, 656
270 Energy	20	20
300 Natural resources and environment	12, 171	12, 171
Committee total	17, 910	17, 847
House Small Business Committee:		
450 Community and regional development	1, 000	0
Committee total	1, 000	0
House Veterans' Affairs Committee:		
700 Veterans benefits and services	1, 090, 503	619, 791
Committee total	1, 090, 503	619, 791
House Ways and Means Committee:		
500 Education, training, employment, and social services	740, 148	0
550 Health	35, 600, 000	31, 764, 681
600 Income security	134, 271, 705	133, 365, 032
800 General government	4, 320	4, 099
850 General purpose fiscal assistance	306, 000	306, 000
900 Interest	67, 826, 000	67, 826, 000
Committee total	238, 748, 173	233, 265, 812
Unassigned to committees:		
050 National defense	−434, 201	−434, 201
150 International affairs	−10, 687, 409	−10, 687, 409
250 General science, space, and technology	−1, 696	−1, 696
270 Energy	−1, 489, 531	−1, 489, 531
300 Natural resources and environment	−2, 210, 815	−2, 210, 815
350 Agriculture	−62, 669	−62, 669
370 Commerce and housing credit	−141, 044	−141, 044
400 Transportation	−491, 889	−491, 889
450 Community and regional development	−390, 901	−390, 901
500 Education, training, employment, and social services	−15, 577	−15, 577
550 Health	−7, 986, 666	−7, 986, 666
600 Income security	−4, 032, 921	−4, 032, 921
700 Veterans benefits and services	−542, 906	−542, 906
750 Administration of justice	−8, 911	−8, 911
800 General government	−10, 885, 532	−10, 885, 532
850 General purpose fiscal assistance	−6, 879, 436	−6, 879, 436
900 Interest	−9, 722, 928	−9, 723, 377
950 Undistributed offsetting receipts	−19, 700, 000	−19, 700, 000
Committee total	−75, 685, 032	−75, 685, 481

R. N. Giaimo,
Lud Ashley,
Louis Stokes,
Paul Simon,
Norman Y. Mineta,
James Jones,
Stephen Solarz,
Timothy E. Wirth,
Leon Panetta,
Bill Nelson,
William H. Gray,
Managers on the Part of the House.

Edmund S. Muskie,
Warren G. Magnuson,
Ernest F. Hollings,
Lawton Chiles,
Joe Biden,
J. Bennett Johnston,
Henry Bellmon,
Pete Domenici,
Bob Packwood,
Managers on the Part of the Senate.

LEGISLATIVE QUALITY, NOT LEGISLATIVE QUANTITY

(Mr. HALL of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HALL of Ohio. Mr. Speaker, it has been noted recently in the media that this Congress has not passed as many bills as the last Congress did at the same point in time. I, for one, welcome this development.

I welcome it because this 96th Congress rightly has placed more emphasis on evaluating the effectiveness of existing programs rather than on creating new programs. Further, there has been a real effort to try to reduce Federal expenditures in all categories of the budget. As the battles over the congressional budget resolutions demonstrated this year, no area of Federal spending is safe from examination and cutbacks.

The American people are not looking to this Congress for legislative quantity. Instead, they are demanding legislative quality.

I commend the leadership for the efforts that have been made this year to bring to the House and pass major legislation addressing our national priorities. Particularly, I applaud the leadership's work in expediting floor consideration of the windfall profits bill, the synthetic fuels legislation, the standby rationing measure, the emergency fuel assistance appropriations, and the energy mobilization board bill.

Energy is a top national concern, and this Congress has done much in a very short time to give it the attention it deserves.

□ 0920

ANDERSON SUPPORTS URBAN GRANT UNIVERSITY PROGRAM

(Mr. ANDERSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON of California. Mr. Speaker, I would like to call our colleagues attention to the fine higher education bill which we should be voting on later this morning. And in particular, I would like to congratulate Chairman BILL FORD and the Subcommittee on Postsecondary Education on title XI, establishing an urban grant university program.

I know that our colleague from Michigan has worked long and hard on this, and I can think of few worthier endeavors. The urban grant university program will, if enacted, support universities in urban-oriented education, research, and service projects. The great urban educational institutions we have in this Nation are tremendous resources that should be utilized in addressing urban problems.

In the past, land-grant institutions have contributed greatly to the rural areas in which they were generally established. Research in horticulture and animal husbandry contributed to the development of our Nation. Urban institutions can as well contribute to our further development. They are the storehouses of untapped skills, talents, and knowledge which we must learn to draw upon in a systematic and sustained manner. Let us utilize these valuable resources to help attack the problems facing our Nation's cities. Let us demonstrate how education can be applied to benefit us today, as well as our children tomorrow.

Mr. Speaker, I hope all our colleagues will join together and support the urban grant university program.

WINDFALL PROFITS TAX LEGISLATION NEEDED NOW

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, I have not been a stranger to the well in this Chamber during the last week. The reason is a simple one—the callousness of the major oil companies on their dealings with the American public. We are constantly bombarded with news and accounts of how big oil has exploited the consumer. One of the most blatant examples of this behavior is the fact that the Department of Energy is conducting an investigation of some 114 violations levied against the Nation's 35 largest oil refiners. The total dollar amount involved in these alleged overcharges to the consumer is $5.2 billion between 1973 and 1976.

Recent reports emanating out of DOE indicate that soon it will accuse some 15 oil companies of ignoring Federal gasoline allocation rules during last spring's gasoline shortage, a shortage which many contend was contrived.

Mr. Speaker, as I have stated in the past, the attitude toward the American consumer, who so desperately relies upon petroleum products in his daily life, is unpardonable. It is an American tragedy that one industry can so disrupt an entire society of 220 million. We cannot sit idly by with these developments taking place.

Let us take up the windfall profits tax legislation at the earliest date.

REMEMBER WHICH PARTY GOT US OUT OF THE "GREAT DEPRESSION"

(Mr. WILLIAMS of Montana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILLIAMS of Montana. Mr. Speaker, during this 50th anniversary week of the Great Depression many Americans are looking back, trying to find causes, meanings, and lessons from that difficult time.

During the past several years debates have pursued, primarily among we politicians—not the public—concerning whether the economic theories of that President and that party sent us crashing into that economic debacle of 1929. Republicans continue to do all they can to shed the blame.

Setting the cause of the Depression aside for a moment, let us look to find how President Hoover and the Republicans responded. Herbert Hoover, 1 week after the crash, opened his press conference with these words:

> I haven't anything of any news to announce.

Later during that press conference he mentioned the economic difficulties by saying:

> The financial world is functioning entirely normal and rather more easily than it was 2 weeks ago.

A year later in his annual message to Congress, Herbert Hoover said:

> The fundamental strength of the Nation's economy is unimpaired.

Toward the end of his term in 1932 he sounded a phrase which is hauntingly familiar—

> The urgent question today is the prompt balancing of the budget.

Secretary of the Treasury, Andrew Mellon, perhaps said it best for the Republicans:

> People will work harder (and) enterprising people will pick up the wrecks from less competent people.

Secretary Mellon and the Republicans were right about one thing. He said the Depression would "urge the rottenness out of the system." He was correct. The cancer that was purged from the system was government by organized money.

So, Mr. Speaker, this week is a good time for Americans to remember that regardless of which President and which party got us into the Great Depression and kept us there, one President and one party got us out.

PRESIDENT SHOULD APPOINT A WOMAN TO NATION'S HIGHEST COURT

(Mr. OBERSTAR asked and was given permission to address the House for 1 minute and revise and extend his remarks.)

Mr. OBERSTAR. Mr. Speaker, I rise this morning to ask my colleagues to join me in a letter to President Carter urging the appointment of a woman to the Supreme Court.

To insure that nomination, we should begin a determined effort now to let the President know that such an appointment would have tremendous support among the people we represent and that the failure to appoint a woman would be a setback to the fight for equality under the law.

I found it interesting and perhaps even indicative of a future course of events, that Secretary of Education-designate Shirley Hufstedler secured a commitment that she would not be precluded from consideration for a Supreme Court nomination if she accepted the Cabinet position.

Appointments to the Supreme Court cannot be separated from political and social reality. The Supreme Court has traditionally been a cornerstone of the movement to insure equal rights for all citizens in this country. Supreme Court appointments cannot be made without reference to that cause. Just as the appointments of Louis Brandeis and Thurgood Marshall are hailed as milestones in the Court's history, so would be the appointment of a woman to the Supreme Court.

In appointing Thurgood Marshall and Louis Brandeis, Presidents Johnson and Wilson did not have to adjust judicial standards. The same is true for the appointment of a woman. It does not compromise the principle of merit selection to ask that after nearly 200 years, a woman be appointed to the Court.

The Carter administration has shown its commitment to increasing the number of women appointed to high Federal office. Five of the nine Justices are now over 70. Without engaging in speculation as to which seat may become vacant, we can reasonably assume that a single retirement among the five is possible in the near future. If a Supreme Court vacancy should occur, President Carter should seize that opportunity to strike the most dramatic blow yet for equality under the law and appoint a woman to the Nation's highest Court.

STANDARD OIL U.S. EARNINGS

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. COLLINS of Texas. Mr. Speaker, how much did the oil companies earn? Standard Oil of Indiana reported 18 percent down from last year in their U.S. earnings from refining, marketing, and transportation. The price of gasoline is rising but so are expenses.

And Standard Oil is reinvesting its earnings in oil and gas exploration. Standard's total U.S. earnings were up 7 percent but exploration expenditures were up 27 percent. U.S. earnings were $603 million whereas U.S. drilling expenditures were $938 million. Standard earned $603 million, yet reinvested for exploration in the United States a total of $938 million.

U.S. oil companies continue to reinvest in exploration more than their earnings. The U.S. oil compaines need more capital to increase domestic production.

Remember 6 years ago the United States imported $3 billion in oil. The OPEC Arab oil this year will total $60 billion. Next year, the United States will import $70 billion in OPEC oil.

Let us help the U.S. oil companies produce more of our needs for oil and gas and reduce the import drain of our dollars.

VICTORY BELONGS TO THE HOUSE

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, several weeks ago the gentleman from Florida (Mr. Young) was successful in having an amendment adopted by this House with a 281 vote to deny Vietnam loans directly or indirectly. It is quite a victory. It expresses the views of the House.

The Washington Post this morning tries to give credit to Bob McNamara to agreeing to what this House had agreed to. The credit belongs to Bill Young and the House, not to Robert Strange McNamara.

QUESTIONS ARE RAISED ABOUT INDEPENDENCE OF FEDERAL ELECTION COMMISSION

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FRENZEL. Mr. Speaker, earlier this week the Washington Post reported that the National Treasury Employees Union was one of the first to jump on the Kennedy bandwagon. Also this week, there was an announcement that the Federal Election Commission's General Counsel was joining the Kennedy committee.

I think both of these incidents raised some questions of conflict of interest, and about the independence of the Federal Election Commission.

First, the Treasury Employees Union is coincidentally the union to which the FEC employees belong. There are approximately 60 of the Commission employees paying union dues which can be used for exempt political activities. They may also be contributing to the union's political action committee.

This same bunch of folks is also charged with the duties of certification, enforcement, and audit procedures for the Presidential financing system. Nobody can call them impartial after their endorsement.

Second, although there is no law prohibiting the General Counsel from gainful employment with the Kennedy committee, his job change is, at best, unseemly. At worst, it creates an appearance of a conflict of interest.

I wonder what the public's perception will be of the FEC's action, or pickup inaction, on the Carter/Mondale complaint now that the FEC's principal enforcer has joined the complainant. I wonder if the public will have confidence that all candidates are being treated equally by the FEC employees when those same employees have a vested, monetary interest in a particular candidate who is becoming used to special treatment.

LEGISLATION TO AMEND CIVIL SERVICE REFORM ACT

(Mr. COLEMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLEMAN. Mr. Speaker, today I am joining my colleague from Iowa, Mr. Leach, in introducing legislation that will help hold the line on Federal spending.

Under provisions of the Civil Service Reform Act of 1979, Federal hiring was to have been frozen in order to reduce expenditures by the Federal bureaucracy. However, what we have seen is an increase in the hiring of contract employees, often in an attempt to skirt Federal hiring guidelines.

Since 1970 contracted employment has grown by 130 percent at a price tag of $150 billion annually to the American taxpayer.

I believe that if we are to truly check the growth of Federal employment we must take a tough stand on the question of contracted employment. Among the major points of the legislation we are offering today are:

CONTRACT CEILING

Government agencies will be limited to the levels spent in 1977 for any personal service contracts. Only the President can increase the contract ceiling, and only by proving that such an increase is necessary for good administration and is in the public interest.

PERSONNEL CEILINGS

The Government personnel ceilings established under the Civil Rights Act of 1979 are extended to January 31, 1985.

YEAR-END SPENDING SPREES

The bill will prohibit excessive year-end spending for contracted employees. Agencies can only spend 20 percent of their annual budget in the last 2 months of the year. Far too often, agencies will have a large surplus at the end of the year and will try to spend it all so they do not have to turn the money back into the treasury and risk funding cuts the following year.

ANNUAL REPORTS

Agencies will be required to file annual reports on their success in meeting personnel and contract ceilings.

RECOGNITION FOR GOOD MANAGEMENT OF PERSONNEL AND CONTRACT CEILINGS

How well agency executives carry out the provisions of this bill will be considered when they come up for promotion or merit awards.

The basic intent of this legislation is to establish a reliable monitoring system that will check the cost and number of private contractors hired by the Government.

☐ 0930

AMENDMENT TO THE CIVIL SERVICE REFORM ACT

(Mr. LEACH of Iowa asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEACH of Iowa. Mr. Speaker, I should like to inform my colleagues that today Representative Tom Coleman and I are introducing legislation to place restrictions on the growth of contracted Federal employment.

Outlays for grants and contracts which support most of the Government's indirect employees grew 130 percent from about $65 billion in 1970 to $150 billion in 1978.

The implications of the development of this invisible army of contracted employees, the bureaucracy's bureaucracy, is alarming.

One step removed from the checks and balances of the other branches of Government, this shadow work force is so large we have no idea of its true size; so powerful we have no control over conflicts of interest; and so inaccessible we have no way of holding it accountable.

I urge my colleagues to give consideration to the restrictive legislation Representative Coleman and I are introducing today. With the level of taxation now reaching 42 percent of national income, I believe we have reached the point where reasonable restraints are needed to protect the public.

SALT II SHOULD BE APPROVED

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEASE. Mr. Speaker, the Members of Congress for Peace Through Law SALT II Task Force has given close attention to the proposed strategic arms treaty over several months. We strongly endorse the treaty on the basis of our conclusion that the security interests of the United States would suffer if it were not ratified. We will continue working in support of ratification until the final vote in the Senate is cast.

As the chairman of the task force, I wish to bring to the attention of my fellow members in MCPL, and all my colleagues in the House of Representatives, the possibility that there is a small, compensating comfort in not having the power of advice and consent under the

Constitution. We in the House are to be spared the subtle missives that a well-financed organization is now printing by the hundreds of thousands to be sent to the Senate. These "fill-in-the-blank" statements of patriotic sentiment are so spontaneous and authentic an expression of public concern over SALT II that the sender need only affix his/her signature, stamp, and mail. The thinking that comprises the content of the card has been done by others: the details of the issue discussed are not left to the discretion of the sender.

Consider, for example, the delicate and gentle persuasion employed in the following mass mailing specimen:

> DEAR SENATOR ———: Eight U.S. Senators who voted to give our Panama Canal to a Marxist dictator were defeated in the last election.
>
> If you vote for the SALT II treaty, I will actively oppose you. And unless you speak out strongly on the need to increase our military strength, I will not consider voting for you now or at any time in the future.
>
> I will urge my relatives, friends and neighbors to watch closely how you vote on the SALT II treaty.
>
> America has never been in greater danger, because of our military weakness compared to the Russians, and the lack of courage by our leaders.
>
> Sincerely yours,
>
> ——— ———.

I submit to you that the kind of technique represented by this bulk-mailing device is clear evidence that the opponents of SALT II have lost the argument. Why else would such heavy-handed appeal to phobia be made in this fashion?

MCPL stands opposed to such methods and the task force in particular will continue to urge discussion of SALT on its abundant merits.

SAVE THE CHILDREN OF CAMBODIA

(Ms. HOLTZMAN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. HOLTZMAN. Mr. Speaker, I am addressing my colleagues today about a matter of life and death.

Tens of thousands are suffering and dying in Cambodia because food is being denied to them. People everywhere are moved by the plight of these Cambodians—especially the children—but, so far, official efforts to save them have proved unsuccessful.

On the grounds that food may be given to opposition soldiers, the Cambodian Government refuses to allow trucks carrying emergency food supplies to cross over from Thailand.

We, the Congresswomen of the United States, cannot sit idly by. We have, therefore, agreed unanimously to call on elected women all over the world to join with us in a plea to the Cambodian Government: "Save the children."

We will go to Phnom Penh within a matter of days to bring our message in person. We want to remind the Cambodian Government that children have no politics.

In fact, there is a precedent for saving the children. The situation in Cambodia today closely parallels the situation in Russia in 1921, when a terrible famine occurred as the result of a bitter civil war. Although fighting was still going on in parts of Russia, the Soviet Government allowed an international relief effort, led by Herbert Hoover, to provide food to starving children.

Millions of lives were saved.

If it could be done 60 years ago, it can be done today.

SAVE THE CHILDREN OF CAMBODIA

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I have great hopes for this international effort by elected women officials to help save the starving children in Cambodia. I am especially hopeful that the women in the Soviet Union will be able to help us. During the great Soviet famine in 1921–22, the United States provided food to save 1 million children in Russia. I am now hoping that the Soviet women will help us save the children of Cambodia.

I hope we can put politics aside and get on with this effort. Pointing the finger and playing the "who's to blame game" will not put food in the stomachs of the Cambodian children. This is a humanitarian effort in every sense of the word—an effort in which we should all participate. If we let millions of Cambodian children die, how will we explain it to our children and to our grandchildren?

SAVE THE CHILDREN OF CAMBODIA

(Mrs. BOUQUARD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOUQUARD. Mr. Speaker, the work of Mother Theresa, winner of the Nobel Prize for Peace, symbolizes the concept of compassion and obligation. I feel that the women of the world can find a special meaning in the work and dedication of Mother Theresa and realize the humanitarian obligation we have to the starving people of Cambodia.

Women have a moral, as well as a humanitarian responsibility to focus world attention on what is happening in Cambodia. The more we can perform that role, and the more we as members of the international community can encourage other people to take some action alongside us, the more we will be able to help the children in Cambodia. Now is the time when political considerations need to be put aside, for the more compelling humanitarian reasons which face the world about the Cambodian people.

As Mother Theresa's challenge has been not only to serve the needy, but to attract others to the humanitarian effort, so too must all women come forth and meet the challenge and commit ourselves to the cause of these starving people.

SAVE THE CHILDREN OF CAMBODIA

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, midst the talk of exhorbitant oil profits and the energy needs of our country, we have failed to focus on the human needs of the poor in this world. The bulk of our foreign aid is used to militarize the world, but what about the poor, the starving, and the starving in Cambodia?

I saw children, women, men, and elderly starving in the refugee camps in Thailand. It is the women of the world who must call a conscience to this problem. It is the women who must trumpet the call for morality and concern.

This is an international call to all of the women of the world to join us in this International Year of the Child to save the children in Cambodia.

SAVE THE CHILDREN OF CAMBODIA

(Ms. MIKULSKI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MIKULSKI. Mr. Speaker, I would like to join with my sister colleagues and associate myself with their remarks.

Right now an entire nation is headed for extermination, not by some mysterious disease that comes from outside the solar system as was described in the "War of the Worlds," but by starvation, a known disease.

Since politics created the problem, since politics generated the problem, politics can terminate the problem. We can do that in a united worldwide effort.

I am calling, as have my other colleagues, for women around the world to join with us to bear witness and to confront this problem.

In the 1930's when the Nazis started their extermination, and when they marched in the Rheinland, nobody wanted to believe it, nobody wanted to face it, nobody wanted to talk about it. We are confronted with an equal, unprecedented holocaust. We must now stand up for what we believe.

I am encouraging my counterparts around the world to join with us by using whatever channels they have at their disposal to ask that the food supply lines be opened. We know how to bomb. We should know how to feed.

SAVE THE CHILDREN OF CAMBODIA

(Mrs. SPELLMAN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SPELLMAN. Mr. Speaker, we know the biblical story of Rachel, who wept for her children and would not be comforted because the children were not. It is with similar emotions that the women Members of Congress—and we hope women officeholders throughout the world—embark in a few days on a humanitarian mission to aid the weak and starving children of Cambodia.

Like millions of others around the globe, we women Members have read in recent days the stories of death and suffering that have come out of Cambodia. Like millions of others, we have been outraged by the tales of devastation and destruction. Our hearts have gone out to all the Cambodian people, but most of all, our hearts have gone out to the children. For, as with all wars, it is the children who are suffering most. And, as with all wars, it is the children of Cambodia who are least responsible. In Cambodia, the death and destruction is such that on the children's fate, quite simply, rests the future of the entire Cambodian people. And, like Rachel, we cannot be comforted, we will not find rest, until we have done all we can for the children.

You may ask, what we, a handful of women, can do in a situation that has stymied whole nations? I can only ask in reply, is there anything we can afford not to do in the face of the pitiful scenes that have stared out at us from our newspapers and flashed across our television screens in recent weeks?

Mr. Speaker, we intend to plead with the Cambodian Government to open the borders and permit convoys of emergency food to come in and save the children. It seems so simple a solution and yet it has proved to be so difficult.

It is our sincere hope, too, that we will not be alone when we make this plea. We believe strongly that this is an issue that transcends nationalities and national borders. We are calling on women leaders from every country in the world to join us in our appeal. We fully expect the many who feel as we do—who will not be comforted because the children are not—will answer our call. And if they do, Mr. Speaker, we feel there is nothing we cannot accomplish.

SAVE THE CHILDREN OF CAMBODIA

(Mrs. HOLT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. HOLT. Mr. Speaker, it is not often that we in the women's caucus can unite unanimously in a cause, but one of the immense mass exterminations in history is being committed in Cambodia, where the native people of that land are being starved to extinction. It is our responsibility to see that this does not happen.

The House has approved funds for help to a starving people who are also being decimated by disease. Their Vietnamese conquerors and the puppet regime in Phnom Penh have refused to allow the vital assistance to reach the dying people.

True, the war continues in Cambodia. Remnants of the Pol Pot regime are still fighting the Vietnamese near the Thailand border, but this cannot be an excuse for refusing the shipments of food and medical help needed for survival of the civilian population.

The women of this Congress of the United States are calling on women elected officials around the world to appeal to the government in Phnom Penh to allow relief for the starving children of Cambodia.

I believe there is some hope we can persuade the Phnom Penh regime to allow help that would save the children. I cannot believe the Vietnamese want to be remembered in history as the perpetrators of the second holocaust of this century.

□ 0940

SAVE THE CHILDREN OF CAMBODIA

(Mrs. HECKLER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. HECKLER. Mr. Speaker, the women in this Congress fit no mold. They are strong, independent individuals. They come to this House from diverse backgrounds: Economic, geographic, religious, cultural, philosophic, and racial.

Despite those differences which I have learned to respect and admire as one who has served in the House for longer than any other woman Member, I have also learned that there are issues, causes, and concerns which unite the women of Congress and galvanize them into common, concerted action.

The silent slaughter in Cambodia is such a cause.

I therefore speak as co-chair of the Congresswomen's Caucus, but I also speak as the mother of three children.

Our caucus today embarks on an errand of conscience.

Where in the world today does the voice of suffering call out to the human heart more eloquently than from the war-torn mortuary of Cambodia, where the dead and dying from the scourge of starvation are literally piling up faster than they can be counted. Unless something gives, more than 2 million could die. Our caucus' effort to convince the present regime to allow outside humanitarian assistance to enter the country is indeed an errand of conscience.

Our conscience dictates we go and try; the conscience of the world demands that the problem be solved.

Now what will be tested is the conscience of Cambodia.

SAVE THE CHILDREN OF CAMBODIA

(Mrs. FENWICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. FENWICK. Mr. Speaker, yes, we have heard from the women of the Congress of the United States, and all of us in this House have heard often about the suffering and health and the problems of our people; but, what is happening in Cambodia is a whole different category.

What we see are the Four Horsemen of the Apocalypse, death, disease, famine, and war, all of them riding across these helpless people. The question is, Does the world stand by and not summon every resource it might have to come to the aid of these people?

I think it was our colleague from Maryland (Ms. MIKULSKI) who said that this is brought on by politics, and she is right. Here, we have an invading army. Are they or are they not going to stop their invasion, recognizing these Four Horsemen? Are they or are they not? Is the government sitting in the palace, safely in the capital, going to allow food to come to their people?

Politics—politics of the most brutal kind—is it reason enough?

SAVE THE CHILDREN OF CAMBODIA

(Mrs. BOGGS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOGGS. Mr. Speaker, I join my remarks with those of our many colleagues who have gone before me. When we encourage women to get into politics, we hope that they will bring the humane qualities of their gender into the political arena. We also know that they have a natural interest in the next generation.

I stand here as a grandmother of eight splendid American children, and it is with an enlightened self-interest that I feel that we must reach out to the children of Cambodia, and that the women of the world, especially those who have been honored by their own colleagues as elected officials, should take the lead in saying that they have brought the humane qualities of compassion, of dedicated service, of love to politics, and that never again shall we allow the children of this or future generations to suffer all the ravages imposed upon humanity by the Four Horsemen of the Apocalypse.

MARITIME APPROPRIATIONS AUTHORIZATION ACT FOR FISCAL YEAR 1980

Mr. MURPHY of New York. Mr. Speaker, I call up the conference report on the Senate bill (S. 640) to authorize appropriations for the fiscal year 1980 for certain maritime programs of the Department of Commerce, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the provisions of clause 2, rule XXVIII, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of October 25, 1979.)

The SPEAKER pro tempore. The gentleman from New York (Mr. MURPHY) will be recognized for 30 minutes, and the gentleman from California (Mr. McCLOSKEY) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge approval of the conference report on S. 640.

Mr. Speaker, on May 24, 1979, the Senate passed S. 640, with amendments, a bill providing for the authorization request of the Maritime Administration of the Department of Commerce for fiscal year 1980.

On July 27, 1979, the House of Representatives passed by a voice vote H.R. 2462, the companion bill providing for the authorization request of the Maritime Administration of the Department of Commerce for fiscal year 1980, with amendments.

As the Members will recall, the Senate bill, S. 640, was taken from the Speaker's table, all after the enacting clause was struck and the provisions of H.R. 2462 inserted in lieu thereof.

The differences between the Senate and the House amendments were resolved in conference on October 12, 1979.

I would now like to comment on the contents of the conference report.

Section 1, provides for the title identical in both bills as the Maritime Appropriation Authorization Act for fiscal year 1980.

Section 2, sets forth the six elements for which authorization authority is provided. Section 2, paragraph 1, authorizes $101 million for construction-differential subsidy.

The House included in its bill a provision that a vessel receiving construction-differential subsidy (CDS) must be offered for enrollment in a sealift readiness program. In addition, the House provided that the applicable CDS subsidy rate may be reduced by 5 percent unless the Secretary of Commerce determines that the vessel to be constructed is part of an existing or future vessel series. It was concluded that national security interests required that the vessel be offered for the sealift readiness program. Also, it was thought necessary to foster series construction. In conference, the Senate receded from its disagreement to these two amendments and the language of these amendments is now in the conference report.

Section 2, paragraph 2, authorizes $256,208,000 for operating-differential subsidy.

The House included in its bill a provision that no ODS funds may be paid for the operation of any vessel which is not offered for participation in a sealift readiness program approved by the Secretary of Defense. In conference, the Senate receded from its disagreement to this amendment. Again, national interests dictated that these subsidized vessels be offered for enrollment in the sealift readiness program.

The House also provided that a CDS operator may elect, for all or a portion of its ships, to suspend its ODS contract with all attendant statutory and contractural restrictions, except those relating to the domestic intercoastal or coastwise service, including any agreement providing for the replacement of vessels, if, first, the vessel is less than 10 years of age, second, the suspension period is not less than 12 months, third, the operator's financial condition is maintained at a level acceptable to the Secretary of Commerce, and fourth, the owner agrees to pay to the Secretary, upon such terms and conditions as he may prescribe, an amount which bears the same proportion to the CDS paid by the Secretary as the portion of the suspension period during which the vessel is operated in any preference trade from which a subsidized vessel would otherwise be excluded by law or contract bears to the entire economic life of the vessel. Such an operator is entitled to full reinstatement of the suspended contract on request until October 1, 1984.

The purpose of this amendment is to allow flexibility to the subsidized operator. We have heard for many years about the flexibility of operation available to the unsubsidized operators and conversely the subsidized operator is restricted in his operations by a number of inflexible, statutory provisions and rules and regulations resulting from his building the vessel and operating it with governmental subsidy.

I would like to emphasize that there is nothing mandatory about this provision. It is strictly at the discretion of the operator receiving ODS and he may elect to do it for all, some, one, or none of his subsidized vessels. In addition, it must be for a vessel less than 10 years old, and must be for a period from 12 months to 5 years. Importantly, the provision does not apply to the domestic intercoastal or coastwise trades, and the operator's financial condition must be at a level acceptable to the Secretary of Commerce. Finally, the provision would require repayment of CDS in proportion to the time spent in a previously authorized preference trade, this would presumably apply to all preference trades.

In order to provide this flexibility to the subsidized operators, the Senate receded from its disagreement to the House amendment and the provision is in the conference report.

Section 2, paragraph 3, provides $16,360,000 for research and development activities in the Maritime Administration.

This funding is to provide the wherewithal for the Maritime Administration to conduct necessary research and development for the maritime industry. It is our hope that MARAD will allocate some of this funding and its activities to perfecting slow speed diesel propulsion for use in the construction of U.S.-flag vessels. With the tremendous energy problems confronting our Nation, it is imperative that we use every energy conservation device available to us. Slow speed diesel propulsion in vessels is such a device. It must be utilized where possible.

Section 2, paragraph 4, provides a total of $31,372,000 for maritime education and training expenses; $17,132,000 is for maritime training at the Merchant Marine Academy at Kings Point, N.Y.; $10,285,000 for financial assistance to State marine schools; $1,998,000 for State marine school training vessels; and $1,957,000 for supplementary training courses authorized under section 216(c) of the Merchant Marine Act of 1936.

The funding of the Merchant Marine Academy at Kings Point is for the annual costs of running the Federal Merchant Marine Academy, and the funding for the State schools is for the six State maritime academies. The House added $3.5 million to repair and equip a replacement vessel for the Massachusetts Maritime Academy's T/S *Bay State* which was declared unusable. In addition, the House added $1,998,000 for fuel oil for State marine training ships. This was to provide funding for the alarmingly increased cost of fuel oil for vessels. The Senate receded from its disagreement with these House amendments and the necessary funding is in the conference report.

Section 2, paragraph 5, provides for operating expenses, not to exceed $35,598,000; including, not to exceed $6,377,000 for reserve fleet expenses, and $29,221,000 for other operating expenses.

Section 3 authorizes for fiscal year 1980, in addition to the amounts authorized by section 2 above, such additional supplemental amounts for activities for which appropriations are authorized under section 2 of this act, as may be necessary for increases in salary, pay, retirement, or other employee benefits, and for increased costs for public utilities, food services, and other expenses of the Merchant Marine Academy at Kings Point.

Section 4 amends section 27 of the Merchant Marine Act, 1920, the so-called Jones Act which prohibits foreign-built and foreign-flag vessels from operating in the U.S. domestic trades.

The House added an amendment providing that until October 1, 1984, any vessel documented under the laws of the United States and owned by citizens of the United States may, when operated upon a voyage in foreign trade, transport merchandise in cargo vans, lift vans, and shipping tankers between points embraced within the coastwise laws for transfer to or when transferred from another vessel or vessels, so documented and owned, of the same operator when the merchandise movement has either a foreign origin or a foreign destination. This provision, however, shall apply only to existing vessels or vessels under contract prior to the date of enactment, and shall not apply to movements between points in the contiguous United States and points in Hawaii, Alaska, the Commonwealth of Puerto Rico and United States territories and possessions.

It was agreed at conference between the House and Senate conferees that April 1, 1984 would be substituted for October 1, 1984. Thus, the period of applicability was shortened from 5 years to 4½ years.

In addition, the language limiting the proviso to existing vessels and vessels under contract prior to the date of enactment, was deleted at the suggestion of the Senate conferees and language inserted to the effect that the proviso shall apply only "to vessels which that same operator owned, chartered or contracted for the construction of prior to the date of enactment of the proviso."

In essence, the proviso would permit an unsubsidized U.S.-Flag operator carrying cargo in containers in a foreign-built vessel to offload the containerized cargo at a domestic U.S. port after a foreign voyage and carry the cargo in another vessel of the same company to another domestic port on the same or a different coast where the cargo may be offloaded and then reloaded on another vessel of the same company for transshipment to another foreign destination. This amendment would give such an operator flexibility in the use of his foreign-built vessels in carrying this foreign origin cargo from one domestic port to another domestic port in the continental United States.

Upon acceptance by the House of the two Senate suggestions mentioned above, the Senate receded from its disagreement with the House amendment.

Section 5 amends subsection D(a)(5) of section 30 of the Merchant Marine Act of 1920 to provide that the mortgagee in a ship mortgage situation is a State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States, or is a citizen of the United States, and for the purposes of the act the Reconstruction Finance Corporation, shall in addition to those designated in sections 37 and 38 of this act, be deemed a citizen of the United States.

Senator STEVENS introduced this amendment for the following reason: In 1972 the State of Alaska established a fishing revolving fund. The State of Alaska was not a citizen of the United States as defined in the Shipping Act of 1916. Therefore, to have the mortgage recorded and meet the requirements of the act, the State of Alaska was required to go through a trust deed-bond issue procedure. This proved to be costly to the fishermen since they had to pay a service fee to the trustee of one-half of 1 percent of the outstanding balance of the loan. By allowing the States to qualify as citizens for purposes of the act, the extra fee presently required to be paid by the fishermen would be eliminated. The House receded from its disagreement with the Senate amendment and the language is in the conference report.

Mr. Speaker, the conference report before the House at this time amounts to a total of $440,538,000 and represents a very fair resolution of the differences between the House and the Senate on this legislation. I strongly urge my colleagues on both sides of the aisle in the House to approve the conference report on S. 640.

Mr. Speaker, I reserve the balance of my time.

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this conference report, although somewhat reluctantly, because two amendments which we adopted in the House after several years of preparation and debate—the amendment prohibiting featherbedding on subsidized ships, and the amendment prohibiting the use of certain subsidy moneys for political activities, were both dropped when the Senate overrode us.

However, I join in supporting the report because I think that in the omnibus maritime bill which the chairman has had us deliberating on for the past 3 months, we will correct these problems as part of the Federal maritime policy of the United States.

Mr. Speaker, this approximately $400 million, in my judgment, is not being spent in the best way to preserve the American merchant marine and to restore a proud U.S.-flag merchant marine. One of the reasons that we are in difficulty today was recently illustrated; if our colleagues have read the Senate dialogs that took place between Senators MAGNUSON and STENNIS yesterday on the subject of shipbuilding, they might have observed that one Senator was able to circumvent the free enterprise competitive bidding system and hold a Navy construction job hostage to the demand that two frigates be built in his particular State rather than elsewhere.

☐ 0950

That kind of activity, unfortunately, has characterized both the civilian and the Navy building programs, although I think we will correct that in the omnibus maritime bill that we hope to report to the House early this spring.

With that goal in mind, I am glad to support this conference report.

Mr. MURPHY of New York. Mr. Speaker, I yield such time as he may consume to the gentleman from Puerto Rico (Mr. CORRADA).

Mr. CORRADA. I thank the gentleman.

Mr. Speaker, S. 640, the Maritime Administration authorization bill, as reported from the House-Senate conference committee, contains an amendment proposed in the U.S. Senate by the distinguished Senator from the State of Alaska, Senator TED STEVENS. According to Senator STEVENS, his purpose in introducing this amendment to the Merchant Marine Act, 1920, 46 U.S.C. 861 et seq., is to enable the State of Alaska to qualify as a mortgagee under section 30(D)(a)(5) of that act, 46 U.S.C. 922 (a)(5), by providing that the definition of "citizen" also includes the "States, District of Columbia, Commonwealth of Puerto Rico, territories and possessions."

I have no objection to Senator STEVENS' amendment or its acceptance by the conference committee. I am, however, somewhat concerned as to the possible effects this amendment may have on one of my constituents, Puerto Rico Maritime Shipping Authority (PRMSA). PRMSA was created in 1974 by the Commonwealth of Puerto Rico to serve the maritime transportation needs of Puerto Rico. PRMSA is a nonstock, public corporation owned entirely by the Commonwealth of Puerto Rico. Since its inception, PRMSA has been treated as a citizen of the United States under section 2 of the Shipping Act. It has also received financing from the Maritime Administration under the various provisions of the Merchant Marine Act, 1936, 46 U.S.C. 1101 et seq., and it will no doubt continue to seek and require the benefits under this act to which it is entitled because of its status under section 2 as a citizen of the United States. I do not believe that Senator STEVENS' amendment, which in my opinion is a clarifying amendment only, alters PRMSA's status under section 2 of the Shipping Act, but I would like to hear the views of the chairman of the Merchant Marine and Fisheries Committee, my distinguished and respected colleague the gentleman from New York, Mr. MURPHY.

Mr. MURPHY of New York. Mr. Speaker, will the gentleman yield?

Mr. CORRADA. I yield to the gentleman from New York.

Mr. MURPHY of New York. I thank the gentleman for yielding. I want to assure my colleague from the Commonwealth of Puerto Rico that I share his view that Senator STEVENS' amendment is in the nature of a clarification of the existing law and does not make any substantive change in that law. There is no question in my mind that Senator STEVENS' amendment is not intended to affect and will not affect the status of Puerto Rico Maritime Shipping Authority under section 2 of the Shipping Act and its eligibility for financing from the Maritime Administration under the provisions of the Merchant Marine Act of 1936. It would indeed be inimical to the intended purpose of the various shipping laws to treat Puerto Rico Maritime Shipping Authority as anything but a citizen of the United States. Puerto Rico Maritime Shipping Authority is the largest company using exclusively U.S.-flag vessels and is one of the largest carriers in the U.S. domestic offshore trades. Moreover, it is certainly a corporation, partnership, or association existing under the laws of the United States, or any State, territory, district, or possession thereof within the meaning of sections 1 and 2 of the Shipping Act. Consequently, there is no doubt in my mind that Puerto Rico Maritime Shipping Authority is a citizen of the United States and has been since its creation by the Commonwealth. Therefore I want to assure my colleague from the Commonwealth of Puerto Rico that I share his view that Senator STEVENS' amendment will not affect PRMSA's status under the Shipping Act or its status to receive various financial benefits available to U.S. citizens under the Merchant Marine Act of 1936.

Mr. CORRADA. I thank the gentleman for clarifying this. I want to commend him and all of the conferees for this excellent conference report, and I urge my colleagues to support it.

Mr. MURPHY of New York. Mr. Speaker, I have no further requests for time.

Mr. McCLOSKEY. Mr. Speaker, I have no further requests for time.

Mr. MURPHY of New York. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

AMENDING THE ANADROMOUS FISH CONSERVATION ACT

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 838) to amend the Anadromous Fish Conservation Act in order to extend the authorization for appropriations to carry out the purposes of the act, and to initiate an emergency investigation on the striped bass in Atlantic coastal waters, with a Senate amendment to the House amendments thereto, and concur in the Senate amendment to the House amendments.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendments as follows:

In lieu of the matter proposed to be inserted by the House engrossed amendment to the text of the bill, insert:

That subsection (c) of the first section of the Anadromous Fish Conservation Act (16 U.S.C. 757(c)) is amended by striking out the second sentence thereof.

Sec. 2. Section 2 of the Anadromous Fish Conservation Act (16 U.S.C. 757b) is amended by striking out "United States" in the last sentence and inserting in lieu thereof "cooperating States or other non-Federal interests".

Sec. 3. (a) Subsection (a) of section 4 of the Anadromous Fish Conservation Act (16 U.S.C. 757d(a)) is amended by striking out the first two sentences and inserting in lieu thereof the following: "There are authorized to be appropriated to carry out the purposes of this Act not to exceed the following sums:

"(1) $11,000,000 for fiscal year 1980.

"(2) $13,000,000 for fiscal year 1981.

"(3) $15,000,000 for fiscal year 1982.".

(b) Subsection (b) of such section 4 is amended by striking out "$1,000,000" and inserting in lieu thereof "$1,250,000".

Sec. 4. The Anadromous Fish Conservation Act is amended by redesignating section 7 as section 8 and by inserting after section 6 the following new section:

"Sec. 7. (a) The Secretary shall cooperate with States and other non-Federal interests in conducting studies of—.

"(1) the size and distribution of the population of striped bass (Morone saxatilis), including, but not limited to, studies to determine the amount and geographical location of annual spawning; and

"(2) the factors responsible for the decline in the number of striped bass that are available to the public for recreational and commercial use, including, but not limited to—

"(A) analyses of the extent and causes of mortality at successive stages in the life cycle of striped bass,

"(B) a determination of the effects of pollution on the viability and condition of eggs and larval fish, and

"(C) a survey of the economic importance of recreational and commercial striped bass fisheries.

"(b) The Secretary shall make annual reports to the Congress concerning the progress and findings of the studies conducted pursuant to subsection (a) of this section. Such reports shall, where appropriate, contain recommendations of actions which could be taken to improve the population of striped bass.

"(c) For purposes of conducting the studies required by this section, the Secretary may enter into agreements with States and other non-Federal interests in accordance with the provisions of the first section of this Act or he may carry out such studies directly, as he deems appropriate: *Provided*, That any agreement entered into pursuant to this subsection shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

"(d) There are authorized to be appropriated for the purposes of carrying out the studies described in subsection (a) of this section not to exceed $1,000,000 for the fiscal year ending September 30, 1980, not to exceed $1,750,000 for the fiscal year ending September 30, 1981, and not to exceed $2,000,000 for the fiscal year ending September 30, 1982. Funds authorized to be appropriated by this subsection are in addition to any funds authorized by section 4 which may be used for projects involving or affecting striped bass. If the Secretary considers that the studies described in subsection (a) should be continued after September 30, 1982, the Secretary shall inform the Congress in writing before February 15, 1981, of the reasons why and for how long such continuation is believed to be warranted.".

Sec. 5. Section 201(e)(2)(D)(i) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1821(e)(2)(D)(i)) is amended by striking out "harvested" and inserting in lieu thereof "unharvested".

Sec. 6. There are authorized to be appropriated to the Department of the Interior such sums as may be necessary, but not to exceed $800,000, for purposes of preparing a plan for a fishery research laboratory on lands owned by the University of Washington on Big Beef Creek, Washington. For purposes of preparing such a plan, there shall be available to the Department of the Interior any sums previously appropriated for the National Fishery Research Center in the State of Washington and available for expenditure on the date of the enactment of this Act, and such sums shall be treated as having been authorized for appropriation under the preceding sentence. The Secretary of the Interior shall complete and submit such plan as soon as practicable to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Environment and Public Works of the Senate and such plan shall include, but not be limited to, information regarding site adequacy, laboratory conceptual design, recommended agreements that should be entered into regarding Federal agency use of such laboratory as a condition for Federal sharing in its costs, and estimates of the costs involved.

Sec. 7. The aquarium to be built by the City of Baltimore, Maryland, on the site on Pratt Street, Pier 3, of the Baltimore Inner Harbor, shall, on and after the date of the completion of its construction, be known and designated as the "National Aquarium in Baltimore." Any reference in any law, map, regulation, document, record, or other paper of the United States to that aquarium shall be held to be a reference to the National Aquarium in Baltimore.

Mr. MURPHY of New York (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the Senate amendment to the House amendments.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York to dispense with the reading of the Senate amendment to the House amendments?

Mr. FORSYTHE. Reserving the right to object, and I will not object, I make this reservation in order that the chairman may explain what is going on here.

Mr. MURPHY of New York. Mr. Speaker, will the gentleman yield?

Mr. FORSYTHE. I yield to the gentleman from New York.

Mr. MURPHY of New York. I thank my distinguished colleague for yielding.

Mr. Speaker, H.R. 2035 passed the House on June 25, 1979. As it passed the House, H.R. 2035 would do four things:

First, it would extend the funding authorization for the Anadromous Fish Conservation Act for a period of 3 years at a level not to exceed $11 million for fiscal year 1980, $13 million for fiscal year 1981, and $15 million for fiscal year 1982.

Second, it would authorize to be appropriated $4,750,000 over a 3-year period to study one of the most sought-after fish along the Atlantic coast, the striped bass. One of the major spawning rivers for the striped bass is the Hudson River in the State of New York.

Third, it would require title to lands acquired pursuant to Federal-State programs carried out under the act to be vested in the State or any other non-Federal party involved, in lieu of in the Federal Government where title to such lands are presently vested.

Fourth, it would authorize Federal funds to be used for operation and maintenance of facilities constructed pursuant to a cooperative agreement with the Secretary of the Interior when two or more States are involved in a project, and eliminate the present requirement of having the States bear such costs exclusively.

Mr. Speaker, S. 838 as it passed the Senate on June 18, 1979, would also do four things:

First, it would extend the funding authorization for the Anadromous Fish Conservation Act for a period of 4 years at a level of $10 million for fiscal year 1980, $11 million for fiscal year 1981, $12 million for fiscal year 1982 and $13 million for fiscal year 1983.

Second, it would authorize to be appropriated $6,750,000 over a 4-year period to study the striped bass, but unlike the House bill, the study would be limited to striped bass on the Atlantic coast.

Third, it would change the formula which controls the amount of funds authorized to be received by any State carrying out programs under the act by providing that no State could receive more than $1 million in any 1 year—the maximum amount authorized under present law—or 20 percent of the funds appropriated in any 1 year, whichever is greater.

Fourth, it would provide the same as the House bill with respect to title to lands acquired pursuant to a project carried out under the act and the use of Federal funds for operation and maintenance of facilities constructed under projects involving two or more States.

Mr. Speaker, with a view toward avoiding a conference on the bill, the staffs of the Committee on Merchant Marine and Fisheries and the Senate Committees on Environment and Public Works and on Commerce, Science, and Transportation have worked out compromise language to which both the House and Senate committees agree, and the amendment to S. 838—in the form of a substitute amendment—which the House is being asked to concur in today incorporates that compromise language.

The net effect of the Senate amendment to S. 838, which is the compromise language, is as follows: it retains the language of the House provision of the bill which deletes the prohibition in present law on the use of Federal funds to operate and maintain multi-State common basin facilities constructed under the act and allows the operation and maintenance costs of such facilities to be cost-shared on the same basis as the costs of other aspects of multi-State projects, that is, two-thirds Federal and one-third State; it retains the language of the Senate provision of the bill that deletes the requirement of present law that title to lands acquired under the Act be vested in the United States and provides instead that title to such lands be vested in the States or any other non-Federal party involved; it retains the language of the House provision of the bill that would extend the act for 3 years at $11 million, $13 million and $15 million, respectively for fiscal years 1980, 1981 and 1982; it rewrites the Senate provision of the bill that would increase the amount of Federal funds any State could receive in any year under the act from $1 million (as provided by present law) to 20 percent of the funds appropriated in any one year, whichever is greater, to provide that the maximum amount any State could receive in the future under the act would be $1,250,000 per year; and it retains, but rewrites, the striped bass study provision of both bills including therein the House version with respect to funding, which calls for a 3-year study for a total cost of $4,750,000, and the House version with respect to scope, which requires the study to cover striped bass populations throughout the country, rather than just those on the Atlantic coast.

Mr. Speaker, with respect to the striped bass study, appropriate legislative history has been developed which the House and Senate committees feel clearly spells out Congressional intent as to how this study should be carried out by the administering agencies and this legislative history follows:

The committees are cognizant of the fact that the striped bass is of importance both recreationally and commercially in a number of regions of the country. It is also noted by the committees that while across the country some of the populations of stripers are in a stable or improving condition, populations in certain areas now show a dramatic and unexplainable decline. Many within the scientific community who are familiar with population trends of striped bass are concerned that the extremely low ebb in the fortunes of the striped bass are the result of more than the to be expected ups and downs of this stock of stripers. Many of these scientists postulate that the length and severity of the decline of the striped bass population in this instance is due primarily or certainly aggravated by pollution, exploitation, or destruction of necessary spawning habitat. They have warned the committees that with respect to the striped bass populations in these waters an all out effort ought to be made immediately to understand what is happening before an even worse turn of events with the bass occurs.

With this in mind the committees, while not wishing to minimize the importance of research to improve the conditions of striped bass populations throughout the country, would like to stress the urgency of the need to address the problems the bass faces in those areas showing the most dramatic decline.

The committees being concerned about the future of the striped bass have directed with the legislation that the Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) act with all deliberate haste in carrying out the proposed study. The committees in advancing this study do not suggest that nothing is presently being done. Research conducted by the Federal agencies, States, and universities, although lacking integration, has been substantial.

It is intended that the FWS and NMFS act as cocoordinators of this study and that an overall plan of action be developed prior ot initiation of the study by a committee composed of representatives from the administering agencies, other Federal agencies, the State, other non-Federal interests, and the citizens advisory panel which is described below.

The committees realize that the same people who hold the striped bass so highly in esteem are the best hope for the continued viability of this resource and should be involved in the study conducted under section 4 of the compromise amendment. The committees also understand that the needs and expectations of the various user groups can be defined best by the users themselves. Further, the success of this investigation will ultimately be measured against the satisfaction of the fishermen, businessmen, and consumers who pursue profit from and enjoy the striped bass.

Accordingly, the striped bass study provisions, in recognition of the intense interest in the striper's well-being expressed by these users, direct the codirectors of the study to seek input from these groups in their administration of this investigation by utilizing the existing citizens advisory group. It is of the utmost importance that the panel created should contain a representative balance of both recreational and commercial fishing interests.

The committees are aware that the existing Federal-State striped bass program within NMFS already has an advisory body and it is the intention of the committees that the coordinators of the striped bass program will as appropriate draw from the personnel and experience of this existing group. It may be necessary to expand this advisory panel to include adequate representation for commercial and recreational fishing interests in order to properly address the striped bass study.

It should be noted that the study is separated into two major divisions: First, investigation of the status of population of striped bass; and second, studies of other factors responsible for the decline in numbers of striped bass.

It is the intent of the committees that the investigations which are to be carried out take advantage of and capitalize on the existing capabilities of the involved State and Federal agencies.

For this reason it is requested that the coordinators of the striped bass study use as a guide in (dividing responsibility of the carrying out of such study) the division of such responsibility outlined in the Senate report. It might be noted that while the Senate report does not speak directly to the issue of open ocean contaminant research both the House and Senate committees agree that the NMFS expertise in this area should be recognized and that those portions of the study dealing with this subject should be managed by them.

It should also be understood that this division of responsibility between various levels of government and the State agencies is not to be viewed as a criticism of the management capabilities of those involved in the study. It is, however, a recognition of the differing agency capabilities and the difficulties of working with a fish species in the coastal zone, particularly a migratory species that does not recognize either State or Federal jursdictional lines, and in addition, spends important portions of its life cycle in both salt and freshwater. In working with the NMFS and FWS prior to passage of S. 838, the committees found the agencies to be aware of the overlaps in capabilities that existed and the potential that these overlaps had to cause confusion and delay in the initiation and completion of this badly needed study. They, therefore, worked with the Senate committee to design the responsibility guidelines in the Senate report and agree that they will be of help in increasing the efficient and expeditious completion of the study.

The committees are interested in maintaining maximum cooperation and participation by the States in carrying out the proposed study. It is also deemed to be most important that existing capabilities of the States be utilized by the coordinators wherever possible. Evidence indicates that the States have particularly good capabilities and should therefore be heavily involved in gathering the information needed to complete the size and distribution analysis contemplated in section 4 of the amendment. The committees also realize the interstate nature of this particular portion of the study and would maintain that wherever possible a 66⅔ Federal matching share should be available to those States which actively participate in it.

The committees also understand that, in some cases, the State may not have the best capabilities to accomplish the studies needed in section 4.

The committees have, therefore, included a provision that will allow the coordinators to contract directly with those parties which can best obtain the information desired in this portion of the study. The use of this contract authority should, in those cases where State capabilities are lacking, enable the coordinnators to obtain the necessary information from the most reliable source even if such source is a Federal agency, university, or private entity.

Mr. Speaker, there is one other point I would like to emphasize regarding the funding for carrying out the act and the striped bass study. Our intention is that the extra striped bass funds authorized in S. 838, as amended, be used solely for the studies provided for, and not to augment existing State projects related to, striped bass. Additional funding needs for State striped bass projects not a part of the studies is provided for in the increased authorizations for the main programs in the bill.

Finally, Mr. Speaker, there are three additional provisions in the amendment relating to other programs which I would like to briefly explain.

First, section 5 of the amendment would make a technical change to section 201(e)(2)(d)(i) of the Fishery Conservation and Management Act of 1976. The word "harvested," which is incorrectly used in this subsection, is corrected to read "unharvested."

Second, section 6 of the amendment would make it clear that funds previously appropriated for purposes of preparing a plan and design for the National Fishery Research Center in the State of Washington would, in lieu thereof, be authorized to be used for preparing a plan and design for a fishery research laboratory on lands owned by the University of Washington. The amendment authorizes up to $800,000 to be used for preparing such a plan and the $600,000 previously included in the 1980 appropriation bill, H.R. 4930, for this purpose is considered to be a part of this authorization.

Third, section 7 would provide that the aquarium to be built in the city of Baltimore on Pratt Street shall be known after its completion as the "National Aquarium in Baltimore" and any reference to that aquarium in the future shall be held to be a reference to such National Aquarium.

Mr. Speaker, I strongly support the Senate amendment and I urge its adoption.

Mr. FORSYTHE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York to dispense with further reading of the Senate amendment to the House amendment.

There was no objection.

The SPEAKER pro tempore. Is there objection to the original unanimous-consent request of the gentleman from New York?

Mr. SENSENBRENNER. Mr. Speaker, reserving the right to object, would the gentleman from New York kindly answer a question. If we do establish this aquarium in Baltimore, are there any Federal funds that are involved in supporting this aquarium?

Mr. MURPHY of New York. If the gentleman will yield, there are no Federal funds involved in the Baltimore aquarium.

Mr. SENSENBRENNER. Would it be the gentleman's thought that at some time in the future, like beginning next year, there would be an appropriation request for funds for Baltimore, or would we just continue on with the arrangement that was provided for in this bill?

Mr. MURPHY of New York. If the gentleman will yield further, it was very clear in the Senate colloquy that there will be no Federal funds requested for either authorization or appropriation for construction or for planning.

Mr. SENSENBRENNER. Mr. Speaker, with that understanding, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the original unanimous-consent request of the gentleman from New York?

There was no obligation.

A motion to reconsider was laid on the table.

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REQUEST FOR CONSIDERATION OF SENATE CONCURRENT RESOLUTION 43, HONORING THE 14TH CENTENNIAL OF ISLAM

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the concurrent resolution (S. Con. Res. 43) honoring the 14th centennial of Islam, and ask its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. FINDLEY. Mr. Speaker, reserving the right to object, I would yield to the gentleman from Indiana for the purpose of explaining the purpose of the motion.

Mr. HAMILTON. Mr. Speaker, Senate Concurrent Resolution 43 is a resolution honoring the 14th centennial of Islam. This resolution was introduced by request of the Department of State and is identical to House Concurrent Resolution 194, which passed the Committee on Foreign Affairs by voice vote October 24, 1979.

Mr. Speaker, November 21, 1979, will mark the 1,400th anniversary of the founding of Islam. This event will be commemorated throughout the world, including most all nations of the world where Muslims live.

November 21, 1979, will also mark the beginning of an American ecumenical commemoration.

The focus of this centennial celebration is on intercultural relations, not politics or theology. It is a celebration by Americans for Americans in America.

It is hoped this resolution and a presidential proclamation can be presented November 21.

President Carter is already on record encouraging the participation and attention of all Americans on this centennial cultural celebration. He said in a letter dated May 7, 1979 that—

> In honoring an important world faith and culture we do honor to our own traditions of tolerance and compassion.

As part of the American ecumenical commemoration, a National Committee to Honor the 14th Centennial of Islam has been established and some 70 prominent Americans of the Islamic, Christian, and Jewish faiths are members of the National Committee. The Honorable Lucius D. Battle, former U.S. Ambassador to Egypt and former Assistant Secretary of State, is serving as chairman of our National Committee and the American effort is also supported by former Deputy Assistant Secretary of State and former U.S. Ambassador to Cyprus and Yemen, William Crawford, who is executive director of the National Committee.

The work of the National Committee will seek:

To show appreciation for the cultural legacy we received from Islam;

To improve our understanding of a richly rewarding culture;

To emphasize the traditions we share;

To show respect for valuable old friends and to invite new ones; and

To join a celebration of national and international cultural dimensions.

The National Committee is in the process of organizing a year-long calendar of events in the arts, humanities and sciences in an effort to foster understanding among peoples by honoring the contributions of Islamic civilization and culture to mankind.

Mr. Speaker, one question for us today is: How can Western societies best foster constructive, purposeful, and expanding relationships with Islamic peoples for our mutual benefit and for the benefit of mankind.

I know that over the last few years many Members have been concerned about the policies of some governments in Muslim-dominated states and aspects of the Islamic judicial system which are at variance with our own judicial practices. Support of this resolution in no way can be construed as support for any government or its policies. Our purpose here is limited. We seek only to recognize an important event. The resolution does not concern any political or theological issues: it emphasizes intercultural relations.

Mr. Speaker, I hope that my colleagues will join me in wishing this National Committee success in its endeavors over the coming year. I urge adoption of this resolution.

Mr. FINDLEY. Mr. Speaker, further reserving the right to object, I know of no objection whatever among the membership of this body. I support the resolution. I also congratulate the committee leadership on going through the proper legislative steps. There have been times in the past when resolutions of this sort have been brought directly to the House floor without committee consideration. Therefore, I congratulate the gentleman from Indiana and others who have followed this process.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana (Mr. HAMILTON)?

Mr. DERWINSKI. Mr. Speaker, I further reserve the right to object and I will not object.

Mr. Speaker, reserving the right to object, I rise in support of the resolution as perfected. Islam is one of the world's great religions. At the same time its tenets and its history are not widely known in this country. Islam's adherents in the United States are growing in number—most of them coming as immigrants. The program anticipated for in this resolution will help enlighten Americans regarding the remarkable traditions, rich culture and underlying philosophy of this major religion.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana (Mr. HAMILTON)?

Mr. BAUMAN. Mr. Speaker, further reserving the right to object.

Mr. Speaker, I have no particular opposition to this resolution which I had occasion to read yesterday, nor to the next resolution dealing with the Baltic States which I strongly support. However, the gentleman from Maryland would like to inform the House that in view of the decision of the majority leadership in the last few weeks to repeatedly report out closed rules on legislation such as the FTC authorization bill and the legislation yesterday dealing with the major overhaul of the welfare system in this country, it will be the intention of the gentleman from Maryland and other Members of the minority to selectively require that the rules of the House be applied in full.

Mr. Speaker, I feel strongly that if we are going to have a gag dictatorship policy applying to major legislation, then we should follow the regular order on many other matters.

Mr. Speaker, I just wanted to make that explanation before objecting to the consideration of Senate Concurrent Resolution 43.

Mr. Speaker, I do object to consideration of Senate Concurrent Resolution 43.

The SPEAKER pro tempore. Objection is heard.

REQUEST FOR CONSIDERATION OF HOUSE CONCURRENT RESOLUTION 200, EXPRESSING THE SENSE OF THE CONGRESS WITH RESPECT TO THE BALTIC STATES AND WITH RESPECT TO SOVIET CLAIMS OF CITIZENSHIP OVER CERTAIN U.S. CITIZENS

Mr. BONKER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 200) expressing the sense of the Congress with respect to the Baltic States and with respect to Soviet claims of citizenship over certain U.S. citizens.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, for the reasons I stated before, although I support this resolution I intend to object to its present consideration. I would say this, that in the normal course of things the members of the Committee on Foreign Affairs can go to the Committee on Rules and obtain a rule on this. This is the same Committee on Rules that is now reporting out gag rules.

Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

LEGISLATIVE PROGRAM

(Mr. BAUMAN asked and was given permission to address the House for 1 minute.)

Mr. BAUMAN. Mr. Speaker, I take this time in order to inquire of the distinguished minority deputy whip, the gentleman from Illinois (Mr. ROSTENKOWSKI) as to the program for today and next week.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, the program for the balance of today is to consider H.R. 5192, the Education Act of 1980, and H.R. 4007, repayment of loans made to State unemployment funds, with a modified rule, 1 hour of debate, and H.R. 4167, the Milk Price Support Act, votes on amendments and the bill.

Having concluded that, the program for the House of Representatives for the week of November 5, 1979, is as follows:

On Monday, the House will meet at noon with no legislative business.

On Tuesday, that is an election day and it is the intention of the leadership not to have the House in session on that day.

On Wednesday the House will meet at noon and consider:

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H.R. 4904, Welfare Reform Amendments of 1979, under a modified rule with 2 hours of debate. The rule has already been adopted.

H.R. 2313, Federal Trade Commission authorization, under a modified rule, with 1 hour of general debate. The rule has already been adopted.

Complete consideration of H.R. 5192 Education Act Amendments of 1980.

On Thursday and Friday for the balance of the week the House will meet at 10 a.m. on Thursday and 9 a.m. on Friday, to consider the conference report on Senate Concurrent Resolution 36, the second concurrent budget resolution for fiscal year 1980.

We will then consider the following bills:

H.R. 4007, repayment of loans made to State unemployment funds, modified rule with 1 hour of debate.

H.R. 4167, Milk Price Support Act, votes on amendments and the bill.

H.R. 3398, Agriculture Adjustment Act of 1979, under an open rule, with 1 hour of debate.

H.R. 2727, Meat Import Act of 1979, under an open rule, with 1 hour of debate.

H.R. 2603, national security applications of nuclear energy authorizations, fiscal year 1980, under an open rule, with 1 hour of debate.

H.R. 2335, Solar Power Satellite Research and Development Program Act, under an open rule, with 1 hour of debate.

H.R. 3948, Experienced Pilots Act of 1979, under an open rule, with 1 hour of debate.

The House will adjourn by 2 p.m. on Friday and by 5:30 p.m. on all other days except Wednesday.

Conference reports may be brought up at any time and any further program will be announced later.

Mr. BAUMAN. Mr. Speaker, may I ask the gentleman whether it is the intention of the leadership to call up the Consent Calendar on Monday, since that would be in order?

Mr. ROSTENKOWSKI. Mr. Speaker, if the gentleman will yield further, it is not the intent to have any business on Monday, should the House go over.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman.

HOUR OF MEETING ON FRIDAY, NOVEMBER 9, 1979

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that when the House convenes on Friday, November 9, 1979, that it convene at 9 a.m.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule, November 7, 1979, be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

REQUEST TO MAKE IN ORDER CONSIDERATION OF DISTRICT OF COLUMBIA BUSINESS ON WEDNESDAY, NOVEMBER 7, 1979

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that it may be in order to consider District of Columbia business on Wednesday, November 7, 1979.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

ADJOURNMENT TO 12 O'CLOCK NOON, MONDAY, NOVEMBER 5, 1979

Mr. ROSTENKOWSKI. Mr. Speaker. I ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

ADJOURNMENT FROM MONDAY, NOVEMBER 5, 1979, TO WEDNESDAY, NOVEMBER 7, 1979

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday next, it adjourn to meet at noon on Wednesday, November 7, 1979.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

REQUEST TO AUTHORIZE THE CLERK TO RECEIVE MESSAGES FROM SENATE AND THE SPEAKER TO SIGN ENROLLED SENATE BILL, NOTWITHSTANDING ADJOURNMENT

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Wednesday, November 7, 1979, the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign the enrolled Senate bill (S. 1905) if duly passed by the two Houses and found truly enrolled.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. SENSENBRENNER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

DISPENSING WITH CALL OF THE CONSENT CALENDAR ON MONDAY, NOVEMBER 5, 1979

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent to dispense with the call of the Consent Calendar on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

EDUCATION AMENDMENTS OF 1980

Mr. FORD of Michigan. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5192) to amend and extend the Higher Education Act of 1965, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5192, with Mr. SHARP in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Monday, October 29, 1979, all time for general debate on the bill had expired.

Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the reported bill shall be considered by titles as an original bill for purposes of amendment and each title shall be considered as having been read.

The Clerk will designate section 1 and title I.

Section 1 and title I read as follows:

H.R. 5192

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Education Amendments of 1980".

TITLE I—ESTABLISHMENT OF A NEW TITLE I OF THE HIGHER EDUCATION ACT OF 1965

AMENDMENTS

SEC. 101. (a) Title I of the Higher Education Act of 1965 (hereinafter in this Act referred to as "the Act") is amended to read as follows:

"TITLE I—EDUCATION OUTREACH PROGRAMS

"FINDINGS

"SEC. 101. The Congress finds that—

"(1) the rapid pace of social, economic, and technological change has created pressing needs for postsecondary educational opportunities for adults in all stages of life;

"(2) postsecondary educational opportunities in the United States are traditionally provided for persons between the ages of eighteen and twenty-two;

"(3) many adults are barred from advancement or self-sufficiency by lack of access to and retention in postsecondary educational opportunities appropriate to their needs, or by lack of information about available offerings;

"(4) access to postsecondary educational opportunities is severely limited for adults whose educational needs have been inadequately served during youth, or whose age, sex, race, handicap, national origin, rural isolation, or economic circumstance may be barriers to such opportunities;

"(5) with declining population growth rates, the future of postsecondary education in the United States lies in its ability to respond to the challenges of new student populations;

"(6) service in the realm of continuing education will be better achieved through increased emphasis on planning and coordination which more effectively utilizes existing resources of both public and private sectors; and

"(7) to meet the unique problems and needs of adults who are disadvantaged in seeking access to post secondary educational opportunities, resources must be marshalled from a wide range of institutions and groups, including community and junior colleges, community-based educational institutions, business, industry, labor, and other public and private organizations and institutions.

"STATEWIDE PLANNING

"SEC. 102. (a)(1) From 20 per centum of the sums appropriated to carry out the purposes of this title, the Secretary shall allot to each State with an agreement pursuant to section 1203 for comprehensive statewide planning an amount which bears the same ratio to such sums as the adult population of such State bears to the population of all the States with an agreement pursuant to such section, except that for each fiscal year no State shall receive from such sums less than $60,000 for that year.

"(2) If the sums appropriated for any fiscal year are not sufficient to make payments of $60,000 to each such State, then the amount of each such State's allotment shall be ratably reduced. If additional sums become available for any fiscal year for which allotments have been so reduced, then such allotments shall be increased on the same basis as they were reduced, except that if the sums so available exceed the amount required to allot $60,000 to each such State such sums shall be allotted on the basis of population as required by paragraph (1).

"(b) From the sums allotted under this section, the Secretary shall make grants to States with an agreement pursuant to section 1203 of this act for the purpose of conducting comprehensive statewide planning for improving access within the State to postsecondary educational programs for traditional and nontraditional learners, coordinating educational and occupational information and counseling services to youth and adults throughout the State, and promoting more effective and efficient use of available resources for continuing education within the State.

"(c) A State shall submit to the Secretary at the end of each fiscal year for which sums have been received a list of those programs funded under this title, a brief description of the programs' purposes, and an analysis of the relationship between funded activities and the comprehensive statewide planning for postsecondary education.

"(d) Of the sums granted to States for comprehensive statewide planning, not less than 50 per centum shall be for the purpose of carrying out a program of statewide planning for continuing education in order to improve access for adults within the State to postsecondary education programs and to promote more effective and efficient use of available resources, including efforts to ensure equal treatment of applicants in the evaluation of grant proposals. Such planning shall give particular consideration to the educational needs of adults who have been inadequately served by programs of postsecondary education.

"(e) Planning undertaken pursuant to this section shall be coordinated with the planning activities under subpart 4 of part A and part B of title IV and section 485 of this Act; the Vocational Education Act; the Comprehensive Employment and Training Act; the Older Americans Act; the Vocational Rehabilitation Act; the Career Education Incentive Act; the Adult Education Act; the Veterans Readjustment Assistance Act; and other Federal, State, and local activities intended to provide outreach, guidance, counseling, and educational and occupational information to persons within the State.

"(f) States may use the funds available for this section to conduct studies of student financial assistance needs and resources, information coordination, continuing education, and other topics consistent with the purposes of subsections (b) and (d) of this section.

"STATE GRANT PROGRAMS

"SEC. 103. (a) From 70 per centum of the sums appropriated to carry out the purposes of this title, the Secretary shall make allotments to States with an agreement pursuant to section 1203 for—

"(1) providing information services in accordance with section 104; and

"(2) providing funds under section 105 for continuing education.

"(b) Of the sums allocated under subsection (a) of this section, the Secretary shall allot 25 per centum on an equal basis to all States for information services.

"(c) Of the sums allocated under subsection (a), the Secretary shall allot 25 per centum on an equal basis to all States with an agreement pursuant to section 1203, and the remaining to each such State in an amount which bears the same ratio to such sums as the adult population of such State bears to the adult population of all such States, for continuing education programs.

"(d) No State with an agreement pursuant to section 1203 shall receive less than $90,000 for any fiscal year under this section, except that if the sums appropriated for any fiscal year are not sufficient to make payments of $90,000 to each such State, then the amount of each such State's allotment shall be ratably reduced. If additional sums become available for any fiscal year for which allotments have been so reduced, then such allotments shall be increased on the same basis as they were reduced, except that if the sums so available exceed the amount required to allot $90,000 to each such State such sums shall be allotted on the basis of population as required in subsection (c).

"INFORMATION SERVICES

"SEC. 104. (a) States shall use funds available for this section to conduct programs to develop and coordinate new and existing educational and occupational information and counseling programs to eliminate unnecessary duplication and to provide a more comprehensive delivery of services to both traditional and nontraditional learners seeking educational information and to youth and adults seeking occupational information.

"(b) Such educational and occupational information and counseling programs shall be coordinated to the extent possible with those authorized by subpart 4 of part A and part B of title IV and section 485 of this Act; the Vocational Education Act; the Comprehensive Employment and Training Act; the Older Americans Act; the Vocational Rehabilitation Act; the Career Education Incentive Act; the Adult Education Act; the Veterans Readjustment Assistance Act; and other Federal, State, and local activities intended to provide outreach, guidance, counseling, and educational and occupational information to persons within the State.

"(c) For the purposes of carrying out this section, States may make grants to, and enter into contracts with, institutions of higher education, public and private institutions and organizations, business, industry, and labor, or any combination thereof.

"CONTINUING EDUCATION

"SEC. 105. (a) The Secretary shall make grants from funds available for this section to States for the purpose of——

"(1) promoting access to and retention in postsecondary educational programs for adults whose educational needs have been inadequately served;

"(2) expanding and improving postsecondary education programs which help adults develop their occupational potential and prepare for transitions between education and work;

"(3) eliminating barriers posed by previous education or training, age, sex, race, handicap, national origin, rural isolation, or economic circumstance which may place adults at a disadvantage in seeking postsecondary educational opportunities;

"(4) strengthening mechanisms of information, counseling, and referral which provide access to postsecondary education and serve the special needs of adults; and

"(5) developing strategies to promote the financial self-sufficiency of postsecondary education programs initiated pursuant to this title.

"(b) To promote the purposes of subsection (a), States may make grants to and contracts with public and private institutions and organizations, institutions of higher education, business, industry, and labor, or any combination thereof, for programs such as—

"(1) creation or expansion of labor education, training and technical assistance programs, and the development of cooperative relationships between State and local labor organizations and institutions and agencies which provide opportunities for continuing education;

"(2) assistance to remove barriers to continuing education caused by rural isolation or other rural-related factors;

"(3) assistance to older persons through legal, vocational, health, and information services which use preretirement education as a means to adjust to retirement;

"(4) promote resource sharing for innovative uses of technology, including telecommunications, either on an interstate or intrastate basis, to overcome barriers to postsecondary education opportunities;

"(5) educational and occupational information and counseling services designed to meet the special needs of adult women, particularly homemakers, and to assist their entry or reentry into postsecondary education and the labor force;

"(6) collection and dissemination of information, including data banks, on sources of student financial assistance and information designed to assist persons to make choices among postsecondary institutions, programs, and other educational opportunities;

"(7) community education service activities consistent with the purpose of this section for adults in rural areas; and

"(8) postsecondary educational programs suited to those persons whose educational needs have been inadequately served, especially the handicapped, older persons, migrant and seasonal farmworkers, persons who can attend only part time, and persons who otherwise would be unlikely to continue their education beyond high school.

"NATIONAL ADVISORY COUNCIL ON CONTINUING EDUCATION

"SEC. 106. (a) The President shall appoint a National Advisory Council on Continuing Education (hereafter referred to as the "Advisory Council"), consisting of eight representatives of Federal agencies having postsecondary continuing education and training responsibilities, inculding but not limited to, one representative each from the Departments of Education; Agriculture; Defense; Labor; and the Veterans' Administration; and twelve members, not in the full-time employ of the Federal Government, who are knowledgeable and experienced in the field of continuing education, including State and local government officials, representatives of business, labor, and community groups, and adults whose education needs have been inadequately served. The Advisory Council shall meet at the call of the chairman but not less than twice a year.

"(b) The Advisory Council shall advise the Secretary in the preparation of general regulations and with respect to policies and procedures arising in the administration of this title.

"(c) The Advisory Council shall examine all federally supported continuing education and training programs and make recommendations with regard to policies to eliminate duplication and to effectuate the coordination of programs under this title and other federally funded continuing education and training programs and services.

"(d) The Advisory Council shall make annual reports to the President, the Congress, and the Secretary commencing on September 30, 1981, of its findings and recommendations, including recommendations for changes in the provisions of this title and other Federal laws relating to continuing education and training activities. The President shall transmit each such report to the Congress with his comments and recommendations. The Advisory Council shall make such other reports or recommendations to the President, the Congress, the Secretary, or the head of any other Federal department or agency as may be appropriate.

"(e) The Advisory Council may utilize the services and facilities of any agency of the Federal Government as may be necessary. The Advisory Council may accept, employ, and dispose of gifts or bequest to carry out its responsibilities under this title.

"FEDERAL DISCRETIONARY GRANTS

"SEC. 107. (a) From 10 per centum of the sums appropriated to carry out the purposes of this title, the Secretary is authorized to make grants to and contracts with public and private institutions and organizations, institutions of higher education, business, industry, labor, and States, or any combination thereof to fund activities that—

"(1) develop and evaluate innovative delivery systems to increase access to postsecondary education for underserved adults;

"(2) expand the range of educational and community resources used to meet the needs of underserved adults for continuing education;

'(3) promote the development of interstate educational delivery system, cooperative arrangements, and programs (including telecommunications) which more effectively address regional needs for continuing education;

"(4) stimulate and evaluate creative approaches to the problems of access for adults inadequately served by existing educational offerings;

"(5) develop statewide, regional, or national programs to coordinate educational and occupational information, including information on student financial assistance through creation and expansion of data banks for the more effective coordination and dissemination of such information; and

"(6) assist States to effectively perform their functions of authorizing institutions of higher education.

"(b) No grant may be awarded under this section within a State unless the Secretary has provided the State agency designated pursuant to section 1203 an opportunity to comment on the relationship of the proposed grant to the planning pursuant to section 102.

"DEFINITIONS

"SEC. 108. (a) For the purposes of this title—

"(1) the term 'adults whose educational needs have been inadequately served' means individuals eighteen years of age or older who, because of circumstances of age, sex, low income, handicap, minority status, rural isolation, status of unemployment or underemployment, lack of education, or other significant barriers have been discouraged from obtaining equal educational opportunities;

"(2) the term 'continuing education' means post-secondary instruction and support services designed to meet the educational needs of adults, including the expansion of available learning opportunities for adults whose educational needs are inadequately served by currents educational offerings in their communities;

"(3) the term 'adult population' means the population eighteen years old and older of a State and of all the States which shall be determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

"APPROPRIATIONS AUTHORIZED; PAYMENTS

"SEC. 109. (a) For the purposes of this title there is authorized to be appropriated $100,000,000 for fiscal year 1981; $125,000,000 for fiscal year 1982; $150,000,000 for fiscal year 1983; $175,000,000 for fiscal year 1984; and $200,000,000 for fiscal year 1985.

"(b) Payments with respect to the allotment of funds under sections 102 and 103 shall be made to the State agency designated pursuant to section 1203 and shall not exceed two-thirds of the cost of activities funded under sections 102 and 103. The non-Federal share may be in cash or in kind, but may not include payments received under any other Federal program.

"(c) States are authorized to use not more than 50 per centum of funds provided under section 102 for the purposes of carrying out programs under section 103.".

(b) Subpart 5 of part A of title IV of the Act is repealed.

AMENDMENTS OFFERED BY MR. FORD OF MICHIGAN

Mr. FORD of Michigan. Mr. Speaker, I offer technical and conforming amendments.

The Clerk read as follows:

Amendments offered by Mr. FORD of Michigan:

Page 3, lines 1 and 19, strike out "section 1203" and insert in lieu thereof "section 1203(b)(1)".

Page 25, beginning on line 13, strike out "for any reproduction" and everything that follows through line 15 and insert in lieu thereof "by the borrowing library for each such reproduction of a document under copyright delivered by or through the Corporation with the consent of the copyright owner;".

Page 31, beginning on line 17, strike out "means the right' and everything that follows through line 18 and insert in lieu thereof "means the owner of the right to authorize the kind of reproduction of periodical literature to be made by the Corporation;".

Page 35, line 7, insert "(i)" immediately after "(A)"; on line 9, insert "(ii)" immediately after "degree, or"; and strike out lines 17 through 20 and insert in lieu thereof the following:

"(C) except as provided in paragraph (2), has, during the five academic years preceding the academic year for which it seeks assistance under this title—

"(i) met the requiremnt of either subparagraph (A)(i) or (A)(ii), or of both such subparagraphs (simultanously or consecutively); and

"(ii) met the requirement of subparagraph (B); and

Page 38, line 5, strike out "and" at the end of such line.

Page 80, line 3, strike out the close quotation marks and the period thereafter and after such line insert the following:

"(g) The program provided for in this section shall be administered by an identifiable administrative unit.".

Page 130, line 10, strike out "paragraph (1)" and insert in lieu thereof "subparagraph (A)".

Page 132, line 1, insert "without dependents' after "a student"; on line 3, insert "without dependents" after "for students"; on line 7, strike out "and" the second place it appears; on line 8, insert "without dependents" after "other students"; on line 11, insert "and" after the semicolon and after such line insert the following:

"(D) for students with dependents, an allowance based on the expenses reasonably incurred by such students for room and board;

Page 132, after line 20 insert the following new subsection:

"(e) Nothing in this section shall prohibit an institution, in individual cases, from adjusting the financial need determination for a student aided under subpart 2 of part A or part C or E of this title if such adjustment is documented.

Page 139, strike out lines 15 through 17 and insert in lieu thereof the following:

"(J) the impact of the availability of Federal student financial assistance on the availability of student financial assistance from all other sources;

Page 144, after line 6, insert the following new subsection:

(d) Section 438 of the Act is amended by striking out subsections (e), (f), and (g).

Page 205, beginning on line 3, strike out all of title XII through line 15 on page 210 and insert in lieu thereof the following:

TITLE XII—GENERAL PROVISIONS

AMENDMENTS

SEC. 1201. Title XII of the Act is amended by striking out sections 1202, 1203, 1205, 1206, and 1208, by redesignating section 1207 as section 1202, and by adding after such section the following new sections:

"FEDERAL-STATE RELATIONSHIP

"SEC. 1203. (a) Any State which desires to receive assistance under applicable programs shall enter into an agreement wtih the Secretary pursuant to subsection (b) setting forth the terms and condiitons for the relationship between the Federal Government and each individual State for the purposes set forth in such applicable programs as described in subsection (f).

"(b) Such agreement shall be submitted to the Secretary and include—

"(1)(A) a designation of the State agency or agencies or State or statewide boards, commissions, or councils or other statewide planning bodies in the State responsible under State law for comprehensive statewide planning or financing for postsecondary education;

"(B) designation and description of the activities of—

"(i) the State agency responsible for carrying out education information programs pursuant to section 104;

"(ii) the State agency responsible for carrying out continuing education programs pursuant to section 105;

"(iii) the State agency responsible for collection of information required pursuant to section 202;

"(iv) the State agency responsible for administration of the student assistance program authorized by subpart 3 of part A of title IV;

"(v) the State agency responsible for undergraduate facilities planning pursuant to section 711;

"(C) a description of the activities of the State agency or agencies, or State or statewide boards, commissions, or councils in the State responsible for—

"(i) programs which provide educational and occupational information services to youth and adults;

"(ii) programs which provide continuing education services to persons of all ages;

"(iii) administration of student assistance programs;

"(iv) licensing, accrediting, approving, or chartering institutions of higher education; and

"(v) statewide coordination or governance of postsecondary education sectors;

"(D) a description of the relationship between the planning activities of the State agencies designated and described in subparagraphs (A), (B), and (C); and

"(E) an assurance by the State, including a description of the means to be used by the State to fulfill the assurance, that—

"(i) represenatives of institutions of higher education in the State (including community colleges, proprietary institutions, and independent colleges and universities), students, other providers of postsecondary educational services, and the general public are involved in the comprehensive statewide planning processes and, pursuant to paragraph (1), such processes consider—

"(I) the postsecondary education needs of unserved and underserved persons within the State, including those beyond the traditional college age; and

"(II) the resources of those institutions, organizations, or agencies (both public and private) within the State capable of providing postsecondary educational opportunities in the State;

"(ii) the State will provide for such methods of administration as are necessary for the proper and efficient administration of any program in keeping with the purposes of this title as set forth in applicable programs as defined in subsection (f);

"(iii) the State will provide such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State under any title under this Act; and

"(iv) the State will follow policies and practices of administration that will ensure that non-Federal funds will not be supplanted by Federal funds; or

"(2) the designations, descriptions, and assurances required by subparagraphs (B), (C), and (E)(ii), (iii) and (iv) of this paragraph (1).

Any State which elects to submit an agreement pursuant to paragraph (2) shall not be eligible to receive assistance under section 102 of this Act.

"(c) The information and assurances provided by a State in accordance with subsection (b), and regulations issued by the Secretary, shall be satisfactory for the purposes of, and shall be considered in lieu of, any comparable requirements for information and assurances in any applicable program as defined in subsection (f).

"(d)(1) A State's agreement shall remain in effect subject to modification as changes in information or circumstances require.

"(2) Whenever the Secretary, after reasonable notice and opportunity for a hearing has been given the State, finds that there is a failure to comply substantially with the requirements for an agreement established in this section, the Secretary shall notify the State that it is no longer eligible to participate in any applicable program as defined in subsection (f) until he is satisfied that there is no longer any such failure to comply.

"(3)(A) Nothing in this section shall be construed to authorize the Secretary to require any State to adopt, as a condition for entering into an agreement, or for participation in an applicable program as defined in subsection (f), a specific State organizational structure for achieving participation in the planning, or administration of programs, or for statewide planning, coordination, governing, regulating, or administering of postsecondary education agencies, institutions, or programs in the State.

"(B) Nothing in this section shall be construed as a limitation on the authority of any State to adopt a State organizational structure for postsecondary education agencies, institutions, or programs which is appropriate to the needs, traditions, and circumstances of that State, or as a limitation on the authority of a State entering into an agreement pursuant to this section to modify the State organizational structure at any time subsequent to entering into such an agreement.

"(e) For the purpose of this section, definition of the State office or body authorized to act on behalf of the State for the purpose of entering into an agreement with the Secretary shall be in accordance with the State law of each individual State with respect to the authority to make legal agreements between the State and the Federal Government.

"(f) For the purposes of this section an 'applicable program' is defined as—

"(1) title I;

"(2) subpart 3 of part A of title IV; and

"(3) part A of title VII.

"TREATMENT OF TERRITORIES

"SEC. 1204. (a) The Secretary is authorized to provide such modifications of any programs under this Act as he deem necessary in order to adapt such programs to the needs of Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands. Such program modifications may include the consolidation of grants on a regional or interterritorial basis. Such program modifications shall be established in cooperation with the governments of such territories and shall be governed by a memorandum of understanding between such governments and the Department of Education.

"(b) In conjunction with the development of program modifications under subsection (a), the Secretary shall within 18 months after the date of enactment of this section, conduct an analysis of the unique educational needs of Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, and report to the Congress on the results of such analysis. Such report shall include recommendations of the Secretary with respect to the most appropriate form of Federal postsecondary education assistance for such territories, an evaluation of the effectiveness of the authority contained in subsection (a), and whether such authority should be extended or modified.".

Page 210, strike out lines 24 and 25 and insert in lieu thereof the following:

SEC. 1302. (a) Except as provided in subsection (b), the amendments made by this Act shall be effective on October 1, 1980.

(b) The amendment made by section 404 (c)(4) of this Act to section 415C(b)(4) of the Act shall be effective on October 1, 1979.

Page 114, after line 11, insert the following new subsection:

(c) Section 467 of the Act is amended by inserting "(a)" after "SEC. 467." and by adding at the end thereof the following new subsection:

"(b) The Commissioner shall continue to attempt to collect any loan assigned under section 463(a)(5) or referred under subsection (a) of this section until a date which is not earlier than four years after the date of default (determined in a manner consistent with section 430(e))."

Mr. FORD of Michigan (during the reading). Mr. Speaker, I ask unanimous consent that these technical and conforming amendments be considered as read, printed in the RECORD, and considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. FORD of Michigan. Mr. Chairman, the committee amendments which I am offering en bloc have several purposes. They make several technical and conforming changes to take care of drafting oversights or needs for clarification that have come to our attention since full committee consideration of this bill.

They make it clear, for example, that the requirement in title III that an institution must have been in existence for at least 5 years in order to be eligible for assistance means that it must have been in existence for 5 years as either a community college or a 4-year college or both. This has always been the intent of the committee with respect to this requirement.

They continue the requirement of current law that the veterans cost of instruction program be administeerd by an identifiable administrative unit.

They provide that in determining the cost of attendance of students for purposes of the student financial aid programs that separate standards be used for students without dependents and for students with dependents.

They provide flexibility for student financial aid administrators to adjust the financial need of students under the campus base programs based on extraordinary circumstances in an individual case.

This is the current practice under the campus base student financial aid program.

They repeal the authority for the Committee on the Determinaton of Student Loan Special Allowances. This committee completed its work in 1977 and is moribund.

They modify title XII to give the States the flexibility to have more than one State agency undertake planning activities with Federal support, to allow States the option of not participating at all in federally supported comprehensive statewide planning and to give the Secretary broad flexibility in administering the programs under the Higher Education Act with respect to the unique needs of Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Marianna Islands.

This latter modification of title XII was fully explained during the general debate by my good friend and our colleague from Guam (Mr. WON PAT).

At the suggestion of the gentleman from Colorado (Mr. KRAMER) the committee amendment requires that attempts be made to collect defaulted direct student loans for at least 4 years before they are considered uncollectible.

Mr. PERKINS. Mr. Chairman, will the distinguished gentleman yield to me?

Mr. FORD of Michigan. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, I take this time in order to comment on one of the technical amendments to title III. I want to concur in Chairman FORD's comments that the amendment relating to eligibility for institutions changing from 2- to 4-year status is a clarifying amendment only.

I simply cannot understand how the Office of Education has so confused this issue. In 1965 when we worked on the legislation to establish title III, it was our intention that the program be directed to institutions who were developing, not by virtue of their recent establishment but because they had over a period of time been struggling to raise their academic standards. The 5-year requirement was intended to preclude participation by newly established institutions.

I understand that the Office of Education has interpreted the law to require an institution changing from 2- to 4-year status to wait out a 5-year period. Mr. Chairman, that makes no sense at all. It was never intended by the Congress, nor does the law require this. In effect, what the Office of Education is saying is that even if a 2-year institution had been in existence for 50 years, it would have to wait 5 years for eligibility for title III money if it changed to a 4-year institution.

May I stress, Mr. Chairman, that this is a clarifying amendment. In my view, it is not necessary for both the law and congressional intent are clear. I support the amendment, however, so that there will be no further misinterpretations by the Office of Education as to congressional intent and the law.

Mr. BUCHANAN. Mr. Chairman, I rise in support of the amendments.

Mr. Chairman, these are agreed amendments and I support them. We have tried very hard to meet the concerns of the various educational associations and other interested parties in the country in this entire bill.

I think these amendments clarify that purpose and it has been the purpose of the committee throughout these proceedings to do that.

I must say that I am not certain all these changes in language are necessary, but I certainly have no objection to the changes and I do support the amendments.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield to me?

Mr. BUCHANAN. Yes, certainly.

Mr. FORD of Michigan. Mr. Chairman, I want to thank the gentleman for his cooperation.

I am not certain that they are necessary, either, but that is why we characterize them as technical. There are people around the country who feel that they need the reassurance of these little technical changes. Since they are consistent with what we thought they were saying, we thought we would accommodate their concerns.

Mr. BUCHANAN. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Michigan (Mr. FORD).

The amendments were agreed to.

Mr. FOUNTAIN. Mr. Chairman, I commend and thank the distinguished chairman of the Postsecondary Education Subcommittee, Mr. FORD, for his committee's amendment to title XII of H.R. 5192. Mr. FORD's amendment corrects a problem which I am sure neither he nor Mr. BUCHANAN had anticipated. I also want to express my appreciation to the ranking minority member, my good friend Mr. BUCHANAN, for his cooperation.

I understand that all of the States but two, North Carolina and Wisconsin, have State postsecondary planning agencies or commissions. Title XII, before Mr. FORD's committee amendment, would have required North Carolina and Wisconsin, and such other States as may not have such a bureaucracy, to establish a planning agency like all of the other States, even though they do not want one. Now with Mr. FORD's amendment, concurred in by Mr. BUCHANAN, the planning agency is optional. That decision is still for the States to make, not the Federal Government. I am pleased that North Carolina can make its own decision about planning, and again I thank Mr. FORD and Mr. BUCHANAN for their help in making this intention clearer.

I would like to add to what I understand the subcommittee's intention is in amending title XII. The amendment would change section 1203 so that States may choose one of two agreements with the Secretary. Option 1 is the same as the Education and Labor Committee's version of section 1203. Option 2 encompassed in the amendment proposed today and adopted by the committee, eliminates the requirement that States designate an agency responsible for statewide planning, eliminates the requirement that States describe the relationship among the planning efforts of the various State entities, eliminates the requirement that the States involve institutions in the statewide planning process, and prohibits Federal planning funds to States which elect option 2. If title I of the bill is funded, this would mean about $60,000 for each State.

Frankly, I think our whole country would be better served if we could amend title XII out of the bill altogether. The Congress should not pass legislation unless the intent is clear and unmistakable, and unless all the people who will be affected by it understand it. Based upon contacts I have had with college and university officials, there are many unanswered questions about title XII.

Let me refer you now to the current law. Current law is clear. States that want to plan and that want Federal money to do it with, have to form a State commission (better known as a 1202 commission) that is representative of all institutions, the public, and the State. North Carolina and Wisconsin said "No thank you" but the other States said yes, and that is fine.

Title XII in the original committee bill would change everything. It gets rid of the old law and the 1202 commissions, and says that States wishing planning money must first make detailed agreements with the Secretary. And why? No one can tell me. The committee report says:

> The intent is to permit the States to draw together and coordinate these (postsecondary) functions in a manner most appropriate to each State.

Personally, I think it is unnecessary for the Congress to pass six full pages of legislation to permit the States to do what they are allowed to do anyway.

Mr. Chairman, North Carolina says "No thank you," but your States (except Wisconsin) already get Federal planning money. I remind my colleagues that if title XII is six pages long there will be at least 60 pages of regulations telling your States what they have to do to get what they have already got.

Sections 1202 and 1203 of the current law passed in 1972. The colleges and universities did not like it then and the administration did not like it either. Secretary Weinberger of HEW refused to write regulations for it. But our States and their universities have adjusted and they are talking to each other in their 1202 commissions. I say to my colleagues, I am fearful that title XII, even as amended, rocks the boat when things are just getting settled. Current law seems to be working. No one seems to know what title XII is supposed to do.

However, due to the lateness of the hour and the fact that this matter will be addressed again by the conferees, I want to once again thank my colleagues, the chairman of the subcommittee, Mr. Ford, and the ranking minority member, Mr. Buchanan, for their willingness to amend title XII in such a way as not to add new or entirely unnecessary burdens for some of our higher education institutions, including those in North Carolina and Wisconsin.

Mr. ANDREWS of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. FOUNTAIN. I yield to the gentleman from North Carolina.

Mr. ANDREWS of North Carolina. I thank the gentleman for yielding.

Let me say to the dean of our delegation, I simply would like to associate myself with the remarks he has made and to also thank him for the very valuable work on behalf of North Carolina, which he has performed in connection with this most important matter.

I thank the gentleman.

Mr. FOUNTAIN. I would like to broaden this, Mr. Chairman, and say on behalf of the entire North Carolina delegation, and I hope on behalf of the delegation from Wisconsin, I want to thank these gentleman for the help they gave in clarifying this matter.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. FOUNTAIN. I yield to the gentleman from Alabama.

Mr. BUCHANAN. The distinguished gentleman from North Carolina certainly has made a good contribution in calling this to our attention, and I am pleased that we were able, with the chairman's amendments, to correct the situation.

I want to thank the gentleman for his comments.

Mr. FOUNTAIN. I thank the gentleman for his observation.

□ 1020

AMENDMENT OFFERED BY MR. BIAGGI

Mr. BIAGGI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Biaggi: Page 15, line 24, strike out the close quotation marks and the period thereafter and after such line insert the following new section:

"STUDY OF ADULT POSTSECONDARY EDUCATION

"Sec. 110. (a) In order to support the activities authorized by this title, the Secretary shall conduct a study of the remaining barriers to adult postsecondary education which shall analyze the characteristics of current or potential adult postsecondary students, the Federal response to the needs of adult postsecondary students, and the ability of educational institutions to respond to the growing postsecondary student population. For purposes of this study, the term 'adult postsecondary student' shall mean persons 22 years of age or older.

"(b) In analyzing the characteristics of current or potential adult postsecondary students and the Federal response to their needs, the Secretary shall, at a minimum—

"(1) review the extent to which such students are motivated by employment goals, and whether these students seek further education in order to enter the labor force or reenter after an extended absence, advance in a current career, or move from one career to another;

"(2) analyze the relationship between different employment motivations and sources of financial assistance for education, choice of institution or patterns of participation in postsecondary education; and

"(3) evaluate the extent to which the inavailability or inaccessibility of financial aid sources may prevent educational participation by economically or socially disadvantaged adults, or otherwise limit their choice of educational focus or intensity of study.

"(c) In analyzing the ability of postsecondary institutions to respond to the potential adult postsecondary student population, the Secretary shall, at a minimum—

"(1) review the availability of outreach, information, counseling, or supportive service programs, with particular attention to programs serving adults such as homemakers or retirees who are least likely to have access to normal sources of educational information;

"(2) review the availability of alternative methods of evaluating past education credits and experience to promote adult participation in postsecondary education, and the availability of remedial courses for adult students.

"(d) Not later than two years after the date of enactment of this subsection, the Secretary shall make a report to the President and the Congress on the results of the investigation and study authorized by this section, together with such findings and recommendations, including recommendations for legislation, as may be appropriate. All recommendations that contemplate changes in Federal legislation shall be accompanied by draft legislation.".

Mr. BIAGGI (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BIAGGI. Mr. Chairman, I would like to commend the chairman of the committee, the gentleman from Michigan (Mr. Ford), for his ever constant support, for his leadership, and for his constant commitment to higher education. The gentleman from Alabama (Mr. Buchanan), whose sympathies are of a similar nature, has been most cooperative. As we all know, these gentlemen are most informed on this subject, and we thank them for their support. This is a simple question, but it is a critical question that needs to be addressed.

Mr. Chairman, I am offering this amendment to title I of H.R. 5192, the education amendments of 1980 which mandates that the Secretary of Education conduct a study to evaluate the remaining barriers to adults in postsecondary education and will determine in what ways we can best serve the needs of the adult student in the future. I offer this amendment with the help of my colleague John Burton from the House Select Committee on Aging who has been in the forefront of this effort.

This study would identify the current nontraditional—as it has come to be called—student population today. This has been necessitated by the fact that increasing numbers of adults are returning to school, both as full and as part-time students. We are hearing that many of them are facing problems. Colleges and universities are acknowledging the fact that many of them are unable to meet the needs of this growing student population. This study would help us to identify the current effort which is being made by educational institutions at present and will also show us where the deficiencies in the system lie.

Many of these problems came to light during a hearing which I chaired that our Postsecondary Education Subcommittee held at Mercy College in Dobbs Ferry, N.Y. I was joined at this hearing by my colleagues on the committee, Mr. Peyser and Mr. Weiss as well as Mr. Ratchford who has been involved with the shaping of this title from the beginning.

At this hearing, a number of groups, individuals, and institutions came forward to address the needs and the problems of the adult student. Witness after witness came forward to applaud this committee for holding hearings so that these concerns of the nontraditional student population could be brought to light—problems which they felt had not been addressed.

Financial aid is often the biggest problem faced by adults returning to school. Most adults who return to school also have additional family and job responsibilities and are forced to attend class on a part-time basis. In my own State of New York, part-time students are not eligible for 1 penny of State tuition assistance programs which amount to approximately $206 million according to recent figures. Our Federal programs mandate that to be eligible for grants or loans, students must be in attendance half-time or more. There are large numbers of adults in this Nation who can only afford to attend less than halftime yet are unable to receive financial aid.

Access to information is also a problem for the nontraditional student. Again, in our hearings, many of the students who testified or who spoke with me told me that they were totally unaware of the options available to them for financial assistance. The financial aid office was only open from 9 until 5 and that was when they were at work. School administrators acknowledged that information access was also a problem given their own fiscal problems.

There were also some very fine examples of what schools were doing to assist their nontraditional students, such as flexible office and class hours and a special effort made to reach out to the adults in the community to provide them with the information. This study could provide examples and offer ways in which other schools could be making similar efforts for their students.

Mr. Chairman, last year this body passed the Middle Income Student Assistance Act. As an original cosponsor of this bill, I am pleased to note that with this legislation we have made some form of Federal assistance available to any student who wants to attend college or a vocational or technical school at least halftime. This past July, this body responded to a bill which I introduced which averted a potential crisis in the availability of guaranteed students loans this past fall. With this bill which we have before us today, H.R. 5192, we have acknowledged this nontraditional population in our version of title I which is called "educational outreach programs." However, I feel, and I am sure that many of my colleagues on the committee will agree with me, that in order for this committee to adequately address the needs and problems which are unique to adult learners. We need to be able to identify where these problems currently exist. My amendment would address this problem by providing this body with a survey of this group from the Secretary of Education within 2 years after enactment of this bill.

The future of higher education rests with the ability of the system to recognize the changing nature of the student population. This study will help to provide the kinds of information necessary to plan policy properly. It is complimentary to this bill and I urge its adoption.

Mr. FORD of Michigan. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I would like to commend the gentleman from New York (Mr. BIAGGI) for the diligence with which he has pursued this solution.

We attempted to consider the objectives of this amendment in the full committee and were unable to work it out. One of the concerns was that it was most difficult to find a way to accomplish this without authorizing a separate appropriation of funds.

The gentleman from New York (Mr. BIAGGI) has worked with the majority and minority staffs, with the gentleman from Alabama (Mr. BUCHANAN), and with me toward the end of accomplishing his purpose, on which I am sure every member of the committee agrees, without the necessity of authorizing new funds.

Mr. Chairman, this does not constitute an add-on or an increase in the authorizations of this bill. We are happy to accept the amendment and recommend that it be adopted.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Chairman, we, too, are happy to accept the amendment. I congratulate the gentleman from New York (Mr. BIAGGI) for working this matter out in a way that does not add authorizations.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BIAGGI).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title I? If not, the Clerk will designate title II. Title II reads as follows:

TITLE II—AMENDMENT AND EXTENSION OF TITLE II OF THE HIGHER EDUCATION ACT OF 1965

AMENDMENT

SEC. 201. Title II of the Act is amended to read as follows:

"TITLE II—COLLEGE AND RESEARCH LIBRARY ASSISTANCE AND LIBRARY TRAINING AND RESEARCH

"PURPOSE; AUTHORIZATION

"SEC. 201. (a) The Secretary shall carry out a program to assist—

"(1) institutions of higher education in the acquisition of library resources, including law library resources, and in the establishment and maintenance of networks for sharing library resources in accordance with part A;

"(2) in the training of persons in librarianship and encourage research and development relating to the improvement of libraries (including the promotion of economical and efficient information delivery, cooperative efforts, and developmental projects) in accordance with part B;

"(3) the Nation's major research libraries to maintain and strengthen their collections, and in making their holdings available to other libraries whose users have need for research materials, in accordance with part C; and

"(4) the establishment of a National Periodical Center, in accordance with part D.

"(b) (1) For fiscal year 1981 and for each succeeding fiscal year ending prior to October 1, 1985, there are authorized to be appropriated $60,000,000 for carrying out part A, $60,000,000 for carrying out part B, $20,000,000 for carrying out part C, and $15,00,000 for carrying out part D.

"(2) Notwithstanding paragraph (1), no funds are authorized to be appropriated for part D unless the appropriation for each of parts A, B, and C equals or exceeds the amount appropriated for each such part, respectively, for fiscal year 1979.

"(c) No grant may be made under this title for books, periodicals, documents, or other related materials to be used for sectarian instruction or religious worship, or primarily in connection with any part of the program of a school or department of divinity.

"NOTIFICATION OF STATE AGENCY

"SEC. 202. Each institution of higher education which receives a grant under this title shall annually inform the State agency designated pursuant to section 1203 of its activities under this title.

"PART A—COLLEGE LIBRARY RESOURCES

"RESOURCES DEVELOPMENT GRANTS

"SEC. 211. (a) From the amount appropriated for this part, the Secretary shall make grants to institutions of higher education or combinations thereof (and to each branch of an institution which is located in a community different from that in which its parent institution is located), and to other public and private nonprofit library institutions whose primary function is to provide library and information services to institutions of higher education on a formal, cooperative basis. The amount of a resource development grant under this section shall not exceed $10,000.

"(b) A grant under this part may be made only if the application provides—

"(1) information about the institution and its library resources as prescribed by the Secretary in regulations;

"(2) satisfactory assurance that the applicant will expend, for all library material expenditures (exclusive of construction) during the fiscal year for which the grant is sought, from funds other than funds received under this part, an amount not less than the average annual aggregate amount or the average amount per full-time equivalent student it expended for such purposes during the two fiscal years preceding the fiscal year for which assistance is sought under this part;

"(3) for such fiscal control and fund accounting procedures as are necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part; and

"(4) for making such reports as the Secretary may require and for keeping such records and for affording such access thereto as the Secretary deems necessary to assure the correctness and verification of such reports.

"(c) If the Secretary determines, in accordance with regulations, that there are very unusual circumstances which prevent the applicant from making the assurance required by subsection (a)(2), the requirement for such assurance may be waived. For purposes of this subsection, the term 'very unusual circumstances' means theft, vandalism, fire, flood, earthquake, or other occurrence which may temporarily reduce the level of expenditures for library materials and total library purposes, or which resulted in unusually high expenditures for library materials and total library purposes.

"(d) Grants under this part may be used

only for books, periodicals, documents, magnetic tapes, phonographic records, audiovisual materials, and other related library materials (including necessary binding) and to establish and maintain networks for sharing library resources with other institutions of higher education.

"PART B—LIBRARY TRAINING, RESEARCH, AND DEVELOPMENT

"GRANTS AUTHORIZED

"SEC. 221. From the amount appropriated for this part, the Secretary shall make grants in accordance with sections 222, 223, and 224. Of such amount, one-third shall be available for the purposes of each such section.

"LIBRARY CAREER TRAINING

"SEC. 222. (a) The Secretary shall make grants to, and contracts with, institutions of higher education and library organizations or agencies to assist them in training persons in librarianship. Such grants or contracts may be used by such institutions, library organizations, or agenices (1) to assist in covering the cost of courses of training or study (including short term or regular session institutes), (2) to establish and maintain fellowships or traineeships with stipends (including allowances for travel, subsistence, and other expenses) for fellows and others undergoing training and their dependents, not in excess of such maximum amounts as may be determined by the Secretary, and (3) to establish, develop, or expand programs of library and information science, including new techniques of information transfer and communication technology.

"(b) Not less than 50 per centum of the grants made under this section shall be for the purpose of establishing and maintaining fellowships or traineeships under subsection (a)(2).

"RESEARCH AND DEMONSTRATIONS

"SEC. 223. The Secretary is authorized to make grants to, and contracts with, institutions of higher education and other public or private agencies, institutions, and organizations for research and demonstration projects related to the improvement of libraries, training in librarianship, information technology, and for the dissemination of information derived from such projects.

"SPECIAL PURPOSE GRANTS

"SEC. 224. (a) The Secretary is authorized to make special purpose grants to (1) institutions of higher education to meet special national or regional needs in the library or information sciences, (2) combinations of institutions of higher education which demonstrate a need for special assistance in establishing and strengthening joint-use library facilities, resources, or equipment, (3) other public and private nonprofit library institutions which provide library and information services to institutions of higher education on a formal, cooperative basis for the purpose of establishing, developing, or expanding programs or projects that improve their services, and (4) to institutions of higher education who demonstrate a need for special assistance to develop or expand programs or projects that will service the community in which the institution is located.

"(b) A grant under this section may be made only if the application therefor (whether by an individual institution or a combination of institutions) is approved by the Secretary on the basis of criteria prescribed in regulations and provides satisfactory assurance that (1) the applicant will expend during the fiscal year for which the grant is sought (from funds other than funds received under this title), for the same purpose as such grant, an amount from such other sources equal to not less than one-third of such grant, and (2) each such applicant will expend during such fiscal year from such other sources for all library purposes (exclusive of construction) an amount not less than the average annual amount it expended for such purposes during the two fiscal years preceding the fiscal year for which the grant is sought under this section.

"PART C—STRENGTHENING RESEARCH LIBRARY RESOURCES

"ELIGIBILITY FOR ASSISTANCE

"SEC. 231. (a)(1) From the amount appropriated for this part, the Secretary shall make grants to institutions with major research libraries.

"(2) For the purposes of this part, the term 'major research library' means a public or private nonprofit institution (including the library resources of an institution of higher education), an independent research library, or a State or other public library, having a library collection which is available to qualified users and which—

"(A) makes a significant contribution to higher education and research;

"(B) is broadly based and is recognized as having national or international significance for scholarly research;

"(C) is of a unique nature, and contains material not widely available; and

"(D) is in substantial demand by researchers and scholars not connected with that institution.

"(b) No institution receiving a grant under this part for any fiscal year may receive a grant under section 211 or 224 for that year.

"GEOGRAPHICAL DISTRIBUTION OF GRANTS

"SEC. 232. In making grants under this part, the Secretary shall endeavor to achieve broad and equitable geographical distributions throughout the Nation.

"PART D—NATIONAL PERIODICAL CENTER

"PURPOSE

"SEC. 241. It is the purpose of this part to establish a National Periodical Center to serve as a national periodical resource by contributing to the preservation of periodical materials and by providing access to a comprehensive collection of periodical literature to public and private libraries throughout the United States.

"ESTABLISHMENT

"SEC. 242. There is established a nonprofit corporation, to be known as the National Periodical Center Corporation (hereinafter in this part referred to as the 'Corporation'), which shall not be considered an agency or establishment of the United States Government. The Corporation shall be subject to the provisions of this part, and to the extent consistent with this Act, to the laws of the jurisdiction where incorporated.

"FUNCTIONS OF THE CORPORATION

"SEC. 243. (a) The Corporation shall seek to establish a national system to provide reliable and timely document delivery from a comprehensive collection of periodical literature.

"(b) For the purposes of establishing the system described in subsection (a) the Corporation shall, in addition to the authority provided by section 247, have the authority—

"(1) to acquire current and retrospective periodicals, and to preserve and maintain a dedicated collection of such documents;

"(2) to provide information on periodicals to which the Corporation can insure access, including those circulated from private sector sources, and cooperate in efforts to improve bibliographic and physical access to individuals;

"(3) to make such periodicals available, on a cost reimbursable or other basis as determined by the Board, through libraries by loan or by photoreproduction or other means; and to assure that all fees set by the copyright owners will be paid for any reproduction of a document under copyright delivered by or through the Corporation;

"(4) to cooperate with and participate in international borrowing and lending activities as may be appropriate for such purposes;

"(5) to enter into cooperative agreements with the Library of Congress, the National Library of Medicine, the National Agricultural Library, other Federal agencies, State and local agencies and instrumentalities, and private libraries and other organizations for such purposes;

"(6) to establish regional offices of the Corporation to the extent necessary and appropriate; and

"(7) to coordinate the training of librarians and other users in the use of the Corporation's services.

"BOARD OF DIRECTORS

"SEC. 244. (a) The Corporation shall have a Board of Directors (hereinafter in this part referred to as the 'Board'), consisting of fifteen members, including fourteen members appointed by the President, by and with the advice and consent of the Senate, and the Director of the Corporation.

"(b) The members of the Board appointed by the President shall be representative of the needs and interests of the Government, academic and research communities, libraries, publishers, the information community, authors, and the public. Except for the initial Board of Directors, the members shall be appointed after consultation with the Board.

"(c) The members of the initial Board of Directors shall serve as incorporators and shall take whatever actions are necessary to establish the Corporation under the laws of the jurisdiction in which it is incorporated.

"(d) The term of office for each member of the Board (other than the Director) shall be six years except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and (2) the terms of office of members first taking office shall begin on the date of incorporation and shall expire as designated at the time of their appointment, four at the end of two years, five at the end of four years, and five at the end of six years. No member shall be eligible to serve for more than two consecutive terms of six years each. Notwithstanding the preceding provisions of this paragraph, a member whose term has expired may serve until his successor has taken office.

"(e)(1) The members of the Board shall not, by reason of membership, be deemed employees of the United States. Except as provided in paragraph (2), members shall, while engaged in activities of the Board, be entitled to receive compensation at the rate equal to the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day and, while away from their homes or regular place of business, may be allowed travel expenses.

"(2) Members of the Corporation who are full-time officers and employees of the United States shall receive no additional pay, allowances, or benefits by reason of their service on the Corporation.

"(f) Eight members of the Board shall constitute a quorum.

"(g) The Board shall elect annually one of its members to serve as the Chairman.

"(h) The Board shall meet annually or at the call of the Chairman or a majority of its members.

"DIRECTOR AND STAFF OF CORPORATION

"SEC. 245. (a) The Corporation shall have a Director, and such other officers as may be named and appointed by the Board for the terms and at rates of compensation fixed by the Board. The Director shall have authority with respect to the management of the operations of the Corporation, subject to such rules as may be prescribed by the Board.

"(b) Subject to such rules as may be prescribed by the Board, the Director may appoint and fix the pay of such personnel and may procure temporary and intermittent services.

"NONPROFIT NATURE OF CORPORATION

"Sec. 246. (a) The Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.

"(b) No part of the incomes or assets of the Corporation shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

"(c) The Corporation shall be exempt from taxation now or hereafter imposed by the United States, or any territory, or possession thereof, or by any State, county, municipality, or local taxing authority.

"AUTHORITY OF CORPORATION

"Sec. 247. (a) The Corporation shall have power—

"(1) to obtain grants from and to make contracts with individuals and with private, State, and Federal agencies, organizations, and institutions;

"(2) to conduct its business, carry on its operations, and have officers and exercise the power granted by this section in any State without regard to any qualification or similar statute in any State;

"(3) to lease, purchase, or otherwise acquire, own, hold, improve, use or otherwise deal in and with any property (real, personal, or mixed), or any interest therein, wherever situated;

"(4) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets; and

"(5) to enter into contracts, to execute instruments, to incur liabilities, and do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

"(b) To carry out its functions and to engage in the foregoing activities, the Corporation shall have the usual powers conferred upon a nonprofit corporation by the jurisdiction in which the Corporation is incorporated.

"(c) The Corporation may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States. The Administrator of General Services shall provide to the Corporation on a reimbursable basis such administrative support services as the Corporation may request.

"(d) The Corporation is authorized to accept, hold, administer, and use gifts, bequests, and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Corporation. For the purpose of Federal income, estate, and gift taxes, property accepted under this subsection shall be a gift, bequest, or devise to the United States.

"REPORT

"Sec. 248. The Corporation shall transmit to the President and each House of Congress a report not later than March 1 of each year. The report shall contain a detailed statement of the Corporation's operations, activities, financial condition, and accomplishments for the preceding calendar year and may include such recommendations as the Corporation deems appropriate.

"COPYRIGHT ACT

"Sec. 249. Nothing in this Act shall be considered to amend, affect, or define the provisions of title 17 United States Code, relating to copyrights.

"DEFINITIONS

"Sec. 250. As used in this part—

"(1) the term 'access' means the ability to identify, locate, and obtain a specific item (generally a periodical article), and includes both bibliographic access (the ability to identify a speech item from its description) and physical access to materials (the ability to obtain the text of an item in an appropriate form, such as visual, audio, or printed formats);

"(2) the term 'comprehensive collection' means a collection of periodical titles which will provide access to approximately 90 per centum of the requests received, except that such titles need not all be physically located in the same place;

"(3) the term 'copyright owner' means the owner of any one of the exclusive rights comprised in a copyright; and as regards the Corporation, means the right to authorize the reproduction of periodical literature;

"(4) the term 'dedicated collection' means a collection of periodicals maintained for the sole purpose of assuring the provision of permanent physical access;

"(5) the term 'documents' means portions or entire issues of periodicals;

"(6) the term 'document delivery' means the provision of physical access to documents by any means;

"(7) the term 'periodical' means a publication consisting of issues in a continuous series under the same title published at regular or irregular intervals, over an indefinite period, individual issues in the series being numbered consecutively or each issue being dated; and

"(8) the term 'private sector' means nongovernmental, nonprofit, and for-profit organizations.".

The CHAIRMAN. Are there amendments to title II?

If not, the Clerk will designate title III.

Title III reads as follows:

TITLE III—AMENDMENT TO TITLE III OF THE HIGHER EDUCATION ACT OF 1965

STRENGTHENING DEVELOPING INSTITUTIONS PROGRAM

Sec. 301. Title III of the Higher Education Act of 1965 is amended to read as follows:

"TITLE III—STRENGTHENING DEVELOPING INSTITUTIONS

"PROGRAM AUTHORIZATION

"Sec. 301. (a) The Secretary shall carry out a program, in accordance with this title, to improve the academic quality, institutional management, and fiscal stability of developing institutions, in order to increase their self-sufficiency and strengthen their capacity to make a substantial contribution to the higher education resources of the Nation.

"(b)(1) For purposes of this title, the term 'developing institution' means an institution of higher education—

"(A) the enrollment of which includes a substantial percentage of students from low-income families, and

"(B) the average expenditures of which are low, per full-time equivalent student, in comparison with the average expenditures of institutions that offer similar instruction.

Such term also includes an institution of higher education that does not meet the criterion contained in subparagraph (B) if the Secretary determines, based on evidence submitted by the institution, that the institution's failure to meet that criterion is due to its small size or to its location in an area with an unusually high cost-of-living, and that the institution's designation as a developing institution is otherwise consistent with the purposes of this title.

"(2) Any entity which is a branch of an institution of higher education may be considered to be a developing institution if such entity satisfies the requirements of paragraph (1) of this subsection.

"(c) For purposes of this title, the number of full-time equivalent students of an institution is the sum of the number of students enrolled full time, plus the full-time equivalent of the number of students enrolled part time (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by twelve), in such institution.

"APPROPRIATIONS AUTHORIZED

"Sec. 302. (a)(1) For the purpose of carrying out this title, other than section 306, there are authorized to be appropriated $140,000,000 for fiscal year 1981; $160,000,000 for fiscal year 1982; $180,000,000 for fiscal year 1983; and $200,000,000 for each of the fiscal years 1984 and 1985.

"(2) Of the sums appropriated under paragraph (1) for any fiscal year, the Secretary shall make available to use for the purposes of this title—

"(A) not less than 24 per centum to developing institutions that are junior or community colleges, and

"(B) the remainder to developing institutions that plan to award a bachelor's degree during that year.

"(b) For the purpose of awarding challenge grants under section 306 there are authorized to be appropriated $25,000,000 for fiscal year 1982, $35,000,000 for fiscal year 1983, $45,000,000 for fiscal year 1984, and $50,000,000 for fiscal year 1985.

"(c) Of the sums appropriated under subsection (a) for any fiscal year, the Secretary shall make available not less than 25 per centum for grants under section 304(b)(1)(B). Any funds made available under this subsection for such grants which are not expended during the fiscal year for which such funds were appropriated shall remain available for expenditure for the purpose of making such grants during subsequent fiscal years.

"ELIGIBILITY FOR ASSISTANCE

"Sec. 303. (a)(1) A developing institution is eligible to apply for a grant from sums appropriated therefor under section 302(a)(1) if it—

"(A) is legally authorized to provide and provides within the State, an educational program for which it awards a bachelor's degree, or is a junior or community college;

"(B) is accredited by a nationally recognized accrediting agency or association determined by the Commissioner to be reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation;

"(C) except as provided in paragraph (2), has met the requirement of subparagraph (A) during the five academic years preceding the academic year for which it seeks assistance under this title; and

"(D) meets such other requirements as the Secretary may prescribe.

"(2) The Secretary may waive the requirements set forth in paragraph (1)(C) in the case of institution—

"(A) located on or near an Indian reservation or a substantial population of Indians, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of American Indians;

"(B) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of Spanish-speaking people; or

"(C) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of low-income people, especially including those living in rural areas, whose needs are for the most part unserved by other postsecondary education institutions.

"(b) For the purposes of this title, the term 'junior or community college' means an institution of higher education—

"(1) that admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

"(2) that does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

"(3) that—

"(A) provides an educational program of not less than two years that is acceptable for full credit toward such a degree, or

"(B) offers a two-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

"PURPOSE AND DURATION OF GRANT

"SEC. 304. (a) From the sums appropriated under section 302(a)(1), the Secretary may award grants to any developing institution with an application approved under section 305 in order to assist such an institution to plan, develop, or implement activities that promise to strengthen the institution. Special consideration shall be given to applications which propose to engage in the following activities pursuant to the institution's plan:

"(1) faculty development;

"(2) funds and administrative management;

"(3) development and improvement of academic programs;

"(4) acquisition of equipment for use in strengthening funds management and academic programs; and

"(5) joint use of facilities such as libraries and laboratories; and

"(6) student services.

"(b)(1) The Secretary may award a grant to a developing institution under this section for—

"(A) not to exceed three years, or

"(B) not less than four nor more than seven years,

subject for each fiscal year to the availability of appropriations therefor. The Secretary shall not accept the application of a developing institution for a grant under both subparagraphs (A) and (B) for a fiscal year.

"(2) The Secretary shall not award a grant under this title to a developing institution that has, for any prior fiscal year, received a grant under paragraph (1)(B).

"(3) In the event of a multiple-year award to any institution under this title, the Secretary shall make funds available for such award from funds appropriated for this title for the fiscal year in which such funds are to be used by the recipient.

"(4) Notwithstanding paragraph (1), the Secretary may award a grant to a developing institution under this section for a period of one year for the purpose of assisting such institution in the preparation of plans and applications under this title.

"APPLICATIONS FOR ASSISTANCE

"SEC. 305. (a) An institution desiring assistance under this title shall apply to the Secretary at such time, in such form, and shall provide such information, as may be necessary to enable the Secretary to evaluate its need for assistance and to determine its eligibility as a developing institution for the purposes of this title. Subject to the availability of appropriations under this title, the Secretary may approve an application under this subsection that meets the requirements of subsection (b) and shows that the applicant is a developing institution which is eligible, under section 303, to apply for a grant.

"(b) A developing institution, in its application for a grant, shall—

"(1) set forth, or describe how it will develop, a comprehensive developmental plan to strengthen the institution's academic quality and institutional management, and otherwise provide for institutional self-sufficiency and growth (including measurable objectives for the institution and the Secretary to use in monitoring the effectiveness of activities under this title);

"(2) set forth policies and procedures to ensure that Federal funds made available under this title for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of section 304(a), and in no case supplant those funds;

"(3) set forth policies and procedures for evaluating the effectiveness in accomplishing the purpose of the activities for which a grant is sought under this title;

"(4) provide for such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of and accounting for funds made available under this title to the applicant;

"(5) provide for making such reports, in such form and containing such information, as the Secretary may require to carry out his functions under this title (including not less than one report annually setting forth the institution's progress toward achieving the objectives for which the funds were awarded), and for keeping such records and affording such access thereto, as the Secretary may find necessary to assure the correctness and verification of such reports;

"(6) provide that the institution will comply with the limitations set forth in section 306; and

"(7) include such other information as the Secretary may prescribe.

"CHALLENGE GRANTS

"SEC. 306. (a) From the sums appropriated therefor under section 302(b), the Secretary may award a challenge grant to a developing institution that—

"(1) is eligible for a grant under section 303; or

"(2) would be so eligible if subparagraph (A) of section 303(a)(1) referred to a postgraduate degree rather than a bachelor's degree.

A challenge grant is a grant that is subject to all requirements of this title applicable to other grants made under this title, except that the application therefor complies with subsection (b) of this section.

"(b) A developing institution desiring a challenge grant shall apply under section 305, except that its application must—

"(1) provide evidence that funds are available to the applicant to match funds that the Secretary is requested to make available to the institution as a challenge grant; and

"(2) in the case of an application by a public institution, contain the recommendations of an appropriate State agency responsible for higher education in the State, or provide evidence that the institution requested the State agency to comment but the State agency failed to comment.

"(c) Not later than April 1 of the fiscal year preceding the fiscal year in which any grant is to be made under this section, the Secretary shall determine which institutions shall receive such grant and shall notify the institution of the amount of the grant.

"(d) In the review of applications for grants under this section, preference shall be given to those institutions which are receiving, or have received, grants under section 304(b)(1)(B).

"ASSISTANCE TO DEVELOPING INSTITUTIONS UNDER OTHER PROGRAMS

"SEC. 307. (a) Each institution which the Secretary determines meets the criteria set forth in section 303(a) shall be eligible for waivers in accordance with subsection (b).

"(b)(1) Subject to, and in accordance with, regulations promulgated for the purpose of this section, in the case of any application by a developing institution for assistance under any programs specified in paragraph (2), the Secretary is authorized, if such application is otherwise approvable, to waive any requirement for a non-Federal share of the cost of the program or project, or, to the extent not inconsistent with other law, to give, or require to be given, priority consideration of the application in relation to applications from institutions which are not developing institutions.

"(2) The provisions of this section shall apply to any program authorized by title II, IV, VII, or VIII of this Act.

"(c) The Secretary shall not waive, under subsection (b), the non-Federal share requirement for any program for applications which, if approved, would require the expenditure of more than 10 per centum of the appropriations for the program for any fiscal year.

"LIMITATIONS

"SEC. 308. The funds appropriated under section 302 may not be used—

"(1) for a school or department of divinity or any religious worship or sectarian activity;

"(2) for an activity that is inconsistent with a State plan for desegregation of higher education applicable to such institution;

"(3) for an activity that is inconsistent with a State plan of higher education applicable to such institution; or

"(4) for purposes other than those set forth in the approved application under section 305."

AMENDMENT OFFERED BY MR. TAUKE

Mr. TAUKE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TAUKE: Page 41, after line 4, insert the following new sections:

"APPLICATION REVIEW PROCESS

"SEC. 306. (a) The Secretary shall request from institutions of higher education nominations of persons qualified to review applications for grants under this title. The Secretary shall review the nominations received under this subsection and shall select from among such nominations a sufficient number of qualified individuals to conduct the reviews required under subsection (b). Included among the individuals selected by the Secretary shall be representative of the types of institutions receiving grants under this title. No individual shall be selected by the Secretary unless such individual has expertise in the evaluation of projects described under section 304(a) and is sensitive to the unique needs of developing institutions.

"(b)(1) All applications submitted under this title by institutions of higher education shall be read by a panel of readers composed of individuals selected by the Secretary under subsection (a). The Secretary shall insure that no individual assigned under this section to review any application has any conflict of interest with regard to the application which might impair the impartiality with which the individual conducts the review under this section.

"(2) All readers selected under subsection (a) shall receive thorough instruction from the Secretary regarding the evaluation process for applications submitted under this title, including—

"(A) explanations and examples of the types of activities refered to in section 304 (a) that should receive special consideration for grant awards under this title;

"(B) an enumeration of the factors to be used to determine the quality of applications submitted under this title; and

"(C) an enumeration of the factors to be used to determine whether a grant should be awarded for a project under this title, the amount of any such grant, and the duration of any such grant.

"(c) In awarding grants under this title, the Secretary may take into consideration only those factors enumerated under the instructions given to the readers under subsection (b)(2), and only to the extent and in such manner as specified under such instructions.

"COMMITTEE ON REVIEW

"SEC. 307. (a)(1) There is established a committee to be known as the Committee on Review (hereinafter in this section referred to as the "Committee"), which shall consist of ten members appointed by the Secretary, as follows:

"(A) One member who is a representative of private junior colleges.

"(B) One member who is a representative of private institutions that award bachelor's degrees.

"(C) One member who is a representative of public junior or community colleges.

"(D) One member who is a representative of public institutions that award bachelor's degrees.

"(E) Six other members who are representatives of any of the institutions referred to in subparagraphs (A) through (D).

"(2) In appointing the members of the Committee, the Secretary shall consult with, and review any recommendations received from, associations which represent the interests of the various sectors of the postsecondary education community.

"(3) No individual who is an officer or employee of the United States shall serve as a member of the Committee.

"(4) The terms of the members of the Committee shall be two years, except that of the members first appointed, five shall be appointed for terms of one year, as designated by the Secretary at the time of appointment.

"(b)(1) Any vacancy in the Committee shall be filled in the same manner in which the original appointment was made.

"(2) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

"(3) A member may serve after the expiration of his term until his successor has taken office.

"(c)(1) Members of the Committee shall each be entitled to receive $150 for each day (including travel time) during which they are engaged in the actual performance of the duties of the Committee.

"(2) While away from their homes or regular places of business in the performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

"(d)(1) The Committee shall review, for each fiscal year beginning after September 30, 1980, all grant award recommendations made by the readers used by the Secretary to review applications under this title pursuant to section 306. After reviewing such recommendations, the Committee shall submit to the Secretary a report which contains—

"(A) the recommendations of the independent readers regarding the institutions to be awarded grants under this title;

"(B) such recommendations as the Committee considers appropriate to provide for equitable adjustments in the amounts recommended by the readers for grants in order that the total amount recommended for all grants under this title shall not exceed the amount appropriated for such purpose, such other recommendations as the Committee may consider appropriate, and an explanation of the reason for each recommendation; and

"(C) recommendations of the Committee (reflecting any adjustments required to be made under subparagraph (B)) regarding the amount and duration of any grant to be awarded under this title.

"(2) The Secretary shall be responsible for reviewing the report submitted by the Committee and for making the final determinations with respect to grants under this title.

"(3) Not later than June 30 of each year (beginning in 1981), the Secretary shall publish in the Federal Register, in ranked order reflecting the amount of any grant awarded under this title, the following information:

"(A) The name of each institution which submitted an application under this title.

"(B) The average score given to any such application by the readers under section 306, and any changes in the average score recommended by the Committee (including an explanation of the reasons for such changes).

"(C) The recommendations of the Committee regarding the recipients of grants under this title and the amount of such grants.

"(e) The Secretary shall provide to the Committee such administrative support services and personnel as the Committee may request to enable it to carry out its duties under this section.

Page 41, line 6, strike out "306" and substitute "308".

Page 42, line 17, strike out "307" and substitute "309".

Page 43, line 12, strike out "309" and substitute "310".

Page 41, after line 4, add the following:

"(8) describe in a comprehensive manner any development project for which funds are sought under the application and include—

"(A) a description of the various components of the development project, including the estimated time required to complete each such component;

"(B) in the case of any development project which consists of several components (as described by the applicant pursuant to subparagraph (A)), a statement identifying those components which, if separately funded, would be a sound investment of Federal funds and those components which would be a sound investment of Federal funds only if funded under this title in conjunction with other parts of the development project (as specified by the applicant);

"(C) an evaluation by the applicant of the priority given any development project for which funds are sought in relation to any other projects for which funds are sought by the applicant under this title, and similar evaluation regarding priorities among the components of any single development project (as described by the applicant pursuant to subparagraph (A));

"(D) in the case of a request for an award for a period of more than one year, a statement of reasons explaining why funds are necessary for each year of such period and why a single year award would be inadequate;

"(E) information explaining the manner in which the development project will assist the applicant to prepare for the critical financial problems that all institutions of higher education will face during the subsequent decade as a result of declining enrollment, increased energy costs, and other problems;

"(F) a detailed budget showing the manner in which funds for any development project would be spent by the applicant; and

"(G) a detailed description of any activity which involves the expenditure of more than $25,000, as identified in the budget referred to in subparagraph (F)."

Page 41, line 3, strike out "and"; line 4, strike out the period and insert in lieu thereof "; and".

Mr. TAUKE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. TAUKE. Mr. Chairman, I wish to commend the chairman of the subcommittee, the gentleman from Michigan (Mr. FORD), and the ranking minority member of the subcommittee, the gentleman from Alabama (Mr. BUCHANAN), for the outstanding work they have done on this bill. This legislation comes to the floor with very little controversy, and I think that is a tribute to both of these gentlemen and demonstrates the leadership they have given this subcommittee.

Mr. Chairman, I rise to offer an amendment to title III, the strengthening developing institutions program. The strengthening developing institutions program is the only program in this bill which provides direct assistance to institutions. Consequently, it is also the only program in the bill which provides assistance to those institutions which have special needs because they serve minority groups.

In recent weeks, however, a number of reports stemming from an audit by the General Accounting Office which was released last February 13 have leveled criticisms at the title III program. I believe that the subcommittee and the committee have done an excellent job of meeting most of those criticisms and in fashioning responses to those criticisms which will strengthen the program and make it better.

The gentlewoman from New York (Mrs. CHISHOLM) recently circulated a "Dear Colleague" letter which explains in great detail many of the changes the committee is recommending. I believe the gentlewoman from New York accurately describes those changes.

The single area which the General Accounting Office addresses and which H.R. 5192 fails to address is the subject of my amendment today, and that subject is program administration. Twice the General Accounting Office has said to Congress that there are problems in program administration—once in 1975 and once more last February. The Congress did not address the problems in 1975, and I think for the good of the whole program and the preservation of the program we should do it today.

An entire chapter of the more recent GAO report was devoted to the problems of program administration. I believe, with the changes the subcommittee has already made and with the changes I am suggesting today, we can meet those criticisms.

Briefly, those criticisms were, first,

that the selection procedures for grants awards were inconsistently applied, secondly, that it is questionable if the most deserving institutions were receiving the awards, and, third, that the method for computing grant awards has fallen into the hands of the staff of the Office of Education.

Because I am so concerned about preserving this very good program, I am offering this amendment which would improve the program administration. The amendment would, first of all, establish in statute a method for selecting the independent readers who are responsible for reviewing the application proposals under the title III program. Secondly, it would strengthen the orientation process so the independent readers would be adequately oriented as to the method and process used to evaluate the proposals under this program.

Third, it would establish a committee on review which would be responsible to report to the Secretary recommendations for the adjustment of grant awards if the aggregate amount recommended by the readers exceeds the total amount appropriated for this program. I would note that the Secretary, however, would make all final grant determinations.

Finally, the amendment would require the Secretary to print in the Federal Register a list of the final awards.

During the past year the Office of Education has adopted substantial regulations relating to making of grant awards for the current academic year. The problems we have experienced this year, I think, indicate those regulations have not solved the problem.

Mr. Chairman, I think for the good of the program, in order to preserve this very worthwhile program, it is important that the Congress address this issue, and, therefore, I urge the Members to support this amendment.

Mr. FORD of Michigan. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would like to say first that the gentleman from Iowa (Mr. Tauke) has been one of the hardest working and most stalwart supporters of the efforts of this committee to develop this legislation. I know he has worked very hard, particularly on the problems that have come to light in the last few years with regard to title III.

☐ 1030

I had a statement in the Record recently responding to newspaper publicity with regard to title III. The fact is that we on the committee have been aware for some time of the concerns which the amendment of the gentleman from Iowa (Mr. Tauke) would address itself to, and we had those concerns in mind while tailoring this legislation in cooperation with the administration.

Many of us on the committee have been disturbed with the way in which title III has been administered in the past. We thought that some of those concerns could be met by this legislation and, to the extent that we believed that legislating the remedy was appropriate, we have done that in this legislation. But there is a difference between legislating good administration and legislating good, substantive law. Unfortunately, you cannot legislate a good administrator.

When I first came to this body, Wilbur Cohen said to me, "Bill, if you are given a choice in your concern for education between a perfectly written bill with a bad administrator, or a poorly written bill with a good administrator, take the poorly written bill and the good administrator every time."

As hard as we try, we cannot legislate in a way that guarantees that the people who have to exercise discretion in the administration of a program are going to do so in a way that is going to be satisfactory to all of us or sometimes to any of us. But to the extent that we thought it was possible to direct the activities and circumscribe the discretion of the people administering this program, we think we have done that.

I must say, on behalf of the administration, that prior to this legislation, even without the adoption of our legislation, some of the problems will be reached because they did recognize in-house that these problems existed. There are now pending final regulations promulgated by the administration that reach about halfway toward the solution of the problem that we propose in this legislation.

We have absolutely no quarrel with the objectives of the amendment offered by the gentleman from Iowa (Mr. Tauke), and he is motivated by the highest kind of purpose in attempting to restore among those people who have lost confidence in the administration of this particular program the credibility of the program. For that we applaud him. We do feel, however, that this complex structure will really make it difficult if not impossible for the new Secretary of Education and the newly created Department of Education to do the things that we expect that that Secretary will do to carry out the provisions of this law and assure the better administration of title III in the future.

I would make reference to a letter that I have received from Mary Berry, Assistant Secretary for Education, on behalf of the administration, opposing the Tauke amendment, in which she details their objections and her suggestions for how they would administratively deal with the problem.

The letter is as follows:

Office of the Assistant
Secretary for Education,
Washington, D.C., November 1, 1979.

Hon. William D. Ford,
Chairman, Subcommittee on Postsecondary Education, Committee on Education and Labor, Washington, D.C.

Dear Mr. Chairman: Thank you for your letter of October 31 requesting the Department's views on an amendment to be proposed by Representative Tauke to the Education Amendments of 1980, during House consideration of H.R. 5192. As I understand Mr. Tauke's amendment to Title III of the Committee bill, he proposes to legislate how the new Department of Education will administer the Developing Institution program. His amendment would:

Establish in the Higher Education Act the method of selecting independent readers and for reviewing Title III applications;

Require the Secretary of Education to orient the reader selected;

Establish a Committee on Review to review and recommend to the Secretary the amount to be awarded to successful eligible institutions if the award amounts recommended by the readers exceeds the available appropriation;

Require the Secretary to publish in the Federal Register information with respect to the grant evaluation process and the awards made to applicant institutions, including with the recommendations of the readers and the Committee on Review; and

Mandate the contents of the application form for Title III applicants.

The Department opposes adoption of the Tauke amendment. Our opposition stems from the basic premise that good administration cannot be legislated. Mr. Tauke acknowledged this fundamental principle in his October 31 "Dear Colleague." In addition, we believe that many of the smaller colleges, who are the intended beneficiaries of Title III funds would find the provisions of the Tauke amendment unnecessary and onerous. Finally, the Tauke amendment requires a duplication of effort in the review process and will further delay the receipt of Title III funds by successful applicant institutions.

Let me discuss each of our concerns individually.

The Title III, Developing Institutions program has long been plagued with a vague statutory definition of eligible institutions, and poor program administration. Problems with the program were complicated by limited funding available for the many institutions seeking Title III funds. Since early 1977, the Department has sought to correct many of the administrative and program deficiencies evident in the program. Both former Secretary Califano and Secretary Harris have brought new leadership and direction to the program, established new conflict of interest provisions for readers and developed a computerized reader selection process, promulgated regulations which clarified eligibility criteria, and scheduled a series of audits and site visits to Title III institutions in order to improve our monitoring of this program.

The Committee bill, which adopts many of the Administration's Title III reauthorization recommendations, provides a sound basis for effective and efficient administration of the Developing Institutions program. The amendment proposed by Mr. Tauke would limit administrative flexibility to continue to improve the program by requiring certain procedures—some of which have been administratively implemented—but, which may require modification in the future.

The proposed Committee on Review might well render the application review process more complex and less professional. It will certainly make the process longer. One advantage of the present system and the use it makes of external field readers is the comparative anonymity afforded these readers as they perform their task. They are selected for their expertise in substantive areas related to the needs of developing institutions, for their understanding of these institutions, and for their representativeness of the various components of higher education.

These readers may evaluate proposals more objectively because they are removed from many of the political pressures to which a more visible group would be exposed. The Committee on Review, however, would be a highly visible group subject to intense political pressures because of their nearly total control over the amounts and length of awards and the rank order of those proposals to be funded. The pressures upon the Secretary during the selection of these Committee members will be intense, as each of the many interest groups seeks to capture as many of the ten positions as possible for its own members. Indeed, it would very likely be difficult for such a group to evaluate the field readers' ratings and to reach consensus in an objective manner. Such a Committee would clearly be subject to charges of favoritism by disappointed seekers of funds. We, therefore, believe that the formation of such a statutory committee would be political, as opposed to professional, and would do little to promote the equitable allocation of funds.

The final section of the Tauke Amendment would establish a legislatively prescribed format for Title III applications. We believe the content and format of the application is best left to the regulations. While some of the information which would be required by the Tauke amendment is currently required by regulation, the Tauke language would add substantially to the paperwork burden on applicant institutions. The requirements in subsections (B), (C), (D) and (E) would be particularly onerous.

In summary then, we would urge that the amendment offered by Mr. Tauke not be adopted because: (1) much of what is proposed in terms of administrative improvement is already under way and does not require legislative authorization; (2) the Committee on Review would add an unnecessary layer to the present process, delaying final decisions by the Secretary of final awards to institutions; and (3) the amendment imposes unnecessary additional paperwork requirements on applicant institutions by statutorily requiring the submission of additional information in the Title III application form.

Sincerely yours,

MARY F. BERRY,
Assistant Secretary for Education.

Mr. BUCHANAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I agree with the chairman of the subcommittee that there is no way to legislate good administration. There is no way to guarantee rationality and fairness and reasonableness in the administration of law. I want to pledge, so long as I am connected with this subcommittee, very active oversight in this area, however, this law emerges, because GAO pointed this out to us last February in our hearings in which we have deeply explored the problems of title III; and I am convinced that we have not had the administration of that program that we should have had in the past.

The administration has made some rather firm commitments. They have instituted some reforms. We have some others in this law already. I think the thing that is most essential is that we have in the future better administration of this program and that we have very active oversight by this committee.

Having said this, the gentleman from Iowa (Mr. TAUKE) is a very valuable member of this committee. He has worked very hard on this subject and he has offered a proposal to further tighten, to further assure in the law better administration of title III in the future and, therefore, I personally am going to support his amendment.

I think that, given the questions and the criticisms that have been raised, it is rather difficult to do too much to try to assure that in the future we have better administration than we have had in the past, and the gentleman's amendment does attempt to assure that.

One aspect is upgrading and strengthening the role of the readers. These peer group people have been participating in the process. They have been making recommendations as to what applications should be funded and for how long and at what levels. But their recommendations, once made, have not been given particularly great weight, and the Office of Education has been rather erratic in the weight which has been given reader recommendations over against recommendations of the staff of the Office of Education.

It does seem to me that if we are going to have peer group people participate in the process and spend time making input, that that input ought to be real and not only apparent, and that upgrading their role is something that ought to be done, whether it is done administratively or by law. I am not as excited about some other aspects of this amendment, but I do support it and I urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. TAUKE).

The question was taken; and on a division (demanded by Mr. TAUKE) there were—ayes 14, noes 6.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. BUCHANAN

Mr. BUCHANAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BUCHANAN: Page 33, strike out lines 4 through 7 and insert in lieu thereof the following:

"(B) the average educational and general expenditures of which are low, per full-time equivalent student, in comparison with the average educational and general expenditures per full-time equivalent student of institutions that offer similar instruction.

Page 33, line 10, insert "persuasive" before "evidence".

Page 33, beginning on line 12, strike out "its small size" and all that follows through "cost-of-living", and insert in lieu thereof the following: "factors which, when used in the determination of compliance with such criterion, distort such determination".

Page 33, line 15, insert the following:

"(2) For the purposes of paragraph (1) of this subsection—

"(A) the term 'educational and general expenditures' means the total amount expended by an institution of higher education for instruction, research, public service, academic support (including library expenditures), student services, institutional support, scholarships and fellowships, operation and maintenance expenditures of physical plant, and any mandatory transfers which the institution is required to pay by law.

Page 33, line 16, strike out "(2)" and insert in lieu thereof "(3)".

Page 33, after line 19, insert the following new paragraph:

"(4) The Secretary shall submit to the Congress each year a report concerning the institutions which, although not satisfying the criterion contained in paragraph (1)(B), have been determined to be developing institutions under this subsection. Such report shall—

"(A) identify the factors referred to in the second sentence of paragraph (1) which were considered by the Secretary as factors that distorted the determination of compliance with paragraph (1)(B);

"(B) contain a list of each institution determined to be a developing institution, and include a statement of the reasons for each such determination.

Mr. BUCHANAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. BUCHANAN. Mr. Chairman, I offer this amendment on behalf of the gentleman from Oklahoma (Mr. EDWARDS) who, unfortunately, is away on official business today but had intended to offer it.

The purpose of the amendment is to broaden a waiver that was put into this bill through an amendment in committee by the gentleman from New York (Mr. PEYSER).

The Peyser waiver gives the Secretary authority to waive the education and general expenditures factor in determining eligibility for the title III program if the institution applying is in a high cost-of-living area and if the institution can show that the computation of the E. & G. is negatively affected by that factor.

There are certain other instances in which there may be merit in permitting a waiver. For example, a heavy mortgage burden, if an institution has recently purchased plant facilities, or high education and general expenditures in regions of the country where energy costs inflate operational expenditures, or in the case, say, of a 2-year technical school, with very expensive equipment and small classes, forcing a high E. & G.

☐ 1040

I want to make plain that the intent of this amendment is not to broaden the waiver authority of the Secretary to the extent that the Secretary can exercise the broad waiver power that has been the case in the past where, say, 100 institutions will be waived.

We certainly do not wish to open the floodgates, and it would not be the legislative intent in this amendment to so do.

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from New York.

Mr. PEYSER. I thank the gentleman for yielding.

I appreciate the statement the gentleman just made.

Basically, as long as the thrust of this amendment is to really improve the amendment that I had offered to broaden it in its understanding of what would be eligible and not eligible in the Secretary's interpretation, I find nothing wrong with that. I would certainly be willing to accept it.

I think the point the gentleman made that has to be clearly established is that the thrust of this is to still make the small urban, suburban, and rural poor schools be the ones that would benefit by this expansion of the waiver and not bringing in other schools that really do not have this kind of a need.

With that understanding with the gentleman, and I am sure that is his understanding, I would find no problem in accepting, for my part, the change in my amendment.

Mr. BUCHANAN. I thank the gentleman from New York and want to assure him I agree completely with what he has said. I want the legislative history to be crystal clear that we do not intend to move away from the small, the poor institutions, the emphasis we sought to set in this title; rather, we are providing for exceptional cases where the Secretary feels an institution should qualify otherwise, but because of some unusual problem like that the gentleman sought to meet in his original amendment, the Secretary can, in that limited number of cases, waive this requirement.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama (Mr. BUCHANAN).

The amendment was agreed to.

Mr. WILLIAMS of Montana. Mr. Chairman, I move to strike the last word.

Mr. Chairman, in recent weeks the press has singled out the title III program for management problems identified by the General Accounting Office in its February 13, 1979, report. It is clear that there have been management problems in the title III program in the past, but I emphasize that one, and only one, of the reasons is the random way in which the grants are awarded.

The basic questions we should be asking about title III are where should the support be going and what does Congress hope to accomplish through the program?

It would be alarming if one of our most important institutional aid programs is endangered because of lack of direction and mismanagement. The Office of Education officials readily acknowledge that the focus of the program has been ambiguous, and through the provisions in the bill before us, we have attempted to define developing institutions in a way that will narrow eligibility for the program.

There are, however, two problems with this new definition. The first is that there is no consensus that the definition selected by OE is the most appropriate, and the second is that by following OE's recommendations, we would be giving a competitive edge to the very schools which may have misused this program in the past. We have not determined whether or not that is the case.

Additionally, 93 percent of the authorizations in the higher education amendments are already directed toward student aid programs. Through this title we will be taking funding which has been used for institutional aid in the past and basing eligibility on it for it on student characteristics.

The title III changes proposed by the Office of Education in the administration bill define developing institutions as having a substantial enrollment of students from low-income families. The definition has only one other part, and that is that this low-income characteristic must be accompanied by low-average expenditures per full-time equivalent students.

This definition was based on proposed regulations which the Office of Education issued on title III in November of 1978, which used a formula for eligibility based on points awarded for higher percentage of low-income students and low-average expenditure per full-time equivalent students.

The regulations at that time were clearly outside the intent of the law, and so the Office of Education presented the committee with legislation that fit the regulations. I submit this is a classic case of the tail wagging the dog.

Using low-income enrollment as an institutional characteristic in determining title III eligibility is now a new idea. Attempts to hinge eligibility to this characteristic have been made in the past, but before Congress has always refused to enact such definitions as we are about to enact here today.

In fact, language specifically providing for the use of low-income enrollment as one factor in qualifying for special assistance under title III was approved by the other body in 1972, but was specifically deleted in the conference committee.

Likewise, other characteristics such as geographic location which are repeatedly referred to throughout the legislative history of this program are not used for the purpose of determining eligibility under this bill.

This bill, as amended, would allow the Secretary to waive the criteria if he determines that the institution's failure to meet the criteria is due to its small size or its location in an area with unusually high cost of living, and that the institution's designation as a developing institution is otherwise consistent with the purpose of the title.

This waiver, although it should result in some deserving institutions qualifying for title III, puts the Office of Education back in the business of making subjective decisions about who should be funded under this program.

The Tauke amendment helps clarify some of that. I appreciate and applaud the gentleman for proposing it.

Small colleges are a valuable resource all across this Nation. It is true that we do not have the same need to educate great numbers of students as in previous decades. What we do have though is a need for coping with a tremendous amount of new technical information that is constantly changing. Small colleges have enormous potential for meeting that need. Rather than enacting eligibility criteria by default for lack of a better idea, Congress should be thinking creatively about institutional aid for small colleges and making active decisions about how it can best be put to use.

The CHAIRMAN. The time of the gentleman from Montana (Mr. WILLIAMS) has expired.

(By unanimous consent, Mr. WILLIAMS of Montana was allowed to proceed for 30 additional seconds.)

Mr. WILLIAMS of Montana. The Senate Education Subcommittee will be holding oversight hearings on title III programs on November 9. The Subcommittee on Limitation of Contracted and Delegated Authority, which is chaired by Senator BAUCUS of my home State of Montana, will be continuing oversight hearings on title III on November 14. It is important that in our efforts to eliminate the abuses in this program, that we do not lose sight of the value of title III and institutional aid in general as a tool for meeting legitimate educational needs.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS of Montana. I yield to the gentleman from Iowa.

The CHAIRMAN. The time of the gentleman from Montana (Mr. WILLIAMS) has again expired.

(At the request of Mr. TAUKE and by unanimous consent, Mr. WILLIAMS of Montana was allowed to proceed for 2 additional minutes.)

Mr. TAUKE. I wish to commend the gentleman for his statement. I think he raises several good issues. There are two observations I would like to make which may parallel or perhaps differ with some of the observations the gentleman offered.

First of all, I think it is fair to say that the committee has done a reasonably good job of turning this program around during the last year. I think that there are still steps that have to be taken, including those I offered today, but I think the program is being directed the right way.

The problem that we have, as I see it, is that we still have not perhaps given proper focus to the program in terms of putting into the law what we really expect the program to do.

My initial concern, for example, was, Is this program being used to prop up institutions that perhaps really should not be saved at a time of declining enrollments? But as I look ahead and see the number of college students projected for 10 years from now and 15 years from now, I am convinced that we are going to need those institutions that we have today, and so perhaps that is a legitimate role of the title III program, to help maintain and preserve some of those institutions we have had for many years, but have faltered today.

The second observation I would make is that while it does seem strange perhaps to have the number of low-income students in an institution be a qualifying factor for eligibility for an institutional aid program, it does seem to me that fits within the realm of what should be the title III program.

I think it is essential that we have a program that meets the unique educational needs of black students, Spanish-speaking students, and other minority students. We have to develop those kinds of institutions, because traditionally we have not had them in this country.

□ 1050

So I think that the title III program can work well in that function also. So although we have not really said those things in the law, I believe that the program is moving to meet those needs, and in that way helping to solve some of the educational problems at the post-secondary level.

Mr. WILLIAMS of Montana. I appreciate having the gentleman's remarks.

I would only comment again that I

believe it is a mistake to confuse a program designed for struggling institutions, which this title III program by definition is, with a program for struggling students. There is a difference between a struggling institution and a struggling student. But today with this legislation we are blurring that distinction.

The CHAIRMAN. The time of the gentleman from Montana has expired.

(By unanimous consent Mr. Williams of Montana was allowed to proceed for 30 additional seconds.)

Mr. WILLIAMS of Montana. Mr. Chairman, today we are, through the formula we are accepting, defining a struggling institution for the first time as an institution with a significant number of struggling students. There are a myriad of Federal programs and there are hundreds of thousands of Federal dollars for struggling students. We are hereby reducing the amount of money available for struggling institutions unless those institutions contain a significant number of struggling students. I think that is the wrong direction.

Mrs. CHISHOLM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I was very much interested in terms of the new first generation eligibility income criteria; since 98 percent of the students between the ages of 18 and 24 fall within the specific category of the low income—the target population, why do we have to put into this bill this new first-generation requirement?

I think in a very realistic sense we might be inhibiting persons from applying for the program now that we are bringing the Federal Government in a sense into their lives by requesting information with respect to parental background. Since 98 percent of the students fall between the ages of 18 and 24 and are in the poverty income level, why bring in this new criteria of first generation eligibility criteria. Maybe the gentleman has a rationale for it, but I do not understand it.

Mr. FORD of Michigan. Mr. Chairman, will the gentlewoman yield?

Mrs. CHISHOLM. I am glad to yield to the chairman.

Mr. FORD of Michigan. The first thing I should say to the gentlewoman is that in talking to the people who have administered the program, the fact is 98 percent of the students who are qualifying as low income students when they enter college are first-generation students. It is important to remember what we are talking about. We are not talking about a first-generation American. We are talking about the first person in that family to go to college successfully. The fact that there may have been one or both parents that attended college for some period of time in their life would not block the student out. If a student does not have a parent that is a college graduate, they are a first-generation student.

So, if we look at the present population being served, 98 percent of them are there. We do not think it does any violence at all, but the administrators feel that it helps to focus attention on the kind of population they are looking for. As a matter of fact, we did react to the recommendations of the people who work with this program in adopting the first generation.

I might also say that the Hispanic community across the country is very pleased because they feel this is a clear recognition of their special status with respect to that population in higher education, and they are in very strong support.

Mrs. CHISHOLM. I thank the gentleman.

Mr. THOMPSON. Mr. Chairman, I move to strike the requisite number of words.

(By unanimous consent Mr. Thompson was allowed to proceed 3 additional minutes.)

Mr. REUSS. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to my distinguished friend from Wisconsin.

Mr. REUSS. I thank the gentleman from New Jersey for yielding to me. What I have to report is not necessarily out of order in a discussion of a bill which, like so many others, involves interest rates.

For a change, I have some good news to report. As my colleagues know, the Nation's second largest bank, Citibank of New York, was meeting this morning to contemplate a further increase in its interest rate structure. Many of us felt that interest rates have already gone higher than they should, and that they are out of hand.

To that end I recently addressed a telegram to Mr. Walter Wriston, chairman of the board of Citicorp, asking that they not raise their prime rate today, even though the formula which they have traditionally used might have required it.

The telegram I sent to Mr. Wriston reads as follows:

Washington, D.C.,
October 31, 1979.

Walter B. Wriston,
Chairman of the Board, Citicorp,
New York, N.Y.:

Thank you for your reply to my telegram last week asking you to consider lowering your present record-breaking 15¼-percent prime interest rate.

Your reply is discouraging to me, in that you state that your 15¼-percent prime interest rate is due to "The money market's assessment . . . of the government's determination to stick with its anti-inflation program."

As I have repeatedly said, I support the Federal Reserve's anti-inflationary grip on the monetary aggregates, but a prudent control over the monetary aggregates in no way requires a super high bank interest rate structure, especially one which is based on monetary figures which have now been proved incorrect.

On Friday your Asset and Liability Committee will meet to review and possibly change the prime rate, now 15¼ percent. I urge your Committee to exercise care and judgment in its review. It would be wrong to mechanically apply your formula of setting the prime rate 1.5 percentage points above the average rate for the latest three weeks on 90-day Certificates of Deposit in the secondary market, as you suggest. It would be wrong because during the two-week period October 11–25, money market interest rates were raised to record highs by panic selling of securities and dried-up demand for them as a result of monumental errors in the reported money supply statistics for the weeks ending October 3rd and 10th. At this critical time in our nation's economic and financial history, prudence and sound business practice surely dictate putting your prime rate formula on the shelf until the interest rate structure provoked by the erroneous money supply reports no longer enters into the computation.

It would be especially bad if you raised your prime rate now on the basis of biased data, because the bond and money markets have been rallying, and interest rates falling, ever since we learned that the money supply was in fact $700 million less than reported for the week ending October 3rd and $3 billion less the week ending October 10th. Any rise in the prime rate now could ruin this promising rally, and increase the Federal Reserve's difficulties in implementing its new monetary policy in the weeks and months ahead.

You have ample precedent for using your good judgment instead of your rote formula in times of financial turmoil. In 1974, at the urging of Chairman Arthur Burns, Citibank held the prime rate at 12 percent for nearly three months, from July 12 to September 27, even though its formula called for 13 percent.

The nation was well served by Citibank's restraint in 1974. For, by early October, Citibank's formula called for reducing the prime rate and it was in fact deceased to 11¾ percent on October 7, and further as time passed. The recession of 1974 surely would have been worse had Citibank not used good judgment that summer. It's time for another round of common sense.

Henry S. Reuss,
Chairman, House Committee on Banking, Finance and Urban Affairs.

I am very happy to report that just a few minutes ago Citibank issued a statement which said that—

> Although its formula clearly calls for an increase in its base rate, it is deferring action on the rate this week to assure that its formula does not reflect a temporary aberration in the money supply.

I have just sent a telegram back to Mr. Wriston congratulating the Citibank's action today, which reads as follows:

Washington, D.C.,
November 2, 1979.

Mr. Walter B. Wriston,
Chairman of the Board, Citicorp,
New York:

Congratulations on Citibank's action today refusing a further increase in already astronomical interest rates. I am sure you join in my full support of the Federal Reserve's determination to keep the monetary aggregates under control. As long as the Fed keeps the monetary aggregates under control, higher interest rates than are dictated by competition, far from fighting inflation, simply make it worse.

Henry S. Reuss,
Chairman, House Banking, Finance and Urban Affairs Committee.

I am delighted at the news. We must keep interest rates down.

I thank the Chairman for letting me speak out of order.

Mr. THOMPSON. Mr. Chairman, H.R. 5192, the Education Amendments of 1980, is the most constructive and best higher education bill that I have seen in my 25 years in Congress. I am proud to have taken part in the formulation of this legislation as a member of the Subcommittee on Postsecondary Education. I would like to particularly compliment my good friends and colleagues, the gentleman from Michigan (Mr. FORD) and the gentleman from Alabama (Mr. BUCHANAN) for their leadership in producing this bill. It is a credit to their hard work, to that of their staffs, and to their thoroughness, statesmanship, and bipartisan approach.

Happily it is a bipartisan approach. I am grateful also to the ranking member of the Committee on Education and Labor, Mr. ASHBROOK, for his very kind and objective remarks relating to the work of the other gentlemen on this legislation.

The highlight of this legislation is the expansion and refinement of programs providing assistance to students and aimed at achieving the goal of equal educational opportunity. These changes will result in all students having access to a postsecondary education regardless of their financial circumstances, and it will take long strides toward the goal of giving students the choice of pursuing the postsecondary education best suited to their needs, interests, and talents.

In addition, the bill expands and improves the TRIO programs which help students stay in higher education once they have entered and help them to maximize the benefits from the educational opportunities available to them. Equal educational opportunity has to mean getting students in the door, getting them in the right door and making sure that it is not a revolving door. This bill advances us significantly toward all of these objectives.

I would also like to call the attention of my colleagues to the fact that this bill streamlines the Higher Education Act by repealing or consolidating a number of obsolete, redundant or unfunded authorities. Among the programs and authorities which are repealed are:

First. Title I–B, lifelong learning (integrated into the new title I, education outreach programs).

Second. Title I, special programs and projects relating to the problems of the elderly (integrated into the new title I).

Third. Advisory Council on College Library Resources.

Fourth. Advisory Council on Developing Institutions.

Fifth. Service learning centers, subpart 4, part A of title IV.

Sixth. Advisory Council on Financial Aid to Students.

Seventh. Financial assistance for improvement of undergraduate instruction, title VI.

Eighth. Assistance in major disaster areas, part D of title VII.

Ninth. Establishment and expansion of community colleges, parts A and B, title X (integrated into new title I).

Tenth. Comprehensive statewide planning, section 1203 (integrated into new title I).

Eleventh. Advisory Council on Graduate Education.

I think it is also important to emphasize the commitment made through this bill to supporting the research undertaken by postsecondary education. Academic research is vital to our Nation's economic prosperity, its cultural growth and its security in the international arena. For example, the bill continues the program of support for research libraries, provides a new authorization to create a National Periodicals Center, which will serve as a national lending resource to improve access to periodical literature, and expands the purposes of title VII to include the construction, reconstruction and renovation of academic research facilities, including libraries.

In specific, H.R. 5192 extends the Higher Education Act through fiscal year 1985.

Expansion of the basic educational opportunity grant program will provide larger maximum grants and increase the proportion of the total cost of education that may be provided by these grants.

To complement the expansion of the BEOG, the supplemental educational opportunity grant program and the State student incentive grant program are expanded, and the college work-study program is continued.

An expansion of the guaranteed student loan program will provide guaranteed loans to parents to help meet the expected family contribution toward the cost of higher education. The national direct student loan program is continued, and loan maximums under both programs are modestly increased. A revised role for the Student Loan Marketing Association will provide for loan consolidations and for extended and income-sensitive repayment schedules.

The needs analysis system is simplified and a single form for applying for Federal student assistance is mandated.

Important changes are made in the program to strengthen developing institutions (title III) providing a more clearly defined focus, more stringent accountability and incentives for institutions to develop other resources.

The fund for the improvement of postsecondary education, authorized by the General Education Provisions Act, becomes a new title X of the Higher Education Act. The Urban Grant University Act, a proposal carefully developed by the subcommittee in the last Congress, is established as title XI.

Mr. Chairman, this well developed and carefully balanced legislation deserves the support of every Member of this body. I am confident it will receive our overwhelming endorsement.

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The CHAIRMAN. The time of the gentleman from New Jersey has expired.

(By unanimous consent Mr. THOMPSON was allowed to proceed for 2 additional minutes.)

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from New York.

Mr. PEYSER. Mr. Chairman, I thank the gentleman for yielding. I just wanted to join with the gentleman in what he is saying, particularly in the area that he has touched upon on the student loan program and the abilities of parents also to come into the loan program because one of the major problems, as the gentleman knows full well, is that the middle-income families of the country have been so pushed to the wall by both inflation and the cost of everything that this, I think, is one of the most meaningful sections of this new legislation and one of the most important to families throughout this country.

I thank the gentleman for yielding.

Mr. THOMPSON. I agree with the gentleman from New York, and I thank him. Again, that would lead to paying tribute to our subcommittee chairman, the gentleman from Michigan (Mr. FORD) for his superb bill of last year with the particular emphasis on middle-income families.

The CHAIRMAN. Are there further amendments to title III? If not, the Clerk will designate title IV.

Title IV reads as follows:

TITLE IV—STUDENT ASSISTANCE

PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

STATEMENT OF PURPOSE

SEC. 401. Section 401(a) of the act is amended—

(1) by striking out "qualified students" and inserting in lieu thereof "eligible students (as defined in section 488)"; and

(2) by striking out "of exceptional need who, for lack of such a grant, would be unable to obtain the benefits of a postsecondary education;" in paragraph (2) and inserting in lieu thereof "who demonstrate financial need;".

BASIC EDUCATIONAL OPPORTUNITY GRANTS

SEC. 402. (a) Section 411(a) of the act is amended to read as follows:

"SEC. 411. (a)(1) The Secretary shall, during the period beginning July 1, 1972, and ending September 30, 1986, pay to each eligible student (as defined in section 488) for each academic year during which that student is in attendance at that institution, as an undergraduate, a basic grant in the amount for which that student is eligible, as determined pursuant to paragraph (2) The purpose of this subpart is to provide a basic grant that (A) as determined under paragraph (2), will meet in academic year 1985–86, 75 per centum of a student's cost of attendance not in excess of $3,600; and (B) in combination with reasonable parental or independent student contribution and supplemented by the programs authorized under subparts 2 and 3 of this part, will meet 75 per centum of a student's cost of attendance, unless the institution determines that a greater amount of assistance would better serve the purposes of section 401.

"(2) (A) (i) The amount of the basic grant for a student eligible under this subpart shall be—

"(I) $1,800 for academic year 1980–1981,

"(II) $2,160 for academic years 1981–1982 and 1982–1983,

"(III) $2,400 for academic years 1983–1984 and 1984–1985, and

"(IV) $2,700 for academic year 1985–1986,

less an amount equal to the amount determined under section 487 to be the expected family contribution with respect to that student for that year, subject to the limitations established in subparagraph (B)(i).

"(ii) In any case where a student attends an institution of higher education on less than a full-time basis during any academic year, the amount of the basic grant to which that student is entitled shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis in accordance with a schedule of reductions established by the Secretary for the purposes of this division. Such schedule of reductions shall be established by regulation and published in the Federal Register not later than January 1 of each year.

"(B)(i) The amount of a basic grant to which a student is entitled under this subpart for any academic year shall not exceed—

"(I) 50 per centum of the cost of attendance (as determined under section 487(d)) at the institution at which the student is in attendance for that year, when the maximum basic grant is less than $2,160;

"(II) 60 per centum of such cost of attendance, when the maximum basic grant is at least $2,160 but is less than $2,400;

"(III) 67 per centum of such cost of attendance, when the maximum basic grant is at least $2,400 but is less than $2,700; and

"(IV) 75 per centum of such cost of attendance, when the maximum basic grant is $2,700.

"(ii) No basic grant under this subpart shall exceed the difference between the expected family contribution for a student and the cost of attendance at the institution at which the student is in attendance. If with respect to any student, it is determined that the amount of a basic grant plus the amount of the expected family contribution for that student exceed the cost of attendance for that year, the amount of the basic grant shall be reduced until the combination of expected family contribution and the amount of the basic grant does not exceed the cost of attendance at such institution.

"(iii) No basic grant shall be awarded to a student under this subpart if the amount for that student as determined under this paragraph for any academic year is less than $200. Pursuant to criteria established by the Secertary by regulation, the institution of higher education at which a student is in attendance may award a basic grant of less than $200 upon a determination that the amount of the basic grant for that student is less than $200 because of the requirement of division (i) and that, due to exceptional circumstances, this reduced grant should be made in order to enable the student to benefit from postsecondary education.

"(3)(A) Payments under this section shall be made, in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purposes of this section.

"(B) If, during any period of any fiscal year, the funds available for payments under this subpart are insufficient to satisfy fully all entitlements under this subpart, the amount paid with respect to any entitlement that exceeds an amount equal to the maximum award (under paragraph (2)(A)(i)) less $200 shall be the full amount of that entitlement. The amount paid with respect to any other entitlements shall be a percentage of that entitlement, as determined in accordance with a schedule of reductions established by the Secretary. Any schedule established by the Secretary shall contain a single reduction formula in which the percentage reduction increases uniformly as the entitlement decreases, and shall provide that no payment of less than $200 shall be made on account of any entitlement.

"(4)(A) If, at the end of a fiscal year, the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by 15 per centum or less, then all of such excess funds shall remain available for making payments under this subpart during the next succeeding fiscal year.

"(B) If, at the end of a fiscal year, the funds available for making payments under this subpart exceed the amount necessary to make payments required under this subpart to eligible students by more than 15 per centum, then all of such excess funds shall remain available for making such payments but payments may be made under this division only with respect to entitlements for that fiscal year.

"(C) Any institution of higher education which enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of such agreement, a contractor maintaining a system of records to accomplish a function of the Secretary.

"(5)(A) The period during which a student may receive basic grants shall be the period required for the completion of the first undergraduate course of study being pursued by that student at the institution at which he is in attendance, except that such period may not exceed the equivalent of five academic years as a full-time student, unless the student is or will be unable to complete a course of study within five academic years because of a requirement of the institution that the student enroll in a noncredit remedial course of study, in which case such period may be extended for not more than one additional academic year.

"(B) For purposes of subparagraph (A), a 'noncredit remedial course of study' is a course of study for which no credit is given toward an academic degree, and which is designed to increase the ability of the student to engage in an undergraduate course of study leading to such a degree.".

(b) Section 411(b) of the Act is amended—

(1) by striking out paragraphs (3) and (4) and redesignating paragraph (5) as paragraph (3);

(2) by striking out "any fiscal year ending September 30, 1980, if for such fiscal year—" in paragraph (3) (as so redesignated) and inserting in lieu thereof "any fiscal year ending prior to October 1, 1985, in which—";

(3) by striking out "$370,000,000" in paragraph (3)(A) (as so redesignated) and inserting in lieu thereof "$400,000,000, or $480,000,000, when appropriations are available to meet the purposes of subsection (a)(2)(B)(i)(II), (III), or (IV)";

(4) by striking out "$500,000,000" in paragraph (3)(B) (as so redesignated) and inserting in lieu thereof "$550,000,000"; and

(5) by striking out "and" at the end of paragraph (3)(B) (as so redesignated), by striking out the period at the end of paragraph (3)(C) (as so redesignated) and inserting in lieu thereof "; and", and by inserting after such paragraph the following:

"(D) the appropriation for making grants under subpart 3 of this part does not at least equal $76,750,000.".

(c) Section 411 of the Act is further amended by striking out subsections (d) and (e).

SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

SEC. 403. (a) Section 413A of the Act is amended to read as follows:

"PURPOSE; APPROPRIATIONS AUTHORIZED

"SEC. 413A. (a) It is the purpose of this subpart to provide, through eligible institutions of higher education, supplemental grants to assist in making available the benefits of postsecondary education to qualified students who demonstrate financial need in accordance with the provisions of section 487. The purpose of this subpart is to provide grants which in combination with reasonable parental or independent student contribution and supplemented by the programs authorized under subparts 1 and 3 of this part, will meet 75 per centum of a student's cost of attendance, unless the institution determines that a greater amount of assistance would better serve the purposes of section 401.

"(b)(1) For the purpose of enabling the Secretary to make payments to eligible institutions of higher education which have made agreements with the Secretary in accordance with section 482, for use by such institutions for payments to undergraduate students of a supplemental grant awarded to them under this subpart, there are authorized to be appropriated $500,000,000 for each of the fiscal years 1981 and 1982, $600,000,000 for fiscal year 1983, $700,000,000 for fiscal year 1984, and $800,000,000 for fiscal year 1985.

"(2) Sums appropriated pursuant to this subsection for any fiscal year shall be available for payments to institutions until the end of the second fiscal year succeeding the fiscal year for which they were appropriated.".

(b)(1) Section 413B(a)(2)(A) of the Act is amended to read as follows:

"(2)(A) The amount of the payment to any student pursuant to paragraph (1) shall be equal to the amount determined by the institution, in accordance with the provisions of section 487, to be needed by that student to enable him to pursue a course of study at the institution, except that such amount shall not exceed $2,000.".

(2) Section 413B(a)(2)(B) of the Act is amended by adding at the end thereof the following new sentence: "For a student enrolled for less than a full academic year, the minimum payment required shall be reduced proportionately.".

(3) Section 413(B)(a)(2) of the Act is further amended by striking out subparagraph (C).

(4) Section 413(b) of the Act is amended to read as follows:

"(b)(1) The period during which a student may receive supplemental grants shall be the period required for the completion of the first undergraduate course of study being pursued by that student at the institution at which he is in attendance, except that such period may not exceed the equivalent of five academic years as a full-time student, unless the student is or will be unable to complete a course of study within five academic years because of a requirement of the institution that the student enroll in a noncredit remedial course of study, in which case such period may be extended for not more than one additional academic year.

"(2) A supplemental grant awarded under this subpart shall entitle the student to whom it is awarded to payments pursuant to such grant only if the student meets the requirements of section 488.".

(c) Section 413C of the Act is amended to read as follows:

"SELECTION OF RECIPIENTS; AGREEMENTS WITH INSTITUTIONS

"SEC. 413C. (a) An individual shall be eligible for the award of a supplemental grant under this subpart by an institution of higher education which, in accordance with section 482, has an agreement with the Secretary applicable to this subpart, if the individual makes application at a time and in a manner consistent with the requirements of the Secretary and that institution, and meets the requirements of section 488.

"(b) From among those who are eligible for supplemental grants for each fiscal year, the institution shall, in accordance with the agreement under section 482, and within the amount allocated to the institution for that purpose for that year under section 413D(b), select individuals who are to be awarded such grants and determine, in accordance with section 413B, the amounts to be paid to them.

"(c) An eligible institution may use not more than 10 per centum of its allocation for less-than-half-time under graduate students who are determined by the institution to be in need of such grants.".

(d) Section 413D of the Act is amended to read as follows:

"APPORTIONMENT AND ALLOCATION OF FUNDS

"SEC. 413D. (a)(1) From 90 per centum of the sums appropriated pursuant to section 413A(b) for any fiscal year, the Secretary shall apportion to each State an amount which bears the same ratio to such sums as the number of undergraduates enrolled full-time and the full-time equivalent of the number of undergraduates enrolled part time in institutions of higher education in such State bears to the total number of such undergraduates in all States. The remainder of the sums so appropriated shall be apportioned among the States by the Secretary in accordance with equitable criteria which he shall establish and which shall be designed to achieve a distribution of the sums so appropriated among the States which will most effectively carry out the purpose of this subpart, except that where any State's apportionment under the first sentence for a fiscal year is less than its allotment under the first sentence of section 401(b) of this Act for the fiscal year ending June 30, 1972, before he makes any other apportionments under this sentence, the Secretary shall apportion sufficient additional sums to such State under this sentence to make the State's apportionment for that year under this paragraph equal to its allotment for the fiscal year ending June 30, 1972, under such first sentence. Sums apportioned to a State under the preceding sentence shall be consolidated with, and become a part of, its apportionment from the same appropriation under the first sentence of this paragraph.

"(2) If the Secretary determines that the sums apportioned to any State under paragraph (1) for any fiscal year exceed the aggregate of the amounts that he determines to be required under subsection (b) for that fiscal year for institutions of higher education in that State, the Secretary shall reapportion such excess, from time to time, on such date or dates as he shall fix, to other States in such manner as the Secretary determines will best assist in achieving purposes of this subpart.

"(b)(1) The Secretary shall, from time to time, set dates before which institutions in any State must file applications for allocation, to such institutions, of supplemental grant funds from the apportionment to that State (including any reapportionment thereto) for any fiscal year pursuant to subsection (a).

"(2)(A) From the sums apportioned (or reapportioned) to any State, the Secretary shall allocate amounts to eligible institutions which have submitted applications pursuant to paragraph (1). Eligible institutions may use not more than 10 per centum of such amounts to make awards to otherwise eligible students who fail to meet the requirement of section 488(2).

"(B) Allocations under subparagraph (A) by the Secretary to such institutions shall be made in accordance with equitable criteria established by the Secretary by regulation. Such criteria shall be designed to achieve such distribution of supplemental grant funds among such institutions within a State as will most effectively carry out the purposes of this subpart, except that in establishing equitable criteria the Secretary shall not issue any regulation which has the effect of penalizing institutional or State efforts to provide need-based assistance.

"(3) Payments shall be made from allocations under this subsection as needed.".

GRANTS TO STATES FOR STATE STUDENT INCENTIVES

SEC. 404. (a) Section 415A of the Act is amended to read as follows:

"PURPOSE; APPROPRIATIONS AUTHORIZED

"SEC. 415A. (a) It is the purpose of this subpart to make incentive grants available to the States to assist them in providing grants to eligible students attending institutions of higher education.

"(b)(1) There are hereby authorized to be appropriated $100,000,000 for each of the fiscal years 1981 and 1982, $150,000,000 for fiscal year 1983, $200,000,000 for fiscal year 1984, and $250,000,000 for fiscal year 1985, for payments to the States for grants to eligible students under this subpart.

"(2) Sums appropriated pursuant to paragraph (1) for any fiscal year shall remain available for payments to States for the award of student grants under this subpart until the end of the fiscal year succeeding the fiscal year for which such sums were appropriated.".

(b) Section 415B of the Act is amended by striking out subsections (b) and (c) and inserting in lieu thereof the following:

"(b) Whenever the sum appropriated pursuant to section 415A(b)(1) for any fiscal year exceeds $76,750,000, the Commissioner shall allot to each State to which the provisions of section 415C(b)(5)(B) do not apply, from 80 per centum of all such excess sums which would otherwise be available to such States if such excess were allocated under subsection (a)(1)(A), an amount which bears the same ratio to such excess sums as the number of students in attendance at institutions of higher education in such State bears to the total number of students in attendance in all such States. The remaining excess funds shall be allotted to all other States in an amount which bears the same ratio to such remaining excess as the number of students in attendance at institutions of higher education in such State bears to the total number of students in attendance in all such other States.".

(c) Section 415C of the Act is amended—

(1) in subsection (a), by striking out "shall submit" and inserting in lieu thereof "shall have a State agreement pursuant to section 1203 and shall submit";

(2) in subsection (b)(1), by inserting "designated under section 1203(b)(2)(D)" immediately after "agency";

(3) in subsection (b)(2), by striking out "$1,500" and inserting in lieu thereof "$2,000", and by striking out "as an undergraduate";

(4) in subsection (b)(4), by inserting immediately before the semicolon at the end thereof the following: "or in any State in which participation of nonprofit institutions of higher education is in violation of a statute of the State which was enacted prior to October 1, 1978";

(5) in subsection (b), by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) provides that—

"(A) in any fiscal year for which the total appropriation for this program does not exceed $76,750,000, the payment of the non-Federal portion of such grants from funds supplied by such State shall represent an additional expenditure for such year by such State for grants for students attending institutions of higher education over the amount expended by such State for such grants, if any, during the second fiscal year preceding the fiscal year in which such State initially received funds under this subpart, whichever such amount expended is greater;

"(B) in any fiscal year in which the total appropriation for this program exceeds $76,750,000, the amount of funds expended by each State for the non-Federal portion of awards made from allotments based on funds appropriated in excess of $76,750,000 shall represent an additional expenditure for that year by such State over the amounts, if any, expended by such State for student grants during the second fiscal year preceding that year, whichever such amount expended is greater, except that this subsection shall not apply to any State which expends in the preceding fiscal year amounts greater than amounts received in such year by such State pursuant to this subpart;"; and

(6) in subsection (b), by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and by inserting after such paragraph the following new paragraph:

"(7) provides for State expenditures under such program of an amount not less than the average annual aggregate expenditures for the preceding three fiscal years or the average annual expenditure per full-time equivalent student for such years.".

(d) Section 415E of the Act is repealed.

SPECIAL PROGRAMS FOR STUDENTS FROM DISADVANTAGED BACKGROUNDS

SEC. 405. Subpart 4 of part A of title IV of the Act is amended to read as follows:

"Subpart 4—Special Programs for Students From Disadvantaged Backgrounds

"PROGRAM AUTHORITY; AUTHORIZATION OF APPROPRIATIONS

"SEC. 417A. (a) The Secretary shall, in accordance with the provisions of this subpart, carry out a program of making grants and contracts designed to identify qualified students from disadvantaged backgrounds, to prepare them for a program of postsecondary education, to provide special services for such students who are pursuing programs of postsecondary education, and to train persons serving or preparing for service in programs and projects so designed.

"(b) For the purposes described in subsection (a), the Secretary is authorized, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), to make grants to, and contracts with, institutions of higher education, private agencies and organizations, and, in exceptional circumstances secondary schools for planning, developing, or carrying out one or more of the services assisted under this subpart.

"(c) For the purpose of making grants and contracts under this subpart there are authorized to be appropriated $400,000,000 for fiscal year 1981 and such sums as may be necessary for each of the succeeding fiscal years ending prior to October 1, 1985.

"(d) For the purposes of this subpart—

"(1) the term 'first generation college student' means a person neither of whose parents completed a baccalaureate degree; and

"(2) the term 'low-income individual' means an individual from a family whose taxable income for the preceding year did not exceed 150 per centum of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of Census.

"(e) No individual who is an eligible veteran, as that term is defined by section 1652(a) of title 38, United States Code, shall be deemed ineligible to participate in any program under this part by reason of such individual's age.

"TALENT SEARCH

"SEC. 417B. (a) The Secretary shall carry carry out a program to be known as 'Talent Search' which shall be designed—

"(1) to identify qualified youths with potential for education at the postsecondary level and to encourage such youth to complete secondary school and to undertake a program of postsecondary education;

"(2) to publicize the availability of student financial assistance available to persons who pursue a program of postsecondary education; and

"(3) to encourage persons who have not completed programs of education at the secondary or postsecondary level, but who have the ability to complete such programs, to reenter such programs.

"(b) A Talent Search project assisted under this subpart may include, in addition to the services described in paragraphs (1), (2), and (3) of subsection (a), tutorial services for youths being encouraged to undertake or reenter programs of postsecondary education if such tutorial services are not otherwise available to such youths through a project assisted under this subpart.

"(c) In approving applications for Talent Search projects under this subpart for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the youths participating in the project proposed to be carried out under any application by low-income individuals who are first generation college students;

"(2) require that there be determination, with respect to each participant in such project, that the participant has a need for academic support in order to successfully pursue a program of education beyond high school;

"(3) require that such participants be persons who either have completed six years of elementary education or are at least twelve years of age but not more than twenty-seven years of age, unless the imposition of any such limitation with respect to any person would defeat the purposes of this section or the purposes of section 417E; and

"(4) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 417E.

"(d) In approving applications for Talent Search projects under this subpart for any fiscal year, the Secretary shall require assurances that the project will be located in a setting accessible to the youths proposed to be served by the project.

"UPWARD BOUND

"SEC. 417C. (a) The Secretary shall carry out a program to be known as 'Upward Bound' which shall be designed to generate skills and motivation necessary for success in education beyond high school.

"(b) Any Upward Bound project assisted under the subpart may provide services such as—

"(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond high school;

"(2) personal counseling;

"(3) academic advice and assistance in high school course selection;

"(4) tutorial services;

"(5) exposure to cultural events, academic programs, and other activities not usually available to disadvantaged youth;

"(6) activities designed to acquaint youths participating in the project with the range of career options available to them;

"(7) instruction designed to prepare youths participating in the project for careers in which persons from disadvantaged backgrounds are particularly underrepresented;

"(8) on-campus residential programs; and

"(9) programs and activities as described in paragraphs (1) through (8) which are specially designed for students of limited English proficiency.

"(c) In approving applications for Upward Bound projects under this subpart for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the youths participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

"(2) require an assurance that the remaining youths participating in the project proposed to be carried out under any application be either low-income individuals or be first generation college students;

"(3) require that there be determination, with respect to each participant in such project, that the participant has a need for academic support in order to successfully pursue a program of education beyond high school; and

"(4) requires that such participants be persons who have completed eight years of elementary education and are at least thirteen years of age but not more than nineteen years of age, unless the imposition of any such limitation would defeat the purposes of this section.

"(d) Youths participating in a project proposed to be carried out under any application may be paid stipends not in excess of $60 per month during June, July, and August, and not in excess of $40 per month during the remaining period of the year.

"SPECIAL SERVICES FOR DISADVANTAGED STUDENTS

"SEC. 417D. (a) The Secretary shall carry out a program to be known as 'Special Services for Disadvantaged Students' (hereinafter referred to as 'Special Services') which shall be designed to provide supportive services to persons participating in the projects.

"(b) A Special Services project assisted under this subpart may provide services such as—

"(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond high school;

"(2) personal counseling;

"(3) academic advice and assistance in course selection;

"(4) tutorials;

"(5) exposure to cultural events and academic programs not usually available to disadvantaged students;

"(6) activities designed to acquaint students participating in the project with the range of career options available to them;

"(7) activities designed to assist students participating in the project in securing admission and financial assistance for enrollment in graduate and professional programs; and

"(8) programs and activities as described in paragraphs (1) through (7) which are specially designed for students of limited English proficiency.

"(c) In approving applications for Special Services projects under this subpart for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application—

"(A) be physically handicapped, or

"(B) be low-income individuals who are first generation college students;

"(2) require an assurance that the remaining students participating in the project proposed to be carried out under any application either be low-income individuals, first generation college students, or physically handicapped;

"(3) require that there be a determination, with respect to each participant in such project, that the participant has a need for academic support in order to successfully pursue a program of education beyond high school; and

"(4) require that such participants be enrolled or accepted for enrollment at the institution which is the recipient of the grant or contract.

"(d) In approving applications for Special Services projects under this subpart for any fiscal year, the Secretary shall require an assurance from the institution which is the recipient of the grant or contract that each student enrolled in the project will receive sufficient financial assistance to meet that student's full financial need.

"EDUCATIONAL OPPORTUNITY CENTERS

"SEC. 417E. (a) The Secretary shall carry out a program of paying up to 75 per centum of the cost of establishing and operating programs to be known as 'Educational Opportunity Centers' which shall be designed—

"(1) to provide information with respect to financial and academic assistance available for individuals desiring to pursue a program of postsecondary education; and

"(2) to provide assistance to such persons in applying for admission to institutions at which a program of postsecondary education is offered, including preparing necessary applications for use by admissions and financial aid officers.

"(b) An Educational Opportunity Center assisted under this subpart may provide, in addition to the services described in clauses (1) and (2) of subsection (a), tutorial and counseling services for persons participating in the project if such tutorial and counseling services are not otherwise available through a project assisted under this subpart.

"(c) In approving applications for Educational Opportunity Centers under this subpart for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

"(2) require that there be determination, with respect to each participant in such project, that the participant has a need for academic support in order to pursue a program of education beyond high school;

"(3) require that such participants be persons who are at least nineteen years of age, unless the imposition of such limitation with respect to any person would defeat the purposes of this section or the purposes of section 417B; and

"(4) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 417B.

"STAFF DEVELOPMENT ACTIVITIES

"SEC. 417F. For the purpose of improving the operation of the programs and projects authorized by this subpart, the Secretary is authorized to make grants to institutions of higher education and other public and private nonprofit institutions and organizations to provide training for staff and leadership personnel employed in, or preparing for employment in, such programs and projects. Such training shall include conferences, internships, seminars, and workshops designed to improve the operation of such programs and projects and shall be carried out in the various regions of the Nation in order to ensure that the training opportunities are appropriate to meet the needs in the local areas being served by such programs and projects. Grants for the purposes of this section shall be made only after consultation with regional and State professional associations of persons having special knowledge with respect to the needs and problems of such programs and projects.".

VETERANS' COST-OF-INSTRUCTION PAYMENTS

SEC. 406. Section 420 of the Act is amended to read as follows:

"VETERANS' COST-OF-INSTRUCTION PAYMENTS TO INSTITUTIONS OF HIGHER EDUCATION

"SEC. 420. (a) (1) During the period beginning July 1, 1972, and ending September 30, 1985, each institution of higher education shall be entitled to a payment under, and in accordance with, this section during any fiscal year if—

"(A) the number of persons who are veterans receiving vocational rehabilitation under chapter 31 and title 38, United States Code, or veterans receiving educational assistance under chapter 34 of such title, and who are in attendance as undergraduate students at such institution during any academic year, equals at least—

"(i) 110 per centum of the number of such recipients who were in attendance at such institution during the preceding academic year, or

"(ii) 10 per centum of the total number of undergraduate students in attendance at such institution during such academic year and if such number does not constitute a per centum of such undergraduate students which is less than such per centum for the preceding academic year; and

"(B) the number of such persons is at least twenty-five.

"(2) During the period specified in paragraph (1), each institution which has qualified for a payment under this section for any year shall be entitled during the succeeding year, notwithstanding paragraph (1), to a payment under and in accordance with this section, if the number of persons referred to in such paragraph (1) equals at least the number of such persons who were in attendance at such institution during the preceding academic year or equals at least the minimum number of such persons necessary to establish eligibility to entitlement under paragraph (1) during the preceding academic year, whichever is less. Each institution which is entitled to a payment for any fiscal year by reason of the preceding sentence shall be deemed, for the purposes of any such year succeeding the year for which it is so entitled, to have been entitled to a payment under paragraph (1) during the preceding fiscal year.

"(3) With respect to any academic year ending on or before September 30, 1986, each institution which has qualified for payment under this section for the preceding year shall be entitled during such period, notwithstanding the provisions of paragraph (1) (A), to a payment under this section if—

"(A) the number of persons referred to in paragraph (1) equals at least the number which bears the same ratio to the number of such recipients who were in attendance at such institution during the first academic year in which the institution was entitled to payments under this section as the number of such recipients in all institutions of higher education during the academic year for which the determination is made bears to the number of such recipients in all institutions of higher education for the first such academic year; or

"(B) in the event that subparagraph (A) of this paragraph is not satisfied, the Secretary determines, on the basis of evidence presented by such institution, that such institution is making reasonable efforts, taking into consideration the extent to which the number of persons referred to in such paragraph (1) falls short of meeting the ratio criterion set forth in such subparagraph (A), to continue to recruit, enroll, and provide necessary services to veterans.

"(b)(1) The amount of the payment to which any institution shall be entitled under this section for any fiscal year shall be—

"(A) $300 for each person who is a veteran receiving vocational rehabilitation under chapter 31 of title 38, United States Code, or a veteran receiving educational assistance under chapter 34 of title 38, and who is in attendance at such institutions as an undergraduate student during such year; and

"(B) in addition, $150 for each person who is in attendance at such institution as an undergraduate student during such year and who has been the recipient of educational assistance under subchapter V or subchapter VI of chapter 34 of such title 38, or who is disabled or incarcerated, as determined in accordance with regulations promulgated by the Secretary after consultation with the Administrator of Veterans' Affairs.

"(2) In any case where a person on behalf of whom a payment is made under this section attends an institution on less than a full-time basis, the amount of the payment on behalf of that person shall be reduced in proportion to the degree to which that person is not attending on a full-time basis. In no case shall a payment be made on behalf of a person who attends an institution on less than a half-time basis.

"(c)(1) An institution of higher education shall be eligible to receive the payment to which it is entitled under this section only if it makes application therefor to the Secretary. An application under this section shall be submitted at such time or times, in such manner, in such form and containing such information as the Secretary determines necessary to carry out his functions under this title, and shall—

"(A) set forth such policies, assurances, and procedures as will insure that—

"(i) the funds received by the institution under this section and available to it after the requirements of subsection (e) have been met will be used solely to defray instructional expenses in academically related programs of the applicant;

"(ii) the funds received by the institution under this section will not be used for a school or department or divinity or for any religious worship or sectarian activity;

"(iii) the applicant will expend, during the academic year for which a payment is sought, for all academically related programs of the institution, an amount equal to at least the average amount so expended during the three years preceding the year for which the grant is sought; and

"(iv) the applicant will submit to the Secretary such reports as the Secretary may require by regulation;

"(B) contain such other statement of policies, assurances, and procedures as the Secretary may require by regulation in order to protect the financial interests of the United States; and

"(C) set forth such plans, policies, assurances, and procedures as will insure that the applicant will make an adequate effort—

"(i) to maintain a full-time office of veterans' affairs which has responsibility for veterans' outreach, recruitment, and special education programs, including the provisions of educational, vocational, and personal counseling for veterans,

"(ii) to carry out programs designed to prepare educationally disadvantaged veterans for postsecondary education (I) under subchapter V of chapter 34 of title 38, United States Code, and (II) in the case of any institution located near a military installation, under subchapter VI of such chapter 34,

"(iii) to carry out active outreach (with special emphasis on handicapped, incarcerated, and educationally disadvantaged veterans), recruiting, and counseling activities through the use of funds available under federally assisted work-study programs (with special emphasis on the veteran-student services program under section 1685 of such title 38), and

"(iv) to carry out an active tutorial assistance program (including dissemination of information regarding such program) in order to make maximum use of the benefits available under section 1692 of such title 38, except that an institution which the Secretary determines, in accordance with regulations jointly prescribed by the Secretary and the Administrator of Veterans' Affairs (hereinafter referred to as the 'Administrator'), cannot feasibly itself carry out any or all of the programs set forth in divisions (i) through (iv) of this subparagraph, may carry out such program or programs through a consortium agreement with one or more other institutions of higher education and shall be required to carry out such programs only to the extent that the Secretary determines, in accordance with regulations jointly prescribed by the Secretary and the Administrator, is appropriate in terms of the number of veterans in attendance at such institution.

The adequacy of efforts to meet the requirements of subparagraph (C) of this paragraph shall be determined by the Secretary, based upon the recommendation of the Administrator, in accordance with criteria established in regulations jointly prescribed by the Secretary and the Administrator.

"(2) The Secretary shall not approve an application under this subsection unless he determines that the applicant will implement the requirements of paragraph (1)(C) within the first academic year during which it receives a payment under this section.

"(d)(1) The Secretary shall pay to each institution of higher education which has had an application approved under subsection (c) the amount to which it is entitled under this section.

"(2) The maximum amount of payments to any institution of higher education, or any branch thereof which is located in a community which is different from that in which the parent institution thereof is located, in any fiscal year, shall be $100,000. In making payments under this section for any fiscal year, the Secretary shall apportion the appropriation for making such payments, from funds which become available as a result of the limitation on payment set forth in the preceding sentence, in such manner as will result in the receipt by each institution which is eligible for a payment under this section of first $9,000 (or the amount of its entitlement for that fiscal year, whichever is less) and then additional amounts up to the limitation set forth in the preceding sentence.

"(e) Not less than 90 per centum of the amounts paid to any institution under subsection (d) in any fiscal year shall be used to implement the requirements of subsection (c)(1)(C)(i), and, to the extent that such funds remain after implementing such requirements, funds limited by such 90 per centum requirement shall be used for implementing the requirements of divisions (ii), (iii), and (iv) of subsection (c)(1)(C), except that the Secretary may, in accordance with criteria established in regulations jointly prescribed by the Secretary with the Administrator, waive the requirement of this subsection to the extent that he finds that such institution is adequately carrying out all such requirements without the necessity for such application of such amount of the payments received under this subsection.

"(f) The Secretary, in carrying out the provisions of this section, shall seek to assure that coordination of programs assisted under this section with programs carried out by the Veterans' Administration pursuant to title 38 of the United States Code, and the Administrator of Veterans' Affairs shall provide all assistance, technical consultation, and information otherwise authorized by law as necessary to promote the maximum effectiveness of the activities and programs assisted under this section.".

PART B—GUARANTEED AND INSURED STUDENT LOANS

EXTENSION OF PROGRAMS

SEC. 411. (a) Section 424(a) of the Act is amended—

(1) by striking out "1981" and inserting in lieu thereof "1986"; and

(2) by striking out "1985" and inserting in lieu thereof "1990".

(b) Section 428(a)(5) of the Act is amended—

(1) by striking out "1981" and inserting in lieu thereof "1986"; and

(2) by striking out "1985" and inserting in lieu thereof "1990".

LOAN LIMITATIONS

SEC. 412. (a) Section 425(a)(1) of the Act is amended—

(1) by redesignating clauses (A), (B), and (C), as clauses (B), and (C), and (D), respectively;

(2) by inserting immediately before clause (B) (as so redesignated) the following new clause:

"(A) that in the case of an independent student (as defined in section 487(c)(2)) who has not successfully completed a program of undergraduate education, the total of such loans may not exceed $3,000,"; and

(3) by striking out "clause (B)" in the last sentence of such section and inserting in lieu thereof "clause (C)".

(b) Section 425(a)(2) of the Act is amended by striking out "$7,500, in the case of any student who has not successfully completed a program of undergraduate education, and $15,000 in the case of any graduate or professional student" and inserting in lieu thereof "$12,500 in the case of any student (other than an independent student) who has not successfully completed a program of undergraduate education, $15,000 in the case of any independent student who has not successfully completed a program of undergraduate education, and $25,000 in the case of any graduate or professional student".

(c) Section 428(b)(1)(A) of the Act is amended—

(1) by redesignating divisions (i), (ii), and (iii) as divisions (ii), (iii), and (iv), respectively;

(2) by inserting immediately before division (ii) (as so redesignated) the following new division:

"(i) that the program may not authorize the insurance of loans in excess of $3,000 in the case of an independent student (as defined in section 487(c)(2)) who has not successfully completed a program of undergraduate education,"; and

(3) by striking out "division (ii)" in the last sentence of such section and inserting in lieu thereof "division (iii)".

(d) Section 428A of the Act is amended—

(1) by striking out "$2,500 (in the case of a student who has not successfully completed a program of undergraduate education) or $5,000 (in the case of a graduate or professional student)" in subsection (a)(1)(A) and in subsection (a)(2)(A) and inserting in lieu thereof in each such place the following: "$2,500 (in the case of a student, other than an independent student, who has not successfully completed a program of undergraduate education), $3,000 (in the case of an independent student (as defined in section 487(c)(2) who has not successfully completed a program of undergraduate education), or $5,000 (in the case of a graduate or professional student)"; and

(2) by striking out "$7,500 in the case of any student who has not successfully completed a program of undergraduate education, and $15,000 in the case of any graduate or professional student" in subsection (a)(1)(A) and in subsection (a)(2)(A) and inserting in lieu thereof in each such place the following: "$12,500 in the case of any student (other than an independent student) who has not successfully completed a program of undergraduate education, $15,000 in the case of any independent student who has not successfully completed a program of undergraduate education, and $25,000 in the case of any graduate or professional student".

(e) Part B of title IV of the Act is further amended by inserting immediately before the period at the end of section 425(a)(2) and immediately before the semicolon at the end of sections 428(b)(1)(B), 428A(a)(1)(A), and 428A(a)(2)(A) the following: ", except that the Commissioner may increase the limit applicable to graduate and professional students that are pursuing programs which the Commissioner determines are exceptionally expensive".

DEFERRAL OF REPAYMENT

SEC. 413. (a) Section 427(a)(2)(C) is amended—

(1) by inserting "or is an officer in the Commissioned Corps of the Public Health Service" immediately after "Armed Forces of the United States" in clause (ii); and

(2) by striking out "or (v)" and inserting in lieu thereof the following: "(v) not in excess of three years during which the borrower is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954; (vi) not in excess of two years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service; (vii) not in excess of three years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled, or (viii)".

(b) Section 428(b)(1)(M) of the Act is amended—

(1) by inserting "or is an officer in the Commissioned Corps of the Public Health Service" immediately after "Armed Forces of the United States" in clause (ii); and

(2) by striking out "or (v)" and inserting in lieu thereof the following: "(v) not in excess of three years during which the borrower is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954; (vi) not in excess of two years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service; (vii) not in excess of three years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled, or (viii)".

(c) Section 435 of the Act is amended by adding at the end thereof the following new subsection:

"(j) The term 'temporarily totally disabled' when used with respect to a borrower means a borrower who, by reason of injury or illness, cannot be expected to be able to attend an institution of higher education or to be gainfully employed during a reasonable period of recovery from such injury or illness not to exceed three years. Such term when used with respect to the spouse of a borrower means a spouse who, by reason of injury or illness, cannot be expected to be gainfully employed during a reasonable period of recovery from such injury or illness not to exceed three years and who during such period required continuous nursing or other similar services.".

COLLECTION PRACTICES

SEC. 414. (a)(1) Section 430(b) of the Higher Education Act of 1965 is amended by inserting "(1)" after "(b)" and by adding at the end thereof the following new paragraph:

"(2)(A) For the purpose of promoting responsible repayment of loans covered by Federal loan insurance or guarantees pursuant to this part, the Commissioner shall enter into cooperative agreements with credit bureau organizations providing for the exchange of information concerning student borrowers in accordance with the requirements of this paragraph. For the purpose of assisting such organizations to comply with the Fair Credit Reporting Act, such agreements may provide for timely response by the Commissioner to requests from such organizations for responses to objections raised by such borrowers. Subject to the requirements of subparagraph (C), such agreements shall provide for the disclosure by the Commissioner to such organizations with respect to any loan for which the Commissioner has received a notice of default under subsection (a) of this section of—

"(i) the date of disbursement and the amount of any such loan;

"(ii) information concerning collection of any such loan, including information concerning the status of any defaulted loan on which the Commissioner has made a payment pursuant to subsection (a) of this section;

"(iii) the date of cancellation of the note upon completion of repayment by the borrower of any such loan or payment by the Commissioner pursuant to section 437.

"(B) Such agreements may also provide for the disclosure by such organizations to the Commissioner, upon receipt from the Commissioner of a notice under subparagraph (A)(ii) that such a loan is in default, of information concerning the borrower's location or other information which may assist the Commissioner in proceeding to collection of the defaulted amount.

"(C) Agreements entered into pursuant to this paragraph shall contain such provisions as may be necessary to ensure that—

"(i) no information is disclosed by the Commissioner unless its accuracy and completeness have been verified, and no information stating that a loan is in default is disclosed until the Commissioner has made a reasonable effort to collect the debt;

"(ii) as to any information so disclosed, such organizations will be promptly notified of, and will promptly record, any change submitted by the Commissioner with respect to such information, or any objections by the borrower with respect to any such information, as required by section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i);

"(iii) no use will be made of any such information which would result in the use of collection practices with respect to such a borrower that are not fair and reasonable or that involve harassment, intimidation, false or misleading representations, or unnecessary communication concerning the existence of such loan or concerning any such information; and

"(iv) the Commissioner (I) shall not disclose any such information until he has notified the borrower that such information will be disclosed to credit bureau organizations unless the borrower enters into repayment of his loan, but (II) shall, if the borrower has not entered into repayment within a reasonable period of time, but not less than thirty days, from the date such notice has been sent to the borrower, disclose the information required by this subsection.

"(D) The Commissioner shall, within ninety days after the date of enactment of this paragraph, take such steps as may be necessary to establish the disclosure of information described in subparagraph (A) (i), (ii), and (iii) as a routine use in accordance with section 552a(b)(3) of title 5, United States Code, and to establish a system for the prompt notification of any borrower of any disclosure made pursuant to this paragraph.".

(2) Section 427(a)(2) of the Higher Education Act of 1965 is amended by redesignating subparagraphs (H) and (I) as subparagraphs (J) and (K), respectively, and by inserting after subparagraph (G) the following new subparagraph:

"(H)(i) contains a notice of the system of disclosure of information concerning such loan to credit bureau organizations under section 430(b)(2), and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such organizations,".

(b) Section 430(c) of the Act is amended by adding at the end thereof the following new sentence: "Any forbearance which is approved by the Commissioner under this subsection with respect to the repayment of a loan shall not be considered as indicating that a holder of a federally insured loan has failed to exercise reasonable care and diligence in the collection of the loan.".

(c) Section 432 of the Act is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of law, the Commissioner may provide to eligible lenders, and to any State or any nonprofit private institution or organization having a guaranty agreement under section 428(c)(1), any information with respect to the names and addresses of borrowers or other relevant information which is available to him, from whatever source such information may be derived.".

LOANS TO PARENTS

SEC. 415. Part B of title IV of the Act is amended by inserting immediately after section 428A the following new section:

"LOANS TO PARENTS OF DEPENDENT UNDERGRADUATE STUDENTS

"SEC. 428B. (a) Parents of a dependent undergraduate student (as defined by regulations by the Secretary) shall be eligible to borrow funds under this part in amounts specified in subsection (b), and unless otherwise specified in subsections (c) and (d), such loans shall have the same terms, conditions, and benefits as all other loans made under this part.

"(b)(1) Subject to paragraphs (2) and (3), the maximum amount parents may borrow for one student in any academic year or its equivalent (as defined by regulation by the Secretary) is $3,000.

"(2) The aggregate insured principal amount for insured loans made to parents on account of an undergraduate dependent student shall not exceed $15,000.

"(3) No loan may be made to any parents or student under this part which would cause their combined loans for any academic year to exceed the student's estimated cost of attendance minus such students' estimated financial assistance as certified by the eligible institution under section 428(a)(2)(A) of this part. The annual insurable limit on account of any student shall not be deemed to be exceeded by a line of credit under which actual payments to the borrower will not be made in any year in excess of the annual limit.

"(c)(1) Repayment of principal on loans made under this section may be deferred until the earliest of—

"(A) four years from the disbursement date of the first loan made for the educational expenses of the dependent student named in the parent's loan application;

"(B) the student's anticipated date of graduation or completion of studies estimated at the time of the application for a loan;

"(C) the date on which the student ceases to be at least a half time student at an eligible institution; or

"(D) such other date as the parent may request.

Such repayment obligation shall not be further delayed because of any current status of the student, but nothing in this section shall be construed to prohibit a lender from exercising forbearance for the benefit of the borrower.

"(2) No payments to reduce interest costs shall be paid pursuant to section 428(a) of this part on loans made pursuant to this section.

"(3) If a borrower under this section elects to begin making regular monthly payments of principal and interest at a date later than sixty days after the date such loan is disbursed by a lender, then the interest which would accrue between the date of disbursement and a date thirty days prior to the due date of the first payment shall be calculated and subtracted from the proceeds of the loan before the balance is disbursed. If such repayment begins on a date earlier than thirty days prior to the due date of the first payment, any such interest so retained by the lender which has not been earned shall be used to reduce the principal owing on the loan.

"(4) If a borrower under this section elects to begin making regular monthly payments of principal and interest at a date not later than sixty days after the date such loan is disbursed by a lender, then the interest shall be 7 per centum per annum on the unpaid principal balance of the loan.

"(d) Loans made under this section shall be insured by the Secretary in a State only if—

"(1) the State is not served by an agency having an agreement with the Secretary pursuant to section 428(b), or

"(2) an agency in a State having such an agreement does not authorize loans under this section (A) within one hundred and twenty days after the effective date of this amendment, or (B) if a State is prohibited from authorizing loans under this section because of existing State law, one hundred and twenty days after the adjournment of the next regular session of the State legislature which convenes after the effective date of this amendment.".

MISCELLANEOUS AMENDMENTS

SEC. 416. (a)(1) Section 427(a)(1) of the Act is amended to read as follows:

"(1) made to a student who (A) is an eligible student as required by section 488, and (B) has agreed to notify promptly the holder of the loan concerning any change of address; and".

(2) Section 428(a)(2)(B)(i) of the Act is amended to read as follows:

"(i) a student's estimated cost of attendance means the cost of attendance for such student determined in accordance with section (487d);".

(b) Section 428(c)(1)(A) of the Act is amended by striking out everything after "of any insured loan" in the first sentence thereof and inserting in lieu thereof a period.

(c) Section 428(e) of the Act is amended to read as follows:

"(e) From funds appropriated to carry out this part in any fiscal year, the Commissioner shall pay to each eligible institution the amount of $10 per academic year for each student enrolled in that institution who is in receipt of a loan described in paragraph (1) of subsection (a) of this section, for that year. Payments received by an institution under this subsection shall be used for the sole purpose of offsetting the institution's costs for the program under this part.".

(d) Section 428(f)(1) of the Act is amended by striking out "(f)(1)(A)" and inserting in lieu thereof "(f)(1)" and by striking out subparagraphs (B) and (C).

(e) Section 428(f) of the Act is amended by adding at the end thereof the following new paragraph:

"(5)(A) The Commissioner shall make payments in accordance with this paragraph to an agency in any State which has an agreement under subsection (b) of this section which provides a lender referral service for students who meet the requirements of subparagraph (B).

"(B) A student is eligible to apply for lender referral services to an agency in a State if (i) such student is either a resident of such State or is accepted for enrollment in or is attending an eligible institution in such State, and (ii) such student has sought and was unable to find a lender willing to make a loan under this part.

"(C) The amount which the Commissioner shall pay to any eligible agency under this paragraph shall be equal to one-half of 1 per centum of the total principal amount of the loans upon which insurance was issued under this part on loans made to a student described in subparagraph (B) who subsequently obtained such loans because of such agency's referral service.

"(D) Nothing in this or any law shall prohibit an agency from using all or a portion of the funds received under this part for the payment of incentive fees to lenders who agree to participate in a loan referral service.

"(E) There is hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this paragraph.".

STUDENT LOAN MARKETING ASSOCIATION

SEC. 417. (a)(1) Section 439(d) of the Act is amended—

(A) in paragraph (1), by inserting "or repurchase" after "purchase" and by inserting "or resell, offer participations, or pooled interests," after "sell";

(B) by amending paragraph (2) to read as follows:

"(2) Any warehousing advance made under paragraph (1) of this subsection shall be made on the security of (i) insured loans, (ii) marketable obligations and securities issued, guaranteed or insured by, the United States, or for which the full faith and credit of the United States is pledged for the repayment of principal and interest thereof, or (iii) marketable obligations issued, guaranteed, or insured by any agency, instrumentality or corporation of the United States for which the credit of such agency, instrumentality or corporation is pledged for the repayment of principal or interest thereof, in an amount equal to the amount of such advance. The proceeds of any such advance secured by insured loans shall either be invested in additional insured loans or the lender shall provide assurances to the Association that during the period of the borrowing it will maintain a level of insured loans in its portfolio not less than the aggregate outstanding balance of such loans held at the time of the borrowing. The proceeds from any such advance secured by collateral described in clauses (ii) and (iii) shall be invested in additional insured student loans."; and

(C) by adding at the end thereof the following new paragraph:

"(4) Securities issued pursuant to the offering of participations or pooled interests under paragraph (1) of this subsection may be in the form of debt obligations, or trust certificates of beneficial ownership, or both. Student loans set aside pursuant to the offering of participations or pooled interests shall at all times be adequate to ensure the timely principal and interest payments on such securities.".

(2) Section 439(1) of the Act is amended by inserting "including those made under subsection (d)(3)" immediately after "All obligations issued by the Association".

(b) Section 439(e)(A) of the Act is amended by striking out "$50,000,000" and inserting in lieu thereof "$100,000,000".

(c)(1) Section 439(f) of the Act is amended—

(A) in paragraph (1), by striking out "having a par value of $100 per share" and inserting in lieu thereof "having such par value as may be fixed by its Board of Directors from time to time";

(B) in paragraph (3), by striking out the last sentence thereof;

(C) in paragraph (4), by inserting "and nonvoting common stock" after "dividends may be declared on common stock" and after "outstanding shares of common stock"

(D) by adding at the end thereof the following new paragraph:

"(5) The Association is authorized to issue nonvoting common stock having such par value as may be fixed by its Board of Directors from time to time. Any nonvoting common stock shall be freely transferable, except that, as to the Association, it shall be transferable only on the books of the Association.".

(2) Section 439(g)(1) of the Act is amended by striking out the first sentence and inserting in lieu thereof the following: "The Association is authorized to issue nonvoting preferred stock having such par value as may be fixed by its Board of Directors from time to time.".

(d) Section 439(h) of the Act is amended—

(1) by adding the following new sentence at the end of paragraph (1): "The Secretary of the Treasury may not direct as a condition of his approval that any such issuance of obligations by the Association be made or sold to the Federal Financing Bank.";

(2) in paragraph (2), by striking out "July 1, 1982" and inserting in lieu thereof "October 1, 1984";

(3) by adding at the end thereof the following new paragraphs:

"(4) Upon receipt of a request from the Association under this subsection requiring approvals by the Secretary of Health, Education, and Welfare or the Secretary of the Treasury, the Secretary of Health, Education, and Welfare or the Secretary of the Treasury shall act promptly either to grant approval or to advise the Association of the reasons for withholding approval. In no case shall such an approval be withheld for a period longer than sixty days unless, prior to the end of such period, the Secretary of Health, Education, and Welfare or the Secretary of the Treasury, as the case may be, submit to the Congress a detailed explanation of reasons for doing so.

"(5) The Secretary of the Treasury is authorized in his discretion to purchase any obligations issued by the Association pursuant to this subsection as now or hereafter in force, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include such purchases. The Secretary of the Treasury shall not at any time purchase any obligations under this subsection if such purchase would increase the aggregate principal amount of his then outstanding holdings of such obligations under this subsection, to an amount greater than $1,000,000,000. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities as of the last day of the month preceding the making of such purchase. The Secretary of the Treasury may, at any time, sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

"(6) Notwithstanding any other provision of law, the Association is authorized to sell or issue obligations on the security of student loans, the payment of interest or principal of which has at any time been guaranteed under section 428 or 429 of this part, to the Federal Financing Bank.".

(e)(1) Section 439 of the Act is amended by adding at the end thereof the following new subsections:

"(o)(1) The Association or its designated agent may, upon request of a borrower who has received loans under title IV of this Act from two or more programs or lenders and where the borrower's aggregate outstanding indebtedness is in excess of $5,000, or where the borrower's aggregate outstanding indebtedness is in excess of $7,500 from a single lender under this part, make a new loan to the borrower in an amount equal to the unpaid principal and accrued unpaid interest on the old loans. The proceeds of the new loan shall be used to discharge the liability on such old loans.

"(2) Loans made pursuant to this subsection shall be insurable either by the Commissioner under section 429 with a certificate of comprehensive insurance coverage provided for under section 429(b)(1) or by a State or nonprofit private institution or organization with which the Commissioner has an agreement under section 428(b), except that such State or nonprofit private institution or organization shall provide the Association with a certificate of comprehensive insurance coverage. The terms of loans made under this subsection shall be such as may be agreed upon by the borrower and the Association and meet the requirements of section 427, except that (A) the ten-year maximum period referred to in section 427 (a)(2)(B) may be extended to no more than twenty years, and (B) clause (ii) of section 427(a)(2)(B) shall not be applicable.

"(3) Notwithstanding any other provision of this part, the Association, with the agreement of the borrower, may establish such repayment terms as it determines will promote the objectives of this subsection including, but not limited to, the establishment of graduated, income sensitive repayment schedules.

"(4) The Association shall develop a program to ensure the dissemination of information to students, lenders, and institutions of higher education regarding the loans authorized by this subsection.

"(p)(1) Whenever the Secretary, after consultation with and the agreement of the appropriate representatives of a State (including representatives of any agency in such State having an agreement pursuant to section 428(b) of this part), determines that a substantial portion of all eligible borrowers in such State or within an area of substantial population of such State are seeking and are unable to obtain loans under this part, the Association or its designated agent may begin making loans in accordance with this subsection at the request of the Secretary.

"(2) Loans made pursuant to this subsection shall be insurable by either (A) the Commissioner under section 429 with a certificate of comprehensive insurance coverage provided for under section 429(b)(1) or (B) by the agency identified in paragraph (1) having an agreement pursuant to section 428(b). For loans insured by such agency, the agency shall provide the Association with a certificate of comprehensive insurance coverage, if the Association and the agency have mutually agreed upon a means to determine that the agency has not already guaranteed a loan under this part to a student which would cause a subsequent loan made by the Association to be in violation of any provision under this part.

"(3) The Association or its designated agent shall cease making loans under this part at such time that it is determined by any part to the agreement required by paragraph (1) that—

"(A) the conditions which caused the implementation of this subsection have ceased to exist; or

"(B) the implementation of this subsection has either (i) further reduced the availability of loans from other sources in the applicable geographical area, or (ii) inhibited the formation in a State of an agency which would have an agreement pursuant to section 428(b) of this part which would have the responsibility of developing local sources of funds for student loans.

"(q) The Association in carrying out its activities under subsections (o) and (p) of this section shall not be deemed to be a creditor for any purposes of the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.).".

(2) Section 435(g)(1) of the Act is amended by striking out "and" at the end of subparagraph (E), by striking out the period at the end of subparagraph (F) and inserting in lieu thereof "; and", and by adding at the end thereof the following:

"(G) for purposes of making loans under section 439 (o) and (p) the Student Loan Marketing Association.".

(f) Part B of title IV of the Act is amended by adding at the end thereof the following new section:

"SEC. 439C. (a) The Truth in Lending Act (15 U.S.C. 1601 et seq.) shall not apply to any loans made under the authority of this title.

"(b) Subsection (a) of this section shall be effective upon its enactment and shall apply to all loans outstanding whether originated prior to or after the date of such enactment.".

PART C—WORK-STUDY PROGRAMS

PURPOSE; APPROPRIATIONS AUTHORIZED

SEC. 421. Section 441 of the Act is amended to read as follows:

"PURPOSE; APPROPRIATIONS AUTHORIZED

"SEC. 441. (a) The purpose of this part is to stimulate and promote the part-time employment of students, particularly students who are in need of earnings from such employment to pursue courses of study at eligible institutions.

"(b) There are authorized to be appropriated for carrying out this part $670,000,000 for fiscal year 1981, $745,000,000 for fiscal year 1982, $825,000,000 for fiscal year 1983, $910,000,000 for fiscal year 1984, and $990,000,000 for fiscal year 1985.".

ALLOTMENT TO STATES

SEC. 422. Section 442 of the Act is amended—

(1) by striking out "2 per centum" in subsection (a)(1) and inserting in lieu thereof "1 per centum";

(2) by striking out "Puerto Rico," in subsection (a)(1);

(3) by striking out "subsection (e)" in subsection (a)(2) and inserting in lieu thereof "subsection (f)".

(4) by inserting "second" immediately after "until the close of the" in subsection (d); and

(5) by striking out "Puerto Rico," in subsection (e).

GRANTS FOR WORK-STUDY PROGRAMS

SEC. 423. Part C of title IV of the Act is amended by striking out sections 443 and 444 and inserting in lieu thereof the following:

"GRANTS FOR WORK-STUDY PROGRAMS

"SEC. 443. (a) The Commissioner is authorized to enter into agreements with institutions of higher education under which the Commissioner will make grants to such institution to assist in the operation of work-study programs as hereinafter provided.

"(b) An agreement entered into pursuant to this section shall—

"(1) provide for the operation by the institution of a program for the part-time employment of its students in work for the institution itself (except in the case of a proprietary institution of higher education) or work in the public interest for a Federal, State, or local public agency or private nonprofit organization under an arrangement between the institution and such agency or organization, and such work—

"(A) will not result in the displacement of employed workers or impair existing contracts for services;

"(B) will be governed by such conditions of employment as will be appropriate and reasonable in light of such factors as type of work performed, geographical region, and proficiency of the employee;

"(C) does not involve the construction, operation, or maintenance of so much of any facility as is used or is to be used for sectarian instruction or as a place for religious worship; and

"(D) will not pay any wage to students employed under this subpart that is less than the current Federal minimum wage as mandated by section 6(a) of the Fair Labor Standards Act;

"(2) provide that funds granted an institution of higher education, pursuant to section 443, may be used only to make payments to students participating in work-study programs, except that an institution may use a portion of the sums granted to it to meet administrative expenses in accordance with section 484 of this Act, may use a portion of the sums granted to it to meet the cost of a job location and development program in accordance with section 447 of this part, and may transfer funds in accordance with the provisions of section 483 of this Act;

"(3) provide that in the selection of students for employment under such work-study program, only students who demonstrate financial need in accordance with the provisions of section 487, and who meet the requirements of section 488 will be assisted;

"(4) provide that no student in a work-study program under this part shall be required to terminate that employment during a semester (or other regular enrollment period) at the time income derived from any employment (including work-study or non-work-study or both) is in excess of the determination of the amount of such student's need for that semester under clause (3) of this subsection, but when such excess income equals $200 or more, continued employment under a work-study program shall not be subsidized with funds appropriated under this part;

"(5) provide that the institution will meet the requirements of section 482(2) of this Act (relating to maintenance of effort);

"(6) provide that the Federal share of the compensation of students employed in the work-study program in accordance with the agreement will not exceed 80 per centum of such compensation; except that the Federal share may exceed 80 per centum of such compensation if the Commissioner determines, pursuant to regulations adopted and promulgated by him establishing objective criteria for such determinations, that a Federal share in excess of 80 per centum is required in furtherance of the purposes of this part;

"(7) include such other provisions as the Commissioner shall deem necessary or appropriate to carry out the purposes of this part.

"(c) For purposes of subsection (b)(4) in computing average hours of employment of a student over a semester or other term, there shall be excluded any period during which the student is on vacation and any period of nonregular enrollment. Employment under a work-study program during any such period of nonregular enrollment during which classes in which the student is enrolled are in session shall be only to the extent and in accordance with criteria established by or pursuant to regulations of the Commissioner. Determination of the amount of a student's work-study award allocable toward noneducation related living expenses during a period of nonregular enrollment shall be established by the institution at which the student is enrolled. The needs of the student and customary living costs in the area where the student is residing during such period, shall be taken into account. The amount shall not exceed the normal living expenses of persons in the same geographical area.".

DISTRIBUTION OF ASSISTANCE

Sec. 424. Section 446 of the Act is amended by striking out subsection (b) and inserting in lieu thereof the following new subsections:

"(b) Of the sums granted to an eligible institution under this part for any fiscal year, 10 per centum shall remain available for expenditure during the succeeding fiscal year to carry out programs under this part. Any of the sums so granted to an institution for a fiscal year which are not needed by that institution to operate work-study programs during that fiscal year, and which it does not wish to use during the next fiscal year as authorized in the preceding sentence, shall remain available to the Commissioner for making grants under section 443 to other institutions in the same State until the close of the second fiscal year next succeeding the fiscal year for which such funds were appropriated.

"(c) Up to 10 per centum of the sums the Commissioner determines an eligible institution may receive from funds which have been appropriated for a fiscal year may be used by the Commissioner to make grants under this part to such institution for expenditure during the fiscal year preceding the fiscal year for which the sums were appropriated.".

JOB LOCATION AND DEVELOPMENT

Sec. 425. Section 447 of the Act is amended by striking out "$15,000" and inserting in lieu thereof "$25,000".

Part E—National Direct Student Loans

EXTENSION OF PROGRAM

Sec. 431. (a) Section 461(b)(1) of the Act is amended to read as follows:

"(b)(1) For the purpose of enabling the Commissioner to make contributions to student loan funds established under this part, there are authorized to be appropriated $400,000,000 for each of the fiscal year 1981 and 1982, $475,000,000 for fiscal year 1983, $550,000,000 for fiscal year 1984, and $625,000,000 for fiscal year 1985.".

(b) Section 461(b)(2) of the Act is amended—

(1) by striking out "for the fiscal year ending September 30, 1980, and each of the three succeeding fiscal years" and inserting in lieu thereof "for fiscal year 1985 and each of the five succeeding fiscal years"; and

(2) by striking out "October 1, 1980" and inserting in lieu thereof "October 1, 1985".

(c) Section 466 of the Act is amended—

(1) by striking out "September 30, 1984" each place it appears in subsection (a) and inserting in lieu thereof "September 30, 1990";

(2) by striking out "March 31, 1985" each place it appears in subsections (a) and (b) and inserting in lieu thereof "March 31, 1991";

(3) by striking out "September 30, 1978" in subsection (b) and inserting in lieu thereof "September 30, 1981"; and

(4) by striking out "October 1, 1984" in subsection (c) and inserting in lieu thereof "October 1, 1990".

LOAN LIMITATIONS

Sec. 432. Section 464(a)(2) of the Act is amended—

(1) by striking out "$10,000" in clause (A) and inserting in lieu thereof "$12,000";

(2) by striking out "$5,000" in clause (B) and inserting in lieu thereof "$6,000"; and

(3) by striking out "$2,500" in clause (C) and inserting in lieu thereof "$3,000".

DEFERRAL OF REPAYMENT

Sec. 433. Section 464(c)(2)(A) of the Act is amended—

(1) by inserting "or is an officer in the Commissioned Corps of the Public Health Service" immediately after "Armed Forces of the United States" in clause (ii);

(2) by striking out "or" at the end of clause (iii), by striking out the period at the end of clause (iv) and inserting in lieu thereof a semicolon, and by inserting after clause (iv) the following new clauses:

"(v) is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954;

"(vi) is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service; or

"(vii) is temporarily totally disabled (as defined in section 435(j)), as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled.";

(3) by striking "clause (ii), (iii), or (iv)" in the second sentence of such section and inserting in lieu thereof "clause (ii), (iii), (iv), (v), or (vii)"; and

(4) by inserting immediately after such sentence the following new sentence: "The period during which repayment may be deferred by reason of clause (vi) shall not exceed two years.".

COLLECTION PRACTICES

Sec. 434. (a) Section 463(a) of the Act is amended by striking out "and" at the end of paragraph (5), by redesignating paragraph (6) as paragraph (7), and by inserting after paragraph (5) the following new paragraph:

"(6) provide that, notwithstanding any other provision of law, the Commissioner will provide to the institution any information with respect to the names and addresses of borrowers or other relevant information which is available to him, from whatever source such information may be derived, and".

(b)(1) Section 463 of the Higher Education Act of 1965 is amended by adding at the end thereof the following new subsection:

"(c) For the purpose of promoting responsible repayment of loans made pursuant to this part, the Commissioner shall enter into cooperative agreements, in accordance with the requirements of section 430(b)(2), with credit bureau organizations to provide for the exchange of information concerning student borrowers concerning whom the Commissioner has received a referral pursuant to section 467.".

(2) Section 464(c)(1) of such Act is amended by striking out "and" at the end of subparagraph (G), by striking out the period at the end of subparagraph (H) and inserting in lieu thereof "; and", and by adding at the end thereof the following new subparagraph:

"(I) shall contain a notice of the system of disclosure of information concerning default on such loan to credit bureau organizations under section 463(c).".

MISCELLANEOUS AMENDMENTS

Sec. 436. (a) Section 462 of the Act is amended by striking out subsection (d).

(b)(1) Section 464(b) of the Act is amended to read as follows:

"(b) A loan from a student loan fund assisted under this part may be made only to a student who demonstrates financial need in accordance with section 487 and who meets the requirements of section 488.".

(2) Section 464(e) of the Act is repealed.

(c) Section 465(a)(2) of the Act is amended by striking out the last sentence and inserting in lieu thereof the following: "For purposes of this paragraph, the term 'handicapped children' has the meaning set forth in section 602(1) of the Education of the Handicapped Act.".

(d) Section 465(a) of the Act is amended by adding at the end thereof the following new paragraph:

"(5) The amount of a loan, and interest on a loan, which is canceled under this section shall not be considered income for purposes of the Internal Revenue Code of 1954.".

PART F—GENERAL PROVISIONS

AMENDMENT

SEC. 441. (a) Part F of title IV of the Act is amended to read as follows:

"PART F—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS

"DEFINITIONS

"SEC. 481. (a) (1) For the purposes of this title, except subpart 6 of part A and part B, the term 'institution of higher education' includes, in addition to the institutions covered by the definition contained in section 1201(a)—

"(A) a proprietary institution of higher education;

"(B) a postsecondary vocational institution;

"(C) a department, division, or other administrative unit in a college or university which provides primarily or exclusively an accredited program of education in professional nursing and allied subjects leading to the degree of bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing; and

"(D) a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively an accredited two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree.

"(2) The term 'acredited' when applied to any program of nurse education means a program accredited by a recognized body or bodies approved for such purpose by the Commissioner.

"(b) For the purposes of this section, the term 'proprietary institution of higher education' means a school (A) which provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (B) which meets the requirements of clauses (1) and (2) of section 1201(a), (C) which does not meet the requirement of clause (4) of section 1201(a), (D) which is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose, and (E) which has been in existence for at least two years. Such term also includes a proprietary educational institution in any State which, in lieu of the requirement in clause (1) of section 1201(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution. For purposes of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

"(c) For the purposes of this section, the term 'postsecondary vocational institution' means a school (A) which provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (B) which meets the requirements of clauses (1), (2), (4), and (5) of section 1201(a) and (C) which has been in existence for at least two years. Such term also includes a proprietary educational institution in any State which, in lieu of the requirement in clause (1) of section 1201(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have to ability to benefit from the training offered by the institution.

"(d) For the purposes of any program under this title, the term 'academic year' shall be defined by the Secretary by regulation.

"INSTITUTIONAL ELIGIBILITY

"SEC. 482. In order to be an eligible institution for the purposes of any program authorized under this title, an institution must be an institution of higher education (as that term is defined for purposes of that program) and must, except with respect to a program under subpart 3 of part A, enter into a program participation agreement with the Secretary. The agreement shall condition an institution's initial and continuing eligibility to participate in a program upon compliance with the following requirements:

"(1) The institution shall use funds received by it for any program under this title solely for the purposes specified in, and in accordance with, the provisions of that program.

"(2) In the case of an institution participating in any program authorized under subpart 2 of part A or part C of this title for any fiscal year, the institution shall continue to spend in its own scholarship and student aid program, from sources other than funds received under such parts, not less than the average expenditures per year made for that purpose during the most recent period of three fiscal years preceding the effective date of the program participation agreement, except that, under special and unusual circumstances prescribed by regulation, the Secretary is authorized to waive the requirements of this paragraph.

"(3) The institution shall establish and maintain such administrative and fiscal procedures and records as may be necessary to ensure proper and efficient administration of funds received from the Secretary or from students under this title.

"(4) The institution shall submit reports to the Secretary and, in the case of an institution participating in a program under part B or part E, to holders of loans made to the institution's students under such parts at such times and containing such information as the Secretary may reasonably require to carry out the purposes of this title.

"(5) The institution shall comply with the requirements of section 485.

"TRANSFER OF ALLOTMENTS

"SEC. 483. (a) Up to 10 per centum of the allotment of an eligible institution for a fiscal year under section 413D or 446 of this Act, may be transferred to, and used for the purposes of, the institution's allotment under the other section within the discretion of such institution in order to offer an arrangement of types of aid, including institutional and State aid, which best fits the needs of each individual student. The Secretary shall have no control over such transfer, except as specifically authorized, except for the collection and dissemination of information.

"ADMINISTRATIVE EXPENSES

"SEC. 484. (a) From the sums appropriated for any fiscal year for purposes of the program authorized under subpart 1 of part A, the Secretary shall reserve such sums as may be necessary to pay to each institution with which he has an agreement under section 482, an amount equal to $10 for each student at that institution who receives assistance under subpart 1 of part A. In addition, an institution which has entered into an agreement with the Secretary under subpart 2 of part A, part C, or part E of this title shall be entitled for each fiscal year for which it receives an allotment under any such part to a payment for the purposes set forth in subsection (b). The payment for a fiscal year shall be payable from each such allotment in accordance with regulations of the Secretary, and shall be equal to 5 per centum of the institution's first $2,750,000 for expenditures plus 4 per centum of the institution's expenditures greater than $2,750,000 and less than $5,500,000, plus 3 per centum of the institution's expenditures in excess of $5,500,000 during the fiscal year from the sum of its grants to students under subpart 2 of part A, its expenditures during such fiscal year under part C for compensation of students, and the principal amount of loans made during such fiscal year from its student loan fund established under part E.

"(b) The sums paid to institutions under this part are for the sole purpose of offsetting the administrative costs of the programs described in subsection (a).

"INSTITUTIONAL AND FINANCIAL ASSISTANCE INFORMATION FOR STUDENTS

"SEC. 485. (a) (1) Each eligible institution participating in any program under this title shall carry out information dissemination activities for prospective and enrolled students regarding the institution and financial assistance under this title. The information required by this section shall be produced and be made readily available, through appropriate publications and mailings, to all current students and to any prospective student upon request. The information required by this section shall accurately describe—

"(A) the student financial assistance programs available to students who enroll at such institution;

"(B) the methods by which such assistance is distributed among student recipients who enroll at such institution;

"(C) any means, including forms, by which application for student financial assistance is made and requirements for accurately preparing such application;

"(D) the rights and responsibilities of students receiving financial assistance under this title;

"(E) the cost of attending the institution, including (i) tuition and fees, (ii) books and supplies, (iii) estimates of typical student room and board costs or typical commuting costs, and (iv) any additional cost of the program in which the student is enrolled or expresses a specific interest;

"(F) a statement of the refund policy of the institution for the return of unearned tuition and fees or other refundable portion of cost, as described in clause (E) of this paragraph;

"(G) the academic program of the institution, including (i) the current degree programs and other educational and training programs, (ii) the instructional, laboratory, and other physical plant facilities which relate to the academic program, and (iii) the faculty and other instructional personnel;

"(H) each person designated under subsection (b) of this section, and the methods by which and locations in which any person so designated may be contacted by students and prospective students who are seeking information required by this subsection;

"(I) special facilities and services available to handicapped students;

"(J) the names of associations, agencies, or governmental bodies which accredit, approve, or license the institution and its programs; and any current or prospective student may obtain or review upon request a copy of the documents describing the institution's accreditation, approval, or licensing; and

"(K) the standards which the student must maintain in order to be considered to be making satisfactory progress, pursuant to section 488(3).

"(2) For purposes of this section, the term 'prospective student' means any individual who has contacted an eligible institution requesting information concerning admission to that institution.

"(b) Each eligible institution shall designate an employee or group of employees who shall be available on a full-time basis to assist students or potential students in obtaining information as specified in subsection (a). The Secretary may, by regulation, waive the requirement that an employee or employees be available on a full-time basis for carrying out responsibilities required under this section whenever an institution in which the total enrollment, or the portion of the enrollment participating in programs under this title at that institution, is too small to necessitate such employee or employees being available on a full-time basis. No such waiver may include permission to exempt any such institution from designating a specific individual or a group of individuals to carry out the provisions of this section.

"(c) The Secretary shall make available to eligible institutions descriptions of Federal student assistance programs including the rights and responsibilities of student and institutional participants, in order to (1) assist students in gaining information through institutional sources, and (2) assist institutions in carrying out the provisions of this section, so that individual and institutional participants will be fully aware of their rights and responsibilities under such programs.

"STUDENT FINANCIAL ASSISTANCE TRAINING PROGRAM

"Sec. 486. (a) It is the purpose of this section to make incentive grants available to the States to be administered in partnership with statewide financial aid administrator organizations, for the purpose of developing materials and conducting programs to increase the proficiency of the individuals within the States who are involved or have a responsibility in the delivery of student financial aid.

"(b) There are hereby authorized to be appropriated $280,000 for fiscal year 1981 and for each succeeding fiscal year ending prior to October 1, 1985, for equal division among the States.

"(c) To receive a grant under this section a State must provide appropriate assurance to the Secretary that the grant will be matched from State funds by an amount at least equal to the amount of the grant.

"(d) From the funds otherwise allotted to the States for subpart 2 of part A, and for part C and part E of this title for States which have obtained a grant under this section, the Secretary shall transfer to such State an amount equal to .05 per centum of such funds or $10,000, whichever is less, and shall reduce such State allotment by that amount.

"(e) A State which desires to obtain a grant under this section for any fiscal year shall submit an application therefor through or by the State agency administering its program of student grants, or if such agency does not exist, through or by any agency or organization designated for such purpose by the State, at such time or times, and containing such information as may be required by such regulations as the Secretary may prescribe for the purpose of enabling the Secretary to disburse the funds and to coordinate this activity with similar activities conducted under the auspices of the Department of Education.

"(f) All authority of this section shall terminate at the close of September 30, 1986.

"NEED ANALYSIS

"Sec. 48. (a)(1) For the purpose of determining a student's need for financial assistance under this title (other than under subpart 3 of part A and under part B), the Secretary shall publish in the Federal Register, no later than July 1 of each calendar year, a proposed schedule of expected family contributions for the academic year which begins after July 1 of the calendar year which succeeds such calendar year for various levels of family income, which, except as is otherwise provided in paragraph (2), together with any amendments thereto, shall become effective July 1 of the calendar year which succeeds such calendar year. During the thirty-day period following such publication the Secretary shall provide interested parties with an opportunity to present their views and make recommendations with respect to such schedule. Such schedule shall be adjusted annually. The first such schedule shall be presented to the Congress on July 1, 1981.

"(2) The schedule of expected family contributions required for each academic year shall be submitted to the President of the Senate and the Speaker of the House of Repsentative not later than the time of its publication in the Federal Register. If either the Senate or the House of Representatives adopts, prior to the first day of October next following the submission of such schedule as required by this paragraph, a resolution of disapproval of such schedule, the Secretary shall publish a new schedule of expected family contributions in the Federal Register not later than fifteen days after the adoption of such resolution of disapproval. Such new schedule shall take into consideration such recommendations as may be made in either House in connection with such resolution. If within fifteen days following the submission of the revised schedule either the Senate or the House of Representatives again adopts a resolution of disapproval of such revised schedule, the Secretary shall publish a new schedule of expected family contributions in the Federal Register not later than fifteen days after the adoption of such resolution of disapproval. This procedure shall be repeated until neither the Senate nor the House of Representatives adopts a resolution of disapproval. The Secretary shall publish together with each new schedule a statement identifying the recommendations made in either House in connection with such resolution of disapproval and explaining his reasons for the new schedule.

"(3) The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall develop a proposed schedule of expected family contributions each year for publication in the Federal Register.

"(b)(1) For the purposes of this section, the term 'family contributions' with respect to any student means the amount which the student and his family may be reasonably expected to contribute toward his postsecondary education for the academic year for which the determination is made, as determined in accordance with regulations. In promulgating such regulations, the Secretary shall follow the basic criteria set forth in paragraph (2) of this subsection.

"(2) The basic criteria to be followed in promulgating regulations with respect to expected family contributions are as follows:

"(A) The amount of the effective income of the student or the effective family income of the student's family.

"(B) The number of dependents of the family of the student.

"(C) The number of dependents of the student's family who are in attendance in a program of postsecondary education and for whom the family may be reasonably expected to contribute for their postsecondary education.

"(D) The amount of the assets of the student and those of the student's family.

"(E) Any unusual expenses of the student or his family, such as unusual medical expenses and those which may arise from a catastrophe.

"(F) Any educational expenses of other dependent children in the family.

"(G) Reasonable expenses associated with child care for dependent children.

"(3) For purposes of subparagraph (A) of paragraph (2), the term 'effective family income' with respect to a student, means the annual adjusted family income, as determined in accordance with regulations prescribed by the Secretary, received by the parents or guardian of that student (or the person or persons having an equivalent relationship to such student) minus Federal income tax paid or payable with respect to such income, and includes any amount paid under the Social Security Act to, or on account of, the student which would not be paid if he were not a student and one-half any amount paid the student under chapters 34 and 35 of title 38, United States Code.

"(4) For the purposes of paragraph (2)(D), the parental assets shall be determined by—

"(A) excluding all equity in a single principle place of residence from the computation of assets;

"(B) deducting an asset reserve of not less than $10,000 from the net value of all assets; and

"(C) if net assets include farm or business assets, deducting an additional asset reserve of not less than $50,000 from the net assets.

"(c)(1) The Secretary shall promulgate special regulations for determining the expected family contribution and effective family income of an independent student. Such special regulations shall be consistent with the basic criteria set forth in paragraph (2) of subsection (b). In addition, such regulations shall—

"(A) provide that the portion of assets which shall be exempt from assessment for contribution for an independent student who has one or more dependents shall be the same as the portion so exempt for the family of a dependent student;

"(B) provide that the rate of assessment for contribution on that portion of assets of such an independent student which is not exempt under paragraph (1) shall be the same as the rate applied to the comparable portion of assets of the family of a dependent student;

"(C) in establishing a portion of effective family income which shall be exempt from assessment for contribution by reason of subsistence requirements of independent students who have no dependents, use the same method for computation of such portion for such students as is used for dependent students and for independent students who have dependents;

"(D) in determining the family contribution for an independent student who has one or more dependents, the assessment rate which is to be applied to the student's discretionary income shall be the same as the assessment rate applied to discretionary income of the family of a dependent student; and

"(E) provide that a married student shall be considered independent if, notwithstanding prior dependency status, such student certifies that in the year of application he (i) will not live with parents for more than six weeks; (ii) will not be claimed by parents as a dependent on any tax return filed for purposes of Federal income taxes; and (iii) will not receive more than $750 in support from parents.

"(2) For purposes of this title, the term 'independent student' means a student who is determined, pursuant to regulations of the Secretary, to be independent of his parents or guardians, or the person or persons having an equivalent relationship to such student.

"(d) For the purposes of this title, the term 'cost of attendance' means—

"(1) tuition and fees normally assessed a full-time student at the institution at which the student is in attendance;

"(2) beginning in academic year 1981–1982, an allowance of not less than $600 for books, supplies, and miscellaneous personal expenses;

"(3) an allowance for room and board costs incurred by the student which—

"(A) beginning in academic year 1981–1982 shall be an allowance of not less than $1,150 for a student residing at home with his or her parents;

"(B) for students residing in institutionally owned or operated housing, shall be a standard allowance determined by the institution based on the amount normally assessed most of its residents for room and board; and

"(C) for all other students, shall be a standard allowance determined by the institution based on the expenses reasonably incurred by such students for room and board;

"(4) for a student engaged in a program of study by correspondence, only tuition and fees and, if required, books and supplies, and travel and room and board costs incurred specifically in fulfilling a required period of residential training; and

"(5) for a student enrolled in an academic program which normally includes a formal program of study abroad, reasonable costs associated with such study.

"STUDENT ELIGIBILITY

"SEC. 488. (a) In order to receive any grant, loan, or work assistance under this title, a student must—

"(1) be enrolled or accepted for enrollment at an institution of higher education that is an eligible institution in accordance with the provisions of section 482;

"(2) be carrying or planning to carry at least one-half the normal full-time workload for the course of study the student is pursuing, as determined by the institution;

"(3) be maintaining satisfactory progress in the course of study the student is pursuing, according to the standards and practices of the institution at which the student is in attendance;

"(4) not owe a refund on grants previously received at such institution under this title, or be in default on any loan from a student loan fund at such institution provided for in part E, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at such institution; and

"(5) file with the institution of higher education which the student intends to attend, or is attending (or in the case of a loan or loan guarantee with the lender), a statement of educational purpose (which need not be notarized) stating that the money attributable to such grant, loan, or loan guarantee will be used solely for expenses related to attendance or continued attendance at such institution.

"(b) Any permanent resident of the Trust Territory of the Pacific Islands or of the Northern Mariana Islands shall be eligible for assistance under this title to the same extent that citizens of the United States are eligible for such assistance.

"FORMS AND REGULATIONS

"SEC. 489. (a) Copies of all rules, regulations, guidelines, instruction, and application forms published or promulgated pursuant to this title shall be provided to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives at least thirty days prior to their effective date.

"(b) The Secretary is authorized to prescribe such regulations as may be necessary to carry out the purposes of this title, including regulations for the limitation, suspension, or termination of the eligibility for any program under this title of any otherwise eligible institution, whenever the Secretary has determined, after reasonable notice and opportunity for hearing on the record, that such institution has violated or failed to carry out any provision of this title or an agreement entered into under section 482, or any regulation prescribed under this title, except that no period of suspension under this section shall exceed sixty days unless the institution and the Secretary agree to an extension or unless limitation or termination proceedings are initiated by the Secretary within that period of time.

"(c) The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall prescribe a common financial aid application form to be used to determine a student's need and eligibility for financial assistance under this title (other than under subpart 3 of part A and under part B). No student or parent of a student shall be charged a fee for processing the data elements of such form prescribed by the Secretary. The Secretary shall, to the extent practicable, contract with States, institutions of higher education, and private organizations for the purpose of processing the application required under this subsection and issuing eligibility reports. Nothing in this section shall prohibit States, institutions, or private organizations from simultaneously collecting data elements, in addition to those prescribed by the Secretary, as may be necessary to determine a student's eligibility for financial aid funds not covered by this title (or covered under subpart 3 of part A or under part B of this title).

"CRIMINAL PENALTIES

"SEC. 490. (a) Any person who knowingly and willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery any funds, assets, or property provided or insured under this title shall be fined not more than $10,000 or imprisoned for not more than five years, or both; but if the amount so embezzed, misapplied, stolen, or obtained by fraud, false statement, or forgery does not exceed $200, the fine shall not be more than $1,000 and imprisonment shall not exceed one year, or both.

"(b) Any person who knowingly and willfully makes any fale statement, furnishes any false information, or conceals any material information in connection with the assignment of a loan which is made or insured under this title shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

"(c) Any person who knowingly and willfully makes an unlawful payment to an eligible lender under part B as an inducement to make, or to acquire by assignment, a loan insured under that part shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

"(d) Any person who knowingly and willfully destroys or conceals any record relating to the provision of assistance under this title with intent to defraud the United States or to prevent the United States from enforcing any right obtained by subrogation under this part, shall upon conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.

"NATIONAL COMMISSION ON STUDENT FINANCIAL ASSISTANCE

"SEC. 491. (a) There is hereby established, as an independent agency within the executive branch, a National Commission on Student Financial Assistance (referred to in this section as the 'Commission').

"(b)(1) The Commission shall be composed of twelve members. Four of the members shall be appointed by the President. Four of the members shall be appointed by the Speaker of the House, including two Members of the House, one from each political party. Four of the members shall be appointed by the President pro tempore of the Senate, including two Members of the Senate, one from each political party.

"(2) The Chairman shall be designated by the President from among the members appointed by him. If the President has not appointed four members of the Commission and designated a Chairman within sixty days of the enactment of this Act, the members of the Commission appointed by the Speaker of the House and the President pro tempore of the Senate shall elect a Chairman who shall continue to serve for the duration of the Commission.

"(3) Any vacancy in the Commission shall be filled by appointment of the same person who appointed the person who has left the Commission.

"(c)(1) It shall be the duty of the Commission to make a report and recommendations to the President and the Congress. The report and recommendations of the Commission shall consider the following issues:

"(A) more effective means to reduce default, fraud, abuse, and delinquency in the programs authorized by this title;

"(B) the appropriate balance between loans and other sources of financing postsecondary education from the point of view of the needs and welfare of students and their parents;

"(C) the adequacy of capital to serve the postsecondary educational needs of students or their parents for credit; if adequate credit is available, the likelihood it will continue to remain available; if adequate credit is not available, the likelihood it will become available and the steps that can be taken to provide adequate credit for the postsecondary educational needs of students;

"(D) the impact of various levels of student borrowing, grants, gift aid, and employment on the educational performance, future career choices, and future educational choices, of students;

"(E) the impact of various levels of parent borrowing for postsecondary education on parents;

"(F) the appropriate annual and aggregate self-help limits and gift aid for parents, dependent students, independent students, and various types of graduate students;

"(G) the most appropriate mechanism for the effective and efficient origination, servicing, and collection of student loans and for the effective and efficient delivery of other forms of student assistance;

"(H) the most appropriate source or sources of student loan capital considering both the cost and the reliability of adequate capital availability:

"(I) the appropriate level of public subsidy to students and parents for the cost of capital for student loans;

"(J) the impact of student loan availability on the availability of other forms of student financial assistance from all sources;

"(K) the impact of the availability of student assistance, particularly from Federal sources, on the level of postsecondary education costs;

"(L) the most appropriate mechanism to provide students and parents with the flexible repayment options and opportunities for consolidation of student loan indebtedness;

"(M) means to remove barriers to capital availability caused by patterns of lender discrimination; and

"(N) the cost to the Federal Government of the arbitrage derived from revenue bonds issued by agencies for the purpose of making or purchasing loans under part B of this title and the appropriate role of such bonds as a mechanism for raising student loan capital.

"(2) In addition to the issues described in paragraph (1), the report of the Commission shall include a response to the special report of the Secretary under section 904, and any recommendations of the Commission with respect to proposals of the Secretary contained in such special report.

"(3) The Commission shall report to the President and the Congress its findings and recommendations as soon as practicable and in no event later than July 1, 1983. Any recommendations that contemplate changes in Federal legislation shall include draft legislation to accomplish the recommendations. The Commission shall cease to exist ninety days following the submission of its final report.

"(d)(1) Members of the Commission who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(2) Members of the Commission who are not officers or full-time employees of the United States may each receive $150 per diem when engaged in the actual performance of duties vested in the Commission. In addition, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(e) Such personnel as the Commission deems necessary may be appointed by the Commission without regard to the provisions of title 5, United States Code, governing appointments in the competitive services, and may be paid without regard to the provisions of chapter 51 and subtitle III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS-18 of the General Schedule.

"(f)(1) The Commission or, on the authorization of the Commission, any committee thereof, may, for the purpose of carrying out the provisions of the Act, hold such hearings and sit and act at such times and such places within the United States as the Commission or such committee may deem advisable.

"(2) In carrying out its duties under the Act, the Commission shall consult with other Federal agencies, representatives of State and local governments, and private organizations to the extent feasible.

"(3) The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality, information, suggestions, estimates, and statistics for the purpose of this section, and each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman.

"(4) For the purpose of securing the necessary data and information the Commission may make contracts with universities, research institutions, foundations, and other competent public or private agencies. For such purpose, the Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

"(5) The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the Commission in carrying out this section.

"(6) The Commission is authorized to utilize, with their consent, the services, personnel, information and facilities of other Federal, State, local and private agencies with or without reimbursement.

"(7) The Commission shall have authority to accept in the name of the United States, grants, gifts, or bequests of money for immediate disbursement in furtherance of the functions of the Commission. Such grants, gifts, or bequests, after acceptance by the Commission, shall be paid by the donor or his representative to the Treasurer of the United States whose receipts shall be their acquittance. The Treasurer of the United States shall enter them in a special account to the credit of the Commission for the purposes in each case specified.

"(8) Six members of the Commission shall constitute a quorum, but a lesser number of two or more may conduct hearings.

"(g) There is hereby authorized to be appropriated an amount not to exceed a total of $10,000,000 for fiscal years beginning on or after October 1, 1980, to carry out the provisions of this section, which shall remain available until expended or until the termination of the Commission, whichever occurs first.".

(b) Section 440 of the Act is repealed.

(c) The amendments made by section 6 of the Middle Income Student Assistance Act shall take effect on July 1, 1972.

AMENDMENTS OFFERED BY MR. JEFFORDS

Mr. JEFFORDS. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. JEFFORDS: Page 54, beginning on line 23, strike out "except that" and everything that follows through the period on page 55, line 6, and insert in lieu thereof the following: "except that where any State's apportionment under the first sentence of this paragraph for a fiscal year is less than its total apportionment under this paragraph for fiscal year 1979, before the Secretary makes any other apportionments under this sentence, the Secretary shall apportion sufficient additional sums to such State under this sentence to make the State's total apportionment for that subsequent year under this paragraph equal to such State's total apportionment for fiscal year 1979 under this paragraph.".

Page 140, line 3, strike out "and"; on line 9, strike out the period and insert in lieu thereof "; and"; and after such line insert the following:

"(O) the effectiveness in serving the purposes of this title of the existing formulas for allotment among the States in subpart 2 of part A and in parts C and E of this title.

Mr. JEFFORDS (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read, printed in the RECORD, and that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Vermont?

There was no objection.

Mr. JEFFORDS. Mr. Chairman, I offer this amendment to mitigate the unanticipated inequities resulting from the committee's efforts to simplify financial aid administration under the SEOG program. A dramatic 76-percent reduction in the SEOG State allocation to the State of Vermont will result under the language contained in the bill. The State of Maine will lose 75 percent of its SEOG funds, and at least 14 other States are similarly affected. Mr. Chairman, I do not believe that there will be any disagreement to the amendments I am going to offer. As I have said, sometimes when we make what is anticipated to be a good change, the results are quite the reverse. Major distortions in the distribution of funds resulted from what was perceived to be a simplified funding mechanism for SEOG. The purpose of this amendment therefore is to put a hold harmless provision in at the 1979 funding level. The amendment provides for use of the formula established in the bill, but before these funds are distributed, each State will receive at least what it did at the 1979 appropriations level of $340 million.

Additionally, Mr. Chairman, the amendment establishes a study mandating that the National Commission of Student Financial Assistance examine these types of funding problems. That is, they will review the State allocation formulas for all campus-based programs, and come back to this body with recommendations. It is our hope that as a result of this study we will be able to prevent further distortions in financial aid programs in many States. We expect that the study will provide alternatives for more equitable funding under the SEOG program, and yet recognize the needs of those States with higher cost schools.

To explain in more detail how this problem developed, the committee intended to simplify the administration of the SEOG program by removing the distinction between initial year funding and continuing year funding, making every State eligible under the initial year funding formula. With this change 90 percent of the funds would be allocated to the States on the basis of their undergraduate full-time equivalent enrollment. The remaining 10 percent would be allocated by the Secretary based on equitable criteria. Shifting the allocation process to the initial year funding base formula provides a greater percentage of the allocation to States with community colleges and proprietary schools and reduces allocation to States with 4-year schools having higher costs. Specifically, 86 percent of continuing year funds went to 4-year schools, but they received only 66 percent of initial year funds.

Since the 1979-80 portion of continuing year funds is $155 million, the shift away from the 4-year schools is approximately $30 million with this simplification. High-cost schools will lose funding in almost all States; high-cost schools in disadvantaged States will be double losers. Low-cost schools in disadvantaged States will suffer under the State allocation formula, but their losses will be partly offset by the fact that they are now eligible for a larger share of the full 90 percent of SEOG funding.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Chairman, I want to thank the gentleman for offering these amendments. He does indeed correct a serious but unintended defect in the legislation itself. He improves the legislation, and I congratulate him for his amendments.

Mr. JEFFORDS. I thank the gentleman.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, we accept the amendments.

Mr. JEFFORDS. I thank the gentleman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Vermont (Mr. JEFFORDS).

The amendments were agreed to.

AMENDMENTS OFFERED BY MR. PETRI

Mr. PETRI. Mr. Chairman, I offer two amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. PETRI: Page 95, line 18 redesignate section 417 as 418, and immediately before line 17 insert the following new section:

CANCELLATION FOR MILITARY SERVICE

SEC. 417. Section 437 of the Act is amended—

(1) by amending the heading of such section to read as follows:

"REPAYMENT BY THE COMMISSIONER"

; and

(2) by adding at the end thereof the following new subsection:

"(c)(1) From the amount appropriated under paragraph (4) which are available for this subsection, the Commissioner shall, subject to the allocation schedule established under paragraph (4)(B), repay the per centum or the amount specified in paragraph (3) of this subsection of the total amount of any loan described in clause (A), (B), or (C) of section 428(a)(1) and made after October 1, 1975, for each complete year of service after October 1, 1980, by the borrower under circumstances described in paragraph (2).

"(2) Loans shall be eligible to be repaid under paragraph (1)—

"(A) for service as an enlisted member of the Selected Reserve of the Ready Reserve of the Armed Forces; or

"(B) for service on active duty as an enlisted member of the Armed Forces.

"(3)(A) The percentum or amount of a loan which shall be eligible to be repaid under paragraph (1) of this subsection is—

"(i) in the case of service described in clause (A) of paragraph (2), 10 per centum or $500, whichever is more, for each year of qualifying service; or

"(ii) in the case of service described in clause (B) of paragraph (2), 20 per centum or $1,000, whichever is more, for each year of qualifying service.

"(B) If a portion of a loan is repaid under this subsection for any year, interest on the remainder of such loan shall accrue and be paid in the same manner as is otherwise required.

"(C) Nothing in this subsection shall be construed to authorize refunding any repayment of a loan.

"(D) Any individual who transfers from service described in clause (A) or (B) of paragraph (1) to service described in the other clause of such paragraph during a year shall be eligible to have repaid a portion of such loan determined by giving appropriate fractional credit for each portion of the year so served, in accordance with regulations of the Commissioner.

"(4)(A) There are authorized to be appropriated for the purposes of this subsection and section 465(b)—

"(i) $7,000,000 for fiscal year 1981;

"(ii) $11,000,000 for fiscal year 1982;

"(iii) $13,000,000 for fiscal year 1983;

"(iv) $14,000,000 for fiscal year 1984; and

"(v) $15,000,000 for fiscal year 1985.

"(B) The Secretary of Defense shall, by regulation, prescribe a schedule for the allocation of funds available under subparagraph (A) during any year for which such appropriation is not sufficient to pay the sum of the amounts eligible for repayment under this section and for cancellation under section 465(b). Such schedule shall allocate priorities for cancellation among the various services and military occupational specialties, but first priority shall be given for service that qualifies for special pay under section 310 of title 37, United States Code, as an area of hostilities.

"(C) The Commissioner shall equitably distribute the amount appropriated under subparagraph (A) between this subsection and section 465(b)."

Page 115, after line 7 insert the following new section:

CANCELLATION FOR MILITARY SERVICE

SEC. 436. Section 465 of the Act is amended—

(1) by adding at the end of paragraph (3) of subsection (b) the following new subparagraph:

"(D) Notwithstanding any other provision of this paragraph, the amount of a loan which shall be cancelled in the case of any service described in clause (D) of paragraph (2) shall be reduced by the amount by which the loan is cancelled under subsection (b) by reason of the same service."; and

(2) by redesignating subsection (b) as subsection (c) and by inserting immediately before such subsection the following new subsection:

"(b)(1) The per centum or the amount specified in paragraph (3) of this subsection of the total amount of any loan made after October 1, 1975, from a student loan fund assisted under this part shall be eligible, subject to paragraph (4)(B), to be cancelled for each complete year of service after October 1, 1980, by the borrower under circumstances described in paragraph (2).

"(2) Loans shall be eligible to cancelled under paragraph (1)—

"(A) for service as an enlisted member of the Selected Reserve of the Ready Reserve of the Armed Forces; or

(B) for service on active duty as an enlisted member of the Armed Forces.

"(3)(A) The per centum or amount of a loan which shall be eligible to be cancelled under paragraph (1) of this subsection is—

"(i) in the case of service described in clause (A) of paragraph (2), 10 per centum or $500, whichever is more, for each year of qualifying service; or

"(ii) in the case of service described in clause (B) of paragraph (2), 20 per centum or $1,000, whichever is more, for each year of qualifying service.

"(B) If a portion of a loan is cancelled under this subsection for any year, the entire amount of interest on such portion for such year shall be cancelled.

"(C) Nothing in this subsection shall be construed to authorize refunding any repayment of a loan.

"(D) Any individual who transfers from service described in clause (A) or (B) of paragraph (1) to service described in the other clause of such paragraph during a year shall be eligible to have cancelled a portion of such loan determined by giving appropriate fractional credit for each portion of the year so served, in accordance with regulations of the Commissioner.

"(4)(A) Funds for the purposes of this subsection shall be drawn from the appropriations made under section 438(c).

"(B) The Secretary of Defense shall, by regulation, prescribe a schedule for the allocation of funds available under subparagraph (A) during any year for which such appropriation is not sufficient to pay the sum of the amounts eligible for cancellation under this subsection. Such schedule shall allocate priorities for cancellation among the various services and military occupational specialties, but first priority shall be given for service that qualifies for special pay under section 310 of title 37, United States Code, as an area of hostilities.".

Mr. PETRI (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. PETRI. Mr. Chairman, I should like to address myself first of all to the question as to why these amendments are necessary. It seems to me that the recent controversy that we have undergone in this House and in this country demonstrate the need for alternate methods to attract qualified young people to the military.

Whether for or against registration, we can all agree that something must be done to bring our Armed Forces up to strength. If it is not to be done by registration or draft, then we must attract volunteers, and attract qualified volunteers. The present shortfalls total 24,000 in the Active Forces and exceed 130,000 in the Selected Reserve. In addition, the number of those persons with some college entering those enlisted ranks has dropped sharply so that in 1978 only 6.7 percent of new enlistees in the active military, and 5.5 percent of new enlistees in the Selected Reserves, had some college education.

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A strong and adequate Reserve is especially important in light of the 1972 Department of Defense total force policy, which calls for reservists rather than draftees or volunteers, to be the primary source of personnel for the augmentation of active forces in all military emergencies, particularly emergencies should they develop on the European front.

Let me give some details concerning the amendment before us. First, 20 percent or $1,000, whichever is greater, of outstanding student loans, either NDSL or GSL, would be forgiven for each satisfactorily completed year of service in the enlisted ranks of the Active military.

For Selected Reserve service in enlisted ranks 10 percent or $500 whichever is greater, of outstanding student loans would be forgiven for each year of satisfactorily completed service.

The maximum student loan forgiveness is 100 percent, which breaks down to 5 years for Active service and 10 years for Reserves, assuming $5,000 of average loan indebtedness.

Also, under the program the Secretary of Defense would select the services and military occupational specialties that qualify for the program, provided, of course, that priority is given for service in areas of hostility.

Further provisions account for a prorating of forgiveness for transfer from Active to Reserve duty or vice versa, and for a program administration not dissimilar to the forgiveness programs already in the law.

Finally, the 5-year authorization would be limited to $7 million in the first year, gradually increasing to $15 million in the last, to take account of both continuing and new participants.

The cost of this program is low, and if the incentive is not successful, the cost will be essentially nonexistent, because few people with any college background are enlisting presently, especially in the Reserves.

This program is targeted to a small but definite need for more recruits with some higher education. It is a positive, upfront incentive for persons who have completed 1 or more years of higher educational training financed through NDSL or GSL.

It is a continuing incentive which, unlike some other educational incentives, does not provide an inducement to leave the military but rather encourages reenlistment, in order that 100-percent forgiveness may be obtained.

It is a realistic and tangible incentive which will aid the shortfalls not only in quantity but in quality by attracting young people with a relatively strong educational background.

A vital feature of this measure is that it poses no essential conflict with other current incentive programs but, rather, complements them by crediting education already obtained.

I have worked with various experts in military manpower to develop this proposal, from the Department of Defense, the Rand Corp., and independent service associations, and several higher education associations, and nearly all of those who have been consulted support this amendment wholeheartedly.

This bill contains programs for student loan forgiveness and deferral to encourage students to devote some time to worthwhile and necessary social needs. Surely, at the moment encouraging military service is as great a social need as many of the others already addressed in this bill.

Providing incentives for military duty is a case apart from other manpower policies. We have long had military incentive programs, and we must continue to do so as long as we have an All-Volunteer Force. This bill is the place to address a student loan forgiveness incentive for the military.

This amendment provides the student with an honorable and important way to serve the country in return for the country's service to that student. Please join the National Guard Association, the Reserve Officers Association, the National Association for Uniformed Services, the Noncommissioned Officers Association, and the American Association of Community and Junior Colleges in support of this amendment.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. MONTGOMERY and by unanimous consent, Mr. PETRI was allowed to proceed for 4 additional minutes.)

Mr. MONTGOMERY. Mr. Chairman, I certainly want to stand today and commend the gentleman for introducing this amendment and say over the years that a number of Members have worked to get incentives for the regulars and for the National Guard Reserve under an all-volunteer era to attract qualified young people in the regulars as well as the National Guard Reserve. It seems to me this amendment would certainly do this. As the gentleman knows and as my colleagues know, for the first time the regulars in our four services were unable to attract or recruit enough young men and women to fill up their ranks for the last 12 months since we have gone to the volunteer concept.

In the last 3 years, the National Guard and Reserves have had a terrible time attracting qualified young people into the Reserves. The Personnel Director of the Army recently issued a statement where he said 60 percent of the Army recruits were below average mentally—60 percent of them.

It seems under the gentleman's amendment, if we could attract these people to get these loans and improve themselves mentally, they would certainly make better soldiers.

One of the high costs we have—the highest cost we have in the military—is personnel. Sixty percent of the budget passes this year for the military will go to personnel and a large part of this is to train new recruits and new reservists. If this amendment would keep young people in and make them reenlist, in the long run this amendment would certainly save us a lot of money by not having to train over and over again new recruits who come into the service. The amendment has got a lot of merit. I wish we had thought of it a number of years ago. We did come up with an educational program in the Armed Service Commission, but it does not offer enough, and it does not do the job to attract and retrain young people in the reserve.

I commend the gentleman. Maybe it has not had hearings in the committee, but that is why we go into the Committee of the Whole so people like me can make statements and offer amendments to a bill. I hope the amendment will be adopted.

Mr. PETRI. I thank the gentleman.

Mrs. HOLT. Mr. Chairman, will the gentleman yield?

Mr. PETRI. I yield to the gentlewoman from Maryland.

Mrs. HOLT. I thank the gentleman for yielding. I want to commend the gentleman for the effort he is making this morning to try to get this amendment adopted. I serve on the Personnel Subcommittee, and we have been wrestling to find incentives that we can afford that will really provide incentives to help people who want to serve their country. I think this is an outstanding way to do it. The gentleman is certainly to be commended for making this effort. I support the amendment and I urge the Members of this body to support it.

Mr. PETRI. I thank the gentlewoman.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. PETRI. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I want to commend the gentleman for offering this amendment.

Mr. Chairman, I rise in support of the amendment offered by Mr. PETRI.

I am sure my colleagues remember the emotionally charged and politically delicate debate on draft registration which took place a month and a half ago in this Chamber.

The upshot of the debate was that: First, the volunteer armed services, as they exist today, may well not be adequate now and, if present trends continue, will certainly not be adequate in the future; second, the problem of manpower shortfalls in the armed services will simply not go away; and third, alternatives to the draft should be seriously considered.

This amendment provides one palatable and equitable alternative. It encourages participation in the volunteer active military service or Reserve service by students with at least 1 year of postsecondary education. The success of this measure would result in a substantial upgrading of the quality of military enlistees. If it is unsuccessful, it will cost the taxpayer nothing. The amendment provides a limited authorization, in both time and money.

Also, service in the National Guard will qualify students for loan forgiveness under this amendment.

Alternatives to the draft are sorely needed. We must provide a tangible incentive to encourage quality volunteers to enlist. Loan forgiveness provides that incentive. I urge my colleagues to join me in support of this amendment.

Mr. PURSELL. Mr. Chairman, will the gentleman yield?

Mr. PETRI. I yield to the gentleman from Michigan.

Mr. PURSELL. I thank the gentleman for yielding. I just want to clarify what the amendment does. As a former military officer, this is an intriguing amendment. Would this in any way discourage that individual from not finishing his higher education commitment? Would it be an incentive to take him out of the program at too early a date?

□ 1120

Mr. PETRI. It would be just to the contrary. It would be a way for a young person—right now we have a problem with these student loan programs. We have a problem with people having to borrow large amounts of money and starting out life in debt. There are difficulties with universal national service programs that are kind of obvious, in administration and all that. However, here is a way for a person to borrow money, $3,000 a year, from the Government or from a Government-guaranteed lender, and pay that back over a period of years by serving on a part-time basis whether they are in school or after they have graduated or since graduate school, for that matter, in the Reserve and it is the kind of thing that will enable us to lower the high manpower cost of the military budget. So that we have a good, Ready Reserve.

Mr. PURSELL. That is my question. Is your language clear that it would be after graduation and not try to say, well, this is a nice way to move out of completing education, therefore, they can move into the military at an earlier date than they would want. I would prefer him or her to finish their education.

Mr. PETRI. The amendment provides for both and as you know, under existing programs, people served in ROTC while in college. The Reserves are complimentary rather than in competition with college because the active duty portion is during the summer or can be during the summer. This is the kind of thing I think that will give a lot of young people encouragement because some are reluctant to go into debt.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. BIAGGI and by unanimous consent, Mr. PETRI was allowed to proceed for 1 additional minute.)

Mr. BIAGGI. Mr. Chairman, will the gentleman yield for a question?

Mr. PETRI. I yield to the gentleman from New York.

Mr. BIAGGI. We understand the nature of the amendment, but let me ask, what would happen to this amendment if it was enacted in the event of a draft? If the draft was reinstated, how would this become operative? How would this apply? We no longer have the need for the amendment. You are beyond your recruitment stage and yet the law would exist.

Mr. PETRI. Mr. Chairman, people would not be able to take advantage of this who are drafted.

Mr. BIAGGI. How can we be sure of that? You know, sometimes we have wars and they run for 3, 4, or 5 years and there are draftees who might want to take advantage during this period.

Mr. PETRI. I will say to the gentleman, Mr. Chairman, we do not have the draft, we have no legislation on the statute books to provide for a draft, that if we do institute the draft the gentleman's question would be better addressed to those who come forward with that legislation so as to take care of that problem should it ever exist at that time. In addition, the Secretary of Defense may designate the military occupational specialties which qualify, and he can handle the problem that way.

Mr. FORD of Michigan. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I would like to begin by acknowledging the great interest shown in the higher education legislation by the Committee or Armed Services. This is the largest array of members of that committee that I have seen speaking for a provision in an education bill in my years on the committee. That sort of puts in a nutshell what the problem is.

We have pending now, as I understand it, activities before that committee to determine what our military manpower policies should be. A few weeks ago we were unable to resolve the question of whether we were in need of a registration law. Most of us felt that we wanted to leave in the hands of the Committee on Armed Services, with their greater expertise and ability to study the matter, the problem, and come back to this House sometime in the future with a recommendation on what kind of strategy we should employ to meet our manpower needs in the military.

I do not believe that as a matter of educational policy we should be trying to meddle with military manpower problems. One of the immediate problems that suggests itself was just outlined in the exchange between the gentleman from New York (Mr. BIAGGI) and the author of the amendment. There are a lot of other problems that present themselves.

If we look at the amendment we find that what it is is a front-door GI bill that compensates you with college tuition, in effect, for each year you spend in the military.

Now, as a matter of fact, if you turn on your radio you will find we are already advertising to young people: "If you will come down and sign up we will give you a $1,500 enlistment bonus and $1,000 toward college tuition."

We already have embarked upon, apparently, policies of this kind using money from the Pentagon.

It is a tremendous compliment to the education community in this country that we have the Pentagon, in effect, hitchhiking on education trying to finance the manpower program.

In all sincerity, I must suggest to the advocates of this approach that, if it comes from the Committee on Armed Services and becomes a part of our commitment to our military forces, the likelihood of it being funded at a level appropriate to its needs as a defense program is much greater than the likelihood if it is added to the scarce dollars that we have for education.

Now the gentleman from Wisconsin (Mr. PETRI) has been working on this approach for sometime and we considered a different variation of the approach in the subcommittee where it was limited at that time only to service in the Reserves. We considered an expansion of the proposal in the full committee and again rejected it when we determined that it was going in the opposite direction from the policy we had been following for a number of years with regard to the forgiveness of student loans.

Now, the gentleman's amendment presented today is new. It would extend itself to everyone serving in the armed services and, as the gentleman from New York says, there is nothing in the amendment at the present time that would distinguish between somebody who was induced to enlist as a result of this amendment or someone who was drafted.

Mr. Chairman, the fact is that we have, since 1958, been trying to move away from the use of forgiveness of student loans as a way to develop manpower policy, for all kinds of things. I might suggest that Mrs. Green, when she was chairman of this committee in the 1960's, warned us, and many of us would not listen, about what we were doing with schoolteachers. We now have a surplus in this country. We had as a policy an amendment similar to this well-meaning, well-intentioned effort to forgive student loans for people who would become teachers. It worked so well that we developed a surplus in this country and induced a lot of young people to go into the field of education who are not now able to find jobs.

Mr. Chairman, once we start down this road of using loan forgiveness, it looks like a quick, easy way to do things and it is hard to get off it.

Mr. Chairman, there are two kinds of considerations we give to people with Federal policy involved in terms of repaying loans. One is the deferral of the time in which they make the payment. In other words, if somebody is in a particular status such as the military, we presently defer their obligation to pay back their loan. However, we do not forgive the loan. We do not say that you do not have to pay back the money that you had. We defer the loan for a variety of other reasons.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. FORD of Michigan was allowed to proceed for 5 additional minutes.)

Mr. FORD of Michigan. Loan forgiveness is quite a different thing. This is where we actually say that after you borrow the money for educational purposes, if you will do a particular thing for a period of time, for each year of service we will forgive the repayment of principal and interest on that loan. It is a straight out subsidy.

Mr. Chairman, it would appear to be quick and painless. I have no idea, nor do I believe the proponent of the amendment has any idea what this would cost. If it works it could be the most expensive part of this program. I have to tell you honestly we have done everything we possibly can to keep faith with this Congress in coming to you with loan provisions in this bill which we think are going to get us more bang for the Federal buck in the educational field and get us a better recovery of money.

Mr. Chairman, as chairman of the committee, I do not really want to go out across the country and try to explain to people who are already complaining that we do not do a good enough job in collecting back the money the Federal Government advances for education by being more stringent and tough on loan collection, that we as a matter of policy have decided we are going to expand the whole class of people who do not have to pay back their loans at all.

☐ 1130

Now, I am perfectly willing to support up front an approach coming from the Committee on Armed Services based on their projections that an effective way of enticing people into the service is to offer education benefits. I will support that legislation; but that belongs under their jurisdiction. We do not have the capability in my committee to oversee this provision if it becomes a part of the law, because we do not have the expertise on our committee that the Committee on Armed Services has to assess properly the manpower needs of our military forces.

In effect, I am pleading with my friends on the Committee on Armed Services to keep the responsibility and the jurisdiction in that committee and we will work with you when you bring your bill to the floor.

This is not the place for this kind of approach to military manpower programs. It flies in the face of what we are otherwise trying to do in terms of reducing the Federal Government's giveaway programs with respect to loans and tightening up the Federal Government's recovery of loan capital advance.

One final thing: never, never since we encouraged private capital to make student loans have we ever presented them with the possibility that we would come along and say, however, after you lend the money, we may come up with a category of people who borrow the money from you who do not have to pay it back.

Now, we have had loan forgiveness with respect to Federal dollars that go under the national direct student loan program, because we are dealing with our own money; but the amendment of the gentleman goes to the guaranteed student loan money which comes out of the private sector through banks and credit unions and other kinds of lending institutions. I suggest that they are going to get very jumpy if we start playing around with the idea that we are from time to time going to pick out people that they lend money to and excuse them from repaying the loan to them.

We are having enough trouble building confidence with the private sector in this country in our loan programs.

We have never ever attempted to intervene between the borrower and the lender and tell them that we were going to excuse somebody up front. You can only be excused by death or disability at the present time from repaying your loan if you take it out through a bank.

Under the amendment of the gentleman, if you enlist in the service, the bank is going to be told that a thousand dollars of their loan is canceled. The bank is then going to bring the paper to Washington and say, "We want our money."

But the bankers are not going to be very excited about the idea. If we do it for the military, then we ought to do it for medical personnel and we ought to do it for other needs that a lot of people have approached us with as important to them. It is just not a good way to approach manpower policy.

We learned a bitter lesson, many of us who were on the other side of this issue 10 or 15 years ago about this method of trying to meet manpower needs. This is just the wrong place for the amendment.

I have all the confidence in the world that the persistence that the gentleman from Wisconsin (Mr. PETRI) has shown will dictate that we will have a bill out of the Committee on Armed Services at some time in the reasonably near future to consider which will use education benefits as an inducement to meet our manpower needs. I will be standing out here trying to help my friends from the Committee on Armed Services the same way they are trying to help us today.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the amendment, though I want to commend my colleague, the gentleman from Wisconsin (Mr. PETRI) for his interest in what is a real problem of recruitment for both the regular service and the Reserves and also to commend the gentleman on what is an imaginative approach; but I agree wholeheartedly with the chairman of the subcommittee that this is the wrong way to attack the problem.

We have had experience with loan forgiveness programs. The gentleman from Michigan rightfully pointed out that what appeared to be good policy at one point where we provided for loan forgiveness to entice young people to go into the teaching profession; that became a program which took on a life of its own and extended long beyond the time when it was useful.

The gentleman is entirely right, that Mrs. Green and others of us on the Postsecondary Education Subcommittee for years tried to convince our more liberal friends on the committee to do away with the program that was enticing young people into a profession that was already overcrowded.

Now, this will be even more true of the proposed program here, since we are establishing manpower policy, rather than education policy. We are dividing, if this amendment should be adopted, the means to implement manpower policy completely from the place where that manpower policy is established. We will put the funding in the Higher Education Act rather than in the Defense appropriation and we will put the policymaking in the Committee on Education and Labor, rather than in the Committee on Armed Services.

Now, what this amounts to, although it is called loan forgiveness, is an enlistment and reenlistment bonus. Really, that is what it is. You cannot forgive a loan made by the bank. What we will have to do is use appropriated funds to pay the loan on behalf of the student.

Now, this may not even be good policy as far as the student is concerned, the enlistee. What if you had a national defense student loan say of $6,000 or $8,000 or $10,000 at 3 percent interest and you were going into the service today. They were going to give you an enlistment bonus. Would you like to have your loan done away with or would you rather have cash in hand?

Well, you know, if you are half smart, you will take the cash and keep that 3 percent loan and pay it off for over a period of time because what better situation could you be in than to have the cash which you could invest today very easily at 10 percent plus, rather than to have a 3-percent loan reduced; so it is not even good policy as far as the individuals are concerned.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I would be happy to yield to my colleague, the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I thank my colleague for yielding. I think the gentleman is presenting an excellent point. I would merely like to add one.

We all believe in amendments. I believe in amendments. If this were what you would call the only shot we had at something like this, I would be inclined to vote for it, because there are oftentimes when this body is confronted with a situation where an amendment of this type is the only way you will ever get it before the Congress, the only way you will ever get a vote on it.

Now, I cannot believe with the leadership that exists on the Committee on Armed Services that some imaginative program of this type cannot emanate from that committee, come before the body, and we would have a direct vote on it and I would certainly be inclined to vote for such a proposal.

I think the credentials of the gentleman in the well and the gentleman speaking as far as supporting the military are well known. I do not believe this vote comes down on that particular basis.

As I say, if I thought this was the only shot we would get, I would be very glad to vote for it, but it is bad policy. It should be brought out in proper form, as the gentleman has indicated, not in an amendment to this bill, but as something that relates to the military and I know it would gain the support of the Members on this side.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman for his contribution. I would thoroughly agree with him.

I think, with the expressions of interest given on the floor here today by members of the Committee on Armed Services, that it would appear that it ought to be simple for them to bring out legislation that would be tied directly to Defense Department manpower policy. That is where it should be done. It ought not be the Committee on Education and Labor establishing that policy.

As I say, if we create this program, it will probably take on a life of its own and long after it is needed for defense manpower we will continue to have loan forgiveness, just as we did with the student loan forgiveness for those going into the teaching profession.

I hope the amendment is rejected.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ERLENBORN) has expired.

(At the request of Mr. BIAGGI, and by unanimous consent, Mr. ERLENBORN was allowed to proceed for 1 additional minute.)

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I would be happy to yield to the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, I would like to thank the gentleman for yielding and I would like to commend the gentleman for his comments and also the comments of my colleague, the gentleman from Ohio (Mr. ASHBROOK).

I, too, share a similar attitude with relation to the military. I have consistently supported and have pledged myself to support the requests of the military of our Nation and the committee; but I exhort us not to take this course.

The gentleman from Illinois (Mr. ERLENBORN) and the gentleman from Ohio (Mr. ASHBROOK) and many others feel as I do, and many of us feel in the same fashion. If it were to be produced by the proper committee in the proper fashion, I would be delighted to vote for it, but this is a bad precedent. It is divisive.

I know the problem, but we are talking about education, not manpower recruiting. I believe that the issue is sufficiently important to be given its day in court, to have the issue dealt with in proper procedure and have full hearings, deal with some of our concerns. In the end, I am sure that it would be enacted into law very effectively and quickly.

Mr. Chairman, I thank the gentleman.

□ 1140

Mr. RATCHFORD. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I am concerned in three respects about the amendment we have before us this morning. The first is the precedent it sets, the second is the piecemeal approach it takes, and the third is the all important aspect of cost.

I would preface my remarks today by saying that I served 6 years in the National Guard, and I am aware of the fact that the Guard plays a very important role not only in the Nation but at the State level.

However, I would say that we are at a time when the importance of the volunteer is so critical because of the saving impact of the volunteer on inflation, I do not think it is a correct approach to say to the volunteer in the Guard or the Reserves that "We are going to give you special recognition in the form of loan forgiveness, but we are not prepared to do the same in a number of other areas."

For example, if we give this type of treatment to a member of the Reserves or a member of the Guard, should we not give similar treatment to the person who is serving, for example, in the volunteer fire services of his or her area? In my area the taxpayers cannot afford fire services without the involvement of the volunteer, and yet our State does not give special tax treatment to the volunteer fireman. Nor do we give the same treatment to the auxiliary police who serve at the State level, or the person who serves in the civil defense forces, or the ambulance drivers, or the Red Cross worker, or the hospital volunteer, or the volunteer in school services, or the volunteer in the senior centers.

Certainly as a society we should encourage the volunteer. Without the volunteer, we could not offer the type of services that we pride ourselves on in this country today. But if we take this precedent-setting step in the direction of the volunteer who enters the Guard or the Reserve, we are opening up the door. We are opening up the door on the floor of the House, not through the committee process, and we are opening it up at a staggering cost to society.

Mr. Chairman, for all these reasons, as appealing as the amendment is, I would urge its defeat. In fact, I would hope that we would not have to vote on it, and that the gentleman from Wisconsin (Mr. PETRI), who has peaked our sensitivity in this area, having done so, would withdraw his amendment.

Mr. WHITE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, what we are talking about today is not a program that some of us would like because we think it would be nice for some of those we would want to attract into the services. We are talking about a problem of the security of this Nation.

We had a battle on the floor not too long ago in which we asked this House to pass a standby registration because we were so short in our Reserves and because we saw problems in the All-Volunteer Force. At that time many of the Members came to the podium and said, "We don't want a standby registration. We want to support the All-Volunteer Force concept."

But we cannot talk both ways. This is an effort on the part of the gentleman from Wisconsin (Mr. PETRI) to do precisely that, to supplement the needs of the present services without the need of registration or draft.

Mr. Chairman, there are a number of statements that have been made. Members say "We don't want to set a precedent." Well, what did we do when we were talking in terms of the defense overseas schools jurisdiction? Some Members did not want that to be in the Defense Department, and that is what we were saying, that it should be in the Defense Department because policy was set by base commanders. That is our precedent there, if we will recall. Members were asking for that jurisdiction.

One gentleman from Illinois said that we do not want an overcrowding, or we do not want to use this in an overcrowded profession.

Mr. Chairman, let me tell the Members this: This year alone in the All-Volunteer Force there is a shortfall of 24,000 people in recruiting. This is what is happening to the All-Volunteer Force.

Furthermore, the testimony before our committee shows that the services today do not reflect the spectrum of society. We had many people during that debate come up and say, "Well, primarily those who are underprivileged or in lesser income brackets are going to be doing the fighting." And we agree. What we want for a good healthy service is a strong spectrum of people to be infused into the services, people who will be able to cope with the technology we have at the present time.

What we are asking today is to be able to take that type of person and give him the opportunity to have some of his loans forgiven. We have tried all kinds of incentives, but we have determined that education is far more important to the caliber of person we are after than is money in hand.

This is a small step that the gentleman from Wisconsin is taking. I am convinced that education is the way to go. There is not a sufficient spread of society in the services today.

Mr. Chairman, we have proposed this idea before the Defense Department. The Defense Department was very enthusiastic, but it has not acted. We have no jealousy in this jurisdiction. Sure, we would like to have this jurisdiction to do it, and we have got it. We have the jurisdiction here because all the gentleman is doing is amending the basic law to include one more category.

Now, Members say, "Well, this could proliferate into a terribly large program." The gentleman calls for $7 million, as I understand it, in the first year and $15 million the second year, and the big point that all of us have overlooked, including those who have spoken, is that this is a controlled program because the Secretary of Defense has the discretion as to how and where he will apply it. If the program gets into unmanageable proportions, then the Secretary of Defense himself can control, stop, alter, or diminish the program itself.

We have done this for teachers, we have done it for doctors, we have done it for nurses, and we have done it for other categories. Why can we not do it when the security of our country is concerned? I respect the security of this country even more than the policemen or the fire forces, which are important in themselves.

When we talk about this subject, we say we do not want a draft or registration, but do we try to augment the faltering All-Volunteer Force? If we really believe we should and if we believe what we said not too long ago in our debate, then we have got to vote for this amendment.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, I have asked the gentleman to yield so I can explain what we are about to do.

At the request of the chairman of the Committee on Interstate and Foreign Commerce, I am going to ask that the Committee rise momentarily and go back into the House so the gentleman can make a unanimous-consent request, which I assume is cleared on the other side. Then we will return to this matter.

Mr. Chairman, I did not want Members

to think that we were trying to cut off the debate. As soon as the gentleman has finished, I will make that request.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I will ask my colleague in all sincerity, if this is a matter of security and in the national interest, why has the Committee on Armed Services not done something about it?

Mr. WHITE. Mr. Chairman, we already have done something. If the gentleman will look back at the last report, he will find we have asked the Defense Department to make full speed in trying to devise a program like this. This amendment would do it. The Department is not moving, and this would do it with a simple change in the law.

The CHAIRMAN. The time of the gentleman from Texas (Mr. White) has expired.

(On request of Mr. Ashbrook, and by unanimous consent, Mr. White was allowed to proceed for 1 additional minute.)

Mr. ASHBROOK. Mr. Chairman, if my colleague will yield further, let me say that he appeals to my sensitivity and to my patriotism when he says national defense is involved and when he says security is involved.

If it is that important a program, let us get it moving in the Committee on Armed Services, let us bring it out and get it to the floor. This is a practical situation. Many of us are confronted with problems, of course, and all of us know we cannot always get a vote, but I cannot understand why the gentleman could not get a bill like that out on the floor.

Mr. WHITE. Mr. Chairman, let me say to the gentleman from Ohio (Mr. Ashbrook) that we have spent several days here talking about a mobilization board for a fast track in an emergency situation. That is precisely what we are doing here. It is a fast track forward, and the amendment offered by the gentleman from Wisconsin (Mr. Petri) simply makes a slight change in the law and gets it moving.

Mr. ASHBROOK. Mr. Chairman, I would say to the gentleman that he did not appeal to me on that one.

Mr. WHITE. Perhaps not to the gentleman from Ohio, no.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, I must say to the gentleman that I certainly cannot understand why he feels the Committee on Armed Services has to wait for permission from the Defense Department before the committee can move forward on a piece of legislation. I thought that the gentleman's committee, as well as all the committees, recognized their own sovereignty and independence.

Mr. Chairman, let me state the second thing that I really have to question on this matter.

The CHAIRMAN. The time of the gentleman from Texas (Mr. White) has again expired.

(On request of Mr. Weiss, and by unanimous consent, Mr. White was allowed to proceed for 1 additional minute.)

Mr. WEISS. Mr. Chairman, if the gentleman will yield further, would the gentleman not agree that those young men and women who would have volunteered to serve in the Armed Forces of our country after high school rather than waiting until they have completed college, should also be entitled to the same forgiveness benefits as those who have completed college?

Mr. WHITE. Mr. Chairman, I would say to the gentleman from New York (Mr. Weiss) that the answer is "Yes." We have programs that we are also augmenting and supporting, and there are programs, I think, in being where a man can go into the service and get his education in the future.

We are talking here about a man who has already had his education, has a loan on his back and he says, "Well, if I go in for 2 years, I can get a forgiveness of these loans."

I know that the gentleman from New York is one of the gentleman who did not like registration. We understand the gentleman's position. We are trying to help him in his position by augmenting the All-Volunteer Force and give it every opportunity to survive before we have to go to something else.

The CHAIRMAN. The time of the gentleman from Texas (Mr. White) has again expired.

(On request of Mr. Weiss, and by unanimous consent, Mr. White was allowed to proceed for 1 additional minute.)

Mr. WEISS. Mr. Chairman, if the gentleman will continue to yield to me, it seems to me further that if the gentleman is really concerned and his committee is concerned about a comprehensive program which would provide fairness and equity to both those young men and women who have completed college, as well as those who have just completed high school, that kind of comprehensive program deserves full hearings and full consideration to come out of his committee rather than trying to piggyback it on a bill here and do it halfheartedly and probably do an incomplete and unfair job.

Mr. WHITE. Mr. Chairman, I would say to the gentleman from New York (Mr. Weiss) that we had a provision that we thought was highly important, but it was stricken down by this House. This is before the Committee on Education and Labor.

□ 1150

Mr. WEISS. What is the gentleman talking about, registration?

Mr. WHITE. Yes.

Mr. WEISS. That registration has nothing to do with education.

Mr. WHITE. I am talking about the measure out of the Committee on Armed Services. This is an ongoing matter that affects education and it affects security. It is here. It is now. It is a viable program. It is a well organized program, and we say the House should support it and get it moving, because this is another way to give a valid incentive to join.

Mr. FORD of Michigan. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Montgomery) having assumed the chair, Mr. Sharp, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5192) to amend and extend the Higher Education Act of 1965, and for other purposes, had come to no resolution thereon.

APPOINTMENT OF CONFEREES ON S. 1905, MILWAUKEE RAILROAD RESTRUCTURING ACT

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1905) to provide for the orderly restructuring of the Milwaukee Railroad, and for other puposes, with the House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder if the gentleman from West Virginia could tell us what the plans would be for consideration of this legislation if permission to send it to conference is granted?

Mr. STAGGERS. If the gentleman will yield, we have reached informally an agreement with the Senate. We would confirm that agreement by signatures and bring it back to the House and file it and try to get it completed today because there is an emergency in the Western States.

Mr. BAUMAN. And try and get what, did the gentleman say? The gentleman mumbled and I could not hear him.

Mr. STAGGERS. I am sorry the gentleman from Maryland did not hear what I said.

Mr. BAUMAN. Whether the gentleman mumbled or not I did not hear what the gentleman said.

Mr. STAGGERS. I said there was an emergency on the Milwaukee Railroad. They have closed down.

Mr. BAUMAN. Yes, I understand that. But the question was: What are the plans for the consideration of the this legislation?

Mr. STAGGERS. That we have considered this with the Senate and we have come to an agreement. It is practically the House bill as passed by the House. And we would then, if we can get agreement here, meet and sign the conference report, bring it back to the House and file it and plan to bring it up sometime later today.

Mr. BAUMAN. So if it were filed today, there would have to be, of course, an additional unanimous consent request.

Mr. STAGGERS. That is the next request I have.

Mr. BAUMAN. I will wait until that request comes. But I would just say, Mr. Speaker, that this is another instance in which one Member's objection could cause the delay or stoppage of important legislation in the House, and every Member has that right. I do not intend to exercise my right in this case, but, as I say, if we continue to have closed rules on many bills it will be more than the Milwaukee Railroad that is stopped.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. SENSENBRENNER. Mr. Speaker, reserving the right to object, I have no objection to sending the bill to conference, but I do think that before the next two unanimous consent requests are made, the conference committee report be typed up and filed so that it can be examined, so that the Members can determine whether they would want to object to waiving the 3-day rule and the 2-hour rule.

So I have no objection to the present unanimous-consent request, but I would ask the distinguished chairman of the committee to withhold making the other two unanimous-consent requests until the conference committee has been typed up.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Mr. STAGGERS, Mr. FLORIO, Ms. MIKULSKI, Mr. BROYHILL, and Mr. MADIGAN.

There was no objection

REQUEST FOR PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO HAVE UNTIL MIDNIGHT, MONDAY, NOVEMBER 5, 1979, TO FILE REPORT, ALONG WITH SEPARATE OR MINORITY VIEWS, ON H.R. 3990, TO AMEND TITLE XVIII OF THE SOCIAL SECURITY ACT WITH RESPECT TO MEDICARE PROGRAMS

Mr. RANGEL. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means may have until midnight, Monday, November 5, 1979, to file a report, along with any minority or separate views, on the bill (HR. 3990) to amend certain provisions of title XVIII of the Social Security Act with respect to medicare programs established by such title, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

EDUCATION AMENDMENTS OF 1980

Mr. FORD of Michigan. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5192) to amend and extend the Higher Education Act of 1965, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. FORD).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5192, with Mr. SHARP in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose earlier today, title IV was open for amendment at any point, and pending were amendments offered en bloc by the gentleman from Wisconsin (Mr. PETRI).

Mr. TAUKE. Mr. Chairman, I rise in support of the amendments.

Mr. Chairman, I think it is important that we in Congress feel an obligation not to compartmentalize everything in Government. Yet today it seems as though the education people are unwilling to take steps to help those who have needs in other areas. As I have perused this bill, it has been my observation that this has been a standard or a policy that we do not always intend to follow. For example, when it came to urban grant universities, we did not feel any compulsion to send that to the Committee on Banking, Finance, and Urban Affairs to look that over, to review it. Rather, we felt that this was a good way that we could help education and help the urban centers of our Nation at the same time.

I think the same can be said about this amendment, that it does something for the armed services of our country and at the same time helps to strengthen the educational programs of the Nation.

First, I have to say that when the gentleman from Wisconsin offered his suggestion in subcommittee and in committee, I had some questions about it. But the more I have looked at this amendment and the more I have studied the manpower needs of the armed services, the more convinced I am that this is a reasonable solution to a problem, that we should not get hung up on jurisdictions. Perhaps some of the same people who have objected to the Committee on Armed Services reviewing all of the Defense Department-related things should be some of the people who would be in the forefront of having other Members of Congress also take a look at some of the programs relating to the armed services and the defense of the Nation.

I think it is good to have a broad scope of interest in all of the problems facing the Nation in all of the committees in Congress. For that reason, since this is closely related to education, I think that it should be supported, and because it is a program which meets one of the major problems facing the Nation, that it deserves support.

It appears to me that we are willing to include things in the bill if they are supported by us. So I think in this case, when we have a program which everyone thinks is worthwhile, we should include it in this measure.

Mr. BENNETT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, a number of things have been said here which I think need some clarification. In the first place, it was said that the Committee on Armed Services was trying to become piggyback on the Education Committee with regard to college education.

Actually, the GI bill was the first substantial entry of the Federal Government into education, and now we find we cannot afford the GI bill, so the GI bill no longer exists.

Then we attempted in the Committee on Armed Services to provide an incentive for doctors to come aboard to serve in the military. We wrote a good bill which was based upon the educational opportunities for doctors to encourage them to go into military service as doctors. That was all very fine, and it worked pretty good, until from other committees we got legislation which now provides for much better benefits if you do not go into the military. In other words, it is better financially now to go the other federally funded courses. If you just want to pick up the money and get an education in medicine, you are better off not to take the military education at all.

Another thing that I think needs a little clarification here is how easy or hard it is to get things out of the Department of Defense with regard to something like this. The truth of the matter is that most of our military money today is going for personnel. The truth of the matter is that today we are greatly out-tanked, out-shipped, out-missiled, and almost in everything else in the way of procurement of military weapons for this country. Our country is not today being adequately defended.

Why is that so? Because of the tremendous expense of personnel. So you have there a very real problem. A great benefit would be had, in Congress and the executive branch, if, when the country is to give benefits in education to the population generally, as is done in this bill, that we be sure we are not undermining the national defense of our country, which, as a matter of fact, the educational provisions of the statutes of the United States now do in many instances.

☐ 1200

The statistics now do it, because they offer better opportunity to go the nonmilitary way. So those things ought to be thought about and provided against.

I personally think that the amendment of the gentleman offered on this matter is a good amendment. I would like to see it come from the Committee on Armed Services. A lot has been said here about why we do not get a lot of things like that out of the Committee on Armed Services. It is primarily because the OMB will not approve them if they go for defense matters. Neither will the DOD, because the DOD knows we have to have a certain number of tanks, knows we have to have a certain number of ships, knows we have to have a certain number of airplanes and things of that sort. It simply hopes we are going to be able to get some kind of an address to the problem of personnel in the military but they hesitate to approve more personnel costs.

The Department of Defense failed us by not even asking for registration, because it thought the Congress and the country would not allow it; so this Committee on Armed Services came courageously to ask for a little tiny thing of just registering people. That is all we asked. We were inundated by Congress. It was not allowed.

We can close our eyes to it. We can turn our backs on the national defense of our country, but educational opportunities, welfare programs, all these wonderful things our country does—and they are wonderful things and good things—all these things cannot be done unless we are in fact able to stand on our own feet and protect our country defensewise.

The question today is very real as to whether this country is realistic with regard to its national defense. Most of our allies think not. I think they ought to do a better job, too.

I think when we pass gargantuan bills like this education bill which I read is going to cost $14 billion in 1 year—when we often pass big bills like this, we make it almost impossible to have an adequate defense funding for what is necessary for the national defense. When we approach the national defense to get this kind of money for education, for the incentive, we find out there is no way in which we can afford it in competition with the costs of weapons procurement. At the same time education for the poor can work as disincentive against military service. We are doing ourselves in with regard to our national defense program by not analyzing the fallout effect in the military services when it is more attractive financially to take the nonmilitary alternatives.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Could the gentleman explain to me, if college-educated young men and women are needed in the armed services, why only those who owe money are desirable and those who may have gone with a scholarship or were able to pay for their education are not wanted?

Mr. BENNETT. I do not understand the gentleman's question. I do not think it has much relationship to what is being done here.

Mr. ERLENBORN. It certainly does.

Mr. BENNETT. If I may reclaim my time, this is an incentive to get people to go into the military.

Mr. ERLENBORN. Only those with loans, only those who owe money, who have loans.

Mr. BENNETT. It is an incentive added to whatever other incentives there are.

Mr. WHITE. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Texas.

Mr. WHITE. In answer to the gentleman from Illinois, this is one facet. There are other programs by which means we can try to induce people in.

The gentleman spoke of personnel cost escalating. Is it not a fact almost better than one-third of the men who are recruited into the service at the present time do not finish their first-year enlistment and the way to improve on that percentage is to get a different and better caliber of person induced to go into the service?

Mr. BENNETT. I think it would be very helpful. I certainly support the amendment.

The CHAIRMAN. The time of the gentleman from Florida (Mr. BENNETT) has expired.

(At the request of Mr. SIMON and by unanimous consent Mr. BENNETT was allowed to proceed for 1 additional minute.)

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Illinois.

Mr. SIMON. I thank the gentleman for yielding.

I voted with the gentleman from Florida and the gentleman from Mississippi and the gentleman from Texas on the registration.

We have problems, but it does seem to me—and I know the gentleman from Florida is a prudent man—that the suggestion of the gentleman from Michigan that we ought to know the cost of this thing before we go ahead, is not an unrealistic suggestion. Would the gentleman agree?

Mr. BENNETT. I agree with the gentleman that I try to be prudent I think, however, that improvement could be added in conference or in some other measure. The gentleman suggested only $7 million and $15 million in funding for this. We are talking about a $14 billion bill. Maybe the amendment could be improved in conference, but I think the thrust of it is good. I think we are whistling "Dixie" if we think the Congress is going to be able to pass a bill like registration or draft that we have been bandying about around here. No way are we going to do that. No way are we going to reinstate the GI bill. No way is it possible. It is not possible at all. This Congress should look at the reality of this and try to help the national defense of our country through educating the people who serve in the military. After all, these people are going to be beneficial to the general society, just like a person who is poor and gets into the educational channel through this bill. There is nothing secondrate about being a military man. They unselfishly serve our country.

In spite of the statements made by the committee in its preface to the Congressional Budget Office cost estimate, H.R. 5192 has extremely high authorizations.

The Congressional Budget Office estimates authorization levels of $9.1 billion, $11.2 billion, $12.5 billion, $13 billion and $14.7 billion in fiscal years 1981 through and including 1985.

Of particular concern are the modifications made in the basic education opportunity grant program. Changes made by this bill will result in maximum awards expanded from $1,800 to $2,160 for the 1981–82 school year and to $2,700 by the school year 1984–85. The proportion of college costs that may be provided by this basic grants program is increased from 50 to 60 percent in 1981–82 and to 75 percent by 1984–85. The modifications contained in this bill will result in a CBO projected cost of $5.4 billion in fiscal year 1981, increasing to $5.9 billion by fiscal year 1983 and $7 billion by 1985, if fully funded.

Other programs contained in this bill are reauthorized at funding levels which seem too high in view of the Nation's fiscal situation.

For example, the national direct student loan program's level of Federal contribution to institutional loan funds is set at $400 million for fiscal 1981–82, $475 million for fiscal 1983, $550 million for fiscal 1984 and $625 million for fiscal 1985. In other words, by fiscal year 1985, the national direct student loan program will have an authorization of $225 million more dollars than the fiscal 1981 authorization, even though the program has major administrative problems.

There is an essential conflict within the Federal Government with regard to educational assistance programs: on the one hand we are prepared to authorize many millions of dollars annually as incentives for individuals to participate in various higher education programs and, and on the other hand we are not prepared to offer programs as attractive to provide a student with an honorable and important way to serve the country in return for the country's services to that student.

Currently we have tremendous shortfalls totaling 24,000 in active forces and 33,000 in the selective reserve in our Armed Forces. We absolutely have to deal in as a direct manner as possible with programs that will make the military a more attractive alternative to the student. Few people with any college background are enlisting presently, especially in the reserves, and this causes me a great deal of concern. Aside from the fiscal aspects of this legislation it does show a very careful consideration of the problems in this field and makes many needed improvements. I expect this legislation to pass; but I urge the appropriations committees to attempt to hold down any unneeded costs in this.

Mr. ADDABBO. Mr. Chairman, I rise in support of the pending amendment. I believe that we should do all possible to retain or obtain the enlistment of young men and women in service.

I recently made a trip to Germany and spoke to our service people regarding the serious questions they have as to their service, dependents, enlistment and reenlistments. One of the most important factors as to the question of their reenlistment is educational benefits and entitlements.

We spend billions for our volunteer

military service enlistments with bonuses and other programs and this would be a very inexpensive and worthwhile effort compared to the end result.

Mr. Chairman, our military weapons are becoming more and more sophisticated and it is essential to our national defense to have the best educated service person and this amendment would be a step in that direction.

Mr. Chairman, I agree this might not be the best vehicle but the armed services or other committees have not acted and we should.

Mr. PEYSER. Mr. Chairman, I move to strike the requisite number of words, rise in opposition to the amendments.

Mr. Chairman, I was not planning on taking the floor at this time, but I just listened to my good friend from New York, a member of the Appropriations Committee, who perhaps has misunderstood what this legislation will do. It certainly is not going to do anything to improve, if you will, the educational standards of the military forces.

In the first place, I would like to ask the initiator of this amendment some questions, if the gentleman from Wisconsin will respond.

Is my understanding correct that $1,000 is the maximum deduction that can be taken in a given year for a student who owed let us say, $4,000, and he finished college, and now he comes in under the gentleman's program? Is $1,000 the maximum deduction or loan forgiveness that he gets?

Mr. PETRI. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Wisconsin.

Mr. PETRI. No. It is $1,000 or 20 percent for the Active or $500 or 10 percent for the selected Reserve.

Mr. PEYSER. Let us take the example of the person who finishes college and he owes $4,000. He would be eligible, am I correct, for $1,000?

Mr. PETRI. Correct; $1,000 for each completed year of satisfactory service.

Mr. PEYSER. Now, for that $1,000, if he did not come into this program at all, he has 10 years to repay that. Is that correct? Under the student loan program?

Mr. PETRI. I think so, whether his total indebtedness is $1,000 or $4,000.

Mr. PEYSER. That is correct. Now, that payment for that $1,000, for that 10-year period at the interest rate that is involved, is approximately $10 a month.

Now, first of all, I want to know if the gentleman seriously believes that a student in college who has graduated from college, to forgive a $10-a-month payment in that first year, which is all it is, is going to then go into the armed services in order that that $10-a-month payment should not be made? I would like to know if the gentleman seriously feels that is apt to happen?

Mr. PETRI. I would like to respond to the question of the gentleman from New York, if he will yield further.

I would say that I do indeed believe that this would be an important incentive. It does not require active duty. Selected reserve duty also qualifies. It could be combined with other things that the student would want to do in his life.

□ 1210

I would make the additional point if, in fact, it does not work, let us say the gentleman is right, what have we lost?

Mr. PEYSER. I think we have lost a great deal because we have lost an education program that is for the education of the young people of our country and have suddenly worked it into a military program. I do not know if the gentleman is aware of the sensitivities of our young people. I think this thing could be destructive of the student loan program just by the connection that suddenly we are talking to people about a student loan military program which I think would be very bad.

Let me ask one other question. If under the appropriations the gentleman is suggesting of $7 million I believe in the first year, if we were dealing with students again with the $1,000, what is the maximum number of people that would be affected by this?

Mr. PETRI. If the gentleman will yield further, $5,000 for the first year in the Actives, if we assume $5,000 to be the average total indebtedness.

Mr. PEYSER. Five thousand people. What in the world are we cluttering up a national student loan program with an opportunity of young people going to college with one, potentially bringing in 5,000 people into the military forces, potentially be forgiving $10-a-month payments for these people? To me it is absolutely absurd that the Education and Labor Committee should be taking this kind of action.

I would say to my friend from New York on the Appropriations Committee, I really feel the concept of the people who are in the service now, that this has absolutely no impact now, and it only has an impact on those potential 5,000 students who next year might want to go into the armed services to forgive this $10-a-month forgiveness, because that is what we are actually talking about. I really do not think we want to do this. The armed services ought to be able to handle themselves here, and I would hope we would defeat this amendment overwhelmingly.

Mr. WHITE. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to my friend from Texas.

Mr. WHITE. Mr. Chairman, in the first place let me say to the gentleman there is a reserve program involved in this too. We are trying to induce people into the Reserves as well, and there is already something like a 130,000 to 180,000 shortfall in the Reserves. This is only one factor. It is not the sole reason anybody goes into something, but it is one more consideration on which they make their decision.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent Mr. PEYSER was allowed to proceed for 1 additional minute.)

Mr. PEYSER. The only thing, in response, which I would say to the gentleman is that I am very supportive of the Reserve. I served 11 years in the National Guard prior to my former service. I am very familiar with that issue. But the issue should be resolved for the Reserve and not by this kind of a program. We ought to pay more money into our Reserve and then I will vote for it.

Mr. WHITE. If the gentleman will yield further, if we come in with a massive program then this House will be up in arms. But this provision is going to determine whether or not this is a viable program. It is a little more than a pilot program.

To answer the gentleman from Illinois, the expenditures would be controlled by the Secretary of Defense.

Mr. PEYSER. But does the gentleman not understand that we are talking about a program that forgives $10 a month? I am sure if the armed services want to come in and forgive $10 a month, then we will pass the bill.

Mr. WHITE. I would say to the gentleman it is $1,000 a year. I do not know how the gentleman comes to the $1,000 as $10 a month.

Mr. PEYSER. Because the student now is entitled to take 10 years to repay that, and it would cost him $10 a month.

Mr. WHITE. He may want to forgive $1,000 a year, and that may be the inducement.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Wisconsin (Mr. PETRI).

The question was taken, and on a division (demanded by Mr. PETRI) there were—ayes 16, noes 19.

Mr. PETRI. Mr. Chairman, I demand a recorded vote and, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count for a quorum. Does the gentleman insist upon his point of order of no quorum?

Mr. PETRI. Yes, Mr. Chairman, I do.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The Chair will announce this is a regular quorum call followed by a 5-minute vote.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 628]

Abdnor
Addabbo
Akaka
Albcsta
Ambro
Anderson, Calif.
Annunzio
Anthony
Applegate
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Bafalis

Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Boggs
Boland

Bolling
Boner
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John

Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chisholm
Clausen
Clay
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Donnelly
Dornan
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Hefner
Hightower
Hillis
Hinson
Hollenbeck
Holt
Holtzman
Hopkins
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kindness
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Mathis
Matsui
Mattox
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pursell
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rostenkowski
Roth
Roybal
Royer
Rudd
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Sharp
Shelby
Shuster
Simon
Slack
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stenholm
Stewart
Stockman
Stratton
Studds
Stump
Swift
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont
Wilson, Bob
Wilson, Tex.
Wolpe
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zeferetti

□ 1230

The CHAIRMAN. Three hundred and forty-five Members have answered to their names, a quorum is present, and the committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Wisconsin (Mr. PETRI) for a recorded vote. Five minutes will be allowed for the vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 236, noes 115, not voting 82, as follows:

[Roll No. 629]

AYES—236

Abdnor
Addabbo
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Archer
Aspin
AuCoin
Bafalis
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Boner
Bonker
Bouquard
Bowen
Brinkley
Brooks
Brown, Ohio
Broyhill
Burgener
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Clausen
Clinger
Coelho
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Derrick
Derwinski
Dickinson
Dicks
Dornan
Duncan, Oreg.
Early
Eckhardt
Edwards, Ala.
Emery
Erdahl
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fazio
Fenwick
Findley
Fish
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Frost
Fuqua
Gaydos
Gephardt
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gramm
Grassley
Green
Gudger
Guyer
Hamilton
Hammerschmidt
Hance
Harkin
Heckler
Hefner
Hightower
Hillis
Hinson
Hollenbeck
Holt
Howard
Hubbard
Huckaby
Hughes
Hutto
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Jones, Tenn.
Kastenmeier
Kazen
Kindness
Kogovsek
Kostmayer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lent
Levitas
Lloyd
Loeffler
Long, Md.
Lott
Lujan
Luken
Lungren
McClory
McCormack
McDade
McKay
Madigan
Maguire
Marlenee
Mathis
Mattox
Mazzoli
Mica
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Neal
Nowak
O'Brien
Oakar
Obey
Ottinger
Panetta
Pashayan
Patten
Pease
Pepper
Petri
Preyer
Price
Rahall
Regula
Reuss
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rostenkowski
Roth
Rudd
Santini
Satterfield
Sawyer
Schulze
Sebelius
Seiberling
Sensenbrenner
Shelby
Shuster
Slack
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stangeland
Stanton
Stenholm
Stockman
Stratton
Studds
Stump
Swift
Synar
Tauke
Thomas
Trible
Udall
Ullman
Vander Jagt
Vanik
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Wilson, Bob
Wyatt
Wydler
Wylie
Yatron
Young, Fla.
Young, Mo.
Zeferetti

NOES—115

Albosta
Applegate
Ashbrook
Ashley
Atkinson
Bailey
Beilenson
Blanchard
Boggs
Boland
Bolling
Breaux
Brodhead
Brown, Calif.
Buchanan
Burlison
Burton, John
Burton, Phillip
Carr
Chisholm
Clay
Coleman
Collins, Ill.
Collins, Tex
Conable
Conyers
Corman
D'Amours
Danielson
Davis, S.C.
Dellums
Devine
Dingell
Donnelly
Drinan
Duncan, Tenn.
Edgar
Edwards, Calif.
English
Erlenborn
Ertel
Fascell
Fisher
Ford, Mich.
Forsythe
Fountain
Frenzel
Garcia
Gibbons
Goodling
Gray
Grisham
Guarini
Hagedorn
Hall, Ohio
Hall, Tex.
Hanley
Hansen
Harris
Hawkins
Holtzman
Hopkins
Hyde
Jones, Okla.
Kelly
Kildee
LaFalce
Lehman
Lewis
Long, La.
Lowry
Lundine
McCloskey
McDonald
McHugh
Markey
Marks
Matsui
Michel
Mikulski
Miller, Calif.
Mineta
Mitchell, Md.
Moffett
Moore
Natcher
Nedzi
Nolan
Oberstar
Paul
Perkins
Peyser
Pickle
Pursell
Quillen
Rangel
Ratchford
Roybal
Royer
Sabo
Scheuer
Schroeder
Sharp
Simon
Solarz
Staggers
Stewart
Taylor
Thompson
Vento
Weiss
Williams, Mont.
Wilson, Tex.
Wolpe
Yates

NOT VOTING—82

Akaka
Alexander
Anderson, Ill.
Andrews, N. Dak.
Badham
Beard, Tenn.
Bedell
Bingham
Bonior
Brademas
Broomfield
Chappell
Cheney
Cleveland
Cotter
Crane, Philip
Daschle
Diggs
Dixon
Dodd
Dougherty
Downey
Edwards, Okla.
Ferraro
Flood
Fowler
Giaimo
Gradison
Harsha
Heftel
Holland
Horton
Jenrette
Johnson, Colo.
Jones, N.C.
Kemp
Kramer
Leach, La.
Leland
Livingston
McEwen
McKinney
Marriott
Martin
Mavroules
Mollohan
Murphy, Ill.
Myers, Pa.
Nelson
Nichols
Patterson
Pritchard
Quayle
Railsback
Rhodes
Richmond
Rodino
Rosenthal
Rousselot
Runnels
Russo
Shannon
Shumway
Skelton
Smith, Iowa
Stack
Stark
Steed
Stokes
Symms
Traxler
Treen
Van Deerlin
Waxman
Williams, Ohio
Wilson, C. H.
Winn
Wirth
Wolff
Wright
Young, Alaska
Zablocki

□ 1240

Messrs. LEWIS, ALBOSTA, and HANSEN changed their votes from "aye" to "no."

So the amendments were agreed to.

The result of the vote was announced as above recorded.

Mr. BIAGGI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to engage in colloquy with the chairman of the committee, the gentleman from Michigan (Mr. FORD).

Mr. Chairman, the bill before us contains in part A of title IV, under "Apportionment and allocation of funds," language which I introduced calling for the Secretary to establish "equitable criteria" for the distribution of supplemental grant funds.

The purpose of the amendment I introduced in committee was to prohibit the Office of Education from penalizing States and institutions which have been making significant efforts to assist students gain collegiate access and to overcome the substantial cost barriers that inhibit their ability to select institutions which they feel would best meet their higher educational needs. None of us want to discourage State and institutional effort. We want to remove those disincentives in existing regulations which may tempt States and institutions to pull back on their past efforts.

The amendment I introduced is also consistent with the basic theme of our bill, to leave to the States, the institutions of higher education and the individual students sufficient incentives to cover the 25 percent of costs of attendance not covered by the 75-percent Federal commitment and family contribution. Thus, it is a fiscally realistic amendment to avoid future calls for expanding the 75-percent Federal commitment upward.

Under the regulations on Federal campus-based student aid, issued last year by OE, the State and institutional allotments for supplemental grant funds were determined by a formula which deducted half of all institutional grant assistance and 100 percent of all State grant assistance from 70 percent of undergraduate costs.

What I intended through the phrase "equitable criteria" was to alter the existing formula and assure that future allocation formulas for distribution of supplemental grants not continue to penalize States which have provided student assistance funds and institutions providing need-based student assistance. I do not consider it sensible fiscal policy for the Federal Government to impose requirements that penalize State institutional effort in this field.

Mr. Chairman, I would ask the chairman of the committee, the gentleman from Michigan (Mr. FORD), if the gentleman agrees with the intent of my amendment as I have stated it today.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I would be pleased to yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, the gentleman is correct, and it is certainly my expectation that in promulgating new regulations to implement this act, the Secretary will more carefully and sensitively reexamine the issues which the gentleman has raised.

Mr. Chairman, I would add at this point that the gentleman from New York (Mr. BIAGGI) is to be commended by all the Members of this House for the amount of time the gentleman has put into this issue and the statesmanship the gentleman has shown in working out a way to reach a solution without doing violence to the feelings and opinions of other people and other interests. I want to thank the gentleman for engineering a compromise in the finest sense of that word.

Mr. BIAGGI. Mr. Chairman, I thank the gentleman from Michigan for his kind remarks.

AMENDMENTS OFFERED BY MR. SIMON

Mr. SIMON. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. SIMON: Page 144, after line 6, insert the following new subsection:

(e) Section 417(a)(1)(F) of the General Education Provisions Act is amended by inserting immediately before the period at the end thereof the following: ", including tabulations of available data to indicate the effectiveness of the programs and projects by the sex, race, and age, of its beneficiaries".

Page 212, after line 3, insert the following new section:

EVALUATION REPORTS

SEC. 1304. Section 417(a)(1)(F) of the General Education Provisions Act is amended by inserting immediately before the period at the end thereof the following: ", including tabulations of available data to indicate the effectiveness of the programs and projects by the sex, race, and age, of its beneficiaries".

Mr. SIMON (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read, printed in the RECORD, and considered en bloc; and I ask unanimous consent that the second of these amendments be considered at this point, since it does basically the same thing as the other amendment to title IV.

The CHAIRMAN pro tempore (Mr. DE LA GARZA). Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. SIMON. Mr. Chairman, I will not take the full 5 minutes.

The amendment I am offering has grown out of an attempt on the part of some of us to try to determine really what is happening with our educational programs. This is an amendment to the General Education Provisions Act.

Originally I said that I would appreciate a tabulation on the basis of the impact of the programs, on the basis of sex, race, age, and handicap. I have been advised by the Office of Education that it is unrealistic and very expensive to include the handicapped, so very reluctantly I have not included that.

What we have said is that where there is available data that we would like to have that data compiled.

I understand that the gentleman from Michigan may have an objection or a point of order to the consideration of this amendment. I understand that, and if the gentleman raises that point of order, I will withdraw the amendment, but I want it in the record. I would like the new Department of Education to understand that it is the sentiment of this House that where that data is available, that it be compiled and we know really the impact of these programs.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to my colleague, the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, I am embarrassed to admit that the time for me to raise a point of order has passed, so I will not raise a point of order and I really have no objection to the amendment.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Chairman, I think this is a good amendment. We accept it.

Mr. FORD of Michigan. Mr. Chairman, I should say to the gentleman that I will raise a point of order against similar amendments. I just was distracted and did not do it against this one.

Mr. SIMON. Mr. Chairman, I thank my colleagues.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Illinois (Mr. SIMON).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: Page 95, after line 16, insert the following new subsection:

(d) Section 428(a)(2) of the Act is amended by adding at the end thereof the following new subparagraph:

"(C)(i) A student shall qualify for a portion of an interest payment under paragraph (1) if such student's adjusted family income at the time of execution of the note or written agreement evidencing such loan—

"(I) is less than $40,000; or

"(II) is equal to or greater than $40,000 and the eligible institution has provided the lender with a statement evidencing a determination of need and recommending a loan in the amount of such need.

"(ii) For purposes of this subparagraph, the adjusted family income of a student shall be determined pursuant to regulations of the Commissioner in effect at the time of execution of the note or written agreement evidencing the loan. Such regulation shall provide for taking into account such factors, including family size, as the Commissioner deems appropriate. In the absence of fraud by the lender, such determination of the need of a student under this subparagraph shall be final insofar as it concerns the obligation of the Commissioner to pay the holder of a loan a portion of the interest on the loan.".

Mr. ERLENBORN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

☐ 1250

Mr. ERLENBORN. Mr. Chairman, this amendment has to do with the guaranteed student loan program. Let me just very briefly recall the history of the family income limitation on the in-school subsidy and the grace period interest subsidy for the guaranteed student loan program.

Prior to 1976, before the 1976 Education Act amendments were adopted, only students from families with adjusted gross incomes of $15,000 or less were eligible for in-school or grace period interest subsidies. The 1976 Education Act amendments increased the family adjusted gross income ceiling to $25,000.

The Middle Income Student Assistance Act enacted last year removed the income ceiling completely in spite of the opposition of the Carter administration.

My amendment would reinstate a ceiling at the level of $40,000. I offered such an amendment to the Middle Income Student Assistance Act last year, and unfortunately it was not adopted.

But even with my amendment, we should remember that between the years, 1976 and the current time, which is a

3-year period, we will have increased the adjusted family income from $15,000 to $40,000. And, by the way, an adjusted family gross income of $40,000 relates generally, depending on family circumstances, to actual total gross income of $48,000. So those are relatively high middle income families that we are talking about.

What impact would the imposition of this ceiling have? It is difficult to say because, along with the enactment of the Middle Income Student Assistance Act, there was also a change in the practice of finding out what the family income was for those students who were applying for the guaranteed student loans. What we can tell the Members is that in the last year since the enactment of that act there is a 30- to 40-percent increase in the gross volume of guaranteed student loans.

Not all of that is attributable to the ceiling, but there has been mass circulation of information through periodicals—mostly periodicals such as the Wall Street Journal, Business Week, Forbes, Money, and so forth—mass distribution of the information about how wise high income families are taking advantage of the free interest loan or the guaranteed student loan.

Earlier I sent out a "Dear Colleague" letter that spelled out a scenario about how a family could have a student borrow the $2,500 each year. The student would then pay his tuition or part of his tuition with that loan, and the parent could then make a gift of $2,500 to the student, who could invest in a money market certificate and earn something today in the neighborhood of 12 percent-plus on money that he has borrowed at no cost at all to the student or his family.

That just does not make good social sense, and it just does not make good fiscal sense. We have a limited number of dollars available. Sometimes this body acts as though it does not understand that there is a limit on how much of the Federal taxpayer's money we can spend. But there are limits, and those dollars that we have should not be directed to giving free money to high income families to use for investment purposes. That is what is happening today to a great extent.

Nor does it make good social sense for us to make these high income families eligible for these guaranteed student loans because there is a limit as to how much money can be loaned by financial institutions. The much more fiscally and financially sophisticated high income families, those with the best connections with financial institutions, are the ones who are most likely to get these loans, and that means that, when there is a limit to how much can be loaned out, the lower middle income families and middle income families that really need this money for education purposes are less likely to get the loans that they need.

So for the reason of making good fiscal and social sense, I would hope that the Members would agree with me to reestablish an adjusted gross family income limit on the eligibility for subsidized loans.

We should understand that regardless of income, high-income families will still be eligible for guaranteed loans. They will still be subsidized because the maximum interest rate will be 7 percent. Seven percent today has to be a subsidized loan. As a matter of fact, the high income families, even under that scenario, will be able to get cheap money at 7 percent and reinvest it at the higher rates of interest that are now available. But why we should give them totally free money and thereby deny the needs of middle income, lower middle income, and lower income students for the money they really need for educational purposes really escapes me.

So, Mr. Chairman, I would hope the Members will support this amendment because it makes good sense, as well as dollars.

Mr. FORD of Michigan. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is a slightly modified version of the discussion that we have had on the floor before. We had the discussion first, when the Middle Income Student Assistance Act was being passed in 1978, when the gentleman from Illinois (Mr. ERLENBORN) and I debated it very fully. I will not try to bore the House by repeating all of the brilliant responses I made to the gentleman's erroneous assertions at that time.

To put it plainly and simply, this would return us to the requirement that everyone who applied to their bank or their credit union or to any other lending agency for a loan, regardless of income, would have to walk in with all of the paperwork necessary to verify income, first to determine if they were eligible to apply for the loan.

When we were considering the Middle Income Student Assistance Act in 1978, the Senator from New York (Mr. JAVITS) pointed out that the proposed $40,000 cap which the gentleman would now insert in the law would leave such a small group of people uncovered that we would probably spend more money on the paperwork involved to determine who qualified than we would save by not giving the guaranteed loans to the few additional people whom we added to the population of eligible borrowers.

We do not know to what extent people from families of incomes over $40,000 are actually utilizing this program. We do know that since we have taken the income cap off, young people who have been qualified for these loans for years but who were afraid to apply and be rejected, are now receiving these loans.

It is true that this year there is an increase in the number of guaranteed student loans. But it is not Federal money that we lend out in guaranteed student loans; it is private money that we lend out in guaranteed student loans. All we do is guarantee the repayment of the loan and subsidize the interest payment.

These private lenders have been objecting in the past to the fact that there is too much paperwork involved in processing guaranteed student loans. We have eliminated the most onerous part of that paperwork. As a result we have used that, along with some other changes we have made, to coax banks that heretofore were not lending money to students to come into the lending business, to come into this market. We think there is every reason to believe that there is just as much increase in the number of student loans this year because of the additional access that people from middle income and low income families have to banks that heretofore were not lending money but are lending it now because of the changes we made than there is from any other cause.

I think it would be a very definite step backward to once again put an arbitrary ceiling in now. This is a 5-year bill, and I would suggest that at the present rate, while $40,000 might look like the appropriate figure, I suspect that somebody is going to come along later and suggest that it ought to be indexed, and it will be $60,000 at some future time.

The plain fact is that we promised the middle income families of this country that we were going to respond to their concerns without doing so at the expense of the low-income students for whom we have a grant program. This program does not take a nickel away from low-income students. If anything, it holds the middle-income student hostage for greater accessibility to loans by low-income students. There is no benefit to have the right to a guaranteed student loan if one lives in a part of the country where the bankers will not make the loans. If we tell the bankers they have to go back to what they were doing 10 years ago, they will quit making the loans.

Mr. Chairman, this is working very well. I do not think we should tamper with it.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I think, as the gentleman correctly pointed out, this is a replay of a recorded vote and a replay of the debate and colloquy we had last fall on this bill.

□ 1300

I think I pointed out then, as I point out now, that over the years there have not been, I do not suppose, more than two or three times that my colleagues and I have disagreed.

The CHAIRMAN pro tempore (Mr. DE LA GARZA). The time of the gentleman from Michigan (Mr. FORD) has expired.

(On request of Mr. ASHBROOK and by unanimous consent, Mr. FORD of Michigan was allowed to proceed for 3 additional minutes.)

Mr. ASHBROOK. Mr. Chairman, if my colleague will further yield, there have not been many times over the years that I have disagreed with my very able friend, the gentleman from Illinois, but I have to say, candidly, this is one of them. I know when I went home last fall and I explained the 1978 act, I got a more positive response to the efforts of this Congress to remove the paperwork burden. And it even goes further than paperwork, I would say to my colleague, the gentleman from Michigan.

We are always talking about the poor, middle-class American and how they have to appear before Uncle Sam prostrate, with their hat out, asking for something. And to restore some dignity and some privacy to their affairs, to where they do not have to walk in, lay everything down, their income, this moves in the direction most of us talk about when we are talking about the problems of dealing with the Federal Government.

So, yes, there may be a few areas where a few people take advantage; but think of the 98 percent of the American families who do not have to lay prostrate before the Government, baring their financial lives in order to get a student loan. To me, that far outweighs any problem that might come from those few people who, as in every case, might take advantage of a meritorious program. It is for that particular reason that I reluctantly—reluctantly, I say, because very rarely do my friend and I disagree—oppose this amendment, as I did last fall, and I hope we do what we did last fall, vote it down.

Mr. BIAGGI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I share the sentiments of the gentleman on the other side of the aisle, the gentleman from Ohio (Mr. ASHBROOK), a member of the Committee on Education and Labor, as well as that of the chairman. As an original cosponsor of the Middle Income Student Assistance Act last year, we went through all of these positions. There were extensive debates and discussions in connection with this very particular issue.

If I recall correctly, we had a joint session with the Senate, and it was the senior Senator from New York (Mr. JAVITS), who dealt with the issue. The argument was made, "Why provide the rich with the opportunity?" Rich is relative. And philosophically there might be a constituency for that thinking. But on balance, using commonsense and a practical assessment of the situation, which is what the senior Senator did, he said it would not be worth all of the moneys that would be required to process all of these applications and all of the paperwork, in addition to adding more to the redtape jungle that we all abhor. As a question of dollars and cents, it made no sense to eliminate the cap and provide the situation in which we find ourselves today.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Illinois.

Mr. ERLENBORN. I thank the gentleman for yielding.

Mr. Chairman, I have had this point researched. As far as the administrative cost to the Federal Government is concerned, the amount is zero, whether we have a cap or not. The administrative cost to the lending institution is approximately $1 million. The savings in interest subsidy is in excess of $14 million. So the argument is fallacious.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, the gentleman misses the point. It was not the Federal Government that was complaining about the redtape that the bankers have to go through; it was the bankers who were complaining about the costs to them of doing all of this paperwork.

Of course, it did not cost the Government anything. Most of the regulations we put out do not cost the Government anything. But the American people are getting tired of what it costs them.

I have heard the gentleman from Illinois on this floor time and time again, particularly in the field of OSHA, railing against the regulations that we put out that cause American citizens to spend their money complying with what they consider to be useless and vain Federal requirements.

This is not put forth from this side as a saving in Federal dollars; it is a saving in the hassle that the students, the students' parents, and the lending institution, have had to go through in the past. That is what we are trying to eliminate.

Mr. BIAGGI. Mr. Chairman, I do not recall when the bureaucrats of this Nation have complained about the redtape jungle. It seems to me that they are responsible for most of it and flourish on its enlargement.

The point that the chairman makes is a critical point and certainly significant and obviously reflected the intention of the senior Senator from New York.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding.

Mr. Chairman, even more than that, I say to my colleague, it is the parent, the student, the applicant for the loan who is complaining. They are the ones who have to walk in, fill out the papers, bare their financial life. I know personally of many who just said, "I am not going to do it, there will be no loans for my son or daughter. Even though they need it, I am not going to go through that."

It is not a question of saving money. We talk about invasion of privacy, we talk about making the taxpayer, particularly the middle-income taxpayer, go through this rigorous effort to get a Federal loan. This amendment would put us right back in that position. I am more concerned about that than the million dollars or $10 million.

Mr. BIAGGI. Mr. Chairman, I think we have made a bargain with the middle-income people last year. We stated a position of the Congress and the Government. We produced this Middle Income Student Assistance Act. That was in response to the hue and cry that emanated from the American people who had been neglected from legislative considerations. Here we are, less than 1 year after its enactment, trying to erode the benefit that we granted.

I would also like to go further. My friend, the gentleman from Illinois (Mr. ERLENBERN), stated that it would diminish the sums of money provided for those in the lower income bracket. That does not hold true. It does not hold true. The argument is a poor one.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Illinois.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. BIAGGI) has expired.

(On request of Mr. ERLENBORN and by unanimous consent, Mr. BIAGGI was allowed to proceed for 1 additional minute.)

Mr. ERLENBORN. I thank the gentleman for yielding.

Mr. Chairman, first of all, I have the feeling that my colleague, the gentleman from Ohio, would be with me if he understood the program. He talked about these people not being able to get the loans. From the inception of the guaranteed student loan program, everyone, regardless of income, was entitled to a guaranteed student loan, and they were entitled to have the interest subsidized to the extent that current interest was in excess of 7 percent. So everybody is entitled, and they do not save any paperwork in getting a guaranteed loan as a result of lifting the ceiling.

The question is the inschool subsidy where Uncle Sam pays the entire cost of the interest for the time that the student is in school and for a year thereafter.

In answer to the gentleman's assertion, the only way you can say that this does not take from the ability of the lower-income students is to say that there is an unlimited supply of money available from financial institutions for this program. We know from experience that that is not true. We have had one crisis after another in this program that we have had to meet, just to see that money would be made available.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I merely take this time to respond to my friend, the gentleman from Illinois. The point I thought I was making is that there is no guaranteed loan for the person who does not apply for the loan, and the reason for not applying for the loan is the burdensome requirement of filing papers, one, and two, of baring their financial resources, which many do not want to do. That is precisely the type of person we are talking about. There is no loan for that person if they do not apply.

I think the basic reason for the defeat of the amendment is to make sure that we do not tell the average American that they have to come before the Government hat in hand in order to get a guaranteed loan.

Mr. MOTTL. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Ohio.

Mr. MOTTL. Mr. Chairman, I would like to compliment my colleague, the gentleman from Ohio, and also the gentleman from Michigan, as well as the gentleman from New York.

It was my amendment, when I sat on the Higher Education Committee—it was amended by Father Cornell at that time—that took off the cap.

I think the program is working well. On behalf of the Suburban Caucus—of which I am cochairman and which represents middle-income Americans—I would like to say that this is one program middle-income Americans can make good use of.

So I want to join with my colleague, the gentleman from Ohio, in his rationale and associate myself with his remarks and, hopefully, this amendment will be resoundingly defeated.

Mr. ASHBROOK. Mr. Chairman, I will say to my colleague, the gentleman from Ohio, and in all fairness to my colleague, the gentleman from Illinois, that if he were to come out to Parma, Ohio, he would find street after street full of good, hard-working Americans we are talking about, the kind who do not want to go into an institution and bare their financial life in order to get a loan for their son and daughter. That is precisely who we are talking about.

□ 1320

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken; and on a division (demanded by Mr. ERLENBORN) there were—ayes 12, noes 25.

So the amendment was rejected.

The CHAIRMAN pro tempore. Are there any further amendments to title IV?

AMENDMENTS OFFERED BY MR. TAUKE

Mr. TAUKE. Mr. Chairman, I offer two amendments and ask unanimous consent that they be considered en bloc.

The CHAIRMAN pro tempore. Are both amendments to title IV?

Mr. TAUKE. Yes, Mr. Chairman.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. TAUKE: Page 89, after line 14, insert the following new subsection (and redesignate the succeeding subsections accordingly):

(b) Section 428(d) of the Act is amended—

(1) by redesignating clauses (A) and (B) of paragraph (2) as clauses (i) and (ii), respectively;

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(3) by inserting "(1)" immediately after "(d)"; and

(4) by adding at the end thereof the following new paragraph:

"(2) No provision of any law of the United States or of any State (other than a statute applicable principally to such State's student loan insurance program) which prohibits or restricts the attachment or garnishment of wages, salaries, or commissions under the control of an employer or any other person in order to enforce a money judgment for the repayment of a loan shall apply if—

"(A) such judgment is obtained by the United States; and

"(B) such loan is insured (i) by the United States under this part, or (ii) by a State or nonprofit private institution or organization under a program covered by an agreement made pursuant to subsection (b) of this section.".

Page 114, after line 11 insert the following new subsection:

(d) Section 467 of the Act is further amended by adding at the end thereof the following new subsection:

"(c) No provision of any law of the United States or of any State (other than a statute applicable principally to such State's student loan insurance program) which prohibits or restricts the attachment or garnishment of wages, salaries, or commissions under the control of an employer or any other person in order to enforce a money judgment for the repayment of a loan shall apply if such judgment is obtained by the United States for the purposes of collection under section 463(a)(5) or under subsection (a) of this section of a loan made under this part.".

Mr. TAUKE (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. TAUKE. Mr. Chairman, these amendments speak to the issue of student loan defaults.

The subcommittee, the committee, and I think the Members of the House, generally are all convinced that it is necessary to address the problem of student loan defaults, and the subcommittee and committee have already done an outstanding job.

Nevertheless, there is a provision of law which I think should be enacted which would enable the Justice Department and others to insure that these student loan defaults are pursued through the courts.

Right now we have an NDSL, National Direct Student Loan, default rate of 17 percent. We have a Guaranteed Student Loan Default rate of 8 percent. The provisions that we have in this bill will probably help lower these rates.

Nevertheless, we have a problem with some State laws that prevent the Justice Department from pursuing these student loan defaults through the court and to achieve repayment of those loans.

The problem is that some of the States have very restrictive limits on garnishment so that right now, although the Justice Department has over 22,000 student loan default cases before it, it is unable to reach a satisfactory conclusion on many of those cases.

For example, in my own State of Iowa, the maximum amount that can be garnished from any individual during the course of 1 year is $250.

Now, if you have a $5,000 student loan, $250 will not even pay the interest on that loan during the course of the year. So what we would like to do with this approach is to waive those garnishment laws in cases of student loan defaults. This probably will affect very few students. It will be used as a last resort. The judge would still look to the State to determine how much could be garnished during the year. But what it would do is give the Justice Department some leverage in negotiating with students to insure that they repay their student loans.

I believe it is a good amendment. It is a necessary one, and I hope that it will receive the support of the committee.

Mr. FORD of Michigan. Mr. Chairman, I rise in opposition to the amendments and move to strike the last word.

Mr. Chairman, I can understand the problem that the gentleman has with the garnishment laws of Iowa, but I do not believe that his arguments are sufficiently persuasive to have the Federal Government supercede the garnishment laws of all of the 50 States to reach his problem.

If I might personalize it, I understand the gentleman recently served in their legislature, and I assume he must have been interested in the problem of their less-than-adequate garnishment laws, from his point of view. I assume he must have pursued some remedy.

I would hope now with his influence as a Member of Congress from that State, that he will continue to pursue his remedy in Iowa.

Frankly, we do not want the Federal Government to tell us in Michigan what our garnishment laws should be. I do not think other States do either. I do not think that using the special category of a Government loan in the nature of a student loan is a sufficient reason to set this kind of a precedent. It is an important precedent.

We do not now in any other Federal law, I am aware of, interfere with the laws involving the relationships of debtors and creditors within States at the present time and understand that some of the creditors that we are talking about here are, in fact, State agencies. They are State institutions or State lending agencies. We are going to tell the several States what their laws should be with respect to the relationship between debtors and creditors in their State, not only private individuals dealing one with another, but individuals dealing as private citizens with a State agency.

I think that the amendment might very well solve the problem the gentleman has in Iowa, and I would be very happy to help him in any way I can by writing to my friends in Iowa to urge their legislature to deal with it. This is not the place for it.

I urge the defeat of the amendment.

The CHAIRMAN pro tempore. The question is on the amendments offered by the gentleman from Iowa (Mr. TAUKE).

The question was taken; and on a division (demanded by Mr. Tauke) there were—ayes 16, noes 21.

So the amendments were rejected.

☐ 1320

AMENDMENT OFFERED BY MR. MAGUIRE

Mr. MAGUIRE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Maguire: page 95, line 13, after D, insert the following:

"(E) For students who have been unable to obtain an insured loan through the lender referral process specified in (B), the agency in a State may undertake to make limited direct loans of last resort, so long as the total amount of such direct loans in any fiscal year does not exceed 20 per centum of the total amount of loans insured by such an agency in a State in the immediately preceding fiscal year, or $2,000,000, whichever is less.

"(F) Any agency, in a State, which provides a minimum of $500,000 of loans of last resort in accordance with (D), or which provides in accordance with (D) a volume of loans of last resort equal to a minimum of 5 per centum of the total amount of loans insured by such agency in the immediately preceding fiscal year, may, when it at any time holds funds owing to the Commissioner under section 428(c)(2)(D) or 428A(b)(5) because of payments made by borrowers on defaulted loans reinsured by the Commissioner, before paying such funds to the Commissioner, deduct from such payment an amount equal to all or part of the funds that agency is eligible to receive (to the extent such funds are appropriated)—

"(1) for payment of reserve fund advances under section 422(c);

"(2) for payment of administrative costs under section 428(f), to extent applicable; or

"(3) for payment of Federal reinsurance obligations under section 428(c)."

Line 14: Change "(E)" to "(G)".

Mr. MAGUIRE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. MAGUIRE. Mr. Chairman, at the outset I would like to take a moment to compliment Chairman Ford and the members of the committee, both majority and minority members, on the work that they have done on this very important legislation. I have been active myself in developing legislative proposals relating to student loan programs, and I am delighted that the committee has agreed on a number of important new features in this reauthorization.

First, there is an income sensitivity provision with respect to "Sally Mae" lending. It is at least a beginning on the notion that there should be income contingency provisions that allow flexibility in repayment.

The bill before us also includes a provision allowing State agencies to provide a lender referral service, an amendment that was offered by our colleague Mr. Petri, which is now included in the bill, and I think very wisely so.

Also, of course, there is provision to publish the names of those in default, which is an excellent provision, one we have in the State of New Jersey and which I think should be universal.

The bill as a whole strengthens the role of State agencies and provides them more flexibility than we have had to date.

The amendment, which I am now offering, would encourage these State agencies to provide loans of last resort to students who are otherwise unable to obtain guaranteed loans through banks. In spite of a provision that "Sally Mae" can be a lender of last resort, there may still be situations within States where, although there is not a general capital shortage, there may nevertheless be a spot shortage which affects adversely the ability of individual students or groups of students to obtain loans.

My amendment is designed to put State agencies in a better position to deal with this type of shortage. It rounds out and gives fuller play to the increased role the committee obviously intended the State agencies to have and, of course, the lender of last resort provision for State agencies is the natural complement to the lender referral service for the State agencies, which is already included in the bill.

The amendment would provide that, after trying to obtain for a student the services of the bank, if no lender has yet been found, the State agency can jump into the breach. This is what my amendment would facilitate. The State agencies to be precise about this, already have the right to do this, to provide loans of last resort. The difficulty is that many of them have not felt inclined to do that, and some others have tried to do that by raising revenues through bonding, which has a whole series of problems.

My amendment would give the States an incentive to make limited loans of last resort by allowing them to withhold the money they have collected on loans in default to the Federal Government in amounts that the Federal Government would have to be remitting to them anyway for administrative, reinsurance, and reserve fund payments under the existing program.

The amendment, would therefore, reduce the hassle and delays that go administratively into the process of getting these payments back from the Federal Government now. We would be giving the State agencies a liquidity reward—but no more Federal payments—for being a lender of last resort, encouraging them to do that when it was needed.

Of course, a secondary, side benefit of this would be that the States would have an added incentive to actually collect on the defaults, because that would be money that they could immediately make use of with respect to lending as a last resort where banks were unable to do so.

It may be pointed out that "Sally Mae" presently under the bill can move in at the Governor's request. I would suggest that is a somewhat ponderous procedure. The bill does not give specific standards for when that would be an appropriate thing to do, and it is not going to give the kind of flexibility that State agencies might have and I think should have, and which my amendment would provide them.

Also, there are difficulties with revenue bond issues.

The CHAIRMAN pro tempore. The time of the gentleman from New Jersey has expired.

(By unanimous consent Mr. Maguire was allowed to proceed for 1 additional minute.)

Mr. MAGUIRE. The State agencies who raises significant amounts of money in revenue bonds—for example, North Dakota recently had a bond issue of $77 million—do not really have the kind of accountability with respect to how those funds are spent that I think we would like to have here. And it is a torturous procedure at best to go the revenue bond route.

So my provision is a modest one which says let us let State agencies use this money which is theirs anyway at an earlier stage in order to facilitate lending to students that might not otherwise be able to get loans. It costs no more money, does not cost any more money at all. It fits well with the lender referral provisions already in the bill and in strengthening the role of State agencies.

I would hope we might find that the amendment was acceptable.

Mr. FORD of Michigan. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this part of the legislation that the gentleman seeks to amend is probably the most complex program in all of the student assistance that we have to deal with. It is extremely difficult for people who have worked with this legislation for years to try to relate one part to another. As the gentleman from Illinois said a little while ago, even between the closest of friends with many years of work on the legislation, there are times when we have difficulty in perceiving the effect of proposed changes in the same way.

Frankly, we do not know what this amendment would do. We did not discuss this kind of an initiative at any time during the hearings which had some 269 witnesses and 35 days. None of the education organizations, some 61 who have commented on this, have dealt specifically with this approach.

I am left really unable to know what the impact of the legislation would be in the adoption of the gentleman's amendment.

I understand that a similar provision is in the bill being considered in the other body in Senator Williams' committee, and that they are going to consider this proposal specifically in hearings. In the event they are able to work something out, I assume we would then meet that in conference and we would be able to deal with it.

Trying to legislate at this point, with the uncertainty we have with respect to how this amendment would impact on the legislation, would, I am afraid, be very irresponsible. I am also not persuaded that we need it. I am sort of taking the position this is a program that has enough trouble, and if it ain't broken, don't fix it.

I have difficulty seeing how this improves the situation in the gentleman's State or mine, because, as a matter of fact, his State of New Jersey and my State of Michigan and many other major States are already acting as lenders of last resort. I do not see how this is going to encourage them to do it. I do see, however, where on its face it appears it is going to give us some Federal money for doing that which we are already doing with State money, and as much as I would like to have the windfall for my State that that might produce, I do not think, with the scarce dollars we are dealing with, it is a wise thing to do.

□ 1330

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, I thank the gentleman for yielding. I really think it is important to clear up a couple of points.

I have checked with Senator WILLIAMS, and the bill that is on the Senate side does not include this provision. Therefore, if we are going to have the ability to deal with it in conference, it is important that it be included on this side.

Mr. FORD of Michigan. May I reclaim my time? Let me say that I do not feel any urgency to deal with it in conference. I do not see that it does anybody any good. I am willing to attempt, if the gentleman's Senator puts it in the bill over there, that I will go—as I think the ranking minority member will—to conference and attempt to address a full consideration of it. I do not think the gentleman or I understand it well enough to tell our colleagues how to vote today.

Therefore, as a responsible chairman I have to urge people to vote no.

Mr. MAGUIRE. If the gentleman will yield further for a moment on the other point, it may or may not be the case that we feel free to vote on it; Members will have to make their own judgment, but I think we should have a complete understanding of the amendment.

One of the points is that it does not involve additional Federal funds. These are dollars that would be remitted to the States in any case, and all that is happening is that the States are getting the use of those dollars at a somewhat earlier point in time. So, I stress that this does not involve any increased cost to the Federal Government or to the taxpayers.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Chairman, the gentleman from New Jersey has made a very significant contribution to this legislation, and many of the provisions that are in it are his proposals, as he knows. This one, I think, as well deserves our careful consideration. I would not like to pass judgment on it at this moment.

Some of the other proposals the gentleman has made have proven to be meritorious and are in the bill. I would hope that we would have an opportunity to look at this further in conference, and that the gentleman's Senator or someone in that body will make certain that we have that opportunity.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New Jersey (Mr. MAGUIRE).

The amendment was rejected.

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: Page 115, after line 7, insert the following new section:

INTEREST RATE INCREASE

SEC. 436. Section 464(c)(1)(D) of the Act is amended by striking out "shall provide that the loan shall bear interest, on the unpaid balance of the loan, at the rate of 3 per centum per annum" and inserting in lieu thereof "shall provide, for a loan issued prior to October 1, 1980, that such loan shall bear interest, on the unpaid balance, at the rate of 3 per centum per annum, and shall provide, for a loan issued on or after October 1, 1980, that such loan shall bear interest, on the unpaid balance, at the rate of 7 per centum per annum".

Mr. ERLENBORN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ERLENBORN. Mr. Chairman, the first of our student loan programs, and one of the very first Federal aid to education programs, was the national defense student loan program. That now has been recast and is called the national direct student loan program, but it still has the same set of initials.

At the time when that program was adopted in 1958, the current rate of 3-percent interest on the loans was established, and it has never been changed. At the time that rate was established, the Treasury rates were 3.3 percent. It is really kind of fun to go back to the days when we could borrow money at that rate. Home mortgages were 5 percent. Of course, today home mortgages are up in the range of 14 or 15 percent, and the Federal Government is paying in excess of 12 or 13 percent for borrowings that they are required to make.

It seems to me that it is long past the time when we should reassess the rate of interest we charge on the NDSL.

Mr. Chairman, we have two loan programs, and without any particular rationale the one program has a 7-percent subsidized rate of interest, and the other a 3-percent subsidized rate of interest. I think the two programs ought to be the same. There is no reason that I have been convinced of that these two programs should bear different interest rates.

Now, Mr. Chairman, I am sensitive to the fact that the hour is late. According to the plans of the administration to complete this bill today, which I hope we can do, I will not take up any more time of the Committee, but instead ask that the Members support my amendment. If it passes overwhelmingly, we will not have to have a recorded vote and we can get this bill finished.

Mr. PERKINS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, a few moments ago when the gentleman from Illinois offered an amendment to the guaranteed student loan program it was defeated. In effect the House voted to continue existing benefits to middle-class students. Now we should take care of the poorer students—the poorest of the poor—by defeating this amendment. Almost half of the direct loans to full-time freshmen under the national direct student loan program in 1977 and 1978 were to students from families with incomes of under $12,000—I repeat—under $12,000. Eighty percent were from families with incomes of less than $20,000.

The national direct student loan program has been in operation since 1958. It is the first of our student aid programs, and millions of college students have benefited from the program. The interest rate has always been at 3 percent.

Somewhere along the line, I think that we should serve notice that interest rates should be lower in this country. They are at an intolerable rate today. I feel it would be unjustifiable to place this extra burden on the poorer college students of this country. The purpose of student aid is to help financially needy college students. This is not the time to place an additional burden on the poorest of the poor. They are the ones who get the NDSL loans; it is not the middle-income college students in the country who obtain these loans.

Through the years there have been a number of efforts to increase the interest rate charged low-income students on direct student loans. These efforts have always been rejected, and I urge my colleagues once again to reject this misdirected effort.

Testimony before our committee from students and student aid administrators was in strong opposition to raising the interest rate on that student loan program which serves low-income families. The U.S. Student Association in a letter to me expressing their strong opposition commented, "Many low-income students would suffer from this shift in costs from the Federal Government to the student."

The National Association of Student Financial Aid Administrators wrote, "Our association strongly opposes these modifications."

And finally the American Council on Education wrote on behalf of—

The American Association of Community and Junior Colleges;

The American Association of State Colleges and Universities;

The Association of Catholic Colleges and Universities;

The Association of Jesuit Colleges and Universities;

The National Association of Independent Colleges and Universities; and

The National Association of State Universities and Land-Grant Colleges.

They all urged support for the current 3 percent interest rate.

Mr. Chairman, I know of no one in the educational community—college administrators, students or parents—who supports the gentleman's amendment. And that is understandable because it seeks to take benefits away from students at the bottom on the income ladder.

Last year—and in this very bill before us today—student aid programs are liberalized for middle-income students. I just do not see how we can at the same time increase educational costs for low-income students as the gentleman proposes. These increased costs are substantial. If a student were to borrow $5,000 at 7 percent rather than 3 percent he or she would pay an additional $1,000 in interest charges.

In these inflationary times, which hit hardest at low-income families, we should not and we cannot pass on to them further increases in costs.

Finally, I want to make it abundantly clear to my colleagues that there would be very, very few Federal dollars saved by the gentleman's amendment. This amendment will not make a dent in the Federal budget. The Congressional Budget Office has advised me that virtually no savings would be achieved in the first 3 years by moving the interest rate from 3 to 7 percent.

What this amendment does is substantially increase the burden for a few low-income persons while resulting in no real cost savings to the Federal Government. I urge defeat of the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken; and on a division (demanded by Mr. ERLENBORN) there were—ayes 21; noes 33.

So the amendment was rejected.

□ 1340

AMENDMENT OFFERED BY MR. MICHEL

Mr. MICHEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MICHEL: Page 45, strike out line 10 and everything that follows through line 15 and insert in lieu thereof the following:

"(I) $1,800 for academic year 1980–1981,

"(II) $1,950 for academic year 1981–1982,

"(III) $2,100 for academic year 1982–1983,

"(IV) $2,250 for academic year 1983–1984,

"(V) $2,400 for academic years 1984–1985 and 1985–1986,

Page 46, strike out line 8 and everything that follows through line 19 and insert in lieu thereof the following:

"(I) 50 per centum of the cost of attendance (as defined under section 487(d)) at the institution at which the student is in attendance for that year, when the maximum grant is less than $1,950;

"(II) 54 per centum of such cost of attendance when the maximum basic grant is at least $1,950 but is less than $2,100;

"(III) 58 per centum of such cost of attendance when the maximum basic grant is at least $2,100 but is less than $2,250;

"(IV) 62 per centum of such cost of attendance when the maximum basic grant is at least $2,250 but is less than $2,400;

"(V) 66 per centum of such cost of attendance when the maximum basic grant is $2,400.

Mr. MICHEL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MICHEL. My colleagues do know that I happen to serve as the ranking Republican member on the Subcommittee on Appropriations that funds all these activities in the field of education, and that from time to time over a period of years I have been very critical of the fact that when we have an authorizing bill here on the floor of the House very few questions are raised about the dollar figures that seem to be pulled out of thin air by the authorizing committee. The result is that we have to go to the mat when we are appropriating funds, and are then accused of being miserly when we attempt to cut a few dollars here and there in order to stay within the overall budgetary framework.

Mr. Chairman, my amendment would increase the maximum grant level under the program from the present $1,800 to $1,950 in the academic year beginning in 1981; to $2,100 in 1982; to $2,250 in 1983 and to $2,400 for both 1984 and 1985.

The amendment would also increase the so-called half-cost limitation, which currently states that a student's basic grant may not exceed 50 percent of the cost of attendance. Under the amendment, that percentage would rise to 54 percent in 1981, 58 percent in 1982, 62 percent in 1983, and 66 percent in 1984.)

The basic effect of my amendment would be to strike an approximate midpoint between present funding levels for the basic grant program and the large increases contained in the committee bill.

For instance, according to the Congressional Budget Office just the first year cost increase alone in the bill would amount to a staggering $2.2 billion. The overall cost for the basic grant program would immediately jump to $5.4 billion, which is more than double the current funding level ($2.4 billion).

My amendment, by moderating the program expansion in the bill, would reduce the initial year cost by $818 million. It would, however, still provide a $1.4 billion increase over the current law level.

Over the 5-year duration of the bill, my amendment would reduce total increases in the bill by approximately $3.0 billion. This is still just a fraction of the $30 billion cumulative increase the bill provides, but it does represent at least some effort at moderation.

It is important to keep in mind that my amendment retains the so-called balance or compromise that has been worked out by the various educational organizations. It provides for yearly increases in the maximum grant level, as desired by the private colleges, and provides corresponding increases in the percentage of educational costs, as desired by the public institutions.

What I seek to do is reduce the amount of increase per year. I think the increases in my amendment are more in line with what the actual appropriation increases are likely to be.

I was also intending originally to remove the new provision in the bill which requires that the percentage of family income to be contributed toward educational costs, in determining eligibility for basic grants, be the same for independent students with dependents as for families with dependent students. Removing the provision, and thereby returning to current law, would reduce the cost increases in the bill by an additional $476 million.

In addition, I was planning to remove from the bill the so-called "triggers", which require that specific levels of appropriations be provided for other student aid programs before any funds can be provided for basic grants.

The only reason this bill requires a certain level of appropriations for the supplemental grant program, the work-study program, the direct loan program, and the State incentive grant program is simply that the Education and Labor Committee does not trust the Appropriations Committee, nor this House as a whole, to fund these programs on their own merits.

There is no rational basis for this lack of trust, particularly in view of the fact that every appropriation bill comes to the floor under an open rule, and any Member dissatisfied with the amounts in the bill can therefore offer amendments to change the figures.

The fact is that even if my amendment is adopted, this will still be a very expensive bill, and since it provides a long-term authorization, we really should have the flexibility to allocate funds among the programs in accord with the prevailing opinion of the time without having our hands tied. It may be that 3 or 4 years down the road, we will want to place increased emphasis on one program and less emphasis on another. The "triggers" in this bill would deny us that flexibility. When funds are hard to come by, we really cannot afford to be locked into arbitrary figures.

I have, however, not included these two provisions in the amendment in order to present something that may have a better chance of acceptance.

In conclusion, I need not remind you that we are experiencing a 13 percent annual inflation rate. We are also faced with a $40 billion budget deficit that could run as high as $50 billion according to some estimates. We have just passed a multibillion dollar low income fuel assistance program and are about to approve a multibillion dollar increase in welfare. A $2 billion increase in food stamps is in prospect, and we will be spending billions more on energy. And then this bill comes along and provides a first year increase of nearly $3 billion over current operating costs, and a total 5-year increase of almost $30 billion.

We simply have to apply the brakes somewhere. The money is just not there to undertake these multibillion dollar program expansions all over the lot.

HEW Secretary Harris has expressed strong concern over the high funding levels in this bill, and rightly so. My amendment would moderate these increases. It is a very reasonable approach, and I respectfully urge its adoption.

Mr. FORD of Michigan. Mr. Chairman, would the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. I have conferred with the gentleman from Alabama (Mr. BUCHANAN). The gentleman from Alabama has a substitute to the amendment of the gentleman from Illinois. If the gentleman would accept the Buchanan substitute which is actually the motion of the gentleman from Illinois with a little fine tuning, I think we could probably accept that and work together.

Mr. MICHEL. I had no idea there was a substitute in the offing, but I would say to the gentleman that I have discarded those two propositions I had originally planned to include, and am confining myself only to the basic grant maximums.

Mr. FORD of Michigan. If the gentleman would yield, it was the dropping of those two provisions that interested me in that kind of compromise with the gentleman. Perhaps if the gentleman would consider the substitute we might be able to settle this.

Mr. MICHEL. I thank the gentleman for alerting me to that fact.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Chairman, I would have mentioned my substitute to the gentleman in the well but I was not certain what we could do until this moment.

Mr. Chairman, my substitute would bring about a cost saving of $651 million which is a substantial part of $818 million which the gentleman would save. It would, however, permit 50,000 additional students to participate and it would help protect the consensus that was rather hard won in the education community pertaining to half-cost provisions.

It would alter the schedule similar to what the gentleman has done. As I indicated, it would save $651 million as against the $818 million.

Mr. MICHEL. Mr. Chairman, I think that is a suitable compromise.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I would like to say what my colleague from Illinois is trying to do I think is meritorious. Many of us were somewhat concerned. We put in the report, we sat down, we had a consensus bill and we are very frank to say that some of the parts added up to more than what we had expected. It is for a good cause. I think we all recognize that. I think the amendment offered by the gentleman from Illinois is reasonable and I say as a person who would support it, I think my colleague from Alabama has made a very good point. His amendment does not do a disservice to the amendment of the gentleman from Illinois. I would hope my colleague from Illinois would accept it.

Mr. MICHEL. I thank the gentleman. I do accept the proposed modification.

Mr. Chairman, I will yield back the balance of my time.

AMENDMENT OFFERED BY MR. BUCHANAN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. MICHEL

Mr. BUCHANAN. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. BUCHANAN as a substitute for the amendment offered by Mr. MICHEL: Page 45, strike out line 10 and everything that follows through line 15 and insert in lieu thereof the following:

"(I) $1,800 for academic year 1980–1981,
"(II) $1,980 for academic year 1981–1982,
"(III) $2,160 for academic year 1982–1983,
"(IV) $2,340 for academic year 1983–1984,
"(V) $2,520 for academic years 1984–1985 and 1985–1986.

Page 46, strike out line 8 and everything that follows through line 19 and insert in lieu thereof the following:

"(I) 50 per centum of the cost of attendance (as defined under section 487(d)) at the institution at which the student is in attendance for that year, when the maximum grant is less than $1,980;

"(II) 55 per centum of such cost of attendance when the maximum basic grant is at least $1,980 but is less than $2,160;

"(III) 60 per centum of such cost of attendance when the maximum basic grant is at least $2,160 but is less than $2,340;

"(IV) 65 per centum of such cost of attendance when the maximum basic grant is at least $2,340 but is less than $2,520;

"(V) 70 per centum of such cost of attendance when the maximum basic grant is $2,520.

Mr. FORD of Michigan (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. BUCHANAN. Mr. Chairman, I want to express my appreciation to my leader, the gentleman from Illinois, for his statesmanship in this matter. I do think this perfects his amendment and I appreciate his acceptance thereof.

Mr. MICHEL. In accordance with the points brought out in our earlier colloquy, I would certainly be happy to accept the gentleman's substitute for my amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Alabama (Mr. BUCHANAN) as a substitute for the amendment offered by the gentleman from Illinois (Mr. MICHEL).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment of the gentleman from Illinois (Mr. MICHEL), as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN pro tempore. Are there other amendments to title IV? If not, the Clerk will designate title V.

Title V reads as follows:

TITLE V—AMENDMENT AND EXTENSION OF TITLE V OF THE HIGHER EDUCATION ACT OF 1965

EXTENSION OF PROGRAMS

SEC. 501. (a) Section 511(b) of the Act is amended by striking out "and for the succeeding fiscal year" and inserting in lieu thereof the following: "and for each of the succeeding fiscal years ending prior to October 1, 1985".

(b) Section 531 of the Act is amended by striking out "and for the succeeding fiscal year" and inserting in lieu thereof the following: "and for each succeeding fiscal year ending prior to October 1, 1985".

TEACHER CORPS AMENDMENTS

SEC. 502. (a) Section 513(c)(2) of the Act is amended—

(1) by striking out "Not to exceed 5 per centum" and inserting in lieu thereof "Not to exceed 2 per centum"; and

(2) by striking out "Puerto Rico," each place it appears.

(b) Section 513(d) of the Act is amended by striking out "section 205(a)(2) of Public Law 874, Eighty-first Congress, as amended," and inserting in lieu thereof "section 130 of the Elementary and Secondary Education Act of 1965".

(c) Section 513(f) of the Act is amended by striking out "goal" and inserting in lieu thereof "the goal."

(d) Section 514(a)(2) of the Act is amended by striking out ", not to exceed $150 per plus $15 per week for each dependent".

TEACHER TRAINING PROGRAMS AMENDMENTS

SEC. 503. (a) Section 531 of the Act is amended by adding at the end thereof the following new sentence: "In the event that the sums appropriated in any fiscal year do not exceed $50,000,000, the Commissioner shall allocate grants under this part in such manner consistent with the other provisions of this part as will most nearly provide an equitable geographical distribution of grants throughout the States.".

(b) Section 532(a)(2) of the Act is amended—

(1) by striking out "local educational agency (or a combination of such agencies) which serve" and inserting in lieu thereof "local educational agency, a combination of such agencies, or an educational service agency which serves";

(2) by inserting "and in collaboration with one or more institutions of higher education which serve teachers" immediately after "experts as may be necessary";

(3) by inserting ", including the use of technology and telecommunications" immediately before the semicolon in subparagraph (A);

(4) by inserting ", testing," immediately after "curriculum development" in subparagraph (B).

(c) Section 532(b) of the Act is amended by inserting ", bilingual education," immediately after "special education".

(d) Section 532(c)(1) of the Acts is amended by striking out "desiring to receive a grant under this section" and inserting in lieu thereof ", or any institution or institutions of higher education, desiring to receive a grant to plan, establish, and operate teachers' centers,".

(e) Section 532(c)(2) is amended by striking out "which has submitted" and inserting in lieu thereof "or institution of higher education or both submitting".

(f) Section 532 of the Act is amended by striking out subsection (e), by redesignating subsection (f) as subsection (e).

(g) 533 of the Act is amended to read as follows:

"TRAINING FOR HIGHER EDUCATION PERSONNEL

"SEC. 533. (a) The Commissioner is authorized to make grants to schools of education for the purposes of—

"(1) developing model projects within schools of education to carry out improved inservice or support activities for practicing elementary or secondary school teachers;

"(2) achieving diversification and redirections of education programs for elementary and secondary school teachers in order to make maximum use of human resources in the fields of education and public service;

"(3) retraining faculty members of such schools of education to provide courses of study for training elementary and secondary school teachers to teach in programs of career education, education of the gifted and talented children, education of handicapped individuals, community education, adult education programs, earth sciences, and other related programs;

"(4) training and orientation projects for faculty members of schools of education designed to prepare the faculty to teach and train personnel to work in conjunction with personnel who carry out projects under the Comprehensive Employment and Training Act, under title VIII of this Act, relating to cooperative and training of individuals to prepare for the workplace; and

"(5) training educational personnel who will specialize in the implementation of the urban and environmental policies of the United States, and for other areas of critical need within education which are developing or are likely to develop as provided in section 465(b)(5) of the General Education Provisions Act.

"(b) The Commissioner is authorized to make grants to schools of education for the fiscal year 1981 and for each of the four succeeding years to carry out model projects for the purposes set forth in subsection (a). No grant may be made under this subsection unless an application is made to the Commissioner, at such time, in such manner, and containing or accompanied by such information as the Commissioner may reasonably require.

"(c)(1) The Commissioner is authorized to enter into agreements with associations or consortia of schools of education for planning programs designed to help member schools of the association or consortium to diversify and redirect programs and curricula of the member schools of education.

"(2)(A) The Commissioner shall develop criteria for determining the regions of the country in which associations and consortia of schools of education are to be established.

"(B) No association or consortium may receive a grant in excess of $200,000 in any fiscal year under the provisions of this section.

"(C) No cooperative agreement may be entered into under this section unless an application is submitted through the State education agency of the State in which the applicant is located. Each such State agency will review and approve the application to assure its consistency with the comprehensive plan mandated by sections 404(a)(12) and 522(2) of the Elementary and Secondary Education Act of 1965. Such application shall be submitted at such time, in such manner, and containing or accompanied by such other information as the Commissioner may reasonably require.

"(d) For purposes of this section, the term 'schools of education' means institutions of higher education, and administrative units of institutions of higher education, specializing in the training of individuals to serve as teachers, guidance and counseling personnel, administrative personnel, or other education specialists.".

EDUCATION PROFESSION DEVELOPMENT

SEC. 504. Title V of the Act is further amended by adding at the end thereof the following new part:

"PART C—COORDINATION OF EDUCATION PROFESSIONAL DEVELOPMENT

"FINDINGS

SEC. 541. The Congress finds that—

"(1) many Federal programs have been enacted to train and develop education professionals;

"(2) such programs make Federal funds available to States, local education agencies, colleges and universities, and other agencies;

"(3) such programs should be coordinated at the Federal level to avoid unnecessary duplication of effort; and

"(4) such programs should be responsive to State needs and priorities for education professional development.

"POLICY

"SEC. 542. Federal programs which support education professional development should be administered in a coordinated manner, and the activities authorized under such programs should have complementary purposes whenever possible in order to provide the most effective use of Federal funds.

"OFFICE OF EDUCATION PROFESSIONAL DEVELOPMENT

"SEC. 543. (a) There is hereby established with the Department of Education an Office of Education Professional Development (hereafter referred to as the 'Office'), the function of which is to review the operations of and to coordinate program activities among the various Federal education professional development programs within the Department of Education (hereafter referred to as the 'Department') to eliminate unnecessary duplication of effort.

"(b) The Office shall review on a biennial basis each education professional development program administered by the Department and shall—

"(1) identify inconsistencies in program policies and procedures;

"(2) identify overlap in program purpose and operations; and

"(3) coordinate program activities among the various Federal education professional development programs, and wherever necessary, make legislative recommendations to coordinate such programs.

"(c) The Secretary shall report biennially to the Congress on the findings and recommendations of the Office."

● **Mr. DRINAN.** Mr. Chairman, I rise in support of H.R. 5192, the Education Amendments of 1980. This bill reauthorizes and improves programs mandated by the Higher Education Act and other measures, and recalls the findings of President Truman's Commission on Higher Education in 1947:

> Only an informed, thoughtful, tolerant people can maintain a free society.

This legislation will strengthen our free society and will increase access to education for all citizens. It aims to improve the educational opportunities of adults who have been disadvantaged in obtaining postsecondary education, by marshaling the resources from a wide variety of institutions, including community and junior colleges, community-based educational organizations, business, industry, labor, and other public and private groups. If successfully implemented, the Education Amendments of 1980 might make education available to enough Americans of varying ages to scuttle the current definition of "college age."

I would like to note a few of the many praiseworthy provisions of the bill now before us. Eligibility for and availability of financial assistance through basic educational opportunity grants, supplemental educational opportunity grants, and college work-study and direct student loan programs is extended to students and families with a wider range of income and education goals.

HOME VALUE AND BEOG

I am particularly pleased that the Subcommittee on Postsecondary Education saw fit to incorporate into H.R. 5192 a bill I introduced, H.R. 272, to remove home value from determination of a student's eligibility for a basic educational opportunity grant (BEOG). Under the current program, a home is grouped with such asssets as savings, stocks, bonds and other investments in determining what a family can be expected to contribute toward the cost of higher education.

The purpose of my proposal was to increase fairness under the BEOG program. Since a home is a nonliquid asset, it should be distinguished from other assets which are a potential source of supplementary income. Congress recognized this distinction in 1976 when it removed home value from the eligibility formulas for supplemental security income (SSI), which is an entitlement program like BEOG.

Home prices have increased more than 60 percent since 1975 alone. This increase, however, has not given homeowners more income and does not mean that homeowners and their families are living in better dwellings. It would be unfair to cut BEOG awards to students whose families have had little, if any, control over the spiraling rise in home values. The rise has already brought higher property tax and insurance payments, and has been accompanied by more expensive maintenance and utility payments. But an increase in home value should not decrease a student's eligibility for BEOG's.

Two students with similar financial and housing situations can now be treated differently if their homes are located in different regions of the country, or even different neighborhoods of the same city. These variations in home value do not accurately reflect a student's ability to afford an education, and should not enter into the BEOG eligibility formula. This provision will help advance one stated objective of the BEOG program—"to treat all students in a consistent manner on a national basis."

FINANCIAL ASSISTANCE

H.R. 5192 recognizes the increasing cost of education by mandating higher BEOG awards. Students will be able to collect larger maximum grants which in turn can constitute a higher percentage of their education expenses. By the academic year 1985–86, students may receive up to $2,700 to cover as much as 75 percent of the cost of their education. Both the grant amount and percentage of coverage represent an increase of 50 percent over current limits. I welcome such a change which will eliminate the bias against lower income students enrolled in the least expensive colleges.

Supplemental educational opportunity grants, now available only to students who would otherwise be unable to afford college, would become available to all needy students. And while students now may not receive more than $1,500 in a year and $4,000 during the course of their studies, the former figure is increased to $2,000 and the latter limit is repealed.

Under the direct student loan programs, maximum loan limits per year and in all years combined are increased for graduate and undergraduate students. A parallel loan program for parents would be established and steps would be taken to improve the availability of loans by commercial lenders.

Increased funding for college work study is authorized. This important program allows students to pay a portion of their education costs through self help while attending school. I applaud the prohibition of payment under the program of subminimum wages to students. Minimum wages should be just that—minimum; there should be no subminimum. And since students are granted specific college work study awards, lower wages merely force students to work more and study less in order to earn their awards.

Finally, this bill eases the application process for the various programs and approaches to assist students and their families by providing for a single form and system of analyzing needs. I know that the financial aid we are reauthorizing will more than be repaid by the students of America after their ability to contribute to this country has been enhanced.

COLLEGE LIBRARIES

Briefly, Mr. Chairman, I wish to thank the Subcommittee on Postsecondary Education for recommending increased support for college libraries. I have always felt that they are at least as important as classrooms themselves. Not only do these repositories of knowledge provide resources to complement classroom learning, but furnish an opportunity to explore issues and subjects not discussed in class.

As an educator and legislator, I am convinced that education is one of the noblest functions of government. The Education Amendments of 1980 will help meet the aspirations for education by Americans of all ages. I urge my colleagues' support.●

● Mr. PURSELL. Mr. Chairman, the Education Amendments of 1979 (H.R. 5192) before us today, in part, authorizes a new part D of the Higher Education Act of 1965 that would setup a so-called national periodical center (NPC). Establishment of such a center has been a controversial issue both within and outside the library and information services community.

Because of critical questions raised by librarians, publishers and others, the National Commission on Libraries and Information Science (NCLIS) engaged Arthur D. Little, Inc. to study this issue and report back its findings and recommendations. That report, entitled "A Comparative Evaluation of Alternative Systems for the Provision of Effective Access to Periodical Literature," was presented to the Commission this month.

Because this information was not available to Congress when hearings were held on H.R. 5192 earlier this year, I ask that an executive summary, which accompanied the report, be inserted in the RECORD at this point.

EXECUTIVE SUMMARY

This is a report on a six-week project, intended to perform technical-economic analyses of three alternative means for providing access to the historical periodicals literature.

CONTEXT OF STUDY

The National Commission on Libraries and Information Science (NCLIS) has requested this study because of critical questions raised by librarians, publishers and other private sector participants, related to plans for a National Periodicals Center (NPC) under consideration by NCLIS. The current NCLIS concern with regard to an NPC has been focused on drafting of possible federal legislation for an NPC, following several years of studies and consideration by various library-related groups and committees.

Past studies leading up to the NPC concept were concerned mainly with the economics and service levels associated with Interlibrary Loan (ILL), and ILL-associated costs and problems faced by libraries in striving to meet their service objectives. The ILL system in traditional operation was shown to have serious problems associated with high cost, inefficiency, low performance and unreliability. To address these problems, a National Periodicals System (NPS), containing a National Periodicals Center (NPC) as a main component, was proposed as a federally-sponsored entity.

Of the design studies and documents concerned with NPS and NPC, two are of particular importance: the Green Book, "Effective Access to the Periodical Literature," proposing a National Program for improved access to periodicals, prepared in 1977 by an NCLIS Task Force on a National Periodicals System; and the Burgundy Book, the "NPC Technical Development Plan" prepared in 1978 by the Council on Library Resources, Inc. The Burgundy Book takes the Green Book at its point of departure, and considers the design of an NPC, as part of an NPS, to consist of a document-locating and order-fulfillment service that libraries could draw on to order photocopies of articles from periodicals, as an alternative to ILL. The approach is based on photocopying articles from a single centralized collection of 50,000 or more titles, comprising current and back issues of the periodicals most likely to contain articles asked for, in original paper or microform representation. The NPC would serve as a "second tier" for service provision, filling a gap with ILL as the main load-bearing first tier; referral ILL to special resource collections would serve as the third access tier in the NPS, basically to provide access to more esoteric materials. The NPC would displace some 2.7 million to 4.8 million ILL requests, after 4 or 5 years of operations. Publisher participation would be voluntary, and full copyright payments would be made. The Burgundy Book describes the proposed NPC in detail. Its purpose was not, however, to consider alternative approaches.

Since the time of publication of the Burgundy Book, the concept of what an NPC should consist of has been hotly contested, among librarians, publishers and various information industry participants. Radically different viewpoints have been forwarded, representing very different value systems seemingly in opposition. Many articles have been written on the topic, and it has been debated in different forums.

As part of this process, the concept of what an NPC should consist of has itself continued to evolve and today what it should consist of appears to mean different things to different people. To some, it means a single collection as in the Burgundy Book; to others it means a set of cooperating collections, again subsidized and linked by an access network; to others yet it may mean a switching mechanism, an access network linking private sector document suppliers (as well as new comprehensive collections) to user libraries.

Creation of an NPC is perceived as possibly threatening principal interests of and relationships among major stakeholder groups, including research libraries, publishers of periodicals and private-sector suppliers of back article copies. Recognizing a need for mutual interaction among the major stakeholders as a requirement for working through legislation that satisfies the needs of all parties, NCLIS has taken responsibility for creation of fora for stakeholder interaction. The current NPC committee, for example, has representation of the American Association of Publishers and the Information Industry Association, as well as of various library groups. NCLIS has also held open forum hearings on the topic.

Many questions have been raised in the course of these discussions, leading to NCLIS's desire to request the present study. These questions revolve around certain issue clusters:

Whether the Burgundy Book and the studies leading up to it have considered a sufficiently broad range of alternative systems to achieve the objectives identified there;

Whether the cost-effectiveness of the Burgundy Book (centralized collection) approach to an NPC has been sufficiently considered, compared to that of alternative systems;

Whether new technology and private market developments have adequately been taken into account in planning for an NPC; and

Whether possible long-term societal consequences and stakeholder realignments resulting from an NPC have been taken adequately into account.

PURPOSE OF OUR STUDY

The purpose of our study was to address the questions just listed, in as quantitative a framework as possible. To do this, we hypothesized and addressed three systems approaches to a National Periodicals System that could be pursued at this time.

The alternative means are:

A nonintervention approach (system A), which assumes events will be allowed to develop without introduction of federal legislation designed to subsidize or otherwise create an NPS or NPC;

Creation of a centralized single-collection NPC as a main component of an NPS, subsidized with federal funds (system B), along the general lines described in the Burgundy Book; and

Creation of a subsidized utility that offers requesting libraries access tools for identifying the location of periodicals articles, and performs switching of requests for article copies to multiple market-oriented, fee-charging supplier sources. This would be coupled with creation and operation of a dedicated NPC-type back-up collection for items not covered by market-oriented document suppliers (system C).

As part of the NCLIS committee, task force and other NPC-related stakeholder-interaction activities, a legislative drafting team has been hard at work for many months attempting to formulate draft legislation that reflects the interests of all of the stakeholders, and this has culminated in a July 19 final draft, which appears to have at least passive support of all the stakeholder groups involved.

Our sense is that, for the majority but not all of the participants associated with the NCLIS NPC committee activities, the wording and intention of the July 19 draft more reflects an approach along the lines of what we describe as system C than that of the earlier system B approach. Not all the stakeholders are equally disposed, however, and the draft legislation recently introduced in the House of Representatives is seen by some as more favoring a system B approach.

Our work involved studying dozens of reports, scholarly papers and documents, conducting visits and interviews with individual and groups of stakeholders, meeting with the NCLIS NPS Task Force, with an Information Industry Association Group convened to respond to the NPC proposal and, mainly, an internal analysis effort. In general, we found the previous studies and analyses we reviewed to be responsibly executed within their frameworks of consideration, well done and arriving at reasonable conclusions. Much effort has gone into them that commands respect. Their frameworks of consideration have been extremely narrow, however, and the main intended thrust of this study is to consider the NPS issue in a broader context.

The approaches we considered span a broad selection of possible alternatives. We have concluded that they are the three most logical alternatives to consider at present. There are important limiting considerations associated with them, however, deriving both from the external situation and from the short time frame of our own study.

First, the NPC approach we study in system B, the one outlined in the Burgundy Book, is no longer favored by many of its original supporters, who are now tending to an NPC based on a somewhat more decentralized set of smaller collections, along the line of our system C. The Burgundy Book, however, offers the only documented design approach to an NPC; also, our contract with NCLIS specifically requires consideration of it as an alternative.

Second, no futures study has been made of what the situation would be like if there were no NPS intervention (as is our system A case). All studies of NPS or NPC have tended to look only at the present and past environments of ILL. They have largely ignored the future implications of existing ILL automation efforts, the activities of the bibliographic utilities, the activities of the private sector document suppliers, and the possible impacts of new technologies on electronic document delivery. We have had, then, to create a scenario for such a future environment drawing on our background relating to technological developments and the library field. This scenario is limited by the scope and brief timing of our project effort.

Third, the approach of a subsidized switching network plus a dedicated back-up collection, sytem C, also has not been subject to a systematic design study or economic analysis. We have found it necessary, then, to analyze the performance of a hypothesized system which has not been designed in detail, and which could be created in a variety of different forms.

Our analysis is framed generally in terms of three sets of criteria:

Service-related criteria, ones having to do with the reliability and timeliness of response, completeness of coverage, preservation of materials, adequacy of finding tools, quality of access and other matters of importance to the library constituency served;

Cost and cost/benefit-related criteria, ones subject to quantitative modeling and analysis; and

Criteria having to do with social considerations and longer-term consequences.

The thrust of our study, given the preexisting situation and the limited timing and scope of effort available, has been to highlight the issues of most importance, provide a quantitative framework for viewing costs and benefits, and provide what guidance we can as to what can or should be done next.

We discuss the background and context of our study in additional detail in chapter I, and we expand on the definitions of the systems A, B, and C in chapter II. In chapter III we briefly cover the criteria elements used in our analysis effort. Chapter IV covers our quantitative modeling effort, and chapter V our qualitative considerations. Both chapters IV and V contain findings. We summarize and comment on only the most important of these findings in the remainder of this executive summary.

OVERALL FINDINGS

In summary, the time for a system B, a centralized NPC, has come—and it also appears to have gone. On the one hand, the original economic and level-of-service arguments showing the superiority of such a centralized NPC over ILL as it has been in the past are either becoming irrelevant or will have much less force in the future. The availability of periodical articles will be far improved over that historically experienced due to events separate from an NPC, and already well underway. On the other hand, a centralized NPC based on hard-copy paper or microforms will be prone to technological obsolescence shortly after it reaches full-scale operation in 5 to 8 years.

First. Despite high professional integrity, the collection of past studies leading to recommendations for an NPC have been conducted within a very narrow context. The studies mainly are oriented to the economics and operations of ILL and library operations in the past—rear-view analyses that do not apply to the world of 1985 and beyond. And 1985 is about the first date for a full-functioning NPC, given the (probably favorable) time scale anticipated in the Burgundy Book.

Second. The proponents of an NPC were correct; in the context of comparing ILL costs with NPC costs in the past or even the present, a centralized (System B) NPC appears to be a superb social investment. The introduction of on-line ILL technology promises to reduce the costs of this approach significantly, however, as well as improve its performance; this will largely undercut the economic benefits of System B (and of System C, to some extent) as compared with those of the non-intervention System A.

Third. The future will offer significantly improved capabilities for access to the periodicals literature, due to events already underway, regardless of whether action is taken with regard to a federally sponsored NPS or not. Improvements are to be expected in the geographical scope of ILL efforts, the reliability, responsiveness and timeliness of ILL activities, the distribution of ILL load among libraries, and the comprehensiveness of bibliographic and finding tools relating to periodicals. Improvements will be due to on-line ILL systems being provided by the bibliographic utilities like OCLC, better bibliographic access tools like CONSER, and initiatives of publishers and private sector document suppliers.

Fourth. We are sympathetic with the intention of those supporting the NPC concepts, to assist libraries moving into the present and future by relieving them of some of the burden of exhaustive collection development, to lower the costs and improve the effectiveness of ILL, and thus to serve patrons better. All three systems will tend to have this impact, however, and our sense is that the differential impact of system B (the centralized NPC approach) will be significantly less in the future than it would have been in the past.

Fifth. Whether System B produces net economic benefits or losses in terms of total direct costs is critically dependent on the volume it handles. At high volumes (5 million transactions per year), there is up to a $3 benefit to use of an NPC (system B) as compared to ILL (system A). At low volumes (under 2 million per year) NPC saves little more than $1 per transaction. These savings do not take the costs of the subsidy of NPC into account, however.

Sixth. If subsidy costs also are included when considering either a system B or system C NPC, then the NPC probably can be expected to cost more per transaction than the free-market system A approach except at high volumes.

Seventh. System C occupies a middle position between A and B for costs at high volumes, and is even more sensitive than system B to increase in per-transaction cost with decrease in volume of transactions.

Eighth. The volume of transactions that would pass through a system B—type NPC is vulnerable to two factors that are ill-understood at present: the degree to which publishers would indeed elect to place materials in NPC with a reasonable copyright fee, and the degree to which libraries would elect to use an NPC, given a high quality automated ILL system in competition with it. These remarks also are applicable to system C.

Ninth. While copyright payment appears to be a critical issue for stakeholders concerned with an NPS, total revenues accruable to publishers from the volumes anticipated for any version of a NPC are modest compared to their main revenues from subscriptions.

Tenth. Since most ILL transactions do not result in copyright payments and, by agreement, all NPC transactions will result in copyright payments, a centralized system B NPC would save money for libraries only if the savings due to increased economy of scale of operations (as compared with ILL) exceed the average copyright payment (now about $2 per item, according to the Copyright Clearance Center).

Eleventh. The subsidy anticipated to be required for system B is of the order of $26 million (and about $34 million if interest were charged). The value of this investment could deteriorate significantly in the later 1980's with the development of alternative electronic information storage and transmission means for periodicals articles.

Twelfth. It will be at best very expensive and probably not economically feasible to convert a paper or microform-based NPC collection (systems B or C) into the formats that will be used for electronic information delivery in the future. The one electronic information delivery option available to NPC, facsimile, will probably remain expensive, labor-intensive and not in major use. Thus, technology is apt to bypass and obsolete any NPS collection that might be built up at this point.

It can be tempting to think of first building a microform or paper-based collection (system B), and then planning to convert, as early as possible, to electronic distribution of new materials when publishers convert to electronic distribution means. This expectation may not be realistic, however, since the publishers will own and control the electronic data bases, as they do now in many instances, and they could not want to license use of these to NPC since their own survival in the future may rest on tight control of those data base resources.

Only a continuing process of exploration of mutual interests between publishers and library representatives can ensure long-term viability of an NPC of either type in an increasingly electronic information delivery environment. This points to an important possible long-term role for NCLIS, as well as to the necessity for embodiment of a balanced group of stakeholder representatives in the governance structure of an NPC.

Thirteenth. It is unclear to us at present whether system C is on the whole superior or inferior to system A, or whether some variant of system C might be superior. One might consider a subsidized utility without dedicated collections, for example. Choice among these requires greater clarity of analysis of both economic and policy issues associated with:

The likely information transfer environment of 1985–2000, and how user needs for materials now appearing in periodicals' articles are likely to be met, given the changes that must be expected not only in technology but also in business, leisure and the professions; and

The optimal design of a system C, intended to match the needs of that environment.

We suggest that these matters be studied thoroughly prior to any decision on a subsidized periodicals system.

Our overall view is that cost economies by themselves do not provide a rationale for adopting either system B or C, and that there are other criteria of greater importance.

There is a real question as to whether NPC volumes, for either systems B or C, would be sufficient to produce overall cost savings for libraries. The $26 million subsidy might be employed better by libraries for other purposes, including continuing to develop finding tools which will undergird any electronic location and delivery system for periodicals in the future.

The total impact of systems B or C, in terms of requests by users for single copies of periodicals articles, is not anticipated to be very great. Only 5 million of some 20 million ILL requests are anticipated to be displaced at most (in 1985), and there are another some 20 million or more single copies estimated to be obtained through reprints, photocopying within a library, and photocopying from private subscriptions. Thus, the whole domain of consideration of systems B or C is only a modest portion of the whole demand.

There are several unresolved critical issues, some involving the public-private interface, some involving copyright, some involving jeopardization of intellectual freedom, that far overshadow the monetary ones. Direct Federal involvement in information is a matter of over $20 billion; publisher revenues are comparable. The few million per year saved by libraries (or perhaps spent unnecessarily by the Government) are very small sums indeed compared to the critical issues involved.

$26 million would not be too great an investment to help obtain for libraries a firmer place in the mainstream—one they sought in part here through acquiring freedom to avoid the need to collect locally little-used periodicals. We are in a society in which information is one of our principal national resources. The library community's concern with the NPC derives from a sense of urgency about doing something to increase libraries' service orientation. The value of this thrust from within should not be lightly dismissed. Nor should the library profession allow the energy mobilized behind this initiative to be dispersed without identifying key steps to be taken now to realize its objectives collaboratively in the broader information community in the late eighties.●

● Mrs. CHISHOLM. Mr. Chairman, section 901 of title IX requires submmission of a report to Congress within 2 years on the financing of graduate study. I concur with Congressman BUCHANAN's amendment that the study focus on the financial and educational needs of students from disadvantaged backgrounds.

There is a tremendous need for continued research and study insofar as the needs of students from disadvantaged backgrounds are concerned. Although important gains have been made by these groups in recent years, statistics show that the representation of minorities and students from disadvantaged backgrounds in graduate and professional schools is very low.

Disadvantaged and minority students are underrepresented in most professional fields and receive only a small percentage of the doctoral degrees awarded each year in this country. For example, in 1974, blacks and minorities received only 3.2 percent of the 33,000 doctoral degrees awarded in the United States. This 3.2 percent is an astounding 45-percent increase over the number of doctoral degrees awarded to minorities the previous year.

For a number of minority and disadvantaged students from low income backgrounds, financial aid is a major barrier to obtaining undergraduate and professional degrees. Many of the Federal and State programs—loans, fellowships, and grants—are limited in scope and these students encounter difficulties not faced by wealthier students. In addition to the lack of finances, a lack of institutional support is another problem faced by these students.

Estimates for the dropout rate among minorities and other disadvantaged groups in higher education programs are phenomenally high. For Indians, the rate ranges from 79 to 93 percent. Indian students cite: The nature and quality of previous education, personal finances, institutional racism coupled with personal discrimination, the lack of persuasive role models, and cultural difference between the students and institutions as reasons for their high dropout rate. With this high dropout rate of Indian students, it is difficult to anticipate any larger number of Indian students reaching graduate or professional schools.

Hispanic groups who are underrepresented in graduate and professional schools have recommended that the graduate and professional opportunities program (GPOP) be expanded to include candidates for masters degrees. They have also asked that the criteria of "underrepresentativeness" be included to increase the numbers of Hispanics participating in the public service fellowship programs, the domestic mining program, and the CLEO program. The needs of these students should be explored in any study of the financial and educational needs of disadvantaged students at the graduate level.

Many reports indicate that the demand for Ph. D.'s and graduate degrees is decreasing, but this is not true for blacks and other minorities who hold such degrees. In fact, the demand exceeds the supply. No such oversupply for blacks or minorities is expected in the near future. In the areas of physical and natural sciences, where these groups are grossly underrepresented, there is still a very high demand for minorities with doctoral degrees.

The number of blacks enrolled in ABA approved law schools went from 3,516 in 1971 to 4,334 in 1974. Despite these figures, the dropout and attrition rate among black law school students between 1972 and 1974 was 52 percent. This attrition rate was prevalent not only at white schools of law, but also predominantly black law schools.

The numbers of blacks and minorities enrolled in medical schools are no more encouraging. From 1974–75, the number of blacks in medical schools was 1,106 and in 1975–76, the number was 1,036. From 1975–76, the number was up by 60 students but down from 71 the previous year.

Further research and reports on financing graduate education should help us determine ways of increasing and maintaining the numbers of black, low income, and minority students enrolled and graduating from doctoral programs and professional schools. I strongly support and encourage my colleagues to support this amendment.●

Mr. FORD of Michigan. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BRADEMAS) having assumed the chair, Mr. DE LA GARZA, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5192) to amend and extend the Higher Education Act of 1965, and for other purposes, had come to no resolution thereon.

APPOINTMENT OF CONFEREES ON H.R. 4440, TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1980

Mr. DUNCAN of Oregon. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R.4440) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1980, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

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The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon? The chair hears none and, without objection, appoints the following conferees: Messrs. DUNCAN of Oregon, STEED, BENJAMIN, LEHMAN, SABO, STEWART, BOLAND, WHITTEN, CONTE, EDWARDS of Alabama, MILLER of Ohio, and COUGHLIN.

There was no objection.

AUTHORIZING THE CLERK TO RECEIVE MESSAGES FROM SENATE AND THE SPEAKER TO SIGN ENROLLED SENATE BILL, NOTWITHSTANDING ADJOURNMENT

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Wednesday, November 7, 1979, the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign the enrolled Senate bill (S. 1905) if duly passed by the two Houses and found truly enrolled.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

CONFERENCE REPORT ON S. 1905, MILWAUKEE RAILROAD RESTRUCTURING ACT

Mr. STAGGERS submitted the following conference report and statement on the Senate bill (S. 1905) to provide for the orderly restructuring of the Milwaukee Railroad, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 96–583)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1905) to provide for the orderly restructuring of the Milwaukee Railroad, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this act may be cited as the "Milwaukee Railroad Restructuring Act".

CONGRESSIONAL FINDINGS

SEC. 2. (a) Congress hereby finds that—

(1) the severe operating losses and the deteriorating plant and equipment of the Milwaukee Railroad threaten to cause cessation of its operations in the near future;

(2) a cessation of operations by the Milwaukee Railroad would have serious repercussions on the economies of the States in which such railroad principally operates (the States of Washington, Montana, Idaho, North Dakota, South Dakota, Illinois, Iowa, Missouri, Michigan, Indiana, Minnesota, and Wisconsin);

(3) a cessation of operations of the Milwaukee Railroad would result in the loss of many thousands of jobs of railroad workers and other workers whose employment is dependent upon rail service over the lines presently operated by the Milwaukee Railroad;

(4) experienced railroad employees make a valuable contribution toward strengthening the railroad industry; and other railroads have the ability and willingness to employ displaced employees of the Milwaukee Railroad;

(5) the ownership by employees or by employees and shippers of part or all of the Milwaukee Railroad may be a valuable tool in reorganization and should be given serious consideration;

(6) cessation of essential transportation services by the Milwaukee Railroad would endanger the public welfare;

(7) cessation of such services is imminent; and

(8) there is no other practicable means of obtaining funds to meet payroll and other expenses necessary for continuation of services and reorganization of the Milwaukee Railroad.

(b) The Congress declares that emergency measures set forth in this Act must be taken to restructure the Milwaukee Railroad and to avoid the potential unemployment and damage to the economy of the region and of the Nation which a cessation of essential services by the Milwaukee Railroad would otherwise cause.

DEFINITIONS

SEC. 3. As used in this Act—

(1) the term "bankruptcy court" means the court having jurisdiction over the reorganization of the Milwaukee Railroad;

(2) the term "Board" means the Railroad Retirement Board;

(3) the term "Commission" means the Interstate Commerce Commission;

(4) the term "employee"—

(A) includes any employee of the Milwaukee Railroad who worked on a line of such railroad the sale of which became effective on October 1, 1979; but

(B) does not include any individual serving as president, vice-president, secretary, treasurer, comptroller, counsel, member of the board of directors, or any other person performing such functions;

(5) the term "Milwaukee Railroad" means the Chicago, Milwaukee, St. Paul and Pacific Railroad Company; and

(6) the term "restructured Milwaukee Railroad"—

(A) means the entity operating the lines of the Milwaukee Railroad after the 6-month period beginning on (i) the occurrence of an event described in section 22(b) of this Act, or (ii) April 1, 1980, whichever first occurs; but

(B) does not include (i) any line of the Milwaukee Railroad which is the subject of a proposed sale, transfer, or abandonment pending on the expiration of the 6-month period described in subparagraph (A) of this paragraph, or (ii) any entity formed pursuant to section 6 of this Act.

SALES AND TRANSFERS

SEC. 4. (a) The Milwaukee Railroad may negotiate and enter into agreements to sell, to another rail carrier or any other person, all or any portion of its rail properties used in railroad operations as of October 15, 1979. Such sale agreements may in no event become final and effective until the occurrence of an event described in section 22(b) of this Act, or April 1, 1980, whichever first occurs. In taking action under this subsection, the Milwaukee Railroad may consult with the Secretary of Transportation.

(b)(1) The Secretary of Transportation, under the authority of section 5(a)–(e) of the Department of Transportation Act, may develop plans, participate in negotiations, and recommend to the trustee proposals for the sale or transfer of any rail properties of the Milwaukee Railroad which are used in rail operations as of October 15, 1979. In taking action under this paragraph, the Secretary shall give preference to financially responsible persons, including governmental entities, negotiating for the purchase of any lines with the intent of providing common carrier service.

(2) Any sale or transfer proposal developed under paragraph (1) of this subsection shall be submitted to the bankruptcy court. Such a proposal may in no event become final or effective until the occurrence of an event described in section 22(b) of this Act, or April 1, 1980, whichever first occurs.

COURT APPROVED ABANDONMENTS AND SALES

SEC. 5. (a)(1) Upon the occurrence of an event described in section 22(b) of this Act, or on April 1, 1980, whichever first occurs, the bankruptcy court may authorize the abandonment of lines of the Milwaukee Railroad pursuant to section 1170 of title 11 of the United States Code. Pending the expiration of the time for appeal of an abandonment order or the determination of any such appeal, the bankruptcy court may authorize the termination of service on a line to be abandoned, and the order authorizing such termination may not be stayed. In authorizing any abandonment pursuant to this section, the court shall require the carrier to provide a fair arrangement at least as protective of the interests of employees as that required under section 11347 of title 49 of the United States Code.

(2) Prior to the date specified in paragraph (1) of this subsection, the bankruptcy court may hear and consider any request for the abandonment of lines of the Milwaukee Railroad, and may fix the time for the Commission's report on the request, but it may take final action authorizing such abandonment only in accordance with such paragraph (1).

(b)(1) Upon the occurrence of an event described in section 22(b) of this Act, or on April 1, 1980, whichever first occurs, the bankruptcy court may authorize the sale or transfer of a line of the Milwaukee Railroad to be used in continued rail operations, subject to the approval of the Commission under paragraph (2) of this subsection. In authorizing any such sale or transfer, the court shall provide a fair arrangement at least as protective of the interest of employees as that required under section 11347 of title 49 of the United States Code.

(2) The bankruptcy court may not authorize a sale or transfer pursuant to paragraph (1) of this subsection unless an appropriate application with respect to such sale or transfer is initiated with the Commission and, within such time as the court may fix, not exceeding 180 days, the Commission, with or without a hearing, as the Commission may determine, and with or without modification or condition, approves such application, or does not act on such application. Any action or order of the Commission approving, modifying, conditioning, or disapproving such application is subject to review by the court only under sections 706(2)(A), 706(2)(B), 706(2)(C), and 706(2)(D) of title 5 of the United States Code. An application may be initiated with the Commission prior to the date specified in paragraph (1) of this subsection.

(3) Pending review of an application by the Commission pursuant to paragraph (2) of this subsection, the bankruptcy court may, on a preliminary basis, authorize the sale or transfer of lines of the Milwaukee Railroad to another rail carrier. The court may permit the purchasing carrier to operate interim service as a common carrier over the lines to be purchased, without regard to section 10901 of title 49 of the United States Code. In operating such service, the purchasing carrier shall use employees of the Milwaukee Railroad to the extent necessary for the operation of such service. The bankruptcy court may take final action authorizing any such sale or transfer only in accordance with paragraph (1) of this subsection.

(c) Nothing in this section shall be deemed to affect the priorities or timing of payment of employee protection which might have existed in the absence of this Act.

EMPLOYEE OR EMPLOYEE-SHIPPER OWNERSHIP PLAN

SEC. 6. (a)(1) No later than December 1, 1979, an association composed of representatives of national railway labor organizations, employee coalitions, and shippers (or any combination of the foregoing) may submit to the Commission a single plan for converting all or a substantial part of the Milwaukee Railroad into an employee or employee-shipper owned company and a method for implementing such plan. The plan shall include a comprehensive evaluation of the prospects for the financial self-sustainability of the Milwaukee Railroad.

(2) The Commission shall, within 30 days after the date of submission of a plan under paragraph (1) of this subsection, approve the proposed plan if it finds that such plan is feasible. The finding of the Commission with respect to the feasibility of the plan shall be made pursuant to section 554 of title 5 of the United States Code.

(3) The Commission shall make a finding that the plan submitted under this section is feasible if it determines that—

(A) adequate public and private financing is available to the proponents of such plan;

(B) such plan is fair and equitable to the estate of the Milwaukee Railroad;

(C) implementation of such plan will occur by April 1, 1980;

(D) the railroad proposed to be operated under the plan can be operated on a self-sustaining basis; and

(E) the plan contains an assessment of all operating practices, and includes agreements by labor and management to make implementing changes designed to achieve labor productivity increases (which may include changes in work rules to increase productivity) consistent with safe operations and adequate service.

For purposes of the determinations under this paragraph, adequate financing shall include all sources of private funds, the probable value and priority of valid claims against the estate, and Federal, State, or local funds available under programs (in existence as of January 1, 1980) which are or will be available to the proponent is likely to obtain.

(b) If the Commission finds that the plan submitted under this section is feasible, it shall submit its finding to the bankruptcy court. Within 10 days after the date of such submission, the bankruptcy court shall, after a hearing, determine whether such plan is fair and equitable to the estate of the Milwaukee Railroad. The Commission's determination with respect to that issue shall be rebutted only by clear and convincing evidence.

(c) If the Commission finds that the plan is feasible and the bankruptcy court determines that the plan is fair and equitable to the estate of the Milwaukee Railroad, the proponents of such plan shall implement the plan no later than April 1, 1980.

(d) Except as provided in this section, the findings of the Commission with respect to the plan shall not be subject to review.

(e) (1) The trustee of the Milwaukee Railroad shall promptly provide to the person engaged in developing the employee or employee and shipper ownership plan under this section—

(A) its most recent reports on the physical condition of the railroad; and

(B) traffic, revenue, marketing, and other data necessary to determine the amount of the acquisition cost of the railroad or portion of the railroad that would be required to continue rail transportation over the railroad line.

(2) Information provided pursuant to this subsection shall be used only for purposes of preparing a plan and shall not be disclosed to any competitor or, unless necessary in connection with the preparation of the plan, to any customer of the Milwaukee Railroad.

EMERGENCY RAIL SERVICES ACT OF 1970

SEC. 7. (a) Subsection (a) of section 3 of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(a)) is amended by striking out "upon a finding" in the fifth sentence and all that follows in that subsection and inserting in lieu thereof a period.

(b) Section 3 of the Emergency Rail Services Act of 1970 (45 U.S.C. 662) is amended by inserting after subsection (b) the following new subsection:

"(c) The Secretary shall not guarantee any certificate under this section unless such certificate is treated as an expense of administration and receives the highest lien on the railroad's property and priority in payment under the Bankruptcy Act, except that this subsection shall not apply to certificates guaranteed for a railroad that is actively engaged in restructuring, as defined by the Secretary. For purposes of this subsection, the term "restructuring" includes an employee ownership plan or an employee-shipper ownership plan.".

(c) Section 3(e) of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(e)) is amended—

(1) by striking out "$125,000,000" and inserting in lieu thereof "$200,000,000"; and

(2) by striking out the last sentence thereof, as added by P.L. 96-86.

(d) The Secretary of Transportation shall, under the authority of the Emergency Rail Services Act of 1970, immediately guarantee trustee certificates of the Milwaukee Railroad, on the basis of an estimate of the amount required to be provided under subsection (e) of this section, for purposes of allowing the Milwaukee Railroad, commencing November 1, 1979, to maintain its entire railroad system in accordance with section 22 of this Act, and as required to finance operations which the Milwaukee Railroad continues for the 60-day period beginning on the date of the occurrence of an event described in section 22(b) of this Act or on April 1, 1980, whichever first occurs. Such guarantee shall be made without regard to the findings set forth in section 3(a) of the Emergency Rail Services Act of 1970, and the provisions of section 3(b)(3) and the last two sentences of section 3(d) of such Act shall not apply to such guarantee.

(e) The Secretary shall guarantee trustee certificates of the Milwaukee Railroad pursuant to this section in an amount equal to the difference between (1) the total expenses incurred by such railroad attributable to the maintenance and the continuation of service in accordance with subsection (d) of this section, and (2) the revenues of such railroad.

(f) Notwithstanding the provisions of section 3(c) of the Emergency Rail Services Act of 1970, certificates guaranteed under this Act shall be subordinated to the claims of any creditors of the Milwaukee Railroad as of the date of enactment of this Act.

(g) The Commission shall immediately make available to the Secretary of Transportation the sum of $10,000,000, out of funds available for directed service under title 49 of the United States Code. The Secretary of Transportation shall immediately make such funds available to the trustee of the Milwaukee Railroad for purposes of financing the operations of the Milwaukee Railroad, beginning November 1, 1979, in accordance with section 22 of this Act.

RAILROAD HIRING

SEC. 8. Each person who is an employee of the Milwaukee Railroad on September 30, 1979, and who is separated or furloughed from his employment with such railroad (other than for cause) prior to April 1, 1981, as a result of a reduction of service by such railroad shall, unless found to be less qualified than other applicants, have the first right of hire by any other rail carrier that is subject to regulation by the Commission for any vacancy that is not covered by (1) an affirmative action plan, or a hiring plan designed to eliminate discrimination, that is required by Federal or State statute, regulation, or executve order, or by the order of a Fedeal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this section, a rail carrier shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.

EMPLOYEE PROTECTION AGREEMENTS

SEC. 9. (a) The Milwaukee Railroad and labor organizations representing the employees of such railroad may, not later than 20 days after the date of enactment of this act, enter into an agreement providing protection for employees of such railroad who are adversely affected as a result of a reduction in service by such railroad or a restructuring transaction carried out by such railroad. Such employee protection may include, but need not be limited to, interim employee assistance, moving expenses, employee relocation incentive compensation, and separation allowances.

(b) If the Milwaukee Railroad and the labor organizations representing the employees of such railroad are unable to enter into an employee protection agreement under subsection (a) of this section within 20 days after the date of enactment of this Act, the parties shall immediately submit the matter to the National Mediation Board. The National Mediation Board shall attempt, by mediation, to bring the parties to an agreement with respect to employee protection no later than 40 days after the date of enactment of this Act.

(c) (1) If the National Mediation Board is unable to bring the parties to an agreement under subsection (b) of this section within 40 days after the date of enactment of this Act, the Milwaukee Railroad and the labor organizations representing the employees of such railroad shall immediately enter into an employee protection agreement that is fair and equitable.

(2) If an employee protection agreement is entered into under this subsection, any claim of an employee for benefits and allowances under such agreement shall be filed with the Board in such time and manner as the Board by regulation shall prescribe. The Board shall determine the amount for which such employee is eligible under such agreement and shall certify such amount to the Milwaukee Railroad for payment.

(d) Benefits and allowances under an employee protection agreement entered into under this section shall be paid by the Milwaukee Railroad in accordance with section 15 of this Act, and claims of employees for such benefits and allowances shall be treated as administrative expenses of the estate of the Milwaukee Railroad.

SUPPLEMENTARY UNEMPLOYMENT INSURANCE

SEC. 10. (a) Any employee of the Milwaukee Railroad—

(1) who (A) is employed by the restructured Milwaukee Railroad, and (B) is separated from that employment by reason of any reduction in service by such railroad prior to April 1, 1984; or

(2) who (A) is separated from his employment with the Milwaukee Railroad in connection with a restructuring transaction carried out by such railroad, and obtains employment, prior to April 1, 1981, with another rail carrier, and (B) is separated from employment with such other carrier prior to April 1, 1984,

shall be entitled to receive monthly supplementary unemployment insurance in accordance with the provisions of this section.

(b) Each employee described in subsection (a) of this section shall be entitled to receive supplementary unemployment insurance during each month in which such employee is not employed, for all or a portion of such month, by the Milwaukee Railroad or another rail carrier. Each such employee shall be entitled to receive such insurance for a total of not more than 36 months, except that—

(1) the period of entitlement for assistance under this section shall not exceed the employee's total months of service with the Milwaukee Railroad; and

(2) no compensation shall be provided under this section after April 1, 1984, unless it is necessary in order to provide an employee with at least 8 months of such insurance, but after such date, such employee only shall receive such 8-month minimum if such employee is not employed continuously after such date.

(c) Supplementary unemployment insurance under this section shall be payable to an employee on a monthly basis in an amount equal to—

(1) eighty percent of such employee's average monthly normal compensation from employment with the Milwaukee Railroad during the period beginning June 1, 1977, and ending on the date of enactment of this Act, less

(2) the sum of (A) the amount of any benefits payable to such employee for such month under the Railroad Unemployment Insurance Act or under any State unemployment insurance program, and (B) the amount of any earnings of such employee for such month from employment or self-employment of any kind.

(d) An application for supplementary unemployment insurance shall be filed with the

Board in such time and manner as the Board by regulation shall prescribe.

(e) Any supplementary unemployment insurance received by any employee pursuant to this section shall be considered to be compensation solely—

(1) for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

(2) for purposes of determining the compensation received by such employee in any base year under the Railroad Unemployment Insurance Act.

(f)(1) The provisions of this section shall not apply to an employee in the event of his resignation, retirement, or discharge for cause from the employment of any rail carrier.

(2) An employee shall not be entitled to receive supplementary unemployment insurance under this section if he has failed to exhaust all seniority rights or other employment rights under applicable collective bargaining agreements.

(3) An employee shall not be entitled to receive supplementary unemployment insurance under this section for any month or portion of a month in which such employee is unemployed due to normal seasonal unemployment patterns in the railroad industry.

(g) For purposes of this section, any employee of the Milwaukee Railroad who is furloughed shall be considered to be separated from his employment.

(h) The first sentence of section 7(b)(7) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(7)) is amended—

(1) by striking out "The" and inserting "Notwithstanding any other provision of law, the" in lieu thereof; and

(2) by inserting "and the Milwaukee Railroad Restructuring Act" immediately before the period at the end thereof.

EMPLOYMENT OF MILWAUKEE RAILROAD EMPLOYEES

SEC. 11. (a) The Board shall prepare and maintain—

(1) a list of individuals separated from employment with the Milwaukee Railroad who indicate a desire to appear on a list to be available to rail carriers; and

(2) a list of employment, by class and craft, available with rail carriers,

based upon information submitted to the Board by the Milwaukee Railroad and other rail carriers. Upon the request of any rail carrier, the Board shall make available to such carrier a copy of the list described in paragraph (1) of this subsection.

(b) The Board shall maintain the lists required by subsection (a) of this section through December 31, 1984.

NEW CAREER TRAINING ASSISTANCE

SEC. 12. (a) Any employee who elects to receive a separation allowance from the Milwaukee Railroad under an employee protection agreement entered into under section 9 of this Act shall be entitled to receive from the Board expenses for training in qualified institutions for new career opportunities.

(b) To be entitled for assistance under this section, an employee must begin his course of training within two years following the date of his separation from employment with the Milwaukee Railroad.

(c) Entitlement to expenses for assistance under this section shall be determined by the Board on the basis of an application therefor filed by an employee with the Board.

(d) No assistance may be provided under this section after April 1, 1984.

(e) As used in this section—

(1) the term "expenses" means actual expenses paid for room, board, tuition, fees, or educational material in an amount not to exceed $3,000; and

(2) the term "qualified institution" means an educational institution accredited for payment by the Veterans' Administration under chapter 36 of title 38 of the United States Code.

ELECTION

SEC. 13. Any employee who receives any assistance under section 10 or section 12 of this Act or under an employee protection agreement entered into under section 9 of this Act shall be deemed to waive any employee protection benefits otherwise available to such employee under the Bankruptcy Act, title 11 of the United States Code, subtitle IV of title 49 of the United States Code, or any applicable contract or agreement.

AUTHORIZATION OF APPROPRIATIONS

SEC. 14. (a) There is authorized to be appropriated to provide supplementary unemployment insurance under section 10 of this Act not to exceed $5,000,000.

(b) There is authorized to be appropriated for new career training assistance under section 12 of this Act not to exceed $1,500,000.

(c) There is authorized to be appropriated to the Board to carry out its administrative expenses under this Act not to exceed $750,000.

(d) Amounts appropriated under this section are authorized to remain available until expended.

OBLIGATION GUARANTEES

SEC. 15. (a) The Secretary of Transportation, under the authority of section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831), shall guarantee obligations of the Milwaukee Railroad for purposes of providing employee protection in accordance with the terms of the employee protection agreement entered into under section 9 of this Act. Guarantees under this section shall be entered into without regard to the requirements of subsection (g) of section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976.

(b) Any obligation guaranteed pursuant to this section shall be treated as an administrative expense of the estate of the Milwaukee Railroad.

(c) The aggregate unpaid principal amount of obligations which may be guaranteed by the Secretary pursuant to this section shall not exceed $75,000,000.

(d) The total liability of the Milwaukee Railroad in connection with benefits and allowances provided under an employee protection agreement entered into under section 9 of this joint resolution shall not exceed $75,000,000.

(e) Except in connection with obligations guaranteed under this section, the United States shall incur no liability in connection with any employee protection agreement entered into under section 9 of this Act.

(f) Section 516 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 836) shall not apply to any obligation guaranteed under this section.

TRANSACTION ASSISTANCE

SEC. 16. Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended by adding at the end thereof the following new subsections:

"(f) REHABILITATION FOR COMMON CARRIER SERVICE.—(1) Notwithstanding subsections (a) through (e) of this section (other than subsection (d)(3)), the Secretary shall immediately purchase redeemable preference shares or trustee certificates convertible to redeemable preference shares under this section as necessary to facilitate the rehabilitation and improvement of Milwaukee Railroad property that has been sold or transferred to another person or retained by the restructured Milwaukee Railroad and that will be used for common carrier rail service.

"(2) The Secretary may not take any action under this subsection—

"(A) prior to (i) the occurrence of an event described in section 22(b) of the Milwaukee Railroad Restructuring Act, or (ii) April 1, 1980, whichever first occurs; or

"(B) after April 1, 1981.

"(3) Funds received from purchases by the Secretary pursuant to this subsection may not be used for the rehabilitation and improvement of any line of railroad which carried less than an average of 3,000,000 gross tons of freight per mile per year during the previous three-year period.

"(g) LIMITATION.—Not more than 50 percent of the funds made available at any time for the purchase of redeemable preference shares and trustee certificates under this section may be used for the rehabilitation and improvement of the facilities of any single railroad undergoing restructuring.".

COURT APPROVED ABANDONMENTS AND SALES IN PENDING CASES

SEC. 17. (a) Notwithstanding any other provision of law, in any case pending under section 77 of the Bankruptcy Act on the date of enactment of this Act, the court may authorize the abandonment of lines of railroad pursuant to section 1170 of title 11 of the United States Code. Pending the expiration of the time for appeal of an abandonment order or the determination of any such appeal, the court may authorize the termination of service on a line to be abandoned, and the order authorizing such termination may not be stayed. In authorizing any abandonment pursuant to this section, the court shall require the carrier to provide a fair arrangement at least as protective of the interests of employees as that required under section 11347 of title 49 of the United States Code.

(b)(1) Notwithstanding any other provison of law, in any case pending under section 77 of the Bankruptcy Act on the date of enactment of this Act, the court may authorize the sale or transfer of a line of railroad to be used in continued rail operations, subject to the approval of the Commission under paragraph (2) of this subsection, if the application with respect to such sale or transfer is filed with the Commission on or after November 1, 1979. In authorizing any such sale or transfer, the court shall provide a fair arrangement at least as protective of the interests of employees as that required under section 11347 of title 49, United States Code.

(2) The court described in paragraph (1) may not authorize a sale or transfer pursuant to such paragraph unless an appropriate application with respect to such sale or transfer is initiated with the Commission and, within such time as the court may fix, not exceeding 180 days, the Commission, with or without a hearing, as the Commission may determine, and with or without modification or condition, approves such application, or does not act on such application. Any action or order of the Commission approving, modifying, conditioning, or disapproving such application is subject to review by the court only under sections 706(2)(A), 706(2)(B), 706(2)(C), and 706(2)(D) of title 5 of the United States Code.

(3) Pending review of an application by the Commission pursuant to paragraph (2) of this subsection, the court described in paragraph (1) may, on a preliminary basis, authorize the sale or transfer proposed in such application. The court may permit the purchasing carrier to operate interim service over the lines to be purchased, and in operating such service it shall use employees of the carrier subject to the bankruptcy proceeding to the extent such purchasing carrier deems necessary for the operation of such service.

(c) Any action or order of the Commission approving, modifying, conditioning, or disapproving an application for the sale or transfer of rail property that is filed with the Commission before November 1, 1979, in connection with a case pending under section 77 of the Bankruptcy Act on the date of enactment of this Act—

(1) is subject to review by the court only under sections 706(2)(A), 706(2)(B), 706(2)(C), and 706(2)(D) of title 5 of the United States Code; and

(2) may not be stayed by the Commission.

(d) The authority of the bankruptcy court to authorize abandonments, sales, and transfers of lines of the Milwaukee Railroad shall be governed by the provisions of section 5 of this Act, rather than the provisions of this section.

(e) Nothing in this section shall be deemed to affect the priorities or timing of payment of employee protection which might have existed in the absence of this Act.

DIRECTED SERVICE

SEC. 18. Until April 1, 1981, the provisions of this Act shall be in lieu of any directed service on any line of the Milwaukee Railroad under section 11125 of title 49 of the United States Code.

APPLICABILITY OF NEPA

SEC. 19. The provisions of the National Environmental Policy Act shall not apply to transactions carried out pursuant to this Act.

AUTHORITY OF THE RAILROAD RETIREMENT BOARD

SEC. 20. (a) The Board may prescribe such regulations as may be necessary to carry out its duties under this Act.

(b) In carrying out its duties under this Act, the Board may exercise such of the powers, duties, and remedies provided in subsections (a), (b), and (d) of section 12 of the Railroad Unemployment Insurance Act as are not inconsistent with the provisions of this Act.

PUBLICATIONS AND REPORTS

SEC. 21. (a) Within 30 days after the date of enactment of this Act, the Board shall publish, and make available for distribution by the Milwaukee Railroad to all its employees, a document which describes in detail the rights of such employees under sections 8, 9, 10, 11, and 12 of this Act.

(b) During the 2-year period beginning on the date of enactment of this Act, the Board shall submit a report to the Congress every 6 months describing its activities under this Act.

CONTINUATION OF SERVICE

SEC. 22. (a) Until the occurrence of an event described in subsection (b) of this section, the Milwaukee Railroad (1) shall maintain its entire railroad system, as it existed on October 15, 1979, (2) shall continue no less than the regular level of service provided by it as of that date, and (3) shall not embargo traffic (other than when necessitated by acts of God or safety requirements) or abandon or discontinue service over any part of its railroad system.

(b) The Milwaukee Railroad shall comply with the requirements of subsection (a) of this section until—

(1) an employee or employee-shipper ownership plan is not submitted to the Interstate Commerce Commission within the time period prescribed under section 6(a) of this Act;

(2) the proposed plan is found by the Commission not to be feasible or the Commission does not act within 30 days;

(3) the proposed plan is found by the bankruptcy court not to be fair and equitable to the estate of the Milwaukee Railroad; or

(4) the plan is not implemented within the time period prescribed under section 6(c) of this Act.

AMENDMENT TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

SEC. 23. Section 211(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(d)) is amended by striking out paragraph (2) and the sentence following that paragraph and inserting in lieu thereof the following:

"(2) increase the principal amount of such loan to such railroad, in an amount not to exceed $4,000,000, only if the Association makes the finding referred to in paragraph (1)(B) of this subsection and determines that such railroad is making a good faith effort to establish an employee stock ownership plan for review and approval by the Association. Any such approval shall be conditioned upon a written commitment that by December 31, 1980, the railroad will adopt an employee stock ownership plan which will acquire qualifying employer securities with a fair market value of $250,000.

The Association may not take any action pursuant to the preceding sentence of this subsection after December 31, 1980.".

REHABILITATION AND IMPROVEMENT FINANCING

SEC. 24. Section 505(b)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(b)(2)) is amended—

(1) by inserting immediately after the comma at the end of clause (A) thereof the following: "except that if the Secretary determines, pursuant to clause (C) of this paragraph, that significant railroad restructuring will result from the project, the Secretary shall not consider the availability of funds from other sources but instead shall consider whether such restructuring benefits would be likely to be achieved if assistance were not provided,"; and

(2) by amending clause (C) thereof to read as follows: "(C) the public benefits, including any significant railroad restructuring, to be realized from the project to be financed in relation to the public costs of such financing and whether the proposed project will return public benefits sufficient to justify such public costs.".

(b) Section 501 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821) is amended—

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(8) 'restructuring' means any activity (including a consolidation, coordination, merger, or abandonment) which (A) involves rehabilitation or improvement of a facility or the transfer of a facility, (B) improves the long-term profitability of any railroad, and (C) results in the enhancement of the national rail freight system through the achievement of higher average traffic densities or improved asset utilization.".

OFFICE OF RAIL PUBLIC COUNSEL

SEC. 25. The Office of Rail Public Counsel may appear and be heard in the case in the bankruptcy court involving the reorganization of the Milwaukee Railroad, for purposes of representing affected shippers, localities, and municipalities with respect to the proposed abandonment of any line of the Milwaukee Railroad.

EMPLOYEE STOCK OWNERSHIP PLAN FOR SURVIVING PORTION OF MILWAUKEE RAILROAD

SEC. 26. If an event described in section 22(b) of this Act occurs, resulting in the survival of less than the entire Milwaukee Railroad system, then any relief provided for such surviving Milwaukee Railroad system under the Emergency Rail Services Act of 1970 or any other Federal legislation shall be conditioned upon good faith efforts by the trustee or the Milwaukee Railroad, or both, to establish an employee stock ownership plan which shall embrace the purchase or acquisition of qualifying employer securities of the Milwaukee equal in value to 25 per centum of the amount of such relief provided.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

HARLEY O. STAGGERS,
JAMES T. BROYHILL,
J. J. FLORIO,
EDWARD MADIGAN,
BARBARA MIKULSKI,
Managers on the Part of the House.

WARREN G. MAGNUSON,
RUSSELL B. LONG,
BOB PACKWOOD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1905) to provide for the orderly restructuring of the Milwaukee Railroad, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SHORT TITLE (SEC. 1)

Senate bill

Section 1 of the Senate bill sets forth the short title of the bill, the "Milkaukee Railroad Restructuring Act".

House amendment

No similar provision.

Conference substitute

The conference substitute adopts the Senate provision.

CONGRESSIONAL FINDINGS (SEC. 2)

Senate bill

Section 2 of the Senate bill sets forth detailed Congressional Findings and declares that emergency measures in the Act must be taken to avoid the unemployment and economic damage a cessation of essential operations by the Milwaukee Railroad would otherwise cause.

House amendment

Section 2 of the House amendment sets forth detailed Congressional Findings and declares that emergency measures in the Act must be taken to avoid the unemployment and economic damage a cessation of essential operations of the Milwaukee Railroad would otherwise cause.

Conference substitute

The Conference substitute is the same as the House amendment.

DEFINITIONS (SEC. 3)

Senate bill

No provision.

House amendment

The House amendment provides definitions for key terms in the bill. Most importantly, the definitions include the term "restructured Milwaukee Railroad", which is defined to describe the Milwaukee Railroad after the railroad is substantially reorganized. The restructured Milwaukee does not include an employee or employee-shipper owned railroad as developed under this bill. It does not include any lines which, at the end of the six-month period after the court assumes power to abandon or sell Milwaukee property, are the subject of proposed sales, abandonments, or transfers.

Conference substitute

The Conference substitute is substantially the same as the House amendment.

SALES AND TRANSFERS (SEC. 4)

Senate bill

No Senate provision.

House amendment

The House amendment provides that the Milwaukee may negotiate and enter into agreements to sell rail property during the period while the employee ownership plan is being studied. Sales may become effective if an ownership plan is not submitted, rejected by the ICC or the Bankruptcy Court, or if the plan is not implemented. The Secretary of Transportation is allowed, encouraged, and expected to use its full powers under the Department of Transportation Act to aid in arranging sales.

Conference substitute

The Conference substitute is substantially the same as the House amendment.

COURT APPROVED ABANDONMENTS AND SALES (SEC. 5)

Senate bill

Section 4 of the Senate bill provides that the Bankruptcy Court may authorize the abandonment of Milwaukee lines pursuant to the abandonment provisions of Section 1170 of the new Bankruptcy statute if the employee-shipper purchase of the railroad is unsuccessful. The Court must require the carrier to provide a fair arrangement at least as protective of the interests of employees as that required under Section 11347 of Title 49 of the United States Code.

The Court may hold hearings on proposed abandonments prior to the determination of feasibility of employee-shipper ownership for the railroad. Section 11346 of the Interstate Commerce Act is amended to require the Commission to give priority to cases involving sales or transfers of lines of a railroad in reorganization with specific time limits for the proceedings. Section 3 of the Senate bill also specifies that nothing in the section shall be construed to affect the priorities or timing of payment of employee protection which might have existed in the absence of this legislation.

House amendment

Section 4 of the House amendment allows the Bankruptcy Court to authorize the abandonment of lines of the Milwaukee Railroad if an employee-shipper ownership plan is unsuccessful. The Court may hold hearings on abandonments prior to the determination of feasibility of an employee-shipper ownership for the railroad.

The Bankruptcy Court is also empowered to authorize the sale or transfer of a line of the Milwaukee Railroad, subject to approval by the Interstate Commerce Commission within a period of no more than 180 days after an application is filed with the Commission. Pending review by the Commission the Court may authorize a sale on a preliminary basis. The Court may also authorize a prospective purchasing carrier to operate interim service over a line it is seeking to acquire.

The House amendment provides that employees are accorded employee protection rights which are no worse than under existing law.

Conference substitute

The Conference substitute is substantially the same as the House amendment. The Conferees intend that the granting of authority to the Bankruptcy Court to order sales and abandonments not change existing law with respect to employee protection. The employees' right to protection shall be required by the Court to the same extent that it would have been provided by the Interstate Commerce Commission under Section 11347 of the Interstate Commerce Act. Nothing in this section shall be deemed to affect the priorities or timing of payment of employment protection which might have existed in the absence of this section.

EMPLOYEE OR EMPLOYEE-SHIPPER OWNERSHIP PLAN (SEC. 6)

Senate bill

Section 5 of the Senate bill provides for submission to the Interstate Commerce Commission of a plan for converting all or a substantial part of the Milwaukee Railroad into an employee or employee-shipper owned company, such plan to be submitted by December 15, 1979, and include a method for implementation and an evaluation of the prospects for self-sustainability of that portion of the Milwaukee Railroad. Subsection (a)(2) provides that the Commission shall determine whether the plan is feasible within 30 days after submission; section (a)(3) details the findings to be made in making this determination. If a finding of feasibility is made, subsection (b) requires that the plan be submitted to the Bankruptcy Court which shall, within 10 days, determine whether the plan is fair and equitable to the estate of the Milwaukee Railroad.

Under subsection (c), if the plan is found to be feasible and fair and equitable to the estate, proponents are to implement it by May 10, 1980. Subsection (f) provides that implementation of an ESOP involving Federal funds shall be conditioned upon an appropriate contribution from employees.

House amendment

The House amendment, section 5, contains essentially similar provisions as the Senate bill for an employee stock ownership plan, which must be submitted by December 1, 1979. Other timeframes are the same, except that the plan must be implemented no later than March 1, 1980. Subsection a(2) contains a presumption of feasibility not present in the Senate bill, and subsection (b) provides that the Commission's determination with respect to whether the plan is fair and equitable shall be rebutted only by clear and convincing evidence. The House amendment does not contain language with regard to a contribution from employees.

Conference substitute

The Conference substitute is substantially the same as the Senate bill with several exceptions. The date of implementation has been changed to April 1, 1980; there is no provision for a plan containing one or more alternative system configurations, and the House provision with regard to rebuttal of the Commission's determination whether such plan is "fair and equitable" to creditors has been adopted. In determining feasibility, the Commission must make a finding that the plan contains an assessment of all operating practices and includes agreements by labor and management to make implementing changes designed to achieve labor productivity increases (which may include changes in work rules to increase productivity) consistent with safe operations and adequate services. The term "agreements" in the bill is not to be construed as requiring formal finalized labor agreements. Rather, the intent is that binding written commitments will be made in the form of letters of intent or any other appropriate manner.

Under the conference substitute, submission of the plan is required by December 1, 1979.

EMERGENCY RAIL SERVICES ACT OF 1970 (SEC. 7)

Senate bill

Section 6 of the Senate bill eliminates the findings the Secretary of Transportation must make under section 3(a) of the Emergency Rail Services Act. Further under section 3(a) the Secretary will no longer be required to publish notice of his intention to make financial assistance available in the Federal Register nor will his action be conditioned upon a public hearing on the merits. Section 6 also amends section 3(c) of the Emergency Rail Services Act to authorize the Secretary of Transportation to have flexibility in positioning the Federal government's claim in the debt hierarchy of the carrier if a restructuring is presently underway.

Section 6 of the Senate bill further provides that financial assistance under the Emergency Rail Services Act should be available to the Milwaukee Railroad until a 60-day period is concluded following the implementation of a restructured Milwaukee system on or before May 10, 1979 or upon a finding by either the Commission or the bankruptcy court that a restructuring plan is not feasible. Finally, section 6(f) of the Senate bill provided that all certificates guaranteed under the Act shall be subordinated to the claims of any creditors of the Milwaukee Railroad as of the date of enactment and that no payment of interest or principal shall be required until the conclusion of the Milwaukee Railroad reorganization proceedings or 3 years from the date of enactment of this Act, whichever first occurs. Section 3(e) of the Emergency Rail Services Act is amended to provide that the outstanding aggregate principal amount of certificates shall not exceed $200 million instead of the current limit of $125 million.

House amendment

The House provision is almost identical, however, the House amendment did not delay payment of interest or principal until the conclusion of the Milwaukee reorganization or 3 years from the date of enactment.

Conference substitute

The Conference substitute is almost identical to the Senate bill minus the language enabling the Milwaukee Railroad to delay payments of principal and interest on the certificates guaranteed under the section. A new subsection (g) was added to mandate the immediate transfer of funds to the trustee of the Milwaukee Railroad to resume operations pursuant to section 22 of the conference substitute.

RAILROAD HIRING (SEC. 8)

Senate bill

No provision.

House amendment

The House amendment provides that any employee of the Milwaukee Railroad, as defined in Section 2, who worked for such railroad on September 30, 1979, shall have the right of first hire until April 1, 1981, with all rail carriers under the jurisdiction of the Interstate Commerce Commission. This right applies to any vacancy not covered by an affirmative action plan required by a Federal or state agency, regulation, Executive Order, or court order or a permissible voluntary affirmative action plan.

Conference substitute

The Conference Committee substantially adopts the House amendment and intends that these eligible employees will be hired without delay, harassment, or discrimination, especially age discrimination, unless the Milwaukee employee is less qualified than any other applicant for a particular vacancy. The provision comports with the assurances by many carriers that they are prepared to offer positions to qualified former Milwaukee employees as positions become available. The successful implementation of this provision depends upon the full and wholehearted cooperation of the other carriers and is important to the full implementation of the supplementary unemployment insurance.

The Conference Committee believes this provision is a significant breakthrough in that it recognizes that there is a pool of skilled employees available to other carriers when there is a reduction in service and urges railroad management and labor to incorporate similar provisions in future bargaining agreements.

EMPLOYEE PROTECTION AGREEMENTS (SEC. 9)

Senate bill

No provision.

House amendment

The House bill provides four specific benefit programs for Milwaukee employees under different qualifying conditions to be paid by the Milwaukee estate.

Conference substitute

The conference substitute establishes a procedure to encourage a voluntary agreement between the Milwaukee Railroad and the respective labor organizations for employee protection. The agreement shall be within the $75,000,000 ceiling on funds available for immediate payment of such benefits. The first opportunity for voluntary agreement is a twenty day period, running from the effective date of this Act, in which the parties are given the opportunity to arrive at an agreement. If no agreement is reached within that time period a second and sequential twenty day time period is provided in which the parties submit the matter to the National Mediation Board in an attempt to reach an agreement. If no agreement is reached during either of the two twenty day periods, the conferees intend that the parties immediately enter into an employee labor protection agreement that is fair and equitable. For purposes of these benefits, if the parties are unable to reach an agreement and the National Mediation Board is unable to resolve the issues, then a fair and equitable agreement shall be exclusively as follows:

INTERIM EMPLOYEE ASSISTANCE

First (a) Any employee of the Milwaukee Railroad who is separated from his employment at any time during the six-month period beginning on (1) the date of the occurrence of an event described in section 22 of this bill or (2) April 1, 1980, whichever first occurs, shall be eligible to receive interim employee assistance under this section for the remainder of such six-month period, except that the period of eligibility for assistance under this section shall not exceed the employee's total months of service with the Milwaukee Railroad.

(b) Interim employee assistance under this section shall be payable to an employee on a monthly basis in an amount equal to—

(1) eighty percent of such employee's average monthly normal compensation from employment with the Milwaukee Railroad during the period beginning June 1, 1977, and ending on the date of enactment of this bill, less

(2) the sum of (A) the amount of any benefits payable to such employee for such month under the Railroad Unemployment Insurance Act or under any State unemployment insurance program, and (B) the amount of any earnings of such employee for such month from employment or self-employment of any kind.

(c) Any claim for interim employee assistance under this section shall be paid by the Milwaukee Railroad in accordance with section 15 of this bill, and shall be treated as an administrative expense of the estate of such railroad.

(d) Any claim of an employee for interim employee assistance under this section shall be filed with the Board in such time and manner as the Board by regulation shall prescribe. The Board shall determine the amount for which such employee is eligible under this section and shall certify such amount to the Milwaukee Railroad for payment.

(e) Any interim employee assistance received by an employee pursuant to this section shall be considered to be compensation solely—

(1) for purposes of the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.); and

(2) for purposes of determining the compensation received by such employee in any base year under the Railroad Unemployment Insurance Act.

MOVING EXPENSES

Second (a) Any employee of the Milwaukee Railroad—

(1) who, in connection with a restructuring transaction carried out by the Milwaukee Railroad prior to March 1, 1981, is required to make a change of residence prior to April 1, 1981, in order to maintain his employment with such railroad; or

(2) who, in connection with a restructuring transaction carried out by the Milwaukee Railroad prior to March 1, 1981, is separated from his employment with such railroad and is required to make a change of residence, prior to April 1, 1981, in order to obtain employment with another rail carrier,

shall be eligible to receive moving expense benefits in accordance with this section.

(b) The benefits to which an employee described in subsection (a) of this section shall be eligible are as follows:

(1) The actual expenses of moving such employee's household and personal effects.

(2) The actual, necessary traveling expenses of such employee and members of his family.

(3) The closing costs involved in disposing of a residence and acquiring a new residence, including a realtor's fee of not more than $3,000.

(4) If the employee holds an unexpired lease on a dwelling occupied by him as his home, reimbursement for all loss and cost in securing the cancellation of such lease.

(c) Any claim for moving expense benefits under this section shall be paid by the Milwaukee Railroad in accordance with section 15 of this bill, and shall be treated as an administrative expense of the estate of such railroad.

(d) Any claim of an employee for moving expense benefits under this section shall be filed with the Board in such time and manner as the Board by regulation shall prescribe. The Board shall determine the amount for which such employee is eligible under this section and shall certify such amount to the Milwaukee Railroad for payment.

EMPLOYEE RELOCATION INCENTIVE COMPENSATION

Third (a) Any employee of the Milwaukee Railroad—

(1) who is employed by the restructured Milwaukee Railroad; or

(2) who is separated from his employment with the Milwaukee Railroad in connection with a restructuring transaction carried out by such railroad and obtains employment, prior to March 1, 1981, with another rail carrier,

shall be eligible for employee relocation incentive compensation in accordance with this section.

(b) Each employee described in subsection (a) of this section shall be eligible to receive a total of not more than 36 months of employee relocation incentive compensation under this section, except that—

(1) no such compensation shall be provided after March 1, 1984, unless it is necessary in order to provide an employee with at least 8 months of such compensation, but after such date such employee shall only receive such 8-month minimum if such employee is employed continuously after such date; and

(2) there shall be deducted from such 36 month total one month for each month such employee received interim employee assistance under section 8 of this bill.

(c) (1) Employee relocation incentive compensation shall be payable to each employee described in subsection (a) of this section in any month in which—

(A) eighty percent of such employee's average monthly normal compensation from employment with the Milwaukee Railroad during the period beginning June 1, 1977, and ending on the date of enactment of this bill; exceeds

(B) such employee's compensation for that month from his new position with the Milwaukee Railroad or another rail carrier.

(2) Employer relocation incentive compensation under this section shall be payable to an employee on a monthly basis in an amount equal to (A) the amount described in paragraph (1) (A) of this subsection, as computed for that employee, less (B) the amount described in paragraph (1) (B) of this subsection, as computed for that employee.

(d) An employee shall not be eligible to receive compensation under this section during any month in which such employee is eligible for or receives supplementary unemployment insurance under section 15 of this bill.

(e) Employee relocation incentive compensation under this section shall be paid by the Milwaukee Railroad in accordance with section 15 of this bill, and shall be treated as an administrative expense of the estate of such railroad.

(f) Any claim of an employee for employee relocation incentive compensation under this section shall be filed with the Board in such time and manner as the Board by regulation shall provide. The Board shall determine the amount to which such employee is entitled under this section and shall certify such amount to the Milwaukee Railroad for payment.

SEPARATION ALLOWANCE

Fourth (a) (1) Any employee of the Milwaukee Railroad may, no later than April 1, 1981, elect to receive a separation allowance from the Milwaukee Railroad in accordance with this section.

(b) A separation allowance under this section shall be payable to an employee in an amount equal to $2,000 for each year of completed service and, in addition thereto, full payment of back pay and for all vacation time earned but not previously taken, except that—

(1) the total amount of separation allowance payable to an employee shall not exceed $25,000;

(2) the amount of separation allowance payable to an employee shall be reduced by the amount of any interim employee assistance received by an employee.

(c) Any separation allowance under this section shall be paid by the Milwaukee Railroad in accordance with section 15 of this bill, and shall be treated as an administrative expense of the estate of such railroad.

ELECTIONS

Fifth (a) Any employee who receives a moving expense benefit under section 9(c) agreement or supplementary unemployment insurance under section 10 of the bill, employee relocation incentive compensation under a section 9(c) agreement or interim employee assistance under 9(c) shall not be eligible for a separation allowance under a section 9(c) agreement or for new career training assistance under section 12 of the bill.

(b) Any employee who receives a separation allowance under a section 9(c) agreement shall not be eligible for moving expense benefits under section 9(c), supplementary unemployment insurance under section 10 of the bill, or employee incentive relocation compensation under a section 9(c) agreement or interim employee assistance under a section 9(c) agreement.

(c) Any employee who receives moving expense benefits under a section 9(c) agreement, supplementary unemployment insurance under section 10 of the bill, employee relocation incentive compensation under a section 9(c) agreement, interim employee assistance under a section 9(c) agreement or severance under a section 9(c) agreement shall be deemed to waive any employee protection benefits otherwise available to the employee under the Bankruptcy Act, title 11 of the United States Code, subtitle IV of title 49 of the United States Code, or any applicable contract or agreement.

(d) The Milwaukee Railroad shall submit to the Board, in such form and manner as the Board by rule prescribes, a report of each separation allowance paid by the Milwaukee Railroad under this section. The Board shall review each such report to determine whether such allowance was paid in accordance with this section.

SUPPLEMENTARY UNEMPLOYMENT INSURANCE (SEC. 10)

Senate bill

No provision.

House amendment

The House amendment provides monthly supplementary unemployment insurance for any Milwaukee Railroad employee, as defined in section 2, who is employed by the restructured railroad and is separated by reason of a reduction in service prior to April 1, 1984 or who is separated from his or her employment with the Milwaukee Railroad in connection with a restructuring by the Milwaukee Railroad and prior to April 1, 1981, obtains employment with another carrier and is separated from such employment prior to April 1, 1984. Such entitlement is for a maximum of 36 months if such employee is separated, which shall include furloughs, through April 1, 1984 and a minimum of 8 months, even beyond April 1, 1984 if the employee is separated on April 1, 1984 and is continuously unemployed thereafter. Such insurance guarantees an employee eighty per cent of such employee's average monthly normal compensation, as determined by the Railroad Retirement Board, but not to include overtime hours worked or overtime wages earned from his or her employment with the Milwaukee Railroad from June 1, 1977 to the effective date of the bill (or lesser period for those employees who were not employed by the Milwaukee on June 1, 1977 but are on September 30, 1979), and not thereafter increased by general wage increases, less Railroad Unemployment Insurance Act benefits or state unemployment benefits and other earnings from employment of self-employment for such month. Supplementary Unemployment Insurance benefits are deemed to be compensation for purpose of the Railroad Retirement Act and the Railroad Unemployment Insurance Act.

Conference substitute

The Conference Committee adopts the House provision and intends that the Supplementary Unemployment Insurance will provide an incentive for Milwaukee Railroad employees to seek employment with the restructured Milwaukee Railroad or other carriers.

EMPLOYMENT OF MILWAUKEE RAILROAD EMPLOYEES (SEC. 11)

Senate bill

The Senate bill establishes a job bank within the Railroad Retirement Board.

House amendment

The House amendment is substantially the same as the Senate provision.

Conference substitute

Same as Senate bill.

NEW CAREER TRAINING ASSISTANCE (SEC. 12)

Senate bill

Section 7 provides that any employee who receives a separation allowance is entitled to up to $3000 for the purpose of new career training, providing that the new career training funds are available for those employees who receive a separation allowance pursuant to an agreement under section 9 of this substitute.

House amendment

Identical provision.

Conference substitute

Same as Senate bill.

ELECTION (SEC. 13)

Senate bill

No provision.

House amendment

The House amendment provides that employees ar not eligible for overlapping benefits.

Conference substitute

The Conference substitute provides that employees gaining benefits under this bill shall not be eligible for statutory or contract labor protection.

AMENDMENTS TO THE DEPARTMENT OF TRANSPORTATION ACT (SEC. 14)

Senate bill

The Senate bill amends Section 5(h)(3)(B) of the Department of Transportation Act (49 U.S.C. 1654(h)(3)(B)) to require the Secretary to reallocate funds not expended during the previous year under the branchline assistance program for any railroad undergoing restructuring.

House amendment

No similar provision.

Conference substitute

Senate recedes.

OBLIGATION GUARANTEES (SEC. 15)

Senate bill

Section 8 of the Senate bill mandated the Secretary of Transportation, under the authority of Section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, to guarantee obligations of the Milwaukee Railroad for the purposes of providing protection of employees affected by restructuring, or reduction in service by the Milwaukee Railroad up to $75,000,000 to be treated as an administrative expense of the estate of the Milwaukee Railroad. In addition, $30,000,000 is mandated for approval by the Secretary during 1979 and 1980 for the purpose of Section 511 loans, subordinated to the claims of the creditors, for the purpose of financing equipment repair for the Milwaukee Railroad or its successors.

House amendment

Section 17 of the House amendment mandates the Secretary of Transportation, under the authority of Section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, to guarantee obligations of the Milwaukee Railroad for the purposes of providing specific labor protection benefits, up to $75,000,000 to be treated as an administrative expense of the estate of the Milwaukee Railroad. A $75,000,000 ceiling is placed on both the liability of the Milwaukee estate and the liability of the United States for the specific labor protection benefits contained in the bill.

Conference substitute

The Conference substitute adopts the House amendment, although the specific labor protection benefits are not specified as they are in other parts of the House bill.

TRANSACTION ASSISTANCE (SEC. 16)

Senate bill

Section 9 of the Senate bill adds a new subsection (f) to section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (P.L. 94–210) which gives the Secretary of Transportation discretion to make a positive finding that the Milwaukee Railroad could be eligible for rehabilitation assistance under section 505 of the 4R Act.

House amendment

The House amendment is similar to the Senate bill, however, the Secretary's discretion is conditioned upon a finding that the specific segment of the rail system earmarked for financial assistance must have carried in excess of three million gross tons of freight per mile during the previous calendar year.

Conference substitute

The Conferees agree to the Senate language. However, the language is amended to provide that any financial assistance must be conditioned upon a finding that the rail line which is the subject of the financial assistance application must have carried no less than an average of three million gross tons of freight per mile per year during the previous three years. Because traffic has declined so rapidly on the Milwaukee system in the last calendar year, Conferees felt that using the last calendar year prior to the submission of an application for financial assistance would be an inaccurate statement of the rail line's actual traffic potential.

COURT APPROVED ABANDONMENTS AND SALES IN PENDING CASES (SEC. 17)

Senate bill

The Senate bill provides that Section 11347 of the Interstate Commerce Act is amended to require the Commission to give preference to sales or transfers of lines of a railroad in reorganization. The Commission may not take more than 180 days if the proceedings do not involve a significant competitive impact, and may not take more than 210 days in any event. This section does not apply to proceedings commenced prior to the date of enactment of this section.

House amendment

The House bill gives the Bankruptcy Court the authority to order abandonments and sales in cases pending under Section 77 of the Bankruptcy Act. Sales or transfers can be ordered by the Court after approval by the Interstate Commerce Commission. The Commission shall have no longer than 180 days to review the application for a sale or transfer.

The House bill provides interim operating authority for a purchasing carrier, to be determined by the Bankruptcy Court, and requires that employees' rights under this section shall not be altered from existing law.

Conference substitute

The Conference substitute allows abandonments according to the House amendment. It allows the Bankruptcy Court to authorize sales and transfers, as provided in the House amendment, for all sales for which an application has been filed with the Commission before November 1, 1979. For sales filed with the Commission prior to November 1, 1979, the Conference substitute allows the Commission to continue its jurisdiction over such applications. The right of appeal of the decision made by the Commission is limited to paragraphs (A), (B), (C) and (D) of subsection (2) of Section 706 of Title V of the United States Code. The right of the Commission to stay its own order under Section 705 of Title V of the United States Code or under any provision of the Interstate Commerce Act is explicitly waived. For applications filed prior to November 1, 1979, the Bankruptcy Court shall have no power to grant interim operating authority.

The Conference substitute intends to make no change in existing law as it affects employee protection.

DIRECTED SERVICE (SEC. 18)

Senate bill

The Senate bill does not contain a specific provision on directed service.

House amendment

Section 21 of the House Amendment states that the provisions of this legislation shall be in lieu of any directed service on any line of the Milwaukee Railroad under section

11125 of title 49, United States Code, until March 1, 1981.

Conference substitute

The Conference substitute adopts the prohibition against directed service in the House amendment with one exception: the cutoff date is changed to April 1, 1981 to co-relate to the implementation date set forth in the ESOP section of the conference substitute.

ASSESSMENT OF COAL HAULING NEEDS

Senate bill

No similar provision.

House amendment

The House bill provides for a study by the Secretary of Energy of present and potential coal hauling needs in the area served by the Milwaukee Railroad.

Conference substitute

House recedes.

APPLICABILITY OF NEPA (SEC. 19)

Senate bill

Section 10 of the Senate bill provides that the provisions of the National Environmental Policy Act of 1969 shall not apply to transactions carried out pursuant to this Act.

House amendment

Almost identical.

Conference substitute

Conferees adopt Senate language.

AUTHORITY OF THE RAILROAD RETIREMENT BOARD (SEC. 20)

Senate bill

No similar provision.

House amendment

The House bill provides that the Railroad Retirement Board may prescribe such rules as necessary to carry out its duties under this Act.

Conference substitute

The Conference substitute adopts the House provision.

PUBLICATIONS AND REPORTS (SEC. 21)

Senate bill

No similar provision.

House amendment

The House bill requires the Milwaukee Railroad to inform its employees of their rights as detailed in this legislation.

Conference substitute

The Conference substitute is substantially the same as the House bill.

CONTINUATION OF SERVICE (SEC. 22)

Senate bill

Section 11 of the Senate bill mandates the Milwaukee Railroad to maintain its entire railroad system as it existed on the date of enactment, continue no less than the regular service provided by it as of that date and not to enlarge traffic or abandon or discontinue service over any part of its railroad system until the occurrence of a specified event set forth in section 11(b).

House amendment

Section 25 of the House amendment mandates the Milwaukee Railroad to maintain its entire railroad system as it existed on October 15, 1979, continue no less than the regular service provided by it as of that date and not to embargo traffic or abandon or discontinue service over any part of its railroad system.

Conference substitute

The Conference substitute is substantially the same as the House Amendment.

AMENDMENT TO REGIONAL RAIL REORGANIZATION ACT OF 1973 (SEC. 23)

Senate bill

Section 13 of the Senate bill amended the Regional Rail Reorganization Act of 1973 to increase the principal amount of loans to the Delaware and Hudson Railway under section 211(d) of that Act in an amount which does not exceed $4 million. The bill also extended the deadline for the establishment of an Employee Stock Ownership Plan for one year to December 31, 1980 and requires written commitments from the railroad that it will establish such a plan and the plan will purchase qualifying employer securities with a fair market value of $250,000.

House amendment

The House amendment is identical to the Senate bill except that the stock to be acquired by the Employee Stock Ownership Plan is to have a fair market value of $200,000.

Conference substitute

The conference substitute is substantially the same as the Senate bill.

The conferees believe that the ESOP, required as a condition to the Delaware and Hudson's receipt of additional funds, should purchase or otherwise acquire a significant amount of stock with value if stock ownership is to have the desired motivational effect on the employees of the D&H. The conferees recognize that the present fair market value of the D&H and its stock is very depressed. However, the conferees are also aware that the D&H is in a controlled group of corporations (as defined in Section 1563 of the Internal Revenue Code of 1954) of which the Norfolk and Western Railroad (the "N&W") is the parent. Under the Internal Revenue Code, the ESOP would be permitted to acquire securities of the D&H or the N&W. Accordingly, the conferees believe that the ESOP should purchase or otherwise acquire N&W stock, in an amount equal to $250,000, for the benefit of the D&H employees.

The conferees agree that since an additional $2,000,000 is available under Section 211(d) of the Act, it should be made available to the D&H.

REHABILITATION AND IMPROVEMENT FINANCING (SEC. 24)

Senate bill

No provision.

House amendment

Section 27 of the House amendment amends Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 by providing that if the project to be funded by 505 funds will result in a significant railroad restructuring, the Secretary shall not consider the availability of funds from other sources, but shall instead consider whether such restructuring benefits would be likely to be achieved if assistance were not provided. Section 505(b)(2)(C) of that Act is amended to provide that a restructuring shall be included as a public benefit for purposes of the Secretary's determination of the public benefits of any given project.

A restructuring is defined as any activity which involves rehabilitation or improvement of a facility or the transfer of a facility, which results in the enhancement of the National freight system through the achievement of higher average traffic densities or improved asset utilization.

Conference substitute

The Conference substitute adopts the House amendment with the limitation that no project or set of projects arising out of the restructuring of a single carrier shall receive more than 50 percent of the funds available under Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976. This change in the law will provide all railroads, regardless of their financial status, an opportunity to participate in the 505 program for funding rehabilitation projects if a significant restructuring project is to be undertaken. This provision is consistent with and complements the Secretary of Transportation's efforts under Section 401 of the 4–R Act to bring about greater efficiencies in the National railroad freight system through a restructured physical plant. In particular, the provision will encourage financially healthy railroads to purchase many more lines of railroad for sale by bankrupt carriers than they might otherwise purchase because of the availability of low interest financing for rehabilitation of such lines.

The limitation of no more than 50 percent of the funds being used under section 505 for projects of a single carrier is intended to avoid the problem of using all the funds as part of a single railroad reorganization even though a number of carriers may be purchasing lines of the selling carrier. Conferees emphasize that the funds are to be limited to rehabilitation and improvement, and shall not be used for purchases of lines or new construction of lines. Under the Conference substitute the aggregate amount of rehabilitation loans made to any or all of the purchasing carriers cannot exceed 50 percent of the funds available under the 505 program at the time the loan applications are approved.

Funds will continue to be available to railroads which do not engage in restructuring projects, subject to satisfying the "poverty oath" in Section 505(b)(2)(A).

OFFICE OF RAIL PUBLIC COUNCIL (SEC. 25)

Senate bill

No similar provision.

House amendment

There has been some concern that the Office of Rail Public Counsel may not have the authority to appear and be heard in the proceeding before the bankruptcy court involving the reorganization of the Milwaukee Railroad. Section 28 of the House bill incorporates an amendment passed on the floor of the House designed to eliminate any question as to the Office of Rail Public Counsel's ability to participate.

Conference substitute

In adopting the House provision, Conferees anticipate that all doubt about the Office of Rail Public Counsel's ability to participate should be removed. Further the Conferees not only anticipate but expect the Office of the Rail Public Counsel to begin to take a more active role in this and other proceedings delineated in its specific statutory mandate.

EMPLOYEE STOCK OWNERSHIP PLAN FOR SURVIVING PORTION OF MILWAUKEE RAILROAD (SEC. 26)

Senate bill

Section 12 of the Senate bill mandates that any relief provided for the surviving portion of the Milwaukee Railroad under the Emergency Rail Service Act or any other federal legislation be conditional upon the good faith efforts of the trustee or the Railroad to establish an employee stock ownership plan which would include the purchase of qualifying employer securities equal to 25 percent of the amount of the relief.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the Senate bill.

The conferees believe that the future revitalization and recovery of any part of the Milwaukee Railroad will depend to a large degree upon the commitment of its employees toward its success. The most effective way to provide employees with this sense of commitment is to give them a major equity interest in their company. In order to encourage the surviving portion of the

Milwaukee Railroad (the "Milwaukee") to provide its employees with this stock ownership, the conferees agree that any Federal relief provided should be expressly conditioned upon the creation of an employee stock ownership plan ("ESOP") and the acquisition of a significant amount of stock in the Milwaukee by the ESOP. Based upon past Congressional experience in this area, the conferees have determined that the acceptable standard for determining how much stock should be held by the ESOP should be 25 percent of the amount of any Federal relief provided.

HARLEY O. STAGGERS,
JAMES T. BROYHILL,
J. J. FLORIO,
EDWARD MADIGAN,
BARBARA A. MIKULSKI,
Managers on the Part of the House.

WARREN G. MAGNUSON,
RUSSELL B. LONG,
BOB PACKWOOD,
Managers on the Part of the Senate.

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the Senate bill (S. 1905) to provide for the orderly restructuring of the Milwaukee Railroad, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder if in view of the unusual request made by the gentleman from Virginia, the gentleman could tell us precisely or at least in general what is embodied in this compromise and whether all parties to it have agreed?

Mr. STAGGERS. Mr. Speaker, if the gentleman will yield, there is one major change that I can relate to the gentleman from Maryland. The conferees agreed to permit the parties for 20 days to try to reach an agreement. If that does not work, then the bill authorizes 20 days of arbitration, and if that is not successful, the provisions of the bill as it passed the House would apply.

Mr. BAUMAN. Do I understand correctly that the concerns expressed by the gentleman from Wisconsin (Mr. SENSENBRENNER), and others, have been satisfied by this agreement?

Mr. STAGGERS. I have been assured that they have been.

Mr. BAUMAN. And that a written copy of the report is available here for Members to inspect?

Mr. STAGGERS. Well, I am sure it is. We have presented one here. I am sure that the gentleman has been satisfied, because the gentleman asked for a copy of the report and the gentleman has seen it.

Mr. BAUMAN. Mr. Speaker, I appreciate the gentleman's assurances, and having talked with other parties, I will not object.

I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, I have seen the conference report and I am pleased with the provisions of the conference report and do intend to speak in favor of it once it comes up.

I would urge the gentleman to withdraw his reservation of objection.

Mr. BAUMAN. Well, Mr. Speaker, with that assurance both from the gentleman from West Virginia and from the gentleman from Wisconsin, I would observe that 2 o'clock will be here in about 8 minutes, which is the supposed adjourning time. I hope they will be able to make it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the statement of the managers be read in lieu of the report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see prior proceedings of the House of today.)

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virigina?

There was no objection.

The SPEAKER pro tempore. The gentleman from West Virginia (Mr. STAGGERS) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. MADIGAN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Speaker, I will speak for only 1 minute to say that the House passed this bill here the other day and I believe if we had had a rollcall vote we would not have had one vote in opposition to it. Every Member who spoke on the bill supported it. The conferees have brought back to the House practically the same bill that we passed here at that time, with one little refinement, as I explained a few moments ago, and that is the total change I know of any consequence whatsoever.

So I would urge the House to vote unanimously for the conference report.

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of accepting the conference report on S. 1905, a bill relating to the restructuring of the Milwaukee Railroad. Mr. Speaker, as you know, the Milwaukee Railroad filed bankruptcy in December of 1977 and has been a subject of concern to the Congress ever since. The problems encountered in attempting to reorganize the Milwaukee Railroad under the Bankruptcy Act and the Interstate Commerce Act existed primarily because existing law is poorly suited to restructuring and rationalizing the national railroad system. The legislation agreed to by the conferees represents a very significant step toward resolving a problem which has plagued this Nation's railroads for many years. Therefore, this legislation not only resolves the matter involving the Milwaukee Railroad, but estabilshes an important breakthrough which in my judgment can lead only to the strengthening of our national railroad system.

Yesterday, an embargo went into effect which stopped rail service on nearly three-quarters of the Milwaukee Railroad system. Without enactment of the conference substitute for S. 1905, the Interstate Commerce Commission would immediately begin directed service over those lines of the Milwaukee Railroad which have been embargoed by the judge. That directed service would continue for a period of 8 months and at a cost to the taxpayers in excess of $150 million. As you know, the directed service program is a grant program based on a cost plus 6 percent profit formula and at best would only postpone the restructuring of the Milwaukee Railroad.

Last Tuesday, this body considered and passed legislation designed to bring about the prompt restructuring of the Milwaukee Railroad in order to save the taxpayers money, provide reliable service for most of the shippers served by the Milwaukee Railroad, and to assure certainty and prompt payment of employee protection benefits. The proposal offered by Congressman FLORIO and me was adopted by this body and sent to the Senate as an alternative to the more limited proposal passed by that body. During the last 2 days we have worked out the differences between our bill and the bill adopted by the Senate. The substitute agreed upon by the conferees incorporates most of the provisions contained in the House-passed bill and benefits from a number of changes designed to improve the procedures for arriving at a prompt solution to the Milwaukee problem.

Mr. Speaker, we have come a long way from our considerations of this matter last May when the Senate passed Senate Joint Resolution 81 simply freezing the entire Milwaukee system for a period of 90 days. At that time, the House Interstate and Foreign Commerce Committee reported a bill which would have frozen the Milwaukee system for a period of 45 days. I was not able to support that measure because it represented a cost to the taxpayer without providing any meaningful resolution to the problem of restructuring the Milwaukee Railroad.

During the summer, the members of our committee worked with Chairman FLORIO and me to find a meaningful solution to the Milwaukee problem. The action taken by the House Tuesday and the conference substitute before us today will assure a prompt and workable method for reorganizing the Milwaukee Railroad by permitting sales of lines to other carriers and by providing an affordable method of employee protection which will not totally erode all of the assets of the Milwaukee estate.

It is important, Mr. Speaker, that the court and the administration have a clear understanding of this legislation. It is important because the legislation does provide certainty and a workable method for the reorganization and restructuring of the Milwaukee Railroad. It is important because dilatory tactics or a misunderstanding by either the court or the administration can only serve to cost the taxpayers more money in bringing about a final resolution to this problem.

I recognize that the judge has had a most difficult time in dealing with this reorganization because of the inadequacies of the laws with which he has had to work and the highly political nature of a railroad reorganization. The conference substitute lays out a precise method for the restructuring and reorganization of the Milwaukee Railroad which provides certainty to the difficult job of reorganization now before the bankruptcy court. We have been assured by the administration that it will promptly implement this legislation and focus its efforts on making certain that it works.

Mr. Speaker, first let me address the cost to the taxpayer contained in the conference substitute. There are new authorizations of $5 million for the supplementary unemployment insurance program contained in the substitute and $1.5 million for the new career training program. In addition, there is $750,000 authorized to be appropriated to the Railroad Retirement Board for their role in carrying out its efforts to place as many former Milwaukee employees in the railroad industry as possible.

The primary emphasis in the bill is on the use of Government loans in order to permit the prompt restructuring of the railroad. The Government loans fall into two categories—those which are subordinated to the interests of the creditors and those which are given top priority and considered as costs of administration of the estate. The moneys which will be advanced to the Milwaukee Railroad under the Emergency Rail Services Act in order to continue operations during the several month period necessary for restructuring will be subordinated to the claims of the creditors of the Milwaukee estate. The money advanced to the railroad under the title 5 program; namely, the $75 million for prompt settlement of labor protection—is to be considered as a cost of administration of the estate and given top priority.

The other money provisions of the conference substitute and of the House-passed bill relate to moneys to be used in order to encourage other carriers to buy lines of the Milwaukee. Such money under the title 5 loan program of the 4-R Act will be made available to carriers even if carriers could receive funding from other sources. The reason for this provision is to eliminate the restriction under existing law on loaning money to healthy railroad carriers in order to provide an extra incentive for such carriers to purchase lines needing rehabilitation knowing that low-interest Federal money will be available for such rehabilitation. In my judgment, this approach assures the best possible use of tax dollars by beginning the process of rebuilding our Nation's railroads as soon as possible.

Mr. Speaker, now let me address the heart of the bill before us which is the method and certainty provided in the restructuring and reorganization process. In an effort to take one last look at the possibility of converting the Milwaukee Railroad into an employee or shipper-owned railroad, the conference substitute provides that the Interstate Commerce Commission shall receive any such plan not later than December 1 of this year.

By January 1, the Interstate Commerce Commission must decide whether or not such a plan is feasible. The conference substitute spells out a number of findings that the Commission must make as a test to feasibility. It is also made crystal clear that feasibility must be determined without any illusions that additional Federal money will be made available in order to create an employee-shipper-owned railroad. The burden of showing that adequate funding exists for such an acquisition and implementation falls squarely upon the proponents of such a plan.

While some of the purchase money could perhaps be obtained from employees waiving any claims they might have for traditional labor protection, there will also be the need for the proponents to show that sufficient private and public capital exists for implementing any employee-shipper-owned railroad plan. I want to emphasize that the purpose of this position is simply to give one last review to the feasibility of an employee-shipper ownership plan for the railroads.

Personally, I find that the likelihood of the Commission finding such a plan to be feasible is very remote. To date, there have been at least four studies showing that the huge rehabilitation costs and operating losses of the Milwaukee Railroad make it very difficult to envision how an employee-shipper-owned railroad would be able to accomplish anything more than that which is accomplished under the present management.

Mr. Speaker, it is my expectation that the Commission will find no later than January 1 that an employee-shipper-owned railroad is not feasible. In that event, the trustee of the railroad may immediately sell or abandon those lines of the railroad which are not needed as part of the railroad under his reorganization plan subject only to the approval of the judge. The judge may set time limits for review by the Interstate Commerce Commission of pending sales, but any such time limits cannot exceed 180 days. I would be concerned about the speed within which the reorganization is programed were it not for the fact that lengthy negotiations have already taken place over a long period of time with respect to the restructuring of the Milwaukee Railroad. Under the 401 process of the 4-R Act, the Secretary of Transportation became involved in proposals for restructuring the railroad over a year ago. I am confident that other carriers interested in purchasing the lines of the Milwaukee Railroad will make serious offers to complete those purchases now that the legislation provides certainty as to time in which the Milwaukee Railroad must be restructured.

Mr. Speaker, as I have assured the Members of this body and in particular Members on this side of the aisle, I view the labor protection provisions of this bill as a historic step forward in providing rational but fair and equitable labor protection in this industry. I need not remind you of the tremendous burden placed on the railroad industry under traditional labor protection arrangements. You will recall that under the Washington Job Agreement of 1935 any employee adversely affected by a sale, abandonment or merger is entitled to either 16½ months' severance pay or a guaranteed annual income of 6 years. The total cost of that type of protection for the Milwaukee Railroad has been estimated to run anywhere from $300 million to $1.2 billion. Faced with such a staggering cost, the Milwaukee Railroad could not reorganize because it would have no money left to operate the restructured railroad.

Under the conference substitute, Government assistance is provided in the form of a $75 million loan to the Milwaukee Railroad to be treated as a cost of administration of the estate. That simply means that the repayment of the loan is given the highest possible priority and in view of the assets of the Milwaukee Railroad, I am certain it will be repaid. The purpose of the loan is to permit the Milwaukee Railroad to promptly pay specified labor protection claims if the employee waives traditional labor protection.

In the House-passed bill, the specific claims falling within the $75 million ceiling were enumerated in the legislation itself. Under the conference substitute, an opportunity is provided for employees and management of the Milwaukee Railroad to come up with their own specific labor protection package within the $75 million limitation. The parties are given 20 days following the date of enactment of this bill to arrive at an agreement. If they do not arrive at an agreement during the first 20-day period, there is an additional 20-day period in which the National Mediation Board assists them in reaching an agreement. If an agreement is not reached with the help of the National Mediation Board within that 20-day period, then the statute specifically provides that the agreement shall be fair and equitable. The conference report spells out in no uncertain terms what constitutes fair and equitable. Specifically, fair and equitable shall mean the provisions as passed by the House without any changes whatsoever. In my judgment, this method preserves the rationalization of labor protection as contained in the House bill and at the same time provides the parties themselves the opportunity to play a constructive role if they have a better way to substitute a method for prompt payment of labor protection.

Mr. Speaker, this legislation resolves the matter of restructuring the Milwaukee Railroad. The conference substitute also contains those provisions of the House bill designed to avoid congressional involvement in other railroad restructuring and reorganization problems. For example, the conference substitute gives to the bankruptcy court handling other railroad bankruptcies powers similar to those provided under the new Bankruptcy Act for railroads filing in bankruptcy on or after October 1 of this year.

Simply stated, the provision gives the judge in a bankruptcy case additional powers to authorize abandonments and sales without having those matters tied up in the Interstate Commerce Commission for years and years. This does not mean that the Interstate Commerce Commission is given no role in deciding sales and transfers of railroad property. The judge, however, sets definite time limits in which the Commission might act and those time limits shall not exceed 6 months.

If the Commission does not act, the judge may proceed with the approval of the sale and transfer of property. The provision in the conference substitute does make it clear that applications for sales already before our Commission are to be decided by the Commission rather than the Court. Such decisions, however, shall not be made the subject of lengthy appeals and are consistent with the committee's desire to get on with railroad restructuring without unnecessary and legalistic delays.

The conference substitute also contains the liberalization of the use of money under section 505 of the 4-R Act in order to rehabilitate railroad lines acquired as a result of the restructuring process. This provision is one which has twice passed the House and has been recommended by the administration. The conference substitute makes certain that no more than 50 percent of the available funds can be used for any rehabilitation projects arising out of this same restructuring. This will assure that the available funds are not siphoned off to one or two particular railroads.

Mr. Speaker, I urge the adoption of this conference substitute. I want to congratulate my colleagues who served with me on the conference committee for their wisdom and dedication in resolving the differences between the House and Senate under severe time pressures in order to resolve this difficult matter. The conference substitute represents a significant breakthrough in the difficult matter of railroad restructuring and labor protection.

Mr. Speaker, I yield at this time to the distinguished ranking member of the Committee on Interstate and Foreign Commerce, the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the conference substitute for S. 1905.

When the House passed S. 1905, it represented what I considered to be the best possible solution to the immediate problems of the Milwaukee Railroad. The House bill presented the least cost to the Federal Government and provided the best short-term solution for the displaced employees of the railroad.

I am happy to report to the House that the solution represented in the conference substitute will require the same amount of Federal dollars which would have been needed under the provisions of the House bill. This is the first time since I have been a Member of the House that the Congress has been willing to face head on the serious problems associated with railroad labor protection. This compromise which has hammered out with our colleagues in the Senate could save the Federal Government hundreds of millions of dollars in the years to come, not only with respect to the Milwaukee Railroad, but by serving as a good example for the continued restructing of the railroad industry. Last May, the Congress was once again presented with a railroad bailout bill. We were asked to freeze the entire Milwaukee Railroad system and have the Federal Government pick up the operating expense. Fortunately, the Congress has recognized that that proposal would solve none of the problems of the Milwaukee Railroad and would have simply begun a process that would have led the Congress down the easy road using millions of taxpayer dollars to only delay the death of a very sick railroad rather than facing the difficult questions posed by the dire straits of the Milwaukee Railroad and attempting to provide the direction needed to solve some of those difficult problems.

Mr. Speaker, I want to commend Senators CANNON and PACKWOOD, along with Congressmen MADIGAN and FLORIO, for their leadership and I urge my colleagues to vote for this conference substitute.

Mr. MARLENEE. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from Montana (Mr. MARLENEE).

Mr. MARLENEE. Mr. Speaker, I rise in support of the compromise measure that has been agreed to on the Milwaukee Railroad. Since we passed House Joint Resolution 341, earlier this week, the House and Senate Commerce Committee members and their very capable staffs have worked hard in trying to work out a compromise. I believe we have that compromise.

I can only stress how important it is that we pass this bill now. The Milwaukee has begun an embargo—the employees have been furloughed and now many shippers are without service. It is critical that this legislation become law so further shut downs of major plants do not continue. Hundreds of jobs are in jeopardy in my State alone.

This compromise will allow the railroad to continue with the minimum of Government expense. It has been carefully worked out to provide a fair and equitable way to continue rail transportation.

I urge my colleagues to vote for this bill.

Mr. ABDNOR. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from South Dakota (Mr. ABDNOR).

Mr. ABDNOR. Mr. Speaker, as the ranking minority member (Mr. MADIGAN) has pointed out, without enactment of this measure, shippers on lines scheduled to be abandoned by the Milwaukee would receive up to 8 months of directed service.

Since copies of the House-Senate compromise are not available, I cannot comment on the specifics of the changes which have been made in the version of the bill passed by the House. The conferees assure us, however, that the compromise contains the substance of the measure I attempted to amend on Wednesday.

As my colleagues will recall, I attempted, through amendment, to insure that shippers would receive at least 2 months of directed service on lines which the Milwaukee ceases service. My amendment was defeated; and, if I understand correctly, the compromise measure before us maintains the prohibition on directed service until after March 1 of 1981.

My colleague (Mr. MADIGAN) has argued in support of this legislation by stating that it is a radical departure from previous cases, such as the Penn Central, and that it minimizes the involvement of the Federal Government. On the other hand, shippers in my district will view it as a classic case of the double standard in which we are on the short end of the stick.

I submit that it is highly unfair for the Government to have created the mess shippers find themselves in today and, then, just to walk away with precious little notice, as will be the case for many shippers under this legislation. As I argued in support of my amendment, the least shippers have the right to expect is that the Congress would allow them the protections provided by existing law; namely, 2 months directed service, with the possibility of an additional 18 days thereafter.

While I wish the proponents of the ESOP every success and sincerely hope that a plan can be found feasible and be implemented, the committee, by its opposition to my amendment, expressed its lack of confidence in that outcome. That is obvious because if the plan is found feasible my amendment would have been moot, would have been to no effect, and would not have cost a dime.

It is the other possible outcome, that the plan will be found infeasible, which concerns me and to which my amendment was directed. The committee has shown by its actions that they believe that outcome is likely, and I simply cannot stand idly by and let it be said that I did not do everything possible to uphold the interests of South Dakota shippers.

Now that the Congress is about to work its will, it should be clear to all concerned that it is not only the Milwaukee Railroad which is, by necessity, abandoning South Dakota shippers. The Congress is doing so as well.

Mr. MADIGAN. Mr. Speaker, I thank the gentleman from South Dakota (Mr. ABDNOR).

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I rise in support of the conference committee report. I thank the gentleman from Illinois for yielding.

I would like to commend the gentleman from Illinois (Mr. MADIGAN); the distinguished chairman of the committee, the gentleman from West Virginia (Mr. STAGGERS); the subcommittee chairman, the gentleman from New Jersey (Mr. FLORIO) and the gentleman from North Carolina (Mr. BROYHILL) for working out an excellent compromise in this very difficult area.

There should be two main points that should be emphasized on why this conference committee report is in the public interest.

First, it will allow for the orderly termination of the litigation that has been going on for almost 2 years relating to the bankruptcy of the Milwaukee Railroad by providing some guidelines for the restructuring and reorganization of the road.

Second, and perhaps more importantly, the deadlines of December 1 for the submission of an ESOP and January 1 for Interstate Commerce Commission review and decision on the ESOP as contained in the House passed bill have been maintained in this conference committee report.

I think that this is a fair compromise for the taxpayers of this country. It is a fair compromise for the shippers, not only in the Pacific Northwest, but in those areas that will be served by the core of the railroad remaining after reorganization.

I join the gentleman from West Virginia in expressing the hope that this conference committee report will be passed unanimously.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Speaker, I want to thank all the leadership on this, the chairman and the gentleman from New Jersey (Mr. FLORIO) and the gentleman from Illinois (Mr. MADIGAN). This will greatly help our State.

Mr. WILLIAMS of Montana. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I would be happy to yield to the gentleman from Montana.

Mr. WILLIAMS of Montana. Mr. Speaker, I would first like to thank the distinguished chairman from West Virginia, Mr. STAGGERS, Transportation Subcommittee chairman, JIM FLORIO, and you, Mr. MADIGAN, for your outstanding work on this legislation. Thanks are also due the staff of the Commerce Committee for the long hours you have spent assisting us in this effort. I have to disagree with my colleague from Wisconsin, Mr. SENSENBRENNER, about the purpose of this legislation. Yes; it is an attempt to guarantee that employees of the Milwaukee Railroad are protected, and I am pleased that the Senate has acceded to the House bill which contained vitally needed guarantees to Milwaukee employees. But it is not a means to bring a quick end to Milwaukee service on its transcontinental line west of Miles City, Mont. It is, on the contrary, a guarantee that the coalition of employees and shippers who are developing a plan to provide long-term operation of the Milwaukee through Montana and on to the Pacific coast can present their proposal to the Interstate Commerce Commission and that that agency will give them a fair hearing.

Mr. MADIGAN. Mr. Speaker, I reserve the balance of my time.

Mr. STAGGERS. Mr. Speaker, I just would like to pay tribute to the subcommittee chairman, the gentleman from New Jersey (Mr. FLORIO), and the gentleman from Illinois (Mr. MADIGAN), who helped immeasurably to assure that the legislation passed, showing that it was completely on a bipartisan basis that this was worked out and showing that when this is done on a bipartisan basis it is so much easier to get things through the Congress.

I would like to thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for the fact that the gentleman would allow us to bring this bill up. It is so important, not only to the gentleman's section of the country, but to America.

As I said yesterday, it is the breadbasket of the Nation and a lot of things would have spoiled out there if we had not got this bill through today.

I would also like to thank the gentleman from Montana (Mr. WILLIAMS). The gentleman and his staff played a very important part in every stage of this legislation and was very anxious to get this through.

This legislation is important not only for the northern tier States, but for America as well. It is good legislation—good for the gentleman's home State of Montana, and good for America. As the gentleman from Montana pointed out earlier this week, the unity of the States is of utmost importance to this country, and I am proud to see us stand united to avert a disaster for our Northwestern States.

Also, I would like to thank the gentleman from Montana (Mr. MARLENEE) and his staff and the gentleman from South Dakota (Mr. ABDNOR) and his staff for their patience and assistance in a matter that is vital to their constituents.

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Mr. FLORIO. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Speaker, I would just in final conclusion urge the passage of this conference report, notwithstanding the somewhat expedited process we are using this afternoon. This process is, of course, required because of the emergency nature of this consideration.

Since we considered this bill on Tuesday, an embargo is now in effect on the lines west of Miles City, Mont., to the deteriment of the shippers, and shipments of coal and grain have stopped.

Mr. Speaker, the essence of the conference report is the bill we passed, and I urge that this conference report be approved at this time.

Mr. STAGGERS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO FILE REPORT ON BILL DEALING WITH ENERGY CONSERVATION WITHIN THE FEDERAL GOVERNMENT

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations have until midnight tonight to file a report dealing with energy conservation within the Federal Government.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, could the gentleman from Texas (Mr. BROOKS) tell us what the purpose of this request is?

Mr. BROOKS. Mr. Speaker, the purpose is this, if the gentleman will yield: This is simply a report approved by the Committee on Government Operations subject to minority views, and it will be filed at 4 o'clock. This has to do with energy conservation within the Federal Government. This is from the Committee on Government Operations, which, as the gentleman knows, very seldom ever asks for closed rules.

Mr. BAUMAN. And let me ask, what would happen if permission is not granted.

Mr. BROOKS. Mr. Speaker, the committee would have to work on this all during these next few days instead of devoting our time to saving money and expediting some matters in which we are very interested.

Mr. BAUMAN. Mr. Speaker, I could name one.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT ON S. 1037, DISTRICT OF COLUMBIA RETIREMENT REFORM ACT

Mr. DELLUMS submitted the following conference report and statement on the Senate bill (S. 1037) to establish an actuarially sound basis for financing retirement benefits for police offices, firefighters, teachers, and judges of the District of Columbia and to make certain changes in such benefits:

CONFERENCE REPORT (H. REPT. NO. 96-584)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1037) to establish an actuarially sound basis for financing retirement benefits for police officers, fire fighters, teachers, and judges of the District of Columbia and to make certain changes in such benefits, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act, with the following table of contents, may be cited as the "District of Columbia Retirement Reform Act".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.

TITLE I—FINANCING OF RETIREMENT BENEFITS

PART A—FINDINGS AND PURPOSE; DEFINITIONS

Sec. 101. Findings and purpose.
Sec. 102. Definitions.

PART B—ESTABLISHMENT OF RETIREMENT BOARD AND RETIREMENT FUNDS

Sec. 121. District of Columbia Retirement Board.
Sec. 122. District of Columbia Police Officers and Fire Fighters' Retirement Fund.
Sec. 123. District of Columbia Teachers' Retirement Fund.
Sec. 124. District of Columbia Judges' Retirement Fund.
Sec. 125. Management of Retirement Funds.
Sec. 126. Payments from the Funds.

PART C—FINANCING OF RETIREMENT BENEFITS

Sec. 141. Limitation on investment of Retirement Funds.
Sec. 142. Determination of Federal and District of Columbia payments to the Funds.
Sec. 143. Information about retirement programs.
Sec. 144. Federal and District of Columbia payments to the Funds.
Sec. 145. Reduction in Federal contribution for excessive cost of police officers and fire fighters' disability retirement.
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Sec. 161. Personal financial disclosure by Board members.
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PART B—TEACHERS' AND JUDGES' RETIREMENT BENEFITS

Sec. 251. Cost-of-living adjustments of teachers' annuities.
Sec. 252. Cost-of-living adjustments of judges' annuities.
Sec. 253. Interest on teachers' refunds and deposits.
Sec. 254. Interest on judges' redeposits.
Sec. 255. Restoration of teachers' annuities in the event of predeceased beneficiaries.
Sec. 256. Termination of teachers' disability annuities based on outside earned income.
Sec. 257. Restriction on retired teachers receiving annuity while employed by the District of Columbia government.

TITLE I—FINANCING OF RETIREMENT BENEFITS

PART A—FINDINGS AND PURPOSE; DEFINITIONS

FINDINGS AND PURPOSE

SEC. 101. (a) The Congress finds that the retirement benefits authorized by various Acts of Congress for the police officers, fire fighters, teachers, and judges of the District of Columbia have not been financed on an actuarially sound basis. Neither Federal payments to the District nor District of Columbia appropriations have taken into account the long-term financial requirements of the District's retirement programs. As a result, the annual budget cost to the District of Columbia for annuities and refunds of deductions is growing at a rapid rate and, in the case of the retirement program for police officers and fire fighters, is predicted to exceed the cost of salaries for active police officers and fire fighters by the year 2000.

(b) It is the purpose of this title—

(1) to establish separate retirement Funds for police officers and fire fighters, for teachers, and for judges of the District of Columbia;

(2) to establish a Retirement Board with responsibility for managing these Funds;

(3) to require that these Funds be managed on an actuarially sound basis in order to provide proper financing for the benefits to which the District's retired police officers, fire fighters, teachers, and judges are entitled;

(4) to require that the Retirement Board comply with reporting and disclosure requirements similar to those imposed under the Employee Retirement Income Security Act of 1974; and

(5) to provide for Federal payments to these Funds to help finance, in part, the liabilities for retirement benefits incurred by the District of Columbia prior to the establishment of self-government under the District of Columbia Self-Government and Governmental Reorganization Act.

DEFINITIONS

SEC. 102. As used in this title:

(1) The term "Mayor" means the Mayor of the District of Columbia.

(2) The term "Council" means the Council of the District of Columbia.

(3) The term "Speaker" means the Speaker of the House of Representatives.

(4) The term "President pro tempore" means the President pro tempore of the Senate.

(5) The term "Board" means the District of Columbia Retirement Board established by section 121 of this Act.

(6) The term "Custodian of Retirement Funds" means the Board, except that until such time as the members of the Board are first elected and the Board certifies pursuant to section 121(h) that it is assuming responsibility for the Funds established by this title, the term "Custodian of Retirement Funds" means the Director of the Office of Budget and Financial Management of the District of Columbia (established by Organization Order Numbered 30, Commissioner's Order Numbered 72-80, April 5, 1972 (D.C. Code, title 1—Appendix)).

(7) The term "retirement program" means—

(A) the program of annuities and other retirement and disability benefits for members and officers of the Metropolitan Police force and the Fire Department of the District of Columbia, but does not include the program of annuities and other retirement and disability benefits for members and officers of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division under the Policemen and Firemen's Retirement and Disability Act;

(B) the program of annuities and other retirement and disability benefits for judges of the courts of the District of Columbia under subchapter III of chapter 15 of title 11 of the District of Columbia Code; or

(C) the program of annuities and other retirement and disability benefits for teachers in the public day schools of the District of Columbia.

(8) The term "State" means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, and the Canal Zone.

(9) The term "party in interest" means—

(A) any person (including a member of the Board) having fiduciary responsibilities under this title;

(B) any person providing services to a Fund;

(C) the government of the District of Columbia;

(D) an employee organization; and

(E) a spouse, ancestor, lineal descendant, or spouse of a lineal descendant of any individual described in subparagraph (A) or (B).

(10) The term "Fund" means the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122, the District of Columbia Teachers' Retirement Fund established by section 123, or the District of Columbia Judges' Retirement Fund established by section 124.

(11) The term "current value" means fair market value where available (as determined in good faith by a fiduciary in accordance with regulations promulgated by the Board) or otherwise the fair value (as determined in good faith by a fiduciary in accordance with regulations promulgated by the Board), assuming an orderly liquidation at the time of such determination.

(12) The term "future value" means a liability for a given prior fiscal year expressed in terms of the price level expected to prevail in a given future fiscal year, adjusted at the rate of inflation used with regard to determinations made under section 142(a)(1).

(13) The term "qualified public account-

ant" means a person who is a certified public accountant, certified by a regulatory authority of a State.

(14) The term "enrolled actuary" means an actuary enrolled under subtitle C of title III of the Employee Retirement Income Security Act of 1974.

(15) The term "security" means a security as defined in section 2(1) of the Securities Act of 1933.

(16) The term "employee organization" means any labor union or any organization of any kind, or any agency or employee representation committee, association, group, or plan, in which individuals covered by a retirement program participate and which exists for the purpose, in whole or in part, of dealing with the government of the District of Columbia concerning such retirement program.

(17) The term "teacher" means a teacher as defined in section 13 of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31-733).

(18) The term "judge" means a judge as defined in section 11-1561(1) of title 11 of the District of Columbia Code.

(19) The term "participant" does not include an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division to whom the Policemen and Firemen's Retirement and Disability Act applies; and, unless the context requires otherwise, the term "beneficiary" does not include a beneficiary under such Act of any such officer or member.

PART B—ESTABLISHMENT OF RETIREMENT BOARD AND RETIREMENT FUNDS

DISTRICT OF COLUMBIA RETIREMENT BOARD

SEC. 121. (a) There is established, as an independent agency of the government of the District of Columbia, a board of trustees to be known as the District of Columbia Retirement Board which shall have exclusive authority and discretion (subject to the requirements of this title) to manage and control the Funds established by this title.

(b)(1) The Board shall consist of eleven members selected as follows:

(A) One member or officer of the Metropolitan Police force of the District of Columbia, to be elected by the members and officers of the Metropolitan Police force.

(B) One retired member or officer of the Metropolitan Police force of the District of Columbia, to be elected by the retired members and officers of the Metropolitan Police force.

(C) One member or officer of the Fire Department of the District of Columbia, to be elected by the members and officers of the Fire Department.

(D) One retired member or officer of the Fire Department of the District of Columbia, to be elected by the retired members and officers of the Fire Department.

(E) One teacher in the public day schools of the District of Columbia, to be elected by the teachers of the public day schools of the District of Columbia.

(F) One teacher in the public day schools of the District of Columbia who is retired, to be elected by the retired teachers of the public day schools of the District of Columbia.

(G) Two individuals appointed by the Council of the District of Columbia.

(H) Three individuals appointed by the Mayor.

A vacancy on the Board shall be filled in the manner in which the original selection was made.

(2) The first election of the Board members described in subparagraphs (A) through (F) of paragraph (1) shall be conducted within six months after the date of the enactment of this title in accordance with regulations which the Mayor shall promulgate. Thereafter, elections shall be conducted by the Board. In any such election, voting shall be by secret ballot, and each individual to be represented on the Board by the winner of such election shall be eligible to vote in such election.

(3)(A) Except as provided in subparagraph (B), the members of the Board shall each serve a term of four years, except that a member selected to fill a vacancy occurring prior to the end of the term for which his predecessor was selected shall only serve until the end of such term. A member may serve after the expiration of his term until his successor has taken office.

(B) Of the members of the Board who are first selected—

(i) two shall serve for a term of one year,

(ii) three shall serve for a term of two years,

(iii) three shall serve for a term of three years, and

(iv) three shall serve for a term of four years,

as determined by lot at the first meeting of the Board.

(4) No individual shall serve more than two terms as a member of the Board, except that an individual serving less than two years of a term to which some other individual was originally selected shall be eligible for two full terms as a member of the Board and an individual serving two years or more of a term to which some other individual was originally selected shall be eligible for only one full term as a member of the Board.

(5) Any individual who was selected as a member of the Board under subparagraph (A), (C), or (E) of paragraph (1) and who ceases to be a member or officer of the Metropolitan Police force, member or officer of the Fire Department, or a teacher, as the case may be, may not continue as a member of the Board.

(6) No member of the Board may hold or be a candidate for any elective office in the District of Columbia.

(7) No member of the Board may have any personal interest, direct or indirect (except as a participant in a retirement program), in any transaction involving assets of the Funds established by this title and shall otherwise comply with the standards of conduct applicable to fiduciaries in the District of Columbia, as well as those standards of conduct established by part E of this title.

(8) Not less than two of the members of the Board appointed by the Mayor under paragraph (1) shall be individuals who have professional work experience in the banking, insurance, or investment industry.

(9) Any member of the Board may be removed from the Board by a vote of two-thirds of the members of the Board for a breach of fiduciary responsibility with respect to a Fund or for a violation of section 184.

(10) The Board shall elect one member of the Board to be chairman of the Board. The chairman shall be elected for a term of one year, but may be removed from such position by a vote of two-thirds of the members of the Board.

(11) The Director of the Office of Budget and Financial Management of the District of Columbia shall be an ex officio member of the Board, but shall not vote, shall not be eligible to be elected chairman of the Board, and shall not be counted for purposes of a quorum.

(c) Subject to the availability of appropriations therefor, each member of the Board shall be entitled to receive the hourly equivalent of the annual rate of pay in effect for the highest step of grade GS-15 of the General Schedule under section 5332 of title 5, United States Code, for each hour such member is engaged in the actual performance of duties vested in the Board, except that any member of the Board who is a full-time officer or employee of the District of Columbia or the United States shall not be entitled to receive pay under this subsection for performance of duties vested in the Board.

(d)(1) The Board shall meet at least once each calendar quarter at a regular and specified time. It shall meet at such other times as the chairman or any three members of the Board may prescribe.

(2) Any six members shall constitute a quorum for the transaction of the business of the Board.

(3) Except as otherwise provided in this title, actions of the Board shall be determined by a majority vote of the members present and voting.

(e) The Board shall from time to time promulgate rules and regulations, adopt resolutions, issue directives for the administration and transaction of its business and for the control of the Funds established by this title, and perform such other functions as may be necessary to carry out its responsibilities under this title.

(f)(1) All administrative expenses incurred by the Board in carrying out this title, including compensation for the members of the Board, shall be paid out of funds appropriated for such purpose.

(2) The budget prepared and submitted by the Mayor pursuant to section 442 of the District of Columbia Self-Government and Governmental Reorganization Act shall include recommended expenditures at a reasonable level for the forthcoming fiscal year for the administrative expenses of the Board.

(3) The Mayor and the Council may establish the amount of funds which will be allocated to the Board for administrative expenses, but may not specify the purposes for which such funds may be expended or the amounts which may be expended for the various activities of the Board.

(g)(1) The Board shall engage the services of competent investment counsel or counsels who shall be qualified under the Investment Advisors Act of 1940. Such investment counsel or counsels shall be fiduciaries to the extent designated by the Board, with respect to services rendered to the Board Such fiduciary relationship shall be specified in a written agreement between the investment counsel or counsels and the Board.

(2) The Board may appoint such staff as it considers necessary to enable it to carry out its responsibilities under this title. The staff of the Board shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no staff member may receive pay in excess of the annual rate of basic pay in effect for GS-15 of the General Schedule under section 5332 of title 5, United States Code.

(h) Not more than ninety days after all initial members of the Board have been selected in accordance with subsection (b) of this section, the Board shall certify in writing to the Director of the Office of Budget and Financial Management of the District of Columbia that the Board is assuming responsibility for the Funds established by this title.

DISTRICT OF COLUMBIA POLICE OFFICERS AND FIRE FIGHTERS' RETIREMENT FUND

SEC. 122. (a) There is established a fund to be known as the District of Columbia Police Officers and Fire Fighters' Retirement Fund into which shall be deposited the following, which shall constitute the assets of the Fund:

(1) Any amount paid to the Custodian of Retirement Funds pursuant to the last sentence of subsection (d)(1) or to subsection (c)(5) of the Policemen and Firemen's Retirement and Disability Act or pursuant to the proviso in the paragraph under the heading "Policemen and Firemen's Relief Fund" in the Act of June 14, 1935.

(2) Any amount appropriated for such Fund under part C of this title.

(3) Any return on investment of the assets of such Fund.

After September 30, 1979, or after the end of the thirty-day period beginning on the date on which funds are first appropriated to the District of Columbia Police Officers and Fire Fighters' Retirement Fund, whichever is later, all payments of annuities and other retirement and disability benefits (including refunds and lump-sum payments) under the Policemen and Firemen's Retirement and Disability Act shall be made from the Fund (except for any such payment which is made to an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or to a beneficiary of any such officer or member).

(b)(1) The last sentence of subsection (d)(1) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4-524(1)) is amended by striking out "Such" and inserting in lieu thereof "in the case of a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, such deductions and withholdings shall be paid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) and shall be deposited in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122(a) of such Act; and in the case of any other member, such".

(2) The proviso in the paragraph under the heading "Policemen and Firemen's Relief Fund" in the Act of June 14, 1935 (D.C. Code, sec. 4-502), is amended by inserting immediately before the period the following: ", except that all moneys required to be deposited with respect to officers and members of the Metropolitan Police force or the Fire Department of the District of Columbia shall be paid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122(a) of such Act".

(3) The Act entitled "An Act to credit active service in the military or naval forces of the United States in determining eligibility for and the amount of benefits from the policemen and firemen's relief fund, District of Columbia", approved July 21, 1947 (D.C. Code, sec. 4-504a), is amended by inserting "or the District of Columbia Police Officers and Fire Fighters' Retirement Fund (established by section 122(a) of the District of Columbia Retirement Reform Act)" immediately after "District of Columbia," the first place it appears.

(c) The amendments made by paragraphs (1) and (2) of subsection (b) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act. The amendment made by paragraph (3) of such subsection shall take effect on such date of enactment.

DISTRICT OF COLUMBIA TEACHERS' RETIREMENT FUND

SEC. 123. (a) There is established a fund to be known as the District of Columbia Teachers' Retirement Fund into which shall be deposited the following, which shall constitute the assets of the Fund:

(1) Any amount paid to the Custodian of Retirement Funds pursuant to the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946, or under the Act entitled "An Act to authorize certain teachers in the public schools of the District of Columbia to count as creditable service for retirement purposes certain periods of authorized leave without pay taken by such teachers for educational purposes", approved June 27, 1960.

(2) Any asset transferred to such Fund under subsection (c).

(3) Any amount appropriated for such Fund under part C of this title.

(4) Any return on investment of assets of such Fund.

Annuities and other retirement and disability benefits (including refunds and lump-sum payments) payable from the District of Columbia teachers' retirement and annuity fund established by section 2 of the Act of August 7, 1946, shall continue to be paid from such fund until all amounts in such fund have been expended or transferred under subsection (c) to the District of Columbia Teachers' Retirement Fund, and thereafter such benefits shall be paid from the District of Columbia Teachers' Retirement Fund.

(b)(1) The Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946, is amended—

(A) in the first section (D.C. Code, sec. 31-721)—

(i) by adding at the end of the first paragraph the following new sentence: "After the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, any amounts deducted and withheld pursuant to this paragraph shall be paid to the Custodian of Retirement Funds (as defined in section 102(6) of such Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act.", and

(ii) in the first sentence of the second paragraph, by striking out "Collector of Taxes, District of Columbia," and inserting in lieu thereof "Custodian of Retirement Funds";

(B) in section 2 (D.C. Code, sec. 31-722), by striking out "The" in the first sentence and inserting in lieu thereof "Until the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, the";

(C) in clause (ii) of paragraph (1) of section 5(b) (D.C. Code, sec. 31-725(b)(1)(ii)), by striking out "returned to the teachers' retirement and annuity fund established under section 2 of this Act" and inserting in lieu thereof "repaid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act";

(D) in section 9(a) (D.C. Code, sec. 31-729(a)), by striking out "deposit in the fund" in the second proviso and inserting in lieu thereof "repay to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act,";

(E) in clause (ii) of section 9(b)(1) (D.C. Code, sec. 31-729(b)(1)), by striking out "returned to the teachers' retirement and annuity fund established under section 2 of this Act" and inserting in lieu thereof "repaid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act"; and

(F) in section 17 (D.C. Code, sec. 31-737), by inserting "(including any assets of the District of Columbia Teachers' Retirement Fund established by section 123(a) of the District of Columbia Retirement Reform Act)" immediately after "Act".

(2) Section 4 of the Act entitled "An Act to increase annuities payable to certain annuitants from the District of Columbia teachers' retirement and annuity fund, and for other purposes", approved September 2, 1958 (D.C. Code, sec. 31-744), is amended by inserting immediately before the period at the end of the first sentence the following: "until such time as all amounts in such fund have been expended or transferred under section 123(c) of the District of Columbia Retirement Reform Act to the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act and thereafter from the District of Columbia Teachers' Retirement Fund".

(3) The Act entitled "An Act to authorize certain teachers in the public schools of the District of Columbia to count as creditable service for retirement purposes certain periods of authorized leave without pay taken by such teachers for educational purposes", approved June 27, 1960 (D.C. Code, sec. 31-745), is amended by striking out "the deposit by such teacher to the credit of the teachers' retirement and annuity fund of the District of Columbia" and inserting in lieu thereof "payment by such teacher to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act), for deposit in the District of Columbia Teachers' Retirement Fund established by section 123(a) of such Act,".

(c) Notwithstanding any other provision of law, any asset held in the District of Columbia teachers' retirement and annuity fund established by section 2 of the Act of August 7, 1946, may be transferred to the District of Columbia Teachers' Retirement Fund established by subsection (a).

(d) The amendments made by subsection (b) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

DISTRICT OF COLUMBIA JUDGES' RETIREMENT FUND

SEC. 124. (a) There is established a fund to be known as the District of Columbia Judges' Retirement Fund into which shall be deposited the following, which shall constitute the assets of the Fund:

(1) Any amount deposited pursuant to subchapter III of chapter 15 of title 11 of the District of Columbia Code.

(2) Any asset transferred to such Fund under subsection (c).

(3) Any amount appropriated for such Fund under part C of this title.

(4) Any return on investment of the assets of such Fund.

(b)(1) Section 11-1561(4) of title 11 of the District of Columbia Code is amended by striking out "Judicial Retirement and Survivors Annuity Fund as provided in section 11-1570" and inserting in lieu thereof "Judges' Retirement Fund established by section 124(a) of the District of Columbia Retirement Reform Act".

(2) Section 11-1563(a) of such title 11 is amended by striking out "deposited in the fund in accordance with procedures established by the Commissioner" and inserting in lieu thereof "paid to the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the fund".

(3) Section 11-1564(d)(4) of such title 11 is amended in the first sentence by striking out "Judicial Retirement and Survivors Annuity Fund" and inserting in lieu thereof

"Judges Retirement Fund established by section 124(a) of the District of Columbia Retirement Reform Act".

(4) Section 11-1570 of such title 11 is amended—

(A) in subsection (a)—

(i) in the first sentence, by inserting immediately before the period "until such time as all amounts in such Fund have been expended or transferred to the District of Columbia Judges' Retirement Fund established by section 124(a) of the District of Columbia Retirement Reform Act"; and

(ii) by striking out the second and third sentences and inserting in lieu thereof the following: "Thereafter the retirement salaries, annuities, refunds, and allowances provided for in this subchapter shall be paid from such Fund.";

(B) in subsection (b)—

(i) by striking out "such funds" and inserting in lieu thereof "the District of Columbia Judicial Retirement and Survivors Annuity Fund";

(ii) by striking out "from the fund" and inserting in lieu thereof "under the first sentence of subsection (a)"; and

(iii) by striking out "fund" the second place it appears and inserting in lieu thereof "District of Columbia Judicial Retirement and Survivors Annuity Fund"; and

(C) in subsection (d), by inserting "(including moneys in the District of Columbia Judges' Retirement Fund)" immediately after "subchapter".

(c) Notwithstanding any other provision of law, any asset held in the District of Columbia Judicial Retirement and Survivors Annuity Fund may be transferred to the District of Columbia Judges' Retirement Fund established by subsection (a).

(d) The amendments made by subsection (b) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

MANAGEMENT OF RETIREMENT FUNDS

SEC. 125. (a) The Custodian of Retirement Funds shall be the custodian of the assets of each Fund established by this title and shall manage and invest such assets in accordance with this title.

(b) The assets of each Fund shall be kept separate from other moneys which may be under the control of the Custodian of Retirement Funds, but need not be kept separate from the assets of the other Funds if the Board determines that commingling of such assets is advisable for investment purposes.

(c) The Board shall maintain, in an appropriate depository, a cash reserve for the Funds in an amount determined by the Board to be sufficient to meet current outlays for annuities and other retirement and disability benefits authorized to be paid from such Funds.

PAYMENTS FROM THE FUNDS

SEC. 126. The Mayor shall notify the Custodian of Retirement Funds of any payments to be made from the Funds established by this title for annuities or other retirement or disability benefits (including refunds and lump-sum payments), and the Custodian of Retirement Funds shall make such payments from the appropriate Fund.

PART C—FINANCING OF RETIREMENT BENEFITS

LIMITATION ON INVESTMENT OF RETIREMENT FUNDS

SEC. 141. (a) The assets of the Funds established by this title may not be invested in the following:

(1) Interest-bearing bonds, notes, bills, or certificates of indebtedness of the government of the District of Columbia, the government of the Commonwealth of Virginia, or the government of the State of Maryland, or the government of any political subdivision thereof, or of any entity subject to control by any such government or any combination of any such governments.

(2) Obligations fully guaranteed as to the payment of both principal and interest by the government of the District of Columbia, the government of the Commonwealth of Virginia, or the government of the State of Maryland, or the government of any political subdivision thereof, or of any entity subject to control by any such government or any combination of any such governments.

(3) Real property in the District of Columbia, Virginia, or Maryland.

(4) Loans, mortgages, bonds, notes, bills, or certificates of indebtedness secured, in whole or in part, by real property in the District of Columbia, Virginia, or Maryland.

(b) Until such time as the members of the Board are first selected and the Board certifies pursuant to section 121(h) that it is assuming responsibility for the Funds established by this title, the assets of such Funds may only be invested in the following:

(1) Interest-bearing bonds, notes, bills, or certificates of indebtedness of the United States Government, or obligations fully guaranteed as the payment of both principal and interest by the United States Government.

(2) Interest-bearing certificates of deposit issued by National, State, or District of Columbia savings and loan institutions.

DETERMINATION OF FEDERAL AND DISTRICT OF COLUMBIA PAYMENTS TO THE FUNDS

SEC. 142. (a)(1) The Board shall engage an enrolled actuary who may be the enrolled actuary engaged pursuant to section 162(a)(4)(A), who shall, on the basis of the entry age normal cost funding method and in accordance with generally accepted actuarial principles and practices, make the following determinations with respect to each Fund:

(A) At the times specified in paragraph (2), the actuary shall determine the level percentage of payroll, expressed as a percentage (hereinafter in this title referred to as the "net normal cost percentage"), which shall be the percentage such that the amount equal to the product of such percentage and the present value of future compensation for participants in the retirement program, if paid annually into the Fund from the date of hire of each participant in the retirement program until the date of such participant's death, retirement, or other withdrawal from employment covered by the retirement program, is equal to the amount of the difference between (i) the present value of the future benefits payable from the Fund to such group, and (ii) the present value of all future employee contributions to the Fund.

(B) At the times specified in paragraph (2), the actuary shall determine the amount (hereinafter in this title referred to as the "accrued actuarial liability") that is the difference between (i) the present value (as of the date of the determination) of the future benefits payable from the Fund, and (ii) the sum of—

(I) the present value of all future employee contributions to the Fund; and

(II) the product of the net normal cost percentage and the present value of future compensation for participants in the retirement program.

(C) At the times specified in paragraph (2), the enrolled actuary shall determine the current value of the assets in the Fund.

(D) Each year, not later than sixty days prior to the date on which the Mayor is required to submit the annual budget for the government of the District of Columbia to the Council under section 442(a) of the District of Columbia Self-Government and Governmental Reorganization Act, the enrolled actuary shall determine—

(i) an estimate of the current annual active duty payroll;

(ii) the amount (hereinafter in this title referred to as the "future Federal obligation") that is the amount of the present value of the sum of the amounts authorized by section 144(a) to be appropriated to the Fund for fiscal years beginning on or after the date of the determination; and

(iii) the amount (hereinafter in this title referred to as the "net pay-as-you-go cost") that is the difference between (I) the amount of the obligation of the Fund during the next fiscal year for the payment of benefits payable from the Fund during such year, and (II) the amount of employee contributions to the Fund for such year.

The actuary shall also determine such additional information as the Board may require in order to make the determinations specified in paragraph (4) and in subsection (b).

(2) The actuary engaged by the Board pursuant to paragraph (1) shall make the determinations described in subparagraphs (A), (B), and (C) of such paragraph at the following times:

(A) Not later than sixty days after the date of the enactment of this Act.

(B) Upon a request by the Board or by the Director of the Office of Management and Budget.

(C) Not later than the end of the ninety-day period beginning on the first day of the third fiscal year occurring after the fiscal year in which the last such determination was made pursuant to any subparagraph of this paragraph.

(3) On the basis of the most recent determinations made under paragraph (1), the enrolled actuary shall certify to the Board each year, at a time specified by the Board, the following information with respect to each Fund for the next fiscal year:

(A) The net normal cost, which shall be computed as the product of the net normal cost percentage and the estimate by the actuary of the current annual active duty payroll.

(B) The accrued actuarial liability.

(C) The current value of assets in the Fund.

(D) The future Federal obligation.

(E) The net pay-as-you-go cost.

(F) The unfunded actuarial liability, which shall be computed as the difference between the accrued actuarial liability and the sum of the current value of the assets in the Fund and the future Federal obligation.

(G) The amount equal to the difference between (i) the accrued actuarial liability as of January 2, 1975 (in future value as of the end of the fiscal year for which the determination is made), and (ii) the sum of the future Federal obligation, the current value of previous Federal contributions, and (in the case of the District of Columbia Teachers' Retirement Fund and the District of Columbia Judges' Retirement Fund) the current value of any assets in the predecessor to such Fund as of January 2, 1975, which amount is the difference between the amount that the Federal Government would pay to the Fund if the Federal Government had assumed the funding responsibility for all accrued unfunded liabilities as of January 2, 1975, and the amount actually to be paid by the Federal Government.

For the purposes of subparagraph (F), the term "current value of the assets in the Fund" shall be deemed to include (i) the present value of any payments to be made to the Fund by the District in accordance with subsection (b)(1)(C)(i), and (ii) the present value of the amount of any reduction in the amount of future District payments to the Fund determined in accordance with subsection (b)(1)(D).

(4) The Board shall determine—

(A) the amount of the Federal payment for the next fiscal year for each Fund authorized to be appropriated under section 144(a); and

(B) on the basis of the most recent certification submitted by the enrolled actuary under paragraph (3), the amount of the District payment for the next fiscal year for each Fund, as described under subsection (b).

(b) (1) (A) For the District payment for each Fund for each fiscal year through fiscal year 2004, the Board shall determine—

(i) the unfunded actuarial liability for such Fund as of the end of fiscal year 2004;

(ii) the unfunded actuarial liability as of October 1, 1979, in future value as of the end of fiscal year 2004 for such Fund; and

(iii) the amount equal to the lesser of (I) the net pay-as-you-go cost, and (II) the sum of the net normal cost and the amount of annual interest (computed at the valuation rate used in the determination under subsection (a) (1)) on the unfunded actuarial liability, as computed under subsection (a) (3) (F).

(B) If the amount determined under subparagraph (A) (i) is equal to the amount determined under subparagraph (A) (ii), the amount of the District payment for the fiscal year for such Fund shall be the amount determined under subparagraph (A) (iii).

(C) (i) If the amount determined under subparagraph (A) (i) is greater than the amount determined under subparagraph (A) (ii), the amount of the District payment for the fiscal year for such Fund shall be the amount equal to the sum of (I) the amount determined under subparagraph (A) (iii), and (II) the amount of the level amortization payment that, if paid annually into the Fund through the next ten fiscal years (and accrued at the rate of interest used in the determinations under subsection (a) (1)), would reduce the amount determined under subparagraph (A) (i) to the amount determined under subparagraph (A) (ii) by the end of such ten fiscal years.

(ii) A level amortization payment shall not be required under this subparagraph for any fiscal year to the extent that the difference between the amount determined under subparagraph (A) (i) and the amount determined under subparagraph (A) (ii) for such fiscal year is attributable to the failure of the Federal Government (other than a failure because of section 144(d) or 145) to make all or any part of the Federal payment to such Fund for any fiscal year.

(D) If the amount determined under subparagraph (A) (ii) is greater than the amount determined under subparagraph (A) (i), the amount of the District payment for such Fund shall be the amount determined under subparagraph (A) (iii) reduced by the amount of the level amortization payment that, if paid annually for the next ten fiscal years, would have a future value as of the end of fiscal year 2004 equal to the difference between the amount determined under subparagraph (A) (ii) and the amount determined under subparagraph (A) (i).

(E) The amount of a District payment determined under subparagraph (C) may not exceed the amount determined under subparagraph (A) (iii) by more than 10 percent of the net pay-as-you-go cost, in the case of a payment to the District of Columbia Police Officers and Fire Fighters' Retirement Fund, or by more than 30 percent of the net pay-as-you-go cost, in the case of a payment to the District of Columbia Teachers' Retirement Fund or to the District of Columbia Judges' Retirement Fund.

(F) Determinations under subparagraph (A) shall be made in accordance with generally accepted actuarial principles and practices.

(2) The amount of the District payment to each Fund for fiscal year 2005 and for each fiscal year thereafter shall be the sum of (A) the net normal cost, and (B) the amount of annual interest (computed at the valuation rate used in the determination pursuant to subsection (a) (1)) on the unfunded actuarial liability.

(c) (1) On the basis of the most recent determinations made under subsection (a) (4), the Board shall—

(A) not later than March 15 of each year through calendar year 2003, submit to the President and to the Congress a request for appropriation of the Federal payment for the next fiscal year for each Fund; and

(B) not less than thirty days prior to the date on which the Mayor is required to submit the annual budget for the government of the District of Columbia to the Council under section 442(a) of the District of Columbia Self-Government and Governmental Reorganization Act, certify to the Mayor and the Council the amount of the District payment for each Fund.

(2) The Mayor, in preparing each annual budget for the District of Columbia pursuant to section 442(a) of the District of Columbia Self-Government and Governmental Reorganization Act, and the Council of the District of Columbia, in adopting each annual budget in accordance with section 446 of such Act, shall include in such budget not less than the full amount certified by the Board under paragraph (1) (B) as being the amount of the District payment for the next fiscal year for each Fund. The Mayor and the Council may comment and make recommendations concerning any such amount certified by the Board.

(d) (1) Whenever any change in benefits under a retirement program is made, the Mayor shall engage an enrolled actuary, who may be the enrolled actuary engaged pursuant to section 162(a) (4) (A), to estimate the effect of such change in benefits over the next five fiscal years on (A) the net normal cost percentage with respect to the retirement program, (B) the accrued actuarial liability with respect to the retirement program, (C) the net pay-as-you-go cost with respect to the retirement program, and (D) the level of the District payments to the Fund. The Mayor shall transmit the estimates of the actuary under the preceding sentence to the Board and to the Speaker and the President pro tempore, and such change in benefits may not go into effect until the end of the thirty-day period beginning on the date such transmittals are completed.

(2) In the event a change in benefits under a retirement program is made that increases the present value of benefits payable from the Fund, a level amortization payment for a period not to exceed 25 years shall be paid by the District to the Fund such that the present value of the sum of each level amortization payments equals the increase in the present value of such benefits. Such payments shall be made in addition to any other payment to the Fund required to be made by the District, and such increase in present value of benefits payable from the Fund and such payments shall be disregarded in calculating the unfunded actuarial liability under subsection (b) (1) (A).

(e) Whenever the amount authorized to be appropriated to the District of Columbia Police Officers and Fire Fighters' Retirement Fund for any fiscal year under section 144(a) (1) is reduced under section 145(c), the District shall, beginning with the next fiscal year, pay a level amortization payment to such Fund for a period not to exceed ten years such that the present value (determined as of the beginning of the fiscal year for which such authorization is reduced) of the sum of such level amortization payments equals the amount of such reduction. Such payments shall be made in addition to any other payment to such Fund required to be made by the District and shall be disregarded in calculating the unfunded actuarial liability under subsection (b) (1) (A).

(f) The Comptroller General of the United States shall have access to all books, accounts, records, reports, files and other papers necessary to carry out the responsibility of the Comptroller General under section 736(a) of the District of Columbia Self-Government and Governmental Reorganization Act and under section 144(e) of this Act.

INFORMATION ABOUT RETIREMENT PROGRAMS

SEC. 143. Upon a request of the Board, the Mayor shall furnish to the Board such information with respect to retirement programs to which this title applies as the Board considers necessary to enable it to carry out its responsibilities under this title and to enable the enrolled actuary engaged pursuant to section 142(a) to carry out the responsibilities of the enrolled actuary under this title.

FEDERAL AND DISTRICT OF COLUMBIA PAYMENTS TO THE FUNDS

SEC. 144. (a) There is authorized to be appropriated from the revenues of the United States for fiscal year 1980 and for each fiscal year thereafter through fiscal year 2004—

(1) as the Federal payment to the District of Columbia Police Officers and Fire Fighters' Retirement Fund, the sum of $34,170,000, reduced by the amount of any reduction required under section 145(c);

(2) as the Federal payment to the District of Columbia Teachers' Retirement Fund, the sum of $17,680,000; and

(3) as the Federal payment to the District of Columbia Judges' Retirement Fund, the sum of $220,000.

(b) (1) Amounts appropriated as a Federal payment to a Fund established by this title shall not be subject to apportionment and shall be deposited in the appropriate Fund not more than thirty days after they are appropriated or thirty days after the beginning of the fiscal year for which they are appropriated, whichever is later.

(2) Amounts appropriated as a District of Columbia payment to a Fund established by this title shall be deposited in the appropriate Fund in equal quarterly installments, the first of which shall be made on the first day of the first quarter of the fiscal year, or on the first day thereafter that funds for such installment become available, and the remainder of which shall be made on the first day of succeeding quarters of the fiscal year, or on the first day thereafter that funds for such installments become available.

(c) If at any time the balance of any Fund established by this title is not sufficient to meet all obligations against such Fund, such Fund shall have a claim on the revenues of the District of Columbia to the extent necessary to meet such obligations.

(d) If, for any fiscal year, the Mayor and the Council do not carry out the requirements of subsection (c) (2), (d), and (e) of section 142 with respect to a Fund, no funds authorized to be appropriated for such Fund by this section shall be available for such Fund for such fiscal year.

(e) (1) In the year 2004, the Comptroller General shall determine whether the Federal share with respect to each Fund has been paid in full by payments made pursuant to appropriations authorized under subsection (a) of this section and, in the case of the District of Columbia Police Officers and Fire Fighters' Retirement Fund, by payments made or to be made under section 142(e).

(2) For the purposes of this subsection, the term "Federal share", with respect to a retirement program, means the sum of—

(A) 80 percent of the accrued unfunded liability as of October 1, 1979, for participants in the retirement program who retired before January 2, 1975, under a provision of law authorizing retirement and entitlement to an annuity based upon the years of creditable service of the participant (and for the beneficiaries of such participants under the retirement program); and

(B) 33⅓ percent of the accrued unfunded

liability as of October 1, 1979, for participants in the retirement program who retired before January 2, 1975, under a provision of law authorizing retirement and entitlement to an annuity based upon a disease or disability from which the participant is suffering (and for the beneficiaries of such participants under the retirement program).

REDUCTION IN FEDERAL CONTRIBUTION FOR EXCESSIVE COST OF POLICE OFFICERS AND FIRE FIGHTER'S DISABILITY RETIREMENT

SEC. 145. (a) After January 1, and before March 1, of each year beginning with calendar year 1983 and ending with calendar year 2004, the enrolled actuary engaged pursuant to section 142 shall, with respect to the District of Columbia Police Officers and Fire Fighters' Retirement Fund—

(1) determine the estimated present value (as of the date of the determination) of the cost to the Fund of the future benefits payable from such Fund for disability retirements under subsections (f)(1) and (g)(1) of the Policemen and Firemen's Retirement and Disability Act to those officers and members of the Metropolitan Police force and the Fire Department of the District of Columbia who first became such officers or members on or before the end of the ninety-day period beginning on the date of the enactment of this Act and who were not retired on the first day of the preceding calendar year;

(2) determine the estimated present value (as of the date of the determination) of the cost to the Fund of the benefits referred to in paragraph (1) determined as if such officers and members retire, had retired, or had to choose whether to retire under the provisions of subsection (f)(2) or (g)(5) of such Act, as in effect on the day after the end of the ninety-day period beginning on the date of the enactment of this Act, except that in making determinations under this paragraph, the enrolled actuary (A) shall not take into account reductions pursuant to subsection (j)(3) of the Policemen and Firemen's Retirement and Disability Act, and (B) shall take into account such factors as the actuary considers to be appropriate and in accordance with sound actuarial practice in order to eliminate age-specific or other bias; and

(3) state whether, in accordance with sound actuarial practice, the ratio of the amount determined under paragraph (1) to the amount determined under paragraph (2) can be said to be greater than 1.02.

The enrolled actuary shall report the determinations and statements made under paragraphs (1) through (3) for any year to the Board and to the Comptroller General of the United States not later than March 1 of such year.

(b)(1) The Board and the Comptroller General shall each transmit a copy of each report by the enrolled actuary under subsection (a) to the Speaker, the President pro tempore, the Mayor, and the Council not later than March 31 of the year in which the report is made, and each shall submit comments on such report.

(2) The Comptroller General shall include in his comments on each such report transmitted under paragraph (1) a statement of whether the determinations and statement made by the enrolled actuary under subsection (a) were made in conformance with generally accepted actuarial practices and principles and whether such determinations and statements fairly present in all material respects the amounts described in paragraphs (1) and (2) of such subsection.

(c) Notwithstanding any other provision of this Act, with respect to the fiscal year commencing in any calendar year in which a report of the enrolled actuary under subsection (a), as transmitted to the Congress in accordance with subsection (b), includes a statement by the enrolled actuary under paragraph (3) of subsection (a) that the ratio of the estimates determined under paragraphs (1) and (2) of such subsection is greater than 1.02, the amount authorized by section 144(a)(1) to be appropriated to the Fund for such fiscal year shall be reduced. Such reduction shall be an amount equal to the product of (1) the amount specified in such section, and (2) the ratio of (A) the number of officers and members of the Metropolitan Police force and the Fire Department of the District of Columbia who retired during the preceding calendar year under subsections (f)(1) and (g)(1) of the Policemen and Firemen's Retirement and Disability Act to (B) the number of officers and members of the Metropolitan Police force and the Fire Department of the District of Columbia who first became such members prior to the end of the ninety-day period beginning on the date of the enactment of this Act and who retired, died, withdrew by taking out a lump-sum payment, or separated from active duty while eligible for a deferred annuity under the Policemen and Firemen's Retirement and Disability Act during such year.

(d)(1) Notwithstanding any provision of the Policemen and Fireman's Retirement and Disability Act or any other provision of this Act, in any case in which any officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia retires during calendar year 1979 or any subsequent calendar year through calendar year 2001 under subsection (f)(1) or (g)(1) of the Policemen and Firemen's Disability Act, the Board of Police and Fire Surgeons shall determine, within a reasonable time and in accordance with regulations which the Mayor shall promulgate, the percentage of impairment of such officer or member and shall report such percentage of impairment to the Police and Firemen's Retirement and Relief Board. In the case of such officer or member, such Board shall determine, within a reasonable time, the percentage of disability of such officer or member giving due regard to—

(A) the nature of the injury or disease;

(B) the percentage of impairment reported pursuant to the preceding sentence;

(C) the position in the Metropolitan Police force or the Fire Department of the District of Columbia held by the officer or member immediately prior to such officer or member's retirement;

(D) the age and years of service of the officer or member; and

(E) any other factor or circumstance which may affect the capacity of the officer or member to earn wages or engage in gainful activity in his disabled condition, including the effect of the disability as it may naturally extend into the future.

(2) The Police and Firemen's Relief Board, on or before January 31 of each calendar year from 1980 through 2002, shall make available to the Comptroller General and the enrolled actuary all determinations (including related documents and information) made during the preceding calendar year pursuant to paragraph (1) of this subsection in order to enable the Comptroller General and the enrolled actuary to make the determinations and statement required by this section.

CONFORMING AMENDMENTS

SEC. 146. (a)(1) Section 7 of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31–727), is repealed.

Section 14 of such Act of August 7, 1946 (D.C. Code, sec. 31–734), is amended—

(A) in the third sentence, by striking out "The" and inserting in lieu thereof "Until such time as all amounts in the teachers' retirement and annuity fund have been expended or transferred to the District of Columbia Teachers' Retirement Fund established by section 123(a) of the District of Columbia Retirement Reform Act, the"; and

(B) by striking out the fourth sentence.

(3) Section 15 of such Act of August 7, 1946 (D.C. Code, sec. 31–735), is repealed.

(b) The proviso in the fourth paragraph (relating to District government retirement and relief funds) under the heading "Compensation and Retirement Fund Expenses" in the Act of July 31, 1953 (D.C. Code, sec. 31–716a), is repealed.

(c)(1) Section 7 of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved January 15, 1920 (D.C. Code, sec. 31–707), is amended by striking out the second and third sentences of the first paragraph.

(2) Section 14 of such Act of January 15, 1920 (D.C. Code, sec. 31–715), is amended by striking out the third and fourth sentences.

(3) Section 15 of such Act of January 15, 1920 (D.C. Code, sec. 31–716), is repealed.

Part D—Reporting and Disclosure Requirements

PERSONAL FINANCIAL DISCLOSURE BY BOARD MEMBERS

SEC. 161. (a) Each member of the Board shall, within ninety days of his selection as a member of the Board and not later than April 30 of each year thereafter, submit to the Mayor, the Council, the Speaker, and the President pro tempore a personal financial disclosure statement with respect to the preceding calendar year. Such statement shall be in such form as the Council may by regulation require and shall contain such information with respect to the member's financial condition as the Council may by regulation require, including the following information:

(1) The amount and source of all income (as defined in section 61 of the Internal Revenue Code of 1954) received during the year.

(2) The identity and category of value of each liability owned, directly or indirectly, that exceeds $2,500 as of the last day of the year (excluding any mortgage that secures real property that is the principal residence of such member).

(3) The identity and category of value of any property held, directly or indirectly, in a trade or business or for investment or the production of income that has a fair market value of not less than $1,000 as of the last day of the year.

(4) The identity and category of value of any transaction, whether direct or indirect, in securities or commodities futures during the year in excess of $1,000 (excluding any gift to any tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code of 1954), and the identity, date, and category of value of any purchase or sale, whether direct or indirect, of any interest in real or tangible personal property during the year the value of which exceeds $1,000 at the time of such purchase or sale (excluding any purchase or sale of any property that is the principal residence of such member or that is used as furnishings for such principal residence).

(5) The nature and extent of any interest during the year in any bank, insurance company, or other financial institution, or in any brokerage or other securities or investment company.

(6) The nature and extent of any employment during the year by any bank, insurance company, or other financial institution, or by any brokerage or other securities or investment company.

A member shall not be required to submit a personal financial disclosure statement to the Speaker and the President pro tempore for calendar years after calendar year 2004.

(b) For purposes of paragraphs (2), (3), and (4) of subsection (a), the member reporting need not specify the actual amount of value of each item required to be reported under such paragraphs, but shall indicate which of the following categories such amount or value is within:

(1) Not more than $5,000.

(2) Greater than $5,000 but not more than $15,000.

(3) Greater than $15,000 but not more than $50,000.

(4) Greater than $50,000 but not more than $100,000.

(5) Greater than $100,000.

ANNUAL REPORTS

SEC. 162. (a)(1)(A) The Board shall publish an annual report for each fiscal year (beginning with fiscal year 1980) with respect to each retirement program to which this title applies and with respect to the Fund for such retirement program. Such report shall be filed with the Mayor, the Council, the Speaker, and the President pro tempore in accordance with section 164 (a) and shall be made available and furnished to participants and beneficiaries in accordance with section 164(b).

(B) The annual report shall include the information described in subsections (b), (c), (d), and (e) and, when applicable, subsection (f), and shall also include—

(i) the financial statement and opinion required by paragraph (3) of this subsection; and

(ii) the actuarial statement and opinion required by paragraph (4) of this subsection.

(2) If some or all of the information needed to enable the Board to comply with the requirements of this title is maintained by—

(A) an insurance carrier or other organization which provides some or all of the benefits under the retirement program, or holds assets of the Fund for such retirement program in a separate account;

(B) a bank or similar institution which holds some or all of the assets of the Fund in a common or collective trust or a separate trust, or custodial account; or

(C) the Mayor (or the Police and Firemen's Retirement and Relief Board, established pursuant to section 122 of the Act of September 3, 1974, in carrying out the Mayor's responsibilities under the Policemen and Firemen's Retirement and Disability Act);

such carrier, organization, bank, or institution, or the Mayor, shall transmit and certify the accuracy of such information to the Board within one hundred and twenty days after the end of the fiscal year (or such other date as may be prescribed under regulations of the Board).

(3)(A) Except as provided in subparagraphs (C), the Board shall engage an independent qualified public accountant who shall conduct such examination of any financial statements of the Fund, and of other books and records of the Fund or the retirement program, as the accountant may deem necessary to enable the accountant to form an opinion as to whether the financial statements and schedules required to be included in the annual report by subsection (b) of this section are presented fairly in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year. Such examination shall be conducted in accordance with generally accepted auditing standards and shall involve such tests of the books and records of the Fund and the retirement program as are considered necessary by the independent qualified public accountant. The independent qualified public accountant shall also offer his opinion as to whether the separate schedules specified in subsection (b)(2) of this section and the summary material required under section 164(b)(2) present fairly, and in all material respects, the information contained therein when considered in conjunction with the financial statements taken as a whole. The opinion by the independent qualified public accountants shall be made a part of the annual report.

(B) In offering his opinion under this section, the accountant may rely on the correctness of any actuarial matter certified to by an enrolled actuary if he so states his reliance.

(C) The opinion required by subparagraph (A) need not be expressed as to any statements required by subsection (b)(2)(G) prepared by a bank or similar institution or insurance carrier regulated and supervised and subject to periodic examination by a State or Federal agency if such statements are certified by the bank, similar institution, or insurance carrier as accurate and are made a part of the annual report.

(4)(A) The Board shall engage an enrolled actuary who shall be responsible for the preparation of the materials comprising the actuarial statement required under subsection (d) of this section.

(B) The enrolled actuary shall utilize such assumptions and techniques as are necessary to enable him to form an opinion as to whether the contents of the matters reported under subsection (d) of this section—

(i) are in the aggregate reasonably related to the experience of the Fund and the retirement program and to reasonable expectations; and

(ii) represent his best estimate of anticipated experience under the Fund and the retirement program.

The opinion by the enrolled actuary shall be made with respect to, and shall be made a part of, each annual report.

(C) In making a certification under this section, the enrolled actuary may rely on the correctness of any accounting matter under subsection (b) as to which any qualified public accountant has expressed an opinion if he so states his reliance.

(b)(1) An annual report under this section shall include a financial statement containing a statement of assets and liabilities, and a statement of changes in net assets available for benefits under the retirement program, which shall include details of revenues and expenses and other changes aggregated by general source and application. In the notes to financial statements, disclosures concerning the following items shall be considered by the accountant: A description of the retirement program, including any significant changes in the retirement program made during the period and the impact of such changes on benefits; the funding policy (including the policy with respect to prior service cost), and any changes in such policy during the year; a description of any significant changes in benefits made during the period; a description of material lease commitments, other commitments, and contingent liabilities; a description of agreements and transactions with persons known to be parties in interest; and any other matters necessary to fully and fairly present the financial statements of the Fund.

(2) The statement required under paragraph (1) shall have attached the following information in separate schedules:

(A) A statement of the assets and liabilities of the Fund, aggregated by categories and valued at their current value, and the same data displayed in comparative form for the end of the previous fiscal year.

(B) A statement of receipts in and disbursements from the Fund during the preceding twelve-month period, aggregated by general source and application.

(C) A schedule of all assets held for investment purposes, aggregated and identified by issuer, borrower, or lessor, or similar party to the transaction (including a notation as to whether such party is known to be a party in interest), maturity date, rate of interest, collateral, par or maturity value, cost, and current value.

(D) A schedule of each transaction involving a person known to be a party in interest, the identity of such party in interest and his relationship or that of any other party in interest to the Fund, a description of each asset to which the transaction relates; the purchase or selling price in case of a sale or purchase, the rental in case of a lease, or the interest rate and maturity date in case of a loan; expenses incurred in connection with the transaction; the cost of the asset, the current value of the asset, and the net gain or loss on each transaction.

(E) A schedule of all loans or fixed income obligations which were in default as of the close of the fiscal year or were classified during the year as uncollectable and the following information with respect to each loan on such schedule (including a notation as to whether parties involved are known to be parties in interest): The original principal amount of the loan, the amount of principal and interest received during the reporting year, the unpaid balance, the identity and address of the obligor, a detailed description of the loan (including date of making and maturity, interest rate, the type and value of collateral, and other material terms), the amount of principal and interest overdue (if any) and an explanation thereof.

(F) A list of all leases which were in default or were classified during the year as uncollectable and the following information with respect to each lease on such list (including a notation as to whether parties involved are known to be parties in interest): The type of property leased (and, in the case of fixed assets such as land, buildings, and leaseholds, the location of the property); the identity of the lessor or lessee from or to whom the Fund is leasing; the relationship of such lessors and lessees, if any, to the Fund, the government of the District of Columbia, any employee organization, or any other party in interest; the terms of the lease regarding rent, taxes, insurance, repairs, expenses, and renewal options; the date the leased property was purchased and its cost; the date the property was leased and its approximate value at such date, the gross rental receipts during the reporting period, expenses paid for the leased property during the reporting period, the net receipts from the lease, the amounts in arrears, and a statement as to what steps have been taken to collect amounts due or otherwise remedy the default.

(G) The most recent annual statement of assets and liabilities of any common or collective trust maintained by a bank or similar institution in which some or all the assets of the Fund are held, of any separate account maintained by an insurance carrier in which some or all of the assets of the Fund are held, and of any separate trust maintained by a bank as trustee in which some or all of the assets of the Fund are held, and in the case of a separate account or a separate trust, such other information as may be required by the Board in order to comply with this subsection.

(H) A schedule of each reportable transaction, the name of each party to the transaction (except that, in the case of an acquisition or sale of a security on the market, the report need not identify the person from whom the security was acquired or to whom it was sold) and a description of each asset to which the transaction applies; the purchase or selling price in case of a sale or purchase, the rental in case of a lease, or the interest rate and maturity date in case of a loan; expenses incurred in connection with the transaction; the cost of the asset, the current value of the asset, and the net gain or loss on each transaction.

(3) For purposes of subparagraph (H) of paragraph (2), the term "reportable transaction" means a transaction to which the Fund is a party and which is—

(A) a transaction involving an amount in excess of 3 percent of the current value of the assets of the Fund;

(B) any transaction (other than a transaction respecting a security) which is part of a series of transactions with or in conjunction with a person in a fiscal year, if the aggregate amount of such transactions exceed 3 percent of the current value of the assets of the Fund;

(C) a transaction which is part of a series of transactions respecting one or more securities of the same issuer, if the aggregate amount of such transactions in the fiscal year exceeds 3 percent of the current value of the assets of the Fund; or

(D) a transaction with or in conjunction with a person respecting a security, if any other transaction with or in conjunction with such person in the fiscal year respecting a security is required to be reported by reason of subparagraph (A).

(c) The Board shall furnish as a part of an annual report under this section the following information:

(1) The number of individuals covered by the retirement program.

(2) The name and address of each member of the Board.

(3) Except in the case of a person whose compensation is minimal (as determined under regulations of the Council, which regulations the Council shall initially promulgate within ninety days after the date of the enactment of this Act) and who performs solely ministerial duties (as determined under such regulations), the name of each person (including any consultant, broker, trustee, accountant, insurance carrier, actuary, administrator, investment counsel, or custodian who rendered services to the Board or who had transactions with the Board) who directly or indirectly received compensation from the Board during the preceding year for services rendered to the Board or the participants or beneficiaries of the retirement program for which a Fund was established, the amount of such compensation, the nature of his services, his relationship, if any, to the District of Columbia government or any employee organization, and any other officer, position or employment he holds with any party in interest.

(4) An explanation of the reason for any change in appointment of any accountant, insurance carrier, enrolled actuary, or investment counsel appointed by the Board.

(5) Such other financial and actuarial information as the Council may by regulation prescribe.

(d) An annual report under this section for a fiscal year shall include a complete actuarial statement applicable to the fiscal year which shall include the following information:

(1) The date of the actuarial valuation applicable to the fiscal year for which the report is filed.

(2) The date and amount of the payments to the Fund for the fiscal year for which the report is filed and contributions for prior fiscal years not previously reported, including payments by the participants, the United States, and the District of Columbia.

(3) The following information applicable to the fiscal year for which the report is filed:

(A) The amounts determined under section 142(a)(1).

(B) The accrued liabilities.

(C) An identification of benefits not included in the calculation.

(D) A statement of the other facts and actuarial assumptions and methods used to determine costs.

(E) A justification for any change in actuarial assumptions or cost methods.

(4) The number of participants and beneficiaries covered by the retirement program.

(5) A certification of the amount of the payments to the Fund necessary to reduce the accumulated funding deficiency to zero.

(6) A statement by the enrolled actuary of any change in actuarial assumptions made with respect to the Fund during the year.

(7) A statement by the enrolled actuary of the estimated current value of vested benefits under the retirement program.

(8) A statement by the enrolled actuary that to the best of his knowledge the report is complete and accurate.

(9) A copy of the opinion required by subsection (a)(4).

(10) Such other information regarding the retirement program as the Council may by regulation require.

(11) Such other information as the enrolled actuary may determine is necessary to fully and fairly disclose the actuarial position of the Fund.

The actuary shall make an actuarial valuation of the Fund for every third fiscal year, unless he determines that a more frequent valuation is necessary to support his opinion under subsection (a)(4) of this section.

(e) A report under this section for a fiscal year shall include a statement prepared by the Board of—

(1) the relative riskiness of the investments during the fiscal year of the assets of the Fund;

(2) a comparison of the average return on the investments of the Fund during the year with the average return on the investments of other public pension funds during the year that have comparable asset valuation; and

(3) the average daily balance of, and the average rate earned by, assets of the Fund in each of any time or demand deposits during the year.

(f) If some or all of the benefits under the retirement program are purchased from and guaranteed by an insurance company, insurance service, or other similar organization, a report under this section shall include a statement from such insurance company, service, or other similar organization covering the fiscal year and enumerating—

(1) the premium rate or subsection charge and the total premium or subscription charges paid to each such carrier, insurance service, or other similar organization and the approximate number of persons covered by each class of such benefits; and

(2) the total amount of premiums received, the approximate number of persons covered by each class of benefits, and the total claims paid by such company, service, or other organization; dividends or retroactive rate adjustments, commissions, and administrative service or other fees or other specific acquisition costs paid by such company, service, or other organization; any amounts held to provide benefits after retirement; the remainder of such premiums; and the names and addresses of the brokers, agents, or other persons to whom commissions or fees were paid, the amount paid to each, and for what purpose.

If any such company, service, or other organization does not maintain separate experience records covering the specific groups it serves, the report shall include, in lieu of the information required by paragraph (2), a statement as to the basis of its premium rate or subscription charge, the total amount of premiums or subscription charges received from the Fund, and a copy of the financial report of the company, service, or other organization and, if such company, service, or organization incurs specific costs in connection with the acquisition or retention of any particular Fund or Funds, a detailed statement of such costs.

RETIREMENT PROGRAM SUMMARY DESCRIPTION

SEC. 163. (a)(1) A summary description of each retirement program to which this Act applies shall be furnished to participants and beneficiaries as provided in section 164(b). The summary description shall include the information specified in subsection (b) of this section, shall be written in a manner calculated to be understood by the average participant or beneficiary, and shall be sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of their rights and obligations under the retirement program.

(2) A summary of any material modification in the terms of the retirement program and any change in the information required under subsection (b), written in a manner calculated to be understood by the average participant or beneficiary, shall be furnished in accordance with section 164(b)(1).

(b) Each summary description of a retirement program shall contain the following information: The name and type of administration of the retirement program; the name and address of the chairman of the Board, who shall be the agent of the Board for the service of legal process; the name, title, and address of each member of the Board; a description of the relevant provisions of applicable collective-bargaining agreements; the retirement program's requirements respecting eligibility for participation and benefits; a description of the provisions providing for nonforfeitable pension benefits; circumstances which may result in disqualification, ineligibility, or denial or loss of benefits; the identity of any organization through which benefits are provided; the procedures to be followed in presenting claims for benefits under the retirement program; and the remedies available under the retirement program for the redress of claims that are denied in whole or in part.

FILING REPORTS AND FURNISHING INFORMATION TO PARTICIPANTS

SEC. 164. (a)(1) The Board shall file with the Mayor, the Council, the Speaker, and the President pro tempore—

(A) the annual reports for a fiscal year within two hundred and ten days after the end of such year;

(B) a copy of each summary description of a retirement program within one year after the date of the enactment of this Act; and

(C) a revised summary description of a retirement program, incorporating any material modification in the terms of the retirement program, within sixty days after such modification is adopted or occurs.

The Mayor shall make copies of such retirement program descriptions and annual reports available for public inspection in an appropriate location. The Board shall also furnish to the Mayor, the Council, the Speaker, and the President pro tempore, upon request, any documents relating to the retirement program or the Fund, including any bargaining agreement, trust agreement, contract, or other instrument under which the retirement program or Fund is operated.

(2)(A) The Mayor or the Council may reject any filing under this section within thirty days of such filing—

(i) upon determining that such filing is incomplete for purposes of this part; or

(ii) upon determining that there is any material qualification by an accountant or actuary contained in an opinion submitted pursuant to section 162(a)(3)(A) or section 162(a)(4)(B).

(B) If the Mayor or the Council rejects a filing of a report under subparagraph (A), and if a revised filing satisfactory to the Mayor or the Council is not submitted within forty-five days after the determination under subparagraph (A) to reject the filing is made, and if the Mayor or the Council considers it in the best interest of the participants, then the Mayor or the Council may take any one or more of the following actions:

(i) Retain an independent qualified public accountant on behalf of the participants to perform an audit.

(ii) Retain an enrolled actuary on behalf of the participants to prepare an actuarial statement.

(iii) Bring a civil action for such legal or equitable relief as may be appropriate to enforce the provisions of this title.

The Board shall permit any accountant or actuary so retained to inspect whatever books and records of the Fund are necessary for such audit.

(3)(A) Either House of Congress may reject any filing under this section within thirty days of such filing by adopting a resolution stating that such House has determined—

(i) that such filing is incomplete for purposes of this part; or

(ii) that there is any material qualification by an accountant or actuary contained in an opinion submitted pursuant to section 162(a)(3)(A) or section 162(a)(4)(B).

(B) If either House of Congress rejects a report under subparagraph (A) and if either a revised filing is not submitted within forty-five days after adoption of the resolution under subparagraph (A) rejecting the initial filing or such revised filing is rejected by either House of Congress by adoption of a resolution within thirty days after submission of the revised filing, then either House of Congress may, if it deems it in the best interests of the participants, take any one or more of the following actions:

(i) Retain an independent qualified public accountant on behalf of the participants to perform an audit.

(ii) Retain an enrolled actuary on behalf of the participants to prepare an actuarial statement.

The Board and the Mayor shall permit any accountant or actuary so retained to inspect whatever books and records of the Fund and the retirement program are necessary for performing such audit or preparing such statement.

(C) If a revised filing is rejected under subparagraph (B) or if a filing required under this title is not made by the date specified, no funds appropriated for the Fund with respect to which such filing was required as part of the Federal payment may be paid to the Fund until such time as an acceptable filing is made. For purposes of this subparagraph, a filing is unacceptable if, within thirty days of its submission, either House of Congress adopts a resolution disapproving such filing.

(b) Publication of the summary retirement program descriptions and annual reports shall be made to participants and beneficiaries as follows:

(1) The Board shall furnish to each participant, and to each beneficiary receiving benefits under the retirement program, a copy of the summary retirement program description and all modifications and changes referred to in section 163(a) within ninety days after he becomes a participant or in the case of a beneficiary, within ninety days after he first receives benefits. The Board shall furnish to each participant, and to each beneficiary receiving benefits under the retirement program, every fifth year an updated summary retirement program description described in section 163 which integrates all retirement program amendments made within such five-year period, except that in a case where no amendments have been made to a retirement program during such five-year period this sentence shall not apply. Notwithstanding the foregoing sentence, the Board shall furnish to each participant, and to each beneficiary receiving benefits under the retirement program, the summary retirement program description described in section 163 every tenth year. If there is a modification or change described in section 163(a), a summary description of such modification or change shall be furnished to each participant and to each beneficiary who is receiving benefits under the retirement program not later than two hundred and ten days after the end of the fiscal year in which the change is adopted.

(2) The Board shall make copies of the latest annual report and of any bargaining agreement, trust agreement, contract, or other instrument under which the retirement program or the Fund is operated available for examination by any participant or beneficiary in the principal office of the Board and in such other places as may be necessary to make available all pertinent information to all participants (including such places as the Council may by regulation prescribe).

(3) Within two hundred and ten days after the close of the fiscal year, the Board shall furnish to each participant, and to each beneficiary receiving benefits under the retirement program, a copy of the statements and schedules described in subparagraphs (A) and (B) of section 162((b)(2) for such fiscal year and such other material as is necessary to fairly summarize the latest annual report.

(4) The Board shall, upon written request of any participant or beneficiary, furnish a copy of the latest updated summary retirement program description, the latest annual report, and any bargaining agreement, trust agreement, contract, or other instruments under which the retirement program or Fund is operated. The Board may make a reasonable charge to cover the cost of furnishing such copies. The Council may by regulation prescribe the maximum amount that will constitute a reasonable charge under the sentence.

(c) The Council may by regulation require that the Board furnish to each participant and to each beneficiary receiving benefits under a retirement program a statement of the rights of participants and beneficiaries under this title.

REPORTING OF PARTICIPANTS' BENEFIT RIGHTS

SEC. 165. (a) The Board shall furnish to any participant or beneficiary who so requests in writing, a statement indicating, on the basis of the latest available information—

(1) the total benefits accrued, and

(2) the nonforfeitable retirement benefits, if any, which have accrued, or the earliest date on which benefits will become nonforfeitable.

(b) A participant or beneficiary is not entitled to receive more than one report under subsection (a) during any twelve-month period.

PUBLIC INFORMATION

SEC. 166. (a) Except as provided in subsection (b), the contents of the descriptions, annual reports, statements, and other documents filed with the Mayor, the Council, the Speaker, and the President pro tempore pursuant to this part shall be public information, and the Mayor, the Council, the Speaker, and the President pro tempore shall each make such documents available for inspection in an appropriate location. The Mayor, the Council, the Speaker, and the President pro tempore may use the information and data in such documents for statistical and research purposes and may compile and publish such studies, analyses, reports, and surveys based thereon as may be considered appropriate.

(b) Information described in section 165(a) with respect to a participant or beneficiary of a retirement program may be disclosed only to the extent that information respecting that participant's or beneficiary's benefits under title II of the Social Security Act may be disclosed under such Act.

(c) Except to the extent that information which is protected from public disclosure under subsection (b), or which relates to personnel matters the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, is involved, all meetings of the Board shall be open to the public.

RETENTION OF RECORDS

SEC. 167. The Board shall maintain records on the matters required to be disclosed by this title which will provide in sufficient detail the necessary basic information and data from which the required documents may be verified, explained, or clarified, and checked for accuracy and completeness, shall include vouchers, worksheets, receipts, and applicable resolutions in such records, and shall keep such records available for examination for a period of not less than six years after the filing date of the documents based on the information which they contain. Except to the extent that information is involved which is protected from public disclosure under section 166(b), all such records shall be available for inspection by the public.

ADDITIONAL INFORMATION

SEC. 168. (a) In addition to the information specifically required to be furnished by this part, the Board shall furnish promptly such additional information as the Mayor, the Council, the Speaker, or the President pro tempore may request.

(b) The Board shall, at regular intervals to be determined by the Board, compile and publish all regulations then in effect which were issued by the Board or the Council under this title.

CRIMINAL PENALTIES

SEC. 169. Whoever willfully violates any provision of this part (other than sections 165 and 168), or any regulation or order issued under any such provision, shall be fined not more than $5,000 or imprisoned not more than one year, or both, except that in the case of such a violation by a person not an individual, such person shall be fined not more than $100,000.

Part E—Fiduciary Responsibility; Civil Sanctions

FIDUCIARY RESPONSIBILITIES

SEC. 181. (a)(1) The Board and each member of the Board shall discharge responsibilities with respect to a Fund as a fiduciary with respect to such Fund. The Board may designate one or more other persons who exercise responsibilities with respect to a Fund to exercise such responsibilities as a fiduciary with respect to such Fund. The Board shall retain such fiduciary responsibility for the exercise of careful, skillful, prudent, and diligent oversight of any person so designated as would be exercised by a prudent individual acting in a like capacity and familiar with such matters under like circumstances.

(2) A fiduciary shall discharge his duties with respect to a Fund solely in the interest of the participants and beneficiaries and—

(A) for the exclusive purpose of providing benefits to participants and their beneficiaries;

(B) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent individual acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(C) by diversifying the investments of the Fund so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

(D) in accordance with the provisions of law, documents, and instruments governing the retirement program to the extent that such documents and instruments are consistent with the provisions of this title.

(b) In addition to any liability which he may have under any other provision of this part, a fiduciary with respect to a Fund shall be liable for a breach of fiduciary responsibility of another fiduciary with respect to the same Fund—

(1) if he knowingly participates in, or knowingly undertakes to conceal, an act or omission of such other fiduciary, knowing such act or omission is a breach of fiduciary responsibility;

(2) if, by his failure to comply with subsection (a)(2) in the administration of his specific responsibilities which give rise to his status as a fiduciary, he has enabled such

other fiduciary to commit a breach of fiduciary responsibility; or

(3) if he has knowledge of a breach of fiduciary responsibility by such other fiduciary, unless he makes reasonable efforts under the circumstances to remedy the breach.

(c) Except as provided in subsection (f), a fiduciary with respect to a Fund shall not cause the Fund to engage in a transaction, if he knows or should know that such transaction constitutes a direct or indirect—

(1) sale or exchange, or leasing, of any property between the Fund and a party in interest;

(2) lending of money or other extension of credit between the Fund and a party in interest;

(3) furnishing of goods, services, or facilities between the Fund and a party in interest; or

(4) transfer to, or use by or for the benefit of, a party in interest, of any assets of the Fund.

(d) A fiduciary with respect to a Fund shall not—

(1) deal with the assets of the Fund in his own interest or for his own account;

(2) in his individual or in any other capacity act in any transaction involving the Fund on behalf of a party (or represent a party) whose interests are adverse to the interests of the Fund or the interests of its participants or beneficiaries; or

(3) receive any consideration for his own personal account from any party dealing with such Fund in connection with a transaction involving the assets of the Fund.

(e) A transfer of real or personal property by a party in interest to a Fund shall be treated as a sale or exchange if the property is subject to a mortgage or similar lien which the Fund assumes or if it is subject to a mortgage or similar lien which a party in interest placed on the property within the ten-year period ending on the date of the transfer.

(f) The prohibitions provided in subsection (c) shall not apply to any of the following transactions:

(1) Contracting or making reasonable arrangements with a party in interest for office space, or legal, accounting, or other services necessary for the establishment or operation of the Fund, if no more than reasonable compensation is paid therefor.

(2) The investment of all or part of a Fund's assets in deposits which bear a reasonable interest rate in a bank or similar financial institution supervised by the United States or a State, if such bank or other institution is a fiduciary of such Fund and if such investment is expressly authorized by regulations of the Board or by a fiduciary (other than such bank or institution or affiliate thereof) who is expressly empowered by the Board to make such investment.

(3) The providing of any ancillary service by a bank or similar financial institution supervised by the United States or a State if such bank or other institution is a fiduciary of such Fund and if—

(A) such bank or similar financial institution has adopted adequate internal safeguards which assure that the providing of such ancillary service is consistent with sound banking and financial practice, as determined by Federal or State supervisory authority, and

(B) the extent to which such ancillary service is provided is subject to specific guidelines issued by such bank or similar financial institution (as determined by the Mayor after consultation with Federal and State supervisory authority), and adherence to such guidelines would reasonably preclude such bank or similar financial institution from providing such ancillary service (i) in an excessive or unreasonable manner, and (ii) in a manner that would be inconsistent with the best interests of participants and beneficiaries of the retirement program.

Such ancillary services shall not be provided at more than reasonable compensation.

(4) The exercise of a privilege to convert securities, to the extent provided in regulations of the Council, but only if the Fund receives no less than adequate consideration pursuant to such conversion.

(5) Any transaction between a Fund and a common or collective trust fund or pooled investment fund maintained by a party in interest which is a bank or trust company supervised by a State or Federal agency, or a pooled investment fund of an insurance company qualified to do business in a State, if—

(A) the transaction is a sale or purchase of an interest in the Fund;

(B) the bank, trust company, or insurance company receives not more than reasonable compensation; and

(C) such transaction is expressly permitted by the Board, or by a fiduciary (other than the bank, trust company, insurance company, or an affiliate thereof) who has authority to manage and control the assets of the Fund.

(g) Nothing in subsection (c) shall be construed to prohibit any fiduciary from—

(1) receiving any benefit to which he may be entitled as a participant or beneficiary in the retirement program, so long as the benefit is computed and paid on a basis which is consistent with the terms of the retirement program as applied to all other participants and beneficiaries;

(2) receiving any reasonable compensation for services rendered, or for the reimbursement of expenses properly and actually incurred, in the performance of his duties with respect to the Fund; or

(3) serving as a fiduciary in addition to being an officer, employee, agent, or other representative of a party in interest.

LIABILITY FOR BREACH OF FIDUCIARY DUTY

SEC. 182. (a) Any person who is a fiduciary with respect to a Fund who breaches any of the responsibilities, obligations, or duties imposed upon fiduciaries by this title shall be personally liable to make good to such Fund any losses to the Fund resulting from each such breach and to restore to such Fund any profits of such fiduciary which have been made through the use of assets of the Fund by the fiduciary and shall be subject to such other equitable or remedial relief as the court may deem appropriate, including removal of such fiduciary.

(b) No fiduciary shall be liable with respect to a breach of fiduciary duty under this title if such breach was committed before he became a fiduciary or after he ceased to be a fiduciary.

EXCULPATORY PROVISIONS; INSURANCE

SEC. 183. (a) Any provision in an agreement or instrument which purports to relieve a fiduciary from responsibility or liability for any responsibility, obligation, or duty under this part shall be void as against public policy.

(b) Nothing in this subpart shall preclude—

(1) the Board from purchasing insurance for its fiduciaries or for itself to cover liability or losses occurring by reason of the act or omission of a fiduciary, if such insurance permits recourse by the insurer against the fiduciary in the case of a breach of a fiduciary obligation by such fiduciary;

(2) a fiduciary from purchasing insurance to cover liability under this part from and for his own account; or

(3) an employee organization from purchasing insurance to cover potential liability of one or more persons who serve in a fiduciary capacity with regard to the Fund from which the annuities and other retirement and disability benefits of the members of such employee organization are paid.

PROHIBITION AGAINST CERTAIN PERSONS HOLDING CERTAIN POSITIONS

SEC. 184. (a) No person who has been convicted of, or has been imprisoned as a result of his conviction of, robbery, bribery, extortion, embezzlement, fraud, grand larceny, burglary, arson, a felony violation of Federal or State law involving substances defined in section 102(6) of the Comprehensive Drug Abuse Prevention and Control Act of 1970, murder, rape, kidnapping, perjury, assault with intent to kill, any crime described in section 9(a)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(a)(1)), a violation of any provision of this Act, a violation of section 302 of the Labor-Management Relations Act, 1947 (29 U.S.C. 186), a violation of chapter 63 of title 18, United States Code, a violation of section 874, 1027, 1503, 1505, 1506, 1510, 1951, or 1954 of title 18, United States Code, a violation of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 401), or conspiracy to commit any such crime or attempt to commit any such crime, or a crime in which any of the foregoing crimes is an element, shall serve or be permitted to serve—

(1) as a fiduciary, investment counsel, agent, or employee of any Fund established by this title; or

(2) as a consultant to any Fund established by this title;

during or for five years after such conviction or after the end of such imprisonment, whichever is the later, unless prior to the end of such five-year period, in the case of a person so convicted or imprisoned, his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or the Board of Parole of the United States Department of Justice determines that such person's service in any capacity referred to in paragraph (1) or (2) would not be contrary to the purposes of this title. Prior to making any such determination the Board of Parole shall hold an administrative hearing and shall give notice of such proceeding by certified mail to the State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The Board of Parole's determination in any such proceeding shall be final. No person shall knowingly permit any other person to serve in any capacity referred to in paragraph (1) or (2) in violation of this subsection. Notwithstanding the preceding provisions of this subsection, no corporation or partnership will be precluded from acting as an administrator, fiduciary, officer, trustee, custodian, counsel, agent, or employee, of any Fund established by this title, or as a consultant to any Fund established by this title, without a notice, hearing, and determination by such Board of Parole that such service would be inconsistent with the intention of this section.

(b) Whoever willfully violates this section shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(c) For the purposes of this section:

(1) A person shall be deemed to have been "convicted and to be under the disability of "conviction" from the date of entry of the judgment of the trial court or the date of the final sustaining of such judgment on appeal, whichever is the later event.

(2) The term "consultant" means any person who, for compensation, advises or represents a Fund or who provides other assistance to such Fund concerning the operation of such Fund.

(3) A period of parole shall not be considered as part of a period of imprisonment.

BONDING

SEC. 185. (a)(1) Each fiduciary of a Fund established by this title and each person who handles funds or other property of such a Fund (hereinafter in this section referred to as "Fund official") shall be bonded as provided in this section, except that no bond shall be required of a fiduciary (or of any director, officer, or employee of such fiduciary) if such fiduciary—

(A) is a corporation organized and doing business under the law of the United States or of any State;

(B) is authorized under such laws to exercise trust powers or to conduct an insurance business;

(C) is subject to supervision or examination by Federal or State authority; and

(D) has at all times a combined capital and surplus in excess of such a minimum amount as may be established by regulations issued by the Council, which amount shall be at least $1,000,000.

Subparagraph (D) shall apply to a bank or other financial institution which is authorized to exercise trust powers and the deposits of which are not insured by the Federal Deposit Insurance Corporation only if such bank or institution meets bonding or similar requirements under State law which the Council determines are at least equivalent to those imposed on banks by Federal law.

(2)(A) The amount of such bond shall be the lesser of 10 percent of the amount of the funds handled by such fiduciary and $500,000, except that the amount of such bond shall be at least $1,000.

(B) The Mayor, after notice and opportunity for hearing to such fiduciary and all other parties in interest to such Fund, may waive the $500,000 limit.

(C) The amount of such bond shall be set at the beginning of each fiscal year.

(3) For purposes of fixing the amount of such bond, the amount of funds handled shall be determined by the funds handled by the person, group, or class to be covered by such bond and by the predecessor or predecessors, if any, during the preceding reporting year, or if the Fund has no preceding reporting year under this title, the amount of funds to be handled during the current reporting year by such person, group, or class, estimated as provided in regulations to be prescribed by the Council.

(4) Such bond shall provide protection to the Fund against loss by reason of acts of fraud or dishonesty on the part of the Fund official, directly or through connivance with others.

(5) Any bond shall have as surety thereon a corporate surety company which is an acceptable surety on Federal bonds under authority granted by the Secretary of the Treasury pursuant to sections 6 through 13 of title 6, United States Code. Any bond shall be in a form or of a type approved by the Council, including individual bonds or schedule or blanket forms of bonds which cover a group or class.

(b) It shall be unlawful for any Fund official to receive, handle, disburse, or otherwise exercise custody or control of any of the funds or other property of any Fund without being bonded as required by subsection (a), and it shall be unlawful for any Fund official or any other person having authority to direct the performance of such functions to permit such functions, or any of them, to be performed by any Fund official with respect to whom the requirements of subsection (a) have not been met.

(c) It shall be unlawful for any person to procure any bond required by subsection (a) from any surety or other company or through any agent or broker in whose business operations the Fund or any party in interest in the Fund has any control or significant financial interest, direct or indirect.

(d) Nothing in any other provision of law shall require any person required to be bonded as provided in subsection (a) because he handles funds or other property of a Fund to be bonded insofar as the handling by such person of the funds or other property of such Fund is concerned.

(e) The Council shall prescribe such regulations as may be necessary to carry out the provisions of this section.

LIMITATION ON ACTIONS

SEC. 186. (a) No action may be commenced under this title with respect to a fiduciary's breach of any responsibility, duty, or obligation under this part, or with respect to a violation of this part, after the earlier of—

(1) six years after (A) the date of the last action which constituted a part of the breach or violation, or (B) in the case of an omission, the latest date on which the fiduciary could have cured the breach or violation; or

(2) three years after the earliest date (A) on which the plaintiff had actual knowledge of the breach or violation, or (B) on which a report from which he could reasonably be expected to have obtained knowledge of such breach or violation was filed with the Mayor, the Council, the Speaker, or the President pro tempore under this title;

except that in the case of fraud or concealment, such an action may be commenced not later than six years after the date of discovery of such breach or violation.

CIVIL ENFORCEMENT

SEC. 187. (a) A civil action may be brought—

(1) by a participant or beneficiary—

(A) for the relief provided for in subsection (b) of this section, or

(B) to recover benefits due to him under the terms of his retirement program, to enforce his rights under the terms of the retirement program, or to clarify his rights to future benefits under the terms of the retirement program;

(2) by a participant or beneficiary or the District of Columbia for appropriate relief under section 182; or

(3) by a participant or beneficiary or the District of Columbia (A) to enjoin any act or practice which violates any provision of this title or the terms of a retirement program, or (B) to obtain other appropriate equitable relief (i) to redress any such violation, or (ii) to enforce any provision of this title or the terms of a retirement program.

(b) If the Board fails or refuses to comply with a request for any information which the Board is required by this title to furnish to a participant or beneficiary (unless such failure or refusal results from matters reasonably beyond the control of the Board) by mailing the information requested to the last known address of the requesting participant or beneficiary within thirty days after such request, then the Board may, in the court's discretion, be liable to such participant or beneficiary in an amount of up to $100 a day from the date of such failure or refusal, and the court may order the Board to provide the required information and may in its discretion order such other relief as it considers proper.

(c) The Board may sue and be sued under this title as an entity. Service of summons, subpena, or other legal process of a court upon the chairman of the Board in his capacity as such shall constitute service upon the Board.

(d) In any action under this title by a participant, beneficiary, or fiduciary, the court in its discretion may allow a reasonable attorney's fee and costs of action to either party.

CLAIMS PROCEDURE

SEC. 188. In accordance with regulations of the Council, the Mayor shall provide to any participant or beneficiary who has a claim for benefits under a retirement program denied—

(1) adequate written notice of such denial, setting forth the specific reasons for such denial in a manner calculated to be understood by such participant or beneficiary; and

(2) a reasonable opportunity for a full and fair review of the decision denying such claim.

TITLE II—CHANGES IN RETIREMENT BENEFITS

PART A—POLICE OFFICERS AND FIRE FIGHTERS' RETIREMENT BENEFITS

SALARY BASE PERIOD FOR COMPUTATION OF ANNUITY

SEC. 201. Paragraph (17) of subsection (a) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4-521 (17)) is amended—

(1) by striking out "twelve consecutive months of police or fire service," and inserting in lieu thereof "thirty-six consecutive months of police or fire service in the case of a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first becomes such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, or over any twelve consecutive months of police or fire service in the case of any other member."; and

(2) by inserting "or thirty-six consecutive months, as the case may be," immediately after "twelve consecutive months" the second place it appears.

CREDITABLE SERVICE FOR FULL-TIME OFFICIALS OF EMPLOYEE ORGANIZATIONS

SEC. 202. (a) Subsection (c) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4-523) is amended by redesignating paragraphs (6) and (7) of such subsection as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6)(A) Any period of time during which a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia is on approved leave without pay to serve as a full-time officer or employee of a labor organization shall be considered to be police or fire service for purposes of this section if such member files an election in accordance with subparagraph (B) and makes payments as described in subparagraph (C). The basic salary in effect at any time for the grade in which a member was serving at the time he entered on approved leave described in the preceding sentence shall be considered to be the basic salary in effect for such member for purposes of this section if the period of time when such member is on approved leave is considered to be police or fire service under this paragraph.

"(B) To be eligible to have any period of approved leave described in subparagraph (A) considered to be police or fire service for purposes of this section, a member described in such subparagraph must, not later than the end of the sixty-day period commencing on the day such member enters on such approved leave or the effective date of this paragraph, whichever occurs later, file an election with the Mayor to have such period of approved leave considered to be police or fire service for purposes of this section.

"(C)(i) To have any period of approved leave described in subparagraph (A) occurring after the effective date of this section considered to be police or fire service, a member described in such subparagraph must each month deposit with the Custodian of Retirement Funds (as defined in section 102(c) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122 (a) of such Act a sum equal to one-twelfth the annual new-entrant normal cost of the annuity of a member receiving the basic salary in effect during such month for the grade in which such member was serving at the time such member entered on such leave.

"(ii) To have any period of approved leave described in subparagraph (A) which occurred before the effective date of this section considered to be police or fire service, a member described in such subparagraph must deposit with the Custodian of Retirement Funds (as defined in section 102(c) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122(a) of such Act, in a manner to be determined by the Mayor, a sum equal to the new-entrant normal cost of the annuity of a member receiving the basic salary in effect during the period of such leave for the grade in which such member was serving at the time such member entered on such leave.

"(iii) The Mayor shall make an annual determination of the new-entrant normal cost for purposes of clauses (i) and (ii) according to information supplied by the actuary retained pursuant to section 142 of the District of Columbia Retirement Reform Act.

"(D) For purposes of this paragraph, the term 'employee organization' means any organization of any kind, or any agency or employer representation committee or plan, in which members or officers of the Metropolitan Police force or the Fire Department of the District of Columbia participate and which exists for the purpose, in whole or in part, of dealing with the government of the District of Columbia concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.".

(b) The amendment made by subsection (a) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

REQUIREMENTS FOR OPTIONAL RETIREMENT

SEC. 203. (a) Subsection (h)(1) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4-528(1)) is amended—

(1) by striking out "who completes twenty years of police or fire service" and inserting in lieu thereof "who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and first becomes such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act and who completes twenty-years of police or fire service and attains the age of fifty years and any other member (other than a member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who first becomes such a member after the end of such ninety-day period) who completes twenty years of police or fire service."; and

(2) by striking out "twenty years: *Provided*" and inserting in lieu thereof "(A) twenty-five years, in the case of a member who becomes a member after the end of such ninety-day period, or (B) twenty years, in the case of any other member: *Provided*".

(b)(1) Paragraph (2) of subsection (h) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4-528) is amended by striking out "in subsection (h)," and inserting in lieu thereof "under".

(2) Paragraph (3) of such subsection is amended by striking out "of this subsection (h)".

DISABILITY RETIREMENT

SEC. 204. (a) Subsection (g) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code sec. 4-527) is amended—

(1) in paragraph (2), by striking out "In any case in which the proximate cause of an injury incurred or disease contracted by a member" and inserting in lieu thereof "In any case involving a member who is an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, in which the proximate cause of an injury incurred or disease contracted by the member"; and

(2) by adding at the end thereof the following new paragraph:

"(4) A member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia may not retire and receive an annuity under this subsection on the basis of the aggravation in the performance of duty of an injury incurred or a disease contracted in the performance of duty unless—

"(A) in the case of the aggravation of a disease, the disease was reported to the Board of Police and Fire Surgeons within thirty days after the disease was first diagnosed; or

"(B) in the case of the aggravation of an injury, the injury was reported to the Board of Police and Fire Surgeons within seven days after the injury was incurred or, if the member was unable (as determined by such Board) as a result of the injury to report the injury within such seven-day period, within seven days after the member became able (as determined by such Board) to report the injury.

The burden of establishing inability to report an injury in accordance with subparagraph (B) within seven days after such injury was incurred and of establishing that such injury was reported within seven days after the end of such inability shall be on the member claiming such inability. Any report under this paragraph shall include adequate medical documentation. Nothing in this paragraph shall be deemed to alter or affect any administrative regulation or requirement of the Metropolitan Police force or the Fire Department of the District of Columbia with respect to the reporting of an injury incurred or aggravated, or any disease contracted or aggravated, in the performance of duty.".

(b)(1) Subsection (f) of such Act (D.C. Code, sec. 4-526) is amended—

(A) by striking out "Whenever" and inserting in lieu thereof "(1) Except as provided in paragraph (2), whenever"; and

(B) by adding at the end thereof the following new paragraph.

"(2) Whenever any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first becomes such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act completes five years of police or fire service and is found by the Mayor to have become disabled due to injury received or disease contracted other than in the performance of duty, which disability precludes further service with his department, such member shall be retired on an annuity which shall be 70 per centum of his basic salary at the time of retirement multiplied by the percentage of disability for such member as determined in accordance with subsection (g)(5)(B)(ii) of this section, except that such annuity shall not be less than 30 per centum of his basic salary at the time of retirement.".

(2) Subsection (g) of such Act, as amended by subsection (a) of this section, is further amended—

(A) in paragraph (1), by striking out "Whenever" and inserting in lieu thereof "Except as provided in paragraph (5), whenever"; and

(B) by adding at the end thereof the following new paragraph:

"(5)(A) Whenever any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first becomes such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act is injured or contracts a disease in the performance of duty or such injury or disease is aggravated by such duty at any time after appointment and such injury or disease or aggravation permanently disables him for the performance of duty, he shall upon retirement for such disability, receive an annuity computed in accordance with subparagraph (B).

"(B)(i) In the case of any member who retires under this paragraph or paragraph (2) of subsection (f), the Board of Police and Fire Surgeons shall determine, within a reasonable time and in accordance with regulations which the Mayor shall promulgate, the percentage of impairment for such member and shall report such percentage of impairment to the Police and Firemen's Retirement and Relief Board.

"(ii) In the case of any member described in clause (i), the Police and Firemen's Retirement and Relief Board shall determine within a reasonable time the percentage of disability for such member giving due regard to—

"(I) the nature of the injury or disease,

"(II) the percentage of impairment reported pursuant to clause (i),

"(III) the position in the Metropolitan Police force or the Fire Department of the District of Columbia held by the member immediately prior to his retirement,

"(IV) the age and years of service of the member, and

"(V) any other factors or circumstances which may affect the capacity of the member to earn wages or engage in gainful activity in his disabled condition, including the effect of the disability as it may naturally extend into the future.

"(iii) The percentage of impairment or the percentage of disability for a member to whom this paragraph applies may be redetermined at any time prior to the time such member reaches the age of fifty and his annuity shall be adjusted accordingly.

"(iv) The annuity of a member who is retired under this paragraph shall be 70 per centum of his basic salary at the time of retirement multiplied by the percentage of disability for such member as determined in accordance with clause (ii), except that such annuity shall not be less than 40 per centum of his basic salary at the time of retirement.

"(v) For purposes of this paragraph—

"(I) the term 'impairment' means any anatomic or functional abnormality or loss existing after maximal medical rehabilitation has been achieved; and

"(II) the term 'disability' means any actual or presumed reduction in or absence of ability to engage in gainful activity which is caused, in whole or in part, by an impairment."

(c) The amendment made by paragraph (1) of subsection (a) shall not apply with respect to officers and members of the Metropolitan Police force or the Fire Department of the District of Columbia who apply for disability retirement under subsection (g) of the Policemen and Firemen's Retirement and Disability Act prior to the end of the ninety-day period beginning on the date of the enactment of this Act. The amendment made by paragraph (2) of subsection (a) shall not apply with respect to injuries incurred or diseases first diagnosed prior to the end of such ninety-day period.

RECOVERY FROM DISABILITY

SEC. 205. (a)(1) Subsection (j)(1) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4-530(1)) is amended in the first sentence by striking out "shall cease" and all that follows in such sentence and inserting in lieu thereof "shall cease—

"(A) upon reemployment in the department from which he was retired,

"(B) forty-five days from the date of the medical examination showing such recovery,

"(C) forty-five days from the date of the determination that he is so restored, or

"(D) in the case of an annuitant who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who first became such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, upon a refusal by such annuitant to accept an offer of reemployment in the department from which he was retired at the same grade or rank as he held at the time of his retirement,

whichever is earliest.".

(2)(A) Such subsection (j)(1) is amended in the second sentence by striking out "in each of two succeeding calendar years" and inserting in lieu thereof ", in each of two succeeding calendar years in the case of an annuitant who was an officer or member of the United States Park Police force, Executive Protection Service, or the United States Secret Service Division, or in any calendar year in the case of an annuitant who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia,".

(B) Subsection (j) of such Act is further amended by adding at the end thereof the following new paragraph:

"(3)(A) If any annuitant who is retired under subsection (f) or (g), who prior to such retirement was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, and who first became such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, receives, directly or indirectly, income from wages or self-employment, or both, in any calendar year after the calendar year in which he retired—

"(i) in an amount in excess of the difference between 70 per centum of the current earnings limitation and the amount of annuity payable to such annuitant during such year under each such subsection prior to the reductions provided for in this paragraph, then (except as provided in subparagraph (D)) the annuity of such annuitant shall be reduced by 50 cents for each $1 of such income received during such year in excess of such difference; and

"(ii) in an amount in excess of the difference between the current earnings limitation and the amount of annuity payable to such annuitant during such year under each such subsection prior to the reductions provided for in this paragraph, then (except as provided in subparagraph (D)) the annuity of such annuitant shall be further reduced by 20 cents for each $1 of such income received during such year in excess of such difference.

"(B) For the purposes of subparagraph (A), the term 'current earnings limitation', with respect to an annuitant, means the greater of—

"(i) the current annual salary for the position which such annuitant held immediately prior to the retirement of such annuitant; or

"(ii) the current entry level salary for active officers and members, divided by .7.

"(C) The reductions provided for in subparagraph (A) shall be made as follows:

"(i) Such reductions shall be pro rated over a period of twelve consecutive months, with equal amounts withheld from each payment of annuity during such twelve-month period.

"(ii) The twelve-month period during which such reduction is made shall begin as soon after the end of the calendar year involved as is administratively practicable (as determined in accordance with regulations which the Mayor of the District of Columbia shall promulgate).

"(D) If the Mayor of the District of Columbia determines that the level of income of an annuitant whose annuity would otherwise be reduced in accordance with subparagraph (A) has decreased significantly (other than in accordance with normal income fluctuations for such annuitant) during the period in which such reduction would occur, the Mayor may authorize the withholding during such period, or any portion thereof, of such lesser amount than the amount prescribed in such subparagraph as the Mayor considers appropriate or the Mayor may waive the requirements of subparagraph (A) if he finds that circumstances justify such waiver.

"(E)(i) Any annuitant who is retired under subsection (f) or (g) and who prior to such retirement was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia shall, at such times as the Mayor of the District of Columbia shall by regulation prescribe, submit to the Mayor a notarized statement containing such information as the Mayor shall by regulation require with respect to the income received by such annuitant from wages or self-employment, or both. After examining such statement, the Mayor may require such annuitant to submit to the Mayor a further notarized statement containing such additional information with respect to the income received by such annuitant from wages or self-employment, or both, as the Mayor deems appropriate.

"(ii) Any annuitant described in clause (i) who willfully furnishes materially false information with respect to his income in any statement required to be submitted under such clause shall forfeit all rights to his disability annuity. Any such annuitant who refuses or otherwise willfully fails to timely submit such statement as required by this subsection, payment of the annuity to such annuitant shall cease and such annuitant shall not be eligible to receive such annuity or part thereof for the period beginning on the date after the final day for timely filing of such statement and ending on the date on which the Mayor receives such statement. Nothing in this clause shall affect any rights to a survivor's annuity under subsection (k) based upon the service of such annuitant.".

(b) Subsection (m)(2) of such Act (D.C. Code, sec. 4–533(2)) is amended—

(1) by inserting "(A)" before "If a member";

(2) by striking out the last sentence of such subsection and adding after "is based." the following: "The Commissioner shall not require employment questionnaires under subsection (j)(3)(C) or the medical examination of such member under subparagraph (B) after such member reaches the age of fifty."; and

(3) by adding at the end of such subsection the following:

"(B) The Mayor shall, by regulation, require any annuitant who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia and who retired before, on, or after the date of the enactment of the District of Columbia Retirement Reform Act under subsection (f) or (g) of this section to undergo, during each twelve-month period following the effective date of this subparagraph, at least one medical examination of the disability upon which the annuitant's retirement under subsection (f) or (g) is based. No such annuitant shall be required under such regulations to undergo a medical examination during any such twelve-month period during which the annuitant was required to undergo a medical examination under this subsection in connection with such annuitant's employment. Such annual examination shall be carried out by the Board of Police and Fire Surgeons or by a physician designated by the Board.

"(C) Such regulations shall further provide for notification by the Board of Police and Fire Surgeons to each such annuitant as to the time and place for such examination and the consequences of failure to appear and submit to such examination.

"(D) In any case in which the requirement to undergo a medical examination under this section would impose on an annuitant an undue hardship because of the physical or mental condition of such annuitant, the Mayor, by regulation, shall provide other means sufficient to determine the continuance of the disability on which such annuitant's retirement under subsection (f), or (g) is based.

"(E) Such regulations shall further provide that, in any case involving any such member so retired who refuses or otherwise fails to undergo any medical exam required by this section, payment of the annuity to such member shall cease and such member shall not be eligible to receive such annuity or any part thereof for any period commencing on the day next following the day on which such member was required to undergo such examination, and ending on the date on which such member undergoes such examination. Nothing in this paragraph shall be construed as affecting any rights to a survivor's annuity under subsection (k) based upon the service of such member.".

(c) The amendments made by subsections (a) and (b) shall take effect at the end of the ninety-day period beginning on the date of enactment of this Act. The amendment made by paragraph (2)(B) of subsection (a) shall apply with respect to income from wages or self-employment, or both, received directly or indirectly during calendar year 1979 or the calendar year after the year in which the member retires, whichever is later, and any calendar year thereafter.

SURVIVORS' ANNUITIES

SEC. 206. (a)(1) Subsection (k) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–531) is amended—

(A) in paragraph (2)—

(i) by inserting "(A)" immediately after "40 per centum" the second place it appears, and

(ii) by striking out "computed," and inserting in lieu thereof "computed in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or (B) of the adjusted average pay of such former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia;"; and

(B) by amending paragraph (3) to read as follows:

"(3) Each surviving child or student-child of any member who dies before retirement, or of any former member who does after retirement, shall be entitled to receive an annuity equal to the smallest of—

"(A) in the case of a member or former member who is survived by a wife or husband—

"(i) 60 per centum of—

"(I) the member's average pay at the time of death, or

"(II) the basis upon which the former member's annuity at the time of death was computed in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or the adjusted average pay of the former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia.

divided by the number of eligible children;

"(ii) $1,548; or

"(iii) $4,644 divided by the number of eligible children; and

"(B) in the case of a member or former member who is not survived by a wife or husband—

"(i) 75 per centum of—

"(I) the member's average pay at the time of death, or

"(II) the basis upon which the former member's annuity at the time of death was computed in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or the adjusted average pay of the former member in the case of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia,

divided by the number of eligible children;

"(ii) $1,860; or

"(iii) $5,580 divided by the number of eligible children.".

(2) Subsection (a) of such Act (D.C. Code, sec. 4–521) is amended—

(A) by striking out the period at the end of paragraph (4) of such subsection and inserting in lieu thereof the following: ", in the case of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, or the surviving husband of a member or former member who was a member or officer of the Metropolitan Police force or the Fire Department of the District of Columbia if—

"(A) he was married to such member or former member (i) while she was a member, or (ii) for at least one year immediately preceding her death, or

"(B) he is the father of issue by such marriage."; and

(B) by inserting the following new paragraph immediately after paragraph (17):

"(18) The term 'adjusted average pay' means the average pay of a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia increased by the per centum increase (adjusted to the nearest one-tenth of 1 per centum in the Consumer Price Index for All Urban Consumers) published by the Bureau of Labor Statistics, between the month in which such member retires and the month immediately prior to the month in which such member dies.".

(b) The amendments made by subsection (a) shall apply with respect to survivor annuities under the Policemen and Firemen's Retirement and Disability Act for survivors of officers or members of the Metropolitan Police force or the Fire Department of the District of Columbia which commence on or after the first day of the first month which begins after the end of the ninety-day period beginning on the date of enactment of this Act.

DEFERRED ANNUITIES

SEC. 207. (a)(1) The Policemen and Firemen's Retirement and Disability Act is amended—

(A) by redesignating subsection (l) through (r) as subsections (m) through (s), respectively; and

(B) by inserting immediately after subsection (k) the following new subsection:

"DEFERRED ANNUITIES

"(l)(1) Except as provided in paragraph (2), any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who completes five years of police or fire service and who is thereafter separated from his department, except for retirement under subsection (f), (g), or (h), shall be entitled to an annuity commencing on the first day of the month during which such member attains the age of fifty-five or on the first day of the first month beginning after such member's separation from his department, whichever month occurs later. Such annuity shall be computed at the rate of 2½ per centum of his average pay for each year of service up to twenty years of service and at the rate of 3 per centum of his average pay for each year of service after twenty years of service, or, in the case of a member who first became such a member after the end of the ninety-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, after twenty-five years of service, except that such annuity may not exceed 80 per centum of the average pay of such member.

"(2)(A) Any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia who complete five years of police or fire service and who is thereafter separated from his department (other than a member who retires under subsection (f), (g), or (h)) may elect, at the time of his separation, to receive a refund of the amount of deductions made from his salary under this section. Receipt of such refund by the member shall void all annuity rights under this section.

"(B)(i) Any member who, by electing to receive a refund under subparagraph (A), loses annuity rights under this section, may reestablish all such rights at any time prior to attaining the age of fifty-five by redepositing the amount of such refund plus interest computer in accordance with paragraph (3).

"(ii) If any member who receives a refund under subparagraph (A) is subsequently reappointed to any department whose members come under this section and elects, at the time of such reappointment, to redeposit the amount refunded to him under subparagraph (A) plus interest computed in accordance with paragraph (3), then credit shall be allowed under this section for such member's prior period of service. Such redeposit (and the required interest thereon) may, at the election of the member, be made in a lump sum or in not to exceed 60 monthly installments, except that if the member dies before depositing the full amount due under the preceding sentence, the requirements of such sentence shall be deemed to have been met.

"(3) The interest which is required by paragraphs (2)(B)(i) and (ii) of this subsection and by paragraph (2)(B) of subsection (d) to be paid by a member who redeposits the amount of previously refunded deductions shall be computed as follows:

"(A) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Police Officers and Fire Fighters' Retirement Fund (established by section 122 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service with respect to which the redeposit is made and ending on the last day of the month which precedes the month during which he redeposits the refund if he makes a lump sum payment or during which he makes the first monthly payment if he makes monthly payments, except that for so much of any such period which precedes October 1, 1981, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on redeposits under this section.

"(B) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the period of service with respect to which the redeposit is made and ending on the last day of the month which precedes the month during which he redeposits the refund.

"(C) If a member elects to make his redeposit in monthly installments, each monthly payment shall include interest on that portion of the refund which is then being redeposited.".

(2) Subsection (k) of such Act (D.C. Code, 4–531), as amended by section 206 of this Act, is further amended—

(A) in paragraph (2)—

(i) by striking out "or" the first place it appears, and

(ii) by inserting "or of any member entitled to receive an annuity under subsection (l) (regardless of whether such member is receiving such annuity at the time of death)," immediately after "after retirement,";

(B) in paragraph (3)—

(i) by striking out "or" the second place it appears, and

(ii) by inserting "or of any member entitled to receive an annuity under subsection (l) (regardless of whether such member is receiving such annuity at the time of death)," immediately after "after retirement,"; and

(C) in paragraph (6)—

(i) by striking out ", may," in the first sentence and inserting in lieu thereof "may",

(ii) by inserting ", and any member entitled to receive an annuity under subsection (l) of this section may at the time such annuity commences," immediately after "such retirement," in the first sentence,

(iii) by striking out "the retired annuitant's" in the first sentence and inserting in lieu thereof "such member's",

(iv) by striking out "the retiring" in the proviso in the first sentence and inserting in lieu thereof "such",

(v) by striking out "retiring" in the second and fourth sentences,

(vi) by striking out "retirement" in the last sentence and inserting in lieu thereof "election", and

(vii) by striking out "or (h)" in the last sentence and inserting in lieu thereof "(h), or (l), as the case may be".

(b) The amendments made by subsection (a) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

INTEREST ON REFUNDS AND ON DEPOSITS FOR PRIOR SERVICE CREDIT

SEC. 208. (a)(1) Subsection (d) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–524) is amended—

(A) in paragraph (2)—

(i) by striking out "Any member coming under the provisions of this section" and inserting in lieu thereof "(A) any member who is an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division,"; and

(ii) by adding at the end of such paragraph the following new subparagraph,

"(B) Any member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia with less than five years of police or fire service who is separated from his department, except for retirement under subsection (f), (g), or (h), shall be refunded the amount of the deductions made from his salary under this section. The receipt of payment of such deductions by such member shall void all annuity rights under this section, except that if such member is subsequently reappointed to any department whose members come under this section and such member elects, at the time of such reappointment, to redeposit the amount refunded to him pursuant to the preceding sentence plus interest computed in accordance with subsection (l) (3), then credit shall be allowed under this section for the prior period of service. Such redeposit (and the interest required thereon) may be made, at the election of the member, in a lump sum or in not to exceed 60 monthly installments, except that if such member dies before depositing the full amount due under the preceding sentence, the requirements of such sentence shall be deemed to have been met.";

(B) in the proviso at the end of paragraph (3), by inserting immediately before the period ", except that if the member was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, no payment shall be made if no natural person is determined to be entitled thereto"; and

(C) in paragraph (4)—

(i) by striking out "after retirement", and

(ii) in the proviso at the end of such paragraph by inserting ", except that if the member was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, no payment shall be made if no natural person is determined to be entitled thereto" immediately before the period.

(2) Paragraph (5) of subsection (c) of such Act (D.C. Code, sec. 4–523(5)) is amended to read as follows:

"(5) (A) A member shall be allowed credit for government service performed prior to appointment in any of the departments mentioned in subsection (a) (1) of this section, if such member deposits a sum equal to the entire amount, including interest (if any), refunded to him for such period of government service. A member who is an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia shall deposit such sum, plus interest computed in accordance with subparagraph (B), with the Custodian of Retirement Funds (as defined in section 102(6) of the District of Columbia Retirement Reform Act) for deposit in the District of Columbia Police Officers and Fire Fighters' Retirement Fund established by section 122(a) of such Act. All other members shall deposit such sums with the Mayor of the District of Columbia for credit to the revenues of the District of Columbia. If the member so elects, he may deposit the total amount of such refund in monthly installments not exceeding twenty-four, except that in the case of a member who is an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, such monthly installments shall be of equal amounts. No deposit shall be required for days of unused sick leave credited under subsection (h) of this section.

"(B) Interest required on deposits under this paragraph for members who are officers or members of the Metropolitan Police force or the Fire Department of the District of Columbia shall be computed as follows:

"(i) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Police Officers and Fire Fighters' Retirement Fund (established by section 122 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump-sum payment or during which he makes the first monthly payment if he makes monthly payments, except that for so much of any such period which precedes October 1, 1981, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits under this paragraph.

"(ii) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the period of service with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made.

"(iii) If a member elects to make his deposit in monthly installments, each monthly payment shall include interest on that portion of the refund which is then being redeposited.".

The amendments made by subsection (a) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act. The amendments made by paragraph (2) of subsection (a) shall not apply with respect to deposits made, in whole or in part, prior to the end of such ninety-day period.

COST-OF-LIVING ADJUSTMENTS OF ANNUITIES

SEC. 209. (a) (1) The Policemen and Firemen's Retirement and Disability Act is amended—

(A) by redesignating subsections (m) through (s), as redesignated by section 207 (a) (1) (A) of this Act, as subsections (n) through (t), respectively; and

(B) by inserting immediately after subsection (l), as added by the amendment made by section 207(a) (1) (B) of this Act, the following new subsection:

"COST-OF-LIVING ADJUSTMENTS OF ANNUITIES

"(m) (1) Each month the Mayor of the District of Columbia shall determine the per centum change in the price index. On the basis of this determination, and effective the first day of the third month which begins after the price index shall have equaled the rise of at least 3 per centum for three consecutive months over the price index for the base month each annuity payable under this section which—

"(A) is payable to a survivor of a member who was an officer or member of the United States Park Police force, the Executive Protective Service, or the United States Secret Service Division, and

"(B) has a commencing date on or before such effective date,

shall be increased by 1 per centum plus the per centum rise in the price index. For purposes of this paragraph, the term 'base month' means the month for which the price index showed a per centum rise forming the basis for a cost-of-living annuity increase under this paragraph, except that, until the first cost-of-living annuity increase under this paragraph, the base month shall be the last month which was the base month for purposes of subsection (k) (7) before its repeal by section 209(b) of the District of Columbia Retirement Reform Act.

"(2) With respect to any annuity payable under this section which is payable to a member who was an officer or member of the Metropolitan Police force or the Fire Department of the District of Columbia, or to a survivor of any such member, the Mayor shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for June of such year over the price index published for December of the preceding year.

"(3) If in any year the per centum change determined under either paragraph (2) (A) or (2) (B) indicated a rise in the price index, then—

"(A) in the case of an increase under paragraph (2) (A), (i) each annuity described in paragraph (2) having a commencing date not later than March 1 of such year shall, effective such March 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such March 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum change, adjusted to the nearest one-tenth of 1 per centum, or

"(B) in the case of an increase under paragraph (2) (B), (i) each annuity described in paragraph (2) having a commencing date not later than September 1 of such year shall, effective such September 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such September 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum change, adjusted to the nearest one-tenth of 1 per centum.

"(4) The monthly installment of annuity after adjustment under this subsection shall be fixed at the nearest dollar, except that such installment shall after adjustment reflect an increase of at least $1.

"(5) For purposes of this subsection, the term 'price index' means the Consumer Price Index for All Urban Consumers published monthly by the Bureau of Labor Statistics.".

(2) Subsections (m) (2) and (3) of the Policemen and Firemen's Retirement and Disability Act, as added by the amendment made by paragraph (1) (B) of this subsection, shall apply (A) to any increase after the effective date of such amendment in annuities payable under subsection (k) of such Act, except that with respect to the first date after the effective date of such amendment on which the Mayor is to determine a per centum change for the purpose of such an increase, such per centum change shall be determined by computing the change in the price index published for the month immediately preceding such first date over the price index published for the last month which was the base month for purposes of subsection (k) (7) of the Policemen and Firemen's Retirement and Disability Act before the repeal of such subsection by subsection (b) of this section, and (B) to any increase in each annuity payable under such Act having a commencing date after the effective date of such amendment.

(b) Subsection (k) (7) of the Policemen and Firemen's Retirement and Disability Act (D.C. Code, sec. 4–531(7)) is repealed.

(c) Section 301 of the District of Columbia Police and Firemen's Salary Act of 1953 (D.C. Code, sec. 4–518) is amended by adding at the end thereof the following new subsection:

"(e) This section shall not apply with respect to officers and members of the Metropolitan Police force or the Fire Department of the District of Columbia who retire after the effective date of this subsection.".

(d) The amendments made by this section shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

AUTHORITY TO WAIVE COLLECTION OF OVERPAYMENTS

SEC. 210. Subsection (o) of the Policemen and Firemen's Retirement and Disability Act, as amended by section 205(b) of this Act and redesignated by section 209(a) (1) (A) of this Act (D.C. Code, sec. 4–533), is amended by adding at the end thereof the following new paragraph:

"(3) Except in a case of fraud against the District of Columbia, the Mayor may waive collection of any amount less than $100 which was paid to an annuitant in excess of the amount to which such annuitant was entitled under this section.".

COMMENCING DATE OF PAYMENT OF ANNUITIES

SEC. 211. Subsection (p) of the Policemen and Firemen's Retirement and Disability Act, as redesignated by section 209(a) (1) (A) of this Act (D.C. Code, sec. 4–534), is amended by inserting after "accrues monthly" in paragraph (1) the following: "(except that an annuity accrues over any portion of a month after the commencing date of such annuity but before the first day of the next month and is payable for such month in an amount pro rated in a manner to be determined by the Mayor)".

PAYMENT OF ANNUITIES TO MINORS AND MENTAL INCOMPETENTS

SEC. 212. Subsection (p) of the Policemen and Firemen's Retirement and Disability Act, as redesignated by section 209(a) (1) (A) of this Act and amended by section 211 of this Act (D.C. Code, sec. 4–534), is amended by redesignating paragraphs (2) and (3) of such subsection as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) Payment due a minor, or an individual mentally incompetent or under other legal disability, may be made to the person who is constituted guardian or other fiduciary by the law of the State of residence of the claimant or is otherwise legally vested with the care of the claimant or his estate. If a guardian or other fiduciary of the individual under legal disability has not been appointed under the law of the State of residence of the claimant, payment may be made to any person who, in the judgment of the Mayor, is responsible for the care of the claimant, and the payment bars recovery by any other person.".

IMPROVEMENTS IN ADMINISTRATION OF DISABILITY RETIREMENTS

SEC. 213. Subsection (g) of the Policemen and Firemen's Retirement and Disability Act (as amended by section 204 of this Act) is further amended by adding at the end thereof the following new paragraphs:

"(6) Not later than ninety days after the date of the enactment of the District of Columbia Retirement Reform Act, the Board of Police and Fire Surgeons shall submit to the Mayor recommendations for regulations to establish specific criteria for determining whether an injury was incurred, or a disease was contracted, in the performance of duty and whether an injury or disease was aggravated in the performance of duty. The Mayor shall promulgate regulations establishing such criteria in a timely manner based on the recommendations of the Board.

"(7) (A) In making determinations under this subsection and under subsection (f), the Board of Police and Fire Surgeons and the Police and Firemen's Retirement and Relief Board shall make full use of the medical resources in the District of Columbia and shall make the widest practical use of the medical expertise available to them consistent with fair and even administration of this Act.

"(B) Not later than ninety days after the date of the enactment of the District of Columbia Retirement Reform Act, the Board of Police and Fire Surgeons and the Police and Firemen's Retirement and Relief Board shall each submit to the Mayor recommendations for regulations to carry out the requirements of subparagraph (A). The Mayor shall, in a timely manner and based on the recommendations of such Boards, promulgate regulations to carry out the requirements of such subparagraph.

"(C) Failure to promulgate such regulations, or failure to comply with such regulations, shall not invalidate any decision of the Mayor or the Police and Firemen's Retirement and Relief Board with respect to the retirement of any individual.".

RESTRICTION ON RETIRED POLICE OFFICERS AND FIRE FIGHTERS RECEIVING ANNUITY WHILE EMPLOYED BY THE DISTRICT OF COLUMBIA GOVERNMENT

SEC. 214. Subsection (p) of the Policemen and Firemen's Retirement and Disability Act (as redesignated by section 209(a) (1) (A) and amended by section 211) is amended by adding at the end thereof the following new paragraph:

"(5) Notwithstanding any other provision of law, the salary of any annuitant who first becomes entitled to an annuity under this section after the date of the enactment of the District of Columbia Retirement Reform Act and who is subsequently employed by the government of the District of Columbia shall be reduced by such amount as is necessary to provide that the sum of such annuitant's annuity under this section and compensation for such employment is equal to the salary otherwise payable for the position held by such annuitant.".

PART B—TEACHERS' AND JUDGES' RETIREMENT BENEFITS

COST-OF-LIVING ADJUSTMENTS OF TEACHERS' ANNUITIES

SEC. 251. (a) (1) Section 21(b) of the Act entitled "An Act for the retirement of public school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31–739a(b)), is amended to read as follows:

"(b) (1) The Mayor shall—

"(A) on January 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

"(B) on July 1 of each year, or within a reasonable time thereafter, determine the per centum change in the price index published for June of such year over the price index published for December of the preceding year.

"(2) If in any year the per centum change determined under either paragaph (1) (A) or (1) (B) indicates a rise in the price index, then—

"(A) in the case of an increase under paragraph (2) (A), (i) each annuity described in paragraph (2) having a commencing date not later than March 1 of such year shall, effective such March 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such March 1 but before the effective date of the next increase in annuities under this pargraph shall, effective such commencing date, be increased by such per centum, or

"(B) in the case of an increase under paragraph (2) (B), (1) each annuity described in paragraph (2) having a commencing date not later than September 1 of such year shall, effective such September 1, be increased by the per centum change computed under such paragraph, adjusted to the nearest one-tenth of 1 per centum, and (ii) each annuity described in such paragraph having a commencing date after such September 1 but before the effective date of the next increase in annuities under this paragraph shall, effective such commencing date, be increased by such per centum change, adjusted to the nearest one-tenth of 1 per centum.".

(2) The amendment made by paragraph (1) shall apply to any increase after the effective date of such amendment in annuities payable from the District of Columbia teachers' retirement and annuity fund established by section 2 of the Act entitled "An Act for the retirement of public school teachers in the District of Columbia", approved August 7, 1946, or from the District of Columbia Teachers' Retirement Fund established by section 123(a) of this Act, except that with respect to the first date after the effective date of such amendment on which the Mayor is to determine a per centum change, such per centum change shall be determined by computing the change in the price index published for the month immediately preceding such first date over the price index published for the last month before such effective date for which the price index showed a per centum rise forming the basis for a cost-of-living annuity increase under section 21(b) of such Act of August 7, 1946, as in effect immediately before the amendment of such section by paragraph (1).

(b) Section 21(c) of the Act entitled "An Act for the retirement of public-school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31–739a(c)), is amended—

(1) by striking out "governed by the commencing date of each annuity payable from the fund as of the effective date of an increase" and inserting in lieu thereof "as provided in subsection (b) (2)"; and

(2) by striking out "from the fund" in paragraph (1) of such section.

(c) The amendments made by subsections (a) and (b) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

COST-OF-LIVING ADJUSTMENTS OF JUDGES' ANNUITIES

SEC. 252. (a) Section 11–1571(a) of title 11 of the District of Columbia Code is amended by inserting ", or who, before the next such increase first becomes payable under such section, receives such salary or annuity, either" immediately after "salary or annuity".

(b) The amendment made by subsection (a) shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

INTEREST ON TEACHERS' REFUNDS AND DEPOSITS

SEC. 253. (a) (1) The first section of the Act entitled "An Act for the retirement of public school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31–721), is amended—

(A) in the first paragraph by inserting "or the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier" immediately before the period at the end of the proviso in the second sentence; and

(B) in the second paragraph—

(i) in the first sentence—

(I) by striking out "at 3 per centum per annum compounded as of December 31 of each year" and inserting in lieu thereof "computed in accordance with section 24(a) of this Act" and

(II) by striking out "an interest rate of 3 per centum per annum compounded annually" and inserting in lieu thereof "the interest rate computed in accordance with section 24(a) of this Act"; and

(ii) in the second sentence, by inserting "to the date of such death or separation or the end of the 90-day period beginning on the date of enactment of the District of Columbia Retirement Reform Act, whichever is earlier" immediately after "are made".

(2) Section 1A(b) of such Act (D.C. Code, sec. 31–721a(b)) is amended by striking out "with interest at 4 per centum compounded annually" in the first sentence and inserting in lieu thereof ", with interest computed in accordance with section 24(b) of this Act,".

(3) Section 8 of such Act (D.C. Code, sec. 31–728) is amended in the first paragraph—

(A) in the second proviso in the sixth sentence—

(i) by striking out "the accumulated contributions and interest" and inserting in lieu thereof "(1) the accumulated contributions", and

(ii) by inserting immediately before the colon at the end of such proviso ", and (2) interest thereon computed in accordance with section 24(b) of this Act"; and

(B) in the seventh sentence, by striking out "with interest at 3 per centum per annum compounded annually".

(4) Section 9(a) of such Act (D.C. Code, sec. 31-729(a)) is amended—

(A) in the first proviso—

(i) by inserting "(computed to the date of separation or the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier)" immediately after "thereon", and

(ii) by inserting "(computed to the date of separation or the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier)" immediately after "interest" the second time it appears;

(B) in the second proviso, by inserting "(including the interest thereon) plus interest computed in accordance with section 24(c) of this Act" immediately before the colon at the end of such proviso; and

(C) in the third proviso, by striking out ", with interest at 3 per centum compounded annually".

(5) Section 10(f)(3) of such Act (D.C. Code, sec. 31-730(f)(3)) is amended by inserting after "interest" the first time it appears ", earned prior to the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act.".

(6) Such Act is further amended by adding at the end thereof the following new section:

"SEC. 24. (a) For purposes of determining the amount available to purchase an annuity under the second paragraph of the first section of this Act, interest shall be deemed to accrue on deposits at the following rates for the following periods:

"(1) Prior to the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, interest shall accrue at the rate of 3 per centum per annum compounded as of December 31 of each year.

"(2) For the period beginning at the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act and ending on September 30, 1981, interest shall accrue at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum).

"(3) After October 1, 1981, interest shall accrue at an annual rate which (as determined by the Mayor of the District of Columbia) is equal to the average annual rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Teachers' Retirement Fund established by section 123 of the District of Columbia Retirement Reform Act.

"(b) Interest required on deposits under section 1A or 8 of this Act or under the Act of June 27, 1960, shall be computed as follows:

"(1) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Teachers' Retirement Fund (established by section 123 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the midpoint of the period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump-sum payment or during which he makes the first payment if he makes installment deposits, except that—

"(A) for so much of any such period which occurs between the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act and October 1, 1980, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits; and

"(B) for so much of any such period which occurs prior to the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, the rate of 3 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits.

"(2) Interest shall be payable for the period beginning on the first day of the first month which begins after the midpoint of the period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made.

"(3) If a teacher elects to make his deposit in installments, each payment shall include interest on that portion of the refund which is then being redeposited.

"(c) Interest required on deposits under section 9(a) of this Act shall be computed as follows:

"(1) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Teachers' Retirement Fund (established by section 123 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump sum payment or during which he makes the first payment if he makes installment deposits, except that—

"(A) for so much of any such period which occurs between the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act and October 1, 1980, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits; and

"(B) for so much of any such period which occurs prior to the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, the rate of 3 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits.

"(2) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made.

"(3) If a teacher elects to make his deposit in installments, each payment shall include interest on that portion of the refund which is then being redeposited.".

(b) The Act entitled "An Act to authorize certain teachers in the public schools of the District of Columbia to count as creditable service for retirement purposes certain periods of authorized leave without pay taken by such teachers for educational purposes", approved June 27, 1960 (D.C. Code, sec. 31-745), is amended—

(1) by striking out "and interest"; and

(2) by inserting immediately before the colon at the beginning of the proviso "plus interest computed in accordance with section 24(b) of such Act of August 7, 1946".

(c) The amendments made by this section shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

INTEREST ON JUDGES' REDEPOSITS

SEC. 254. (a) Subchapter III of chapter 15 of title 11 of the District of Columbia Code is amended—

(1) in section 11-1561—

(A) in paragraph (9)(C), by inserting immediately before the semicolon at the end thereof "or the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier", and

(B) in paragraph (10)(C), by inserting immediately before the semicolon at the end thereof "or the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier"; and

(2) in section 11-1569(c), by inserting "or the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, whichever is earlier" immediately after "such judge" and before the comma.

(b) Such subchapter III is further amended—

(1) in section 11-1563(b), by striking out "at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year" and inserting in lieu thereof "computed in accordance with section 11-1564(d)(2)";

(2) by amending section 11-1564(d)(2) to read as follows:

"(2) Interest on deposits under this subsection and section 11-1567(b) shall be computed as follows:

"(A) Interest shall be paid at a rate which (as determined by the Mayor of the District of Columbia) is equal to the average rate of return on investment (adjusted to the nearest one-eighth of 1 per centum) for the District of Columbia Judges' Retirement Fund (established by section 124 of the District of Columbia Retirement Reform Act) for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made if he makes a lump sum payment or during which he makes the first payment if he makes installment deposits, except that—

"(i) for so much of any such period which occurs between the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act and October 1, 1980, the average rate of interest on interest-bearing obligations of the United States forming a part of the public debt (adjusted to the nearest one-eighth of 1 per centum) shall be used in determining the interest rate to be paid on deposits;

"(ii) for so much of any such period which occurs between January 1, 1948, and the end of the 90-day period beginning on the date of the enactment of the District of Columbia Retirement Reform Act, the rate of 3 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits; and

"(iii) for so much of any such period which occurs prior to January 1, 1948, the rate of 4 per centum a year, compounded annually, shall be used in determining the interest rate to be paid on deposits.

"(B) Interest shall be payable for the period beginning on the first day of the first month which begins after the end of the service period with respect to which the deposit is made and ending on the last day of the month which precedes the month during which the deposit is made.

"(C) If a judge elects to make his deposit in installments, each payment shall include interest on that portion of the refund which is then being redeposited.

Interest may not be charged for a period of separation from the service which began before October 31, 1956."; and

(3) in section 11-1567(b), by striking out "at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year" and inserting in lieu thereof "computed in accordance with section 11-1564(d) (2)".

(c) The amendments made by this section shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

RESTORATION OF TEACHERS' ANNUITIES IN THE EVENT OF PREDECEASED BENEFICIARIES

SEC. 255. (a) Section 5(b) of the Act entitled "An Act for the retirement of public school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31-725(b)), is amended by adding at the end thereof the following new paragraph:

"(4) In the event an individual designated as a surviving widow or widower or as a survivor annuitant under this subsection predeceases the teacher designating such individual, the annuity of such teacher shall, effective the day after the death of such individual, be the amount it would have been if no such beneficiary had been named.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1978, or at the end of the ninety-day period beginning on the date of the enactment of this Act, whichever is later.

TERMINATION OF TEACHERS' DISABILITY ANNUITIES BASED ON OUTSIDE EARNED INCOME

SEC. 256. Section 4 of the Act entitled "An Act for retirement of public school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31-724), is amended by inserting after the second paragraph thereof the following new paragraph:

"Notwithstanding the foregoing provisions of this section, if during any calendar year an annuitant who is receiving a disability annuity under this section and who has not reached retirement age (as defined in section (3) receives income from wages or self-employment, or both, in an amount not less than 80 per centum of the current rate of pay of the position occupied by the annuitant before retirement, the annuity of such annuitant shall be terminated by the Board of Education effective January 1 of the first calendar year after such calendar year, except that this sentence shall not apply with respect to income received during the year in which the annuitant retired. The annuity of any annuitant whose annuity is terminated under the preceding sentence shall be restored, at the rate which would have been in effect but for such termination, effective January 1 of any year following a year during which the amount of such annuitant's income from wages and self-employment is less than 80 per centum of the current rate of pay of the position occupied by the annuitant before retirement, or effective immediately if the Board of Education determines that, outside of normal fluctuations in such annuitant's income, such annuitant's income is reduced to a level which on an annual basis is less than 80 per centum of such current rate of pay.".

RESTRICTION ON RETIRED TEACHERS RECEIVING ANNUITY WHILE EMPLOYED BY THE DISTRICT OF COLUMBIA GOVERNMENT

SEC. 257. The Act entitled "An Act for retirement of public school teachers in the District of Columbia", approved August 7, 1946 (D.C. Code, sec. 31-721 et seq.), is amended by adding after section 24 (as added by section 253(a)(6)) the following new section:

"SEC. 25. Notwithstanding any other provision of law, the salary of any retired teacher who first becomes entitled to an annuity under this Act after the date of the enactment of the District of Columbia Retirement Reform Act and who is subsequently employed by the government of the District of Columbia shall be reduced by such amount as is necessary to provide that the sum of such teacher's annuity under this Act and compensation for such employment is equal to the salary otherwise payable for the position held by such teacher.".

And the House agree to the same.

RONALD V. DELLUMS,
WALTER E. FAUNTROY,
R. L. MAZZOLI,
STEWART B. MCKINNEY,
MARC L. MARKS,
Managers on the Part of the House.

ABE RIBICOFF,
TOM EAGLETON,
CARL LEVIN,
CHARLES MCC. MATHIAS, Jr.,
TED STEVENS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate, at the Conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1037), submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying Conference Report:

The House amendment struck out all the Senate bill after the enacting clause, and inserted a substitute text.

The Committee of Conference has agreed to a substitute for both the Senate bill and the House amendment to the text of the bill. Except for clarifying, clerical, and conforming changes, the differences are noted below:

EFFECTIVE DATE OF FUNDING

The Senate bill began payments by the Federal Government to the pension funds established in this legislation in fiscal year 1981.

The House amendment began Federal payments in fiscal year 1980.

The conference substitute (Section 144(a)) conforms to the House amendment.

DEFINITION OF FEDERAL SHARE

The Senate bill defined the "Federal share" of the payments to be made to the pension funds to cover the unfunded liability for all retirements—service and disability—prior to January 2, 1975, the effective date of Home Rule for the District, with interest accrued to October 1, 1978.

The House amendment defined the "Federal share" to include 75% of the unfunded liability for service retirements and 33⅓% of unfunded liability for the disability retirements, prior to the effective date of Home Rule, with interest accrued to October 1, 1979.

The conference substitute (Sec. 144(e)(2)) commits the Federal Government to provide funding for 80% of the unfunded liability for service retirements and 33⅓% of the unfunded liability for disability retirements as of the date of Home Rule, with interest accrued to October 1, 1979.

The House and Senate conferees continue to maintain the view that a proper statement of Federal responsibility would require funding of the unfunded liability for all service retirements prior to the effective date of Home Rule. However, the conferees agreed to accept a compromise by which the Federal contribution would cover only 80% of the unfunded liability for service retirements, with a commensurate reduction in total funding, in order to produce legislation which could be enacted into law.

AUTHORIZED APPROPRIATIONS

As the Federal payment to the Funds, the Senate bill authorized total appropriations of $1.625 billion between fiscal year 1981 and fiscal year 2005. The House amendment authorized a total of $1.244 billion between fiscal year 1980 and fiscal year 2004. The conference substitute authorizes total appropriations of $1,301,750,000 for fiscal years 1980 through 2004.

On a yearly basis, the Federal payment authorized in the Senate bill was $65 million for fiscal year 1981 and each succeeding year through 2005. The House amendment authorized $49.745 million for fiscal year 1980 and each succeeding year through 2004.

The conference substitute provides (Sec. 144(a)) for an authorized appropriation of $52.07 million as the Federal payment for fiscal year 1980 and each succeeding year through fiscal year 2004. Of that annual sum, $34,170,000 will go to the Police Officers' and Fire Fighters' Retirement Fund, $17,680,000 will go to the Teachers' Retirement Fund, and $220,000 will go to the Judges' Retirement Fund.

DEFINITION OF "CURRENT VALUE"

The House amendment defined "current value of the assets in the fund" so as to exclude any effects in the second and succeeding years of changes in the unfunded liabilities that trigger additional District payments under Section 142(b)(1)(c)(1).

The Senate bill had no comparable provision.

The conference substitute (Sec. 142(a)(3)) conforms to the House amendment.

REDUCTION IN FEDERAL CONTRIBUTION

The Senate bill required a reduction in the Federal contribution in any year when the estimated future cost of disability retirements for police officers and fire fighters, hired prior to 90 days after the enactment of this legislation ("current employees"), exceeds by more than two percent the estimated cost of disability retirements for that same group of employees, if they were subject to the various reforms made by this legislation which apply only to employees hired in the future, more than 90 days after the enactment of this legislation ("future hires").

The Senate bill provided that if such a reduction is required, it would be calculated by taking the ratio of (a) the number of District of Columbia police officers and fire fighters who retired on disability in the preceding calendar year to (b) the total number of police officers and fire fighters who first became members prior to the end of the 90-day period beginning on the date of enactment of this Act and who retired, died, withdrew by taking a lump sum payment, or separated from active duty while eligible for a deferred annuity during such year. This ratio, multiplied by the Federal contribution to the Police Officers and Fire Fighters' Retirement Fund authorized for that year, would equal the amount that the Federal contribution would be reduced. The House amendment required a reduction in the Federal contribution by the percentage difference between the rate of disability retirements in the District of Columbia and the average rate of disability retirements in the five United States cities having the largest combined police and fire departments.

The conference substitute (Sec. 145) accepts the Senate version with an amendment intended to guide the actuary in making his determinations. It is the conferees' intention that the actuary first project, for all future years, based on the actual experience through the previous year, the number of retirements, the percentage of retirements for disability, and the average cost of disability retirement. Then, using an appropriate discount rate the actuary shall determine the present value of the cost of these projected disability retirements.

Second, the actuary is to repeat these calculations, but altering the projections of number of retirements, percentage of retirements for disability, and costs of retirements, to reflect what the actuary estimates might have occurred or might occur under subsection f(2) or g(5) of the Policemen and Firemen's Retirement and Disability Act as amended by this Act.

In making these latter estimates the conferees assume that the actuary will make such assumptions and use such data from comparable retirement programs as are consistent with sound actuarial practice.

In computing the ratio of the above computed costs and in comparing it to the trigger of 1.02, the actuary shall make such allowance for age specific and other bias, error of estimate, and other factors as would be consistent with sound actuarial practice. The conferees understand that such allowances may in some cases preclude a conclusion that the ratio can be said to be greater than 1.02.

This "trigger mechanism" was designed and accepted as a compromise during the House-Senate conference on last year's pension bill (H.R. 6536), and it is carried forward by the conferees this year. This legislation represents a policy decision that some of the reforms made in the disability retirement system will apply only to future hires, rather than to current employees. At the same time, the conferees wanted to insure that the retirement program would be tightly managed and the costs would be strictly controlled. This "trigger mechanism" exposes the District of Columbia to the possibility of a substantial reduction in the Federal contribution if the costs of the system for current employees substantially exceed those which would have occurred under the system with the reforms in effect.

The conferees recognize that this "trigger mechanism" is stringent. The Senate conferees, the majority of whom insisted on its inclusion, expressed their willingness to reevaluate the provision if actual experience proved it to be unduly harsh or unworkable in any way.

DETERMINATION OF DIFFERENCE BETWEEN FEDERAL CONTRIBUTION AND TOTAL UNFUNDED LIABILITY

The House amendment required the enrolled actuary to include in his annual report to the District of Columbia Retirement Board a calculation of the difference between (1) the total unfunded liability as of the date of Home Rule, and (2) the sum of (a) the current value of previous Federal contributions to the retirement funds; (b) the amount which the Federal Government is obligated by this legislation to contribute to the funds in the future; and (c), in the cases of the Teachers' and Judges' Retirement Funds, the current value of any assets in the predecessors to these funds as of the date of Home Rule.

The Senate bill contained no comparable provision.

The conference substitute (Sec. 142(a)(3)(G)) conforms to the House amendment.

FAILURE OF FEDERAL GOVERNMENT TO MAKE ANNUAL PAYMENT

The House amendment provided that the payment to each fund by the District Government for any year shall not be increased to compensate for any failure of the Federal Government to make all or any part of the Federal payment to such fund for that fiscal year.

The Senate bill contained no such provision.

The conference substitute (Sec. 142(b)(1)(C)(ii)) provides that the District Government shall not be required to increase its payment to compensate for any failure of the Federal Government to make its full payment, except in the case where the Federal contribution is reduced because of estimated excessive costs of disability retirements under the trigger mechanism of Section 145, or because of the failure of the District Government to provide the required reports under Section 144(d). Reductions in the Federal payment resulting from the "trigger mechanism" or failure to file required reports are intended to penalize the District; in such a case, the District Government will have to make up for any reduction in the Federal payment to the retirement funds.

TERMINATION OF DISABILITY BENEFITS

The Senate bill provided that an individual who has retired on disability shall cease to receive disability benefits on the earliest of the following: (1) upon reemployment in the department from which he was retired, (2) one year from the date of the medical examination showing recovery, (3) one year from the date of a determination that his earning capacity has been restored (based on earnings in another job), or (4) in the case of a disabled officer of the police force or fire department hired in the future, upon a refusal by that person to accept an offer of reemployment in the department from which he was retired.

The House amendment included the same provisions concerning the effect of reemployment, or the failure (of future hires) to accept reemployment, but provided that disability benefits would terminate on the date of the medical examination showing recovery, or 45 days after the date of the determination that earning capacity was restored.

The conference substitute (Sec. 205(a)) adopts the House approach on the disputed points, with a change requiring that disability benefits be terminated 45 days after the medical examination rather than on the date of such medical examination.

PROHIBITION AGAINST DOUBLE-DIPPING

The House amendment prohibits "double-dipping" by individuals who become eligible for retirement benefits after the enactment of this legislation by providing that if such individuals are subsequently employed by the District of Columbia, their salaries shall be reduced by an amount necessary to make the sum of the salary and the retirement benefit equal to the salary ordinarily payable for the position.

The Senate bill had no such provision.

The conference substitute (Sections 214 and 257) accepts the House provision.

STANDARDS FOR DISABILITY AWARDS

The House amendment provided that, not later than 90 days after the date of enactment of this legislation, the Board of Police and Fire Surgeons shall submit to the Mayor recommendations for regulations to set standards for disability awards and that the Mayor shall promulgate regulations establishing such criteria in a timely manner based on the recommendations of the Board.

The Senate bill contained no such provision.

The conference substitute accepts the House provision (Sec. 213).

Ronald V. Dellums,
Walter E. Fauntroy,
R. L. Mazzoli,
Stewart B. McKinney,
Marc L. Marks,
Managers on the Part of the House.
Abe Ribicoff,
Tom Eagleton,
Carl Levin,
Charles McC. Mathias, Jr.,
Ted Stevens,
Managers on the Part of the Senate.

NORTHEAST CATHOLIC ALUMNI ASSOCIATION OF PHILADELPHIA CELEBRATES 50TH ANNIVERSARY

(Mr. LEDERER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEDERER. Mr. Speaker, on June 10, 1929, 97 young men from the Northeast Catholic High School Class of 1929 joined to form the Northeast Catholic Alumni Association. Fifty years later, on October 21, 1979, over 500 alumni of Northeast Catholic celebrated the half century of outstanding service that their organization has provided in support of Catholic education. The motto of the association is most appropriate—Vestigia nulla retrorsum—Never a backward step. A look at the illustrious history of this organization reflects that its members have been true to its motto.

Nothing epitomizes the Falcon spirit of devotion to their alma mater more than the establishment of the Northeast Catholic Alumni Memorial Scholarship Fund. Taking advantage of the largest active Catholic high school alumni membership in the United States, the Northeast Catholic Alumni Association will be awarding over $20,000 annually to the school, and children of the association so that Northeast Catholic may continue to offer an outstanding education to those students in financial need. Northeast Catholic High School has been providing the city of Philadelphia and our Nation with leaders and high achievers in almost every profession. Alumni includes Bill Keane, cartoonist of the "Family Circus"; Jack Whitaker, CBS vice president for sports and prominent TV sportscaster; Frank "Bucko" Kilroy, former star defense guard for the Philadelphia Eagles and now general manager for the New England Patriots; Bishop Edward J. Scholotterback, former Vicar Apostolic of Southwest Africa; Joseph T. Murphy, judge, court of common pleas; Francis J. "Tim" Dunleavy, president of the International Telephone & Telegraph Corp.; Nicholas Giordano, executive vice president of the Philadelphia, Baltimore, Washington Stock Exchange; Thomas McNulty, business manager of the Plumbers' Union; Wendell Young, president, Retail Clerks Union Local 1357, and others far too numerous to mention. Whatever Northeast Catholic's secret of success is, the association's scholarship fund will help potential students from all economic stratas take advantage of it.

Mr. Speaker, I ask my distinguished colleagues in the House of Representatives to join me in saluting the Northeast Catholic Alumni Association on this, their 50th anniversary.

To President Ray Zegarski, Leonard Knobbs and the committee, "a job well done" (the Falcon).

FURTHER LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have

taken this time to inquire of the distinguished acting majority leader of any adjustments in the program that was previously announced during the day.

Mr. MINETA. Mr. Speaker, if the gentleman will yield, on Wednesday, following the consideration on that day of the Welfare Reform Amendments of 1979 and the Federal Trade Commission authorization bill, we will have consideration of H.R. 5192, Education Act amendments, and we will complete consideration of that bill.

On Thursday, following the conference report on Senate Concurrent Resolution 36, we will take up H.R. 4007, repayment of loans made to State unemployment funds, under a modified rule, with 1 hour of debate; and H.R. 4167, the Milk Price Support Act, with votes on amendments and the bill.

Mr. MICHEL. Mr. Speaker, might I inquire of the genteman if he has any word as to how late we might be remaining in session on Wednesday next week, since that will be the first day we will be returning after the 2 days when we will not be in session for the conducting of business?

Mr. MINETA. I believe, Mr. Speaker, it is at this time just a little to difficult to set a specific time or to determine what time we would adjourn.

Mr. MICHEL. Then the Members would be well advised to plan to stay at a late hour on Wednesday?

Mr. MINETA. Mr. Speaker, I assume that the Wednesday practice would still be maintained.

Mr. MICHEL. Mr. Speaker, I thank the gentleman.

STOCK OPTIONS WOULD GENERATE NEW TAX REVENUE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRENZEL) is recognized for 20 minutes.

● Mr. FRENZEL. Mr. Speaker, Congressman JIM JONES, six of our Ways and Means colleagues, and I introduced H.R. 5060, the Employees' Incentive Ownership Act which would reinstate the restricted stock option as an attractive form of corporate compensation. In his statement on the bill in the CONGRESSIONAL RECORD, Congressman JONES pointed out three important reasons the bill should be enacted.

First, a return to the use of stock options would promote the productivity improvements desperately needed in our economy. It would allow employees to be granted a stake in the equity growth of their company under terms that would also give them some tax relief.

Employees with stock options would be both compensated and motivated. But, since granting an option causes no out-of-pocket cash expense to the employer, he does not have to raise his product prices to recover that portion of employee compensation cost.

The ultimate cost of stock options is not immediately reflected on profit and loss statements the way cash compensation must be. It is borne by the existing stockholders through the dilution of their shares. The stockholders are, in turn, rewarded by the increased productivity of highly motivated employees.

The second important reason that restricted stock options are needed is that they allow smaller, growing companies, which usually cannot afford to pay high salaries, to attract talented employees. Since the value of the stock of smaller companies often grows faster than larger companies, the opportunity to buy their shares for up to 10 years at a fixed price can be extremely attractive.

Since repeated studies have documented that these smaller, growing companies are the very ones which create new jobs, innovation and exports substantially faster than more mature businesses, our economy will benefit greatly from restoration of restricted stock options.

But it is the third point Mr. JONES made that I want to address most directly today.

At the time we introduced H.R. 5060 we were confident that we had an unusual proposal. We knew it would stimulate productivity and job development. We also thought it would actually generate increased revenue for the Treasury.

Mr. Speaker, I am pleased to report that two studies of H.R. 5060, conducted independently of one another by the Congressional Joint Committee on Taxation and the private accounting firm of Price Waterhouse & Co. bcth seem to confirm our contention that restoring restricted stock options would actually increase Treasury revenue.

In a letter to me dated October 25, 1979, Mr. Bernard M. Shapiro, chief of staff of the joint committee states that after an initial period of adjustment that may cost the Treasury less than $10 million in 4 years, this proposal would generate $15 million in fiscal year 1984 and twice that—$30 million is fiscal 1985. We should expect the following years to continue that trend.

The Price Waterhouse analysis differs from the joint committees' in its approach. It describes the mechanics of how the substitution of nondeductible options for the current deductible forms of compensation would increase Treasury receipts in nearly all cases.

Together these two letters form a complete picture, and provide a compelling assurance that H.R. 5060 is an important and unusual bill.

The Employees' Incentive Ownership Act will help our economy directly by assisting new and small companies grow. But on top of that, by raising new revenue, it will help reduce the debt, or allow Congress to consider greater tax cuts in other areas than might otherwise be possible.

I commend both these studies to my colleagues. Congressman JONES and I will welcome your cosponsorship of this important bill. The text of the Joint Committee on Taxation's letter, the Price Waterhouse study and the bill follow:

JOINT COMMITTEE ON TAXATION,
Washington, D.C.

Hon. BILL FRENZEL,
House of Representatives,
Washington, D.C.

DEAR MR. FRENZEL: This is in response to a letter from Dave Rosenauer of your staff regarding the revenue impact of H.R. 5060, a bill which would permit the use of restricted stock options while removing the exercise of such options as an item of tax preference. As you know, the Tax Reform Act of 1976 required that a restricted stock option as defined in Section 424(b) of the Internal Revenue Code be exercised before May 21, 1981 or be subject to the same tax treatment accorded nonstatutory options under Sectino 83. If enacted, H.R. 5060, would continue to allow the issuance of this type of preferred compensation under a more favorable tax arrangement.

Introducing a new and presumably more preferred instrument of executive compensation raises the possibility of some shifting in the make-up of the compensation package, making it difficult to assess the potential revenue impact. We are convinced, however, that although such restructuring is inevitable, the net effect on budget receipts in the near future will be negligible.

Speculation on the long-term revenue impact of H.R. 5060 depends invariably on the vagaries of the stock market, and could be misleading. Nevertheless, elimination of the restricted stock option as an item of tax preference at time of exercise, and the failure to treat this gain as ordinary income does result in a positive net revenue effect. This is due principally to the fact that the granting corporation is no longer allowed a deduction for compensation paid.

Accordingly, should H.R. 5060 become law for taxable years beginning after December 31, 1979 the effect on budget receipts for fiscal years 1980–1983 will be an annual net reduction of less than $2.5 million. This short-term anomaly is a result of the substitution in compensation elements induced by the bill. In years subsequent, when the inevitable disposition of the restricted stock results in its being treated as a long-term capital gain, we estimate the concomitant increase in net revenues to be $15 million in fiscal year 1984 and $30 million in fiscal 1985.

Sincerely yours,

BERNARD M. SHAPIRO.

PRICE WATERHOUSE & CO.,
Washington, D.C., October 26, 1979.

Mr. HERBERT M. DWIGHT,
Financial Incentives Task Force,
Washington, D.C.

DEAR MR. DWIGHT: You have asked us to comment on certain tax aspects of proposed legislation introduced in the House of Representatives by Congressman James R. Jones of Oklahoma. The specific proposal on which you have asked us to comment is H.R. 5060, referred to as the "Employees Incentive Ownership Act of 1979". This proposal would amend Internal Revenue Code Section 424 to reinstate treatment given to Restricted Stock Options prior to 1964. The proposal would also amend Internal Revenue Code Section 57 to exclude restricted stock options from the definition of tax preference items.

In general, the proposal would result in deferring income recognition to an employee recipient, who exercises a restricted stock option, until such time as the stock is sold, rather than at the time the option is exercised. Assuming the option price is at least 95 percent of the fair market value of the stock at the date of grant, and the employee holds the stock for at least one year following exercise of the option, the employee may realize a capital gain on the entire gain attributable to stock acquired by option. Current rules provide that the employee will realize ordinary income on stock acquired by option to the extent the fair market value exceeds the option price at the date of exercise. The option granting employer would not receive a deduction for any value of the shares acquired under the proposed option in excess of the option price.

The deferral of the income recognition under the proposed legislation can be particularly attractive to the employee. Under these rules, the employee would not face the requirement of making potentially significant tax payments when the event giving rise to the tax liability (exercise of the option) has yielded no cash. This provision can be especially important in view of the cash payment necessary to exercise the option. The possible application of capital gain rates, rather than ordinary income tax rates provides additional potential advantage to the employee.

In our capacity as professional accountants, we are not in a position to estimate total revenue impact (including timing of collection) of the proposal to the Treasury of the United States. Neither are we in a position to state whether this proposal is preferable to other incentive compensation arrangements. However, we can state that, depending on the circumstances, the proposed legislation may have a positive effect on revenue collections to the extent restricted stock options are substituted for nonqualified options or cash compensation. The latter point may be illustrated by the following explanation. Under the current law, a corporate employer is allowed a tax deduction for an amount equal to the ordinary income an employee recognizes upon the exercise of stock option. Under the proposal the corporate employer would not receive a tax deduction. Thus assuming an individual is in the top earned income bracket of 50 percent and the corporate employer is in the top 46 percent bracket, the Treasury is in a position to collect only a maximum of 4 percent of the difference between the option price and the fair market value at date of exercise. Under the proposals of H.R. 5060 the gain could ultimately be taxed at rates up to 28 percent, assuming the stock maintains a value at least equal to the value at the date of exercise. Consideration of appreciation in value after exercise is not relevant since it would be subject to the same rules under the existing and proposed law.

The elimination of the corporate tax deduction is the key feature which, depending on the marginal rate of the taxpayer, could cause Treasury collections to increase. For example, assume an option for 100 shares at $10 per share is exercised when the stock is selling for $15 per share, and the stock is sold one year later without either depreciation or further appreciation. Assume further that the individual employee is in the top tax bracket of 70 percent and the employer is in the highest corporate bracket of 46 percent. The tax collections are as follows:

Proposed law:	*Tax due*
Employee's capital gain tax ($1,500–$1,000) ×28 percent[1]	$140
Ordinary income tax to the employee	—
Ordinary tax reduction for the employer	—
Net revenue under the proposal	140
Current law:	
Ordinary income tax to employee ($1,500–$1,000) ×50 percent[2]	250
Ordinary tax reduction for employer ($1,500–$1,000) ×46 percent	(230)
Net revenue under current law	20
Increase of revenue under this proposed law	120

[1] Maximum capital gain tax rate (100 percent to 60 percent) ×70 percent.

[2] Maximum rate on earned income.

This example reflects an employee and employer in the highest tax brackets. Obviously the effect on Treasury revenues is a function of the employee's and employer's marginal tax brackets. The effect on revenue can be more dramatic if the corporation is in the maximum tax bracket of 46 percent and the employee is in a relatively low rate bracket.

A schedule which details tax collections using various individual marginal tax brackets, assuming marginal corporate tax rates of 46 percent and 26.75 percent, is attached to this letter. The previously stated example and an illustration of a 46 percent rate corporate and a relatively low tax rate employee are included in the schedule. A review of this schedule makes it clear that net revenues to the Treasury are negative under the current rules relating to stock options to the extent the marginal tax rate of the option granting employer exceeds the marginal tax rate of the employee. The converse is true to the extent marginal tax rates of the employee exceed those of the corporation.

Using the assumed facts, the schedule also indicates that the proposed legislation would result in net revenues to the Treasury in each transaction, whereas the present law can result in a net revenue loss to the Treasury in many instances. In fact, the proposed legislation results in increased revenue over that which exists in each example under current law provided that the marginal corporate tax rate is 46 percent. The present law provides revenue in excess of the proposed legislation in only two examples assuming the marginal corporate tax rate is 26.75 percent. The rate of this occurrence increases as the marginal corporate tax rates decrease from 26.75 percent to zero.

Tax revenues under the proposed legislation would decrease below the level reflected on the attached schedule if the price of the stock decreased following exercise of the option, prior to the date of sale. If the value of the stock fell to the option price prior to sale, the revenue would be eliminated.

The proposal to eliminate restricted stock options from the definition of tax preference items should not have a significant negative effect on revenue as currently projected. This is attributable to the fact that additional restricted stock options can not be granted under the law as it currently exists, and all presently outstanding restricted stock options must be exercised by May 21, 1981.

In summary, "The Employees Incentive Ownership Act of 1979" appears to offer the combination of reducing individual tax burdens for the employee and potentially increasing Treasury collections.

Yours very truly,

PETER J. HART,
National Director of Tax Policy.

ATTACHMENT TO LETTER OF OCT. 26, 1979: ILLUSTRATION OF EFFECT OF H.R. 5060 ON TREASURY REVENUE IN GIVEN INDIVIDUAL SITUATIONS

[Assumptions: A. Fair market values at the date of exercise exceeds the option price by $500. B. Corporate tax rate is either 46 percent or 26.75 percent (the maximum corporate rate is 46 percent, while the effective rate on the 1st $100,000 of corporate taxable income is 26.75 percent)]

SUMMARY

	Treasury—Revenue (Expenditure)		
	Current law, corporate rate of—		
Individual Marginal tax bracket—Joint returns	46 percent	26.75 percent	H.R. 5060 proposal[1]
70 percent	[2] $20	[2] $116.25	$140
68 percent	[2] 20	[2] 116.25	136
64 percent	[2] 20	[2] 116.25	128
59 percent	[2] 20	[2] 116.25	118
54 percent	[2] 20	[2] 116.25	108
49 percent	15	111.25	98
43 percent	(15)	81.25	86
37 percent	(45)	51.25	74
32 percent	(70)	26.25	64
28 percent	(90)	6.25	56
24 percent	(110)	(13.75)	48
21 percent	(125)	(28.75)	42
18 percent	(140)	(43.75)	36
16 percent	(150)	(53.75)	32
14 percent	(160)	(63.75)	28

[1] It should be noted that collections are delayed until the recipient disposes of the option stock.

[2] Reflects the 50 percent maximum tax rate on earned income

H.R. 5060

A bill to amend the Internal Revenue Code of 1954 to permit the use of restricted stock options and to eliminate the exercise of restricted stock options as an item of tax preference

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Employees Incentive Ownership Act of 1979".

SEC. 2. (a) Subsection (b) of section 424 of the Internal Revenue Code of 1954 (defining restricted stock options) is amended by striking out "(or if it meets the requirements of subsection (c) (3), an option granted after December 31, 1963)," and inserting in lieu thereof ", an option which meets the requirements of subsection (c) (3) granted after December 31, 1963, and before January 1, 1980, or an option granted after December 31, 1979,".

(b) Paragraph (3) of section 424(c) of such Code (relating to certain options granted after December 31, 1963) is amended by striking out the last sentence.

(c) Paragraph (6) of section 57(a) of such Code (defining items of tax preference) is amended by striking out "or a restricted stock option (as defined in section 424(b))".

(d) The amendments made by this section shall appy to taxable years ending after December 31, 1979.●

TRADE CLARIFICATION ACT OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. SCHULZE) is recognized for 5 minutes.

● Mr. SCHULZE. Mr. Speaker, yesterday, I introduced along with my colleague from Connecticut Mr. COTTER a very important piece of trade legislation.

This bill is designed to amend both the Antidumping Act and section 406 of the Trade Act of 1974 in order to clarify and strengthen our trade laws as they apply to nonmarket economies.

As a result of regulations promulgated by the Treasury Department last August, it has become virtually impossible for American firms to obtain redress from unfair nonmarket competition.

These regulations were issued in response to the now infamous Polish golf car case and allow the Treasury Department to play politics with the Antidumping Act. They are based on an assumption that countries of comparable economic development have comparable price levels or other indicators of industrial development. While it is certainly possible to find two countries with similar gross national products, it is economically unwise to assume that products produced within those countries would be sold at comparable prices.

This bill will correct that problem by repealing the Treasury regulations and would instead reinstate the prior practice of looking at the prices of actual producers who are truly comparable in measurable ways.

By accepting this provision, we will prevent the Treasury Department or any executive agency from literally roaming the globe in search of a set of facts that enable the administration to minimize the amount of dumping duties owed.

Additionally, this bill proposes several changes to section 406 of the Trade Act of 1974. Currently this section allows domestic producers to file petitions for relief with the International Trade Commission who in turn substantiates whether injury has occurred as a result of foreign imports. Should the ITC decide that relief is appropriate, the President then has the option to agree or disagree with its findings.

This bill would permit the President to continue to modify the ITC's recommendation but only if his action is approved by a concurrent resolution of Congress.

We have a responsibility and a commitment to the citizens of this Nation to insure that they may seek relief from injurious imports regardless of their origin. Regrettably, our trade laws currently discriminate against domestic producers who seek relief from nonmarket competition. The primary goal of this legislation is to reverse this situation by reducing the potential for political manipulation. Our trade laws were never intended to serve as an instrument in our foreign policy.

In conclusion, let me say that while the need for this legislation has increased as a result of the President's decision to extend most favored nation to the People's Republic of China, no relief would be awarded to domestic firms unless the nonmarket imports are actually causing material injury to them.

For the sake of our economy, we must act quickly on this legislation and I urge the chairman of the Trade Subcommittee to live up to his commitment to hold early public hearings on this very important issue.

For the benefit of my colleagues, I am including the text of the proposed legislation.

H.R. —

A bill to amend the Tariff Act of 1930 and the Trade Act of 1974 to provide more equitable standards for determining the foreign market value of, and market disruption attributable to, goods manufactured in non-market economy countries

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Trade Clarification Act of 1979".

SECTION 1. DETERMINATION OF FOREIGN MARKET VALUE OF MERCHANDISE MANUFACTURED IN NON-MARKET ECONOMY COUNTRIES.

Subsection (c) of section 733 of the Tariff Act of 1930 (19 U.S.C. 1677b) is amended—

(1) by striking out "State-Controlled" in the caption and inserting in lieu thereof "Non-market".

(2) by striking out "State-Controlled" and inserting in lieu thereof "a non-market economy".

(3) by striking out "as reflected by either" and inserting in lieu thereof "of the producer or producers located in a free-market economy country, including, but not limited to, the United States, and most nearly comparable in size, sophistication, and technology to the non-market economy producer or producers (hereinafter referred to as the 'most comparable free-market producer or producers') as reflected by either",

(4) by striking out "of a non-State-controlled-economy country or countries is sold" in paragraph (1) and inserting in lieu thereof "is sold by the most comparable free-market producer or producers", and

(5) by striking out "country or countries" in subparagraph (A) and inserting in lieu thereof "producer or producers",

(6) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) the constructed value, as determined under subsection (e), of such or similar merchandise produced by the most comparable free-market producer or producers.".

SEC. 2. MARKET DISRUPTION BY PRODUCTS OF NON-MARKET ECONOMY COUNTRIES.

(a) CAUSATION.—Paragraph (1) of section 406(a) of the Trade Act of 1974 (19 U.S.C. 2436(a)) is amended by striking out "Communist country, whether market disruption exists" and inserting in lieu thereof "non-market economy country or countries, whether market disruption, caused by increased imports or artificial pricing, or both, exists".

(b) RELIEF MADE AVAILABLE.—Subsection (b) of section 406 of such Act (19 U.S.C. 2436) is amended—

(1) by striking out "and" at the end of paragraph (1),

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a comma, and

(3) by adding at the end thereof the following new paragraphs:

"(3) in a case in which the Commission recommends relief for market disruption caused by artificial pricing, if the President reports under section 203(b) that he will take action which differs from the action recommended by the Commission or that he will not provide import relief, and the Congress does not (within the 90-day period following the date on which the President transmits his report to the Congress) adopt a concurrent resolution, a majority of the Members of each House voting in the affirmative, approving the action proposed by the President, the President shall (within 30 days after the 61st day of such 90-day period) proclaim the increase in, or imposition of, any duty or other import restriction on the article which was recommended by the Commission, and

"(4) relief for market disruption caused by artificial pricing—

"(A) shall not be subject to subsection (d), (h), or (j) of section 203,

"(B) may be granted or extended for more than five years if a danger of such disruption is likely to continue over a longer period, and

"(C) shall not operate to prevent the initiation of an investigation according to the procedures in section 201(a)(1) when it is alleged that changes in circumstances have occurred after the conclusion of the investigation upon the basis of which relief was granted, and such investigation shall be treated as an original investigation under subsection (a)(1).".

(c) PRESIDENTIAL ACTION WITH RESPECT TO APPARENT MARKET DISRUPTION BY PRODUCTS OF NON-MARKET ECONOMY COUNTRIES.—

(1) Subsection (c) of section 406 of such Act (19 U.S.C. 2436) is amemnded by striking out "Communist country, that market disruption exists" and inserting in lieu thereof the following: "non-market economy country, that market disruption, caused by increased imports or artificial pricing, or both, exists".

(2) Paragraph (2) of section 406(d) of such Act (19 U.S.C. 2436) is amended by striking out "market disruption exists" and inserting in lieu thereof "market disruption, whether caused by increased imports or artificial pricing, or both, exists".

(d) DEFINITIONS; SPECIAL RULES.—Subsection (e) of section 406 of such Act (19 U.S.C. 2436) is amended to read as follows:

"(e) FOR PURPOSES OF THIS SECTION.—

"(1) The term 'non-market economy country' means any country whose economy is State-controlled to an extent that sales or offers of sales of merchandise in that country or to countries other than the United States do not reflect the fair value of the merchandise, including any country dominated or controlled by Communism.

"(2) Market disruption caused by increased imports exists within a domestic industry whenever direct or indirect imports of an article like an article produced by such domestic industry are increasing, either absolutely or relatively, so as to be, either alone or in combination with imports from other non-market economy countries, a cause of material injury, or threat thereof, to such domestic industry or a cause of material retardation of the establishment of a domestic industry.

"(3) Market disruption caused by artificial pricing exists within a domestic industry whenever an article, like an article produced by such domestic industry, is imported directly or indirectly from a non-market economy country or countries at a price below the lowest free-market price of like articles, so as to be, either alone or in combination with imports from other non-market economy countries, a cause of material injury, or threat thereof, to such domestic industry or a cause of material retardation of the establishment of a domestic industry.

"(4) The lowest free-market price of like articles is the lowest average price, adjusted for differences in quantity, level of trade, duties or other factors required to ensure comparability, charged for like articles in this country by

"(A) any producer from an appropriate free market country, including the United States, if the producer supplies more than 5 percent of the apparent United States consumption of like articles, or

"(B) by the aggregate of all producers from any appropriate free market country, including the United States, that supplies more than 5 percent of the apparent United States consumption of like articles.

"(5) The term 'like article' means an article which is like, or in the absence of like, most similar in characteristics and uses with the article subject to an investigation under this section.

"(6) A country is an appropriate free-market country with respect to an article alleged to be disruptive if—

"(A) the country is not a non-market economy country witrin the meaning of this section,

"(B) no preliminary or final determination has been made under title VII (or, if applicable, section 303) of the Tariff Act of 1930 that a subsidy, bounty, or grant is being provided with respect to like articles from that country, and

"(C) no preliminary or final determination has been made under subtitle B of title VII of the Tariff Act of 1930 that like articles from that country are being, or are likely to be, sold in the United States at less than fair value.

"(7) The term 'domestic industry' means an industry producing an article in whole or in part in the United States, including any territory or possession of the United States.".●

COMMERCE SECRETARY KREPS PRAISED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. JOHNSON) is recognized for 5 minutes.

● Mr. JOHNSON of California. Mr. Speaker, the Commerce Department has sometimes been described as something akin to Noah's ark—except that it has but only one of every type of animal. Indeed, under the umbrella of the Commerce Department can be found a myriad of different Government agencies with sometimes seemingly opposite goals.

But in something less than 3 years, Commerce Secretary Juanita M. Kreps has done a truly amazing job of sewing a common thread of cohesiveness throughout this massive Department and given it new life and direction. At her hands, the Commerce Department has merged as a major force in formulating national economic policy and in promoting American commerce at home and abroad.

Her background, combining both the academic and the practical, has prepared her well for this challenge. Her 30 years of academic experience has run the gamut, from teaching—displaying expertise in economics, business and social sciences—to management of a large, distinguished university.

In addition to the classroom, Ms. Kreps has an intimate knowledge of the corporate boardroom and the workings of American corporate life. On the boards of directors of more than one-half dozen major American companies, Secretary Kreps displayed true business acumen.

With this experience, Secretary Kreps, the first Secretary of Commerce trained as an economist, has been uniquely suited for her job. Her Department has been revitalized and reorganized, showing verve and leadership in our effort to promote international and domestic trade.

Secretary Kreps' specific accomplishments are impressive in scope and in significance. Here are a few examples:

She organized the Commerce Department's international trade efforts in order to increase exports. This was in response to our need to resolve current balance of trade problems by stimulating overseas sales.

Recognizing the need for morality in business, acknowledging America's commitment to free trade and freedom from religious discrimination, Secretary Kreps vigorously sought to implement America's new antiboycott law. This law and the spirit for strong enforcement of it has shown the world that America can sell products without selling its moral values.

Comprehensive economic development legislation has been implemented by her, including provisions that provide that specific proportions of those funds be used for minority workers. Overall, she has shown a keen sensitivity to the need for bringing more women and ethnic minorities into the work force of America. She has helped make the business community more responsive to the need for social equality.

Under her administration, the National Oceanic and Atmospheric Administration has implemented the coastal zone management program with a special commitment for preserving the Nation's shoreline. NOAA has also succeeded in setting new, higher standards for conservation of whales and other endangered species.

The accomplishments of the Commerce Department under her administration are too numerous to mention. Her special qualities are also numerous. But I have especially grown to appreciate her charm and graciousness. Those characteristics, coupled with her strong leadership skills, have accounted for her reputation as an "iron butterfly."

I am sorry to see her leave Government. I hope she will again be recruited to serve the Nation at a later date. We need more persons like her in public life.●

JUGGLING ENERGY SAVINGS FROM UNIVERSITY OF NEW HAVEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. CAVANAUGH) is recognized for 5 minutes.

● Mr. CAVANAUGH. Mr. Speaker, energy and energy conservation are on everyones mind these days. It is a regular topic of conversation at both business and social gatherings and this Congress has devoted more time to the issue than any other. While I believe that we are making some legislative headway, and I note with pride the action yesterday of the Banking Committee, on which I serve, in approving the National Solar and Energy Conservation Incentive Act, but we still have a long way to go before we gain control over our energy intensive future.

Last spring I took the floor on several occasions, each time emphasizing that conservation is the surest and least expensive path to energy independence. From recent studies it appears that people are thinking more about the energy they are consuming at home, in their automobiles and at the workplace. The opportunity to save money where they can, is surely a significant incentive. Our lifestyle has developed and become so dependent on energy that we sometimes do not realize it when we are using it, let alone wasting precious nonrenewable resources. When it comes to personal automobile travel it is clear to everyone that if you drive less, you use less gas and spend less money, but when it comes to our homes, knowing where and how to use less energy without significant sacrifice becomes a more difficult and technical process often requiring the services of a third party: electrical contractor, furnace repairman, carpenter, builder, insulators installer, and so forth.

While there are many articles, books, advertisements, and television programs devoted to the subject—and that is good because it results in a better informed citizenry—I would like to share with my colleagues an article which appeared in the October 1979 edition of Insight the newsletter for the University of New Haven, Conn., community. The article which was developed by Scott Tilden, the university's public relations director, describes how Prof. Richard Morrison, chairman of the UNH physics department, has found ways to reduce the consumption of energy around his home. The article entitled "Juggling Energy Savings" describes various techniques and devices that can be utilized to reduce energy consumption and what each application is likely to save in terms of reduced energy costs. In addition, the article contains a "Checklist for Saving Energy" that may be helpful to all our constituents.

While the article does not include, as Ed McMahon would say, everything you could possibly ever want or need to know about ways to reduce energy costs in the home, it is a valuable starting point. The article follows:

JUGGLING ENERGY SAVINGS

Professor Richard Morrison is not up in the air about energy savings. He has a lot of ideas. In fact, he's cut his own heating bill by almost 50 percent since 1973. Some of his ideas aren't homegrown. He spent a year in England and found some great suggestions to pass along.

Dick Morrison really believes in saving energy. Six months before the 1973 Arab oil embargo, he was already preparing a course on energy conservation at the University of New Haven.

Now that heating oil is nearly a dollar a gallon and the cost of gasoline and gas heat are both rising, he has gathered a lot of ideas on ways to save energy.

In fact, he has reduced energy consumption in his own house by almost 50 percent since 1973.

Morrison, UNH professor of physics and chairman of the physics department, says that the usual methods—adding insulation, weatherstripping and storm windows—are fine, but there are a few more things people can do.

He recommends an automatic clock thermostat.

While the device is a novelty in the United States, it is standard equipment in Europe where Morrison found some while spending a year as a visiting professor at the Building Research Station in Watford, England. He was assigned to the Energy Division of the station which was charged with the task of reducing energy consumption in buildings.

The scientists there discovered that an automatic clock thermostat could save 10 percent of the energy in a house. It works by shutting off heat on a regular cycle, usually from bedtime to rising.

"That way, the house is warm when you get up, but not while you're sleeping," Morrison explains.

He says that in Europe, residents use the device to heat only what they want warm, and then only when they want it warm. The English, for example, only heat the living room when someone's in it.

"You don't have to go that far," he laughs.

The clock thermostat costs between $50 and $80 and can be used to turn off the heat during the day when residents are at work, and at night when everyone is sleeping.

The thermostat is not the only gadget on the market that Morrison likes. He identifies at least three other useful tools:

Thermostatic radiator value.—This shuts off an individual radiator when the thermostat reaches a preset level. It is a great energy saver in large buildings where a central thermostat keeps some people warm while other workers overheat. UNH uses them in its Main Building. Cost: about $50.

Outdoor reset control.—This varies the temperature of hot water in a hot water-heating system in accordance with outside temperature. Cost: about $200.

Automatic flue damper.—This closes off the flue in a gas-fired heating system, reducing the intake of cold air into the boiler and the subsequent heat loss. Cost: about $200.

A New Haven resident, Morrison put several energy-saving ideas into his own house and cut energy consumption from 2500 gallons of heating oil in 1973 to 1300 in 1978. He hopes to eliminate another 500 gallons in the next few years, although he admits it will be much harder and will require a large investment.

For example, he's buying a small, gas-fired single-room heater which will be permanently installed in an outside wall. That way he'll be able to heat one room—in this case, his kitchen—without turning on his central heating system.

Morrison teaches several technical and survey courses in energy conservation at UNH. In his classes, he points out additional ways to save energy that require a little perspiration.

He suggests building a vestibule in a house. Common in older homes, a vestibule traps cold air before it can seep into the house.

He says that homeowners should consider building an insulated wall around the perimeter of their concrete basement because cement loses as much heat as a window. If the basement is not heated now, he recommends insulating the floor above to reduce the heat loss into the basement from the rest of the house. He also suggests extra insulation in the attic to cut loss in that direction.

He is not too excited about wood as an alternate energy source. "There just isn't enough wood in Connecticut," he points out. As a result, only a small percentage of residents will be able to burn wood. That will simply increase the price per cord, he adds.

Worse, he continues, most people burn wood improperly and waste much of its heat.

Smoke and gasses rising through the chimney actually create a partial vacuum which sucks warm air out and pulls in cold air. Morrison suggests that fireplace lovers should install a blower and heat exchanger to circulate the heat, and glass doors on the fireplace to contain the heat for the blower.

"The colder the air is outdoors, the less efficient a fireplace is," he reports.

Morrison knows a lot about efficiency. While in England on a National Science Foundation Faculty Professional Development Grant and at Yale University as a Visiting Faculty Fellow, he studied the heat efficiency of various systems. He found, he relates sadly, that the steam heating system in his own house is very inefficient.

That helped prompt some of the additional energy-saving techniques.

"Energy conservation does require a change in thinking," he says. "But it's necessary. Many people will be paying $120 a month for oil, 12 months a year. Not many years ago, they paid that much for a mortgage."

If all else fails in the battle against cold, Morrison owns one final weapon. He has a large, thick, bushy beard which he can tuck down into a flannel shirt in cold weather. Together, they look like they can withstand the worst a New England winter can throw at them. Best of all, the beard comes without a price tag or maintenance cost.

Checklist for Saving Energy

Insulate floors and attics;
Repair cracks around windows;
Install weatherstripping around doors and windows;
Keep thermostat turned down, particularly when everyone is asleep or not home;
Install glass windows and blower in the fireplace;
Install thermostatic radiator valve;
Install an automatic clock thermostat;
Install outdoor reset control;
Install automatic flue damper;
Build a vestibule;
Switch to less expensive fuels;
Use storm windows;
Use single room heaters instead of central heating; and
Insulate basement walls: Interior and exterior.

Remember, worn out furnaces, like out-of-tune cars, waste energy as do inadequate insulation, broken windows and other gaps in your home's protection.

There are additional things you can have done, but you may want to call in an expert for help. Many utilities have teams of advisors who will examine your house and tell you how you can save energy. Call and ask them for advice.

With a little effort, you can cool off your energy bills while keeping just as warm as ever.●

ENERGY AND THE ECONOMICALLY DISADVANTAGED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. Mitchell) is recognized for 5 minutes.

● Mr. MITCHELL of Maryland. Mr. Speaker, in my home State of Maryland, Delegate Larry Young (38th District), has proven to be an essential part of Federal and State efforts to promote certain energy programs. Delegate Young serves on the Maryland State Legislature's House Environmental Matters Committee, and his 5 years of addressing energy related matters has led to the recent signing of his Energy Assistance and Information Program, into Maryland State law.

In addition to numerous other activities, Delegate Young is presently serving as a member of the Department of Energy's Fuel Oil Marketing Advisory Committee (FOMAC). In this capacity, Young coauthored FOMAC's Low-Income Energy Assistance Program, which has been submitted to the Department of Energy.

Delegate Young continues in his position as president of the Center for Urban Environmental Studies (CUES), which is located here in Washington, and presently implementing the Minority Energy Technical Assistance Program (METAP). METAP is designed to involve minority elected officials more fully in energy policy deliberations.

On Wednesday, October 3, 1979, Delegate Young addressed the Public Utilities Reports, Inc.'s Second Annual Utility Regulatory Conference. I am proud to share a copy of this presentation, entitled, "Energy and the Economically Disadvantaged" with my colleagues:

Energy and the Economically Disadvantaged

It is both a privilege and a pleasure to stand before this gathering of decisionmakers in the field of utility regulation to address the topic of "Energy and the Economically Disadvantaged." It is a subject I am eager to present as the elected representative in the General Assembly of Maryland of a poor, urban district; as the President of the Center for Urban Environmental Studies, which has for the past two years been expanding its energy expertise; and as one of the energy advisors to the Congressional Black Caucus.

Just two weeks ago, the Center for Urban Environmental Studies sponsored a "National Energy Teach-In: The Energy War and The Poor," in this very hotel. Keynoting the teach-in was Senator Jacob Javits of New York who said, "Nothing should have a higher priority than arriving at a consensus of how energy policy will impact on the most economically vulnerable sectors of our society and the lives of the urban poor in particular." For the last few years I have spent a significant percentage of my time promoting a national awareness of inter-relationships between energy policy and the disadvantaged.

Many humorists and critics have taken President Carter to task on his statement that the energy crisis presents our nation with the moral equivalent of war. One speaker at our recent teach-in quoted a European source as comparing the latest energy policy proposals of the administration to the moral equivalent of an "appendix transplant." Cartoonists have portrayed the President in full battle gear, sword in hand, swinging wildly at industry, Congress, or the OPEC nations.

I do not personally find anything funny about the suffering of the elderly and the poor who are the true victims in this war. The casualty lists—the 20 senior citizens, most of whom happened to be poor and Black, who died of heat strokes in Dallas, Texas, and the 200 elderly poor individuals who reportedly froze to death in recent winters—these tragic deaths are unforgettable reminders that energy is a necessity of life. Adequate heating and cooling are vital, especially to our aged population, whose weakened cardio-vascular systems make them vulnerable to heat stroke and hypothermia.

I strongly urge that energy for human consumption, in order to survive, be given the highest priority in energy planning in both the public and private sectors of decision-making. A national energy policy which accepts increased suffering by the poor and sometimes death, takes the war-time analogy too far and is fundamentally immoral.

Yet the course of federal energy policy-making to date has done just that—it has cooperated with unprecedented price increases as the only effective way to curb American appetite for oil, gas and electricity and provide suppliers with incentives to explore and develop. This strategy has simultaneously contributed to a staggeringly high inflation rate which is breaking the backs of the poor. The Washington Post columnist Colman McCarthy brings this issue home to the human level in his description of an elderly St. Louis woman—"she worked in a factory for 25 years. But the firm went out of business and she was laid off without a pension. Her husband died 10 years ago. She lives alone on a small social security check.

"She took pride in having made it this far. But now, for the first time in her life, she was frightened. She survived being poor and Black, and she made it being poor and Black and old. But now, on top of it all, you can't depend on the money. She kicked her grocery bag: 'I pay double the prices and get half as much.' This winter, she said, she would have no money for fuel."

The impact of rising energy prices along with steep inflation in all basic necessities—food, clothing, shelter and health—the millions in our nation on low, fixed incomes, are left with impossible choices. For example, the Community Action Agency in Forest Park, Georgia kept track of the household expenditures of twenty elderly households over the five month heating season this past winter in order to see how expenditures changed in response to higher fuel and utility bills.

In forty-two percent of the cases expenditures for food went down as energy costs rose; in thirty-seven percent of the cases, expenditures for prescription medicines dropped as energy costs rose; and in twenty-one percent of the cases higher energy costs meant no regular visit to the doctor that month. These twenty households, with ages between 63 and 79, had average monthly incomes of $212, almost fifty percent of which went to utilities, fuel and water. In one case the percentage was as high as sixty-five percent.

What I have described is a continuing and worsening crisis which exists for all poor and near poor households, and for the elderly among them most severly. It is a crisis which is not triggered by exceptionally bad weather or a family emergency; but which has become a part of the normal condition of life for the elderly and the poor. Bad weather and family emergencies just make matters that much worse.

According to the Fuel Oil Marketing Advisory Committee to the DOE, of which I am a member, "rising energy costs in the United States caused low-income households to suffer a loss in purchasing power of more than 4 billion dollars, in 1978 alone, over and above that which they would have suffered if energy costs had risen at the rate of inflation. This economic loss is aggravated by the fact that public assistance and social security payments have not kept pace with inflation generally. From 1973 to 1976 the Consumer Price Index rose approximately 30 percent, aid to families with dependent children and supplemental security income rose only about 19%.

Compounding the impact of inflation are structural factors in the energy economy which further disadvantage the poor and substantially restrain this population from conserving energy. First among these factors is the energy pricing structure which continues to utilize inverted pricing schedules with declining rates at higher usage levels.

In all fairness, this pricing structure originated in an era of inexpensive energy when industry was expanding rapidly. It appears fair that large volume energy consumers should receive a discount rate until you consider the social outcome—the poor pay more per unit of energy than do the middle and upper classes. In 1979, with energy conservation a national priority, inverted pricing schedules and declining block rates reward consumption while widening the gap between the rich and the poor in this nation.

Furthermore, utilities and heating oil dealers alike restrict credit and budget plans for the poor, demanding instead "cash on delivery." Consequently the seasonal impact on the cash flow of low-income households is staggering. Robert Pugh, President of the Texas Senior Citizens Association tells of meeting an elderly woman who had just paid her utility bill by adding 67 cents to her Social Security check. She paid that bill, but had nothing for food, rent, medicine or other necessities. She was an asthmatic and a victim of emphysema and had to use a window air-conditioner in order to live.

Energy conservation, widely promoted but largely ignored by the public-at-large, is not a practical answer to the energy dilemma for the poor, at least not in the short-term. For economic reasons, the disadvantaged long ago made energy conservation a way of life. Per capita 1975 figures show the poor using 50 percent less electricity and 24 percent less gas than the well-to-do and their usage has dropped since that time. Yet the energy the poor do use is likely to do them less good, as conditions of low-income homes, appliances and automobiles owned by the poor are less efficient than the national average.

Many houses occupied by the disadvantaged need substantial rehabilitation to even begin to retain heat. Yet even modest investments in weatherstripping and caulking are beyond the limited budgets of most poor people.

Government recognition and response to the special energy hardships of the elderly and the poor can be characterized simply—too little, too late. Crisis intervention programs of the Community Services Administration intended to deal with winter energy emergencies have been implemented in the spring or summertime, well past program target dates. My home town newspaper, the Baltimore Sun reported on September 19th, that the Department of Energy was just then channeling $200 million to the states for weatherization in fiscal year 1979, which ended Sunday, September 30th! Only half of the 90 million dollars provided in the previous two years was spent because of problems with the program's CETA labor force.

State legislatures are beginning to respond with bills and programs of their own to address energy problems of the poor. Most, however, only target the elderly for relief, or deal with limited aspects of the problem such as revising regulations governing utility service terminations. We must still look to the federal government for low-income energy assistance which is substantial and broadly distributed. President Carter has proposed to allocate $2.4 billion a year for low-income energy assistance *if* the windfall profits tax is enacted. That is a big "if". I am disturbed to think that overdue aid to the poor and aged might be held hostage in the battles to come over synfuels and mobilization boards.

Senators Williams and Kennedy have been more generous in their allocation for the poor, proposing to spend $6 billion dollars a year, but they would also spread that money out to one-third of all U.S. households. I support the enactment of a windfall profit tax to finance low-income energy relief and for other purposes. I believe the Administration proposal is an adequate beginning, it seems to be the most practical proposal in terms of its probability for passage this year.

But it is not my favorite or ideal plan, I prefer the proposal of Senators Javits and Jackson which would distribute to the most needy families a little over $43 billion the first year and around $5 billion in subsequent years. Payments go to vendors who must in return offer reasonable credit terms. The household is required to pay a share of the costs, but the share is to be set at no more than the average percent of income paid by all households.

But none of the proposals just described can be passed or implemented in time for the winter approaching us now. I am concerned that this nation is still unready for the cold winter that is coming and the tragedies it will bring.

And yet our nation has the ability and resources to answer the urgent calls for energy assistance which echo forth from the disadvantaged. Allow me to outline some short-term and long-range recommendations to redress the injustice of energy economics—

For the short-term, I recommended:

1. The provision as soon as possible, of at least $1.6 million (the figure proposed by the Administration) in additional checks to recipients of supplemental security income and aid to families with dependent children.

2. Raising immediately the income eligibility of the elderly to 150% of the poverty level for all energy-related assistance programs.

3. Extending and continuing authorization for federal funding of weatherization and crisis intervention services combined with broad outreach programs to advertise these services.

4. Increased involvement of Blacks, Hispanics, the elderly, and the poor in energy policy-making and program design.

For the long-term, I recommend:

1. Passage of a permanent low-income assistance plan which is substantial and which insures a livable temperature for all and equal opportunity for energy.

2. Development of an urban energy agenda to secure the energy future of our cities and the urban poor.

3. To avoid any greater increases in energy costs without consideration of or compensation to the disadvantaged.

4. To aggressively pursue energy conservation through housing rehabilitation, urban mass transit, weatherization, and education and to maximize the employment benefits of conservation in low-income communities.

5. To promote the fullest implementation of the Utility Conservation Program mandated by the National Energy Act of 1978 to begin January 1, 1980. I urge utility companies to go beyond the letter of law for this program and aim to meet a more demanding social responsibility.

I call on the utilities and regulatory commissions to prepare themselves now as never before for the energy emergencies which will be multiplying in the months ahead. Reexamine your pricing structures, credit practices, and delivery systems for how they add to the burden of the poor, and change them! Add to your criteria for price-making the consideration of social equity. Certainly the companies need a fair return to operate and grow, but your first responsibility must be to the survival of the customers.

Be creative as the Baltimore Gas and Electric Company has been by joining in a venture with the private sector and the local Department of Social Services to establish a Baltimore Fuel Field for Energy Emergencies of the Poor and Aged. I call upon you to recognize in your deliberations and your work that energy is a lifeline for the people, the poorest of whom are struggling to hold on.

Because the winter of 1980 will soon be upon us, there is little time to argue about how these problems occurred and who was responsible. We do not have time to study the problem for months on end to pin down in more precise figures the economic loss and personal suffering which the energy crisis inflicts on the poor. As a representative of minorities, the poor, and the aged, I urge you to act now at all levels of government and in all sectors of society to prevent tragic outcomes of energy policy. Only then can we call our national energy struggle a moral one. Only then can we look toward a future which does not divide us as a nation pitting rich against poor, old against young, advantaged against disadvantaged. Thank you.●

THE STATE OF THE NATIONAL SECURITY COUNCIL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 15 minutes.

● Mr. ALEXANDER. Mr. Speaker, since the economic, social and political upheaval in the 1930's, legislative bodies in democratic societies have become increasingly more consumed with social issues of the body politic. More recently, in the United States, we have expanded the scope of this trend with the "Consumer Movement" where the national Congress even debates pricing policies, production quality, and manufacturing standards. One of my constituents recently observed that "Congressmen and Senators have become social workers first and national policymakers last." National polling organizations such as the esteemed Harris survey bear this out. Most Americans are concerned with personal and parochial matters before issues of national and international concerns. Speaker O'NEILL puts it like it is. "All politics is local," he said.

Notwithstanding the parochial nature of Congress, I have observed that most Members are serious about national security. For those who are so disposed, I commend the following article by Evans and Novak (Washington Post, Friday, November 2, 1979), entitled "Brzezinski Gets His Say." The column is a revealing observation of the state of the National Security Council.

BRZEZINSKI GETS HIS SAY

(By Rowland Evans and Robert Novak)

Zbigniew Brzezinski's quiet recruitment of a tough-minded Air Force general as top defense strategist for his National Security Council staff, far from being a routine staff addition, signals growing influence and new self-confidence for President Carter's often beleaguered national security adviser.

The new aide is Air Force Maj. Gen. Jasper Welch Jr., considered one of the Pentagon's top experts in the eerie science of U.S.-Soviet military balance—a balance now clearly tipping toward outright Soviet superiority.

Brzezinki's decision to hire Welch was urged by Dr. James R. Schlesinger, the one-time Nixon-Ford defense secretary and until recently Jimmy Carter's energy secretary. It raises important—and as yet unanswerable—questions: as Carter moves toward his final first-term year, does he now begin to share Brzezinski's forebodings about the worldwide threat of growing Soviet power? Or does Brzezinski's new confidence, symbolized by the recruitment of Welch, simply reflect a Carter political tactic to look hawkish to get SALT II through the Senate?

Although there is no answer yet, the new staff role being readied for Welch is certain to produce a much sharper focus within the NSC on overall strategic policy—a focus long desired by Brzezinski. It will also give the NSC a more persuasive voice within the administration.

It is not generally understood even in Carter's Washington that Brzezinski's power to place experts of his own choice in NSC staff positions has been limited until recently. When he accepted the top NSC staff job, foreign policy was in the hands of the McGovernite staffers who controlled appointments to major second-level posts in the State and Defense Departments—and in Brzezinski's own NSC.

For example, Brzezinski had no say in the choice of his No. 2 man, David Aaron, a onetime NSC technician under Henry Kissinger who became foreign policy adviser for Sen. Walter F. Mondale. Vice President Mondale dictated his appointment to the NSC.

The Brzezinski-Aaron relationship has been cool during the whole Carter presidency. Recently, in another display of his rising self-confidence, Brzezinski quietly reduced Aaron's power within the NSC, stripping him of authority over several major functions. U.S. economic policies toward Europe and the Third World were handed over to Henry Owen.

Until recently, Aaron's political clout within the NSC had been profound, thanks mainly to Mondale's patronage. It was Aaron—in cooperation with Mondale and the dovish transition team—who installed a black law professor, Henry Richardson, as chief of Brzezinski's Africa policy section. Richardson espoused the hands-off, pro-Third World policy in black Africa preached by then-U.N. Ambassador Andrew Young and Assistant Secretaries of State Richard Moose and Anthony Lake, major Brzezinski adversaries. Brzezinski managed to ease Richardson out several months ago, after Brzezinski had gone public against Fidel Castro's blatant intervention in foreign countries as Soviet surrogate.

But despite the growing public—and therefore political—awareness that the administration's soft-line approach to the Soviet offensive was clearly not working, Brzezinski continued to move furtively and cautiously, fearful that anti-Brzezinski hostility within the bureaucracy—plus the president's tendency to come down simultaneously on both sides of tough foreign problems—might isolate and destroy him.

That period seems now to have ended. Brzezinski's self-confidence is pushing him to bear down harder with his own more pessimistic views about the U.S. decline. He gained crucial yardage during the recent Cuban crisis over the Soviet combat brigade, even though it was the president who backed down.

Marshal Shulman, the State Department's Soviet expert, had predicted to Secretary of State Cyrus Vance—and thus to Carter himself—that Soviet Foreign Minister Andrei Gromyko would be "flexible" in dealing with Carter's demand that the status quo be changed.

But Brzezinski and his own Soviet experts took a more realistic and, as it turned out, more accurate view: that the Soviets, reinforced by their worldwide military power, had no intention of giving in to Carter or saving his face.

"Zbig had nothing to do with the sorry way the brigade crisis was handled at State," one White House insider told us. More important, Brzezinski argued hard against a proposal that Carter publicly attack Castro after the unsatisfactory conclusion of the crisis over the Soviet brigade. Insiders insist that Brzezinski viewed this propsal as a bluff that could have only one effect: build up the communist dictator of Cuba. Carter took that advice.

Brzezinski wants fewer tough words and more real deeds on the old-fashioned assumption that the only way to deal with the Soviet world offensive is to be backed by adequate military strength.

The recruitment of a high-level Air Force general to the NSC is a major move toward that goal. It signals the terminal point of what one aide calls the "understandable insecurity" that hobbled Brzezinski during the first 30 months. That could stiffen Carter's spine for the harder Soviet battles that lie just ahead.

Coincidentally, a relevant news item is simultaneously published in the Washington Post, which should also be noted, to wit:

[From the Washington Post, Nov. 2, 1979]

SOVIET MILITARY SPENDING UP

The Soviets are spending about 50 percent more on military outlays this year than the United States, CIA analysts told Congress yesterday.

They predicted Soviet military spending will continue to increase at least through 1985 despite the strain on the Russian economy.

A private analyst and two members of the Senate Armed Services Committee said they thought the CIA statistics were too low.

Sen. Robert C. Byrd, (D-W.Va.), chairman of a Senate Armed Services subcommittee, said the panel was seeking to learn if the "massive surge of unprecedented military procurement" by the Soviets in the 1970s was likely to be matched in the 1980s.

Byrd said, "we must have facts to formulate the fiscal 1981 (defense) budget"—which, with increases promised by President Carter or demanded by sectors of Congress, may run as high as $160 billion.

"In 1979, the Soviet total will be about $150 billion, about 50 percent higher than U.S. outlays," said Donald Burton, chief of the CIA's Military Economics Analysis Center.

Total Soviet defense activities for the 1970s, he said, exceeded comparable U.S. outlays by almost 30 percent.

Estimated costs of Soviet defense activities "caught up with U.S. defense outlays in 1971 and have exceeded them by a widening margin in each succeeding year," Burton said.

Byrd scheduled another hearing for Thursday.●

DUPLICATION AND MANAGEMENT ERROR IN FBI COMPUTER SYSTEMS

The SPEAKER pro tempore. Under a previous order of the House the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

● Mr. PREYER. Mr. Speaker, the General Accounting Office recently released a report which examined the operation of two separate criminal justice record systems maintained by the Federal Bureau of Investigation. GAO discovered substantial duplication of functions and operations in the two systems. The report also concluded that the FBI failed to follow Federal procurement standards and policies in leasing some of the basic computer and communications capabilities needed to maintain the records. The two systems examined were the automated identification division system (AIDS) and the computerized criminal history (CCH) file of the National Crime Information Center (NCIC).

The GAO study was requested by me as chairman of the House Government Information and Individual Rights Subcommittee. In that capacity I have become increasingly aware of and concerned about the application and use of computer-communications networks by Federal Government agencies. Development and implementation of these systems often occurs with no serious attention being given to real costs and benefits; with inadequate planning for the needs of those who will actually use the system; with no concern for the interests of State and local governments when they may be users of the system or its products; and finally, where personal information flows through the system, with disturbingly little respect for the rights and interests of our citizens.

The GAO study clearly establishes that the first three problems outlined above plague AIDS and the CCH file. Equally disturbing, preliminary findings of the NCIC study by the Office of Technology Assessment indicate that the directions being taken in the development and use of the CCH file and AIDS may result in serious problems for innocent citizens.

In essence, during the development of these systems, the FBI has paid too little attention to the public purse, the public's rights, or even principles of sound management and planning.

The findings of the GAO report and the initial work by OTA also indicate that the recent agreement reached between the FBI and the Judiciary Committee in the Senate concerning the procurement of more advanced computer and communications capabilities requires careful scrutiny and monitoring.

In these remarks, I will explore more fully the GAO findings, the operation of the two information networks, and the implications of these considerations for the recent Senate Judiciary Committee agreement and for future development and procurement in the two systems.

OPERATION OF THE SYSTEMS

AIDS is run by the FBI's Identification Division (Ident), which provides fingerprint identification and arrest records to Federal, State, and local law enforcement agencies. The system is supposed to reduce the high personnel costs and lengthy response times which inevitably occur in manual fingerprint identification and in the consequent dissemination of criminal histories.

CCH is a part of NCIC which makes a centralized set of computer files available through telecommunications links to Federal, State, and local law enforcement agencies. NCIC has an advisory board of officials from State and Federal law enforcement agencies, and is managed and operated by the FBI's Technical Services Division

CCH permits widespread dissemination of criminal histories through a rapid response computer-communications system. The FBI's goal is to decentralize the system's records into computer files in each State. The GAO, however, found that although 15 States have entered records into the system since its beginning in 1971, only 8 States currently participate in the CCH program. During June of 1979, for example, Illinois and Minnesota notified the FBI that they were withdrawing their participation in the program.

GAO found that the reasons for State reluctance to participate include worries about costs, the privacy of citizens, and indecision about the system's future, as well as substantial concern that development of the message-switching capability necessary for the FBI to "decentralize" operations would give the Bureau the ability to monitor State and local law enforcement communications and permit the Bureau to dictate the format, content and flow of State and local communications.

The FBI reports that indecision about the future structure of the CCH program causes States not to participate.

A further reason that States do not like the idea of decentralizing records is that they would not be able to control dissemination. Many States have enacted laws restricting dissemination of criminal history records and are concerned that direct access to their central files might create problems in the administration of these laws.

I should note that "decentralization" as envisioned in NCIC is not simply a matter of giving records back to State and local agencies for them to keep. Rather, it is a computer-communications interconnection which would permit nationwide access to the computerized records of a particular State through NCIC, with the FBI operating as manager and traffic controller for the system.

In April 1978, the NCIC Advisory Policy Board, which represents State and Federal officials, proposed decentralizing the CCH records in such a way that no arrest information for State offenses would be physically maintained at the national level. The concept called for message switching through NCIC to exchange criminal histories between States. The FBI would continue to maintain a national fingerprint file, an interstate identification index containing no arrest information, and criminal histories of Federal offenders.

DUPLICATION OF OPERATIONS

The following FBI statistics reflect the degree of duplication between the systems: as of June 1979, 647,990 AIDS records were duplicated in the CCH file—a number representing 44 percent of CCH and 16 percent of AIDS records.

The FBI has made some attempts to reduce the duplication in the AIDS and CCH programs. For example, Federal offender information is entered into the AIDS data base by personnel in Indent and then forwarded to NCIC for entry into the CCH data base.

In 1972, the FBI proposed to the NCIC Board that all of the AIDS information should be entered into CCH in order to provide CCH with faster information on first offenders, to build up CCH, to reduce gaps in the program's geographic coverage and to attract States that had not been participating in the program. No action was taken, however. In 1975, the Board left the decision up to the States whether they wanted to put AIDS information into CCH; but, to date, they have not indicated a desire to do so.

The FBI states that development of both programs in tandem results, at least in part, from the uncertain future of CCH. Both systems are being developed so that either could be the comprehensive one for the nationwide computerized criminal history information system the FBI believes is necessary.

AIDS is being phased in over a period of several years in three stages. AIDS–I involves storing descriptive and background data of arrested persons whose fingerprints have been filed with the FBI in a computer file. The primary identifying information—fingerprints—remains on manual fingerprint cards at this stage. AIDS–II provides for automated name searching of files created by AIDS–I and should, according to the FBI's estimates, reduce the workload of the identification division in this area by 23 percent. AIDS–III will provide for automatic fingerprint searching through the use of an automatic fingerprint reader (AFR). This last phase is scheduled to go into operation in 1983.

Developing a machine for reading fingerprints, as well as the complementary computer storage technology, has been difficult. Delays and cost overruns have characterized development of the AFR. At the request of the systems policy and planning group in the Department of Justice, the FBI has contracted with the National Aeronautics and Space Administration's Jet Propulsion Laboratory to study the need for and costs of automation of the reading of fingerprints. This JPL study is a rare independent analysis of the need for the particular pattern of procurement and development adopted by the FBI in the creation of either of the computerized information systems.

As this description of the AIDS development process indicates, the two programs could operate in a complementary rather than duplicative fashion—if some basic planning and management decisions had been made and coordinated years ago. As the GAO report pointed out, however, further development of the CCH program and the rationalization of the two systems now will cause much of the work done in AIDS–I to be a wasted effort. The taxpayer will be forced to pay the price of the FBI failure to undertake any reasonable planning process, not to mention the failure to carefully consider the needs of users and the concerns of the public in its push for computerization of criminal histories. The failures of the procurement process underline these management failures.

FAILURE TO FOLLOW PROCUREMENT STANDARDS

GAO auditors found that the FBI violated Federal procurement policies and standards in acquisition of its present ADP equipment. In addition, the GAO found that the FBI failed to develop the long-range plan identifying its ADP needs required by OMB Circular A–109 and other procurement policies. Finally, the FBI has not undertaken the comprehensive analysis of alternatives regarding the development of the two information systems which both sound management principles and the problems encountered in the last few years would suggest were necessary.

For example, GAO auditors discovered that while the FBI saved almost $1 million by terminating a previous contract and leasing three computers (for about $2.2 million annually), it could have done better for itself and the Government by obtaining the computers by methods other than straight lease. Procurement regulations require looking at alternatives.

GAO also discovered that the Bureau, in the applications programing for its systems, had employed low-level, machine-dependent languages which impose substantial costs in any subsequent procurements. The programing by the FBI was in conflict with the Federal information processing standards program, which was established specifically to reduce procurement costs and insure the effective use of ADP resources.

IMPLICATIONS FOR THE FUTURE

In the light of all of these concerns, the Subcommittee on Government Information and Individual Rights will be subjecting the current operations and efforts of the FBI in the CCH and AIDS programs to careful scrutiny in the coming months. In particular, proposals for future development of the systems, and even their current configuration, will receive in-depth attention. The GAO report and the OTA report to be released early next year will provide starting points for inquiry.

In keeping with these efforts, I note with interest that the Senate Judiciary Committee has agreed to fund further leasing of computers and communications capabilities for NCIC only on the condition that they not be used for exchanging criminal history data from one State to another through a message-switched network.

In particular, the Senate committee has approved FBI acquisition of a front-end processor designed to operate as a communications controller for the NCIC system. Senate approval was predicted on several specific restrictions. This Senate action provides an important step in effective oversight of the FBI's procurement practices in the development of CCH and AIDS. As spelled out in the committee's letter of September 26 to Admiral Freeman at GSA:

> Committee approval has been made possible by the Bureau's commitments not to acquire a message-switching option nor to use the equipment to message-switch data between states; to program equipment software to give requests for computerized criminal history data the lowest priority; to lease the equipment for the shortest period feasible, but in no case for longer than two years; and to permit biannual General Accounting Office audits of controller transmissions to ensure compliance with these commitments.

This particular procurement of computer and communications capabilities by the Bureau is currently being reviewed by subcommittee staff. It is vital to determine if these capabilities fit into any coherent plan with due consideration given to the needs of both NCIC and AIDS; it is also vital that we insure that the FBI does not, through incremental procurements, build a system that is unnecessarily costly, unresponsive to the needs of end users, disruptive to our Federal system, or potentially dangerous to the rights and interests of our citizens.

Mr. Speaker, I hope to keep you informed on these and other questions regarding the continuing development of computerized law enforcement information networks.

For more information on the subject, I recommend to my colleagues the GAO's report on the subject: "The FBI Operates Two Computerized Criminal History Information Systems," dated September 7, 1979, and numbered GGD–79–81.●

H.R. 4249, TOLL ROAD ENTITLEMENT REPAYMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

● Mr. BRADEMAS. Mr. Speaker, I rise in support of H.R. 4249, a bill to amend title 23 of the United States Code, the Surface Transportation Assistance Act of 1978.

Title 2 of this legislation is of vital concern to the citizens of the Third Congressional District of Indiana and, indeed, all of northern Indiana.

The bill allows for the retention of tolls on the Northern Indiana Toll Road, which would be used for the construction of vitally needed interchanges and bridge widening. Of particular interest to me is the inclusion of three new interchanges in the Third Congressional District, which I have the honor to represent, and the completion of a fourth. These new interchanges would provide greater ease of access to major industrial and urban areas in St. Joseph, Elkhart, and LaPorte Counties.

The Indiana Toll Road Commission has promised to move forward on these new interchanges expeditiously so that construction would commence on all interchanges as set forth in the required construction subsection of title II of H.R. 4249, no later than December 31, 1981. Substantial progress in the construction of the interchanges located at Indiana State Highway 912 South, the Mishawaka interchange in St. Joseph County, the Elkhart County interchange, and the Willow Creek Road interchange in Porter County, Ind., is expected by December 31, 1981, date. The remaining interchanges, as well as the interchanges listed under acquisition of right of way for State road 149 interchange in Porter County and U.S. Highway 20 in LaPorte County, are expected to be completed at a date somewhat later than the initial four interchanges, due to the complexity of site design and construction.

Mr. Speaker, it is gratifying when the Federal Government can respond effectively to a local problem, the solution of which is supported by the citizens of Indiana and the entire Indiana congressional delegation.●

AN END TO "PAYLESS PAYDAYS" FOR FEDERAL PERSONNEL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. BARNES) is recognized for 5 minutes.

● Mr. BARNES. Mr. Speaker, on October 31, I introduced legislation to end the annual budget crises which threaten millions of Federal civilian and military personnel with "payless paydays." It is time Members of both Houses faced up to the situation—our authorization and appropriations process, and our new congressional budget process, are not working properly and the American people are suffering hardships because of it. The "art of compromise" in politics has broken down repeatedly as the House and Senate play a game of chicken on narrow issues that tie up the functions of the entire Government. Special interest constituencies have exerted inordinate influence to tie up essential appropriations bills. We absolutely cannot allow this situation to continue.

There are many Members of this body—and I am one of them—who would support basic reforms in the operation of this institution to conform to the increasing complexities of modern government and the demands of our districts for greater contact with their elected representatives. Despite the advent of computers, Congress in many ways still operates in the 19th century. But the demands on us to perform more competently and effectively multiply, and we need to make changes to insure that we stay up to the job. There are certain types of legislation, such as appropriations bills, which we simply must pass. We can argue over policies and priorities, but in the end the Government of the United States must continue to function.

Based on my observations of the House of Representatives over the last month, too many of my colleagues seem to have lost touch with that reality. A majority of this House has repeatedly engaged in legislative brinksmanship to get its way on very narrow issues of Federal policy. Members seem to have forgotten that we are here also to act, not simply to argue.

I realize that the House of Representatives is not going to change overnight. Reforms take time. But in the meantime we must make some effort to admit that problems exist and that some kind of measures—even if only temporary in nature—must be taken if this institution is to avoid becoming a continual laughingstock.

DELAY IN APPROPRIATIONS

The continuing appropriations resolution (H.J. Res. 412) finally became law on October 12. The delay of nearly 2 weeks in funding the Government resulted in the issuance of half pay checks to hundreds of thousands of Government workers, as well as substantial extra costs for writing catchup checks, using computer time, notifying financial institutions, and paying overtime to administrative personnel processing paychecks. Failure to pass this essential legislation on time not only caused serious hardship and anguish to many thousands of Americans, but also proved to be very wasteful and inefficient as well.

This matter should be one of growing concern to Members, because we are not out of the woods yet. House Joint Resolution 412 expires on November 20, less than 3 weeks away. The assumption was that we would be able to pass the general appropriations bills by that time, but that is looking increasingly more doubtful. As of today, several major appropriations bills appear stalled in the legislative process. Among them are:

Labor/HEW. The conference report was approved by both Houses long ago, but the controversy over abortion rages without letup. On October 30, the House rejected the abortion compromise language we voted into the continuing resolution. The Senate is not likely to give us its own language without another major series of fights.

Defense. The bill has still not been passed by the Senate.

Interior. In conference.

Transportation. In conference.

As we move further into November, it appears increasingly likely that yet another continuing appropriations bill will be required. Plans should be made to deal with it, so that the House can act expeditiously and the Nation will not be held in suspense.

CHANGE IN HOUSE RULES

I have introduced House Resolution 470 to provide a constructive mechanism to insure that the Government fulfills its obligation to pay the salaries of its employees in full and on time. Federal civilian and military personnel perform a vital service, and they are justifiably outraged that Congress places their well-being in jeopardy to haggle over issues that should be resolved somewhere other than in appropriations bills. However, I also realize that the Congress cannot give up its control over the appropriations process, and that conflicts between the House and Senate will sometimes inevitably arise in this kind of legislation. That fact is not likely to change anytime soon. The basic behavior of this institution, built over 200 years of history, cannot be easily altered.

My resolution would change the rules of the House of Representatives by adding a new rule L to provide procedures for the continuance of pay for Federal employees, pending enactment of general appropriations bills. The new rule provides that whenever the House passes one of the regular general appropriations bills, such passage automatically generates a separate joint resolution providing pay and pay-related expenses for Federal employees at the level provided in the bill. The joint resolution is considered as having been passed, and an engrossed copy sent to the Senate without further action by the House.

The procedure envisioned by this rules change was adapted from the new method of passing legislation to adjust the level of the public debt devised by the able gentleman from Missouri (Mr. GEPHARDT). Public Law 96–78 provides that when the concurrent resolution on the budget is passed by the House, the level of the public debt it specifies is automatically placed in a separate joint resolution and sent to the Senate.

House Resolution 470 provides, for each appropriations bill, a legislative vehicle that can be used to continue the salaries of Federal civilian and military personnel even if the appropriations bill from which it sprang is delayed in controversy over some other policy matter. If the general appropriations bill becomes law before the start of the fiscal year, there would be no need for further congressional action on these separate pay resolutions.

House Resolution 470 would also provide that the joint resolutions on Federal salaries, if signed into law, would come into effect at any point during the fiscal year if the general appropriations bills to which they relate have not been enacted into law, or if a continuing resolution containing such funds expires without being renewed.

The text of the resolution follows:

H. Res. 470

Resolution to amend the Rules of the House of Representatives to provide for the continuance of authority to pay employees of the various agencies in the absence of the timely enactment of appropriations for such agencies

Resolved, That the Rules of the House of Representatives are amended by adding at the end thereof the following new rule:

"Rule L

"PROCEDURES FOR CONTINUANCE OF PAY FOR FEDERAL EMPLOYEES PENDING ENACTMENT OF GENERAL APPROPRIATIONS BILLS

"1. Upon the adoption by the House of Representatives of any general appropriations bill, the enrolling clerk of the House of Representatives shall prepare an engrossment of a joint resolution, in the form prescribed in clause 2. The vote by which the general appropriation bill was agreed to in the House shall be deemed to have been a vote in favor of such joint resolution upon final passage in the House of Representatives. Upon the engrossment of such joint resolution it shall be deemed to have passed the House of Representatives and been duly certified and examined; the engrossed copy shall be signed by the Clerk and transmitted to the Senate for further legislative action; and (upon final passage by both Houses) the joint resolution shall be presented to the President for his signature (and otherwise treated for all purposes) in the manner provided for bills and joint resolutions generally.

"2. The matter after the resolving clause in any joint resolution described in clause 1 shall be as follows: 'There is appropriated such sums as may be necessary to pay the pay and pay-related expenses of the Federal officers and employees employed in organizational units and activities for which appropriations are made in the bill entitled "   " (as passed the House) during any period during the fiscal year ending September 30,   , for which funds are not appropriated for that organizational unit or activities; except that no funds are appropriated for any period by this resolution for the pay or pay-related expenses for Federal officers or employees in an organizational unit or activity in excess of the number in such unit or activity, as the case may be, at the end of the preceding fiscal year.'; with the first blank being filled with the title of the bill with respect to which the resolution will be engrossed, and the second blank being filled with the calendar year in which the end of the fiscal year to which such bill relates occurs.

"3. The report of the Committee on Appropriations of the House of Representatives accompanying any general appropriation bill shall contain a clear statement of the effect under this rule that the adoption by the House of such general appropriation bill (and the adoption of the joint resolution thereupon prepared and engrossed under clause 1) would have upon the continuing authority for the pay and pay-related expenses of Federal officers and employees covered by such bill. It shall not be in order in the House of Representatives at any time to consider or adopt any general appropriation bill if at that time the report accompanying such bill does not comply with the requirements of this clause.

"4. Nothing in this rule shall be construed as limiting or otherwise affecting the power of the House of Representatives to consider and pass a bill (other than a general appropriation bill), without regard to the procedures under clause 1, which changes the rate of pay or the amount of pay-related expenses for Federal officers and employees, which changes the number of such officers or employees in any organizational unit or activity, or which otherwise expressly relates to the pay or pay-related benefits of such officers or employees; and the rights of Members and committees of the House with respect to the introduction, consideration, and reporting of any such bill shall be determined as though this rule had not been adopted.

"5. As used in this rule, the term 'pay-related expenses' includes the expenses for agency contributions for retirement and health and life insurance coverage, in accordance with applicable law.".

Sec. 2. The amendment made by this resolution shall apply with respect to general appropriation bills for fiscal years beginning on or before October 1, 1980.●

THE FEDERAL RESERVE SHOULD CEASE URGING LAGGED RESERVE REQUIREMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. Reuss) is recognized for 5 minutes.

● Mr. REUSS. Mr. Speaker, as part of the fight against rising interest rates and inflation, the Federal Reserve has long been urged to change the method by which it computes reserve requirements—from a system of lagged reserve requirements to synchronous reserve requirements, which were used prior to 1968. I reiterated my view in a letter to the Federal Reserve on October 12, 1979.

As Nobel Laureate Milton Friedman says in his letter to me of October 26, 1979:

> It is an extraordinary sign of bureaucratic inertia that a mistaken policy adopted years ago, criticized by almost every expert on the subject who has considered the subject, apparently cannot be eliminated regardless of how much harm it does to monetary policy.

Because the Federal Reserve has on October 6, 1979, adopted a policy which emphasizes direct control over the monetary aggregates, the present system of lagged reserve requirements is especially harmful. The system unnecessarily pushes up interest rates, and makes it much more difficult for the Federal Reserve to control the money supply.

Hoover Institution on War,
Revolution and Peace,
Stanford, Calif., October 26, 1979.

Hon. Henry S. Reuss,
Chairman, Committee on Banking, Finance and Urban Affairs, House of Representatives, Washington, D.C.

Dear Henry Reuss: I write primarily to congratulate you on your letter of October 12, 1979 to Chairman Volcker recommending that he give immediate consideration to the elimination of lagged reserve requirements and return to a system of synchronous reserve requirements. You deserve great credit for the consistent campaign that you have maintained on this issue for the past serveral years. It is an extraordinary sign of bureaucratic inertia that a mistaken policy adopted years ago, criticized by almost every expert on the subject who has considered the subject, apparently cannot be eliminated regardless of how much harm it does to monetary policy.

I am enclosing for your information a copy of a Newsweek column which I wrote commenting on Chairman Volcker's statement of October 6 on the Federal Reserve's new policy. Your and my experience in the past with the bureaucratic inertia of the Federal Reserve led me to put in the caveats in that column about whether the Fed really meant what it said. I sincerely hope so. Few things could do more to improve the economic outlook of the country. However, it will remain a question whether a new policy can and will in fact be administered by people who have devoted their professional lives to the earlier misguided policy. I must confess that Peter Sternlight's public press conference does nothing to erase those doubts.

I know you will continue to keep pressure on the Federal Reserve System for the adoption of effective policies for controlling the monetary aggregates. If there is any way in which I can be of any help to you in that task, I hope you will not hesitate to call on me.

Sincerely yours,
Milton Friedman,
Senior Research Fellow.

Has the Fed Changed Course?

(By Milton Friedman)

The changes in Federal Reserve policy announced by chairman Paul Volcker on Saturday evening, Oct. 6, produced a turbulent week in the financial markets of the world. Yet it will be many months, perhaps even years, before the real meaning of those changes is fully revealed. Perhaps that very uncertainty produced the turmoil.

Volcker announced three changes. The first two—a 1-percentage-point increase in the discount rate (the interest rate at which the Fed lends to member banks) and the imposition of additional reserve requirements—were primarily cosmetic. They have received far more attention than they deserve.

The shifts in policy: The increase in the discount rate was a delayed response to market forces, not a vigorous Fed initiative. The discount rate, at 11 per cent, had been falling farther and farther below the rates that banks have been charging their customers; at 12 per cent, it remains below. In any event, it is of little significance. Member banks have been borrowing about $1 billion from the Fed, a trivial sum by comparison with the $800 billion that commercial banks have been lending to their customers. The discount rate is an anachronism that should be eliminated.

The new Reserve requirement levied on certain liabilities is also a response to market forces. For the most part, it is simply an attempt to close loopholes that ingenious banks have been exploiting in traditional Federal Reserve requirements. In any event, it applies only to increases in liabilities, and hence cannot produce pressure for their reduction.

The third change is potentially the most significant—and also the most ambiguous: in the words of the Fed's release, it is "a change in the method used to conduct monetary policy to support the objective of containing growth in the monetary aggregates." The Fed's targets for monetary growth have become a laughingstock, as it has become clear that any relation between the targets and actual monetary growth is purely coincidental. For more than a decade there has been increasing pressure on the Fed—from academic students of money, the staffs of various regional reserve banks, the staff of the board itself and, more recently, from Congress—to change its operating procedure by substituting the monetary base (currency plus deposits at Federal Reserve banks) for the Federal funds rate as the primary instrument for controlling monetary growth.

Has the Fed finally gotten that message? The Fed's release sounds like it: "This action involves placing greater emphasis in day-to-day operations on the supply of bank reserves and less emphasis on confining short-term fluctuations in the Federal funds rate." However, those of us who have long favored such a change have repeatedly licked our wounds when we mistakenly interpreted earlier Fed statements as portending a change in operating procedures. I hope that this time will be different—but remain skeptical until performance matches pronouncements.

What difference does it make? Consider simply the past several years. The Fed has consistently talked about the need for a steady policy of monetary restraint. Yet from October 1976 to October 1978, the quantity of money (as measured by M_2, currency plus all deposits at commercial banks other than large CD's) increased at close to 10 per cent per year; from October 1978 to March 1979, at less than 3 per cent; from March 1979 to September 1979, at close to 12 per cent. The rapid monetary growth prior to October 1978 spurred inflation; the subsequent slowdown in monetary growth produced the onset of recession after the usual lag of about six months; the monetary explosion that began in March 1979 aborted the recession after a shorter than usual lag of only about three months. As a result, the third and fourth quarters of 1979 are likely to display renewed inflationary expansion. If the Fed does change its procedures and does slow monetary growth, the recession will be resumed—or a new recession will get under way—in the first or second quarter of 1980. The bright side of that coin is that steady and gradual reduction in monetary growth would end inflation and lay the groundwork for healthy, noninflationary economic growth.

However, there are two slips between the lip and the cup. First, so far this is all promise, not performance. Second, improved operating procedures can be used to inflate as well as to restrain inflation. Will the Fed's excellent anti-inflation sentiments survive climbing unemployment in Election Year 1980?

On October 18, 1979, Federal Reserve Chairman Paul Volcker wrote to me that he is sympathetic with my views on the subject of lagged reserve accounting, and that "the Board has preferred to maintain lagged reserve accounting at least for the immediate future in the hope the membership problem can soon be resolved." This gives the Congress another reason for speedy passage of the Monetary Control Act of 1979, H.R. 7, which eliminates the problems caused by banks' leaving the Federal Reserve System.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. CHENEY (at the request of Mr. MICHEL), for today, on account of official business.

Mr. COTTER (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. NELSON (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. RAILSBACK (at the request of Mr. MICHEL), for today, on account of official business.

Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

Mr. WILLIAMS of Ohio (at the request of Mr. MICHEL), for today, on account of official business.

Mr. YOUNG of Alaska (at the request of Mr. MICHEL), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SENSENBRENNER) to revise and extend their remarks and include extraneous matter:)

Mr. FRENZEL, for 20 minutes, today.

Mr. SCHULZE, for 5 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. JOHNSON of California, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. WEAVER, for 10 minutes, today.

Mr. CAVANAUGH, for 5 minutes, today.

Mr. FLORIO, for 5 minutes, today.

Mr. MITCHELL of Maryland, for 5 minutes, today.

Mr. ALEXANDER, for 15 minutes, today.

Mr. PREYER, for 5 minutes, today.

Mr. BRADEMAS, for 5 minutes, today.

Mr. BARNES, for 5 minutes, today.

Mr. REUSS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. FOUNTAIN, to revise and extend immediately following adoption of committee amendments.

Mr. FOUNTAIN, to revise and extend, during general debate on H.R. 5192.

(The following Members (at the request of Mr. SENSENBRENNER), and to include extraneous matter:)

Mr. YOUNG of Florida in five instances.
Mr. BOB WILSON.
Mr. KEMP.
Mr. PAUL in two instances.
Mr. ERLENBORN.
Mr. ASHBROOK in two instances.
Mr. COUGHLIN.
Mr. DANIEL B. CRANE.
Mr. THOMAS.
Mr. OTTINGER.
Mr. LEE.
Mrs. HOLT.
Mr. GILMAN.
Mr. BEREUTER.
Mr. HILLIS.
Mr. MCCLORY.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. GUDGER.
Mr. WALGREN.
Mr. SKELTON.
Mr. GEPHARDT.
Mr. STARK in two instances.
Mr. BAILEY.
Mr. MATTOX.
Mr. EDGAR.
Mr. MOAKLEY in two instances.
Mr. BLANCHARD.
Mr. MCDONALD.
Mr. DRINAN.
Mr. SEIBERLING in 10 instances.
Mr. GAYDOS.
Mr. WEISS.
Mr. WAXMAN.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1477. An act to provide for improvements in the structure and administration of the Federal courts, and for other purposes; to the Committee on the Judiciary.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 8 minutes p.m.), under its previous order, the House adjourned until Monday, November 5, 1979, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2755. A letter from the Executive Secretary to the Department of Health, Education, and Welfare transmitting proposed interim final regulations for Part 185 of the Emergency School Aid Act, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

2756. A letter from the Chairman, Board of Trustees, Harry S Truman Scholarship Foundation transmitting the Foundation's 1978–79 annual report, pursuant to section 13(b) of Public Law 93–642; to the Committee on Education and Labor.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ULLMAN: Committee on Ways and Means. H.R. 2759. A bill to promote the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto; with an amendment (Rept. No. 96–411, pt. III). Ordered to be printed.

Mr. GIAIMO: Committee of conference. Conference report on Senate Concurrent Resolution 36 (Rept. No. 96–582). Ordered to be printed.

Mr. STAGGERS: Committee of conference. Conference report on S. 1905 (Rept. No. 96–583). Ordered to be printed.

Mr. DELLUMS: Committee of conference. Conference report on S. 1037 (Rept. No. 96–584). Ordered to be printed.

Mr. BROOKS: Committee on Government Operations. Report on energy conservation within the Federal Government: the Department of Energy's record (Rept. No. 96–586). Referred to the Committee of the Whole House on the State of the Union.

ADVERSE REPORTS

Under clause 2 of rule XIII,

Mr. BROOKS: Committee on Government

Operations. House Resolution 428. Resolution to disapprove Reorganization Plan No. 3 transmitted by the President on September 25, 1979 (Rept. No. 96–585). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROWN of California:

H.R. 5789. A bill to amend title 28 of the United States Code to establish two divisions for the central judicial district of California; to the Committee on the Judiciary.

By Mr. FLORIO (for himself and Mr. LaFalce):

H.R. 5790. A bill to amend the Solid Waste Disposal Act to provide authority to respond to releases of hazardous waste which is presently unregulated at the Federal level and which endanger public health and the environment, to establish a hazardous waste response fund to be funded by a system of fees, to establish prohibitions and requirements concerning certain unregulated releases of hazardous waste, and to provide for liability of persons responsible for releases of hazardous waste, and for other purposes; to the Committee on Interstate and Foreign Commerce .

By Mr. AKAKA (for himself, Mr. Heftel, and Mr. Phillip Burton):

H.R. 5791. A bill to establish the Native Hawaiians Study Commission and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. AuCOIN:

H.R. 5792. A bill to authorize the Secretary of the Interior to provide for the protection, use, and enjoyment of the esthetic and recreational values inherent in the Federal lands and water at Henry Hagg Lake, Tualatin Project, Oreg.; to the Committee on Interior and Insular Affairs.

By Mr. BEARD of Rhode Island:

H.R. 5793. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income the interest on deposits in certain savings institutions; to the Committee on Ways and Means.

By Mr. BRADEMAS (for himself, Mr. Hamilton, Mr. Sharp, Mr. Fithian, Mr. Benjamin, Mr. Jacobs, Mr. Myers of Indiana, Mr. Deckard, Mr. Hillis, Mr. Evans of Indiana, and Mr. Quayle):

H.R. 5794. A bill to designate the building known as the Federal Building in Evansville, Indiana, as the "Winfield K. Denton Building"; to the Committee on Public Works and Transportation.

By Mr. COELHO (for himself, Mr. Moorhead of California, Mr. Charles H. Wilson of California, Mr. Lagomarsino, Mr. Johnson of California, Mr. Pashayan, Mr. Fazio, Mr. Shumway, Mr. Brown of California, Mr. Bob Wilson, Mr. Lloyd, Mr. Burgener, Mr. Matsui, Mr. Goldwater, Mr. Panetta, Mr. Thomas, Mr. Rousselot, Mr. Mineta, and Mr. Lewis):

H.R. 5795. A bill to amend the Agricultural Adjustment Act to allow the crediting of certain obligations of handlers who engage in the marketing of grapefruit, lemons, or oranges subject to marketing orders if such fruits are grown in the State of Arizona or the State of California; to the Committee on Agriculture.

By Mr. FUQUA (for himself, Mr. Roe, Mr. Fish, Mr. Dornan, Mr. Lloyd, Mr. Blanchard, Mr. Flippo, Mr. Glickman, Mr. Watkins, Mr. Nelson, Mr. Ertel, Mr. Pepper, Mr. Mineta, Mr. Studds, Mr. Moorhead of Pennsylvania, Mr. Corrada, Mr. Murphy of Pennsylvania, Mr. Lehman, Mr. Simon, Mr. Akaka, Mr. Heftel, Mr. Whitehurst, Mr. Gibbons, Mr. Carter, Mrs. Byron, Mr. Lagomarsino, Mr. Beilenson, and Mr. Emery):

H.R. 5796. A bill to provide for an accelerated research and development program to achieve early applications of ocean thermal energy conversion systems and for other purposes; to the Committee on Science and Technology.

By Mr. GEPHARDT:

H.R. 5797. A bill to amend the Congressional Budget Act of 1974 to assure that the congressional budget process reflects a responsible approach to national fiscal and monetary policy, and realistically takes into account the state of the economy, by establishing a new procedure under which the Congress will separately decide upon the size of the Federal surplus or deficit for any fiscal year before it considers or decides upon the specific budget outlays to be authorized in the concurrent resolution on the budget for that year; jointly, to the Committees on Rules, Banking, Finance and Urban Affairs, and Government Operations.

By Mr. GUDGER:

H.R. 5798. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit for qualified forestry expenditures that improve the productivity of privately-owned lands, and for other purposes; to the Committee on Ways and Means.

By Mr. LEACH of Iowa (for himself and Mr. Coleman):

H.R. 5799. A bill to amend title 5, United States Code, to provide for Federal personnel ceilings (including ceilings on contracts involving personal services), to establish an award for Federal employees for responsiveness to public needs, to provide that performance in administering personnel and contract ceilings are taken into account in evaluating the performance of Federal executives and managers, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. PASHAYAN (for himself, Mr. Abdnor, Mr. Annunzio, Mr. Badham, Mr. Beard of Tennessee, Mr. Beilenson, Mr. Benjamin, Mr. Bereuter, Mr. Bethune, Mr. Burgener, Mr. John L. Burton, Mr. Campbell, Mr. Carter, Mr. Cheney, Mr. Clausen, Mr. Clinger, Mr. Coelho, Mr. Coughlin, Mr. Courter, Mr. Daniel B. Crane, Mr. Philip M. Crane, Mr. Dannemeyer, Mr. Daschle, Mr. Dellums, Mr. Dornan, Mr. Dougherty, Mr. Eckhardt, Mr. Erdahl, Mr. Evans of the Virgin Islands, Mr. Fazio, Ms. Ferraro, Mr. Fuqua, Mr. Gingrich, Mr. Goodling, Mr. Gore, Mr. Grassley, Mr. Grisham, Mr. Guyer, Mr. Hall of Texas, Mr. Hinson, Mr. Huckaby, Mr. Hyde, Mr. Jeffries, Mr. Johnson of California, Mr. Johnson of Colorado, Mr. Jones of Tennessee, Mr. Kemp, Mr. Kogovsek, Mr. Kramer, Mr. Lagomarsino, Mr. Latta, Mr. Lee, Mr. Leland, Mr. Lewis, Mr. Lloyd, Mr. Lott, Mr. Lujan, Mr. Marriott, Mr. Matsui, Mr. McClory, Mr. McCloskey, Mr. McKay, Mr. Miller of California, Mr. Mineta, Mr. Moorhead of California, Mr. Mottl, Mr. Murphy of Pennsylvania, Mr. Myers of Indiana, Mr. Natcher, Mr. Panetta, Mr. Patten, Mr. Patterson, Mr. Pepper, Mr. Petri, Mr. Peyser, Mr. Quillen, Mr. Ritter, Mr. Robinson, Mr. Rousselot, Mr. Roybal, Mr. Royer, Mr. Rudd, Mr. Sawyer, Mrs. Schroeder, Mr. Shumway, Mrs. Smith of Nebraska, Mrs. Snowe, Mr. Solarz, Mr. Solomon, Mrs. Spellman, Mr. Stack, Mr. Stangeland, Mr. Stenholm, Mr. Stockman, Mr. Symms, Mr. Tauke, Mr. Thomas, Mr. Trible, Mr. Vander Jagt, Mr. Walker, Mr. Wampler, Mr. Waxman, Mr. Weaver, Mr. Whitehurst, Mr. Whittaker, Mr. Bob Wilson, Mr. Charles Wilson of Texas, Mr. Charles H. Wilson of California, Mr. Wolpe, Mr. Young of Florida, and Mr. Young of Alaska):

H.R. 5800. A bill to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Bryan Lewis Allen; to the Committee on Banking, Finance and Urban Affairs.

By Mr. TRAXLER (for himself and Mr. Bonior of Michigan):

H.R. 5801. A bill to authorize the Secretary of the Army, acting through the Chief of Engineers, to undertake erosion control measures at Lexington Harbor, Mich.; to the Committee on Public Works and Transportation.

By Mr. WYDLER:

H.R. 5802. A bill relating to purchases and sales of gold by the United States; to the Committee on Banking, Finance and Urban Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BAILEY:

H.R. 5803. A bill for the relief of Yang Mi Hoffer; to the Committee on the Judiciary.

By Ms. OAKAR:

H.R. 5804. A bill for the relief of Sleiman M. Alameh; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXIII, sponsors were added to public bills and resolutions as follows:

H.R. 1411: Mr. Hubbard.

H.R. 1516: Mr. Weiss, Mr. Fish, and Mr. Lagomarsino.

H.R. 2291: Mr. Albosta, Mr. Bethune, Mr. Edwards of Oklahoma, Mr. Gingrich, Mr. Hammerschmidt, Mr. Hillis, Mr. Hyde, Mr. Markey, Mr. Railsback, and Mr. Young of Missouri.

H.R. 3401: Mr. Richmond, Mr. Hughes, and Mr. Bonior of Michigan.

H.R. 3532: Mr. Charles H. Wilson of California, Mr. Hughes, and Mr. Bonior of Michigan.

H.R. 3558: Mr. Luken.

H.R. 4646: Mr. Annunzio, Mr. Bob Wilson of California, Mr. Hall of Ohio, Mr. Fountain, and Mr. Swift.

H.R. 4659: Mr. Campbell, Mr. Swift, Mr. Kindness, Mr. Oberstar, Mr. Symms, Mr. Ambro, Mr. Charles Wilson of Texas, Mr. Carter, Mr. Whitehurst, Mr. Burgener, Mr. Akaka, Mr. Mathis, Mr. Zeferetti, Mr. Santini, and Mr. Gingrich.

H.R. 4786: Mr. Collins of Texas, Mr. Edwards of Oklahoma, and Mr. Gingrich.

H.R. 4878: Mr. Downey, Mr. Wirth, Mr. Lee, Mr. Dannenmeyer, Mr. Tauke, Mr. Cavanaugh, Mr. Pashayan, Mr. Bedell, Mrs. Spellman, Mr. Oberstar, Mr. Lundine, and Mr. Fithian.

H.R. 5243: Mr. Whitehurst.

H.R. 5348: Mr. Foley.

H.R. 5561: Mr. Collins of Texas, Mr. Philip M. Crane, Mr. Grassley, and Mr. Edgar.

H.R. 5571: Mr. Nowak.

H.R. 5586: Mr. Thomas.

H.R. 5591: Mr. Levitas and Mr. Moakley.

H.R. 5610: Mr. Broyhill, Mr. McDonald, Mr. Sharp, and Mr. Yatron.

H.R. 5671: Mr. Rahall, Mr. Stangeland, Mr. Murphy of Pennsylvania, Mr. Roe, Mr. Tauke, Mr. Murphy of Illinois, Mr. Addabbo, Mr. Frost, Mr. Hyde, and Mr. Bevill.

H.J. Res. 372: Mr. Frost, Mr. Stack, Mr. Lent, Mr. Archer, Mr. Wolpe, Mr. Rahall, Mr. Benjamin, Mr. Carney, Mr. Fazio, Mr. Charles Wilson of Texas, Mr. Whitehurst, Mr. Marks, Mr. Murphy of New York, Mr. Frenzel, Mr. Oberstar, Mr. Bonior of Michigan, Mr. Rinaldo, Mr. Fish, Mr. Kemp, and Mr. Nolan.

H.J. Res. 414: Mr. Anderson of California, Mr. Anthony, Mr. Ashbrook, Mr. Badham, Mr. Bauman, Mr. Beard of Tennessee, Mr. Bedell, Mr. Bethune, Mr. Bonior of Michigan, Mr. Butler, Mr. Carter, Mr. Clausen, Mr. Collins of Texas, Mr. Conable, Mr. Conte, Mr. Corcoran, Mr. Derwinski, Mr. Devine, Mr. Dickinson, Mr. Dornan, Mr. Eckhardt, Mr. Findley, Mr. Gilman, Mr. Goldwater, Mr. Goodling, Mr. Gore, Mr. Hagedorn, Mr. Hall of Ohio, Mr. Hammerschmidt, Mr. Hansen, Mrs. Heckler, Mr. Hillis, Mr. Hollenbeck, Mr. Horton, Mr. Hughes, Mr. Ichord, Mr. Jeffords, Mr. Latta, Mr. Leach of Iowa, Mr. Lott, Mr. Lujan, Mr. McClory, Mr. Martin, Mr. Michel, Mr. Miller of Ohio, Mr. Moore, Mr. Oberstar, Mr. O'Brien, Mr. Pickle, Mr. Pritchard, Mr. Quillen, Mr. Rahall, Mr. Railsback, Mr. Regula, Mr. Rhodes, Mr. Roberts, Mr. Rudd, Mr. Sebelius, Mr. Shuster, Mr. Simon, Mrs. Snowe, Mr. Snyder, Mr. Solomon, Mr. Spence, Mr. Stangeland, Mr. Symms, Mr. Taylor, Mr. Vander Jagt, Mr. Walker, Mr. Whittaker, Mr. Wolpe, Mr. Wylie, Mr. Young of Florida, Mr. Bafalis, Mr. Daniel B. Crane, Mr. Gradison, Mr. Sawyer, Mr. Stanton, and Mr. Wolff.

H. Con. Res. 129: Mr. Lungren.

H. Res. 383: Mr. Grassley.

H. Res. 445: Mr. Devine and Mr. Myers of Indiana.

AMENDMENTS

Under clause 6 of rule XXIII,

H.R. 2603

By Mr. DERRICK:

(To the committee amendment.)

—In lieu of the matter proposed to be inserted by the committee amendment, insert page 9, line 7 "$8,000,000, of which $3,000,000 shall be available only for plant engineering and design at the Savannah River Plant, Aiken, South Carolina".

EXTENSIONS OF REMARKS

FEDERAL LOAN GUARANTEES TO THE CHRYSLER CORP.

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 1, 1979

● Mr. HILLIS. Mr. Speaker, I was encouraged by the announcement today by the administration that it will recommend $1.5 billion in Federal loan guarantees to the Chrysler Corp. This issue has already been the subject of hearings by the Subcommittee on Economic Stabilization of the Banking, Finance and Urban Affairs Committee. Hopefully, that subcommittee will soon report H.R. 5630 introduced by Congressman Blanchard and cosponsored by me. H.R. 5630 authorizes the Federal Government to give emergency loans and loan guarantees to the Chrysler Corp.

Before the House votes on H.R. 5630 or a similar measure, I believe there are two questions which should be addressed. The first is whether Federal assistance to Chrysler, or any private corporation close to bankruptcy, is a proper function of our Government and in the best interest of the American people. The second question is whether the particulars of the Chrysler situation warrant Federal assistance. Today I will limit my comment to the first question and address the second question tomorrow.

Direct Federal assistance to a troubled company is a serious issue, the consequences of which must be reviewed carefully. We must be aware of the dangers and benefits of the Federal Government granting assistance to a company to prevent bankruptcy. After all, the preservation of our economic system must receive high priority.

The philosophical questions which need to be addressed are: If the U.S. Government comes to the aid of troubled industries or individual companies, will the free enterprise system in the United States be weakened or protected? Would such assistance establish an undesirable precedent? If assistance is offered, what form should it take?

Like most Americans I am a strong believer in, and supporter of, the free enterprise system. However, we do not have a true or pure free-enterprise system in the United States—particularly in cases where Federal regulations intervene in the policy decisions of private companies. There are numerous industries where Federal intervention has weakened the essence of the free enterprise system, that is, competition, to such a point that the normal checks and balances which allow the system to operate no longer do so adequately.

For example, the free enterprise system no longer operates freely in the agriculture industry where Federal subsidies and controls are widespread. The motor-carrier industry is treated as a public utility and is, therefore, extensively regulated. Housing offers another good example of an industry heavily controlled by Government. Almost every small community has some type of Federal housing through FHA or FmHA. The medical industry is so heavily regulated that the freedom of decision within individual hospitals is extremely limited.

Examples of Federal intervention in the free enterprise system are numerous. Through Federal regulation, tax policies, and programs, competition in our business community has been reduced. The proper role and degree of involvement of the Federal Government in the business community is subject to much discord. However, the status quo will not change in the next few months. We must, therefore, not debate at this point the present policies of the Federal Government. The question of whether Federal assistance to Chrysler will help or weaken our free enterprise system must be considered within the context of present policies.

The automotive industry, while not as regulated as some other industries, has had its product line completely revamped by Federal energy, emission, and safety standards within the last 5 years. While these regulations are unique to the automotive industry, other Federal regulations are not.

Like all U.S. industries, the automotive industry has had to comply with Federal regulations such as OSHA, and environmental emission standards on manufacturing plants as opposed to the car itself. There are also thousands of other Federal programs many of which require forms to be filled out which cost American industries millions of man-hours and billions of dollars each year.

Chrysler estimates that research, development, and retooling costs needed to meet Federal safety, pollution, and fuel-efficiency standards will cost the U.S. auto industry $80 billion over the next 7 years. The total effect of all these regulations has reduced the amount of competitiveness in the auto industry. The fiscal impact of Federal regulations on larger companies is less per unit of manufactured item than on smaller companies. The cost of Federal regulations per car for General Motors is $340. The cost of Federal regulations per car for Chrysler is $620—almost twice as much. That $280 makes a significant difference to the consumer.

Certain industries such as the steel, the electronics, and the automotive industry face tremendous competition from imports. Car imports have increased dramatically over the last 20 years. In 1960 imports accounted for only 6.35 percent of all cars sold in the United States. In 1978 that figure was 26.1 percent—a substantial increase.

In both major foreign auto manufacturing countries, Japan and West Germany, the Federal Governments have national policies to insure that their industries remain solvent. The relationship between the U.S. Federal Government and industry is an adversary one—in Japan and West Germany the Federal Government acts almost as a partner.

Federal loans or loan guarantees to private corporations are common in other countries. West Germany, for example, provides research and development subsidies and low-interest loans to auto manufacturers.

Labor costs are also higher in the United States than other countries. In the United States, Ford Motor Co. estimates that net Japanese cost advantage on a subcompact vehicle sold in the United States is $525. Obviously, this gives Japanese manufacturers a tremendous added advantage—particularly since the duty on imported cars is only 2.5 percent in the United States.

The essence of the free enterprise system is, of course, competition. However, for the system to work as it was intended or designed, that competition must be fair. The free enterprise system in the

United States—and in the automotive industry in particular—has been hurt by excessive Government intervention and unfair foreign competition.

In answer to my first question, I do not feel that certain economic assistance from the U.S. Federal Government to troubled domestic corporations will necessarily undermine, weaken, or threaten our economic system. A pure free-enterprise system simply does not exist in the United States today. We cannot, therefore, expect that system to provide all the answers to a particular industry's or company's financial problems. At times, the answer must come from outside the free enterprise system.

I believe the question of precedent, particularly with loan guarantees, is a moot point. The Federal Government already has established precedents for assisting private industries, including the automotive industry, by providing assistance to American Motors in the form of a tax break in 1967. The assistance given to Lockheed in 1971, while often sighted as a precedent, in reality was not. Long before 1971 there were Federal programs designed to assist private businesses, particularly the smaller ones. There are literally hundreds of Federal programs which through one mechanism or another intervene into the free enterprise system and provide aid to private companies. Loan guarantees have become commonplace and have proven to be effective.

If assistance is to be offered, the question of which type of assistance is in the best interest of the American people, is more difficult to answer. To a substantial degree the answer depends on the particulars of the situation in question. However, in general terms I believe there are several important considerations.

First, the cost to the Federal Government should be kept to a minimum. Loans, and particularly loan guarantees, are, therefore, one of the most desirable forms of assistance which can be offered. At the same time, direct grants are less desirable. Further, the assistance to be offered should not give one company a competitive advantage.

Therefore, in the particular case of Chrysler, exempting it from meeting fuel and emissions standards is not very desirable. Such an exemption would also be inconsistent with what the Congress has already determined to be in the best interest of the Nation. Special tax breaks limited to one company are undesirable and should be avoided.

Philosophically, then, I believe it is fair to say that Federal assistance per se will not necessarily undermine our economic system nor will it establish an undesirable precedent. Loans and loan guarantees are probably the best type of assistance which can be offered.

Having reached these conclusions, the particular problems facing Chrysler must be addressed in order to determine if the Federal Government should offer it any assistance. Tomorrow I will enter another statement in the RECORD on that subject.●

THE OLYMPIC DEVELOPMENT FUND

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. KEMP. Mr. Speaker, as a member of the President's Commission on Olympic Sports and a former professional athlete, I would like to take this opportunity to remind the Congress that it was the overwhelming conclusion of that body that all levels of amateur sports, whether local, State, regional or national, are inadequately funded to allow for the development of athletes, coaches and officials; to promote adequate competition; to construct and maintain facilities; and to insure professional administration. Our amateur athletic system is at a point of crisis, and with the help of the Congress of the United States we can begin to get the system back on the track and on the road to recovery.

In order to make a positive step in the direction of adequate financing of our amateur sports system, I have introduced legislation, H.R. 5222, that would provide for a $1 checkoff on future Federal income tax forms. The money collected would be placed into a special fund for Olympic development. These funds would then be directly transferable from the general fund of the U.S. Treasury to the United States Olympic Committee (USOC), to be used to expand and improve our amateur athletics in the United States.

A companion bill, S. 1630, has been jointly introduced by my colleagues, Senator INOUYE, Senator STEVENS, Senator LAXALT, Senator STONE, Senator PRESSLER, and Senator CULVER.

Let me stress that this fund will not be used to support our elite athletes, those participating in Olympic or Pan American competitions. Support of these athletes is already relatively self sustaining through the use of the USOC's own financial resources.

This fund is targeted at grassroots development, in conjunction with USOC policy goals, to build and reinforce the participation and competition base essential to the eventual development of our country's best athletes. While the fund is geared toward increasing the athletic opportunities of all Americans, particularly youth, special emphasis will be given to eliminating the bias in our athletic system against participation by the handicapped, women, minorities, and the aged. We must seek an effective integration of programs for these individuals into the mainstream of our athletic system.

Most important, this legislation allocates only private funds. No public funds are allocated under its provisions. I cannot overstate the significance of this approach. The voluntary $1 contribution is either taken out of a tax refund or included as an extra amount in the tax payment; it does not use public money.

Public opinion strongly favors this approach. After the 1976 Olympic games, a great deal of citizen interest was expressed to the President and the Congress for a tax checkoff system to finance our Olympic teams and amateur sports. This tax checkoff system should raise more money than the $31.9 million raised for the Federal election fund through the tax checkoff in 1974.

Not only would it provide a constant source of funding for amateur athletic programs, but the funds collected would also stimulate greater private sector involvement and participation in the entire amateur athletic system. The United States would reap tremendous benefits, not only in the development of its young athletes, but also in expanded and improved facilities, better administration, and greater training opportunities for its elite athletes.

At the end of each fiscal year, the USOC would submit an annual report to the President's Council on Physical Fitness and Sports with a breakdown of expenditures and future recommendations. The Council would then submit its own report to Congress discussing the committee's report and evaluating the effectiveness and usefulness of the program.

Mr. Speaker, with the 1980 Olympic games just around the corner and the needs of our athletes fresh in the public mind, I feel that we in the Congress have a serious responsibility to provide the means of positive change by which our amateur athletics can be rebuilt and strengthened, once again making the United States a formidable competitor in the eyes of the world. I ask all of my colleagues to support this crucial legislation.●

NOW HEAR WARNING OF JANE'S

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

[From the Dallas Morning News, Sept. 21, 1979]

NOW HEAR WARNING OF JANE'S

Jane's Fighting Ships, the most authoritative publication on naval strength, has recently warned that the United States and other free world nations have let their navies wane to the point that they can no longer watch the Soviet navy, let alone keep it from cutting our sea lanes.

Our own navy has been slashed by nearly half just since the end of the Vietnam War. The Soviet navy now has more than four times as many combatant ships. Equally worrisome is the fact that the Soviets have bases handy to the routes by which we must import oil and other raw materials.

In Washington, where the leading lights still glow with warm feelings about detente and the presumed end of the cold war, these facts may not be alarming. But in the real world, the free part of it that will suffer quick collapse if denied these raw materials, alarm bells should be ringing at maximum volume.

We have to wake up from the World War II-induced dream that we still rule the waves. We don't. Most of the free world, certainly including the United States, is as dependent on supplies that come in on those waves as Britain was in the 1940s.

Once the Red Navy shuts down those sea

lanes, it's just a matter of time until our power runs down.●

BIG BROTHER WANTS TO JOIN YOUR FAMILY

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. DANIEL B. CRANE. Mr. Speaker, President Carter's ridiculous proposal for a Federal Government bureaucracy to regulate family life has to be the most baldfaced attempt to control the lives of Americans that he has dreamed up yet.

His big spending policies are responsible for inflation, yet his solution to inflation is more and more big spending and more and more bureaucratic control over every facet of our lives.

President Carter came into office promising to cut back Government regulation and redtape. In fact, he said he would accomplish that if he did nothing else.

Well, he must have opted for "nothing else," because his policies have been for more big Government growth and more inflation. His "Office of Families" is the latest step in making the American people the slaves of Government.

The Cincinnati Enquirer has editorialized against this absurd idea, and it would benefit all concerned with American family life to study his newspaper's opinion.

CARTER'S REPUGNANT PROPOSAL

"President Carter has become an unfortunate parody of himself.

"His newest proposal to make good his promise of a government 'as full of love as the American people themselves'—an Office of Families in the Department of Health, Education and Welfare—is morally repugnant to those who genuinely care about the sanctity of the American family.

"The President's notion is absurd on its face. 'Many families have been strained to the breaking point by social and economic forces beyond their control,' the President said in Kansas City the other day. 'Some indeed have broken.' What he failed to say is that it is government taxation and government inflation that have created the 'economic forces beyond' the control of most American families.

"The American family is too important to the very fabric of this society to let it become the plaything of a liberal, activist bureaucracy, a pork-barreling Congress, a judiciary out of touch with mainstream America, and an executive in desperate search of re-election.

"Who can resist the temptation to suggest that the Office of Families (OOF) could become the moral equivalent of OSHA, the Occupational Safety and Health Administration, or of EEOC, the Equal Employment Opportunity Commission. Would we have unannounced, unwarranted investigators peering into the kitchens, the parlors, the family rooms and the bedrooms of American homes? Do we have an equal number of male and female children here? Is love adequately distributed amongst all the members of the family? Did you wash behind your ears? Have you spent 20 hours this week filling out the proper government forms, in triplicate? Is this family represented by counsel?

"If we have learned our lessons from Washington, it is that whenever government finds the excuse, it grows bigger on its own momentum. This is one more example in that vein. And we would have Mr. Carter to thank."●

NURSING SHORTAGES

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mrs. HOLT. Mr. Speaker, health care issues are among the major concerns of this Congress, and I have been alarmed by the increasing number of reports that we are getting of nursing shortages around the country. A recent newsstory by United Press-International quotes the director of nursing at Anne Arundel General Hospital, in Maryland, on the seriousness of this situation. I think this is a matter of interest to my colleagues, and I ask that this newsstory be placed in the CONGRESSIONAL RECORD.

The article follows:

NURSE RECRUITING WIDENS

Hospitals in various American communities are offering bounties ranging from $100 to $1,000 for registered nurses, according to the American Nurses Association.

Hospitals in Detroit, Minneapolis, Philadelphia, Chicago and Corpus Christi, Tex., are paying bounties or rewards for help in recruiting nurses, a spot-check of those cities by the nurses' association has reported. New York was not included in the survey.

Despite the bounties, those who did the checking said, the shortage remains acute in many places in the nation.

Other groups concerned with the situation have estimated that by 1982 the national shortage may range as high as 100,000.

One problem, all agree, is low salaries. The most recent national sampling of salaries of registered nurses, taken by the A.N.A. in 1977 under contract with the Department of Health, Education and Welfare, reported that their average annual income was $13,000.

Another index of the shortage, according to the nurses' group, is the unemployment rate for nurses. Last year, the association said, the rate was 1.8 percent—the lowest in a decade. "The employment climate, salaries and job-related stress must be thoroughly examined to encourage nurse employment," said Barbara Nichols, president of the association.

"Furthermore," she went on, "the Federal Government must re-examine its stand on curtailing educational funds to assist prospective nurses and nurse educators." Her association said that directors of nursing services had reported a "serious scarcity" of highly skilled registered nurses, especially those qualified to care for the critically ill.

One respondent in the survey by the nurses' association was Roberta M. Conti, director of nursing at Anne Arundel General Hospital in Maryland and a member of the Maryland Board of Examiners of Nurses. She told the national group that she foresaw no easing of the severity of the shortage.

"As director of nursing," she said, "I spend endless hours strategizing about how to obtain enough nursing manpower hours to meet the needs of patient populations that we are presently serving.

"I do not see the picture becoming any brighter in the future because of the increasing older population and the complexity of their illnesses and the present increase in births. We will have a double-edged health service delivery problem."

Since 1972, a 40 percent increase in specialized units—recovery rooms, cardiac and intensive care—has contributed to the squeeze on hospitals in search of nurse specialists, the nurses' association said.●

TITLE IV, HIGHER EDUCATION ACT

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mrs. CHISHOLM. Mr. Speaker, although great strides have been made in assuring that our Nation's children have the opportunity to receive the education of their choice, there remain formidable barriers to access of higher educational opportunities for those students from economically disadvantaged backgrounds. In recent years the rising costs of postsecondary institutions have also impacted on the ability of middle-income parents to see their children through the educational process. We are therefore faced with a situation in which we must find some viable means of easing the burden on middle-income families, while protecting the access to higher educational opportunities of those income groups who have been historically excluded from participation in postsecondary education.

Title IV of the Higher Education Act seeks to eliminate the economic barriers facing many students pursuing a higher education. The most important program impacting the access of low-income students to postsecondary educational opportunities is the basic grants program. I want to commend the Committee on Education and Labor for their work on the BEOG's program as presented in H.R. 5192. The sliding increase in the maximum allowable BEOG grant over the period that this legislation is to be authorized is a necessary step in dealing with the increased costs of a higher education.

In addition, although I might prefer the total elimination of the so-called half-cost rule on the basic grant, which impacts negatively on the poorest students attending low-cost institutions, I am aware that the committee was faced with the competing concerns of the public and private colleges and universities and I support the delicate compromise that the committee has reached with these parties.

I would also like to commend the committee's work to tighten up and strengthen the current Federal student loan programs. However, I must disagree with the committee's assessment of the GSL and NDSL program's ability to adequately assure the availability of loan capital for all students in need.

After careful consideration of the complex issues surrounding reform of the current Federal loan programs, I have concluded that S. 1600, the Kennedy-Bellmon Student Loan Reform Act, best represents our national commitment to providing access to higher educational opportunities for all this Nation's children.

The current Federal loan programs do not adequately assure access to loan capital for many students in need. The guaranteed student loan program has inherent limitations because of its dependence upon the willingness of banks to lend money during various economic circumstances; the uneven geographic distribution of participating banks and institutions throughout the country; and the tendency of banks to lend to children whose families have a prior relationship with the bank. The latter point represents an often insurmountable problem of access to capital for the most needy student, who is often rejected as a bad credit risk. The expansion of eligibility for subsidized loans to higher income borrowers, mandated by the Middle-Income Student Assistance Act, will further exacerbate the problem of availability of loan capital for low-income students, as large numbers of middle-income students choose to take advantage of the program and private lenders direct their resources toward these better credit risks. In addition to this problem confronting all lower income students, we must be cognizant of the particular problems of minorities in securing loans from financial institutions which continue to perpetuate discriminatory practices.

The campus based national direct student loan program provides only a limited amount of funds, and many institutions either choose not to participate or are unable to do so because of the burden of loan collection and the requirement of institutional capital investment. In addition, there are serious problems with the State allocation formulas which have no relationship to the actual financial needs of students in institutions across the Nation.

Thus, neither program, nor the two programs combined adequately address the problem of available loan capital for needy students.

In addition to the problem of loan access, neither loan program is based specifically on the actual financial need of the student in attending the institution of his or her choice. Under the guaranteed student loan program, private lenders can lend up to $2,500 to anyone regardless of economic background or the actual cost of attendence at a chosen institution. The amount of the national direct student loan is usually much smaller and is dependent upon a variety of factors, including the relative demands of other students on campus.

The National Student Loan Reform Act would eliminate the problems of loan access by assuring that every student in need of a loan to complete a comprehensive financial aid package will receive one. Unlike the current programs, the new program would be entirely need based, thus guaranteeing that no student will be denied access to higher educational opportunities on the basis of being unable to secure an adequate loan.

The National Student Loan Reform Act recognizes the importance of the campus-based approach to student financial aid packaging, while making needed reforms in current distribution and collection of student loans. There is a great deal of concern over the alarming default rates that the national direct student loan program has experienced. I believe that the default problem is wisely dealt with in S. 1600 by placing the collection of loans in the hands of financial experts rather than educational institutions, facilitating the consolidation of loans, and liberalizing the stringent repayment schedules of the programs currently in existence.

The default rate on direct student loans at many of our black colleges remains extremely high. These are institutions which have disproportionately high administrative costs because they serve large numbers of low-income students receiving a variety of Federal aid. There is no reason to further burden these institutions with the task of loan collection, and threaten to penalize them on the basis of something over which they have no real control.

The flexibility with which S. 1600 addresses terms of loan repayment is a vast improvement over the current situation. Allowing the student to opt for a graduated repayment plan over straight mortgage payments realistically deals with the normal increase in income that most individuals enjoy as their years away from school increase. The legislation also recognizes that for low-income individuals it may be necessary to extend the repayment period over a greater time. I believe that both these provisions, beyond addressing the specific needs of some individuals, will help to alleviate the default problem.

The National Student Loan Reform Act will replace a poorly targeted system which is currently inadequate in meeting the need to assure access to necessary loan capital for all students, particularly those most in need. It will replace a system that is becoming increasingly expensive to the Federal Government, the cost of which will rise further if we are to continue to make the guaranteed loan program attractive to private lenders and hold down the interest rate of the direct student loan program to 3 percent. I am convinced that a more financially stable system which will assure equitable availability and distribution of loan capital to needy students is preferable to an inadequate program with an interest rate hopelessly out of date and exceedingly costly to the taxpayer.●

PROFITS AND LOSSES

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. ERLENBORN. Mr. Speaker, we have heard it said that "Beauty is in the eyes of the beholder." The same axiom must hold true for logic also, for what else could explain the news reports we have seen over the past few days.

Late last week and early this week, the third quarter earnings for many major U.S. oil companies were disclosed. One elected official after another denounced the increase in oil industry profits; some even went so far as to label these profits as obscene, and the President has decreed that the oil industry must be punished by the levy of stiff taxes.

Then came reports of the third quarter losses of the Chrysler Corp.; total losses for 1979 are predicted to exceed $1 billion, the largest corporate loss in business in history. Yesterday we received the President's suggestion on how the taxpayers should bail out this struggling company.

The only conclusion that can be logically derived from these two observations is that profits are something dirty and obscene in the eyes of the Federal Government, something that should be penalized with stiff taxes, while business losses are a thing of beauty and should be subsidized by the U.S. Treasury.

My eyes behold neither obscenity in profits nor beauty in losses, and the convoluted logic exhibited by Federal policymakers should make all our colleagues do more than just blink.●

LOAN GUARANTEES TO CHRYSLER

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. BLANCHARD. Mr. Speaker, in considering whether or not the Federal Government should provide assistance to the Chrysler Corp. many have questioned the idea of providing loan guarantees. Some have asserted that providing loan guarantees to Chrysler would constitute a "dangerous precedent." In the interest of insuring that we make an informed decision on this matter, I think it is important for my colleagues to be aware of the fact that such assertions are simply untrue.

According to the Office of Management and Budget, in 1980 Federal loan guarantees will amount to $408.8 billion outstanding. I make this point not because I am happy that the Government has been required to play such a role, but rather to illustrate that this kind of assistance has been necessary. It has been necessary not only in the industrial sector, but also in numerous fields including areas such as housing, farming, energy, and transportation. Providing loan guarantees to Chrysler would certainly not be a precedent.

Our economy, our balance of trade deficit, our ability to meet the need for more domestically produced fuel-efficient cars, and the lives of hundreds of thousands of people would all be severely affected by a Chrysler failure. Therefore I believe that this is another instance where the national interest would be best served by providing the necessary assistance to Chrysler.

I am including a table from the budget which outlines the amount of loan guarantees outstanding from various Government agencies. This table illustrates the extent to which loan guarantees have become a necessary form of Government assistance in a variety of different areas.

The table follows:

TABLE F-5.—GUARANTEED LOAN TRANSACTIONS OF THE FEDERAL GOVERNMENT

[In millions of dollars]

Agency or program	Commitments			Loans guaranteed		
	1978 actual	1979 estimate	1980 estimate	1978 actual	1979 estimate	1980 estimate
Funds appropriated to the President:						
International security assistance:						
New transactions	1, 584	1, 465	1, 563	1, 678	1, 550	1, 625
Net change				1, 359	970	925
Outstandings	1, 150	1, 065	1, 003	4, 463	5, 433	6, 358
International development assistance:						
New transactions	161	210	240	101	141	219
Net change				62	103	179
Outstandings	342	411	433	803	906	1, 085
Agriculture:						
Farmers Home Administration:						
New transactions	10, 398	10, 735	10, 658	10, 047	9, 850	11, 279
Net change				6, 281	7, 302	5, 768
Outstandings	973	1, 858	1, 237	28, 221	35, 523	41, 291
Rural Electrification Administration:						
New transactions	2, 593	8, 219	5, 738	2, 093	3, 124	4, 693
Net change				2, 093	3, 124	4, 693
Outstandings	6, 959	12, 054	13, 099	4, 829	7, 953	12, 646
Commerce:						
Economic development assistance:						
New transactions	202	252	430	106	349	430
Net change				74	316	395
Outstandings	96			298	614	1, 010
National Oceanic and Atmospheric Administration:						
New transactions	25	34	34	25	34	34
Net change				21	27	25
Outstandings				48	75	100
Maritime Administration:						
New transactions	469	1, 110	1, 000	900	937	888
Net change				451	730	661
Outstandings	433	606	719	5, 168	5, 898	6, 558
Energy:						
Geothermal resources development fund:						
New transactions	32	111	107	2	111	107
Net change				2	111	107
Outstandings	30	30	30	14	125	232
Health, Education, and Welfare:						
Medical facilities guarantees:						
New transactions	15			23	38	
Net change				−9	7	−32
Outstandings	38			1, 347	1, 354	1, 322
Health programs:						
New transactions	31	213	285	31	213	285
Net change				31	213	283
Outstandings				135	348	630
Education programs:						
New transactions	1, 854	2, 250	2, 500	1, 854	2, 250	2, 500
Net change				613	946	1, 075
Outstandings				8, 150	9, 097	10, 172
Housing and Urban Development:						
Subsidized low-rent public housing:						
New transactions	12, 641	14, 208	14, 944	9, 448	11, 310	14, 193
Net change				365	1, 810	3, 093
Outstandings	12, 916	14, 844	15, 345	14, 567	16, 377	19, 470
Federal Housing Administration:						
New transactions	23, 953	24, 656	27, 705	14, 292	16, 450	18, 601
Net change				4, 377	5, 978	7, 074
Outstandings	13, 563	16, 505	19, 703	98, 129	104, 107	111, 181
Urban renewal:						
New transactions	46	8	5	46	52	27
Net change				−430	−223	−286
Outstandings	803	759	737	791	568	282
New Communities Administration:						
New transactions						
Net change				−85		
Outstandings	48	15	15	144	144	144
GNMA: Mortgage-backed securities:						
New transactions	15, 194	15, 000	16, 500	15, 194	15, 000	16, 500
Net change				10, 032	9, 836	10, 500
Outstandings				52, 964	62, 800	73, 300
Interior:						
Indian programs:						
New transactions	7	46	3	7	46	3
Net change				4	34	−8
Outstandings				52	86	78
Transportation:						
Rail programs:						
New transactions	90	503		86	213	15
Net change				55	300	−70
Outstandings	289	579	564	677	977	907
Washington, D.C. Metro bonds:						
New transactions						
Net change						
Outstandings				997	997	997
Aircraft loans:						
New transactions		50	100	41	50	100
Net changes				27	29	70
Outstandings				209	238	308
Treasury:						
Guarantee of New York City notes:						
New transactions		500	250		500	250
Net change					490	213
Outstandings					490	702
NASA Long term satellite leases:						
New transactions		110		180	183	136
Net change				180	183	136
Outstandings	267	195	59	237	419	555
Veterans' Administration:						
New transactions	16, 744	18, 498	20, 470	14, 849	16, 259	18, 264
Net change				8, 871	8, 951	9, 739
Outstandings	2, 788	2, 928	3, 074	80, 794	89, 745	99, 484
Export-Import Bank:						
New transactions	5, 489	8, 097	9, 465	4, 213	4, 845	5, 572
Net change				−334	−89	54
Outstandings	7, 657	9, 160	11, 097	5, 407	5, 318	5, 373

TABLE F-5.—GUARANTEED LOAN TRANSACTIONS OF THE FEDERAL GOVERNMENT—Continued

[In millions of dollars]

Agency or program	Commitments			Loans guaranteed		
	1978 actual	1979 estimate	1980 estimate	1978 actual	1979 estimate	1980 estimate
Small Business Administration:						
Business loan guarantees:						
New transactions	3,063	3,900	3,895	2,306	2,975	3,275
Net change				1,121	1,733	1,813
Outstandings	1,358	1,963	2,128	6,901	8,634	10,447
Lease and surety bond guarantees:						
New transactions	1,177	2,000	1,700	1,177	2,000	1,700
Net change				126	200	100
Outstandings				504	704	804
Lease guarantees:						
New transactions						
Net change				−31	−30	−30
Outstandings				259	229	199
Disaster Loan fund:						
New transactions	1			1	1	
Net change				−1		−1
Outstandings	1			10	10	9
Pollution control bond guarantees:						
New transactions	17	50	50	17	50	50
Net change				16	46	44
Outstandings				23	70	114
National Development Bank:						
New transactions			3,165			1,832
Net change						1,777
Outstandings			1,332			1,777
Other agencies and programs:						
New transactions	752	104	12	870	149	58
Net change				115	133	15
Outstandings	134	89	44	1,151	1,284	1,299
Subtotal, guaranteed loans (gross):						
New transactions	96,536	112,329	120,819	79,586	88,680	102,634
Net change				35,385	43,230	48,313
Outstandings	49,125	63,062	70,619	317,292	360,522	408,835

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THE CHRYSLER ISSUE: ISOLATED INCIDENT OR OMEN?

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. ASHBROOK. Mr. Speaker, the Congress will soon be considering whether or not the Federal Government should provide $1.5 billion in loan guarantees to the Chrysler Corp. The issues raised in the public debate on this matter have had the familiar ring of the Lockheed loan fight of 1971. But is it the same situation? In 1971 the Lockheed Corp., got into trouble as a result of contract problems with several Defense Department projects. I voted against the Lockheed loan because I felt any industry that bolsters its business by dealing with the Federal Government should know what it is getting into. Is Chrysler a different case? In many respects it is. Chrysler's woes stem from the backbreaking burden of Government regulation that has been crushing private initiative and investment in this Nation for years. Chrysler has had to raise prices and cut profits in order to meet the avalanche of Federal guidelines and conflicting bureaucratic policies. As Chrysler has been cutting back to meet the Government imposed price increases the relatively unregulated foreign cars have taken an increased portion of the U.S. car market. Chrysler was caught in this economic crossfire and went down the drain.

The question should be asked as to why General Motors and Ford seem to be relatively healthy and yet they have weathered similar regulatory burdens and foreign competition. One possible answer is outlined in a scholarly analysis by the American Enterprise Institute. The article is from this month's issue of Regulation. The authors maintain that there has been substantial commentary on how various tax laws affect different groups and income levels in society. They go on to say that tax incidence analysis should also be used to review regulatory impacts, as regulations are also a form of taxation. The case of Chrysler is an example of a business being overburdened by regulatory "taxes" far beyond the proportional burden on its competitors, because of its lesser market share and lower production volume. If this analysis is correct it could mean that Chrysler is only the first domino to fall as big government continues its destruction of the private sector. This is an ominous point to ponder as we consider reauthorizing the Federal Trade Commission and other regulatory goliaths. I offer the Regulation article as an interesting and constructive addition to the debate on the future of regulation and the future of Chrysler.

The article follows:

REGULATING CHRYSLER OUT OF BUSINESS?

(By Kenneth W. Clarkson, Charles W. Kadlec, and Arthur B. Laffer)

When regulations to protect the environment, improve safety, and meet other national goals were first proposed in the mid-1960s, the costs of complying with those regulations were widely assumed to be far less than the expected benefits. In recent years, that assumption has been challenged by experience and by the first empirical efforts to quantify at least the direct costs of regulatory compliance to the nation's economy.

What is not yet fully realized, however, is that regulatory requirements that appear uniform and "fair" may substantially alter the competitive structure of an industry because the burden tends to fall disproportionately on smaller firms. Thus the inadvertent result may be to cripple the smaller firms and concentrate market share in the hands of the biggest and wealthiest corporations. The automotive industry, a product of more than seventy-five years of development and a bulwark of the U.S. economy, provides a primary example of these effects of regulation on competition.

In 1965, the automotive industry was singled out by Ralph Nader for producing "unsafe" cars. The next year Congress responded to Nader's exposé by passing a law authorizing the Department of Transportation to regulate auto design and manufacture, the primary purpose being to increase auto safety. Less than five years later, pollution became a primary societal concern, leading to new laws whose primary purpose was a 90 percent reduction in automotive emissions. Then, in 1974, a group of oil-producing countries, acting as a cartel, raised the price of oil fourfold. The Congress, perceiving an oncoming "energy crisis" in the United States, reacted by passing a law regulating energy consumption—including in it mandatory minimum automotive fuel-efficiency standards.

THE REGULATORY "TAX"

It will illuminate our analysis to think of regulations, from the perspective of the firm, as a form of taxation. The government, after all, once it decided that the national interest would be served by a cleaner environment, safer work place, and fuel-efficient cars, could have then appropriated funds out of the Treasury to gain these objectives. Instead, to a large extent, it has chosen the course of requiring firms to install the equipment or take the design action necessary to comply with a regulatory mandate. To the extent that the requirements are effective, the companies commit resources in ways other than they would have in response to demands of the marketplace. (That, in this context, is what "effective" means.) The expenditures are made as a condition of staying in business and are therefore viewed properly as a tax payment: the economic value of compliance *to the firm* is equivalent to a receipt for taxes paid.

To take this approach is not to argue that expenditures required to comply with regulations produce no benefits, any more than recognizing income taxes as a cost of doing business argues that government programs funded by those taxes are worthless. The treatment of regulatory burden as a tax is perfectly consistent with the fact that a reduction in auto emissions leads to a cleaner environment, and the further fact that a cleaner environment has economic value.

Nevertheless, whatever the other effects of regulation, it does act as a tax. In both the short and long run, real prices to consumers will rise, while payments to resources will fall. Individual firms, when faced with the costs of complying with the regulations, will not be able to pass on more of those costs than what is permitted by the competitive response in the industry. (This point is of major importance for our analysis.)

Of course, the form of the regulatory tax is as important as its existence. If the regulation imposes an ad valorem burden—that is, imposes costs directly proportional to the value of the company's output—it is equivalent to a uniform sales tax. If the regulation imposes a per unit burden, it is equivalent to a tax bearing most heavily on those units with the least value added. Finally, if the regulation imposes a fixed burden without regard to the quantity of output, it is equivalent to a lump-sum tax. Given generally similar unit values of output, such a uniform requirement for each firm in the industry will impair the performance of small firms relative to large firms. That is, the lower the value of the output, the higher the lump sum is in relation to that value.

THE TAX AND CHRYSLER

These distinctions are far from being purely academic. For example, federal regulations designed to reach national health, safety, environmental, and fuel-efficiency objectives have been assumed to affect individual auto firms in the same way as a flat rate tax affects individual taxpayers. That is, they are assumed to take a given—uniform—percentage of income from each company. But, for the auto industry, this assumption is incorrect: as a rule, regulation has hurt the smaller full-line firms more than the larger ones. Chrysler Corporation's current predicament is properly viewed as an example of the unintended effects of increasingly more stringent regulation. The "lump-sum" effect of this regulation is furthered by the fact that the government forbids the auto companies to pool their research, requiring each company to make roughly the same (lump-sum) research expenditures.

As a hypothetical example, imagine that it costs all auto firms $5,000 to develop a device to control emissions. If the cost of producing each device is $10 and if the smaller firm installs the device on 100 units (cars) and the larger company installs it on 300 units (cars), the investment and extra production costs are $6,000 for the smaller firm—$5,000+(100×$10)—and $8,000 for the larger firm—$5,000+(300×$10). The smaller firm must receive $60 per device to recover these costs ($6,000 divided by 100), while the larger firms needs to receive only about $27 ($8,000 divided by 300).

Plainly, the larger firm has an advantage—its unit costs are lower. Competitive forces dictate, however, that the per-unit charge levied in an effort to recoup the investment and extra production costs be approximately the same for each auto company. Thus, if the larger firm charges its customers the price that recovers the $27, the smaller firms will have to charge approximately $27—or less than half the $60 they actually expended. It is a point of prime importance that, throughout the last decade, when regulators asked U.S. auto firms to estimate the cost of manufacturing catalytic converters, General Motors' estimates were consistently well below Chrysler's. This led regulators to disbelieve Chrysler when in fact both firms may well have been correct in their estimates.

Let us take the example a step further. If the smaller company spends $5,000 for R&D and the larger one spends much more, say $12,000, the smaller firm's cost stays at $60 per unit while the larger firm's cost rises to $50. General Motors, the largest U.S. auto firm, has in fact consistently spent more than Ford or Chrysler on R&D for government-mandated emission controls. This greater expenditure permitted General Motors to pursue separate research tracks during the period when emission standards were evolving. Chrysler, with its more restricted financial resources, pursued multiple tracks as well. Indeed, its generic engineering advantage yielded a "lean-burn" engine system that would have satisfied emission standards slightly less stringent than actually proposed. But the government's final standards eliminated the lean-burn engine as a viable alternative, forcing all firms to employ the catalytic converter.

This governmental decision emphasizes the important point that the specific standard chosen as well as the form of the regulation may have substantial effects on competition in the industry. If policy-makers had chosen the 1979 automobile emission standards as their goal, Chrysler's market position would have been strengthened rather than weakened (since the lean-burn engine system could have met the 1979 levels without a catalytic device) and Chrysler would have been able to capture the benefits of leasing or selling its lean-burn technology. Faced with the actual final emission standards for 1980 and thereafter, it had no choice but to develop the catalytic device.

Things are made worse by the fact that, beginning in 1980, U.S. auto firms will not be allowed to count the cars they import, even if they produce those cars themselves, to help achieve the fleet-wide average fuel efficiencies required by the regulations. For the domestic industry's smaller firms, the rule against counting imports will force (lump-sum) fixed investment in domestic facilities, shifting the nature of the regulatory tax to place a greater burden on smaller firms. And for all the firms, the rule will reduce the benefits of economies of scale.

SALES, PROFITS, AND ESTIMATED REGULATION-MANDATED COSTS FOR THE BIG 3

	Chrysler	Ford	General Motors
Cost of regulation (millions)[1]	$800	$1,000	$2,000
Cost as percent of sales	7.0	4.2	4.6
Cost as percent of aftertax profits	496.9	112.7	68.5
Cost per car produced	$550	$340	$345
Net sales (millions)[2]	$11,390	$23,969	$43,430
Aftertax profits (millions)[2]	$161	$887	$2,918
Number of cars produced (thousands)[2]	1,451	2,933	5,782

[1] Average for 1978–85.

[2] Figures are for 1977 North American operations.

THE COST OF THE TAX

The companies have provided the Department of Transportation with estimates of their fixed costs for complying with existing emissions, safety, and fuel-economy standards over the eight years ending with 1985. The estimates are staggering: $800 million a year for Chrysler, (65 percent for fuel economy, 30 percent for emissions, 5 percent for safety), $1,000 million a year for Ford, and $2,000 million per year for General Motors—in 1977 dollars. Moreover, the expenditures required are proportionately greater for Chrysler than for Ford or GM.

A glance at the table shows that Chrysler's estimated regulation-induced investment is five times its profits and 7 percent of its sales for 1977, while Ford's is greater than its profits and 4.2 percent of its sales for that year. Only for GM is current profit greater than estimated regulatory cost (though equal to 4.6 percent of 1977 sales). This suggests strongly that the tax rate imposed on Chrysler by government regulations is roughly 50 percent greater in relation to sales than the tax rate imposed on either Ford or GM.

Moreover, the estimated costs of the regulations are more than $200 per car (60 percent) higher for Chrysler than for either Ford or GM. The source of the disparity, by and large, is the fixed-cost component of the R&D and the basic retooling needed to attain compliance. For Ford, the tax rate appears to be roughly the same as for GM, even though Ford is the smaller firm. The cost of complying with the regulations is approximately $340 per passenger car for Ford and $345 for GM.

By their very nature, regulations also reduce diversity, each requirement in turn eliminating product features previously available. The more aspects of a product that are regulated, the narrower the distribution of choices around the "average" or "standard" product. Thus, new regulation reduces opportunities for firms to specialize in providing unique combinations of features to the consumer. Indeed, if the government required absolute standardization of a product, in time all firms producing that product would merge into the one most efficient firm. If the government dealt out a single blueprint of a standard auto and required all autos to be built to those specifications, all specialty firms would be forced to dissolve (it would be illegal, for example, to manufacture Checker Cabs). If a product could not be differentiated (whether by quality, warrantee provisions, or whatever), price alone would be the consideration, and the firm that could stamp out the standard auto most efficiently would drive all others out of business.

Different auto firms exist because firms cannot at all times and in every way be superior to all other firms. Even physically flawless and intellectually superior individuals, for example, would have trouble competing with a blind person in speed-reading Braille. Similarly, an auto firm may concentrate its resources on producing the greatest number of automobiles at the lowest price; but smaller firms can still compete by concentrating their resources on developing specialty vehicles, superior styling, greater durability, engineering excellence, and so forth. Obviously, Ford and Chrysler are not small firms—but they are smaller than GM, and they have thus aimed more at specialized sub-markets and less at the market as a whole. But, by its very nature, government regulation increasingly has been herding all three toward a standardized product for the mass market, inadvertently and unconsciously undermining Chrysler's advantages (and Ford's).

OUR SCENARIO

While it is impossible to predict the final long-run effect of these regulations, it is clear that there will be fewer motor vehicles produced, that some real resources will go to other industries, and that users of automobiles will pay higher prices. To try to measure the potential impact on the industry and its individual firms, we set up a simulation—a future scenario. Let us explain it briefly.

In order to calculate the effect of the new requirements, assumptions had to be made about company responses to the regulations—especially those involving pricing—and about the way the consumer will react to price changes. Essentially, we made two assumptions about pricing. First, we assumed that the Big Three auto manufacturers compete with each other, partly on prices, so that no one company will raise its prices much more than any other company—and, specifically, so that Chrysler will not raise its prices significantly more than GM or Ford. Second, we assumed that when prices go up, the number of units sold (both by the industry and by the firm) goes down correspondingly, so that overall sales revenues do not change. (In economists' terms, there is a unitary price elasticity of demand.) This assumption simplifies our calculations and is supported by numerous studies of the automobile industry.

Now, obviously, if the number of units sold goes down, the manufacturer will make fewer units, which (all other things being equal) will reduce total costs of production. For simplicity's sake, we assumed that the amount saved by making fewer units balances the increased variable cost per unit sold (the increased variable cost, that is, mandated by federal requirements), so that the total variable cost of manufacturing the cars—the "cost of goods sold"—does not change. In fact, what is saved by cutting production does not offset the increased production costs per unit so that this understates the effects of the requirements, but it makes the figures much easier to work with. Even if the effects are understated, they are still far too large to be happy about.

According to our assumptions, then, when Ford or GM or Chrysler tacks on price increases because of federal requirements, say $350 per car each year, the company will get no additional total revenues (because units sold will go down) and have no additional cost of goods sold (because the decline in number of units sold will balance the increased variable cost per unit). The only change on the company's books will be the increased investment in plant and machinery necessary to comply with the new requirements—if the $350 per car covers the cost of compliance. If it does not—if it costs Chrysler $550 to comply and if only $350 can be tacked on to the price—then Chrysler's profits go down substantially and may disappear, or worse. On the other hand, if Chrysler raises its prices by $550, and the other companies raise theirs by $350, Chrysler's sales go down, and its profits may disappear, or worse. No matter which of the probable courses of action is followed, all three firms, with profit not increasing and investment going up substantially, will find their rates of return (profit divided by investment) going down.

There is, of course, a possible way out of the dilemma. If GM and Ford based their price increases on what Chrysler needed (that is, if they raise prices by $550), then Chrysler would maintain its market share and might still show profits. There would, however, still be a differential effect of the regulations. Chrysler might be neither better nor worse off, but GM and Ford would be made better off relative to Chrysler. And, of course, in the real world, GM and Ford do not make their decisions according to what Chrysler needs.

It should be emphasized here that traditional accounting statements do not present fully accurate pictures of the impact of regulation on profits and rates of return. It is more appropriate to use an economic model with price-level adjustments and R&D expenditures capitalized. Because capital is allocated in the marketplace according to perceptions of probable rates of return into the indefinite future, and because "accounting rates of return" are merely snapshots picturing the financial condition of the company at discrete time intervals, adjusting these accounting snapshots, smoothing them out, provides a better view of economic reality. This view is the one we want to use. So, in our simulation, we calculated the economic rates of return on net worth for the three firms for 1970–77, smoothing out cyclical variations, and then used these figures for projecting the impact of regulation for 1978–85. It should be noted that this is a period in which the firms anticipate major additions to capital outlays for general research and tooling in order to comply with the mandated federal regulations.

General Motors, with its incremental (government-mandated) investment of $2 billion a year, shows an average economic rate of return of 12.1 percent without this $2 billion annual outlay and 3.3 percent with it. The difference is 8.8 percentage points. Ford, with its incremental (government-mandated) investment of $1 billion per year, shows an average economic rate of return of 9.9 percent without additional regulation and 1.9 percent with additional regulation. The difference is 8 percentage points. Chrysler, with its incremental (government-mandated) invest of $800 million per year, shows an average economic rate of return of 2.6 percent a year without additional regulation and −13.8 percent with additional regulation. The difference is 16.4 percentage points.

WHAT DOES IT ALL MEAN?

The results suggest that the adverse effects of government regulation on Chrysler are extraordinary—both in absolute terms and relative to Ford and GM. Bad years in particular are accentuated, as regulation-induced investment expenditures remain high, while sales and profits fall below average. Thus, while regulation of the auto industry depresses the profitability of all firms (which in itself significantly diminishes the ability of small firms to compete), it further acts against the smaller firms by assuming they fit the mold of the largest firm

The sheer magnitude of the cost of compliance with the higher standards scheduled to take effect in the years through 1985 threatens substantial dislocations throughout the industry, with the effect falling disproportionately on Chrysler and (to a smaller extent) Ford. The final stages of emission-control standards will have to be met in this period and the most dramatic of the fuel-efficiency standards will be faced in the year 1985, when the National Highway Traffic Safety Administration (NHTSA) is directed by law to require an increase in the average fuel economy of new cars to 27.5 miles per gallon. Our study suggests that Chrysler may not survive as a full-line auto manufacturer. Moreover, unless there should be a burst of real economic growth in the 1980s, Chrysler would have little chance of raising needed capital, given the negative rates of return on investment implied by our analysis.

Ford's viability as a full-line auto manufacturer will also be impaired, especially given that its current profitability arises largely from its foreign operations. In commenting on the standards on December 11, 1978, Ford Motor Company observed, "We believe that 27.5 mpg would press us to the limit—and our financial resources are neither the largest or smallest in the industry." Ford also pointed out the fallacy of NHTSA's findings that the standard is economically practicable "for the industry as a whole": it is not "the industry" but individual companies that must meet the standards, and the financial resources of General Motors are not available to other firms.

Thus we conclude that there will be an undesirable rise in concentration in the U.S. auto industry as a result of the regulatory burdens imposed on the industry over the eight years ending 1985, with General Motors dramatically increasing its relative position. But even as GM expands its market share, its average economic rate of return will tend to fall well below its average for the ten years ending in 1977—unless real prices of automobiles substantially increase. This could eventually lead to elimination of low-profit model lines and to a consequent reduction in choices available to the American consumer.

The smaller the producer, all other things being equal, the greater the effect of the safety, emission and fuel-economy standards. That is, these regulations, though uniformly applied, significantly favor the largest manufacturers. Moreover, as the regulations grow tighter, the payoff goes more and more to economies of scale, and less and less to engineering knowhow or product differentiation. With profits at $161 million a year and the estimated costs of regulation at $800 million a year, it is no wonder that Chrysler is hurting. And if Chrysler has been trying intelligently to carve out a market for itself as number three, by some means other than GM's economies of scale (which are not available to it), then Chrysler's problems are the inevitable result of regulations that place a premium on being like GM.●

FIRST NATIONAL BANK OF BOSTON CHAIRMAN'S TESTIMONY BEFORE CONGRESSIONAL SUBCOMMITTEE

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. MOAKLEY. Mr. Speaker, recently, Richard D. Hill, the distinguished chairman of the board of the First National Bank of Boston, testified before the Senate Subcommittee on Taxation and Debt Management in support of S. 1435, the Capital Cost Recovery Act of 1979.

While not committing myself to passage of this legislation, I do believe that Mr. Hill's testimony is thought provoking and exceptional in its responsible approach to an important piece of legislation pending congressional consideration. I urge my colleagues to read Mr. Hill's testimony as they consider all of the information at their disposal on the subject of capital cost recovery.

The statement follows:

STATEMENT OF RICHARD D. HILL

Mr. Chairman: My name is Richard D. Hill. I am the Chairman of the Board of The First National Bank of Boston. I am testifying today before your distinguished Subcommittee on Taxation and Debt Management on behalf of The Business Roundtable in support of S. 1435, the Capital Cost Recovery Act of 1979.

The Business Roundtable has long supported the concept of replacing the existing and outmoded system of tax depreciation with a capital recovery allowance system that would enable American business to increase the level of capital investment in plant and equipment. S. 1435 would introduce a simplified and accelerated method of writing-off the cost of business assets, sometimes referred to as the "10–5–3" system, which would represent a significant improvement over today's complex and unrealistic tax depreciation system. S. 1435 has been constructed to respond to capital formation needs in all segments of our economy, and as a result, this proposed legislation has broad-based support throughout the entire business community.

The overriding challenge to our domestic economy today is the need to encourage capital formation and establish a long-term pattern of sustained economic growth. Capital formation is essential for economic progress. Accelerating the rate at which businesses recover their cost of investment in plant and equipment will improve rates of return and enhance business cash flow and thus, contribute importantly to increasing the level of capital investment by American industry, thereby permitting it to:

Improve the declining productivity rate,

Combat chronic inflation,

Modernize and expand its facilities,

Contribute to a higher standard of living, and

Compete effectively in domestic and foreign markets.

There is an acute need for capital investment to attain these goals. Over the past decade, while there has been a significant increase in the labor force, there has been a significant decrease in the rate of growth of plant and equipment. This has reduced the growth of labor productivity, reduced the growth rate of real wages and contributed to the nation's expanding list of economic problems. If the United States is to overcome these problems, the Federal government must reorder its priorities and adopt public policies, including tax policies, that will influence businesses—both large and small—to invest in productive plant and equipment for the long-term health of the nation's economy.

INTERNATIONAL COMPARISONS

The United States currently has the lowest rate of private capital investment and also the lowest rate of growth in labor productivity among the principal industrialized countries of the world. This weak performance is borne out by government statistics.

RATIO OF NONRESIDENTIAL FIXED INVESTMENT TO GROSS DOMESTIC PRODUCT AND GROWTH RATES OF LABOR PRODUCTIVITY

	Investment ratio [1]		Average annual percent change in productivity [2]			
	Percent	Rank	1967–72	Rank	1972–77	Rank
Japan	26.4	1	9.2	1	3.5	1
West Germany	17.4	2	4.8	3	3.5	1
France	[3] 16.7	4	5.0	2	1.0	4
Canada	17.2	3	4.5	4	3.1	3
United Kingdom	14.9	5	2.8	5	.8	5
United States	13.5	6	1.1	6	.6	6

[1] Measured as real nonresidential fixed investment as a percent of real gross domestic product, 1966–76.

[2] Measured by growth in real domestic product per employed civilian, using own country's price weights.

[3] 1970–75.

Source: Economic Report of the President, 1979 and Joint Economic Report, 1979.

Some portion of the poor relative productivity performance of the U.S. economy can be attributed to technological catch-up by other countries. However, the Joint Economic Committee noted in its 1979 Report that the higher rates of capital formation in other countries played an important role in their productivity performance. The Joint Economic Committee concluded that, if the 1967–77 trends in productivity should continue into the 1980's, output per worker in France, Germany, Japan and Canada would all exceed that in the United States by 1985 or shortly thereafter.

The most recent data on U.S. productivity growth do not dispel this outlook. In 1978, real domestic product per employed civilian declined by 0.3 percent, and the even greater rate of decline in the first half of 1979 makes it likely that U.S. labor productivity will again show no gain at all for 1979 as a whole.

Despite a large dollar investment by U.S. companies in recent years, the United States is still lagging behind other major industrial countries, including West Germany, Japan and Canada, in the rate of capital investment. Over the last 15 years, the ratio of real business fixed investment to real Gross National Product (GNP) has averaged only about 10 percent (both in 1972 dollars). Real nonresidential fixed investment will have to total about 12 percent of real GNP in the years ahead in order to meet vital national economic and social goals.

Many of our principal international competitors have stimulated capital investment and productivity increases by improving their capital recovery allowance systems. Recent enhancements to the investment tax credit have somewhat improved the competitive position of U.S. business vis-a-vis their foreign competitors. Enactment of S. 1435 would accelerate the recovery period for depreciating business assets and more closely align the capital recovery allowances in the United States with those of other industrialized countries.

US. ECONOMIC CLIMATE

The U.S. economy is suffering from spiraling inflation while the rate of capital formation and growth in productivity decline. Some of the reasons cited for the productivity slowdown range from faster employment growth, a more service-intensive economy and increasing government regulation to lackluster research and development activities and rising energy prices. However, the most important single cause of the productivity slowdown has been the weakness of business fixed investment over the past several years.

The Council of Economic Advisers has pointed out that between 1948 and 1973, high rates of U.S. private investment led to a growth in the capital-labor ratio amounting to almost 3 percent per year (measured by the ratio of net nonresidential capital stock to aggregate hours worked in the private non-farm sector). Since 1973, however, that growth rate has dropped to 1.75 percent per year. At the same time, the rate of growth of labor productivity in the non-farm business economy fell to 1.0 percent per year from its 1948–73 average of 2.4 percent.

In its analysis of these trends the 1979 Report of the Joint Economic Committee concluded: "The cumulative loss of capital stock during the recession, combined with projections for continued rapid labor force increase, strongly suggests that special measures to promote capital spending are needed if productivity growth is to recover even the modest levels of 1967–73."

Inflation is the nation's number one economic problem. Controlling inflation without producing politically unacceptable levels of unemployment is, at best, a very difficult task. However, there is a growing awareness among public officials, economists, academicians and others that increasing supply rather than restricting demand is a more appropriate way of combating inflation. There is a correlation between savings and investment and increased productivity, job creation and lower prices. Therefore, emphasizing public policies aimed at increasing productive capacity and output is highly desirable. Consistent with this need, S. 1435 would generate an increase in business investment and production.

UNDERSTATEMENT OF CAPITAL COSTS

Inflation causes business profits to be overstated because they are based on accounting practices that undervalue the cost of depreciation and inventories. Current tax depreciation, based on historical cost, was designed in a noninflationary environment and does not provide sufficient deductions to recover replacement costs. It acts as a deterrent to capital investment.

Although Congressional actions in 1971, principally enactment of the Class Life Asset Depreciation Range (ADR) system, went part way to improve the rate of capital recovery in the United States, existing capital recovery, based on the "useful life" concept of depreciation, still does not adequately take into account the ever-increasing cost of asset replacement in an inflationary economy.

The extent to which nonfinancial corporations have understated their capital costs is shown in the following tabulation comparing current-cost double declining balance (DDB) depreciation with depreciation allowed nonfinancial corporations for Federal income tax purposes. As can be seen from the tabulation, the excess of current-cost DDB over tax depreciation has grown from a negative amount in 1965 to $28.2 billion in 1978.

NONFINANCIAL CORPORATIONS EXCESS OF CURRENT-COST DDB OVER INCOME TAX DEPRECIATION, 1965–78

[In billions of dollars]

	Current cost DDB [1] (1)	Income tax depreciation [2] (2)	Excess of (1) over (2) (3)
1965	35.7	36.4	−0.7
1966	39.6	39.5	.1
1967	44.2	42.9	1.3
1968	48.5	46.7	1.8
1969	53.8	51.3	2.5
1970	59.5	54.6	4.9
1971	64.5	58.7	5.8
1972	68.8	65.3	3.5
1973	75.7	70.5	5.2
1974	89.3	77.8	11.5
1975	105.8	85.0	20.8
1976	115.1	92.3	22.8
1977	124.7	100.8	23.9
1978	137.0	108.8	28.2

[1] 75 percent of bulletin F lives.

[2] Estimate of depreciation allowed for Federal income tax purposes.

Source: Department of Commerce.

Either full indexing of the tax system or adoption of some form of replacement cost depreciation probably represents the only real solution to the problem of understated capital costs during periods of inflation. Short of adopting either of these concepts, enactment of the "10–5–3" system, which would significantly shorten the capital recovery period, would contribute importantly to alleviating the problem.

PROPOSED CAPITAL RECOVERY ALLOWANCE SYSTEM

S. 1435 would, in essence, provide a capital recovery allowance system under which:

The recovery period for industrial, distribution and retail buildings is 10 years,

The recovery period for machinery and equipment is 5 years,

The recovery period for automobiles and light trucks (up to $100,000 per year) is 3 years, and

A full (i.e., 10 percent) investment tax credit is allowed for all eligible property in the 10- and 5-year classes and a 6 percent credit is allowed for all eligible property in the 3-year class.

The enactment of the "10–5–3" system would be a major step toward the simplification of our tax laws which would be especially beneficial to the nation's smaller businesses. It would eliminate most of the complexities of the present depreciation tax law including the determination of useful life, proper guideline classification and estimated salvage.

The new "10–5–3" capital recovery allowance system would contribute significantly to improved cash flow for businesses investing in productive facilities. Essential to the acceptability and effectiveness of the proposed capital recovery allowance system are both the availability of the investment tax credit and the use of accelerated methods. Accelerating the recovery makes after-tax funds available sooner for maintaining, upgrading or expanding the stock of capital assets. Furthermore, by increasing the return on investment, the proposed capital recovery allowance system would increase the likelihood that important, but otherwise financially marginal, projects would be undertaken. This, in turn, would lead to more employment.

Over the past decade, expenditures for research and development (R. & D.) in the United States, exclusive of the space program, have barely kept pace with the growth of the economy. R. & D. is critical to successful innovation, but it is only the first step through which technological knowledge is translated into commercially viable products. This process usually involves substantial investment in new plants, modern machinery and equipment, market development, employee training and the like.

Investment in R. & D. is governed by the same risk/reward considerations as investments in tangible business property. Acceleration of R. & D. can be promoted by correcting the same economic and political factors that caused the decline in the growth of business investment generally. Enactment of the "10–5–3" system would improve the crucial risk/reward ratio which is the basic determinant of the level of business investment. By contributing to a more favorable business investment climate, enactment of S. 1435 would help to reverse the decline in R. & D. investment and innovation.

S. 1435 is not "targeted" to help one particular geographical area of the United States or segment of industry. The "10–5–3" system of capital recovery is aimed at stimulating investment in new plant and equipment by all businesses, large and small, located in all areas of the domestic economy, in order to achieve the vital national economic goals of increasing productivity, controlling inflation, improving the balance of trade, and providing jobs and a better standard of living for the citizenry.

In the area of competitiveness in domestic and international markets against foreign companies, it is essential that the industrial plant in the United States be upgraded and modernized because the technological lead which the U.S. once had over the rest of the industrialized world has been substantially narrowed in recent years. If the national economy is strong, growing and competitive in international markets, all areas of the country and types of businesses will benefit.●

A TRIBUTE TO PARLIER HIGH SCHOOL

HON. CHARLES PASHAYAN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. PASHAYAN. Mr. Speaker, I would like to call the attention of my colleagues to the excellent achievements of Parlier High School in the 17th District of California, and its chapter of the Future Farmers of America.

Mr. Robert Hunt, Parlier's FFA adviser and agriculture department teacher, has come to Washington with two Parlier High School students, Miss Maria Betencourt and Miss Grace Reyes, as part of the California delegation's FFA tour. At the end of this tour, they will accept the 1979 national award in the FFA's Building Our American Communities program on behalf of the entire Parlier chapter. Success in this very competitive program is testimony to Mr. Hunt's dedication to his students, and the fine efforts of the entire Parlier community, young and old, teacher and student, school officials and parents, and the local, State and Federal governments.

This award-winning project involved the beautification of the Parlier High School grounds and stadium. Over 3,600 shrubs and flowers were planted in this effort, which also involved thousands of working hours, which were dedicated to this cleanup and renovation project.

This FFA award is one of many which have been bestowed upon the Parlier FFA chapter. Last year, Parlier High School received a Presidential citation for their service to the community and the Nation through environmental protection achievement. Also, this energetic group has been invited to Sacramento to receive the Golden Governor's Citation for one of their environmental projects.

It has been my good fortune to see the results and to share in Parlier's excitement about their renovation project and this FFA award. I am very proud of the numerous achievements of Mr. Robert Hunt, and the Parlier High School FFA chapter, and I am certain that my colleagues join me in congratulating the community of Parlier on this and their many fine achievements.●

NONFUEL MINERALS POLICY REVIEW: A $3.3 MILLION WASTE

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. SANTINI. Mr. Speaker, there is a short editorial in the October 1979 edition of Mining Engineering, the publication of the Society of Mining Engineers that I believe sums up the frustrations of the mineral professionals in this country. The society's disenchantment with the administration's "non-analyses" of problems, its first phase of the nonfuel minerals policy review, adds to the existing long list of like opinions. The draft "Report on the Issues" according to the editorial "hits rock bottom."

What the editorial does not say is that 20 months of wasted effort cost the Federal Government $3.3 million.

The editorial follows:

NONFUEL MINERALS STUDY: DISASTER ON THE POTOMAC

A draft of the "Report on the Issues Identified in the Nonfuels Mineral Policy Review" was finally released to the public in August 1979. Embarrassed is the only word for the author of ME's July editorial, who optimistically stated that "accusations of an administrative 'whitewash' of the final draft are ludicrous."

The July editorial was based on a preliminary draft which, for all intents and purposes, is "nonexistent" when one talks with government officials. The curious thing is that I and many, many others have this "nonexistent" preliminary document sitting conspicuously on our bookshelves.

Even more curious, though, is the draft report which was released to the public. It would take some true detective talents to find the resemblances between the "nonexistent" preliminary report that had been prepared for internal consumption and the report published for public consumption. As AMC's Al Overton put it, the public report represents a "slipshod job and should itself give no occasion of pride to those associated with it." With release of the public report, the mineral industry's collective faith in an objective probem analysis by the study group has hit, shall we say, rock bottom.

Specifically, references to the cumulative impact of government policies on the health of the US minerals industry was the most obvious omission. Yet many consider it the largest hurdle to production, as Asarco's Simon Strauss testified at the study group's Los Angeles hearing. A reading of the final draft indicates that some of the major issues were identified, but clever wording and reorganization of the text makes the reader wonder if the US is faced with any problems at all. "The existing nonfuel mineral policymaking process can be said to work adequately," is an example of this kind of word play.

The mining industry's reaction to the document was matched by that of Rep. Jim Santini (D-Nev.), chairman of the House Subcommittee on Mines and Mining. He termed the report "flim-flam . . . a masterpiece of understatement . . . so innocuous that it is virtually impossible to draw conclusions from . . . ." The report, Santini continued, is "a device to acquit the government of responsibility for the debilitating effect of its policies on America's mineral industry" and was intended "to absolve the Interior Department of the responsibility to carry out the mandate of the Mining and Minerals Policy Act." Furthermore, "by purposely obfuscating the problems, the report commits the greater sin of deception. Its designers believe they can take a serious national problem and, like a piece of putty, shape an assessment into any design they wish." Santini vowed that his subcommittee "is not going to let this occur."

ME believes that the objectives of the original Project Management Plan derived from the Presidential Order in December 1977 have been largely ignored. It's been said many times that the impact of mineral shortages may have far more reaching consequences than the current energy crunch. With increasing mineral trade deficits growing from $3 billion in 1973 to $8 billion in 1978, the economic ramifications are obvious. Phase I in its final form appears to be a major blow to the minerals industry. ME hopes that input from the private sector during the public hearings, together with pressures from Santini's subcommittee, will be significant enough to turn around this dangerous imbalance. The consequences are too great and have been ignored too long.●

KLAN MARCH IS OFFENSIVE

HON. JIM MATTOX

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. MATTOX. Mr. Speaker, the scheduled march of the Ku Klux Klan in downtown Dallas on Saturday is offensive to me personally and to the vast majority of my constituents. The Klan's history of hatred and violence are not only un-American but also contrary to the climate of racial understanding that has been developing in Dallas in recent years.

Under our constitutional system of government, all groups, even those on the outer fringe of society like the Ku Klux Klan, are granted freedom of speech. However, that does not mean that the Klan has the right to intimidate others or to deny anyone the rights it enjoys.

I am confident that the people of Dallas will conduct themselves with restraint Saturday, and that when the day is over, the Klan will have succeded only in embarrassing itself and not our great city.●

CZECHOSLOVAKIA'S UNJUST VERDICT

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

• Mr. COUGHLIN. Mr. Speaker, the recent conviction of six Czechoslovakian human rights activists for so-called subversive activities has shocked not only the Western nations but the Communist bloc countries as well. These convictions on indictments of "undermining" the prestige of the Nation because their protests were printed in publications abroad have opened up a new chapter of subversive crimes through associations.

A recent editorial appeared in the Philadelphia Inquirer clearly expresses the absurdity of this situation. I am including the following article for my colleagues consideration:

PRAGUE'S "INIQUITIOUS VERDICT"

The conviction in a show trial, open to everyone except journalists and supporters of the defendants, of six human rights activists by a subservient Prague court was as disgusting as it was predictable.

Five of the six, including the celebrated Czech playwright, Vaclav Habel, drew sentences ranging up to five years (one receiving a two-year suspended sentence). The government accused them of "subversion of the republic." All were signatories of Charter 77, the Czechoslovak human-rights manifesto which, in early 1977, courageously charged the Czech Communist government with violating its human-rights pledges at the 35-nation Helsinki conference of 1975.

One of those pledges was, of course, freedom of speech and expression, and in 1977 the Czech government promptly confirmed the charge by refusing to permit publication of the manifesto and by arresting some of its signatories (including Mr. Havel). One of the Helsinki guarantees is of the right to "seek, receive and impart information regardless of frontiers and of whether it is oral, written or printed." The indictment of the six charged that their protests had appeared in publications abroad, stretching subversion by association beyond absurdity.

According to the Czech Communist Party daily Rude Pravo, the six defendants were justly punished for "undermining" the prestige of the nation. The Czech government has no prestige, subservient as it is to the *diktat* of Moscow and determined to crack down on citizens who speak up for freedom.

If any comfort can be taken, it is in the chorus of protest from governments (the U.S., France, Britain, West Germany, and Italy among them) and citizens abroad. Even Communist parties in Italy, France, West Germany and Spain have denounced the "iniquitious verdict in Prague," as the French Communist paper, L'Humanite, called it. Unfortunately, little is being heard from those "third world" governments which are so quick to denounce such "imperialist" Western democracies as the U.S. and Israel for their alleged violations of human rights.

Charter 77 declared that "every individual bears a share of responsibility for the general conditions in the country." Every individual and every government that calls itself civilized shares responsibility for speaking up against violations of human rights wherever they may occur.

I am also submitting a copy of the personal protest Congressman RONALD MOTTL and myself have sent to Czechoslovak President Gustav Husak urging a full reconsideration of these convictions. The letter follows:

WASHINGTON, D.C., *October 29, 1979*.

Hon. GUSTAV HUSAK
President
Czechoslovak Socialist Republic

DEAR MR. PRESIDENT: By its signing of the Helsinki Accords, the Government of Czechoslovakia officially recognized its responsibilities as a member of the world community to abide by provisions that spell out human rights' protections.

We, therefore, protest—respectfully but forcefully—the recent trials and convictions of six Czechoslovak citizens: Vaclav Havel, Peter Uhl, Vaclav Benda, Jiri Bienbier, Mrs. Otta Bednarova and Mrs. Dana Nemvoca.

The particular concerns of Congressman Ronald Mottl, prominent member of the American Czechoslovak community, and myself, who was sharply criticized by the Czech Communist media for my published account of experiences in your country this year, have been confirmed by this trial of dissidents.

The circumstances and manner in which the six were tried and convicted have evoked protests in the United States and a number of European countries. As a signatory to the 1975 accords on human rights the Government of Czechoslovakia cannot—in good faith or conscience—argue that the trials and convictions are an "internal matter."

By trying and convicting the six in a courtroom which barred journalists and supporters, the Government of Czechoslovakia further aroused world sensibilities by its continued defiance of the Helsinki Accords. We are dismayed that your government would so blatantly display its disregard for a human rights agreement that it signed of its own will.

Such conduct casts an ominous shadow of suspicion on the Government of Czechoslovakia in its relations with other governments whether over human rights, mutual trade or other international considerations.

We urge that you use the powers of your good office to acknowledge your obligations under the Helsinki Accords and release the six defendants from prison.

Sincerely,

RONALD M. MOTTL.
LAWRENCE COUGHLIN.•

It is our hope that this international outcry will provide some assistance to these Czech citizens who dared to question the actions of their own government.•

PERSONAL EXPLANATION

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

• Mr. CLINGER. Mr. Speaker, on November 2, 1979, I was absent from the first vote before the House as I was attending a briefing by Under Secretary Warren Christopher, Department of State, the White House Working Group on Cambodia and AID officials concerning Cambodia starvation—what is the United States doing? Had I been present, I would have voted in the following fashion:

Rollcall No. 627: Journal. The House approved the Journal of Thursday, November 1, 1979, "yea".•

THE TRIO PROGRAMS

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

• Mrs. CHISHOLM. Mr. Speaker, for a number of years, I have been actively involved in examining issues and developing proposals for the reauthorization of the Higher Education Act. Of particular concern to me has been those programs which target funds toward youth from low-income families—the TRIO programs.

These programs are designed to correct the inadequacies of precollege education which prevent many low income and disadvantaged students from developing their full potential, therefore limiting their educational opportunity. The TRIO programs have been among the most successful of many efforts to provide needed educational services for poor and educationally disadvantaged students. The impact of long-range assistance which TRIO provides is virtually immeasurable. The role of the TRIO programs in providing access to higher education for minorities and low-income students who might otherwise fail to qualify for admission is indeed quite significant.

For well over a year now, I have been working on legislative proposals designed to clearly define the eligibility criteria for the proportional mixture of low income and educationally disadvantaged students under these respective programs. Although the Education and Labor Committee in its bill, H.R. 5192, has adopted the first generation eligibility criteria, I have not been able to fully understand its practical application. The first generation criteria is defined as a student whose parents have not attained a baccalaureate degree. The administrative complexities associated with the use of the first generation concept would result in ambiguous and confusing justification, validation and definition. The paperwork necessary to effectively manage the first generation requirement would necessitate explaining the meaning of the term and convincing applicants of the need to reveal information on parental educational attainment. This process could well inhibit program participation.

Additionally, the certification that a student is a first generation college student would also be difficult to process administratively. Who would certify that neither of a student's parents went to college? If the Federal Government makes a determination of certification, it would be viewed as excessive Federal intrusion into the lives of applicants. If program managers took the certification responsibility, the Federal Government would not be able to verify the necessary data for implementation.

My utmost concern is the burden of proof which would inevitably fall on the student applicant. The survey of income and education estimates that 98 percent of individuals 18 to 24 years of age are not only first-generation students, but also low-income individuals as well. The question, then, is why introduce a new criteria if the modified income criteria alone will lead to serving virtually the same desired target population. I have adopted in my bill, H.R. 5680, the 150 percent eligibility criteria as an applicant guideline for admission.

I hope the members of this body will carefully review this new concept before moving in the direction of perhaps placing additional burdens on low-income students. The lack of an adequate education itself is the greatest burden one can bear.●

THE HAZARDOUS WASTE RESPONSE ACT OF 1979

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. FLORIO. Mr. Speaker, releases of hazardous wastes from inactive and abandoned sites is the most serious environmental problem facing our Nation today. The past months have brought to public attention a series of inadequate and illicit hazardous waste management practices. These practices have imposed unacceptable social and environmental burdens, as well as staggering cleanup costs on our society. Such tragedies as occurred at Love Canal, N.Y., Valley of the Drums, Ky., and Pittston, Pa., and scores of other cases throughout the country have revealed a pattern which is both alarming and dismaying. Decades of improper disposal practices have resulted in a legacy of potentially thousands of problem sites which may require billions of dollars in response costs.

Current Government authority to correct this problem is extremely limited. Government response to inactive and abandoned sites under existing funded statutory authority first requires documentation of an imminent and substantial threat to public health or welfare and successful judicial action to enjoin responsible parties before any remedial actions may occur. This can require months and often years. Where a responsible party cannot be identified or is not financially viable, no effective Government response is authorized by existing laws, unless the disposal site discharges oil or specifically designated hazardous substances into navigable waters.

For these reasons I am today introducing the Hazardous Waste Response Act of 1979. The bill would establish a comprehensive system of notification, emergency Government response, enforcement, and liability for releases of hazardous wastes from inactive and abandoned disposal sites. Specifically, the bill would:

Require owners or operators of hazardous waste sites or others who might contribute to hazardous waste releases to notify the Government if a release takes place.

Empower Government to respond promptly to releases at inactive and abandoned sites.

Prohibit releases from inactive and abandoned sites. Persons responsible for a release would be required to take remedial actions. Government action is only authorized when responsible parties fail to take necessary response actions.

Establish liability without fault to enable persons and Government agencies to recover from responsible parties.

Establish a fund to assure moneys to carry out these authorities. The fund would be raised from Federal appropriations and an industry-based fee. The fund would raise $1.3 billion over a 4-year period.

Enlist the aid of the States by authorizing the Federal Government to make grants to States, enter into coperative agreements, or contract with States to respond to releases at sites. If response costs exceed $300,000 at a given site, States would be required to contribute 10 percent of the response costs.

The Interstate and Foreign Commerce Subcommittee on Transportation and Commerce held a series of hearings and undertook extensive deliberations on superfund legislation as applied to inactive and abandoned disposal sites. The bill I am introducing today is a result of those hearings and deliberations.

I am hopeful that Congress will give prompt attention to this bill. By so doing the Government will be able to respond effectively to the public health and environmental threats posed by hazardous wastes at inactive and abandoned disposal sites. The health and safety of our citizens cannot afford anything less.●

FROM "CABBAGE PATCH" TO "GARDEN OF EDEN"

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. GAYDOS. Mr. Speaker, I am always dismayed when I read in the news of another American company that has "run away" to a foreign location. I always wonder if the trip is necessary. Too often it means a loss of American jobs, a severe jolt to the economy of the community which the plant was located and the disruption of the family life of the former employee.

Consequently, I have introduced or sponsored various pieces of legislation designed to discourage "runaways" who leave for purely profit reasons. I would favor Federal assistance to firms whose futures are jeopardized by economic factors beyond their control or to the communities who depend on their existence if such assistance can be justified.

I am annoyed, however, when a major corporation comes before this Congress seeking financial help on the grounds it wants to save American jobs while at the same time that corporation is planning to build a new $100 million plant in Mexico.

I refer, of course, to Chrysler Corp., which is asking "a helping hand, not a handout" of hundreds of millions of dollars in a taxpayer-backed loan guarantee to help pull its operations out of the financial red. I understand the corporation has divested itself of some foreign holding and is in the process of closing plants in various areas of this country, including a parts depot which employs workers who live in my 20th Congressional District of Pennsylvania, in the interest of economy. I suspect these actions also are to demonstrate to Congress the corporation's sincerity in attempting to put its financial house in order and help gain support for its loan request.

As you know, that request is controversial. There are Members who feel the Federal Government has absolutely no right to assist a private company whose decisions and operations have put it in financial hot water. There are others who believe the economic consequences of allowing this major employer to go bankrupt will be so severe that Federal aid to avoid the potential catastrophe is absolutely essential.

I will probably support the proposed loan guarantee, but I admit I am greatly disturbed over reports of Chrysler's proposed Mexican plant. According to news reports earlier this month, the corporation will spend $110 million—would it be part of the federally guaranteed loan?—to construct a four-cylinder engine plant which would become operational in 1981 and assemble 270,000 engines a year.

The reason given is Chrysler is seeking independence from Volkswagenwerk and Mitsubishi Motors upon whom it relies heavily through long-term purchase contracts to supply its current and future cars with small, fuel-efficient engines. This spirit of independence is admirable. But, I also see just a tradeoff of jobs. Instead of German or Japanese autoworkers assembling the engines they will be Mexican autoworkers. There is no benefit for the American autoworker.

Mexico, it seems, is becoming a haven for American companies. Industry Week magazine, in its Oct. 29 issue, headlined a story: "A Border Stampede Down Mexico Way." The article stated more than 450 U.S.-owned plants have been established there and it cited several reasons for this southward trek.

Last year, for example, the Mexican Government changed its regulation which required an American company exporting to Mexico to import an equal amount of goods. Also, the American firms benefit from cheap labor rates—less than $2 an hour—and special reduced tariffs on goods brought back into the United States.

Mr. Speaker, the area where many of these companies have settled once was described as "a cabbage patch." I contend it has now become a "Garden of Eden" for runaway companies. I regret that Chrysler Corp. may have succumbed to temptation for the fruits of its production will leave a bitter taste in the mouths of American autoworkers.●

CONCURRENT RESOLUTION ON FISCAL POLICY

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. GEPHARDT. Mr. Speaker, I am today introducing legislation that would amend the Congressional Budget Act to require the Federal Reserve Board to submit to the House of Representatives and the Senate a recommended level of surplus or deficit, based on anticipated levels of revenue and outlays and other economic data to pursue a successful economy for the next fiscal year. This data would be submitted at least 1 month before the first and second budget resolutions, respectively. Using the submitted recommendations and any other appropriate recommendations, each House would then act by concurrent resolution to establish the surplus or deficit level to be utilized by the House and Senate Budget Committees in the congressional budget process.

Each passing week seems to find a new proposal being offered to balance the budget or, short of that, to limit Federal spending. While these are noble goals that I hope we will achieve someday, we should recognize that a rigid balanced-budget rule likely would have a destabilizing effect on the economy. It would require fiscal policy to be restrictive in recessions and stimulative in booms. A macroeconomic model simulation done by Data Resources, Inc., indicates that a rigid balanced budget rule would have greatly deepened and prolonged the 1974–75 recession, resulting in unemployment rates about 11 percent in both 1975 and 1976 and remaining above 9 percent as late as 1977.

Unfortunately, even a more flexible spending limitation rule may ultimately be destabilizing. An optimally designed rule would determine the appropriate spending level and, ultimately, the size of the budget surplus or deficit, according to the degree of slack existing in the economy. The budget should be in surplus when utilization is high and in deficit when low. A problem with such a contingency rule is that it requires a reliable indicator of economic slack whose meaning does not change over time. We simply do not have such an indicator.

The hard fact is that it requires judgment to assess current economic data and determine the tightness of the economy. However, there is no way to write judgment into a mechanical budget balance or spending rule.

There is an alternative to a mechanical rule that both allows Congress to insulate fiscal policy from short-term political pressures and permits judgment to be exercised in budget decisions given changing economic conditions. The Congress could require the Federal Reserve Board to recommend a surplus or deficit for the coming year. This recommendation would be submitted to the House and Senate Budget Committees at least 1 month before the first and second budget resolutions. Using other economic data at their disposal—for example, the recommendations of the Congressional Budget Office, OMB, economists, and so forth—the respective committees would recommend and the House and Senate would then set surplus or deficit levels within which the budget would be established.

These levels would not necessarily be the same as those recommended by the Federal Reserve Board, but at least we would have the independent judgment of the governmental entity most responsible for fiscal and monetary policy on the state of the economy and the relative need for surplus or deficit.

The important point is that Congress would take into consideration and decide on the overall size of the budget before deciding on actual, specific outlays.

In sum, consideration of a Federal Reserve Board recommendation on fiscal policy as an alternative to a mechanical rule does help clarify the major issue in the debate:

The movement of Congress toward ceding its authority over budget balance is apparently motivated by a desire to insulate fiscal policy from short-term political pressures.

The determination of the appropriate fiscal policy requires judgment in the interpretation of the available data, and such judgment cannot be written into a mechanical rule.

Congress should want to exercise great care before it gives up any of its authority over fiscal policy. Before adopting a mechanical rule, it must carefully weigh the benefits of such a change against its costs. This rule would allow a decision concerning the Federal deficit to be made separately and before addressing the specifics of the budget. I recommend the concurrent resolution on fiscal policy to you.●

FREQUENT QUESTIONS ABOUT HOSPITAL COST CONTAINMENT ACT OF 1979

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. WAXMAN. Mr. Speaker, during the last several weeks a number of Members have asked questions about the Hospital Cost Containment Act of 1979, H.R. 2626, which has been reported by both the Committee on Interstate and Foreign Commerce and the Committee on Ways and Means. I believe it would be useful to respond to some of the most frequently asked questions.

Why should standby controls be proposed for hospitals but not for other inflationary sectors of the economy?

The hospital sector is different because the traditional competitive forces of the marketplace do not operate in the hospital industry. More than 90 percent of all hospital bills are paid by third parties. Medicare, medicaid and Blue Cross commonly pay on a cost-plus basis. In general, this means the more the hospital spends, the more it gets. Other insurers pay established charges. There is little incentive for hospitals to hold those charges down.

Given this situation, it is no surprise that hospital expenditures have increased at double-digit rates for more than a decade.

This bill sets reasonable limits on the amounts hospital revenues can increase. It encourages hospitals to budget on a prospective basis, and act in a cost-conscious manner.

How can a limit be placed on a hospital's revenues and not its costs?

The limit on revenues is really a limit on how much hospital revenues can increase over and above the amount a hospital's costs increase. The limit is based on (a) wage increases, and (b) inflation in the goods hospitals purchase. It is adjusted if more people are served. What this bill does is to exercise some reasonable control over additional increases that are not due to increases in costs or people served.

Will the legislation prevent my State from developing its own cost-containment program?

No, the legislation does not prevent State cost-containment initiatives; it encourages them. Effective State cost-containment programs operate in place of a Federal program; this is the best incentive that could be designed to get State programs in place that work. The bill even provides grants covering up to 50 percent of the cost of planning, establishing or operating State mandatory cost-containment programs. Grants would be available to both new and existing State programs.

How can a State be exempt from the Federal mandatory program?

A State can be exempt by establishing a State mandatory cost-containment program. A number of States have already authorized or established a mandatory program: Colorado, Connecticut, Illinois, Maryland, Massachusetts, New Jersey, New York, Rhode Island, Washington, and Wisconsin. Any other State can be exempt if it establishes a State mandatory program which is (a) applicable to all hospitals in the State and to all revenues except medicare (or to 75 percent of revenues including medicare); (b) treats all payers, hospital employees, and hospital patients equitably; (c) does not discourage philanthropy; and (d) is effective (that is, holds revenue increases to within 1 additional percent of the State's voluntary goal).

Why not just let the voluntary program work now and pass a bill later?

Everyone hopes the voluntary effort will work. This bill was carefully designed to let it work—nationally, in a State, even in an individual hospital. But it is our responsibility in Congress to provide some assurances that increases in hospital costs will be controlled.

The backup mandatory program provides us with a guarantee. It provides the industry with incentives to make the voluntary program work; in fact, the expectation that enactment of this legislation was imminent is probably one of the major reasons the voluntary effort has worked so far. If we remove the teeth from this bill, we say to the hospital industry, do what you can, but if costs are not controlled, we will not interfere. This is not the assurance the poor and the elderly and the American taxpayer need.

Would a State mandatory program have to cover all hospital revenues in a State in order to have an acceptable cost-containment program?

No, the bill provides that the program must apply to all revenues or expenses for inpatient hospital services (except for medicare) or to at least 75 percent of all revenues or expenses for inpatient hospital services (including medicare). This second option would enable a State such as Michigan which is now preparing to control revenues from medicaid and Blue Cross, to extend controls to medicare, and qualify on that basis. Such a State would be exempt from the Federal mandatory program, if the conditions relating to equity, effectiveness, and philanthropy were met.

Are Federal hospitals covered under the bill?

Federal hospitals are not covered under the version of H.R. 2626 which was reported by the Committee on Interstate and Foreign Commerce and which we will be voting on in the House. Expenditures and revenues of VA hospitals and other Federal facilities are already controlled through the budget and appropriations process. It is unnecessary to include them.

Are the hospitals in my community going to be adversely affected because of population growth that is taking place?

No, the bill recognizes that growing populations will mean more rapidly increasing hospital expenditures. Under the voluntary program, increases in an area's population are taken into consideration. The percentage increase in an area's population would be added to the other factors which make up an individual hospital's voluntary percentage limit.

How will the bill affect the wages of hospital workers?

The bill contains a wage passthrough for nonsupervisory workers. The wage passthrough is necessary so that nonsupervisory workers will not bear more than their fair share under cost containment.

During the economic stabilization program when controls were in place and there was no passthrough, wages of hospital workers declined relative to other nonsupervisory workers. These wages have been and are still below the wages of other nonsupervisory employees.

How much is this bill likely to save the American taxpayer?

Enactment of H.R. 2626 will mean savings to both our citizens and the Federal Government. The administration estimates that the 5-year savings that will result from the Commerce Committee's bill is $41.2 billion, $16.7 billion of which is a savings to the Federal Treasury which will result from lower medicare and medicaid costs.

Why was it necessary to put various exceptions in the bill where the Secretary would be exercising discretion?

Exceptions are necessary in order to recognize the particular situations of individual hospitals. The bill is designed to set out a general formula for controlling costs. That formula recognizes the situation of each individual hospital—it reflects its own wage increases, its own market basket, the increase in prices and population growth in its area—but it is a uniform rule applied to all hospitals.

However, of course, hospitals are in different situations—some are changing their capacity, some have extreme changes in admissions, some are adding services. There had to be some way to respond in an individualized manner to special circumstances. That necessarily means exceptions—and discretion. To eliminate that discretion would make the bill too rigid. But to make everything subject to individualized decisions with no general rules would be too uncertain and too difficult to administer. In this bill, we have tried to walk the middle ground.●

AFRICAN INITIATIVES ON HUMAN RIGHTS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. STARK. Mr. Speaker, for many people, the continent of Africa is a faraway land—distant not only in miles but in understanding as well. Too often, in recent years our perceptions have been shaped by Uganda's Amin, Libya's Khadafy, Equatorial Guinea's Masie, and the Central African Republic's Emperor Bokassa.

Many others view Africa as one, failing to distinguish its individual parts—its sovereign nations.

Yet, as the African nations evolve into global actors, it is important that we begin to make the necessary distinctions. Mindful of these distinctions, we notice an interesting and praiseworthy situation in many African nations. African human rights movements are doing well. Amin, Macias, and Bokassa have been overthrown. Popular elections were recently held in Nigeria, ending years of military rule. Not only was Bokassa ousted, but his ouster was expedited by the joint condemnation of five African nations following their investigation into the Emperor's activities. This investigation was, as Richard Moose writes in a State Department memorandum, "in itself a landmark in African attention to human rights."

These developments are welcome, and they signal the need to develop a greater understanding of the African nations. As in other parts of the world, human rights progress will wax and wane in Africa. But we ought to note and encourage progress wherever and whenever it does occur.

This is why I would like at this time, then, to insert in the Record Mr. Moose's memorandum, entitled "African Initiatives on Human Rights."

The memorandum follows:

DEPARTMENT OF STATE,
Washington, D.C., September 6, 1979.

To, D—Mr. Christopher
From, AF—Richard M. Moose
Subject, African Initiatives on Human Rights

One of the most persistent criticisms of American emphasis on human rights observance has been labeling it "cultural imperialism", an attempt to impose American standards upon other societies. Against this background recent developments in Africa pose an arresting counter-balance. Since the beginning of 1978, several African nations have taken significant steps towards furthering the human rights of their citizens. Simultaneously with the political initiatives, individual Africans have been meeting in both official and private capacities to provide an intellectual framework for a greater observance of human rights in Africa.

The most spectacular developments have occurred in Uganda and Equatorial Guinea, where two of the continent's most deplorable records of human rights violations had been amassed for eight and eleven years, respectively. The overthrow of Idi Amin and Nguema Biyoto Masie within four months of each other has ended two governments founded upon terror, political murders, and corruption. Another government, that of the Central African Empire, has been condemned by an investigation conducted by five African nations, in itself a landmark in African attention to human rights. The fate of Emperor Bokassa is still uncertain, but the concern of Africans over the abuses alleged to have occurred in the CAE points to the necessity of some modification in the regime's arbitrary powers. The findings of the five-nation commission were cited by the French in suspending all economic aid to the CAE, except for health, food, and education assistance. The Senegalese have also expressed their displeasure by closing their embassy in Bangui.

Peaceful improvements in furthering greater political participation have been provided by a return to civilian rule in several countries. Nigeria held an intricate series of elections over seven weeks during July and August 1979, ending a twelve-year ban on political activity in effect since the military seized power in 1966. The military governments which had ruled Upper Volta and Mali for more than a decade voluntarily returned their countries to civilian rule in 1978 and 1979. Despite a military coup, Ghana has held elections as scheduled during the summer of 1979, and has scheduled the installation of a civilian president in October 1979.

African nations with a democratic tradition have strengthened their commitment to the rule of law. Senegal held national elections for the first time in February 1978 under a new constitutional provision providing for a three-party system. When Kenya's only president, Jomo Kenyatta, died in 1978, Daniel arap Moi became president through an orderly transition, entirely in accord with the Constitution.

Changes have slowly occurred in nations such as Guinea and Zaire. Guinean President Sekou Toure has released hundreds of political prisoners over the past two years, including Archbishop Tchidimbo. Zairian President Mobutu has embarked upon a reform program, following IMF guidelines for stabilizing the economy. He is also retraining and restructuring the Zairian Army (FAZ) to provide greater security for the civilian population by bringing an end to abuses committed by the FAZ.

The pace of African concern over human rights has quickened in recent months, as evidenced by the activities of two pan-African conferences. The July OAU conference in Monrovia passed a resolution calling upon a group of experts to draft a charter of human rights for Africa "as soon as possible." A UN-sponsored seminar, also in Monrovia, is scheduled for September 10–21, 1979. It is being convoked to study the feasibility of creating an African regional human rights commission. The encouraging developments of July-September 1979 culminate a series of conferences held by Africans to study human rights in Africa:

Khartoum Consultation on Violations of Human Rights, sponsored by the All Africa Council of Churches, February 1975, 11 states represented.

Dar-es-Salaam seminar to consider human rights in a one-party state, September 1976, seven states represented.

Butare Colloquium on Economic Development and Human Rights in Francophone Africa, July 1978, six states represented.

Dakar Colloquium on Economic Development and Human Rights, September 1978, 12 countries represented.

Sierra Leone, African Bar Association's conference, "Human Rights in Africa", August 1978.

Cape Town, First International Conference on Human Rights in South Africa, January 1979.

Dakar, Francophone Lawyers Conference, January 1979.

The Dakar conference in January 1979 ended with the laying of the cornerstone for the Dakar Institute on Human Rights Education, the first human rights institute on the African continent.●

HOME HEATING FUEL CRISIS—PART VII[*]

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. GILMAN. Mr. Speaker. I rise to once again draw to the attention of my colleagues the timely issue of the home-heating fuel crisis.

It has become apparent that time is steadily running out for the Congress to enact the appropriate legislation to meet our Nation's energy needs for this coming winter. Certainly, a valid concern in addition to trying to provide adequate supplies is the problem of cost and subsequent financial hardship. Energy Secretary Duncan has assured us that his Department is doing everything within its capacity to insure that the stockpiled fuel of 240 million barrels will be in the homes of our citizens before bad weather sets in, making fuel transportation a risky, if not impossible, task. I am hopeful that the distribution pipelines will be utilized to their fullest extent and that our fears of empty storage tanks will not materialize.

However, even if the supply problem is overcome, we are faced with yet another—perhaps equally severe in nature—the critical issue of exorbitant home-heating fuel bills. I am concerned with the high cost of home-heating fuel and fully realize that many Americans will not be able to meet their bills without some form of assistance. It was for that reason that I voted in favor of House Joint Resolution 430, which passed the House late last week and provides $1.35 billion for special energy assistance to those low-income families who will need it the most at the outset of the heating season. That emergency bill will fund the States block grants ($250 million) and the money will be distributed according to approved State plans to households with incomes below 125 percent of the poverty level. Other portions of the appropriated funds would go toward a one-time allowance to recipients of supplemental security income (SSI), with $404.8 million set aside, and, finally, $791.2 million to be used for special energy allowances to recipients of aid to families with dependent children (AFDC). This measure will provide approximately $200 assistance for each family.

Realizing that this aid will go only to the very poor, and that the burden of high fuel costs also afflicts middle-class Americans, I am cosponsoring legislation that is presently before the Ways and Means Committee that will provide a tax relief to the middle-income taxpayer who will be expected to pay 60 to 70 percent more for heating oil than he was paying last year. This legislation will allow an individual with a moderate income to take a credit for up to one-third of his heating oil expenses, up to a maximum of $400. The full credit will be allowed for adjusted gross incomes of up to, and including, $30,000. After that, the credit will be reduced according to a sliding scale. The credits will be funded from revenues resulting from the windfall profits tax.

Measures of this nature are absolutely essential in order to protect the consumer from the mind-boggling profiteering that the major oil companies are engaged in, as well as the apparent, and at times illegal, pursuit of profits by some of these companies. To illustrate this point I am inserting into the RECORD at this point, in full, two recent articles that appeared in the Washington Post and which demonstrate the lack of interest by these companies in protecting the welfare of the American citizen, not to mention our national interests.

Mr. Speaker, I urge my colleagues to cross-examine the behavior of the oil companies in connection with this year's third-quarter profit reports, and to then formulate their opinion concerning the need for Federal assistance and the need for any Federal investigation as recommended in the above articles. I firmly believe that this is not only a sorely needed Federal involvement, but considering the circumstances, a minimal involvement. Undoubtedly, the oil companies will continue to report rising profits, albeit in relation to price hikes by the OPEC cartel, without any consideration for their stateside customers.

We have an obligation to the American people that does not stop with any tax credit or any one-time allowance for heating bills; rather, we have a continuing obligation that transcends all barriers. I urge my colleagues to support not only measures of this nature, but also to act above and beyond the call of duty in order to avert any further energy crisis.

The articles follow:

DOE TO ACCUSE OIL FIRMS OF IGNORING SUPPLY RULES

(By Larry Kramer)

Sometime in the next month or two, the energy department will accuse some of the top 15 oil companies of ignoring federal gasoline allocation rules during last spring's gasoline shortage, DOE sources said yesterday.

The department will use evidence gathered during a special investigation ordered last spring by President Carter to charge the companies with a variety of violations that may have contributed to the long gasoline lines earlier this year.

Under the direction of DOE Special Counsel Paul Bloom, dozens of auditors pored over inventory records and other documents and filings of the top 15 oil companies during the past several months. The investigation was separate from several others Bloom is conducting into industry compliance, or non-compliance, with complex federal pricing and allocation regulations from 1973 to 1976.

In the audit of 1979 practices, the sources said, the department concentrated on three types of violations which will likely also be the focus of the allegations eventually filed.

Did the major oil companies give retailers and resellers their proper allocations? There were charges, for example, that some majors were deliberately holding back allocations to independent dealers in favor of the company-owned retailers. Such a system would have created spot shortages that the allocation system was designed to prevent.

Were the monthly supply and allocation statements provided by the companies accurate? The Energy Department has apparently found computation errors in some oil company filings which were supposed to show how much oil was being allocated to various customers.

Did the companies give the government accurate inventory information? This aspect of the probe forced investigators to look as far back in the distribution chain as the high seas. The government sought to find out if the companies underreported their inventories by not including some crude oil that might have been in transit, or on ships waiting at ports to be unloaded.

Also under scrutiny here are unusual drops in production that occurred during the shortage, and possible diversion of some crude oil to the spot were occurring here.

It was not known if any criminal charges, such as conspiracy, would grow out of the investigation. But such a possibility has not been ruled out by DOE staffers. The Justice Department would be involved in the decision to file criminal charges.

But whatever civil charges are made will come in the form of administrative actions within department procedures, sources said.

Bloom's office has already filed charges alleging some $5 billion worth of overcharges and other violations on the part of several oil companies as part of the 1973–1976 audit.

But few cases have reached settlement, and only a minute amount of that money has actually been collected.

The industry has claimed that the complex regulations involved in both investigations could be interpreted in many ways, and that the interpretations used by the companies at the times in question were, in fact, largely approved by government regulators.

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[*] Part VII is part of a series of reports on the home heating fuel crisis with No.'s 1, 2, 3, 4, 5, 6, appearing in the CONGRESSIONAL RECORD on September 17, p. 24942, 24944, September 21, p. 25779, September 29, p. 26956, October 12, p. 28206, and October 26, p. 29800, respectively.

And, even in the 1979 investigation, DOE sources stress that in most cases it would be virtually impossible to prove deliberate violation of the highly complex rules by companies.

Cities Service Accepts $200 Million in Penalties

(By Edward Roby)

Cities Service Co. has agreed to accept $220 million in penalties, including rollbacks in heating oil prices, as part of a settlement of alleged price control violations, the Energy Department said yesterday.

The agency said the consent order signed by the Tulsa firm is the first comprehensive settlement its enforcement officials have obtained from any of the top 15 refiners.

On the basis of continuing department audits, the special counsel has issued 135 citations totalling about $5.2 billion against the major oil companies for alleged price violations that occurred between August 1973 and October 1979.

The Cities Service settlement raised the amount of cash refunds wrested from the majors to $370 million. Most of the alleged violations or discrepancies resulted from selling petroleum products above price control ceilings imposed in 1973.

Under the consent order, the firm agreed to roll back its wholesale heating oil and diesel fuel price by as much as 3 cents a gallon—a $20 million cost reduction this heating season.

The company also agreed to set aside $10 million to cover valid claims made by those who purchased its products during the period.

The settlement also requires the company to deduct $132.4 million from deferred or "banked" gasoline charges that could have been applied to future sales, deduct $15 million from banked propane costs and cancel banked costs on certain exempted products.

In a letter to Energy Secretary Charles Duncan, the company promised to boost its exploration and production budget by $150 million in the next two years.

Paul Bloom, the agency's special counsel, said the settlement "stemmed from a desire by both parties to develop a remedy responsive to the national concern that sufficient supplies of heating oil be available this winter at reasonable prices."

The consent order, which included no admission that violations occurred, settled all disputes between the agency and the company except on the proper allocation category of oil from certain marginal wells.●

TORSTEN LINDSTROM'S SAGE ADVICE

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. McCLORY. Mr. Speaker, in connection with a gala concert at the Kennedy Center in September 1977, where the guest conductor was Ulf Bjorlin of Sweden, I had occasion to meet an outstanding Swedish industrial leader and philanthropist, Torsten Lindstrom, who is president of ASEA, a Swedish multinational corporation.

Mr. Speaker, Torsten Lindstrom is a most thoughtful individual whose vision extends beyond the scope of his industrial empire to include cultural and social concerns with which our Nation and our world are faced.

Mr. Speaker, in an issue of ASEA International magazine earlier this year, Mr. Lindstrom wrote a most perceptive article entitled, "Technology, Youth and Unemployment."

In this article, Mr. Lindstrom pointed out the opportunity for business leaders to reach out to the young people of today both in this country and in Western Europe, as well as throughout the world to encourage their involvement in our market enterprise system in which they may learn and benefit.

Mr. Speaker, in addition to Torsten Lindstrom's position as president and member of the board of directors of ASEA, he is a distinguished engineer, being a fellow of the Royal Swedish Academy of Engineering Sciences and member of the Swedish National Committee for World Energy Conference and many other technical and scientific societies.

Mr. Speaker, I am proud, indeed, to attach to these remarks Mr. Lindstrom's illuminating and thought-provoking article:

Sage Advice

(By Torsten Lindstrom)

There are serious new dimensions to the continuing problem of unemployment in the industrialized countries of the world which should be receiving urgent attention from all corporate and social planners.

More threatening to existing political and market institutions than general unemployment, these new problems relate to growing unemployment among the youth, particularly in the West where they constitute a disproportionate percentage of the unemployed in many countries.

A U.S. Department of Labor report reveals that youth unemployment in 1976 was in the 12 to 14 percent range in the United States, France, Great Britain and probably Italy. Worse, teenage unemployment rates in these countries were in the 17 to 23 percent range. In the past Sweden has had, by far, the lowest jobless rate for persons under 25, 4.4 percent. But this is now changing and in 1977 unemployment increases were greater for youth in Sweden than for adults.

In human terms this translates into a growing army of disaffected youth, increasing social welfare costs and a labor force which is not being prepared to provide the work force of the future. More important, it is an army increasingly bent on jeopardizing existing public and private institutions. It is therefore a problem and a challenge which should be receiving thoughtful attention from politicians, educators and industrialists. For the effect may well be more serious than the cause.

Certainly many of these young people lack the elementary skills and knowledge that would enable them to enter the labor market at any but the most menial levels. To us in industry it is however more alarming that many of the unemployed young do not want to work in a market economy. They reject technology as a threat to society. They make common cause with social and political activists to fight technology on many fronts—in campaigns against the use of nuclear energy, in well-meaning but not always well-thought-out battles in the field of environmental protection, and in bitter attacks on the policies and practices of large industrial organizations.

The common denominator of this antagonism is a fear and distrust of modern technology and its impact on society, reenforced by an increasing dependence on governmental theorists who sometimes claim to have simple solutions to an extremely complex problem. One result is that industry is being penalized by governmental policies and edicts that restrict productivity and actually contribute to the unemployment and disaffection of young people.

We now have, in most of the industrialized countries, a vast subculture of youth—employed as well as unemployed—whose attitude toward working and organized industry is distinctly negative and whose members have been led to believe that technological progress is a threat to their hopes of enjoying a rewarding life.

It would be a mistake for industrial leaders to assume that resentment of the disciplines and practices of industry is limited to the so-called underprivileged or to minorities. Many young people who have been educated in leading colleges, universities and technical institutes—and who are gainfully employed in progressive companies—have questioned the industrial ethic.

The dimension of the problem cannot be minimized. The problem will not diminish. Instead, it is likely to become greater as industry demonstrates increasing capacity to produce more and more goods with fewer and fewer workers. The skeptical and disenchanted young person who confronts us today is likely to become an increasingly frustrated voter tomorrow, receptive to extremist proposals that threaten the always fragile stability of the modern social order.

News reports carrying figures on jobless youth competed with grim headlines announcing the displacement of more workers by robots, the closing of plants and the liquidation of entire companies, and new "social legislation" whose practical effect is to make it difficult for industry to expand its payrolls at a time when there is an urgent need for productive workers.

Technology has always been a handy scapegoat for those who are unwilling or unable to accept change and progress. In England, and in the early days of the Industrial Revolution, the Luddite workers wantonly destroyed new textile machines which they perceived as threats to their personal livelihood. When automatic telephone exchanges were first developed, it was widely feared that they would threaten the employment opportunities of unnumbered thousands of telephone operators. Ford's introduction of assembly line techniques for the mass production of automobiles—the forerunner of similar applications in virtually all of the modern industrial world—was accepted with reservations and widely criticized as inhumane.

We may, indeed, well imagine that our unknown ancestor who invented the wheel was stoned out of his tribe for unforgivable sin of developing a new technology.

In the light of our relatively brief experience—scarcely two centuries—since the Industrial Revolution became a major concern of human society, it would be difficult to argue that technology has been responsible for reducing the percentage of the human population for whom meaningful, productive work has been available.

Even today, in a period when unemployment is probably close to record highs in many countries, the "help wanted" advertisements of our daily newspapers bear silent witness to many new avenues of employment opened up by modern technology. Speak to the industrial personnel manager who is having problems filling his quota of jobs at all levels of skills and training. Speak to the householder who cannot locate a reliable craftsman to paint his living room, install new plumbing, or repair his automobile, television set or high-fidelity sound system. Both can testify that there is work to be done, and plenty of employers willing to pay well to have that work performed.

UNDERSTANDING THE MARKET ENTERPRISE SYSTEM

The robot on the factory floor or the automated conveyor in a modern port terminal may eliminate youth's opportunities to obtain monotonous, back-breaking employment, but they have by no means reduced the amount of work that remains to be done in the world. Whatever the sins that may legitimately be attributed to it, modern technology cannot be blamed exclusively for making it more difficult for young people to obtain meaningful employment in some sectors of our complex industrial society.

Youth's distrust of technology is based in part on a lack of understanding of the choices involved in the operation of a "market enterprise" system. It is often accompanied by excessive idealization of alternative systems that are not responsive to market forces.

I deliberately avoid use of the conventional term, "free enterprise," because it wrongly implies that industrialists (or, if you will, capitalists) have unlimited freedom to operate without powerful external restraints.

Technology is an integral element of "market enterprise" because it provides the means of satisfying market demands for goods and services at prices the market is willing to pay. A company or country that disassociates itself from the pursuit of technological progress does so at considerable risk. It will lose its place in the market and, inevitably, its ability to create jobs for its youth.

No system of human organization can function effectively in the absence of incentives and rewards for participating in the system. Yet social policy in many countries, including Sweden, has tended to keep young people from becoming effective participants in a system based on modern technology. Legislation designed to promote job security and safety at work in Sweden is so restrictive that it prevents many people from becoming wage earners. The so-called "Aman Laws" make it so difficult to detach an employee from a payroll that many companies—notably small and medium size ones—are extremely hesitant about hiring new personnel.

Once a young person has landed a new job, high rates of taxation discourage him from overtime work or the assumption of additional responsibility that could contribute to the strength of the enterprise. If the employee elects to "accumulate overtime" and take payment in the form of holidays (beyond the minimum of five weeks prescribed by law for all employees), the effective performance of his work is seriously delayed or disrupted. Because it no longer offers adequate incentives or rewards, work is no longer regarded as a challenge to personal growth and development, regardless of whether it is made available in a high-technology company or a small retail shop.

The total social and economic costs of policies that discourage the employment of young people are probably beyond measure. In addition to the tragic waste of manpower that is involved, there are the direct costs of social welfare payments and the equally substantial indirect costs of lost wages and taxes.

Industrialists cannot escape criticism when market factors force the closing of a plant, or when new processes or technologies dictate the retraining or relocation of employees. But we can do a much better job of interpreting the requirements of the market enterprise system and of encouraging new attitudes toward work itself.

As long as there is work to be done in the world, there will be a place for young people in modern technological society. It is up to all of us to do more than we have done in the past to help them find it. If we do not face this task squarely, we will all suffer.

Clearly, politicians, educators and industrialists must create new approaches to solution of this problem. Politicians must reexamine government policies which inhibit employment of young people. Educators must direct attention to developing greater understanding of what I have called the "market enterprise" system and respect for the work ethic.

They must also reevaluate educational curricula to ensure that all are educationally prepared for gainful employment so that they will not emerge well-educated culturally but prepared for nothing but unemployment insurance.

Finally, industrialists must look for innovative ways to improve their performance to integrate more youth into their work forces and must reexamine their business ethics to win understanding and respect for the market economy. They must also cooperate with and encourage both politicians and educators to join with them in an aggressive, determined effort to address these threatening new dimensions in the problems of unemployment. Time is running out.●

SOMOZA: U.S. PUT GUN TO MY HEAD

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. PAUL. Mr. Speaker, I would like to call the attention of my colleagues to a column by Jack Cox that appeared in the Houston Chronicle on October 14. Mr. Cox was granted an exclusive interview with former President Anastasio Somoza of Nicaragua at his home in Paraguay. Mr. Cox quotes President Somoza as saying that "Never in my wildest dreams did I think the United States would be part of a plot to place their strongest ally and supporter in the hands of the Communists." Challenged by Cox to name individuals within the U.S. Government who were most responsible for the delivery of Nicaragua to the Communists, Somoza named Bob Pastor of the National Security Council, Mark Snyder of the State Department, Warren Christopher, Deputy Secretary of State, Patricia Derian, Assistant Secretary of State for Human Rights and wife of Hodding Carter III. These people were singled out by Somoza as Communists, that is, people who act, speak, and think like Communists. These charges are very serious, and they deserve investigation by this Congress. Unfortunately they are not likely to receive the attention they deserve, for this body sees no enemy to the left, and apparently feels that the greatest danger to the Nation comes from the right. I ask that the entire interview with President Somoza be published so that the Members of Congress will at least be aware of what they should be investigating.

The article follows:

SOMOZA: U.S. PUT GUN TO MY HEAD

(By Jack Cox)

ASUNCION, PARAGUAY.—Avenida Mariscal Lopez, the principal avenue in Asuncion, is lined on both sides with embassies from around the world. In one of these homes, a one-story green stucco with white trim, lives Anastasio Somoza, who had been president of Nicaragua 12 years when he resigned July 17.

As I approached the home, security was evident. At an outer black, iron-gated fence stood three of Somoza's aides. Our paths had crossed many times before in Managua, Nicaragua.

The aides greeted me with smiles, and advised that the president was not in but that he was expecting me and would return shortly. They beckoned me to enter and we started toward the door. However, I was stopped short of the entrance by two Paraguayan soldiers. Even though the aides knew me and stated that I was expected, the two sentries inspected my passport and wrote down my name and passport number. At that point I was permitted to enter the newly acquired residence of Anastasio Somoza.

These precautions are necessary. Some segments in Latin America, including communists, see Somoza as the enemy and, therefore, he must live a protected life.

Upon entering, I was met by Gen. Israfael Porras and Gen. Jose Somoza, the older brother of Anastasio. I had known both men in the past, but I had known Porras much better. I first met him in December 1972, on the day after the devastating earthquake in Managua. At that time he was a captain, did not wear glasses, and had no gray hair.

Porras is the kind of man any president would want for an aide and confidant. A graduate of the Military Academy in Nicaragua, he reflects dignity and compassion. He is low key in all things, but efficiency is his trademark. Also, he is totally dedicated to Somoza and, if there is such a thing, he is Somoza's strong right arm.

Seeing this fraction of Somoza's old staff gave me an eerie feeling. Transported thousands of miles were the remnants of what once was a sizeable staff. But these people with him now had served long and faithfully, and they would continue to serve so long as the "chief" desired.

It should have come as no surprise, but I have never seen so many huge packed boxes. There were boxes and then there were more boxes stacked upon boxes. The cars were parked in the driveway and the garage was filled with packed boxes.

These boxes house the selected contents of an administration which was in power many years. (The Somoza family governed Nicaragua 42 years.) These contents could reveal the coming and going of presidents, generals, ambassadors and politicians from all levels of the political spectrum, As I gazed at the boxes, I thought, therein lie intimate and secret details which involve governments and people.

Gens. Somoza and Porras and I drank strong but tasty Paraguayan coffee while we waited for "Tacho," as he is known to his friends. The three of us had one thing in common: We had all been in Managua the day Somoza's government fell to the Sandinistas, a group of nationalists strongly influenced by Marxists and including modern communists.

I was there as part of a television team to film a documentary on Nicaragua and the other countries of Central America. They were there as part of the army and the administration of Anastasio Somoza.

In approximately 15 minutes, Somoza returned. The greeting was warm and friendly. I thought he looked extremely well and made the comment to him. Many deposed leaders with the recent experience of Somoza would have appeared haggard and weary. As I looked at him, I felt that this man still carried the pride of West Point, where he received military training. As usual, he was immaculate in his starched white guayabera. He stands about 6 feet, 2 inches and carries about 210 pounds on a solid frame. He admitted, though, that he needed to lose 10 pounds.

This was the first of three visits which would cover parts of three days. As might be expected, this initial visit dealt in generalities—his health, his attitudes, the feeling that comes from living in a new country and his thoughts of the future. In essence, his health was good; he was neither depressed nor despondent. He likes Paraguay and feels comfortable living here. He feels the people of Paraguay are sincere and that he has been accepted. Somoza holds fast to his Roman Catholic faith and faces the future with the belief that he stands right with God and, therefore, will continue to be useful and productive.

In our many hours of conversations, Somoza not once mentioned nor did he allude to the prospects of returning to his homeland. Being human, he must hold such thoughts, but if he does, they are buried beneath an exterior untroubled, calm and collected. Due to an innate curiosity, I wanted to explore those inner thoughts, but with the scars of battle hardly healed, I felt an intrusion of this nature would not be appropriate.

We discussed current events, the Pope's visit to the United States and even Army's football team. On Army football, he surprised me. He said it was very difficult for Army to compete in big-time football because, first, the academic requirements at West Point are too tough for many athletes and, second, the better college prospects have their eyes on pro football, where they can become rich and famous.

It seemed incongruous to be sitting in a modestly furnished home in Paraguay discussing Army football with Anastasio Somoza. This visit had been casual and the heavy questions which were in my mind would have to wait until later. Luncheon was scheduled for the following day and, as it developed, the luncheon lasted the better part of four hours.

Since coming to Paraguay, he had not granted a single interview to the press. Requests had come from major newspapers, wire services and television. Mine was the first and only interview he had granted. He feels strongly that he was maligned and badly mistreated by the news media in the United States. He further believes that the U.S. news media was largely responsible for his loss of power in Nicaragua. He is convinced the move against him was communist-inspired and that communists and the Sandinistas are one and the same. (The Sandinistas deny this.)

These next two days proved to be revealing and in many ways shocking. Somoza held nothing back and called "a spade a spade." I heard accusations of leftist connections of people in high places. I listened to taped telephone conversations between Somoza and various officials in the U.S. government. Some of these, to say the least, were startling. In the final analysis, evidence was presented which, in my opinion, proved conclusively that the U.S. was deeply involved in the takeover of Nicaragua by communists.

Somoza could not believe that President Carter would appear on national television and say to the American people that neither Cuba nor the U.S. had anything to do with the overthrow of the Nicaraguan government. In his words, "Jimmy Carter is a pitiful liar." To back up this statement, he quoted the U.S. ambassador to Nicaragua as saying, "We got what we wanted. We have worked for this over a year." Somoza had a news clipping in which Ambassador Lawrence Pezullo was quoted.

Somoza said, "President Carter is a fool and lacks the intelligence to be president of the U.S." He added that Carter's leadership ability rated zero. He questioned Carter's success as a peanut farmer and said he was a failure as governor of Georgia. Then, he asked, "How could the American people expect him to be a success as president of the United States?"

Somoza felt the opposition's success—and he maintains it was a communist success—in Nicaragua was due more to the activities of the State Department and Secretary Vance than to the poorly advised Carter. He stated firmly that for more than a year he had asked the United States to find someone in the opposition camp who was responsible and a non-Marxist to replace him. He said the U.S. couldn't replace him.

The U.S. couldn't or wouldn't do it, he added. He then stated that there were several reputable members of the U.S. Congress who knew of this good faith offer and could verify this statement. In Somoza's opinion, "Ambassador William Bowdler simply failed." He described Bowdler as "a typical bureaucrat who wanted to serve out his time and retire." (Bowdler, a career diplomat, was sent to Nicaragua to help negotiate Somoza's departure.)

Somoza then made an interesting point. He said in the entire history of the United States no previous secretary of state would have done what Vance did to Nicaragua. He said that there was a reasonable solution, but the president and the State Department failed to implement the U.S. hemispheric policy. "This solution," he said, "would have been a Nicaragua without the Somozas, but with a non-Marxist government." I was rather surprised at his evaluation of his own place in the history of Nicaragua. He felt that in the long run and from a historical point of view, Anastasio Somoza was not all that important; that the thing that really matters is the country and the people of Nicaragua. He pointed out that these are proud people and contends that they are strongly anti-communist.

"Never in my wildest dreams," he stated, "did I think the U.S. would be part of a plot to place their strongest ally and supporter in the hands of communists." (The junta now governing the country denies such allegations.)

At that point in the conversation I asked him if he cared to be explicit and name those who he felt were largely responsible for the actions of the U.S. government. He replied, "I am happy to give you the names of those who contributed most to the communist success in Nicaragua." These, he stated, were advisers to Vance and Carter. "One of the movers in the plan to 'get Nicaragua' was Bob Pastor, who is in charge of Latin American affairs with the National Security Council. Then there is Mark Snyder (a former aide to Sen. Edward Kennedy), who is with the State Department. And you have Warren Christopher (deputy secretary of state), who is the No. 2 man to Vance. He added that he should not leave out Assistant Secretary of State for Human Rights Patricia M. Derian of Mississippi, who is the wife of Hodding Carter III, press spokesman for the Department of State. He said, "She is so far out in left field she is in the grandstands."

I then asked Somoza if he thought these people were communists. He responded, "In my opinion they are, but you probably think that's going too far, so I'll put it another way for you. If a person acts like a communist, speaks like a communist and thinks like a communist, what do you have?"

I was curious about many things, but one in particular. Why did Somoza quit on that fateful day? I decided it was a fair question to ask. "In essence," he said, "the U.S. put a gun at my head and I had no other choice. They told me—your government—that there would be no more arms, no more ammunition and there would be no more supplies—not from any source in the world. Actually, the U.S. placed a blockade on all of Nicaragua, while giving the communists free shipment of men, arms and ammunition. If I stayed, there would be more bloodshed and it became abundantly clear that with the U.S. on the other side, my troops, my people and I were in a no-win situation. Therefore, I had no other choice. I had to leave."

Another point that concerned me was Somoza's brief stay in Miami—three days. This question brought forth a surprising answer. He said two events convinced him that he should not stay in the United States, a country he loved and considered a second home.

It will be recalled that after Somoza departed Nicaragua, an interim president was sworn in as the new president. He lasted 36 hours and these were hectic hours. After being sworn in, the new president announced that he wanted to serve out the unexpired term of Somoza. This announcement caused much turmoil. It was then, Somoza said, that Christopher of the State Department called him and told him in no uncertain terms that if the new president didn't live up to the agreement that he (Somoza) had made that he (Somoza) would not be welcome in the United States. "In other words," Somoza stated, "I was being held responsible for decisions and actions over which I had no control." He went on to say that under those conditions it would be impossible to stay in the U.S.

The real clincher, and a bombshell it was, came when Ambassador Pezullo called Somoza. This converastion was on tape. Incidentally, all telephone calls with U.S. government officials were taped. This means that Somoza has a record of everything that was said. He presumes the U.S. government did the same thing with his conversations.

Somoza said the call from Ambassador Pezullo was a threat and involved politics on the highest level. He said Pezullo told him: "If you get together with (Ronald) Reagan, we will extradite you." "Plainly put," Somoza said, "if I talked to Reagan, I would be signing my own death warrant because those SOBs could, at their discretion, handcuff me, put me on an airplane and send me back to Nicaragua to face a communist firing squad." "That," he expanded, "was the final straw. I knew for certain that I had to leave the United States."

In one conversation Somoza asked me if I knew Jack Anderson. I told him that I didn't know the man personally, but I had read his columns and had seen him on television. This question intrigued me so I pursued the matter. "General," I asked, "why was Jack Anderson after you in such a determined fashion?" He replied, "Because he was being paid handsomely for doing so." The obvious question to follow was by whom was he being paid? Somoza replied: "Our intelligence agents have unequivocal proof that Anderson is being paid by the government of Venezuela. Actually, Jack Anderson should be listed as a foreign agent for Venezuela." He stated further, "If the U.S. government or the IRS wants the proof, then let them come to me and ask for it. They will receive my cooperation." Venezuela was active in its support of the Sandinistas in Nicaragua.

With Thomas Borge, a well-known Marxist and close friend of Fidel Castro, wielding influence in Nicaragua, it is possible that Nicaragua could become a carbon copy of Cuba. I asked Somoza about this possibility. He said it was not a possibility but a certainty unless the U.S. acted very quickly. He jotted down some figures and showed them to me—2,000 students have already been sent to Cuba for education and indoctrination. 1,000 Cuban teachers have already been sent to Nicaragua, and 5,000 teachers in Nicaragua have been fired because they are non-Marxists. Following the Cuban plan, block captains have been named in most of the blocks in Managua. Their purpose, according to Somoza, is to report on all the families in their respective blocks, the coming and going of visitors, and, if they choose, search any home suspected of having weapons.

Recently, the U.S. Government asked the rebel government in Nicaragua when it would hold free elections. The reply was perhaps in three years elections could be held. Somoza said, "This information came from a well-known U.S. congressman who sees Nicaragua as a communist takeover." He added, "In three years Nicaragua will be a fortified communist stronghold." Somoza went on to say that at this moment the United States could rescue Nicaragua from what he calls the communist camp but that it would probably not do so. "The answer," he said, "lies in calling for free and supervised elections immediately." It is Somoza's opinion that the people of Nicaragua are vehemently opposed to communism and if given the choice, would vote for an anticommunist government.

I asked Somoza to give me his opinion on where he thought the United States stood today in the family of nations. He stated, "Today the U.S. stands at the crossroads of history." He feels that there is little or no respect for the U.S. throughout the world. He believes that unless the United States makes a 180-degree turn, the end is in sight for the most powerful nation the world has ever known. He believes the Soviet Union is outsmarting the U.S. in every regard. He pointed out, "The communists act and you react, but reactions of the U.S. are woefully weak. In most instances, your reactions represent appeasement to the Soviet Union." He said that all one had to do was look at a map of the world and see that the successes of the communists are painfully clear. "Lets be specific," he said.

"First you had the Iron Curtain, then the Bamboo Curtain and now you have a Banana Curtain. This latter curtain is drawn across Nicaragua from the Atlantic to the Pacific and separates North America from South America."

Finally, he said, "If your country, the United States of America, continues to follow its present course, in five years your once great nation will be an isolated island, much as England is today."

Then there was the farewell. There stood former President Anastasio Somoza, tall, erect and proud. As I waved goodbye to Gen. Porras and five other members of the staff, all of whom live in the house with Somoza, I thought, "Is this all that's left?"

At the end of his reign as president of Nicaragua, Somoza was asking only one thing of the United States—"Don't let my country fall into the hands of the communists."●

A MEXICAN PERSPECTIVE ON ILLEGAL IMMIGRATION

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. SEIBERLING. Mr. Speaker, as president of the Peace Through Law Education Fund I am offering for insertion in the Record remarks made by Mexican Ambassador Hugo B. Margain at the October food and population breakfast meeting sponsored by the fund.

Mr. Margain served as Mexico's Ambassador to Great Britain from 1973 to 1976 and from 1964 to 1970 served as Ambassador to the United States. He has held numerous positions in the Mexican Government including Under Secretary of Industry and Secretary of the Treasury. In 1970 Mr. Margain served as president of the board of governors of the Inter-American Development Bank and from 1970 to 1973 was a governor of the International Monetary Fund. He has also authored numerous books and articles on tax and fiscal policy.

Mr. Margain discussed his government's efforts to control population growth and increase food production and addressed the problem of illegal Mexican immigration to the United States. The Ambassador suggested that the United States and Mexico draw up a bilateral temporary migration program similar to the one in existence from 1942 to 1964.

Mr. Speaker, ever since my first year in Congress in 1971, when I went down to the Mexican border areas with our distinguished colleague, Hon. Peter Rodino, then chairman of the Immigration and Naturalization Subcommittee, the Congress has been wrestling, without success, with the problem of illegal immigrations, most of it from Mexico. Since the illegal immigrants must live and work outside the law, they are at the mercy of unscrupulous employers and are forced to work for substandard wages and under substandard, often deplorable conditions.

In the meantime, the number of illegal aliens has increased by the millions.

This situation has caused not only widespread injustice and exploitation of the immigrant workers, but, because they cannot bargain effectively with employers or enlist the support of the law to protect their rights, the illegal immigrant workforce tends to lower wage and work standards and to undercut the wages and standards and bargaining position of the legally resident, American citizen workforce.

Ambassador Margain's suggestion for a new agreement between the two governments for a temporary migrant worker program deserves prompt and serious consideration. It may well provide a workable solution to this problem that is of growing concern, not only for its undesirable effects on our economy but as a growing source of friction between our two countries.

The full text of the Ambassador's remarks follows:

A Mexican Perspective on Illegal Immigration

This morning I would like to talk about two fundamental problems facing my nation: migration and population growth.

When I was a university student in Mexico City in the 1930's, my teachers explained how Mexico lost the northern extension of its territory due to its extremely sparse population. They noted that Mexico's economic and political problems were partially a function of our small population in relation to our large land mass and since the colonial epoch the slogan was, "To govern is to populate."

In the 30's, we were very much unaware of the dramatic surge in population taking place in my country. Whereas in 1900 there were 14 million Mexicans, today there are 65 million. The University of Mexico was constructed in the 1950's for 20,000 students. Today this same University has more than 165,000 students, and their numbers continue to grow every year. Classrooms built to accommodate 35 are filled with up to 200 students.

Mexico City itself is overflowing with people. Its total population is estimated at 14 million—the same number of people in the entire country in 1900. With crowded and unhealthy slums on its outskirts and increasingly serious problems of pollution and traffic congestion, this once-beautiful city is slowly being choked to death.

Other cities in Mexico, including Guadalajara, Puebla and Monterrey are much smaller in size, each having a population of over one million. The present government in Mexico is doing everything possible to keep these cities at their present size and to encourage the creation of other urban areas which would attract people away from Mexico City.

President López Portillo is trying to slow the pace of internal migration by providing more rural families with enough productive land so they can be self-supportive. In many parts of Mexico unchecked population growth and a persistent failure to bring new lands into cultivation means that the same amount of arable land which used to support five members of one family now has to support five or six families.

Although unacceptably high population growth in Mexico continues to play a key role in the rural exodus to Mexico City, the increase in the population growth rate has now peaked and is starting to decline. From an all-time high of 3.5, the birth rate has fallen to the present figure of 2.7 and is expected to fall to 2.2 by the middle of the 1980's.

More than three million Mexican women now use birth control methods. The Catholic Church, once strongly opposed to modern means of contraception, has now diminished the severity of its attitude. Especially in urban areas, birth control clinics have been established and the government has launched an extensive campaign for "responsible parenthood" which stresses the economic and social responsibilities of having children and has made "family planning" a popular concept.

In analyzing the problem of migration between the U.S. and Mexico, it is clear that there are "push" as well as "pull" factors at work. Chronic underemployment as well as unemployment, resulting from an excessively high population growth rate, forces many of our young people to look for temporary work in the United States. We need 800,000 additional jobs each year to absorb new entrants into the labor force; yet, our economy doesn't create nearly that many new jobs.

At the same time that there are conditions in Mexico which are pushing young people out of the country, there are relatively high wages and abundant jobs in the southern part of the United States which attract thousands of Mexican workers. This is the "pull" factor. Some American labor specialists now estimate that this country will be experiencing a serious labor shortage by the middle of the 1980's due to the growth and the age structure of the American population.

There is every indication that you will need a continuous supply of foreign workers in agricultural and industrial enterprises. My personal opinion is that one way to provide this source of labor is for the U.S. and Mexico to draw up a bilateral temporary migration program similar to the one in existence from 1942 to 1964, naturally brought up to date for the present day situation. During these years our countries were much better able to regulate the legal flow of migrant labor than is the present case with its rampant abuses and illegal activities on both sides of the border. Mexico was able to provide legal protection for its nationals while they were working in the U.S. and American businesses and farms benefitted from an assured supply of documented workers. The most important achievement of the 1942 bilateral agreement was in relation to human rights: no Mexican could be drafted for the U.S. armed forces. They would not be subjected to discriminatory actions and they would enjoy protection in regard to transportation, living expenses and repatriation. The present situation lends itself to persistent and serious human rights abuses. It is highly exploitative in that it has led to the deterioration of working conditions, and in many instances, to the payment of less than the hourly minimum wage.

When I presented my credentials to President Johnson, in January 1965, for my first tour of duty as Ambassador of Mexico, he told me that he was not opposed to a bilateral agreement in regard to the temporary workers. However, he felt that his hands were tied due to the strong opposition of the labor unions. Their objections could change nowadays, in light of the clear inadequacies of the present system which fails to protect either Mexican or American workers. The present-day illegal situation could be reversed through a bilateral understanding capable of finding a solution, with the participation of our two governments with the cooperation of the American and Mexican labor unions. This is the purpose of the recently assigned commissions of both countries, directly involved with this problem.

For the thousands of Mexican "campesinos" who participated in the program from 1942 to 1964 it meant the difference between working 100 days as opposed to 200 or 300 days per year. Instead of remaining idle for many months in their villages, they followed the planting or harvesting cycles first in Mexico, and then in the U.S., then back to Mexico. A similar program was devised for different activities.

My personal feeling is that it would be adequate to reconsider the temporary worker program. We do not want to lose our young labor force. That would be an irreparable damage for Mexico. Therefore, my government is now taking the necessary steps to stem the massive flow of migrants from rural to urban areas and to this country. We now have the programs called PIDER, for rural development of the most backward regions of the country. Financed with matching funds from international organizations and my government, zones that a few years ago were very poor are now progressing. They are not sources of migrants as in the past, and attract labor from surrounding areas. The situation will be very different in ten years time, when with sufficient investments from the revenues of oil and additional financial support from the World Bank and the Interamerican Development Bank, as well as the Mexican government, all the countryside of Mexico will have received the help it needs for economic development.

For the people living in our overcrowded city slums, we are going to start a program again with the revenues of oil, to develop high intensive labor activities, to give these people a better standard of living.

We are conscious that with oil and natural gas, for the first time in our history, we can solve this important social problem. This is a real challenge for our generation and I am certain that we are going to be able to overcome all obstacles.●

PERSONAL EXPLANATION

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Ms. HOLTZMAN. Mr. Speaker, I was unable to be present for the following vote on September 13, 1979. If I had been present, I would have voted as follows:

Rollcall No. 468, "yes."●

JAMAICA'S DAILY GLEANER BATTLES FOR FREEDOM

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. McDONALD. Mr. Speaker, in the ragged, bankrupt socialist democracy that Jamaica has become under Prime Minister Michael Manley's Marxist People's National Party (PNP), there is a single opposition newspaper battling for freedom of the press, a free economy and for a continuation of representative government.

Daily Gleaner editor Morris Cargill has written some biting commentaries on Prime Minister Manley, who styles himself a "conceptualizer," and his grandiose delusions as a radical Third World leader after the manner of his Caribbean mentor, Fidel Castro.

Two of these editorials, I believe, would be of particular interest to my colleagues.

The editorials follow:

Biting the Hand

EXCERPTS

One of the most commonplace of observations is, of course, the arrogance of the incompetent, it is a universal phenomenon, but many third world leaders serve as good current examples of it. Our own dear addled comrade leader must be included.

Here in Jamaica, little goes right. Our generator of light and power is a sometime thing, our educational system is in chaos, so are the banana and sugar industries. The manufacturing sector can make no headway against the vast disease of bureaucracy. The tourist industry shows no indication of any real recovery apart from the wish-fulfilling fantasies of the tourist board, unemployment increases, our road system is falling into potholes, our economy is in a shambles and we live from hand to mouth, dependent upon U.S. generosity and I.M.F. aid.

Yet the chief author of this vast failure, the great conceptualizer, goes to Cuba and lectures the U.S.A. and the world, when he is quite unable to make even a small success of his own tiny country.

He does more than this, he bites the hand that feeds him, he also does his level best to defeat the best efforts of the I.M.F. and his own minister of finance.

In Havana the worthy Fidel, whose economy is almost wholly dependent upon Russia, opens the conference with a slashing attack upon the U.S.A. accusing it of just about every human ill except bubonic plague, understandably, he's a communist and is serving his master. But then our great conceptualizer leaps up and, not to be out done, supports him with a string of irrationalities, inconsistencies and nonsequiturs, instinct for failure.

One test of sanity, as we wrote some time ago, is whether a person is irrational and, more important, self-defeating. The great conceptualizer has a natural instinct for failure, as his own administration proves, it seems as if he fears any kind of success, except the dubious one of cheap and temporary acclaim. Just as the I.M.F. is working anxiously toward restoring confidence in Jamaica as a place fit for foreign investment, and Mr. Bell, at the end of his tether, is stalking the corridors of Washington and the West, our own prime minister throws a spanner in the works. Success, apparently is not good for the masses, they must remain good socialists, hungry, unemployed and ill-educated.

Moreover, we now witness our prime minister describing Cuba as a genuine non-aligned country; thus making public abuse of the U.S.A. and public praise of Russia the qualification for genuine non-alignment; were this country entirely rational, the logical process upon the prime minister's return would be to certify him and put him into a strait-jacket.

In one sense, though, it is all good knockabout comedy. It also proves how careful one must be about the writing of satire, for in the West Indies nature outstrips the wildest invention of the satirist.

No intelligent person in Jamaica any longer takes the conceptualizer seriously; one must pray that this is also the case in Washington, but we have come to a sorry pass when we have to face the fact that our future well-being depends upon foreign powers understanding that for the time being we have as prime minister a poor fellow who gets utterly carried away by schoolboy enthusiasms under the stimulus of the moment, however self-defeating these enthusiasms may be, and, who, in any event, seems not to mean what he says for any longer than the magic moment. No balanced man, after all, takes pride in confessing to perjury, or for that matter, placing in jeopardy his country's only chance of economic salvation by self-indulgent and illogical posturings.

Anancyism Cubed

(By Morris Cargill)

TEXT

The logical processes of our prime minister are not very good at the best of times but recently they seem to have gone completely askew, as witness his heatedly enthusiastic defence of the Cuban ambassador and, before that, his brilliant self-satire in Havana; both of which, I must confess, have left me green with envy. Such inspired and very funny nonsense is beyond the reach of my pen.

The prime minister disappointed me, though, on his return from his one-day visit to Venezuela. All he said was that he was "satisfied". I had had hopes of at least a new aluminum smelter, if not an atomic power plant. Perhaps, as it was only a short, cheap trip, the journey to Venezuela called for only a short and relatively low-priced accounting.

One remembers other odysseys, though, in which our borborygmatous Jason had brought home the Golden Fleece; or if not he, at least his lieutenants; a vast sugar contract from Iran, a huge new alumina plant, an oil refinery, a purchase of thousands of tons of cement from Nigeria, and most lately, a new Hungarian alumina enterprise and a jointly profitable venture into the purchase of obsolescent Fiats from Russia; none of which greater enterprises have ever come off, nor will they in the future.

The prime minister, in between air trips abroad, and the minister of security, in between spasms of ill-temper, never cease telling us how peaceful demonstrations by the J.L.P. [Jamaica Labor Party] interrupt our economic recovery, apparently unaware that there is no recovery to interrupt, so, to reinforce this argument, the prime minister now promises that for every J.L.P. protest there will be an equal and opposite P.N.P. [People's National Party] protest on the streets at the same time; a protest which, one would imagine, would convert a peaceful protest into a hostile confrontation, and which, we must assume, will do no harm to "recovery" as the prime minister advocates it. Indeed, the prime minister (and some other ministers) even led a small (very small) army against the GLEANER.

TO THE 4TH DEGREE

In this heroic enterprise, undertaken no doubt because he has no useful work to do, the prime minister did not exactly scale the Alps with elephant, like Alexander; but he managed to traverse the potholes of North Street, a task hardly less demanding. For as each successive victory of socialism and Cuban solidarity (the solidarity being mostly between the ears) is announced, our streets continue to be choked with refuse and fall into potholes; our hospitals close, our unemployment and poverty increase and our balance of payments worsens.

The comrade conceptualizer's democratic socialism is doubtless a beautiful thing; the only problem being whether we shall all manage to survive to enjoy it. The next time you cannot afford your bill at the supermarket, or fracture your front suspension on a pothole, remember, please, that you are suffering for a great ideal, and for the greater glory of Cuban-Jamaican hands-across-the-sea (when they are not in the pockets of the Yankee capitalists).

Now, as a final gesture towards the good life, we are elevating ourselves not to mere anancyism, but to anancyism to the fourth degree.

Let me explain. One of the more endearing qualities of the P.N.P., as it is in the case of all actual or potential totalitarians, is its habit of throwing a brick at someone, and then yelling the place down about the other bloke's aggressiveness. It is a compliment that lying totalitarians pay to civilized people, which is why I call it endearing. But the thing is now reaching marvelous dimensions.

The J.L.P. warns, in effect, that the P.N.P. may be planning to throw bricks at themselves in order to blame the J.L.P. Note, in passing, the Reichstag fire, for this technique is also a well-known totalitarian technique. So what does the P.N.P. do? It says that the J.L.P. will throw the brick in order to make people think that the P.N.P. has thrown the brick. This is anancyism to the power of two.

DEVIOUSNESS

But it won't stop here. The obvious J.L.P. retort is that the P.N.P. will throw the brick in order to make people think that the J.L.P. has thrown the brick in order to make people think that the P.N.P. is throwing bricks at themselves. This is anancyism cubed. At which point there will be anancyism to the power of 4; in which the brick takes on a life of its own.

The chief conceptualizer, flanked by Trevor Munroe on one hand, and Arch-Bishop Duncan on the other, will regale us on T.V. as to how the brick was thrown by the editor of the GLEANER in order to make the J.L.P. accuse the P.N.P. of throwing bricks at itself in order to make people think that the P.N.P. was doing so in order to accuse the C.I.A. of making the brick in the first place.

A brick-making plot will be invented. Poor Mr. Eddie Seaga will be locked up under emergency powers for having 84 barrels of bricks, supplied by the U.S. Embassy, each marked "Made in Cuba" to make people think that Senor Estrada had supplied the bricks so that people will think. . . .

Please don't ask me to go on. Deviousness of that high quality is quite beyond me. All I do know is that Hungary and Jamaica ought to get together. Only Hungarians can equal us in deviousness. It is said that if one has an Hungarian as a friend, one needs no enemies. I suppose, too, that if one has the comrade conceptualizer as a leader, it could be said that we have no need of hurricanes, earthquakes, or indeed, any natural disaster.●

HOSPITAL COST CONTAINMENT

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. WALGREN. Mr. Speaker, I would like to insert in the RECORD the text of an editorial which appeared in the October 29, 1979, New York Times on hospital-cost containment. With the floor debate on cost containment drawing closer, I believe it is important for every Member to take a hard look at what rising health-care costs are doing to his or her constituents and to base his or her decision on that, rather than on the propaganda of the health-care industry.

I supported the hospital cost-containment legislation in the Interstate and Foreign Commerce Committee and will support it when it is considered by the full House. I urge that you join me in the fight against inflation by voting for hospital cost containment.

The text follows:

LET'S SEE WHO CARES ABOUT INFLATION—THE TEST FOR CONGRESS IS HOSPITALS

Congress will soon reveal how much it really cares about inflation. The test will be the Administration's bill to hold down soaring hospital costs, the only major anti-inflation measure before it this year.

The bill, as modified by the House Ways and Means Committee, would limit hospital cost increases this year to 11.6 percent, the very goal the industry has set for itself. But hospitals that do not voluntarily observe the limit—to be pegged to the inflation rate in succeeding years—would suffer the sanctions of the law. Government and private insurers would be allowed to reimburse them only to the prescribed limit. If they nonetheless persist with higher charges, they could also be fined.

The hospital industry has understandably cried foul, arguing that its inflation rate—13.3 percent in the first seven months of this year—is somewhat lower than the horrendous average of 15 percent it experienced over the last decade. The industry resents being singled out for sanctions, especially now that the rest of the economy is galloping up alongside.

This argument, however, is misleading. To see how, one has only to look at a breakdown of hospital costs this year. The industry's wage rates, representing half of all expenses, are up 8.5 percent. All costs—labor plus food, fuel and supplies—are up 9.4 percent. So the charges to patients are running nearly 4 percentage points above the costs of maintaining existing services. The problem is that hospitals are busily *adding* services, personnel and machines without compensating improvements in productivity.

Despite the efforts by some hospitals to cut overtime, save energy and improve management, the industry as a whole is still plagued by waste, inefficiency and duplication. Atlanta, for example, has 17 CAT scanners, those marvelous, and wildly expensive computer x-ray machines; the entire state of Connecticut, with twice the population, says it needs only eight. National health guidelines recommend four hospital beds for every 1,000 in population, but many communities far exceed that ratio. In fact, the nation has an excess of 130,000 hospital beds, whose cost runs into the billions. Eliminating much unneeded surgery and unnecessary diagnostic tests for nonsurgical patients could save hundreds of millions more.

The industry is renowned for its lobbying skills—there are hospital boards in every Congressional district—and it is playing hard on the antiregulation mood on Capitol Hill. It asks why Congress would want to entangle hospitals in new red tape just as it is deregulating certain other industries.

One answer is that the industry's voluntary effort has failed. Another is that hospitals feel few of the competitive pressures of a normal marketplace. Patients do not decide what services they need or what prices they can afford; hospitals and doctors decide for them. And since more than 90 percent of all hospital bills are paid by government or private insurers, none of them has any real incentive to hold down costs. Generally, the more a hospital spends, the more it gets back.

Standby controls would not create any bureaucratic monster. The necessary supervision and data reporting systems are already in place, helping government to pay 55 percent of all hospital costs. Hospitals would have to report only one new fact—their wage rates for nonsupervisory employees. The Government would need an additional 100 employees and $10 million to enforce the limits. Whether this bill would save consumers $30 billion in five years, as the Congressional Budget Office predicts, or $50 billion, as the Administration contends, it's a bargain. No other measure before Congress offers such dramatic returns.

THE PRESIDENT'S TEST IS VEGETABLES

Some smaller but still important tests lurk in the trade area. Consumers finally won one when the House beat back efforts to raise sugar price supports. Now President Carter can rebuff the special interests that want to tax Americans at the checkout counter. His issue is the price of winter vegetables—tomatoes, peppers, eggplants, squash, cucumbers—from Mexico.

Florida's vegetable growers want the Mexican produce treated like imported industrial goods and barred from sale at a price below their average cost of production. That sounds fair, but it isn't. For as supplies ebb and flow across the growing season, the market price of perishable vegetables varies widely. Sometimes prices fall well below production costs, sometimes they rise well above. And growers from every region—including Florida—routinely accept these vagaries of the market, expecting to make up for lean weeks with fat ones.

The Floridians do no better arguing the law than the equities. The courts have given the Treasury board discretion to interpret the ambiguities of the "anti-dumping" statute. Moreover, the principal authors of the law have stated that they never intended it to restrict imports of perishables.

The real claim of the Florida growers is political. They simply hope to persuade President Carter that he can't do without their support. The question, then, boils down to whether the White House will choose to placate several thousand strategically located farmers at the cost of higher vegetable prices for all Americans. If the President really believes that fighting inflation is the best politics, the decision should be easy.●

THE BUDGET OF HOPE AND OPPORTUNITY

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. THOMAS. Mr. Speaker, about a month and a half ago, this Congress was debating the Federal budget, and I and a number of my colleagues spoke in support of the Republican budget of hope.

Today, I would like to address once again the problems of the budget of despair and its considerable impact upon my congressional district.

I rise today to speak on behalf of the budget of hope and opportunity—a budget which, if Congress were to give it a fair hearing and a chance to work, would allow Americans to help themselves out of the economic mess created by the last 25 years of Government overspending.

The majority budget is the product of a legislative body which has been under the control of free spenders for the past 13 Congresses in succession. As a statement on the Government's role in our economy and in our whole society, the majority budget offers nothing new. It is filled with defeatism, disappointment, and despair, and it is a testament to bankrupt concepts.

The American people face recession, increasing unemployment, spiraling inflation, and energy problems, and yet they are offered a national budget which fails to address any of these problems from a new perspective. Instead, it plods onward in the familiar path of huge deficits financed by intolerably high taxes.

I believe we would reduce inflation by increasing our productivity, and that we can foster real economic growth through lower taxes and less Government spending. How much less? Well, the Republican budget, which I support, calls for a $20 billion tax cut next year to help ease the coming recession's blow to all working Americans.

But this plan, the Republican budget—a budget of hope and opportunity that proposes to change the shape and the direction, as well as the size of the Federal budget—is a program that will not be known by most Americans. The chance to put this budget into effect will be denied Americans by the free-spending majority in Congress, the self-same majority which pays lipservice to budget cutting.

When the Federal budget is discussed and debated, a lot of numbers are thrown around. We talk about inflation percentage points, unemployment percentage points, and billions of dollars.

What do these numbers represent? All of us in Congress must bring these numbers down to the human level. What we are talking about, after all, is people and the Government's impact on their lives, an impact that grows greater with each year's increase in the size and scope of the Federal Government.

Californians have much at stake in the current budget process. California's economy, were California an independent country, would rank fifth among the world's nations. Its economy constitutes more than 11 percent of the national economy, and California's economy is growing a full percentage point ahead of the national economy.

But California's economic growth is beginning to slow, and the budget of despair for 1980 would insure that the national recession would not miss our State. At a time when we need to increase productivity and revitalize our economy, the majority budget policies are proposing nothing to help do this—only higher inflation, higher unemployment, and lowered expectations for all Americans, including Californians.

The number of Californians thrown out of work by the recession will swell to 235,000 by the end of 1980 under the budget of despair, and that is an optimistic estimate. Some predictions place the figure closer to 320,000.

In my home district over 4,000 more workers will have lost their jobs by the end of next year if we continue the budgetary policies of the majority.

Unemployment in California, currently at about 6.5 percent, is expected to rise to 7.6 percent by the end of this year and to reach somewhere between 8½ to 9 percent under the budget of despair. In the 18th District, unemployment could reach more than 9 percent by the end of 1980.

We will not solve inflation by throwing people out of work. Rather, we must keep people on the job and boost productivity.

We will not balance the budget by crunching down the economy in the usual pattern employed by the majority. For every added percentage point of unemployment, the Federal Government must spend another $20 billion to offset unemployment, thereby increasing the deficit.

The budget of hope will propose approximately a $20 billion tax cut in 1980 to ease the coming recession's blow to working Americans. The budget of hope would also offer new tax incentives for capital investment which is so badly needed to revitalize our industry and create more jobs in the private sector.

For California, the budget of hope would mean fewer people out of work—nearly 100,000 jobs saved, in the 18th District, 2,000 jobs saved—and it would mean more money in the pockets of workers who need it to meet the rising cost of living.●

TRIBUTE TO E. R. VADEBONCOEUR

HON. GARY A. LEE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. LEE. Mr. Speaker, I am privileged to share with you and my colleagues the central New York area's pride in one of its foremost citizens, E. R. "Curly" Vadeboncoeur, president of the Newhouse Broadcasting Corp., who will be honored Wednesday, November 7, as the 17th recipient of the Simon LeMoyne Medal, presented by LeMoyne College, in Syracuse, N.Y.

The award, given each year since 1968 by the college at annual Founders' Day ceremonies, is presented to a nationally prominent leader who has made significant and humanitarian contributions to society. There are no better words to summarize the achievements of Curly Vadeboncoeur.

He is joining the distinguished ranks of previous recipients of the medal, given in the name of Rev. Simon LeMoyne, the first European to visit the Syracuse area when it was inhabited by the Onondaga Nation—a roster including such prestigious Americans as Dr. Melvin A. Eggers, chancellor of Syracuse University; Dr. William P. Tolley, chancellor emeritus at Syracuse; John T. Connor, president of Allied Chemical Corp.; and Edith Green, a former Member of this House.

I know Rev. William J. O'Halloran, S.J., president of LeMoyne College, and Robert E. Pietrafesa, chairman of the LeMoyne board of regents, will extoll Curly's accomplishments in the field of communications and human services as they present his citation:

CITATION

Nearly half a century ago, a young newlywed couple wandered through the sloping fields of an area now called "the Heights," thinking to build their first home there. When this proved unfeasible, they bought property just down the hill from what was soon to become the LeMoyne College campus. Curly and Orletta Vadeboncoeur were fond neighbors of the fledgling institution for more than a decade.

E. R. Vadeboncoeur has known the weight, as well as the rewards, of responsibility nearly all his long and productive life. By the age of 10, he had already established himself as a diligent worker—not only among his school fellows, but in the business world as well. Because of his father's untimely death, his wages earned selling newspapers and transporting film reels from theater to theater were important to his family's livelihood.

For Curly, education was not confined to the schoolroom. An avid reader, he devoured the classics, contemporary fiction, works of history, and above all, the newspapers, setting a course that he would follow all his life. With his vital interest in world affairs and his love of the written word, his advancement from newsboy to reporter was a quick one. After 19 years in the newspaper field, including positions with the Syracuse Journal as Sunday editor, news editor and city editor, Mr. Vadeboncoeur joined WSYR. By 1941, he had been appointed vice president and general manager of the station, and 11 years later he was named president. Just this past summer, he celebrated his 40th anniversary with WSYR.

As president of the Newhouse Broadcasting Corporation, E. R. Vadeboncoeur holds a position of vast authority. Yet all who know him call him Curly—an indication of his unpretentious, congenial nature.

His involvement in all phases of operations at WSYR Radio and Television is complete. A demanding man, he is the first to set the example of a job well done. His insistence upon correct English usage is an inspiration at a time of general laxity.

At his office before eight each morning, Mr. Vadeboncoeur knows the value of each moment. Despite his deep commitment to his work in the communications field, he had never allowed his professional responsibilities to encroach upon the time spent with his wife and daughter, with whom he shares his hours of relaxation in stimulating conversation, travel and social events.

A connoisseur of fine art, fine wine and fine cuisine, a sports enthusiast, and a history buff, Curley has a keen appreciation for all that life has to offer. He has given unstintingly of himself, not only to his profession, his family and his friends, but to society at large. His many contributions to broadcasting, the health services, education and the civic arena have included three terms as chairman of Broadcast Music Incorporated, his presidency of the New York State Division of the American Cancer Society and his presidency of the Syracuse Chamber of Commerce.

With gratitude for the inspiring standard E. R. Vadeboncoeur has held aloft for all of us, LeMoyne College salutes him and proudly presents The Simon LeMoyne Medal for Outstanding Achievement.●

MONESSEN RESIDENT HONORED

HON. DON BAILEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. BAILEY. Mr. Speaker, on the 17th of this month, John G. Lucas, a Monessen resident dedicated to the continued commitment of a better education for the children of Monessen, will be honored by the community. This special recognition is well deserved by this outstanding citizen as he has actively participated in civic activities for many, many years, including 24 years as a member of the Monessen School Board.

Having been educated in the Monessen public schools, a 1931 graduate, John has continued to exert unwavering dedication toward the continued growth and success of the school system by serving on the school board and, at various times, acting as its president, vice president, and secretary.

But avid interest in Monessen's educational opportunities has not been John's only interest. For 30 years he has been actively involved in local government as a Democratic committeeman and has been a member of various boards connected with the Westmoreland County Juvenile Court, Monessen Recreation Board, Monessen Public Library, and the civic center. In addition, he has devoted 15 years of remarkable service to the Monessen Slovak Home as a trustee and is a charter member of the organization.

John and his wife Angie have two children and are members of the Holy Name Church where John is a member of the board of trustees. Prior to John's 21 years of service at United States Steel's Irvin Works in Clairton, he served in the 9th Armored Division of the U.S. Army during World War II and received a Presidential citation for his brave conduct during the Battle of Bastogne.

It gives me great pleasure to bring these admirable activities of this fine man to your attention and the attention of our colleagues. He has been a great leader in the city of Monessen and I am very pleased that his accomplishments are being recognized by his many friends.●

TAX INCENTIVES FOR FORESTRY MANAGEMENT

HON. LAMAR GUDGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. GUDGER. Mr. Speaker, as you know, this country is presently in the grip of an energy crisis that has demoralized our national spirit and created doubts about the future. As painful as this situation is, it forces recognition of the fact that this country must anticipate future demands for its limited resources and plan for an investment in its future. Only by doing this will we avert similar situations in the next century with regard to our precious natural resources. For this reason and others, I have today introduced a bill entitled the "Forestry Tax Incentive Act of 1979."

In the future, wood and wood products are destined to play an increasingly important role in satisfying this country's demand for energy, goods, and services. For example, the recent Forest Service planning assessment indicates that the demand for softwood sawtimber will increase 57 percent by the year 2030. The demand for hardwood sawtimber is projected to increase by 160 percent over the same time period. This increased demand has meant and will continue to mean higher prices. Selected species of hardwood have seen tremendous price increases. However, the big gainer has been softwood lumber. From 1969 to 1978, softwood lumber prices increased at an average annual rate of 11 percent compared with 6 percent for all nonfarm prices.

Not only does the United States need to produce more wood simply to meet demand levels, but the need for energy conservation dictates that greater use be made of wood. Consider that steel manufacture requires over 5.000 kilowatt hours of energy per ton produced. Aluminum smelting requires over 20,000 kilowatt hours of energy per ton produced. In comparison, lumber manufacture, including logging, requires only 900 kilowatt hours per ton. As you can see, increased use of wood and wood products will result in energy savings for this country. In addition, the production of wood for energy to take the place of oil, coal, and natural gas can make a very real contribution to this country's struggle to achieve energy self sufficiency. For example, more and more people are returning to the wood burning stove as a method of heating their homes in North Carolina. As a matter of fact the famous Buck Stove is manufactured in my own district.

Although the United States has substantial acreages of public forest land, their harvest potential is constrained by the congressionally mandated even-flow policy, long rotations, and nontimber management goals such as wilderness. The key to meeting the increased demand for forest commodities is in the hands of the private nonindustrial landowner who owns 60 percent of the commercial forest land in this country and nearly 75 percent of the commercial forest land in the South.

In my own State of North Carolina, 245.000 small woodlot owners have 80 percent of the commercial forest land. However, these holdings are diverse and fragmented. Two hundred thousand of these owners have tracts of land less than 100 acres in size and one-half of these tracts are less than 20 acres. Furthermore, the emphasis of ownership is not on wood production.

Comparatively few of the estimated million small forest landowners in the South, and other regions of the country, are practicing forestry on their lands. The Forest Service estimates that timber stand improvement work is needed on 90 million acres in the South alone. It is also estimated that less than one-third of the pine-type lands harvested in the South is being adequately regenerated into pine. Forest Service surveys indicate that 22,000 acres of pine-type land are lost each year in North Carolina.

These problems can be partially attributed to the fact that the small landowner lacks the appropriate incentives to properly manage his land for multiple-use purposes. The private nonindustrial landowner in our Nation, while owning 60 percent of the commercial forest land, accounts for only 36 percent of the annual removals of softwood growing stock. As a matter of fact, reforestation costs and current tax regulations actually discourage investment in forestry. Reforestation expenses can reach up to $150 per acre, and this cost does not generate any income for 20 to 30 years. Furthermore, current tax regulations exacerbate the situation by only allowing these costs to be deducted from income at that time in the future when income is produced as a result of harvesting the trees or seed planted. Many landowners cannot afford to carry reforestation expenses for 20 to 30 years without adequate incentives. The average manufacturing factory owner is allowed tax credits for investment in machinery and other capital equipment. It is time that the forest landowner is allowed a tax credit for investment in his factory—the land.

There are many barriers that prevent the small landowner from engaging in forestry management practices. Our approach to the removal of these barriers must be comprehensive and multifaceted. Education, technical assistance, cost sharing, credit, tax incentives, and insurance are six tools that we can use to remove these barriers. Education, technical assistance, and cost sharing have been provided for in existing Federal and State legislation such as the Cooperative Forest Management Act of 1950 and the Cooperative Forestry Assistance Act of 1978. The Congress is to be commended for this progress. Presently pending before the House is legislation that would provide credit to the small landowner. Now, I propose a bill to create tax advantages that would stimulate reforestation and forestry management practices.

I am also proposing this legislation for reasons of equity. A landowner who establishes a stand of trees or engages in some other management practice is providing a social benefit for which he is not compensated. Forest lands of this country provide recreational opportunities, wildlife habitat, soil stabilization, esthetics, and clean air. In recognition of these facts, my bill makes eligible for a tax credit forestry management practices designed to enhance some of these nontimber commodities. A tax incentive in the form of a credit would demonstrate that society recognizes the importance of these benefits.

I welcome the responsibility and the challenge of helping this country meet future demands for wood products. I can honestly say that this is a product worthy of promotion, because, Mr. Speaker, wood is a renewable resource.●

DEMOCRATIC PLATFORM OF 1892

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. PAUL. Mr. Speaker, as a Republican, I would like to congratulate the Democratic Party on its magnificent platform. It is a platform I could easily run on, with its strong support of the Constitution and individual liberty; its opposition to centralization in Washington; its resistance to Republican tariffs and endorsement of free trade: its denouncement of "cowardly make-shift" antitrust legislation; its upholding of honest gold and silver money, and its demand that all paper currency be fully "redeemable in such coin," since inflation harms our defenseless citizens the most; its support for a strong national defense, with no entangling foreign treaties, and a policy of friendship with all nations; its recognition that we should build, and keep, a canal in Central America.

One small point: This is the Democratic Platform of 1892, upon which the great Grover Cleveland ran. His platform of 1884 was strong as well, with its statement that—

> We believe in honest money, the gold and silver coinage of the Constitution, and a circulating medium convertible into such money without loss.

For my colleagues' edification, for Republicans as well as Democrats, I would like to quote some excerpts from the great Democratic platform of 1892. There is much we can learn from it.

The platform follows:

DEMOCRATIC PLATFORM OF 1892

The representatives of the Democratic party of the United States, in National Convention assembled, do reaffirm their allegiance to the principles of the party, as formulated by Jefferson and exemplified by the long and illustrious line of his successors in Democratic leadership, from Madison to Cleveland; we believe the public welfare demands that these principles be applied to the conduct of the Federal Government, through the accession to power of the party that advocates them; and we solemnly declare that the need of a return to these fundamental principles of free popular government based on home rule and individual liberty, was never more urgent than now, when the tendency to centralize all power at the Federal capital has become a menace to the reserved rights of the States that strikes at the very roots of our Government under the Constitution as framed by the fathers of the Republic. . . .

We denounce Republican protection as a fraud, a robbery of the great majority of the American people for the benefit of the few. We declare it to be a fundamental principle of the Democratic party that the Federal Government has no constitutional power to impose and collect tariff duties, except for the purpose of revenue only, and we demand that the collection of such taxes shall be limited to the necessities of the Government when honestly and economically administered.

We denounce the McKinley tariff law enacted by the Fifty-first Congress as the culminating atrocity of class legislation; we endorse the efforts made by the Democrats of the present Congress to modify its most oppressive features in the direction of free raw materials and cheaper manufactured goods that enter in general consumption; and we promise its repeal as one of the beneficient results that will follow the action of the people in entrusting power to the Democratic party. Since the McKinley tariff went into operation there have been ten reductions of the wages of the laboring man to one increase. We deny that there has been any increase of prosperity to the country since that tariff went into operation, and we point to the fullness and distress, the wage reductions and strikes in the iron trade, as the best possible evidence that no such prosperity has resulted from the McKinley Act.

We call the attention of thoughtful Americans to the fact that after thiry years of restrictive taxes against the importation of foreign wealth, in exchange for our agricultural surplus, the homes and farms of the country have become burdened with a real estate mortgage debt of over $2,500,000,000, exclusive of all other forms of indebtedness; that in one of the chief agricultural States of the West there appears a real estate mortgage debt averaging $165 per capita of the total population, and similar conditions and tendencies are shown to exist in other agricultural-exporting States. We denounce a policy which fosters no industry so much as it does that of the Sheriff.

Trade interchange, on the basis of reciprocal advantages to the countries participating, is a time-honored doctrine of the Democratic faith, but we denounce the sham reciprocity which juggles with the people's desire for enlarged foreign markets and freer exchanges by pretending to establish closer trade relations for a country whose articles of export are almost exclusively agricultural products with other countries that are also agricultural, while erecting a customhouse barrier of prohibitive tariff taxes against the richest countries of the world, that stand ready to take our entire surplus of products, and to exchange therefor commodities which are necessaries and comforts of life among our own people. . . .

We denounce the Republican legislation known as the Sherman Act of 1890 as a cowardly make-shift, fraught with possibilities of danger in the future, which should make all of its supporters, as well as its author, anxious for its speedy repeal. We hold to the use of both gold and silver as the standard of the country . . . and we demand that all paper currency shall be kept at par with and redeemable in such coin. We insist upon this policy as especially necessary for the protection of the farmers and laboring classes, the first and most defenseless victims of unstable money and a fluctuating currency . . .

Freedom of education being an essential of civil and religious liberty, as well as a necessity for the development of intelligence, must not be interfered with under any pretext whatever. We are opposed to State interference with parental rights and rights of conscience in the education of children as an infringement of the fundamental Democratic doctrine that the largest individual liberty consistent with the rights of others insures the highest type of American citizenship and the best government . . . .

The Democratic party is the only party that has ever even given the country a foreign policy consistent and vigorous, compelling respect abroad and inspiring confidence at home. While avoiding entangling alliances, it has aimed to cultivate friendly relations with other nations, and especially with our neighbors on the American Continent, whose destiny is closely linked with our own, and we view with alarm the tendency to a policy of irritation and bluster which is liable at any time to confront us with the alternative of humiliation of war. We favor the maintenance of a navy strong enough for all purposes of national defense, and to properly maintain the honor and dignity of the country abroad . . . .

For purposes of national defense and the promotion of commerce between the States, we recognize the early construction of the Nicaragua Canal and its protection against foreign control as of great importance to the United States . . . .

Upon this statement of principles and policies, the Democratic party asks the intelligent judgment of the American people. It asks a change of administration and a change of party, in order that there may be a change of system and a change of methods, thus assuring the maintenance unimpaired of institutions under which the Republic has grown great and powerful.●

H.R. 5241—FUEL ASSISTANCE ACT OF 1979

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. MOAKLEY. Mr. Speaker, today, I would like to voice my concern over the spiraling prices of home heating oil and offer a viable alternative solution to the problem.

As you know, with the continuing OPEC price increases, double digit inflation and the cost of decontrol, millions of Americans are faced with the cold reality of not being able to afford to meet their most basic of all residential needs—heat.

Statistics released by the Department of Energy paint a gloomy portrait of the crisis. On the national scene, the average household spent 4.7 percent of its annual income on energy for household purposes, while the average low-income and elderly households spent a whopping 18.4 percent of its income for this purpose.

I cannot emphasize enough, that the heating oil situation is considerably worse in New England. As you may know, the New England region is by comparison 37 percent colder than the Nation as a whole. States to the North, such as Maine and Vermont, are 66 percent colder than other parts of the Nation. Thus, the New England region, and in particular my congressional district, is more reliant on oil than anywhere in the country. We cannot continue to pay exorbitant prices for oil to heat our homes. The future forecast predicted by the Department of Energy indicates that the situation will get worse before it gets better. This being the case, the low income and elderly people will be facing a critical dilemma this winter: Whether to heat or eat.

The bill I am cosponsoring with my colleague, JIM SHANNON, attempts to alleviate the burden of the poor and elderly, in addition to providing a tax credit to middle income households who use home heating oil.

Under title I, persons with incomes less than 125 percent of Federal poverty levels, or 150 percent for elderly households, would be eligible for fuel assistance. Payments would be for primary residential heating fuels, including oil, natural gas, propane, or electricity; or for cooling purposes for the elderly. Payments would be made to the fuel vendor chosen by the recipient. Federal funds would be distributed to the States based on the following criteria: low income and elderly population, weather, fuel costs, and age of housing.

Title II provides a tax credit for middle income households using heating oil earning up to $20,000 per year. The maximum credit allowed would be $300 per household, or $150 per individual, which would phase out as income increases.

This bill will assist 24 million households which will encounter great difficulty surviving a winter of escalating inflation spurred by skyrocketing energy costs. No one in our great Nation should be forced into the dilemma of deciding whether or not to heat their homes or spent their limited dollars on food. The real possibility of low income and elderly people dying from the cold should not be a possibility this winter.

Thus, I believe the bill I am cosponsoring today will provide the immediate relief to those most affected by the harsh winters of New England—the poor and the elderly, and, at the same time, provide incentives to middle income households to conserve energy.

Because this legislation carries such import for so many people in New England, I will do everything I can, together with Congressman JIM SHANNON, the bill's sponsor, and other cosponsors to bring this measure to a vote as quickly as possible. I am confident my colleagues in the House will agree that this issue deserves our immediate attention.●

MR. CURTIS LOWERY

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. JONES of Tennessee. Mr. Speaker, I would like to take this opportunity to commend the attention of my colleagues the recent recognition given Mr. Curtis Lowery of Brownsville, Tenn. Mr. Lowery was recently named recipient of the Southern Industrial Development Council's Volunteer of the Year Award at the council's annual meeting here is Washington.

Mr. Lowery serves on a volunteer basis, as chairman of the Brownsville Industrial Development Committee. Under his leadership during 1978, the committee was instrumental in locating several new industrial prospects in Brownsville and assisting in the expansion of three industrial facilities already operating there. More than 300 new jobs will be created as a result of his efforts. During the course of Mr. Lowery's volunteer work for which he receives no renumeration, he uses his own car to provide tours of the town for industrial prospects and even goes so far as to entertain those prospects in his own home.

All of these accomplishments are in addition to his regular duties as postmaster of the Brownsville Post Office and vice president of the local chamber of commerce. He is also active in his church, teaching Sunday school and serving as a deacon.

The Volunteer of the Year Award is given for civil leadership, community service, and voluntary effort on behalf of his friends and neighbors. Mr. Lowery was chosen from a list of 13 nominees for this year's award.

In these times when local communities are being called upon to do more for themselves rather expect the Federal Government to do everything for them, Mr. Lowery's dedication to the improvement of his community is a fine example of what can be accomplished with determination and perseverance. I know his family and his community are appreciative and honored by the Southern Industrial Development Council's award. He is a credit to his community and to the State of Tennessee, long known for its volunteer spirit.

I am proud to be able to call Mr. Lowery my friend, and I congratulate him on the award recognizing his outstanding volunteer service to his community.●

JUANITA M. KREPS BUILT AN ENVIABLE RECORD IN CABINET

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 31, 1979

● Mr. BRADEMAS. Mr. Speaker, as she retires this week from President Carter's Cabinet. I take this time to pay tribute to Juanita M. Kreps. During the 3 years Mrs. Kreps served as Secretary of the Department of Commerce, she built an enviable record. Her service to the administration of President Carter and to the people of the United States was marked by outstanding competence and dedication.

Mr. Speaker, I believe that the leadership of Secretary Kreps in promoting exports by American industry will rank high among her many accomplishments. Especially noteworthy was the trade agreement with the People's Republic of China which she negotiated in the spring of 1979.

That trade agreement, in addition to opening new commercial opportunities for American business and industry, advanced the overall relations between the United States and China. Over the next 5 years, this agreement is expected to make possible a near tripling of American exports to the PRC.

Secretary Kreps was equally instrumental. Mr. Speaker, in developing other initiatives to increase our exports, including the establishment of new foreign trade zones, the expansion of already existing zones, the adoption of a national export policy and the creation of the United States-Japan Trade Facilitation Committee to eliminate barriers to the sales of American goods to Japan.

At the same time, the Commerce Department under the leadership of Secretary Kreps was responsible for carrying out, through its highly successful Economic Development Administration, the provisions of the 1977 Public Works Act and the local public works program under which more than 8,500 local projects totaling $4 billion were approved and started in a 2-month period. This program was a major factor in the economic recovery of 1977.

Mr. Speaker, Secretary Kreps' accomplishments are, in fact, spread throughout the many divisions and functions of the Department of Commerce.

Beyond all these achievements in carrying out her official duties, Juanita Kreps is a person who won the affection and respect of those of us in the House of Representatives who came to know her. I know that all of us wish Juanita well on her return to Duke University.●

MR. DANIEL C. ROGERS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. SKELTON. Mr. Speaker, it is with sadness that I bring to your attention the passing of a very special friend of mine, Mr. Daniel C. Rogers of Fayette, Mo. This is a loss not only for his family and friends but for the State of Missouri.

Mr. Rogers was born December 23, 1889, in DeWitt, Mo. He graduated in 1911 from Carrollton High School and attended Central Methodist College, graduating in 1915. Mr. Rogers worked for about 5 years for the Wabash Railroad as a telegrapher starting when he was 16 years old. He taught school in Poplar Bluff for the year of 1915–16 and then in Fayette for 2 years.

Mr. Rogers served as assistant marketing commissioner of the State and Federal Board of Agriculture in 1921. It was at this time that he came upon the idea of a State-owned and operated radio station which would broadcast marketing news and reports to farmers. The station was established in the dome of the State capitol and went on the air in 1922 with the call letters WOS (Watch Our State). A few years later, the State sold the station, and the private owner renamed it KWOS (Keep Watching Our State).

From 1934 to 1936, Mr. Rogers served as mayor of Fayette. While in office, he promoted the building of the Fayette swimming pool which opened in 1936. At his suggestion, another city lake was built in 1971 and was named the D. C. Rogers Lake in his honor.

Mr. Rogers was admitted to the Missouri Bar in 1923, and was appointed general counsel of the Missouri Public Service Commission by Gov. Guy Park. He served in that capacity for 6 years. In 1951, he was named chairman of the State mediation board by Gov. Forrest Smith, and he served for eight 3-year terms under five different Governors. Mr. Rogers practiced law in all the courts in Missouri and handled two cases before the Supreme Court of the United States, winning both.

He was a member of the Linn Memorial Methodist Church and a member of the Round Table for 47 years. Central Methodist College honored him with the Distinguished Alumnus award in 1956.

D. C. Rogers was a devoted friend and a model citizen. The memories of his many accomplishments and his warm friendship will long remain as a fitting tribute to a very special man.●

CONGRESSIONAL SALUTE TO BERNARD GALLIS AND MARK MUSKINAR, EAGLE SCOUTS

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. MURPHY of Pennsylvania. Mr. Speaker, the Boy Scouts of America is an institution that admirably encourages our young citizens to serve their fellow Americans. Confidence in themselves and service to their community is enhanced by encouraging the young participants to excel through the ranks of this Scouting organization by assisting in civic activities. These activities create worthwhile services to the American public. I commend Bernard Gallis and Mark Muskinar for attaining the esteemed rank of Eagle Scout for which each worked diligently to attain. As a result of the qualities displayed by these two young men, it is only fitting that we recognize their accomplishments exemplified by this distinguished award.

During the difficult times that have faced this country, a large percentage of our leaders who have led us to prosperity have been former Scouts. Today in government, business, and industry, many of the decisionmakers who direct our country's fate are former Scouts. Certainly, when tomorrow's generation receives the torch of leadership, names such as Bernard Gallis and Mark Muskinar will be among those who continue this country's proud traditions and heritage.●

HANDGUN VIOLENCE CLAIMS 530 LIVES IN SEPTEMBER

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 2, 1979

● Mr. DRINAN. Mr. Speaker, in the month of September, another 530 lives were lost as a direct result of the misuse of handguns. This brings the total dead since January 1, 1979 to 5,832. The necessity of taking swift action to control the misuse of handguns becomes clearer each time we realize that if there were comprehensive handgun control laws in this country, the deadly problem of handgun crime and violence would be brought under control.

In October Attorney General Benjamin Civiletti released the annual FBI crime report which shows an increase of 5.2 percent in violent crime during 1978. According to the report, handguns were used in 49 percent of the murders in the United States in 1978. The violent crime rate has increased in 1979 as well, indicating that the misuse of handguns continues to increase unabated.

Comprehensive legislation has been introduced in the Senate and several bills await some action in the House.

Handgun Control, Inc., has compiled a list of the victims of media-reported handgun deaths in September. The list follows:

ROLL OF HANDGUN DEAD

ALABAMA (15)

Albert Cameron, Ensley; Willie Dent, Birmingham; Kenneth Falkner, Kingston; James Howard, Athens; James Johnson, Birmingham; Leonard Joshaua, Prichard; Bobbie Moore, Dora; Jerry Pettaway, Mobile; Robert Smith, Birmingham; David Temple, Mooresville; Mitchell Townsend, Birmingham; Malcomb Turner, Trafford; Gary Warnken, Vestavia; Chester Williams, Leeds; T. J. Williams, Troy.

ARIZONA (13)

Levi Adams, Phoenix; Howard Camp, Cottonwood; Paul Campbell, Tempe; Steffanie, Campbell, Tempe; B. Sonny Epps, Phoenix; Clifford Hardin, Phoenix; Santos Hernandez, Phoenix; Betty Marking, Phoenix; Rosemary Powers, Tucson; Dorothy Smock, Yuma; Jean Trial, Huachuca City; Howard Vandeinse, Tucson; unidentified male, Yuma.

ARKANSAS (7)

Lawrence Cain, College Station; Charles Cory, Little Rock; Norman, Daudvuin, Bentonville; Perry Ford, Little Rock; Thomas Stacker, Little Rock; Kenneth Wiliker, Russellville; Unidentified Male, Bentonville.

CALIFORNIA (97)

Manuel Abelar, Los Angeles; Jimmy Aguilar, Los Angeles; Thomas Albritton, Huntington Beach: Ead As Al-Hiwati, Los Angeles; Wadell Allen, Penasquitos; Jacobo Almeron, Sun City.

Ruben Arrendondo, Los Olivos; Arturo, Poway; Michael Balderas, Norco; Barbara Ballman, Glendale; Derek Carbajal, Los Angeles; Willie Carter, San Diego; Ruth Casper, Escondido; Joella Champion, Torrance.

Ronald Clark, Tujunga; Salvador Cortez, Compton; Vernon Costa, Berkeley; Diane Craddock, Santa Barbara; James Davis, San Diego; Robert Dey, Santa Ana; Omero Flores, Los Angeles; Socorro Flores, Merced; Lydia Gonzales, Lodi.

Armando Gutierrez, Los Angeles; Keith Haflich, Ventura; Charles Hamilton, Los Angeles; George Hill, Torrance; James Hill, Pasadena; Yvonne Hill, Santa Barbara; Harold Hoffman, Camarillo; Ethel Holladay, Santa Rosa; W. Nobel Holladay, Santa Rosa; Patricia Holly, San Francisco; Jose Huesa, San Diego; Tony Johnson, Los Angeles; David Kubly, Los Angeles; Patricia Laney, Santa Barbara; Kenneth Lange, San Diego; Edward Lillard, Madera; Frank Martinez, Wilmington; Guillermo Martinez, Van Nuys; Robbie Martinez, Ontario; Mariano Mendoza, Los Angeles; Sara Vidrio Mendoza, Salinas.

Christopher Montano, Monrovia; Michael Moore, South Gate; Donna Mosier, Bakersfield; Ernie Navarete, Los Angeles; Jose Navarro, Los Angeles; Lupe Ochoa, Los Angeles; Luis Oliver, Los Angeles; Clarence Orozco, Los Angeles; Phil Pardee, Oakland; Abel Parra, Wilmington; Wanoell Perkins, Torrance.

Hoa Minh Pham, Huntington Beach; Tam Minh Pham, Huntington Beach; Eddie Rankin, Jr., Long Beach; Hallet Reidelberger, Martinez; Jacqueline Rook, Santa Barbara; Joey Rubio, Woodlake; Catina Salarno, Stockton; Keith Sanchez, Santa Barbara; Mary Sarris, Santa Barbara.

Bill Satow, Stockton; Ann Sena, Sacramento; Tony Sena, Sacramento; Brian Severson, San Ramon; Ruth Simmons, Escondido; Robert Sines, Oxnard; Larry Siskron, Ingleside; William Sloan, Napa; Alex Smith, Lynwood; James Smith, San Jose; Charles Snodgrass, Santa Monica.

Roland Storbakken, Monrovia; Rudolfo Torres, Monterey; Elias Trujillo, Sacramento; Anthony Truman, Los Angeles; Edward Tucker, San Louis Obispo; Greg Whitaker, Los Angeles; Curtis Wickersham, Novato; Kay Wolf, Oakland; Larry Wyatt, Lompoc: Bruce Young, Redondo Beach; unidentified male, Lake Tahoe; unidentified male, San Diego; unidentified male, Van Nuys; unidentified male, Pasadena.

Unidentified male, Mira Loma; unidentified male, San Francisco; unidentified male, Fresno; unidentified male, Desert Hot Springs; unidentified male, Los Angeles; (9-20-79); unidentified female, Los Angeles; unidentified male, Poway; unidentified male, Los Angeles (9-23-79); unidentified policeman, Los Angeles.

COLORADO (9)

Carol Cox, Durango; Patti Davis, Coaldale; Robert Lamb, Westminster; David Leavitt, Rangely; John Oswill, Steamboat Springs; Angelo Santiago, Grand Junction; Larry Sena, Denver; Jean Smith, Lakewood; Carl Wishhousen, Leadville.

CONNECTICUT (6)

Raymond Burne, Farmington; Gilbert Evans, Sr., Goshen; Roosevelt Jefferson, Bridgeport; Antonio Ortiz, Bridgeport; Patricia Reagan, Waterbury; Ronald Wynn, Groton.

DISTRICT OF COLUMBIA (3)

Harmon Bethea, Rodney Jones, Bertha Speight.

FLORIDA (25)

Cosett Blocker, Southport; Rosalyn Bothuell, Miami; John Boyland, Miami; James Burch, Hialeah; Charles Camp, Beverly Hills; Harold Carey, Tampa; Sari Conklin, Miami; John Elkin, Fort Lauderdale; Thomas Evans, Lake Alfred; Jose Garcia, Miami; Bessie Gerald, Coral Gables; Kenneth Johnson, Jacksonville.

Nelson Johnson, Fort Lauderdale; Tellice Jones, Miami; Morgan King, St. Petersburg; Otis Lamb, Lake Worth; Henry Mutcherson, Chattahoochee; Arthur Pinson, Jacksonville; Janice Pinson, Jacksonville; Iraldo Rodriquez, Miami; Omara Rodriquez, Miami; Marie Wilson, Lake Worth; Alex Young, Fort Lauderdale; unidentified male, Palm Beach; unidentified male, Palm Beach; unidentified male, Miami.

GEORGIA (13)

Vernon Bates, Atlanta; Charles Bramlett, Chatsworth; Okey Collins, Atlanta; Jeffrey Cox, Atlanta; Willie Davis, Atlanta; Herbert Edwards, Atlanta; Tommy Huff, Columbus; John Lucas, Atlanta; Charles Mutashobya, Atlanta; Charles Smith, Savannah; David Thomas, Springfield; Joseph Weaver, Atlanta; Henry Wong, Atlanta.

HAWAII (4)

Gary Chun, Honolulu; Charles Chun, Honolulu Macrima Corpuz, Honolulu; unidentified male, Honolulu.

IDAHO (4)

Edward Blankenship, Lewiston; Philip Jennes, Pullman; Robert Putnam, Pocatello; Melvin Sparks, McCall.

ILLINOIS (10)

Melvin Abraham, Chicago; Yvonne Bender, Morton Grove; James Commodore, Chicago; Gregory Donald, Chicago; Victor Gonzalez, River Grove; Robert Markovich, Chicago; Coleman Moore, Chicago; Sue Ovington, Morton Grove; Thomas Peterson, Wilmette; Edward Phillips, Chicago.

INDIANA (7)

Terry Esdridge, Laporte; Robert Glenn, Fort Wayne; Michael Harrison, Frankfort; Max Leon Ridgeway, Warsaw; William Robinson, Bloomington; Miguel Rodriguez, Hammond; Bonnie Stimens, Elkhart.

IOWA (4)

Rosella Diehl, Creston; Judy Fox, Osage; Roberto Hernandez, Muscatine; Phillip Hiiva, Winterset; Julio Serrano, Muscatine.

KANSAS (2)

Robert Jones, Iola; unidentified male, Colby.

KENTUCKY (6)

Rita Beard, Elizabethtown; Diann Cain, Barbourville; Terrance Fitzgerald, Louisville; Roy Rogers, Richmond; Carolyn Stevens, Perryville; Winifred Taylor, Lexington.

LOUISIANA (16)

Arthur Bohmfalk, Metarie; Inez Daniele, Lake Charles; Jimmy Donninick, New Orleans; Jack Dysart, Shreveport; David Guidroz, Port Allen; Edward Harris, New Orleans; Rose Lundy, Bogalusa; Joseph Mayfield, New Orleans; Edgar McMillan, Shreveport; William Miller, Lake Providence; Rene Palassie, New Orleans; Rosemary Vicknair, Head-of-Island; Mary White, Denham Springs; Peter Williams, Mossville; Sinclair York, Baton Rouge; unidentified male, New Orleans.

MARYLAND (15)

Norman Barnes, Baltimore; Booker Bridges, Baltimore; Barry Coleman, Baltimore; Larry Distance, Baltimore; Edward Fleming, Baltimore; Beryl Friedrick, Baltimore; Vernon Hoshall, Baltimore; Sonia Kuntson, Bel Air; Armand Rainville, Baltimore; John Reed, Baltimore; Mildred Reed, Baltimore; Norman Smith, Baltimore; Sanders Smith, Baltimore; Roger Williams, Baltimore; unidentified male, Baltimore.

MASSACHUSETTS (3)

James Matera, Boston; Anna Shellhorn, Worcester; Asa Shellhorn, Worcester.

MICHIGAN (4)

Joseph Briody, Westland; Cindy Dueweke, Mt. Clements; Karl Dueweke, Mt. Clements; Mark Dueweke, Mt. Clements.

MINNESOTA (3)

Betty Clobes, Osakis; Randy Josephson, Osakis; Curtis McCoy, St. Paul.

MISSISSIPPI (3)

Harold Caldwell, Corinth; Charles Glaude, Moss Point; Michael Turner, Laurel.

MISSOURI (17)

Houston Carruthers, St. Louis; Eddie Easterling, St. Louis; James Gully, St. Louis; Loyd Hall, Windsor; Mary Ivory, University City; Wheeler Jackson, St. Louis; Otis Kimble, Allen; Mark Miller, St. Louis; Darrell Pendleton, St. Louis; Frank Rozier, St. Louis; Edgar Stennis, St. Louis; Taylor Prentice, Jr., St. Louis; Dwight Thomas, St. Louis; Gary Thomas, St. Louis; unidentified female, St. Louis; unidentified male, Kansas City; unidentified male, Washington, Co.

NEBRASKA (5)

James Forbis, Belvidere; Arthur Mathis, Omaha; Raymond Metoyer, Omaha; Richard Rogers, Ashland; Justice Schneider, Waunete.

NEVADA (4)

Daniel Carpenter, Reno; Ralph Seranno, Las Vegas; Michael Willhite, Las Vegas; unidentified male, Minden.

NEW JERSEY (10)

Thomas Addair, Atlantic City; Pierre Alziphat, Wildwood; Joe Bronson, Newark; Sandra Garris, Newark; Ocosta Gomes, Chesterfield Township; James O'Brien, Burlington Township; Leroy Packard, Palmyra; Michael Palmer, Trenton; Jaime Szeimbert, Paterson; John Tamburro, South Orange.

NEW MEXICO (6)

Harold Brooks, M.D., Albuquerque; Edward Wilson, Clovis; unidentified female and 3 unidentified children, Las Croces.

NEW YORK (33)

Mrs. Mahmet Bici, Brooklyn; Bernadette Canman, New York City; Hector Canman, New York City; Margaret Canman, New York City; Vincent Cotrone, Brooklyn; Edwin Fogel, New York City; Melvin Hopkins, New York City; Daniel Hutchins, New York City; Carl W. Jabloniski, Lackawanna; Felix Lopez, New York City.

Manuel Montonegro, Bronx; Dennis Morreno, New York; George Pantelis, Rev., Buffalo; Israel Pearl, New York City; Lola Pennix, Queens; Erwin Port, New York City; Marcus Ramos, Bronx; Joseph Reid, New York City; Sherwyd Reid, Brooklyn; Jose Reyes, Bronx; Henry Ryant, New York City; John Scandura, Long Island; John Taylor, Bronx; Ferdinand Vargas, New York City.

Philip Weinstein, New York City; Andrea Whitelocke, Brooklyn; Unidentified male, Brooklyn; 9-4-79; unidentified male, Brooklyn; 9-20-79; unidentified male, Eden; unidentified male, New York City; 9-29-79; unidentified male, New York City; 9-30-79; unidentified male, New York City; 9-30-79; unidentified male, New York City 9-30-79.

NORTH CAROLINA (4)

Fred Boggins, Southern Pines; Thelma Brush, McBean; John Creech, Goldsboro; Charles Ellington, Henderson; Bobby Needham, Asheboro.

OHIO (16)

John Allen, Akron; Gregory Andersen, Akron; Daniel Barnett, Cleveland; Gary Berry, Columbus; William Bornman, Cleveland; Elliott, Harden, Cleveland; Levi Holmes, Cleveland; Terry Louderback, Columbus; Lorin Mayhorn, Columbus; Jackie Minter, Cincinnati; Jeff Nevels, Columbus; D'Angelo, Nickinson, Akron; Roberta Peters, Newark; Henrietta Powell, Akron; Ronnie Troxel, Milford; David Wiley, Mayfield.

OKLAHOMA (11)

Rex Allen, Enid; Paul Cantrell, Poteau; Bobbie Drake, Thackerville; Carol Futrell, Oklahoma City; Garland Garrison, Oklahoma City; Patricia Lay, Weleetka; Robbie Pearce, Lone Grove; David Puckett, Shawnee; Billie Shelton, Oklahoma City; Floyd Shelton, Oklahoma City.

OREGON (7)

Fran James, Monroe; Rocky James, Monroe; Nelson McKinley, Warm Springs; Marion Rice, Myrtle Point; Betty Ann Scraigg, Portland; John Scraigg, Portland; Rodney Wick, Portland.

PENNSYLVANIA (16)

John Adelizzi, Philadelphia; Ali Besik, Philadelphia; Winfred Bournes, Farrell; Ethelbert Collins, Philadelphia; Dominick Didonato, Elizabeth; Moises Gomez, Wrightstown; Edward Hutt, Philadelphia; William Livezey, Landsdale; Milton Logan, Philadelphia; Mike Lokus, Bensalem Township; Louis Mincer, Philadelphia; Angel Rivera, Philadelphia; Milton Robinson, Philadelphia; Hasan Sarikaya, Philadelphia; Billy Thomas, Philadelphia; Victor White, Philadelphia.

RHODE ISLAND (1)

Juan Perez, Pawtucket.

SOUTH CAROLINA (7)

Mitchell David, Lake View; William Davis, Newberry; Frank Earle Jr., Spartanburg; Kenny Green Loris, William Lang, M.D., Beaufort; Billy Logan, Spartanburg; Master Lovette Jr., North Charles.

SOUTH DAKOTA (1)

Lester Simons, Brookings.

TENNESSEE (28)

Mrs. Zella Adams, Memphis; Danny Brimingham, Memphis; Clarence Buchanan, Alcoa; Jack Carruthers, Memphis; Willie Clark, Chattanooga; William Daugherty, Kingsport; Linda Driver, Dresden; Billy Gentry, Chattanooga; Leroy Hagan, Nashville; John Hathcock, Memphis; Roger Hedrick, Murfreesboro; Niley Horton, Nashville; Teresa Kemp, Nashville; John Leston, Chattanooga; Naida Lyon, Memphis; Gregory Marshall, Memphis; Gary Mason, Nashville.

LaJane McBee, Memphis; Charles Meadows, Knoxville; Lydia Payne, Memphis; James Roberts, Athens; Charles Sarber, Kingsport; Robert Tate, Chattanooga; Lyle Ward, Greenville; Mark Willien, Knoxville; unidentified male, Philsdale; unidentified male, Memphis; unidentified male, Clarksville.

TEXAS (75)

Fernando Alvarez, San Antonio; Manual Barajas, Santa Rosa; Ronald Blount, West Columbia; Dwight Boyd, Brownsboro; Tyler Arthur Brown, Austin; Elna Buzbee, Rusk; George Callendar, Colorado City; Danny Casias, San Antonio; Victor Castaneda, Kingsville; Agnes Churchill, Euless; Caroline Corson, Austin; Robert Cottrell, Friendswood.

Walter Danner, Austin; Ray Davis, Austin; Rosetta Davis, Austin; Deanna Dunnam, Big Sandy; Roger Edwards, Garland; Earl Erickson, Austin; Vera Errickson, Austin; Cesar Facio, El Paso; Cristino Garcia, Beaumont; Ramon Garcia, San Antonio; Marion Gardiner, Vidor; Hector Gomez, Laredo.

Mitchell Graham, Hutchins; Nathan Graves, El Paso; Mariel Guerro, Nacogdoches; John Guest, San Antonio; Terry Hamby, Hereford; Willie Harris, San Antonio; Dario Hernandez, Las Cruces; James Hightower, Port Arthur; Fred Howard, Abilene; Larry Jackson, Houston; Margaret Johnson, Galveston; Arthur Jones, Lubbock; Arthur Kemmerling, El Paso.

Elizabeth Laniers, Austin; William Lynch, Lefors; Ida Marek, Leroy; Douglas Martin, Jr., Center; Eloy Martinez, Beeville; Joe Martinez, San Antonio; Travis Mason, Fort Worth; J. T. McKinney, Waco; Richard Ortiz, San Antonio; Nathaniel Payton, Texarkana; Mario Perez, Brownsville; Jeremy Plunkett, Lubbock; Larry Provart, Dallas; Mary Ramon, Rotan; Eddie Robinson, Houston; Jimmy Rodgers, Arlington; Jessie Rodriguez, Corpus Christi; Richard Rogers, Jr., Fort Worth; John Rush, Orange.

Charles Russell, Irving; Sjana Russell, Irving; Maria Sanchez, Corpus Christi; Louis Scarborough, Houston; Margaret Smith, Coleman; Esteven Soliz Jr., San Antonio; James Sonnier, Port Arthur; David Torres, Fort Worth; Eluterio Torres, Lubbock; Elisco Valasquez, Houston; Richard Vaught, Corpus Christi; Jose Velex, Robstown; Mary Wagner, San Marcos.

Willie Williams, Bryan; August Zimmerly, Freeport; Unidentified male, Houston; unidentified male, Houston; unidentified male, San Antonio; unidentified male, Dallas; unidentified male, San Antonio.

VIRGINIA (8)

Catherine Ballenger, Chesterfield; Velda Burrell, Richmond; Douglas Castle, Waynesboro; John Gallaher, Richmond; Richard Grant, Henrico; Lewis McGriff Jr., Richmond; Danny Shouse, Radford; Linda Shouse, Radford.

WASHINGTON (4)

Steve Bradley, Kennewick; Lonnie Clemmons, Port Angeles; Marvin Oberg, Seattle; Susan Talmadge, Seattle.

WEST VIRGINIA (1)

Edward Stubbs, Mullins.

WISCONSIN (5)

Casaloma Acosta-Gomez, Oak Creek; Robert Austin, Milwaukee; Sahit Berisha, Milwaukee; John Earle, Milwaukee; Henry Klein, Milwaukee.

WYOMING (1)

Tom Frank Butler, Buffalo.

NOTE.—The "Handgun Body Count" is based on a compilation of news report of handgun violence appearing in the nation's daily and weekly newspapers during that month. The figure includes murders, suicides, and accidents by handguns.●